

S. Elizabeth Malloy

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Cincinnati, OH 45227
(513) 533-3733

Experience

- 1996 - present **University of Cincinnati College of Law**, Cincinnati, OH
Andrew Katsanis Professor of Law 2008-present; *Professor of Law* 2001-2008;
Associate Professor 1999 – 2001; *Assistant Professor* 1996-1999
Teaching and scholarship interests include Torts, Health Law, Health Care Enterprise,
Advanced Health Care Law and Mediation courses, and Disability Law.
- Goldman Award for Teaching Excellence, 2000
Harold C. Schott Publication Award for Scholarship, 2001-2004
CET&L Institute Selected Participant 2002, 2007, 2011
Early Summer Instructional Technology Institute Selected Participant 2002, 2007, 2011
Partnering for Excellence in Health Research, 2014
- 2003-2008 *Faculty Director*, Glenn M. Weaver Institute of Law and Psychiatry, University of Cincinnati
College of Law, Cincinnati, OH
- Fall 2003 **Marshall Wythe School of Law, College of William and Mary**, Williamsburg, VA
Visiting Professor of Law, Torts and Disability Law
- 1998-2007 **University of Cincinnati College of Medicine**, Cincinnati, OH
Facilitator
Helped develop and teach Clinical Research ethics course for first-year medical students
- 2000-present **University of Cincinnati**, Cincinnati, OH
Affiliated Faculty Member – Women's Studies Program
Serve as faculty advisor to Joint J.D./Women's Studies candidates
- 1992 -1996 **Covington & Burling**, Washington, D.C.
Associate
Litigation practice concentrating on health care, administrative law and labor and
employment matters. Specialty in Medicare Secondary Payer and OSHA compliance issues.
Broad range of litigation experience and skills including case strategy and management,
drafting motions, trial and appellate briefs, and preparing and taking depositions.
- 1991-92 **The Honorable Judge Eugene A. Wright**
Ninth Circuit Court of Appeals
Judicial Clerk
Assisted with legal research and writing on various issues in the areas of constitutional law,
commercial law, federal employment law, and civil procedure.
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Education

- Duke University School of Law**
Juris Doctor (High Honors), May 1991
- Order of the Coif; Class Rank - 9/187
 - Note Editor, *Duke Law Journal*
 - Best Brief Award (Jt. author), Dean's Cup Moot Court Competition
 - James S. Bidlake Memorial Writing Award

The College of William and Mary

Bachelor of Arts, Government, (High Honors), May 1988

- Phi Beta Kappa
 - Mortar Board Society of Service
 - Pi Sigma Alpha
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Publications

Patient Protection Affordable Care Act (PPACA) – Changes to Health Care Delivery in HEALTH CARE RULEMAKING GUIDE: ADMINISTRATIVE RULES IMPLEMENTING THE NEW HEALTH CARE LAWS (West 2013).

Legislation, Judicial Intervention, Societal Understanding: What Best to Protect Transsexual People from Discrimination, forthcoming in 17 Women's Rts. L. Rptr. 283 (Spring 2012).

Physician Restrictive Covenants: Neglecting the Interest of Incumbent Patients
41 Wake Forest L. Rev. 189 (2006).

Something Borrowed, Something Blue: Why Are Disability Law Claims Any Different?
33 Conn. L. Rev. (2001).

Recalibrating the Cost of Harm Advocacy Speech: Getting Beyond Brandenburg,
42 William & Mary L. Rev. 1165 (2000) (joint author).

Beyond Misguided Paternalism: Resuscitating the Right to Refuse Medical Treatment,
33 Wake Forest L. Rev. 1035 (1998).

Revisiting the Public/Private Distinction: Employee Monitoring in the Workplace, 32 Ga. L. Rev. 825 (1998).

Views From the Front: A Dialogue About the Modern Corporate Law Firm,
(joint author) 1996 Utah L. Rev. 1293.

Teaching the New Three R's -- Repression, Rights and Respect: A Primer of Student Speech Activities, 37 B.C. L. Rev. 119 (1995).

Developments Under the Freedom of Information Act - 1989, 1990 Duke L.J. 1113.

Sorting Through Gonzales v. Raich and Gonzales v. Oregon: Why the Supreme Court Will Grant An Individual's Right to Die , But Not a Right to Life-Saving Treatment (under consideration with the Ala. L. Rev. Spring 2014).

Ignoring Reality and Subscribing to Fiction: Confession Law's Marginalization of Mental Disabilities (co-author with Amy Grover) (in circulation with law review's Spring 2014).

Federalism and the ADA: Conflicting Views of Congressional Power
(work in progress, in circulation with colleagues Spring 2014).

Evolutionary Psychology: Is New Science Promoting Old Prejudices? ”
(work in progress, in circulation with colleagues, Spring 2014).

Overvaluing Anonymous Speech: Problems in State Court Defamation Actions Involving the Internet (work in progress, Spring 2014).

Cyberspace and the Blind: A New Form of Public Space and Public Accommodation,
(work in progress, Spring 2014).

Symposium Publications

Anonymous Bloggers and Defamation: Balancing Interests on the Internet, 84 Wash U. L. Rev. 1187 (2007) (solicited for Berkman Center for Internet and Society, Harvard Law School, Law Blogging Symposium). Article was featured on Larry Solum’s Legal Theory Blog, Althouse, Ann Althouse (Wisconsin); ProfessorBainbridge.com (Stephen Bainbridge (UCLA); the The Volokh Conspiracy (Eugene Volokh (UCLA)).

Mental Health Courts and Title II of the ADA: Accessibility to State Court Systems for Individuals with Mental Disabilities and the Need for Diversion, 25 St. Louis Univ. Pub. L. Rev. 307 (Fall 2006) (joint author) (solicited for Mental Health Law symposium).

Overcoming the Obstacles of Garrett: The Rationale for Different Eleventh Amendment Treatment for Title II of the ADA, 39 Wake Forest L. Rev. 133 (2004) (joint author) (solicited for Americans with Disabilities Act symposium).

The Interaction of the ADA, the FMLA, and Workers’ Compensation: Why Can’t We Be Friends?, 41 Brandeis L. J. 831 (2003) (solicited for Carl A. Warns Labor & Employment Symposium).

Taming Terrorists But Not “Natural Born Killers,” 27 N. Kent. L. Rev. 81(2000)
(solicited for Media Violence Symposium).

Whose Federalism? 32 Ind. L. Rev. 45 (Fall 1998) (solicited for New Federalism Symposium).

The Right to Refuse Medical Treatment: Where There Is a Right - There Should Be a Remedy, 25 N. Kent. L. Rev. 649 (1998) (solicited for Health Issues Symposium).

Essays and Book Reviews

Proposing a Roadmap for American Bioethics (reviewing American Bioethics: Crossing Human Rights and Health Law Boundaries, George J. Annas) __ Hum. Rts. Q. __ (forthcoming 2013).

Pharmacist Conscience Clauses: Dispensing a New Morality? Points of View, Commentary and Analysis Legal Times 50 (May 30, 2005).

De-Institutionalizing the Mentally Disabled: The Canadian Solution (reviewing “A Textured Life: Empowerment and Adults with Developmental Disabilities,” Alison Pedlor et al eds.) 25 Hum. Rts. Q. 832 (Spring 2003).

International Bioethics: West Learns from East (reviewing “A Cross-Cultural Dialogue on Health Care Ethics,” Harold Coward and Pinit Ratanakul eds.) 25 Hum. Rts. Q. 822

(Spring 2003).

The Model of a Great Doctor (reviewing “Infections and Inequalities: The Modern Plagues,” Paul Farmer) 25 Hum Rts. Q. 826 (Spring 2003).

The Ever-Expanding Reach of School-Sponsored Activities, National Campaign for Freedom of Expression Quarterly (Winter 1998).

HealthLawProf Blog – Editor of the HealthLawProf Blog, 2007-2009.

(http://lawprofessors.typepad.com/healthlawprof_blog); member, Law Professors Blog Network.

University of Cincinnati Law Review Blog - <http://uclawreview.org>, 2013-present

Professional Activities

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| Summer 2014 | Presenting, “ <i>Sorting Through Gonzales v. Raich and Gonzales v. Oregon: Why the Supreme Court Will Grant An Individual’s Right to Die , But Not a Right to Life-Saving Treatment</i> ” American Society of Law, Medicine & Ethics, Thirty-Seventh Annual Health Law Professors Conference, University of California Hastings College of Law (June 2014). |
| Spring 2014 | Selected as participant in “Partnering for Excellence in Health Research,” College of Nursing, University of Cincinnati (April 2014). |
| Spring 2014 | Presented, “Defending the Service of Law Review,” Third Annual University of Cincinnati Law Review Alumni Banquet, Covington, KY (March 2014). |
| Winter 2013 | HIPAA Updates, Annual Cincinnati Bar Association Health Law Section, Cincinnati Bar Association (December 2013). |
| Fall 2013 | Presented, “Introduction and Lessons from Law Review,” University of Cincinnati Law Review, University of Cincinnati College of Law (August 2013). |
| Summer 2013 | Presented: <i>Ignoring Reality; Subscribing to Fiction: Confession Law’s Marginalization of Mental Disabilities</i> , University of Cincinnati College of Law School Summer Scholar Series (2013). |
| Spring 2013 | Bioethics Seminar, University of Cincinnati College of Medicine, “Duty to Warn, New Developments in Genetics” (March 2013). |
| Spring 2013 | Co-presenter, “Understanding Social Security Disability and the Americans with Disabilities Act,” University of Cincinnati College of Law (February 2013). |
| Winter 2012 | Ohio’s I’m Sorry Legislation, Annual Cincinnati Bar Association Health Law Section, Cincinnati Bar Association (December 2012). |
| Summer 2012 | Presented, “Using Technology in the Classroom and Beyond,” CET&L, University of Cincinnati (Summer 2012). |
| Summer 2011 | Selected as participant in August Instructional Technology Institute sponsored by Academic Information Technology & Libraries and UC’s Faculty Development Council, University of Cincinnati College of Medicine (August 2011). |
| Spring 2011 | Presented, <i>Protecting the Needs of Disabled Students or Reinforcing the Class System:</i> |

The IDEA and the Forest Grove Decision, University of Kentucky School of Law (April 2011).

- Winter 2010 Presented, *Protecting the Needs of Disabled Students or Reinforcing the Class System: The IDEA and the Forest Grove Decision*, Cincinnati, OH (December 2010).
- Summer 2010 Presented, "The Internet as the New Frontier: Inclusion of the Blind in CyberSpace," University of Cincinnati College of Law, Summer Scholar Series, Cincinnati, OH (June 2010).
- Spring 2010 Attended, ABA Multistate Performance Exam Review and Drafting Session, April 2010.
- Spring 2009 Presented, "Careers in Health Law: Beyond Medical Malpractice," Central Association of Advisors for the Health Professions, Cincinnati, OH (April 2009).
- Spring 2009 Presented, "*Solving the Truth Deficit on the Internet: Damages or Injunctions*," Ohio State University – Columbus, Ohio (March 2009).
- Spring 2009 Discussant, *Arbino vs. Johnson & Johnson*, Ohio Supreme Court, Judge-in-Residence program, University of Cincinnati College of Law, Cincinnati, OH (March 2009).
- Spring 2009 Presented, *Overvaluing Anonymous Speech: Problems in State Court Defamation Actions Involving the Internet*, University of Kansas School of Law, Lawrence, Kansas (Spring 2009).
- Fall 2008 Moderated discussion, Professor Nicole Huberfeld, "*Bizarre Love Triangle, The Spending Clause, Section 1983 and Medicaid Entitlements*," University of Cincinnati College of Law, (Fall 2008).
- Fall 2008 Presented, "*Gattaca for Real? The Growing Pains of Genomic Medicine*," for The Intersection of Social Justice and Health Care: Finding Our Way, American Medical Student Association, Midwest Regional Conference, University of Cincinnati College of Medicine, Cincinnati, OH (November 2008).
- Fall 2008 Discussant, *Roe v. Planned Parenthood of Southwest Ohio*, Ohio Supreme Court, Judge-in-Residence program, University of Cincinnati College of Law, Cincinnati, OH (November 2008).
- Summer 2008 Presented, Anonymity on the Internet, Summer Colloquia, University of Cincinnati College of Law, Cincinnati, OH (Summer 2008).
- Spring 2008 Moderated Scholar Exchange discussion, Professor Dayna Bowen Matthews, "Race Religion and Informed Consent: Lessons From Social Science" University of Cincinnati College of Law, Cincinnati, OH (February 2008).
- Fall 2007 Moderated Scholar Exchange discussion, Melanie Wilson, "'Prosecutor's Doing Justice' Through Osmosis: Reminders to Encourage Culture of Cooperation (September 2007).
- Fall 2007 Selected to participate in the 2007 CET&L September Institute (offered by University of Cincinnati CET&L).
- Summer 2007 Selected to participate in the Early Summer Instructional Technology Institute (offered by AIT&L and University of Cincinnati Libraries).
- Summer 2007 Presented "Roll Out the Lawsuits: What Happens when the Genome Meets Tort Law," with Dr. Douglas Mossman, University Cincinnati College of Law, Cincinnati, OH (Summer 2006)

Fall 2006	Moderated discussions on "The Ethics of Free: Accepting Gifts from Pharmaceutical Companies," UC Medical School, Cincinnati, OH (October/November 2006)
Spring 2006	Delivered paper on the application of libel law to bloggers, "Bloggership: How Blogs Are Transforming Legal Scholarship," The Berkman Center for Internet and Society at Harvard Law School, Boston Massachusetts (April 2006).
Fall 2005	Moderated discussions on medical malpractice and informed consent, UC Medical School, Cincinnati, OH (October/November 2006)
Spring 2005	Presented, "Lessons from Terri Schiavo," University of Cincinnati College of Medicine, Cincinnati, Ohio.
Winter 2004	Presented, "Genetic Counseling Malpractice," University of Cincinnati College of Medicine, Cincinnati, Ohio.
Winter 2004	Presented, "HIPAA and Its Impact on Litigation," Annual Health Law Section Seminar, Cincinnati Bar Association, Cincinnati, Ohio.
Fall 2004	Presented, "End of Life Issues in Health Care Law," Cincinnati Chapter of End of Life Choices, Cincinnati, Ohio.
Spring 2004	Presented paper, "Overcoming Supreme Court Obstacles: The Rationale for Different Eleventh Amendment Treatment of the ADA's Title II." Lawyer's Committee, Cincinnati, Ohio.
Winter 2003	Delivered paper, "An Absence of Clarity: Medical Leaves of Absence Under the ADA, FMLA and Workers' Compensation," Annual Health Law Section Seminar, Cincinnati Bar Association, Cincinnati, Ohio.
Fall 2003	Presented "Genetic Discrimination: Protecting Employee Privacy Interests," Genetics and Society, Department of Biology, University of Cincinnati, Cincinnati, Ohio.
Summer 2002	Delivered paper, "The Interaction of the ADA, FMLA, and Workers' Compensation: Why Can't We Be Friends?" Nineteenth Annual Carl A. Warns, Jr. Labor & Employment Law Institute, University of Louisville John D. Brandeis School of Law, Louisville, Kentucky.
Summer 2002	Moderated "Cutting Edge Bioethics," The Twenty-Sixth Annual Health Law Teachers Conference, American Society of Law, Medicine & Ethics, Indiana University School of Law and the Center for Law and Health, Annual Health Law Teachers Meeting, Indianapolis, Indiana.
Spring 2002	Delivered paper "The ADA and Neutral Workplace Policies: Drawing the Line Between Affirmative Action and Reasonable Accommodation," J. Reuben Clark Law School, Brigham Young University, Faculty Scholarship Colloquium, Provo, Utah.
Spring 2001	Delivered paper "Dangerous Science: The Use of Evolutionary Psychology in the Law," Boston College Law School, Boston, Massachusetts.
Spring 2001	Presented "The Learned Intermediary Doctrine in the Era of Pharmaceutical Television Advertising" at the 2001 National Rendigs Moot Court Competition, University of Cincinnati College of Law.
Fall 2000	Presented "Speaking Freely: Conflicts Between the Ethical Rules and An Attorney's First Amendment Rights," Lawyer's Club, Cincinnati, Ohio.

Summer 2000	Delivered paper, "Something Borrowed, Something Blue: Why Are Disability Law Claims Any Different?" University of Cincinnati College of Law, faculty workshop.
Spring 2000	Presented "The Learned Intermediary Doctrine: A New Warning to Pharmaceutical Manufacturers," at the 2000 National Moot Court Competition, University of Cincinnati College of Law.
Winter 2000	Presented "Conflicts of Interests" and "Institutional Review Board Regulations," as part of the Ethics in Research course for the University of Cincinnati College of Medicine and the Cincinnati Children's Hospital Medical Center.
Fall 1999	Delivered paper "Taming Terrorists But Not 'Natural Born Killers,'" and served as panelist for symposium, <i>Media Violence, Proximate Cause and the First Amendment</i> , Northern Kentucky School of Law.
Fall 1999	Presented "The Attorney-Client Privilege: A Post-Mortem Analysis of <i>Swidler & Berlin v. United States</i> ," Lawyer's Club, Cincinnati, Ohio.
Summer 1999	Delivered paper, "Recalibrating the Cost of Harm Advocacy Speech: Getting Beyond <i>Brandenburg</i> ," University of Cincinnati College of Law, faculty workshop.
Spring 1999	Presented "Warranty Liability and the Y2K Problem," at the 1999 National Moot Court Competition, University of Cincinnati College of Law.
Winter 1999	Presented "Mentoring," and "Authorship and Peer Review," as part of the Ethics in Research course for the University of Cincinnati College of Medicine and the Cincinnati Children's Hospital Medical Center.
Fall 1998	Presented "Law School Exam Skills," at the National Black Law Students Association symposium, "Law School and Legal Careers: A Black Perspective," University of Cincinnati College of Law.
Summer 1998	Delivered paper, "Revisiting the Public/Private Distinction: Employee Monitoring in the Workplace," University of Cincinnati College of Law, faculty workshop.
Spring 1998	Delivered paper "Whose Federalism" and served as panelist for symposium <i>National Power and State Autonomy: Calibrating the New 'New Federalism'</i> , Indiana University School of Law-Indianapolis.
Fall 1997	Presented "Deferring A Difficult Decision: Judicial Developments Concerning the Right to Die," Cincinnati Bar Association Health Law Section.
Spring 1997	Presented "Employment Issues Facing Health Care Workers in the Era of Managed Care," Graduate Nursing Program, University of Cincinnati College of Nursing.
Spring 1996	Presented "Women in Law Firms" and served as panelist at symposium <i>Women, Men, Work and Home: Restructuring Jobs and Family</i> (organized by Betty Friedan), Mount Vernon College, Washington, D.C.

Professional Certifications and Activities

Member, ABA Multistate Performance Test Review and Drafting Committee
Member, AALS Section Women and Legal Education

(Member, advisory board for 1997 & 1998 annual meeting)
Member, AALS Section Law and Medicine
Member, American Society of Law, Medicine and Ethics
Member, Cincinnati Academy of Leadership for Lawyers
Member, Advisory Committee, Maternal & Child Health Leadership Education
Member, Glenmore Institute
Member, Bar of the District of Columbia/State Bar of Pennsylvania (inactive)

Selected Service to University of Cincinnati

Committee Service	Advising
Faculty Director, Weaver Institute 2003-2008 Faculty Chair, Library & Technology Committee 2007-2009 Faculty Chair, Orientation Committee 1998-2003 Faculty Chair, Legal Research & Writing Committee 2001-2003, 2005-2006, member 2001-2007 Faculty Chair, Petitions Committee 2004-2005 Appointments Committee 1998-2003, 2005-2007, 2009 Academic Policy & Curriculum Committee 1996, 2006 Advisory Committee, Research Ethics 1998- 2007 Dean Search Committee 2004-2005 Faculty Research & Development 2006- 2010 Faculty Senate 1998-2001 Judicial Clerkship Committee 1996-2008 Nontenure Track Committee 2008 Reappointment, Promotion and Tenure Committee (elected) 2001-2002, 2005-2006, 2009-2010	Law Review Advisor 2009-present Academic Success First Year Advisor 2010-present First Year Faculty Advisor 1996-present Women's Studies Faculty Advisor 1999-present (includes advising on several Master's Thesis) Judge for Moot Court Competitions 1996-present Co-founder, UC Law Running Club 2007- present UC Advisory Committee to Cincinnati Children's Hospital Division of Developmental Disabilities LEND Project