



## IN MEMORIAM

Philip Frickey  
Professor of Law  
UC Berkeley  
1953 – 2010

University of California, Berkeley, law professor Philip Frickey, one of the nation's foremost experts on public law and federal Indian law and policy, died Sunday, July 11, 2010. He was 57.

Born on June 29, 1953 in Oberlin, Kansas, Frickey earned his undergraduate degree from the University of Kansas, earning Phi Beta Kappa honors his junior year. He then went to the University of Michigan Law School, became editor-in-chief of the Michigan Law Review, and graduated both magna cum laude and Order of the Coif.

After law school, Frickey clerked for Judge John Minor Wisdom of the U.S. Court of Appeals for the 5th Circuit. He then clerked for Justice Thurgood Marshall of the U.S. Supreme Court. Frickey never expected to focus on Indian law, but while he was clerking for Marshall several Indian law cases came before the Supreme Court and he “became immersed in my research and increasingly fascinated with the subject matter.”

Following his clerkship, Frickey returned home to Kansas when his mother became ill. He taught torts and a constitutional law seminar for one semester at the Kansas University School of Law. “That kind of ruined me for law practice,” Frickey said, “because teaching was such a wonderful experience.” He did practice law for three years in Washington, D.C., before joining the University of Minnesota Law School faculty.

Frickey, whose career path was influenced by his clerkship with U.S. Supreme Court Justice Thurgood Marshall, came to Berkeley Law in 2000, after 17 years at Minnesota. Six years into his appointment at Berkeley Law, Frickey was appointed to its Alexander F. and May T. Morrison Chair. In addition to his scholarly and teaching achievements, Frickey chaired Berkeley Law's faculty appointments committee and played a key role in both hiring and mentoring several talented young instructors.

A law school professor for 27 years, he was the co-author of popular casebooks on legislation, constitutional law, and Indian law. He also volunteered his skills outside the scholastic arena, working with the Native American Rights Fund and National Congress of American Indians and writing amicus briefs on their behalf in U.S. Supreme Court cases.

“I've never known anyone whose judgment was so highly respected by his colleagues,” said Berkeley Law Professor Daniel Farber, who co-authored two books and eight articles with Frickey and called him “the nation's leading authority on Indian Law.”

Berkeley Law Assistant Professor Anne Joseph O'Connell described him as “an honest broker” and someone who “was brilliant at softly guiding decisions, listening and responding to concerns, and closing the deal in

getting some wonderful colleagues.”

A full- day symposium to celebrate Frickey’s scholarship and teaching was held at Berkeley Law on April 24, 2009. The event drew top academics from across the country; papers from the event will soon be published in a special issue of the California Law Review. The program for the event is available on the web here: <http://www.law.berkeley.edu/frickey.htm>, as is video and audio of Frickey's speech: <http://www.law.berkeley.edu/8907.htm>.

“Whatever joy and success I’ve had as dean, there simply is no member of the faculty to whom I owe more than Phil,” said Berkeley Law Dean Christopher Edley Jr. “I join his students in saying that I've learned an enormous amount from him. And in the history of this school, only a handful have created a comparable institutional legacy.”

Last year, two student funds were created in Frickey's honor. The Philip Frickey Public Law Fund will award \$2,000 to a second- or third- year Berkeley Law student who has demonstrated a strong commitment to Indian or public law. The annual fund will also award a prize of \$500 or more to the best Berkeley Law student paper in Indian or public interest law. In addition, the Philip Frickey Fellowship will award \$4,000 to a first- or second- year law student who accepts summer employment in an Indian law or public law position that involves advocacy on behalf of the disenfranchised or issues that are inadequately addressed by U.S. law. Students from any ABA- accredited law school are eligible for the award.

“Having my name associated with these funds is incredibly rewarding because it meshes my three primary efforts in federal Indian law as a teacher, as a scholarly writer, and recently as a consultant and practitioner at the highest appellate level,” Frickey said in 2009. “Even if it's just a student or two that we’re able to support, the ramifications of that over a generation would be very substantial for the field.”

Alice Bodnar '08, a practicing attorney who has worked with tribes to develop renewable energy projects on Indian land, was among those contributing to the student funds. She said Frickey was “brilliant, a very good teacher, and someone who cared about what his students think. I'd leave his class every day excited about the law.”

In 1988, Frickey and Yale University Law School Professor William N. Eskridge Jr. coauthored *Cases and Materials on Legislation: Statutes and the Creation of Public Policy*. Several editions later, Farber said the casebook “is commonly considered to have created the modern field of Legislation scholarship.”

Frickey received the Distinguished Service Award from University of Kansas, and in 2009 won both the Lawrence R. Baca Lifetime Achievement Award from the Federal Bar Association’s Indian Law section and Berkeley Law's Rutter Award for Teaching Distinction.

“In terms of his scholarship, Phil was a major figure in constitutional law,” Farber said. “But he was probably best known among legal academics for his work on theories of statutory interpretation.”

Frickey also saw a glaring need for young legal talent to work on Indian law issues. “Indian law is an incredibly difficult legal puzzle and frequently incoherent,” he said. “It hasn’t been well- developed intellectually, and of course the social consequences of that are quite stark. To give students an opportunity to contribute in this area is both important and gratifying.”

Frickey is survived by Mary Ann Bernard, his wife of 27 years, and two children, Alexander Bernard Frickey and Elizabeth Bernard Frickey. He is also survived by his brother, Charles Frickey; his sister, Michele Scherzer; and nine nieces and nephews.

Andrew Cohen  
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