

Honorable Lyle R. Anderson – District Court Judge

Serving Carbon, Emery, Grand and San Juan counties



Commission Recommendation: **RETAIN**

(vote count: 12-0 for retention)

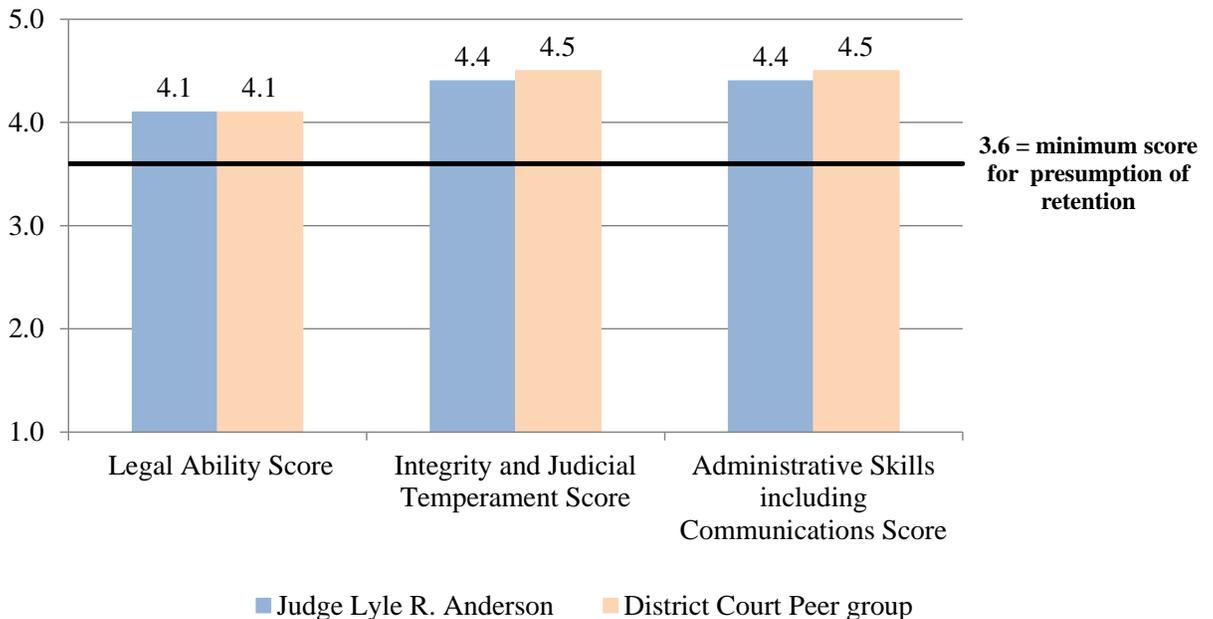
With more than two decades on the bench, Judge Lyle Anderson is an experienced judge whom survey respondents most often described as intelligent, knowledgeable, and attentive. Given a list of adjectives, survey respondents chose 77% positive words to describe his judicial performance.

Courtroom observers were positive in their comments, most frequently mentioning Judge Anderson's respectful behavior to all parties in his courtroom and the patience he shows to litigants. Observers all felt they would be treated fairly in his court. Of survey respondents who answered the retention question, 84% recommended Judge Anderson be retained.

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

Judge Anderson was appointed to the Seventh District Court in December 1992 by Gov. Norman H. Bangerter. He received a law degree from the University of Chicago Law School in 1982 with honors and Order of the Coif. Judge Anderson was affiliated with the firm of Anderson & Anderson from 1982 to 1992, and was Grand County Attorney from 1991 to 1993. Judge Anderson was elected to the Utah House of Representatives in 1992. He has served on the Judicial Council and currently serves on the Utah Supreme Court's Advisory Committee on Rules of Civil Procedure. Judge Anderson has been Seventh District Court presiding judge from 1997- 2001, 2005- 2009 and 2013 to the present.

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



The Honorable Lyle R. Anderson

Judicial Performance Evaluation Commission Report

Retention 2014

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II. Courtroom Observation Report

I. Survey Report

Survey Results

A. How to Read the Results

For Judge Lyle R. Anderson, 54% of qualified survey respondents submitted surveys. Of those who responded, 82 agreed they had worked with Judge Lyle R. Anderson enough to evaluate his performance. This report reflects the 82 responses. The survey results are divided into five sections:

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

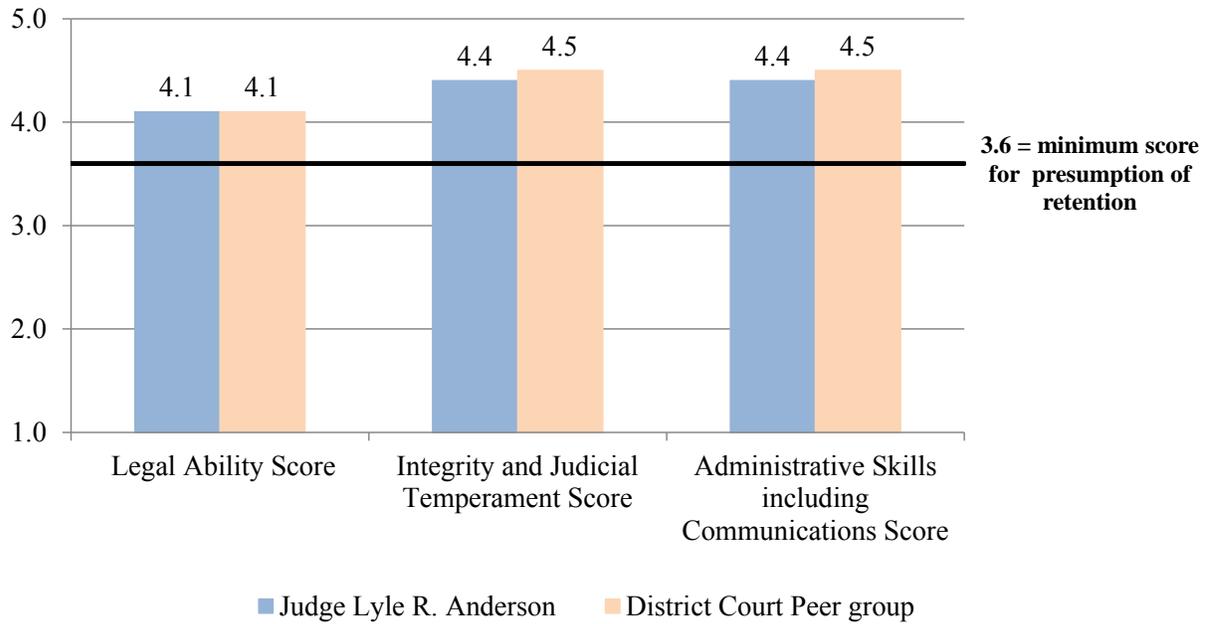
The results are shown in both graphs and tables. Each judge's scores are shown along with a comparison to other judges who serve at the same court level. The comparison group is called "District Court" on the charts.

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 these 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.

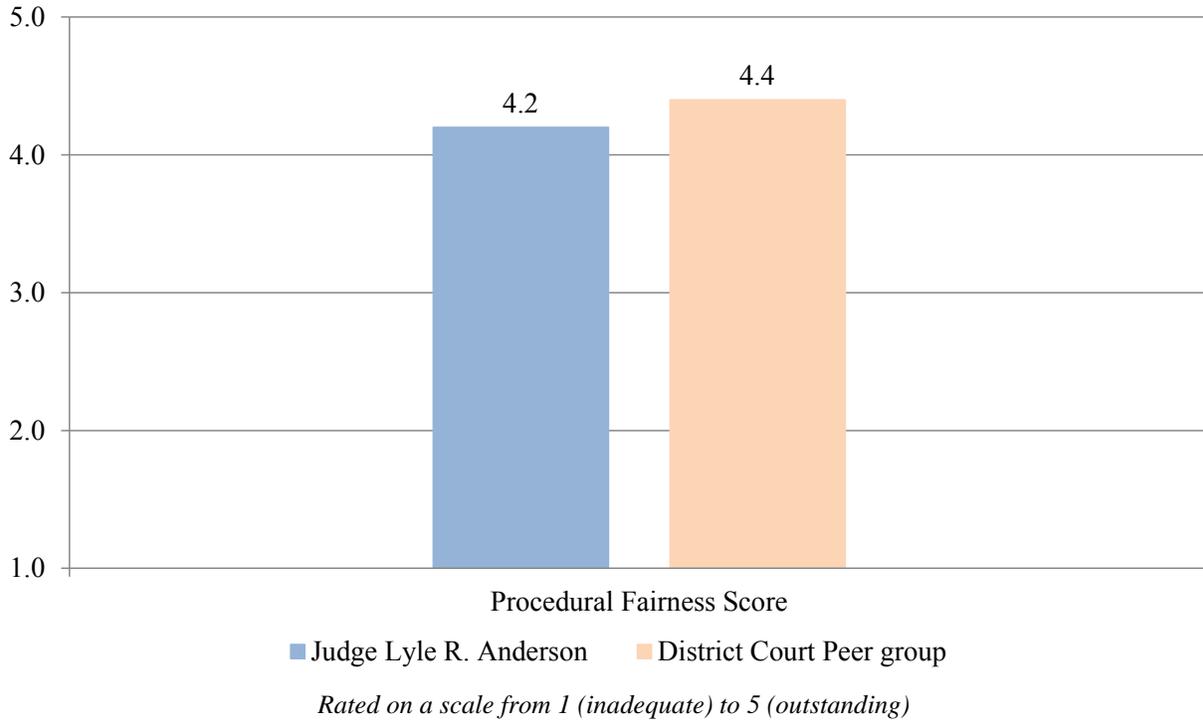
For procedural fairness, the judge must demonstrate that it is more likely than not, based on courtroom observations and relevant survey responses, that the judge's conduct in court promotes procedural fairness for court participants. Judges will receive either a Pass or Fail in procedural fairness,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

B. Statutory Category Scores



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

C. Procedural Fairness Survey 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.

Overall Procedural Fairness Determination

Category	Judge Lyle R. Anderson
Procedural Fairness	PASS

D. Responses to Individual Survey Questions

Category	Question	Judge Lyle R. Anderson	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.	4.2	4.2
Legal Ability	The judge makes appropriate findings of fact and applies the law to those facts.	4.1	4.1
Legal Ability	The judge follows legal precedent or clearly explains departures from precedent.	4.1	4.1
Legal Ability	The judge only considers evidence in the record.	4.0	4.2
Legal Ability	The judge's written opinions/decisions offer meaningful legal analysis.	4.0	4.1
Integrity & Judicial Temperament	The judge makes sure that everyone's behavior in the courtroom is proper.	4.5	4.5
Integrity & Judicial Temperament	The judge appears to pay attention to what goes on in court.	4.5	4.5
Integrity & Judicial Temperament	The judge's personal life or beliefs do not impair his or her judicial performance.	3.9	4.3
Integrity & Judicial Temperament	The judge demonstrates respect for the time and expense of those attending court.	4.1	4.3
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.	4.3	4.6

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

Category	Question	Judge Lyle R. Anderson	District Court
Administrative Skills	The judge is prepared for court proceedings.	4.3	4.4
Administrative Skills	The judge's interactions with courtroom participants and staff are professional and constructive.	4.2	4.5
Administrative Skills	The judge is an effective manager.	4.2	4.3
Administrative Skills	The judge convenes court without undue delay.	4.5	4.5
Administrative Skills	The judge rules in a timely fashion.	4.5	4.4
Administrative Skills	The judge maintains diligent work habits.	4.3	4.5
Administrative Skills	The judge's oral communications are clear.	4.5	4.5
Administrative Skills	The judge's written opinions/decisions are clear and logical.	4.3	4.3
Procedural Fairness	The judge treats all courtroom participants with equal respect.	4.1	4.5
Procedural Fairness	The judge is fair and impartial.	4.2	4.4
Procedural Fairness	The judge promotes public trust and confidence in the courts through his or her conduct.	4.0	4.3
Procedural Fairness	The judge provides the parties with a meaningful opportunity to be heard.	4.2	4.4

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

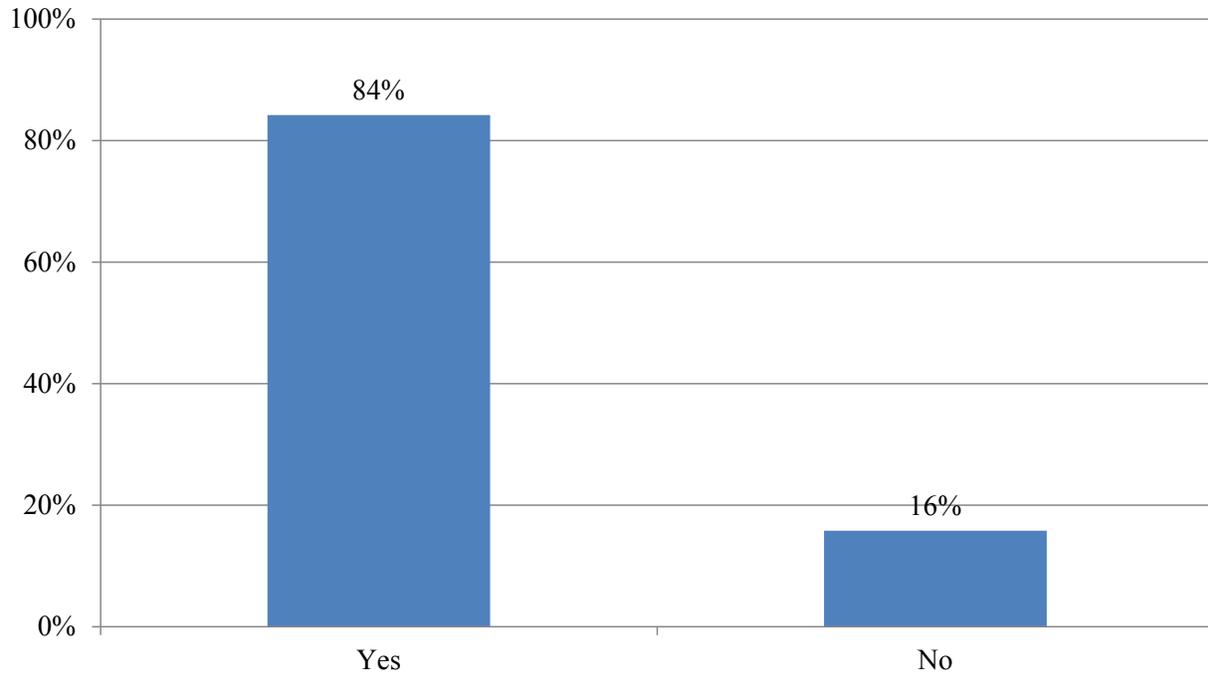
E. Adjective Question Summary

	Number of Times Mentioned*
Attentive	21
Calm	14
Confident	19
Considerate	12
Consistent	18
Intelligent	29
Knowledgeable	29
Patient	10
Polite	13
Receptive	6
Arrogant	13
Cantankerous	1
Defensive	4
Dismissive	9
Disrespectful	3
Flippant	5
Impatient	11
Indecisive	0
Rude	4
Total Positive Adjectives	171
Total Negative Adjectives	50
Percent of Positive Adjectives	77%

Respondents were asked to select adjectives from a list that best described the judge. The number shown is the total number of times an adjective was selected by respondents. The percent of positive adjectives shows the percent of *all* selected adjectives that were positive.

F. Retention Question

Would you recommend that Judge Lyle R. Anderson be retained?



G. Attorney Demographics

What are your primary areas of practice?

Collections	4%
Domestic	43%
Criminal	45%
Civil	68%
Other	15%

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

5 or fewer	68%
6 - 10	17%
11 - 15	2%
16 - 20	4%
More than 20	9%

Survey Background and Methods

This report presents the results from the 2013 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 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 two-year 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 3 or more non-trial appearances, and those with 1-2 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 respondent receives an initial email invitation requesting participation in the survey. A separate email is sent for each judge that a respondent is asked to evaluate. A reminder email is sent one week later to those who did not respond by completing and submitting a survey. This is followed by three 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, the 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 2014 began on June 1, 2012 and ended on June 30, 2013.

II. Courtroom Observation Report

REPORT OF COURTROOM OBSERVATIONS FOR JUDGE LYLE ANDERSON

Four observers wrote 61 codable units that were relevant to 13 of the 17 criteria. One observer reported that the judge was aware that JPEC observers were present, one reported that the judge was not aware, and two did not know if the judge was aware.

Overview

WIDELY AGREED-UPON THEMES

- All observers were positive about Judge Anderson.
- All observers variously reported that Judge Anderson was very respectful of others, greeting the court before getting straight down to business. He complimented pro se participants and wished every person good luck at the end of their case. He was low key, polite, unhurried, and pleasantly self-confident, also principled, vastly experienced and knowledgeable, professional, and down to earth. The court was both efficient and informal. He treated participants in civil and criminal cases in the same impartial manner, and he encouraged litigants to communicate with opposing parties and reach agreement in order to only use the court as a last resort. He showed genuine and compassionate interest in participants' problems and well-being, and he gave them opportunity to express themselves without interruption. He used clear and understandable language when explaining rules, procedures, and the reasons for his decisions, and he frequently asked if participants understood his explanations, carefully explaining in a different way if they did not.
- Observers emphasized Judge Anderson's extraordinary patience in all circumstances, particularly when helping and coaching pro se participants. While providing them effective assistance he was acutely aware of the need to provide only technical advice, and he maintained a neutral demeanor towards both parties at all times.
- All observers reported that they would feel comfortable appearing before Judge Anderson.

MINORITY OBSERVATIONS

- None

ANOMALOUS COMMENTS

- None

Summary and *exemplar language* of four observers' comments

RESPECTFUL BEHAVIORS

Well-prepared & efficient

One observer reported that the court was *run efficiently*.

Respectful behavior generally

Three observers reported that Judge Anderson *greeted everyone* with a "*Good morning everyone,*" *ready to get down to business*. He is respectful of others and *expects others to respond in a respectful manner*. He *complimented pro se defendants* for the manner in which they were representing themselves. At the end of cases he wished every participant "*good luck*." One observer commented that Judge Anderson *did not acknowledge litigants by name*.

RESPECTFUL TONE

Courtesy, politeness and patience

All observers reported that Judge Anderson was *low key, polite, and extraordinarily patient*, especially with unrepresented defendants. In one case the observer became *impatient and frustrated with a woman representing herself*, but the judge was *determined to help her tell a coherent narrative and never showed signs of losing patience*. He repeatedly reminded another plaintiff *how to question her witness and the defendant*, and he politely asked a defendant's attorney *if it was okay to wait an additional fifteen minutes for the plaintiff to appear*.

Courtroom tone & atmosphere	Two observers reported that Judge Anderson was <i>absolutely fair, principled, vastly experienced, knowledgeable, professional, down to earth</i> , and showed an <i>ability to instruct</i> without violating his neutrality. He was also a <i>good judge of people and their capabilities, compassionate, and pleasantly self-confident</i> . The atmosphere was <i>rather informal</i> , with no “ <i>all please rise for the judge,</i> ” but <i>most efficient</i> .
Body language	Two observers reported that Judge Anderson <i>looked directly</i> at participants <i>when speaking or listening to them</i> , and displayed <i>appropriate body and vocal mannerisms</i> .

NEUTRALITY

Consistent and equal treatment	Three observers reported that Judge Anderson did not treat litigants in civil matters <i>any differently</i> from those charged with murder. In litigation cases he showed <i>no partiality</i> and wanted to resolve cases <i>to the best interests of both parties</i> , in one case instructing litigants <i>to return to the court in several hours to see if the situation was understood or if they wanted to continue the suit</i> . Judge Anderson <i>provided tutorials for each step of the trial</i> for the benefit of pro se participants. He was <i>acutely aware of the potential to appear to favor them by his coaching</i> , and he was <i>careful to provide only technical advice in simple everyday terms</i> concerning what was expected from them. He <i>walked a fine line as he explained the court process to the plaintiff throughout the hearing and instructed her how to ask questions</i> , and he was <i>able to maintain a neutral demeanor with both the plaintiff and the defendant and his attorney</i> . In another case he provided <i>just the right amount of coaching</i> to permit unrepresented defendants <i>to make the necessary points and did not jeopardize the rights or voice of the plaintiff who was adequately represented by a lawyer</i> .
Acts with concern for individual needs	One observer reported that Judge Anderson was interested in the <i>needs, problems, and well-being</i> of participants. He was <i>practical and down-to-earth</i> in trying to <i>find a way to get parties to settle</i> , and considered the <i>expenses incurred by each party</i> , in one case <i>not wanting to order mediation because that would cause more attorney’s fees, telling the parties, “You’re racking up fees.”</i> He usually appointed counsel for indigent litigants on the <i>same day</i> so they could have their issues solved promptly. In one case he asked an indigent defendant, “ <i>If I let you out of jail today, do you have any money to buy yourself a hamburger? How will you feed yourself?</i> ” and when the man responded that he was <i>pretty resourceful and could take care of himself</i> , the judge told him to “ <i>complete this paperwork so we can settle this case today.</i> ”
Expresses concern for the individual	Two observers reported that Judge Anderson was <i>compassionate</i> when telling a man who <i>nervously began speaking</i> that, “ <i>I can’t have you speaking now because anything you say may be held against you. Do you understand what I am talking about?</i> ” His <i>manner of inquiry was genuine</i> rather than <i>punitive</i> , and people responded <i>quite positively</i> even when <i>he asked personal questions about them</i> . Judge Anderson wanted people to <i>use the courts as the last resort</i> , and <i>admonished and counseled</i> litigants to <i>do what was necessary to get solutions to their problems to everyone’s satisfaction</i> through <i>communicating with the opposing side</i> rather than bringing the problem to court.
Unhurried and careful	Two observers reported that Judge Anderson was <i>unhurried</i> . He <i>took time to view evidence which consisted of text messages</i> that were still on a participant’s phone and <i>let her teach him how to access the messages, and he took the time to read them</i> .

VOICE

Considered voice	Three observers reported that Judge Anderson gave participants the <i>opportunity</i> to express themselves through <i>direct question and answer</i> , or with <i>indirect questions such as, “What do you want to do?” and, “What is happening in your relationship?”</i> He <i>patiently listened</i> to each litigant and <i>only interrupted when they began to get off the subject</i> of their case. He did an <i>extraordinary job of educating pro se participants in how they could express themselves, never telling them what to say but only how and when</i> . He was <i>so successful that by following his instructions, their questioning and testimony may have greatly aided their success</i> .
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COMMUNICATION

Communicates clearly	Two observers reported that Judge Anderson used <i>clear and understandable language</i> and <i>adapted his language when speaking with young defendants</i> , one of whom seemed to have difficulty understanding the judge's questions. He was <i>very good</i> at <i>summarizing</i> and <i>clarifying</i> and speaking <i>clearly</i> about defendants' <i>rights</i> .
Ensures information understood	One observer reported that Judge Anderson <i>frequently asked</i> if participants <i>understood his explanations of rules and procedures</i> , and when they responded that <i>they did not fully understand</i> , <i>he carefully explained in a different manner</i> .
Provides adequate explanations	Two observers reported that Judge Anderson <i>patiently explained rules and procedures</i> , and he <i>clearly explained the reasons for his decisions</i> , for example, explaining that he was refusing to remove a protective order based on a <i>history of poor behavior of a participant who "could not be trusted to do what he was required to do."</i> He clearly warned defendants of the consequences of their behavior, and he gave clear and helpful guidance to the litigants in handling their own cases.
