

# THE COURTS

## Title 207—JUDICIAL CONDUCT

### PART IV. COURT OF JUDICIAL DISCIPLINE

[207 PA. CODE CHS. 1, 4 AND 5]

#### Amendment to the Rules of Procedure of the Court of Judicial Discipline; Doc. No. 1 JD 94

#### Order

*Per Curium:*

And Now, this 16th day of July, 2002, the Court, pursuant to Article 5, Section 18(b)(4) of the Constitution of Pennsylvania, having adopted amendments to Rules of Procedure 110, 122, 123, 401, 411 and 503, as more specifically hereinafter set forth, *It Is Hereby Ordered:*

That Rules of Procedure 110, 122, 123, 401, 411 and 503 shall become effective immediately.

#### Annex A

### TITLE 207. JUDICIAL CONDUCT

#### PART IV. COURT OF JUDICIAL DISCIPLINE

##### ARTICLE I. PRELIMINARY PROVISIONS

##### CHAPTER 1. GENERAL PROVISIONS

##### IN GENERAL

#### Rule 110. Entry of Appearance.

(A) Counsel for a Judicial Officer shall file an entry of appearance with the Clerk of the Court and shall serve a copy of the entry on the Board Counsel.

(B) The entry of appearance shall include counsel's name, address, phone number, and Pennsylvania Supreme Court Identification Number. Admission Pro Hoc Vice shall be in accordance with the Pennsylvania Bar Admission Rules.

**Official Note:** Counsel should file an entry of appearance within 15 days of service of the Board Complaint or a Preliminary Conference Judge will be appointed in accordance with Rule 301(B).

(C) An attorney's appearance for a Judicial Officer may not be withdrawn without leave of Court unless another attorney has entered or simultaneously enters an appearance for the Judicial Officer and the change of attorneys does not delay any stage of the proceedings.

#### DOCUMENTS GENERALLY

#### Rule 122. Service.

(A) When service is required under these rules, service shall be made concurrently with filing.

(B) Original process shall be served by a competent adult:

- (1) by handing a copy to the Judicial Officer; or
- (2) by handing a copy

(i) at the residence of the Judicial Officer to an adult member of the family with whom he resides; but if no adult member of the family is found, then to an adult person in charge of such residence;

(ii) at any office or usual place of business of the Judicial Officer to his agent or to the person for the time being in charge thereof.

(C)(i) If service of the original process cannot be made as in (B) above, then a copy of the process shall be mailed to the Judicial Officer by any form of mail requiring a receipt signed by the Judicial Officer or his authorized agent. Service is complete upon delivery of the mail.

(ii) If such service cannot be made, service shall be made by leaving a copy at or mailing a copy to the Judicial Officer's last known address. Service in this manner shall be complete upon mailing.

(D) In lieu of service of the original process under this rule, the Judicial Officer or his authorized agent may accept service of the process by filing a separate document which shall be substantially in the following form:

(CAPTION)

I accept service of the \_\_\_\_\_ (on behalf of \_\_\_\_\_ and represent that I am authorized to do so).

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Judicial Officer or Authorized Agent)

\_\_\_\_\_  
(Mailing Address)

(E) Copies of all legal papers other than the original process filed in a proceeding in this Court or served upon any party to the proceeding shall be served upon every other party to the proceeding.

(F) Service of all legal papers other than the original process shall be made:

(1) by handing or mailing a copy to or leaving a copy for each party at the address of the party's attorney of record endorsed on an appearance or prior pleading of the party, or at such other address as a party may agree, or

(2)(i) if there is no attorney of record, by handing a copy to the party or by mailing a copy to or leaving a copy for the party at the address endorsed on an appearance or prior pleading or the residence or place of business of a party;

(ii) if such service cannot be made, service shall be made by leaving a copy at or mailing a copy to the last known address of the party to be served.

(iii) Service by mail is complete upon mailing.

#### Rule 123. Return of Service.

(A) When service of original process has been made, the person making service shall make a return of service forthwith. If service has not been made, a return of no service shall be made.

(B) A return of service shall set forth the date, time, place and manner of service, the identity of the person served and any other facts necessary for the Court to determine whether proper service has been made.

(C) Return of service or no service by mail under Rule 122 (C)(i) shall include a return receipt.

(D) The return of service or no service shall be filed with the Clerk.

**ARTICLE II. PROCEEDINGS BASED ON THE  
FILING OF FORMAL CHARGES**

**CHAPTER 4. PRE-TRIAL PROCEEDINGS  
DISCOVERY**

**Rule 401. Discovery Generally.**

(A) All discovery shall be completed within 60 days of the service of the Board Complaint, unless extended by the Conference Judge for good cause shown.

(B) Any challenges or objections raised during discovery shall be resolved at the pre-trial conference.

(C) The Conference Judge shall, before the pre-trial conference, set a date for the exchange of the names and addresses of all witnesses whom the parties intend to call at the trial.

(D) *Other Evidence.* The Board and the Judicial Officer shall exchange:

(1) Non-privileged evidence relevant to the charges contained in the Board Complaint, documents to be presented at the trial and statements of witnesses who will be called to testify; and

(2) Other material, in the Conference Judge's discretion, upon cause shown.

(E) *Disclosure by the Board.* Upon filing of the Board Complaint, the Board shall provide the Judicial Officer with any exculpatory evidence relevant to the charges contained in the Board Complaint.

**OMNIBUS MOTION FOR RELIEF; REPLY; ANSWER**

**Rule 411. Omnibus Motion.**

(A) All motions, challenges, and applications or requests for an order or relief on behalf of the Judicial Officer shall be consolidated in one written motion, except as otherwise provided in these rules, or as permitted by the Conference Judge. The omnibus motion shall be filed no later than 30 days of the service of the Board Complaint.

(B) The motion shall state with particularity the grounds for the motion, the facts that support each ground, and the type of relief or order requested. The motion shall be divided into consecutively numbered paragraphs, each containing only one material allegation as far as practicable.

(C) If the motion sets forth facts that do not already appear of record, it shall be verified by the Judicial Officer subject to the penalties for unsworn falsification to authorities under the Crimes Code, 18 Pa.C.S. § 4904.

(D) The Judicial Officer may challenge the validity of the charges on any legal ground including:

- (1) that the facts charged do not constitute misconduct;
- (2) that the Board or the Court is without jurisdiction;
- (3) that the Board violated the procedures governing it; or

(4) that the charges do not provide sufficient notice of the allegations to be defended against.

(E) The failure, in any motion, to request a type of relief or order, or to state a ground therefor, may constitute a waiver of such relief, order, or ground.

**CHAPTER 5. TRIAL PROCEDURES**

**Rule 503. Post-Trial Proceedings.**

(A) *Findings of Fact and Conclusions of Law.* Following the trial, the Court shall file its findings of fact and conclusions of law which shall be served on the Board and the Judicial Officer.

(B) *Objections.*

(1) The Board and the Judicial Officer may elect to file written objections which shall include the basis for the objections to the Court's findings and conclusions.

(2) Any objections shall be filed with the Court within 10 days of the entry of the findings and conclusions. The President Judge may for cause shown extend the time for filing objections.

(3) The Court may permit the Judicial Officer and the Board to present oral argument on any objections filed.

(C) *Disposition of Objections.*

(1) Findings of fact and conclusions of law shall become final:

(a) When no objections have been filed within the applicable time period; or

(b) When objections have been timely filed and the Court, either with or without oral argument, has ruled on the objections.

(2) In any case where objections have been filed, the Court shall enter an order disposing of the objections by affirming, modifying or vacating the findings and conclusions of law.

[Pa.B. Doc. No. 02-1329. Filed for public inspection August 2, 2002, 9:00 a.m.]

**DISCIPLINARY BOARD OF  
THE SUPREME COURT**

**Notice of Disbarment**

Notice is hereby given that Aaron Maurice Smith, having been disbarred from the practice of law in the State of New Jersey, the Supreme Court of Pennsylvania issued an Order dated July 17, 2002, disbaring Aaron Maurice Smith from the Bar of this Commonwealth. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 02-1330. Filed for public inspection August 2, 2002, 9:00 a.m.]

**Notice of Suspension**

Notice is hereby given that on July 17, 2002, pursuant to Rule 214(d)(1) of the Pa.R.D.E., Patrick H. McCarthy, III, who resides outside the Commonwealth of Pennsylvania, was placed on temporary suspension by the Supreme Court until further Order of the Court. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 02-1331. Filed for public inspection August 2, 2002, 9:00 a.m.]