



Frank Sander: Mentor to the Field of Dispute Resolution

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ABOUT DISPUTE RESOLUTION MAGAZINE

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By David Hoffman, Michael Moffitt

Mentor, in Greek mythology, was the elder whom Odysseus entrusted with his son Telemachus when Odysseus left for the Trojan War. From this story has come the modern meaning of "mentor" as someone who shares experience, knowledge and wisdom with a less experienced colleague.

In so many ways, Frank Sander has been the mentor to the dispute resolution field. He has coached junior scholars as they navigated the shoals of academic hiring and advancement. He has counseled lawyers and other professionals who wanted to transition their careers into mediation or arbitration. And he has provided thoughtful advice and the steady hand of experience to many of the committees, commissions and organizations within our field.

In this essay, we highlight three aspects of Frank's mentorship that are especially noteworthy – his curiosity, candor and compassion – and show how they characterized his mentorship of the field at all levels.

Curiosity

Frank has a razor-sharp intellect, undulled in the 64 years that have passed since he graduated from Harvard College with a degree in mathematics, through his years as a Harvard Law School professor. That he is bright distinguishes him from many, but that he couples this intellect with a profound desire to know more makes him extraordinary. To take an idea to Frank is to invite both keen observation and keener questioning from one who delights in the journey of discovery.

For example, Dwight Golann told us about his early years as an academic, when Frank shared with Dwight questions about the constitutionality of mandatory arbitration and urged Dwight to

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pursue these questions. Many in the academy guard such lines of research jealously, but Frank's suggestion resulted in the launch of an academic career that has included Dwight's winning a CPR Institute prize for scholarship. Frank did not know the answer to the questions he originally posed to Dwight – he just thought they were good questions and was eager to see someone explore them.

Candor

Frank's candor – his "frankness," if you will – is legendary within our field. Not one to suffer foolish ideas gladly, Frank can be counted on to tell us when we are headed in the wrong direction. We need our mentors to be plainspoken at times, rather than simply encouraging, and Frank has a talent for being direct without the least bit of unkindness. In fact, he could be both discouraging and encouraging at the same time. This is an art, and Frank is a master.

When Michael Moffitt was in the entry-level job market for a tenure-track law school position, Frank agreed to serve as one of his references. An experienced professor from a distinguished school called Frank for a reference, and this professor later said to Michael, "I spoke with Frank about you, and he said you were 'solid, quite good.'" Michael must have looked a bit concerned about the lack of enthusiastic hyperbole to which one might ordinarily aspire from a self-selected reference because the professor quickly added, reassuringly, "I know Frank Sander. That reference means the world to me, because I know it is not grade-inflated." Understated, substantive, clear and to the point. That's Frank.

Scott Peppet worked closely with Frank early in Scott's career, and he tells the story of how Frank mentored him through his early work on the ethics of negotiation: "Frank had me read through a pile of [ethics] materials that he had amassed . . . As we talked, Frank kept bringing up ways in which it was all a bit more complicated than I was making it. What about this? What about that? He slowly and methodically showed me, without ever saying it, that I had missed some of the most difficult points in the materials." Those who know Scott's work today understand that it represents some of the most creative and careful in the field, undoubtedly reflective of Frank's influence.

For Harvard law students interested in dispute resolution, Frank was often among the most sought-after advisers for third-year papers. But students lucky enough to have Frank take them on soon learned that the road ahead would not be easy. As Harvard colleague Bob Bordone said, "Students were thrilled to get Frank until they found out how much work he expected. He would put them through draft after draft until they got it right. That meant

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not only doing a job for him that he felt met Harvard's standards but also reflected the best the student could do for him or herself."

Compassion

Candor can be painful if it is not administered with compassion, and Frank's concern for his mentees is palpable. Like the gardener who is proud of the plants he nurtures, Frank takes obvious pleasure in the success of his mentees, while at the same time refraining from taking any of the credit for their accomplishments.

David Hoffman was one of many lawyers whom Frank coached through the experience of disillusionment with litigation. David turned to Frank when he realized that mediation made more sense in most cases, and Frank provided David with a road map for developing an ADR practice within Hill & Barlow, the Boston firm where Frank had also served as an associate before launching his academic career. In the years that followed, Frank helped David by providing encouragement for his writing (including a foreword for a book David wrote with David Matz), his involvement in the ABA Section of Dispute Resolution, and his teaching (including a recommendation that landed him his current adjunct position at Harvard). At every turn in David's career, Frank has made the time to talk about the next step.

Richard Reuben credits Frank with making it possible for him to become a law professor. "I got to know him," Reuben said, "when I wrote an article on dispute resolution for the *ABA Journal* and told him of my interest in getting into the field. He encouraged me and also sent opportunities my way that helped me establish academic credentials – editing *Dispute Resolution Magazine* and working on the [Uniform Mediation Act]." Later, said Reuben, "when I was having difficulty finding a job, he helped me get a fellowship at Harvard that helped smooth that transition. I have no idea where I would be today without his support along the way."

Mentoring the ADR Field

Frank's service during the creation of the Uniform Mediation Act illustrates the way in which his mentorship extends beyond people to institutions and projects. He served on the Uniform Law Commission's drafting committee as well as a parallel drafting committee of the American Bar Association. Many involved in these projects with whom we have spoken described the direct -- but always professional and courteous -- ways in which Frank framed questions and proposed solutions on some of the thorniest policy problems in this project, which involved more than five years of meetings, drafts, and deliberations. Many who attended recall vividly that the turning point for the effort was

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when, after a few 20-hour weekends of wide-ranging discussion but little action, Frank opened the next meeting by saying, "If we're going to draft a statute, we need to start drafting something that looks like a statute." Everyone got the message.

Frank was a founding member of the Program on Negotiation at Harvard Law School. Marjorie Aaron, the former director of PON, recalls that whenever a difficult policy issue arose, someone inevitably would ask, "What does Frank think about this?" His name was invoked as a means to bring discernment to the conversation.

In 1994, when the Massachusetts Supreme Judicial Court formed a standing committee on ADR, Frank was asked to serve as vice-chair. He was a Harvard Law professor at the time, and he was also involved in national and international conversations about dispute resolution at the highest level. The demands on his time were enormous. And yet he recognized the significance of the effort in the Massachusetts state courts and joined the local judges, lawyers, and mediators in a long and ultimately groundbreaking set of initiatives. He did not consider himself different from any of the other group members, but he was the respected voice of experience in its discussions – in effect, its mentor -- as well as an active participant.

Many of those with whom we have spoken have highlighted Frank's efforts to make the field of dispute resolution more inclusive. Many women, people of color, and other members of under-represented groups have benefited directly from Frank's encouragement, guidance and opportunities he helped to create but for which he has never wanted credit. "He wouldn't speak of it directly, but the names that he would mention for various positions would be the names of women, minorities, social scientists, and others whom he wanted to provide an opportunity to shine," recalls Nancy Rogers. "You could tell that it was on his mind."

Choosing to Be Mentor

As an accomplished Harvard professor in three areas – taxation, family law, and dispute resolution – Frank certainly could have lived a more cloistered life, turning out law review articles and books setting forth bold new ideas, such as the concept of the multi-door courthouse. Yet he chose a path of direct involvement in the dispute resolution field, and by doing so, he has advanced careers and the use of ADR in our justice system, thus improving the quality of American life more broadly through the constructive resolution of conflict. It is difficult to imagine where the field would be today, if it existed at all, without Frank Sander's willingness to serve. For this he is widely and rightly credited as the "father of ADR." But by these choices, he also

shows us more broadly the extraordinary difference one person can make – on colleagues and institutions – if they choose to make the effort.

An Acknowledgment and Invitation

As we gathered information for this article, the two of us surveyed more than a dozen experienced professionals, lawyers and professors. We could not include all the stories we heard, and we know there are many others who could have told stories as rich as the ones told here. We also know there are others who could have written this article with as much appreciation as we did -- and perhaps could have done a better job. There is no shortage of people who count Frank as mentor in ways that are both big and small.

These stories are compelling and instructive, teaching us what it means to be a mentor and how to do it wisely. If you are a Frank Sander mentee or have a story about how he inspired you, directed you, or was kind to you, please share it by posting it on the LinkedIn discussion group that the [Section of Dispute Resolution Group](#) has created for this purpose. In this way, we can share the inspiration that Frank has so generously shared with us.

David Hoffman *is an attorney, mediator, arbitrator and founder of Boston Law Collaborative, LLC. He teaches the mediation course at Harvard Law School and trains mediators at the Harvard Negotiation Institute. He is past chair of the ABA Section of Dispute Resolution and co-chairs the section's Collaborative Law Committee. His firm, Boston Law Collaborative, won the section's "Lawyer as Problem Solver" award in 2009, and David is listed in the book "Best Lawyers in America" in five categories, including mediation, arbitration, and Collaborative Law. He can be reached at dhoffman@bostonlawcollaborative.com or www.BostonLawCollaborative.com.*

Michael Moffitt *is the Philip H. Knight Dean of the University of Oregon School of Law. As a law professor at Oregon, he taught ADR and civil procedure and served as the associate director of the school's Appropriate Dispute Resolution Center. Prior to moving to Oregon, he was the clinical supervisor of the Harvard Mediation Program at Harvard Law School, where he also taught negotiation and worked with Frank Sander. He can be reached at mmoffitt@uoregon.edu or <http://law.uoregon.edu/faculty/mmoffitt>.*