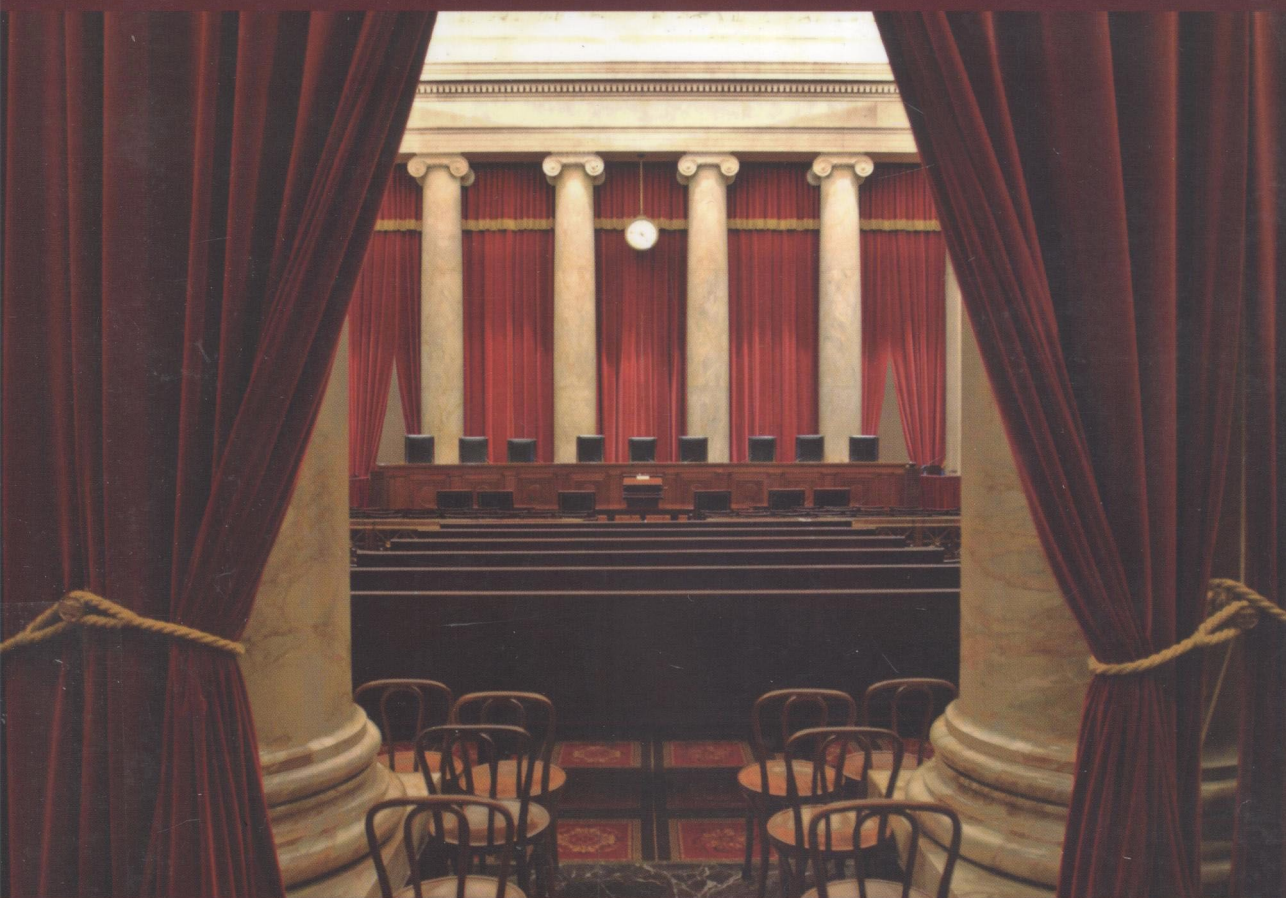


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Richard Seamon • Andrew Siegel • Joseph Thai • Kathryn Watts



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THE SUPREME COURT SOURCEBOOK

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Professor of Law
University of Idaho College of Law

Andrew Siegel

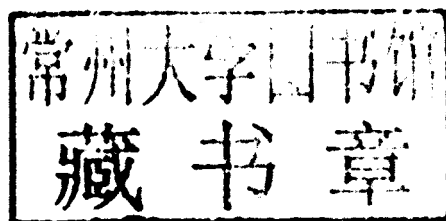
Associate Professor of Law
Seattle University School of Law

Joseph Thai

Presidential Professor of Law
University of Oklahoma College of Law

Kathryn Watts

Garvey Schubert Barer Professor of Law
University of Washington School of Law



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PO Box 990
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Printed in the United States of America.

1 2 3 4 5 6 7 8 9 0

ISBN 978-1-4548-0609-7

Library of Congress Cataloging-in-Publication Data

Seamon, Richard H., 1959-

The Supreme Court sourcebook / Richard Seamon, professor of law, University of Idaho College of Law; Andrew Siegel, associate professor of law, Seattle University School of Law; Joseph Thai, presidential professor of law, University of Oklahoma College of Law; Kathryn Watts, Garvey Schubert Barer Professor of Law, University of Washington School of Law.

pages cm. — (Aspen coursebook series)

Includes index.

ISBN 978-1-4548-0609-7

I. United States. Supreme Court. 2. Courts of last resort—United States. I. Siegel, Andrew (Law teacher) II. Thai, Joseph. III. Watts, Kathryn A., 1976- IV. Title.

KF8742.S425 2013

347.7326—dc23

2013010720

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To Holly, Maggie, and Pei Tzu
—Richard Seamon

*To my wife, Deborah, and my children, Juliet, Oliver,
Theodore, Dashiell, and Felix*
—Andrew Siegel

To my wife, Theresa, and my children, Catie, Miranda, and Patrick
—Joseph Thai

To my husband, Andrew, and my children, Alex and Claire
—Kathryn Watts

Preface

We thank you for opening this book. In this preface we describe how the book came about and what we hope it and its companion website offer the reader.

Each of us has had the joy and privilege of teaching a law school course on the Supreme Court of the United States. Each of us has always created our own set of materials for the course. None of us believes in reinventing the wheel: We created our own course material because we could not find anything in the market suited to our approach. We found, instead, many excellent works that take a primarily theoretical approach to the Court and others that take a primarily historical approach. We believe it is important to expose students to theoretical and historical materials, as well as to comparative materials, but we have chosen to do so as part of an approach that also emphasizes a practice-oriented, experiential study of the Court.

We conceived this book project because we realized that we were not alone in our desire to provide students with materials that emphasize practice as well as history, theory and comparative perspectives. When some of us began teaching our courses on the Court in the early 2000s, there were no more than perhaps 15 to 20 such courses being taught at U.S. law schools. Since then, the number has more than quadrupled, and this does not include what we understand to be a burgeoning numbers of courses on the Court taught in other graduate programs and at the undergraduate level. Indeed, outside of academia, too, it seems that interest in the Court has grown exponentially since *Bush v. Gore*.

As we investigated other law school courses on the Court and spoke with professors who taught the course in other graduate and undergraduate settings, we were impressed (and humbled) by their variety. We therefore decided to (1) organize the book into self-contained modules in an attempt to maximize flexibility and (2) create a true sourcebook by offering a wide variety of material, including not only academic literature and Court decisions but also historical material, articles and litigation documents written by experienced Supreme Court practitioners, and internal documents such as draft opinions, memoranda, and cert pool memos. We have aimed, in short, for versatility and variety.

Whereas the book provides evergreen material, its companion website provides teachable examples of materials on cases currently before the Court. By creating the website, we intend to spare teachers the highly time- and labor-intensive chore of culling pedagogically useful current material from the thousands of cert petitions filed in, and the dozens of cases decided by, the Court on the merits each Term. We fold in the current material partly to give students a vibrant sense of the operations and concerns of the Court in “real time.” More instrumentally, we use the current material for simulations and exercises in which students take on the roles of the Justices—by, for example, conferencing on a pending petition for certiorari or drafting an opinion in a pending case; their law clerks—by, for example, writing a pool memo on a pending petition for certiorari; or advocates before the Court—by, for

example, presenting oral argument in a current case. We believe this hands-on use of material on pending cases deepens students' understanding of the Court and equips them with valuable practice skills. By selecting and packaging current material based on its value for teaching courses on the Court, our website will serve a function distinct from that of other websites on the Court, several of which are quite excellent but which are not designed to support classroom activities.

We have benefited greatly from the suggestions and advice of colleagues who teach courses on the Court, including anonymous reviewers of drafts of our book, and from our students. We have also benefited greatly from our experiences clerking on and practicing before the Court, which offered us privileged views of its workings from both sides of the bench. Needless to say, none of us have disclosed any confidential information within these pages. We invite readers of the finished product and users of our website to share ideas for future improvement with us.

R.S.
A.S.
J.T.
K.W.

May 2013

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