

Profile: Jean Hyams

Employment law specialist escaped the world of high-tech to become a steward for employee and civil rights

By Stephen Ellison

One evening nearly 30 years ago, Jean Hyams was driving along Interstate 280 on the Peninsula, alone with her thoughts, when she decided to take a detour. It wasn't a different route of travel she sought – it was a new path for her career.

At the time, Hyams was a pre-Internet-era Silicon Valley techie, working as a marketing and communications professional for Hewlett-Packard; she had previously spent time with Oracle – before it went public – as founder Larry Ellison's assistant. And while the high-tech sector was on the verge of a societal revolution, Hyams herself was at a crossroads, feeling unfulfilled in her small role at a giant corporation. So she made a choice, right then as she wheeled up toward her home in San Mateo, to chase a dream and go to law school.

"I realized I didn't find what I was doing compelling," recalled Hyams, founding partner with Levy Vinick Burrell Hyams LLP. "I knew that I wanted to do something that mattered to society. What I was doing was interesting, but I was writing about things, publishing things, not making things – not making a direct difference."

A fateful decision

On that fateful drive, "I thought to myself this is not what I want in my head for the rest of my life," Hyams continued. "I want to fill my head with problems and ideas that truly do matter … solve problems that need to be solved on a bigger scale. And I thought that, given my skills and talent, law was the place to go."

Having already taken the LSAT after college, Hyams that night prepared her letters and applications to various law schools. A year later, she landed at UC Berkeley's Boalt Hall with her sights set on becoming a civil rights lawyer.



Hyams

Today, Hyams is among the leaders in the employment law field, representing people with disabilities, people of color, women, gays and lesbians, older workers, whistleblowers and injured workers in lawsuits involving civil rights violations. She and her partners have won jury verdicts, settlements and arbitration decisions in discrimination, retaliation, sexual harassment, wrongful termination and other unlawful employment practices.

"I didn't do employment law in the first nine years of my practice because I knew it was a very complicated area, and I didn't want to dabble in it," Hyams said. "It didn't feel like a good idea to me to just dip my toe into it. Eventually, I started doing employment law full time. I represented some small businesses in contract disputes back then, but my interest was to find out how the law can level the playing field for people who need it – and that is the individual more than large corporations. I wanted to give them quality representation that I knew I was capable of."

Indeed, Hyams has thrown herself full-tilt into the area of employment law, working as a vigorous advocate not only for her clients but also for the overall cause. She thrives in a collaborative environment, devoting much of her spare time to helping colleagues in professional organizations such as the California Employment Lawyers Association, for which she has been a governing board member for the past nine years and is a co-founder and editor of the CELA blog. She also has worked on legislation that the organization is advancing and has testified before the Legislature on such bills. "I've kind of done most of the jobs throughout the organization, and I've had the pleasure of watching it grow to over 1,100 members," Hyams said. "So that's been a huge focus."

She also participates locally as a member of the Plaintiffs' Employment Lawyers Association, and she founded a sister organization called the Bay Area Cabal, which is more social, she said, and focuses on building community in the plaintiffs' employment bar. All the organizations, she said, cultivate collegial relationships among the members. "We're more like one big law firm. It's a real open-source mentality, which we foster and encourage," Hyams said. "If another CELA member calls you to ask a question or ask for help, you pick up the phone – you take the call. …

That's what it's all about."

Early political slants

Born and raised in the Washington, D.C. area in the 1960's, Hyams was exposed early to politics and the workings of the U.S. government. She started reading the Washington Post at the tender age of nine and as a mere preteen took an active interest in the George McGovern presidential campaign in 1972.

Her family moved to California when she was 13, so she left that politically robust environment behind, but she held on to her passion for justice and social change. "Very early influences were watching the Watergate hearings," Hyams recalled. "I learned a lot about law and the importance of integrity. My dad worked for the government, and he became disillusioned at about that time. He and my mom raised us to believe you do right by people, you act

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with integrity, you stick to your word – all those things, which I think are what the law is all about."

In high school, Hyams had a general idea of what lawyers did from her civics and other social studies classes. She went to college with an eye toward becoming a lawyer, majoring in political science and taking constitutional law courses at Wellesley. Though her interest was piqued by the law, she decided it might not be a good idea to just jump into it without some sort of work experience. That's when she ventured into the high-tech industry.

Assisting Ellison at Oracle was her first job out of college. "This was long before the company became public," Hyams explained. "I worked on the very early stages of the IPO, but I left before anything happened; sold my stock options, which were not worth anything at the time. If I had hung around for another few years, they would have been worth millions. So, you know, that was the folly of youth."

She then moved on to HP before her epiphany on the freeway that directed her across the bay to one of the most prestigious law schools in the country. At Berkeley, where social unrest, stern advocacy and general zaniness had come to dominate in the 1960's and beyond, Hyams helped open a law clinic and was involved in advocating for women in the law profession. She participated in and even helped organize protests against the lack of diversity on the faculty. She also took advantage of a relatively new program with the Berkeley law foundation where lawyers from big firms would donate a day of their salary so others could go to work for public interest firms. "So I had a summer fellowship working for a legal services center that worked with women prisoners," Hyams said, "and I had my sights set on civil rights law."

Self-made start

As she was nearing graduation, Hyams' job search targeted public interest law firms and nonprofits. Unfortunately, her resume told the story of a tech marketing worker and included very few chapters on public interest or civil rights legal experience; meanwhile, competing applicants could fill books with the necessary background for those jobs. "I couldn't get a job doing public interest work to save my life," she recalled. "So I hung out my shingle and started my own firm … doing personal injury and estate planning, some probate work. I started doing a little bit of civil rights work in representing people with disabilities in education, trying to get reasonable accommodations for people."

After about three years with her own firm, Hyams took a post as a civil rights attorney with the U.S. Department of Education, where she served for a year. She then returned to private practice with Boxer & Gerson, where she spent 10 years honing her employment law acumen and working her way up to partner. In 2010, she helped found her current practice in Oakland.

Though she'd like to go to trial more often, Hyams understands it's not something she can force upon her client. But she does consider herself a trial lawyer. She's even conducted seminars and lectures on trial advocacy, and particularly voir dire, for colleagues at CELA. "I've done a lot of training, teaching people how to talk to jurors, how to get (jurors) comfortable enough to respond honestly about the biases they have," Hyams explained. "You get people comfortable enough to say 'I've had experiences in my life that cause me to be suspicious of this particular type of situation or this type of person' … and that's what we need to know because it's not jury *selection*, it's jury *de-selection*."

Perhaps one of her more intriguing cases was one she co-counseled on against 24 Hour Fitness that didn't go to trial due to that company's mandatory arbitration clause. Hyams and her team won a $2 million award for their client, but the case took an interesting turn *after* it had been resolved. The employer wanted the record sealed for fear of bad publicity.

"They tried to gag us. So we filed the award under seal because there was a dispute, but instead of filing a motion to keep the record sealed, we filed a motion to *unseal* the record," Hyams said. "We decided that the court had a right to make a determination whether the record should be sealed or unsealed. It was an innovative way to deal with this quandary.

"I think one of the things that characterizes our office is we're not going to be backed into a corner," she said. The court granted the motion to unseal the record, and the 80-page ruling detailing the sexual harassment and retaliation that went up to the highest levels of 24 Hour Fitness is now a public record, the value of which is huge, Hyams said. Even though the company had paid the arbitrator's award "faster than you've ever seen anybody write a check," thinking there would be no need to involve the court, Hyams' team persisted. "We were fulfilling the oath of the attorney," she said, "to protect and defend the constitution and the law, not just your client."

Family and life

In her brief spells of spare time, Hyams enjoys traveling and spending time with her family. She makes frequent trips to Central and South America, particularly Brazil, where she has family. Her octogenarian parents still live in the Bay Area, and she sees them as much as she can. Her father attends all her trials, and she often goes over to their place for dinner and tells them about her work. "Our firm is really committed to people being able to have lives," she said.

Hyams' advice to today's young lawyers and law students is to maintain a cordial and professional demeanor – it will serve as a vehicle for a much longer and more rewarding career.

"The biggest skill to develop is the long view of a case or even of your career," she said. "When you're in the middle of a dispute, think about whether or not that dispute really matters – does it serve your client's long-term interests in the case? What serves your client – and serves you – is to stay the course as an advocate.

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Because what we do can be very stressful. We need to figure out, in order to keep at it for years and years, how to be engaged in conflict without adding fuel to the fire."

And yet, she contends, one should never sway from their obligation to uphold the protections and freedoms afforded to all citizens: "I really believe in the rule of law, and I think we are stewards of law. It's incumbent on us to make sure the law is allowed to develop as it should and remain as protective as it has been. There are so many erosions happening now that are troubling. But we live to fight another day."

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