

IN THE SUPREME COURT OF TEXAS

Misc. Docket No. 16-9036

ORDER AMENDING STANDARDS FOR ATTORNEY CERTIFICATION IN CIVIL TRIAL LAW

ORDERED that:

1. The Court approves the following amendments to the Standards for Attorney Certification by the Texas Board of Legal Specialization in Civil Trial Law. This order includes a clean copy and an approximate redline copy of the amended standards. The clean copy is the official version. The amendments are effective immediately.
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: March 22, 2016.



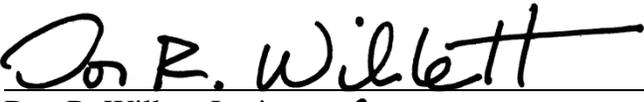
Nathan L. Hecht, Chief Justice



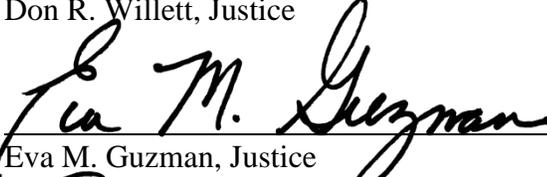
Paul W. Green, Justice



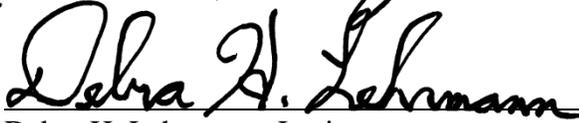
Phil Johnson, Justice



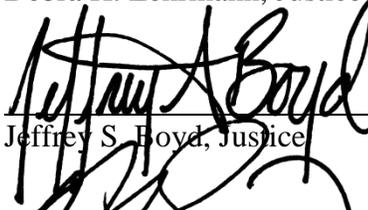
Don R. Willett, Justice



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

SECTION V

CIVIL TRIAL LAW

(Area ID: CT / Year Started: 1978)

A. DEFINITIONS.

1. Civil trial law is the practice of law dealing with litigation of civil controversies in all areas of substantive law before state and federal courts of record.
2. A trial is a contested proceeding in a court of record within the judicial branch of government that involves the submission of testimonial evidence to a court or jury in support or defense of claims for relief submitted by the parties. A trial commences on the initial presentation of evidence to the court or jury. Summary judgment proceedings, other pretrial proceedings, default judgments, and civil appeals are not trials within the meaning of these standards.
3. Lead counsel is the lawyer who takes primary responsibility for the representation of the client in the case. In a jury case, to be considered lead counsel, applicant must, at a minimum, have made an opening statement or closing argument and conducted significant direct or cross-examination of live witnesses at trial.

B. SUBSTANTIAL INVOLVEMENT. To demonstrate substantial involvement and special competence in Texas civil trial law practice, applicant must, at a minimum, meet the following requirements.

1. **Certification.**
 - a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of 35% of his or her time practicing civil trial law in Texas during each year of the three years immediately preceding the application.
 - b. **Task Requirements.** Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in Texas civil trial law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.
 - (1) Applicant must have tried at least 20 civil trials in a court of record in Texas or in federal court that involved an amount in controversy in excess of \$25,000 or significant nonmonetary claims. Of these trials:
 - i. at least seven must be jury trials that were conducted by applicant as lead counsel and submitted to the jury;
 - ii. no more than seven may be personal injury cases;
 - iii. no more than seven may be family law cases; and
 - iv. in at least five trials, applicant must have played a significant

role in conducting jury selection.

- (2) The following types of proceedings may be substituted for three of the other 13 civil trials.
 - i. A civil jury trial conducted by applicant as lead counsel in a state court of record *outside* of Texas, but within the United States, where the case was submitted to the jury for decision. The amount in controversy must have exceeded \$25,000, or the case must have involved significant nonmonetary claims. Formal rules of evidence and procedure must have applied in the case.
 - ii. A civil trial conducted by applicant as lead counsel that concluded before submission to either a jury or the court (in a bench trial) in a court of record in Texas or in federal court. The trial must have concluded: (a) after voir dire, opening statements, and the examination of witnesses in a jury trial; or (b) after opening statements and the examination of witnesses in a bench trial. The amount in controversy must have exceeded \$25,000, or the case must have involved significant nonmonetary claims.
 - iii. An arbitration conducted to a final decision by applicant as lead counsel in which formal rules of evidence and procedure governed the proceeding. The amount in controversy must have exceeded \$25,000, or the case must have involved significant nonmonetary claims.
 - iv. A criminal jury trial conducted by applicant as lead counsel that resulted in a final verdict in a court of record in Texas or in federal court.
 - v. A contested administrative proceeding conducted by applicant as lead counsel for a party before a Texas or federal agency. The matter must have been resolved after a hearing on the merits in which witnesses were examined by direct and cross-examination, and a final order must have been issued by the agency. The amount in controversy must have exceeded \$25,000, or the case must have involved significant nonmonetary claims.
 - vi. A temporary or preliminary injunction hearing conducted by applicant as lead counsel that resulted in a final decision on the temporary or preliminary injunction request. In the hearing, applicant must have presented an opening and closing statement and conducted live direct and cross-examination of witnesses. The amount in controversy must have exceeded \$25,000, or the case must have involved significant nonmonetary claims.
2. **Recertification.** Applicant must have devoted a minimum of 35% of his or her time practicing civil trial law in Texas during each year of the five-year period of certification unless applicant meets the exception in Part I—General Requirements, Section VI, C,1(b).

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

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

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

TEXAS BOARD OF LEGAL SPECIALIZATION

STANDARDS FOR ATTORNEY CERTIFICATION

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A. DEFINITIONS.

1. Civil trial law is the practice of law dealing with litigation of civil controversies in all areas of substantive law before ~~s~~State and ~~f~~Federal courts of record.
2. A trial is a contested proceeding in a court of record within the judicial branch of government ~~that which~~ involves the submission of testimonial evidence to a court or jury in support or defense of claims for relief submitted by the parties. A trial ~~shall be deemed to have commenced~~ upon the initial presentation of evidence to the court or jury. For purposes of this definition, a summary judgment proceeding or any other pre-trial proceeding does not constitute a trial. Summary judgment proceedings, other pretrial proceedings, default judgments, and civil appeals are not trials within the meaning of these standards.
3. Lead counsel ~~is the lawyer who in a jury case is the role in which an attorney takes~~ primary responsibility for the representation of the client in the case. In a jury case, to be considered lead counsel, applicant must, at a minimum, have made an opening statement or closing argument and conducted significant direct or cross-examination of live witnesses at trial. during trial and whose activities in trial shall at a minimum include:
 - i. ~~conducting jury selection;~~
 - ii. ~~making an opening statement or making a closing argument; and~~
 - iii. ~~conducting significant direct or cross-examination of live witnesses at trial.~~

B. SUBSTANTIAL INVOLVEMENT. ~~To demonstrate Applicant must show~~ substantial involvement and special competence in Texas civil trial law practice, applicant must, at a minimum, meet the following requirements. by providing such information as may be required by TBLS.

1. Certification.

- a. Percentage of Practice Requirement. Applicant must have devoted a minimum of 35% of his or her time practicing civil trial law in Texas during each year of the ~~3~~ three years immediately preceding ~~the~~ the application ~~as defined in Section V, A of the Specific Area Requirements for Civil Trial Law.~~
- b. Task Requirements. Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in Texas civil trial law. In evaluating experience, TBLS may take into consideration the nature, complexity,

and duration of the tasks handled by applicant.

- (1) Applicant must have tried ~~during his or her practice a minimum of at least 20~~ at least 20 civil trials in a court of record in Texas or in federal court that involved an amount in controversy in excess of \$25,000 or ~~other~~ significant non-monetary claims. Of these trials;
 - i. ~~a~~ At least seven ~~shall must have been be~~ jury trials that were conducted by applicant as lead counsel and submitted to the jury; trier of fact in a court of record in Texas; and
 - ii. ~~n~~ No more than 1/3 seven of the cases submitted by the applicant shall have been may be personal injury cases; and
 - iii. no more than 1/3 seven shall have been may be family law cases; and
 - iv. in at least five trials, applicant must have played a significant role in conducting jury selection.

(2) The following types of proceedings may be substituted for three of the other 13 civil trials.

- i. A civil jury trial conducted by applicant as lead counsel in a state court of record *outside* of Texas, but within the United States, where the case was submitted to the jury for decision. The amount in controversy must have exceed \$25,000, or the case must have involved significant nonmonetary claims. Formal rules of evidence and procedure must have applied in the case.
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- vi. A temporary or preliminary injunction hearing conducted by applicant as lead counsel that resulted in a final decision on the temporary or preliminary injunction request. In the hearing, applicant must have presented an opening and closing statement and conducted live direct and cross-examination of witnesses. The amount in controversy must have exceeded \$25,000, or the

case must have involved significant nonmonetary claims.

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

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

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