

JUDICIAL PERFORMANCE PROGRAM

2014 REPORT

**THE JUDICIARY
STATE OF HAWAII**

October 16, 2014

JUDICIAL PERFORMANCE PROGRAM 2014 REPORT

INTRODUCTION

The Judicial Performance Program 2014 Report summarizes the results of evaluations involving eight Appellate Court justices and judges, twelve 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 2013. Evaluation of Family Court, but not of District Court, judges was conducted in 2014. Evaluations of both full time Family Court and full time District Court judges are scheduled for 2015.

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 ten members: Robert Alm, Momi Cazimero, Kenneth Hipp, Douglas McNish, Willson Moore Jr., Shackley Raffetto, William Santos, Betty Vitousek, 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 help the justices and judges improve their performance.

APPELLATE COURT RESULTS

Eight Supreme Court justices and Intermediate Court of Appeals judges received the results of their evaluations under cover of memoranda dated March 27, 2014. Three other justices and appellate judges did not have the minimum eighteen responses needed to be evaluated.

A link to the online questionnaire was provided to attorneys by email on January 2, 2014, and the surveys were collected from January 2 to January 31, 2014. The questionnaire is attached as Appendix B.

Possible ratings based on 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 eight Appellate Court justices and judges.

The mean score for the Fairness/Impartiality section was 4.5, with a standard deviation of 0.3. 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.) Many of the Appellate Court justices and judges received marks between 4.2 and 4.8 in the Fairness/Impartiality section.

For Written Opinions, the justices and appellate judges had a mean score of 4.3. The standard deviation for this section was 0.1. The mean score for the Oral Argument section was 4.6, with a standard deviation of 0.3. The mean score for the Overall Evaluation section was 4.2, with a standard deviation of 0.3. The frequencies of the Appellate Court justices' and judges' ratings, by category, are printed on pages 5 to 8.

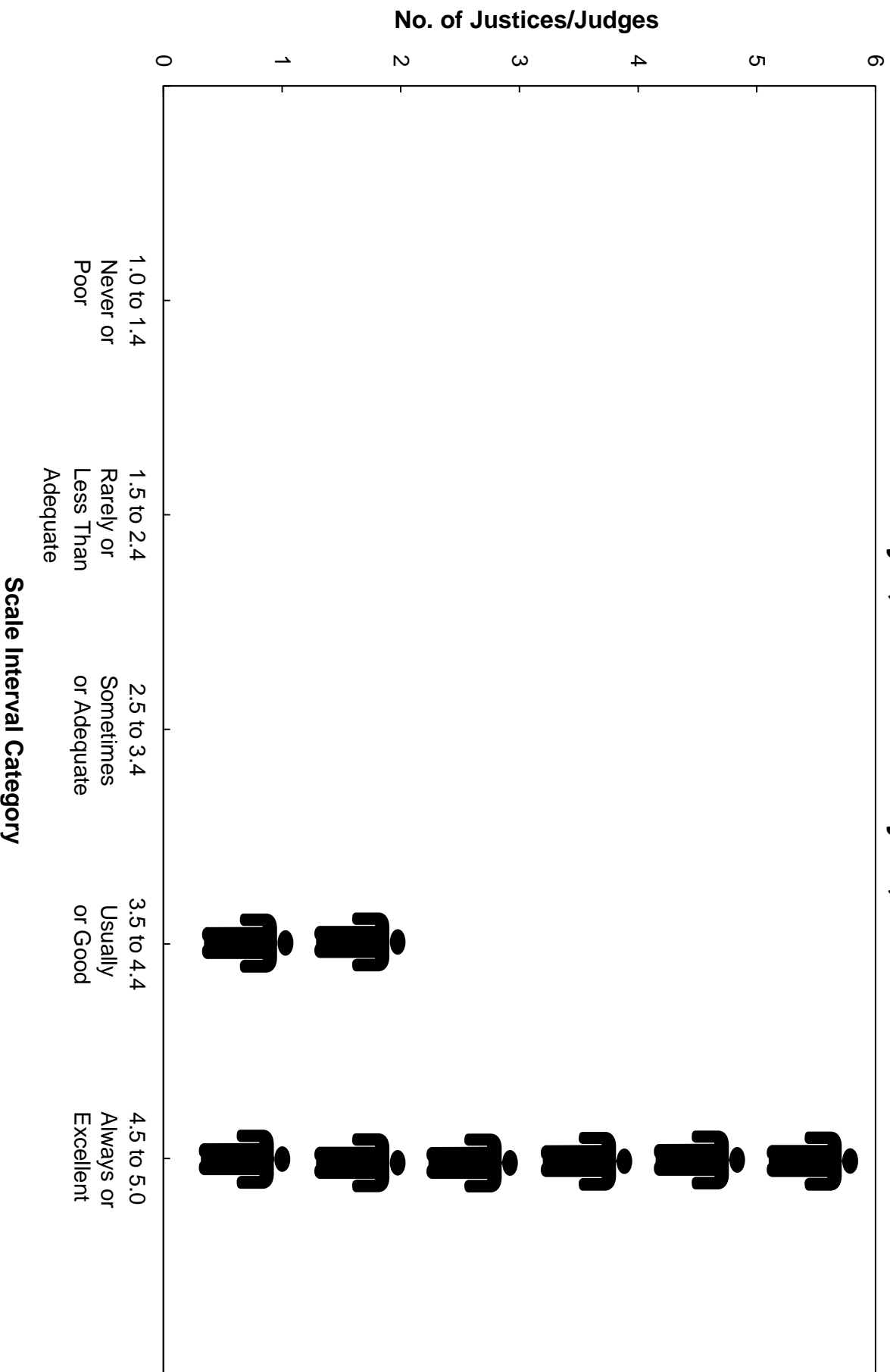
There were 317 responses from 4,483 emails sent out to attorneys who had provided their email addresses to the Hawaii State Bar Association. Some of the responses were not counted because the attorneys reported that they had not appeared before the justices or judges. The number of responses did not equal the number of questionnaires received. The number of questionnaires received for the eight justices and judges with completed evaluations totaled 235, with between 18 and 41 questionnaires received for each justice or judge.

TABLE 1
JUDICIAL PERFORMANCE PROGRAM - APPELLATE COURTS
EVALUATION RESULTS FOR EIGHT JUSTICES AND JUDGES
JANUARY 2, 2014 - JANUARY 31, 2014

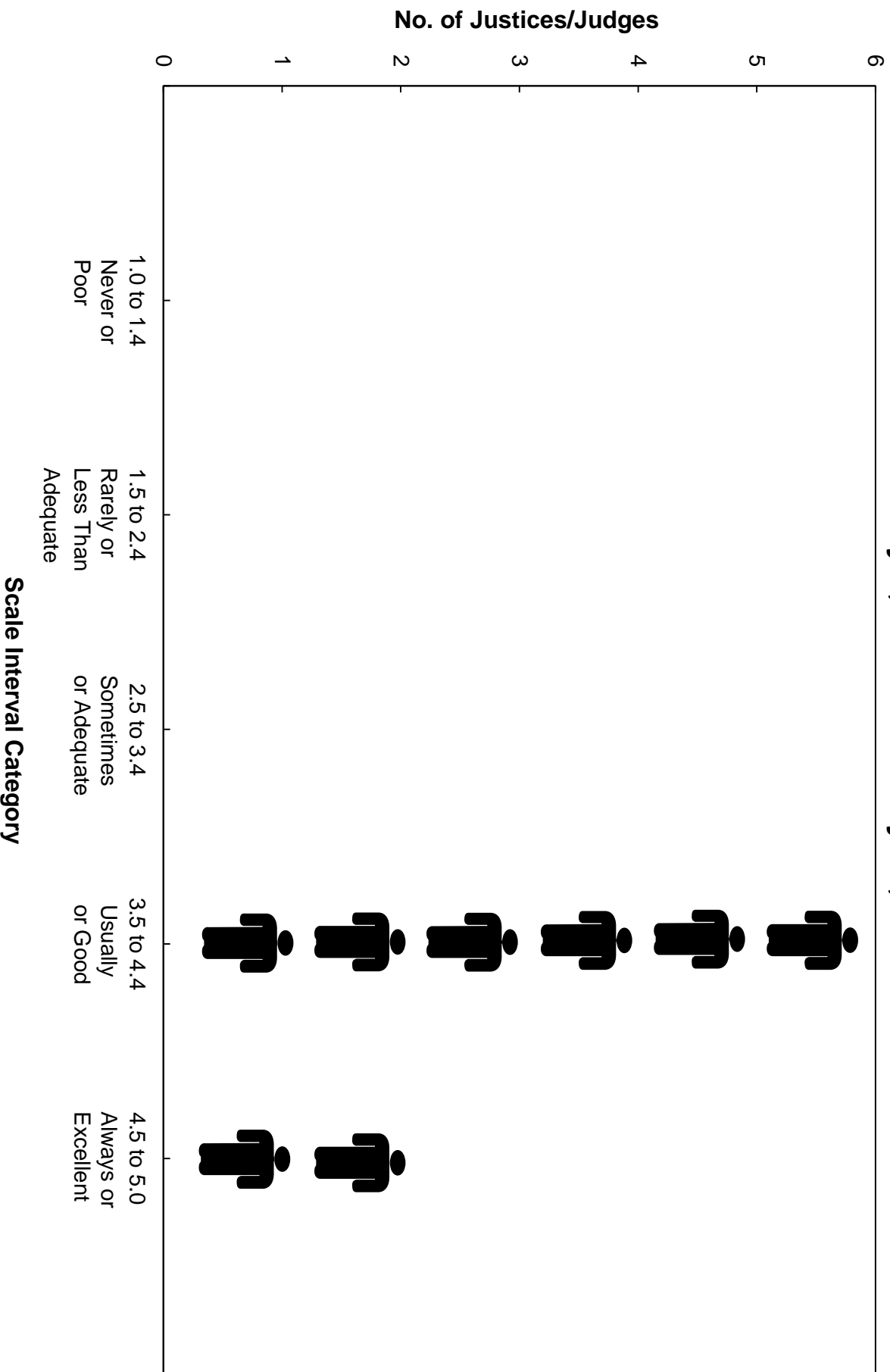
<u>QUESTIONNAIRE SECTION</u>	<u>N</u>	<u>Mean Score</u>	<u>S.D.</u>
<u>FAIRNESS/IMPARTIALITY SECTION</u>			
1. Removes him/herself from any action that is, or appears to be, a conflict of interest.	8	4.8	0.2
2. Treats all parties fairly regardless of race, age, gender, economic status, or any other reason.	8	4.6	0.3
3. Treats all parties fairly regardless of position (e.g., plaintiff/defendant, prosecutor/defense attorney, particular attorneys, etc.).	8	4.4	0.4
4. Strives to be impartial on all issues.	8	4.3	0.4
5. Contributes in a meaningful way to administrative committees he or she is assigned to.	7	4.7	0.3
Average Score for the Fairness/Impartiality Section	8	4.5	0.3
<u>WRITTEN OPINIONS SECTION</u>			
1. In opinions authored by this justice/judge, he or she demonstrates knowledge of relevant substantive law at issue.	8	4.4	0.1
2. In opinions authored by this justice/judge, he or she demonstrates legal reasoning ability.	8	4.4	0.2
3. Overall quality of written opinions authored specifically by this justice/judge.	8	4.2	0.2
Average Score for the Written Opinions Section	8	4.3	0.1
<u>ORAL ARGUMENT SECTION</u>			
1. In oral argument, this justice/judge exhibits dignified behavior.	8	4.6	0.4
2. This justice/judge is courteous to counsel at oral argument.	8	4.6	0.4
3. In oral argument, this justice/judge is attentive during proceedings.	8	4.9	0.1
4. In oral argument, this justice/judge shows patience during proceedings.	8	4.5	0.5
5. I would rate the relevance of questions posed by this justice/judge to counsel on issues raised by the parties as	8	4.4	0.3
6. I would rate the preparation for oral argument by this justice/judge as	8	4.5	0.2
Average Score for the Oral Argument Section	8	4.6	0.3
<u>OVERALL EVALUATION SECTION</u>			
1. Overall evaluation of judicial performance.	8	4.2	0.3

<p style="text-align: center;">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</p>
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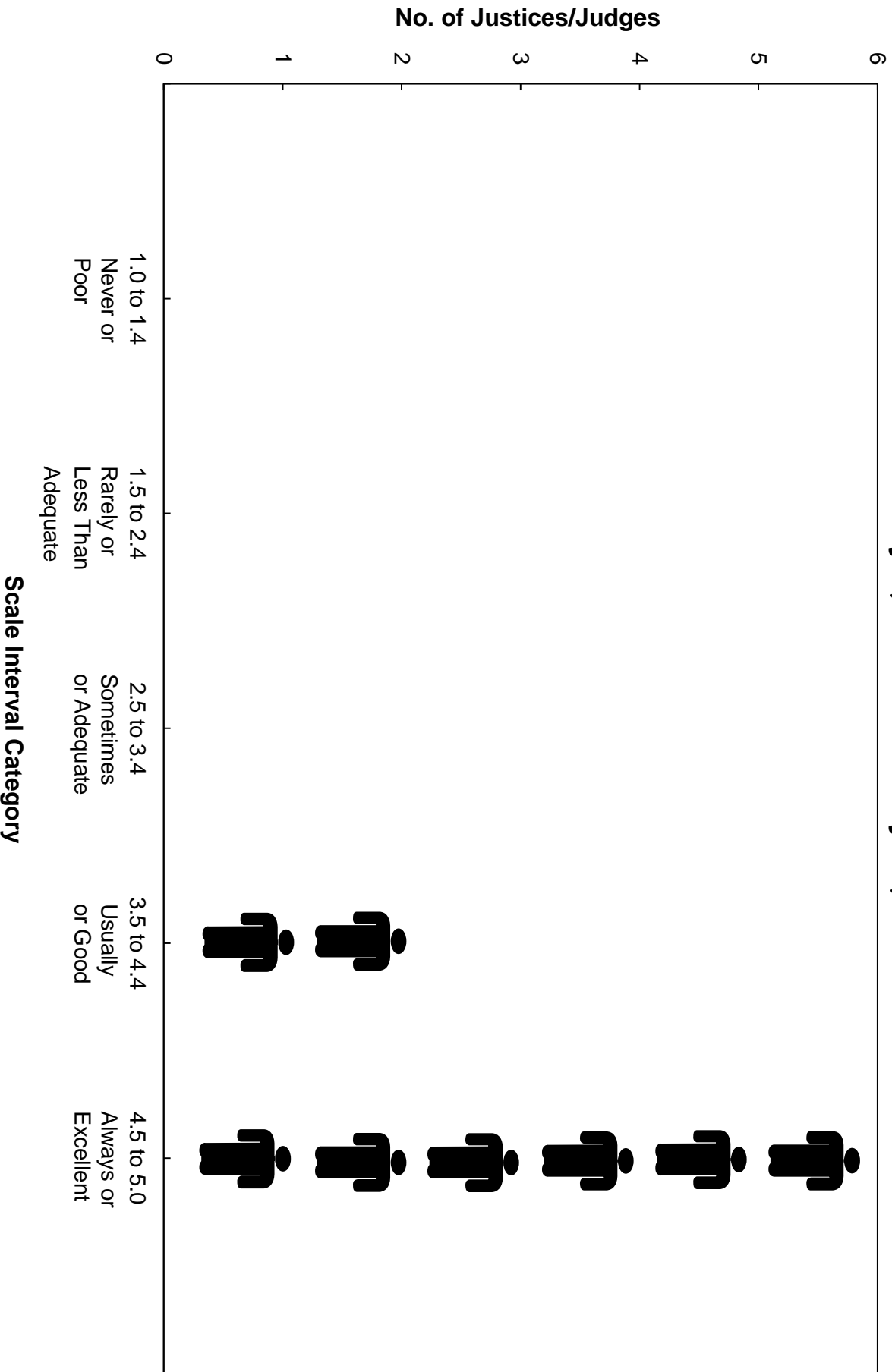
Appellate Courts
Graph 1. Fairness/Impartiality Scale
Frequency of Justices'/Judges' Ratings, By Category
January 2, 2014 – January 31, 2014



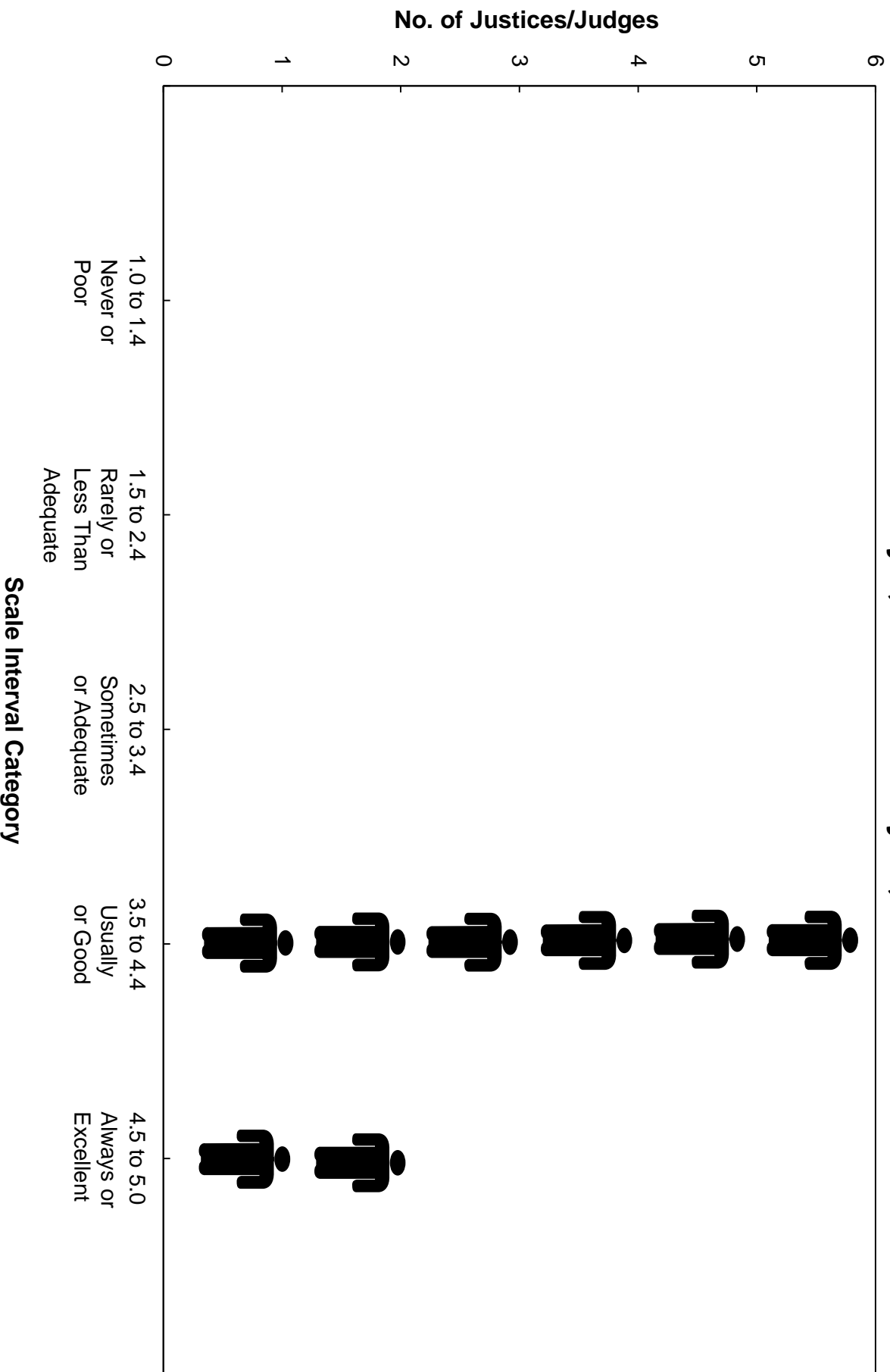
Appellate Courts
Graph 2. Written Opinions Scale
Frequency of Justices'/Judges' Ratings, By Category
January 2, 2014 – January 31, 2014



**Appellate Courts
Graph 3. Oral Argument Scale
Frequency of Justices'/Judges' Ratings, By Category
January 2, 2014 – January 31, 2014**



**Appellate Courts
 Graph 4. Overall Evaluation Scale
 Frequency of Justices'/Judges' Ratings, By Category
 January 2, 2014 – January 31, 2014**



CIRCUIT COURT RESULTS

Twelve Circuit Court judges received the results of their evaluations under cover of memoranda dated October 9, 2014. A link to the online questionnaire was provided to attorneys by email on July 22, 2014. The surveys were collected from July 22 until August 22, 2014.

The email to active attorneys from Chief Justice Recktenwald and from the President of the Hawaii State Bar Association is printed in Appendix C. The questionnaire is printed in Appendix D. Possible ratings range from one for Poor to five for Excellent. Table 2 on page 10 provides the average scores by section for the twelve judges.

The mean score for the Legal Ability section was 3.9, with a standard deviation of 0.4. Most of the judges scored between 3.5 and 4.4 in this section.

The mean score for the Judicial Management Skills section was 3.9, with a standard deviation of 0.4. The mean score for the Comportment section was 4.0, with a standard deviation of 0.5. 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 printed on pages 11 to 14.

There were 320 responses from attorneys out of 4,572 emails sent out. Some of these attorneys appeared before more than one judge. A reminder email sent to selected attorneys is printed in Appendix E. The number of responses did not equal the number of questionnaires received. The number of questionnaires received for the twelve judges totaled 516, with between 19 and 91 questionnaires received for each judge.

TABLE 2
JUDICIAL PERFORMANCE PROGRAM - CIRCUIT COURT
EVALUATION RESULTS FOR TWELVE JUDGES
JULY 22, 2014 - AUGUST 22, 2014

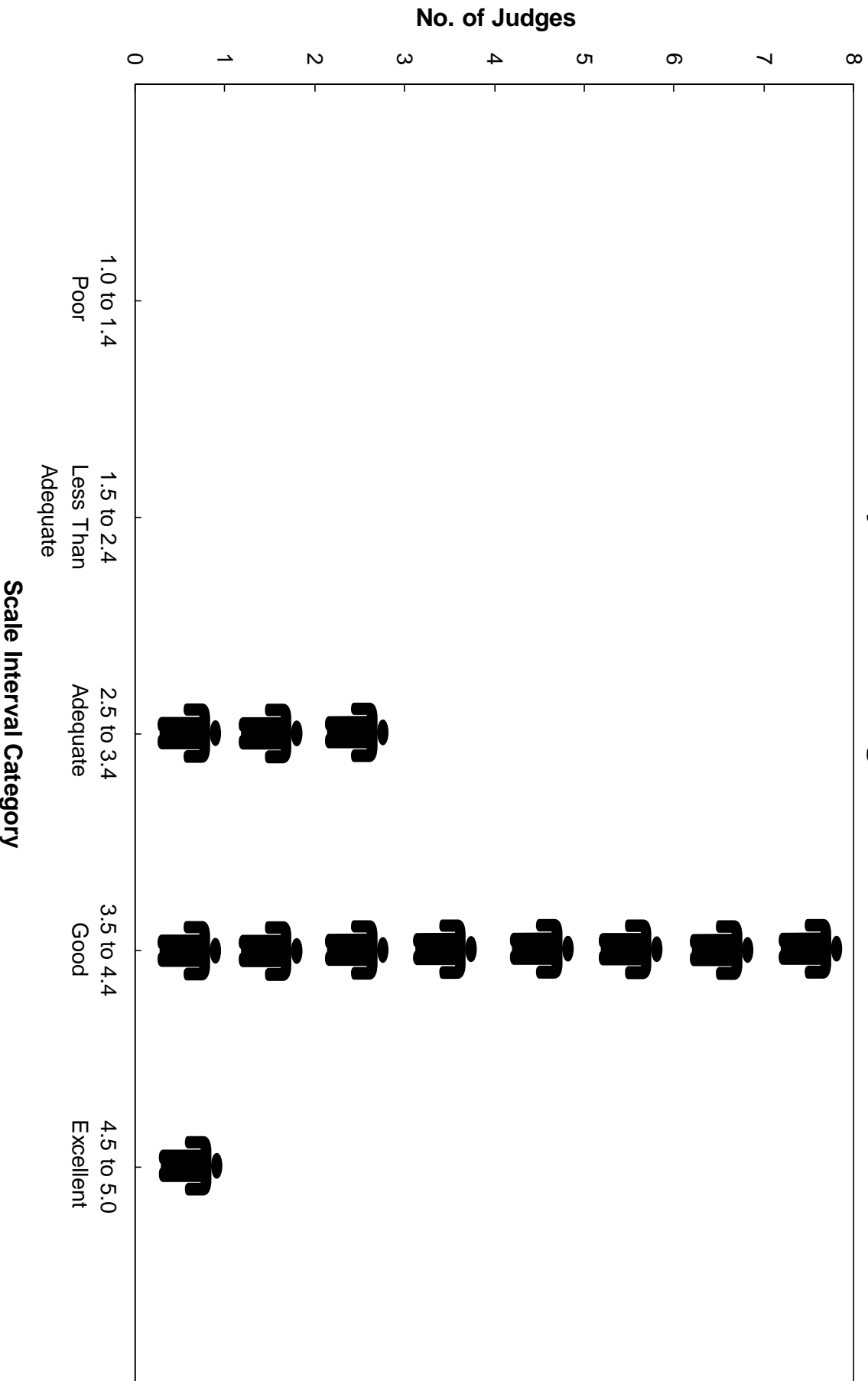
<u>QUESTIONNAIRE SECTION</u>	<u>N</u>	<u>Mean Score</u>	<u>S.D.</u>
<u>LEGAL ABILITY SECTION</u>			
1. Knowledge of Relevant Substantive Law	12	3.9	0.4
2. Knowledge of Rules of Procedure	12	4.0	0.4
3. Knowledge of Rules of Evidence	12	3.9	0.5
4. Ability to Identify and Analyze Relevant Issues	12	3.9	0.5
5. Judgment in Application of Relevant Laws and Rules	12	3.8	0.5
6. Giving Reasons for Rulings when Needed	12	3.9	0.4
7. Clarity of Explanation of Rulings	12	3.8	0.4
8. Adequacy of Findings of Fact	12	3.8	0.4
9. Clarity of Judge's Decision(s) (oral/written)	12	3.8	0.4
10. Completeness of Judge's Decision(s) (oral/written)	12	3.8	0.4
11. Judge's Charge to the Jury/Juries	12	3.8	0.4
Average Score for the Legal Ability Section	12	3.9	0.4
<u>JUDICIAL MANAGEMENT SKILLS SECTION</u>			
1. Moving the Proceeding(s) in an Appropriately Expeditious Manner	12	3.8	0.4
2. Maintaining Proper Control over the Proceeding(s)	12	4.0	0.4
3. Doing the Necessary Homework on the Case(s)	12	4.0	0.4
4. Rendering Rulings and Decisions w/o Unnecessary Delay	12	3.9	0.4
5. Allowing Adequate Time for Presentation of the Case(s)	12	4.0	0.3
6. Resourcefulness and Common Sense in Resolving Problems	12	3.9	0.5
7. Skills in Effecting Compromise	12	3.7	0.6
8. Industriousness	12	4.0	0.4
Average Score for the Judicial Management Skills Section	12	3.9	0.4
<u>COMPORTEMNT SECTION</u>			
1. Attentiveness	12	4.2	0.4
2. Courtesy to Participants	12	4.1	0.5
3. Compassion	12	4.0	0.6
4. Patience	12	4.0	0.6
5. Absence of Arrogance	12	4.0	0.6
6. Absence of Bias and Prejudice	12	4.1	0.4
7. Evenhanded Treatment of Litigants	12	4.0	0.5
8. Evenhanded Treatment of Attorneys	12	4.0	0.5
Average Score for the Comportment Section	12	4.0	0.5
<u>SETTLEMENT AND/OR PLEA AGREEMENT ABILITY SECTION</u>			
1. Knowing the Case(s) and/or the Law	12	3.9	0.5
2. Reasonableness of Opinions	12	3.8	0.4
3. Ability to Enhance the Settlement Process	12	3.7	0.5
4. Impartiality	12	3.8	0.4
5. Absence of Coercion or Threat	12	4.0	0.5
6. Effectiveness in Narrowing the Issues	12	3.9	0.5
7. Appropriateness of Judge's Initiatives	12	3.7	0.5
8. Facilitation in Development of Options	12	3.7	0.5
Average Score for the Settlement and/or Plea Agreement Ability Section	12	3.8	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>

Circuit Court

Graph 5. Legal Ability Scale

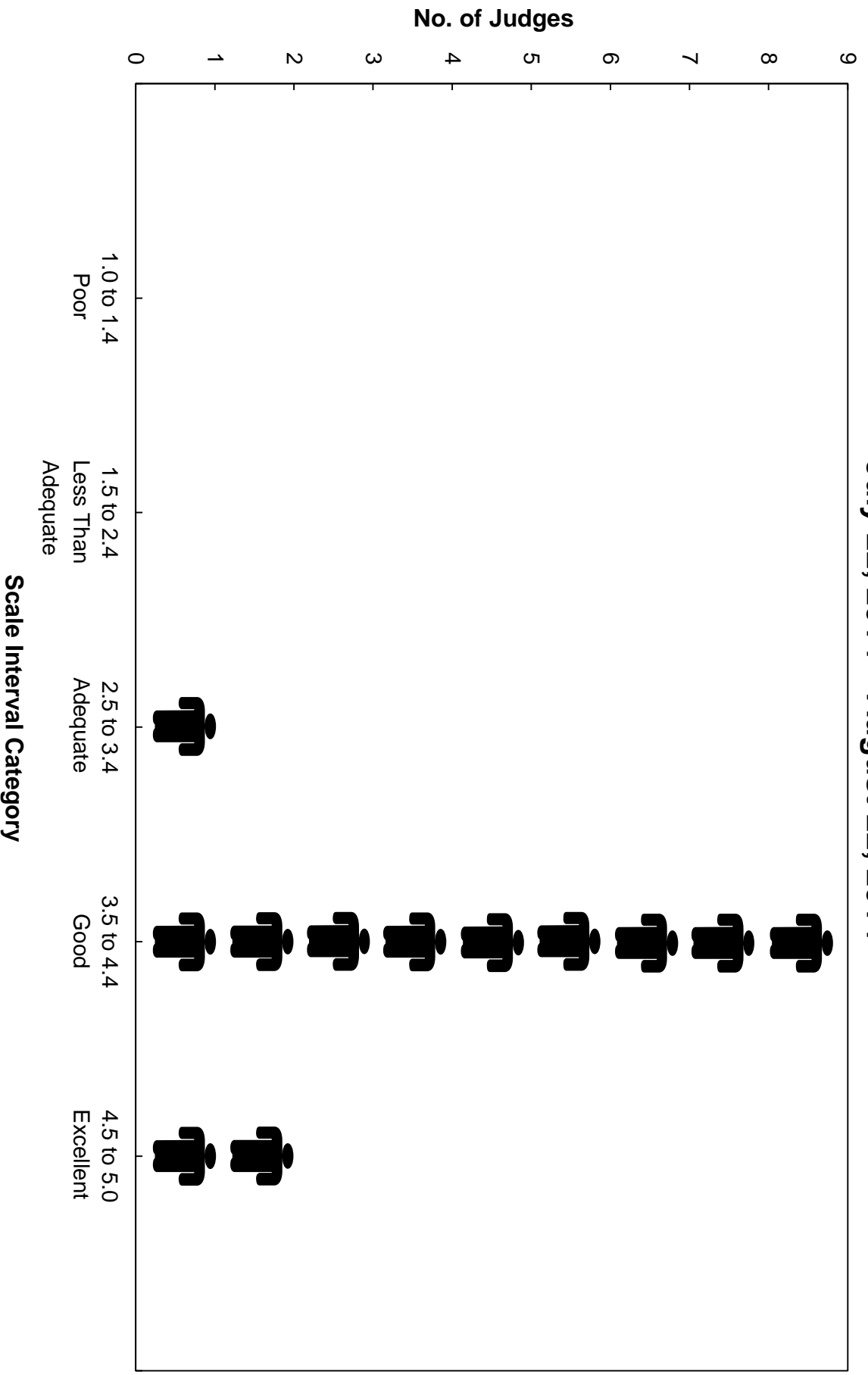
Frequency Of Judges' Ratings, By Category
July 22, 2014 – August 22, 2014



Circuit Court

Graph 6. Judicial Management Skills Scale Frequency Of Judges' Ratings, By Category

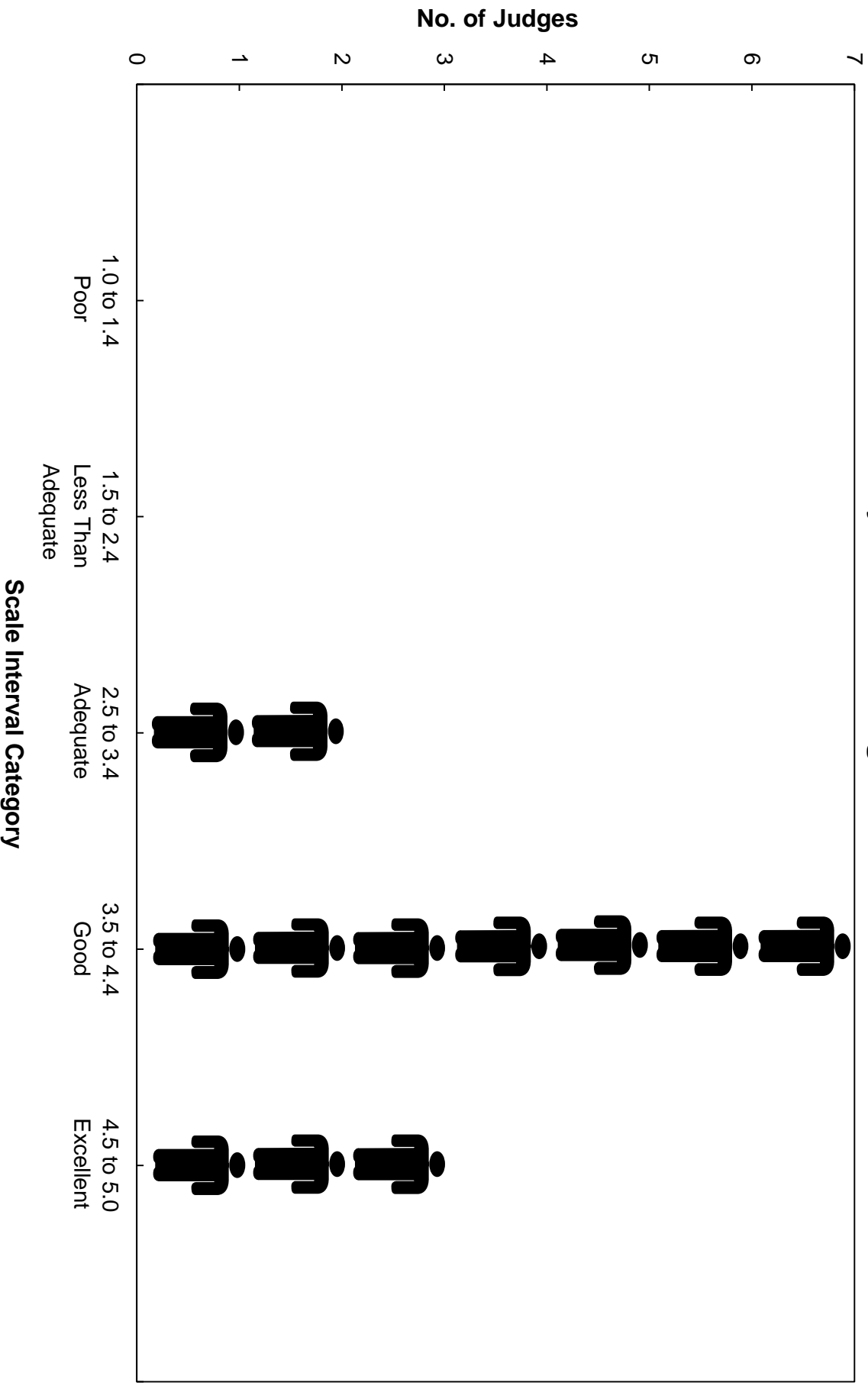
July 22, 2014 – August 22, 2014



Circuit Court

Graph 7. Compartment Scale

Frequency Of Judges' Ratings, By Category
July 22, 2014 – August 22, 2014

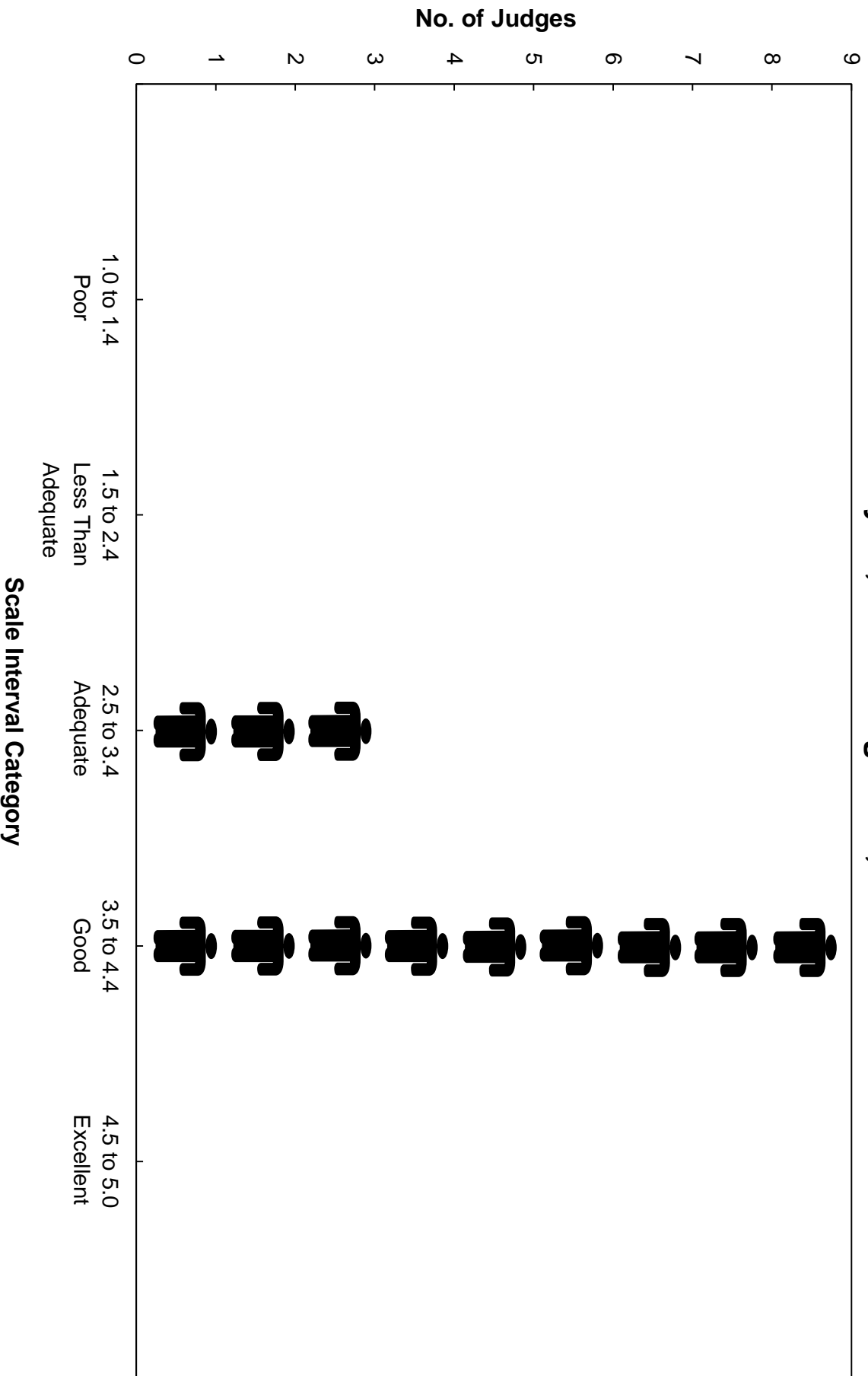


Circuit Court

Graph 8. Settlement/Plea Agreement Ability Scale

Frequency Of Judges' Ratings, By Category

July 22, 2014 – August 22, 2014



FAMILY COURT RESULTS

Evaluation results were transmitted to nine Family Court judges by Chief Justice Recktenwald under cover of memoranda dated August 6, 2014. Surveys could be completed over the Internet from April 16 to May 12, 2014.

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

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 4.0, and the standard deviation was 0.3. All of the judges received scores in the “Good” category, that is, between 3.5 and 4.4.

The mean score for the Judicial Management Skills section was 4.0, and the standard deviation was 0.3. The mean score for the Comportment section was 4.1, and the standard deviation was 0.4. The mean score for the Settlement and/or Plea Agreement Ability section was 4.0, and the standard deviation was 0.4. The frequencies of the judges’ ratings, by category, are printed on pages 17 to 20.

Of the 4,431 attorneys who were sent emails, 194 returned evaluations. Some of the 194 attorneys said they had not appeared before any judges, and some attorneys appeared before two or more judges.

The nine evaluated judges received between 19 and 42 evaluations each. The nine judges had a total of 286 evaluations returned.

TABLE 3
JUDICIAL PERFORMANCE PROGRAM - FAMILY COURT
EVALUATION RESULTS FOR NINE JUDGES
APRIL 16, 2014 - MAY 12, 2014

<u>QUESTIONNAIRE SECTION</u>	<u>N</u>	<u>Mean Score</u>	<u>S.D.</u>
<u>LEGAL ABILITY SECTION</u>			
1. Knowledge of Relevant Substantive Law	9	4.2	0.4
2. Knowledge of Rules of Procedure	9	4.2	0.4
3. Knowledge of Rules of Evidence	9	4.2	0.3
4. Ability to Identify and Analyze Relevant Issues	9	4.1	0.3
5. Judgment in Application of Relevant Laws and Rules	9	4.0	0.4
6. Giving Reasons for Rulings when Needed	9	4.0	0.3
7. Clarity of Explanation of Rulings	9	4.0	0.3
8. Adequacy of Findings of Fact	9	3.9	0.4
9. Clarity of Judge's Decision(s) (oral/written)	9	4.0	0.3
10. Completeness of Judge's Decision(s) (oral/written)	9	4.0	0.3
11. Judge's Charge to the Jury/Juries	0	---	---
Average Score for the Legal Ability Section	9	4.0	0.3
<u>JUDICIAL MANAGEMENT SKILLS SECTION</u>			
1. Moving the Proceeding(s) in an Appropriately Expeditious Manner	9	3.9	0.3
2. Maintaining Proper Control over the Proceeding(s)	9	4.1	0.3
3. Doing the Necessary Homework on the Case(s)	9	4.1	0.3
4. Rendering Rulings and Decisions w/o Unnecessary Delay	9	4.1	0.3
5. Allowing Adequate Time for Presentation of the Case(s)	9	4.1	0.3
6. Resourcefulness and Common Sense in Resolving Problems	9	3.9	0.4
7. Skills in Effecting Compromise	9	3.8	0.4
8. Industriousness	9	4.1	0.4
Average Score for the Judicial Management Skills Section	9	4.0	0.3
<u>COMPORTEMNT SECTION</u>			
1. Attentiveness	9	4.3	0.4
2. Courtesy to Participants	9	4.2	0.5
3. Compassion	9	4.1	0.4
4. Patience	9	4.0	0.5
5. Absence of Arrogance	9	4.1	0.5
6. Absence of Bias and Prejudice	9	4.1	0.3
7. Evenhanded Treatment of Litigants	9	4.0	0.4
8. Evenhanded Treatment of Attorneys	9	4.1	0.4
Average Score for the Compartment Section	9	4.1	0.4
<u>SETTLEMENT AND/OR PLEA AGREEMENT ABILITY SECTION</u>			
1. Knowing the Case(s) and/or the Law	9	4.1	0.4
2. Reasonableness of Opinions	9	4.0	0.4
3. Ability to Enhance the Settlement Process	9	3.9	0.4
4. Impartiality	9	4.0	0.4
5. Absence of Coercion or Threat	9	4.1	0.4
6. Effectiveness in Narrowing the Issues	9	4.0	0.4
7. Appropriateness of Judge's Initiatives	9	3.9	0.3
8. Facilitation in Development of Options	9	3.8	0.4
Average Score for the Settlement and/or Plea Agreement Ability Section	9	4.0	0.4

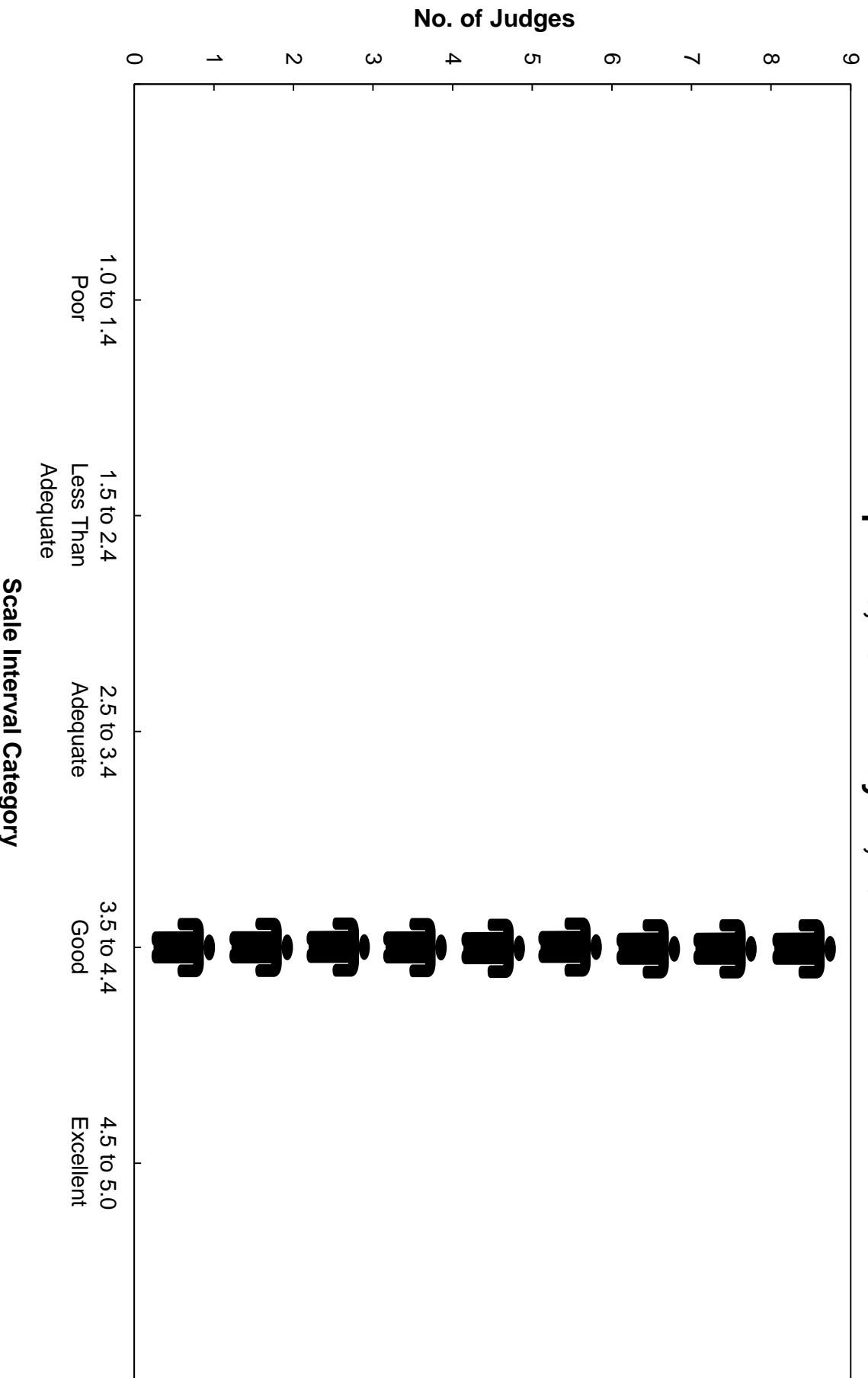
<p>N = Number of Judges with More Than Five Responses for the Item Legend for Mean Score: 5 = Excellent 4 = Good 3 = Adequate 2 = Less Than Adequate 1 = Poor S.D. = Standard Deviation</p>

Family Court

Graph 9. Legal Ability Scale

Frequency Of Judges' Ratings, By Category

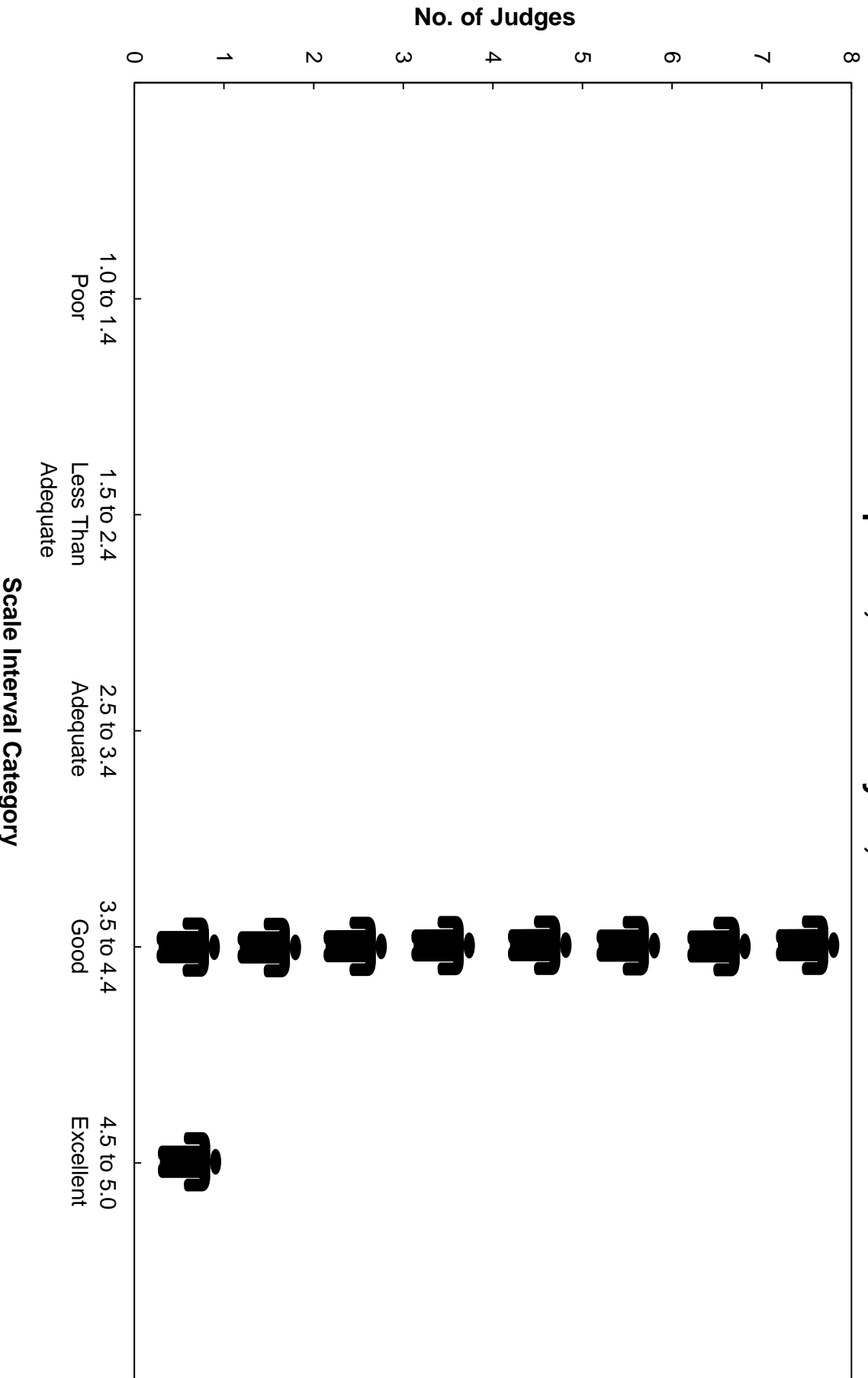
April 16, 2014 – May 12, 2014



Family Court

Graph 10. Judicial Management Skills Scale Frequency Of Judges' Ratings, By Category

April 16, 2014 – May 12, 2014

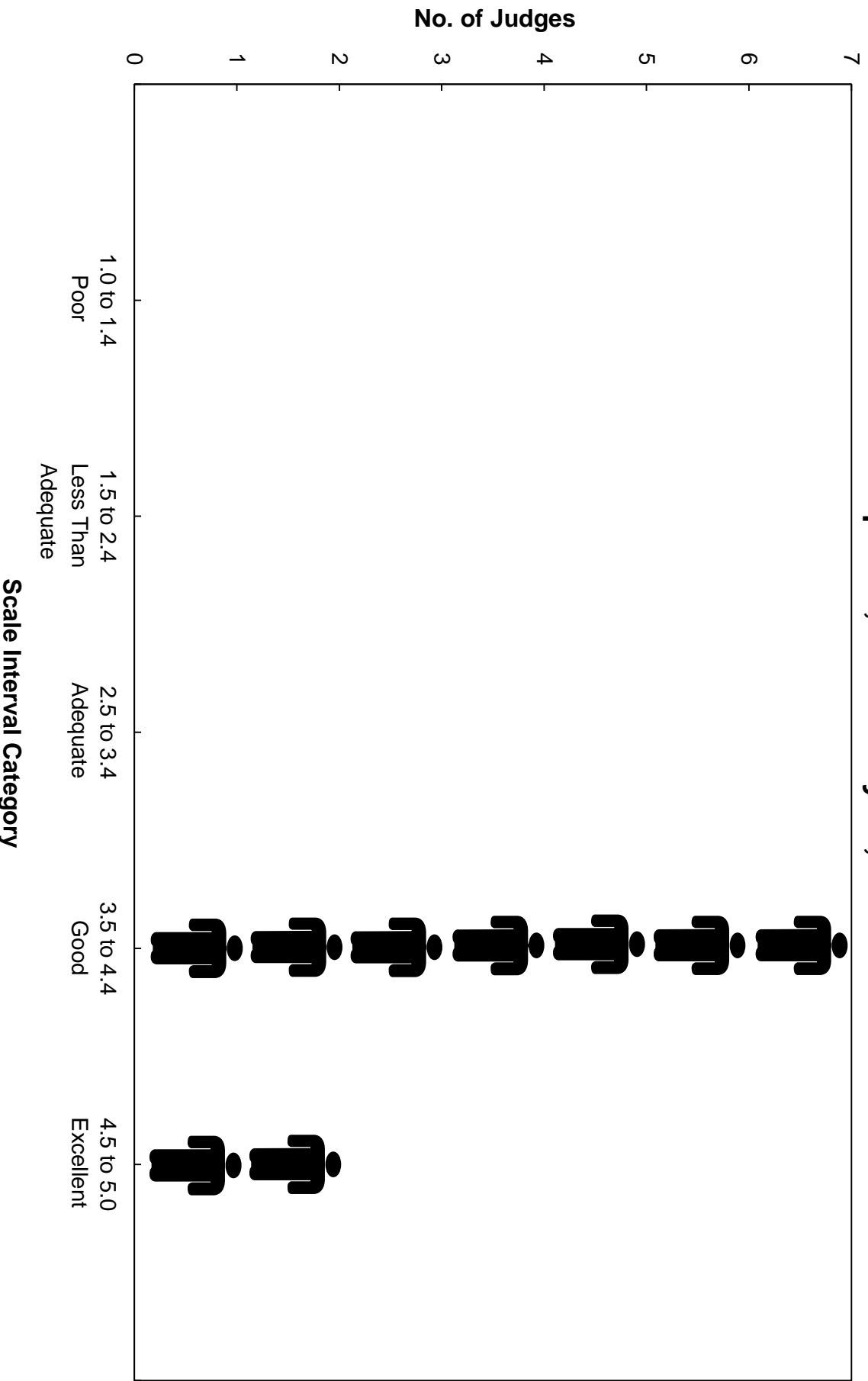


Family Court

Graph 11. Compartment Scale

Frequency Of Judges' Ratings, By Category

April 16, 2014 – May 12, 2014

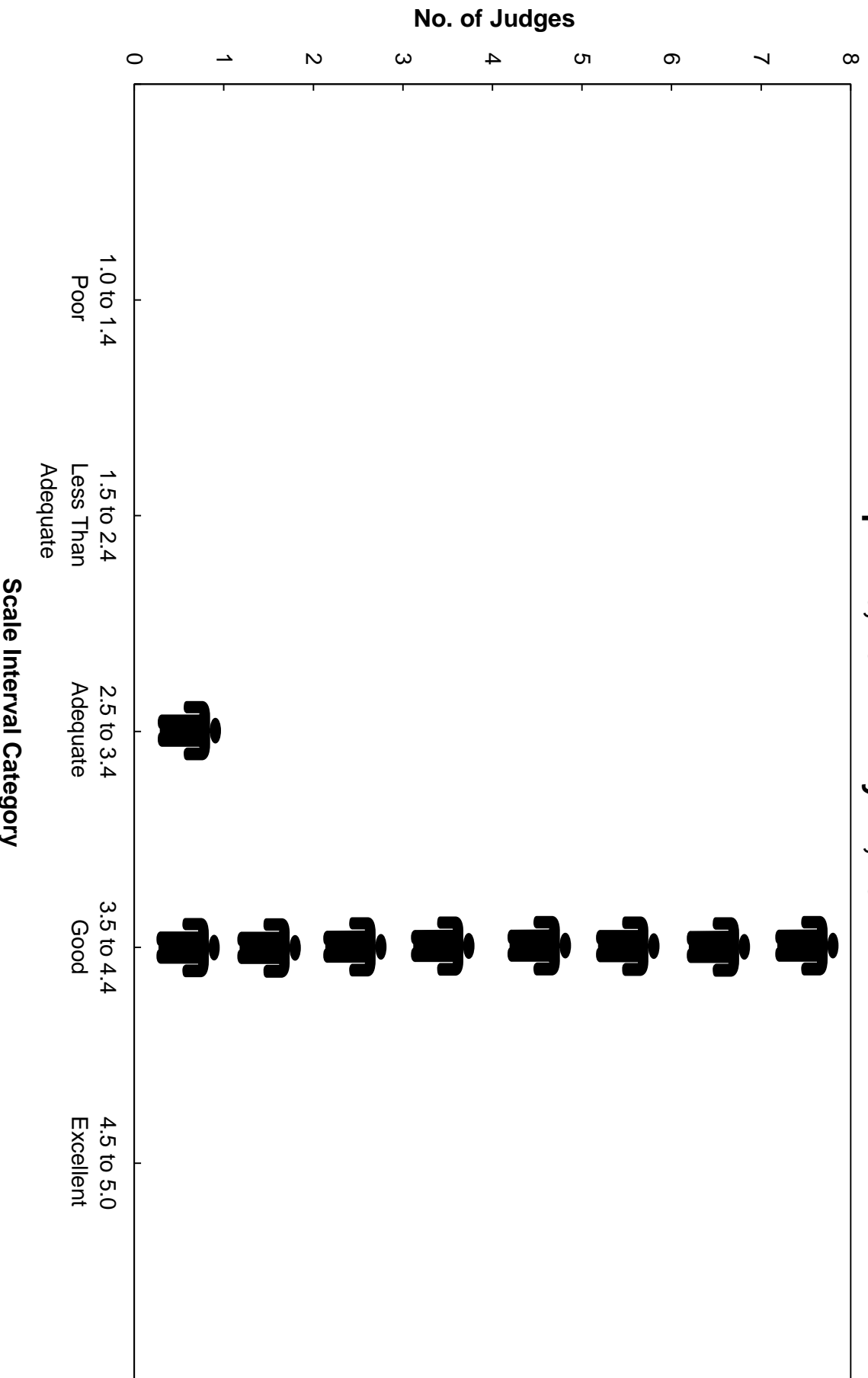


Family Court

Graph 12. Settlement/Plea Agreement Ability Scale

Frequency Of Judges' Ratings, By Category

April 16, 2014 – May 12, 2014



APPENDIX A

MEMBERS OF THE JUDICIAL PERFORMANCE COMMITTEE

Judge Derrick H.M. Chan, Chair
Judge Rhonda I. L. Loo
Judge Clarence A. Pacarro
Claire K. S. Cooper
Rosemary T. Fazio, Esq.
Jeen H. Kwak, Esq.
Rodney A. Maile, Esq., Administrative Director of the Courts
R. Patrick McPherson, Esq.
James C. McWhinnie, Esq.
Stephanie A. Rezens, Esq.
Audrey L. E. Stanley, Esq.
Janice Yee

APPENDIX B
APPELLATE COURT QUESTIONNAIRE

Judicial Appellate Court Evaluation - January 2014

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, 2012 to December 31, 2013?**

(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 - January 2014

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, 2012 to December 31, 2013.

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 - January 2014

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 - January 2014

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

Sample - Overall Evaluation

1. Overall evaluation of judicial performance.

- Excellent Good Adequate Less Than
Adequate Poor Not Applicable

Sample - Background Characteristics

1. How many times have you appeared before this justice/judge in the last three years?

Number of times:

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

Yes

No

3. 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.)

Sample - Evaluation Complete

*** 1. Thank you for completing the evaluation for SSSSSS.**

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

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:

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 Policy and Planning Department 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 THE CHIEF JUSTICE AND THE PRESIDENT OF THE BAR

To:

From: Rodney.A.Maile@courts.hawaii.gov

Sent: July 22, 2014

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

Dear Attorney:

This is a joint email from Chief Justice Mark E. Recktenwald and HSBA President Calvin E. Young. The Judiciary is conducting an online evaluation of Circuit Court Judges _____, _____, _____, _____, _____, _____, _____, _____, _____, _____, _____, and _____.

The Judiciary and the HSBA encourage all members 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.

While this online judicial evaluation differs from the HSBA's judicial evaluation survey, both programs are designed to give you the opportunity to provide meaningful input concerning individual judges. Judges are receptive to receiving your comments, suggestions, and feedback. Your evaluations serve to enhance judicial performance and improve the judicial skills and techniques of Hawai'i's judges.

Please access [*link to questionnaire*] 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 link. The judicial evaluations will remain accessible to you until August 22, 2014.

To ensure security and confidentiality, the evaluation process is conducted by SurveyMonkey. It is administered by eHawaii.gov, which is independent of the Judiciary and the HSBA. Only composite results are transmitted to the Judiciary.

The evaluation is designed to obtain fair assessments from attorneys who have actually appeared before the evaluated judge. Please ensure that your evaluation is based solely on your direct experience and not obtained through hearsay or through other means.

If you did not appear before a judge, enter that option after selecting the judge's name. Also, if you do not wish to participate in future judicial evaluations, please select [*link to opt out*], and you will be removed from this mailing list.

Thank you for your consideration.
Click http://www.courts.state.hi.us/courts/performance_review/judge_evaluations_faqs.html for a list of Frequently Asked Questions. For other questions, please contact Michael Oki at (808)539-4870.

Sincerely,

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

Calvin E. Young
President
Hawaii State Bar Association

APPENDIX D
CIRCUIT COURT QUESTIONNAIRE

Judicial Circuit Court Evaluation - July 2014

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. Have you appeared before this judge during the period from July 1, 2012 to June 30, 2014? (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 Circuit Court Evaluation - July 2014

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

Judicial Circuit Court Evaluation - July 2014

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 Circuit Court Evaluation - July 2014

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 Circuit Court Evaluation - July 2014

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 Circuit Court Evaluation - July 2014

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

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

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.

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
- 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 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 Policy and Planning Department 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 E
REMINDER EMAIL TO ATTORNEYS

Bcc:

From: Rodney.A.Maile@courts.hawaii.gov

Date: August 4, 2014

Subject: Circuit Court Judges' Evaluation

Dear Attorney:

The Judiciary and the Hawaii State Bar Association recently sent you an email regarding the evaluation of Circuit Court judges. We would like to ask you for your assistance by completing the evaluation if you have appeared before one or more of the judges identified in the questionnaire. If you are not in a position to evaluate a judge, but another attorney in your office is, would you please forward this email to that attorney?

The Judicial Performance Program is an important part of the Judiciary's ongoing efforts to better serve those who deal with the judicial system. Because of the statistical requirements of our evaluation process, each judge undergoing evaluation needs to have at least eighteen completed questionnaires submitted. Consequently, we will not be able to complete the evaluation of any judge who does not receive at least eighteen completed questionnaires during the evaluation period.

We thank you very much for your assistance in this process, and if you have already completed the evaluation, we greatly appreciate your participation.

Rodney A. Maile
Administrative Director of the Courts
The Judiciary — State of Hawai'i

APPENDIX F
FAMILY COURT QUESTIONNAIRE

Judicial Family Court Evaluation - April 2014

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. Have you appeared before this judge during the period from April 1, 2012 to March 31, 2014? (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 2014

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

Judicial Family Court Evaluation - April 2014

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 2014

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

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Judicial Family Court Evaluation - April 2014

Sample - Comportment

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

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2. Courtesy to participants

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3. Compassion

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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 2014

Sample - Settlement and/or plea agreement ability

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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

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- 20 to 23
- 24 to 27
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- Refuse to answer

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

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