

MICHAEL P. HEALY

Law Building
University of Kentucky
Lexington, Kentucky 40506-0048

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PRESENT EMPLOYMENT:

Professor. University of Kentucky College of Law, Lexington, KY, 40506-0048.

Wendell H. Ford Professor of Law (2013-present).

Academic Ombud (2014-present).

Wilburt D. Ham Professor of Law (2010-2013).

William H. Fortune Professor of Law (2007-2010).

Associate Dean for Academic Affairs (2004-2008).

Dorothy Salmon Professor of Law (2000-2007).

Professor of Law (1998-present).

Associate Professor (1993-1998).

Assistant Professor (1990-1993).

Fulbright Lecturer, Xiamen University School of Law, Xiamen, Fujian, People's Republic of China (Spring 2004): Taught graduate courses in Administrative Law and Comparative and International Environmental Law.

Visiting Lecturer, Coventry University, England (Spring 1997): Taught two graduate level courses in International Environmental Law; pursued research on statutory interpretation and comparative environmental law.

College of Law Courses: Administrative Law, Administrative Law Seminar, Environmental Law, Environmental Law Seminar, Environmental Law Externship, International Environmental Law, Land Use Planning, Legislation, Torts I & II.

Graduate School Courses: Legal, Economic, and Social Science Aspects of Environmental Systems; Coordinator of Environmental Systems Seminar on Global Warming and the Kyoto Protocol to the Climate Change Convention.

Award: Robert and Joanne Duncan Award for Outstanding Teaching (2002).

Law School Committees: Dean Search and Screening (1998-1999 (Chair), 1999-2000); Executive (by election) (1994-1996; 2001-03; 2010-12; 2013-14); Academic Status (1999-2000; 2008-10 (Chair), 1996-1999); Admissions (1999-2002); Curriculum (1996-1998; 2003-05; 2008-10); Mineral Law Advisory (1993-1994 (Chair), 1990-1992, 1995-1996); Personnel (1994-1995 (Chair), 1992-1994, 1995-1996, 1998-1999); Promotion and Tenure (2011-13 (Chair), 2002-2003 (Chair), 2000-2004); Student Recruitment (1990-1992); Ad Hoc Committee on Academic Support (1993-1994); Ad Hoc Committee on Clerkships (1994-1995).

Other Law School Service: Journal of Natural Resources and Environmental Law Adviser (1993-1994; 1998-2003); Moot Court Adviser (1992-1993); Program Committee for 1998 Symposium on Brownfields (1997-1998).

University Committees: University Appeals Board (2001-03 (Chair), 1999-2001, 2004-09); Internationalization Committee (2007-09); Planning Committee for the Tracy Farmer Center for the Environment (2000); Environmental Health and Safety Committee (1996-1999); Committee on Research and Policy of the Kentucky Water Resources Research Institute (1996-1999).

Other Service: Peer Reviewer, Fulbright Senior Specialists Program (2005-08); Member, Kentucky Public Advocacy Commission (1992-1995).

Other Activities: Working Group on Carbon Sequestration (2008-2009); Consultant to the Division of Water, Kentucky Natural Resources and Environmental Protection Cabinet, Program for Source Water Protection by Conservation Easements (2000); Consultant to the Administrative Conference of the United States (1993-95).

LEGAL SCHOLARSHIP:

BOOKS:

“Administrative Law” (casebook co-authored with John M. Rogers & Ronald J. Krotoszynski, Jr.) (Aspen Law & Business 3d edition 2012).

“Teacher’s Manual for Administrative Law” (co-authored with John M. Rogers & Ronald J. Krotoszynski, Jr.) (Aspen Law & Business 3d edition 2012).

“Administrative Law” (casebook co-authored with John M. Rogers & Ronald J. Krotoszynski, Jr.) (Aspen Law & Business 2d edition 2008).

“Teacher’s Manual for Administrative Law” (co-authored with John M. Rogers & Ronald J. Krotoszynski, Jr.) (Aspen Law & Business 2d edition 2008).

“Administrative Law” (casebook co-authored with John M. Rogers & Ronald J.

Krotoszynski, Jr.) (Aspen Law & Business 2003).

“Teacher’s Manual for Administrative Law” (co-authored with John M. Rogers & Ronald J. Krotoszynski, Jr.) (Aspen Law & Business 2003).

ARTICLES:

“Means and Ends in *City of Arlington v. FCC*: Ignoring the Lawyer’s Craft to Reshape the Scope of *Chevron* Deference,” 76 U. Pitt. L. Rev. ____ (2014) (forthcoming).

“The Past, Present and Future of *Auer* Deference: *Mead*, Form and Function in Judicial Review of Agency Interpretations of Regulations,” 62 U. Kan. L. Rev. 633-93 (2014).

“Reconciling *Chevron*, *Mead*, and the Review of Agency Discretion: Source of Law and the Standards of Judicial Review,” 19 Geo. Mason L. Rev. 1-55 (2011).

“The Sustainable Development Principle in United States Environmental Law,” 2 Geo. Wash. J. Energy & Env’tl. L. 19-41 (Spring 2011).

“*Florida East Coast Railway* and the Structure of Administrative Law,” 58 Admin. L. Rev. 1039-51 (2006) (part of the Administrative Law Discussion Forum).

“Law, Policy, and the Clean Water Act: The Courts, the Bush Administration and the Statute’s Uncertain Reach,” 55 U. Ala. L. Rev. 695-715 (2004) (part of a Symposium on The Clean Water Act at Thirty: Progress, Problems, and Potential).

“Information-Based Regulation and International Trade in Genetically-Modified Agricultural Products: An Evaluation of The Cartagena Protocol on Biosafety,” 9 Wash. U.J. L. & Pol. 205-43 (2002) (part of a Symposium on Agriculture and the Law) (selected as one of the 35 best land use and environmental law articles of 2004 by reviewers for the 2004 Land Use & Environment Law Review – 2004, at iv-v).

“Spurious Interpretation Redux: *Mead* and the Shrinking Domain of Statutory Ambiguity,” 54 Admin. L. Rev. 673-86 (2002) (part of the Administrative Law Discussion Forum).

“*Communis Opinio* and the Methods of Statutory Interpretation: Interpreting Law or Changing Law,” 43 Wm. & Mary L. Rev. 539-625 (2001).

“Textualism’s Limits on the Administrative State: Of Isolated Waters, Barking Dogs, and *Chevron*,” 31 Env’tl. L. Rep. (Env’tl. L. Inst.) 10,928-41 (2001).

“Standing in Environmental Citizen Suits: *Laidlaw*’s Clarification of the Injury in Fact and Redressability Requirements,” 30 Env’tl. L. Rep. (Env’tl. L. Inst.) 10,455-67 (2000).

"Legislative Intent and Statutory Interpretation in England and the United States: An Assessment of the Impact of *Pepper v. Hart*," 35 Stan. J. Int'l L. 231-54 (1999).

"England's Contaminated Land Act of 1995: Perspectives on America's Approach to Hazardous Substance Cleanups And Evolving Principles of International Law," 13 J. Nat. Resources & Envtl. L. 289-315 (1997-98) (part of a Symposium on Brownfields).

"Still Dirty After Twenty-Five Years: Water Quality Standard Enforcement and the Availability of Citizen Suits," 24 Ecology L.Q. 393-460 (1997).

"An American Lawyer's Reflections on *Pepper v. Hart*," 2 Coventry University L.J. 1-16 (1997).

"The Attraction and Limits of Textualism: The Supreme Court Decision in *PUD No. 1 of Jefferson County v. Washington Dep't of Ecology*," 4 N.Y.U. Envtl. L.J. 382-443 (1996) (part of a Symposium on Statutory Interpretation and Environmental Law).

"The Effectiveness and Fairness of Superfund's Judicial Review Preclusion Provision," 15 Va. Envtl. L.J. 271-355 (1995-96).

"The Preemption of State Hazardous and Solid Waste Regulations: The Dormant Commerce Clause Awakens Once More," 43 Wash. U.J. Urb. & Contemp. L. 177-220 (1993) (part of a Symposium on the United States Supreme Court's "Environmental Term" (1991-1992)) (reprinted in volume 2 of the *Environmental Law Anthology* (Allison Zabriskie & Thaddeus Bereday, eds.)).

"Judicial Review and CERCLA Response Actions: Interpretive Strategies in the Face of Plain Meaning," 17 Harv. Envtl. L. Rev. 1-95 (1993).

"Direct Liability for Hazardous Substance Cleanups Under CERCLA: A Comprehensive Approach," 42 Case W. Res. L. Rev. 65-146 (1992) (excerpts reprinted in Paul Goldstein & Gerald Korngold, *Real Estate Transactions: Cases and Materials on Land Transfer, Development and Finance* (3d ed. 1993)).

BOOK REVIEWS:

Review of *Policy Making in an Era of Global Environmental Change* (edited by R.E. Munn, J.W.M. la Riviere and N. van Lookeren Campagne) (1996), 4 Asia Pacific J. Envtl. L. 191-92 (1999).

Review of Joel A. Mintz, *Enforcement at the EPA: High Stakes and Hard Choices* (1995), 27 Growth and Change 504-07 (1996).

OTHER WRITING:

2010 Casebook Update for “Administrative Law” (casebook co-authored with John M. Rogers & Ronald J. Krotoszynski, Jr.) (Aspen Law & Business 2d edition 2008) (posted on Aspen casebook web site).

“Update on Federal Administrative Law,” materials for the 2002 Annual Meeting of the National Association of Administrative Law Judges (October 2002).

"Introduction" to 1998 Symposium on Brownfields Program Materials (April 1998).

“An Evaluation of the Fairness and Effectiveness of the Judicial Review Preclusion Provision in the Superfund Statute,” Final Report for the Administrative Conference of the United States (October 1995).

EDUCATION:

University of Pennsylvania Law School. J.D., 1984.

Honors: Magna Cum Laude.

Order of the Coif.

Activities: Articles Editor, University of Pennsylvania Law Review.

Boston College Law School, September 1981 to May 1982.

Top 5% of first-year class.

Williams College, Williamstown, MA. B.A. (Chemistry), 1978.

Honors: Cum Laude.

Activities: Bryant House President; Upper Class Adviser and Counselor.

OTHER LEGAL EMPLOYMENT:

Attorney (1987-1990). U.S. Department of Justice, Environment & Natural Resources Division, Appellate Section, Washington, DC.

Briefed and argued cases in the U.S. Courts of Appeals. Cases primarily concerned the application of federal environmental statutes, including the Clean Air Act, the Clean Water Act, the Comprehensive Environmental Response, Compensation and Liability Act, and the National Environmental Policy Act.

Associate (1985-1987). Shea & Gardner, 1800 Massachusetts Avenue, NW, Washington, DC.

Assisted partners in a broad range of general litigation and client counseling projects. Major projects included the assessment of scientific support for the promulgation of revised Clean Air Act ambient standards for sulfur dioxide, the representation of a copper smelter in proceedings concerning compliance with air

pollution requirements, and the representation of a multinational corporation in an investigation of unfair trading practices by the International Trade Commission.

Law Clerk (1984-1985). The Honorable Edward R. Becker, U.S. Court of Appeals for the Third Circuit, Philadelphia, PA.

Summer Associate (1984). Shea & Gardner, 1800 Massachusetts Avenue, NW, Washington, DC.

Summer Associate (1983). Cleary, Gottlieb, Steen & Hamilton, 1752 N Street, NW, Washington, DC.

Summer Intern (1982). U.S. Attorney's Office, Superior Court Operations, Washington, DC.

OTHER EMPLOYMENT:

Food Stamp and Child Nutrition Program Specialist (1979-1981). U.S. Department of Agriculture, Food and Nutrition Service, Washington, DC.

Teaching Fellow (1978-1979). Moses Brown School, Providence, RI.

SPEECHES, LECTURES AND PRESENTATIONS:

Presented "The Past, Present and Future of *Auer* Deference: *Mead*, Form and Function in Judicial Review of Agency Interpretations of Regulations" at the University of Kentucky Randall-Park Colloquium (January 31, 2013).

Presented "Legal Liability Issues Related to Carbon Sequestration" at the 32d Governor's Conference on the Environment (October 7, 2008).

Presented "Scope of Review, Rule of Law, and the Place of the Principal Actors in our System of Administrative Law" at the annual meeting of Kentucky Administrative Hearing Officers (June 22, 2007).

Panel moderator at the annual meeting of the Southeastern Association of Law Schools discussing sustainable development and environmental law (July 22, 2006).

Participant at the Administrative Law Discussion Forum held at the University of Louisville (May 18, 2006).

Presented "The Roles of the Citizen in Protecting the Environment in the United States" at the Research Institute for Environmental Law of Wuhan University, Wuhan, China (June 15, 2004).

Presented "The Precautionary Principle in International and American Environmental

Law” at the Research Institute for Environmental Law of Wuhan University, Wuhan, China (June 14, 2004).

Presented, at the invitation of the United States Embassy, “The Roles of the Citizen in Protecting the Environment in the United States” at the Myanmar Institute of Theology and at the Embassy’s American Center in Yangon, Myanmar (Burma) (May 24 & 26, 2004).

Delivered the inaugural Hong Kong University-Fulbright Law Lecture at the University of Hong Kong on the subject of “The Principle of Sustainable Development in the Environmental Law and Policy of the United States” (May 17, 2004). Spoke on the same topic at the University of Macau (May 18, 2004), and at Zhongshan University (May 20, 2004) and the South China Agricultural University in Guangzhou, China (May 21, 2004).

Presented “The Rule of Law and the American Legal System” to graduate students of the Hainan University School of Law, Haikou, Hainan, China (April 6, 2004).

Presented “Sustainable Development in International and American Environmental Law” at the Hainan University School of Law, Haikou, Hainan, China (April 5, 2004).

Presented “American Law Schools and the American Legal System” to graduate students and faculty of the Hainan University School of Law, Haikou, Hainan, China (April 5, 2004).

Presented “Judicial Review of Administrative Agencies in United States Law” to a faculty colloquium at Laval University, Quebec, Canada (October 10, 2003).

Presented “The Precautionary Principle in United States Environmental Law” as part of an environmental law symposium sponsored by Laval University, Quebec, Canada (October 9, 2003).

Presented “The Sustainable Development Principle in United States Environmental Law” to a graduate seminar at Laval University, Quebec, Canada (October 7, 2003).

Presented “The Precautionary Principle in United States Environmental Law” to the Centre Interuniversitaire de recherche en analyse des organisations (CIRANO), Montreal, Canada (October 6, 2003).

Presented a Supreme Court and Legislation Preview for Environmental Law at the annual meeting of the Southeast Region of the Association of American Law Schools (July 22, 2003).

Presented “Reformulated *Chevron*: The Need for a More Effective Rule of Deference to Administrative Interpretations of Statutes” at the University of Cincinnati College of Law (April 17, 2003).

Co-presented a Teaching Skills seminar for College of Law Faculty addressing "Essay Exam Questions." (November 20, 2002).

Speaker at the 2002 Annual Meeting of the National Association of Administrative Law Judges discussing recent developments in federal administrative law (October 21, 2002).

Panel moderator at the annual meeting of the Southeast Region of the Association of American Law Schools discussing *United States v. Mead* and administrative law (August 1, 2002).

Speaker at the University of Kentucky Environmental Law CLE discussing *United States v. Mead Corp.* and its impact on environmental law practice (May 18, 2002).

Co-presented a Teaching Skills seminar for College of Law Faculty addressing "Tips for Teaching Statutory Courses." (March 20, 2002).

Presented "Information-Based Regulation and International Trade in Genetically-Modified Agricultural Products: An Evaluation of The Cartagena Protocol on Biosafety" at the 2002 conference of the National Association of Environmental Law Societies at Washington University in St. Louis (March 16, 2002).

Participant at the Administrative Law Discussion Group organized by the University of Louisville and Washington & Lee University (November 17, 2001).

Co-presented a Teaching Skills seminar for College of Law Faculty addressing "Teaching and Learning: Theories and Objectives." (February 14, 2001).

Speaker at the University of Kentucky Environmental Law CLE discussing developments in the law of standing in environmental citizen suits (May 20, 2000).

Organized, introduced, and a panelist for the Symposium on Brownfields sponsored by the Journal of Natural Resources and Environmental Law (April 2-3, 1998).

Delivered lecture entitled, "Loopholes in the Application of Federal Environmental Protection Statutes and the Risks Posed to Water Quality," as the Arthur C. McFarlan Distinguished Lecturer before the Kentucky Geological Survey (February 26, 1998).

Served as a member of a panel organized by the Blue Grass Chapter of the United Nations Association discussing international environmental law (November 5, 1997).

Co-presented a discussion of English and American approaches to legal education to faculty of the Coventry University Law Department (May 1997).

Presented "Still Dirty After Twenty-Five Years: Water Quality Standard Enforcement

and the Availability of Citizen Suits" to faculty of the Coventry University Law Department (March 1997).

Co-presented a CLE on oral advocacy for appellate lawyers to members of Kentucky's Office of the Attorney General (December 5, 1996).

Presented "Still Dirty After Twenty-Five Years: Water Quality Standard Enforcement and the Availability of Citizen Suits" to University of Kentucky College of Law faculty as part of the Randall-Park Colloquium series (November 21, 1996).

Participant in discussion of U.S. environmental law with representatives from southern Africa (May 29, 1996).

Presented "Judicial Review and CERCLA Response Actions: Interpretive Strategies in the Face of Plain Meaning" to University of Kentucky College of Law faculty as part of the Randall-Park Colloquium series (November 21, 1991).

APPELLATE DECISIONS IN CASES BRIEFED AND ARGUED BY MICHAEL HEALY:

Benally v. Hodel, 940 F.2d 1194 (9th Cir. 1991).

City of Mount Clemens v. United States EPA, 917 F.2d 908 (6th Cir. 1990).

Farmers Union Central Exchange, Inc. v. Thomas, 881 F.2d 757 (9th Cir. 1989).

Leslie Salt Co. v. United States, 896 F.2d 354 (9th Cir. 1989).

Louisiana ex rel. Guste v. Lee, 853 F.2d 1219 (5th Cir. 1988).

National Ass'n of Regulatory Utility Comm'rs v. United States Dep't of Energy, 851 F.2d 1424 (D.C. Cir. 1988).

Quince Orchard Valley Citizens Ass'n, Inc. v. Hodel, 872 F.2d 75 (4th Cir. 1989).

South Carolina Dep't of Wildlife and Marine Resources v. Marsh, 866 F.2d 97 (4th Cir. 1989).

United States v. 42.24 Acres of Land, More or Less, Situated in Pondera County, Montana, No. 87-4256 (9th Cir. 1988).

United States v. Boccanfuso, 882 F.2d 666 (2d Cir. 1989).

United States v. Fisher, 864 F.2d 434 (7th Cir. 1988).

United States v. Meyer, No. 87-5377-MN (8th Cir. 1988).

United States v. Williams, 898 F.2d 727 (9th Cir. 1990).

Valley Citizens for a Safe Env't v. Aldridge, 886 F.2d 458 (1st Cir. 1989).

Voluntary Purchasing Groups, Inc. v. Reilly, 889 F.2d 1380 (5th Cir. 1989).

APPELLATE CASES BRIEFED BY MICHAEL HEALY:

Jicarilla Apache Tribe v. Conoco, Inc., No. 89-2048 (10th Cir. 1989).

Joslyn Mfg. Co. v. T.L. James & Co., 893 F.2d 80 (5th Cir. 1990).

National Wildlife Fed'n v. National Park Serv., No. 87-2681 (10th Cir. 1989).

Sangre de Cristo Dev. Co. v. United States, 932 F.2d 891 (10th Cir. 1991).

United States v. Coastal Refining & Marketing, Inc., 911 F.2d 1036 (5th Cir. 1990).

Whitney Benefits, Inc. v. United States, 926 F.2d 1169 (Fed. Cir. 1991).