

No resolution presented herein reflects the policy of the Minnesota State Bar Association until approved by the Assembly. Informational reports, comments, and supporting data are not approved by their acceptance for filing and do not become part of the policy of the Minnesota State Bar Association unless specifically approved by the Assembly.

Report and Recommendation to the Minnesota State Bar Association

MSBA Certified Civil Trial Specialist Board August 24, 2012

RESOLVED: That the MSBA approve changes to the certified civil trial specialist standards as outlined in the attachment.

Report

Since 1987, the Minnesota State Bar Association has been approved as an independent professional organization for certifying lawyers as legal specialists. Through testing, peer review from lawyers and judges, and documenting experience, the MSBA Legal Specialist Certification Program measures a lawyer's expertise in a specialty area. One of the practice areas where attorneys can become certified is as a civil trial specialist.

Over the past several years, the Civil Trial Certification Board has been discussing potential changes to the standards for becoming a civil trial specialist. The Board is chaired by Brett Olander. Other members of the Board are: Kenneth Bayliss, Candace Dale, C. David Dietz, Mark Hodgkinson, Daniel O'Leary, William Pentelovich, James Sherburne, and Leonard Schweich.

Current specialists and those interested in becoming specialists report that it is increasingly difficult to meet the substantial involvement criteria due to more cases settling before they reach the jury or court trial stage. The Board discussed these issues over several years. While the Board considered reducing the trial requirement, they ultimately decided not to recommend this change out of a belief it would diminish the standards. The main goal of the certified trial specialist program is to assist the public in finding an experienced attorney. If the Board lowered the standards it could no longer say it met this goal. However, the Board eventually concluded that a few changes to the program were needed to remain financially viable long term. As a result, the Board decided to create a senior specialist and judicial fellow status.

The senior specialist status allows attorneys who have been certified for at least 12 years and have gone through two recertification applications to maintain their certification. The key difference is that they will no longer need to document the number of days in trial. The average age of the MSBA Certified Civil Trial Specialist is 60, with 95% having 20 or more years in practice. These are seasoned attorneys who still have active practices.

The Judicial Fellow status is a clearer definition for those judges who continue to maintain their certification.

Because the Board was making these changes it took the opportunity to tighten up some of the language in other parts of the Standards. These are minor language changes.

The fees to participate in the program remain the same.