

## CURRICULUM VITAE

### EDWARD F. SHERMAN

W.R. Irby Chair, and Moise F. Steeg, Jr. Professor of Law  
Tulane Law School

### ADDRESS:

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New Orleans, LA 70118-5670  
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### PERSONAL INFORMATION:

Born: July 5, 1937, El Paso, Texas  
Family: Married, two children

### EDUCATION:

High School: El Paso High School, El Paso, Texas  
  
College: Georgetown University, Washington, D.C.  
A.B., Philosophy, 1959  
  
Graduate: University of Texas at El Paso  
M.A., History, 1962  
M.A., English, 1967  
  
Law School: Harvard Law School, Cambridge, Mass.  
J.D., 1962  
S.J.D., 1981

### LEGAL AND ACADEMIC EXPERIENCE:

Legal Aide to Governor of Nevada, 1962 (Ford Foundation Fellowship in State & Local Government)  
  
Law Clerk to U.S. District Judge for the Western District of Texas, Honorable R.E. Thomason, 1963  
  
Law Practice: Mayfield, Broaddus, MacAyeal & Perrenot, El Paso, Texas, 1963-1965

U.S. Army, Captain, Military Police Corps, 1965-1967; U.S. Army Reserve,  
Judge Advocate General's Corps, 1968-1990 (to Lt. Colonel)

Harvard Law School, Teaching Fellow, 1967-1969

Indiana University School of Law, Bloomington, Indiana, Professor, 1969-1977

Fulbright Lectureship (in International and Constitutional Law), Trinity  
College, Dublin, Ireland, 1973-1974

American Bar Foundation Fellowship in Legal History, 1975

University of Texas School of Law, Austin, Texas  
Edward Clark Centennial Professor of Law, 1977-1996

University of London, Visiting Professor, 1989

Krajowa Szkoła Administracji Publicznej (School of Public Administration),  
Warsaw, Poland, Visiting Professor, January-February 1995.

Institute of Comparative Law, Chuo University School of Law, Tokyo, Japan,  
Visiting Professor, spring, 1995.

Tulane Law School, Dean and Professor of Law, 1996-2001; Professor of Law,  
2001-present.

University of New South Wales, Sydney, Australia, Visiting Professor, 2002.

University of Maine School of Law, Godfrey Distinguished Visiting Professor of  
Law, fall, 2003.

Humboldt University-Tulane University, Summer Program on Intercultural  
Dispute Resolution, Berlin, Germany, 1999, 2004, 2005, 2006.

SUBJECTS TAUGHT:

Civil Procedure  
Complex Litigation  
Alternative Dispute Resolution  
International Law, International Arbitration  
Constitutional Law, Civil Rights, Government Liability  
Law of War, Military Law, National Security Law  
Jurisprudence, Law and Literature

SELECTED ACTIVITIES:

American Association of University Professors, General Counsel, 1986-1988

#### American Bar Association

Chair, Task Force on Preemption of State Tort Law (2009-present)

Reporter, Task Force on Disaster Insurance Coverage (2006-2009)

Reporter, Task Force on Asbestos Reform (2003-2005)

Chair & Reporter, Task Force on Class Action Legislation (2001-2003)

Reporter, Summit on Civil Justice System Improvements (1993); Task Force on Offer of Judgment Rule (1995)(TIPS).

Member, Task Force on the Public Perception of the Litigation System (1999-2001); Task Force on State of Justice System & Federal Initiatives (1993-1996); Standing Committee on Pro Bono & Public Service (1998-2001); Subcommittee on Computerization, Committee on Discovery (1982-1983).

Section of Dispute Resolution, Co-chair & member, Arbitration Committee, 1999-2005).

2004 Dean Robert McKay Award “in recognition of a law professor’s commitment to the advancement of justice, scholarship and the legal profession”

2008 Special Achievement Award for contributions to ABA conferences on understanding and improving class actions.

#### American Law Institute, 1988-present

Complex Litigation Project, Members Consultative Group, 1989-1995

Transnational Civil Procedure, Members Consultative Group, 2001-present

Principles of the Law of Aggregate Litigation, Members Consultative Group, 2005-present

#### Arbitrator

Expedited Arbitration Panel, Aluminum Co. of America and United Steel Workers of America, 1984-1996

American Arbitration Association, Labor Law Panel, 1989-1996

International Centers for Arbitration, International Arbitrator Panel, 1993-1996; director of training, 1993-1996.

Association of American Law Schools

Chair, Section on Litigation, 1999-2000  
Chair, Section on Dispute Resolution, 1995-96  
Board, Section on Civil Procedure, 1994-95  
Committee on Clinical Education, 1999-2003

Expert Witness on Class Action Certification and Management (cases in state and federal courts)

Law & Economics Center, summer program for law professors, 1981, advanced course, 1991

Louisiana Bar Foundation, Judicial Liason Committee, 1999-present

Louisiana State Law Institute, 1996-2002

Louisiana State Bar Association

Board of Governors, 1997-99  
Board, ADR Section, 1997-present  
Committee on Codes of Lawyer and Judicial Conduct, 1999-present

Mediator

Basic Mediation Training Course, 1985; volunteer mediator, Travis County Dispute Resolution Center, 1985-1996; court-appointed mediator, Texas state & federal court cases, 1985-1996

Professor, courses in mediation and arbitration, U. of Texas School of Law, 1986-1996; Tulane Law School, 1996-present; Hamline Law School Summer Mediation Program, 1994; Tulane-Humboldt Universities Intercultural Negotiation/Mediation Summer Program, Berlin, Germany, 1999-2001, 2005, 2007.

National Institute for Military Justice, Board of Directors (2000-present)

Texas Bar Association

Chair, Committee on Pattern Jury Instructions (Vol. I), 1982-1994

Board & Member, Alternative Dispute Resolution Section, 1984-96

1998 Judge Frank Evans Award “for exceptional and outstanding efforts in promoting and furthering Alternative Dispute Resolution methods in Texas.”

Texas Center for Public Policy Dispute Resolution, Chair of Board, 1993-1996.

Texas Civil Liberties Union, General Counsel, 1992-1996

Travis County Jail Litigation, Court-Appointed Attorney, U.S. District Court for the Western District of Texas, 1981-1990

Travis County Dispute Resolution Center, Board and Vice-President, 1986-1988

Texas Resource Center (for Post-Conviction Capital Representation), Board, 1988-1993, Chair of Board, 1993-1994.

U.S. AID “Stars Project – Vietnam” on drafting new Vietnamese Code of Civil Procedure, 2003

Who's Who in:

America  
American Education  
American Law  
South & Southwest  
International

#### SELECTED PUBLICATIONS:

##### BOOKS:

Civil Procedure: A Modern Approach (with Marcus & Redish)(West Pub. Co. 1988, 1995, 2000, 2005, 5<sup>th</sup> ed. 2009).

Complex Litigation: Cases and Materials on Advanced Civil Procedure (with Marcus)(Thomson/West Pub. Co. 1985, 1992, 1998, 4th ed. 2004)

Processes of Dispute Resolution: The Role of Lawyers (with Rau & Peppet)(Foundation Press 1989, 1996, 2002, 4<sup>th</sup> ed. 2006).

Rau, Sherman, and Shannon's Texas ADR and Arbitration: Statutes and Commentary (with Rau & Shannon)(Shepard's McGraw-Hill 1994, West Group 1998, 3d ed. 2000).

Dispute Resolution: Materials for Continuing Legal Education (with Murray and Rau)(National Institute for Dispute Resolution 1991).

Cases and Materials on Military Law: The Scope of Military Authority in a Democracy (with Zillman & Blaustein)(Matthew Bender 1978).

Civil Procedure (Federal and Indiana) (Josephson's Bar Review Center of America 1977).

## CHAPTERS IN BOOKS:

“Military Tribunals” and “Civil Rights in the Military,” in Encyclopedia of Civil Rights and Liberties” (2006)

“Sources and Bibliography for Alternative Dispute Resolution,” in Alternative Dispute Resolution Handbook 499 (State Bar of Texas 2003).

“Class Actions,” in Oxford Companion to American Law 118 (2002).

Volume 3 (Federal Rules 13 & 15), Moore’s Federal Practice (1997).

"Applications of Dispute Resolution Processes in the Israeli-Palestinian Conflict," in The Struggle for Peace: Israelis and Palestinians (ed. E. Fernea & M. Hocking 1992)

"Local Court Rules on ADR" and "ADR References," in Handbook of Alternative Dispute Resolution, Chap 23, Appendix B (State Bar of Texas, A. Greenberg, ed.)(2d ed. 1990).

"In-Service Conscientious Objection," in Selective Conscientious Objection: Accommodating Conscience and Security 117 (M. Noone, ed.)(Westview Press 1989).

"Texas Tort Claims Act" (Chap. 60), in Texas Torts and Remedies (H. Edgar & J. Sales, ed.)(Matthew Bender 1987).

"Military Law," in Encyclopedia of the American Judicial System, Vol. 1 (McMillan Pub. Co. 1987).

"Contemporary Challenges to Traditional Limits on the Role of the Military in American Society," in Rowe & Whelan, Military Intervention in Democratic Societies 216 (Croom Helm 1985).

"Responsiveness and Accountability in the Military," in People Versus Government Power 226 (L. Rieselbach, ed.)(U. of Indiana Press 1975).

"Domestic Law and the Military Establishment," in Modules in Security Studies (A. Williams & D. Tarr. ed.)(U. Press of Kansas 1974).

"Bertrand Russell and the Peace Movement: Liberal Consistency or Radical Change," in Bertrand Russell's Philosophy 253 (G. Nakhnikian, ed.)(Indiana U. Press 1974).

"Amnesty and the Military Offender," in When Can I Come Home? A Debate on Amnesty for Exiles, Anti-War Prisoners and Others 92 (M. Polner, ed.)(Doubleday & Co. 1972).

"The Civilianization of Military Law," in With Justice for Some 65 (B. Wasserstein & M. Green, ed.)(Beacon Press 1971).

"Justice in the Military," in Conscience and Command 21 (J. Finn, ed.)(Random House 1971).

"Rights of Servicemen," in The Rights of Americans 621 (N. Dorsen, ed.)(Random House Pantheon 1971).

"Military Justice and Individual Liberty," in A. Yarmolinsky, The Military Establishment: Its Impacts on American Society (A Twentieth Century Fund Study)(Harper & Row 1971).

### SELECTED ARTICLES

"The MDL Model for Resolving Complex Litigation if a Class Action is Not Possible," 82 Tulane L. Rev. 2205 (2008).

"Analysis & Perspective: Tulane Law Review Conference on Multidistrict Litigation," 9 Class Action Litigation Report (BNA) 213 (March 14, 2008).

"Dean Pound's Dissatisfaction with the 'Sporting Theory of Justice': Where Are We a Hundred Years Later?" (Symposium on 100<sup>th</sup> Anniversary of Pound's "Popular Dissatisfaction with the Administration of Justice"), 48 So. Tx. L. Rev. 683 (2007).

"Consumer Class Actions: Decline and Fall?," 93 ABA Journal 51 (June 2007).

"Class Action Fairness Act and the Federalization of Class Actions," 238 Federal Rules Decisions 504 (2007).

"Transnational Perspectives Regarding the Federal Rules of Civil Procedure," 56 J. Legal Education 510 (2006).

"Class Actions After the Class Action Fairness Act of 2005," 80 Tulane L. Rev. 1593 (2006).

"Segmenting Aggregate Litigation: Initiatives and Impediments for Reshaping the Trial Process," 25 Review of Litigation 691 (2006).

"Compensation under a Trust Fund Solution to Asbestos Claims: Is It Really Fair?" 34 The Brief 48 (ABA Tort Trial & Insurance Practice Section, Winter 2005).

"Consumer Class Actions: Who are the Real Winners?" (Godfrey Distinguished Visiting Professor Lecture), 56 Maine. L. Rev. 223 (2004).

“Introduction to the Symposium on Complex Litigation: Plagued by Concerns over Federalism, Jurisdiction and Fairness,” 37 Akron L. Rev. 589 (2004).

“American Class Actions: Significant Features and Developing Alternatives in Foreign Legal Systems,” 215 Federal Rules Decisions 130 (2003).

“Evolving Military Justice,” 67 J. of Military History 999 (July 2003).

“Courting Controversy: Class Action Practice in the United States,” 2 Legal Week Global (United Kingdom) 22 (April 2003).

“Group Litigation Under Foreign Legal Systems: Variations and Alternatives to American Class Actions,” 52 DePaul Law Review 401 (2002).

“The Disposition of Afgan War and Al Qaeda Prisoners,” Tulane Lawyer 8 (Fall/Winter 2002).

“Who, Where and How Should the Guantanamo Detainees Be Tried?,” New Orleans Times-Picayune, March 4, 2002.

“Military Commissions Aren’t the Only Option,” New Orleans Times-Picayune, December 3, 2001.

“Amendments to Rule 11 Have Cut Number of Sanction Motions,” (interview), 26 ABA Litigation News 8, July 2001.

“Class Action Practice in the Gulf South,” 74 Tulane L. Rev. 1603 (2000).

“Implications for the Future of Legal Education in Response to NAFTA and Growing Global Trade Relations,” 47 Louisiana Bar J. 391 (2000).

“Response to Professionalism,” 47 Louisiana Bar J. 324 (2000).

“The Evolution of American Civil Trial Process Towards Greater Congruence with Continental “Dossier Trial” Practice,” 7 Tulane J. of Int’l & Compar. Law 125 (1999).

“A Tribute to Professor Athanassios Yiannopoulos,” 73 Tulane L. Rev. 1017 (1999).

“From Loser Pays to Modified Offer of Judgment Rules: Reconciling Incentives to Settle with Access to Justice,” 76 Texas L. Rev. 1863 (1998).

“Good Faith Participation in Mediation: Aspirational, Not Mandatory,” 4 Dispute Resolution Mag. (ABA Section of Dispute Resolution) 14 (Winter 1997).

“Confidentiality in ADR Proceedings: Policy Issues Arising from the Texas Experience,” 38 South Texas L. Rev. 541 (1997).

“The Impact on Litigation Strategy of Integrating Alternative Dispute Resolution into the Pretrial Process,” 15 Review of Litigation 503 (1996), reprinted, 168 Federal Rules Decisions 75 (1996).

“Complex Litigation: Aggregating Related Cases for Unitary Disposition,” 30 Comparative Law Review 57 (Institute of Comparative Law in Japan, Chuo University, Tokyo, 1996).

“Antisuit Injunctions and Notice of Intervention and Preclusion: Complementary Devices to Prevent Duplicative Litigation,” in Symposium on the American Law Institute's Complex Litigation Project, 1995 Brigham Young Law Review 925.

“Standards of Professional Conduct in Alternative Dispute Resolution,” Symposium from AALS, 1995 Journal of Dispute Resolution 95.

“Policy Issues for State Court ADR Reform,” Alternatives 142 (Nov. 1995).

“Tradition and Innovation in International Arbitration Procedure” (with Rau), 30 Texas Int'l Law J. 89 (1995).

“A Process Model and Agenda for Civil Justice Reforms in the States,” 46 Stanford Law Review, 1553 (July 1994).

“Managing Complex Litigation: Procedures and Strategies for Lawyers and Courts,” 57 Texas Bar Journal 149 (Feb. 1994)(Book Review).

“Court-Mandated Alternative Dispute Resolution: What Form of Participation Should Be Required?” 46 S.M.U. Law Review 2079 (1993).

“Judge Jerre Williams: A Worthy Academic Career,” 72 Texas Law Review ix (Nov. 1993).

“Aggregate Disposition of Related Cases: The Policy Issues,” 10 Review of Litigation 231 (1991).

“A Social Psychology of Citizens' Obligations to Authority: A Review of Crimes of Obedience,” 17 American Journal of Criminal Law 287 (1990).

“The Immigration Laws and the 'Right to Hear' Protected by Academic Freedom,” 66 Texas Law Review 1547 (1988).

“Reshaping the Lawyer's Skills for Court-Supervised Alternative Dispute Resolution,” 51 Texas Bar Journal 47 (1988).

“The Role of Religion in School Curriculum and Textbooks,” 74 Academe 17 (1988).

"Class Actions and Duplicative Litigation," 62 Indiana Law Journal 507-559 (Symposium on Class Actions)(1987).

"Prisoners' Rights" (Fifth Circuit Survey), 19 Tex. Tech Law Review 797 (1988), 18 Tex. Tech L. Rev. 655 (1987).

"Implementing the New Preference for Broad Issues in Texas Special Issues Practice," 4 The Advocate 2 (Oct. 1985).

"Relationship Between Issues and Instructions in Texas Special Issues Practice," Institute on Jury Submission (State Bar of Texas 1985).

"Restructuring the Trial Process in the Age of Complex Litigation," 63 Texas Law Review 721 (1984).

"The Role of the Judge in Discovery," 3 Review of Litigation 89 (1982).

"Federal Court Discovery in the 80's - Making the Rules Work," 2 Review of Litigation 9 (1981), reprinted in 95 Federal Rules Decisions 245 (1982).

"Evolution of the Laws of War," 110 USA Today 54 (May, 1982).

"Traditional and Developing Concepts of Governmental Liability," Institute on Public Law Liability of Public Officials and Employees (State Bar of Texas 1981).

"The Development, Discovery, and Use of Computer Support Systems in Achieving Efficiency in Litigation," 79 Columbia Law Review 267 (1979).

"Military Unions and the Soldier 'Employee'," Washington Post, March 4, 1978, A.17.

"A Special Kind of Justice," 84 Yale Law Journal 373 (1974).

"Legal Inadequacies and Doctrinal Restraints in Controlling the Military," 49 Indiana Law Journal 538 (1974).

"After Sunningdale: Is Ireland on the Mend?," The Nation 456 (April 13, 1974).

"Military Justice Without Military Control," 82 Yale Law Journal 1398 (1973).

"The Military Courts and Servicemen's First Amendment Rights," 22 Hastings Law Journal 325 (1971).

"Congressional Proposals for Reform of Military Law," 10 American Criminal Law Review 25 (1971).

New York Times Articles (Week in Review Section):

- "Exit Black: New Chance for Nixon to Push the Court to the Right," Sept. 19, 1971, E.4.
- "Critical Look at Military Prison System," June 21, 1970, E.6.
- "Military Justice is to Justice as Military Music is to Music," (Book Review), May 3, 1970, BR.1.
- "Duffy Case: Preview of the My Lai Trials?," April 5, 1970, E.2.
- "My Lai: Army Blow the Lid on Its Own Cover-Up," March 22, 1970, E.1.
- "Pretrial Jousting Over My Lai Massacre," Feb. 1, 1970, E.3.
- "My Lai: Some Knotty Legal Questions," Dec. 7, 1969, E.3.
- "The Civilianization of Military Law," 22 Maine Law Review 3 (1970).
- "Judicial Review of Military Determinations and the Exhaustion of Remedies Requirement," 55 Virginia Law Review 483 (1969), reprinted in 48 Military Law Review 91 (1970).
- "The Right to Representation by Out-of-State Attorneys in Civil Rights Cases," 4 Harvard Civil Rights-Civil Liberties Law Review 65 (Fall 1968).
- "The Great Draft Debate, " New Republic 36 (May 18, 1968).
- "The Right to Competent Counsel in Special Courts Martial," 54 American Bar Assoc. Journal 866 (Sept. 1968).
- "Nevada Faces the End of the Casino Era," Atlantic 112 (Oct. 1966).
- "The Use of Public Opinion Polls in Continuance and Venue Hearings," 50 American Bar Association Journal 357 (April 1964).