

KEVIN M. STACK
Vanderbilt University Law School
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EMPLOYMENT

Vanderbilt University Law School, Nashville, TN
Professor of Law, September 2007-present
Associate Dean for Research, July 2008-July 2010, July 2012-July 2015

Benjamin N. Cardozo School of Law, New York, NY
Associate Professor, September 2005-September 2007
Assistant Professor, July 2002-September 2005

Jenner & Block, Washington, DC
Litigation Associate, 2000-02

United States Court of Appeals for the Ninth Circuit, Pasadena, CA
Law Clerk for the Honorable A. Wallace Tashima, 1998-99

United States District Court, S.D.N.Y., New York, NY
Law Clerk for the Honorable Kimba M. Wood, 1997-98

Davis Polk & Wardwell, New York, NY
Summer Associate, 1997

Williams & Connolly, Washington, DC
Summer Associate, 1996

EDUCATION

Yale Law School
J.D., 1997
Felix S. Cohen Prize (awarded by Yale Law School faculty for best essay by a student or fellow on a subject relating to legal philosophy), 1997
Yale Law Journal, Staff Editor and Senior Editor, 1995-97
Yale Journal of Law & the Humanities, Articles Editor, 1995-96
Coker Fellow, 1995
Teaching Assistant for the DeVane Lecture Series (Hon. Guido Calabresi), 1997

University of Oxford (New College), Oxford, UK
M.Litt. in Philosophy, 1996 (completed 1995)
Fulbright Scholarship, 1992-94
Overseas Research Students Award, 1992-94
New College Bursaries Award, 1993-94

Brown University
B.A. (Philosophy), *magna cum laude* and with honors, 1991
Philosophy Department Commencement Speaker, 1991
Phi Beta Kappa Society, 1990

PROFESSIONAL AWARDS

2013 Scholarship Prize, American Bar Association, Section on Administrative Law and Regulatory Practice (Presented Nov. 8, 2013, Washington, DC), for *Interpreting Regulations*, 111 Mich. L. Rev. 355 (2012) ([www](#))

Chancellor's Award for Research (awarded on Vanderbilt University-wide basis to Vanderbilt faculty members to recognize outstanding research achievements over prior three years, presented on Aug. 28, 2015 to recognizing *Interpreting Regulations*, 111 Mich. L. Rev. 355 (2012), and follow-on Administrative Conference of the United States Recommendation) ([www](#))

WORKS IN PROGRESS AND FORTHCOMING PUBLICATIONS

Preambles as Guidance, GEO. WASH. L. REV. (forthcoming 2016)

Internal Administrative Law and the APA, in ADMINISTRATIVE LAW FROM THE INSIDE OUT (Jerry Mashaw & Nicholas Parrillo eds., forthcoming Cambridge University Press, 2016) (with Gillian E. Metzger)

Internal Administrative Law (with Gillian E. Metzger) (in progress)

The Paradox of Process in Rulemaking (in draft)

The President and the Politics of Agency Enforcement: The Case of Superfund (with John Hudak, Brookings Institution) (in draft)

The Concept of Law in the Age of Administration (in draft)

PUBLICATIONS

An Administrative Jurisprudence: The Rule of Law in the Administrative State, 115 COLUMBIA LAW REVIEW 1986 (2015) ([www](#))

Purposivism in the Executive Branch: How Agencies Interpret Statutes, 109 NORTHWESTERN UNIVERSITY LAW REVIEW 871 (2015) ([www](#))

Lessons from the Turn of the Twentieth Century for First-Year Courses on Legislation and Regulation, 65 J. OF LEG. ED. 28 (2015) ([www](#))

Legislative Scrutiny? The Political Economy and Practice of Legislative Vetoes of Administrative Acts in the European Union, 53 JOURNAL OF COMMON MARKET STUDIES 1268 (2015) (JCMS 2015 pp. 1–17 DOI: 10.1111/jcms.122522015) (with Michael Kaeding) ([www](#))

The Interpretive Dimension of Seminole Rock, 22 GEO. MASON L. REV. 669 (2015) (symposium contribution) ([www](#))

Reclaiming “the Real Subject” of Administrative Law: A Critical Introduction to Bruce Wyman’s The Principles of the Administrative Law Governing the Relations of Public Officers (1903), in BRUCE WYMAN, THE PRINCIPLES OF THE ADMINISTRATIVE

- LAW GOVERNING THE RELATIONS OF PUBLIC OFFICERS (2014) ([www](#))
- The Irony of Oversight: Delegated Acts and the Political Economy of the European Union's Legislative Veto under the Treaty of Lisbon*, 3 THEORY AND PRACTICE OF LEGISLATION 61 (2014) (peer reviewed) ([www](#))
- THE REGULATORY STATE (with Lisa Schultz Bressman & Edward L. Rubin, Aspen Publishers, Second Edition, 2013) ([www](#))
- Interpreting Regulations*, 111 MICH. L. REV. 355 (2012) ([www](#))
- Recipient of the 2013 Award for Scholarship in Administrative Law, American Bar Association, Section on Administrative Law and Regulatory Practice, acceptance remarks published at 39 Admin. & Reg. Law News 11 (2014) ([www](#)), and awarded Vanderbilt Chancellor's Award for Research (2015).
- Abbreviated summary in Kevin M. Stack, *How to Interpret a Regulation: First Principles*, RegBlog (February 11, 2013) ([www](#))
- The One Percent Problem*, 111 COLUMBIA L. REV. 1385 (2011) (with Michael P. Vandenbergh) ([www](#))
- Selected for inclusion in 2013-2014 LAND USE AND ENVIRONMENTAL LAW REVIEW as one of the six best environmental law articles of the year (May 2013)
- Agency Independence After PCAOB*, 32 CARDOZO L. REV. 2391 (2011) (contribution to Festschrift in Honor of Paul R. Verkuil) ([www](#))
- THE REGULATORY STATE (with Lisa Schultz Bressman & Edward L. Rubin, Aspen Publishers, 2010)
- Obama's Equivocal Defense of Agency Independence*, 26 CONST. COMMENTARY 586 (2010) ([SSRN](#))
- The Statutory Fiction of Judicial Review of Administrative Action in the United States*, in EFFECTIVE JUDICIAL REVIEW 316 (Oxford: Oxford University Press, 2010, Christopher Forsyth, Mark Elliott, Swati Jhaveri, Michael Ramsden & Anne Scully-Hill eds.) ([www](#))
- Agency Statutory Interpretation and Policymaking Form*, 2009 MICH. ST. L. REV. 225 (invited contribution to symposium issue on Agency Statutory Interpretation) ([www](#))
- The Reviewability of the President's Statutory Powers*, 63 VAND. L. REV. 1171 (2009) ([www](#))
- The Story of Morrison v. Olson: The Independent Counsel and Independent Agencies in Watergate's Wake*, in PRESIDENTIAL POWER STORIES (Curtis Bradley & Christopher Schroeder eds., 2008) ([SSRN](#))
- SEC v. Chenery, Encyclopedia Entry, ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES (David S. Tanenhaus ed., Macmillan Reference 2008)
- The Constitutional Foundation of Chenery*, 116 YALE LAW JOURNAL 952 (2007) ([www](#))

The President's Statutory Powers to Administer the Laws, 106 COLUMBIA LAW REVIEW 263 (2006) ([www](#))

The Priority of Statutory Interpreters within the Executive Branch: The President, The Agency, and Congress' Choice of Delegate, 31 ADMINISTRATIVE & REGULATORY NEWS 9 (Issue No. 3, 2006) (abbreviated roundtable contribution based on vol. 106 Columbia Law Review article)

The Statutory President, 90 IOWA LAW REVIEW 539 (2005) ([www](#))

Selected for presentation at the 2004 Stanford/Yale Junior Forum, Yale Law School, June 5, 2004.

The Divergence of Constitutional and Statutory Interpretation, 75 UNIVERSITY OF COLORADO LAW REVIEW 1 (2004) ([SSRN](#))

Note, *The Practice of Dissent in the Supreme Court*, 105 YALE LAW JOURNAL 2235 (1996) ([HeinOnline](#))

Awarded the Felix S. Cohen Prize by the Yale Law School Faculty

POLICY REPORTS AND TESTIMONY

Academic Consultant, Administrative Conference of the United States, producing [*Guidance in the Rulemaking Process: Evaluating Preambles, Regulatory Text, and Freestanding Documents As Vehicles for Regulatory Guidance*](#) (May 16, 2014), which provided basis for the adoption of Administrative Conference Recommendation 2014-3, *Guidance in the Rulemaking Process*, 79 Fed. Reg. 35992-93 (June 25, 2014) ([www](#))

Contributor to Part XI of A BLACKLETTER STATEMENT OF FEDERAL ADMINISTRATIVE LAW (2nd ed. 2013) (produced by the American Bar Association Section of Administrative Law and Regulatory Practice)

The President's Statutory Powers, in Interim Report on the Administrative Law, Process and Procedure Project for the 21st Century, COMMITTEE PRINT NO. 10, COMMITTEE ON THE JUDICIARY, HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON COMMERCIAL AND ADMINISTRATIVE LAW, 109th Cong., Second Sess. 1356-60 (Dec. 2006) ([www](#))

SELECTED PRESENTATIONS

Preambles as Guidance, George Washington Law Review Panel, Administrative Law Fall Conference of the ABA's Section on Administrative Law and Regulatory Practice, Washington, DC (Oct. 29, 2015)

The Legal Process Presidency, Conference in Honor of Harold Hastings Bruff, University of Colorado Law School, Boulder, CO (Oct. 16, 2015)

Internal Administrative Law and the APA, Administrative Law from the Inside Out, Conference on the Themes of Jerry Mashaw's Work, Yale Law School, New Haven, CT (Oct. 2, 2015)

An Administrative Jurisprudence, Harold Leventhal Memorial Symposium Celebrating Peter L. Strauss, Columbia Law School, New York, NY (April 25, 2015)

Lessons from the Turn of the Twentieth Century for Current First-Year Courses on Legislation and Regulation, AALS Annual Meeting, Panel on 1L Leg-Reg Courses, Washington, DC (January 3, 2015)

Process-Based Administrative Law, Commentator, University of Pennsylvania Law School Conference on The New Doctrinalism (October 24, 2014)

Auer Deference?, Panel Organizer and Moderator, ABA Section on Administrative Law and Regulatory Practice Fall Meeting, Washington, DC (October 17, 2014)

Purposivism in the Executive Branch: How Agencies Interpret Statutes, Faculty Workshop, Fordham Law School, New York, NY (October 3, 2014)

The Paradox of Process in Administrative Rulemaking, University of Cambridge, Conference Panel, Faculty of Law, Public Law Conference Presentation, Cambridge, England (September 17, 2014)

The Interpretive Dimension of Seminole Rock, George Mason Law School, Conference Panel, Law & Economics Center, Arlington, VA (September 12, 2014)

Guidance in Rulemaking Process, Administrative Conference of the United States, 60th Plenary, Washington, DC (June 6, 2014)

Auer and the Interpretive Dimension of Deference, George Mason Law School, Arlington, VA (May 21, 2014)

Purposive by Design: Agency Statutory Interpretation, Workshop, Administrative Conference of the United States, Washington, DC (November 6, 2013)

Why Agencies Are Not Textualists, Colloquium Presentation, Duke Law School, Durham, NC (April 4, 2013)

Commenter, *Written and Unwritten Law Roundtable*, Notre Dame Law School, South Bend, IN (March 22, 2013)

The Political Economy of Legislative Scrutiny Post-Lisbon, Workshop Presentation, University of Leiden, Netherlands as part of a The Legitimacy and the Paradox of Regulation Conference (January 24, 2013)

Roundtable Commenter, AALS Administrative Law Section, Annual Meeting (January 5, 2013)

The Concept of Law in the Age of Administration, Workshop Presentation, Columbia Law School Public Law Workshop, New York, NY (April 20, 2012)

Interpreting Regulations, Paper Presentation, Columbia Law School Roundtable on Administrative Law, New York, NY (April 13, 2012)

Interpreting Regulations, Faculty Workshop, College of Law of the University of West

Virginia, Morgantown, WV (March 19, 2012)

Interpreting Regulations, Paper Presentation, Center for the Study of Democratic Institutions, Vanderbilt University, Nashville, TN (January 13, 2012)

Interpreting Regulations, Faculty Workshop, Arizona State College of Law, Tempe, AZ (October 17, 2011)

The Concept of Law in the Age of Administration, Faculty Workshop, Social and Political Thought Workshop, Vanderbilt University (Sept. 16, 2011)

The One Percent Problem, Paper Presentation (with Michael Vandenberg), Center for the Study of Democratic Institutions, Vanderbilt University, Nashville, TN (April 5, 2011)

The Principle of Public Accounting Oversight Board, Paper Presenter, Notre Dame University Law School, Separation of Powers Conference, South Bend, IN (March 25, 2011)

PCAOB and Due Process, Paper Presenter, Benjamin N. Cardozo School of Law, Festschrift in Honor of Paul Verkuil, New York, NY (October 18, 2011)

The Concept of Law in the Age of Administration, Conference Presentation, Midwest Political Science Association, Chicago, IL (April 22, 2010)

The Concept of Law in the Age of Administration, Faculty Workshop, Queen's University Faculty of Law, Kingston, Ontario, Canada (October 26, 2009)

Review of the President's Statutory Powers, Faculty Workshop, McGeorge School of Law, Sacramento, CA (February 22, 2009)

The Statutory Fiction of Judicial Review of Administrative Action in the United States, Panel Presentation, Effective Judicial Review Conference, University of Cambridge Centre for Public Law and The Chinese University of Hong Kong, Hong Kong (December 12, 2008)

Agency Statutory Interpretation and Policymaking Form, Panel Presentation, Symposium on Agency Statutory Interpretation, Michigan State University College of Law, East Lansing, MI (October 2008)

Presidential Exceptionalism, Roundtable Discussion for The Modern Presidency, American Civilization, Vanderbilt University (Sept. 18, 2008)

The President's Statutory Powers, Roundtable Participant for The Unitary Executive Theory Revisited, ABA 2007 Administrative Law Conference, Washington, DC (Oct. 26 2007)

Presidential Fact Finding and Ultra Vires Review, Panel Presentation, The Role of the President in the 21st Century, Boston University Law School Conference (Oct. 11, 2007)

Morrison v. Olson: Overcoming Watergate, Workshop Presentation, Duke University Law School, Durham, NC (Sept. 16, 2007)

Civic Trust, the Independent Counsel, and Watergate, Law & Society Conference Panel

- Presentation, Berlin (July 2007)
- Agencies of Reason: The Constitutional Foundations of* Chenery, Workshop Presentation, Regulatory Practice Workshop, Vanderbilt University Law School, Nashville, TN (Oct. 13, 2006)
- Youngstown Mets Hamdan*, Panel Presentation for *The War on Terror After Hamdan*, Floerscheimer Center for Constitutional Democracy, Cardozo Law School, New York, NY (Sept. 18, 2006)
- The President's Statutory Powers over Rulemaking*, Panel Presentation for Symposium on Presidential, Judicial, and Congressional Control Over Rulemaking, Administrative Law, Process and Procedure Project sponsored by Subcommittee on Commercial and Administrative Law of the U.S. House Judiciary Committee and Congressional Research Service, Library of Congress, Madison Building, Washington, DC (Sept. 11, 2006)
- Current Developments in Federal Jurisdiction and Venue*, Panel Presentation for Current Developments in Federal Civil Practice, 2006, Practice Law Institute, New York, NY (March 24, 2006) (presentation published at 278 P.L.I. Order No. 8511, at 5-24 (2006))
- The Statutory Dimension of the NSA Wiretapping Program*, Panel Presentation for *The Powers of the President in a Time of Terror*, Floerscheimer Center for Constitutional Democracy, Benjamin N. Cardozo School of Law (February 27, 2006)
- The President's Statutory Powers to Bind Executive Branch Officials*, Panel Presentation for *The Structure of Statutory Interpretation Within the Executive Branch Panel*, 2005 Administrative Law Conference, ABA Administrative Law and Regulatory Practice Section, Washington, D.C. (Nov. 17, 2005)
- The President's Statutory Powers and the Administrative State*, Seminar Presentation, Advanced Administrative Law Seminar, New York University Law School, New York, NY (October 17, 2005)
- The Statutes the President Administers*, Junior Faculty Workshop Presentation, Georgetown University Law Center, Washington, D.C. (May 16, 2005)
- The Vanishing Trial: An Canary in Which Coal Mine?*, Panel Commentator, presented at *Trials on Trial: Are Trials Vanishing and Why?*, Benjamin N. Cardozo School of Law, New York, NY (December 3, 2004)
- The Statutory President: Judicial Review of the President's Statutory Powers*, Conference Presentation, 2004 Stanford/Yale Junior Faculty Forum, Yale Law School, New Haven, CT (June 5, 2004)
- Brown, Executive Orders, and Cultural Legitimacy*, Panel Presentation for *Brown, Legitimacy and Constitutional Culture* at the 2004 Law and Society Association Annual Meeting, Chicago, Illinois (May 29, 2004)

LAW SCHOOL TEACHING AND SERVICE

Courses Taught

Administrative Law, Civil Procedure, Regulatory State (1L), European Union Law, Statutory Interpretation, Presidential Power, the Nonmarket Environment of Business, and 1L Orientation Course (Life of the Law)

Service at Vanderbilt

Associate Dean for Research, July 2008-July 2010 and July 2012-July 2015

Lateral Appointments Committee

Chair, 2010-11

Member, 2007-08, 2008-09, 2009-10, 2012-13

Entry-Level Appointments Committee Member, 2009-10

Mentoring Committee

Chair, 2009-10, 2012-13, 2013-14

Member, 2010-11

Good Moral Character (Student Misconduct Investigation) Committee

Chair, Fall 2014

ABA Reaccreditation Committee Member, 2009-10

Vanderbilt University Faculty Awards Committee, 2008-09, 2009-10, 2012-15

Member, Strategic Planning Task Force on Online Education, 2013-15

Member, University Task Force on Cross-College Teaching, 2014-15

Curriculum Committee Member, 2008-09

Board Member, Vanderbilt University Law & Economics Ph.D. Program, 2010-11

Board Member, Center for Teaching, Vanderbilt University, 2011-14

Board Member, Vanderbilt Center for Digital Learning, 2015-

Ph.D. Dissertation Committee Member, Political Science Department, 2011-12

Ph.D. Dissertation Committee Member, Political Science Department, 2012-2014

Ph.D. Dissertation Committee Member, Law & Economics Program, 2013-2015

Ph.D. Dissertation Committee Member, Political Science Department, 2015-

Service at Cardozo

Conference Co-Organizer, *The Domestic Commander in Chief*, April 16, 2007

Co-Organizer, *Agency Costs and Institutional Design Workshop*, November 10, 2006

Faculty Development Committee, 2006-2007

Appointments Committee Member, 2005-2006

Academic Advisor, Moot Court Honor Society, Fall 2003-2007

Faculty Coordinator, Dean's Distinguished Scholars, Fall 2003-Spring 2005

Committee Member, Educational Policy Committee, 2002-05, 2006-07

Committee Member, Clerkship Committee, 2002-03

Presentations on Exam Taking Skills for Students

PROFESSIONAL MEMBERSHIPS AND SERVICE

Administrative Conference of the United States, Academic Consultant on Guidance in Rulemaking

American Bar Association, Administrative Law & Regulatory Practice Section Council Member, May 2013-August 2015

Co-Chair, Separation of Powers Subcommittee, Fall 2011-Spring 2013
Vice-Chair, Separation of Powers Subcommittee, Fall 2006-07

Whitland Area Neighborhood Association, Nashville, TN
Steering Committee, 2009-2012, 2016-
Vice President, 2010-2011
President, 2012

Bar Membership in District of Columbia (active) and Maryland (inactive)