

Jack Friedenthal: A Scholar, a Teacher, and a Dean's Dean

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It is altogether fitting that *The George Washington Law Review* should mark Professor Jack Friedenthal's first fifty years in law teaching with a special issue of the *Review*. Jack's impact on the legal academy in general and The George Washington University Law School in particular is wide-ranging and pervasive. Of all of his contributions, there is none greater than his impact on the depth and breadth of the scholarly life at our Law School. It is therefore appropriate that our marking of Jack's half-century in legal academia should be through a *Festschrift* in our *Law Review*.

Jack Friedenthal joined The George Washington University Law School faculty in the summer of 1988 when he became Dean. At the time he joined us, he already had a distinguished career of three decades at Stanford Law School, where he was the George E. Osborne Professor of Law and the Associate Dean for Academic Affairs from 1984 to 1987. He was well established as a master teacher of civil procedure and evidence courses. His scholarship included important work that used California law as a point of departure to plumb the depths of civil procedure doctrine,¹ as well as important analysis of the reach of the Supreme Court's power to prescribe procedural rules for the federal courts.² Jack was a co-author of two of the most influential works in the field of civil procedure, about which more will be said in the essays that follow.³ The first of these works is the justly celebrated

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¹ See, e.g., Jack H. Friedenthal, *Imputed Contributory Negligence: The Anomaly in California Vehicle Code Section 17150*, 17 STAN. L. REV. 55 (1964); Jack H. Friedenthal, *Joinder of Claims, Counterclaims, and Cross-Complaints: Suggested Revision of the California Provisions*, 23 STAN. L. REV. 1 (1970); Jack H. Friedenthal, *The Expansion of Joinder in Cross-Complaints by the Erroneous Interpretation of Section 442 of the California Code of Civil Procedure*, 51 CAL. L. REV. 494 (1963).

² See Jack H. Friedenthal, *The Rulemaking Power of the Supreme Court: A Contemporary Crisis*, 27 STAN. L. REV. 673 (1975).

³ See Helen Hershkoff & Arthur R. Miller, *Celebrating Jack H. Friedenthal: The Views of Two Co-Authors*, 78 GEO. WASH. L. REV. 9 (2009); Mary Kay Kane, *Pretrial Procedure Reform and Jack Friedenthal*, 78 GEO. WASH. L. REV. 30 (2009).

Civil Procedure casebook,⁴ now in its tenth edition, with co-authors Professor Arthur Miller, Professor (later Dean, later President) John Sexton, Professor John Cound (for the first several editions) and (since the ninth edition) Professor Helen Heshhkoff. The second work is the equally influential *Civil Procedure* hornbook, with Professor Miller and Professor Mary Kay Kane.⁵ The casebook and the hornbook are more than just collections of civil procedure doctrine and cases. Combined, the works have had an influence closer to that of a treatise, formulating the way in which generations of students, scholars, practitioners, and judges have understood the principles of procedure. Jack's role in both of these works has been influential from the very beginning. This, then, was the reputation he brought to the deanship at GW in 1988.

Jack was Dean at George Washington for a decade. When he stepped down as Dean in 1998, he remained at GW as a member of our full-time faculty, first as the Freda H. Alverson Professor of Law and then, since 2004, as the Edward F. Howrey Professor of Law. In his second decade at GW, Jack has continued to play the significant role as teacher and scholar that he played at Stanford for the first thirty years of his academic career. He has been a mainstay of our civil procedure and evidence teaching faculties and, since stepping down from the deanship, has helped produce the eighth, ninth, and current tenth edition of the *Civil Procedure* casebook, as well as the third and current fourth edition of the *Civil Procedure* hornbook.

Jack has also been a prime example of an academic who brings his expertise to bear on a range of important public issues. He has been a special master in a number of major federal cases, including disputes between the National Football League and the Football Players Association,⁶ and has frequently served as a consultant in both the public and private sectors on matters of court procedure, employment discrimination, legal assistance programs, and foreign conflicts of laws. Jack's judgment and insights have been especially valuable when applied to issues of standards and accreditation, as evidenced by his role

⁴ JACK H. FRIEDENTHAL, ARTHUR R. MILLER, JOHN E. SEXTON & HELEN HERSHKOFF, *CIVIL PROCEDURE: CASES AND MATERIALS* (10th ed. 2009). The first edition was published in 1968. The next three editions were published while Professor Friedenthal was at Stanford; the fifth through the current edition have all been published since he has been at George Washington.

⁵ JACK H. FRIEDENTHAL, MARY KAY KANE & ARTHUR R. MILLER, *CIVIL PROCEDURE* (4th ed. 2005). The first edition was published in 1985. All subsequent editions have been published since Professor Friedenthal has been at George Washington.

⁶ See, e.g., *White v. Nat'l Football League*, 149 F. Supp. 2d 858 (D. Minn. 2001).

on the National Collegiate Athletic Association Infractions Committee and his service as a public member of the National Architectural Accrediting Board.⁷ In all of these ways—scholar, teacher, and public servant—Jack has contributed greatly to the world of legal academia, the legal profession more generally, and to the wider community overall. Because others in this tribute will discuss Jack's contributions to scholarship and legal practice in depth,⁸ I would like to devote the balance of this Essay to a different subject: Jack's first decade at the Law School—the time in which he served so ably as our Dean.

There are many ways to take the measure of a deanship. All deans know that much of what we are able to accomplish is based on the accomplishments of our predecessors. Let me share some of the most significant achievements of the Friedenthal decade at The George Washington University Law School, achievements that in many ways still define our community today. One of Jack's core missions as dean, and perhaps his premier focus, was the enhancement of the scholarly life of our faculty. The impact has been long-lasting. Nearly three dozen of the current members of the GW Law faculty were hired while Jack was Dean—well over a third of the present faculty. This group includes some of the most influential and prominent scholars in the legal academy today. He presided over a faculty appointments process that reached out widely to bring scholars of the first rank to GW, both lateral hires from other law faculties and talented entry-level candidates who have gone on to distinguish themselves as scholars and teachers.

Jack's signature program designed to enhance the scholarly life of the school and the productivity of the faculty was the institution of summer research grants, a program that still exists at the Law School today. These grants are contingent on the production of a manuscript of a law review article, a book chapter, or the like. Jack also instituted research professorships, in addition to the endowed chairs awarded to senior, accomplished faculty members. Today, seventeen faculty members hold chairs, and nineteen hold research professorships. In no small way, the culture that Jack built and encouraged continues to contribute to the enormous scholarly productivity that characterizes our faculty: within the last academic year, the faculty has authored over one hundred law review articles and book chapters and over

⁷ See *Activities, FAC. NEWS* (GW Law, Wash., D.C.), Fall 2008, at 3, 4, available at http://www.law.gwu.edu/News/Documents/FacultyNews/2008_fall_GWLawFacultyNews_vol10_no1.pdf (last visited Sept. 12, 2009).

⁸ See Hershkoff & Miller, *supra* note 3; Kane, *supra* note 3.

twenty books and book supplements. Measured electronically, over the past twelve months, the Law School's faculty is among the top two law faculties in the country in new downloads of articles and the top three in total downloads of articles.⁹ Whether measured in terms of the faculty members who joined the faculty between 1988 and 1998 or in terms of the scholarly, collegial culture that Jack helped build and further, much of the Law School's current success has its roots in the Friedenthal deanship.

Jack also played a major role in making our faculty a more diverse community. Over his tenure as Dean, our number of faculty members of color increased dramatically, and the number of women on the faculty grew from eleven to sixteen. It is worth noting that there was similar success in diversifying the student body. When Jack arrived as Dean, roughly one-eighth of the members of the class were students from ethnic minority groups. Under his stewardship, this number increased dramatically, approaching one-third by the time he left the deanship in 1998.

During Jack's years as Dean, the scope of our curriculum broadened with a significant expansion of our clinical programs. During the Friedenthal deanship, new clinics were created in Domestic Violence (1993), Vaccine Injury (1994), and Health Rights Law (1995). Moreover, the very shape of our buildings changed dramatically under Jack's leadership. During his ten years as Dean, building projects were completed during eight of the summers, enhancing the usability of our space for faculty, students, and staff. The renovations completed during this time greatly expanded the availability of faculty offices to accommodate new members of our faculty, and added classroom space to match the expanding curriculum.

One further aspect of the Friedenthal deanship that still has a remarkably important impact on the life of our school deserves mention, and this involves the enhancement of alumni engagement with the school and the accompanying advancement of our financial resources. Jack was responsible for creating the Dean's Board of Advisors, a group of distinguished alumni and friends of the school—practicing lawyers and businesspeople, judges, and academics—who supported the development of the school with their time, insights, and financial contributions. Today the Dean's Board of Advisors, including the Intellectual Property Advisory Board and the Government

⁹ SSRN, Top U.S. Law Schools, <http://www.ssrn.com> (last visited Sept. 15, 2009) (click "Top Institutions"; click "Top U.S. Law Schools"; login to www.ssrn.com).

Contracting Industry Advisory Board, continues to be a mainstay of the Law School, involved in the myriad of issues we face as we grow and thrive.

Having dealt with Jack's many public roles in his time at GW Law, it is appropriate to conclude on a more personal note. From my first day as Dean of The George Washington University Law School, and indeed even before, Jack Friedenthal has been a confidante and an advisor. I know from my predecessor Michael Young, now President of the University of Utah, that Jack played a similar role for him. I count it as a special honor that our faculty has six former Deans, two of whom (Jack Friedenthal and Jerome Barron) were Deans of our own faculty.¹⁰ The reservoir of wisdom and support is extraordinarily valuable and is exemplified perfectly by Jack Friedenthal's willingness to provide counsel to the Deans who have succeeded him at GW Law.

Those who know Jack best always speak of his kindness, his decency and his willingness to help others and aid the community. When he stepped down as Dean, over a decade ago, the *GW Law School* alumni magazine asked leading members of the Law School community for their reflections about Jack. The common thread is clear and powerful, and well captured by the Associate Dean for Administrative Affairs who served under Dean Friedenthal, John Jenkins:

Jack Friedenthal is one of the most decent human beings I know. His instincts are always, in every situation, to try to do the right thing by the people involved. The last 10 years, the law school has been on a steady course of improvement and that's the direct result of his leadership.¹¹

Scott Pagel, the Law Librarian recruited by Jack and whom we are still fortunate to have as the Director of the Burns Law Library shared another wonderful sentiment:

I have found the dean to be one of the most caring people I've ever known. He cares about people, he cares about the institution. Every time I see him, he asks, "Is there anything

¹⁰ In addition to Deans Friedenthal and Barron, who were Deans at GW Law from 1988 to 1998 and 1979 to 1988 respectively, Professor Roger Trangsrud was Interim Dean at GW Law from 2004 to 2005. Prior to joining the GW Law faculty, Professor Laird Kirkpatrick was Dean at the University of Oregon School of Law, Professor Thomas Morgan was Dean at Emory University School of Law, and Professor Richard Pierce was Dean at the University of Pittsburgh School of Law.

¹¹ *Far-Sighted, Generous and Dedicated: The Dean as Others See Him*, GW LAW SCHOOL: A MAGAZINE FOR ALUMNI AND FRIENDS, June 1998, at 26, 26 (quoting John Jenkins, Associate Dean, Administrative Affairs).

you need?” And when I say I need something, he gets it for me. Any library improvements since I’ve been here have been due entirely to his support.¹²

The decency and caring described by Associate Dean Jenkins and Director Pagel a decade ago are both the hallmark of the Friedenthal deanship and the essence of why Jack Friedenthal continues to contribute to The George Washington University Law School community. It is a great pleasure and honor to participate in this celebratory Issue of *The George Washington Law Review* in honor of Jack’s first fifty years in teaching. We at GW Law are fortunate to have had him as a key part of our community these past two decades, and we look forward to many more years of his contributions that have been so vitally important to making us what we are and will yet become as a legal academic institution.

¹² *Id.* (quoting Scott Pagel, Director, Law Library).