

Stephen Robert McAllister
On Unpaid Leave of Absence,
January 25, 2018 – Present, serving as
United States Attorney for the District of Kansas

E.S. & Tom W. Hampton Professor of Law
University of Kansas School of Law
1535 W. 15th Street
Lawrence, KS 66045
(785) 864-9236
stevemac@ku.edu

Employment

United States Attorney for the District of Kansas (January 25, 2018 – Present)

Solicitor General Of Kansas (May 2, 2007 - January 24, 2018)

Legislative Counsel to the Kansas Legislature (May 25, 2006 – March 7, 2007)

University of Kansas School of Law, Lawrence, Kansas:

E.S. & Tom W. Hampton Distinguished Professor of Law (Aug. 2013 – Present)

Professor of Law (Aug. 1999 - Present). Courses: Constitutional Law, Civil Rights, Torts

Dean (July 2000 - August 2005)

Associate Dean for Academic Affairs (January 1999 - June 2000)

Associate Professor (August 1995 - August 1999)

Visiting Associate Professor (August 1993 - August 1995)

State Solicitor for the State of Kansas (July 1, 1999 to January 13, 2003). First (and only) State Solicitor for Kansas

Gibson, Dunn & Crutcher, Washington, D.C. (January, 1992 - August, 1993):

Associate. Practice areas: Appellate litigation, constitutional law, products liability

The Honorable Clarence Thomas, Justice, Supreme Court of the United States, Washington, D.C. (October, 1991 - January, 1992): Law Clerk

The Honorable Byron R. White, Justice, Supreme Court of the United States, Washington, D.C. (July, 1989 - July, 1991): Law Clerk

The Honorable Richard A. Posner, United States Court of Appeals for the Seventh Circuit,
Chicago, Illinois (June, 1988 - June, 1989): Law Clerk

Publications and Scholarship

Major Scholarship

State Constitutional Law:

McAllister, State Constitutional Law (chapter in National Association of Attorneys General Handbook for State AGs) (2017)

Holland, McAllister, Shaman & Sutton, State Constitutional Law: The Modern Experience (2d ed. Thomson-West 2015) (casebook)

Holland, McAllister, Shaman & Sutton, Teacher's Manual to State Constitutional Law: The Modern Experience (2d ed. Thomson-West 2015) (150-page teacher's manual to accompany casebook)

Holland, McAllister, Shaman & Sutton, State Constitutional Law: The Modern Experience (Thomson-West 2010) (casebook)

Holland, McAllister, Shaman & Sutton, Teacher's Manual to State Constitutional Law: The Modern Experience (Thomson-West 2010) (150-page teacher's manual to accompany casebook)

Federal Constitutional Law:

Original Jurisdiction

McAllister, The Kansas Justice, David Josiah Brewer, 19 *The Green Bag* 2D 37 (2015)

McAllister, Federalism and Retroactivity in State Post-Conviction Proceedings, 18 *The Green Bag* 2D 271 (2015)

McAllister, Congress and Procedures for the Supreme Court's Original Jurisdiction Cases – Revisiting the Question, 18 *The Green Bag* 2D 49 (2014)

McAllister, A Marbury v. Madison Moment on the Eve of the Civil War: Chief Judge Roger Taney and the Kentucky v. Dennison Case, 14 *The Green Bag* 2D 405 (2011)

McAllister, Ask The State Solicitor General: Can The State File A "Reply" Brief When It Takes An Exception In An Original Jurisdiction Case In The Supreme Court Of The United States?, 29 *Rev. of Litig.* 538 (2010)

McAllister, Can Congress Create Procedures For The Supreme Court's Original Jurisdiction Cases?, 12 *The Green Bag* 2D 281 (May 2009)

The First Amendment

McAllister, Would Other Countries Protect The Phelps's' Funeral Picketing? 2010 De Novo Symposium (Funerals, Fire, and Brimstone) 408 (Cardozo Law Review)

McAllister, Funeral Picketing Laws And Free Speech, 55 U. Kan. L. Rev. 575 (2007)

The Eighth Amendment

McAllister, Staying the Course but losing Eloquence and Fire: How a Conservative Replacement for Justice Scalia might affect the Supreme Court's Death Penalty Jurisprudence, www.scotusblog.com (symposium on the replacement of Justice Scalia) (August 2016)

McAllister, The Problem of Implementing a Constitutional System of Capital Punishment, 43 U. Kan. L. Rev. 1039 (1995)

Reprinted in its entirety in Carol L. Fine, *Journals of Justice: Profound Concepts and Compelling Realities* 137-170 (Kendall/Hunt Pub. Co. 1997).

Reprinted in Carol L. Fine, *Administration of Justice Internship* (Kendall/Hunt Pub. Co. 1997).

McAllister, A Pragmatic Approach to the Eighth Amendment and Punitive Damages, 43 U. Kan. L. Rev. 761 (1995)

Federalism

McAllister, Individual Rights Under a System of Dual Sovereignty: The Right to Keep and Bear Arms, 59 Kan. L. Rev. 867 (2011) (*Made Top Ten download list for LSN: State Constitutional Issues, 10/29/2011)

McAllister & Glicksman, Federal Environmental Law in the "New" Federalism Era, 30 Env't'l L. Rep. 11122 (Dec. 2000)

McAllister & Glicksman, State Liability for Environmental Violations: The Supreme Court's "New" Federalism, 29 Env't'l L. Rep. 10655 (Nov. 1999)

McAllister, Lopez Has Some Merit, 5 Kan. J. L. & Pub. Policy (Spring 1996) 9

McAllister, Is There a Judicially Enforceable Limit to Congressional Power Under the Commerce Clause?, 44 U. Kan. L. Rev. 217 (1996)

Affirmative Action

McAllister & Halaby, An Analysis of the Supreme Court's Reliance on Racial "Stigma" as a Constitutional Concept in Affirmative Action Cases, 2 Mich. J. of Race & L. 235 (1997)

McAllister, One Anglo-Irish Male's Observations On Affirmative Action, 5 Kan. J.L. & Pub. Policy (Spring 1996) 21

Sex Offender Laws – Constitutional And Policy Issues:

McAllister, Modern Post-Sentence Restrictions on Convicted Sex Offenders, Part II, 18 Sex Offender L. Rep. __ (Apr. 2017)

McAllister, Modern Post-Sentence Restrictions on Convicted Sex Offenders, Part I, 18 Sex Offender L. Rep. 17 (Feb./Mar. 2017)

McAllister, Some Reflections On The Constitutionality Of Sex Offender Civil Commitment Laws, 50 U. Kan. L. Rev. 1011 (2002)

McAllister, Sex Offenders and Mental Illness: A Lesson in Federalism and the Separation of Powers, 4 Psychology, Pub. Pol’y & Law No. 1 / 2, 268 (1998)

McAllister, Megan’s Laws: Wise Public Policy Or Ill-Considered Public Folly?, 7 Kan. J. L. & Pub. Pol’y 1 (Spring 1998)

McAllister, The Constitutionality of Sex Offender Registration and Community Notification/Public Access Laws, 29 Tex. Tech L. Rev. 97 (1998)

Awarded Prize as the “Outstanding Lead Article” published in Volume 29 of the Texas Tech Law Review by the Texas Tech Law Review Board of Editors

McAllister, “Punishing” Sex Offenders, 46 U. Kan. L. Rev. 27 (1997)

McAllister, The Constitutionality of Kansas Laws Targeting Sex Offenders, 36 Washburn L.J. 419 (1997).

Supreme Court History and Practice:

McAllister, Turkey and the Supreme Court of the United States, published as a chapter in Festschrift to Honor Prof. Dr. Feridun Yenisey (Sept. 2014)

McAllister, Justice Byron White and *The Brethren*, 15 Green Bag 2D 173 (2012)

McAllister, A Marbury v. Madison Moment on the Eve of the Civil War: Chief Judge Roger Taney and the Kentucky v. Dennison Case, 14 The Green Bag 2D 405 (2011)

McAllister, The Supreme Court’s (Disparate?) Treatment Of Sovereigns As Amicus Curiae, 13 The Green Bag 2D 289 (May 2010) (*Made Top Ten download list for LSN: Separation of Powers & Judicial Independence, 10/25/2011)

McAllister, Remembering Justice Byron R. White, 50 U. Kan. L. Rev. 1077 (2002)

McAllister, *Wheaton v. Greenleaf: A (Story)Tale of Three Reporters*, 1998 J. Sup. Ct. Hist., Vol. II, 53 (1999)

Torts:

Westerbeke & McAllister, Kansas Tort Law Survey, Part I, 49 U. Kan. L. Rev. 1037 (2001)

Major Scholarship Published Prior To Assuming KU Faculty Position:

Faurot & McAllister, Salary Arbitration and Pre-Arbitration Negotiation in Major League Baseball, 45 Indus. Labor Rel. Rev. 697 (1992)

Note, The Nonstatutory Labor Exemption and Player Restraints in Professional Sports: The Promised Land or a Return to Bondage?, 4 Entertainment & Sports L.J. 283 (1987)

Comment, Interpreting the State Constitution: A Survey and Assessment of Current Methodology, 35 Kan. L. Rev. 593 (1987)

Minor Scholarship

Stephen R. McAllister, *The Court after Scalia: Staying the course but losing eloquence and fire* (Invited essay for SCOTUSBlog symposium on the effect of replacing Justice Scalia on the U.S. Supreme Court (August 2016))

Stephen R. McAllister, *Standing Up For Mrs. Bond*, 15 Green Bag 2D 3 (2011)

Stephen R. McAllister & Robert H. Henry, *Maximizing Intellectual Engagement Between Bench, Bar, and Academia: An Introduction to the 2002 Tenth Circuit Judicial Conference*, 51 UNIVERSITY OF KANSAS LAW REVIEW 207 (2003)

Stephen R. McAllister, Viet Dinh, Erwin Chemerinsky, Christopher Stone & Jeffrey Rosen, *Life After 9/11: Issues Affecting the Courts and the Nation*, 51 UNIVERSITY OF KANSAS LAW REVIEW 219 (2003).

McAllister, "Insider" Deaning, 34 U. Toledo L. Rev. 121 (2002)

McAllister, Remembering Justice White, 50 U. Kan. L. Rev. 1077 (2002)

McAllister, Supreme Court Grants Review of "Inability to Control" Behavior Issue in Sex Predator Proceedings, 2 Sex Offender L. Rep. 49 (June/July 2001)

McAllister, Sex Offender Civil Commitment And Lack Of Volitional Control: What Does Kansas v. Hendricks Require?, 2 Sex Offender L. Rep. 33 (Apr./May 2001)

McAllister & Westerbeke, Tort Law chapter, 2000 Kansas Bar Association Annual Survey of Developments in Kansas Law 247 (June 2000)

McAllister, Kansas v. Hendricks: Three Main Challenges Remain, 1 Sex Offender L. Rep. 10 (Dec./Jan. 2000)

McAllister & Westerbeke, Tort Law chapter, 1999 Kansas Bar Association Annual Survey of Developments in Kansas Law 257 (June 1999)

McAllister & Robinson, The Potential Civil Liability of Law Enforcement Officers and Agencies, 67 Kansas Bar Association Journal 14 (Sept. 1998)

Levy & McAllister, Constitutional Law chapter, 1998 Kansas Bar Association Annual Survey of Developments in Kansas Law 75 (June 1998)

Westerbeke & McAllister, Tort Law chapter, 1998 Kansas Bar Association Annual Survey of Developments in Kansas Law 261 (June 1998)

Levy & McAllister, Defining the Roles of the National and State Governments in the American Federal System: A Symposium, 45 U. Kan. L. Rev. 971 (1997).

Gottlieb, Levy, McAllister, Peck & Yenisey, Team Kansas Goes to Turkey, 45 U. Kan. L. Rev. 671 (1997).

Levy & McAllister, Constitutional Law chapter, 1997 Kansas Bar Association Annual Survey of Developments in Kansas Law 63 (June 1997)

Westerbeke & McAllister, Tort Law chapter, 1997 Kansas Bar Association Annual Survey of Developments in Kansas Law 253 (June 1997)

Levy & McAllister, Constitutional Law chapter, 1996 Kansas Bar Association Annual Survey of Developments in Kansas Law 63 (June 1996)

Westerbeke & McAllister, Tort Law chapter, 1996 Kansas Bar Association Annual Survey of Developments in Kansas Law 253 (June 1996)

Illustrative Presentations

The Supreme Court of the United States (presentation to the Self Graduate Fellows program, Kansas Union, August 8, 2017)

Who Cares what the Federalist Papers Say about Federalism? (invited panelist at the annual meeting of the Conference of Chief Justices and the Conference of State Court Administrators) (Philadelphia, PA Aug. 6, 2017)

OneOK v. Learjet: A Review of Recent Supreme Court Decisions of Importance to Energy and Environmental Lawyers (American Bar Association national teleconference, July 9, 2015)

Due Process Rights and Incorporation (Scholar lecturer for Bill of Rights Institute Program for Kansas high school teachers) (Topeka, KS, June 9-10, 2015)

Bankruptcy Constitutional Law Issues (moderated discussion with the U.S. Bankruptcy Judges of the Western District of Missouri) (Kansas City, MO, March 6, 2015)

Federalism (Scholar lecturer for Bill of Rights Institute Program for Kansas high school teachers) (Topeka, KS, June 3-4, 2014)

Panelist, What Is Free Speech In The Age Of Social Media? (co-sponsored by KU Provost, School of Journalism, and The Commons, Spooner Hall, Lawrence, KS (March 25, 2014)

Moderator, KU Constitution Day Celebration – Campaign Finance and the First Amendment (Dole Institute of Politics, Oct. 8, 2013)

Introduction to *Roe v. Wade*: The Abortion Rights Controversy in American History (Kansas City Public Library, Kansas City, MO) (Sept. 19, 2013)

A Supreme Court Update for State Judges (Colorado State Judicial Conference) (Vail, CO, September 9, 2013)

Moderator, The Election and the Supreme Court (panel discussion at the annual meeting of the Southeast Association of Law Schools) (Palm Beach, FL, August 8, 2013)

Panelist, The Election and the Constitution (panel discussion at the annual meeting of the Southeast Association of Law Schools) (Palm Beach, FL, August 8, 2013)

The Bill of Rights and Freedom of Religion (Scholar lecturer for Bill of Rights Institute Program for Kansas high school teachers) (Wichita, KS, October 23, 2012)

Moderator, KU Constitution Day Celebration – America and Race: The Status of Affirmative Action Under the U.S. Constitution (Dole Institute of Politics, Oct. 2, 2012)

PETA v. Kansas State Fair (Washburn Law School Agricultural Law Society) (Topeka, KS, September 24, 2012)

The Bill of Rights and Freedom of Religion (Scholar lecturer for Bill of Rights Institute Program for Kansas high school teachers) (Kansas City, KS, September 20, 2012)

Stolen Valor: United States v. Alvarez and Free Speech (Brandeis School of Law, Federalist Society Chapter) (Louisville, KY, September 18, 2012)

Supreme Court Roundup (Washburn Law School Federalist Society Chapter) (Topeka, KS, September 17, 2012)

A Supreme Court Update for State Judges (Colorado State Judicial Conference) (Vail, CO, September 10, 2012)

Co-Moderator, Evaluating Justice Thomas After Twenty Years on the Supreme Court (panel discussion at the annual meeting of the Southeast Association of Law Schools) (Amelia Island, FL, July 30, 2012)

The Bill of Rights and Free Expression (Scholar lecturer for Bill of Rights Institute Program for Kansas high school teachers) (Topeka, KS, June 5-6, 2012)

Is the Federal Healthcare Law Constitutional? (invited presentation to the Federalist Society Chapter in St. Louis, MO) (April 27, 2012)

The Federal Healthcare Litigation: A Conversation with Professor McAllister (invited presentation to the Bridge Group, an association of high level executives in the legal profession) (Kansas City, MO, April 20, 2012)

The Bill of Rights and Expression (Scholar lecturer for Bill of Rights Institute Program for Kansas high school teachers) (Wichita, KS, October 25, 2011)

The Bill of Rights and Expression (Scholar lecturer for Bill of Rights Institute Program for Kansas high school teachers) (Kansas City, KS, October 20, 2011)

Moderator, KU Constitution Day Celebration: Is the Federal Healthcare Law Constitutional? (Dole Institute of Politics, Oct. 6, 2011)

Moderator, Is it Unconstitutional for States to Prohibit Same Sex Marriage? (debate jointly sponsored by American Constitution Society and the Federalist Society, KU Law School, Sept. 27, 2011)

The Lessons of Atticus Finch (Finale Program for “Read Across Lawrence” focusing on To Kill A Mockingbird, Douglas County Courthouse, April 28, 2011)

Potential Legal Challenges to the Affordable Care Act (Presentation to Kansas Health Consumer Coalition conference, Topeka, Kansas, December 9, 2010)

United States v. Comstock – Post Argument Debate (Podcast debate about the constitutionality of a federal statute authorizing the civil commitment of sexually dangerous offenders in federal custody as they near the end of their prison sentences; I argued that the law is constitutional, while Ilya Shapiro, Editor-in-Chief of the Cato Institute’s Supreme Court Review, argued that it is not) (recorded and made available by The Federalist Society, May 3, 2010).

The Race To Be Seated: Sonia Sotomayor’s Confirmation (Panelist on program sponsored by the

KU Emily Taylor Women's Resource Center and the KU Office of Multicultural Affairs,
Kansas Union, October 7, 2009)

The Supreme Court of the United States (presentation to the Self Graduate Fellows program,
Kansas Union, August 13, 2009)

Affirmative Action (Commentator, Federalist Society Noon Forum, KU Law School,
October 4, 2007)

The Roberts Court (Featured Speaker, Johnson County Bar Association Luncheon,
October 3, 2007)

Constitution Day: The Roberts Court (Panelist, Constitution Day Forum sponsored by the
American Constitution Society, KU Law School, September 19, 2007)

Constitution Day: The Roberts Court (Organizer and moderator of forum at Dole Institute
of Politics, September 18, 2007)

Constitution Day: Debating Judicial Independence (Organizer and moderator of forums,
Dole Institute of Politics and KU School of Law, September 21, 2006)

Current Constitutional Controversies and the "New" Supreme Court (Friends University,
Wichita, Kansas, September 19, 2006)

Current Constitutional Controversies and the "New" Supreme Court (Ohio University, Athens,
Ohio, September 14, 2006)

Interpreting The Constitution (Dole Institute of Politics, September 2005)

Judicial Activism (Unitarian Church of Kansas City, MO, September 2005)

Judicial Nominations, (University of Memphis School of Law, August 2005)

Judicial Nominations, (University of Arkansas–Little Rock School of Law, August 2005)

Balancing Public Safety Interests And Civil Liberties, Plenary Luncheon Speaker, Annual
Meeting of the Southwest Association of Law Librarians (Kansas City, MO, April 3, 2003)

A Review Of The Supreme Court's 2001 Term (with Akhil Amar and Walter Dellinger) Annual
Summer Meeting of the National Association of Attorneys General, Nemaquin Woods, PA, June
21, 2002

The Eleventh Amendment and Bankruptcy (Luncheon Speaker for KBA Bankruptcy Institute,
Overland Park, KS, March 1, 2002)

The Eleventh Amendment, Qualified Immunity, And Other Defenses To Section 1983 Suits
(Presentation to the State Solicitors and Appellate Chiefs Conference, Burlington, VT, June 21,
2001)

A Review Of The Supreme Court's 2000 Term (with Jeffrey Sutton) (presentation to the annual summer meeting of the National Association of Attorneys General, Burlington, VT, June 21, 2001)

The Death Penalty in America (paper presented at Anadolou University and Maltepe University, Eskisehir and Istanbul, Turkey, November 14 and 16, 2000)

The Death Penalty (paper presented at international conference addressing the new Turkish Penal Code, Istanbul, Turkey, October 24, 1999)

Disabilities Issues in the Workplace, Keynote Panel, Institute for Law and the Workplace Members Conference, Chicago-Kent College of Law, October 1, 1999

Post-Hendricks Constitutional Challenges To Sexually Violent Predator Laws (opening presentation at Involuntary Commitment of Sexually Violent Predators conference sponsored by the National Center for the Prosecution of Child Abuse, Alexandria, VA, May 3, 1999)

The Doctrine Of Unconstitutional Conditions And The States' Rights Under The Tenth Amendment: Has The Federal Government Overstepped Its Authority? (Outline/Paper and Presentation to Federalist Society Annual Convention, Washington, D.C., November 12, 1998)

Neighbors Beware: Will Sex Offender Registration and Community Notification Laws Prevent Sex Crimes?, Paper and presentation at the World Conference on Modern Criminal Investigation, Organized Crime and Human Rights (Sun City, South Africa, Sept. 21-25, 1998)

Using Criminal and Civil Liability to Deter Police Violations of Human Rights, Paper and presentation at the World Conference on Modern Criminal Investigation, Organized Crime and Human Rights (Sun City, South Africa, Sept. 21-25, 1998)

American Responses To The Problem Of Repeat Sex Offenders (Presentation at international Law Reform Conference held in Istanbul, Turkey), May 28, 1998

Megan's Laws: Are They Constitutional? Are They Wise Public Policy?, debate/forum with Professor David Gottlieb, sponsored by The Federalist Society, presented at the New York University Law School (Sept. 24, 1997)

The Constitutionality of Sex Offender Civil Commitment Laws (presentation at the Columbia University School of Law, New York, NY, January 28, 1997)

Representative CLE Presentations

Straddling the Line between Attorney Misconduct and Free Speech Rights: ABA Model Rule 8.4(g) (panelist on CLE program presented by Religion Law Section of the Kansas Bar Association (Topeka, KS August 11, 2017)

“Supreme Court Update: Recent and Pending Decisions”, U.S. District Court (w/ KU Law alum, Toby Crouse) (Kansas City, KS, July 11, 2017)

“Supreme Court Update: Recent and Pending Decisions”, Federalist Society CLE Program (w/ KU Law alum, Toby Crouse) (Topeka, KS, June 21, 2017)

- “Supreme Court Update: Recent and Pending Decisions”, Kansas Bar Association Annual Meeting (w/ KU Law alum, Toby Crouse) (Manhattan, KS, June 8, 2017)
- “Supreme Court Update: Pending Decisions”, KU Recent Developments CLE (w/ KU Law alum, Toby Crouse) (Lawrence, KS, May 19, 2017)
- “Supreme Court Update: Recent and Pending Decisions”, U.S. District Court (w/ KU Law alum, Toby Crouse) (Kansas City, KS, December 22, 2016)
- “Supreme Court Update: Recent and Pending Decisions”, Kansas Association of Defense Counsel Annual Meeting (w/ KU Law alum, Toby Crouse) (Kansas City, MO, December 2, 2016)
- “Supreme Court Update: Recent and Pending Decisions”, Southwest Kansas Bar Association Annual Meeting (w/ KU Law alum, Toby Crouse) (Lawrence, KS, September 9, 2016)
- “Supreme Court Update: Recent and Pending Decisions”, Kansas Bar Association Annual Meeting (w/ KU Law alum, Toby Crouse) (Lawrence, KS, June 17, 2016)
- “Supreme Court Update: Pending Decisions”, KU Recent Developments CLE (w/ KU Law alum, Toby Crouse) (Lawrence, KS, May 19, 2016)
- “Supreme Court Update: Pending Decisions”, KU Return to Green CLE (w/ KU Law alum, Toby Crouse) (Lawrence, KS, April 22, 2016)
- “Supreme Court Update: Pending Decisions”, US District Court for District of Kansas (w/ KU Law alum, Toby Crouse) (Kansas City, KS, November 7, 2014)
- “Supreme Court Update: Recent Decisions”, KU CLE Over Easy Program (w/ KU Law alum, Toby Crouse) (Kansas City, MO, September 25, 2014)
- “Hot Topics In Constitutional Law”, Kansas Bar Association Annual Meeting (w/Dean Erwin Chemerinsky) (Topeka, KS, Sept. 19, 2014)
- “Supreme Court Update: Recent Decisions”, US District Court for District of Kansas (w/ KU Law alum, Toby Crouse) (Kansas City, KS, September 5, 2014)
- “*Gannon v. Kansas*, School Finance, and the Separation of Powers in Kansas,” Presenter and Moderator for panel, Wichita Bar Association Program (Wichita, KS, June 13, 2014)
- “Supreme Court Update: Recent And Pending Decisions”, KU Annual Recent Developments in the Law CLE Program (w/ KU Law alum, Toby Crouse) (Lawrence, KS, May 30, 2014)
- “Qualified Immunity: From Pleading to Appeal,” CLE Program for city and county attorneys (w/KU Law alum, Toby Crouse) (Overland Park, KS, May 2, 2014)
- “Supreme Court Update: Recent And Pending Decisions”, KU Annual Return to Green Hall CLE Program (Lawrence, KS, April 25, 2014)
- “Supreme Court Update: Recent And Pending Decisions”, Kansas Bar Association annual Shamberg Civil Rights CLE Program (taped, Topeka, KS, March 31, 2014)

- “Supreme Court Update: Pending Decisions”, for federal judicial law clerks, US Attorney’s office, and Federal Public Defender’s office in the District of Kansas (w/ KU Law alum, Toby Crouse) (Kansas City, KS, Nov. 21, 2013)
- “Supreme Court Update: Pending Decisions”, Leavenworth County Bar Association (w/ KU Law alum, Toby Crouse) (Leavenworth, KS, Oct. 24, 2013)
- “Supreme Court Update”, Southwest Kansas Bar Association Annual Meeting (w/ KU Law alum, Toby Crouse) (Dodge City, KS, September 6, 2013)
- “Supreme Court Update: Recent Decisions”, for federal judicial law clerks in the District of Kansas (w/ KU Law alum, Toby Crouse) (Kansas City, KS, Aug. 22, 2013)
- “Supreme Court Update”, Kansas Bar Association Annual Meeting (w/ KU Law alum, Toby Crouse) (Wichita, KS, June 21, 2013)
- “Supreme Court Update: Recent And Pending Decisions”, KU Annual Recent Developments in the Law CLE Program (w/ KU Law alum, Toby Crouse) (Lawrence, KS, May 31, 2013)
- “Supreme Court Update: Recent And Pending Decisions”, KU Annual Return to Green Hall CLE Program (w/ KU Law alum, Toby Crouse) (Lawrence, KS, April 26, 2013)
- “Supreme Court Update: Pending Decisions”, for federal judicial law clerks, US Attorney’s office, and Federal Public Defender’s office in the District of Kansas (w/ KU Law alum, Toby Crouse) (Kansas City, KS, Dec. 5, 2012)
- “The Supreme Court’s Healthcare Decision and What It All Means”, for Lawrence area Inns of Court meeting (Lawrence, KS, Sept. 27, 2012)
- “Supreme Court Update: Recent Decisions”, for federal judicial law clerks in the District of Kansas (w/ KU Law alum, Toby Crouse) (Kansas City, KS, Sept. 19, 2012)
- “Supreme Court Update: Recent And Pending Decisions”, Colorado State Judges Conference (Vail, CO, September 10, 2012)
- “Supreme Court Update”, Kansas Bar Association Annual Meeting (w/ KU Law alum, Toby Crouse) (Overland Park, KS, June 14, 2012)
- “Supreme Court Update: Recent And Pending Decisions”, KU Annual Recent Developments in the Law CLE Program (w/ KU Law alum, Toby Crouse) (Lawrence, KS, June 1, 2012)
- “Supreme Court Update: Recent And Pending Decisions”, KU Annual Return to Green Hall CLE Program (w/ KU Law alum, Toby Crouse) (Lawrence, KS, April 20, 2012)
- “Section 1983: Analyzing Elements & Immunities at the Dispositive Motion Stage”, Kansas Bar Association John E. Shambert Civil Rights Video CLE Program (videotaped March 29, 2012; aired on May 11, 2012)
- “Supreme Court Update: Pending Decisions”, for federal judicial law clerks in the District of Kansas (w/ KU Law alum, Toby Crouse) (Kansas City, KS, Dec. 20, 2011)

- “Supreme Court Update: Recent Decisions”, for federal judicial law clerks in the District of Kansas (w/ KU Law alum, Toby Crouse) (Kansas City, KS, Nov. 17, 2011)
- “Supreme Court Update: Recent And Pending Decisions”, Colorado State Judges Conference (Colorado Springs, CO, September 13, 2011)
- “Supreme Court Update: Recent And Pending Decisions”, KU Annual Recent Developments in the Law CLE Program (w/ KU Law alum, Toby Crouse) (Lawrence, KS, May 27, 2011)
- “Three Dogfights & A Funeral: The Roberts Court and the First Amendment,” Panelist with Prof. Burt Neuborne, New York Times Supreme Court correspondent Adam Liptak, and Supreme Court lawyer Paul Smith (Bar Association of the City of New York) (New York, NY, March 24, 2011)
- “Supreme Court Update: Recent And Pending Decisions”, for federal judicial law clerks in the District of Kansas (w/ KU Law alum, Toby Crouse) (Kansas City, KS, October 21, 2010)
- “You Lied, You Peeked and You Caused Me No End of Grief: Recent Legal Developments Related to Claims for Defamation, Privacy and Emotional Distress”, Panelist for Kansas Bar Association Media Law Program (Wichita State University, October 13, 2010)
- “Review of the 2009 / 2010 Term – Supreme Court of the United States”, 2010 Kansas Judge Advocate General Legal Conference (Topeka, KS, October 3, 2010)
- “Supreme Court Update: Recent And Pending Decisions”, Kansas Bar Association Annual Meeting CLE Program (w/ KU Law alum, Toby Crouse) (Wichita, KS, June 11, 2010)
- “Supreme Court Update: Recent And Pending Decisions”, KU Annual Recent Developments in the Law CLE Program (w/ KU Law alum, Toby Crouse) (Lawrence, KS, May 28, 2010)
- “Supreme Court Update: Recent And Pending Decisions”, KU Annual Return to Green Hall CLE Program (w/ KU Law alum, Toby Crouse) (Lawrence, KS, April 16, 2010)
- “Funeral Protest Laws and the First Amendment”, Annual Summer Meeting of the National Association of Attorneys General (Colorado Springs, CO, June 18, 2009)
- “The First Amendment And Political Campaigns”, Annual Meeting of the Kansas City Attorneys Association (Lenexa, KS, June 6, 2008)
- “Recent Developments In Section 1983 Litigation”, Recent Developments in the Law (University of Kansas School of Law, June 1, 2007)
- “Defending The Enforcement Of State Laws Such As Funeral Picketing Acts: An Overview Of Section 1983 Litigation In Constitutional Cases”, Kansas Association of Defense Counsel Annual Meeting (Kansas City, MO, December 1, 2006)
- “Oral Advocacy”, Kansas City Metropolitan Bar Association David Prager Appellate Practice Institute (June 16, 2006)

- “Funeral Picketing and The First Amendment”, Recent Developments in the Law (University of Kansas School of Law, June 2, 2006)
- “The Elements of Section 1983 Actions”, Recent Developments in the Law (University of Kansas School of Law, June 2005)
- “Recent Supreme Court Decisions In The War On Terror”, Dole Institute of Politics (September 2004)
- “Appearing Before The Supreme Court Of The United States” (Judge Earl O’Connor Inns of Court, Overland Park, KS, May 21, 2002)
- “The Supreme Court, Federalism & the Bankruptcy Code” (Kansas Bar Association, 2002 Annual Bankruptcy Institute, Overland Park, KS, March 1, 2002)
- “Institutional Liability and Immunity: Setting forth the rules applicable when the state, a state agency, county or municipality is alleged to have violated federal rights” (Wichita Bar Association, Wichita, KS, January 25, 2002)
- “What Claims Are Cognizable? Defining the violations that may be vindicated under section 1983” (Wichita Bar Association, Wichita, KS, January 25, 2002)
- “Practice Before the Supreme Court of the United States”, Wichita Bar Association Appellate Practice Program (Wichita, KS, April 12, 2001)
- “State and Federal Appellate Practice: Similarities and Differences”, KBA Annual Appellate Practice Symposium (Topeka, KS, November 1, 2000)
- “The Potential Civil Liability of Law Enforcement Officers and Agencies”, Southwest Kansas Bar Association annual meeting (Dodge City, KS, September 15, 2000)
- “Appellate Advocacy”, Kansas Women Attorneys Conference (Lindsborg, KS, July 29, 2000)
- “Reconsideration, Petitions for Review, Petitions for Certiorari” (Wichita Bar Association Appellate Practice CLE Program, June 4, 1999)
- “The Potential Civil Liability Of State Prosecutors Under Federal Law” (Fall Conference of the Kansas County & District Attorneys Association, Wichita, KS, October 19, 1998)
- “Sex Offender Laws”, Recent Developments in the Law (University of Kansas School of Law, June 5, 1998)
- “Recent Developments in Tort Law”, Recent Developments in the Law (University of Kansas School of Law, June 8, 1996)

Published And Broadcast Commentary

A regular source of information and analysis regarding constitutional law, the Supreme Court of the United States, Kansas courts, and legal issues generally. Media outlets that have published quotations or broadcast programs involving Professor McAllister include: *The Chronicle of Higher Education*, *The New York Times*, *The Washington Post*, *USA Today*, *The Los Angeles*

Times, The Atlanta Constitution Journal, AP Wire Service, The National Law Journal, The Legal Times, WGN Television-Chicago, The Kansas City Star, The Wichita Eagle-Beacon, The Topeka Capital Journal, The Lawrence Journal-World, Sunflower Cable Channel 6 News, Fox 4 News-Kansas City, KMBC-Channel 5 News-Kansas City, WIBW Television and Radio-Topeka, Kansas Public Radio, National Public Radio.

Other Activities & Honors

Selected by Graduating Law Students as Student Hooder (May 2017)

Selected by Graduating Law Students as Student Hooder (May 2015)

Invited to Introduce Mr. Jeffrey Toobin for his Lecture on “The Supreme Court In The Age Of Obama,” Hall Center for the Humanities Lecture Series (Kansas Union, April 25, 2014)

Named E.S. & Tom W. Hampton Distinguished Professor of Law (Aug. 2013)

Selected by Graduating Law Students as Student Marshal (May 2013)

Appointed to the Planning Subcommittee of the Appellate Practice Committee of the American Bar Association (Jan. 1, 2013, ongoing)

Appointed Adviser to the American Law Institute’s project Restatement of the Law of American Indians (September 2012, ongoing)

Appointed Adviser to the American Law Institute’s project Principles of Election Law: Resolution of Election Disputes (February 2012, ongoing)
(<http://www.news.ku.edu/2012/february/24/mcallister.shtml>)

Selected by Graduating Law Students as Student Marshal (May 2012)

Co-conspirator, The Clarence Thomas Bobblehead (produced by The Green Bag, 2011) (with editor-in-chief Ross Davies)

Selected by Graduating Law Students as Student Marshal (May 2011)

Elected To Membership, The American Law Institute (March 16, 2010)

Selected by KU Law School as the Schroeder Teaching Chair (recognizing teaching excellence), held the Chair 2009 - 2012

Elected to KU Chapter of Phi Beta Delta, Honor Society for International Education (Nov. 2008)

Awarded The Steeples Service To Kansans Award, by the KU College of Liberal Arts & Sciences (May 2008)

Trustee, The Supreme Court Historical Society, Washington, D.C. (2002 - 2008)

Elected A Fellow of the American Bar Foundation Fellows Program (0.33% of lawyers) (2002)

Member, *Committee on Resolutions* for Justice Byron R. White Memorial Service at the Supreme Court of the United States, November 18, 2002 (committee selected by and at the invitation of Solicitor General of the United States Theodore B. Olson)

Winner, “Best Brief Award” for Petitioner’s Brief on the Merits written for Kansas in *McKune v. Lile*, No. 00-1187 (presented annually by the National Association of Attorneys General for the best Supreme Court briefs prepared by states during the past year) (Nemacolin Woods, PA, June 21, 2002)

Winner, “Best Brief Award” for Petition for a Writ of Certiorari written for Kansas in *Pierce v. Sac & Fox Nation of Missouri*, No. 00-556 (NAAG Conference, Burlington, VT, June 21, 2001)

W.T. Kemper Fellowship for Teaching Excellence (Awarded August, 1999)

State Solicitor, State of Kansas (appointed by Attorney General to serve as the first Solicitor for the State of Kansas, July 1, 1999)

Selected by KU Center for Teaching Excellence to participate in program to develop videos of good teaching for review and use by KU faculty members, Spring 1999

Recipient, Frederick J. Moreau Student Counseling Award, April 29, 1997 (selected by student bar association in recognition of counseling and advising of law students)

Representative Service Activities

Member, Special Committee on Judicial Nominee Questionnaire (at the request of Kansas Senator Jeff King I served with former Judge Deanell Tacha and Washburn law professor Reginald Robinson to compile a questionnaire for the Kansas Senate to use in considering the confirmation of judicial nominees to the Kansas Court of Appeals) (August 2013)

Chair, KU Judicial Board (July 1, 2012 – August, 2013)

Chair, Judicial Board Appeal Panel (Academic Misconduct Dispute involving a KU Ph.D. student and his faculty supervisor) (April 15, 2011)

Faculty Coordinator and Host for 2010 Kansas Law Review Symposium “The Rise Of State Constitutional Law”, Lawrence, KS (Nov. 12, 2010)

AALS Summarians and ABA Team Member, Site Evaluation Team for the Indiana University Maurer School of Law, Bloomington, IN (Oct. 24 – 27, 2010)

Testimony before a subcommittee of the Kansas Senate Judiciary Committee on whether a state constitutional amendment prohibiting the imposition of any requirement that citizens purchase mandatory health insurance is constitutional, Topeka, KS (March 11, 2010)

AALS Summarians and ABA Team Member, Site Evaluation Team for the Marshall-Wythe School of Law at the College of William & Mary, Williamsburg, VA (Oct. 18 – 21, 2009)

Mock Arbitrator, National Association of Attorneys General Mock Arbitration (involving litigation of claims between the States and the tobacco industry under the Master Settlement Agreement, Washington, D.C., Oct. 8, 2009, and December 17-18, 2009)

Member, NCAA Certification Process Steering Committee (2008 – 2010)

Chair, American Bar Association Site Evaluation Team for The George Washington University School of Law, Washington, D.C. (October 26 - 29, 2008)

Leader, University Scholars Program (Spring 2008) (first law professor invited to teach this course for the 20 outstanding KU sophomores selected for this program)

Member, Academic Performance Rate Improvement Plan Committee, University of Kansas Dept. of Intercollegiate Athletics (Oct. 2006 - 2007)

Chair, American Bar Association Site Evaluation Team for University of Arkansas–Fayetteville (November 7 - 10, 2006)

Chair, American Bar Association Site Evaluation Team for University of Arizona (Oct. 2004)

KU Honors Program Speaker (1998 - Present)

Independent counsel for the City of Lawrence, investigating allegations of misconduct within the Police Department (March 26 - May, 2003)

Chair, KU United Way Campaign Committee (2001 - 2003)

Vice-Chair, KU United Way Campaign Committee (2000-01)

Member, American Bar Association Site Evaluation Team for Stetson University College of Law (St. Petersburg, FL, Oct. 21-25, 2000)

State Solicitor, State of Kansas (July 1, 1999 - January, 2003)

Member, University Scholars Steering Committee (February 1997 - 2003)

Honors 492: “Law and Society” (2000, 2001, 2002) (overload courses)

Honors Tutorial: “The Supreme Court of the United States” (Fall 1996, 1997, 1998, 1999) (overload courses)

Honors 492: “American Constitutional Law” (Spring 1998) (overload course)

Instructor, Lawrence Policy Academy, on topics of constitutional restrictions on police and potential civil liability of officers (1995 - 2003)

Member and Graduate, Leadership Lawrence Class of 1996-97

Representative Supreme Court And Appellate Litigation

1. Argued the cause for the petitioners in *O’Gilvie v. United States*, 519 U.S. 79 (1996)
2. Drafted the petition for a writ of certiorari, drafted all merits briefs, and second-chaired the oral argument for Kansas in *Kansas v. Hendricks*, 521 U.S. 346 (1997).
3. Drafted the merits briefs and argued the cause for the petitioner in *Murphy v. United Parcel Service, Inc.*, 527 U.S. 516 (1999).
4. Drafted the petition for a writ of certiorari and the merits briefs in *United States v. Sun-Diamond Growers of California*, 526 U.S. 398 (1999), for petitioner United States / Independent Counsel Don Smaltz.
5. Drafted the petition for a writ of certiorari, drafted all merits briefs, and second-chaired the oral argument for Kansas in *Kansas v. Crane*, 534 U.S. 407 (2001).
6. Drafted the petition for a writ of certiorari, drafted all merits briefs, and argued the cause for Kansas in *McKune v. Lile*, 536 U.S. 24 (2001).
7. Drafted numerous other cert. petitions and amicus briefs filed in the Supreme Court.
8. Successfully argued for the State of Kansas in school finance litigation (*State v. Montoy*) in the Kansas Supreme Court (June 2006).
9. Have argued before the Tenth Circuit multiple times, including en banc, before the Second Circuit, and before the Eighth Circuit. Oral argument scheduled in the Seventh Circuit (June 2011).
10. Argued for the State of Kansas in *State v. Scott* in the Kansas Supreme Court, regarding the constitutionality of the Kansas capital punishment statute (Sept. 4, 2007)
11. Argued for the State of Kansas in *In re L.M.* in the Kansas Supreme Court, regarding whether there is a constitutional right to a jury trial in juvenile cases (Oct. 25, 2007)
12. Representing the State of Kansas in litigation in the Kansas Supreme Court over funeral picketing legislation (Summer – Fall 2007) (*State of Kansas ex rel. Morrison v. Sebelius*).
13. Representing the State of Kansas in the Supreme Court of the United States in *Kansas v. Ventris*, No. 07-1356 (primary brief writer and presented oral argument for Kansas on Jan. 21, 2009). Kansas prevailed, by a 7 – 2 vote, on April 29, 2009.
14. Argued the appeal in *Rigas v. United States* (2d Cir.) (May 2009)
15. Drafted amicus brief for Kansas joined by 47 States in *Snyder v. Phelps* in the Supreme Court of the United States (May – June 2010).
16. Representing the state defendants in *Dool v. Burke* (challenge to the constitutionality of the Kansas Judicial Nominating Commission) (U.S. District Court for the District of Kansas, Sept. – Nov. 2010) (U.S. Court of Appeals for the Tenth Circuit, Dec. 2010 - ___, 2012) (oral argument on Sept. 13, 2011).

17. Drafted amicus brief for Kansas and other states in *Astra USA, Inc., et al. v. Santa Clara County*, No. 09 – 1273, in the Supreme Court of the United States (filed Dec. 20, 2010)
18. Appointed by the Supreme Court of the United States as Amicus Curiae to Defend the Judgment Below, in *Bond v. United States*, No. 09-1227 (Nov. 10, 2010) (brief filed Jan. 10, 2011; oral argument, Feb. 22, 2011).
19. Argued the appeal in *Nauman v. Abbott Laboratories and Hospira, Inc.*, No. 10-2272, and (7th Cir.) (June 6, 2011).
20. Co-Counsel on Petition for a Writ of Certiorari in *Morrison Enterprises, LLC v. Dravo Corp.*, No. 11-30, cert. denied.
21. Representing the state defendants in *Hodes & Nauser, et al. v. Moser, et al.*, (D. Kan.) (June 2011-Present), and Shawnee County, Kansas (Nov. 2011-Present)
22. Represented Kansas Insurance Commissioner Sandy Praeger in *ACLU v. Praeger*, (D. Kan.) (Aug. 2011 – Jan. 2013)
23. Represented Kansas in *King v. Kansas Judicial Watch*, No. 11-829 (Supreme Court of the United States) (2012).
24. Representing the state defendants in *Hodes & Nauser, et al. v. Moser, et al.*, II (Shawnee County, Kansas) (June 2013-Present)
25. Representing the state defendants in *Planned Parenthood v. Templeton, et al.* (D. Kan.) (June 2013-Present)
26. Representing the state in *Kansas v. Cheever*, No. 12-609, Supreme Court of the United States (cert. granted Feb. 25, 2013, merits briefing over the summer, AG to present oral argument on October 16, 2013)
27. Representing Deputy U.S. Marshals in *Wright v. United States* appeal (8th Cir.) (briefing over the spring and summer, oral argument scheduled _____)
28. Representing the state in *Kansas v. Swindler*, No. 13-52 (cert. petition pending, U.S. Supreme Court) (summer / fall 2013)
29. Representing the State in *Gannon v. Kansas*, Kansas Supreme Court (briefing over the spring and summer, oral argument October 8, 2013)

Admitted to Practice

State Courts:

Illinois, 1989 (Inactive status)
District of Columbia, 1991 (Inactive status)
Kansas, 1993

Federal Courts:

Supreme Court of the United States, 1992
U.S. Court of Appeals for the District of Columbia Circuit, 1992
U.S. Court of Appeals for the Second Circuit, 2009
U.S. Court of Appeals for the Fourth Circuit, 1992
U.S. Court of Appeals for the Fifth Circuit, 1992
U.S. Court of Appeals for the Seventh Circuit, 1989
U.S. Court of Appeals for the Eighth Circuit, 1996
U.S. Court of Appeals for the Ninth Circuit, 1992
U.S. Court of Appeals for the Tenth Circuit, 1992
U.S. District Court for the District of Columbia, 1992
U.S. District Court for the District of Kansas, 1993

Legal Education

University of Kansas, Lawrence, Kansas

J.D., May 1988	GPA: 3.87 (4.00 Scale)
Class Rank: 1/174	Order of the Coif

Representative Law School Awards & Activities:

Samuel Mellinger Scholarship, Leadership and Service Award (top overall law student)

C.C. Stewart Award (top GPA in graduating class)

Kansas Law Review: Articles Editor, 1987 - 1988; Staff, 1986 - 1987

Shamberg, Johnson, Bergman & Goldman Award (best Comment in Vol. 35, Kan. L. Rev.)

Kansas Criminal Procedure Review: Editor-in-Chief, 1987 - 1988

Book Awards: Civil Procedure I, Civil Procedure II, Constitutional Litigation, Creditors' & Debtors' Rights, Evidence, Federal Public Land and Natural Resources Law, Sports Law, Torts I