

ALLAN H. ERBSEN

University of Minnesota Law School
229 19th Avenue South
Minneapolis, MN 55455

Tel: (612) 626-6632
Fax: (612) 625-2011
aerbsen@umn.edu

ACADEMIC APPOINTMENTS

- University of Minnesota Law School** 7/05 – Present
Professor, 2016–Present (tenure since 2011; Associate Professor 2005–2016)
Acting Dean (July 2016)
Associate Dean for Academic Affairs, 2015–2018
Julius E. Davis Professor of Law, 2017–2018
Solly Robins Distinguished Research Fellow, 2015–2017
Vance K. Opperman Research Scholar, 2012–2013
Stanley V. Kinyon Teacher of the Year, 2006–2007
Stanley V. Kinyon Tenure-Track Teacher of the Year, 2005–2006
Courses: Civil Procedure I & II, Federal Courts
- Georgetown University Law Center** Fall 2008
Visiting Associate Professor
Course: Civil Procedure
- Vanderbilt Law School** 7/04 – 6/05
Vanderbilt Fellow and Instructor in Law
Course: Civil Procedure
- Harvard University** Spring 1996
Teaching Fellow (Department of Philosophy)
Harvard University Certificate of Distinction in Teaching for “excellence in teaching.”

EDUCATION

- Harvard Law School**, J.D. *cum laude*, 1997
Harvard Law Review, Articles Chair
Professor Daniel Meltzer, Research Assistant
Williston Contract Negotiation and Drafting Competition, First Prize
Eliot House (Harvard College), Non-Resident Law Tutor
Middlesex County D.A.’s Office (worked part-time briefing and arguing criminal appeals)
- Harvard College**, A.B. *magna cum laude* in Government, 1994
John Harvard and Harvard College Scholarships
Olin Institute for Strategic Studies Research Grant
Harvard Center for International Affairs, Research Associate
Harvard International Relations Council, Inc., President
Harvard International Review, Managing Editor
Harvard Program for International Education, Curriculum Director
Eliot House Master’s Cup
Dean’s Advisory Committee on Free Expression, Founding Member

LEGAL WORK EXPERIENCE

- Mayer, Brown & Platt** 10/99 – 6/04
Associate in appellate litigation group. Briefed and argued cases before state trial and appellate courts and international arbitration tribunals. Wrote briefs and petitions in cases before the U.S. Supreme Court and federal appellate courts. Subject areas included choice of law, class certification, civil procedure, statutory interpretation, criminal procedure, bankruptcy, insurance regulation, consumer fraud, international sports arbitration, and the First Amendment.
- Hon. Judith W. Rogers, U.S. Court of Appeals for the D.C. Circuit** 8/98 – 8/99
Law Clerk.
- Wilmer, Cutler & Pickering** 8/97 – 8/98
Associate in litigation group. Drafted complaints and briefs in federal civil cases and defended witnesses in federal grand jury and SEC investigations. Summer Associate in 1996.
- U.S. Department of Justice, Civil Rights Division (Appellate Section)** Summer 1995
Drafted briefs, petitions, and motions in civil rights appeals.
- New York City Law Department, General Litigation Division** Summer 1994
Assisted during discovery and fact development in defense of class actions against city jails.

OTHER WORK EXPERIENCE

- Office of Vice President Al Gore, National Performance Review (NPR)** Summer 1993
Assistant to Deputy Director of National Performance Review (“reinventing government” program).
- U.S. Department of Defense, Office of Nonproliferation Policy** Summer 1992
Wrote reports on counter-proliferation strategy and export control of nuclear and missile technology. Held Secret and CNWDI clearances.
- Office of the Deputy Undersecretary of Defense (International Programs)** Summer 1991
Wrote briefing books for DoD officials traveling to East Asia. Reported on daily intelligence and cable traffic. Held Secret clearance.

PUBLICATIONS

- A Unified Approach to Erie Analysis for Statutes, Rules, and Common Law*, 10 U.C. IRVINE L. REV. 1101 (2020).
- Wayfair Undermines Nicastro: The Constitutional Connection Between State Tax Authority and Personal Jurisdiction*, 128 YALE L.J.F. 724 (2019).
- Personal Jurisdiction Based on the Local Effects of Intentional Misconduct*, 57 WM. & MARY L. REV. 385 (2015).
- Reorienting Personal Jurisdiction Doctrine Around Horizontal Federalism Rather than Liberty After Walden v. Fiore*, 19 LEWIS & CLARK L. REV. 769 (2015) (symposium contribution).

Erie's Four Functions: Reframing Choice of Law in Federal Courts, 89 NOTRE DAME L. REV. 579 (2013).

Erie's Starting Points: The Potential Role of Default Rules in Structuring Choice of Law Analysis, 10 J.L. ECON. & POL'Y 125 (2013) (symposium contribution).

Constitutional Spaces, 95 MINN. L. REV. 1168 (2011).

Impersonal Jurisdiction, 60 EMORY L.J. 1 (2010).

Horizontal Federalism, 93 MINN. L. REV. 493 (2008).

- Selected for presentation at peer-reviewed Stanford/Yale Junior Faculty Forum (June 2008).

The Substance and Illusion of Lex Sportiva, in THE COURT OF ARBITRATION FOR SPORT — 1988–2004, at 441 (Rob Siekmann et al. eds., 2006).

- Reprinted in *LEX SPORTIVA: WHAT IS SPORTS LAW?*, at 91 (Rob Siekmann et al. eds., 2012).

From "Predominance" to "Resolvability": A New Approach to Regulating Class Actions, 58 VAND. L. REV. 995 (2005).

- Selected for presentation at peer-reviewed Stanford/Yale Junior Faculty Forum (May 2005).
- Reprinted in *EMPLOYMENT CLASS AND COLLECTIVE ACTIONS* (Samuel Estreicher & David Sherwyn eds., 2009).

BRIEFS

Brief and Reply Brief of Court-Appointed Amicus Counsel in Support of Reversal, *Curry v. Revolution Labs., LLC*, 949 F.3d 385 (7th. Cir. 2020) (sole author and counsel of record; argued the case).

Brief of Constitutional Law Scholars as Amici Curiae in Support of Neither Party, *North Carolina Dep't of Revenue v. Kimberley Rice Kaestner 1992 Family Trust*, 139 S. Ct. 915 (2019) (No. 18-457) (co-author and co-counsel).

Brief of Civil Procedure Scholars as Amici Curiae in Support of Neither Party, *Tyson Foods, Inc. v. Bouaphakeo*, 136 S. Ct. 1036 (2016) (No. 14-1146) (sole author and counsel of record).

OTHER WORKS

Discretion, Division, and the Supreme Court's Docket, JOTWELL (May 15, 2020) (reviewing Jonathan R. Nash & Michael G. Collins, *The Certificate of Division and the Early Supreme Court*, 94 S. CAL. L. REV. (forthcoming 2021)).

An Erie Tale, JOTWELL (May 23, 2019) (reviewing Brian L. Frye, *The Ballad of Harry James Tompkins*, 52 AKRON L. REV. 531 (2019)).

Sequential Progression of Dispute Resolution in Federal Courts, JOTWELL (Oct. 30, 2017) (reviewing Alexandra D. Lahav, *Procedural Design*, available at <https://ssrn.com/abstract=3013961>).

Common Law in the Age of Arbitration, JOTWELL (Sept. 23, 2016) (reviewing Myriam Gilles, *The Day Doctrine Died: Private Arbitration and the End of Law*, 2016 U. ILL. L. REV. 371).

Personal Jurisdiction Based on Intangible Harm, JOTWELL (Nov. 16, 2015) (reviewing Alan M. Trammell & Derek E. Bambauer, *Personal Jurisdiction and the “Interwebs,”* 100 CORNELL L. REV. 1129 (2015)).

Judicial Competition for Case Filings in Civil Litigation, JOTWELL (Feb. 25, 2015) (reviewing Daniel Klerman & Greg Reilly, *Forum Selling*, USC Center for Law and Social Science Research Papers Series No. CLASS14-35).

Substance, Procedure, and the Interdependence of Gatekeeping Standards Across Multiple Stages of Litigation, JOTWELL (Nov. 20, 2013) (reviewing Louis Kaplow, *Multistage Adjudication*, 126 HARV. L. REV. 1179 (2013)).

Seeking Accuracy in Aggregate Litigation, JOTWELL (Mar. 13, 2013) (reviewing Edward K. Cheng, *When 10 Trials Are Better Than 1000: An Evidentiary Perspective on Trial Sampling*, 160 U. PA. L. REV. 955 (2012)).

Aggregating and Resolving Dissimilar Claims in Rule 23(b)(3) Classes, SCOTUSblog Class Action Symposium (Sept. 1, 2011).

An Anti-Doping Agenda for the Next Olympics, FOR THE RECORD (National Sports Law Institute, Marquette Law School), Oct.–Dec. 2004, at 6.

Recent Case, 109 HARV. L. REV. 524 (1995) (discussing state liability for private acts of violence).

WORKS IN PROGRESS

Constitutional Borders: Extraterritorial Regulation in a Federal System

Is the Mississippi River Unconstitutional? The Puzzle of Concurrent Jurisdiction over Boundary Waters Between States.

Who Won the Revolutionary War? Sovereign Transitions and Federalism.

PRESENTATIONS

Presenter, *Constitutional Borders*, Tenth Annual Constitutional Law Colloquium, Loyola University Chicago School of Law (November 2019).

Commentator, Federal Courts Workshop, University of Arkansas School of Law (September 2019).

Workshop, *Constitutional Borders*, University of Minnesota Law School (July 2019).

Panelist, *Digital Discord: Forging Tax Rules to Fit a Digitalized World*, American Bar Association Section on Taxation Meeting, Washington, D.C. (May 2019).

Lecturer, *Rule 12*, Minnesota CLE Litigation Seminar, Minneapolis (February 2019).

Presenter, *Erie's Loose Threads*, Fourth Annual Civil Procedure Workshop, Stanford Law School (November 2018).

Presenter, *Erie's Loose Threads*, Ninth Annual Constitutional Law Colloquium, Loyola University Chicago School of Law (November 2018).

Workshop, *Erie's Loose Threads*, University of Minnesota Law School (October 2018).

Panelist, *Horizontal Federalism: When Can States Regulate Extraterritorially?*, National Association of Attorneys General State Solicitors General and Appellate Chiefs Conference, Portland, Oregon (June 2018).

Commentator, Third Annual Civil Procedure Workshop, University of Arizona College of Law (October 2017).

Moderator, Judges Panel, Second Annual Civil Procedure Workshop, University of Washington School of Law (July 2016).

Panelist, *Legal Revolution: How Law and the Business of Law is Changing Locally, Nationally and Globally*, University of Minnesota Carlson School of Management, Simulcast on WCCO Radio (March 2016).

Presenter, Class Action Roundtable, First Annual Civil Procedure Workshop, Seattle University School of Law (July 2015).

Presenter, *Walden v. Fiore and the Supreme Court's 135-Year Struggle to Justify Constitutional Limits on Personal Jurisdiction*, Fifth Annual Constitutional Law Colloquium, Loyola University Chicago School of Law (November 2014).

Lecturer, *Dispute Resolution at the Olympics*, International Law Society, University of Minnesota Law School (February 2014).

Presenter, *Concurrent Jurisdiction over Boundary Waters Between States*, Fourth Annual Constitutional Law Colloquium, Loyola University Chicago School of Law (November 2013).

Workshop, *Erie's Four Functions*, University of St. Thomas School of Law (September 2013).

Presenter, *Physical and Relational Space in Constitutional Interpretation*, Conference on The Spatial Constitution, National Science Foundation, Washington, D.C. (June 2013).

Presenter, *Erie's Four Functions*, Conference on The Constitution and Unwritten Law, Notre Dame Law School (March 2013).

Presenter, *Erie's Four Functions*, American Enterprise Institute Colloquium on *Erie*, Washington, D.C. (November 2012).

Presenter, *Erie's Four Functions*, Third Annual Constitutional Law Colloquium, Loyola University Chicago School of Law (November 2012).

Workshop, *Erie's Four Functions*, University of Minnesota Law School (August 2012).

Moderator, *Deposition Teachable Moments*, Robins, Kaplan, Miller & Ciresi LLP Exceptional Advocate Training Program, Minneapolis (May 2012).

Panelist, *Civil Adjudication in the United States*, Faculty Workshop with the Constitutional Court of Kosovo, University of Minnesota Law School (November 2011).

Panelist, *Does the Constitution Apply Abroad?*, Conference on The Constitution and the World, Stanford Law School (October 2011).

Commentator, *Federalism and the Impact of Erie*, Federalist Society Panel, University of Minnesota Law School (October 2011).

Lecturer, *Rule 12 Motions*, Robins, Kaplan, Miller & Ciresi LLP Civil Procedure Workshop, Minneapolis (July 2011).

Presenter, *Constitutional Spaces*, Law, State, and Space Panel, Association of American Geographers Annual Meeting, Seattle, Washington (April 2011).

Workshop, *Constitutional Spaces*, Loyola Law School Los Angeles (October 2010).

Presenter, *Constitutional Spaces*, Federal Courts Workshop, University of Illinois College of Law (October 2010).

Workshop, *Impersonal Jurisdiction*, University of Minnesota Law School (January 2010).

Workshop, *Impersonal Jurisdiction*, University of Illinois College of Law (November 2009).

Presenter, *Impersonal Jurisdiction*, Federal Courts Workshop, Michigan State University College of Law (October 2009).

Lecturer, *Amending Pleadings*, Robins, Kaplan, Miller & Ciresi LLP Civil Procedure Workshop, Minneapolis (May 2009).

Moderator, *Ethics Considerations in Civil Litigation*, Robins, Kaplan, Miller & Ciresi LLP Civil Procedure Workshop, Minneapolis (May 2009).

Workshop, *Horizontal Federalism*, Georgetown University Law Center (October 2008).

Presenter, *Horizontal Federalism*, Stanford/Yale Junior Faculty Forum, Yale Law School (June 2008).

Presenter, *Horizontal Federalism*, Jurisgenesis Conference, Washington University School of Law & St. Louis University School of Law (June 2008).

Presenter, *Horizontal Federalism*, Federal Courts Workshop, American University Washington College of Law (April 2008).

Workshop, *Horizontal Federalism*, University of Minnesota Law School (February 2008).

Presenter, *Rulemaking and Dispute Resolution in International Sports Competition*, Freeman Center for International Economic Policy, Hubert H. Humphrey Institute of Public Affairs, University of Minnesota (October 2007).

Panelist, *Resolution of International Sports Disputes*, National Sports Law Institute Annual Conference, Marquette Law School (September 2007).

Panelist, *Teaching Panel*, Sports Law Scholarship and Teaching Colloquium, Marquette Law School (September 2007).

Panelist, *Arbitration of NGB, Article XIII, and Article IX Complaints*, United States Olympic Committee Best Practices Legal Seminar, Colorado Springs, Colorado (May 2007).

Moderator, *Torino 2006: Overview of Court of Arbitration Cases*, Sports Lawyers Association 32d Annual Conference, Toronto, Canada (June 2006).

Panelist, *Class Action Settlements: Fairness and Abuse*, American Bar Association Section on Business Law Consumer Financial Services Committee Winter Meeting, Park City, Utah (January 2006).

Presenter, *From “Predominance” to “Resolvability”*, Stanford/Yale Junior Faculty Forum, Stanford Law School (May 2005).

Presenter, *Arbitration and Dispute Resolution at the Olympics*, DePaul Journal of Sports Law Annual Symposium, DePaul College of Law (February 2005).

Workshop, *From “Predominance” to “Resolvability”*, University of Minnesota Law School (September 2004).

Workshop, *From “Predominance” to “Resolvability”*, Vanderbilt Law School (September 2004).

LAW SCHOOL SERVICE

Acting Dean (July 2016)

Associate Dean for Academic Affairs (2015–2018)

Educational Policy Committee (2005–2008, 2011–Present) (Chair, 2013–2015, 2019–Present)

Academic Affairs and Curriculum Pandemic Planning Workgroup (2020–Present)

Joint Financial Oversight Committee (2017–2018)

Strategic Planning Committee (2015–2018)

Admissions Committee (2016–2018)

Admissions Representative for the JD and LLM Programs (2016–2018) (events in California, Minnesota, North Carolina, Wisconsin, Germany, Norway, and Switzerland)

Adjunct Appointments Committee (2015–2018)

International and Graduate Programs Committee (2017–2018)

Law School Board of Advisors Academic Engagement Committee (2012–2013, 2014–2018)

Diversity Committee (2015–2016)

Disability Policy Committee (2014–2016)

Judicial Clerkships Committee (2005–2015) (Chair, 2012–2013)

Minnesota Law Review Advisor (2012–2013)

Awards Committee (2012–2013)

Works-in-Progress Committee (2006–2009)

Honor Code Council (2006–2009)

Law School Assessment Committee (2007–2008)

Teaching Prospects Committee (2005–2006)

Faculty Secretary (2005–2006)

UNIVERSITY SERVICE

Dean Comprehensive Review Standing Committee (2017–Present)

- Appointed by the Provost to serve on committee that reviews performance of deans.

Academic Leadership Program (2016–2017)

- Selected as one of five University of Minnesota fellows in the Big Ten Academic Alliance Leadership Program.

Faculty Consultative Committee (Dec. 2014–June 2015)

- Interim member of twelve-person university committee that consults with the President, Provost, and other university officers on matters of concern to the faculty, including academic policies, the budget process, and regulatory compliance.

University and Faculty Senate, Parliamentarian (2012–2014)

NATIONAL SERVICE

American Law Institute (2018–Present)

Members Consultative Group:

- Restatement (Third) Conflict of Laws
- Restatement (Third) Torts: Remedies

Association of American Law Schools

Section on Civil Procedure

- Chair (2015)
- Chair-Elect (2014)
- Executive Committee (2013–Present)
- Ad Hoc Planning Committee for the 2013 Section Meeting (2012)

Section on Federal Courts

- Selection Committee for Best Article Prize (2014)

James F. Humphreys Complex Litigation Center (George Washington Law School)

- Scholars Council (2020–Present)

National Conference of Bar Examiners

- Reviewer for draft Multistate Bar Examination civil procedure questions (Jan. 2018, Feb. 2019, June 2019, Jan. 2020, July 2020)

Order of the Coif

- Strategic Planning Committee (Mar. 2018–Dec. 2018)

BAR MEMBERSHIPS

Minnesota

Illinois

New York

U.S. Supreme Court

U.S. Court of Appeals for the Sixth and Seventh Circuits

OTHER SERVICE

- Chaired arbitration panel in grievance proceeding before USA Track & Field National Athletics Board of Review (2006–2007).
- Peer reviewer for publishers and journals, including Aspen Publishers, Cambridge University Press, Oxford University Press, Wolters Kluwer, *Harvard Law Review*, *Law and Social Inquiry*, *Minnesota Law Review*, *Stanford Journal of Complex Litigation*, *University of Chicago Law Review*, *University of New South Wales Law Journal* (Australia), and *Yale Law Journal*.
- Contributing editor for Jotwell's Courts Law Section. Guest contributor for SCOTUSblog (2011) and Prawfsblawg (2011).
- Instructor for four associate training programs at Robins, Kaplan, Miller & Ciresi LLP in Minneapolis (2009–2012).
- Attended Athens Olympics in 2004 to assist with dispute resolution and served as counsel in three arbitrations and two advisory matters.
- Consultant to professional and amateur sports organizations regarding drug testing and dispute resolution in domestic and international competition.
- Consultant to the California Department of Justice and several other public and private sector entities on complex litigation and federal jurisdiction matters.
- Panelist on several moot courts held to prepare for U.S. Supreme Court, Court of Appeals, District Court, and state appellate court oral arguments.
- Taught sections of Chicago Lawyers' Committee for Civil Rights course introducing incoming first-year law students at Chicago-area law schools to legal reasoning and techniques of law school instruction (Summer 2002).