

Herma Hill Kay, First Woman to Lead Berkeley Law Faculty, Dies at 82



Herma Hill Kay. “How to make trouble without being a troublemaker, that describes my style,” she said in 1992, after being named dean at Berkeley Law School. Credit...UC Berkeley School of Law

By Daniel E. Slotnik

- July 2, 2017

Herma Hill Kay, who pushed for the rights of women and minorities as the first female dean of the University of California at Berkeley’s law school, died on June 10 at her home in San Francisco. She was 82.

Her death was confirmed by her son Michael Brodsky.

When Ms. Kay became the second woman to join Berkeley’s law faculty in 1960, law schools were still very much a boys’ club; The New York Times reported in 1992 that only 13 women had been professors in accredited law schools in the United States since the first woman was hired in that position in 1919. Ms. Kay made it her mission to open the clubhouse without tearing it down.

“How to make trouble without being a troublemaker, that describes my style,” Ms. Kay said in 1992, after she was named dean at Berkeley Law School. “I

think that if you are going to help build an institution, you have to be careful not to destroy it in the process.”

An expert on family law, marital property law and sex-based discrimination, Ms. Kay helped draft California’s no-fault divorce law in 1969. She was also one of the authors of the [Uniform Marriage and Divorce Act](#), a standard for national no-fault divorce laws approved by National Conference of Commissioners on Uniform State Laws in 1970. Some form of no-fault divorce is now law in every state.

Ms. Kay wrote articles on the history of women in the legal profession and seminal books of case law, including “Sex-Based Discrimination,” which she wrote in the 1970s with Kenneth Davidson and Ruth Bader Ginsburg, a friend who was later named a Supreme Court justice.

Ms. Kay took over from Jesse Choper as dean of Berkeley Law after years of student protests aimed at diversifying the school’s faculty and student body. She dealt with budgetary constraints and the departure of key faculty members early on, but the greatest challenge she faced was a 1996 California referendum banning affirmative action at public institutions.

Minority enrollment dropped immediately, from 98 students in 1996 to 62 in 1997, only one of whom was African-American. Ms. Kay, who favored affirmative action, complied with the law but tried to make up the difference by expanding Berkeley Law’s outreach.

In 1998 81 minority students enrolled in a class of 269, an increase which did not disappear; in 2016 there were 115 out of a class of 301.

“We did it by getting everybody to convey the same message: ‘We want you here. We are not turning our backs on people of different backgrounds and color,’” Ms. Kay told The San Francisco Chronicle in 1999.

In 1999, Ms. Kay announced that she would return to teaching, and in 2000, John P. Dwyer, a professor and environmental law expert, became dean.

Ms. Kay continued teaching until 2016. During her nearly six decades at Berkeley Law, women grew to more than 50 percent of the student body and the number of women on the faculty expanded considerably.

“Her persistent effort for well over a half century has been to make what was once momentous no longer out of the ordinary — law faculties and student generations that reflect the full capacity, diversity and talent of all of our nation’s peoples,” Justice Ginsburg said in a video message when Ms. Kay received a [lifetime achievement award](#) from the Association of American Law Schools in 2015.

Herma Lee Hill was born in Orangeburg, S.C., on Aug. 18, 1934. She was the only child of Charles Hill, a Methodist minister, and Herma Crawford, a schoolteacher. Her father moved the family frequently as he traveled on the Southern preaching circuit.

Ms. Kay earned a bachelor's degree in English from Southern Methodist University in Dallas in 1956 and a law degree from the University of Chicago three years later. She clerked for Justice Roger Traynor of the California Supreme Court before starting her tenure at Berkeley.

Ms. Kay was married three times. The first two marriages, to Jean Paul Schreter and Larry Kay, ended in divorce, but she kept Mr. Kay's surname.

In 1975 she married Carroll Brodsky. He died in 2014.

Besides her son Michael, she is survived by two other sons, John and Tom; four grandchildren; and two step-granddaughters. One of her granddaughters, Jessica Brodsky, graduated from the Berkeley School of Law in May.