

## Honorable Barry G. Lawrence – District Court Judge

Serving Salt Lake, Summit, and Tooele counties



### Commission Recommendation: **RETAIN**

(vote count: 12-0 for retention)

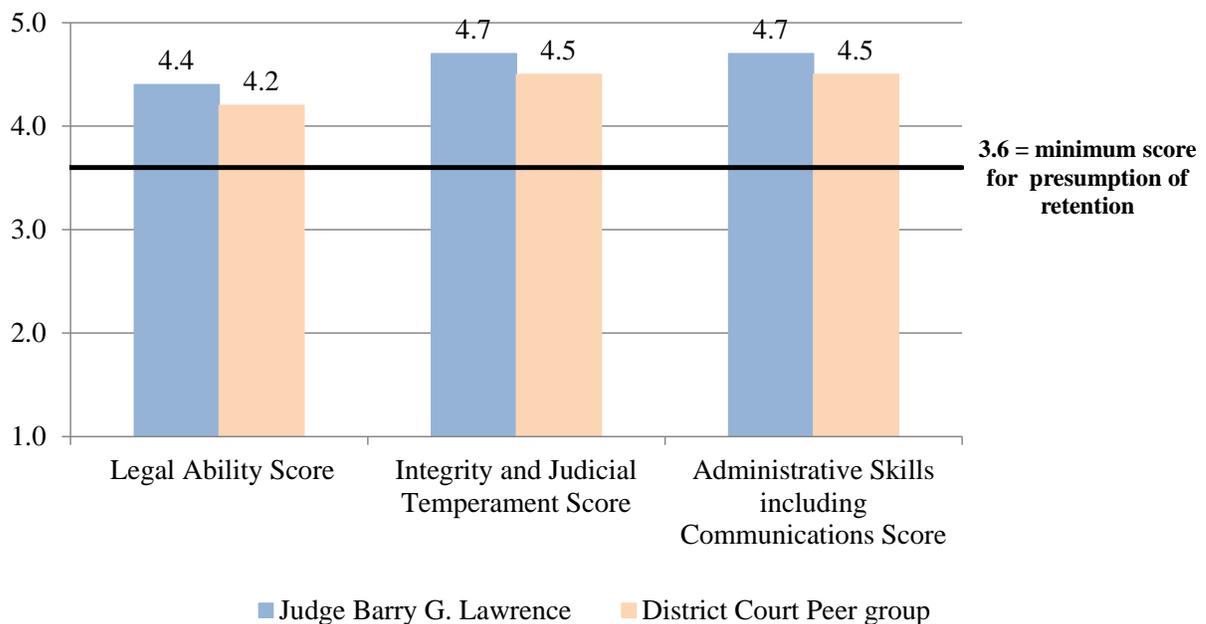
Appointed to the bench in 2012, Judge Barry Lawrence is viewed as an intelligent, well-prepared, and competent judge. He scores higher than the average of his district court peers in all statutory survey categories and equal to his peers in procedural fairness. Judge Lawrence's legal ability is highly regarded by attorneys practicing in his court. They perceive him as well-versed in the law and respectful toward all those appearing before him.

Courtroom observers also view Judge Lawrence positively, with all reporting they would feel comfortable appearing before him. They note that he comes to court fully prepared and very knowledgeable about his caseload, clearly explaining the reasoning for his decisions. Of survey participants answering the retention question, 93% recommend that Judge Lawrence be retained.

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

Judge Barry G. Lawrence was appointed to the Third District Court in 2012. He graduated from Cornell University with a Bachelor of Arts in Biology in 1984. He earned his law degree, with honors, from Syracuse University in 1988. Judge Lawrence then relocated to Utah and worked at the law firm of Jones, Waldo, Holbrook & McDonough, where he had a litigation practice and served on the firm's board of directors. In 2000, he joined the Utah Attorney General's Office and worked in the Litigation Division, defending claims against the State. Judge Lawrence initially served in the West Jordan courthouse; he now serves in the Salt Lake City courthouse.

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



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# **The Honorable Barry G. Lawrence**

**Judicial Performance Evaluation Commission Report**

**Retention 2016**

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### II. Courtroom Observation Report

# I. Survey Report

## Survey Results

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### A. How to Read the Results

For Judge Barry G. Lawrence, 52% of qualified survey respondents submitted surveys. Of those who responded, 106 agreed they had worked with Judge Barry G. Lawrence enough to evaluate his performance. This report reflects these 106 responses. The survey results are divided into five sections:

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

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 "District 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 the Legal Ability questions.

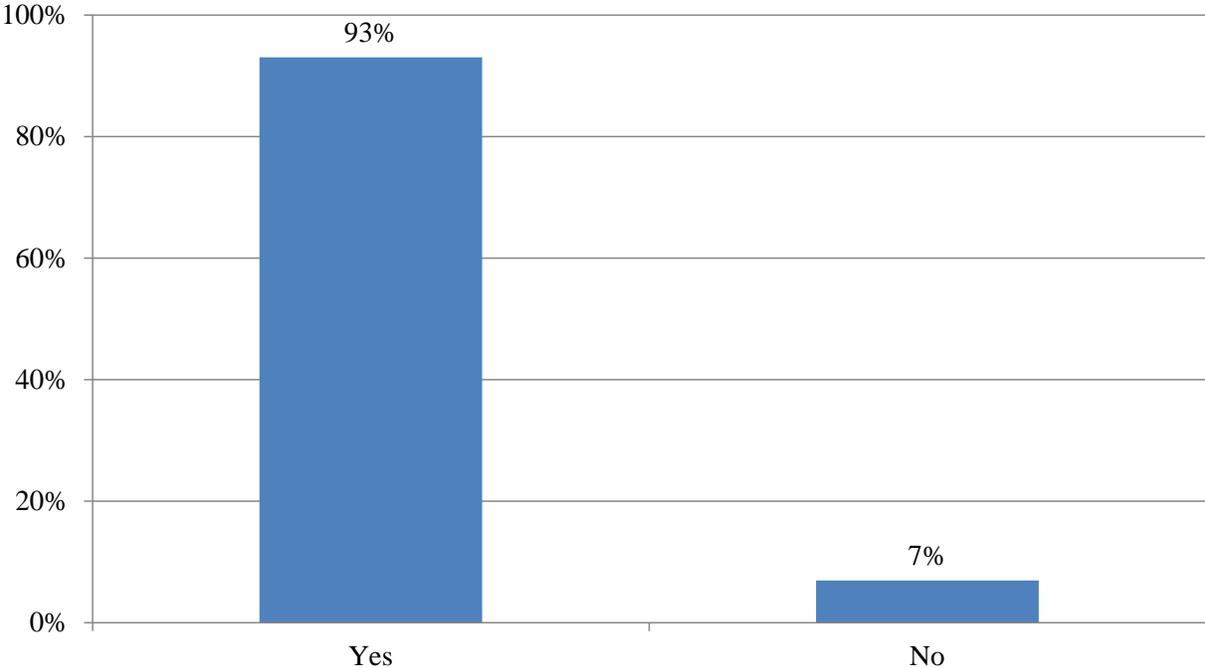
What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to 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.

Respondents are asked whether or not they think the judge should be recommended for retention only during the retention cycle.

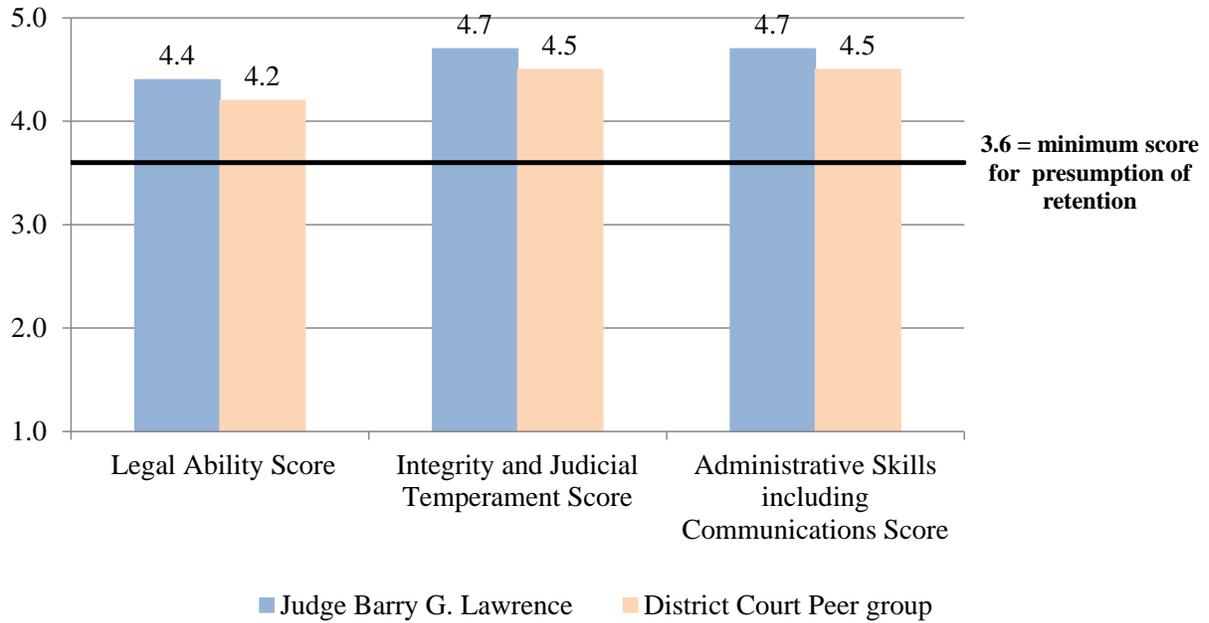
## B. Retention Question

**Figure A. Would you recommend that Judge Barry G. Lawrence be retained?**



## C. Statutory Category Scores

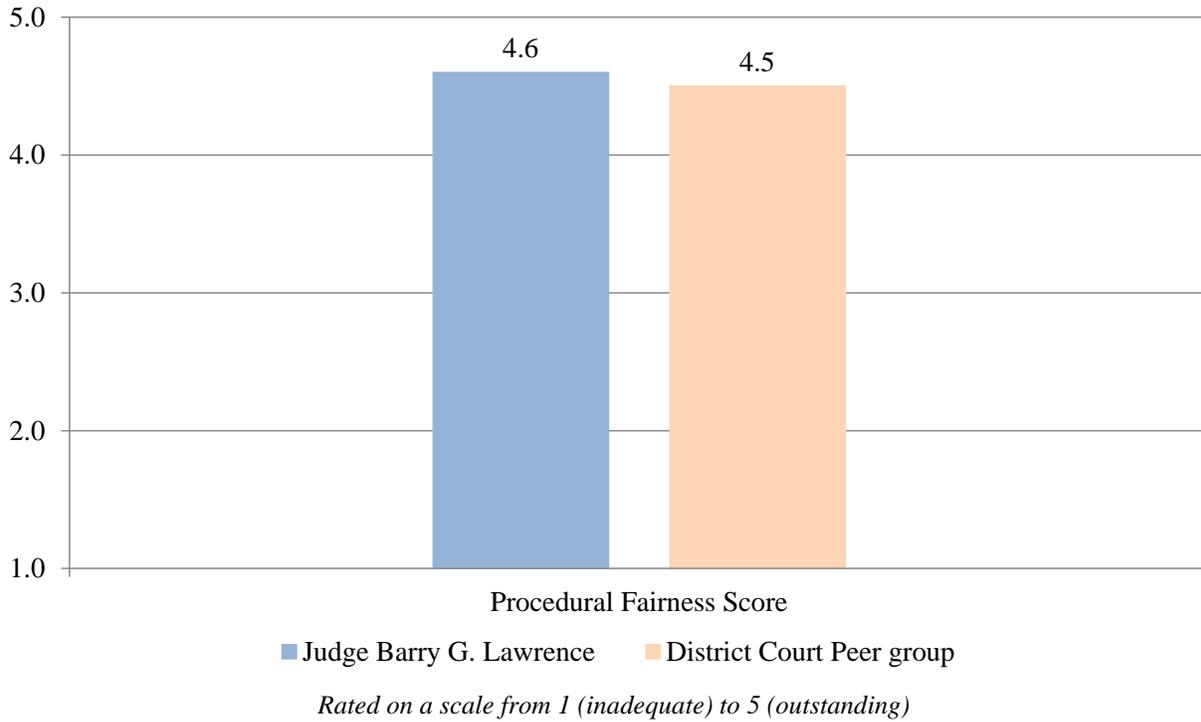
**Figure B. Statutory Category Scores**



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

## D. Procedural Fairness Score

**Figure C. Procedural Fairness 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 courtroom observations and relevant survey responses.

**Table A. Overall Procedural Fairness Determination (for Retention Only)**

Category	Judge Barry G. Lawrence
Procedural Fairness	Pass

## E. Responses to Individual Survey Questions

**Table B. Responses to Survey Questions**

Category	Question	Judge Barry G. Lawrence	District 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.	4.4	4.2
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.4	4.2
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.4	4.2
Legal Ability	The judge only considers evidence in the record.	4.5	4.2
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.5	4.2
Legal Ability	The judge's written opinions contain a readily understandable, concise ruling	4.5	4.2
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.7	4.6
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.7	4.6
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	4.6	4.3
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.7	4.4
Integrity & Judicial Temperament	The judge promotes access to the justice system for people who speak a language other than English, or for people who have a physical or mental limitation.	4.8	4.6

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

**Table C. Responses to Survey Questions (continued)**

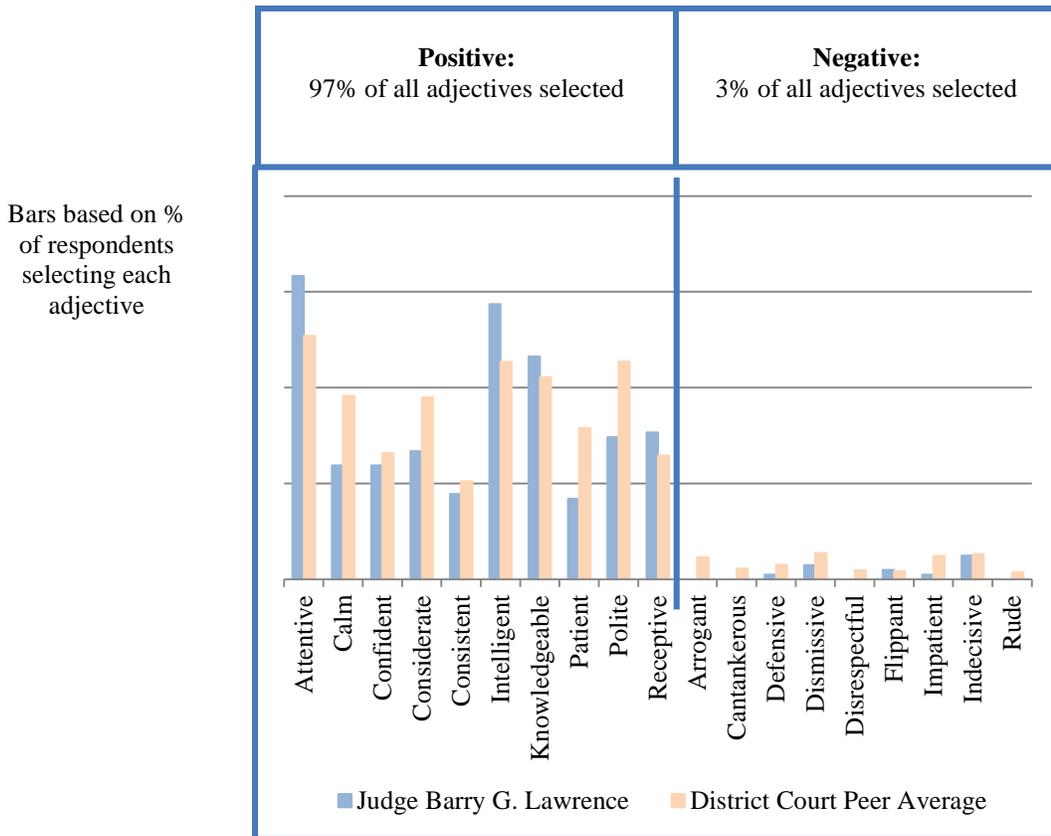
<b>Category</b>	<b>Question</b>	<b>Judge Barry G. Lawrence</b>	<b>District Court</b>
Administrative Skills	The judge is prepared for court proceedings.	4.7	4.4
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.8	4.6
Administrative Skills	The judge is an effective manager.	4.6	4.5
Administrative Skills	The judge convenes court without undue delay.	4.7	4.6
Administrative Skills	The judge rules in a timely fashion.	4.7	4.5
Administrative Skills	The judge maintains diligent work habits.	4.7	4.5
Administrative Skills	The judge's oral communications are clear.	4.7	4.5
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.6	4.3
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.7	4.6
Procedural Fairness	The judge is fair and impartial.	4.6	4.5
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.6	4.5
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.6	4.4

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

## F. Adjective Question Summary

From a provided list, survey respondents selected multiple adjectives to best describe the judge. The “positive” and “negative” labels at the top of the graph refer to the percent of all adjectives selected by all respondents that were either positive or negative. Each bar is based on the percent of respondents who selected that adjective. The adjacent bar shows a comparison to the other evaluated judges who serve on the same court level.

**Figure D. Adjective Responses**



## G. Attorney Demographics

**Table D: What are your primary areas of practice?**

Collections	15%
Domestic	13%
Criminal	13%
Civil	77%
Other	4%

Because many attorneys practice in multiple areas, totals may not equal 100%

**Table E: How many trials or hearings have you had with this judge over the past year?**

5 or fewer	72%
6 - 10	16%
11 - 15	2%
16 - 20	4%
More than 20	5%

## Survey Background and Methods

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This report presents the results from the 2015 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 the 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 time 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 three or more non-trial appearances, and those with one to two 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 qualified respondent receives an initial email notification signed by the Governor, Chief Justice, President of the Senate, and Speaker of the House, requesting participation in the survey. Next, an email invitation, signed by JPEC's Executive Director and the Utah State Bar President, contains links to all the individual surveys each respondent is invited to complete. A reminder email is sent one week later to those who did not respond by completing and submitting a survey. This is followed by two 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, that 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 2016 began on January 1, 2014 and ended on June 30, 2015.

## REPORT OF COURTROOM OBSERVATIONS FOR JUDGE BARRY LAWRENCE

Four observers wrote 73 codable units that were relevant to 13 of the 15 criteria. Two observers reported that the judge was aware that JPEC observers were present, one observer reported that the judge was not aware, and one did not know if the judge was aware.

### Overview

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OVERALL ASSESSMENT	<ul style="list-style-type: none"><li>• All observers were positive about Judge Lawrence. Observer A was similarly positive but also had specific reservations regarding the impression given by some of Judge Lawrence’s behaviors (see “Anomalous comments”).</li><li>• All observers reported that they would feel comfortable appearing before Judge Lawrence.</li></ul>
WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none"><li>• All observers variously reported that Judge Lawrence was fully prepared and knew the cases better than the attorneys. He was pleasant and patient with a sense of humor, and he remained unemotional even when reprimanding attorneys but was also strong with clear expectations rather than warm and fuzzy. He smiled and displayed good body language and eye contact and spoke clearly and calmly in a strong but not intimidating tone of voice. Judge Lawrence gave equal consideration to and showed concern for the interests of both parties. He gave all participants ample time to speak without rushing, asked if anyone had anything to say before making his decisions, and took time to think things over before deciding. His instructions were clear and his language appropriate and easy to understand.</li><li>• Observers particularly emphasized the clarity of Judge Lawrence’s explanations of the reasoning for each part of his decisions.</li></ul>
MINORITY OBSERVATIONS	<ul style="list-style-type: none"><li>• None</li></ul>
ANOMALOUS COMMENTS	<ul style="list-style-type: none"><li>• While one observer and Observer A reported that Judge Lawrence listened intently and was obviously paying close attention, as he responded quickly to what was said, Observer A noted that the judge gave the <i>appearance</i> of not paying attention by leaning his face on his hand and by looking at his computer for excessively long periods while participants were speaking. However, the judge explained to another observer that he accessed Westlaw as a helpful resource as cases were being heard (see “Listening &amp; focus” and “Body Language”).</li><li>• In marked contrast to the other observers, Observer A reported that while Judge Lawrence was effective, efficient, and had good control of the courtroom, the observer expressed reservations about the judge’s informal demeanor and standards of conduct in the courtroom (see “Courtesy, politeness, and general demeanor”).</li></ul>

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### Summary and *exemplar language* of four observers’ comments

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<i>RESPECT</i>	
Listening & focus	One observer reported that Judge Lawrence <i>listened intently</i> and was <i>very attentive, asking relevant questions that indicated he was following the proceedings.</i>

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Listening & focus continued	Observer A similarly reported that <i>it was obvious Judge Lawrence had been paying close attention to an attorney's testimony</i> as he was <i>very quick to handle the attorney's objections</i> and also told the attorney to <i>stop leading the witness</i> . But Observer A <i>could not emphasize enough</i> that the judge <b>appeared</b> to not be paying close attention, as he was <i>looking at what the clerk was doing, or looking at his computer screen or paperwork on his desk for excessively long periods of time</i> . Observer A wondered <i>what he could be doing</i> or if the judge was bored. However, Judge Lawrence explained to another observer during a recess that he <i>consistently accessed Westlaw during these hearings</i> and <i>how helpful the resource was while cases were being heard</i> .
Well-prepared & efficient	Two observers reported that Judge Lawrence had <i>fully considered the cases</i> and <i>knew the paperwork better than the attorneys</i> . He was <i>very prepared for oral arguments</i> and asked specific questions, saying, <i>"I have read the materials and a few cases not cited,"</i> or, <i>"I have several questions for you ... which of those [codes] apply?"</i> or, <i>"What about Mr. A's argument that...?"</i>
Respect for others' time	One observer reported that Judge Lawrence asked attorneys <i>about how far out they needed each trial to be</i> and was <i>happy to accommodate them</i> .
Courtesy, politeness, and general demeanor	All observers reported that Judge Lawrence was <i>pleasant and patient</i> when participants were presenting their testimony, and he <i>thanked them for good arguments</i> . He <i>gently but firmly reprimanded</i> an attorney for <i>not understanding the law</i> but allowed the lawyer to <i>explain fully his thinking</i> and then <i>thoroughly explained why he was not granting the motion</i> . One observer was impressed at the judge's <i>patience, willingness to listen, and lack of emotional reactions</i> at what the judge implied was <i>borderline misconduct</i> by one attorney and <i>ineptitude by the other</i> .  Judge Lawrence was <i>strong and respectful</i> and made a point of <i>laying out his expectations in a way that could not be misunderstood</i> . While he was <i>not a warm and fuzzy judge</i> , he was <i>joyful with attorneys</i> between cases and demonstrated a <i>sense of humor</i> . When an attorney who was <i>very heatedly presenting</i> his argument misspoke to Judge Lawrence and <i>apologized profusely</i> , the judge just <i>raised his eyebrows and smiled</i> . The observer felt the judge <i>handled the situation very well</i> and brought the <i>emotional presentation back to a careful presentation</i> .  In marked contrast, Observer A reported that Judge Lawrence was <i>stern when necessary</i> , had <i>good control over the room</i> , and <i>handled all matters effectively and efficiently</i> , yet the observer expressed reservations about the judge's <i>informal demeanor</i> which <i>can lead to a sloppy courtroom atmosphere</i> . The judge's entry was <i>rather informal</i> , with attorneys <i>not really paying attention to the fact that the judge was present</i> . While waiting for a trial to begin the attorneys <i>continued to mill around</i> , showing the judge <i>little deference or respect</i> . Judge Lawrence <i>allowed attorneys to remain seated</i> when <i>registering objections</i> or when <i>the jury was coming back in the room</i> . While the jury was leaving the judge was <i>standing but doing something with paperwork on his desk</i> . Observer A considered that the judge <i>needs to work on his command of the courtroom</i> .
Body language	Three observers reported that Judge Lawrence displayed <i>very good body language, sitting forward with good eye contact</i> . He often <i>smiled</i> , even when correcting a participant.  In marked contrast, Observer A reported that while he had <i>no doubt that the judge was paying attention</i> , his <i>habit of putting his hand beside his face and touching his mustache, and leaning on his hand while observing court proceedings, almost gives the impression of disinterest</i> .
Voice quality	Three observers reported that Judge Lawrence <i>spoke calmly and clearly</i> , with a <i>strong, confident, business-like, but not intimidating tone of voice</i> .
Courtroom tone & atmosphere	One observer noted that during the <i>detailed questioning of the witnesses</i> neither the judge nor the attorneys <i>seemed to be concerned that some of the jury members had thousand miles stares</i> .

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NEUTRALITY

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Consistent and equal treatment      All observers reported that Judge Lawrence gave *equal consideration to the statements of each side*, in one case *cutting off* an attorney so that *neither side got an advantage during an objection*. He was *on top of the multiple narratives*, keeping them *straight and consistent with the evidence*.

In one case Judge Lawrence *sent off* the jury for a *five or ten minute break*, during which time he warned and chastised the attorneys regarding their behaviors. The observer considered this an *excellent technique* as it was obvious he wanted to *handle this outside the presence of the jury*.

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Demonstrates concern for individual needs      Three observers reported that Judge Lawrence indicated that *each case was important*, and he always showed concern for both parties. In a *nonpayment of rent* case the judge was *concerned that the court did not cause the defendant to be put out on the street or be back in court paying more attorney fees* due to the *nonsigning of a new lease*, and he tried to get this accomplished even though this was *not the major complaint brought to the court*. He *quickly stopped a witness from attempting to give testimony when no question had been asked*, and the observer assumed the judge *did not want witnesses saying something that could be prejudicial to the case*.

Observers noted that Judge Lawrence *showed wisdom when advising the parties and giving them time to talk about settling* without going to trial, explaining they could *both end up being disappointed*, but when they wanted to proceed he was *perfectly willing to hear their case*.

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Unhurried and careful      Two observers reported that Judge Lawrence *did not rush* but *allowed both sides to present their case in their own fashion*, and he took time to *review and think things over* before deciding.

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VOICE

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Considered voice      Three observers reported that Judge Lawrence gave all participants *ample time to share their perspectives and as much time as they wanted to present their views or clarify issues and discuss further their side*, saying for example, "Tell me in your own words why I shouldn't grant this motion." He *asked whether anyone had anything else to say before making a decision*. In one case when the judge was *dumbfounded and clearly disturbed* by a lawyer's actions regarding a *conflict of interest*, he still *allowed him as much time as he wanted to explain why he did what he did*.

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COMMUNICATION

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Communicates clearly      Two observers reported that Judge Lawrence was *very clear and easy to understand*, his *language was appropriate and without sarcasm or emotional overtones*, and his *simple directions* and numbered instructions made it *easy for the lawyers to comply*.

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Provides adequate explanations      Three observers reported that Judge Lawrence was *clear about his reasoning for disagreeing to or sustaining objections*. He *clearly explained how he arrived at his rulings* and was *exceptionally good at breaking down and explaining his reasoning for each part*. One observer felt that no one *could have walked away not understanding why Judge Lawrence ruled as he did*.

Judge Lawrence *specifically informed everyone* of their next steps. He was *very patient* in working with an unrepresented participant, *explaining the law, decisions, and results*, and saying, "*I know you're not a lawyer and it can be a bit complicated.*"

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