



## Commission on Judicial Performance

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### **Thomas M. Deister** 2008 Judicial Performance Survey

April 30, 2008

The Honorable Thomas M. Deister  
Mesa County Justice Center  
P.O. Box 20,000  
Grand Junction, CO. 81502



Dear Judge Deister:

Every two years the Colorado Judicial Performance Commission conducts a survey of people who have been in the courtroom of judges who face a retention vote in the next general election. The 2008 survey was conducted by Talmey-Drake Research & Strategy, Inc., who attempted to contact over 57,000 people statewide who had been in these courtrooms in one capacity or another. Over 12,400 people responded – 3,084 to the attorney survey and 9,317 to the non-attorney survey.

This report contains the results of those who were in your courtroom and who responded to the survey. In addition to this introduction, the report is divided into five main sections:

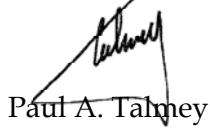
- **Attorney Results & Comments:** This section contains graphs displaying the average grade you received overall (the combined average from questions 1a through 5e), each section and each question. Following the graphs, are a series of tables showing the percentage distribution of responses to each question. Attorney respondents were also asked to comment about your performance. These comments have been transcribed, and in some instances redacted to eliminate respondent identifying information. A copy of the attorney questionnaire is at the back of this report.
- **Appellate Judges & Comments:** New to the 2008 Judicial Performance Evaluation is a survey of Court of Appeals judges and Supreme Court justices regarding the overall performance of district judges.
- **Non-attorney Results & Comments:** Similar to the Attorney section, this portion of the report contains graphs (again including the overall average of questions 1a through 5c on the non-attorney questionnaire), the percentage distribution of responses by non-attorneys to each substantive question in the survey. The non-attorney respondents were also asked to comment about your performance. Again, these comments have been transcribed, and in some instances redacted to eliminate respondent identifying information. A copy of the non-attorney questionnaire is also at the back of this report.
- **Methodology:** The third section of the report discusses the methodology of the survey.
- **Questionnaires:** And the final section provides copies of the questionnaires that were used.

The Honorable Thomas M. Deister  
April, 30 2008  
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If you have any questions about the methodology and how the survey was conducted, please feel free to contact me at 303-443-5300 ext 1, and for any other questions you might have about the survey please call the Executive Director of the Colorado Judicial Performance Program, Jane Howell, at 303-837-3665.

Best regards,



Paul A. Talney  
President

enc:

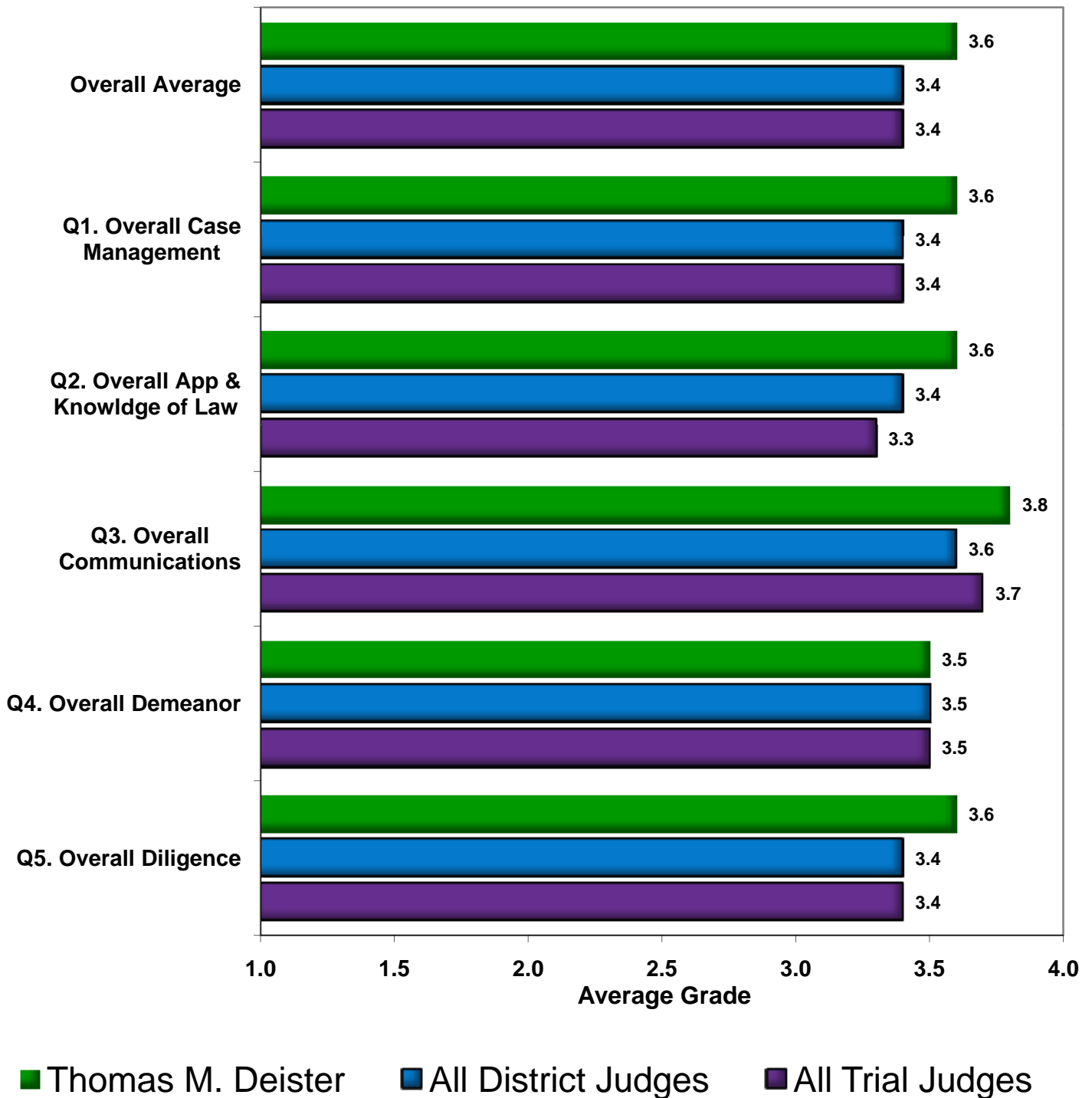
# **Attorney Survey**

**(Sample Size 37)**

# Thomas M. Deister

Attorney Survey

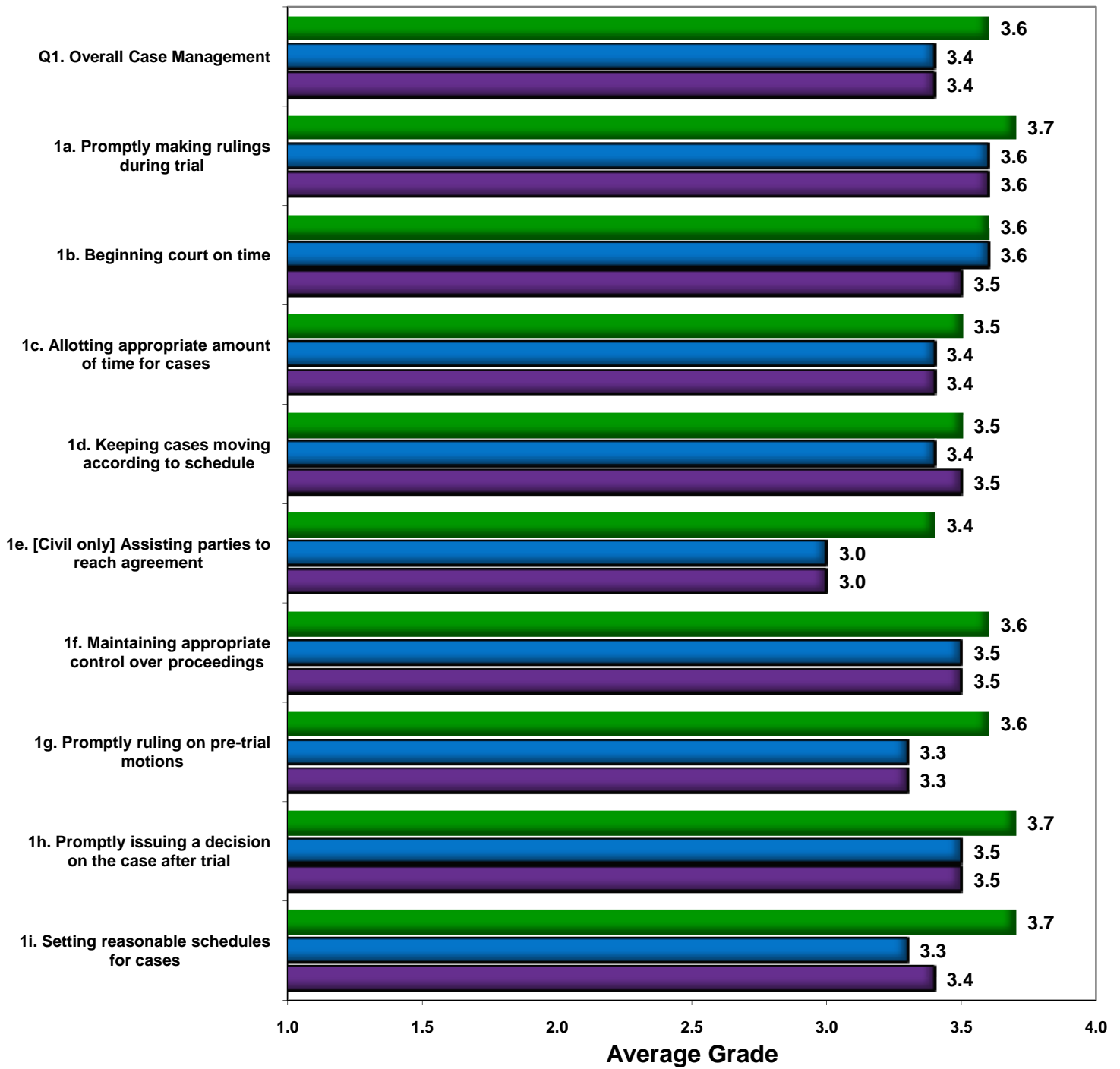
## Average Grades: Overall and by Section



# Thomas M. Deister

Attorney Survey

## Average Grades: Case Management



■ Thomas M. Deister

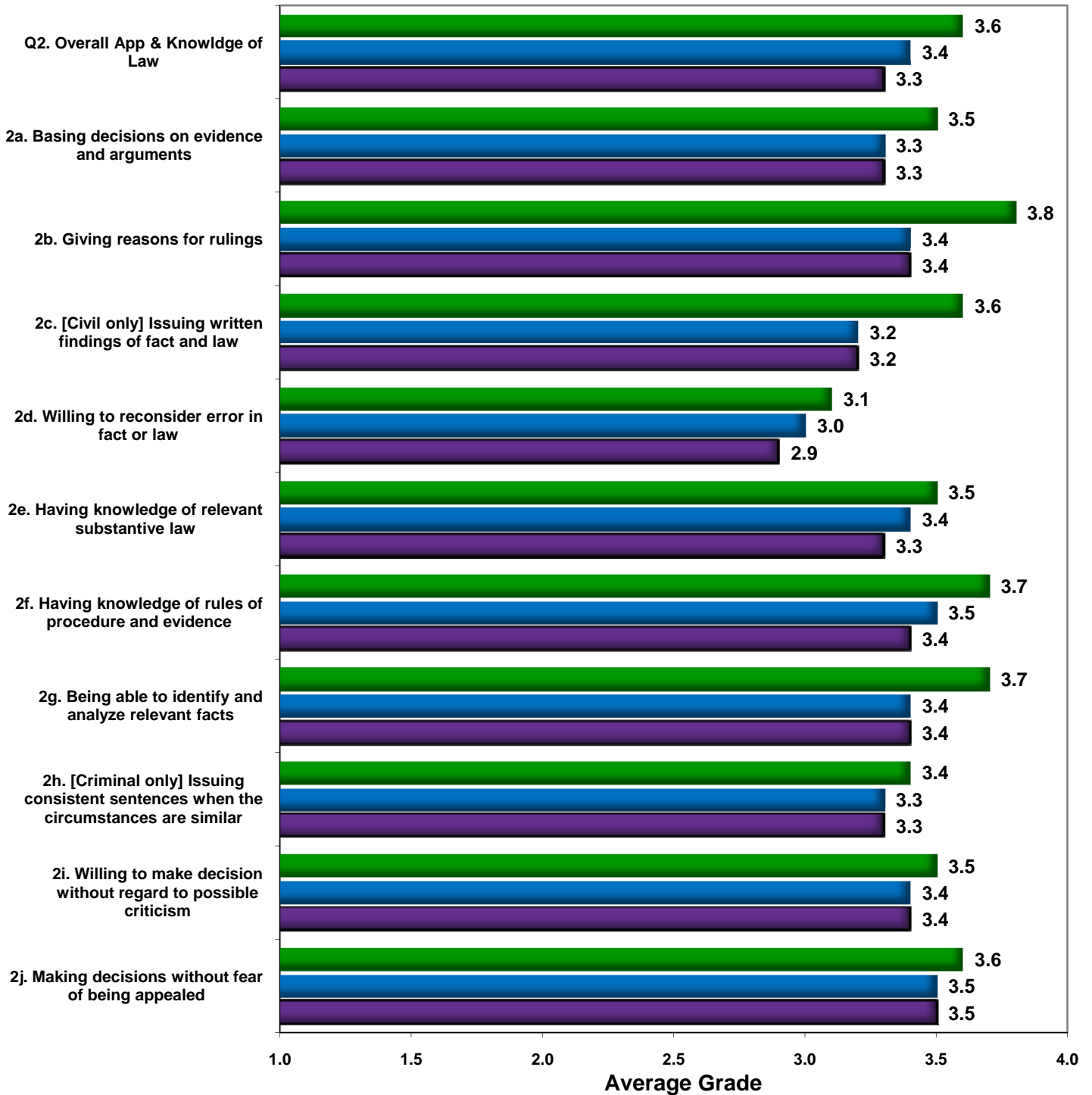
■ All District Judges

■ All Trial Judges

# Thomas M. Deister

## Attorney Survey

### Average Grades: Application and Knowledge of Law

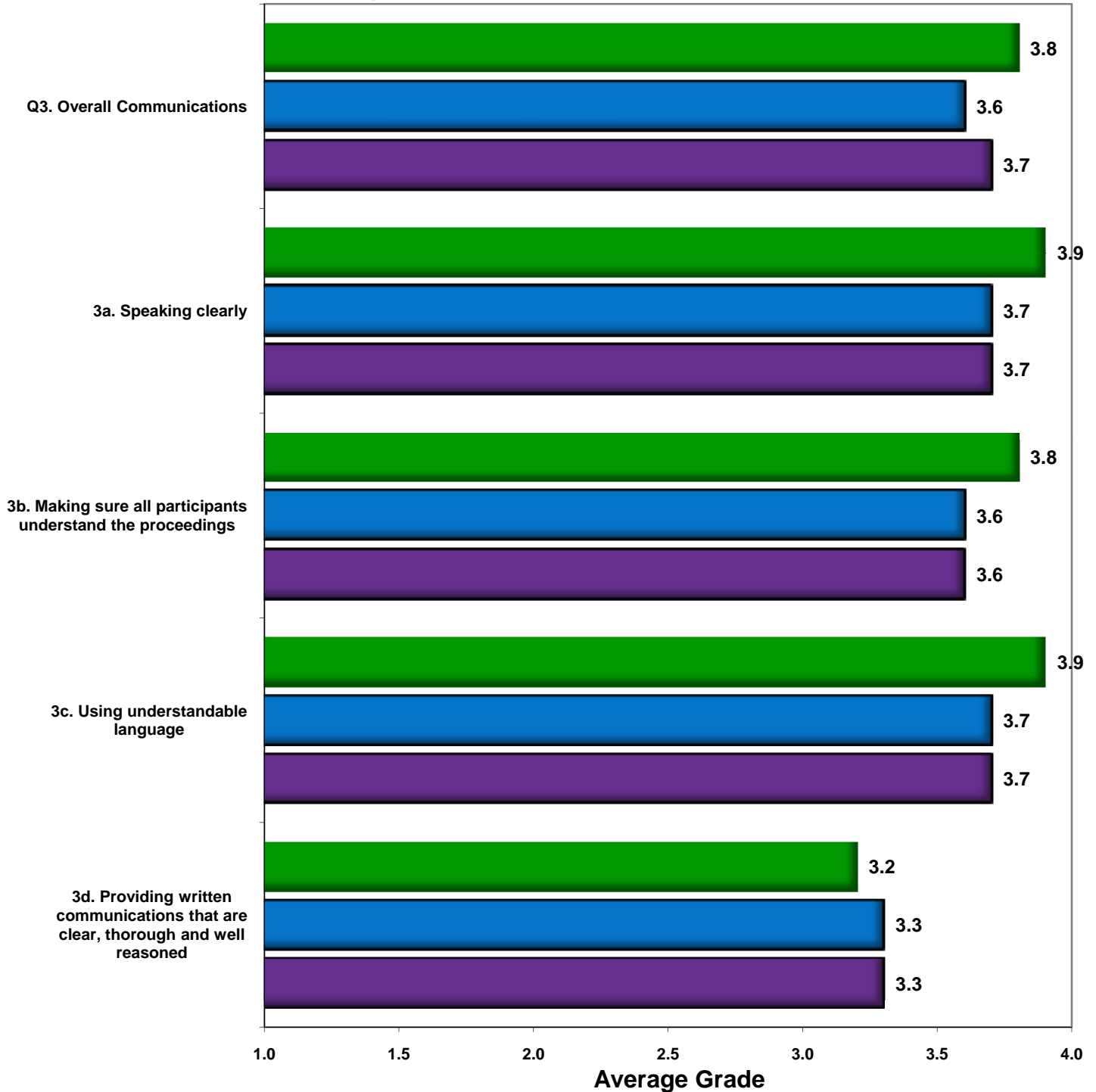


■ Thomas M. Deister   ■ All District Judges   ■ All Trial Judges

# Thomas M. Deister

Attorney Survey

## Average Grades: Communications



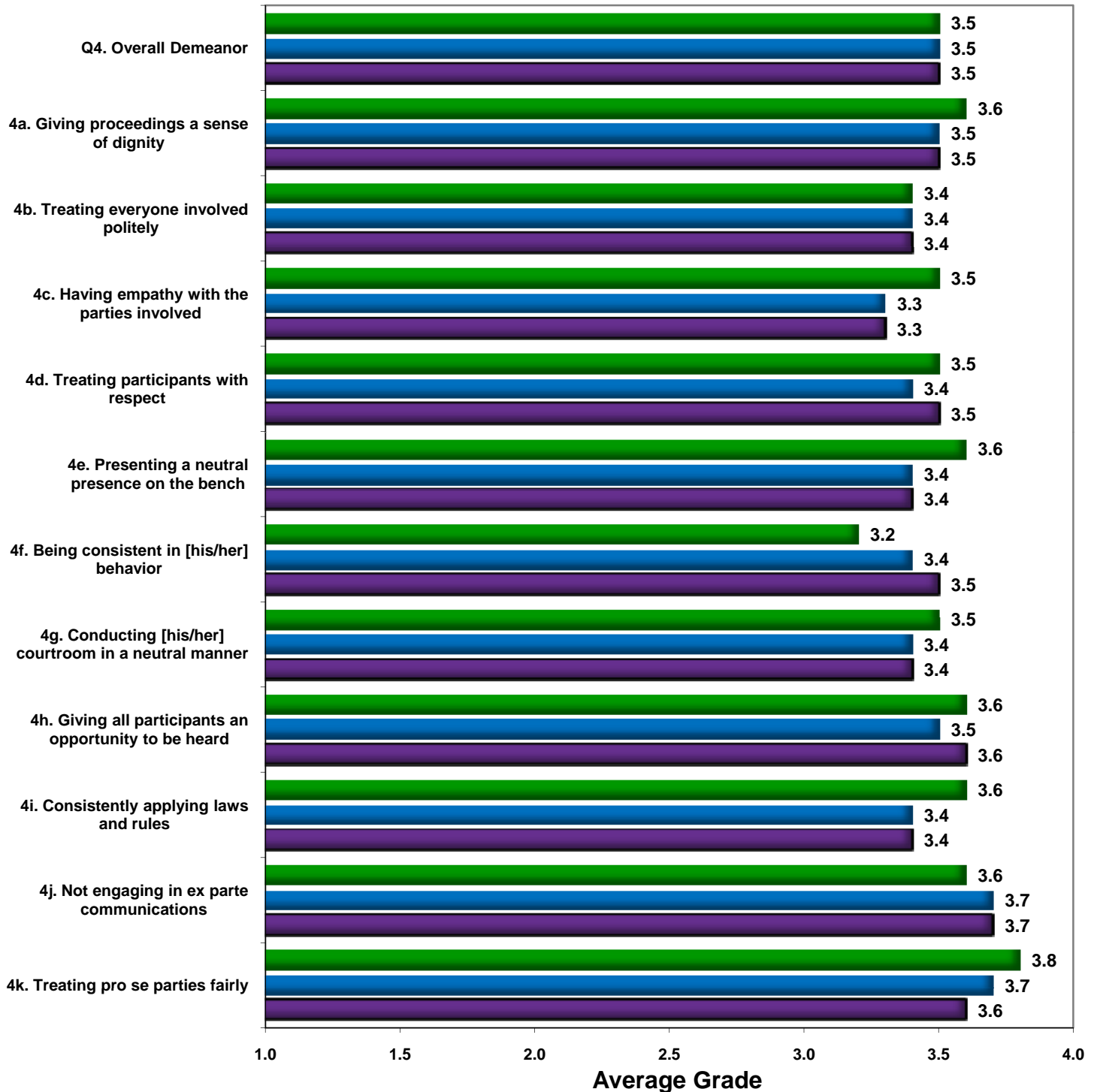
■ Thomas M. Deister   ■ All District Judges   ■ All Trial Judges



# Thomas M. Deister

## Attorney Survey

### Average Grades: Demeanor

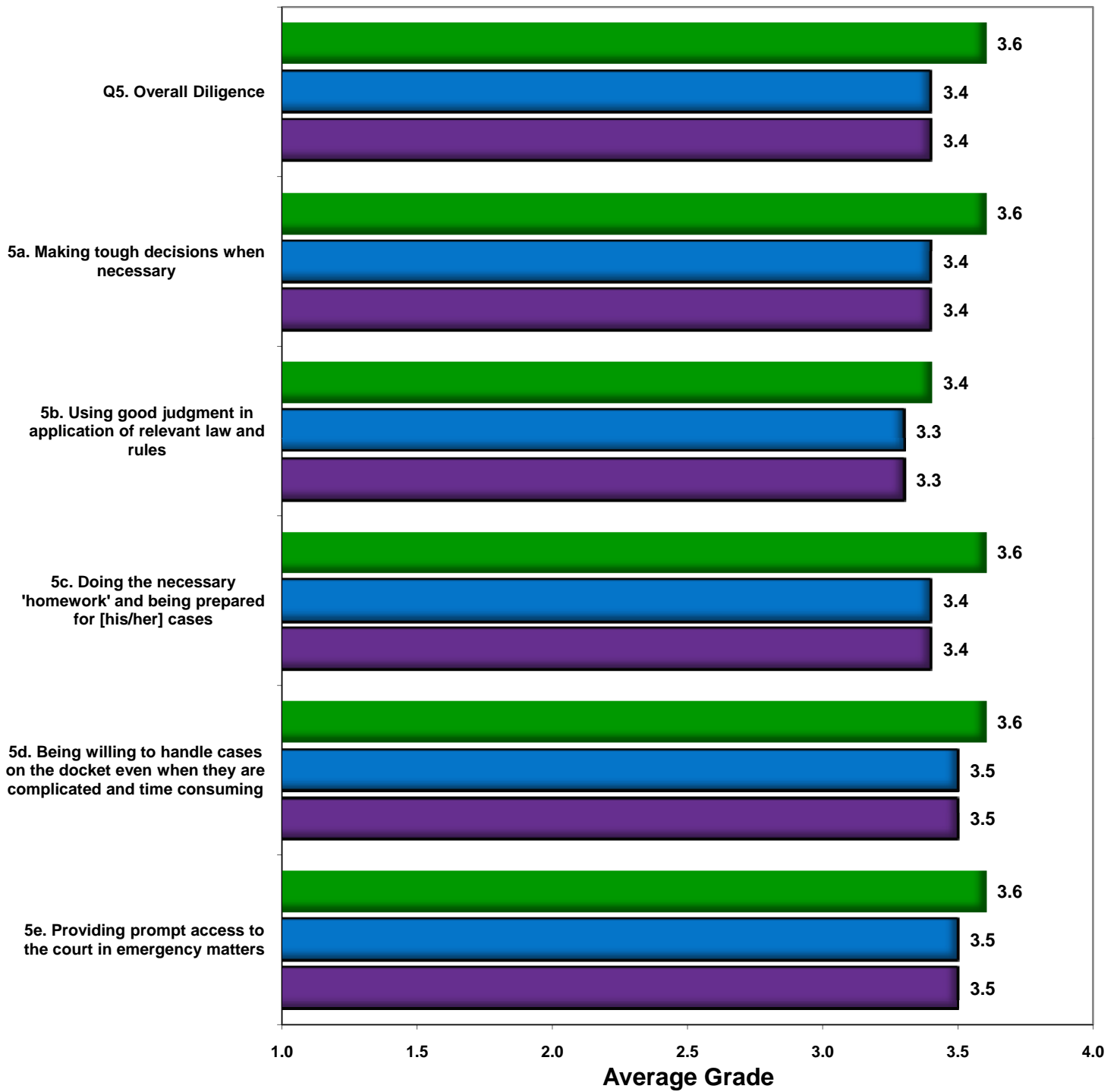


■ Thomas M. Deister   ■ All District Judges   ■ All Trial Judges

# Thomas M. Deister

## Attorney Survey

### Average Grades: Diligence



■ Thomas M. Deister

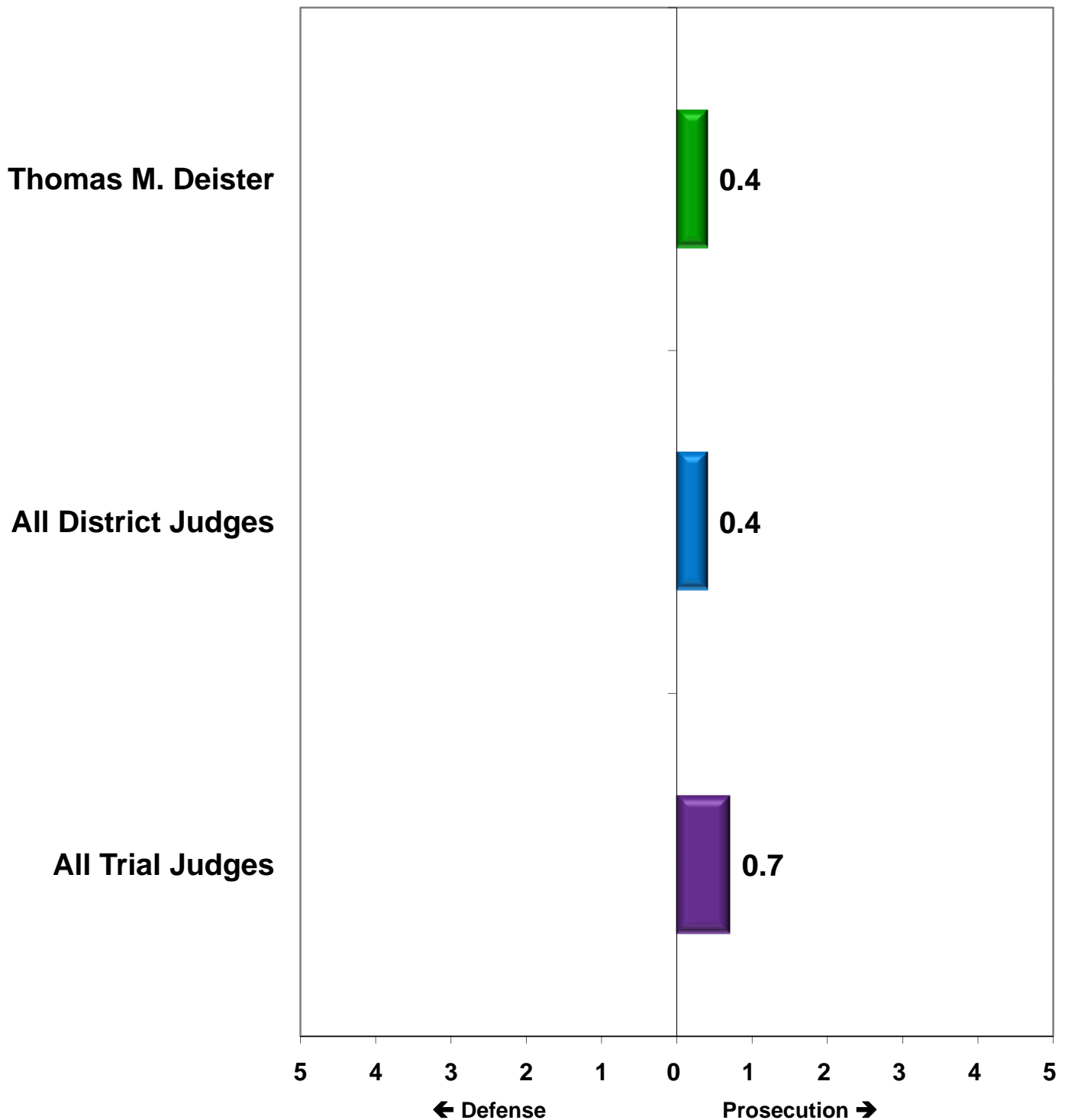
■ All District Judges

■ All Trial Judges

# Thomas M. Deister

Attorney Survey

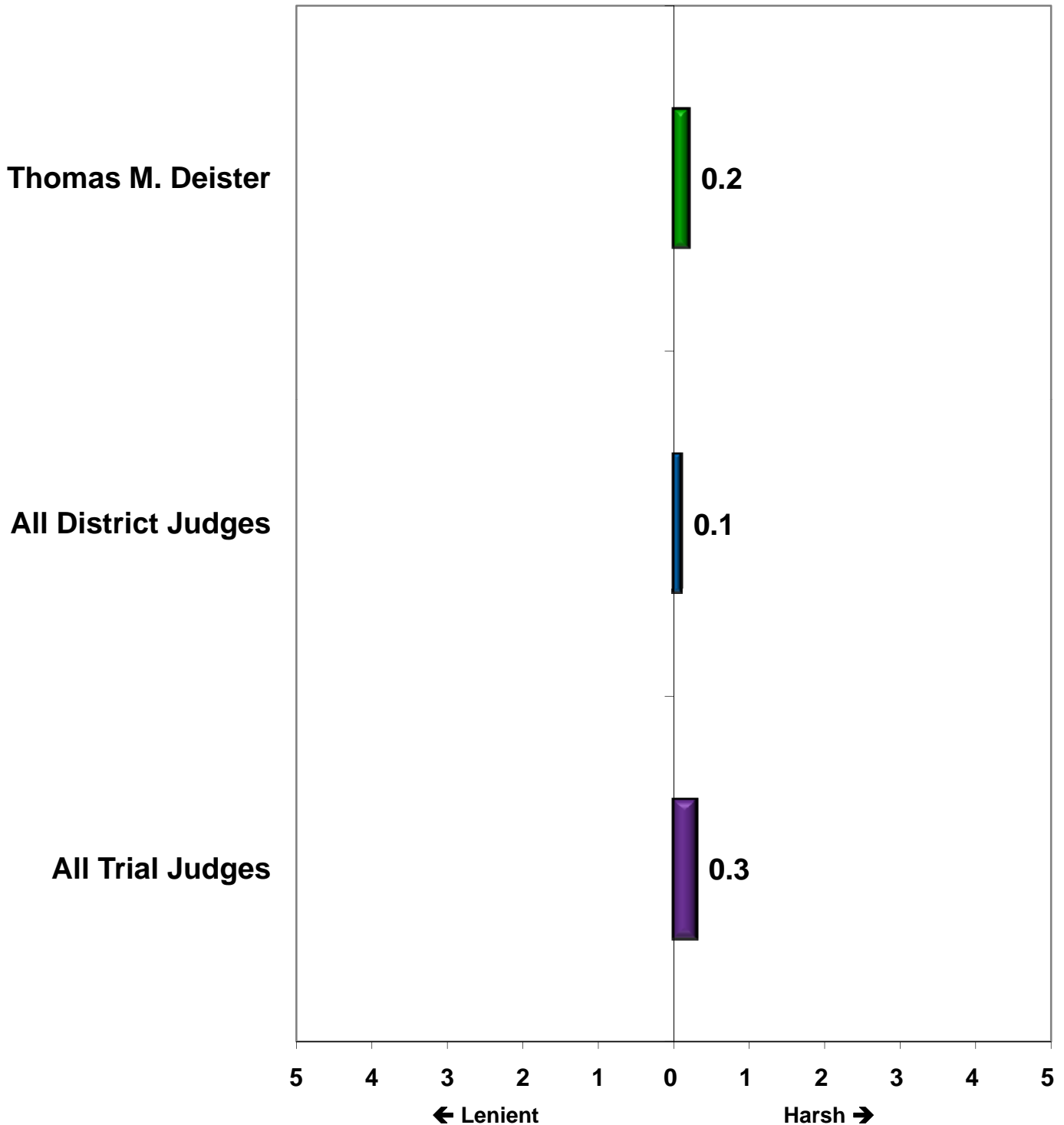
**Q6. Average: How biased do you think Judge Deister is toward the defense or prosecution?**



# Thomas M. Deister

Attorney Survey

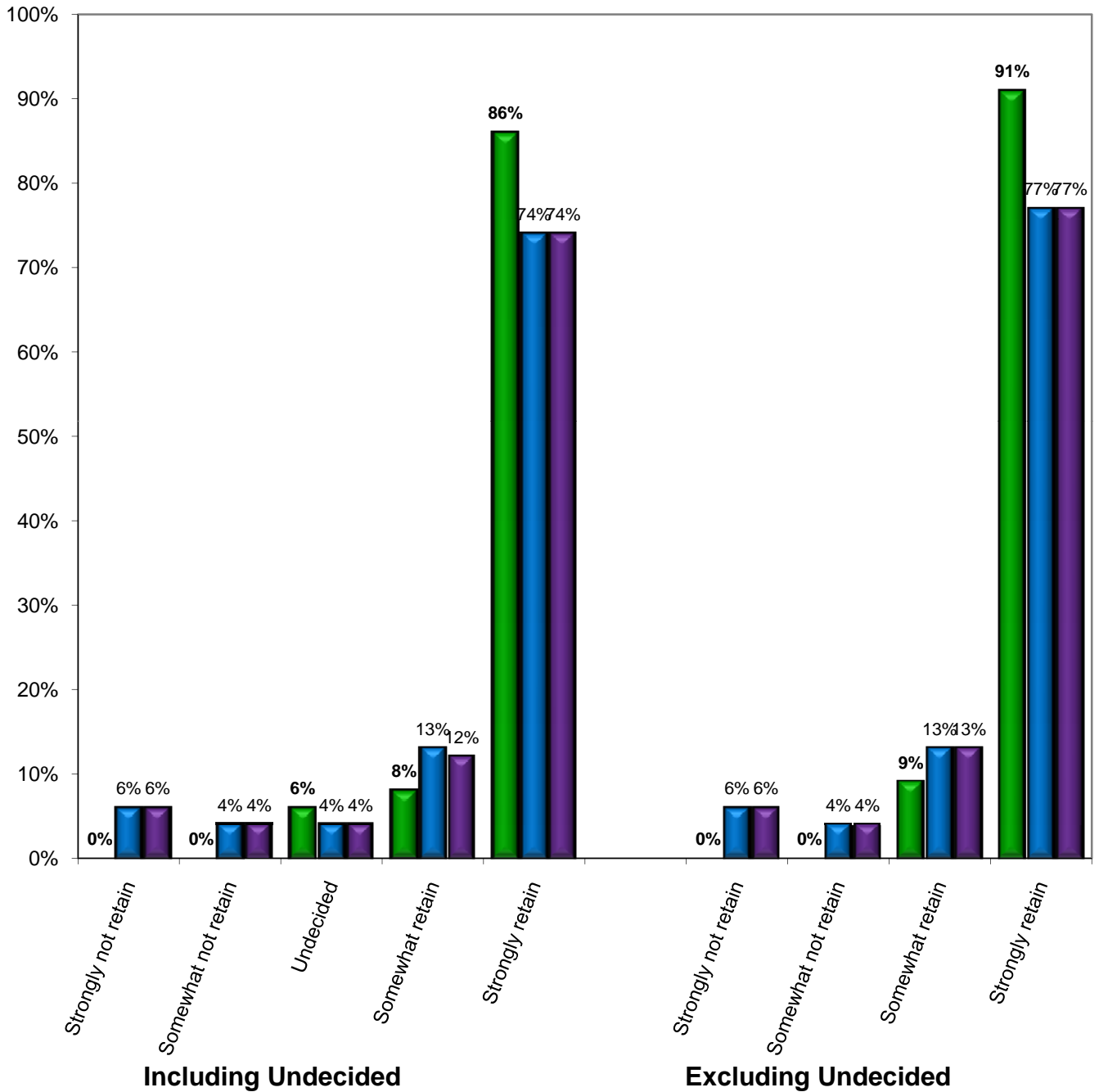
**Q7. Average: How lenient or how harsh are Judge Deister's sentences?**



# Thomas M. Deister

Attorney Survey

## Retention Recommendation



■ Judge Deister

■ All District Judges

■ All Trial Judges

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## Thomas M. Deister

### Attorney Survey

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1a. How would you grade Judge Deister on "Promptly making rulings during trial?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	76%	59%	57%
B .....	22%	17%	18%
C .....	3%	3%	3%
D .....	0%	1%	1%
Fail .....	0%	1%	1%
No Grade .....	0%	19%	21%
<hr/>			
Average .....	3.7	3.6	3.6
Letter Grade .....	A-	B+	B+

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## Thomas M. Deister

### Attorney Survey

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**1b. How would you grade Judge Deister on "Beginning court on time?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	76%	66%	62%
B .....	16%	23%	25%
C .....	5%	5%	7%
D .....	3%	2%	2%
Fail .....	0%	1%	1%
No Grade .....	0%	3%	2%
<hr/>			
Average .....	3.6	3.6	3.5
Letter Grade .....	B+	B+	B+

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## Thomas M. Deister

### Attorney Survey

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**1c. How would you grade Judge Deister on "Allotting appropriate amount of time for cases?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	68%	55%	56%
B .....	19%	27%	28%
C .....	5%	9%	8%
D .....	5%	3%	2%
Fail .....	0%	1%	1%
No Grade .....	3%	5%	4%
<hr/>			
Average .....	3.5	3.4	3.4
Letter Grade .....	B+	B+	B+



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## Thomas M. Deister

### Attorney Survey

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1d. How would you grade Judge Deister on "Keeping cases moving according to schedule?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	70%	58%	58%
B .....	22%	27%	28%
C .....	0%	7%	7%
D .....	8%	3%	2%
Fail .....	0%	1%	1%
No Grade .....	0%	4%	4%
<hr/>			
Average .....	3.5	3.4	3.5
Letter Grade .....	B+	B+	B+

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## Thomas M. Deister

### Attorney Survey

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1e. How would you grade Judge Deister on "[Civil only]  
Assisting parties to reach agreement?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	19%	23%	23%
B .....	10%	17%	17%
C .....	6%	10%	8%
D .....	0%	4%	3%
Fail .....	0%	2%	2%
No Grade .....	65%	44%	47%
<hr/>			
Average .....	3.4	3.0	3.0
Letter Grade .....	B+	B	B

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## Thomas M. Deister

### Attorney Survey

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1f. How would you grade Judge Deister on  
"Maintaining appropriate control over proceedings?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	70%	64%	66%
B .....	24%	22%	22%
C .....	0%	8%	7%
D .....	5%	3%	2%
Fail .....	0%	1%	1%
No Grade .....	0%	2%	2%
<hr/>			
Average .....	3.6	3.5	3.5
Letter Grade .....	B+	B+	B+

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## Thomas M. Deister

### Attorney Survey

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1g. How would you grade Judge Deister on "Promptly ruling on pre-trial motions?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	65%	45%	44%
B .....	16%	23%	21%
C .....	5%	9%	8%
D .....	3%	3%	3%
Fail .....	0%	2%	1%
No Grade .....	11%	19%	24%
<hr/>			
Average .....	3.6	3.3	3.3
Letter Grade .....	B+	B	B

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## Thomas M. Deister

### Attorney Survey

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1h. How would you grade Judge Deister on "Promptly issuing a decision on the case after trial?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	76%	48%	48%
B .....	16%	17%	16%
C .....	0%	5%	4%
D .....	0%	2%	1%
Fail .....	3%	1%	1%
No Grade .....	5%	27%	29%
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Average .....	3.7	3.5	3.5
Letter Grade .....	A-	B+	B+

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## Thomas M. Deister

### Attorney Survey

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**1i. How would you grade Judge Deister on "Setting reasonable schedules for cases?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	75%	53%	54%
B .....	17%	26%	26%
C .....	8%	9%	8%
D .....	0%	3%	3%
Fail .....	0%	2%	2%
No Grade .....	0%	7%	8%
<hr/>			
Average .....	3.7	3.3	3.4
Letter Grade .....	A-	B	B+

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## Thomas M. Deister

### Attorney Survey

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**2a. How would you grade Judge Deister on "Basing decisions on evidence and arguments?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	68%	54%	54%
B .....	19%	25%	25%
C .....	11%	9%	9%
D .....	3%	4%	4%
Fail .....	0%	3%	3%
No Grade .....	0%	5%	5%
<hr/>			
Average .....	3.5	3.3	3.3
Letter Grade .....	B+	B	B

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## Thomas M. Deister

### Attorney Survey

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#### 2b. How would you grade Judge Deister on "Giving reasons for rulings?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	78%	57%	56%
B .....	19%	25%	25%
C .....	3%	9%	9%
D .....	0%	3%	4%
Fail .....	0%	2%	2%
No Grade .....	0%	4%	4%
<hr/>			
Average .....	3.8	3.4	3.4
Letter Grade .....	A-	B+	B+



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## Thomas M. Deister

### Attorney Survey

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**2c. How would you grade Judge Deister on "[Civil only]  
Issuing written findings of fact and law?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	37%	32%	27%
B .....	7%	18%	16%
C .....	7%	7%	6%
D .....	0%	3%	3%
Fail .....	0%	1%	2%
No Grade .....	50%	38%	47%
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Average .....	3.6	3.2	3.2
Letter Grade .....	B+	B	B

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## Thomas M. Deister

### Attorney Survey

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2d. How would you grade Judge Deister on "Willing to reconsider error in fact or law?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	43%	27%	27%
B .....	11%	18%	18%
C .....	14%	9%	9%
D .....	5%	4%	5%
Fail .....	3%	4%	4%
No Grade .....	24%	37%	38%
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Average .....	3.1	3.0	2.9
Letter Grade .....	B	B	B-

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## Thomas M. Deister

### Attorney Survey

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**2e. How would you grade Judge Deister on "Having knowledge of relevant substantive law?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	68%	55%	54%
B .....	19%	28%	28%
C .....	14%	9%	9%
D .....	0%	3%	4%
Fail .....	0%	2%	2%
No Grade .....	0%	3%	4%
<hr/>			
Average .....	3.5	3.4	3.3
Letter Grade .....	B+	B+	B

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## Thomas M. Deister

### Attorney Survey

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2f. How would you grade Judge Deister on "Having knowledge of rules of procedure and evidence?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	72%	63%	60%
B .....	22%	23%	24%
C .....	6%	7%	8%
D .....	0%	2%	3%
Fail .....	0%	2%	2%
No Grade .....	0%	3%	4%
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Average .....	3.7	3.5	3.4
Letter Grade .....	A-	B+	B+

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## Thomas M. Deister

### Attorney Survey

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2g. How would you grade Judge Deister on "Being able to identify and analyze relevant facts?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	78%	58%	58%
B .....	14%	24%	24%
C .....	8%	9%	8%
D .....	0%	3%	4%
Fail .....	0%	2%	2%
No Grade .....	0%	4%	4%
<hr/>			
Average .....	3.7	3.4	3.4
Letter Grade .....	A-	B+	B+

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## Thomas M. Deister

### Attorney Survey

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2h. How would you grade Judge Deister on "[Criminal only] Issuing consistent sentences when the circumstances are similar?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	50%	28%	36%
B .....	13%	16%	18%
C .....	3%	5%	5%
D .....	3%	2%	2%
Fail .....	3%	2%	1%
No Grade .....	28%	48%	37%
<hr/>			
Average .....	3.4	3.3	3.3
Letter Grade .....	B+	B	B

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## Thomas M. Deister

### Attorney Survey

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2i. How would you grade Judge Deister on "Willing to make decision without regard to possible criticism?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	68%	54%	54%
B .....	14%	20%	20%
C .....	8%	7%	7%
D .....	5%	2%	3%
Fail .....	0%	2%	3%
No Grade .....	5%	15%	14%
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Average .....	3.5	3.4	3.4
Letter Grade .....	B+	B+	B+

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## Thomas M. Deister

### Attorney Survey

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2j. How would you grade Judge Deister on "Making decisions without fear of being appealed?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	68%	55%	55%
B .....	16%	19%	20%
C .....	8%	6%	6%
D .....	0%	2%	2%
Fail .....	0%	1%	1%
No Grade .....	8%	17%	16%
<hr/>			
Average .....	3.6	3.5	3.5
Letter Grade .....	B+	B+	B+



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## Thomas M. Deister

### Attorney Survey

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#### 3a. How would you grade Judge Deister on "Speaking clearly?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	86%	75%	76%
B .....	14%	18%	18%
C .....	0%	4%	4%
D .....	0%	1%	1%
Fail .....	0%	0%	0%
No Grade .....	0%	1%	1%
<hr/>			
Average .....	3.9	3.7	3.7
Letter Grade .....	A-	A-	A-

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## Thomas M. Deister

### Attorney Survey

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**3b. How would you grade Judge Deister on "Making sure all participants understand the proceedings?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	81%	71%	71%
B .....	19%	20%	21%
C .....	0%	5%	5%
D .....	0%	1%	1%
Fail .....	0%	1%	1%
No Grade .....	0%	2%	2%
<hr/>			
Average .....	3.8	3.6	3.6
Letter Grade .....	A-	B+	B+

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## Thomas M. Deister

### Attorney Survey

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#### 3c. How would you grade Judge Deister on "Using understandable language?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	86%	75%	76%
B .....	14%	20%	19%
C .....	0%	4%	3%
D .....	0%	1%	1%
Fail .....	0%	0%	0%
No Grade .....	0%	1%	1%
<hr/>			
Average .....	3.9	3.7	3.7
Letter Grade .....	A-	A-	A-

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## Thomas M. Deister

### Attorney Survey

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3d. How would you grade Judge Deister on "Providing written communications that are clear, thorough and well reasoned?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	50%	46%	46%
B .....	33%	21%	21%
C .....	0%	7%	7%
D .....	17%	4%	4%
Fail .....	0%	2%	2%
No Grade .....	0%	20%	21%
<hr/>			
Average .....	3.2	3.3	3.3
Letter Grade .....	B	B	B

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## Thomas M. Deister

### Attorney Survey

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**4a. How would you grade Judge Deister on "Giving proceedings a sense of dignity?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	68%	69%	69%
B .....	24%	19%	20%
C .....	8%	6%	6%
D .....	0%	2%	2%
Fail .....	0%	2%	2%
No Grade .....	0%	1%	1%
<hr/>			
Average .....	3.6	3.5	3.5
Letter Grade .....	B+	B+	B+

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## Thomas M. Deister

### Attorney Survey

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**4b. How would you grade Judge Deister on "Treating everyone involved politely?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	65%	68%	69%
B .....	22%	16%	17%
C .....	5%	7%	7%
D .....	5%	3%	3%
Fail .....	3%	4%	4%
No Grade .....	0%	1%	1%
<hr/>			
Average .....	3.4	3.4	3.4
Letter Grade .....	B+	B+	B+

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## Thomas M. Deister

### Attorney Survey

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#### 4c. How would you grade Judge Deister on "Having empathy with the parties involved?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	54%	55%	55%
B .....	32%	22%	22%
C .....	8%	10%	10%
D .....	0%	4%	4%
Fail .....	0%	4%	4%
No Grade .....	5%	5%	4%
<hr/>			
Average .....	3.5	3.3	3.3
Letter Grade .....	B+	B	B

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## Thomas M. Deister

### Attorney Survey

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#### 4d. How would you grade Judge Deister on "Treating participants with respect?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	69%	67%	68%
B .....	17%	17%	18%
C .....	11%	8%	7%
D .....	3%	4%	3%
Fail .....	0%	3%	3%
No Grade .....	0%	1%	1%
<hr/>			
Average .....	3.5	3.4	3.5
Letter Grade .....	B+	B+	B+



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## Thomas M. Deister

### Attorney Survey

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**4e. How would you grade Judge Deister on "Presenting a neutral presence on the bench?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	73%	65%	64%
B .....	14%	19%	20%
C .....	14%	8%	8%
D .....	0%	4%	4%
Fail .....	0%	4%	4%
No Grade .....	0%	2%	1%
<hr/>			
Average .....	3.6	3.4	3.4
Letter Grade .....	B+	B+	B+

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## Thomas M. Deister

### Attorney Survey

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4f. How would you grade Judge Deister on "Being consistent in [his/her] behavior?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	62%	64%	64%
B .....	19%	20%	21%
C .....	3%	7%	7%
D .....	8%	3%	3%
Fail .....	8%	3%	2%
No Grade .....	0%	4%	4%
<hr/>			
Average .....	3.2	3.4	3.5
Letter Grade .....	B	B+	B+

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## Thomas M. Deister

### Attorney Survey

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4g. How would you grade Judge Deister on  
"Conducting [his/her] courtroom in a neutral  
manner?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	68%	65%	64%
B .....	24%	18%	20%
C .....	3%	7%	7%
D .....	5%	3%	4%
Fail .....	0%	3%	3%
No Grade .....	0%	3%	2%
<hr/>			
Average .....	3.5	3.4	3.4
Letter Grade .....	B+	B+	B+

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## Thomas M. Deister

### Attorney Survey

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4h. How would you grade Judge Deister on "Giving all participants an opportunity to be heard?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	68%	70%	70%
B .....	27%	18%	19%
C .....	5%	6%	6%
D .....	0%	2%	2%
Fail .....	0%	2%	2%
No Grade .....	0%	2%	1%
<hr/>			
Average .....	3.6	3.5	3.6
Letter Grade .....	B+	B+	B+

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## Thomas M. Deister

### Attorney Survey

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**4i. How would you grade Judge Deister on  
"Consistently applying laws and rules?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	67%	59%	59%
B .....	25%	21%	21%
C .....	6%	8%	8%
D .....	3%	3%	3%
Fail .....	0%	3%	3%
No Grade .....	0%	6%	6%
<hr/>			
Average .....	3.6	3.4	3.4
Letter Grade .....	B+	B+	B+

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## Thomas M. Deister

### Attorney Survey

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**4j. How would you grade Judge Deister on "Not engaging in ex parte communications?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	62%	67%	64%
B .....	19%	10%	12%
C .....	3%	2%	3%
D .....	0%	1%	1%
Fail .....	3%	1%	1%
No Grade .....	14%	19%	19%
<hr/>			
Average .....	3.6	3.7	3.7
Letter Grade .....	B+	A-	A-

---

## Thomas M. Deister

### Attorney Survey

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4k. How would you grade Judge Deister on "Treating pro se parties fairly?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	68%	47%	51%
B .....	11%	9%	11%
C .....	3%	3%	3%
D .....	0%	1%	1%
Fail .....	0%	1%	1%
No Grade .....	19%	40%	33%
<hr/>			
Average .....	3.8	3.7	3.6
Letter Grade .....	A-	A-	B+

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## Thomas M. Deister

### Attorney Survey

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**5a. How would you grade Judge Deister on "Making tough decisions when necessary?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	62%	55%	53%
B .....	27%	21%	22%
C .....	5%	7%	7%
D .....	0%	3%	3%
Fail .....	0%	1%	2%
No Grade .....	5%	12%	13%
<hr/>			
Average .....	3.6	3.4	3.4
Letter Grade .....	B+	B+	B+



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## Thomas M. Deister

### Attorney Survey

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**5b. How would you grade Judge Deister on "Using good judgment in application of relevant law and rules?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	59%	53%	54%
B .....	30%	26%	26%
C .....	3%	10%	9%
D .....	8%	4%	4%
Fail .....	0%	3%	3%
No Grade .....	0%	4%	4%
<hr/>			
Average .....	3.4	3.3	3.3
Letter Grade .....	B+	B	B

---

## Thomas M. Deister

### Attorney Survey

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5c. How would you grade Judge Deister on "Doing the necessary 'homework' and being prepared for [his/her] cases?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	68%	58%	56%
B .....	22%	24%	24%
C .....	5%	7%	8%
D .....	3%	2%	2%
Fail .....	0%	2%	2%
No Grade .....	3%	6%	9%
<hr/>			
Average .....	3.6	3.4	3.4
Letter Grade .....	B+	B+	B+

---

## Thomas M. Deister

### Attorney Survey

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**5d. How would you grade Judge Deister on "Being willing to handle cases on the docket even when they are complicated and time consuming?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	70%	56%	54%
B .....	14%	18%	18%
C .....	5%	5%	6%
D .....	3%	2%	2%
Fail .....	0%	1%	2%
No Grade .....	8%	17%	19%
<hr/>			
Average .....	3.6	3.5	3.5
Letter Grade .....	B+	B+	B+

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## Thomas M. Deister

### Attorney Survey

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**5e. How would you grade Judge Deister on "Providing prompt access to the court in emergency matters?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	51%	40%	39%
B .....	14%	13%	14%
C .....	8%	5%	4%
D .....	0%	1%	1%
Fail .....	0%	1%	1%
No Grade .....	27%	40%	40%
<hr/>			
Average .....	3.6	3.5	3.5
Letter Grade .....	B+	B+	B+

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## Thomas M. Deister

### Attorney Survey

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**6. How biased do you think Judge Deister is towards the defense or the prosecution?**

		<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
Toward Prosecution ↑↑	5 .....	0%	2%	3%
	4 .....	4%	3%	4%
	3 .....	0%	6%	7%
	2 .....	8%	9%	10%
	1 .....	21%	13%	14%
	0 Neutral .....	58%	54%	53%
← Toward Defense	-1 .....	0%	6%	4%
	-2 .....	8%	3%	2%
	-3 .....	0%	2%	2%
	-4 .....	0%	2%	1%
	-5 .....	0%	1%	0%
<hr/>				
	Average .....	0.4	0.4	0.7

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## Thomas M. Deister

### Attorney Survey

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**7. How lenient or harsh do you think the sentences handed down by Judge Deister are?**

		<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
↑↑ To Harsh	5 .....	0%	2%	2%
	4 .....	0%	3%	3%
	3 .....	4%	4%	4%
	2 .....	4%	7%	8%
	1 .....	4%	8%	10%
	0 Appropriate .....	83%	56%	60%
↓↓ To Light	-1 .....	0%	5%	4%
	-2 .....	4%	5%	3%
	-3 .....	0%	5%	3%
	-4 .....	0%	2%	1%
	-5 .....	0%	2%	1%
<hr/>				
	Average .....	0.2	0.1	0.3

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## Thomas M. Deister

### Attorney Survey

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12. Do you recommend that Judge Deister be retained in office or not be retained in office?

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
Strongly Recommend Retain in office ....	91%	77%	77%
Somewhat Recommend Retain in office .....	9%	13%	13%
Somewhat Recommend Not Retain in office .....	0%	4%	4%
Strongly Recommend Not Retain in office ....	0%	6%	6%

# **Appellate Judge Survey**

**(Sample Size 20)**



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# Thomas M. Deister

## Appellate Survey

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### Overall Performance of Judge Deister

	<u>Judge Deister</u>	<u>All District Judges</u>
A .....	25%	28%
B .....	10%	14%
C .....	0%	3%
D .....	0%	0%
Fail .....	0%	0%
No Grade .....	65%	55%
<hr/>		
Average .....	3.7	3.5
Letter Grade .....	A-	B+

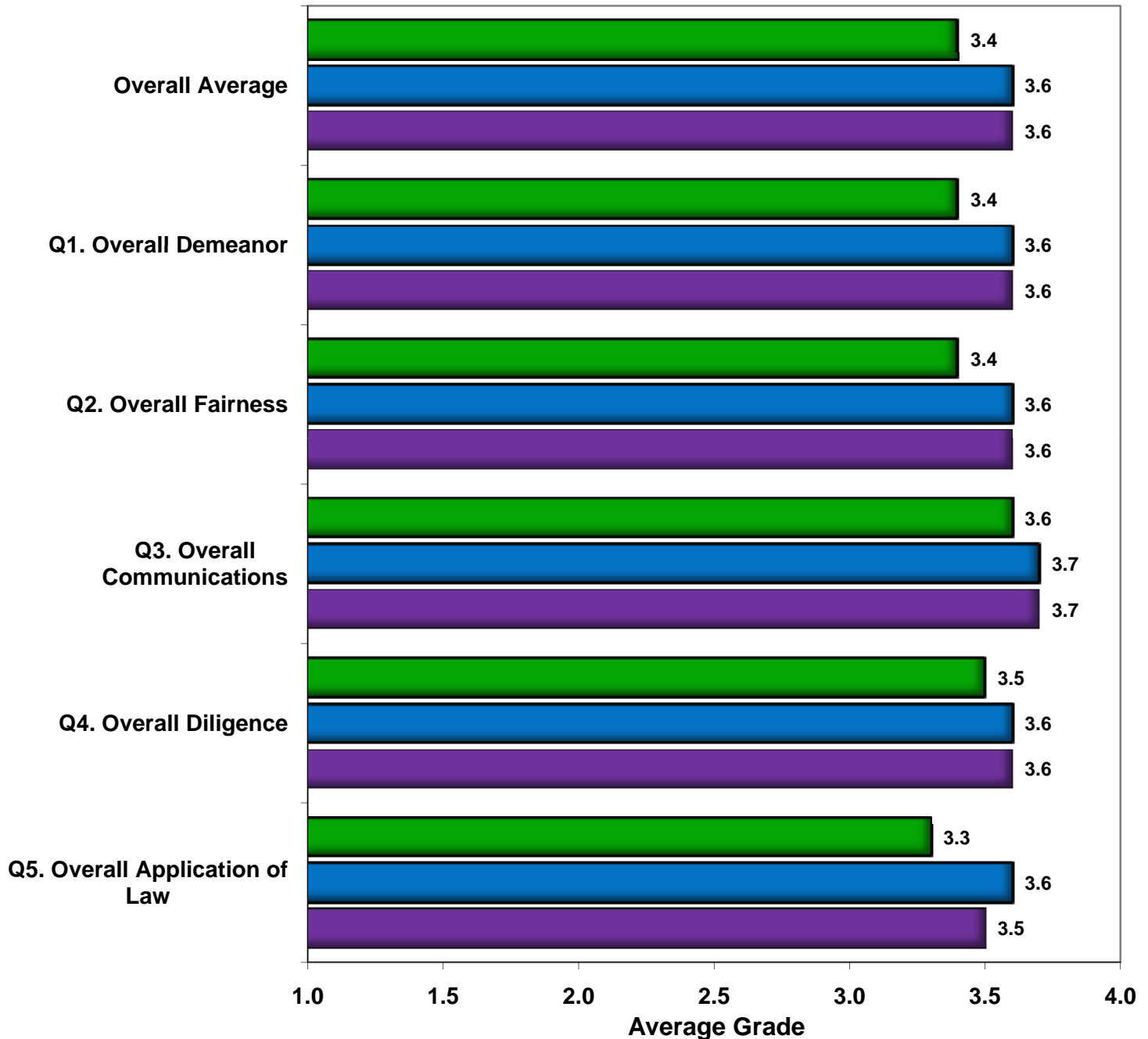
# **Non-Attorney Survey**

**(Sample Size 233)**

# Thomas M. Deister

Non-Attorney Survey

## Average Grades: Overall and by Section

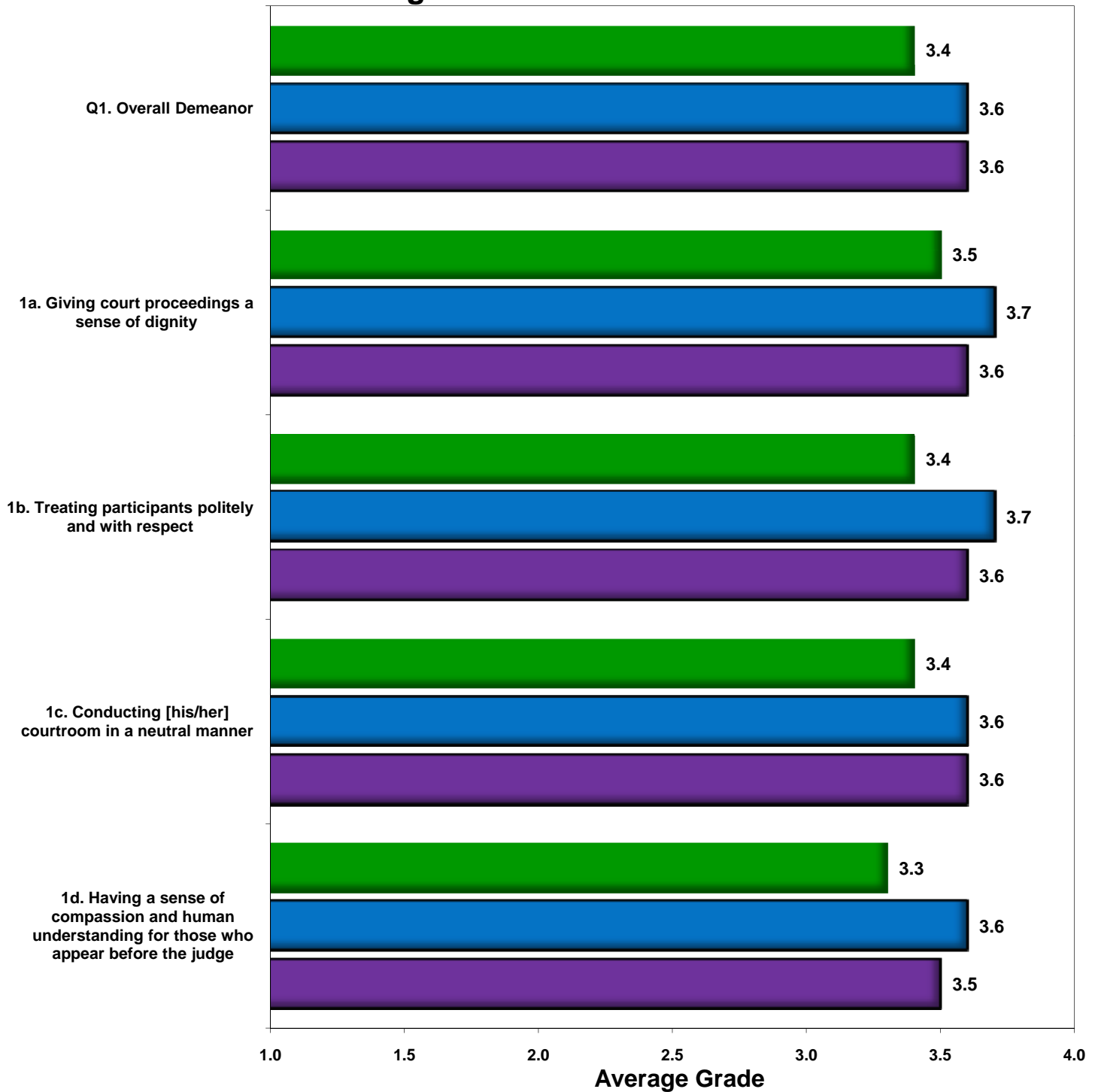


■ Thomas M. Deister   ■ All District Judges   ■ All Trial Judges

# Thomas M. Deister

## Non-Attorney Survey

### Average Grades: Demeanor

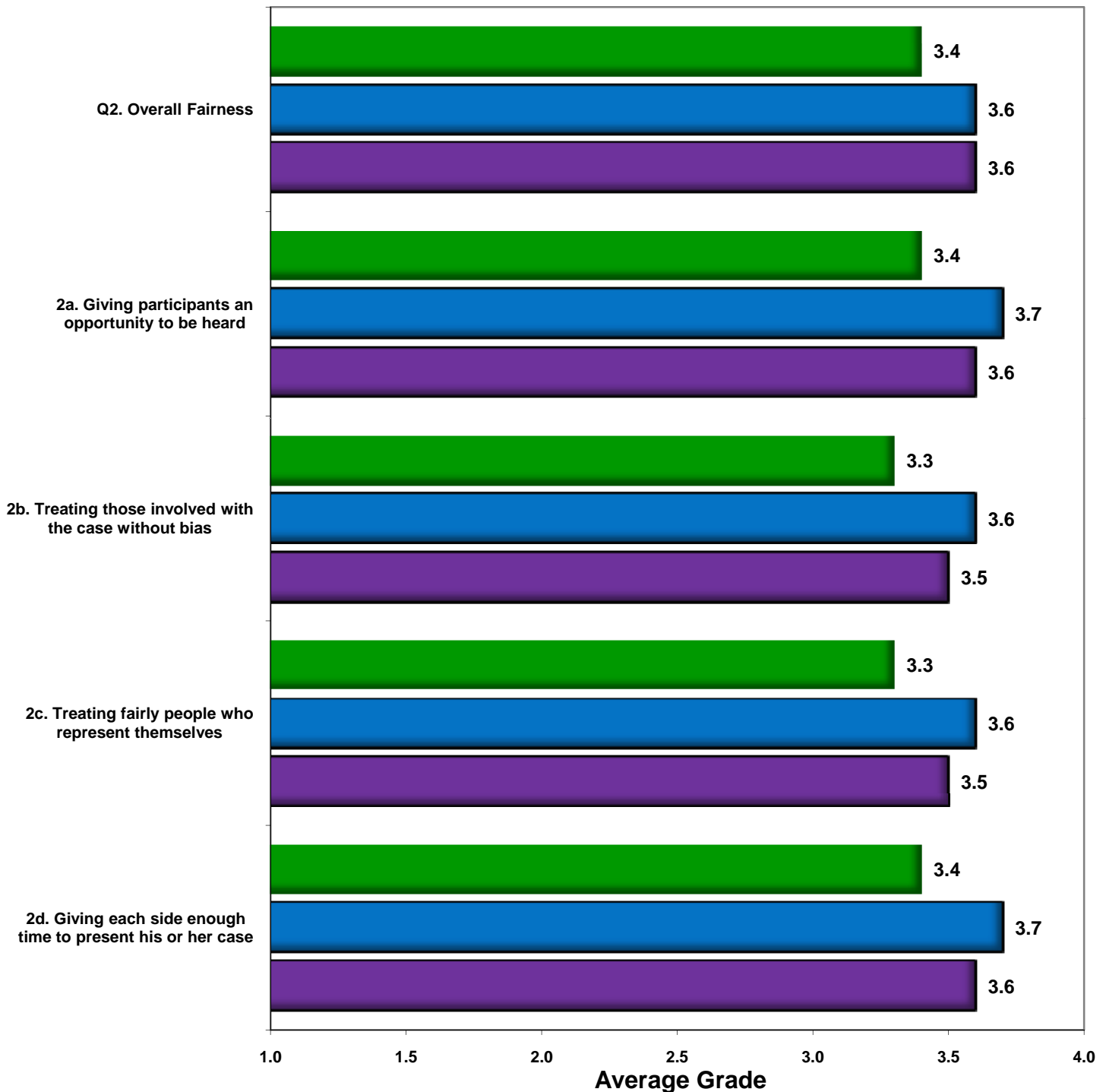


■ Thomas M. Deister   ■ All District Judges   ■ All Trial Judges

# Thomas M. Deister

Non-Attorney Survey

## Average Grades: Fairness

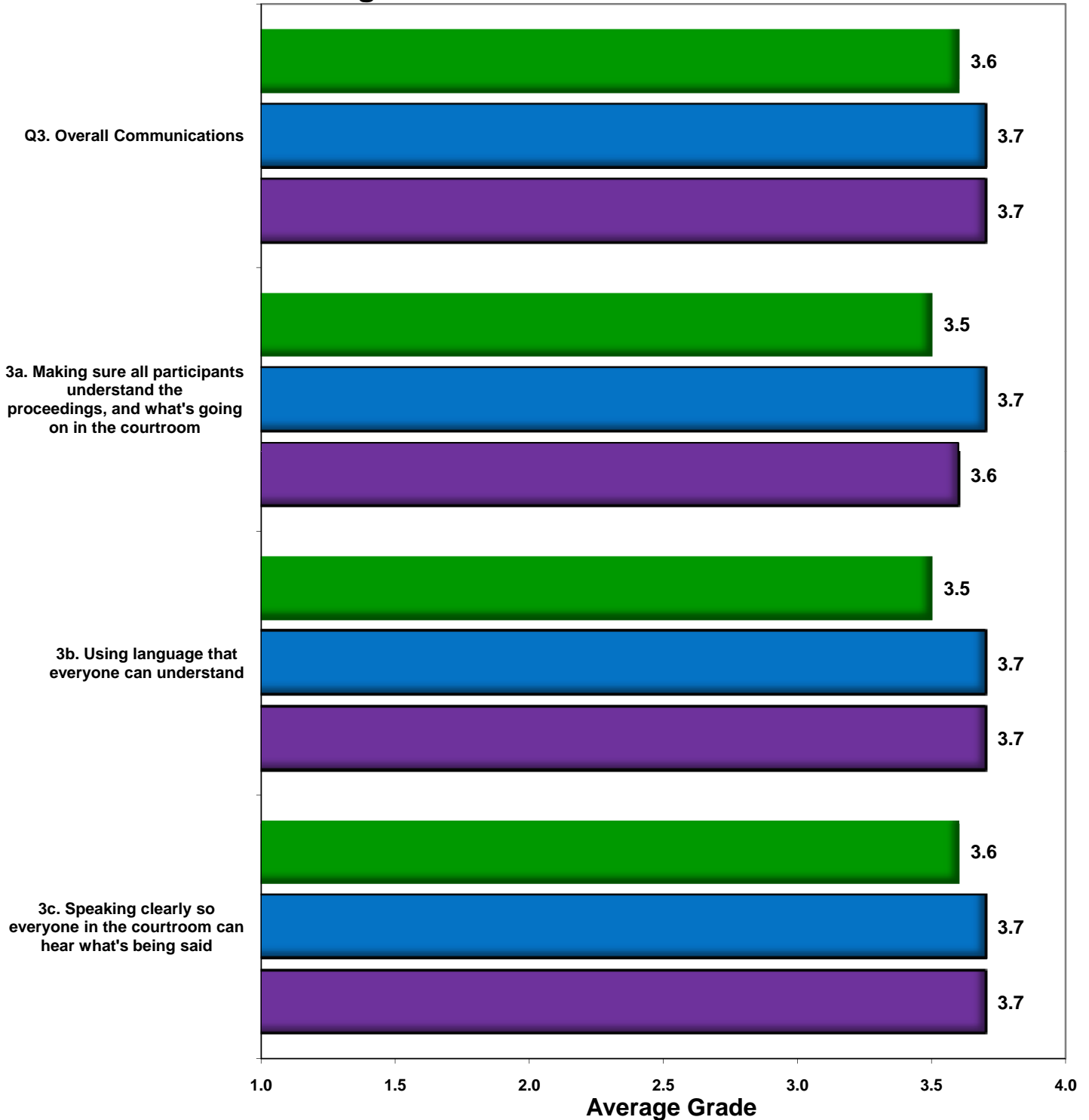


■ Thomas M. Deister   ■ All District Judges   ■ All Trial Judges

# Thomas M. Deister

## Non-Attorney Survey

### Average Grades: Communications

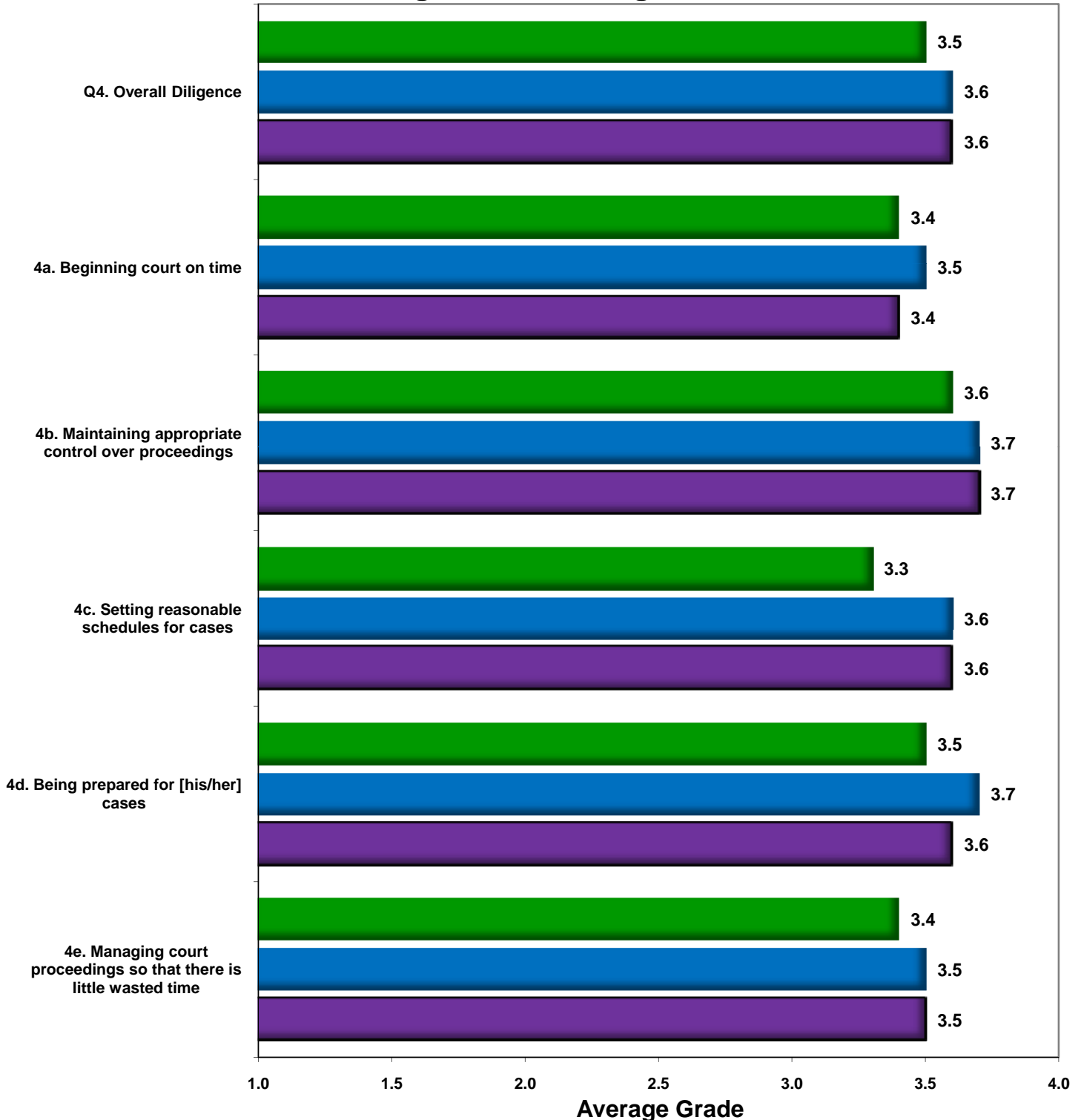


■ Thomas M. Deister   ■ All District Judges   ■ All Trial Judges

# Thomas M. Deister

## Non-Attorney Survey

### Average Grades: Diligence



■ Thomas M. Deister

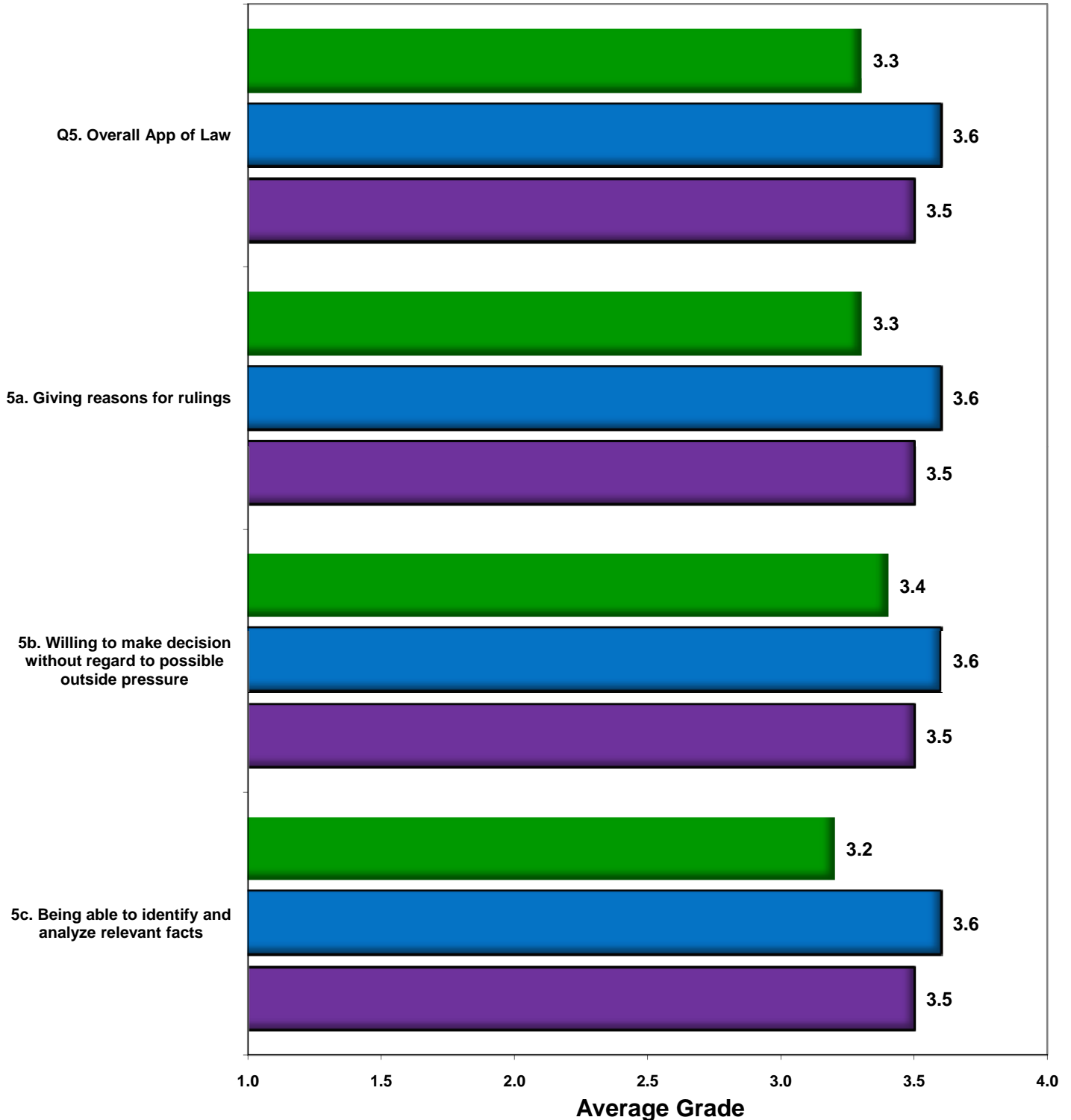
■ All District Judges

■ All Trial Judges

# Thomas M. Deister

## Non-Attorney Survey

### Average Grades: Application and Knowledge of Law



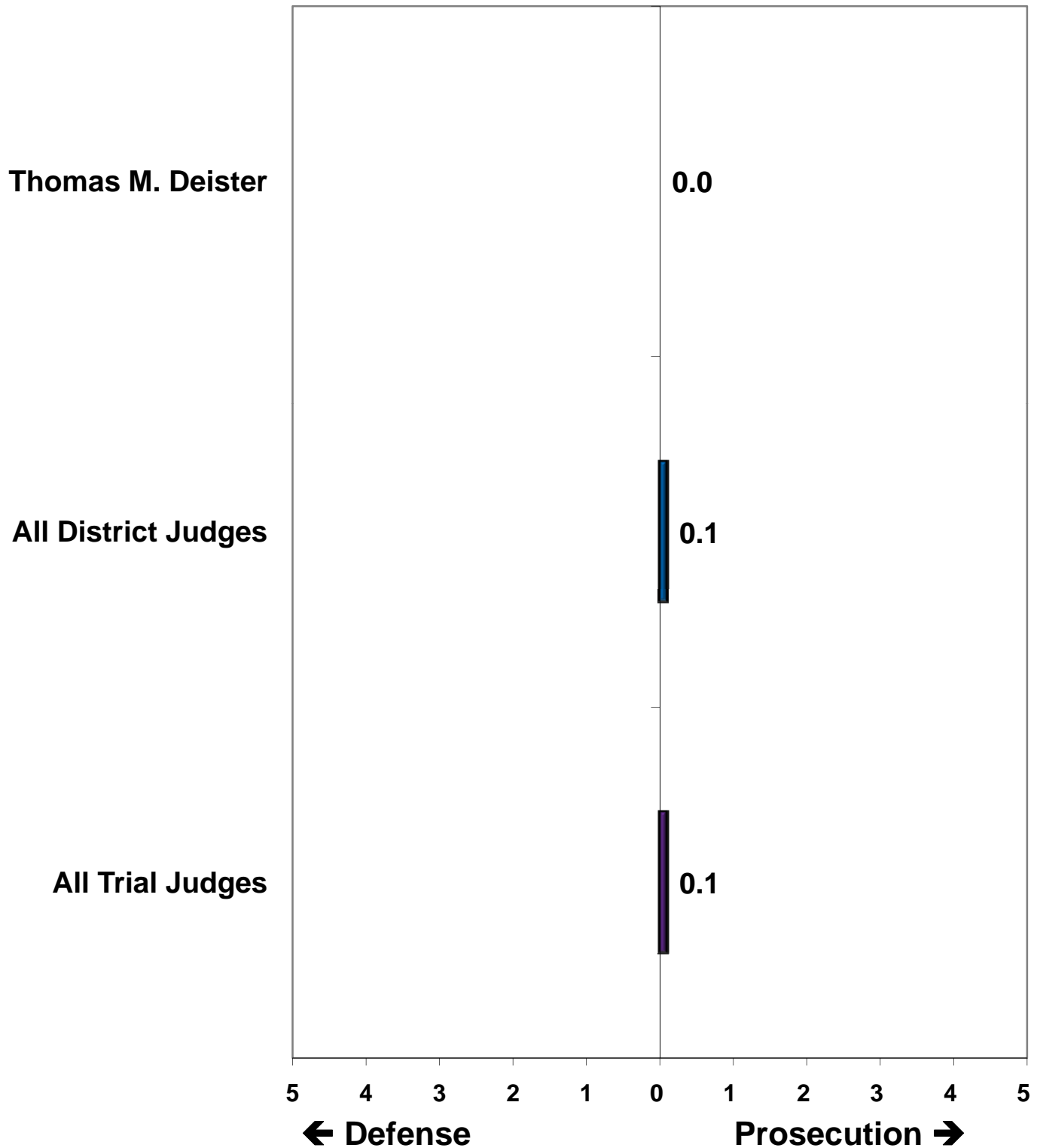
■ Thomas M. Deister   ■ All District Judges   ■ All Trial Judges



# Thomas M. Deister

Non-Attorney Survey

**Average: How biased do you think Judge Deister is toward the defense or prosecution?**



# Thomas M. Deister

Non-Attorney Survey

**Average: How lenient or how harsh are Judge  
Deister's sentences?**

**Thomas M. Deister**

**0.0**

**All District Judges**

**0.0**

**All Trial Judges**

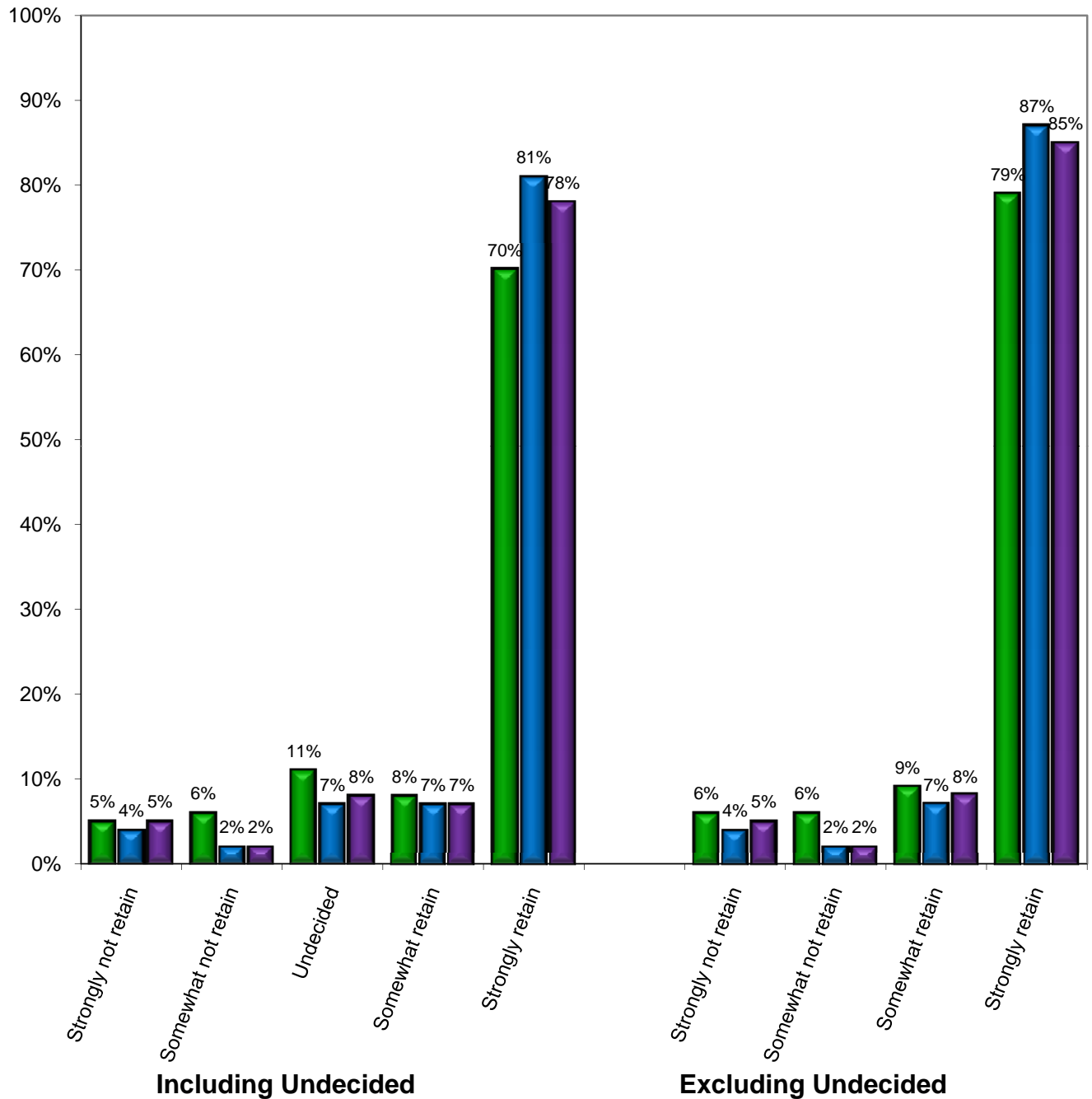
**0.0**

5 4 3 2 1 0 1 2 3 4 5  
**← Lenient** **Harsh →**

# Thomas M. Deister

## Non-Attorney Survey

### Retention Recommendation



■ Judge Deister

■ All District Judges

■ All Trial Judges

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## Thomas M. Deister

### Non-Attorney Survey

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1a. How would you grade Judge Deister on "Giving proceedings a sense of dignity?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	67%	76%	73%
B .....	19%	16%	18%
C .....	8%	3%	4%
D .....	3%	2%	2%
Fail .....	2%	1%	2%
No Grade .....	1%	1%	1%
<hr/>			
Average .....	3.5	3.7	3.6
Letter Grade .....	B+	A-	B+

---

## Thomas M. Deister

### Non-Attorney Survey

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**1b. How would you grade Judge Deister on "Treating participants politely and with respect?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	67%	79%	76%
B .....	15%	13%	14%
C .....	9%	4%	4%
D .....	2%	1%	2%
Fail .....	4%	2%	3%
No Grade .....	2%	1%	1%
<hr/>			
Average .....	3.4	3.7	3.6
Letter Grade .....	B+	A-	B+

---

## Thomas M. Deister

### Non-Attorney Survey

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1c. How would you grade Judge Deister on  
"Conducting [his/her] courtroom in a neutral  
manner?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	65%	77%	74%
B .....	14%	13%	14%
C .....	10%	4%	5%
D .....	3%	2%	2%
Fail .....	5%	2%	3%
No Grade .....	2%	1%	1%
<hr/>			
Average .....	3.4	3.6	3.6
Letter Grade .....	B+	B+	B+

---

## Thomas M. Deister

### Non-Attorney Survey

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1d. How would you grade Judge Deister on "Having a sense of compassion and human understanding for those who appear before the judge?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	60%	71%	69%
B .....	19%	17%	17%
C .....	8%	4%	5%
D .....	4%	2%	2%
Fail .....	4%	3%	4%
No Grade .....	4%	3%	3%
<hr/>			
Average .....	3.3	3.6	3.5
Letter Grade .....	B	B+	B+

---

## Thomas M. Deister

### Non-Attorney Survey

---

2a. How would you grade Judge Deister on "Giving participants an opportunity to be heard?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	66%	77%	75%
B .....	17%	14%	14%
C .....	9%	4%	4%
D .....	3%	2%	2%
Fail .....	3%	2%	3%
No Grade .....	3%	2%	2%
<hr/>			
Average .....	3.4	3.7	3.6
Letter Grade .....	B+	A-	B+



---

## Thomas M. Deister

### Non-Attorney Survey

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**2b. How would you grade Judge Deister on "Treating those involved in the case without bias?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	62%	75%	73%
B .....	17%	14%	14%
C .....	11%	3%	4%
D .....	3%	2%	2%
Fail .....	4%	3%	4%
No Grade .....	3%	3%	3%
<hr/>			
Average .....	3.3	3.6	3.5
Letter Grade .....	B	B+	B+

---

## Thomas M. Deister

### Non-Attorney Survey

---

**2c. How would you grade Judge Deister on "Treating fairly people who represent themselves?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	39%	47%	49%
B .....	12%	8%	9%
C .....	6%	2%	3%
D .....	2%	1%	1%
Fail .....	4%	2%	3%
No Grade .....	37%	39%	35%
<hr/>			
Average .....	3.3	3.6	3.5
Letter Grade .....	B	B+	B+

---

## Thomas M. Deister

### Non-Attorney Survey

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2d. How would you grade Judge Deister on "Giving each side enough time to present his or her case?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	61%	75%	72%
B .....	19%	14%	14%
C .....	8%	3%	4%
D .....	5%	2%	2%
Fail .....	3%	2%	3%
No Grade .....	5%	5%	5%
<hr/>			
Average .....	3.4	3.7	3.6
Letter Grade .....	B+	A-	B+

---

## Thomas M. Deister

### Non-Attorney Survey

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3a. How would you grade Judge Deister on "Making sure participants understand the proceedings, and what's going on in the courtroom?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	71%	78%	76%
B .....	16%	13%	14%
C .....	7%	4%	5%
D .....	3%	2%	2%
Fail .....	2%	1%	2%
No Grade .....	1%	2%	2%
<hr/>			
Average .....	3.5	3.7	3.6
Letter Grade .....	B+	A-	B+

---

## Thomas M. Deister

### Non-Attorney Survey

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**3b. How would you grade Judge Deister on "Using language that everyone can understand?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	69%	78%	76%
B .....	18%	16%	16%
C .....	8%	4%	4%
D .....	2%	1%	1%
Fail .....	1%	1%	1%
No Grade .....	1%	1%	1%
<hr/>			
Average .....	3.5	3.7	3.7
Letter Grade .....	B+	A-	A-

---

## Thomas M. Deister

### Non-Attorney Survey

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**3c. How would you grade Judge Deister on "Speaking clearly so everyone in the courtroom can hear what's being said?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	74%	79%	78%
B .....	16%	14%	14%
C .....	6%	4%	4%
D .....	2%	1%	1%
Fail .....	1%	1%	1%
No Grade .....	1%	1%	1%
<hr/>			
Average .....	3.6	3.7	3.7
Letter Grade .....	B+	A-	A-

---

## Thomas M. Deister

### Non-Attorney Survey

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**4a. How would you grade Judge Deister on "Beginning court on time?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	62%	61%	61%
B .....	21%	24%	24%
C .....	7%	7%	8%
D .....	3%	2%	2%
Fail .....	3%	2%	2%
No Grade .....	4%	4%	4%
<hr/>			
Average .....	3.4	3.5	3.4
Letter Grade .....	B+	B+	B+

---

## Thomas M. Deister

### Non-Attorney Survey

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**4b. How would you grade Judge Deister on  
"Maintaining appropriate control over proceedings?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	73%	78%	77%
B .....	16%	15%	15%
C .....	7%	4%	4%
D .....	2%	1%	1%
Fail .....	2%	1%	1%
No Grade .....	1%	2%	2%
<hr/>			
Average .....	3.6	3.7	3.7
Letter Grade .....	B+	A-	A-



---

## Thomas M. Deister

### Non-Attorney Survey

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**4c. How would you grade Judge Deister on "Setting reasonable schedules for cases?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	48%	64%	62%
B .....	19%	17%	17%
C .....	9%	5%	5%
D .....	2%	1%	1%
Fail .....	3%	2%	2%
No Grade .....	20%	12%	13%
<hr/>			
Average .....	3.3	3.6	3.6
Letter Grade .....	B	B+	B+

---

## Thomas M. Deister

### Non-Attorney Survey

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4d. How would you grade Judge Deister on "Being prepared for [his/her] cases?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	61%	73%	71%
B .....	17%	14%	14%
C .....	8%	3%	4%
D .....	2%	1%	1%
Fail .....	2%	2%	2%
No Grade .....	10%	7%	8%
<hr/>			
Average .....	3.5	3.7	3.6
Letter Grade .....	B+	A-	B+

---

## Thomas M. Deister

### Non-Attorney Survey

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4e. How would you grade Judge Deister on "Managing court proceedings so that there is little wasted time?"

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	62%	67%	66%
B .....	22%	21%	20%
C .....	10%	6%	7%
D .....	0%	2%	2%
Fail .....	4%	2%	2%
No Grade .....	2%	3%	3%
<hr/>			
Average .....	3.4	3.5	3.5
Letter Grade .....	B+	B+	B+

---

## Thomas M. Deister

### Non-Attorney Survey

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**5a. How would you grade Judge Deister on "Giving reasons for rulings?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	62%	67%	65%
B .....	14%	16%	16%
C .....	9%	4%	5%
D .....	4%	2%	2%
Fail .....	4%	2%	3%
No Grade .....	6%	9%	9%
<hr/>			
Average .....	3.3	3.6	3.5
Letter Grade .....	B	B+	B+

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## Thomas M. Deister

### Non-Attorney Survey

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**5b. How would you grade Judge Deister on "Willing to make decision without regard to possible outside pressure?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	53%	61%	59%
B .....	16%	11%	12%
C .....	7%	3%	4%
D .....	3%	2%	2%
Fail .....	4%	3%	3%
No Grade .....	17%	20%	20%
<hr/>			
Average .....	3.4	3.6	3.5
Letter Grade .....	B+	B+	B+

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## Thomas M. Deister

### Non-Attorney Survey

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**5c. How would you grade Judge Deister on "Being able to identify and analyze relevant facts?"**

	<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
A .....	57%	68%	66%
B .....	16%	13%	14%
C .....	7%	3%	4%
D .....	4%	2%	3%
Fail .....	7%	3%	4%
No Grade .....	8%	10%	10%
<hr/>			
Average .....	3.2	3.6	3.5
Letter Grade .....	B	B+	B+

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## Thomas M. Deister

### Non-Attorney Survey

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#### 6. How biased do you think Judge Deister is towards the defense or the prosecution?

		<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
Toward Prosecution ↑	5 .....	2%	1%	2%
	4 .....	3%	1%	1%
	3 .....	3%	2%	2%
	2 .....	2%	2%	2%
	1 .....	7%	4%	5%
	0 Neutral .....	68%	84%	82%
↓ Toward Defense	-1 .....	2%	2%	3%
	-2 .....	6%	2%	1%
	-3 .....	2%	1%	1%
	-4 .....	3%	1%	1%
	-5 .....	2%	1%	1%
<hr/>				
	Average .....	0.0	0.1	0.1

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## Thomas M. Deister

### Non-Attorney Survey

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#### 7. How lenient or harsh do you think the sentences handed down by Judge Deister are?

		<u>Judge Deister</u>	<u>All District Judges 2008</u>	<u>All Trial Judges 2008</u>
↑ To Harsh	5 .....	2%	2%	2%
	4 .....	1%	1%	2%
	3 .....	5%	2%	2%
	2 .....	5%	2%	2%
	1 .....	6%	3%	3%
	0 Appropriate .....	60%	78%	76%
↓ To Light	-1 .....	6%	5%	5%
	-2 .....	7%	4%	4%
	-3 .....	5%	2%	2%
	-4 .....	2%	1%	1%
	-5 .....	1%	1%	1%
<hr/>				
	Average .....	0.0	0.0	0.0



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## Thomas M. Deister

### Non-Attorney Survey

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**12. Do you recommend that Judge Deister be retained in office or not be retained in office?**

	<u>Judge Deister</u>	<u>All District Judges 2006</u>	<u>All Trial Judges 2008</u>
<b>Strongly Recommend Retain in office</b> ....	79%	87%	85%
<b>Somewhat Recommend Retain in office</b> .....	9%	7%	8%
<b>Somewhat Recommend Not Retain in office</b> .....	6%	2%	2%
<b>Strongly Recommend Not Retain in office</b> ....	6%	4%	5%

# Methodology

# Methodology

**Sample:** The databases of names and addresses of the people who had likely been in each judge's courtroom were primarily provided by the Colorado Judicial Department, Colorado District Attorneys' Council and the Denver County Courts. These three sources provided name and address data in 2005, 2006, 2007 and 2008. Starting in the second quarter of 2007, the data was provided quarterly. Where there were low sample counts, this data was supplemented by contacting district court administrators for additional sample of particular types of potential respondents.

The data was then combined, duplicates removed and addresses corrected – quarterly starting in 2007. Depending on the available number of names and the count of already received surveys for a particular judge, either all or a random sample of names were drawn. Included in the data cleaning was the identification of potential respondents in the sample who had appeared in more than two judges' courtrooms. Due to concerns about respondent fatigue, no more than two questionnaires were intended to be sent to any one respondent – though there were a few instances where one respondent did receive more than two questionnaires. Where a person had been in more than two judges' courtrooms, the selection criteria for which judges he or she would be sent questionnaires was generally: first, for the judge in whose courtroom the potential respondent had been in most often, and two, the judge with the smallest sample of the judges in whose courtroom the potential respondent had appeared.

**Survey:** Each person whose name was drawn was mailed an initial postcard informing the recipient that he or she would be receiving a questionnaire. Two to three weeks after the post card was mailed, the potential respondent would be sent a personalized introductory letter and a questionnaire with a postage-paid return envelope. Those who did not respond to the first questionnaire were then sent a sent follow-up postcard. If the person did not respond after the follow-up postcard, a second questionnaire and letter were sent and in some instances a second follow-up postcard was sent after the second letter and questionnaire. In order to increase the number of attorney responses, particularly for judges with few attorney responses, telephone interviews were conducted with attorneys who had not responded to the mailed questionnaires. Over 900 interviews were completed by telephone.

**Questionnaire:** The questionnaire used in the 2008 Judicial Performance Survey asked respondents to use a grade of A, B, C, D, or F (Fail) to assess the judge's performance in five different areas. For attorney respondents these areas were Case Management, Application and Knowledge of Law, Communications, Demeanor and Diligence, and for non-attorney respondents the five were Demeanor, Fairness, Communications, Diligence and Application of Law. These scores were then converted to a numerical value where A = 4, B = 3, C = 2, D = 1 and Fail = 0. Copies of the questionnaires are included at the end of this report.

**Response:** The estimated response rate is calculated as the number of completed questionnaires divided by the number of eligible respondents who actually received a questionnaire. The following table shows the total number of questionnaires mailed, completed, non-responses & refusals, undeliverables and other responses. The table presents the estimated overall response rate as well as the response rate by the different types of respondents. The true response rates are likely considerably higher than shown because of the relatively high percentage of people who were mailed questionnaires about judges who they had not observed in court. This is due, in part, to many cases being disposed of without the parties having appeared in court, as well as in the case of law enforcement, the data includes all those who were subpoenaed for a case, not just those who appeared.

A similar table showing the response counts and estimated cooperation rate for your survey is provided at the end of this methodology section.

	Total Sent	No Response	Undeliverable/ Not Applicable	Other Non-responses	Completes	Cooperation Rate
<b>Attorneys</b>						
<b><u>Criminal</u></b>						
District Attorneys	841	306	93	2	440	58.8%
Defense Attorneys	1,082	341	102	2	637	65.0%
Other Attorneys Crmnl	809	418	27	3	361	46.2%
<b><u>Civil</u></b>						
Attorneys for Litigants	1,395	312	171	13	899	73.4%
Other Attorneys Civil	598	280	53	2	263	48.3%
<b>Attorneys, Unknown Role</b>	852	289	77	2	484	62.5%
<b>Total Attorneys</b>	5,577	1,946	523	24	3,084	61.0%
<b>Non-attorneys</b>						
<b><u>Criminal</u></b>						
Law Enforcement	8,170	5,431	1,417	34	1,288	19.1%
Defendant	13,787	9,091	3,737	25	934	9.3%
Victim	295	222	63	2	8	3.4%
Witness	1,886	1,342	453	5	86	6.0%
Other	5,396	3,532	1,301	43	520	12.7%
<b><u>Civil</u></b>						
Litigant	6,552	4,390	1,109	21	1,032	19.0%
Witness	46	31	5	0	10	24.4%
Other	59	29	15	0	15	34.1%
<b>Non-attnys, Unknown Role</b>	5,065	2,598	1,843	12	612	19.0%
<b>Total Non-attorneys</b>	41,256	26,666	9,943	142	4,505	14.4%
<b>Others</b>						
Appellate Judges	26	6	0	0	20	76.9%
Jurors	10,214	4,940	460	22	4,792	49.1%
<b>Total Other</b>	10,240	4,946	460	22	4,812	49.2%
<b>Total</b>	57,073	33,558	10,926	188	12,401	26.9%

**Results:** The results of the Survey are in three main sections: Attorney respondents, Appellate Judge respondents and Non-attorney respondents. Within the Attorney and Non-attorney section are subsections of graphs displaying average grades for each section of the questionnaire and each question and tables showing the percentage distribution of grades. The Appellate Judge section is new this year, and shows the percentage distribution of the grades given by the appellate judges on overall performance.

**Graphs:** The graphs visually display the overall average numerical grades received for all grade questions, each section and each question compared to averages for all district judges, and all trial judges for which 2008 surveys were conducted. Questions relating to bias toward the defense or prosecution, sentencing and retention recommendation are also graphed.

**Percentage Distribution of Grades:** This section shows the percentage of each grade received on each question plus the bias, sentencing and retention questions. An average grade point for each graded question is computed and shown in the results section. A letter grade is also assigned to each grade point according to the following scale.

<b>A = 4.00</b>	<b>B = 3.00 to 3.33</b>	<b>C = 2.00 to 2.33</b>	<b>D = 1.00 to 1.33</b>
<b>A— = 3.67 to 3.99</b>	<b>B— = 2.67 to 2.99</b>	<b>C— = 1.67 to 1.99</b>	<b>D— = 0.67 to 0.99</b>
<b>B+ = 3.34 to 3.66</b>	<b>C+ = 2.34 to 2.66</b>	<b>D+ = 1.34 to 1.66</b>	<b>Fail = 0.00 to 0.66</b>

This section also includes two comparative columns of results: one comparative column shows the results for that question for district judges surveyed in 2008, along with a second comparative column showing the results for all trial judges in the 2008 survey.

**Projectability:** Most surveys seen by the public are surveys that are intended to be projectable, that is the results from the sample of people surveyed can be used to estimate a percentage or value of the population sampled *with a known probability of error*. For example, a pre-election poll of 500 likely Colorado voters is used to estimate the percentage of voters who will vote for Candidate A on election day, plus or minus some number of percentage points. The plus or minus amount is usually what is known as the 95%-confidence interval (the known probability of error), or what the media often refers to as the margin-of-error.

The Colorado Judicial Performance Evaluation Survey is not projectable with a known probability of error because the results are calculated from a self-selecting sample that is self-selecting based on the content and subject matter of the survey. In other words, the potential respondent knows the purpose and content of the survey, and based on that, decides whether to respond to the survey.

While projectability within a known probability of error is a highly desirable attribute of a survey, it is often not feasible to achieve. Commercial market research often uses nonprojectable (and small) samples – the most well known of which are for focus groups. Moreover, the federal courts have long accepted, and do not expect, projectable samples for market confusion surveys used in trademark litigation. In other words, one can still use the results of the Judicial Performance Evaluation Survey to estimate how everyone who has observed a judge in the courtroom would grade him or her, just not with a known probability of error.

The Judicial Performance Evaluation Survey is a valuable means, perhaps the only practical means, for the Judicial Performance Commissions to have a summary of structured interviews with a number of people who have courtroom familiarity with the judge being evaluated, and who most often – albeit not always – are responding out of a desire to improve the performance of our state’s judicial system.

# Thomas M. Deister

## Responses by Type

<i>Role Type</i>	<i>Total Sent</i>	<i>No Response</i>	<i>Undeliverable/ Not Applicable</i>	<i>Other Non-Responses</i>	<i>Coop Completes</i>	<i>Rate</i>
<b>Attorneys</b>						
<b><u>Criminal</u></b>						
District Attorneys	8	1	2	0	5	83.3%
Defense Attorneys	5	1	0	0	4	80.0%
<b><u>Civil</u></b>						
Attorneys for Litigants	18	4	2	0	12	75.0%
Other Attorneys Civil	4	4	0	0	0	0.0%
Attorneys, Unknown Role Type	25	7	2	0	16	69.6%
<b>Total Attorneys</b>	<b>60</b>	<b>17</b>	<b>6</b>	<b>0</b>	<b>37</b>	<b>31.5%</b>
<b>Non-attorneys</b>						
<b><u>Criminal</u></b>						
Law Enforcement	159	92	35	1	31	25.0%
Defendant	173	109	58	0	6	5.2%
Witness	75	47	24	1	3	5.9%
Other	201	119	52	2	28	18.8%
<b><u>Civil</u></b>						
Litigant	22	19	2	0	1	5.0%
Other	1	0	0	0	1	100.0%
Non-attorneys, Unknown Role Type	490	275	144	0	71	20.5%
<b>Total Non-attorneys</b>	<b>1121</b>	<b>661</b>	<b>315</b>	<b>4</b>	<b>141</b>	<b>82.0%</b>
<b>Others</b>						
Appellate Judges	26	6	0	0	20	76.9%
Jurors	180	78	10	0	92	54.1%
<b>Total Others</b>	<b>206</b>	<b>84</b>	<b>10</b>	<b>0</b>	<b>112</b>	<b>42.9%</b>
<b>Grand Total:</b>	<b>1387</b>	<b>762</b>	<b>331</b>	<b>4</b>	<b>290</b>	<b>27.5%</b>



# Questionnaires

10. And what would you say are Judge *[Last Name]*'s weaknesses?
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
11. Is there anything else that you would like to say about Judge *[Last Name]*?
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
12. Keeping in mind your responses to each of the previous questions, how strongly do you recommend that Judge *[Last Name]* be retained in office, or not retained in office?
- Strongly recommend he be retained in office..... 5
- Somewhat recommend he be retained in office..... 4
- Undecided or don't know enough to make recommendation..... 3
- Somewhat recommend he not be retained in office ..... 2
- Strongly recommend he not be retained in office ..... 1
- And why do you think that way about retaining or not retaining Judge *[Last Name]*?
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

**Thank you for your time in completing this questionnaire. Please place it in the self-addressed, postage paid enveloped provided, and place it in the mail. Your participation in this survey is very much appreciated.**

## Commission on Judicial Performance

### Attorney Questionnaire

#### Evaluation of JUDGE [NAME]

*Using a grade scale, where an "A" is excellent along with B, C, D or F for fail, please grade the judge on the following. (If you feel that you do not have experience with the judge in a specific area, or just don't know, please circle the number corresponding to "Don't Know/Not Applicable"—DK/NS).*

<u>1. Case Management:</u>	A	B	C	D	F	DK N/A
a. Promptly making rulings during trial.	4	3	2	1	0	9
b. Beginning court on time.	4	3	2	1	0	9
c. Allotting appropriate amount of time for cases.	4	3	2	1	0	9
d. Keeping cases moving according to schedule.	4	3	2	1	0	9
e. <i>[Civil only]</i> <sup>1</sup> Assisting parties to reach agreement.	4	3	2	1	0	9
f. Maintaining appropriate control over proceedings.	4	3	2	1	0	9
g. Promptly ruling on pre-trial motions.	4	3	2	1	0	9
h. Promptly issuing a decision on the case after trial.	4	3	2	1	0	9
i. Setting reasonable schedules for cases.	4	3	2	1	0	9

<u>2. Application and Knowledge of Law:</u>	A	B	C	D	F	DK N/A
a. Basing decisions on evidence and arguments.	4	3	2	1	0	9
b. Giving reasons for rulings.	4	3	2	1	0	9
c. <i>[Civil only]</i> <sup>1</sup> Issuing written findings of fact and law.	4	3	2	1	0	9
d. Willing to reconsider error in fact or law.	4	3	2	1	0	9
e. Having knowledge of relevant substantive law.	4	3	2	1	0	9
f. Having knowledge of rules of procedure and evidence.	4	3	2	1	0	9
g. Being able to identify and analyze relevant facts.	4	3	2	1	0	9
h. <i>[Criminal only]</i> <sup>2</sup> Issuing consistent sentences when the circumstances are similar.	4	3	2	1	0	9
i. Willing to make decisions without regard to possible criticism.	4	3	2	1	0	9
j. Making decisions without fear of being appealed.	4	3	2	1	0	9

DK

<sup>1</sup> Please answer questions 1e & 2c only if you have observed the judge in a civil case.

<sup>2</sup> Please answer question 2h only if you have observed the judge in a criminal case.

**3. Communications:**

	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>N/A</b>
a. Speaking clearly.	4	3	2	1	0	9
b. Making sure all participants understand the proceedings.	4	3	2	1	0	9
c. Using understandable language.	4	3	2	1	0	9
d. Providing written communications that are clear, thorough and well reasoned.	4	3	2	1	0	9

**4. Demeanor:**

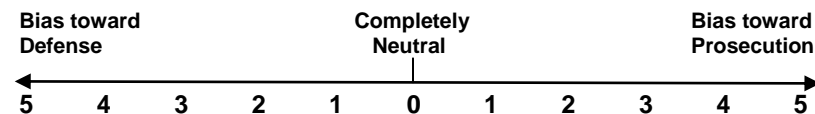
	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>DK</b> <b>N/A</b>
a. Giving proceedings a sense of dignity.	4	3	2	1	0	9
b. Treating everyone involved politely.	4	3	2	1	0	9
c. Having empathy with the parties involved.	4	3	2	1	0	9
d. Treating participants with respect.	4	3	2	1	0	9
e. Presenting a neutral presence on the bench.	4	3	2	1	0	9
f. Being consistent in <i>his/her</i> behavior	4	3	2	1	0	9
g. Conducting <i>his/her</i> courtroom in a neutral manner.	4	3	2	1	0	9
h. Giving all participants an opportunity to be heard.	4	3	2	1	0	9
i. Consistently applying laws and rules.	4	3	2	1	0	9
j. Not engaging in <i>ex parte</i> communications	4	3	2	1	0	9
k. Treating <i>pro se</i> parties fairly.	4	3	2	1	0	9

**5. Diligence:**

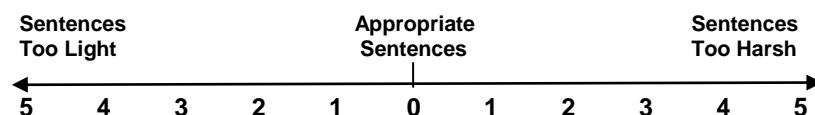
	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>F</b>	<b>DK</b> <b>N/A</b>
a. Making tough decisions when necessary.	4	3	2	1	0	9
b. Using good judgment in application of relevant law and rules.	4	3	2	1	0	9
c. Doing the necessary “homework” and being prepared for <i>his/her</i> cases.	4	3	2	1	0	9
d. Being willing to handle cases on the docket even when they are complicated and time consuming.	4	3	2	1	0	9
e. Providing prompt access to the court in emergency matters.	4	3	2	1	0	9

{Question 3d is asked only regarding district judges.}

6. *[Criminal cases only]*<sup>1</sup> On the scale below, please indicate by circling the appropriate number how biased you think Judge *[Last Name]* is toward the defense or the prosecution. If you feel Judge *[Last Name]* is completely unbiased, circle “0.”



7. *[Criminal cases only]*<sup>1</sup> On the scale below, please indicate by circling the appropriate number how lenient or how harsh you think the sentences generally handed down by Judge *[Last Name]* are. If you feel Judge *[Last Name]* generally hands down appropriate sentences, circle “0.”



Though your name will never be associated with your answers, because the judge will see a typed transcript of the comments that you and others write, it is important that you do not include information in the comments below that would unintentionally identify you as the author.

8. If an associate were assigned to Judge *[Last Name]* in a case and asked you for advice, what would you say?

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9. What would you say are Judge *[Last Name]*'s strengths?

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**[Continued on Back Page]**

<sup>1</sup> Please answer questions 6 & 7 only if you have observed the judge in a criminal case.

12. Keeping in mind your responses to each of the previous questions, how strongly do you recommend that Judge *[Last Name]* be retained in office, or not retained in office?

Strongly recommend he/she be retained in office ..... 5  
 Somewhat recommend he/she be retained in office ..... 4  
 Undecided or don't know enough to make recommendation..... 3  
 Somewhat recommend he/she not be retained in office ..... 2  
 Strongly recommend he/she not be retained in office..... 1

And why do you think that way about retaining or not retaining Judge *[Last Name]*?

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**Thank you for your time in completing this questionnaire. Please place it in the self-addressed, postage paid enveloped provided, and place it in the mail. Your participation in this survey is very much appreciated.**

## Commission on Judicial Performance

### Evaluation of JUDGE[NAME]

*Using a grade scale, where an "A" is excellent along with B, C, D or F for fail, please grade the judge on the following. (If you feel that you don't have experience with the judge in a specific area, or just don't know, please circle the number corresponding to "Don't Know/Not Applicable"—DK/NA).*

						DK
	A	B	C	D	F	N/A
<b>1. Demeanor:</b>						
a. Giving court proceedings a sense of dignity.	4	3	2	1	0	9
b. Treating participants in the case politely and with respect.	4	3	2	1	0	9
c. Conducting his/her courtroom in a neutral manner.	4	3	2	1	0	9
d. Having a sense of compassion and human understanding for those who appear before him/her.	4	3	2	1	0	9

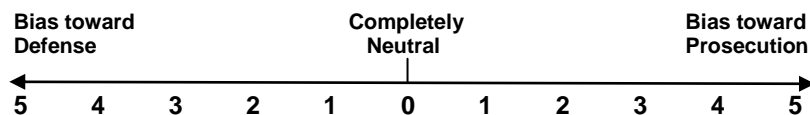
						DK
	A	B	C	D	F	N/A
<b>2. Fairness:</b>						
a. Giving participants an opportunity to be heard.	4	3	2	1	0	9
b. Treating those involved in the case without bias.	4	3	2	1	0	9
c. Treating fairly people who represent themselves.	4	3	2	1	0	9
d. Giving each side enough time to present his or her case.	4	3	2	1	0	9

						DK
	A	B	C	D	F	N/A
<b>3. Communications:</b>						
a. Making sure participants understand the proceedings, and what's going on in the courtroom.	4	3	2	1	0	9
b. Using language that everyone can understand.	4	3	2	1	0	9
c. Speaking clearly so everyone in the courtroom can hear what's being said.	4	3	2	1	0	9

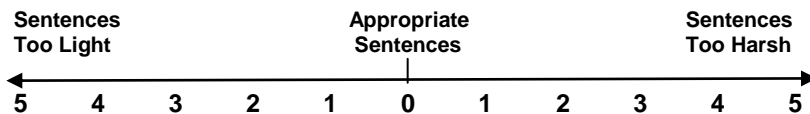
	A	B	C	D	F	DK N/A
4. <b>Diligence:</b>						
a. Beginning court on time.	4	3	2	1	0	9
b. Maintaining appropriate control over proceedings.	4	3	2	1	0	9
c. Setting reasonable schedules for cases.	4	3	2	1	0	9
d. Being prepared for his/her cases.	4	3	2	1	0	9
e. Managing court proceedings so that there is little wasted time.	4	3	2	1	0	9

	A	B	C	D	F	DK N/A
5. <b>Application of Law:</b>						
a. Giving reasons for rulings.	4	3	2	1	0	9
b. Willing to make decision without regard to possible outside pressure.	4	3	2	1	0	9
c. Being able to identify and analyze relevant facts.	4	3	2	1	0	9

6. *[If you were in [Last Name]'s courtroom during a criminal case or cases please answer this question, otherwise skip to the next question.]* On the scale below, please indicate by circling the appropriate number how biased you think Judge [Last Name] is toward the defense or the prosecution. If you feel Judge [Last Name] is completely unbiased, circle "0."



7. *[If you were in [Last Name]'s courtroom during a criminal case or cases please answer this question, otherwise skip to the next question.]* On the scale below, please indicate by circling the appropriate number how lenient or how harsh you think the sentences generally handed down by [Last Name] are. If you feel Judge [Last Name] generally hands down appropriate sentences, circle "0."



Though your name will never be associated with your answers, because the judge will see a typed transcript of the comments that you and others write, it is important that you do not include information in the comments below that would unintentionally identify you as the author.

8. If a friend of yours was scheduled to appear before Judge [Last Name] as a party in either a civil or criminal case and asked you for advice, what would you tell your friend about Judge [Last Name]?

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9. What would you say are Judge [Last Name]'s strengths?

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10. And what would you say are Judge [Last Name]'s weaknesses?

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11. Is there anything else that you would like to say about Judge [Last Name]?

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