

## **KATHERINE J. FLOREY**

UC DAVIS SCHOOL OF LAW  
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### **EMPLOYMENT**

UNIVERSITY OF CALIFORNIA AT DAVIS. 2007-present  
*Martin Luther King, Jr. Professor of Law* 2019-present  
*Professor of Law (with tenure)* 2011-2019  
*Acting Professor of Law* 2007-2011

Courses taught: Civil Procedure, Comparative Law, Complex Litigation, Conflict of Laws/Private International Law, Federal Indian Law (at UC Davis and UC Berkeley), Federal Jurisdiction, Introduction to Anglo-American Law (at the Freie Universität, Berlin, Germany), Public Health Law

KEKER & VAN NEST LLP, San Francisco, CA. 2005-2007  
*Associate*

JUDGE WILLIAM A. FLETCHER, U.S. Court of Appeals for the Ninth Circuit, San Francisco, CA, 2004-05  
*Law clerk*

### **PUBLICATIONS**

#### **Law Review Articles**

*Waiting for the Smoke To Clear: The Complicated Beginnings and Promising Future of Tribal Cannabis*, 67 S.D. L. REV. \_\_ (forthcoming 2022) (invited symposium contribution)

*Tribal Land, Tribal Territory*, 56 GA. L. REV. \_\_ (forthcoming 2022)

*Toward Tribal Regulatory Sovereignty in the Wake of the Covid-19 Pandemic*, 63 ARIZ. L. REV. 399 (2021)

*Covid-19 and Domestic Travel Restrictions*, 96 NOTRE DAME L. REV. REFLECTION 1 (2020)

*Substance-Targeted Choice-of-Law Clauses*, 106 VA. L. REV. 1107 (2020)

*Resituating Territoriality*, 27 GEO. MASON L. REV. 141 (2019)

*Rights, Immunities, and Sovereigns*, 88 FORDHAM L. REV. ONLINE 74 (2019) (invited response piece)

*A Successful Experiment: California's Local Laboratories of Regulatory Innovation*, 66 UCLA L. REV. DISC. 80 (2018) (co-authored with Andrew Doan)

*Losing Bargain: Why Winner-Take-All Vote Assignment is the Electoral College's Least Defensible Feature*, 68 CASE W. RES. LAW REV. 317 (2017)

*Budding Conflicts: Marijuana's Impact on Unsettled Questions of Tribal-State Relations*, 57 B.C. L. REV. 991 (2017) (invited symposium contribution)

*Making It Work: Tribal Innovation, State Reaction, and the Future of Tribes as Regulatory Laboratories*, 92 WASH. L. REV. 713 (2017)

*What Personal Jurisdiction Doctrine Does – And What It Should Do*, 43 FLOR. ST. U. L. REV. 1201 (2016)

*Big Conflicts, Little Conflicts*, 47 ARIZ. ST. L.J. 683 (2015)

*Bridging the Divide: The Case for Harmonizing State and Federal Extraterritoriality Principles After Morrison and Kiobel*, 27 PAC. MCGEORGE GLOBAL BUS. & DEV. L.J. 197 (2014) (invited symposium contribution)

*Beyond Uniqueness: Reimagining Tribal Courts' Jurisdiction*, 101 CALIF. L. REV. 1499 (2013)

*State Law, U.S. Power, Foreign Disputes: Understanding the Extraterritorial Effects of State Law in the Wake of Morrison v. National Australia Bank*, 92 B.U. L. REV. 535 (2012)

Cited in:

- City of New York vs. Chevron Corp., 993 F.3d 81 (2d. Cir. 2021)
- Levy v. Adidas AG, No. CV 18-6542 PSG, 2018 WL 5942000 (C.D. Cal. Nov. 13, 2018)

*Making Sovereigns Indispensable: Pimentel and the Evolution of Rule 19*, 58 UCLA L. REV. 667 (2011)

Cited in:

- Bell v. City of Lacey, O. 3:18-cv-05918-RBL, 2019 WL 4318615 (W.D. Wash. Sept. 12, 2019)
- Pennsylvania v. Think Finance, Inc., No.14-cv-7139, 2016 WL 183289 (E.D. Pa. Jan. 14, 2016)
- Ali v. Carnegie Inst. of Wash., 306 F.R.D. 20 (D.D.C. 2014)
- Klamath Tribal Claims Committee v. United States, 106 Fed. Cl. 87 (2012)

*Indian Country's Borders: Territoriality, Immunity, and the Construction of Tribal Sovereignty*, 51 B.C. L. REV. 595 (2010)

Cited in:

- People v. Miami Nation Enterprises, 2 Cal. 5th 222 (2016)
  - Michigan v. Bay Mills Indian Community, 134 S.Ct. 202 (2014) (Thomas, J., dissenting)
  - F.T.C. v. Payday Financial, 935 F.Supp.2d 926 (D.S.D. 2013)
- Named as one of the top Indian law articles of the past 30 years in a study based on citation count
- See Grant Christensen and Melissa L. Tatum, *Reading Indian Law: Evaluating Thirty Years of Indian Law Scholarship*, 54 TULSA L. REV. 81 (2018))

*State Extraterritorial Powers Reconsidered: A Reply*, 85 NOTRE DAME L. REV. 1157 (2010)

*State Courts, State Territory, State Power: Reflections on the Extraterritoriality Principle in Choice of Law and Legislation*, 84 NOTRE DAME L. REV. 1057 (2009)

Cited in:

- National Pork Producers Council v. Ross, No. 20-55631, 6 F.4th 1021 (9th Cir. 2021)
- Sequin v. Renk, C.A. No. 20-62WES, 2020 WL 5995205 (D.R.I. Oct. 2, 2020)
- Berman v. City of New York, No. 09–CV–3017, 2012 WL 13041996 (E.D.N.Y. October 3, 2012)
- Berman v. City of New York, 895 F.Supp.2d 453 (E.D.N.Y. 2012)
- Malavé–Torres v. Cusido, 839 F. Supp. 2d 501 (D. Puerto Rico 2012)
- IMS Health, Inc. v. Mills, 616 F.3d 7 (1st Cir. 2010) (vacated on different grounds by IMS Health, Inc. v. Schneider, 564 U.S. 1051 (2011))

*Sovereign Immunity's Penumbra: Common Law, "Accident," and Policy in the Development of Sovereign Immunity Doctrine*, 43 WAKE FOREST L. REV. 765 (2008)

Cited in:

- Nettles v. Gtech Corp., No. 17-1010, 2020 WL 3110672 (Tex. Sup. Ct. June 10, 2020) (Boyd, J., concurring in part and dissenting in part)

*Recent Developments in Criminal Enforcement of Securities Laws*, Practicing Law Institute (September 2006) (with Jan Little)

*Choosing Tribal Law: Why State Choice-of-Law Principles Should Apply to Disputes With Tribal Contacts*, 55 AMER. U.L. REV. 1627 (2006)

Cited in:

- Cooper v. Las Vegas Metro Police Dep't, No. 2:19-cv-02231-KJD-VCF, 2020 WL 569348 (D. Nev. Feb. 4, 2020)

*Insufficiently Jurisdictional: The Case Against Viewing State Sovereign Immunity as an Article III Doctrine*, 92 CALIF. L. REV. 1375 (2004)

Cited in:

- Rusk State Hosp. v. Black, 55 Tex. Sup. Ct. J. 1320 (2012) (Lehrmann, J., concurring and dissenting)

### **Shorter Works, Op-Eds, and Media Appearances**

Appearance on *Insight*, Capital Public Radio, March 21, 2021 (commenting on the phenomenon of fake Covid-19 vaccination cards)

*The Tribal Covid-19 Response*, REGULATORY REVIEW, March 17, 2021 (invited contribution)

*How To Control the Spread of Coronavirus over State and County Lines*, CAL MATTERS, July 29, 2020

Guest column on *Dollar General v. Mississippi Band of Choctaw Indians*, SAN FRANCISCO DAILY JOURNAL, November 24, 2015

*Who Is an "Indian Child"?* SAN FRANCISCO DAILY JOURNAL, October 6, 2015

Opinio Juris, *Kiobel Insta-Symposium: Deepening the Divide*, April 12, 2013

### **Authored/Co-Authored Amici Briefs**

Brief of Civil Procedure and Tort Law Professors as Amici Curiae in Support of Petition for a Writ of Certiorari, *Two Shields v. Wilkinson* (U.S. Supreme Court) (2015)

Brief Amicus Curiae of the American Civil Liberties Union and the ACLU of Mississippi in Support of Respondents, *Dollar General Corporation v. Mississippi Band of Choctaw Indians* (U.S. Supreme Court) (2015)

## **EDUCATION**

BLOOMBERG SCHOOL OF PUBLIC HEALTH, JOHNS HOPKINS UNIVERSITY

Training Certificate in Public Health (awarded for completion of core MPH courses), 2017

SCHOOL OF LAW, UNIVERSITY OF CALIFORNIA AT BERKELEY  
J.D. May 2004

- Thelen Marrin Award for Academic Excellence (ranked 1st in graduating class of 332)

- Boalt Hall Fellowship (three-year, full-tuition merit scholarship based on incoming LSAT/GPA)
- Eight Jurisprudence Awards (highest grade in class), two Prosser Prizes (second-highest grade in class)
- Order of the Coif
- Articles editor, *California Law Review*

WARREN WILSON COLLEGE, Asheville, NC  
M.F.A. in creative writing, January 1998

HARVARD COLLEGE, Cambridge, MA  
A.B. *summa cum laude* in English and American Literature, June 1993

- Phi Beta Kappa
- Fiction editor, *Harvard Advocate*
- National Merit Scholar

**PRESENTATIONS** Panelist, “Tribes Entering the Marijuana Industry,” High Crimes: Marijuana Legalization in South Dakota and Beyond (symposium), Knudson School of Law, University of South Dakota, October 25, 2021

“Mill, Harm, and Health” (invited lecture), Structured Liberal Education program, Stanford University, March 10, 2020

“Uniqueness and Beyond: The Contradictions of Tribal Status in the United States” (lecture), Aoki Center, UC Davis School of Law, February 11, 2020

Panelist, “Tribal Courts and Restorative Justice,” Sovereign to Sovereign Conference, Attorneys General Alliance, Lincoln, CA, February 10, 2020

Panelist, Discussion of Ninth Circuit Oral Argument in *State of Washington v. Trump*, UC Davis School of Law, February 7, 2017

“Making It Work,” UC Davis School of Law, October 18, 2016

“The Foundations of Tribal Law,” Understanding Tribal-County Relationships Workshop, CSAC Institute for Excellence in Country Government, Sacramento, CA, July 7, 2016

“Indian Case Law Update, 2014-2015,” California Indian Law Association Conference, held at Jackson Rancheria Casino Resort, Jackson, CA, October 16, 2015.

*Daimler v. Bauman* and *Walden v. Fiore*, Supreme Court Case Series, UC Davis School of Law, August 6, 2014

“Beyond Uniqueness: Toward a Broader View of Tribal Courts’ Jurisdiction” (workshop), Berkeley Law, July 16, 2013

Respondent, Indigenous Peoples and the Doctrine of Discovery (forum), UC Davis, May 2, 2013

Panelist, “Transnational Securities Enforcement After *Morrison*,” Transnational Securities and Regulatory Litigation in the Aftermath of *Morrison v. National Australia Bank* (symposium), University of the Pacific McGeorge School of Law, March 1, 2013

Panelist, “Berkeley Law’s Responsibility for Heeding Frickey’s Call,” Heeding Frickey’s Call: Doing Justice in Indian Country (symposium), Berkeley Law, September 28, 2012

“10 (or 11) Things You Should Know About Federal Indian Law” (presentation as part of Native American Culture Week), UC Davis School of Law, September 4, 2012

Participant, Faculty Roundtable, *Uneasy Remains* Film Project (documentary about the Native American Graves Protection and Repatriation Act), March 9, 2012

Panelist, “The American Southwest: Access to Justice in a Land of Reservations and Rural Places,” UC Davis School of Law, January 12, 2012

“The 2011 Personal Jurisdiction Cases,” Supreme Court Case Series, UC Davis School of Law, August 10, 2011 (with Rex Perschbacher)

“*Wal-Mart Stores Inc. v. Dukes*,” Supreme Court Case Series, UC Davis School of Law, August 4, 2011 (with Courtney Joslin)

Brown Bag Lunch, “2010 Amendments to the Federal Rules of Civil Procedure,” U.S. Attorney’s Office for the Eastern District of California, Civil Division, March 3, 2011

“*Pimentel* and the Uses of Rule 19,” Bay Area Civil Procedure Forum, Hastings College of the Law, November 16, 2009

“Indian Country’s Borders,” Junior Faculty Federal Courts Workshop, Michigan State University College of Law, October 23, 2009

“*Pimentel* and the Uses of Rule 19,” UC Davis-McGeorge Junior Faculty Workshop, October 8, 2009

“State Courts, State Territory, State Power,” UC Davis School of Law, September 23, 2008

## LAW SCHOOL

Intellectual Enrichment Committee, 2015-16, 2021-22 (chair)

**SERVICE**

Online Education Committee, 2021-22  
Educational Policy Committee, 2008-09, 2015-16, 2020-21 (chair)  
Covid-19 Instructional Planning Committee, Summer 2020  
Appointments Committee, 2010-11, 2013-14 (chair), 2014-15, 2019-20  
Clerkship Committee, 2007-2012, 2014-18, 2019-23  
L.L.M. Advisory and Admissions Committee, 2019-20  
Lawyering Skills Committee (chair), 2017-18  
Tenure Committee for Professor Brian Soucek, 2013-18  
Barrett Chair Advisory Committee, 2015-16  
Legal Research and Writing Program Committee, 2016-17 (chair)  
Admissions Committee, 2009-10, 2012-13, 2016-17, 2022-23 (chair)  
Law Teaching Committee, 2012-13

**UNIVERSITY  
SERVICE**

Cannabis and Hemp Research Center Steering Committee, 2019-present  
Native American Graves Protection and Repatriation Act (NAGPRA)  
Committee, 2011-2020  
Privilege and Tenure Committee, 2011-16  
Admissions and Enrollment Committee, 2009-10, 2016-18

**AWARDS**

Distinguished Teaching Award, 2020-21  
Nominee, Distinguished Teaching Award, 2009-10, 2011-12, 2013-14,  
2016-17  
Summer Research Grant, 2007-2021 (except sabbatical year)  
U.C. Davis Small Grant in Aid of Research, 2008

**OTHER**

Peer Reviewer, Routledge and Aspen Publishers, *California Law Review*,  
*University of Chicago Law Review*, *Northwestern Law Review* (peer review  
board member), *Stanford Law Review*, *Yale Law Journal*  
Visiting Professor, Berkeley Law, Fall 2013  
Visiting Scholar, Freie Universität, Berlin, Germany, 2018-19 (while on  
sabbatical leave)

**BAR ADMISSIONS** California, Supreme Court of the United States