ANDREA DOMASKIN

Hon. Donovan Frank
U.S. District Judge, District of Minnesota

RECENTLY, A PACKAGE containing 24 thank you letters, handwritten and colored with markers, arrived unexpectedly in the St. Paul, Minn., chambers of Hon. Donovan Frank. "For a person with a disability, I thank you, Judge Frank, for opening your courts to people with disabilities. It is because of people like you that I can work and be productive," wrote one member of a North Carolina class aimed at teaching people with developmental disabilities and their supporters to be advocates. The class had watched an online video of a speech given by Judge Frank. Neither the online speech nor the thank you notes were unique events for Judge Frank, who is 59 years old.

Judge Frank was recommended to the federal bench in the District of Minnesota by the late Sen. Paul Wellstone and nominated by President Bill Clinton in 1998. Judge Frank was the 31st federal judge selected for Minnesota, succeeding David Doty, who took senior status.

During three decades as a county prosecutor and a trial judge, Judge Frank has exhibited sensitivity to—and a keen understanding of—the barriers encountered by people with developmental disabilities, both in the community and in the court system. The federal courthouse in St. Paul has been one scene where his concern is evident. Judge Frank is acquainted with the 22 workers who maintain the building, most of whom have developmental disabilities. The workers were to be displaced during a three-year major renovation of the building—perhaps permanently. Judge Frank intervened with the General Services Administration to ensure that the workers would have employment during the renovation and that they could return to the courthouse when the building was reopened. All the workers returned, and they have since been honored with a national award for the quality of their work. Judge Frank went to the awards ceremony—the first time a tenant had attended one—and appeared in a video about the maintenance workers' accomplishments.

Judge Frank regularly helps educate legal professionals about working with people with disabilities through continuing legal education programs and other activities. In June 2010, he was among the presenters at a Webcast Continuing Legal Education program on disability justice. About 185 attorneys registered for the program.

The judge brings this background, along with work in racial and gender diversity, to his position as incoming president of the Minnesota Chapter of the Federal Bar Association and to the helm of the FBA's national Task Force on Diversity. As president of the local FBA chapter, Judge Frank's goal is to create a Pro Se Bar Summit that would be co-sponsored by the FBA and the federal court under the leadership

of Chief Judge Michael Davis. The event would be designed to bring together state and federal legal aid organizations, pro bono programs, and lawyer referral programs in order to increase the availability of attorneys for pro se litigants in federal courts. Judge Frank said—

> As part of the federal court's and the FBA's initiative, Becky Thorson, a partner at the Robins Kaplan Miller & Ciresi law firm in Minneapolis, has also prepared a CLE that focuses on encouraging and training members of the bar to represent individuals with disabilities. Thorson is working with the court and the FBA, along with Shamus O'Meara, Steve Rau, Colleen Wieck, and law students from the newly formed Disability Law Society at William Mitchell College of Law. This project is so important in providing lawyers to individuals with disabilities and, in so doing, giving them hope for their day in court and equal justice under the law.

Judge Frank wants to encourage participation in the Federal Bar Association by members of all racial and ethnic minority groups; women; people with developmental disabilities; and the lesbian, gay, bisexual, and transgender community. As part of the Pro Se Bar Summit, the FBA intends to network with minority bar associations.

The judge would like to see disability added to traditional notions of diversity. "When people think about diversity, they think about race and ethnicity," says Judge Frank. He believes that people with disabilities are the "forgotten minority."

The Same Hopes and Dreams

Judge Frank can trace his support for people with disabilities to his childhood in Spring Valley, a small farm town about 25 miles southeast of Rochester, Minn. His father's cousin, Dutch, had a developmental disability. Dutch went to church with Judge Frank's family and helped out at the family's television and appliance store. "I didn't realize it at the time, but this was really a message saying that they have the same hopes and dreams that we do," Judge Frank said. When Judge Frank was growing up, his parents instructed him not to use the word "retarded" to refer to someone with a developmental disability—a rule he still follows.

Later, Judge Frank became the first person in his extended family to attend college. He chose Luther College in Decorah, Iowa, a city near the border of Iowa and Minnesota that he had visited on a band trip. In college, he studied for a year at the University of Durham in England and graduated magna cum laude from Luther College in 1973. He went to Hamline University School of Law in St. Paul and graduated magna cum laude in 1977. Judge Frank married his wife, Kathy, in 1973. They have five adult daughters.

After graduating from law school, he moved north to Minnesota's Iron Range and served as an assistant prosecutor for the St. Louis County Attorney's Office in Virginia, Minn. He initially worked on child neglect, abuse, and commitment cases. During the last five years there, he handled primarily civil cases and felony criminal cases. As an assistant attorney for St. Louis County, Judge Frank tried a case before a jury that involved the first felony child sexual abuse case in the state of Minnesota in which expert testimony was allowed to explain why young children do not report sexual abuse and why mothers often support the father or the boyfriend who is accused of the abuse. The expert was allowed to testify that the child's behavior was consistent with that of other child sexual abuse victims with whom the expert had worked. Judge Frank also handled the appeal of the case to the Minnesota Supreme Court. In *State v. Myers*, 359 N.W.2d 604 (Minn. 1984), the Minnesota Supreme Court unanimously affirmed the receipt of such testimony for the first time. The decision remains the law to this day. Judge Frank credits a courageous state trial judge, Mitchell A. Dubow, for the result.

Through his work, Judge Frank met a group of advocates who fostered his understanding of disabilities and, he said, challenged his notions of diversity. He joined the board of directors of a center for adults with developmental disabilities and the board of directors of a mental health center.

Judge Frank's tenure came shortly after the landmark Minnesota case of *Welsch v. Likins*, which resulted in the deinstitutionalization of many people with developmental disabilities. According to Colleen Wieck, now executive director of the Minnesota Governor's Council on Developmental Disabilities, the court's decision in this case suddenly made people who had been living in an institution became part of a community where they were now expected to go grocery shopping and to attend sporting events—a major adjustment for individuals who had been living in an institution where they had no choices. "Their lives were so radically different," she said, "and I think [Judge Frank] saw that and it inspired him to try to ensure that the rights of people with disabilities are protected." Judge Frank states, "I was essentially trained and educated by parents of disabled individuals—both children and adults."

In 1985, eight years after beginning his legal career, Judge Frank was appointed to the state district court bench. He was chief judge of Minnesota's Sixth Judicial District from 1991 to 1996.

Judge Frank began setting up outreach programs for local schools and communities. One day, he

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called the special education director in the school system in Virginia, Minn., and asked why no students with developmental disabilities came to the courthouse for programs as other students did. As a result, groups of students with disabilities started coming to the courthouse for programs offered to students.

A social worker then set up a meeting at the courthouse for adults with developmental disabilities. Judge Frank regularly recounts what happened during that meeting. One woman at the event, whose purpose was to show visitors a courtroom and explain how all citizens are protected by the Constitution, asked him about equal justice under the law. "Does that mean that I get the same rights as the wife of the President?" she asked, to which Judge Frank answered, "That's exactly what it means."

When the tour was over, three women asked to talk to the judge privately. All three had been sexually assaulted or harassed, and none had received protection from law enforcement. Judge Frank reports that he was able to "intervene in an appropriate way." Among the framed personal photos in Judge Frank's chambers is a snapshot of that tour's participants.

Broader Human Dignity

Judge Frank's interest in people who are vulnerable is not limited to issues involving disabilities. He is passionate about broadening human dignity, and this passion is reflected in his many activities.

Hon. Michael Davis, chief judge of the District of Minnesota, has worked with Judge Frank for more than 22 years and considers Judge Frank his best friend. Before coming to federal court, the two were state court judges together in different districts and worked on several statewide committees. The most important of these, Chief Judge Davis said, was a task force dealing with racial bias. "Judge Frank is one of the most intelligent, insightful, and compassionate individuals that I know," Chief Judge Davis said. As a prosecutor, state court judge, and federal judge, "he has strived to make the justice system fair for all individuals coming before the court."

Judge Frank is an active member of the Minnesota Chapter of the Federal Bar Association. For 12 years, he has served as host judge of the chapter's Open Doors Program, an educational program designed to bring court-related issues to the everyday lives of young people. In addition to serving as chapter president, Judge Frank serves on the Markman Project Committee, has co-chaired the Long-Range Planning Committee, and has co-chaired the Diversity Committee.

Under Judge Frank's leadership, the FBA Diversity Committee partnered with the Page Education Foundation, which was founded by Minnesota Supreme Court Associate Justice Alan Page, a former Minnesota Vikings football player and member of the National Football League's Hall of Fame. Judge Frank has sought to involve local FBA members as mentors in the Page Education Foundation, said Lora Friedemann, chair of the Intellectual Property Group at the Minneapolis firm of Fredrikson & Byron and the immediate past president of the Minnesota Chapter of the Federal Bar Association. The local Diversity Committee now provides two yearly scholarships to Page Scholars. Judge Frank was part of a team that traveled to Washington, D.C., to provide diversity training for the national leadership of the FBA.

Judge Frank has traveled to the federal women's prison in Pekin, Ill., where women sentenced in Minnesota have to serve their sentences hundreds of miles from their children and families, said Steve Rau, a partner at the Minneapolis firm of Flynn, Gaskins & Bennett and also a past president of the Minnesota Chapter of the Federal Bar Association. Judge Frank was among those who, with the assistance of the FBA and Volunteers of America, developed a program to help these women's children travel to see them each quarter, said Rau. "He has more energy than any human being I've ever met in my life," Rau said. "It forever amazes me the things that the judge gets accomplished."

In addition to his FBA work, Judge Frank serves on the Court Security Committee for the District of Minnesota. He is a liaison judge for the Bureau of Immigration and Citizenship Services. From 1986 to 1998, he served on the Minnesota Supreme Court Criminal Rules Committee; on the Minnesota Supreme Court Racial Bias Implementation Committee from 1993 to 1998; and on the Minnesota Task Force on Violence Against Women.

Judge Frank serves on the board of directors of Lawyers Concerned for Lawyers and the Minnesota Landmark Center, a 1902 building in St. Paul that once served as Minnesota's federal courthouse and post office and is now an events center and home to arts organizations, galleries, and museums. He has been an active member of the Southern Minnesota Regional Legal Services Centennial Planning Committee. During the 2009–2010 academic year, Judge Frank served as an adjunct professor at William Mitchell College of Law in St. Paul, teaching courses on pretrial litigation.

Judge Frank has received myriad awards for his work, including the Federal Bar Association's Elaine R. "Boots" Fisher Award in 2006, in recognition of his outstanding public service and dedication to diversity in the legal community; Luther College's Distinguished Service Award in 2008; Hamline University School of Law's Distinguished Alumnus Award in 2000; Minnesota Trial Judge of the Year

in 1996; and the Range Women's Advocates Annual Recognition Award in 1995 for his contributions to ending domestic violence.

Lawyers and judges who work with Judge Frank describe the person behind these committees and initiatives as genuine. Chief Judge Davis said his friend is "intense but engaging," and Lora Friedemann has described him as a patient, careful judge, who listens to both sides of an issue. She admires him for acts that go beyond his duties as a judge. For example, on one occasion, a pregnant woman who had applied for citizenship and had been accepted was unable to come to the courthouse for a naturalization ceremony, because she was hospitalized and unsure whether she would survive. Judge Frank went to her hospital room and performed a naturalization ceremony. Friedemann learned of Judge Frank's act when she spotted a photo in his chambers. "I think it speaks volumes for how he goes beyond the day-to-day requirements of being a judge," Friedemann said.

Shamus O'Meara, a partner at the law firm of Johnson & Condon in Minneapolis, represented a school district in a civil matter after a shooting at the school on the Red Lake Indian Reservation in Red Lake, Minn., had killed 10 in March 2005. Judge Frank presided over both the civil matter and the related criminal case that arose from the shooting. The cases were difficult and emotionally charged, O'Meara said.

One day, attorneys in the cases met in Judge Frank's chambers. Judge Frank had a television set on his desk, and he played for the group a video of an autistic teen-ager playing basketball. It was the end of the boy's last game, and he had been put in for the first time in his career. He shot three-pointer after three-pointer in a mesmerizing scene, O'Meara recalled.

After showing the video, Judge Frank shared his experiences with people with developmental disabilities and his passion for helping vulnerable people. He mentioned Minnesota's late senator, Paul Wellstone, who had recommended him for his judgeship. "What it did, was it not only put everyone at ease, but it also brought us all together in a very unique and meaningful way," O'Meara said. "To me, these aren't just words that the judge uses," O'Meara added. "This is his life."

Ongoing Support

Since joining the federal bench, Judge Frank has continued to work for equal justice under the law within his profession, in his community, and in his interactions with people with developmental disabilities. He hosted a presentation on disability justice issues at a meeting of the Minnesota FBA Chapter's Diversity Committee, then gave a presentation with O'Meara and Wieck on the topic at an FBA monthly meeting. This event led to the CLE on disability justice in June.

Top photo—Judge Frank visits a job site in St. Paul, Minn.; Bottom photo—Judge Frank speaks with a self-advocate in St. Paul.

Judge Frank and Wieck met because O'Meara, whose son has autism, had arranged a meeting between Judge Frank and the Minnesota Governor's Council on Developmental Disabilities. O'Meara was chair of the council at the time. Judge Frank explained his experiences to the group. "Once we heard [Judge Frank's] speech, we knew we had to have him on videotape," said Wieck. The council recorded the speech, posted it on its Web site, and promoted it.

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The video (available at www.mnddc.org/extra/judge-frank.html) has inspired advocates of disability issues in North Carolina to write to him.

Judge Frank has presented employer awards at the Governor's Council on Developmental Disabilities, has given presentations dealing with the federal court at Minnesota Partners in Policymaking® sessions in 2009 and 2010, and has been asked to speak to a North Carolina Partners in Policymaking session. Along with Greg Brooker of the U.S. Attorney's Office in Minneapolis and Laurie Vasichek of the Equal Employment Opportunity Commission in Minneapolis, in 2010, Judge Frank spoke at a workshop on the 20th anniversary of the Americans With Disabilities Act.

Judge Frank has testified on disability issues at a Minnesota legislative hearing and has agreed to be filmed for a documentary produced by Twin Cities public television on the history of developmental disabilities. He will discuss the rights and responsibilities of people with developmental disabilities.

Judge Frank seeks to involve more attorneys in disability issues and to recruit pro bono attorneys to take on such cases. One of his primary concerns is that children and adults with developmental disabilities are abused, exploited, assaulted, and injured at a rate that is higher than that of any other group. As both a prosecutor and a judge, Judge Frank has used a variety of techniques to ensure that people with developmental disabilities are able to testify at trial, regardless of perceived competency issues. He urges everyone to see beyond the stereotypes and to show compassion to people with developmental disabilities.

Calling for more volunteer work among members of the bar, Judge Frank said that additional pro bono attorneys are needed, because they can change someone's life. He advises organizers to go into someone's law office and ask for volunteers and not leave until there are some. Pro se cases are also a concern for Judge Frank. All too often, he says, pro se cases that come in involve an issue that could have been resolved if an attorney had been involved at the beginning of the process.

Recognizing that the unemployment rate for individuals with disabilities is far above that of the overall workforce, the judge tries to play a part in stimulating jobs for such individuals. When he is out in the community and visits a retail store where he sees one or more people with a disability working, Judge Frank praises the store manager for inclusive employment practices. Similarly, he also praises law firms that hire people with developmental disabilities to do document imaging of their legal files or other tasks in the office.

Earlier this year, Judge Frank met with a group of adults with developmental disabilities at the federal courthouse, meetings that were similar to those he held years ago. He asked the visitors what was most important to them and also asked everyone to tell him the definition of rights and equal justice under the law.

"I want to live on my own."
"I want to be respected."
"I want to be believed as a sexual assault victim."

The group of visitors invited Judge Frank to visit them at the center where they receive supported employment, and he accepted. When he arrived on a Tuesday morning in July, 27-year-old Jeremy Kelzenberg was waiting at the front door to greet the judge. "It's kind of neat to have him come out here and visit with us, to have someone that important come out," Kelzenberg said.

Before his visit to the courthouse, Kelzenberg had done research into Judge Frank's background on the Internet and read his results aloud from the witness stand in the judge's courtroom. He quizzed the judge about the details. "Does magna cum laude mean you belong to a fraternity?" Kelzenberg asked.

"He's a great judge," Kelzenberg said on the day that Judge Frank came to the center. "He sticks up for us and believes in us and is trying to help people like us with disabilities." When Judge Frank arrived at the center, he immediately greeted and hugged Rodney Kaufer, who had worn the judge's robe during the courthouse visit. "The judge, the judge!" Judge Frank said to Kaufer.

During the visit, about 20 active advocates with developmental disabilities sat around a conference table with Judge Frank and discussed a PowerPoint presentation of the work they had done during 2010 as well as their upcoming plans. They queried the judge's thoughts about local court cases in the news and the oil spill in the Gulf of Mexico. The group applauded when photos of the courthouse tour appeared in the slides. "He taught us that we have rights the same as anybody else," said Brian Jensen. "It was a very powerful thing, you know."

When the presentation was over, Judge Frank thanked the group, saying, "I thank you for showing me the way and reminding me of what my oath means and what those words above the U.S. Supreme Court in Washington, D.C., mean: 'Equal Justice Under the Law.' You make me a better person." **TFL**

Andrea Domaskin is a third-year law student at William Mitchell College of Law in St. Paul, Minn., and the 2010–2011 president of the law school's Disability Law Society.