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Rudolph Kass, judge whose writing flair illuminated legal principles, dies at 90

By [Bryan Marquard](#) Globe Staff, Updated June 13, 2021, 3:39 p.m.





Judge Kass, at the Suffolk Courthouse. JANET KNOTT/GLOBE STAFF

During 24 years as one of the most respected associate justices in the history of the Massachusetts Appeals Court, Rudolph Kass authored opinions that resonate today, such as a 1981 ruling that said a lower court couldn't block a 14-year-old from seeking the consent of a judge, rather than her parents, for an abortion.

Equally memorable were rulings that showcased his writing talent. With a gentle flourish few in his profession achieved, Mr. Kass sometimes illuminated dry legal principles with wry wit.

"He was just a joy to read," said [Christopher J. Armstrong](#), a former state Appeals Court chief justice. "He was so deft. He always had just the right word for the situation."

Mr. Kass, who had turned to practicing law after an early foray into journalism, died [June 4](#) in Lasell Village in Newton of advanced heart failure. He [was 90](#) and previously had lived in Arlington for many years, sometimes riding his bicycle into Boston to and from court.



Choosing favorites among Mr. Kass's amusing rulings was a challenge for friends and admirers, but many cited a droll line in a Martha's Vineyard property dispute over land inhabited by a famous woolly resident with a well-known habit.

"Sebastian, the tobacco-chewing sheep, would have been disconcerted by this appeal," Mr. Kass wrote in a 1984 decision.

Then there was his ruling in a dispute over a lease that prohibited competing delicatessens in a downtown Boston building.

Mr. Kass wrote that if the case "is about 'What is a deli?' a purist would answer that a deli is a purveyor of central European delicacies such as corned beef, pastrami, brisket, chopped liver, lox, herring, whitefish, cream cheese, sour cream, sour pickles, pickled tongue, knockwurst, potato salad, coleslaw, and borscht."

He added, however, that language "is a study in evolution, and the menu of the tenant, which initially did business as O! Deli, offered considerably different attractions: butter croissant, tuna salad sandwiches, 'Teriyaki Breast O! Chicken,' yogurt, and — by way of saving grace — hot pastrami."

For followers of Mr. Kass's opinions, simply reading his writing could often be as interesting, or more so, than learning the case's outcome.

“He had a knack as an appellate judge of using humor in an appropriate way,” said his longtime friend Hiller B. Zobel, a retired state Superior Court [associate justice](#).

“Appropriate in that it fit the situation he was trying to discuss, appropriate in that it illustrated the legal point he was trying to make, and best of all, that it didn’t offend any of the parties involved.”

Each time Mr. Kass penned an opinion he brought to the task “a narrative richness that he was not afraid to incorporate into his legal writings,” said [Mark V. Green](#), the current state Appeals Court chief justice. “That made his decisions not just informative, but interesting and enjoyable to read.”

Mr. Kass’s reputation did not rest solely on his facility with prose, though.

“Rudy was an absolutely extraordinary lawyer and judge,” said Armstrong, who was one of the original six justices when the court was created. “He was unquestionably a giant in the legal world and was acknowledged as such by everyone who knew him.”

Still, as someone who had initially envisioned a career as a writer, Mr. Kass took great pleasure in crafting rulings. Those cases that offered a chance to twinkle were a fringe benefit.

“There are some things, if you just think about them, that are occasions for irony, some things that are inherently rich and funny,” he told the Globe in 1997.

“The bank robber who uses a purple Cadillac as the getaway car — it is hard not to comment about that without some sense that it’s funny,” he added. “But if you are writing about guarantees of loans it is unlikely that you will do anything but play it straight.”

The younger of two brothers, Rudolph Kass was born on June 28, 1930, in Magdeburg, Germany, a son of Heinrich Kass and Lily Minna Cohen.

Fleeing the rise of Nazism, the family left Germany, living first in Tel Aviv, before Israel had declared independence, and then to the United States, where Mr. Kass and his family lived outside New York City, on Long Island.

He graduated from Lawrence High School and received a bachelor's degree in 1952 from Harvard College, where he was [managing editor](#) of The Crimson, the student newspaper.

After graduating, he went to Berlin to study and write freelance pieces for US publications.

Always handy with a camera, he was shooting one day in Communist controlled East Berlin when "someone pointed a .45 at me and said, 'Stop him! There is a spy taking pictures!' I was arrested and led off at bayonet point," he recalled in 1997. "I had an American passport that showed a birthplace in East Germany. They thought they had a live one."

Fortunately, [James Conant](#), then the US high commissioner to West Germany and a former Harvard president, intervened to secure his release, and sent Mr. Kass on his way with stern admonition.

"He said, 'You are a very ill advised young man,'" Mr. Kass recalled with a laugh.

Returning home, he married Helen Kahn in 1953. They had met while working at a Connecticut resort.

"She was a counselor for children of guests; I was the beach boy," Mr. Kass wrote in a tribute when she died [in 2016](#). "Her job required brains; mine did not, and paid better larger constituency. An early manifestation of unequal pay based on gender."

Mrs. Kass worked in college admissions to support him while he attended and graduated from Harvard Law School. She later worked in geriatric counseling and spent years supporting the creation of community housing, a pursuit she and her husband shared.

“He was so deeply committed to the idea that people who couldn’t afford great housing, should. He was a deep believer in us providing that affordability,” said Amy Schectman, chief executive of 2Life Communities, which has created affordable senior housing communities in Boston and surrounding communities. “He’s the only member of our board who has been continuously involved in the organization since its founding.”

Mr. Kass practiced law with the firm Brown, Rudnick, Freed & Gesmer until Governor Michael S. Dukakis appointed him to the Appeals Court in 1979. He served until 2000, and then was recalled from retirement to serve until 2003.

At home and at any social gathering, Mr. Kass was renowned for his sense of humor he and his wife wrote and presented poetry and funny skits for the birthdays of relatives and friends. “She was a demon with a pun,” he said of his wife.

“We grew up in a house with a lot of irony, a lot of joking, a lot of talking over each other with non sequiturs in dinner conversation,” said their younger daughter, Susan of Portland, Ore.

Mr. Kass “loved language and loved words, so the Appeals Court was his dream job,” said his older daughter, Elizabeth of Brookline. “He always loved what he did. How many people love their job? He was fascinated by it.”

A service has been held for Mr. Kass, who in addition to his two daughters leaves his son, Peter of South Bristol, Maine, and three granddaughters.

In Berlin, during his tense arrest, “there was an ugly moment where I was removed from a car and stood blindfolded against a wall,” he recalled. “I said, ‘This is it.’ ”

It wasn’t. Ahead lay decades as a lawyer, as a judge, and as an engaging writer.

“When he got on the Appeals Court,” Elizabeth recalled, “he said, ‘Finally, everything I write gets published.’ ”

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