

ALLISON M. ZIEVE

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EDUCATION

Yale Law School, New Haven, Connecticut, J.D. 1989

- Awarded Francis Wayland Prize for Litigation
- *Yale Law & Policy Review*, Current Topics Editor, 1988; staff member, 1987

Brown University, Providence, Rhode Island, A.B. 1986

- member Phi Beta Kappa
- graduated magna cum laude

LEGAL EXPERIENCE

2009-present **General Counsel**, PUBLIC CITIZEN, INC. and PUBLIC CITIZEN FOUNDATION, Washington, DC.

1994-present **Director** (7/09- present), **Senior Attorney/Staff Attorney** (8/94-6/09), PUBLIC CITIZEN LITIGATION GROUP, Washington, DC.

Litigation involving public health, consumer safety, open government, due process, and first amendment issues. Substantial expertise in administrative law, federal preemption doctrine, food and drug law, and Freedom of Information Act. Oral arguments before U.S. Supreme Court (4), federal courts of appeals, and federal district courts. (See list of selected cases, below.) Provide legal advice and assistance to Public Citizen's lobbying and health research staff, other public interest organizations, and congressional staffers.

1994 **Attorney**, NAACP LEGAL DEFENSE & EDUCATIONAL FUND, Washington, DC.

Worked on preparation and trial of voting rights case on behalf of intervenors defending Texas legislature's congressional redistricting plan (*Vera v. Reno*).

1992-1993 **Associate**, ROSEN, BIEN & ASARO, San Francisco, California.

Public interest litigation involving prison mental health care, sexual harassment, disability rights, and death penalty appeals, among other topics. Developed firm's environmental justice practice.

1989-1992 **Associate**, IRELL & MANELLA, Los Angeles, California.

Corporate litigation practice.

OTHER EXPERIENCE

2010-present **Public Member**, ADMINISTRATIVE CONFERENCE OF THE UNITED STATES.

ACUS is an independent agency of the federal government that works to develop recommendations to improve the fairness and effectiveness of agency rulemaking, adjudication, and investigations.

2011-present **Board Member**, FOOD DRUG & LAW INSTITUTE.

2010-present **Board Member**, CHESAPEAKE LEGAL ALLIANCE.

2009-2014 **Trustee**, CLIENT SECURITY FUND, District of Columbia Bar. Chair, 2012-2013.

- 2009-2014 **Judge**, RICHARD D. CUDAHY WRITING COMPETITION ON REGULATORY AND ADMINISTRATIVE LAW, American Constitutional Society.
- Spring 2010, **Adjunct Professor**, GEORGETOWN UNIVERSITY SCHOOL OF LAW.
2011, 2012 Taught “Dietary Supplement Regulation: Lawyering in the Public Interest,” and “Consumer Advocacy and Government Regulation: Personal-Care Products and Dietary Supplements.”
- 2010–2011 **Member**, TOBACCO COMMITTEE, FOOD DRUG & LAW INSTITUTE.
- 2008 **Member**, LAW & JUDICIARY COMMITTEE. Advisory committee to Barack Obama’s Presidential Campaign.
- 2001-2004 **Steering Committee Member, Co-chair**, ADMINISTRATIVE LAW AND AGENCY PRACTICE SECTION, District of Columbia Bar. Committee co-chair, 7/02-6/04.
- Spring 2002, **Adjunct Professor**, WASHINGTON COLLEGE OF LAW, AMERICAN UNIVERSITY.
1999, 1998 Taught “Appellate Courts and Advocacy.”
- 1997-2001 **Editorial Advisory Board Member**, FOOD AND DRUG LAW JOURNAL.

PUBLICATIONS

Thoughts on the Rise and Fall of the Implied Preemption Theory for State Law Damages Claims,
65 New York Univ. Annual Survey of Am. L. 661 (2010).

US Supreme Court Case: A Victory for Patients,
Regulatory Affairs Journal (RAJ) Pharma 229 (Apr. 2008).

US Court Decision May Be Hazardous to Patients,
Regulatory Affairs Journal (RAJ) Devices 75 (Mar./Apr. 2008).

Sometimes the Silence can be Like Thunder: Access to Pharmaceutical Data at the FDA,
69 Law & Contemporary Problems 85 (Summer 2006) (co-author).

The FDA’s Argument for Eradicating State Tort Law: Why It Is Wrong and Warrants No Deference,
34 Product Safety & Liability Reporter 308 (BNA Mar. 27, 2006) (co-author).
21 Toxics Law Reporter 516 (BNA May 25, 2006).

Should patients be allowed to sue after an adverse event?,
38 Internal Medicine News 11 (Feb. 1, 2005) (pro side of two-part guest editorial).
34 Family Practice News 11 (Dec. 15, 2004).
39 Ob.Gyn. News 7 (Oct. 15, 2004).

Rebutting the implied preemption defense,
39 TRIAL 46 (Nov. 2003).

Geier v. Honda: The News is Not All Bad For Consumers,

28 Product Safety & Liability Reporter 622 (BNA July 10, 2000).

Preemption Under The National Traffic And Motor Vehicle Safety Act of 1966: Strategies For Plaintiffs' Lawyers In Vehicle-Defect Cases,
(Independent Counsel Resources 1998) (co-author).

The Smoke Screen in Liggett Deal,
Newsday A35 (Apr. 2, 1997) (opinion-editorial).

The FDA's Regulation of Tobacco Products,
51 Food & Drug L.J. 487 (1996).

Litigating Preemption Issues After Medtronic v. Lohr,
11 Toxics Law Reporter 296 (BNA Aug. 7, 1996) (co-author).
24 Product Safety & Liability Reporter 832 (BNA Sept. 6, 1996).

Medtronic v. Lohr: Its Effect on Breast Implant Litigation,
4 Medical & Legal Aspects of Breast Implants 1 (July 1996) (co-author).

FDA's Proposed Regulation of the Sale and Promotion of Tobacco Products to Minors,
III Public Health Reports 280 (May/June 1996).

Don't Weaken The FDA Laws,
Washington Post A19 (Feb. 28, 1996) (opinion-editorial) (co-author).

SELECTED CASES

United States Supreme Court

Marx. v. General Revenue Corp., 568 U.S. __ (2013).

Lead counsel for petitioner in case raising question under the Fair Debt Collection Practices Act.

National Meat Ass'n v. Harris, 565 U.S. __ (2012).

Lead counsel for amici curiae, addressing principles underlying the presumption against preemption.

Caperton v. A.T. Massey Coal Co., 556 U.S. 868 (2009).

Lead counsel at cert.-stage and merits-stage for amicus curiae, addressing the due process implications of campaign contributions to judicial candidates.

Warner-Lambert Co. v. Kent, 552 U.S. 440 (2008).

Lead counsel for respondents, addressing whether a provision of a Michigan law that restricts the liability of drug manufacturers is preempted.

Riegel v. Medtronic, Inc., 552 U.S. 312 (2008).

Lead counsel for petitioner, addressing scope of preemption under the Medical Device Amendments to the Food, Drug, and Cosmetic Act.

Will v. Hallock, 546 U.S. 345 (2006).

Lead counsel for petitioner, addressing appellate jurisdiction and Federal Tort Claims Act.

Koons Buick v. Nigh, 543 U.S. 50 (2004).

Co-counsel for respondent and author of respondent's brief, addressing interpretation of damages provision of the Truth in Lending Act.

Dusenbery v. United States, 534 U.S. 161 (2002).

Lead counsel for petitioner, addressing due process requirements for civil forfeiture.

FDA v. Brown & Williamson Tobacco Corp., 529 U.S. 120 (2000).

Lead counsel for 34 public interest, public health, consumer, education, and parent groups as amici curiae, addressing FDA regulation of tobacco products.

Federal Courts of Appeals

Caplinger v. Medtronic, Inc., pending (10th Cir. 2014).

Represented plaintiff-appellant in case involving scope of preemption under the Medical Device Amendments to the Food, Drug, and Cosmetic Act.

RJ Reynolds v. Food and Drug Administration, 696 F.3d 1205 (D.C. Cir. 2012).

Represented public health organizations as amici curiae supporting regulation concerning graphic warnings for cigarettes against first amendment challenge.

Discount Tobacco City v. United States, 674 F.3d 509 (6th Cir. 2012).

Represented 11 public health organizations as amici curiae supporting provisions of the Family Smoking Prevention and Tobacco Control Act against first amendment challenge.

Department of Justice v. Lardner, 2010 WL 4366062 (D.C. Cir. 2010).

Represented plaintiff-appellee in Freedom of Information Act case seeking disclosure of records from the Office of the Pardon Attorney.

Public Citizen v. Clerk, 486 F.3d 1342 (D.C. Cir. 2007).

Represented plaintiff-appellant in case challenging the validity of a statute enacted in violation of the U.S. Constitution's bicameralism requirement.

Riegel v. Medtronic, Inc., 451 F.3d 104 (2d Cir. 2006).

Represented plaintiff-appellant in case involving scope of preemption under the Medical Device Amendments to the Food, Drug, and Cosmetic Act.

Horn v. Thoratec, Inc., 376 F.3d 163 (3d Cir. 2004).

Represented plaintiff-appellant in case involving scope of preemption under the Medical Device Amendments to the Food, Drug, and Cosmetic Act.

NYPIRG v. Mineta, 340 F.3d 39 (2d Cir. 2003).

Represented petitioners in case challenging NHTSA regulation addressing tire pressure monitoring systems.

RECENT SPEAKING ENGAGEMENTS

Class Action Developments and Roundtable,
National Consumer Law Center's Consumer Rights Litigation Conference, Nov. 2013

The Supreme Court: A Preview of the New Term,
The Smithsonian Associates, Sept. 2013.

Making Sense of Federal Preemption,
National Foundation for Judicial Excellence Symposium, July 2013.

The Future of Standing in Environmental Cases: Trends in the DC Circuit and Beyond,
Environmental Law Institute, May 2013.

Top 20 Cases in Food and Drug Law in 2012,
Food & Drug Law Institute's Annual Conference, April 2013.

Litigation and Legislation Update,
Food & Drug Law Institute's FDA Regulation of Tobacco, Oct. 2012.

Top 20 Cases in Food and Drug Law in 2011,
Food & Drug Law Institute's Annual Conference, April 2012.

Pro Bono Litigation in the United States Supreme Court: The Role of Supreme Court Specialists and Public Interest Organizations,
Georgetown University Law School, Feb. 2012.

The Uncommon Case of Dukes v. Walmart,
National Consumer Law Center Consumer Class Action Symposium, Nov. 2011.

Supreme Court Review,
American Constitution Society, June 2011

Profits, Politics & Preemption: The Williamson v. Mazda Motor Decision,
ALI-ABA Teleseminar, May 2011.

When Federal Judges and State and Local Politics Collide,
Randolph W. Thrower Symposium, Emory University School of Law, Feb. 2011.

Federal Courts, Inc.?,
American Constitution Society, Feb. 2011.

The Good, the Bad, the Ugly: When is Federal Preemption Appropriate?,
Conference of Chief Justices' Midyear Meeting, Jan. 2011.

Class Action Roundtable,
National Consumer Law Center Consumer Rights Litigation Conference, Nov. 2010.

Advertising and Promotion: Point/Counterpoint,

Food and Drug Law Institute Conference on Advertising and Promotion for the Drug, Medical Device, Biological and Veterinary Medicine Industries, Sept. 2010.

Preemption: Balancing the Wyeth, Riegel, and Geier Decisions,

Judicial Symposium on Civil Justice Issues, Judicial Education Program, Dec. 2009.

Important Legal Issues Raised by the Legislation and in Pending Legislation,

FDLI Tobacco Legislation and Regulation Conference, Nov. 2009.

Pleadings Standards—The Impact of Twombly and Iqbal on Class Action Complaints,

National Consumer Law Center Consumer Class Action Symposium, Oct. 2009.

Lawyering for Access: Legal Strategies to Improve Access to Affordable Pharmaceuticals,

American University's Washington College of Law, Oct. 2009.

Federal Preemption Panel,

New York Federal-State Judicial Council, Sept. 2009 & Oct. 2009.

Task Force on Federal Agency Preemption of State Tort Laws Program,

American Bar Association, Oct. 2009.

FDA Approval and Preemption of Products Liability Claims,

Judicial Education Program, May 2009.

Opportunities and Challenges Facing FDA and the New Administration: Preemption,

FDLI & FDA 52nd Annual Conference, April 2009.