

# STATE OF FLORIDA

## Division of Administrative Hearings



### 2007-2008 Annual Report of the Office of the Judges of Compensation Claims

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## **The OJCC Mission:**

To maintain a statewide mediation and adjudication system for the efficient and timely resolution of disputed workers’ compensation claims.

## **Introduction:**

This report of the Office of the Judges of Compensation Claims (“OJCC”) is published pursuant to Fla. Stat. §440.45(5).<sup>1</sup> The OJCC continued to make unprecedented strides during fiscal 2007-08. The collective and individual achievements of this Office are described herein. The OJCC remains focused on training, teamwork, responsibility, and public service. The OJCC has provided significant continuing education opportunities for Judges, Mediators and staff in 2007-08. These included two cooperative efforts with The Florida Bar Workers’ Compensation Section. The Section Executive Committee and Judges participated in a Joint educational seminar

on professionalism in August 2007. The Section presented multiple excellent “lunch and learn” seminars throughout the year, and offered those at no cost to the Judges. Teamwork between the OJCC and the Executive Council resulted in tuition-free opportunities being offered to the OJCC Mediators also. Teamwork remained a key component of OJCC success with volunteer Judges hearing cases as visiting Judge in Miami, Ft. Lauderdale and Lakeland, which are high-volume districts. This “visiting Judge” illustrates a dynamic team approach to varying caseloads. In 2007-08 the OJCC undertook the additional process of transferring settlement and fee stipulation issues from the Miami and Ft. Lauderdale Districts to maximize those Judges’ available time for the adjudication of disputes.

These processes have again produced significant gains in the OJCC’s ability to provide accurate and accessible information to Judges, Mediators, and the public. The OJCC has rededicated itself to consistently recognize that injured workers, their employers, and the counsel that represent them are the purpose of this Office. The 2006-07 OJCC rededication to the OJCC Mission, and service to the public, continued in 2008. The results of this effort are numerous, marked, and objectively verifiable. Notably, the OJCC achievements documented herein resulted from continued careful and diligent management of existing fiscal resources. The expertise and dedication of the Division of Administrative Hearings staff and leadership makes continuous and immeasurable contributions to the success of the OJCC.

## **Overview of Florida Workers’ Compensation:**

The OJCC is part of the Division of Administrative Hearings, referred to throughout this Report as DOAH. The 2005-06 Annual Report of the Office of Judges of Compensation Claims<sup>2</sup> (OJCC) outlines the interrelationship between the OJCC, the Division of Workers’ Compensation<sup>3</sup> (DWC), and the Department of Financial Services (DFS). The OJCC structure is also further discussed in that report, as is the historical background of this Office.

Florida Workers’ Compensation is a self-executing system defined by Chapter 440, F.S.<sup>4</sup> The purpose of workers’ compensation is to provide individuals injured at work with certain defined benefits for the treatment of the resulting medical condition(s) and for replacement of a portion of the wages lost as a result of the accident. Chapter 440, F.S. defines who participates in the workers’ compensation system, and delineates the participant’s rights and responsibilities. The primary participants in this system are Florida’s employers and their employees. Some employers purchase workers’ compensation insurance from a “carrier.” These are therefore often collectively referred to as the “employer/carrier” or the “E/C.” Other employers are “self-insured,” but have their claims administered or managed by an outside entity, commonly called “servicing agents.” These are therefore often referred to collectively as “E/SA.” For the purposes of this report, references to E/C should be interpreted to refer to employers, carriers, and servicing agents collectively, unless some distinction between insured and self-insured is specifically stated. The OJCC mission is centered on the processing, mediating, and adjudicating of disputes regarding benefits allegedly due to such injured workers. The litigation process for most Florida workers’ compensation disputes begins with the filing of a pleading called the petition for benefits, or “PFB.” That term is used extensively in this report. This and other terms are defined in the Glossary, page 43.

## **Data Collection and Reporting:**

This report is produced and published pursuant to statutory mandate. Fla. Stat. §440.45(5). The data in this report is dependent for accuracy upon the efforts of district staff working in seventeen counties throughout Florida. The 2005-06 OJCC Annual Report describes prior data flaws resulting from outdated hardware, outdated software and long neglect of staff training prior to the transfer of the OJCC to the DOAH in 2001. In fiscal year 2006-07, the OJCC devoted significant resources to staff training in order to enhance the accuracy of that data entry. Those efforts are described in detail in the 2006-07 OJCC Annual Report, and included publication of an illustrated user manual, central training and regional training. That report documents that the OJCC faced less than unanimous acceptance of the uniformity goals described. In fiscal 2007-08, additional resources were devoted to the goal of compliance with published standards and the uniformity of data entry. In Fiscal 2007-08 there were no discernable patterns of inappropriate data entry, and it is believed that the long-sought uniformity has been achieved.

The OJCC has successfully tuned and adjusted the data collection process through accurate data entry. The programming efforts directed towards accurate portrayal of that data are described in The 2006-07 OJCC Annual Report. It is believed that all non-conforming data interpretation and representation practices have been addressed both programmatically and in policy. The OJCC remains committed to minimizing errors and maximizing accuracy of the published data reflecting Florida's workers' compensation litigation system.

## **OJCC Achievements 2006-07:**

During 2007-08, the OJCC:

### District Office Enhancements:

- Renovated 13,000 square foot state-of-the-art premises for the Miami District Office.
- Renovated state-of-the-art premises for and relocated Tallahassee District Office.
- Renovated the OJCC Clerk's Office to decrease space and conserve funds.
- Renovated the West Palm Beach District for security and Video-teleconferencing.
- Renovated the Daytona District to accommodate Video-teleconferencing.
- Deployed Automated External Defibrillators (AED) in all Districts.

### Video Teleconferencing Trial (VTC) Capabilities:

- Started the year with access available in Tallahassee, Tampa, Ft. Lauderdale and Orlando.
- Installed VTC equipment in:
  - Jacksonville
  - Daytona
  - West Palm Beach
- Further installs planned to occur in 2008-09

### Electronic Filing:

- Presented e-filing seminars at two Florida Workers' Compensation Institute events.
- Presented e-filing seminars at multiple law firms.
- Presented e-filing seminars at carriers.
- Deployed a searchable database of trial orders powered by Google.

### Visiting Judges:

- Provided visiting Judges to Lakeland District.
- Provided visiting Judges to Ft. Lauderdale District.
- Provided visiting Judges to Miami District.
- Provided visiting clerk assistance to Miami District.

### Internal Education:

- Conducted a Joint Professionalism Seminar with The Florida Bar for Judges and Workers' Compensation Executive Committee members.
- Provided staff training in Cardiopulmonary Resuscitation.

### Public Education:

- Provided real-time website translation from English to Spanish
- Continued positive dialogue with Florida Bar WC Section.

### Management Tools:

- Re-districted, moving Okeechobee and Indian River Counties to Melbourne District.
- Published Judicial Performance Statistics to the JNC.
- Deployed a Judicial Survey with The Florida Bar.

## **Electronic Filing Initiative:**

In fiscal 2005-06, the Office of the Judges of Compensation Claims (OJCC) began development of an electronic filing (“e-filing”) program designed to facilitate inexpensive and efficient filing of pleadings in workers’ compensation disputes. This program, called “e-JCC” is accessed on the Internet, through the OJCC website: [www.fljcc.org](http://www.fljcc.org). Between its inception in November 2005 and June 30, 2007 system use grew to 358 filings per day (business days). The OJCC aggressively marketed e-JCC at the 2007 Florida Workers’ Compensation Institute, and thereafter at individual law firms and carriers. Through promoting the value of e-JCC and because of the innovative web-training developed in 2006-07, filing growth was exceptional in 2007-08. In June 2008, e-JCC filings had reached 1,069 daily (business days), an almost 200% increase.

In 2006-07, the OJCC developed “web-forms” to allow attorneys to create and e-file a petition for benefits (PFB) or Request for Assignment of Case Number, or “RACN” online. A similar form was designed and deployed to allow adjusters to e-file responses to petitions for benefits. The benefits of these forms include uniformity, cost savings for attorneys and carriers, and cost and time savings for the OJCC. These benefits are further described in the 2006-07 OJCC Annual Report.

The calculation methods used to quantify savings are also detailed in the 2006-07 OJCC Annual Report. Using the minimum filing costs associated with a pleading to quantify user-savings, and minimal payroll positions to quantify OJCC savings, the OJCC tracks an aggregate savings generated by use of e-JCC. Through the end of fiscal 2007-08, e-JCC had resulted in total savings of \$377,179.00. This includes direct savings of \$137,116.71 to attorneys and carriers and savings of \$240,062.90 to the OJCC.

The OJCC planned to deploy electronic service (“e-Service”) of pleadings in fiscal 2007-08. The details of this program are described in the 2006-07 OJCC Annual Report. Unforeseen programming and system architecture issues delayed the deployment of this innovation. In short, this process will allow OJCC staff to serve orders on the attorneys via electronic mail. This will result in significant postage, paper and envelope savings to the OJCC. Despite the unexpected delay in deployment of the automated process, several Judges began the process manually in fiscal 2006-07, using existing resources. This adaptive use of email resulted in significant postage savings despite being deployed in a minority of Districts. Deployment of the automated process is anticipated to save the OJCC approximately \$300,000.00 per year. The deployment of e-service by the OJCC will be followed by a similar program to allow counsel to electronically serve pleadings upon each other. This innovation will result in further savings to practitioners, and ultimately to Florida’s employers and employees. Postage rates will undoubtedly continue to increase; therefore, past e-JCC savings fail to fully illustrate the ultimate value provided by this innovation.

Thus, deployment of the e-JCC platform has already resulted in significant savings to the practitioners and parties in workers’ compensation disputes. The addition of e-service in 2008-09 is expected to significantly increase those paper, postage and envelope savings. The resulting time savings for attorneys, attorney staff, adjusters, and OJCC district office personnel are likely even more significant, yet harder to quantify. Therefore, although the foregoing calculated savings are significant and impressive, they represent only a fraction of the overall benefits to the Florida workers’ compensation system of the current e-JCC platform and planned improvements.

## **NUMBER OF LITIGATED CASES:**

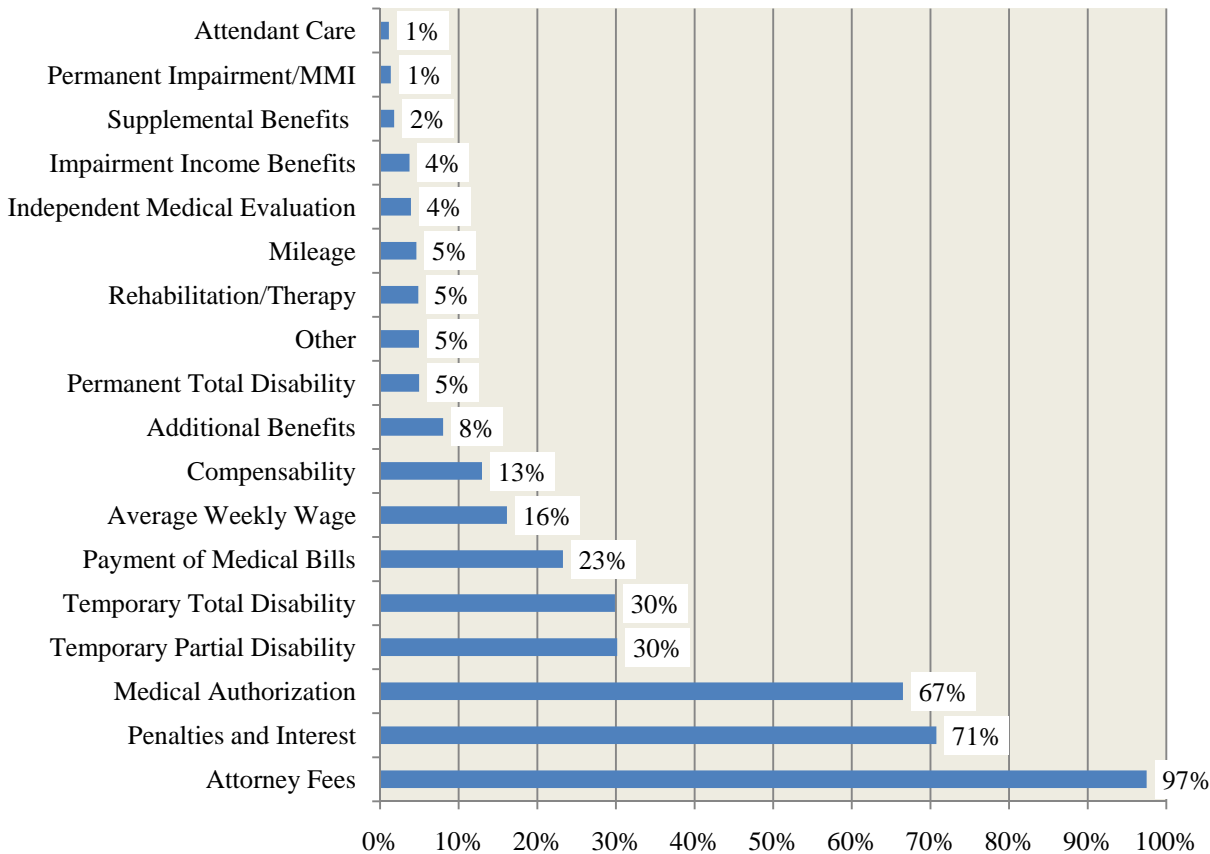
It is difficult to ascertain with absolute certainty how many “cases” are in litigation at a given moment in time. The difficulty results in part from the data entry compliance issues discussed in prior annual reports ([www.fljcc.org](http://www.fljcc.org)). Extensive training and compliance efforts have resulted in an unprecedented level of confidence in the figures expressed herein. An ongoing issue complicating precise calculation of litigated “cases” is the lack of definition for “cases.” The overall number of PFBs filed annually or the number of “new case” PFBs filed annually are each arguably valid methods by which the volume of litigated cases may be measured. Because there are merits



regarding the efficacy of each of these measures, the OJCC calculates both. The number of litigated cases filed has decreased in recent years whether measured in PFB volume or “new case” volume.

In measuring the number of "litigated cases," the OJCC has elected to utilize the most common pleading that instigates litigation, the PFB. A particular PFB may contain a single "claim," e.g. for a specific singular benefit, or may contain multiple claims for several benefits.<sup>5</sup> OJCC jurisdiction can also be invoked for determination of issues through certain motions. Although these motions<sup>6</sup> also represent “litigated” cases, it is believed that cases instigated by PFB filing effectively represent litigation volume trends statistically, despite the exclusion from this total of the significant volume of work presented by attorney fee issues.

The gross, or “overall,” number of PFBs filed during a given period is one valid volume measure. In considering the significance of this measurement, the serial nature of Florida Workers’ Compensation (“WC”) litigation must be considered. Once an accident occurs, an injured worker may immediately begin filing PFBs and could theoretically file a PFB for each and every benefit that is ultimately received by that injured worker. In such a case, a particular accident might generate tens of PFBs filed over many years before the claim is ultimately resolved and closed. Conversely, an injured worker may receive benefits administratively from the employer or carrier for many years and then ultimately file a solitary PFB seeking a singular benefit. The potential volume of PFBs in any particular case may fall anywhere on the spectrum between these two potential extremes. A PFB may seek a single benefit, such as authorization of a physician; such a PFB usually will also include a claim for attorney fees and costs associated with obtaining the benefit. A PFB might claim indemnity (income) benefits, either with or without a simultaneous claim for medical care. When PFBs are received by the OJCC clerk, the categories of benefits are coded into the JCCA database. Over the last five years, this chart depicts the average frequency of claims for these issues within PFBs filed.



Additionally, the OJCC has identified a practice, employed by a minority of attorneys, in which multiple PFBs are filed in the same case on the same date, or sequential days.<sup>7</sup> This practice, referred to herein as “replicate petitions,” may artificially inflate the volume of PFBs. For example one Judge may receive three single-issue PFBs in one case, while another Judge simultaneously receives one three-issue PFB in another case. Each JCC has had

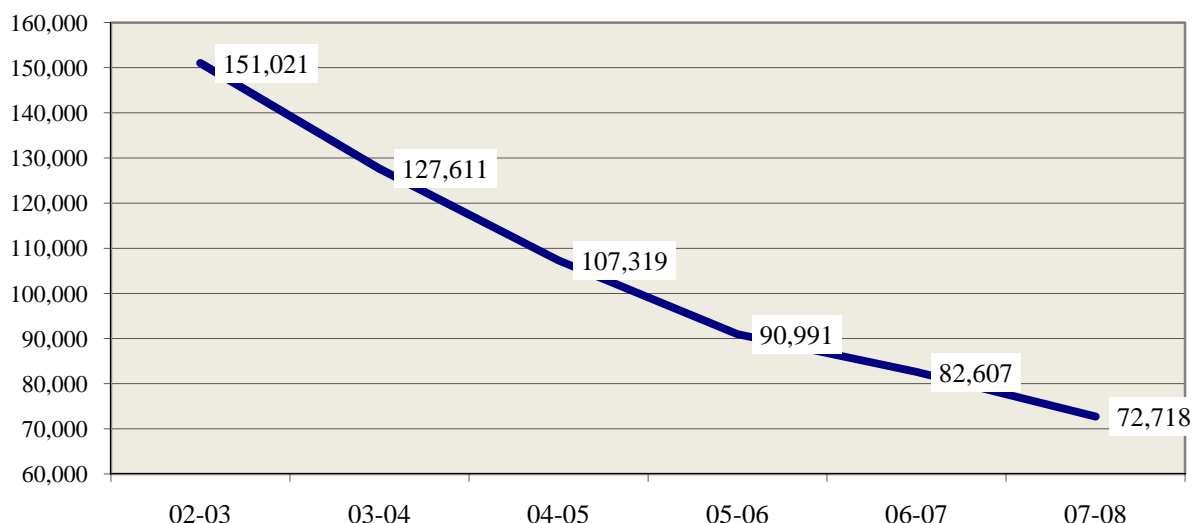
three issues added to her or his workload; in this example there is no distinction between the one PFB and the three. In this example the volume of work for each of the two JCCs is similar or identical, but reliance upon only gross PFB volume could lead one to the erroneous conclusion that one JCC has received three times the work and responsibility. Some such filings are necessary, for example the situation of an injury in which the responsible employer may not be clear. In those instances, the Claimant may have to file an identical petition against multiple potential employers, such as the nominal employer, a contactor and a general contractor. However, other instances defy logic, and the rationale for filing multiple petitions on the same date is inexplicable. Thus, measuring the total volume of PFBs necessarily includes instances in which more than one PFB is filed in one particular claim. The total volume of PFBs filed during any particular year measures PFBs that relate to dates of accident during that fiscal year, including PFBs related to dates of accident occurring years or even decades in the past. Therefore, PFB volume alone may not accurately portray the volume of litigation in the WC system (see endnote 6). For 2007-08 the OJCC reports the overall petition filing volume, the “adjusted” petition volume which excludes these redundant petitions, and the new case volume as described below.

Equally valid for defining “litigated cases” is the measure of “new case” PFBs. This measure considers only the PFBs filed in cases in which no PFB had previously been filed. This measure isolates the volume of “new” litigation being filed during any particular year. This measure may be a more accurate indicator of the effects of statutory changes on litigation volume. However, this measure may not fairly represent the volume of new work being assigned to a particular JCC because each PFB must be processed and potentially mediated and heard, regardless of whether it is filed in a new case or an existing case. Therefore, the OJCC reports both of these volume measures.

**Gross PFB Filing:**

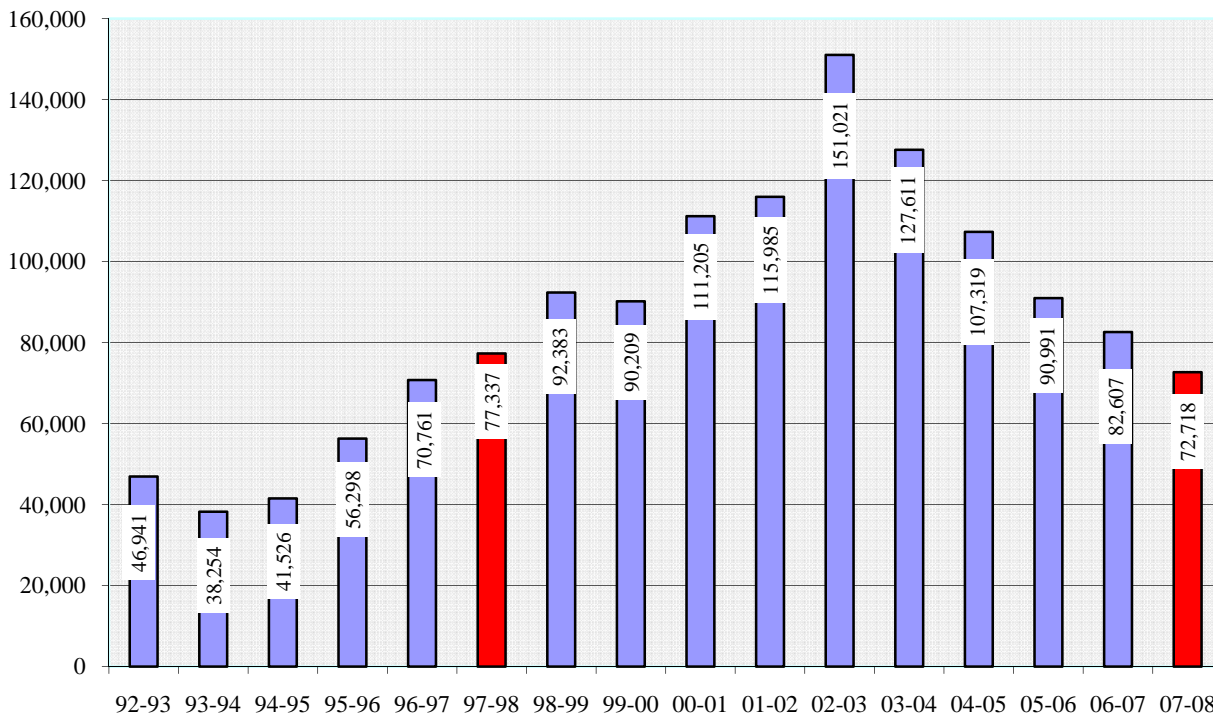
The Florida Legislature enacted significant amendments to the Florida Workers’ Compensation Law in 1994 and again in 2003. Following the 2003 reforms, the volume of PFBs filed with the OJCC decreased at a reasonably consistent annual rate of approximately fifteen percent (15.21% to 15.9%) over each of the next three years. PFB filing volume continued to decline in 2006-07; however, the rate of decrease slowed to approximately nine percent (9.21%). In 2007-08, the rate of decrease (12%) was more significant than the year before, but less than the decrease rates from 2003-04 through 2005-06. The cumulative decrease in overall PFB filings between fiscal 2003 and fiscal 2008 has been approximately fifty-two percent (51.85%).

Fiscal Year	PFBs Filed	% Change
2001-02	115,985	
2003-03	151,021	30.2%
2003-04	127,611	-15.5%
2004-05	107,319	-15.9%
2005-06	90,991	-15.2%
2006-07	82,607	-9.2%
2007-08	72,718	-12.0%





Interestingly, workers' compensation premiums have decreased significantly since the passage of reforms in 2003. The cumulative decrease is approximately 58%.<sup>8</sup> In that same time period, PFB filings have decreased approximately fifty-two percent (51.85%). The steady decrease in overall PFB filing since the passage of Bill 50A in 2003 is further illustrated in the following graph. The decreases since 2003 must be considered in conjunction with the marked increase of approximately thirty percent between 2001-02 and 2002-03. The available data supports that PFB filing rates increased less dramatically in the years prior to 2002-03, and that the volume of PFB filed that year represented a marked upward and singular deviation from the PFB filing trend overall.

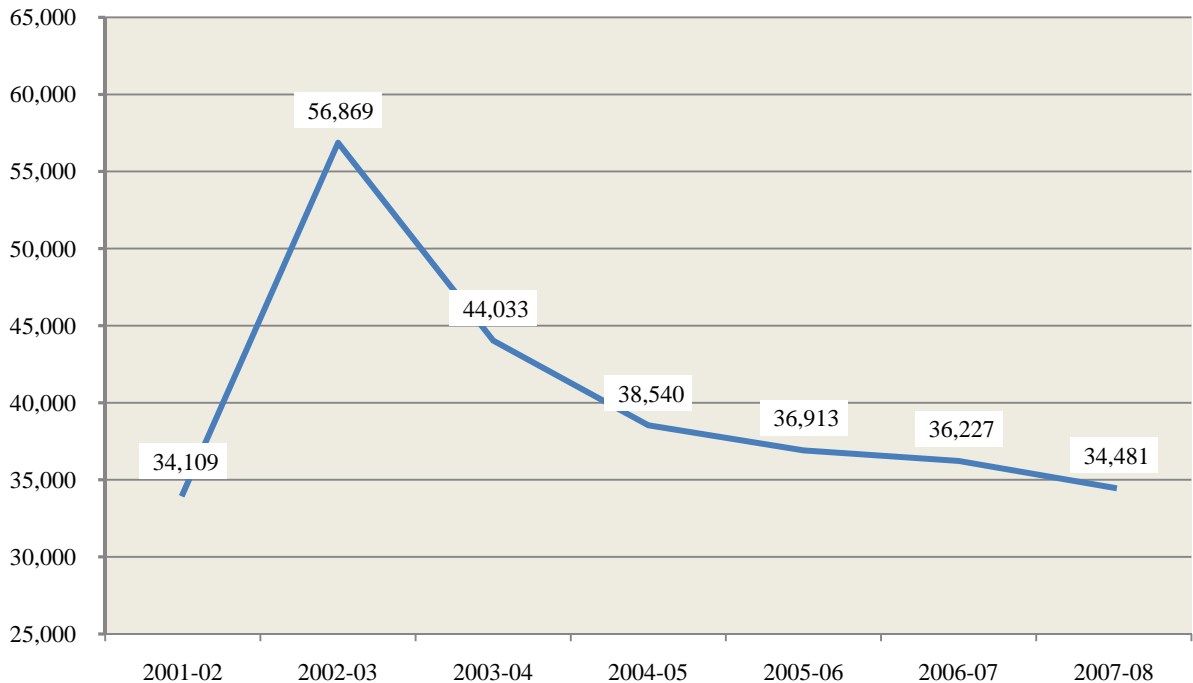


Prior to the transfer of the OJCC from the DLES to the DOAH, data was compiled by the DLES regarding PFB filing. The reliability of these statistics can no longer be independently verified.<sup>9</sup> Some question of the validity of these figures is raised by the fact that the PFB process was not added to Chapter 440, F.S. until the 1994 statutory amendments, and that the DLES figures nonetheless reflect PFB filing prior to that time. This could be indicative of an actual flaw in the data, or the figures prior to 1994 may represent the filing of “claims for benefits.” Prior to the PFB process, “claims” were filed to put an E/C on notice of a dispute, but the jurisdiction of the OJCC was not invoked until an “Application for Hearing” was filed. The PFB is therefore effectively a combination of the prior “claim” and “application.” Because of this distinction, it may or may not be appropriate to compare “claim” filing to PFB filing. As reported by the DLES through 2001, and thereafter by the DOAH, this graph illustrates the volume of PFB filing since 1992. Presuming the accuracy of these FDLES numbers, the 2007-08 PFB filing rate (72,718) is the lowest volume since 1997-98. The decrease rate of PFB filing slowed in fiscal 2006-07 following three consecutive years of approximately fifteen percent annual decreases. Despite slowing in 2006-07, that decrease of approximately nine percent (9.21%) was significant in itself. The more robust decrease rate of twelve percent in fiscal 2007-08 must be considered in context. While it is 3% greater than the decrease rate for the previous fiscal year (2005-06) it is likewise 3% less than the approximate 15% decrease rates in the three fiscal years immediately following the 2003 statutory reforms (2003-04, 2004-05 and 2005-06).

## New Case Filing:

The volume of "new cases filed" has been monitored only since the OJCC became part of the DOAH in October 2001. The term "new cases filed" refers to the volume of PFBs filed, which represent the first time a PFB is filed in the history of that particular accident. Workers' Compensation cases often involve the litigation of multiple, serial PFBs over the course of years. The rate at which "new cases" are filed is indicative of the rate at which discrete cases are entering the OJCC litigation process, and is not affected by the serial nature of PFB filing. This is the inverse of the volume of settlements approved in a year, which is similarly somewhat statistically indicative of the rate at which cases are leaving the OJCC litigation process. The "new case" measure may arguably be a more accurate indicator of the effect of legislative changes to the substantive benefits provided to Florida employees through Chapter 440, F.S. However, a "new case" filed in 2007-08 could involve an accident that year, or could involve an accident that occurred years prior, even prior to the 2003 statutory amendments. It is possible that an injured worker might receive all benefits due, without any need for litigation, for many years following a work accident. The OJCC has not attempted to delineate the age of accidents that enter the OJCC system as "new cases" each year. The volume of "new cases" filed has also declined since the 2003 statutory amendments, but at a generally slower and less consistent rate than the decrease in PFB filings generally. The following graph depicts the declining rate of "new case" filings with the OJCC.

Fiscal Year	New Cases Filed	Percentage Change
2001-02	34,109	
2002-03	56,869	66.73%
2003-04	44,033	-22.57%
2004-05	38,540	-12.47%
2005-06	36,913	-4.22%
2006-07	36,227	-1.86%
2007-08	34,481	-4.82%



These figures support that "new cases" increased significantly between 2001-02 and 2002-03, as did the overall PFB filings discussed above. Notably, the gross volume of PFB filed in 2007-08 has decreased well below the overall PFB rate filed in 2001-02, while the "new case" volume has not yet returned to the level filed prior to 2002-03. This comparison supports that overall petition filing volume has demonstrated more elasticity than the "new case" volume.

The volume of “new cases” filed could also be expressed as a percentage of the gross volume of PFBs filed during the same time period. That is a different measure in that it compares the relationship of the volume of “new cases” filed to the overall volume of PFBs filed, which has demonstrated greater elasticity, as discussed above. This comparison demonstrates that the percentage of all PFBs that were “new cases filed” remained fairly consistent in fiscal 2003-04 (34.5%) and 2004-05 (35.9%), but notably increased in 2005-06 (40.6%) and 2006-07 (43.9%). That trend continued in 2008, with “new cases” approaching half of total petition volume. If “replicate” petitions are not considered, as discussed further below, then “new cases” exceed half of the total petition volume. These comparative percentage increases in “new cases,” in light of the relatively slow rate of decrease in the raw volume of “new cases,” result primarily from the slow decrease in “new cases” compared to the more significant decrease in PFB overall. In fiscal year 2001-02, new cases were approximately thirty percent (29.4%) of the overall PFB volume. In fiscal 2007-08 that percentage had increased to approximately forty-seven percent (47.4%), as represented in this table. Thus, in the overall analysis, OJCC resources are devoted increasingly to cases that are new to the litigation process. It is possible that greater attention to these “new cases” will result in earlier resolution of issues therein, and eventually facilitate greater self-execution of the system in those cases and further decreases in litigation generally.

Fiscal Year	PFBs Filed	Cases Filed	New/filed
2001-02	115,985	34,109	29.4%
2003-03	151,021	56,869	37.7%
2003-04	127,611	44,033	34.5%
2004-05	107,319	38,540	35.9%
2005-06	90,991	36,913	40.6%
2006-07	82,607	36,227	43.9%
2007-08	72,718	34,481	47.4%

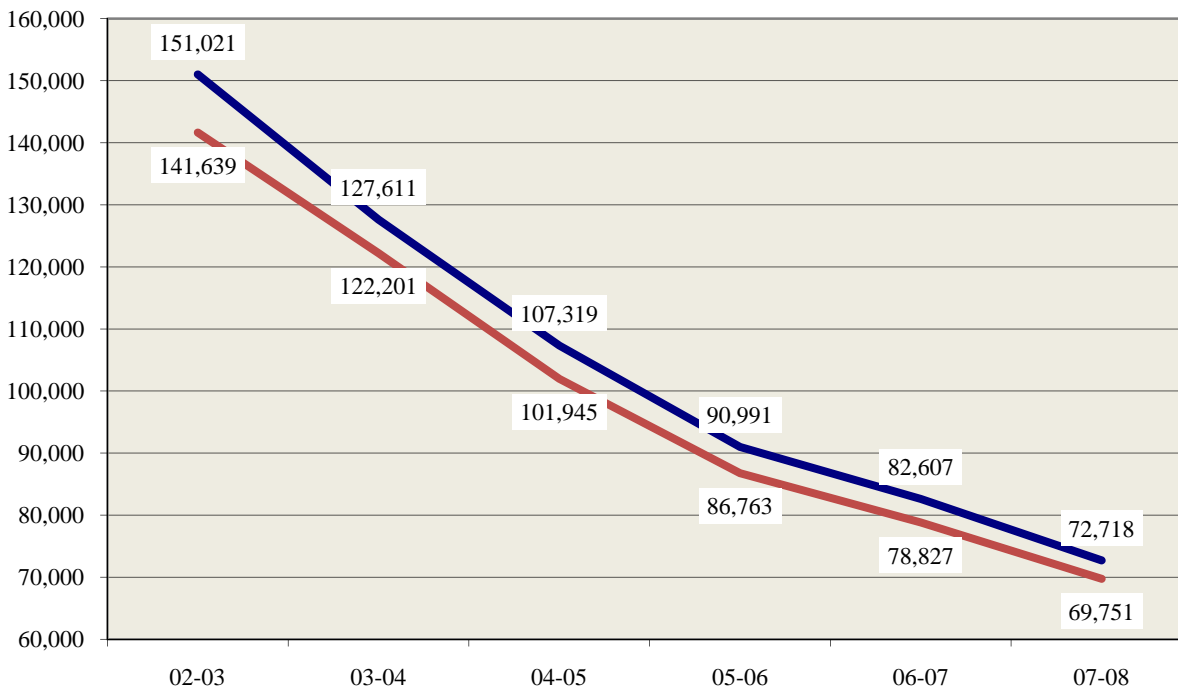
In summary, the available data supports several conclusions. First, the overall PFB volume continues to decrease at a reasonably steady rate, which slowed somewhat in 2006-07, but has accelerated again in 2007-08. The volume of “new cases filed” has also decreased since 2003, but at a much slower rate. The 2007-08 filing rate for “new cases” has decreased more slowly. As a result, currently a greater proportion of current PFB filings are “new cases.”

**Petition Replication and Duplication:**

As discussed briefly above, there has been some tendency of attorneys to file multiple “single issue” PFBs in a particular case on a particular date. A PFB for benefits may include as many discreet issues as a Claimant elects to plead. Some issues, that are ancillary to other benefits, are likely to be included in a single PFB. For example, claims for costs or attorneys fees for obtaining a change of physician are normally plead in the same PFB that asserts that change of physician claim. Similarly, permanent total disability supplemental benefits are normally plead in the same PFB that seeks the underlying permanent total disability benefits determination. Other issues are more easily separated for multiple filings. For example, a Claimant that is seeking both a change in physicians and permanent total disability could file a PFB for each of these, with each PFB also seeking attorney’s fees and costs, or the Claimant could file one PFB seeking both of these and the attendant fees and costs. The situation involving multiple “one issue” PFBs cannot be described as “duplicate” PFBs because they are not identical, or in some cases even similar. Therefore, an accurate appellation for the second single PFB is a “replicate” PFB in that it replicates the act of filing, albeit for a separate discreet claimed benefit.

There is also a similar practice of filing essentially “duplicate” PFBs. This occurs in instances that present uncertainty regarding responsibility for a given accident or illness. These situations often arise in the construction industry. The Florida workers’ compensation law places ultimate responsibility for coverage on construction’s “general contractor.” Because of this legal doctrine, the employee of an uninsured plumber or electrician or framer or roofer may be legally deemed to be the employee of the insured general contractor. In much of the construction industry, multiple contractor/subcontractor/sub-subcontractor relationships may exist. A general contractor might hire a carpentry subcontractor that in turn hires a cabinetry subcontractor. Likewise, a general contractor might hire an air-conditioning subcontractor that in turn hires a duct-work subcontractor. In those situations, an injured employee of the cabinetry company or the ductwork company might need to file a PFB against their nominal employer, and a second against the carpenter/air conditioner subcontractor, and yet a third against the general

contractor. These PFBs are often identical in every regard except for the name/address/phone number of the “employer” and “carrier.” The duplication of PFBs for such instances of uncertain responsibility is a natural consequence of the circumstances of such cases.



For a period of time, attorneys voiced concern that some flaw in a portion of a given PFB could result in dismissal of their entire PFB. Attorneys expressed uncertainty regarding whether a given Judge would conclude that such a particular issue, or “claim” within the PFB could be dismissed while leaving the remainder of issues pending. Some attorneys solved this uncertainty by adopting the practice of filing replicate PFBs. The 2003 statutory reforms altered carrier paid attorney fee entitlement. That statutory construction was misinterpreted by some attorneys to yield enhanced fee opportunities if a medical issue was isolated in a singular PFB filed simultaneously with a second PFB that addressed pending non-medical issues. Despite the flawed logic of this perception, it may also contribute to replicate PFB volumes.

Some speculation has existed as to the pervasiveness of the replicate PFB practice. Until 2007-08, the analysis of this practice has been restricted to anecdotal evidence, often from particular judicial divisions. Anecdotal evidence is often instructive and informative, but its persuasiveness is limited by the very nature of its chronological and geographical isolation. In 2007-08 the OJCC developed a methodology for identifying replicate PFBs. The removal of duplicates and replicates from the PFB population yields the “net” PFB volumes illustrated in the graph above. The annual percentage of “duplicate” and “replicate” PFB is also summarized in this chart. This data supports that the practice is slowly decreasing.

Fiscal Year	Total PFB	Net PFB	R/D %
2001-02	115,985	107,815	7.0%
2003-03	151,021	141,639	6.2%
2003-04	127,611	122,201	4.2%
2004-05	107,319	101,945	5.0%
2005-06	90,991	86,763	4.6%
2006-07	82,607	78,827	4.6%
2007-08	72,718	69,751	4.1%

**Pro-Se Cases:**

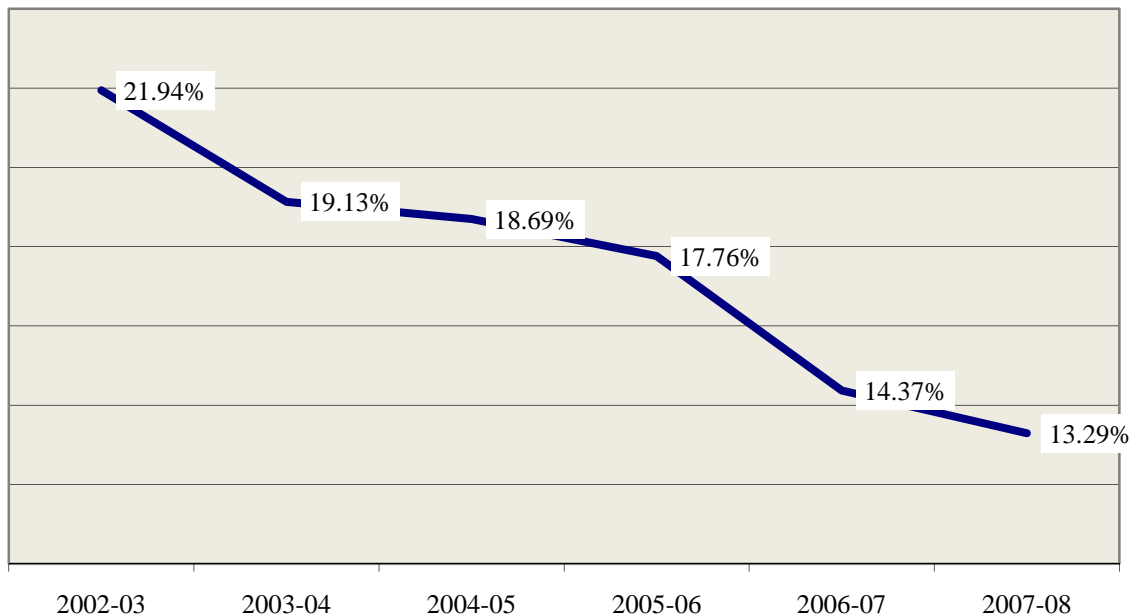
The OJCC is frequently asked whether there is evidence of changes in the volume of claimants representing themselves, called “pro-se” claimants. Phrased otherwise, this question is fundamentally “are more claimants filing their own cases?” This is a difficult question, which cannot be definitively answered by the JCC Application database as it is currently configured. This database was not designed to answer this question, and cannot be readily adapted to do so. Whether a particular claimant is represented or not at a given moment in time can be determined with accuracy. However, this does not answer whether that claimant in fact filed any pro-se PFB. For

example, a claimant might hire counsel and through that counsel file three PFBs for various benefits. The JCC Application database would then reflect three “open” PFB attributable to a “represented” claimant.

If the claimant thereafter ceased to be represented, and filed one pro-se PFB, the database would then reflect four “open” PFBs attributable to a “pro-se” claimant, despite the fact that three of those were in fact filed by (former) counsel. If that same claimant then hired a new attorney, who then filed a fifth PFB, the JCC Application database would then reflect five “open” PFB attributable to a “represented” claimant, despite the fact that one of those five was in fact filed pro-se. The JCC Application can report the total volume of “new cases” opened in a given fiscal year and the percentage on a

Fiscal Year	New Cases	Pro Se June 30	
2002-03	56,869	12,477	21.94%
2003-04	44,033	8,423	19.13%
2004-05	38,540	7,205	18.69%
2005-06	36,913	6,555	17.76%
2006-07	36,227	5,205	14.37%
2007-08	34,481	4,583	13.29%

given day that represents the “represented” and “pro se” cases in that “new case” population. Therefore, the best answer the OJCC can currently provide to the question of pro se litigant volume is a comparison between the volume of new cases filed in a given fiscal year (above) and the volume of those cases that did not reflect the presence of a Claimant’s attorney as of the end of that fiscal year (June 30). This chart depicts the percentage of all “new cases” filed each year to the pending PFB population attributable to “pro se” claimants at the end of that same fiscal year. Notably, if the raw number of “new cases” attributable to “pro-se” claimants remained static each June 30, the percentage would nonetheless increase due to the decrease in overall “new case” filings discussed above. Therefore, the available data does not support the conclusion that the “pro-se” claimant population is increasing. It is notable that some portion of the “new cases” filed each year are not filed because there is a petition issue or need for filing a petition. Some “new cases” filed each year are created for the purpose of filing some motion for determination or for the purpose of filing a Joint Petition to settle the case. Because the percentage has decreased in the midst of significant PFB filing decreases generally, the available data supports that less injured workers are representing themselves in the OJCC system, as illustrated in the following graph. There are multiple perspectives regarding what this data indicates.



**AMOUNT OF LITIGATION RESOLVED:**

As of the end of fiscal 2005-06 (06.30.06), the JCC Application database reflected that one hundred eighty-six thousand seven hundred sixty-five (186,765) PFBs were “open.” As discussed in the 2006-07 Annual Report, that figure was artificially reduced by the database by ignoring some volume of PFBs that were older than some selected age in conjunction with the transfer of data from the DLES to the DOAH/OJCC. After correcting the data to include all PFBs, even those previously excluded as too “old,” the actual volume of pending PFBs at the close of



fiscal 2005-06 was one hundred ninety-four thousand four hundred sixty-nine (194,469). Thus, in the initial calculation seven thousand seven hundred four (7,704) PFBs were excluded as “too old.” During fiscal 2006-07, the OJCC worked to identify “active” PFBs whose status should have previously been changed to reflect a “resolved” or “closed” status. Many Judges made dramatic improvements in the volume of pending PFBs in their respective divisions, as set forth in the 2006-07 OJCC Annual Report. At the end of fiscal 2007 (06.30.07), the OJCC inventory of “open” PFBs was eighty-five thousand one hundred forty-eight (85,148), which was an approximate fifty-six percent (56.22%) decrease from fiscal year 2005-06. The total decreased significantly again (-49%) in 2007-08 to 43,110 open petitions at year-end.

Most PFBs filed must be mediated.<sup>10</sup> After a PFB is filed, issues claimed therein may be resolved among the parties before mediation, at mediation, or thereafter any time until a final order is issued. There are instances in which the parties conduct a trial on the PFB issue(s), but then nonetheless resolve those PFB issues before the assigned Judge enters an order adjudicating the issues.<sup>11</sup> When all of the issues in a particular PFB are resolved either by agreement of the parties or adjudication, that particular PFB is then “closed,” and the district staff is responsible for accurately entering this information into the JCC Application (database).

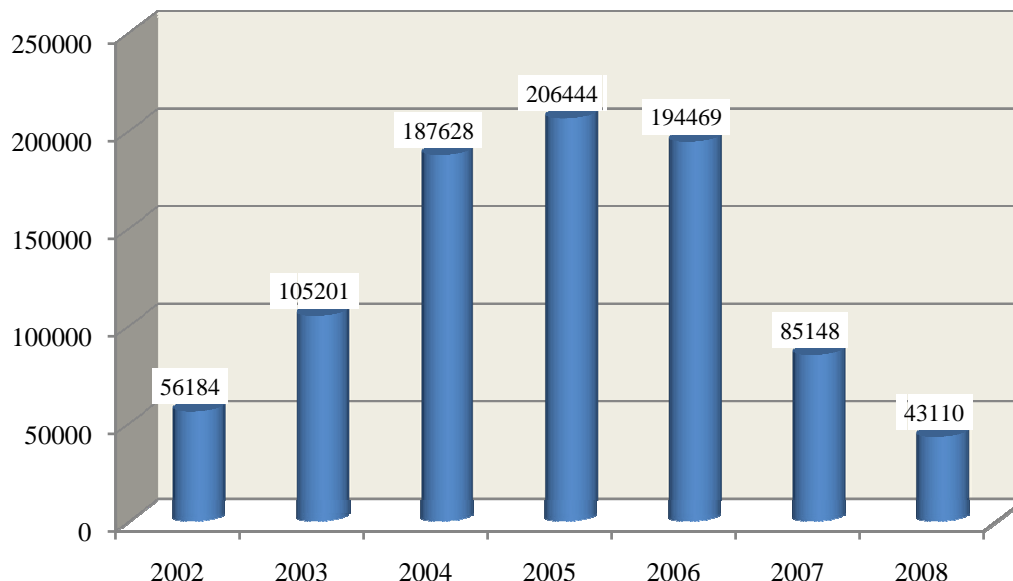
The available information supports that staff in some districts have historically been more diligent than others in documenting the closure of PFBs, as noted in previous OJCC Annual Reports. Several divisions began 2006-07 with accurate PFB inventories, meaning their pending PFBs included only PFBs that appropriately should be represented as “open.” Other divisions began the 2005-06 year with their inventories overstated with PFBs that should have been closed in prior years. PFB closures increased dramatically in 2006-07 (see chart). That trend and effort continued in many divisions through 2007-08, with particular progress noted in the MIA and FTL Districts. Certainly the high percentage decrease is evidence of significant effort by those Judges. Conversely, however, smaller percentage changes may indicate only that a particular JCC closed less during 2006-07 or 2007-08 precisely because they had appropriately closed PFBs previously, and thus had no

Judge	PFB Pending 06/30/06	PFB Pending 06/30/07	PFB Pending 06/30/08	% Change 06 to 07	% Change 06 to 08
Thurman	16172	1253	1542	-92.25%	-90.47%
D'Ambrosio	7146	995	736	-86.08%	-89.70%
Hogan	17077	6546	1996	-61.67%	-88.31%
Basquill	8039	1264	972	-84.28%	-87.91%
Medina-Shore	13942	6357	1753	-54.40%	-87.43%
Punancy	9169	4728	1231	-48.43%	-86.57%
Lewis	7954	2276	1098	-71.39%	-86.20%
Winn	2197	1522	344	-30.72%	-84.34%
Kuker	13374	7213	2201	-46.07%	-83.54%
Harnage	14867	6549	2653	-55.95%	-82.16%
Spangler	5344	3257	1011	-39.05%	-81.08%
Hill	12131	6847	2446	-43.56%	-79.84%
Castiello	13365	8440	3315	-36.85%	-75.20%
McAliley	3657	1907	1102	-47.85%	-69.87%
Dane	3457	1191	1065	-65.55%	-69.19%
Pecko	11366	5448	3600	-52.07%	-68.33%
Portuallo	5180	2133	1647	-58.82%	-68.20%
Hofstad	6194	2321	2040	-62.53%	-67.06%
Murphy	1955	601	659	-69.26%	-66.29%
Remsnyder	1237	574	480	-53.60%	-61.20%
Hafner	1313	722	553	-45.01%	-57.88%
Harris	3799	1925	1643	-49.33%	-56.75%
Roesch	767	305	337	-60.23%	-56.06%
Jenkins	1548	921	701	-40.50%	-54.72%
Terlizzese	740	267	347	-63.92%	-53.11%
Sturgis	4360	3501	2071	-19.70%	-52.50%
Lazzara	799	435	387	-45.56%	-51.56%
Sculco	1822	1246	1039	-31.61%	-42.97%
Condry	1874	1337	1223	-28.66%	-34.74%
ORL	1805	1379	1355	-23.60%	-24.93%
Lorenzen	771	816	599	5.84%	-22.31%
Beck	1045	869	958	-16.84%	-8.33%

“inventory” that required attention and closure. Over the last five fiscal years, four-hundred eighty thousand, nine hundred ninety-nine (480,999) PFBs have been filed and five-hundred forty-one thousand, six hundred eighty-four (541,684) PFBs have been closed. This equates to an approximate overall closure rate of one hundred thirteen percent (112.6%). This supports that the OJCC has successfully managed the significant spike in PFB and new case filings that occurred in 2002-03, as discussed above. It is significant that the OJCC has simultaneously



evaluated the volume of PFBs transferred as “open” from the DLES and the JCC Application database now accurately represents the actual status of those pending PFBs. The statewide year-end “open” PFB inventory for the last seven years is illustrated in this graph.



This comparison illustrates the significant increase (113.2%) in the volume of PFBs closed in fiscal 2005-06, followed by a dramatic closure increase (232.6%) effected in 2006-07 with staff training. The evidence from 2007-08 supports that the closure effort continues to produce results in several south Florida Districts/divisions. Obviously, when the volume of PFBs closed during a year equals the number of PFBs filed during the same period, the OJCC litigation process would be in equilibrium. For a number of years, until 2003, the steadily increasing PFB filing rates coupled with the lack of closure documentation in some Districts/divisions generated a growing inventory (backlog) of PFBs. The OJCC database/case management software was deployed in 2002. Significant staff training in the uniform use of this tool did not occur until 2006-07, and the results of that training are apparent in this chart, and the graph above. It is predicted that a few divisions will continue to close significant volumes of PFBs in fiscal 2008-09. Many of these divisions reflected the highest PFB inventories when the OJCC database system was implemented, and continued to display above-average inventories at the end of fiscal 2006-07. Despite the significant progress made by these divisions, it is possible that significant numbers of PFBs currently characterized as “active” in those divisions may more appropriately be characterized as “inactive.”

Fiscal Year	Petitions Filed	Petitions Closed	% Closed
03-04	127,458	42,843	33.6%
04-05	107,268	87,102	81.2%
05-06	90,948	102,947	113.2%
06-07	82,607	192,181	232.6%
07-08	72,718	116,611	160.4%
5 yr. total	480,999	541,684	112.6%

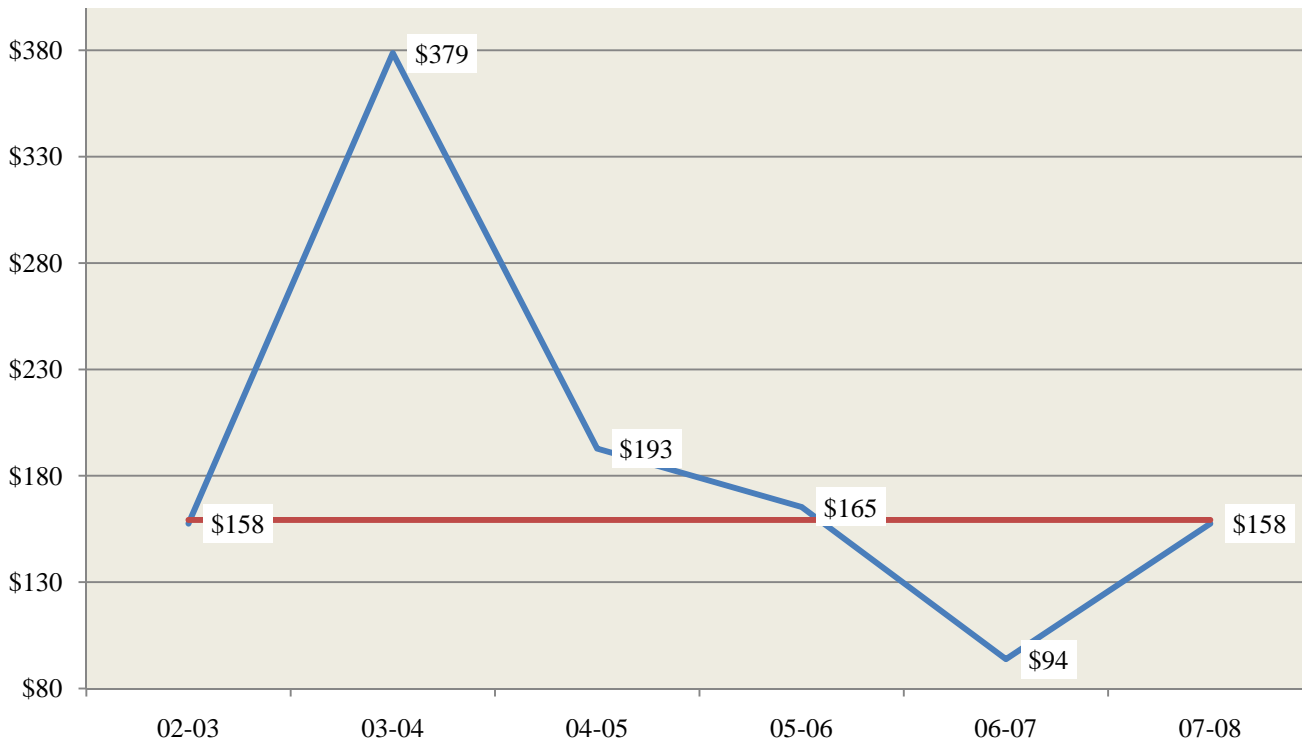
The Judges continue to adapt to management tools provided by the JCC Database Application in 2006-07. These tools allow for docket management and review of pending PFBs at any time. Judges or their staff may generate lists of cases that satisfy certain criteria. These include a report that generates a list of any “active” PFBs that are older than 210 days. There are many reasons why a PFB might appropriately remain “active” beyond this statutory parameter: bankruptcy stay(s), EMA appointment, and continuance, to name a few. However, docket management requires that the Judge be able to identify cases that are aging, so that decisions can be made as to whether there are or are not appropriate reasons for exceeding the expected time parameters. This case-management report, to monitor the progress of these older PFBs is therefore a helpful tool for Judges to manage their dockets. Another reporting tool provided during fiscal 2006-07 was a report listing every “active” case pending, upon which the system reflected no pleadings filed or hearings scheduled in the previous two years, which

allowed identification of dormant files. Review of those dormant files facilitated much of the petition closure that occurred in fiscal 2006-07. In fiscal 2007-08 this report was adjusted to identify the cases without activity in the twelve months prior to the report. This constriction of the report parameters allowed focus on cases remaining in the active category after the extraordinary efforts in 2006-07. This report remains available to each JCC for use at her or his discretion. These management tools illustrate the benefits of the JCC Database Application.

**COST OF LITIGATION RESOLVED:**

The OJCC budget, divided by the number of PFBs closed, reflects that the overall cost per PFB closed fluctuated in recent years (see graph below). This results in part from the minimal growth in the OJCC annual budget and in part from the marked increase in the closure of PFBs during the last three fiscal years. Thus, the decrease in cost per closed PFB for fiscal 2005-06 and 2006-07 and 2007-08 is each overstated due to the extraordinary PFB closure rate during these years. The OJCC budget has not increased significantly over recent years. In some years, inflation has outpaced OJCC budget increases. The OJCC today is spending less per full-time employee (“FTE”), adjusted for inflation, than in 1992-93. During the significant increase in case filings, and resulting hearings and adjudications between 1994 and 2003, the OJCC budget effectively decreased, when adjusted for inflation and the expanding OJCC workforce added in 1994 with the mandatory mediation process. Florida’s population has also grown markedly in the last twenty years. However, the volume of Judges of Compensation Claims has remained virtually static over the same period. These facts illustrate that the OJCC has been very effective at wisely managing the resources provided.

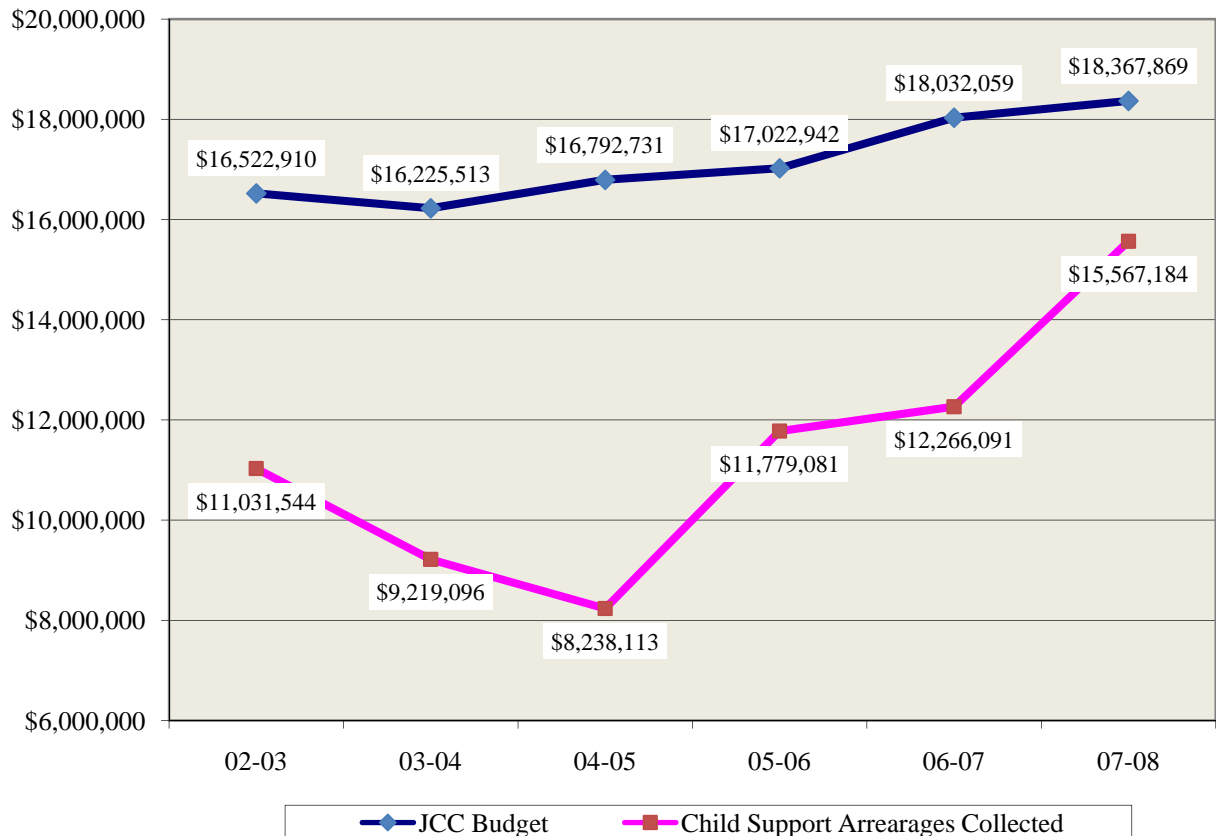
Fiscal Yr.	Annual Budget	PFBs Closed	Cost Each
02-03	\$16,522,910	104,884	\$157.54
03-04	\$16,225,513	42,843	\$378.72
04-05	\$16,792,731	87,102	\$192.79
05-06	\$17,022,942	102,947	\$165.36
06-07	\$18,032,059	192,181	\$93.83
07-08	\$18,367,869 <sup>12</sup>	116,611	\$157.51



Petition closure rates are expected to decrease in fiscal 2008-09. Very little PFB inventory remain unaddressed in this litigation system. Therefore, it is expected that the volume of closure in 2008-09 will be far lower than in previous years, and that the resulting cost per PFB closed will increase markedly in 2008-09.

Another illustration of the cost-effectiveness of the OJCC is the volume of child support arrearages collected through the Judges' efforts. The Judges of Compensation Claims are statutorily required to ensure that the rights of child support recipients are considered when support payors reach settlement of their workers' compensation case. Each of the JCCs devotes considerable time and effort to the investigation and verification of child support arrearages. The significant amounts of child support collected through these efforts for the last six (6) fiscal years are represented in this table. The volume of child support arrearages collected is particularly interesting when considered in light of the overall OJCC budget discussed above. In fiscal 2006-07, the OJCC collected child support arrearages in an amount equal to approximately sixty-eight percent (68%) of the entire OJCC budget. That figure increased in fiscal 2007-08 to eighty-five percent (85%) of the total OJCC budget in outstanding child support arrearages. The comparison of child support recovery and the OJCC overall budget is clarified in this graph.

Fiscal Year	Annual Budget	Support Recovered	% of Budget
02-03	\$16,522,910	\$11,031,544	67%
03-04	\$16,225,513	\$9,219,096	57%
04-05	\$16,792,731	\$8,238,113	49%
05-06	\$17,022,942	\$11,779,081	69%
06-07	\$18,032,059	\$12,266,091	68%
07-08	\$18,367,869 <sup>13</sup>	\$15,567,184	85%



The OJCC and the DOAH have instigated and maintained various tools and resources in recent years, including Internet-based individual case information, as well as Internet dissemination of district information and disaster closure notification. In fiscal 2005-06 the OJCC initiated the internet-based e-filing system for use by attorneys, discussed above. The OJCC is currently developing additional web-based services including expanded opportunities for the e-filing of PFBs, electronic settlement motions, electronic fee stipulations, and electronic pre-trial compliance questionnaires. In fiscal 2007-08, the OJCC long-range plan included the implementation of e-service, which will allow the OJCC to serve orders on counsel and some parties via e-mail. The deployment of e-service was delayed by unforeseen hardware and software integration issues.

The Division of Administrative Hearings' developed the OJCC electronic filing system with existing resources over a period of years. The total expense associated with the development and deployment of these tools is less than one million dollars. By comparison, other states have developed systems through special appropriations and have spent far more deploying less robust processes. However the rapid serial development and deployment effort by DOAH resulted in the need for a deployment pause in 2007-08 for the MIS team to adjust hardware configurations, and reorganize data storage and data access software. These efforts in 2007-08 enhanced the speed and reliability of existing OJCC electronic filing services to the end-user attorneys and adjusters. As important, however, these basic system architecture changes will provide the foundation for deployment of the electronic service function in fiscal 2008-09. The development and implementation of these initiatives, as well as the recruitment and retention of valuable personnel, would be enhanced by additional budget dollars for salary and benefit enhancement. Critical examples, previously included in the DOAH Long Range Program Plans, of the need for additional budget dollars include:

Until 1993, the JCC salaries were tied to Article V. Judges' salaries. Since 1994, the JCC salary has decreased proportionally compared to Article V. Judges. Restoring some association between JCC salaries and Article V. judicial salaries would enhance OJCC retention of experienced Judges.<sup>14</sup> Retention of these individuals would likewise promote the efficiency of OJCC operations.

The salary rate and budget dollars to increase the salary of each Deputy District Clerk, Executive Secretary, and Administrative Secretary in the various District Offices.

The Office of the Judges of Compensation Claims (OJCC) is an adjudicatory system, a "court system" that exists and now thrives within the Executive branch. In that regard, the OJCC is unique. Also unique is that 100% of the OJCC budget is derived from the Workers' Compensation Trust Fund supported by surcharges on workers' compensation insurance premiums. The OJCC utilizes precisely \$0.00 in general revenue dollars. These two circumstances support the logic of reexamining the salary and benefit issues that face the OJCC.

The duties of OJCC Deputy District Clerks, Executive Secretaries, and Administrative Secretaries are far more similar to duties of para-professionals employed in the Florida Courts than they are to similarly titled employees in other Executive Branch departments and agencies. The skills necessary for administering an adversarial litigation adjudication process are not similar to skills needed for general clerical or secretarial work. In addition, the advent of the digital age and deployment of end-user attorney and adjuster electronic data-access and e-filing have increased the sophistication and skills necessary to effectively perform paraprofessional functions for the OJCC. In short, the OJCC staff positions continue to demand ever-increasing technical skills in a litigation driven environment. The OJCC Database Application that is the backbone of data collection, electronic filing, and the unprecedented transparency and public data access is a proprietary system specifically designed to serve the OJCC and its customers. The Florida Court system defined in Article V. is subject to different budgetary constraints and pay rates than the Executive branch. Article V. Court employees, performing less technical or specialized, and more clerical, services in that litigation adjudication system earn starting annual salaries up to \$7,291.56 more than comparably titled OJCC paraprofessionals. Thus, less technically proficient clerical staff in Florida's court system earn significantly more than the OJCC staff. As a result, the OJCC has continually been unable to retain skilled paraprofessionals. Paraprofessional staff turnover in some portions of Florida has been forty percent (40%) in recent years. Each hour invested in advertising openings, interviewing, hiring, and training new staff represents a significant degradation in the delivery of services to the OJCC customer. Significant increases in the salaries of these paraprofessional staff members will recognize the complexity of their customer service positions, encourage their retention in the Executive branch, and represent zero cost to the Florida taxpayer.

Similarly, the OJCC has made palpable improvements in the delivery of timely services to Floridians. The transparency of performance measure achievement in this report and through the internet-based OJCC data access tools is unprecedented. No other Judge in Florida is more accountable than a Judge of Compensation Claims. No other Judge in Florida is subject to the array of performance measures, such as those imposed by Chapter 440, Florida Statutes. The jurisdictional dollar value confronted by Judges of Compensation Claims is virtually limitless. In this regard JCCs' duties are more comparable to Circuit Judges. However, the JCCs perform bench

trials which more often last for hours instead of days. In that regard, JCC duties are more comparable to County Court Judges. Regardless of these subtleties, however, the duties of a Judge of Compensation are significant and the salary should be commensurate with these.

## **NUMBER OF MEDIATION CONFERENCES HELD:**

The volume of mediations held each year has decreased in each of the last five (5) fiscal years. However, the rate of decrease in mediations that are conducted has not matched the rate of decrease in PFB filings, as represented in this chart. This suggests that as PFB volume falls, OJCC mediators are capable of acting upon a greater percentage of that remaining volume. Over the six (6) year cumulative period ending last fiscal year, PFB filings have decreased approximately fifty-two percent (51.78%), while mediations conducted by State mediators have decreased approximately thirty-two percent (31.56%). In 2007-08, 20,021 mediations were held by state mediators, at a cost of \$155.47 each.<sup>15</sup> Many private mediators charge *hourly* rates in excess of this figure. Anecdotal evidence supports that some private mediators charge minimum time commitment (such as a two-hour minimum) for all mediations scheduled. Therefore, the cost efficiency of State mediation is obvious. Furthermore, as the volume of mediation increases, the cost for each mediation decreases because the aggregate cost remains constant.

Fiscal Year	Petitions Filed	% Change	Mediations Held	% Change
2002-03	151,801		29,253	
2003-04	127,611	-15.94%	28,072	-4.04%
2004-05	107,319	-15.90%	26,410	-5.92%
2005-06	90,991	-15.21%	25,522	-3.36%
2006-07	82,607	-9.21%	22,258	-12.79%
2007-08	72,718	-11.97%	20,021	-10.05%

There are multiple possible explanations for the marked difference in the rates of decrease. The most likely explanation for this difference is the probability that private mediations are decreasing at greater rates. Anecdotal evidence supports this hypothesis, but anecdotal evidence is rarely as trustworthy as broader indicators. Most PFBs must be mediated before they may proceed to final hearing,<sup>16</sup> and mediation must be held within one-hundred thirty (130) days after the filing of the particular PFB. If no state mediation appointment is available, the assigned JCC must order the E/C to pay for private mediation for that particular PFB. Some Judges do not enforce this provision and instead grant parties motions to waive this statutory requirement. The statutory requirement and the OJCC process should assure the timely mediation of all PFBs, but also represents a significant cost to the particular E/C ordered to private mediation. It is likely this cost that is motivating parties to seek Judicial relief from the law. Because of the cost associated with private mediation, it is to be expected that as PFB volume falls, the rate of ordered private mediations should decrease, as employers have more opportunity to use the less costly OJCC provided service, as opposed to using private mediator services. Notably, there remains some variation in the timeliness of state mediations in the various divisions. These differences are illustrated in the mediation detail graphs in appendices to this report. The division variations illustrated are improved markedly in 2007-08. Mediations are required to occur within 130 days of the PFB filing. If no appointment is available within that time period, then the PFB should be ordered to private mediation. When this statutory process is followed consistently, then the average days to mediation for each state mediator should approach the 130 day statutory parameter. In districts not documenting such a timeline, corrections to the scheduling process must be considered.

Fiscal Year	PFBs Filed	% Change	Mediations Held	% Change
2002-03	150,801		29,253	
2007-08	72,718	-51.78%	20,021	-31.56%

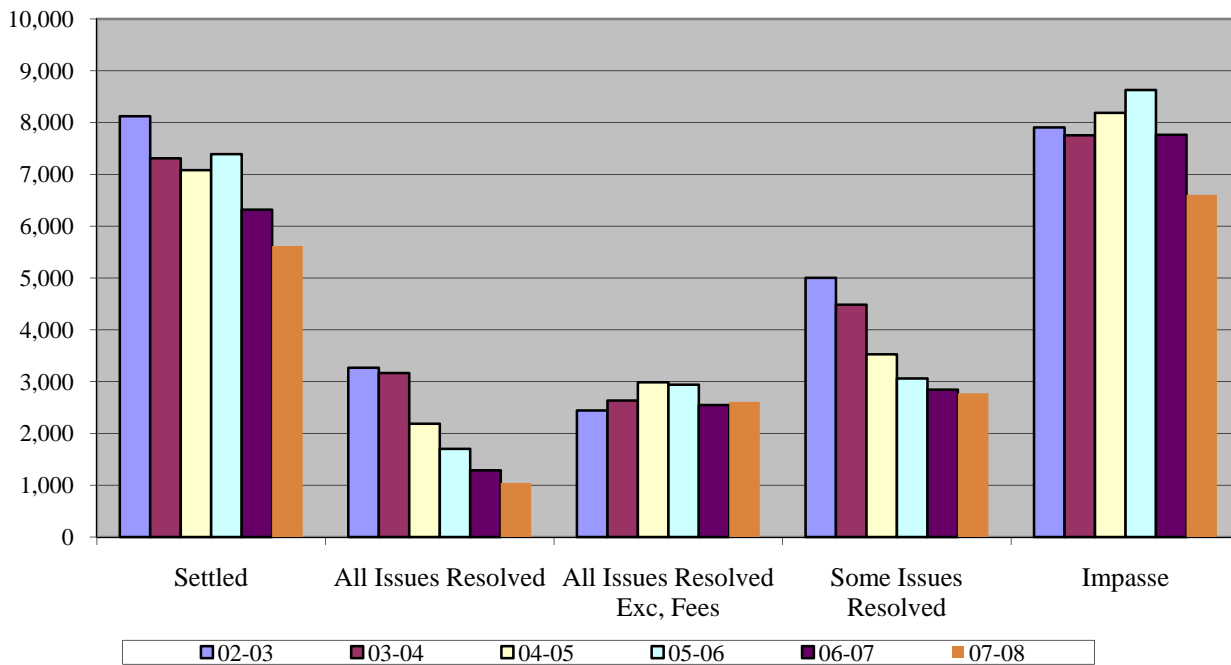
## **DISPOSITION OF MEDIATION CONFERENCES:**

A PFB may contain only one substantive benefit (i.e. authorization of an orthopedic surgeon), or could contain many issues (i.e. orthopedic authorization, neurological authorization, diagnostic testing authorization, correction of the average weekly wage, payment of temporary total, temporary partial, supplemental benefits, and/or permanent total disability benefits, etc.). Virtually all PFBs also include claims for ancillary benefits related

to one or more of these substantive benefits, such as penalties and/or interest on late paid indemnity benefits, and attorney’s fees and costs for the prosecution of all claimed benefits in the PFB.

Therefore, the outcome of mediations is expressed in terms of what was resolved at that particular mediation. The characterization “impasse” is used to reflect that no issues were resolved at mediation. The characterization “settled” reflects that the entire case, including the pending issues in the PFB and all future benefits as yet undue and unclaimed, were resolved. Between these two extremes of “impasse” (nothing) and “settled” (all) are a number of “partial” resolution characterizations used by the OJCC. As discussed above, some mediators previously mislabeled resolutions that occurred prior to state mediations, characterizing those outcomes as if those cancelled mediations had occurred. That action has undoubtedly resulted in misinterpretation of outcomes in prior OJCC reports. Those erroneously characterized outcomes dictate that comparisons with future data may also be suspect.

The term “some issues resolved” reflects that some subset of the claimed substantive issues has been resolved. The term “all issues resolved except attorney’s fees” reflects that all of the substantive issues and any ancillary penalty and/or interest issues were resolved, but fee/cost entitlement and/or amount issues remained. The term “all issues resolved” reflects that all claimed PFB issues, including all ancillary issues such as attorney’s fees and costs, were resolved. These potential outcomes can be expressed in a continuum ranging from the least resolution (“impasse”) to the most resolution (“settled”). The overall results of mediation are reflected in this graph, illustrating this continuum from “all,” or “settled” on the left side to the least “none” or “impasse” on the right side of the graph. The graph below reflects the last six (6) fiscal years for each of these outcome characterizations.



Notably, the steady increase in volume of mediations that result in resolution of no issues, “impasse,” slowed in 2006-07. That rate slowed even more notably in 2007-08. The table below summarizes the percentage of cases in each category as compared to the mediations held during that year. For example, in 2002-03 approximately twenty-eight percent (27.76%) of cases mediated resulted in a settlement. In 2007-08, approximately twenty-eight percent (28.07%) of the mediated cases resulting in settlement. The decrease in the category “all issues resolved” has been significant since 2002-03. There was a similar decrease in “some issues resolved,” but that category has demonstrated minimal increases in the last two fiscal years. The respective rates of the potential outcomes are set forth in this chart, illustrating the success rates of state mediation.



State mediations are obviously very effective in resolving issues. In 2007-08, as an example, approximately 61% (60.17% = 28.07% + 5.22% + 13.04% + 13.85%) of convened state mediations resolved at least "some issues." This is slightly higher than the total of the same categories in 2006-07 (58.39%).

It was noted that in 2006-07, a very small percentage of mediation outcomes were not recorded in the OJCC database, but were merely marked as "held." That characterization provides no information as to what was accomplished in that mediation. The vague nature of that characterization was addressed, and in 2007-08 only two (2) mediations were characterized as "held." This demonstrates the success attributable to the extensive training which has been provided for District staff since 2006. The volume of mediations that resulted in either "settlement," or "all issues resolved," or "all issues resolved except fees," the outcomes that negated the need for a trial on any claimed substantive issues,<sup>17</sup> was 9,274 in 2007-08. This was a decrease of 8% from 10,153 in 2006-07.<sup>18</sup> The trend demonstrated in 2007-08 is consistent with a similar decrease in the volume of "resolution" between 2005-06 and 2006-07.

Year	Mediation Conducted	Settled	All Iss. Res	All Iss. Res exc. Fees	Some Iss. Res	Impasse	R&R
2002-03	29,253	27.76%	11.17%	8.35%	17.10%	27.02%	8.59%
2003-04	28,072	26.04%	11.27%	9.38%	15.97%	27.63%	8.80%
2004-05	26,410	26.81%	8.28%	11.31%	13.35%	31.00%	8.81%
2005-06	25,522	28.96%	6.67%	11.52%	11.99%	33.81%	6.62%
2006-07	22,258	28.39%	5.79%	11.44%	12.77%	34.89%	6.60%
2007-08	20,021	28.07%	5.22%	13.04%	13.85%	33.00%	6.83%

**NUMBER OF CONTINUANCES GRANTED FOR MEDIATIONS:**

Mediation continuances increased markedly in fiscal years 2004-05 and 2005-06. The cause of that trend remains unknown. The data for 2004-05 may very well have been affected by the volume of weather related office closures that year, as Florida endured serial cyclone landfalls, which affected virtually every county. Those situations effected significant impact by closing carrier offices in central Florida (frustrating mediations in unaffected districts elsewhere) and by closing district offices at which the mediations would otherwise have been held. Those situations were far fewer in 2005-06 and 2006-07, which suggests that causes other than weather played some significant role in the volume of continuances during fiscal 2004-05, see below. The mediation continuance trend reversed in 2006-07, with continuance rates dropping markedly (50%) that year and by another 50% in 2007-08, as illustrated in this chart.

Fiscal Year	Total Number	Annual Per JCC	Monthly Per JCC
2002-03	2,755	89	7.4
2003-04	2,036	66	5.5
2004-05	3,333	108	9.0
2005-06	4,756	153	12.8
2006-07	2,336	73	6.1
2007-08	1,328	42	3.5

In 2002-03 only two thousand seven hundred fifty-five (2,755) mediations were continued. The relational (percentage) frequency of mediation continuance increased markedly in 2004-05 and 2005-06 due in large part to the marked decreases in PFB filings for those years. In 2006-07 two thousand, three-hundred thirty-six (2,336) mediations were continued. Therefore, the total volume of mediation continuances in 2006-07 was lower than the total in 2002-03. However, comparing the percentage of mediations continued to the volume of PFBs filed in the same year reveals that the percentage of mediations continued in 2006-07 remained somewhat higher than 2002-03, relatively speaking. In 2007-08, the percentage relationship between filed petitions and mediation continuances returned to the 2002-03 rate.

Fiscal Year	Petitions Filed	Mediations Continued	Med. Cont. v. PFB Filed
2002-03	151,021	2,755	1.82%
2003-04	127,458	2,036	1.60%
2004-05	107,268	3,333	3.11%
2005-06	90,948	4,756	5.23%
2006-07	82,607	2,336	2.83%
2007-08	72,718	1,328	1.83%

The implementation of the "auto-scheduling" of mediations by the Central OJCC Clerk likewise coincides generally with the beginning of the upward trend in mediation continuances in fiscal 2003-04. Prior to the

implementation of that “auto-scheduling” process, some districts did not schedule mediation when a PFB was received. Instead, those divisions left the litigants responsible to coordinate and schedule a mediation appointment. This resulted in significant delay in the mediation of a significant volume of PFBs. The implementation of "auto-scheduling" by the OJCC Central Clerk was intended to assure that all PFBs are set for timely state mediation or appropriately ordered to private mediation. That process may also be influencing the volume of continuances, as PFB are more promptly scheduled for mediation, and unprepared or overcommitted parties move for continuance to alleviate pressure on their respective caseload. Despite auto-scheduling and this statutory requirement, the average days to first mediation is now within the 130 day period on average, statewide.

Some portion of the 2003 through 2006 increase in mediation “continuances” may also have been unrelated to any issue beyond the lack of consistency in the district office data-entry prior to the training and definition efforts in 2006-07. Until fiscal 2006-07, with the publication of the JCCA User Manual, the terms “continued” and “rescheduled” were both available choices for district staff to use when any scheduled event, like a mediation conference, did not occur. However, these two terms were not defined. Therefore, how a delay in a mediation was characterized by district staff, and as a result how that delay was reflected in the overall OJCC year-end statistics, was an amalgamation of thirty-one (31) Deputy District Clerks and/or mediators making individual and subjective decisions about how to characterize any particular delay. It is noteworthy that the number of mediations “rescheduled” dramatically decreased in 2005-06 at the same time the number of mediations “continued” conversely increased, as illustrated in this chart. This anecdotally supports that the current statistics may be related more to the characterization of the delay by district staff than to any real increase in mediation continuances. The marked increase also followed shortly after the largest PFB filing increase since the PFB process was enacted in 1994. Therefore, a variety of issues may contribute to the demonstrated increase in mediation continuances in 2004-05 through 2005-06. It is as clear, however, that the definitional consistency and moderating PFB filing volumes are contributing to more consistent timely mediations.

Fiscal Year	Mediations Rescheduled	Mediations Continued	Med. Cont. v. Med. Resched.
02-03	15,972	2,755	17.25%
03-04	15,876	2,036	12.82%
04-05	16,150	3,333	20.64%
05-06	12,172	4,756	39.07%

## **NUMBER OF CONTINUANCES GRANTED FOR FINAL HEARINGS:**

The volume of trial continuances system-wide has decreased markedly between fiscal 2003-04 and 2006-07. Continuances per Judge increased slightly in 2007-08. Because accurate data<sup>19</sup> is only known to exist since the OJCC was transferred to the DOAH, it is impractical to accurately determine whether the continuance data for fiscal 2003-04 represented any marked increase compared to prior years. Prior OJCC Annual Reports have concluded that the 2003-04 data regarding continuances reflected an increase related, at least in part, to the very active tropical cyclone season Florida suffered in 2004.<sup>20</sup>

The available data supports that trial continuances per JCC have declined from seventeen and one-half (17.5) per month in fiscal 2002-03 to twelve (12) per month in fiscal 2007-08, as set forth in this table. This illustrates the system-wide trial continuance figures and demonstrates the marked decrease in trial continuances in recent fiscal years. This downward trend is likely attributable to better OJCC case management software, and some relaxation of individual JCC dockets resulting from decreased PFB filing rates. Staff training and OJCC definition of the terms “rescheduled” and “continued,” discussed above, may also be contributing to more accurate and consistent characterizations of event changes in the JCC Application database. A docket audit in the Summer of 2008 substantiated that some Judges continue to eschew from the standardized definitions in the OJCC User Manual, and instead utilize their own definition of “continuance.” These contribute to some volume of “rescheduled” hearings being reflected erroneously in the database as “continuances.” These characterizations are known therefore to be responsible in

Fiscal Year	Total Number	Annual Per JCC	Monthly Per JCC
2002-03	6,507	210	17.5
2003-04	6,734	217	18.1
2004-05	5,094	164	13.7
2005-06	5,011	162	13.5
2006-07	4,161	130	11
2007-08	4,617	144	12.0

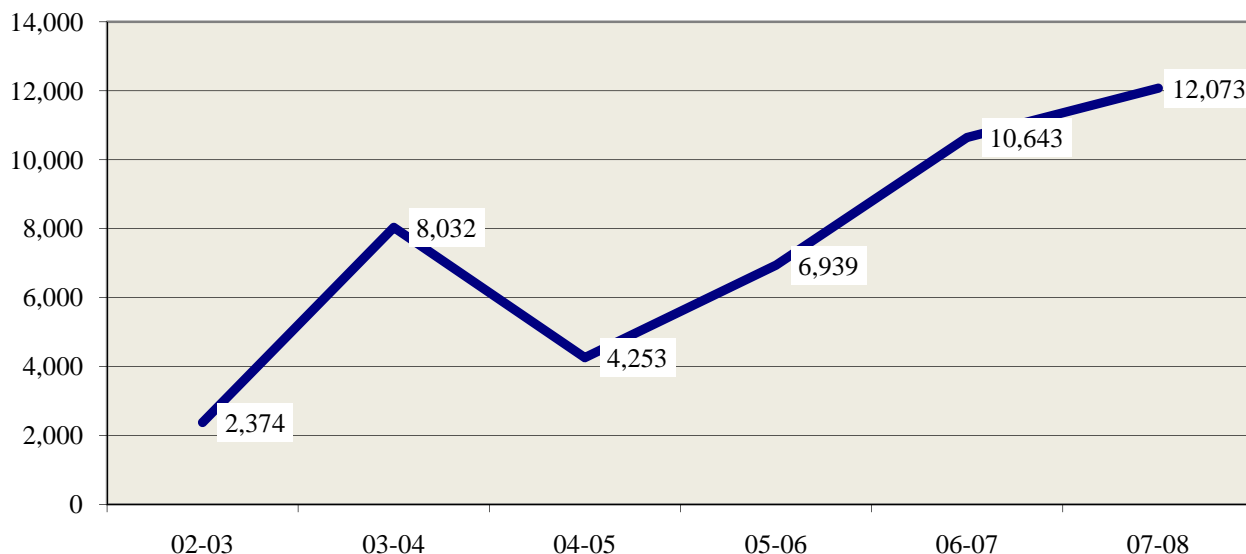
part for the figures reported above. It is hoped that some portion of the recent decrease may also be attributable to the significant teamwork exhibited by the Judges<sup>21</sup> that voluntarily visited other districts to hear cases in 2006-07 and 2007-08. That effort should have effected some relief to the dockets in those districts.

## **OUTCOME OF LITIGATED CASES:**

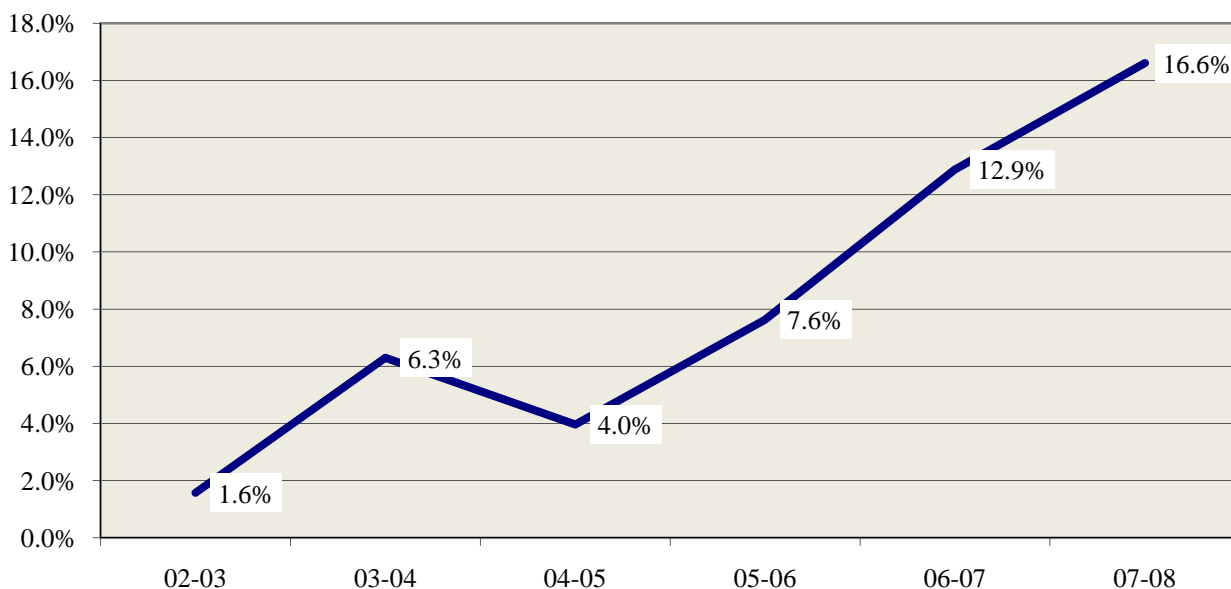
PFB are filed with the OJCC Central Clerk in Tallahassee. The demographic information (i.e. names, addresses, counsel) are entered into the OJCC case management computer Application (JCCA), or database, as are the various issues plead in the PFB.<sup>22</sup> Until 2006-07, all PFBs were assigned to a specific Judge of Compensation Claims based upon the first letter of the claimant’s last name. The alphabetical process was rational and produced a reasonably equitable division of labor among Judges in multi-division OJCC Districts. However, the process did produce some work-load incongruity in some Districts. Further, there were anecdotal reports of preemptory representation decisions based upon preconception of which Judge would be assigned to a particular case. In 2007-08, the process was changed to a random Judge assignment. This should result in more uniform and equitable workload distribution, which is an important concern. The anecdotal pre-conception issue, should it actually exist, is also remedied by the programming alteration.

Once a case is assigned to a Judge, the JCC Database Application “auto-schedules” a State mediation appointment. The Central Clerk forwards each PFB to the assigned Judge. Thus, when the PFB arrives in its assigned division, a mediation appointment has been automatically scheduled, but no notice has been sent to the parties. Statutorily, no notice of mediation is sent until forty days following a PFB filing. Therefore, although an appointment is set when the PFB arrives, attorneys have a window of opportunity to call and select a date that is convenient to them, prior to any notice being mailed. Few attorneys consistently avail themselves of the benefit of this opportunity to select their own, convenient, mediation dates. However, the use of this process may also be positively affecting the need to seek continuance of mediation appointments, see above.

A growing number of Judges utilize the provisions of Fla. Stat. §440.25(4)(h) and schedule “expedited” final hearings on some portion of the PFBs assigned to them. The expedited process likely leads to faster resolution of some issues, which involve relatively minor expense. Mediation is not required on claims that are suitable for expedited final hearing. However, all PFBs have already been “auto-scheduled” for mediation by the OJCC Central Clerk prior to arrival in the respective district office. The process in the various districts, upon receipt of the PFB, may be to reschedule mediation, to notice the “auto-scheduled” mediation, or to cancel the mediation process completely if expedited final hearing is to be noticed instead. This decision is entirely within the discretion of the assigned JCC.



If a particular PFB is not set for expedited hearing, then the assigned JCC will either accept the auto-scheduled mediation appointment or select an alternative date. On the fortieth day after the PFB is filed, the notice of mediation is mailed to the parties and attorneys associated with that case. Some JCCs schedule and provide notice of the pretrial and final hearing at that same time. This process of a single notice for three hearings affords the parties significant opportunity to plan their litigation calendar months in advance. Many PFBs are thereafter resolved prior to the mediation occurring. The diagram above depicts the number of mediations (which may have been scheduled on one or more discrete PFBs) that resolved prior to the scheduled mediation appointment time in each of the last five (5) fiscal years. The raw volume of dismissals is increasing in recent years. Concurrently, the volume of PFB filings continues to decrease at a reasonably steady rate. Thus, resolution of PFB prior to mediation is increasing generally, but more acutely as a percentage of filed PFBs as represented in the following graph.

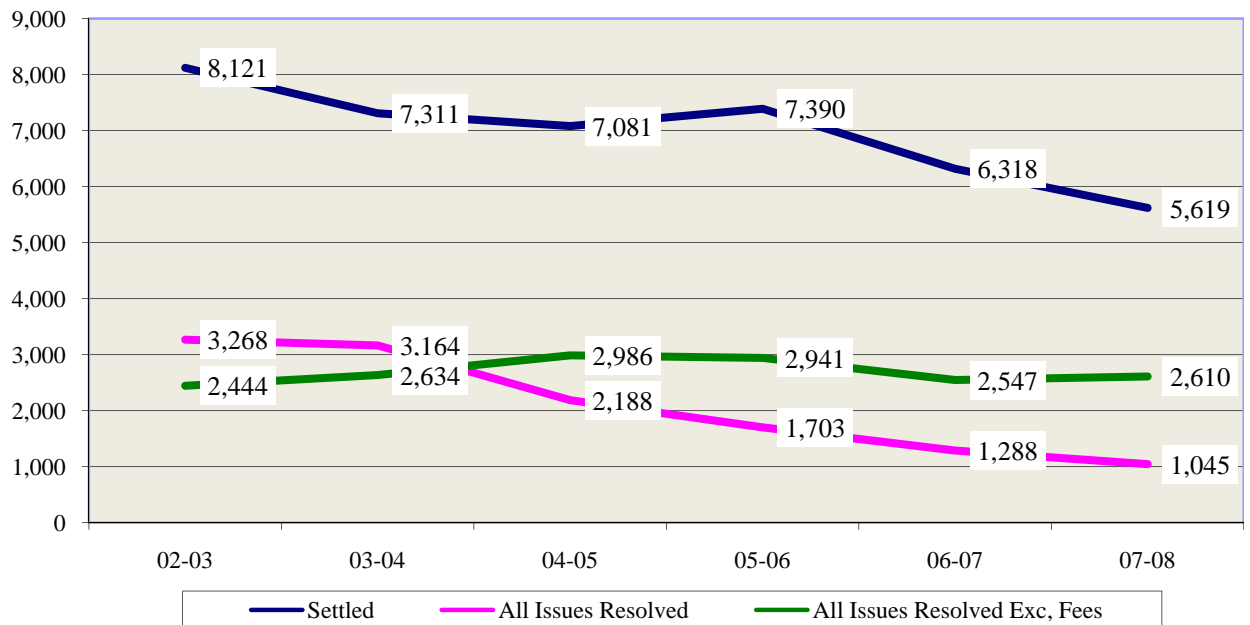


As discussed above, it has recently been discovered that significantly more PFBs resolve “prior to” mediation than the OJCC previously reported. The figures in this graph for prior fiscal years are therefore likely understated, as a result of some state mediators misstating that issues “resolved prior to” the mediation were resolved “at mediation,” when mediation did not in fact occur. Those mediators concluded that many PFBs resolve on the eve of mediation because parties or counsel are motivated to resolution by the inconvenience associated with travel to and from, and attendance at, mediation. Some mediators therefore ignored the parameters for mediation outcome characterization published in the OJCC User Manual in October 2006. They instead characterized some portion of PFBs that resolved on the eve of mediation as if the mediation had in fact occurred (“all issues resolved”), rather than as “resolved prior.” This practice was described and published in the 2006-07 OJCC Annual Report. Since that time, it appears that this practice has decreased markedly since the 2006-07 report.

Despite that issue, the volume of PFBs dismissed prior to mediation continued to increase in 2007-08 as reflected in the graphs above. The raw number of PFBs dismissed prior to mediation increased to twelve thousand seventy-three (12,073) in 2007-08 from six thousand, nine-hundred thirty-nine (6,939) in 2005-06. This represents a marked increase in PFB dismissals prior to mediation. When the decreasing volume of PFB filings is considered, the percentage of PFBs that are resolved prior to mediation more effectively illustrates the frequency of such resolutions, as illustrated in this graph. Thus, approximately seventeen percent (16.6%) of all filed PFBs were dismissed before mediation last year. A significant number of additional PFBs that were instead scheduled for expedited hearings were also dismissed prior to any hearing or event at the District office, but were not captured for this statistic because they were not dismissed “prior to” mediation since that event was not scheduled.

Once a mediation conference is convened, any of the following mediation outcome characterizations would reflect that the pending PFB(s) has been resolved, and no final hearing would be required (although an attorney fee

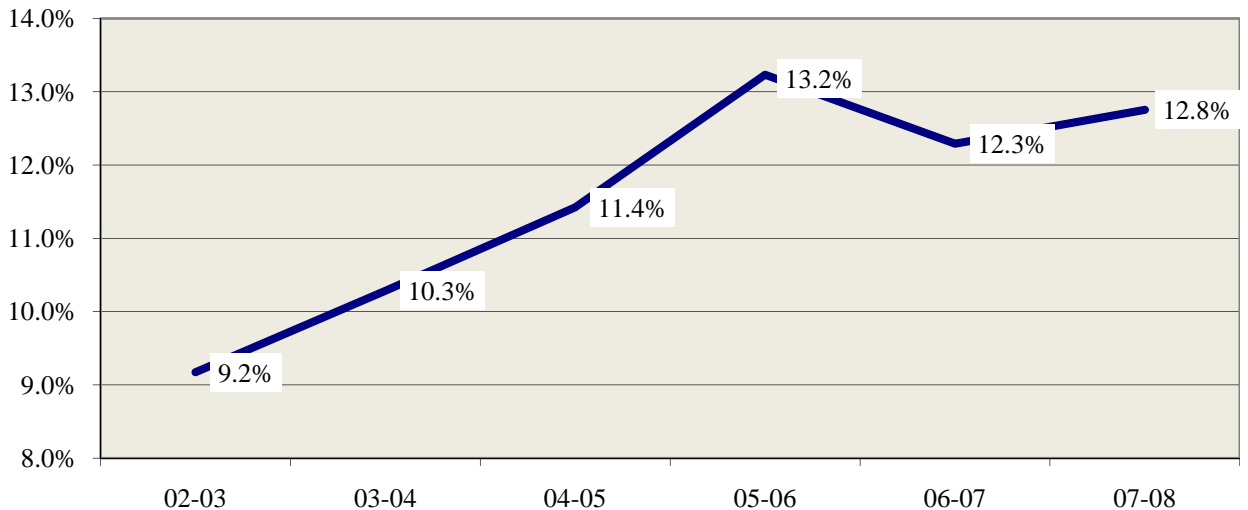
entitlement and/or amount hearing may be necessary): “Settled,” “All Issues Resolved,” and “All Issues Resolved Except for Fees.” When these three (3) mediation outcomes are combined, the total reflects the frequency at which the pending PFB(s) is resolved at mediation. The JCC Application does not, however, capture data which reflects whether, in such mediation, one or multiple discrete PFBs were resolved. This graph illustrates the combination of these three (3) outcomes in each of the last five (5) fiscal years.



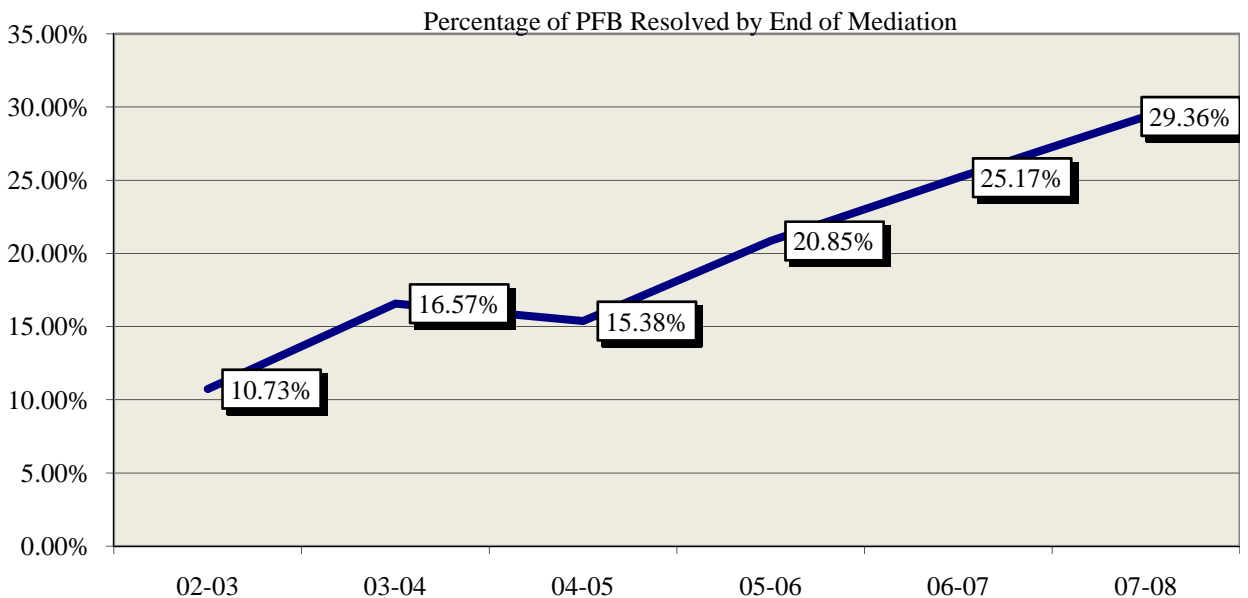
The total number of such PFB resolutions at mediation is decreasing each year, as is the total volume of PFBs filed. It is significant that this measure reflects only the resolution of all substantive issues in that PFB (“settled,” “all issues resolved,” and “all issues resolved except fees”). Therefore, while this statistic represents the number of PFBs resolved at mediation, it does not reflect the effectiveness of mediation in partially resolving pending PFB issues. Often, it is the resolution of small issues that helps to focus much broader disputes. For example, a successful mediation of a discrete claim for a medical evaluation might at first appear to be a small success in a case with many additional PFB issues left unresolved at mediation. The remaining PFB issues must still be scheduled for pretrial and final hearing in that instance. However, if that medical evaluation then results in trusted information regarding impairment or disability, then other issues related to loss of earnings may later resolve without trial. Therefore, the success of mediation must be measured with a view to all of the potential eventual effects of small issue resolution. It must also be remembered that these figures have likely been artificially increased by the decision by some mediators to mischaracterize some volume of PFBs as resolving at mediations that did not in fact occur; see above. When the total reported volume of PFBs resolved at mediation is expressed as a percentage of the PFB “filed” during the same fiscal year, the graph below illustrates the overall percentage frequency of resolution at mediation.

This demonstrates that the raw volume of PFBs resolving at mediation is decreasing. However, the percentage of filed PFBs that are resolving at mediation increased significantly over recent years, due in part to the significant decreases in PFB filing rates. This may support that there is some finite volume of mediations that can be successfully managed by any one mediator, and this figure is not relative to overall filings. This figure likely varies from mediator to mediator and is likely difficult to characterize in micro-analysis of a day, week, or month. However, over the course of a macro period like a year, it is likely that there is a rational “range” of mediation volume that can be successfully accommodated. Therefore, as filings increase, and the volume of successful mediations remains within that rational range, the percentage outcome will likewise decrease as a proportion. There was a slight decrease in PFB resolution at mediation in 2006-07, reflected in this graph, followed by an increase in 2007-08. The decreased overall PFB volume likewise decreases demand for mediation appointments. The growing use of expedited hearings likewise decreases overall demand. With fewer PFBs in the mediation process, State

mediator calendars are more flexible and mediators can be more flexible to accommodate the time requirements of more complex and multiple PFB mediations.



An important issue for JCCs is the volume of PFBs that remain for resolution or adjudication after mediation has occurred. Those that remain after mediation has concluded must be scheduled for pretrial hearing and final hearing (unless the PFB was already scheduled for these at the time mediation was scheduled). These remaining PFBs are also very likely to contribute to the assigned JCC’s motion calendar. Simply stated, the greater the volume resolved by the conclusion of mediation, the less the volume that must be pre-tried and heard. If the volume of PFBs dismissed prior to mediation is combined with the volume of PFBs that were resolved at mediation, the graph below illustrates the percentage of PFBs filed that were resolved either before or at mediation during the last six (6) fiscal years. This illustrates that in 2007-08, approximately seventy-one percent (70.64%) of filed PFBs include some issue or issues that remain unresolved at the conclusion of mediation. This is a decrease from seventy-five percent (74.83%) in 2006-07. These macro figures also ignore that many issues in discrete PFB issues may be resolved through the course of a mediation conference, and yet the PFB itself remains “unresolved” due to other pending issues therein. The success of mediation as a process for narrowing issues and focusing disputes cannot be adequately measured by the volume of “total” resolutions achieved.





In some districts/divisions PFBs received from the Central Clerk are scheduled only for mediation. In those districts/divisions a final hearing will only be scheduled in the event that mediation is not successful. This practice has resulted in some instances of PFBs failing to proceed to timely final hearing. In some divisions, the staff has been relatively passive regarding final hearing scheduling and as such a final hearing would only be scheduled when and if the parties take the initiative to contact the Judge's office to schedule a trial. In other divisions, PFBs are immediately scheduled for mediation, pretrial and final hearing or expedited final hearing upon receipt.

Whether a particular Judge will be proactive (initiating scheduling) or reactive (waiting for the parties to initiate scheduling) is completely within the discretion of that particular JCC. If a final hearing, a pretrial and a mediation are all scheduled initially, and the issues then resolve before mediation, each of these "events" (mediation, pretrial and final hearing) will be labeled in the JCC Application with the "status" of "resolved issues prior." Because there is therefore a population of cases in the database in which both a mediation and a final hearing are designated as "issues resolved prior" by one resolution (e.g. before mediation), it is therefore not possible to accurately measure how many PFBs resolve after mediation and yet prior to trial. Some portion of the final hearings that do not ultimately proceed to trial are caused by resolution between mediation and final hearing, but some other portion does not proceed because the issues were resolved prior to mediation in a case in which the pretrial and final hearing were already on the calendar before mediation ever occurred. This same potential exists for various "status" characterizations, and this complicates this calculation.

Additionally, the JCC Application contains a "status" characterization choice of "cancelled." The available statistics for the four (4) fiscal years prior to 2006-07 support the conclusion that this "status" was used frequently, when other more specific descriptions were more appropriate. This generalized characterization, "cancelled," does not provide any edification or explanation as to why a particular event did not occur. With the publication of the JCC Application User Manual in 2006, it is hoped that district staff will better understand the importance of using the most accurate and descriptive "status" whenever a final hearing or other event is changed from the status of "set" (meaning it is scheduled to occur). It is hoped that with this understanding and with published definitions for the various characterizations in the Application, that consistency among the Districts and divisions will increase markedly. The publication of the OJCC Application User Manual and the ongoing staff training are expected to provide far greater consistency in the entry of data into the OJCC Application database. Likewise, diligent supervision of mediator and district staff clerical efforts by the Deputy Chief Judge is expected to result in more accurate and consistent statistics in future annual reports.

## **AMOUNT OF ATTORNEY'S FEES PAID IN EACH CASE ACCORDING TO ORDER YEAR AND ACCIDENT YEAR:**

The OJCC is required by law to approve all attorney fees paid by or on behalf of an injured worker. Fla. Stat. §440.34<sup>23</sup> There is no such specific requirement for the approval of fees paid by employer/carriers for their defense counsel representation. Despite the absence of such specific requirement for defense fee approval, the broad language of Fla. Stat. §440.105(3)(b)<sup>24</sup> arguably could require OJCC approval of defense attorney's fees. However, this statutory authority has historically not been interpreted to require approval of defense attorney fees. Therefore, the OJCC has required insurance carriers to report their respective total annual expenditures for aggregate defense fees.<sup>25</sup> Because these figures are reported in the aggregate, it is impossible to discern whether cost reimbursement to attorneys has been included in the figures reported by the various carriers. Furthermore, this information regarding defense fees expended during the fiscal year does not provide any edification regarding the respective dates of accident involved in the cases in which those fees were paid during that fiscal year.

**Order Year 2006-07 Attorney Fees:**

Previous OJCC annual reports detailed payment of claimant attorney fees based upon the best information available, when those reports were prepared. The OJCC gathers claimant attorney fee data through a computer program (part of the system that includes the JCC Application database, electronic filing, and internet publication of data) that simultaneously uploads fee approval orders to the Internet case docket and captures the data regarding claimant fee and cost amounts. The district staff is responsible for the input of the fee and cost amount data for each individual fee approval order entered. Because the database currently produces different total annual figures for claimant attorney’s fees figures, approved in prior fiscal years, than was reported in prior OJCC Annual Reports, it is believed that subsequent to the initial calculation of those figures, and issuance of those prior OJCC Annual Reports, additional information was entered by district staff (additional approved orders for a particular fiscal year were input and uploaded after the query for that particular fiscal year was initially run).<sup>26</sup> This table represents the most current (corrected February 2007) information for the amount of claimant’s attorney fees approved fiscal years 2002-03 through 2006-07. Since discovery of these issues, the OJCC has undertaken an annual confirmation process regarding fee order uploads by District Staff. Each July the Judges are polled regarding the currency of their division uploads and data input. The statistics herein were computed only following the affirmation of fiscal year completion by each Judge.

Fiscal Year	Claimant Attorney Fees
02-03	\$210,660,738
03-04	\$215,322,360
04-05	\$211,157,073
05-06	\$208,369,260
06-07	\$191,197,443
07-08	\$188,692,107

During 2007--08, a total of four hundred fifty-nine million two hundred two thousand, six-hundred twenty-nine dollars (\$459,202,629 = \$188,701,256 + \$270,501,374), was expended on combined claimant fees and defense attorney’s fees<sup>27</sup> (and perhaps defense “costs”) in the Florida worker’s compensation system. This marks the second consecutive year that defense fees have decreased since the OJCC began (in 2002) collecting and reporting data on defense fees. The last five fiscal years of claimant and defense attorney’s fees and the annual rates of change are set forth in this table.

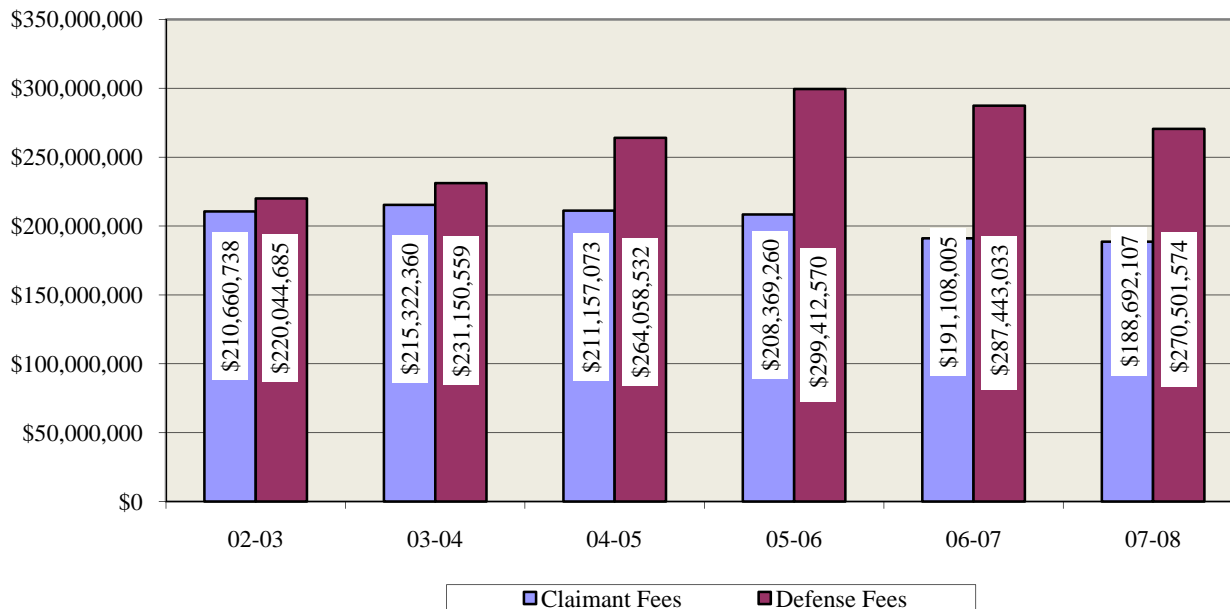
These figures may demonstrate significant increases in defense fees following the 2003 reforms, or may simply evidence an increasingly effective OJCC effort in collecting this data. It is impossible to state with certainty whether defense fees increased or whether reporting compliance increased. However, the list of carriers reporting in 2006-07 has been compared to the list of those reporting in 2005-06 and is very similar; the same similarities are present in the 2007-08 list. Therefore, this second year of decline considered, confidence is growing that the aggregate defense fee decrease is verifiable, rather than being related to change in the reporting population. It is also notable that some portion of overall defense fees reported may relate to cases in which no claimant fees were paid, such as charges for preparation and approval of pro-se settlement documents or instances in which the E/C sought and paid for legal advice that ultimately did not result in the filing of any workers’ compensation dispute.

Fiscal Year	Claimant Atty. Fees	% Change	Defense Atty. Fees	% Change
02-03	\$210,660,738		\$220,044,685	
03-04	\$215,322,360	2.21%	\$231,150,559	5.05%
04-05	\$211,157,073	-1.93%	\$264,058,532	14.24%
05-06	\$208,369,260	-1.32%	\$299,412,570	13.39%
06-07	\$191,108,005	-8.28%	\$287,443,033	-4.00%
07-08	\$188,701,256	-1.26%	\$270,501,374 <sup>28</sup>	-5.89%

Reported defense attorney fees progressively increased after the 2003 statutory amendments, at a significant rate, as illustrated in the previous table. Conversely, claimant attorney’s fees decreased slowly (approximately 1% - 2%) annually between 2003 and 2005. Because data on claimant fees is collected as they are approved, rather than in the aggregate method used for defense fees, those figures are believed to be the more accurate of those reported. A comparison of the 2007-08 attorney’s fees and the 2002-03 attorney’s fees for both claimant and defense is set forth in this table to illustrate the cumulative change over six (6) years. The decrease in claimant fees in 2007-08 compared to 2002-03 is certainly significant, over 10%. Some argument could be made that the aggregate of fees would be expected to decrease in some relation to the decrease in PFBs filed. While this comparison may be

Fiscal Year	Claimant Atty. Fees	% Change	Defense Atty. Fees	% Change
02-03	\$210,660,738		\$220,044,685	
07-08	\$188,701,256	-10.4%	\$270,501,574	22.9%

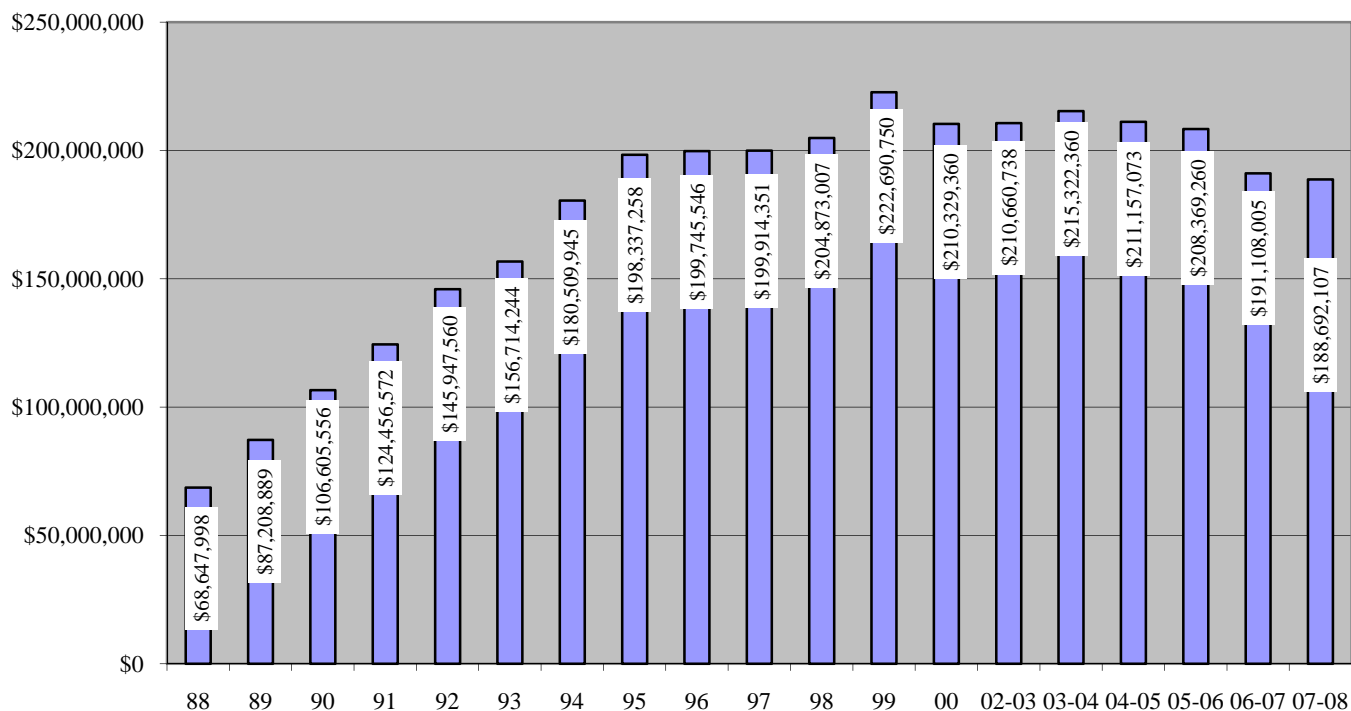
validly made, it is complicated by the time lag between PFB filing and closure. Because that period might be years in some instances, fees paid last fiscal year might have related to PFBs filed in the prior year, or even many years earlier. Furthermore, significant fees were paid last year on settlement of cases in which no PFB may have been pending. Therefore, the decrease of fees related to a decrease in PFB filing could be reasonably expected to occur significantly after the PFB filing decrease. Therefore, multiple years of data would likely be required to support a conclusion regarding any interrelationship between the two. The aggregate claimant and defense fees for the last six years in reflected in this graph.



The decline in aggregate fees paid to claimant’s attorneys, compared to fees paid to defense attorneys, has significantly altered the comparative percentage of claimant’s fees compared to all fees. Thus, the figures support that aggregate fees increased over the four fiscal years after the 2003 statutory amendments. The extent to which this evidence has been influenced by greater compliance with carrier and servicing agent reporting is unknown. However, the data for fiscal year 2006-07 demonstrated a significant decrease in both defense (-4%) and claimant fees (-8.28%). The data collected for 2007-08 supports continuing decline in both defense (-6%) and minimal continued decrease in claimant (-1%) fees. It must be remembered that these figures demonstrate only the gross amount of attorney’s fees paid during the respective years. That analysis does not consider, nor delineate, the age of the cases in which these fees were paid.

The DLES compiled data regarding the attorneys fees paid to claimant’s counsels for a number of years. In the DLES 2001 Dispute Resolution Report, fees for calendar years 1988 through 2000 were reported. These figures are helpful for broad comparisons with current fees and trends. However, it is important to note that the DLES figures may be for calendar years, not fiscal years. It is further instructive to note that the DLES figures for attorneys’ fees paid for claimant’s counsel likely include costs, as the ability to differentiate fees from costs easily did not exist until the OJCC database was deployed in 2002. The figures compiled and reported by the OJCC, since October 2001, do not include claimant costs. With those two caveats, this graph represents the claimant fees (fees plus costs) paid from 1988 through 2000 and the claimant fees paid from fiscal 2002-03 through 2006-07.

### Claimant's Attorney Fees

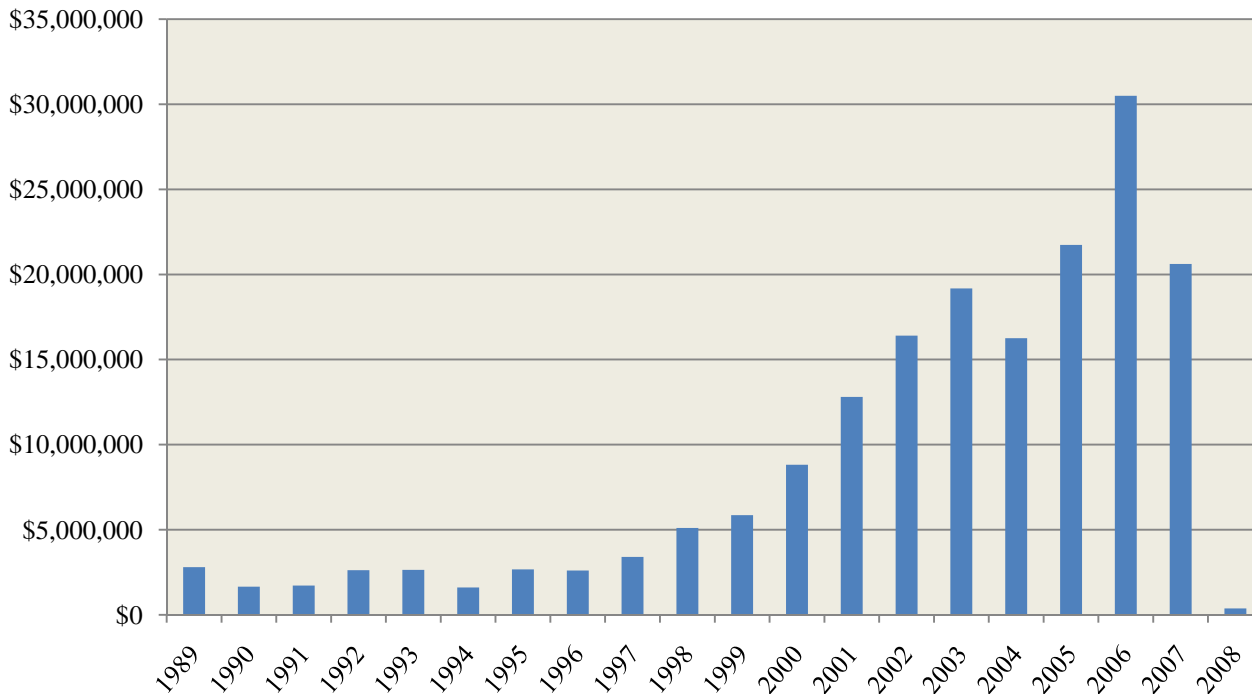


### **Attorney Fees by Accident Year:**

The figures above each represent only the amount of fees “approved” during each respective fiscal year. During any particular fiscal year, fees might be approved on cases for which the date of accident was also during that particular fiscal year. Likewise, the approved fee might be related to a date of accident prior to that fiscal year, perhaps many years prior. Most fees approved during any particular fiscal year will be associated with accidents that occurred prior to that particular fiscal year. This is because most cases in the OJCC system are not related to accidents in the current fiscal year and because many cases in the workers’ compensation system remain active, with periodic litigation issues, for many years. Logically, therefore, most litigated cases within the responsibility of the OJCC involve dates of accident prior to any current fiscal year. In 2006-07, fees were paid in cases that involved forty-six different accident years. In 2007-08 fees were paid in forty-seven accident years, as depicted in this table.

Accident Year	Fees App. 2007-08	Accident Year	Fees App. 2007-08	Accident Year	Fees App. 2007-08	Accident Year	Fees App. 2007-08
1956	\$29,777	1974	\$51,861	1986	\$1,473,363	1998	\$5,103,478
1960	\$4,610	1975	\$122,053	1987	\$1,389,182	1999	\$5,853,133
1962	\$2,560	1976	\$33,315	1988	\$1,746,278	2000	\$8,816,042
1963	\$39,300	1977	\$214,000	1989	\$2,805,244	2001	\$12,800,087
1966	\$16,530	1978	\$101,398	1990	\$1,653,595	2002	\$16,403,069
1967	\$500	1979	\$234,903	1991	\$1,724,455	2003	\$19,179,123
1968	\$5,250	1980	\$392,479	1992	\$2,622,619	2004	\$16,252,364
1969	\$55,645	1981	\$576,876	1993	\$2,644,662	2005	\$21,737,416
1970	\$15,750	1982	\$545,411	1994	\$1,609,130	2006	\$30,494,383
1971	\$5,000	1983	\$522,849	1995	\$2,671,613	2007	\$20,618,087
1972	\$105,400	1984	\$777,395	1996	\$2,608,639	2008	\$374,337
1973	\$2,050	1985	\$854,600	1997	\$3,402,298	Total	\$188,692,107

Of the claimant’s attorneys fees approved in 2005-06, only two percent (2%) were for dates of accidents more than 20 years prior. Of the claimant attorney’s fees approved during fiscal 2006-07, approximately seven million seven hundred eleven thousand two hundred fifty-five dollars (\$7,711,255) was paid for accident dates in 1987 and before (more than 20 years prior). This is four percent (4%) of the claimant fees approved in 2006-07. In 2007-08, the percentage of all attorney’s fees approved that involved accident dates more than 20 years prior was five percent (5%) of all fees, totaling \$9,318,334. Older claims are contributing a larger percentage of the fees approved.



The vast majority, approximately seventy-three percent (72.86%), of the fees approved in 2007-08 related to accident dates in the seven years between January 1, 2001 and December 31, 2007. This is a decrease from the seventy-seven percent approved in fiscal 2006-07 for a corresponding seven-year period.<sup>29</sup> The claimant fees approved in fiscal 2007-08 for the last 20 years are illustrated in the above graph. As with other issues identified herein, the significance of this distinction is difficult to discern based upon this report alone. It is also noteworthy that many settlements in the course of a given fiscal year will settle multiple accident dates. Because of this, the fees associated with such “multi-accident” settlements are divided equally between those accidents for the purpose of reporting. Because of the parties’ election to settle multiple accidents in a single comprehensive settlement, there is no more rational or definitive method for determining the portion of fees attributable to each accident in such situations.

**NUMBER OF FINAL ORDERS NOT ISSUED WITHIN 30 DAYS AFTER THE FINAL HEARING OR CLOSURE OF THE HEARING RECORD:**

Many legitimate reasons may require a trial to be reconvened on a second or even third day after the initial trial date. However, anecdotal evidence supports that such a process has been historically employed to delay record closure and artificially extend statutory deadlines. Determination of the legitimacy of such subsequent proceedings in any given case would require forensic examination of each case, which is not practical with the current resources of the OJCC. Recognizing the limitations of case auditing, and the legitimate need for such “reconvene” hearings in a minority of cases, the OJCC reports the number of cases in which the final order is entered within thirty days of the final hearing convening. This calculation undoubtedly slightly understates the number of final orders entered within thirty days of legitimate “hearing record closure.”

However, this calculation also permits no overstatement of achievement by inappropriate employment of the “reconvene,” and presents an illustration of performance that is consistent across the various districts and divisions. In this regard, the OJCC elects to report conservative figures that cannot overstate performance. Review of all of the final merits orders entered during fiscal 2005-06, fiscal 2006-07, and fiscal 2007-08 indicates that many final orders were entered on the same day of the final hearing. Overall, the JCCs entered timely final orders approximately fifty-eight percent (57.6%) of the time in fiscal 2005-06. This increased significantly in 2006-07 to almost sixty-six percent (65.54%) of the time, and increased in 2007-08 to almost seventy-one percent (70.61%). As represented in this table, final orders were entered in under one hundred (100) days in approximately eighty-six (85.5%) of all cases in 2005-06 and in almost ninety-three percent (92.79%) of the cases in fiscal 2007-08. For final orders entered during fiscal 2006-07, the shortest period between final hearing and final order was zero (0) days and the longest period was two thousand, nine hundred eleven (2,911) days, or approximately eight years. In 2007-08 the shortest period between trial and order remained zero (0) days, and the longest period was one thousand, two hundred twenty-four (1,224) days, or approximately three and one-third years. As long as the current statutory mandates remain regarding appointment of expert medical advisors, there will likely be some volume of orders that are entered after what would otherwise appear to be an inordinate period of time. However, the OJCC continues to make significant improvement in this measure. It is pertinent that the increases in volume of orders in each of the categories in this chart are attributable to the marked increase (5%) in the volume of orders entered within the statutory thirty days.

Days	Percentage Entered 05-06	Percentage Entered 06-07	Percentage Entered 07-08
30	57.60%	65.54%	70.61%
40	66.70%	71.23%	76.88%
50	71.90%	76.87%	81.02%
60	74.60%	79.72%	84.09%
70	78.60%	82.97%	86.93%
80	81.60%	85.14%	89.30%
90	84.00%	87.31%	91.25%
100	85.50%	88.60%	92.79%

**RECOMMENDED CHANGES OR IMPROVEMENTS TO THE DISPUTE RESOLUTION ELEMENTS OF THE WORKERS' COMPENSATION LAW AND REGULATIONS:**

The history of judicial consideration of “costs” is discussed at length in the 2006-07 OJCC Annual Report. The suggestions and recommendations therein remain important and are mentioned here to reiterate.

The procedural and practical inefficiencies of the Expert Medical Advisor (EMA) process are described in detail in the 2005-06 OJCC Annual Report. This process remains problematic for the Judges of Compensation Claims’ efforts at efficient and timely adjudication of disputes.

The OJCC recommends further consideration of these two concerns.

Statutorily, the OJCC notes several points that bear consideration, including electronic filing, docket management and budget. Electronic document filing is an area in which the OJCC has excelled. It is respectfully believed and submitted that there is currently no more effective document filing and electronic docketing program. This is not by accident. The success of this system lies in the DOAH team effort that envisioned, developed, tested and deployed this process. The OJCC electronic filing initiative has resulted in an unprecedentedly robust and effective litigation management tool. A significant cost of litigation is the certified mail expense required in Fla. Stat. §440.192(1). This requires an injured worker to file her or his petition, and to serve it on employer and carrier through certified mail “or by electronic means approved by the Deputy Chief Judge . . .” The “electronic means” alternative was added to the law in 2001. Thus a single petition generates significant out-of-pocket expense, which can be minimized by utilization of the OJCC electronic filing system (e-JCC). The legislative deference to an effective electronic process is obvious. The insurance carrier or servicing agent is required to either provide the benefit or file a “response to petition.” When such a response is filed, the “carrier shall provide copies of the response to the filing party, employer, and claimant by certified mail.” Fla. Stat. §440.192(8). The Legislative



logic is simple in this regard, certified mail provides the ability to confirm receipt of these two documents, which are crucial to understanding what is sought (PFB) and why that is not provided (Response). The provisions of Fla. Stat. §440.192(8) do not contain the same caveat for service of the Response through an electronic media. There is no reason to suspect that this evidences any intention to trust electronic transmission for the service of a PFB, but not for the Response. It appears that this caveat was simply not included in Fla. Stat. §440.192(8). It is important to recall that no process existed for this electronic transmission at the time this statute was last amended. A very minor statutory amendment would alleviate this disparate treatment, and would further encourage use of the e-JCC system.

All attorneys representing litigants in the Federal Courts are required to utilize that tribunal's electronic filing system (PACER). That system is less robust than e-JCC in that it provides no web-forms such as the e-PFB, e-Response and e-RACN. That system is also more cumbersome in that it provides limited access to electronically filed documents for verification purposes, but imposes fees for re-accessing those filings after a set time period. The e-JCC system provides the registered attorneys unlimited free access to all the data in their case(s). The e-JCC cost savings to the State are dramatic. During fiscal year 2007-08, Florida saved \$213,119.50 in labor through attorney's use of e-JCC. It is very difficult to calculate the exact volume of annual OJCC filings (paper). However, based upon those that are currently monitored such as PFB and Responses, it is believed that less than half of all OJCC filings are electronic. It can be conservatively supposed that a legislative mandate for e-JCC would at least double this monetary savings to Florida on an annual and ongoing basis. The OJCC submits that mandating use of e-JCC for all attorney filed pleadings would benefit everyone except the United States Postal Service.

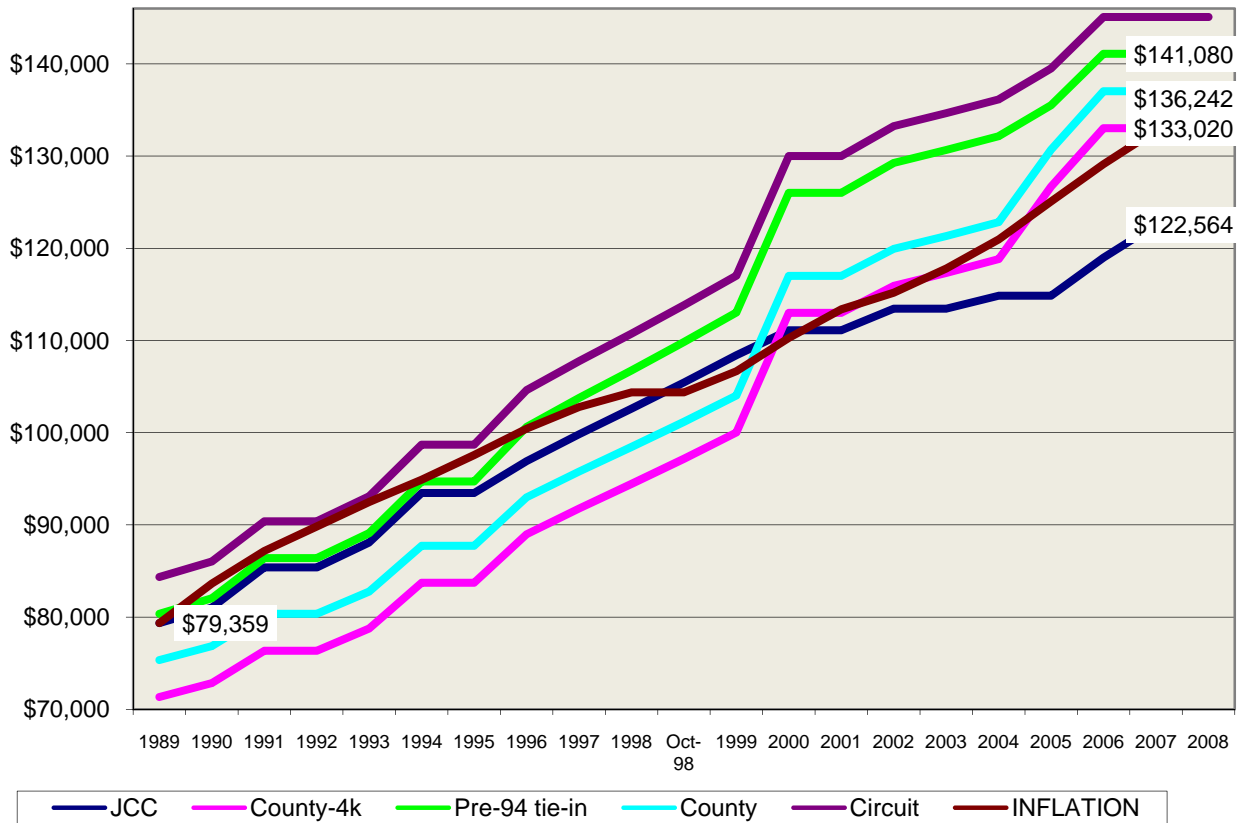
The OJCC continues to rely heavily on the benefits of digital technology, as discussed above in regards to e-JCC. Another significant application of digital technology has previously been deployed through joint efforts of the Division of Administrative Hearings (DOAH) and the Department of Management Services (DMS). Those entities collaborated to deploy a video teleconferencing (VTC) network in Florida, and for several years the Administrative Law Judges (ALJ) of the DOAH have used that technology to conduct remote trials without the attendant expense of travel (for the Judge and often for at least some of the parties). In 2006 the DOAH deployed such a VTC unit in each of the OJCC District Offices in Ft. Lauderdale, Orlando and Tampa. These were deployed for the benefit of the DOAH ALJs. In fiscal 2007-08, the OJCC and the DOAH jointly deployed such VTC units in Jacksonville, Daytona Beach, Lakeland, and West Palm Beach. Since Fiscal year 2008-09 began, this capability has been added to Pensacola, Panama City, and Miami (x2). Thus, the OJCC currently has access to VTC capabilities in eleven (including the Tallahassee District office that is in the same building that houses the DOAH) of seventeen District offices. In 2008-09 the OJCC hopes to deploy this technology in Ft. Myers and potentially one other OJCC facility. At the present time, the VTC capability is accessible in the offices of 23 of the 32 Judges. Several other Judges are based in District Offices that are a reasonably short drive from one of these VTC offices, such as Melbourne (1 Judge), St. Petersburg (2 Judges), and Port St. Lucie (1 Judge). This process will inure to the benefit of Florida in providing greater flexibility for redistribution of workload around the state. While maintenance, procurement, and operation of this network represent a financial commitment, it is far less than the expense associated with Judicial travel. Further, the disruption of the "visiting Judge's" regular workload is also diminished as is the time spent in actual transit. The OJCC Mission would be enhanced by provision of financial resources sufficient to deploy and maintain this technology in the remaining five Districts, St. Petersburg, Sarasota, Port St. Lucie, Melbourne, and Gainesville. Additional funding would allow deployment of this tool to the remaining Districts and the statewide process would be comprehensive.

The structure of the OJCC is statutorily defined. The legislature has defined the number of District offices that the OJCC "shall" maintain (17) and the number of Judges that the OJCC shall maintain (31) Fla. Stat. §440.44(5). In 2006, the legislature provided full-time staff positions for an additional Judge, Mediator, and three staff positions. This staff increase was the first significant change since state Mediators were added to the OJCC in 1994. In the process of adding these positions and providing the budgetary support for them, the provisions of Fla. Stat. §440.44(5) were not altered to recognize that there are currently thirty-two (32) Judges of Compensation Claims. This provision should be amended to reflect the current state of the Office.

Judges of Compensation Claims are appointed for terms of four years. Fla. Stat. §440.45(1)(a),(c). Judges are eligible for reappointment to successive terms. The process for such reappointment involves a review of judicial performance by the Statewide Judicial Nominating Commission (SJNC) six months prior to the expiration of the Judge's term. Following a favorable recommendation, the Judge's name is submitted to the Governor for consideration. In accepting an appointment as Judge of Compensation Claims, many Judges are leaving successful private practices, with a resulting significant decrease in earnings, as discussed above. State employees are provided with significant benefits including health insurance and retirement. In order to vest in the State retirement system, however, six years of employment is required. It is respectfully suggested that appointments of six years would significantly reduce the workload of the all-volunteer SJNC by decreasing the frequency of the recurrent reappointment interviews. Coincidentally, this proposed statutory modification would allow a Judicial applicant the reassurance that an initial appointment would be of sufficient duration to allow the Judge to vest in the retirement program. Such a reassurance, particularly in conjunction with the salary recommendations set forth herein, would incentivize accomplished and qualified applicants to seek Judicial appointments. Service by the most accomplished workers' compensation lawyers would enhance the performance of the OJCC.

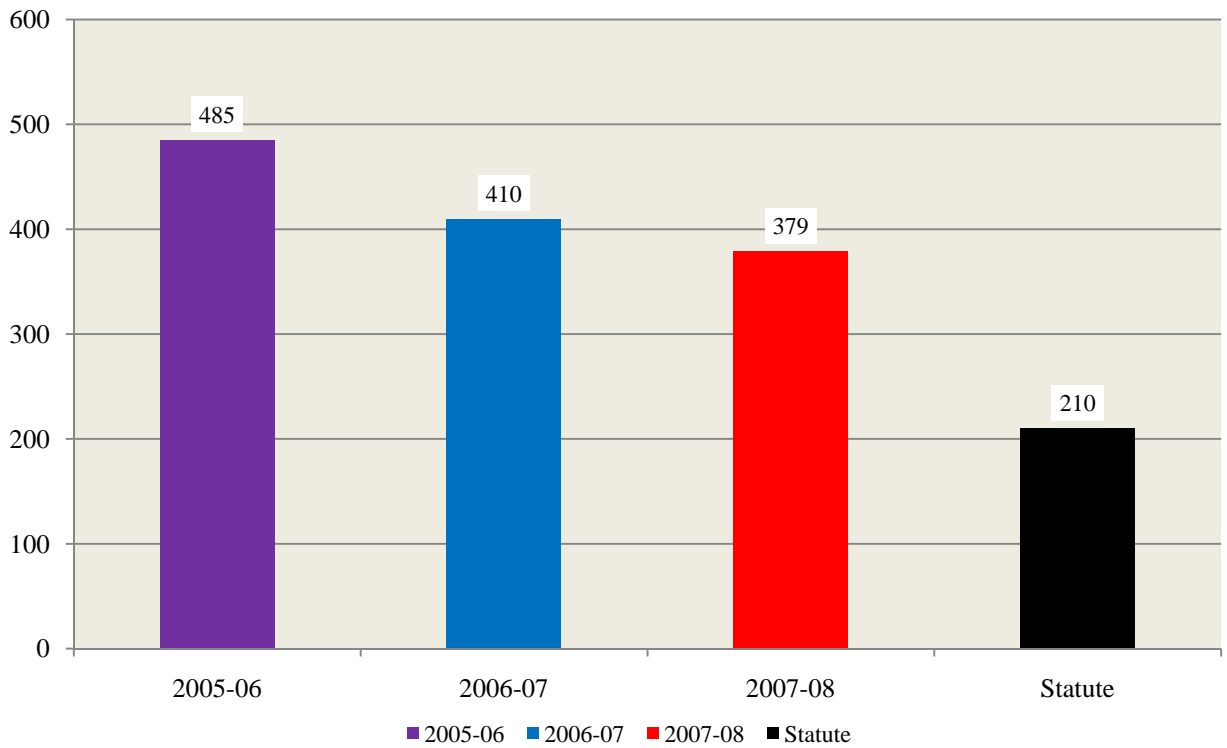
The entire OJCC budget is paid from the workers' compensation administrative trust fund. We expend no general revenue funds in our mission. Our Judges of Compensation Claims (JCCs) each handles a significant workload, on par with the workload and responsibility of Florida's Circuit Court Judges, in terms of trials held per Judge and filings per Judge. The salary for a JCC was statutorily tied to Circuit Judges until 1994. Prior to that time, our Judges earned \$4,000.00 less than a Circuit Judge. Since the time this statutory "tie-in" was removed, our Judge's salaries have failed to keep pace with inflation and are currently (\$122,564) well below where they would be had the tie-in remained in place (\$141,080). Under the pre-1994 tie-in, in 1993, JCC salaries were about 5% less than Circuit Judge's. During Fiscal 2008, JCC salaries were 16% below Circuit Judge's. This salary disparity is widened further by significant differences in the retirement contribution rates for Article V. Judges and the JCCs. Clerical positions in the OJCC face similar disparity with similar positions in Florida's Court system. Starting executive secretaries in the OJCC's Miami office earn about 18% less than the same employees in the Court system. Pay rates are determined in part by regional cost of living differentials (called CADs). Therefore, starting executive secretaries in the OJCC's North Florida offices earn about 13% less than similar Court system employees.

An additional budget amount of \$644,730 would correct these two significant inequities. This funding would be used to increase the JCC salary to \$133,020 (which is the salary of a County Court Judge minus \$4,000). This figure is well below the \$141,080 which the pre-1994 tie-in would have provided. This figure is also below the figure (\$136,242) which is the inflation adjusted 1989 JCC salary. These comparisons are illustrated in a chart below (JCC Salary). The OJCC budget has grown in the last 15 years. However, the budget growth has not matched inflation, as illustrated in the chart (OJCC Budget per FTE) below. The 2009 LBR request for \$644,730 represents an increase of only 3.3% ( $\$644,730/\$19,522,783$ ) of the OJCC budget, which will nonetheless remain below the inflation adjusted budget. This increase represents recurring obligation, but is funded entirely from the trust fund established to pay the costs of administering this very system.

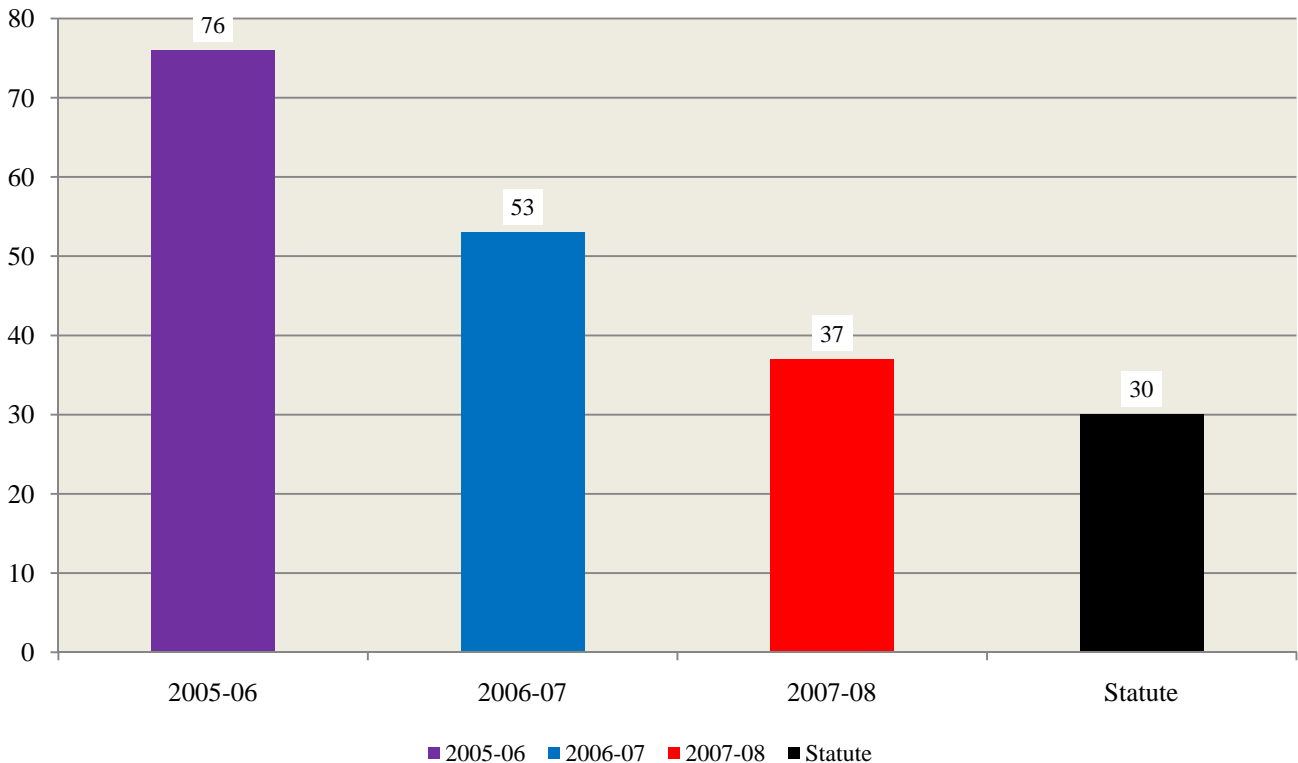


**JUDGES GENERALLY ARE UNABLE TO MEET A PARTICULAR STATUTORY REQUIREMENT FOR REASONS BEYOND THEIR CONTROL, THE DEPUTY CHIEF JUDGE SHALL SUBMIT SUCH FINDINGS AND ANY RECOMMENDATIONS TO THE LEGISLATURE:**

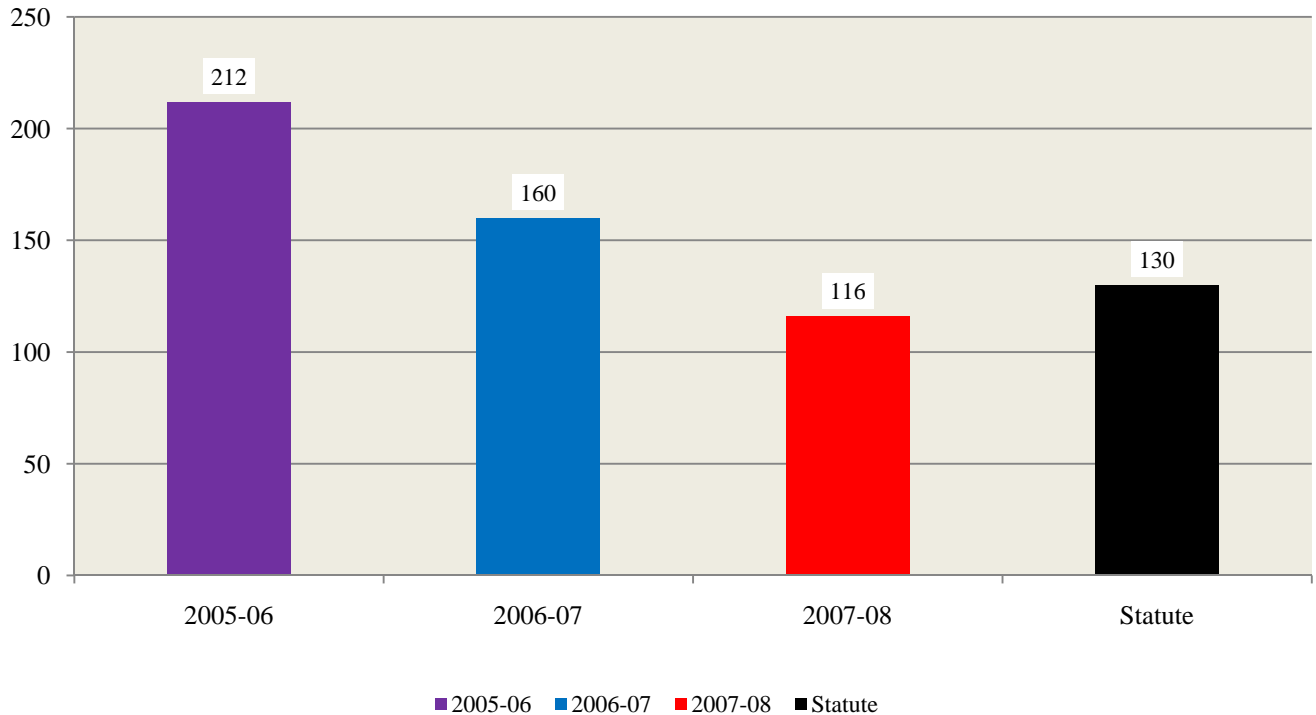
Each statutory requirement can clearly be accomplished in the vast majority of cases. This fact is indisputable and has been proven on more than one occasion and in various districts throughout Florida. It is therefore disingenuous to claim that cases “cannot” be tried within two hundred ten (210) days of PFB filing or that final orders “cannot” be timely issued within 30 days of trial. In a particular exceptional case, however, this standard may be unreasonable, due to the facts of that particular case. In recognition that such exceptional cases exist, the OJCC reports only the overall average time to trial and time to order for each JCC. In fiscal years 2005-06, 2006-07 and 2007-08 one hundred percent (100%) compliance with these requirements was achieved by some individual Judges, although overall the OJCC did not meet this measure. The overall OJCC average time from operative pleading to commencement of trial has decreased 21% (379/485) over the last two fiscal years. As illustrated in the following graph, the OJCC overall average is decreasing steadily towards the statutory parameter of 210 days.<sup>30</sup>



The Office of Judges of Compensation Claims has also made significant improvement in the average time period between the commencement of the trial and the entry of the final order thereon.<sup>31</sup> The overall statewide average period from trial to the entry of the trial order has decreased more than 50% (37/76) over the last two fiscal years, as illustrated in the following graph.



A frequent reason that these statutory parameters are not met is the mandatory expert medical examiner (“EMA”) provisions. The impact of the EMA process is explained in the 2005-06 Annual Report of the Office of Judges of Compensation Claims. Perhaps the most impressive improvement, however, is the marked decrease (-28% = 44/160) in the overall statewide average period between the filing of a petition and the first mediation conference held thereon. Though the OJCC is approaching compliance with the statutory time parameters in other areas, the 2007-08 average of 116 days is within the statutory parameter for mediation (130 days).



## Statutory Measures:

Judges of Compensation Claims (JCC) are appointed by the Governor for a term of four (4) years. A JCC may thereafter be re-appointed by the Governor for successive four year terms. The re-appointment process is to be initiated approximately six (6) months prior to the expiration of the JCC’s term with review of the Judge’s performance by the Statewide Nominating Commission (SNC). Fla. Stat. §440.45(2)(c),<sup>32</sup> mandates that the SNC consider “the extent to which the judge has met the requirements of this chapter, including, but not limited to” the following eight specific statutory provisions: Fla. Stat. §440.25(1)<sup>33</sup>(timely mediation), Fla. Stat. §440.25(4)(a)<sup>34</sup>(pretrial procedure), Fla. Stat. §440.25(4)(b)<sup>35</sup>(appropriate continuance grounds and orders) , Fla. Stat. §440.25(4)(c)<sup>36</sup>(timely final hearing notice), Fla. Stat. §440.25(4)(d)<sup>37</sup>(timely final hearings and final orders), Fla. Stat. §440.25(4)(e)<sup>38</sup>(final order filing), Fla. Stat. §440.34(2)(appropriate fee order findings), Fla. Stat. §440.442<sup>39</sup>(Compliance with Code of Judicial Conduct). Despite the clear statutory mandate for such reporting, these statutory measures have not previously been reported by the OJCC. This annual report marks the second consecutive OJCC effort at fulfillment of this reporting requirement. The 2006-07 OJCC Annual Report documented four of the eight parameters for each JCC (timely mediation, timely final hearings and final orders, final order filing, compliance with Code of Judicial Conduct). This Report provides data regarding each of the eight.

Although the reporting of these specific measures is mandated by Statute, these measures do not completely evaluate the volume of work required of a JCC. Therefore, it is also appropriate to quantify variations in work-load between and among Judges and districts. Furthermore, these statutory measures and workload volumes document certain activities, but do not necessarily reflect judicial performance. Any consideration of judicial performance must also include subjective factors such as judicial demeanor, courtesy to litigants and counsel, and respect of the Office and the responsibilities it embodies. In an effort to evaluate these factors, the OJCC worked

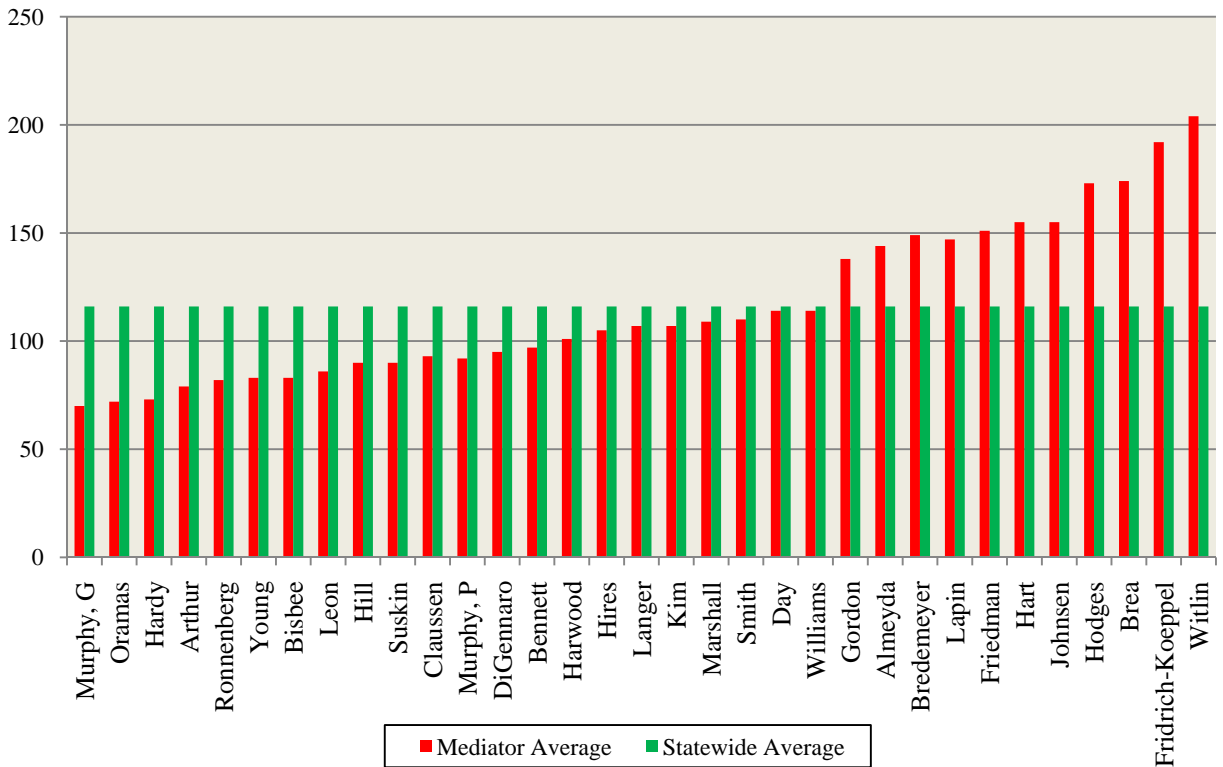
with the Workers' Compensation Section of The Florida Bar in 2007-08 to deploy the first Judicial Survey of the JCCs on a statewide basis. The results of that effort were deployed on the OJCC website ([www.fljcc.org](http://www.fljcc.org)).

For the purposes of this report, "final hearings" include: Evidentiary Motion Hearing, Expedited Final Hearing, Fee Amount Hearing, Fee Entitlement Hearing, Final Hearing, and Fund Hearings. Therefore the information herein regarding the timely conduct of hearings and entry of "final orders" includes analysis of all instances of these types of "trials," and the orders that result.

**Mediation:**

Timeliness of is addressed in Fla. Stat. §440.25(1). This Legislative measure requires that mediation on each PFB must be held within 130 days of the PFB being filed. This statute also requires that mediation is continued only if the parties agree or if good cause is shown. The following graph depicts the average number of days between PFB filing and the first mediation for each OJCC mediator in the state (red bars). The statewide average is also depicted (green bars). The average days between PFB filing and the first mediation is also provided for the mediators within each district in the district appendices at the end of this report.

The data for this measure indicates significant improvement in the frequency of timely mediation. In fiscal year 2006-07, the statewide average for all state mediators was 160 days. In 2007-08, the statewide average decreased twenty-three percent (23%) to 116 days. The frequency of mediation held within 130 days of PFB filing in fiscal year 2007-08 was eighty-eight percent (88%). In 2007-08 twenty-two of the state mediators had an average of less than 130 (the statutory period) from PFB filing to the first mediation. The frequencies for each division are described in the various appendices of this report, along with the statewide average of timely mediations.



**Pretrial Hearing:**

The timeliness of pretrial hearings is addressed in Fla. Stat. §440.25(4)(a). This statutory measure requires that the JCC conduct a pretrial hearing prior to trial and that the JCC provide the parties with fourteen days notice of such hearing. The available data do not support any conclusion regarding this statutory measure. The JCC Application is capable of generating notices of any of the events common to the processing of a Petition, including



pretrial hearings, mediations, and final hearings. When the Application is used to schedule such an event, the issuance and mailing of that notice is also automatically posted in the electronic case docket. In the divisions that are utilizing that Application function, an audit for 2007-08 supported that appropriate notice is being provided for pretrial proceedings. The anecdotal evidence, an absence of any complaints or allegations of insufficient pretrial notice, also supports that the OJCC complies with this statutory measure.

The absence of pretrial notice “comments” in some case dockets suggests that a number of the divisions do not utilize this automatic notice function. In those divisions, it would be impossible to independently verify the issuance of timely notices without an on-site audit of a paper file maintained in that individual district office.

It is therefore believed that each OJCC division is in compliance with the requirement of timely pretrial notice. During 2008-09, the OJCC will undertake additional efforts to document compliance and report further regarding these efforts and compliance with this statutory requirement in the next OJCC Annual Report.

### **Final Hearing Notice:**

Timely notice of final hearings is mandated by Fla. Stat. §440.25(4)(c). This statutory measure requires that the Judge provide the parties with fourteen (14) days’ notice of final hearings. The issuance of timely notices for final hearing is difficult to measure accurately. Some divisions utilize the automatic notice generation process in the JCC Application, as discussed above regarding pretrial hearings. When this process is employed, the database generates the notice and automatically documents that in the electronic case docket. The 2007-08 audit of case dockets supports that timely notice is being provided for all final hearings. Although some case dockets do not contain these docket remarks, this is likely because that particular division is not utilizing the automatic notice generation function. The absence of any complaints of untimely final hearing notice also anecdotally supports that appropriate statutory notice is being provided. Despite this belief, the OJCC will undertake additional efforts in 2008-09 to assure that the electronic case dockets are either automatically documenting this action, or that the docket is manually annotated in those divisions that do not utilize the automated function. In 2008-09 ten final hearings in each division will be randomly selected for audit for this measure. The docket annotation of notice provision or uploaded notice will be utilized to determine the timing of notice and thereby the compliance with this measure. The OJCC will report further on the progress of this documentation effort in the 2008-09 OJCC Annual Report.

### **Final Hearing Continuance:**

In this regard, the meaning of “continuance” is worthy of reiteration. Many cases cannot be mediated or tried on the date upon which they are scheduled. This is often known fairly soon after the hearing or mediation is noticed. If the parties seek to change that date, and an alternate date can be agreed upon within the applicable statutory period (trial = 210 days; mediation = 130 days), the hearing or mediation is “rescheduled” not “continued.” This characterization is a logical differentiation that recognizes both the statutory parameters and that many times the new hearing or mediation date is prior to the originally scheduled event. Any hearing that is characterized as “continued” in the database should have a corresponding continuance order in the case docket. The order should document the circumstances. The order should also set forth the new event (trial or mediation) date.

Continuance of final hearings is addressed in Fla. Stat. §440.25(4)(b). This statutory measure requires that the Judge generally only grant a continuance in defined circumstances. In the 2006-07 OJCC Annual Report, the statutory requirements were described. The timing of each OJCC Annual Report provides context for the efforts to move the OJCC toward effective reporting of all of the statutory measures. The OJCC fiscal year concludes on June 30 each year. However, the Annual Report cannot be compiled and published until all data is available. Because the deadline for reporting defense attorney’s fees is October 1 each year, publication of the report is necessarily after that date. The publication deadline is December 1. Therefore at least 3, and as many as 5 months of the current fiscal year, will have passed when the prior year’s Annual Report is published.

Arguably, the requirement of reciting continuance circumstances and including a new trial date in all continuance orders is something of which any practitioner and Judge would be aware. However, this has been a standard that has not been previously studied by the OJCC. As described above, much of 2007-08 had already passed before the statutory requirements were described in the 2006-07 Annual Report. In order to transition to

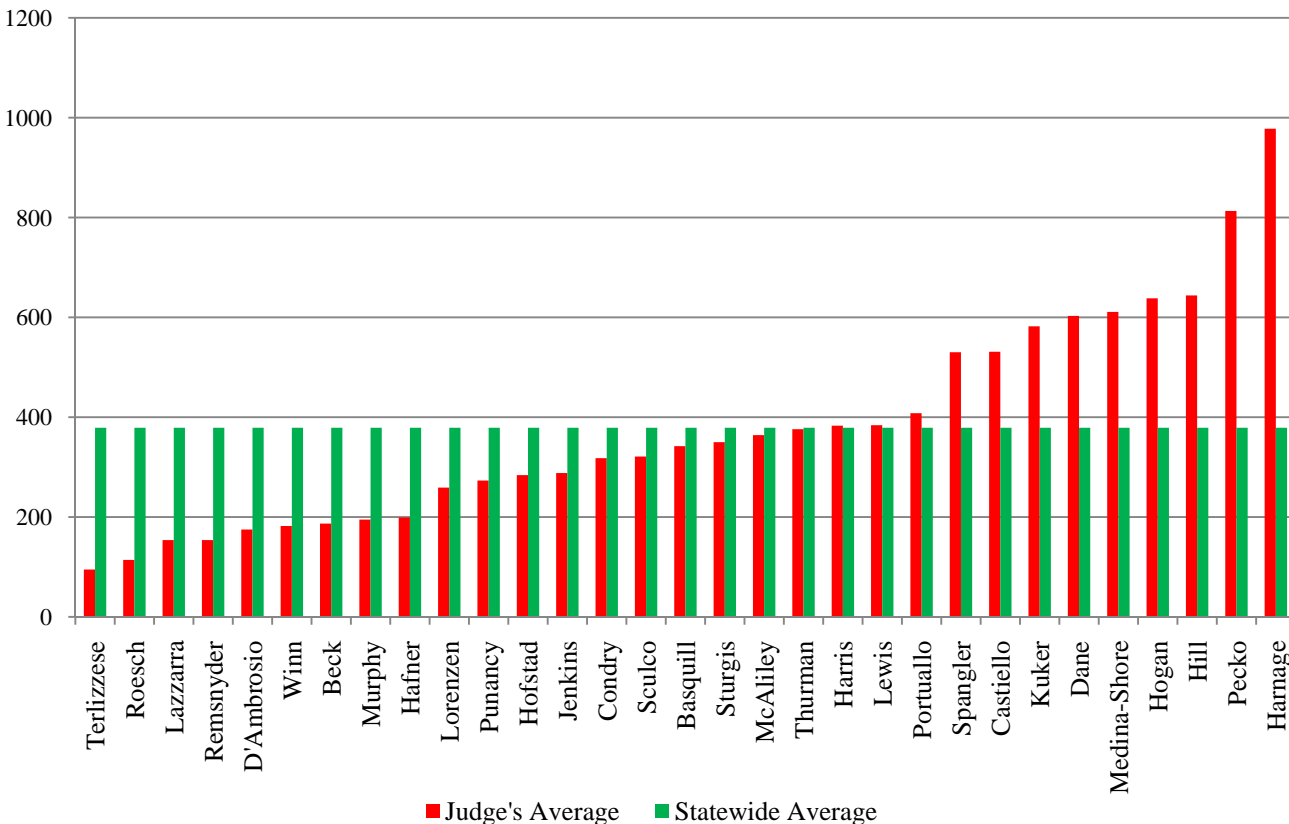
accurately measuring the compliance with this statutory measure, the OJCC undertook an audit of continuances last year and reports the aggregate results this year. This begins the process of better and detailed reporting on this statutory measure.

Ten continued final hearings were randomly selected for each Judge during 2007-08. Some Judges' cases did not include ten instances of final hearing continuance. Each of those case dockets was searched for a corresponding order "continuing" that hearing. Of the "continued" hearings, orders were located for 96%. The continuance circumstances were described in only 20% of those orders. Additionally, however the approved motion was scanned and uploaded with the continuance order (providing the description of the circumstances albeit in a separate document) in another 49% of those continuance orders. Thus, the circumstances are effectively described in 69% of the continuance orders entered. The new trial date was set forth in 89% of the continuance orders entered.

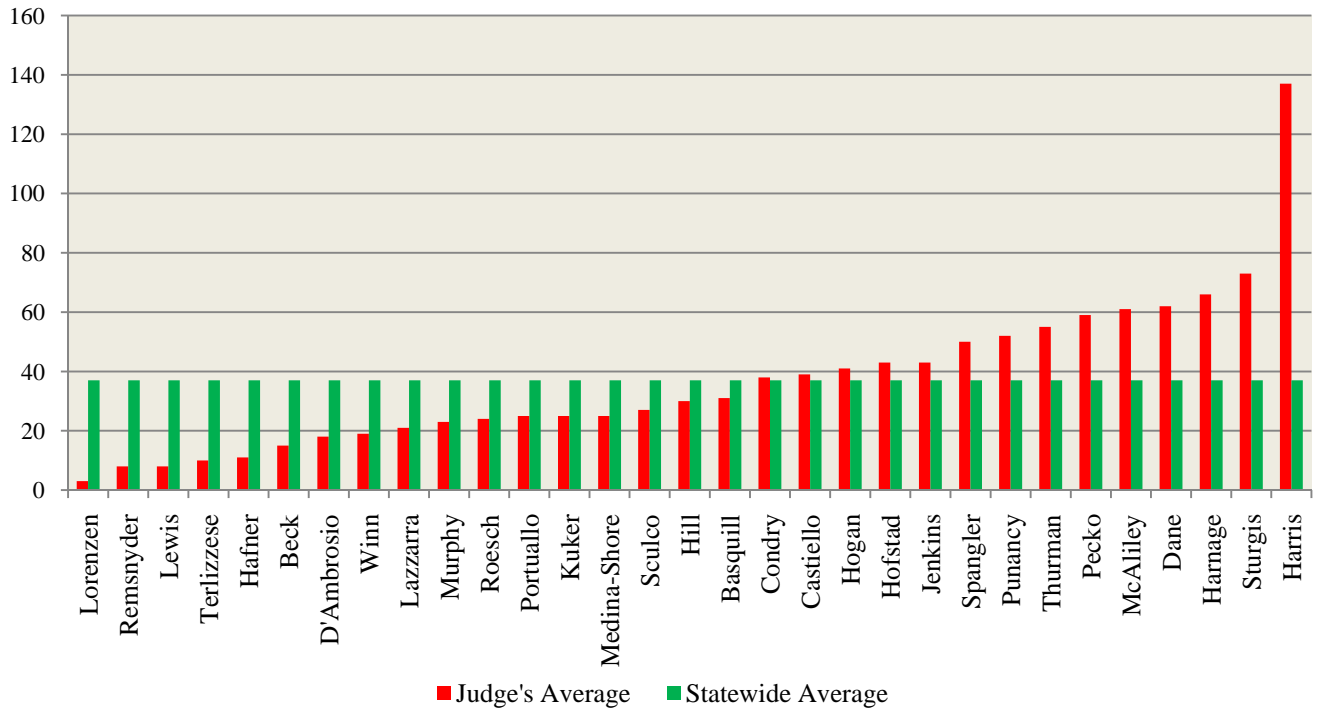
These aggregate statistics support that most Judges are entering continuance orders and the vast majority of those orders set forth a new hearing date. Compliance is markedly less with reciting the circumstances or appending the order to the subject motion to provide that information. In 2008-09, the OJCC will again audit a sampling of "continued" final hearings. The volume of those that have orders entered, in which the circumstances are described, and in which a new trial date is stated, will all be measured and reported for each Judge.

**Timely Final Hearings and Final Orders:**

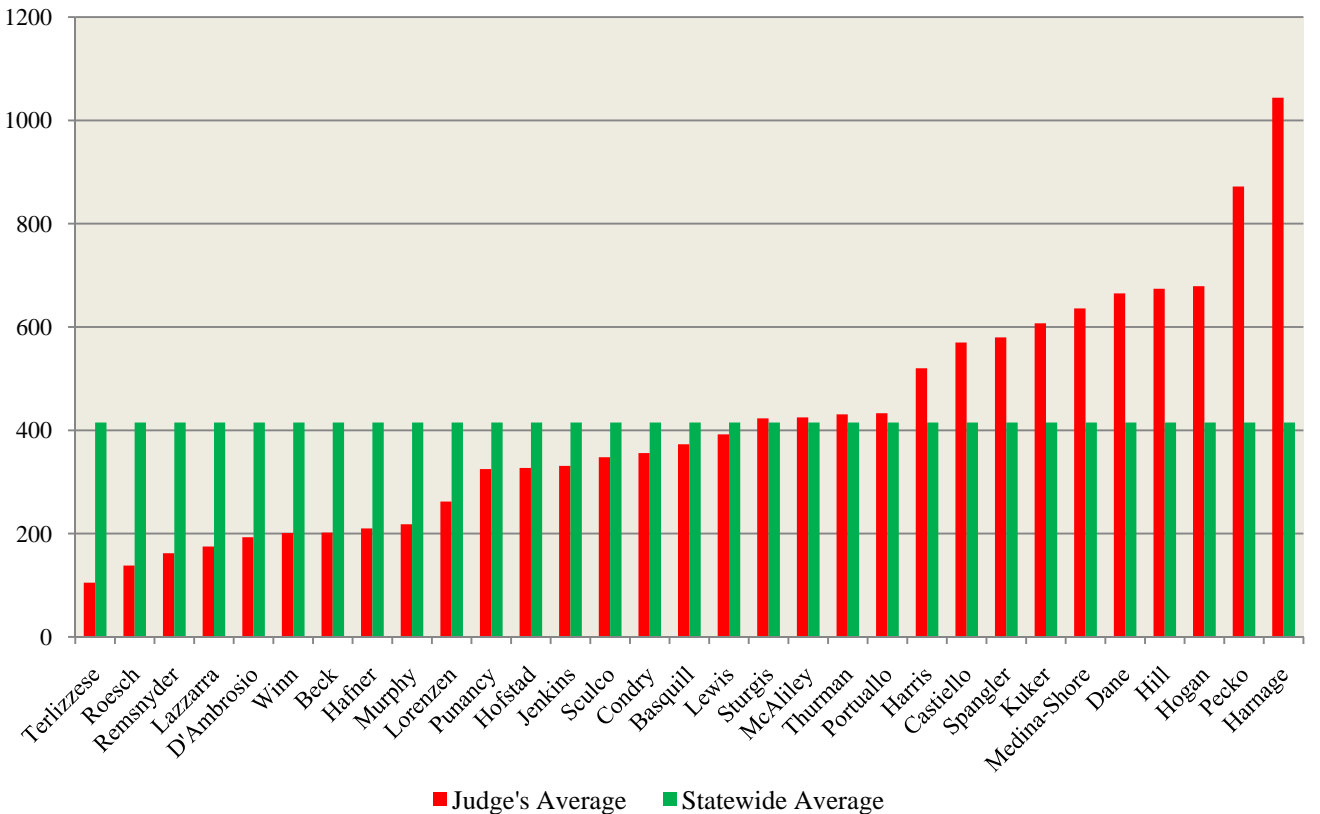
Timely final hearing proceedings are defined by Fla. Stat. §440.25(4)(d). This Legislatively mandated measure requires that the Judge conduct a final hearing within two hundred ten (210) days of PFB filing. This statute also mandates that the resulting final order be published and served within thirty (30) days of the final hearing. Each trial order entered by each JCC during the 2007-08 year was reviewed. For each Judge, this report states the average number of days between PFB and trial, and the average number of days between trial and final order. The following graph depicts each JCC's average number of days between PFB filing and the first day of trial.



Each JCC's average is also set forth in the district appendices that follow this report. The following graph depicts the average number of days between the commencement of trial and the entry of a final order for each JCC.



The following graph depicts each JCC's average number of days between PFB filing and entry of the final order (red bars), the statewide average (green bars) and the combined statutory standard of 240 (201 PFB to trial plus 30 trial to order) days.



### **Final Order Filing:**

The filing of final orders in Tallahassee, Florida is mandated by Fla. Stat. §440.25(4)(e). This statutory measure requires that the Judge file all final orders with the Office of the Judges of Compensation Claims in Tallahassee, Florida. The data support that all of the JCCs are in complete compliance with this statutory requirement.

### **Attorney's Fee Orders:**

Contents of attorney's fee orders is addressed in Fla. Stat. §440.34(2).<sup>40</sup> This statutory measure requires the JCC to identify the amount, statutory basis, and type of benefits obtained through legal representation which shall be listed on all attorney's fees awarded by the judge of compensation claims. Claimant attorney's fees must be approved by the assigned Judge. There has been some argument advanced that the applicable statutory provisions should be interpreted to require the same scrutiny and approval for fees paid to counsel for the employer/carrier. The operative statutory language was added to Chapter 440 in 1994. Then Chief Judge Walker interpreted the law as applying to only claimant attorney's fees, and a notice of that interpretation was published. The current OJCC leadership does not construe anything in Chapter 440 as sufficient authority for the Deputy Chief Judge to issue such legal interpretations purportedly to control or influence the independent decision making of the 32 various Judges of Compensation Claims.

Within the current process of claimant fee determinations, fee issues can be contested in terms of entitlement to fees and/or the amount of fees. Entitlement to attorney's fees and/or costs is generally plead in the petition for benefits that seeks a statutory benefit for the injured claimant, such as a change in physician, a period of indemnity. In a general sense, it is common that fee or cost entitlement is not litigated simultaneously with the litigation of entitlement to the underlying claimed benefit. It is therefore common that parties will agree or stipulate to the provision/acceptance of some benefit, such as a new physician authorization, and will "reserve jurisdiction" for later determination of attorney's fees and/or costs that flow from previously obtaining that benefit. When issues are tried, the "final order" will grant or deny the claimed issues, and will usually address entitlement to fees and costs associated with any benefits awarded.

Thus, after a claimant has received a benefit through agreement, entitlement and/or amount of fees and costs may remain pending. After an award of such a benefit, entitlement to fees and costs is usually adjudicated leaving only the issues of the appropriate amounts. Such entitlement or amount issues are re-plead for adjudication in a Motion or Petition for attorneys fees and/or costs. The subject Motion or Petition is sometimes filed years after the underlying benefit is provided or awarded. The OJCC regularly holds hearings on attorney fee issues that are divided into two main categories, fee entitlement hearings and fee amount hearings. The trial orders resulting from such hearings are filed with the OJCC in Tallahassee.

Throughout this process of fee determination, it is common for the parties to resolve/stipulate the issues involved. This sometimes occurs in conjunction with a settlement of the claimant's entire case. Those instances are commonly referred to as a "side stipulation" resolving some fee for previously obtaining some benefit through the efforts of the claimant's attorney. In other instances, without any settlement of the claim, the parties may agree to the fee to be paid to claimant's counsel either by the employer/carrier (commonly referred to as an "interim" fee) or by the claimant (commonly referred to as an "ex parte" fee). Thus, four kinds of OJCC orders address claimant's attorney fee agreements, case settlement fees, side stipulations and ex-parte fee orders. A fifth category of orders, the trial order on a Motion or Petition for fees, also addresses the fee issue.

The OJCC audited JCC orders awarding contested attorney's fees for fiscal 2007-08. This audit revealed full compliance with the statutory requirements for order content found in Fla. Stat. §440.34(2). As the OJCC progresses with the ability to collect and report data, further scrutiny will be addressed to compliance in the four fee "agreement" orders.

### **Compliance with the Code of Judicial Conduct:**

JCC judicial conduct is controlled by Fla. Stat. §440.442. This Legislatively mandated measure requires that the Judge of Compensation Claims complies with the Code of Judicial Conduct. Complaints regarding failure to comply with this Code are investigated by the Director of the Division of administrative Hearings (DOAH). No JCC was found to have violated the Code in fiscal 2006-07. Therefore, each JCC fulfilled this measure for fiscal year 2006-07. The OJCC has instigated significant efforts to assure future compliance with this Code. These efforts include ongoing continuing education and individual efforts at reinforcing appropriate judicial action.

## **Conclusion:**

The OJCC made great strides in 2006-07 to bring uniformity and consistency to performance. The efforts directed toward defining terms and consistent data entry throughout the Districts resulted in better overall data for analysis in 2006-07. The success of that process is more clear in the 2007-08 data output which demonstrates the same consistency and marked improvement in the OJCC overall performance. The OJCC recognizes the integral role that technology will play in the future of all litigation, and has embraced the benefits of electronic filing and web-based dissemination of information. In 2007-08 the OJCC committed to the deployment of video teleconference (VTC) technology and the benefits of workload sharing that this offers. These technological advances facilitate the efficient practice of law, and their employment by the OJCC will work to the advantage of all constituents of the OJCC litigation process. As these enhancements facilitate more efficient legal practice and as trends continue to litigation on a statewide basis, the OJCC will continue to strive for ever greater consistency in District and division operations and processes.

## **Glossary of Terms:**

District	The OJCC operates seventeen offices throughout Florida. Each of these is responsible for adjudication of disputes regarding accidents in one or more counties in that vicinity. These groups of counties are “districts,” and the offices are referred to as “district offices.”
Division	A subdivision of the Office of Judges of Compensation Claims (“OJCC”) managed a Judge, and consisting of that Judge, a State Mediator, and various clerical personnel.
DFS	The “Department of Financial Services” is an autonomous department of the Executive branch which is under the authority of the Chief Financial Officer.
DLES	The “Department of Labor and Employment Security” was an autonomous portion of the Executive branch of Florida government until 2001. While that Department existed, the OJCC and the DWC were both part of it. When it was dissolved, the OJCC was transferred to the DOAH and the DWC was transferred to the DFS.
DOAH	The “Division of Administrative Hearings” is an autonomous Division, which is part of the Department of Management Services, and part of the Executive branch of Florida government responsible to the Governor.
DWC	The “Division of Workers’ Compensation” or DWC is part of the Department of Financial Services (“DFS”), and part of the Executive branch of Florida government responsible to the Chief Financial Officer (“CFO”).
E/C	An insured “employer” and their “carrier” from whom disputed workers’ compensation benefits are sought are generally referred to collectively as the “employer/carrier” or E/C.
e-JCC	The “electronic JCC” is an internet-based computer program that allows attorneys and adjusters to electronically file documents in workers’ compensation disputes pending before the OJCC.
e-PFB	A web-form available to users of the e-JCC system. This form allows preparation and filing of an “electronic petition for benefits.”
e-RACN	A web-form available to users of the e-JCC system. This form allows preparation and filing of an “electronic request for assignment of case number,” and provides virtually instantaneous assignment.
e-Response	A web-form available to users of the e-JCC system. This form allows adjusters to prepare and file an “electronic response to petition for benefits.”
e-Service	An electronic mail alternative to the U.S. Postal Service, which will allow users of the e-JCC system to serve copies of pleadings on other users through e-mail.
E/SA	Many self-insured “employers” utilize companies to facilitate payment of worker’s compensation benefits to injured workers. These “employers” and these “servicing agents” are generally referred to collectively as the “employer/servicing agent” or E/SA.
i-JCC	An electronic portal similar to the e-JCC system. This system is used by OJCC District Office staff to upload orders to the electronic OJCC docket. This program also permits internet data access to Judges and Mediators through the internet.

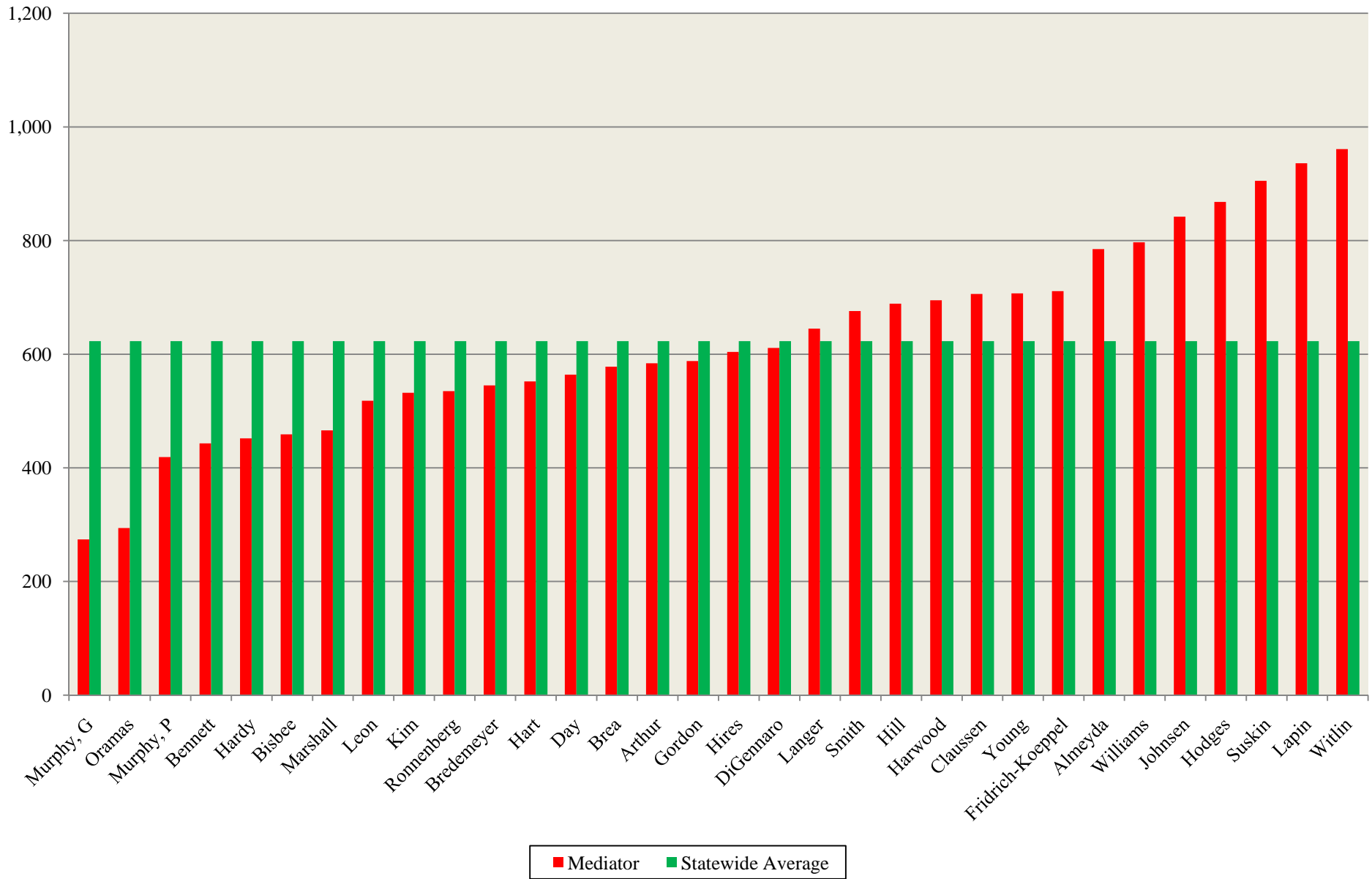


JCC	The “Judge of Compensation Claims” is an individual appointed by the Governor for a term of four years. Each JCC is the head of one of the thirty-two divisions in the OJCC.
JCC Application	The case management program used by the OJCC to document pleadings filed, orders entered, hearings scheduled or conducted, and other case activity. This Application is also a database from which statistics for this report are generated.
Mediation	A process of informal dispute resolution in which an independent intermediary works with all litigants in a case to find compromise solutions to disputes. Mediation has been mandatory in Florida workers’ compensation cases since 1994.
OJCC	The “Office of Judges of Compensation Claims” is a small State organization comprised of a Deputy Chief Judge, thirty-two Judges of Compensation Claims (“JCC”), thirty-two mediators, and approximately one hundred forty support personnel. In 2001 it was transferred from the Department of Labor and Employment Security (“DLES”) to the Division of Administrative Hearings (“DOAH”).
PFB	A pleading called a “Petition for Benefits” or PFB is the document that usually invokes the jurisdiction of the Office of Judges of Compensation Claims (“OJCC”) and begins the litigation of some dispute regarding workers compensation benefits.
VTC	Video teleconference, an electronic two-way video communication medium used by the DOAH for Judges to conduct trials in remote locations without associated travel expense.

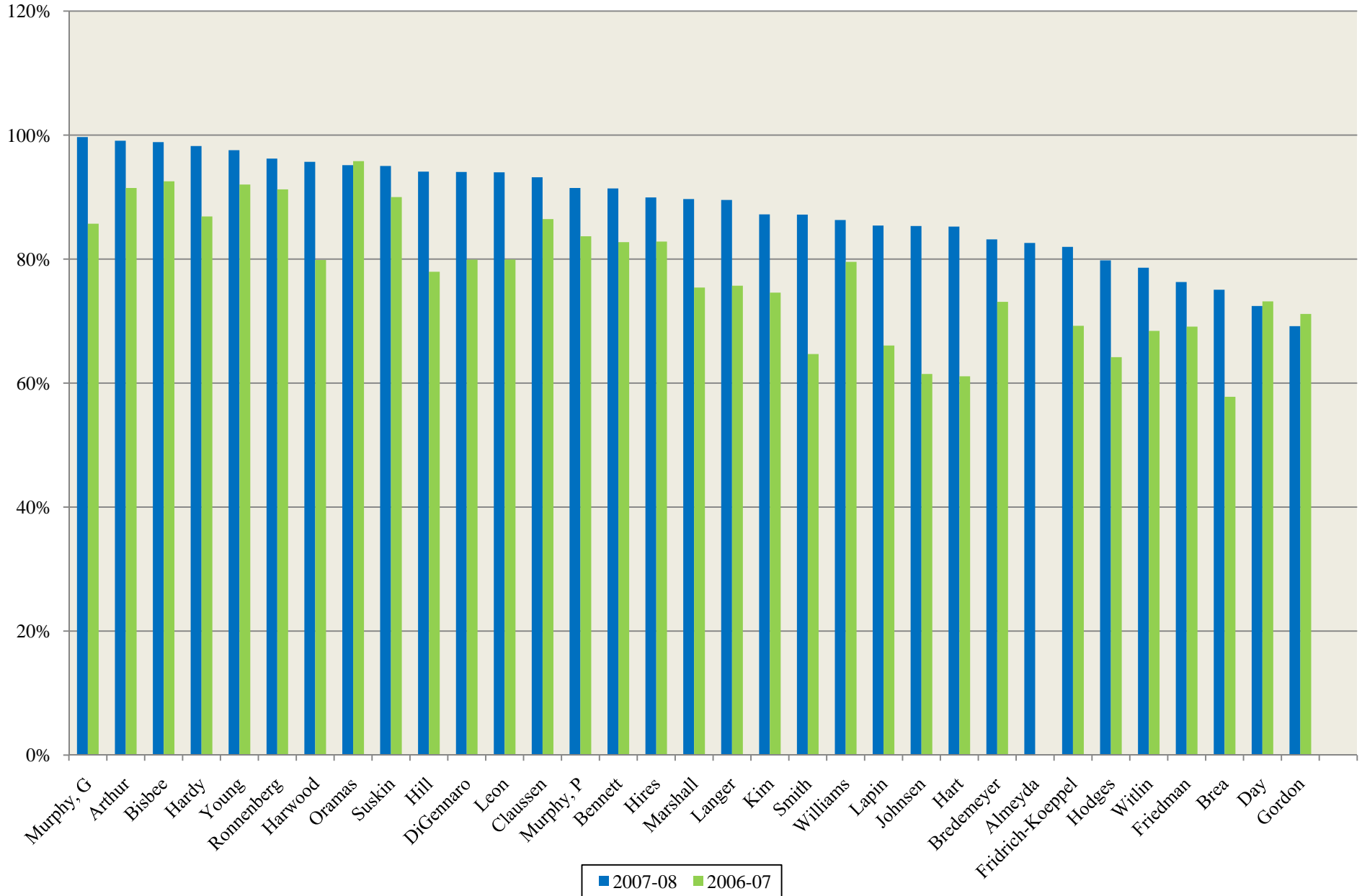
## Appendix “1” Mediation Statistics Detail:

In the following graphs, the statewide average is reflected by a green bar and each individual mediator’s performance is reflected by a red bar.

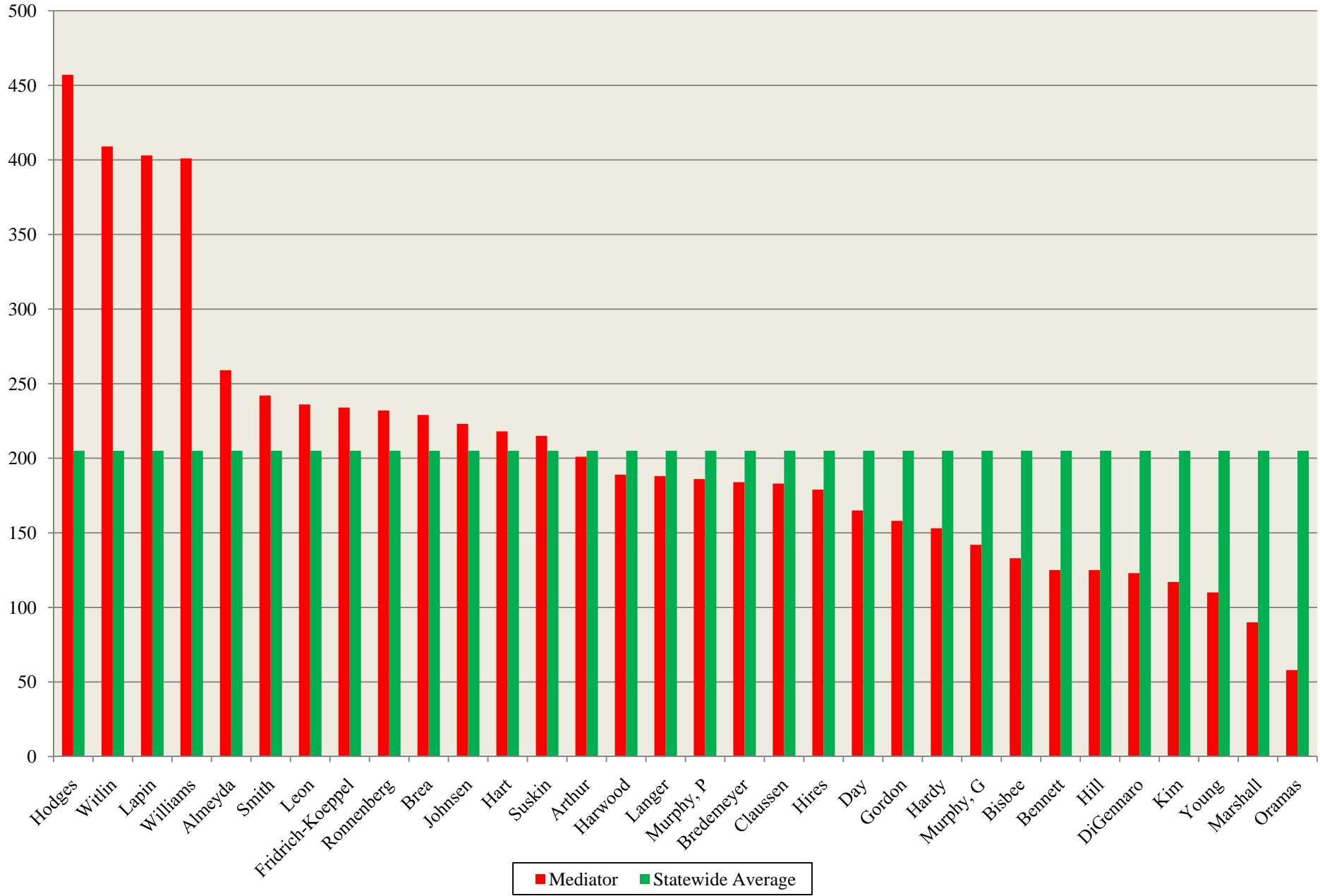
### Mediations held by each state mediator:



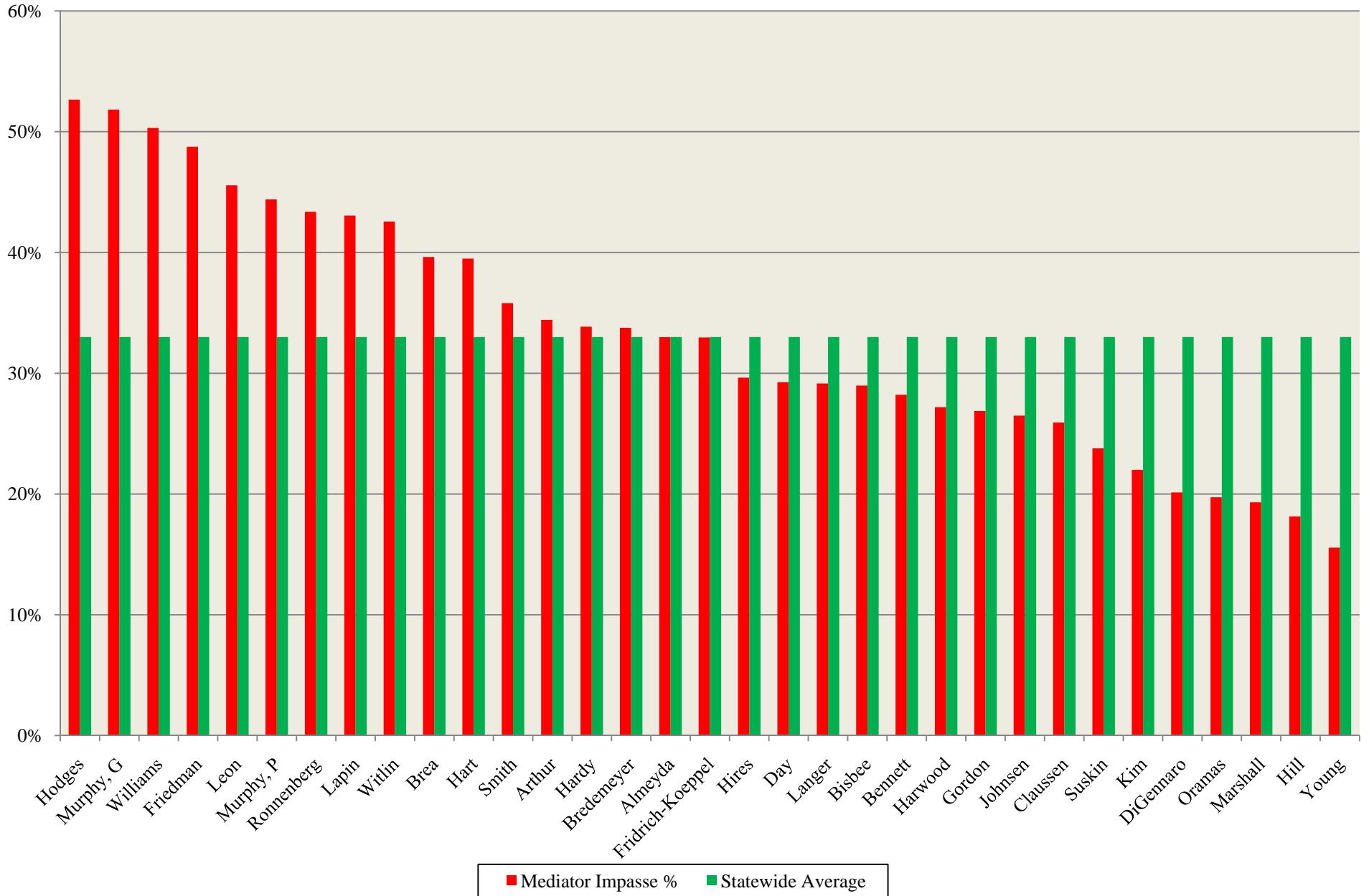
Percentage of mediations held within 130 days:



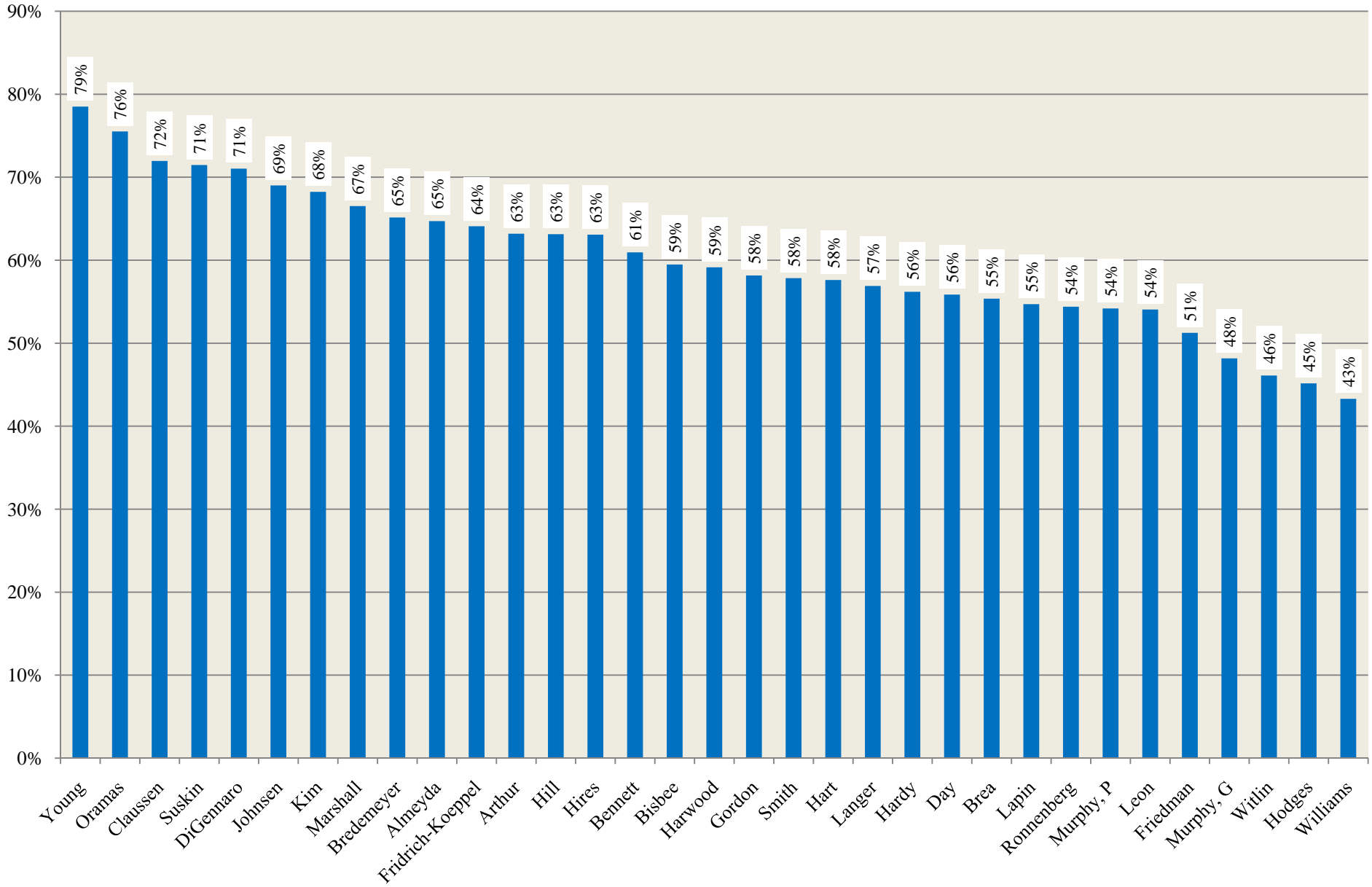
# IMPASSE:



## IMPASSE AS PERCENTAGE OF HELD:



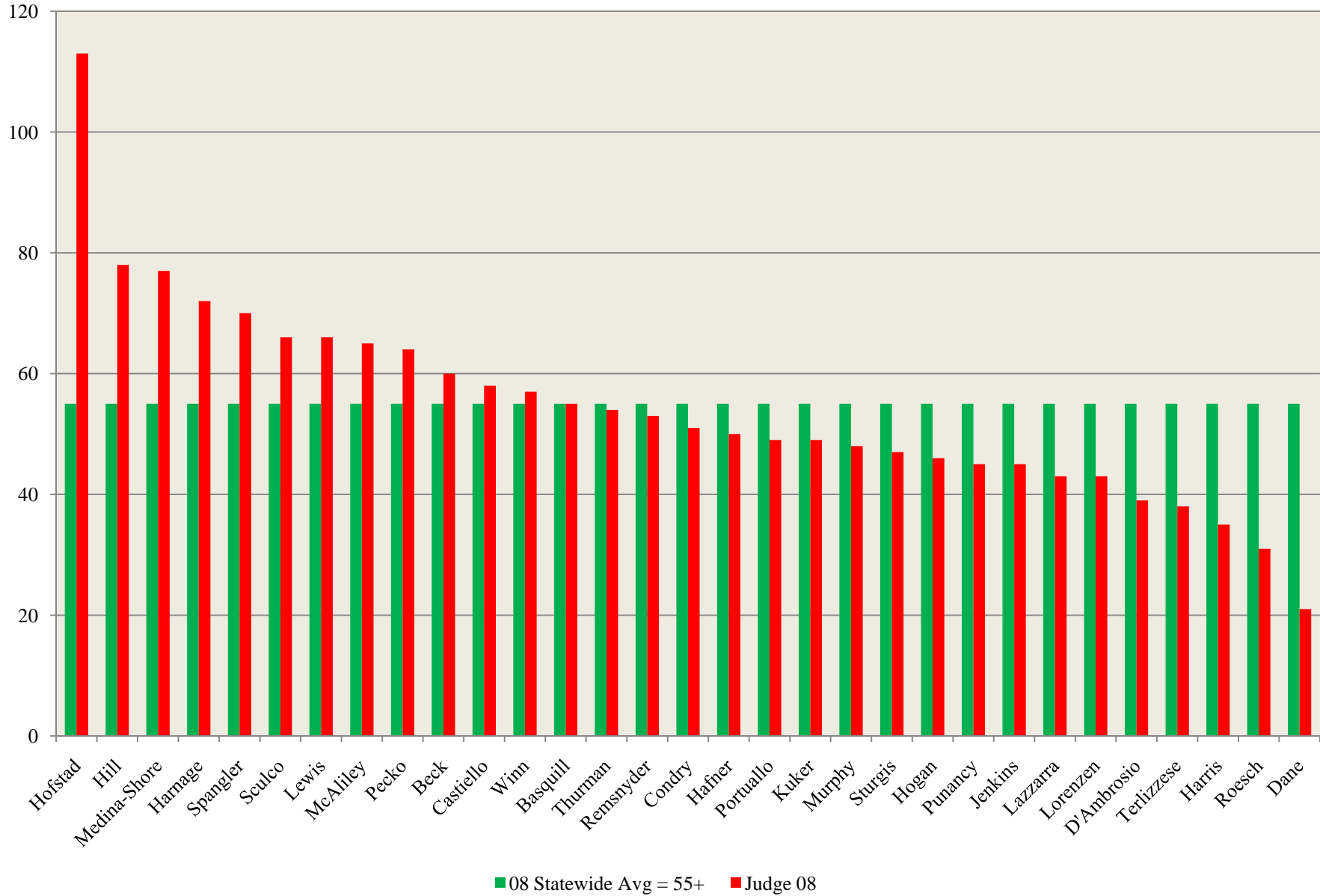
## SOME OR ALL ISSUES RESOLVED AT MEDIATION:





## Appendix “2” Trial Statistics Detail:

The following graph depicts the volume of trial orders uploaded by each Judge (red) and the statewide average for all Judges (green).



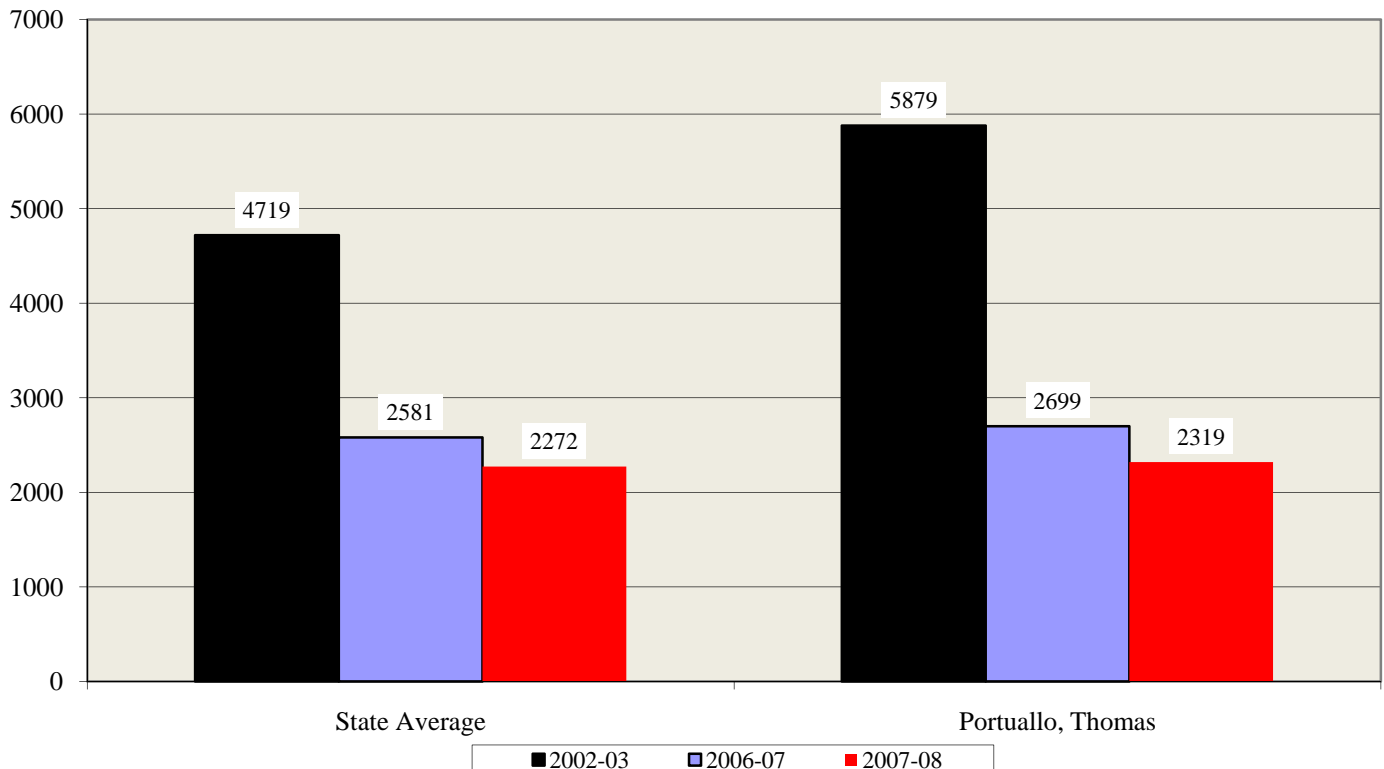
## Appendix “3” District DAY (Portuallo):

District DAY includes the following counties: Flagler and Volusia. Seminole county was also included until it was transferred to District ORL in 2006-07. District DAY continues to have above average PFB and new case filing volumes even after the Seminole county transfer.

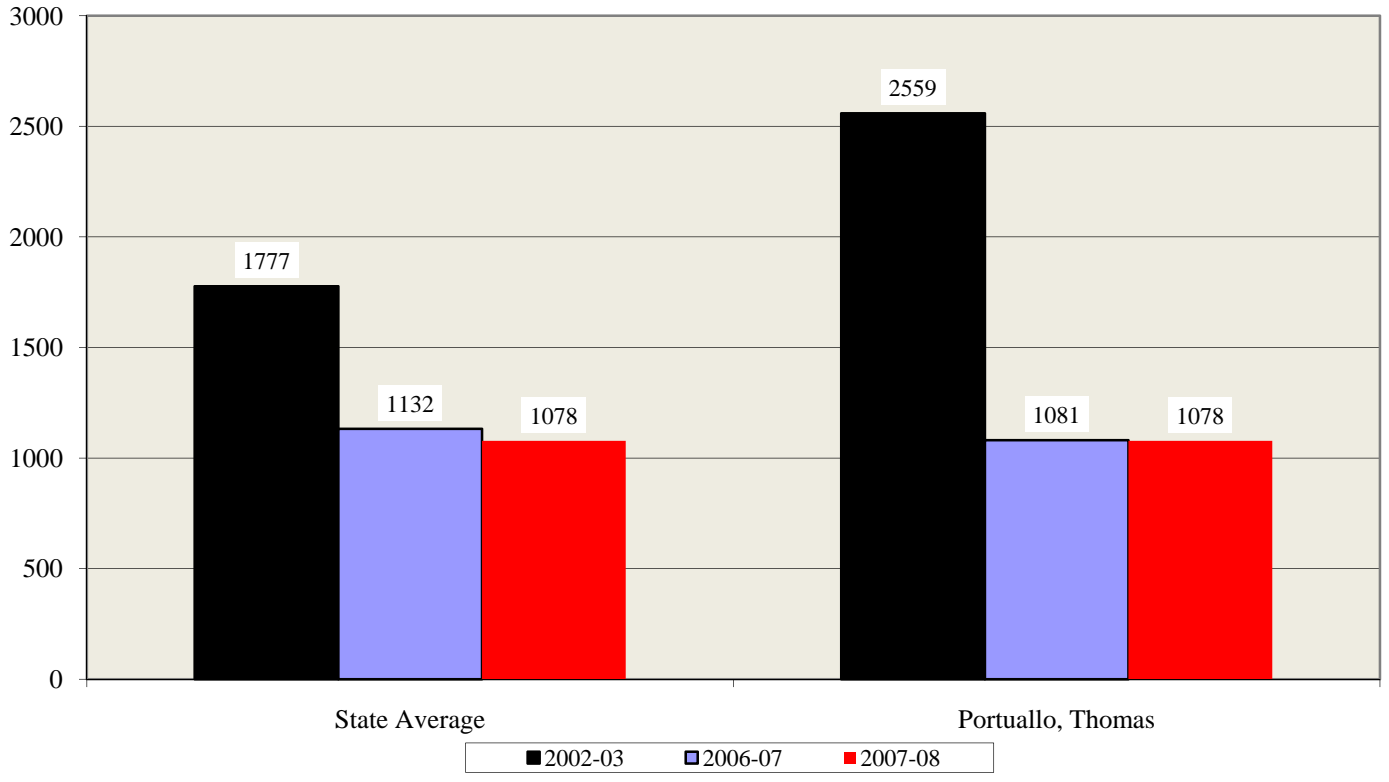
Judge Portuallo leads an effective and efficient District office. Despite the significant volume of PFB filings in District DAY (2,319 in 07-08), the average time between PFB filing and the initial mediation (97 days) is among the most rapid in the State, and is well within the 130-day statutory period. The 97 day average in 2007-08 also represents a significant decrease from the 123-day average in 2006-07. The volume of petitions closed in 2007-08 (2,803) was greater than the district PFB filing rate and is consistent with progress on closing a backlog inventory of pending PFB. This supports progress is being made in DAY. The average days from PFB filing to trial in this District (408) is close to the statewide average (379), and the resulting orders are issued on average in 25 days. This is a decrease from the 29-day average in 2006-07. The average time to filing of the final order after trial is within the statutory provision (30 days). This is a decrease from the 29-day average in 2006-07. The average time to filing of the final order after trial is within the statutory provision (30 days). The time between filing of a settlement motion (Motion for Approval of Attorney’s Fees and Costs) and the approval order in District DAY is 5 days compared to a statewide average of 9 days. These two statistics illustrates the dedication and timeliness of Judge Portuallo.

District DAY processes a significant volume of stipulation orders (2,705 in 2007-08), but is slightly below the statewide average (2,793). Despite the significant workload apparent in District DAY, Judge Portuallo volunteered in 2007-08 to act as a visiting Judge in South Florida.

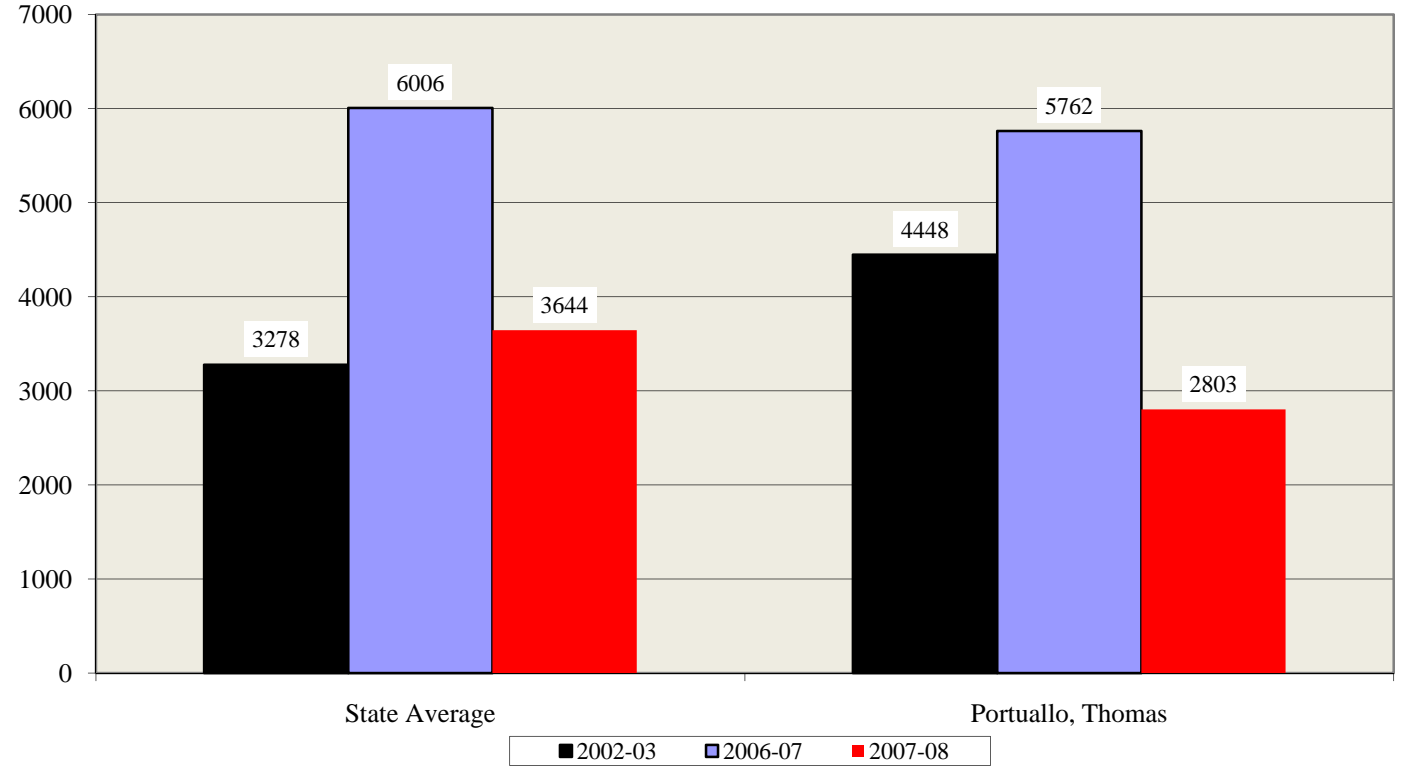
The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



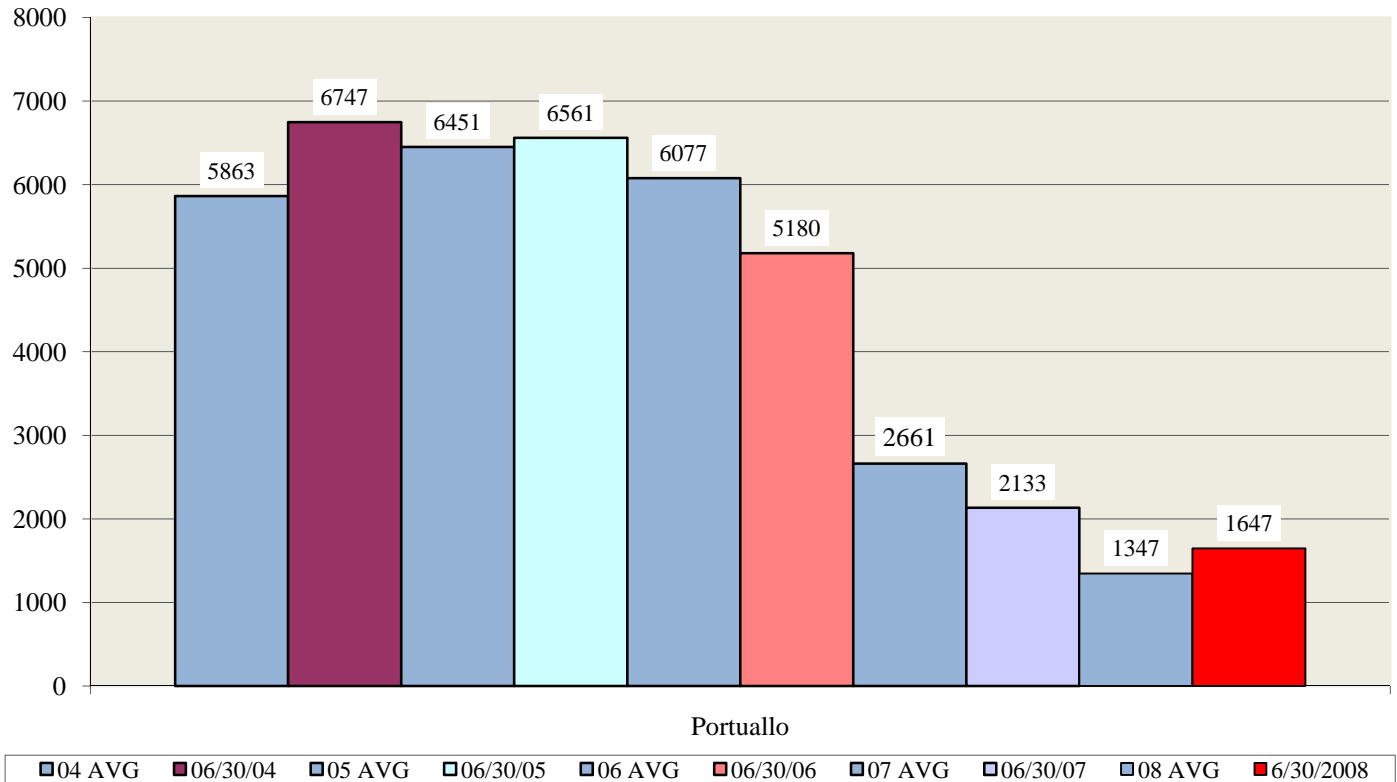
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



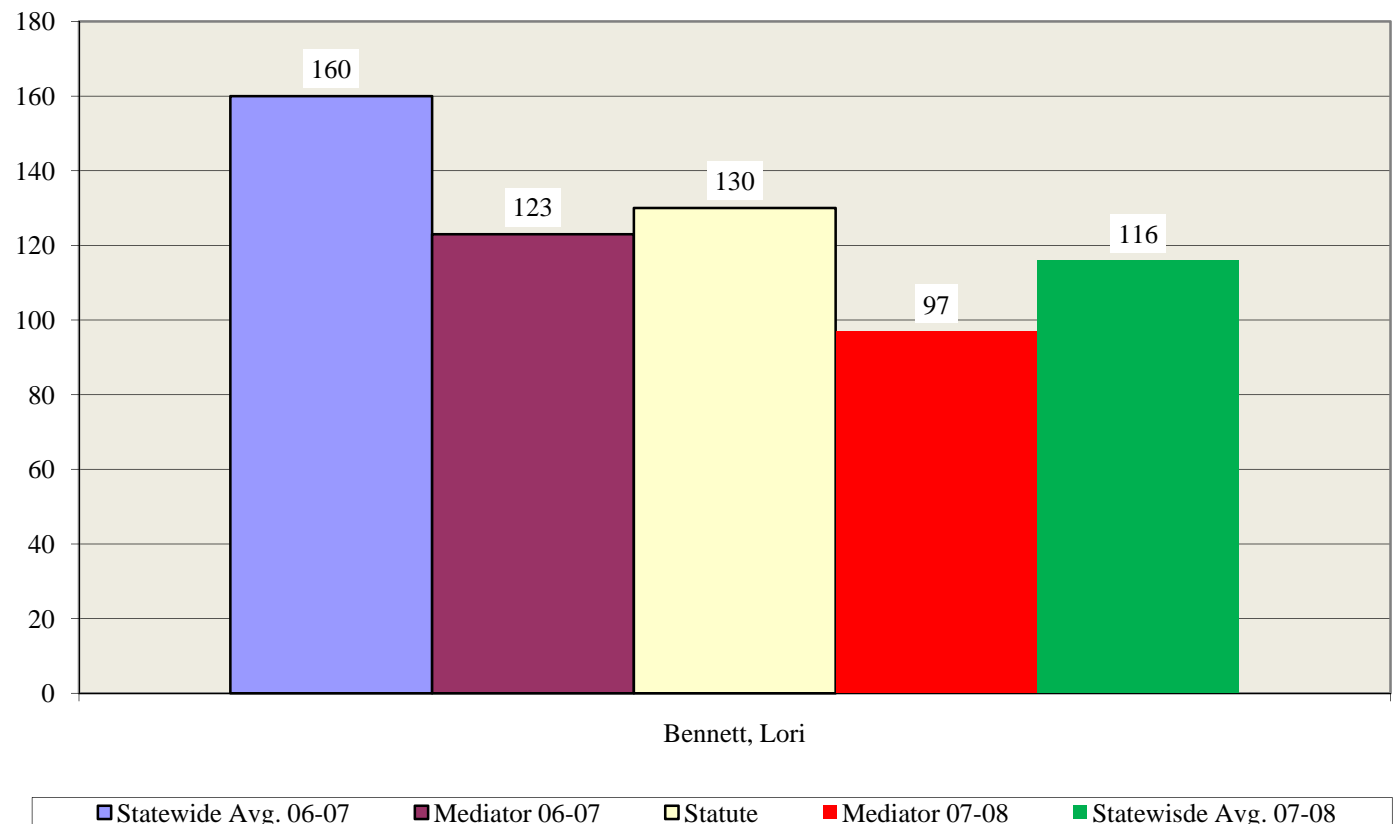
The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



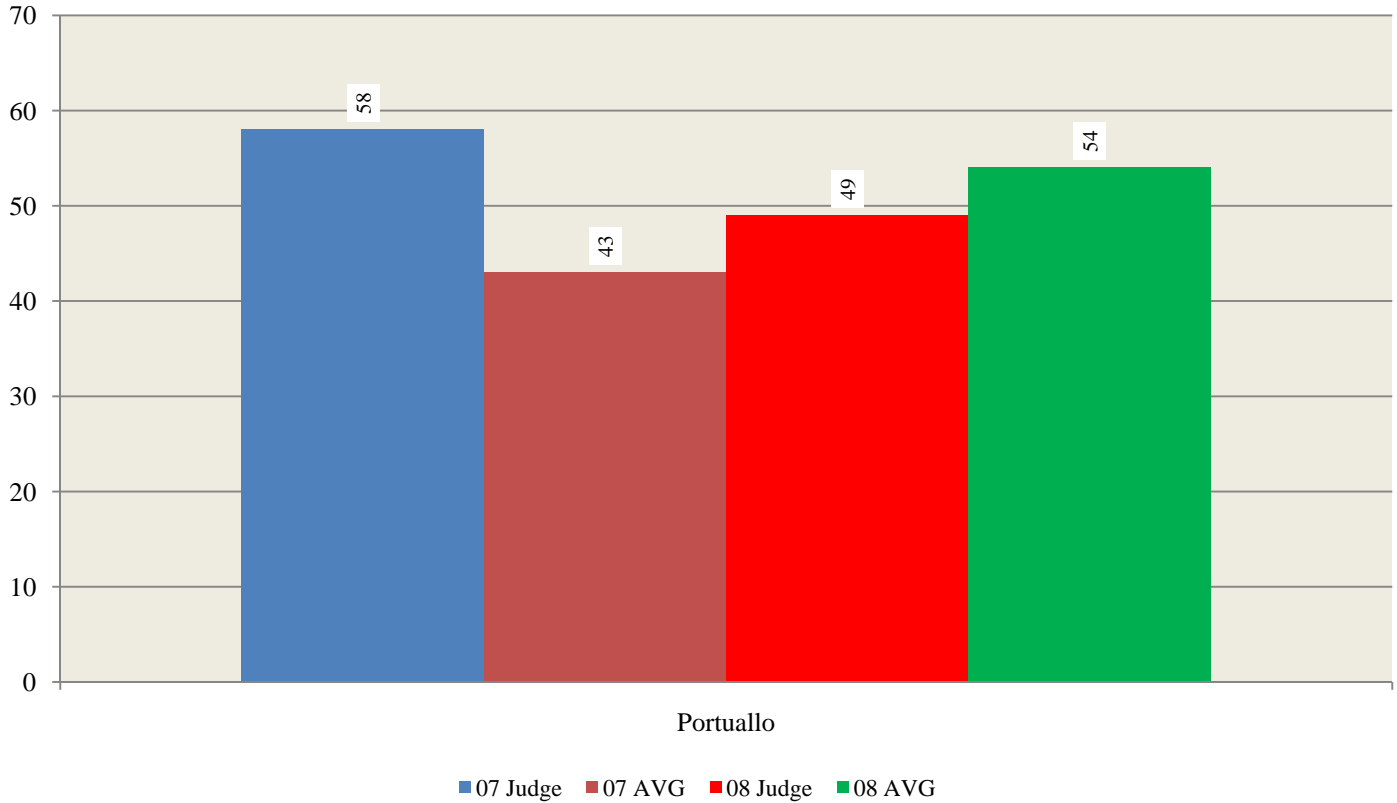
The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



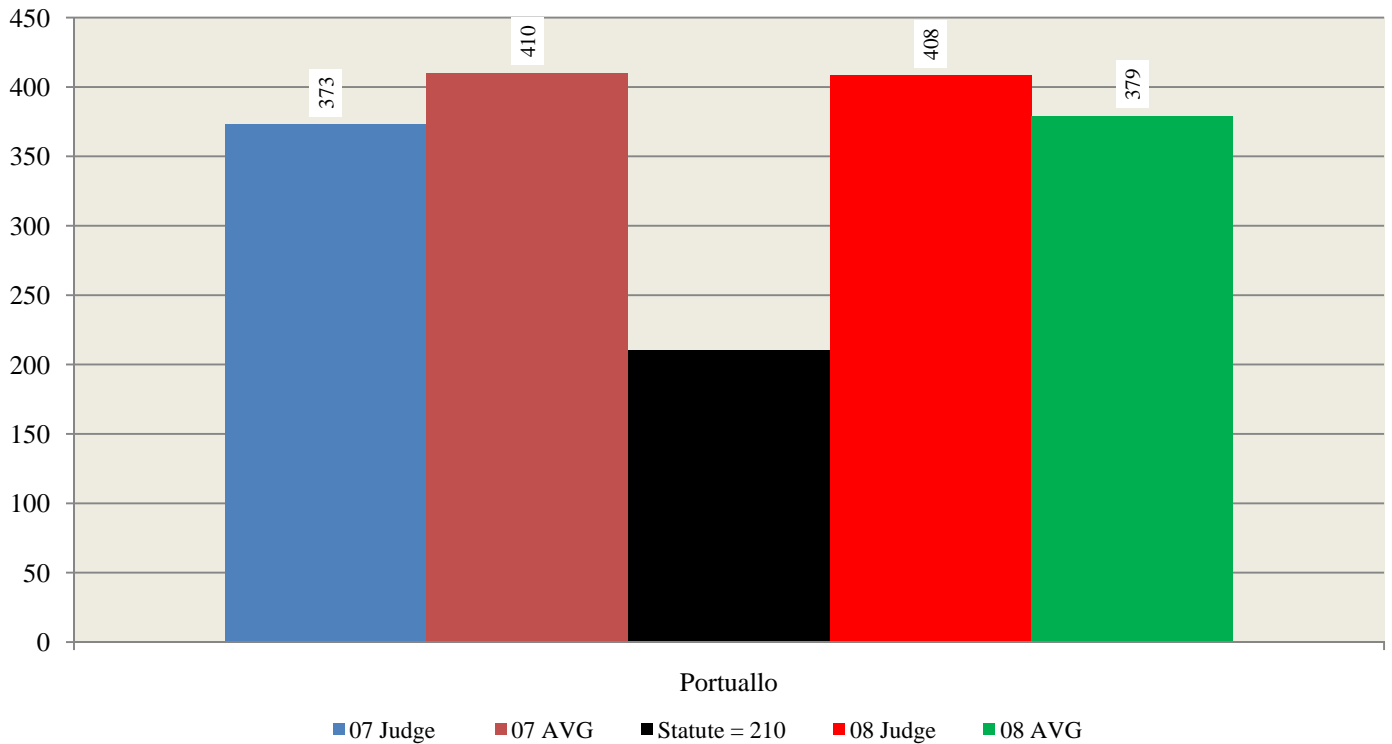
The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).



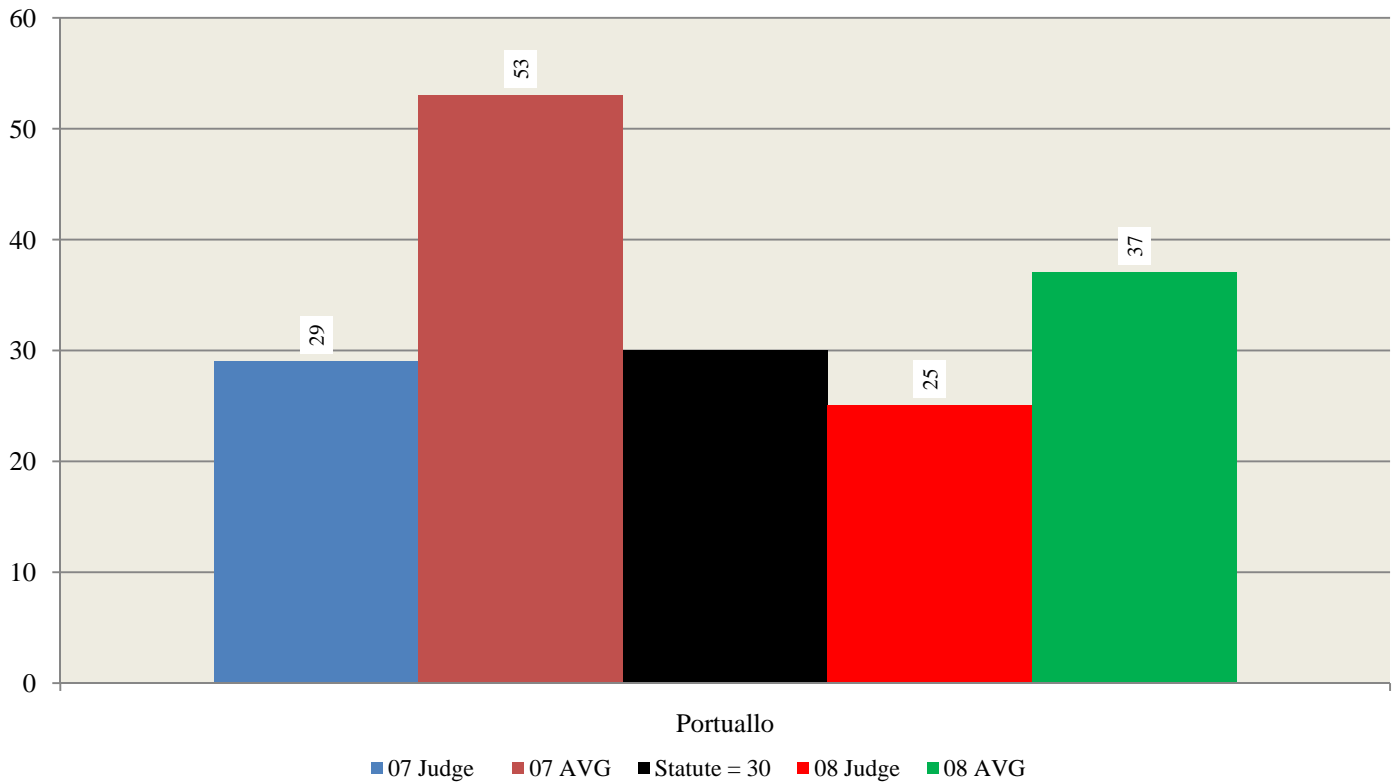
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2006-07 (rust) and 2007-08 (green).



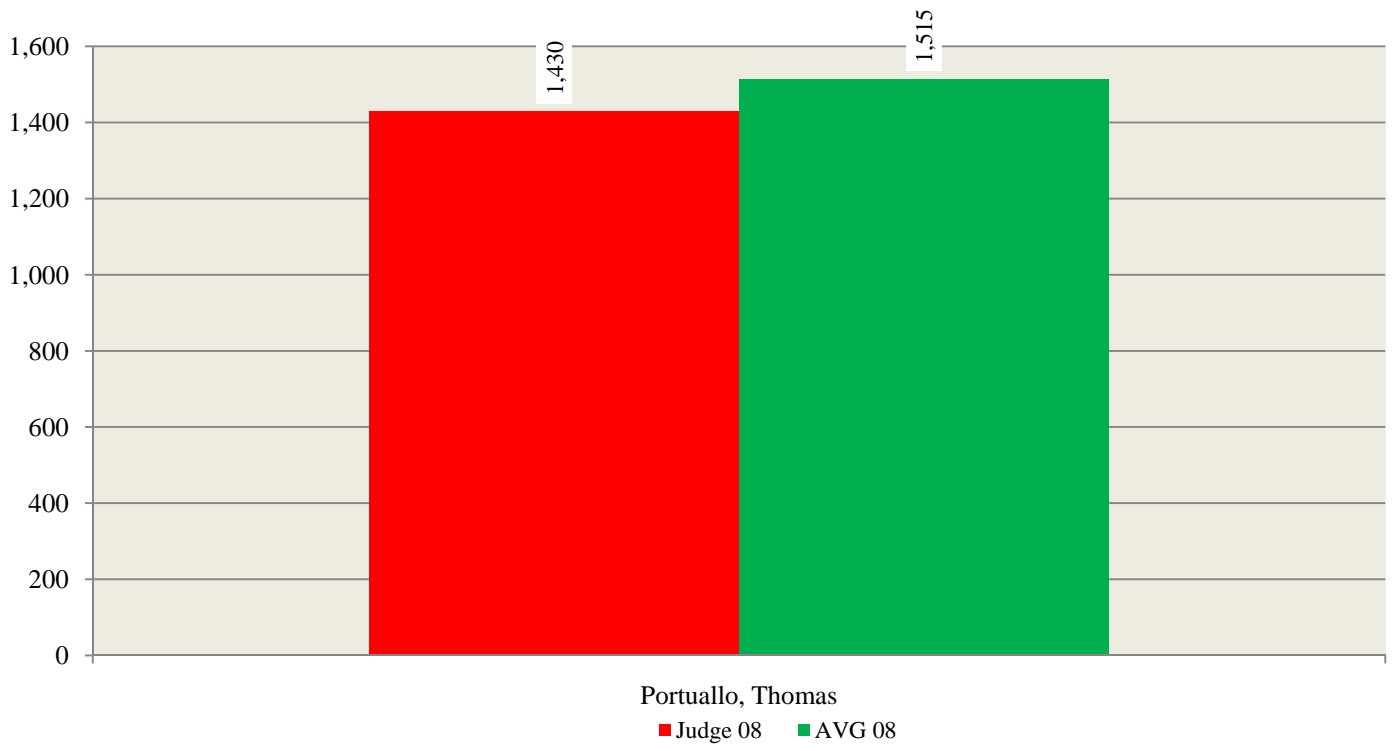
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2006-07 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2006-07 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.

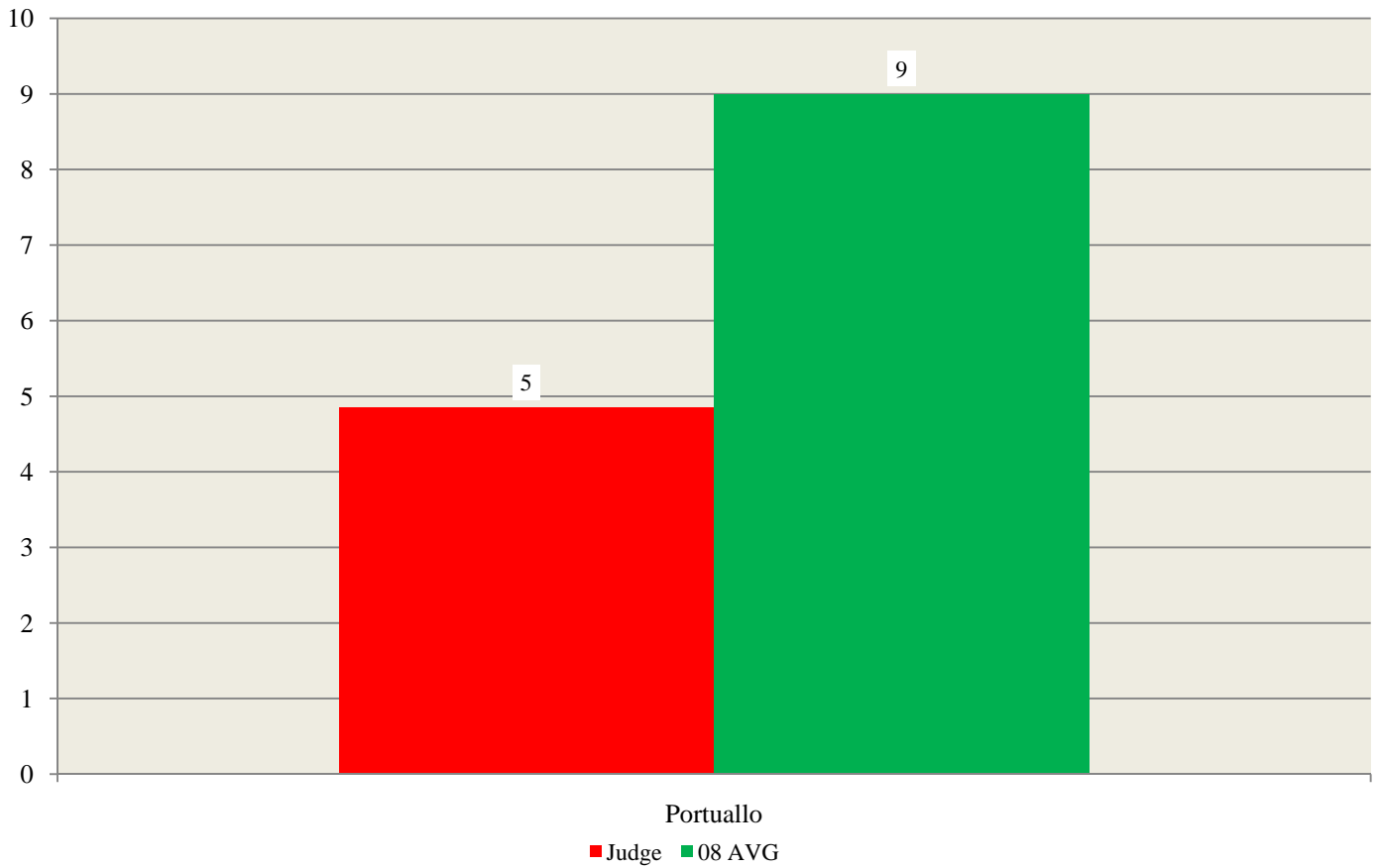


The following graph depicts the volume of settlement orders entered by each Judge in the district (red) and the statewide average (green).

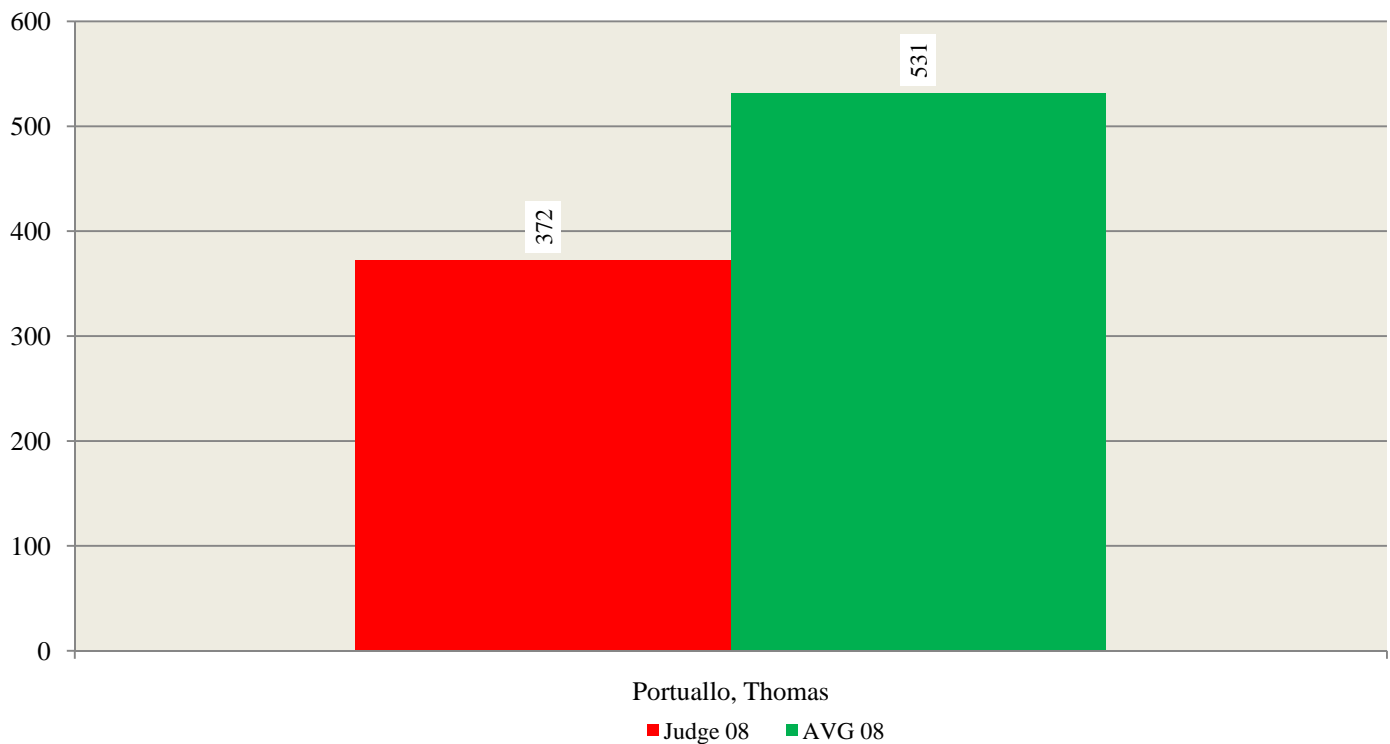




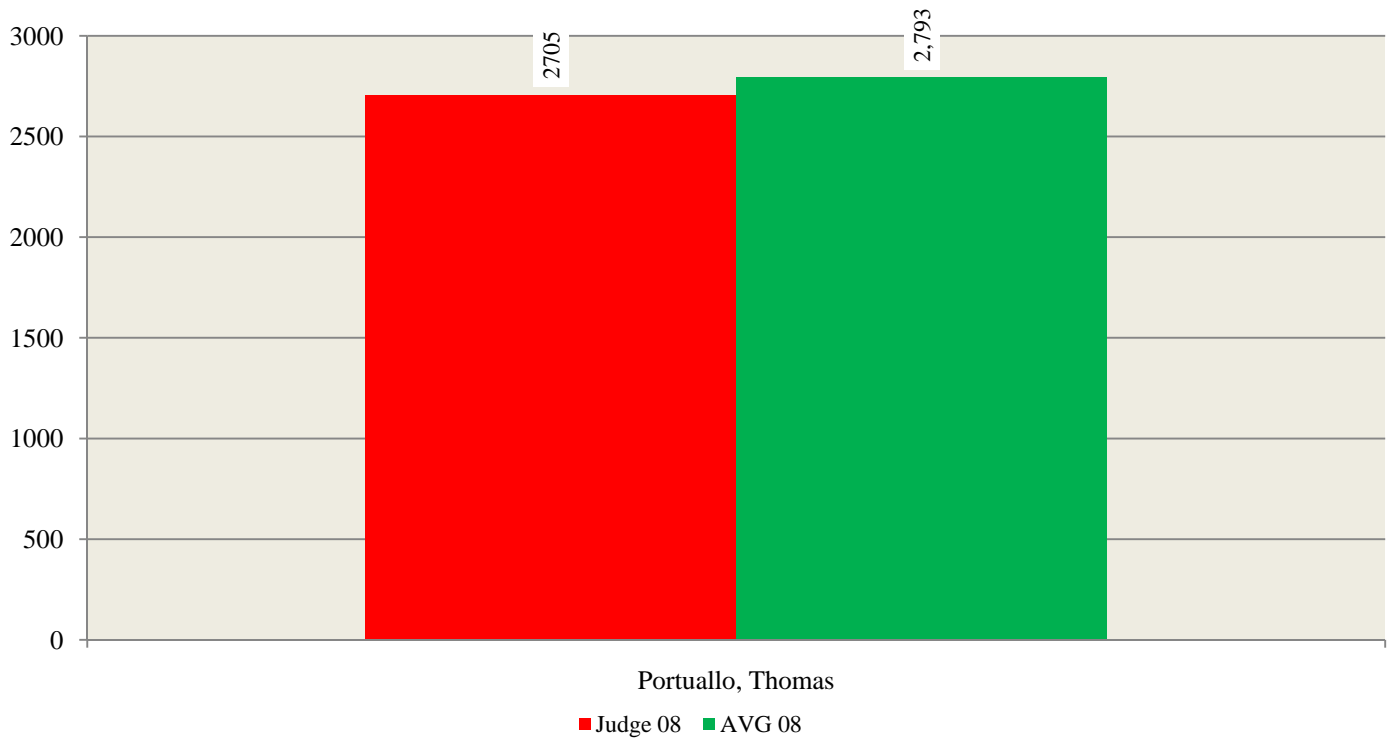
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).



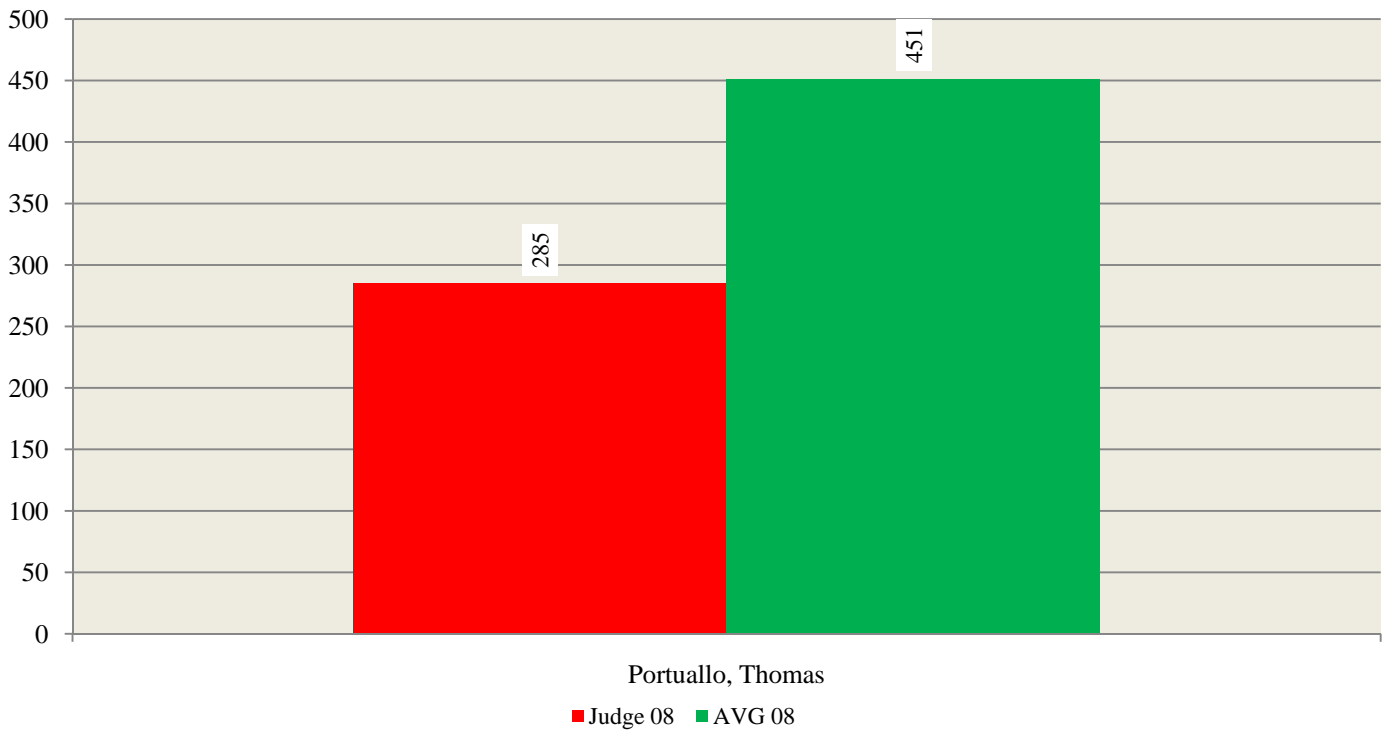
The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).



## Appendix “4” District FTL (JCC Hogan, JCC Lewis, JCC Pecko):

District FTL includes only Broward County.

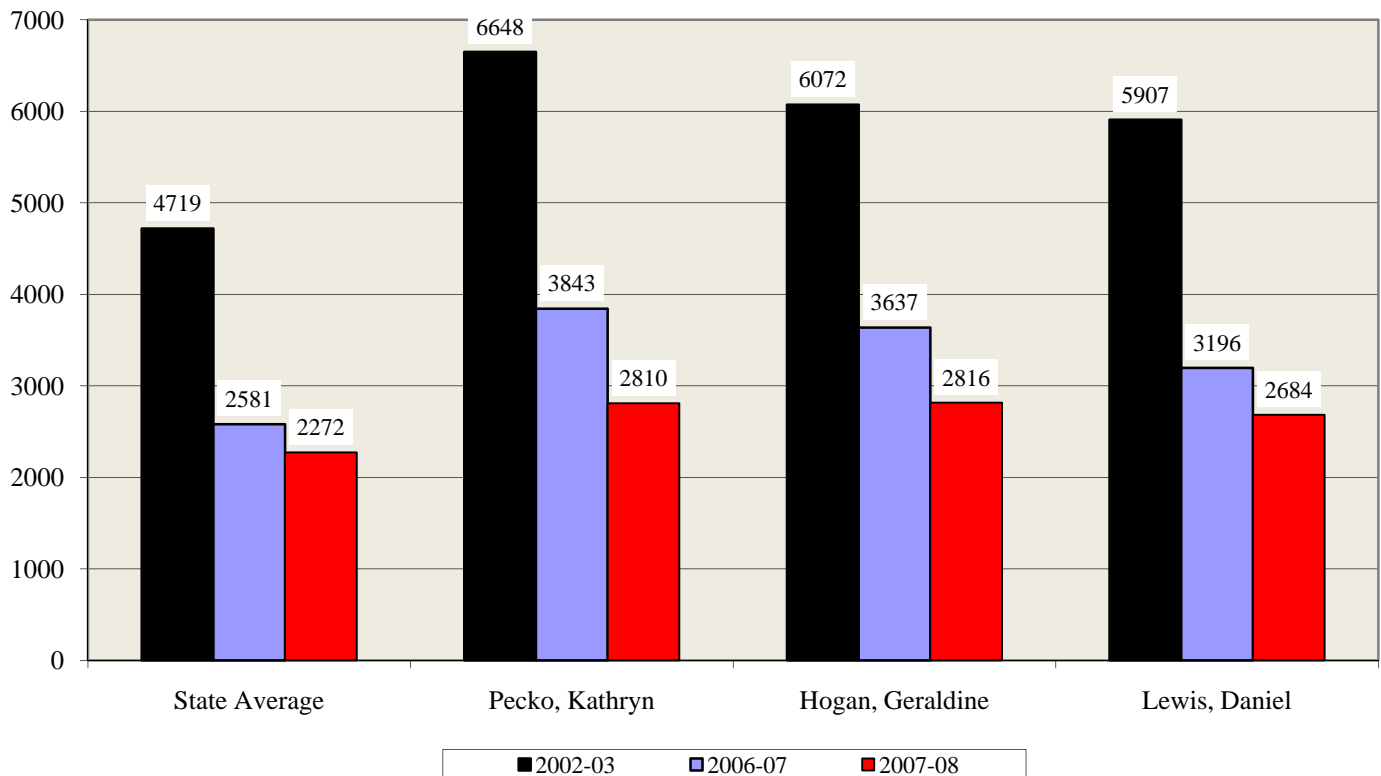
PFB volumes have decreased significantly in District FTL over recent years. The distribution of PFBs in this District was significantly inequitable using the alphabetical assignment process. The random assignment process adopted in 2007 has resulted in far more consistent workload among the three judges. The parity among Judges for the assignment of “new cases” has also become far more equitable using the random assignment process. The Judges in FTL closed very significant PFB volumes in 2006-07. Despite that effort, each FTL Judge closed significant volumes of PFBs again in 2007-08, particularly Judge Hogan. The year-end inventory of open PFBs with each FTL Judge has reached a manageable workload level.

Mediator Smith achieved 111 days on average between PFB filing and first mediation. This is within the 130-day statutory period, and is below the statewide average. This illustrates a significant achievement. The other FTL mediators did not meet the statutory period and were above the statewide average, but nonetheless showed significant improvement compared to 2006-07.

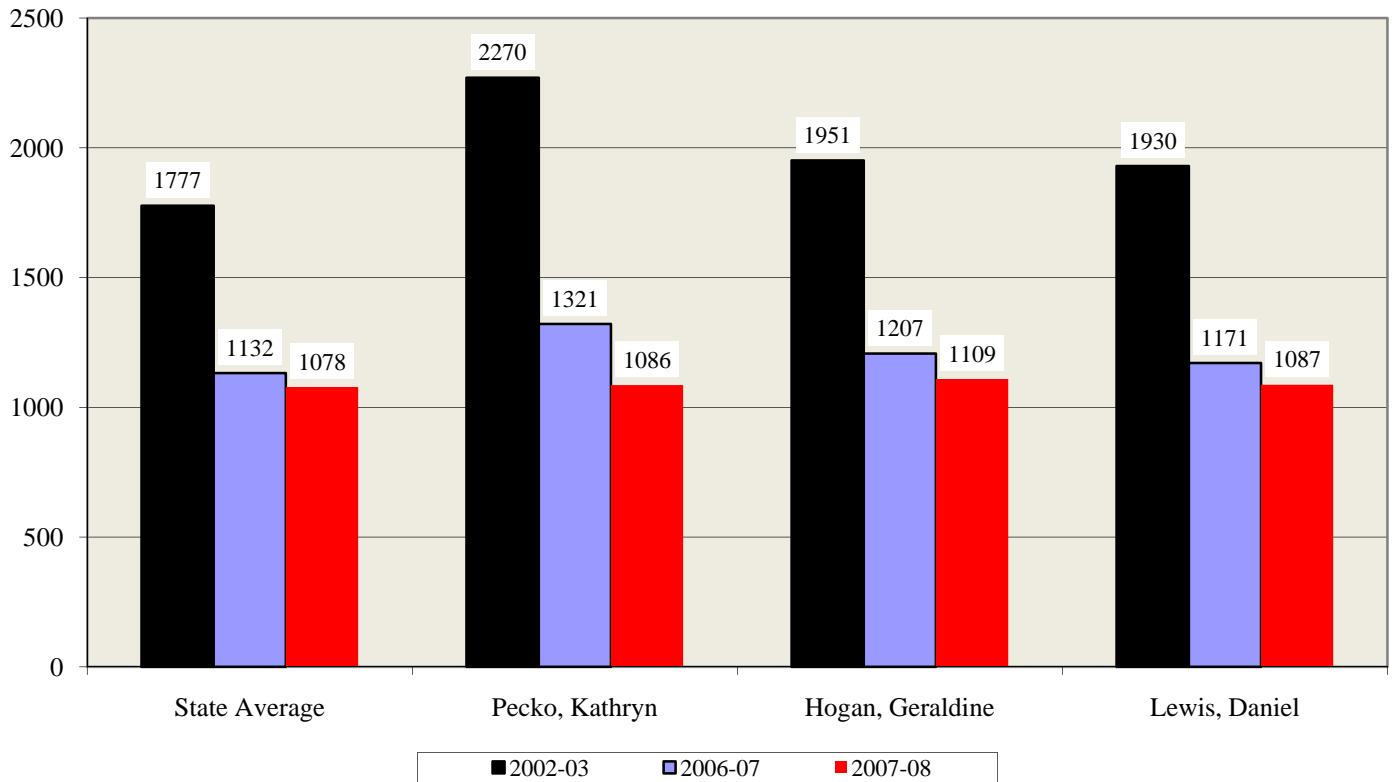
Judge Lewis had the lowest average days between PFB filing and trial in FTL in 2006-07 (384), which was below the statewide average. This contrasts the 813 days between PFB filing and trial in Judge Pecko’s division for the same year. Judge Lewis issued his trial orders on average 8 days following trial. Judge Hogan issued her orders on average in 41 days, and Judge Pecko in 59 days in 2006-07. Judge Pecko’s average remains almost double the statutory (30) period in 2007-08, but is a significant improvement from the 148-day average in 2006-07.

Each of the Judges in District FTL processed more than the statewide average of Motions to Approve Attorney Fees and Child Support (“settlement orders”) in 2006-07. Despite that volume, Judge Lewis entered his orders on those motions in an average of 8 days, less than the statewide average (9). The volume of stipulation orders entered in FTL is also higher than the statewide average.

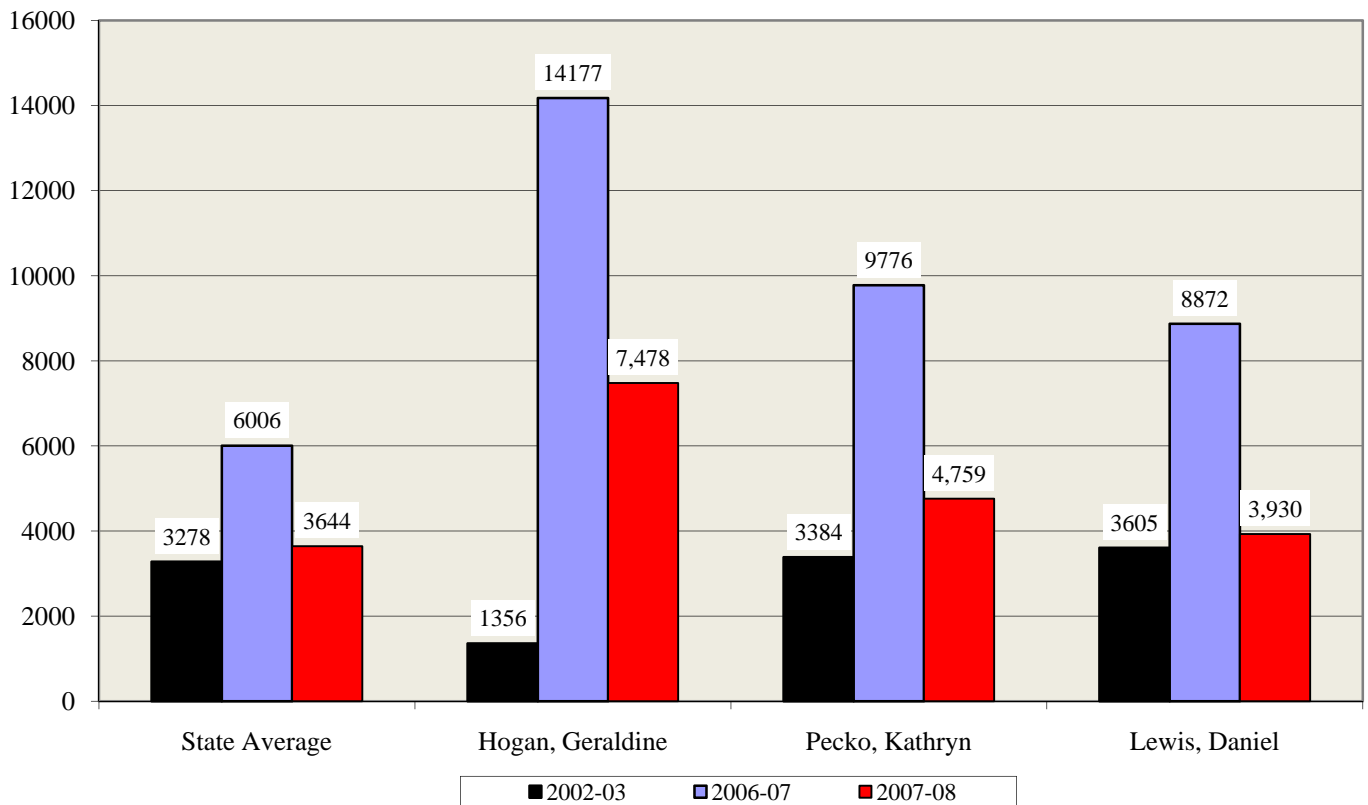
The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



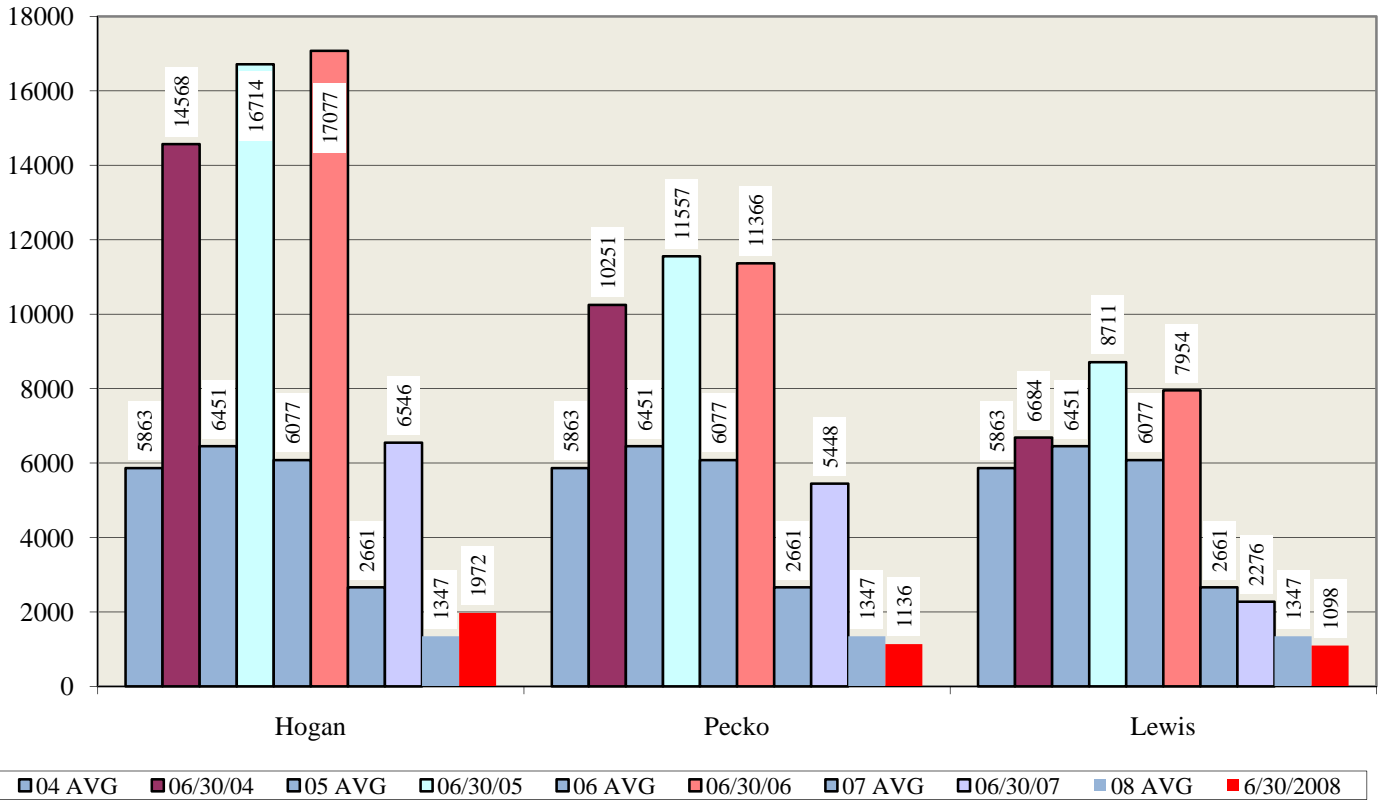
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



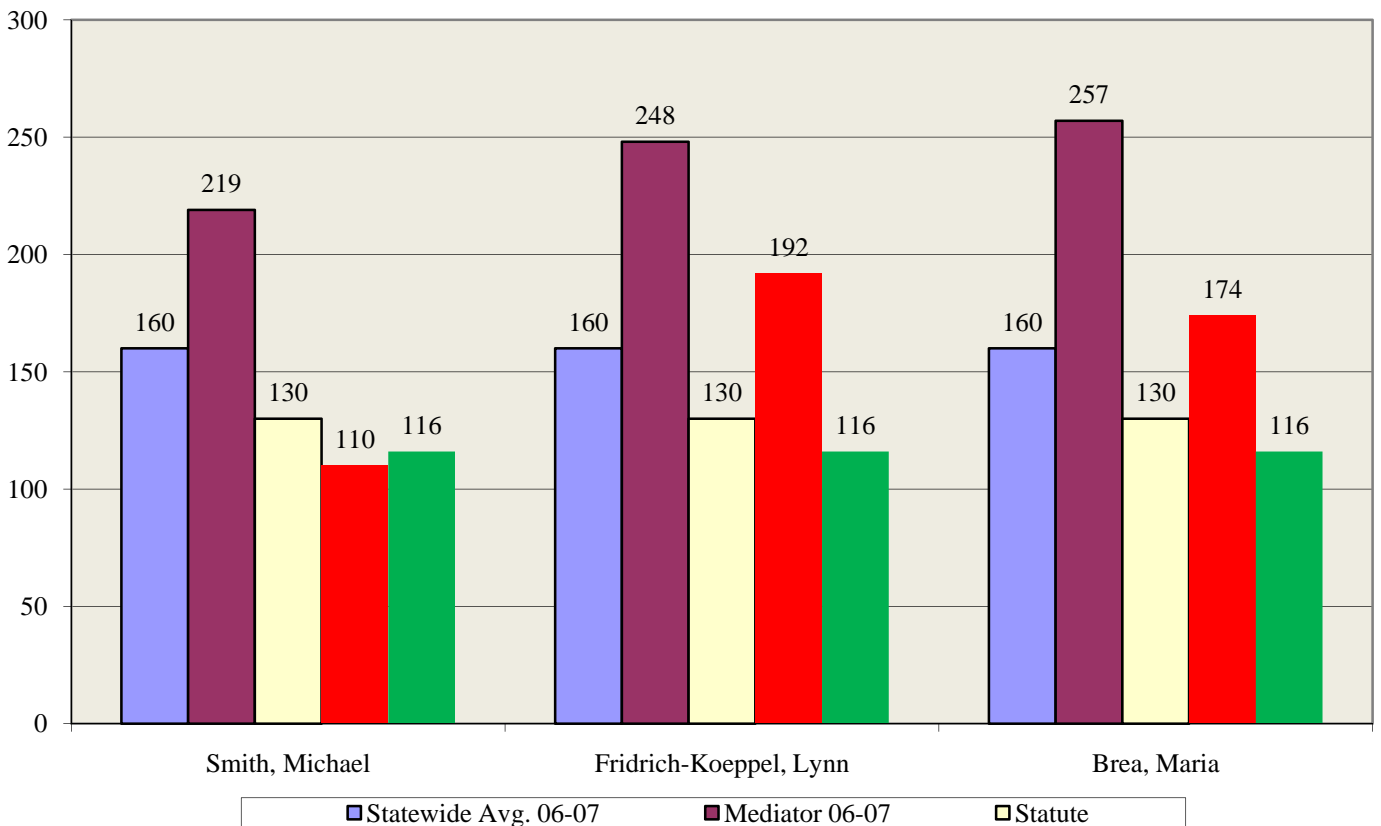
The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



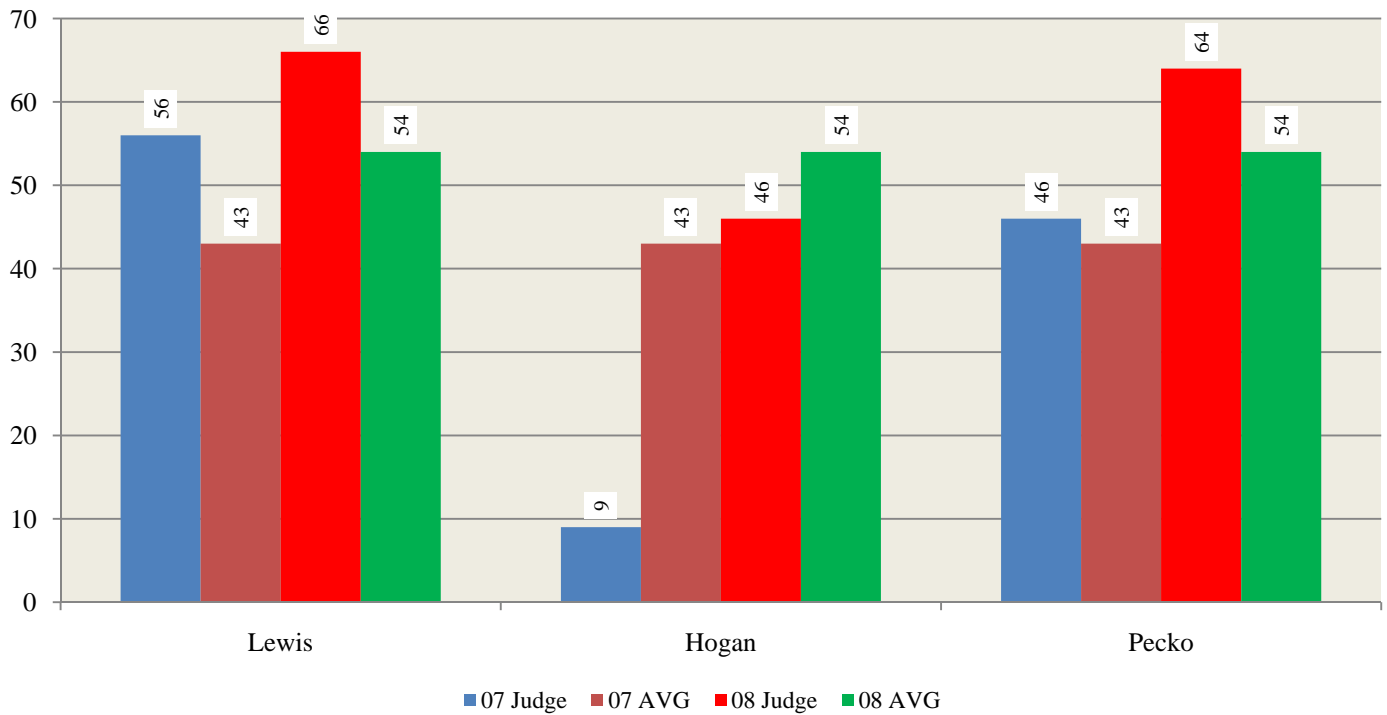
The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



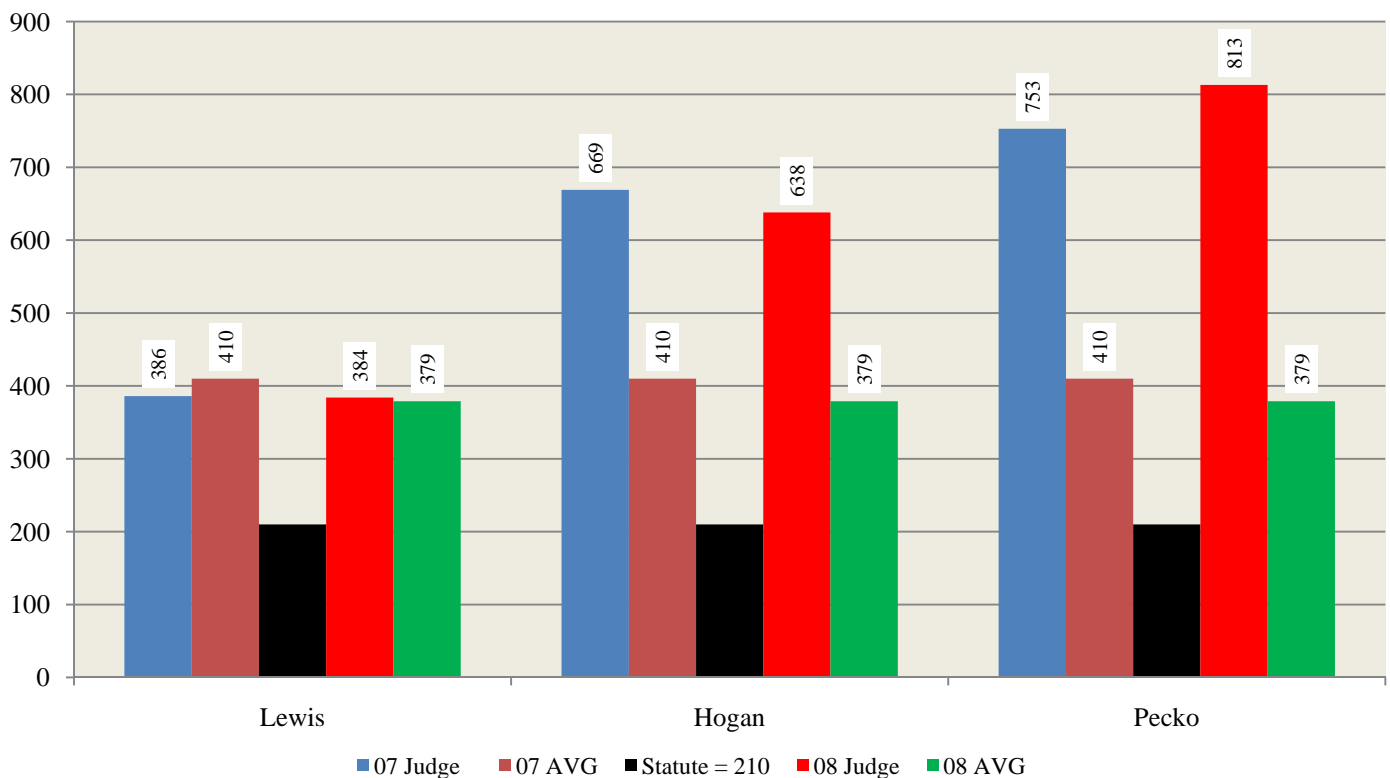
The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).



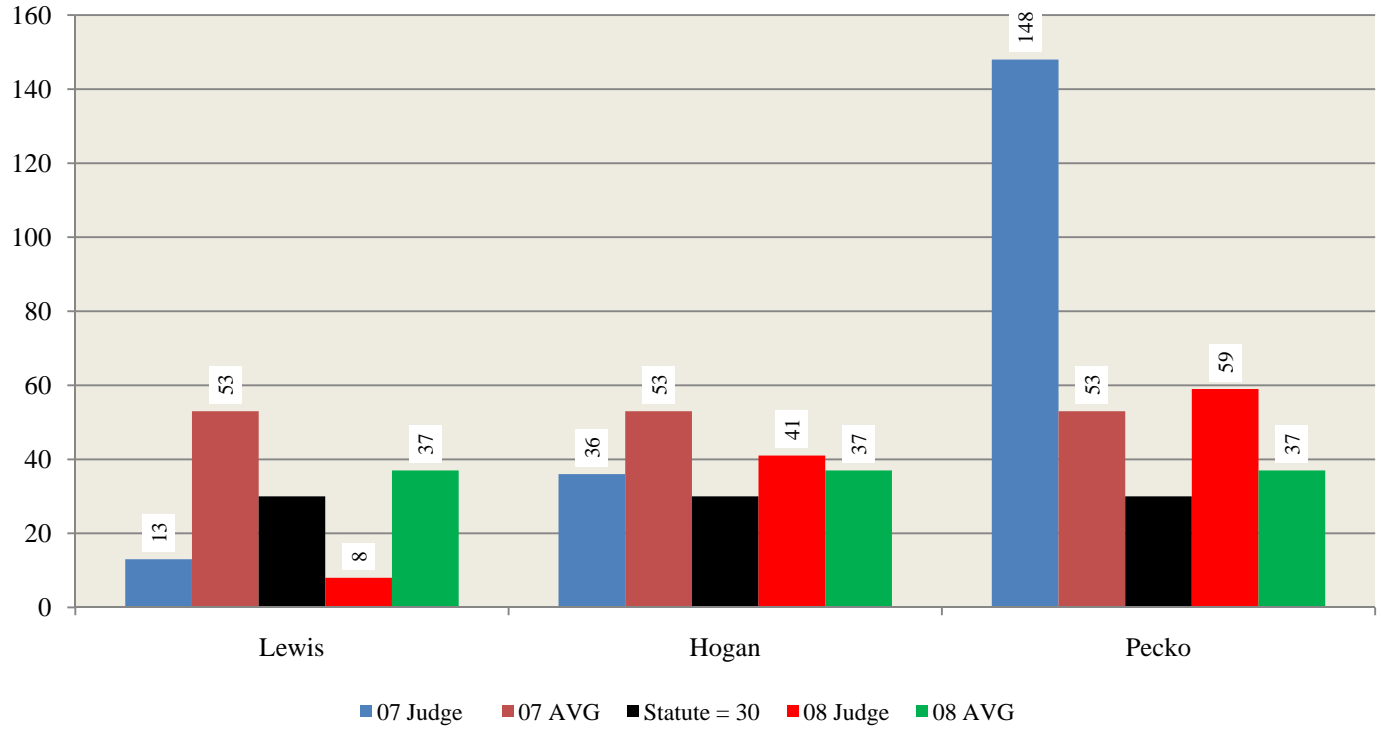
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2007-08 (rust) and 2007-08 (green).



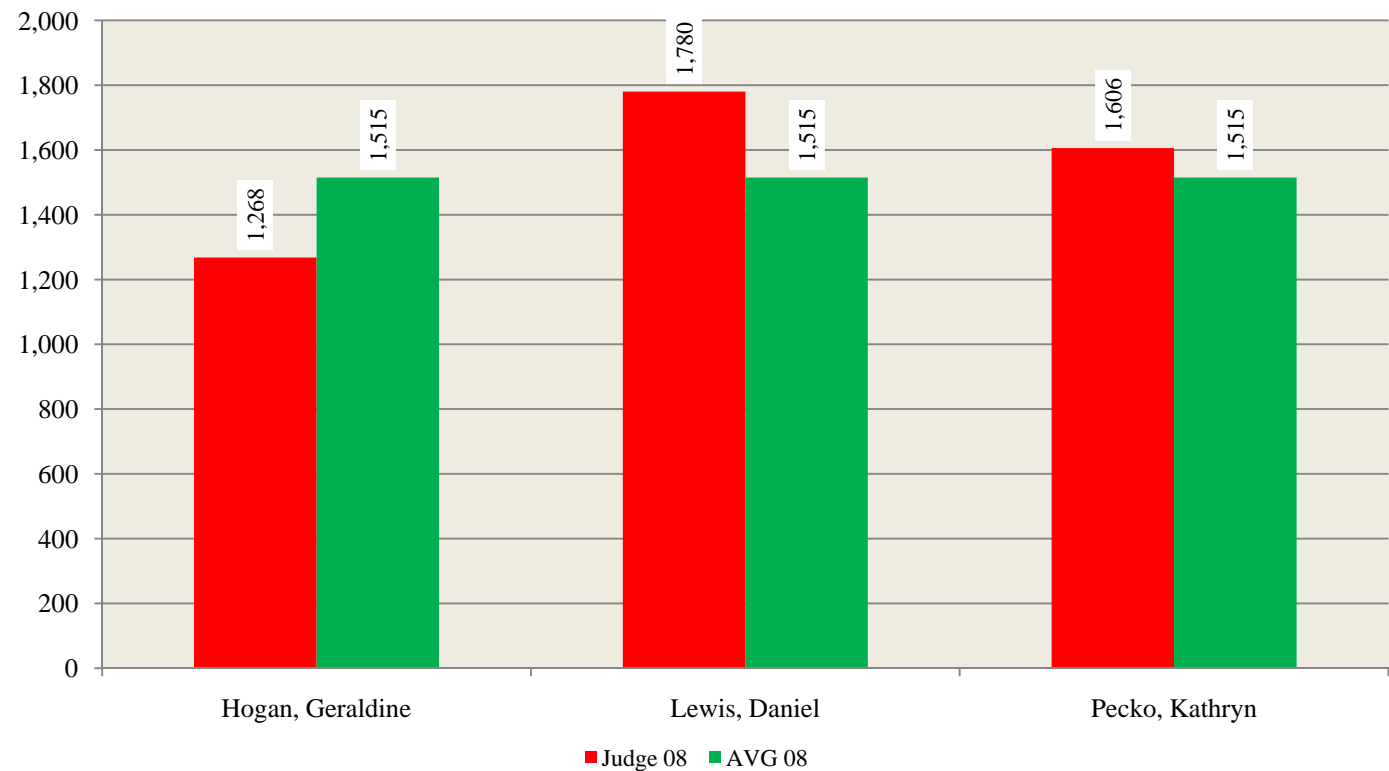
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2007-08 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2007-08 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.

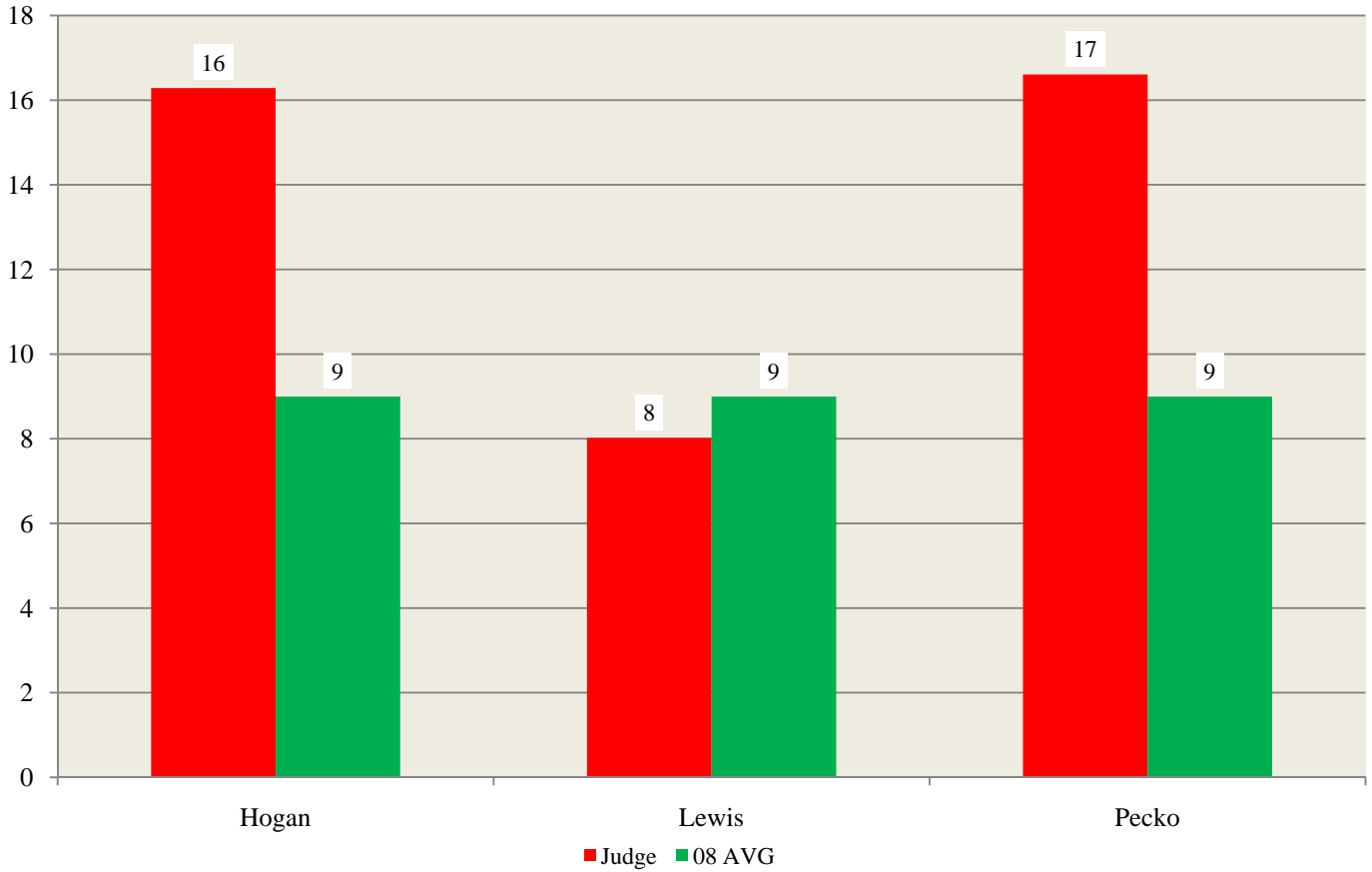


The following graph depicts the volume of settlement orders entered by each Judge in the district (red) and the statewide average (green).

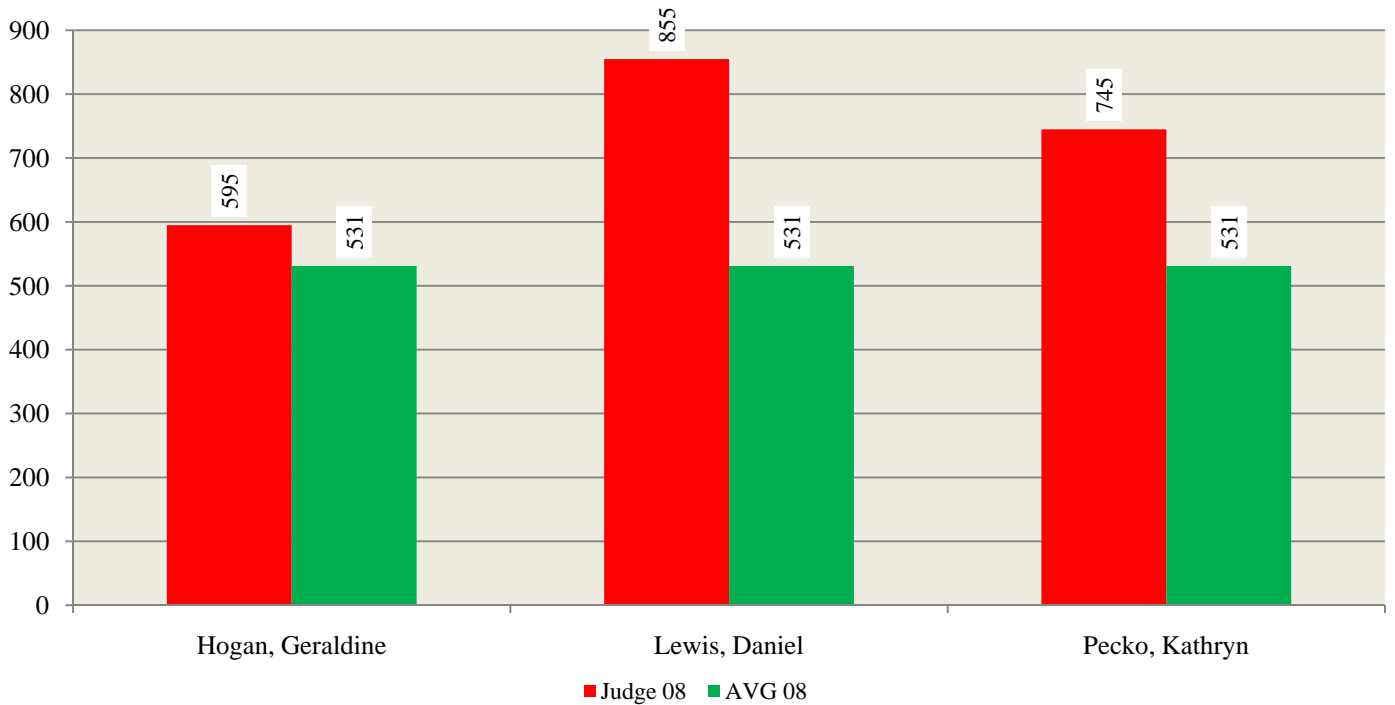




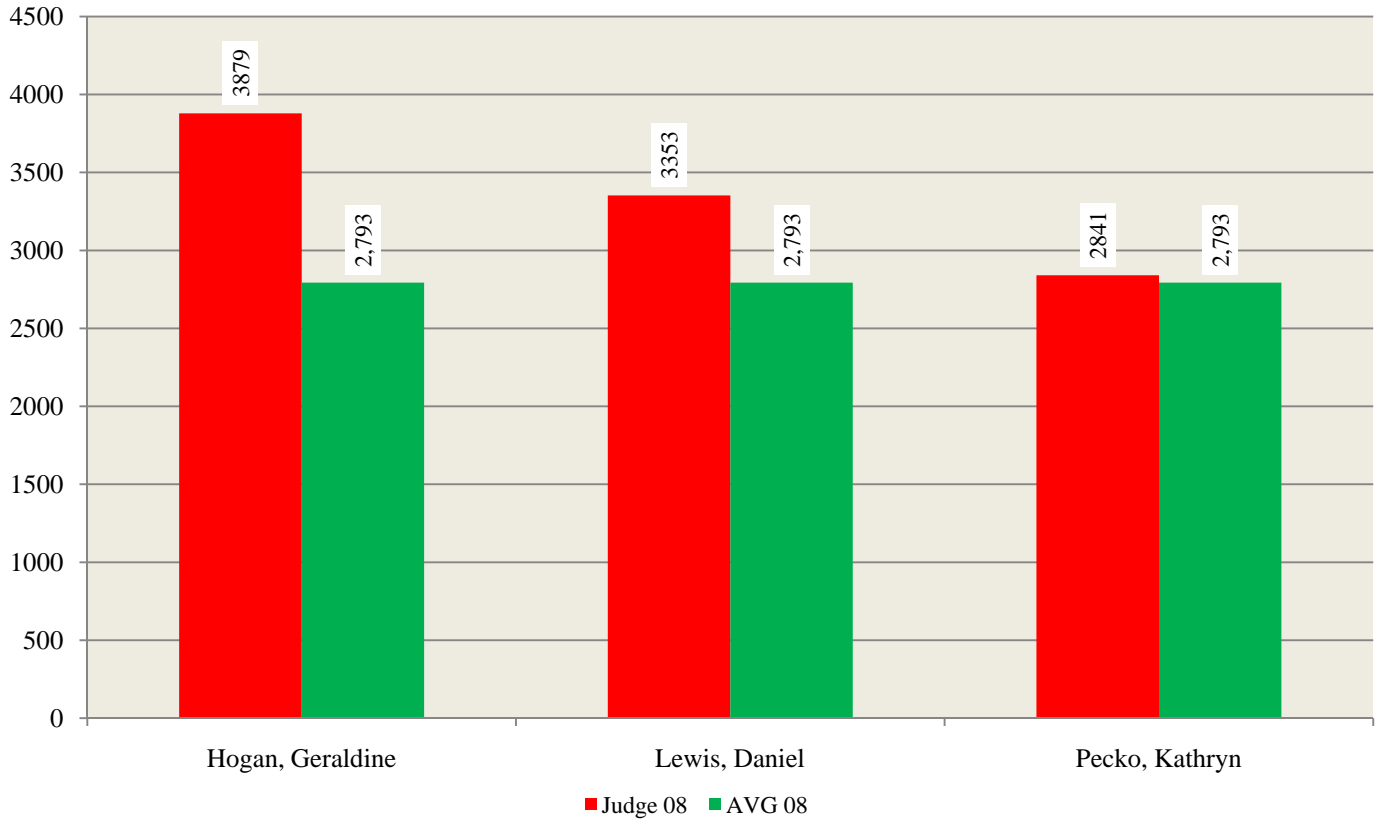
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).



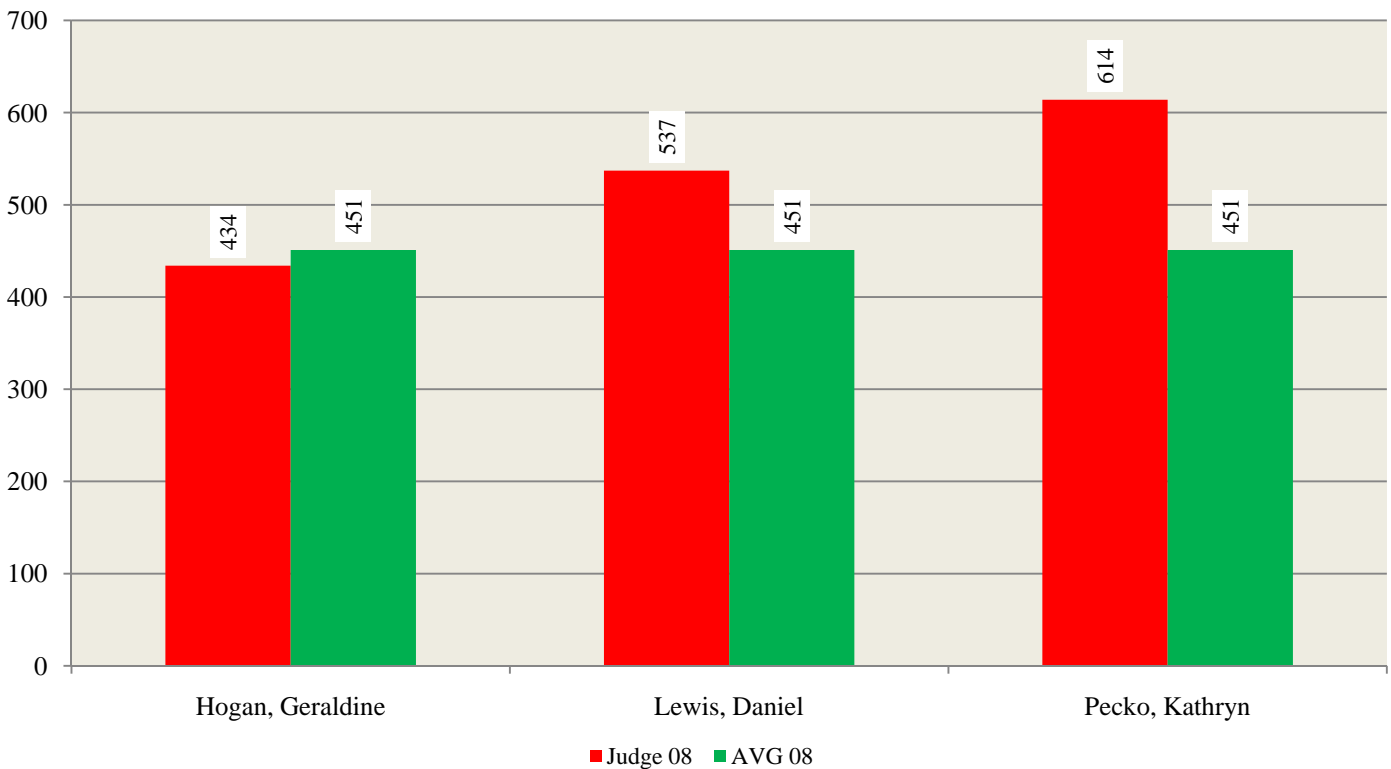
The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).



## Appendix “5” District FTM (JCC Spangler, JCC Sturgis):

District FTM includes the following counties: Charlotte, Collier, DeSoto, Lee.

District FTM has been in transition in recent years. In December 2006, two new Judges were appointed to replace the retiring Judge Turnbull. Since that time, a significant volume of continued and otherwise unresolved PFB have been identified by the FTM judges. In recognition of the significant workload in District LKL, both Judges Sturgis and Spangler were asked to act as visiting Judges in 2007. Each also volunteered to provide more limited visiting judge coverage in LKL in 2008.

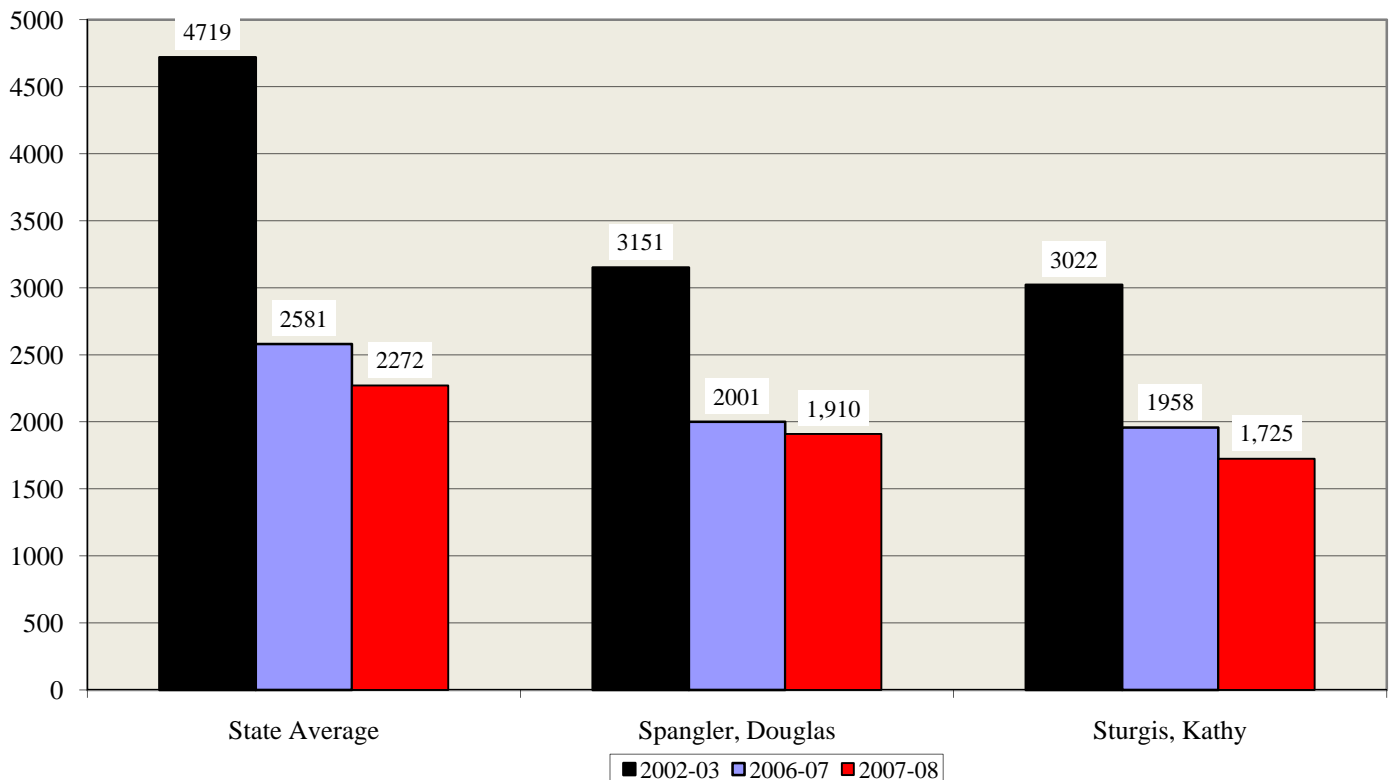
Per Judge PFB volumes in FTM are lower than statewide average for 2007-08, while the “new case volume is slightly higher. Notably, the workload equity of the random PFB assignment process adopted in 2007 has had a marked affect in FTM. While each FTM division closed fewer PFBs than the statewide average in 2007-08, the closure volume for each was nonetheless greater than the filing volume, which indicates progress. Judge Spangler closed 2007-08 with a manageable volume of pending PFBs. Judge Sturgis’ pending inventory likely supports the conclusion that further file review will be productive.

Each of the FTM mediators’ average days to first mediation exceeded both the statewide average and the statutory 30 days. Each also evidenced progress from the average in 2006-07, however. The improvements in Judge Spangler’s division are illustrated by the significantly higher than average (54) volume of trial orders uploaded by his division (70) in 2007-08. The average days from PFB to trial in each division is above the statutory 210-day period, but likely results from these Judges working through the volume of pending petitions unresolved upon their taking office in December 2006.

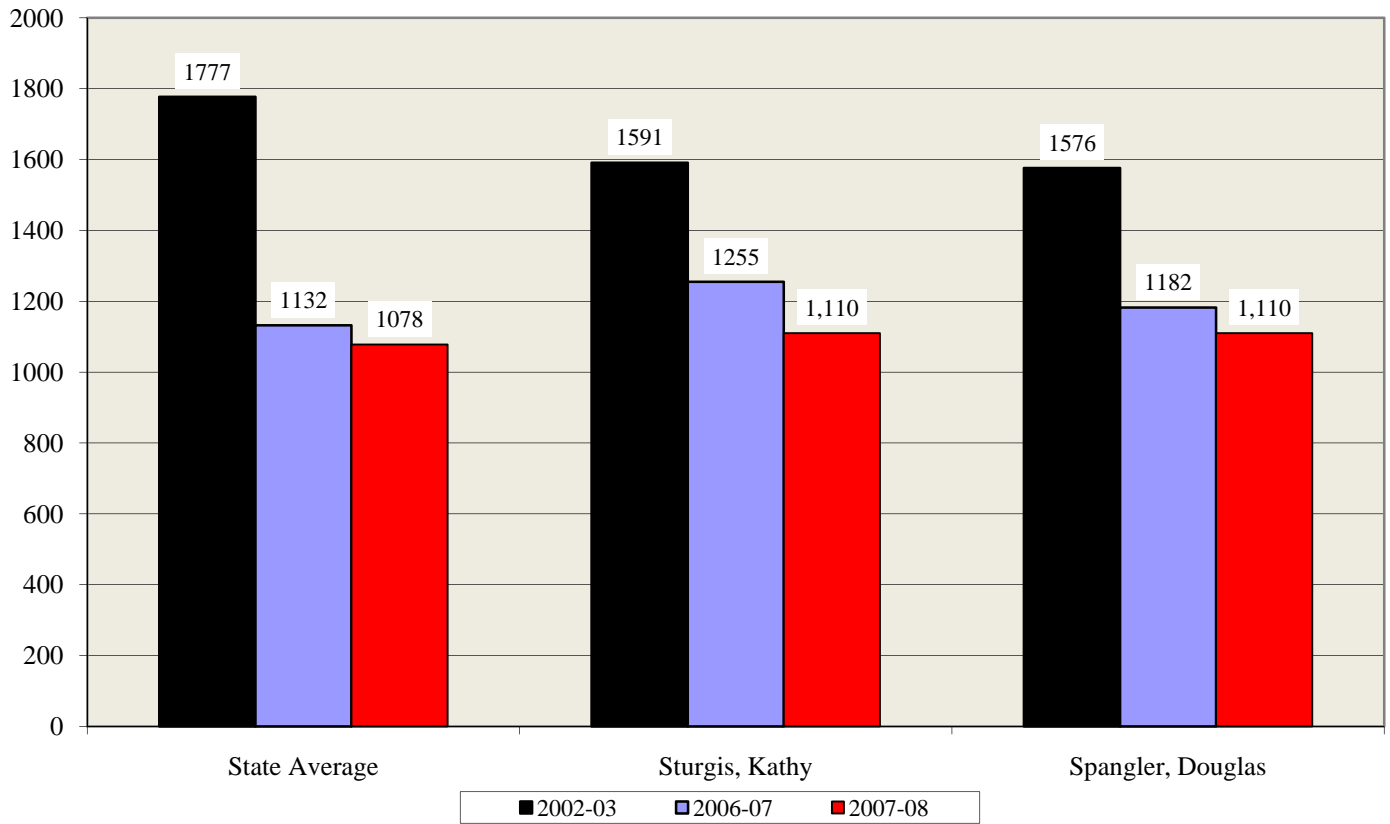
Consistent with the higher volume of trials, Judge Spangler’s average days between trial and order increased in 2007-08. Judge Sturgis’ trial order volume remained less than one order per week in 2007-08, and the average days from trial to order (73) was significantly higher than the statutory 30 days.

Judge Spangler’s average days for consideration of a “settlement motion” was consistent with the statewide average, despite the very significant volume of such orders entered in his division.

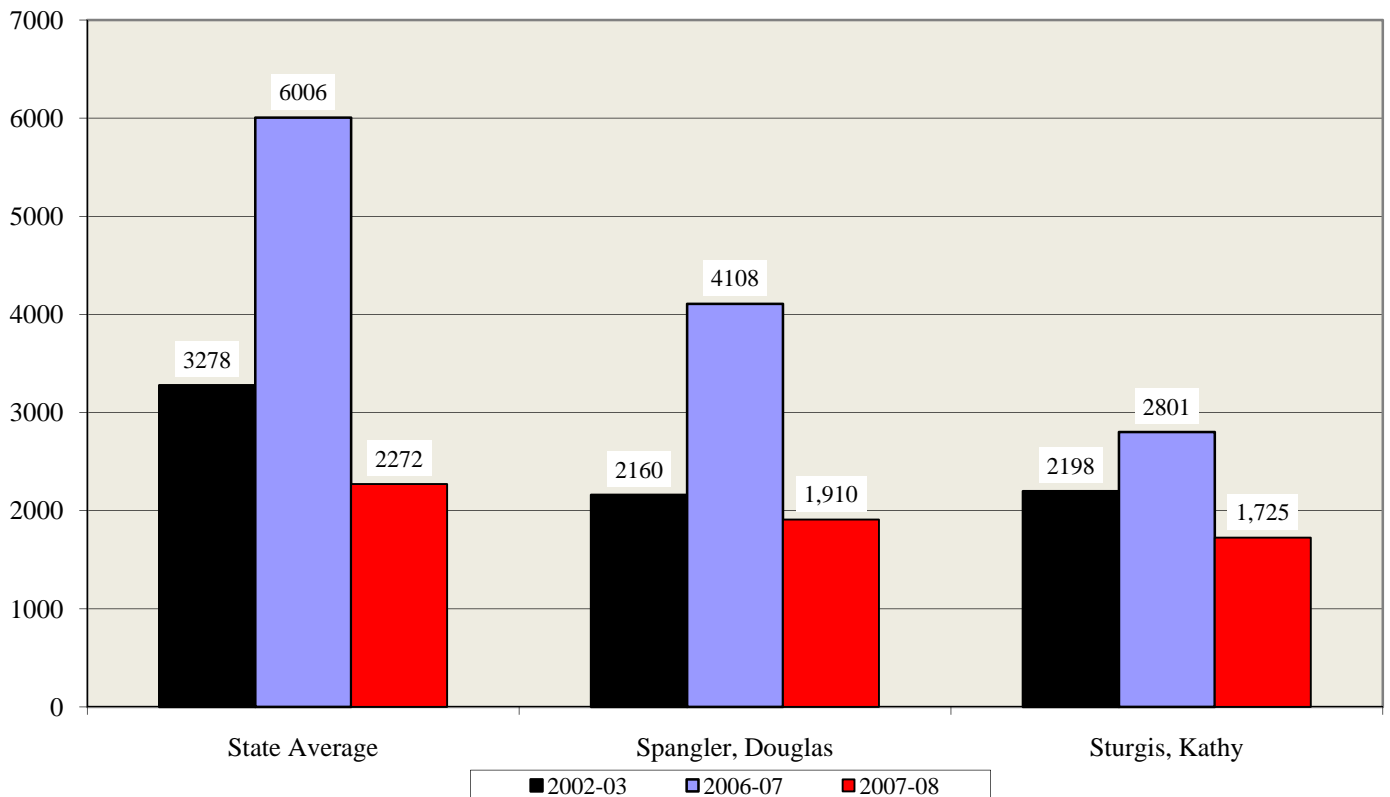
The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



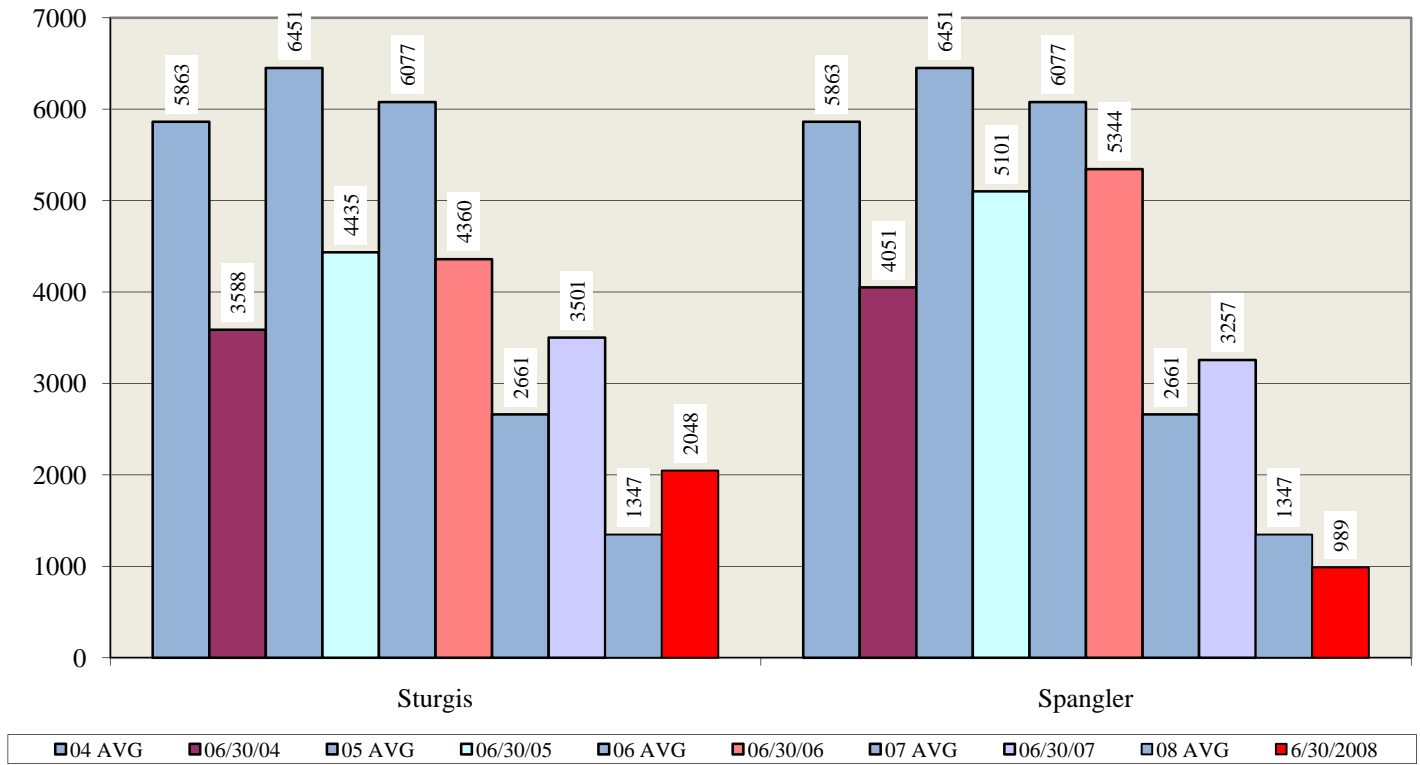
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



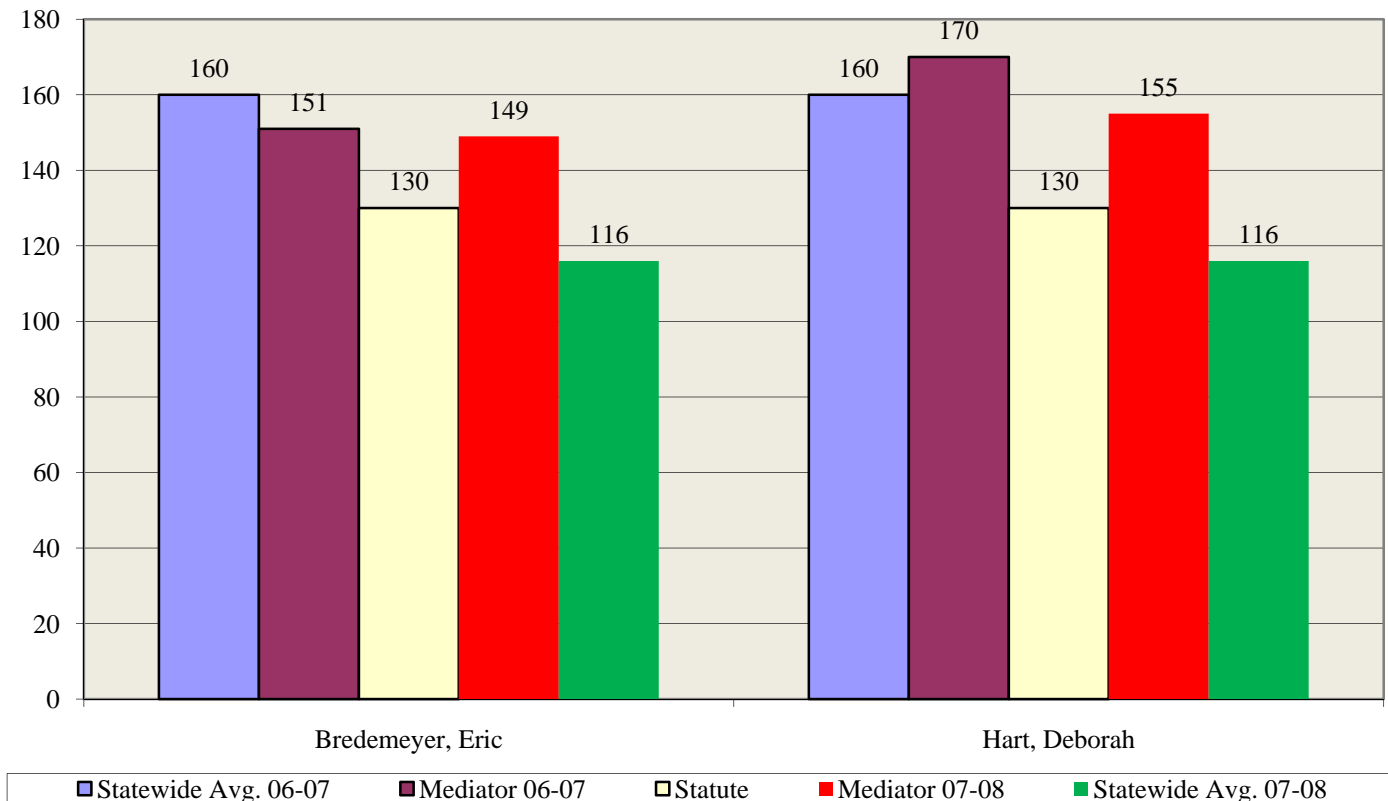
The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



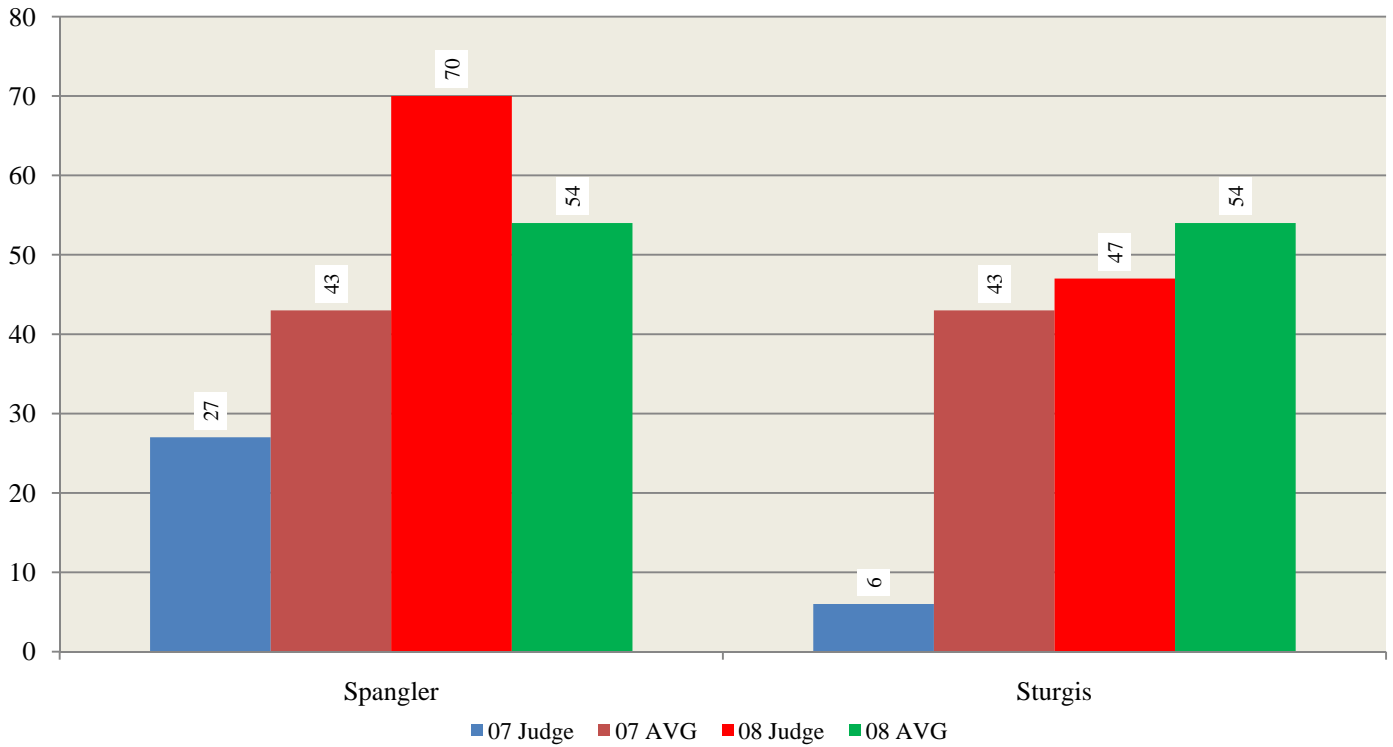
The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



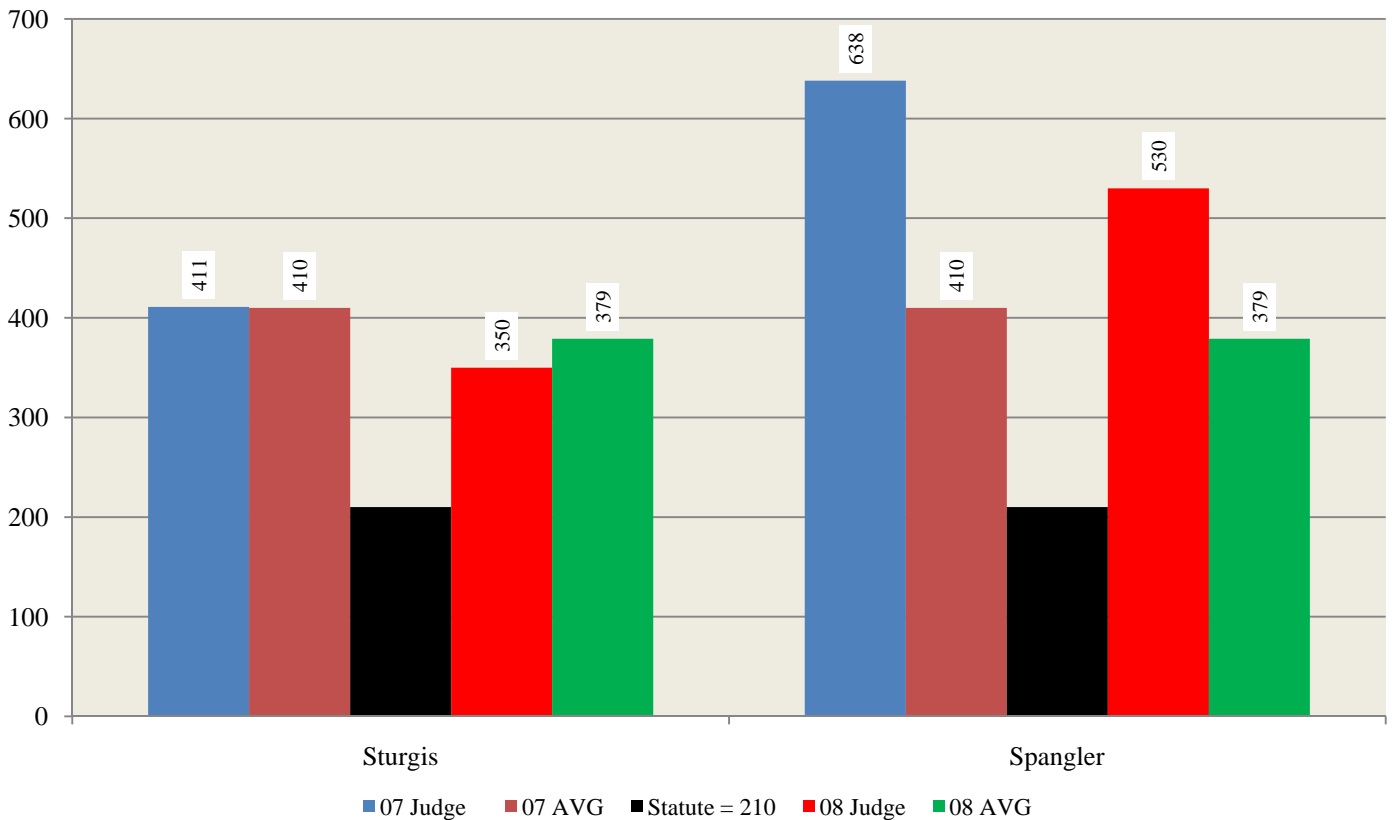
The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).



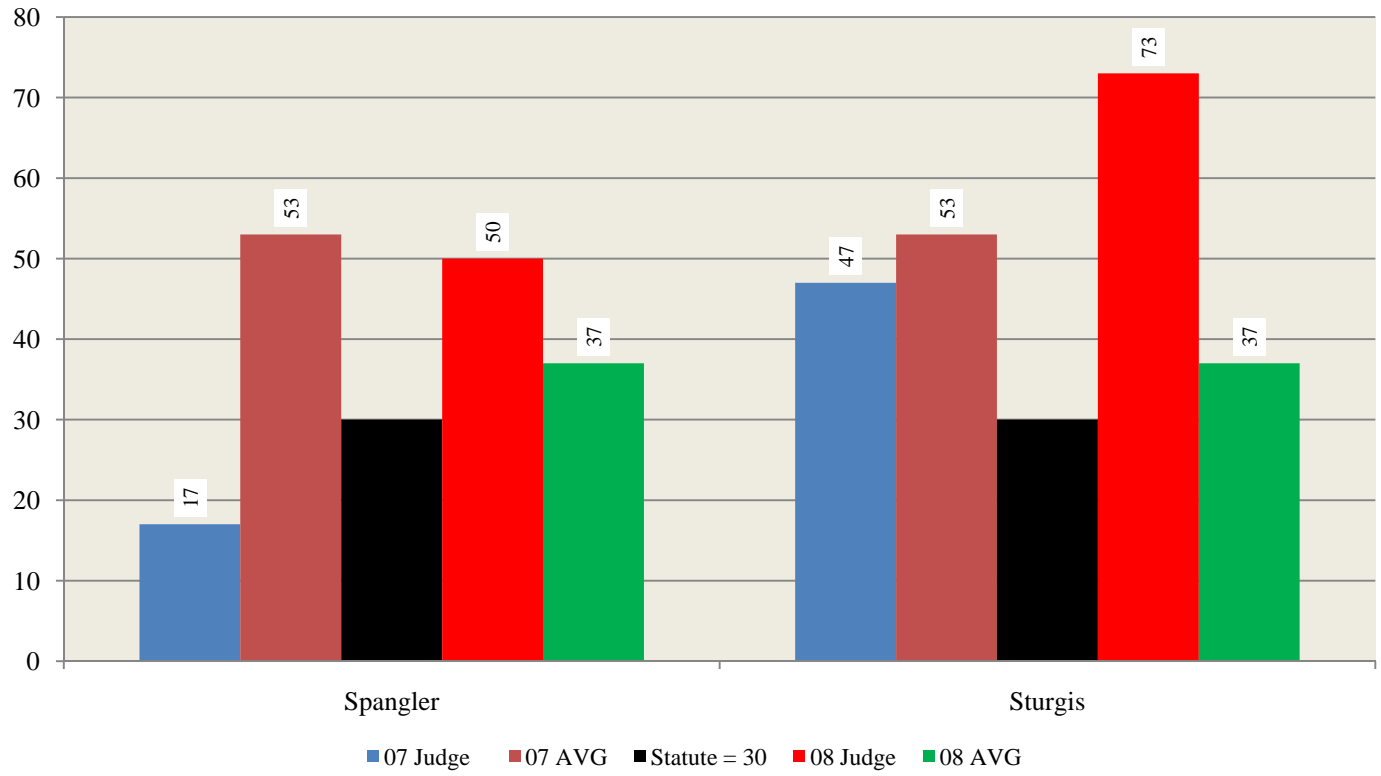
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2007-08 (rust) and 2007-08 (green).



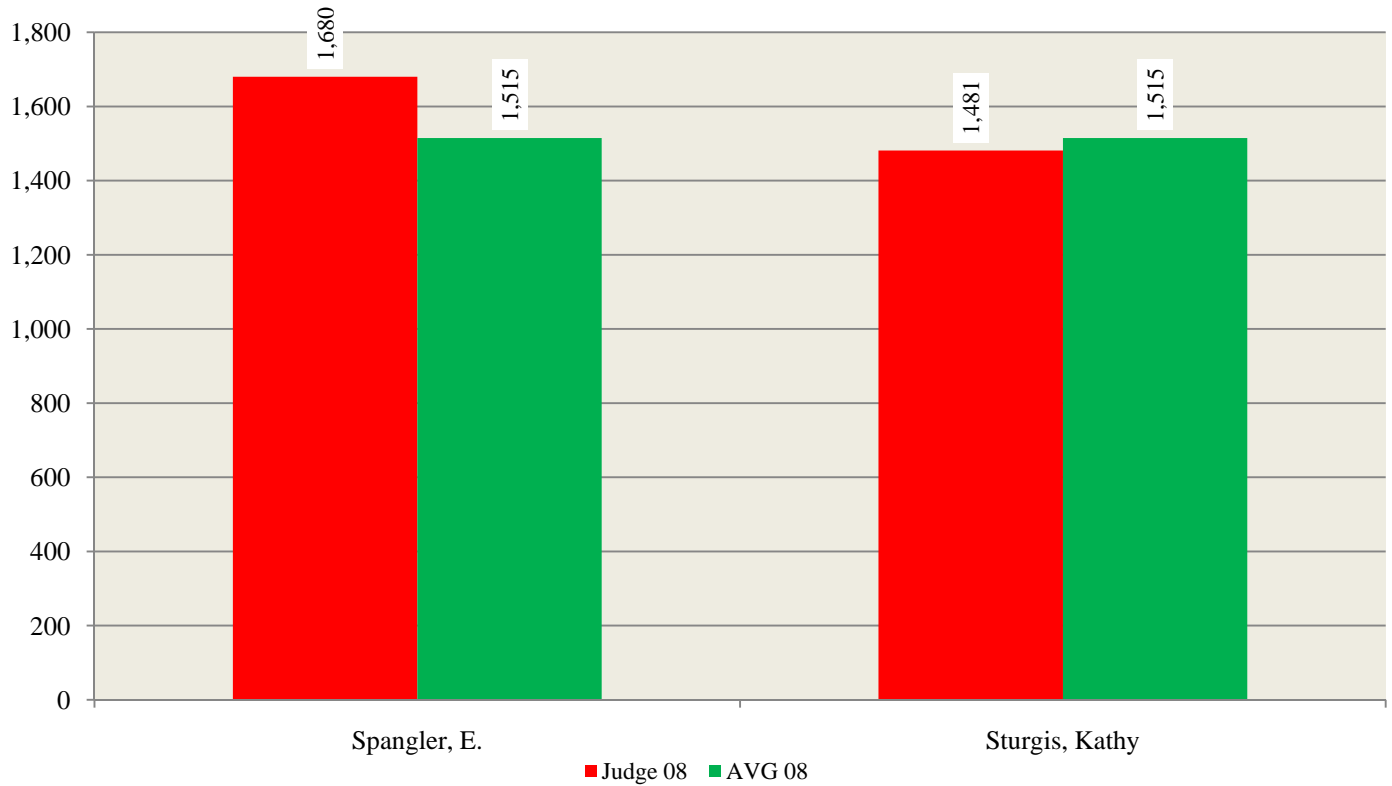
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2007-08 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2007-08 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.

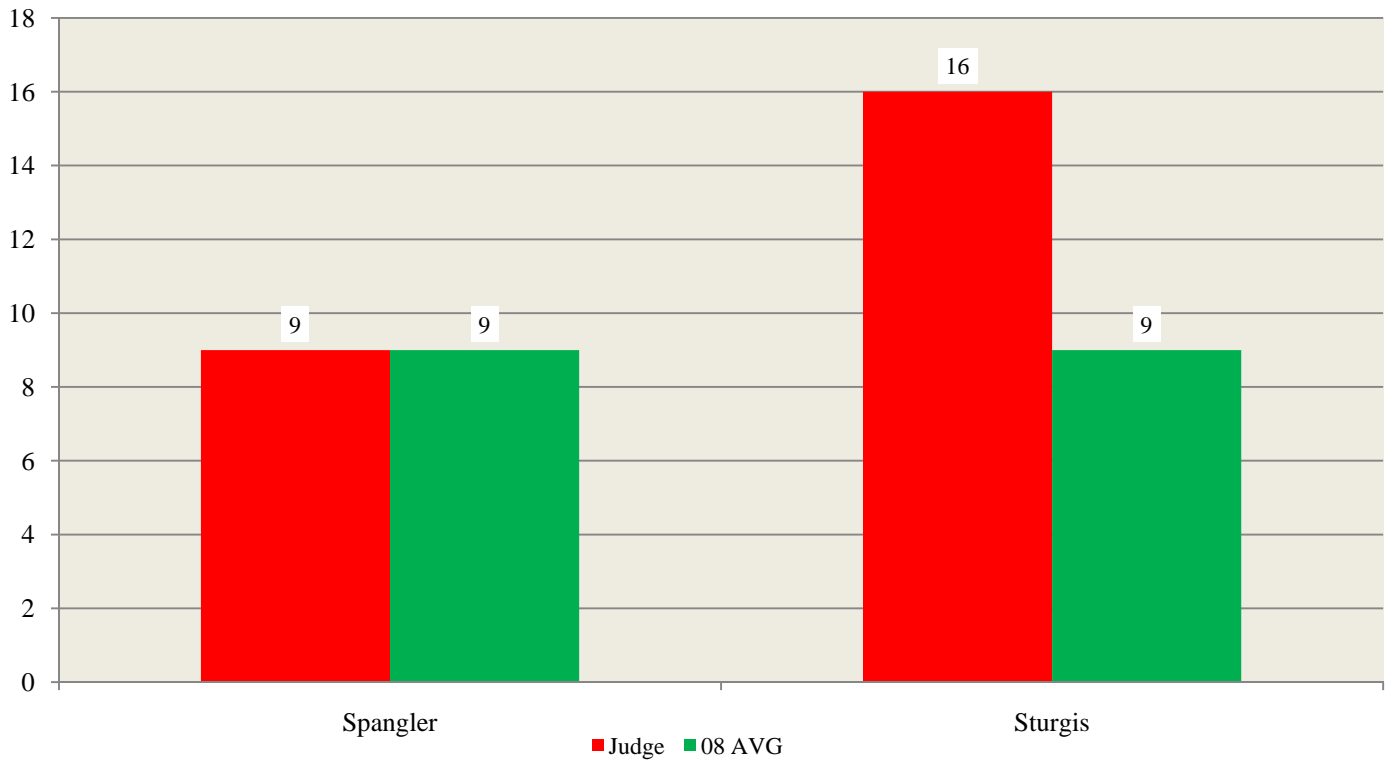


The following graph depicts the volume of settlement orders entered by each Judge in the district (red) and the statewide average (green).

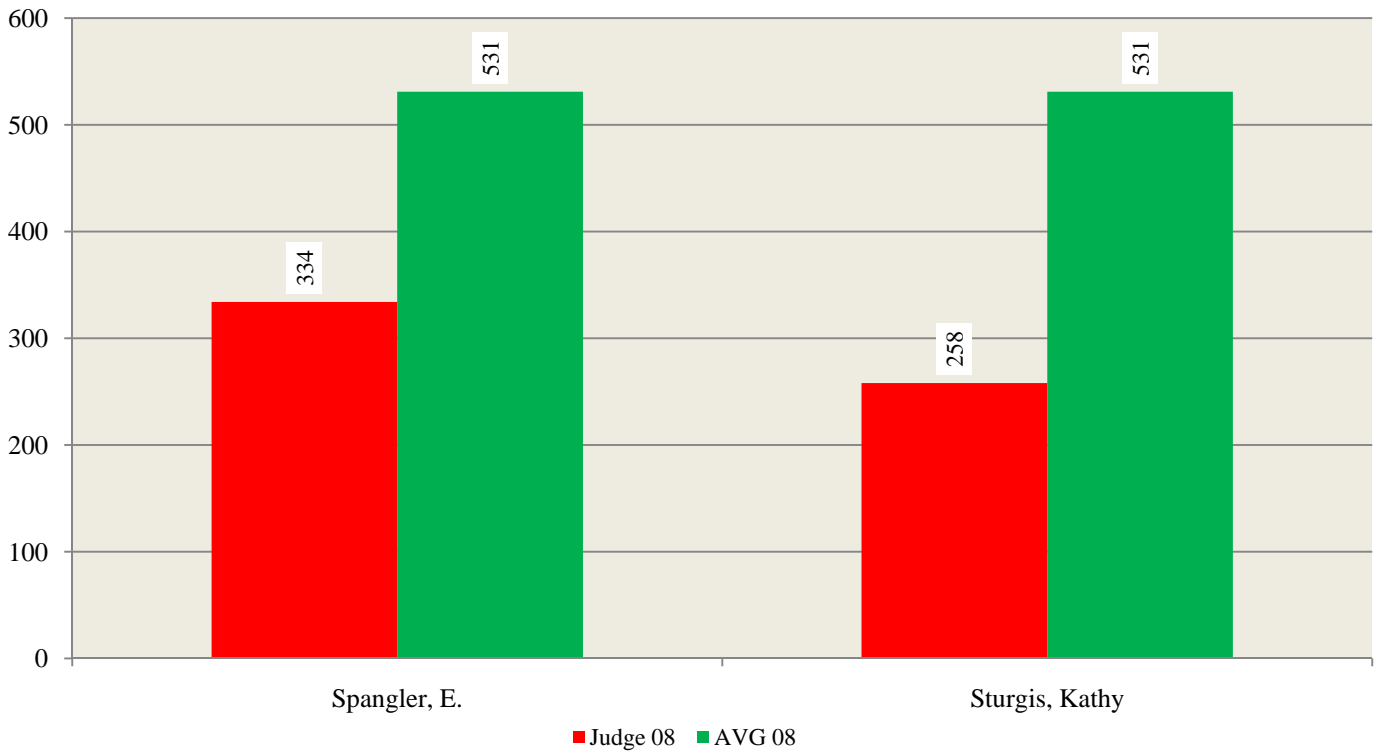




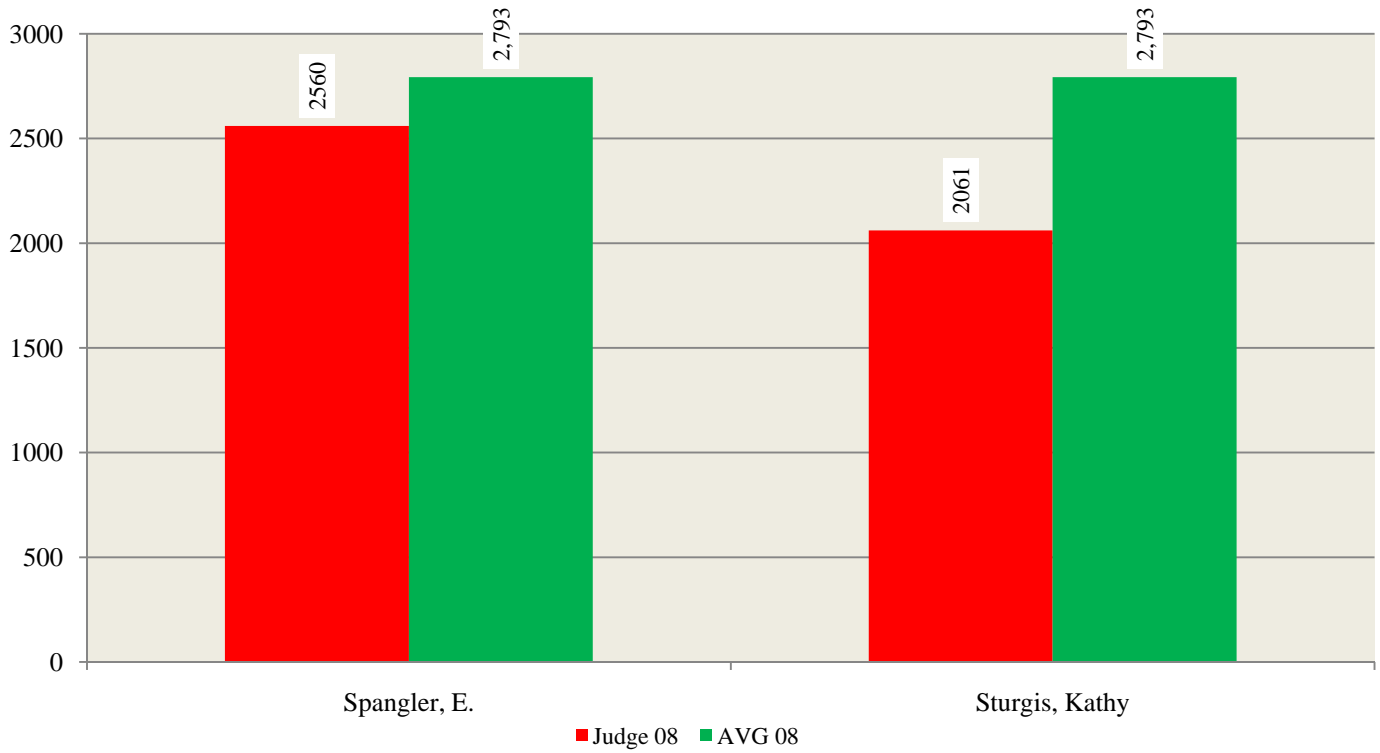
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).



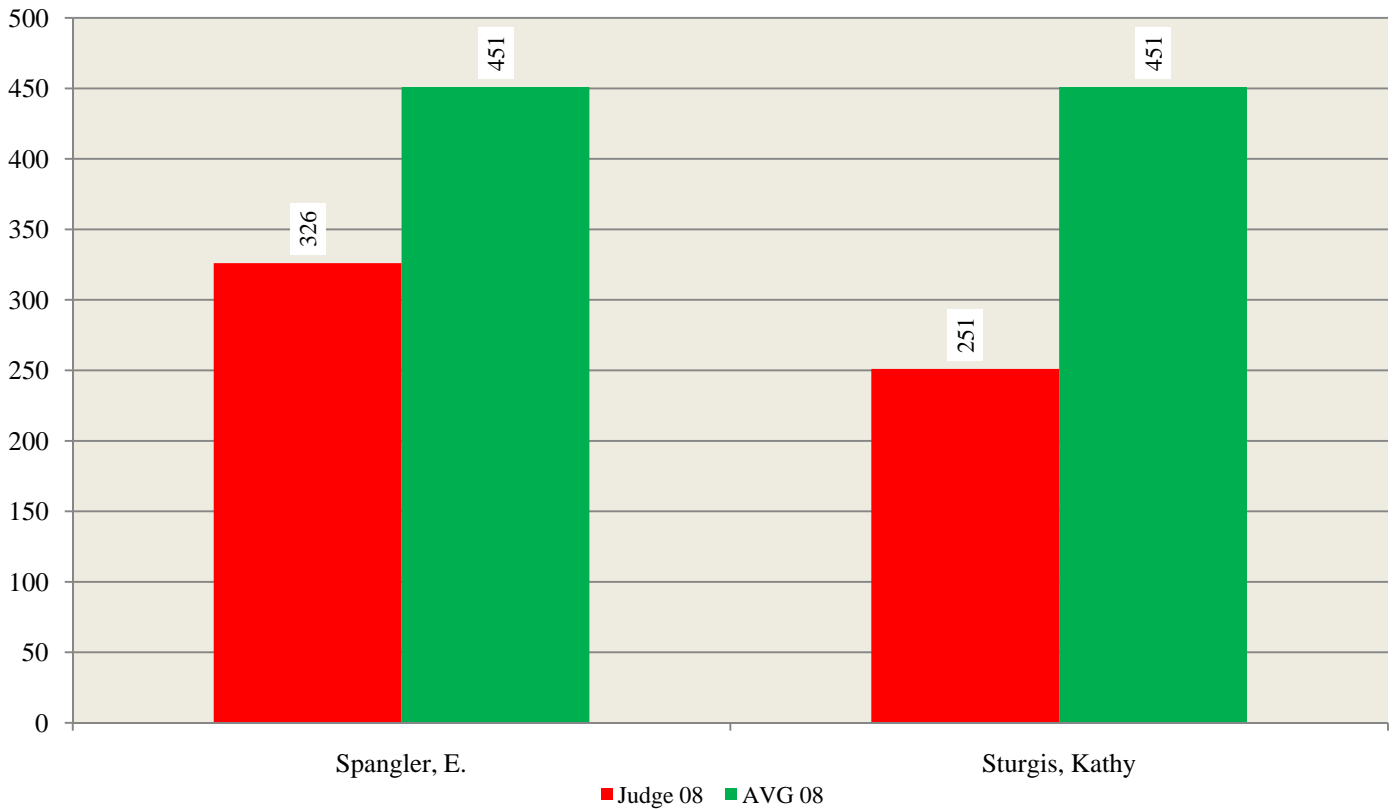
The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).



## Appendix “6” District GNS (JCC Thurman):

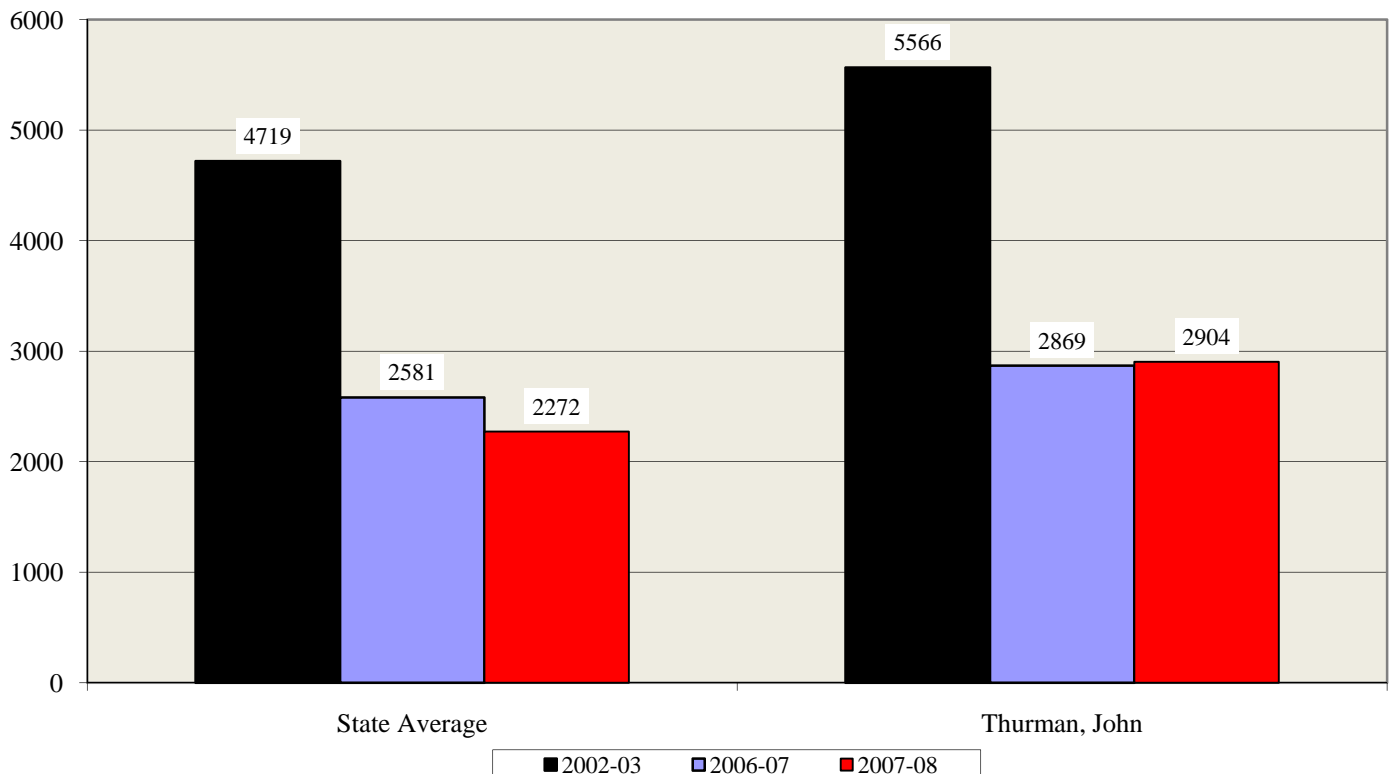
District GNS includes the following counties: Alachua, Columbia, Dixie, Gilchrist, Levy, Marion.

District GNS is one of the few to experience an increase in PFB filing in 2007-08. While the GNS increase is not necessarily significant, it is notable that PFB filing in that district has consistently been above the statewide average in recent years. The volume of “new cases” filed in GNS in 2007-08 was also above the statewide average, and increased in 2007-08. Judge Thurman closed a considerable (17,805) volume of pending petitions after transferring to GNS during 2006-07 (after Judge Ohlman’s appointment to the Circuit bench). In 2007-08, district GNS closed fewer PFBs than were filed, which indicates a pending PFB inventory growth. The year-end pending PFB inventory (1,539) is at a manageable level.

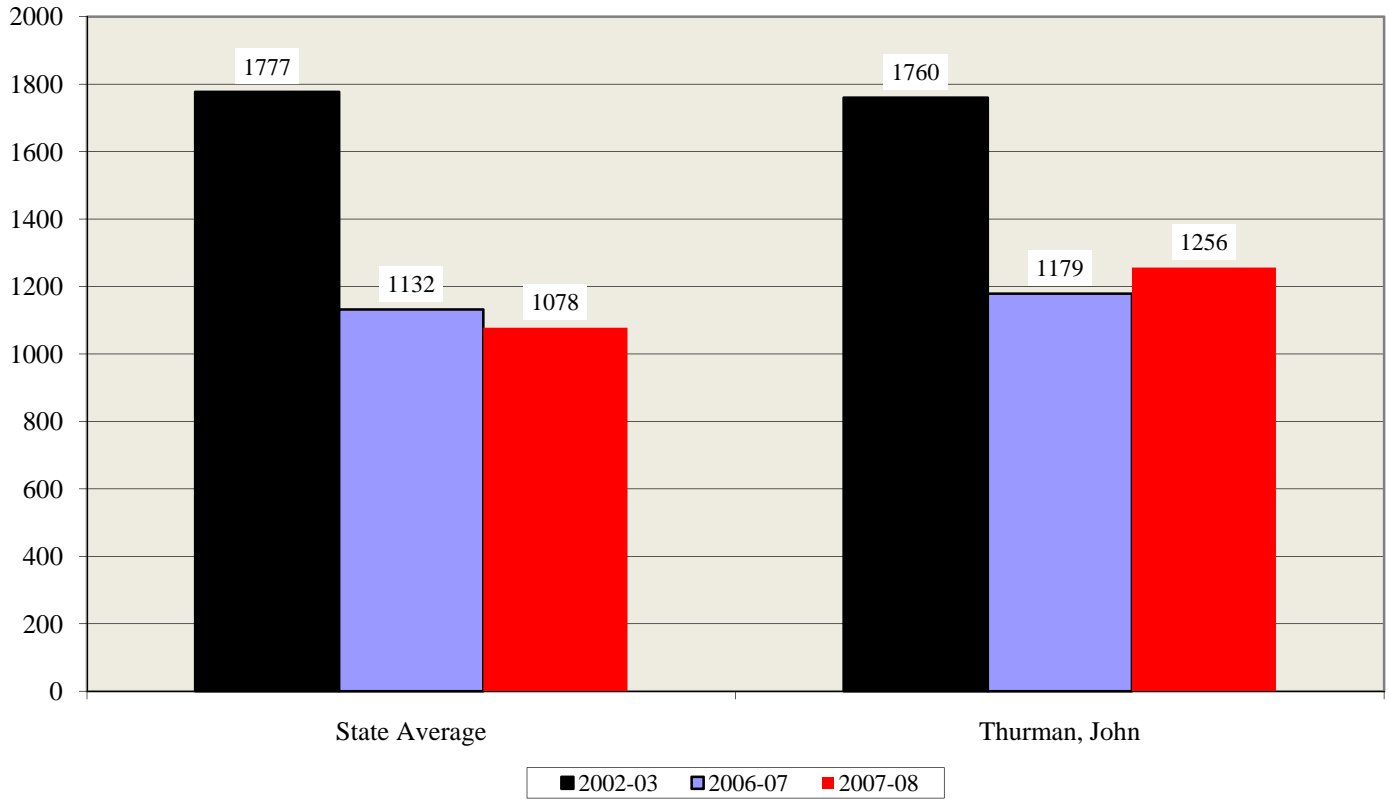
Stuart Suskin averaged 90 days between PFB filing and first mediation in 2007-08. This is significant in that it is less than the statewide average (116), less than the statutory period (130) and represents a considerable timeliness improvement from 2006-07 (147). Judge Thurman’s average from PFB filing to final hearing (376) was slightly lower than the statewide average (379) while the time from trial to final order entry (55) was significantly higher than the average (37) and the statutory period (30).

The volume of “settlement orders” in district GNS in 2007-08 is slightly above the statewide average, and the average days (8) for entry of those orders is slightly below the statewide average.

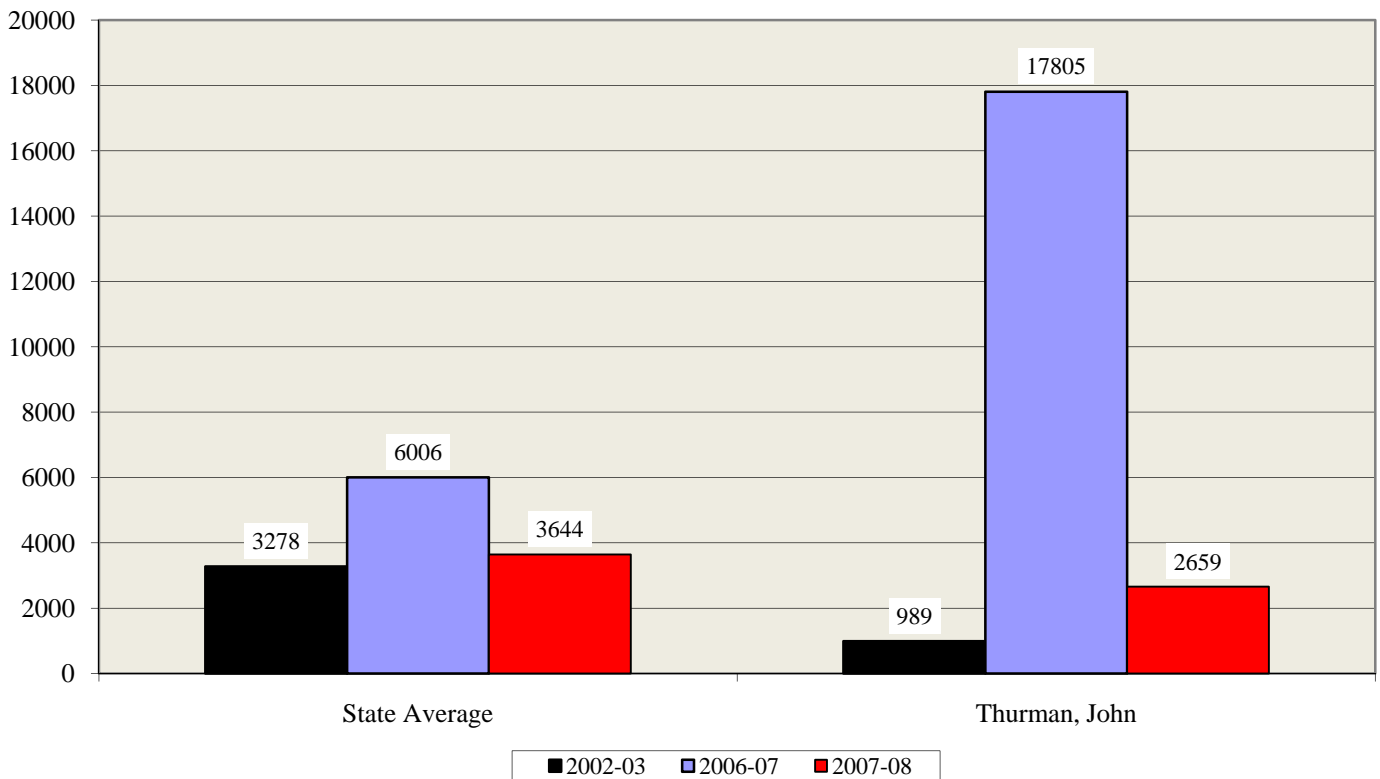
The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



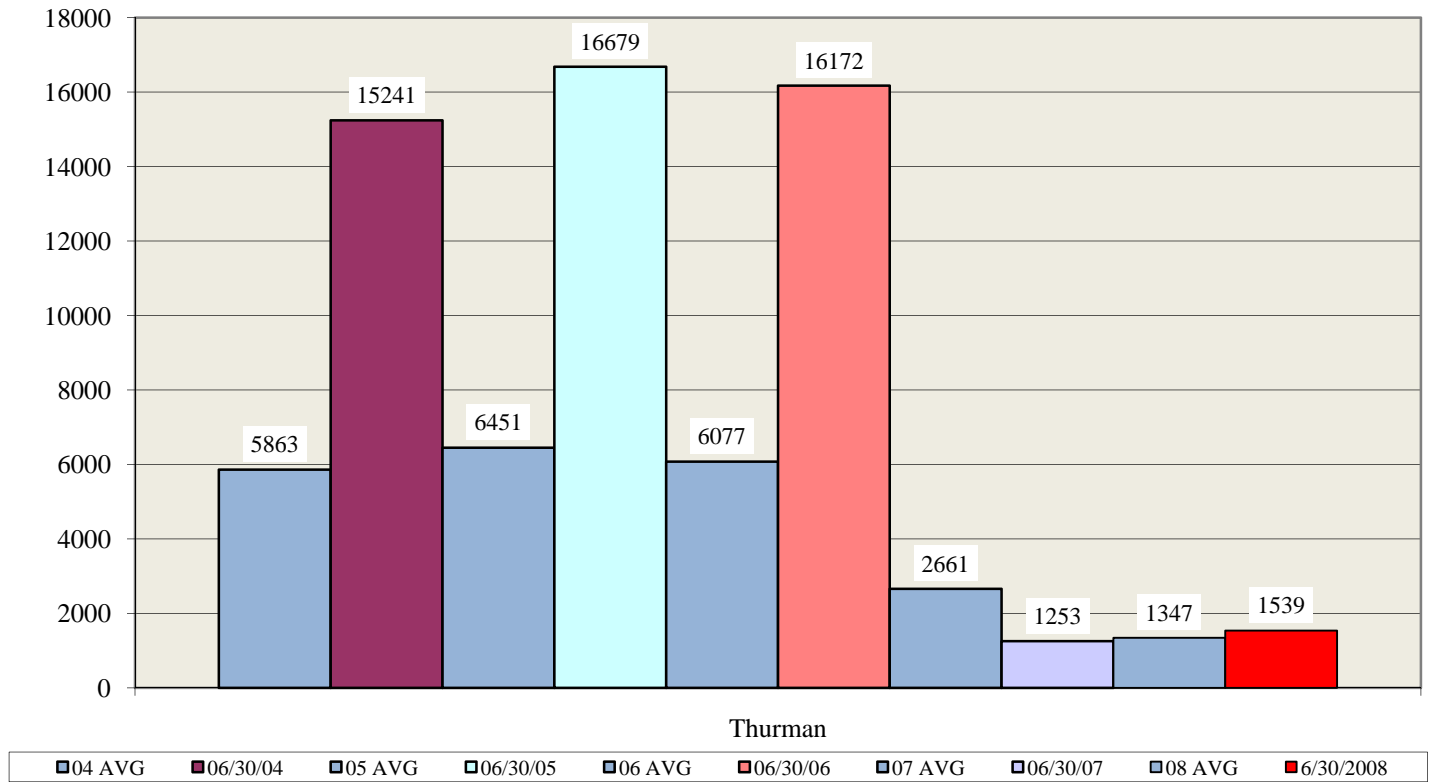
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



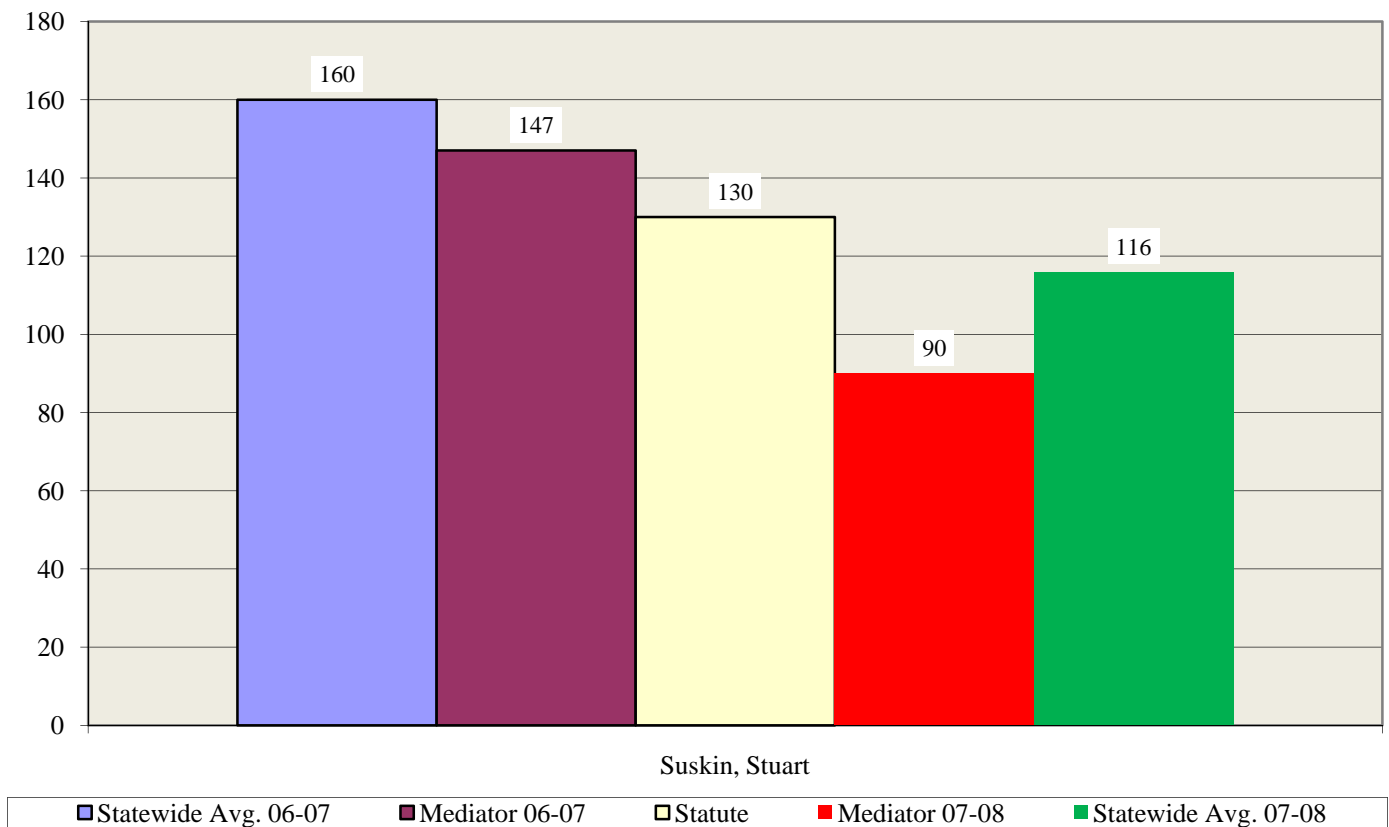
The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



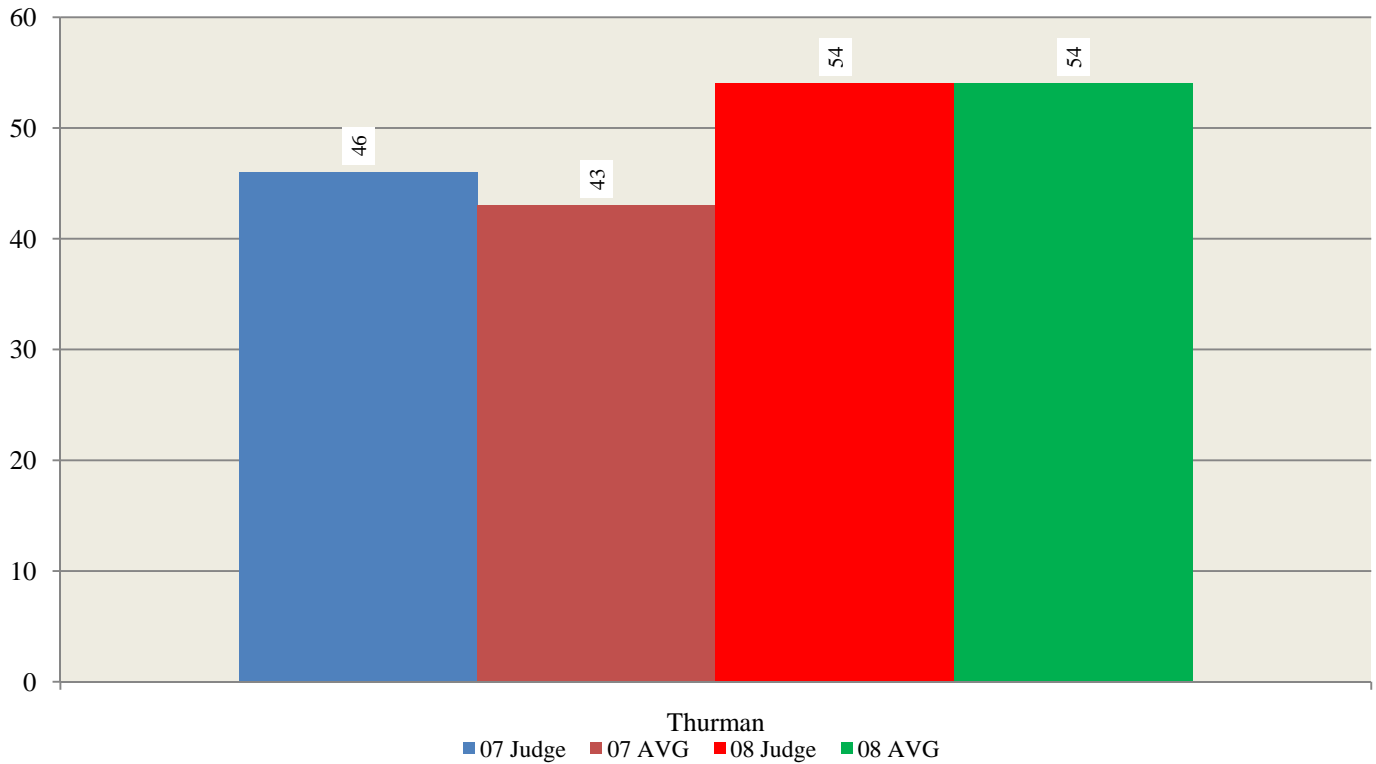
The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



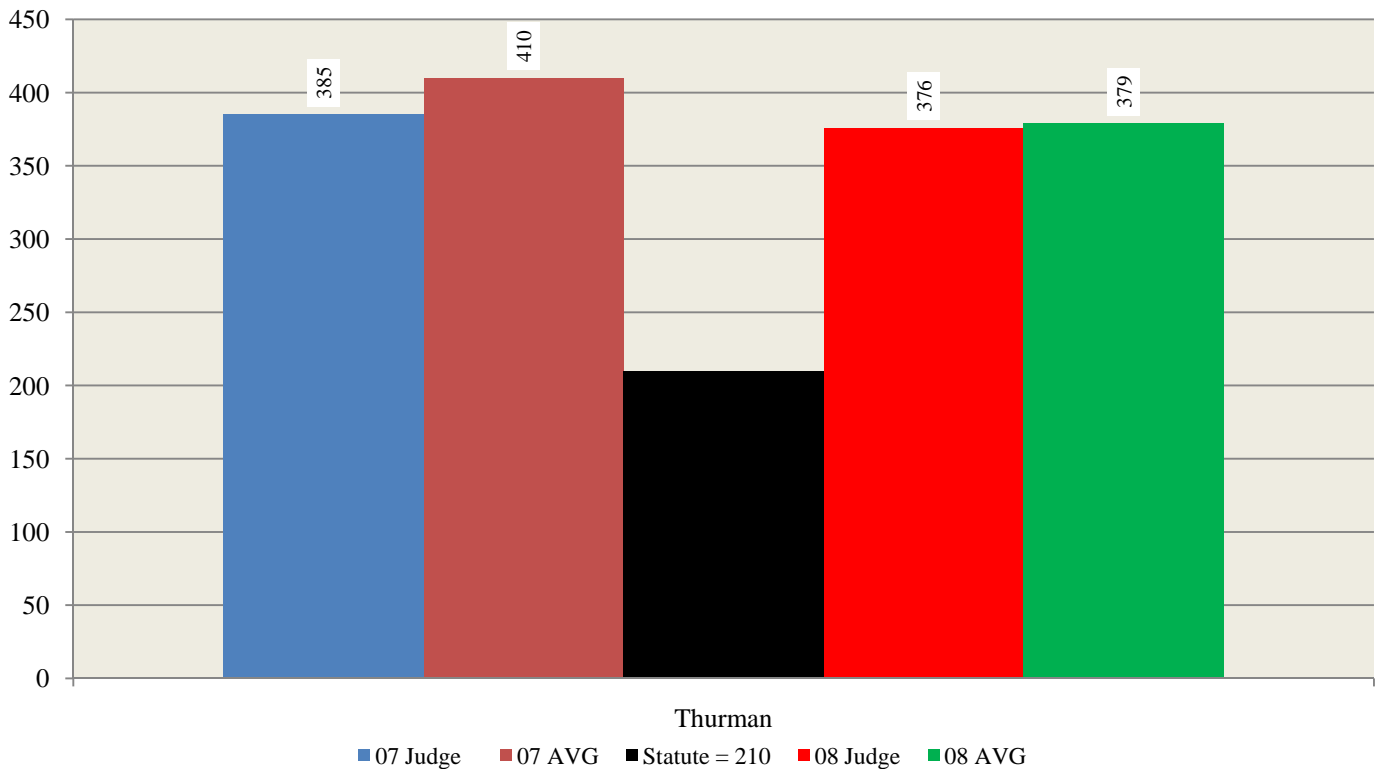
The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).



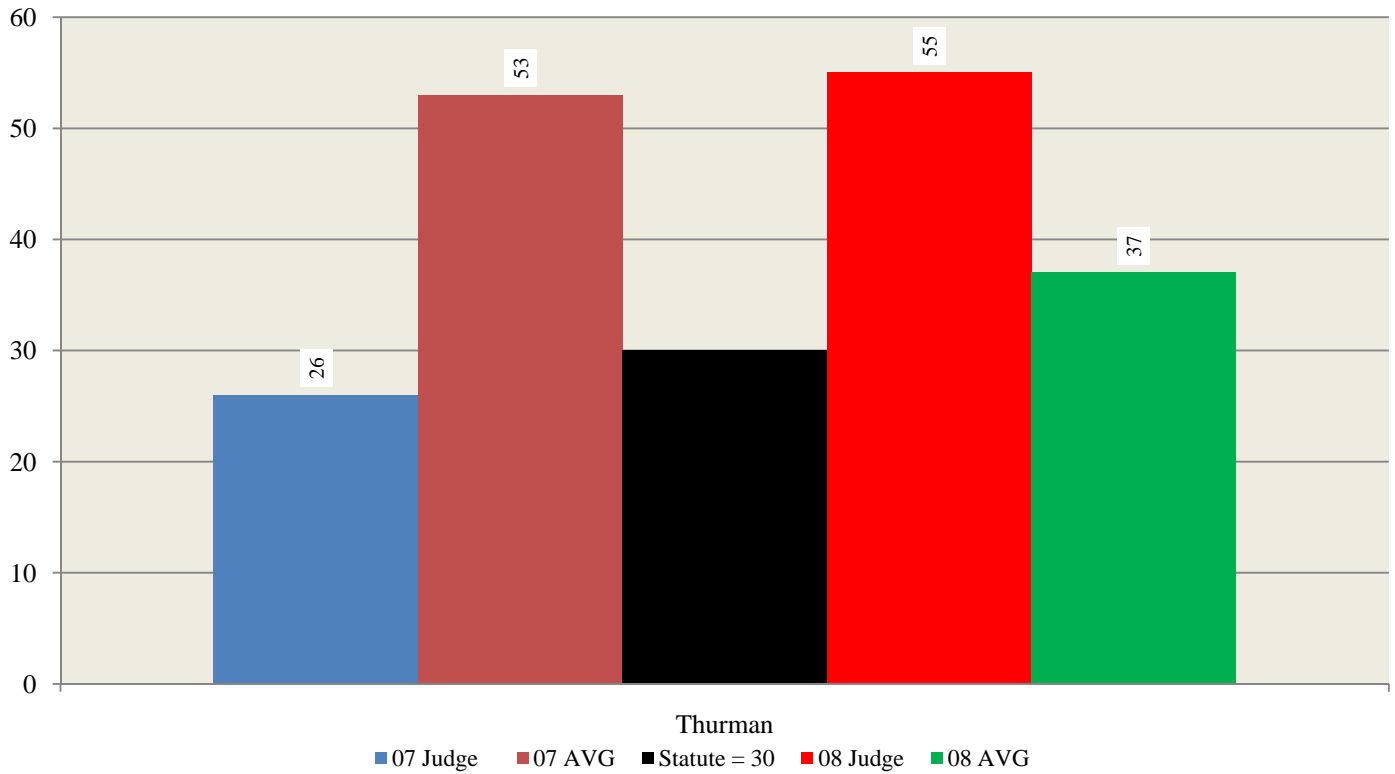
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2007-08 (rust) and 2007-08 (green).



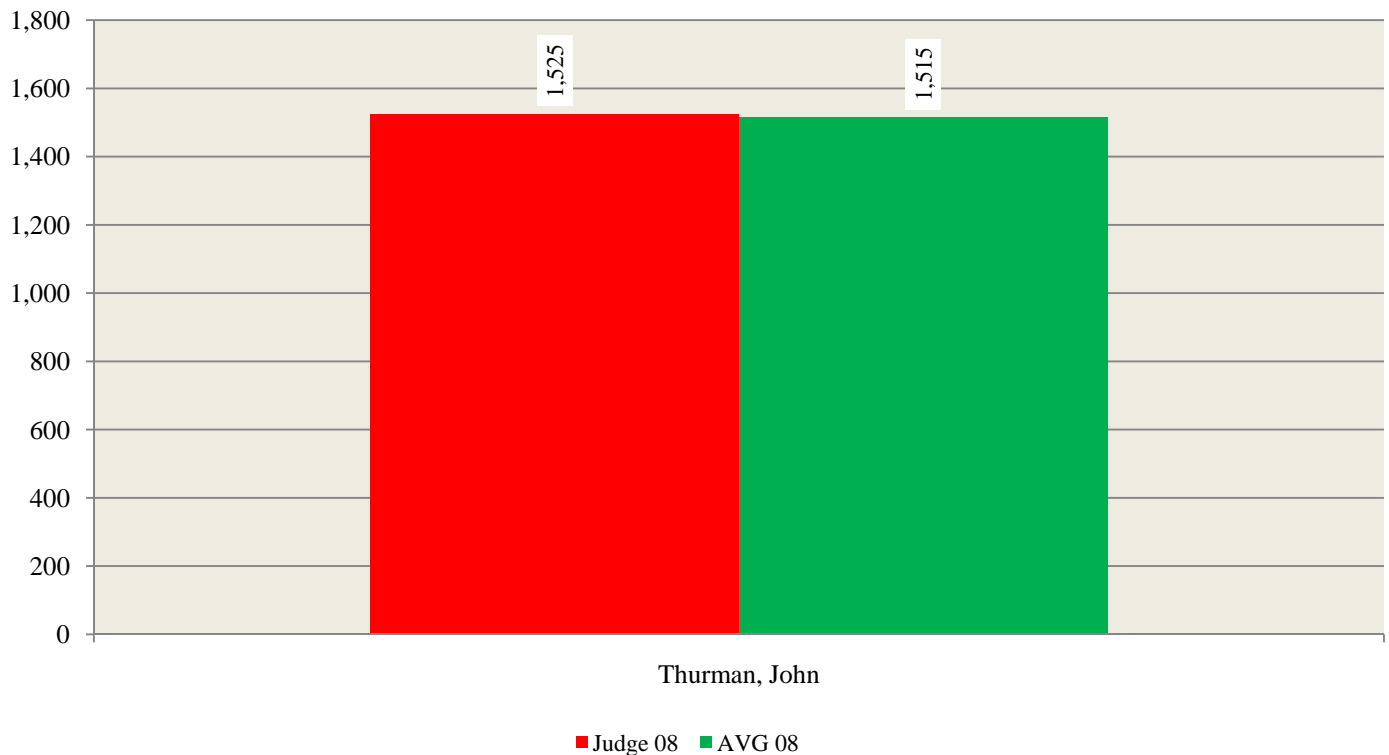
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2007-08 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2007-08 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.

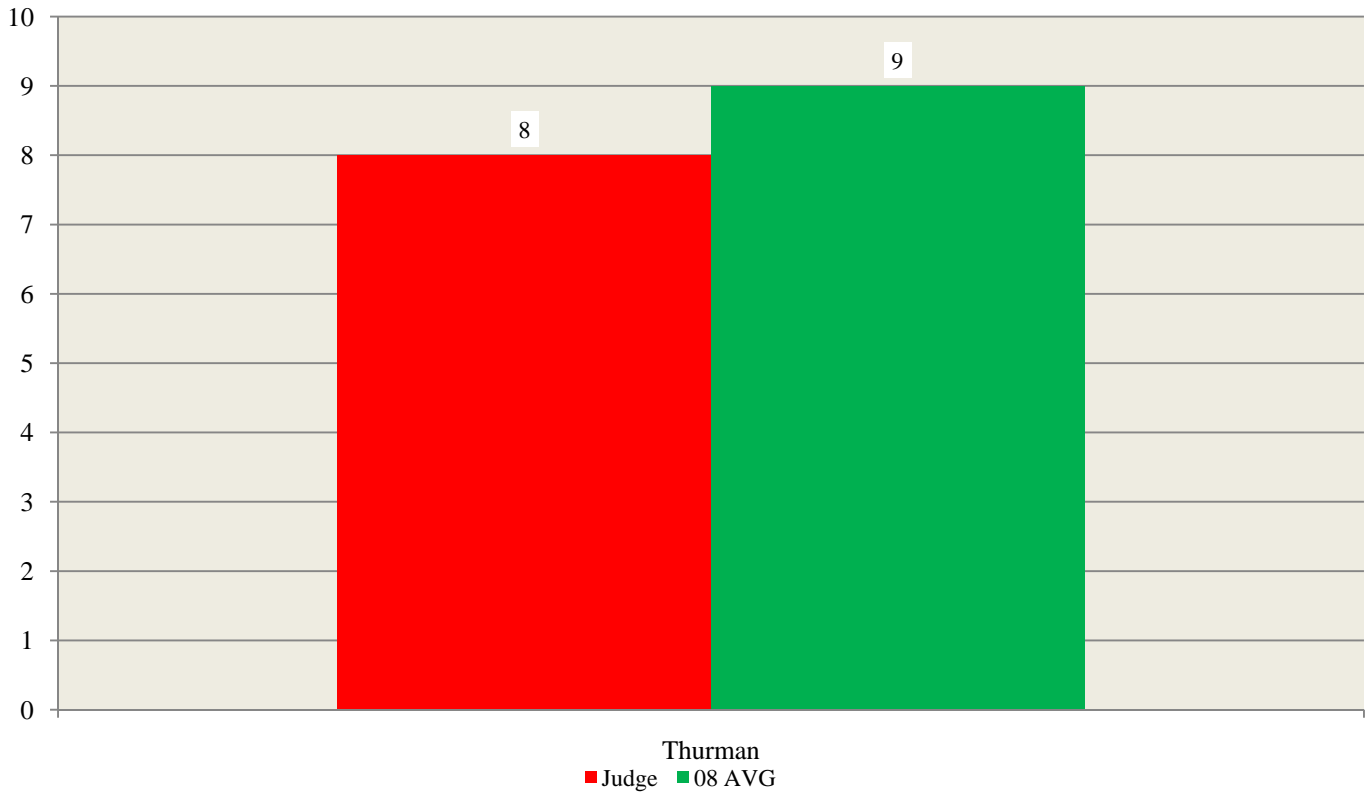


The following graph depicts the volume of settlement orders entered by each Judge in the district (red) and the statewide average (green).





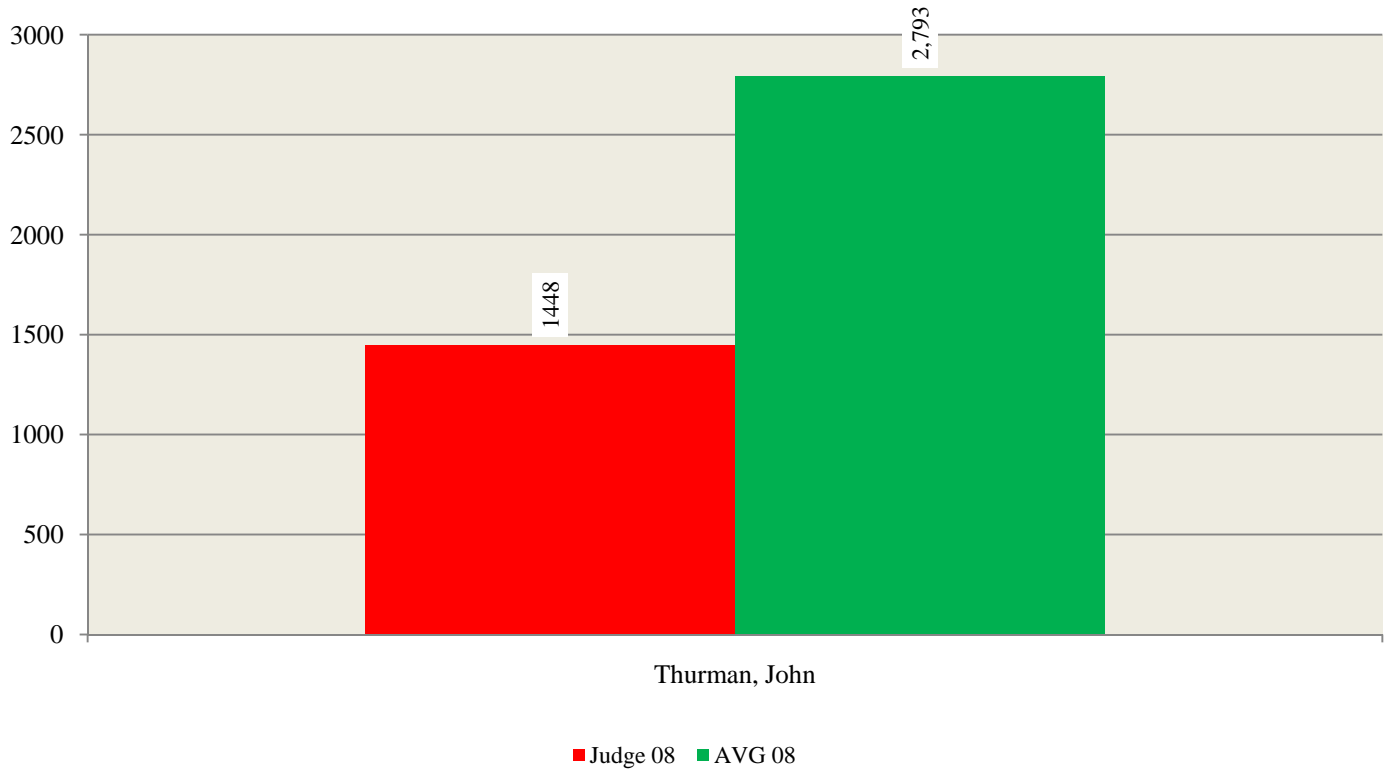
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).



## Appendix “7” District JAX (JCC Dane and JCC Harris):

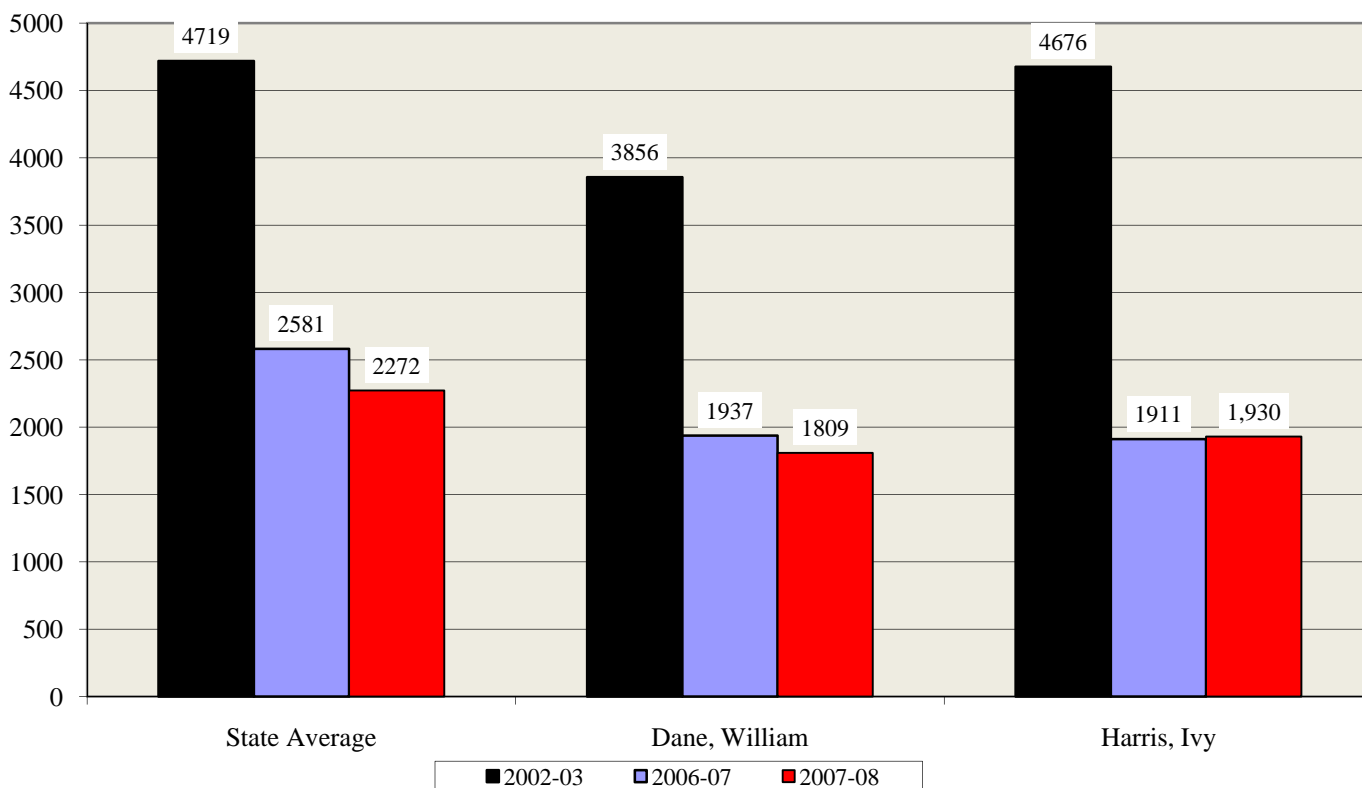
District JAX includes the following counties: Baker, Bradford, Clay, Duval, Nassau, Putnam, St. Johns, and Union.

The volume of PFBs filed in JAX is below the statewide average. Conversely, the volume of “new cases” in JAX remains above the statewide average in 2007-08. JAX closed a significant volume of PFBs in 2006-07. While that volume decreased in 2007-08, JAX nonetheless closed more PFBs in 2007-08 than were filed, which is indicative of continued effort to address pending PFB inventory. The year-end pending inventory in each JAX division is well within the manageable range.

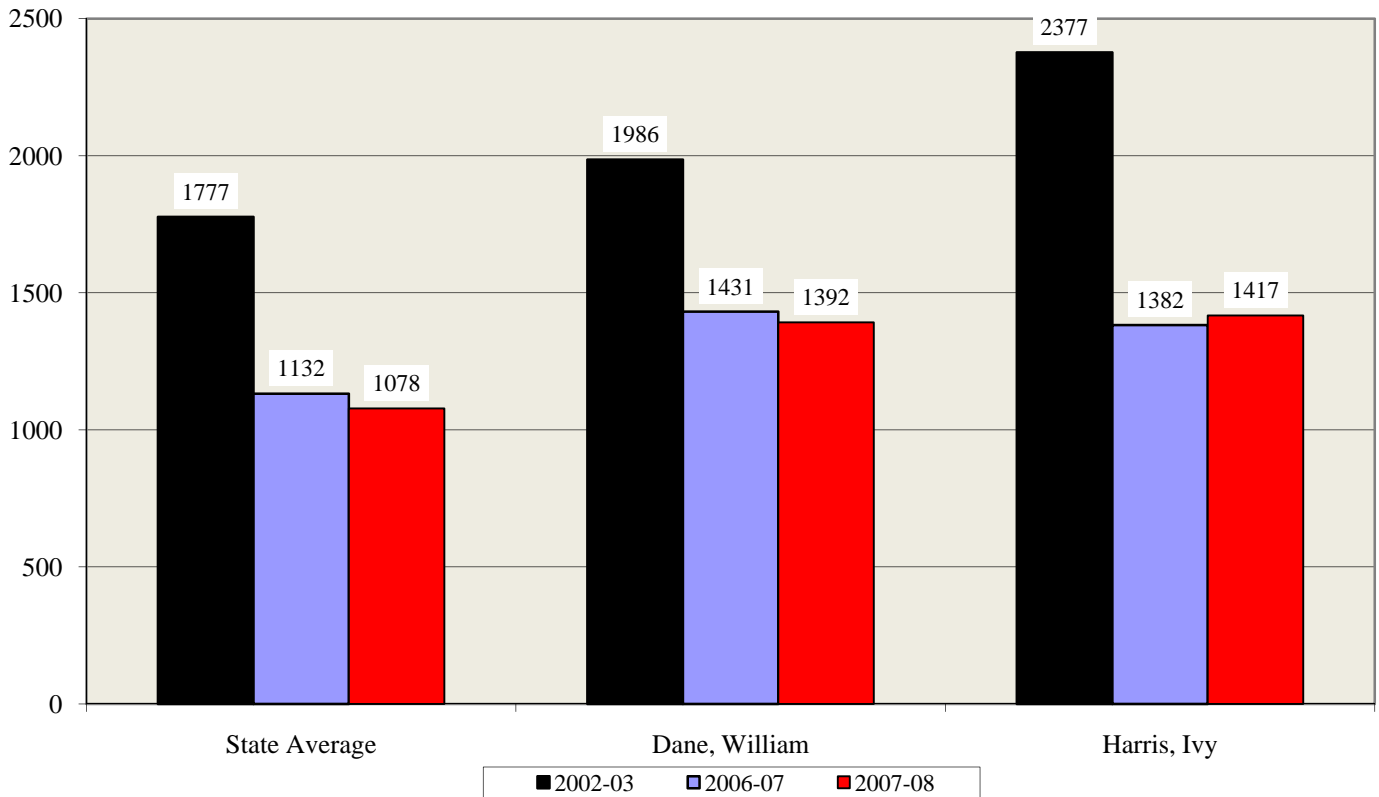
The JAX volumes of stipulation orders, “other hearings” and “other orders” were all below the statewide averages. JAX trial volumes remain among the lowest in Florida. The two JAX divisions combined entered 56 trial orders in 2007-08, which is only slightly higher than the “per judge” average (54) statewide in 2007-08. Despite these low trial volumes, the average time to trial in JAX is significantly above the 210-day statutory period. Judge Dane’s 2007-08 average (603 days) approached three times that period. The time from trial to final order in JAX is also significantly higher than the statewide average and the statutory period (30 days). Judge Harris’ average (137 days) was the highest in the state in 2007-08. Mediator Day’s average days from PFB filing to mediation (114) was below both the statewide average and the 130 day statutory period.

Both JAX divisions processed less than the average volume of settlement motions in 2007-08. Judge Dane’s average processing time for those motions was below average at 6 days. Judge Harris’ average was the highest in Florida at 23 days.

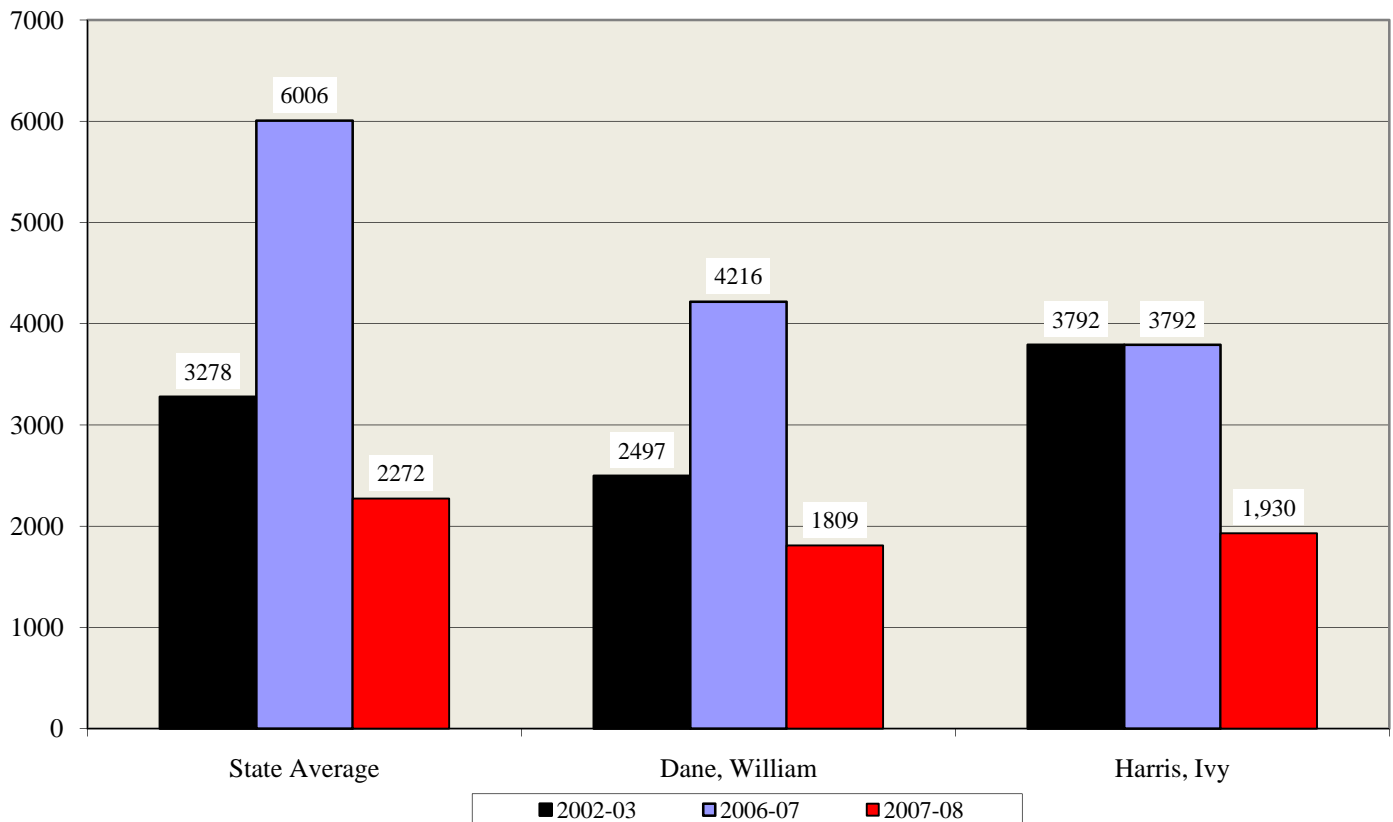
The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



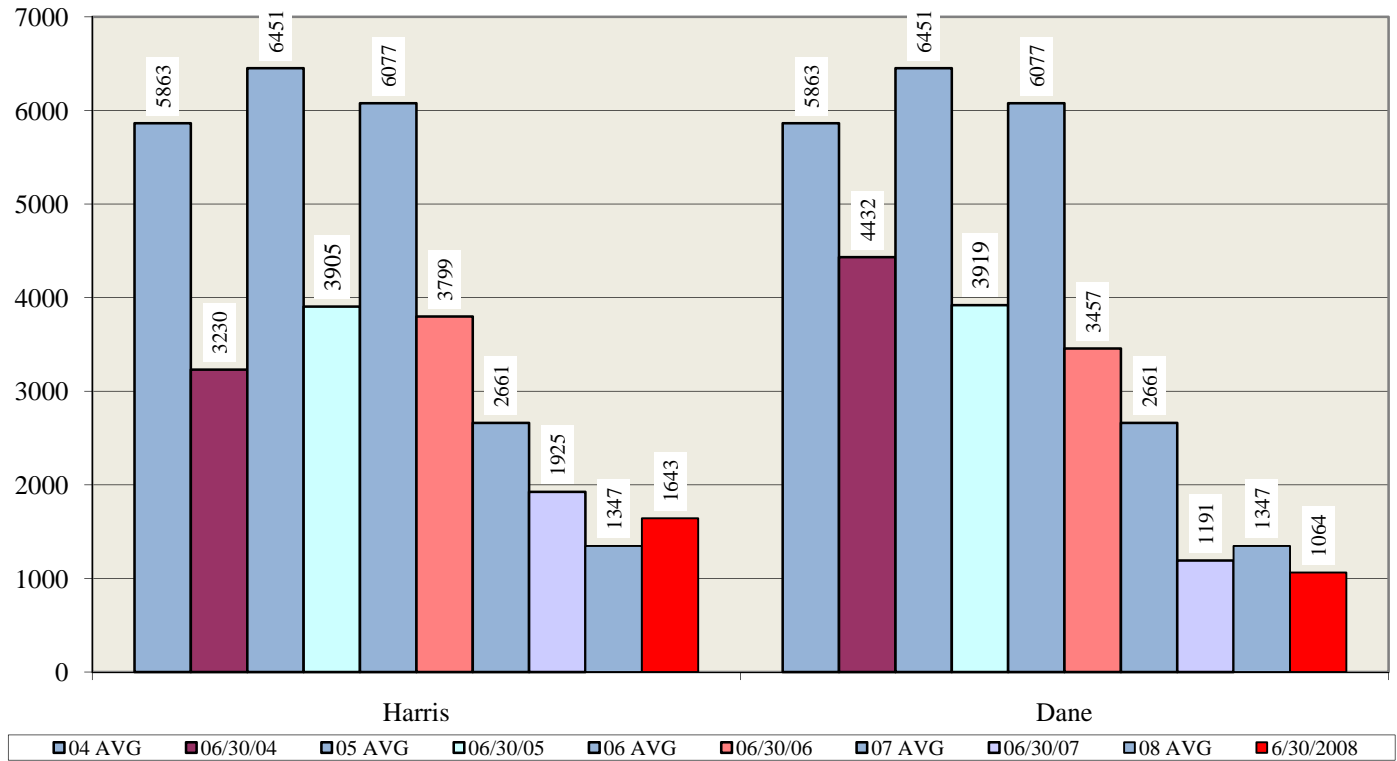
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



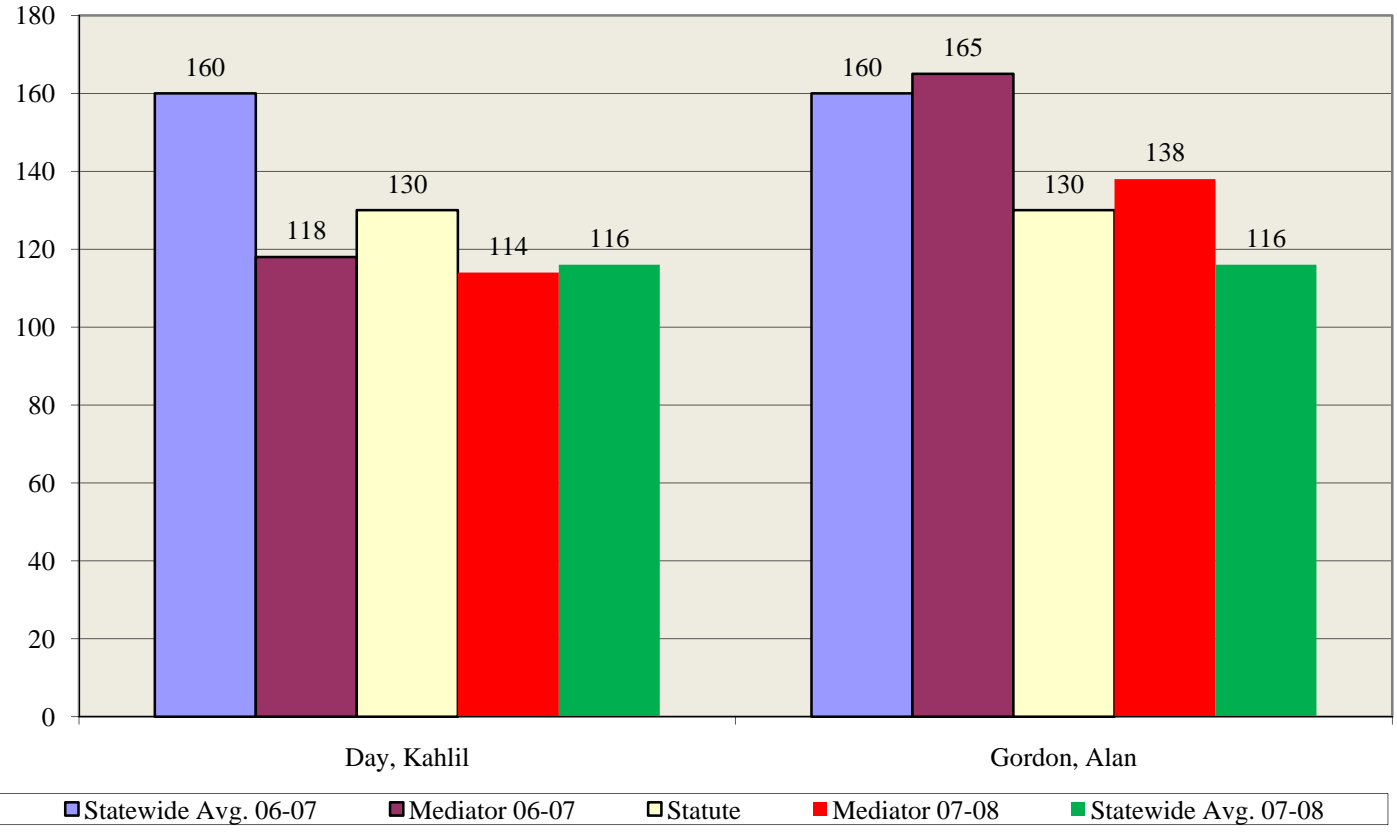
The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



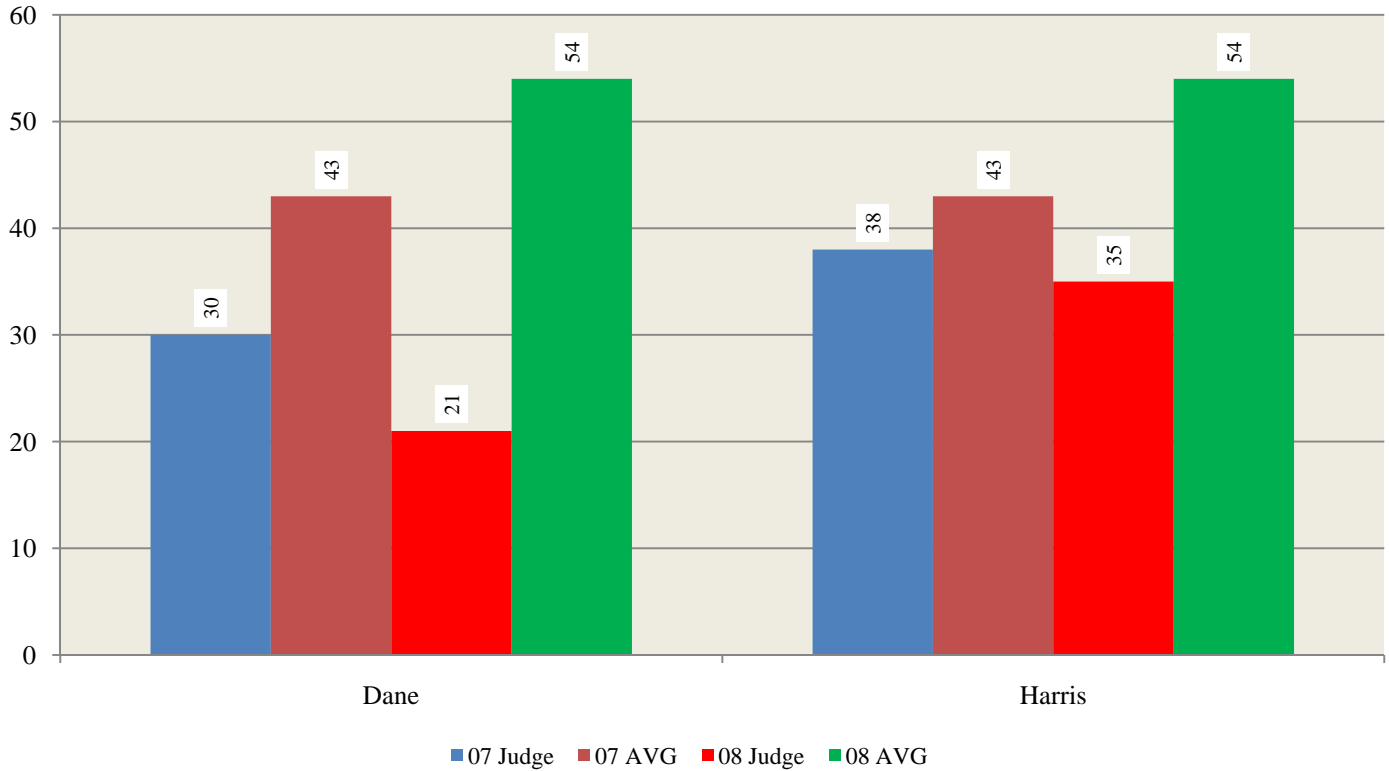
The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



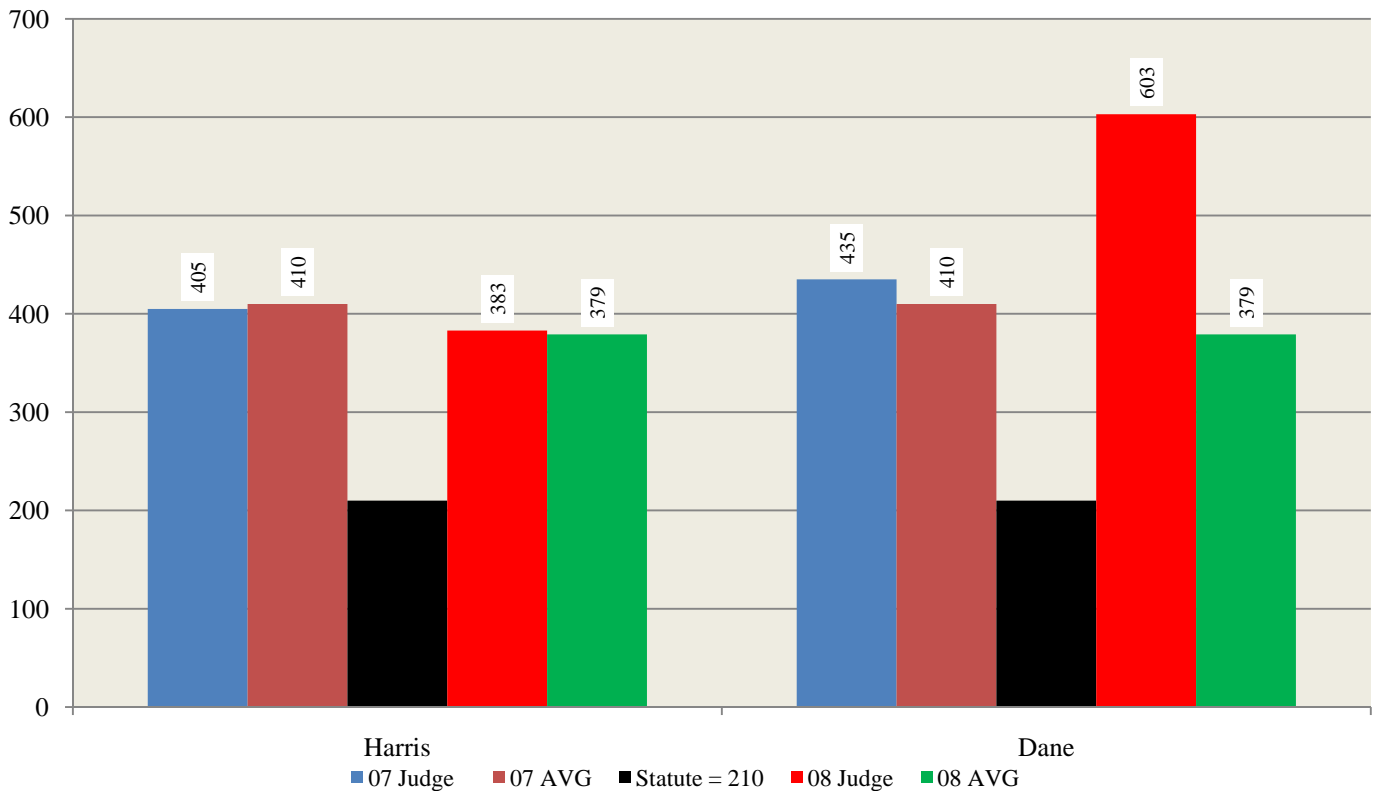
The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).



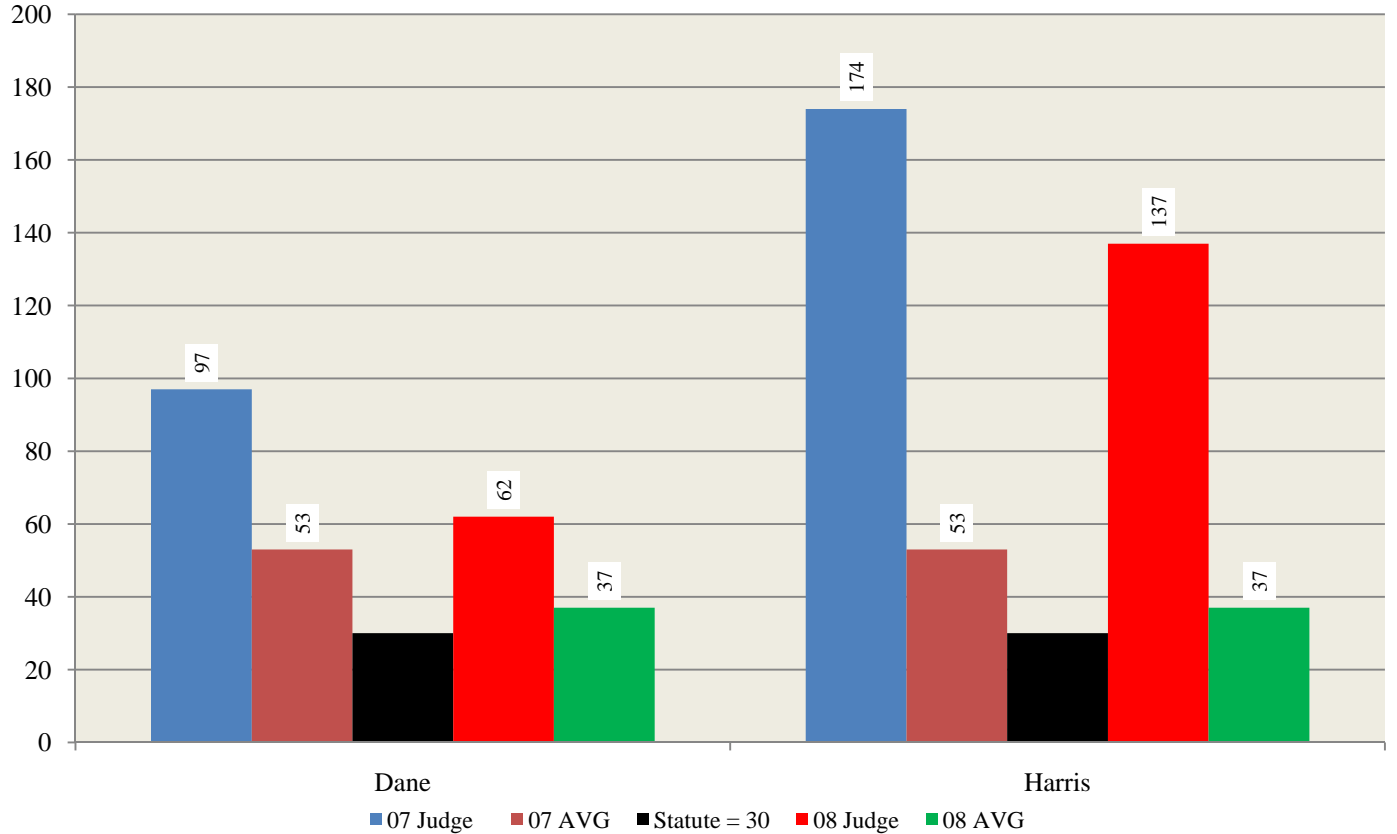
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2007-08 (rust) and 2007-08 (green).



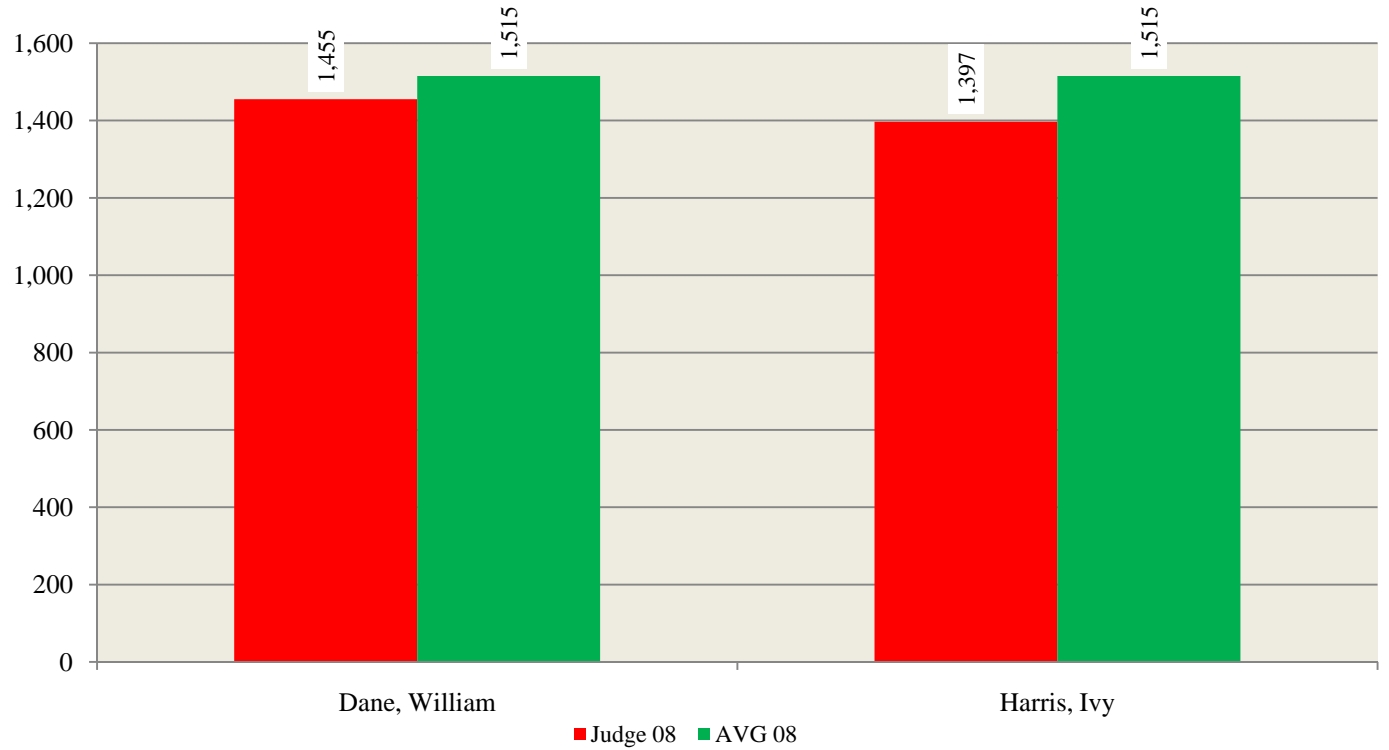
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2007-08 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2007-08 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.

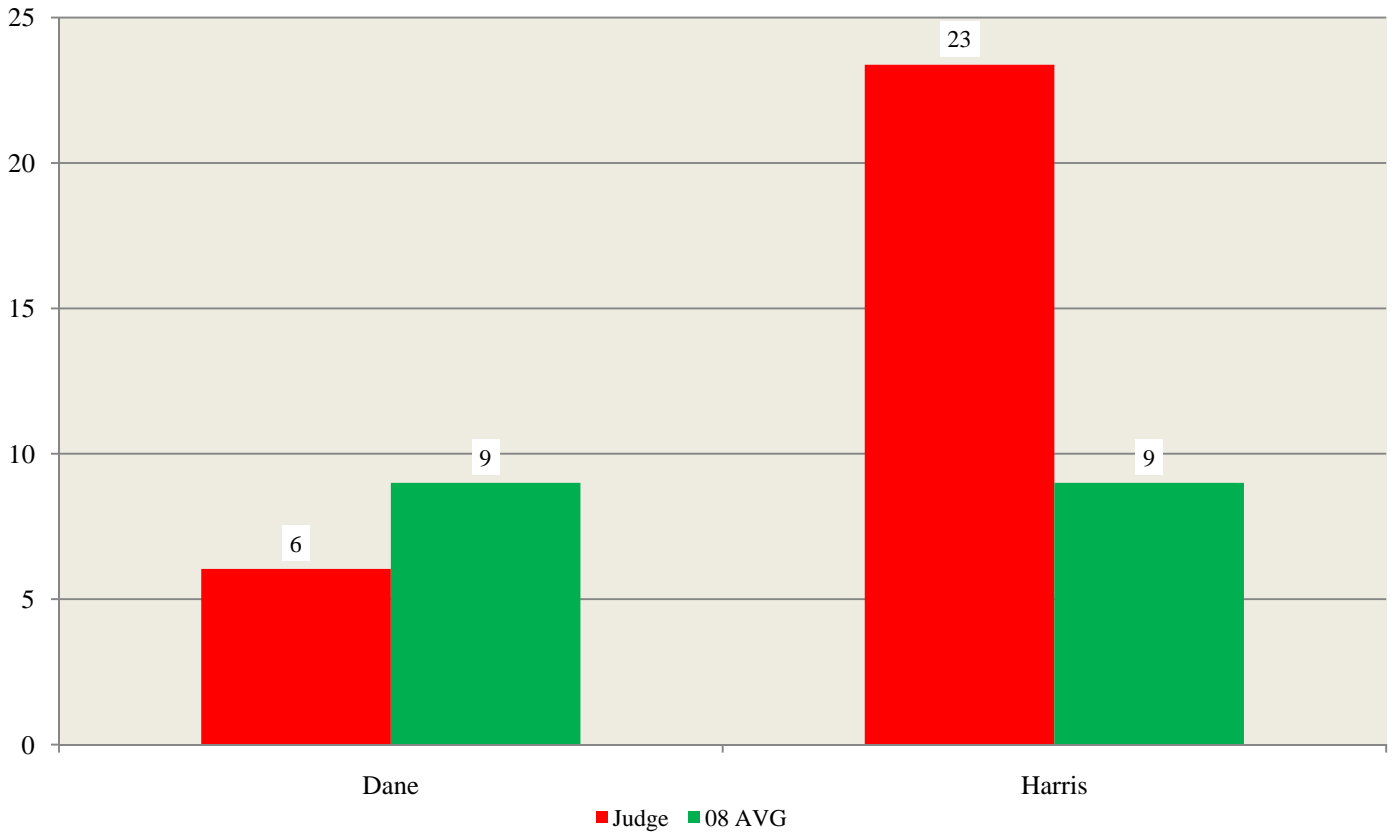


The following graph depicts the volume of settlement orders entered by each Judge in the district (red) and the statewide average (green).

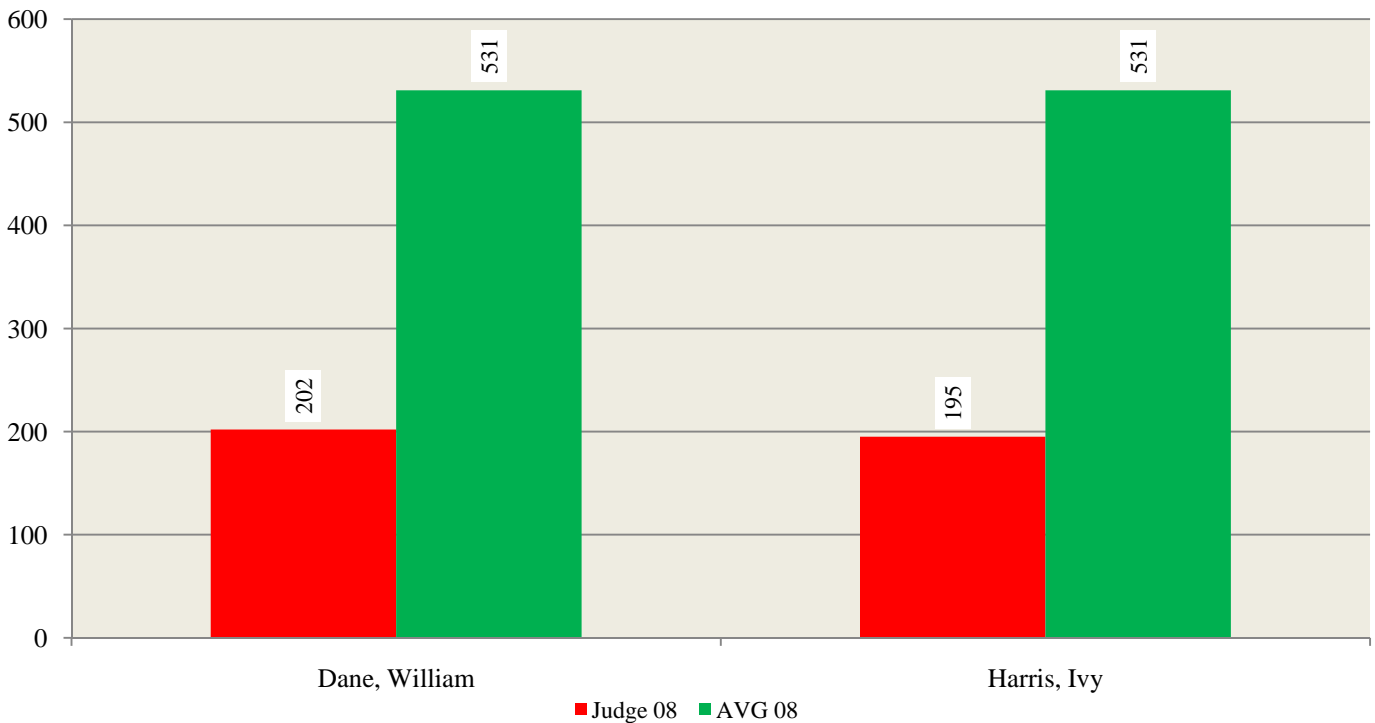




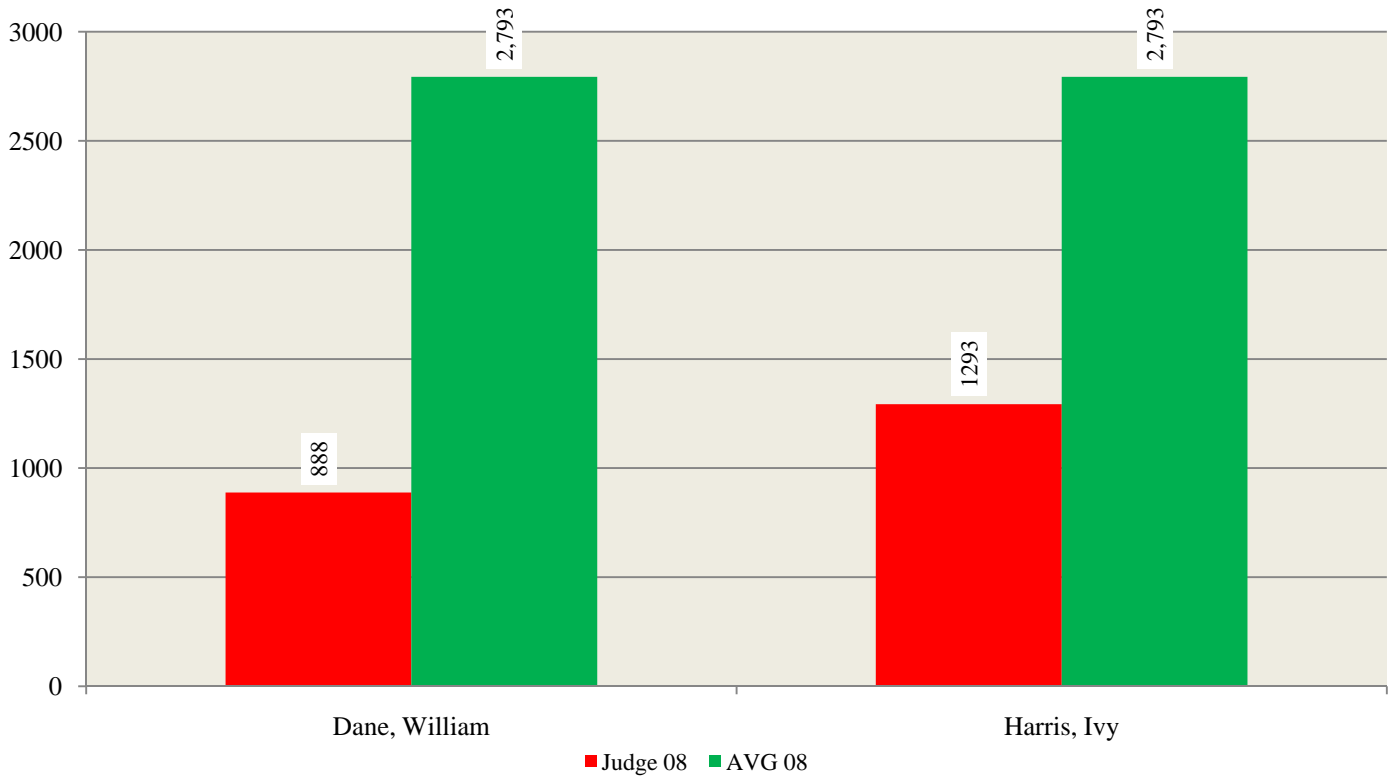
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).



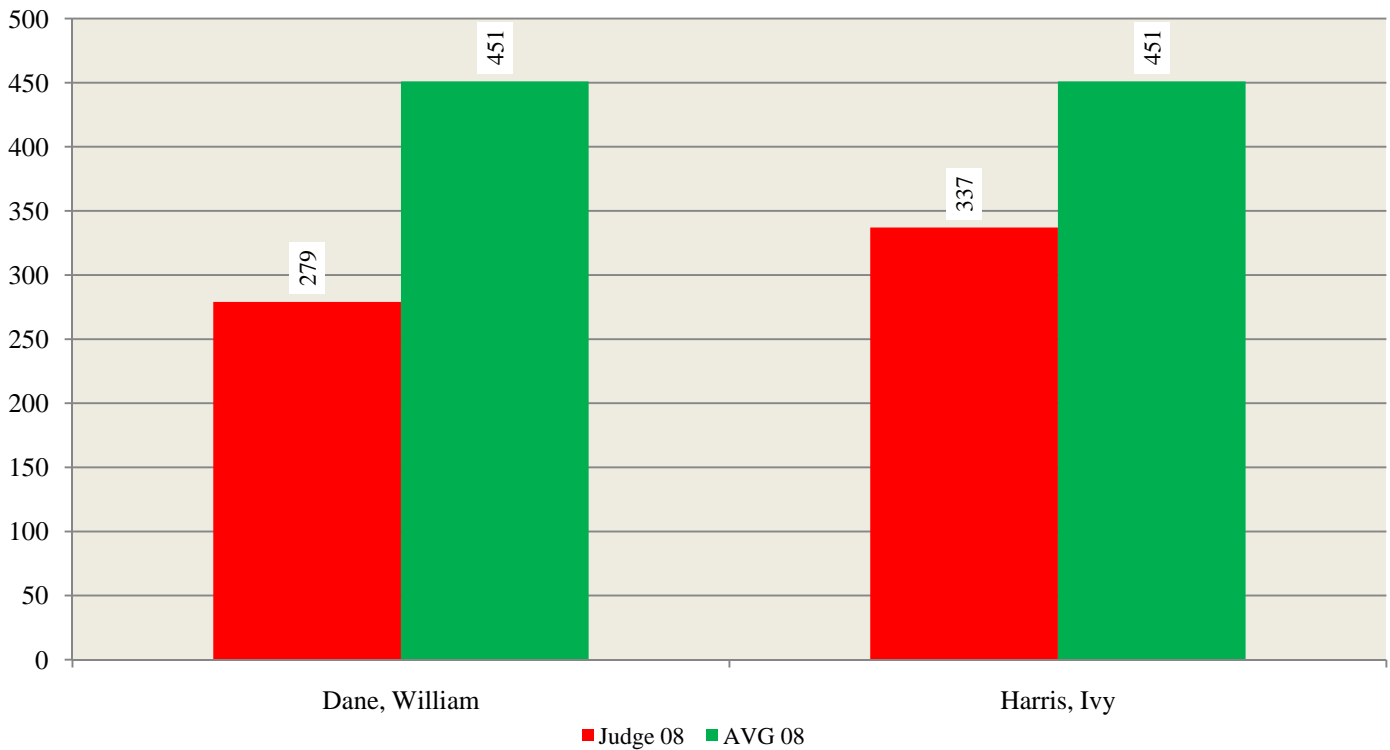
The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).



## Appendix “8” District LKL (JCC Hofstad):

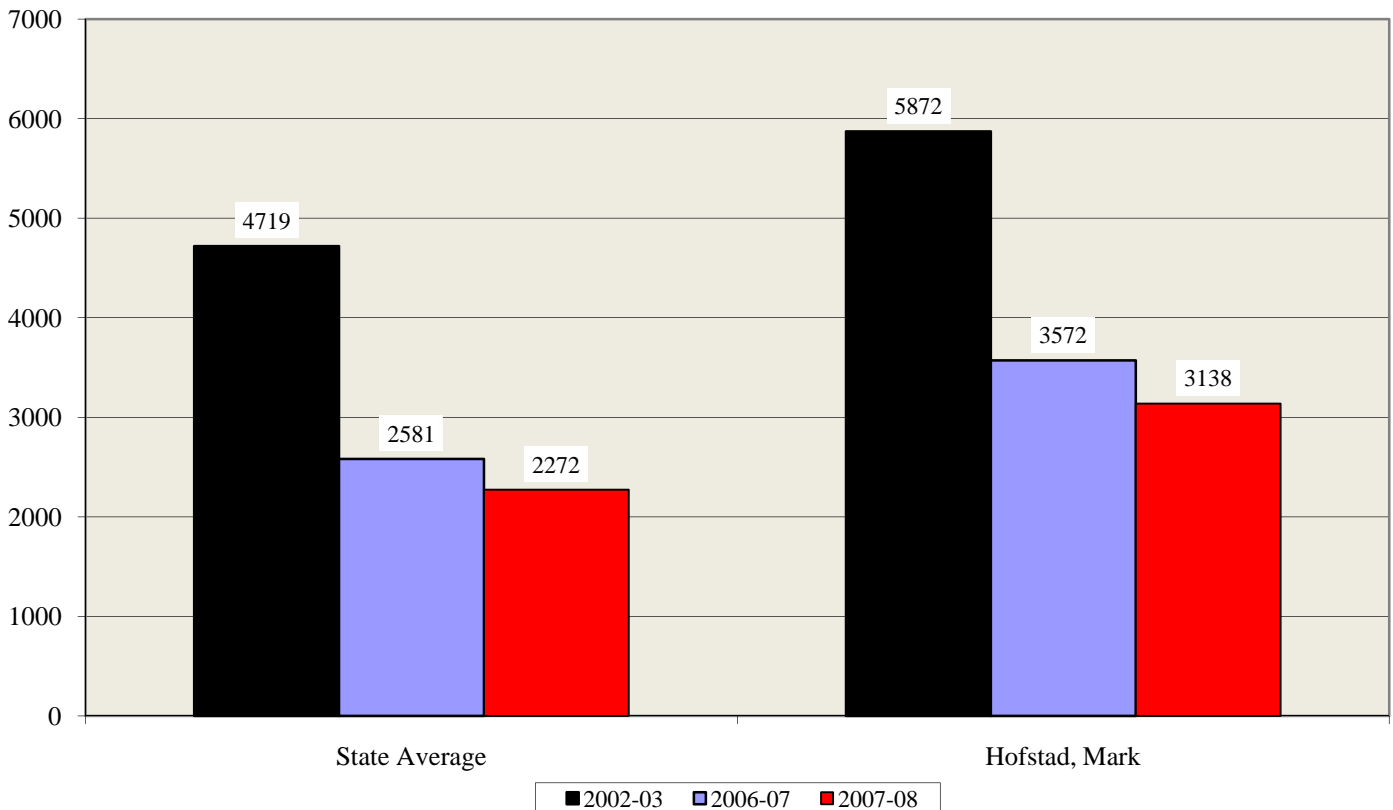
District LKL includes Hardee, Highlands, and Polk counties.

The PFB and “new case” filing volumes in LKL were higher than the statewide average in 2007-08. Judge Hofstad closed a significant volume of PFBs in recent years. While that rate decreased in 2007-08, PFB closures still exceeded PFB filing, which demonstrates continued progress on addressing the pending PFB inventory in this busy District. The LKL year-end pending PFB inventory (2,037) is at a manageable level.

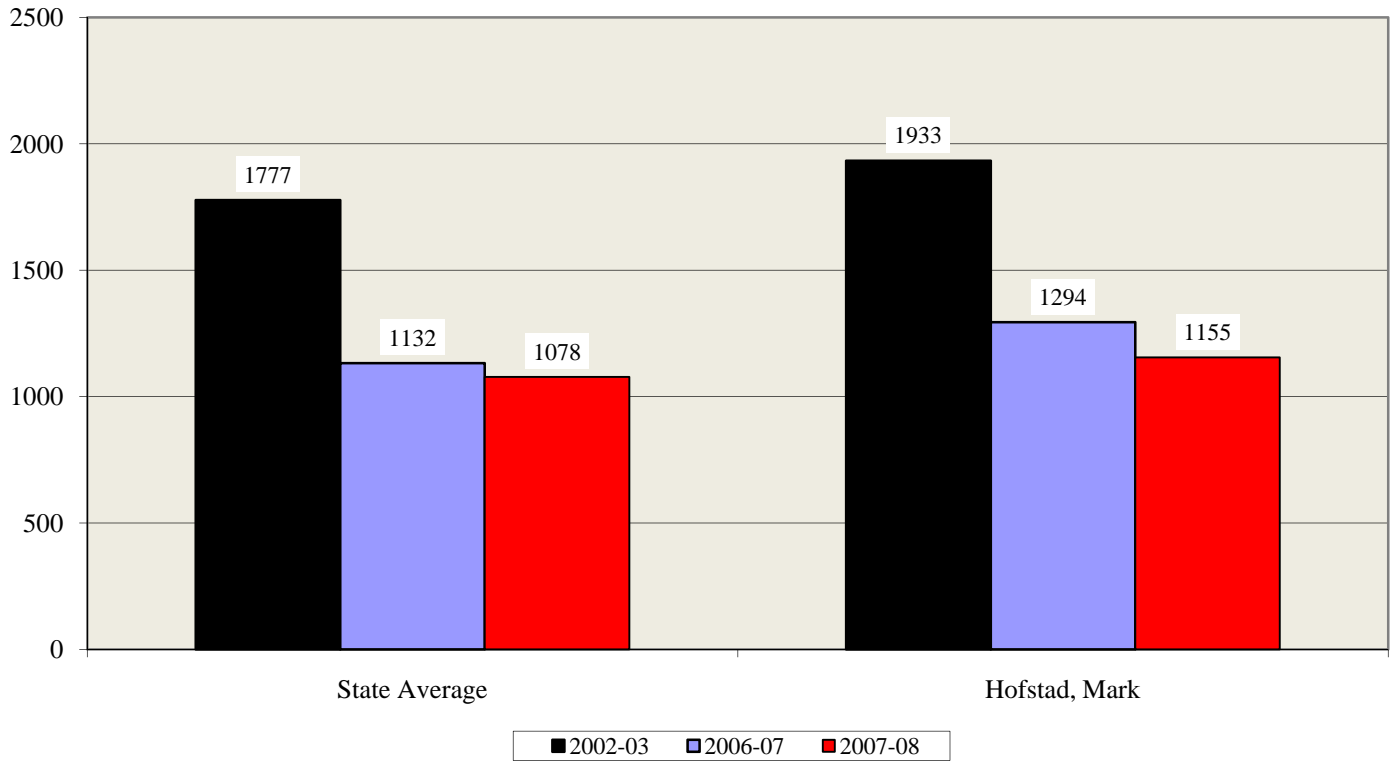
District LKL has the highest trial volume (113) in Florida, despite other divisions in Florida having similar PFB filing volumes. No empirical explanation for the greater ratio of trials in LKL has been discerned. The efforts of Judge Hofstad in Lakeland were supplemented in 2007-08 by Judges Lorenzen (TPA), Murphy (TPA), Jenkins (TPA), Remsnyder (SPT), Hafner (SPT), Beck (SAR), Spangler (FTM), Sturgis (FTM), and Terlizzese (MEL). The trial orders entered by these visiting judges are not included in the 113 total, which is attributable solely to Judge Hofstad’s efforts. With this considerable volume of visiting Judge effort, the timeliness measures continued to improve in LKL during 2007-08.

The LKL average days (115) from PFB filing to first mediation in 2007-08 was below both the statewide average (116) and the statutory period (130). The average days from PFB to trial in LKL decreased to 284 days in 2007-08, from 410 in 2006-07. More significant, the average days from trial to final order entry by Judge Hofstad decreased to 43 days from 53 days in 2007-08, despite the fact that he averaged more than two trial orders per week. Judge Hofstad’s volume of “other” hearings and orders is also significantly above the statewide averages.

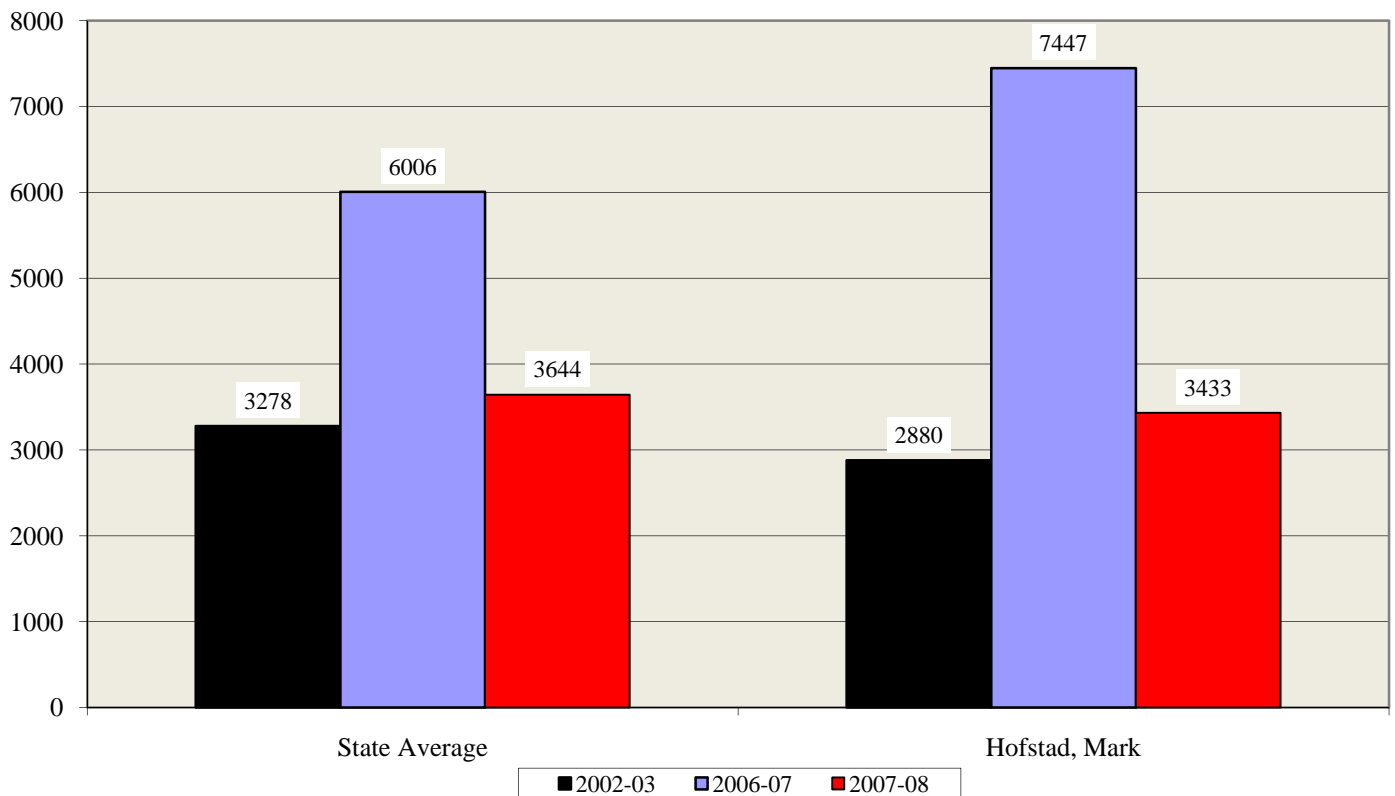
The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



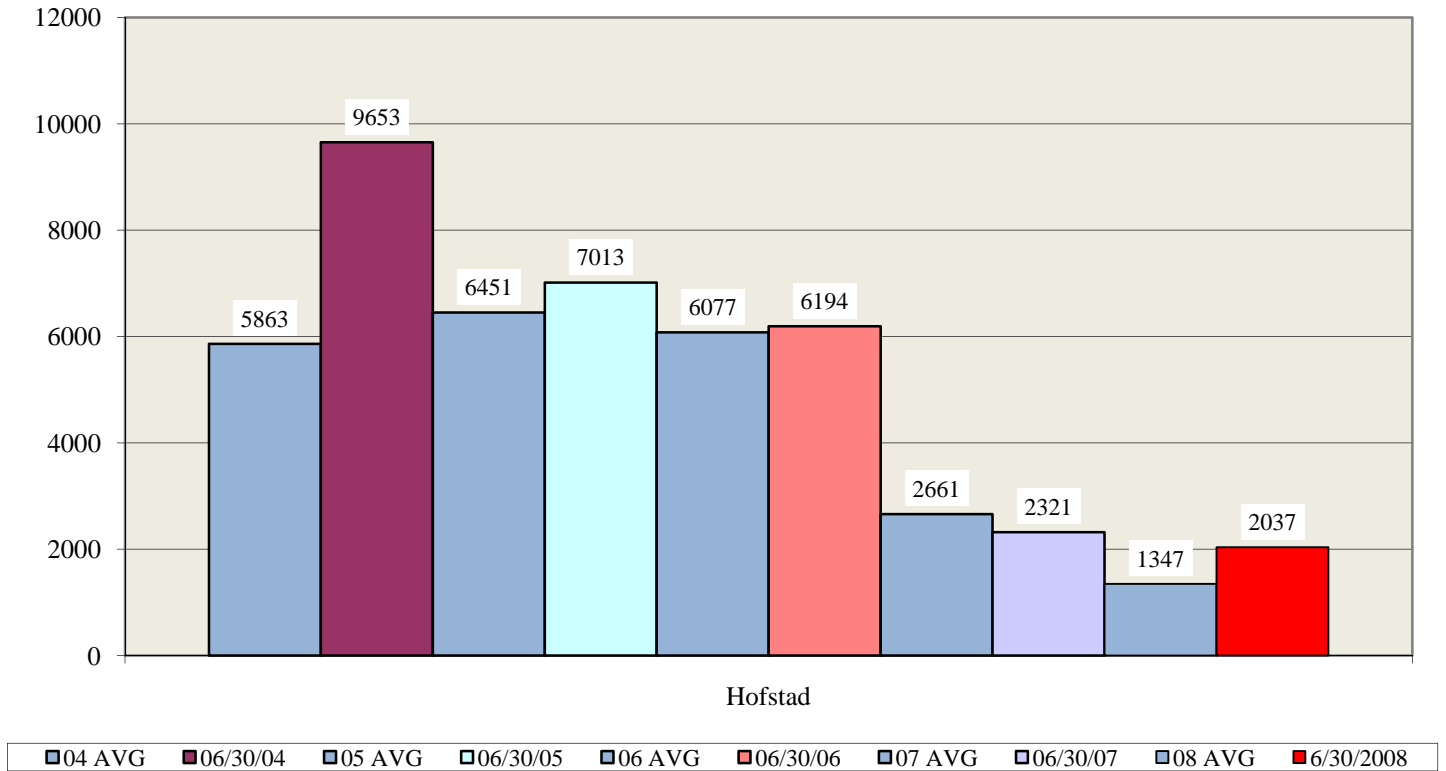
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



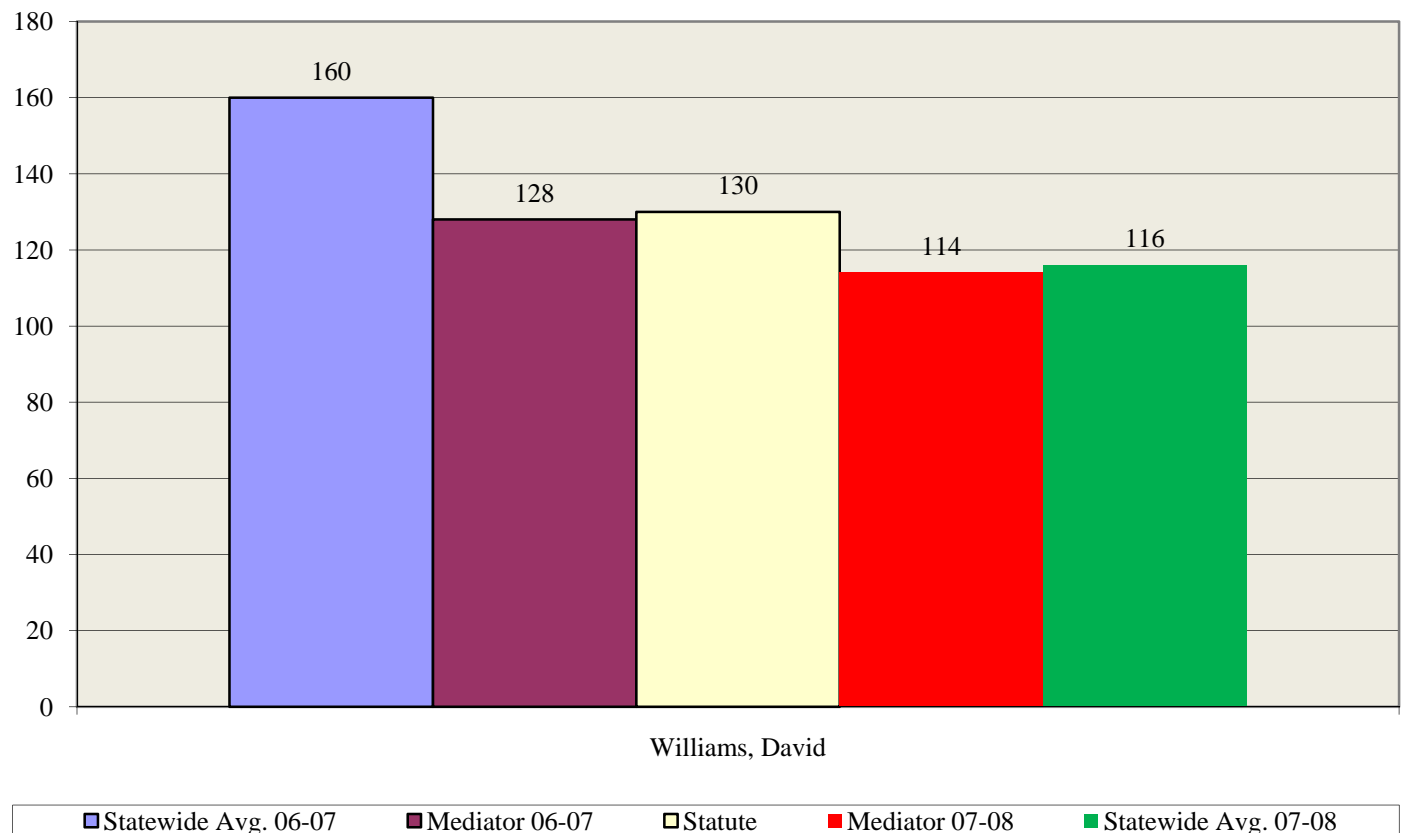
The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



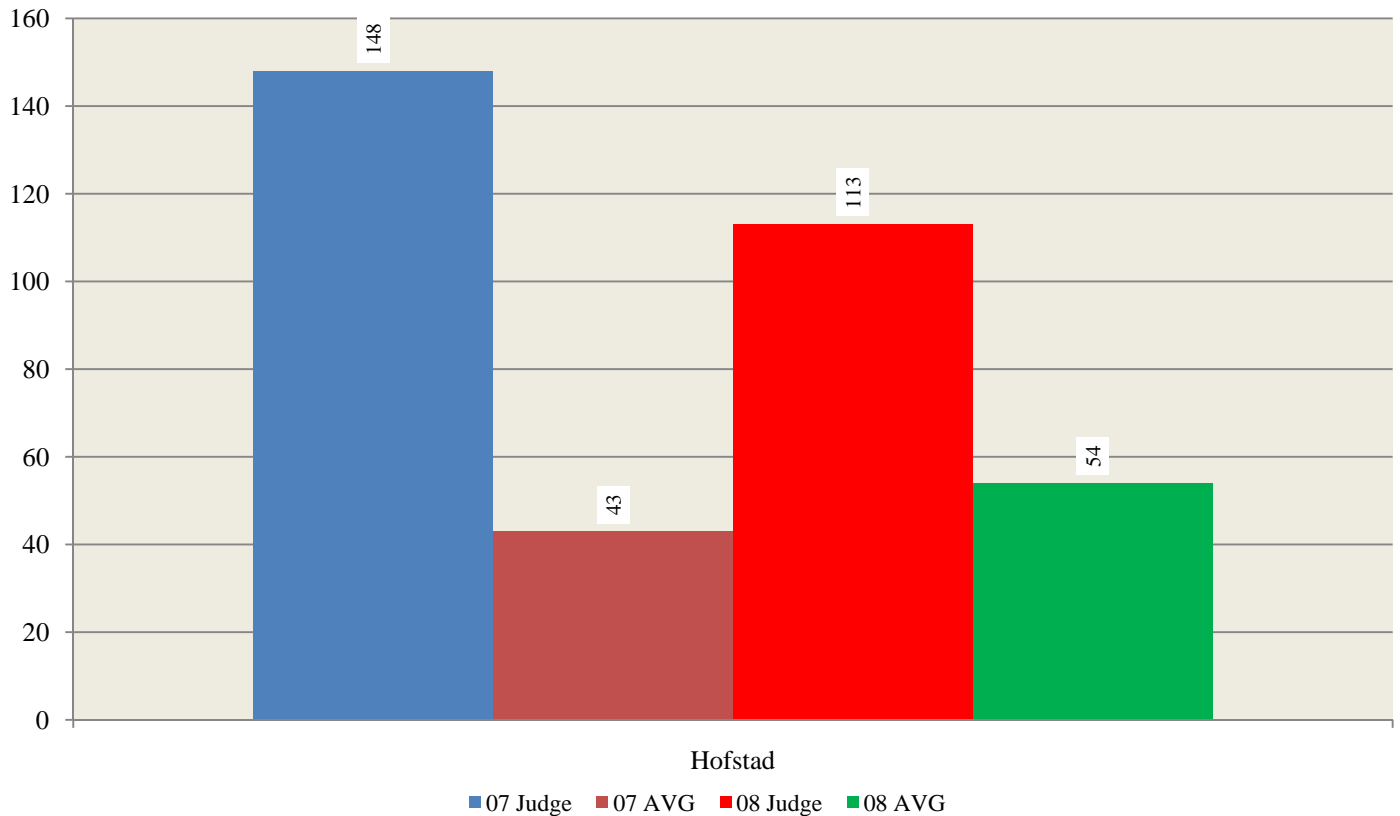
The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



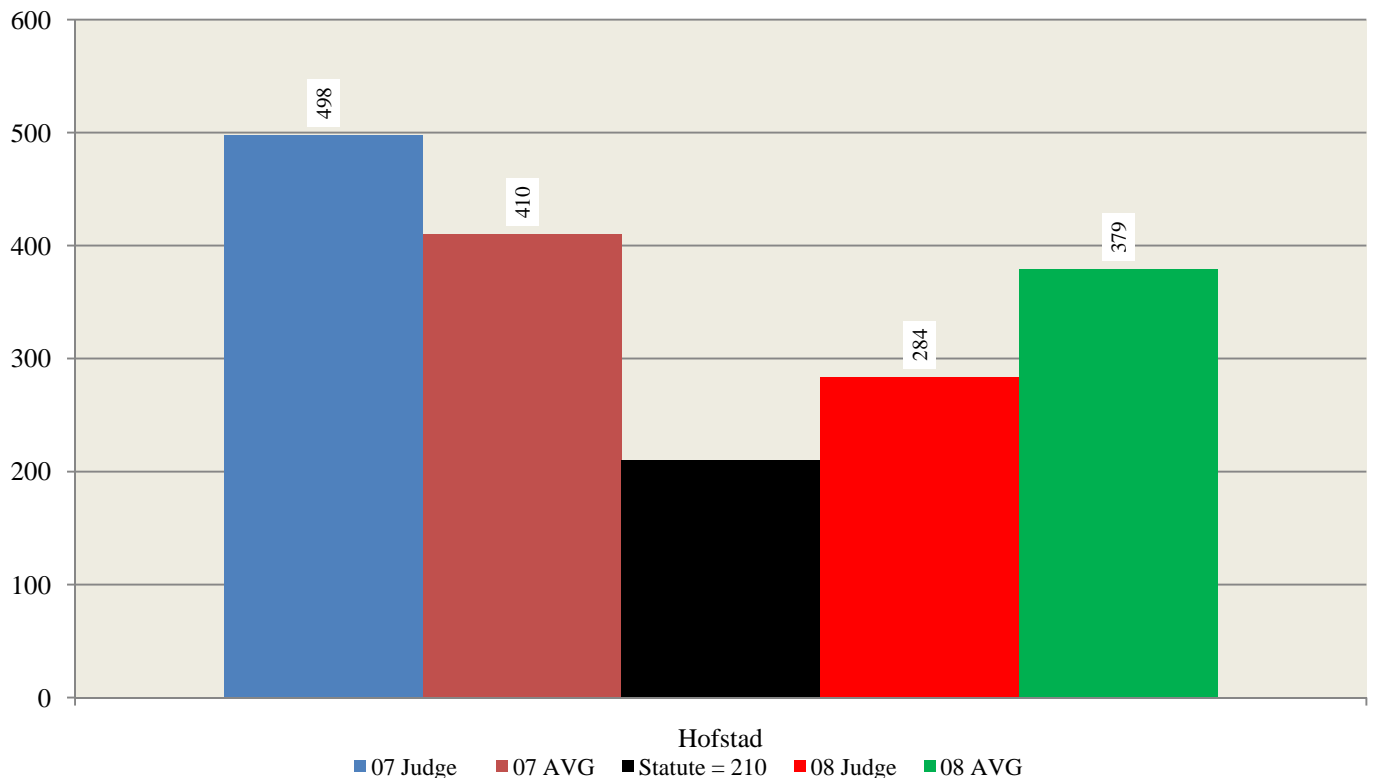
The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).



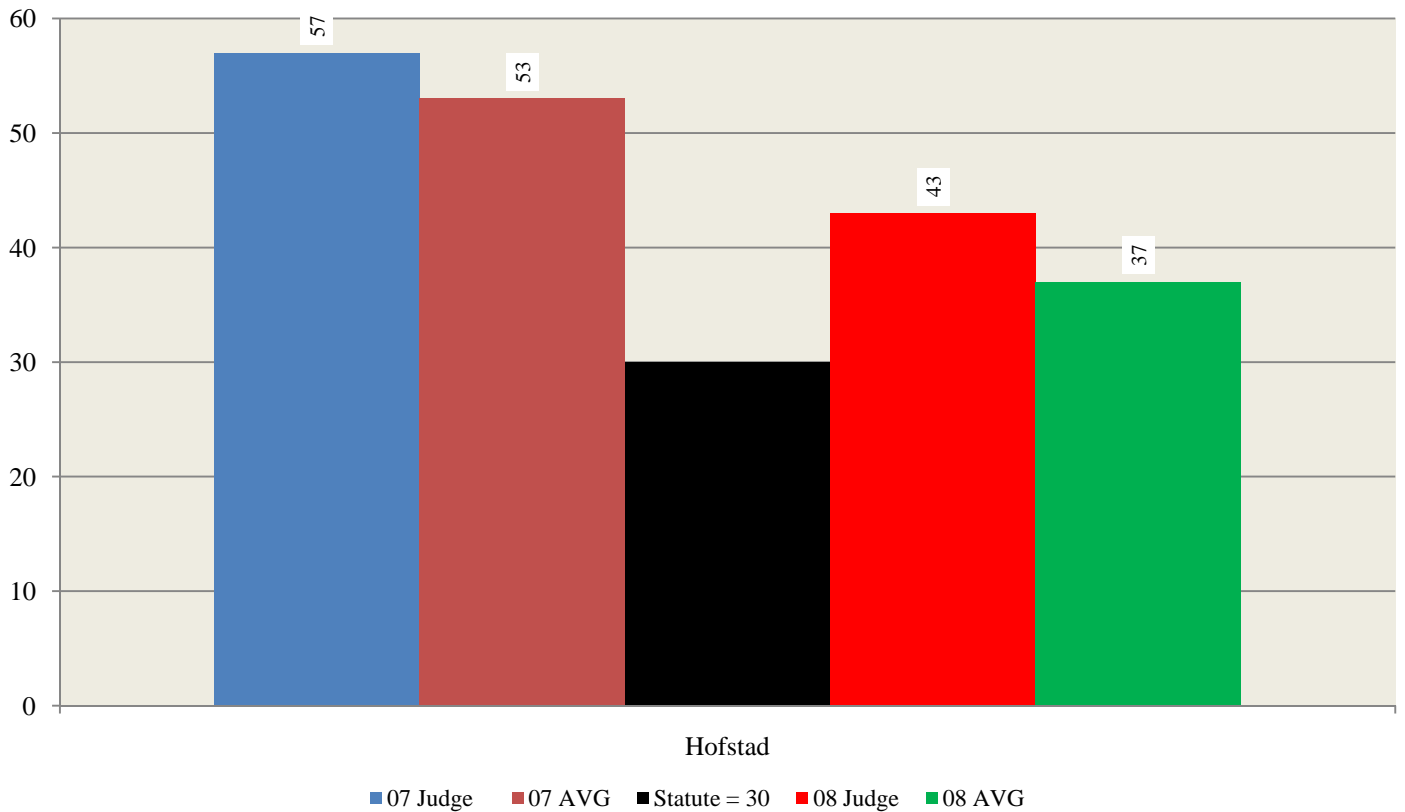
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2007-08 (rust) and 2007-08 (green).



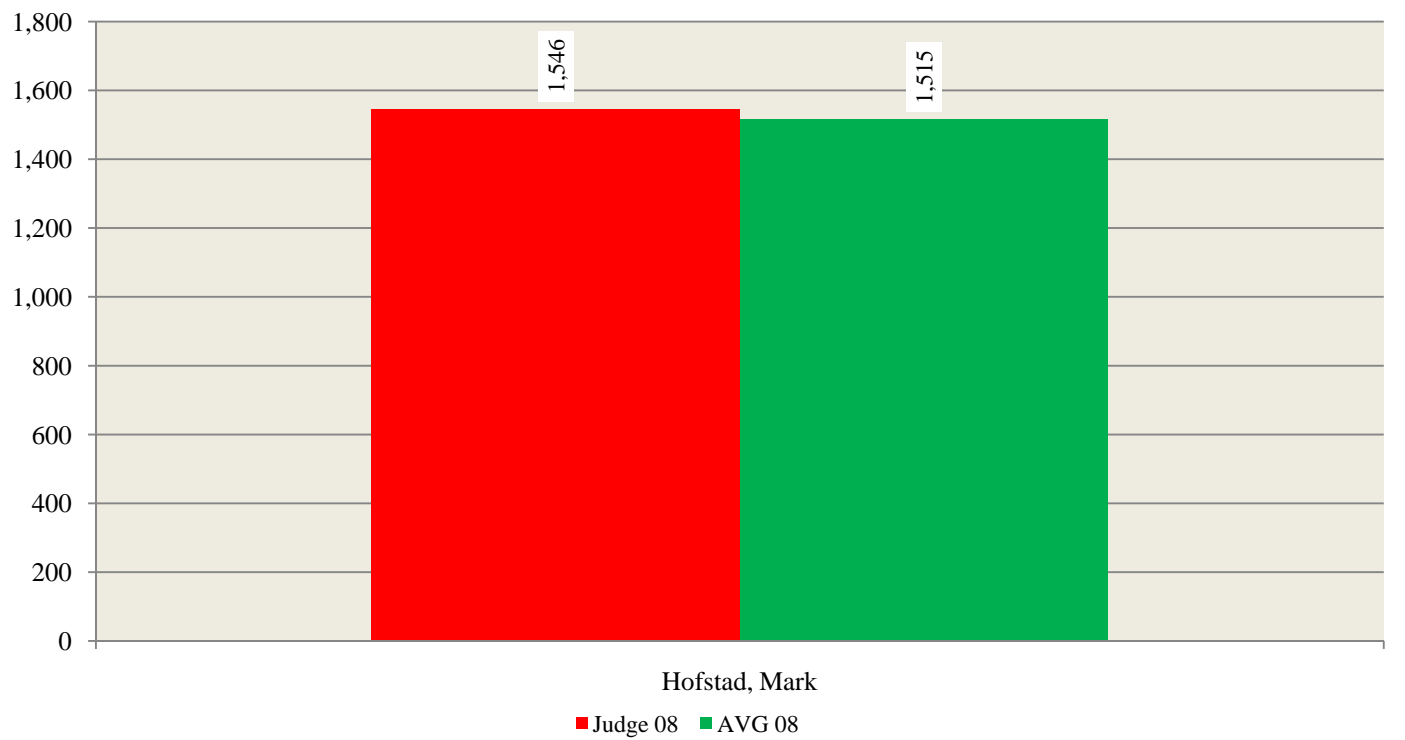
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2007-08 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



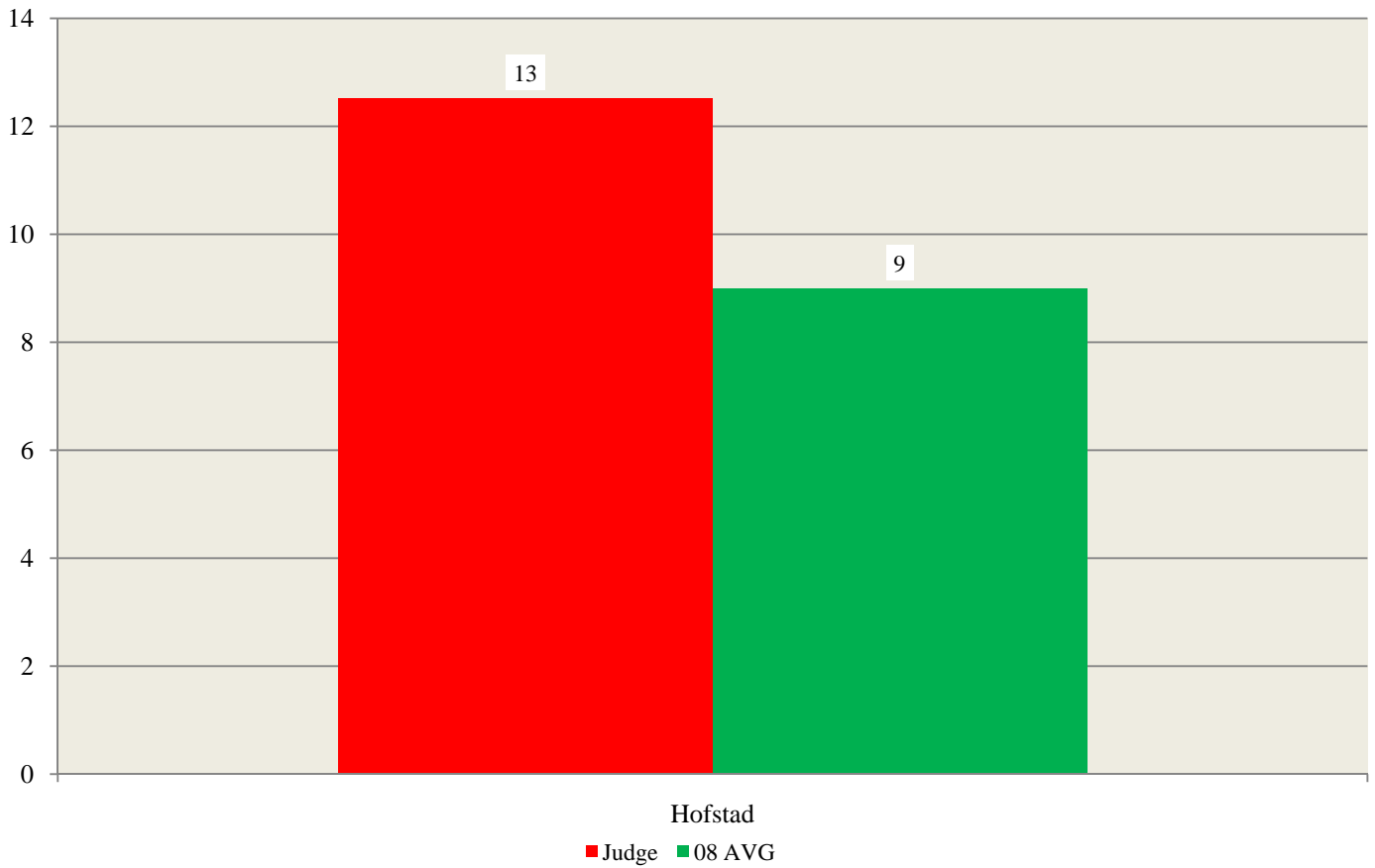
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2007-08 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



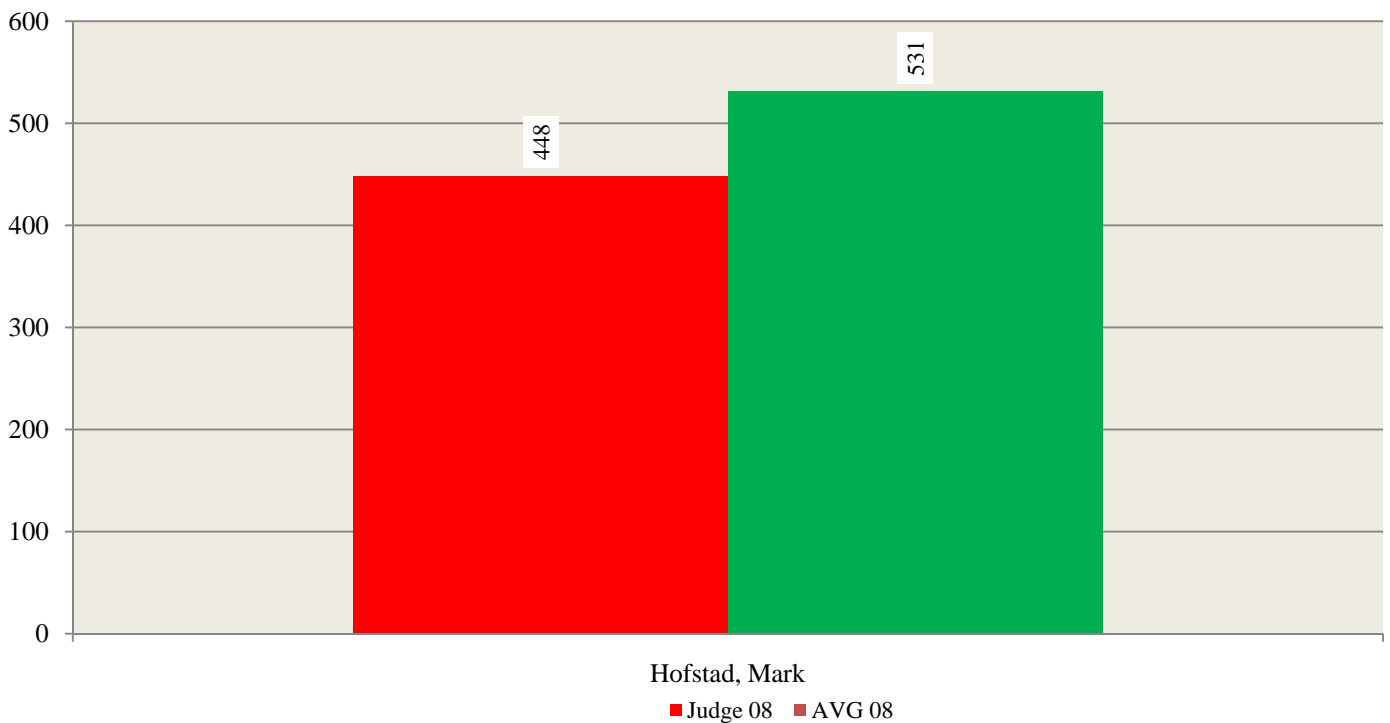
The following graph depicts the volume of settlement orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).

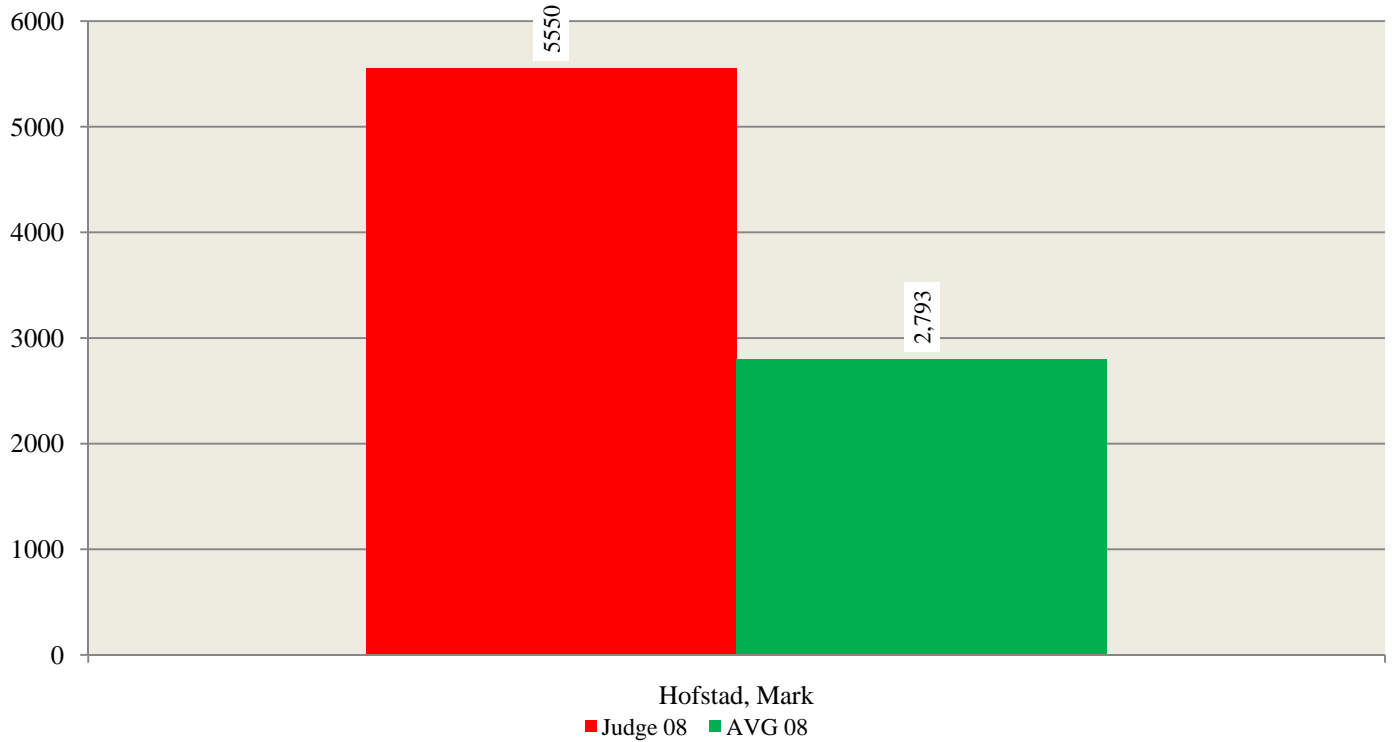


The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).

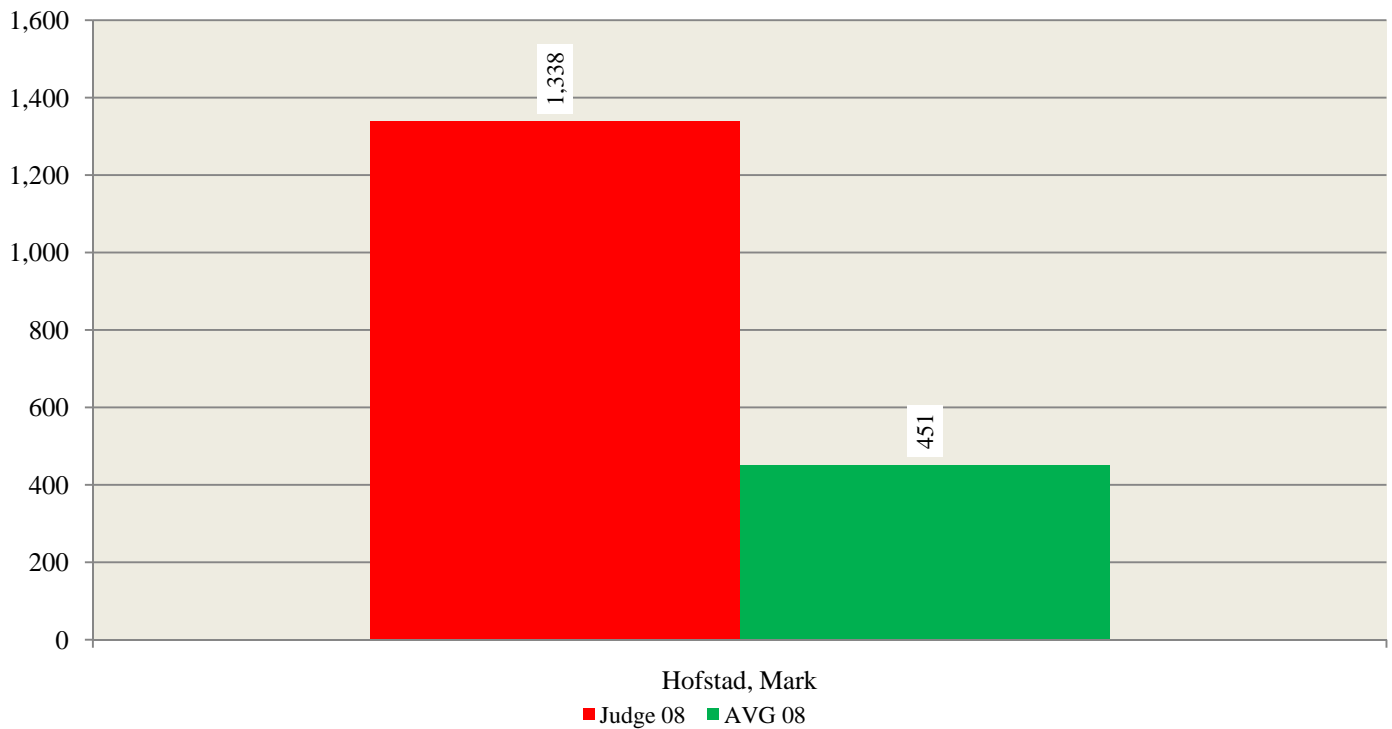




The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).



## Appendix “9” District MEL (JCC Terlizzese):

District MEL includes Brevard, Indian River, and Okechobee counties.

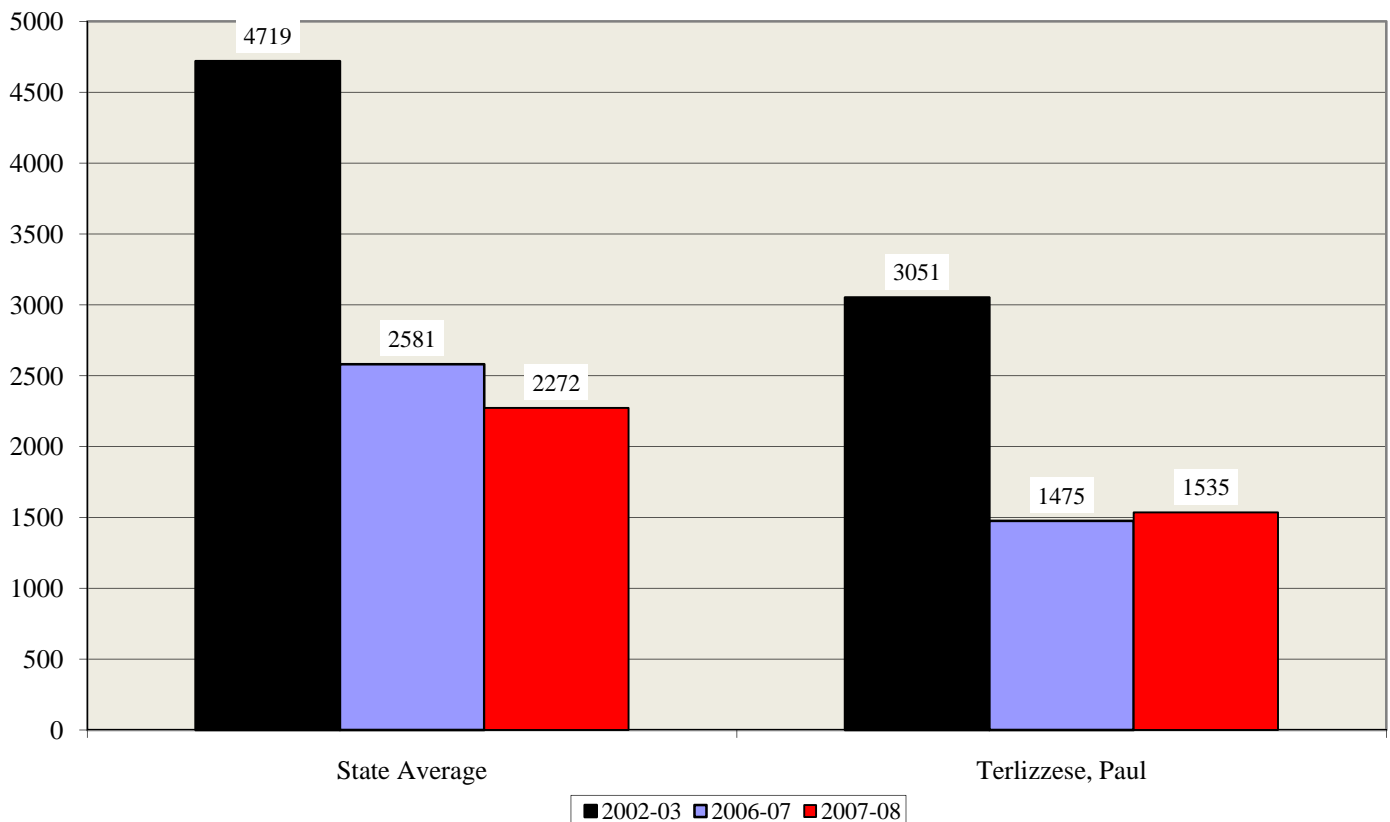
District MEL included only Brevard county at the beginning of 2007-08. Due the volume of filings and trials in the PSL district to the South, however, Judge Terlizzese volunteered to accept additional counties of responsibility. Indian River and Okechobee counties were transferred to District MEL in the Spring of 2008.

MEL had a slight increase in PFB and new case filings in 2007-08, likely due in some part to the county realignment. The PFB closure rate was virtually identical to the PFB filing rate, illustrating a District in balance. The year-end pending PFB inventory (347) is markedly low.

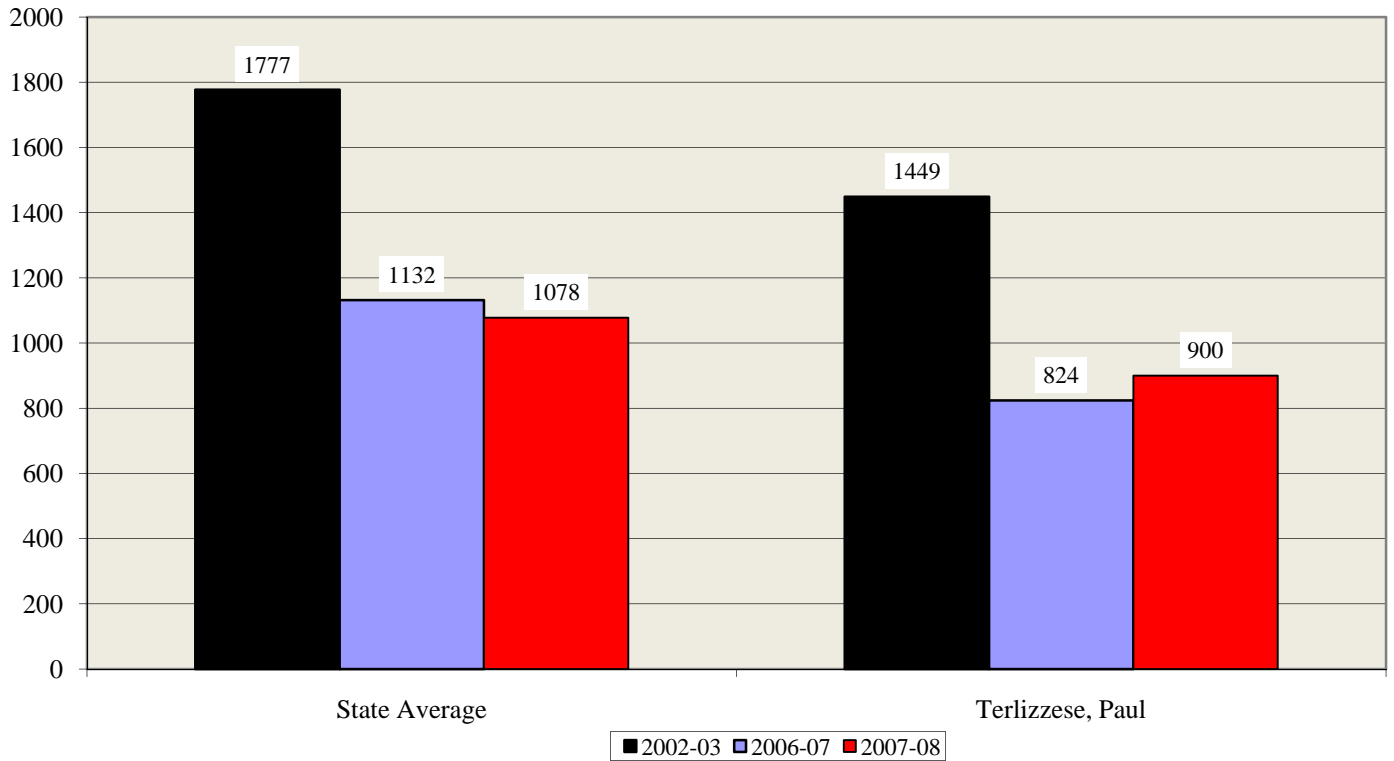
MEL had the lowest average days between PFB filing and first mediation (70 days) in 2007-08. This is well below the statewide average (116) and the statutory period (130). District MEL had a trial volume (38) below the 2007-08 statewide average (54). Judge Terlizzese’s average days from PFB filing to trial was only 95 days in 2007-08, and was the lowest average in the state. The average days from trial to entry of a final order was 10 days.

The settlement order volume in MEL was above the statewide average. Some portion of this is attributable to Judge Terlizzese volunteering to undertake consideration and approval of settlement motions for several south Florida Judges in 2007-08. Despite the significant volume of settlement orders, Judge Terlizzese averaged entry of the order within 5 days of filing, compared to a statewide average of 9 days. District MEL also had above average volumes of stipulation orders and “other” orders.

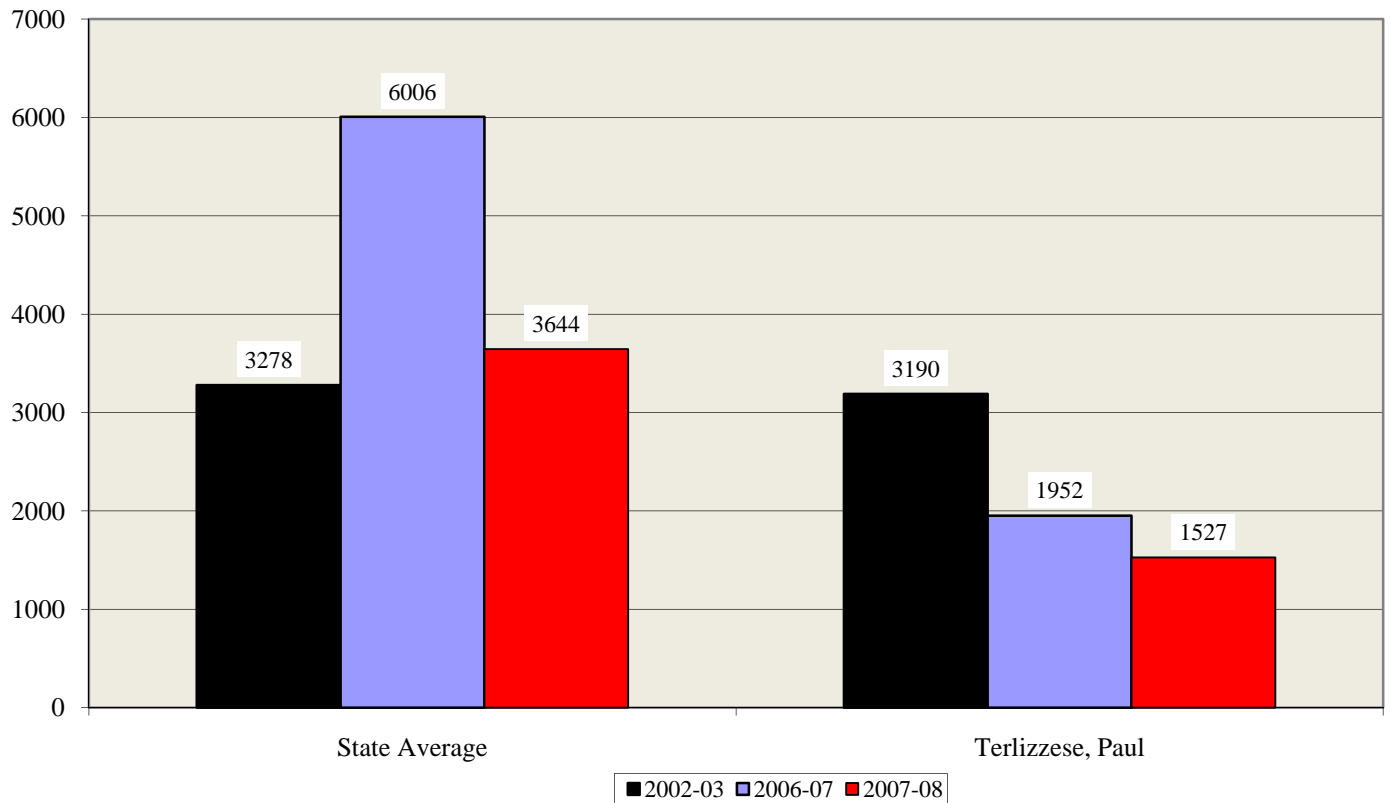
The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



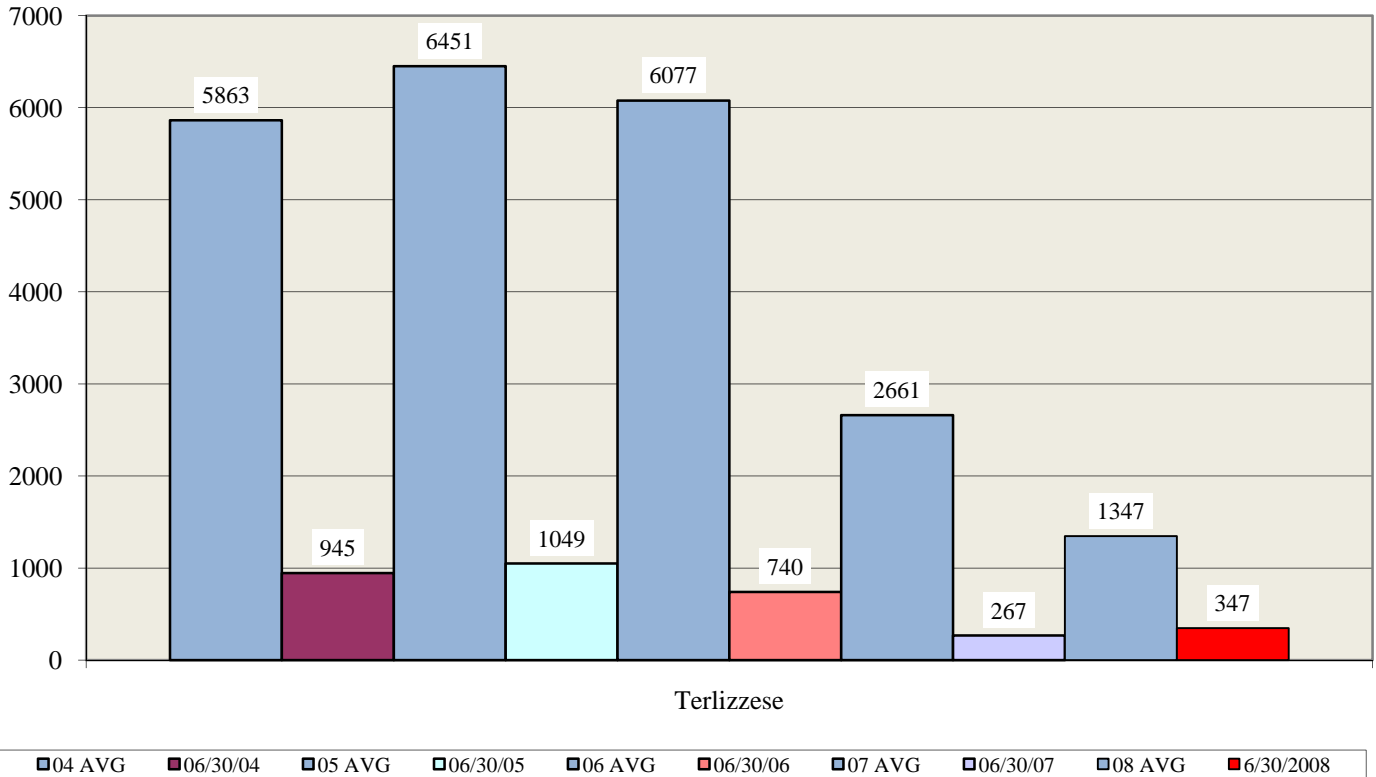
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



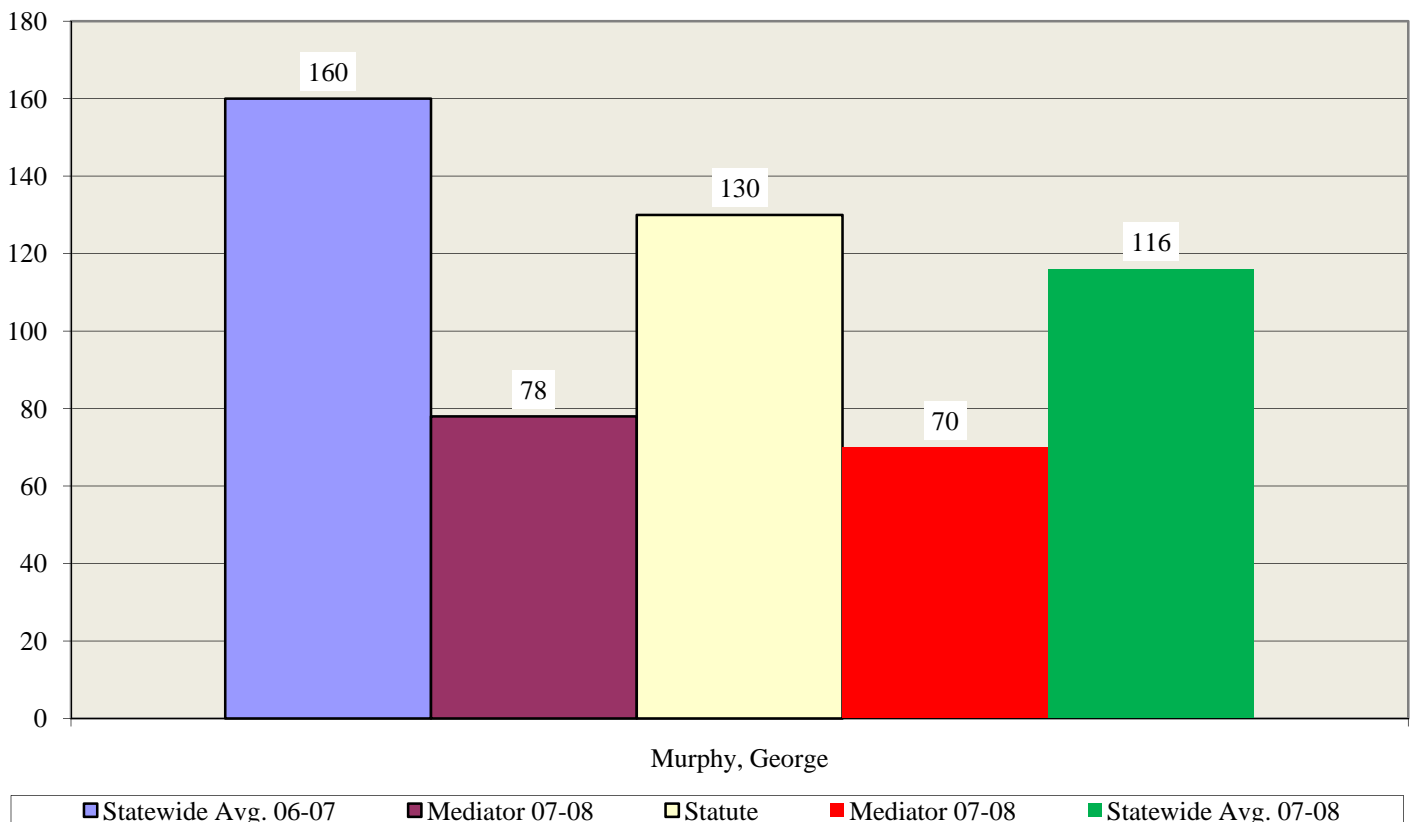
The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



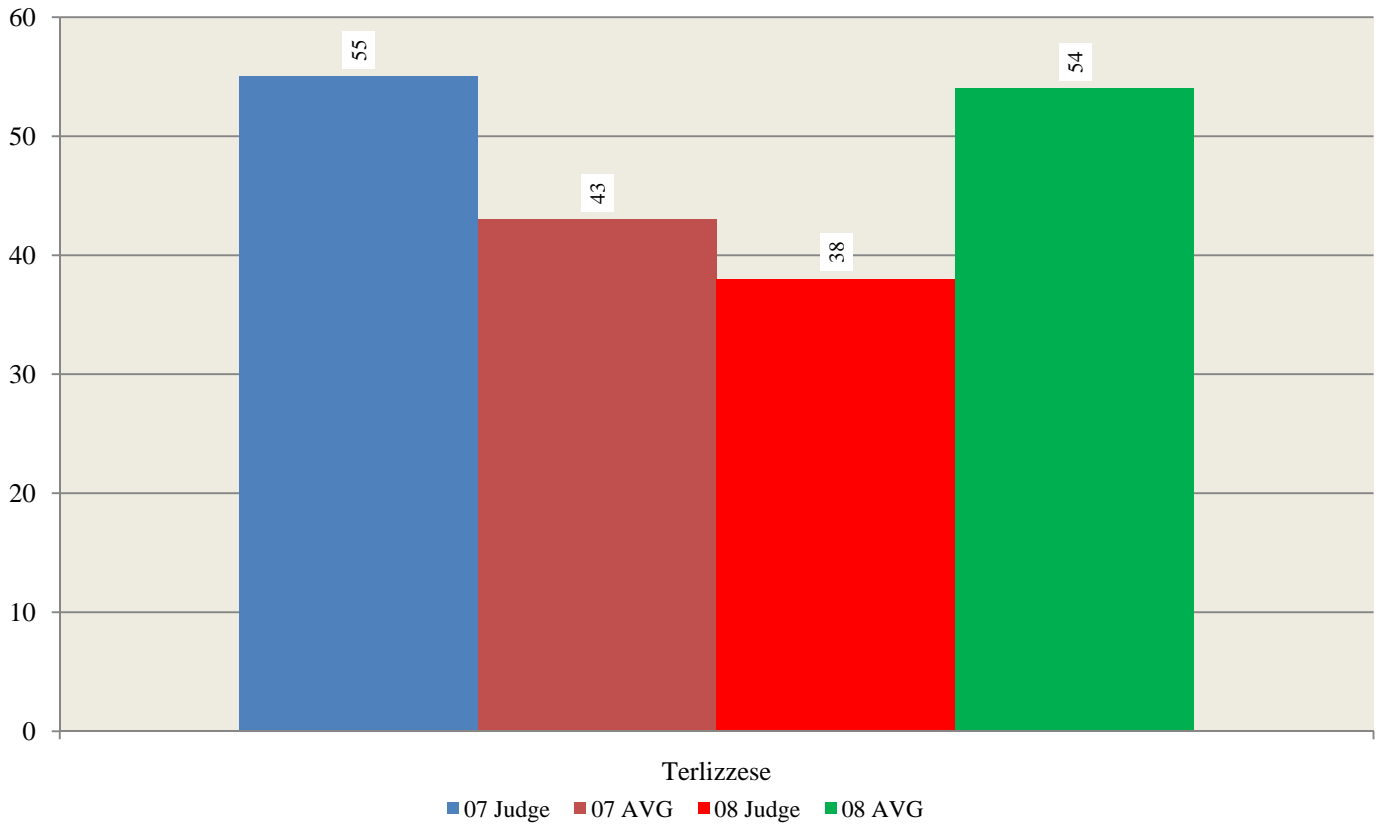
The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



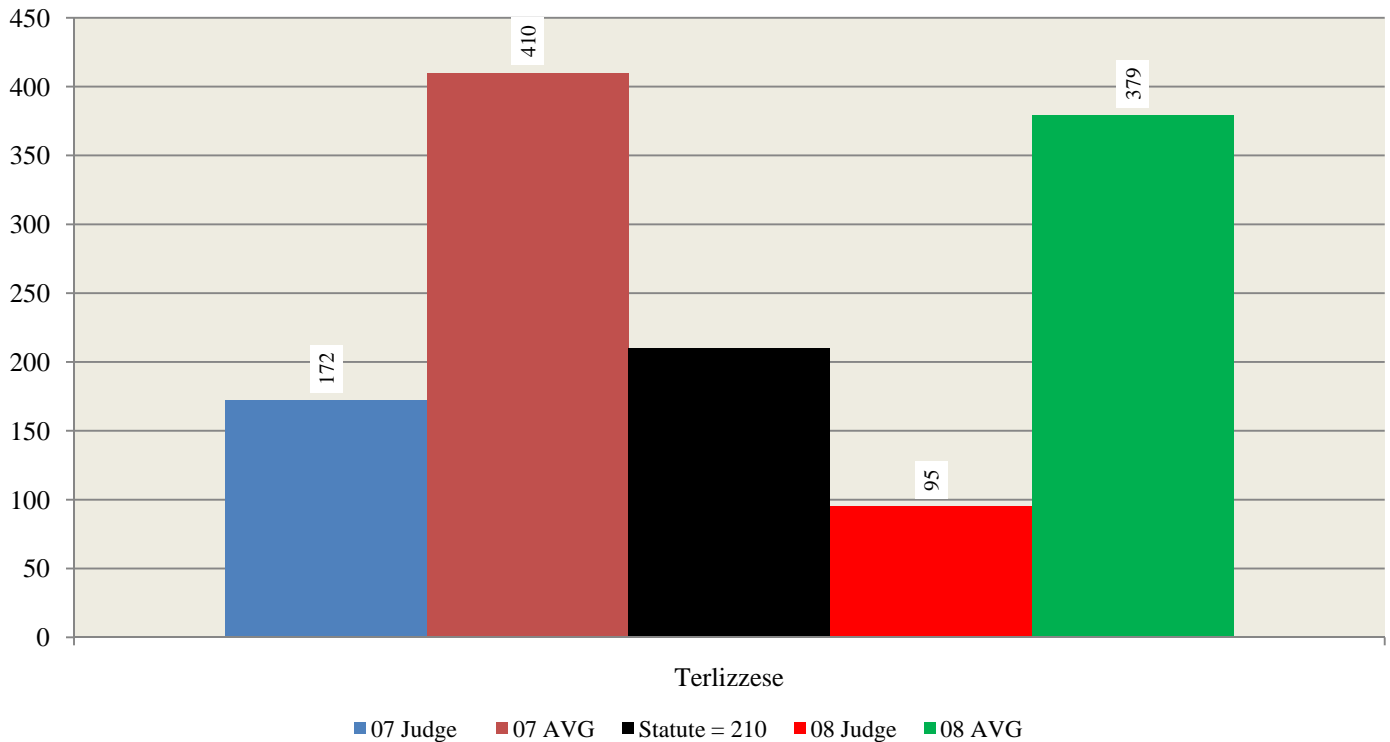
The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).



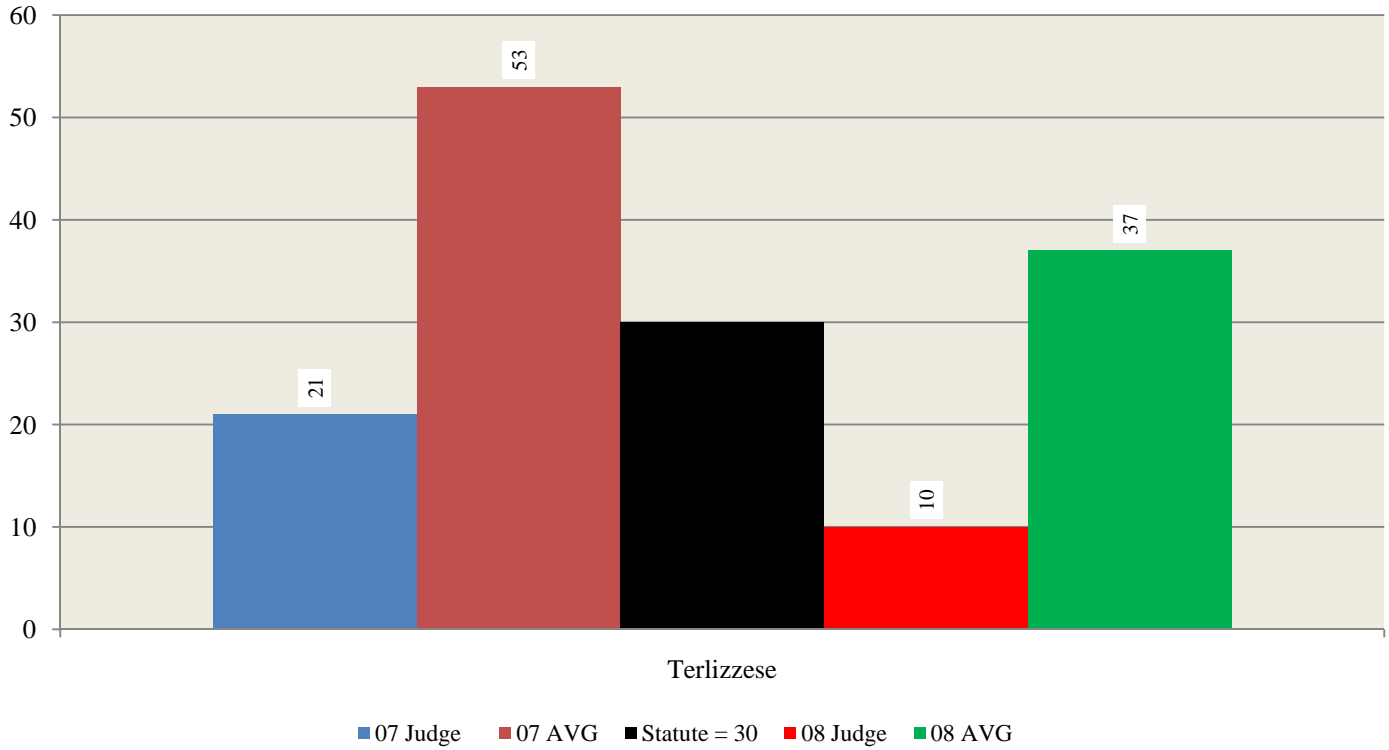
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2007-08 (rust) and 2007-08 (green).



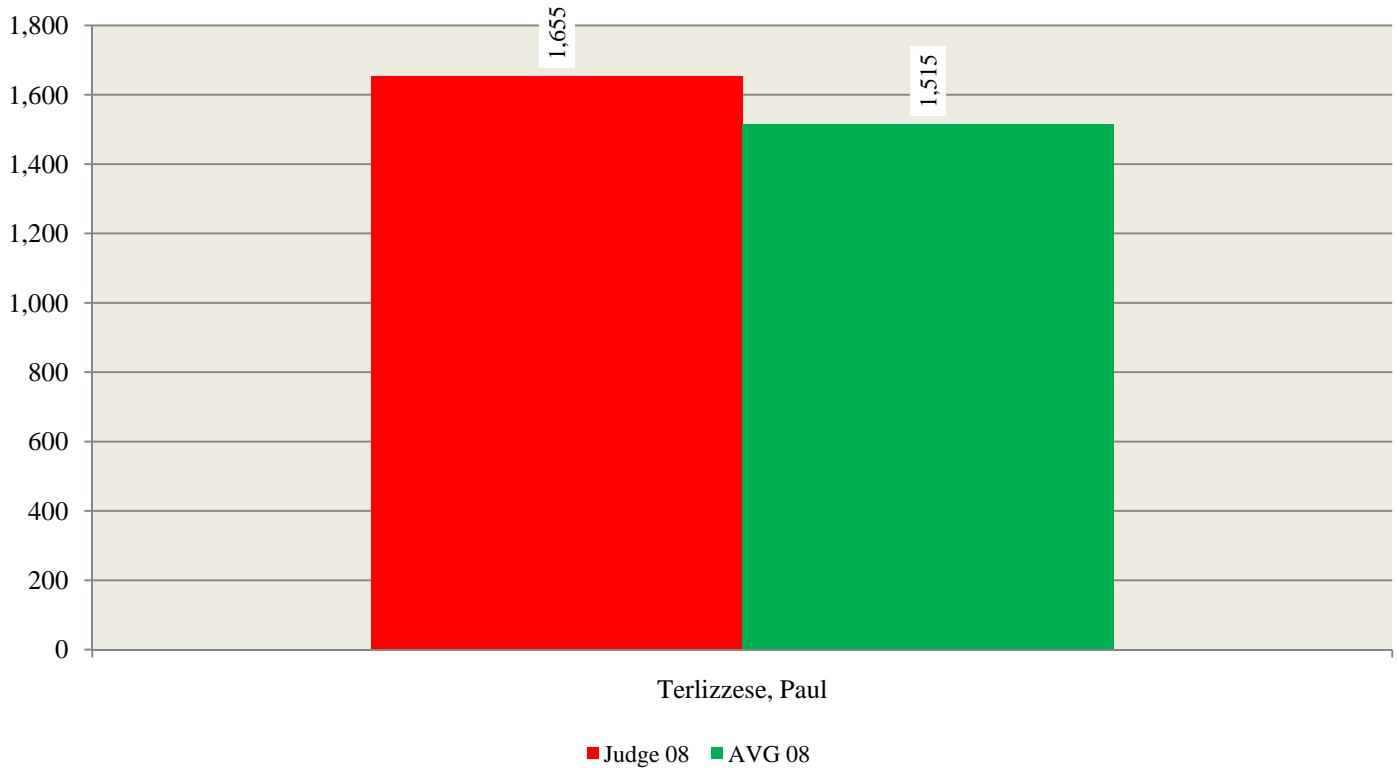
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2007-08 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



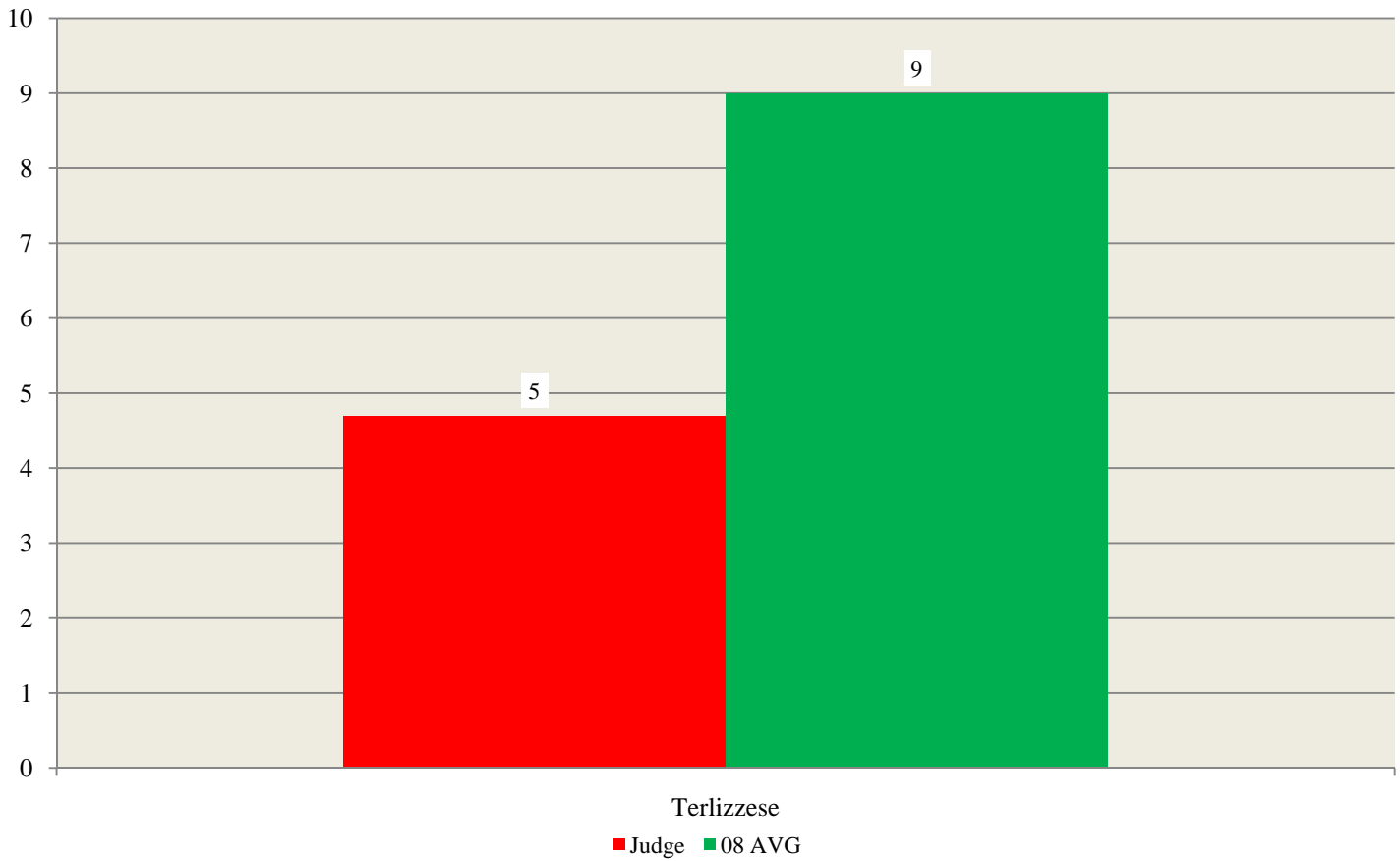
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2007-08 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



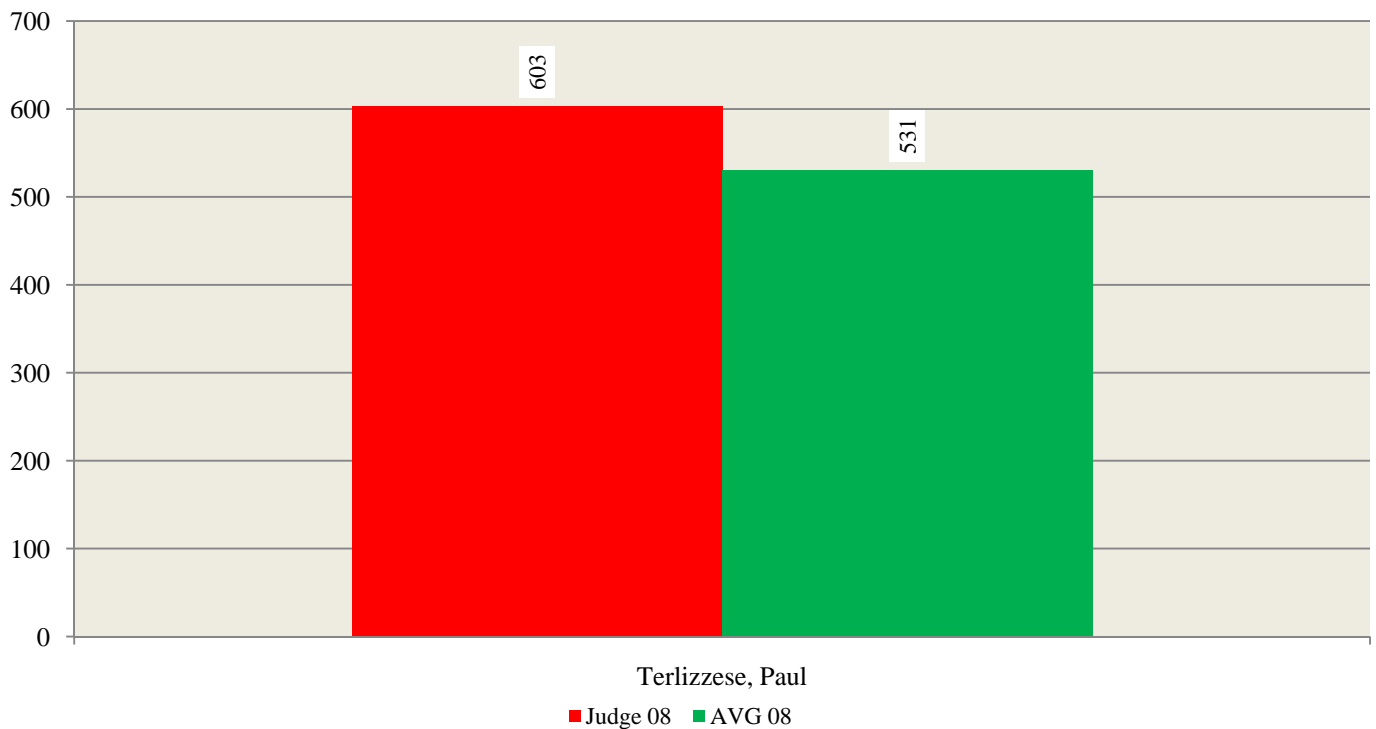
The following graph depicts the volume of settlement orders entered by each Judge in the district (red) and the statewide average (green).



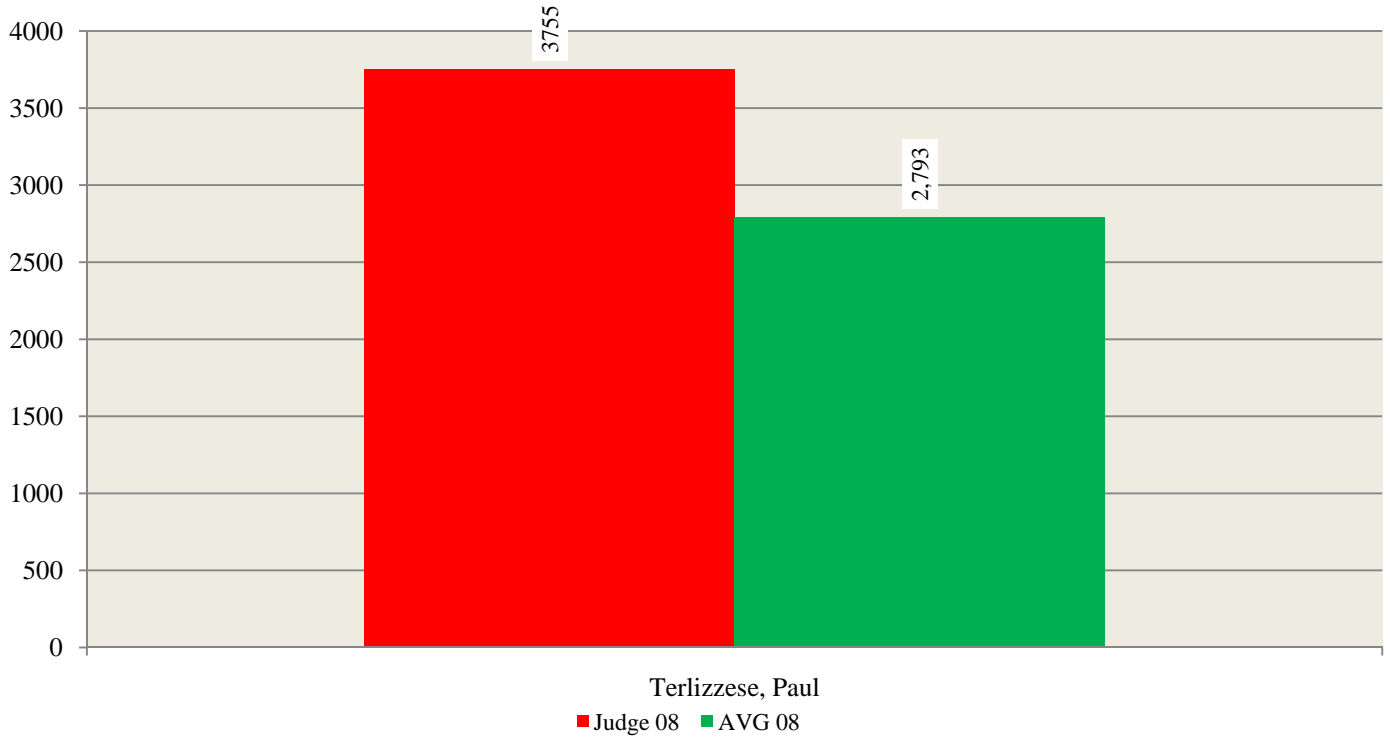
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).



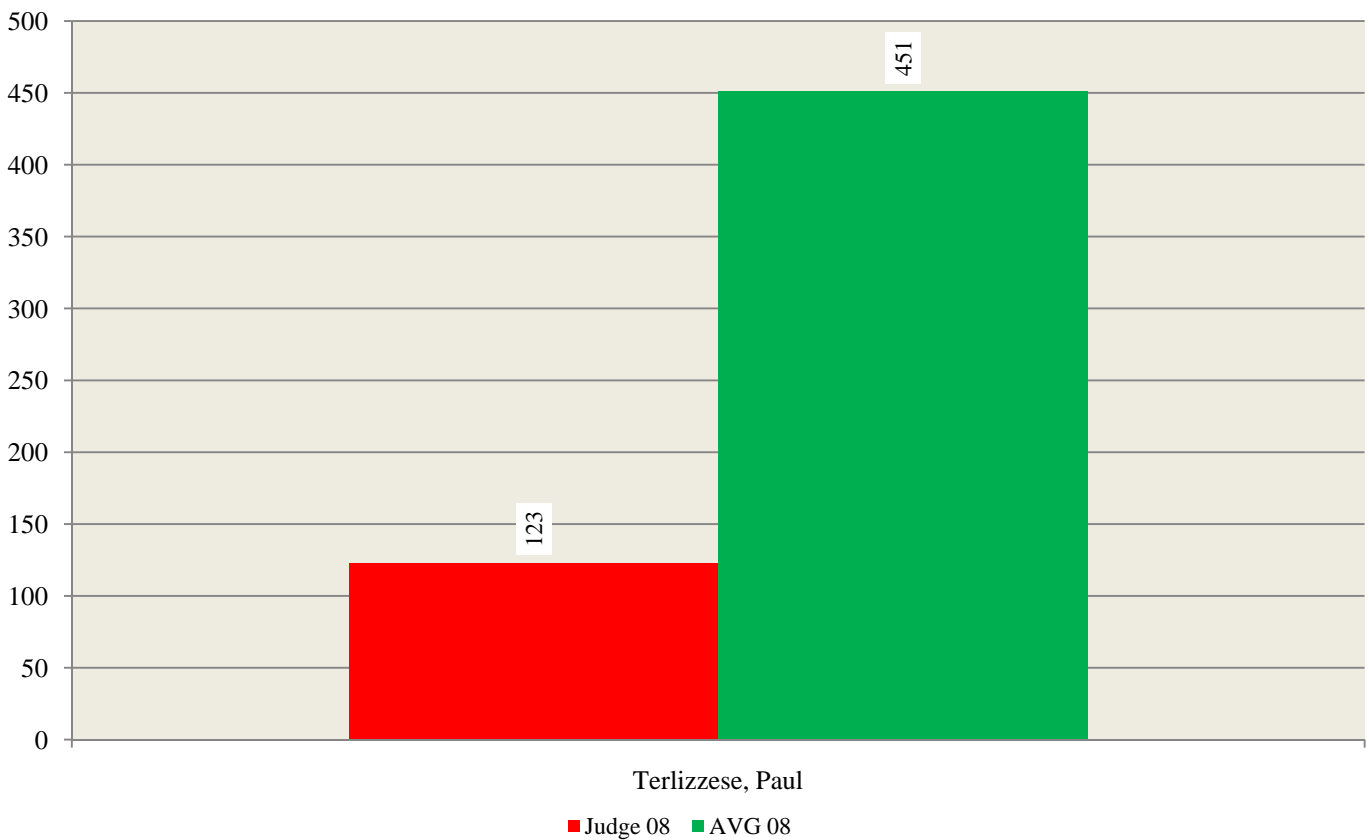
The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).





## Appendix “10” District MIA (JCC Castiello, JCC Harnage, JCC Hill, JCC Kuker, JCC Medina-Shore):

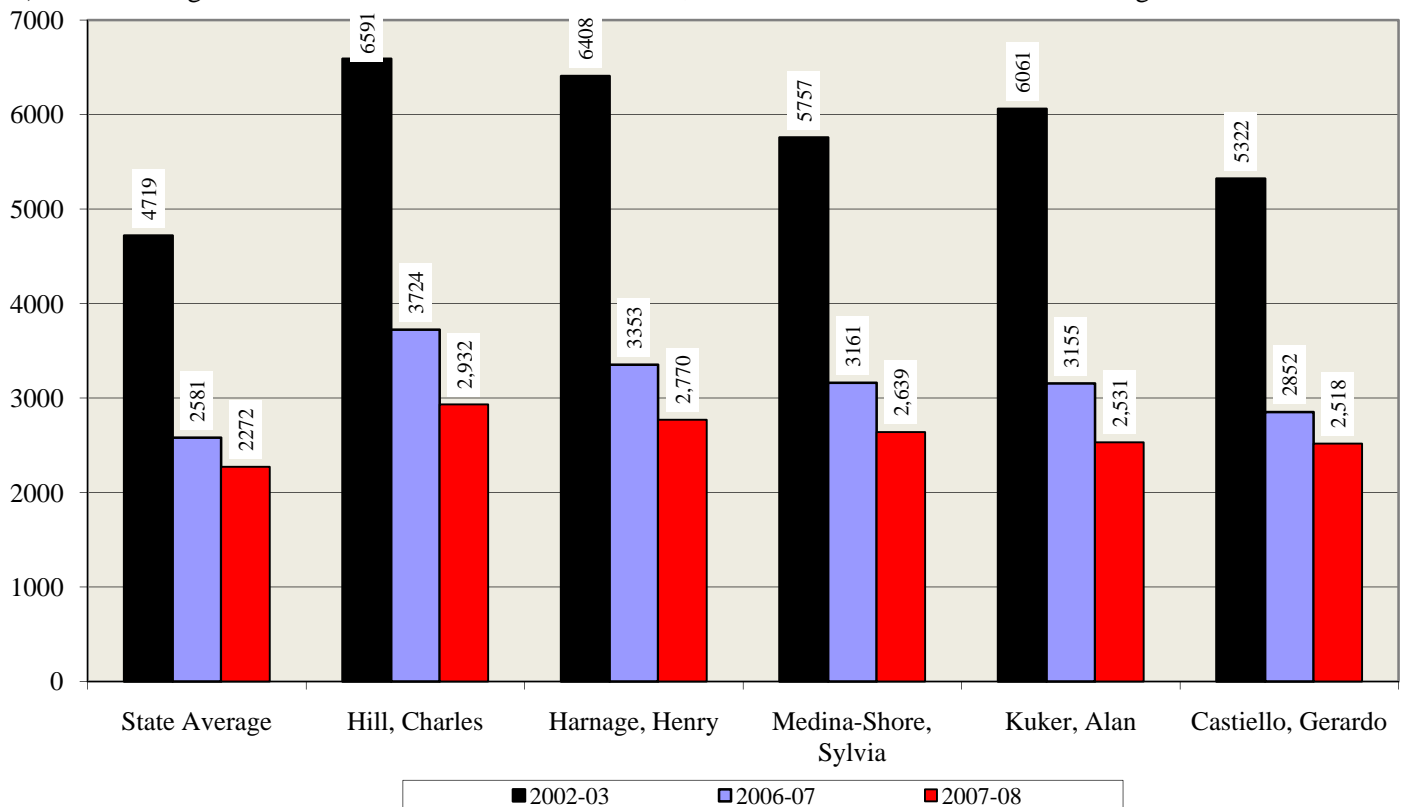
District MIA includes Dade and Monroe counties. Each of the MIA divisions had above-average PFB volumes in 2007-08, but each also had below average “new case” filings. Notably, each of the MIA divisions closed significant volumes of PFBs in 2006-07. In 2007-08, 5 of the top 6 Judges in PFB closure were the 5 Judges in MIA. Of particular note are the volumes closed over the two-year period by Judges Harnage (18,375) and Medina-Shore (18,048), although the effort and commitment of each MIA judge is clearly evident in the closure volumes. Notably, each MIA Judge’s year-end pending PFB inventory is either in the manageable range or approaching that level.

The MIA mediators demonstrated the most marked 2007-08 decrease in the average days between PFB filing and the first mediation. The effort and commitment that these decreases illustrate is obvious, and continued improvement is anticipated in the coming fiscal year. Also notable is the significant trial volumes in each of the MIA districts. The average days from PFB filing to trial continue to be above the statewide average. This is particularly notable in Judge Harnage’s division in which multiple cases had to be tried over due to Judge Harnage’s predecessor’s failure to enter final orders on concluded trials that occurred prior to Judge Harnage’s appointment. The retrial of these cases is a significant burden on that division, just as such situations markedly affected Judge Hill’s efforts in the years immediately following his appointment. Of particular note however, Judges Kuker, Hill, and Medina-Shore each averaged less than the statewide average (37) and less than the statutory period (30) for their average of days between trial and entry of the trial order. In each instance, this demonstrated a marked improvement from 2006-07.

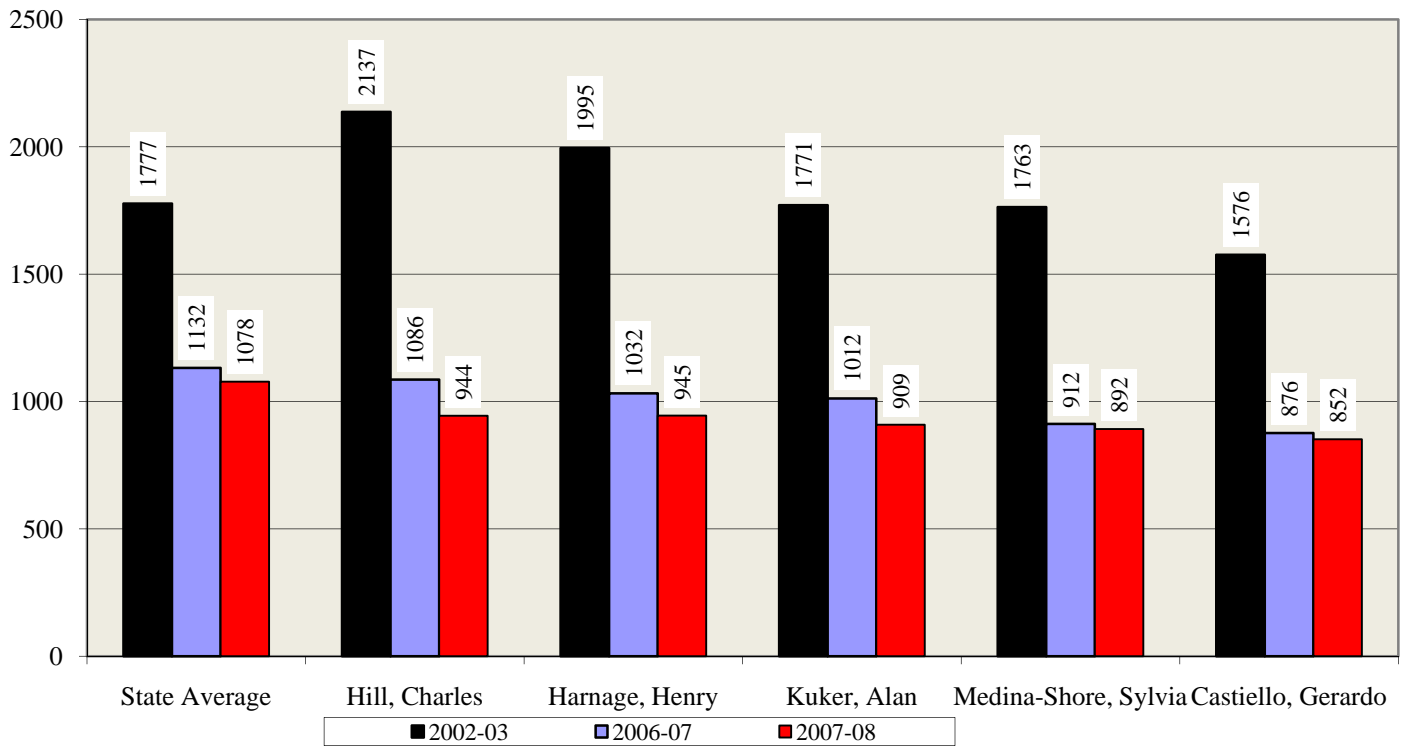
Despite significant assistance with settlement and fee stipulation motions by other Judges (including Spangler, Sturgis, Murphy, Jenkins, Lorenzen, Remsnyder, Hafner, Roesch, Winn, Lazarra, and Terlizzese), the MIA judges still each considered significant volumes of such motions. Despite these volumes, the timeliness of orders entered was significant in most instances.

District MIA evidences significantly higher volumes of stipulation orders, “other orders” and “other hearings” than the statewide average. Some volume of this “other hearing” disparity is likely attributable to the MIA practice of scheduling “time-certain” hearings on procedural motions. Many of the other divisions utilize an open motion calendar, in which motions are presented without any hearing being scheduled in the JCC Application.

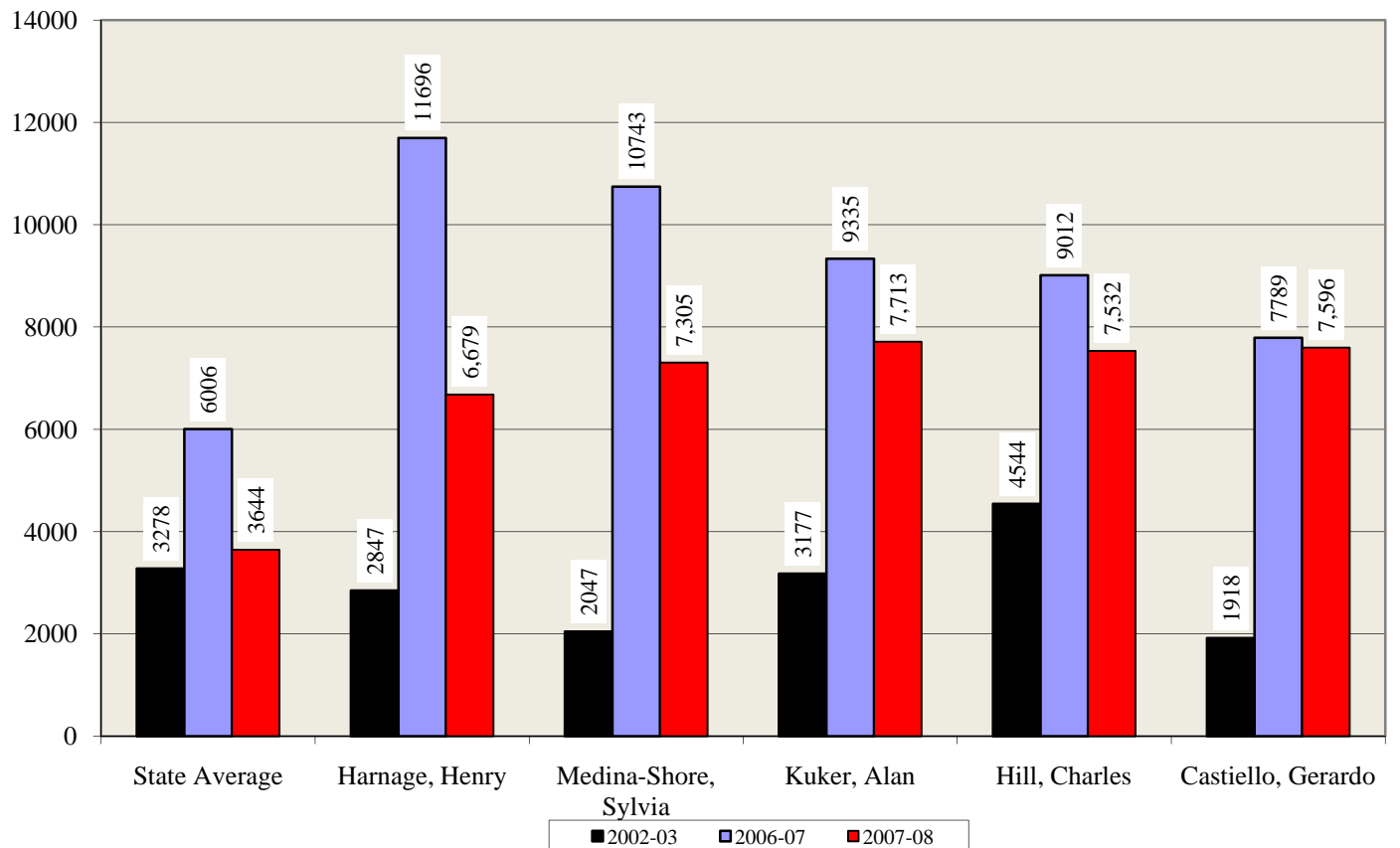
The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



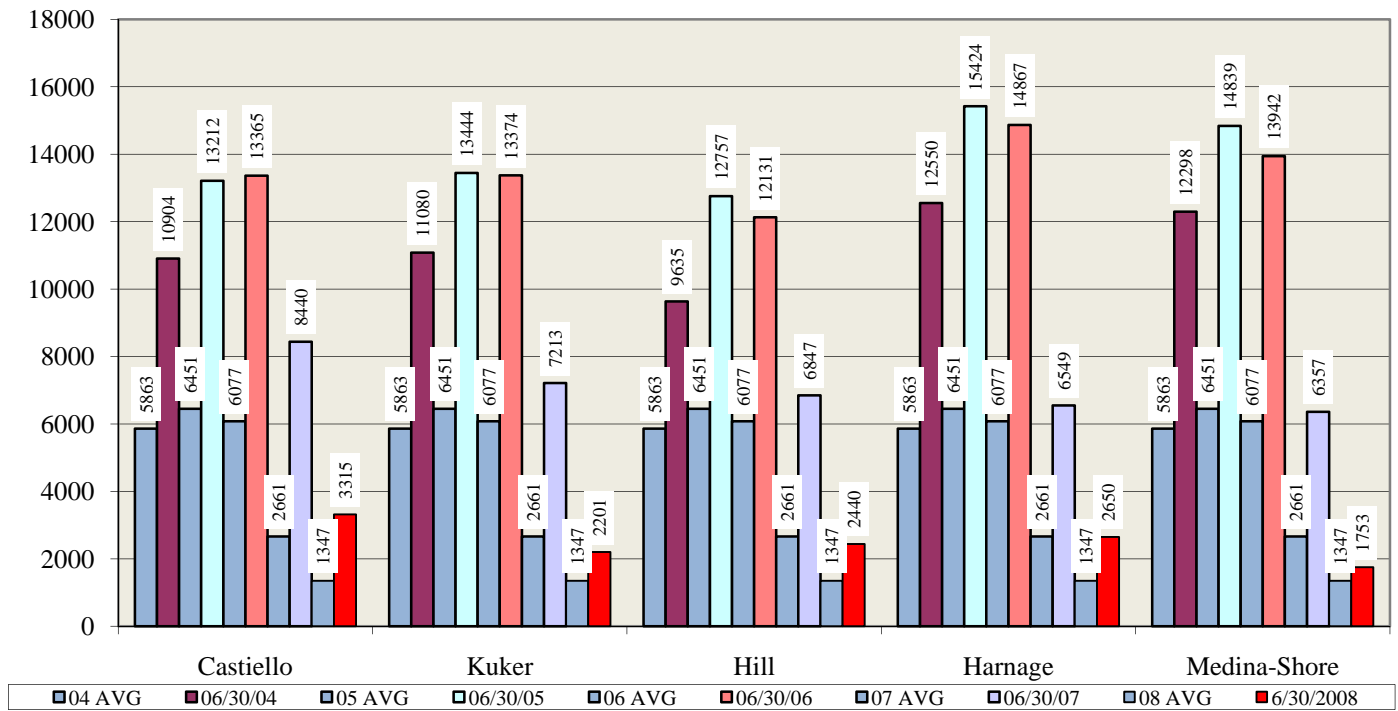
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



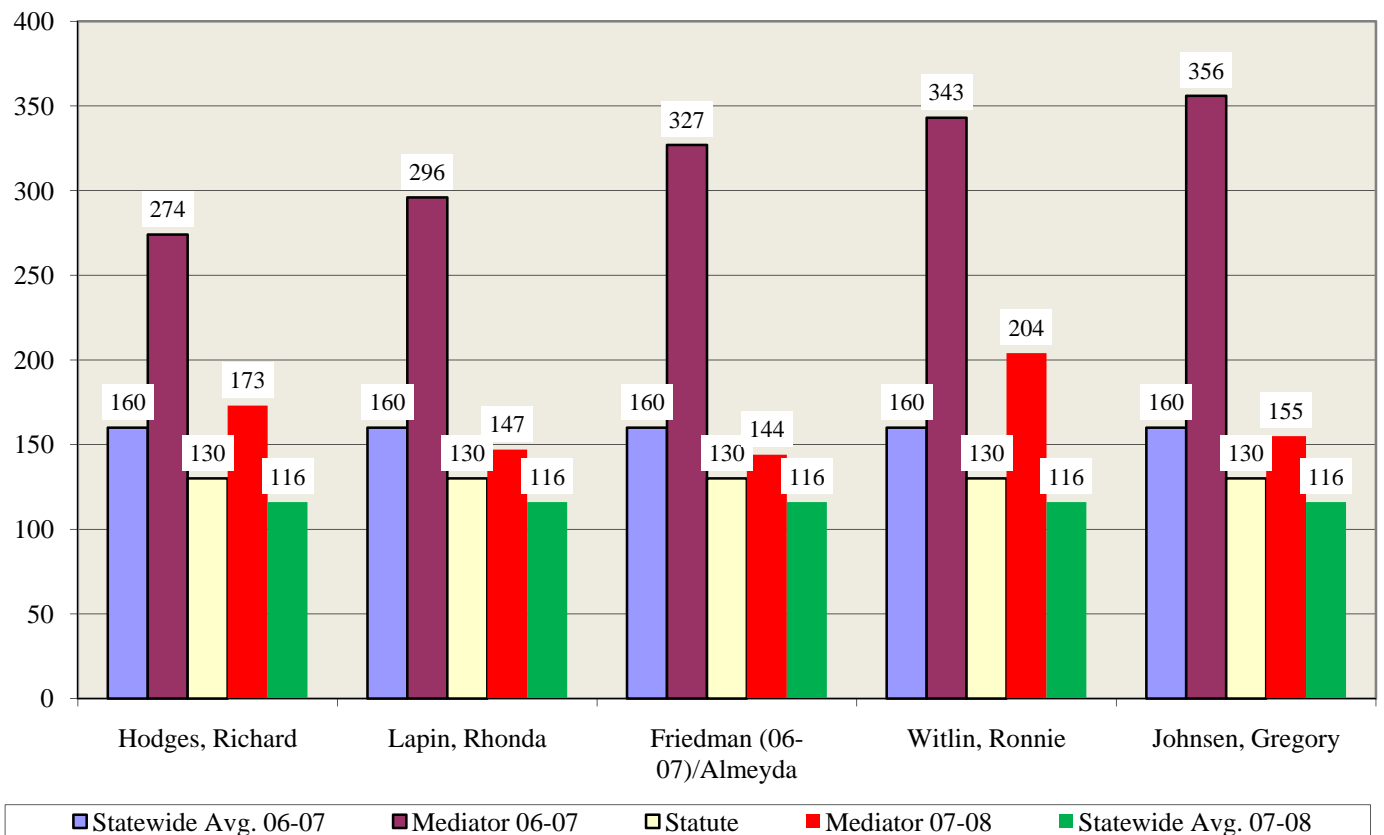
The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



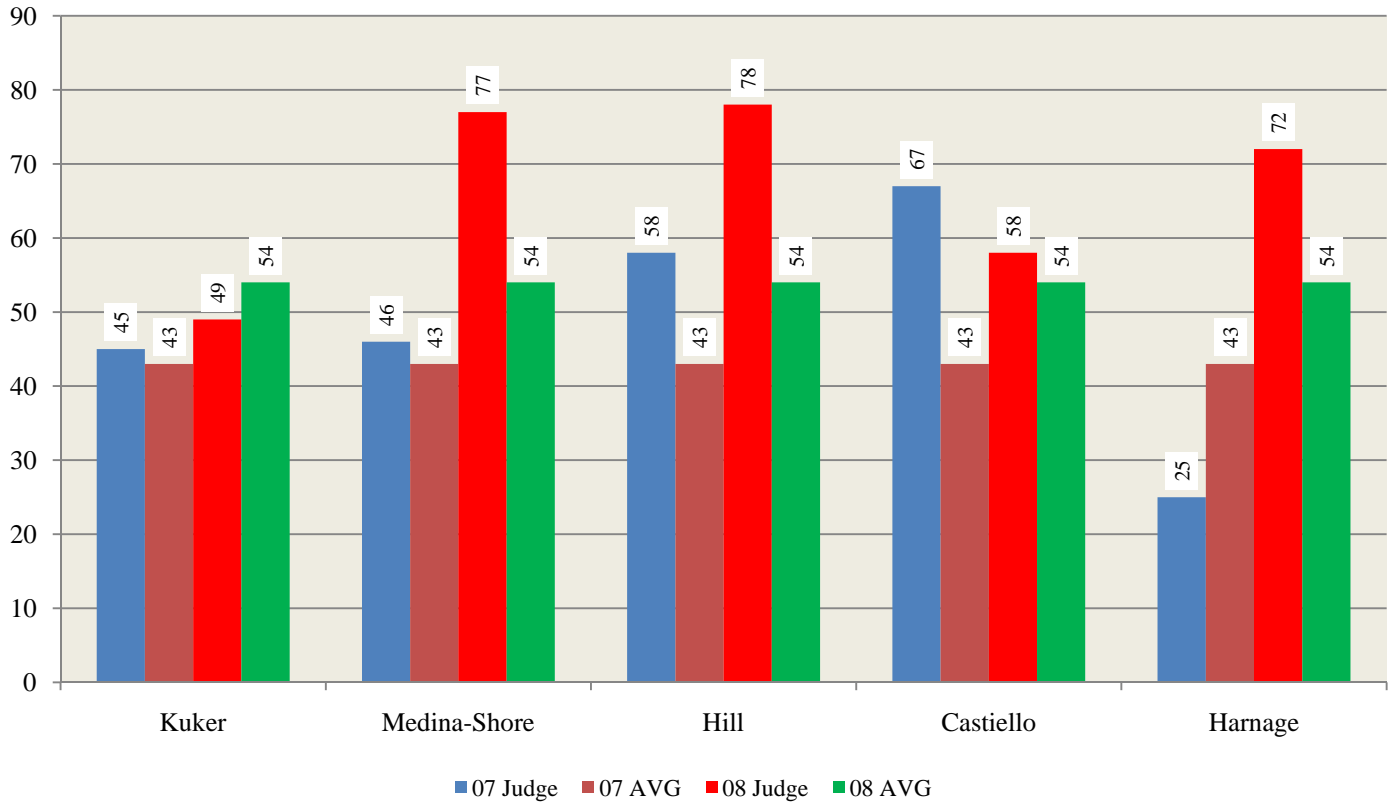
The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



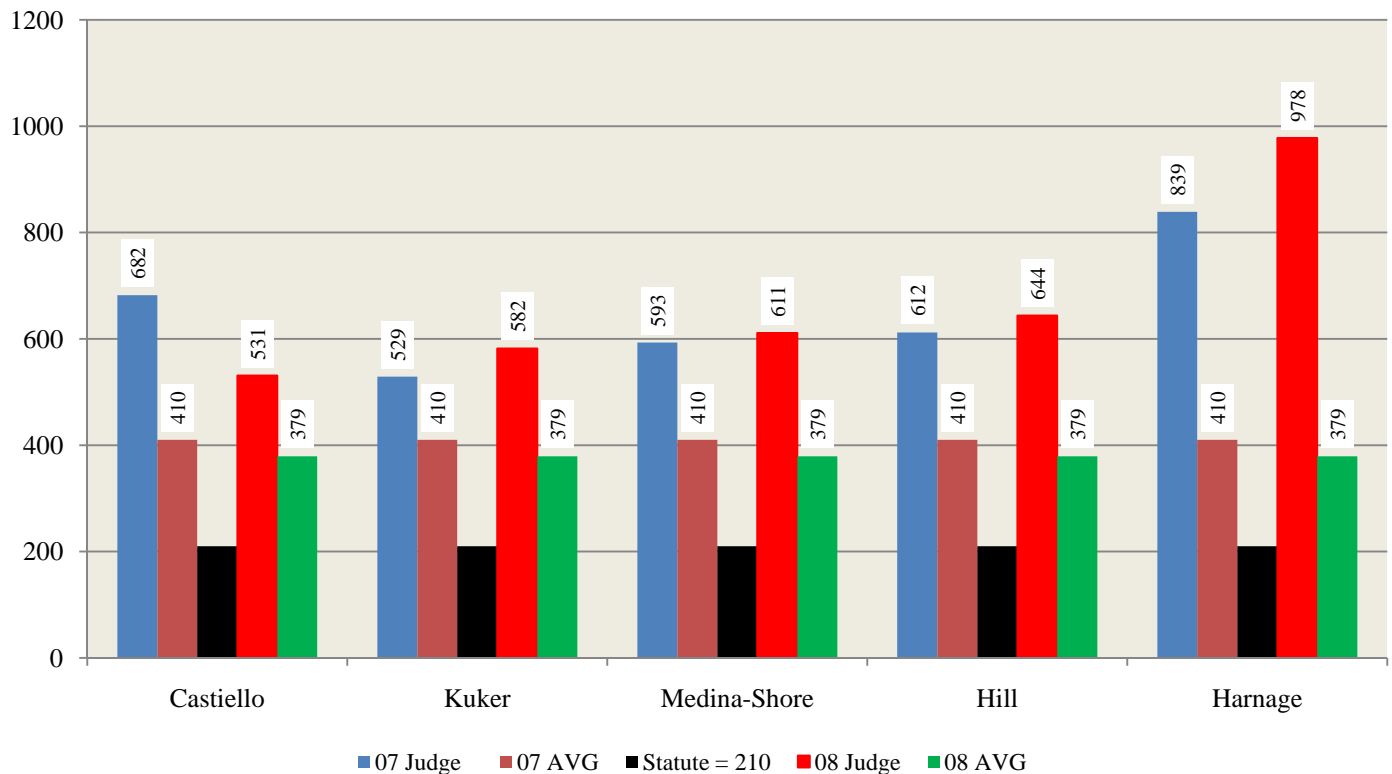
The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).



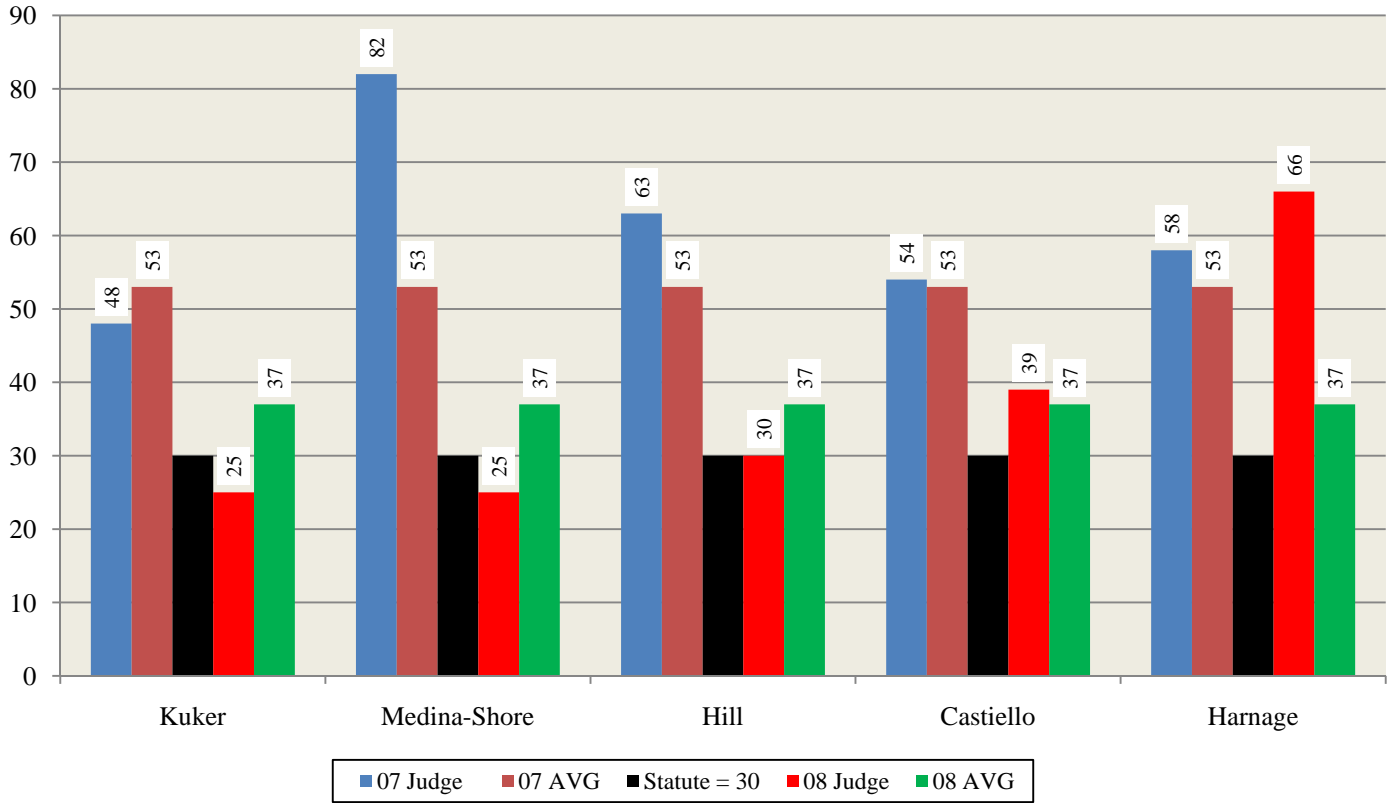
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2007-08 (rust) and 2007-08 (green).



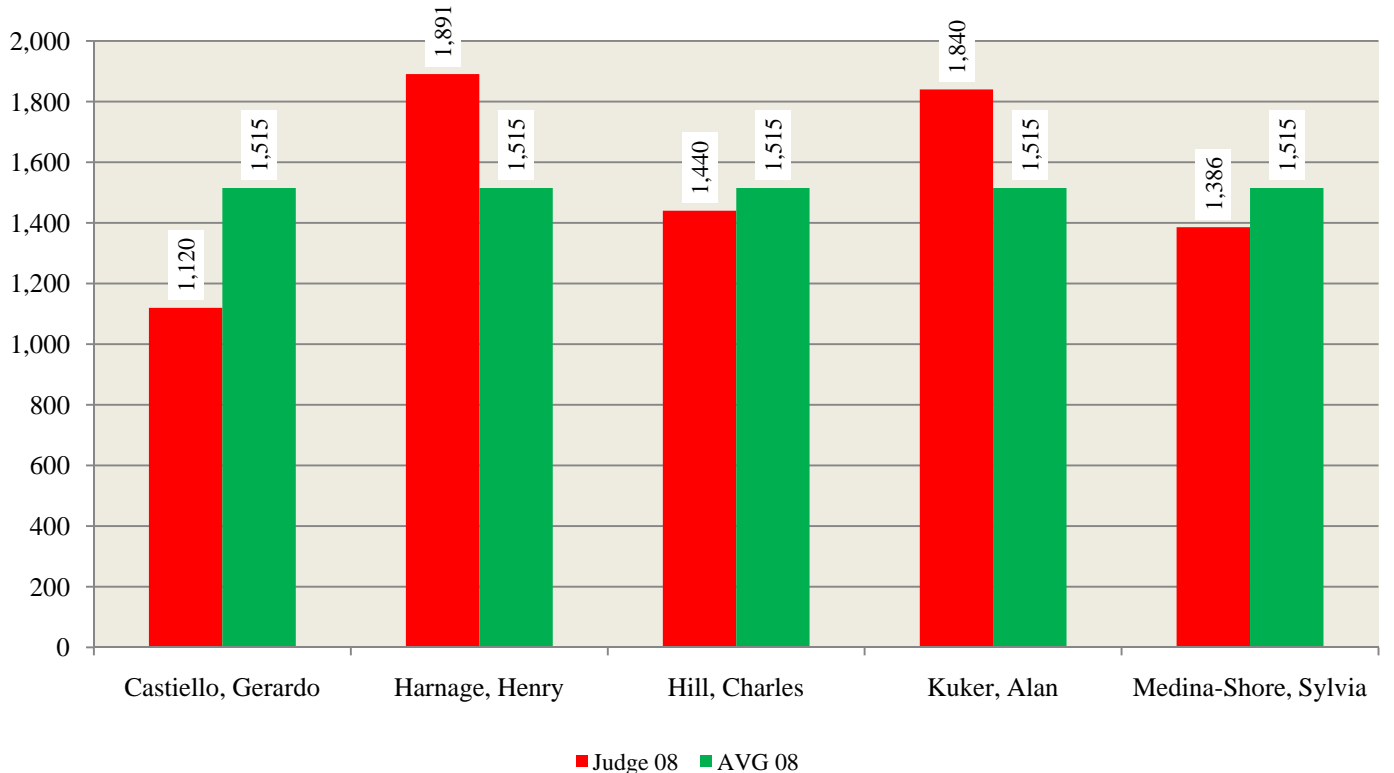
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2007-08 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



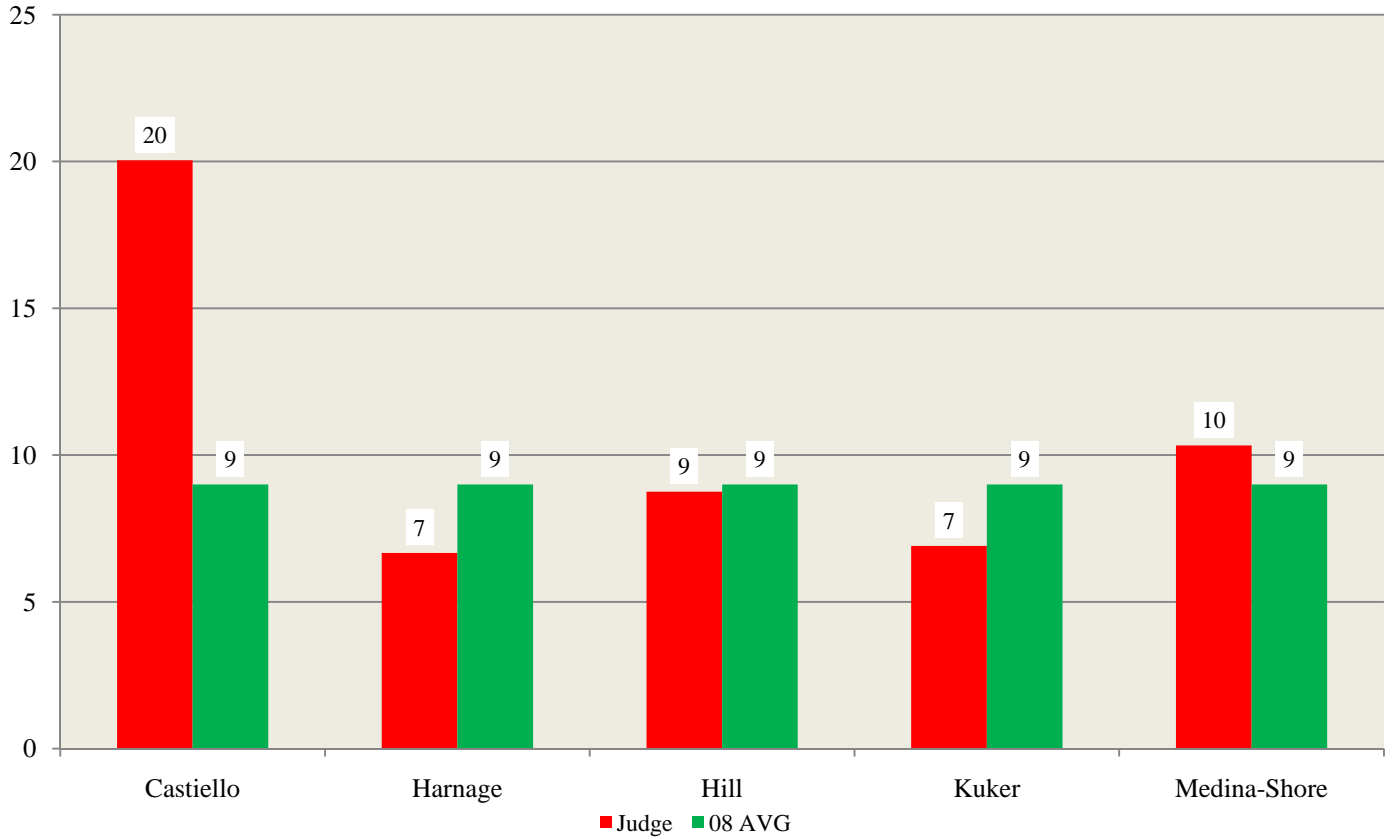
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2007-08 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



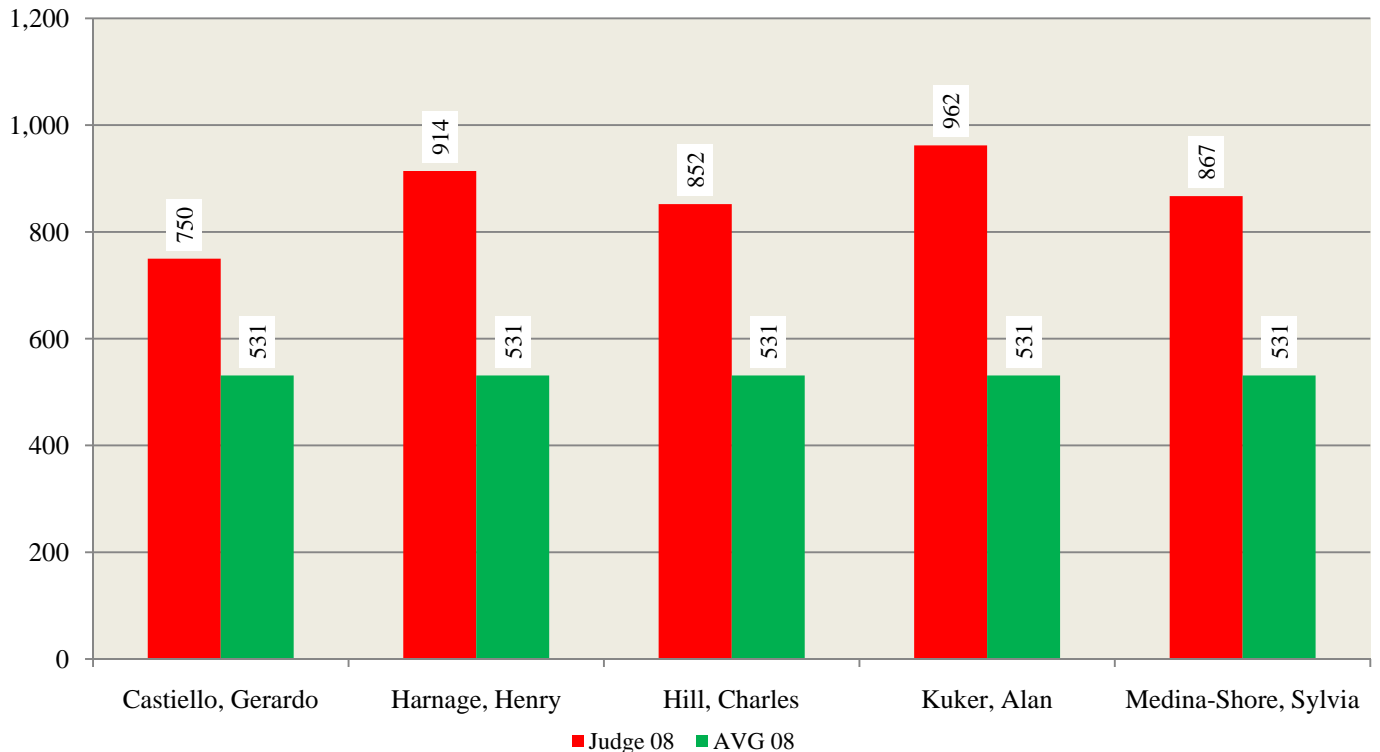
The following graph depicts the volume of settlement orders entered by each Judge in the district (red) and the statewide average (green).



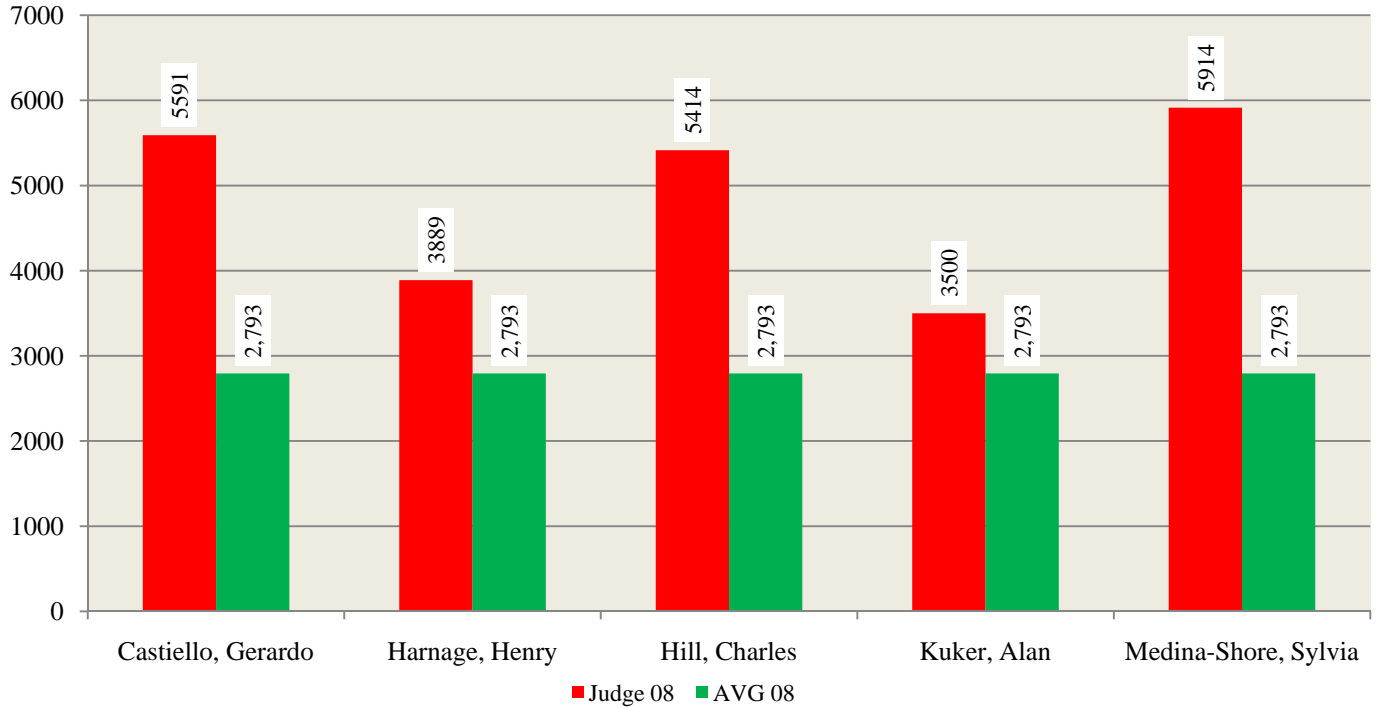
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).



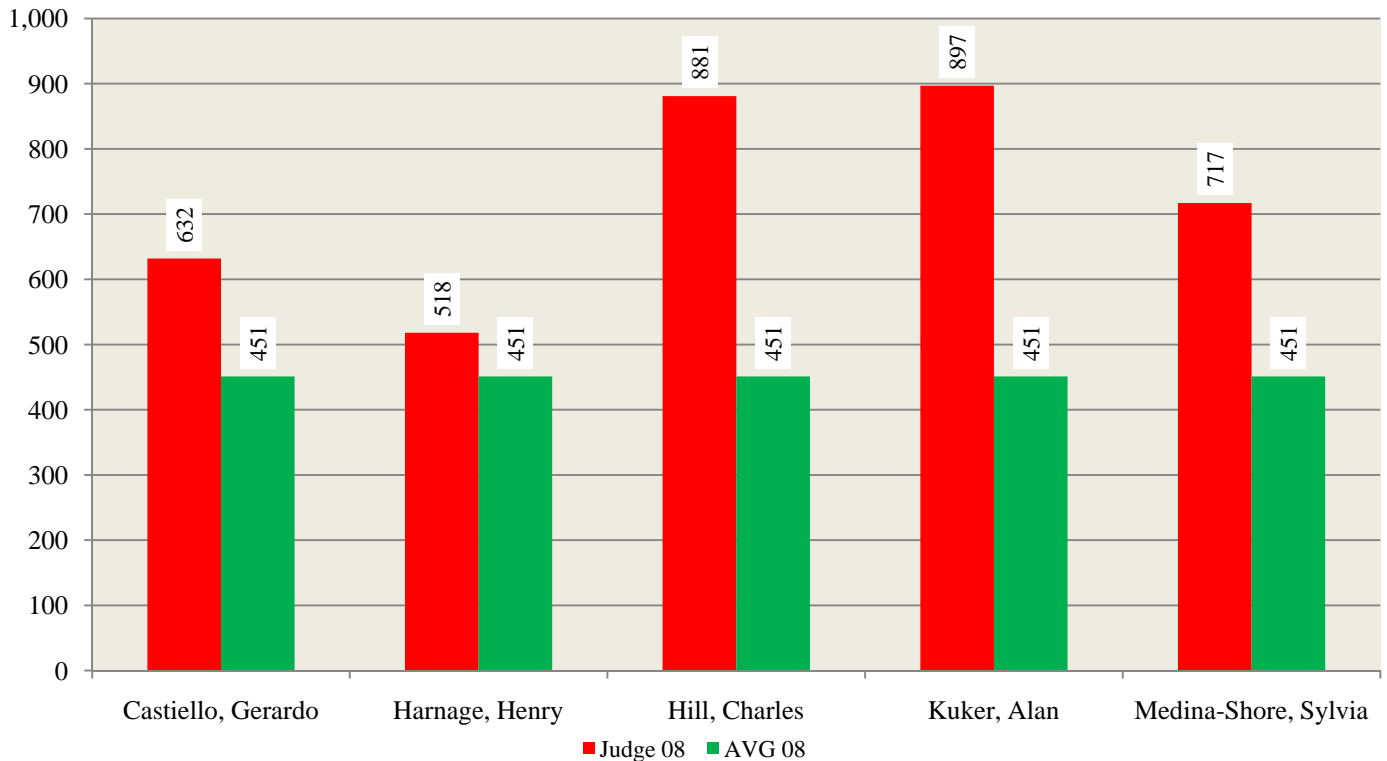
The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).



## Appendix “11” District ORL (JCC Condry, JCC Sculco, JCC ORL):

District ORL includes the following counties: Orange, Seminole,

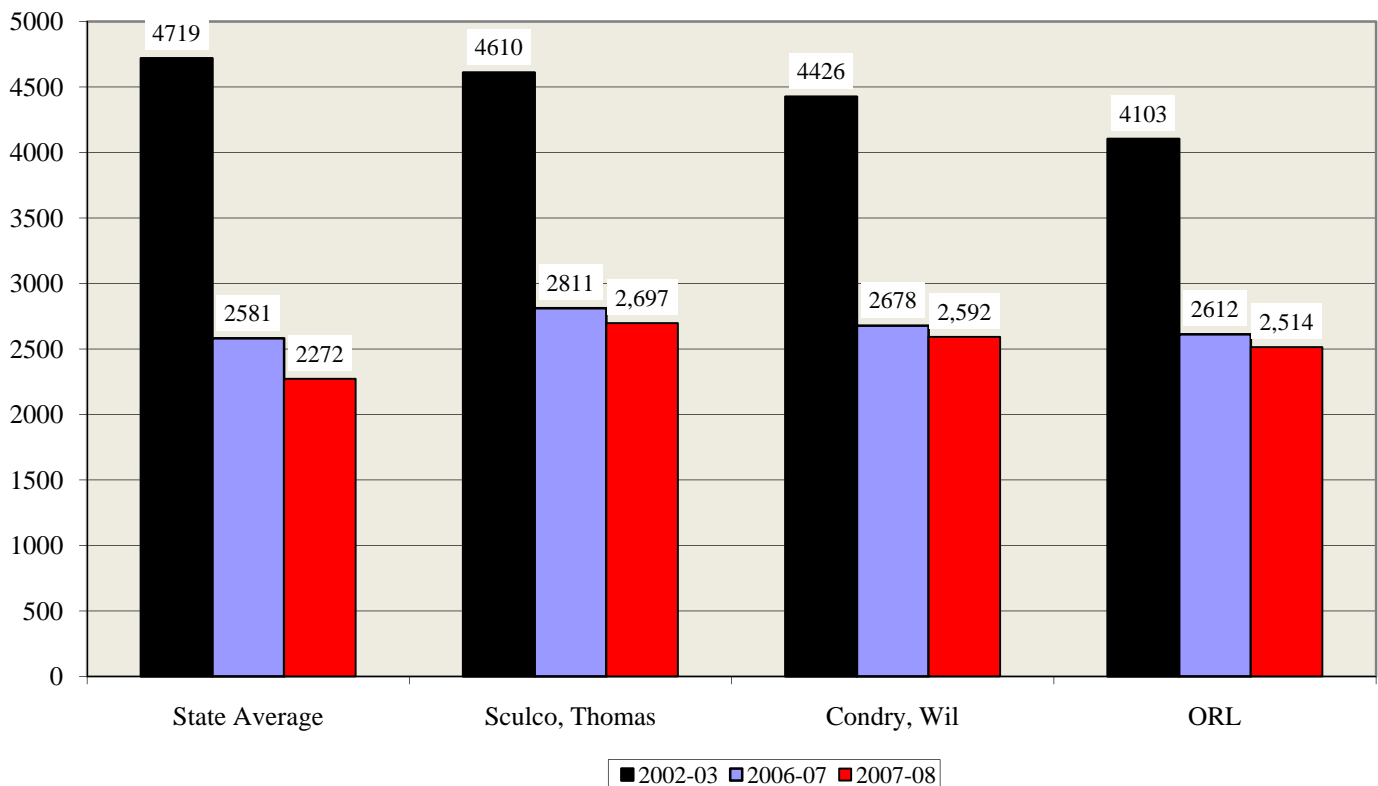
District ORL is a three-Judge District that has been supported and managed by two Judges throughout 2007-08, following the transfer of Judge Thurman to District GNS in May 2007. District ORL evidences PFB and “new cases” filing rates above the statewide average in all three divisions. During 2007-08, each ORL division closed a similar volume of PFBs to the volume filed. Each of the three division had 2007-08 year-end pending PFB inventories that are manageable.

The three ORL mediators each had an average days from PFB filing to first mediation that was less than the statewide average (116) and less than the statutory period (130). Notably, each of these mediators’ 2007-08 average represented an improvement from 2006-07. Despite significant trial volumes in ORL, each Judge’s average time between PFB filing and trial was below the statewide average. Judge Condry’s average days from trial to order entry was consistent with the statewide average. Judge Sculco’s average was both below the statewide average (37) and below the statutory period (30).

Each of the three ORL divisions approved more than the average volume of “settlement motions,” and stipulation orders. The volume of “other” hearings and “other” orders was also significant. Acknowledging that these significant volumes in three divisions were effectively managed by two Judges, the volume of work by the two ORL judges clearly exceeded the statewide averages. Despite these volumes, the average days from “settlement” motion filing to approval was at or below the statewide average.

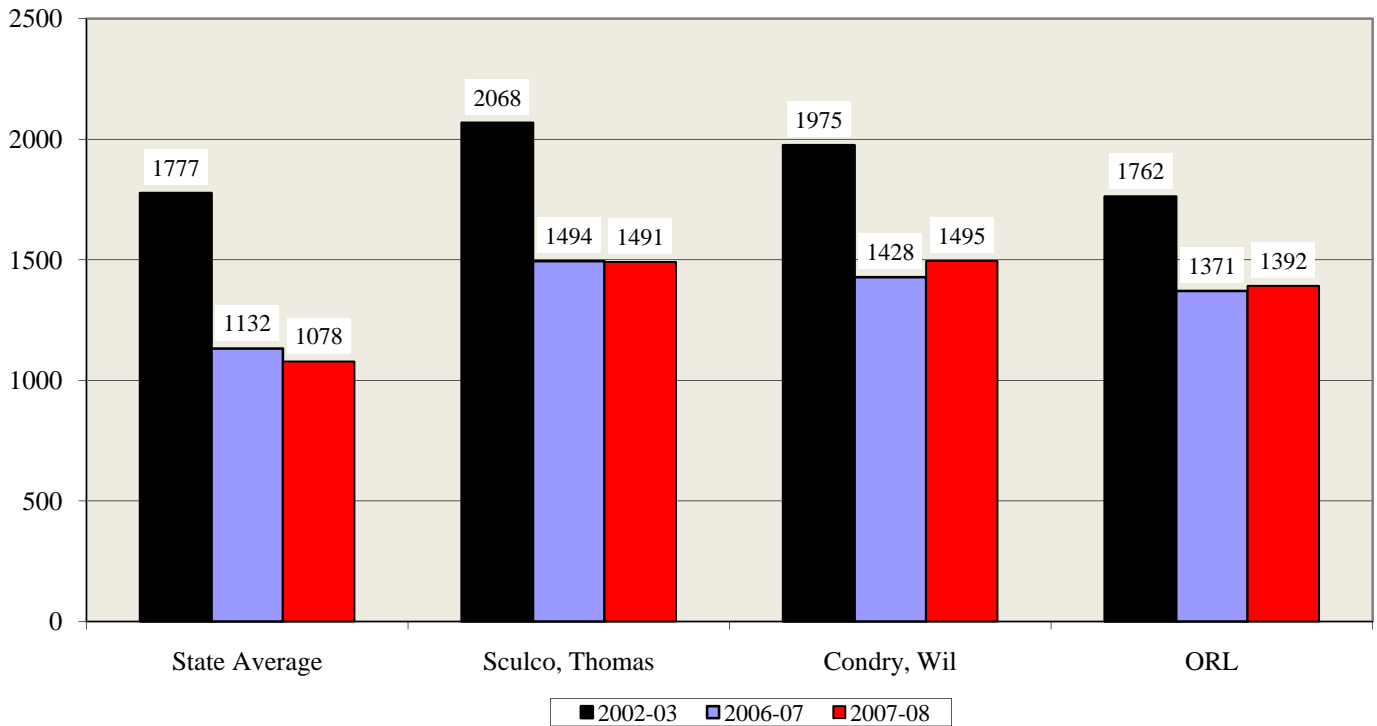
District ORL anticipates the appointment of a third Judge in 2008-09. It is anticipated that with the addition of this Judge, the workload volumes will be better distributed and the pressure on Judges Condry and Sculco will be decreased.

The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.

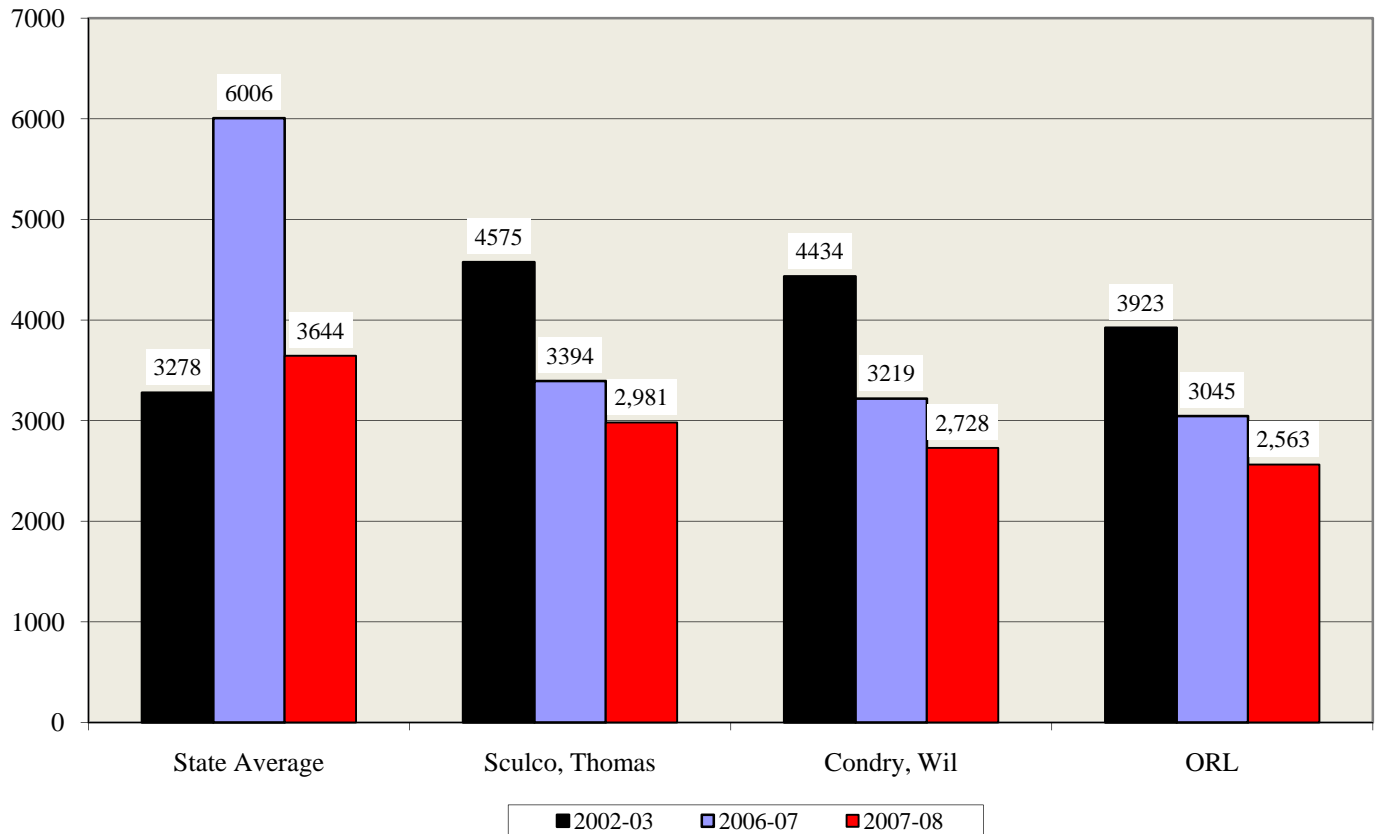




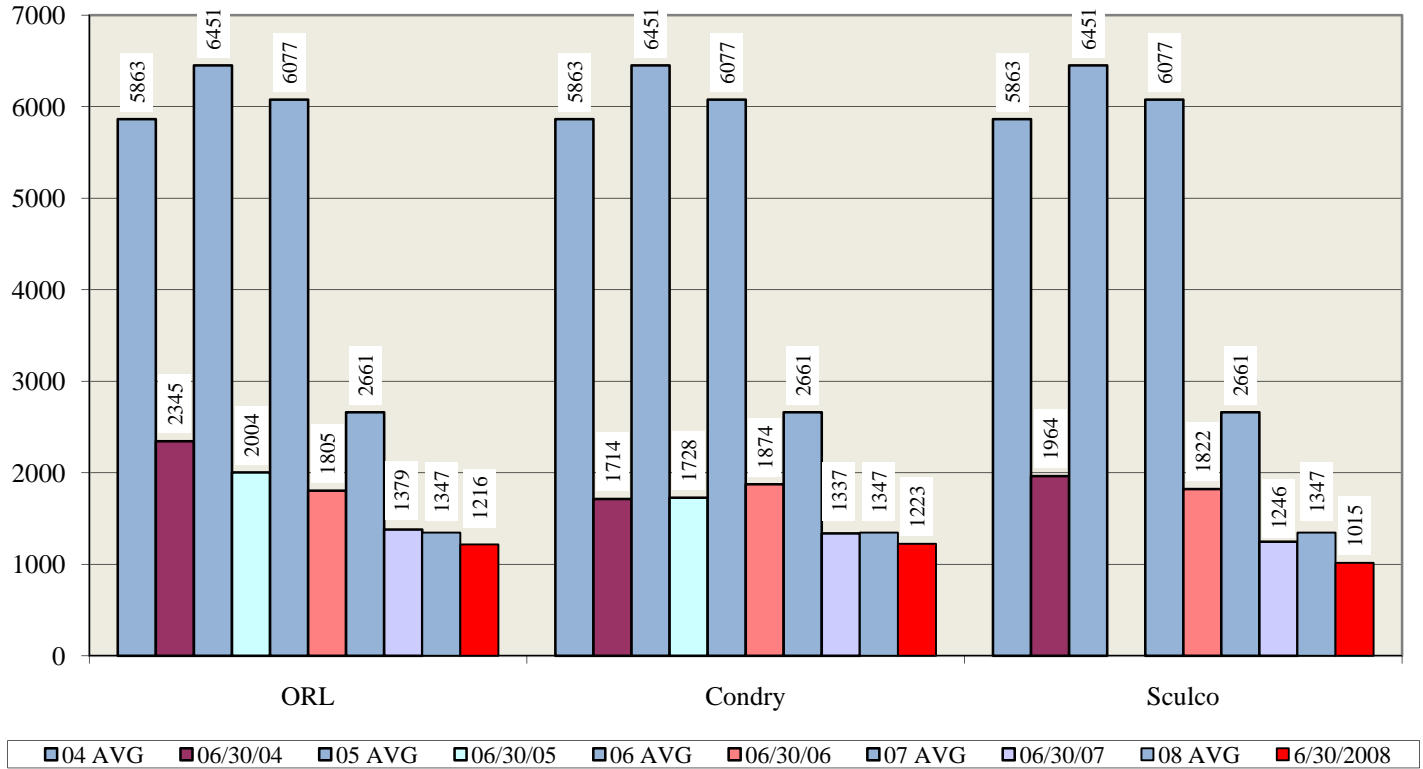
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



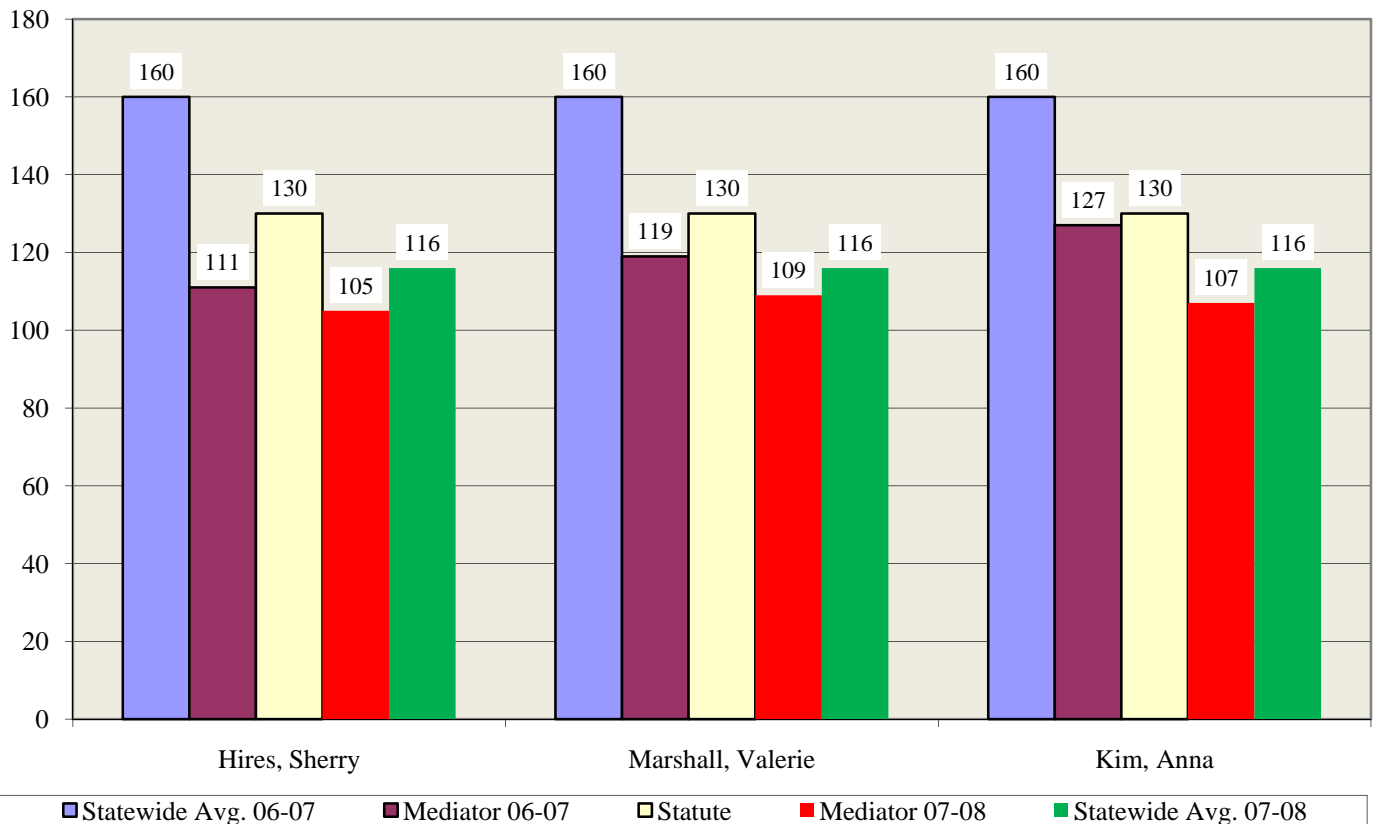
The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



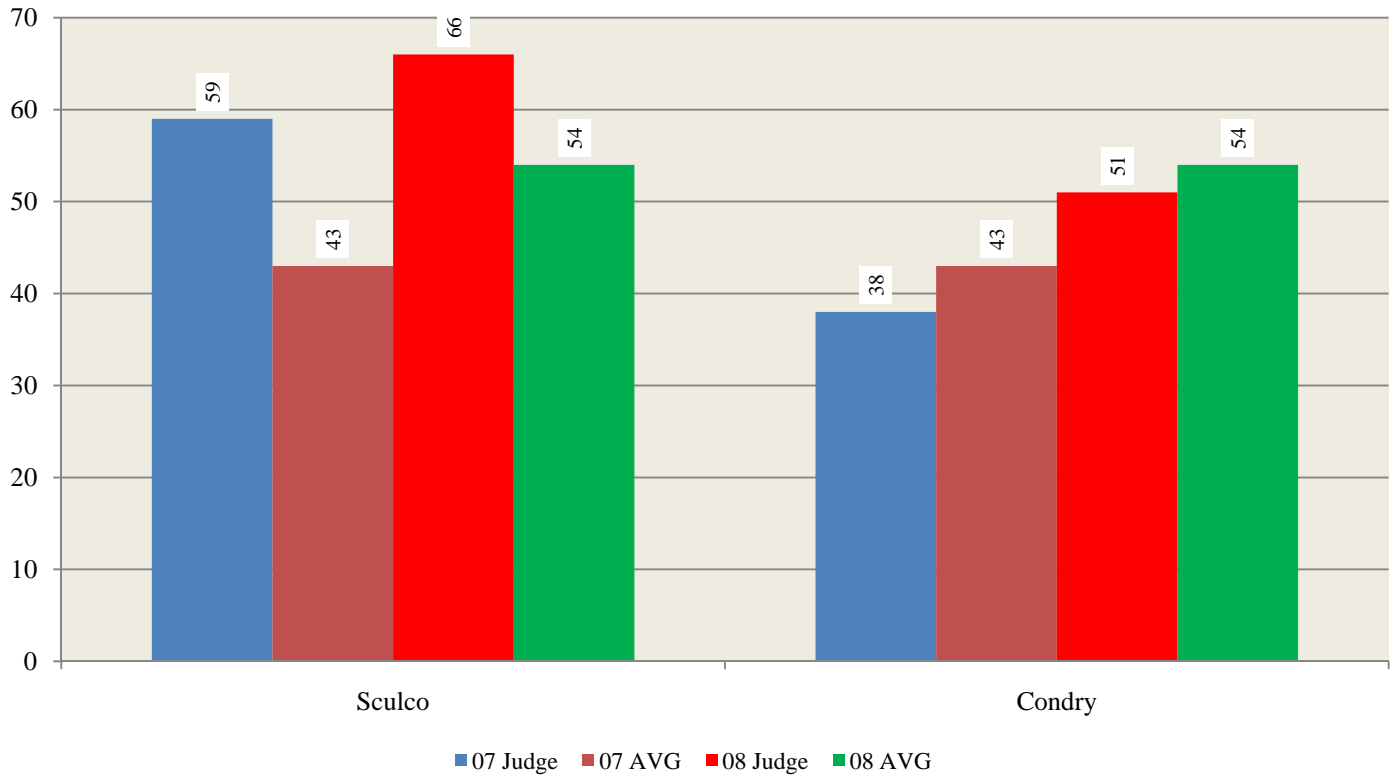
The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



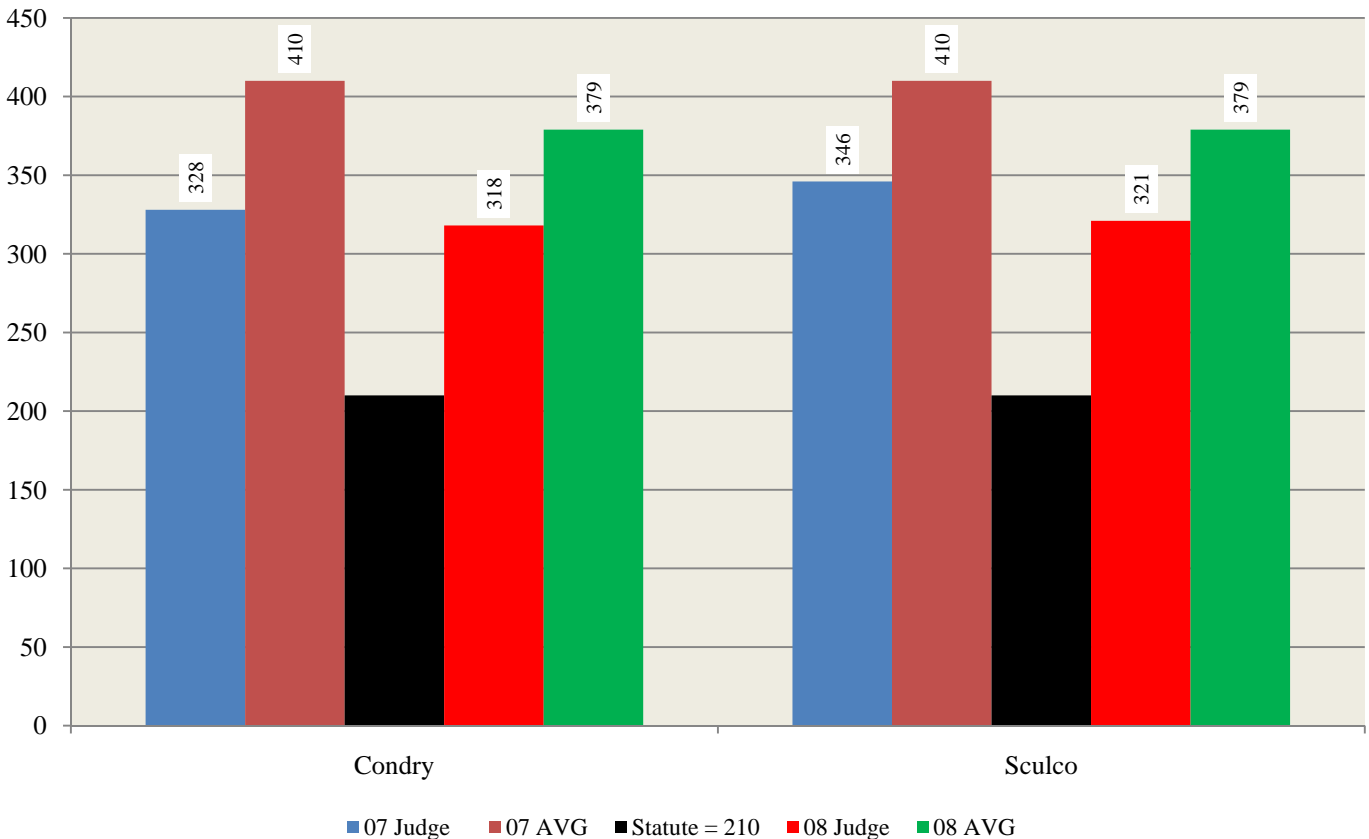
The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).



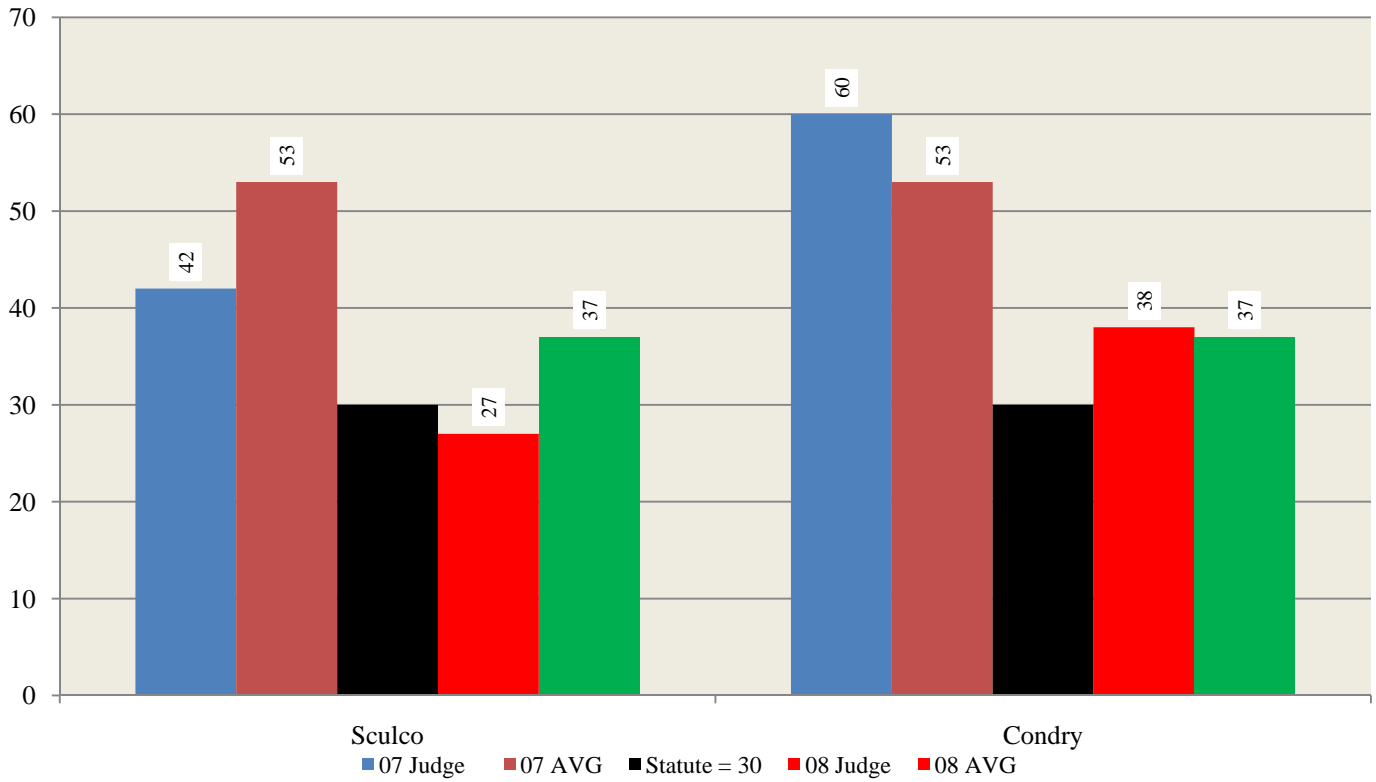
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2007-08 (rust) and 2007-08 (green).



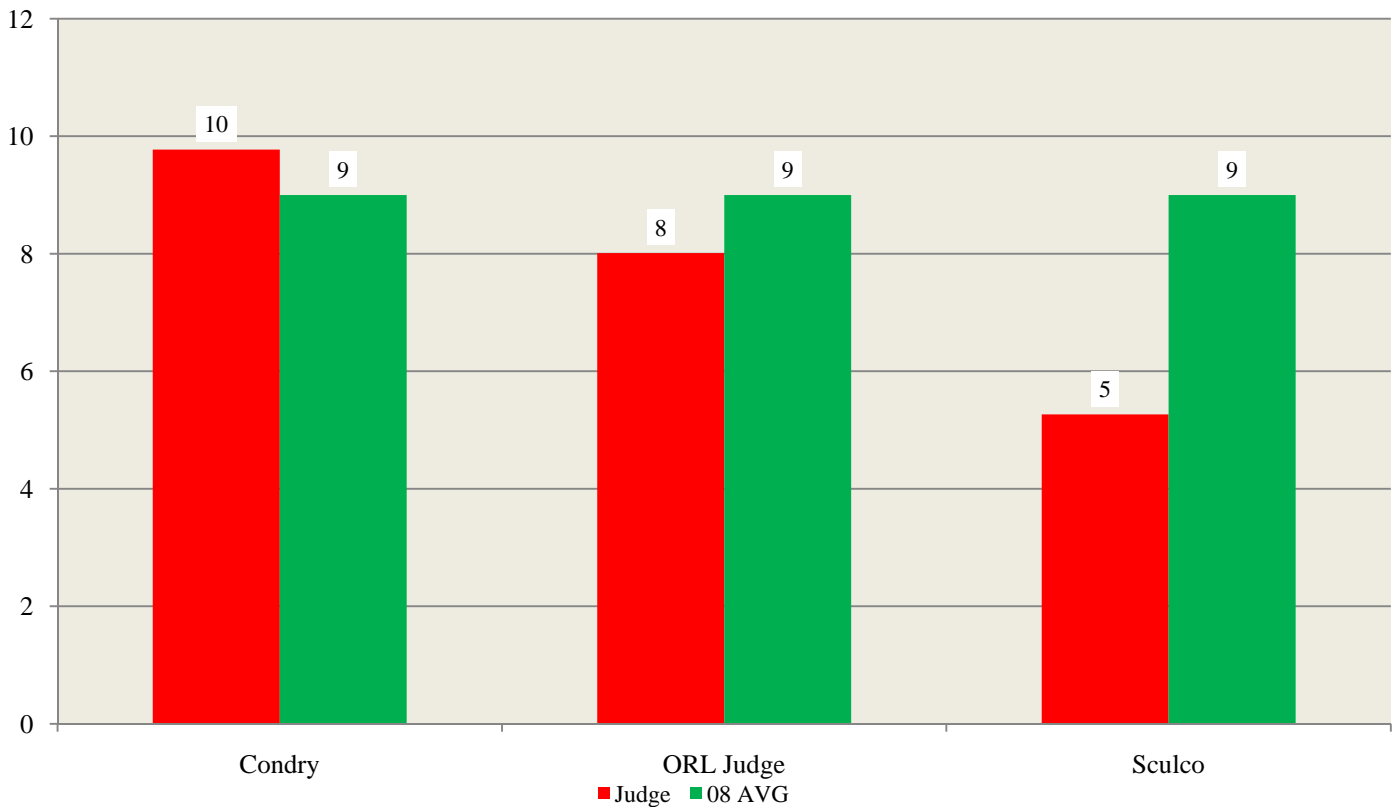
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2007-08 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



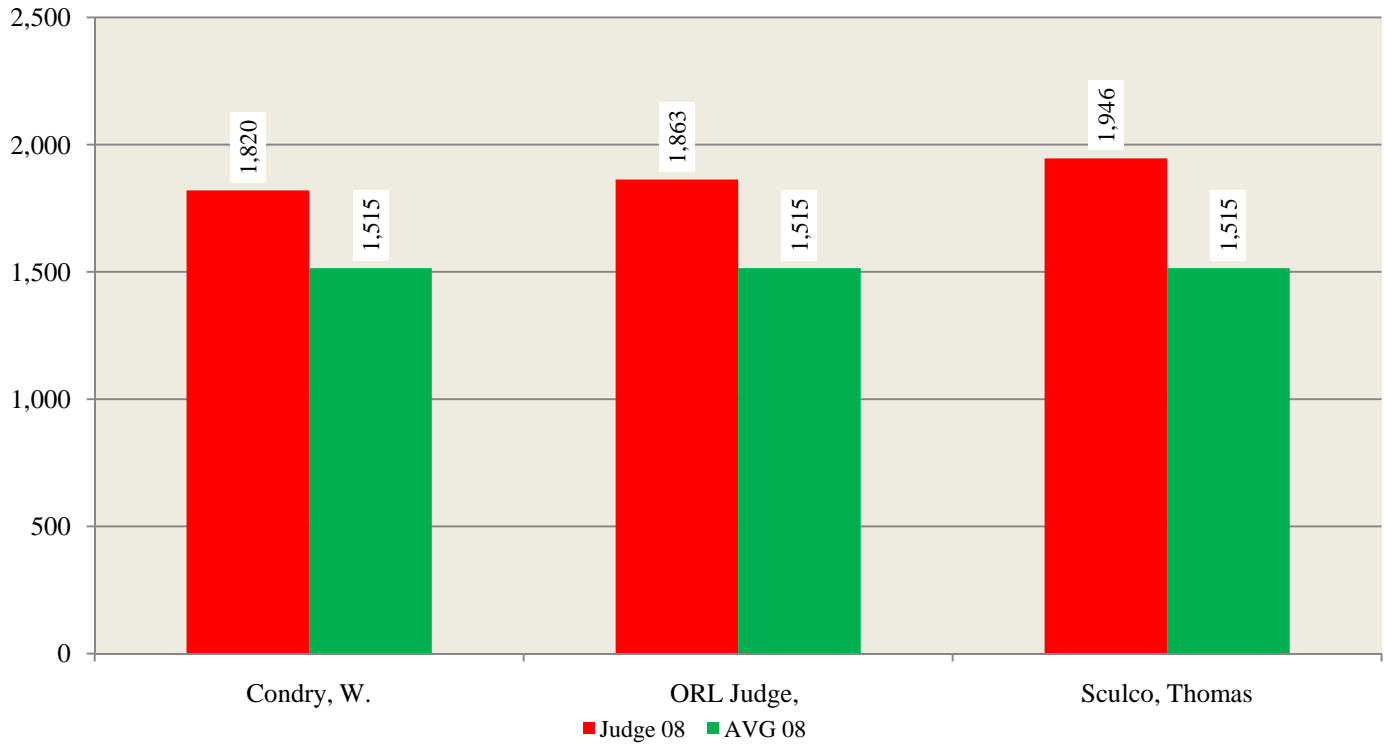
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2007-08 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



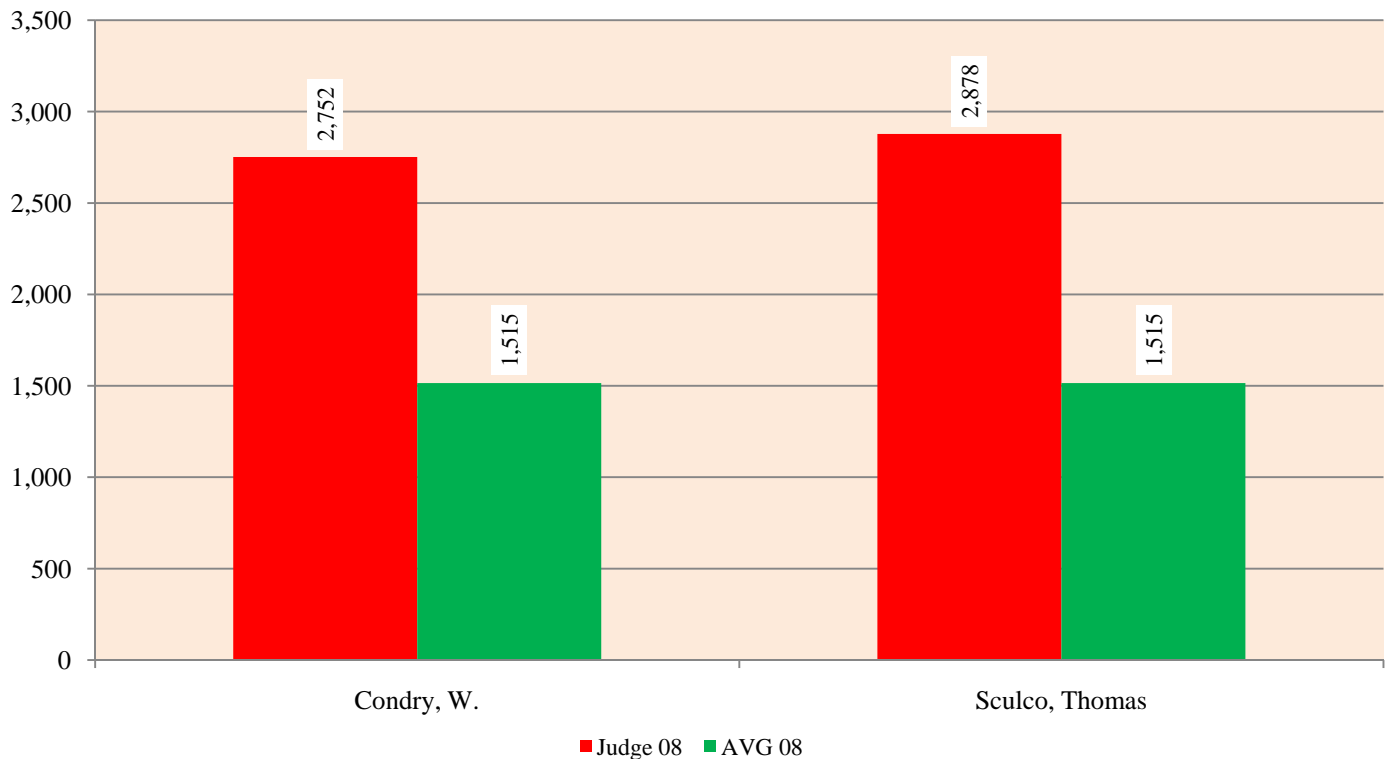
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).



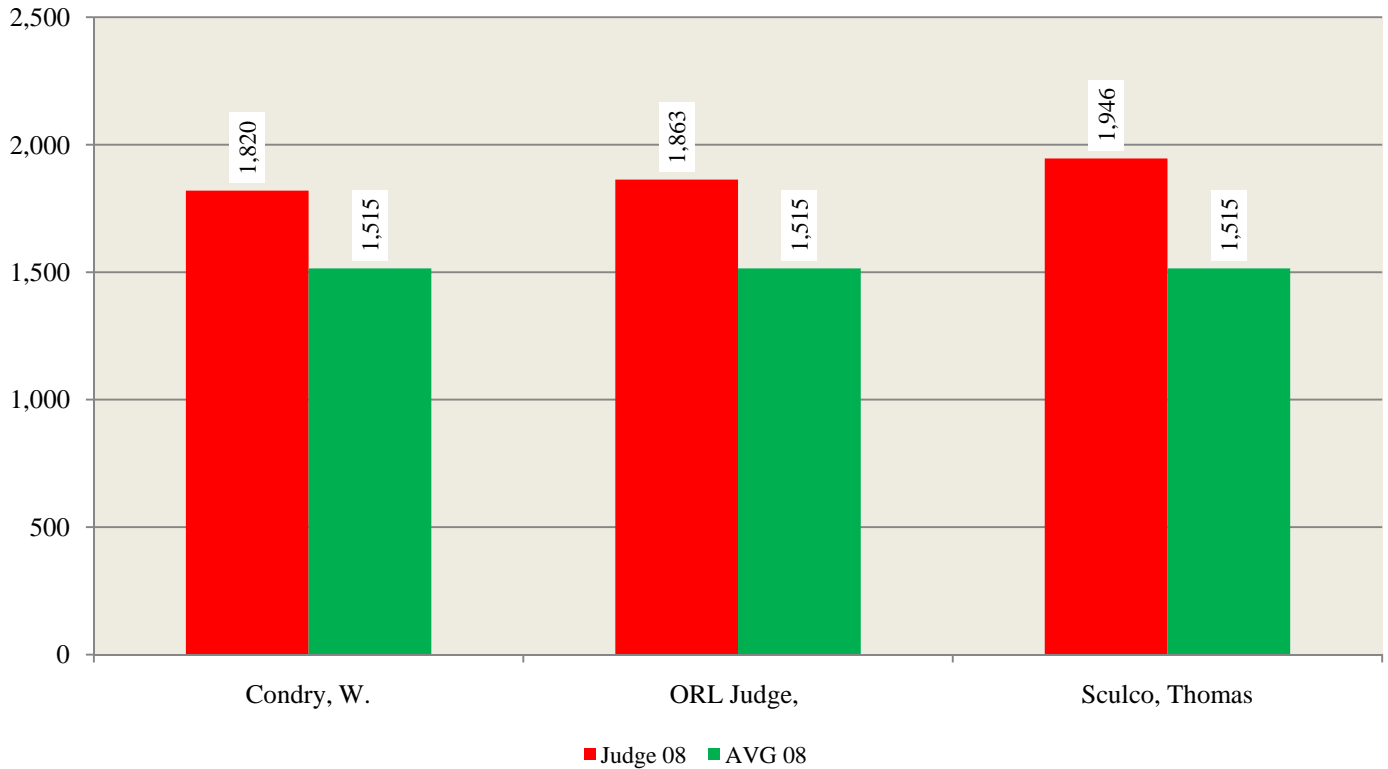
The following graph depicts the volume of settlement orders entered by each Judge in the district (red) and the statewide average (green).



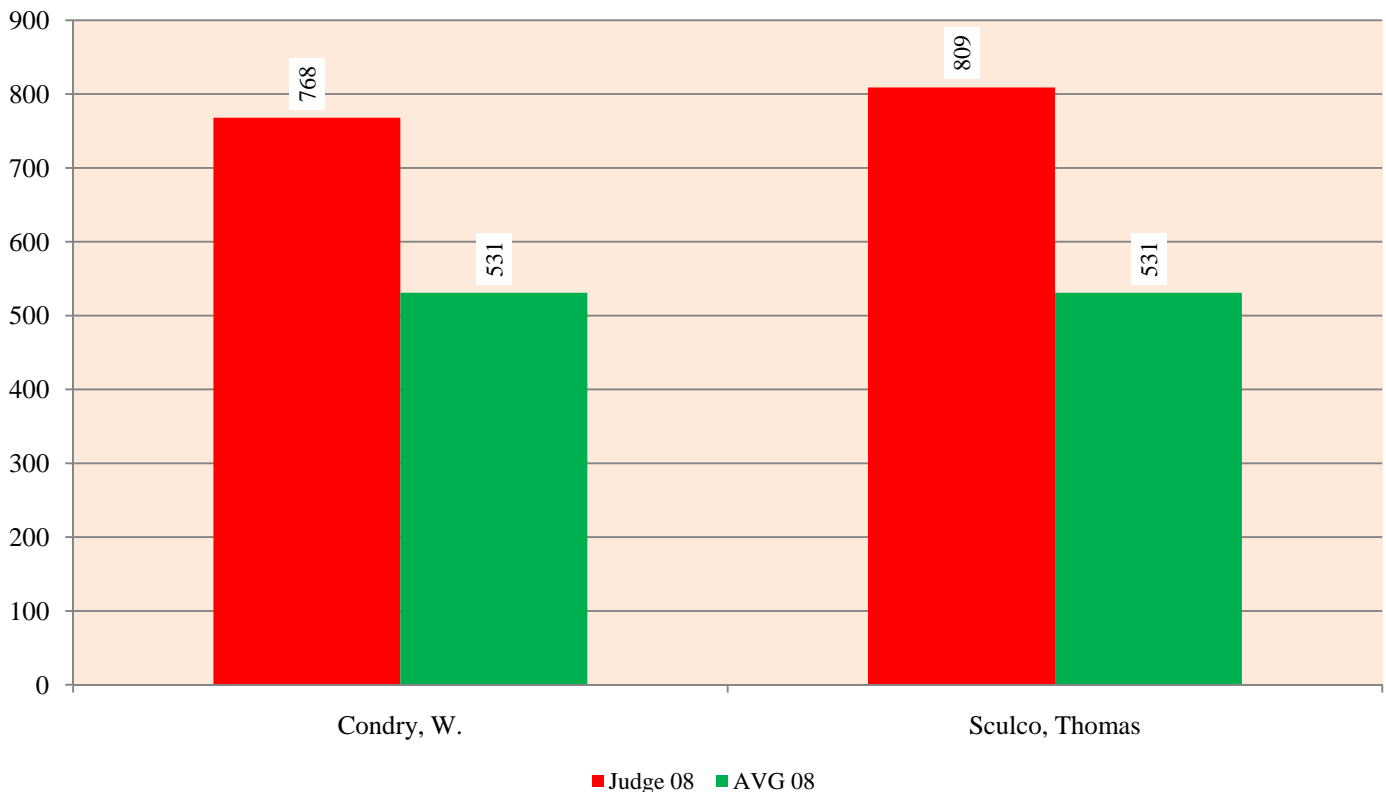
The third Judicial position in ORL was vacant throughout 2007-08. Judges Condry and Sculco have expended significant effort covering that additional workload. If the ORL settlement orders are split equally between these two Judges, the volume would be as follows.



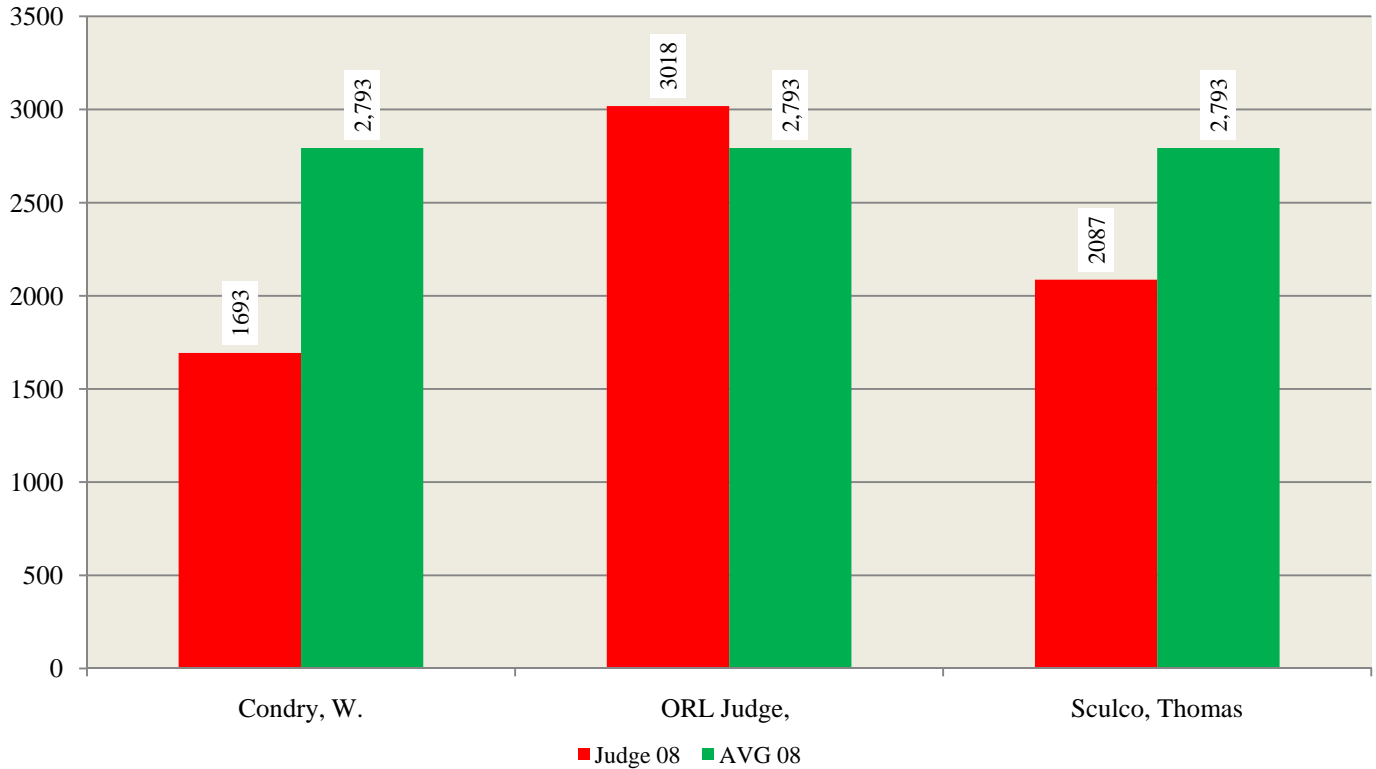
The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).



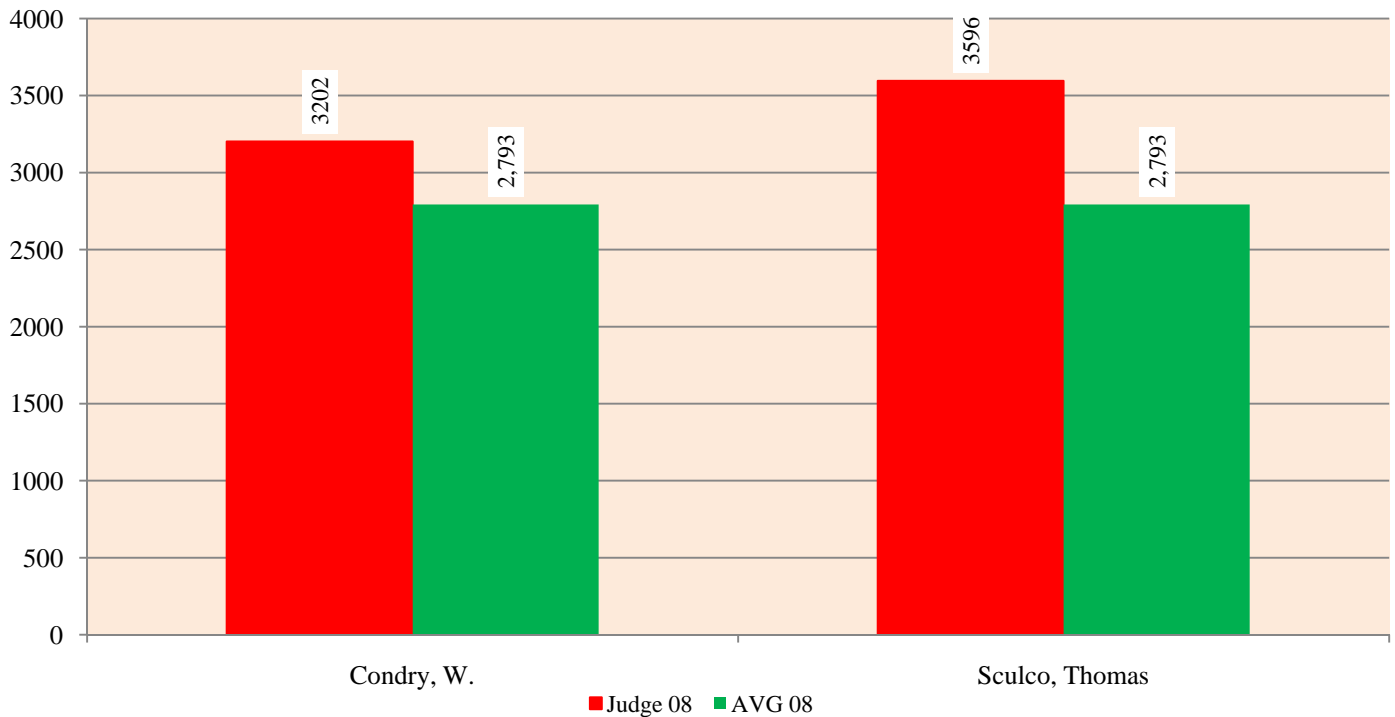
The third Judicial position in ORL was vacant throughout 2007-08. Judges Condry and Sculco have expended significant effort covering that additional workload. If the vacant division's stipulation orders are split equally between these two Judges, the volume would be as follows.



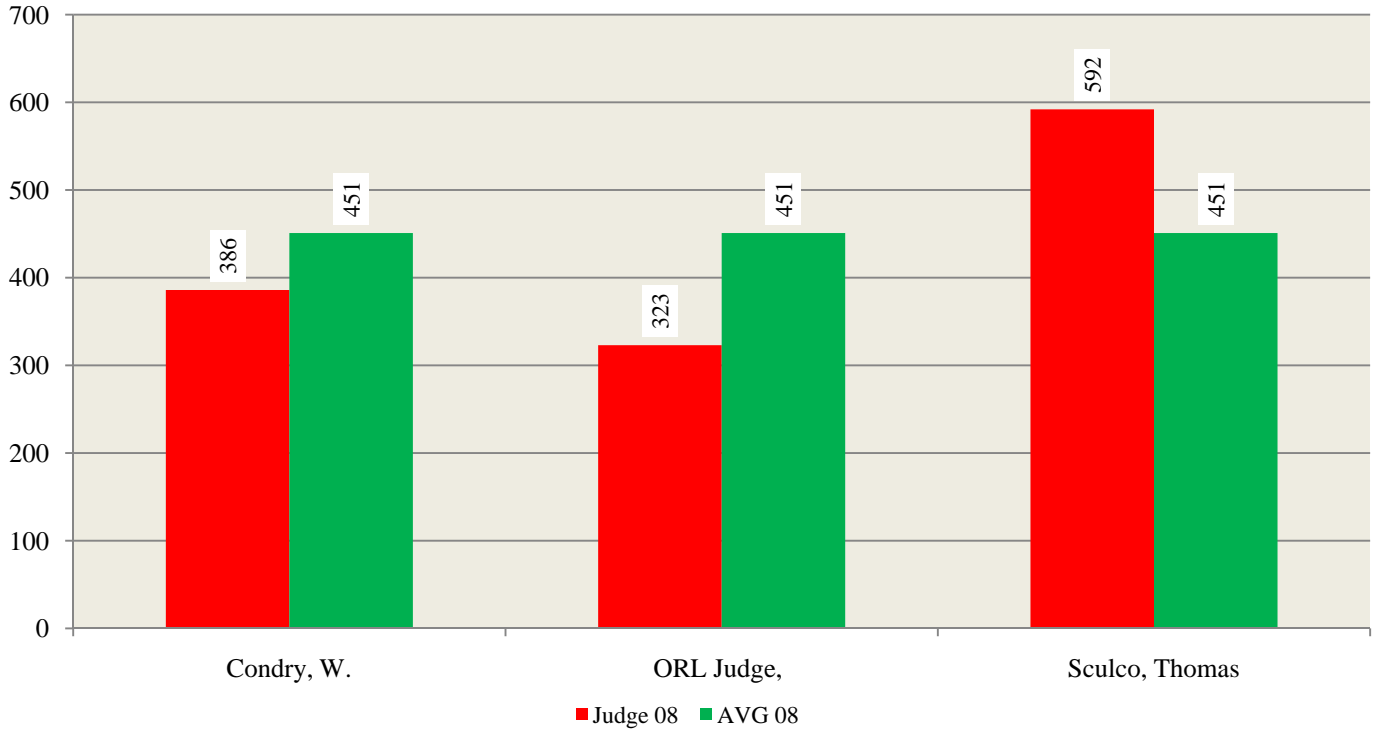
The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



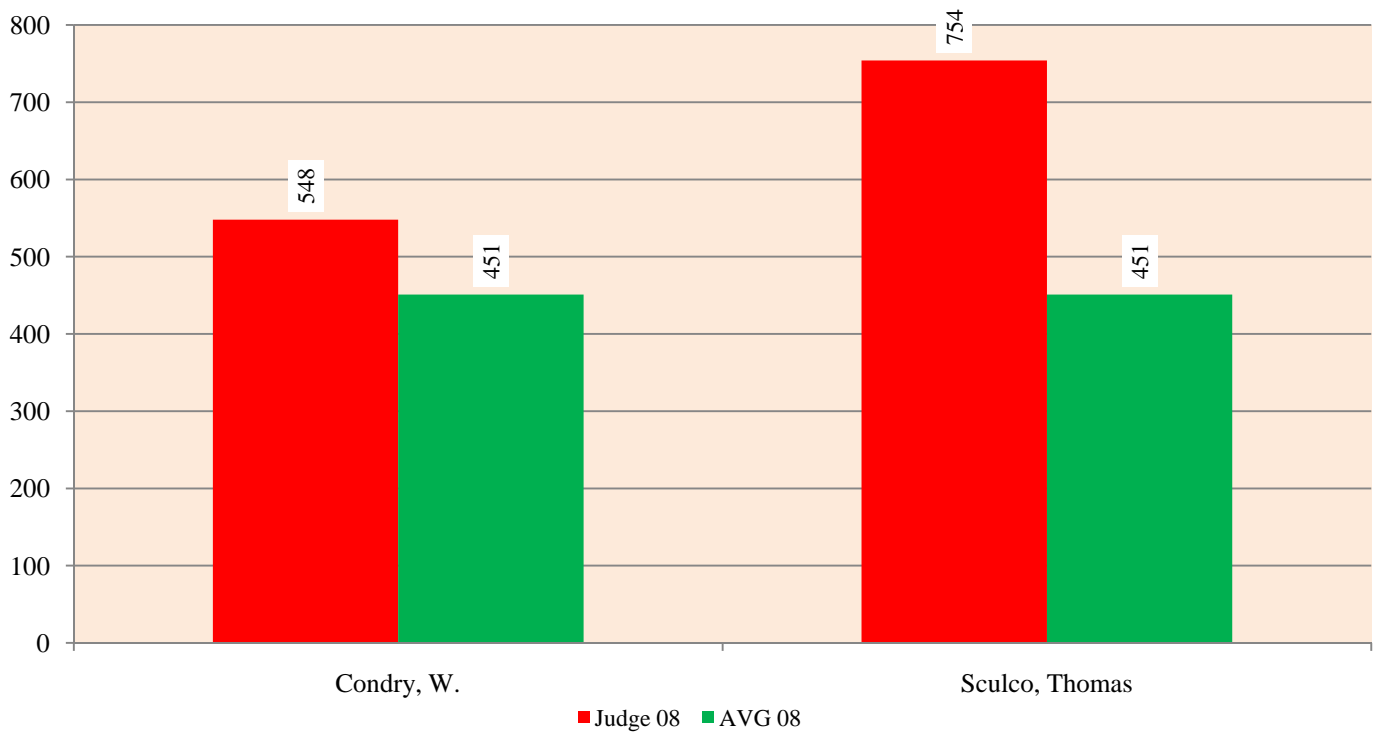
The third Judicial position in ORL was vacant throughout 2007-08. Judges Condry and Sculco have expended significant effort covering that additional workload. If the vacant division’s “other” (meaning not settlement or stipulation) orders are split equally between these two Judges, the volume would be as follows.



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).



The third Judicial position in ORL was vacant throughout 2007-08. Judges Condry and Sculco have expended significant effort covering that additional workload. If the vacant division’s “other” (meaning not settlement or stipulation) hearings are split equally between these two Judges, the volume would be as follows.





## Appendix “12” District PMC (JCC Roesch):

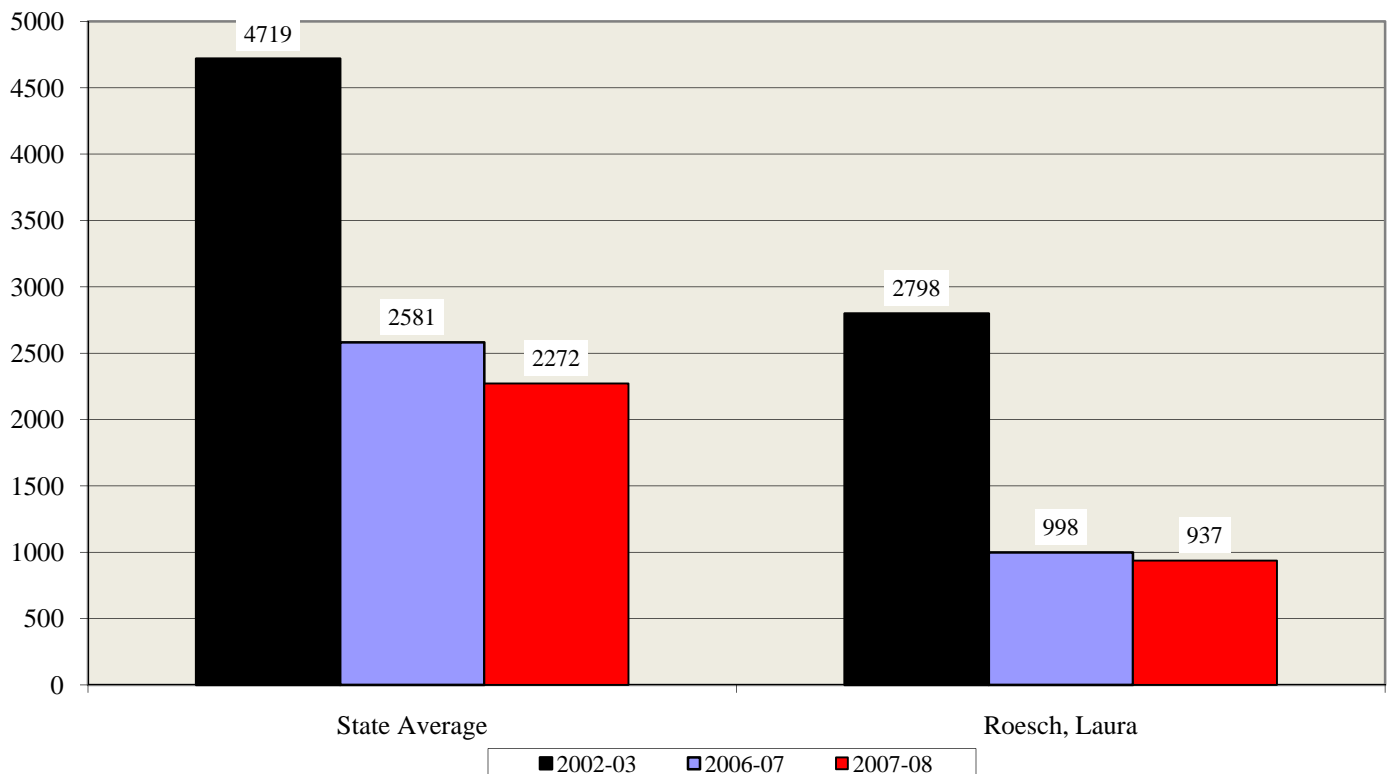
District PMC in Panama City includes the following counties: Bay, Calhoun, Gulf, Holmes, Jackson, Liberty, Walton, and Washington. District PMS is one of the largest geographic Districts in the state. While most of the parties will usually travel to the District office, there are occasions when trials are held remotely by Judge Roesch throughout this very large area.

In PMC, the PFB and “new case” filing rates are well below the statewide averages. Judge Roesch closed more PFBs in 2007-08 than were filed. The year-end pending PFB inventory in PMC was at a very manageable level.

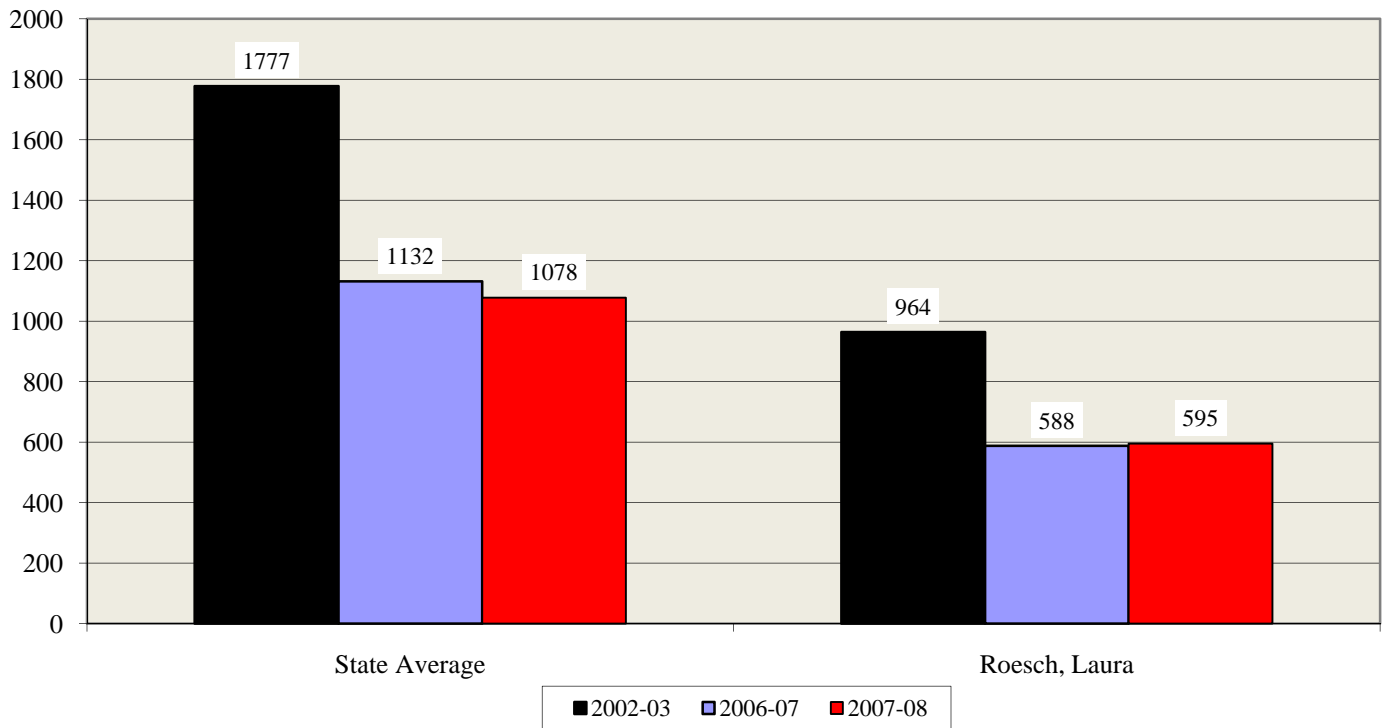
Mediator Edward Oramas averaged 72 between PFB filing and the first mediation. This is well below the statewide average (116) and the statutory period (130). District PMC had a below average trial volume in 2007-08. The average days to trial in PMC (114) is among the lowest in the state, and is well within the statutory 210 period. The average time between trial and entry of the trial order was also less than both the statewide average (37) and the statutory 30 days. Judge Roesch volunteered extensively for review of settlement and fee orders in 2007-08 and thereby reduced workload on South Florida Judges. She also traveled to Miami to serve as a visiting Judge in 2007-08.

Despite the significant volume of “settlement” orders entered, the average days between filing and order entry in PMC was among the lowest in the State. The volume of “other” hearings and “other” orders in PMC is well below the statewide average.

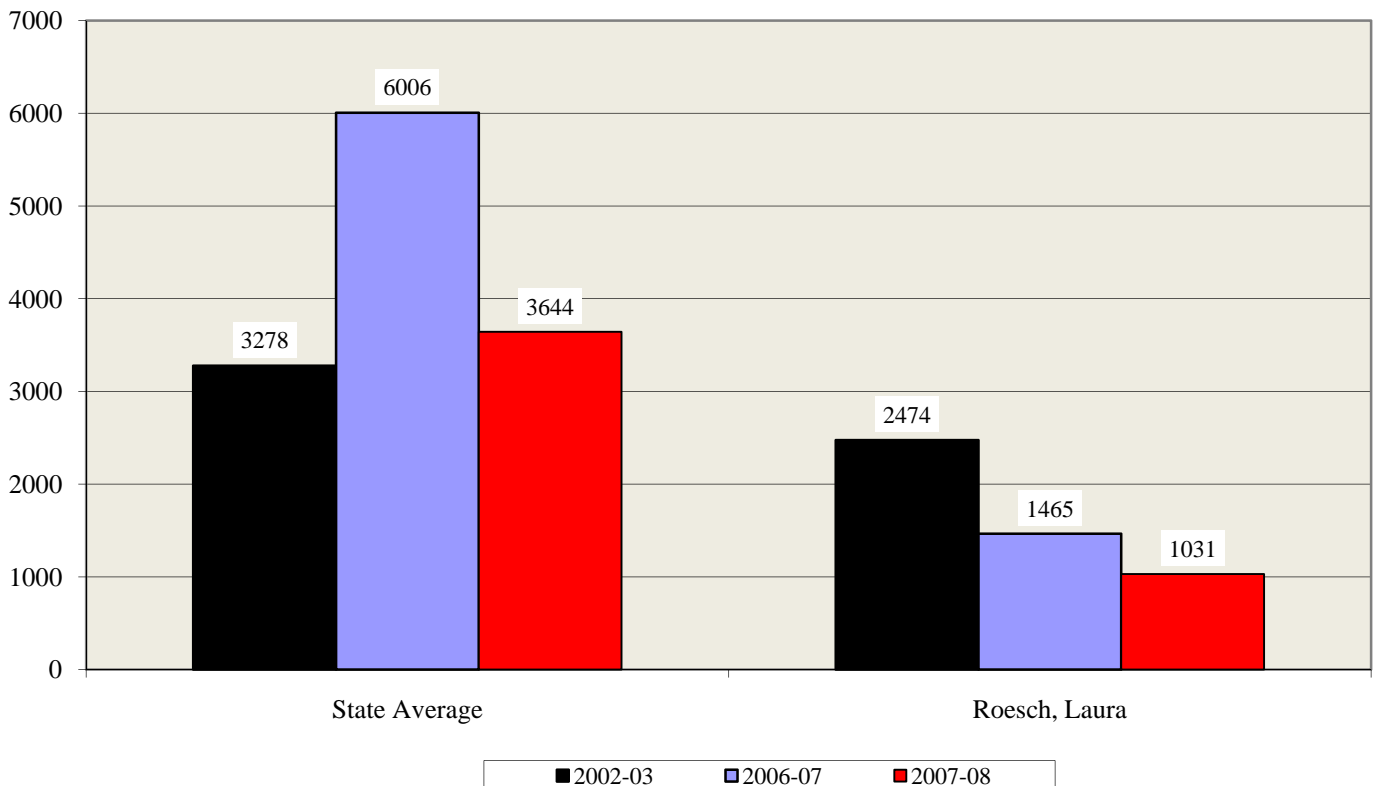
The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



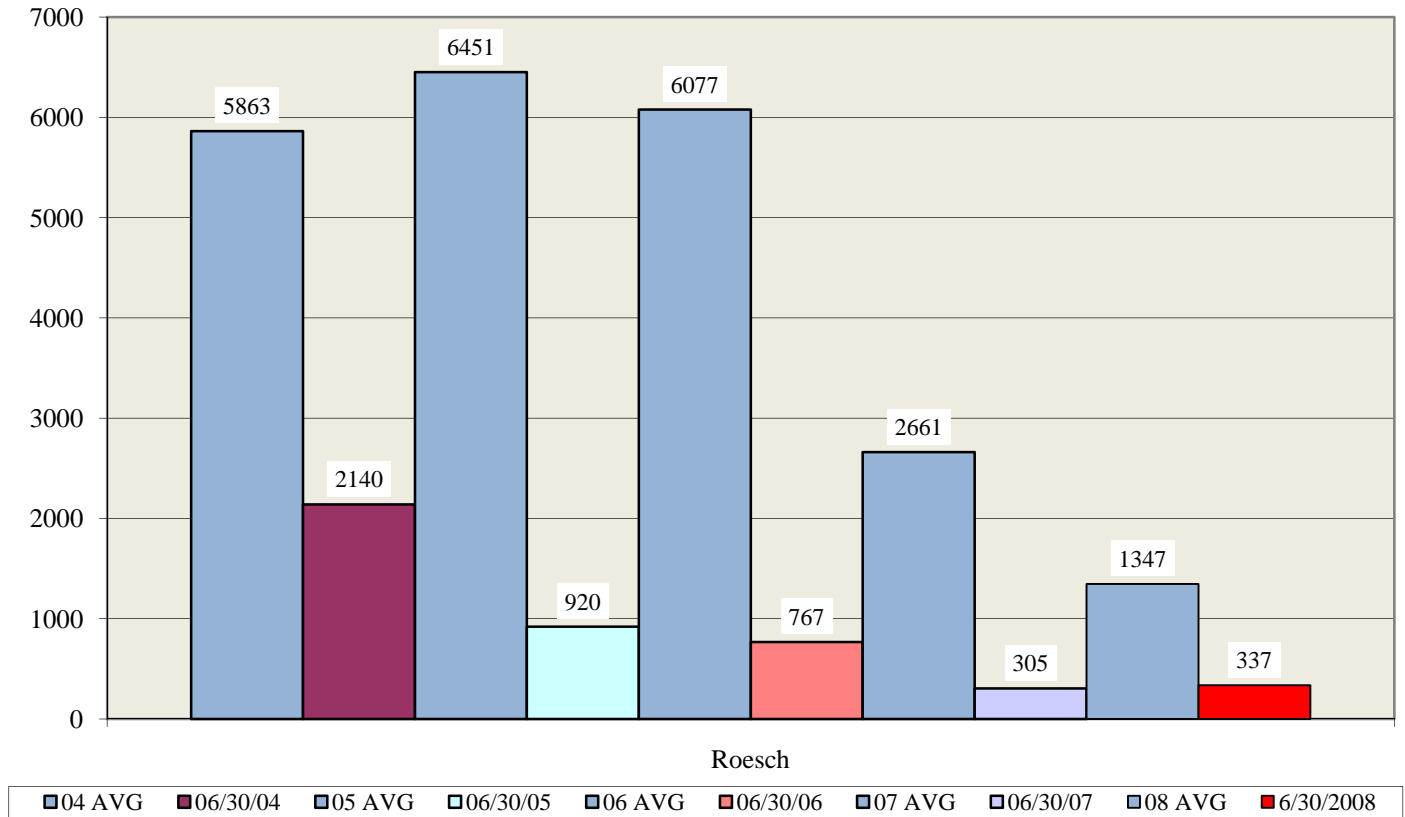
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



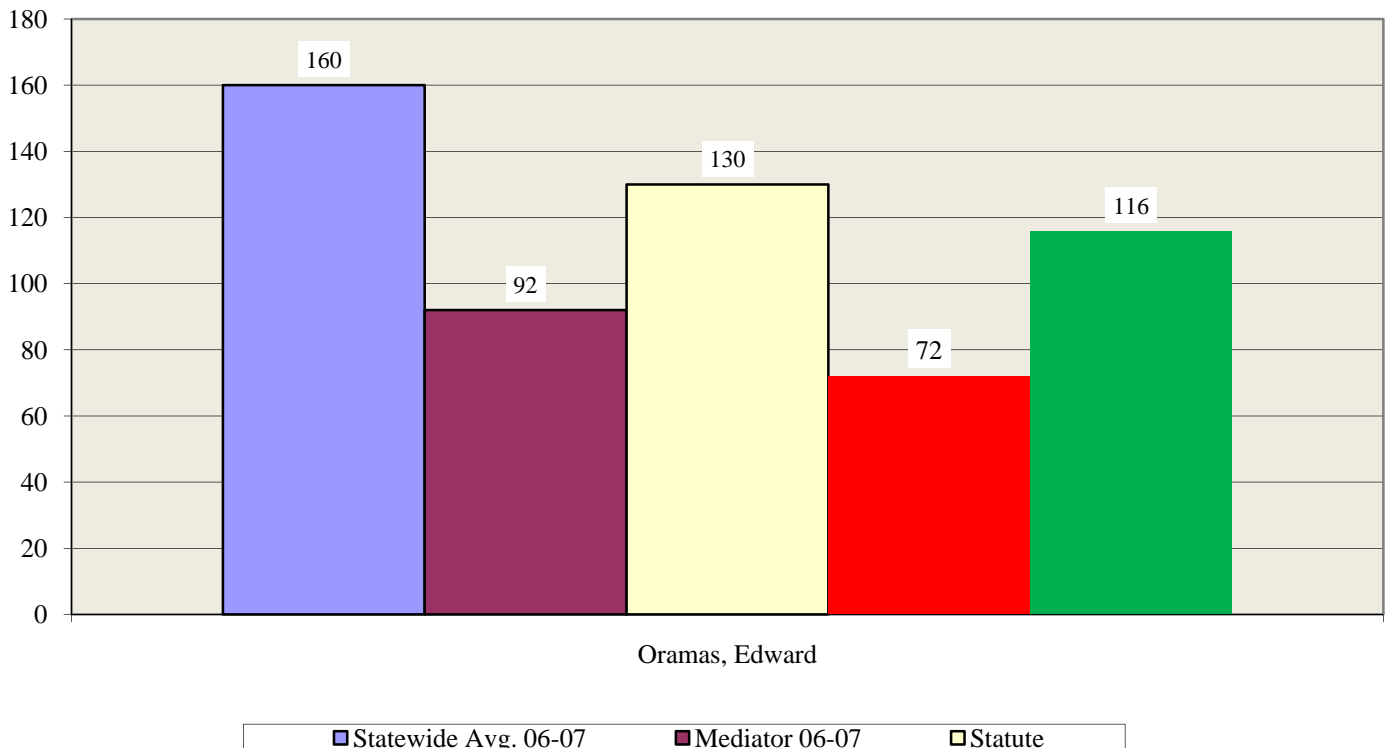
The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



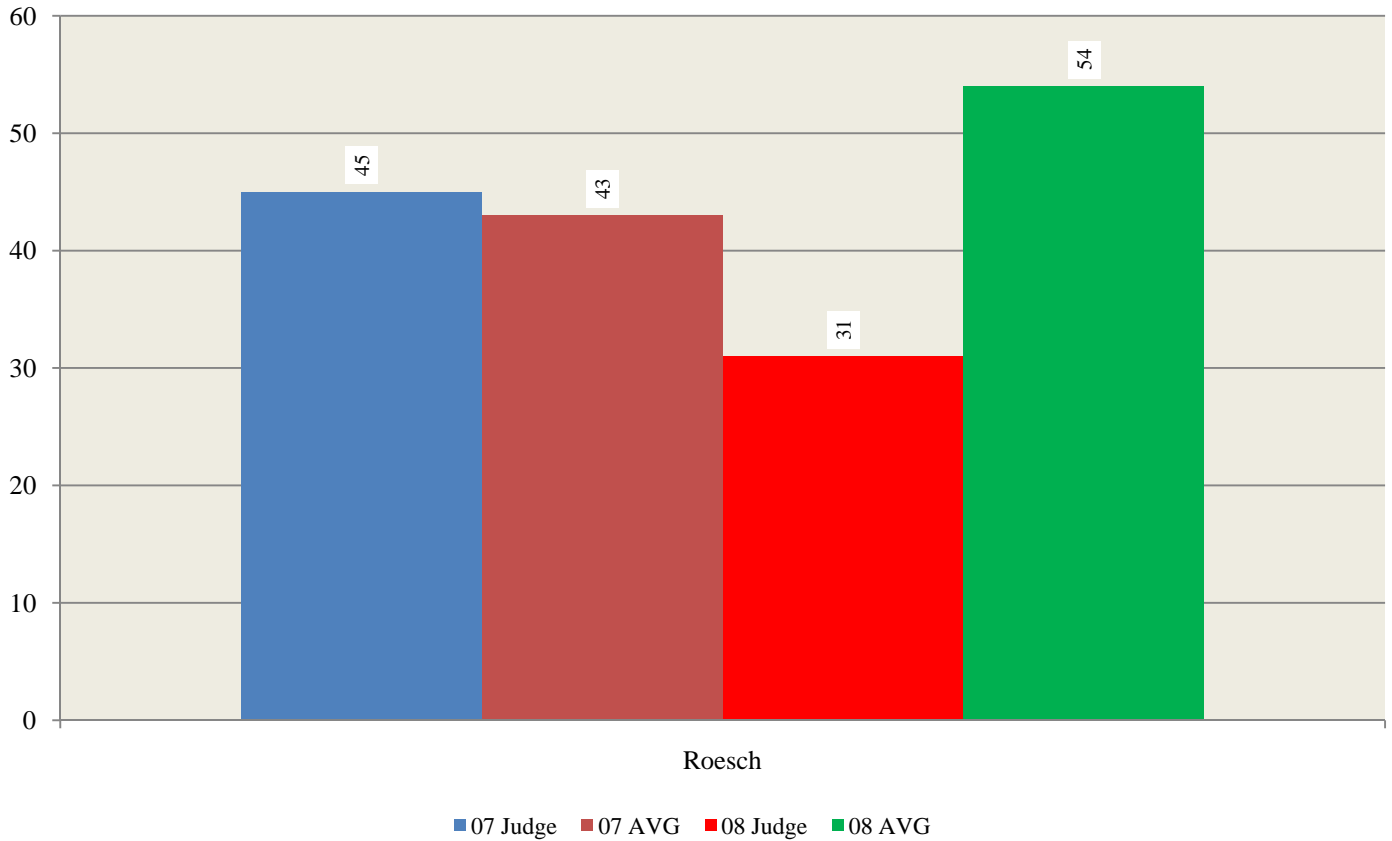
The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



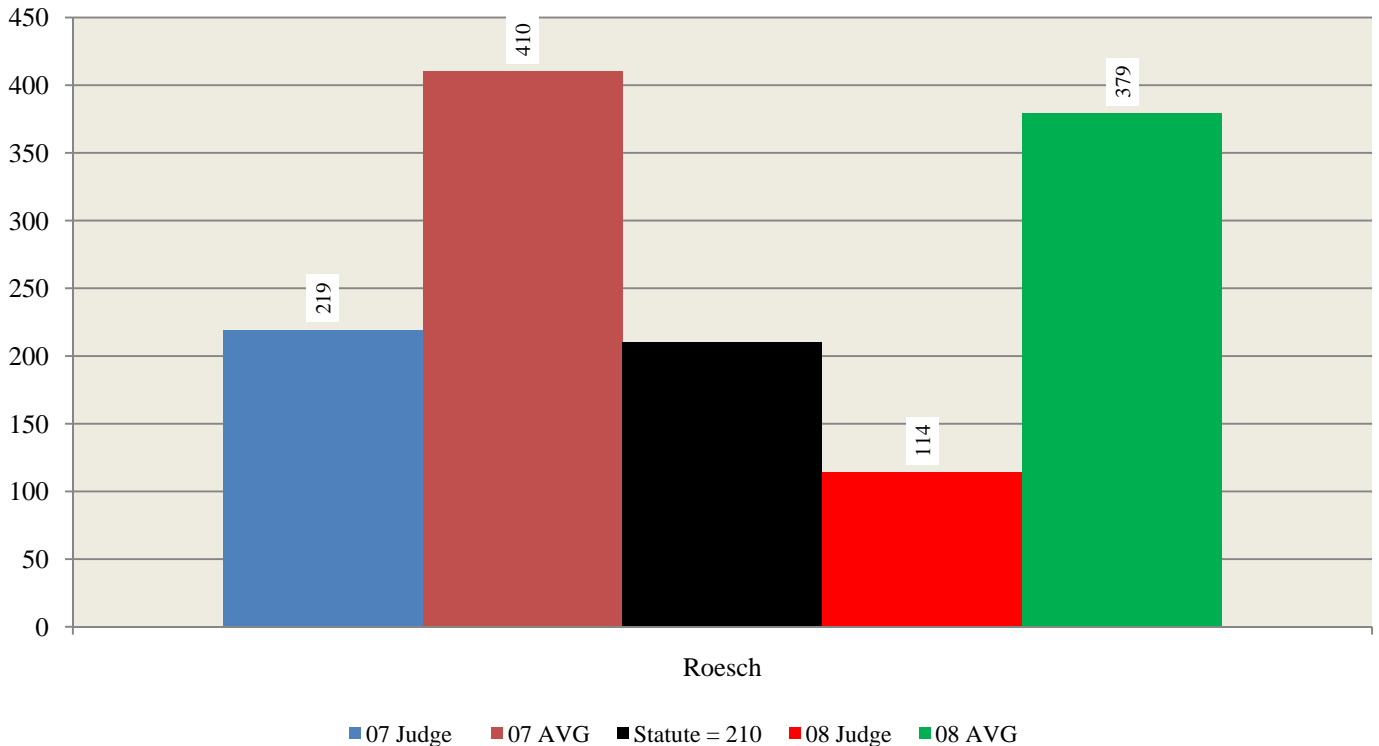
The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).



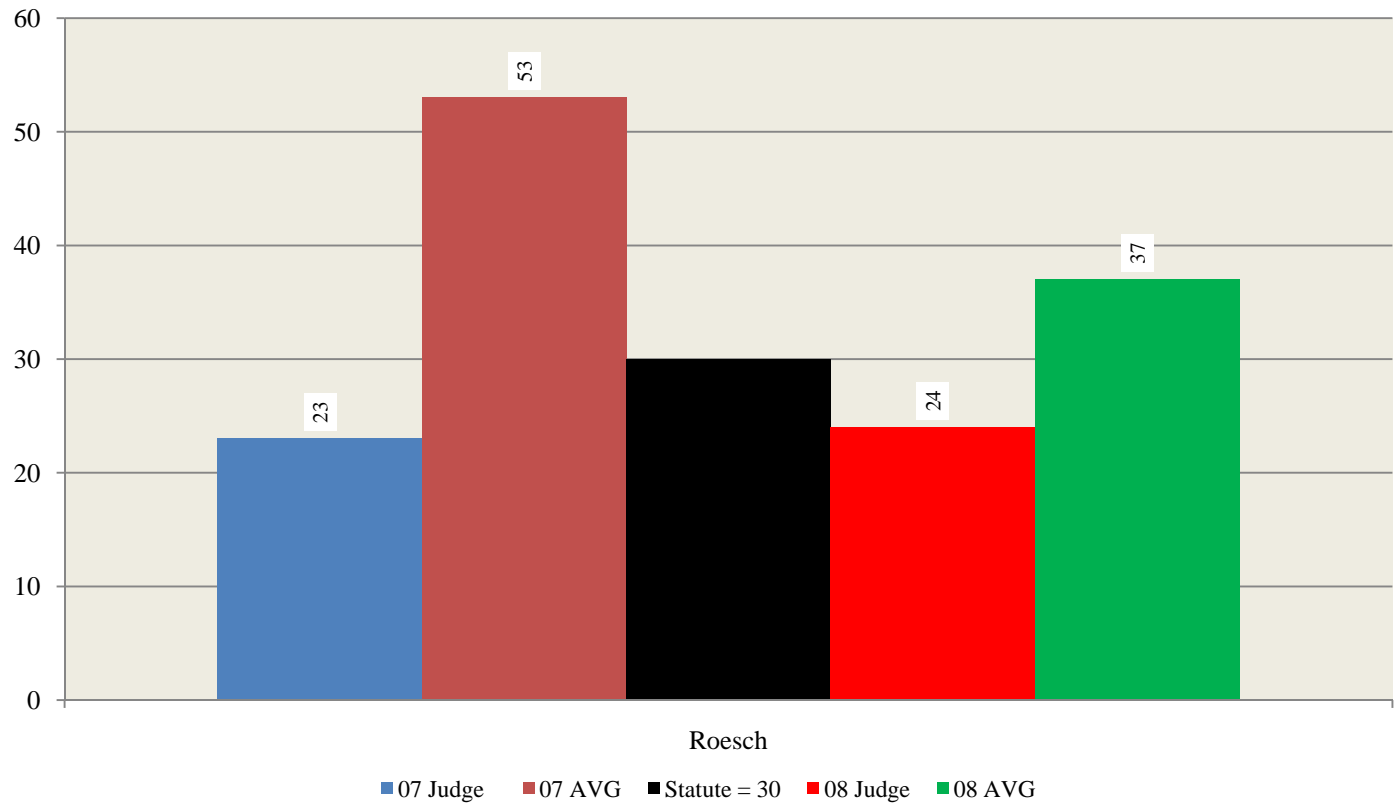
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2007-08 (rust) and 2007-08 (green).



This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2007-08 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



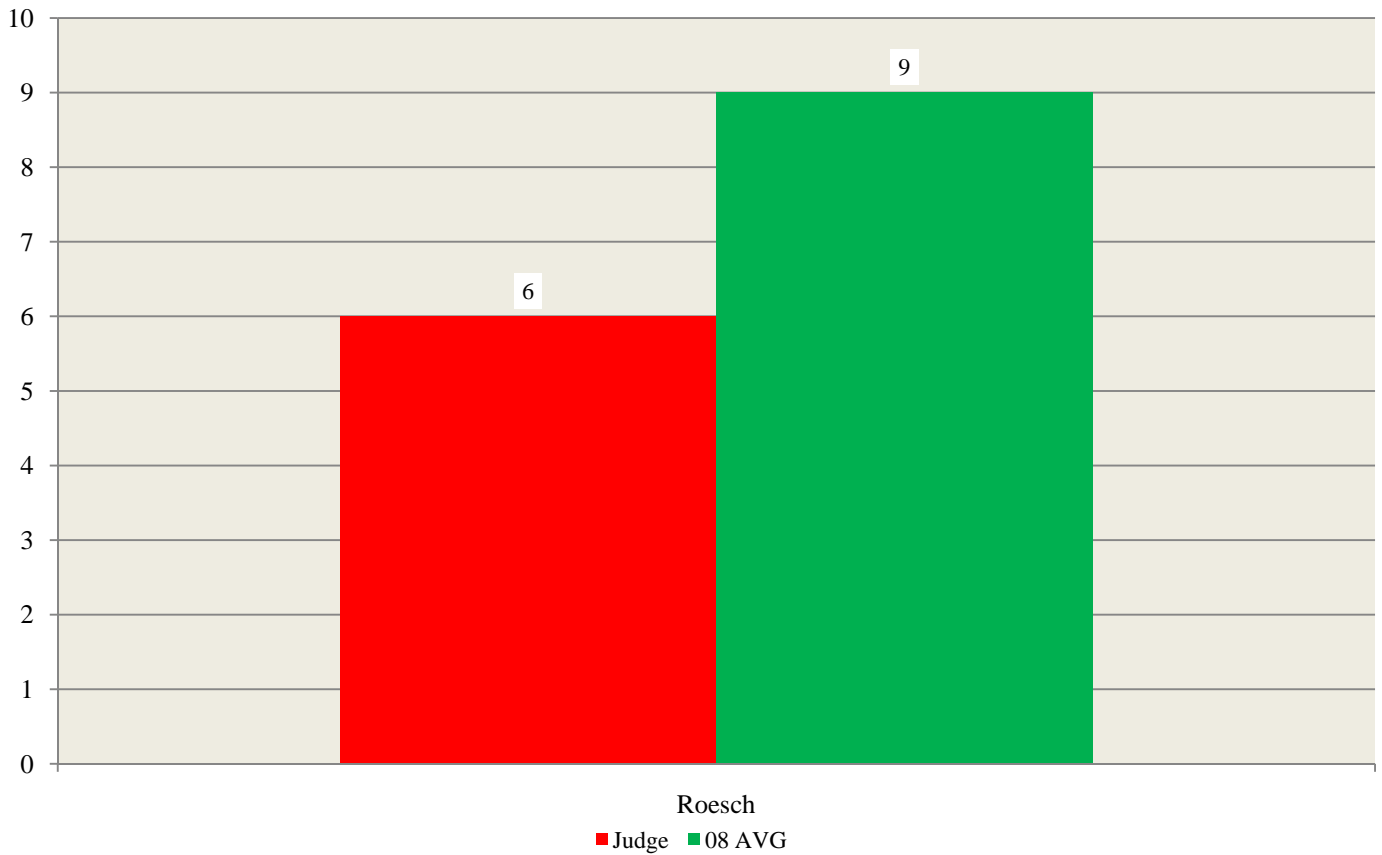
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2007-08 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



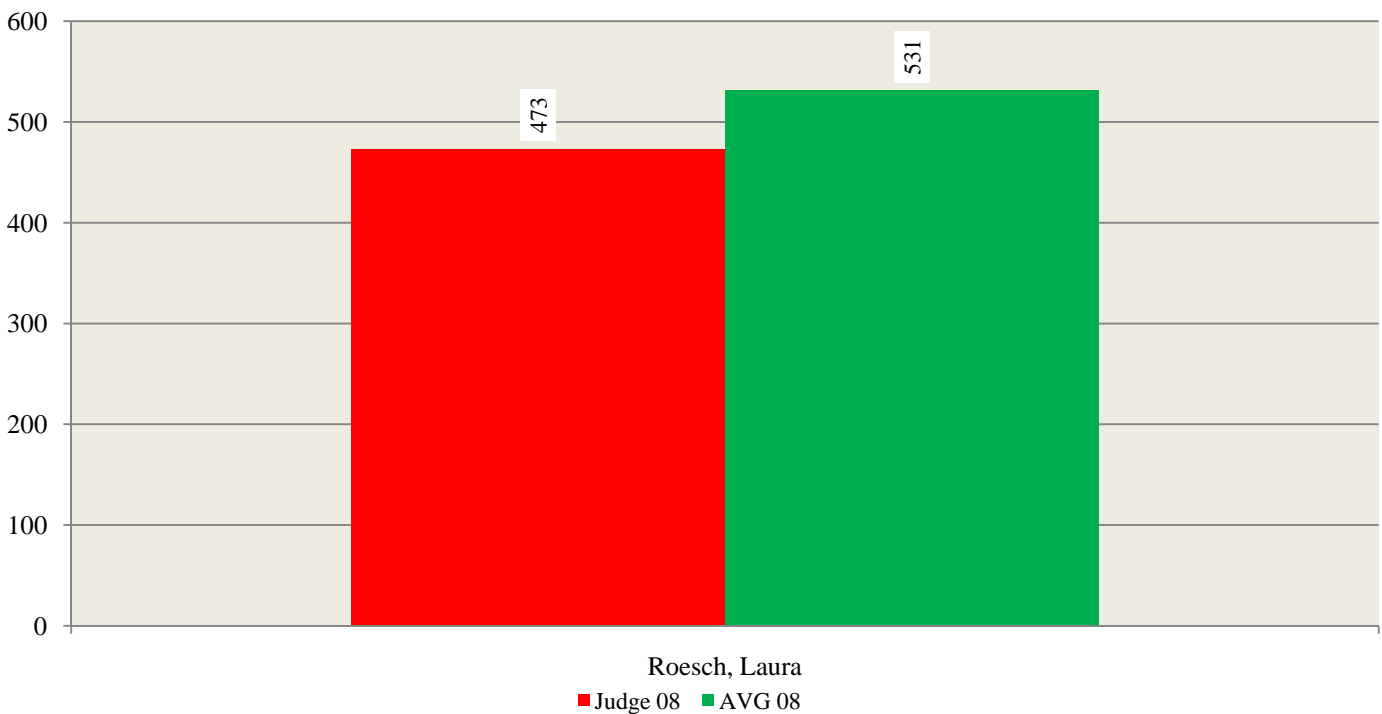
The following graph depicts the volume of settlement orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).



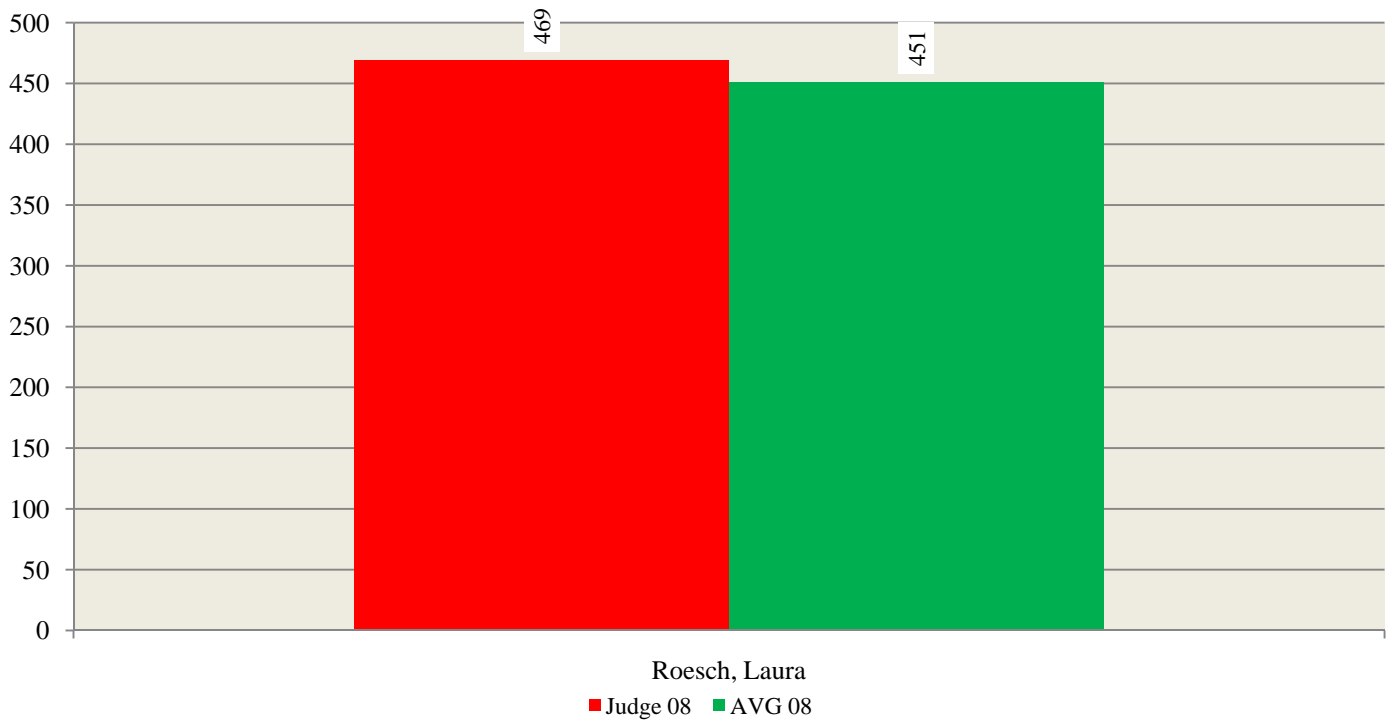
The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).



## Appendix “13” District PNS (JCC Winn):

District PNS includes Escambia, Santa Rosa and Okaloosa counties.

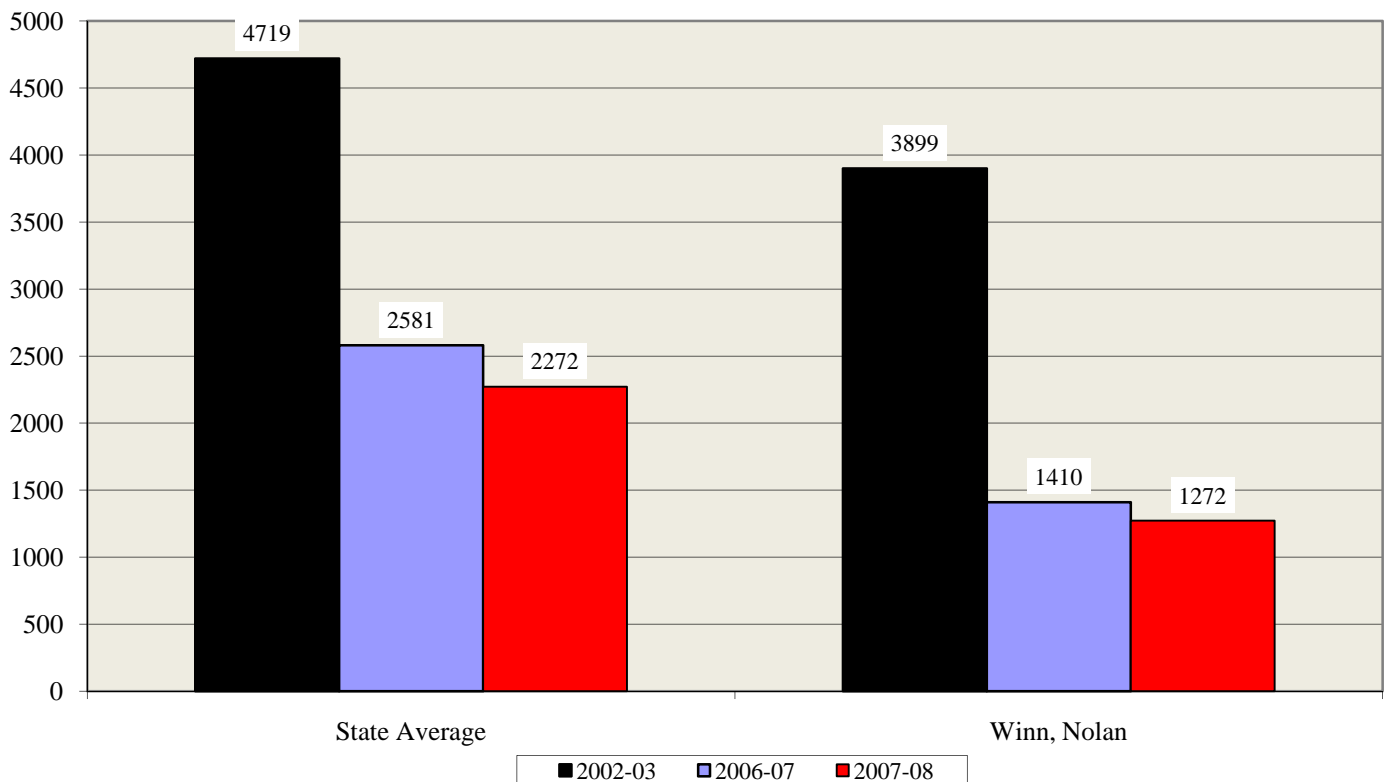
Petition volumes in District PNS are significantly lower than the statewide average. The PNS volume of “new cases” is also below the statewide average. District PNS closed a significant volume of PFBs in 2007-08, resulting in a year-end pending PFB inventory that is very manageable, and well below the statewide average.

Mediator Hardy averaged 73 days between PFB filing and the first mediation. This is within the statutory period, and is well below the statewide average. Despite the lower filing volumes, trial volume in District PNS (57) were above average (54) in 2007-08. The average days from PFB filing to trial (182) was well below the statewide average (379) and was within the 210 day statutory period. Trial orders were entered in an average of 19 days, which was likewise below both the statewide average (37) and the statutory period (30).

Judge Winn entered a significant volume of “settlement” orders in 2007-08. Judge Winn volunteered to consider settlement motions from South Florida divisions. Judge Winn also volunteered to accept reassignment of almost two hundred claims from various divisions involving the same employer, similar carriers and servicing and similar issues. The consolidation of these claims with one Judge assisted multiple other Judges. Judge Winn also served as a visiting Judge in South Florida in 2007-08.

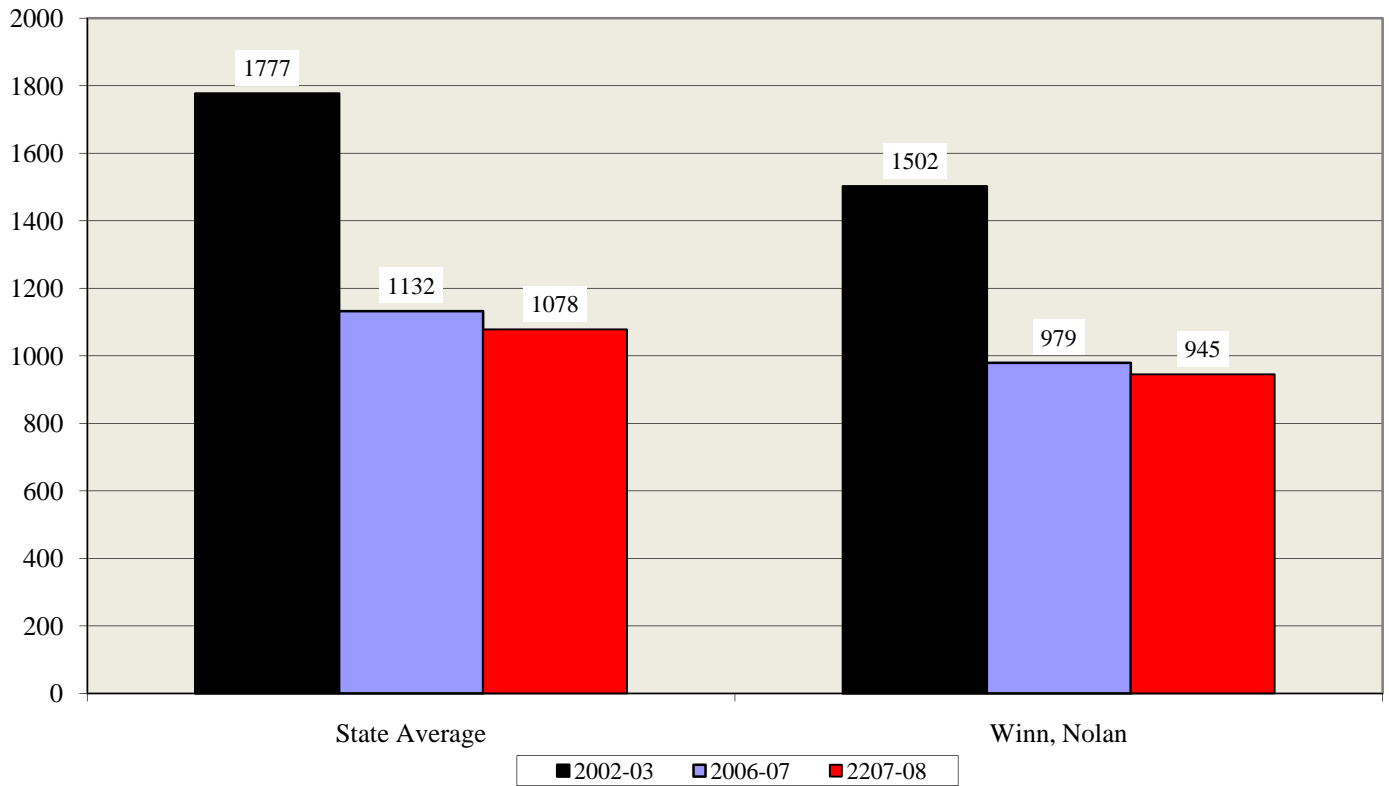
Despite the significant volume of “settlement” orders entered, the average days between filing and order entry in PNS was among the lowest in the State. The volume of “other” hearings and “other” orders in PNS is well below the statewide average.

The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.

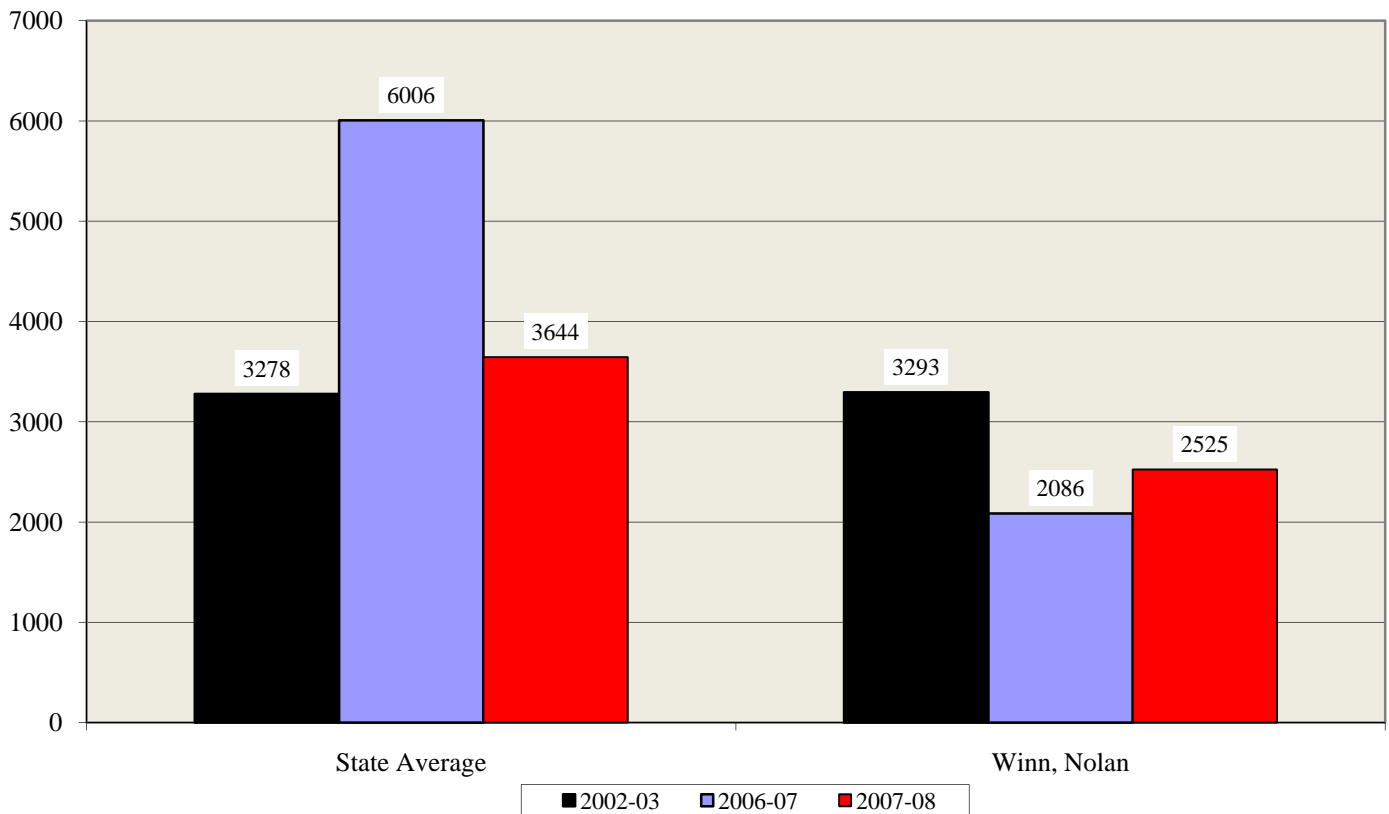




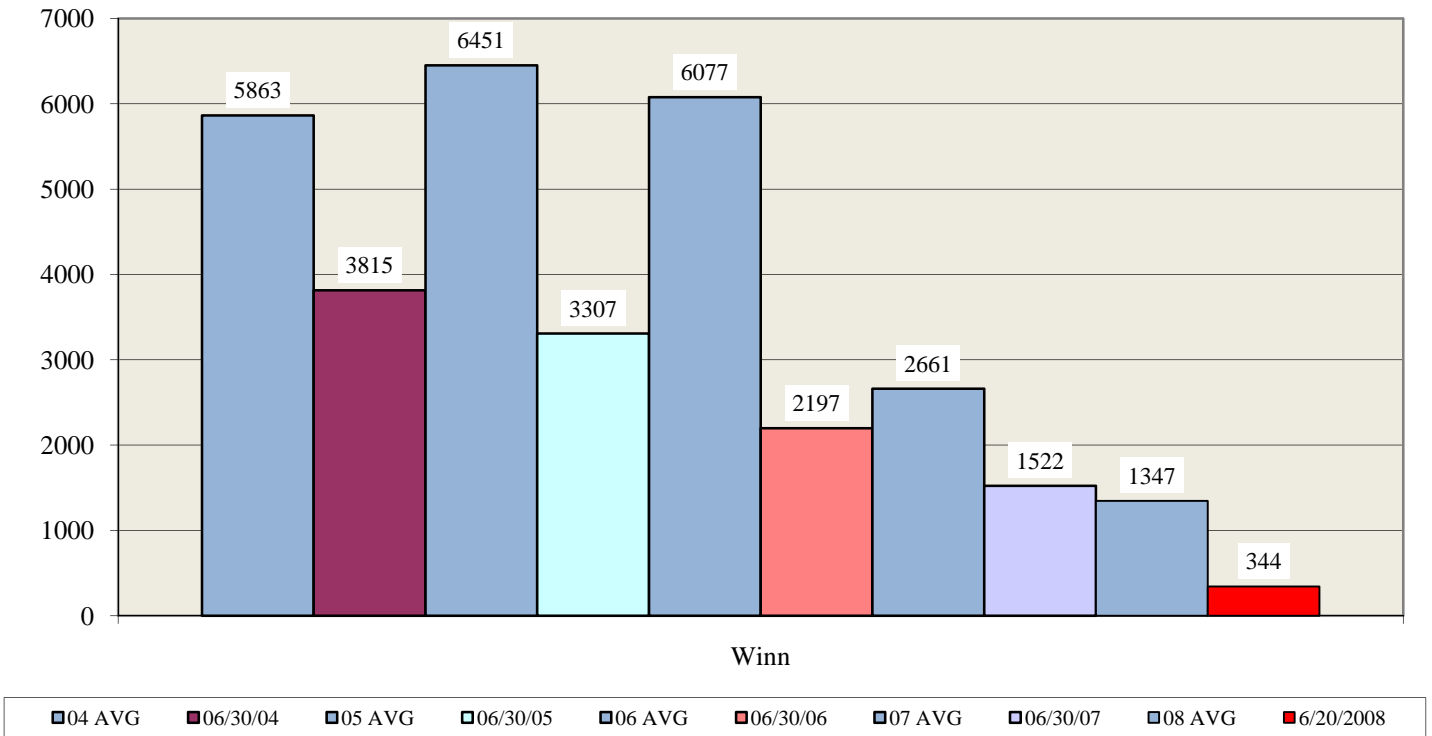
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



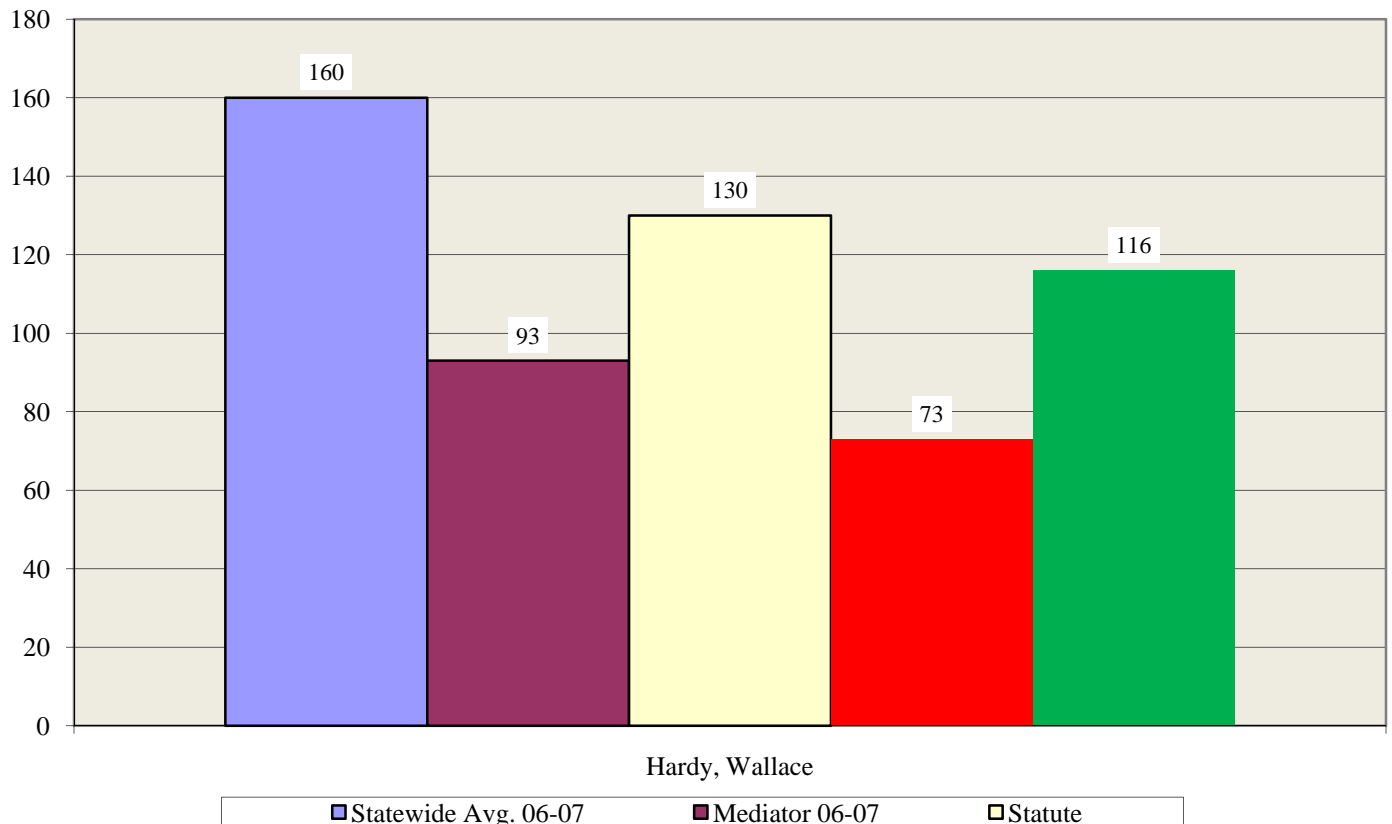
The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



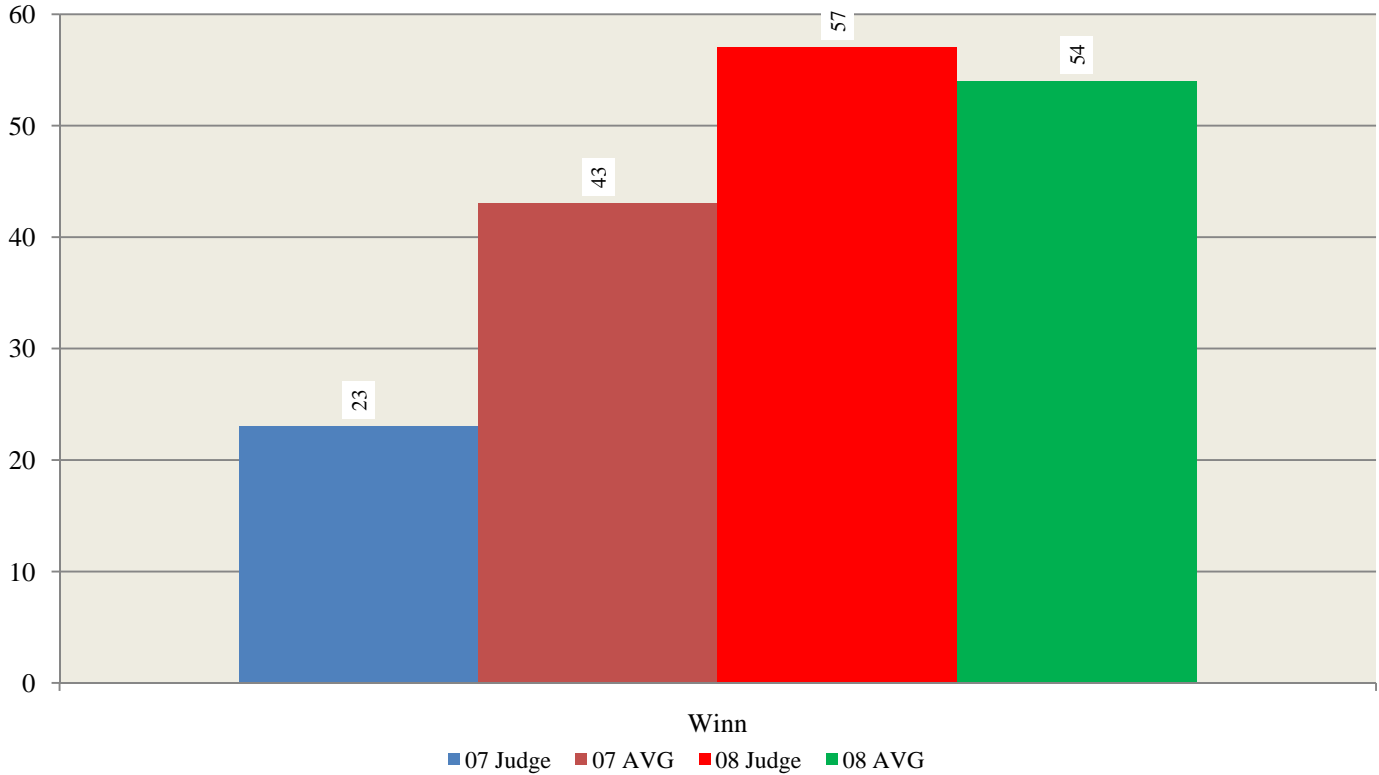
The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



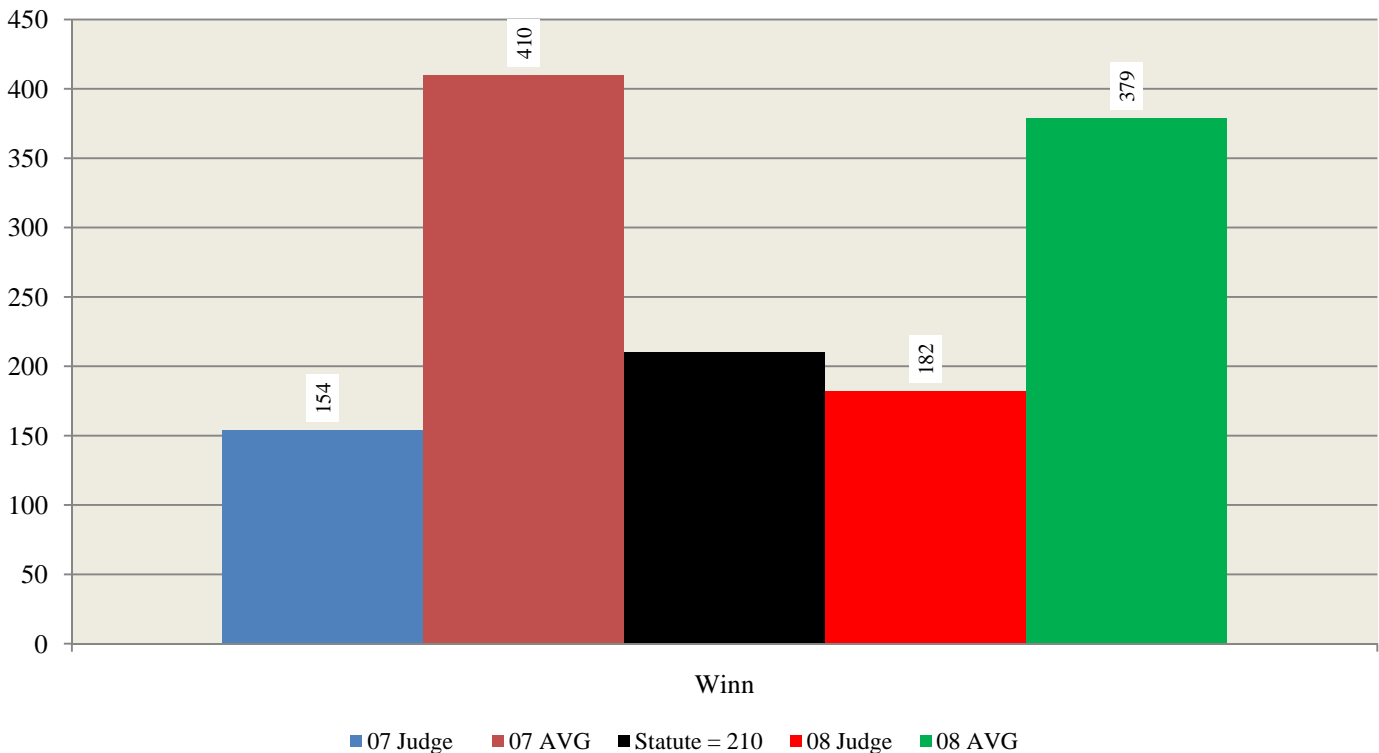
The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).



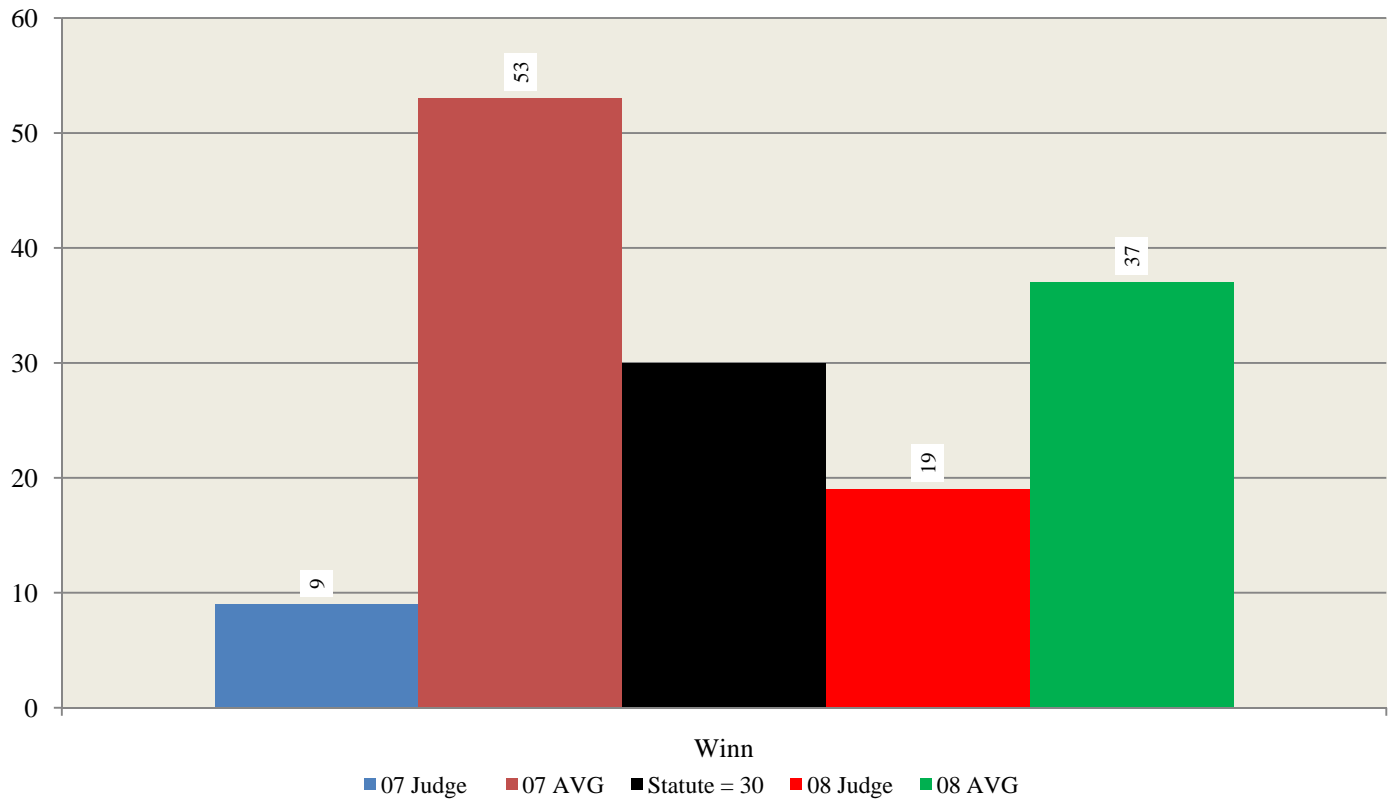
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2007-08 (rust) and 2007-08 (green).



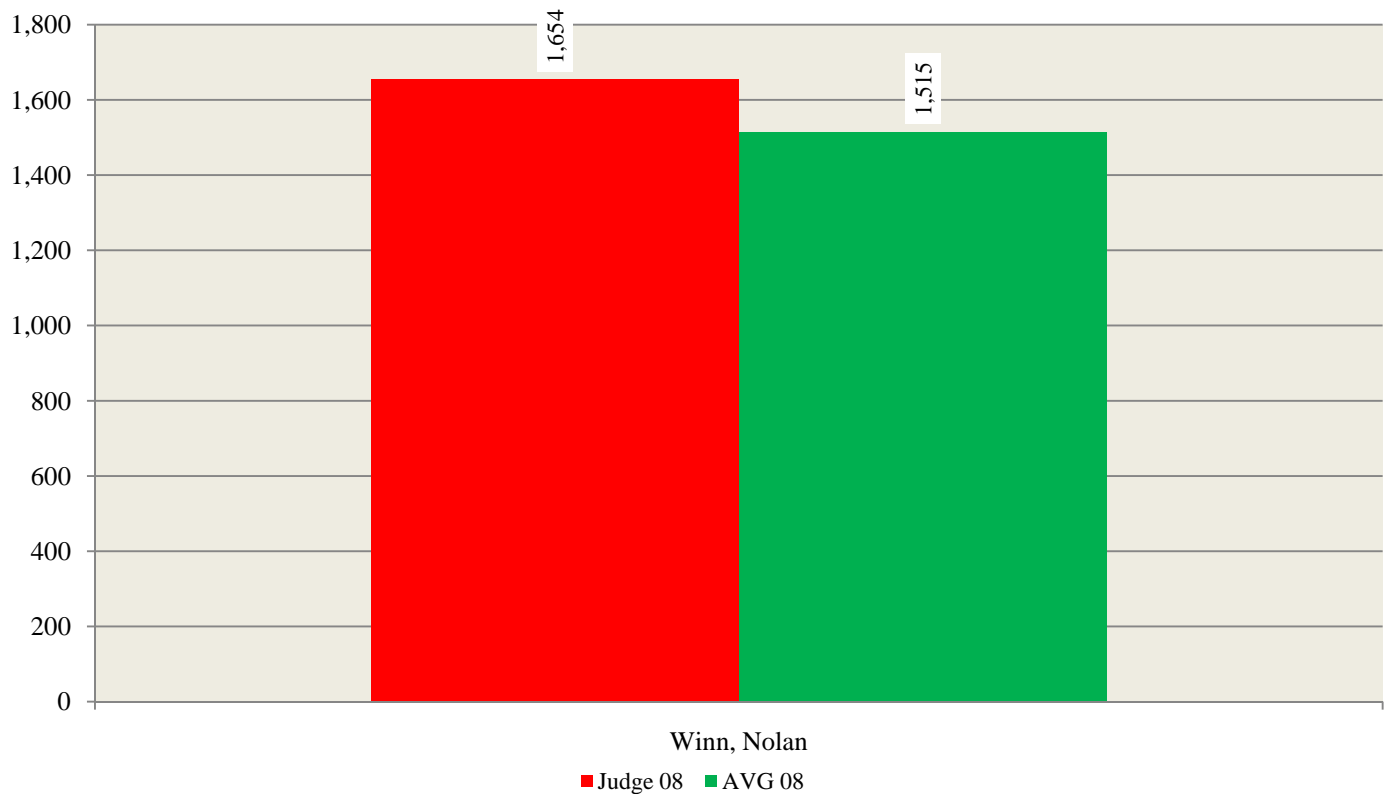
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2007-08 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



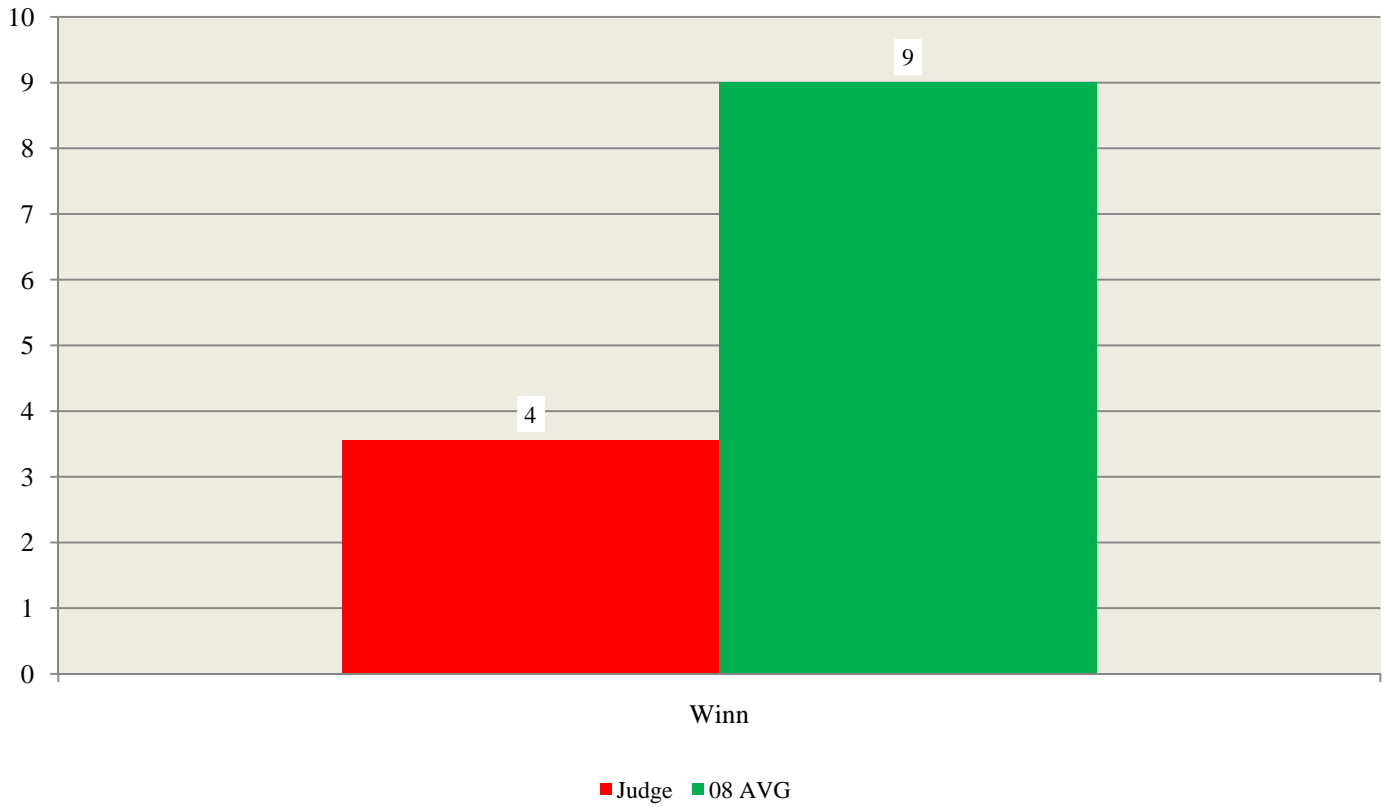
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2007-08 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



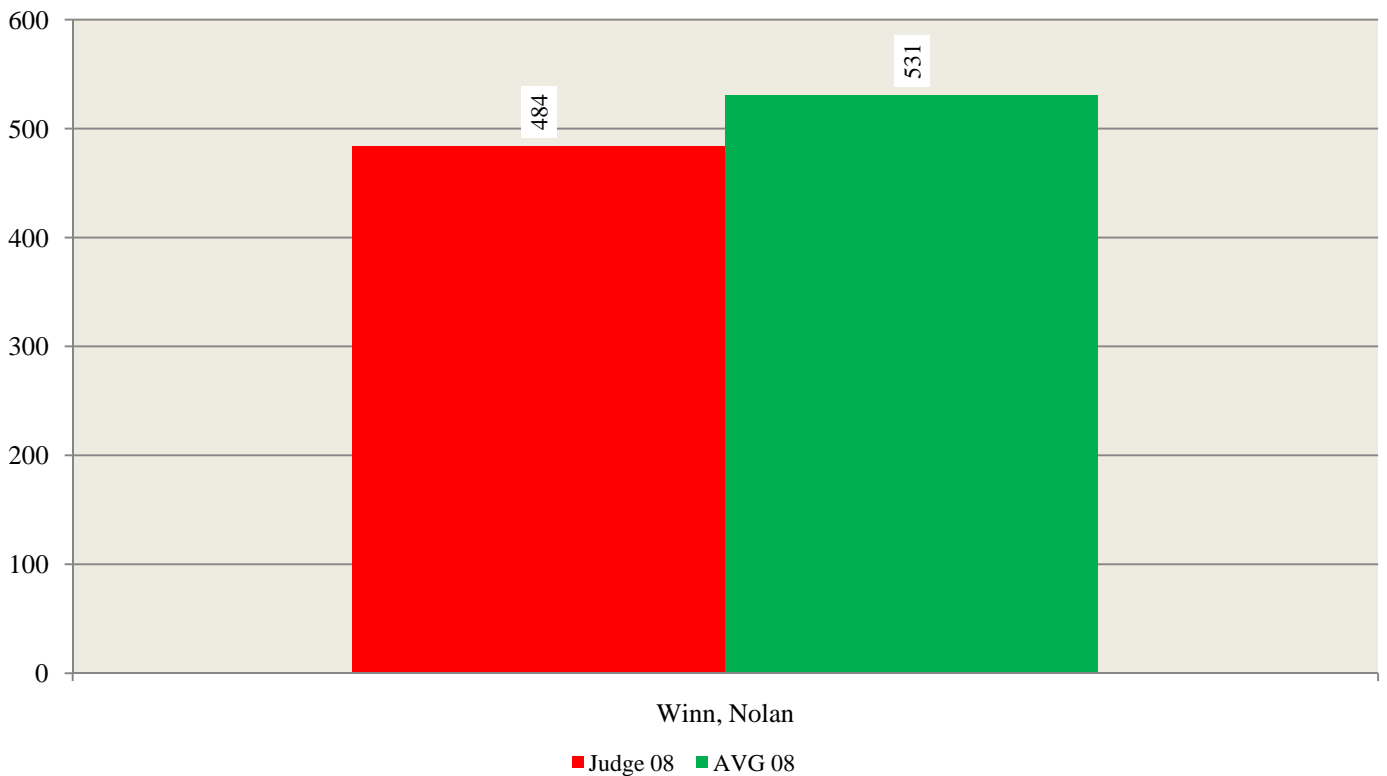
The following graph depicts the volume of settlement orders entered by each Judge in the district (red) and the statewide average (green).



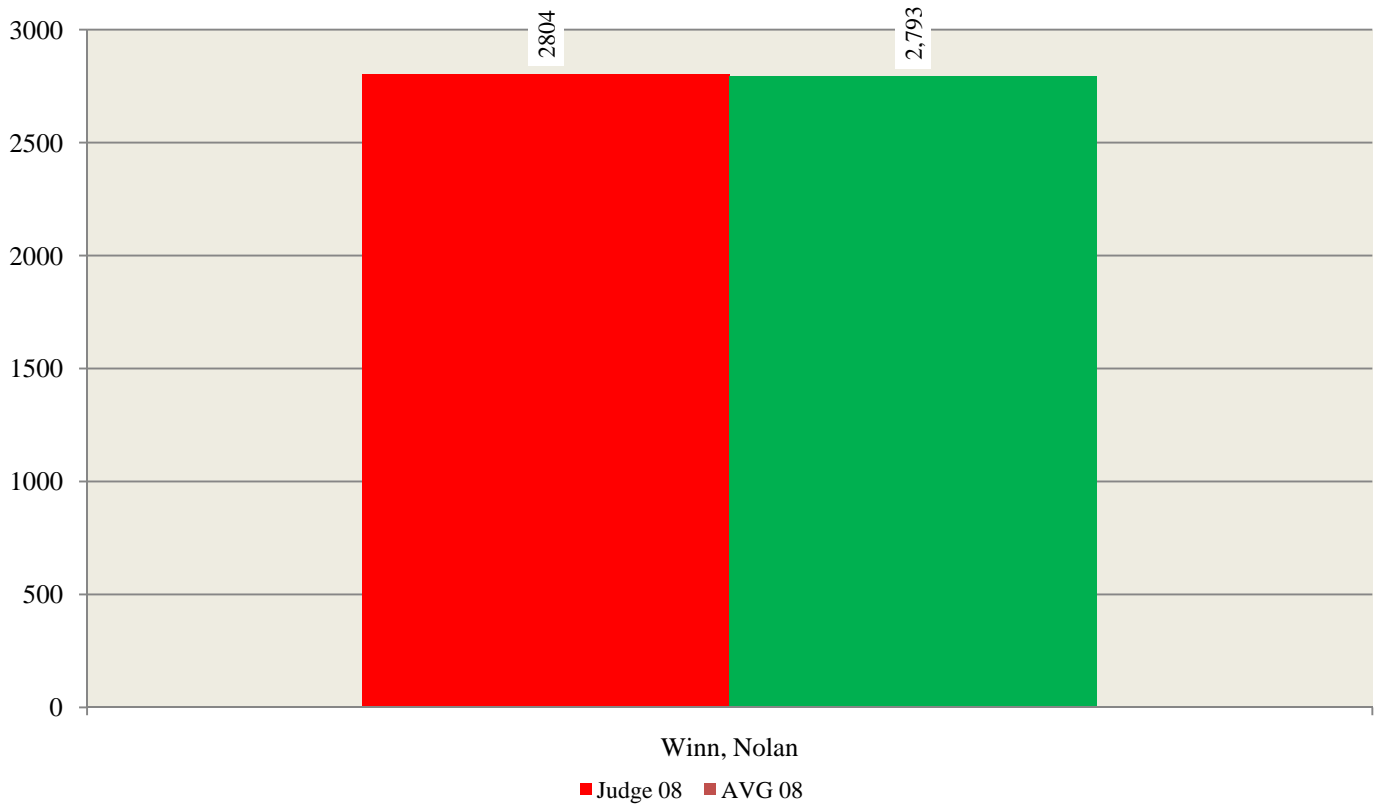
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).



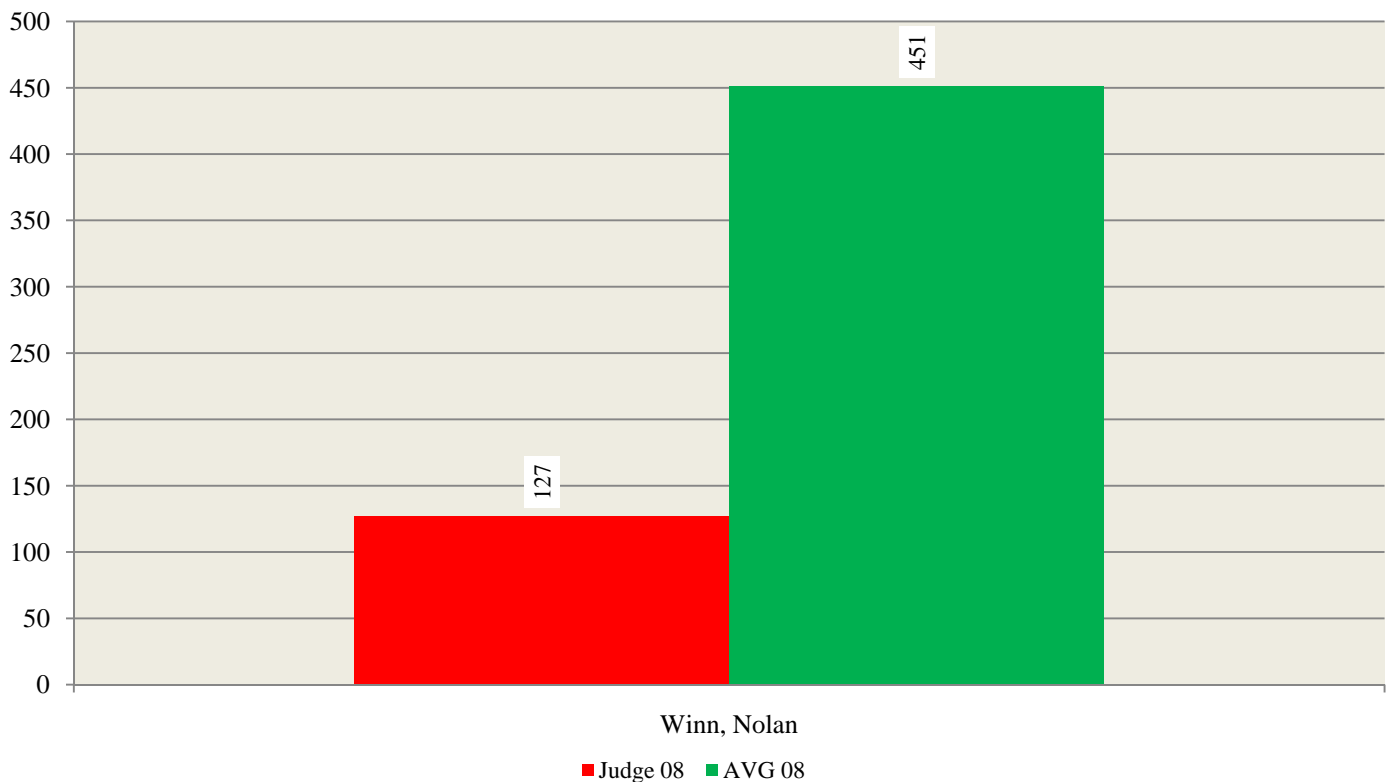
The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).



## Appendix “14” District PSL (JCC McAliley):

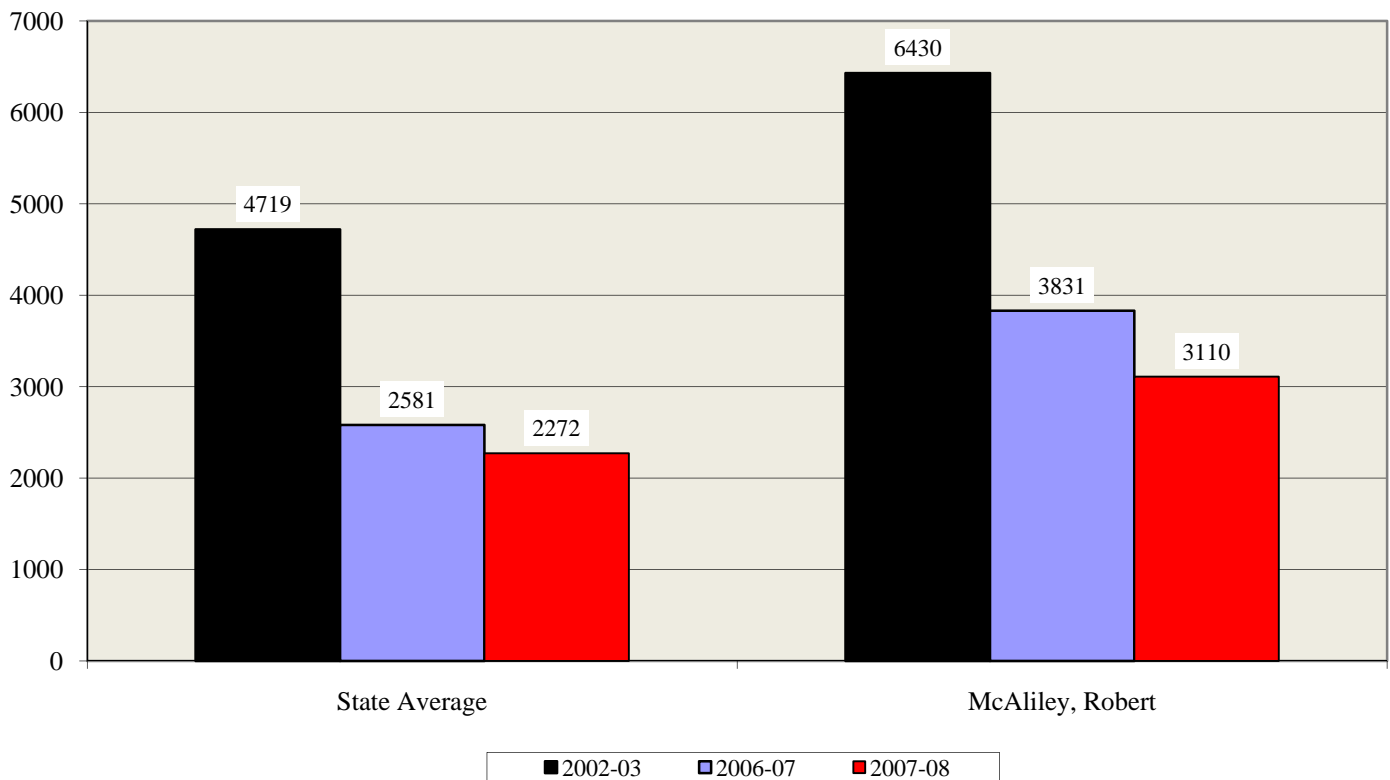
District PSL includes Martin and St. Lucie county. For most of 2007-08 District PSL also included Indian River and Okechobee counties. In the Spring of 2008 those two counties were transferred to District MEL in an effort to alleviate the significantly higher filing volumes in District PSL.

PFB and “new case” filing volumes in District PSL are both significantly higher than the statewide average. In 2006-07, the PFB closure volume in District PSL was close to the significant statewide average. The ongoing effort in District PSL is apparent the above average PFB closure volume in 2007-08. As a result of those efforts, despite the above average filing rates, District PSL had a year-end pending PFB inventory that was both manageable and below the statewide average.

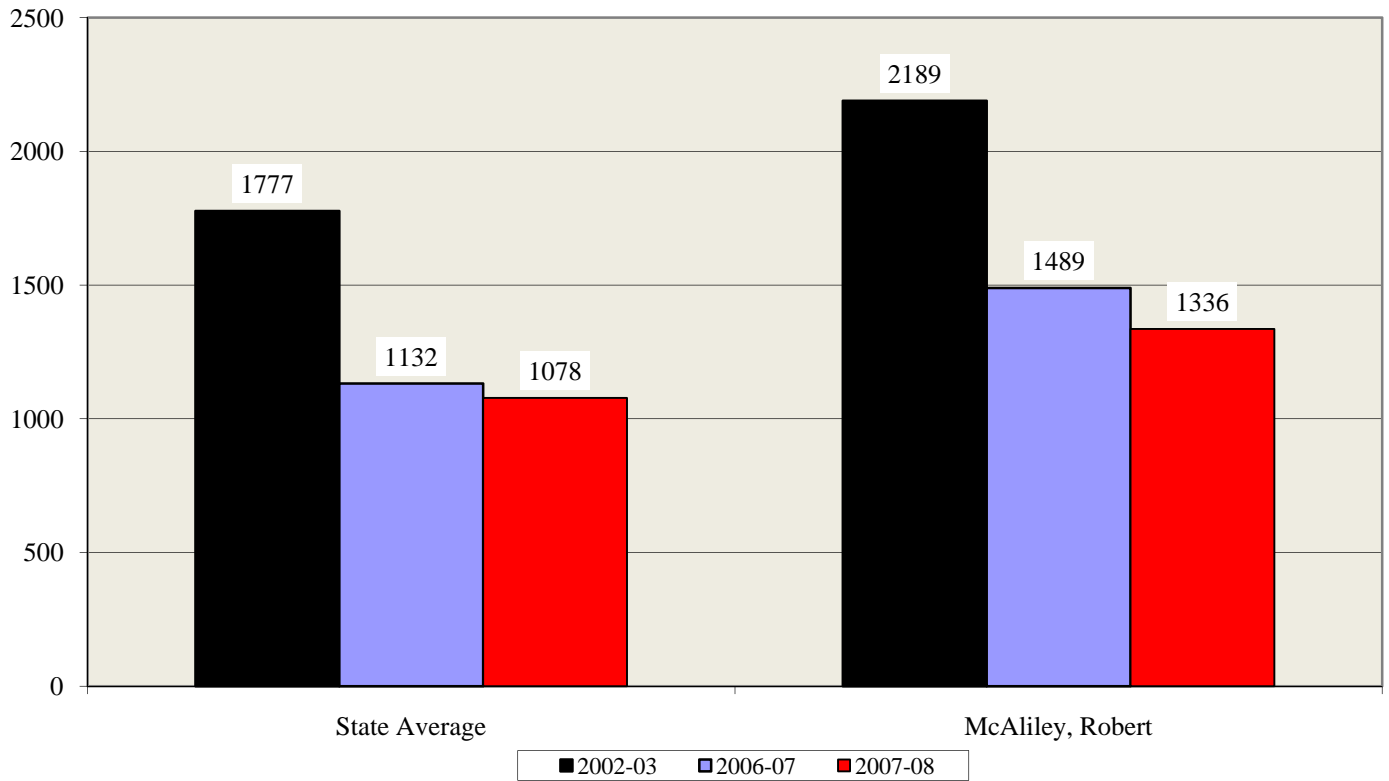
Mediator Harwood averaged 101 days from PFB filing to first mediation in 2007-08. This represented a decrease from 2006-07, is less than the statewide average, and is within the statutory period. The trial volume in District PSL is significantly higher than the statewide average, while the average number of days between PFB filing and trial (364) is slightly below the statewide average (379). The average days for entry of the trial order in 2007-08 was 61 days.

Despite a “settlement” order volume (2,038) that is significantly higher than the statewide average (1,515), the average days between filing and order entry is below average. Each of the other statistics supports that District PSL is among the busiest in the state.

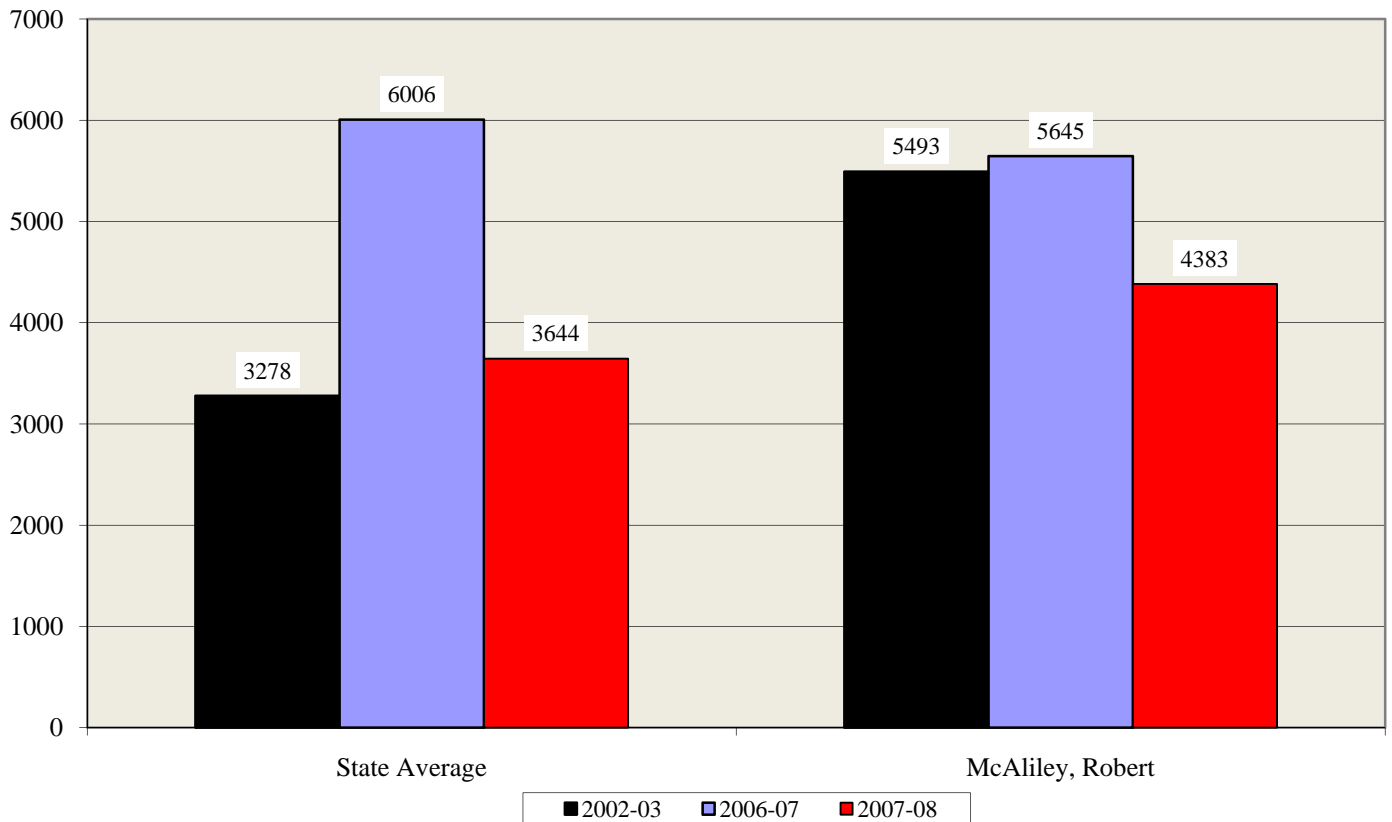
The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.

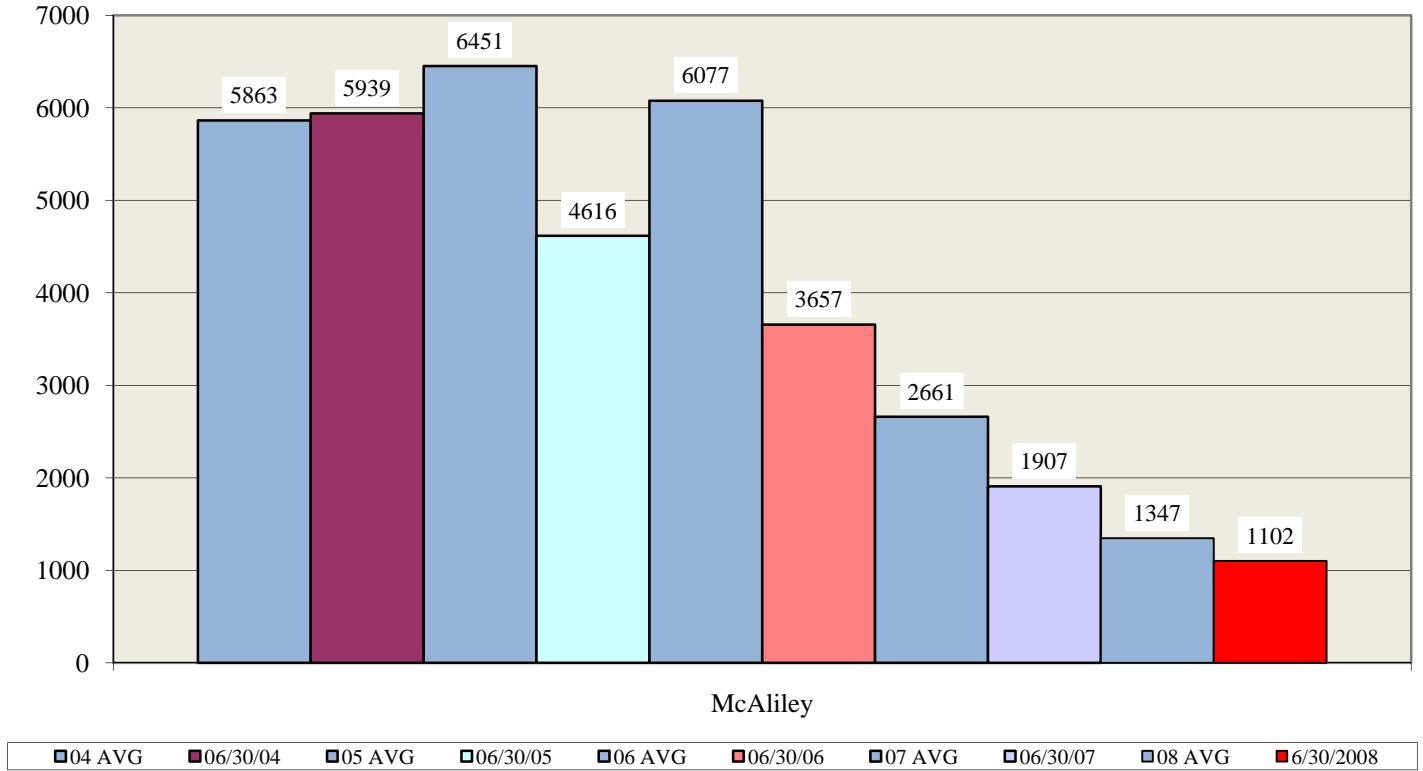


The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.

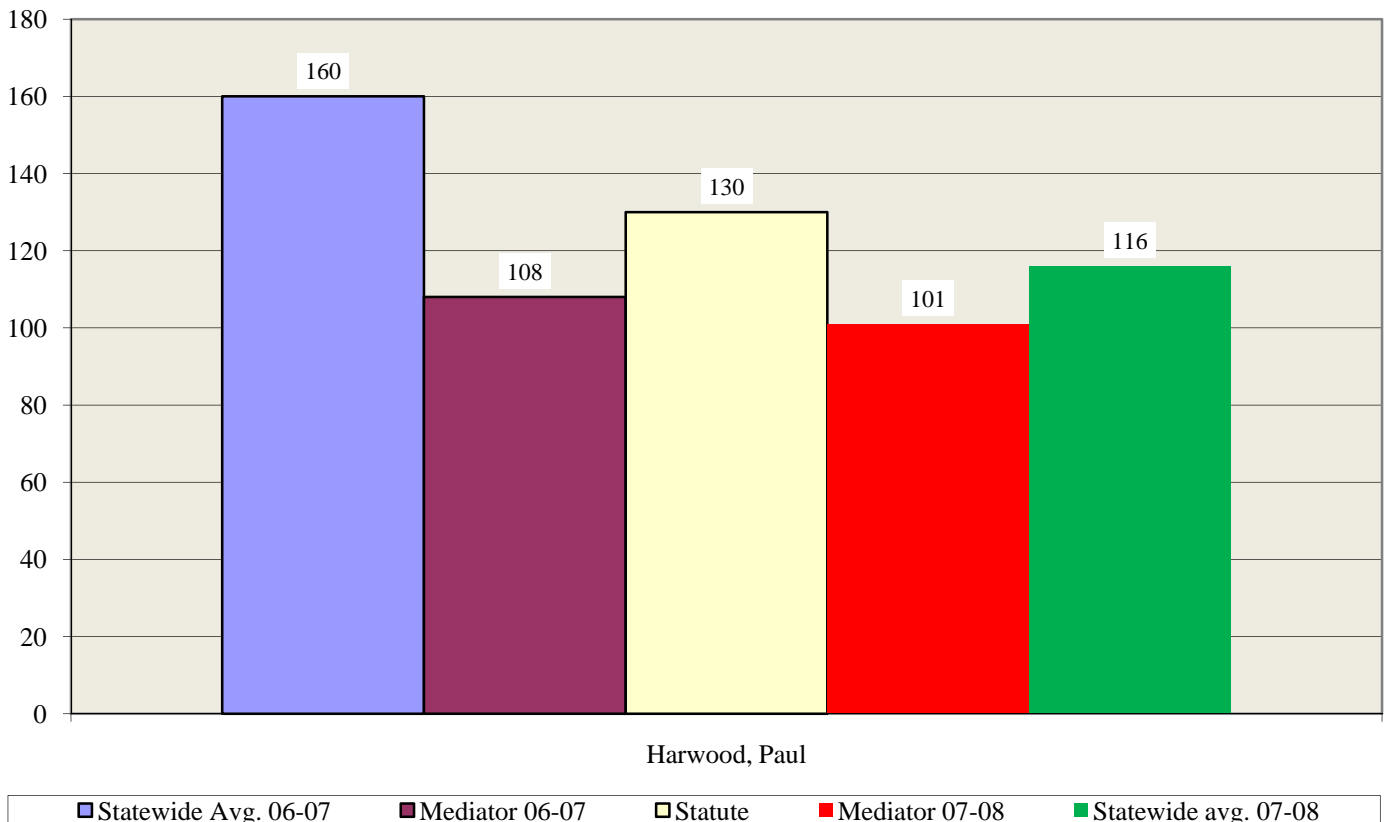




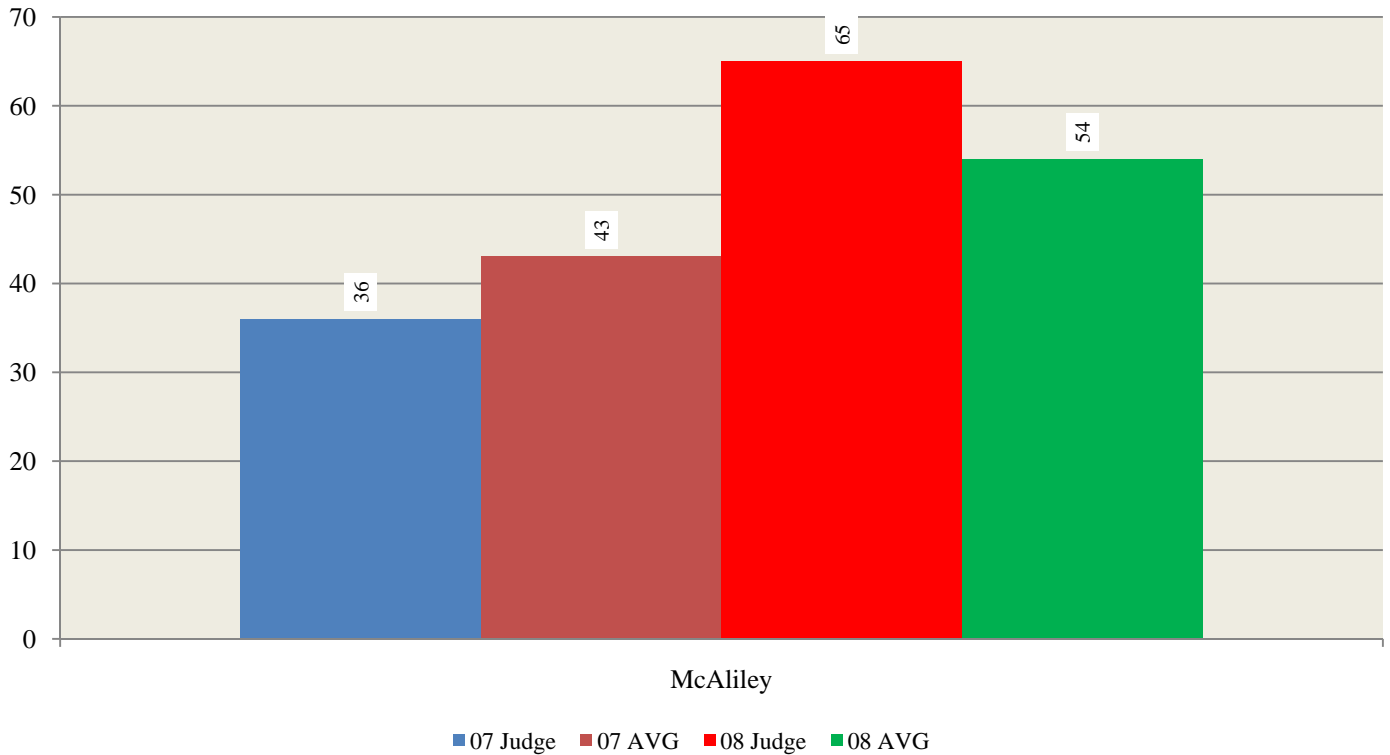
The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



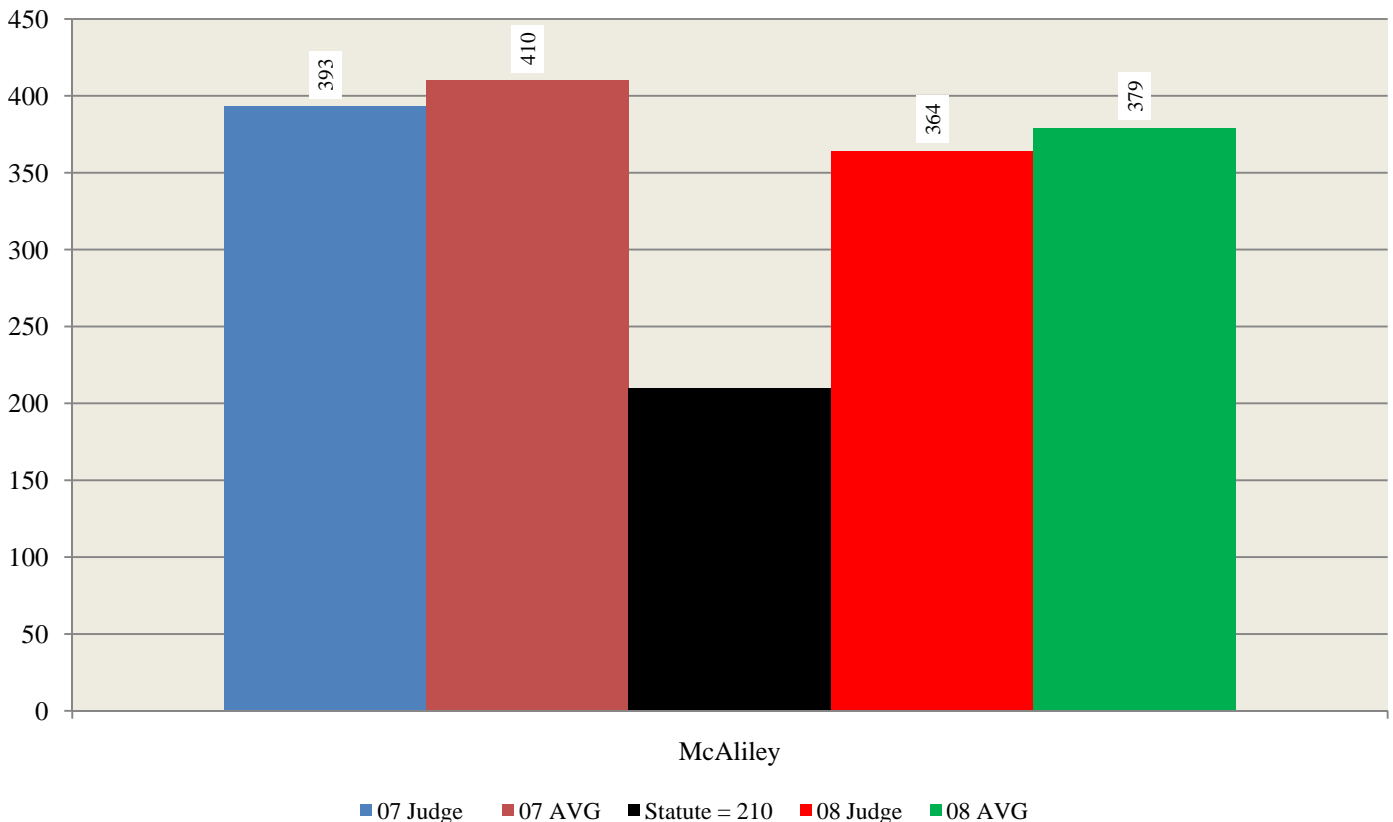
The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).



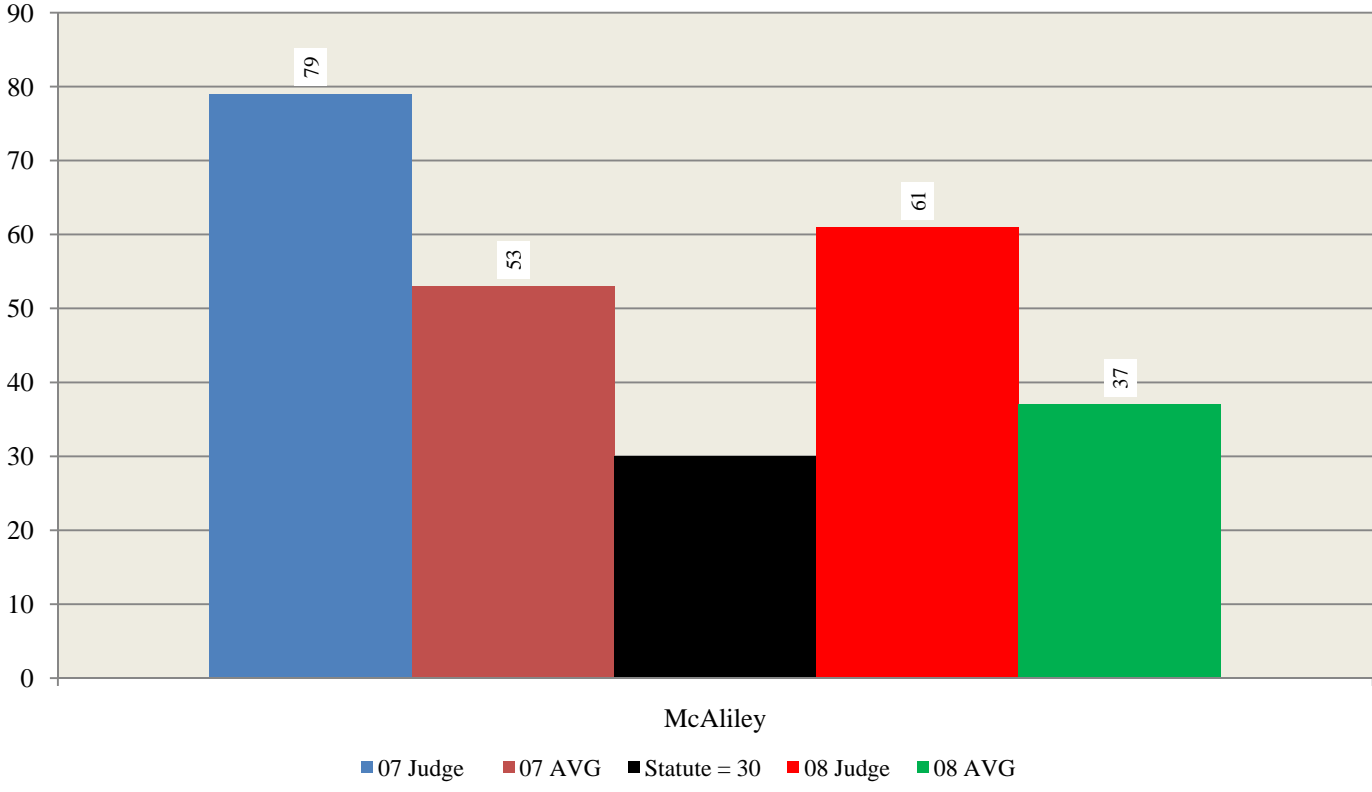
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2007-08 (rust) and 2007-08 (green).



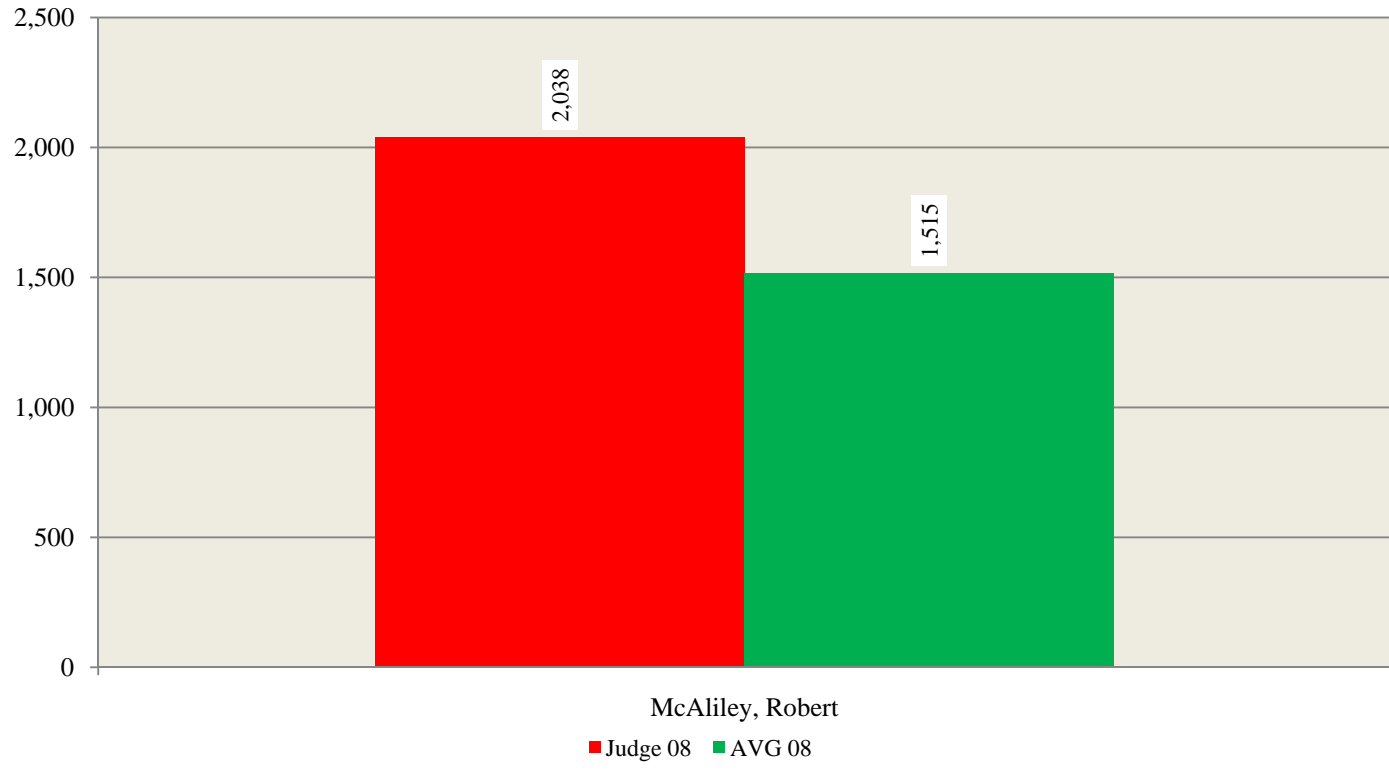
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2007-08 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



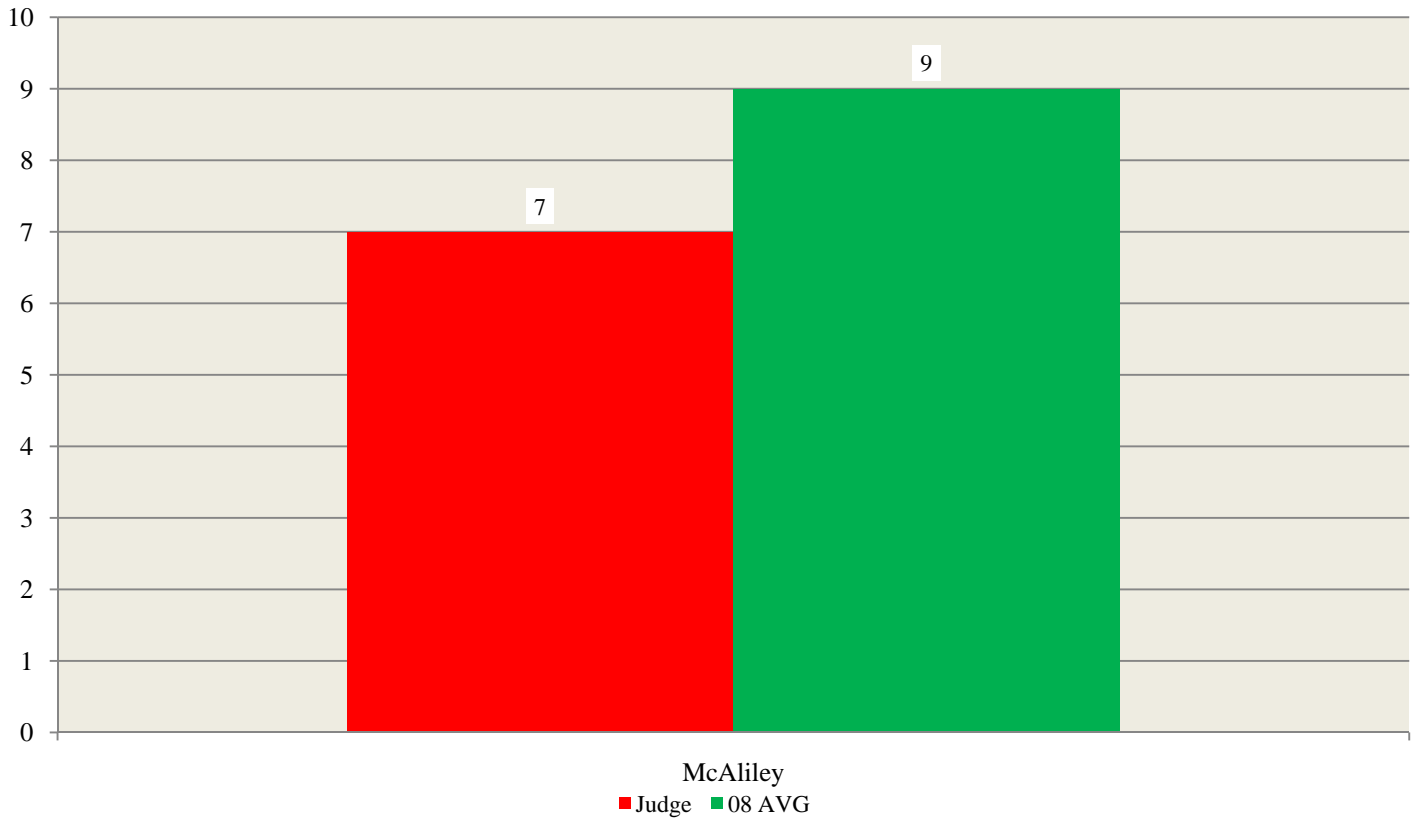
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2007-08 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



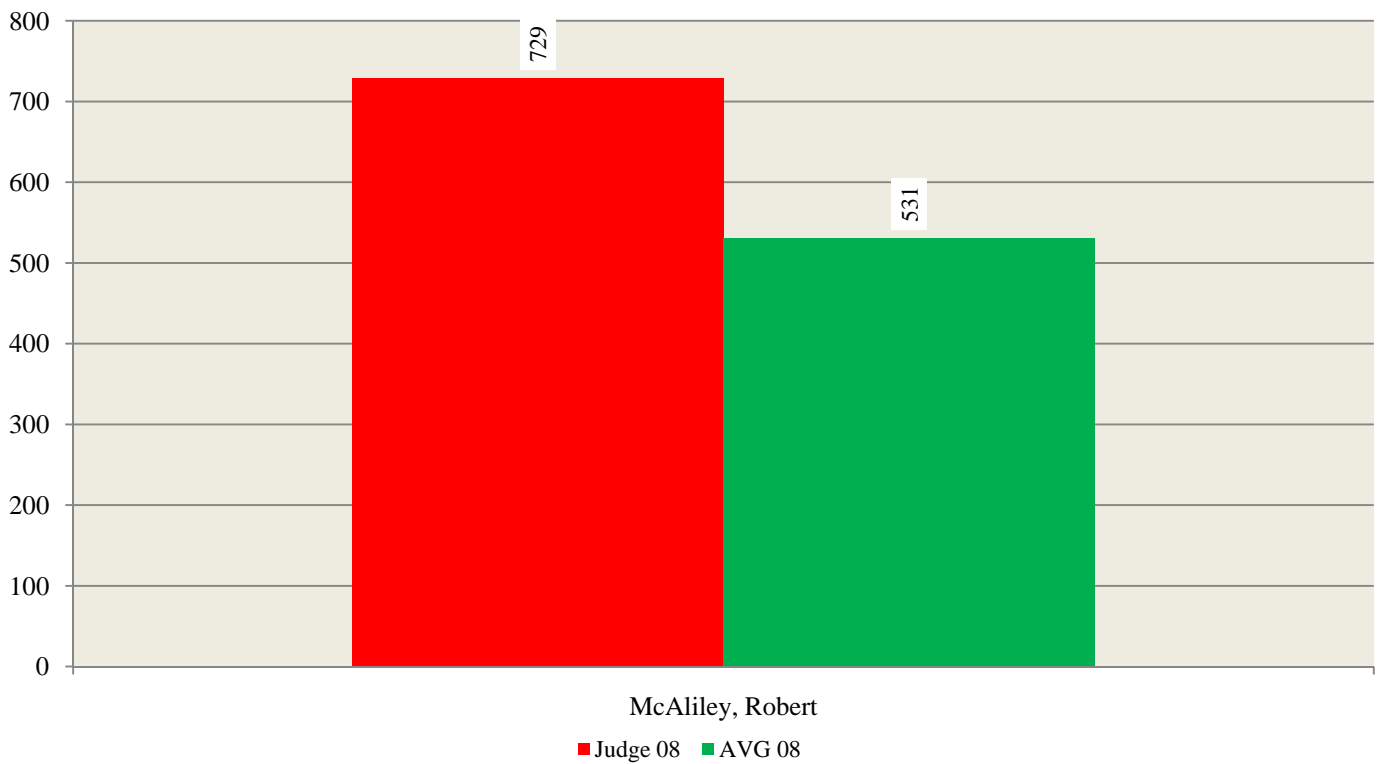
The following graph depicts the volume of settlement orders entered by each Judge in the district (red) and the statewide average (green).



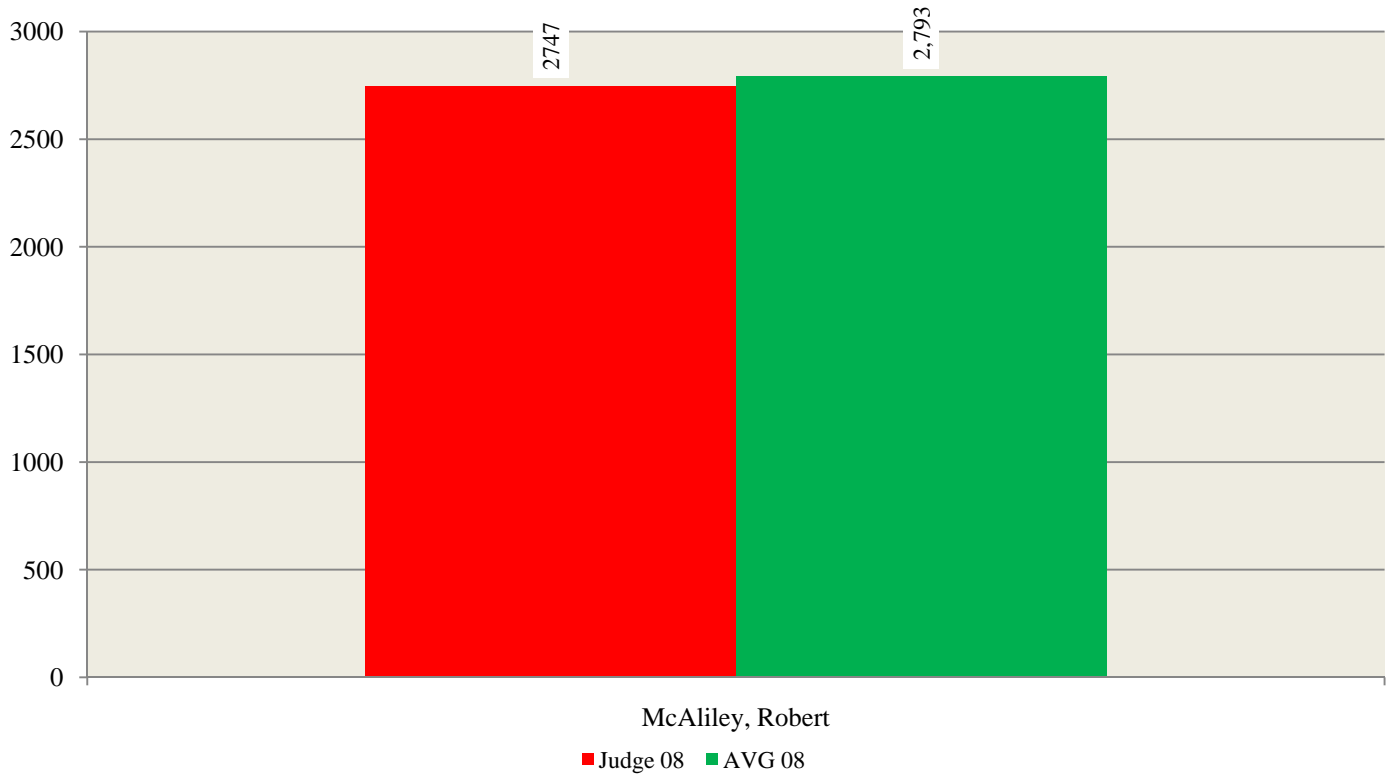
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).



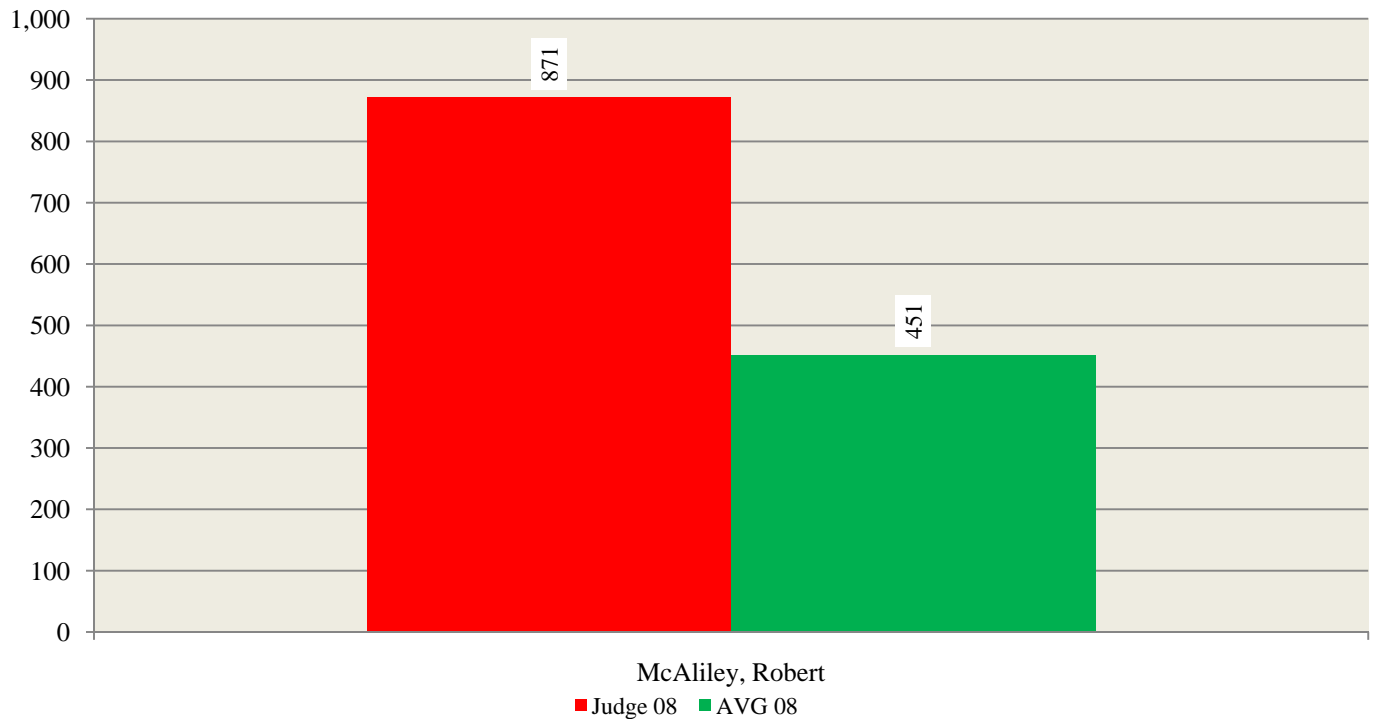
The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).



## Appendix “15” District SAR (JCC Beck):

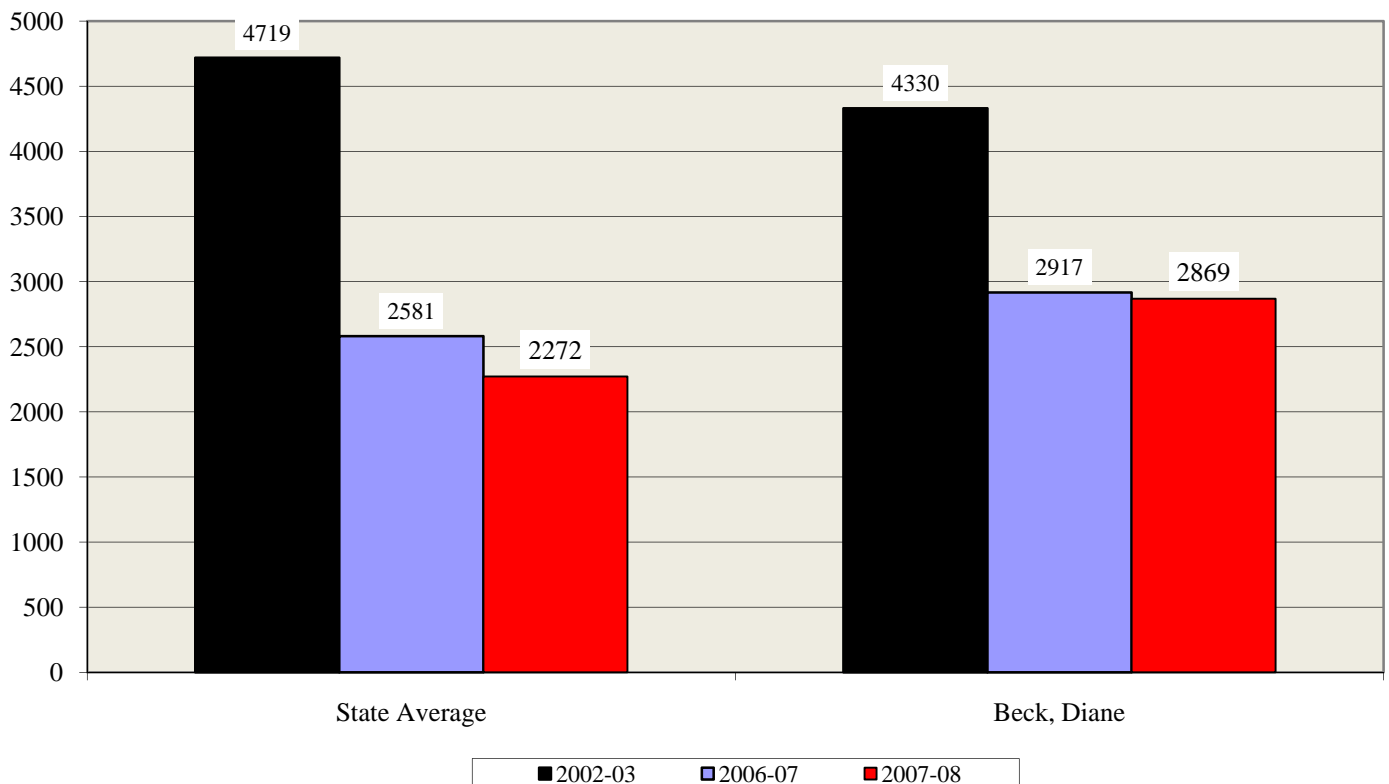
Manatee and Sarasota counties comprise District SAR.

The PFB and “new case” filing volumes in District SAR are both well above the statewide averages. The PFB closure rate in SAR is similar to the PFB filing rate. Despite the significant PFB filing rate, the 2007-08 year-end pending PFB inventory was at a manageable level and was below the statewide average.

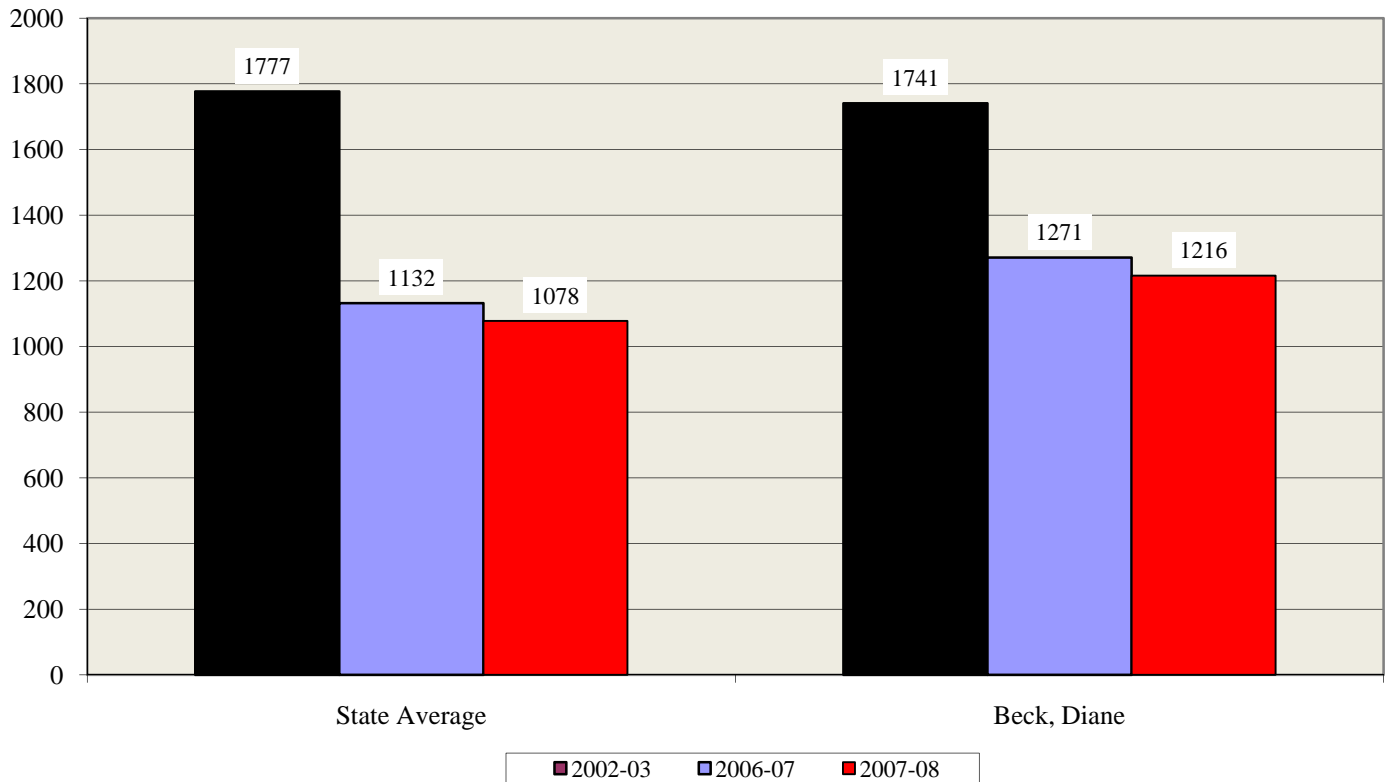
The average days between PFB filing and the first mediation was 93 days, which is well below the statewide average (116) and is within the 130-day statutory period. Judge Beck’s trial volume (60) is above the statewide average (54). Despite the significant filing and trial volumes, the average days between PFB filing and trial in SAR (187) is below both the statutory period (210) and the statewide average (379). Judge Beck entered trial orders in 2007-08 in an average of 15 days. This likewise is below the statewide average (37) and the statutory period (30).

Despite her significant workload in SAR, during 2007-08 Judge Beck volunteered to hear cases as visiting Judge in District LKL.

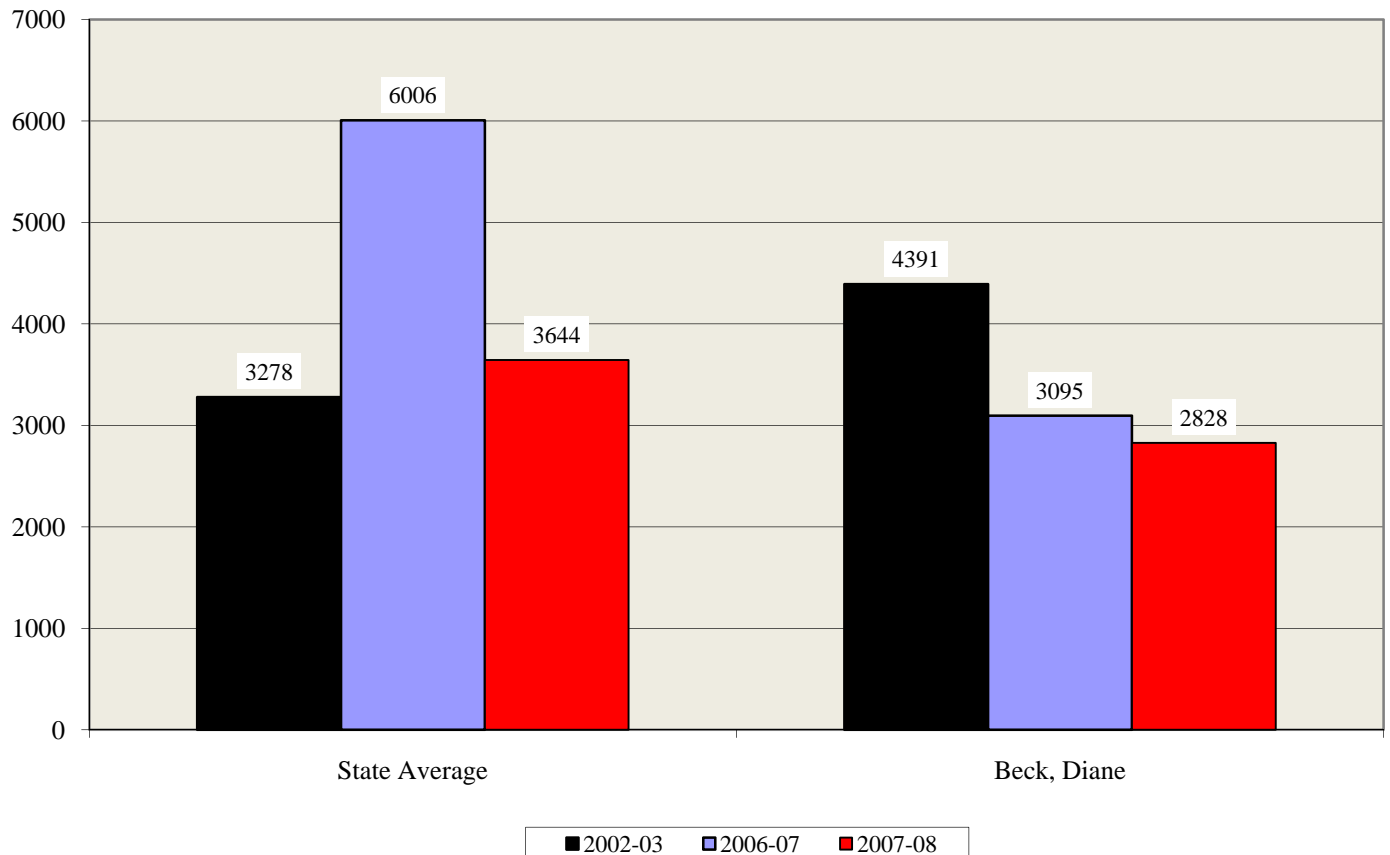
The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



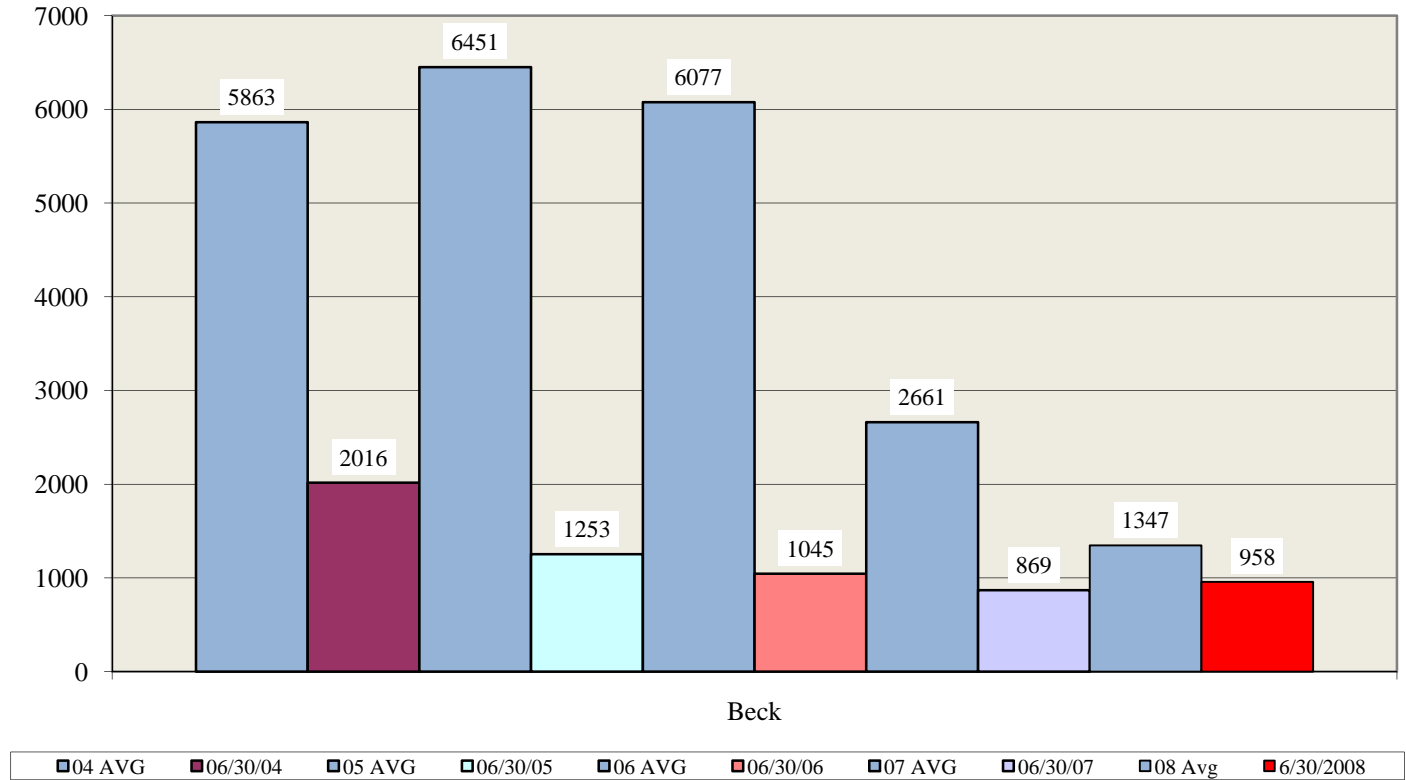
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



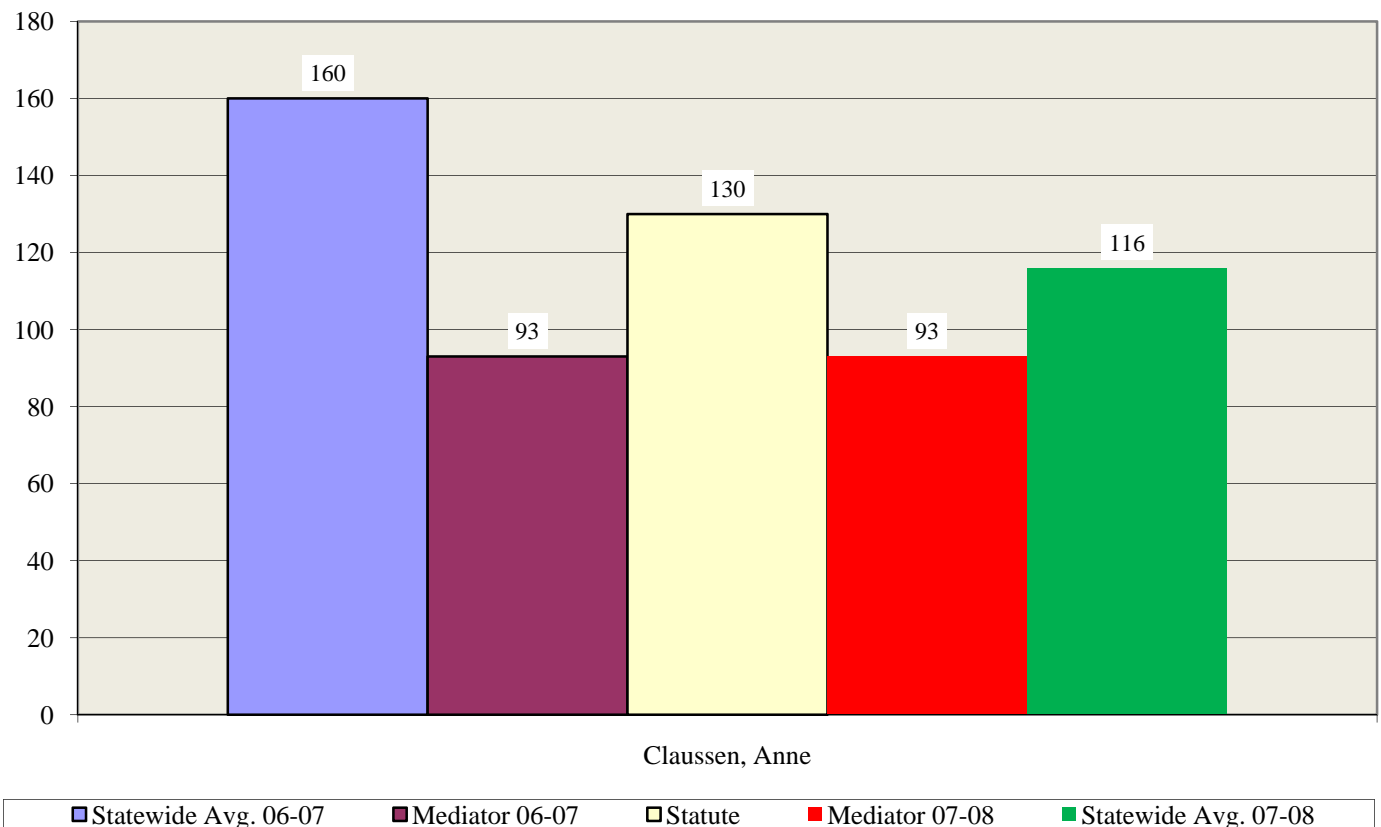
The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.

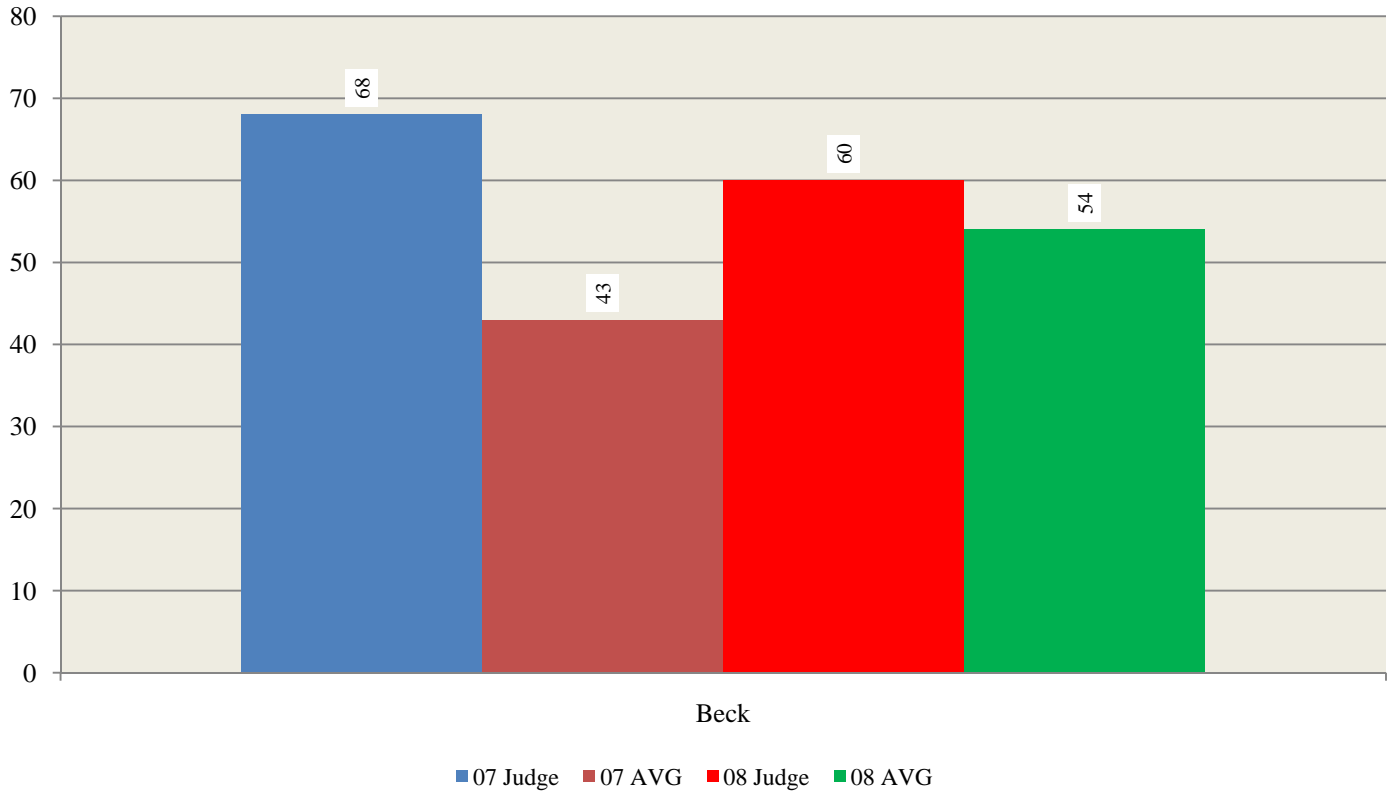


The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).

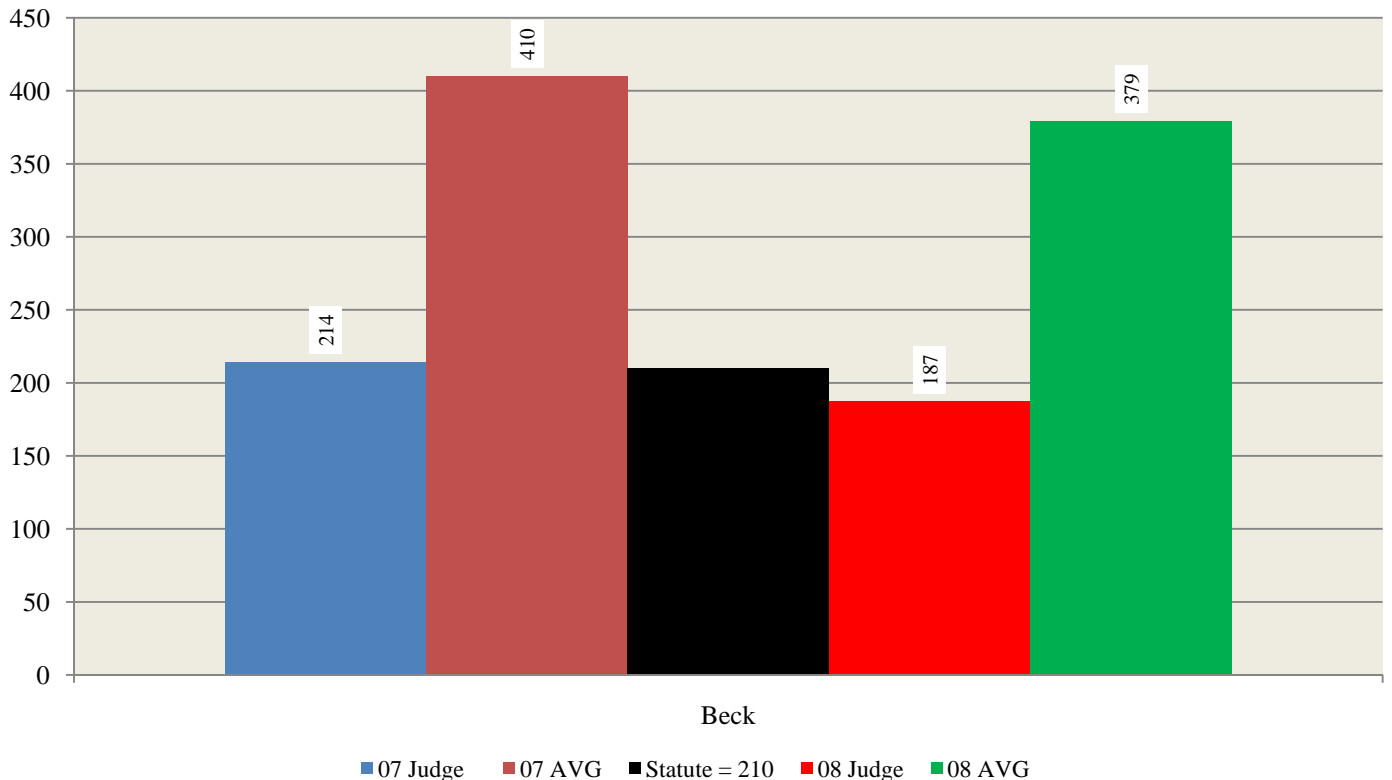




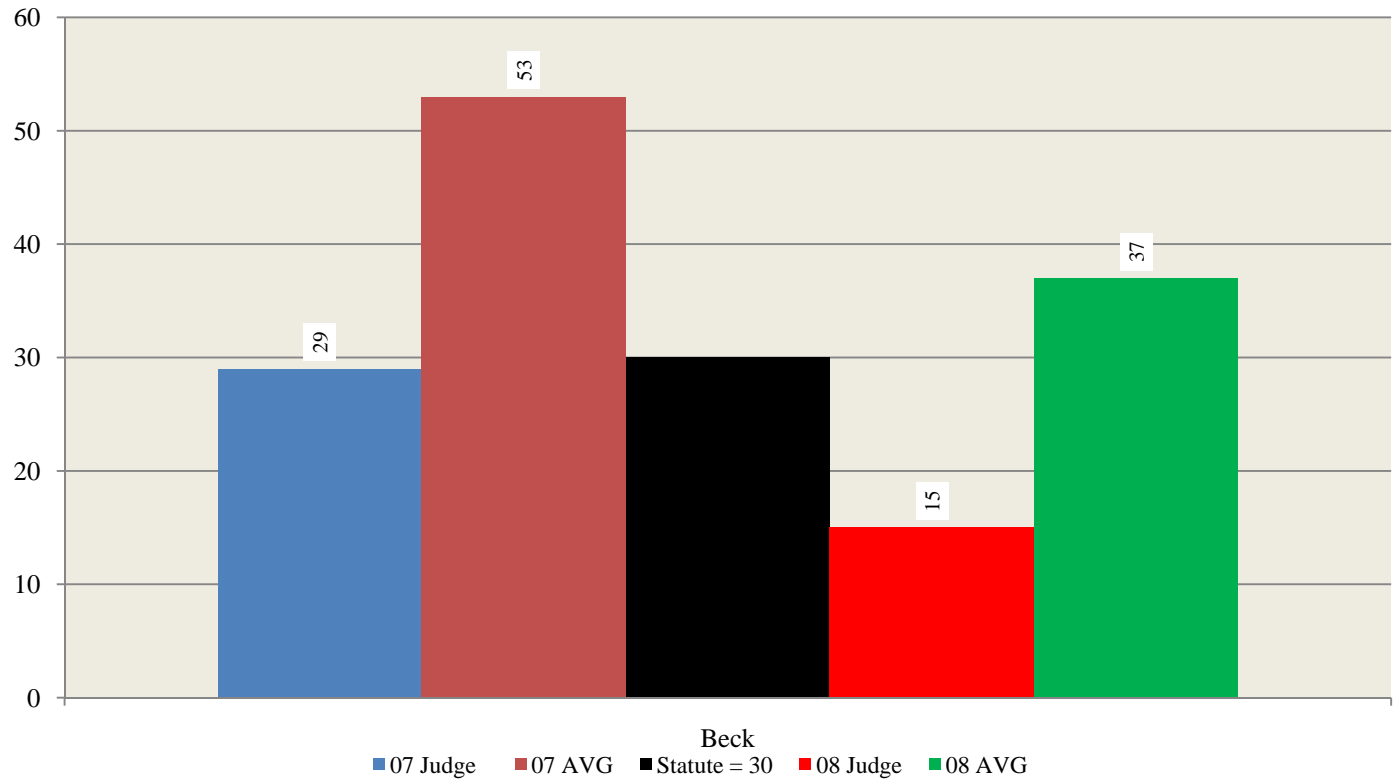
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2007-08 (rust) and 2007-08 (green).



This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2007-08 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



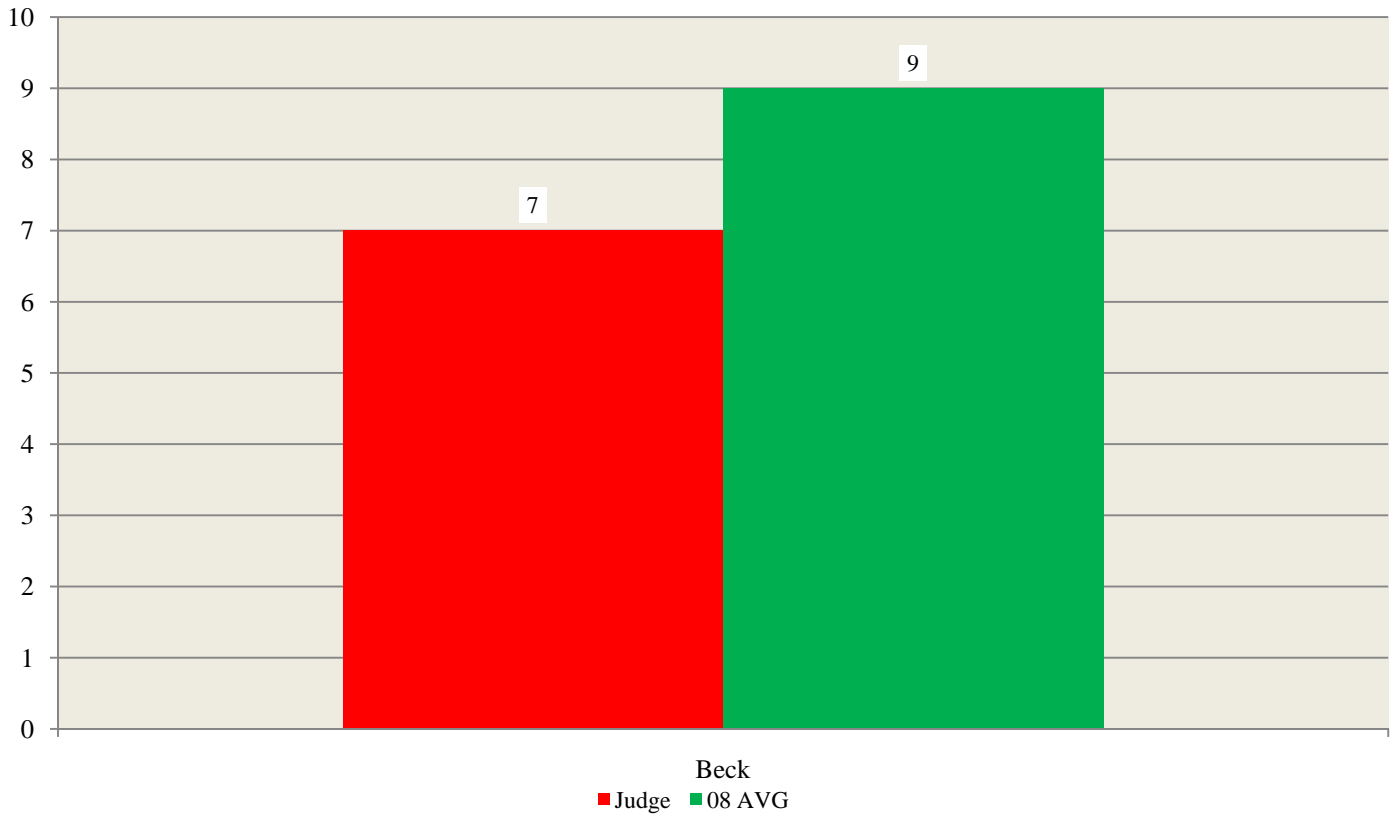
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2007-08 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



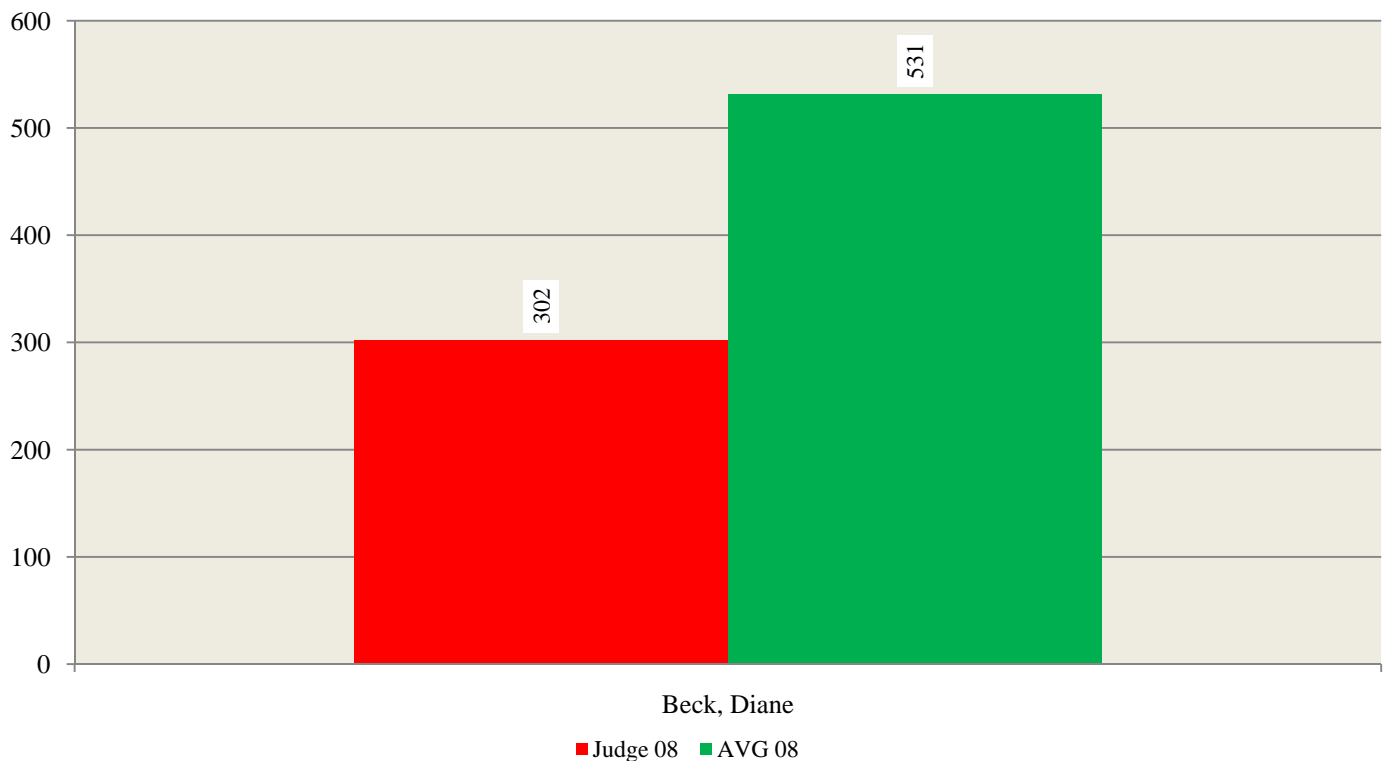
The following graph depicts the volume of settlement orders entered by each Judge in the district (red bars) and the statewide average (blue bars).



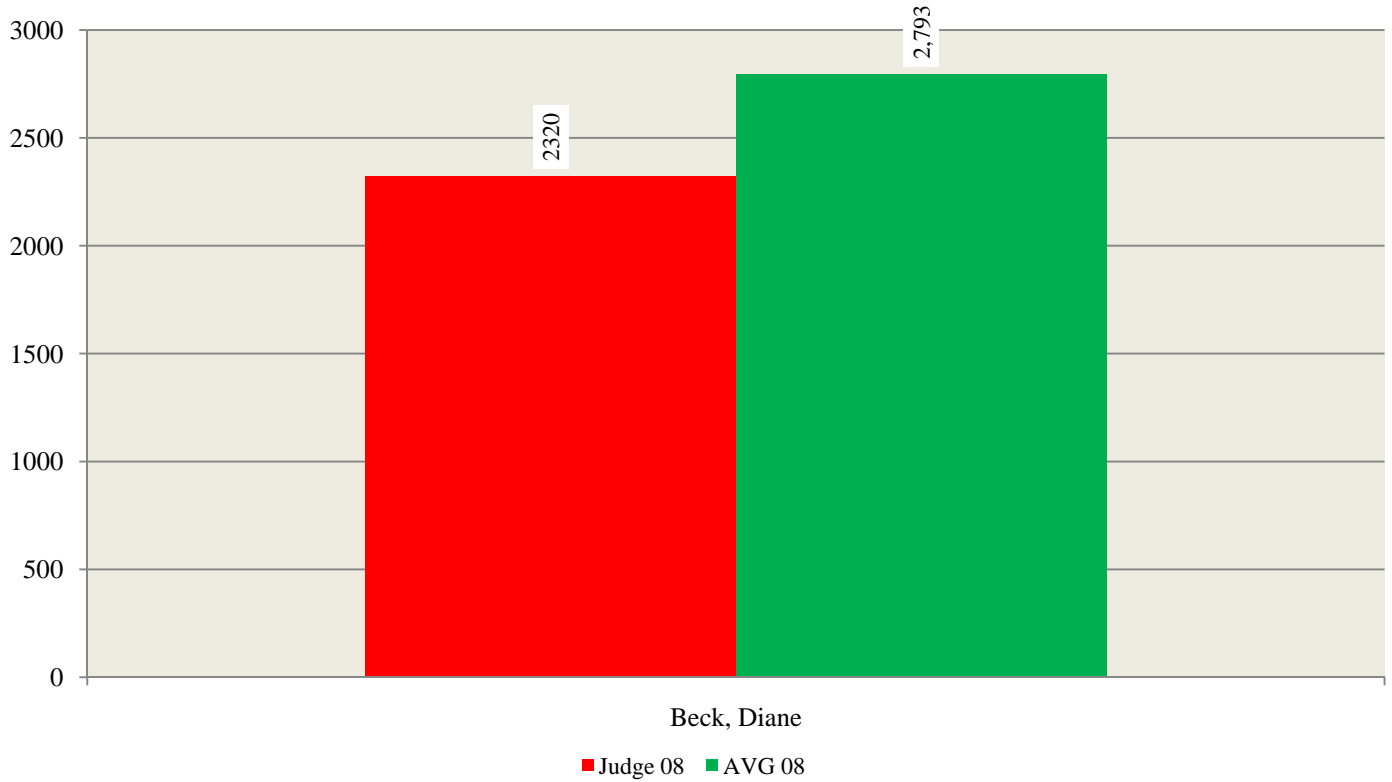
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).



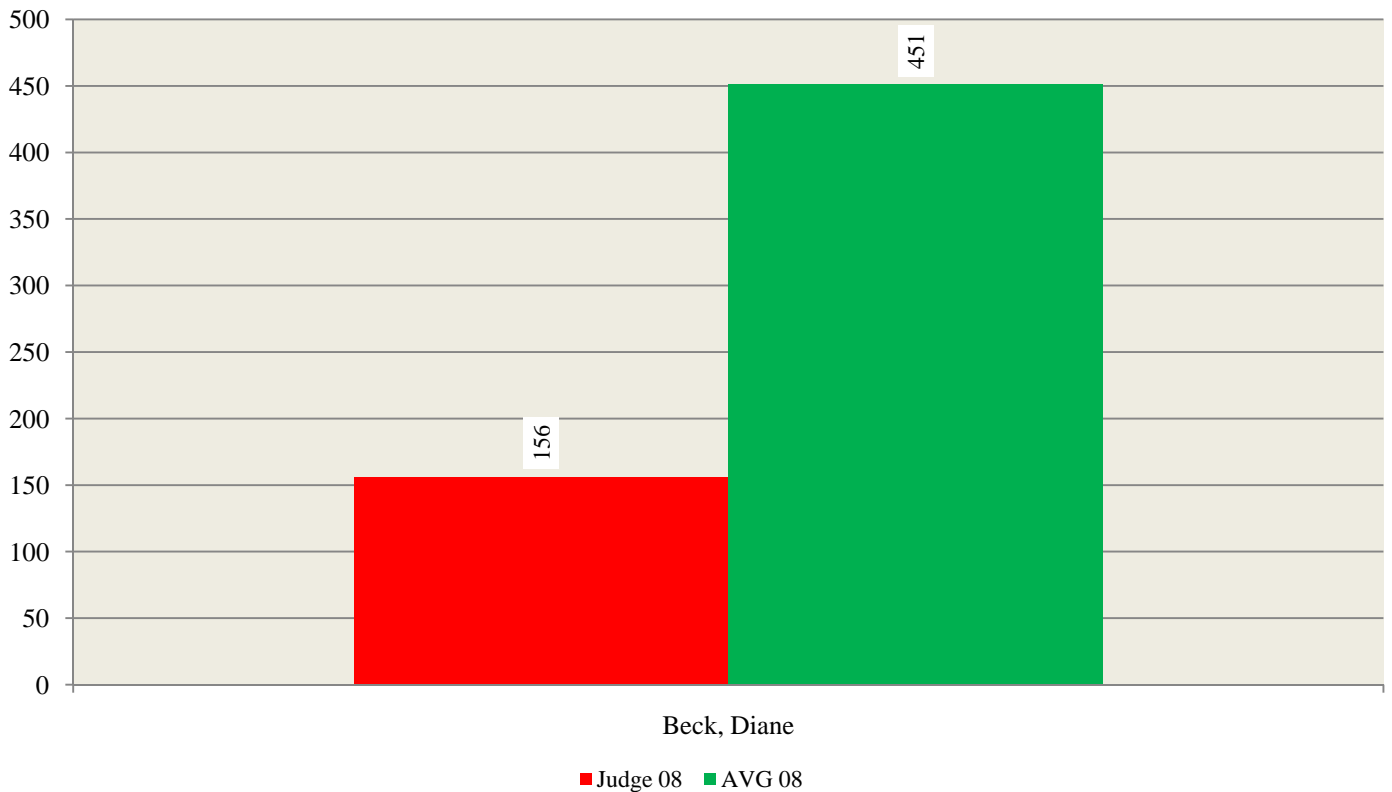
The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).



## Appendix “16” District STP (JCC Hafner, JCC Remsnyder):

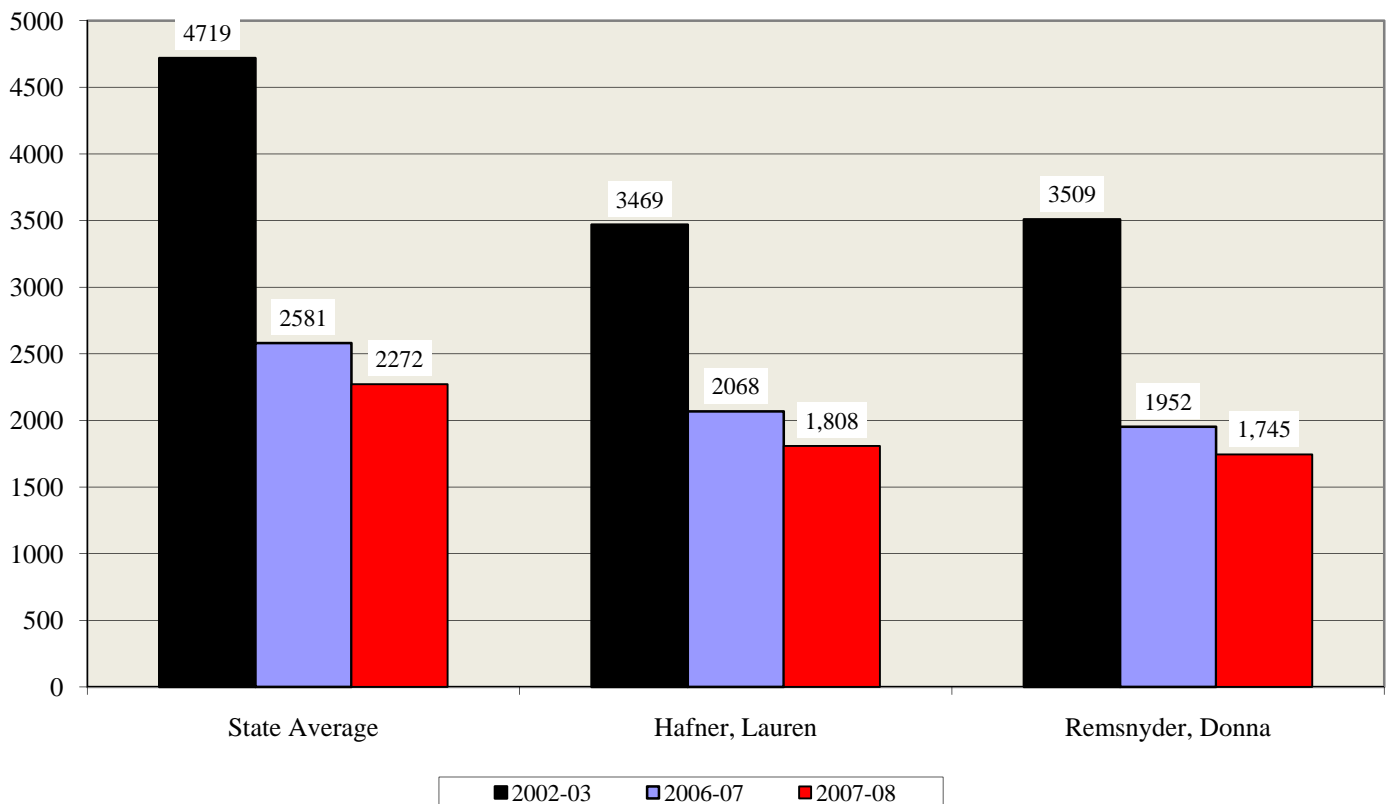
District STP includes Pasco and Pinellas counties.

District STP has seen marked decreases in PFB and “new case” filings in recent years. In 2007-08 the District had below average PFB filings, but “new case” filing rates were at or slightly above average.

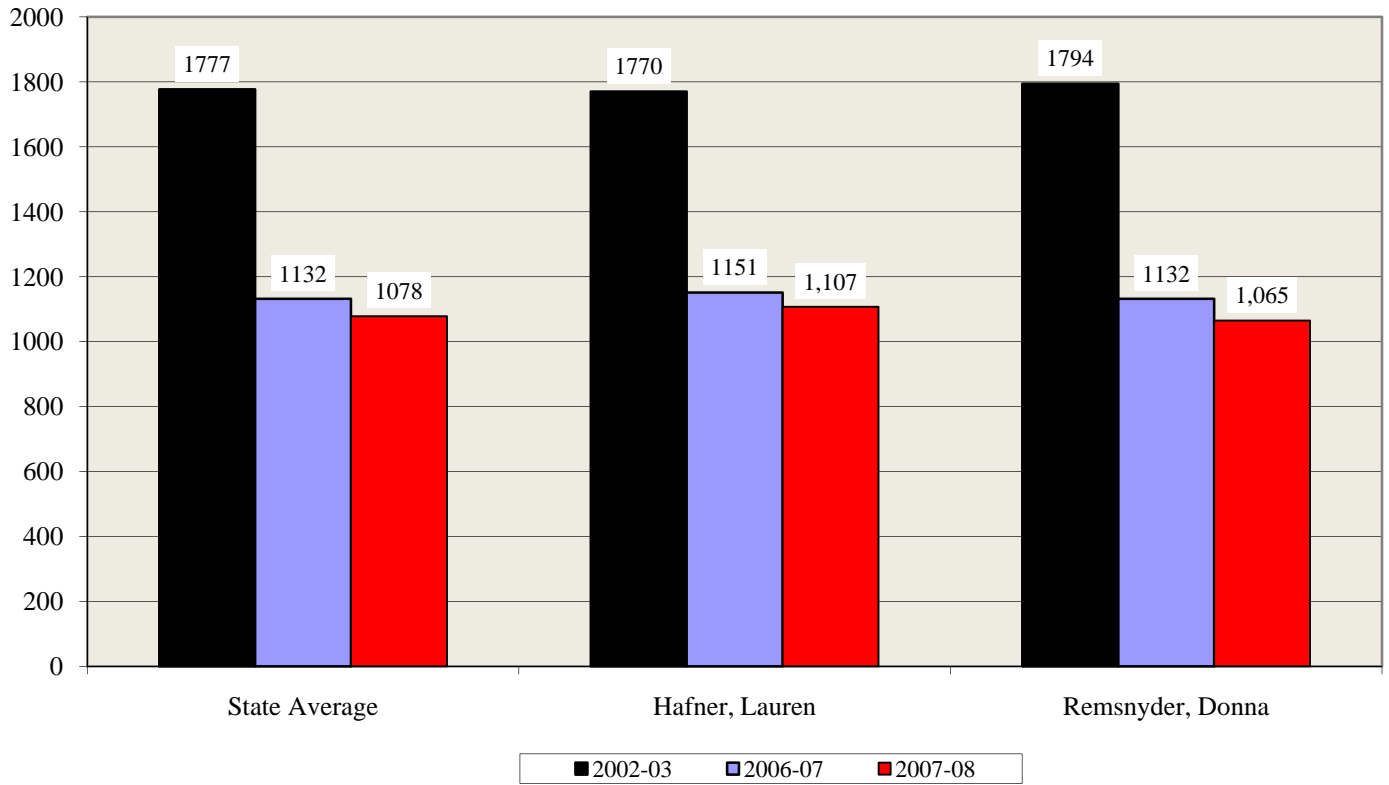
In District STP, the first mediation after PFB filing occurred on average 79 (Arthur) and 83 (Young) days after filing. These are each very prompt and are below both the statewide average (116) and the statutory period (130). Each Judge uploaded close to the statewide average for trial orders. In doing so, each Judge also participated as a volunteer visiting Judge in Lakeland on various occasions. On average, cases in SPT proceeded to trial in 154 (Remsnyder) to 199 (Hafner) days. These are likewise each lower than the statewide average (379) and the statutory period (210). Judges Remsnyder (8) and Hafner (11) also each issued their respective trial orders in less than the statewide average (37) and in less than the statutory 30 days.

The SPT District continues to display exceptional efficiency and effectiveness, teamwork and management.

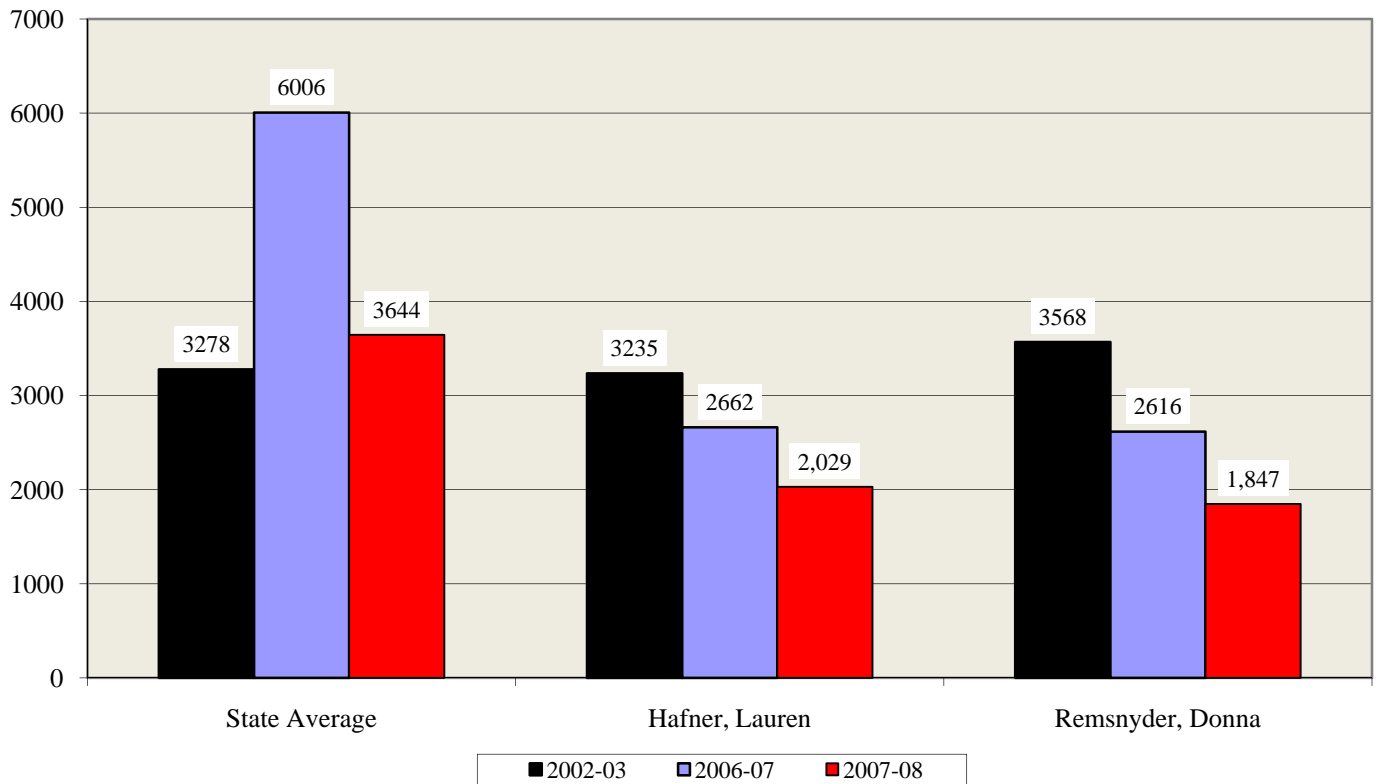
The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



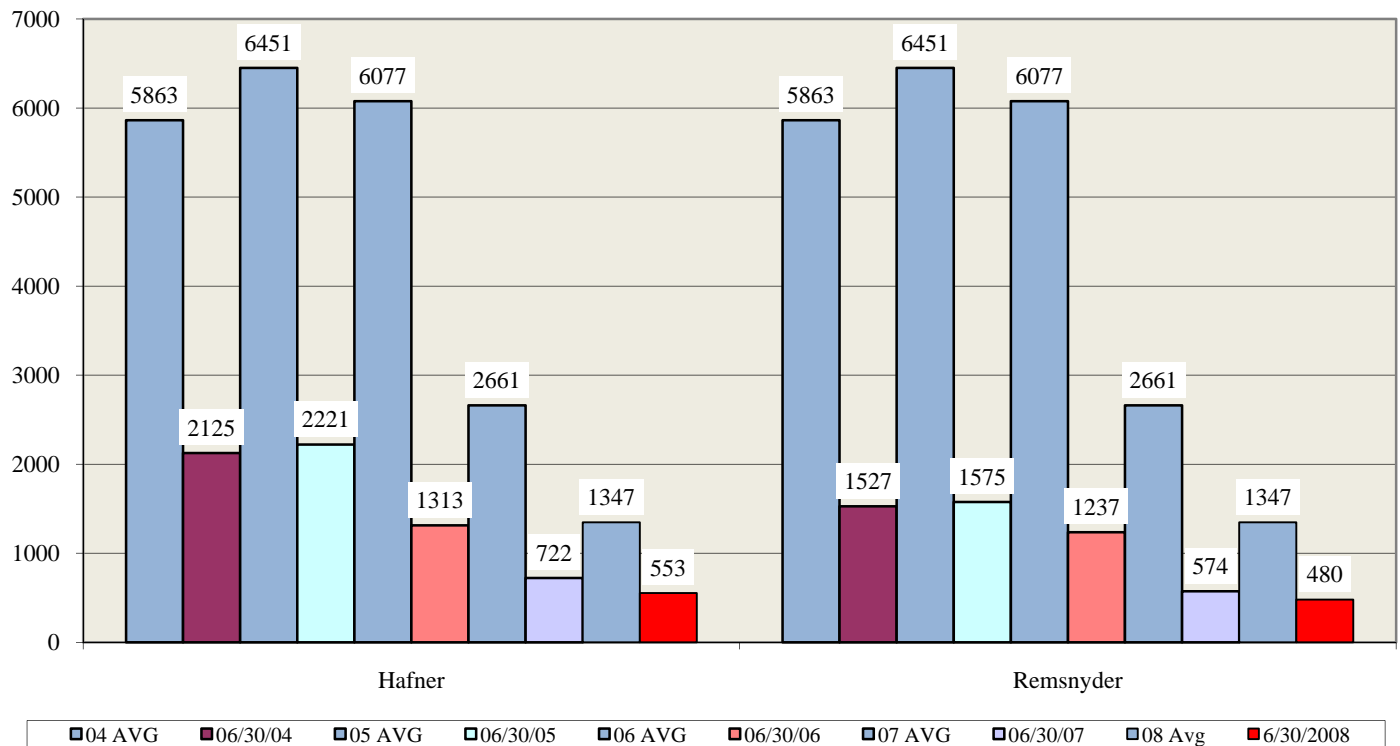
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



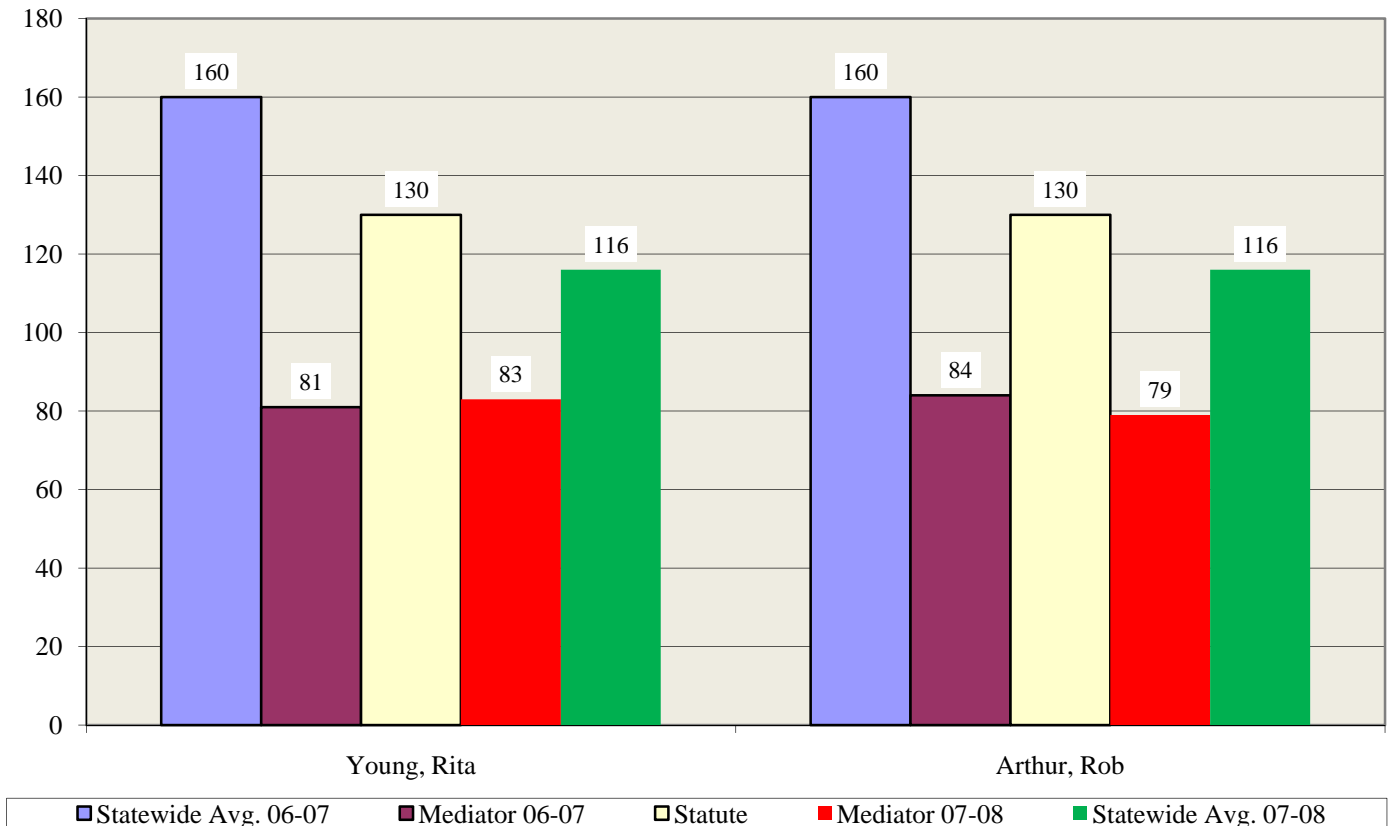
The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



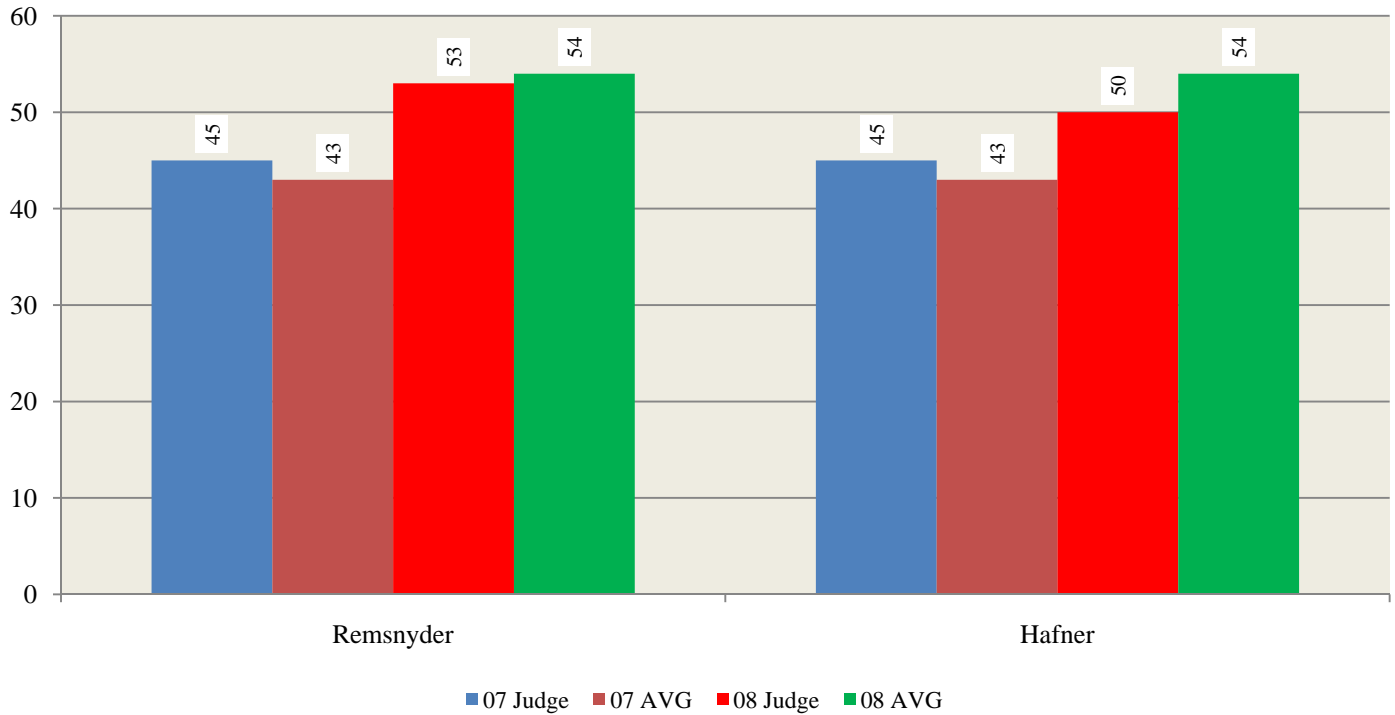
The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



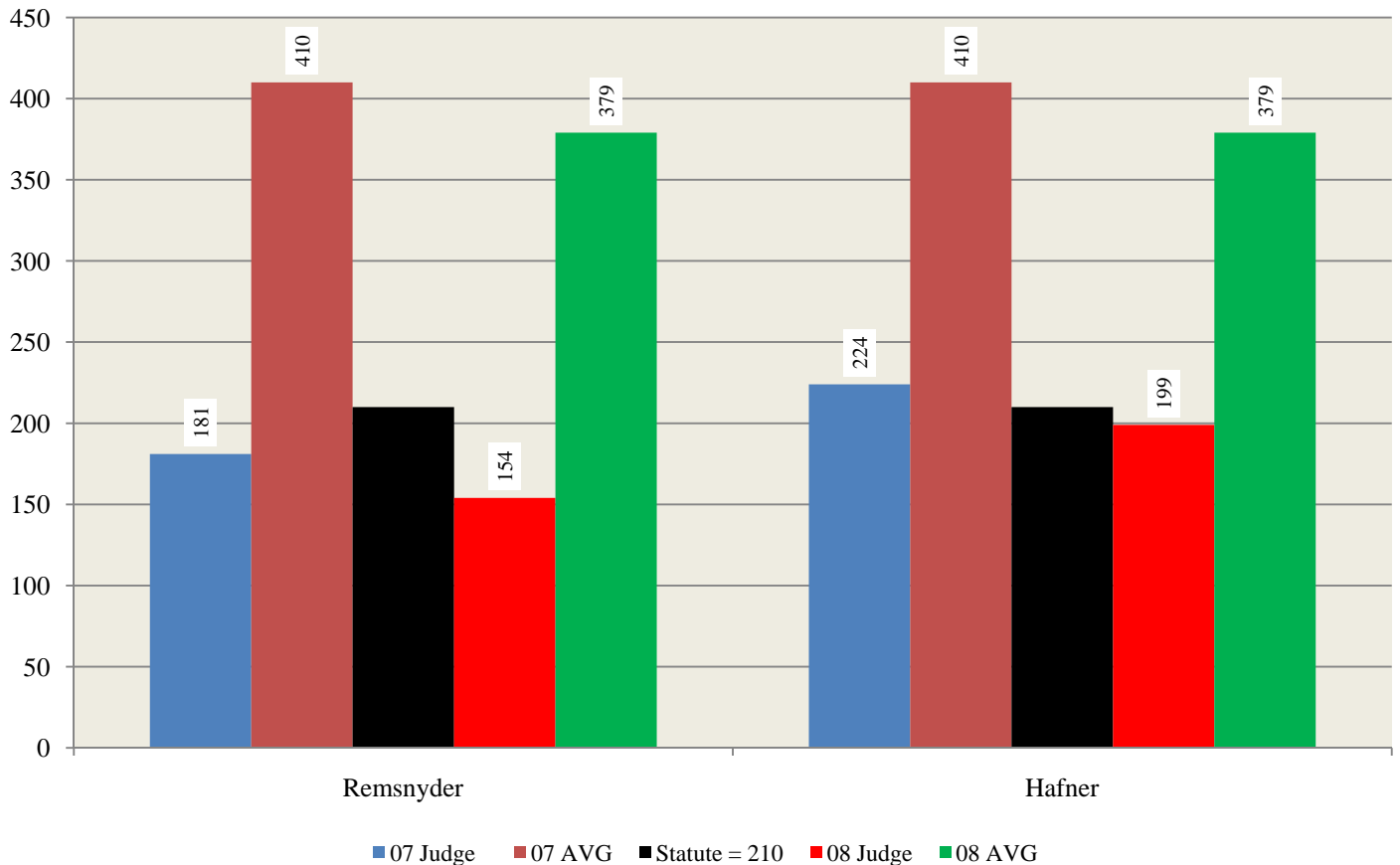
The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).



The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2007-08 (rust) and 2007-08 (green).

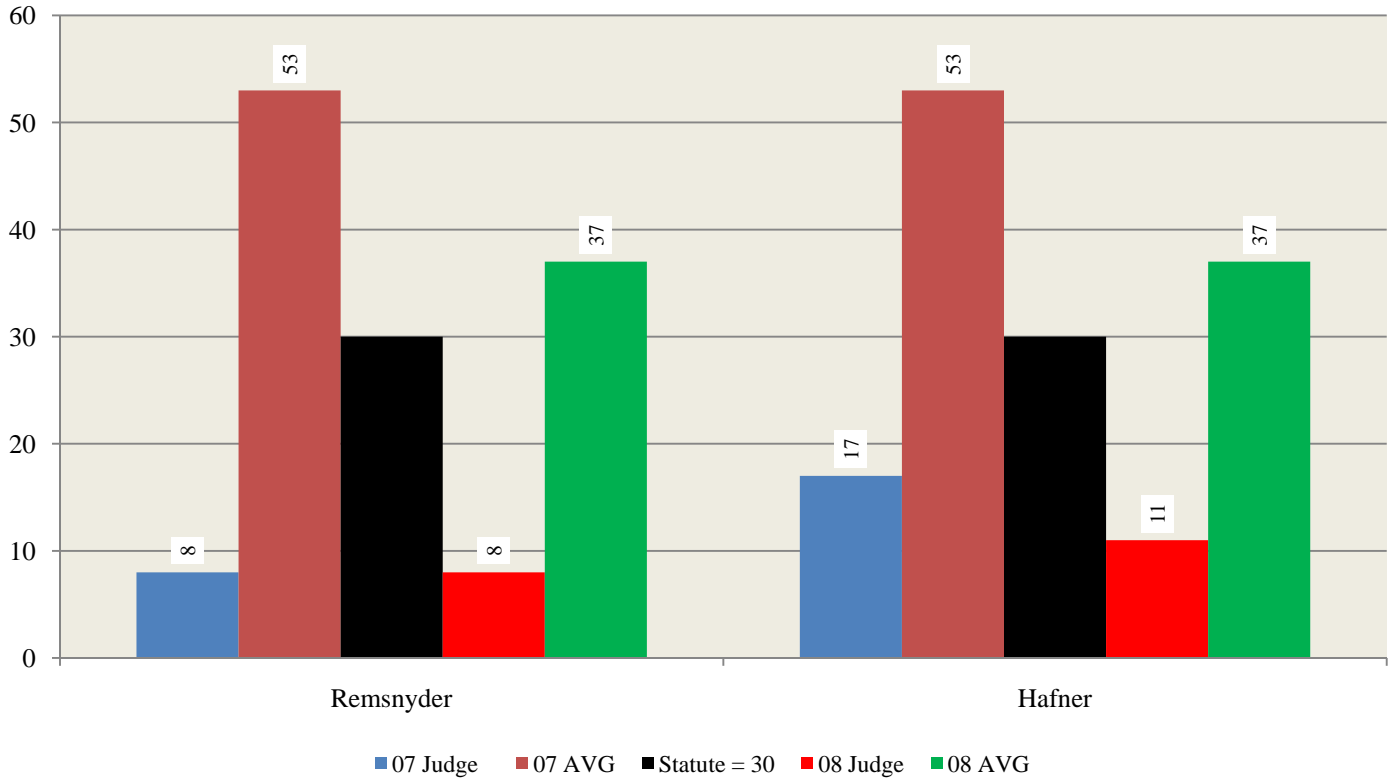


This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2007-08 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.

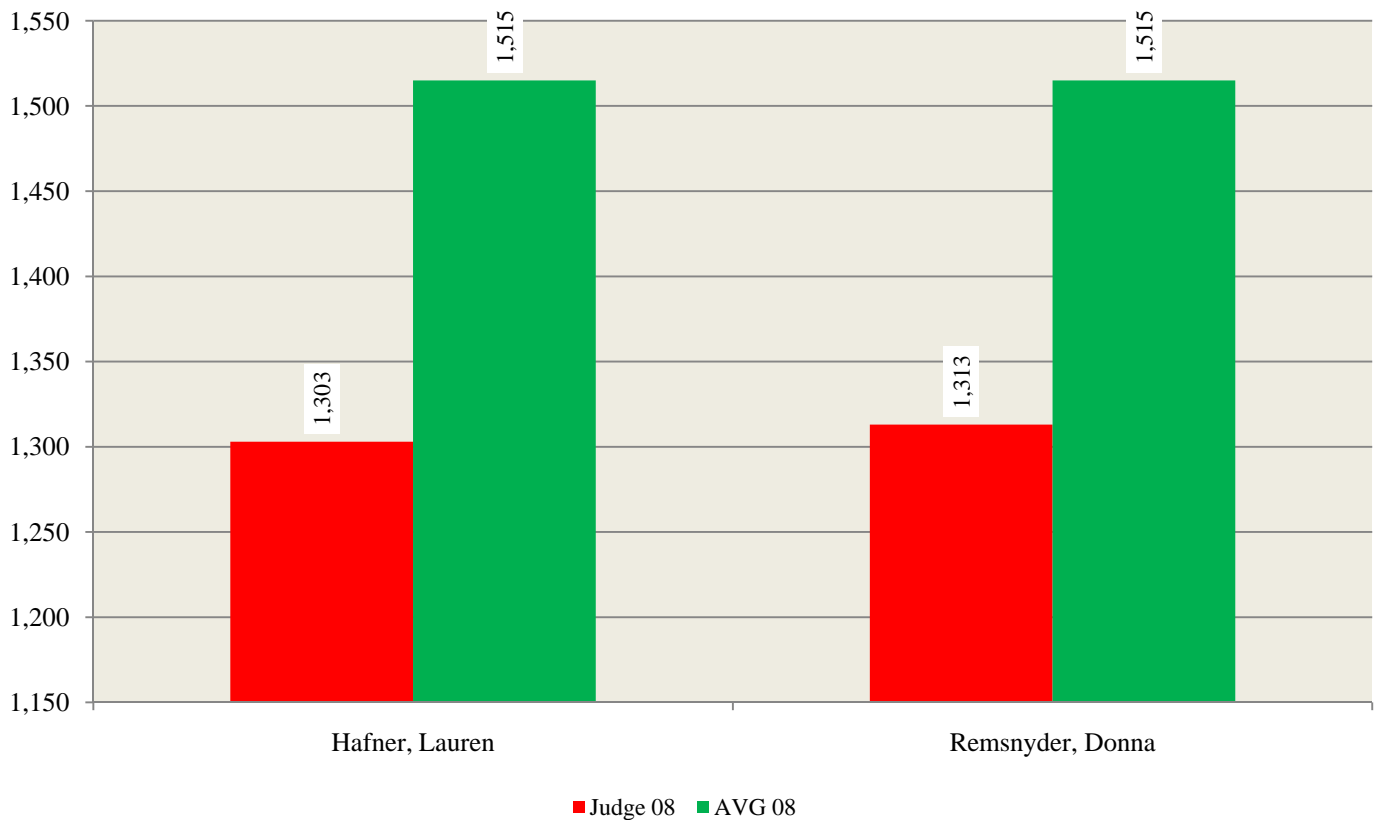




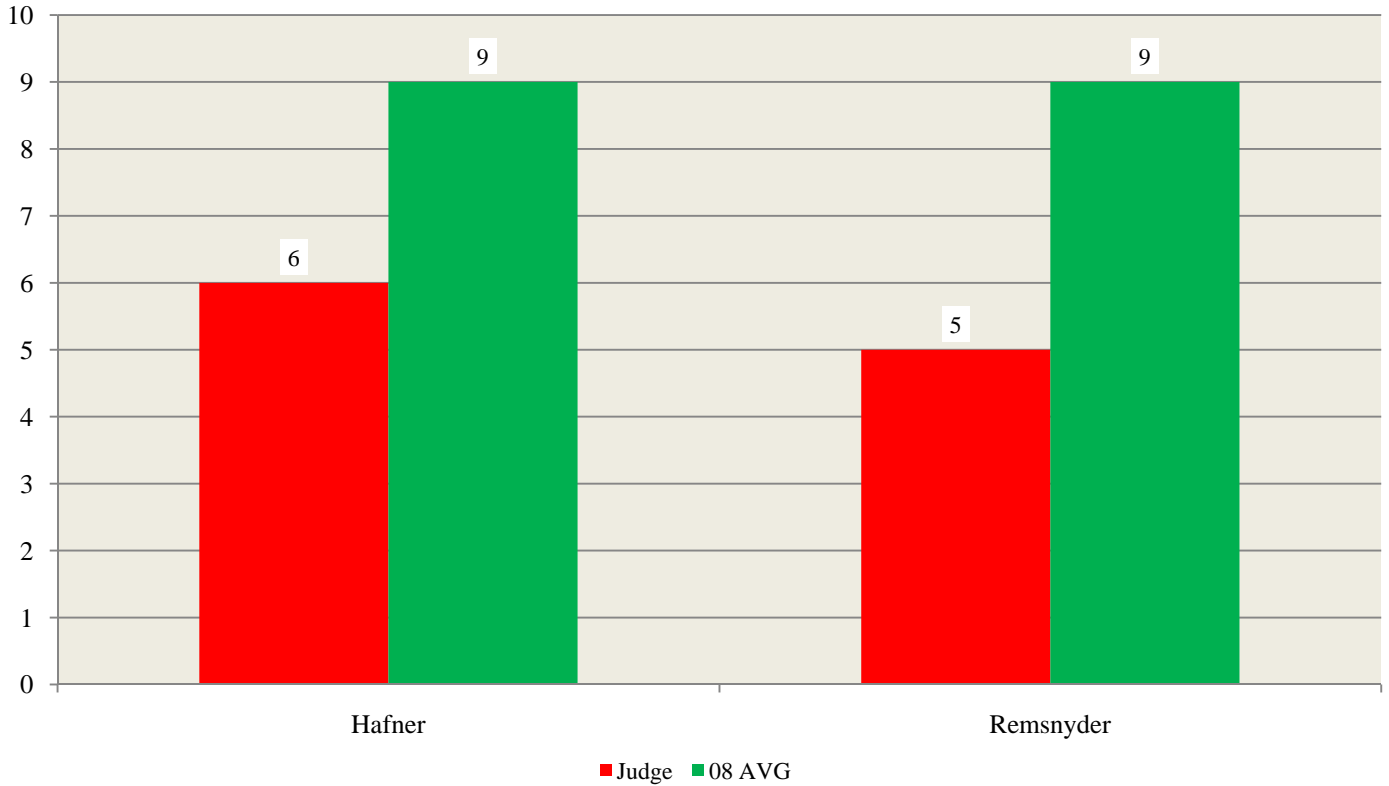
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2007-08 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



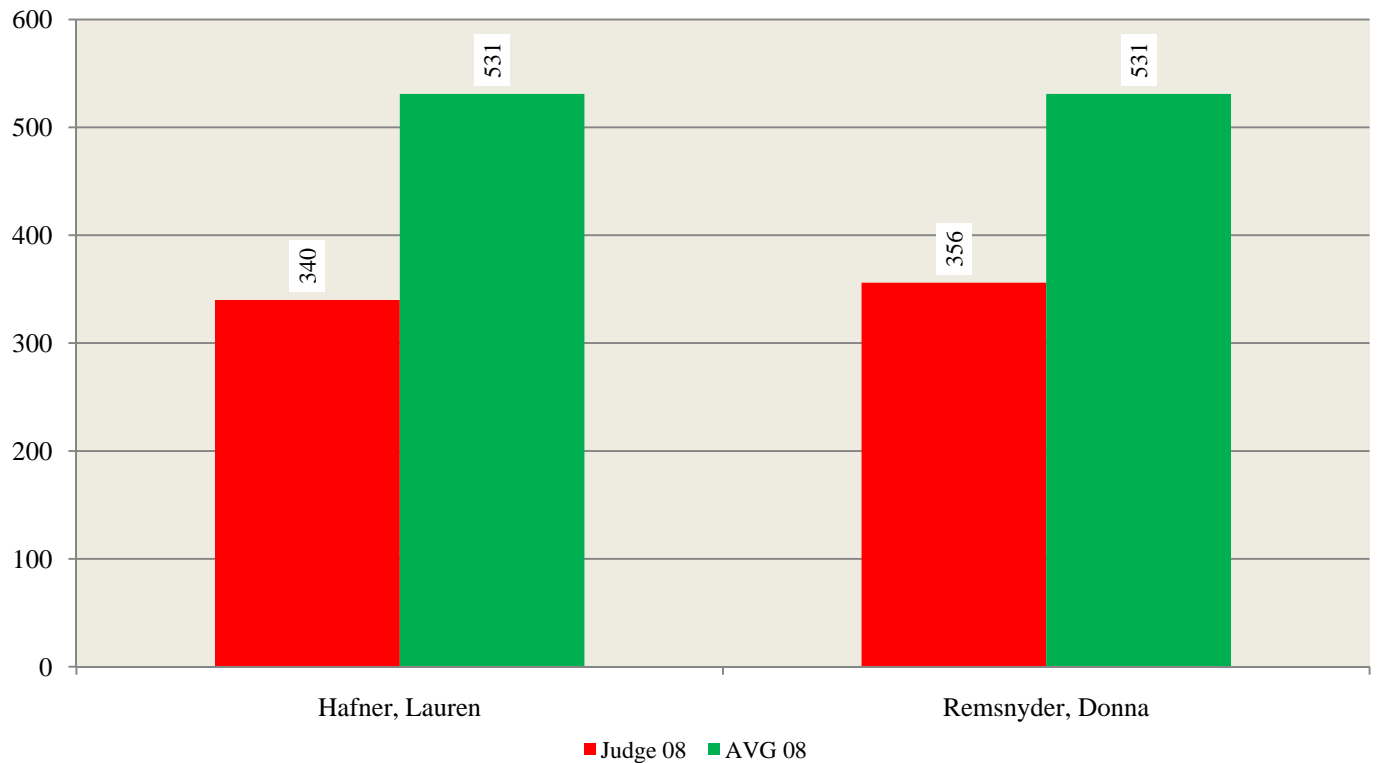
The following graph depicts the volume of settlement orders entered by each Judge in the district (red) and the statewide average (green).



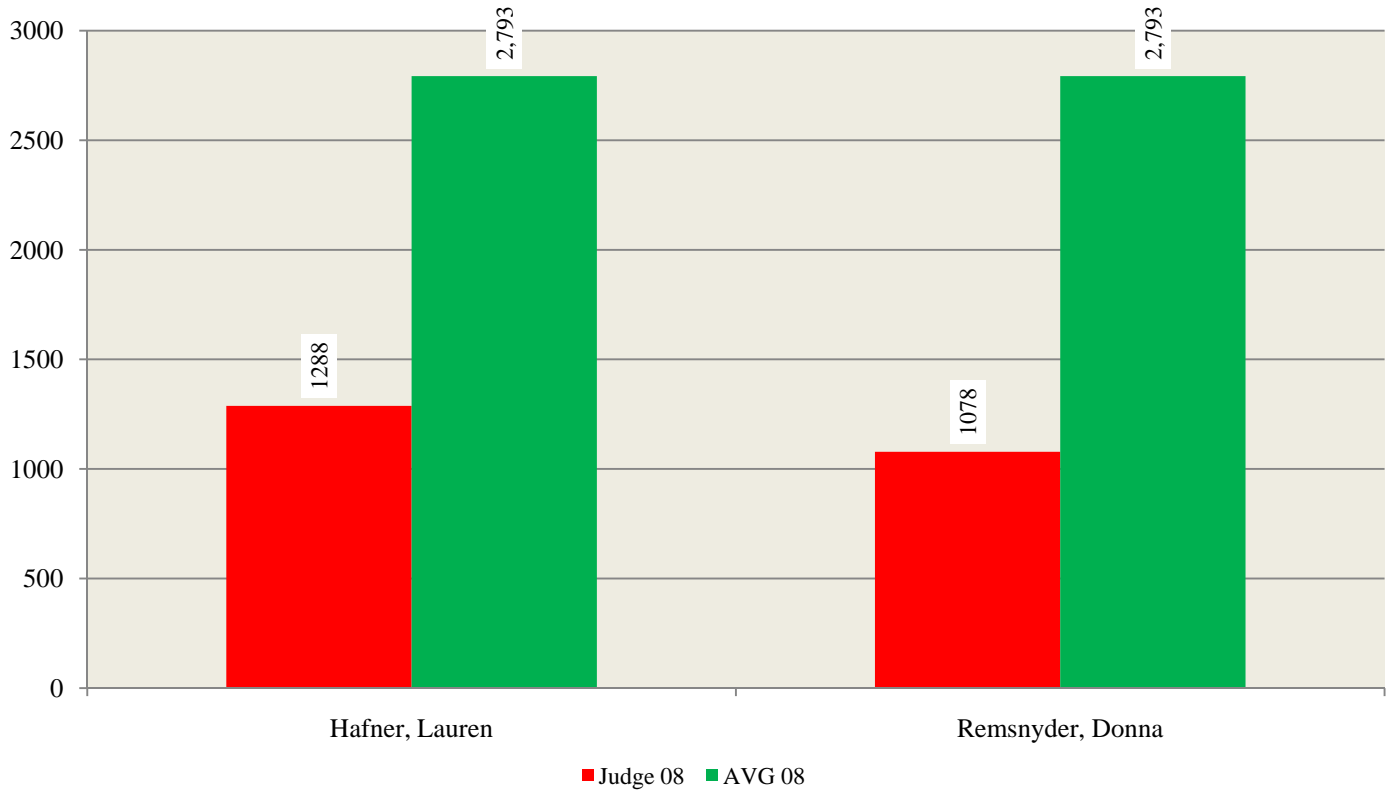
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).



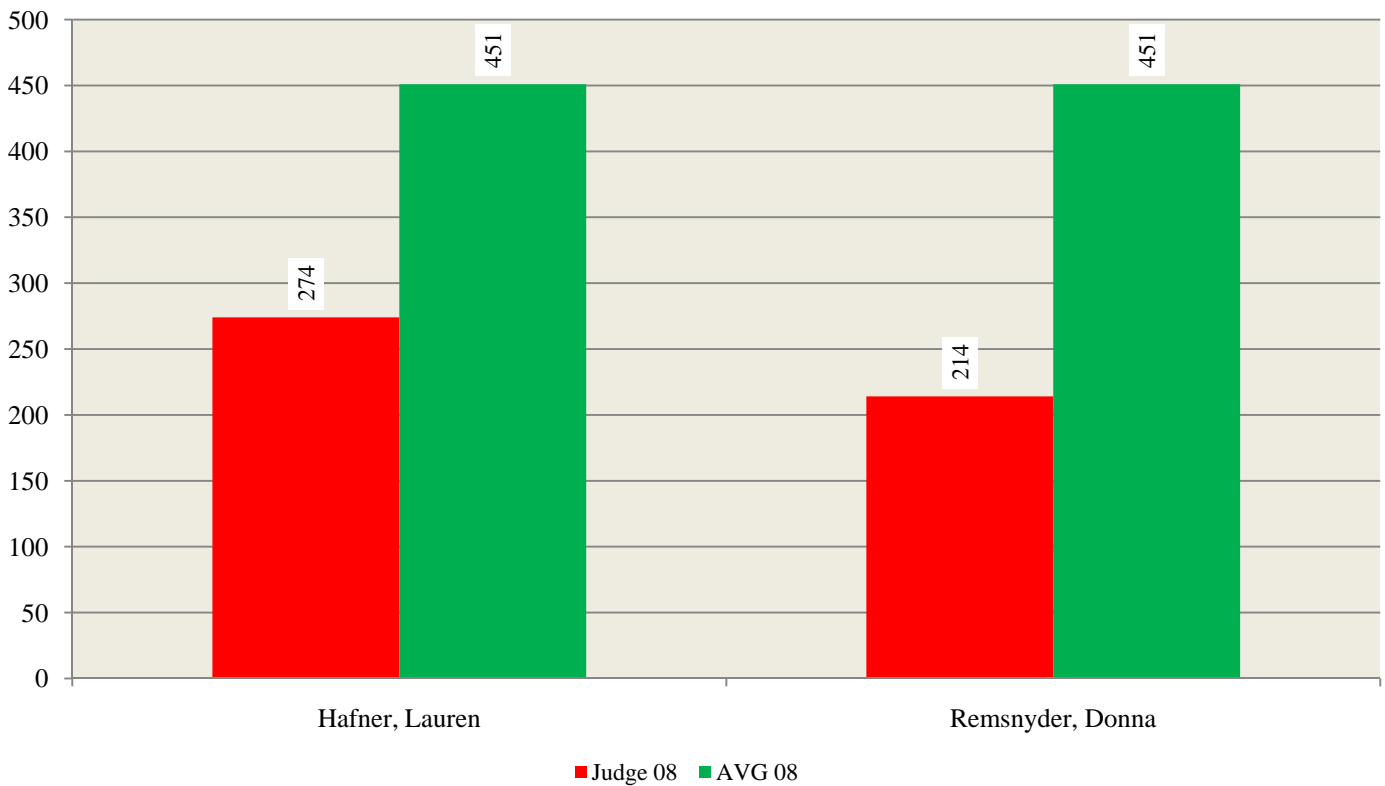
The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).

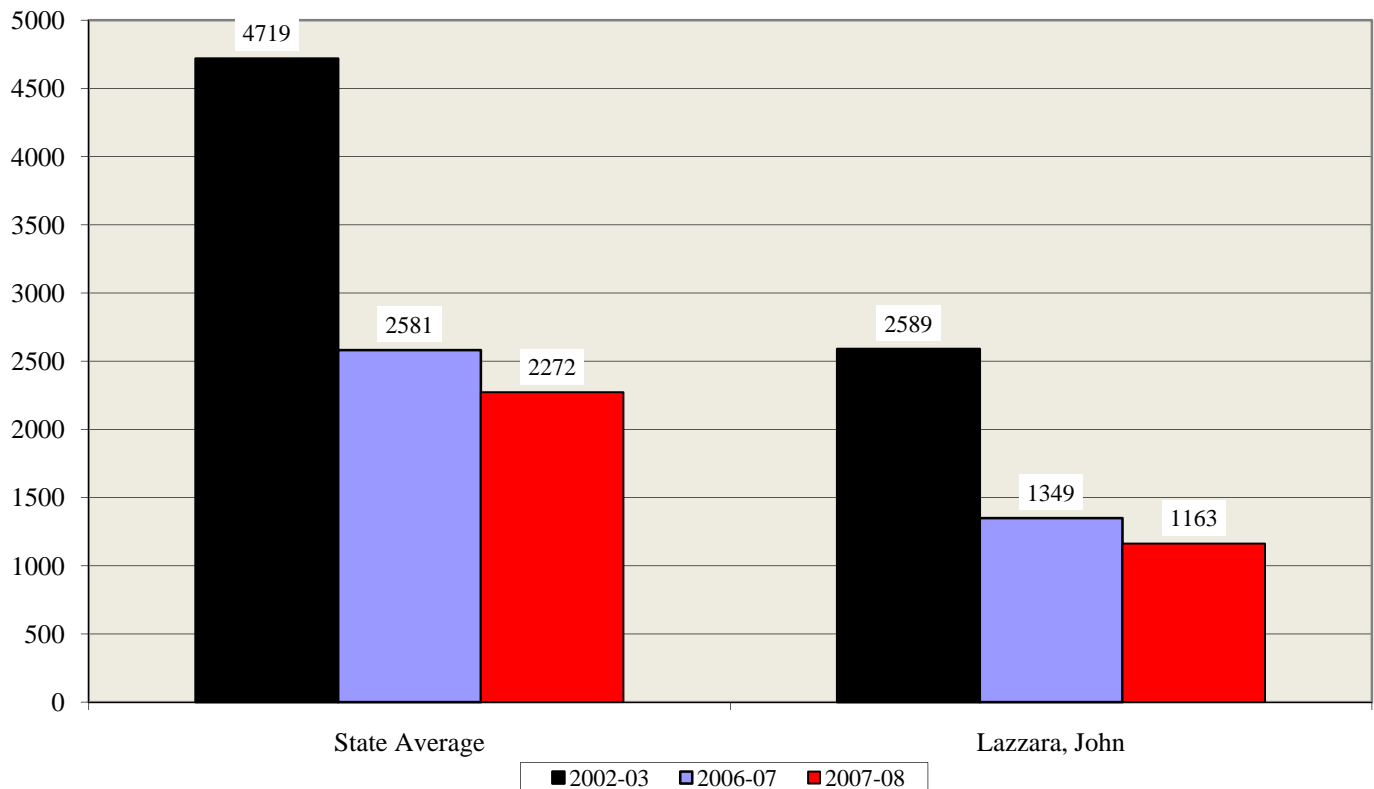


## Appendix “17” District TLH (JCC Lazzara):

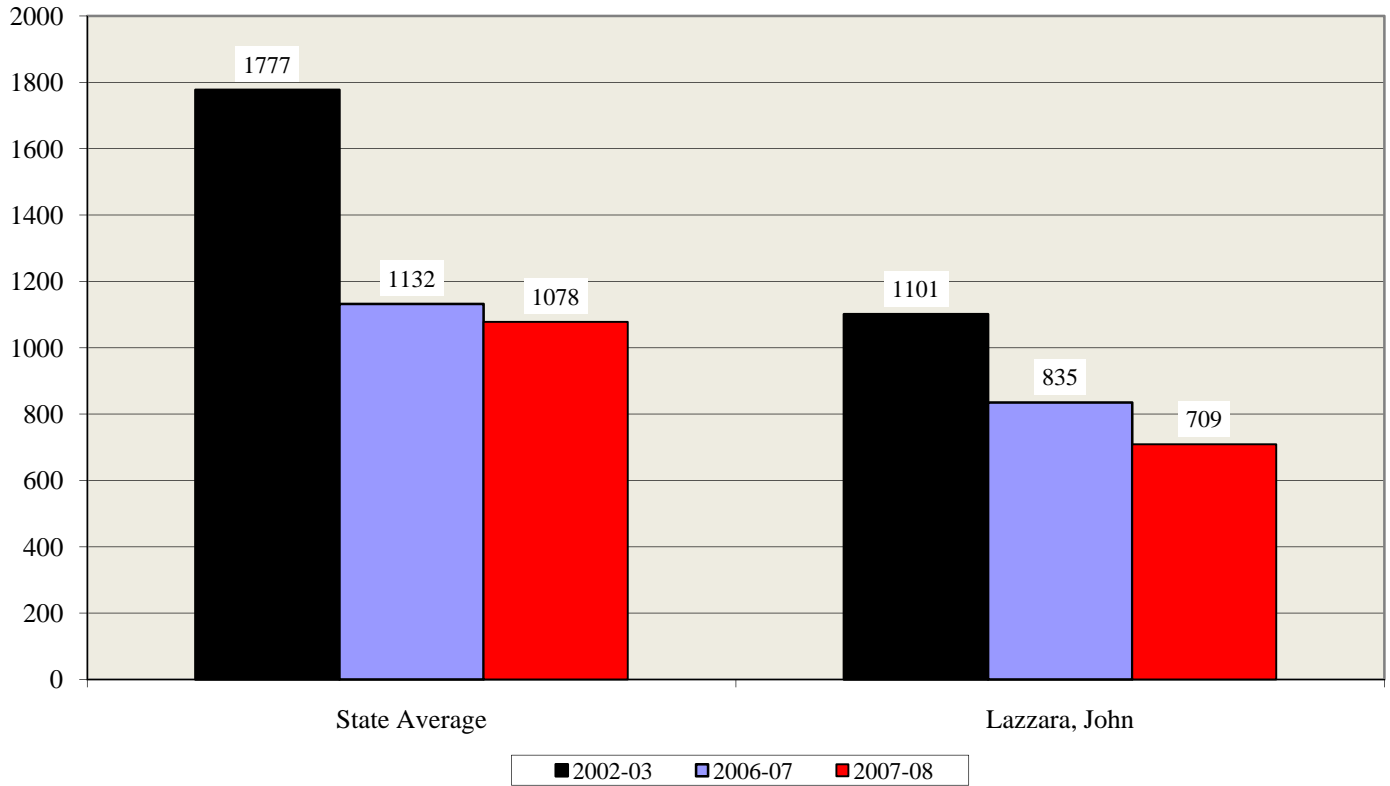
District TLH is one of the largest geographic Districts, and includes the following counties: Franklin, Gadsden, Hamilton, Jefferson, Lafayette, Leon, Madison, Suwannee, Taylor, Wakulla. Although some of these counties have low population density, there is a level of effort required in this District due to the statutory obligation for the hearings to occur in the county in which the accident occurred. Although some litigants agree to travel to the District office in Leon county, Judge Lazzara still travels for hearings in other counties on a regular basis.

Mediator Bisbee’s average time between PFB filing and first mediation was 83 days in 2007-08. This is well below both the statewide average (116) and the statutory measure (130). Judge Lazzara volunteered as a visiting Judge in South Florida and Gainesville in 2007-08. He also volunteered to consider “settlement” motions and fee stipulations for South Florida divisions. The PFB and new case filings in TLH are below the statewide averages, and the PFB inventory is manageable. Judge Lazzara heard less than the statewide average of trials in 2007-08. His average times to trial (154) and from trial to order (21) were both below the statewide averages and within the respective statutory parameters.

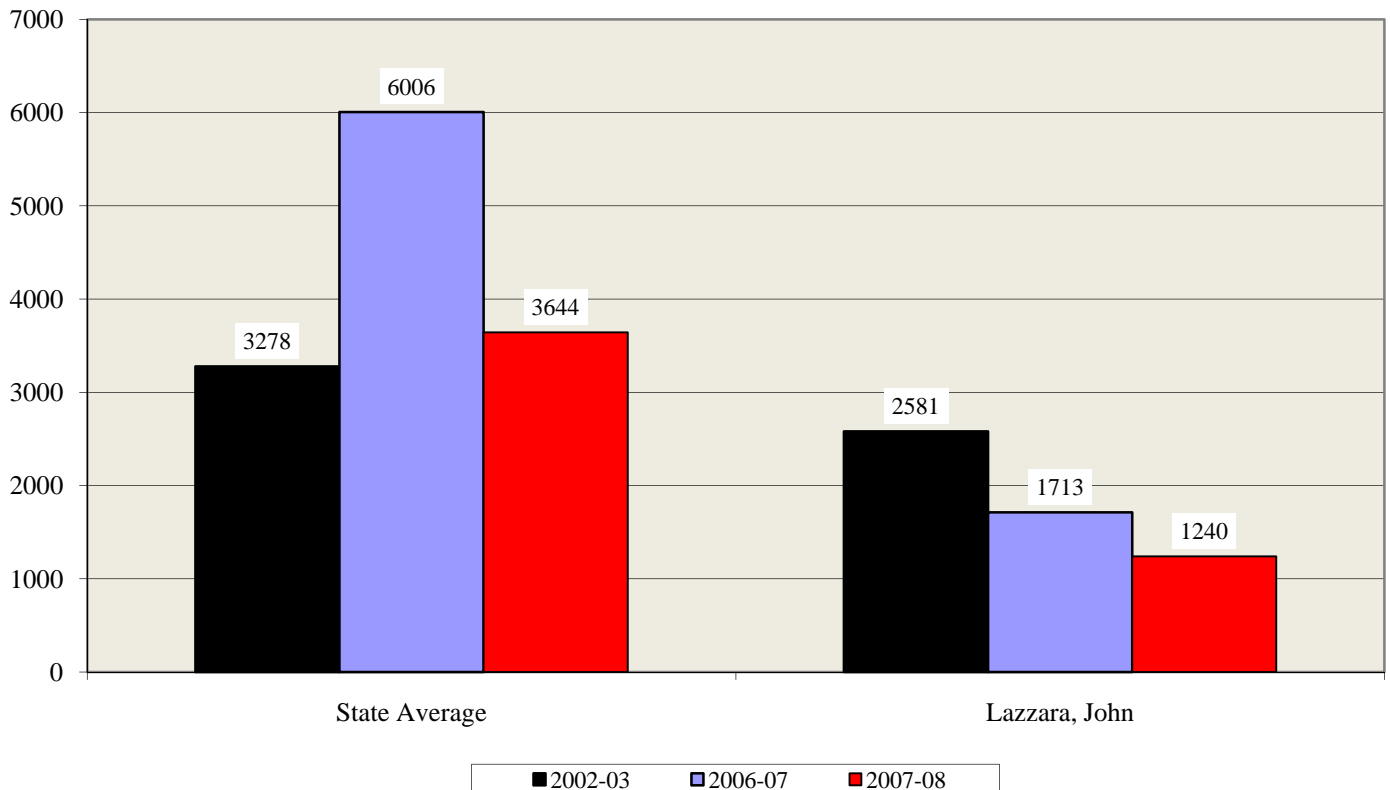
The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



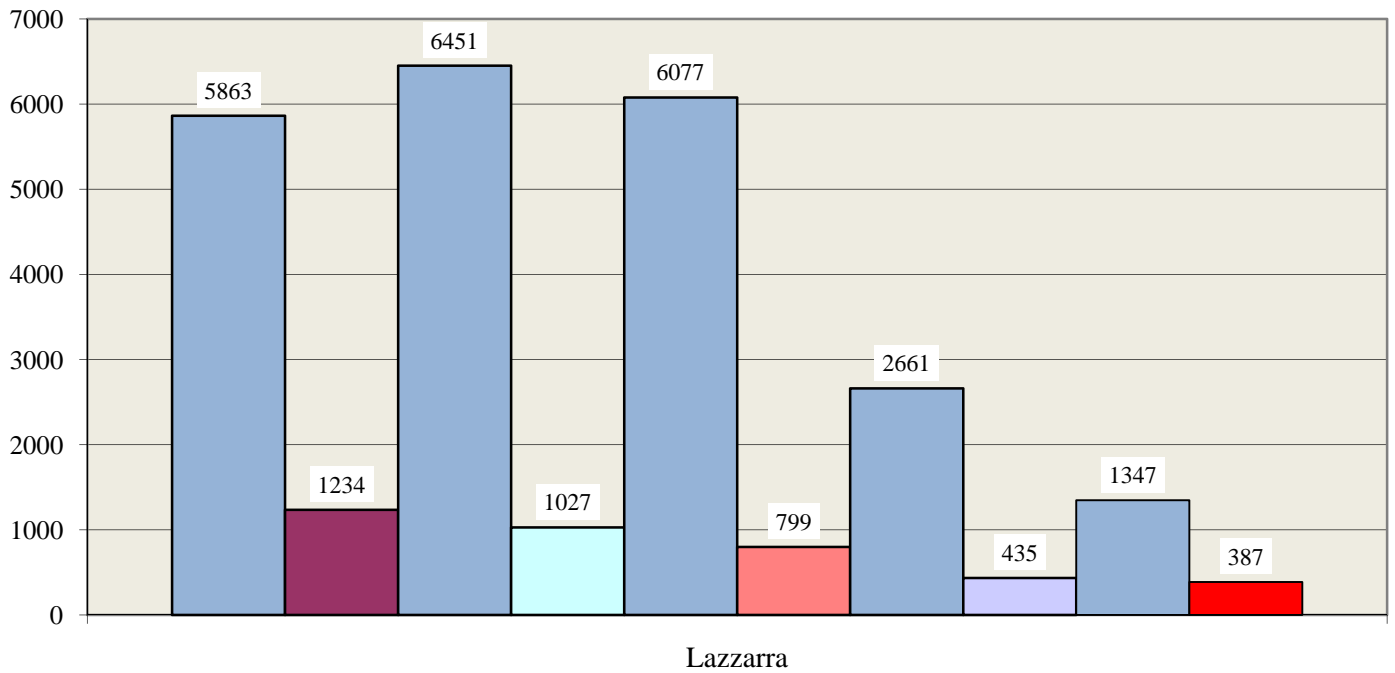
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.

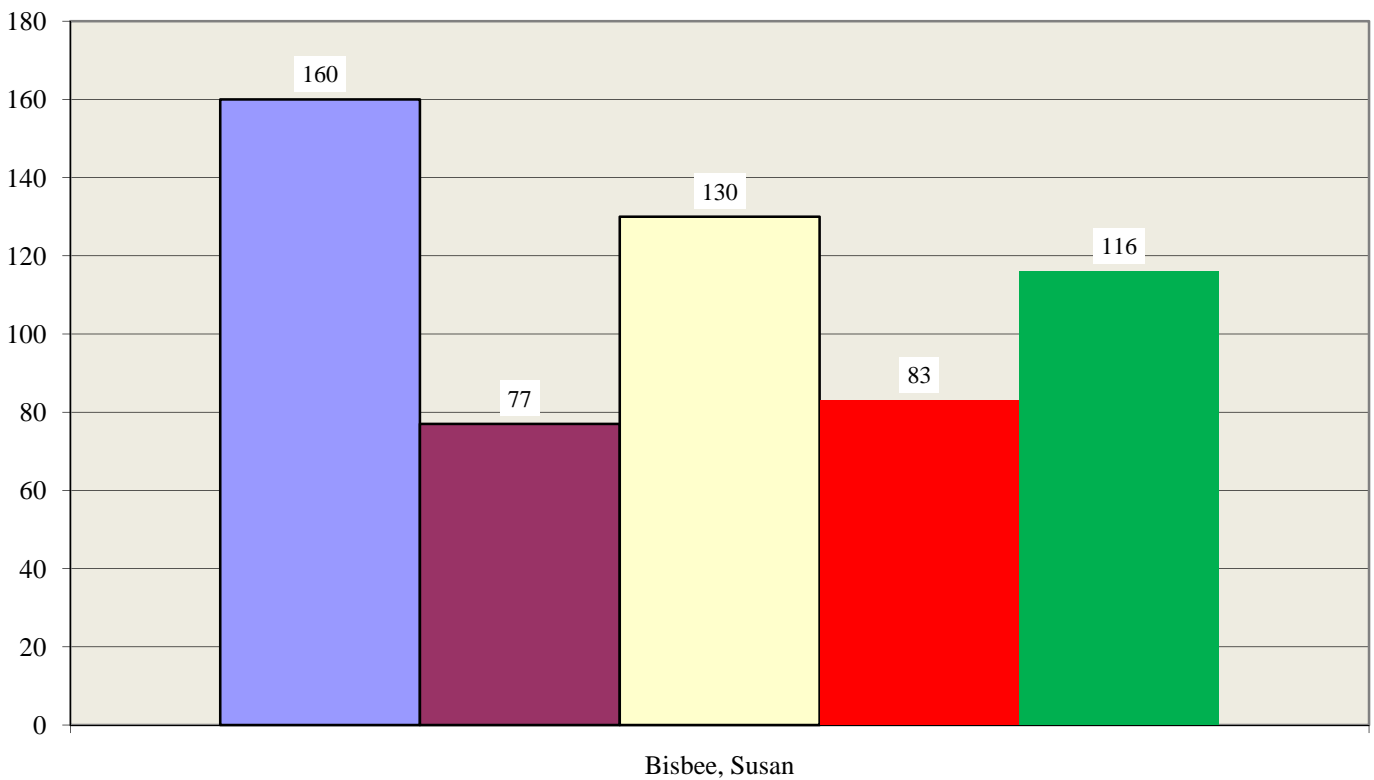


The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



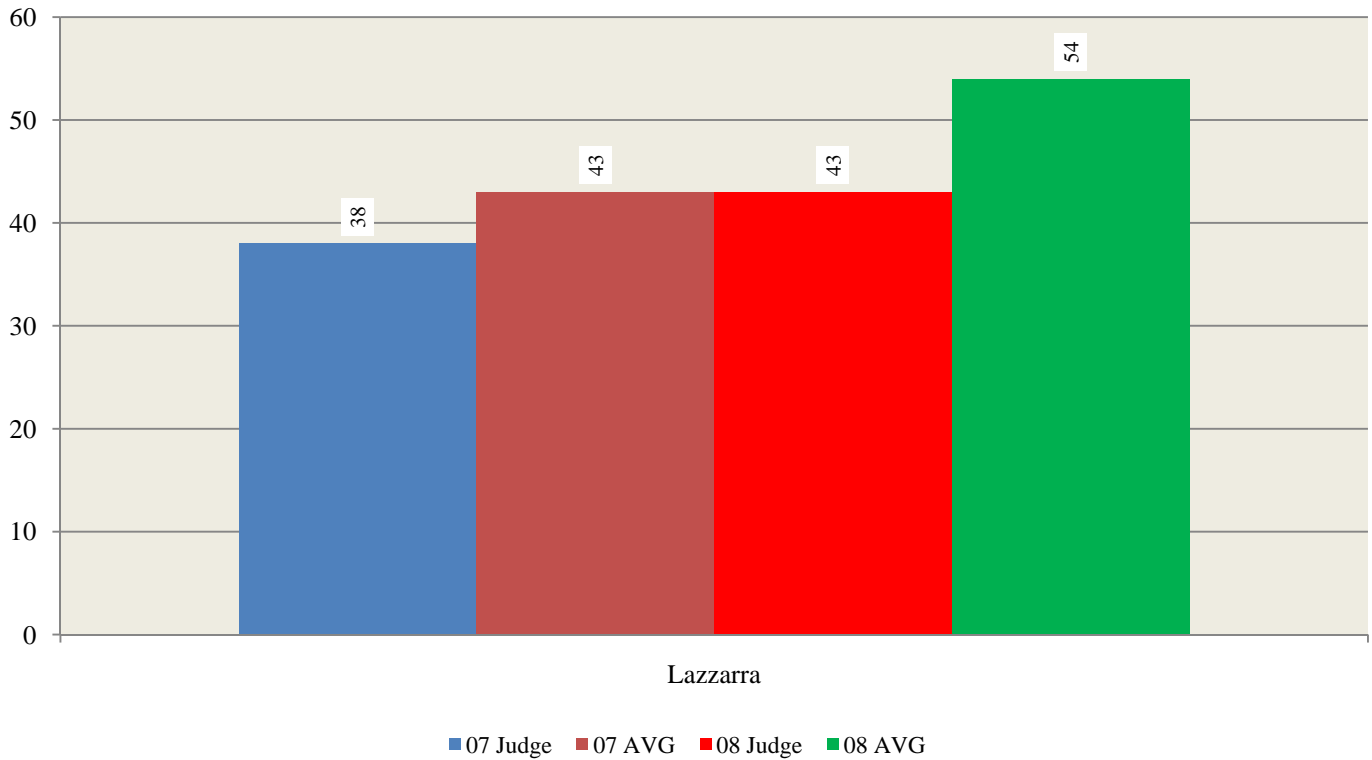
Legend: 04 AVG, 06/30/04, 05 AVG, 06/30/05, 06 AVG, 06/30/06, 07 AVG, 06/30/07, 08 Avg, 6/30/2008

The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).

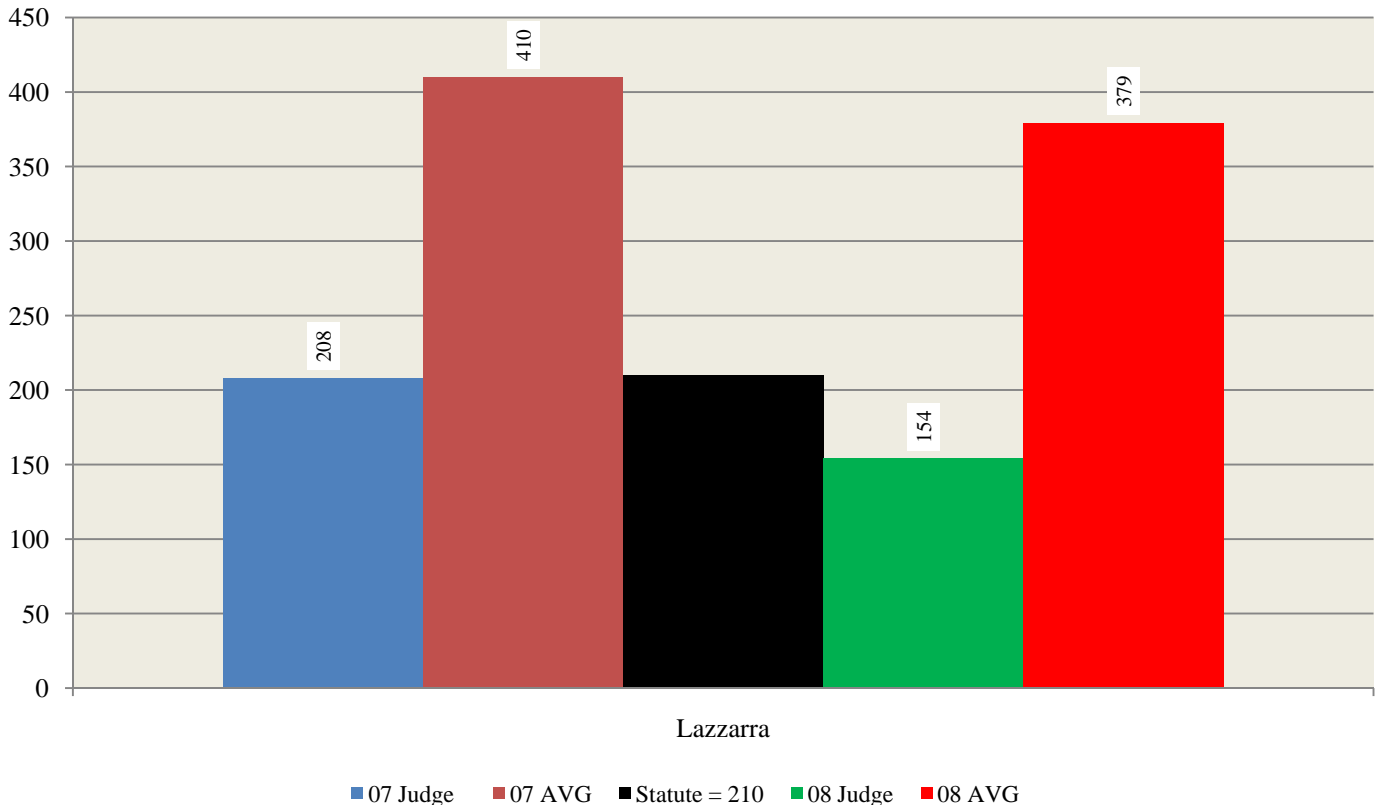


Legend: Statewide Avg. 06-07, Mediator 06-07, Statute, Mediator 07-08, Statewide Avg. 07-08

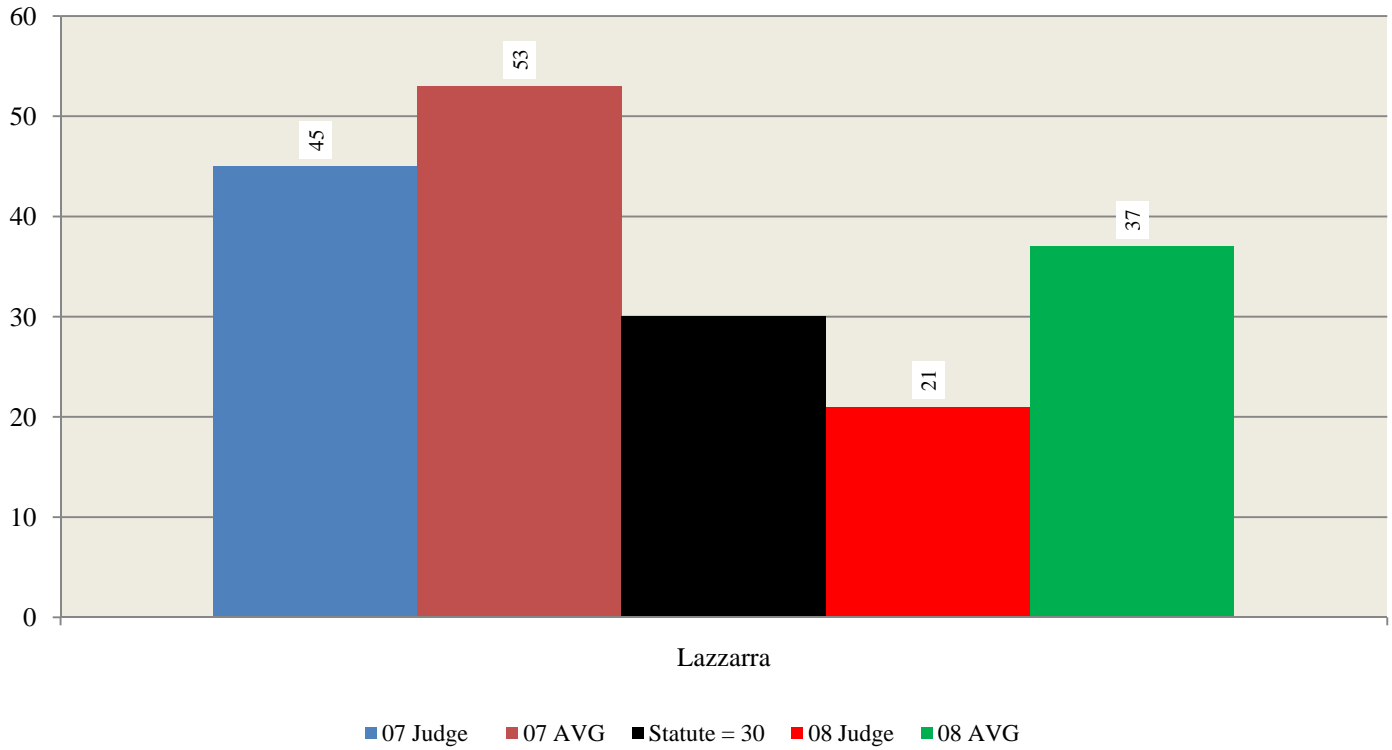
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2007-08 (rust) and 2007-08 (green).



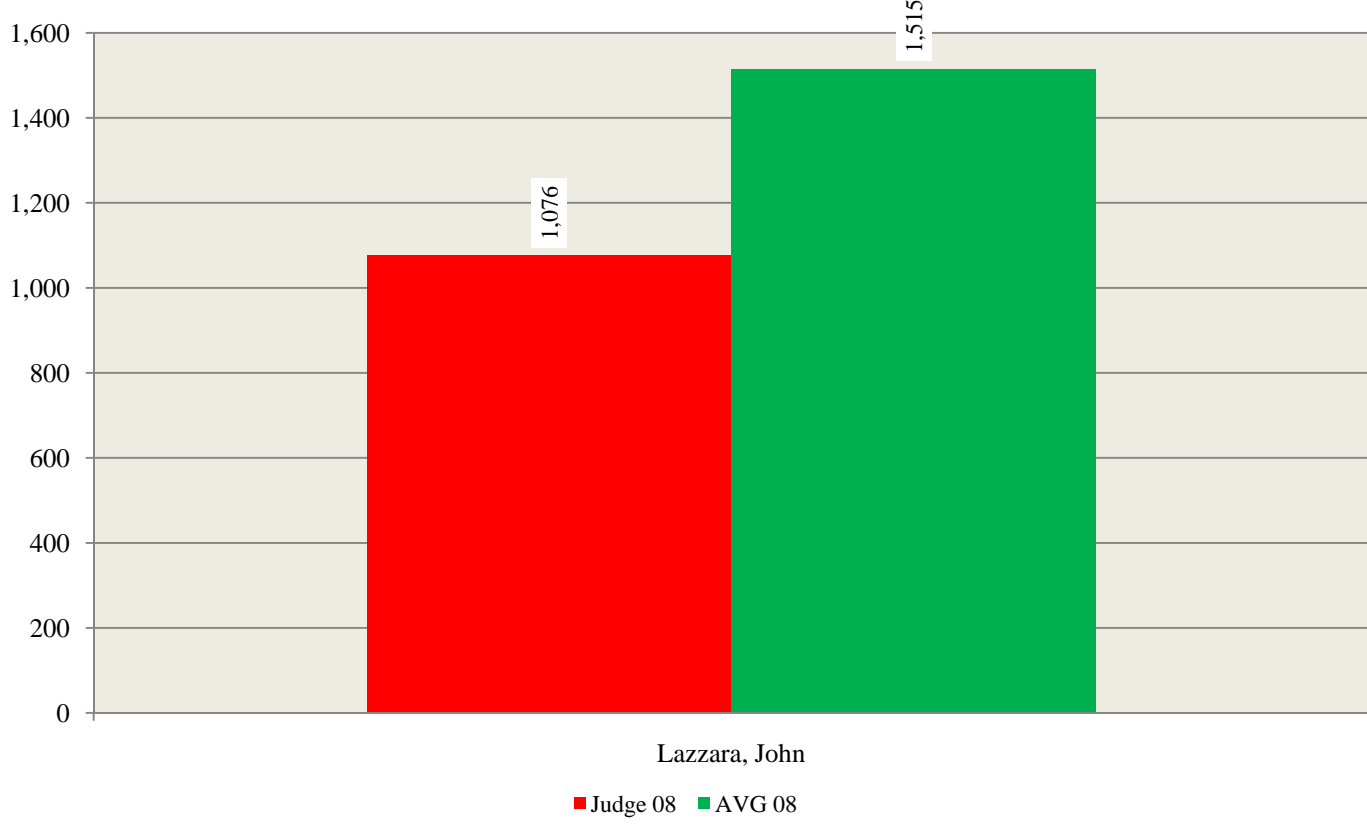
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2007-08 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2007-08 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.

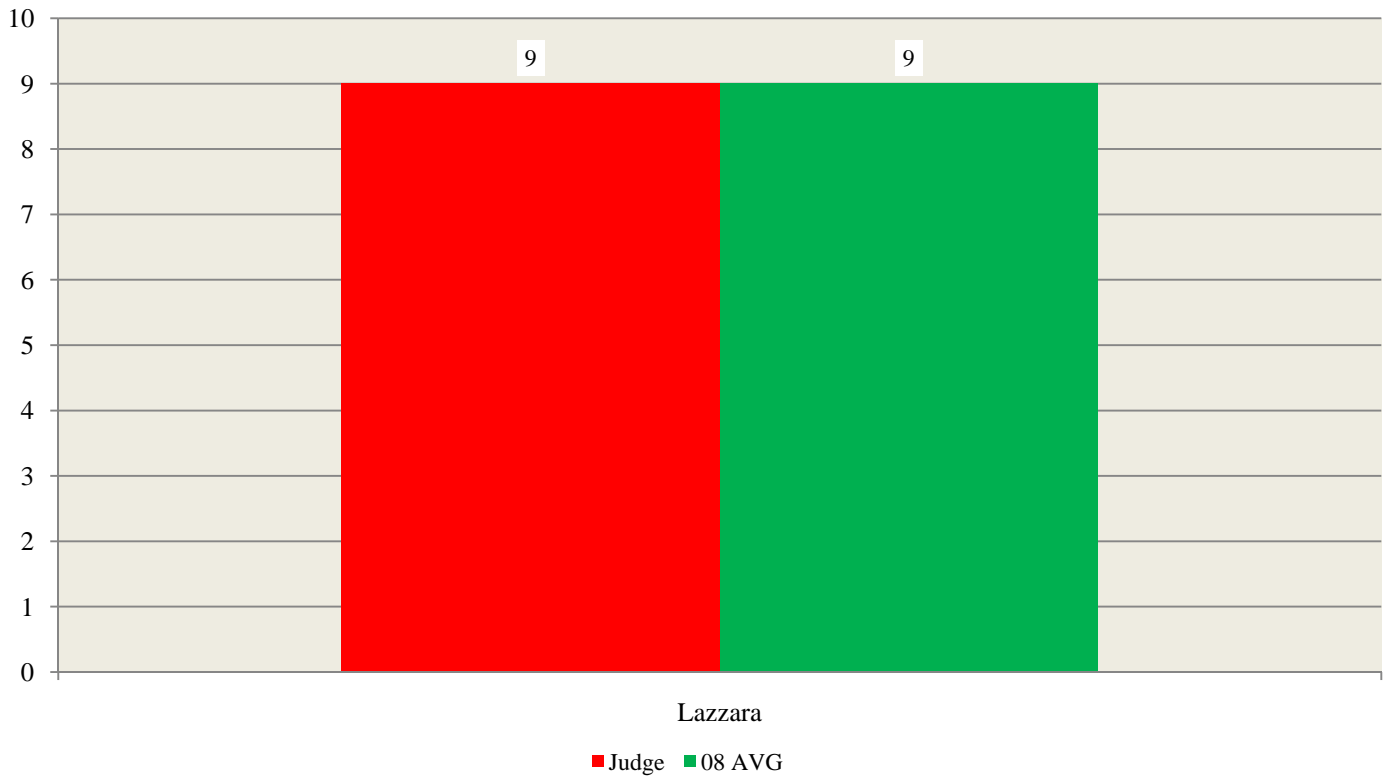


The following graph depicts the volume of settlement orders entered by each Judge in the district (red) and the statewide average (green).

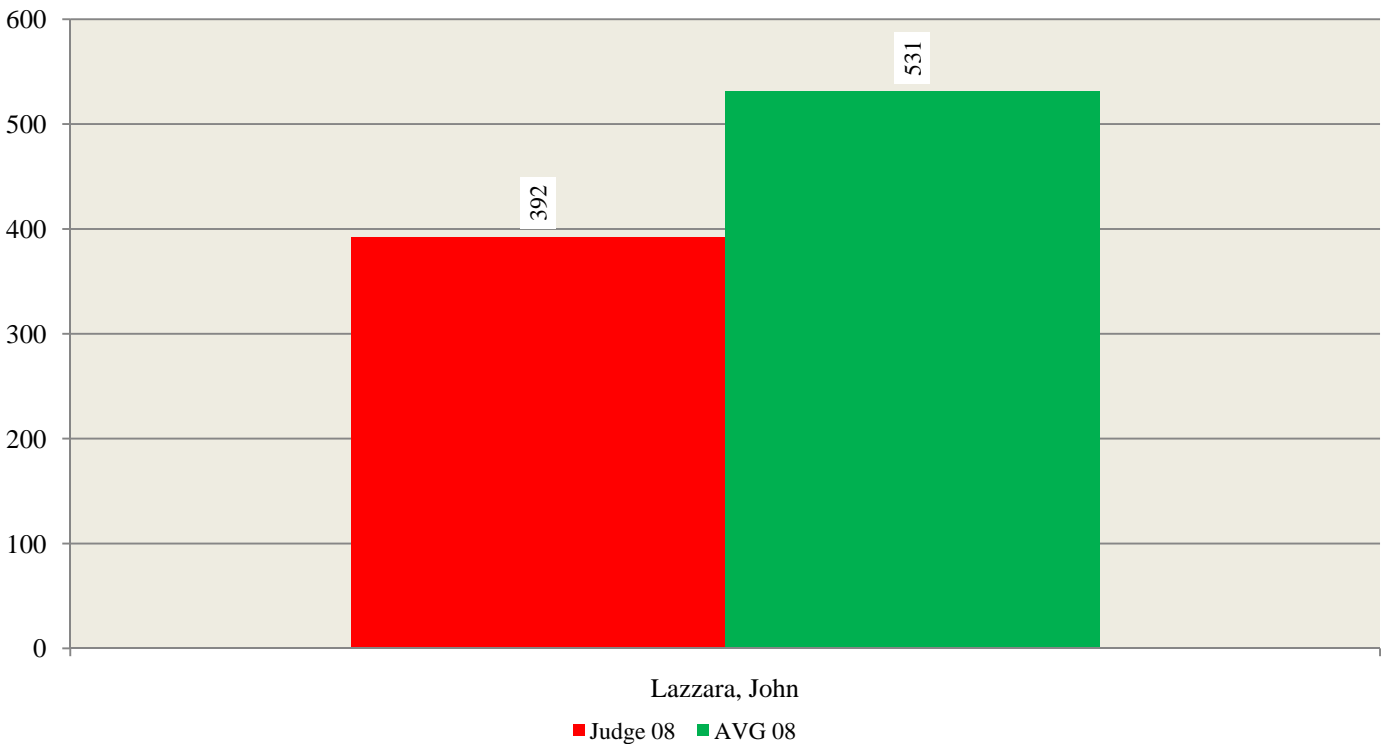




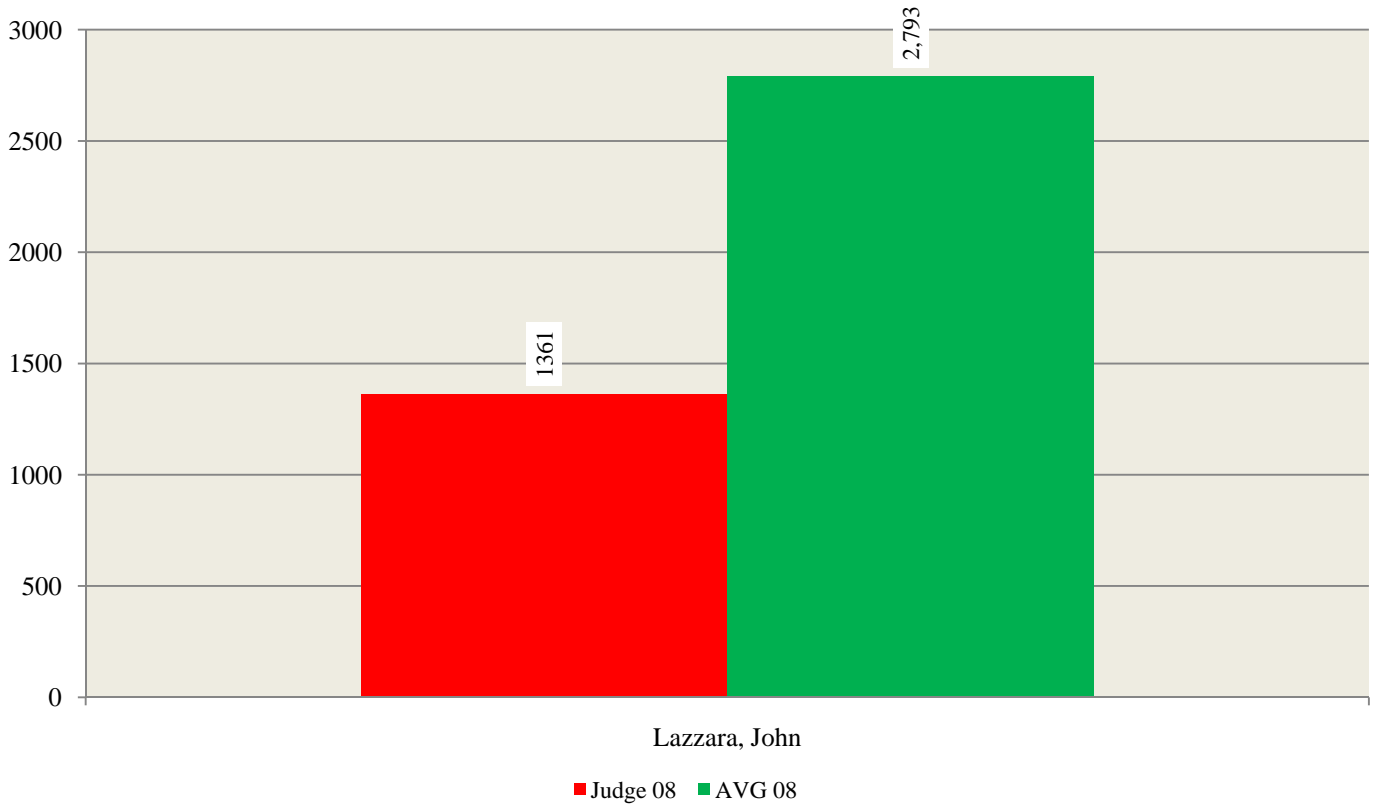
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).



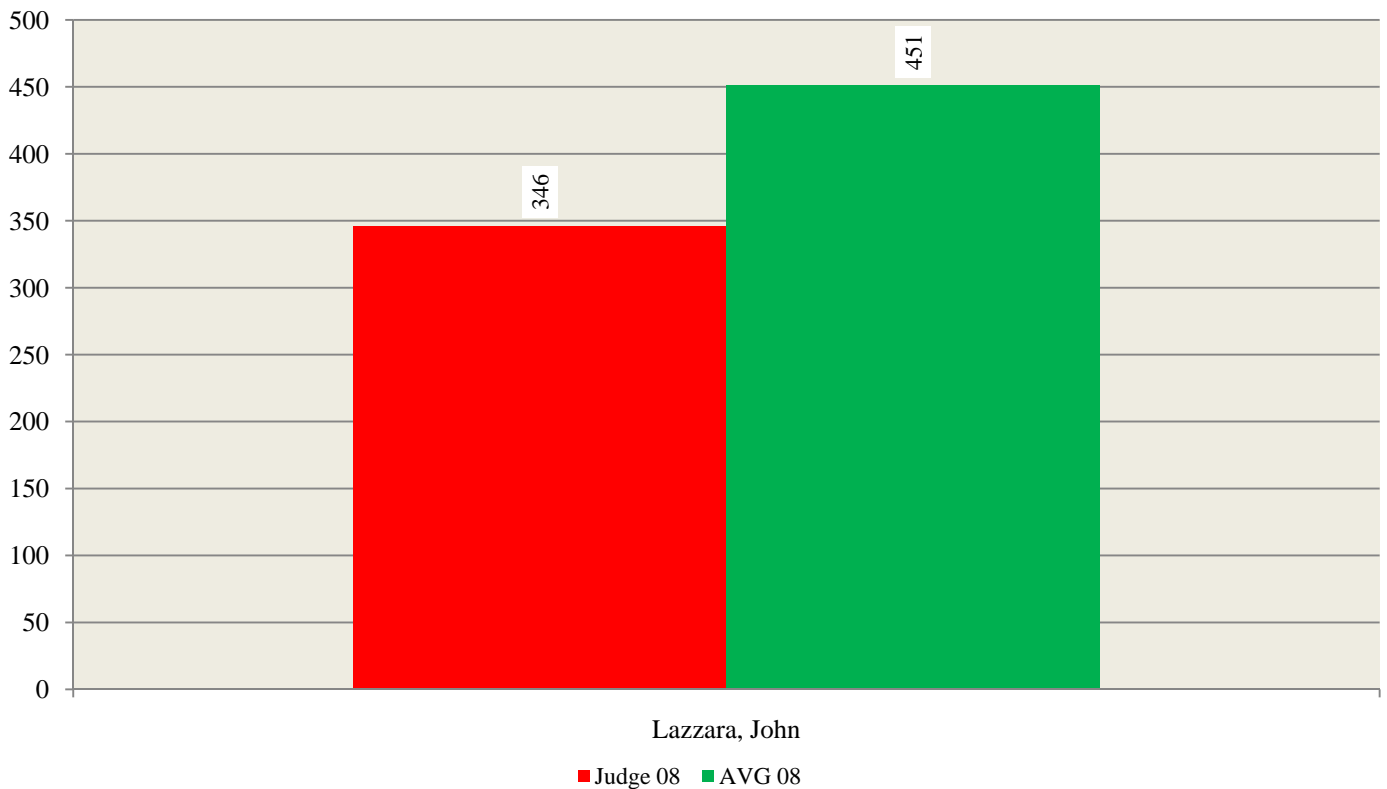
The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).



## Appendix “18” District TPA (JCC Jenkins, JCC Lorenzen, JCC Murphy):

District TPA includes Citrus, Hernando, Hillsborough, and Sumter Counties.

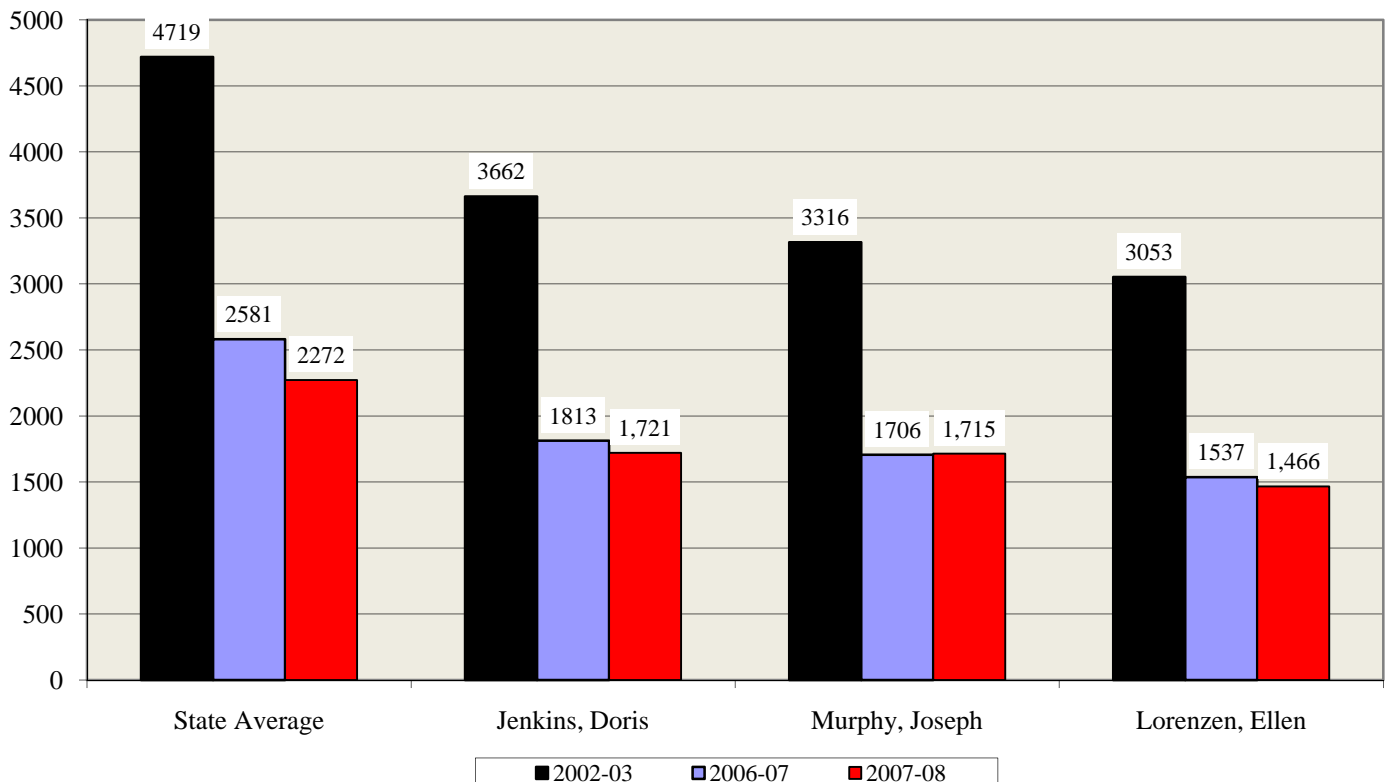
The PFB filing rates and “new case” and PFB closure volumes are all below average in TPA for 2007-08. The below average closure rate portrays the current status of an office that has been efficient and well managed for a number of years. The year-end PFB open inventory of each Judge is manageable.

Each of the TPA Judges volunteered to hear cases in LKL during 2007-08. Each also volunteered to review “settlement” motions and attorney fee stipulations in 2007-08 for South Florida divisions. The petitions and “new case” filing volumes in TPA are both below the statewide averages. The three mediators in TPA, Ronnenberg (82), Murphy (92) and Leon (86) each averaged less than the 130 day statutory period, and all also averaged less than the statewide 116 day average.

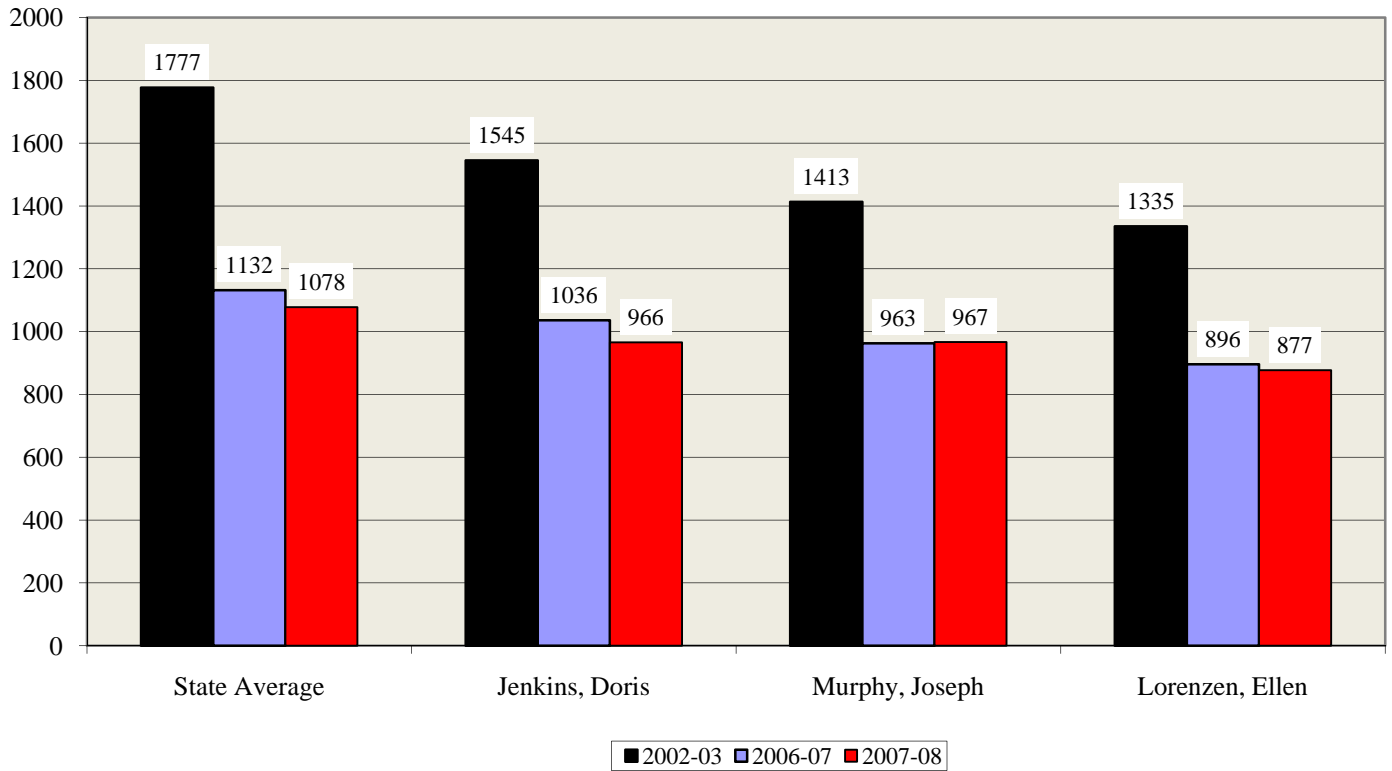
Each of the Judges in TPA averaged less than the statewide average (379) in their average days from PFB to trial. Judge Murphy also averaged less than the 210 day statutory measure. Judges Murphy (23 days) and Lorenzen (3 days) each averaged less than 30 days from the inception of trial and the final order. Judge Lorenzen was the most prompt Judge in the State in this regard. Each of the TPA Judges also averaged less than the statewide average in days between the filing of a “settlement” motion and the entry of the resulting order.

The file closure rates in TPA in 2007-08 illustrate a District that is well managed and which is maintaining actively managed dockets.

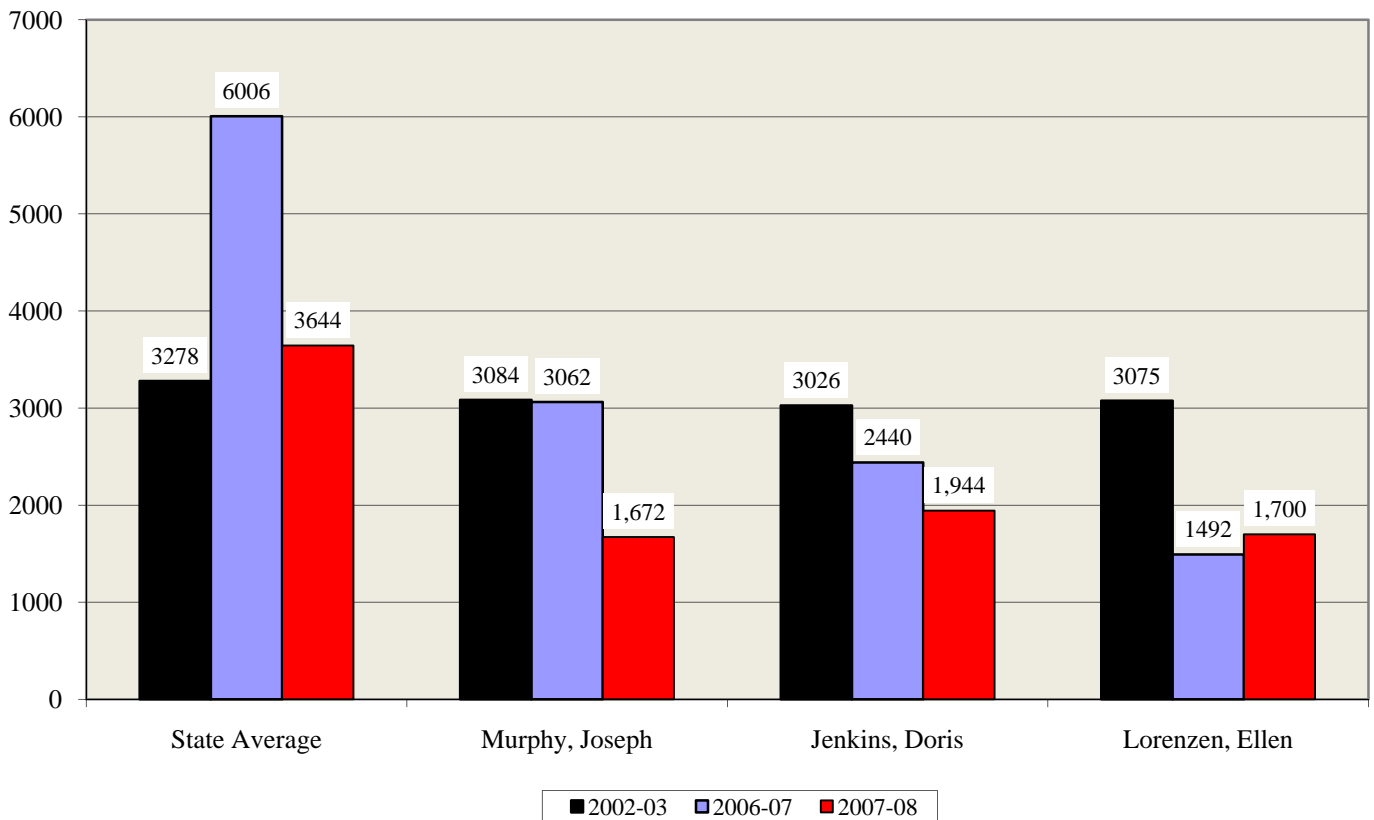
The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



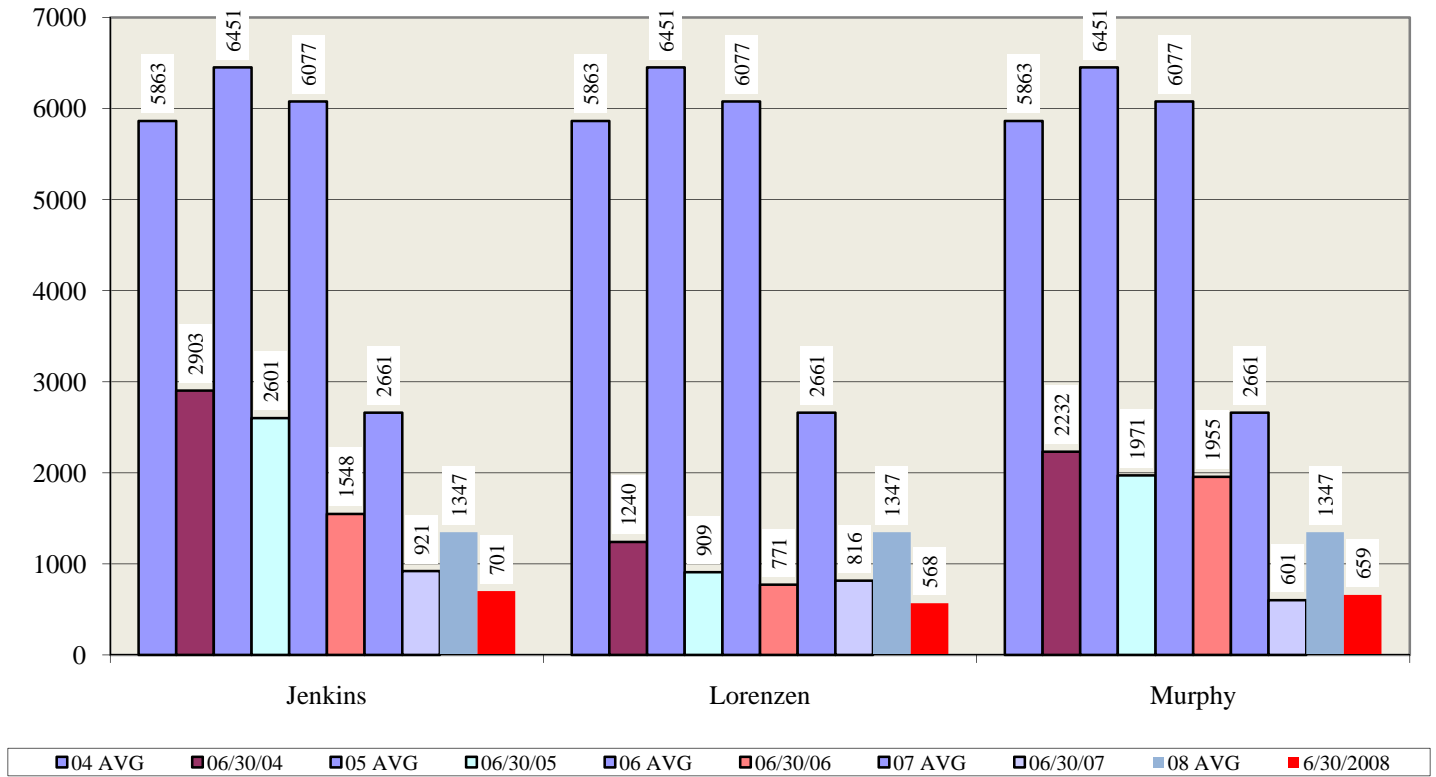
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



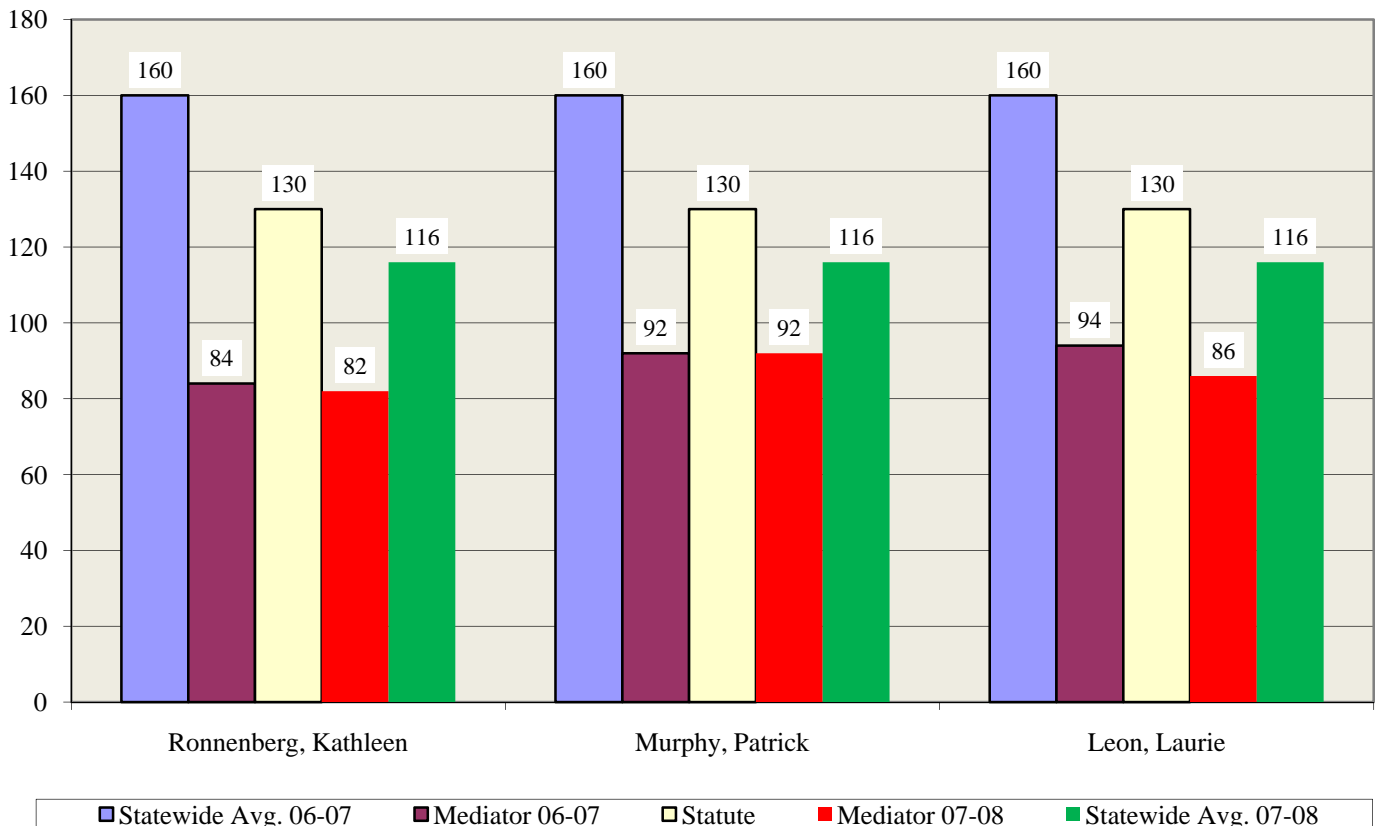
The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



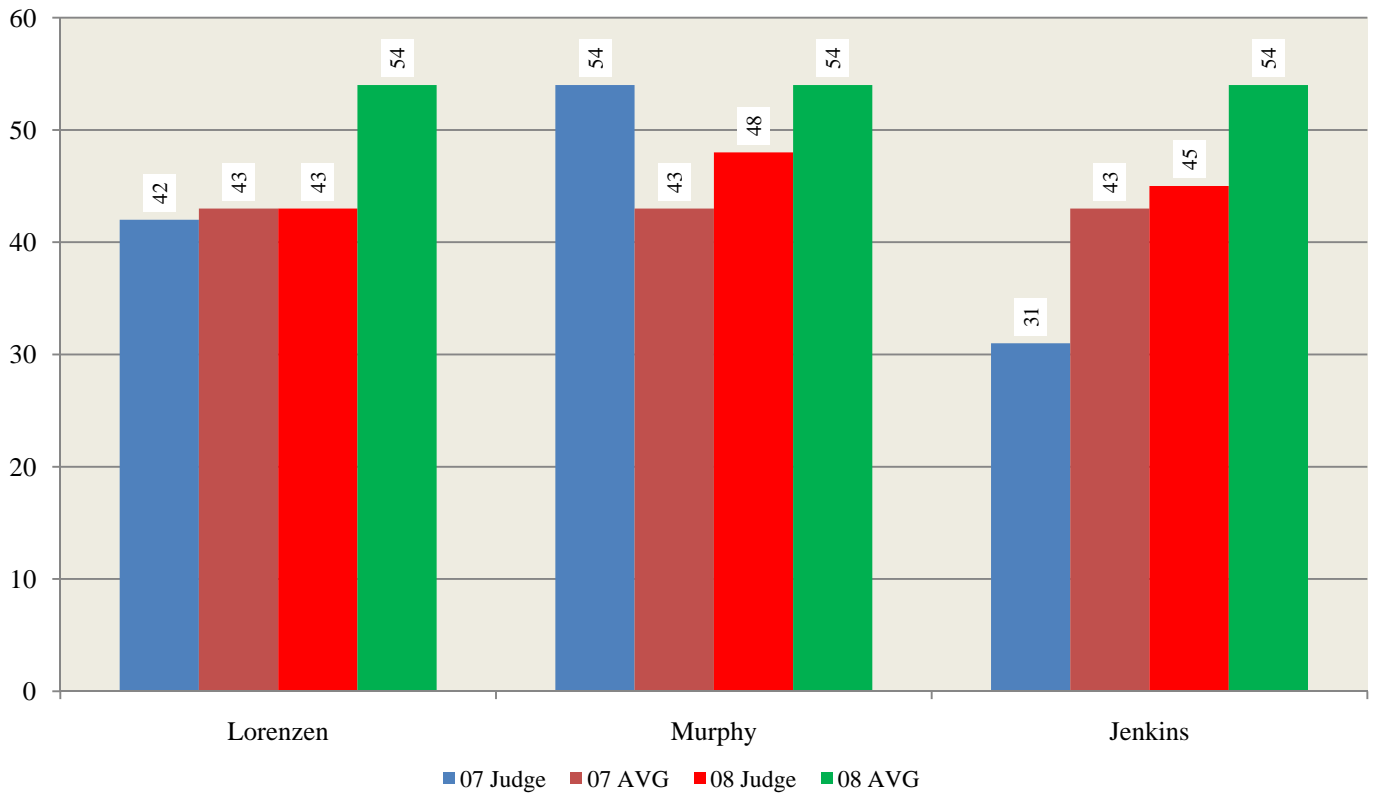
The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



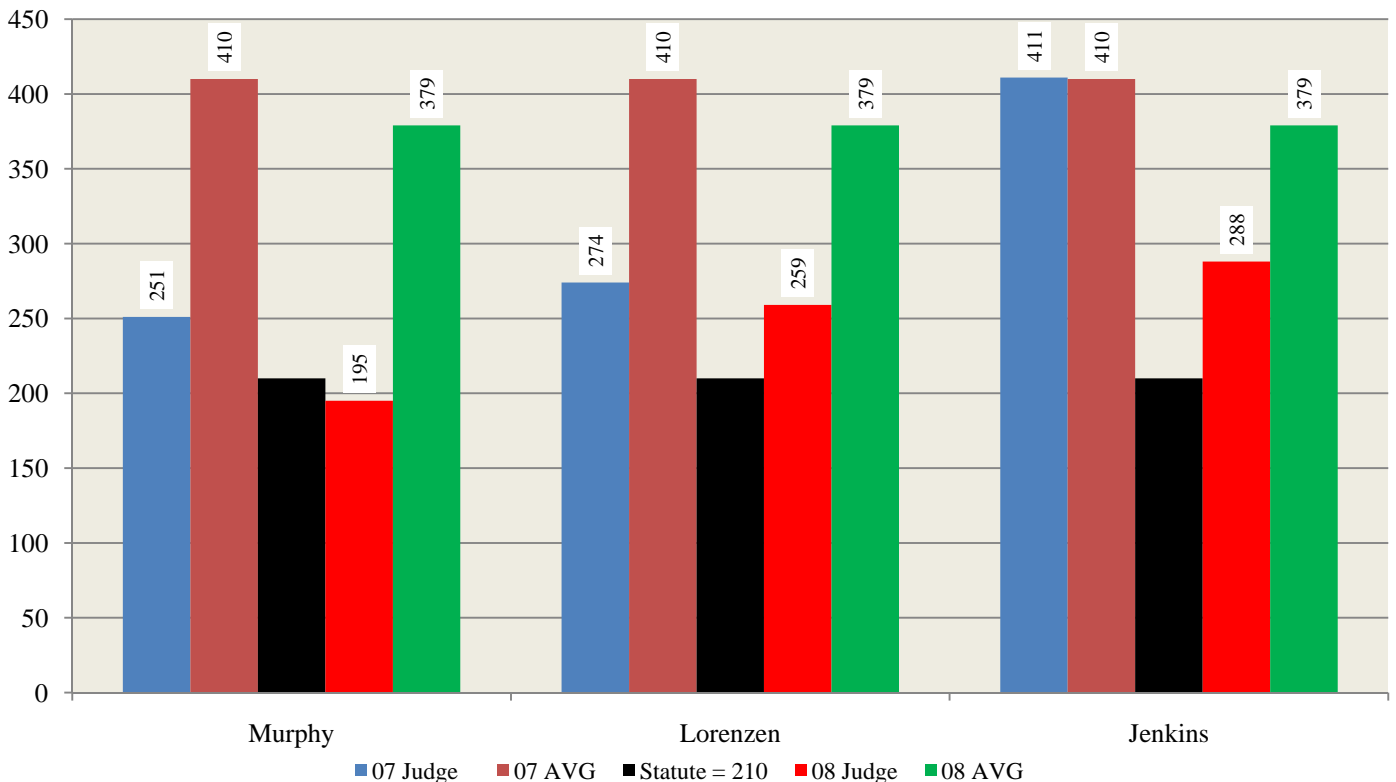
The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).



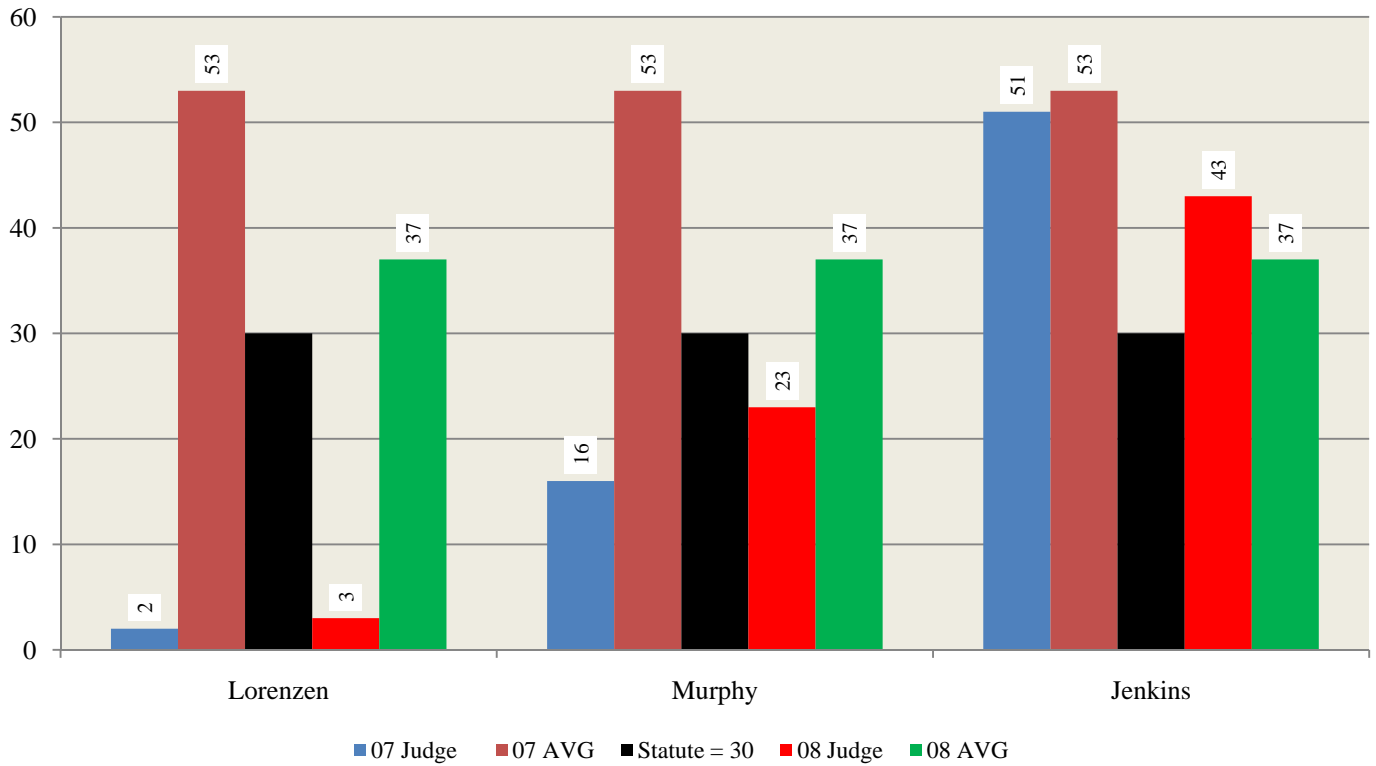
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2007-08 (rust) and 2007-08 (green).



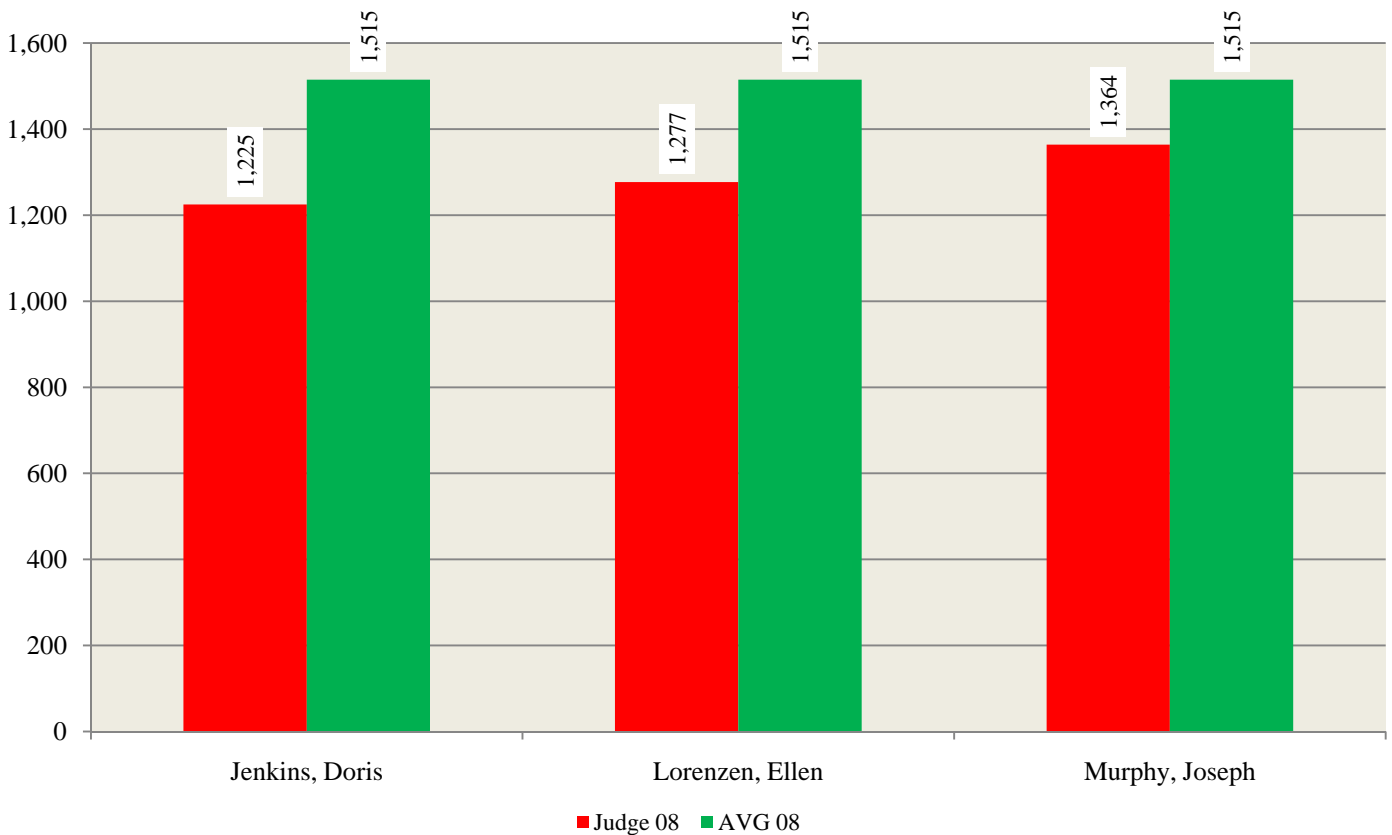
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2007-08 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



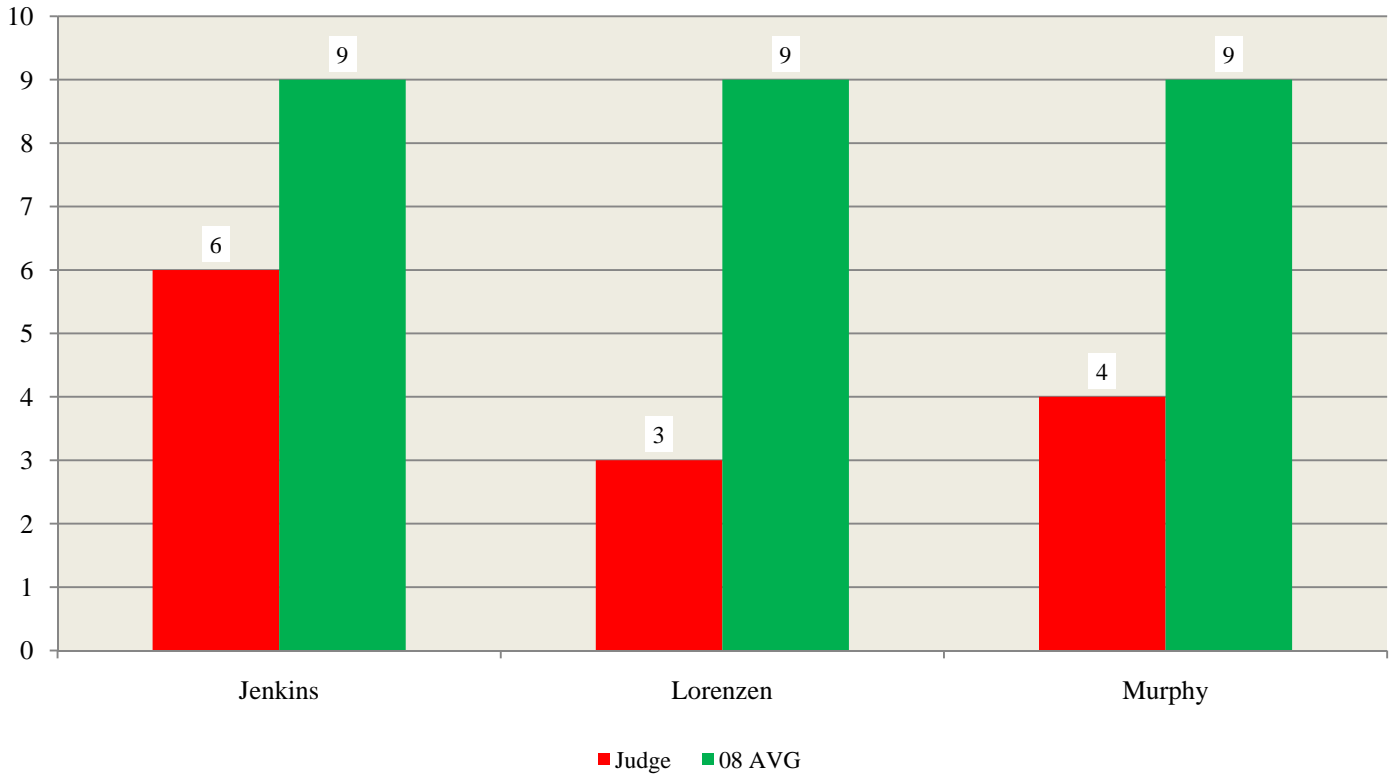
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2007-08 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



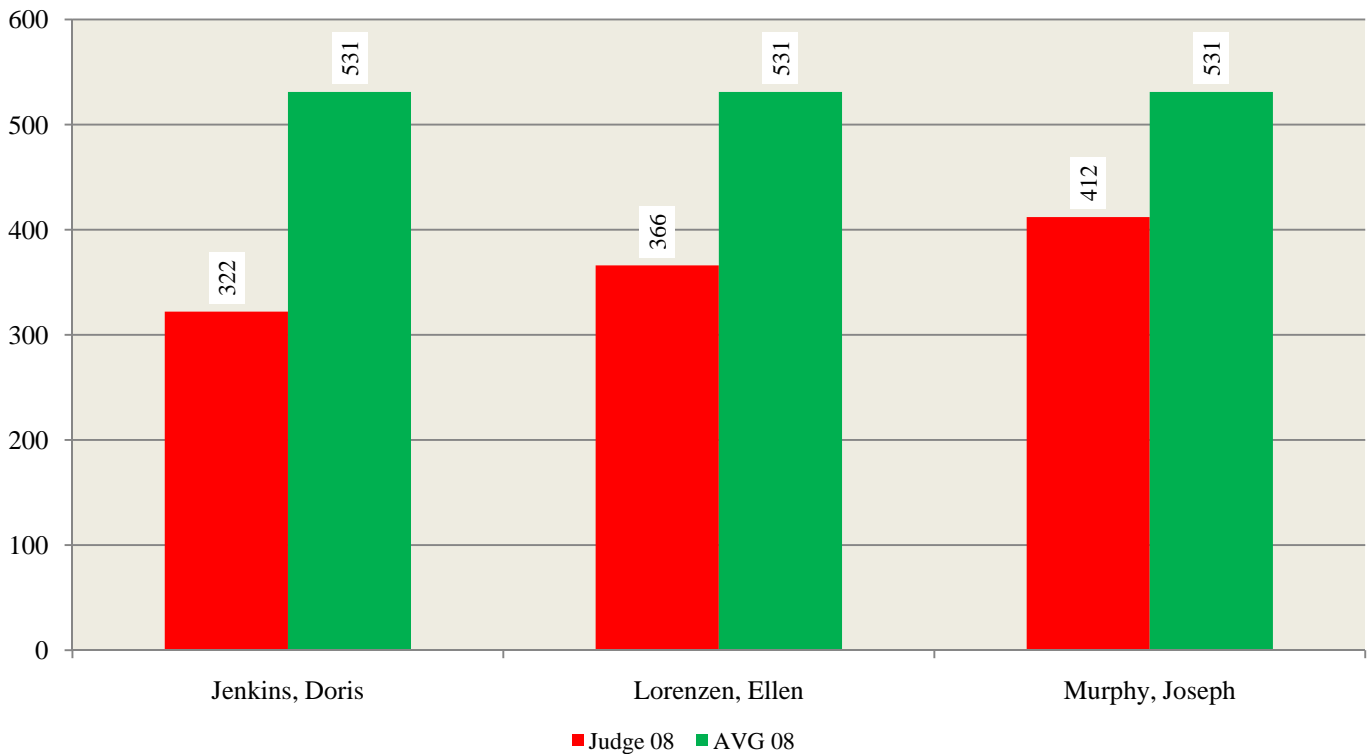
The following graph depicts the volume of settlement orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).

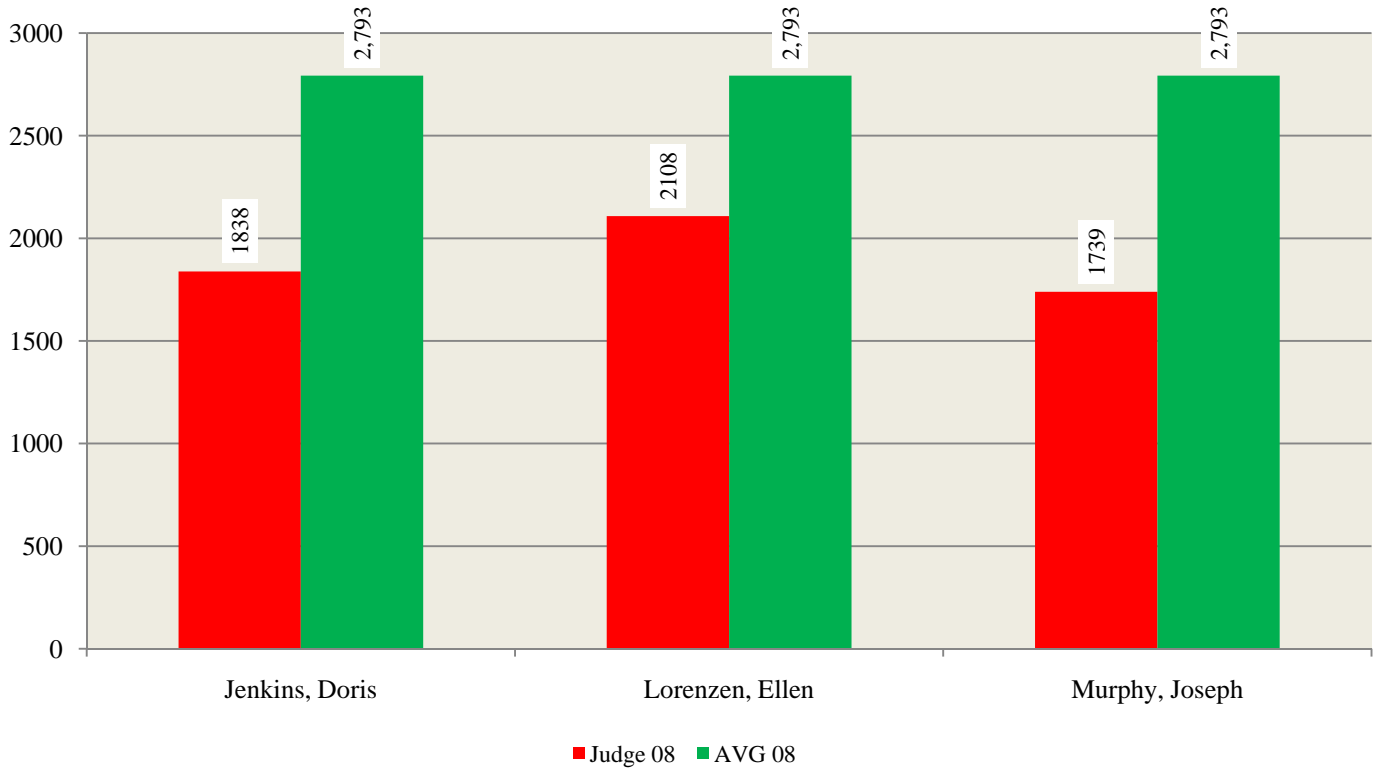


The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).

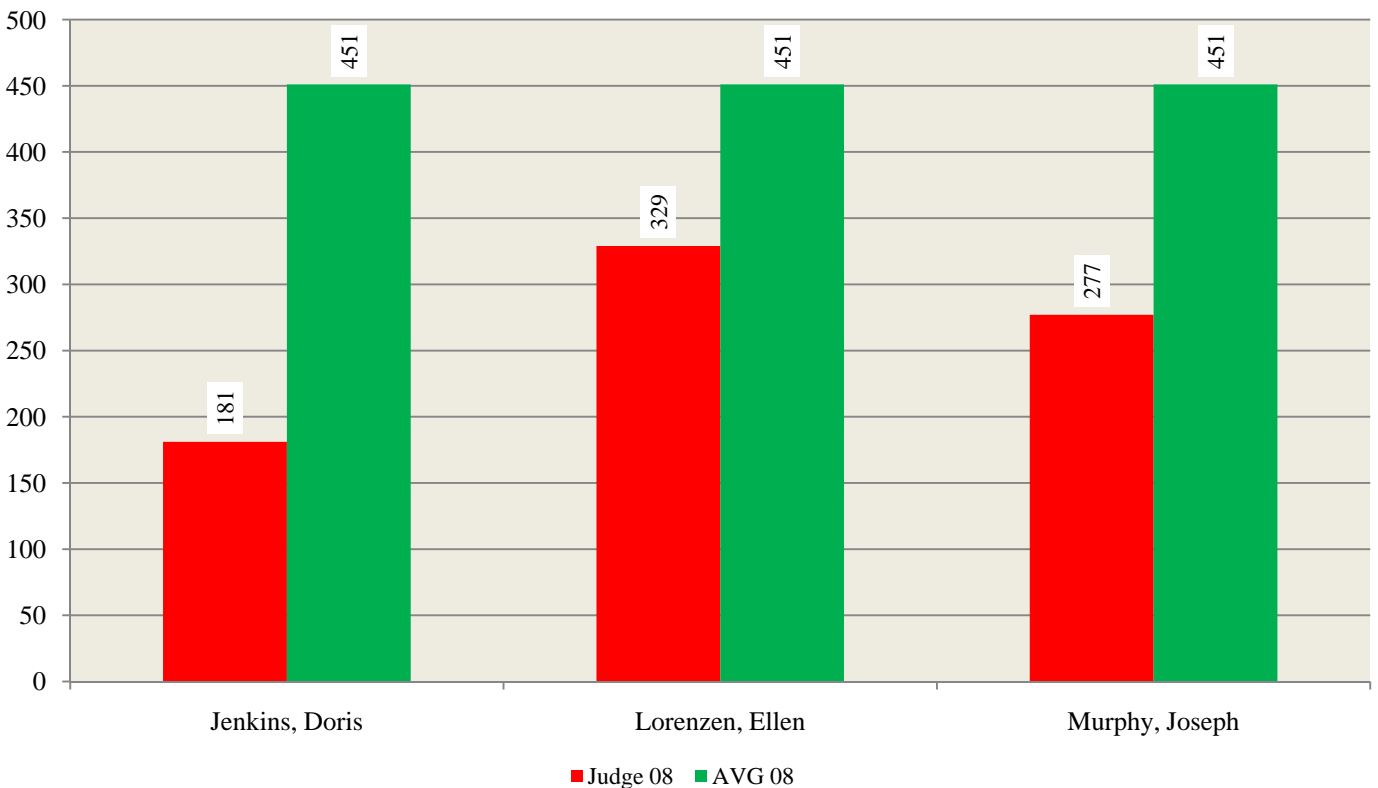




The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).



## Appendix “19” District WPB (JCC Basquill, JCC D’Ambrosio, JCC Punancy):

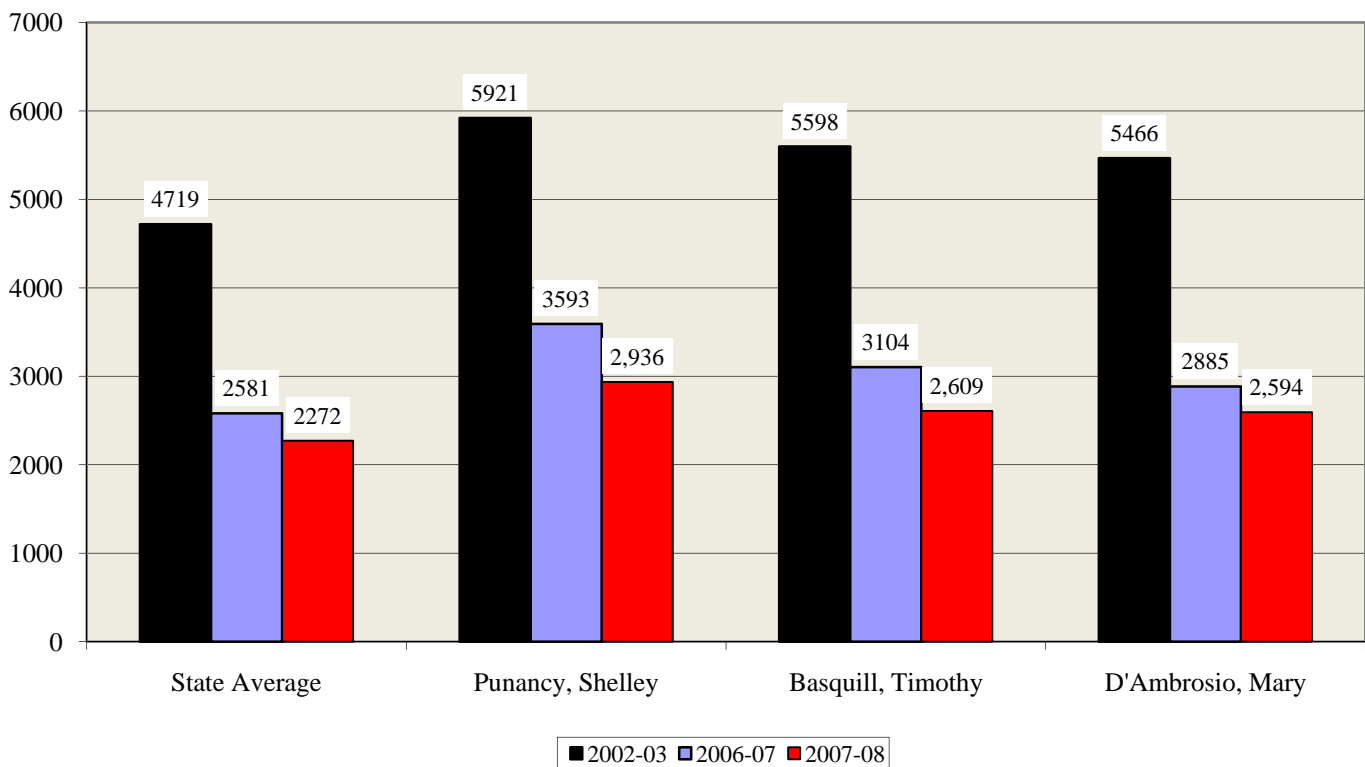
District WPB includes Glades, Hendry and Palm Beach Counties.

The filing volumes for PFBs in District WPB were above average in 2007-08. The “new case” volumes were slightly below average. District WPB documented significant volumes of PFB closure in 2006-07. This continued in one WPB division into 2007-08. Each of the three divisions in District WPB ended 2007-08 with manageable and below statewide average volumes of open PFBs.

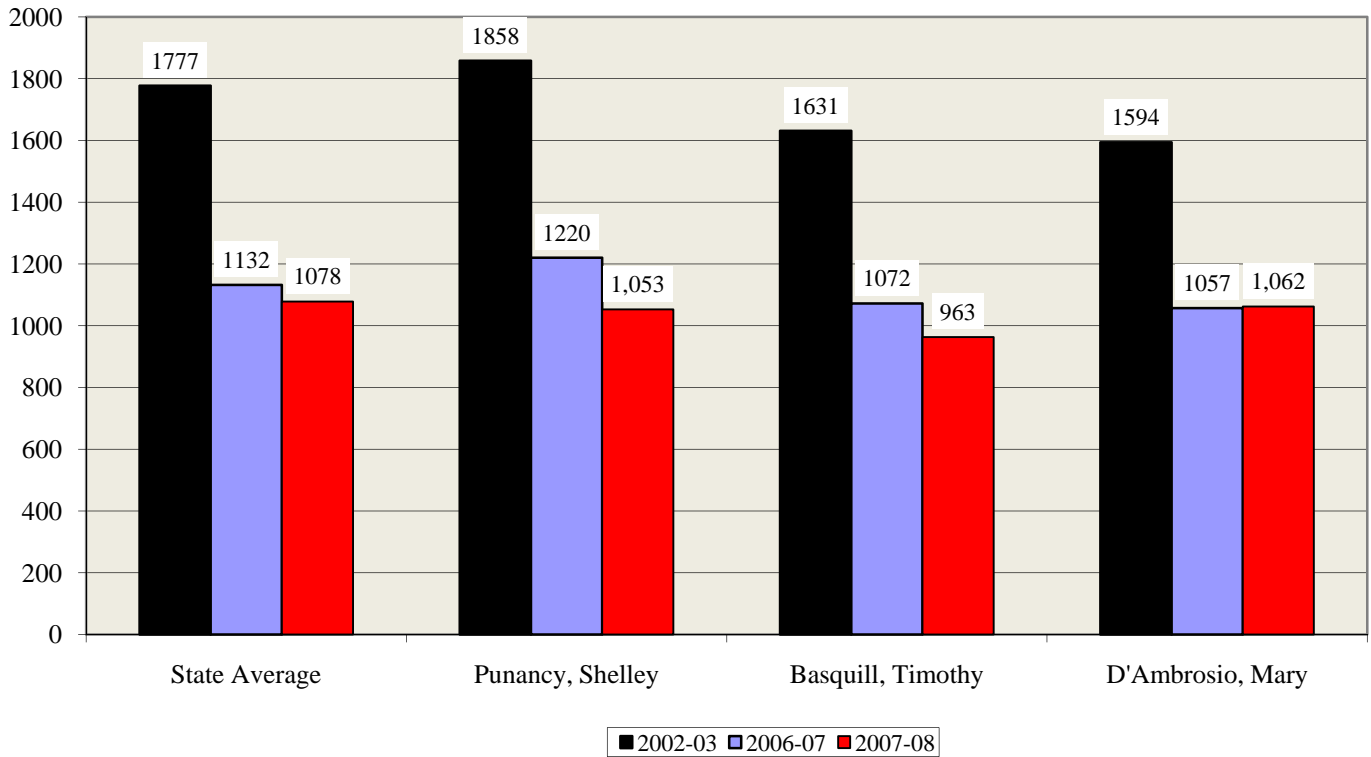
WPB mediators Langer (107), DiGennaro (95) and Hill (90) each had an average time from PFB filing to first mediation that below the statewide average (116 days) and the statutory period. The average days between PFB filing and trial in WPB continue to improve. All three Judges averaged below the statewide average (379) between PFB filing and trial. Judge D’Ambrosio’s average was within the 21 day statutory measure. Judges D’Ambrosio averaged less than the statutory 30 days for the entry of trial orders, while Judge Basquill averaged 31 days despite a trial volume that was above average. Judges Basquill and D’Ambrosio also entered “settlement” orders in within the statewide average in 2007-08.

Overall, District WPB has shown significant progress in docket control and timeliness over recent years despite significant filing volumes and other workload.

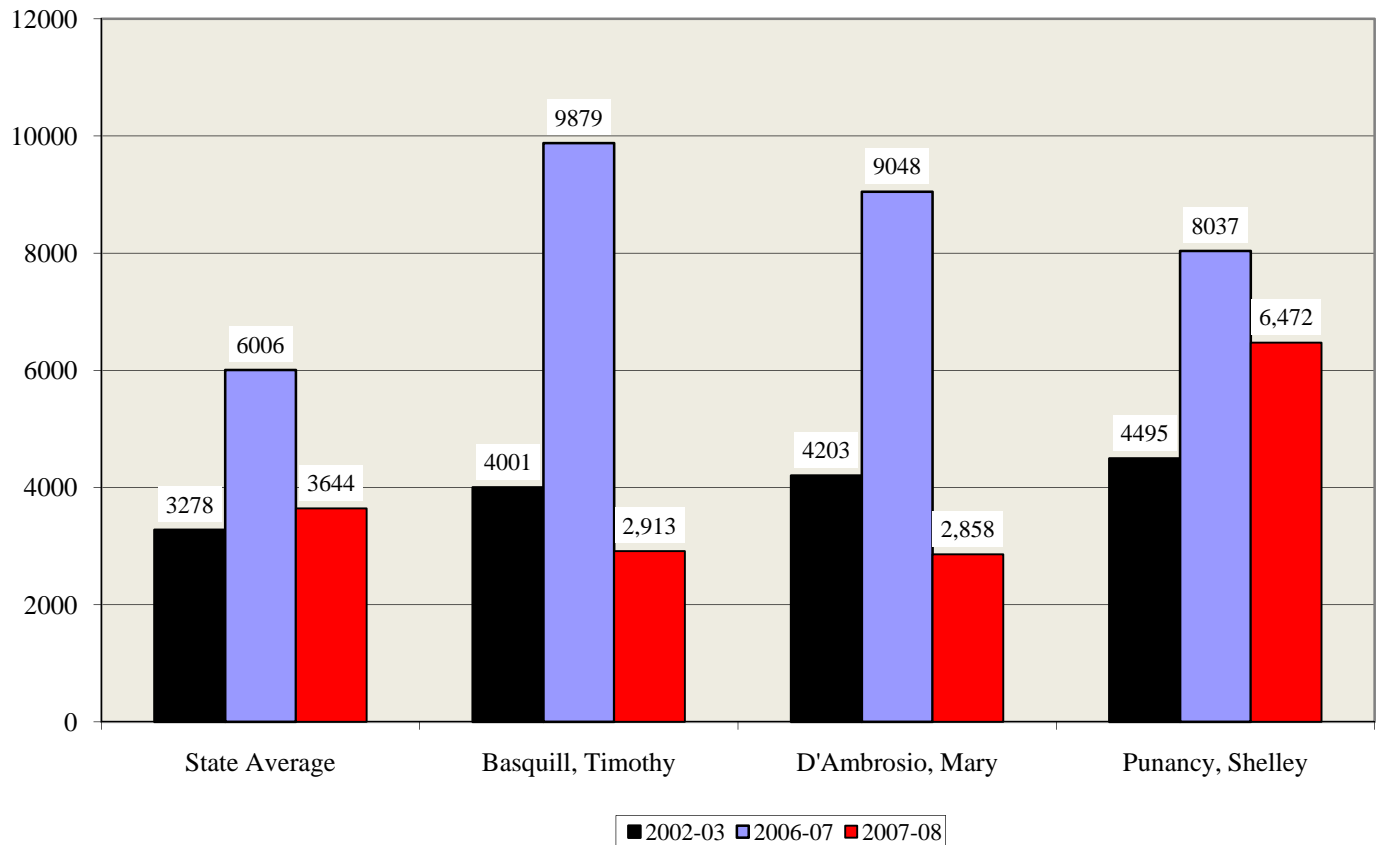
The following graph depicts the volume of PFBs filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



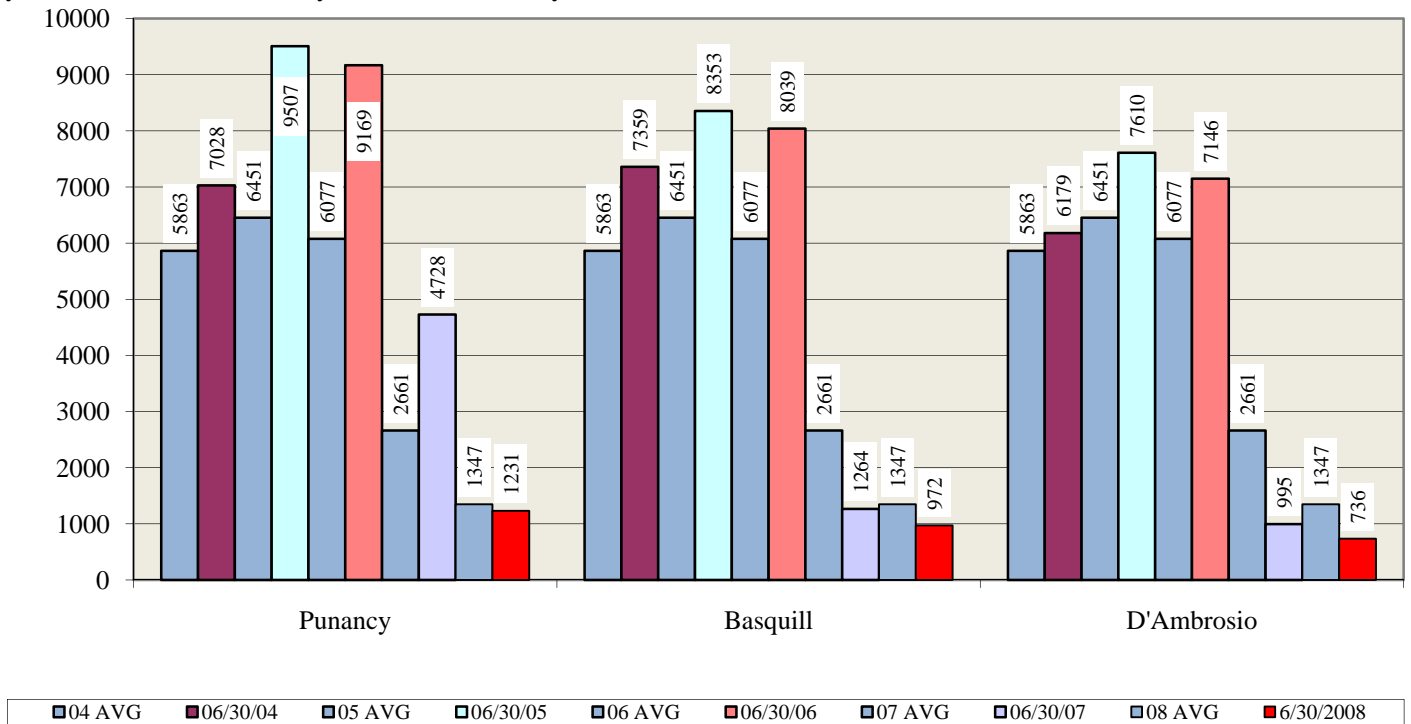
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



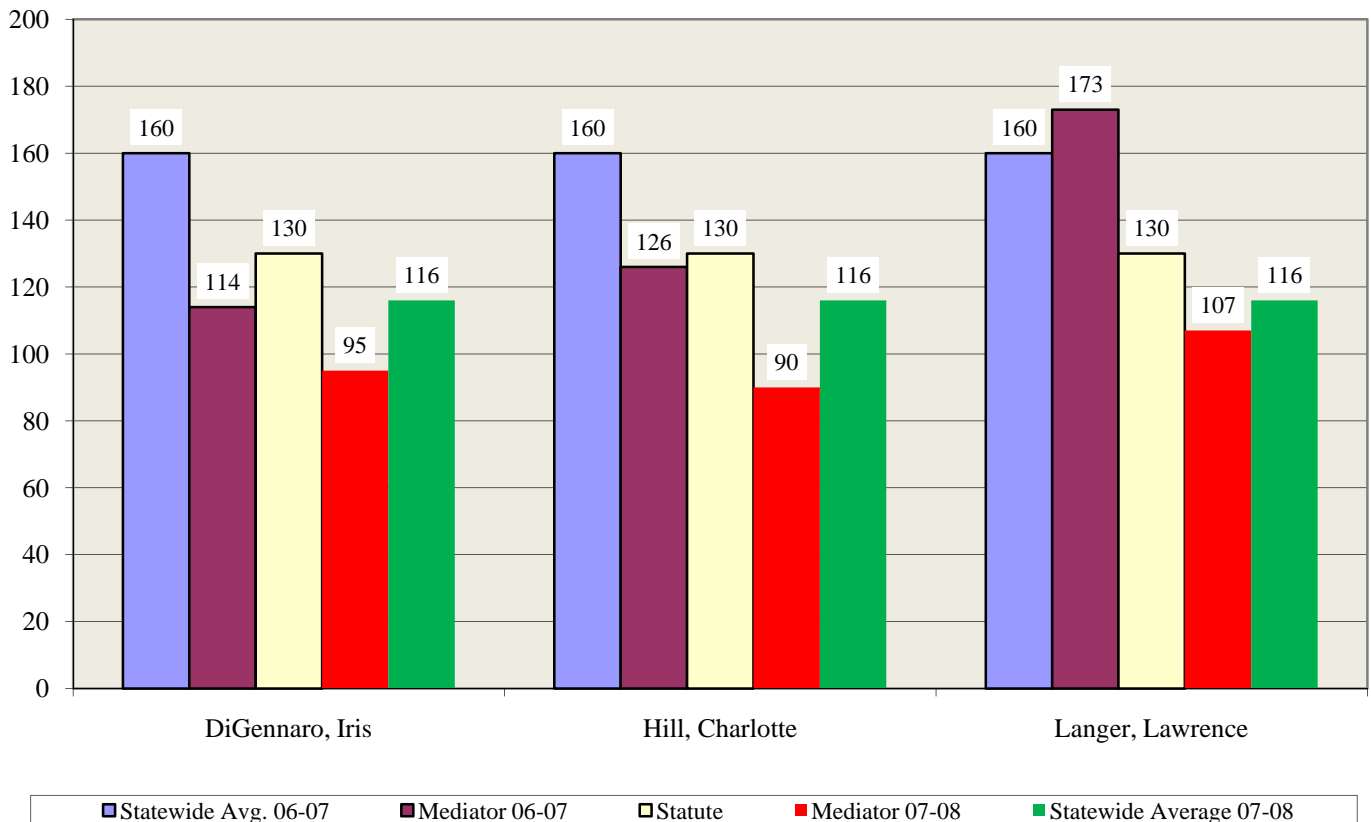
The following graph depicts the volume of PFBs closed in this district during 2002-03 (black), 2006-07 (blue) and 2007-08 (red) for each Judge in the district. Viewed in monochrome, the columns are in that order left to right.



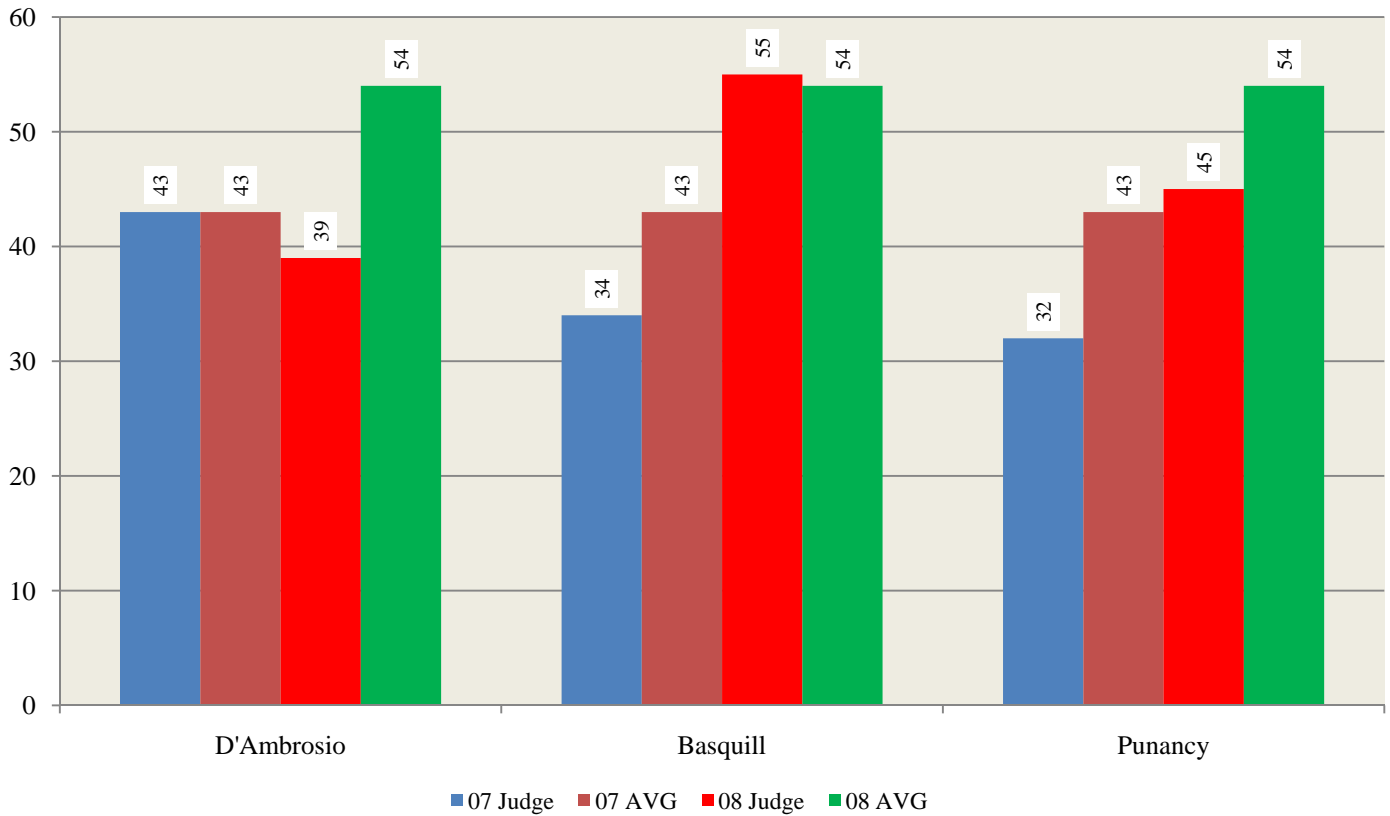
The following graph depicts the inventory of pending PFBs in this district at the conclusion of the last five fiscal years for each Judge in the district (multicolor bars, red on far right is 2008) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



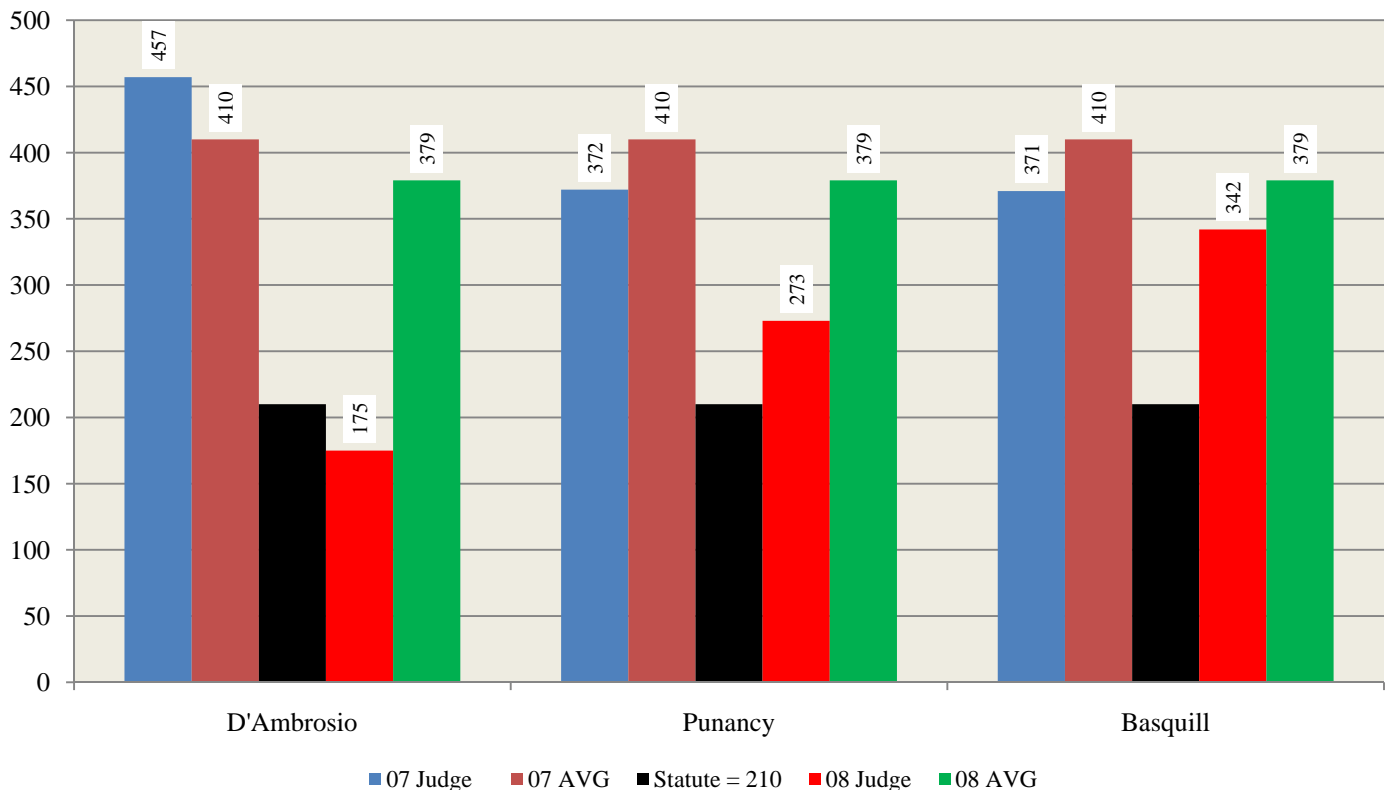
The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).



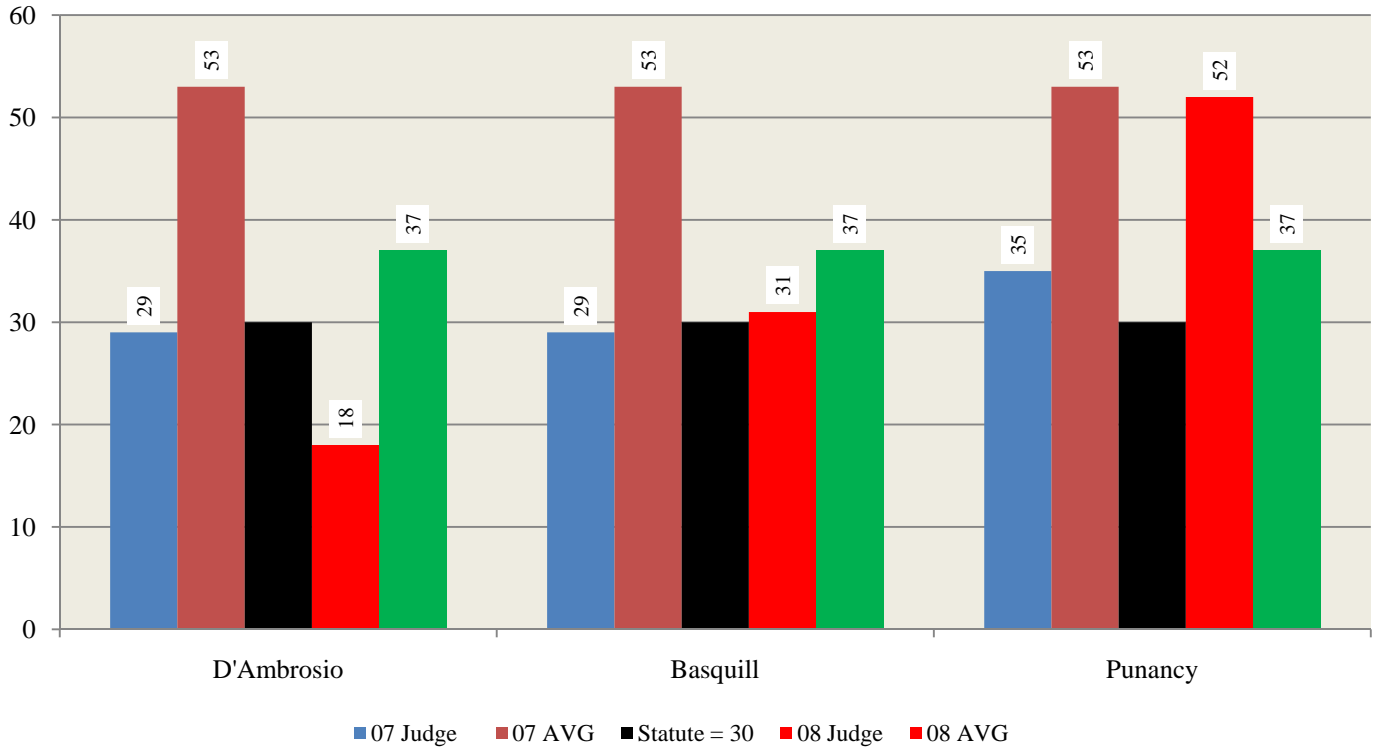
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue) and 2007-08 (red) for each Judge in the district and the statewide average for 2007-08 (rust) and 2007-08 (green).



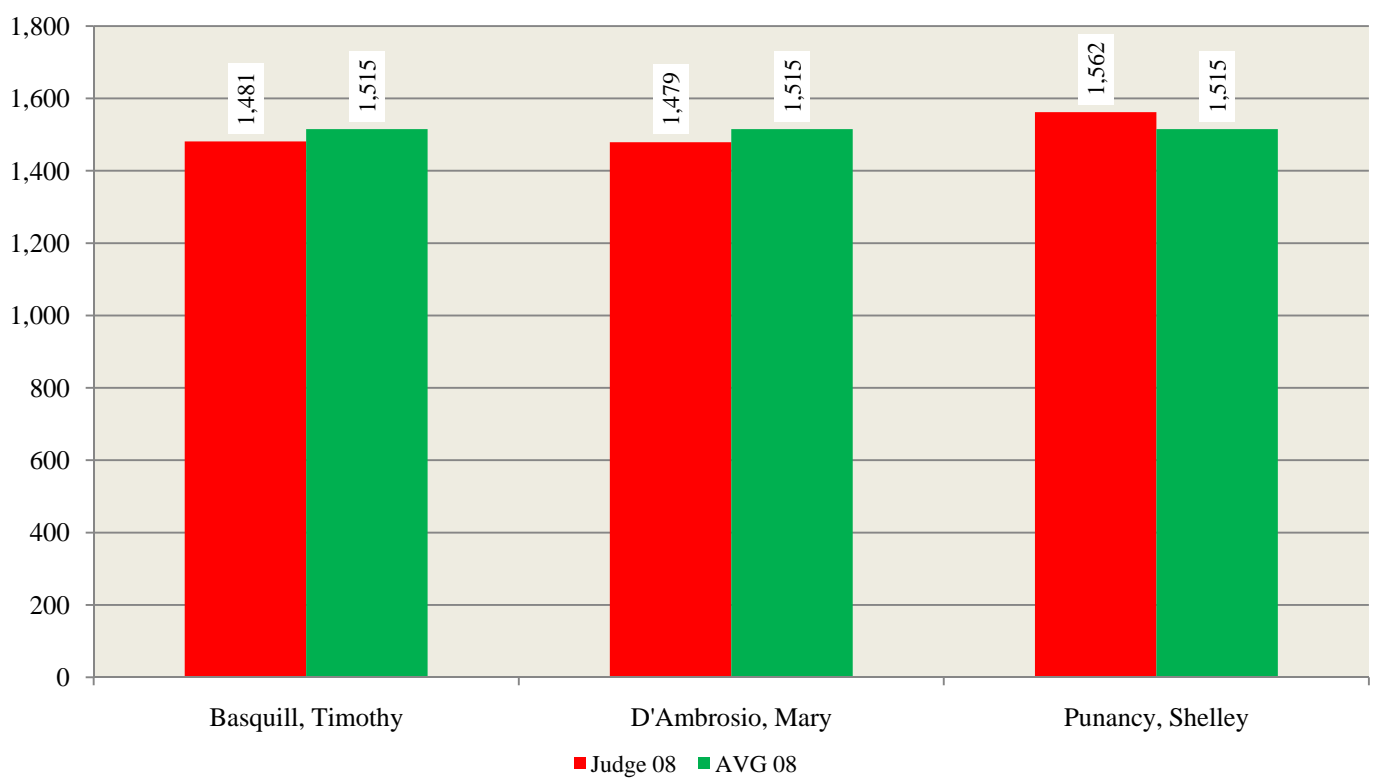
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue) and 2007-08 (red) and the statewide average for 2007-08 (rust) and 2007-08 (green). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



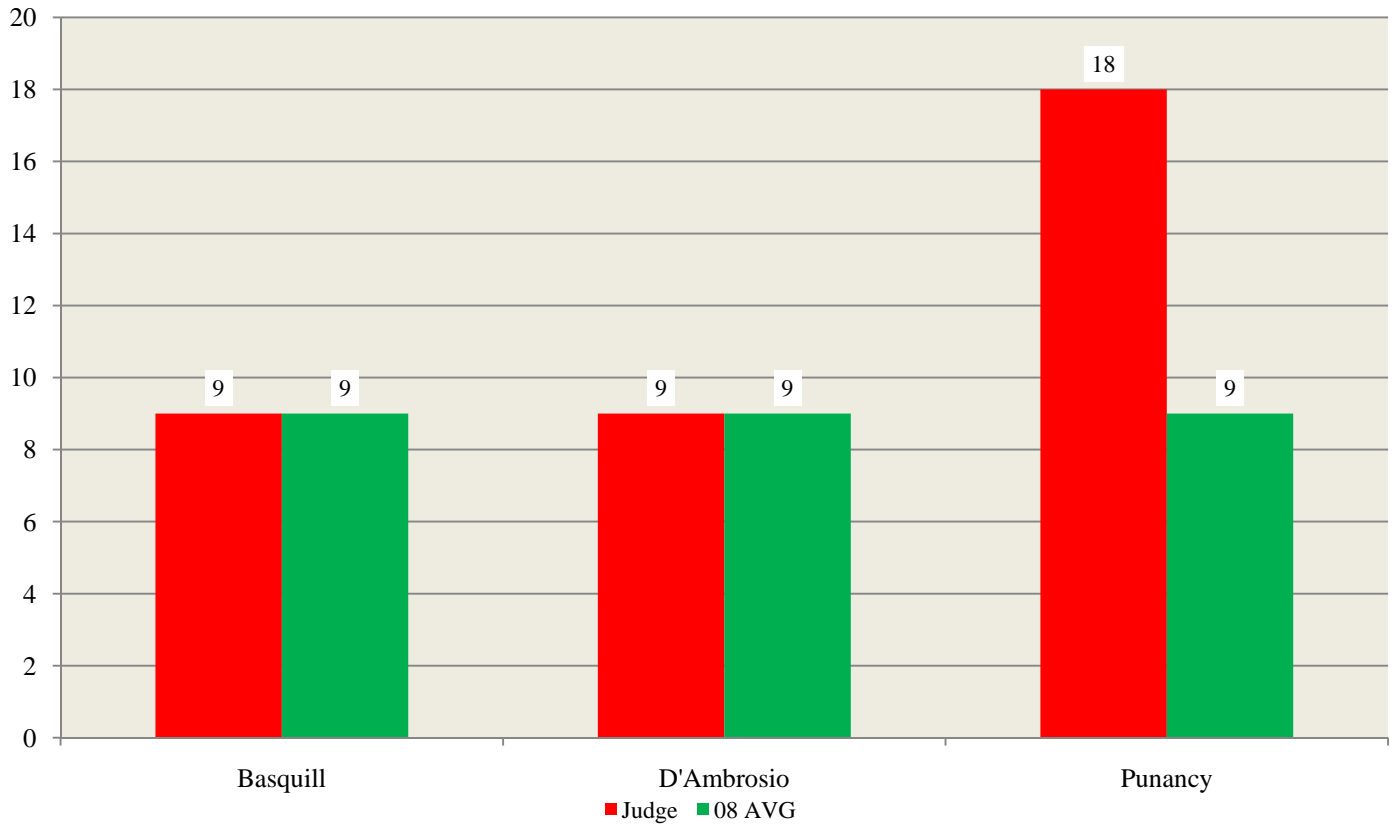
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue) and 2007-08 (red) the statewide average for 2007-08 (rust) and 2007-08 (green). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



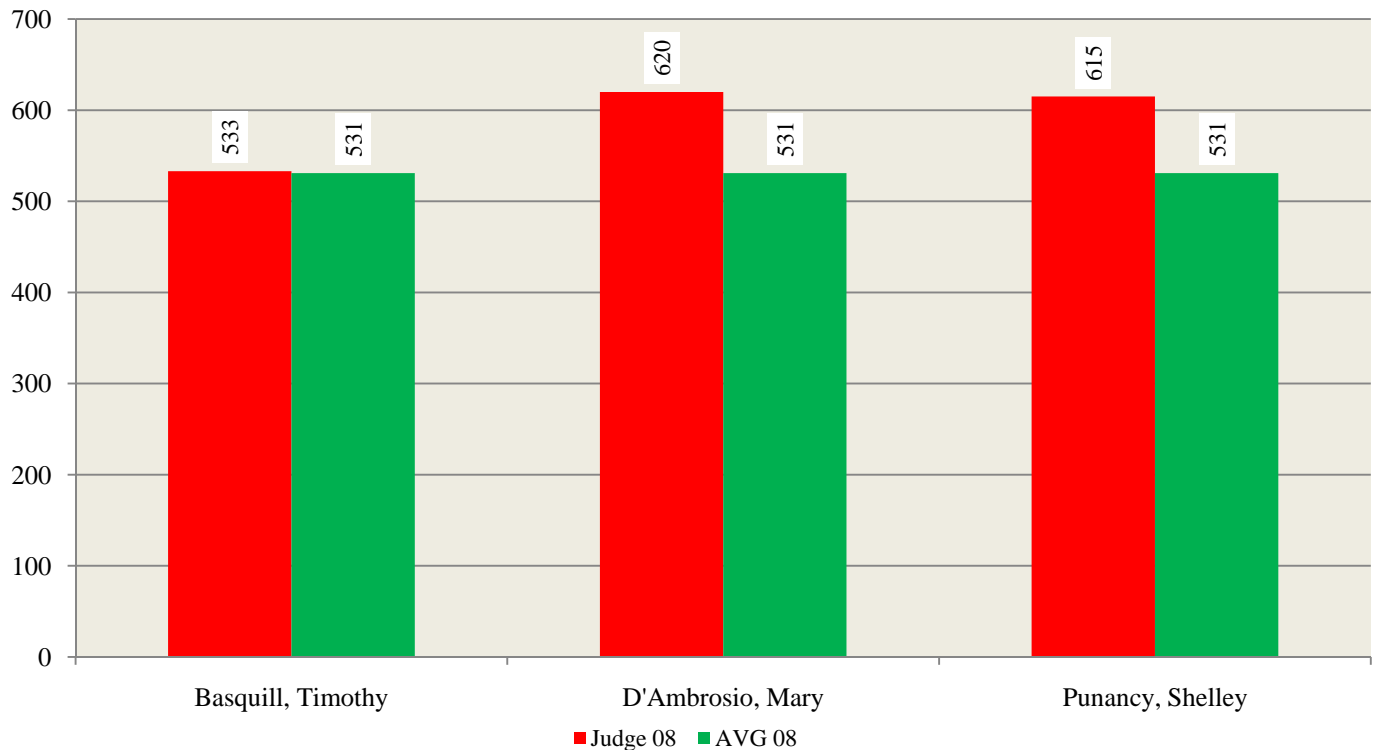
The following graph depicts the volume of settlement orders entered by each Judge in the district (red) and the statewide average (green).



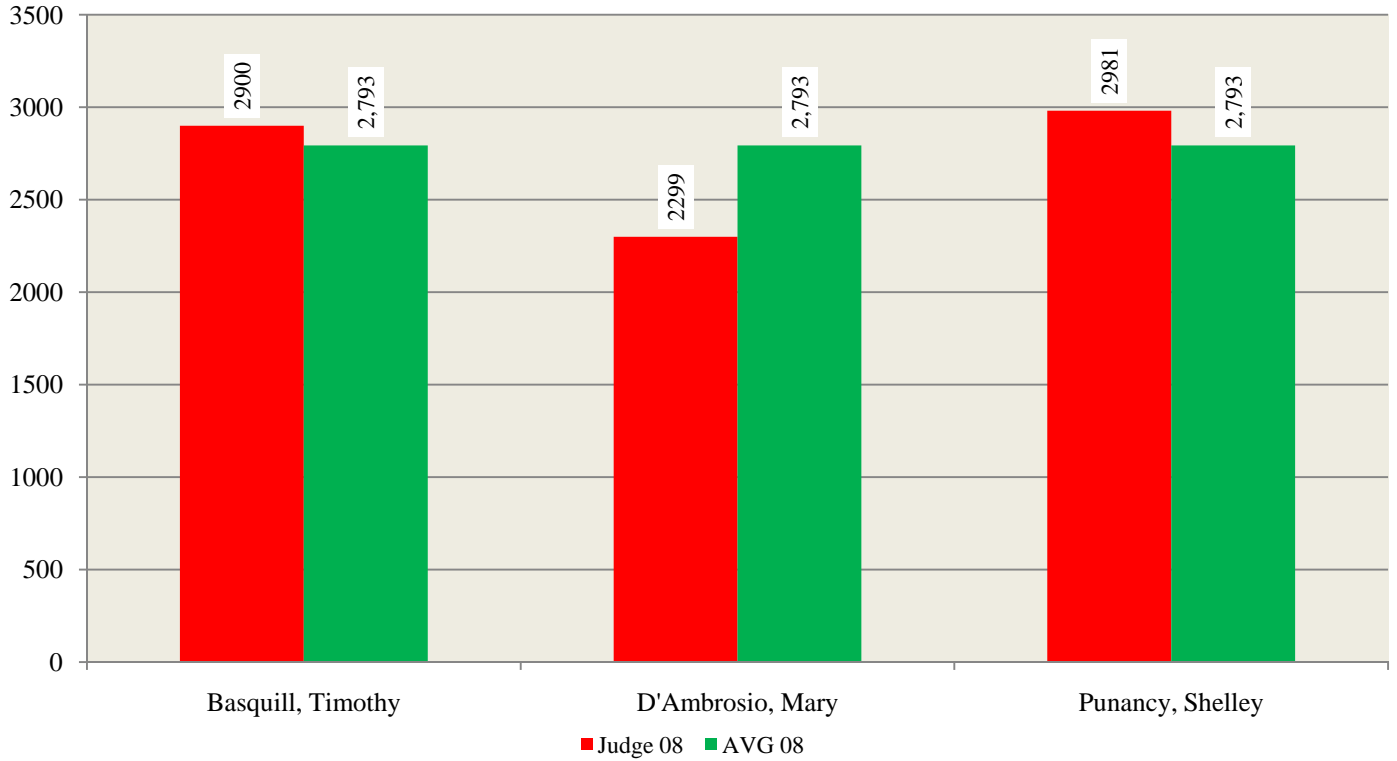
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district (red) and the statewide average (green).



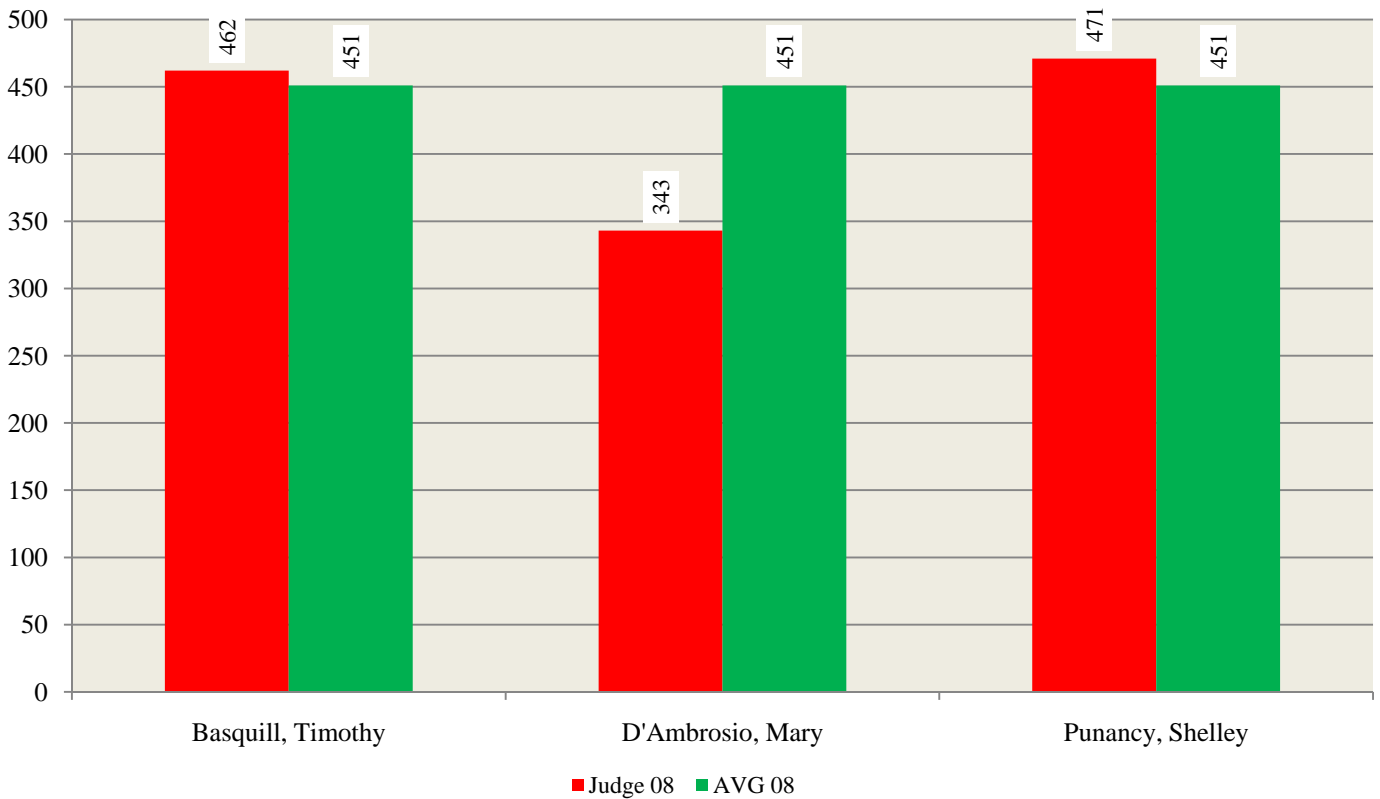
The following graph depicts the volume of stipulation orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district (red) and the statewide average (green).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district (red) and the statewide average (green).





## Endnotes:

- <sup>1</sup> Fla. Stat. §440.45(5): “Not later than December 1 of each year, the Office of the Judges of Compensation Claims shall issue a written report to the Governor, the House of Representatives, the Senate, The Florida Bar, and the statewide nominating commission summarizing the amount, cost, and outcome of all litigation resolved in the previous fiscal year; summarizing the disposition of mediation conferences, the number of mediation conferences held, the number of continuances granted for mediations and final hearings, the number and outcome of litigated cases, the amount of attorney’s fees paid in each case according to order year and accident year, and the number of final orders not issued within 30 days after the final hearing or closure of the hearing record; and recommending changes or improvements to the dispute resolution elements of the Workers’ Compensation Law and regulations. If the Deputy Chief Judge finds that judges generally are unable to meet a particular statutory requirement for reasons beyond their control, the Deputy Chief Judge shall submit such findings and any recommendations to the Legislature.”
- <sup>2</sup> All OJCC reports are published on the internet at [www. Fljcc.org](http://www.fljcc.org), in the “Reports” section.
- <sup>3</sup> The Division website is <http://www.fldfs.com/WC/>.
- <sup>4</sup> The Florida Statutes are available online at: <http://www.flsenate.gov/Statutes/>
- <sup>5</sup> For example, it is common for a PFB to contain a claim for past medical care (payment for care by a medical provider or providers) and a claim for future medical care (authorization of a particular medical provider or specialty, i.e. orthopedic surgeon) and a claim for some form of lost-wage (“indemnity”) benefit such as temporary total or temporary partial disability benefits. Many PFBs seek payment of attorney’s fees and costs, and penalties and interest are commonly claimed when any form of indemnity is sought.
- <sup>6</sup> The appropriate method to seek determination of attorney fee entitlement or amount is usually by motion. Therefore, a significant volume of each JCCs workload comprises these significant motions that require evidentiary hearings.
- <sup>7</sup> Anecdotally, there is evidence that some attorneys file multiple PFBs in the same OJCC case on the same date. The logic or reason for this practice is not known. What is clear, however, is that this practice artificially increases the overall PFB volume because in those instances two (2) or even three (3) PFBs are filed to seek a group of benefits that could more logically (and inexpensively as PFBs are served by certified mail) have all been sought in a single PFB. There is also some anecdotal support for the conclusion that this practice is more prevalent in some geographic regions of the state than in others.
- <sup>8</sup> As this report goes to press, the rate issue remains in doubt. A rate was submitted by NCCI, and rejected by the Office of Insurance Regulation (OIR). Thereafter an amended rate filing was made, and approved to become effective January 1, 2009. However, the Supreme Court then rendered its decision in *Murray v. Mariner*. The implications and effects of this decision are not known at this time.
- <sup>9</sup> The conclusions reached by the DLES have previously been published. These conclusions are available for analysis. However, none of the raw source data used for those analyses was provided to the DOAH when the OJCC was transferred in 2001. The statistics published by the DLES are therefore expressed in this report for illustrative comparison only.
- <sup>10</sup> Mediation may be scheduled, on a previous PFB, at the time a subsequent PFB is filed. The OJCC Procedural Rules require that all pending PFB s are to be mediated at any mediation. Therefore, a distinct mediation does not necessarily occur for each PFB, and mediation of multiple PFB s at one mediation is common. Some PFB are scheduled for expedited final hearing. These PFB regard issues that are of a moderate financial value (\$5,000.00 or less), and mediation is not required for these PFB.
- <sup>11</sup> There is anecdotal evidence that some divisions exhibit significant delays in the entry of final orders following trials. Each Judge’s average time for entry of an order is illustrated in the appendices to this report. A 2006 audit of final orders entered by all Judges of Compensation Claims demonstrated average delays of over one year between trial and entry of a corresponding final order in some cases in some divisions. Such delays may inappropriately result in parties reaching settlement or resolution after trial through frustration with the Judge’s unwillingness to enter a timely order. In other instances, the outcome of evidentiary rulings during trial may be sufficiently illuminating to the parties to allow meaningful analysis of the probable outcome of a given case and may result in a negotiated resolution before even a prompt and timely order may be entered.
- <sup>12</sup> The total OJCC budget for fiscal 2007-08 (\$19,522,773) included a special appropriation for the renovating an upgrading the MIA District office. This project included demolition of space, floor to ceiling renovation, furnishing, and significant technological upgrades including two video teleconference hearing facilities for use by visiting Judges of Compensation Claims and administrative law judges. This one-time special appropriation amount (\$1,154,914) has been deducted from the total budget (\$19,522,773) of the OJCC in order to yield the 2006-07 OJCC operating budget of \$18,367,869.
- <sup>13</sup> The total OJCC budget for fiscal 2007-08 (\$19,522,773) included a special appropriation for the renovating an upgrading the MIA District office. This project included demolition of space, floor to ceiling renovation, furnishing, and significant technological upgrades including two video teleconference hearing facilities for use by visiting Judges of Compensation Claims and administrative law judges. This one-time special appropriation amount (\$1,154,914) has been deducted from the total budget (\$19,522,773) of the OJCC in order to yield the 2006-07 OJCC operating budget of \$18,367,869.

14 In the last several years, the talents of Deputy Chief Judge Scott Stephens and Judge Mily Rodriguez-Powell were lost to the Circuit Court bench. In fiscal 2004-05, the OJCC lost the service of Judge Maria Ortiz to the County Bench. In recent fiscal years, the OJCC also has recently lost the talents of Judge Wilbur Anderson and Judge Richard Thompson to the private sector.

15 The aggregate cost of salary, taxes and benefits for 32 state mediators was \$3,112,736.65. This figure divided by the 20,021 mediations conducted yield the cost per mediation of \$155.47. This figure does not include the costs of staff support or facilities or equipment. Therefore, this is a conservative cost figure.

16 Some percentage of PFBs may be excused from the mediation process by the assigned JCC if the issues are instead scheduled for expedited final hearing pursuant to Fla. Stat. §440.25. A very small percentage of mediations (six mediations in fiscal 2006-07) are waived by order of the Deputy Chief Judge of Compensation Claims.

17 Attorney's fees and costs are claimed in most petitions filed. Those claims are generally dependent upon the Claimant prevailing in a claim for medical or income benefits also claimed therein. Most trials on PFBs filed result in the award or denial of those substantive benefits. Entitlement to fees and costs is usually also resolved, and jurisdiction is reserved for determination of amount. By the same token, when parties resolve issues prior to trial it is common for entitlement to these ancillary or pendant claims to be stipulated with a similar reservation of jurisdiction regarding amount. Therefore, although an outcome of "all issues resolved except fees" still leaves an issue for potential trial, that result is not significantly different from the manner in which a trial leaves fee amount as an unresolved issue.

18 The 2006-07 figures include the category "washout" which was used interchangeably with "settled." In 2007-08 the "washout" nomenclature was not used.

19 This report is replete with examples that cast some doubt on the accuracy of the statistics maintained by the OJCC even since the transfer to the DOAH. However, the raw data for conclusions since 2001 remains available and can be re-verified and corrected. The OJCC continually does so, as reflected in numerous endnotes to the 2006-07 OJCC Annual Report. Therefore, while no statistic is ever above all suspicion, the figures since OJCC transfer to the DOAH are clearly more trustworthy than summary information available for prior years.

20 During the 2004 tropical cyclone season, Florida was affected by Hurricanes Charlie, Frances, Ivan, and Jeanne. Almost every District Office was affected by at least one tropical cyclone in 2004 and therefore the increase in continuances that year has been blamed to some extent on these unavoidable natural phenomena.

21 The following 16 Judges heard cases outside of their District in 2006-07, Beck, Dane, Lorenzen, Jenkins, Murphy, Remsnyder, Hafner, Thurman, Sculco, Condry, Portuallo, Lazzara, Sturgis, Spangler, Roesch, and Winn.

22 This data entry by OJCC personnel is not necessary when the PFB is created by counsel through the OJCC website using the e-PFB web-form. This is the reason that use of the e-PFB represents significant financial and time savings for the OJCC.

23 Fla. Stat. §440.34(1) provides in part: "A fee, gratuity, or other consideration may not be paid for services rendered for a claimant in connection with any proceedings arising under this chapter, unless approved as reasonable by the judge of compensation claims or court having jurisdiction over such proceedings."

24 Fla. Stat. §440.105(3)(b) provides: "It shall be unlawful for any attorney or other person, in his individual capacity or in his capacity as a public or private employee, or for any firm, corporation, partnership, or association to receive any fee or other consideration or any gratuity from a person on account of services rendered for a person in connection with any proceedings arising under this chapter, unless such fee, consideration, or gratuity is approved by a judge of compensation claims or by the Chief Judge of Compensation Claims."

25 Rule 6.124(4): "No later than October 1 of each year, all self-insurers, third-party administrators, and carriers shall report by electronic transmission to the OJCC the amount of all attorney's fees paid to their defense attorneys in connection with workers' compensation claims during the prior July 1 through June 30 fiscal year."

26 The data for this report was generated from the JCC Application database in August 2007, after each JCC had verified that all attorney fee and settlement orders for fiscal 2006-07 had been uploaded. In October 2007, the query was repeated and twenty additional orders had by then been uploaded to the database, altering the total figure. The ability to identify the individual staff responsible for such late uploading enhances the OJCC's ability to provide focused individual training to prevent recurrence in the future and to protect the integrity of the information reported in these reports.

27 The OJCC requires reporting of defense fees pursuant to statute. In 2007-08, the OJCC received inquiries that identified a potential flaw in defense fee data. A self-insured county inquired as to how to report defense fees inasmuch as all defense of their claims is provided through the efforts of some member of the county attorney's office. A carrier, similarly, inquired as to how services of in-house counsel could be captured for reporting. In each of these instances, the attorneys providing services are involved in workers' compensation and other legal services for the particular carrier (such as general liability or automobile issues). Therefore, no rational basis may exist to attribute the salary expenditures of carriers or counties or municipalities because of these complications. It is suspected that the defense fees aggregate reported annually by the OJCC understates the actual volume of defense fees.

28 The deadline for Carrier and Servicing Agent reporting of defense fees is October 1. Rule 60Q6.124(4). On that date the

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OJCC compared the list of carriers that had reported to date with the list of all carriers that reported last fiscal year. There were several carriers identified that had not reported for fiscal 2007-08. These carriers were contacted individually to prompt compliance and the reporting website remained active to facilitate their late reporting. On October 27, 2007 the reporting link was closed, and this figure represents the total reported through that date. Visitors to that website thereafter will be afforded the opportunity to submit further data, but through a mechanism that will allow the OJCC to easily identify any carrier or servicing agent reporting thereafter. As of the closure of the link, Volusia County and Protective Insurance had not reported, but were on the 2006-07 list of reporting carriers.

29 Of the fees approved in fiscal year 2006-07, percent were for accidents in the seven years prior to calendar year in which the OJCC fiscal year ended (2000-2006). This is reasonably consistent with the fees approved in 2005-06. That year 76.31% of fees approved were for accident dates in the seven similar years prior (1999-2005).

30 The 210-day parameter applies by definition to the trial of PFB. Because the effort involved in trial of many other evidentiary matters are equally involved, the OJCC has defined "trial" to include hearings on PFB, attorney fee motions/petitions, SDTF reimbursement and other significant evidentiary motion hearings. The OJCC measures "time to trial" from the filing of the operative pleading (PFB/Motion) to the first day of trial. The time periods between the filing of these significant motions/petitions and the trial thereon are included in the averages for OJCC aggregates and for the various Judge's charts included herein.

31 The 30-day parameter applies by definition to the entry of final orders on PFB. For the same reason that the OJCC includes more than PFB hearings in the "trial" definition, the OJCC likewise includes the resulting orders in the definition of "trial orders." The time to order is measured from the first day of trial through the ultimate entry of a final order. An abbreviated order is counted as the final order unless it is subsequently vacated, in which case the ultimately entered final order is counted. The time periods between the hearing of these significant motions/petitions and order thereon are included in the averages for OJCC aggregates and for the various Judge's charts included herein.

32 Fla. Stat. §440.45(2)(c): "Each judge of compensation claims shall be appointed for a term of 4 years, but during the term of office may be removed by the Governor for cause. Prior to the expiration of a judge's term of office, the statewide nominating commission shall review the judge's conduct and determine whether the judge's performance is satisfactory. Effective July 1, 2002, in determining whether a judge's performance is satisfactory, the commission *shall* consider the extent to which the judge has met the requirements of this chapter, including, but not limited to, the requirements of ss. 440.25(1) and (4)(a)-(e), 440.34(2), and 440.442. If the judge's performance is deemed satisfactory, the commission shall report its finding to the Governor no later than 6 months prior to the expiration of the judge's term of office." (emphasis added).

33 Fla. Stat. §440.25(1): "Forty days after a PFB is filed under s. 440.192, the judge of compensation claims shall notify the interested parties by order that a mediation conference concerning such PFB has been scheduled unless the parties have notified the judge of compensation claims that a private mediation has been held or is scheduled to be held. A mediation, whether private or public, shall be held within 130 days after the filing of the PFB. Such order must give the date the mediation conference is to be held. Such order may be served personally upon the interested parties or may be sent to the interested parties by mail. If multiple PFBs are pending, or if additional PFBs are filed after the scheduling of a mediation, the judge of compensation claims shall consolidate all PFBs into one mediation. The claimant or the adjuster of the employer or carrier may, at the mediator's discretion, attend the mediation conference by telephone or, if agreed to by the parties, other electronic means. A continuance may be granted upon the agreement of the parties or if the requesting party demonstrates to the judge of compensation claims that the reason for requesting the continuance arises from circumstances beyond the party's control. Any order granting a continuance must set forth the date of the rescheduled mediation conference. A mediation conference may not be used solely for the purpose of mediating attorney's fees."

34 Fla. Stat. §440.25 (4)(a): "If the parties fail to agree to written submission of pretrial stipulations, the judge of compensation claims shall conduct a live pretrial hearing. The judge of compensation claims shall give the interested parties at least 14 days' advance notice of the pretrial hearing by mail."

35 Fla. Stat. §440.25(4)(b): "The final hearing must be held and concluded within 90 days after the mediation conference is held, allowing the parties sufficient time to complete discovery. Except as set forth in this section, continuances may be granted only if the requesting party demonstrates to the judge of compensation claims that the reason for requesting the continuance arises from circumstances beyond the party's control. The written consent of the claimant must be obtained before any request from a claimant's attorney is granted for an additional continuance after the initial continuance has been granted. Any order granting a continuance must set forth the date and time of the rescheduled hearing. A continuance may be granted only if the requesting party demonstrates to the judge of compensation claims that the reason for requesting the continuance arises from circumstances beyond the control of the parties. The judge of compensation claims shall report any grant of two or more continuances to the Deputy Chief Judge."

36 Fla. Stat. §440.25(4)(c): "The judge of compensation claims shall give the interested parties at least 14 days' advance notice of the final hearing, served upon the interested parties by mail."

37 Fla. Stat. §440.25(4)(d): "The final hearing shall be held within 210 days after receipt of the PFB in the county where the

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injury occurred, if the injury occurred in this state, unless otherwise agreed to between the parties and authorized by the judge of compensation claims in the county where the injury occurred. However, the claimant may waive the timeframes within this section for good cause shown. If the injury occurred outside the state and is one for which compensation is payable under this chapter, then the final hearing may be held in the county of the employer's residence or place of business, or in any other county of the state that will, in the discretion of the Deputy Chief Judge, be the most convenient for a hearing. The final hearing shall be conducted by a judge of compensation claims, who shall, within 30 days after final hearing or closure of the hearing record, unless otherwise agreed by the parties, enter a final order on the merits of the disputed issues. The judge of compensation claims may enter an abbreviated final order in cases in which compensability is not disputed. Either party may request separate findings of fact and conclusions of law. At the final hearing, the claimant and employer may each present evidence with respect to the claims presented by the PFB and may be represented by any attorney authorized in writing for such purpose. When there is a conflict in the medical evidence submitted at the hearing, the provisions of s. 440.13 shall apply. The report or testimony of the expert medical advisor shall be admitted into evidence in a proceeding and all costs incurred in connection with such examination and testimony may be assessed as costs in the proceeding, subject to the provisions of s. 440.13. No judge of compensation claims may make a finding of a degree of permanent impairment that is greater than the greatest permanent impairment rating given the claimant by any examining or treating physician, except upon stipulation of the parties. Any benefit due but not raised at the final hearing which was ripe, due, or owing at the time of the final hearing is waived."

38 Fla. Stat. §440.25(4)(e): "The order making an award or rejecting the claim, referred to in this chapter as a "compensation order," shall set forth the findings of ultimate facts and the mandate; and the order need not include any other reason or justification for such mandate. The compensation order shall be filed in the Office of the Judges of Compensation Claims at Tallahassee. A copy of such compensation order shall be sent by mail to the parties and attorneys of record at the last known address of each, with the date of mailing noted thereon."

39 Fla. Stat. §440.442: "The Deputy Chief Judge and judges of compensation claims shall observe and abide by the Code of Judicial Conduct as adopted by the Florida Supreme Court. Any material violation of a provision of the Code of Judicial Conduct shall constitute either malfeasance or misfeasance in office and shall be grounds for suspension and removal of the Deputy Chief Judge or judge of compensation claims by the Governor."

40 Fla. Stat. §440.34(2): "In awarding a claimant's attorney's fee, the judge of compensation claims shall consider only those benefits secured by the attorney. An attorney is not entitled to attorney's fees for representation in any issue that was ripe, due, and owing and that reasonably could have been addressed, but was not addressed, during the pendency of other issues for the same injury. The amount, statutory basis, and type of benefits obtained through legal representation shall be listed on all attorney's fees awarded by the judge of compensation claims. For purposes of this section, the term "benefits secured" does not include future medical benefits to be provided on any date more than 5 years after the date the claim is filed. In the event an offer to settle an issue pending before a judge of compensation claims, including attorney's fees as provided for in this section, is communicated in writing to the claimant or the claimant's attorney at least 30 days prior to the trial date on such issue, for purposes of calculating the amount of attorney's fees to be taxed against the employer or carrier, the term "benefits secured" shall be deemed to include only that amount awarded to the claimant above the amount specified in the offer to settle. If multiple issues are pending before the judge of compensation claims, said offer of settlement shall address each issue pending and shall state explicitly whether or not the offer on each issue is severable. The written offer shall also unequivocally state whether or not it includes medical witness fees and expenses and all other costs associated with the claim."