

Certification Matters

How Construction Law was Built — Q&A with Jason Spencer



I quickly realized that in the modern practice of law in a large urban area you have to be specialized, and Construction Law was a natural fit for me.



Q. Why Construction Law?

A. I think Construction Law found me. Growing up blue collar in Austin, my friends started their own construction companies and soon started calling me to review contracts and file mechanics' liens for them. I quickly realized that in the modern practice of law in a large urban area you have to be specialized, and Construction Law was a natural fit for me.

Q. What drove you to propose this as a new area of specialization?

A. This was a strong belief that I held for more than 15 years. We have our own unique body of case law and statutes so we felt that we had to get this section specialized. We spoke with Texas Supreme Court Justices at a luncheon one day, and they were on board. At that point, I knew we had the momentum and potential to get it done.

Given how large and important the construction industry is in our country, it's very surprising that there's only one other state, Florida, that has Construction Law specialized. Even more surprising is that out of the State Bar's 48 sections, Construction Law is the 8th largest and just recently became specialized. Our practice should've done this a long time ago.

Q. What was the process like to get Construction Law approved?

A. It started in 2014 when we got the endorsement of the State Bar's Construction Law Section leadership. Although the Section's participation wasn't required, it really helped get the movement to specialize launched. Their support was invaluable. We then contacted TBLS to officially begin the process. The Section appointed an advisory committee of construction lawyers to be in charge of evaluating the Construction Law application process. We presented the idea to them and then addressed some of their concerns using research we conducted among our practice colleagues. Following this, we filled out the application and got approval to start our petition. We received signatures from more than 100 industry attorneys, and TBLS then appointed an Initial Advisory Commission to craft the specialty area's standards. It was a long and important process as we wanted to ensure all legitimate construction lawyers and subgroups would have the opportunity to take and pass the certification exam. After we created the standards, TBLS reviewed it and then opened it up for public comment. After that, we presented it to the Supreme Court and they approved it.



When Jason is not advocating for construction law or cramming for the exam, he enjoys hunting and fishing with his 13-year old daughter. He's also a barbecue enthusiast and participates in cook-offs competitively.

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Following the approval, the Initial Advisory Commission started crafting the exam. Those taking the exam, including myself, were hands off with the exam's creation. Out of the 105 applicants, 98 attended the review course sponsored by the State Bar Construction Law Section and are eligible to take the exam. With our exam date on Oct. 17, we're all now cramming.

Q. What kind of impact do you think this new specialty area will have on the legal and construction industries?

A. The clients will ultimately benefit from the new Board Certification. Construction Law will now have an objective standard that everyone can be held to and people and businesses hiring a construction lawyer in Texas now have another tool to measure the attorney's level of expertise. I believe that within a decade or less it is going to become the new standard and the norm for many young construction lawyers entering the practice to become Board Certified after five years of practice. It will also have a positive marketing effect for boutique law firms to promote how many Board Certified construction lawyers they have.

Q. How does it feel to know that Construction Law is TBLS' largest inaugural applicant group with 105 applications?

A. We're excited! I bet former Executive Director Gary McNeil a steak dinner that Construction Law would have over 100 applicants. I'm still waiting on my steak, Gary...

Q: Did you have help in getting Construction Law installed?

A. My previous partner, [Carson Fisk](#), was also a major player in this process. We discussed and planned this for a long time and he was the catalyst for getting this project initiated and shepherded to reality.

Many construction lawyers were also a huge help in promoting our cause and serving on the several committees that were formed. The TBLS team was also extremely helpful in getting this approved and the State Bar Construction Law Section's support was critical.



Q: What would you say to an attorney who is contemplating proposing a new area of specialization?

A. There are 48 sections of the State Bar. With currently 22 specialty areas at TBLS, that means there are 26 other sections that don't have their own specialization. If you're passionate about your section, then you should try and create a specialization for it. In doing so, I recommend first, going to your State Bar Section leadership about it, which Carson did for Construction Law through a memo and our subsequent presentation. This helps to figure out if there are any objections, which helps further along in the process, and helps get buy in from the leadership. In essence, try and bring your section together and create a movement. Through this process you can find out who is just as excited as you are and is willing to help.

Q. How did your legal career get started?

A. I attended the University of Texas at Austin and received a bachelor's degree in Political Science & History and got my law degree from St. Mary's Law School. Before forming a construction specialty law firm with my previous partners, I served as special counsel on Legislative Affairs to Governor George W. Bush and built my own construction law practice as a solo practitioner.