

**DAVID A. HYMAN**

Richard W. and Marie L. Corman Professor of Law and Professor of Medicine  
Director, Epstein Program in Health Law & Policy  
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(Resume current as of 10/09)

**EMPLOYMENT**

- 2004-date            Richard W. and Marie L. Corman Professor of Law and Professor of  
Medicine (2007-date)  
Professor of Law and Medicine (2004-2007)  
University of Illinois  
                         Courses taught: Civil Procedure, Health Care Regulation
- 2001-2004            Special Counsel  
Federal Trade Commission  
Washington, D.C.  
                         Organized and led thirty days of hearings on health care and  
                         competition law and policy, culminating in the first joint report in  
                         the history of the Federal Trade Commission and Department of  
                         Justice, IMPROVING HEALTH CARE: A DOSE OF  
                         COMPETITION  
  
                         Janet D. Steiger Award to Health Care Hearings and Report Team  
                         “for exceptional hard work, talent, and dedication in completing  
                         the FTC’s hearings and report on health care and competition law  
                         and policy”
- 2000-2001            Visiting Professor  
George Washington University School of Law  
                         Courses taught: Civil Procedure, Health Care Regulation,  
                         Insurance, Professional Responsibility
- 1999                    Visiting Professor  
University of Texas School of Law (Fall Semester)  
                         Courses taught: Civil Procedure, Health Care Regulation  
                         Dean’s Commendation for Excellence in Teaching

1994 - 2004 Professor  
University of Maryland School of Law  
Courses taught include: Civil Procedure I & II; Health Law;  
Health Care Regulation; Insurance Law; Law & Economics; Tax  
Policy  
Associate Professor, 1994-1999 (tenured, 1998)

1989 - 1994 Associate  
Mayer, Brown & Platt  
Chicago, Illinois  
Tax Litigation and Health Care Law  
(Special Counsel 1994-2001)

1989 Public Interest Law Initiative Fellow  
Illinois Guardianship and Advocacy Commission  
Chicago, Illinois

1987 and 1988 Summer Associate  
Mayer, Brown & Platt  
Chicago, Illinois

1987-1991 Lecturer  
University of Chicago  
Chicago, Illinois  
Designed and Taught Biology 168/158 (Biomedicine) and Biology  
284/NCD 284 (Science and the State)

1987 Teaching Assistant  
University of Chicago  
Chicago, Illinois  
Teaching Assistant for Biology 214 (Biomedical Ethics)

1981-1984 Research Associate  
University of Chicago  
Chicago, Illinois  
Department of Molecular Genetics and Cell Biology

## **EDUCATION**

1991 Pritzker School of Medicine  
University of Chicago  
M.D.

1989 University of Chicago School of Law  
J.D. with Honors

11983 University of Chicago  
B.A. in Biology with General and Divisional Honors

## **PUBLICATIONS**

### **Law/Medical Ethics**

#### *Books/Edited Journal Theme Issues*

1. TO SUE IS HUMAN: A PROFILE OF MEDICAL MALPRACTICE LITIGATION, Yale University Press (forthcoming, 2009) (with Charles Silver, Bernard Black, Kathy Zeiler & William Sage)
2. HEALTH CARE LAW AND POLICY: READINGS, NOTES, AND QUESTIONS, Foundation Press (2007 supplement) (with Clark C. Havighurst & James F. Blumstein)
3. MEDICARE MEETS MEPHISTOPHELES (Cato Institute, 2006)  
Selected by the U.S. Chamber of Commerce/National Chamber Foundation as one of the top ten books of 2007, <http://www.uschamber.com/ncf/booklist2007.htm>.

#### *Reviewed in*

- a. 106 Michigan L. Rev. 1001 (2008) (Professor Jill Horwitz) (“The Virtues of Medicare”)
  - b. 26 Health Affairs 1194-1195 (2007) (Professor William Sage) (“The Devil in Mr. Johnson”)
  - c. 356 New Engl. J. Med. 314-315 (2007) (Professor Peter Jacobson), available at <http://content.nejm.org/cgi/content/full/356/3/314?ijkey=9IIL4fv.a7WPA&keytype=ref&siteid=nejm>.
  - d. Health Care News (February, 2007) (Mike Van Winkle), available at <http://www.heartland.org/Article.cfm?artId=20501>.
  - e. 34 J. L. Med. Ethics 821-823 (2006) (Professor Robin Wilson) (“Medicare: Where is the Common Sense?”), available at <http://ssrn.com/abstract=959626>.
4. Co-Editor, A DOSE OF COMPETITION? (Special theme issue of J. Health, Politics, Pol’y & L. with thirteen articles by scholars commenting on the FTC/DOJ report, IMPROVING HEALTH CARE: A DOSE OF COMPETITION (June, 2006), available at <http://jhpl.dukejournals.org/content/vol31/issue3/>.
  5. Principal author and project leader, IMPROVING HEALTH CARE: A DOSE OF COMPETITION, A REPORT BY THE FEDERAL TRADE COMMISSION AND DEPARTMENT OF JUSTICE (2004), published commercially as IMPROVING HEALTH CARE: A DOSE OF COMPETITION 10 Developments in Health Economics and Public Policy (Springer, 2005) (with a new introductory essay and supplementary materials, edited by David A. Hyman).

### *Articles/Book Chapters*

1. "O'Connell Early Offers: Toward Realistic Numbers" J. Empirical Leg. Stud. (forthcoming, 2010) (with Bernard Black and Charles Silver)
2. "The Impact of the Duty to Settle on Settlement: Evidence From Texas," (under submission) (with Bernard Black and Charles Silver), available at <http://ssrn.com/abstract=1134202>
3. "Combating Antimicrobial Resistance: Regulatory Strategies and Institutional Capacity," Tulane L. Rev. (forthcoming, 2010) (with William Sage), available at <http://ssrn.com/abstract=1436154>
4. "The Effect of 'Early Offers' in Medical Malpractice Cases: Evidence from Texas," 6 J. Empirical Leg. Stud. 747-803 (2009) (with Bernard Black & Charles Silver), available at <http://ssrn.com/abstract=1112135> (peer reviewed)
5. "Employment-Based Health Insurance and Universal Coverage: Four Things People Know That Aren't So," 9 Yale J. Health Policy, L. & Ethics 435-452 (2009), available at <http://ssrn.com/abstract=1371965>
6. "Access to Justice in a World Without Lawyers: Evidence from Texas Bodily Injury Claims," Fordham Urb. L. J. (forthcoming, 2009) (with Charles Silver)
7. "Health Care Fragmentation: We Get What We Pay For" in HEALTH CARE FRAGMENTATION, Oxford University Press (forthcoming, 2009), available at <http://ssrn.com/abstract=1377051>
8. "Controlling the Cost of Medical Care: A Dose of Deregulation," in ANTIDOTE: STRATEGIES FOR CONTAINING AMERICA'S RUNAWAY HEALTH CARE COSTS, Brookings Institution Press (forthcoming 2009) (with Richard Epstein), available at <http://ssrn.com/abstract=1158547>
9. "What Lessons Should We Learn From the First Malpractice Crisis of the 21st Century?" 1 Drexel L. Rev. 261-272 (2009)
10. "Estimating The Effect of Damage Caps in Medical Malpractice Cases: Evidence from Texas" 1 J. Legal Analysis 355-409 (2009) (with Bernard Black, Charles Silver and William Sage), available at <http://ssrn.com/abstract=1349829> (peer reviewed)
11. "The Impact of the 2003 Texas Medical Malpractice Damages Cap on Physician Supply and Insurer Payouts: Separating Facts From Rhetoric," 44 Texas Advocate 25-34 (2008), available at <http://ssrn.com/abstract=1139190>. Full volume available at [http://www.litigationsection.com/downloads/44\\_AfterHB4\\_Fall08.pdf](http://www.litigationsection.com/downloads/44_AfterHB4_Fall08.pdf)
12. "Medicare: Did The Devil Make Us Do It?" and "Cooling out the Marks, Medicare Style: Balancing Demonic Vices and Cardinal Virtues," 155 U. Pa L. Rev. Pennumbra (2008) (exchange with Prof. Jill Horwitz), available at <http://www.pennumbra.com/debates/pdfs/medicare.pdf>.

13. "Health Insurance: Government Failure or Market Failure?" 14 Ct. Ins. L. J. 307-323 (2008), available at <http://ssrn.com/abstract=1087830>.
14. "Defense Costs in Medical Malpractice and Other Personal Injury Litigation: Evidence from Texas, 1988-2004," 10 Am. L. & Econ. Rev. 185-245 (2008) (with Bernard Black, Charles Silver and William Sage), available at <http://ssrn.com/abstract=979163>. (peer reviewed)
15. "Malpractice Payouts and Malpractice Insurance," 33 Geneva Papers 177-192 (2008) (with Charles Silver, Kathryn Zeiler, Bernard Black and William Sage), available at <http://ssrn.com/abstract=983199>. (peer reviewed)
16. "When and Why Lawyers Are the Problem," 57 DePaul L. Rev. 267-280 (2008) (Clifford Symposium in Tort Law).
17. "Physicians' Insurance Limits and Malpractice Payouts: Evidence From Texas Closed Claims, 1990-2003" 36 J. Legal Studies S9-S45 (2007) (with Charles Silver, Kathryn Zeiler, Bernard Black and William Sage), available at <http://ssrn.com/abstract=981192>. (peer reviewed)
18. "Institutional Review Boards: Is This The Least Worst We Can Do?" 101 Northwestern L. Rev. 749-774 (2007), available at <http://ssrn.com/abstract=942862>, reprinted in modified form as "The Pathologies of Institutional Review Boards," Regulation 42-49 (Summer, 2007), available at <http://ssrn.com/abstract=1001483>.
19. "The Massachusetts Health Plan: The Good, the Bad, and the Ugly," 55 Kansas L. Rev. 1103-1117 (2007), available at <http://ssrn.com/abstract=966323>, reprinted in modified form as a Cato Institute Policy Analysis (2007), available at [http://www.cato.org/pub\\_display.php?pub\\_id=8431](http://www.cato.org/pub_display.php?pub_id=8431).
20. "Health Care Regulation: The Year in Review," Searle Center Annual Review of Regulation, Northwestern University School of Law (2007) (with Robin Wilson).
21. "Do Defendants Pay What Juries Award?: Post-Verdict Haircuts in Texas Medical Malpractice Cases, 1988-2003" 4 J. Empirical Leg. Stud. 3-68 (2007) (with Bernard Black, Kathryn Zeiler, Charles Silver, and William Sage), available at <http://ssrn.com/abstract=914415>. (peer reviewed)
22. "Getting the Haves to Come Out Behind: Fixing the Distributive Injustices of American Health Care," 69 L. & Contemp. Probs. 265-282 (2006), available at <http://ssrn.com/abstract=973918>.
23. "Medical Malpractice Litigation and Tort Reform: It's the Incentives, Stupid," 59 Vand. L. Rev. 1085-1136 (2006) (with Charles Silver), available at <http://ssrn.com/abstract=942995>.
24. "Research on Human Subjects: Academic Freedom and the Institutional Review Board," Academe 95-108 (Sep./Oct. 2006), available at <http://www.aaup.org/AAUP/comm/rep/A/humansubs.htm>

(with Judith Jarvis Thomson, Catherine Elgin, Philip E. Rubin, and Jonathan Knight)

25. "Subsidizing Health Care Providers Through the Tax Code: Status or Conduct?" Health Affairs Web Exclusive (2006) (with William Sage), available at <http://content.healthaffairs.org/cgi/content/abstract/hlthaff.25.w312>. (peer reviewed)
26. "Is A Dose of Competition Just What the Doctor Ordered? (introduction) (with Peter Jacobson) and "Endnote" to special theme issue on FTC/DOJ report on health care and competition), 31 J. Health, Politics, Pol'y & L. 423-435, 704-706 (June, 2006) (peer reviewed)
27. "Rescue Without Law: An Empirical Perspective on the Duty to Rescue," 84 Tex. L. Rev. 653-738 (2006), available at <http://ssrn.com/abstract=796384>.
28. "Stability, Not Crisis: Medical Malpractice Claim Outcomes in Texas, 1988-2002" 2 J. Empirical Leg. Stud. 207-259 (2005) (with Bernard Black, Charles Silver, and William Sage), available at <http://ssrn.com/abstract=678601>. (peer reviewed)
29. "Speak Not of Error," Regulation 52-65 (2005) (with Charles Silver) (cover story), available at <http://ssrn.com/abstract=807524>.
30. "The Poor State of Health Care Quality in the U.S.: Is Malpractice Liability Part of the Problem or Part of the Solution?," 95 Cornell L. Rev. 893-993 (2005) (with Charles Silver), available at <http://ssrn.com/abstract=526762>.
31. "Medical Malpractice Reform Redux: Déjà vu All Over Again?," 12 Widener L. Rev. 121 (2005) (with Charles Silver)
32. "Believing Six Improbable Things: Medical Malpractice and 'Legal Fear,'" 28 Harvard J. L. & Pub. Pol'y 107-118 (2004) (with Charles Silver)
33. "Monopoly, Monopsony and Market Definition: An Antitrust Perspective on Health Insurer Market Concentration," 24 Health Affairs 25-29 (Nov./Dec. 2004) (with William Kovacic) (peer reviewed)
34. "The Medical Malpractice Crisis: Federal Efforts and State Approaches to the Crisis," 13 Annals Health L. 521-546 (2004) (transcribed session with Barry Furrow)
35. "Five Reasons Why Health Care Quality Research Hasn't Affected Competition Law and Policy," 4 Int'l J. Health Care Finance Econ. 159-166 (2004) (peer reviewed)
36. "Does Technology Spell Trouble With a Capital T?: Human Dignity and Public Policy," 27 Harvard J. L. & Pub. Pol'y 3-18 (2003)
37. "Medicare Meets Mephistopheles," 60 Washington & Lee L. Rev. 1165-1205 (2003)
38. "Why Competition Law Matters to Health Care Quality," 22 Health Affairs 31-44 (March/April, 2003) (with William Sage and Warren Greenberg) (peer reviewed)

39. "An Outsider Perspective on Intellectual Property Discourse" in Perspectives on Properties of the Human Genome Project (Elsevier, 2003)
40. "Does Quality of Care Matter to Medicare?"  
46 Persp. Bio. & Med. 55-68 (Winter, 2003) (peer reviewed)
41. "Medical Malpractice: What Do We Know and What (If Anything) Should We Do About It?" 80 Tex L. Rev. 1639-1655 (2002), republished in 1 ICFAI J. Healthcare L. 33 (2002).
42. "HIPAA and Health Care Fraud: An Empirical Perspective"  
22 Cato J. 151-178 (2002)
43. "Health Care Fraud and Abuse: Market Change, Social Norms, and 'the Trust Reposed in the Workmen,'" 30 J. Legal Studies 531-569 (2001) (with responses by Roger Feldman and Arti Rai), available at <http://ssrn.com/abstract=286557>. (peer reviewed)
44. "Two Cheers For Employment-Based Health Insurance,"  
2 Yale J. Health Pol'y, L. & Ethics 23-57 (2001) (with Mark Hall)
45. "You Get What You Pay For: Result-Based Compensation for Health Care,"  
58 Washington & Lee L. Rev. 1427-1490 (2001) (with Charles Silver)
46. "Just What the Patient Ordered: The Case For Result-Based Compensation in Health Care,"  
29 J. L. Med. & Ethics 170-173 (2001) (with Charles Silver) (with response by E. Haavi Morreim, 29 J. L. Med. & Ethics 174-181 (2001) (peer reviewed)
47. "What Lessons Should We Learn From Drive-Through Deliveries?"  
107 Pediatrics 406-8 (2001) (peer reviewed)
48. "Do Good Stories Make For Good Policy?"  
25 J. Health, Politics, Pol'y & L. 1149-1155 (2000) (peer reviewed)
49. "Medicine in the New Millennium: A Self-Help Guide for The Perplexed,"  
26 Am. J. L. & Med. 143-154 (2000)
50. "Regulating Managed Care: What's Wrong With A Patient Bill of Rights,"  
73 S. Cal. L. Rev. 221-275 (2000)
51. "Accountable Managed Care: Should We Be Careful What We Wish For?,"  
33 U. Mich. J. L. Ref. 785-811 (1999)
52. "Managed Care at the Millennium: Scenes From A Maul,"  
24 J. Health, Politics, Pol'y & L. 1061-1070 (1999) (peer reviewed)
53. "Drive-Through Deliveries: Is Consumer Protection Just What the Doctor Ordered?,"  
78 N.C. L. Rev. 5-99 (1999)

54. "Tobacco Litigation's Third Wave: Has Justice Gone Up in Smoke?,"  
2 J. Health Care L. & Pol'y 34-44 (1998)
55. "A Second Opinion on Second Opinions," 84 Va. L. Rev. 1439-1463 (1998)
56. "And Such Small Portions: Limited Performance Agreements and the Cost/Quality/Access Trade-Off," 11 Geo. J. Leg. Ethics 959-979 (1998) (with Charles Silver)
57. Commentary, "Administrative Costs/Executive Salaries/For-Profit Managed Care,"  
ETHICAL CHALLENGES IN MANAGED CARE: A CASEBOOK 176-180 (1998)
58. "Hospital Conversions: Fact, Fantasy, and Regulatory Follies," 23 J. Corp. L. 741-778 (1998)
59. "Consumer Protection and Managed Care: With Friends Like These. . .," 1998 Health L. Handbook 283-305 (1998)
60. "Consumer Protection in a Managed Care World: Should Consumers Call 911?," 43 Vill. L. Rev. 409-466 (1998)
61. "Lies, Damned Lies, and Narrative," 73 Indiana L. J. 797-865 (1998)
62. "Patient Dumping and EMTALA: Past Imperfect/Future Shock," 8 Health Matrix 29-56 (1998)
63. "Professional Responsibility, Legal Malpractice, and the Eternal Triangle: Will Lawyers or Insurers Call the Shots?," 4 Conn. Ins. L. J. 353-403 (1997-1998), presented in summary form in Symposium Transcripts, 4 Conn. Ins. L. J. 417-423 (1997-1998)
64. "Procedural Intersection and Special Pleading: Is Tax Different?" 71 Tulane L. Rev. 1729-1747 (1997)
65. "When Rules Collide: Procedural Intersection and the Rule of Law," 71 Tulane L. Rev. 1389-1453 (1997)
66. "Medicaid, Managed Care and America's Health Safety Net," 25 J. L. Med. & Ethics 30-33 (with Richard Manski and Douglas Peddicord) (1997) (peer reviewed)
67. "Consumer Protection (?), Managed Care, and the Emergency Department," in ACHIEVING QUALITY IN MANAGED CARE: THE ROLE OF LAW 57-77 (1997)
68. Case Discussion, Mid-Atlantic Ethics Committee Newsletter 8-9 (Fall, 1995)
69. "Professional Profiteering? The Ethics of Physician Entrepreneurship," 35 Persp. Bio & Med. 317-329 (1992) (peer reviewed)
70. "Peer Review: Current Law and Policy Problems," 8 HealthSpan 3-10 (1991)

71. "How Law Killed Ethics," 34 Persp. Bio. & Med 134-151 (1990) (peer reviewed)
72. "The Conundrum of Charitability: Reassessing Tax Exemption for Hospitals," 16 Am. J. Law & Med. 327-380 (1990)
73. Commentary, "When Opportunity Knocks," Hastings Center Report 34-35 (1990), reprinted in *PERSPECTIVES IN BUSINESS ETHICS*, McGraw Hill/Irwin (Laura Pincus, ed., 1997), subsequent correspondence, Hastings Center Report 43 (1991) (peer reviewed)
74. "Aesthetics and Ethics: The Implications of Cosmetic Surgery," 33 Persp. Bio. Med. 190-202 (1990) (peer reviewed)
75. "Taxation of Retirement Housing," 1 J. Prop. Tax 169-179 (with D.L. Schramm) (1990)
76. "Fraud and Abuse: Setting the Limits on Physicians' Entrepreneurship," 320 New Eng. J. Med. 1275-1278 (with Joel V. Williamson) (1989); Associated correspondence, 321 New Eng. J. Med. 1192-1194 (1989) (peer reviewed)
77. "Fraud and Abuse: Regulatory Alternatives in a "Competitive" Health Care Era," 19 Loyola L. Rev. 1133-1196 (with Joel V. Williamson) (1988)
78. "Property Tax Exemptions: Headed for Extinction?" 69 Health Progress 32-36 (with T.J. McCarthy) (1988)

#### *Works in Progress*

1. "Waiting for the Big One: The Economics of Plaintiff-side Personal Injury Litigation" (with Bernard Black & Charles Silver)
2. "Does Medical Malpractice Litigation Work For the Elderly? Evidence from Texas, 1988-2005" (with Myungho Paik, Bernard Black, Charles Silver, and William Sage)
3. "Too Bad For Granny: The Impact of Tort Reform on Nursing Home Litigation (with Myungho Paik, Bernard Black & Charles Silver)
4. "Enforcing Competition Law: Costs and Benefits of a Dual Purpose Agency" (with William Kovacic)
5. "Who Does What?: Toward A Theory of the Government Agency (with William Kovacic)

#### *Book Reviews*

1. "Collateral Damage" (Review of "The Criminalization of Medicine") 27 Health Affairs 1476-1477 (2008)
2. "Improving the Evidence/Advocacy Ratio in Medical Malpractice Reform" (Review of "Medical Malpractice and the U.S. Health Care System,") 26 Health Affairs 289-290 (January/February 2007)

3. Review of "The Health Care Mess: How We Got Into It and What It Will Take To Get Out," 354 New Engl. J. Med. 1326-1327 (2006)
4. "Medical Malpractice and System Reform: Of Babies and Bathwater" (Review of "The Practice of Uncertainty: Voices of Physicians and Patients in Medical Malpractice Cases," 19 Health Affairs 258-259 (2000)
5. Review of "Vandals at the Gates of Medicine: Historic Perspectives on the Battle Over Health Care Reform," 332 New Eng. J. Med. 542-543 (1995)
6. Review of "In Sickness and in Health: The Mission of Voluntary Health Care Institutions," 321 New Eng. J. Med. 624 (1989)

*Letters/Op-Eds/Other*

1. "Pay (only) for health care that works," Detroit News, November 3, 2009, available at <http://www.detroitnews.com/article/20091103/OPINION01/911030315/1008/opinion01/Onl-y-pay-for-health-care-that-works> (with Charles Silver)
2. "Malpractice litigation in U.S. health care reform," Washington Times, August 23, 2009, available at <http://www.washingtontimes.com/news/2009/aug/23/medical-malpractice-litigation-health-care-reform/> (with Charles Silver)
3. "History's Painful Lessons," National Review Online, August 20, 2009, available at <http://healthcare.nationalreview.com/post/?q=MTk4OTBkMmM5Zjk4MjRkNWl1OTE1MDdkYzIzMGRmZTQ=>
4. "Texas-style caps on non-economic damages isn't smart tort reform, Texas Star-Telegram, July 18, 2009, available at <http://www.star-telegram.com/242/story/1494028.html> (with Charles Silver and Ronen Avraham)
5. "Not Worth The Pain and Suffering," Forbes, September 15, 2008, available at <http://www.forbes.com/opinions/forbes/2008/0915/034.html>.
6. "False Diagnosis: Don't mess with Texas's tort system, New York Times, March 10, 2005, at A25 (with Bernard Black, Charles Silver, and William Sage)
7. "Hunting Down the Facts on Medical Malpractice," Austin American-Statesmen, March 14, 2005 (with Bernard Black, Charles Silver, and William Sage)
8. FTC staff advocacy letters on Rhode Island Any Willing Pharmacy bills (May, 2004) and California PBM transparency bill (AB 1960) (September, 2004), both available at <http://www.law.uiuc.edu/faculty/misc/dhyman.htm>
9. "Contingent Fee Contracts and In Vitro Fertilization," 26 J. Law Med. & Ethics 7980(with Charles Silver) (1998)

10. "Paying the Bill for Patient Rights: 'Consumer Protection' Measures Can Backfire," Legal Times, S34-S36 (Mar. 16, 1998) (with Vikram Khanna)
11. "Doctors not charities before managed care; Making profits the norm in most of medicine," Balt. Sun 6F (Dec. 28, 1997) (with Vikram Khanna)
12. "Defining Deviancy," N.Y. Times A22 (May 12, 1997)
13. "Conflict of Interest," 263 J. Am. Med. Assoc. 1199-1200 (1990)
14. "Setting the Record Straight: Are Voluntary Hospitals Caring for the Poor?" 319 New Eng. J. Med. 1486 (1988)
15. "It's Over Debbie," 259 J. Am. Med. Assoc. 2097 (1988)
16. "The Plague of Athens," 314 New Eng. J. Med. 855 (1986)

### **Scientific**

1. "Cloning and Generation of a Genetic Map of Bacteriophage N4 DNA," 162 Virology 328-336 (with C. Malone, et al.) (1988)
2. "Interactions Between the MAT Locus and the Rad52-1 Mutation in Yeast," 7 Current Genetics 439-447 (with R.E. Malone) (1983)

### **FELLOWSHIPS/SCHOLARSHIPS/AWARDS**

2009-date	Adjunct Scholar, American Enterprise Institute
2007-date	Richard & Marie Corman Professor of Law
2007	Carol P. Hurd Excellence in Faculty Scholarship Award (best article by a faculty member of the University of Illinois College of Law)
2006	Wayne R. LaFave Excellence in Faculty Scholarship Award (best book by a faculty member of the University of Illinois College of Law)
2005-2007	Galowich-Huizenga Faculty Scholar
2004	Janet D. Steiger Award to FTC Health Care Hearings and Report Team
2004	Johnson & Johnson Lecture in Health Law, University of South Carolina
2002-date	Adjunct Scholar, Cato Institute
1998	Community Service Award, University of Maryland (Volunteer Income Tax Assistance/Tax Team)
1992	Dwight J. Ingle Award -- Co-Winner (Most Outstanding Paper by a Young Author in Perspectives in Biology and Medicine)
1991	Schwartz Award - American College of Legal Medicine (Most Outstanding Paper Written by a Medical Student)
1989	Casper Platt Award (Most Outstanding Paper Written by a Student in the Law School)

1986 - 1989 Fellow in the Pew Program in Medicine, Arts and the Social Sciences  
1983 Sigma Xi Prize (Excellence in Research)

### **PEER REVIEWER/EDITOR**

Articles Reviewer: J. Am. Med. Assoc.; J. L. Med. & Ethics; New Eng. J. Med.;  
Pediatrics; J. Health, Politics, Pol'y & L.; Milbank Q.;  
J. Empirical Leg. Stud.; Am. J. Managed Care; Health Affairs; Health  
Expectations  
Editorial Board: Am. J. L. & Med.  
Co-Editor: SSRN Legal Scholarship Network Young Scholars Law Abstracts

### **GOVERNMENT CONTRACTS/ADVISORY GROUPS**

Health Economics Forum on Emergency Preparedness, Office of Assistant Secretary For Preparedness and Response, U.S. Department of Health & Human Services (2008)

Administrator, Medical Malpractice Early Offers Pilot Program Settlement Depository, United States Department of Health and Human Services, Assistant Secretary for Planning & Evaluation/Office of General Counsel (2004-date)

Long Term Care Data and Policy Analysis Study on Health Policy Work Force Issues, performed for United States Department of Health and Human Services, Assistant Secretary for Planning & Evaluation (2004-2005)

Technical Advisory Group, Financial Exploitation of the Elderly Study, performed for United States Department of Health and Human Services, Assistant Secretary for Planning & Evaluation (2002-2004)

Maryland Health Care Access and Cost Commission: Advisory Commission (1999-2000); Task Force on Confidentiality (1995-1996)

## **SELECTED PRESENTATIONS**

“Enforcing Competition Law: Benefits and Costs of a Multi-Purpose Agency”  
University of Michigan School of Law

“Why don’t people listen to economists (with some notes on how to get them to listen, and on the FTC/DOJ Health Care Report”)  
20<sup>th</sup> Annual Health Economics Conference (keynote)

Medical Malpractice & Health Care Costs: Can Tort Reform Bend the Curve?  
Georgetown University School of Law

“Combating Antimicrobial Resistance: Regulatory Strategies and Institutional Capacity”  
Washington & Lee University School of Law

“The Impact of the Duty to Settle on Settlement: Evidence From Texas”  
American Law and Economics Association Annual Meeting; Law and Society Association Annual Meeting

“Medicare Meets Mephistopheles Revisited”  
American Health Lawyers Association, Medicare and Medicaid Annual Program (keynote address)

“Old and New Forms of Hospital Competition”  
American Enterprise Institute

“Waiting for the Big One: The Economics of Plaintiff-Side Personal Injury Representation”  
Law and Society Association Annual Meeting; Midwest Law and Economics Association Annual Meeting; Northwestern University Searle Center Program on Civil Litigation

“The Impact of Early Settlement Offers: Evidence From Texas Malpractice Cases”  
Conference on Empirical Legal Studies; Dept. of Risk Management and Insurance, Georgia State University; Northwestern University School of Law

“Health Care Fragmentation: We Get What We Pay For”  
Petrie-Flom Symposium, Harvard University School of Law

“P4P and Medical Malpractice Liability”  
Tel Aviv University School of Law

“Controlling the Costs of Medical Care: A Dose of Deregulation”  
Brookings Institution

“Health Insurance: Government Failure or Market Failure?”

Case Western Reserve University School of Law; Mercatus Center Chief of Staff Retreat;  
University of Michigan School of Public Health

“Estimating The Effect of Damage Caps in Medical Malpractice Cases: Evidence from Texas”  
Canadian Law and Economics Association Annual Meeting; Conference on Empirical Legal  
Studies Annual Meeting; Cornell Law School; Harvard Law School; Midwest Law and  
Economics Association Annual Meeting; Rand Corporation Institute for Civil Justice;  
Stanford University School of Law; University of Kansas School of Law

“Defense Costs in Medical Malpractice and Other Personal Injury Litigation: Evidence from  
Texas, 1988-2004,”  
American Enterprise Institute

“Medicare: How Did We Get Where We Are – And Where Should We Go From Here?”  
3rd Annual Leadership Summit on Medicare, World Congress on Health Care

“Health Care Regulation: The Year in Review”  
Searle Program on Regulation, Northwestern University School of Law

“When and Why Lawyers are the Problem”  
Distortions in the Attorney/Client Relationship: Threat to Sound Advice? DePaul University  
School of Law Clifford Program in Tort Law and Policy

“Health Insurance and Regulatory Federalism”  
2007 AALS Annual Meeting

“Medicine: Potential v. Practice and How To Close the Gap – Antitrust Implications”  
Brookings Institution

“The Massachusetts Health Plan: The Good, The Bad, and the Ugly”  
Capitol Hill Program, Mercatus Center of George Mason University; Cato Institute Capitol  
Hill Briefing; University of Kansas School of Law

“Institutional Review Boards: Is this the Least Worst We Can Do?”  
Northwestern University School of Law; Maclean Center on Medical Ethics, University of  
Chicago School of Medicine

“Medical Malpractice: What Do We Actually Know?”  
Capitol Hill Campus Program, Mercatus Center of George Mason University

“Optimal Deterrence/Compensation in Competition Law: Can We Get There From Here?”  
OECD Working Party 3 Meeting on Private Remedies in Antitrust Law (Paris)

“Squaring the Circle: Reconciling Health Policy and Competition Policy for Pharmaceutical  
Patents,” Pre-ICN Workshop on Competition and Development (Cape Town)

“EMTALA: A 20 Year Retrospective”  
University of Houston School of Law (keynote address)

“Do Defendants Pay What Juries Award? Post-Verdict Haircuts in Texas Medical Malpractice Cases, 1988-2003”

AEI/Brookings First Annual Judicial Symposium on Civil Justice Issues; University of Illinois Institute for Government & Public Affairs; Rand/JELS Conference on Medical Malpractice; Maclean Center on Medical Ethics, University of Chicago School of Medicine; Searle Center Program on Medical Malpractice, Northwestern University; Indiana University (Bloomington), Northwestern University, Stanford University; University of Arizona, University of California-Berkeley, University of Texas, Vanderbilt University, and Washington University Schools of Law

“Medical Malpractice Litigation and Tort Reform: It’s the Incentives, Stupid”

Vanderbilt University School of Law

A Dose of Competition: One Year After the FTC/DOJ Report

Dorsey-Hughes 25th Annual Symposium

Is America’s Hospital Sector Open to Competition?

Cato Institute; Galen Institute Briefing for Hill Staff

Stability Not Crisis: Medical Malpractice Claim Outcomes in Texas, 1988-2002

American Enterprise Institute; University of Texas School of Law (press conference)

Health Care and Competition Policy

OECD Annual Meeting; American Enterprise Institute; Lister Hill Center for Health Policy, University of Alabama; AHIP/AHLA Law Conference; PCMA Annual Meeting; ABA Spring Health Law/Antitrust Meeting; ABA Antitrust Section Fall Forum, ABA Health Law Section Washington Healthcare Summit; AAHP Policy Briefing; PCMA Policy Briefing

Medicare: Did the Devil Make Us Do It?/Medicare Meets Mephistopheles

American Enterprise Institute; Cato Institute; Rand Corporation Interesting Speakers Series

Medical Malpractice: Part of the Problem or Part of the Solution?

Southern Illinois University College of Law/School of Medicine; American Law and Economics Association Annual Meeting; Maryland Public Policy Institute; Rand/Georgetown Public Policy Institute; University of South Carolina School of Law; ABA Tort & Insurance Practice Section Task Force on Contingent Fees; Loyola University School of Law Health Law & Policy Colloquium

How Kind Are Strangers? An Empirical Perspective on the Duty to Rescue

University of Alabama, University of California – Los Angeles, and University of Illinois Schools of Law; Midwest Law & Economics Association Annual Meeting; Canadian Law & Economics Association Annual Meeting

Medicare: A Government Contracts/Competition Law Perspective

Washington & Lee Law School Symposium on The Future of Medicare

Medical Malpractice: What Do We Know and What (If Anything) Should We Do About It?

University of Texas School of Law

Does Quality of Care Matter to Medicare?  
University of Chicago School of Law

You Get What You Pay For: Result-Based Compensation in Health Care  
University of San Diego, and University of Texas Schools of Law; University of North Carolina Schools of Law & Public Policy

Health Care Fraud and Abuse: Market Change, Social Norms, and “the Trust Reposed in the Workmen”  
University of Chicago, University of Cincinnati, George Washington University, and University of Iowa Schools of Law; American Enterprise Institute; Office of Inspector General, U.S. Department of Health & Human Services

Trust, But Verify: An Empirical Perspective on Crime and (Optimal) Punishment  
Denver University, George Mason University Schools of Law; Institute of Government and Public Affairs, University of Illinois

Regulating Managed Care: What’s Wrong With A Patient Bill Of Rights  
Emory University, Northwestern University School of Law, and University of Texas Schools of Law; Association for Public Policy Analysis and Management Annual Meeting; MacLean Center for Clinical Medical Ethics, University of Chicago; Robert Wood Johnson Foundation Investigator Awards in Health Policy Research and Journal of Health, Politics, Policy & Law Presentation at the National Press Club

Drive-Through Deliveries: Is “Consumer Protection” Just What the Doctor Ordered?  
Columbia University, Harvard, University of Missouri (Columbia), University of North Carolina, and University of Virginia Schools of Law

Hospital Conversions: Fact, Fantasy, and Regulatory Follies  
University of Illinois School of Law; American Public Health Association; Program in Medicine, Arts, and the Social Sciences, University of Chicago; Duke University Center for Health Policy Research and Education

A Second Opinion on Second Opinions  
University of Virginia School of Law

Lies, Damned Lies, and Narrative  
Case Western Reserve University, Indiana University (Indianapolis), University of Memphis, University of Utah, and Washington University Schools of Law

Consumer Protection in a Managed Care World: Should Consumers Call 911?  
George Mason University, Loyola University (Chicago), University of Utah, and Villanova Schools of Law; Institute of Government and Public Affairs, University of Illinois; MacLean Center for Clinical Medical Ethics, University of Chicago; Cook County Hospital Grand Rounds

The Eternal Triangle: Will Lawyers or Insurers Call the Shots?  
University of Connecticut School of Law

Regulating Managed Care: Should Congress Play Doctor?  
University of Michigan Schools of Law, Medicine, Graduate Studies, and Public Health

American Association of Law Schools Annual Meeting  
Section of Law & Social Sciences; Joint Program of Sections on Insurance Law and Law,  
Medicine and Health Care; Joint Program of Sections on Insurance Law and Torts and  
Compensation Systems; Joint Program of Sections on Insurance Law and Professional  
Responsibility

Selected Issues in Health Care Regulation/Malpractice  
Academy Health Annual Research Meeting; American Bar Association Health Law Section;  
American Enterprise Institute-Brookings Joint Center for Regulatory Studies Judicial  
Education Program; American Enterprise Institute; University of Arkansas Law School;  
Federalist Society Annual Student Meeting; Cato Institute; American Society of Law,  
Medicine and Ethics; Johns Hopkins University School of Public Health; Mercatus Center of  
George Mason University Chief of Staff Program and Capitol Hill Campus Programs;  
Robert Wood Johnson Clinical Scholars Program, Johns Hopkins University; Harvard  
School of Public Health; University of Maryland School of Dentistry, University of New  
Mexico Department of Psychiatry Grand Rounds; Vanderbilt Institute for Public Policy  
Studies/State Justice Institute; Washburn University School of Law; Washington University  
School of Law

## **SERVICE/PROGRAM RESPONSIBILITIES**

American Law Institute (from 6/2000)

Section of Law and Social Sciences, American Association of Law Schools  
Chair (2003); Member of the Executive Committee (1999, 2004)

American Association of University Professors, Subcommittee on Research Ethics and  
Institutional Review Boards (2005-2006)

University of Illinois

Admissions (2004-2005, 2009-2010 (Chair)); Appointments (2005-2008); Curriculum (2004-2005); Career Services (2004-2005); Search Committee for IGPA Director (2004-2005); Search Committee for Executive Director, Center for Entrepreneurial Lawyering (2007-2008); Subcommittee on Personalized Medicine (2006-2007); Committee on Medical Scientist Training Program (2005-2007); Search Committee for Law School Dean (2007-2009); Faculty Affiliate, Institute for Government & Public Affairs (2004-2007); Director, Jon David & Elizabeth A. Epstein Program in Health Law & Policy (2005-date); Research Associate, Center for Business and Public Policy (2007-date)

University of Maryland

Administrative (1997-2004); Admissions (1994-1997); Clinical Practice (1996-1997); Faculty Development (2001-2002); Teaching (1996-1997); Faculty Secretary (1994-1996); Faculty Senate (1996-1999); Law School Representative to Faculty Senate President's Advisory Council (1996-1999); Coach/Advisor: Federalist Society (1995-1997); Health Care Law Moot Court Team (1995); National Moot Court Team (1994-1995)

Testimony before the Senate Judiciary Committee, Joint Economic Committee, Senate Finance Committee, and Department of Labor (Advisory Committee on Employee Welfare and Pension Benefit Plans)

## **LITIGATED TAX CASES**

1. Newark Morning Ledger Company v. United States, 113 S.Ct. 1670 (1993) (amortization of intangible assets) (author of amicus brief on behalf of a group of manufacturing and food processing companies).
2. Tele-Communications, Inc. v. Commissioner of Internal Revenue, 12 F.3d 1005 (10th Cir. 1993) (application of I.R.C. § 1253 to cable television franchises)
3. In Re Commissioner of Internal Revenue v. Hon. William A. Goffe and Westreco, Inc., 923 F. 2d 855 (6th Cir. 1991) (appeal dismissed and writ of mandamus denied).
4. United Parcel Service of America, Inc. v. Commissioner, T.C. Memo 1999-268, 78 T.C.M. (CCH) 262 rev'd and remanded, 254 F.3d 1014 (11th Cir. 2001) (economic substance)
5. Nestle Holdings, Inc., on its own behalf and as successor in interest to Nestle Enterprises, Inc., T.C. Memo 1995-441, 70 T.C.M. (CCH) 682, aff'd in part, vacated and remanded in part, 152 F.3d 83 (2d Cir. 1998) (valuation of various tangible and intangible assets, debt-equity and capital gain issues).
6. Nabisco Brands, Inc. v. Commissioner, T.C. Memo 1995-127, 70 T.C.M. (CCH) 335 (application of I.R.C. § 1253 to trademark licensing agreement).
7. Westreco, Inc. v. Commissioner of Internal Revenue, T.C. Memo 1992-561, 64 T.C.M. (CCH) 849 (allocation of income between foreign parent corporation and U.S. subsidiary).
8. Westreco, Inc. v. Commissioner of Internal Revenue, T.C. Memo 1990-501, 60 T.C.M. (CCH) 824 (1990) (protective order restricting IRS use of summons in the Tax Court).