

IN MEMORIAM: DAVID J. BEDERMAN

The editors of the *Emory Law Journal* respectfully dedicate this Issue to Professor David J. Bederman.

FOREWORD

*Lorre Barbara Cuzze, Esq.**

*Quam fluctus diversi, quam mare conjuncti.*¹

David Jeremy Bederman was intellectually fearless. His boundless intellect, however, was distinguished by his compassion, imagination, rigor, humor, and the wisdom of the ages. In announcing David's death to the members of the American Society of International Law, Professor David Caron wrote, "In the law, David was a giant, a person seen once in a generation."² And, so he was.

Born in 1961 in Atlanta, Georgia, during a time of historic change, David J. Bederman was a true son of the New South. Professor Bederman received his A.B. from Princeton University's Woodrow Wilson School of Public and International Affairs with highest honors in 1983. In 1984, he received an M.Sc. in Sea Use Law, Economics, and Policy-Making with mark of distinction from the London School of Economics. He went on to earn a J.D. from the University of Virginia in 1987 and was elected to the Order of the Coif. Following law school, Bederman served as a law clerk to the Honorable Charles E. Wiggins on the U.S. Court of Appeals for the Ninth Circuit. From 1988 to 1989, he served as legal advisor to the Honorable George Aldrich on the Iran-U.S. Claims Tribunal in The Hague. In 1989, Bederman was awarded the coveted Diploma from the Hague Academy of International Law. He received a Ph.D. from the University of London in 1996.

* Member of the Georgia Bar. Adjunct Professor of Law, Legal Research, Writing, and Advocacy, 1991-1993, 1995-1996, and 1997-1998, Emory University School of Law.

¹ "Though the waves are many, the sea is one." This is the motto of the Washington Literary Society and Debating Union at the University of Virginia.

² *David Bederman*, AM. SOC'Y INT'L L., <http://www.asil.org/search.cfm?displayPage=2260> (last visited July 16, 2012).

After a brief stint as an associate with the law firm of Covington & Burling, in Washington, D.C., Bederman returned to Atlanta in 1991 to begin his teaching career at Emory Law School, which became his intellectual home. Never one to do things by half measures, Bederman became ensconced in every aspect of the life of Emory Law School and Emory University from the day he arrived, and once was even mistaken by a senior colleague for a student. In all of his undertakings at Emory, Professor Bederman championed a culture of excellence and service.

Following the September 11, 2001 terrorist attacks on the United States, Bederman was the Distinguished Fulbright Chair at Osgoode Hall at York University in Canada. In 2007, he was awarded both the Ben F. Johnson Excellence Award from Emory Law and the Emory Williams Distinguished Teaching Award from Emory University. In 2008, Professor Bederman became the K.H. Gyr Professor in Private International Law.

As a historian and legal scholar, Bederman wrote extensively. The exceptional range of his powers of analysis and synthesis has been remarked upon by others on the Emory Law faculty. The lasting value of David's writings³ lies within his

power to generate new thought [that] is quite different from the use of judgment involved in pure synthesizing research or the use of the critical faculties in analytical dissection. It not only implies a willingness to challenge old assumptions, it also involves a capacity to fashion new theories through which to view and select facts and even a capacity to shift categories, so that matters which were once classified as similar appear less so, and conclusions which were once thought compelled by logic appear no longer so compelled.⁴

David's scholarship was paramount to his commitment to explore and develop the law. To his writing he brought unbounded intellectual curiosity informed by broad and deep knowledge of his subjects.

As member of the rarified U.S. Supreme Court Bar, David was considered a lawyer's lawyer. Like an archeologist, he would puzzle through the strata of

³ See, e.g., DAVID J. BEDERMAN, *CUSTOM AS A SOURCE OF LAW* (2010); DAVID J. BEDERMAN, *GLOBALIZATION AND INTERNATIONAL LAW* (2008); DAVID J. BEDERMAN, *INTERNATIONAL LAW IN ANTIQUITY* (2001).

⁴ Hardy C. Dillard, *A Tribute to Charles O. Gregory*, 53 VA. L. REV. 759, 760 (1967). Professor Bederman was awarded the Hardy Cross Dillard Prize for his student note published in the *Virginia Journal of International Law*; thus, the quote aptly describes the remarkable nature of David's masterful writing.

a legal doctrine, assessing its weaknesses and strengths. Then, and only then, did he formulate his unified strategy. His clients included those from all walks of life. Each client received the same intense and precise preparation, and his complete dedication to providing unparalleled representation. And, like the finest of our profession, some representations were unpopular causes that, nevertheless, were crucial. I know this both as David's colleague and his wife.

It has been my greatest privilege to witness David's dedication to the law, first and foremost as a scholar, teacher, and mentor, but also as an advocate, as is evinced by his role as the founding sponsor of the Emory Law School Supreme Court Advocacy Project. Not content to take a single course, David's commitment to advance the law took many paths through his writings, teaching, and advocacy, including through the crafting of Antarctic legislation. He inspired many.

David taught by example and lectured widely. As one colleague explained, David had the exceptional gift to make you believe you were the only person in the room, that what you had to contribute to a discussion was important, even if not precisely correct. He did not teach through mindless affirmation but through penetrating exploration. He taught not through intimidation but through dialogue, and as he probed an issue he raised everyone's level of understanding. As he fought cancer, David taught and mentored, wrote and lectured until the very end of his life. The Emory Law faculty has shown its abiding admiration and great affection for their colleague by creating the David J. Bederman Endowment, from which David's article was presented at the inaugural David J. Bederman Lecture.

David believed that being a member of a law faculty is a great privilege. He was known as a genuinely modest man, preferring the title of "professor" to "doctor." I am told that David was something of an old-fashioned colleague: unfailingly polite, collegial, and always willing to listen and honestly consider a point of view not his own. He was committed to civil discourse even in the most fractious of matters. He was thoroughly dedicated to his faculty, yet all the while he pressed the group to grow in its twin roles as wise and honorable faculty who serve both their students and the law. I shall leave the law faculty, which is best able to address such matters, to speak for itself through the many contributors to this Issue.

I wish to thank Daniel Reach and his colleagues at the *Emory Law Journal* for their meticulous work on this Special Issue in David's honor. To the Emory Law faculty, I offer my gratitude. I would like to thank, especially, Professors

Tom Arthur, Frank Alexander, David Partlett, and Dean Robert Schapiro. And, to Professor John Witte and Eliza Ellison, I thank them for everything.