

CERTIFIED SPECIALIST PROGRAM

Standards for Certification

Civil Litigation

Definition of Civil Litigation Specialty

1. Civil Litigation is the practice of law dealing with civil disputes before courts, administrative tribunals, arbitrators and mediators.

Designation

2. An applicant who is certified as a specialist in Civil Litigation may be identified as a *Certified Specialist (Civil Litigation)*.

Achieving Specialist Certification in Civil Litigation

3. Applicants must comply with the requirements for certification set out in the Policies Governing the Law Society's Certified Specialist Program ("Policies"), particularly those relating to:
 - Minimum Years of Practice and Recent Experience;
 - Substantial Involvement in the Specialty Area;
 - Professional Development;
 - References;
 - Professional Standards; and
 - Application Fee.
4. Applicants must satisfy the following requirements in order to demonstrate their substantial involvement in civil litigation:
 - (a) averaged over the 5 years of their recent experience applicants will have devoted a minimum of 30% of their practice concentration to civil litigation; and
 - (b) during the 5 years of their recent experience applicants will have demonstrated broad and varied experience and a mastery of substantive law, practices and procedures in the area, and comply with the Civil Litigation Experience requirements set out below.
5. In the event that applicants do not entirely meet the experience requirements, they may apply to the Society for consideration of their individual circumstances or their related (non-practice) skills. Consideration will be given in exceptional circumstances where applicants have:
 - (a) limited their practice in recent years to a particular area of civil litigation or have been involved in matters of extraordinary length and complexity; or
 - (b) engaged in advanced course work or performed related activities such as teaching, authoring books or articles for publication, completing post-graduate or other studies, participating in the development and/or presentation of professional development programs, research, participating in the policy development process, drafting legislation and/or instruments, participating as active members on boards or tribunals, or on the executive of any organization related to civil litigation or any other experience that applicants consider relevant to their application.

Applicants applying for consideration under this paragraph must, in addition to the brief description of their practice required pursuant to paragraph 6, include with their application:

- (c) a detailed description of their individual circumstances or related (non practice) skills; and
- (d) references from the institutions or organizations from which their experience is drawn, references from peers, samples of writing and/or research, and a complete list of publications.

6. All applicants must include a brief description (no more than 100 words) of the nature of their practice in relation to the specialty area.

Civil Litigation Experience

7. During the 5 years of their recent experience applicants must have demonstrated broad and varied experience and a mastery of complex matters with respect to all of the following:

The appropriate procedure and the identification of necessary parties to resolve the client's problem (example, actions versus applications, third party claim).

The appropriate causes of action in any given case.

The full range of remedies available and identification of appropriate claims for relief, including damages, interim/injunctive relief, specific performance, declaratory relief, and/or statutory relief in any given case.

The full range of defenses available and identification of appropriate defenses in any given case.

Drafting appropriate documentation to advance or defend a claim or matter (example, originating processes and defenses, orders, notices of motion, pretrial/pre-hearing and mediation memoranda, judgments, affidavits, and facta).

Analysis of research and development of appropriate theory to advance or defend a claim or matter.

Marshalling the necessary factual evidence to advance or defend a claim or matter, including witnesses, documents, including documents in the possession of a third party, and demonstrative evidence.

Marshalling the necessary opinion evidence of experts to advance or defend a claim or matter.

Effective conduct of examinations and examinations in advance of the hearing or trial on affidavits, discovery, and non-party witnesses.

The *Rules of Civil Procedure* and rules of procedure applicable to the forum.

The procedure, preparation and presentation for typical interlocutory procedures and significant motions such as motions for summary judgment and motions to determine an issue before trial.

The appropriate interlocutory remedies, including various types of injunctions, certificates of pending litigation, preservation orders, security for costs.

Pre-trial procedures, such as offers to settle and requests to admit.

The full range of alternative dispute resolution techniques.

Effective advocacy in negotiations, mediations, pre-trials and/or pre-hearings and settlement conferences.

Effective advocacy of client's position on motions, applications, trial (jury and/or non-jury) and/or hearings and appeals.

The appropriate appeal routes, including need for leave to appeal and judicial review.

The procedure, preparation and presentation for leave to appeal, appeals and judicial review.

Trial, Hearing, Appeal and Arbitration Experience

8. Applicants must provide with their application a complete outline (in table format) of their tribunal hearing, trial, appeal and arbitration experience as lead counsel during the five years of recent experience. Please do not include mediations, motions or applications under the Rules. If the number of matters identified during the applicant's recent experience is limited, applicants are encouraged to complete this chart outlining their experience during the last ten years*. The table must include:

Year matter heard

Name of Matter (Include citation, if available)

Type of Proceeding (hearing, trial, appeal, arbitration only)

Duration (# of days)

Name of court or tribunal

** There is a minimum expectation that an applicant will have had significant trial and/or hearing experience during this ten year period. The number of trials and/or hearings is not determinative and due regard is given to the complexity of the issues before the court and/or tribunal. If specific trial and/or hearing experience is absent, there may be special circumstances that warrant consideration. The trial and/or hearing experience to be considered may be outside the five-year period of recent experience. Applicants also should note that experience will be assessed recognizing that in some areas of the province certain matters are more prevalent than others.*

9. Applicants must provide with their application 3 summaries of proceedings (which may or may not be trials under paragraph 8) each no longer than 2 pages and include the following information to illustrate their Civil Litigation experience. Information must be presented consistent with the ethical obligation of confidentiality and the law of privilege.

Issues involved in matter

Complexity of the matter

Who represented

Type of proceeding (application, claim, motion, etc.)

Synopsis of how matter resolved

Citation, if available (reported or unreported)

Name of other lawyers involved or if other side is unrepresented

Name of judge or mediator or arbitrator

Name of court or tribunal

Date matter heard during main proceeding (trial, application, hearing, ADR conference, etc.)

Length of time it took to resolve matter during main proceeding

Appeal of decision, if any

Professional Development

10. Applicants must attest to the completion of not less than 50 hours of self-study. The 50 hour professional development requirement may be met through methods such as, but not limited to:
- (a) teaching or being guest lecturer on a course in the specialty area;
 - (b) writing and editing of published books or articles relating to the specialty area;
 - (c) graduate or post-graduate studies in the specialty area;
 - (d) involvement in the development and/or presentation of professional development programs related to the specialty area;
 - (e) involvement in the development of policy related to the specialty area.

References

11. Applicants must submit 4 references from legal practitioners eligible to practise law in Ontario who have direct knowledge of the applicant's work in the specialty area in the 5 years of the applicant's recent experience and can attest to the applicant's competent performance of the tasks outlined under Civil Litigation Experience above.
12. Applicants should not include as reference: judges, partners, associates, co-workers, employers, employees, relatives, 3rd party neutrals, members of the Certified Specialist Board, benchers or employees of the Law Society.
13. The Statements of Reference must be submitted directly to the Law Society Certified Specialist Program via email to: certspec@lso.ca (*preferred method*), or via mail to: 130 Queen St W., Toronto ON, M5H 2N6.

Application Assessment

14. The Society will consider the totality of an applicant's practice in the specialty area, the applicant's professional development report and references.
15. Applicants should not assume that completion of all of the enumerated practice concentration and experience requirements will automatically entitle them to certification as a specialist.
16. Applicants may be required to provide additional information to the Society to facilitate the assessment process.
17. The Society may make discreet inquiries, as it deems appropriate, to determine the applicant's eligibility and suitability for certification as a specialist.

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