

# JUDITH DAAR: LEADING WHITTIER LAW SCHOOL INTO THE FUTURE

by JUDGE JONATHAN S. FISH

Professor Judith Daar, newly named interim Dean of the Whittier Law School, brings visions of practicality, decades of teaching experience and legal scholarship to Whittier Law School. With accolades, honors, committee memberships, board memberships, and legal scholarship too lengthy to list, Professor Daar began as the dean in August of this year.

An impressive start in the law at the Georgetown University Law Center sent Dean Daar to a highly respected and influential civil firm. Her taste for teaching the law eventually overcame her taste for practicing it, and thus began an illustrious career as a professor and a prolific academic. As academia requires scholarship, so started the impressive onslaught of Dean Daar's unique area of legal research and, ultimately, expertise in the interdisciplinary realm of medicine and the law.

As a professor of law at Whittier and also a clinical professor at the University of California Irvine, School of Medicine (where she concurrently serves on the UCI Medical Center Medical Ethics Committee), Dean Daar has tackled the legal and ethical issues surrounding assisted reproductive technologies, stem cell research, cloning, frozen embryo disputes, embryo transfer, physician autonomy, end-of-life litigation, and

reproductive rights related to the LGBT community. And this is only a partial list.

The constant flow of research, scholarly presentations, and publication never impeded her power in the classroom. Dean Daar, known



as a challenging professor among students, remains a consummate favorite. She has been lauded for her teaching by the American Society of Law, Medicine & Ethics as well as the American Society for Reproductive Medicine. It doesn't end there, though. Both students and alumni have recognized her commitment to the students and to teaching with numerous awards throughout her entire tenure. To sum up, she is pop-

ular with both the students and the academic world.

Having worked personally with Dean Daar in the past at Whittier Law School, I am excited for her and the school. I was able to inquire into her unique insight and ability from which WLS will surely be enriched.

*What is your vision for Whittier Law School as it relates to current students, the future recruiting of students, and curriculum?*

It has been an absolute privilege to be a part of legal academia for many years, giving me a historical perspective on the field's evolution. My law school experience offered very little by way of practical training compared to the robust curriculum in experiential learning that now occupies most schools' program of legal education. At Whittier, we began to expand our experiential curriculum nearly a decade ago when I served as our Associate Dean for Academic Affairs, and that effort is ongoing today. I envision continuing to provide and perpetually improving our practical skills curriculum, while exposing students to core doctrinal, theoretical, and social aspects of our legal system. Today's lawyers must be agile in their ability to recognize, assess, and address the multifaceted problems that present in the legal realm. We are committed

to preparing students to be tomorrow's problem-solvers in whatever field they choose to be of service.

### ***How did you “land” at Whittier Law School?***

My route to law teaching would strike today's law professor applicant as downright quaint. After practicing with Gibson, Dunn & Crutcher for three years, I accepted an offer to teach Legal Research & Writing at UCLA School of Law. I loved the job from the start, relishing the intellectual freedom that law teaching provides. While assisting students with their writing, I began to develop my own scholarly voice with a focus on the intersections between law and medicine. Understanding that a career involving legal scholarship would be best supported in a tenure-track position, I wrote a letter to Whittier Law School inquiring about teaching opportunities. Within a few months, I visited the school, met with faculty members, made a presentation on a topic that would become my first law review article, and was hired. Today we recruit faculty from a national network of thousands of applicants who endure a much more rigorous and lengthy hiring process. I frequently quip to colleagues that I would never be hired in today's competitive market, making me that much more appreciative of the position I hold.

### ***Can you tell us about your experience as a professor at the UCI School of Medicine?***

I hold the rank of Clinical Professor of Medicine at the medical school, which means I am part of the Volunteer Clinical Faculty. In this role, I lecture to medical students about a variety of topics including legal and ethical aspects of end-of-life care, assisted reproductive technologies, and patient-physician relationships.

My observation in teaching both law and medical students is that these cohorts have very different learning styles. The medical students pursue

definitive answers, just as physicians pursue a specific diagnosis when presented with a certain compilation of symptoms. Law students, in contrast, are more accustomed to embracing uncertainty as part of their legal education. Since analogical reasoning is foundational to the study of law, we orient 1Ls toward the process of harmonizing and distinguishing precedents and fact patterns from the outset. Predictions in law are more the norm than the pronouncements that dominate in medicine. In both disciplines, being on the teaching side is incredibly fun and fulfilling.

Another role I play at UCI is a member of the hospital medical ethics committee. I'm now one of the longest serving members, having been first

**My observation in teaching both law and medical students is that these cohorts have very different learning styles.**

invited to join in 2002. Our committee develops policies for the UCI Medical Center, provides education to hospital staff, and consults at the bedside on difficult patient scenarios that raise ethical issues. This latter charge means that our committee spends a good deal of time discussing the difficult and emotional dilemmas that very sick patients and their families face, often at the end of life. I hope my legal background has contributed to the resolution of some cases, though I realize the issues are complex beyond my facility.

### ***Could you give us a sneak peak into your latest piece of scholarship?***

Gladly! I have a book set to be pub-

lished in January by Yale University Press called *The New Eugenics: Selective Breeding in an Era of Reproductive Technologies*. If our readers will indulge a longish answer, here is a summary of the book's thesis and content.

Childbirth by means of assisted reproductive technologies (ART) is an increasing feature of family formation in the modern era. To date, over five million children have come into existence by meeting their earliest moments in a test tube rather than the private recesses of their mother's fallopian tubes. While these miracle technologies have brought forth bundles of joy, they have also provoked great distress in the myriad prospective parents denied access to these high-cost pathways to procreation. Barriers arising from race, ethnicity, wealth-status, marital status, sexual orientation, gender identity, and disability have individually and in combination worked to make assisted conception unattainable for many in these historically mistreated communities.

This book investigates the enormous barriers to ART access that deprive the less-wealthy, less-white, less-traditional, and less-able-bodied the necessary tools to achieve biologic parenthood. In so doing, it uncovers how dangerously reminiscent current deprivations of ART are to the reproduction-related atrocities advanced during the early 20th century American eugenics period. Only by juxtaposing contemporary law and policy governing reproductive technologies against the backdrop of a shameful period in history that robbed tens of thousands of their reproductive capacity can we see that history may be repeating itself by depriving select populations the opportunity to have children. By exposing the dangers of procreative suppression in the modern era, this book is an anthem for the democratization of ART so that all who aspire to contribute to the next generation are free to navigate

that unique journey.

***Given all of your research regarding bioethics, particularly in the realm of reproduction rights, what is the most interesting area you have studied and why?***

The world of reproductive technologies is ever changing and infinitely engaging so it is difficult to settle on any one topic that stands above the rest. Over the past few years I have become more curious about the physician perspective in the provision of fertility services to a diverse patient population. In the main, scholarly and popular culture treatment of ART tends to focus on individual rights—whether the rights of the patient, the third party collaborators such as gamete donors and surrogates, or even the rights of potential offspring. But scant attention is paid to the rights and interests of doctors who may experience discomfort, or worse, at being asked to assist in the birth of a child who will experience health difficulties.

For example, imagine a couple undergoes in vitro fertilization and thereafter genetic testing of the preimplantation embryos reveals that one or all of the resulting children will be born with a significant health-affecting disorder such as cystic fibrosis or Tay Sachs disease. If the would-be patients direct the doctor to transfer these embryos based on the adults' desire to birth a child regardless of health status, can the physician refuse to make the transfer based on his or her own moral or religious compass? The interests of the parties in achieving a live birth are no longer in sync, creating a clash that raises many legal, medical, and ethical questions. The burgeoning field of reproductive genetics further complicates these clinical scenarios, as more information becomes available about an embryo that has yet to make its way into a woman's body. I cannot imagine a more vibrant and engaging field, and so enjoy the

opportunity to introduce the ART world to my students at Whittier.

***As a woman advancing in academia, what obstacles did you face?***

I would say any obstacles I have faced in my career are less about gender and more about the same challenges that many young professionals experience today. As a mother of four sons, I deeply appreciate the work-life balance struggles that at times seem irreconcilable with success in the workplace. Any success I have enjoyed is equally attributable to my incredible husband, Eric, who partnered with me through our boys' childhoods to be the best working parents we could possibly be. He is a physician and scientific researcher who serves as Chief of the Division of HIV Medicine (and currently Interim Chair of the Department of Medicine) at Harbor-UCLA Medical Center, a demanding and vital job at the forefront of modern medicine. While we have been able to juggle the demands of our jobs with the joys of parenthood, we likewise recognize that each individual should be free to shape their own journey toward their unique goals. The answer I've given my female students over the years when they ask, "Can I have it all?" is: Absolutely. The first step is to take control of the definition of "all" to create your own path toward fulfillment.

***In the unlikely event you have any free time, what do you like to do on weekends?***

My free time is spent in rather ordinary ways—catching up with friends, forcing myself to visit the gym, and emptying my DVR of its supply of programming—most of which involve cooking and interior design. I've tried to play golf but remain objectively awful, paying for literally dozens of lessons that still have me missing the ball on most swings. As a native of Pittsburgh, I remain fiercely supportive of the

city's professional sports teams. On any given Sunday during the NFL season, you will find me waving my Terrible Towel to cheer on the Steelers. So far, this season doesn't look like a Super Bowl run, but my faith in the black and gold remains strong.

***What do you enjoy most about spending time and working in Orange County?***

Each day I spend in Orange County renews the impression I formed nearly twenty years ago when the law school relocated to Costa Mesa from our prior venue in the Hancock Park neighborhood of Los Angeles. Orange County is a truly beautiful, inviting, and diverse locale that affords abundant opportunities for a high quality of life. The range of outdoor activities, cultural happenings, and burgeoning restaurant scene contribute to a welcoming leisure environment, while the sophisticated medical and legal communities make the area a perfect spot for someone with my professional interests. We know that many of our students are attracted to the law school in part because of its location, and for this we thank Orange County for its continuing partnership with Whittier Law School.



***Judge Jonathan S. Fish is the Supervising Judge at the North Justice Center in Fullerton. He can be reached about this article through the Editor-in-Chief at [gialisa@gmail.com](mailto:gialisa@gmail.com).***

*This article first appeared in Orange County Lawyer, December 2016 (Vol. 58 No. 12), p. 28. The views expressed herein are those of the Author. They do not necessarily represent the views of Orange County Lawyer magazine, the Orange County Bar Association, the Orange County Bar Association Charitable Fund, or their staffs, contributors, or advertisers. All legal and other issues must be independently researched.*