

STATE BAR OF TEXAS



TO: Board of Directors

FROM: Todd Smith
Chair of the State Bar of Texas' Appeals-Grant Subcommittee

DATE: September 9, 2021

SUBJECT: *Appeals-Grant Review Subcommittee*

APPEALS FROM DECISIONS OF THE TEXAS BOARD OF LEGAL SPECIALIZATION

Appellant: Mr. Howard M. Kahn

• **TBLS Decisions:** Denial of Board Certification in Civil Trial Law and Estate Planning and Probate Law

• **Summary:**

The Subcommittee met by videoconference on Wednesday, September 1, 2021, to consider the appeal of Mr. Kahn concerning the denial by the Texas Board of Legal Specialization (TBLS) of his applications for certification in Civil Trial Law and Estate Planning and Probate Law. Mr. Kahn appeared by videoconference. Mr. Leo Figueroa, Executive Director of TBLS, appeared by videoconference on behalf of TBLS.

TBLS denied Mr. Kahn's application for certification in Civil Trial law. In lieu of meeting the specific task requirements listed in the Specific Area Requirements for Civil Trial Law, Mr. Kahn applied under the "unusual or exceptional experience" exception. The record showed that TBLS considered the nature, complexity, and duration of the matters he handled to determine if the experience was at least equivalent to the Specific Area Requirements for Civil Trial Law. TBLS concluded that the cases and information provided by Mr. Kahn did not qualify as a substitute for meeting the number of specific tasks required by the TBLS standards.

TBLS also denied Mr. Kahn's application for certification in Estate Planning and Probate Law. In lieu of meeting the specific task requirements for Estate Planning and Probate Law, Mr. Kahn applied under the "unusual or exceptional experience" exception. The record showed that TBLS considered the nature, complexity, and duration of the matters he handled to determine if the experience was at least equivalent to the Specific Area Requirements for Estate Planning and Probate Law. TBLS concluded that the information he provided was insufficient as a substitute to show sufficient involvement in a substantial portion of the activities required by the TBLS standards.

The Subcommittee, in its deliberation, applied the requisite substantial evidence standard and voted to uphold the decisions of the TBLS.

• **Subcommittee Recommendation:**

That the decisions of the Texas Board of Legal Specialization denying Mr. Kahn's application for certification in Civil Trial Law and Estate Planning and Probate Law be upheld.