

**REBECCA AVIEL**  
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**ACADEMIC APPOINTMENTS**

UNIVERSITY OF DENVER, STURM COLLEGE OF LAW, Denver, CO

<i>Full Professor</i>	August 2019 – present
<i>Associate Dean for Faculty Scholarship</i>	August 2017 – December 2022
<i>Director, Constitutional Rights and Remedies Program</i>	July 2015 – August 2019
<i>Associate Professor with Tenure</i>	June 2014 – August 2019
<i>Assistant Professor</i>	June 2009 – June 2014
<i>Visiting Assistant Professor</i>	Aug. 2008 – June 2009

*Courses:* Constitutional Law; Professional Responsibility and Legal Ethics; Family Law

**EDUCATION**

**HARVARD LAW SCHOOL** J.D. *cum laude* June 2004

**YALE COLLEGE** B.A. *magna cum laude* in Anthropology, with Distinction in the Major and Election to Phi Beta Kappa, May 1998

**SCHOLARSHIP**

*From Gods to Google*, 134 YALE L.J. \_\_\_\_ (forthcoming 2024)(co-authored with Margot Kaminski, Toni Massaro, and Andrew Woods).

*Lawmaking for Leverage*, 102 N.C. L. REV. \_\_\_\_ (forthcoming 2024).

*Access to Advice as a Linchpin of Family Justice* (book chapter), in RETHINKING THE LAWYER’S MONOPOLY: ACCESS TO JUSTICE AND THE FUTURE OF LEGAL SERVICES, David Freeman Engstrom and Nora Freeman Engstrom, eds. Cambridge University Press (forthcoming 2024).

*The Weaponization of Attorney’s Fees in an Age of Constitutional Warfare*, 132 YALE L.J. 2048 (2023)(co-authored with Wiley Kersh, JD 2023).

*Second-Bite Lawmaking*, 100 N.C. L. REV. 947 (2022).

*Lawyer Speech, Investigative Deception, and the First Amendment*, 2021 U. ILL. L. REV. 1267 (2021) (co-authored with Alan K. Chen).

*Remedial Commandeering*, 54 U.C. DAVIS L. REV. 1999 (2021).

*Rights as a Zero-Sum Game*, 61 ARIZ. L. REV. 351 (2019).

*Family Law and the New Access to Justice*, 86 FORDHAM L. REV. 2279 (2018) (Colloquium contribution).

*Rule 8.4(g) and the First Amendment: Distinguishing Between Discrimination and Free Speech*, 31 GEORGETOWN J. LEG. ETHICS 31 (2018) (cited in American Bar Association Standing Committee on Ethics and Professional Responsibility Formal

Opinion 493, *Model Rule 8.4(g): Purpose, Scope, and Application*, July 15, 2020; cited by the Colorado Supreme Court in *Matter of Abrams*, 488 P.3d 1043 (Colo. 2021)).

*Faithful Unions*, 69 HASTINGS L.J. 721 (2018).

*Counsel for the Divorce*, 55 BOSTON COLLEGE L. REV. 1099 (2014).

*A New Formalism for Family Law*, 55 WILLIAM AND MARY L. REV. 2003 (2014).

*Why Civil Gideon Won't Fix Family Law*, 122 YALE L.J. 2106 (2013).

*The Boundary Claim's Caveat: Lawyers and Confidentiality Exceptionalism*, 86 TULANE L. REV. 1055 (2012) (awarded the Fred C. Zacharias Memorial Prize for Scholarship in Professional Responsibility).

*When the State Demands Disclosure*, 33 CARDOZO L. REV. 675 (2011).

*Restoring Equipose to Child Welfare*, 62 HASTINGS L. J. 401 (2010).

*Compulsory Education and Substantive Due Process: Asserting Student Rights to a Safe and Healthy School Environment*, 10 LEWIS & CLARK L. REV. 201 (2006).

Insidious Misinterpretations: the Discourse of Male and Female Communication in Acquaintance Rape Trials, in *ENGENDERING COMMUNICATION: PROCEEDINGS OF THE FIFTH BERKELEY WOMEN AND LANGUAGE CONFERENCE 25* (1998).

## **AWARDS**

2021 University of Denver Homecoming Featured Faculty Speaker

2016 Fulbright Scholar and Visiting Professor, University of Ljubljana, Slovenia

2013 Winner of the third annual Fred C. Zacharias Memorial Prize for Scholarship in Professional Responsibility

2012 Student Bar Association Awards, Best Professor and Best Mentor

## **PRESENTATIONS AND EXPERT TESTIMONY**

April 2024, Freedom of Expression Scholars Conference, Yale Law School, *From Gods to Google*

April 2024, Clarke Family CLE in Ethics and Professionalism, Gonzaga Law School, *Anti-Discrimination Rules in the Legal Profession and the First Amendment*

February 2024, American University Washington College of Law Faculty Colloquium, *Lawmaking for Leverage*

July 2023, Invited Speaker, Hawaii Department of the Attorney General Speaker Series, *The Weaponization of Attorney's Fees in an Age of Constitutional Warfare*

May 2023, Invited Speaker, Stanford Law School, New Voices in Access to Justice Convening, *Access to Advice as a Linchpin of Family Justice*

April 2023, CLE Presentation, *Fundamental Rights and Family Law After Dobbs v. Jackson Women's Health Organization*, Colorado Bar Association

March 2023, University of South Carolina Law Review Symposium, *Differentiating Between Discrimination and Free Speech: Understanding First Amendment Challenges to Rule 8.4(g)*

March 2023, University of South Carolina Faculty Colloquium, *The Weaponization of Attorney's Fees*

January 2023, CLE Presentation, *Constitutional Issues in Family Law After Dobbs*, offered by Family Law Section, Colorado Bar Association

August 2022, International Legal Ethics Conference at UCLA, *The Weaponization of Attorney's Fees*

August 2022, International Legal Ethics Conference at UCLA, *Obtaining a Fulbright Grant as a Legal Ethicist*

July 2022, Vicente Sederberg, firmwide presentation on *Dobbs v. Jackson Women's Health*

July 2021, Vail Symposium, Invited Commentator on *The Fight for Free Speech* by Ian Rosenberg

April 2021, Expert Witness on Constitutional Requirements in the Allocation of Parental Responsibilities

March 2021, National Conference of Constitutional Law Scholars, *Second-Bite Lawmaking*

January 2021, Panelist, *The New Supreme Court and Family Law*, offered by Colorado Bar Association, Family Law Section

January 2021, Invited Commentator, Association of American Law Schools Section on Professional Responsibility, New Voices Panel

October 2019, Wisconsin Discussion Group on Constitutionalism, University of Wisconsin Law School, *Remedial Commandeering*

Spring 2019, Expert Witness on Attorney Disqualification Arising from Conflicts of Interest

April 2019, Freedom of Expression Scholars Conference, Yale Law School, *The Right to Advise Investigations*

March 2019, National Conference of Constitutional Law Scholars, *Advising Investigations as a First Amendment Right*

March 2018, National Conference of Constitutional Law Scholars, *Revisionist Rights Talk*

October 2017, Fordham Law School, Stein Center for Law and Ethics, *Family Law and the New Access to Justice*

April 2017, Consulting Expert and Author of Opinion Letter Regarding Common Law Marriage in Colorado

March 2017, Continuing Legal Education Presenter, *Viewing Obergefell in a Retroactive Lens for Same-Sex Common Law Marriage*

June 2016, University of Ljubljana Law Faculty, Slovenia, *Crisis and Opportunity in American Legal Education*

November 2015, Testifying Expert in *People v. Cano*, a post-conviction matter presenting issues of competence and conflicts of interest

May 2015, Texas A&M School of Law, *Innovation in the Delivery of Legal Services as an Access to Justice Issue*

December 2014, Ethics CLE Presenter for Colorado Law Institute, *Contract Lawyering: Navigating the New Normal*

September 2013, Charleston School of Law: *The Emergence and Uncertain Future of Civil Gideon*

June 2013, Fordham Law School, *Counsel for the Divorce*

April 2013, UC Hastings College of Law: *A New Formalism for Family Law*

March 2013, Yale Law School: *Why Civil Gideon Won't Fix Family Law*

September 2012, University of Denver Sturm College of Law/Denver World Affairs Council: Presentation on American Separation of Powers to Delegation of Kyrgyz Members of Parliament

August 2012, National Child Support Enforcement Association Conference: *That's Unconstitutional! Constitutional Issues in Child Support Enforcement.*

September 2011, Rocky Mountain Junior Scholars Forum: *The Boundary Claim's Caveat: Lawyers and Confidentiality Exceptionalism.*

November 2010, University of Colorado Law School Junior Faculty Colloquium: *Confidentiality and Disclosure in a Constitutional Democracy.*

October 2010, University of Oregon Law School Faculty Colloquium: *Confidentiality and Disclosure in a Constitutional Democracy.*

July 2010, Fourth International Legal Ethics Conference, Stanford Law School: *Resolving Confidentiality Conflicts.*

March 2010, Motherhood Conference, University of Denver Sturm College of Law: *Bringing Brady Home: Mandating the Disclosure of Favorable Evidence in Parental Termination Proceedings.*

December 2009, Ethics CLE Presenter, University of Denver Sturm College of Law. *When May an Attorney Disclose Confidential Client Information To Comply With Other Legal Obligations?*

## **SERVICE**

Law School Service      Director, Constitutional Rights and Remedies Program, July 2015 – August 2019  
Member, Promotion and Tenure Committee (elected by faculty), May 2016 – May 2017  
Member/Chair, Curriculum Committee, Fall 2009 – Spring 2017  
Member, Judicial Clerkship Committee, Fall 2009 – Spring 2012  
Member, Promotion and Tenure Study Committee, Fall 2010 – Spring 2012

Community Service      Member, Colorado Supreme Court Standing Committee for the Colorado Rules of Professional Conduct, Rule 8.4(g) Subcommittee  
Member, Colorado Supreme Court Standing Committee on Family Issues  
2017 Chair, Children and the Law Section, American Association of Law Schools  
Member, Honoring Families Initiative Steering Committee; Reporter for the Ethics Subcommittee

## **JUDICIAL CLERKSHIP**

**HON. BARRY G. SILVERMAN**, U.S. Court of Appeals for the Ninth Circuit, Phoenix, AZ      2007 - 2008  
*Law Clerk.* Read appellate briefs and records; researched applicable statutory and case law; drafted bench memoranda, dispositions, and opinions.

## **OTHER EXPERIENCE**

**UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**, San Francisco, CA      2005 - 2007  
*Staff Attorney.* Provided detailed review of cases on appeal and presented findings and recommendations to three-judge panels.

**MORRISON & FOERSTER**, San Francisco, CA      2004-2005; Summers 2002 and 2003  
*Associate, Litigation Department.* Researched statutory, regulatory, constitutional, and case law; drafted motions and briefs filed in state and federal court; prepared memoranda in various fields including education, civil rights, and transportation law.