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For immediate release: November 29, 2001

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The Firm Mourns the Passing of Judge Phillip W. Tone

Long-time Jenner & Block partner, highly-regarded trial and appellate attorney, and retired federal judge Hon. Philip W. Tone passed away Nov. 27 at the age of 78.

Judge Tone first joined the Firm in 1950, after clerking for U.S. Supreme Court Justice Wiley B. Rutledge, and served as a partner until 1972, when he was appointed Judge for the United States District Court, Northern District of Illinois. He served in that capacity until 1974, when he became Judge of the United States Court of Appeals for the Seventh Circuit. Upon stepping down from the bench in 1980, Judge Tone returned to Jenner & Block as partner until his retirement in June 1997.

Over his illustrious career, Judge Tone helped Bert Jenner prepare numerous cases decided by the U.S. Supreme Court. However, a highlight of Judge Tone's career undoubtedly came when he personally argued *City of Mesquite v. Aladdin's Castle* before the Justices. In that due process case, the Supreme Court ruled that a Texas municipality's licensing ordinance governing coin-operated amusement machines was not unconstitutionally vague, simply because it directed the local chief of police to consider any connections an applicant might have with "criminal elements" when performing a background check.

"Judge Tone was my mentor and a formidable man both on the bench as well as off the bench," said Jenner & Block Chairman Jerold S. Solovy. "He was a man of the highest intellect, integrity and civility, combined with an iron will and a determination to succeed -- he was a very singular person."

At the same time, Mr. Solovy recalled Judge Tone as being "the consummate gentleman, a foremost proponent of being polite and never being overly aggressive. He insisted that legal writing can't be mean-spirited because not only is it uncivil but it's not good advocacy on behalf of clients. To this day, in my legal briefs, I strike the word 'false' when referring to the opposition's arguments and replace it with the word 'incorrect.'"

According to Anton Valukas, Jenner & Block partner and former United States Attorney, "Judge Tone represented the best that our American system of justice has to offer. He was in every sense a fair and principled man. Those of us who had the privilege of trying cases in front of him found him to be scrupulous in ensuring that the trials were fair and just. Those of us who knew him as a partner viewed him as a mentor and role model. His judgments were always principled; he never compromised his ethics. Notwithstanding his superb intellect and the high

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stature in which he was held in the community, he was a self-effacing and modest man. Within the legal profession, he was quite simply a giant."

Jenner & Block Partner Barry Levenstam, co-chair of the firm's Appellate and Supreme Court Practice Group, clerked for Judge Tone at the U.S. Court of Appeals for the Seventh Circuit, 1978 - 1979, and worked with him for nearly two decades after that. He described Judge Tone as "a fair-minded and learned judge who loved the law, yet had broad interests beyond it. From our conversations I learned a great deal about the judiciary, the practice of law, the joys of Shakespeare, and the importance of family. He was also the most rigorously principled person I've had the pleasure to know."

Among his many public service honors and commissions, Judge Tone served as president of the American College of Trial Lawyers in 1988-89, as special counsel to the National Committee on the Causes and Prevention of Violence in 1968-69, on the U.S. Senate subcommittee to investigate individuals representing interests of foreign governments in 1980, and as Chairman of the Illinois Supreme Court Rules Commission from 1968-71. An avid golfer, he also served as general counsel of the United States Golf Association from 1988-92.

A World War II veteran, Judge Tone served as a tank commander in the U.S. Army and rose to the rank of First Lieutenant. Before the war, he earned his BA from the University of Iowa in 1943, and upon his return from the war, he earned his JD from the University of Iowa College of Law in 1946.

Judge Tone is survived by his wife, Gretchen, and three children, Michael, Jeffrey, and Susan Pierce, and eight grandchildren.