

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 99 - 9003

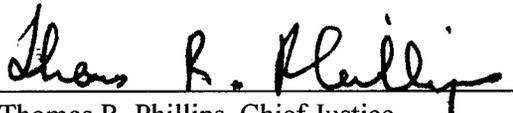
ORDER OF THE COURT APPROVING AMENDMENTS TO THE
STANDARDS FOR ATTORNEYS CERTIFICATION
OF THE
TEXAS BOARD OF LEGAL SPECIALIZATION

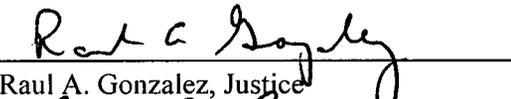
WHEREAS, the Texas Board of Legal Specialization approved certain amendments to the Standards for Attorney Certification on September 11, 1998, and

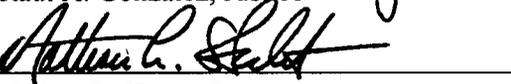
WHEREAS, it appears to this Court that said Standards will advance the administration of justice,

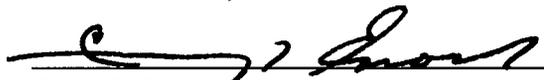
IT IS THEREFORE ORDERED by the Court that the aforementioned amendments to the Standards for Attorney Certification be adopted. A copy of the Standards for Attorney Certification is attached hereto and made a part hereof.

Signed this 5th day of JANUARY, 1999.


Thomas R. Phillips, Chief Justice

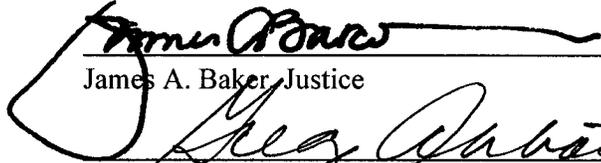

Raul A. Gonzalez, Justice


Nathan L. Hecht, Justice

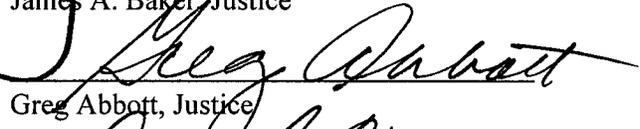

Craig T. Enoch, Justice



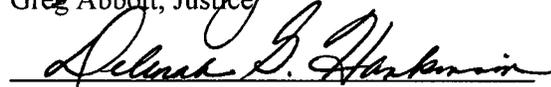
Priscilla R. Owen, Justice



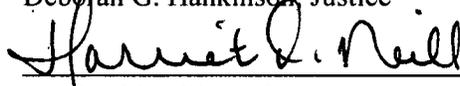
James A. Baker, Justice



Greg Abbott, Justice



Deborah G. Hankinson, Justice



Harriet O'Neill, Justice

STANDARDS FOR ATTORNEY CERTIFICATION OF THE TEXAS BOARD OF LEGAL SPECIALIZATION

These Standards for Certification are established by Texas Board of Legal Specialization after approval of the Supreme Court of Texas.

The Standards for Attorney Certification are divided into two parts.

PART I

GENERAL REQUIREMENTS – *These requirements apply to all specialty areas.*

PART II

SPECIFIC AREA REQUIREMENTS – *These are specific requirements that apply to individual specialty areas. Included are the definition and the substantial involvement and reference requirements for certification and recertification.*

DEFINITIONS

"TBLS" refers to the Texas Board of Legal Specialization.

"SBOT" refers to the State Bar of Texas.

"CLE" refers to continuing legal education.

"Plan" refers to the Texas Plan for Recognition and Regulation of Specialization in the Law.

"Rules" refers to the Rules and Regulations of the TBLS.

"Applicant(s)" refers to both the certification or recertification applicant(s) unless otherwise specifically stated.

"Standards" refers to the Standards for Certification. The Standards are composed of BOTH the General Requirements and the Specific Area Requirements.

"General Requirements" refers to the first part of the Standards, which lists the requirements that apply to all specialty areas.

"Specific Area Requirements" refers to the second part of the Standards, which includes the definition, the substantial involvement and reference requirements for each specialty area. For example, "Specific Area Requirements for Criminal Law" refers to the specific requirements for certification and recertification in Criminal Law.

PART I
GENERAL REQUIREMENTS
(This applies to all specialty areas)

SECTION I
PREFACE

- A. Pursuant to the authority vested in the TBLS by the Supreme Court of Texas, the TBLS prescribes the following requirements for board certification in accordance with the Plan.
- B. No standard shall in any way limit the right of board certified attorney to practice in all areas of law. Any attorney, alone or in association with any other attorney, shall have the right to practice in all areas of law, even though board certified in a specific area of law.
- C. No attorney shall be required to obtain board certification before practicing in any area of law. Any attorney, alone or in association with any other attorney, shall have the right to practice in any area of law, even though not board certified in that area.
- D. Board certification is individual and voluntary. Requirements for and benefits derived from certification may not be fulfilled by or attributed to a law firm of which the certified attorney is a member.

SECTION II
GENERAL REQUIREMENTS

- A. **State of Texas**
 - 1. **SBOT Membership.** All applicants and board certified attorneys must be active members in good standing of the SBOT.
 - 2. **Texas Office and Practice.**
 - a. **Certification Applicants.** For the three years immediately preceding application, a certification applicant must have maintained a Texas office from which the applicant personally conducts business an average of at least 3 days per week, until certification is achieved. Failure to meet this requirement will result in denial of application.
 - b. **Board Certified Attorneys and Recertification Applicants.** All board certified attorneys and recertification applicants must continue to meet the substantial involvement requirements pertinent to each applicable specialty area whether or not an office is maintained in Texas. These are found in the Specific Area Requirements.
- B. **Forms.** Documents, applications, questionnaires, and examinations involved in the certification and recertification process shall be approved by the TBLS.

- C. **Fees.** Applicants and certified attorneys shall timely pay the fees as established by the TBLS.
- D. **Expiration of Certification.** Certification shall be for a period of 5 years at the end of which time recertification shall be permitted upon the terms and conditions established by the TBLS.
- E. **Revocation of Certification.** A certificate of special competence issued by the TBLS may be revoked for good cause as determined by the TBLS.
- F. **Failure to Furnish Information: Misrepresentation.** Certification or recertification may be denied, revoked, or other appropriate action taken because of an applicant's or board certified attorney's failure to furnish the requested information or because of his or her misrepresentation of any material fact requested by the TBLS.
- G. **Required Period of Law Practice.** Applicants for certification shall have been engaged in the practice of law for a period of at least 5 years on a full-time basis. Practice of law is as defined in the individual specialty area's Specific Area Requirements attached to these Standards. "Practice of law" means full-time legal work done primarily for the purpose of legal advice or representation. Service, after admission to the bar of any state or the District of Columbia, or as a judge or associate judge of any court of record shall be considered practice of law. Corporate or government service, including military service, after admission to the bar of any state or the District of Columbia, shall be considered practice of law if the work done was legal in nature and primarily for the purpose of legal advice to, or representation of, the corporation or government agency or individuals connected therewith. Practice of law which otherwise satisfies these requirements but which is on a part-time basis will satisfy the requirement if the balance of certification applicant's activity is work such as law teaching or legal editorial duty which is legal in nature although not the practice of law. Years of practice need not be consecutive.
- H. **Examination.** Certification applicants must pass a written examination applied uniformly to all applicants to demonstrate sufficient knowledge, proficiency and expertise in the specialty area to justify the representation of special competence to the legal profession and to the public. After a certification applicant has taken and failed an examination 3 times in a specialty area, the applicant is ineligible to apply for the next 3 years' examination in that specialty area.

SECTION III CHARACTER AND REPUTATION

- A. **Disciplinary Review**
 - 1. Applicants and board certified attorneys shall furnish satisfactory evidence of their good character and reputation. They shall also furnish a statement as to whether or not they are now subject to an investigation, complaint, inquiry or other disciplinary proceedings by any organized bar, including any local, state or district grievance committee of an organized bar. Applicants and board certified attorneys shall submit the details of such investigation, complaint, inquiry or proceedings including whether or not they have ever been reprimanded, suspended, disbarred or otherwise disciplined by any court or grievance committee.

2. The TBLS may deny certification or recertification, revoke certification, or take other appropriate action on a finding of a grievance committee or court that an applicant or board certified attorney has been guilty of professional misconduct or upon notice of the pendency of such proceedings. However, the TBLS will consider the seriousness or the underlying fact of the grievance and will consider the passage of time since such discipline and applicant's or board certified attorney's experience since that time. Failure to disclose such information is a material misrepresentation and may be cause for rejection, revocation, or other appropriate action.

B. Review of Serious Crime.

1. Applicants and board certified attorneys shall furnish a statement as to whether or not they have ever been convicted, given probation or fined for a serious crime as hereinafter defined, whether the above resulted from a plea of guilty or nolo contendere or from a verdict after trial or otherwise and regardless of the pendency of an appeal. The term "serious crime" shall include any felony. It shall also include any lesser crime, a necessary element of which as determined by the statutory or common law definition of such crime, involved improper conduct of an attorney, interference with the administration of justice, false swearing, misrepresentation, fraud, willful failure to file income tax returns, deceit or bribery, extortion, misappropriation, theft, or an attempt or a conspiracy or solicitation of another to commit a serious crime.
2. The TBLS may deny certification or recertification, revoke certification, or take other appropriate action if the applicant or board certified attorney has been convicted, given probation or fined for a serious crime as defined in this Section.

SECTION IV REFERENCES

- A. References in Specialty Area.** Applicants shall submit references to attest to applicant's competence in the specialty area. The references, themselves, shall be substantially involved in the specialty area in which applicant is seeking certification or recertification.

B. Qualification of References.

1. The TBLS shall consider the knowledge and experience of references in the applicant's specialty area and the nature of the dealings between the references and the applicant in evaluating applications.
2. Applicants shall not submit partners or associates to serve as references.

C. Length of Time. Applicants shall submit references for the following length of time:

1. Certification applicants shall submit references they have dealt with in the 3 years immediately preceding application.
2. Recertification applicants shall submit references they have dealt with since certification or most recent recertification.

D. Types of References.

1. Applicants shall submit a list of five names and addresses of persons to be contacted as references to attest to applicant's competence in the specialty area. For the types of references required for each specialty area, refer to the appropriate Specific Area Requirements.
2. Applicants shall submit a representative list of judges or attorneys (in addition to those listed in IV,D,1 above) of judges or attorneys they have dealt with in their specialty area.
3. The TBLS may, at its option, send references to other attorneys and/or judges.

E. Confidentiality. References concerning applicants shall be submitted on forms approved and furnished by the TBLS. All Statements of Reference received by the TBLS are confidential.

F. The TBLS may deny certification or recertification based on information received from references.

**SECTION V
CONTINUING LEGAL EDUCATION**

A. Required Hours / Time Period

1. Certification - Certification applicants must complete 60 hours of CLE in the specialty area within the three years immediately preceding application, through December 31 of the year of application. Certification applicants may not receive credit for more than 30 hours of CLE in a calendar year.
2. Recertification - Recertification applicants must complete 100 hours of CLE in the specialty area by December 31 of each 5th year of certification. Recertification applicants may not receive credit for more than 30 hours of CLE in a calendar year.

B. Self Study. Applicants are allowed 5 hours of self-study credit during each calendar year. All self-study must be in the specialty area.

C. Demonstration of CLE. Applicants must demonstrate their CLE by either:

1. Attendance at and completion of CLE courses approved by the TBLS; or
2. Other activity in the specialty area to be determined on an individual basis, such as:
 - a. Teaching a CLE course for attorneys or legal assistants;
 - b. Participation as a panelist or speaking on a symposium or similar program;
 - c. Attendance at a lecture series or similar program sponsored by a qualified education institution or Bar group;
 - d. Authorship of a book or article published in a professional publication or journal; and
 - e. Active participation in the work of a professional committee dealing with a specific problem in the specialty area.

SECTION VI SUBSTANTIAL INVOLVEMENT

The General Requirements listed below are the same for each specialty area. Refer to the appropriate Specific Area Requirements for the Standards unique to each specialty area.

A. Substantial Involvement and Special Competence.

Certification applicants and board certified attorneys must devote the minimum required percentage of time practicing in a specialty area each year as set forth in the Specific Area Requirements. Failure to meet this requirement will result in denial of application or revocation of certification.

1. Certification applicants must devote the required percentage during each year of the 3 years immediately preceding application.
2. Board certified attorneys must devote the required percentage during each year of certification. Failure to maintain the required percentage of practice may be grounds for revocation at any time during certification.

B. Demonstration of Experience. Applicants must provide information concerning specific tasks required by the TBLS, as specified in the appropriate Specific Area Requirements. The TBLS may take into consideration the nature, complexity and duration of matters handled by applicants in the specialty area in evaluating experience.

C. Exceptions. Certification applicants are expected to meet the Specific Area Requirements in the specialty area. The TBLS may permit exceptions for an applicant who does not meet the task requirements specified in an individual specialty area. For the substantial involvement required for each specialty area, please refer to the appropriate Specific Area Requirements.

1. Judicial Experience. The TBLS may permit a certification applicant to substitute judicial experience appropriate to each specialty area. In making this determination, the TBLS may take into consideration the nature, complexity, and duration of the matters the certification applicant has handled in the specialty area. The judicial experience shall at least be equivalent to the Specific Area Requirements of the specialty area, and the determination of equivalency shall be in the sole discretion of the TBLS.
2. Unusual or Exceptional Experience. TBLS may permit a certification applicant to substitute unusual or exceptional experience for one or more of the specific area requirements in the specialty area. In making this determination, the TBLS may take into consideration the nature, complexity, and duration of the matters the certification applicant has handled in the specialty area. The unusual or exceptional experience shall at least be equivalent to the Specific Area Requirements of the specialty area, and the determination of equivalency shall be in the sole discretion of the TBLS.

PART II
SPECIFIC AREA REQUIREMENTS
FOR
CRIMINAL LAW

SECTION I
SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE

- A. **Definition.** Criminal law is the practice of law dealing with, by way of definition not limitation, matters involving legal aspects of pretrial release; examining trial, indictment, information and complaint; change of venue; continuance; severance; discovery; speedy trials; jeopardy; immunity; confessions; search and seizure; identification; competence to stand trial and culpable mental state; jury voir dire; rules of criminal evidence (e.g., impeachment, extraneous offenses, etc.); procedure and rules of evidence at punishment hearings; law of sentences; legal aspects of plea bargaining and guilty pleas; motion for new trial; appeals; post conviction remedies; probation and parole granting; probation and parole revocation; executive clemency; substantive criminal offenses; and juvenile crimes. For the specific area requirements please refer to the sections below.
- B. **Substantial Involvement for Certification**
Applicants must show substantial involvement and special competence in Texas criminal practice during each of the 3 years immediately preceding application by providing such information as may be required by the TBLS.
1. Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 25% of their time practicing criminal law in Texas as defined in Section I,A of the Specific Area Requirements for Criminal Law.
 2. Certification applicants must show their substantial involvement and special competence in criminal law practice in Texas within the 3 years immediately preceding application by providing such information as may be required by the TBLS regarding criminal law cases participated in by them in each of the following categories:
 - a. State felony jury trials;
 - b. State misdemeanor jury trials;
 - c. Federal jury trials;
 - d. State appeals;
 - e. Federal appeals;
 - f. State and federal non-jury trials;
 - g. State and federal pleas of guilty;
 - h. State and federal post-conviction remedies;
 - i. Juvenile proceedings;
 - j. Dismissals;
 - k. Grand jury no bills;
 - l. Cases decided on pre-trial motions where evidence was presented (such as motions to suppress evidence);

- m. Probation or parole revocations;
 - n. Others.
3. Certification applicants shall have handled, as lead counsel, during their practice and indicate on their application the following minimum number of Texas cases in at least 3 of the 5 categories listed hereinafter:
- (a) 5 State Felony Jury Trials;
 - (b) 10 State Misdemeanor Jury Trials;
 - (c) Federal Jury Trials;
 - (d) 1 State Appeals;
 - (e) 5 Federal Appeals.

C. Substantial Involvement for Recertification

Recertification applicants must show substantial involvement and special competence in Texas criminal law practice during each of the 5 years of certification by providing such information as may be required by the TBLIS.

1. Recertification applicants must show that during each year of the 5 year period they devoted a minimum of 25% of their time practicing criminal law in Texas as defined in Section I,A of the Specific Area Requirements for Criminal Law in one or a combination of the following methods:
- (a) Recertification applicants must practice criminal law in Texas;
- OR
- (b) Recertification applicants must have served as a judge of a court of record in Texas actually adjudicating criminal law matters.
2. Recertification applicants may be required to list the cases in Texas participated in during all or part of the 5 year period.

**SECTION II
REFERENCES**

Applicants should refer to Section IV of the General Requirements before choosing references, and list the following references to attest to their competence in the practice of criminal law.

- A. Three Texas attorneys who practice in the applicant's geographic area and are familiar with applicant's criminal law practice.
- B. One Texas attorney with whom or against whom applicant has tried a criminal law matter.
- C. One judge of any court of record in Texas before whom applicant has appeared as an advocate in a criminal law matter.

PART II
SPECIFIC AREA REQUIREMENTS
FOR
FAMILY LAW

SECTION I
SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE

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 against the family; the trial of cases arising out of the above matters; and the perfection of appeals from both interlocutory and final judgments. For the specific area requirements please refer to the sections below.

B. **Substantial Involvement for Certification**

Certification applicants must show substantial involvement and special competence in Texas family law practice during each of the 3 years immediately preceding application by providing such information as may be required by the TBLS.

1. Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 35% of their time practicing Texas family law as defined in Section I,A of the Specific Area Requirements for Family Law.
2. a. Certification applicants must show their substantial involvement and special competence in Texas family law practice 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 in the following:
 - (1) 9 contested final trials or arbitrations in Texas family law cases in which oral testimony was taken and in which final judgment was rendered, involving issues of property division and/or appointment or modification of managing conservatorship, excluding hearings on temporary orders and other pretrial hearings; and
 - (2) 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.

In addition, certification applicants must meet 2 of the following 3 categories within the 3 years immediately preceding:

- (3) 2 Texas civil jury trials, one involving family law, submitted to the jury for decision;
- (4) 1 Texas civil appeal involving family law, in which briefs were filed by the applicant;
- (5) 10 Texas mediations involving family law either as an attorney representing a litigant or as a mediator.

C. Substantial Involvement for Recertification

Recertification applicants must show substantial involvement and special competence in Texas family law practice during each of the 5 years of certification by providing such information as may be required by the TBLS.

1. Recertification applicants must show that during each year of the 5 years period they have devoted a minimum of 35% of their time practicing Texas family law as defined in Section I,A of the Specific Area Requirements for Family Law in one or a combination of the following methods:
 - (a) Recertification applicants must practice Texas family law;
 - OR
 - (b) Recertification applicants must have served as a judge of a court of record in Texas actually adjudicating family law matters.
2. Recertification applicants may be required to list the Texas cases participated in during all or part of the 5 year period.

**SECTION II
REFERENCES**

Applicants should refer to Section IV of the General Requirements before choosing references, and list the following references to attest to their competence in the practice of family law.

- A. Three Texas attorneys who practice in the applicant's geographic area and are familiar with applicant's family law practice.
- B. One Texas attorney who has been an opposing counsel to the applicant either in litigation, hearing or negotiation of a family law matter.
- C. One judge of any court of record in Texas before whom applicant has appeared as an advocate in a family law matter.

PART II
SPECIFIC AREA REQUIREMENTS
FOR
LABOR AND EMPLOYMENT LAW

SECTION I
SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE

- A. **Definition.** Labor and employment law is the practice of law dealing with the relationships among employers, employees and their labor organizations, except workers' compensation. It includes, by way of definition not limitation, matters involving laws regulating or involving labor relations, occupational safety and health, equal employment opportunity, wage and hour, employment-related torts and contracts, and whistleblowers and retaliation for exercise of statutory rights. 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. For the specific area requirements please refer to the sections below.
- B. **Substantial Involvement for Certification**
Certification applicants must show substantial involvement and special competence in a broad labor and employment law practice during the each of 3 years immediately preceding application by providing such information as may be required by the TBLs.
1. Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 25% of their time practicing labor and employment law as defined in Section I,A of the Specific Area Requirements for Labor and Employment Law.
 2. Certification applicants must show they have engaged directly and substantially in the practice of labor and employment law in at least 3 of the areas within the definition of labor and employment law as set forth in Section I,A of Specific Area Requirements for Labor and Employment Law, one of which must be practice involving the National Labor Relations Act; and have engaged in practice in the federal or state courts in matters involving areas within such definition of labor and employment law. Applicants shall give required information concerning such practice, the frequency of the work, the jurisdictions involved and the nature of the issues involved. In lieu of actual experience through practice involving the National Labor Relations Act, certification applicants may demonstrate, over and above the continuing legal education submitted to satisfy Section V,B,1 of the Standards for Certification, a minimum of 24 hours of continuing legal education in comprehensive courses on the National Labor Relations Act, within the 3 years immediately preceding the application by attendance at and completion of programs of study approved by the TBLs.

C. Substantial Involvement for Recertification

Recertification applicants must show substantial involvement and special competence in labor and employment law practice during each of the 5 years of certification by providing such information as may be required by the TBLS.

1. Recertification applicants must show that during each year of the 5 year period they devoted a minimum of 25% of their time practicing labor and employment law defined in Section I,A of the Specific Area Requirements for Labor and Employment Law in one or a combination of the following methods:
 - (a) Recertification applicants must practice labor and employment law;
OR
 - (b) Recertification applicants must have served as a judge of a court of record actually adjudicating labor and employment law matters;
OR
 - (c) Recertification applicants must have served as an NLRB administrative law judge, or NLRB hearing officer actually adjudicating labor and employment law matters.
2. Recertification applicants may be required to list the cases participated in during all or part of the 5 year period.

**SECTION II
REFERENCES**

Applicants should refer to Section IV of the General Requirements before choosing references, and list the following references to attest to their competence in the practice of labor and employment law.

- A. Three attorneys who practice in the applicant's geographic area and are familiar with applicant's labor and employment practice.
- B. One attorney with whom or against whom applicant has tried a labor and employment law matter.
- C. One judge, NLRB Administrative Law Judge or NLRB Hearing Officer before whom applicant has tried a labor and employment matter in any court of record before whom applicant has appeared as an advocate in a labor and employment law matter.

PART II
SPECIFIC AREA REQUIREMENTS
FOR
ESTATE PLANNING AND PROBATE LAW

SECTION I
SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE

- A. **Definition.** Estate planning and probate law is the practice of law dealing with:
1. The analysis, planning and recommendations for the conservation and disposition of clients' estates in accordance with the clients' expressed desires, including tax effects and consequences.
 2. The drafting and preparation of legal instruments to effectuate the clients' estate plans, e.g., wills, trusts and other legal documents.
 3. The administration of estates and trusts.
- For the specific area requirements please refer to the sections below.

- B. **Substantial Involvement for Certification**
- Certification applicants must show substantial involvement and special competence in estate planning and probate law practice during each of the 3 years immediately preceding application by providing such information as may be required by the TBLS.
1. Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 25% of their time practicing estate planning and probate law as defined in Section I,A of the Estate Planning and Probate Law Specific Area Requirements.
 2. Certification applicants must show their substantial involvement and special competence in estate planning and probate law during of the 3 years immediately preceding application by providing such information as may be required by the TBLS regarding both of the following categories: This requires an adequate involvement in a substantial portion of the activities described in both I,B,a, (1-2) and I,B,b,(1-2).
 - a. **Estate Planning**
 - (1) Counseled persons in estate planning, including giving advice with respect to gifts, life insurance, wills, trusts, business arrangements and agreements, and other estate planning matters.
 - (2) Prepared or supervised the preparation of estate planning instruments, e.g., simple and complex wills, including provisions for testamentary trusts, marital deductions and elections; revocable and irrevocable inter vivos trusts; business planning agreements; powers of attorney and other estate planning instruments; and gift and generation-skipping transfer tax returns including representation before the Internal Revenue Service in connection with such tax returns.

b. **Estate Administration**

- (1) Handled or advised with respect to the probate and/or administration of decedents' estates and trusts, including dependent and independent administration and muniments of title; guardianships; determinations of heirships; will and trust litigation; and construction suits.
- (2) Prepared, reviewed or supervised the preparation of Federal Estate Tax Returns, Texas Inheritance Tax Returns, and U.S. Fiduciary Income Tax returns, including representation before the Internal Revenue Service, state taxing authorities, or the courts in connection with such tax returns and related tax controversies.

C. **Substantial Involvement for Recertification**

Recertification applicants must show substantial involvement and special competence in estate planning and probate law practice during each of the 5 years of certification by providing such information as may be required by the TBLs.

1. Recertification applicants must show that during each year of the 5 year period they have devoted a minimum of 25% of their time practicing estate planning and probate law as defined in Section I,A of the Specific Area Requirements for Estate Planning and Probate Law in one or a combination of the following methods:
 - (a) Recertification applicants must practice estate planning and probate law;
OR
 - (b) Recertification applicants must have served as a judge of a court of record in Texas actually adjudicating estate planning and probate law matters.
2. Recertification applicants may be required to list the matters participated in during all or part of the 5 year period.

**SECTION II
REFERENCES**

Applicants should refer to Section IV of the General Requirements before choosing references, and list the following references to attest to their competence in the practice of estate planning and probate law.

- A. Three attorneys who practice in the applicant's geographic area and are familiar with applicant's estate planning and probate law practice.
- B. One attorney who is familiar with applicant's estate planning and probate law practice.
- C. One county or probate judge before whom applicant has appeared in an estate planning and probate law matter. If there is not a county or probate judge who is also an attorney within applicant's geographical area, applicant shall submit the name of a judge of a court of record before whom applicant has appeared.

PART II
SPECIFIC AREA REQUIREMENTS
FOR
PERSONAL INJURY TRIAL LAW

SECTION I
SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE

- A. **Definition.** Personal injury trial law is the practice of law dealing with trauma or disability, physical or mental, to a person. It includes, by way of definition and not limitation, personal injury litigation involving automobile and other vehicular accident reparations; workers' compensation; governmental claims; professional malpractice; products liability; statutory claims; Social Security claims; insurance contract claims; or any negligent or intentional tort. For the specific area requirements please refer to the sections below.
- B. **Substantial Involvement for Certification**
Certification applicants must show substantial involvement and special competence in Texas personal injury trial law practice during each of the 3 years immediately preceding application by providing such information as may be required by the TBLS.
1. Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 25% of their time practicing personal injury trial law in Texas as defined in Section I,A of the Specific Area Requirements for Personal Injury Trial Law.
 2. Certification applicants must have tried during their 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. Five of the required 10 cases must have been personal injury jury trials.
- C. **Substantial Involvement for Recertification**
Recertification applicants must show substantial involvement and special competence in Texas personal injury trial law practice during each of the 5 years of certification by providing such information as may be required by the TBLS.
1. Recertification applicants must show that during each year of the 5 year period they devoted a minimum of 25% of their time practicing personal injury trial law in Texas as defined in Section I,A of the Specific Area Requirements for Personal Injury Trial Law in one or a combination of the following methods:
 - (a) Recertification applicants must practice personal injury trial law in Texas;
 - OR
 - (b) Recertification applicants must have served as a judge of a court of record in Texas actually adjudicating personal injury law matters.
 2. Recertification applicants may be required to list the cases in Texas participated in during all or part of the 5 year period.

SECTION II REFERENCES

Applicants should refer to Section IV of the General Requirements before choosing references, and list the following references to attest to their competence in the practice of personal injury trial law.

- A. Three Texas attorneys who practice in the applicant's geographic area and are familiar with applicant's personal injury trial law practice.
- B. One Texas attorney with whom or against whom applicant has tried a personal injury trial law matter.
- C. One judge of any court of record in Texas before whom applicant has appeared as an advocate in a personal injury trial law matter.

PART II
SPECIFIC AREA REQUIREMENTS
FOR
CIVIL TRIAL LAW

SECTION I
SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE

- A. **Definition.** Civil trial law is the practice of law dealing with litigation of civil controversies in all areas of substantive law before state courts, federal courts, 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. For the specific area requirements please refer to the sections below.
- B. **Substantial Involvement for Certification**
Certification applicants must show substantial involvement and special competence in Texas civil trial practice during each of the 3 years immediately preceding application by showing and providing such information as may be required by the TBLS.
1. Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 35% of their time practicing civil trial law in Texas as defined in Section I,A of the Specific Area Requirements for Civil Trial Law.
 2.
 - a. Certification applicants shall have tried during their practice a minimum of 20 contested civil cases in a court of record in Texas involving a sum of actual damages in excess of \$25,000. Of this number of cases tried, at least 7 shall have been jury cases conducted by applicant as lead counsel, submitted to the trier of fact. 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. Certification applicants 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.

- c. The TBLS may permit applicants to substitute contested administrative agency hearings 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 I,B,3a-b.

C. Substantial Involvement for Recertification

Recertification applicants must show substantial involvement and special competence in civil trial law practice in Texas during each of the 5 years of certification by providing such information as may be required by the TBLS.

1. Recertification applicants must show that during each year of the 5 year period they devoted a minimum of 35% of their time practicing civil trial law in Texas as defined in Section I,A of the Specific Area Requirements for Civil Trial Law in one or a combination of the following methods:
 - (a) Recertification applicants must practice civil trial law in Texas;
 - OR
 - (b) Recertification applicants must have served as a judge of a court of record in Texas actually adjudicating civil law matters.
2. Recertification applicants may be required to list the cases in Texas participated in during all or part of the 5 year period.

**SECTION II
REFERENCES**

Applicants should refer to Section IV of the General Requirements before choosing references, and list the following references to attest to their competence in the practice of civil trial law.

- A. Three Texas attorneys who practice in the applicant's geographic area and are familiar with applicant's civil trial law practice.
- B. One Texas attorney with whom or against whom applicant has tried a civil trial law matter.
- C. One judge of any court of record in Texas before whom applicant has appeared as an advocate in a civil trial law matter.

PART II
SPECIFIC AREA REQUIREMENTS
FOR
IMMIGRATION AND NATIONALITY LAW

SECTION I
SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE

- 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. It 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 Consular Officers of the Department of State, the Immigration and Naturalization Service and the Public Health Service; naturalization proceedings; citizenship proceedings; exclusion proceedings; asylum applications; deportation proceedings and related applications for relief; bond and custody proceedings; rescission proceedings; registry proceedings; administrative fine proceedings; all administrative and judicial review of the above; and original proceedings in immigration matters in judicial courts. For the specific area requirements please refer to the sections below.
- B. **Substantial Involvement for Certification**
Certification applicants must show substantial involvement and special competence in immigration and nationality law practice during each of the 3 years immediately preceding application by providing such information as may be required by the TBLS.
1. Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 25% of their time practicing immigration and nationality law as defined in Section I,A of the Immigration and Nationality Law Specific Area Requirements.
 2. Certification applicants must show their substantial involvement and special competence in immigration and nationality law within each of the 3 years immediately preceding application by providing such information as may be required by the TBLS regarding immigration law matters participated in by the applicant in the following:
 - a. Administrative Hearings
Representation of clients before Immigration Judges in removal, bond redetermination, and other administrative matters in at least 9 contested matters.

In addition, certification applicants must meet 4 of the following 6 categories within the 3 years immediately preceding application listed hereafter.
 - b. Petitions and Applications
Representation of clients before the Immigration Service and the State Department in the filing of petitions and applications.

- c. Alien Labor Certifications
Representation of employers and/or aliens before the various state employment services, U.S. Department of Labor, and Immigration Service in alien labor certification cases, including appeals.
- d. Naturalization
Representation of clients before the Immigration Service and judicial courts in naturalization matters.
- e. Administrative Appeals
Representation of clients in appeals taken before the Board of Immigration Appeals, Administrative Appeals Unit, Board of Labor Certification Appeals, and the State Deportation Board of Appellate Review.
- f. Administrative Proceedings and Review in Judicial Courts
Representation of clients in judicial matters such as applications for habeas corpus, mandamus and declaratory judgments, and criminal matters involving the immigration law, and petitions or review in judicial courts, and ancillary proceedings in judicial courts.
- g. Employer Sanctions, Bond and Custody, Rescission, Registry, and Fine Proceedings
Representation of clients in these matters.

C. Substantial Involvement for Recertification

Recertification applicants must show substantial involvement and special competence in immigration and nationality law practice during each of the 5 years of certification by providing such information as may be required by the TBLS.

1. Recertification applicants must show that during each year of the 5 year period they devoted a minimum of 25% of their time practicing immigration and nationality law as defined in Section I,A of the Specific Area Requirements for Immigration and Nationality Law in one or a combination of the following:
 - (a) Recertification applicants must practice immigration and nationality law;
 - OR
 - (b) Recertification applicants must have served as an immigration judge, immigration trial attorney, district director, regional commissioner, U.S. consul, or other official of similar responsibility actually adjudicating immigration and nationality law matters.
2. Recertification applicants may be required to list the matters participated in during all or part of the 5 year period.

**SECTION II
REFERENCES**

Applicants should refer to Section IV of the General Requirements before choosing references, and list the following references to attest to their competence in the practice of immigration and nationality law.

- A. Three attorneys who practice in the applicant's geographic area and are familiar with applicant's immigration and nationality law practice.
- B. One attorney with whom or against whom applicant has tried an immigration and nationality law matter.
- C. One immigration judge of any court of record before whom applicant has appeared as an advocate in an immigration and nationality law case, or an administrative hearing before an immigration judge.

PART II
SPECIFIC AREA REQUIREMENTS
FOR
TAX LAW

SECTION I
SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE

- A. **Definition.** The practice of tax law means practice within the area of law involving the Internal Revenue Code and other federal, state and local tax statutes and interpretive material in connection with matters in which issues of taxation are significant factors. The practice of tax law includes, but is not limited to, consultations with clients and the giving of advice regarding the tax consequences of proposed, completed and ongoing transactions; the giving of advice regarding the reporting of transactions and other matters of taxing authorities; practice before the Internal Revenue Service and other taxing authorities with respect to proposed, completed and ongoing transactions and other matters; and the administrative appeal and litigation of tax issues. The practice of tax law may involve special emphasis in subspecialties such as income, estate or gift tax law, international tax law, business associations tax law, oil and gas tax law, employee benefits tax law, and criminal tax law, but certification as a specialist in tax law shall be in the area of tax law and each applicant must demonstrate a broad-based knowledge of the area of tax law. For the specific area requirements please refer to the sections below. (See Comments)
- B. **Substantial Involvement for Certification**
Certification applicants must show substantial involvement and special competence in tax practice during each of the 3 years immediately preceding application by providing such information as may be required by the TBLs.
1. Applicants must show that during each of any 5 of the 7 years immediately preceding application they have devoted a minimum of 35% of their time practicing tax law as defined in Section I,A of the Specific Area Requirements for Tax Law. (See Comments)
- C. **Substantial Involvement for Recertification**
Recertification applicants must show substantial involvement and special competence in tax law practice in Texas during each of the 5 years of certification by providing such information as may be required by the TBLs.
1. Recertification applicants must show that during each year of the 5 year period they devoted a minimum of 35% of their time practicing tax law as defined in Section I,A of the Specific Area Requirements for Tax Law in one or a combination of the following methods:
 - (a) Recertification applicants must practice tax law;

OR

- (b) Recertification applicants must have served as a judge of a court of record actually adjudicating tax law matters.
- 2. Recertification applicants may be required to list the matters participated in during all or part of the 5 year period.

SECTION II REFERENCES

Applicants should refer to Section IV of the General Requirements before choosing references, and list the following references to attest to their competence in the practice of tax law.

- A. Five individuals who are familiar with applicant's tax law practice.

COMMENTS

I,A (Specific Area Requirements for Tax Law)

The definition of the practice of tax law is intentionally broad and includes, among other areas within the field of tax law, estate and gift taxation even though special competence in estate and gift taxation is contemplated by the existing Texas program for Estate Planning and Probate specialization. This results in some overlap and may permit some attorneys to count the same time toward more than one specialty field. Administration of the program, however, dictates against attempting to draw a line between various subspecialties, i.e., income tax on the one hand and estate and gift tax on the other hand. Many subspecialties have developed within the field of tax law, and it must be recognized that even a board certified attorney in tax law may not have special competence in every tax law subspecialty. A board certified attorney in tax law must be particularly mindful of the disciplinary rules requiring him to determine whether he is qualified to handle matters that come before him as a board certified attorney in tax law.

II,G (General Requirements) & I,A (Specific Area Requirements for Tax Law)

The 5 years of actual practice of law on a full-time basis required by Section II,A need not be consecutive. Section II,B only requires that applicants have devoted a minimum of 35% of their time to the practice of tax law in any 5 of the 7 years - not all 7 years. Only the time spent by applicants in pursuing their primary means of livelihood through work performed, based on rights granted by a law license, will be counted. The use, and not the mere possession, of the law license will be considered in determining what constitutes the actual practice of law. This requirement is in conformity with the Plan, Sections VI,A,1. Thus, for example, for purposes of Section I of the Specific Area Requirements for Tax Law, the attorney employed by an accounting firm shall not be given credit for time spent in such employment; and the attorney employed in government service shall not be given credit for time spent in such employment unless his or her position required a license to practice before the highest court of a state or the District of Columbia. The definition of "practice of law" includes the phrase "...in which issues of taxation are significant factors." The quoted phrase is intended to emphasize the requirement that applicants must have handled matters in which issues of tax law were significant factors, and that he or she must have handled the tax law issues in such matters. Credit is to be given if a substantial portion of the applicants' law practice requires them to deal with significant tax issues, even if such issues arise within non-tax fields of law. For example, tax law issues are extremely

important in corporate reorganizations, but the time devoted to those tax law issues may represent only a small percentage of the total time devoted to the transaction by applicants. Nevertheless, applicants will be given credit for the total time devoted to the transaction (and not just the time devoted to tax law issues) for purposes of the 35% requirement. Similar situations exist within the context of estate planning, the design and drafting of employee benefit plans, and many other situations. The only requirements for credit under this provision are that tax law issues were significant factors in the transaction, and that applicants handled those issues. Credit should be given for time spent in lecturing or writing articles directly related to tax law.

PART II
SPECIFIC AREA REQUIREMENTS
FOR
REAL ESTATE LAW

SECTION I
SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE

A. REAL ESTATE LAW

1. **Definition.** Real estate law comprises all law applicable to land, improvements thereon and appurtenances thereto (including air and subsurface estates), and the acquisition, transfer, development, financing and use thereof; and includes without limitation, knowledge of the legal restrictions and constraints imposed privately and by federal, state and local governments upon land and improvements thereto. The practice of real estate law can be characterized as the rendering of advice and services in connection with real estate law.
2. Certification shall be in one or more of the areas defined below:
 - a. **RESIDENTIAL REAL ESTATE LAW**
Definition: Legal practice including advice and services in connection with the acquisition, ownership, leasing, financing, use, transfer and disposition of residential real property.
 - b. **COMMERCIAL REAL ESTATE LAW**
Definition: Legal practice involving advice and services in connection with the acquisition, ownership, leasing, financing, use, transfer and disposition of real property other than residential, farm, ranch, oil, gas and mineral matters.
 - c. **FARM AND RANCH REAL ESTATE LAW**
Definition: Legal practice involving advice and services in connection with the acquisition, ownership, financing, use, transfer and disposition of farm and ranch property, including a basic knowledge of mineral rights.

For the specific area requirements please refer to the sections below.

B. Substantial Involvement for Certification

Certification applicants must show substantial involvement and special competence in Texas real estate practice during each of the 3 years immediately preceding application by providing such information as may be required by the TBLS.

1. Certification applicants must show that during each of the 3 years immediately preceding application he or she has devoted a minimum of 25% of his or her overall time practicing Texas real estate law as defined in Section I,A of the Real Estate Law Specific Area Requirements.

2. Certification applicants must demonstrate the required percentage involvement of his or her overall practice for each primary area and secondary area, as defined in Section I,2,(a-c) of the Real Estate Law Specific Area Requirements, during each of the 3 years immediately preceding application, and shall be certified in a primary area and/or one or more secondary areas in the following manner:
 - a. Certification applicants may qualify for certification in one primary area by:
 - (1) Demonstrating that he or she has devoted a minimum of 20% to that primary area; and
 - (2) Passing the examination in that primary area.
 - b. Certification applicants may qualify for certification in a primary area and one or more secondary areas by:
 - (1) Demonstrating that he or she has devoted a minimum of 20% in a specific primary area, and 10% in each additional secondary area; and
 - (2)
 - (a) Passing the examination in the primary area; and
 - (b) Passing the examination in each secondary area.

C. Substantial Involvement for Recertification

Recertification applicants must show substantial involvement and special competence in Texas real estate law practice during each of the 5 years of certification by providing such information as may be required by the TBLS.

1. Recertification applicants must show that during each year of the 5 year period they have devoted a minimum of 25% of their overall practice in Texas real estate law as defined in Section I,A of the Real Estate Law Specific Area Requirements in one or a combination of the following methods:
 - a. Recertification applicants must practice Texas real estate law as follows:
 - (1) Recertification applicants in a primary area must maintain the required 20% of his or her overall practice during each year of the 5 year period for that primary area in which he or she was initially qualified.
 - (2) Recertification applicants may qualify for recertification in one primary area and one or more secondary areas by maintaining the required percentage of his or her overall practice during each year of the 5 year period as follows:
 - (a) Demonstrating that he or she has devoted a minimum of 20% in any real estate law area in which he or she is certified; and
 - (b) Demonstrating that he or she has devoted an additional 10% in each additional area.
 - OR
 - b. Recertification applicants must have served as a judge of a court of record in Texas actually adjudicating real estate law in the same percentages listed in Section C,1,a,(1-2) above.

2. Recertification applicants may be required to list the Texas matters participated in during all or part of the 5 year period.

SECTION II REFERENCES

Applicants should refer to Section IV of the General Requirements before choosing references, and list the following references to attest to their competence in the practice of real estate law.

- A. Five Texas attorneys who practice in the applicant's geographic area and are familiar with applicant's real estate law practice.

PART II
SPECIFIC AREA REQUIREMENTS
FOR
CIVIL APPELLATE LAW

SECTION I
SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE

A. **Definition.** Civil appellate law is the practice of law involving proceedings brought before a civil appellate court either by appeal of a final judgment or appealable interlocutory order or by an original proceeding in the appellate court. The practice of civil appellate law which qualifies for certification for substantial involvement and special competence should generally cover multiple areas of procedure and substantive law and not be limited to any one, narrow area of law (unless substantial involvement and special competence can otherwise be shown.). Serving as a judge or a briefing attorney or a staff attorney on a civil appellate court is also considered the practice of civil appellate law. For these purposes "civil appellate courts" include the United States Supreme Court, the Federal Court of Appeals, the Texas Supreme Court, the Texas Court of Appeals, and comparable courts of other jurisdictions. The preparation and presentation of the court's charge and of post-trial and other dispositive motions at the trial court level shall also be considered the practice of civil appellate law. For the specific area requirements please refer to the sections below.

B. **Substantial Involvement for Certification**

Certification applicants must show substantial involvement and special competence in Texas civil appellate law practice during each of the 3 years immediately preceding application by providing such information as may be required by the TBLS.

1. Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 25% of their time practicing civil appellate law as defined in Section I,A of the Specific Area Requirements for Civil Appellate Law.
2. Certification applicants shall provide such information as may be required by the TBLS regarding civil appellate matters participated in by them in each of the following categories where applicable:
 - a. Civil appeals in any appellate court in which briefs were filed or oral argument performed by applicant;
 - b. Extraordinary proceedings in an appellate court such as Petition for Writ of Mandamus or Habeas Corpus handled or defended by applicant.
3. Certification applicants must have handled during their practice all or a substantial part of at least 12 civil appellate cases. Of these number of civil appellate cases at least 6 shall have been handled in the 3 years immediately preceding application. In addition applicant must show the following:
 - a. All 12 cases were fully briefed on the merits at the appellate level;
 - b. Applicant was lead counsel in at least 6 of the cases;
 - c. Applicant has performed oral argument in at least 6 of the cases;

- d. At least 6 of the cases involved an appeal from a final judgment on the merits;
 - e. In at least 5 of the cases the appellate court issued an opinion on the merits; and
 - f. At least 3 of the cases involved the prosecution or defense of a petition to the highest court of the jurisdiction to review the decision of an intermediate appellate court;
4. Service for an appellate court as a briefing attorney and/or staff attorney for at least 5 years may be considered by the TBLS as the equivalent of the requirements set out in Section I,3,a-f above. Service for less than 5 years may be considered proportionally.

C. Substantial Involvement for Recertification

Recertification applicants must show substantial involvement and special competence in Texas civil appellate law practice during each of the 5 years of certification by providing such information as may be required by the TBLS.

- 1. Recertification applicants must show that during each year of the 5 year period they devoted a minimum of 25% of their time practicing civil appellate law as defined in Section I,A of the Specific Area Requirements for Civil Appellate Law in one or a combination of the following methods:
 - a. Applicants must practice Texas civil appellate law;
 - OR
 - b. Applicants must have served as a judge of a civil appellate court actually adjudicating Texas civil appellate law matters.
- 2. Recertification applicants may be required to list the matters participated in during all or part of the 5 year period.

**SECTION II
REFERENCES**

Applicants should refer to Section IV of the General Requirements before choosing references, and list the following references to attest to their competence in the practice of civil appellate law.

- A. Three Texas attorneys who are familiar with applicant's civil appellate law practice.
- B. One Texas attorney with whom or against whom applicant has tried a civil appellate law matter.
- C. One judge of an appellate court in Texas before whom applicant has appeared as an advocate in a civil appellate law matter.

PART II
OIL, GAS AND MINERAL LAW
SPECIFIC AREA REQUIREMENTS

SECTION I
SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE

- A. **Definition.** Oil, gas and mineral law comprises law applicable to oil, gas and other minerals and interests in oil, gas and other minerals and to the acquisition, ownership, leasing, development, transfer, disposition and financing of these substances. The practice of oil, gas and mineral law requires, without limitation, knowledge of land titles and surface use; conveyances, contracts and other documents typically used in oil, gas and other mineral transactions; statutes and regulations affecting oil, gas and minerals; and the taxation of oil, gas and other minerals and of transactions concerning them. For the specific area requirements please refer to the sections below.
- B. **Substantial Involvement for Certification**
Certification applicants must show substantial involvement and special competence in a broad Texas oil, gas and mineral practice during each of the 3 years immediately preceding application by providing such information as may be required by the TBLS, including but not limited to, peer review and evidence of special competence and experience.
1. Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 25% of their time practicing Texas oil, gas and mineral law as defined in Section I,A of the Specific Area Requirements for Oil, Gas and Mineral Law.
- C. **Substantial Involvement for Recertification**
Recertification applicants must show substantial involvement and special competence in Texas oil, gas and mineral law practice during each of the 5 years of certification by providing such information as may be required by the TBLS.
1. Recertification applicants must show that during each year of the 5 year period they devoted a minimum of 25% of their time practicing Texas oil, gas and mineral law as defined in Section I,A of the Specific Area Requirements for Oil, Gas and Mineral Law in one or a combination of the following methods:
 - (a) Recertification applicants must practice Texas oil, gas and mineral law;
 - OR
 - (b) Recertification applicants must have served as a judge of a court of record actually adjudicating Texas oil, gas and mineral law matters.
 2. Recertification applicants may be required to list the Texas matters participated in during all or part of the 5 year period.

SECTION II
REFERENCES

Applicants should refer to Section IV of the General Requirements before choosing references, and list the following references to attest to their competence in the practice of oil, gas and mineral law.

- A. Five Texas attorneys who are familiar with applicant's oil, gas and mineral law practice.

PART II
BANKRUPTCY LAW
SPECIFIC AREA REQUIREMENTS

SECTION I
SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE

A. Definition.

Bankruptcy law is the practice of law dealing with representation of parties in matters primarily involving the Bankruptcy Code, but also involving other aspects of debtor creditor relations as they affect or are affected by bankruptcy or insolvency. For the Specific Area Requirements please refer to the sections below.

CONSUMER BANKRUPTCY LAW

Definition: Consumer bankruptcy law is the practice of law dealing with representation of non-business debtors and/or their creditors in all areas of bankruptcy. It includes primarily representation in matters involving the Bankruptcy Code, and homestead and exemption laws, and also, without limitation, all aspects of consumer debtor-creditor relations as they affect or are affected by bankruptcy.

BUSINESS BANKRUPTCY LAW

Definition: Business bankruptcy law is the practice of law dealing with representation of business debtors and/or their creditors in all areas of bankruptcy. It includes primarily representation in matters involving the Bankruptcy Code, and also, without limitation, all aspects of business debtor-creditor relations as they affect or are affected by bankruptcy or insolvency. The term "business bankruptcy law" includes the representation of debtors, creditors or other parties in cases under Chapters 7, 9, 11, 12 and 13 of the Bankruptcy Code.

B. Substantial Involvement for Certification

Certification applicants must show substantial involvement and special competence in consumer bankruptcy law, business bankruptcy law, or debtor and creditor rights during each of the 3 years immediately preceding application by providing such information as may be required by the TBLS.

1. Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 30% of their time practicing consumer bankruptcy law, business bankruptcy law, or debtor and creditor rights as defined in Section I,A of the Specific Area Requirements for Bankruptcy Law.
2. Certification applicants must show they have engaged directly and substantially in the practice of consumer bankruptcy law, business bankruptcy law, and debtor and creditor rights as defined in Section I,A of the Specific Area Requirements for Bankruptcy Law.
3. Certification applicants shall be certified in either one or both of the following categories of bankruptcy law:

a. **CONSUMER BANKRUPTCY LAW**

- (1) Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 30% of their total time practicing consumer bankruptcy law, business bankruptcy law, or debtor and creditor rights. Twenty percent of an applicant's total time must have been in consumer bankruptcy law as defined in Section I,A of the Specific Area Requirements for Bankruptcy Law.
- (2) Certification applicants shall have represented debtors or creditors during their practice in a minimum of 15 contested matters of which at least 8 shall have been in the Bankruptcy Court. Contested matters include appearances in State or Federal courts in connection with bankruptcy law, or debtor and creditor rights disputes.

b. **BUSINESS BANKRUPTCY LAW**

- (1) Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 30% of their total time practicing consumer bankruptcy law, business bankruptcy law, or debtor and creditor rights. Twenty percent of an applicant's total time must have been in business bankruptcy law as defined in Section I,A of the Specific Area Requirements for Bankruptcy Law.
- (2) Certification applicants shall have met, during their practice, 12 of the following 30 categories listed:
 - (a) 2 objections to discharge or determinations of dischargeability;
 - (b) 2 avoidance actions under the Bankruptcy Code including any combination of the following:
 - (i) fraudulent conveyances;
 - (ii) preferential transfers;
 - (iii) 1 avoidance of an unperfected or unrecorded transfer by a hypothetical bona fide purchaser or lien creditor;
 - (iv) 1 recovery of a setoff; and
 - (v) post-petition transfers;
 - (c) 1 complaint for subordination;
 - (d) 4 modifications of automatic stay;
 - (e) 4 sales, use (including cash collateral) or leases of property;
 - (f) 3 assumptions or rejections of a lease or other executory contract;
 - (g) 2 post-petition extensions of secured or unsecured credit;
 - (h) 2 involuntary petitions;
 - (i) 4 contested objections to the allowance of claims;
 - (j) 2 contested appointments of a trustee or examiner;
 - (k) 3 contested conversions or dismissals;
 - (l) 3 contested turnovers of property;
 - (m) 1 reclamation;

- (n) 5 motions for abandonment;
- (o) 3 examinations under Rule 2004;
- (p) 1 revocation of an order of confirmation of a plan under either Chapters 9, 11, 12 or 13;
- (q) 1 contested modification of a plan under either Chapters 9, 11, 12 and 13 of a Debtor engaged in business;
- (r) 5 voluntary petitions with schedules and statements of Debtors engaged in business, under Chapter 7;
- (s) 5 voluntary petitions, with schedules and statements, under Chapters 9, 11, 12 or 13, of Debtors engaged in business;
- (t) 5 confirmation hearings of plans under Chapters 9, 11, 12 or 13, of a Debtor engaged in business;
- (u) Preparation of 3 disclosure statements and plans of reorganization under Chapter 11;
- (v) 3 contested requests for allowance and/or payment of an administrative priority of claim;
- (w) Preparation of 3 reorganization plans under Chapters 9, 12 or 13 of a Debtor engaged in business;
- (x) 2 proceedings to determine the validity, priority or extent of a lien or other interest in property of a Debtor engaged in business;
- (y) 1 complaint for injunctive or declaratory relief;
- (z) 3 representations of the trustee of a Debtor engaged in business;
- (aa) 3 bankruptcy related adversary proceedings or contested matters of a type other than as above described, of a Debtor engaged in business;
- (bb) 2 appeals from the Bankruptcy Court;
- (cc) Representation of official committees in 2 business bankruptcy cases; and
- (dd) The preparation and presentation of a paper at a State Bar approved seminar or institute dealing with a business bankruptcy topic.

C. Substantial Involvement for Recertification

Recertification applicants must show substantial involvement and special competence in the practice of consumer bankruptcy law, business bankruptcy law, or debtor and creditor rights during each of the 5 years of certification by providing such information as may be required by the TBLS.

1. Recertification applicants must show that during each year of the 5 year period they have devoted a minimum of 30% of their total time practicing consumer bankruptcy law, business bankruptcy law, or debtor and creditor rights as defined in Section I,A of the Specific Area Requirements for Bankruptcy Law in one or a combination of the following methods listed in Section (a) and (b) below. Twenty percent of a recertification applicant's total time must have been in each category of bankruptcy in which they are certified (Consumer or Business).
 - (a) Recertification applicants must practice consumer bankruptcy law, business bankruptcy law or debtor and creditor rights law;
 - OR
 - (b) Recertification applicants must have served as a judge of a bankruptcy court or as a U.S. trustee actually adjudicating consumer bankruptcy law, business bankruptcy law, or debtor and creditors rights law matters.
2. Recertification applicants may be required to list the matters participated in during all or part of the 5 year period.

SECTION II REFERENCES

Applicants should refer to Section IV of the General Requirements before choosing references, and list the following references to attest to their competence in the practice of bankruptcy law.

- A. Three attorneys who practice in the applicant's geographic area and are familiar with applicant's bankruptcy law, or debtor and creditor rights practice.
- B. One attorney against whom applicant has been an adversary in a bankruptcy law, or debtor and creditors rights matter.
- C. One judge of any bankruptcy court before whom applicant has appeared as an advocate in a bankruptcy law or debtor and creditor rights matter.

PART II
ADMINISTRATIVE LAW
SPECIFIC AREA REQUIREMENTS

SECTION I
SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE

- A. **Definition.** Administrative law is the practice of law dealing with the administrative operations of local, state and federal government. For purposes of this certification, it includes primarily matters involving the Administrative Procedure Act. It also includes, without limitation, the representation of clients before administrative agencies, the practice of law within those agencies, and judicial proceedings involving those agencies. For the specific area requirements please refer to the sections below.
- B. **Substantial Involvement for Certification**
Certification applicants must show substantial involvement and special competence in Texas administrative law practice during each of the 3 years immediately preceding application by providing such information as may be required by the TBLS.
1. Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 30% of their time practicing Texas administrative law as defined in Section I,A of the Specific Area Requirements for Administrative Law.
 2. Certification applicants must show their substantial involvement and special competence in Texas administrative law during their practice by providing such information as may be required by the TBLS.
 - a. Certification applicants must show that they have had primary responsibility (as a hearings examiner, party representative, or agency representative) in 1 of the following 4 categories within their entire practice:
 - (1) 10 contested case hearings before administrative agencies;
 - (2) A minimum of 60 days in contested case hearings before administrative agencies;
 - (3) 10 proceedings involving the judicial review of agency orders under the Administrative Procedure and Texas Register Act and/or under the Federal Administrative Procedure Act; or
 - (4) A combination of contested case hearings and judicial review proceedings totaling 10 matters.
 - b. In addition to the cases listed in II(B)(2)(a) applicants must meet 3 of the following 5 categories within their entire practice:
 - (1) Substantial involvement in a major rule-making proceeding before a state or federal agency. Such involvement may include petitioning for rules or drafting rules;

- (2) Primary responsibility for a party in 3 original judicial actions in state or federal court involving agency activities. Examples of such actions include the prosecution or defense of suits for injunction, declaratory judgment, mandamus, enforcement, and suits challenging agency rules;
- (3) Primary responsibility as a hearings examiner, agency counsel or private practitioner in 12 non-contested proceedings;
- (4) 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 Open Meetings or Open Records Acts; or
- (5) Primary responsibility (as a hearings examiner, party representative, or agency representative) in an additional 5 contested case hearings before administrative agencies or an additional 5 proceedings involving the judicial review of agency orders under the Administrative Procedure and Texas Register Act and/or under the Federal Administrative Procedure Act. A combination of contested case hearings and judicial review proceedings totaling 5 additional matters may also be used to fulfill this requirement.

C. Substantial Involvement for Recertification

Recertification applicants must show substantial involvement and special competence in Texas administrative law practice during each of the 5 years of certification by providing such information as may be required by the TBLS.

1. Recertification applicants must show that during each year of the 5 year period they devoted a minimum of 30% of their time practicing Texas administrative law as defined in Section I,A of the Specific Area Requirements for Administrative Law in one or a combination of the following methods:
 - (a) Recertification applicants must practice Texas administrative law;
OR
 - (b) Recertification applicants must have served as a judge of a court of record actually adjudicating Texas administrative law matters;
OR
 - (c) Recertification applicants must have served as a hearing examiner, party representative, or agency representative actually adjudicating Texas administrative law matters.
2. Recertification applicants may be required to list the Texas matters participated in during all or part of the 5 year period.

SECTION II REFERENCES

Applicants should refer to Section IV of the General Requirements before choosing references, and list the following references to attest to their competence in the practice of administrative law.

- A. Two Texas attorneys who practice in the applicant's geographic area and are familiar with applicant's administrative law practice.
- B. One Texas attorney with whom or against whom applicant has tried an administrative law matter.
- C. Two of the following before whom applicant has appeared as an advocate in a Texas administrative law matter:
 - 1. Present or former judges of any court of record in Texas, court of appeals in Texas, or the Supreme Court of Texas.
 - 2. Present or former hearing officers or hearing examiners of an administrative agency with jurisdiction in Texas.

PART II
CONSUMER LAW
SPECIFIC AREA REQUIREMENTS

SECTION I
SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE

- A. **Definition.** Consumer law is the practice of law dealing with consumer transactions, including transactions of business consumers. It includes, by way of example but not limitation, matters involving the Texas Deceptive Trade Practice - Consumer Protection Act, Subchapter 21B of the Texas Insurance Code; relevant provisions of the Uniform Commercial Code; the Texas Credit Code; the Texas Manufactured Housing Standards Act; the Texas Motor Vehicle Commission Code, including the Texas Lemon Law; laws dealing with landlord-tenant relationship; the Federal and Texas Fair Debt Collection Practices Act; the Federal Truth in Lending Act; and other federal and state laws dealing with sales, leases, insurance, credit, and collection activities involving consumers. The practice of consumer law includes the prosecution and defense of claims as well as business compliance. For the specific area requirements refer to the sections below.
- B. **Substantial Involvement for Certification**
Certification applicants must show substantial involvement and special competence in Texas consumer law during each of the 5 years immediately preceding application by providing such information as may be required by the TBLS.
1. Certification applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 30% of their time practicing (consisting of at least 1,200 hours during the 3 year period) in Texas consumer law as defined in Section I,A of the Specific Area Requirements for Consumer Law. Certification applicants must show significant involvement in the practice of Texas consumer law, including the following:
 - a. Counseling of clients regarding claims and defense of claims in the area of consumer law;
 - b. Representation of clients in preparation, prosecution and defense of consumer claims;
 - c. Representation of clients in alternative dispute resolution procedures as defined by Tex. Civ. Prac. & Rem. Code, Chapter 154; and
 - d. The advising and counseling of persons or business entities in areas involving the establishment, revision or maintenance of procedures, practices, forms or programs to comply with consumer laws.
 2. Certification applicants must show their special competence by providing such information as may be required by the TBLS to demonstrate the scope, extent, nature and depth of their expertise in the area of Texas consumer law.

3. a. Certification applicants must show that during the 5 years immediately preceding application they have represented clients as lead counsel in at least 24 contested consumer matters in Texas. "Contested consumer matters" means law suits filed in a court of record in which an answer is filed and which has been resolved other than by "No Answer Default" or "Dismissal for Want of Prosecution". Applicant must have been counsel through resolution of the suit and representation completed. Contested consumer matters may also include cases involving issues of consumer law submitted to binding arbitration either before or after suit is filed, however, these will be considered on a case by case basis.
- b. Certification applicants must show that during the 10 years immediately preceding application for certification they have submitted issues to the finder of fact of a court of record in Texas for determination in at least 5 contested matters, at least 2 of which must have been conducted by applicant as lead counsel.

C. Substantial Involvement for Recertification

Recertification applicants must show substantial involvement and special competence in Texas consumer law practice during each of the 5 years of certification by providing such information as may be required by the TBLIS.

1. Recertification applicants must show that during each year of the 5 year period they devoted a minimum of 30% of their time practicing Texas consumer law as defined in Section I,A of the Specific Area Requirements in Consumer Law in one or a combination of the following methods:
 - (a) Recertification applicants must practice Texas consumer law;
 - OR
 - (b) Recertification applicants must have served as a judge of a court of record actually adjudicating Texas consumer law matters.
2. Recertification applicants may be required to list the Texas matters participated in during all or part of the 5 year period.

**SECTION II
REFERENCES**

Applicants should refer to Section IV of the General Requirements before choosing references, and list the following references to attest to their competence in the practice of consumer law.

- A. Three Texas attorneys who practice in the applicant's geographic area and are familiar with applicant's consumer law practice.
- B. Two Texas attorneys against whom applicant has been an adversary in a consumer law matter.