

SCOTT M. NOVECK

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Education

STANFORD LAW SCHOOL, J.D. (with Distinction), May 2009

Honors: Best Brief and Finalist, 2009 Kirkwood Moot Court Competition; Hilmer Oehlmann Jr. Prize for Excellence in Legal Writing (awarded for best brief in first-year moot court competition); Best Attorney, Stanford Mock Trial Invitational Tournament.

Journals: *Stanford Law Review*, articles editor; *Stanford Journal of Civil Rights and Civil Liberties*, managing editor and submissions committee.

Activities: Stanford Law School Mock Trial Team, member; American Constitution Society, class representative; Stanford Center for Internet and Society, student fellow; Dean's Committee on Grade Reform.

PRINCETON UNIVERSITY, A.B. Economics, *summa cum laude*, June 2006

Minors in Political Economy (Politics) and Applications of Computing (Computer Science)

Thesis: *Does Crime Pay? An Economic Analysis of Criminal Behavior* (Grade: A+)

Honors: Halbert White '72 Prize for most outstanding senior economics major in the Class of 2006; the Senior Thesis Prize in Economics; First Place, Interuniversity Consortium for Political and Social Research (ICPSR) Undergraduate Paper Contest; Phi Beta Kappa.

Activities: Princeton University Mock Trial Team, team captain; *The Soap Box* (non-partisan campus political magazine), assistant editor and staff writer; Princeton Quadrangle Club, academics chair.

Selected Legal Experience

Stanford Law School Supreme Court Litigation Clinic, Stanford, CA, Spring & Fall 2008

- Drafted portions of Supreme Court merits brief in *Meacham v. Knolls Atomic Power Laboratory*, amicus briefs in *Cuomo v. Clearing House Association* and *Chamber of Commerce v. Brown*, and petitions for certiorari in *Navajo Nation v. U.S. Forest Service* and *Lewis v. United States*. Issues included age discrimination, preemption of banking and labor law, religious freedom, and criminal sentencing.
- Researched and prepared legal memoranda for *Herring v. United States* (police negligence and the exclusionary rule) and *Waddington v. Sarausad* (habeas relief based on ambiguous jury instructions). Participated in moot oral arguments by lead counsel in both cases.
- For complete list of appellate litigation experience, please see attached.

Summer Associate, Mayer Brown LLP, Washington, D.C., Summer 2008

- Focused on appellate litigation. Drafted Supreme Court amicus brief in *Vaden v. Discover Bank* (subject-matter jurisdiction and the Federal Arbitration Act) and portion of merits brief in *Fitzgerald v. Barnstable School Committee* (Title IX and preclusion of Section 1983 claims). Helped prepare briefs and oral argument for cases in the Sixth and Seventh Circuit Courts of Appeals.
- Researched and drafted legal memoranda on issues including federal habeas review and procedural default, due process rights in civil commitment hearings, constitutional limits on punitive damages, and tort liability under federal railroad regulations.

Intern, United States Attorney's Office for the District of New Jersey, Trenton, N.J., Summer 2005

- Worked with federal prosecutors in the criminal division. Helped coordinate federal law enforcement investigations with supervising attorney, drafted direct and cross examinations, summarized and evaluated evidence collected by investigators, and performed legal research.

Publications

1. Scott M. Noveck, *Is Judicial Review Compatible with Democracy?*, 6 CARDOZO PUB. L. POL'Y & ETHICS J. 401 (2008), available at <http://ssrn.com/abstract=1019202>
2. Scott M. Noveck, *Campaign Finance Disclosure and the Legislative Process*, 47 HARV. J. ON LEGIS. (forthcoming 2009), available at <http://ssrn.com/abstract=1344898>
3. Scott M. Noveck, *The Promise and Problems of Treating Religious Freedom as Freedom of Association* (working paper), available at <http://ssrn.com/abstract=1403795>

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Supreme Court Litigation Experience — Party Briefs

Fitzgerald v. Barnstable School Committee, 129 S. Ct. 788 (2009)

- Drafted portion of petitioner’s merits brief, successfully arguing that Title IX does not preclude Section 1983 claims alleging unconstitutional sex discrimination in public schools.

Meacham v. Knolls Atomic Power Laboratory, Inc., 128 S. Ct. 2395 (2008)

- Drafted portions of petitioners’ merits brief and reply brief, successfully arguing that Age Discrimination in Employment Act’s “reasonable factors other than age” provision is an affirmative defense for which the employer bears the burden of persuasion.

Herring v. United States, 129 S. Ct. 695 (2009)

- Researched and prepared legal memoranda for petitioner in preparation for oral argument, arguing that Fourth Amendment violations resulting from police negligence trigger the exclusionary rule. Served as panelist for moot oral argument by petitioner’s counsel.

Waddington v. Sarausad, 129 S. Ct. 823 (2009)

- Researched and prepared legal memoranda for respondent in preparation for oral argument, arguing that respondent was entitled to federal habeas relief after trial court gave ambiguous jury instruction on accomplice liability and refused to provide clarification in response to jury questions expressing confusion.
- Mooted oral argument before panel of Stanford faculty (with lead counsel for respondent).

Navajo Nation v. U.S. Forest Service, *cert. denied*, 129 S. Ct. 2763 (2009) (mem.)

- Drafted portions of petition for certiorari presenting question of what qualifies as a “substantial burden” on religious exercise under the Religious Freedom Restoration Act.

Lewis v. United States, *cert. denied*, 129 S. Ct. 43 (2008) (mem.)

- Drafted portions of petition for certiorari presenting question of whether the “just punishment” factors enumerated in 18 U.S.C. § 3553(a)(2)(A) may be considered by a district court when imposing a sentence for violation of supervised release pursuant to 18 U.S.C. § 3583(e).

Supreme Court Litigation Experience — Amicus Briefs

Cuomo v. Clearing House Association, 129 S. Ct. 2710 (2009)

- Drafted portions of amicus brief of Central New York Citizens in Action et al. in support of certiorari, arguing that federal regulation granting Comptroller of the Currency exclusive visitorial power over national banks has undermined effective enforcement of state consumer protection laws.

Vaden v. Discover Bank, 129 S. Ct. 1262 (2009)

- Drafted amicus brief of U.S. Chamber of Commerce et al., arguing that several state courts have failed to enforce valid arbitration agreements as required by the Federal Arbitration Act.

Chamber of Commerce v. Brown, 128 S. Ct. 2408 (2008)

- Drafted portions of amicus brief of AARP et al., arguing that California law which prohibits recipients of state funds from using those funds “to assist, promote, or deter union organizing” is not preempted by the National Labor Relations Act and is necessary to ensure that Medicaid funds reach intended beneficiaries.

Other Appellate Litigation Experience

Brown v. Watters, No. 08-1171 (7th Cir. argued Dec. 5, 2008)

- Researched and prepared legal memoranda for appellant seeking federal habeas relief on grounds that his civil confinement for an alleged mental disorder not recognized by the medical profession violates due process.

Cooper v. CSX Transportation, Inc., No. 07-2437 (6th Cir. argued July 31, 2008)

- Researched and prepared legal memoranda for appellee discussing whether Federal Employers’ Liability Act claims are precluded by regulations promulgated under the Federal Railroad Safety Act.