

## CURRICULUM VITAE

KENNETH S. ABRAHAM

Born June 19, 1946

Married to Susan R. Stein; two children

### Business:

University of Virginia School of Law  
580 Massie Road  
Charlottesville, VA 22903-1789  
Phone: (434) 924-3616  
Fax: (434) 982-2845  
Email: ksa@virginia.edu

### Home:

770 Covey Hill Road  
Charlottesville, VA 22901  
Phone: (434) 295-6447

## EDUCATION

Yale Law School, J.D., 1971

Indiana University, A.B. (*Magna Cum Laude*), 1967

## EMPLOYMENT

- 2006 - Present     David and Mary Harrison Distinguished Professor of Law, University of Virginia School of Law (one of five faculty members holding the Law School's most prestigious endowed chair)
- 2002 - 2006     Robert E. Scott Distinguished Professor of Law, University of Virginia School of Law.
- Fall, 2003     Visiting Professor of Law, Harvard Law School.
- 1988-2002     Class of 1962 Professor of Law, University of Virginia School of Law.
- 1984-1988     Professor of Law, University of Virginia School of Law.
- 1983-1984     Visiting Professor of Law, University of Virginia School of Law.

1974-1983      Assistant, Associate and Professor of Law, University of Maryland School of Law.

Spring, 1974      Visiting Assistant Professor of Law, Case Western Reserve University School of Law.

1971-1973      Associate, Mazer and Lesemann, Hackensack, New Jersey. General civil practice.

Courses Taught:      Complex Insurance Litigation, Environmental Law, Environmental Liability, Evidence, Insurance, Mass Torts, Products Liability, Tort Theory, Torts

Honors and Awards:      The Roger and Madeline Traynor Faculty Award, 2008. The Traynor Award is given biennially to a senior member of the University of Virginia Law School faculty for "excellence in legal scholarship."

Distinguished Faculty Achievement Certificate, State Council of Higher Education for Virginia, for "outstanding achievement in teaching, research, and public service," 2001.

Robert B. McKay Award, American Bar Association Torts and Insurance Practice Section, for "outstanding contributions to Tort and Insurance Law," 2000.

All-University of Virginia Outstanding Professor Award, 2000.

Delivered The Monsanto Lecture in Tort Law and Jurisprudence, Valparaiso Law School, 1992.

Delivered the Simon E. Sobeloff Lecture, University of Maryland Law School, 1991.

Elected Phi Beta Kappa, 1967.

Bar Admissions:      Maryland (1977); Virginia (1988)  
(admitted in New Jersey, 1971, resigned without prejudice, 1994).

#### Specialized Experience

1987 - Present      Consultant, in major insurance coverage matters, including commercial business interruption, directors and officers liability, employment liability, environmental liability, commercial property, products liability, and toxic

tort liability insurance claims.

1992-97: Arbitrator, for The Private Adjudication Center, Duke University. In the United States and abroad, I arbitrated over 100 claims by women claiming damages for injuries caused by the Dalkon Shield intrauterine device.

## PUBLICATIONS

### Books

THE LIABILITY CENTURY: INSURANCE AND TORT LAW FROM THE PROGRESSIVE ERA TO 9/11 (Harvard University Press, 2008).

THE FORMS AND FUNCTIONS OF TORT LAW (The Foundation Press, 3d ed. 2007, 2d ed. 2002; 1st ed. 1997).

INSURANCE LAW AND REGULATION: CASES AND MATERIALS (The Foundation Press, 4th ed. 2005; 3d ed. 2000; 2d ed. 1995; 1st ed. 1990).

A CONCISE RESTATEMENT OF TORTS (American Law Institute, 2000) [Editor].

ENVIRONMENTAL LIABILITY INSURANCE LAW (Prentice Hall Law & Business, 1991).

DISTRIBUTING RISK: INSURANCE, LEGAL THEORY, AND PUBLIC POLICY (Yale University Press, 1986).

### Articles and Chapters in Books

*The Uses of Accident Law's Past*, 1 JOURNAL OF TORT LAW, Issue 2, Article 2 (2007), available at <http://www.bepress.com/jtl/vol1/iss2/art2>.

*The Hurricane Katrina Insurance Claims*, 93 VA. L. REV. IN BRIEF 151 (2007), available at <http://www.virginialawreview.org/inbrief/2007/08/06/abraham.pdf>

*Twenty-First-Century Insurance and Loss Distribution in Tort Law*, in M. Stuart Madden (ed.), EXPLORING TORT LAW (2005).

*Liability Insurance and Accident Prevention: The Evolution of an Idea*, 64 MD. L. REV. 573 (2005).

*Liability for Acts of Terrorism under U.S. Law*, in Bernhard A. Koch (ed.), TERRORISM, TORT LAW, AND INSURANCE: A COMPARATIVE SURVEY (2004).

*The Genie and the Bottle: Collateral Sources under the 9/11 Victims Compensation Fund*, (with Kyle Logue) 53 DEPAUL L. REV. 591 (2003).

*The Lawlessness of Arbitration* (with J.W. Montgomery III), 9 CONN. INS. L.J. 355 (2003).

*Rylands v. Fletcher: Tort Law's Conscience*, in Robert L. Rabin and Stephen Sugarman (eds.), TORTS STORIES (2003).

*Eventi Catastrofali Prevedibilita E Assicurabilita: Mito E Realtà Negli Stati Uniti Dopo L'11 Settembre* [*Catastrophe, Predictability, and Insurability: Post 9/11 Myth and Reality in the United States*], ANNO XLIV FASC. 3-4 DIRITTO ED ECONOMIA DELL'ASSICURAZIONE ["INSURANCE LAW & ECONOMICS"] 651 (2003).

*Liability for Medical Monitoring and the Problem of Limits*, 88 VA. L. REV. 1975 (2002).

*Interpretation or Regulation? Gaunt v. John Hancock Mutual Life Insurance Company*, 2 NEV. L. REV. 312 (2002).

*The Insurance Effects of Regulation by Litigation*, in W. Kip Viscusi (ed.), REGULATION THROUGH LITIGATION (2002).

*The Relation Between Civil Liability and Environmental Regulation: An Analytical Overview*, 41 WASHBURN L. REV. 379 (2002) (The 2002 Ahrens Lecture at the Washburn Law School).

*The Trouble with Negligence*, 54 VAND. L. REV. 1187 (2001).

*The Rise and Fall of Commercial Liability Insurance*, 87 VA. L. REV. 85 (2001).

*Peril and Fortuity in Property and Liability Insurance*, 36 TORT & INS. PRACTICE J. 777 (2001).

*Understanding Prohibitions Against Genetic Discrimination in Insurance*, 40 JURIMETRICS 123 (2000).

*The Expectations Principle as a Regulative Ideal*, 5 CONN. INS. L. J. 60 (1999).

*Allocation of Settlements in Multi-Insurer Coverage Disputes*, 48 FED. OF INS. & CORP. COUNSEL J. 427 (1998).

*The Maze of Mega-Coverage Litigation*, 97 COLUM. L. REV. 2102 (1997).

*A Theory of Insurance Policy Interpretation*, 95 MICH. L. REV. 531 (1996).

*Enterprise Medical Liability and the Evolution of the American Health-Care System*, 108 HARV. L. REV. 381 (1994) (with P. Weiler).

*The Natural History of the Insurer's Liability for Bad Faith*, 72 TEXAS L. REV. 1295 (1994).

*Enterprise Medical Liability and the Choice of the Responsible Enterprise*, 20 AMERICAN JOURNAL OF LAW AND MED. 29 (1994) (with P. Weiler).

*Private Insurance, Social Insurance, and Tort Reform: Toward a New Vision of Compensation for Illness and Injury*, 93 COLUM. L. REV. 75 (1993) (with L. Liebman).

*Enterprise Responsibility for Personal Injury: Further Reflections*, 30 SAN DIEGO L. REV. 333 (1993) (with R. Rabin and P. Weiler).

*Cleaning Up the Environmental Liability Insurance Mess*, 27 VALPARAISO L. REV. 601 (1993) (The 1992 Monsanto Lecture at the Valparaiso University Law School).

*Collective Justice in Tort Law*, 78 VA. L. REV. 1481 (1992) (with G. Robinson).

*What Is a Tort Claim: An Interpretation of Contemporary Tort Reform*, 51 MD. L. REV. 172 (1992) (The 1991 Simon E. Sobeloff Lecture at the University of Maryland Law School).

*The Once and Future Crisis*, 4 J. RISK & UNCERTAINTY 353 (1991).

"*Second Generation*" *Issues in Environmental Liability Insurance Litigation*, 3 ENVTL. CLAIMS J. 309 (1991).

*Aggregative Valuation of Mass Tort Claims*, 53 LAW & CONTEMP. PROBLEMS 137 (1990) (with G. Robinson).

*Products Liability Law and Insurance Profitability*, 19 J. LEGAL STUD. 837 (1990).

*Punitive Damages and the Rule of Law: The Role of the Defendant's Wealth*, 18 J. LEGAL STUD. 415 (1989).

*Environmental Liability and the Limits of Insurance*, 88 COLUM. L. REV. 942 (1988).

*Statutory Interpretation and Literary Theory: Some Common Concerns of an Unlikely Pair*, in S. Levenson and S. Mailloux (eds.) INTERPRETING LAW AND LITERATURE (1988) [reprinted from 32 RUTGERS L. REV. 676 (1979)].

*Medical Liability Reform: A Conceptual Framework*, 260 JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION 68 (1988).

*The Causes of the Insurance Crisis*, in W. Olson (ed.), NEW DIRECTIONS IN LIABILITY LAW

(1988).

*Redistributional Issues in the Privatization of Government Insurance Programs*, 11 GEORGE MASON L. REV. 151 (1988).

*The Insurance Implications of Administrative Compensation Schemes*, 25 HOUSTON L. REV. 817 (1988).

*Individual Action and Collective Responsibility: The Dilemma of Mass Tort Reform*, 73 VA. L. REV. 845 (1987).

*Making Sense of the Liability Insurance Crisis*, 48 OHIO STATE L.J. 399 (1987).

*Scientific Uncertainty in the Courts*, 2 ISSUES IN SCIENCE AND TECHNOLOGY 93 (Winter 1986) [with Richard Merrill].

*Efficiency and Fairness in Insurance Risk Classification*, 71 VA. L. REV. 403 (1985).

*Cost Internalization, Insurance, and Toxic Tort Compensation Funds*, 2 VA. J. NAT. RES. LAW 123 (1982).

*Adopting Comparative Negligence: Some Thoughts for the Late Reformer*, 41 MD. L. REV. 300 (1982).

*Judge-Made Law and Judge-Made Insurance: Honoring the Reasonable Expectations of the Insured*, 67 VA. L. REV. 1151 (1981).

*Three Fallacies of Interpretation: A Comment on Precedent and Judicial Decision*, 23 ARIZ. L. REV. 771 (1981).

*Alternatives to the Tort System for the Non-Medical Professions: Can They Do the Job?*, 1981 B.Y.U. L. REV. 57.

*Observations on Medical Malpractice: A Look At Performance Patterns Among Attorneys and Physicians* [with S. Kirson], Nov. 1980 MARYLAND MEDICAL JOURNAL.

*Statutory Interpretation and Literary Theory: Some Common Concerns of an Unlikely Pair*, 32 RUTGERS L. REV. 676 (1979) [reprinted in S. Levenson and S. Mailloux (eds.), INTERPRETING LAW AND LITERATURE (1988)].

*Medical Malpractice Reform: A Preliminary Analysis*, 36 MD. L. REV. 489 (1977).

*The Public's Emerging Right to Know*, Oct. 1975 MD. B. J. 38.

### Review Essays and Book Reviews

*Principle and Pragmatism in the Compensation Debate* [review essay on J. Stapleton, DISEASE AND THE COMPENSATION DEBATE], 7 OXFORD J. LEGAL STUD. 302 (1987).

*The Costs of Attitudes*, [review essay on G. Calabresi, IDEALS, BELIEFS, ATTITUDES AND THE LAW] 95 YALE L.J. 1043 (1986).

Review of R. Burt, *Taking Care of Strangers*, 169 J. NERV. AND MENT. DIS. 740 (1981).

Review of Roberto M. Unger, KNOWLEDGE AND POLITICS and LAW IN MODERN SOCIETY 94 MLN 1202 (1979).

### COMMISSION AND ADVISORY BOARD MEMBERSHIPS

Member of the Council, American Law Institute, (1996-Present).

American Law Institute, Advisor, Restatement of Torts (Third): Liability for Physical and Emotional Harm (1998-Present).

American Law Institute, Advisor, Restatement of Torts (Third): Products Liability (1992-97).

Pacific Center for Health Policy and Ethics, University of Southern California  
Project on the Insurance Implications of the Human Genome Project (1992-1996).

Advisory Committee, International Library Insurance Anthology Series (1994-97).

Editorial Advisory Board, Connecticut Insurance Law Journal (1995-1998).

American Law Institute, Associate Reporter, Project on Enterprise Liability for Personal Injury (1986-91).

Wharton School, University of Pennsylvania, Board of Advisors, Risk and Decision Processes Center (1991-92).

American Bar Association Torts and Insurance Practice Section, Committee on the CGL Insurance Policy (1989-91).

The Robert Wood Johnson Foundation, Advisory Board, Medical Malpractice Program (1987-90).

University of Houston Law Center, Board of Advisers, Environmental Liability Program (1987-91).

Institute of Medicine (National Academy of Sciences), Committee on Medical Professional Liability and the Delivery of Obstetrical Care (1987-89).

United States Senate Committee on the Judiciary, Reinsurance Advisory Committee (1989).

#### EXPERT TESTIMONY IN LEGISLATIVE AND JUDICIAL PROCEEDINGS

Certain Underwriters at Lloyds v. ReliaStar Life Insurance Company (Testimony in confidential arbitration, July 28, 2006).

XM Satellite Radio, Inc. v. Great Lakes Reinsurance (UK) PLC & Munich Re (Testimony in confidential arbitration on December 9, 2005).

E.I. duPont de Nemours and Company v. National Union Fire Ins. Co., U.S. District Court for Delaware (Deposed on September 23, 2004).

Nicor, Inc. v. Associated Electric & Gas Insurance Services, Limited, (Confidential arbitration, deposed on May 28, 2003).

E.I. duPont de Nemours and Company v. Federal Insurance Company et al., (Expert Report submitted in confidential arbitration, May 2003).

SR International Business Insurance Co. Ltd. v. World Trade Center Properties LLC et al., U.S. District Court for the Southern District of New York (Deposed on September 22, 2002).

In Re Arbitration Between Dow Corning Corporation v. Safety National Corporation, United States District Court for the Eastern District of Missouri (Affidavit filed March 11, 2002).

Minnesota v. Allstate Ins. Co., et al., U.S. District Court for the District of Minnesota (Deposed on January 11, 2001).

Massachusetts Department of Public Utilities Rate Hearing (Deposed on March 15-16, 1990).

Kennedy v. Miller, United States District Court for the District of Columbia, (Testimony on November 3, 1989).

General Assembly of Virginia, Joint Subcommittee on Insurance Reform, October 27, 1988 (Regulation of reinsurance).

General Assembly of Virginia, Joint Subcommittee on Insurance Reform, July 8, 1988 (Antitrust regulation).

Interstate Fire Insurance Company v. Chubb Insurance Company, United States District Court for the District of Maryland (Testimony on March 7, 1986).

General Assembly of Maryland, Senate Judiciary Committee,(Testimony on March 7, 1982).