

Max Minzner
Curriculum Vitae

MAX MINZNER
University of New Mexico School of Law
1117 Stanford N.E.
Albuquerque, New Mexico 87131
(505)277-5665 • minzner@law.unm.edu

ACADEMIC EXPERIENCE

University of New Mexico School of Law

Associate Dean for Faculty Development, Regents' Professor of Law, and Presidential Teaching Fellow

2013-2015 Presidential Teaching Fellow (Highest University-Wide Teaching Award)	2013-Present
Regents' Professorship	2013-Present
Associate Dean for Faculty Development	2012-Present
Full Professor	2012-Present
Associate Professor	2011-2012

Courses: Criminal Law, Civil Procedure, Criminal Procedure, Criminal Procedure in New Mexico

Benjamin N. Cardozo School of Law – Yeshiva University

(Joined Faculty Summer 2006; Promoted to Associate Professor Summer 2009; On Leave January 2009-July 2010)

EDUCATION

Yale Law School, J.D., 1999

Notes Editor, *Yale Law Journal*
Coker Fellow (Teaching assistant – legal research and writing)
Potter Stewart Prize, Best Moot Court Team
Best Brief and Outstanding Oralists Awards, Northeast Region, 1999 National Appellate Advocacy Competition
Director, Yale Law School Mock Trial Program

Brown University, B.S., magna cum laude, Mathematics & Political Science, 1996

Departmental Honors, Mathematics; Phi Beta Kappa, Junior Year; 1995 Faculty Scholar; Graduate Courses in Mathematics and Economics; Mathematics Department Teaching Assistant

PUBLICATIONS

For-Profit Public Enforcement, 127 HARV. L. REV. ____ (2014) (forthcoming) (with Margaret Lemos).

Do Warrants Matter?, 9 REV. L. & ECON 169 (2013) (with Christopher M. Anderson).

Why Agencies Punish, 53 WM. & MARY L. REV. 853 (2012).

(adapted for republication in The Legal Workshop, <http://legalworkshop.org/2012/05/07/why-agencies-punish>)

The Criminal Rules Enabling Act, 46 U. RICH. L. REV. 1047 (2012).

Saving Stare Decisis: Preclusion, Precedent, and Procedural Due Process, 2010 B.Y.U. L. REV. 597 (2010).

Putting Probability Back Into Probable Cause, 87 TEX. L. REV. 913 (2009).

(selected for 2008 Yale/Stanford Junior Faculty Forum in the category of Criminal Law)

(adapted for republication in 36 SEARCH & SEIZURE L. REP. 89 (2009)).

Revisiting Hooper, 39 N.M. L. REV. 47 (2009) (solicited work).

Max Minzner
Curriculum Vitae

Detecting Lies Using Demeanor, Bias, and Context, 29 CARDOZO L. REV. 2557 (2008).

Treating Tribes Differently: Civil Jurisdiction Inside and Outside Indian Country, 6 NEV. L.J. 89 (2005).
Gagged but not Bound: The Ineffectiveness of the Rules Governing Judicial Campaign Speech, 68 UMKC L. REV. 209 (1999).

Entrenching Interests: State Supermajority Requirements to Raise Taxes, 14 AKRON TAX J. 43 (1999).

Travis Lee, Max Minzner, et al., *Excursions of a Random Walk Related to the Strong Law of Large Numbers*, 28 ROCKY MTN. J. OF MATHEMATICS 595 (1998).

Travis Lee, Max Minzner, et al., *The Length of an Excursion Above a Linear Boundary by a Random Walk*, 34 STATISTICS & PROB. LETTERS 397 (1997).

Case Note, *Construction Work: The Canons of Indian Law*, 107 YALE L.J. 863 (1997) (student-published work).

WORKS IN PROGRESS

Should Agencies Enforce?

PROFESSIONAL EXPERIENCE

Special Counsel, Office of Enforcement, Federal Energy Regulatory Commission (2009-2010)

- Selected to serve as primary adviser to the Director of the Office of Enforcement at the FERC. Full participant in management and personnel decisions affecting the 180 employees of the Office of Enforcement.
- Provided policy guidance on issues relating to all four Divisions of the Office Enforcement with particular focus on the Division of Investigations, the branch tasked with investigating and charging violations of the federal energy laws. Directly involved in all major prosecutorial choices including charging decisions, litigation strategy, and settlement in cases involving energy market manipulation, violations of the standards ensuring the reliability of the electric grid, and anticompetitive conduct in the energy markets.
- Led numerous initiatives to enhance the enforcement program including promulgating a Policy Statement on Penalty Guidelines, 130 FERC ¶ 61,220 (2010), to provide transparency to regulated entities on the mechanism for calculating civil penalties, a Policy Statement on Exculpatory Materials, 129 FERC ¶ 61,248 (2010), voluntarily adopting the requirements of *Brady v. Maryland* to apply in Commission enforcement actions, and announcing the prosecutorial priorities of the Office of Enforcement in the 2009 Staff Report on Enforcement.
- Frequent speaker at energy industry conferences on issues relating FERC enforcement.

Assistant United States Attorney, Eastern District of New York (2002-2006)

Section Assignments: Public Integrity; Narcotics; General Crimes

Representative cases (served as lead or co-lead prosecutor on the following cases):

- United States v. Santos: Successfully tried to a guilty verdict on all counts a defendant indicted in a homicide-for-hire scheme where the defendant mistakenly killed the wrong people, including a fourteen-year-old boy. Advocated for and obtained a life sentence for the defendant.

Max Minzner
Curriculum Vitae

- United States v. Espinoza: Successfully tried defendant accused of the transportation from Los Angeles to New York of 500 kilograms of cocaine, worth approximately \$10 million. The case involved the largest seizure of cocaine in Long Island history up to that point.
- United States v. Albin: Tried an associate member of the Genovese crime family accused of a large number of crimes relating to narcotics and RICO violations, including multiple incidents of violence. Defendant was acquitted at trial.
- United States v. Rivera: Investigated and indicted an eight-defendant international narcotics and kidnapping conspiracy case. Investigation involved obtaining judicial authorization for and monitoring multiple simultaneous wiretaps in both the United States and Colombia and travel to Colombia to coordinate with Colombian law enforcement. Extradited four defendants from Colombia to New York to stand trial. Case resulted in guilty pleas.
- United States v. Jacobowitz: Successfully obtained the convictions of the executives and primary managers of a publicly traded company indicted in a wide-ranging corporate fraud scheme including charges of bank fraud, insurance fraud, Sarbanes-Oxley violations, arson and bribery with total losses to investors and creditors of approximately \$160 million. The corporate misconduct led to the bankruptcy of one of the largest companies on Long Island, with over 300 employees and more than \$500 million in revenues.

Associate, Davis Polk & Wardwell (2000-2002)

Law Clerk, Hon. Pamela Rymer, U.S. Court of Appeals, Ninth Circuit (1999-2000)

SELECTED SCHOLARLY PRESENTATIONS

The Criminal Rules Enabling Act, Rocky Mountain Junior Scholars Forum, September 2011

The Criminal Rules Enabling Act, UNM Law School Faculty Colloquium, September 2011

Why Agencies Punish, 2011 Northeast Regional Scholarship Conference, February 2011

Saving Stare Decisis: Preclusion, Precedent, and Procedural Due Process, University of New Mexico School of Law Faculty Colloquium, February 2009

Putting Probability Back Into Probable Cause, 2008 Yale/Stanford Junior Faculty Forum, Yale Law School, June 2008

Putting Probability Back Into Probable Cause, University of New Mexico School of Law Faculty Colloquium, April 2008

Do Warrants Matter?, Benjamin N. Cardozo School of Law Junior Faculty Forum, November 2007

Do Warrants Matter?, University of Rhode Island Department of Economics Faculty Colloquium, April 2007

AWARDS AND OTHER ACTIVITIES

Chair, New Mexico Supreme Court Committee on the Rules of Criminal Procedure in District Court

Chair, New Mexico Supreme Court Committee on Habeas Corpus Rules

Member, New Mexico Sentencing Commission

Max Minzner
Curriculum Vitae

Frequent Presenter of Continuing Legal Education Courses, including courses taught at the New Mexico Judicial Conclave, New Mexico Civil Procedure Year-End Update

Faculty Committees Service: Self-Study (2012-13); Dean Search (2012-13); Faculty Appointments (2011-12/2012-13); Assessment & Teaching (2012-13); Clerkships (2012-13); Appointments (2010-11); Clinical Appointments (2010-11); Clinical & Externship Policy (2010-11); Information Technology (2008-09); Clerkship & Placement (2007-08); Faculty Development (Spring 2008); Admissions (2006-07); Faculty Advisor, *Journal of Law and Public Policy* (2006-09).

Selected as One of New Mexico's Top 40 Under 40 by Albuquerque Business First, June 2013

Visiting Professor of Law, University of New Mexico School of Law, Spring 2009
Courses: Civil Procedure I, Civil Procedure II

Peer Reviewer, *Public Finance Review*

Guest Blogger, Concurring Opinions, July 2008

Visiting Professor of Criminal Law, Universidad de Navarra, Pamplona, Spain, May 2008

Commentator on federal criminal law issues relating to Eliot Spitzer resignation on NY1 and WNYC, March 2008

Co-author, Law Professor amicus brief in *Griego v. Oliver*, filed in the Supreme Court for the State of New Mexico, arguing that the New Mexico Constitution guarantees same-sex couples the right to marry and that discrimination on the basis of sexual orientation is subject to intermediate scrutiny under the state Equal Protection Clause

Lead author, Law Professor amicus brief in *Brown v. Kelly*, 07-3356-cv, filed in the United States Court of Appeals for the Second Circuit, arguing that Federal Rule of Civil Procedure 23(b)(2) authorizes district court to certify defendant classes, February 2008