

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 XII

CIVIL APPELLATE LAW

(Area ID: AP / Year Started: 1987)

- 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 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. The practice of civil appellate law that qualifies 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, 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 Courts of Appeals, and comparable courts of other jurisdictions.

- B. **SUBSTANTIAL INVOLVEMENT.** Applicant must show substantial involvement and special competence in civil appellate law practice by providing such information as may be required by TBLS.
1. **Certification.**
 - a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of 25% of his or her time practicing civil appellate law during each year of the 3 years immediately preceding application as defined in Section XII, A of the Specific Area Requirements for Civil Appellate Law.
 - b. **Task Requirements.** Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in civil appellate law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.
 - (1) Applicant must have handled all or a substantial part of at least 12 civil appellate cases during his or her practice. A case that was submitted to one appellate court and then to a higher court will be considered only one case. Civil appellate cases in which applicant filed a brief or presented oral argument, and original proceedings were filed by applicant in an appellate court (such as petition for writs of mandamus or habeas corpus) are subject to the following additional requirements:

- (a) All 12 cases must have been fully briefed on the merits at the appellate level;
 - (b) At least 6 of the 12 cases must have been handled by applicant within the 3 years immediately preceding application;
 - (c) Applicant must have been lead counsel in at least 6 of the 12 cases;
 - (d) Applicant must have presented oral argument to an appellate court on one significant issue of substantive or procedural law in at least 4 of the 12 cases;
 - (e) At least 6 of the 12 cases must have involved an appeal from a final judgment or other dispositive order which included a finding on a substantive or procedural issue;
 - (f) In at least 5 of the 12 cases, the appellate court must have issued an opinion on the merits that dealt with at least one substantive issue; and
 - (g) At least 3 of the 12 cases must have involved the prosecution or defense of a petition to the highest court of the jurisdiction to review the decision of an intermediate appellate court.
- (2) Service for an appellate court as a briefing attorney and/or staff attorney for at least 5 years may be considered by TBLIS as the equivalent of the requirements set out in Section XII, B,1,b(1)(a-g) above. Service for less than 5 years may be considered proportionally.
2. **Recertification.** Applicant must have devoted a minimum of 25% of his or her time practicing civil appellate law during each year of the 5 year period of certification as defined in Section XII, A of the Specific Area Requirements for Civil Appellate Law except as provided for in Part I—General Requirements, Section VI, C,1(b).

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

- 1. **Certification.** Applicant must submit names of persons with whom he or she has had dealings involving civil appellate law matters within the 3 years immediately preceding application.
- 2. **Recertification.** Applicant must submit names of persons with whom he or she has had dealings involving civil appellate 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 appellate law. Applicant must have prosecuted a civil appellate law matter with or against one of these attorneys.
 - b. One judge of an appellate court in Texas before whom applicant has appeared as an advocate in a civil appellate law matter.