

CURRICULUM VITAE

MICHAEL J. FARRELL

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PROFESSIONAL

FARRELL, FARRELL & FARRELL, L.C.

President/Member
Huntington, West Virginia
(1995 - Present)

JENKINS, FENSTERMAKER, KRIEGER, KAYES, FARRELL & AGEE

Partner, Chief of Litigation Section
Huntington, West Virginia
(1994 - 95)

JENKINS, FENSTERMAKER, KRIEGER, KAYES & FARRELL

Partner, Chief of Litigation Section
Huntington, West Virginia
(1979 - 94)

JENKINS & FENSTERMAKER

Associate
Huntington, West Virginia
(1977 - 79)

PREISER & WILSON

Associate
Charleston, West Virginia
(1974 - 77)

EDUCATION

WEST VIRGINIA UNIVERSITY COLLEGE OF LAW
Morgantown, West Virginia
Doctor of Jurisprudence, 1974

MARSHALL UNIVERSITY
Huntington, West Virginia
Bachelor of Science, 1969

**PROFESSIONAL
ORGANIZATIONS
AND SOCIETIES**

American Academy of Health Care Attorneys

American Bar Association

American Board of Trial Lawyers

- ▶ President, West Virginia Chapter, 1995 - 99
- ▶ President Elect, West Virginia Chapter, 1994-95
- ▶ Vice President, West Virginia Chapter, 1993-94

American Hospital Association

American Judicature Society

American Society of Law & Medicine

Association of Defense Trial Attorneys

Cabell County Bar Association, 1977 - Present

Defense Research Institute, 1997 - Present

Defense Trial Counsel of West Virginia:

- ▶ President, 1988-89
- ▶ Vice President, 1987-88
- ▶ Treasurer, 1986-87
- ▶ Secretary, 1985-86
- ▶ Board of Governors, 1983-90
- ▶ Executive Committee, 1983-89
- Editor-In-Chief and Founder, Defense Trial Counsel Handbook (1984-1987)
- ▶ Continuing Legal Education Program Director, 1983-86

International Association of Defense Counsel, 1987 - Present

- Advocacy, Practice and Procedure Committee, 1987 - Present
- Business Litigation Committee 1994 - Present
- Drug Device and Biotech Committee, 1995 - Present
- ▶ Editorial Board, *Defense Counsel Journal*, 1998 - Present
- Employment Law Committee, 1990 - Present
- ▶ Medical Defense Committee, 1987 - Present
- Product Liability Committee, 1987 - Present
- Toxic and Hazardous Substances Committee, 1995 - Present
- State Membership Committee, Membership Chair, 2000 - Present

National Association of Criminal Defense Lawyers, 1974-79

West Virginia State Bar:

- ▶ West Virginia Law Institute, 1988 - Present
- ▶ Board of Governors, 1980-81
- ▶ Founding Chairman, Committee on Law & Medicine, 1982-85
- ▶ Co-Chairman, Committee on Pattern Jury Instructions, 1985-88
- ▶ Committee on Specialization, 1980-81
- ▶ Committee on Civil Rules, 1976-81
- ▶ Committee on Public Understanding of the Law, 1976-80

West Virginia State Bar, Young Lawyers Section:

- ▶ Chairman, 1980-81
- ▶ Vice Chairman, 1979-80
- ▶ Secretary-Treasurer, 1978-79

West Virginia Bar Association:

- ▶ Committee on Judicial Administration and Legal Reform
- ▶ Joint Committee on Screening Medical Malpractice Cases, 1982-85

**FEDERAL COURT
PRACTICE**

United States Supreme Court
United States Court of Appeals for the District of Columbia
United States Court of Appeals for the Fourth Circuit
United States Court of Appeals for the Sixth Circuit
United States District Court for the Northern District of West Virginia
United States District Court for the Southern District of West Virginia
United States District Court for the Eastern District of Kentucky
United States District Court for the Western District of Kentucky

**STATE COURT
PRACTICE**

Licensed in West Virginia and Kentucky
Admitted to practice in the West Virginia Supreme Court of Appeals
Admitted to practice in all courts in the Commonwealth of Kentucky

**STATE OF
WEST VIRGINIA
HIGHER EDUCATION
APPOINTMENTS**

Marshall University Board of Governors (Member, 2003-Present)
Marshall University Board of Governors (Vice-Chairman, 2001-2002)
Higher Education Interim Governing Board (Vice-Chairman, 2000-2001)
Marshall University Board of Advisors (Vice-Chairman, 2000-2001)
University System Board of Trustees (1999-2000)
West Virginia College of Law Visiting Committee (Chairman, 1993-94)
(Member, 1990 - 93)

**ATTORNEY
GENERAL
APPOINTMENTS**

Special Assistant Attorney General, State of West Virginia
[Constitutionality of West Virginia Public Education Financing]
(1998 - Present)
Special Assistant Attorney General, State of West Virginia
[Marshall University Stadium Litigation] (1992 - 1995)

**STATE OF
WEST VIRGINIA
HEALTH CARE
APPOINTMENTS**

West Virginia Health Care Planning Commission Task Force on Quality
of Care and Practice Liability (1992)

**WEST VIRGINIA
SUPREME COURT
OF APPEAL
APPOINTMENTS**

Judicial Ethics Hearing Board [Lawyer Member] (1981-85)
Co-Chairman, Product Liability Pattern Jury Instruction Committee
(2000-01)

**MARSHALL
UNIVERSITY
JOAN C. EDWARDS
SCHOOL OF MEDICINE
ACADEMIC
APPOINTMENTS**

Clinical Associate Professor, Department of Surgery, (2004-05)
Clinical Associate Professor, Department of Family Medicine, (2004-05)

**ARBITRATION
APPOINTMENTS**

Arbitrator, National Association of Securities Dealers (1991-95)

**FEDERAL JUDICIARY
APPOINTMENT**

Civil Justice Expense and Delay Reduction Advisory Group for the United
States District Court, Southern District of West Virginia (1991)

**AWARDS &
RECOGNITIONS**

The Best Lawyers in America (1997-Present):

- Personal Injury Defense Category
- Business Litigation Category

Teaching Award, American Academy of Family Physicians (1996)
Teaching Award, Marshall University School of Medicine Department
of Family and Community Health (1993)
Distinguished Service Award, Mountain State Bar Association (1987)
Distinguished Faculty Award, Defense Trial Counsel of West Virginia
(1986)
Outstanding Member Award, Defense Trial Counsel of West Virginia
(1985)
Distinguished Service Award, YMCA of Huntington (1985)
Mountaineer Teaching Award, West Virginia College of Law (1983)
Distinguished Young Men of America (1979, 1980 & 1981)
Outstanding West Virginian Award (1976)

BOOK CHAPTERS
PUBLISHED

- "Joint Defense Agreements" Book Chapter in *Advocacy in the 21st Century* published by International Association of Defense Counsel (Fall, 2001)
- "Civil Litigation" Chapter, West Virginia Practice Handbook (Michie Company, 1988)

LAW REVIEW
ARTICLES AND
NATIONALLY
PUBLISHED
MONOGRAPHS

- "Resurrecting, The Dormant Defenses: Assumption of Risk, Patient Negligence, Avoidable Consequences and Winning The Medical Malpractice Case," 1997 Defense Research Institute Medical Malpractice Monograph 8 (Chicago, 1997)
- "Medication Malpractice Claims, Culprits and Defenses," (16, Am.J. of Trial Advocacy 65 (1992) Updated and expanded version reprinted in 42 Defense Law Journal 315 (1993)
- "Communication in the Courtroom, Jury Instructions," 85 W. Va. L. Rev. 5 (1982)
- "The Law of Medical Malpractice in West Virginia," 82, W.Va. L. Rev. 251 (1979)

INTERNATIONALLY
PUBLISHED
NEWSLETTER
ARTICLES

- "Learned Intermediary Doctrine Survives for Another Year," I.A.D.C. Drug, Device and Biotech Committee Newsletter (January, 1998)
- "Psychiatric Malpractice: Defense Considerations When the Patient Commits Suicide," I.A.D.C. Medical Negligence Newsletter (July, 1997)
- "The Product Modification and Alteration Defense: Considerations and Strategies," I.A.D.C. Product Liability Newsletter (April, 1997)

PERIODIC
LITERATURE
PROFESSIONAL
ARTICLES

- "Medication Malpractice," 10 Professional Liability Newsletter, Houston, Texas (December, 1988)
- "Automobile Litigation, Comparative Negligence, Multiple Tortfeasors, Contribution and Third Party Claims," 1 (4) The West Virginia Lawyer 20 (October, 1988)
- "We The Jury," a short story, The West Virginia Lawyer 36 (November, 1987)

- "Informed Consent and the Emergency," 5 Professional Liability Newsletter 1 (Houston, Texas)(1983)
- "Proof of Damages," 6 W. Va. State Bar Journal 52 (1980)
- "Utilizing Discovery," YLS Newsletter, (February, 1980)
- "Comparative Negligence," YLS Newsletter, (November, 1979)
- "Mandolidis - First Impression and Second Thoughts," The Advocate, (April, 1979)
- "Ethics Committee Changes - Enough or Too Much?," West Virginia State Bar Journal (1978)

**PROFESSIONAL
LEGAL SEMINAR
EDUCATIONAL
PUBLICATIONS**

- "Rule 404(b): What is Admissible," West Virginia State Bar/College of Law Continuing Legal Education Seminar Book, Morgantown, West Virginia (September 18, 2004)
- "Motion Practice In The United States District Courts Situate In West Virginia," West Virginia State Bar/College of Law Continuing Legal Education Seminar Book, Morgantown, West Virginia (October 10, 2003)
- "Analysis And Perspectives Regarding The 2003 Significant Statutory Changes To The Medical Professional Liability Act, W. Va. Code § 55-7B-1 *et seq.*," West Virginia Spring Judicial Conference, Snowshoe, West Virginia (May 9, 2003)
- "A Candid Commentary and Examination of the Amended Medical Professional Liability Act and Selected Medical Malpractice Topics," West Virginia Spring Judicial Conference, Charleston, WV (May 9, 2002)
- "A Trial Lawyer's Commentary on Justice Cleckley's Legacy - Standard of Review," Defense Trial Counsel of West Virginia Annual Handbook (June, 1997)
- "Expert Witness Strategic Considerations: Qualification and Exclusion in West Virginia," Defense Trial Counsel of West Virginia Annual Handbook (June, 1996)
- "The Law of Expert Witness Qualification and Exclusion in West Virginia," West Virginia State Bar Litigation Seminar Handbook 155 (February, 1996)
- "Managing the Evidence and Making the Appellate Record: Strategic Considerations for Motions in Limine, Objections, Motions to Strike, and Post Trial Motions," 1995 West Virginia State Bar CLE Trial Seminar Handbook 85 (February, 1995)
- "Winning Through Discovery," Mountain State Bar, Annual Meeting CLE Handbook (May, 1994)
- "Spoliation of Evidence in Product Liability Cases," 1994 Defense Trial Counsel of West Virginia Handbook and Cabell County Bar Association, Myrtle Beach Seminar Handbook (March, 1994)

- “West Virginia Refines Wrongful Discharge Cause of Action in 1992,”
Cabell County Bar Association Myrtle Beach Seminar (March, 1993)
- “Checklists and Buzz Words For Human Resource Managers in West
Virginia's Litigious Healthcare Environment - Avoiding The
Wrongful Discharge,” West Virginia Hospital Human Resources
Association Seminar Handbook (April, 1992)
- “Management's Rights in West Virginia's Litigious Environment,” West
Virginia Hospital Association Seminar Handbook (October, 1991)
- “Communications In A Litigious Society,” Marshall University Medical
School Seminar Handbook (September, 1991)
- "How To Avoid Malpractice Litigation," Temple University Timberline
Medical-Legal Conference Handbook (January, 1989)
- "Minimizing The Personal Injury Damage Claim," Mountain State Bar
Seminar Handbook (December, 1988)
- "Ethical and Malpractice Pitfalls For The Litigator," Cabell County Bar
Association Myrtle Beach Seminar Handbook (November, 1988)
- "Civil Motion Practice From A Defense Perspective," College of Law
C.L.E. Book (September, 1988)
- "Theories of Defense and Multiple Party Considerations," College of Law
C.L.E. Handbook (October, 1987)
- "The Medical Professional Liability Act of 1986: New Procedural and
Evidentiary Requirements for Proof and Defense of Medical
Malpractice Claims in West Virginia," 3 Defense Trial Counsel
Handbook 544 (1987)
- "Mandolidis - Where Have All The Claims Gone," 3 Defense Trial
Counsel Handbook 529 (1987)

**PROFESSIONAL MEDICAL-
LEGAL EDUCATIONAL
SEMINAR
PRESENTATIONS**

- “Legal Obligations (and Perils) Related to the Practice of Medicine”
Marshall University Joan C. Edwards School of Medicine
(July, 2004)
- “Medical Malpractice 101: A Trial Simulation” — Mock Trial —
Marshall University Joan C. Edwards School of Medicine
(April, 2004)
- “Litigating the Medical and Hospital Malpractice & Product
Liability Case” — Mock Trial — Marshall University School
of Medicine (March, 2001)
- “Primer on Contracts and Commercial Transactions,” Marshall
University School of Medicine Senior Seminar (August, 2000)
- “Professionalism, Harassment & Abuse: The Interface of Common
Sense, Law and Ethics,” Marshall University School of Medicine
Senior Seminar (July, 2000)
- “Diagnostic Malpractice,” Marshall University School of Medicine
Internal Medicine Annual Medico-Legal Seminar
(September, 1999)

"Risk Management and Employment Law Update," St. Mary's Hospital
 Medical and Dental Staff (July, 1999)
 "Medical Malpractice Mock Trial," Marshall University School of
 Medicine, Family Practice Residency (March, 1997)
 "How to Avoid Family Medicine Malpractice," Marshall University
 School of Medicine (June, 1996)
 "Sexual Harassment Mock Trial," Boyd County, Kentucky Dental Society
 (February, 1996)
 "Primary Care Malpractice: Lay and Nursing Staff Issues," Marshall
 University School of Medicine (September, 1995)
 "Emergency Medicine/Product Liability Mock Trial," Marshall University
 School of Medicine (March, 1995)
 "Sexual Harassment In The Dental Office," Cabell County Dental Society
 (February, 1995)
 "Obstetrical Risk Management Hazards," Raleigh County Medical Society
 (November, 1994)
 "Perinatal Risk Management," Raleigh County Medical Society
 (September, 1994)
 "Malpractice Primer For Family Practice Physicians," Marshall
 University Medical School (February, 1994)
 "Physician-Patient Communications," Marshall University School of
 Medicine (September, 1992)
 "Legal Aspects of Documentation," Putnam General Hospital Medical and
 Nursing Staffs (April, 1992)
 "Medical Malpractice Mock Trial," Marshall University School of
 Medicine Family Practice Residency Program (February, 1992)
 "A Medical Malpractice Primer," Marshall University School of Medicine
 (September, 1991)
 "A Docudrama Trial of a Medical Malpractice Case," Marshall
 University School of Medicine (July, 1991)
 "The Law of Informed Consent," Surgical Section of St. Mary's Hospital
 (March, 1990)
 "Risk Management for Physicians," Temple University Timberline Winter
 Medical Legal Conference (January, 1989)
 "Medical Malpractice Law for the Physician," Temple University Summer
 Timberline Medical Legal Conference (June, 1988)
 "Informed Consent - Alternatives and Options," Medical Staff, St. Mary's
 Hospital (April, 1984)
 "Law of Sports Medicine," Marshall University Medical School Second
 Annual Sports Medicine Conference (December, 1983)
 "Legal Aspects of Infection Control," Marshall University Medical School
 Infectious Disease Conference (November, 1983)
 "Anesthesia Malpractice," West Virginia Anesthetist Association
 (November, 1983)
 "Incident Reports and Medical Records," St. Mary's Hospital Nursing
 Staff (September, 1982)
 "Surgical Malpractice - How to Avoid It," Marshall University Medical
 School (October, 1981)

- "Medical Malpractice, A West Virginia Perspective," Mason County Medical Society (August, 1981)
- "Anesthesia Malpractice, The Catastrophic Claim," Cabell County Anesthetist's Association (October, 1980)
- "Medical Malpractice - A Primer For the Doctor," Norval Carter Medical Society (December, 1980)
- "Medical Records - The Key To A Medical Malpractice Case," Cabell County Nurse Anesthetists In Service Curriculum (October, 1980)

**PROFESSIONAL
LEGAL EDUCATIONAL
SEMINAR
PRESENTATIONS**

- "The Rule 404(b) War at the Supreme Court of Appeals," West Virginia State Bar Continuing Legal Education Seminar, Morgantown, West Virginia (September 18, 2004)
- "Federal Court Motion Practice For First Timers (And Grizzled Veterans)," West Virginia State Bar Continuing Legal Education Seminar, Morgantown, West Virginia (October 10, 2003)
- "Analysis And Perspectives Regarding The 2003 Significant Statutory Changes To The Medical Professional Liability Act, W. Va. Code § 55-7B-1 *et seq.*" West Virginia Spring Judicial Conference, Snowshoe, West Virginia (May 9, 2003)
- Proposed Medical Professional Liability Statutory Changes – A Panel Discussion. Kanawha County Bar Association Seminar (February 13, 2003)
- "A Candid Commentary and Examination of the Amended Medical Professional Liability Act and Selected Medical Malpractice Topics," West Virginia Spring Judicial Conference, Charleston, WV (May 9, 2002)
- "Employment Law Update," St. Mary's Hospital Senior Management and Staff (April 1999)
- "Defining and Defending The Peer Review Privilege," Lorman Business Seminar (September, 1997)
- "Defense of Medical and Hospital Malpractice Litigation," West Virginia University College of Law (November, 1996)
- "Expert Witnesses: *Daubert* and Its Progeny," West Virginia State Bar Litigation Seminar (February, 1996)
- "Masters In Trial, Obstetrical Malpractice Mock Trial," American Board of Trial Advocates Seminar at West Virginia University School of Medicine (March, 1995)
- "Making The Appellate Record - Considerations For The Trial Lawyer," West Virginia State Bar Trial Seminar, Canaan Valley (February, 1995)
- "Strategic Considerations For Handling Serious Bodily Injury Cases," Nationwide Insurance Company, ACE Group Presentation (August, 1994)
- "Winning Through Discovery," Mountain State Bar Association, Annual Meeting (May, 1994)

"Spoliation of Evidence in Product Liability Cases," Cabell County Bar Association Myrtle Beach Seminar (March, 1994)

"Masters In Trial, Automobile Crash Mock Trial," American Board of Trial Advocates Seminar (June, 1993)

"Wrongful Discharge Weakened: Management Regains Its Right to Terminate Employment," Cabell County Bar Association Myrtle Beach Seminar (March, 1993)

"Confidentiality of Medical Records: Third Party Access," Lorman Business Center, Inc. Seminar (April, 1992)

"A Primer on West Virginia's Wrongful Discharge Law," Cabell County Myrtle Beach Seminar (March, 1992)

"Mistakes That Defense Lawyers Make," Defense Trial Counsel of West Virginia (June, 1991)

"Comparative Negligence," West Virginia Judicial Association Annual Meeting(May, 1991)

"Medical Malpractice Workshop," West Virginia University College of Law (February, 1991)

"Minimizing Damages Through An Effective Opening Statement," Cabell County Bar Association Seminar (November, 1989)

"Opening Statements," Marilyn E. Lugar Trial Advocacy Seminar, West Virginia College of Law (September, 1989)

"Competence, Communication & Case Management," (Speaker and Seminar Chairman) West Virginia State Bar - WVU College of Law Legal Ethics Seminars, Charleston (January, 1989) and Morgantown (February, 1989)

"Tips For Minimizing Damages," Mountain State Bar Association Bluefield Seminar (December, 1988)

"Lawyer As Target: Ethical and Malpractice Traps for the Civil Litigator," "Legal Ethics Seminar," Cabell County Bar Association Seminar (November, 1988)

"Advanced Concepts in Civil Motion Practice," West Virginia State Bar, College of Law (September, 1988)

"Advanced Course for Medical Malpractice Litigation," West Virginia State Bar - WVU College of Law (September, 1987)

"Opening Statements," Defense Trial Counsel of West Virginia Annual Convention (June, 1987)

"Medical Malpractice Workshop," Defense Trial Counsel of West Virginia Annual Convention (June, 1987)

"Bad Faith Litigation," West Virginia State Bar Annual Convention, (May, 1987)

"Comparative Negligence, Multiple Tortfeasors, Contribution, Indemnity and Third Party Practice in Automobile Litigation," West Virginia State Bar - WVU College of Law Seminar (September, 1986)

"Medical Professional Liability Act of 1986," West Virginia State Bar - WVU College of Law Seminar (December, 1986)

"Medical Malpractice Workshop," Defense Trial Counsel of West Virginia Annual Convention (June, 1985)

"Mandolidis - Old Claims and New Statute," Mountain State Bar Association Annual Meeting (June, 1985)