

CARLEEN (CARLY) ZUBRZYCKI

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CURRENT POSITION

HARVARD LAW SCHOOL

CLIMENKO FELLOW & LECTURER IN LAW, *Cambridge, MA (July 2019-present)*

- Teach graded, for-credit 41-person course on legal writing to 1Ls. Meet individually with each student twice during semester to review drafts. Course includes lectures, “flipped learning” in-class writing exercises, and substantial writing assignments.
- Teach pandemic/health law upper-level elective in Spring 2021

EDUCATION

YALE LAW SCHOOL, J.D., May 2012

- Coker Fellow, Prof. Doug Kysar, Torts
- Teaching Fellow, Yale College: Issues in Bioethics, Bioethics & the Law,
- Student Director, Children & Youth Advocacy Clinic
- Board Member/Top 10 Family Friendly Firms Chair, Yale Law Women
- Editor, YALE JOURNAL ON REGULATION

YALE COLLEGE, B.A., Ethics, Politics, & Economics, *magna cum laude*, May 2009

- George D. Hume Prize for the senior thesis that best combines normative and empirical analysis: *Change the Institutions, Not the People: On Reproductive Technologies and Professional Career Paths*

TEACHING AND RESEARCH INTERESTS

- Primary: health law, torts, administrative law, bioethics
- Secondary: civil procedure, insurance law/health care financing, constitutional law, federal courts

PUBLICATIONS AND WORKS IN PROGRESS

- *Caretakers as Fiduciaries* (in progress): As the catastrophic spread of Covid-19 through nursing homes makes clear, residents of caregiving facilities are extraordinarily vulnerable. In this paper, I explore whether nursing home administrators and staff, along with other quasi-medical caregivers, should be considered fiduciaries or have duties of extraordinary (rather than reasonable) care toward their charges.
- *Health Privacy Exceptionalism and the Medicalization of Social Issues* (in progress) (selected for presentation at 2020 Privacy Law Scholars’ Conference via blind

process): I argue that as information about “social determinants of health” (like domestic violence, homelessness, or loneliness) is increasingly collected by medical providers, the special status of medical privacy is collapsing. Providers and patients both need greater clarity about how social-medical information should be used. More broadly, these practices raise deep questions about the ideal role of the medical sector as we increasingly realize that all information is health information, and all facets of life affect health.

- *Privacy From Doctors* (job talk) (YALE LAW & POLICY REVIEW, forthcoming Spring 2021): I argue that ongoing regulatory efforts to promote interoperable, comprehensive, “cradle-to-coffin” electronic health records fail to account for patient privacy interests *within* the patient-care context, instead focusing on the risks that patient information will be used outside the medical context. I provide a robust account of patients’ privacy interests within the medical care context. These include a patients’ autonomy interest in controlling the narrative on which medical decisions are made, and more practical interests, like enabling patients to receive blank-slate second opinions, counteract biased decision-making from prior encounters, and evading interference by third-party intermediaries. I provide practicable solutions for better realizing these interests, and close by arguing that our approach to privacy from doctors is a lens into the power dynamics in the relationships between patients, doctors, and the medical system.
- *Punitive Damages in an Era of Consolidated Power* (NORTH CAROLINA LAW REVIEW, January 2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3532178: In this paper, I argue that several strands of the Supreme Court’s recent jurisprudence have transferred control over punitive damages from ground level actors to a narrow group of appellate judges, and that this centralization is unwarranted and problematic. Punitive damages can serve as a rare opportunity for democratic “voice” in a world where power is centralized in large companies.

PRESENTATIONS

- *The Future of Medical Privacy*, Yale Law School (upcoming fall 2020)
- *Health Privacy Exceptionalism and the Medicalization of Social Issues*, Privacy Law Scholars’ Conference (online, June 2020)
- *Privacy From Doctors*
 - University of Connecticut School of Law (May 2020);
 - Privacy Law Scholars’ Conference, U.C. Berkeley (June 2019)
- Harvard Law School Supreme Court Term Preview, moderator, cosponsored by ACS and Federalist Society (October 2019)
- Introduction to Punitive Damages & *BMW v. Gore*, Guest Lecture, University of Connecticut School of Law (October 2019)

JUDICIAL CLERKSHIPS

JUDGE RANDOLPH D. MOSS, U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

LAW CLERK, *Washington, DC (January to September 2015)*

- Served as 1st law clerk after working together at firm

JUDGE KIM McLANE WARDLAW, NINTH CIRCUIT COURT OF APPEALS

LAW CLERK, *Pasadena, CA (August 2012-August 2013)*

PRACTICE EXPERIENCE

U.S. DEPARTMENT OF JUSTICE, CIVIL DIVISION, APPELLATE STAFF

ATTORNEY, *Washington, DC (October 2015-July 2019)*

- Served as lead counsel in appeals meriting centralized handling from Main Justice.
- Argued nine federal appeals, including four before the D.C. Circuit and others before the Sixth, Seventh, and Tenth Circuits. Drafted Supreme Court briefs. Advise Solicitor General's office, trial teams, and agencies including, e.g., HHS, FDA, BOP, and DOT.
- Representative matters include challenge by House of Representatives to implementation of Affordable Care Act (ACA); challenge by States to HHS's implementation of ACA's health insurer provider fees; Medicare/Medicaid disputes worth hundreds of millions of dollars; and FTCA and constitutional tort suits against law enforcement officials and agencies.
- Approximately half of docket involved healthcare-related issues, and remainder of docket covered wide range of administrative, constitutional, and statutory issues.

DOJ Civil-Division-Wide Awards:

- 2018: *Special Commendation Award* for ACA Risk Corridors litigation team
- 2017: *John Douglas Award for Pro Bono Service* for representation of domestic violence survivor

WILMER CUTLER PICKERING HALE & DORR

ASSOCIATE, *New York (October 2013-January 2015)*; SUMMER ASSOCIATE, *Washington, DC (2011)*

- Litigated in Appellate and Business Trial groups. Major matters included representation of World Trade Center leaseholders in 2nd Circuit appeal in tort suit arising out of September 11 attacks.
- SUMMER ASSOCIATE, *Washington, DC (Summer 2011)*

U.S. DEPARTMENT OF JUSTICE, CIVIL RIGHTS DIVISION

INTERN, DISABILITY RIGHTS SECTION, *Washington, DC (June 2010-August 2010)*

ADDITIONAL TEACHING EXPERIENCE

YALE UNIVERSITY

- COKER TEACHING FELLOW, Yale Law School, Doug Kysar, Torts (2011)
 - Responsible for reviewing writing assignments and assisting 1L students with legal research and writing.
- TEACHING ASSISTANT, Yale College Political Science Department
 - *Issues in Bioethics* with Prof. David Smith (spring 2010)
 - *Bioethics & Law* with Prof. Stephen Latham (spring 2012)
 - Responsible for 1-2 sections per semester, including weekly seminar-style discussion sections and grading exams and papers.

BAR MEMBERSHIP/ADMISSIONS

- Barred in New York
- Admitted to D.C., Federal, Second, Fifth, Ninth, and Tenth Circuits