

National Board of Trial Advocacy (NBTA)
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General Principles for Certification of Complex Litigation Advocates

(A) No standards shall in any way limit the right of a certified Complex Litigation specialist to practice law in all fields.

(B) No lawyer shall be required to obtain a board certification in Complex Litigation before he or she can practice in this field.

(C) Certification is individual and voluntary. Certification is open to all who qualify.

(D) A lawyer may have more than one certification from various divisions of the National Board of Trial Advocacy.

(E) Certification shall be for five (5) years, after which time the certificate cannot be used unless the lawyer is recertified. Certification may be revoked at any time for violations of the General Principles or Standards of the National Board of Trial Advocacy.

(F) Application will be made to the National Board of Trial Advocacy, on the forms supplied by the Board, and accompanied by the appropriate fee.

(G) An applicant must complete all requirements, including the examination, within two (2) years of application. If the certification process is not satisfactorily completed within the two (2) year period, the applicant will need to reapply and re-submit all required fees. An application can be denied at any time within the two (2) year application period for failure to successfully meet the requirements for certification.

(H) Board certification will be issued upon a showing by the applicant, confirmed by the Board's own investigation, that the applicant complies with the qualifying standards for certification.

(I) All applications and other information submitted to the National Board of Trial Advocacy shall be privileged and confidential, other than as compelled by law, except that the Board may reveal the fact of an application for the purpose of verifying information submitted by the applicant and for the purpose of making such inquiries with respect to the character and professional reputation of the applicant as may be authorized by its rules.

(J) The National Board of Trial Advocacy does not discriminate against any lawyer seeking certification on the basis of race, religion, gender, sexual orientation, disability, or age.

Standards for Certification

(A) Good Standing and Period of Practice

(1) The applicant shall furnish evidence of his or her good standing in the state of his or her admission, or if admitted in more than one state, in the state of his or her principal practice.

(2) Immediately preceding application, the applicant must have been licensed for at least ten (10) years to practice law and have spent the last five (5) years in the actual practice of Complex Litigation. For purposes of this certification, "Complex Litigation" refers generally to issues of procedural complexity in litigation — most often associated with the potential for a multiplicity of litigants on either side of the docket or a multiplicity of potential related cases — and including how the Federal Rules of Civil Procedure, relevant portions of U.S. Code Title 28, and judicially-created doctrines are employed when dealing with these complex matters.

(B) Substantial Involvement

(1) The applicant must make a satisfactory showing of substantial involvement relevant to specialty certification in Complex Litigation, with at least thirty-five (35) percent of his or her time spent practicing Complex Litigation during the three (3) years preceding the filing of the application.

(2) Within the applicant's career, the applicant must have actively participated in at least one hundred (100) contested matters involving the taking of testimony or motion practice. This may include non-jury trials; evidentiary hearings or depositions; motions heard before or after trial; and arbitration hearings.

(3) Within the applicant's career, an applicant must have accumulated 1500 points in accordance with the following Qualifying Activity Table:

Qualifying Activity	Points	Max. Pts.
Conducted federal or state certified class action trial	150	Unlimited
Conducted federal or state collective action trial	100	Unlimited
Conducted bellwether trial in MDL	100	Unlimited
Conducted federal or state “mass action” ¹ trial	100	Unlimited
Obtained a FRCP 23 ruling or “equivalent ruling” ² on behalf of plaintiffs granting class certification	100	Unlimited
Obtained a FRCP 23 ruling or “equivalent ruling” ² on behalf of defendant(s) denying class certification	100	Unlimited
Appointment as lead counsel (100 points) or to steering committee (60 points) for plaintiff or defendant in a federal or state MDL, class action, or mass action ¹	100 or 60	Unlimited
Representation of proposed class or opponent of proposed class at certification hearing	50	Unlimited
Representation of class or settling defendant at class action fairness hearing	50	Unlimited
Appellate representation in a class action, collective action, MDL, or mass action ¹	60	600

Appointment as mediator or special master in a class action, collective action, MDL, or mass action ¹	60	600
Conducted Daubert/Frye hearing in class action, collective action, MDL, or mass action ¹ matter	60	600
Conducted JPML argument	50	500
Authored book or treatise chapter on class action, collective action, MDL, or mass joinder topic	60	300
Taught law school complex litigation course (class action, collective action, MDL, mass joinder topics)	50	200
Authored legal article on class action, collective action, MDL, or mass joinder topic	50	50
Presented on class action, collective action, MDL, or mass joinder topic at a legal symposium	50	50

¹ “Mass action” defined as a case involving a mass joinder or consolidation of 100 or more parties (plaintiffs, defendants, third parties) collectively.

² “Equivalent ruling” defined as a ruling on the issue of class certification pursuant to a state rule or federal collective action rule.

(C) Educational Experience

(1) The applicant must demonstrate substantial participation in continuing legal education and the development of the law with respect to Complex Litigation in the three (3) year period immediately preceding application, either:

(a) By attendance and/or electronic participation in not less than forty-five (45) hours of continuing legal education in Complex Litigation or ethics, approved by the Standards Committee, or

(b) By equivalent participation through, but not limited to, the following means, approved by the Standards Committee:

- (I) Teaching courses or seminars in Complex Litigation or ethics;
- (II) Participation as a panelist, speaker, or workshop leader, at educational or professional conferences where the participation primarily relates to Complex Litigation; or
- (III) Authorship of books or articles published in professional journals, on topics of Complex Litigation.

Please note: Florida, South Carolina and Ohio require a higher number of CLE credit hours in order to advertise or communicate the NBTA certification. Check with your local rules or the NBTA for more details. NBTA does not recognize an exemption from CLE requirements based on age or years in practice.

(D) Peer Review

(1) The applicant shall submit with the application the names and addresses of ten references, not present partners, associates, or relatives of the applicant (except as noted below). These references should be from persons involved in the relevant field of Complex Litigation, or substantially so, and be familiar with the applicant's practice in that field. References may include judges, attorneys, special masters and settlement masters.

(2) The NBTA will solicit confidential statements from all persons listed as references and may solicit confidential statements of reference from other persons familiar with the applicant's practice though not specifically named by the applicant. The reference forms shall inquire into the respondent's areas of practice, the respondent's familiarity with both Complex Litigation and with the lawyer seeking certification, and the length of time that the respondent has been practicing law and has known the applicant. The form shall inquire about the qualifications of the lawyer seeking certification in various aspects of the practice and, as appropriate, the lawyer's dealings with judges and opposing counsel. All reference statements received will be reviewed by the NBTA to assess whether the applicant has demonstrated an enhanced level of skill and expertise in Complex

Litigation, and has demonstrated integrity, professionalism, and appropriate dedication to the interests of clients.

(3) After inquiries are directed to these references by the NBTA, responses satisfactory to the NBTA must be received from at least five references, none of whom shall be from persons related to or engaged in legal practice with the applicant. At least three of these five satisfactory references must be from either judges before whom the applicant has appeared on a Complex Litigation matter or from lawyers against whom the applicant has handled a Complex Litigation matter, or from a combination of these two categories. At least two satisfactory references (either from the five references above or from additional references) must be received from National Board of Trial Advocates or from a member of the bar licensed for at least ten (10) years, only one of whom may be a partner, co-shareholder, senior attorney, etc. of the applicant.

(E) Examination

The applicant must pass a written examination to test his or her proficiency, knowledge, and experience in Complex Litigation, so that the applicant may justify his or her representation of specialization to the public.

(F) Legal Writing Document

The applicant shall submit a copy of a legal writing document which he or she has prepared, authored no more than three (3) years before the date of application, but not necessarily published. This must be a substantial document in the area for which the applicant seeks certification, containing concise and accurate writing, stating facts (either actual or hypothetical), stating applicable law, and analyzing how the law applies to the facts. It must be written in an appropriately argumentative manner and be well-constructed (i.e. organized, grammatical, demonstrative of good syntax and usage). Acceptable documents include, but are not limited to: briefs, motions for summary judgment, Daubert motions, motions in limine, and bar journal or law review or legal magazine articles. The quality of the legal document will be an important factor in determining whether the applicant is qualified for certification.

(G) Disclosure of Conduct

(1) In order to assist the NTBA's evaluation of whether the applicant possesses an enhanced level of skill and expertise in Complex Litigation and has demonstrated integrity

and dedication to the interest of clients, the applicant shall, to the extent known, disclose to the National Board of Trial Advocacy as soon as permitted by law:

- (a) The filing of any criminal charges against the applicant together with all details called for by the Disclosure of Conduct Form;
- (b) The filing or submission of any allegation of unethical or inappropriate professional conduct with any court, grievance committee or disciplinary board or body together with all details called for by the Disclosure of Conduct Form.
- (c) The assertion of any claim of professional negligence or professional liability, whether or not suit has been filed, which is based in any part on alleged acts or omissions of the applicant or on the acts or omissions of any other attorney over whom the applicant had any responsibility together with all details called for by the Disclosure of Conduct Form.
- (d) Any order from any court disqualifying the applicant from appearing in any forum or sanctioning the applicant personally.

(2) The National Board of Trial Advocacy shall determine, in accordance with its standards and procedures, whether the conduct is such that certification should be granted, denied, suspended or revoked, or whether action should be deferred pending receipt of additional information. The NBTA will take into consideration any findings made by other bodies concerning such conduct, but is not bound by any such findings and will make its own independent assessment concerning how such conduct bears on whether an attorney is qualified to obtain or maintain certification.

(3) The failure of an applicant to disclose such conduct is a material misrepresentation and may be cause for rejecting an application or refusing to grant certification, or for suspending or revoking a certificate.

(4) The applicant shall have a continuing duty to disclose such matters to the Board, including after obtaining certification, throughout the time that the member attorney continues to be certified in Complex Litigation.

Annual Reporting

Annually, members will be required to submit a Disclosure of Conduct form and annual dues. The member's annual dues and Disclosure of Conduct (Part G of the Certification Standards) must be current before an application for recertification will be granted. Disclosures of Conduct/Liability shall be submitted to the Standards Committee to determine if certification should be continued.

Denial or Revocation of Certification

(A) An application for certification may be denied for failure to comply with any of the requirements relating to good standing, substantial involvement, educational experience, peer review, examination, legal writing document, disclosure of conduct, financial responsibility, or any other failure to demonstrate possession of an enhanced level of skill and expertise in Complex Litigation and the necessary level of integrity, professionalism, and dedication to the interests of clients.

(B) An application for recertification may be denied for failure to comply with any of the requirements relating to good standing, substantial involvement, educational experience, peer review, disclosure of conduct or any other failure to demonstrate possession of an enhanced level of skill and expertise in Complex Litigation and the necessary level of integrity, professionalism, and dedication to the interests of clients.

(C) An existing certification may be revoked for failure to demonstrate maintenance of an enhanced level of skill and experience in Complex Litigation and the necessary level of integrity, professionalism, and dedication to the interests of clients as required for certification or for failure to maintain compliance with the financial responsibility requirements.

(D) Decisions of the Examination Committee and the Legal Writing Review Committee are final and not subject to further review or appeal. An attorney who is refused certification for any other reason, or who is refused recertification or whose certification is revoked, may pursue review under the Appeal Procedures of the NBTA. Exhaustion of this right shall be a condition precedent to judicial review.

(E) A lawyer who is refused certification or recertification, or whose certification is revoked, may not apply for certification until one year after the date of such refusal, denial or revocation.

(F) Suspension of the license to practice law shall operate as an automatic revocation of certification.

(G) A lawyer who publicizes a certification or application for certification prior to its being granted, or who continues to publish a certification after it has been revoked or suspended, may be barred from certification.