



**TO:** Board of Directors

**FROM:** Virginia Campbell  
Chair of the State Bar of Texas' Appeals-Grant Review Subcommittee  
(FY2011-2012)

**DATE:** January 20, 2012

**SUBJECT:** *Appeals-Grant Review Subcommittee Meeting, January 9, 2012*

**APPEAL FROM DECISION OF THE TEXAS BOARD OF LEGAL SPECIALIZATION**

**Denial of Specialty Certification**

- **Appellant:** Warren T. McCollum
- **Matter:** Labor and Employment File No. 13451-2011
- **TBLS Decision:** Denial of application for certification in Labor and Employment Law
- **Appeals-Grant Review Subcommittee Decision:** The Subcommittee unanimously affirmed the TBLS decision to deny Mr. McCollum's application for certification in Labor and Employment Law, finding that it was supported by substantial evidence.
- **Summary of Proceedings:** In 2011, Mr. McCollum applied for certification by the Texas Board of Legal Specialization (TBLS) in the area of Labor and Employment Law. The Labor and Employment Advisory Commission of the TBLS concluded that Mr. McCollum did not have the requisite experience to meet the pertinent Standards for Certification in this area. The commission noted that it could not, under the specific terms of the standards, consider such non-subscriber matters as qualifying experience. Mr. McCollum appealed this decision to the TBLS, arguing that non-subscriber matters should be considered as qualifying experience for Labor and Employment Law certification. The TBLS rejected Mr. McCollum's argument and upheld the decision of the Labor and Employment Advisory Commission. Mr. McCollum filed a timely appeal with the State Bar, and on January 9, 2012, the Appeals-Grant Subcommittee held its hearing to consider his appeal.

Mr. McCollum appeared by telephone at the hearing. Mr. Gary McNeil, Executive Director of TBLS, appeared in person on behalf of TBLS. Mr. McCollum argued that the interpretation of the standards by TBLS is too narrow, and that general application of statutory construction to the Labor and Employment Law definition should encompass non-subscriber matters with regard to employment

torts. He also argued that the nature of non-subscriber practice includes labor and employment issues, particularly considering that Texas allows employers to opt out of the workers' compensation system. Mr. McNeil argued that the standards by definition clearly exclude non-subscriber matters from the considered experience for Labor and Employment Law certification and that the decision of the TBLS was, therefore, supported by substantial evidence.

After hearing the arguments and deliberating the matter, the Appeals-Grant Review Subcommittee found that the decision of TBLS was supported by substantial evidence and voted unanimously to recommend affirming the TBLS decision.

• **Recommendation:** That the Chair of the Appeals-Grant Review Subcommittee issue a letter to Mr. Warren T. McCollum, with a copy to TBLS, advising him that the decision of the TBLS has been affirmed.