

## S. Elizabeth Malloy

3827 Paxton Avenue  
Cincinnati, OH 45209  
(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,  
Advanced Health Care Law courses, and Disability Law.
- Goldman Award for Teaching Excellence, 2000  
Harold C. Schott Publication Award for Scholarship, 2001-2004
- 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.
- 

### 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
- 

**Publications**

*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.

*Federalism and the ADA: Conflicting Views of Congressional Power*  
(work in progress, Spring 2009).

*Evolutionary Psychology: Is New Science Promoting Old Prejudices?"*  
(work in progress, Spring 2009).

*Legislation, Judicial Intervention, Societal Understanding: What Best to Protect Transsexual People from Discrimination?* (in circulation - Spring 2009).

*Overvaluing Anonymous Speech: Problems in State Court Defamation Actions Involving the Internet* (in circulation – Spring 2009).

**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).

*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 2008).

*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 (Winter1998).

HealthLawProf Blog – Editor of the HealthLawProf Blog;  
([http://lawprofessors.typepad.com/healthlawprof\\_blog](http://lawprofessors.typepad.com/healthlawprof_blog)); member of the Law Professors Blog Network.

---

## Professional Activities

- |             |  |
|-------------|--|
| Summer 2009 | Will present, "Adoption, Not Just Another Reproductive Choice," Thirty-Second Annual Health Law Professors Conference, American Society of Law, Medicine and Ethics, Case Western Reserve University School of Law, Cleveland, OH (June 2009). |
| Summer 2009 | Will present, "The Obama Administration and the Future of Health Reform," Annual Meeting, Southeastern Association of Law Schools, Palm Beach, FL (Summer 2009).   |

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, " <i>Solving the Truth Deficit on the Internet: Damages or Injunctions</i> ," Ohio State University – Columbus, Ohio (March 2009).
Spring 2009	Discussant, <i>Arbino vs. Johnson &amp; Johnson</i> , Ohio Supreme Court, Judge-in-Residence program, University of Cincinnati College of Law, Cincinnati, OH (March 2009).
Spring 2009	Presented, <i>Overvaluing Anonymous Speech: Problems in State Court Defamation Actions Involving the Internet</i> , University of Kansas School of Law, Lawrence, Kansas (Spring 2009).
Fall 2008	Moderated discussion, Professor Nicole Huberfeld, " <i>Bizarre Love Triangle, The Spending Clause, Section 1983 and Medicaid Entitlements</i> ," University of Cincinnati College of Law, (Fall 2008).
Fall 2008	Presented, " <i>Gattaca for Real? The Growing Pains of Genomic Medicine</i> ," 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, <i>Roe v. Planned Parenthood of Southwest Ohio</i> , 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).
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 Rendigs 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 *Swidler & Berlin v. United States*,” Lawyer’s Club, Cincinnati, Ohio.
- Summer 1999 Delivered paper, “Recalibrating the Cost of Harm Advocacy Speech: Getting Beyond *Brandenburg*,” University of Cincinnati College of Law, faculty workshop.
- Spring 1999 Presented “Warranty Liability and the Y2K Problem,” at the 1999 National Rendigs 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 *National Power and State Autonomy: Calibrating the New ‘New Federalism’*, 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 *Women, Men, Work and Home: Restructuring Jobs and Family* (organized by Betty Friedan), Mount Vernon College, Washington, D.C.
- 

### Professional Certifications and Activities

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, 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-	First Year Faculty Advisor 1996-present Women’s Studies Faculty Advisor 1999-present

present Faculty Chair, Orientation Committee 1998-2003 Faculty Chair, Legal Research & Writing Committee 2001-2003, 2005-2006, member 2001-2008 Faculty Chair, Petitions Committee 2004-2005 Appointments Committee 1998-2003, 2005-2007 Academic Policy & Curriculum Committee 1996, 2006 Advisory Committee, Research Ethics 1998- 2007 Dean Search Committee 2004-2005 Faculty Development Committee 2006-2008 Faculty Senate 1998-2001 Judicial Clerkship Committee 1996-2005 Reappointment, Promotion and Tenure Committee (elected)2001-2002, 2005-2006	Judge for Moot Court Competitions 1996-present Co-founder, UC Law Running Club 2007- present
--	---