

# 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 VI

##### PERSONAL INJURY TRIAL LAW

(Area ID: PI / Year Started: 1978)

#### A. DEFINITIONS.

1. Personal injury trial law is the practice of law dealing with litigation of claims involving trauma or disability, physical or mental, to a person. It includes, by way of definition, and not limitation, litigation involving personal injury aspects of:
  - automobile and other vehicular accident reparations;
  - governmental claims;
  - professional malpractice claims;
  - products liability claims;
  - statutory claims;
  - insurance contract claims; or
  - any negligent or intentional tort claims.
2. A trial is a contested proceeding in a court of record within the judicial branch of government ~~which~~ 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 ~~shall be deemed to have commenced~~ commences upon-on 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 in a jury case is the role in which an attorney takes primary responsibility for the representation of the client 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.~~
3. Lead counsel is the lawyer who takes primary responsibility for the representation of the client in the case.
  - a. In a jury case, to be considered lead counsel, applicant must, at a minimum, have conducted jury selection, made an opening statement or closing argument and conducted significant direct or cross-examination of live witnesses at trial.
  - b. In a non-jury case, to be considered lead counsel, applicant must, at a minimum, have conducted significant direct or cross-examination of live witnesses at trial.
4. ~~Lead counsel in a non jury case is the role in which an attorney is primarily responsible for the representation of the client during trial and whose activities at a minimum include conducting significant direct or cross-examination of live witnesses at trial.~~

**B. SUBSTANTIAL INVOLVEMENT.** Applicant must show ~~Applicant must show~~ **To demonstrate** substantial involvement and special competence in Texas personal injury trial law practice, applicant must 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 25% of his or her time practicing personal injury trial law in Texas during each year of the ~~3~~**three** years immediately preceding ~~the~~ application ~~as defined in Section VI, A of the Specific Area Requirements for Personal Injury Trial Law.~~

b. **Task Requirements.** Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in Texas personal injury 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~~ **During** his or her entire practice, ~~as lead counsel, at least~~**applicant must have tried** 10 contested civil cases ~~as lead counsel~~**which were submitted to the trier of fact in a court of record in Texas. Of the 10 contested cases:**

(a) ~~Five (5) of the required 10 contested cases must have been personal injury jury trials-~~ **(only one of which may be the** ~~A personal injury jury trial does not include~~ judicial review of ~~a~~ **decisions of the Texas Department of Insurance; Workers' Compensation Division) submitted to the jury, Texas Workers' Compensation Commission, or Industrial Accident Board;** and

**(b) Five (5) may involve any civil cause of action.**

**(b2) In addition to the above requirements,** ~~From the cases submitted,~~ **by an** applicant must ~~reflect that the applicant participated in~~ **have devoted** a minimum of 20 separate days in trial, ~~of which~~ **with at least** 10 days ~~must have been~~ devoted to personal injury jury trials.

2. **Recertification.** Applicant must have devoted a minimum of 25% of his or her time practicing personal injury trial law in Texas during each year of the ~~5~~**five** year period of certification as defined in Section VI, A of the Specific Area Requirements for Personal Injury 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 ~~5~~**five** names and addresses of persons to be contacted as references to attest to his or her competence in personal injury trial law. These persons must be substantially involved in personal injury trial law, and be familiar with applicant's personal injury trial law practice.

1. **Certification.** Applicant must submit names of persons with whom he or she has had dealings involving personal injury trial law matters within the ~~3~~**three** years immediately preceding application.

2. **Recertification.** Applicant must submit names of persons with whom he or she has had dealings involving personal injury 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 personal injury trial law. Applicant must have tried a personal injury 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 personal injury trial law matter.