

## Honorable Stephen L. Roth – Utah Court of Appeals

Serving the State of Utah



### Commission Recommendation: **RETAIN**

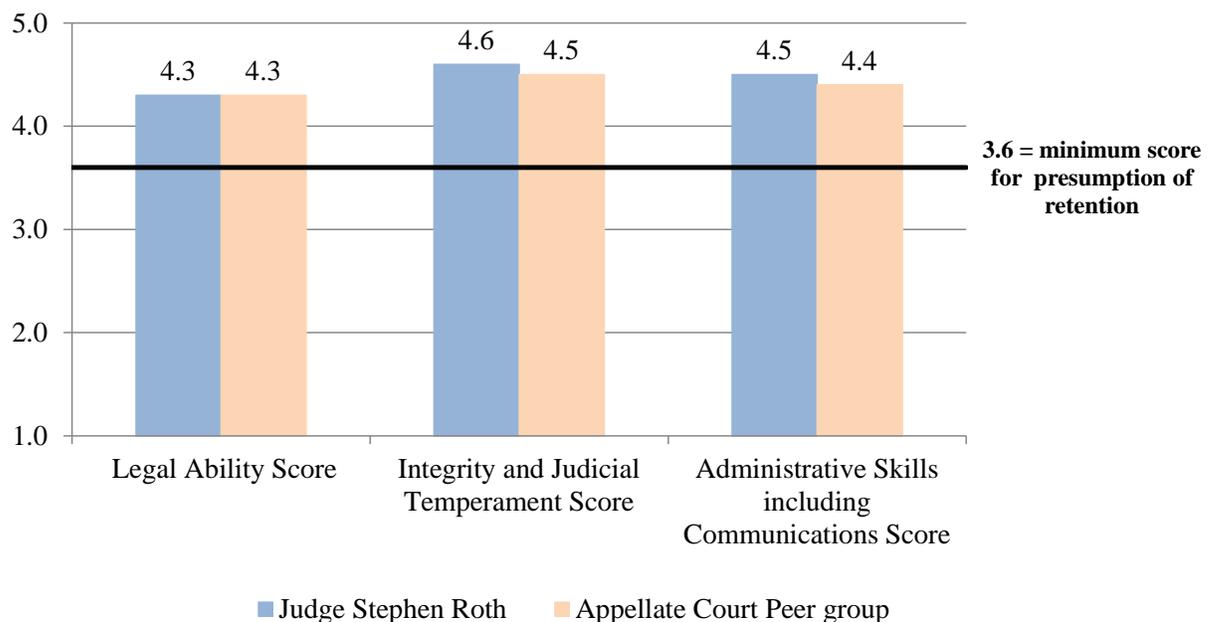
(vote count: 12-0 for retention)

Appointed to the court of appeals in 2010 after serving eight years as a trial court judge, Judge Stephen Roth is known for his hard work and respectful demeanor. Survey respondents gave him a perfect score for the diligence of his work habits and recognized his impartial manner and respect for all. Most respondents characterized Judge Roth's decisions as objective, reasoned and thoughtful. Adjectives used to describe Judge Roth include intelligent, attentive and knowledgeable, and the majority of survey respondents characterized him as conscientious, polite and dedicated to fairness. Of those who answered the retention question, 93% recommended that Judge Roth be retained.

The commission reviewed surveys in addition to verifying that Judge Roth has met all time standards, judicial education requirements, and discipline standards established by the judicial branch.

Judge Stephen L. Roth was appointed to the Utah Court of Appeals in March 2010, after eight years as a Third District Court judge. He graduated with honors from Brigham Young University Law School in 1977. Judge Roth worked in private practice until 1991, and then served as an Assistant United States Attorney until his appointment to the bench in 2002. He chairs the Committee on Representation of Indigent Criminal Defendants and is a member of the Alternative Dispute Resolution Committee, the state bar Litigation Section's Executive Committee, and the Aldon Anderson Inn of Court. Judge Roth served in the United States Marine Corps from 1970 to 1974 and has worked as a farmhand in Idaho and a steelworker in Arizona.

### **This judge has met all minimum performance standards established by law.**



---

# **The Honorable Stephen Roth**

**Judicial Performance Evaluation Commission Report**

**Retention 2014**

---

## Table of Contents

### I. Survey Report

Survey Results .....	1
A. How to Read the Results .....	1
B. Statutory Category Scores .....	2
C. Procedural Fairness Survey Score .....	3
D. Responses to Individual Survey Questions .....	4
E. Adjective Question Summary .....	6
F. Retention Question .....	7
G. Attorney Demographics .....	8
Survey Background and Methods .....	9
A. Survey Overview .....	9
B. Evaluation Period .....	10

# I. Survey Report

## Survey Results

---

### A. How to Read the Results

For Judge Stephen Roth, 60% of qualified survey respondents submitted surveys. Of those who responded, 72 agreed they had worked with Judge Stephen Roth enough to evaluate his performance. This report reflects the 72 responses. The survey results are divided into five sections:

- Statutory category scores
- Procedural fairness survey score
- Responses to individual survey questions
- Summary of adjectives
- Retention question

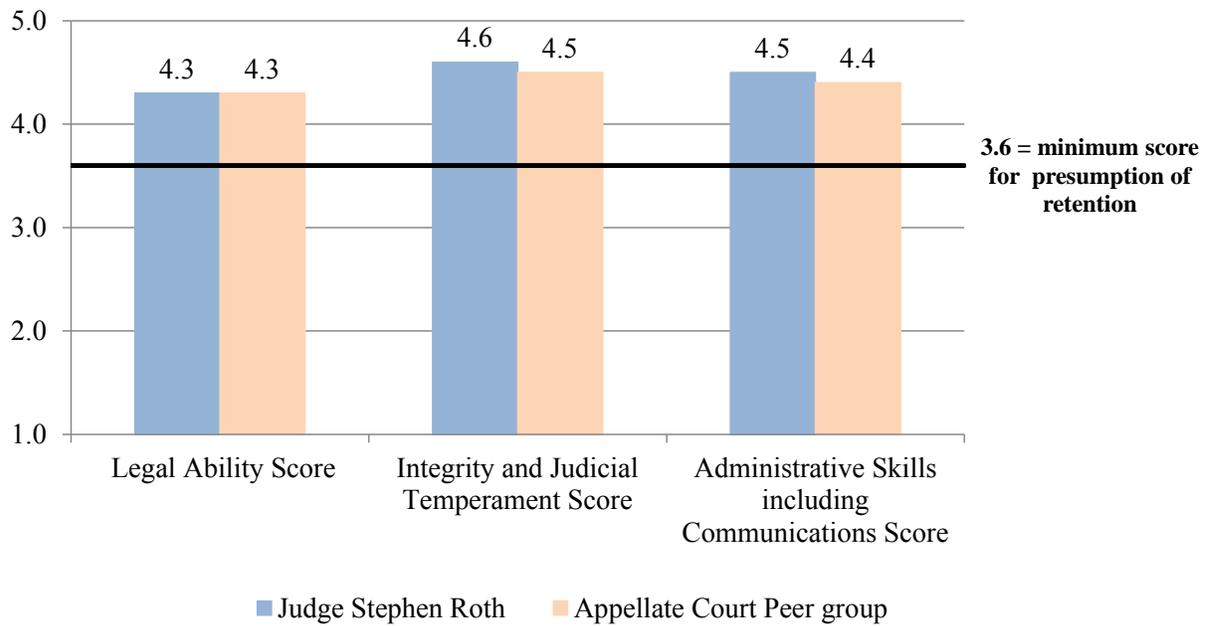
The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "Appellate Court" on the charts.

The statutory category scores and the procedural fairness survey score represent average scores on a scale of 1 (inadequate) to 5 (outstanding). Responses from all survey respondent groups contribute to the average score shown for each category, with the exception of Legal Ability. Only attorneys answer these questions.

What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to recommend retention unless it can articulate a substantial reason for overcoming the presumption in favor of retention. Similarly, if a judge fails to get a 3.6 in a category, the commission will vote against retention unless it can articulate a substantial reason for overcoming the presumption against retention.

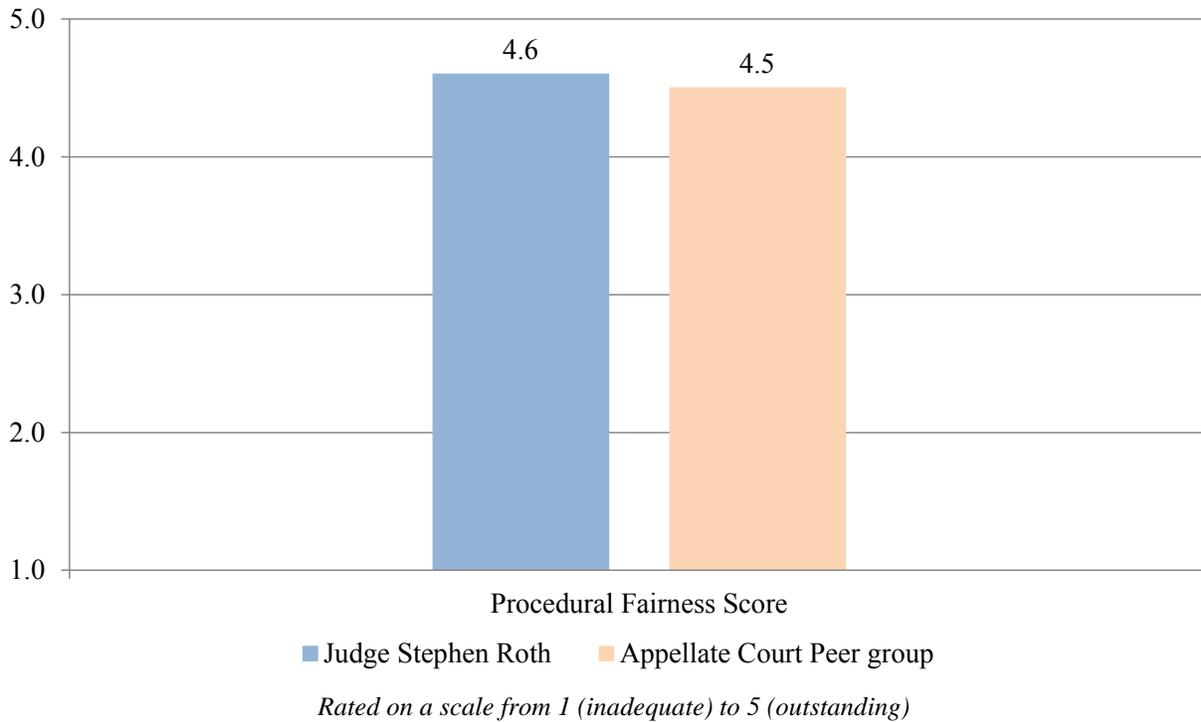
For procedural fairness, the judge must demonstrate that it is more likely than not, based on courtroom observations and relevant survey responses, that the judge's conduct in court promotes procedural fairness for court participants. Judges will receive either a Pass or Fail in procedural fairness, and this determination will be made by the commission only during the retention cycle.

## B. Statutory Category Scores



*Rated on a scale from 1 (inadequate) to 5 (outstanding)*

### C. Procedural Fairness Survey Score



For procedural fairness, the judge must demonstrate by a preponderance of the evidence that the judge’s conduct in court promotes procedural fairness for court participants. This determination is based on relevant survey responses.

#### Overall Procedural Fairness Determination

Category	Judge Stephen Roth
Procedural Fairness	PASS

## D. Responses to Individual Survey Questions

Category	Question	Judge Stephen Roth	Appellate Court
Legal Ability	The judge follows the applicable legal rules (e.g. civil procedure, criminal procedure, evidence, juvenile, appellate) that apply to the case at issue.	4.3	4.4
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.3	4.2
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.3	4.2
Legal Ability	The judge only considers evidence in the record.	4.4	4.3
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.3	4.3
Legal Ability	The judge's written opinions contain a fair statement of the pertinent facts.	4.4	4.3
Legal Ability	The judge's written opinions contain a discussion of the applicable legal principles and controlling case law.	4.4	4.3
Legal Ability	The judge's written opinions clearly address the merits of the legal issues advanced by the parties.	4.4	4.2
Legal Ability	The judge's written opinions provide clear guidance to trial court judges and practitioners.	4.4	4.2
Legal Ability	The judge's written opinions contain a readily understandable, concise ruling.	4.3	4.2
Legal Ability	The judge's written opinions reflect a neutral, professional tone.	4.5	4.3
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.5	4.5
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.6	4.6
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.7	4.4

*Rated on a scale from 1 (inadequate) to 5 (outstanding)*

Category	Question	Judge Stephen Roth	Appellate Court
Administrative Skills	The judge is prepared for court proceedings.	4.6	4.6
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.6	4.5
Administrative Skills	The judge is an effective manager.	4.7	4.5
Administrative Skills	The judge rules in a timely fashion.	4.4	4.2
Administrative Skills	The judge maintains diligent work habits.	5.0	4.8
Administrative Skills	The judge's oral communications are clear.	4.5	4.5
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.4	4.3
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.7	4.5
Procedural Fairness	The judge is fair and impartial.	4.6	4.4
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.6	4.4
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.6	4.5

*Rated on a scale from 1 (inadequate) to 5 (outstanding)*

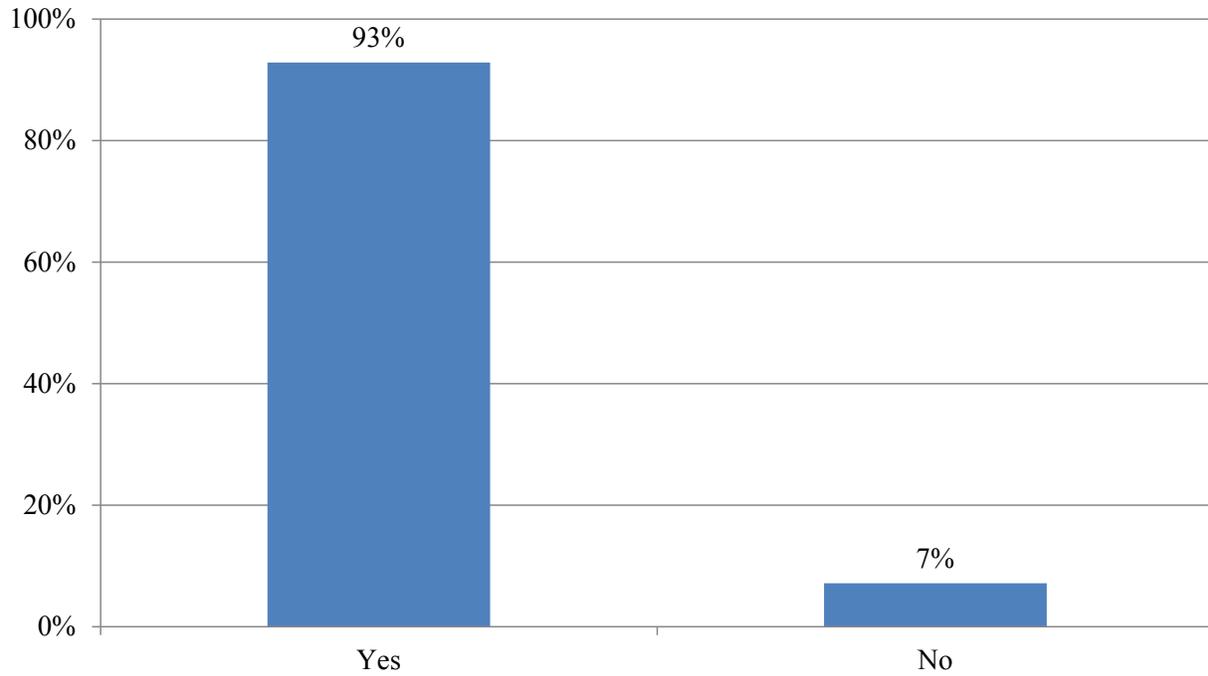
## E. Adjective Question Summary

	Number of Times Mentioned*
Attentive	41
Calm	26
Confident	17
Considerate	27
Consistent	11
Intelligent	43
Knowledgeable	40
Patient	21
Polite	33
Receptive	21
Arrogant	0
Cantankerous	0
Defensive	1
Dismissive	2
Disrespectful	1
Flippant	0
Impatient	2
Indecisive	2
Rude	0
<b>Total Positive Adjectives</b>	<b>280</b>
<b>Total Negative Adjectives</b>	<b>8</b>
<b>Percent of Positive Adjectives</b>	<b>97%</b>

Respondents were asked to select adjectives from a list that best described the judge. The number shown is the total number of times an adjective was selected by respondents. The percent of positive adjectives shows the percent of *all* selected adjectives that were positive.

## F. Retention Question

**Would you recommend that Judge Stephen Roth be retained?**



## G. Attorney Demographics

### What are your primary areas of practice?

Collections	-
Domestic	7%
Criminal	28%
Civil	69%
Other	10%

### How many trials or hearings have you had with this judge over the past year?

5 or fewer	90%
6 - 10	8%
11 - 15	-
16 - 20	-
More than 20	2%

# Survey Background and Methods

---

This report presents the results from the 2013 survey process, conducted by Market Decisions, LLC. A detailed description of the survey methodology is available separately on the Utah Judicial Performance Evaluation website.

## A. Survey Overview

### 1. Description of Sample

The following groups are invited to participate in the survey process:

- Attorneys with appearances before the judge
- Court staff who work with the judge
- Juvenile court professionals who work in the judge's courtroom on a regular and continuing basis to provide substantive input to the judge (juvenile court judges only)
- Jurors who participate in jury deliberation (district and justice court judges only)

With the exception of the attorney survey, the survey contractor attempts to survey all court staff and juvenile court professionals who work with judge and all jurors who reach the point of jury deliberation. The lists of court staff and juvenile court professionals are provided by the courts and by the Division of Child and Family Services and Juvenile Justice Services. A list of jurors is created after each trial. All lists are forwarded to the surveyor, Market Decisions, LLC.

For the attorney survey, a representative sample of attorneys is drawn to evaluate each judge based on appearances over a designated two-year period. The sample is weighted to select those with the greatest experience before the judge, assuming that these people will have a better knowledge base about the judge than those with less experience. Attorneys are first stratified into three groups; those with one or more trial appearances, those with 3 or more non-trial appearances, and those with 1-2 non-trial appearances. Attorneys within each sample are then randomized prior to selection. Selection begins with attorneys who have trial experience, then those with a greater number of non-trial appearances (if needed), and finally those with fewer non-trial appearances (if needed).

### 2. Summary of Survey Methods

Surveys are conducted online, using web-based survey software. Each respondent receives an initial email invitation requesting participation in the survey. A separate email is sent for each judge that a respondent is asked to evaluate. A reminder email is sent one week later to those who did not respond by completing and submitting a survey. This is followed by three additional reminder emails sent to respondents over the next three weeks. If a respondent completes only part of the survey, he or she is able to finish the survey at a later time. Once a respondent has completed the survey for a specific judge, the survey is locked and cannot be accessed again.

The number of questions included in the survey varies, ranging from 9 (jurors) to 24 (attorneys with an appearance before an appellate court judge). Each question is evaluated on a sliding scale ranging from 1 (inadequate) to 5 (outstanding).

Responses to individual questions are used to calculate averaged scores in three statutory categories: Legal Ability, Integrity & Judicial Temperament, and Administrative Skills. Judges also receive an averaged score in Procedural Fairness.

## **B. Evaluation Period**

The retention evaluation period for judges standing for election in 2014 began on June 1, 2012 and ended on June 30, 2013.