

# **JUDICIAL PERFORMANCE PROGRAM**

## **2017 REPORT**

**THE JUDICIARY  
STATE OF HAWAII**

**October 12, 2017**

# **JUDICIAL PERFORMANCE PROGRAM 2017 REPORT**

## **INTRODUCTION**

The Judicial Performance Program 2017 Report summarizes the results of evaluations involving five Appellate Court justices and judges, seven Circuit Court judges, and nine Family Court judges. The attorney evaluations were conducted over the Internet.

To ensure the security, anonymity, and confidentiality of the evaluation process, it was administered by Hawai'i Information Consortium. Hawai'i Information Consortium maintains and manages the eHawaii.gov web portal. It is a company that is completely independent of the Judiciary.

The Judicial Performance Program was created by Supreme Court Rule 19 as a method of promoting judicial competence and excellence. The members of the Judicial Performance Committee are listed in Appendix A.

## **JUSTICES' AND JUDGES' RATINGS**

Appellate justices and judges are rated on Fairness/Impartiality, Written Opinions, Oral Argument, and Overall Evaluation. Trial court judges are rated on Legal Ability, Judicial Management Skills, Comportment, and Settlement and/or Plea Agreement Ability. All yearly reports on the Judicial Performance Program are available to the public. Scores and comments received for individual justices and judges are available to the Judicial Selection Commission, upon its request.

Pictographs displaying frequency distributions of the justices' and judges' ratings are included in this evaluation report. Comparative rankings are provided in each area of assessment.

## **EVALUATION CYCLES**

Appellate justices and judges and Circuit Court judges are scheduled for evaluation three times in their ten-year terms. Full time District Family Court judges and District Court judges are scheduled for evaluation twice in their six-year terms. For purposes of this program, Circuit Court judges assigned to the Family Court of the First Circuit are considered Family Court judges but are evaluated three times during their ten-year terms. A portion of the Per Diem judge pool is scheduled for evaluation every three years.

The full time Family Court and District Court evaluations are phased to result in these courts being included in the evaluation process two out of every three years. About one-half or approximately ten judges from each group are evaluated per cycle. Evaluation of District Court, but not of Family Court, judges was conducted in 2016. Evaluation of Family Court, but not of District Court, judges was conducted in 2017. Evaluations of both full time Family Court and full time District Court judges are scheduled for 2018.

## **JUDICIAL EVALUATION REVIEW PANEL**

The Judicial Evaluation Review Panel assists Chief Justice Mark E. Recktenwald in the review and evaluation process. The Review Panel interviews the justices and judges and consists of nine members: Robert Alm, Momi Cazimero, Kenneth Hipp, Douglas McNish, Willson Moore Jr., Shackley Raffetto, William Santos, Corinne Watanabe, and Ruthann Yamanaka. The Review Panels are organized into groups of three; every effort is made for each panel to consist of one former judge, one nonpracticing attorney, and one member of the public knowledgeable in the law. Their purpose is to interview and counsel the evaluated justices and judges and to help the justices and judges improve their performance.

## APPELLATE COURT RESULTS

Five Supreme Court justices and Intermediate Court of Appeals judges received the results of their evaluations under cover of memoranda dated March 22, 2017. Five other justices and judges did not have the minimum eighteen responses needed to be evaluated.

A link to the questionnaire was provided to attorneys by email on February 14, 2017, and the surveys were collected from February 14 to March 10, 2017. The questionnaire is attached as Appendix B.

Possible scores for the multiple-choice format range from one to five. One indicates a Never or Poor rating. Five stands for Always or Excellent. Table 1 on page 4 provides the averages for the five Appellate Court justices and judges.

The mean score for the Fairness/Impartiality Section was 4.3, with a standard deviation of 0.4. The standard deviation gives an indication of the variation in the scores of the justices and judges. (A small standard deviation means that scores generally were clustered about the mean; a large standard deviation means that there was less clustering of the scores.) Most of the Appellate Court justices and judges received marks between 3.9 and 4.7 in the Fairness/Impartiality Section.

For Written Opinions, the justices and judges had a mean score of 4.1. The standard deviation for this section was 0.5. The mean score for the Oral Argument Section was 4.3, with a standard deviation of 0.4. The mean score for the Overall Evaluation Section was 3.9, with a standard deviation of 0.6. The frequencies of the Appellate Court justices' and judges' ratings, by category, are printed on pages 5 to 8.

There were 181 responses from 5,161 emails sent out to attorneys. This includes responses for the justices and judges who had fewer than eighteen questionnaires. Some of the 181 attorneys said that they had not appeared before any justices or judges. Other attorneys sent in responses with evaluations for more than one justice or judge. The number of questionnaires received for the five justices and judges totaled 147, with between 21 and 40 questionnaires per justice or judge.

**TABLE 1**  
**JUDICIAL PERFORMANCE PROGRAM - APPELLATE COURTS**  
**EVALUATION RESULTS FOR FIVE JUSTICES AND JUDGES**  
**FEBRUARY 14, 2017 - MARCH 10, 2017**

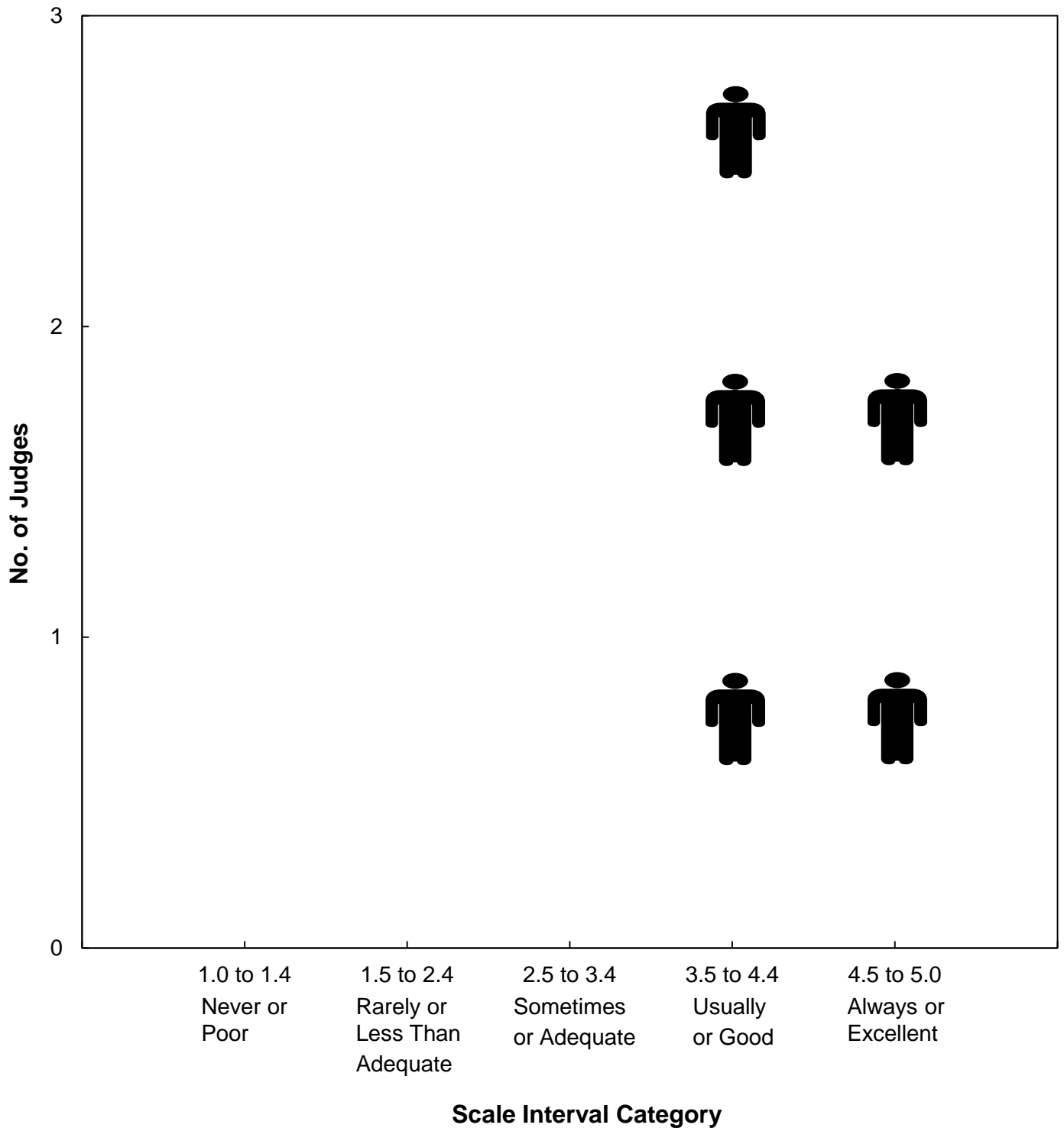
<b><u>QUESTIONNAIRE SECTION</u></b>	<b><u>N</u></b>	<b><u>Mean Score</u></b>	<b><u>S.D.</u></b>
<b><u>FAIRNESS/IMPARTIALITY SECTION</u></b>			
1. Removes him/herself from any action that is, or appears to be, a conflict of interest.	5	4.1	0.5
2. Treats all parties fairly regardless of race, age, gender, economic status, or any other reason.	5	4.5	0.4
3. Treats all parties fairly regardless of position (e.g., plaintiff/defendant, prosecutor/defense attorney, particular attorneys, etc.).	5	4.3	0.4
4. Strives to be impartial on all issues.	5	4.2	0.5
5. Contributes in a meaningful way to administrative committees he or she is assigned to.	4	4.4	0.5
Average Score for the Fairness/Impartiality Section	5	4.3	0.4
<b><u>WRITTEN OPINIONS SECTION</u></b>			
1. In opinions authored by this justice/judge, he or she demonstrates knowledge of relevant substantive law at issue.	5	4.1	0.5
2. In opinions authored by this justice/judge, he or she demonstrates legal reasoning ability.	5	4.1	0.5
3. Overall quality of written opinions authored specifically by this justice/judge.	5	3.9	0.5
Average Score for the Written Opinions Section	5	4.1	0.5
<b><u>ORAL ARGUMENT SECTION</u></b>			
1. In oral argument, this justice/judge exhibits dignified behavior.	5	4.4	0.5
2. This justice/judge is courteous to counsel at oral argument.	5	4.4	0.5
3. In oral argument, this justice/judge is attentive during proceedings.	5	4.5	0.3
4. In oral argument, this justice/judge shows patience during proceedings.	5	4.3	0.5
5. I would rate the relevance of questions posed by this justice/judge to counsel on issues raised by the parties as	5	4.0	0.6
6. I would rate the preparation for oral argument by this justice/judge as	5	4.2	0.5
Average Score for the Oral Argument Section	5	4.3	0.4
<b><u>OVERALL EVALUATION SECTION</u></b>			
1. Overall evaluation of judicial performance.	5	3.9	0.6
N = Number of Justices/Judges with More Than Five Responses for the Item Legend for Mean Score: 5 = Always or Excellent   4 = Usually or Good   3 = Sometimes or Adequate 2 = Rarely or Less Than Adequate   1 = Never or Poor S.D. = Standard Deviation			

## Appellate Courts

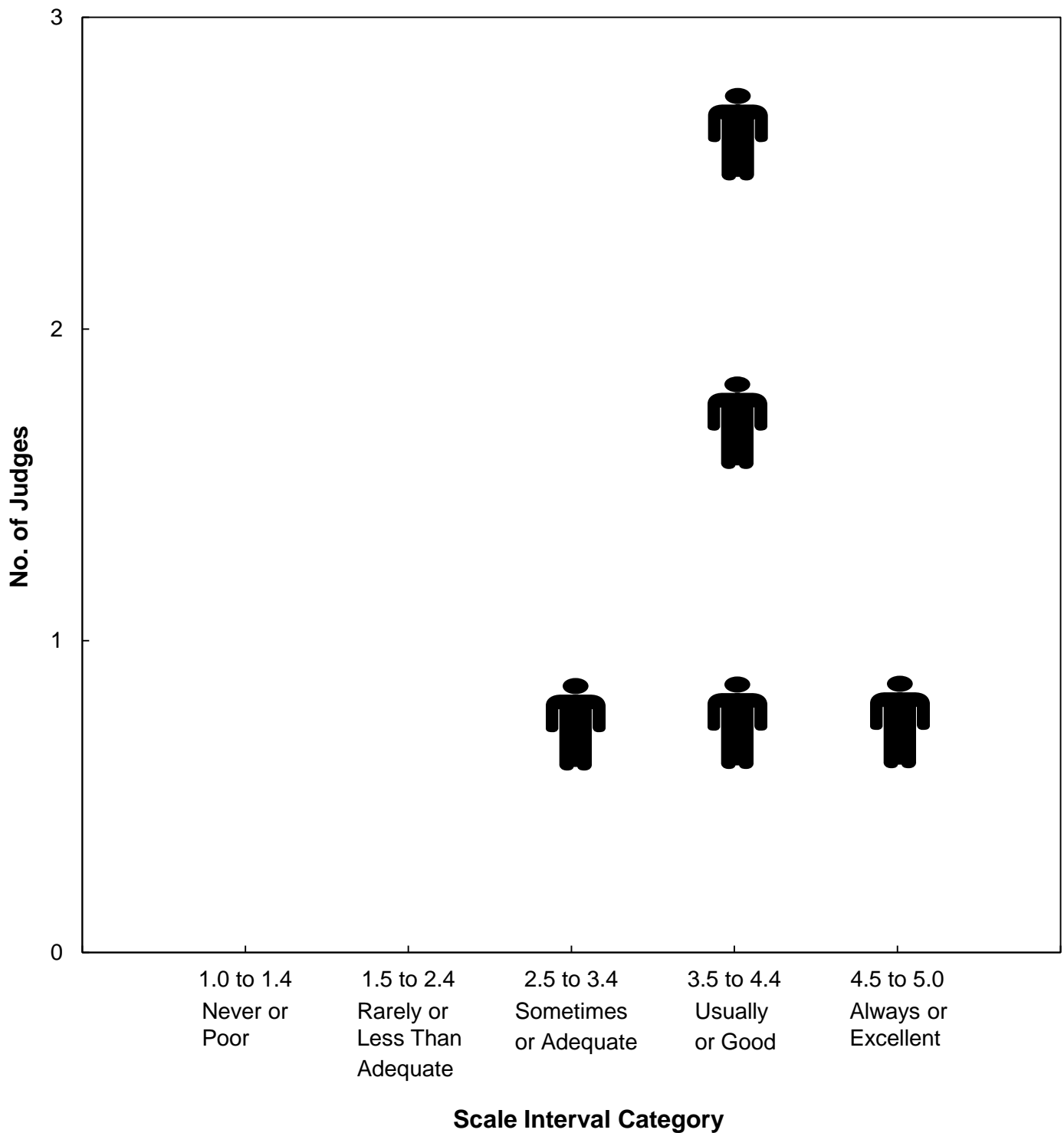
### Graph 1. Fairness/Impartiality Scale

Frequency Of Justices'/Judges' Ratings, By Category

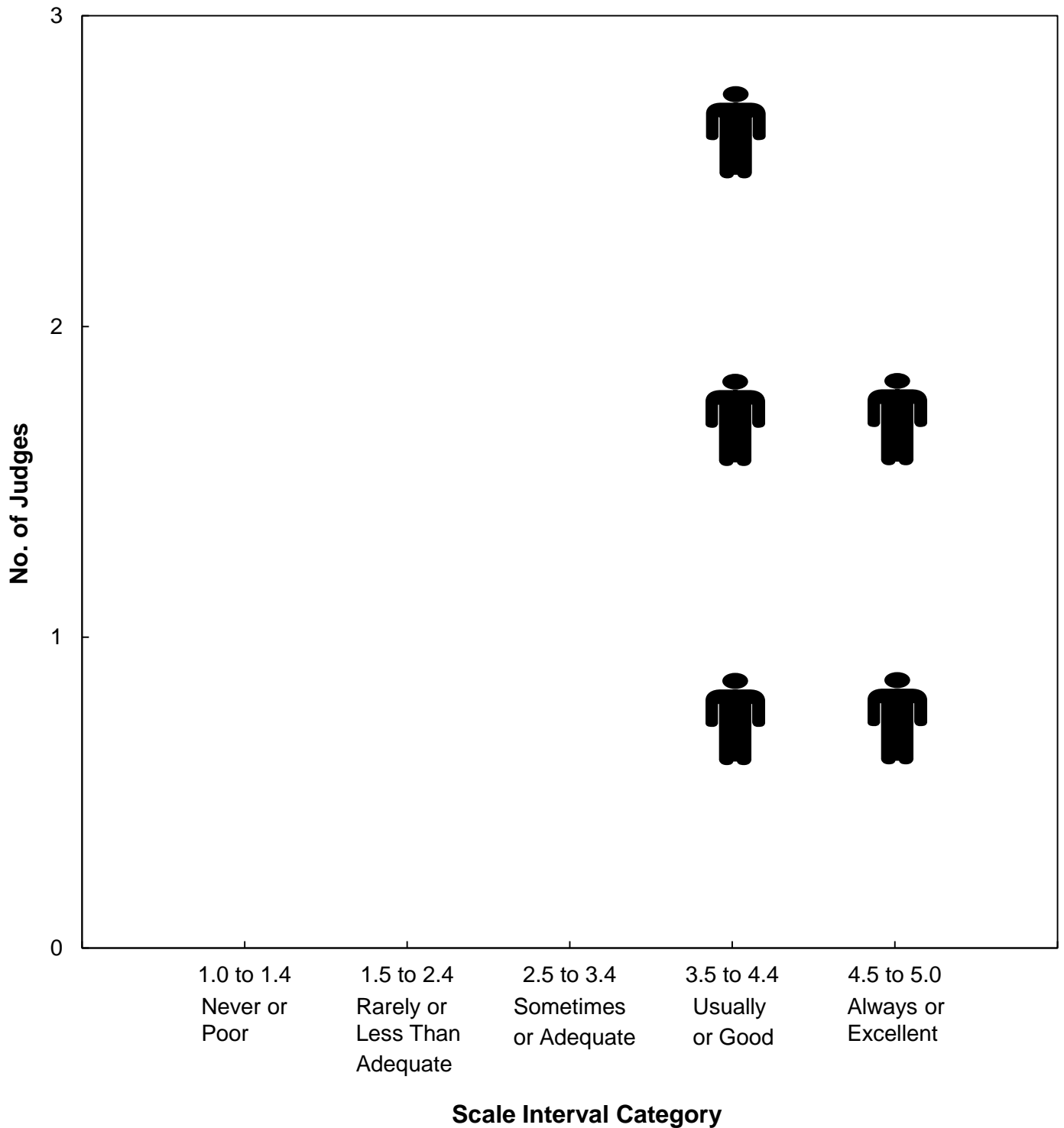
February 14, 2017 – March 10, 2017



**Appellate Courts**  
**Graph 2. Written Opinions Scale**  
**Frequency Of Justices'/Judges' Ratings, By Category**  
**February 14, 2017 – March 10, 2017**

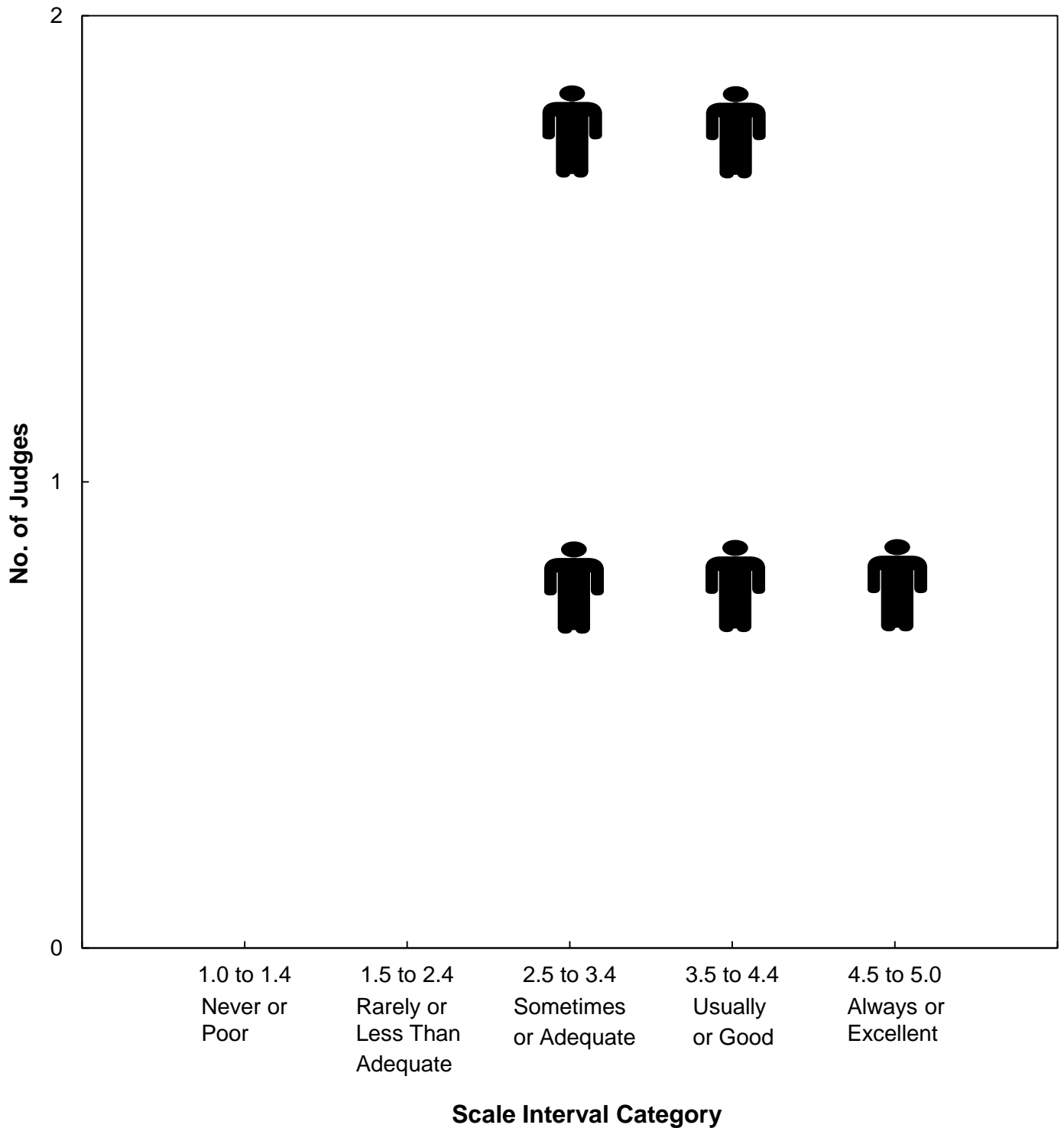


**Appellate Courts**  
**Graph 3. Oral Argument Scale**  
**Frequency Of Justices'/Judges' Ratings, By Category**  
**February 14, 2017 – March 10, 2017**





**Appellate Courts**  
**Graph 4. Overall Evaluation Scale**  
**Frequency Of Justices'/Judges' Ratings, By Category**  
**February 14, 2017 – March 10, 2017**



## **CIRCUIT COURT RESULTS**

Seven Circuit Court judges received the results of their evaluations under cover of memoranda dated October 6, 2017. A link to the questionnaire was provided to attorneys by email on June 20, 2017. The surveys could be filled out from June 20 to July 14, 2017.

Although nine judges were selected for the evaluation, only seven judges received at least the eighteen responses required to be included. The other judges did not receive evaluation reports.

The email to attorneys from Chief Justice Recktenwald is printed in Appendix C. The questionnaire is provided in Appendix D. Table 2 on page 10 provides the averages for the seven judges.

The mean score for the Legal Ability Section was 4.1, with a standard deviation of 0.3. Most of the judges scored between 3.8 and 4.4 in this section.

The mean score for the Judicial Management Skills Section was 4.0, with a standard deviation of 0.3. The mean score for the Comportment Section was 4.3, with a standard deviation of 0.4. The mean score for the Settlement and/or Plea Agreement Ability Section was 4.0, with a standard deviation of 0.4. The frequencies of the judges' ratings, by category, are printed on pages 11 to 14.

There were 336 responses from attorneys out of 4,602 emails sent out. The number of responses did not equal the number of questionnaires received. A reminder email is provided in Appendix E. The number of questionnaires received for the seven judges totaled 357, with between 21 and 106 questionnaires received for each judge.

**TABLE 2**  
**JUDICIAL PERFORMANCE PROGRAM - CIRCUIT COURT**  
**EVALUATION RESULTS FOR SEVEN JUDGES**  
**JUNE 20, 2017 - JULY 14, 2017**

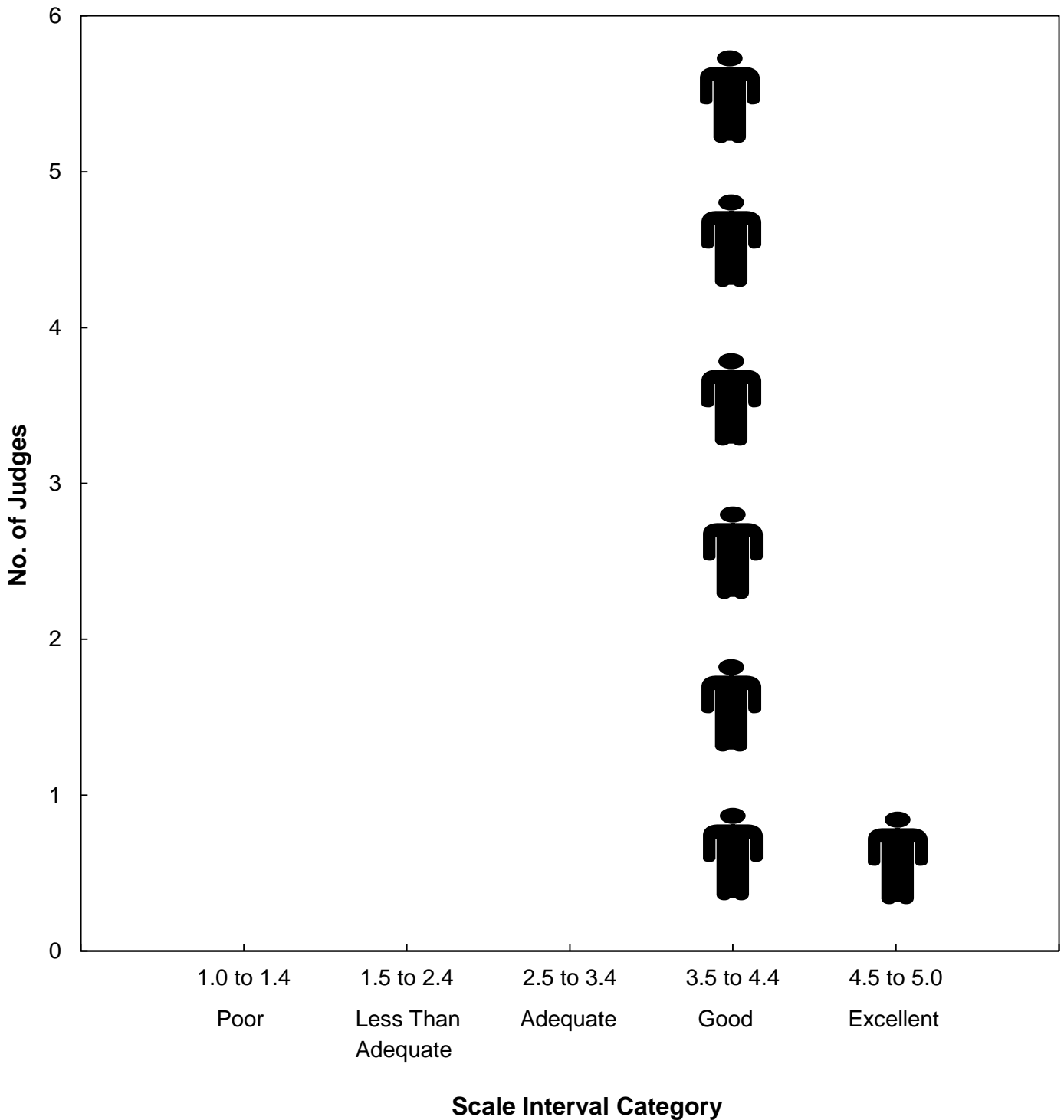
<b><u>QUESTIONNAIRE SECTION</u></b>	<b><u>N</u></b>	<b><u>Mean Score</u></b>	<b><u>S.D.</u></b>
<b><u>LEGAL ABILITY SECTION</u></b>			
1. Knowledge of Relevant Substantive Law	7	4.0	0.4
2. Knowledge of Rules of Procedure	7	4.2	0.3
3. Knowledge of Rules of Evidence	7	4.1	0.4
4. Ability to Identify and Analyze Relevant Issues	7	4.1	0.4
5. Judgment in Application of Relevant Laws and Rules	7	4.0	0.4
6. Giving Reasons for Rulings when Needed	7	4.1	0.3
7. Clarity of Explanation of Rulings	7	4.0	0.3
8. Adequacy of Findings of Fact	7	4.0	0.3
9. Clarity of Judge's Decision(s) (oral/written)	7	4.0	0.3
10. Completeness of Judge's Decision(s) (oral/written)	7	4.0	0.3
11. Judge's Charge to the Jury/Juries	7	4.1	0.5
Average Score for the Legal Ability Section	7	4.1	0.3
<b><u>JUDICIAL MANAGEMENT SKILLS SECTION</u></b>			
1. Moving the Proceeding(s) in an Appropriately Expeditious Manner	7	3.9	0.3
2. Maintaining Proper Control over the Proceeding(s)	7	4.1	0.3
3. Doing the Necessary Homework on the Case(s)	7	4.1	0.3
4. Rendering Rulings and Decisions w/o Unnecessary Delay	7	4.0	0.4
5. Allowing Adequate Time for Presentation of the Case(s)	7	4.2	0.3
6. Resourcefulness and Common Sense in Resolving Problems	7	4.0	0.4
7. Skills in Effecting Compromise	7	3.8	0.4
8. Industriousness	7	4.1	0.3
Average Score for the Judicial Management Skills Section	7	4.0	0.3
<b><u>COMPORTMENT SECTION</u></b>			
1. Attentiveness	7	4.4	0.2
2. Courtesy to Participants	7	4.4	0.5
3. Compassion	7	4.2	0.4
4. Patience	7	4.2	0.6
5. Absence of Arrogance	7	4.3	0.5
6. Absence of Bias and Prejudice	7	4.4	0.2
7. Evenhanded Treatment of Litigants	7	4.2	0.3
8. Evenhanded Treatment of Attorneys	7	4.2	0.3
Average Score for the Comportment Section	7	4.3	0.4
<b><u>SETTLEMENT AND/OR PLEA AGREEMENT ABILITY SECTION</u></b>			
1. Knowing the Case(s) and/or the Law	7	4.1	0.4
2. Reasonableness of Opinions	7	3.9	0.4
3. Ability to Enhance the Settlement Process	7	3.8	0.4
4. Impartiality	7	4.1	0.3
5. Absence of Coercion or Threat	7	4.3	0.4
6. Effectiveness in Narrowing the Issues	7	4.0	0.4
7. Appropriateness of Judge's Initiatives	7	3.9	0.4
8. Facilitation in Development of Options	7	3.8	0.4
Average Score for the Settlement and/or Plea Agreement Ability Section	7	4.0	0.4

N = Number of Judges with More Than Five Responses for the Item

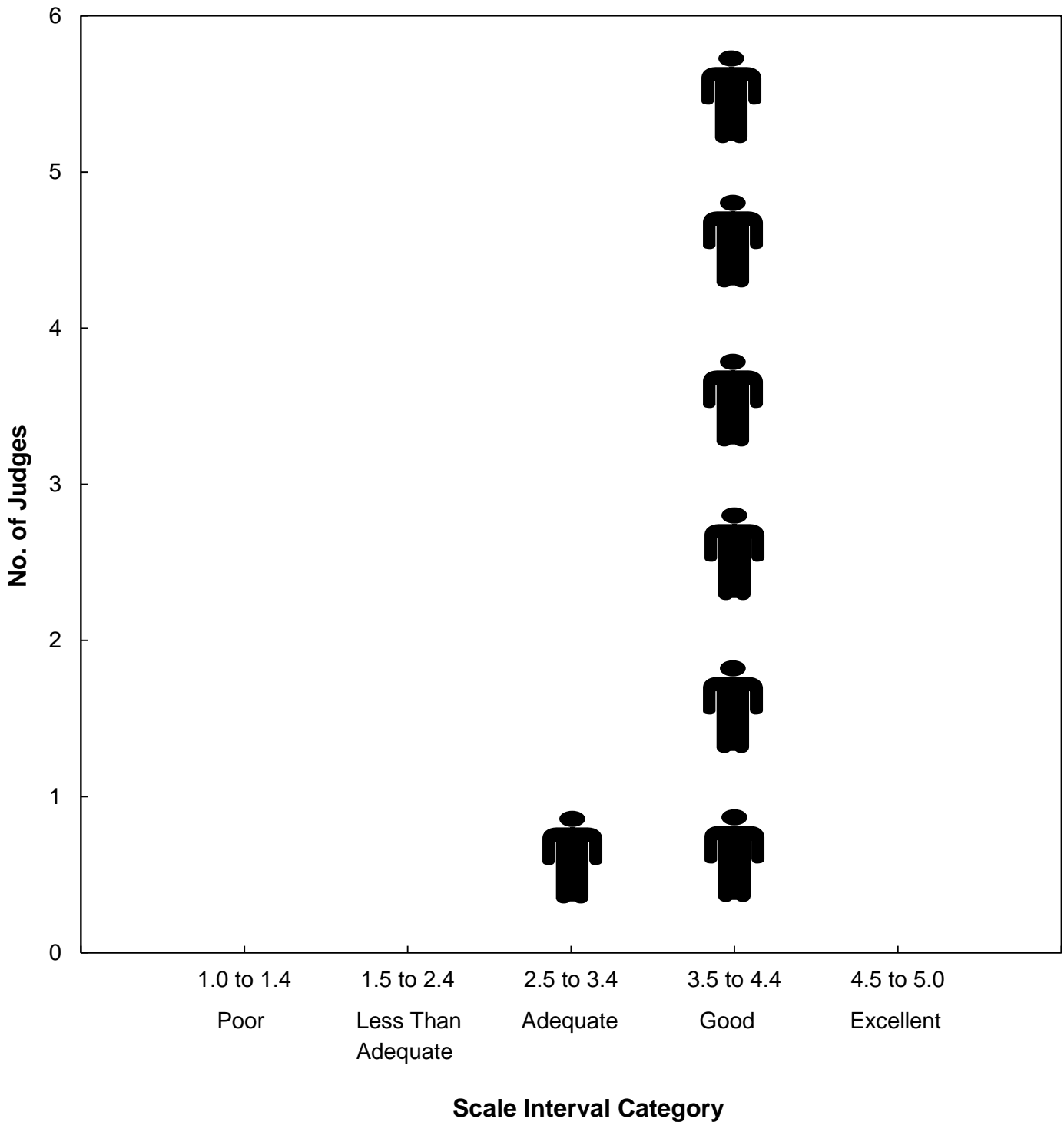
Legend for Mean Score: 5 = Excellent | 4 = Good | 3 = Adequate | 2 = Less Than Adequate | 1 = Poor

S.D. = Standard Deviation

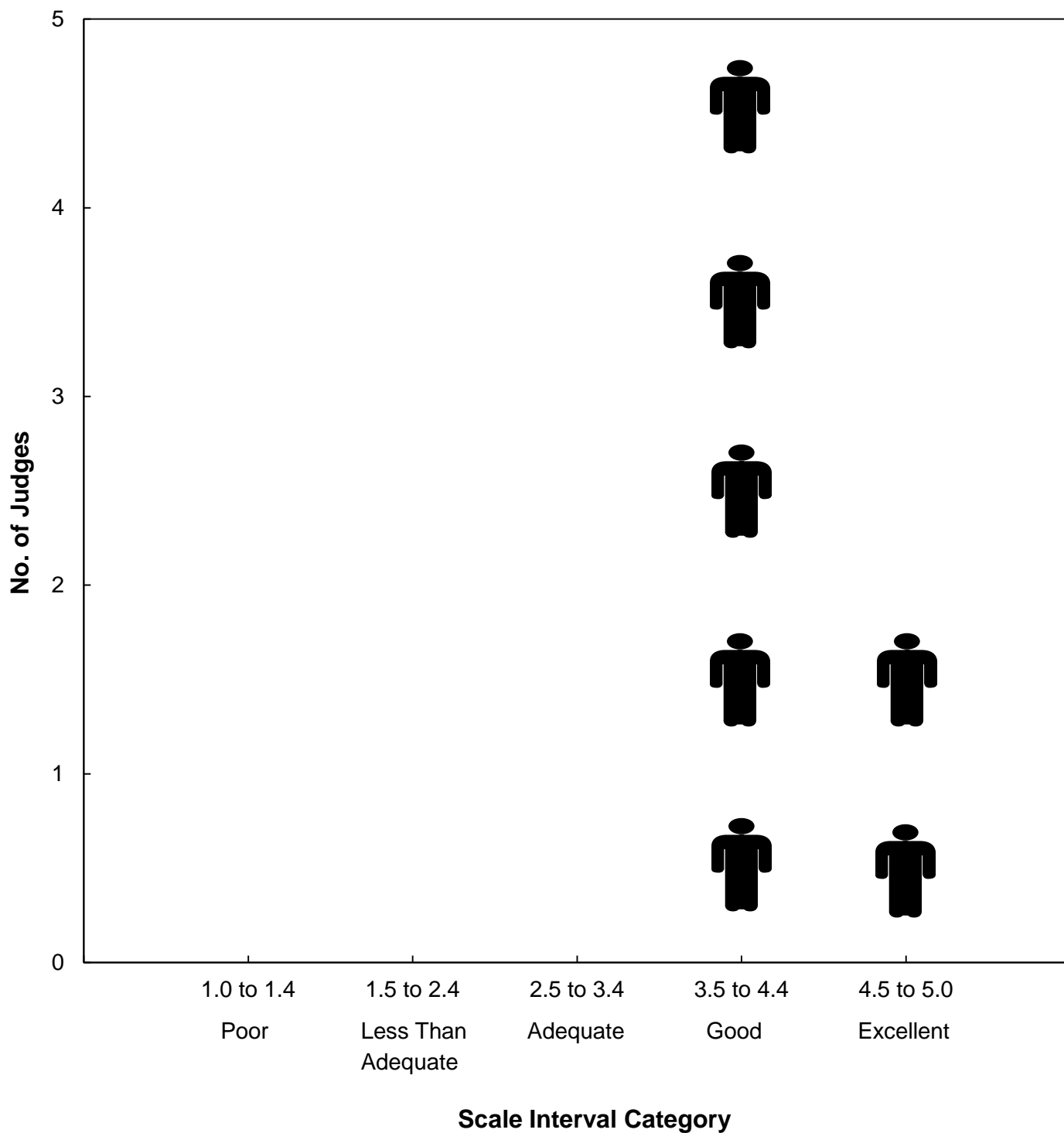
**Circuit Court**  
**Graph 5. Legal Ability Scale**  
**Frequency Of Judges' Ratings, By Category**  
**June 20, 2017 – July 14, 2017**



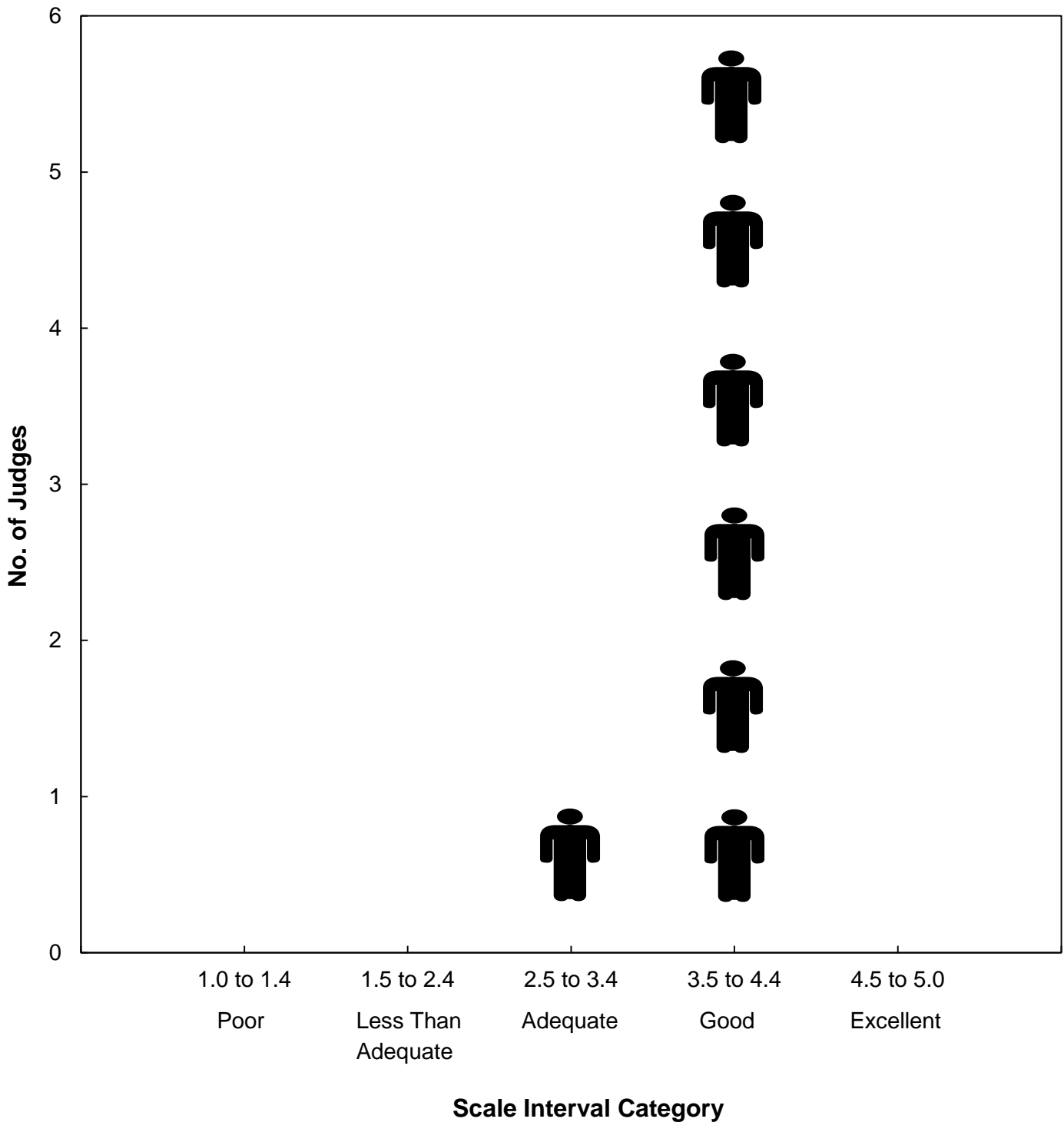
**Circuit Court**  
**Graph 6. Judicial Management Skills Scale**  
**Frequency Of Judges' Ratings, By Category**  
**June 20, 2017 – July 14, 2017**



**Circuit Court**  
**Graph 7. Comportment Scale**  
**Frequency Of Judges' Ratings, By Category**  
**June 20, 2017 – July 14, 2017**



**Circuit Court**  
**Graph 8. Settlement/Plea Agreement Ability Scale**  
**Frequency Of Judges' Ratings, By Category**  
**June 20, 2017 – July 14, 2017**



## **FAMILY COURT RESULTS**

Evaluation results were transmitted to nine Family Court judges by Chief Justice Recktenwald under cover of memoranda dated June 30, 2017. Surveys could be completed from April 11 to May 5, 2017.

Although ten judges were selected, only nine judges received the minimum eighteen responses. The other judge did not receive an evaluation report.

The Family Court questionnaire is printed in Appendix F. Table 3 on the next page provides the averages for the nine judges.

The mean score for the Legal Ability Section was 4.2, and the standard deviation was 0.4. Most of the judges received scores between 3.8 and 4.6.

The mean score for the Judicial Management Skills Section was 4.2, and the standard deviation was 0.3. The mean score for the Comportment Section was 4.2, and the standard deviation was 0.3. The mean score for the Settlement and/or Plea Agreement Ability Section was 4.1, and the standard deviation was 0.4.

Of the 5,162 lawyers who were sent emails, 180 returned evaluations. Some of the 180 lawyers said they had not appeared before any judges, and some lawyers appeared before two or more judges.

The nine evaluated judges received between 20 and 39 evaluations each. The nine judges had a total of 261 evaluations returned.

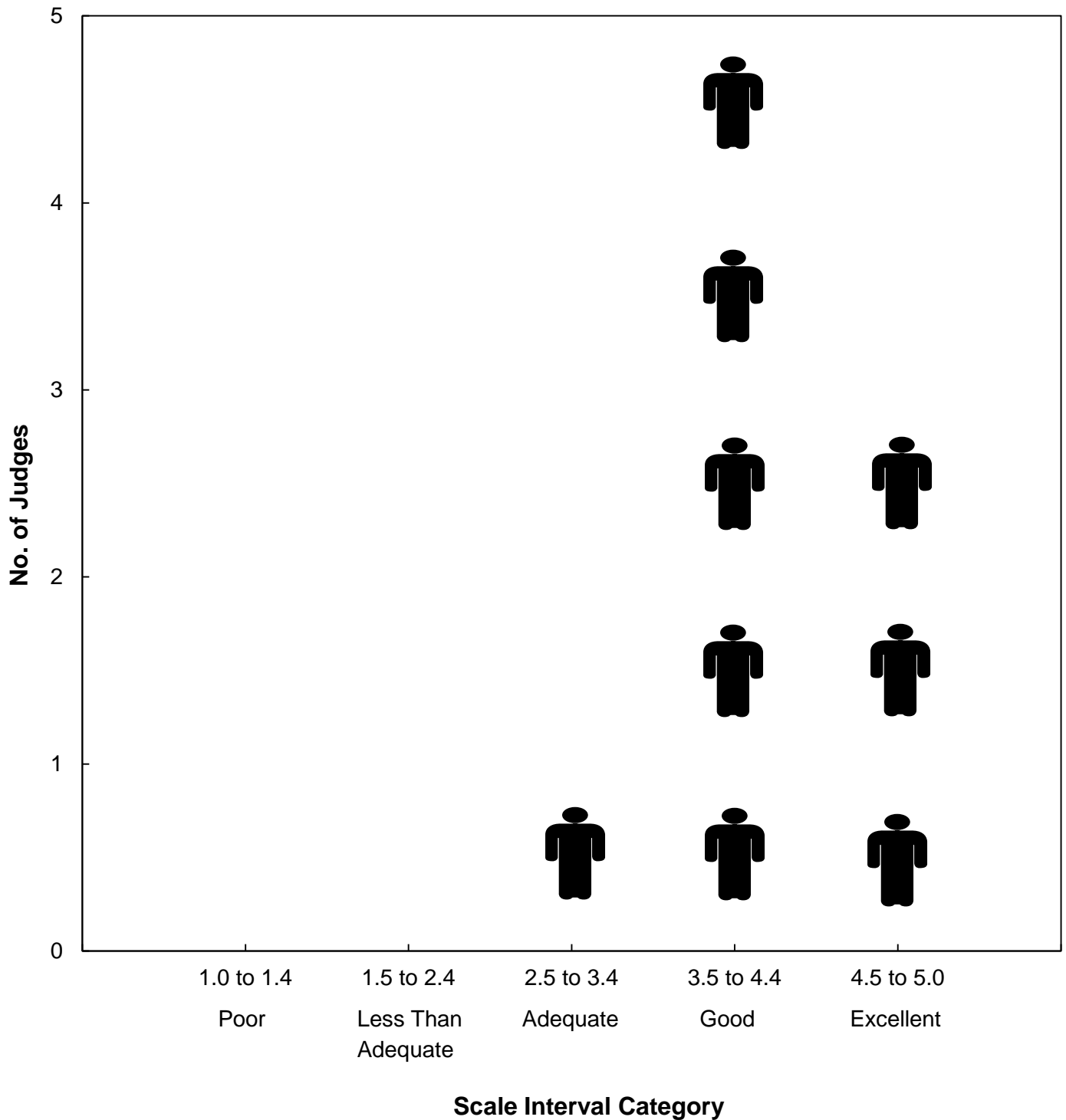


**TABLE 3**  
**JUDICIAL PERFORMANCE PROGRAM - FAMILY COURT**  
**EVALUATION RESULTS FOR NINE JUDGES**  
**APRIL 11, 2017 - MAY 5, 2017**

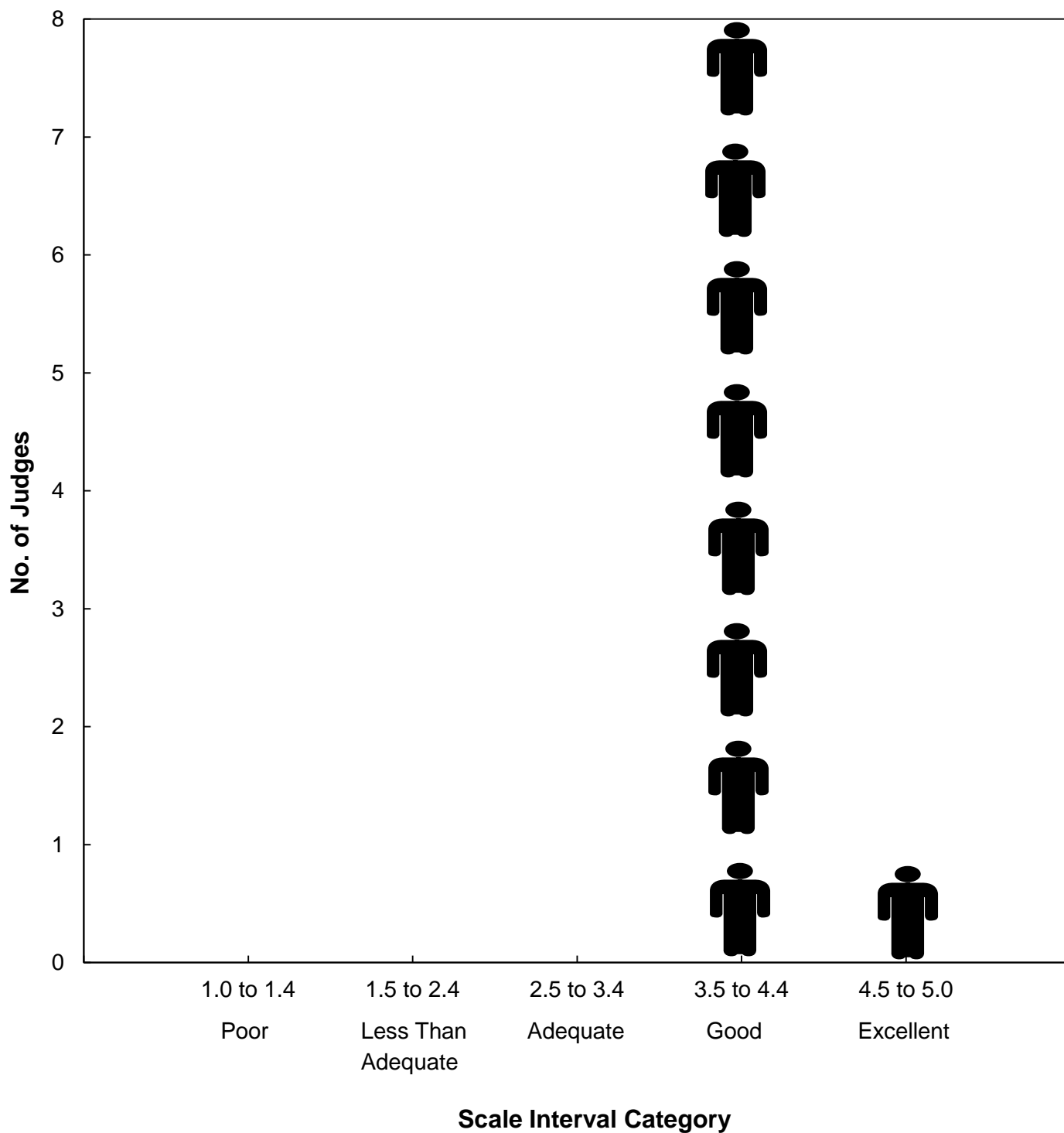
<b><u>QUESTIONNAIRE SECTION</u></b>	<b><u>N</u></b>	<b><u>Mean Score</u></b>	<b><u>S.D.</u></b>
<b><u>LEGAL ABILITY SECTION</u></b>			
1. Knowledge of Relevant Substantive Law	9	4.2	0.5
2. Knowledge of Rules of Procedure	9	4.3	0.4
3. Knowledge of Rules of Evidence	9	4.2	0.4
4. Ability to Identify and Analyze Relevant Issues	9	4.2	0.4
5. Judgment in Application of Relevant Laws and Rules	9	4.1	0.4
6. Giving Reasons for Rulings when Needed	9	4.1	0.4
7. Clarity of Explanation of Rulings	9	4.1	0.4
8. Adequacy of Findings of Fact	9	4.0	0.4
9. Clarity of Judge's Decision(s) (oral/written)	9	4.1	0.4
10. Completeness of Judge's Decision(s) (oral/written)	9	4.1	0.4
11. Judge's Charge to the Jury/Juries	0	---	---
Average Score for the Legal Ability Section	9	4.2	0.4
<b><u>JUDICIAL MANAGEMENT SKILLS SECTION</u></b>			
1. Moving the Proceeding(s) in an Appropriately Expeditious Manner	9	4.2	0.3
2. Maintaining Proper Control over the Proceeding(s)	9	4.3	0.3
3. Doing the Necessary Homework on the Case(s)	9	4.2	0.4
4. Rendering Rulings and Decisions w/o Unnecessary Delay	9	4.3	0.2
5. Allowing Adequate Time for Presentation of the Case(s)	9	4.1	0.4
6. Resourcefulness and Common Sense in Resolving Problems	9	4.1	0.5
7. Skills in Effecting Compromise	9	3.9	0.5
8. Industriousness	9	4.2	0.4
Average Score for the Judicial Management Skills Section	9	4.2	0.3
<b><u>COMPORTMENT SECTION</u></b>			
1. Attentiveness	9	4.4	0.3
2. Courtesy to Participants	9	4.3	0.4
3. Compassion	9	4.1	0.4
4. Patience	9	4.1	0.4
5. Absence of Arrogance	9	4.3	0.4
6. Absence of Bias and Prejudice	9	4.3	0.3
7. Evenhanded Treatment of Litigants	9	4.2	0.4
8. Evenhanded Treatment of Attorneys	9	4.2	0.4
Average Score for the Comportment Section	9	4.2	0.3
<b><u>SETTLEMENT AND/OR PLEA AGREEMENT ABILITY SECTION</u></b>			
1. Knowing the Case(s) and/or the Law	9	4.2	0.4
2. Reasonableness of Opinions	9	4.2	0.4
3. Ability to Enhance the Settlement Process	9	4.0	0.5
4. Impartiality	9	4.1	0.4
5. Absence of Coercion or Threat	9	4.2	0.4
6. Effectiveness in Narrowing the Issues	9	4.2	0.4
7. Appropriateness of Judge's Initiatives	9	4.0	0.5
8. Facilitation in Development of Options	9	4.0	0.5
Average Score for the Settlement and/or Plea Agreement Ability Section	9	4.1	0.4

<p>N = Number of Judges with More Than Five Responses for the Item</p> <p>Legend for Mean Score: 5 = Excellent   4 = Good   3 = Adequate   2 = Less Than Adequate   1 = Poor</p> <p>S.D. = Standard Deviation</p>
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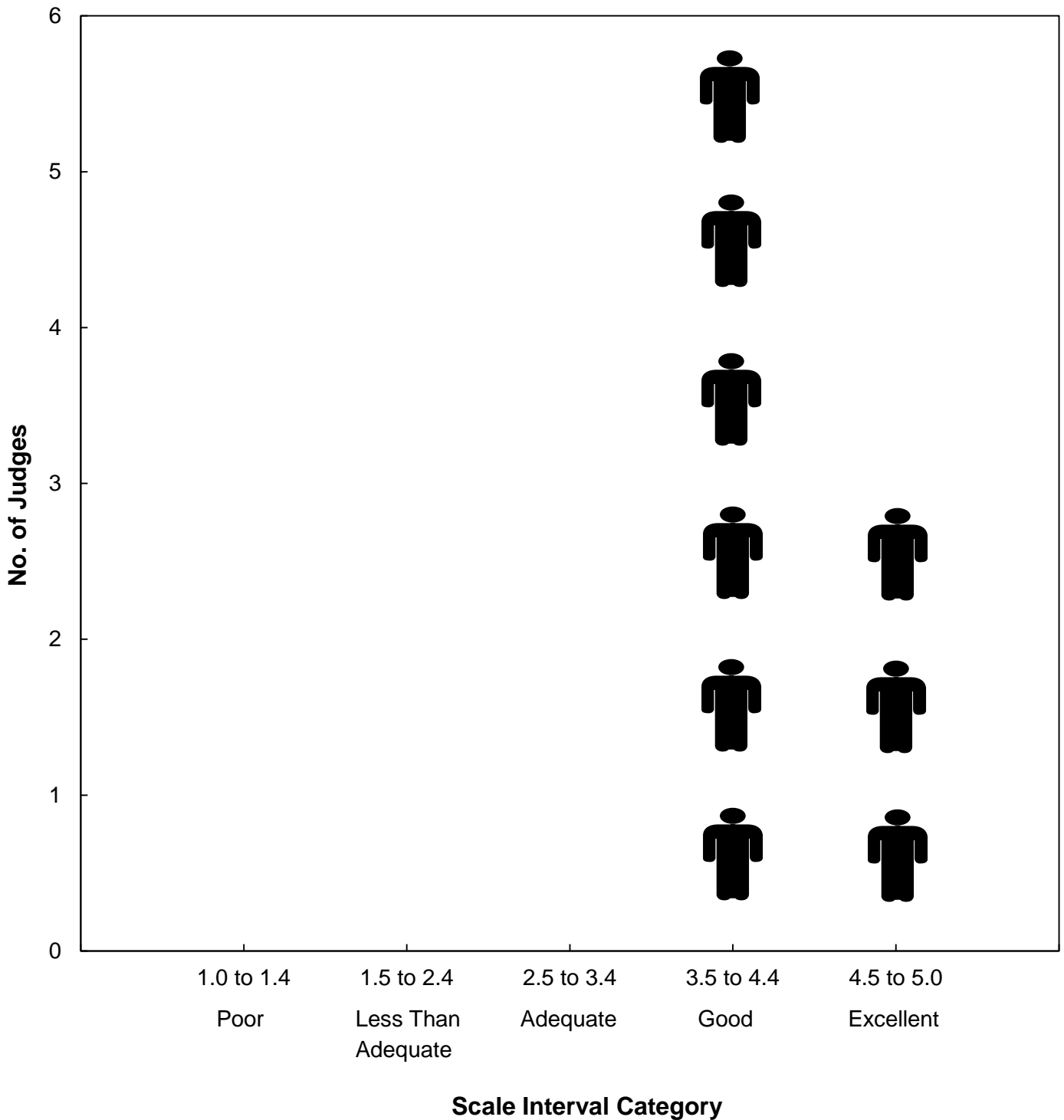
**Family Court**  
**Graph 9. Legal Ability Scale**  
**Frequency Of Judges' Ratings, By Category**  
**April 11, 2017 – May 5, 2017**



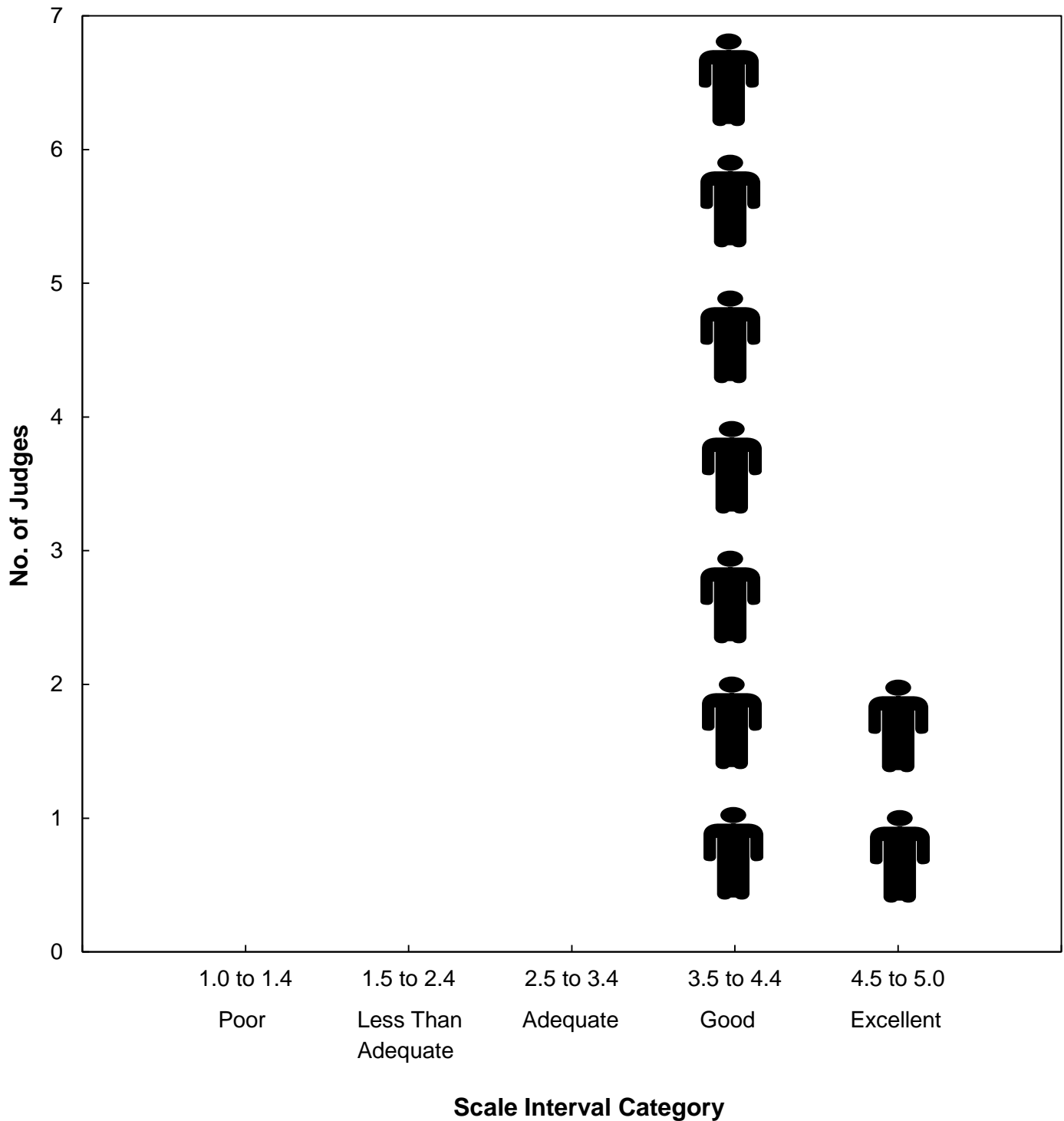
**Family Court**  
**Graph 10. Judicial Management Skills Scale**  
**Frequency Of Judges' Ratings, By Category**  
**April 11, 2017 – May 5, 2017**



**Family Court**  
**Graph 11. Comportment Scale**  
**Frequency Of Judges' Ratings, By Category**  
**April 11, 2017 – May 5, 2017**



**Family Court**  
**Graph 12. Settlement/Plea Agreement Ability Scale**  
**Frequency Of Judges' Ratings, By Category**  
**April 11, 2017 – May 5, 2017**



## **APPENDIX A**

### **MEMBERS OF THE JUDICIAL PERFORMANCE COMMITTEE**

Judge R. Mark Browning, Chair  
Judge Rhonda I. L. Loo  
Judge Clarence A. Pacarro  
Hayley Y.C. Cheng, Esq.  
Claire K. S. Cooper  
Rosemary T. Fazio, Esq.  
P. Gregory Frey, Esq.  
Jeen H. Kwak, Esq.  
Rodney A. Maile, Esq., Administrative Director of the Courts  
R. Patrick McPherson, Esq.  
John S. Nishimoto, Esq.  
Janice Wakatsuki

**APPENDIX B**  
**APPELLATE COURT QUESTIONNAIRE**

Sample

\* 1. Have you had any cases, decided or open, or served on any committee or in any other capacity with this justice/judge during the period from January 1, 2015 to December 31, 2016?

(Note: By answering yes, you will proceed to fill in the evaluation for this justice/judge.

By answering no, you will bypass the questions for this justice/judge.)

☐ Yes

☐ No



## Judicial Appellate Court Evaluation - February 2017

### Sample - Fairness/Impartiality

**Please select the response that best describes your perception of the justice's/judge's performance in any matters you have had before the court during the period from January 1, 2015 to December 31, 2016.**

1. Removes himself/herself from any action that is, or appears to be, a conflict of interest.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

2. Treats all parties fairly regardless of race, age, gender, economic status, or any other reason.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

3. Treats all parties fairly regardless of position (e.g., plaintiff/defendant, prosecutor/defense attorney, particular attorneys, etc.)

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

4. Strives to be impartial on all issues.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

5. Contributes in a meaningful way to administrative committees he or she is assigned to.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

## Judicial Appellate Court Evaluation - February 2017

### Sample - Written Opinions

1. In opinions authored by this justice/judge, he or she demonstrates knowledge of relevant substantive law at issue.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

2. In opinions authored by this justice/judge, he or she demonstrates legal reasoning ability.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

3. Overall quality of written opinions authored specifically by this justice/judge.

☐ Excellent ☐ Good ☐ Adequate ☐ Less Than Adequate ☐ Poor ☐ Not Applicable

## Judicial Appellate Court Evaluation - February 2017

### Sample - Oral Argument

1. In oral argument, this justice/judge exhibits dignified behavior.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

2. This justice/judge is courteous to counsel at oral argument.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

3. In oral argument, this justice/judge is attentive during proceedings.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

4. In oral argument, this justice/judge shows patience during proceedings.

☐ Always ☐ Usually ☐ Sometimes ☐ Rarely ☐ Never ☐ Not Applicable

5. I would rate the relevance of questions posed by this justice/judge to counsel on issues raised by the parties as:

☐ Excellent ☐ Good ☐ Adequate ☐ Less Than Adequate ☐ Poor ☐ Not Applicable

6. I would rate the preparation for oral argument by this justice/judge as:

☐ Excellent ☐ Good ☐ Adequate ☐ Less Than Adequate ☐ Poor ☐ Not Applicable

## Judicial Appellate Court Evaluation - February 2017

### Sample - Overall Evaluation

1. Overall evaluation of judicial performance.

☐ Excellent ☐ Good ☐ Adequate ☐ Less Than Adequate ☐ Poor ☐ Not Applicable

Sample - Background Characteristics

1. Have you served on a committee with this justice/judge?

☐ Yes

☐ No

2. COMMENTS (We understand that anonymity is important. However, the more specific the input, the more useful it will be for the justice/judge. Constructive comments that explain why a justice/judge is viewed positively or negatively will assist the justice/judge more than broad statements that a justice/judge is good or not good. Please remember not to identify yourself.)

## Judicial Appellate Court Evaluation - February 2017

### Sample - Evaluation Complete

\* 1. Thank you for completing the evaluation for \_\_\_\_\_.

- ☐ I would like to fill out an evaluation for another justice/judge.
- ☐ I have completed evaluations for all justices/judges.

## Judicial Appellate Court Evaluation - February 2017

### Sample - General - Background Characteristics

**This information will be used for statistical purposes only.**

1. How many cases have you had on appeal in the last three years?

Number of cases:

2. How many years have you practiced law?

☐ under 5 years

☐ 5 to 10 years

☐ over 10 years

3. What percentage of your practice is before appellate courts?

Percentage:

4. What percentage of your practice is devoted to

Civil law:

Criminal law:

Family law:

## Judicial Appellate Court Evaluation - February 2017

### Sample - Submit Evaluations

**Please confirm that you have completed all questionnaires for justices/judges you have appeared before and you are ready to submit your responses.**

**Thank you for taking the time to provide feedback. Your opinion is very important.**

**If you have any questions about this questionnaire, please call the Planning and Program Evaluation Division at 539-4870. Mahalo!**

1. Please let us know what you think of the online evaluation process. Are you comfortable with the confidentiality and anonymity of this process? Why or why not?



## **APPENDIX C**

### **EMAIL FROM CHIEF JUSTICE RECKTENWALD RE JUDICIAL EVALUATIONS**

To:

From: Michael.A.Oki@courts.hawaii.gov

Sent: June 20, 2017

Subject: Email From Chief Justice Recktenwald Re Judicial Evaluations

Dear Attorney:

The Judiciary is conducting an online evaluation of Circuit Court Judges \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_. The Judiciary encourages all active members of the Bar to participate in the evaluation process.

If an insufficient number of evaluations for a particular judge are received, then that judge will not be evaluated. An independent consultant has determined that at least eighteen evaluations must be submitted in order for a judge to receive a reliable and accurate evaluation report.

The judicial evaluation program is designed to give you an opportunity to provide meaningful input concerning these individuals. Judges are receptive to receiving your comments, suggestions, and feedback. Your evaluations serve to enhance judicial performance and improve the skills and techniques of Hawai'i's judges.

Please click on the Begin Evaluation button below to commence your judicial evaluations. The link is unique to your email address, so please do not forward this email. You may exit and later return to the evaluations simply by clicking this button. The judicial evaluations will remain accessible to you until July 14, 2017.

To ensure security and confidentiality, the evaluation process is conducted by SurveyMonkey. It is administered by the eHawaii.gov web portal, which is independent of the Judiciary. Only composite results are transmitted to the Judiciary. Please reference [http://www.courts.state.hi.us/courts/performance\\_review/judge\\_evaluations\\_faqs](http://www.courts.state.hi.us/courts/performance_review/judge_evaluations_faqs) for a list of Frequently Asked Questions. To read the judicial evaluation reports, follow the link to the Judicial Performance Program.

The evaluation is designed to obtain fair assessments from attorneys who actually had any cases or served in any other capacity with the evaluated judge. Please ensure that your evaluation is based solely on your direct experience and not obtained through hearsay or through other means.

Thank you for your consideration. If you have any questions, please contact Michael Oki at (808)539-4870.

Sincerely,

*Mark E. Recktenwald*  
*Chief Justice*  
*Supreme Court of Hawai‘i*

**APPENDIX D**  
**CIRCUIT COURT QUESTIONNAIRE**



Hawai'i State

Judiciary

## Judicial Circuit Court Evaluation - June 2017

### Sample - Basic Evaluation Questions

**Please answer all multiple choice questions. There will be a place for general comments at the end of the evaluation.**

\* 1. Did you have any cases or serve in any other capacity with this judge during the period from June 1, 2015 to May 31, 2017? (If you answer No, please skip questions 2 and 3, and proceed by clicking on Continue).

☐ Yes ☐ No

2. How many times have you appeared before this judge during the referenced period?

☐ 1-2 ☐ 3-5 ☐ 6-10 ☐ More than 10

3. For what types of matters have you appeared before this Judge during the referenced period ? (Please select all that apply.)

- ☐ Jury trial(s)
- ☐ Nonjury trial(s)
- ☐ Contested motion(s) with significant legal issues
- ☐ Settlement or pretrial plea agreement conference(s)
- ☐ Evidentiary hearing(s)
- ☐ Sentencing(s)
- ☐ Other substantive matter(s) (describe)



Hawai'i State

Judiciary

## Judicial Circuit Court Evaluation - June 2017

### Sample - Legal Ability

**This section deals with legal competence, learning, and understanding. It also deals with the judicial application of knowledge in the conduct of court proceedings.**

**1. Knowledge of relevant substantive law**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**2. Knowledge of rules of procedure**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**3. Knowledge of rules of evidence**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**4. Ability to identify and analyze relevant issues**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**5. Judgment in application of relevant laws and rules**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**6. Giving reasons for rulings when needed**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**7. Clarity of explanation of rulings**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**8. Adequacy of findings of fact**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

9. Clarity of judge's decision(s) (oral/written)

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

10. Completeness of judge's decision(s) (oral/written)

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

11. Judge's charge to the jury/juries

☐ Excellent ☐ Good ☐ Adequate ☐ Less than adequate ☐ Poor ☐ Not applicable



Hawai'i State

Judiciary

## Judicial Circuit Court Evaluation - June 2017

### Sample - Judicial Management Skills

**This section deals with judicial ability and skill in the organization, management, and handling of court proceedings.**

1. Moving the proceeding(s) in an appropriately expeditious manner

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

2. Maintaining proper control over the proceeding(s)

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

3. Doing the necessary homework on the case(s)

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

4. Rendering rulings and decisions without unnecessary delay

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

5. Allowing adequate time for presentation of the case(s) or motion(s) in light of existing time constraints

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

6. Resourcefulness and common sense in resolving problems arising from the proceeding(s)

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

7. Skills in effecting compromise

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

8. Industriousness

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable





Hawai'i State

Judiciary

## Judicial Circuit Court Evaluation - June 2017

### Sample - Comportment

**This section deals with various aspects of judicial personality and behaviour in the court proceedings, such as temperament, attitude, and manner.**

#### 1. Attentiveness

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 2. Courtesy to participants

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 3. Compassion

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 4. Patience

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 5. Absence of arrogance

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 6. Absence of bias and prejudice based on race, sex, ethnicity, religion, social class, or other factor

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 7. Evenhanded treatment of litigants

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 8. Evenhanded treatment of attorneys

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable



Hawai'i State

Judiciary

## Judicial Circuit Court Evaluation - June 2017

### Sample - Settlement and/or plea agreement ability

**This section assumes you have participated in one or more settlement/plea agreement conferences with this judge. This section deals with the settlement/plea agreement process including settlement conferences pursuant to rule 12.1, circuit court rules, and pretrial conferences involving rule 11, rules of penal procedure.**

1. Knowing the case(s) and/or the law well enough to address key issues

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

2. Reasonableness of opinions on how key issues might be resolved at trial

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

3. Ability to enhance the settlement process by creating consensus or to facilitate the plea agreement process

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

4. Impartiality as to how/in whose favor agreement was reached

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

5. Absence of coercion or threat

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

6. Effectiveness in narrowing the issues in dispute

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

7. Appropriateness of judge's settlement/plea initiatives

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

8. Facilitation in development of options for settlement/plea

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable



Hawai'i State

Judiciary

## Judicial Circuit Court Evaluation - June 2017

### Sample - Comment Page

**We understand that anonymity is important. However, the more specific the input, the more useful it will be for the judge. Constructive comments that explain why a judge is viewed positively or negatively will assist the judge more than broad statements that a judge is good or not good. Please be advised that your comments will be forwarded to the Chief Justice. If your comments relate to a case that is on appeal, you should exercise caution in your remarks. Please remember not to identify yourself.**

#### 1. Legal ability

#### 2. Judicial management skills

#### 3. Comportment

#### 4. Settlement/plea agreement ability

#### 5. Overall/General



Hawai'i State

Judiciary

## Judicial Circuit Court Evaluation - June 2017

### Sample - Evaluation Complete

\* 1. Thank you for completing the evaluation for Judge \_\_\_\_\_.

- ☐ I would like to fill out an evaluation for another judge.
- ☐ I have completed evaluations for all judges.

## Judicial Circuit Court Evaluation - June 2017

### Sample - Background Characteristics

**This information will be used for statistical purposes only.**

1. How long have you practiced law ? (years)

- ☐ 0 to 3
- ☐ 4 to 7
- ☐ 8 to 11
- ☐ 12 to 15
- ☐ 16 to 19
- ☐ 20 to 23
- ☐ 24 to 27
- ☐ 28 or more
- ☐ Decline to answer

2. Which of the following describes your practice of law ?

- ☐ Solo (including office sharing)
- ☐ Law firm with 2-15 attorneys
- ☐ Law firm with more than 15 attorneys
- ☐ Corporate or house counsel
- ☐ Pro se (Representing self)
- ☐ Government
- ☐ Decline to answer
- ☐ Other (please specify)



Hawai'i State

Judiciary

## Judicial Circuit Court Evaluation - June 2017

### Sample - Submit Evaluations

**Please confirm that you have completed evaluations for judges you have appeared before and you are ready to submit your responses.**

**Thank you for taking the time to provide feedback. Your opinion is very important.**

**If you have any questions about this evaluation, please call the Planning and Program Evaluation Division at (808) 539-4870. Mahalo!**

1. Please let us know what you think of the online evaluation process. Are you comfortable with the confidentiality and anonymity of this process? Why or why not?



**APPENDIX E**  
**REMINDER EMAIL TO ATTORNEYS**

Bcc:

From: Michael.A.Oki@courts.hawaii.gov

Date: April 18, 2017

Subject: Circuit Court Judicial Evaluation

Dear Attorney,

The Judiciary recently sent you an email regarding the evaluation of Circuit Court judges. We are asking you to fill out the form if you had any cases or served in any other capacity with one or more of the judges identified in the evaluation.

If you did not receive the Circuit Court email or if you would like to receive it again, please reply to this email. If you are not in a position to evaluate a judge but another attorney in your office is, please ask that attorney to contact me. Please do not forward your evaluation email because the link is unique for each attorney.

The Judicial Performance Program is an important part of our ongoing effort to improve the judicial system. Because of the statistical requirements of the process, we cannot evaluate any judge who has not received at least eighteen questionnaires during the rating period.

Thank you for your assistance. We appreciate your participation if you did complete the evaluation.

Michael Oki  
The Judiciary  
State of Hawai'i

**APPENDIX F**  
**FAMILY COURT QUESTIONNAIRE**

## Judicial Family Court Evaluation - April 2017

### Sample - Basic Evaluation Questions

**Please answer all multiple choice questions. There will be a place for general comments at the end of the evaluation.**

- \* 1. Did you have any cases or serve in any other capacity with this judge during the period from April 1, 2015 to March 31, 2017? (If you answer No, please skip questions 2 and 3, and proceed by clicking on Continue).

☐ Yes ☐ No

2. How many times have you appeared before this judge during the referenced period?

☐ 1-2 ☐ 3-5 ☐ 6-10 ☐ More than 10

3. For what types of matters have you appeared before this judge during the referenced period? (Please select all that apply.)

- ☐ Jury trial(s)
- ☐ Nonjury trial(s)
- ☐ Contested motion(s) with significant legal issues
- ☐ Settlement or pretrial plea agreement conference(s)
- ☐ Evidentiary hearing(s)
- ☐ Sentencing(s)
- ☐ Other substantive matter(s) (describe)

## Judicial Family Court Evaluation - April 2017

### Sample - Legal Ability

**This section deals with legal competence, learning, and understanding. It also deals with the judicial application of knowledge in the conduct of court proceedings.**

**1. Knowledge of relevant substantive law**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**2. Knowledge of rules of procedure**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**3. Knowledge of rules of evidence**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**4. Ability to identify and analyze relevant issues**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**5. Judgment in application of relevant laws and rules**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**6. Giving reasons for rulings when needed**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**7. Clarity of explanation of rulings**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**8. Adequacy of findings of fact**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

**9. Clarity of judge's decision(s) (oral/written)**

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

10. Completeness of judge's decision(s) (oral/written)

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

11. Judge's charge to the jury/juries.

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

## Judicial Family Court Evaluation - April 2017

### Sample - Judicial Management Skills

**This section deals with judicial ability and skill in the organization, management, and handling of court proceedings.**

1. Moving the proceeding(s) in an appropriately expeditious manner

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

2. Maintaining proper control over the proceeding(s)

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

3. Doing the necessary homework on the case(s)

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

4. Rendering rulings and decisions without unnecessary delay

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

5. Allowing adequate time for presentation of the case(s) or motion(s) in light of existing time constraints

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

6. Resourcefulness and common sense in resolving problems arising from the proceeding(s)

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

7. Skills in effecting compromise

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

8. Industriousness

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

## Judicial Family Court Evaluation - April 2017

### Sample - Comportment

**This section deals with various aspects of judicial personality and behaviour in the court proceedings, such as temperament, attitude, and manner.**

#### 1. Attentiveness

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 2. Courtesy to participants

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 3. Compassion

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 4. Patience

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 5. Absence of arrogance

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 6. Absence of bias and prejudice based on race, sex, ethnicity, religion, social class, or other factor

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 7. Evenhanded treatment of litigants

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

#### 8. Evenhanded treatment of attorneys

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable



## Judicial Family Court Evaluation - April 2017

### Sample - Settlement and/or plea agreement ability

**This section assumes you have participated in one or more settlement/plea agreement conferences with this judge. This section deals with the settlement/plea agreement process including settlement conferences pursuant to rule 12.1, circuit court rules, or rule 16(1), family court rules, and pretrial conferences involving rule 11, rules of penal procedure.**

1. Knowing the case(s) and/or the law well enough to address key issues

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

2. Reasonableness of opinions on how key issues might be resolved at trial

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

3. Ability to enhance the settlement process by creating consensus or to facilitate the plea agreement process

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

4. Impartiality as to how/in whose favor agreement was reached

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

5. Absence of coercion or threat

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

6. Effectiveness in narrowing the issues in dispute

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

7. Appropriateness of judge's settlement/plea initiatives

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

8. Facilitation in development of options for settlement/plea

☐ Excellent ☐ Good ☐ Adequate ☐ Less than Adequate ☐ Poor ☐ Not Applicable

## Judicial Family Court Evaluation - April 2017

### Sample - Comment Page

**We understand that anonymity is important. However, the more specific the input, the more useful it will be for the judge. Constructive comments that explain why a judge is viewed positively or negatively will assist the judge more than broad statements that a judge is good or not good. Please be advised that your comments will be forwarded to the Chief Justice. If your comments relate to a case that is on appeal, you should exercise caution in your remarks. Please remember not to identify yourself.**

1. Legal ability

2. Judicial management skills

3. Comportment

4. Settlement/plea agreement ability

5. Overall/General

## Judicial Family Court Evaluation - April 2017

### Sample - Evaluation Complete

1. Thank you for completing the questionnaire for Judge \_\_\_\_.

- ☐ I would like to fill out an evaluation for another judge.
- ☐ I have completed evaluations for all judges.

## Judicial Family Court Evaluation - April 2017

### Sample - Background Characteristics

**This information will be used for statistical purposes only.**

1. How long have you practiced law ? (years)

- ☐ 0 to 3
- ☐ 4 to 7
- ☐ 8 to 11
- ☐ 12 to 15
- ☐ 16 to 19
- ☐ 20 to 23
- ☐ 24 to 27
- ☐ 28 or more
- ☐ Decline to answer

2. Which of the following describes your practice of law ?

- ☐ Solo (including office sharing)
- ☐ Law firm with 2-15 attorneys
- ☐ Law firm with more than 15 attorneys
- ☐ Corporate or house counsel
- ☐ Pro se (Representing self)
- ☐ Government
- ☐ Decline to answer
- ☐ Other (please specify)

## Judicial Family Court Evaluation - April 2017

### Sample - Submit Evaluations

**Please confirm that you have completed evaluations for judges you have appeared before and you are ready to submit your responses.**

**Thank you for taking the time to provide feedback. Your opinion is very important.**

**If you have any questions about this questionnaire, please call the Planning and Program Evaluation Division at (808) 539-4870. Mahalo!**

1. Please let us know what you think of the online evaluation process. Are you comfortable with the confidentiality and anonymity of this process? Why or why not?