

MARK S. BRODIN

**Boston College Law School
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EDUCATION

Columbia Law School, J.D. 1972 cum laude.

Board of Editors, *Columbia Law Review*.

Harlan Fiske Stone Scholar.

Research Assistant to Professors Hans Smit, Ruth Bader Ginsburg, and Tom J. Farer.

Teaching Fellow at Columbia University Seminar in American Law,
Amsterdam University, 1971.

Teaching Fellow in Civil Procedure and Property, 1971-72.

Columbia College, B.A. 1969, cum laude. Phi Beta Kappa.

Major: European History. Concentration: Government.

CLERKSHIP

**Law Clerk to the Honorable Joseph L. Tauro, United States District Court,
District of Massachusetts, 1972-1974.**

LAW TEACHING

Professor and Lee Distinguished Scholar, Boston College Law School.

Professor, 1989 to present.

Associate Professor, 1985-1989.

Visiting Professor, 1983-1984.

Associate Dean for Academic Affairs, Boston College Law School, 1990-1994.

Courses: Civil Procedure, Evidence, Scientific and Expert Evidence, Employment
Discrimination Law, Introduction to Lawyering and Professional Responsibility.

Visiting Professor, Boston University School of Law

Civil Procedure, 1996-1997, 2004-2005, 2007.

Evidence, 2001.

Tufts University, Fletcher School of Law and Diplomacy.

Trial Evidence for European Judges and Lawyers, Fall, 2007.

Northeastern University School of Law

Civil Procedure, Fall, 1994, Fall 2000.

Advanced Civil Procedure/ Complex Litigation, Spring, 1989.

Associate Professor, New England School of Law

1980-1985.

Civil Procedure; Constitutional Criminal Procedure; Fair Employment Practices.

Advisor: New England Journal on Prison Law.

Clinical Supervisor, Boston College Law School, Urban Legal Laboratory

1974-1980.

LAW PRACTICE

Staff Attorney, Lawyers' Committee for Civil Rights Under Law of the Boston Bar Association

1974-1980.

Acting Executive Director, September, 1975 to January, 1976.

Public interest law practice. Trial and appellate work with emphasis on the litigation of class actions in the areas of employment, housing, federal funding (community development and revenue sharing), police abuse, racial violence, criminal justice and constitutional law. Case preparation and presentation before federal and state courts and administrative agencies. The case docket of the office was divided between matters handled solely by staff counsel and matters in which staff served as co-counsel with attorneys from major Boston firms.

Significant cases included DeGrace v. Rumsfeld, 614 F. 2d 796 (1st Cir. 1980); N.A.A.C.P. Boston Chapter v. Harris, 607 F. 2d 514 (1st Cir. 1979); Harris v. White, 479 F. Supp. 996 (D. Mass. 1979); Cooke v. Sarni Original Dry Cleaners, 2 M.D.L.R. 1012 (1980), affd 388 Mass. 611 (1983) (trial counsel).

Special Assistant District Attorney, Norfolk County

Summer, 1987. Trial of criminal cases in the six-person jury session.

Appellate Attorney, Massachusetts Defenders Committee (now Committee for Public Counsel Services)

July, 1972 to November, 1972.

Appellate and post-conviction criminal matters in state and federal court. Cases included Commonwealth v. Coviello, 362 Mass. 722 (1973).

Summer Associate, Rosenman, Colin, New York City

June 1971 to October, 1971. Research and writing in litigation, real estate, tax, estate and corporate areas.

PUBLICATIONS

Books

WILLIAM P. HOMANS JR.: A LIFE IN COURT (Vanderplas Publishing 2010) .

HANDBOOK OF MASSACHUSETTS EVIDENCE (Sixth, Seventh, & Eighth Editions (with Hon. Paul J. Liacos & Michael Avery) (Aspen/ Little, Brown & Co. 2007) & Annual Supplements through 2010.

CRIMINAL PROCEDURE: THE POLICE AND THE CONSTITUTION (First, Second, Third, Fourth, Fifth & Sixth Editions) (with Robert M. Bloom) (Aspen/ Little, Brown & Co. 2009).

CIVIL PROCEDURE: DOCTRINE, PRACTICE AND CONTEXT (First, Second & Third Editions) (with Stephen Subrin, Martha Minow, and Thom Main) (Aspen 2008).

Journal Articles, Notes, & Book Reviews

"Ricci v. DeStefano: *The New Haven Firefighters Case and the Triumph of White Privilege*," forthcoming in 20 Southern California Review of Law and Social Justice 161 (Spring 2011) [SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1691083]

"Bush v. Gore: *The Worst (or at least second-to-the-worst) Supreme Court Decision Ever*," forthcoming in Symposium Issue, 12 Nevada Law Journal No. 3 [SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1791808]

"*What One Lawyer Can Do for Society: Lessons From the Remarkable Career of William P. Homans Jr.*," forthcoming in 46 New England Law Review No. 1 (Fall 2011).

Behavioral Science Evidence in the Age of Daubert: Reflections of a Skeptic, 73 University of Cincinnati Law Review 867 (2005).

The Demise of Circumstantial Proof in Employment Discrimination Litigation: St. Mary's Honor Center v. Hicks, Pretext, and the "Personality" Excuse, 18 Berkeley Journal of Employment and Labor Law 183-239 (1997).

Accuracy, Efficiency, and Accountability in the Litigation Process— The Case for the Fact Verdict, 59 University of Cincinnati Law Review 15-111 (1990).

Reflections on the Supreme Court's 1988 Term: The Employment Discrimination Decisions and the Abandonment of the Second Reconstruction, 31 Boston College Law Review 1-30 (1989).

Costs, Profits, and Equal Employment Opportunity, 62 Notre Dame Law Review 318365 (1987).

The Role of Fault and Motive in Defining Discrimination: The Seniority Question Under Title VII, 62 North Carolina Law Review 943-997 (1984).

The Standard of Causation in the Mixed-Motive Title VII Action: A Social Policy Perspective, 82 Columbia Law Review 292-326 (1982).

Note, *Ashe v. Swenson: Collateral Estoppel, Double Jeopardy, and Inconsistent Verdicts*, 71 Columbia Law Review 321 (1971).

A History of the Lawyers' Committee for Civil Rights Under Law of the Boston Bar Association, 32 Boston Bar Journal 9 (1988).

Book Review, A CONSTITUTIONAL HISTORY OF HABEAS CORPUS by William F. Druker, 8 New England Journal on Prison Law 325-330 (1982).

Other Publications

Book Review, CLARENCE DARROW: ATTORNEY FOR THE DAMNED By John A. Farrell,

Boston Globe, Saturday, July 30, 2011.

Contributor to MANUAL ON INNOVATIONS IN JURY TRIAL PROCEDURES (ABA/ National Center for State Courts) (1996).

Op. Ed., "Justice Is Served In The *Au Pair* (Woodward) Case", *Newsday*, November 11, 1997, p. A39.

Foreword to THE ROLE OF THE EXPERT WITNESS IN A COURT TRIAL (1996) and COURTROOM GUIDE FOR NON-LAWYERS (2001) by Benjamin J. Cantor

Script Consultant, *On the Stand: Testifying in Court* by Webster Lithow. Video recording. Commonwealth Films, 1991.

RECENT PRESENTATIONS

Flaschner Institute Author Series, Discussion of *William P. Homans Jr.: A Life In Court*, Social Law Library, September 22, 2011.

April 8, 2010-- Presentation on *William P. Homans Jr.: A Life In Court*, at Supreme Judicial Court Historical Society.

April 13, 2010-- Presentation on *William P. Homans Jr.: A Life In Court*, to Curtis Club, at Union Club.

April 14, 2010-- Presentation on *William P. Homans Jr.: A Life In Court*, to National Lawyers Guild.

May 6, 2010—Presentation to Civil Rights & Civil Liberties Section, Boston Bar Association, on "The Supreme Court's Decision in *Ricci v. DeStefano*: A Step Back for Disparate Impact and Equal Protection."

June 23, 2010-- Presentation on *William P. Homans Jr.: A Life In Court*, to Senior Partners, Volunteer Lawyers Project.

October 16, 2010-- Presentation on *William P. Homans Jr.: A Life In Court*, Keynote Address at Half-Century Luncheon, Boston College Law School Reunion Weekend.

LEGISLATIVE TESTIMONY

Testimony Before Joint Committee on Criminal Justice, Massachusetts State House, 1987, 1992, 1997, 1999: In Opposition to the Restoration of Capital Punishment.

Testimony Before Governor's Council, August, 1995: In Opposition to the Appointment of Charles Fried to the Supreme Judicial Court.

BAR ADMISSIONS

Commonwealth of Massachusetts; United States Supreme Court; United States Court of Appeals, First Circuit; United States District Court, District of Massachusetts.

PROFESSIONAL AND COMMUNITY ACTIVITIES

Board Member, William P. Homans Jr. Endowment of the Supreme Judicial Court Historical Society.

Member, Advisory Committee on Massachusetts Evidence Law: Participated in the drafting of the *Massachusetts Guide to Evidence*.

Lecturer, Flaschner Judicial Institute.

Board of Trustees, Newton Foundation for Racial, Ethnic and Religious Harmony.

Member, Steering Committee, Lawyers' Committee for Civil Rights Under Law of the

Boston Bar Association (1981 to 1991).

Member, Board of Trustees, National Multiple Sclerosis Society, Massachusetts Chapter (1993-1996)

Co-chairperson, Governor's Advisory Committee on Affirmative Action (October, 1989 to July, 1990).

Member, Board of Editors, *Boston Bar Journal* (1984 to 1989).

Member, Board of Directors, Cambridge/Somerville Legal Services, Inc. (1978-1980).

Speaker, Public Education Committee, Massachusetts Citizens Against the Restoration of the Death Penalty (1981-1983).

AWARDS

2009 Anthony P. Farley Award for Excellence in Teaching, Boston College Black Law Students Association.

2006 Ruth-Arlene W. Howe Award, Boston College Black Law Students Association.

2005 Ruth-Arlene W. Howe Award, Boston College Black Law Students Association .

2002 Faculty Member of the Year, BCLS Law Student Association.