

KEVIN M. STACK
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EMPLOYMENT

VANDERBILT UNIVERSITY LAW SCHOOL

Lee S. and Charles A. Speir Professor of Law, August 2017-present
Director of Graduate Studies, Ph.D. Program in Law & Economics, July 2016-present
Associate Dean for Research, July 2008-July 2010, July 2012-July 2015
Professor of Law, September 2007-August 2017
Visiting Scholar, University of Sydney, Faculty of Law, Spring 2018

BENJAMIN N. CARDOZO SCHOOL OF LAW, Yeshiva University
Associate Professor, September 2005-September 2007
Assistant Professor, July 2002-September 2005

JENNER & BLOCK, Washington, DC
Associate, 2000-02

THE HONORABLE A. WALLACE TASHIMA, U.S. Court of Appeals for the Ninth Circuit
Law Clerk, 1998-99

THE HONORABLE KIMBA M. WOOD, U.S. District Court, Southern District of New York
Law Clerk, 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 faculty for best student essay 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
DeVane Lecture Series (Hon. Guido Calabresi) Teaching Assistant, 1997

UNIVERSITY OF OXFORD (NEW COLLEGE), M.Litt. in Philosophy, 1996 (completed 1995)
Fulbright Scholarship, 1992-94
Overseas Research Students Award, 1992-94

BROWN UNIVERSITY, B.A. (Philosophy), *magna cum laude* and with honors, 1991
Philosophy Department Commencement Speaker, 1991
Phi Beta Kappa Society, 1990
Honors Thesis in Philosophy

PUBLICATIONS

Rulemaking Regimes in the Modern State, in *COMPARATIVE ADMINISTRATIVE LAW* (Peter Cane et al. eds, Oxford University Press, 2020)

THE REGULATORY STATE (Aspen Casebook Series 3rd ed. 2020) (with Lisa Schultz Bressman & Edward L. Rubin). First edition published in 2010; Second edition in 2013. Second Edition reviewed by Peter L. Strauss, *Review Essay: Christopher Columbus Langdell and the Public Law Curriculum*, 66 J. LEGAL EDUC. 157 (2016).

The Enacted Purposes Canon, 105 IOWA L. REV. 283 (2019)

The Authority and Interpretation of Regulations, 82 MODERN LAW REVIEW 1009 (2019) (with Andrew Edgar, University of Sydney Law)

Overcoming Dicey in Administrative Law, 68 U. TORONTO L.J. 293 (2018) (review essay of ADRIAN VERMEULE, *LAW'S ABNEGATION* (2016) and MATTHEW LEWANS, *ADMINISTRATIVE LAW AND JUDICIAL DEFERENCE* (2016))

The Inference from Authority to Interpretive Method in Constitutional and Statutory Domains, 102 CORNELL L. REV. 1667 (2017), and *The Constitutional Ratchet Effect*, 102 CORNELL L. REV. 1702 (2017) (both debating Christopher Serkin & Nelson Tebbe, *Is the Constitution Special?*, 101 CORNELL L. REV. 701(2016) with Serkin, Tebbe, and Richard Primus)

Internal Administrative Law, 115 MICH. L. REV. 1239 (2017) (with Gillian E. Metzger)

Internal Administrative Law and the APA, in *ADMINISTRATIVE LAW FROM THE INSIDE OUT: ESSAYS ON THEMES IN THE WORK OF JERRY L. MASHAW* 163 (Nicholas R. Parrillo ed., Cambridge Univ. Press 2017) (with Gillian E. Metzger)

Preambles as Guidance, 84 GEO. WASH. L. REV. 1252 (2016)

An Administrative Jurisprudence: The Rule of Law in the Administrative State, 115 COLUM. L. REV. 1986 (2015)

Purposivism in the Executive Branch: How Agencies Interpret Statutes, 109 NW. U. L. REV. 871 (2015)

Lessons from the Turn of the Twentieth Century for First-Year Courses on Legislation and Regulation, 65 J. LEGAL EDUC. 28 (2015)

Legislative Scrutiny? The Political Economy and Practice of Legislative Vetoes of Administrative Acts in the European Union, 53 J. COMMON MKT. STUD. 1268 (2015) (with Michael Kaeding)

The Interpretive Dimension of Seminole Rock, 22 GEO. MASON L. REV. 669 (2015) (symposium)

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)

The Irony of Oversight: Delegated Acts and the Political Economy of the European Union's Legislative Veto under the Treaty of Lisbon, 3 THEORY & PRAC. LEGIS. (2014)

- Interpreting Regulations*, 111 MICH. L. REV. 355 (2012). Received the ABA's Administrative Law Scholarship Award in 2013
- The One Percent Problem*, 111 COLUM. L. REV. 1385 (2011) (with Michael P. Vandenberg). Selected for inclusion in 2013-2014 LAND USE AND ENVIRONMENTAL LAW REVIEW (May 2013)
- Agency Independence After PCAOB*, 32 CARDOZO L. REV. 2391 (2011). Festschrift in Honor of Paul R. Verkuil
- Obama's Equivocal Defense of Agency Independence*, 26 CONST. COMMENT. 586 (2010)
- The Statutory Fiction of Judicial Review of Administrative Action in the United States*, in EFFECTIVE JUDICIAL REVIEW 316 (Christopher Forsyth et al. eds., Oxford Univ. Press 2010)
- Agency Statutory Interpretation and Policymaking Form*, 2009 MICH. ST. L. REV. 225 (symposium issue on agency statutory interpretation)
- The Reviewability of the President's Statutory Powers*, 62 VAND. L. REV. 1171 (2009)
- The Story of Morrison v. Olson: The Independent Counsel and Independent Agencies in Watergate's Wake*, in PRESIDENTIAL POWER STORIES (Christopher H. Schroeder & Curtis A. Bradley eds., 2008)
- The Constitutional Foundation of Chenery*, 116 YALE L.J. 952 (2007)
- The President's Statutory Powers to Administer the Laws*, 106 COLUM. L. REV. 263 (2006)
- The Statutory President*, 90 IOWA L. REV. 539 (2005). Selected for presentation at the Yale-Stanford Junior Faculty Forum
- The Divergence of Constitutional and Statutory Interpretation*, 75 U. COLO. L. REV. 1 (2004)
- Note, *The Practice of Dissent in the Supreme Court*, 105 YALE L.J. 2235 (1996). Awarded the Felix S. Cohen prize by the Yale Law School faculty

SHORTER WORKS

- A Dearth of Legislative Vetoes*, LSE EUROPEAN POLITICS AND POLICY BLOG (October 26, 2016) (with Michael Kaeding), <http://blogs.lse.ac.uk/europpblog/2016/10/25/a-dearth-of-legislative-vetoes/>
- Seminole Rock Step One*, YALE J. ON REG.: NOTICE & COMMENT (Sept. 14, 2016), <http://yalejreg.com/nc/seminole-rock-step-one-by-kevin-m-stack/>
- How to Interpret a Regulation: First Principles*, THE REGULATORY REVIEW (February 11, 2013), <https://www.theregreview.org/2013/02/11/11-stack-regulation-interpretation/>
- Securities and Exchange Commission v. Chenery*, 318 U.S. 80 (1943), in 4 ENCYCLOPEDIA OF THE SUPREME COURT OF THE UNITED STATES 361-62 (David S. Tanenhaus ed., 2008)
- The Priority of Statutory Interpreters within the Executive Branch: The President, the Agency, and Congress' Choice of Delegate*, 31 ADMIN. & REG. NEWS 9 (Issue No. 3, 2006)

WORKS IN PROGRESS AND FORTHCOMING

Association of Data Processing Service Organizations, Inc. v. Camp, in CLASSIC CASES IN ADMINISTRATIVE LAW (Matthew Weiner et al. eds., forthcoming 2021)

The False Allure of the Anti-Accumulation Principle, 102 BOSTON UNIV. L. REV. (forthcoming 2021) (with Michael Herz)

Oversight Riders, 97 NOTRE DAME L. REV. (forthcoming 2021) (with Michael Vandenberg)

Chevron is a Phoenix, VAND. L. REVIEW (forthcoming 2021) (with Lisa Bressman)

Dynamic Incorporation of Private Standards (with Andrew Edgar)

PROFESSIONAL AWARDS

2019-20 Hall-Hartman Outstanding Teaching Award (1L for Regulatory State), Vanderbilt Law School

2018-19 Hall-Hartman Outstanding Teaching Award (1L for Regulatory State), Vanderbilt Law School

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)

Chancellor's Award for Research, Vanderbilt University. Awarded on University-wide basis to Vanderbilt faculty members to recognize outstanding research achievements over prior three years, presented on Aug. 28, 2015 for *Interpreting Regulations* (above) and follow-on work for the Administrative Conference of the United States leading to its adoption of Recommendation 2014-3, 79 Fed. Reg. 35992-93 (June 25, 2014)

POLICY, TESTIMONY, AND ADVOCACY (selected)

Public Member, Administrative Conference of the United States (appointed Dec. 2018)

Co-Organizer of Administrative Law Scholars as Amici Curiae in Support of Petitioners, *United States v. Texas*, No. 15-674 (Mar. 8, 2016) (with Gillian E. Metzger) (pro bono)

Academic Consultant, Administrative Conference of the United States (ACUS), producing *Guidance in the Rulemaking Process: Evaluating Preambles, Regulatory Text, and Freestanding Documents As Vehicles for Regulatory Guidance* (May 16, 2014), which provided the basis for the adoption of ACUS Recommendation 2014-3, *Guidance in the Rulemaking Process*, 79 Fed. Reg. 35992-93 (June 25, 2014), available at <https://www.acus.gov/recommendation/guidance-rulemaking-process>

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-Fall 2007

Contributor, Part XI of A BLACKLETTER STATEMENT OF FEDERAL ADMINISTRATIVE LAW (2nd ed. 2013) (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)

TEACHING AND SERVICE

Courses Taught

Administrative Law, Civil Procedure, Regulatory State (1L class on statutes and regulations), European Union Law, Election Law and Campaign Finance, Public Law Workshop, Statutory Interpretation, Presidential Power, the Nonmarket Environment of Business, and 1L Orientation Course (Life of the Law)

Vanderbilt Law School Service

Appointments Committees (Lateral and Entry-Level)
Chair, 2010-11
Member, 2007-08, 2008-09, 2009-10, 2012-13, 2016-17, 2019-20
Mentoring Committee
Chair, 2009-10, 2012-15
Member, 2010-11, 2015-17
Ad Hoc Promotion Committee
Chair, 2018-19
Ad Hoc Committee on Law Journal Membership, 2020-21
Ad Hoc Committee on Master of Legal Studies Member, 2021-
Ad Hoc Good Moral Character (Student Misconduct Investigation) Committee
Chair, Fall 2014
ABA Reaccreditation Committee Member, 2009-10
Curriculum Committee Member, 2008-09
Board Member, Vanderbilt University Law & Economics Ph.D. Program, 2010-11

Vanderbilt University Service

Vanderbilt Strategic Planning Task Force on Online Education, 2013-15
Vanderbilt Task Force on Cross-College Teaching, 2014-16
Vanderbilt University Faculty Awards Committee, 2008-09, 2009-10, 2012-15
Board Member, Vanderbilt Center for Teaching, Vanderbilt University, 2011-14
Board Member, Vanderbilt Center for Digital Learning, 2015-16

Vanderbilt Ph.D. Dissertation Committees

Political Science Ph.D. Committees, 2011-12, 2012-14, 2015-17
Law & Economics Ph.D. Committees, 2013-15, 2016-17, 2018-19

Cardozo Law School Service

Conference Co-Organizer, *The Domestic Commander in Chief*, April 16, 2007
Co-Organizer, *Agency Costs and Institutional Design Workshop*, Nov. 10, 2006
Faculty Development Committee, 2006-07
Appointments Committee Member, 2005-06
Academic Advisor, Moot Court Honor Society, 2003-07
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 (selected 2011-present)

Partisan Administration, The Gedid Lecture, Widener Commonwealth University (Sept. 30, 2020)

The Anti-Accumulation Principle and the Executive Branch, Faculty Workshop, University of Arizona (Sept. 3, 2020)

The False Allure of Internal Separation of Powers, Faculty Workshop, Pitt Law (March 3, 2020)

Bringing New Governance to Earth, Commentator, for Governing Super Wick Problems Symposium, Vanderbilt Law Review (Oct. 26, 2019)

The Authority and Interpretation of Regulations, Australian National University, School of Law, Faculty Workshop, Canberra (June 8, 2018); and University of Sydney (May 8, 2018)

The Stated Purposes Doctrine, Deakin University Law School, Faculty Workshop, Melbourne (April 18, 2018)

Administrative Agencies' Combination of Functions Does Not Violate Separation of Powers, Showcase Panel on Separation of Powers and Administrative Agencies, Federalist Society National Lawyers Convention, Washington, DC (Nov. 18, 2017)

United States v. Trump: Prosecuting Presidents, Constitution Day Public Lecture, Northeastern University (September 15, 2017)

Regimes of Reason Giving in Public Law, Paper Presentation, Algorithms and Explanations Conference, NYU Law School, New York (April 27, 2017)

Internal Administrative Law, Paper Presentation, Conference on Executive Power and Administrative Law, University of Wisconsin Law School (April 15, 2017)

Internal Administrative Law, Faculty Workshop, University of Miami Law School (April 7, 2017)

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 (October 29, 2015)

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

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

An Administrative Jurisprudence, Paper Presentation, 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, Panel on 1L Leg-Reg Courses, AALS Annual Meeting, Washington, DC (January 3, 2015)

Process-Based Administrative Law, Commentator, Conference on the New Doctrinalism, University of Pennsylvania Law School (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*, Paper Presentation, Public Law Conference, University of Cambridge Faculty of Law, UK (September 17, 2014)
- The Interpretive Dimension of Seminole Rock*, Conference Panel, George Mason Law School, Arlington, VA (September 12, 2014)
- Guidance in Rulemaking Process*, Recommendation Presentation, Administrative Conference of the United States, 60th Plenary, Washington, DC (June 6, 2014)
- Auer and the Interpretive Dimension of Deference*, Paper Presentation, 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*, Seminar 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, *The Legitimacy and the Paradox of Regulation Conference*, University of Leiden, Netherlands (January 24, 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*, Faculty Workshop, 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 (September 16, 2011)
- The One Percent Problem*, Faculty Workshop (with Michael P. Vandenbergh), Center for the Study of Democratic Institutions, Vanderbilt University, Nashville, TN (April 5, 2011)
- The Principle of Public Company Accounting Oversight Board*, Paper Presentation, Separation of Powers Conference, Notre Dame University Law School, South Bend, IN (March 25, 2011)
- PCAOB and Due Process*, Paper Presentation, Benjamin N. Cardozo School of Law, Festschrift in Honor of Paul Verkuil, New York, NY (October 18, 2011)

PROFESSIONAL MEMBERSHIPS

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

LOCAL COMMUNITY WORK

Whitland Area Neighborhood Association, Nashville, TN
Steering Committee, 2009-12, 2016-17, 2019-present
Vice President, 2010-11, 2016-present
President, 2012
Organizer of Re-Leaf Whitland, 2018