

IN THE SUPREME COURT OF TEXAS

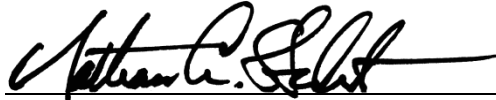
Misc. Docket No. 15-9221

ORDER ADOPTING STANDARDS FOR ATTORNEY CERTIFICATION IN CONSTRUCTION LAW

ORDERED that:

1. The Standards for Attorney Certification by the Texas Board of Legal Specialization in Construction Law are adopted as follows, effective January 1, 2016.
2. The Clerk is directed to:
 - a. file a copy of this order with the Secretary of State;
 - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this order to each elected member of the Legislature; and
 - d. submit a copy of the order for publication in the *Texas Register*.

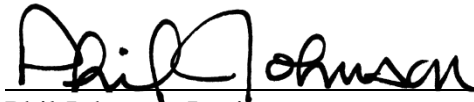
Dated: October 20, 2015.



Nathan L. Hecht, Chief Justice



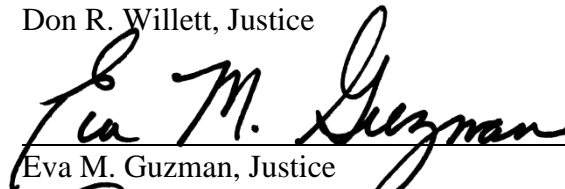
Paul W. Green, Justice



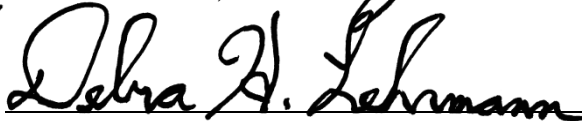
Phil Johnson, Justice



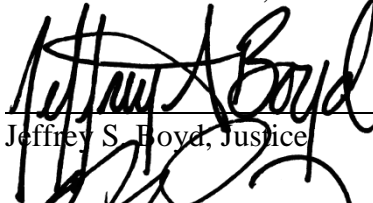
Don R. Willett, Justice



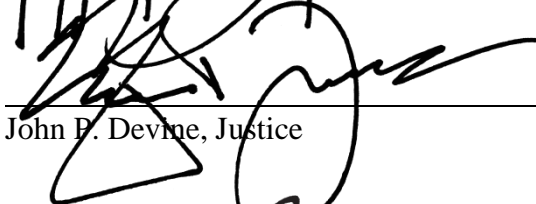
Eva M. Guzman, Justice



Debra H. Lehrmann, Justice



Jeffrey S. Boyd, Justice



John P. Devine, Justice



Jeffrey V. Brown, Justice

TEXAS BOARD OF LEGAL SPECIALIZATION STANDARDS FOR ATTORNEY CERTIFICATION

PART II SPECIFIC AREA REQUIREMENTS

These are specific requirements that apply to the specialty area listed below. The specific requirements include the definitions, substantial involvement, reference, and other certification and recertification requirements for the specialty area. Please also refer to the Standards for Attorney Certification, Part I – General Requirements for requirements that apply to all specialty areas.

SECTION XII CONSTRUCTION LAW

(Area ID: CO / Year Started: 2016)

- A. **DEFINITION.** Construction law is the practice of law dealing with the transactions and relationships among contractors, subcontractors, suppliers, owners, architects, engineers, governmental entities, insurers, sureties and lenders regarding development, design and construction on public and private projects. It includes, by way of definition, not limitation:
- knowledge of construction-related law, including applicable statutes and common law principles and doctrines;
 - drafting, negotiation, and operation of construction-related contract documents and provisions, including the active management and oversight of such transactional matters;
 - knowledge of procurement and project delivery systems;
 - construction lending, insurance and suretyship;
 - construction claim development and presentation, including, but not limited to, the analysis of mechanic's lien claims, payment and performance bond claims, construction and design defect claims, contract claims, delay and special damages claims, construction specific statutory claims (*e.g.* Prompt Pay Act, Trust Fund Act), construction accident, injury and OSHA claims, administrative claims, private labor and wage claims (related to construction), judgment collection and enforcement, tort claims arising from design and construction activities, and equitable claims arising from design and construction activities; and
 - construction dispute resolution through negotiation, litigation, arbitration, administrative hearings, mediation and other forms of dispute resolution, including the active management and oversight of such dispute-related matters.
- B. **SUBSTANTIAL INVOLVEMENT.** Applicant must show substantial involvement and special competence in Texas construction 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 40% of his or her time practicing Texas construction law during each year of the 5 years immediately preceding application as defined in Section A above of the Specific Area Requirements for Construction Law.
 - b. **Task Requirements.** Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in Texas construction 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 Texas construction law within the 5 years immediately preceding application, and must show specific involvement in at least two (2) of the areas below for each of the 5 years preceding application:
 - (a) Negotiation, preparation and operation of contracts and other documents related to construction law.
 - (b) Experience with procurement and project delivery systems, construction lending, insurance and suretyship.
 - (c) Construction claim development and presentation including, but not limited to, the analysis of mechanic's lien claims, payment and performance bond claims, construction and design defect claim, contract claims, delay and special damages claims, specific statutory claims related to construction (e.g. Prompt Pay Act, Trust Fund Act), construction accident, injury and OSHA claims, administrative claims, private labor and wage claims related to construction, judgment collection and enforcement and negligence and other tort claims arising from design and construction activities.
 - (d) Construction dispute resolution through negotiation, litigation, arbitration, administrative hearings, mediation or other forms of dispute resolution.
 - (2) Applicant must show by detailed response that he or she has engaged at a primary level of responsibility for a client or employer in, or has had active management and oversight of one or more attorneys involved in, at least one of the areas applicant submitted to satisfy Section B, 1, b, (1) above.
 - (3) Applicant must submit a resume or job summary reflecting activities for at least five (5) years or longer immediately preceding application.
2. **Recertification.** Applicant must have devoted a minimum of 40% of his or her time practicing Texas construction law during each year of the 5 year period of certification as defined in Part II, A of the Specific Area Requirements for Construction 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 Texas construction law. These persons must be Texas attorneys who are substantially involved in construction law, and be familiar with applicant's construction law practice, and are not partners or associates of the applicant.

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