

# THE COURTS

## Title 255—LOCAL COURT RULES

### ERIE COUNTY

#### Revision and Restatement of the Rules of Civil Procedure; No. 90524 Court Order 1998

#### Order

*And Now*, this day of April 27, 1998, the following revisions and additions to the Rules designated as the Rules of Civil Procedure for the Court of Common Pleas of Erie County, Pennsylvania, are hereby approved, adopted and promulgated as the Rules of Court. These Rule changes, revisions and deletions shall become effective thirty days after the publication of the same in the *Pennsylvania Bulletin*, and they shall apply to all actions pending at the time.

JOHN A. BOZZA,  
*President Judge*

#### Rule 206.4.

A petition shall proceed upon a rule to show cause, the issuance of which shall be as of course in accordance with the procedure set forth in Pa.R.C.P. No. 206.6. The petitioner shall file the petition with the prothonotary with a copy to the assigned judge, together with a proposed order in conformity with Pa.R.C.P. No. 206.6. The assigned judge shall issue the appropriate order, and the petitioner shall provide notice of entry of the order to all parties as contemplated by Pa.R.C.P. No. 206.6.

#### Rule 302.

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(e) All motions and petitions requiring decisions and other matters not within the scope of Erie L. R. 212.1 shall be filed with the Prothonotary and, as set forth in Erie L. R. 392(f) and (i), a copy shall be delivered to the assigned judge for the scheduling of the matter for argument.

(f) Motions for judgment on the pleadings, motions for summary judgment, discovery motions and any motion not within the scope of the subsections (g), (i) and (j) below, together with a supporting brief, shall be filed with the Prothonotary and a copy of the motion and brief shall be contemporaneously delivered to the assigned judge. Within thirty (30) days of receipt of the moving party's brief, the non moving party shall file a brief and, if appropriate, a response with the Prothonotary and shall deliver a copy to the assigned judge. Any depositions, answers to interrogatories or affidavits in support of or in opposition to the motion shall be filed with the Prothonotary not later than the due date of the respective party's brief.

(g) Preliminary objections not raising an issue of fact shall be filed with the Prothonotary, and within thirty (30) days of such filing, the moving party shall file a supporting brief. At that time, a copy of the preliminary objections and brief shall be delivered to the assigned judge. Within twenty (20) days of receipt of the moving party's brief, the non moving party shall file a brief and, if appropriate, a response and shall deliver copies of the same to the assigned judge.

(h) If the briefs of either the moving party or responding party are not timely filed within the periods above stated, unless the time shall be extended by the Court or by stipulation, the Court may then, or any time subsequent thereto:

(1) Dismiss the motion, exceptions or other matter where the moving party has failed to comply, or

(2) Grant the requested relief where the responding party has failed to comply and where the requested relief is supported by law, or

(3) Prohibit the noncomplying party from participating in oral argument although all parties will be given notice of oral argument and shall be permitted to be present at oral argument and/or

(4) Impose such other legally appropriate sanction upon a noncomplying party as the Court shall deem proper including the award of reasonable costs and attorney's fees incurred as a result of the noncompliance.

(i) All motions or petitions requiring transcription of a trial record or the production and transmittal of the record from a determination which is subject to judicial review by this Court shall be filed with the Prothonotary by the moving party within the applicable time frame. A copy of said motion and supporting brief shall be delivered to the assigned judge within twenty (20) days of the filing of the transcript or record with the Prothonotary. Any response to said motion shall be filed within twenty (20) days of receipt of the moving party's brief and a copy shall be delivered to the assigned judge.

(j) All other motions or petitions including petitions to open a judgment shall be disposed of pursuant to Pa.R.C.P. 206 et seq., as appropriate.

(k) There shall be oral argument on any motion, petition or preliminary objection unless all parties waive argument by failing to demand such at the time of the filing of the motion, preliminary objection, response and/or brief. Demand for oral argument shall be stated on the caption thereof. Notice of each argument for which a timely demand is made shall be given by the Court to each attorney of record or unrepresented party by United States mail, facsimile transmission, or personal delivery to a business address or courthouse box.

#### Rule 1302.

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**(b) Mediation is available at the request of all parties. [ In cases where the amount in controversy is not greater than \$20,000.00, the parties shall still be entitled to three arbitrators provided they first submit the matter to a District Justice or mediation as provided in this Rule. ]** The Prothonotary, upon request for appointment of a mediator shall appoint said mediator to conduct the process. If mediation is unsuccessful, the case shall proceed to arbitration **[ where the parties shall be entitled to a three member arbitration panel ]**.

**[ In the event the parties do not wish to go through the mediation process as a pre-condition to the right of arbitration, they shall waive their right to three arbitrators and only one arbitrator shall be appointed. ]**

The following procedure shall guide the mediation process **[unless mediation is waived]** when requested by the parties:

(1) Mediation shall be conducted in cases where the amount in controversy is not greater than **[\$20,000.00]** **\$30,000.00**.

(2) The mediator shall be selected by the Prothonotary's Office from a list supplied by the Court.

(3) The mediator shall designate the time for hearing with written notice to each party or their counsel. Hearings may be held at the mediator's office.

(4) All parties including counsel are required to attend the mediation hearing.

(5) The parties/counsel shall immediately notify the mediator if the matter has been resolved prior to the scheduled hearing.

(6) The mediator shall file a **[pleading]** report with the Court, with copies to the parties or their counsel, stating mediation was successful or unsuccessful. If unsuccessful, the case shall proceed to arbitration.

[Pa.B. Doc. No. 98-884. Filed for public inspection June 5, 1998, 9:00 a.m.]

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## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Suspension

Notice is hereby given that Raymond S. Wittig, who resides outside the Commonwealth of Pennsylvania, having been suspended from the practice of law in the

District of Columbia for a period of three years, the Supreme Court of Pennsylvania issued an Order dated May 21, 1998 suspending Raymond S. Wittig from the practice of law in this Commonwealth for a period of three (3) years, retroactive to January 22, 1997. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney has never practiced in Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,  
*Executive Director & Secretary  
The Disciplinary Board of the  
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 98-885. Filed for public inspection June 5, 1998, 9:00 a.m.]

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### Notice of Transfer of Attorney to Inactive Status

Notice is hereby given that James Wilson Bush of St. Paul, MN has been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated April 14, 1998, pursuant to Rule 219, Pa.R.D.E. The Order became effective May 14, 1998.

Notice with respect to attorneys having Pennsylvania registration addresses, who have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

ELAINE M. BIXLER  
*Executive Director & Secretary  
The Disciplinary Board of the  
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 98-886. Filed for public inspection June 5, 1998, 9:00 a.m.]