

**CURRICULUM VITA  
MARK SEIDENFELD**

WORK ADDRESS:

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EDUCATION:

J.D., **Stanford Law School**, 1983 (Order of the Coif; Senior Articles Editor, Stanford Law Review)

M.A., **Brandeis University**, Theoretical Physics, 1979

B.A., **Reed College**, 1975 (Phi Beta Kappa)

LEGAL WORK EXPERIENCE:

Professor, **Florida State University College of Law** (Assoc. Dean of Academic Affairs, 2002-2003 & 2005-2007; Patricia A. Dore Professor of Administrative Law; 2002-present; Full Prof. 1997-2002; Assoc. Prof. 1992-1997; Ass't. Prof. 1987-1992)

Visiting Scholar, **University of Minnesota Law School** (spring 1994)

Visiting Professor, **William Mitchell College of Law** (1991-1992)

Assistant Counsel, **New York State Public Service Commission** (1984-1987)

Judicial Clerk, **The Honorable Patricia M. Wald**, United States Court of Appeals for the D.C. Circuit (1983-1984)

Summer Clerk, **Morrison & Foerster**, San Francisco, CA (1983)

Summer Clerk, **Wickwire, Lewis, Goldmark & Schorr**, Seattle, WA (1982)

Summer Clerk, **Sutherland, Asbill & Brennan**, Washington, DC (1981)

**MARK SEIDENFELD**  
**PAGE TWO**

OTHER WORK EXPERIENCE:

Research Physicist & Engineer, **Intel Corp.**, Aloha, OR (1978-1980) (received patent for high speed, low power computer memory technology)

Instructor of Physics, **Brandeis University** (1975-1978)

BOOKS:

MARK SEIDENFELD, MICROECONOMIC PREDICATES TO LAW AND ECONOMICS (Anderson Publishing Co. 1996)

ARTICLES:

Mark Seidenfeld, *Substituting Substantive for Procedural Review of Guidance Documents*, \_\_ TEX L. REV. \_\_ (forthcoming 2012)

Mark Seidenfeld, *Chevron's Foundation*, 86 NOTRE DAME L. REV. 273 (2011)

Mark Seidenfeld, *Who Decides Who Decides: Federal Regulatory Preemption of State Tort Law*, 65 NYU ANN. SURVEY AM. L. 611 (2010) (invited paper)

Mark Seidenfeld, *Why Agencies Act: A Reassessment of the Ossification Critique of Judicial Review*, 70 OHIO ST. L.J.251 (2009)

Brian Galle & Mark Seidenfeld, *Administrative Law's Federalism: Preemption, Delegation and Agencies at the Edge of Federal Power*, 57 DUKE L.J.1933 (2008) (competitively chosen paper for a symposium).

Mark Seidenfeld, *In Search of Robin Hood: Suggested Legislative Responses to Kelo*, 23 J. LAND USE & ENVTL. L. 305 (2008)

Mark Seidenfeld, *The Quixotic Quest for a "Unified" Theory of the Administrative State*, ISSUES IN LEGAL SCHOLARSHIP: THE REFORMATION OF AMERICAN ADMINISTRATIVE LAW (bepress 2005) (available at <http://www.bepress.com/ils/iss6/>)

Mark Seidenfeld & Janna Satz Nugent, *The Friendship of the People: Citizen Participation in Environmental Enforcement*, 73 GEO. WASH. L. REV. 269 (2005)

**MARK SEIDENFELD**  
**PAGE THREE**

Mark Seidenfeld, *Pyrrhic Political Penalties: Why the Public Would Lose Under the "Penalty Default Canon"*, 72 GEO. WASH. L. REV. 724 (2004)

Mark Seidenfeld, *Cognitive Loafing, Social Conformity, and Judicial Review of Agency Rulemaking*, 87 CORNELL L. REV. 486 (2002) (invited paper)

Mark Seidenfeld, *The Psychology of Accountability and Political Review of Agency Rules*, 51 DUKE L.J. 1059 (2001) (invited paper)

Mark Seidenfeld, *An Apology for Administrative Law in A Contracting State*, 28 FLA. ST. U. L. REV. 215 (2000) (invited paper)

Mark Seidenfeld & Jim Rossi, *The False Promise of The New Nondelegation Doctrine*, 76 NOTRE DAME L. REV. 1 (2000)

Mark Seidenfeld, *Empowering Stakeholders: Limits on Collaboration as the Basis for Flexible Regulation*, 41 WM. & MARY L. REV.411 (2000)

Mark Seidenfeld, *Bending the Rules: Flexible Regulation and Constraints on Agency Discretion*: 51 ADMIN. L. REV. 429 (1999)

Mark Seidenfeld, *Hard Look Review in a World of Techno-Bureaucratic Decisionmaking: A Reply to Professor McGarity*, 75 TEX. L. REV. 559 (1997)

Mark Seidenfeld, *Playing Games with the Timing of Judicial Review: An Evaluation of Proposals to Restrict Pre-Enforcement Review of Agency Rules*, 58 OHIO ST. L.J.85 (1997)

Mark Seidenfeld, *Demystifying Deossification: Rethinking Recent Proposals to Modify Judicial Review of Notice and Comment Rulemaking*, 75 TEX. L. REV.483 (1997)

Mark Seidenfeld, *A Big Picture Approach to Presidential Influence of Agency Policy Making*, 80 IOWA L. REV. 1 (1994)

Mark Seidenfeld, *A Syncopated Chevron: Emphasizing Reasoned Decision-Making in Reviewing Agency Interpretations of Statutes* 73 TEX. L. REV. 83 (1994)

Mark Seidenfeld, *A Civic Republican Justification for the Bureaucratic State*, 105 HARV. L. REV. 1511 (1992)

Mark Seidenfeld, *Some Jurisprudential Perspectives on Employment Sex Discrimination Law and Comparable Worth*, 21 RUTGERS L.J. 269 (1990)

**MARK SEIDENFELD**  
**PAGE FOUR**

Mark Seidenfeld, Note, *Sex-Based Wage Discrimination Under the Title VII Disparate Impact Doctrine*, 34 STAN. L. REV. 1083 (1982)

BOOK CHAPTERS & OTHER PUBLICATIONS:

Brian Galle & Mark Seidenfeld, *Preemption and Federal Administrative Law*, 34 ADMIN. & REG. L. NEWS, Winter 2009 at 5

Mark Seidenfeld, Jim Rossi and Keith Rizzardi, *Judicial Review*, in RECENT DEVELOPMENTS IN ADMINISTRATIVE LAW (J. Lubbers, ed., 2004) (book chapter)

Elizabeth Magill & Mark Seidenfeld, *Judicial Review*, in RECENT DEVELOPMENTS IN ADMINISTRATIVE LAW (J. Lubbers, ed., 2003) (book chapter)

William S. Jordan, III, Jim Rossi & Mark Seidenfeld, *Judicial Review*, in RECENT DEVELOPMENTS IN ADMINISTRATIVE LAW (J. Lubbers, ed., 2002) (book chapter)

William S. Jordan, III & Mark Seidenfeld, *Judicial Review*, in RECENT DEVELOPMENTS IN ADMINISTRATIVE LAW (J. Lubbers, ed., 2001) (book chapter)

Mark Seidenfeld, *Rulemaking*, in RECENT DEVELOPMENTS IN ADMINISTRATIVE LAW (J. Lubbers, ed. 2000) (book chapter)

Mark Seidenfeld, *The Challenge of Teaching Administrative Law*, 38 BRANDEIS L.J. 293 (2000) (invited essay)

Mark Seidenfeld, *Requirements for Administrative Rulemaking*, 27 FLA. ST. U.L. REV. 533 (2000) (chart describing federal rulemaking requirements)

PRESENTATIONS:

**The Legal Implications of Supreme Court Review of the Patient Protection and Affordable Care Act**, National Conference of State Legislatures, Tampa FL (November 2011)

**Chevron's Foundation**, Faculty workshop at University of Tulsa College of Law (October 2009)

**Who Decides Who Decides: Federal Regulatory Preemption of State Tort Law**, Faculty workshop at University of Richmond School of Law (October 2009)

**MARK SEIDENFELD**  
**PAGE FIVE**

**Who Decides Who Decides: An Institutional Analysis of Regulatory Preemption of Tort Law**, Symposium on Preemption of Tort Law, NYU Law School (February, 2009)

**Administrative Law's Federalism**, Symposium on Federalism and Administrative Law, Duke Law School (March, 2008)

**Why Agencies Act?**, Faculty workshop at University of Missouri School of Law (October, 2007)

**A Review of Federal Administrative Law**, State and Federal Government Administrative Practice Certification Review Course, Florida Bar, Administrative Practice, Environmental and Land Use, and Government Lawyers Sections (August, 2007).

**A Qualified Defense of Kelo**, Florida State University Devoe L. Moore Center, Symposium on "Takings: The Uses and Abuses of Eminent Domain and Land Use Regulation" (April, 2007)

**Overview of Federal Administrative Law**, CLE conference on Administrative Law, Florida Bar, Government Lawyers Section (April 2007)

**Agency Decisions Whether to Regulate**, Faculty Workshop, Southern Methodist University (October, 2006)

**Comments on Common Law Remedies and Public Law Enforcement**, "Symposium on the Law and Policy of Ecosystem Services," at Florida State University College of Law, (April, 2006)

**A Qualified Defense of Kelo: An Economic Analysis of Use of Eminent Domain to Transfer Property from One Private Entity to Another**, "Forum on Eminent Domain in Florida after *Kelo v City of New London* - Property Rights vs. Community Development," Florida State University College of Law (November, 2005)

**Agency Decisions to Act**, conference on "Administrative Law and Process in the U.S. and Abroad: Cross-Disciplinary Perspectives," University of San Diego School of Law and the University of California San Diego Department of Political Science and Graduate School of International Relations and Pacific Studies (January, 2005)

**Agency Decisions to Act**, Symposium on Behavioral Law & Economics, Florida State University College of Law (March, 2004)

**MARK SEIDENFELD**  
**PAGE SIX**

**Legislative Oversight of Administrative Agencies**, (Panel Moderator) AALS Annual Meeting, Atlanta (January, 2004)

**Citizen Participation in Environmental Enforcement**, Faculty Workshop, American University Law School (November, 2003)

**An Overview of Federal Administrative Law and Practice**, CLE Program, Florida Bar Section on Administrative Law (June, 2003)

**A Federal Perspective on Administrative Law**, Pat Dore Conference on Florida Administrative Law, Florida Bar Section on Administrative Law (October, 2002)

**Recent Developments in Judicial Review**, 2002 Administrative Law Conference, ABA Section on Administrative Law and Regulatory Practice (October, 2002)

**Microeconomics as a Means of Evaluating Legal Rules**, Annual Education Meeting Florida Circuit Judges Conference (September, 2002.)

**Making Sense of *Mead***, Fall Meeting of the ABA Section on Administrative Law and Regulatory Practice (November, 2001)

**Cognitive Loafing, Social Conformity, and Judicial Review of Agency Rulemaking**, Faculty Workshop, University of San Diego Law School (April, 2001)

**Expert Group Decisionmaking and Judicial Review**, Symposium at Cornell Law School on "Getting Beyond Cynicism: New Theories of the Regulatory State" (March, 2001)

**The Psychology of Accountability and Political Review of Agency Rules**, Duke Law School Administrative Law Conference on "Politics and Agency Rulemaking" (March, 2001)

**A Coherent Approach to Less than Informal Rulemaking**, Administrative Law Section of the AALS Annual Meeting (January, 2001)

**Interest Group Dynamics and Collaborative Environmental Regulation**, Environmental Workshop, Environmental and Natural Resources Law and Policy Program, Stanford Law School (March, 2000)

**MARK SEIDENFELD**  
**PAGE SEVEN**

**Comments on “The Contracting State,”** an invited response to Jody Freeman at the FSU College of Law Symposium on “Regulatory Theory and Administrative Law” (February, 2000)

**Recent Developments on Rulemaking,** 1999 Administrative Law Conference, ABA Section on Administrative Law and Regulatory Practice (October, 1999)

**Limits on Collaboration as the Basis for Flexible Regulation,** Invited Paper presented at the Southeast American Association of Law Schools Conference (July, 1999)

**Demystifying Deossification: The Flight from Hard Look Review,** Faculty Workshop, University of Florida College of Law (September, 1996)

**A Syncopated Chevron,** Invited Paper presented at the Administrative Law Section of the AALS Annual Meeting (January, 1994)

**Reasoned Decision-Making and Judicial Review of Agency Statutory Interpretation,** Faculty Workshop at Florida State University College of Law (March, 1993)

**Presidential Control Of Agency Policy,** Legal Studies Seminar at Florida State University College of Law (October, 1992)

**Presidential Review of Agency Rulemaking,** Faculty Workshop at William Mitchell College of Law (March, 1992)

HONORS & AWARDS:

**Teaching Incentive Program Award,** Florida State University-wide award for excellence in teaching (1996)

COURSES TAUGHT:

**Administrative Law** (1987 - present)

**Administrative Law Seminar** (2001 - 2002)

**Antitrust** (1990)

**Constitutional Law I (Powers)** (1991, 1996 - present)

**Constitutional Law II (Liberties)** (1992)

**MARK SEIDENFELD**  
**PAGE EIGHT**

**Contracts II (Remedies, Conditions and Defenses) (2008 - 2010)**

**Economic Regulation of Business (1991, 1993, 1996-98)**

**Energy Law Seminar (2011)**

**Environmental Law (1992 - 2002)**

**Federal Indian Law (1999)**

**Law & Economics (1988-92, 1995, 1997, 2003, 2007-08)**

**Legislation (2004)**

**Legislation and Regulation – An Introduction (2011)**

**Mass Media Law (1988-1991, 1993, 1995)**

**Regulation of Utilities (1988-89)**

**Telecommunications Law (2003 – 2005, 2009)**

SERVICE:

**Chair, ABA Section of Administrative Law and Regulatory Practice, Committee on Judicial Review (2000 - 2004)**

**Vice Chair, ABA Section of Administrative Law and Regulatory Practice, Committee on Rulemaking (1997 - present)**

**Member of the Executive Committee, AALS Section on Administrative Law (1999-2004)**

**Organizer of an Academic Conference on “Regulatory Theory and Administrative Law”, at FSU College of Law (Feb. 2000)**

**Member, Florida Bar Section on Administrative Law Drafting Committee for Administrative Law Specialty Certification Exam (2007 -2008).**

**MARK SEIDENFELD**  
**PAGE NINE**

**Associate Dean for Academic Affairs, FSU College of Law** (May, 2002 – August, 2003;  
May, 2005 – August 2007)

**Chair, FSU College of Law Faculty Appointments Committee** (2003-04, 2008-09)

**Chair, FSU College of Law Promotion and Tenure Committee** (2001-02, 2004-05)

**Chair, FSU College of Law Curriculum Committee** (2004-05)

**Chair, FSU College of Law Admissions Committee** (2000-01)

**Chair, FSU College of Law Academic Enrichment (Speakers) Committee** (1990-91;  
1996-98)

ONGOING RESEARCH PROJECTS:

Currently I am working on an article critically evaluating suggestions that courts should consider political support for agency rules under the arbitrary and capricious standard of judicial review. I also am researching implicit legislative understandings about causal relationships between regulation and injuries to those meant to be benefitted by them, and the use (or lack of use) of such understandings in standing law's inquiry into traceability of harm. Finally, I have begun an inquiry into a larger project, investigating Congress's authority to instruct courts on the processes they should use for interpreting statutes.