

# Pedro A. Malavet

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[http://works.bepress.com/pedro\\_malavet/](http://works.bepress.com/pedro_malavet/)

SSRN: <http://ssrn.com/author=624526>

## Curriculum Vitae

### Education

#### **Georgetown University Law Center, Washington, DC**

Juris Doctor, *magna cum laude* (top 10% of the class), 1987.

Awards: Criminal Justice Clinician of the Year—DC Division, 1987; Order of the Coif; LL.M., 1994.

#### **Emory University, Atlanta, Georgia**

Bachelor of Business Administration, 1984. Accounting Major.

### Experience

#### **The University of Florida**

#### **Fredric G. Levin College of Law**

**1995-Present**

**Interim Director, Center for the Study of Race and Race Relations, Fall 2009.**

**Professor of Law, since 2004.**

**Tenure, since 2001.**

**Associate Professor, 2001-2004.**

**Assistant Professor, 1995-2001.**

**Affiliate Professor of Latin American Studies, since 2005.**

#### **Current Teaching Assignments: Evidence; Civil Procedure; Comparative Law**

Full-time teaching and research and writing currently principally focused on Comparative Law, Critical Race Theory and U.S. Territorial Possessions. Past and present teaching assignments:

[Seminar: The U.S. Territorial Possessions](#), (2 credits), [Comparative Law](#) (2 or 3 credits), [Civil Procedure](#) (4 credits), [Comparative Law Seminar: The Civil Code](#) (2 credits), [Evidence](#) (4 credits), Introduction to Law (1 credit), European Union Law (3 credits), Conflicts (3 credits),

Florida-Univ. of Costa Rica Environmental Law Program, Montpellier Summer Program, Study Tour of Chile program.

**Seattle University  
School of Law**

**Visiting Professor of Law, Fall 2004-Spring 2005.**

Taught Evidence, Comparative Law and U.S. Territorial Possessions Independent Study.

**Georgetown University Law Center**

**Adjunct Professor of Law, Spring 1995.**

Taught a Seminar on introduction to specific Civil Code substantive legal concepts.

**Future Law Professor Teaching Scholar, Fall 1993-Fall 1994.**

Team-taught with Professor John R. Schmertz in Conflicts of Laws and European Union Law I.

**Bufete Malavet & Ayoroa, Ponce, Puerto Rico  
Junior Partner, 1989 to 1993.**

Substantial general litigation experience; prosecution and defense of claims mostly in areas of general tort, personal-injury, medical malpractice and wills; defended in legal malpractice and disciplinary proceedings; significant appellate practice; Latin notary.

**Pontifical Catholic University of Puerto Rico**

**Adjunct Professor of Law, Fall 1991 to Spring 1992.**

Taught courses in Federal Jurisdiction and Puerto Rico Appellate Procedure.

**The Honorable Raymond L. Acosta, San Juan, Puerto Rico  
Law Clerk, US District Court, 1987 to 1989.**

General research and analysis of filings in civil and criminal cases; worked mainly on one of the largest complex-litigation cases in the history of the federal system; drafted opinions issued by the First Circuit Court of Appeals in several criminal cases.

**Georgetown University [Criminal Justice Clinic](#), Washington, DC  
Student Lawyer, 1986 to 1987.**

Represented criminal defendants in DC Superior Court and prisoners in post-conviction proceedings. "*Clinician of the Year-DC Division*" award.

**Georgetown University Law Center, Professor Susan L. Bloch  
Research Assistant, Summer 1985.**

Studied the Cable Communications Act of 1984 and other communications-related legislation.

## Publications

(pdf versions of most of the publications listed here are available for review and download at [http://works.bepress.com/pedro\\_malavet/](http://works.bepress.com/pedro_malavet/)) and SSRN Author page: <http://ssrn.com/author=624526>)

## Articles

***Counsel for the Situation: The Latin Notary, a Historical and Comparative Model*, 19 *Hastings Int'l. and Comparative L. Rev.* 389-488 (1996).**

Can a lawyer, in certain matters, be an impartial counsel for the situation, rather than an advocate for either party? The Latin Notary is a legal professional of the Civil Law world that is expected to be a non-adversarial, expert legal counselor to every party to a transaction. The State seeks to ensure impartiality by imposing on the notary very strict training, admission and ethical requirements. In exchange for such high demands, the state often grants the notaries profitable subject-matter and geographic monopolies. Covers historical development, current definition and scope, relation to "lawyer as intermediary" of Model Rule 2.2.

***The Non-Adversarial, Extra-Judicial Search For Legality And Truth: Foreign Notarial Transactions As An Inexpensive And Reliable Model For A Market-Driven System Of Informed Contracting And Fact-Determination*, 16 *Wisc. Int'l L. J.* 1-60 (1997).**

Notarial transactions are specialized contracts, which in most of the world are written and certified by a legal professional known as a notary, who obviously is not the U.S. notary public. These, in effect, lawyers, practice a liberal profession so endowed of the public trust that they are expressly made alternatives to judicial proceedings. Hence, the notarial form is an extra-judicial certification of legality and truth, often comparable to our court judgments. This system guarantees honesty and legality while avoiding or resolving disputes, at a very low cost, when compared to American law practice and certainly when compared to litigation.

***The Foreign Notarial Legal Services Monopoly: Why Should We Care?*, 31 *John Marshall L. Rev.* 945-970 (1998).**

This piece serves three purposes: (1) briefly to take issue with the current treatment of comparative scholarship, especially how it is ignored by main law reviews; (2) to be a succinct introduction to the Latin Notary; and (3) to point out that the adversarial ethic and notarial impartiality can co-exist and even complement one another. It presents the notary as an example of a non-adversarial ethic, in a system that has other professionals who are ruled by the adversarial ethic. It does not advocate the abandonment of the adversarial ethic, but, rather, argues that in certain legal situations a non-adversarial approach can work best.

***Literature and Arts as Antisubordination Praxis LatCrit Theory and Cultural Production: The Confessions of an Accidental Crit*, 33 *U.C. Davis L. Rev.* 1293-1331 (2000).**

This short article: (1) explains the development the Arts Panel at the LatCrit IV Conference and provides an account of its substantive content; (2) it gives the author's reactions to the

presentations, while placing them within the planned description and written questions, locating them within the contemporary debate over the use of narrative in legal scholarship and in postmodern philosophical discourse more generally; and (3) the author gives a narrative about his own reluctant, difficult, and ultimately accidental gravitation towards LatCrit theory.

***Puerto Rico: Cultural Nation, American Colony*, 6 Mich. J. Race and Law 1-106 (2000) (actually published in the Summer of 2001).**

A study of Puerto Rico's century-old legal relationship with the United States, and how it constructs Puerto Ricans as legal and social second-class citizens because of their cultural nationhood. The discriminatory treatment conflicts with contemporary notions of justice and morality in postmodern political and legal philosophy. The article articulates a framework for legal reform that is consistent with a new progressive theoretical construct of a pluralistic and communitarian form of liberalism.

***The Accidental Crit II: Culture and the Looking Glass of Exile*, 78 D.U. L. Rev. 753-793 (2001) (actually published in the Fall of 2002).**

A LatCritical look at the then-current "Latina/o Musical Moment" represented by the popularity of artists like Carlos Santana, Ricky Martin, Jennifer López, Enrique Iglesias, Marc Anthony, and Christina Aguilera. It specifically focuses on competing cultural constructs of Latinas/os generally, and Puerto Ricans in particular, re/viewed from the author's perspective of exile along the cultural borderlands of Puerto Rico and the *Estados Unidos de Norteamérica* (the U.S.A.).

***Reparations Theory and Postcolonial Puerto Rico: Some Preliminary Thoughts*, 13 La Raza L. J. 387-423 (2002).** Applying recent Critical Race Theory reparations discourse to inform Puerto Rico's transition to any one of the three legitimate post-colonial status options.

***Introduction: LatCritical Encounters with Culture, In North-South Frameworks*, 51 Fla. L. Rev. 1-39 (2003).** A critical introduction of a group of articles in the LatCrit VI Symposium issue, discussing the authors' diverse approaches to Latin American legal cultures and contextualizing the publications in the growing body of LatCrit scholarship.

***Afterword: Outsider Citizenships and Multidimensional Borders: The Power and Danger of Not Belonging*, 52 Cleveland State L. Rev. 321-338 (2005).** A critical review of the essays and articles included in the LatCrit VIII Symposium issue.

## **Book Chapter**

**Book Chapter: *The Story of Downes v. Bidwell: "The Constitution Follows the Flag ... But Doesn't Quite Catch up With It," in Race and the Law Stories*** (Rachel Moran and Devon Carbado, eds., Foundation Press, 2008). A study of the principal decision of the *Insular Cases* of 1901, which has provided constitutional authorization for the U.S. territorial empire for over a century. The cases were most recently referenced by the U.S. Supreme Court in *Boumediene v. Bush* in June 2008.

## Book

**America's Colony: The Political and Cultural Conflict between the U.S. and Puerto Rico** (NYU Press 2004) (paperback edition 2007). A detailed study of the historical, legal, political and cultural background of the U.S.-Puerto Rico relationship, focusing on the political conflict produced by the clash between the dominant U.S. culture and the Latina/o Puerto Rican culture. The book also critically addresses the mythologies of 100 years of U.S. colonialism in Puerto Rico.

## In Progress

**From *Downes v. Bidwell* to *Boumediene v. Bush*: “The Constitution follows the flag ... but [still] doesn’t quite catch up with it.”** A follow-up piece to the book chapter listed above; this article provides historical context for the Supreme Court's references to the Insular Cases in the recent case challenging the detentions at the U.S. Naval Station in Guantanamo.

[http://works.bepress.com/pedro\\_malavet/](http://works.bepress.com/pedro_malavet/).

## Popular Press

***Breaking Down UF Racial Barriers*, The Gainesville Sun, Sunday, September 13, 2008.** An OpEd essay on the 50<sup>th</sup> Anniversary of the desegregation of the University of Florida College of Law; briefly describes the personal struggle of lead plaintiff Virgil Hawkins, first admitted student George Starke and first law graduate W. George Allen.

## Electronic Publishing

**Personal Home Page.** <http://nersp.osg.ufl.edu/~malavet>.

A virtual teaching portfolio. Short biography; Curriculum Vitae; course syllabi; past final examinations and practical projects and feedback memoranda related thereto; general resources for students, mostly related to exam-taking; and a personal page.

## Professional Conferences, Special Teaching Assignments and CLE (selected)

**Introduction to United States Civil Procedure. (July 2007 & 2008).** CLE program for judges, prosecutors, and law professors from several Brazilian states conducted at the Levin College of Law.

**Introduction to the United States Legal System. (May 2007).** CLE program for judges and prosecutors in the state of Minas Gerais in Brazil. I taught an overview of the U.S. legal system and a unit on Civil Procedure.

**Latinos and the Law Conference (Spring 2007).** University of Indiana-Bloomington, School of Law. Presented my work *The Story of Downes v. Bidwell: "The Constitution Follows the Flag ... But Doesn't Quite Catch up With It."*

**LatCrit XI. (October 2006).** Moderated and commented on the presentations in panel titled *History, Hernandez [v. Texas], & the West.*

**LatCrit X. (October 2005).** Presenter in panel titled *Colonialism in Comparative Context.* I discussed Puerto Rico's colonial/territorial status.

**Study Abroad Program: France. (Summer 2005).** Taught Comparative Law course to U.S. and French students at the University of Montpellier.

**Pontifical Catholic University of Rio de Janeiro. (June-July 2004).** Taught ten hours of an Introduction to United States Law course.

**Costa Rica Environmental Law Program. (June 2004).** Taught sessions on Introduction to the Comparative Method.

**LatCrit IX. (May 2004).** Moderator and commentator in plenary panel on cultural studies and colonialism; presenter in concurrent panel on voting and voting rights.

**LatCrit VIII. (May 2003).** Commentator in plenary panel *Militarisms and Other Isms: A Critical Discussion of Current Affairs.*

**LatCrit VII. (May 2002).** Presenter in plenary panel on Reparations and Colonialism.

**LatCrit VI. (May 2001).** Moderated and participated in panel titled *Puerto Rico: Cultural Nation, American Colony.*

**Clason Lecture. (October 2000).** An endowed lecture series at Western New England College School of Law. Spoke to faculty about my *Cultural Nation* article describe above, and to students and faculty about my *Accidental Crit II* article, which is also describe above.

**LatCrit V. (May 2000).** Moderated the plenary panel titled *Multi/Cultural Artistic Re/presentation in Mass Media: Capitalism, Power, Privilege and Cultural Production.*

**Law and Society Conference. (May 1999).** Moderated a panel entitled *Race, History, and Historical Representation*, during the 1999 Annual Meeting of the Association.

**LatCrit IV. (April 1999).** The initial course for certification of Florida Civil Law Notaries. A presentation about the Civil Law Notary in other countries, to give some comparative legal perspective to this Florida legislative initiative.

**Florida Civil Law Notary. (December 1998).** The initial course for certification of Florida Civil Law Notaries. A presentation about the Civil Law Notary in other countries, to give comparative legal perspective to this Florida legislative initiative.

**CALI. (June 1998).** Presentation during the Annual conference. Interactive Whiteboards. I was invited to report on my experience with this classroom equipment, based on testing of two interactive white board systems with my Civil Procedure students in the Spring of 1998.

**National Notary Association. (May 1998).** A comparative presentation of the legal professional notary abroad. With the President of the International Union of the Latin Notariat. CLE.

**LatCrit III. (May 1998).** I was invited to moderate a panel entitled *Between/Beyond Colors: Outsiders Within Latina/no Communities*.

***Introduction to American Civil Procedure and Civil Environmental Enforcement: A Comparative Analysis. (Summer 1996).*** Manuscript and lecture presented at the Guaratubá Judicial and Public Ministry Training Symposium, Guaratubá, Brazil; with the [Center for Governmental Responsibility of the University of Florida](#).

***The Latin Notary, the Comparative Method and the American Legal Profession in the Age of Globalization. (Fall 1995).*** Manuscript drafted for and presented at the Hispanic National Bar Association Annual Conference in Puerto Rico.

### ***Technology and the Practice of Law.***

A CLE presentation during the University of Florida Alumni Weekend in the Fall of 1997. This presentation was based on the operating manual that I wrote for a computer program that was specifically designed to manage information generated in a typical law practice.

CLE course on Technology in the Practice of law at the 1991-92 Annual Meeting of the *Colegio de Abogados de Puerto Rico* (Puerto Rico Bar Association) at the Catholic University of Puerto Rico. Using computers for law office management, legal research and drafting.

### **Consulting (selected)**

#### **Special Meeting Between French and Spanish Notaries and ABA Property Section.**

I was invited to assist in meetings between the French and Spanish National Councils of the Notariate, led by their respective presidents, and the ABA Property Section.

#### **Computer-Driven Law Office Management, SYSCOMP, Inc.**

In 1992 I was contracted by SYSCOMP, Inc., a programming company and computer sales business in Ponce, Puerto Rico, to test their law office management program and to write a Quick Reference Manual for Bufete 2.0®, a sophisticated relational database for law office

management, using the 4th Dimension® database. In addition to testing the software, I wrote and desktop published this illustrated almost 70-page document. I also wrote a "Read Me" file for the demonstration version of the software.

### **Speeches and Special Presentations (selected)**

**The Amistad Revolt and Spanish Colonial Law. (Spring 2001).** A presentation to actors and to the general public about the *Amistad* play, using my experience with comparative legal studies and Spanish legal history.

***The Value of a College Education, the Pitfalls of Liberal Condescending Supremacy and the Complexities of Latino-Latina Self-Identification.*** Keynote Address, 1997 Hispanic Student Assembly, The University of Florida (Fall 1997).

**Comparative Introduction to American Law.** A brief description of the American legal system for law students visiting from the University of Antwerp.

**Mock Law Class.** Mock class during *Minority Law Day*, in the Fall of 1996.

**Exam-Taking Workshops.** I have been making presentations on exam-taking since my second semester of law school. [Law School Exam Taking](#).

**Technology in the Classroom.** A presentation about technology in the classroom that was part of the Second Annual Student-Faculty Symposium during the Spring of 1997.

**Judicial Clerkships.** Presentations for law students on Judicial Clerkships. University of Florida, Fall of 1995; Law Student Conference at the Hispanic National Bar Association Annual Conference in Miami, Fl., Fall 1996.

### **Other Professional Activities (selected)**

**American Law Institute. Elected Member (Elected September 2009).** "The American Law Institute is the leading independent organization in the United States producing scholarly work to clarify, modernize, and otherwise improve the law. The Institute (made up of 4,200 lawyers, judges, and law professors of the highest qualifications) drafts, discusses, revises, and publishes Restatements of the Law, model statutes, and principles of law that are enormously influential in the courts and legislatures, as well as in legal scholarship and education." (<http://www.ali.org>).

**Association of American Law Schools: Membership Review Committee. (2007-2009).** The committee "examines law school applications for membership in the Association and sabbatical evaluation reports of member law schools[; and] makes recommendations to the Executive Committee on the actions it should take."

**Consejo de Educación Superior de Puerto Rico (Puerto Rico Higher Education Council, Summer 2009).** Program Review Committee member. Consultant to the Council and site visitor on approval of new LL.M. program.

**Association of Hispanic Faculty and Staff, The University of Florida. President.** For the academic year 2001-2002.

**Fundación Facultad de Derecho Eugenio María de Hostos.** I am a founding member and trustee of the Foundation, a Puerto Rico non-profit corporation created to run a new, independent law school in Mayagüez, Puerto Rico.

**Latina and Latino Critical Legal Theory, Inc./LatCrit, Inc. and the Annual LatCrit Conference.** I was a founding member of the Board of Trustees of this Florida Non-Profit Corporation dedicated to Critical Legal Scholarship. I also created and maintained the organization's website from 1998 until 2002 (now at <http://www.latcrit.org>). I resigned from the board in 2005.

**Center for the Study of Race and Race Relations.** The Center sponsored its first Symposium in the Spring of 1998 and its second Conference in 1999.

**In-Class Technology Experiment.** Extensive testing of equipment and software and design of materials for in-class use and out of class supplementation.

**Graduate Faculty.** I have served on two thesis committees.

**Faculty Advisor.** For SALSA, the latina/o student group at the College of Law, Fall 1995-Spring 2004, Fall 2005-Fall 2007.

**University of Florida Chapter, Order of the Coif. President. (2006-Present).** Head of the UF chapter of the national law school honor society. Our principal duty is to select new members to the chapter from among our most recent graduates.

### **Committee assignments (selected)**

**50th Anniversary of Desegregation Committee. Chair.** Planning a series of events to commemorate the desegregation of the College of Law and the University of Florida starting on September 15, 1958.

**Non-Tenure-Track Legal Skills Faculty Appointments and Retention Committee (Fall 2007-Spring 2008).** Chaired the search for our new Legal Skills faculty member for the Virgil Hawkins County Civil Mediation Clinic.

**Ad Hoc Committee on Climate (Fall 2006).** A special committee created by the dean to address concerns about diversity at the College of Law.

**Admissions Committee (2005-2006).** Reviewed individual files and voted on admissions matters.

**Appointments Committee (Spring 2003-Spring 2004).** Identified and evaluated candidates for faculty appointment.

**Facilities Committee (2001-2002).** Planned for the building of our new classroom towers and the remodeling of Holland Hall.

**Technology Committee (1995-1998, 1999-2000).** Developed a comprehensive technology policy for the College of Law.

**Financial Aid Committee (1999-2000).** Made financial aid awards.

**Disability Appeals Committee (1999-2000).** Appeals of disability decisions by the Administration.

**Academic Standards Committee (1998-1999).** Resolved student appeals of decisions regarding Academic Policies at the College of Law. Chair.

**Admissions Committee (1995-1996).** Reviewed over 600 individual applicant files and voted on matters related to Admissions.

**Enrichment Committee (1994-1995).** Promotes scholarly discussion within the faculty and coordinates presentations by colleagues from our faculty and from other institutions.

## **Bar Admissions**

Puerto Rico, US District Court for Puerto Rico, US First Circuit Court of Appeals.

## **References**

**The Honorable Raymond L. Acosta, Sr. Judge.** United States District Court for Puerto Rico, U.S. Post Office and Courthouse, Recinto Sur Street, Old San Juan, Puerto Rico, 00901; ( 787) 977-6070.

**Professors Susan Bloch, John Copacino, Emma Jordan, Elizabeth Patterson.** [Georgetown University Law Center](#), 600 New Jersey Ave. NW, Washington, DC 20002; (202) 662-9000.

**Professors Jon Mills, Michael Seigel, Berta Esperanza Hernández-Truyol, Kenneth Nunn, Michelle Jacobs, Donald Peters.** [The University of Florida College of Law](#), PO Box 117625 or 2500 SW 2nd Ave., Gainesville, Florida 32611-7625. (352) 273-0600.

**Associate Professor Charles Pouncy.** Florida International University College of Law, University Park, GL, Miami, Florida 33199; (305) 348-7485.

**Professor Phyliss Craig-Taylor.** Associate Dean for Faculty Development & Professor of Law, Charlotte School of Law, North Carolina 28208. 704.971.9390.

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