

Stephen E. Sachs

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Research interests

Civil procedure, constitutional law, theories of interpretation, legal history
Conflict of laws, legislation, federal jurisdiction, sovereign immunity

Appointments held

Duke University School of Law

2014–present Associate Professor of Law
2011–2014 Assistant Professor of Law

Education

2007 **J.D.**
Yale Law School
Joseph Parker Prize, for the best paper on legal history or Roman law [SSRN]
Jewell Prize, for the best 2L contribution to a secondary journal [SSRN]
Yale Law Journal, Executive Editor
Yale Law & Policy Review, Executive Editor, Articles Editor

2004 **BA (Hons) in Philosophy, Politics, and Economics (First Class)**
Merton College, Oxford University
Rhodes Scholar
MA (Oxon), June 2008

2002 **A.B. in History (*summa cum laude*)**
Harvard University
First in the graduating class (Sophia Freund Prize), Phi Beta Kappa
Focus on medieval economic and legal history
Thomas T. Hoopes Prize, for outstanding scholarly work
Philip Washburn Prize, for the best thesis on a historical subject
THESIS: “The ‘Law Merchant’ and the Fair Court of St. Ives, 1270–1324” [WWW] [PDF]
The Harvard Crimson, Editorial Co-Chair

Experience

- 2010–2011, **Mayer Brown LLP**
2008–2009 Litigation Group (Appellate), Washington, D.C.
Associate
- 2009–2010 **Supreme Court of the United States**
Chambers of Chief Justice John G. Roberts, Jr.
Law clerk
- 2007–2008 **U.S. Court of Appeals for the D.C. Circuit**
Chambers of Judge Stephen F. Williams
Law clerk
- August 2006 **U.S. Court of Appeals for the Eleventh Circuit**
Chambers of Judge Stanley Marcus
Judicial intern
- Summer 2006 **Mayer Brown LLP**
Litigation Group (Appellate), Washington, D.C.
Summer associate
- Summer 2005 **U.S. Department of Justice**
Civil Division, Appellate Staff
Legal intern
- Summer 2001, **U.S. House of Representatives**
Summer 2000 Judiciary Committee, Minority Staff
Legislative intern

Publications

I. Journal articles

How Congress Should Fix Personal Jurisdiction

108 Nw. U. L. Rev. (forthcoming 2014)

[\[SSRN\]](#)

The “Constitution in Exile” as a Problem for Legal Theory

89 Notre Dame L. Rev. 2253 (2014)

[\[SSRN\]](#)

The “Unwritten Constitution” and Unwritten Law

2013 U. Ill. L. Rev. 1797

[\[SSRN\]](#)

Constitutional Backdrops

80 Geo. Wash. L. Rev. 1813 (2012)

[\[SSRN\]](#)

The Uneasy Case for the Affordable Care Act

75 Law & Contemp. Probs., no. 3, at 17 (2012)

[\[SSRN\]](#)

Corruption, Clients, and Political Machines: A Response to Professor Issacharoff

124 Harv. L. Rev. F. 62 (2011)

[\[SSRN\]](#) [\[WWW\]](#) [\[PDF\]](#)

Full Faith and Credit in the Early Congress

95 Va. L. Rev. 1201 (2009)

[\[SSRN\]](#)

Why John McCain Was a Citizen at Birth

107 Mich. L. Rev. First Impressions 49 (2008) (Commentary)

[\[SSRN\]](#) [\[WWW\]](#) [\[PDF\]](#)

From St. Ives to Cyberspace:

The Modern Distortion of the Medieval “Law Merchant”

21 Am. U. Int’l L. Rev. 685 (2006)

[\[SSRN\]](#)

Saving Toby: Extortion, Blackmail, and the Right to Destroy

24 Yale L. & Pol’y Rev. 251 (2006) (Comment)

[\[SSRN\]](#)

2. Works in Collection

Conflict Resolution at a Medieval English Fair

in Eine Grenze in Bewegung: Öffentliche und private Justiz im Handels- und Seerecht 19
(Schriften des Historischen Kollegs Kolloquien 81, Albrecht Cordes & Serge Dauchy eds., 2013)

[\[SSRN\]](#) [\[WORLDSCAT\]](#)

3. Briefs

Atlantic Marine Construction Co. v. U.S. District Court

Brief of Professor Stephen E. Sachs as *Amicus Curiae* in Support of Neither Party
134 S. Ct. 568 (2013) (No. 12–929) (with Jeffrey S. Bucholtz & Daniel S. Epps)

[\[SSRN\]](#) [\[WWW\]](#) [\[OPINION\]](#)

4. Commentary

Post-Decision SCOTUScast, *Atlantic Marine Construction Co. v. U.S. District Court for the Western District of Texas*

Federalist Society, Feb. 3, 2014

[\[WWW\]](#)

Post-Argument SCOTUScast, *Atlantic Marine Construction Co. v. U.S. District Court for the Western District of Texas*

Federalist Society, Nov. 12, 2013

[\[WWW\]](#)

Professor Stephen Sachs and Atlantic Marine v. U.S. District Court

The Volokh Conspiracy, Oct. 11, 2013 (guest post) (posted by Will Baude)

[\[WWW\]](#)

The Case for “Constitutional Backdrops”

SCOTUSreport, Aug. 29, 2012

[\[WWW\]](#)

Signed and Sealed

Slate, Oct. 12, 2010

[\[WWW\]](#)

5. Unpublished works

John McCain's Citizenship: A Tentative Defense

Aug. 19, 2008

[\[SSRN\]](#)

6. Working papers

“The Feigned Issue in the Federal System” [\[SSRN\]](#)

“Alternative Theories of the Crime” [\[SSRN\]](#)

7. Projects in progress

“Originalism as a Theory of Legal Change”

“Full Faith and Credit to Laws”

“Arms and Agents of the State”

Awards

- 2013 Exemplary Legal Writing, *Green Bag Almanac & Reader* [\[SSRN\]](#)
- 2007 Kathryn T. Preyer Scholars (honorable mention), American Society for Legal History [\[SSRN\]](#)
- 1999 Dante Prize, Dante Society of America

Courses taught

- 2011–2014 Civil Procedure
- 2012, 2014 Conflict of Laws
- 2014 Originalism and Its Discontents (Seminar)

Bar admissions

- 2011 Supreme Court of the United States
- 2011 U.S. Court of Appeals for the Seventh Circuit
- 2010 U.S. Court of Appeals for the D.C. Circuit
- 2009 District of Columbia
- 2008 Massachusetts

Professional memberships

American Historical Association
American Society for Legal History
Federalist Society

Presentations

- 2014.06.17 “Walden v. Fiore, Daimler AG v. Bauman, and Atlantic Marine Construction Co. v. U.S. District Court,” Supreme Court Lunch Series, *UNC School of Law*
- 2014.06.13 “Originalism as a Theory of Legal Change,” Junior Scholars Colloquium, *Federalist Society*
- 2014.04.11 “Originalism as a Theory of Legal Change,” Carolina Junior Scholar Series, *NCCU School of Law*
- 2014.03.31 “Forum Selection and *Atlantic Marine*: Where Do We Go from Here?,” CLE Lecture, *Federal Bar Association (EDNC Chapter)*
- 2014.03.24 “Originalism as a Theory of Legal Change,” Legal Theory Workshop, *Columbia Law School*
- 2014.03.01 Panelist, “Liquidation: Theory, Techniques, and Problems,” The Role of History in Constitutional Law, Constitutional Law Center, *Stanford Law School*
- 2014.02.21 “Originalism as a Theory of Legal Change,” Fifth Annual Originalism Works-in-Progress Conference, Center for the Study of Constitutional Originalism, *University of San Diego School of Law*
- 2014.01.25 “Originalism as a Theory of Legal Change,” Faculty Scholarship Retreat, *Duke University School of Law*
- 2013.12.06 Panelist, “Originalism and the Good Constitution,” Searle Center Book Preview Roundtable, *Northwestern University School of Law*
- 2013.12.05 “Originalism as a Theory of Legal Change,” Constitutional Law Workshop, *University of Chicago Law School*
- 2013.11.09 “The ‘Constitution in Exile’ as a Problem for Legal Theory,” The Role of Custom, Convention, and Tradition in U.S. Constitutional Law, *Duke University School of Law*
- 2013.11.01 “The ‘Constitution in Exile’ as a Problem for Legal Theory,” The Evolution of Theory: Discerning the Catalysts of Constitutional Change, *University of Notre Dame Law School*
- 2013.10.02 Panelist, “Supreme Court Moot: *Kaley v. United States*,” *Duke University School of Law*
- 2013.08.07 Panelist, “Choice of Law in the Post-*Nicastro* Era,” 2013 Annual Conference, *Southeastern Association of Law Schools*
- 2013.07.31 “Originalism as a Theory of Legal Change,” Faculty Workshop, *Duke University School of Law*
- 2013.07.18 “Originalism as a Theory of Legal Change,” Inazu Colloquium, *Duke University School of Law*
- 2013.06.04 “Forum Selection Clauses and *Atlantic Marine Construction Co.*,” Ad Hoc Junior Scholars Conflicts/Federal Courts Workshop, *Duke University School of Law*
- 2013.04.17 “Constitutional Backdrops,” Faculty Workshop, *St. Louis University School of Law*
- 2013.04.15 “Constitutional Backdrops,” Constitutional Law Colloquium, *University of Illinois College of Law*
- 2013.04.05 “What Is a Fundamental Right?,” Advancements in Healthcare and Patent Law, Biotechnology & Pharmaceutical Law Review, *NCCU School of Law*
- 2012.10.28 “How Congress Should Fix Personal Jurisdiction,” Junior Faculty Federal Courts Workshop, *William & Mary Law School*
- 2012.10.15 “Constitutional Backdrops,” Constitutional Law and Theory Colloquium, *Cornell University Law School*
- 2012.10.12 “The ‘Unwritten Constitution’ and Unwritten Law,” Symposium on Akhil Amar’s *America’s Unwritten Constitution*, *University of Illinois College of Law*
- 2012.09.27 Panelist, “Supreme Court Moot: *Lozman v. City of Riviera Beach*,” *Duke University School of Law*
- 2012.09.04 “How Congress Should Fix Personal Jurisdiction,” Junior Faculty Workshop, *UNC School of Law & Duke University School of Law*

- 2012.09.04 Panelist, “It’s Constitutional, What Now?,” American Constitutional Society, Federalist Society & Health Law Society, *Duke University School of Law*
- 2012.06.25 “Constitutional Backdrops,” Inazu Colloquium, *Duke University School of Law*
- 2012.06.12 *Zivotofsky v. Clinton*, Supreme Court Lunch Series, *UNC School of Law*
- 2012.06.06 “How Congress Should Fix Personal Jurisdiction,” Faculty Workshop, *Duke University School of Law*
- 2012.04.21 Panelist, “You Can Call It Obamacare, but Can You Call It Unconstitutional?,” Duke Law Alumni Association, *Duke University School of Law*
- 2012.03.23 Invited Class Lectures, *U.S. Naval Academy*
- 2012.02.27 Panelist, “The Court and the Affordable Care Act,” Program on Public Law, *Duke University School of Law*
- 2012.02.10 Moderator, “Policies, Proposals, and Practical Implications,” The Consequences and Constitutional Dilemmas of State Debt, *Duke Journal of Constitutional Law and Public Policy*, *Duke University School of Law*
- 2012.02.04 “Constitutional Backdrops,” Third Annual Originalism Works-in-Progress Conference, Center for the Study of Constitutional Originalism, *University of San Diego School of Law*
- 2012.01.27 “Constitutional Backdrops,” Faculty Workshop, *Duke University School of Law*
- 2011.11.04 “Constitutional Backdrops,” A Symposium to Mark the 100th Anniversary of Farrand’s Records of the Federal Convention, *George Washington University Law School*
- 2011.10.20 Discussant, Robert D. Cooter & Neil S. Siegel, “Taxes, Penalties, and the Minimum Coverage Provision,” Faculty Workshop, *Duke University School of Law*
- 2011.10.03 *Golan v. Holder*, Supreme Court Preview, *Duke University School of Law*
- 2011.09.16 Discussant, Erwin Chemerinsky, “Political Ideology and Constitutional Decision-Making: The Coming Example of the Affordable Care Act,” The Constitutionality of the Affordable Care Act: Ideas from the Academy, *Duke University School of Law*
- 2011.07.19 *J. McIntyre Machinery v. Nicastro*, Supreme Court Lunch Series, *UNC School of Law*
- 2008.05.01 “Law, Norms, and Conflict Resolution in a Medieval English Fair,” La résolution des conflits: Justice publique et Justice privée: une frontière mouvante, 6th sess., “La résolution des conflits en matière de commerce, terrestre et maritime,” Centre d’Histoire Judiciaire, *Université Lille 2*
- 2005.04.12 “From St. Ives to Cyberspace: The Modern Distortion of the Medieval ‘Law Merchant,’” *Yale Information Society Project*
- 2004.05.19 Discussant, Asst. Att’y Gen. Viet Dinh, “Law, Liberty, and the Terrorist Threat,” *New College, Oxford*