

An Evaluation of the United States Magistrate Judges in Chicago¹

by

The Chicago Council of Lawyers

I. Introduction.

The Chicago Council of Lawyers (the “Council”) is a public interest bar association which has been dedicated to bringing about an exemplary legal system for over 30 years. Throughout its history, the Council has evaluated federal judges who sit in Chicago. These past evaluations include an evaluation of the judges sitting on the U.S. Court of Appeals for the Seventh Circuit (1994), evaluations of the U.S. District Court Judges sitting in Chicago (1972, 1976, 1991, and 2006), an evaluation of the Senior U. S. District Court Judges sitting in Chicago (2007), and an evaluation of the U.S. Bankruptcy Judges sitting in Chicago (1992). The Council has also evaluated various candidates for the federal bench.

The Council’s federal judicial evaluations are motivated by a desire to improve the quality of justice in Chicago by providing honest feedback to the judges themselves and to the public officials who will be making future judicial selections.

This evaluation reflects the candid views of the active federal court lawyers in Chicago. In conducting the evaluation, the Council created a non-partisan, non-ideological process designed to accurately capture the bar’s views and present them in a synthesized, readable format. While this evaluation is no doubt imperfect, it is the product of over a year’s work by a group of more than 30 lawyers, and incorporates views expressed by approximately 500 active federal court lawyers in Chicago.

II. Methodology.

The evaluation process began with the Council’s formation of a Federal Judicial Evaluation Committee which, in turn, created a multi-faceted evaluation process with a variety of built-in checks and balances intended to strip the process of partisanship, ideology, or personal bias.²

¹ There are presently 11 United States magistrate judges in the United States District Court for the Northern District of Illinois. However, Judge P. Michael Mahoney, who sits in Rockford, Illinois, was excluded from this evaluation because he does not sit in Chicago. In addition, Judge Susan E. Cox was not evaluated because she did not become a magistrate judge until the Summer of 2007.

² The Committee which prepared this report was co-chaired by Michael W. Early (Chicago Underwriting Group, Inc.) and Peter A. Steinmeyer (Epstein Becker & Green, P.C.). Committee Members included Malcolm Rich (the Executive Director of the Chicago Council of Lawyers), Armando Carlo III (The Boeing Company), Patricia Bronte (Jenner & Block), Adam Goodman (Goodman Law Offices LLC), Robert Greenspoon (Flachsbart & Greenspoon, LLC), Gregory Mayer (Hollister Incorporated), Paul W. Mollica (Meites, Mulder, Mollica & Glink), Rachel Niewoehner (Sidley Austin LLP), Keith Spielfogel (Law Office of Keith Spielfogel), Jake Schmidt (Epstein Becker & Green, P.C.), and David E. Schoenfeld (Grippe & Elden).

Telephone interviews

The Council set up a system of telephone interviews conducted by a panel of volunteer lawyers (generally, two or three different interviewers per judge, each of whom had federal court experience). The lawyers who were interviewed were drawn from two different lists. The first list of lawyers to be interviewed was generated from published opinions issued between 2004 and 2006 by the magistrate judges being reviewed. Investigators were instructed to call lawyers on each side of those published decisions. The second list of lawyers to be interviewed was drawn from a list of randomly selected lawyers who had appeared before a given magistrate judge. This list was generated by the Clerk's Office of the U.S. District Court for the Northern District of Illinois in the Fall of 2006.³ Approximately half of the interviews for a given judge were drawn from each list. The investigators were supervised by the Council's Federal Judicial Evaluation Committee and its Executive Director.

Each investigator was provided a sample script (attached as Exhibit 1) with specific questions to be asked of each respondent. Investigators had the opportunity to ask additional questions, as well. The general categories of questions were: Legal Ability, Quality of Written Opinions, Decisiveness, Diligence, Integrity, Judicial Temperament, Fairness, Respect for the Rule of Law, and Independence from Political and Institutional Influences. All responses were used anonymously.

Each investigation of a given judge involved at least 40 interviews of lawyers having direct experience before that judge. In total, more than 360 lawyers were interviewed.

Finally, after this evaluation was reviewed and approved by the entire Board of the Council, a draft of the evaluation was provided to each judge included in the evaluation. Each judge was given two weeks in which to review and comment on his/her draft evaluation, and the Council also offered to meet in person with any judge who wanted to discuss his/her evaluation.

The Written Survey

The Council supplemented the telephone interviews with a written survey with randomly selected members of the active federal bar. In the Summer of 2005, the Clerk's Office of the U.S. District Court for the Northern District of Illinois provided the Council with the names and addresses of approximately 4000 randomly selected members of the Federal Trial Bar for this District (*i.e.*, approximately one third of the members). The Council played no role in the selection of these names. After verifying and updating these addresses, and eliminating attorneys without a Chicago-area address, the Council was left with a sample of 3,250 lawyers. In supplementation of this list of randomly selected lawyers, the Council added all Assistant United States Attorneys in the Chicago office (approximately 125 in total) and all staff lawyers practicing with the Federal Defender's Office in Chicago (approximately 30 in total).

³ Because magistrate judges generally issue fewer written rulings than district judges, and instead spend a higher percentage of their time handling settlement conferences, discovery disputes, and preliminary and misdemeanor criminal proceedings which do not generally result in written decisions, the Council decided that using these two different call lists would result in a more accurate assessment of a judge's performance than reliance on just one of the two lists.

The Council developed a 34-question written survey, which was based on the survey utilized by the Council in its four previous evaluations of the federal district judges in Chicago. The written survey (a blank copy of which, along with the cover letter containing instructions on how to complete the survey, is attached as Exhibit 2 hereto) contains a series of questions about the respondent's level of federal court experience and then asks specific questions about each judge's legal ability, integrity, temperament, decisiveness, and diligence. Finally, as a means of eliciting an overall assessment for each judge, the respondent was asked whether the judge is a good judge and whether he or she would make a good district or court of appeals judge. The survey ends with a series of demographic questions which allowed us to know the type of lawyers answering the questionnaire. Respondents were informed that their responses were to be used in the aggregate, and that their responses would be anonymous. The written survey does not ask for the respondent to provide his/her identity, and in fact, the Council has no way of matching a given written survey response with a particular respondent. Respondents were instructed to limit their input to only their direct, personal experience with each judge within the past five years, and were further instructed not to base their answers on the opinions of other lawyers which they may have heard.

The surveys were mailed out in the Summer of 2006, and completed surveys were returned by 137 lawyers. The results are attached hereto as Exhibit 3.⁴

III. Specific Results.

The specific results for each of the nine magistrate judges included in this evaluation are set forth below.

Judge Martin C. Ashman

Magistrate Judge Martin C. Ashman graduated from the DePaul University College of Law in 1953. From 1953 until 1987, he was a general practitioner with a concentration in litigation and municipal law. He also served as a Commissioner of the Illinois Court of Claims from 1974 to 1987. In 1987, he was appointed to the Circuit Court of Cook County by the Illinois Supreme Court. He was elected to that position in 1988 and retained in 1994. As a Circuit Judge, he served in the Domestic Relations Division and the Law Division, where he inaugurated the well regarded Individual Commercial Calendar Section. He was appointed a United States Magistrate Judge in 1995.

Judge Ashman is praised consistently for his knowledge of the law, temperament, and communication skills. Lawyers appearing before him say that he is always well prepared and asks appropriate questions during argument. He is adept at controlling the courtroom without being heavy-handed. All respondents were impressed with Judge Ashman's pragmatic and effective approach to settlement conferences. He is skilled at identifying key issues and realistic settlement figures, and spends sufficient time pushing both sides equally toward settlement.

⁴ Because the Council simultaneously prepared an evaluation of the senior U.S. district judges in Chicago, the Council's written survey covered both the senior judges and the magistrate judges.

Lawyers also view Judge Ashman as decisive, saying that he strikes a good balance between rigidity and flexibility. He allows lawyers to make their case and then makes quick and firm decisions. Judge Ashman is praised for being easy-going but also has demonstrated the ability to send a clear message to a lawyer he believes is not acting appropriately. The Council received no complaints about partiality or work ethic. He is considered to be always faithful to the law.

Most surveyed lawyers strongly agree that overall Judge Ashman is a good Judge. He received one of the best scores in the written survey of experienced practitioners to question 32, "Overall, he/she is a good Judge." In response to question 37, "You would consent to proceed for all purposes before this magistrate judge," practitioners, on a scale of 1 (strongly agree) to 4 (strongly disagree), answered, on average, 1.7

On the whole, Judge Ashman is highly regarded by the active federal bar.

Judge Geraldine Soat Brown

Magistrate Judge Geraldine Soat Brown graduated from the University of Chicago Law School in 1975. For 25 years after law school, she practiced with the firm now known as Miller, Shakman & Beem, concentrating in commercial and construction litigation and alternative dispute resolution. While in private practice, she served as an arbitrator and mediator for the American Arbitration Association, an arbitrator for the Circuit Court of Cook County, and as a mediator for the Center for Conflict Resolution. She was appointed a United States Magistrate Judge in 2000.

Judge Brown received praise from most lawyers for her legal ability and knowledge of the law. She is decisive, even tempered, pleasant, and courteous to all parties (although a few attorneys reported that she can be impatient with counsel). These qualities serve her well at settlement conferences where she is described as an excellent jurist who is able to help parties reach negotiated resolutions even in cases where the parties did not believe settlement was feasible. It was also reported that her communication skills and ability to spot and discuss issues intelligently and clearly contribute to her success at these conferences.

A few lawyers were somewhat critical of Judge Brown's legal ability with one attorney commenting that "sometimes she misses points she should have been attuned to." She has also been criticized by another attorney for having "a tendency to decide" a certain way and then not being open to changing her mind. But even these sources believed that she "knew her stuff" and that she displayed "above average" legal abilities.

Attorneys practicing before Judge Brown praise her solid work ethic. She is regarded as a hard worker who is extremely well prepared for her cases. This allows her to ask targeted, intelligent questions during oral arguments. This work ethic also translates into strong praise for her written work which is seen to be clear, succinct, and effective.

Judge Brown is regarded as having the highest level of integrity. She is considered honest, fair, forthright, and impartial, and lawyers believe she rules based on facts and the governing law. These opinions were shared by those attorneys who appeared before her and were unsuccessful in their motions and cases.

Attorneys reported that Judge Brown “ran a tight courtroom” and that she issues opinions expeditiously. She was described as well prepared and organized in all aspects of her work.

The lawyers interviewed largely agreed that they would consider consenting to proceed before Judge Brown for all purposes. In response to question 37 on the written survey, “You would consent to proceed for all purposes before this magistrate judge,” practitioners, on a scale of 1 (strongly agree) to 4 (strongly disagree), answered, on average, 2.2.

Overall, Judge Brown is well regarded by the attorneys who appear before her, and is viewed as an asset to the federal bench.

Judge Jeffrey Cole

Magistrate Judge Cole graduated from the DePaul University College of Law in 1968. He was hired into an honors law graduate program at the U.S. Justice Department. He joined the U.S. Attorneys Office in Chicago in 1969, and eventually served as assistant chief of the criminal division and chief of the appellate division. In 1975, he joined the firm now known as Mayer Brown LLP and later formed his own firm, where he represented clients in white-collar criminal cases as well as complex civil litigation. He was sworn in as a United States Magistrate Judge in May of 2005.

Local practitioners have had almost three years’ worth of experience with Judge Cole. Though early yet in his career, certain key traits have emerged.

Concerning the substance of his work, the consensus is that Judge Cole is performing well. He commands broad knowledge of the legal substance and procedural demands of his work, as evidenced by his decisive and thoughtful rulings. He pens thorough opinions, even on such legal arcana as the legitimate use of errata sheets. Lawyers report that he is always prepared on the bench, has routinely read the materials and knows whether additional briefs or oral argument may be useful. He is uniformly appreciated for his diligence and hard work.

In response to question 37, “You would consent to proceed for all purposes before this magistrate judge,” practitioners, on a scale of 1 (strongly agree) to 4 (strongly disagree), answered, on average, 1.9.

On the intangibles, though, Judge Cole drew a mixed report. Most contacts report that the judge has a good judicial demeanor and is seen as fair and impartial. In particular, the judge was recognized by many for his demeanor, courtesy, and patience with litigants, including *pro se* parties. But among a steady minority of contacts, there were concerns expressed about the judge’s temperament. Some members of the bar detect professional annoyance, verging on arrogance, about lawyers whom the judge may see as underperforming. This has taken the form of unnecessarily unkind remarks from the bench and in opinions. Judge Cole is also reported to question the motives of lawyers without just cause.

On the whole, Judge Cole is a well-regarded judge who is off to a solid start. However, the Council encourages him to be mindful of the temperament concerns reported by a steady minority of those interviewed by the Council.

Judge Morton Denlow

Magistrate Judge Denlow graduated from Northwestern University School of Law in 1972. He was hired as an associate at the law firm D'Ancona & Pflaum and worked there for five years from 1972 to 1977. He was then hired as an associate at the firm Rosenthal & Schanfield where he worked for the next two years. From 1979 to 1984, he was a partner at Sachnoff & Weaver, Ltd. From 1984 to 1993, he was a partner at Dardick & Denlow. He returned to Sachnoff & Weaver from 1993 to 1996. He was sworn in as a United States Magistrate Judge in March 1996.

The overwhelming majority of attorneys interviewed praised Judge Denlow's overall performance. These positive assessments came from attorneys who had prevailed on motions or trials before Judge Denlow and from those who had lost. He was unanimously described as well prepared, hard working and very intelligent. Attorneys also had high ratings for his written opinions and the timeliness of those opinions. Regarding settlement conferences, attorneys had extremely positive views of his ability to settle cases and similarly praised him for the amount of time and effort he puts into settlement conferences.

Most attorneys also commented positively on Judge Denlow's practice of holding oral argument on substantive motions – an unusual practice in the Northern District of Illinois. However, a minority of attorneys commented that he holds too many such oral arguments which unnecessarily inflate the legal fees for their clients.

Almost all attorneys interviewed praised Judge Denlow's judicial temperament and many described him as professional, courteous and even-keeled. Many attorneys commented that they would have no objection to consenting to proceed before him. However, one attorney commented that she would not do so in an employment discrimination case due to a perception that Judge Denlow disfavors the filing of summary judgment motions in such cases.

In the Council's written survey, Judge Denlow received the best scores of any of the magistrate judges in each of the survey questions which addressed overall performance: "Overall, he/she is a good judge" (Question 32), "He/she would make a good United States District Judge" (Question 33), and "He/she would make a good United States Court of Appeals Judge" (Question 34). In response to question 37, "You would consent to proceed for all purposes before this magistrate judge," practitioners, on a scale of 1 (strongly agree) to 4 (strongly disagree), answered, on average, 1.6 -- the score that reflects the strongest agreement of any of the Magistrate Judges.

Based on the positive feedback received by the Council, Judge Denlow is clearly held in very high esteem by the active federal bar.

Judge Arlander Keys

Magistrate Judge Arlander Keys graduated from the DePaul University College of Law in 1975. After law school, he served as a trial attorney for the National Labor Relations Board, was regional counsel for the Chicago Region of the Federal Labor Relations Authority, and was an Administrative Law Judge with the Social Security Administration. He was appointed a United States Magistrate Judge in 1995, and served as the Presiding Magistrate Judge from 1998 to 2004.

Judge Keys is generally reported to have good legal ability and an excellent temperament. He is low-key and professional in his demeanor. While all lawyers we interviewed consider his written opinions as “more than adequate”, some lawyers say that he handles complicated matters with aplomb and that his written opinions reflect his ability to grasp even complex issues. He is known to be well prepared, reading all the papers and issuing decisions promptly.

He is said to handle his caseload well. He has good courtroom management skills, allowing lawyers to have their say, but maintaining control of the proceedings. He is praised for his fairness and impartiality.

He is even-tempered during settlement conferences, providing useful guidance to the parties but never forcing settlement. He asks the right questions of the lawyers during negotiations, and lawyers report that he will put in the time necessary to bring about a settlement.

Lawyers indicated they would have no problem consenting to have Judge Keys handle their case. In response to question 37, “You would consent to proceed for all purposes before this magistrate judge,” practitioners, on a scale of 1 (strongly agree) to 4 (strongly disagree), answered, on average, 2.1. Some lawyers said that he is qualified to be a full district court Judge.

Lawyers say generally that Judge Keys does his job well. He is considered to be a solid, well-respected judge.

Judge Michael T. Mason

Magistrate Judge Michael T. Mason graduated from John Marshall Law School in 1977. Thereafter, he served for 24 years with the Federal Defender Program, becoming its Chief Trial Attorney in 1986. In 2001, he was appointed a United States Magistrate Judge.

Practitioners most often described Judge Mason’s legal ability as very good to excellent. He is reported to understand legal issues presented to him and to devote the time to grasp complex or unusual legal issues. Lawyers generally give positive reviews to his written opinions, using terms such as “thorough,” “clear,” “concise” and “well-reasoned.” Those lawyers who do not rate Judge Mason’s legal ability and written work as highly nonetheless described it in terms such as “workmanlike” or “solid” and commented that he has good legal common sense. A very small number of dissenters found his legal analysis to be at times superficial.

He received particular praise for having strong administrative and communication skills. Judge Mason is very decisive, and a number of practitioners complimented him for routinely explaining the reasons for his rulings. He is said to “run a tight ship,” starting his court call on time, keeping his motion call moving, managing his schedule well, and disposing of matters and issuing rulings in a timely fashion. Many lawyers volunteered that despite the tight ship, he gives lawyers their say in court. He also is said to work well with his staff.

Lawyers uniformly also gave high praise to Judge Mason for his work ethic and diligence, noting that he is prepared for court sessions, reads everything, works hard, and does independent research prior to ruling.

Judge Mason’s integrity, judicial independence, and his respect for the rule of law are unquestioned. He is widely viewed as fair and impartial. Lawyers on both sides of criminal cases praised his impartiality, with prosecutors noting that he is fair to the Government despite his long career as a federal defender. He has not shown any pro-plaintiff or pro-defendant bias in civil cases and treats lawyers on both sides the same.

Judge Mason is generally complimented for his judicial temperament and courtroom demeanor. Common descriptions of his temperament included “even-handed,” “patient,” “considerate,” “courteous,” and “polite.” Some lawyers noted that he “really likes lawyers” and treats them courteously. Some lawyers disagreed, noting that he occasionally is “testy,” “brusque,” or “curt,” or appears frustrated or irritated in court. A few interviewed lawyers explained that Judge Mason’s usually pleasant demeanor towards lawyers can quickly change if he decides those lawyers are acting inappropriately.

Judge Mason received largely positive reviews for his handling of settlement conferences. Most lawyers found him to be very effective at helping settle cases, including cases involving difficult parties. They variously attribute his effectiveness to his preparation for conferences, even-handed pushing of both sides, patience, practicality and trustworthiness in keeping confidences. Several lawyers were less complimentary, commenting that he was not particularly effective because of his “mechanical” handling of a conference or his apparent disinterest in the case.

In keeping with the generally high ratings that Judge Mason received, most respondents said that they would give serious consideration to consenting to his presiding over their cases. A small number of lawyers said that they would not consent. In response to question 37, “You would consent to proceed for all purposes before this magistrate judge,” practitioners, on a scale of 1 (strongly agree) to 4 (strongly disagree), answered, on average, 1.7.

In sum, Judge Mason is well regarded by most practitioners for his performance in all of the tasks required of a magistrate judge.

Judge Nan R. Nolan

Magistrate Judge Nan R. Nolan graduated from the DePaul University College of Law in 1975. After law school, she served as a staff attorney for the Federal Defender Program in Chicago and

then worked in private practice, concentrating in criminal law matters. She was appointed a United States Magistrate Judge in 1998.

Judge Nolan is praised for her demeanor and her thoughtfulness in rendering decisions. She is described as deliberative in her analysis of issues and most say she is decisive once she takes the time to analyze the issues. Some lawyers, however, reported that she can be indecisive.

Her written opinions are respected, although some lawyers say that her analysis of the issues is not particularly rigorous. A few respondents complained that she sometimes takes too long to issue an opinion, yet all respondents find her to be a dedicated and capable magistrate judge.

Generally, the attorneys who were interviewed concluded that Judge Nolan is very impartial. Although the Council did receive reports that she has a "soft spot" for the underdog (generally a plaintiff or an individual), her rulings were not called into question based on any perceived bias.

Of those respondents having settlement conferences with Judge Nolan, all found her to be impartial and effective. She is especially complimented for her temperament which is described as "pleasant", "calming", "friendly", "approachable", and "respectful." Attorneys generally indicated that Judge Nolan does her job adequately and with very good temperament. She is viewed as competent and professional.

In response to question 37, "You would consent to proceed for all purposes before this magistrate judge," practitioners, on a scale of 1 (strongly agree) to 4 (strongly disagree), answered, on average, 2.2.

Judge Nolan is said to be a capable magistrate judge who is respected by the lawyers appearing before her.

Presiding Magistrate Judge Sidney I. Schenkier

Magistrate Judge Sidney I. Schenkier graduated from Northwestern University School of Law in 1979. After law school, he served as a Law Clerk to the Hon. Marvin E. Aspen, and then as a Bigelow Teaching Fellow at the University of Chicago Law School. He then practiced at Jenner & Block, where he specialized in a wide variety of complex civil litigation at both the trial and appellate level. He was appointed a United States Magistrate Judge in 1998.

Judge Schenkier is considered to have excellent legal ability. According to respondents, he grasps even complex issues immediately, analyzes issues carefully, and asks probing questions. He is described as a hard worker who reads and understands all the papers. He is also praised for his ability to facilitate settlements. He is able to identify the strengths and weaknesses of each party's case and pushes both sides equally toward settlement. Judge Schenkier is described as both very deliberative in his analysis and very decisive. His written opinions are timely and are described as well written and well reasoned. He is praised for his courtroom management skills.

Many lawyers described his temperament as respectful and professional, but others noted that he can be arrogant and impatient on the bench. Even these respondents, however, say that this

behavior does not affect his fairness to the parties, his judgment, or his effectiveness in resolving cases and issues.

In general, Judge Schenkier is described by respondents as very intelligent, impartial, and hard-working. He takes the time to do the job right, from reading all the briefs and filings in a case to studying unusual legal issues to putting in extra hours when necessary for a settlement conference. He runs a tight and efficient courtroom.

Many interviewed lawyers said that they would prefer to proceed before Judge Schenkier than before many of the district court judges. In response to question 37 in the written survey, “You would consent to proceed for all purposes before this magistrate judge,” practitioners, on a scale of 1 (strongly agree) to 4 (strongly disagree), answered, on average, 1.7.

On the whole, Judge Schenkier is a highly regarded judge.

Judge Maria Valdez

Magistrate Judge Maria Valdez graduated from the University of California Hastings College of Law in 1988. After law school, she worked as a federal public defender and was also in private practice. In 1992, she became a Senior Litigator with the Mexican American Legal Defense and Educational Fund, ultimately becoming its Regional Counsel. She was appointed a United States Magistrate Judge in 2005.

Judge Valdez is consistently praised for her work ethic and preparedness. Lawyers also generally describe her as even tempered, courteous, and of good legal ability. Her conduct of settlement conferences was described as effective, and is said to be getting better with more experience. Judge Valdez’ integrity is unquestioned. She is also generally described by lawyers as decisive.

Judge Valdez’s written opinions, however, were criticized by some attorneys as being unclear and not well-written. Other attorneys state that her written opinions have improved over time. Overall, lawyers report that Judge Valdez had much to learn when she was appointed to the bench, but that she has worked hard to overcome this learning curve and is becoming more confident in her dealings with lawyers appearing before her and is becoming increasingly well respected as a decisive, well prepared judge with the ability to make the right decisions.

In response to question 37, “You would consent to proceed for all purposes before this magistrate judge,” practitioners, on a scale of 1 (strongly agree) to 4 (strongly disagree), answered, on average, 2.3.

On the whole, Judge Valdez is generally described as having good ability and the potential to be an excellent judge.

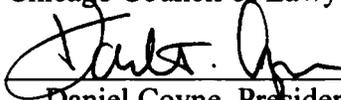
IV. Conclusion.

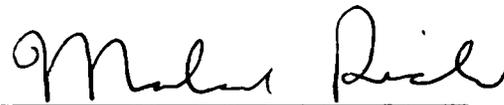
On the whole, the magistrate judges in Chicago are held in high regard by the lawyers who appear before them. Across the board, the magistrate judges are reported to be smart, hardworking, and impartial. Although the Council received some temperament-related complaints, it received absolutely no suggestions or hints of dishonesty, corruption, impropriety, or blanket disregard of the law by any judge.

To the extent that this evaluation contains negative feedback, the Council hopes that such feedback will be used as an opportunity for positive improvement. Conversely, by shining rare public light on the characteristics of the district's most highly regarded judges, the Council hopes that such characteristics will become benchmarks for all judges, at whatever level and whatever locale.

Respectfully Submitted,

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APPENDIX

Exhibit 1

The Telephone Interview Script Used In Connection With the Chicago Council
of Lawyers' Evaluation of U.S. Magistrate Judges in Chicago

SAMPLE FEDERAL EVALUATION SCRIPT FOR MAGISTRATE JUDGES

“I’m calling from the Chicago Council of Lawyers. We are currently evaluating federal magistrate judges sitting in Chicago. We found your name through either a LEXIS search of Judge X’s written opinions, or a list of lawyers generated by the District Court Clerk’s Office – lawyers who have appeared before one or more of the magistrate judges. (In the case of off-the-list contacts, “X recommended that we speak with you”). Do you have a few moments to discuss Judge X with me?”

After greeting the interviewee, assure him or her that all information given is confidential; names are only used in order to keep track of who has been contacted (see below).

At the beginning of the call, the interviewer should establish the amount of knowledge that the attorney has about the magistrate judge; ask if the attorney and the magistrate judge have any personal relationship; and determine the number of times the attorney has appeared before the magistrate judge, the nature of the cases, and whether the attorney won or lost.

You are not limited to these questions; do not accept one-word answers and try to get as much information as you can. If given a one-word response, ask “Can you explain that?” or “Can you provide an example of that?” You are also not required to ask each and every sub-question but should instead view them as a guide to help you obtain sufficient information and to prompt answers where an interviewee tends toward one- or two-word responses.

1. **Legal Ability:** What is your opinion of the magistrate judge’s legal ability? Is he or she a competent judge?
 - Does the magistrate judge have good communication skills?
 - Does the magistrate judge listen carefully?
 - Are the reasons for the magistrate judge’s rulings clear?
 - Does the magistrate judge seem to be abreast of current developments in the law?
 - Does the magistrate judge make effective use of pretrial procedures?
 - Does the magistrate judge clearly explain courtroom procedures to the involved parties?

2. **Settlement Conferences:** Did the magistrate judge handle a settlement conference or mediation in your case?

Was the magistrate judge effective in that settlement conference/mediation?

Did the magistrate judge devote sufficient time to the settlement conference/mediation?

Did the magistrate judge appear to push both sides equally? If not, was there a discernible basis for the different treatment (such as one side’s case was weaker, stronger, etc.?)

3. **Written Opinions:** Was there a written opinion in your case?
 - Was the opinion issued in a timely manner?
 - Was the opinion clearly written?
 - Was the opinion well written?
 - Did the opinion deal sufficiently with the issues presented in the case?
4. **Decisiveness:** Is the magistrate judge decisive? Does he or she make a decision and stick with it?
 - Does the magistrate judge make a deadline and stick to it?
5. **Diligence:** Describe the magistrate judge's overall work ethic.
 - Is the magistrate judge always well-prepared?
 - Is the magistrate judge attentive to evidence and arguments?
 - Did the court session start on time?
 - Does the magistrate judge manage his or her schedule well?
 - Were there any delays? Why? Were they explained?
 - Are matters disposed of in a timely manner?
6. **Integrity:** What have you observed about this judge's integrity?
 -
7. **Judicial Temperament:** How would you characterize the magistrate judge's temperament?
 - Is the magistrate judge even-tempered?
 - Is the magistrate judge courteous to all parties?
 - How does the magistrate judge treat pro se parties?
 - Does the magistrate judge deal well with stress and unexpected developments?
8. **Fairness:** Is the magistrate judge able to remain impartial at all times?
 - Does the magistrate judge treat all parties fairly, regardless of their race, gender, age, etc.?
 - Does the magistrate judge consciously act to reduce or eliminate words or conduct which manifest bias?
 - If there was inappropriate behavior on the part of anyone else, did the magistrate judge attempt to stop or correct it?
 - Does the magistrate judge remain neutral and impartial regarding all legal issues?
 - Does the magistrate judge remain neutral and impartial to all lawyers or parties?
 - Is the magistrate judge able to remain impartial at all times?
 - Were both sides given equal opportunity to present their case?
9. **Respect for the Rule of Law:** Do the magistrate judge's rulings follow the law?

10. **Independence from Political and Institutional Influences:** Is there any indication that the magistrate judge is susceptible to outside influences?
 - Is there any evidence of the magistrate judge's political leanings in his or her conduct or writings?
11. **Consent to proceed.** Would you consent to proceed for all purposes before this magistrate judge?
 - Why?
 - Why not?
12. **Catch-all.** Is there anything else that you believe is important or that you would like to tell me about your experiences with or opinions of this magistrate judge?

In some instances follow-up calls should be made in order to determine if negative reports of a serious nature have any validity.

CONFIDENTIALITY

Please keep in mind that the Council's evaluation process is confidential. Names of investigators will be used internally for record-keeping purposes but will not otherwise be disclosed. Similarly, any information gathered may become part of the Council's evaluation process, or may be used for further investigation of a judge, but any details that would reveal its source will be removed.

ABOUT THE COUNCIL

If you are asked what the Council is:

The Chicago Council of Lawyers is a public interest bar association founded in 1969 to address inadequacies in the legal system. Focusing on the administration of justice, the Council strives to achieve effectiveness, accountability, and equity in the law. The Council began evaluating state court and federal district court judges in 1970.

You may also direct the interested to our website at www.chicagocouncil.org.

Exhibit 2

The Chicago Council of Lawyers' 2006 Written Survey Regarding the
Performance of U.S. Magistrate Judges in Chicago and Accompanying Cover Letter

Chicago Council of Lawyers

Dear Lawyer:

The Chicago Council of Lawyers requests your cooperation in evaluating the performance of the sitting United States District Court Senior Judges and Magistrate Judges in Chicago. You have been selected as a respondent because of your membership in the Federal Trial Bar. We have enclosed a questionnaire for you to complete, along with an extra sheet for you to use in giving us your written feedback on any of the federal judges. Your responses will be used anonymously!

This is the sixth survey conducted by the Council. Our most recent survey was conducted in 2005 regarding the United States District Court Judges in Chicago. You can find and download a copy of the resulting report on our website, www.chicagocouncil.org. You can also contact our office to request a copy of the report (312-988-6565). Our previous surveys received nationwide attention as unique assessments of the federal courts. The results of this survey will inform the judges of the bar's opinion about their strengths and about areas where the bar perceives each judge could improve.

This survey will serve several purposes. First, it will give judges feedback not readily available. This will enable them to consider changing their practices in areas where members of the bar have concerns. Second, the survey will provide information to other lawyers and to the public about the performance of each judge and of the court as a whole. Finally, the survey will provide a method of assessing whether the proper persons are being selected for the bench. By reviewing the survey as a whole, and comparing it to the Council's prior surveys, those responsible for choosing and approving federal judges in Chicago will have information about the quality of those chosen for the bench.

We hope you will participate in this project and do so at your earliest convenience. The tabulation of the responses will serve a constructive purpose only if there is a broad base of participation. For statistical purposes please answer the final questions on your background and return the questionnaire even if you do not feel qualified to rate any of the Judges or Magistrate Judges. Please reply by November 21, 2006.

A stamped reply envelope has been enclosed for your convenience in returning the questionnaire to us. If you have any questions, please call the Council's Executive Director, Malcolm Rich, at (312) 988-6552. We appreciate your cooperation.

Very truly yours,

Michael W. Early
Co-Chair, Federal Judicial Evaluation Committee

Peter A. Steinmeyer
Co-Chair, Federal Judicial Evaluation Committee

INSTRUCTIONS

The first three survey questions ask how much, and what kind of, personal experience you have had before the senior district judges and magistrate judges about whom we are surveying. The next questions relate to integrity, judicial temperament, legal ability, decisiveness, diligence and overall evaluation of the judges. Please answer as many of the following questions as you can for each judge. Each of your answers should be based solely upon your personal observations within the past five years. Please do not base your answers on the opinions

of other lawyers which you may have heard.

The questions ask the degree to which you agree with favorably phrased statements about each judge. Agreement will indicate a favorable assessment of the particular judge on a given characteristic and disagreement will indicate an unfavorable assessment. If you do not have sufficient personal experience to provide an informed opinion about a given characteristic of a particular judge, please leave the appropriate

Response for that question blank. If you have sufficient personal experience within the past five years but have no opinion about one or more characteristics, please respond with the letter "N" to indicate "no opinion."

On the last page, there is a short series of questions about your background and an extra sheet has been provided for your optional comments about specific judges.

Thank you for your cooperation.

	Aggregate Average	Magistrate Judges	
	Aggregate Average	Martin C. Ashman Geraldine Soat Brown Jeffrey Cole Moton Denlow Alexander Keys Michael T. Mason Nan R. Nolan Sidney L. Schenkier Maria Valdez	
Your Experience Before Each Judge 1. State the number of trials and/or evidentiary hearings in which you have actively participated before each judge during the past five years. 2. State the approximate number of contested motions in which you have actively participated before each judge in the past five years. 3. State the approximate number of mediations or settlement conferences in which you have actively participated before each judge in the past five years.			
Integrity (1-strongly agree, 2-mildly agree, 3-mildly disagree, 4-strongly disagree, N-no opinion) 4. His/her rulings are not influenced by the identity of the lawyers and parties involved. 5. His/her rulings in criminal cases are free from any predisposition to decide for either government or defense. 6. His/her rulings in civil cases are free from any predisposition to decide for either plaintiff or defendant.			

Exhibit 3

The Results of the Chicago Council of Lawyers' 2006 Written Survey
Regarding the Performance of U.S. Magistrate Judges in Chicago

	Magistrate Judges								
	Martin C. Ashman	Geraldine Soat Brown	Jeffrey Cole	Morton Danlow	Alander Keys	Michael T. Mason	Nan R. Nolan	Sidney L. Schenkier	Maria Valdez
Your Experience Before Each Judge	1.3	1.3	1.3	1.4	1.6	1.5	1.9	1.6	0.8
1. State the number of trials and/or evidentiary hearings in which you have actively participated before each judge during the past five years.	1.3	1.3	0.7	1.4	1.6	1.5	1.9	1.6	0.8
2. State the approximate number of contested motions in which you have actively participated before each judge in the past five years.	2.9	3	3.6	1.8	2.7	2.9	3.4	3.2	1.8
3. State the approximate number of mediations or settlement conferences in which you have actively participated before each judge in the past five years.	1.1	1.3	1.3	0.9	1.1	1.1	1.1	1.4	0.6
Integrity (1-strongly agree, 2-mildly agree, 3-mildly disagree, 4-strongly disagree, N-no opinion)									
4. His/her rulings are not influenced by the identity of the lawyers and parties involved.	1.3	1.2	1.5	1.3	1.2	1.3	1.4	1.3	1.5
5. His/her rulings in criminal cases are free from any predisposition to decide for either government or defense.	1.5	1.2	1.8	1.4	1.7	1.4	1.3	1.8	1
6. His/her rulings in civil cases are free from any predisposition to decide for either plaintiff or defendant.	1.3	1.4	1.4	1.1	1.3	1.3	1.3	1.1	1.5

7. His/her awards of attorney's fees in appropriate cases and fees to court-appointed trustees and similar appointees are fair and reasonable.	1.3	1.1	1.7	1	1	1.5	1.4	1.1	1	2
8. He/she refrains from ex parte communications.	1.1	1	1.2	1.3	1	1.1	1.2	1.2	1	1.1
Judicial Temperament (1-strongly agree, 2-mildly agree, 3-mildly disagree, 4-strongly disagree, N-no opinion)										
9. He/she is courteous toward lawyers and litigants.	1.3	1.2	1.7	1.4	1.1	1.2	1.6	1.1	1.4	1.1
10. He/she conducts court proceedings with appropriate firmness.	1.3	1.1	1.5	1.4	1.1	1.3	1.3	1.6	1.3	1.3
11. He/she gives due consideration to the convenience of lawyers and litigants in scheduling proceedings.	1.2	1	1.4	1.2	1.1	1.1	1.2	1.1	1.3	1.1
12. He/she refrains from prejudging the outcome of a case during pretrial or early trial proceedings.	1.4	1.2	1.6	1.3	1.2	1.4	1.4	1.4	1.2	1.5
13. He/she effectively assists the parties to reach settlement.	1.6	1.6	1.7	1.5	1.3	1.6	2.1	1.7	1.5	1.1
14. He/she refrains from coercing settlements.	1.4	1.5	1.4	1.3	1.2	1.3	1.4	1.4	1.3	1.4
Legal Ability (1-strongly agree, 2-mildly agree, 3-mildly disagree, 4-strongly disagree, N-no opinion)										
15. He/she understands the issues in complex cases.	1.5	1.4	1.6	1.3	1.3	1.7	1.7	1.7	1.8	1.6

