

Judicial Profile

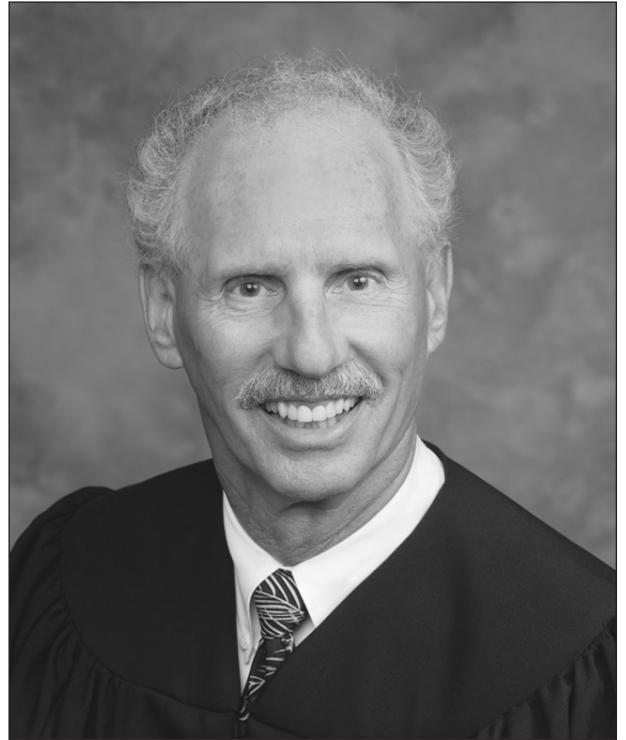
A. JOSHUA FULADIAN

Hon. Leo S. Papas U.S. Magistrate Judge, Southern District of California

HOW JUDGE LEO S. PAPAS came to where he is today shows that the path of life is often influenced by seemingly inconsequential or innocuous events that have life-altering consequences. Indeed, as Judge Papas reflects, “It’s funny how little things change the direction of your life and you look back after the fact and think, ‘Wow, that was much more influential than I thought it would have been.’”

Given his family background, it did not necessarily follow that Judge Papas would become a lawyer, much less a judge. No one in his immediate family had any background in law, and neither his father nor his mother went to college. His mother braved German U-boats while emigrating to the United States at the age of 16 aboard a transport ship during World War I. His father came to America from Greece in the late 1890s, at the age of 19, to explore the land of opportunity and worked in a friend’s restaurant until he and his two brothers were able to start their own eatery: the Palace of Sweets. Years later, after both of the judge’s parents had become proud naturalized citizens, the two were “matched” in the Greek tradition by his mother’s parents. They were married in 1938, when the judge’s father was in his late 50s and his mother was in her mid-30s. Leonidas Samuel Papas was born in 1944, three years after his sister’s birth.

Both of the judge’s parents spent most of their adult lives working in the restaurant business, predominantly in the Sioux Falls, S.D., restaurant that his father owned with his two brothers. Judge Papas and his sister grew up in a home that was decidedly Greek and middle-class. Both he and his sister were controlled by the loving but firm hand of their father, who directed their focus on academics and the value of a college degree. The judge’s parents fervently believed that their children should have a life better than they had and often told a young Leo and his sister that they could be anything they wanted to be if they worked hard enough. Thus, it should come as no surprise that Judge Papas’ father believed that any distraction from school was anathema and prohibited young Leo’s involvement in any social or sports-related activities.



However, all that focus changed during Judge Papas’ middle-school years. His father was diagnosed with terminal cancer and endured a lengthy, final deterioration in the family home culminating in his death when the judge was 13 years old. During that difficult time, his mother, in an effort to bring a sense of normalcy into her son’s life, encouraged him to participate in school-sponsored social and athletic events.

His father’s illness and a seemingly innocuous decision designed to bring balance to a young child’s life were far more influential than he ever envisioned. And the judge’s mother’s decision opened the door to a passion that is evident in the judge today.

Judge Papas’ introduction to sports in middle school set off the first in a chain of events that altered the course of his life. As a result of his involvement in sports, his personality blossomed. He threw himself with abandon into all seasonal sports, whether it was summer baseball, fall football, winter basketball, or spring track. The type of sport did not matter; what mattered to the judge was the special opportunity to participate in activities and to develop the passion for achieving a positive result by working together with others.

In addition, his involvement in sports brought him under the influence of a series of coaches who played a significant and an integral part in his development. They fulfilled the father image that most young people need and helped guide him on a path through both high school and college that helped the judge avoid the temptations, pitfalls, and dangers that so often arise during the teenage years—particularly with children brought up by a single parent. In this way, the judge's coaches left an indelible mark on his life.

Despite having never played organized sports before joining his middle-school teams, Judge Papas had innate athletic and leadership abilities. This fact did not escape either his mother, who became his moral and spiritual foundation after his father's death, or his middle-school coaches, who recognized Judge Papas' athletic and leadership skills. They all knew that the judge had something special and alerted the high school coaches under whose guidance the judge would eventually fall. The varsity basketball coach recognized these natural talents and—rare as it was at the time—when the judge was a sophomore, the coach elevated him to the varsity basketball team as a way to get him used to the higher level of play.

Once Judge Papas adjusted to this level, he played varsity football and basketball for the remainder of his high school years; he was named captain of both teams and was selected to the all-conference and all-state teams in both sports. His accomplishments in high school and college were recently recognized when he was inducted into his high school's athletic Hall of Fame. Throughout this time, his coaches worked with his mother and took an active role in his life, watching over him, counseling him, and helping him make difficult decisions. His coaches' influence permeated Judge Papas' entire life, and he continues to maintain contact with many of them, including his high school basketball coach.

The judge's introduction to sports also worked as a positive influence on his social and educational maturity and began a process that honed his talent as a leader. He got involved in many high school and civic activities and was recognized by his school, community, and peers with numerous awards.

In 1962, Judge Papas received a full NCAA scholarship to play football at the University of Nebraska. At that time, freshmen were not eligible to play varsity sports and could participate in only two freshman football games per year. Despite the limitations, in the two games he played—as quarterback and defensive halfback—Judge Papas intercepted four passes, leading his coaches to conclude that he had a natural instinct for the defensive side of the game.

As a result of his stellar defensive performance in those games and later, during the varsity team's spring practice, the coaches met with Judge Papas and encouraged him to accept their view that he had a bright future in football, but as part of the defensive side. The judge had a passion for playing the quarterback



Judge Papas with golfing partner Justice Sandra Day O'Connor.

position, however, and, in summer 1963, he transferred to Northwest Missouri State University, where he immediately became the starting quarterback; he held that position for the final three years of his college career. He was named all-conference player for each of those three years and received an Honorable Mention as an all-American during his senior year. He was also a leader in the university's social and political activities and was recognized for those accomplishments in *Who's Who in Colleges and Universities*.

The extraordinary influence of Judge Papas' mother and coaches led him to want to follow their example by becoming a teacher and a coach. He recounts that his mother, coaches, and teachers were his role models, and he wanted to emulate the impact they had on his life. Accordingly, Judge Papas went to college with every intention of becoming a teacher and coach.

All these plans changed when Judge Papas took a course in constitutional law the summer before his senior year in college. During the course, the professor, who was also a practicing attorney, pulled Judge Papas aside and told him that he had natural leadership skills and an aptitude for the law. The teacher suggested that Judge Papas should seriously consider attending law school. To encourage him, the professor and the professor's wife, who was also an attorney, met with Judge Papas throughout the summer and described the positive influence he could have on society and the community as an attorney. They knew from their discussions with him that his objective in seeking to teach and become a coach was always focused on helping children, especially those who were brought up without fathers or had unstable families. After many conversations with both of them, Judge Papas concluded that he could achieve the objectives he had set for himself by becoming an attorney. The judge's serendipitous decision to take this course profoundly changed the direction of his life.

In 1966, Judge Papas entered Drake University Law School and played an active role as a student—beyond merely learning the skills needed to become

an attorney. His natural leadership abilities continued to develop in law school. He was elected president of the Student Bar Association, participated in moot court competitions, was a member of the student-faculty ethics committee, was editor of the school newspaper, and helped establish and direct a legal aid clinic. In his third year, he was honored with the Martin Tollefson Outstanding Student award. Judge Papas graduated from Drake University Law School in 1969 during the peak of the Vietnam War, and he was subject to the compulsory draft. Even though he was married and had a clerkship offer from a justice on Iowa's Supreme Court, the draft board declined his application for a one-year deferment. The judge decided to make the best of the situation and joined the U.S. Marine Corps Judge Advocate General (JAG) program.

Consistent with his history, he fit in very well with the Marine Corps because of his athletic, leadership, and academic prowess, which allowed him to integrate seamlessly into an environment that stressed physical fitness and the esprit de corps for which the U.S. Marine Corps is recognized. Judge Papas' performance in both boot camp and officer training was so exemplary that he was recognized by his peers and instructors with the highest award presented to graduating Marine officers—the Leadership Award.

In September 1970, Judge Papas was stationed at the Marine Corps Recruit Depot in San Diego after completing the training program at the Naval Justice School. During his four years at the San Diego facility, he served at various times as defense counsel or prosecutor in jury and nonjury trials involving special and general courts-martial under the Uniform Code of Military Justice. He was also certified to act as a military judge and provided civil advice to Marines and their dependents. In 1972, while on active duty, Judge Papas passed the California bar examination.

The judge describes his four years in the Marines Corps as a life-changing experience. Indeed, according to Judge Papas, he left the Marines a completely different person. As a natural consequence of his interaction with Marines as a JAG officer and as an outgrowth of the intense training process all Marines undergo, Judge Papas formed extremely powerful bonds with fellow Marines and their families. To this day he considers them among his closest friends. Those bonds were so strong that he considered making the Marine Corps a career. However, he ultimately decided to leave the Marines because of the exodus of many of his close friends and the desire to provide a permanent home in San Diego for his wife and daughter, who was born during his tour at the Marine Corps Recruit Depot. He left the Marine Corps on Dec. 31, 1973, with the rank of captain and was promoted to major during his participation in a Reserve unit.

In January 1974, Judge Papas joined the law firm of Hervey, Mitchell, Ashworth & Keeney, where he practiced in the fields of corporate, business, and real

estate law. Judge Papas remembers his three years with the firm as an exceptional learning experience, during which the foundation for his success as an attorney was enhanced. In 1977, he decided to spread his wings and start his own practice. Judge Papas relates that the law firm that he left, in a gesture not often seen then or today, was extremely gracious and sent letters to all the clients he had been assisting for the firm, advising them that Judge Papas was striking out on his own and giving them the option to stay with the firm or follow Judge Papas to his own practice. Thanks to the firm's generous support, Judge Papas was able to begin his solo practice with a "soft landing."

Over the next 14 years Judge Papas' litigation practice expanded into a variety of other related areas, including construction, partnership, corporate, and professional negligence matters. The latter came about as a result of the strong relationships he had developed with his Marine Corps comrades, the lawyers in the community, and the clients he represented. As a result of those bonds and his skills, Judge Papas developed a reputation of being able to deal with people regarding difficult and sensitive matters. Professionals both in and out of the legal field began to seek his counsel and refer to him cases that required a delicate touch or considerable discretion. As his reputation grew, so did the nature and significance of the cases he handled. Because of their sensitive nature, to this day, many of the matters he handled remain confidential, as do his clients.

Throughout his 14 years in solo practice, Judge Papas also became actively engaged in the legal community. He continued to be active in sports with his former Marine Corps colleagues and created a bar sports awards banquet for the San Diego County Bar Association, at which such respected figures as the former football coaches of Marquette University and University of California at Los Angeles, Al McGuire and John Wooden, respectively, attended and distributed the annual awards. Judge Papas was elected to the San Diego County Bar Association's Board of Directors, volunteered as a judge pro tempore, and arbitrated hundreds of attorney-client fee disputes as part of the county bar's fee dispute arbitration program. The judge had a talent for resolving cases sent to him for arbitration, and his peers selected him to arbitrate more matters than he had time to accommodate.

The next most seemingly insignificant decision that ultimately changed Judge Papas' professional life was made in 1989, when a free week-long mediation program was offered to local attorneys. Judge Papas was not familiar with mediation and not interested in attending the program. He initially resisted but finally—and grudgingly—agreed to accompany a persistent friend. What came next was a moment in life that few experience: the realization that one has found one's life's passion. By the morning of the second day of the program, Judge Papas knew he had a talent for media-

tion. He was energized and excited by the experience and found that mediation was the piece of the puzzle that put all the other aspects of his professional life in perspective and in the proper order.

Although he had not focused on his ability to deal with people effectively, Judge Papas had a natural aptitude for relating to people—similar to his innate athletic and leadership talent. Long before discovering mediation, the judge had a knack for connecting with people, but he found that mediation awoke in him the perfect blend of being able to relate to people and help them achieve a positive result in a negative and polarized environment. After the mediation training program, Judge Papas asked the San Diego Superior Court to change his panel designation from arbitrator to mediator. The presiding Superior Court judge agreed to the change, and Judge Papas found that, as a result, he received even more requests from litigants than he had received as an arbitrator (many of which he had performed *pro bono*).

Judge Papas was so smitten by the mediation process that he and his wife sat down to consider a transition into a full-time mediation practice. His wife, who at the time had been his office manager, closest friend, and adviser for nearly 12 years, discussed with the judge all the possible implications of such a move, including the impact on their family. Ultimately, they agreed that it was the right thing for him to do, and they began to set a plan that would allow an appropriate amount of time for such a transition.

While continuing to conduct his practice, the judge and his wife prepared letters that they agreed should be sent to the hundreds of contacts he had formed in the legal community over the years. The plan was to offer to mediate the cases that lawyers believed were financially significant enough to keep but that were also marginally profitable if forced to trial. Judge Papas and his wife were confident that, once provided the opportunity, his colleagues and other professionals would see the benefits of mediation and that the natural expansion of that recognition would lead to a full-time mediation practice. Judge Papas and his wife prepared draft letters to contacts, but as fate would have it, another seemingly innocent event caused another dramatic turn in the judge's life, and the letters were never sent.

During the period when he and his wife were polishing the language of the introductory letters, they had a social conversation with a local federal district judge. When Judge Papas and his wife told the district judge of his plans, the district judge informed Judge Papas that a new magistrate judge position was opening in the Southern District of California within the next year and explained that magistrate judges would be increasingly involved in mediation.

The rest is history. Judge Papas applied for the position, was selected by the district judges, and was sworn in as a magistrate judge on June 26, 1991, before his family, extremely proud mother, and fellow

judges. His mother saw all her sacrifices and hard work rewarded that day.

Judge Papas' good nature and personality were clearly exhibited during his informal swearing-in ceremony that day. As the judge prepared to don his robe, his wife intentionally lowered one of the arms of the robe to make him look down to find the sleeve. When he looked up, everyone in the room—including the judges—had donned Groucho Marx-style fake nose, glasses, and mustaches in honor of the judge's uncanny resemblance to Groucho Marx. Judge Papas' wife had orchestrated the entire event and the judges present that day still have these souvenirs. Judge Papas began his third eight-year term as magistrate judge on June 26, 2007.

After a few years as a judge and because of back surgery necessitated when he was struck by a drunk driver, the judge was forced to give up virtually all the sports he loved so much. He refused to become sedentary, however, and his doctors agreed that it would be safe for him to participate in some kind of low-impact sport. Therefore, the judge shifted the focus of his athletic endeavors to the less physically demanding sport of golf. Even though he was advised that most successful amateur golfers take up the game at an early age, that caution did not deter Judge Papas. He attacked the sport as he did all other aspects of his life and, as with mediation and earlier activities, developed a passion for the sport. Despite taking up golf when he was in his mid-40s, he has been able to achieve and maintain a single-digit index. The judge has found that golf emulates life—you have to accept responsibility for your actions and you cannot blame anyone else for your mistakes.

Among the judge's proudest moments as a golfer has been the opportunity to play and become acquainted with Justice Sandra Day O'Connor. He first played with Justice O'Connor and her husband at a Ninth Circuit Judicial Conference golf event in the mid-1990s and after that played golf with her at a number of other similar events. He says that Justice O'Connor was one of the most enjoyable golf partners with whom he ever played a round of golf and values the time he spent with her on various golf courses.

Having spent a great deal of time observing and interacting with the judge, I can say with a high degree of confidence that Judge Papas has a remarkable understanding of human nature and behavior—as one must have to be a skilled mediator—and he uses this aptitude both in his role as a judge on the bench and as a mediator in less formal settings. He can successfully relate to and empathize with people from all stations of life and is completely unaffected by social status or wealth; he treats everyone the same way. Judge Papas is the poster person for the saying that justice is blind.

As an example, he has the ability to engender the respect of even those who are faced with significant time in custody and thus have little incentive to re-

act to others with any level of courtesy and respect. During part of the time I observed Judge Papas, he accepted a guilty plea from an extremely hostile defendant who grudgingly admitted to drug trafficking. Throughout the proceedings, Judge Papas' demeanor diffused the tension created by the defendant's hostile attitude. The judge maintained the same moderate tone of voice and approach he employed with other defendants who were more cooperative and less vocal and—much to my amazement—in a short period of time succeeded in gaining the genuine cooperation of this initially hostile defendant.

In discussing the episode later in chambers, Judge Papas explained that he believes that when a defendant acts out, the behavior is often not a response to him as a judge but merely a façade that masks the defendant's fear, shame, and frustration. Treating the defendant in those circumstances with respect, regardless of any acting out, diffuses the emotional temperature and allows the defendant to save face and preserve some self-esteem. The judge said that his mother taught him that he should be a good listener and be polite and also that everyone deserves to be treated with respect. He went on to say that doing so offers a high probability that the other person will reciprocate.

Judge Papas credits many people in his life for helping him, including his mother, wife, children, and coaches—all of whom have smoothed the path for him and helped lay the foundation for his ability to interrelate with others successfully. Judge Papas approaches relations with all individuals with the same level of respect, regardless of their situation and status, and works tirelessly to understand each person's background, reasoning, and motivation. The judge believes that, just as criminal defendants deserve respect and understanding no matter what their station in life, so do civil litigants, who invariably come to a mediation session with a sense of frustration, irritation, and anger over an affront that has led them to where they find themselves. This empathetic approach allows Judge Papas to understand their motivations more fully and permits him to assist them in a meaningful way during mediation sessions.

The saying goes, "The proof is in the pudding," and nothing exemplifies the mediation skills Judge Papas has developed better than his most recent success in a bankruptcy case involving two Roman Catholic dioceses. Over the 16 years that he has been on the bench, Judge Papas has handled mediations in more than 3,000 cases and has become recognized for his ability to resolve the most difficult disputes. This skill was most recently tested when he was specially tasked with mediating claims in a Chapter 11 bankruptcy proceeding filed by the Roman Catholic Diocese of San Diego. The claims also included those asserted against the Roman Catholic Diocese of San Bernardino. In June 2007, Judge Papas was asked to take on that special mediation project in addition to



Judge Papas during his recent visit to India.

his regular responsibilities.

Bankruptcy Judge Louise DeCarl Adler, before whom the Chapter 11 bankruptcy proceedings were pending, asked and received permission from the chief district judge to engage Judge Papas as the mediator for those bankruptcy claims. Judge Papas immediately agreed and injected himself into the project with the same passion he brought to all other aspects of his life and his usual process of trying to understand what it would take to bring the parties to resolution.

According to Bankruptcy Judge Adler, Judge Papas

met with the San Diego Diocese parties, including Bishop Brom; he met with the San Bernardino Diocese parties; he met with the insurers, the counsel for the individual victims—including many of the victims, the counsel for the Official Creditors Committee, the counsel for the Diocese, and the defense counsel for the Diocese in the individual abuse cases. He met on Saturdays, Sundays, and well into many nights—all within a compressed period of time. The hundreds of hours he devoted to this effort have borne fruit. I am as grateful to him as the parties are for his assistance in this case.

In all, between June and September 2007, Judge Papas spent more than 800 hours of his personal time on the case. He is very proud that the San Diego Diocese case came to a resolution. The case was not only settled, but the judge is proud that, in that compressed period of time, the parties were able to accomplish what they could not achieve, despite sincere efforts, over the four previous years that the cases had been pending in the state courts. He is most proud of the fact that, despite being one of the largest settlements

of its kind in the United States, the entire process—from the time he became involved through settlement, documentation, and payment—is likely to take less than one year. This is a far shorter time than it has taken to resolve any other dioceses abuse proceeding of this magnitude. Similar cases in other jurisdictions have taken years to resolve.

Judge Papas has also been called upon to contribute his knowledge and skills as a mediator in other countries. He was invited, as part of a team, to assist the High Courts of Delhi and Bangalore as well as representatives of the Supreme Court of India in implementing and refining the establishment of a mediation program as part of India's efforts to establish alternative dispute resolution programs. In September 2005, Judge Papas traveled to India for two weeks to assist in the coaching and training of judges and to help evaluate the training program in New Delhi. After his return, Judge Papas maintained contact with many of the judges and continued to provide assistance via phone and e-mail when called upon to do so.

In March 2007, Judge Papas returned to India to help implement an expanded mediation program in Bangalore. He counseled, advised, and trained judges and attorneys for nearly a month. He found the people fascinating and was honored to help spread his passion for mediation to the students. While in India, Judge Papas immersed himself in the culture, including living on a diet of vegan cuisine and learning the rules of cricket, a sport passion in India often discussed over dinner.

Judge Papas has also continued his history of active involvement in teaching young children and disadvantaged youth. In recognition of his contributions to the community he was selected by the San Diego County Bar Association as the 2003 Jurist of the Year. He also takes part in many community outreach activities, including active participation in the San Diego Bar Association's Children at Risk Program, where he was instrumental in creating a mock criminal trial video that won national American Bar Association awards and is used as a community outreach program throughout California and many parts of the United States. He and others use the video as part of presentations to racially diverse and underperforming elementary schools each year. The judge engages the children in discussions and educates them about the judiciary and the legal system. I accompanied Judge Papas on one of these visits and can attest to his natural ability to convey complex concepts in a way that children can understand. His grandfatherly demeanor and tone quickly put the children at ease, and he effortlessly commands the attention of 30 eight-year-olds. In addition, the judge has initiated a reading program at one of the underperforming schools in the community. Children have always held a special place in the judge's heart and his involvement in these programs allows him the opportunity to influence a child's life in a way that is similar to the impact his football and

basketball coaches had on him.

Judge Papas is blessed with a loving and devoted wife, who was originally his friend, then became his bookkeeper and office and personnel manager as well. That relationship has evolved into a 25-year marriage and produced a son, who is a recent Ironman Triathlon competitor and graduate of the University of California at Berkeley. Judge Papas also has a daughter—a graduate of University California at Los Angeles and a triathlete—who is married to a successful businessman, who has transplanted himself to the West Coast from his original home state of Pennsylvania. The couple has graced the judge and his wife with a grandson named after the judge's father and, by the time the reader reads this profile, a granddaughter. They live close the judge and his wife, but not close enough for Papou and Nana.

Judge Papas has taught me many important life lessons, and I have been struck by his caring and genuinely kind nature. Listening to his story, one can truly understand how unpredictable life's many turns can be and how no amount of planning can prepare one for the unexpected. In the face of this uncertainty, Judge Papas' journey also teaches that opportunities abound when you work hard, act with dignity and honor, and embrace opportunities when they present themselves. Even for those who have long-range plans in place, Judge Papas advises them to keep an open mind, because one never knows when the next seemingly insignificant event may come along and change one's path.

Judge Papas fondly looks back at the sequence of the subtle twists and turns of events that led him to where he is today and is grateful for the influences that shaped his success. The judge has truly embodied what makes the legal profession great, and he continues to be a respected fixture in the San Diego legal community. He has truly earned the title *The Honorable* Leo S. Papas. **TFL**

A. Joshua Fuladian is a third-year law student at the University of San Diego School of Law. He would like to thank Judge Papas for generously setting aside time for this article and for being his role model.