

The Honorable Constandinos "Deno" Himonas



About the report

In making its recommendation to voters about whether a judge should be retained, JPEC considers the judge's legal ability, integrity and judicial temperament, administrative skills, procedural fairness, public comment, and judicial discipline records as well as compliance with judicial education, fitness for office, and case-under-advisement time standards. If a judge meets minimum standards, there is a legal presumption that commissioners will vote to recommend the judge be retained. If a judge fails to meet minimum standards, there is a legal presumption that commissioners will vote not to recommend the judge for retention. Included below is the Survey Report. It summarizes information collected from attorneys, court employees, jurors (district and some justice court judges only) and juvenile court professionals (juvenile court judges only). Surveys are anonymous and inclusion in the survey is based on court-appearance records.

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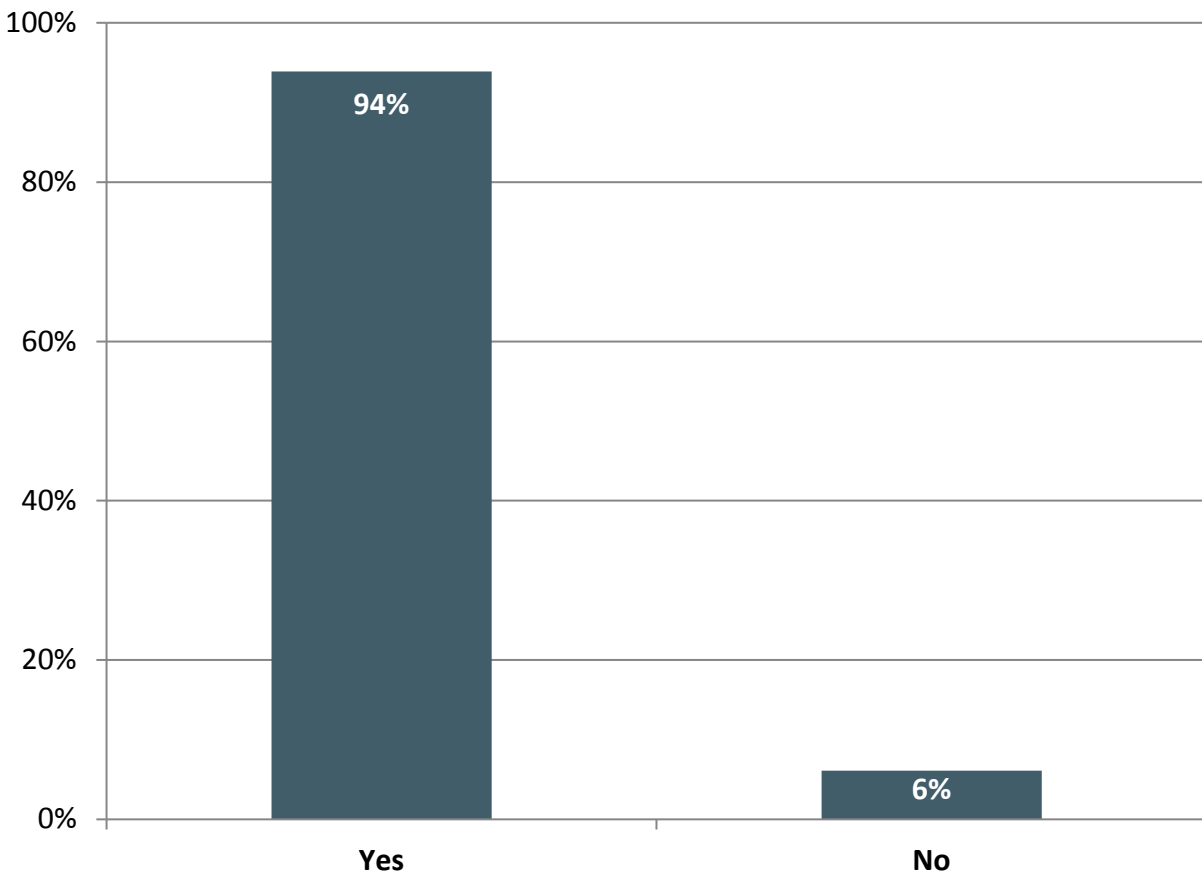
Survey Report

Survey Results

For Justice Constandinos Himonas, 46% of qualified survey respondents submitted surveys. Of those who responded, 49 agreed they had worked with Justice Constandinos Himonas enough to evaluate the judge's performance. This report reflects these 49 responses. For more information on the survey, please see Survey Information. For more information about the evaluation process, please see How to Read the Results.

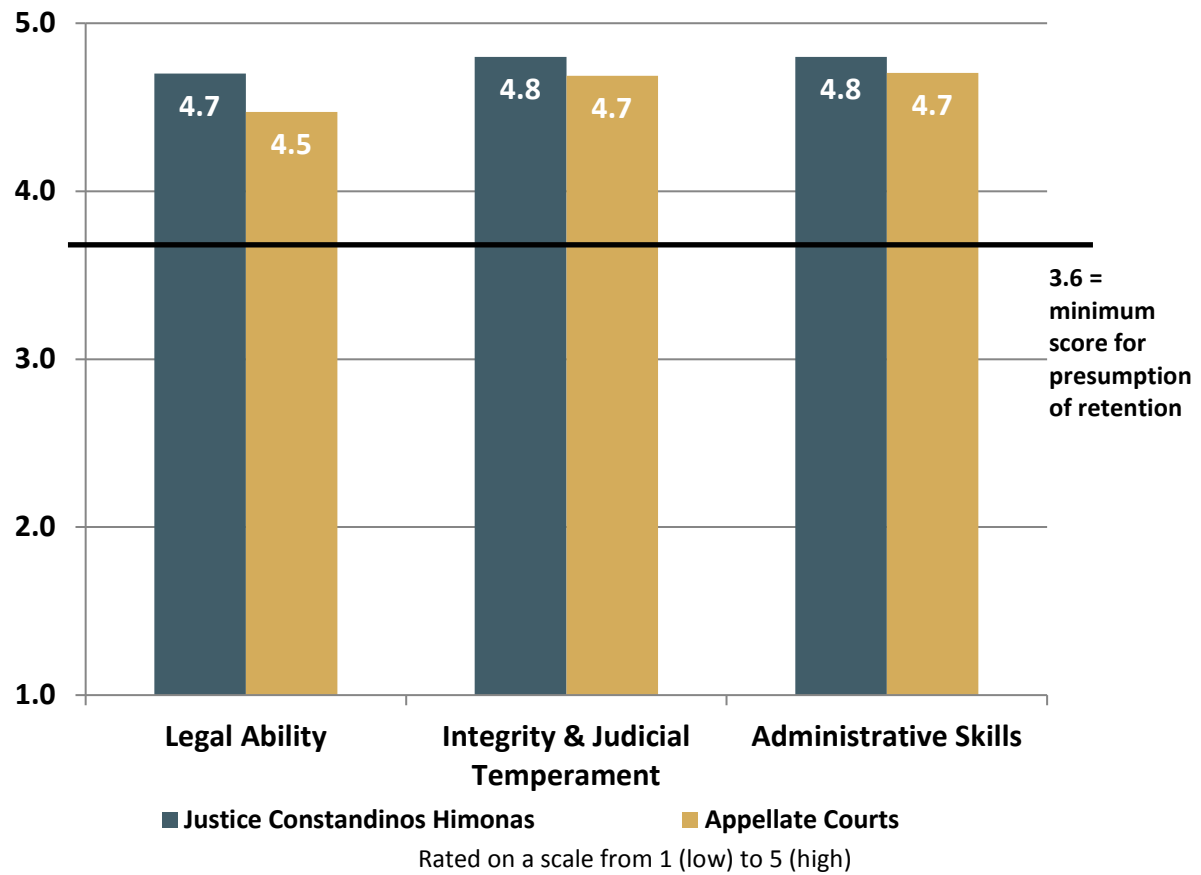
Retention Question

Survey Question: Would you recommend that Justice Constandinos Himonas be retained?



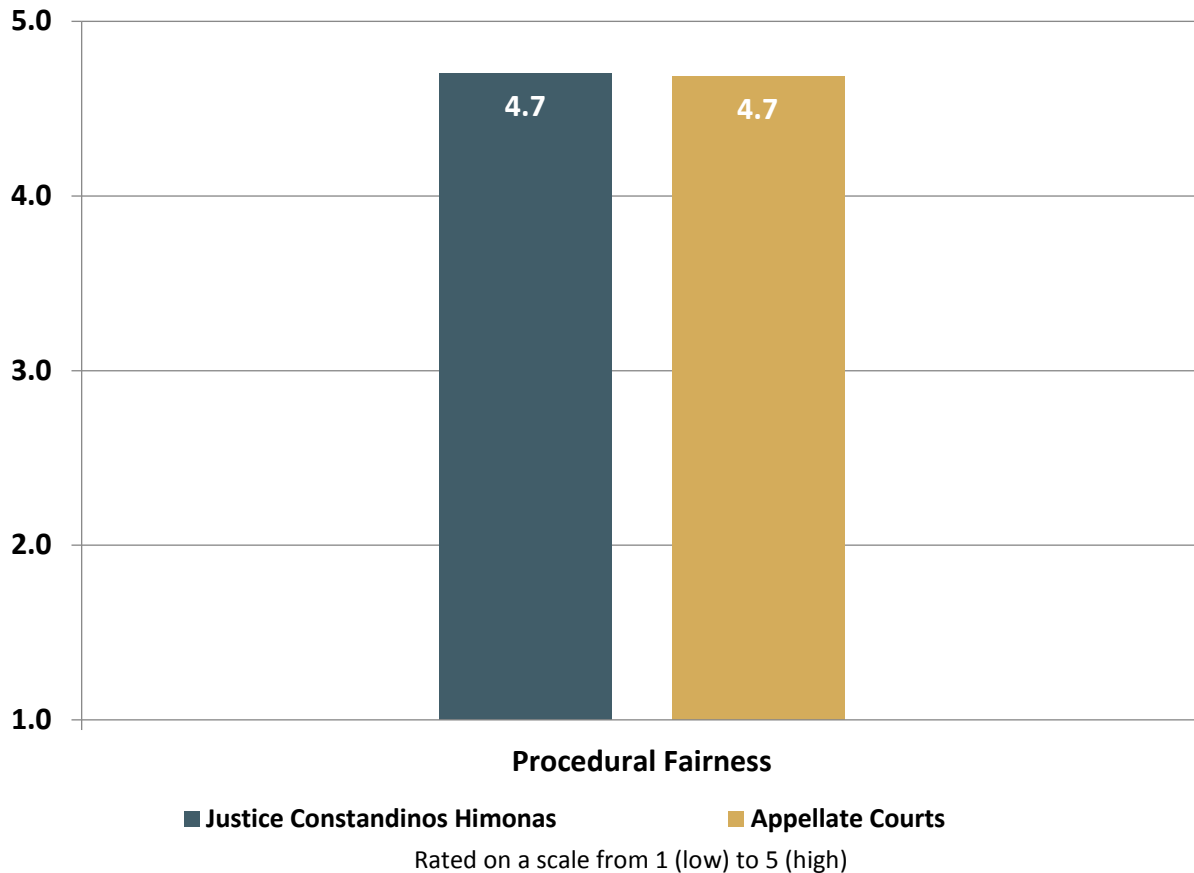
Survey Report

Statutory Category Scores



Survey Report

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.

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

| Category | Justice Constandinos Himonas |
|---------------------|------------------------------|
| Procedural Fairness | Pass |



Survey Report

Responses to Survey Questions

| Category | Question | Justice Constandinos Himonas | Appellate Courts |
|---------------|---|------------------------------|------------------|
| Legal Ability | The judge followed the legal rules (e.g. civil procedure, criminal procedure, evidence, juvenile, appellate) that applied to the case at issue. | 4.8 | 4.5 |
| Legal Ability | The judge's written opinions stated the pertinent facts. | 4.7 | 4.5 |
| Legal Ability | The judge followed legal precedent or explained departures from precedent. | 4.6 | 4.4 |
| Legal Ability | The judge only considered evidence in the record. | 4.7 | 4.6 |
| Legal Ability | The judge based opinions/decisions on applicable legal principles and controlling law. | 4.6 | 4.3 |
| Legal Ability | The judge's opinions contained a readily understandable ruling. | 4.6 | 4.5 |
| Legal Ability | The judge's written opinions addressed the merits of the legal issues advanced by the parties. | 4.6 | 4.5 |
| Legal Ability | The judge's written opinions provided guidance to trial court judges and practitioners. | 4.6 | 4.5 |
| Legal Ability | The judge's written opinions reflected a neutral, professional tone. | 4.5 | 4.6 |

Rated on a scale from 1 (low) to 5 (high)



Survey Report

Responses to Survey Questions (continued)

| Category | Question | Justice Constandinos Himonas | Appellate Courts |
|----------------------------------|--|------------------------------|------------------|
| Integrity & Judicial Temperament | The judge paid attention to what went on in court. | 4.9 | 4.8 |
| Integrity & Judicial Temperament | The judge's personal life or beliefs did not impair his or her judicial performance. | 4.6 | 4.6 |
| Integrity & Judicial Temperament | The judge conducted proceedings without favoritism. | 4.8 | 4.6 |
| Integrity & Judicial Temperament | The judge considered arguments from all sides before ruling. | 4.7 | 4.7 |
| Integrity & Judicial Temperament | The judge demonstrated diligent work habits. | 4.9 | 4.9 |
| Integrity & Judicial Temperament | The judge maintained a professional demeanor in the courtroom. | 4.7 | 4.8 |

Rated on a scale from 1 (low) to 5 (high)



Survey Report

Responses to Survey Questions (continued)

| Category | Question | Justice Constandinos Himonas | Appellate Courts |
|-----------------------|--|------------------------------|------------------|
| Administrative Skills | The judge was prepared for court proceedings. | 4.9 | 4.8 |
| Administrative Skills | The judge's interactions with courtroom participants and staff were professional and constructive. | 4.8 | 4.8 |
| Administrative Skills | The judge ruled in a timely fashion. | 4.5 | 4.5 |
| Administrative Skills | The judge communicated clearly. | 4.8 | 4.7 |
| Category | Question | Justice Constandinos Himonas | Appellate Courts |
| Procedural Fairness | The judge treated all courtroom participants with equal respect. | 4.7 | 4.7 |
| Procedural Fairness | The judge performed his or her duties fairly and impartially. | 4.7 | 4.7 |
| Procedural Fairness | The judge promoted public trust and confidence in the courts through his or her conduct. | 4.8 | 4.7 |
| Procedural Fairness | The judge provided the court participants with a meaningful opportunity to be heard. | 4.8 | 4.7 |

Rated on a scale from 1 (low) to 5 (high)



Survey Report

Adjective Question Summary

Survey respondents rated how well a list of adjectives describes the judge. A rating of 1 indicates the adjective *does not describe the judge at all*, and a rating of 5 indicates the adjective *describes the judge very well*. For the positive adjectives, a higher average score is better. For the negative adjectives, a lower average score is better.

| Descriptor | Justice Constandinos Himonas | Appellate Courts | |
|---------------|------------------------------|------------------|---|
| Attentive | 4.9 | 4.7 | Positive Adjectives HIGHER average score is better |
| Capable | 4.8 | 4.7 | |
| Ethical | 4.8 | 4.7 | |
| Knowledgeable | 4.8 | 4.6 | |
| Impartial | 4.7 | 4.4 | |
| Open-minded | 4.4 | 4.4 | |
| Disrespectful | 1.5 | 1.3 | Negative Adjectives LOWER average score is better |
| Impatient | 1.5 | 1.4 | |
| Indecisive | 1.0 | 1.3 | |
| Unprepared | 1.3 | 1.4 | |



Survey Information

This report presents the results from the 2017 survey process, conducted by Market Decisions, LLC. A detailed description of the survey methodology is available separately on the Utah Judicial Performance Evaluation website.

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), and
- 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).

Summary of Survey Methods

Surveys are conducted online, using web-based survey software. Each qualified respondent receives an initial email notification signed by the Chief Justice and JPEC Chairperson. 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 at least 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 35 (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 average score in Procedural Fairness.

Evaluation Period

The retention evaluation period for judges standing for election in 2018 began on January 1, 2016 and ended on September 30, 2017.



How to Read the Results

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 "Appellate Courts" 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.



UTAH SUPREME COURT

Visit JUDGES.UTAH.GOV for more information about this judge



Honorable Constandinos “Deno” Himonas

- Serving **The State of Utah**
- Commission Recommendation: **RETAIN**
- Commission Vote Count: 11-0 (for retention)
- Performance Standards: Passed 8 of 8

Justice Deno Himonas was appointed to the Utah Supreme Court in 2015. For each of the scored minimum performance standards, Justice Himonas scores consistently with the average of his peers, and 94% of survey respondents recommend him for retention. Survey respondents note his engaged manner, diligent work habits, strong case preparation, and his thoughtful and concise legal rulings. A few respondents appreciate that Justice Himonas asks good, tough, and direct questions and pays attention to arguments on all sides. When rating judicial attributes, respondents identify Judge Himonas as particularly attentive and impartial. They also characterize him as notably decisive. This judge meets discipline standards set by statute and has been certified by the Judicial Council as meeting all time standards, education requirements, and mental and physical competence standards.

Justice Deno Himonas was appointed to the Utah Supreme Court in 2015 by Governor Gary Herbert. Prior to his appointment, he served as a trial court judge for over ten years. Justice Himonas graduated with distinction from the University of Utah and received his Juris Doctorate from the University of Chicago. Upon graduation, he spent fifteen years at the Jones, Waldo law firm, where he focused on complex civil litigation. Justice Himonas has served as associate presiding judge for the Third District Court and as a member of the Judicial Conduct Commission. He currently leads two task forces, one on licensed paralegal practitioners and another on online dispute resolution. Justice Himonas has taught as an adjunct professor at the University of Utah law school and was named its 2017 Honorary Alumnus of the Year. He is a Life Fellow of the American Bar Foundation.

