

# **CURRICULUM VITAE**

## **FRANCIS E. MCGOVERN**

### **CONTACT INFORMATION**

Duke University School of Law  
Corner of Science & Towerview Drives  
Box 90362, Durham, NC 27708  
Tel: 919.613.7095 Fax: 919.613.7165  
Assistant Tel: 919.613.7035  
mcgovern@law.duke.edu

### **EDUCATION**

B.A., 1967, Yale University  
J.D., 1973, University of Virginia

### **MILITARY**

U.S. Marine Corps, Captain, 1968-1971

### **EMPLOYMENT**

Professor of Law, Duke University School of Law, 1997-present  
Visiting Professor of Law (Spring), University of California at Berkeley School of Law, 2000–present  
Senior Fellow, Stanford Center on Conflict and Negotiation, Stanford Law School, 2000-present  
Visiting Scholar, Harvard Law School, 2005  
Visiting Professor of Law, Stanford Law School, 1999-2000  
Francis H. Hare Professor of Torts, 1987-1996, Professor of Law, 1985-1987, The University of  
Alabama School of Law  
Visiting Professor of Law, University of Fribourg (Switzerland), 1990-1991  
Visiting Professor, Duke University School of Law, 1989  
Senior Associate and Research Fellow, Project on Negotiation, Harvard Law School, 1985-1987  
Visiting Professor, Massachusetts Institute of Technology, 1984-1985  
Visiting Professor of Law, Boston University School of Law, 1983-1985  
Professor of Public Health Law, University of Alabama-Birmingham, 1979-1990  
Professor of Law, 1980-1984, Associate Dean, 1980-1982, Assistant Dean, 1978-1979, Associate  
Professor of Law, 1977-1980, Cumberland School of Law, Birmingham, Alabama

Attorney, Vinson & Elkins, Houston, Texas, 1973-1977

## **BAR ASSOCIATIONS**

Texas; Alabama; District of Columbia; Virginia

## **AWARDS AND HONORS**

- Outstanding Achievement Award, CPR Legal Program Awards for Excellence and Innovation in Alternative Dispute Resolution, 1986
- First Prize – Articles, CPR Legal Program Awards for Excellence and Innovation in Alternative Dispute Resolution, 1986
- Lifetime Achievement Award, American College of Civil Trial Mediators, 2002
- Distinguished Lecturer, University of Tennessee Law School, 2002
- Schwartz Lecturer, Ohio State University, Moritz College of Law, 2003
- Tarheel Award, Raleigh News and Observer, 2004
- Honorary Degree, Doctor of Laws, 2005, Averett University
- Named Honoree, Francis E. McGovern Scholarship Award, Academy of Court Appointed Masters, 2009

## **ADVISORY AND OTHER POSITIONS AND MEMBERSHIPS**

### *Academy of Court-Appointed Masters*

President

Member, Board of Directors

### *American Arbitration Association*

Member, Executive Committee

Member, Board of Directors

Advisor, Mass Torts Project

### *American Bar Association*

Member, Mass Torts Commission

Member, Council, Torts and Insurance Practice Section

Chairman, Committee on Professional Issues, Torts and Insurance Practice Section

Member, Task Forces on Initiatives and Referenda and Litigation Expense, Torts and Insurance Practice Section

Reporter, Special Committee on Punitive Damages, Litigation Section

Advisor, Catastrophe Committee, Litigation Section

### *American Law Institute*

Member

Advisor, Complex Litigation Project

### *Averett University*

Vice Chairman, Board of Trustees

Chairman, Academic Affairs Committee  
*Brookings Institute*  
Member, Working Group on Civil Justice Reform  
*Carnegie Commission*  
Member, Task Force on Science and Technology in Judicial and Regulatory Decision Making  
*Celotex Asbestos Settlement Trust*  
Trustee  
*Center for Public Resources*  
Academic Sustaining Member and Consultant  
Member, Judicial Panel  
*Conference of Chief Justices*  
Advisor, Mass Tort Litigation Committee  
*Consensus Building Institute*  
Board Member  
*Federal Judicial Center*  
Consultant, Asbestos Litigation Seminars  
*Fibreboard Asbestos Compensation Trust*  
Trustee  
*Judicial Conference of the United States*  
Advisor, Working Group on Mass Torts  
*Judicial Panel on Multi-District Litigation*  
Reporter, JPMDL Study Project  
*Manual for Complex Litigation 2d*  
Technical Advisor, Board of Editors  
*National Mock Trial Championship Team*  
Advisor  
*National Center for State Courts*  
Senior Advisor  
*U.S. Judicial Conference*  
Reporter, Court Administration and Case Management Committee

**SPECIAL MASTER, COURT EXPERT, MEDIATOR, or NEUTRAL**

A.H. Robins Bankruptcy, Richmond, Virginia  
Abate v. ACandS, Inc., Baltimore, Maryland  
Abrams v. GAF, Pascagoula, Mississippi  
Agabekov v. Lucifer Lighting Co., New York, New York and Geneva, Switzerland  
Ahearn v. Fibreboard, Tyler, Texas  
A.L.U. Textile v. Texaco Chemical, Passaic, New Jersey  
Amatex Bankruptcy, Philadelphia, Pennsylvania  
ASG, Washington, D.C.

Blue Cross/Blue Shield of Mississippi, Inc. v. Louisiana Health Service and Indemnity Company, Baton Rouge, Louisiana  
Celotex Bankruptcy, Tampa, Florida  
Cichon et al. v. Viasys Holdings, Chicago, Illinois  
City of Antonio v. Hotels.com et al.  
Clean Water Act Regulatory Negotiation, Boise, Idaho  
Combustion Engineering Bankruptcy, Wilmington, Delaware  
Dow Chemical v. Firemen's Fund, Bay City, Michigan  
Dow Corning Bankruptcy, Bay City, Michigan  
Dresser Bankruptcy, Pittsburgh, Pennsylvania  
Federal-Mogul Bankruptcy, Wilmington, Delaware  
Georgia Hensley, et al. v. Computer Sciences Corporation et al., Texarkana, Arkansas  
Gibbs v. Lobit, Houston, Texas  
Global Research Analyst Settlement Distribution Fund, New York, New York  
Gray, et al. v. Derderian, et al., Providence, Rhode Island  
Idaho/Nez Perce/EPA Clean Water Act Regulatory Negotiation, Boise, Idaho  
In re: Bluegrass Crop Residue Dispute Process, Coeur d'Alene, Idaho  
In re: ConAgra Peanut Butter Litigation, Atlanta, Georgia  
In re: Currency Conversion Fee Antitrust Litigation, New York  
In re: Gray's Lake, Boise, Idaho  
In re: N. Ray, Hipps Road, Jacksonville, Florida  
In re: Ohio Asbestos Litigation, Cleveland, Ohio  
In re: Passaic Fire Litigation, Newark, New Jersey  
In re: Pharmaceutical Industry Average Wholesale Price Litigation, Boston, Massachusetts  
In re: Phenylpropanolamine (PPA) Products Liability Litigation, Seattle, Washington  
In re: Silicone Gel Breast Implants, Birmingham, Alabama  
In re: WTC Properties, New York, New York  
In the Matter of Bank of America Securities LLC, Washington, DC  
In the Matter of Bear, Stearns & Co. Inc. and Bear, Stearns Securities Corp., Washington, DC  
In the Matter of Citibank Global Markets, New York  
Jenkins v. Raymark, Marshall, Texas  
Kauai Ka Lock Dam, Kauai, Hawaii  
Kinder Morgan, Inc v. Associated Electric & Gas Insurance Services Limited  
Linscomb v. Pittsburgh-Corning, Beaumont, Texas  
Manville Bankruptcy, New York, New York  
MCC Bankruptcy, Wilmington, Delaware  
National Gypsum Bankruptcy, Dallas, Texas  
Newman v. Stringfellow, Riverside, California  
Nez Perce Tribe & Idaho Power Co., Boise, Idaho  
Owens Corning Bankruptcy, Wilmington, Delaware

Patrick v. Allen, New York, New York  
Plaintiffs v. Allstate Insurance Company, New Orleans, Louisiana  
Plaintiffs v. State Farm Fire and Casualty Company, New Orleans, Louisiana  
PSI of Indiana v. Exxon, Indianapolis, Indiana  
Scott v. Cardinal et al., Winston-Salem, North Carolina  
Securities and Exchange Commission v Health South Corporation, Birmingham, Alabama  
Smith v. Hughes Aircraft, Tucson, Arizona  
Snake River Basin Adjudication, Twin Falls, Idaho  
Tilousi v. Arizona Board of Regents, Phoenix, Arizona  
UNR Bankruptcy, Chicago, Illinois  
Underwriters at Lloyd's v. McDermott, New Orleans, Louisiana  
United Nations Compensation Commission, Geneva, Switzerland  
United States of America ex rel. Harold (Gene) Wright v. Agip Petroleum, et al., Texarkana, Texas  
United States v. Michigan, Kalamazoo, Michigan  
United States v. Thomas Solvent Company, Battle Creek, Michigan  
Upjohn v. Aetna, Kalamazoo, Michigan  
Valenzuela v. Hughes Aircraft Company, Tucson, Arizona  
W.R. Grace Bankruptcy, Wilmington, Delaware  
Wilhoite v. Olin Corporation, Birmingham, Alabama  
Woodman v. United States, Jacksonville, Florida  
Young v. Pierce, Tyler, Texas

## **BOOKS**

*The Preparation of a Product Liability Case*, with Scott Baldwin and Francis Hare, Jr., Little, Brown and Company (1981 and 2d ed. 1993)  
*Successful Litigation Techniques: Student Edition*, with Joseph Kelner, Matthew Bender and Company (1981)

## **ARTICLES**

“Punitive Damages and Class Actions,” 70 *Louisiana Law Review* 435 (2010)  
“Distribution of Funds in Class Actions - Claims Administration,” 35 *Journal of Corporation Law* 123 (2009)  
“Dispute Systems Design: The United Nations Compensation Commission,” 14 *Harvard Negotiation Law Review* 171 (2009)  
“Les Limites de la reparation du prejudice,” Dalloz, 2009, contributor  
“Second-Generation Dispute system Design Issues in Managing Settlements,” 24 *Ohio State Journal on Dispute Resolution* 53 (2008)  
“A Model State Mass Tort Settlement Statute,” 80 *Tulane Law Review* 1809 (2006)  
“The Evolution of Asbestos Bankruptcy Trust Distribution Plans,” 62 *New York University Annual*

- Survey of American Law 163 (2006)
- "A Proposed Settlement Rule for Mass Torts," 74 UMKC Law Review 623 (2006)
- "A Model Mass Tort: The PPA Experience," 54 Drake Law Review 621 (2006)
- "Mediation of the Snake River Basin Adjudication," 42 Idaho Law Review 547 (2006)
- "Challenges Faced by Courts in Chapter 11 Filings by Companies with Asbestos Liabilities," 24 Delaware Lawyer 18 (2006)
- "Evaluation et Egalisation des Dommages pour Blessures Personnelles aux Etat-Unis," (Cour de Cassations L'edition in-situ du Cycle sur DVD-ROM, 2006
- "Strategic Mediation in Transboundary Water Large Lawsuits," Conference Proceedings Publication, "Transboundary Waters: Crossing Cultural Boundaries," The Utton Center, Univ. of New Mexico Law School, Albuquerque, NM, 2005
- "Procedural Difficulties and Innovations in Asbestos Litigations," International Comparison of Asbestos Litigation, Univ. of Kyoto (Japan) Graduate School of Law, 2005
- "Common Themes and Unintended Consequences in Class Action Reform," 83 Washington University Law Quarterly 1107 (2005)
- "The What and Why of Claims Resolution Facilities," 57 Stanford Law Review 1361 (2005)
- "Compensation Schemes and Dispute Resolution Mechanisms: Beyond the Obvious," 21 Negotiation Journal 231 (2005)
- "The Future of Judicial Masters," 31 William Mitchell Law Review 1252 (2005)
- "Judicial Ethics Meet Political Reality," The Benchers (American Inns of Court), Nov-Dec 2004
- "Asbestos Legislation II: Section 524(g) Without Bankruptcy," 31 Pepperdine Law Review, 233-260 (2004)
- "Asbestos Legislation I: A Defined Contribution Plan," 71 Tennessee Law Review 155 (2003)
- "Deceptive Trade Practices Litigation: Context and Procedural Standards," Manhattan Institute Conference Series (October 2003)
- "Mass Torts: Lessons in Competing Strategies and Unintended Consequences," 2 Civil Action (2003)
- "Litigation as an Alternative to Legislation in Achieving Public Health Reform," XXIII La Revue Tocqueville (2002)
- "Multiparty Disputes: Managing Variables Key to Successful Arbitration," 9 Dispute Resolution Magazine 3-4 (Fall 2002)
- "The Tragedy of the Asbestos Commons," 88 Virginia Law Review 1721 (2002)
- "Settlement of Mass Torts In a Federal System," 16 Wake Forest Law Review 102 (2002)
- "Foreword: Complex Litigation at the Millennium," Special Editor, 64 Law & Contemporary Problems I (Spring/Summer 2001)
- "Toward a Cooperative Strategy for Federal and State Judges in Mass Tort Litigation," 148 Pennsylvania Law Review 1867 (2000)
- "Class Actions and Social Issue Torts in the Gulf South," 74 Tulane Law Review 1655 (2000)
- "Strategic Mediation," Disp. Resol. Mag., Summer 1999, at 4
- "Beyond Efficiency: A Bevy of ADR justifications," Dispute Resolution Magazine, Summer 1997, 12.

- "The Defensive Use of Federal Class Actions in Mass Torts", 39 *Arizona Law Review* 595 (1997)
- "Rethinking Cooperation among Judges in Mass Tort Litigation," 44 *UCLA Law Review* 1851 (1997)
- Book Review, 95 *Michigan Law Review* 2077 (1997) [reviewing Jack B. Weinstein, *Individual Justice in Mass Tort Litigation* (1996) and Michael D. Green, *Bendectin and Birth Defects: The Challenges of Mass Toxic Substances Litigation* (1996)]
- "Implementing a Taint Test to Address the Problems Raised by Compelled Disclosure," 59 *Law & Contemporary Problems* 185 (1996)
- "An Analysis of Mass Torts for Judges," 73 *Texas Law Review* 1821 (1995)
- "Looking to the Future of Mass Torts: A Comment on Siliciano and Schuck," 80 *Cornell Law Review* 1022 (1995)
- "The Intellectual Heritage of Claims Processing at the United Nations Compensation Commission," in *The United Nations Compensation Commission: Thirteenth Sokol Colloquium* (Richard B. Lillich ed., 1995)
- "Introduction: Models for Managing Mass Tort and Insurance Coverage Litigation," in *Managing Complex Litigation: Procedures and Strategies for Lawyers and Courts*, American Bar Association (1992)
- "Lessons from U.S. Alternative Dispute Resolution," *La médiation: un mode alternatif de résolution des conflits?*, Schulthess Polygraphischer Verlag, Zürich (1992)
- "Models for Managing Mass Tort and Insurance Coverage Litigation," in *Managing Modern Litigation: Learning to Live With New Judicial Controls and New Trial Tools*, American Bar Association (1991)
- "The Cycle of Mass Tort Litigation," Yale Law School Program in Civil Liability (1990)
- "The Alabama DDT Settlement Fund," 53 *Law & Contemporary Problems* 61 (1990)
- "Foreword: Claims Resolution Facilities and the Mass Settlement of Mass Torts," 53 *Law & Contemporary Problems* I (1990)
- "An Overview of Specialized Applications of ADR" in *Handbook of Alternative Dispute Resolution*, State Bar of Texas (1990)
- "Resolving Mature Mass Tort Litigation," 69 *Boston University Law Review* 659 (1989)
- "The Discovery Survey," with E. Allan Lind, 51 *Law & Contemporary Problems* 51 (1988)
- "Moving the Pig Through the Python - Multiple Approaches to Resolving Case Management Problems in Toxic Tort Litigation," in SMU Products Liability Institute, Matthew Bender and Company (1988)
- "Use of Masters and Magistrates in Complex Litigation," in *ADR and the Courts: A Manual for Judges and Lawyers*, Butterworth (1987)
- "Court Appointed Experts: An Overview," in *ADR and the Courts: A Manual for Judges and Lawyers*, Butterworth (1987)
- "Toward a Functional Approach for Managing Complex Litigation," 53 *Chicago Law Review* 440 (1986)
- "Managing Complex Litigation - Old and New Devices and Techniques," in SMU Products Liability Institute: Evidence and Tactics in the Product Liability Case, Matthew Bender and Company (1984)
- Book Review, 4 *Environmental Impact Assessment Review* 597 (1983) [reviewing James K. Sebenius,

- Negotiating the Law of the Sea: Lessons in the Art and Science of Reaching Agreement (1984)*  
"The Organization of Multiple Party Litigation: Class Actions and Multidistrict Litigation," in SMU Products Liability Institute, Matthew Bender and Company (1983)  
"Management of Multiparty Toxic Tort Litigation: Case Law and Trends Affecting Case Management," 19 Forum 1 (1983)  
"Toxic Substances Litigation in the Fourth Circuit," 16 Richmond Law Review 247 (1982)  
"The Alabama Extended Manufacturer's Liability Doctrine," Alabama Pattern Jury Instructions - Civil, Lawyers Co-operative Publishing Company (1982)  
"The Variety, Policy and Constitutionality of Product Liability Statutes of Repose," 30 American University Law Review 579 (1981)  
"The Status of Statutes of Limitations and Statutes of Repose in Product Liability Actions: Present and Future," 16 Forum 416 (1981)

### **SELECTED SPEECHES**

- A.A. White Foundation Alternative Dispute Resolution Program  
Academy of Court-Appointed Masters Programs  
Aetna Alternative Dispute Resolution Program  
Alabama Bar Institute for Continuing Legal Education Programs  
Alabama Judicial College Programs  
American Arbitration Association Programs  
American Association of Law Schools Annual Meetings and Torts Workshop  
American Bankruptcy Institute Programs  
American Bar Association Annual Meetings, Mid-Winter Meeting and Special Programs  
American College of Civil Trial Mediators Annual Meeting  
American College of Trial Lawyers Annual Meeting  
American Enterprise Institute Programs  
American Law Institute - American Bar Association Programs  
American Society of International Law Regional Meeting  
American Society of Plastic and Reconstructive Surgeons Annual Meeting  
Andrews Publications Seminars  
Anglo-American Exchange Program  
Association of Analytic Chemists Annual Meeting  
Association of the Bar of the City of New York Programs  
Association of Trial Lawyers of America Annual Meetings and National Colleges  
Bank Depository User Group Annual Seminar  
Bernstein, Litowitz Forum  
Boston University Law School Programs  
Canadian – American Exchange Program  
Center for Public Resources Conferences and Annual Meetings  
Columbia University Seminar on Toxic Substances Litigation

Conference of State Supreme Court Chief Justices Annual Meetings  
Consensus Building Institute Programs  
Conservation Foundation Annual Meeting  
Cornell Law School Seminar  
Cour de Cassation Seminars  
Dallas Bar Association Program  
Delaware Judges Association Annual Meetings  
Duke Judging Science Programs  
Federal Judicial Center National Programs, Seminars, and Special Programs  
Federalist Society Programs  
The Ford Foundation National Conference for Judges and Masters Involved in Western General  
Stream Adjudications  
Fordham Law Review National Symposium on Civil Justice Issues  
Fox Leadership Program, University of Pennsylvania  
Georgetown University Medical and Law Centers Program for Science and Law  
General Motors Corporation Legal Seminars  
Harris-Martin Asbestos Conference  
Harvard Law School, Program on Negotiation Programs  
IACC/CAIL/ALI-ABA India Conference  
Inner Circle of Advocates  
Institute des Hautes Études Sur La Justice Judicial Seminars and Programs  
Institute for Law & Economic Policy Programs  
Institute Suisse de Droit Comparé Mediation Seminar  
International Conference on Iraq-Kuwait War  
Law and Society Annual Meetings  
Louisiana State Bar Association Annual Meeting and Programs  
Louisiana State University Law Review Symposia  
Manhattan Institute Conference Series  
Massachusetts Institute of Technology Ocean Conflict Resolution Conference  
McCammon Group Program  
Mealey's Asbestos Conferences  
Montenegro Law Program  
National Academy of Sciences Programs  
National Association of Women Judges Annual Meeting  
National Conference of Local Defense Associations Annual Meeting  
National Conference on Dispute Resolution and the State Courts  
National Conference on the Future of the Courts  
National Conference on Mass Torts  
National Institute for Dispute Resolution Board Meeting  
National Judicial College Programs

New York Law School Seminar  
New York University Conference on Class Actions and Seminars  
North Carolina Bar Association Dispute Resolution Program  
Northwestern School of Law Dispute Resolution Institute  
Ohio State Law School Programs  
Oxford University Seminar on Globalization of Class Actions  
Pennsylvania Judges Association Annual Meeting  
Pepperdine Law School Programs  
Practicing Law Institute Programs  
Product Liability Advisory Council Program  
The Rand Institute for Civil Justice Seminars  
Securities and Exchange Commission Programs  
SOKOL Colloquium on Private International Law  
Sonoma State University Lecture  
Southeastern Corporate Law Institute Annual Programs  
Southern Methodist University Personal Injury and Products Liability Symposia  
Southwestern Law School Program  
Stanford Law School Programs and Seminars  
Tulane Law School Programs  
UCLA Law Review Symposium on Alternative Dispute Resolution  
United States District Court, Eastern District of Texas, Judicial Education Conference  
United States Judicial Conference Advisory Committee on Rules Programs  
United States Judicial Conference Federal Jurisdiction Committee Programs  
United States Judicial Conference Standing Committee on Rules Programs  
United States Securities Exchange Commission Programs  
United States Third, Fifth, and Eighth Circuit Courts of Appeals Judicial Conferences  
United States Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth and Eleventh Circuit Court of Appeals Judicial Workshops  
University of Alabama Law Review Symposium on the Civil Justice Reform Act of 1990  
University of Arizona Communication School Conference on Trial Advocacy  
University of Arizona Law School Symposium on Class Actions  
University of California—Davis, School of Law Seminar  
University of California—San Francisco, School of Law Seminars  
University of Chicago Legal Forum Program on Juries  
University of Colorado School of Law Seminar  
University of Houston Law Center Seminars  
University of Idaho School of Law Seminars  
University of Kyoto, Symposium on Asbestos Litigation  
University of Maryland School of Law Mass Tort Seminar  
University of Mississippi College of Law Seminar

University of Missouri—Kansas City Seminar  
University of Oregon Law School Programs  
University of Pennsylvania Law School Programs  
University of San Francisco School of Law Seminars  
University of Southern California School of Law Seminar  
University of Texas at Austin School of Law Seminars  
University of Virginia School of Law Seminars  
Villanova Law School Mass Tort Symposium  
Yale Law School Conferences and Seminars