



## NEW JERSEY STATE BAR ASSOCIATION

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Hon. Stuart Rabner, Chief Justice  
New Jersey Supreme Court  
Hughes Justice Complex  
25 West Market Street  
Trenton, NJ 08625

Dear Chief Justice Rabner:

For several decades, civil trial practitioners have been able to obtain certified status from the New Jersey Supreme Court if they meet certain requirements established by the Board on Attorney Certification and successfully complete a comprehensive written exam. Once certified, an attorney can engage in an extensive recertification process every five years to maintain the designation. The requirements for both are stringent, as the program serves an important purpose to help consumers make an informed decision when seeking and selecting a lawyer, ensure them of attorney competence in a specific practice area, and protect them from false advertising.

The NJSBA recognizes the strong consumer protection purpose of ensuring individuals who earn certification status from the Court maintain stellar qualifications; however, the NJSBA suggests that following the initial rigorous application process, and a number of equally rigorous recertification cycles, a more streamlined process for recertification can be implemented for those attorneys who have demonstrated their professional experience through previous certification applications and a lengthy career. The NJSBA also suggests that there be some process for attorneys who are no longer actively engaged in trial practice to maintain a certification status that would serve as a reflection of their illustrious career, but with appropriate disclosure to the public.

After much discussion and debate, the NJSBA proposes that the Judiciary consider adopting a "Senior Certified Trial Lawyer" status and an "Emeritus Certification" status, as more fully described below. These would allow experienced trial lawyers who have been approved for certification several times to keep their status through a modified "short form" application process, and allow experienced trial lawyers to keep a modified certification designation when they reach

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the point in their careers where they are no longer actively engaged in trial practice but are still engaged in the practice of law. The NJSBA recommends adoption of the following definitions:

1. Senior Certified Trial Lawyer: This status is for those certified trial lawyers that (A) have been actively engaged in the practice of law in New Jersey for 30 years; (B) are currently actively and regularly engaged in trial practice, including, but not limited to maintaining primary file responsibility on designated cases, including trial responsibility; drafting pleadings; participating in all aspects of discovery, including the taking and defending of depositions; making court appearances; and supervising attorneys who are trying cases and engaging in substantial discovery; (C) have maintained their required CLE credits; and (D) have been certified and recertified no less than three times. The Senior Certified Trial Lawyer is required to continue with CLE education, pay annual dues, and file one additional short form application, with references, to recertify as a Senior Certified Trial Lawyer every five (5) years. The short form application will require a brief certification from the applicant attesting that at least 75% of their professional time is devoted to the above and a written summary of the applicant's present responsibilities.
2. Emeritus Certification: Emeritus status is defined as a previously certified trial attorney who has been certified three times or more and has been practicing for more than 30 years. An attorney eligible for Emeritus Certification is not actively engaged in trial practice yet is still involved in practicing law in the limited form of supervising, advising or teaching attorneys, and/or involved in alternative dispute resolution practice such as acting as a mediator, arbitrator or special master. An Emeritus Certification attorney is no longer required to maintain CLE requirements, cannot pay referral fees pursuant to the Rules of Court and continues to pay fees to remain certified. Individuals qualifying for "Emeritus Certification" status are required to include the emeritus definition whenever they publicly use the designation.

Currently, under R. 1:39 and Reg. 501:1 of the Attorney Certification Regulations, a certified attorney may file for recertification every five years. Attorneys seeking to be recertified must complete an application that includes a current summary of the attorney's professional activities in New Jersey and must demonstrate substantial involvement in the area of practice in which the attorney is certified during the five-year certification period. For civil trial certification, the applicant must show some combination of the following: (i) completion of five jury or non-jury trials over five years; (ii) motion practice; (iii) depositions; (iv) regular and consistent appearances in courts of general jurisdiction over the five year period; (v) appellate practice; (vi) appearances before State Boards and Agencies; and (vii) a devotion of a minimum of 30% of total time to the practice of civil litigation as defined above.

The Board does not currently consider, without further explanation, engaging exclusively in any one of the following, as constituting substantial involvement: (i) supervision of other attorneys; (ii) appellate practice; or (iii) Board or Agency practice.

The NJSBA notes, however, that as experienced attorneys try to engage newer attorneys and provide them with opportunities to gain necessary trial skills, the actual number of court appearances and trial hours for the experienced attorney may decrease to give way for the newer

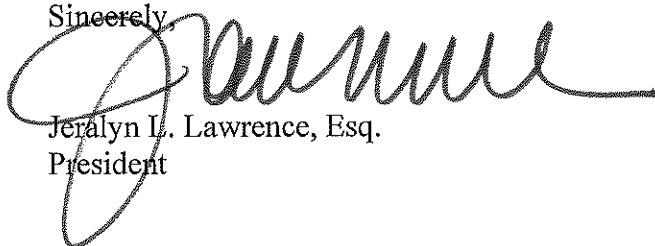
attorneys. In addition, there is a decrease in trial opportunities generally, making it more difficult for even the most experienced attorneys to consistently meet the current recertification requirements. This does not mean their trial skills are diminished in any way, just that there are fewer opportunities to use them.

Similarly, for an attorney who has been certified throughout their entire career to lose that status just because they have reached a point in their professional journey where they are using their skills to mentor, educate, arbitrate or mediate instead of engaging in the rigors of trial practice seems unfair. Again, the NJSBA is mindful of the significance certification may play in the minds of consumers, so we suggest a change in the certification status coupled with a requirement to disclose the change to the public on any letterhead, website and any public use of the changed designation.

The NJSBA urges adoption of the Senior Certified Trial Lawyer and the Emeritus Certification categories to address these situations while continuing to meet the strong consumer protection principles that precipitated the implementation of certification originally.

Thank you for your consideration of this proposal. If it is implemented favorably for certified civil trial attorneys, the NJSBA suggests exploration of similar categories for the other areas of certification as well. The NJSBA stands ready to assist the Court in this endeavor in any way it can.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Lawrence", written over the typed name and title.

Jeralyn L. Lawrence, Esq.  
President