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Louis D. Brandeis School of Law at the University of Louisville  
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**Academic/Legal Employment**

**Louis D. Brandeis School of Law at the University of Louisville**

**Professor of Law, August 2000 - Present**

**Associate Professor, July 1997 - July 2000**

**Assistant Professor, August 1993 - June 1997**

**Courses:** Civil Procedure I, Civil Procedure II, Administrative Law, Evidence, Religion & the Constitution, Health Care Regulation, Managed Care.

**Committees:** Personnel, Curriculum, Probation and Reinstatement, Faculty Recruitment, Student Welfare. Special Service: Health Law Moot Court Competition.

**University Committees:** Committee for Review of Individual Financial Interests in Research; Committee for Review of Institutional Financial Interests in Research.

**Seton Hall University School of Law**

**Visiting Professor, Spring 1998 Semester**

**Courses:** Health Law I, Health Law II. (LL.M. and M.S.J. degrees in Health Law).

**Indiana University School of Law - Indianapolis**

**Adjunct Faculty, Legal Writing, Fall 1992 - Spring 1993**

**Indiana University School of Law - Indianapolis**

**The Center for Law and Health**

**Assistant Director:** September 1992 - July 1993

**Senior Research Fellow:** January 1992 - August 1992

**Sommer & Barnard, PC**

Associate attorney: August 1990 - December 1991. Litigation practice in federal and state courts, at trial and appellate levels.

Summer Associate: May - August 1988

**Education**

**Juris Doctorate, *Summa Cum Laude*, May 1990**

**Indiana University School of Law - Indianapolis**

**Class Rank: 6/211                      GPA: 3.65**

**Awards:** George O. Dix Writing Competition Award, 1990  
Federal District Court Internship, 1990  
Indiana State Bar Foundation Scholarship, 1989-90  
James V. Donadio Scholarship, 1988-89  
Law Faculty and Alumni Fellowship, 1988  
American Jurisprudence Award -- Torts II, 1988

**Law Review: Executive Editor, Notes and Topics, Volume 23, 1989-90**

**Bachelor of Science, Public Health, With Distinction, May 1987, Indiana University**  
**Associate of Science, Dental Hygiene, With Distinction, May 1979, Indiana University**

**Publications & Other Scholarship**

*In progress:* An analysis of the original understanding of the concept of separation of church and state, with emphasis on the first decades after official recognition of the church as an institution.

*In progress:* A study of natural law concepts and their bearing on the reach and content of state regulation.

*Agency Preemption and the Shimer Analysis: Unmasking Strategic Characterization By Agencies and Giving Effect to the Presumption Against Preemption*, – WISCONSIN LAW REVIEW – (forthcoming March 2008).

QUESTIONS & ANSWERS: ADMINISTRATIVE LAW, NexisNexis (2005) (co-authored with Russell Weaver).

*Recent Modifications to Preemption Doctrine & Their Impact on State HMO Liability Laws*, 1 INDIANA HEALTH LAW REVIEW 51 (2004) (inaugural issue, lead article).

*The Final Chapter (Maybe) in the Story of Preemption of HMO Accountability Under State Law*, Health Care Law Monthly, February 2004 (LexisNexis).

*The Evolution of Informational Needs of Consumers Regarding Their Health Coverage*, for the Southeastern Association of Law Schools Annual Meeting (July 2003).

*Financial Conflicts of Interest in Human Subjects Research: Proposals for a More Effective Regulatory Scheme*, 60 Wash. & Lee L. Rev. 15-109 (2003).

*ERISA UpDate*, Proceedings of the Annual Health Law Teachers Conference, American Society of Law, Medicine & Ethics, Indiana University School of Law (June 2002) (paper detailing current ERISA / ERISA preemption issues).

*Ethics and the Entrepreneurial Factor in Research*, Proceedings, Conference on Ethics at the Frontiers of Medicine, University of Louisville School of Medicine & the Brandeis School of Law (April 2001) (paper detailing financial conflicts of interest in research involving human subjects, and the regulations governing).

*Coverage Denials in ERISA Plans: Assessing the Federal Legislative Solution*, 65 MISSOURI L. REV. 405 - 472 (2000).

*Preemption of a State “Legislatively Created” Right to Sue HMOs For Negligence*, Health Care Law Monthly (Matthew Bender) (April 1999).

*Coverage of Emergency Services: Case Commentary*, in Gervais, K.G. et al, *ETHICAL CHALLENGES IN MANAGED CARE: A CASEBOOK* (Georgetown University Press, Washington, D.C.) (1999).

*The Shifting Preemption Paradigm: Conceptual and Interpretive Issues*, 51 *VANDERBILT L. REV.* 1149 (1998) (lead article vol. 51, no. 5).

*ERISA Pre-emption: Integrating Fabe into the Savings Clause Analysis*, 9 *NATIONAL INSURANCE L. REV.* 139 (1998) (reprint of article first appearing in 27 *RUTGERS L.J.* 273 (1996)).

*Geissal v. Moore Medical Corp.*, *HEALTH LAW NEWS*, A Publication of the University of Houston Health Law and Policy Institute (September 1998) (commentary on recent Supreme Court case relating to health law).

*Empirical Studies of Judicial Decisions Serve an Important Role in the Cumulative Process of Policy Making*, 31 *IND. L. REV.* 80 (1998) (Symposium Issue: How Empirical Research Shapes Health Law and Policy).

*Tort Liability for Managed Care: The Weakening of ERISA's Protective Shield*, 25 *AMERICAN JOURNAL OF LAW, MEDICINE AND ETHICS* 160 (1997).

*Clarifying ERISA's Preemption, Discrimination Provisions*, *HEALTH LAW NEWS*, A Publication of the University of Houston Health Law and Policy Institute (September 1997) (commentary on recent Supreme Court cases relating to health law).

*Serious Illness and Private Health Coverage: A Unique Problem Calling For Unique Solutions*, 25 *AMERICAN JOURNAL OF LAW, MEDICINE AND ETHICS* 180 (1997) (with E. Kinney et al.).

*Does ERISA Preempt a State Provider Tax to the Extent it is Imposed on Health Care Facilities Owned by Self-Insured ERISA Plans?* *WEST LEGAL NEWS* (In the Supreme Court series), 3-10-97 *WLN* 40000 (1997).

*The Complete Preemption Dilemma: A Legal Process Perspective*, 31 *WAKE FOREST L. REV.* 927 (1996) (lead article vol. 31, no. 4).

*ERISA Pre-emption: Integrating Fabe into the Savings Clause Analysis*, 27 *RUTGERS L.J.* 273 (1996) (lead article vol. 27, no. 2).

*Travelers Insurance: New Support for the Argument to Restrain ERISA Pre-emption*, 13 *YALE J. ON REG.* 255 (1996).

*Managed Competition & Limited Choice of Providers: Countering Negative Perceptions Through A Duty to Select Quality Network Physicians*, 27 *ARIZ. ST. L.J.* 876 (1995).

*Perpetual Conservation: Achieving the Goal Through Preemptive Federal Easement Programs*, 43 CASE WESTERN RESERVE L. REV. 401 (1993).

*Recent Developments in Indiana Tort Law*, 26 INDIANA L. REV. 1159 (1993) (with Neal Lewis, Esquire).

THE SOCIAL CONTRACT FOR HEALTH CARE IN INDIANA, REPORT OF THE SOLUTIONS SUBCOMMITTEE TO THE INDIANA COMMISSION ON STATE HEALTH POLICY (July 1992) (with Eleanor D. Kinney, J.D., M.P.H., Professor of Law and Director, The Center for Law and Health).

*Expanding the Privacy Torts: Protecting Human Dignity and Autonomy in an Information Era* (Spring 1990), George O. Dix Writing Competition Award.

*Delimiting the Manufacturer's Liability: An Examination of Loss of Consortium Recovery in Strict Products Liability Actions Under Section 402A of the Restatement (Second) of Torts*, 22 INDIANA L. REV. 821 (1989), *reprinted by* Cleveland-Marshall College of Law, Law Alumni Ass'n, CLE program on Products Liability (May 12, 1990).

### **Professional Organizations**

Member, American Society for Law, Medicine and Ethics.  
Member, American Bar Association, Health Law Forum.  
Member, American Bar Association, Section of Tort and Insurance Practice.  
Member, Louisville Bar Association, Health Law Section.

### **Presentations**

*Upcoming*: presentation at AALS 2008 Midyear Meeting, for the Evidence Section's Conference on the Future of Evidence: How Science and Technology Are Changing Evidence Law.

Annual Meeting of the Southeast Association of Law Schools. July 2005. Presentation on FDA preemption of state tort actions alleging negligent failure to warn.

Annual Health Law Teachers Conference. June 2004. American Society of Law, Medicine and Ethics and Seton Hall University School of Law. Presentation on ERISA preemption issues before the Supreme Court in 2004.

SEALS (Southeast Association of Law Schools) Annual Meeting. July 2003. Presentation on the evolution of information disclosure: from the HMO acts to recent managed care reform legislation.

Annual Health Law Teachers Conference. June 2003. American Society of Law, Medicine and Ethics and Widener University School of Law. Presentation on recent developments in the area of ERISA preemption.

Annual Health Law Teachers Conference. June 2002. American Society of Law, Medicine and Ethics and Indiana University School of Law-Indianapolis. Presentation on recent developments in the area of ERISA preemption.

Ethics at the Frontiers of Medicine. University of Louisville School of Medicine & the Brandeis School of Law. April 2001. Presentation on financial conflicts of interest in research involving human subjects.

Annual Meeting, Association of American Law Schools. January 1999. New Orleans, Louisiana. Presentation to the Section on Employee Benefits: ERISA Preemption of State Law: Recent Developments and Current Trends.

Annual Health Law Teachers Conference. June 1998. American Society of Law, Medicine and Ethics and University of Houston Health Law and Policy Institute. Presentation on teaching ERISA preemption.

KET Interview. August 1998. Provided interview to Kentucky Educational Television for purposes of a news report preceding a panel discussion on managed care reform.

Annual Health Law Teachers Conference. June 1997. American Society of Law, Medicine and Ethics and Seton Hall University School of Law. Presentation on teaching ERISA preemption.

Health Law Symposium for the Indiana Law Review: How Empirical Research Shapes Health Law and Policy. April 1997. Indiana University School of Law--Indianapolis. Presented commentary on an article by Professor William Sage. *See Empirical Studies of Judicial Decisions Serve an Important Role in the Cumulative Process of Policy Making.*

University of Louisville Multicultural Center. January 1997. Presentation on women's issues in the law. (Described gender equity in the federal courts as documented in the Report of the Special Committee on Gender to the Gender Task Force Project in the D.C. Circuit, 84 Geo. L.J. 1657 (1996)).

Annual Health Law Teachers Conference. June 1996. American Society of Law, Medicine and Ethics and Widener University School of Law. Presentation on current ERISA preemption issues.

Annual Health Law Teachers Conference. June 1994. American Society of Law, Medicine and Ethics and Indiana University School of Law-Indianapolis. Presentation on getting started in empirical research.

Risk & Insurance Management Society, Inc., Kentuckiana Chapter. March 15, 1994. Presentation on current issues in health reform.

Southern Middle School, Louisville, Kentucky. Summer 1994. Presentation on environmental regulation as part of a program funded by the National Science Foundation (with Professor Serena Williams, Brandeis School of Law at the University of Louisville).

**Committee Assignments, University**

2007-08

Member, Oversight Committee for the Management of Individual Financial Interests in Research

Member, Oversight Committee for the Management of Institutional Financial Interests in Research (pending official appointment)

2006-07

Member, University Individual Conflicts of Interest in Research Committee

Member (alternate), University Faculty Grievance Committee

2005-06

Member, University Individual Conflicts of Interest in Research Committee

Member (alternate), University Faculty Grievance Committee

2004-05

Member, University Individual Conflicts of Interest in Research Committee

2003-04

Member, University Individual Conflicts of Interest in Research Committee

Member, University Conflicts of Interest Task Force

2002-03

Member, University Conflicts of Interest Task Force

2001-02

Member, University Scholars Award Committee

2000-01

Member, University Scholars Award Committee

Women's Center Council Member

Member, Committee For National Conference on Bioethics

1999-2000

Member, University Scholars Award Committee

Women's Center Council Member

Member, Committee For National Conference on Bioethics

1998-99

Women's Center Council Member

**Committee Assignments, Law School**

2007-08

Personnel  
Curriculum, Chair  
Faculty Recruitment  
Reinstatement & Probation  
Student Welfare

2006-07

Personnel  
Curriculum, Chair  
Reinstatement & Probation  
Student Grievance  
Student Welfare

2005-06

Personnel  
Student Welfare, Chair  
Reinstatement & Probation  
Student Grievance  
Curriculum  
Served as replacement on BLS Position Search Committee

2004-05

Personnel  
Student Development & Academic Support, Chair  
Student Grievance, Chair  
Reinstatement & Probation  
Curriculum  
Research/Coif

2003-04

Personnel  
Student Development & Academic Support  
Reinstatement & Probation  
Student Grievance

2002-03

Personnel (presenter for Hall promotion)  
Student Development & Academic Support  
Reinstatement & Probation  
Student Grievance

2001-02

Personnel  
Student Development & Academic Support  
Reinstatement & Probation  
Regulatory Law & Policy Program  
Curriculum

2000-01

Personnel  
Reinstatement & Probation  
Regulatory Law & Policy Program  
Curriculum  
Research Enhancement/Coif

1999-2000

Student Development & Academic Support  
Reinstatement & Probation  
Curriculum  
Research Enhancement/Coif  
Challenge for Excellence Initiatives

1998-99

Student Development & Academic Support  
Reinstatement & Probation  
Curriculum  
Research Enhancement/Coif  
Challenge for Excellence Initiatives

1997-98

Student Development & Academic Support  
Reinstatement & Probation  
Curriculum  
Research Enhancement/Coif  
Challenge for Excellence Initiatives

1996-97

Student Development & Academic Support  
Reinstatement & Probation  
Research Enhancement/Coif

1995-96

Student Development & Academic Support  
Reinstatement & Probation  
Research Enhancement/Coif

1994-95 and 1993-94

Student Development & Academic Support  
Reinstatement & Probation

1993-94

Student Development & Academic Support  
Reinstatement & Probation

### **Seminars Attended for Development**

Annual Meeting of the Southeast Association of Law Schools. July 2005.

Annual Health Law Teachers Conference. June 2004. Seton Hall University School of Law and the American Society of Law, Medicine and Ethics.

SEALS (Southeast Association of Law Schools) Annual Meeting. July 2003. Presentation on the evolution of information disclosure: from the HMO acts to recent managed care reform legislation.

Annual Health Law Teachers Conference. June 2003. Widener University School of Law and the American Society of Law, Medicine and Ethics.

Institute for Law School Teaching: Demonstrating and Deconstructing Our Teaching. June 2002. Franklin Pierce Law Center, Concord, N.H.

Annual Health Law Teachers Conference. June 2002. Indiana University School of Law and the American Society of Law, Medicine and Ethics.

Annual Meeting, Association of American Law Schools. January 2002. New Orleans, Louisiana.

Association of American Law Schools: Workshop For Experienced Law Teachers—We Teach, But Do They Learn. June 9-13, 2001. Calgary, Alberta, Canada.

Annual Meeting, Association of American Law Schools. January 1999. New Orleans, Louisiana.

Annual Health Law Teachers Conference. University of Houston and the American Society of Law, Medicine and Ethics. June 1998.

Harvard Law School: Workshop for Law Teachers and Scholars. June 9-13, 1997.

Annual Health Law Teachers Conference. Seton Hall University School of Law and the American Society of Law, Medicine and Ethics. June 6-7, 1997.

Health Law Symposium for the Indiana Law Review: How Empirical Research Shapes Health Law and Policy. Indiana University School of Law--Indianapolis. April 4-5, 1997.

Annual Health Law Teachers Conference. Widener University School of Law and the American Society of Law, Medicine and Ethics. June 7-8, 1996.

LBA-CLE Doctors & Lawyers Talk Malpractice. Louisville, Kentucky. October 27, 1995.

UK-CLE Kentucky Health Law. University of Kentucky. September 22, 1995.

Annual Health Law Teachers Conference. Loyola University School of Law and DePaul University School of Law and the American Society of Law, Medicine and Ethics. June 2-3, 1995.

Annual Health Law Teachers Conference. Indiana University School of Law-Indianapolis and the American Society of Law, Medicine and Ethics. June 3-4, 1994.

AALS Health Law Workshop. Washington, D.C. March 4-5, 1994.

Health Care Symposium. Louisville Chamber of Commerce. Feb. 17, 1994.

AALS Conference for New Law Teachers. The University of Maryland School of Law. July 23-24, 1993.