

## Neil S. Siegel

David W. Ichel Professor of Law  
Professor of Law and Political Science  
Co-Director, Program in Public Law  
Director, DC Summer Institute  
Duke Law School  
210 Science Drive  
Durham, NC 27708  
siegel@law.duke.edu  
(919) 613-7157

### EDUCATION

#### **Boalt Hall School of Law, University of California, Berkeley:** J.D., 2001

Graduated 1st in class; *Boalt Hall Fellowship* (full tuition, fees); Senior Articles Editor, *California Law Review*; Jurisprudence Awards in Federal Courts, U.S. Supreme Court Seminar, Criminal Law, Constitutional Law & Public Choice Theory, Law & Economics, and 18th Century Constitutional Design

#### **University of California, Berkeley:** Ph.D. (Jurisprudence & Social Policy), 2001

Dissertation: Intransitivities Protect Minorities: Interpreting Madison's Theory of the Extended Republic; Field Examinations in U.S. Constitutional Theory and Law & Economics; *Berkeley Graduate Fellowship* (full tuition, fees, stipend); *Kadish Center for Morality, Law & Public Affairs Fellow*; *John M. Olin Law & Economics Fellowship*

#### **Duke University:** M.A. (Economics), 1995

Full-tuition scholarship; *Spengler Fellow*

#### **Duke University:** B.A., *summa cum laude* (Economics, Political Science), 1994

*Angier B. Duke Memorial Scholarship* (full tuition); *Phi Beta Kappa*; Graduation with Distinction in Economics, Political Science; Prize for Best Senior Thesis in Economics

### EXPERIENCE

#### **Duke University School of Law**

*David W. Ichel Professor of Law and Professor of Political Science*  
*Director, DC Summer Institute on Law and Policy*  
*Co-Director, Program in Public Law*  
*Professor of Law and Political Science*  
*Associate Professor of Law and Political Science*  
*Assistant Professor of Law and Political Science*

Durham, N.C.  
Effective July 1, 2013  
July 2013 – present  
July 2008 – present  
July 2009 – June 2013  
July 2007 – June 2009  
July 2004 – June 2007

#### **Senator Joseph R. Biden Jr.**

**United States Senate Judiciary Committee**  
*Special Counsel for Roberts and Alito Hearings*

Washington, D.C.  
July 2005 – January 2006

**Associate Justice Ruth Bader Ginsburg**  
**Supreme Court of the United States**  
*Law Clerk*

Washington, D.C.  
July 2003 – July 2004

**Office of the Solicitor General**  
**United States Department of Justice**  
*Bristow Fellow*

Washington, D.C.  
July 2002 – June 2003

**Chief Judge J. Harvie Wilkinson III**  
**United States Court of Appeals for the Fourth Circuit**  
*Law Clerk*

Charlottesville, VA  
June 2001 – June 2002

**O'Melveny & Myers LLP**  
*Summer Associate*

Washington, D.C., June 2001  
San Francisco, CA, Summer 2000

**Boalt Hall School of Law**  
**University of California, Berkeley**  
*Lecturer appointed by Dean to design/teach Introduction to U.S. Law*  
*Teaching Assistant, Criminal Law (Sanford Kadish)*

Berkeley, CA  
Fall 2000

**Jurisprudence & Social Policy Program**  
**University of California, Berkeley**  
*Graduate Student Instructor*

Berkeley, CA  
1997–2001

## SCHOLARLY WRITING

### Works in Progress

Coercive Taxing, Noncoercive Spending, and Strategic Bundling (2015) (with Robert D. Cooter)

Historical Gloss and the Judicial Power (2015) (with Curtis A. Bradley)

Madison's Reasoning (2015)

### Forthcoming

*Constructed Constraint and the Constitutional Text*, 64 DUKE LAW JOURNAL (forthcoming 2015)  
(with Curtis A. Bradley)

*After Recess: Historical Practice, Textual Ambiguity, and Constitutional Adverse Possession*,  
SUPREME COURT REVIEW (forthcoming 2015) (with Curtis A. Bradley)

*Compelling Interests and Contraception*, 47 CONNECTICUT LAW REVIEW (forthcoming 2015)  
(with Reva B. Siegel) (symposium on the 50<sup>th</sup> Anniversary of *Griswold v. Connecticut*)

## Issues Edited

*Foreword, The Constitutionality of the Affordable Care Act: Ideas from the Academy*, 75 LAW & CONTEMPORARY PROBLEMS *i* (2012) (Issue No. 3)

## Articles and Essays

*Griswold at 50: Contraception as a Sex Equality Right*, 124 YALE LAW JOURNAL FORUM (2015) (with Reva B. Siegel)

*Struck by Stereotype: Ruth Bader Ginsburg on Pregnancy Discrimination as Sex Discrimination*, in THE LEGACY OF RUTH BADER GINSBURG (Scott Dodson ed., 2015) (with Reva B. Siegel)

*Federalism as a Way Station: Windsor as Exemplar of Doctrine in Motion*, 6 JOURNAL OF LEGAL ANALYSIS (2014)

*None of the Law But One*, 62 DRAKE L. REV. 1055 (2014) (constitutional law symposium on “The Obamacare Case and Its Significance for the 50<sup>th</sup> Anniversary of LBJ’s Great Society”)

*Collective Action Federalism and Its Discontents*, 92 TEXAS LAW REVIEW 1937 (2013)

*More Law than Politics: The Chief, the “Mandate,” Legality, and Statesmanship*, in THE HEALTH CARE CASE: THE SUPREME COURT’S DECISION AND ITS IMPLICATIONS (Nathaniel Persily, Gillian E. Metzger & Trevor W. Morrison eds., 2013)

*Jack Balkin’s Rich Historicism and Diet Originalism: Health Benefits and Risks for the Constitutional System*, 111 MICHIGAN LAW REVIEW 931 (April 2013) (reviewing JACK M. BALKIN, LIVING ORIGINALISM (2011))

*Equality Arguments for Abortion Rights*, 60 UCLA LAW REVIEW DISCOURSE 160 (2013) (with Reva B. Siegel)

*The New Textualism, Progressive Constitutionalism, and Abortion Rights: A Reply to Jeffrey Rosen*, 25 YALE JOURNAL OF LAW AND HUMANITIES 55 (2013)

*Distinguishing the “Truly National” from the “Truly Local”: Customary Allocation, Commercial Activity, and Collective Action*, 62 DUKE LAW JOURNAL 797 (2012) (symposium on law and custom)

*Not the Power to Destroy: An Effects Theory of the Tax Power*, 99 VIRGINIA LAW REVIEW 1195 (October 2012) (with Robert D. Cooter)

*Free Riding on Benevolence: Collective Action Federalism and the Minimum Coverage Provision*, 75 LAW & CONTEMPORARY PROBLEMS 29 (2012) (Issue No. 3)

*The Liberty of Free Riders: The Minimum Coverage Provision, Mill's "Harm Principle," and American Social Morality*, 38 AMERICAN JOURNAL OF LAW & MEDICINE 374 (2012) (with Jedediah Purdy) (symposium on the constitutionality of the Patient Protection and Affordable Care Act)

*"Early-Bird Special" Indeed!: Why the Tax Anti-Injunction Act Permits the Present Challenges to the Minimum Coverage Provision*, 121 YALE LAW JOURNAL ONLINE 389 (2012) (with Michael C. Dorf)

*Four Constitutional Limits that the Minimum Coverage Provision Respects*, 27 CONSTITUTIONAL COMMENTARY 591 (2011)

*Collective Action Federalism: A General Theory of Article I, Section 8*, 63 STANFORD LAW REVIEW 115 (2010) (with Robert D. Cooter), *republished as revised in* COMPARATIVE CONSTITUTIONAL DESIGN (Tom Ginsburg ed., 2012)

*A Coase Theorem for Constitutional Theory*, 2010 MICHIGAN STATE LAW REVIEW 583 (symposium: A Response to BARRY FRIEDMAN, THE WILL OF THE PEOPLE (2009))

*Prudentialism in McDonald v. City of Chicago*, 6 DUKE JOURNAL OF CONSTITUTIONAL LAW & PUBLIC POLICY 16 (Special Issue 2010)

*Interring the Rhetoric of Judicial Activism*, 59 DEPAUL LAW REVIEW 555 (2010) (Clifford Symposium)

*Struck by Stereotype: Ruth Bader Ginsburg on Pregnancy Discrimination as Sex Discrimination*, 59 DUKE LAW JOURNAL 771 (2010) (with Reva B. Siegel) (response by Associate Justice Ruth Bader Ginsburg)

*Pregnancy and the Anti-Stereotyping Principle: From Struck to Carhart*, 70 OHIO STATE LAW JOURNAL 1095 (2009) (with Reva B. Siegel) (symposium on the jurisprudence of Associate Justice Ruth Bader Ginsburg)

*"Equal Citizenship Stature": Justice Ginsburg's Constitutional Vision*, 43 NEW ENGLAND LAW REVIEW 799 (2009) (symposium on the jurisprudence of Associate Justice Ruth Bader Ginsburg)

*The Virtue of Judicial Statesmanship*, 86 TEXAS LAW REVIEW 959 (2008)

*Dole's Future: A Strategic Analysis*, 16 SUPREME COURT ECONOMIC REVIEW 165 (2008)

*International Delegations and the Values of Federalism*, 70 LAW AND CONTEMPORARY PROBLEMS 93 (2008)

*Umpires at Bat: On Integration and Legitimation*, 24 CONSTITUTIONAL COMMENTARY 701 (2007)

*Theorizing the Law/Politics Distinction: Neutral Principles, Affirmative Action, and the Enduring Insight of Paul Mishkin*, 95 CALIFORNIA LAW REVIEW 1473 (2007) (with Robert C. Post)

*Race-Conscious Student Assignment Plans: Balkanization, Integration, and Individualized Consideration*, 56 DUKE LAW JOURNAL 781 (2006)

*Commandeering and Its Alternatives: A Federalism Perspective*, 59 VANDERBILT LAW REVIEW 1629 (2006)

*Some Modest Uses of Transnational Legal Perspectives in First-Year Constitutional Law*, 56 JOURNAL OF LEGAL EDUCATION 201 (2006)

*A Theory in Search of a Court, and Itself: Judicial Minimalism at the Supreme Court Bar*, 103 MICHIGAN LAW REVIEW 1951 (2005)

*A Prescription for Perilous Times*, 93 GEORGETOWN LAW JOURNAL 1645 (2005)

*Why the Eleventh Amendment Always Matters, Even When Transaction Costs Are Zero: A Reply to Professor Farber*, 18 CONSTITUTIONAL COMMENTARY 177 (2001)

## **Comments**

*State Sovereign Immunity and Stare Decisis: Solving the Prisoners' Dilemma Within the Court*, 89 CALIFORNIA LAW REVIEW 1165 (2001)

*Sen and the Hart of Jurisprudence: A Critique of the Economic Analysis of Judicial Behavior*, 87 CALIFORNIA LAW REVIEW 1581 (1999)

## **POPULAR PUBLICATIONS**

*Does CNN Deserve to be Reelected?*, HUFFINGTON POST, November 8, 2012

*Romney, Women, and the Supreme Court*, HUFFINGTON POST, Nov. 5, 2012

*Yes, the Justices Indeed "Make Law,"* RALEIGH NEWS & OBSERVER, July 13, 2009

*The Meaning of the Court's Decision in the School Cases*, CONTRA COSTA TIMES, July 2007

*Detainees and the Constitution*, RALEIGH NEWS & OBSERVER, Sept. 27, 2006, at A13

*Beware the Anti-Freedom Amendment*, RALEIGH NEWS & OBSERVER, June 9, 2006, at A15

*Separating Childhood Heroes from Today's Politics*, PHILADELPHIA INQUIRER, Feb. 24, 2006, at A15

Taking Issue: Americans Deserve Answers, *National Public Radio Online*, Oct. 20, 2005, at [www.npr.org/templates/story/story.php?storyId=4965299](http://www.npr.org/templates/story/story.php?storyId=4965299)

*Remembering Chief Justice Rehnquist*, WASHINGTON POST, Sept. 5, 2005, at A30

*Rigorous Questions Would Be Only Fair*, PHILADELPHIA INQUIRER, July 21, 2005, at A19

*The Conservative Choice Is a Moderate*, RALEIGH NEWS & OBSERVER, July 6, 2005, at A13

*The Rhetoric Behind "Strict Constructionism,"* DURHAM HERALD-SUN, June 19, 2005, at A11 (with Aziz Huq)

*Why President Bush Should Not Take the 5th*, HOUSTON CHRONICLE, June 17, 2005, at B11

*Medical Marijuana: Read Between the Lines*, RALEIGH NEWS & OBSERVER, June 14, 2005, at A11

*Justices Create Confusion in Sentencing by Declaring Guidelines Advisory*, DAILY JOURNAL, Jan. 18, 2005 (with Erwin Chemerinsky)

*Nomination Could Bridge Divide*, SUN SENTINEL (Fort Lauderdale, Fla.), November 22, 2004, at 23A

*The Election and the U.S. Supreme Court*, CHICAGO TRIBUNE, November 2, 2004, at C21

## RESEARCH INTERESTS

Constitutional Law

Constitutional Theory

Economic Analysis of Constitutional Law

Federal Courts

Law and Politics

## COURSES

J.D.:

Constitutional Law

Federal Courts

Historical Practice and the Federal Judicial Power

From Bickel to Balkin: Readings in Modern Constitutional Theory

U.S. Supreme Court Seminar

The Constitutional Law and Politics of Health Care Reform

Race, Schools, and the Equal Protection Clause

Readings in Ethics: Legal Ethics on Film

Readings in Ethics: Matters of Life and Death

Constitutional Law Colloquium

Judicial Studies Institute:

American Constitutional Interpretation

American Statutory Interpretation

D.C. Summer Institute:

How to “Think Like a Lawyer”: Introduction to Legal Reasoning

From Obamacare to Gay Rights: Introduction to Constitutional Law

Trinity College:

American Constitutional Development and Interpretation I: The Constitutional Structure

American Constitutional Development and Interpretation II: Individual Rights