

**CERTIFICATION:
CIVIL TRIAL, REAL PROPERTY, CRIMINAL, LABOR AND EMPLOYMENT**

1. Description and Purpose As a service to the sections, the MSBA operates certification programs in the areas of Real Property, Civil Trial, Criminal, and Labor and Employment. The certification programs identify experienced practitioners in a given area through experience requirements, testing, and continuing education requirements. The MSBA Certified Specialist designation is one way for the public to identify those attorneys who have demonstrated proficiency in their specialty area and to find an attorney whose qualifications match their legal needs. The goal of MSBA certification programs is to assist the public. The MSBA certification programs are accredited and regulated by the Minnesota Board of Legal Certification (hereinafter MBLC).

2. Historical Information The MSBA Civil Trial Certification Program began in 1988. The MSBA Real Property Certification Program began in 1989. The Criminal Certification and the Labor and Employment Programs were approved in December of 2009 by the MBLC and will begin operating in 2010. The Civil Litigation, Real Property, Criminal, and Labor & Employment Sections have agreed that the certification programs will either be self-funding or funded by the sections. Thus, the certification budgets have NO NET effect on the overall Association budget.

Total MSBA Certified Specialists as of 12/31/09

| | |
|--|-----|
| MSBA Certified Civil Trial Law Specialists | 318 |
| MSBA Certified Real Property Law Specialists | 351 |
| MSBA Certified Criminal Law Specialists | 0 |
| MSBA Labor and Employment Law Specialists | 0 |

FINANCIALS

| MSBA Civil Trial Certification Program | | | |
|---|-------------------------|------------------------------|---------------------|
| | Total Revenues (YTD) | Excess (Deficiency) (Net) | Cumulative Position |
| 1990-91 | \$36,694 | (\$4,685) | \$7,178 |
| 1991-92 | \$54,818 | \$1,440 | \$8,618 |
| 1992-93 | \$51,047 | \$11,016 | \$19,634 |
| 1993-94 | \$67,026 | \$16,433 | \$36,067 |
| 1994-95 | \$54,840 | \$8,080 | \$44,147 |
| 1995-96 | \$47,303 | \$4,779 | \$48,926 |
| 1996-97 | \$54,260 | \$6,254 | \$55,180 |
| 1997-98 | \$57,630 | \$15,713 | \$70,893 |
| 1998-99 | \$67,630 | \$21,430 | \$92,323 |
| 1999-00 | \$65,643 | \$20,248 | \$112,571 |
| 2000-01 | \$70,081 | \$9,630 | \$122,201 |
| 2001-02 | \$54,723 | \$459 | \$122,660 |
| 2002-03 | \$53,218 | (\$5,569) | \$117,091 |
| 2003-04 | \$54,183 | (\$33,378) | \$83,709 |
| 2004-05 | \$54,134 | (\$34,206) | \$49,503 |
| 2005-06 | \$57,211 | (\$17,488) | \$31,743 |
| 2006-07 | \$48,519 | (\$9,621) | \$22,122 |
| 2007-08 | \$66,840 | \$20,080 | \$42,202 |
| 2008-09 | \$57,260 | \$8,715 | \$50,918 |

| MSBA Civil Trial Certification Program | | | |
|---|-------------------------|------------------------------|---------------------|
| | Total Revenues (YTD) | Excess (Deficiency) (Net) | Cumulative Position |
| 2009-10 Projected | \$57,185 | \$4,173 | \$50,933 |
| 2010-11 Budget | \$57,063 | (\$1,630) | \$49,303 |

| MSBA Real Property Certification Program | | | |
|---|-------------------------|------------------------------|---------------------|
| | Total Revenues (YTD) | Excess (Deficiency) (YTD) | Cumulative Position |
| 1990-91 | \$41,135 | \$14,123 | \$30,798** |
| 1991-92 | \$23,730 | (\$11,707) | (\$909) |
| 1992-93 | \$22,485 | \$8,520 | \$7,611 |
| 1993-94 | \$36,205 | \$8,235 | \$15,846 |
| 1994-95 | \$24,300 | \$5,994 | \$21,840 |
| 1995-96 | \$41,280 | \$16,928 | \$38,768 |
| 1996-97 | \$27,445 | \$7,987 | \$46,755 |
| 1997-98 | \$34,513 | \$2,476 | \$49,231 |
| 1998-99 | \$27,119 | (\$8,924) | \$40,307 |
| 1999-00 | \$46,620 | \$2,233 | \$42,540 |
| 2000-01 | \$34,730 | (\$5,616) | \$36,924 |
| 2001-02 | \$56,607 | \$6,802 | \$43,725 |
| 2002-03 | \$39,192 | (\$7,504) | \$36,221 |
| 2003-04 | \$46,979 | (\$5,127) | \$31,095 |
| 2004-05 | \$33,027 | (\$20,524) | \$10,571 |
| 2005-06 | \$62,546 | \$7,626 | \$18,196 |
| 2006-07 | \$51,384 | (\$4,135) | \$14,061 |
| 2007-08 | \$66,368 | \$21,329 | \$35,390 |
| 2008-09 | \$61,680 | \$16,104 | \$51,495 |
| 2009-10 Projected | \$62,250 | \$11,266 | \$55,089 |
| 2010-11 Budget | \$56,485 | \$1,792 | \$56,881 |

**\$20,000 of this was paid to the Real Property Law Section – held in a CD for the program.

| MSBA Criminal Law Certification Program | | | |
|--|-------------------------|------------------------------|---------------------|
| | Total Revenues (YTD) | Excess (Deficiency) (YTD) | Cumulative Position |
| 2009-10 Projected | \$33,875 | (\$4,248) | (\$4,248) |
| 2010-11 Budget | \$14,650 | (\$4,188) | (\$8,436) |

| MSBA Labor and Employment Certification Program | | | |
|--|----------------------|------------------------------|---------------------|
| | Total Revenues (YTD) | Excess (Deficiency) (YTD) | Cumulative Position |
| 2009-10 Projected | \$0 * | (\$13,813) | (\$13,813) |
| 2010-11 Budget | \$30,878 * | \$5,540 | (\$8,273) |

*Revenues shifted one year forward from original three year plan due to timing of the first exam.

| 1996–2009 Civil Trial Certification Program Statistics | | | | | | | |
|--|---------------------------------------|---|---|---|---|--------------|--|
| Year | Total Specialists Certified as of 1/1 | Total New Specialists Certified as of 12/31 | Total Specialists Decertified as of 12/31 | Total Specialists Certified as of 12/31 | Renewed as of 12/31 (total less new certifications) | Renewal Rate | Total New applications filed 1/1-12/31 |
| 1996 | 319 | 18 | 4 | 333 | 315 | 98.7% | |
| 1997 | 333 | 11 | 10 | 334 | 323 | 96.9% | |
| 1998 | 334 | 15 | 12 | 337 | 322 | 95.5% | |
| 1999 | 337 | 8 | 7 | 338 | 330 | 97.9% | |
| 2000 | 338 | 9 | 5 | 342 | 333 | 98.5% | |
| 2001 | 342 | 13 | 21 | 334 | 322 | 94% | 5 |
| 2002 | 334 | 10 | 8 | 336 | 326 | 97.6% | 9 |
| 2003 | 336 | 9 | 6 | 339 | 330 | 98.2% | 4 |
| 2004 | 339 | 2 | 5 | 336 | 334 | 98.5% | 5 |
| 2005 | 336 | 2 | 12 | 326 | 324 | 96.4% | 11 |
| 2006 | 326 | 7 | 7 | 326 | 319 | 98% | 5 |
| 2007 | 326 | 3 | 9 | 320 | 317 | 97.2% | 4 |
| 2008 | 320 | 9 | 6 | 323 | 314 | 98.1% | 5 |
| 2009 | 323 | 7 | 12 | 318 | 311 | 96.3% | 10 |
| 2010 | 318 | | | | | | |

| 1996–2009 Real Property Certification Program Statistics | | | | | | | |
|--|---------------------------------------|---|---|---|---|--------------|--------------------------------------|
| Year | Total Specialists Certified as of 1/1 | Total New Specialists Certified as of 12/31 | Total Specialists Decertified as of 12/31 | Total Specialists Certified as of 12/31 | Renewed as of 12/31 (Total less New Certifications) | Renewal Rate | Total applications filed 1/1 - 12/31 |
| 1996 | 309 | 27 | 2 | 334 | 307 | 99.3% | |
| 1997 | 334 | 0 | 7 | 327 | 327 | 97.9% | |
| 1998 | 327 | 19 | 5 | 341 | 322 | 98.4% | |
| 1999 | 341 | 0 | 11 | 330 | 330 | 96.7% | |
| 2000 | 330 | 18 | 9 | 339*** | 321 | 97.8% | |
| 2001 | 344* | 0 | 11 | 333 | 328 | 97% | |
| 2002 | 333 | 22 | 12 | 343 | 321 | 96.3% | 38 |
| 2003 | 343 | 0 | 4 | 339 | 339 | 98.8% | N/A |
| 2004 | 339 | 22 | 13 | 348 | 326 | 96.1% | 33 |
| 2005 | 348 | 0 | 3 | 345 | 345 | 99.1% | N/A |
| 2006 | 345 | 22 | 11 | 356 | 334 | 96.8% | 32 |
| 2007 | 356 | 0 | 7 | 349 | 349 | 98% | N/A |
| 2008 | 349 | 31 | 18 | 362 | 331 | 94.8% | 38 |
| 2009 | 362 | 0 | 11 | 351 | 351 | 97.0% | N/A |
| 2010 | 351 | | | | | | |

***The 1/1/01 total is 344 specialists. This number was verified through Council minutes and comparisons of specialists listed in quarterly and annual reports in preceding and subsequent years. The numbers going forward are correct.

| Labor and Employment Law Certification Program Statistics | | | | | | | |
|--|---------------------------------------|---|---|---|---|--------------|--|
| Year | Total Specialists Certified as of 1/1 | Total New Specialists Certified as of 12/31 | Total Specialists Decertified as of 12/31 | Total Specialists Certified as of 12/31 | Renewed as of 12/31 (total less new certifications) | Renewal Rate | Total New applications filed 1/1-12/31 |
| 2010 | 0 | 100 (projected) | | | | | |
| | | | | | | | |

| Criminal Law Certification Program Statistics | | | | | | | |
|--|---------------------------------------|---|---|---|---|--------------|--|
| Year | Total Specialists Certified as of 1/1 | Total New Specialists Certified as of 12/31 | Total Specialists Decertified as of 12/31 | Total Specialists Certified as of 12/31 | Renewed as of 12/31 (total less new certifications) | Renewal Rate | Total New applications filed 1/1-12/31 |
| 2010 | 0 | 80 (projected) | | | | | |
| | | | | | | | |

3. Personnel There is .73 FTE position allocated to Certification.

4. Report on 2009-10 Performance Standards
Civil Trial

A. Ninety-seven percent (97%) renewal of Certified Civil Trial Specialists.

This standard was not met. Civil Trial had a 96.3% renewal rate. Of those that did not renew, seven no longer met the Standards, two retired and only three chose not to renew (0.9% of the total number of Civil Trial Specialists).

B. Receiving five new Civil Trial applications in 2008-09.

This standard was met. We received 10 new applicants, the highest number in the last four years.

C. Creation of a new logo to be used by all areas of certification.

This standard was met.

D. Redrafting the Initial Application, Annual Audit, and Recertification Application to match the look of the new Forms being developed for the two new Specialist areas.

This standard was met. The forms are in the process of being reviewed by the MBLC.

Real Property

A. Ninety-seven percent (97%) renewal of Certified Real Property Specialists.

This standard was met; the program had a 97% renewal rate.

B. Creation of a new logo to be used by all areas of certification.

This standard was met.

C. Redrafting the Initial Application, Annual Audit, and Recertification Application to match the look of the new Forms being developed for the two new Specialist areas.

This standard was met. The forms are in the process of being reviewed by the MBLC.

D. Receiving 30 Real Property applications for the 2010 examination.

This standard was not met. We received 25 Real Property applications for the February 27, 2010 exam. It should be noted that in 2008, the Real Property Law CLE hosted by MCLE and used as a prep course for the specialists exam had 198 registrants with 38 going on to take the exam (19.2%). In 2010, the same CLE had only 77 register (plus walk ups) with 25 applying to take the exam (32.5%). So although our total number of applicants is below our original projection, we were able to capture a larger percentage of attendees.

- E. Holding a Welcome Reception for all newly certified Real Property Specialists.
This event is planned for November 2010 to coincide with the Real Estate Institute.

5. 2010-11 Performance Standards

See three-year plan performance standards below.

6. Three-Year Plan Performance Standards: During each year of the three-year plan, the performance standards will include:

- A. Ninety-seven percent (97%) renewal rate for specialists in each specialty area.
- B. Receiving five new Civil Trial applications each year.

For 2009-10, the following performance standards will be added:

- A. Creation of a new logo to be used by all areas of certification.
- B. Redrafting the Initial Application, Annual Audit and Recertification Application for both programs to match the look of the new Forms being developed for the two new Specialist areas.

For 2010-2011, the following performance standards will be added:

- A. Receiving 30 Real Property applications for the 2010 examination.
- B. Holding a Welcome Reception for all newly certified Real Property Specialists.

For 2011-2012, the following performance standards will be added:

- A. Certifying 70 new Criminal Law specialists in 2010.
- B. Certifying 100 new Labor and Employment applications in 2010-2011.

7. Report on 2009-10 User Satisfaction:

A listserv for all Certified Specialists in the two new programs will be created to allow MSBA staff to keep the new Specialists advised of marketing efforts etc.

Listsers will be created for the two new programs as soon as lawyers are certified.

The main measurement of user satisfaction will be the renewal rate and the completion of the application process by new applicants.

The Civil Trial program did not meet the renewal rate goal, but only by 0.7% of the goal. The Civil Trial Specialist program offered its' fifth consecutive complimentary CLE in June, 2009. The attendance goal of 90 specialists was not met, with only 60 Specialists in attendance. The Board was surprised as the program was very strong with Chief Justice Eric Magnuson the keynote speaker. The Board evaluated the value of the CLE and

decided to continue offering this program. Attendance goal for the June 22, 2010 event is 90 and the keynote speaker will be Judge Kathleen Gearin.

The Real Property program did meet the renewal rate goal.

8. 2010-11 User Satisfaction

The program will continue to rely on renewal and application rates to determine user satisfaction, additionally a survey of all specialists will be conducted prior to the end of the 2010 calendar year.

9. Market Penetration The Supreme Court Task Force on Minnesota Certification agreed that the number of certified specialists in Minnesota was comparable to numbers nationwide and noted that certification growth occurs when new specialty areas are added. Currently Civil Trial has a penetration rate of 21% and Real Property 19% of Section membership. Because of the number of public attorneys working in Criminal Law, a penetration rate more akin to the national average of 13% is more realistic. The program has discounted fees for public lawyers to encourage their participation. Labor and Employment has a goal of a 20% penetration rate by the end of the three year plan. They are also offering a discounted fee structure for public lawyers.

10. Current Issues and Challenges

A. Criminal Law and Labor and Employment Law Certification will be the first new Specialist programs in over 20 years. Although legal specialist certification is certainly more established and the principles of successful program operations are understood, there are no historical references as to how to implement these new programs.

B. The decrease in the number of cases actually going to trial continues to impact the ability of attorneys to meet Civil Trial Specialist program standards for trial experience, especially at the six year recertification period. The Board continues to believe the trial standards are fairly set for an attorney certified as a Specialist and does allow experienced Specialists to demonstrate equivalency.

C. The Real Property program did not offer an exam in 2009. The next opportunity will be February 27, 2010.

11. Explanation of Budget Categories

Revenue-Specialist Fees payable to MSBA -- The certification programs are run on a calendar year basis. Annually in October, all specialists must complete an audit form attesting that they complied with MSBA certification standards for the current calendar year (January to December) and are eligible to participate in the program in the subsequent calendar year. Each specialist pays the MSBA an annual fee to continue their certification in the subsequent calendar year. Every six years, each specialist must complete a more extensive recertification audit form and pay a recertification fee in addition to the annual fee.

| Civil Trial Specialist Fees payable to MSBA (the Board approved a fee increase effective 10/1/08) | | | |
|--|--------------------|-------------------|---|
| Fee Type | MSBA Member | Non member | Notes |
| Application Fee | \$310 | \$325 | Payable with each application |
| Exam Fee | \$260 | \$275 | This fee covers the exam and two retakes, if necessary. |
| Annual Specialist Fee | \$155 | \$170 | This fee is payable every year. |
| Fee to be recertified as a Civil Trial Specialist | \$110 | \$125 | This fee is payable every six years, as the specialist is audited to confirm that |

| Civil Trial Specialist Fees payable to MSBA (the Board approved a fee increase effective 10/1/08) | | | |
|---|--------------------|-------------------|--|
| Fee Type | MSBA Member | Non member | Notes |
| | | | they comply with the program standards for certification. The Civil Trial recertification application includes reference checks and verification with the Lawyers Professional Responsibility Board. |

| Real Property Specialist Fees payable to MSBA | | | |
|--|--------------------|-----------------------|---|
| Fee Type | MSBA Member | MSBA Nonmember | Notes |
| Application Fee | \$250 | \$265 | Payable with each application. |
| Exam Fee | \$100 | \$100 | This fee covers one exam attempt; specialists are allowed one free retake. They may appeal an exam failure to the Board. |
| Annual Specialist Fee | \$145 | \$160 | This fee is payable every year. The fee was raised from \$95 to \$145 as of October 2005. |
| Fee to be recertified as a Real Property specialist | \$75 | \$90 | This fee is payable every six years, as the specialist is audited to confirm that they comply with the program standards for certification. The Real Property recertification application does not include reference checks but does include verification with the Lawyers Professional Responsibility Board. |

| Criminal Law Specialist Fees payable to MSBA | | | | | |
|---|-------------------------------------|--|------------------------------------|---------------------------------------|---|
| Fee Type | MSBA Member Private Attorney | MSBA Nonmember Private Attorney | MSBA Member Public Attorney | MSBA Nonmember Public Attorney | Notes |
| Application Fee | \$375 | \$390 | \$150 | \$165 | Payable with each application |
| Exam Fee | \$50 | \$65 | \$50 | \$65 | This fee covers one exam attempt; specialists are allowed one free retake. They may appeal an |

| Criminal Law Specialist Fees payable to MSBA | | | | | |
|---|-------------------------------------|--|------------------------------------|---------------------------------------|---|
| Fee Type | MSBA Member Private Attorney | MSBA Nonmember Private Attorney | MSBA Member Public Attorney | MSBA Nonmember Public Attorney | Notes |
| | | | | | exam failure to the Board. |
| Annual Specialist Fee | \$150 | \$165 | \$75 | \$90 | This fee is payable every year. |
| Fee to be recertified as a Criminal Law Specialist | \$50 | \$65 | \$50 | \$65 | This fee is payable every six years, as the MBLC requires recertification after five years. |

| Labor and Employment Law Specialist Fees payable to MSBA | | | | | |
|---|-------------------------------------|--|------------------------------------|---------------------------------------|--|
| Fee Type | MSBA Member Private Attorney | MSBA Nonmember Private Attorney | MSBA Member Public Attorney | MSBA Nonmember Public Attorney | Notes |
| Application Fee | \$250 | \$265 | \$150 | \$165 | Payable with each application |
| Exam Fee | \$50 | \$65 | \$50 | \$65 | This fee covers one exam attempt; specialists are allowed one free retake. They may appeal an exam failure to the Board. |
| Annual Specialist Fee | \$150 | \$165 | \$75 | \$90 | This fee is payable every year. |
| Fee to be recertified as a Labor and Employment Specialist | \$75 | \$90 | \$75 | \$90 | This fee is payable every six years, as the MBLC requires recertification after five years. |

Expenses

Advertising/Marketing: Used to pay for public education in internal and external print media, event sponsorships and web placements.

Board Fees: Fees paid to the MBLC. Each quarter of the calendar year, the Civil Trial Law, Real Property Law, Criminal Law, and Labor and Employment Law Certification Programs send the MBLC a report accounting for specialists' application and annual fees. The programs also pay the MBLC a fee for each application or annual fee received during the quarter. The fees are the following amounts:

| Quarterly Fees paid to Board of Legal Certification | | |
|--|-------------------|---|
| Fee Type | Fee Amount | Notes |
| Attorney application fees: | \$100 | Paid to MBLC for each initial application fee received by the MSBA. |
| Attorney annual fees: | \$45 | Paid to MBLC for each specialist's annual fee received by the MSBA. |

Certifying Program Fees payable to Minnesota Board of Legal Certification: The MSBA certification programs must comply with standards governing programs that certify subject matter specialists. MSBA's compliance with these standards is supervised by the Minnesota Board of Legal Certification. Every three years the MSBA audits its certification programs, issues an audit report, and pays a recertification fee to the MBLC. The MSBA certification programs pay the MBLC the following fees to retain their status as certifying programs:

| MSBA fees paid to MBLC to retain status as Certifying Programs | | |
|---|-------------------|--|
| Fee Type: | Fee Amount | Notes |
| Certification Program Application Fee: | \$1,000 | This fee is payable once with the application to be recognized as a certification program. |
| Certification Program Annual Fee: | \$250 | This fee is payable annually in January from each certification program. |
| Certification Program Recertification Fee: | \$900 | This fee is payable every three years in June from each certification program. The fee is due with the MSBA's annual report and audit. |

Examination: The Civil Trial examination is given twice a year. MSBA pays the National Board of Trial Advocacy, which creates the Civil Trial examination, a fee of \$200 for each exam the MSBA administers to its certification applicants. (The NBTA pays the MSBA a \$50 fee for each NBTA applicant who takes the exam at the MSBA offices.) The Real Property examination is given every other year. The program budgets \$3,000 for exam preparation since it hires a law school professor to draft and revise each exam, which the Board then reviews. The next Real Property certification examination will be given February 27, 2010. The initial examinations offered by Criminal Law and Labor and Employment Law have been created by committee members.

Overhead: The MSBA Civil Trial Certification budget includes an overhead charge payable to MSBA General Revenues of \$10,000. The MSBA Real Property Certification budget includes an overhead charge of \$6,000 in those years in which there is no examination and \$8,000 in those years in which there is an examination. (This overhead allocation reflects an agreement with the Real Property Section that holds the overall certification expenses to a level the Certification Board considers acceptable.) The MSBA Criminal Law and Labor and Employment Law

Certification budgets each include an overhead charge payable to MSBA General Revenues of \$3,000.

This overhead allocation is lower than that paid by other programs. Overhead allocation if charged at that rate would be:

| Civil Trial | | Real Property | |
|--------------------|----------|----------------------|----------|
| 2006-07 | \$24,494 | 2006-07 | \$21,408 |
| 2007-08 | \$21,447 | 2007-08 | \$27,859 |
| 2008-09 | \$21,194 | 2008-09 | \$19,997 |
| 2009-10 | \$33,835 | 2009-10 | \$33,830 |