

**JUDICIAL PERFORMANCE PROGRAM  
2011 REPORT**

THE JUDICIARY  
STATE OF HAWAII  
December 30, 2011

## **JUDICIAL PERFORMANCE PROGRAM 2011 REPORT**

### **INTRODUCTION**

The Judicial Performance Program 2011 Report summarizes the results of evaluations involving ten Circuit Court judges, seven Family Court judges, and five Per Diem 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 website. 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.

Judicial Performance Program reports are issued yearly. Since the evaluation process has been and is still evolving, comparisons of individual scores should be made only within each respective report group.

### **JUDGES' RATINGS**

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 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 programs being included in the evaluation process two out of every three years; that is, 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 2010. Evaluation of Family Court, but not of District Court, judges was conducted in 2011. Evaluations of both full time Family Court and full time District Court judges are scheduled for 2012. The next evaluation of Per Diem judges is scheduled for 2013.

## **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 judges and consists of six members: Robert Alm, Momi Cazimero, Douglas McNish, Willson Moore Jr., William Santos, and Betty Vitousek. The Review Panel is organized into groups of three, with each group having 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 judges and help the judges improve their performance.

## **CIRCUIT COURT RESULTS**

Ten Circuit Court judges received the results of their evaluations under cover of memoranda dated November 18, 2011. A link to the online questionnaire was provided to attorneys by email on August 2, 2011. The surveys were collected from August 2, 2011 until August 19, 2011.

The email to active attorneys from Chief Justice Mark E. Recktenwald and from the President of the Hawaii State Bar Association can be found in Appendix B. The questionnaire is attached as Appendix C. Possible ratings based on the multiple-choice format range from one to five. One indicates a Poor rating. Five stands for Excellent. Table 1 provides the average scores by section for the 10 judges.

The mean score for the Legal Ability section was 3.8, with a standard deviation of 0.4. The standard deviation gives an indication of the amount of variation in the scores between the 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 scores.) Most of the judges received marks between 3.4 and 4.2 in the Legal Ability section.

For the Judicial Management Skills section, the judges had a mean score of 3.9, and the standard deviation for this section was 0.4. In the Comportment section, the mean score was 4.1, and the standard deviation was 0.3. The mean score for the Settlement and/or Plea Agreement Ability section was 3.8, with a standard deviation of 0.4. The frequencies of the judges' ratings, by category, are shown in Graphs 1 to 4.

There were 586 responses out of 4,357 emails sent out to attorneys who had provided their email addresses to the Bar Association. Some of the 586 respondents may have said they had not appeared before any of the judges in the previous two years. This would have ended their participation in the evaluation process. Other attorneys may have said they had appeared before two or more judges. The number of respondents did not equal the number of questionnaires received and tallied. The number of questionnaires received for all 10 judges from attorneys who appeared before them totaled 670, with between 22 and 145 questionnaires received per judge. A reminder email sent to selected attorneys is printed in Appendix D.

TABLE 1  
 JUDICIAL PERFORMANCE PROGRAM – CIRCUIT COURT  
 EVALUATION RESULTS FOR TEN JUDGES  
 AUGUST 2, 2011 – AUGUST 19, 2011

QUESTIONNAIRE SECTION	N	Mean Score	S.D.
<b>LEGAL ABILITY SECTION</b>			
1. Knowledge of Relevant Substantive Law	10	3.8	0.5
2. Knowledge of Rules of Procedure	10	4.0	0.4
3. Knowledge of Rules of Evidence	10	3.9	0.5
4. Ability to Identify and Analyze	10	3.9	0.4
5. Judgment in Application of Relevant Laws	10	3.7	0.4
6. Giving Reasons for Rulings when Needed	10	3.9	0.4
7. Clarity of Explanation of Rulings	10	3.8	0.4
8. Adequacy of Findings of Fact	10	3.8	0.4
9. Clarity of Judge's Decision(s)	10	3.8	0.4
10. Completeness of Judge's Decision(s)	10	3.8	0.4
11. Judge's Charge to the Jury/Juries	10	3.8	0.6
Average Score for the Legal Ability Section	10	3.8	0.4
<b>JUDICIAL MANAGEMENT SKILLS SECTION</b>			
1. Moving the Proceeding(s)	10	3.8	0.3
2. Maintaining Proper Control	10	4.0	0.4
3. Doing the Necessary Homework on the Case(s)	10	3.9	0.4
4. Rendering Rulings and Decisions w/o Delay	10	3.9	0.4
5. Allowing Adequate Time	10	4.0	0.3
6. Resourcefulness and Common Sense	10	3.8	0.4
7. Skills in Effecting Compromise	10	3.6	0.4
8. Industriousness	10	4.0	0.4
Average Score for the Judicial Management Skills Section	10	3.9	0.4
<b>COMPORTEMNT SECTION</b>			
1. Attentiveness	10	4.3	0.3
2. Courtesy to Participants	10	4.2	0.4
3. Compassion	10	3.9	0.4
4. Patience	10	4.0	0.4
5. Absence of Arrogance	10	4.0	0.5
6. Absence of Bias and Prejudice	10	4.2	0.3
7. Evenhanded Treatment of Litigants	10	4.1	0.4
8. Evenhanded Treatment of Attorneys	10	4.1	0.3

Average Score for the Compartment Section	10	4.1	0.3
---	----	-----	-----

SETTLEMENT AND/OR PLEA AGREEMENT ABILITY SECTION

1. Knowing the Case(s) and/or the Law	10	3.9	0.5
2. Reasonableness of Opinions	10	3.8	0.4
3. Ability to Enhance the Settlement Process	10	3.7	0.5
4. Impartiality	10	3.9	0.3
5. Absence of Coercion or Threat	10	4.0	0.4
6. Effectiveness in Narrowing the Issues	10	3.8	0.4
7. Appropriateness of Judge's Initiatives	10	3.7	0.4
8. Facilitation in Development of Options	10	3.7	0.4
Average Score for the Settlement Section	10	3.8	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 1. Legal Ability Scale

Frequency of Judges' Ratings, By Category

August 2, 2011 – August 19, 2011

No. of Judges	3	7
Scale Interval Category	2.5 to 3.4	3.5 to 4.4
	Adequate	Good

Circuit Court

Graph 2. Judicial Management Skills Scale

Frequency of Judges' Ratings, By Category

August 2, 2011 – August 19, 2011

No. of Judges	1	8	1
Scale Interval Category	2.5 to 3.4	3.5 to 4.4	4.5 to 5.0
	Adequate	Good	Excellent

Circuit Court

Graph 3. Comportment Scale

Frequency of Judges' Ratings, By Category

August 2, 2011 – August 19, 2011

No. of Judges	2	2
Scale Interval Category	3.5 to 4.4	4.5 to 5.0
	Good	Excellent

Circuit Court

Graph 4. Settlement/Plea Agreement Ability Scale

Frequency of Judges' Ratings, By Category

August 2, 2011 – August 19, 2011

No. of Judges	2	8
Scale Interval Category	2.5 to 3.4	3.5 to 4.4
	Adequate	Good

## **FAMILY COURT RESULTS**

Judicial evaluation results were transmitted to seven Family Court judges by Chief Justice Recktenwald under cover of memoranda dated June 29, 2011. Surveys could be completed over the Internet from April 5, 2011 until April 22, 2011.

Although nine judges were selected for the evaluation, only seven judges received at least the 18 responses required for profiles to be prepared. The other two judges did not receive evaluation reports.

The Family Court questionnaire can be found in Appendix E. Table 2 provides the averages for the seven judges.

The mean score for the Legal Ability Section was 3.9, and the standard deviation was 0.2. Most of the judges received scores between 3.7 and 4.1.

The mean score for the Judicial Management Skills section was 4.0, and the standard deviation for this section was 0.3. The mean score for the Comportment section was 4.2, and the standard deviation was 0.2. The mean score for the Settlement and/or Plea Agreement Ability section was 3.9, and the standard deviation was 0.2. The frequencies of the judges' ratings, by category, are shown in Graphs 5 to 8.

Of the 4,406 emails sent out for nine judges, 327 surveys were returned. Some of the attorneys may have said they had not appeared before any of the judges in the previous two years. This would have ended their participation in the evaluation process, and the survey would not have been counted for any judge. Other attorneys may have said they had appeared before two or more judges. Thus the number of surveys returned may not have equaled the total number of surveys received for all the judges because some of the surveys returned may not have been counted and others may have been counted for two or more judges.

The judges who were evaluated received between 21 and 61 questionnaires each. The seven judges had a total of 222 questionnaires returned from attorneys who appeared before them.

TABLE 2  
 JUDICIAL PERFORMANCE PROGRAM – FAMILY COURT  
 EVALUATION RESULTS FOR SEVEN JUDGES  
 APRIL 5, 2011 – APRIL 22, 2011

QUESTIONNAIRE SECTION	N	Mean Score	S.D.
<b>LEGAL ABILITY SECTION</b>			
1. Knowledge of Relevant Substantive Law	7	4.0	0.2
2. Knowledge of Rules of Procedure	7	4.0	0.3
3. Knowledge of Rules of Evidence	7	4.0	0.2
4. Ability to Identify and Analyze	7	4.0	0.3
5. Judgment in Application of Relevant Laws	7	3.8	0.2
6. Giving Reasons for Rulings when Needed	7	3.9	0.2
7. Clarity of Explanation of Rulings	7	3.8	0.2
8. Adequacy of Findings of Fact	7	3.7	0.1
9. Clarity of Judge's Decision(s)	7	3.8	0.2
10. Completeness of Judge's Decision(s)	7	3.8	0.2
11. Judge's Charge to the Jury/Juries	1	3.2	---
Average Score for the Legal Ability Section	7	3.9	0.2
<b>JUDICIAL MANAGEMENT SKILLS SECTION</b>			
1. Moving the Proceeding(s)	7	4.0	0.4
2. Maintaining Proper Control	7	4.2	0.3
3. Doing the Necessary Homework on the Case(s)	7	3.9	0.2
4. Rendering Rulings and Decisions w/o Delay	7	4.0	0.5
5. Allowing Adequate Time	7	4.0	0.2
6. Resourcefulness and Common Sense	7	3.9	0.3
7. Skills in Effecting Compromise	7	3.7	0.3
8. Industriousness	7	4.1	0.3
Average Score for the Judicial Management Skills Section	7	4.0	0.3
<b>COMPORTMENT SECTION</b>			
1. Attentiveness	7	4.3	0.2
2. Courtesy to Participants	7	4.3	0.3
3. Compassion	7	4.2	0.2
4. Patience	7	4.2	0.3
5. Absence of Arrogance	7	4.2	0.2
6. Absence of Bias and Prejudice	7	4.2	0.2
7. Evenhanded Treatment of Litigants	7	4.1	0.2
8. Evenhanded Treatment of Attorneys	7	4.1	0.1

Average Score for the Compartment Section	7	4.2	0.2
---	---	-----	-----

SETTLEMENT AND/OR PLEA AGREEMENT ABILITY SECTION

1. Knowing the Case(s) and/or the Law	7	4.0	0.3
2. Reasonableness of Opinions	7	3.9	0.3
3. Ability to Enhance the Settlement Process	7	3.8	0.2
4. Impartiality	7	4.0	0.2
5. Absence of Coercion or Threat	7	4.2	0.2
6. Effectiveness in Narrowing the Issues	7	3.9	0.2
7. Appropriateness of Judge's Initiatives	7	3.9	0.3
8. Facilitation in Development of Options	7	3.8	0.3
Average Score for the Settlement Section	7	3.9	0.2

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

Family Court

Graph 5. Legal Ability Scale

Frequency of Judges' Ratings, By Category

April 5, 2011 – April 22, 2011

No. of Judges	7
Scale Interval Category	3.5 to 4.4
	Good

Family Court

Graph 6. Judicial Management Skills Scale

Frequency of Judges' Ratings, By Category

April 5, 2011 – April 22, 2011

No. of Judges	1	6
Scale Interval Category	2.5 to 3.4	3.5 to 4.4
	Adequate	Good

Family Court

Graph 7. Comportment Scale

Frequency of Judges' Ratings, By Category

April 5, 2011 – April 22, 2011

No. of Judges	6	1
Scale Interval Category	3.5 to 4.4	4.5 to 5.0
	Good	Excellent

Family Court

Graph 8. Settlement/Plea Agreement Ability Scale

Frequency of Judges' Ratings, By Category

April 5, 2011 – April 22, 2011

No. of Judges	7
Scale Interval Category	3.5 to 4.4
	Good

## **PER DIEM RESULTS**

Evaluation results were transmitted to five Per Diem judges by Chief Justice Recktenwald under cover of memoranda dated August 17, 2011. Surveys could be completed over the Internet from June 21, 2011 to July 8, 2011. Although eight judges were selected for the evaluation, only five judges received at least the 18 responses for profiles to be prepared. The other three judges did not receive evaluation reports.

The Per Diem questionnaire is printed in Appendix F. Table 3 provides the averages for the five judges.

The mean score for the Legal Ability section was 3.7, and the standard deviation was 0.5. Most of the judges received scores between 3.2 and 4.2.

The mean score for the Judicial Management Skills section was 3.8, and the standard deviation for this section was 0.4. The mean score for the Comportment section was 4.0, and the standard deviation was 0.8. The mean score for the Settlement and/or Plea Agreement Ability section was 3.7, and the standard deviation was 0.6. The frequencies of judges' ratings, by category, are shown in Graphs 5 to 8.

Of the 4,382 emails sent out for eight judges, 519 surveys were returned. Some of the attorneys may have said they had not appeared before any of the judges in the previous two years. This would have ended their participation in the evaluation process. Other attorneys may have said they had appeared before two or more judges.

The judges who were evaluated received between 20 and 52 questionnaires each. The five judges had a total of 143 questionnaires returned from attorneys who appeared before them.

TABLE 3  
 JUDICIAL PERFORMANCE PROGRAM – PER DIEM  
 EVALUATION RESULTS FOR FIVE JUDGES  
 JUNE 21, 2011 – JULY 8, 2011

QUESTIONNAIRE SECTION	N	Mean Score	S.D.
<b>LEGAL ABILITY SECTION</b>			
1. Knowledge of Relevant Substantive Law	5	3.6	0.5
2. Knowledge of Rules of Procedure	5	3.7	0.5
3. Knowledge of Rules of Evidence	5	3.6	0.4
4. Ability to Identify and Analyze	5	3.7	0.5
5. Judgment in Application of Relevant Laws	5	3.7	0.5
6. Giving Reasons for Rulings when Needed	5	3.7	0.6
7. Clarity of Explanation of Rulings	5	3.6	0.6
8. Adequacy of Findings of Fact	5	3.7	0.6
9. Clarity of Judge's Decision(s)	5	3.7	0.5
10. Completeness of Judge's Decision(s)	5	3.7	0.5
Average Score for the Legal Ability Section	5	3.7	0.5
<b>JUDICIAL MANAGEMENT SKILLS SECTION</b>			
1. Moving the Proceeding(s)	5	3.7	0.2
2. Maintaining Proper Control	5	3.9	0.3
3. Doing the Necessary Homework on the Case(s)	5	3.6	0.6
4. Rendering Rulings and Decisions w/o Delay	5	4.0	0.3
5. Allowing Adequate Time	5	3.9	0.6
6. Resourcefulness and Common Sense	5	3.6	0.5
7. Skills in Effecting Compromise	5	3.6	0.6
8. Industriousness	5	3.8	0.6
Average Score for the Judicial Management Skills Section	5	3.8	0.4
<b>COMPORIMENT SECTION</b>			
1. Attentiveness	5	4.0	0.7
2. Courtesy to Participants	5	4.1	0.8
3. Compassion	5	3.9	0.9
4. Patience	5	3.8	0.9
5. Absence of Arrogance	5	4.0	1.0
6. Absence of Bias and Prejudice	5	4.1	0.7
7. Evenhanded Treatment of Litigants	5	3.9	0.8
8. Evenhanded Treatment of Attorneys	5	4.0	0.8
Average Score for the Compartment Section	5	4.0	0.8

## SETTLEMENT AND/OR PLEA AGREEMENT ABILITY SECTION

1. Knowing the Case(s) and/or the Law	5	3.6	0.5
2. Reasonableness of Opinions	5	3.6	0.6
3. Ability to Enhance the Settlement Process	5	3.6	0.6
4. Impartiality	5	3.8	0.7
5. Absence of Coercion or Threat	5	4.1	0.7
6. Effectiveness in Narrowing the Issues	5	3.7	0.6
7. Appropriateness of Judge's Initiatives	5	3.6	0.7
8. Facilitation in Development of Options	5	3.6	0.8
Average Score for the Settlement Section	5	3.7	0.6

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

Per Diem Evaluation

Graph 9. Legal Ability Scale

Frequency of Judges' Ratings, By Category

June 21, 2011 – July 8, 2011

No. of Judges	1	4
Scale Interval Category	2.5 to 3.4	3.5 to 4.4
	Adequate	Good

Per Diem Evaluation

Graph 10. Judicial Management Skills Scale

Frequency of Judges' Ratings, By Category

June 21, 2011 – July 8, 2011

No. of Judges	1	4
Scale Interval Category	2.5 to 3.4	3.5 to 4.4
	Adequate	Good

Per Diem Evaluation

Graph 11. Comportment Scale

Frequency of Judges' Ratings, By Category

June 21, 2011 – July 8, 2011

No. of Judges	2	3
Scale Interval Category	2.5 to 3.4	4.5 to 5.0
	Adequate	Excellent

Per Diem Evaluation

Graph 12. Settlement/Plea Agreement Ability Scale

Frequency of Judges' Ratings, By Category

June 21, 2011 – July 8, 2011

No. of Judges	2	3
Scale Interval Category	2.5 to 3.4	3.5 to 4.4
	Adequate	Good



## **APPENDIX A**

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

Judge Derrick H.M. Chan, Chair

Judge Rhonda I. L. Loo

Judge Clarence A. Pacarro

Susan L. Arnett, Esq.

Gail Y. Cosgrove, Esq.

Todd W. Eddins, Esq.

Rosemary T. Fazio, Esq.

Dr. Allan K. Izumi

Joelle Segawa Kane, Esq.

Rodney A. Maile, Esq., Administrative Director of the Courts

James C. McWhinnie, Esq.

Joe C. Rice

## **APPENDIX B**

**EMAIL FROM THE CHIEF JUSTICE AND THE PRESIDENT OF THE BAR**

To:

From: Rodney A. Maile@courts.state.hi.us

Sent: August 2, 2011

Subject: Joint Email From Chief Justice Recktenwald and HSBA President Ing Re Judicial Evaluations

Dear Attorney:

This is a joint email from Chief Justice Mark E. Recktenwald and HSBA President Louise K.Y. Ing. The Judiciary is conducting an online evaluation of ten Circuit Court Judges. The Judiciary and the HSBA encourage all members to participate in the evaluation process. This evaluation differs from the HSBA's judicial evaluation survey, but both programs are designed to give you the opportunity to provide meaningful input concerning individual judges. Judges are receptive to receiving comments and suggestions, which often help them to improve their judicial skills and techniques.

Please click on the following link, [*link to questionnaire*], to complete the questionnaire. Because this link is unique to your email address, please do not forward this message. If at any time you wish to stop and later return to the questionnaire, please click on the same link. The questionnaire will remain accessible to you until August 19, 2011. To ensure security and confidentiality, the evaluation process is being administered by eHawaii.gov, which is independent from the Judiciary and the HSBA.

The evaluation is designed to obtain the assessments of attorneys who have actually appeared before the judge. Please be sure that your evaluation is based solely on your experience, and not on hearsay. If you did not have cases before a judge, you may click on that option after you select the judge's name. Also, if you do not wish to receive any judicial evaluation questionnaires, please click on [*link to opt out*], and you will automatically be removed from this mailing list.

Thank you in advance for your consideration. If you have any questions, please contact Michael Oki at 539-4870.

Sincerely,

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

*Louise K.Y. Ing*  
*President*  
*Hawaii State Bar Association*

## **APPENDIX C**

### **CIRCUIT COURT QUESTIONNAIRE**

SAMPLE – BASIC SURVEY QUESTIONS  
Judicial Circuit Court Questionnaire – August 2011

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

\*1. Have you appeared before this judge during the period from August 1, 2009 to July 31, 2011?  
(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)

SAMPLE – LEGAL ABILITY  
Judicial Circuit Court Questionnaire – August 2011

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

SAMPLE – LEGAL ABILITY

Judicial Circuit Court Questionnaire – August 2011

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

SAMPLE – JUDICIAL MANAGEMENT SKILLS  
Judicial Circuit Court Questionnaire – August 2011

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

## SAMPLE – COMPORTMENT

### Judicial Circuit Court Questionnaire – August 2011

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
-----------	------	----------	--------------------	------	----------------

SAMPLE – SETTLEMENT AND/OR PLEA AGREEMENT ABILITY  
Judicial Circuit Court Questionnaire – August 2011

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

SAMPLE – COMMENT PAGE

Judicial Circuit Court Questionnaire – August 2011

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 type your comments, and remember not to identify yourself.

1. Legal ability

2. Judicial management skills

3. Comportment

4. Settlement/plea agreement ability

5. Overall/General

SAMPLE – SURVEY COMPLETE  
Judicial Circuit Court Questionnaire – August 2011

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

I would like to fill out a questionnaire for another judge.

I have completed questionnaires for all judges and am ready to submit my questionnaires.

SAMPLE – BACKGROUND CHARACTERISTICS  
Judicial Circuit Court Questionnaire – August 2011

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

Refuse 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

Refuse to answer

Other (please specify)

**SAMPLE – SUBMIT QUESTIONNAIRES**  
Judicial Circuit Court Questionnaire – August 2011

Please confirm that you have completed questionnaires 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 Policy and Planning Department at 539-4870. Mahalo!

1. Please let us know what you think of the online survey process.

## **APPENDIX D**

### **REMINDER EMAIL TO ATTORNEYS**

Bcc:

From: Rodney.A.Maile@courts.state.hi.us

Date: August 10, 2011

Subject: Circuit Court Judges Evaluations

Dear Attorney:

You should have received an email from the Judiciary and the HSBA regarding the evaluation of Circuit Court judges. Please help us by completing the questionnaire if you have appeared before one or more of the judges. If you have already completed the questionnaire, we appreciate your participation in the process.

If a judge does not have eighteen or more questionnaires returned for him or her, that judge cannot be evaluated. We are sending this email to attorneys who we feel have participated in matters before the Circuit Court. If you are not in a position to evaluate a judge but another attorney in your office is, please forward this email to that person.

The Judicial Performance Program is an important part of the Judiciary's ongoing efforts to better serve those who deal with the judicial system. The success and effectiveness of the Program depend upon the completed questionnaires, and results cannot be compiled without a sufficient number of responses. Thank you very much for your assistance.

Rodney A. Maile  
Administrative Director of the Courts  
The Judiciary — State of Hawaii

**APPENDIX E**

**FAMILY COURT QUESTIONNAIRE**

SAMPLE – BASIC SURVEY QUESTIONS  
Judicial Family Court Questionnaire – April 2011

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

\*1. Have you appeared before this judge during the period from April 1, 2009 to March 31, 2011?  
(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 period from April 1, 2009 to March 31, 2011?

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)

## SAMPLE – LEGAL ABILITY

### Judicial Family Court Questionnaire – April 2011

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
-----------	------	----------	--------------------	------	----------------

SAMPLE – LEGAL ABILITY

Judicial Family Court Questionnaire – April 2011

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

SAMPLE – JUDICIAL MANAGEMENT SKILLS  
Judicial Family Court Questionnaire – April 2011

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

## SAMPLE – COMPORTMENT

### Judicial Family Court Questionnaire – April 2011

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
-----------	------	----------	--------------------	------	----------------

SAMPLE – SETTLEMENT AND/OR PLEA AGREEMENT ABILITY  
 Judicial Family Court Questionnaire – April 2011

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

SAMPLE – COMMENT PAGE

Judicial Family Court Questionnaire – April 2011

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 type your comments, and remember not to identify yourself.

1. Legal ability

2. Judicial management skills

3. Comportment

4. Settlement/plea agreement ability

5. Overall/General

SAMPLE – BACKGROUND CHARACTERISTICS  
Judicial Family Court Questionnaire – April 2011

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

Refuse 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

Refuse to answer

Other (please specify)

SAMPLE – SURVEY COMPLETE  
Judicial Family Court Questionnaire – April 2011

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

I would like to fill out a questionnaire for another judge.

I have completed questionnaires for all judges and am ready to submit my questionnaires.

**SAMPLE – SUBMIT QUESTIONNAIRES**  
Judicial Family Court Questionnaire – April 2011

Please confirm that you have completed questionnaires 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 Policy and Planning Department at 539-4870. Mahalo!

1. Please let us know what you think of the online survey process.

## **APPENDIX F**

### **PER DIEM QUESTIONNAIRE**

SAMPLE – BASIC SURVEY QUESTIONS  
Judicial Per Diem Questionnaire – June 2011

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

\*1. Have you appeared before this judge during the period from June 1, 2009 to May 31, 2011? (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 period from June 1, 2009 to May 31, 2011?

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.)

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)

SAMPLE – LEGAL ABILITY  
Judicial Per Diem Questionnaire – June 2011

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

SAMPLE – LEGAL ABILITY  
Judicial Per Diem Questionnaire – June 2011

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

Excellent    Good        Adequate        Less than Adequate    Poor        Not Applicable

## SAMPLE – JUDICIAL MANAGEMENT SKILLS

### Judicial Per Diem Questionnaire – June 2011

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

SAMPLE – COMPORTMENT  
Judicial Per Diem Questionnaire – June 2011

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
-----------	------	----------	--------------------	------	----------------

SAMPLE – SETTLEMENT AND/OR PLEA AGREEMENT ABILITY  
 Judicial Per Diem Questionnaire – June 2011

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 16(1), family court rules, rule 12.1, district 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

SAMPLE – COMMENT PAGE  
Judicial Per Diem Questionnaire – June 2011

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 type your comments, and remember not to identify yourself.

1. Legal ability

2. Judicial management skills

3. Comportment

4. Settlement/plea agreement ability

5. Overall/General

SAMPLE – BACKGROUND CHARACTERISTICS  
Judicial Per Diem Questionnaire – June 2011

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

Refuse 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

Refuse to answer

Other (please specify)

SAMPLE – SURVEY COMPLETE  
Judicial Per Diem Questionnaire – June 2011

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

I would like to fill out a questionnaire for another judge.

I have completed questionnaires for all judges am ready to submit my questionnaires.

**SAMPLE – SUBMIT QUESTIONNAIRES**  
Judicial Per Diem Questionnaire – June 2011

Please confirm that you have completed questionnaires 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 Policy and Planning Department at 539-4870. Mahalo!

1. Please let us know what you think of the online survey process.