

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 11 - **9027**


**APPROVAL OF AMENDMENTS TO THE
ATTORNEY STANDARDS FOR CERTIFICATION
OF THE TEXAS BOARD OF LEGAL SPECIALIZATION
(PART II – SPECIFIC AREA REQUIREMENTS)**

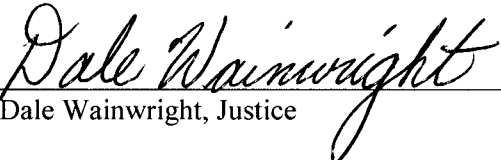
ORDERED that:

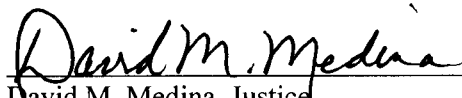
The following amendments to the Attorney Standards for Certification of the Texas Board of Legal Specialization concerning Part II-Specific Area Requirements are approved.

SIGNED AND ENTERED, this 8th day of February, 2011.

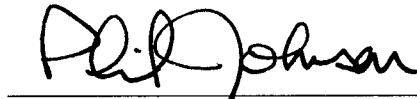

Wallace B. Jefferson, Chief Justice

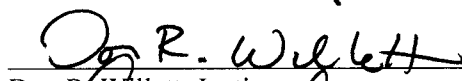

Nathan L. Hecht, Justice

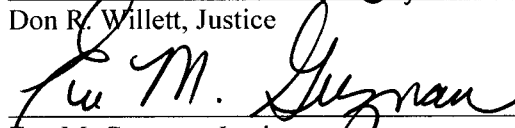

Dale Wainwright, Justice

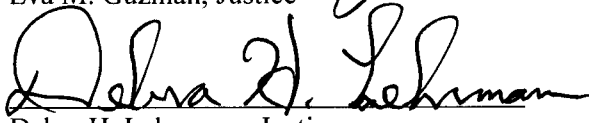

David M. Medina, Justice


Paul W. Green, Justice


Phil Johnson, Justice


Don R. Willett, Justice


Eva M. Guzman, Justice


Debra H. Lehrmann, Justice

**SECTION II
FAMILY LAW**

(Area ID: FM / Year Started: 1975)

A. **DEFINITION.** Family law is the practice of law dealing with, by way of definition not limitation, matters involving:

- the Texas Family Code, Titles 1, 2, 4 or 5;
- Texas Penal Code, Chapter 25 (offenses against the family);
- the law of homestead and other exempt property; the taxation law of divorce and interspousal transaction;
- torts relevant to family law matters;
- the trial of cases arising out of the above matters; and
- appeals arising out of the above matters.

B. **SUBSTANTIAL INVOLVEMENT.** Applicant must show substantial involvement and special competence in Texas family law practice by providing such information as may be required by TBLS.

1. **Certification.**

a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of 35% of his or her time practicing family law in Texas during each year of the 3 years immediately preceding application as defined in Section II, A of the Specific Area Requirements for Family Law.

b. **Task Requirements.** Applicant must provide information concerning specific tasks he or she has performed in Texas family law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.

(1) ~~Applicant must show substantial involvement and special competence in Texas family law practice meet each of the following 3 categories within the 3 years immediately preceding application by providing such information as may be required by the TBLS regarding Texas family law cases participated in by the certification applicant as lead counsel for a party in the following:~~

(a) ~~Participated as lead counsel for a party or child(ren) in a total of 9 contested final trials or binding arbitrations in Texas family law cases in which oral testimony was taken and in which issues were determined by a finder of fact in a court of record or in a binding arbitration, excluding default judgments, and~~

~~(i) At least four (4) of the trials must have involved issues of property division, and~~

~~(ii) at least four (4) trials must have involved appointment or modification of managing conservatorship, and~~

(b) Participated as lead counsel for a party or child(ren) in 30 contested Texas family law matters involving issues pertaining to Texas Family Code, Titles 1, 2, 4, or 5, handled and disposed of; prior to and without the necessity of; a contested final hearing or trial of the matters on the merits.

~~(2) In addition, applicant must meet 2 of the following 3 categories within the 3 years immediately preceding application:~~

(c) Satisfied 2 of the following 3 categories:

(ai) Handled the trial as lead counsel for a party or child(ren) in 2 Texas civil jury trials at the county court at law or district court level; one involving family law; and submitted to the jury for decision;

(bii) Conducted the appeal of 1 Texas civil appeal case involving family law; to a Texas Court of Appeals or the Supreme Court of Texas in which briefs were filed by the applicant as lead counsel on behalf of a party or child(ren). TBLS will take into consideration the nature, complexity, and duration of a mandamus or writ of habeas corpus in determining whether it qualifies for this category; or

(eiii) Represented a party or child(ren), or served as a mediator or arbitrator in a cumulative total of +025 Texas mediations, arbitrations, and/or collaborative law cases involving family law, either as an attorney representing a litigant or as a mediator. The TBLS will take into account consideration the nature, duration, and complexity, and duration of the mediations, arbitrations, and/or collaborative law cases in determining whether they qualify in this category.

2. **Recertification.** Applicant must have devoted a minimum of 35% of his or her time practicing family law in Texas during each year of the 5 year period of certification as defined in Section II, A of the Specific Area Requirements for Family Law except as provided for in Part I-General Requirements, Section VI, C,1(b).

C. **REFERENCE REQUIREMENTS.** Applicant must submit a minimum of 5 names and addresses of persons to be contacted as references to attest to his or her competence in family law. These persons must be substantially involved in family law, and be familiar with applicant's family law practice.

1. **Certification.** Applicant must submit names of persons with whom he or she has had dealings involving family law matters within the 3 years immediately preceding application.

2. **Recertification.** Applicant must submit names of persons with whom he or she has had dealings involving family law matters since certification or the most recent recertification.

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3. **Reference Types.** Applicant must submit the following types of references:
 - a. Four Texas attorneys who practice in the applicant's geographic area and who are substantially involved in family law. Applicant must be an opposing counsel to one of these attorneys either in litigation, hearing, or negotiation of a family law matter.
 - b. One judge of any court of record in Texas whom applicant has appeared before as lead counsel in the trial of a family law matter.

SECTION III LABOR AND EMPLOYMENT LAW

(Area ID: LB / Year Started: 1975)

- A. **DEFINITION.** Labor and employment law is the practice of law dealing with the relationships among employers, employees or their labor organizations, except workers' compensation. It includes, by way of definition not limitation, ~~matters involving State or Federal laws regulating or involving:~~
- ~~laws regulating or involving labor~~ Labor relations (National Labor Relations Act experience),
 - Occupational Safety and Health (does not include workers' compensation or non-subscriber matters),
 - Equal Employment Opportunity,
 - Wage and Hour and leave matters ~~under federal or state law~~, including FLSA, FMLA, USERRA, Texas Payday Act, and judicial review of unemployment compensation matters,
 - ~~employment~~ Employment-related torts, employment contracts, and 42 U.S.C. 1983 employment litigation, and
 - ~~whistleblowers~~ Whistleblowers and non-EEO retaliation.

The practice of law dealing with ERISA, bankruptcy, and administrative proceedings may, under the proper circumstances, constitute the practice of labor and employment law within the meaning of this section.

- B. **SUBSTANTIAL INVOLVEMENT.** Applicant must show substantial involvement and special competence in labor and employment law practice by providing such information as may be required by TBLS.

1. **Certification.**

a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of 25% of his or her time practicing labor and employment law during each year of the 3 years immediately preceding application as defined in Section III, A of the Specific Area Requirements for Labor and Employment Law.

b. **Task Requirements.** Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in labor and employment law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.

(1) Applicant must show that he or she has engaged directly and substantially in a broad practice of labor and employment law within the 3 years immediately preceding application in at least 3 of the areas within the definition of labor and employment law as set forth in Section III, A above, one of which must be practice involving the National Labor Relations Act. Applicant must submit required information concerning such practice, the frequency of the work, the jurisdictions involved, and the nature of the issues involved.

- (a) Applicant must show practice involving laws regulating or involving labor relations (National Labor Relations Act) by one of the following methods:
 - i. Actual experience through practice, or
 - ii. Completion of a minimum of 24 hours of continuing legal education (CLE) in comprehensive courses on the National Labor Relations Act, completed within the 3 years immediately preceding the application through June 1 of the year of application. The substitution of CLE in lieu of actual practice involving the National Labor Relations Act is in addition to the CLE requirement submitted to satisfy Part I-General Requirements, Section V, A,1.
 - (b) In addition to meeting the above requirement, applicant must show that he or she has been engaged directly and substantially in 2 additional areas within the definition of labor and employment law as set forth in Section III, A above.
 - (c) Applicant must show by detailed response that he or she has engaged at a significant level of responsibility in litigation in federal or state court or arbitration in at least one of the 3 areas applicant submitted to satisfy Section III, B,1,b(1)(a-b) above.
 - 2. **Recertification.** Applicant must have devoted a minimum of 25% of his or her time practicing labor and employment law during each year of the 5 year period of certification as defined in Section III, A of the Specific Area Requirements for Labor and Employment Law except as provided for in Part I-General Requirements, Section VI, C,1(b).
- C. **REFERENCE REQUIREMENTS.** Applicant shall submit a minimum of 5 names and addresses of persons to be contacted as references to attest to his or her competence in labor and employment law. These persons shall be substantially involved in labor and employment law, and be familiar with applicant's labor and employment law practice.
 - 1. **Certification.** Applicant shall submit names of persons with whom he or she has had dealings involving labor and employment law matters within the 3 years immediately preceding application.
 - 2. **Recertification.** Applicant shall submit names of persons with whom he or she has had dealings involving labor and employment law matters since certification or the most recent recertification.
 - 3. **Reference Types.** Applicant shall submit the following types of references:
 - a. Four attorneys who are substantially involved in labor and employment law. Applicant shall have been involved in litigation or arbitration with or against one of these attorneys in a labor and employment law matter.
 - b. One of the following before whom applicant has appeared as an advocate in a labor or employment law matter:
 - (i) A judge of any court of record,
 - (ii) An arbitrator, or
 - (iii) An administrative law judge.

**SECTION V
CIVIL TRIAL LAW**

(Area ID: CT / Year Started: 1978)

A. DEFINITIONS.

1. Civil trial law is the practice of law dealing with litigation of civil controversies in all areas of substantive law before state State courts, and federal Federal courts of record, administrative agencies and arbitrators. In addition to the actual pre-trial and trial process, "civil trial" includes evaluating, handling, and resolving civil controversies prior to the initiation of suit as well as the full course of appellate processes.
2. A trial is a contested proceeding in a court of record within the judicial branch of government which involves the submission of testimonial evidence to a court or jury in support or defense of claims for relief submitted by the parties. A trial shall be deemed to have commenced upon the initial presentation of evidence to the court or jury. For purposes of this definition, a summary judgment proceeding or any other pre-trial proceeding does not constitute a trial.
3. Lead counsel in a jury case is the role in which an attorney takes primary responsibility for the representation of the client during trial and whose activities in trial shall at a minimum include: (i) conducting jury selection, (ii) making an opening statement or making a closing argument, and (iii) conducting significant direct or cross examination of live witnesses at trial.

B. SUBSTANTIAL INVOLVEMENT. Applicant must show substantial involvement and special competence in Texas civil trial law practice by providing such information as may be required by TBLS.

1. **Certification.**

- a. Percentage of Practice Requirement. Applicant must have devoted a minimum of 35% of his or her time practicing civil trial law in Texas during each year of the 3 years immediately preceding application as defined in Section V, A of the Specific Area Requirements for Civil Trial Law.
- b. Task Requirements. Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in Texas civil trial law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.
 - (1) ~~Applicant must meet one of the following:~~
 - (a1) Applicant ~~shall~~ must have tried during his or her practice a minimum of 20 ~~contested civil cases~~ trials in a court of record in Texas involving a ~~sum of actual damages~~ an amount in controversy in excess of \$25,000 ~~or other significant non-monetary claims.~~ Of this number of cases tried these trials;
 - i. ~~at~~ At least 7 shall have been jury cases ~~trials~~ conducted by applicant as lead counsel, and submitted to the trier of fact in a court of record in Texas; and
 - ii. No more than 1/3 of the cases submitted by the applicant shall have been personal injury cases and no more than 1/3 shall have been family law cases.

OR

~~(b) Applicant shall have devoted a minimum of 100 separate days to the trial of contested civil cases in a court of record in Texas involving a sum of actual damages in controversy in excess of \$25,000. Of the number of days of trial: (i) at least 50 of those days shall have been devoted to the trial of jury cases; (ii) at least 30 of those days of trial shall have involved trial conducted by applicant as lead counsel, with at least 20 of those days involving jury trials conducted by applicant as lead counsel; (iii) several of the contested civil cases comprising this requirement shall have been trials in which the case was submitted to the trier of fact; and (iv) no more than 1/3 of the 100 separate days of trial submitted shall have been the trial of personal injury cases and no more than 1/3 of them shall have been the trial of family cases.~~

~~(2) TBLS may permit applicant to substitute contested administrative agency hearings in Texas in which testimony is recorded and formal rules of evidence and procedure are applicable, for some of the trials or trial days requirements of Section V, B, 1, b(1)(a or b).~~

2. **Recertification.** Applicant must have devoted a minimum of 35% of his or her time practicing civil trial law in Texas during each year of the 5 year period of certification as defined in Section V, A of the Specific Area Requirements for Civil Trial Law except as provided for in Part I-General Requirements, Section VI, C, 1(b).

C. **REFERENCE REQUIREMENTS.** Applicant must submit a minimum of 5 names and addresses of persons to be contacted as references to attest to his or her competence in civil trial law. These persons must be substantially involved in civil trial law, and be familiar with applicant's civil trial law practice.

1. **Certification.** Applicant must submit names of persons with whom he or she has had dealings involving civil trial law matters within the 3 years immediately preceding application.
2. **Recertification.** Applicant must submit names of persons with whom he or she has had dealings involving civil trial law matters since certification or the most recent recertification.
3. **Reference Types.** Applicant must submit the following types of references:
 - a. Four Texas attorneys who are substantially involved in civil trial law. Applicant must have tried a civil trial law matter with or against one of these attorneys.
 - b. One judge of any court of record in Texas whom applicant has appeared before as an advocate in a civil trial law matter.

SECTION VI
PERSONAL INJURY TRIAL LAW

(Area ID: PI / Year Started: 1978)

A. DEFINITIONS.

1. Personal injury trial law is the practice of law dealing with litigation of claims involving trauma or disability, physical or mental, to a person. It includes, by way of definition, and not limitation, litigation involving personal injury aspects of:
 - automobile and other vehicular accident reparations;
 - governmental claims;
 - professional malpractice claims;
 - products liability claims;
 - statutory claims;
 - insurance contract claims; or
 - any negligent or intentional tort claims.
2. A trial is a contested proceeding in a court of record within the judicial branch of government which involves the submission of testimonial evidence to a court or jury in support or defense of claims for relief submitted by the parties. A trial shall be deemed to have commenced upon the initial presentation of evidence to the court or jury. For purposes of this definition, a summary judgment proceeding or any other pre-trial proceeding does not constitute a trial.
3. Lead counsel in a jury case is the role in which an attorney takes primary responsibility for the representation of the client during trial and whose activities in trial shall at a minimum include: (i) conducting jury selection, (ii) making an opening statement or making a closing argument, and (iii) conducting significant direct or cross examination of live witnesses at trial.
4. Lead counsel in a non-jury case is the role in which an attorney is primarily responsible for the representation of the client during trial and whose activities at a minimum include conducting significant direct or cross examination of live witnesses at trial.

B. SUBSTANTIAL INVOLVEMENT. Applicant must show substantial involvement and special competence in Texas personal injury trial law practice by providing such information as may be required by TBLS.

1. **Certification.**

- a. Percentage of Practice Requirement. Applicant must have devoted a minimum of 25% of his or her time practicing personal injury trial law in Texas during each year of the 3 years immediately preceding application as defined in Section VI, A of the Specific Area Requirements for Personal Injury Trial Law.
- b. Task Requirements. Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in Texas personal injury trial law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.

- (1) Applicant must have tried during his or her entire practice, as lead counsel, at least 10 contested civil cases which were submitted to the trier of fact in a court of record in Texas.
 - (a) Five (5) of the required 10 contested cases must have been personal injury jury trials. (A personal injury jury trial does not include judicial review of decisions of the Texas Department of Insurance; Workers' Compensation Division, Texas Workers' Compensation Commission, or Industrial Accident Board.); and
 - (b) From the cases submitted, applicant must have devoted a minimum of 20 separate days in trial, of which 10 days must have been devoted to personal injury jury trials
 2. **Recertification.** Applicant must have devoted a minimum of 25% of his or her time practicing personal injury trial law in Texas during each year of the 5 year period of certification as defined in Section VI, A of the Specific Area Requirements for Personal Injury Trial Law except as provided for in Part I- General Requirements, Section VI, C,1(b).
- C. **REFERENCE REQUIREMENTS.** Applicant must submit a minimum of 5 names and addresses of persons to be contacted as references to attest to his or her competence in personal injury trial law. These persons must be substantially involved in personal injury trial law, and be familiar with applicant's personal injury trial law practice.
1. **Certification.** Applicant must submit names of persons with whom he or she has had dealings involving personal injury trial law matters within the 3 years immediately preceding application.
 2. **Recertification.** Applicant must submit names of persons with whom he or she has had dealings involving personal injury trial law matters since certification or the most recent recertification.
 3. **Reference Types.** Applicant must submit the following types of references:
 - a. Four Texas attorneys who are substantially involved in personal injury trial law. Applicant must have tried a personal injury trial law matter with or against one of these attorneys.
 - b. One judge of any court of record in Texas whom applicant has appeared before as an advocate in a personal injury trial law matter.

SECTION VII IMMIGRATION AND NATIONALITY LAW

(Area ID: IM / Year Started: 1979)

- A. **DEFINITION.** Immigration and nationality law is the practice of law dealing with the Immigration and Nationality Act of 1952, as amended, and all successor and other laws and regulations dealing with immigration and naturalization. The practice includes, by way of definition and not limitation,
- all aspects of securing an immigrant or non-immigrant visa or other documentation to enter the United States, including all petitions and applications filed with the U. S. Department of State, the U. S. Department of Labor, the U. S. Department of Justice, the U. S. Department of Homeland Security, and the U. S. Public Health Service;
 - naturalization proceedings;
 - citizenship proceedings;
 - asylum applications;
 - removal proceedings and related applications for relief;
 - bond and custody proceedings;
 - rescission proceedings;
 - registry proceedings;
 - administrative proceedings not listed above relating to immigration and nationality law before government agencies of competent jurisdiction;
 - all administrative and judicial review of the above; and
 - original proceedings in immigration matters before judicial courts.
- B. **SUBSTANTIAL INVOLVEMENT.** Applicant must show substantial involvement and special competence in immigration and nationality law practice by providing such information as may be required by TBLS.
1. **Certification.**
 - a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of 25% of his or her time practicing immigration and nationality law during each year of the 3 years immediately preceding application as defined in Section VII, A of the Specific Area Requirements for Immigration and Nationality Law.
 - b. **Task Requirements.** Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in immigration and nationality law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.
 - (1) Applicant must exhibit substantial involvement and special competence in each of the following immigration and nationality law matters participated in within the 3 years immediately preceding application.

- (+a) Administrative Hearings. Representation of clients before ~~Immigration Judges~~ in removal, bond redetermination, and other administrative matters in at least 9 contested matters ~~hearings~~ within the 3 years immediately preceding application before immigration judges involving removal or bond determination. No more than 3 of the 9 hearings may have involved only bond matters.
- (b) Petitions and Applications. Representation of clients before the U.S. Department of Homeland Security and/or the U.S. Department of State in the preparation and filing of petitions and applications.
- (c) Citizenship/Naturalization. Representation of clients before the U.S. Department of Homeland Security, U.S. Department of State, and/or judicial courts in citizenship, naturalization, and/or renunciation or revocation matters.
- (2) ~~In addition, applicant must show substantial involvement in 4 of the following 6 categories within each of the 3 years immediately preceding application listed hereafter.~~
- (2) In addition to meeting Section VII, B, 1, b, (1), (a-c) above, applicant must meet 2 of the following categories within the 3 years immediately preceding application.
- (a) ~~Petitions and Applications.~~ Representation of clients before the U.S. Department of Homeland Security and the U.S. Department of State in the filing of petitions and applications.
- (ba) Alien Labor Certifications. Representation of employers and/or aliens before the various state employment services, U.S. Department of Labor, and U.S. Department of Homeland Security in preparation and filing of alien labor certification cases, including appeals.
- (c) ~~Naturalization.~~ Representation of clients before the U.S. Department of Homeland Security and judicial courts in naturalization matters.
- (db) Administrative Appeals and Advisory Opinions. Representation of clients in appeals and/or proceedings taken before the Board of Immigration Appeals, Administrative Appeals Unit/Office, Board of Alien Labor Certification Appeals, and the U.S. Department of State Advisory Opinions office, or other administrative appellate entities with competent jurisdiction over matters related to immigration and nationality law. ~~Board of Appellate Review.~~

- (ec) ~~Administrative Proceedings and Review in Judicial Courts.~~ Representation of clients in judicial matters relating to immigration and nationality law such as applications for writs of habeas corpus, mandamus, and declaratory judgments, and criminal matters involving the immigration law, and petitions for review in judicial courts, and ancillary proceedings in judicial courts.
- (fd) ~~Employer Sanctions, Bond and Custody, Rescission, Registry, and Fine Proceedings.~~ Representation of clients in these matters administrative proceedings relating to employer sanction, employment discrimination, and/or document fraud matters under the Immigration Nationality Act.
- (e) ~~Deferred Inspections, Expedited Removal, Humanitarian Parole, Documentary Waiver Requests, Deferred Action Requests, Private Bills, I-9 and LCA related Audits and Proceedings, Immigration Related Database Corrections, or other administrative proceedings not listed relating to immigration and nationality matters before governmental agencies of competent jurisdiction.~~ Representation of clients in these types of matters.

- 2. **Recertification.** Applicant must have devoted a minimum of 25% of his or her time practicing immigration and nationality law during each year of the 5 year period of certification as defined in Section VII, A of the Specific Area Requirements for Immigration and Nationality Law except as provided for in Part I-General Requirements, Section VI, C,1(b).

C. **REFERENCE REQUIREMENTS.** Applicant must submit a minimum of 5 names and addresses of persons to be contacted as references to attest to his or her competence in immigration and nationality law. These persons must be substantially involved in immigration and nationality law, and be familiar with applicant's immigration and nationality law practice.

- 1. **Certification.** Applicant must submit names of persons with whom he or she has had dealings involving immigration and nationality law matters within the 3 years immediately preceding application.
- 2. **Recertification.** Applicant must submit names of persons with whom he or she has had dealings involving immigration and nationality law matters since certification or the most recent recertification.
- 3. **Reference Types.** Applicant must submit the following types of references:
 - a. Three attorneys who are substantially involved in immigration and nationality law.
 - b. One of the following:
 - (1) An attorney with or against whom applicant has tried an immigration and nationality law matter, or
 - (2) An attorney from a U.S. Department of State consular office, or
 - (3) A U.S. Department of Homeland Security officer whom has adjudicated a matter by applicant and reviewed and/or made a decision on applicant's filing.

- c. One of the following judges as described below:
- (1) One judge of any court of record before whom applicant has appeared as an advocate in an immigration and nationality law case, or
 - (2) An immigration judge before whom applicant has appeared in an administrative hearing.

**SECTION XIII
ADMINISTRATIVE LAW**

(Area ID: AD / Year Started: 1989)

A. **DEFINITION.** Administrative law is the practice of law dealing with the regulatory, licensing, enforcement, and adjudicative powers of local, state and federal governmental agencies. Applicant must demonstrate substantial involvement and special competence in the practice of Texas and federal administrative law, including, without limitation, representing clients before administrative agencies, practicing law within those agencies, and handling judicial proceedings involving those agencies.

B. **SUBSTANTIAL INVOLVEMENT.** Applicant must show substantial involvement and special competence in Texas and federal administrative law practice by providing such information as may be required by TBLS.

1. **Certification.**

a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of 30% of his or her time practicing Texas and federal administrative law during each year of the 3 years immediately preceding application as defined in Section XIII, A of the Specific Area Requirements for Administrative Law.

b. **Task Requirements.** Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in Texas and federal administrative law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.

(1) **Contested Case Experience.** Applicant must show that he or she has had primary responsibility (as a hearings examiner, party representative, ~~or~~ agency representative), or presiding official (e.g. an administrative law judge or hearing officer) in ~~one of~~ the following 4 categories ~~within the~~ during his or her entire practice:

(a) **Contested Cases Resolved.** A total of 10 contested case hearings before Texas or federal administrative agencies of which at least:-

(i) Five (5) cases shall ~~must~~ have been resolved after hearings on the merits were held and involved final orders were issued by the agencies, ~~and~~

(ii) Five (5) cases may have been ~~contested cases~~ before ~~administrative agencies that were~~ resolved by applicant's involvement in formal alternative dispute resolution (ADR) proceedings (i.e. mediations or arbitrations), or following active case development (including discovery, pre-hearing motions practice, etc.) and settlement conferences that involved in case

preparation and presentation to an internal agency forum after active case development (such as, oral and written discovery, pre-hearing motion practice, investigation, witness preparation, and settlement conferences or negotiations), ~~or some combination of these two alternatives to formal contested case hearings on the merits;~~

- (b) **Time in Hearing.** A minimum of 60 days in contested case hearings before Texas or federal administrative agencies, of which 15 days may be in ADR proceedings (i.e. mediations, or arbitrations), or equivalent formal agency settlement procedures, involving contested cases before administrative agencies;
 - (c) **Judicial Review.** Ten (10) proceedings involving the judicial review of agency orders under the Texas Administrative Procedure Act and Texas Register Act ~~and/or under the Federal Administrative Procedure Act;~~
or
 - (d) **Combination of Cases.** A combination of contested case hearings and judicial review proceedings totaling 10 matters.
- (2) **General Administrative Law Experience.** In addition to the cases ~~listed~~ required in Section XIII, B, 1, b, (1) above, applicant must meet 3 of the following ~~5~~ categories within ~~during~~ his or her entire practice:
- (a) **Major Rulemaking Proceedings.** Substantial involvement in a major rule-making proceeding before a state Texas or federal agency such as. ~~Such involvement may include petitioning for rules or drafting rules;~~
 - (b) **Original Judicial Proceeding.** Primary responsibility for a party in 3 original judicial actions in state Texas or federal court involving agency activities. ~~Examples of such actions include for example, suits challenging agency rules or the prosecution or defense of suits for injunction, declaratory judgment, mandamus, or enforcement, and suits challenging agency rules;~~
 - (c) **Uncontested Proceedings.** Primary responsibility as a hearings examiner, agency counsel, or private practitioner, or presiding official (e.g. an administrative law judge or hearing officer) in 12 ~~non-contested~~ uncontested proceedings;
 - (d) **Client Counseling.** Primary responsibility for client counseling as agency counsel (either with an agency or in the attorney general's office) or as a private practitioner in 5 substantial matters dealing with, for example, the necessity of obtaining permits, the interpretation of agency requirements or statutory authority, compliance with the Texas Open Meetings Act or Open Records Acts, Public Information Act; ~~or~~

- (e) **Additional Contested Case Hearings or Judicial Proceedings.** Primary responsibility (as a ~~hearings examiner, party representative, or agency representative,~~ or presiding official (e.g. an administrative law judge or hearing office) in:
- i. an additional 5 contested case hearings before Texas or federal administrative agencies; or
 - ii. an additional 5 proceedings involving the judicial review of agency orders under the Texas Administrative Procedure Act and Texas Register Act and/or under the Federal Administrative Procedure Act; or
 - iii. a combination of contested case hearings and judicial review proceedings totaling 5 additional matters; may also be used to fulfill this requirement.

2. **Recertification.** Applicant must have devoted a minimum of 30% of his or her time practicing Texas or federal administrative law during each year of the 5 year period of certification as defined in Section XIII, A of the Specific Area Requirements for Administrative Law except as provided for in Part I-General Requirements, Section VI, C, 1(b).

C. **REFERENCE REQUIREMENTS.** Applicant must submit a minimum of 5 names and addresses of persons to be contacted as references to attest to his or her competence in administrative law. These persons must be substantially involved in administrative law, and be familiar with applicant's administrative law practice.

1. **Certification.** Applicant must submit names of persons with whom he or she has had dealings involving administrative law matters within the 3 years immediately preceding application.
2. **Recertification.** Applicant must submit names of persons with whom he or she has had dealings involving administrative law matters since certification or the most recent recertification.
3. **Reference Types.** Applicant must submit the following types of references:
 - a. Three Texas attorneys who are substantially involved in administrative law. Applicant shall have tried an administrative law matter with or against one of these attorneys.
 - b. Two of the following (present or former) before whom applicant has appeared as an advocate in an administrative law matter:
 - (1) A judge of any court of record in Texas, Texas Courts of Appeal, or the Texas Supreme Court.
 - (2) A hearing officer or hearing examiner of an administrative agency with jurisdiction in Texas.

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