

Honorable Douglas B. Thomas – District Court Judge

Serving Carbon, Emery, Grand, and San Juan counties



Commission Recommendation: **RETAIN**

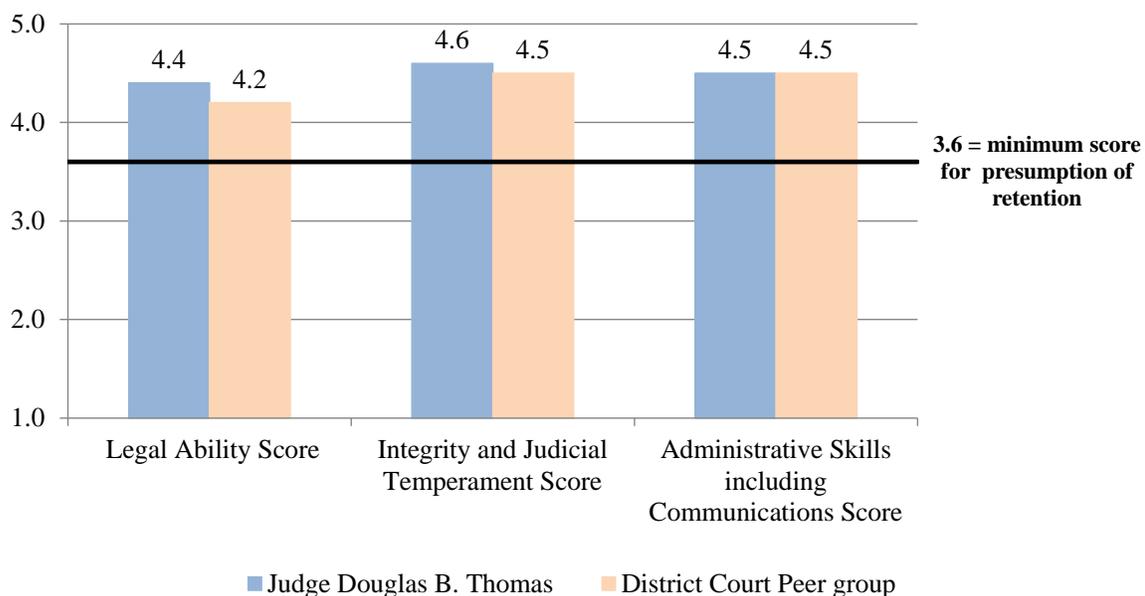
(vote count: 12-0 for retention)

Appointed to the bench in 2007, Judge Douglas Thomas scores on average with his district court peers in all survey categories. Survey respondents praise his respect for courtroom participants, his attentive listening, and his commitment to ensuring that those appearing in his court fully understand the proceedings. From a list, respondents choose 97% positive adjectives to describe him, characterizing him as knowledgeable, polite, and considerate. Both survey respondents and courtroom observers note that Judge Thomas demonstrates excellent courtroom management skills. Observers further note that Judge Thomas consistently allows sufficient time for courtroom participants to present their cases and provides clear and explicit explanations of his decisions. All observers report they would feel comfortable appearing before him. Of survey respondents answering the retention question, 98% recommend that Judge Thomas be retained.

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

Judge Douglas B. Thomas was appointed to the Seventh District Court in 2007 by Governor Jon M. Huntsman, Jr. Judge Thomas graduated from the University of Utah College of Law in 1989. He practiced law with Van Cott, Bagley, Cornwall and McCarthy and later became a shareholder at Gridley, Ward and Shaw. He then served as a Second District Court Commissioner from 2003 – 2007. Since his appointment to the bench, Judge Thomas has served as presiding judge of the Seventh District Court and on the Board of District Court Judges. Judge Thomas currently co-chairs the Judicial Council's Standing Committee on Children and Family Law and serves on the Utah State Bar's Family Law Executive Committee.

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



The Honorable Douglas B. Thomas

Judicial Performance Evaluation Commission Report

Retention 2016

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II. Courtroom Observation Report

I. Survey Report

Survey Results

A. How to Read the Results

For Judge Douglas B. Thomas, 48% of qualified survey respondents submitted surveys. Of those who responded, 53 agreed they had worked with Judge Douglas B. Thomas enough to evaluate his performance. This report reflects these 53 responses. The survey results are divided into five sections:

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

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

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

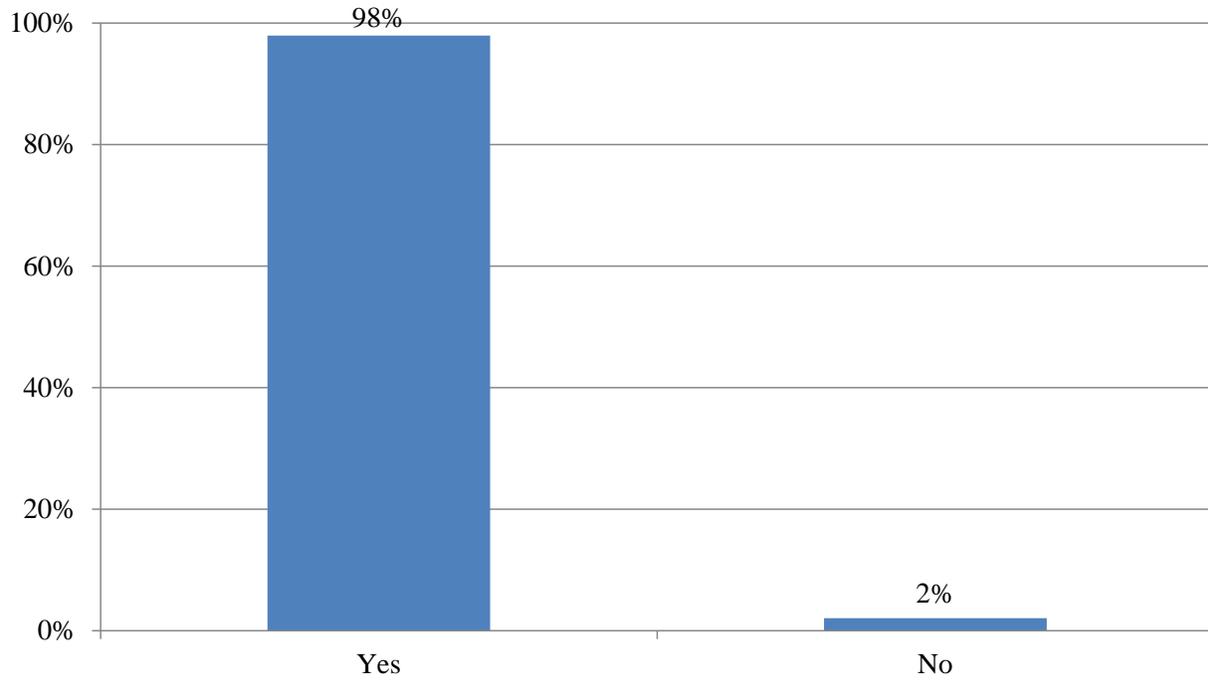
What does it take to "pass"? The judge must score a minimum of 3.6 on Legal Ability, Integrity & Judicial Temperament, and Administrative Skills to earn a presumption of retention from the Commission. That is, if a judge scores an average of 3.6 in each of these categories, the commission will vote to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

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

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

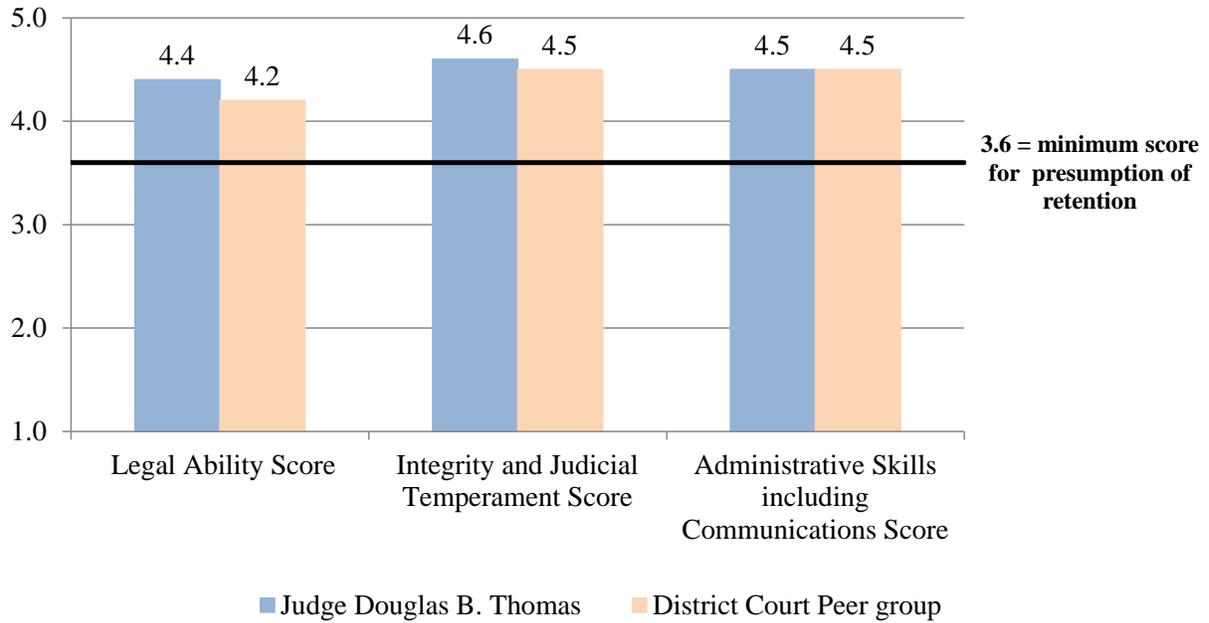
B. Retention Question

Figure A. Would you recommend that Judge Douglas B. Thomas be retained?



C. Statutory Category Scores

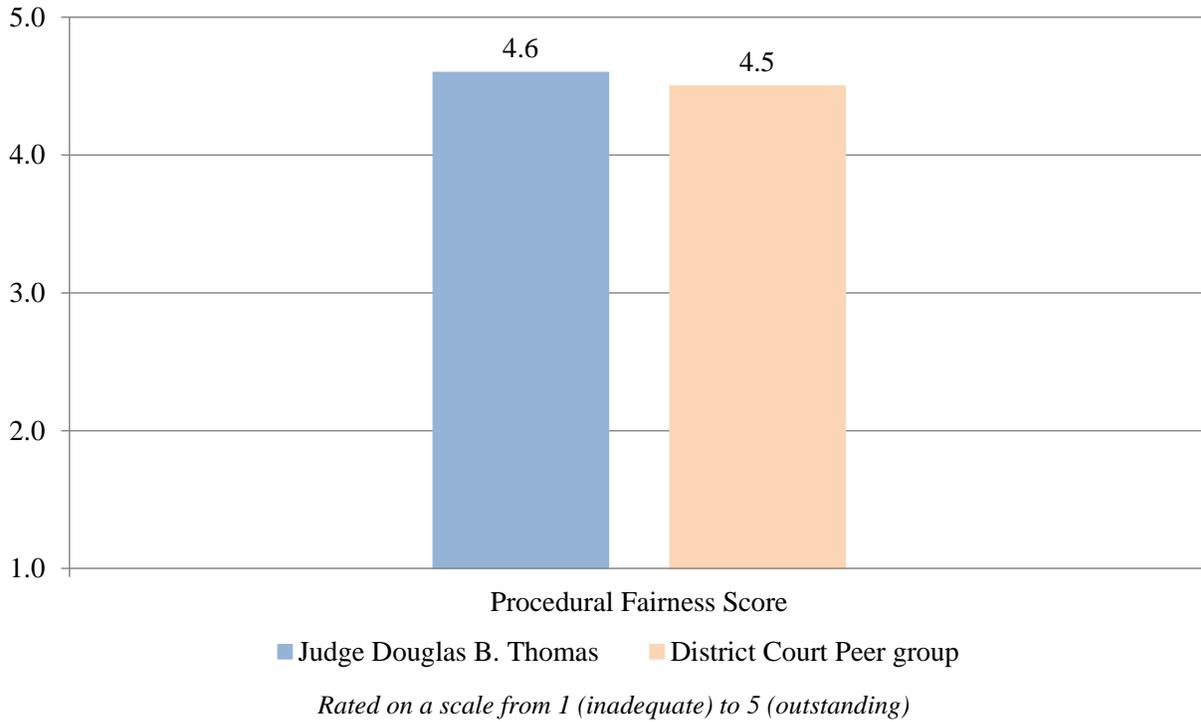
Figure B. Statutory Category Scores



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

D. Procedural Fairness Score

Figure C. Procedural Fairness Score



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

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

Category	Judge Douglas B. Thomas
Procedural Fairness	Pass

E. Responses to Individual Survey Questions

Table B. Responses to Survey Questions

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

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

Table C. Responses to Survey Questions (continued)

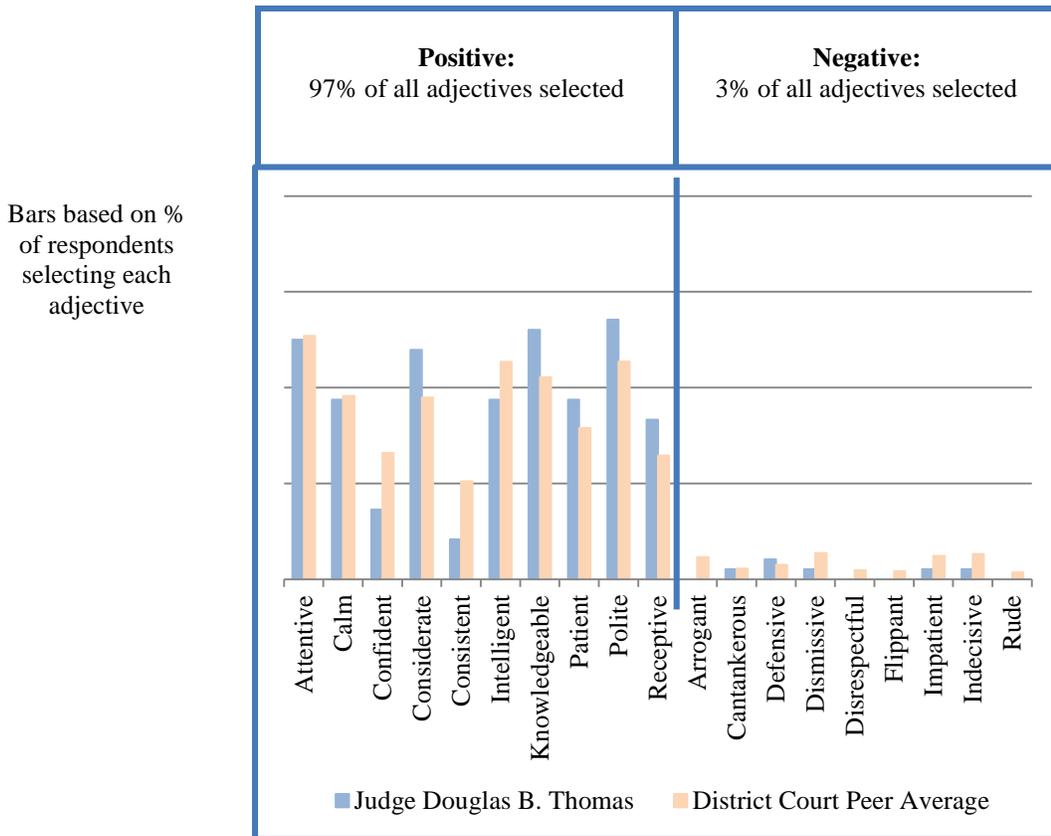
Category	Question	Judge Douglas B. Thomas	District Court
Administrative Skills	The judge is prepared for court proceedings.	4.5	4.4
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.7	4.6
Administrative Skills	The judge is an effective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

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

F. Adjective Question Summary

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

Figure D. Adjective Responses



G. Attorney Demographics

Table D: What are your primary areas of practice?

Collections	3%
Domestic	33%
Criminal	46%
Civil	56%
Other	-

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

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

5 or fewer	72%
6 - 10	8%
11 - 15	3%
16 - 20	5%
More than 20	13%

Survey Background and Methods

This report presents the results from the 2015 survey process, conducted by Market Decisions, LLC. A detailed description of the survey methodology is available separately on the Utah Judicial Performance Evaluation website.

A. Survey Overview

1. Description of Sample

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

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

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

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

2. Summary of Survey Methods

Surveys are conducted online, using web-based survey software. Each qualified respondent receives an initial email notification signed by the Governor, Chief Justice, President of the Senate, and Speaker of the House, requesting participation in the survey. Next, an email invitation, signed by JPEC's Executive Director and the Utah State Bar President, contains links to all the individual surveys each respondent is invited to complete. A reminder email is sent one week later to those who did not respond by completing and submitting a survey. This is followed by two additional reminder emails sent to respondents over the next three weeks. If a respondent completes only part of the survey, he or she is able to finish the survey at a later time. Once a respondent has completed the survey for a specific judge, that survey is locked and cannot be accessed again.

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

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

B. Evaluation Period

The retention evaluation period for judges standing for election in 2016 began on January 1, 2014 and ended on June 30, 2015.

REPORT OF COURTROOM OBSERVATIONS FOR JUDGE DOUGLAS THOMAS

Four observers wrote 73 codable units that were relevant to 12 of the 15 criteria. One observer reported that the judge was aware that JPEC observers were present, and four observers reported that the judge was not aware.

Overview

OVERALL ASSESSMENT	<ul style="list-style-type: none">• All observers were enthusiastically positive about Judge Thomas. Three observers additionally offered suggestions (see “Anomalous comments”.)• All observers reported that they would feel comfortable appearing before Judge Thomas.
WIDELY AGREED-UPON THEMES	<ul style="list-style-type: none">• All observers variously reported that Judge Thomas listened intently with full attention, was well-prepared with the facts of each case, and ran the court efficiently with a good command of courtroom procedure and the whole judicial system. He was sensitive to time and explained and apologized for any delays. His demeanor was calm but alert and business-like, and his personable common sense led to appropriate outcomes. He greeted and thanked defendants with courtesy, and he displayed good eye contact and body language. Even though the session was full, he did not rush participants but took whatever time was needed to collect information. He ensured that defendants understood the law and the implications of their choices, and he asked them if they understood everything he said and any documents they were reading.• All observers particularly emphasized that Judge Thomas acted in the interest of all parties and truly cared about defendants’ situations, showing considered responses to their problems rather than merely procedural responses. Observers emphasized that he consistently allowed the time needed for participants to carefully present their cases, and he listened with utmost attention and took their positions into account. Observers also emphasized his clear and explicit explanations of his reasoning, the consequences of waiving rights, and of court procedures.
MINORITY OBSERVATIONS	<ul style="list-style-type: none">• None
ANOMALOUS COMMENTS	<ul style="list-style-type: none">• One observer suggested the clerk could give each defendant a copy of the court decisions and return court dates as is done in other courts (see “Courtroom tone & atmosphere”) .• One observer understood why those in custody were heard first so that they could be returned to jail, but suggested that other participants could be heard first so that they could return to their jobs and obligations (see “Respect for others’ time”.)• One observer noted that while the voices of the judge, defendants, and the attorneys were properly amplified, the prosecutors were not and were barely audible (see “Courtroom tone & atmosphere”.)

Summary and *exemplar language* of four observers’ comments

<i>RESPECT</i>	
Listening & focus	Two observers reported that Judge Thomas <i>listened intently and carefully</i> giving his <i>full attention when speaking or listening</i> . When giving <i>counsel time to consult</i> , he was <i>always watching and observing what was going on, never wandering from the moment</i> .

Well-prepared & efficient	Two observers reported that Judge Thomas was <i>well prepared with the facts of each case at his fingertips</i> . He had a <i>very good command of courtroom procedure and knowledge of law, including how the varying prison systems and probation boards may interpret his sentencing</i> . He conducted court in a <i>very efficient manner</i> .
Respect for others' time	Three observers reported that Judge Thomas was <i>sensitive to the time</i> and began <i>within five minutes of the scheduled time</i> . In one session he <i>apologized for a late start</i> to the parties to a teleconference when there were <i>technical difficulties which delayed the proceedings</i> , saying, " <i>I appreciate your patience,</i> " and he <i>acknowledged his regret for the late start</i> to the later cases, stating that he would be " <i>calling cases in a particular order to allow people to get on their way.</i> " When scheduling a court date <i>just before a holiday</i> he said, " <i>I just want everyone to know, so they can schedule accordingly. I will be available if those days work for you.</i> " One observer understood why Judge Thomas heard the cases of defendants in custody first <i>so that they could be returned to jail</i> , but felt that the other participants who had <i>taken time from their lives to come to court should be heard first, so they could return to their jobs and obligations</i> .
Courtesy, politeness, and general demeanor	All observers reported that Judge Thomas <i>greeted each defendant by name</i> , commonly saying, " <i>Mr. A is present</i> " or sometimes " <i>Good morning, Mr. A</i> " which one observer found to <i>increase the sense of respect in the courtroom</i> . He thanked participants and their families <i>for being in court and kindly wished them luck</i> at the conclusion, saying, " <i>Thank you for coming today.</i> " He was <i>courteous with all and patiently waited while participants were brought into the courtroom</i> . He thanked later defendants for <i>waiting so long to be heard when court was running late</i> . Though <i>calm and even</i> , his demeanor was <i>totally alert and business-like</i> . One observer noted that Judge Thomas is <i>not a "cookie cutter" judge, but approachable, open to any comments</i> , and his <i>common sense and personableness combined to produce appropriate outcomes</i> .
Body language	Three observers reported that Judge Thomas displayed <i>very good eye contact</i> , and his <i>body language was genuine</i> . He <i>sat forward when addressing defendants and did not rely on the computer monitor regarding charges and processes</i> . The computer was <i>off to his side and easily accessible, and did not obstruct anyone's view of him</i> .
Courtroom tone & atmosphere	Two observers reported that the courtroom was <i>run efficiently and professionally</i> . All conversations in the courtroom and in the gallery were <i>quiet and respectful</i> . However, while the voices of Judge Thomas, the defendants, and the defending attorneys were all properly amplified, the <i>voices of the prosecutors were inadequately amplified and were barely audible in the gallery</i> . Judge Thomas made <i>consistent attempts to ensure that defendants would not forget follow up court dates</i> , but one observer was <i>unsure why the clerk did not give each defendant a copy of the court decisions and return court dates as is done in other courts</i> .

NEUTRALITY

Consistent and equal treatment	Two observers reported that Judge Thomas <i>revealed no personal prejudices and acted in the individual interest of all parties</i> . He <i>questioned all defendants regarding their knowledge of the rights they were waiving when making guilty pleas</i> .
Demonstrates concern for individual needs	Three observers reported that Judge Thomas <i>truly cared about defendants' problems and showed a considered response rather than merely a procedural response of jail time</i> . He told a repeat offender, " <i>I am going to give you a chance to get your family. This is 'zero tolerance' do you understand? You violate, you are going to prison,</i> " and explained how he had given similar opportunities to two others, one who was now <i>progressing in life</i> , the other <i>dead of an overdose</i> . Judge Thomas <i>first heard</i> the cases of those represented by paid attorneys <i>so that their fees would be lessened</i> . He explained why it was in the defendants' <i>interest to hire attorneys</i> , saying to one who indicated he could not afford it, " <i>Sometimes it is a question of priority and you have to raise this issue to the top of the pile. We determined that you have the income... you are putting your very liberty at risk. My recommendation is that you obtain an attorney.</i> "

Demonstrates concern for individual needs <i>continued</i>	In an unusual case an <i>articulate</i> defendant <i>insisted on being sentenced to prison</i> otherwise he “ <i>would run</i> ” if he had to first report to another county to serve his pending sentence there. Judge Thomas responded, “ <i>Sir, before I sentence you, I want you to speak with an attorney. I do not believe this decision is in your best interest. Here is the problem...</i> ” and then, “ <i>If you insist then I will sentence you. I am grateful for your frankness and again I do not think this sentence is in your best interest.</i> ” The observer was impressed that the judge <i>gave no indication of the strangeness of the request and made no side comments after the fact.</i>
Unhurried and careful	Three observers reported that while the court session was <i>quite full</i> , Judge Thomas <i>did not rush the participants along</i> , and <i>when extra time was needed, there was no sense of pressure or being rushed</i> . He <i>took the time to collect input</i> before proceeding to a decision, in one case spending at least <i>half an hour carefully collecting information from a defendant and available counsel</i> . One observer <i>appreciated the judge’s careful approach</i> in which the <i>number of cases in queue did not dictate the allotted time for each one.</i>
VOICE	
Considered voice	All observers reported that Judge Thomas gave participants <i>permission to speak their concerns without curtailing their expressions</i> and <i>never discouraged defendants who wanted to add further comments</i> . He <i>consistently gave staff and defendants the time needed to carefully present their cases</i> , and he <i>asked questions so that he was sure he understood their positions</i> . He <i>paid the utmost attention</i> when attorneys or the defendants <i>argued a point of law in regard to bail or sentencing</i> , and he allowed a defendant facing a jail sentence to present a <i>rather extensive plan for the next five years of his life</i> in which the young man <i>described changes in his life because of recognition of wasted time and current circumstances</i> . Judge Thomas <i>made the plan available for attorney review and then spent his own time reviewing the details.</i>
COMMUNICATION	
Ensures information understood	Two observers reported that Judge Thomas ensured that <i>people who did not fully understand the law and the implications of their choices would not be disadvantaged</i> , asking, “ <i>If you don’t hear me or don’t understand me please let me know,</i> ” or, “ <i>Have you read and do you understand every paragraph?</i> ” He recommended that they <i>write down the date and time of hearings</i> , saying, “ <i>You will need to have your attorney with you. I have given you lots of time [to retain an attorney] and you want to write that date down so you can give it to your attorney.</i> ”
Provides adequate explanations	All observers reported that Judge Thomas provided <i>clear instructions</i> , explained his <i>reasoning for sentences or bail requirement</i> if they differed from the recommendation, and <i>took the time to explain court procedures</i> to unrepresented defendants. He was <i>good at explaining what the court was doing and how the judicial system worked “downstream.”</i> He made a <i>very concerted effort to advise a defendant against waiving his rights prior to obtaining an attorney, though the law allowed this</i> , and was <i>quite explicit in explaining</i> , “ <i>It can work to your disadvantage...you don’t understand procedure, criminal code...let me put it this way...if you had a pain in your side and you decided it was appendicitis would you cut into your side?</i> ” In one of several unusual cases Judge Thomas <i>listened to and considered the different angles</i> of an attorney’s request and then explained <i>why he could not and would not comply with the “procedurally irregular” request</i> . He explained to another defendant with <i>old and new charges of violent behavior</i> why he could not accede to his request of an immediate release, explaining, “ <i>I am not in a position to release you...release could possibly place the community in danger.</i> ”