

**A HANDBOOK
OF CITATION FORM FOR
LAW CLERKS AT THE
APPELLATE COURTS
OF THE STATE OF HAWAI‘I**

2008 Edition

Hawai‘i State Judiciary
417 South King Street
Honolulu, HI 96813

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A HANDBOOK OF CITATION FORM FOR LAW CLERKS AT THE APPELLATE COURTS OF THE STATE OF HAWAII

2008 Edition

This handbook is intended to serve as a reference guide to citation and writing form for law clerks. It was originally compiled by a committee of law clerks representing each justice, and it has been revised by subsequent law clerks and permanent staff. The aim of the handbook is to promote a reasonable degree of uniformity in the work product of the appellate courts.

This handbook is designed to supplement -- not replace -- The Bluebook: A Uniform System of Citation (Columbia Law Review Ass'n et al. Eds., 18th ed. 2005) [hereinafter The Bluebook]. It is purely advisory and is limited in scope. It sets forth the most important and most common citation forms and practices, some of which are unique to the Hawai'i appellate courts. The Bluebook should be consulted for clarification and/or matters not covered in this handbook.

An important caveat: Your justice or judge has the last word when it comes to citation form. If the justice or judge disagrees with this Handbook or The Bluebook, the preference of the justice or judge prevails.

Finally, you should consult reference works to determine questions of grammar and style. Strunk & White's The Elements of Style and Richard Wydick's Plain English for Lawyers are recommended reading.

NOTE:

In addition to this handbook, you will be given the *Law Clerks' Handbook of General Information and Reminders*. Also, each law clerk's office should have a copy of the *Code of Conduct for Law Clerks*. You should read the *Code* immediately and consult it often. Law clerks licensed to practice law are subject to the requirements of the *Hawai'i Rules of Professional Conduct*. You should also read Chapter 84 of the Hawai'i Revised Statutes, the code of conduct for state employees and the *Revised Code of Judicial Conduct* as some of your actions can be attributed to your justice or judge.

REFERENCES TO THE BLUEBOOK

References to The Bluebook's rules, blue pages, tables, and blue-page tables in this handbook follow the format used in The Bluebook itself as follows:

Bluebook Rules	R#
Blue Pages	B#
Bluebook Tables	T.#

I. CASES

A. Basic Citation Forms

General Rule (*see* R10.1): A full case citation includes:

- (i) the name of the case (R10.2);
- (ii) the published sources in which it may be found, if any (R10.3);
- (iii) a parenthetical that indicates the court and jurisdiction (R10.4); and
- (iv) the date or year of decision (R10.5); as well as the subsequent history of the case, if any (R10.7).

1. **Hawai'i Courts**

a. HAWAI'I SUPREME COURT

- i. *Pre-statehood cases*:¹ Identify the court as follows:

On and before 01/16/1893:	Haw. Kingdom
Between 01/17/1893 and 07/03/1894:	Haw. Prov. Gov.
Between 07/04/1894 and 07/06/1898:	Haw. Rep.
Between 07/07/1898 and 08/20/1959:	Haw. Terr.
From 08/21/1959 to the present:	Haw. or Hawai'i

(*see* 1.a.ii. and 1.a.iii. below)

EX: In re Kamaka's Estate, 8 Haw. 535 (Haw. Kingdom 1892).

¹ **Historical Note:** On January 17, 1893, Queen Liliuokalani abdicated her throne, ending the monarchy. Between the overthrow on January 17, 1893 and July 4, 1894 when the Republic of Hawai'i was proclaimed (following the Constitutional Convention of May 30, 1894), a "provisional government" was in place. On July 7, 1898, President McKinley signed the Newlands Resolution of 1898, which officially annexed Hawai'i to the United States; thus, the Republic of Hawai'i became the Territory of Hawai'i. On August 21, 1959, Hawai'i became the 50th state of the union.

- ii. *Official Hawai'i Reports* (volumes 1-75): Hawaii's official reporter -- Hawai'i Reports -- is comprised of 75 volumes. Use "Haw." for volumes 1 through 75, including a parallel citation to the Pacific Reporter, if available (*i.e.*, affects cases after 1959 and involve volumes 44 through 75).

EX: Lum v. Sun, 70 Haw. 288, 769 P.2d 1091 (1989).

- iii. *West Publishing Company Volumes* (after 75 Haw.): Beginning with volume 76, all supreme court decisions are published by West Publishing Company in West's Hawai'i Reports. Use "Hawai'i" for the West-volumes, including a parallel citation to the Pacific Reporter.

EX: State v. Hicks, 113 Hawai'i 60, 148 P.3d 493 (2006).

b. INTERMEDIATE COURT OF APPEALS

- i. *Official Hawai'i Appellate Reports* (volumes 1-10): The official reporter of the Intermediate Court of Appeals -- Hawai'i Appellate Reports -- is comprised of 10 volumes. Use "Haw. App." for volumes 1 through 10, including a parallel citation to the Pacific Reporter.

EX: State v. Ferraro, 8 Haw. App. 284, 800 P.2d 623 (1990).

- ii. *West Publishing Company Volumes* (after 10 Haw. App.): After volume 10 of the Hawai'i Appellate Reports, all intermediate appellate court decisions are published by West Publishing Company in West's Hawai'i Reports. Use "Hawai'i" for the West-volumes, including a parallel citation to the Pacific Reporter, and use "App." in the parenthetical preceding the year. Because all intermediate appellate court decisions are published in West's Hawai'i Reports, along with supreme court decisions, the "App." designation identifies the case as one issued by the intermediate appellate court.

EX: State v. Lindsey, 77 Hawai'i 162, 883 P.2d 83 (App. 1994).

HELPFUL HINT: You will note that the appellate court decisions printed in West's Hawai'i Reports match -- page for page -- the same decision printed in West's Pacific Reporter. This page-for-page format allows you to determine pinpoint cites once you know the beginning and pinpoint page in either volume. Calculating the pinpoint cite for the other reporter is purely mathematical. For example: Mauai Tomorrow v. State, 110 Hawai'i 234, _____, 131 P.3d 517, 527 (2006): The pinpoint cite for the Hawai'i Reports is "244."

2. Federal Courts

- a. UNITED STATES SUPREME COURT: Cite to the U.S. Reports; do not include Sup. Ct. or L. Ed. citation references (note, however, that West Publishing will add the additional references upon publication in West's Hawai'i Reports and the Pacific Reporter). See T.1.

EX: Apprendi v. New Jersey, 530 U.S. 466 (2000).

- b. UNITED STATES COURTS OF APPEALS: Cite to the Federal Reporter (F., F.2d, or F.3d) and include the appropriate abbreviation for the applicable circuit in the parenthetical before the date. See T.1.

EX: Arakaki v. Lingle, 477 F.3d 1048 (9th Cir. 2007).

- c. DISTRICT COURTS: For cases after 1932, cite to the Federal Supplement (F. Supp. or F. Supp. 2d), the Federal Rules Decisions (F.R.D.) or the Bankruptcy Reporter (B.R.) and include the appropriate abbreviation for the applicable court name in the parenthetical before the date. See T.1. (For cases prior to 1932, see T.1.)

EX: The Ocean Conservancy v. Nat'l Marine Fisheries Serv., 416 F. Supp. 2d (D. Hawai'i 2006).

3. **Other State Courts:** For a state court decision, other than Hawai'i, cite to the regional reporter and include the appropriate abbreviation of the court name in the parenthetical before the date. See T.1.

EX: Roles v. Townsend, 64 P.3d 338 (Idaho Ct. App. 2003).

B. Case Names

General Rule (R10.2): (1) When a case name is referred to in a textual sentence, whether in the body or in footnotes, it should conform to R10.2.1, i.e., use the case name that appears at the beginning of the opinion in the cited reporter and in accordance with the modifications suggested in R10.2.1. (2) When it appears as part of a citation, the case name should be abbreviated in accordance with R10.2.2 and T.6.

EX: (1) In Southern Pacific Co. v. Jensen, 244 U.S. 205 (1917), Justice McReynolds stressed the value of uniform laws.
(2) See, e.g., S. Pac. Co. v. Jensen, 244 U.S. 205, 225-26 (1917).

1. **Case Names in Textual Sentences** (R10.2.1)

- a. **ACTIONS AND PARTIES CITED:** In cases involving multiple parties, omit all parties other than the first listed on each side. Also, omit words indicating multiple parties, such as “et al.,” and alternative names for the first party, such as “dba” (e.g., Seinfeld dba The Man, Inc. should be cited as Seinfeld).

EX: State v. Midkiff (instead of State of Hawai‘i, by its Attorney General v. Frank Elbert Midkiff, et al., Trustees under the Will and of the Estate of Bernice Pauahi Bishop, Deceased)

- b. **PROCEDURAL PHRASES** (see R10.2.1(b))

- i. “In re”: (1) Abbreviation for “in the matter of,” “petition of,” and similar expressions. (2) However, “Estate of” and “Will of” are not treated as procedural phrases and are not omitted.

EX: (1) Gorman v. Bush; not In re Gorman v. Bush.
(2) In re Estate of Christian for In the Matter of the Estate of Eliza R.P. Christian.

- ii. “Ex rel.”: Abbreviation for “on the relation of,” “for the use of,” “on behalf of,” and similar expressions. Note: Whereas “in re” is omitted when adversary parties are named, “ex rel.” is not.

EX: Massachusetts ex rel. Kennedy v. Carter.

- c. **ABBREVIATIONS** (see R10.2.1(c) and (h))

- i. *in textual sentences:* Whether in the body or in footnotes, abbreviate only widely known acronyms under R6.1(b) and the following: “&,” “Ass’n,” “Bros.,” “Co.,” “Corp.,” “Inc.,” “Ltd.,” and “No.” If any of these eight abbreviations begin a party’s name, however, do not abbreviate. See R10.2.1(c).

- ii. *business firm designations:* Do not include “Inc.,” “Ltd.,” etc. if a party’s name clearly indicates the party is a business firm. See R10.2.1(h).

2. **Case Names in Citations** (R10.2.2): Abbreviate words in a case name, except in a textual sentence, in accordance with R10.2.2. and T.6.

C. **Short Citation Forms** (R10.9): Short citation forms may be used after the full citation has been given, as long as (1) the short form clearly refers to the prior reference, (2) is part of the same general discussion as the earlier full citation, and (3) can be easily located by the reader.

1. **Cases** (R10.9)

a. **CASE NAMES IN CITATIONS** (see R10.9(a)(i); see also I.C.2. below): There are four basic forms:

EX: (1) State v. Hicks, 113 Hawai'i at 75, 148 P.3d at 508.
(2) Hicks, 113 Hawai'i at 75, 148 P.3d at 508.
(3) 113 Hawai'i at 75, 148 P.3d at 508.
(4) Id. at 75, 148 P.3d at 508.

b. **CASE NAMES IN TEXTUAL SENTENCE** (see R10.9(c)): A case that has been cited in full in the same general discussion may be referred to (in the body or in footnotes) by one of the parties' names without further citation:

EX: In Hicks, the court held

2. **Other Short Form References**

a. **USE OF "ID."** (R10.9(b)): Use "id." only when referring to the immediately preceding authority (cases, law review articles, etc.) contained in the same general discussion. Note: The period in id. should also be underlined.

b. **USE OF "SUPRA"** (R4.2(a)): Use "supra" to refer to sources such as books, periodicals, regulations, legislative hearings, and internal cross-references, etc. Note: Do not use "supra" for cases, statutes, or constitutions except in rare cases and when the reader can readily locate the prior full citation.

c. **USE OF "SUPRA" AND "INFRA" FOR INTERNAL CROSS REFERENCES:** Portions of text, footnotes, and groups of authorities within the opinion or memorandum may be cited using "supra" or "infra." (1) Use "supra" to refer back to material that has already appeared within the opinion or memorandum. (2) Use "infra" to refer to material that appears later in the opinion or memorandum.

EX: (1) See supra Section I.A.
(2) See infra note 5.

- d. **USE OF “HEREINAFTER” (R4.2(b)):** Use should be limited to when the name of a party, person, or thing is cumbersome or confusing and the name will be mentioned several times in the opinion or memorandum.

EX: (1) In this case, appellant Estate of Princess Pauahi Bishop [hereinafter Bishop Estate] argues that

(2) In this case, defendants-appellees Otaka, Inc., Hawaiian Waikiki Beach, Inc., and Takao Building Co., Ltd. [hereinafter, collectively, the Otaka Defendants] appeal from

3. **Short Form References to Names:** Once parties, witnesses, or other individuals have been referred to by their full name, subsequent references may be shortened as indicated by the examples below. If an individual will subsequently be referred to by his or her surname, a parenthetical is not required. However, if the surname will not be used, then, a parenthetical describing the designated name, without quotation marks, is required as illustrated by the following examples:

EX: (1) defendant-appellee George Ariyoshi (defendant)

(2) defendants-appellees George Ariyoshi (George) and Jean Ariyoshi (Jean) [hereinafter, collectively, the Ariyoshis]

(3) plaintiff-appellant Board of Trustees of the Office of Hawaiian Affairs [hereinafter the Board or OHA]

(4) defendants-appellees Otaka, Inc., Hawaiian Waikiki Beach, Inc., and Takao Building Co., Ltd. [hereinafter, collectively, the Otaka Defendants]

(5) petitioner/plaintiff-appellant Association of Apartment Owners of The Admiral Thomas (the AOAO)

(6) Robert D. Lindberg, M.D. (Dr. Lindberg)

D. Special Citation Forms

1. **Arbitration Opinions (R14.3.1):** Arbitration opinions should be cited like court opinions when adversary parties are named. Note: Adversary parties are named in almost every arbitration opinion, except that the caption uses “between” instead of “vs.”

EX: University of Hawai‘i Professional Assembly ex rel. Daeufer v. University of Hawai‘i (instead of In the Matter of the Arbitration Between University of Hawai‘i Professional Assembly, on behalf of Alice Daeufer v. University of Hawai‘i)

2. Unpublished Appellate Dispositions

Rule 35 of the Hawai'i Rule of Appellate Procedure

An unpublished appellate disposition filed before July 1, 2008 could not be cited as precedent, except when it (1) established the law of the pending case, (2) had res judicata or collateral estoppel effect, or, (3) in a criminal case, involved the same respondent. Effective July 1, 2008, any unpublished appellate disposition filed on or after July 1, 2008 may be cited for “persuasive value” and, if cited, must be appended to the brief or memorandum in which the unpublished disposition is cited.

- a. CASE NAME: For unpublished dispositions (*i.e.*, memorandum opinions and summary disposition orders), provide the case name, appeal number, court, and full date (abbreviated month, day, and year), followed by type of disposition in a separate parenthetical as follows:

EX: (1) State v. Cambra, No. 26746 (Haw. Apr. 18, 2007) (mem.)
(2) State v. Matsuda, No. 28766 (App. Aug. 5, 2008) (SDO)

- b. SHORT CITATION FORM (*see also* I.C. above): An unpublished disposition that has been cited in full in the same general discussion may be subsequently cited in a shortened form as illustrated below. Citation to the page numbers should be the pagination of the pdf-version on the Judiciary's website (or Intranet):

EX: (1) Cambra, mem. op. at 2.
(2) Matsuda, SDO at 3.

3. **Trial Courts and Administrative Agency Decisions:** Trial court and administrative agency decisions do not have precedential value and, thus, should not be cited as authority. However, reference to the trial court or administrative agency case may be made by indicating the case name and number as illustrated below:

- EX: (1) State v. Smith, Cr. No. 03-1-1542-3
 (2) Selassie v. Marley, Civ. No. 99-0-0123-10
 (3) Wagnon v. Koga Eng'g, Case No. AB 99-542 (2-97-13046)

HELPFUL HINT: In the numbering convention for examples (1) and (2) above, the first number represents the year the case was filed and the last number represents the month. Thus, for (1) above, the case number tells you the action was commenced in March 2003 and, in (2) above, the action was commenced in October 1999. The second number will always be a "0" or "1," where "0" represents cases filed before 2000 and "1" represents cases filed after 2000, which designation was added to address Y2K-problems back in 1999-2000. The third set of numbers is the number for that case -- for example, in (1) above, the Smith case was the 1,542nd case filed in 2003.

Example (3) above is an administrative agency case, *i.e.*, from the Labor and Industrial Relations Appeals Board, designated by the "AB," with the first two digits representing the year the case was commenced at the Appeals Board and the assigned number, *e.g.*, representing the 542nd case filed with the Appeals Board in 1999. The number in the parenthetical represents the case number assigned by the Department of Labor and Industrial Relations. The first single-digit number represents the jurisdiction in which the case was commenced, the second number is the year, and the third number is the assigned case number. The single-digit numbers represent the following:

1 = Hilo 2 = O'ahu 4 = Kaua'i 5 = Lāna'i
 7 = Maui 8 = Moloka'i 9 = Kona

II. STATUTES, LEGISLATIVE MATERIALS, AND RULES

A. Statutes

1. **Hawai'i Revised Statutes** (1968 to present):

HELPFUL HINT: Make sure to cite to the version of the statute applicable at the time of the controversy or offense at bar. If a statute was amended subsequent to its publication in a bound volume, use the version of the supplement that reflects the statute in effect at the time of the controversy or offense.

Also, use the dates of both a replacement volume and a supplement when referring both amended and unamended portions of a statute. See R12.3.2.

- a. **FIRST INSTANCE:** “Hawai'i Revised Statutes” should be spelled out in its first use (in the body or footnote), followed by a parenthetical, i.e., “(HRS).” Thereafter, the acronym may be used, even if citing to a different section.

EX: Hawai'i Revised Statutes (HRS)

- b. **PROVIDE THE YEAR OF BOUND VOLUME AND/OR SUPPLEMENT:** All section references cited for the first time (in the body or footnote) must be followed by the date of the statute's publication in codified form, either to the bound volume and/or to the supplement. Subsequent citations to the same section need not include the year.

EX: HRS § 91-14 (1985); HRS § 707-730 (Supp. 1992);
HRS § 352-2.1 (1993 & Supp. 2007)

- c. **COMMENTARY TO THE HRS:** Use the abbreviation “cmt.” when citing to HRS commentary.

EX: HRS § 708-857 cmt. (1985).

2. **Revised Laws of Hawai'i** (Prior to 1968): “Revised Laws of Hawai'i” should be spelled out in its first use (in the body or footnote), followed by a parenthetical, i.e., “(RLH).” Thereafter, the acronym may be used, even if citing to a different section.

EX: RLH § 230-19 (1955).

3. **Session Laws:** “Hawai‘i Session Laws” is most commonly used when referring to legislative history or when a new law has not yet been codified in the HRS.

a. Cite as “Haw. Sess. Laws” and include the year of the legislative session, the act number, section number (if applicable), and the page number.

EX: 1973 Haw. Sess. Laws Act 219, § 1 at 658-60.

b. For recently-enacted laws that have not yet been printed in the Haw. Sess. Laws, use the Act number, date of enactment, and codification information, if known. Cf. R12.4. & R12.5.

EX: Act 1 (Oct. 31, 2007) (to be codified at HRS §§ 706-661 to -664).

B. Hawai‘i Ordinances (R12.8.2): Cite in the same manner as statutes. See II.A. above. The date in the parenthetical should be the date of the codification, not the date the ordinance was enacted.

1. **City & County of Honolulu:** Ordinances for the City & County of Honolulu are codified in the “Revised Ordinances of Honolulu” or “ROH.”

EX: Revised Ordinances of Honolulu (ROH) § 26-4.1 (1978), or ROH § 26-4.1 (short form)

2. **Neighbor Island Counties:** As with the ROH, the Maui, Hawai‘i, and Kaua‘i county codes can be abbreviated as “MCC,” “HCC,” and “KCC,” respectively, and are subject to the same full and short citation requirements.

HAWAI‘I ORDINANCES AVAILABLE ONLINE

Revised Ordinances of Honolulu	http://www.honolulu.gov/refs/roh .
Maui County Code	http://municipalcodes.lexisnexis.com/codes/maui .
Hawai‘i County Code	http://www.hawaii-county.com/countycode.html .
Kaua‘i County Code	(not available as of this Handbook’s publication)

C. Charters: Cite in the same manner as statutes and ordinances. See II.A. & B. above.

1. **City & County of Honolulu**: Charter information for the City & County of Honolulu is codified in the “Revised Charter of the City and County of Honolulu” or “RCCCH.”

EX: Revised Charter of the City and County of Honolulu (RCCCH) § 6-501 (1994), or
RCCCH § 6-501 (short form)

2. **Neighbor Island Counties**: As with the RCCCH, the Maui, Kaua‘i, and Hawai‘i county charters can be abbreviated as “CCM,” “CCK,” and “CCH,” respectively, and are subject to the same full and short citation requirements.

HAWAI‘I CHARTERS AVAILABLE ONLINE

Revised Charter of the City and County of Honolulu
 <http://www.co.honolulu.hi.us/refs/rch/>.
 Charter of the County of Maui
 <http://www.co.maui.hi.us/index.asp?nid=162>.
 Charter of the County of Kaua‘i
 ... http://www.kauai.gov/portals/0/county_attorney/kauai_county_charter.pdf.
 Charter of the County of Hawai‘i
 [http://www.hawaii-county.com/council/charter/
 Final Hawaii County Charter 2006.pdf](http://www.hawaii-county.com/council/charter/Final%20Hawaii%20County%20Charter%202006.pdf).

D. Legislative Materials

1. **Hawai‘i Legislative History**

- a. **COMMITTEE REPORTS**: The two most common types of committee reports are (1) Standing Committee Reports of either the Senate (S.) or the House of Representative (H.) and (2) Conference Committee Reports (that represent both bodies).² Cite as follows:

EX: (1) H. Stand. Comm. Rep. No. 1178, in 1993 House Journal, at 1473.
 (2) Conf. Comm. Rep. No. 211, in 1993 House Journal, at 950, 1993 Senate Journal, at 814.

² Other types include special committees, interim committees, and the committee of the whole.

- b. **OTHER MATERIALS:** Floor debate and other references should be cited directly to the House Journal or Senate Journal, with a parenthetical identifying the speaker or otherwise describing the information.

EX: 1997 House Journal, at 807 (statement of Rep. Pendleton).

2. **Bills and Resolutions:**

- a. **CITATION FORM:** Include abbreviated name of legislative body (S. or H.), designation of bill or resolution (B. or Res.), its number, numbered session of the legislative body, designation of regular or special session, and year of enactment or publication if not enacted. Cf. R13.2. If there were multiple drafts of the bill or resolution, indicate the draft version number after the bill number, designated as "H.D. #" (House Draft), "S.D. #" (Senate Draft), or "C.D. #" (Committee Draft). Do not include draft information if there was only one draft.

EX: H.B. 807, H.D. 2, S.D. 1, 22nd Leg., Reg. Sess. (2003).

- b. **LEGISLATIVE ACTIVITY ONLINE:** Legislative activity for recent years, including the text and status of a bill, is available at <http://capitol.hawaii.gov/site1/docs/docs.asp>. A parallel citation may be provided to increase access to the source. See also section III(C).

EX: H.B. 2, 24th Leg., 2d Spec. Sess. (2007), available at http://capitol.hawaii.gov/splsession2007b/bills/HB2_.htm.

3. **Hawai'i Constitutional History:** Constitutional history includes drafts, committee reports, and debates. It should be cited in the same manner as legislative materials.

EX: Stand. Comm. Rep. No. 57 in 1 Proceedings of the Constitutional Convention of Hawai'i of 1978, at 637 (1980).

E. Rules

1. **Rules of Court**

Hawai'i Rules of Court

Generally, amendments to the Hawai'i Rules of Court are released twice a year with effective dates of January 1 and July 1. The dates of the various orders of amendment and the effective dates of those orders are reflected at the end of each rule or subparagraphs of rules.

- a. **FIRST INSTANCE:** The title of the rule should be spelled out in full in its first use (in the body or footnote), followed by a parenthetical. Thereafter, the acronym may be used, even if citing to a different rule. See Section VIII. "Acronyms for Hawai'i Rules of Court."

EX: Hawai'i Rules of Penal Procedure (HRPP)

- b. **PROVIDE THE EFFECTIVE YEAR OF RULE AMENDMENT:** All rule references cited for the first time (in the body or footnote) must be followed by the date of the rule's publication, not the date of the order adopting the rule. In other words, provide the effective date (year only). Subsequent citations to the same rule need not include the year.

EX: Hawai'i Rules of Penal Procedure (HRPP) Rule 40 (2006)
HRPP Rule 40 or HRPP 40 (short form)

2. **Hawai'i Rules of Evidence:** Although the Hawai'i Rules of Evidence are codified in the Hawai'i Revised Statutes, you need not cite to the HRS. Cite evidence rules in the same manner as rules of court. See II.E.1. above. The version of the evidence rule and the parenthetical-year should be cited in the same manner as for statutes. See Section II.A.1. above.

EX: Hawai'i Rules of Evidence (HRE) Rule 403 (1993)
HRE Rule 403 or HRE 403 (short form)

3. **Hawai'i Administrative Rules:** The Hawai'i Administrative Rules or HAR are not kept in a centrally codified form; however, most administrative rules are available in a central repository online, courtesy of the Lieutenant Governor's Office at <http://hawaii.gov/lsgov/office/adminrules>. Where relevant cite the effective date parenthetically.

EX: Hawai'i Administrative Rules (HAR) § 13-95-70 (effective 1998-2002)
 HAR § 13-85-70 (short form)

III. BOOKS, LAW REVIEWS, AND OTHER NONPERIODIC MATERIALS

A. Books

1. **Basic Citation Forms** (R15): Consult R15 for citation form for books; however, use underscoring instead of small caps.

EX.: 3 Charles Alan Wright et al., Federal Practice and Procedure & n.7 (3d ed. 2004 & Supp. 2007)

2. **Special Citation Forms** (B6.1.3, R12.8.5, & R15.8(a)): Consult R6.1.3, R12.8.5, & R15.8(a) for citation forms for sources such as Restatements, Model Codes, or frequently cited works. Consult R12.8.4. re: Uniform Acts.

EX: Restatement (Second) of Contracts § 90 (1979)

EX: Model Bus. Corp. Act. § 57 (1979)

EX: Black's Law Dictionary

EX: 88 C.J.S. Trial

EX: 17 Am. Jur. 2d Contracts)

- B. Law Reviews & Periodicals (R16): Consult R16 for citation forms for law review articles and other periodicals; however, use underscoring instead of italics.

EX: Jon M. Van Dyke, Population, Voting, and Citizenship in the Kingdom of Hawai'i, 28 U. Haw. L. Rev. 81, 87-89 (2005)

C. Electronic Media and Other Nonprint Resources (R18)

1. **General Principles**

- a. **SCOPE OF RULE:** Rule 18 covers citation of information found in electronic media and other nonprint resources; widely used commercial databases, such as Westlaw and LEXIS, see R18.1; the Internet, see R18.2; CD-ROMs, see R18.3; microforms, see R18.4; films, broadcasts, and noncommercial video-tapes, see R18.5; and audio recordings, see R18.6.
- b. **WHEN ALLOWED:** Sources in these media pose special problems because they often lack the permanence and authoritativeness of traditional printed material. Therefore, The Bluebook **requires the use and citation of traditional printed sources unless** (1) the information cited is unavailable in a traditional printed source or (2) a copy of the source cannot be located because it is so obscure that it is practically unavailable. Only in these two cases should citation be made to the electronic source alone. See R18.2.3, Direct Citations.
- c. **PARALLEL CITATION TO ELECTRONIC SOURCE:** Even if a printed source can be found, a parallel citation to an electronic source as related authority (see R1.6) may be provided if it will substantially improve access to the relevant information. See R18.2.2, Parallel Citations. Citation should be made first to the printed source and then separately to the electronic source, introduced with the explanatory phrase “available at.” The content of the electronic source must be identical to that of the printed version. If citing to an electronic source and the document is available in both HTML format and PDF format (that preserves original pagination), **always cite to the PDF format.** See R18.2.1(c).

HELPFUL HINT: Parallel citations to electronic sources may be useful in the following areas: (1) Administrative Rules; (2) County Ordinances and Charters; and (3) slip opinions.

2. Commercial Databases (R 18.1)

- a. CASES (R18.1.1): Cite to electronic databases when the case is not available in a common reporter, such as recently-published opinions only available in slip opinion form. Citation format should include:
 - (i) case name;
 - (ii) docket number;
 - (iii) database identifier;
 - (iv) star (*) pages, if pincite;
 - (v) court name; and
 - (vi) full date.

Note: Although both Westlaw and LEXIS citations are acceptable, appellate law clerks have access to only Westlaw.

EX: Int'l Snowmobile Mfrs. Ass'n v. Norton, No. 00-CV-229-B, 2004 WL 2337372, at *3 (D. Wyo. Oct. 14, 2004)
Int'l Snowmobile, 2004 WL 2337372, at *5 (short form)

- b. CONSTITUTIONS AND STATUTES (R18.1.2): Include in a parenthetical the name of the database and the current status of the database, either by reference to a date or other marker.

EX: Wis. Stat. § 19.43 (West, Westlaw through 1995 Act 26)

- c. OTHER MATERIALS (R18.1.3 & R18.1.4): For other materials such as legislative, executive, and administrative materials and secondary materials, etc., consult R18.1.3 & R18.1.4.

3. Internet (R18.2)

- a. THE UNIFORM RESOURCE LOCATOR (URL) (R18.2.1): An Internet site is identified by its "address" or URL. The stated address should allow the reader direct access to the source cited, rather than to intervening links or pages. Thus, cite the entire URL unless it is too "long, unwieldy, or full of nontextual characters." In the case of the latter, include the root URL followed by a parenthetical explanation of how to access the information; however, if the explanation becomes overly complicated, cite exactly the entire URL. See R18.2.1 for various examples.
- b. PARALLEL CITATIONS TO INTERNET SOURCES (R18.2.2): Even when a source is available in a traditional printed medium, a parallel citation to an Internet source with identical content may be provided if it will improve access to the cited source. Where a traditional printed medium is available, citation to the primary source should be in accordance with this Handbook and/or The Bluebook, and the parallel Internet citation should

then be introduced with the explanatory phrase “available at.” See R18.2.2. for various examples.

- c. DIRECT CITATIONS TO INTERNET SOURCES (R18.2.3): An Internet source may be cited directly when the source does not exist in a traditional printed format or on a widely available commercial database, or when a traditional printed source exists but cannot be found and is so obscure that it is practically unavailable. In such cases, consult R18.2.3 and the examples therein.
- d. WEB PAGES AND BLOGS (R18.2.3(c) & 18.2.4):
 - i. *web pages, generally*: Web pages generally do not provide “authors” or titles”; thus, where author/title information is unclear, use the “title bar” at the top of the browser window, or an alternative, if the title bar is not informative or unwieldy. A title alone is sufficient if there is no “author.” Use title capitalization. See R18.2.3(c) for examples.
 - ii. *web postings and “blogs” (weblogs)* (R18.2.4): Follow R18.2.4 and examples therein. Although unconventional, the United States Supreme Court, in United States v. Booker, 543 U.S. 220 (2005), contains a citation to a blog in the dissent by Justice Stevens. Id. at 277 n.4 (Stevens, J., dissenting).

IV. STRUCTURE AND USE OF CITATIONS

- A. Introductory Signals (R1.2): **Read thoroughly R1.2.** Note that the entire introductory signal must be underscored, except: “see, e.g.,” does not include underscoring of the second comma.
- B. Order of Signals (R1.3): **Read thoroughly R1.3.**
- C. Order of Authorities Within Each Signal (R1.4): Generally, follow R1.4. However, when string-citing multiple cases from various jurisdictions, including Hawai‘i, for a proposition of law, the Hawai‘i case that states the proposition should be cited first, followed by appropriately signaled foreign authority.

EX: State v. Lima, 64 Haw. 470, 643 P.2d 536 (1982); accord Ex Parte Barbara Seaton Ct. of Crim. Appeals of Texas 580 S.W.2d 593 (Tex. Crim. App. 1979). Contra People v. Walker, 415 N.E.2d 1021 (Ill. 1980).

D. Paranthenetical Information (R1.5, R5.2, R5.3 R10.6, R12.7 & B11)

1. **Explanatory Parentheticals of Substantive Information** (R1.5(a)): Used to explain the relevance of the cited authority to the stated proposition, especially when the relevance may not be clear. See also R12.7.

- a. **WHEN NOT QUOTING THE AUTHORITY** (R1.5(a)(i)): If not quoting the authority directly, begin with a present participle (e.g., “explaining,” “holding,” “stating”) and do not include a final punctuation (even if the phrase includes quoted material) as a present participial phrase is not a complete sentence.

EX: State v. Yamasaki, 91 Hawai'i 163, 165, 981 P.2d 720, 722 (App. 1999) (looking to Model Penal Code to “inform [the court’s] effort to glean the scope of parallel statutes” in Hawai'i).

- b. **WHEN QUOTING THE AUTHORITY** (R1.5(a)(ii)): When quoting one or more full sentences, or a portion that reads like a full sentence, the first work of the parenthetical material should begin with a capital letter and end with an appropriate final punctuation.

EX: State v. Pulse, 83 Hawai'i 229, 244, 925 P.2d 797, 812 (1996) (“The testimony of one percipient witness can provide sufficient evidence to support a conviction.”).

2. **Alteration Parentheticals** (R5.2 & R5.3):

See also section V, “Quotations, Formatting,” of this Handbook.

- a. **EXISTING OR ADDITIONAL ALTERATIONS TO QUOTED MATERIAL** (R5.2(d)): Generally, “alterations parentheticals” are used when the text, as quoted, differs from the original source.

- i. *alteration parentheticals, generally*: When the quoted material contains (i) existing alterations, such as emphasis or bracketed information, (ii) footnotes and internal citations that are being deleted, or (iii) unemphasized material that is being emphasized, use alteration parentheticals -- such as “(emphasis in original),” “(footnotes omitted)” “(citations omitted),” or “(emphasis added)” -- after the citation to the source of the quoted material. See also R10.6.3.

EX: Lathrop v. Sakatani, 111 Hawai'i 307, 313, 141 P.3d 480, 486 (2006) (emphasis added).

- ii. *multiple alteration parentheticals*: Multiple alteration parentheticals may be listed in the order suggested in R5.2(d)(i). However, group like-descriptions in a single parenthetical, and unlike-descriptions in separate parentheticals.

EX: McCabe Hamilton & Renny, Co., Ltd. v. Chung, 98 Hawai'i 107, 43 P.3d 244 (App. 2002) (citations and internal quotation marks omitted).
Coon v. City & County of Honolulu, 98 Hawai'i 233, 245, 47 P.3d 348, 360 (2002) (emphasis added) (citation omitted).

- iii. *stand alone alteration parentheticals*: Alteration parentheticals can stand alone as separate sentences immediately following a quotation where the quotation is given without a citation (as in citations to the record), or where the citation was fully set forth before the quotation. Note that stand alone alteration parentheticals include capitalization and final punctuation.

EX: Pursuant to HRS § 708-831(1), "[a] person commits the offense of theft in the second degree if the person commits theft," *inter alia*, "[o]f property from the person of another" or "[o]f property or services the value of which exceeds \$300." (Emphasis added.)

- b. CITING AND QUOTING QUOTED MATERIAL (R10.6.2): Generally, when quoted material cites to, or quotes from, another source, so indicate in a parenthetical that begins with "citing" or "quoting." The subsequent history of the second source/citation is generally not required.

EX: Prindable v. Assoc. of Apartment Owners of 2987 Kalakaua, 304 F. Supp. 2d 1245, 1253 ("The purpose of summary judgment is to identify and dispose of factually unsupported claims and defenses." (citing Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986))).

3. **Weight of Authority Parentheticals** (R10.6.1): Generally, add information regarding the weight of the authority in a separate parenthetical phrase after the date of the decision.

EX: State v. Johnson, No. 26345 (Haw. Mar. 28, 2005) (mem.).
Parker v. Randolph, 442 U.S. 62, 84 (1979) (Stevens, J., dissenting).

4. **Ordering of Parentheticals:** Generally, multiple types of parentheticals in a single citation sentence, should be placed in the following order: (1) weight of authority parentheticals; (2) alterations parentheticals; (3) “quoting” and “citing” parentheticals; and (4) quotation and explanatory parentheticals. See R10.6.3 (general rule). All parentheticals should precede any citation of subsequent history. (R1.5(b), R10.6.3, & B11).

EX: Chief Judge Skelly Wright noted Congress’s “firm resolve to insure that the CIA’s ‘power that flows from money and stealth’ could not be turned loosed in domestic investigations of Americans.” Marks v. CIA, 590 F.2d 997, 1008 (D.C. Cir. 1978) (Wright, C.J., concurring in part and dissenting in part) (emphasis added) (quoting Weissman v. CIA, 565 F.2d 692, 695 (D.C. Cir. 1977)).

V. QUOTATIONS, FORMATTING

A. Within the Body of the Text

1. **Quotations of Less than 50 Words** (R5.1(b)): Quote without reference to paragraph structure and always place commas and periods inside quotation marks; other punctuation marks come after the quotation marks unless they are part of the matter quoted.
2. **Quotations of More Than 50 Words** (R5.1 & B12): Use “block quote” format (indent one inch from left margin and half inch from right margin, single space, and reduce font pitch size from 12 to 10³). If your quoted text contains a block quotation, indent the second-level block quotation an additional half inch from each side (and so on for additional levels of block quotation).

³ This rule is for internal memoranda is contrary to HRAP 32(b) that prohibits reduction of font size for quotes and footnotes.

B. Footnotes Within Quoted Material

1. **Adding Footnotes to Quoted Text:** Insert the added-footnote and enclose the footnote call number in brackets.

EX: [W]e observe that, in 1993, the legislature found that “the island of Kaho‘olawe ^[16] is of significant cultural and historic importance to the native people of Hawai‘i,” 1992 Haw. Sess. Laws Act 340, § 1 at 803[.]

2. **Existing Footnotes:** If the footnote within the quoted material is retained, insert the footnote and retain its original call number; then, set forth the text of the retained-footnote immediately below the end of the quoted text separated by a one inch demarcation line.¹⁷

EX: Quoting from *808 Development, LLC v. Murakami*, 111 Hawai‘i 349, 353, 141 P.3d 996, 1000 (2006), where footnote 7 is retained:

[Main Text]

On July 20, 2004, the circuit court entered a final judgment, dismissing 808 Development’s lien application pursuant to HRCP Rule 58 (2004).⁷ Thereafter, on July 30, 2004, Owners moved for an award of costs and fees in the amount of \$38,183.15, pursuant to HRCP Rules 7(b) and 54(d), and HRS § 607-14.

⁷ HRCP Rule 58 provides in pertinent part that “[e]very judgment shall be set forth on a separate document.”

[Main Text]

¹⁶ The island of Kaho‘olawe was used by the United States “as a military target range since 1941.” 1993 Haw. Sess. L. Act 340, § 1 at 803. In 1990, the bombing and shelling of the island was halted by Congress and the President of the United States. A federal commission, known as the Kaho‘olawe Island Conveyance Commission, was created by Congress to determine the terms of conveyance of the island to the State of Hawai‘i.

¹⁷ This approach is adapted from the U.S. Government Printing Office Style Manual, Ch. 15.8, at 212 (29th ed. 2000), available at http://www.gpoaccess.gov/stylemanual/2000/chapter_txt-15.html.

C. Alterations to Quoted Text (R5.1(b)(iv), R5.2, & R5.3)

1. **Hawaiian Words:** The Hawai'i Judiciary has adopted a policy that encourages spelling and punctuating Hawaiian words correctly, i.e., using the 'okina or glottal stop (‘) and kahako or macron (ā, ē, ī, ō, and ū), e.g., Hawai‘i, Ali‘iōlani Hale.¹⁸ When Hawaiian words appear in quoted text, but are not correctly punctuated, you need not apply the correct punctuation. However, if you wish to do so, keep in mind that the word might be searched on Westlaw as it appears in the quoted text (without correction). Thus, if you apply the correct punctuation, do so in a bracket after typing the word as it appears in the quoted text.

EX: If the quoted word is “Oahu,” indicate: “Oahu [O‘ahu].”

Note: Do not alter the proper names of parties, individuals, or businesses if the party, individual, or business has not punctuated his, her, or its Hawaiian name correctly. Exception: State of Hawai‘i.

CAVEAT RE: HAWAIIANWORDS

Unlike the English language, the Hawaiian language does not use possessives. Therefore, do not add the 'okina or kahako to a possessive word..

EX: Hawaii's citizenry (not Hawai‘i's citizenry);
Oahu's North Shore (not 'Oahu's North Shore)

2. **Substituting Letters and Altering Words:** Consult R5.2 & R5.3 when quoted material is altered by changing letters and words (e.g., upper to lower case or vice versa; altering singular to plural or vice versa; present to past tense or vice versa). Insert “[sic]” in unaltered quoted text when the text contains a significant mistake (R5.2).
3. **Omitting Text** (R5.3): When omitting words, phrases, sentences, or paragraphs from quoted text, use ellipses (three periods separated by spaces: “. . .”) , but not when omitting words, phrases, etc. from the beginning of a sentence. Use four (4) periods if another sentence follows, or to indicate an omitted paragraph (R5.1(a)(iii)).

¹⁸ These symbols can be found in WordPerfect at Insert >> Symbol (Phonetic and Multinational sets). For proper representation of Hawaiian words, refer to Mary Kawena Pukui & Samuel H. Elbert, Hawaiian Dictionary (1986), and Mary Kawena Pukui, Samuel H. Elbert, & Esther T. Mookini, Place Names of Hawai‘i (1974). Each chambers has a set -- ask your judicial assistant.

4. **Punctuation in Quoted Text** (R5.1(b)(iv): In the limited instances where necessary, use brackets to change the punctuation of quoted material. Note, however, that adding a comma or period to the end of quoted material is a grammatical convention and does not require the use of brackets.

VI. USE OF UNDERSCORE

A. General Rules

1. Underscore non-English words and phrases except those that have been incorporated into common English usage, such as “ e.g., i.e., de jure, res judicata” (see R7). However, obsolete or uncommon Latin words and phrases should remain underscored.
2. Underscore all introductory signals (e.g., accord, see, see also, cf., but see, but cf., contra) when they appear within citation sentences or clauses (see R2.1(d)). Do not underscore a signal word when it serves as a verb in an ordinary sentence.

EX: For an analysis of UCC risk allocation rules, see Roger S. Goldman, Note, Risk of Loss, in Commercial Transactions: Efficiency Thrown into the Breach, 65 Va. L. Rev. 557, 563-72 (1979).

3. Underscore explanatory phrases that are part of a citation but not in a parenthetical; for example: cert. denied, superseded by, available at, amended by (see R2.1(e)).

- B. Headings: Where a heading is already underscored, *italicize* phrases or case names that would otherwise be underscored.

EX: A. Hawaii's Treatment of the *Ignorantia Legis Neminem Excusat* Doctrine

VII. CAPITALIZATION

- A. Headings and Titles: Consult R8(b).
- B. Text: Consult R8(b).
- C. Exceptions (R8):
 1. **The Word “Court”**: Capitalize the word “court” only when referring to the United States Supreme Court. Do not capitalize the word “court” when referring to other courts unless the title is given in full.

EX: In Parker, the Court held that 442 U.S. at 65.
In Hicks, this court held that”
The Hawai‘i Supreme Court said in Hicks that

2. **The Word “State”**: Capitalize the word “state” only when it is a part of the full title of a state. However, when the state is one of the parties, or when referring to the state as a governmental actor, “State” should be capitalized.

EX: State of Hawai‘i (as opposed to “this state,” “the state legislature,” or “the state constitution”)

3. **Constitutions**: Capitalize only when referring to a constitution named in full or the United States Constitution. When indicated in a citation, use “Haw. Const. art. I, § 7.” Do not capitalize amendments, articles, or clauses (e.g., due process clause, equal protection clause). In textual sentences, write out “article I, section 7 of the Hawai‘i Constitution.”

VIII. ACRONYMS FOR HAWAII RULES OF COURT

ABBREVIATION	NAME OF RULE SET
DCRCP	District Court Rules of Civil Procedure
GPCC	Guidelines for Professional Courtesy & Civility for Hawai'i Lawyers
HACP	Hawai'i Appellate Conference Rules
HAR	Hawai'i Arbitration Rules
HBBE	Hawai'i Board of Bar Examiners Rules
HCTR	Hawai'i Civil Traffic Rules
HFCR	Hawai'i Family Court Rules
HPR	Hawai'i Probate Rules
HRCP	Hawai'i Rules of Civil Procedure
HRPC	Hawai'i Rules of Professional Conduct
HRPP	Hawai'i Rules of Penal Procedure
JSCR	Judicial Selection Commission Rules
LFRR	Lawyers' Fund Rules & Regulations
PPHJ	Principles of Professionalism for Hawai'i Judges
RCCH	Rules of the Circuit Courts of the State of Hawai'i
RCJC	Revised Code of Judicial Conduct
RDCH	Rules of the District Courts of the State of Hawai'i
RGCR	Rules Governing Court Reporting
RGTA	Rules Governing Trust Accounting
RICA	Rules of the Intermediate Court of Appeals
RLC	Rules of the Land Court
RSCD	Rules of the Small Claims Division of the District Courts
RSCH	Rules of the Supreme Court of Hawai'i
RTAC	Rules of the Tax Appeal Court