

**IN THE SUPREME COURT OF THE STATE OF TEXAS**

Misc. Docket No. 93-0079

**ORDER**

WHEREAS, the members of the Texas Board of Legal Specialization have caused to be published Standards for Certification in Consumer Law, and

WHEREAS, those aforementioned Standards were accepted and approved by the members of the Texas Board of Legal Specialization on December 10, 1992, and presented to this Court, 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 Standards be adopted and that Article XII of the Texas Plan for Recognition and Regulation of Specialization in the Law be amended so as to hereafter read as follows:

XII.

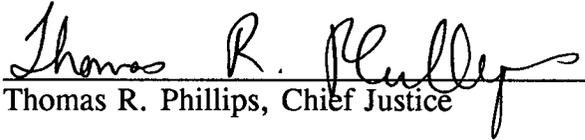
Retained Jurisdiction of the Supreme Court

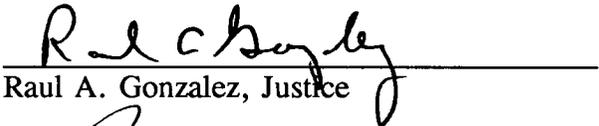
The jurisdiction of the Board shall be limited to fourteen fields of law: Criminal Law, Family Law, Labor Law, Estate Planning and Probate Law, Personal Injury Trial Law, Civil Trial Law, Immigration and Nationality Law, Tax Law, Real Estate Law, Bankruptcy Law, Oil, Gas and Mineral Law, Civil Appellate Law, Administrative Law, and Consumer Law and to the development and operation of the program in the recognition and regulation of specialization in the law, provided, however, that the number and types of fields included in the program and the jurisdiction of the Board may be enlarged, altered, or terminated from time to time by the Supreme Court of Texas.

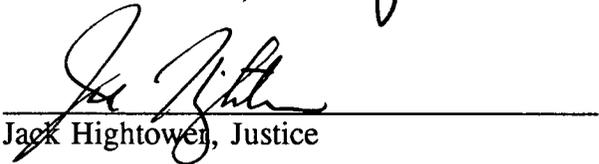
A copy of the Standards for Certification in Consumer Law are attached hereto and made

a part hereof.

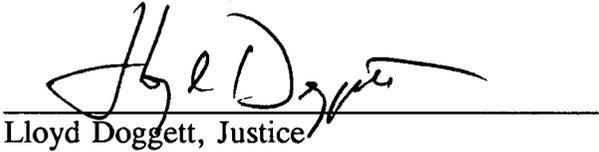
By the Court en banc, in Chambers this <sup>April</sup> ~~March~~ 2<sup>nd</sup> day of ~~March~~, 1993.

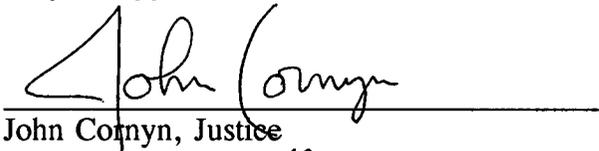
  
Thomas R. Phillips, Chief Justice

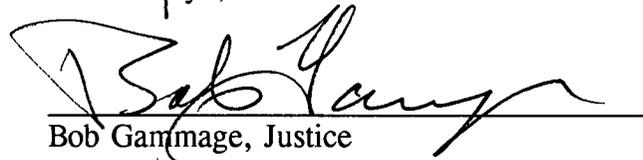
  
Raul A. Gonzalez, Justice

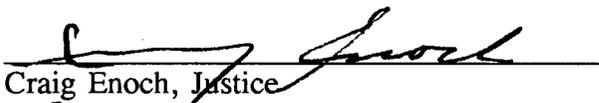
  
Jack Hightower, Justice

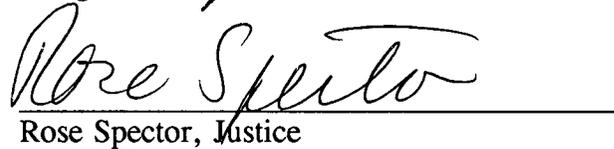
  
Nathan L. Hecht, Justice

  
Lloyd Doggett, Justice

  
John Cornyn, Justice

  
Bob Gammage, Justice

  
Craig Enoch, Justice

  
Rose Spector, Justice

## STANDARDS FOR CERTIFICATION IN CONSUMER LAW

### TEXAS BOARD OF LEGAL SPECIALIZATION

Pursuant to the authority vested in the Texas Board of Legal Specialization ("the Board") by the Supreme Court of Texas, the Board prescribes the following standards and requirements for board certification in consumer law in accordance with the Texas Plan for Recognition and Regulation of Specialization in the Law.

#### I. GENERAL REQUIREMENTS AND DEFINITIONS

- A. No standard shall in any way limit the right of an attorney board certified in consumer law, to practice in all fields of law. Any lawyer, alone or in association with any other lawyer, shall have the right to practice in all fields of law, even though board certified in consumer law.
- B. No lawyer shall be required to obtain a certificate in consumer law before practicing in the field of consumer law. Any lawyer, alone or in association with any other lawyer, shall have the right to practice in the field of consumer law, even though not board certified in consumer law.
- C. All applicants for certification or recertification in consumer law shall be active members in good standing of the State Bar of Texas, currently maintaining an office in Texas, and shall meet the requirements for certification or recertification prescribed by the Board.
- D. Certification in consumer law 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.
- E. Forms, documents, applications, questionnaires and examinations involved in the certification process, as well as fees required of applicants for certification or recertification in consumer law, shall be as approved by the Board.
- F. 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 Board.
- G. 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 requirements in this areas, please refer to Section II(B).

- H. Applicants 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 segment of the Bar, including, but not limited to, any local, state or district grievance committee of an organized bar; and if so, 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.

The Board may deny certification or recertification on a finding of a grievance committee or a court that an applicant has been guilty of professional misconduct, or defer certification or recertification based upon the pendency of such proceedings. However, the Board will consider the seriousness of the underlying fact of the grievance and will consider the passage of time since such discipline and applicant's experience since that time. Failure to disclose such information is a material misrepresentation and may be cause for rejection.

- I. Applicants 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, conspiracy with or solicitation of another to commit a serious crime.

The Board may deny certification or recertification if applicant has been convicted, given probation or fined for a serious crime as defined in this Section.

- J. Applicants shall submit the names and addresses of 5 lawyers, not partners or associates, to be contacted as references to attest to their competence in the practice of consumer law. Such lawyers, themselves, shall be substantially involved in the practice of consumer law. Three shall be lawyers chosen by applicants, who practice in their same geographic area and are familiar with their practice, and 2 shall be lawyers against whom the applicant has

been an adversary in a consumer law matter within the 3 years immediately preceding application. In addition to the 5 names of references supplied by applicants, the Board may, at its option, send statement of reference forms to other attorneys and judges. Applicants who are unable to submit names of references as described above shall submit names of references as are considered acceptable to the Board.

The Board may deny certification or recertification based upon information received from statements of reference.

## **II. MINIMUM STANDARDS FOR CERTIFICATION**

### **A. REQUIRED PERIOD OF LAW PRACTICE**

Applicants shall have been engaged in the practice of law for a period of at least 5 years on a full-time basis. Practice of consumer law is as defined in Section I(G). "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 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 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.

### **B. SUBSTANTIAL INVOLVEMENT AND SPECIAL COMPETENCE**

Applicants must show substantial involvement and special competence in consumer law during the 5 years immediately preceding application by providing such information as may be required by the Board.

1. Applicants must show that during each of the 3 years immediately preceding application they have devoted a minimum of 30% of their time practicing, at least 1,200 hours during the 3 year period, to the practice of consumer law as defined in Section I(G), or that during all or a proportionate part of that period they have served as an assistant attorney general of the State of Texas in the area of consumer law or as a teacher of consumer law, insurance or trade regulation in an accredited law school. Applicants must show significant involvement in the practice of 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;
  - 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. Applicants must show their special competence by providing such information as may be required by the Board to demonstrate the scope, extent, nature and depth of their expertise in the area of consumer law.
  3. Applicants must show that during the 5 years immediately preceding application for certification they have represented clients as lead counsel in at least 24 contested matters. "Contested matters" means law suits filed in a court of record.
  4. 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 for determination in at least 5 contested matters, at least 2 of which must have been conducted by applicant as lead counsel.
  5. The Texas Board of Legal Specialization may permit applicants to take the examination in consumer law where they have demonstrated unusual or exceptional experience, even though they are unable to expressly demonstrate the substantial involvement listed above.

**C. EDUCATIONAL EXPERIENCE**

Applicants must demonstrate participation in a minimum of 60 hours of continuing legal education in consumer law, insurance law or lender liability law within the 3 years immediately preceding application or by December 31st of the year in which application is made by either:

1. Attendance at and completion of programs of study in consumer law as approved by the Board; or
2. Substantial involvement in continuing legal education in the broad field of consumer law through such activity as:
  - a. Teaching a course;
  - b. Participation as a panelist, speaker or member of the planning committee for a continuing legal education seminar, symposium or similar program;
  - c. Attendance at a lecture series or similar program, sponsored by a qualified educational institution or Bar group;

- d. Authorship of a book or article published in a professional publication or journal;
- e. Active participation in the work of a professional committee dealing with a specific consumer law problem; or
- f. Such other educational experience as the Board shall approve.

**D. PAYMENT OF FEES**

Applicants shall timely pay the fees as established from time to time by the Board, including but not limited to the filing fee, the examination and/or certification fee.

**E. FAILURE TO FURNISH INFORMATION: MISREPRESENTATION**

Certification or recertification may be denied because of applicant's failure to furnish the requested information or because of their misrepresentation of any material fact requested by the Board.

**F. EXAMINATION**

Applicants for certification must pass a written examination applied uniformly to all applicants, and in addition, an oral examination that may be required of some or all of the applicants, to be determined by the Board prior to certification, to demonstrate sufficient knowledge, proficiency and experience in consumer law to justify the representation of special competence to the legal profession and to the public.

**III. RECERTIFICATION**

- A. Application for recertification must be made by the filing deadline established by the Board. Certification expires on December 31st of each 5th year of certification.
- B. Applicants shall state whether during the preceding 5 year period of certification they have:
  1. Been the subject of an investigation, complaint, inquiry or other disciplinary proceedings by any segment of the Bar as defined in Section I(H).
  2. Been convicted, given probation, or fined for a serious crime as defined in Section I(I).
- C. Applicants must demonstrate their continuing substantial involvement and special competence in the practice of consumer law within the preceding 5 year period of certification.
  1. Applicants must show that during each of the 5 year period they devoted a minimum of 30% of their time practicing consumer law as defined in Section I(G).

2. Applicants may be required to list the matters participated in during all or part of the 5 year period.
  3. Applicants may be required to list names and addresses of references as defined in Section I(J).
- D. To be recertified applicants must demonstrate participation in a minimum of 90 hours of continuing legal education in the 5 years immediately preceding application. At least 60 hours of such 90 hours shall have been in consumer law subjects approved by the Board. No more than 40 hours of the continuing legal education requirement may be completed in a calendar year.

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