



List of Contributors:

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| Norman Abrams (1955) | Peter Landrock (1960) |
| Attorney General John Ashcroft (1967) | Nancy Lieberman (1979) |
| Danny J. Boggs (1968) | Tracey Meares (1991) |
| Kenneth Dam (1957) | Michael Newberger (1960) |
| Richard Epstein (professor) | Andrew Nussbaum (1991) |
| Judge David Marshall Evans (1961) | Bernard J. Nussbaum (1955) |
| Michael Freed (1972) | Mary Schroeder (1965) |
| Ricki Tigert Helfer (1976) | Thelma Brook Simon (1940) |
| David V. Kahn (1952) | Geoffrey Stone (1971) |
| Arthur O. Kane (1939) | Cass Sunstein (professor) |
| Karen Kaplowitz (1971) | Louis "Studs" Terkel (1934) |
| Howard Krane (1957) | William Twining (1958) |
| Abe Krash (1949) | Edwin Wiley (1952) |

Reflections On Opportunity

By Karen Kaplowitz

I equate the University of Chicago Law School with OPPORTUNITY. I remember being overwhelmed almost immediately by the message that a University of Chicago Law School education would provide me with limitless opportunity. At the same time, there was another message, that being a woman, I might not be able to take advantage of the opportunity. My first day of school, in October 1968, I went to the office of my faculty advisor, Professor Phillip Ginsberg who greeted me: "Oh, it is one of General Hershey's girls." From the start, there was no question that our class was different: there were 30 women out of 150 students, the largest percentage of women the Law School had ever accepted. Professor Ginsberg simply articulated the reality: graduate deferments for the draft ended that year and the Law School, worried that the draft and the Vietnam War would decimate the male ranks, accepted more women.

The first year of law school was a heady experience. I came to the law school hoping to be able to change the world and create more equality. It was one of the most thrilling experiences of my life to get a new set of tools, the power of the law. The message of opportunity was combined with a message that we Chicago law students were a powerful elite. In our second year, the limits of the message came home to some of the women law students. During the recruiting season, the stories kept proliferating of women law students being treated badly by law firms they were interviewing. One woman, after being kept waiting by a recruiter, was told that it did not matter because his firm did not have any room in the estates department anyway.

Various women at the Law School complained to Dean Nick Fee, who was in charge of recruiting. He wrote letters to the offending lawyers, making inquiry about the discrimination complaints. In the case of Fee's letter to Shearman & Sterling, the firm's response was a protest to Dean Phil Neal that anyone

would challenge Shearman & Sterling's behavior. Instead of courageous leadership at that point, the Law School backed away, taking the position that it could not police the behavior of allegedly discriminatory law firms.

I am proud to say that our Law School education had empowered us; the women in the law school banded together in a Women's Caucus to fight back. The Law School formed a committee to deal with our demands, consisting of Professors Bernard Meltzer, Stanley Kaplan and Owen Fiss. When the committee recommended responses we considered meager to address the active discrimination, our caucus responded with a position statement, "One Step Forward, Two Steps Back," written mainly by Aviva Futorian, class of 1970. When the Law School remained intransigent about taking protective action on behalf of women who were subjected to discriminatory action by law firms, Marjorie Gelb, Class of 1970, who had taken Professor Fiss's course on the new Civil Rights Act of 1964, came up with a theory to challenge the Law School. She asserted that the Law School was an employment agency under Title VII of the Civil Rights Act and thus had a duty to bar discriminatory law firms.

A group of women filed an administrative charge of discrimination against the Law School under Title VII with the Equal Employment Opportunity Commission. The students involved were: Lynn Sterman, Carol Cowgill, Batya Miller, Marianne O'Brien, Marilyn Katz, Judith Bernstein, Diane Liff, Marjorie Gelb, Mary Hartman, Katherine Soffer, Nancy Grossman, Mary Mautner, Aviva Futorian and myself. The regional EEOC office made a finding of reasonable cause to believe the Law School had discriminated. We expected at that point that the Law School would negotiate with us in good faith and resolve the issue. The Law School proved as obstinate as we were and appealed the finding to the EEOC in Washington, which reversed the regional determination.

During the course of this dispute, one lesson I learned was the value of civility between opponents. Dean Neal always treated us as a group and individually in a very dignified fashion. He went out of his way to be helpful to many of us. In my case, while I was clerk

ing for a public interest law group in San Francisco, the Dean arranged for me to meet Justice Stanley Mosk of the California Supreme Court, to discuss a possible clerkship. I had a cordial meeting with Justice Mosk in 1970. At the conclusion of our meeting, Justice Mosk informed me that it had been lovely to meet me but he could not consider me for a clerkship because his permanent law clerk was a man in a wheelchair and he looked to his short term clerks to assist him and as a woman I could not do that. I did not hold Justice Mosk's behavior against Dean Neal, however. The fact that the Dean was so consistently civil in the face of our dispute has always enabled me to cherish the Law School, and Dean Neal, despite our differences.

After graduating from the Law School, with the dispute over discriminatory law firms still ongoing, I agreed to be the named plaintiff in a Title VII lawsuit against the Law School. Our lawyer was Barbara Hillman, Class of 1966. In 1974, we won part and lost part of that lawsuit, *Kaplowitz v. The University of Chicago*, 387 F. Supp. 42, 8 FEP 1131 (N.D. Ill. 1974). The Court ruled that the Law School was covered as an employment agency under Title VII, in an expansive reading of the scope of Title VII. However, the Court also ruled that the Law School did not have a duty to insure law students were not discriminated against, leaving students who had suffered discrimination to pursue their own remedies against the law firms. The suit ended at that stage.

My strong belief in the power of the law and passion for women's rights continued to shape my life. I worked for several years at O'Melveny & Myers in Los Angeles and then formed a law firm with two other women in 1974 in which we did conventional work to support a civil rights practice. Among our cases, we sued to force ambulance companies to hire women; we sued the State Court of Appeal to redress discrimination against a woman court clerk; we sued the Beverly Hills Hotel, which had barred unescorted women from the famous Polo Lounge. In 1980, I joined a terrific litigation boutique, now a full service firm known as Alschuler Grossman Stein & Kahan. In 30 plus years of practicing law, my work has always been deeply affected by my sense of the possibilities awakened at the University of Chicago Law School. I remain deeply grateful for the opportunity.