

MARK S. BRODIN

**Boston College Law School
885 Centre Street
Newton, Ma 02459
617 552 - 4420
brodin@bc.edu**

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, Radzyner School of Law, Interdisciplinary Center.

Herliya, Israel, December, 2013 Comparative Evidence

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) (discrimination case against Naval Air Station); Curtis v. Hinckley, 618 F.2d 92 (1st Cir. 1980) (discrimination case against Barnstable Police Department); Massachusetts Association of Afro-American Police, Inc. v. Boston Police Department (discrimination case against BPD resulting in 1980 Consent Decree); N.A.A.C.P. Boston Chapter v. Harris, 607 F. 2d 514 (1st Cir. 1979) (discrimination case against City of Boston); Harris v. White, 479 F. Supp. 996 (D. Mass. 1979) (same); 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) (requiring two party-consent for installation of pen register on telephone line).

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

Editorial Consultant, WEINSTEIN'S FEDERAL EVIDENCE (2d. ed. Six-Volume Set)

HANDBOOK OF MASSACHUSETTS EVIDENCE (Sixth, Seventh, Eighth, 2015, & 2016 Editions) (with Hon. Paul J. Liacos & Michael Avery) (Wolters Kluwer).

CRIMINAL PROCEDURE: THE POLICE AND THE CONSTITUTION (First, Second, Third, Fourth, Fifth, Sixth, Seventh & Eighth Editions) (with Robert M. Bloom) (Wolters Kluwer).

CIVIL PROCEDURE: DOCTRINE, PRACTICE AND CONTEXT (First, Second, Third, Fourth & Fifth Editions) (with Stephen Subrin, Martha Minow, Thom Main & Alexandra Lahav) (Wolters Kluwer).

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

Journal Articles

"The Murder of Black Males in a World of Non-Accountability: The Surreal Trial of George Zimmermann for the Killing of Trayvon Martin," 59 HOWARD LAW JOURNAL 765 (2016) (Wiley A. Branton Symposium Issue)

"The British Experience With Hearsay Reform-- A Cautionary Tale," 84 FORDHAM LAW REVIEW 101 (2016) (Federal Rules of Evidence Advisory Committee, Symposium on Hearsay Reform)

"Screening Out Unwanted Calls: The Manipulation of Standing Doctrine," 15 NEVADA LAW JOURNAL 1182 (2015) (*Through a Glass Starkly: Civil Procedure Reassessed* Symposium)

"The Slow Demise of Race Preference," 39 NYU REVIEW OF LAW & SOCIAL CHANGE 369 (2014) (Diversity in Education and the Future of Affirmative Action Symposium)
<http://socialchangenyu.com/the-slow-demise-of-race-preference/>

"The Fraudulent Case Against Affirmative Action: The Untold Story Behind *Fisher v. University of Texas*" 62 BUFFALO LAW REVIEW 237 (2014)

"Bush v. Gore: *The Worst (or at least second-to-the-worst)* Supreme Court Decision Ever," 12 NEVADA LAW JOURNAL 101 (2012) {Symposium: The Worst Supreme Court Decisions}
[SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1791808]

"Ricci v. DeStefano: *The New Haven Firefighters Case and the Triumph of White Privilege*," 20 SOUTHERN CALIFORNIA REVIEW OF LAW AND SOCIAL JUSTICE 161 (2011) [SSRN: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1691083]

"What One Lawyer Can Do for Society: Lessons From the Remarkable Career of William P. Homans Jr.," 46 NEW ENGLAND LAW REVIEW 37 (2011) [SSRN:

[http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1880095\]](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1880095)

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_318-365 (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)

Book Review, A CONSTITUTIONAL HISTORY OF HABEAS CORPUS by William F. Duker, 8 NEW ENGLAND JOURNAL ON PRISON LAW 325-330 (1982)

Other Publications

Op.Ed., "Justice Department Drops the Ball on the Third Anniversary of Trayvon Martin's Murder," MASSACHUSETTS LAWYERS WEEKLY, March 9, 2015.

Op. Ed., "Court Dodged Affirmative Action Hot Potato-- Or Did It?" MASSACHUSETTS LAWYERS WEEKLY, July 8, 2013.

Book Review, CLARENCE DARROW: ATTORNEY FOR THE DAMNED By John A. Farrell, BOSTON GLOBE, July 30, 2011.

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

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

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.

A History of the Lawyers' Committee for Civil Rights Under Law of the Boston Bar Association, 32 BOSTON BAR JOURNAL_9 (1988).

PRESENTATIONS

NYU Review of Law & Social Change, Symposium on Diversity in Education & the Future of Affirmative Action, NYU Law School, April 4, 2014.

Symposium, "Through a Glass Starkly: Civil Procedure Reassessed," Northeastern University School of Law, April 11-12, 2014.

Panel Moderator, Torture and Indefinite Detention: Reflections on Michael Meltsner's Play "In Our Name," at the Boston Playwright's Theatre, September 22, 2012, Sponsored by the *New England Journal On Civil & Criminal Confinement*.

Moderator and Organizer, William P. Homans, Jr. Endowment Program in "Political Repression, Now and Then: Comparing The 1950s Fear of Communism and Islamphobia Today." John Adams Courthouse (sponsored by Supreme Judicial Court Historical Society & ACLU) (March 22, 2012).

Flaschner Judicial 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*, 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

Co-author, Amicus Brief on Behalf of the Massachusetts Association of Minority Law Enforcement Officers ("MAMLEO"), et.al., in *Lopez v. City of Lawrence* (First Circuit Court of Appeals) (challenging promotional practices in police departments as racially discriminatory).

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).

Speakers' Bureau, 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.

COMMITTEE SERVICE

Over the years I have chaired the Appointments Committee, Admissions Committee, and Clinical Committee, and have served on the Educational Policy Committee, the Publications Committee, Academic Standards Committee, Colloquia and Prize Committee, and the Promotion and Tenure Committee. I have also served on the University Elections Committee, the Academic Vice President's Advisory Committee, and the Provost's Advisory Committee.