

**Alaska Judicial Council
2010 Judicial Retention Performance Evaluation Materials
Judge David Mannheimer
Alaska Court of Appeals**

The Judicial Council finds Judge Mannheimer to be **Qualified** and recommends unanimously that the public vote **"YES"** to retain him as an appellate court judge.

Retention evaluation materials for this judge

1. Voter pamphlet page. 2
This page will appear in the State of Alaska Election Pamphlet sent to each Alaskan household.

2. Judge questionnaire. 3
The judge’s response to a Judicial Council questionnaire.

3. Survey scores in 2010
(To view survey scores for all judges on the ballot go to main 2010 retention page.)

a. Attorney scores. 15

b. Court employee survey scores...... 18

4. Survey scores in previous retention evaluations. 19

Retention evaluation materials for all judges on the ballot

(To view these materials go to main 2010 retention page.)

- 1. Peremptory challenges**
Analysis of peremptory challenge rates for judges.
- 2. Recusals**
Evaluation of judge’s record of self-disqualification from cases, or “recusals.”
- 3. Appellate Affirmance Rates**
Analysis of appellate decisions involving each trial judge’s cases.
- 4. Salary Warrant Withholdings**
Evaluation of judge’s record of pay withholding for undecided or uncompleted decisions.

Alaska Judicial Council Recommendation

Judge David Mannheimer, Court of Appeals Judge

Judicial Council Recommendation 2010

The Alaska Judicial Council is a non-partisan citizens' commission established by the Alaska constitution. Alaskan law requires the Council to evaluate judges' performance and authorizes the Council to recommend to voters whether judges should be retained in office. The Judicial Council reviews judges' integrity, diligence, legal ability, fairness, demeanor, ability to manage their caseloads, and overall performance of their judicial responsibilities in and out of the courtroom. The Judicial Council finds Judge Mannheimer to be **Qualified** and recommends unanimously that the public vote **"YES"** to retain him as a court of appeals judge.

Judicial Council Evaluation

The Judicial Council surveyed thousands of Alaskans including peace and probation officers, court employees, attorneys, jurors, social workers/guardians ad litem, and child advocates about the judges on the ballot. Respondents were asked to rate judicial performance and to submit comments. The Council also reviewed the ratings and observations of the Alaska Judicial Observers, independent community-based volunteers. The Council reviewed the judge's peremptory challenge, recusals, and appellate affirmance and reversal rates; any civil or criminal litigation involving the judge; APOC and court system conflict-of-interest statements; any disciplinary files involving the judge; and whether a judge's pay was withheld for an untimely decision. The Council reviewed other court records and investigated judicial conduct in specific cases. The Council interviewed some judges, attorneys, and court staff, and held a statewide public hearing to obtain comments about judges.

| | Attorney Survey | Court Employee Survey |
|---------------|-----------------|-----------------------|
| Legal Ability | 4.5 | --- |
| Impartiality | 4.3 | 4.6 |
| Integrity | 4.5 | 4.7 |
| Temperament | 4.3 | 4.4 |
| Diligence | 4.6 | 4.7 |
| Overall | 4.4 | 4.7 |

Ratings are based on a one to five scale. Five is the best rating and three is "acceptable."

Rating Scale

5.0 = Excellent
 4.0 = Good
 3.0 = Acceptable
 2.0 = Deficient
 1.0 = Poor

Summary of Survey Information

Survey respondents rated Judge Mannheimer on the categories summarized in the table above, using 5 as the highest rating possible. The attorney rating for Judge Mannheimer on overall performance was 4.4. Court employees rated him at 4.7.

Recommendation: Vote "YES" to retain Judge David Mannheimer

**Alaska Judicial Council
Questionnaire**

**Appellate Judge
2010 Candidates for Judicial Retention**

October 22, 2009

David Mannheimer

Court of Appeals

Name

Court

1. Please estimate your workload during your present term.

- a) _____ % civil cases b) _____ # of trials/year (as trial judge, if any)
 85-90 % criminal cases
 10-15 % court administrative work
 100 % Total

Note: In my total of "criminal" cases, I have included the appeals in post-conviction relief cases (which are technically civil).

2. Please describe your participation on court/bar committees or other administrative activities during your current term of office.

Alaska Bar Association Committee on the Rules of Professional Responsibility
Supreme Court Committee on the Rules of Criminal Procedure
Committee to Re-Design the Appellate Court Case Management System
Steering Committee of the Khabarovsk-Alaska Rule of Law Partnership
annual training of new appellate court law clerks
occasional training presentations for magistrates and new judges

*Alaska Judicial Council
Appellate Judge Questionnaire
Retention*

3. Please assess, in one or two paragraphs, your judicial performance during your present term. Appropriate areas of comment could include: satisfaction with your judicial role, specific contributions to the judiciary or the field of law, increases in legal knowledge and judicial skills, or other measures of judicial abilities that you believe to be important.

I am now several months past 60. Because the Alaska Constitution requires judges to retire at age 70, the retention election in November 2010 will be my last.

I have now been a judge for almost nineteen years — half of my adult life. I am profoundly grateful for these years. I have done my best to serve my community: to see justice done for the people who appeared in my court, and to write appellate opinions that contributed to the clarity and the health of the law.

In the process, I think that I have grown as a lawyer and as a human being. My work requires me to repeatedly examine and analyze the working of our judicial system; it requires me to carefully consider points of view other than my own; it requires me to clearly articulate and explain my legal conclusions; and it requires me to ponder the long-term consequences of my court's decisions for the judicial system as a whole.

Because essentially all of my judicial decisions are communicated in writing, I continue to consciously work on my writing skills. An appellate court's decisions affect people's lives (often irrevocably), and our decisions set the rules for future cases. It is therefore crucial that we explain ourselves clearly — so that everyone will know what we decided and, perhaps more important, why we decided the case that way. To improve my writing, I take CLE courses and read books and articles on writing, and I also read a lot of literature in general — mostly history, biography, and historical fiction.

I also try to stay current with new technology, and to investigate ways in which that technology might be used to improve the judicial system. Early this year, I worked with court system personnel to develop a system for scanning trial court files in criminal cases when an appeal is filed, and then numbering the electronic images. As a result, we no longer require the trial court clerk's office to physically number every page of the trial court file, and we no longer require attorneys to spend long hours at the Appellate Court Clerk's Office, examining the trial court file and asking for photocopies of the pages they need. Instead, we are able to give the attorneys (and their clients, if they wish) a CD containing an electronic version of the trial court file — in text-searchable Adobe PDF format. This new system has been in place since March and, so far, attorney reaction has been very favorable.

All in all, after nineteen years on the court, I continue to love my work, and I continue to feel very grateful to have found a profession that is so personally rewarding and that allows me to contribute something important to society.

Alaska Judicial Council
Appellate Judge Questionnaire
Retention

4. During your most recent term as a judge, have you:
- a) had a tax lien filed or other collection procedure instituted against you by federal, state, or local authorities? Yes No
 - b) been involved in a non-judicial capacity in any legal proceeding whether as a party or otherwise? Yes No
 - c) engaged in the practice of law (other than as a judge)? Yes No
 - d) held office in any political party? Yes No
 - e) held any other local state or federal office? Yes No
 - f) had any complaints, charges or grievances filed against you with the Alaska Commission on Judicial Conduct, the Alaska Bar Association, or with the Alaska Court System that resulted in public proceedings or sanctions? Yes No

5. If your answer to any of the questions above is "yes," please give full details, including dates, facts, case numbers and outcomes.

Explanation of 4(b): In early December 2005, I received (and paid) a traffic ticket for rolling through a stop sign.

6. Please provide any other information which you believe would assist the Council in conducting its evaluations and in preparing its recommendations for the 2010 retention elections.

Alaska Judicial Council
Appellate Judge Questionnaire
Retention

7. Please list your six most recent opinions including case names and numbers. Please list the names, current addresses, including zip codes and suite numbers where applicable, and phone numbers of each attorney involved in these appeals. (Attach additional pages if necessary.)

Case Number 1

Case

Name: See Attached Sheet -- you ask for _____ **Case Number:** _____ to put them in this form.

v. telephone numbers, but there is no place

Attorneys Involved:

| | |
|-------------------------|-------------------------|
| Name: _____ | Name: _____ |
| Address: _____ | Address: _____ |
| City, State, Zip: _____ | City, State, Zip: _____ |
| Name: _____ | Name: _____ |
| Address: _____ | Address: _____ |
| City, State, Zip: _____ | City, State, Zip: _____ |

Case Number 2

Case

Name: _____ **Case Number:** _____

v. _____

Attorneys Involved:

| | |
|-------------------------|-------------------------|
| Name: _____ | Name: _____ |
| Address: _____ | Address: _____ |
| City, State, Zip: _____ | City, State, Zip: _____ |
| Name: _____ | Name: _____ |
| Address: _____ | Address: _____ |
| City, State, Zip: _____ | City, State, Zip: _____ |

Case Number 3

Case

Name: _____ **Case Number:** _____

v. _____

Attorneys Involved:

| | |
|-------------------------|-------------------------|
| Name: _____ | Name: _____ |
| Address: _____ | Address: _____ |
| City, State, Zip: _____ | City, State, Zip: _____ |
| Name: _____ | Name: _____ |
| Address: _____ | Address: _____ |
| City, State, Zip: _____ | City, State, Zip: _____ |

Alaska Judicial Council
Appellate Judge Questionnaire
Retention

Case Number 4

Case Name: _____ **Case Number:** _____
v. _____

Attorneys Involved:

Name: _____ Name: _____
Address: _____ Address: _____
City, State, Zip: _____ City, State, Zip: _____

Name: _____ Name: _____
Address: _____ Address: _____
City, State, Zip: _____ City, State, Zip: _____

Case Number 5

Case Name: _____ **Case Number:** _____
v. _____

Attorneys Involved:

Name: _____ Name: _____
Address: _____ Address: _____
City, State, Zip: _____ City, State, Zip: _____

Name: _____ Name: _____
Address: _____ Address: _____
City, State, Zip: _____ City, State, Zip: _____

Case Number 6

Case Name: _____ **Case Number:** _____
v. _____

Attorneys Involved:

Name: _____ Name: _____
Address: _____ Address: _____
City, State, Zip: _____ City, State, Zip: _____

Name: _____ Name: _____
Address: _____ Address: _____
City, State, Zip: _____ City, State, Zip: _____

My Most Recent Judicial Opinions

Published Opinions

Espinal v. State

Court of Appeals File No. A-10606

Court of Appeals Published Opinion No. 2245 (November 17, 2009)

__ P.3d __

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Moore v. State

Court of Appeals File No. A-10200

Court of Appeals Published Opinion No. 2243 (October 2, 2009)

__ P.3d __

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Skjervem v. State

Court of Appeals File No. A-9972

Court of Appeals Published Opinion No. 2237 (September 18, 2009)

215 P.3d 1101

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Jones v. State

Court of Appeals File No. A-10142

Court of Appeals Published Opinion No. 2239 (September 18, 2009)

215 P.3d 1091

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Ferrick v. State

Court of Appeals File No. A-9976

Court of Appeals Published Opinion No. 2240 (September 18, 2009)

217 P.3d 418

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Rantala v. State

Court of Appeals File No. A-9769

Court of Appeals Published Opinion No. 2236 (September 18, 2009)

216 P.3d 550

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*Note: At the time of this litigation,
Ms. Christensen was employed by the
Department of Law*

State v. Hamilton

Court of Appeals File No. A-10268

Court of Appeals Published Opinion No. 2235 (September 18, 2009)

216 P.3d 547

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Memorandum Opinions

Evans v. State

Court of Appeals File No. A-10076

Court of Appeals Memorandum Opinion No. 5543 (November 18, 2009)

2009 WL ____

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Grierson v. State

Court of Appeals File No. A-10370

Court of Appeals Memorandum Opinion No. 5523 (September 30, 2009)

2009 WL 3164860

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Wyagon v. State

Court of Appeals File No. A-10093

Court of Appeals Memorandum Opinion No. 5519 (September 23, 2009)

2009 WL 3065203

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Tocktoo v. State

Court of Appeals File No. A-9937

Court of Appeals Memorandum Opinion No. 5520 (September 23, 2009)

2009 WL 3065206

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Alaska Judicial Council
Appellate Judge Questionnaire
Retention

8. *Optional:* If you deem it helpful to the Council, please list up to three other cases during your past term in which you believe your work was particularly noteworthy. Please list the names, current addresses, including zip codes and suite numbers where applicable, and phone numbers of each attorney involved in these appeals. (Attach additional pages if necessary.)

Case Number 1

Case Name: See Attached Sheet *Case Number:* _____

v. _____

Attorneys Involved:

Name: _____

Name: _____

Address: _____

Address: _____

City, State, Zip: _____

City, State, Zip: _____

Name: _____

Name: _____

Address: _____

Address: _____

City, State, Zip: _____

City, State, Zip: _____

Case Number 2

Case Name: _____ *Case Number:* _____

v. _____

Attorneys Involved:

Name: _____

Name: _____

Address: _____

Address: _____

City, State, Zip: _____

City, State, Zip: _____

Name: _____

Name: _____

Address: _____

Address: _____

City, State, Zip: _____

City, State, Zip: _____

Case Number 3

Case Name: _____ *Case Number:* _____

v. _____

Attorneys Involved:

Name: _____

Name: _____

Address: _____

Address: _____

City, State, Zip: _____

City, State, Zip: _____

Name: _____

Name: _____

Address: _____

Address: _____

City, State, Zip: _____

City, State, Zip: _____

Three Other Significant Opinions

State v. Pease

Court of Appeals File No. A-08905

Court of Appeals Published Opinion No. 2112 (July 27, 2007)

163 P.3d 985

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Brown v. State

Court of Appeals File No. A-09529

Court of Appeals Published Opinion No. 2157 (April 18, 2008)

182 P.3d 624

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State v. Batts

Court of Appeals File No. A-09682

Court of Appeals Published Opinion No. 2189 (October 31, 2008)

195 P.3d 144

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Appellate Courts David Mannheimer - Alaska Court of Appeals

Summary Sheet and Detailed Survey Scores

Summary of survey information

Judge Mannheimer's detailed survey scores from attorneys follow. Attorneys rated him 4.4 on overall performance. Peace and probation officers and social workers, Guardians ad Litem and CASA volunteers do not rate justices or appellate judges.

| | Attorney Survey N=167 |
|---------------|----------------------------------|
| Legal Ability | 4.5 |
| Impartiality | 4.3 |
| Integrity | 4.5 |
| Temperament | 4.3 |
| Diligence | 4.6 |
| Overall | 4.4 |

The Judicial Council's Evaluation Process

State law requires the Judicial Council to evaluate each judge standing for retention, and to report its evaluations to the voters. The surveys reported here are an important part of the Council's evaluations. The Council also considers survey ratings by court employees and public comments. Along with the personal observations of the hundreds of people who had direct professional experience with the judge, the Council reviews any litigation involving the judge, conflict of interest records, and public disciplinary files. All of the evaluation information about the judge is on the Council's website at www.ajc.state.ak.us.

Alaska Court of Appeals Judge David Mannheimer**A. Alaska Bar Association****Demographic Description**

| | N | % |
|---|-----|-------|
| Type of Practice | | |
| No Response | 3 | 1.1% |
| Private, Solo | 34 | 12.6% |
| Private, 2-5 Attorneys | 23 | 8.6% |
| Private, 6+ Attorneys | 30 | 11.2% |
| Private, Corporate Employee | 8 | 3.0% |
| Judge or Judicial Officer | 67 | 24.9% |
| Government | 82 | 30.5% |
| Public Service Agency or Organization (Not Govt) | 7 | 2.6% |
| Other | 15 | 5.6% |
| Length of Alaska Practice | | |
| No Response | 8 | 3.0% |
| 5 Years or fewer | 31 | 11.5% |
| 6 to 10 years | 21 | 7.8% |
| 11 to 15 years | 22 | 8.2% |
| 16 to 20 years | 28 | 10.4% |
| 21 years or more | 159 | 59.1% |
| Gender | | |
| No Response | 5 | 1.9% |
| Male | 175 | 65.1% |
| Female | 89 | 33.1% |
| Cases Handled | | |
| No Response | 3 | 1.1% |
| Prosecution | 26 | 9.7% |
| Mainly Criminal | 34 | 12.6% |
| Mixed Criminal & Civil | 91 | 33.8% |
| Mainly Civil | 99 | 36.8% |
| Other | 16 | 5.9% |
| Location of Practice | | |
| No Response | 2 | .7% |
| First District | 28 | 10.4% |
| Second District | 6 | 2.2% |
| Third District | 200 | 74.3% |
| Fourth District | 28 | 10.4% |
| Outside of Alaska | 5 | 1.9% |

Judge David Mannheimer: Detailed Information Responses Alaska Bar Association Members

| | Legal Ability | | Impartiality/ Fairness | | Integrity | | Judicial Temperament | | Diligence | | Overall Evaluation | |
|---|---------------|------------|---------------------------|------------|------------|------------|-------------------------|------------|------------|------------|-----------------------|------------|
| | Mean | N | Mean | N | Mean | N | Mean | N | Mean | N | Mean | N |
| Basis for Evaluation | | | | | | | | | | | | |
| No Response | | 3 | | 0 | | 2 | | 3 | | 6 | | 0 |
| Direct Professional | 4.5 | 164 | 4.3 | 167 | 4.5 | 165 | 4.3 | 164 | 4.6 | 161 | 4.4 | 167 |
| Professional Reputation | 4.6 | 75 | 4.5 | 75 | 4.7 | 76 | 4.6 | 74 | 4.6 | 70 | 4.6 | 76 |
| Other Personal Contacts | 4.8 | 22 | 4.7 | 22 | 5.0 | 24 | 4.8 | 24 | 4.9 | 22 | 4.8 | 25 |
| Type of Practice | | | | | | | | | | | | |
| No Response | | 2 | | 0 | | 0 | | 1 | | 4 | | 0 |
| Private, Solo | 4.1 | 20 | 3.8 | 20 | 4.3 | 20 | 4.0 | 20 | 4.1 | 20 | 3.9 | 20 |
| Private, 2-5 Attorneys | 4.6 | 13 | 4.1 | 13 | 4.2 | 13 | 4.2 | 13 | 4.6 | 13 | 4.3 | 13 |
| Private, 6+ Attorneys | 4.7 | 16 | 4.6 | 16 | 4.8 | 16 | 4.4 | 16 | 4.7 | 16 | 4.7 | 16 |
| Private, Corporate Employee | 4.5 | 4 | 4.5 | 4 | 4.8 | 4 | 4.5 | 4 | 4.3 | 4 | 4.5 | 4 |
| Judge or Judicial Officer | 4.7 | 53 | 4.6 | 55 | 4.8 | 55 | 4.5 | 54 | 4.8 | 51 | 4.6 | 55 |
| Government | 4.3 | 47 | 4.0 | 47 | 4.4 | 45 | 4.1 | 45 | 4.4 | 45 | 4.2 | 47 |
| Public Service Agency or Organization (Not Govt) | 5.0 | 3 | 5.0 | 3 | 5.0 | 3 | 5.0 | 3 | 5.0 | 3 | 5.0 | 3 |
| Other | 4.7 | 6 | 4.0 | 7 | 4.1 | 7 | 4.4 | 7 | 4.6 | 7 | 4.0 | 7 |
| Years of Practice in Alaska | | | | | | | | | | | | |
| No Response | | 2 | | 0 | | 0 | | 1 | | 3 | | 0 |
| 5 Years or fewer | 4.5 | 12 | 4.3 | 12 | 4.6 | 11 | 4.1 | 11 | 4.6 | 11 | 4.5 | 12 |
| 6 to 10 years | 4.5 | 12 | 3.8 | 12 | 4.3 | 12 | 3.9 | 12 | 4.5 | 12 | 4.1 | 12 |
| 11 to 15 years | 4.2 | 14 | 3.8 | 15 | 4.4 | 14 | 4.3 | 14 | 4.5 | 13 | 4.0 | 15 |
| 16 to 20 years | 4.3 | 18 | 4.1 | 18 | 4.3 | 18 | 4.1 | 18 | 4.4 | 18 | 4.1 | 18 |
| 21 years or more | 4.6 | 101 | 4.5 | 103 | 4.6 | 103 | 4.4 | 102 | 4.6 | 100 | 4.5 | 103 |
| Gender | | | | | | | | | | | | |
| No Response | | 1 | | 0 | | 1 | | 2 | | 4 | | 0 |
| Male | 4.5 | 109 | 4.3 | 110 | 4.5 | 109 | 4.3 | 108 | 4.5 | 106 | 4.3 | 110 |
| Female | 4.6 | 51 | 4.3 | 53 | 4.5 | 52 | 4.2 | 52 | 4.6 | 51 | 4.5 | 53 |
| Cases Handled | | | | | | | | | | | | |
| No Response | | 0 | | 0 | | 0 | | 0 | | 0 | | 0 |
| Prosecution | 4.1 | 16 | 3.9 | 17 | 4.5 | 15 | 4.1 | 15 | 4.4 | 15 | 4.1 | 17 |
| Mainly Criminal | 4.8 | 22 | 4.3 | 22 | 4.5 | 22 | 4.5 | 22 | 4.6 | 22 | 4.5 | 22 |
| Mixed Criminal & Civil | 4.4 | 71 | 4.1 | 73 | 4.4 | 73 | 4.1 | 72 | 4.5 | 69 | 4.2 | 73 |
| Mainly Civil | 4.6 | 44 | 4.5 | 44 | 4.8 | 44 | 4.5 | 44 | 4.6 | 44 | 4.7 | 44 |
| Other | 4.8 | 8 | 4.9 | 8 | 4.9 | 8 | 4.9 | 8 | 4.9 | 8 | 4.9 | 8 |
| Location of Practice | | | | | | | | | | | | |
| No Response | | 2 | | 0 | | 1 | | 1 | | 3 | | 0 |
| First District | 4.6 | 18 | 4.4 | 18 | 4.8 | 17 | 4.5 | 16 | 4.7 | 17 | 4.4 | 18 |
| Second District | 4.7 | 3 | 4.7 | 3 | 5.0 | 3 | 4.7 | 3 | 5.0 | 1 | 4.7 | 3 |
| Third District | 4.5 | 119 | 4.3 | 121 | 4.6 | 120 | 4.3 | 120 | 4.6 | 118 | 4.4 | 121 |
| Fourth District | 4.2 | 18 | 3.7 | 19 | 4.0 | 19 | 3.6 | 19 | 4.2 | 19 | 3.8 | 19 |
| Outside of Alaska | 5.0 | 7 | 4.5 | 4 | 5.0 | 4 | 5.0 | 4 | 5.0 | 4 | 4.8 | 4 |

Note: Ratings for only those respondents who reported direct professional experience with the judge.

| Court Employee Survey Results 2010 Retention Evaluation David Mannheimer | | | | | | | | | | | | |
|---|------------------|------------|-------------|------------|-------------------|------------|------------------|------------|-------------|------------|-------------|------------------------|
| Question | Excellent | | Good | | Acceptable | | Deficient | | Poor | | Mean | Total Responses |
| | % | (n) | % | (n) | % | (n) | % | (n) | % | (n) | | |
| Impartiality/Fairness | 73% | 33 | 18% | 8 | 9% | 4 | 0% | 0 | 0% | 0 | 4.6 | 45 |
| Integrity | 77% | 36 | 15% | 7 | 9% | 4 | 0% | 0 | 0% | 0 | 4.7 | 47 |
| Judicial Temperament | 62% | 29 | 23% | 11 | 11% | 5 | 4% | 2 | 0% | 0 | 4.4 | 47 |
| Diligence | 80% | 35 | 11% | 5 | 9% | 4 | 0% | 0 | 0% | 0 | 4.7 | 44 |
| Overall Evaluation | 78% | 36 | 15% | 7 | 4% | 2 | 2% | 1 | 0% | 0 | 4.7 | 46 |

Prior Retention Scores
 Judge David Mannheimer
 Court of Appeals: Retention 2010
 Appointed to Court of Appeals 1990

| Bar Survey | | | | | | |
|--|---------------|--------------|-----------|----------------------|-----------|----------------------------|
| 2010 Retention | 4.5 | 4.3 | 4.5 | 4.3 | 4.6 | 4.4 |
| 2002 Retention | 4.3 | 4.1 | 4.3 | 4.2 | 4.5 | 4.2 |
| 1994 Retention | 4.2 | 3.8 | 4.2 | 4.1 | 4.0 | 4.0 |
| | Legal Ability | Impartiality | Integrity | Judicial Temperament | Diligence | Overall Performance |
| Peace & Probation Officer Survey | | | | | | |
| <i>Peace and Probation officers do not rate appellate judges</i> | | | | | | |