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Teacher, Mentor, Friend, Leader

By Richard C. Reuben
and Margaret L. Shaw

It is a rare person who through his own thoughts and efforts can truly be said to have changed this country, and the world, for the better. Fewer still do it with humility and grace.

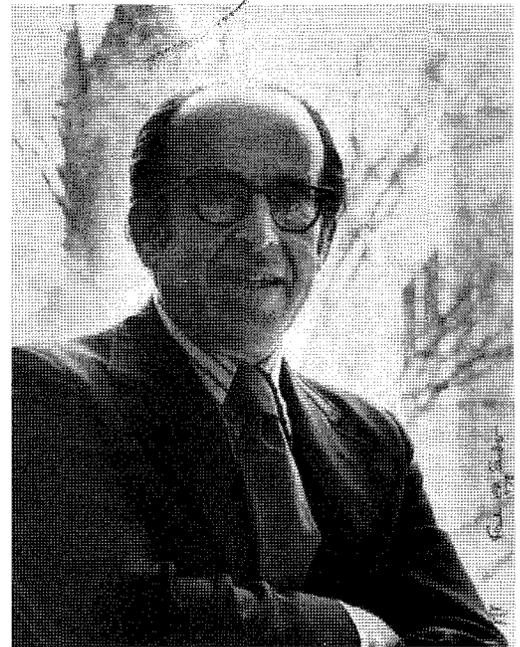
Frank E. A. Sander is one such transformative figure, a man who for nearly 40 years has nurtured the field of dispute resolution that today is credited as being one of the most significant shifts in American law. Inspired by his ideas and efforts, the resolution of legal problems is faster, more humane, more effective, and less costly for those in the United States and across the globe.

In this issue we take the occasion to celebrate this achievement. In these pages we see the history of our field unfold — its founding at the Pound Conference in 1976, its youthful struggle for identity, acceptance and embrace by the legal profession, and now, the challenges of maturity.

Through it all Frank has been a central figure, supporting the field with a gentle, steady hand that demanded honest and rigorous thinking, inspired and supported courageous action, and made sure things got done. An amateur musician in his private life, Frank set the tone for our field, one that allowed it to blend in with the larger symphony of American law. With a father's love and respect, he helped a thousand flowers bloom while at the same time pruning them to keep them out of harm's way. If Frank were a gardener, the dispute resolution field would be his bonsai tree.

This much is easily seen from the perch of our field. But there is, remarkably, so much more to his story. Many of us know that Frank was born in Germany and immigrated to the United States. Less known is that his father had been interned by the Nazis in Germany and his family decided to give their property and possessions to the government so the family could leave the country rather than simply hope for the best. Frank was 11 when they went to England to wait their turn for a U.S. visa and 13 when he came to New York and then settled in Boston.

Frank excelled in school and earned a coveted spot at Harvard University and then Harvard Law School and then as a clerk for Justice Felix Frankfurter at the U.S. Supreme Court. Less known



Frank E.A. Sander, Courtesy of Historical & Special Collections, Harvard Law School Library, Photo by Joan Lebold Cohen.

is that Frank's year at the court was 1953, an epochal term, as all the justices and clerks, led by new Chief Justice Earl Warren, worked hard to forge consensus on what would become the court's, and maybe the country's, signature opinion — *Brown v. Board of Education*.

The decision, of course, opened the door to the struggle for racial, gender, economic and other efforts for equality over the decades that would follow. Even less known is how Frank has continued to work with quiet effectiveness to assure minority access and participation at Harvard as well as in the legal profession at large and in our own world of dispute resolution.

Frank returned to Harvard, which he continues to call home. He married his lifelong love and inspiration, Emily Jones, and raised three children — Tom, Alison, and Ernie — in their home of more than 40 years on Buckingham Street, a few blocks from the law school.

During this time, he also set the course of his professional agenda. A mathematics major



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Margaret L. Shaw has maintained an active mediation practice for more than 30 years. She joined JAMS when a firm she co-founded, ADR Associates, merged with JAMS in 2004. She was also for more than 25 years an adjunct professor of law at NYU Law School, where she taught ADR and negotiation. She has been a member of the *Dispute Resolution Magazine* editorial board since 2004. She can be contacted at mshaw@jamsadr.com or www.jamsadr.com.

in college, Frank began his scholarship in taxation but soon shifted to family law, where he confronted the enormous legal and personal challenges that compelled him to think about other, more satisfying ways of addressing these problems — ways that Chief Justice Warren Burger encouraged Frank to give voice to in what became the landmark “Multi-Door Courthouse” speech at the Pound Conference.

The lore of our field holds that Frank’s speech accelerated and expanded a movement around the country that initially came to be known as Alternative Dispute Resolution. Less known, again, is that Frank’s work also provided critical support to Professors Roger Fisher, Arthur T. von Mehren, and others within the tradition-bound Harvard Law School to recognize, study and teach non-traditional ways of solving legal problems. Their efforts spawned the Harvard Program on Negotiation, which became the intellectual beachhead for the nascent field.

Frank knew the importance of Harvard to the establishment of the field and lent his name, offices, energy and intellect to task forces, committees, study groups, initiatives, and all manners of professional development, whether local or international. He even took on a few cases a year as a mediator or arbitrator so he could see firsthand the dynamics and ethical dilemmas that neutrals confronted and identify issues that merited attention.

In so doing, Frank opened the doors of the courts and the legal profession to ADR and was especially effective in working with the American Bar Association. Through the prestigious *ABA Journal*, he introduced the nation’s lawyers to the idea of “fitting the forum to the fuss,” and later shepherded an ad hoc Committee on the

Resolution of Minor Disputes into a Standing Committee on Dispute Resolution, and then, ultimately, the Section of Dispute Resolution.

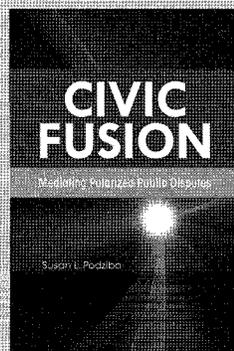
He also came to mentor not only the field’s first-generation academics but its first-generation practitioners, court administrators and even judges. But he also subtly mentored the maturation of the field in meaningful ways, by providing the intellectual backbone of such institutional landmarks of the field as the National Standards for Court-Connected Mediation and, later, the Uniform Mediation Act. He also provided both formal and informal feedback on countless drafts of articles, standards, best practice principles, and other such professional development efforts in the United States and around the world.

His influence continued into the second generation, where Frank has served as the center of gravity for what has come to be known informally as the Senior Mediators Group, continued to mentor even more young scholars and chaired the editorial board of the ABA’s *Dispute Resolution Magazine* for more than 18 years before transitioning to a senior but still active role earlier this year.

As we see in this issue, Frank’s life and work are both inspiring and instructive. Whether it is highlighting the qualities of his leadership, the wise ways he opened the doors of the legal profession to this new way of thinking and mentored young scholars and practitioners, or the endearing memories of him as a father, this edition provides all of us the opportunity to learn from Frank yet again. His wisdom and his example show what difference each of us can make if we are willing to give what we can with an open mind and a generous heart. ♦

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