

JON C. DUBIN

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LAW TEACHING/LAW SCHOOL ADMINISTRATIVE EXPERIENCE

RUTGERS SCHOOL OF LAW, NEWARK CAMPUS, 123 Washington St., Newark, NJ 07102

Board of Governors Distinguished Service Professor of Law, Alfred C. Clapp Scholar, and Associate Dean for Clinical Education, Access to Justice and Opportunity Programs: July 1999-present; Alfred Clapp Scholar since 2001; appointed Rutgers' first overall Clinic Director in 2002; Associate Dean 2010; BOG Distinguished Professor and expanded Associate Dean duties 2019. Duties include classroom and clinical teaching. Courses: Administrative Law; Civil Justice Clinic (8-cred/tm, live-client, civil clinic); Poverty Law; Social Security Law. Administrative duties include creation and maintenance of law office management systems; lead personnel decisions; grant conceptualization and management; ABA accreditation; public relations; program reorganization; designing clinical scholarship track with "good cause" job security, voting rights and scholarship support; curricular issues; and enrollment management in clinical program with up to 11 clinics, 20 faculty and 110 students/term; oversight of select justice/opportunity programs; Select Committee Wk: Law School: Chair, Appointments Com. (15-16; 17-18); Member (00-01;10-11;16-18); Chair: Budget & Planning (09-10), Member (01-15); Chair, Tenure & Promotion (00-01); Member (13-14;15-17;18-19); Chair, Clinical Review (01-04, 13-14); Chair, Ass't Dean Career Services, Search Comm. (2019-20); Member, 2002-03); Member, ABA Self-Study Com. (05-06; 12-13); Dean Search (08-09;17-18); Ass't Dean MSP, Search Comm (05-06; 07-08); Merger Comm (11-12); University Level: Member, Seed Grant Com. (2015-17); Comm. Outreach (08-09); Comm. Engagement Awards (10; 11); Cluster Hire Com. (07-08).

ST. MARY'S UNIVERSITY SCHOOL OF LAW, 1 Camino Santa Maria, San Antonio, TX 78228

Professor of Law and Coordinator of Clinical Programs: June 1994-June 1999 (6/94-5/97, Co-Coordinator). Responsible for development and management of all 5 clinics in addition to duties below after June 1994 tenure award; **Associate Professor of Law and Director, Civil Justice Clinic:** Aug. 1990-May 1994. Classroom and clinical teaching, preparation/administration of grants, management of a 5-person legal staff, and direct supervision of a 40-case clinical docket. Subjects taught: Administrative Law; Civil Justice Clinic (11-credit, full-year, live-client clinic focusing on civil legal problems of homeless persons—the school's first in-house, "live-client" clinic); Civil Rights Law; Constitutional Law (1st year, 4-credit required course); Poverty Law; and World Hunger and International Law. Founding faculty advisor to the Black Allied Law Students Association (BALSA) and coach of the Frederick Douglass Moot Court Team.

AWARDS / SPECIAL RECOGNITION

I. SCHOLARSHIP AWARDS/RECOGNITION

- The National Equal Justice Library selected my article, *Torquemada Meets Kafka: The Misapplication of the Issue Exhaustion Doctrine to Inquisitorial Administrative Proceedings*, 97 COLUM. L. REV. 1289 (1997) (lead article) for the second biennial Edgar and Jean Cahn Award as one of three outstanding articles about equal justice for lower income persons published during the 20th century. The U.S. Supreme Court twice cited the article, followed its reasoning and adopted the article's doctrinal label, "issue exhaustion," in the text of Sims v. Apfel, 530 U.S. 103, 111-12 (2000). The U.S. Courts of Appeals for the Seventh and Eighth Circuits cited and followed the article's reasoning a year earlier in Johnson v. Apfel, 189 F.3d 561, 562-64 (7th Cir. 1999) (Posner, C.J.) (reversing six earlier decisions based on the article's position and inviting *en banc* consideration); and Harwood v. Apfel, 186 F.3d 1039, 1042-43 (8th Cir. 1999), which created the circuit conflict with other circuits, justifying *certiorari* review.

- A committee of 50 law professors and practitioners selected my article—*From Junkyards To Gentrification: Explicating A Right To Protective Zoning In Low-Income Communities Of Color*, 77 MINN. L. REV. 739 (1993) (lead article)—for inclusion in an anthology issue of Clark-Boardman's LAND USE AND ENVIRONMENT LAW REVIEW, as one of the 5 "best" land use articles of 1993. Reprinted at 25 LAND USE & ENVIRONMENT L. REV. 89 (1994).
- Recipient of the 2003 Haywood Burns/Shanara Gilbert Award from the Northeast People of Color Legal Scholarship Conference for scholarship “that advances the legal, social and economic position of persons of color in this society.”
- In 2012, JOTWELL (“Journal of Things We Like Lots”) selected as “one of the best works of recent scholarship relating to Administrative Law” my co-authored article, *Scapegoating Social Security Disability Claimants (and The Judges Who Evaluate Them)*, 6 ADVANCE: J. ACS ISSUE GROUPS 109 (2012) (with Robert Rains; American Constitution Society issue brief, rapid response to Professor Richard Pierce’s Cato Institute article advocating abolition of ALJ-stage of SSA adjudication), www.Jotwell.com (May 21, 2012).

II. PUBLIC SERVICE AWARDS/RECOGNITION

- One of only 14 Rutgers University Faculty in the University’s history to ever receive designation as a Board of Governors Distinguished Service Professor and first law faculty member in 15 years.
- Awarded the 2014 Clinical Legal Education Association’s national award for advancing the cause of clinical faculty and clinical legal education.
- Awarded the 2014 National Organization of Social Security Claimant Representatives’ Eileen P. Sweeney Award for advancing the quality and availability of advocacy for disability claimants and improving the adjudicatory process.
- Awarded the 2010 Oliver Randolph Award for Civil Rights Advocacy by the Garden State Bar Association.
- Accepted the 2009 Rutgers University-Newark’s Community Engagement Award on behalf of the Law School’s Clinical Program as Director (based on the program’s work and accomplishments).
- Awarded the 2007 Stanley Van Ness Leadership Award for Career Contributions to Public Interest Law by New Jersey Appleseed/New Jersey Public Interest Law Center.

III. TEACHING AWARD

- St. Mary’s 1993 Distinguished Faculty Award for Excellence in Teaching (requiring student evaluations in top quartile of faculty and other indicia of teaching achievement and excellence).

EDUCATION

NEW YORK UNIVERSITY SCHOOL OF LAW, New York, New York.

J.D. 1981. Awarded Arthur Garfield Hays Civil Rights/Civil Liberties Fellowship (1980-81).

DARTMOUTH COLLEGE, Hanover, New Hampshire.

A.B. 1978. Distinction in Government. Completed degree in three years.

LITIGATION AND OTHER LEGAL EXPERIENCE

SELECT SIGNIFICANT CLINICAL LITIGATION: Nazario v. Comm’r of Soc. Sec., ___ Fed. Appx. ___, 2019 WL 6170820 (3rd Cir., Nov. 20, 2019) (first full reversal and immediate award of disability benefits by the Third Circuit in 12 years); Sims v. Apfel, 530 U.S. 103 (2000) (Co-counsel, principal drafter of Petitioner’s Brief, and principal strategist of the Petitioner’s position in the U.S. Supreme Court in successful challenge to application of the newly labelled “issue exhaustion” doctrine to preclude access to justice in federal court and meaningful court review of SSA administrative law judge decisions); Sykes v. Apfel, 228 F.3d 259 (3rd Cir. 2000)(rejecting SSA’s reliance on the grid “framework” to misapply the administrative notice doctrine and deny benefits to claimants who possess both exertional and non-exertional limitations and resulting in policy change for thousands of claimants in the Third Circuit region under SSA Acquiescence Ruling 01-1(3)); Newark Coalition For Low-Income Housing v. NHA & HUD, 89-1303 (DRD) (D.N.J. 2005) (successful class action challenge to effort to count “privatized” Newark public housing units as replacement, permanent low-income public housing under consent decree requiring replacement of 2000 demolished public housing units).

NAACP LEGAL DEFENSE AND EDUCATIONAL FUND, INC.

Assistant Counsel: Dec. 1987- Jan. 1990. Duties included litigation of civil rights class action cases primarily in the areas of land use and fair housing law including: Houston v. City of Cocoa, 1 Fair-Housing-Fair Lending (P-H) ¶ 11.3 (M.D. Fla. May 1, 1991) (consent decree enjoining plan to displace historic, blighted African-American community for luxury condos, awarding \$750,000 damages, and requiring inclusionary, protective rezoning and phase-out of locally undesirable land uses); Newark Coalition For Low-Income Housing v. NHA & HUD, 1 FH-FL (P-H) ¶ 6.14 (D.N.J., Aug. 17, 1989) (consent decree limiting plan to demolish 5,700 public housing units; requiring renting of over 2,000 vacant units; voiding sale of desirable public land to developers; and remedying racial steering).

NEW YORK ATTORNEY GENERAL'S OFFICE, CIVIL RIGHTS BUREAU

Assistant Attorney General: April 1986 - Dec. 1987. Drafting civil rights legislation and litigating civil rights cases including People by Abrams v. Hamilton, 511 N.Y.S. 2d 190 (4th Dept. 1986) (upholding judgment of vicarious liability against employer for sexual harassment of women employees by independent polygraph operator); drafting the coalition of State Attorneys’ General *Amicus* Brief before the U.S. Supreme Court on the legality of court-mandated remedial affirmative action hiring goals for public safety employees in United States v. Paradise, 480 U.S. 149 (1987); and continued litigation to achieve Supreme Court-approved, remedial race-based hiring goals in Local 28 Sheet Metal Workers v. E.E.O.C.

THE LEGAL AID SOCIETY, CIVIL DIVISION, HARLEM NEIGHBORHOOD OFFICE

Director of Litigation: (12/89-8/90). Coordination of law reform litigation and grants and supervision and training of attorneys in 15-lawyer office; **Staff Attorney:** (9/83–4/86). Specialist in social welfare benefits litigation including social security/SSI disability, welfare, food stamps, medicaid, unemployment insurance, and public housing cases.

AMERICAN CIVIL LIBERTIES UNION, NATIONAL OFFICE

Karpatkin Fellow: Sept. 1982 - 83. One-year staff attorney position on ACLU National Staff. Duties included the continuing school desegregation litigation in Brown v. Board of Education, Topeka, KS, and *amicus* brief writing in cases before the U.S. Supreme Court on issues of affirmative action and interpretation of reconstruction-era civil rights statutes.

THE HONORABLE JOHN L. KANE JR., UNITED STATES DISTRICT JUDGE (D. Colo.)

Law Clerk: Sept. 1981-82. Duties included drafting opinions and advisory memoranda for Judge Kane including drafts of thirty opinions published in West's Federal Supplement, Federal Rules Decisions or Bankruptcy Reporter.

PUBLICATIONS / WRITINGS

Books:

SOCIAL SECURITY DISABILITY AND THE AMERICAN LABOR MARKET: A LEGAL AND HISTORICAL ANALYSIS (NEW YORK UNIVERSITY PRESS; FORTHCOMING 2020).

SOCIAL SECURITY DISABILITY LAW AND PROCEDURE IN FEDERAL COURT (2020 EDITION; CO-AUTHORED WITH CAROLYN A. KUBITSCHK, THOMSON REUTERS PUBLISHING CO.) (2020).

SUPPLEMENT TO SOCIAL SECURITY LAW, POLICY AND PRACTICE: CASES AND MATERIALS (CO-AUTHORED WITH FRANK S. BLOCH, WEST ACADEMIC PUBLISHING CO.) (2019) [53 pgs].

SOCIAL SECURITY DISABILITY LAW AND PROCEDURE IN FEDERAL COURT (2019 EDITION; CO-AUTHORED WITH CAROLYN A. KUBITSCHK, THOMSON REUTERS PUBLISHING CO.) (2019) (cited by the U.S. Supreme Court in Biestek v. Berryhill, 139 S.Ct. 1148, 1152 (2019)).

SUPPLEMENT TO SOCIAL SECURITY LAW, POLICY AND PRACTICE: CASES AND MATERIALS (CO-AUTHORED WITH FRANK S. BLOCH, WEST ACADEMIC PUBLISHING CO.) (2018).

SOCIAL SECURITY DISABILITY LAW AND PROCEDURE IN FEDERAL COURT (2018 EDITION; CO-AUTHORED WITH CAROLYN A. KUBITSCHK, THOMSON REUTERS PUBLISHING CO.).

SOCIAL SECURITY DISABILITY LAW AND PROCEDURE IN FEDERAL COURT (2017 EDITION; CO-AUTHORED WITH CAROLYN A. KUBITSCHK, THOMSON REUTERS PUBLISHING CO.) (cited in Lee v. Berryhill, 721 Fed. App'x 601, 606 (9th Cir. 2017)).

TEACHER'S MANUAL TO SOCIAL SECURITY LAW, POLICY AND PRACTICE: CASES AND MATERIALS (CO-AUTHORED WITH FRANK S. BLOCH) (WEST ACADEMIC PUBLISHING CO.) [135 pgs.] (2017).

SOCIAL SECURITY LAW, POLICY AND PRACTICE: CASES AND MATERIALS (CO-AUTHORED WITH FRANK S. BLOCH, WEST ACADEMIC PUBLISHING CO.) [1,036 pgs.] (2016).

SOCIAL SECURITY DISABILITY LAW AND PROCEDURE IN FEDERAL COURT (2016 EDITION; CO-AUTHORED WITH CAROLYN A. KUBITSCHK, THOMSON REUTERS PUBLISHING CO.).

SOCIAL SECURITY DISABILITY LAW AND PROCEDURE IN FEDERAL COURT (2015 EDITION; CO-AUTHORED WITH CAROLYN A. KUBITSCHK, THOMSON REUTERS PUBLISHING CO.) (cited in Yates v. Colvin, 606 Fed. App'x 225, 228 (5th Cir. 2015)).

SOCIAL SECURITY DISABILITY LAW AND PROCEDURE IN FEDERAL COURT (2014 EDITION; CO-AUTHORED WITH CAROLYN A. KUBITSCHK) (THOMSON REUTERS PUBLISHING CO.) (cited in Copeland v. Colvin, 771 F.3d 920, 925 (5th Cir. 2014)).

SOCIAL SECURITY DISABILITY LAW AND PROCEDURE IN FEDERAL COURT (2013 EDITION; CO-AUTHORED WITH CAROLYN A. KUBITSCHK, THOMSON REUTERS PUBLISHING CO.).

SOCIAL SECURITY DISABILITY LAW AND PROCEDURE IN FEDERAL COURT (2012 EDITION; CO-AUTHORED WITH CAROLYN A. KUBITSCHK, THOMSON REUTERS/WEST PUBLISHING CO.).

SOCIAL SECURITY DISABILITY LAW AND PROCEDURE IN FEDERAL COURT (2011 EDITION; CO-AUTHORED WITH CAROLYN A. KUBITSCHK, THOMSON REUTERS/WEST PUBLISHING CO.).

CLINICAL EDUCATION FOR THIS MILLENNIUM: THE THIRD WAVE (AYUMI MICHE KODAMA & ERI OSAKA TRANS. (in Japanese) 2005) (co-authored with Margaret M. Barry & Peter A. Joy)).

Articles:

A Modest, Albeit Heavily Tested Social Security Disability Reform Proposal: Streamlining the Adjudicative Process by Eliminating Reconsideration and Enhancing Initial Stage Development, 23 GEO. J. OF POVERTY, L. & POL'Y 203 (2016) (lead article) (excerpt solicited by the non-partisan Committee for a Responsible Federal Budget and presented as testimony to the U.S. House Ways & Means Committee, Subcommittee on Social Security, at "Hearing on Examining Changes to Social Security's Disability Appeals Process," July 25, 2018).

The Rutgers Cases and the State of the Law of State Law School Clinical Programs, 65 RUTGERS L. REV. 817 (2013).

Scapegoating Social Security Disability Claimants (and The Judges Who Evaluate Them), 6 ADVANCE: J. AM. CONST. SOC. ISSUE GROUPS 109 (2012) (co-authored with Robert Rains).

The Labor Market Side of Disability Benefits Policy and Law, 20 S. CAL. REV. L. & SOC. JUST. 1 (2011) (lead article) (cited by the New Jersey Supreme Court in Grande v. Saint Claire's Health System, 164 A.2d 1030, 1034 n.2 (N.J. 2017)).

Overcoming Gridlock: Campbell after a Quarter-Century and Bureaucratically Rational Gap-Filling in Mass Justice Adjudication in the Social Security Administration's Disability Programs, 62 ADMIN. L. REV. 937 (2010) (lead article) (Cited by the U.S. Supreme Court and in 7 U.S. Court of Appeals decisions: Biestek v. Berryhill, 139 S.Ct. 1148, 1162 (2019) (Gorsuch, joined by Ginsburg, dissenting); Forsythe v. Colvin, 813 F.3d 677, 680-81 (7th Cir. Feb. 2016); Hill v. Colvin, 807 F.3d 862, 870 (7th Cir. 2015); Alaura v. Colvin, 797 F.3d 503, 507 (7th Cir. 2015); Voight v. Colvin, 781 F.3d 871, 879 (7th Cir. 2015); Herrmann v. Colvin, 772 F.3d 110, 1113-14 (7th Cir. 2014); Guiton v. Colvin, 546 Fed. Appx. 137, 145 (4th Cir. 2013); Smith v. Shinseki, 647 F.3d 1380, 1383 (Fed. Cir. 2011); also cited positively in RICHARD A. POSNER, DIVERGENT PATHS: THE ACADEMY AND THE JUDICIARY 136 (2016)).

Clinical Education for This Millennium: The Third Wave, 7 CLIN. L. REV. 1 (2001) (co-authored with Margaret M. Barry & Peter A. Joy)).

Faculty Diversity as a Clinical Legal Education Imperative, 51 HASTINGS L.J. 445 (2000).

Clinical Design for Social Justice Imperatives, 55 S.M.U. L. REV. 1461 (1998).

Torquemada Meets Kafka: The Misapplication of the Issue Exhaustion Doctrine to Inquisitorial Administrative Proceedings, 97 COLUM. L. REV. 1289 (1997) (lead article) cited by the U.S. Supreme Court in Sims v. Apfel, 530 U.S. 103, 111-12 (2000) and the U.S. Courts of Appeals for the Third, Seventh and Eighth Circuits in Cirko o/b/o Cirko v. Comm'r of Soc. Sec., ___ F.3d ___, 2020 WL 370832, *4 (3d Cir., Jan. 23, 2020); Johnson v. Apfel, 189 F.3d 561, 562-64 (7th Cir. 1999) (Posner, C.J.) (reversing six earlier decisions based on the article's position and inviting *en banc* consideration); and Harwood v. Apfel, 186 F.3d 1039, 1042-43 (8th Cir. 1999).

Developments in the Law of Government Benefit Programs, 42 LOY. L. REV. 33 (1996).

Social Security Law, 26 TX. TECH L. REV. 763 (1995).

From Junkyards To Gentrification: Explicating A Right To Protective Zoning In Low-Income Communities Of Color, 77 MINN. L. REV. 739 (1993) (lead article).

Poverty, Pain, and Precedent: The Fifth Circuit's Social Security Jurisprudence, 25 ST. MARY'S L.J. 81 (1993).

Book Chapters:

Social Security Adjudicative Reform: Ending the Reconsideration Stage of SSDI Adjudication After Sixteen Years of Testing and Enhancing Initial Stage Development, in *SSDI SOLUTIONS: IDEAS TO STRENGTHEN THE SOCIAL SECURITY DISABILITY INSURANCE PROGRAM* (COMMITTEE FOR A RESPONSIBLE FEDERAL BUDGET ED. 2016).

LEGAL EDUCATION "BEST PRACTICES" REPORT, UNITED STATES (PUBLIC INTEREST LAW INSTITUTE, AUGUST, 2010) (CO-AUTHORED WITH MARGARET M. BARRY AND PETER A. JOY) (available at <http://www.pilnet.org/public-interest-law-resources/11-the-development-o...>).

Protecting Newark's Public Housing from Elimination (Ch.17), in "YOU CAN TELL IT TO THE JUDGE" AND OTHER TRUE TALES OF LAW SCHOOL LAWYERING (F. ASKIN ED. VANDEPLAS PUBLISHING, 2009).

Taking the Fight for Disability Benefits to the High Court(s) (Ch. 11), in "YOU CAN TELL IT TO THE JUDGE" AND OTHER TRUE TALES OF LAW SCHOOL LAWYERING (F. ASKIN ED. VANDEPLAS PUB., 2009).

SELECT PROFESSIONAL ACTIVITIES /PRESENTATIONS

- Association of American Law Schools: Appointments: Poverty Law Section, Chairperson (2001), Executive Committee (1998-2003); Clinical Section, Executive Committee (1997-2000), Nominations Committee, Co-Chair (2013-16), Awards Committee (2017-20); Standing Committee on Clinical Education (2006-09); Speaker/Moderator: Poverty Law Section, Annual Meeting (1997, 2001); Clinical Section, Annual Meeting (1998); Annual Clinical Conference (1995, 1998, 2000, 2001, 2003, 2004; 2019); Clinical Directors' Workshop (2007, 2011, 2015); New Clinical Professors' Workshop (2006); Planning Committee: Poverty Law Section, Annual Meeting (2001); Clinical Section, Annual Clinical Conference (2012).
- American Bar Association (ABA), Commission on Homelessness and Poverty, Member (2001-03).
- ABA, Accreditation Site Inspection Teams: UC Davis Law School (2017); Inter-American Law School (2015); Pontifical Catholic Univ. of Puerto Rico (2013); Univ. of Puerto Rico (2010); Harvard (2005); Univ. of New Hampshire/F. Pierce (2001).
- Adjunct Teaching: N.Y.U. Law School, Law of the Welfare State (2012-present); Fordham Law School, Administrative Law (2005).
- Administrative Conference of United States (ACUS), Social Security Disability Adjudication Working Group (2012-15).
- Center on Social Welfare Policy & Law/National Center for Law & Economic Justice, Bd. of Directors (1992- 2000).

- City University of New York, Urban Legal Studies Program, Revson Fellowship Board of Directors (1990).
- CLINICAL LAW REVIEW (CLR), Board of Editors (1997 - 2003)–peer reviewed journal at N.Y.U. in lawyering and clinical theory. CLR/NYU, Clinical Writer’s Conference, Facilitator/Group Leader (2006, 2008).
- Clinical Legal Education Association, Board of Directors (1998-2001); Best Practices Project, Steering Committee (2001-04); Task Force on Diversity in Clinical Education/Committee on Racial Equity and Inclusion (2008-18).
- Community Legal Resource Network, Central Consortium, Board of Directors (2001-03).
- Institute on World Legal Problems, Innsbruck, Austria, Faculty (Sum. 1994, 95) (World Hunger & International Law).
- Legal Services of New Jersey, Trainer on Litigation of Social Security Disability Cases in Federal Court for New Jersey Legal Services Attorneys (2016; 2019).
- NAACP Legal Defense and Educational Fund, Inc., *Pro Bono* Consultant (2017-present).
- National Academy of Social Insurance, Elected Member (2016-present).
- National Black Law Students Association, Regional Convention, San Antonio, TX Speaker (1996, 2000).
- National Conference of Black Lawyers, Racially Motivated Violence Committee (1983-87) (principal author of NCBL *amicus* brief in racially motivated police shooting case, Bell v. City of Milwaukee, 746 F.2d 1205 (7th Cir. 1984)).
- National Legal Aid and Defender Association, Trainer in Housing and Zoning Discrimination Law, National Training Session, Berkeley CA (1990, 1991); Senior Litigators’ Training, New Orleans (1991).
- National Organization of Social Security Claimants Representatives, Speaker: Annual Meeting (San Antonio 1997; Orlando, 2000; Wash. D.C. 2001; Philadelphia 2004; Baltimore 2010; San Antonio 2011; Atlanta 2018; New Orleans 2019).
- New Jersey Institute for Social Justice, Board of Trustees (2001-2011).
- N.Y.U. Public Interest Law Foundation, Board of Directors (1982-83).
- Rutgers Center on Law, Inequality and Metropolitan Equity (CLIME), Presenter on Fair Housing and Structural Inequality (2015).
- Rutgers Institute for Professional Education, Continuing Legal Education Program, Trainer on Litigation of Social Security Disability Cases in Federal Court (2014; 2016; 2018).
- San Antonio Fair Housing Council, Board of Directors (1996-99).