

STATE OF FLORIDA

Division of Administrative Hearings



2008-2009 Annual Report of the Office of the Judges of Compensation Claims

The OJCC Mission:

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

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Petitions closed	82,394 (29% decrease from last year)	
Cost of Litigation Resolved	18	
OJCC Budget	\$18,253,550 (1% decrease from last year)	
Per Petition Closed	\$222.00 (seven year avg. = \$196.00)	
Number of Mediation Conferences Held	21	
Mediations held	20,812 (4% increase from last year)	
100% of Mediators averaged less than 130 days in 2008-09.		
Disposition of Mediation Conferences	22	
Some resolution	60.77% (increase from 60.17% last year)	
Settled case	27.46% (decrease from 28.07% last year)	
Number of Continuances Granted for Mediations	24	
Continuances	1,302 (decrease from 1,328 last year)	
Number of Continuances Granted for Final Hearings	24	
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Resolved at Mediation	9,274 (decrease from 10,153 last year)	
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Introduction:

This report of the Office of the Judges of Compensation Claims (“OJCC”) is published pursuant to Fla. Stat. §440.45(5).¹ The OJCC continued to improve during fiscal 2008-09. Each annual iteration of this report provides an opportunity for the OJCC to inform the public of the great strides that are being made to facilitate the fulfillment of the OJCC Mission. That reporting process also prompts reflection and positive self-evaluation. It is humbly submitted that the OJCC has succeeded in transforming itself into a vibrant, effective, and responsive adjudication system for the people of Florida. The successes described in this report are the result of a collective team effort. The OJCC is committed to transparency, public service, and delivery of efficient service. This report details the results of efforts over several years to modernize and automate the collection and reporting of data to fulfill these ends.

The Florida Legislature has required that state mediation occur within 130 days of the filing of a petition for benefits (PFB). In 2008-09, 100% of the thirty-two OJCC mediators achieved an average time to mediation within that 130 day statutory parameter. Certainly, there were individual instances in which a particular PFB required longer than this period. However, it is submitted that 100% of the mediators achieving an average less than 130 days is a momentous and noteworthy occurrence. This achievement results from sound planning to address the earlier deficiencies, followed by standardization of procedures, education of staff, implementation of uniform data-entry, and ultimately team motivation to succeed. This momentous achievement is a tribute to the thirty-two exceptional people that interact with Florida’s injured workers, their employers, insurance companies, and these parties’ attorneys every day in an effort to find common ground on issues in these disputes.

The Florida Legislature has required that final orders are issued within 30 days of the trial. The tribulations in even defining “trial” have been amply discussed in prior OJCC Annual Reports, which are available for download at www.fljcc.org, under “reports.” In 2006, the OJCC first undertook the task of defining key terms, including “trial,” and standardizing the collection and reporting of data. That effort was followed by staff training in large and small groups, followed by implementation of more uniform record keeping and reporting. There remains room for improvement in that effort. However, in 2008-09 the Judges of Compensation Claims entered 85% of all trial orders within the 30 days mandated by statute.

The Florida Legislature consistently asks government to do more with less, particularly so when funds become scarce as they have recently. The OJCC has deployed a complex, proprietary, case management database system, which has evolved into a very powerful document management and record retention system, which in turn formed the foundation for the deployment of electronic filing. The OJCC and Division of Administrative Hearings (DOAH) boast the only fully-deployed and operational electronic filing system in a Florida adjudication organization. The OJCC and DOAH are leading the way into fully-integrated electronic filing, document management, and electronic service of documents. This leadership was recognized in 2008-09 when the programming development team received the Davis Productivity Award for their collective efforts.

In the spirit of doing more with less, the OJCC began to deploy video teleconference (VTC) equipment to its various 17 District Office in 2006-07. That effort has resulted in significant increases in flexibility of work assignments and deployment of resources. In 2008-09 multiple VTC facilities were added to the OJCC/DOAH network, and installations are pending with the expectation that in 2009-10 100% of the OJCC facilities will boast this capability. This innovation will save the people of Florida thousands of dollars each year in travel avoided through its use.

It bears stressing that these modernizations, innovations, and improvements have been implemented without any additional funds from the Florida Legislature. In short, government has been asked to do more with less, and the OJCC has answered the call on multiple fronts, to the ultimate benefit of Florida and Floridians.

In 2008-09, the OJCC proudly opened a newly renovated and modernized facility in Miami, Dade County, Florida. The importance of this facility cannot be overstated. The people of Dade and Monroe Counties now have a state-of-the-art facility specifically designed for the mediation and adjudication of disputes. This includes five

trial rooms compliant with the Americans with Disabilities Act, two VTC hearing rooms to facilitate remote Judge assistance with the Miami dockets, and multiple mediation rooms. In 2009-10, the OJCC will improve physical facilities in multiple other districts to enhance the security of our staff and customers, and to better serve Florida.

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 Claims² (OJCC) outlines the interrelationship between the OJCC, the Division of Workers' Compensation³ (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.⁴ 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 impartial 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 described 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 database 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. It is believed that the long-sought uniformity has been achieved. In fiscal 2007-08 there were no discernable patterns of inappropriate data entry. Likewise, no discernable patterns of inappropriate data entry practices were identified in 2008-09, although a few Judges continue to resist the transition from paper-based document filing to electronic filing. The waste of state resources attributable to the slow transition of this minority is regrettable. Additional efforts will be directed at facilitating effective use of electronically filed documents in the future. As Judges are afforded more effective opportunities to utilize electronically filed and managed documents, their inclination to support and promote electronic filing should be increased.

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 2008-09:

During 2008-09, the OJCC:

District Office Enhancements:

- Planned renovation and relocation of Ft. Myers.
- Planned renovation and relocation Pt. St. Lucie.
- Relocated Miami District into new facilities.
- Renovated Lakeland District for VTC Facilities.

Video Teleconferencing Trial (VTC) Capabilities:

The OJCC Started the year with VTC access available in Tallahassee, Tampa, Ft. Lauderdale and Orlando, Jacksonville, Daytona, and West Palm Beach.

Installed VTC equipment in:

- St. Petersburg
- Sarasota
- Pensacola
- Panama City
- Lakeland
- Miami (two facilities)
- Gainesville

Further installs planned to occur in 2009-10

- Ft. Myers
- Melbourne
- Port St. Lucie

Electronic Filing:

- Presented e-filing seminars at Florida Workers' Compensation Institute.
- OJCC/DOAH Development Team presented with Davis Productivity Award.

Visiting Judges:

- Provided visiting Judges to Lakeland District.
- Provided visiting Judges to Miami District.

Internal Education:

- Launched internal "lunch and learn" CLE programs for Judges and Mediators.
- Cooperated in founding of National Association of Workers' Compensation Judiciary.
- Deployed internet-based staff training using Webex platform.

Public Education:

- Presented multiple programs throughout the state including:
 - Florida Workers' Compensation Institute.
 - Workers' Compensation Forum.
 - Florida Workers' Advocates program.
 - Florida Association of Self-Insured.
 - International Association of Accident Boards and Commissions.
- Published a Master Directory of Available Private Mediators.

Management Tools:

- Published Judicial Performance Statistics to the Judicial Nominating Commission.
- Deployed second annual Judicial Survey with The Florida Bar.
- Instituted quarterly Exemplary Customer Service award.

Electronic Filing Initiative:

The Office of the Judges of Compensation Claims (OJCC) led the way into the twenty-first Century in 2005-06 with deployment of electronic filing (“e-filing,” or “e-JCC”). This facilitated inexpensive and efficient filing of pleadings in workers’ compensation disputes. This Internet based program grew in fiscal 2007 to 358 filings per day (business days) being received electronically from attorneys. In June 2008, e-JCC filings had reached 1,069 daily (business days), an almost 200% increase. At the end of fiscal 2009 (June 30, 2009) e-JCC was receiving an average of 1,490 documents daily, representing another 39% annual increase on a month-to-month basis. The aggregate volume of documents filed increased dramatically from 193,745 in 2007-08 to 328,660 in 2008-09, an annual aggregate increase in filings of almost seventy percent (69.64%).

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, or “RPFB.” 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. In fiscal 2008-09, approximately eighty-eight percent (88%) of the 7,060 RACN filed were e-filed. Of the 54,929 RPFB filed in 2008-09, approximately forty-six percent (46%) were e-filed, and approximately forty percent (40%) of the PFB filed were e-filed. In 2008-09 the OJCC further expanded the e-JCC system to allow private mediators to electronically file mediation reports. Further innovations and additions are planned for 2009-10. The OJCC conservatively estimates that e-JCC has resulted in direct savings of \$362,953.68 to attorneys and carriers through the end of fiscal 2008-09. The calculation methods used are detailed in the 2006-07 OJCC Annual Report. Additionally, the automation of this process has allowed the OJCC to internally redirect staff efforts to review and closure of older files and deployment of the electronic record on appeal process detailed in this report. The OJCC is committed to reinvesting the staff workload benefits of the electronic initiatives into further benefits for our customers and Floridians generally.

The OJCC has added electronic service (“e-Service”) of pleadings to the e-JCC system. This will result in significant postage, paper and envelope expense savings to the OJCC. 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 in the future, while the maintenance cost of this electronic transmission media is likely to remain reasonably static, or to decrease as technological innovation continues; therefore, past e-JCC savings fail to fully illustrate the ultimate value provided by this innovation. The effectiveness of this process may be threatened by loss of OJCC autonomy in operating a secure and independent electronic mail system. The effort at centralization of all Florida government email will be monitored closely by the OJCC in consideration of the continued vitality of this unique litigation employment of e-mail.

The OJCC leveraging of technology continued in 2008-09. The Florida Legislature in Section 17, Chapter 2009-61, Laws of Florida mandated a pilot project to bring electronic filing to the First District Court of Appeal (DCA), in cooperation with the OJCC. This recognition of the Davis Productivity Award winning OJCC electronic filing system is gratifying and humbling. Significant effort was devoted to the development and planning for the DCA program in the months following the legislative session. Deployment of that appellate e-filing (“eDCA”) program is anticipated in fiscal 2009-10. In the development of electronic filing for the Court, the entire workers’ compensation appellate process was subjected to critical analysis and review. That process led to development of a new electronic appellate record process. In the pre-2008-09 process, paper records were compiled from trial exhibits and transcriptions of hearings. Those paper records were shipped around the state for compilation/preparation, certification, distribution to parties, provision to the DCA, and eventual archiving by the OJCC. The OJCC and Court cooperated in the redesign of that process, leading to a more streamlined procedure. In the new process, paper exhibits are imaged in the District office and transmitted in electronic form as portable document format (PDF) images to the reporter that transcribes the hearing and compiles the PDF images of that transcript with the trial exhibits, resulting in a trial record in PDF image form. That image is then electronically transferred to the assigned Judge for certification, and then distributed on compact disc by the Judge to the parties.

The record is provided to the Court both in electronic image form and paper form. Having produced a PDF image at the outset, however, the paper record need never be returned to the OJCC for archiving as that function has thus occurred at the beginning of the process.

Approximately 500 workers' compensation cases are appealed annually to the First District Court of Appeal. The new process, because of the decreased dependence on paper and associated duplication cost, saves the appealing party approximately \$1,000.00 on each appeal. This process change will therefore result in a savings to our customers of approximately \$500,000.00 annually. Additionally, the costs of moving the exhibits and completed record between the trial Judge, the court reporter, the Judge for certification, the Court and then the OJCC for archiving is significant. The OJCC estimates that the new process will result in savings to the OJCC of approximately \$18,000.00 as well as significant savings to the DCA.

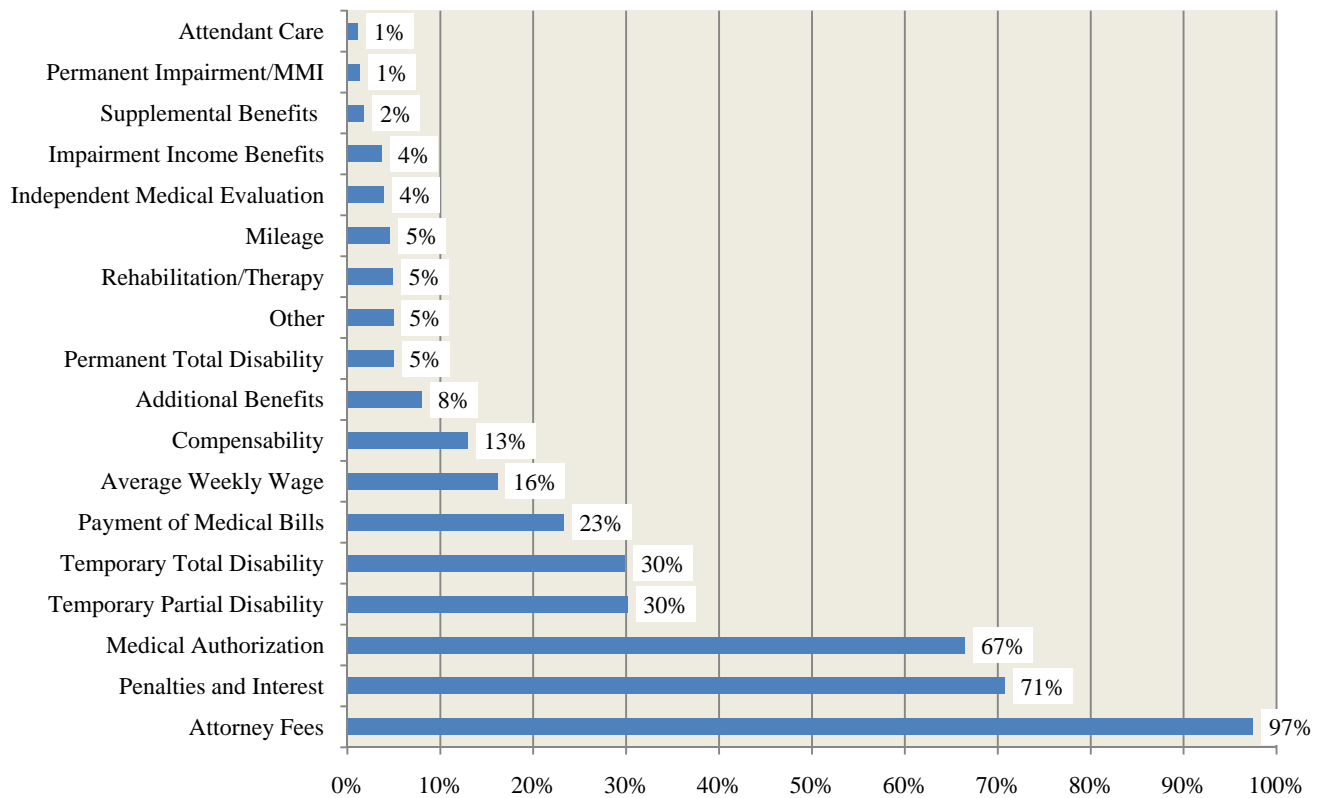
NUMBER OF LITIGATED CASES:

It is difficult to ascertain with absolute certainty how many "cases" are in litigation at a given moment in time. The OJCC eschewed commercial computer programs in 2001 and instead developed a proprietary and dynamic database that includes a powerful case management program, the JCC Application, or "JCCA." The same database is the foundation of all of the electronic filing efforts of the OJCC. Since 2006, OJCC has invested significant resources in the education of District Staff, seeking consistency in operations, and specifically in data management. Recent years have evidenced marked improvements in data management at the District level. This increasing consistency remedies many data issues reported in prior OJCC Annual Reports (www.fljcc.org). The 2008 Annual Report noted an unprecedented level of confidence in the figures expressed therein; it is believed that the statistics in this Report are worthy of that same confidence.

There remains one irreconcilable issue with the reporting of the "number of litigated cases." In workers' compensation, there simply is no clear definition for "cases." Litigation in Florida workers compensation is begun with a Petition for benefits ("PFB"). Each PFB might seek a single benefit, or many benefits.⁵ A given workers' compensation trial might decide the issues in one PFB or several PFB serially filed prior to trial. The overall number of PFB filed is therefore one measure of volume. The very nature of workers' compensation cases often results in periods of administrative delivery of benefits to a particular injured worker, punctuated periodically with some disagreement that requires the filing of a PFB. Therefore a PFB filed in 2008-09 could seek resolution of an issue regarding an accident that occurred that year, or perhaps many years prior.

Another measure of volume is the "new case" PFB filed annually. These PFB may likewise reference a date of accident that is either recent or remote, but certainly represent only accident dates for that particular injured worker that is new to litigation. This metric ignores the intensity of litigation however. Therefore both the raw PFB volume and the "new case PFB" are arguably valid methods for measurement of the number of litigated cases. It is impossible to absolutely define "case," as each instance of litigation is unique in terms of how many individual PFB are filed, at what point in the history of the claim, and how many issues are plead in each of those PFB. Because definition of "cases" presents these inherent complications, and because there are merits regarding the efficacy of the "raw PFB" measure and the "new cases" measure, the OJCC calculates both. Each of these metrics ignores a volume of litigated cases that are instigated by motion instead of PFB. Although these motions⁶ 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.

A single PFB could theoretically seek each and every benefit potentially available to an injured worker under the law. An injured worker seeking that same quantum of benefits might instead serially file a multitude of individual PFB each seeking one particular benefit. Typically, most PFB seeking a substantive benefit will also seek related issues such as penalties and interest related to indemnity claimed, and the costs and attorney fees associated with litigating those benefits. The OJCC clerk documents the categories of benefits sought in each PFB. The following chart depicts the average frequency of claims for these various distinct benefits within PFB filed over the five year period 2003-04 through 2007-08.



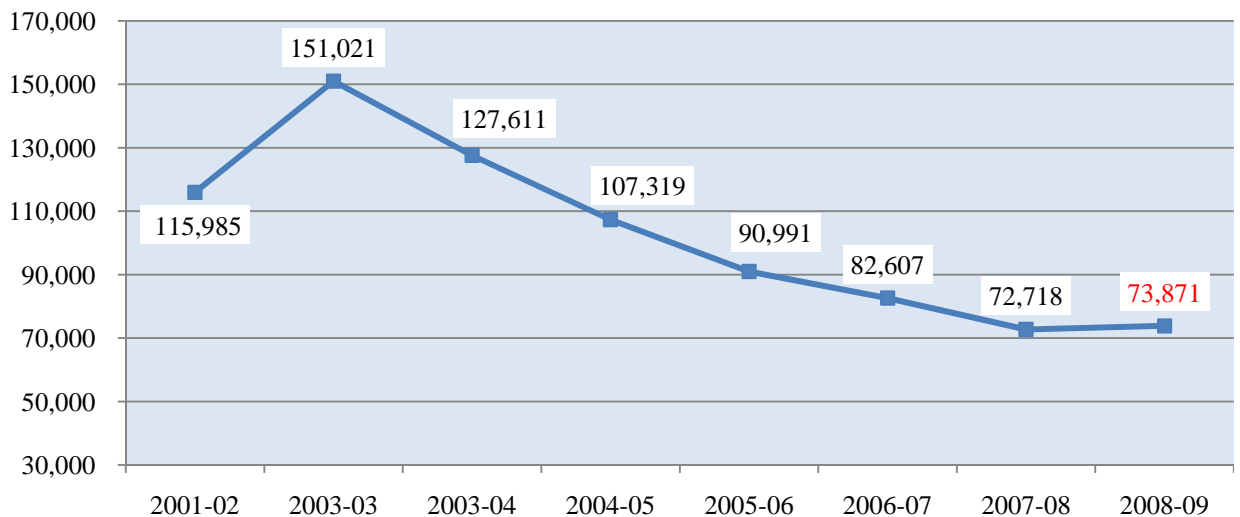
The total volume of PFB filed in 2008-09 and 2007-08 was very similar. In 2008-09 most PFB (97%) sought attorneys' fees, which is consistent with the five year average depicted in the graph. Seventy-three percent (73%) of 2008-09 PFB included claims for medical authorization, which is higher than the 5 year average (71%) and markedly higher than the 2007-08 level of 69%. Similarly, in the PFB filed in 2008-09 claims for compensability were included in 17%, compared to a five year average of compensability claims of 13%. In 2008-09, claims for temporary total disability (TTD)(31%) and temporary partial disability (TPD) (32%) were higher than average and higher than claims for TTD (27%) and TPD (28%) in 2007-08. Claims for permanent total disability (PTD) in 2008-09 and in 2007-08 were in approximately 4% of PFB, slightly lower than the percentage in the five year average. Claims for payment of medical bills was only plead in 18% of PFB in 2008-09 compared to 23% of the petitions over the prior five years. This analysis indicates increased claims for compensability, medical authorization and temporary indemnity in 2008-09, with marked decrease in claims for medical bill payment.

A minority of attorneys habitually file multiple PFB in the same case on the same date, or sequential days.⁷ This practice, referred to herein as "replicate petitions," artificially inflates the volume of PFB filed. For example one Judge may receive three single-issue PFB (replicates) 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 "replicates" are necessary, for example where the employer responsible for an injury 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 contractor and a general contractor. However, other replicates defy logic, and the rationale is therefore inexplicable.

Gross PFB Filing:

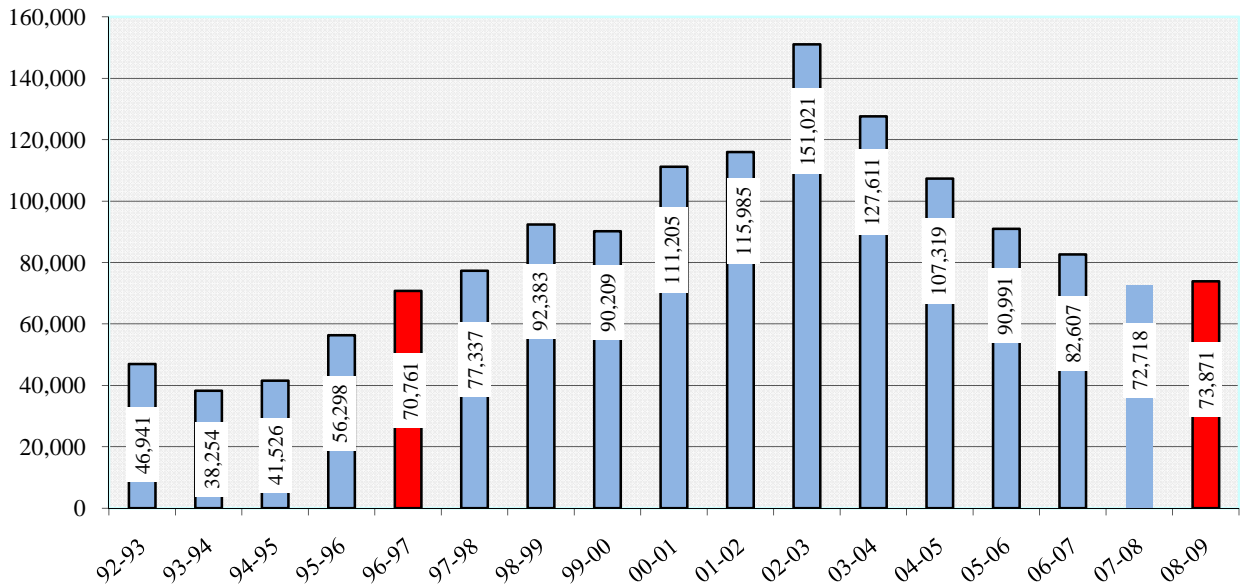
The Florida Legislature enacted significant amendments to the Florida Workers' Compensation Law in 1994 and again in 2003. Immediately following the 2003 reforms, the volume of PFB filed with the OJCC decreased at a consistent annual rate of approximately fifteen percent (15.21% to 15.9%) over each of the next three years. PFB filing volume continued to decline in 2006-07, approximately nine percent (9.21%) and 2007-08 approximately twelve percent (12%). The overall decrease in PFB filing volume between fiscal 2003 and fiscal 2008 was approximately fifty-two percent (51.85%). One component of the 2003 reforms was an amendment to Fla. Stat. §440.34, which addresses the payment of attorneys' fees in workers' compensation cases. The interpretation of that statutory change was litigated extensively, and multiple decisions of the First District Court of Appeal interpreted Fla. Stat. §440.34(2003) as limiting fees to a "percentage of recovery" fee in most cases.⁸ Under those interpretations, hourly attorney's fees were forbidden in most cases. In October 2008, the Florida Supreme Court rendered their decision in Murray v. Mariner Health, 994 So.2d 1051 (Fla. 2008). The Supreme Court's interpretation of Fla. Stat. §440.34 restored entitlement to hourly attorney fees. Until rendition of that decision the PFB filings (for the first quarter of fiscal 2008-09) had continued to demonstrate a downward trend. At year end, the fiscal 2008-09 PFB filings had increased minimally (1.6%) from fiscal 2007-08.

Fiscal Year	PFB Filed	% Change
2001-02	115,985	
2002-03	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%
2008-09	73,871	1.6%



Workers' compensation premiums decreased significantly after the 2003 reforms. The cumulative decrease through fiscal 2008-09 was approximately 58%. Interestingly, in that same time period, PFB filings had decreased approximately fifty-two percent (51.85%); which might be interpreted as a close correlation. The Florida Legislature reacted to the Murray decision in 2009, passing further amendment to Fla. Stat. §440.34, with the apparent intention of legislatively overruling Murray. The effects of the Court's action and the Legislature's action are not identical however. The Court's decision results in the potential applicability of hourly attorney fees for all cases between October 1, 2003 and June 30, 2009. Those cases are controlled by the Court's interpretation of Fla. Stat. §440.34(2003) in Murray. Thus, that decision in October 2008 effected a change applicable to a population of filed and potential cases for dates of accident in the past. The Legislature's action amending the statute in 2009 applies only to cases in which the accident occurs after the effective date of that legislation. Thus, the legislative action in 2009 affects only a prospective change for accidents after June 30, 2009. Thus, the Murray analysis of the 2003 law will continue to control and hourly fees will remain payable for claims on dates of accident between October 1, 2003 and June 30, 2009.

The steady decrease in overall PFB filing since the passage of Bill 50A in 2003 is further illustrated in the following graph. The decreases from 2003 through 2008 must be considered in conjunction with the marked increase of approximately thirty percent between 2001 and 2003. The available data supports that very high PFB filing rates in 2003 were likely a statistical anomaly.



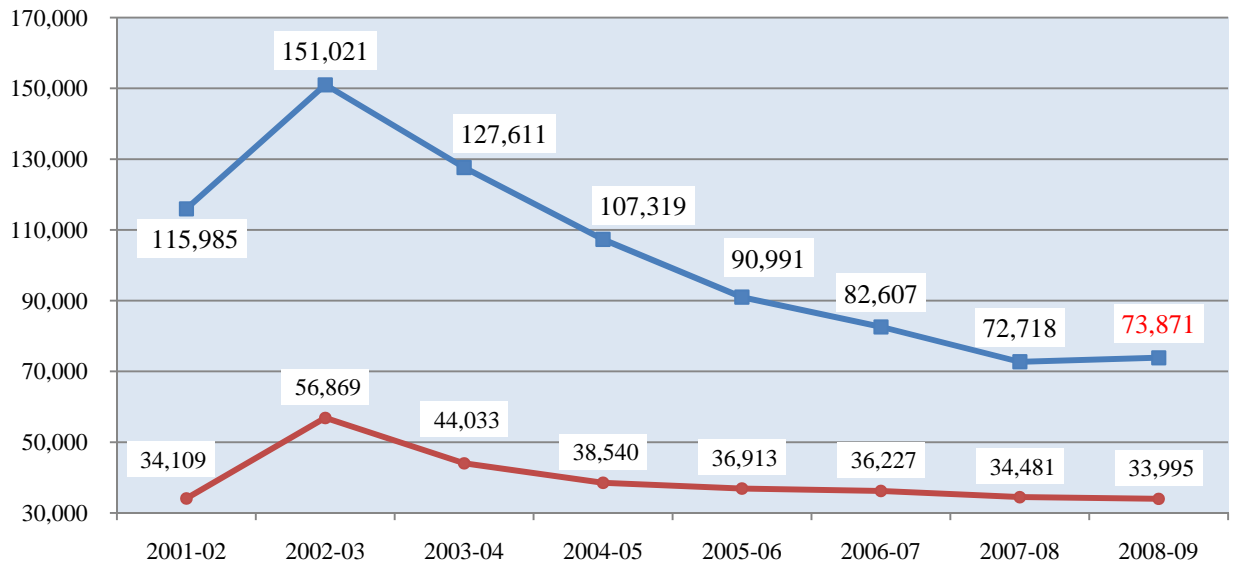
The figures for periods prior to 2001 (the transfer of the OJCC from the DLES to the DOAH) are based upon data provided by the DLES. The reliability of these statistics can no longer be independently verified.⁹ Some question of the validity of these figures is raised by the fact that the petition for benefits (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 1996-97. After several years of marked decreases in PFB filings, 2008-09 demonstrated the first instance of an increase in filing rates since 2003.

New Case Filing:

The volume of "new cases filed" has been monitored only since the OJCC joined DOAH in 2001. The term “new cases filed” refers to the volume of PFB filed, which represent the first time a PFB is filed in the history of that particular accident by that particular injured worker. Workers’ Compensation cases often involve the litigation of multiple, serial PFB 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 inherent to workers’ compensation generally, and thus 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

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%
2008-09	33,995	-1.41%

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 2008-09 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 continued to decline since the 2003 statutory amendments. The rate of decline in “new cases” has been less than the rate of PFB decline. Despite the marginal increase in 2008-09 PFB filings, “new case” filings continued to decrease in 2008-09. The following graph depicts the declining OJCC “new case” filings (red), and the PFB filings (blue).



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 returned from the 2002-03 spike (151,021) to a level consistent with 2001-02 (115,985) fairly rapidly, two years later in 2004-05 (107,319). The “new case” volume likewise spiked markedly in 2002-03 (56,869), but returned to pre-2002-03 levels only in 2008-09 (33,995). This comparison supports that overall petition filing volume has demonstrated more elasticity than the “new case” volume.

The volume of “new cases” filed may also be expressed as a percentage of the gross volume of petitions for benefits (PFB) filed during the same time period. This compares the relationship of each annual “new case” volume to overall annual volume of PFB filings. This comparison demonstrates that the percentage of all PFB that were “new cases filed” remained fairly consistent in fiscal 2003-04 (34.5%) and 2004-05 (35.9%). As overall PFB volumes have decreased, and “new case” volumes have remained more constant, the percentage of “new cases” has remained above 40% since 2005-06. 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,” result primarily from the slow decrease in “new cases” compared to the more significant concurrent 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”

Fiscal Year	PFB Filed	Cases Filed	New/Filed
2001-02	115,985	34,109	29.4%
2002-03	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%
2008-09	73,871	33,995	46.0%

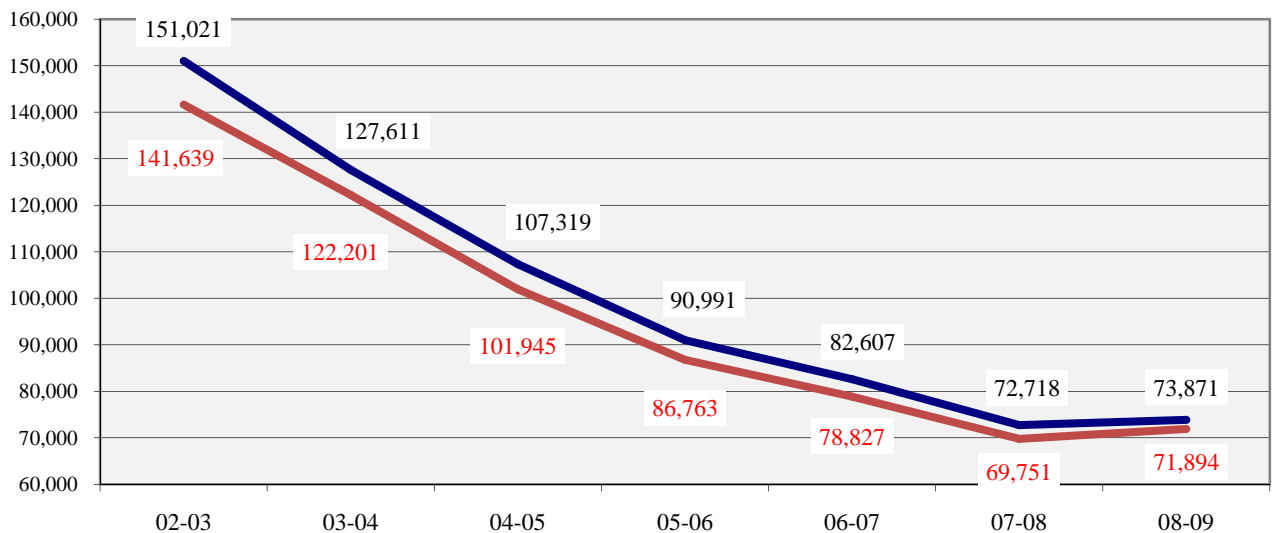
will result in earlier resolution of issues therein, and eventually facilitate greater self-execution of the system in those cases and further decreases in litigation generally.

In summary, the available data supports several conclusions. First, the overall PFB volume appears to have stabilized. The volume of “new cases filed” has decreased since 2003, but at a much slower rate. The 2008-09 filing rate for “new cases” has reached a level consistent with volumes prior to the statistically abnormal filing spike in 2002-03. As a result, currently a greater proportion of current PFB filings are “new cases.” If overall PFB filing continues to trend upwards following Murray, these numerical relationships may shift.

Petition Replication and Duplication:

As discussed briefly above, there has been some tendency of attorneys to file multiple “single issue” petitions for benefits (PFB) in a particular case on a particular date. A PFB may include as many discrete 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” PFB cannot be described as “duplicate” PFB 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. The purpose of this practice is unclear, and artificially inflates the apparent PFB volume.

There is also a similar practice of filing essentially “duplicate” PFB. 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, a second PFB against the carpenter/air conditioner subcontractor, and yet a third against the general contractor. These PFB are often identical in every regard except for the name/address/phone number of the “employer” and “carrier.” The duplication of PFB for such instances of uncertain responsibility is a natural consequence of the circumstances of such cases. This graph illustrates the decreasing raw PFB volume and the changes in “replicate” filing.



For a period of time, attorneys voiced concern that some flaw in a portion of a given PFB might 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 apparently addressed this uncertainty by routinely filing replicate PFB. Also, 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 have contributed to historic replicate PFB volumes as the fallacy of that analysis was illustrated through litigation.

Fiscal Year	Total PFB	Net PFB	R/D %
2001-02	115,985	107,815	7.0%
2002-03	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%
2008-09	73,871	71,897	2.7%

Although there has been speculation as to the pervasiveness of the replicate PFB practice, there was only anecdotal evidence until the analysis published in the OJCC Annual Report 2007-08. For whatever reason, the replicate practice decreased significantly in 2008-09 following that documentation of the process.

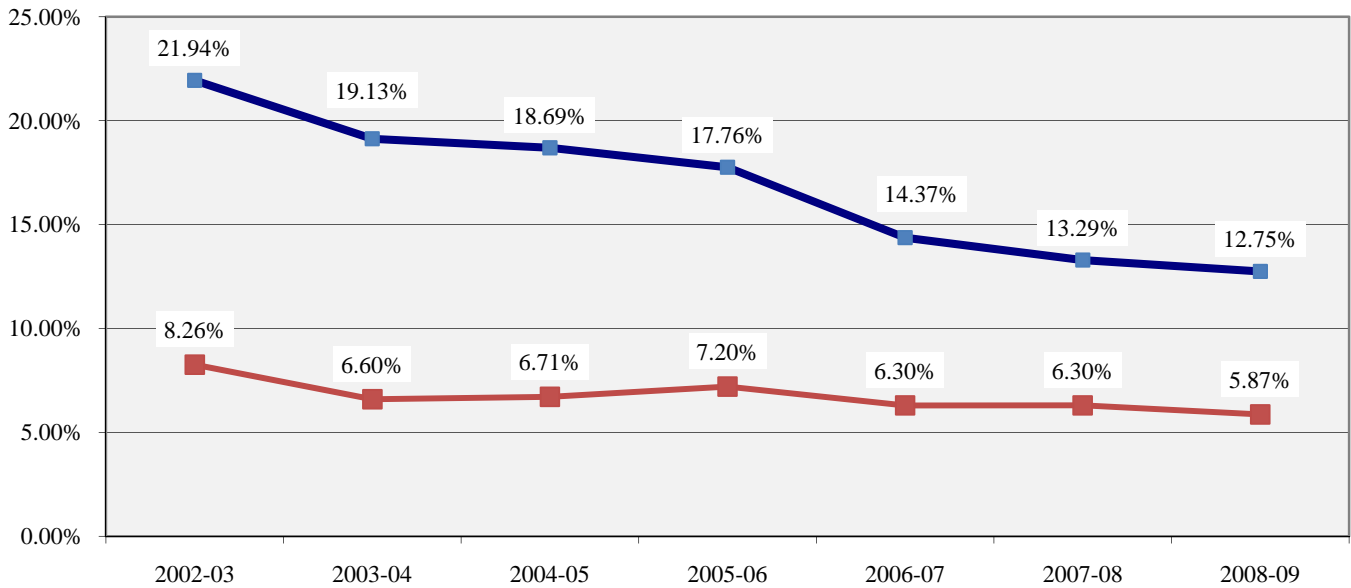
Pro-Se Cases:

The Office of Judges of Compensation Claims (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 petition(s) for benefits (PFB). For example, a claimant might hire counsel and through that counsel file three PFB 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” PFB 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 given day that represents the “represented” and “pro se” cases in that “new case” population. Likewise, the OJCC can calculate the percentage of “pro se” cases compared to the total volume of PFB filed during the preceding year.

Neither of these is an accurate reflection of the actual population of PFB that have been filed by an injured worker on their own behalf. However, these two calculations are the best answer the OJCC can currently provide to the question of pro se litigant volume. 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. The graph below depicts the ratios (blue) of “new cases” to the population of “pro-se” petitions on June 30 of each of the last seven (7) fiscal years. Also represented are the ratios (red) of overall PFB filed to the year-end “pro se” population.

Fiscal Year	New Cases	Pro Se June 30	
2002-03	56869	12477	21.94%
2003-04	44033	8423	19.13%
2004-05	38540	7205	18.69%
2005-06	36913	6555	17.76%
2006-07	36227	5205	14.37%
2007-08	34481	4583	13.29%
2008-09	33995	4333	12.75%



AMOUNT OF LITIGATION RESOLVED:

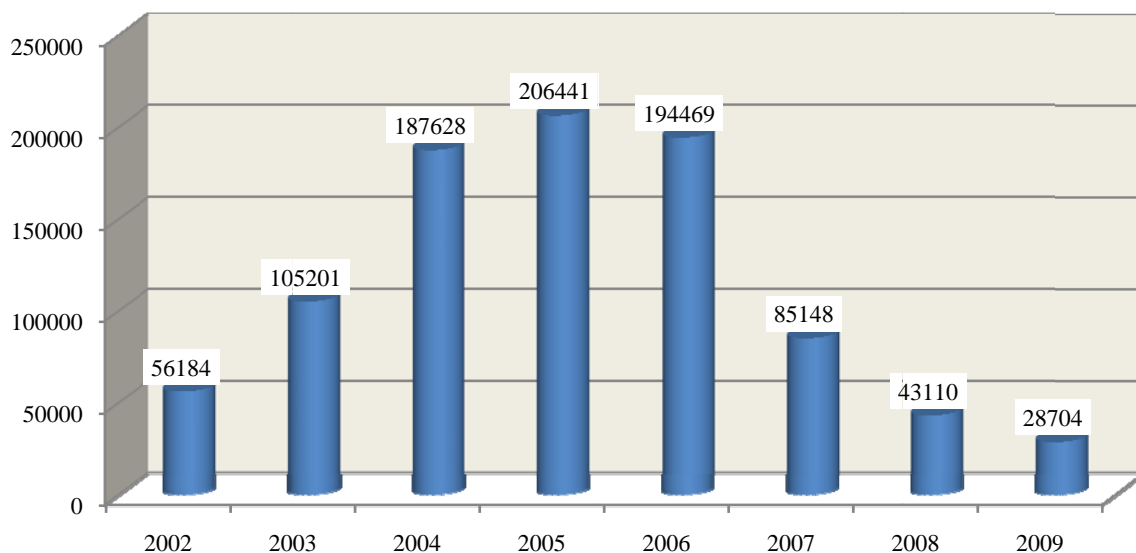
The OJCC has struggled with the closure of petitions for benefits (PFB) for many years. The legislature has defined statutory time parameters for the mediation and trial of PFB in Fla. Stat. §440.25. This legislative mandate for timely adjudications is inconsistent with a practice of utilizing petition (and before 1994 “claim”) filing to indefinitely preserve the status quo against the possible effectiveness of the statute of limitations in Fla. Stat. §440.19. So long as a PFB is “pending,” then the statute of limitations will not run. Anecdotally, there is support for the existence of a practice of filing PFB not to necessarily seek provision of a particular benefit, but instead to act as a tool “tolling” the statute of limitations. PFB closure has been a difficult issue for the OJCC following the

massive influx of PFB in 2002-03 (151,021). The OJCC has operated without significant increases in either Judges or staff since the addition of the mandatory mediation process in 1994. During that time, Florida's population grew 33% from fourteen million to almost nineteen million people.¹⁰ The sheer volume of PFB in 2003 was troublesome. Effective management of these PFB was further hindered by a lack of effective data management tools to identify PFB based upon age. At the end of fiscal 2005-06 (06.30.06), the JCC Application database reflected one hundred eighty-six thousand seven hundred sixty-five (186,765) PFB were "open." It was discovered that this figure was understated by the database, and the actual volume was later calculated as one hundred ninety-four thousand four hundred sixty-nine (194,469). This is discussed in detail in the 2006-07 OJCC Annual Report. During fiscal 2006-07, the OJCC worked to identify "active" PFB whose status should have previously been changed to reflect a "resolved" or "closed" status. This effort included providing the Judges with access to database reports that identified aging PFB. The inventory of "pending" PFB for many Judges improved dramatically in 2006-07. At the end of fiscal 2007 (06.30.07), the OJCC inventory of "open" PFB 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 (-49.37%) in 2007-08 to 43,110 open petitions at year-end. With notable significant effort, the total pending PFB inventory on June 30, 2009 had decreased to 28,704, representing a decrease of approximately thirty-three (33.42%) over the course of fiscal year 2008-09.

Most PFB filed must be mediated.¹¹ 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.¹² 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).

Judge	PFB Pending 06/30/06	PFB Pending 06/30/07	PFB Pending 06/30/08	PFB Pending 06/30/09	Percent Change 06 to 07	Percent Change 07 to 08	Percent Change 06 to 09
Hogan	17077	6546	1996	1034	-69.51%	-88.31%	-93.95%
Hill	16172	1253	1542	1146	23.06%	-90.47%	-92.91%
Pecko	11366	5448	3600	916	-33.92%	-68.33%	-91.94%
Castiello	13365	8440	3315	1174	-60.72%	-75.20%	-91.22%
Punancy	9169	4728	1231	960	-73.96%	-86.57%	-89.53%
Harnage	14867	6549	2653	1613	-59.49%	-82.16%	-89.15%
Basquill	8039	1264	972	910	-23.10%	-87.91%	-88.68%
Hill	12131	6847	2446	1431	-64.28%	-79.84%	-88.20%
Sturgis	4360	3501	2071	525	-40.85%	-52.50%	-87.96%
Kuker	13374	7213	2201	1661	-69.49%	-83.54%	-87.58%
D'Ambrosio	7146	995	736	933	-26.03%	-89.70%	-86.94%
Medina-Shore	13942	6357	1753	1833	-72.42%	-87.43%	-86.85%
Hofstad	6194	2321	2040	819	-12.11%	-67.06%	-86.78%
Spangler	5344	3257	1011	708	-68.96%	-81.08%	-86.75%
Lewis	7954	2276	1098	1089	-51.76%	-86.20%	-86.31%
McAliley	3657	1907	1102	573	-42.21%	-69.87%	-84.33%
Winn	2197	1522	344	357	-77.40%	-84.34%	-83.75%
Portuallo	5180	2133	1647	865	-22.78%	-68.20%	-83.30%
Rosen	3457	1191	1065	767	-10.58%	-69.19%	-77.81%
Harris	3799	1925	1643	992	-14.65%	-56.75%	-73.89%
Jenkins	1548	921	701	527	-23.89%	-54.72%	-65.96%
Murphy	1955	601	659	669	9.65%	-66.29%	-65.78%
Remsnyder	1237	574	480	526	-16.38%	-61.20%	-57.48%
Hafner	1313	722	553	624	-23.41%	-57.88%	-52.48%
Lazzara	799	435	387	392	-11.03%	-51.56%	-50.94%
Terlizzese	740	267	347	385	29.96%	-53.11%	-47.97%
Roesch	767	305	337	402	10.49%	-56.06%	-47.59%
Farrell	1805	1379	1355	983	-1.74%	-24.93%	-45.54%
Sculco	1822	1246	1039	1038	-16.61%	-42.97%	-43.03%
Condry	1874	1337	1223	1177	-8.53%	-34.74%	-37.19%
Beck	1045	869	958	953	10.24%	-8.33%	-8.80%
Lorenzen	771	816	599	721	-26.59%	-22.31%	-6.49%
Langham	3	3	6	1			
Total	194469	85148	43110	28704			

Some divisions (each Judge and their respective staff is a “division”) have historically been more efficient than others in documenting the closure of PFB, as noted in previous OJCC Annual Reports. Several divisions began 2006-07 with accurate PFB inventories, meaning their inventory included only PFB that appropriately should be represented as “open.” Other divisions began the 2005-06 year with their inventories overstated with PFB that should have been closed in prior years. PFB closures increased dramatically in 2006-07 and 2007-08. In 2007-08 there was significant progress particularly in 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 recent years precisely because they had appropriately and efficiently closed PFB previously, and thus had no past-due “inventory” that required attention and closure. The extensive efforts of various Judges and staff throughout Florida have dramatically improved the management of pending petitions for benefits. The year-end system-wide OJCC inventory of “pending” PFB for the last eight fiscal years is represented in the following graph. This depicts that from a peak of 206,441 pending PFB in the system as of the end of fiscal year 2004-05, the OJCC has decreased inventory of pending PFB to 28,704 PFB at the end of fiscal year 2008-09. This represents a decrease in inventory of 86%.



Over the last six fiscal years, five hundred fifty-four thousand eight hundred seventy (554,870) PFB have been filed and six hundred twenty-four thousand seventy-eight (624,078) PFB have been closed. This equates to an approximate overall closure rate of one hundred thirteen percent (112.5%). This supports the conclusion that the OJCC successfully managed the significant 2002-03 PFB filing spike, as discussed above, and continues to progress to better managed dockets. Significantly, the OJCC has simultaneously evaluated the volume of PFB transferred as “open” from the DLES and the JCC Application database now accurately represents the actual status of those PFB.

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%
08-09	73,871	82,394	111.5%
Total	554,870	624,078	112.5%

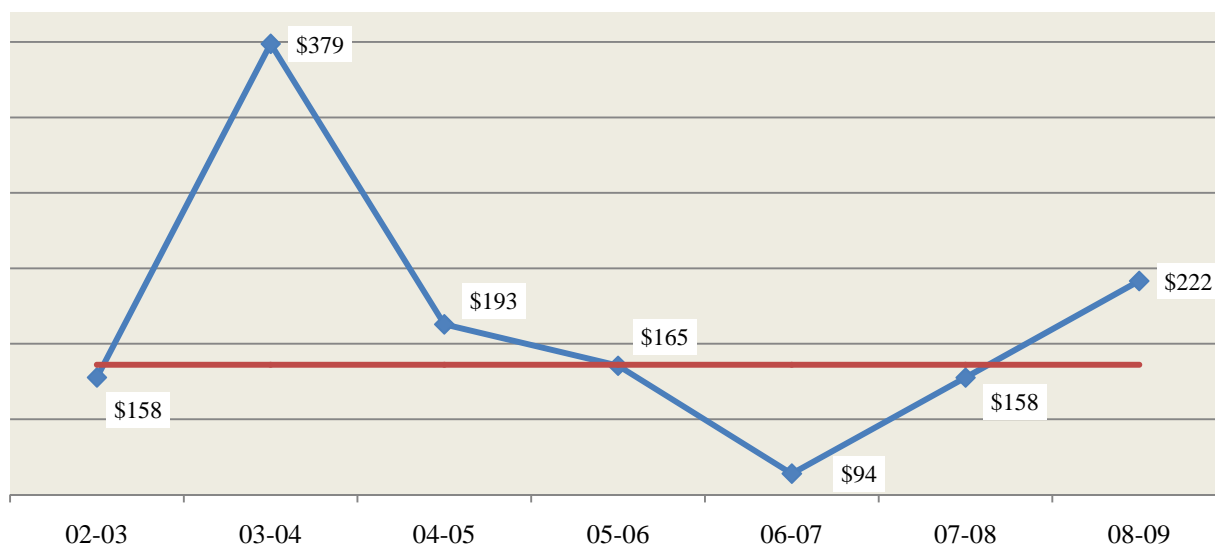
This chart illustrates the marked increase in closure rates beginning in fiscal 2005-06, followed by more dramatic closure rates in 2006-07 (232.6%) and 2007-08 (160.4%) resulting from staff training. Obviously, when the volume of PFB closed during a year equals the number of PFB filed during the same 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 generated a growing inventory (backlog) of PFB in some divisions (one Judge and staff is a “division”). Some PFB were legitimately unaddressed and unresolved, and others merely not documented appropriately in the records. The OJCC database/case management software was deployed in 2002, but significant staff training in the uniform use of this tool did not occur until 2006-07. The results of that training are apparent in this chart, and the graph above. It is possible that some divisions may close significantly

more PFB in fiscal 2009-10, but it is predicted that most divisions in the OJCC litigation system are close to equilibrium at this time. Increased training has been crucial to the OJCC success in managing these PFB inventories. Also, the deployment of management tools in 2006-07 has facilitated identifying aging PFB and addressing them. These tools allow Judges to generate lists of cases that satisfy certain criteria, such as a report of any “active” PFB that are older than 210 days. A PFB may appropriately remain “active” beyond this statutory parameter: bankruptcy stay(s), EMA appointment, and continuance, are a few of the appropriate reasons for this. Consistent docket management is accomplished not by presuming that older PFB are appropriately being deferred, but by reviewing older PFB and determining the appropriateness of delay on a case-by-case basis. The power of these management tools lies in the assigned Judge quickly and efficiently identifying the PFB that warrant such evaluation. These management tools further illustrate the benefits of the JCC Application database, and justify the investment of OJCC resources in the development and deployment of this dynamic tool.

COST OF LITIGATION RESOLVED:

The OJCC budget, divided by the number of petitions for benefits (PFB) closed, reflects that the overall cost per PFB closed fluctuated in recent years (see graph below), due in large part to the significant fluctuation in PFB closure rates. The fluctuations of “per PFB” costs is also attributable to the minimal growth in the OJCC annual budget. 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 in many years, and inflation has sometimes 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. The varying cost of PFB closure (blue) and average cost (red) are also depicted in this graph.

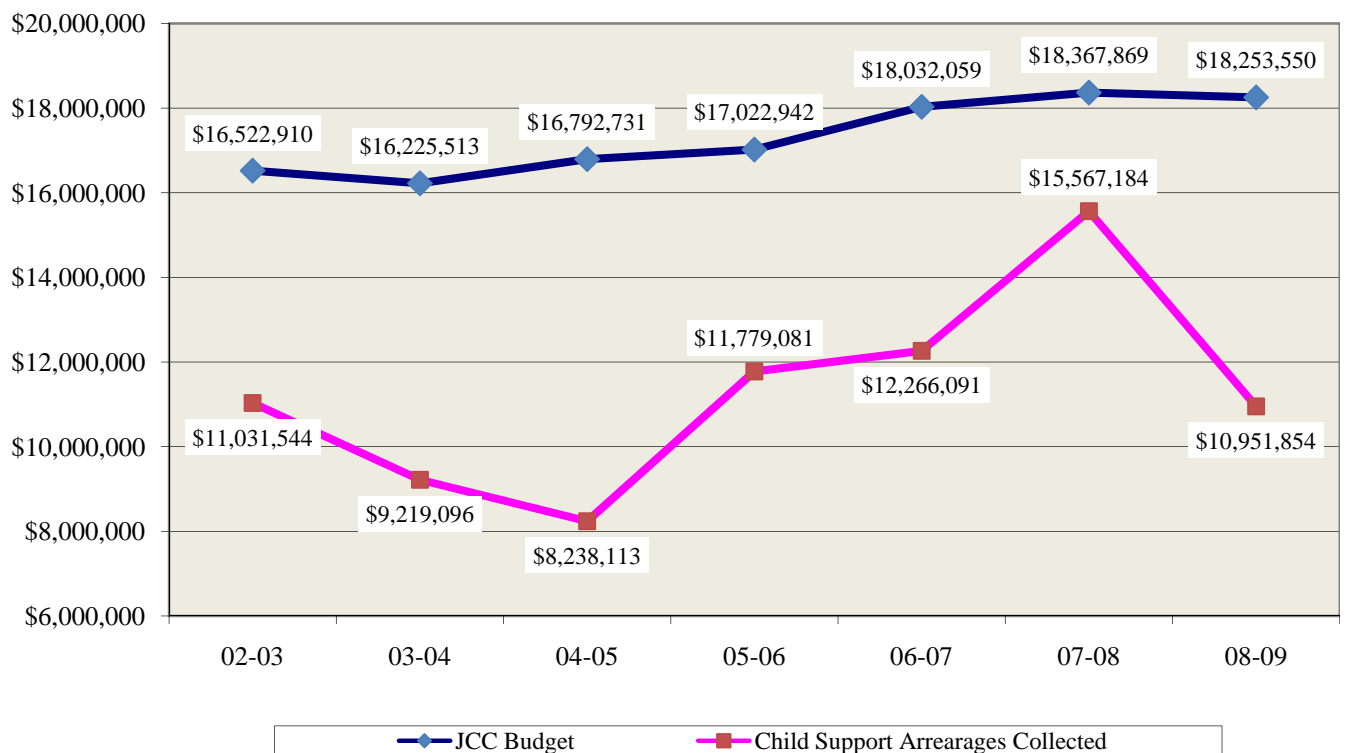
Fiscal Yr.	Annual Budget	PFB Closed	Cost Each
02-03	\$16,522,910	104,884	\$158
03-04	\$16,225,513	42,843	\$379
04-05	\$16,792,731	87,102	\$193
05-06	\$17,022,942	102,947	\$165
06-07	\$18,032,059	192,181	\$94
07-08	\$18,367,869 ¹³	116,611	\$158
08-09	\$18,253,550	82,394	\$222



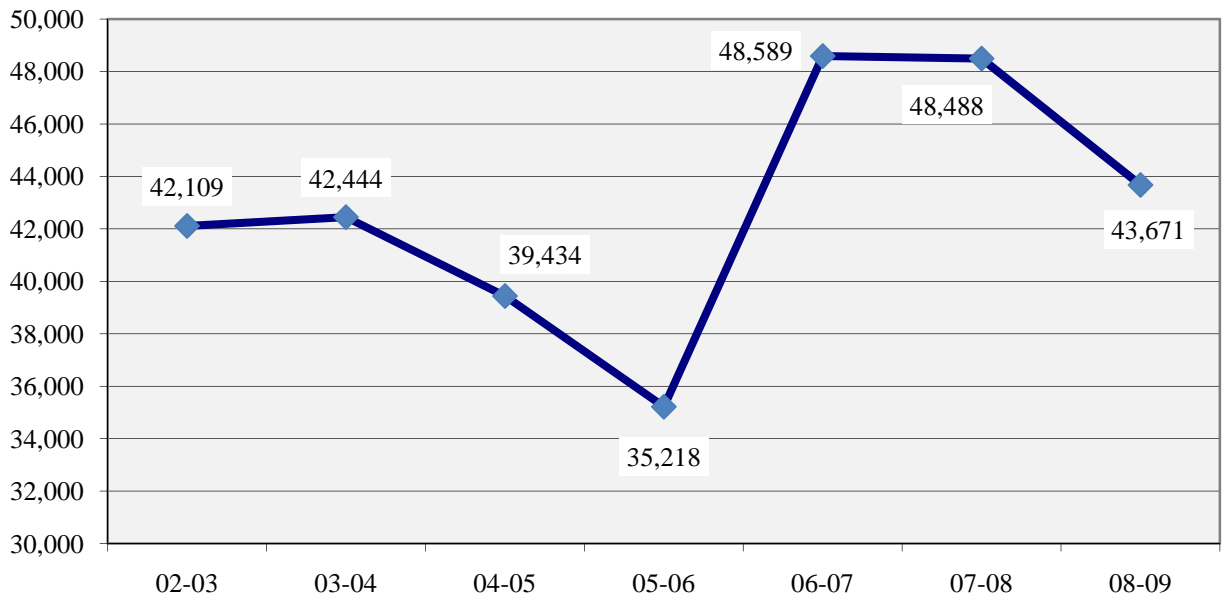
Petition closure rates decreased in fiscal 2008-09, and are anticipated to decrease again in 2009-10. Very little overdue petition for benefit (PFB) inventory remain unaddressed in this litigation system. Therefore, it is expected that the volume of closure in 2009-10 will continue the downward trend, and be far lower than in previous years. The resulting cost per PFB closed will increase again in 2008-09. The average cost per closed PFB over the six year period 2002-03 through 2007-08 was \$158.00. The average over the seven year period 2002-03 through 2008-09 was \$165.00 (depicted in the graph above by the red line).

Fiscal Year	Annual Budget	Support Recovered	% of Budget
02-03	\$16,522,910	\$11,031,544.00	67%
03-04	\$16,225,513	\$9,219,096.00	57%
04-05	\$16,792,731	\$8,238,113.00	49%
05-06	\$17,022,942	\$11,779,081.00	69%
06-07	\$18,032,059	\$12,266,091.00	68%
07-08	\$18,367,869 ¹⁴	\$15,567,184.00	85%
08-09	\$18,253,550	\$10,951,854.00	60%

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 settle their workers' compensation case. Each Judge devotes considerable time and effort to the investigation and verification of child support arrearages when cases are settled. The significant amounts of child support collected through these efforts for the last seven (7) fiscal years are represented in this table, which total almost eighty million dollars. When the Judges were given the responsibility for recovering these arrearages, no staff or budget was added to the OJCC. The volume of child support arrearages collected is particularly interesting when considered in light of the overall OJCC budget discussed above. Over the last seven fiscal years, the OJCC has collected an average of 64% of its overall budget in past-due child support to the benefit and advantage of support recipients throughout Florida. This tremendous benefit to support recipients has been delivered without any additional staff or funding for the OJCC. The comparison of child support recovery and the OJCC overall budget is illustrated in this graph.



The decrease in child support collected in 2008-09 is significant. Notably, the volume of settlements that were approved by the various Judges of Compensation Claims also decreased in 2008-09 by almost ten percent (9.93%), from 48,488 in 2007-08 to 43,671 in 2008-09, as illustrated in this graph.



The Office of the Judges of Compensation Claims (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. The OJCC 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. Efforts in 2007-08 enhanced the speed and reliability of existing OJCC electronic filing services to the end-user attorneys and adjusters, and paved the way for deployment of electronic service of orders and notices to attorneys through the e-JCC system and OJCC secure email.

The OJCC is an adjudicatory system, a “court system” that exists within the Executive branch. In this regard the OJCC is unique. The entire OJCC budget is derived from the Workers’ Compensation Trust Fund supported by surcharges on workers’ compensation insurance premiums. Thus every expense of operating this unique system is born by the industry which necessitates it. The OJCC utilizes precisely \$0.00 in general revenue dollars. The OJCC has been much maligned in the past for perceptions that it was unresponsive and inefficient. Certainly, there remains room for further improvement in the OJCC operations, and further efficiencies will work to the benefit of the market and the State. However, the improvements in the OJCC and the innovation exhibited support reexamining the salary and benefit issues that face the OJCC. Addressing these inequities would recognize the unparalleled transparency, responsiveness, and effectiveness of 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 Application database 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. Staff turnover invariably requires extensive training in the optimum use of this tool. 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. To be clear, 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. OJCC efficiency suffers as a result of the compensation disparity between the OJCC and other adjudicatory systems in Florida, such as the Article V. Courts. 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 presented to Judges of Compensation Claims for adjudication is virtually limitless. In this regard JCCs’ duties are more comparable to Circuit Judges than County 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 steadily decreased for five (5) fiscal years between 2003-04 and 2007-08. However, the rate of decrease in mediations conducted did not match the rate of decrease in PFB filings, as represented in this chart. This suggests that as PFB volume fell, OJCC mediators were able to act upon a greater percentage of the remaining volume. In 2008-09 mediations conducted by state mediators increased almost four percent (3.95%), which may be due in some part to the increased PFB filings. Over the seven (7) year cumulative period ending June 30, 2009, PFB filings have decreased approximately fifty-one percent (51.02%), while mediations conducted by State mediators have decreased approximately twenty-nine (28.86%). In 2008-09, almost twenty-one thousand (20,812) mediations were held by state mediators, at a cost of approximately \$149.56 each.¹⁵ Many private mediators charge *hourly* rates well 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. The cost-efficiency of State mediation is obvious. Furthermore, as the volume of mediation increases, the cost of each mediation decreases because the aggregate cost of the state mediation program remains constant regardless of volume.

Fiscal Year	Petitions Filed	Percent Change	Mediations Held	Percent Change
2002-03	151,021		29,253	
2003-04	127,611	-15.50%	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%
2008-09	73,863	1.57%	20,812	3.95%

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 PFB must be mediated before they may proceed to final hearing,¹⁶ 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. This statutory provision has been more uniformly enforced by most Judges in recent years. As a direct consequence of following the law, all of the State mediators had an average number of days between petition filing and first mediation that was below 130 days in

2008-09. This represents 100% statutory compliance by the OJCC state mediators. While the statutory requirement to send cases to private mediation has assisted with facilitating more timely mediations, that action also represents a significant cost to the particular E/C ordered to private mediation. Because of the cost of 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. There remains some variation in the timeliness of state mediations in the various divisions, which are illustrated in the mediation detail graphs in appendices to this report. Those variations improved markedly in 2007-08, and still further improvement is illustrated in the 2008-09 figures.

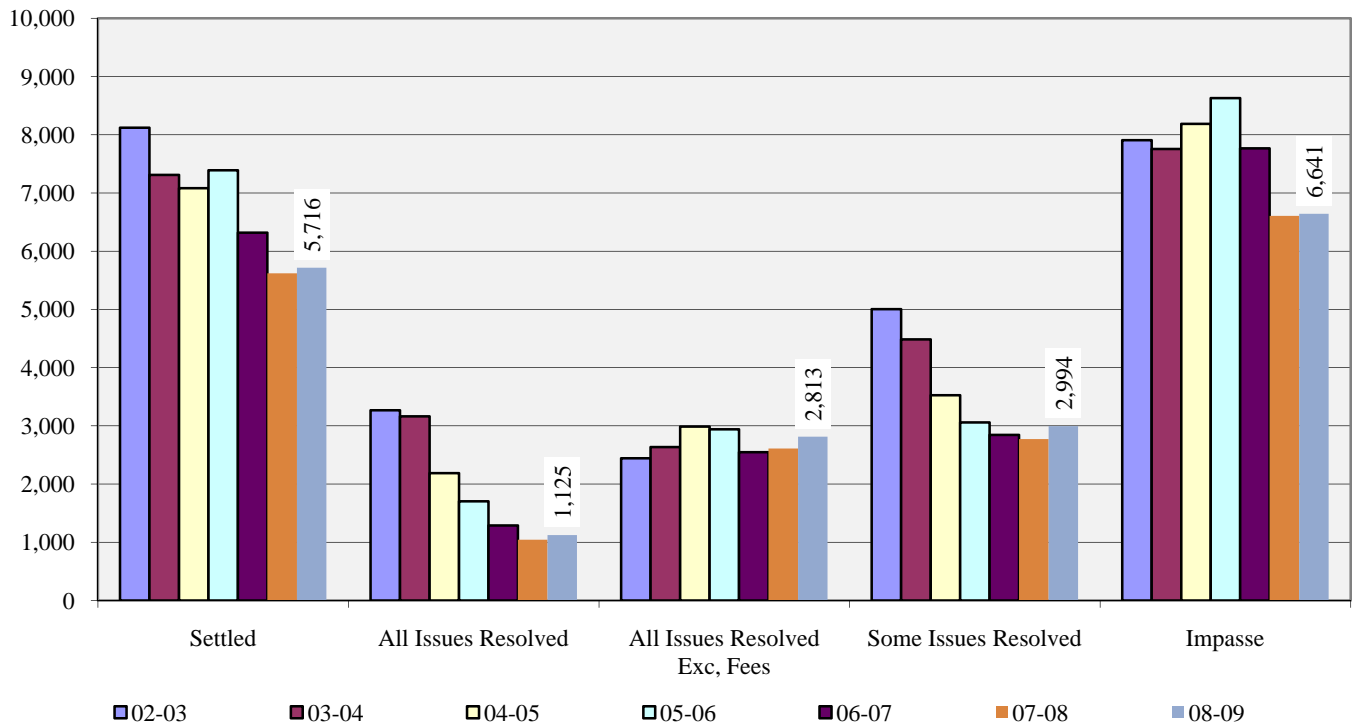
Fiscal Year	Petitions Filed	Percent Change	Mediations Held	Percent Change
2002-03	150,801		29,253	
2008-09	73,863	-51.02%	20,812	-28.86%

DISPOSITION OF MEDIATION CONFERENCES:

A petition for benefits (“PFB”) may seek 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 PFB 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. Additionally, a mediation may include the issues from one PFB or several.

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(s) 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. Previously, some mediators 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 seven (7) 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, and has remained consistent for the last two fiscal years. Likewise the somewhat steady decrease in the volume of cases “settled” has also paused as demonstrated by the similar settlement outcome volumes in 2007-08 and 2008-09.

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 2008-09, approximately twenty-seven percent (27.46%) of the mediated cases resulted in settlement. The category “all issues resolved” demonstrated significant decrease between 2004-05 and 2006-07, but now appears to be reasonably static between five and six percent (5%-6%).

Following several years of increased frequency in no resolution (“impasse”), the frequency of that outcome has decreased 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.

Year	Mediation Held	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%
2008-09	20,812	27.46%	5.41%	13.52%	14.39%	31.91%	7.27%

State mediations are obviously very effective in resolving issues. Over the last seven (7) years, the convened state mediations have resolved at least "some issues" about sixty percent (60%) of the time. This performance is reasonably consistent, and does not appear to be related to the volume of mediations held.

It has been previously noted that each year a very small percentage of mediation outcomes are not recorded in the OJCC database appropriately, 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. In the last two fiscal years, less than ten mediations each year have been characterized in the database as

“held.” This improvement again demonstrates the value of the extensive training which has been provided for District staff since 2006.

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. However, those volumes may have been increased by the volume of weather-related office closures that year, as Florida endured serial cyclone landfalls (see endnote 17), which affected virtually every county. Those storms caused Carriers to close offices in central Florida (frustrating mediations in unaffected districts elsewhere) and by closing district offices at which the mediations would otherwise have been held.

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
2008-09	1,302	41	3.4

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, and has remained reasonably stable over the last two years. Some portion of the stabilizing figures is also due in part to the staff training provided by the OJCC since 2006 and the resulting uniformity in the use of the characterization “continued” within the OJCC database.

In 2002-03 two thousand seven hundred fifty-five (2,755) mediations were continued. This equated to approximately two percent (1.82%) of the petition for benefits (PFB) volume. As the volume of mediation continuances increased in the following years, the volume of PFB decreased markedly, leading to a peak mediation continuance rate of over five percent (5.23%) in 2005-06. As the volume of continuances has decreased in the last three fiscal years, and the rate of PFB filing decline has stabilized, the continuance rate has returned in 2008-09 to approximately two percent (1.76%) of PFB filed.

Fiscal Year	Petitions Filed	Mediations Continued	Med. Cont. / 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%
2008-09	73,863	1,302	1.76%

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 lack of active docket-management resulted in significant delay in the mediation of a significant volume of PFB. Those effects were similarly seen in the long average time periods between PFB filing and first mediation. Although the implementation of auto-scheduled mediations likely lead, in part, to the increase in mediation continuances initially after implementation, that process promoted the timely mediation of all PFB. As the community adjusted to the auto-scheduling process, continuances decreased and the frequency of timely mediations increased. This culminated in 2008-09 with the announcement that every state mediator (100%) averaged less than the statutory 130 days between PFB filing and initial mediation. This evidences that the litigation environment can be enhanced through proactive docket management.

NUMBER OF CONTINUANCES GRANTED FOR FINAL HEARINGS:

The volume of trial continuances system-wide has decreased markedly between fiscal 2003-04 and 2006-07. The volume of continuances per Judge increased slightly thereafter, but remains reasonably consistent at approximately twelve (12) per month on average for each Judge. This overall average understates some Judges’

continuance volume and overstates others. Some Judges schedule trial on each petition for benefits (PFB) as soon as that PFB arrives in the Judge’s office. This results in scheduling of trial on some quantity of PFB that will be dismissed by the time mediation is concluded. Other Judges do not schedule trial until after the outcome of the mediation process is known. This certainly results in less total trials being scheduled. Whether one method is superior to the other in terms of preparing parties for trial and avoiding the need for continuance is debatable, and the empirical data does not clearly support either conclusion. 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 2004.¹⁷

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, and remained at that level in 2008-09, as set forth in this table. This illustrates the system-wide 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 overall PFB filing rates. Staff training and OJCC definition of the terms “rescheduled” and “continued,” discussed in the 2007-08 OJCC Annual Report, 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 continued to avoid the standardized definitions in the OJCC User Manual, and instead utilize their own definition of “continuance.” These mischaracterizations contribute to some volume of “rescheduled” hearings being reflected erroneously in the database as “continuances.” These mischaracterizations are known therefore to be responsible in part for the figures reported above for fiscal years prior to 2008-09.

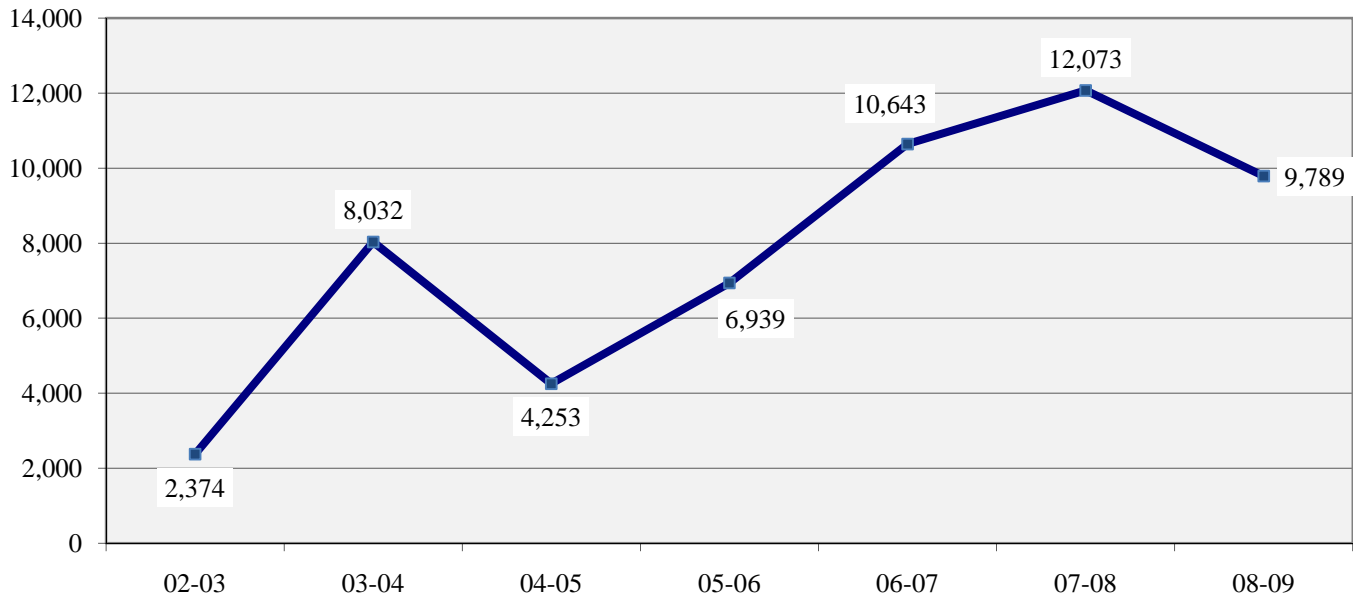
Fiscal Year	Total Number	Annual Per JCC	Monthly Per JCC
2002-03	6,507	210	17.5
2003-04	6,734	217	18.1
2004-05	5,094	164	13.7
2005-06	5,011	162	13.5
2006-07	4,161	130	11
2007-08	4,617	144	12.0
2008-09	4,658	146	12.1

OUTCOME OF LITIGATED CASES:

Petitions for Benefits (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.¹⁸ Until 2006-07, all PFB 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 by attorneys 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 has resulted in more uniform and equitable workload distribution, which is an important concern. The anecdotal pre-conception issue, should it actually exist, was also remedied by the programming alteration.

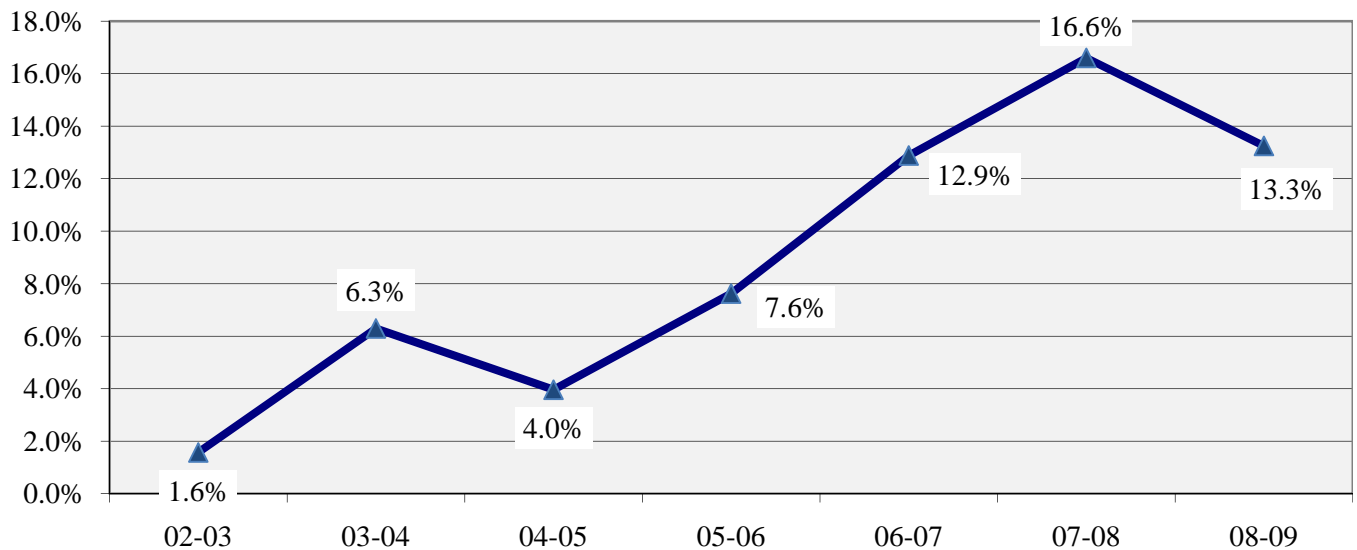
Once a case is assigned to a Judge, the JCC Database Application “auto-schedules” an appointment for State mediation. The Central Clerk uploads each manually filed (paper) PFB to the OJCC database program. The portable document format (PDF) image of that document then becomes the OJCC “original,” and is accessible by any Judge in the state for viewing. The use of this process resulted in the ability to cease transfer of paper petitions to the assigned Judge through the U.S. Mail, and resulted in significant cost savings to the OJCC in 2008-09. Thus, when the PFB assignment arrives in its assigned division, a mediation appointment has been automatically scheduled, but no notice has yet been sent to the parties. Statutorily, no notice of mediation is sent thereafter until forty days following the PFB filing. Therefore, although an appointment is set when the PFB arrives, attorneys have an ample 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 by some savvy counsel may 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 petitions for benefits (PFB) assigned to them. The expedited process 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. Whether a particular PFB is suitable for expedited process is a decision for the assigned Judge, and no agreement of the parties is necessary. Because all PFB have already been “auto-scheduled” for mediation by the OJCC Central Clerk prior to notification of assignment to the respective district office, placing a PFB in the expedited process requires cancellation of that mediation date. The process in the various districts, upon receipt of notification 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. The volume of PFB dismissed prior to mediation increased markedly from 2004-05 through 2007-08 as illustrated in this graph. However, in 2008-09, the volume of PFB dismissed prior to mediation dropped significantly from 12,073 to 9,789.



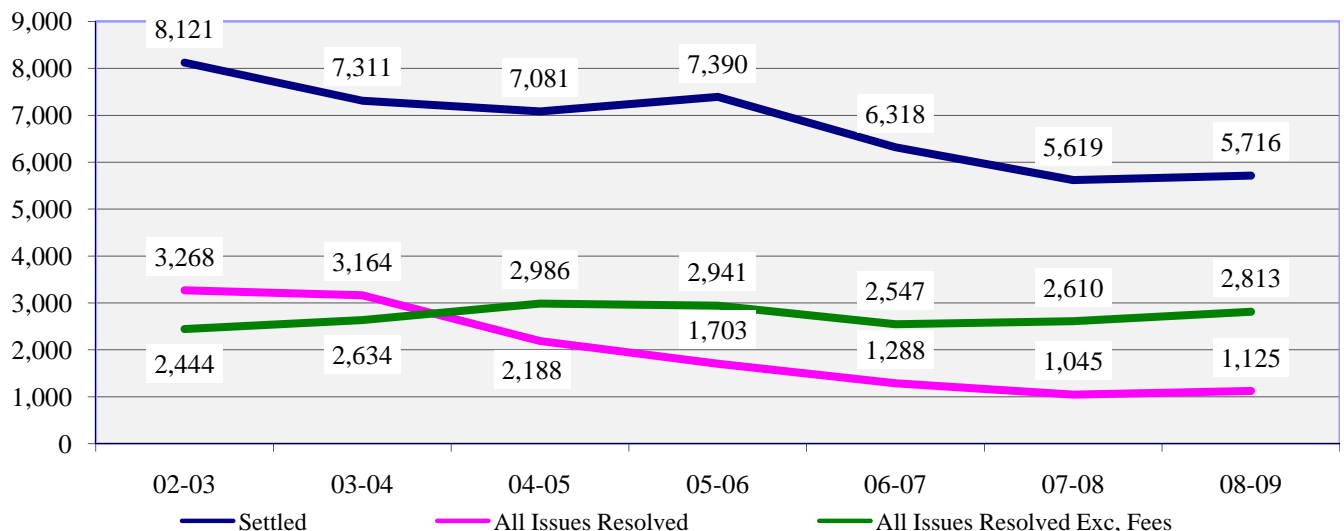
If a particular PFB is not set for expedited hearing, then the assigned JCC will either accept the auto-scheduled mediation appointment or select an alternative date. On the fortieth day after the PFB is filed, the notice of mediation is mailed to the parties and attorneys associated with that case. This was a manual process for many years, with each notice necessitating an envelope and First Class postage. In 2004, the OJCC instigated an automated process that generated these notices on post-cards, eliminating envelope expense and decreasing postage expense. With the implementation of e-service in the OJCC e-filing program, it is anticipated that further postage savings will be enjoyed as e-mail replaces the post-card as the primary delivery media for these notices.

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 PFB are thereafter resolved prior to the mediation occurring. The raw volume of dismissals before mediation increased in recent years, concurrent with a steadily declining overall volume of PFB filings. Thus, resolution of PFB prior to mediation increased generally, but the change was more acutely apparent when expressed as a percentage of filed PFB as represented in the following graph. Although 2008-09 demonstrates a decrease in the dismissal volume compared to 2007-08, the volume remains significantly higher than prior years.

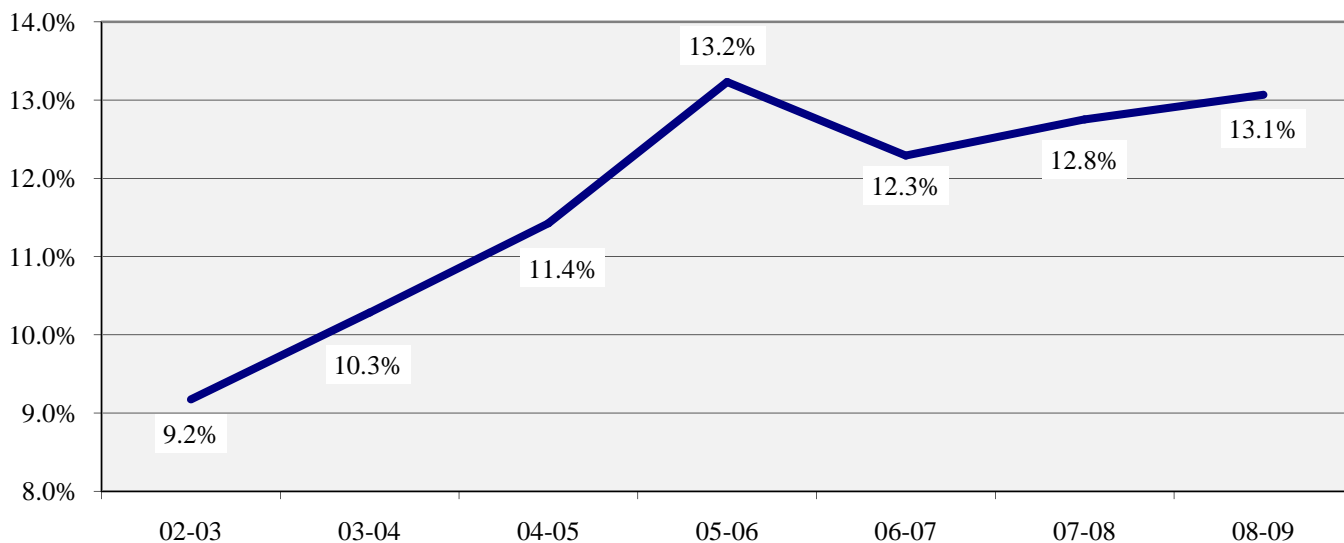


As discussed above, it has recently been discovered that significantly more PFB resolved “prior to” mediation than the OJCC previously reported in prior annual reports, as a consequence of some mediators choosing to represent “prior” resolutions as if the result was accomplished at mediation. The figures in this graph for prior fiscal years are therefore likely understated. Those mediators concluded that many PFB resolve on the eve of mediation because parties or counsel are motivated to resolution by the inconvenience associated with travel to/from, and attendance at, mediation. Some mediators therefore ignored the parameters for mediation outcome characterization published in the OJCC User Manual in October 2006, and instead mischaracterized some portion of PFB 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.

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 PFB were resolved. This graph illustrates the combination of these three (3) outcomes in each of the last seven (7) fiscal years.



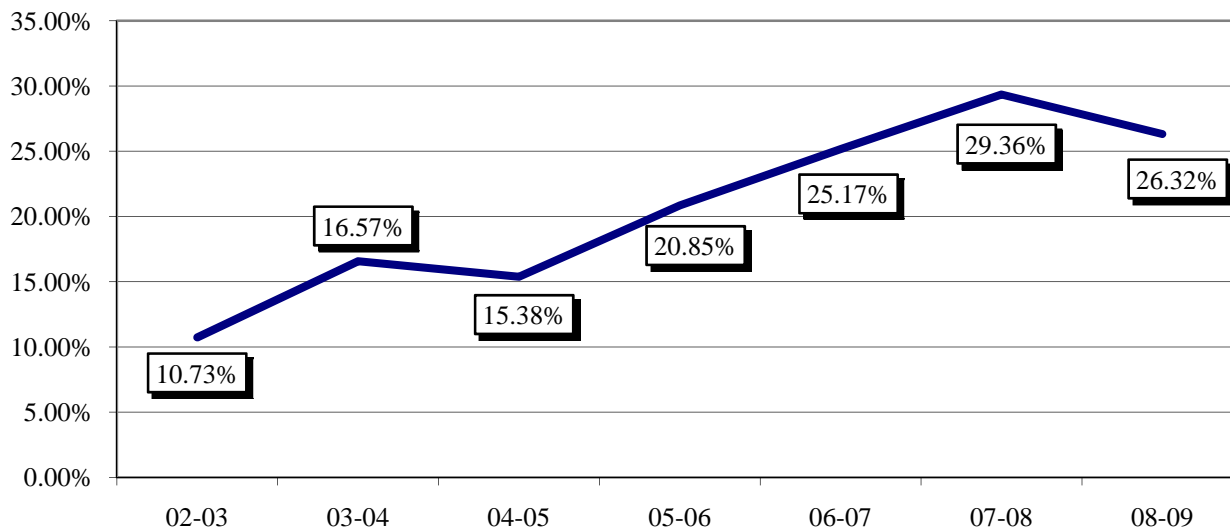
The total number of such petition for benefit (PFB) resolutions at mediation has been decreasing each year, as was the total volume of PFB filed. It is significant that this measure reflects only the resolution of all substantive issues in that PFB (“settled,” “all issues resolved,” and “all issues resolved except fees”). Therefore, while this statistic represents the number of PFB resolved at mediation, it does not fully 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, such as entitlement to temporary indemnity payments. 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 those 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 PFB as resolving at mediations that did not in fact occur. When the total reported volume of PFB 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 PFB resolving at mediation is increasing, as is the percentage of filed PFB that are resolving at mediation. These both indicate the success of the state mediation process. This may support that there is some finite volume of mediations that can be successfully managed by any one mediator, and this “maximum” 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.

An important issue for JCCs is the volume of PFB 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 PFB are also very likely to contribute to the assigned JCC’s motion calendar. Simply stated, the greater the volume resolved at the conclusion of mediation, the less the volume that must be pre-tried and heard. If the volume of PFB dismissed prior to mediation is combined with the volume of PFB that were resolved at mediation, the graph below illustrates the percentage of PFB filed that were resolved either before or at mediation during the last even (7) fiscal years. This illustrates that in 2008-09, approximately seventy-four percent (73.68%) of filed PFB include some issue or issues that remain unresolved at the conclusion of mediation. This is an increase from approximately seventy percent (70.64%) in 2007-08, and is very close to the seventy-five percent (74.83%) in 2006-07 (illustrated

in this graph). 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, but this metric is a significant measure of the trial and motion calendar workload of the OJCC overall.



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. §440.34¹⁹ 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)²⁰ 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.²¹ 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 2008-09 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 OJCC Annual Reports in those years, 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 data query for that particular fiscal year was initially run).

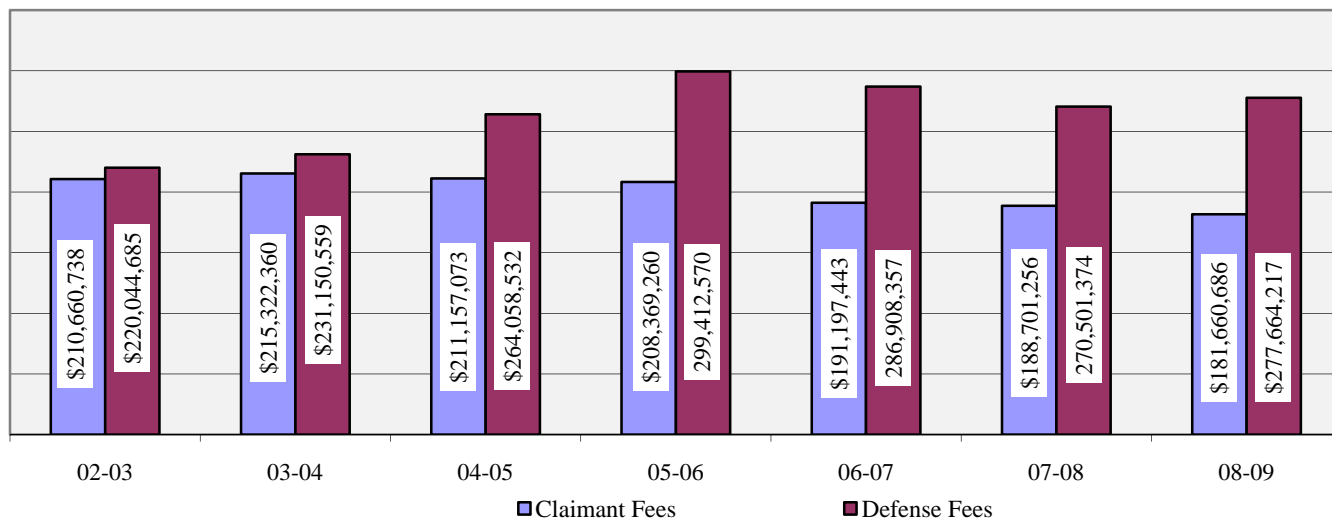
Fiscal Year	Claimant Attorney Fees
02-03	\$210,660,738
03-04	\$215,322,360
04-05	\$211,157,073
05-06	\$208,369,260
06-07	\$191,197,443
07-08	\$188,701,256
08-09	\$181,660,686

During 2008-09, a total of four hundred fifty-nine million three hundred twenty-four thousand, nine hundred three dollars (\$459,324,903 = \$181,660,686 + \$277,664,217), was expended on combined claimant fees and defense attorney's fees²³ (and perhaps defense "costs") in the Florida worker's compensation system. This evidences the first year of increased defense fees following two consecutive years of decrease in 2006-07 and 2007-08. The claimant attorney fee aggregate for 2008-09 is the fifth consecutive decrease since 2003-04. The last seven fiscal years of claimant and defense attorney's fees and the annual rates of change are set forth in this table. It is unclear whether any portion of the increased defense fees in this chart are attributable solely to more effective data collection and carrier compliance following the implementation of the defense fee reporting process in 2003. 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 Attorney Fees	percent change	Defense Attorney Fees	percent 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	\$191,197,443	-8.24%	\$287,443,033	-4.00%
07-08	\$188,701,256	-1.31%	\$270,501,374	-5.89%
08-09	\$181,660,686	-3.73%	\$277,664,217 ²²	2.65%

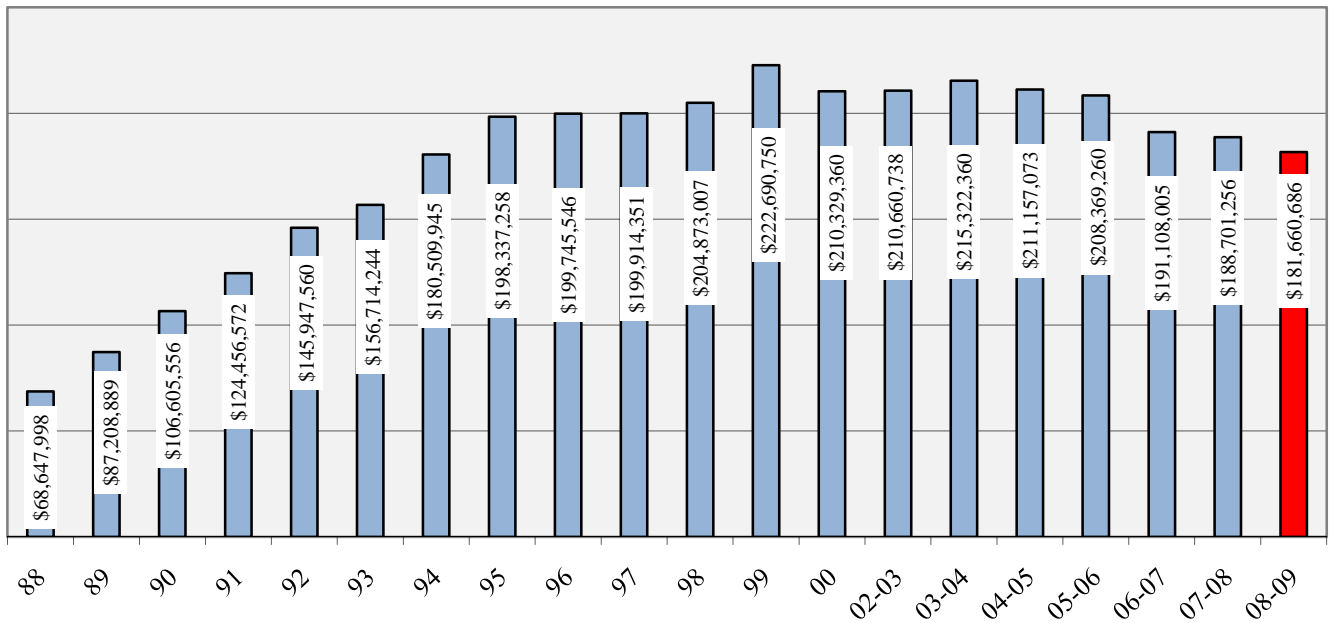
Reported defense attorney fees progressively increased after the 2003 statutory amendments, at a significant rate, as illustrated in the previous table. Conversely, claimant attorney's fees decreased slowly (approximately 1% - 2%) annually between 2003 and 2005. Because data on claimant fees is collected 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 2008-09 attorney fees and the 2002-03 attorney fees for both claimant and defense is set forth in this table to illustrate the cumulative change over seven (7) years. The decrease in claimant fees in 2008-09 compared to 2002-03 is approaching 14%. Some argument could be made that the aggregate of fees would be expected to decrease in some relation to the decrease in PFB filed. While this comparison may be 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 PFB 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 later following 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 seven years are reflected in this graph.

Fiscal Year	Claimant Attorney Fees	Percent change	Defense Attorney Fees	Percent change
02-03	\$210,660,738		\$220,044,685	
08-09	\$181,660,686	-13.77%	\$277,664,217	26.19%



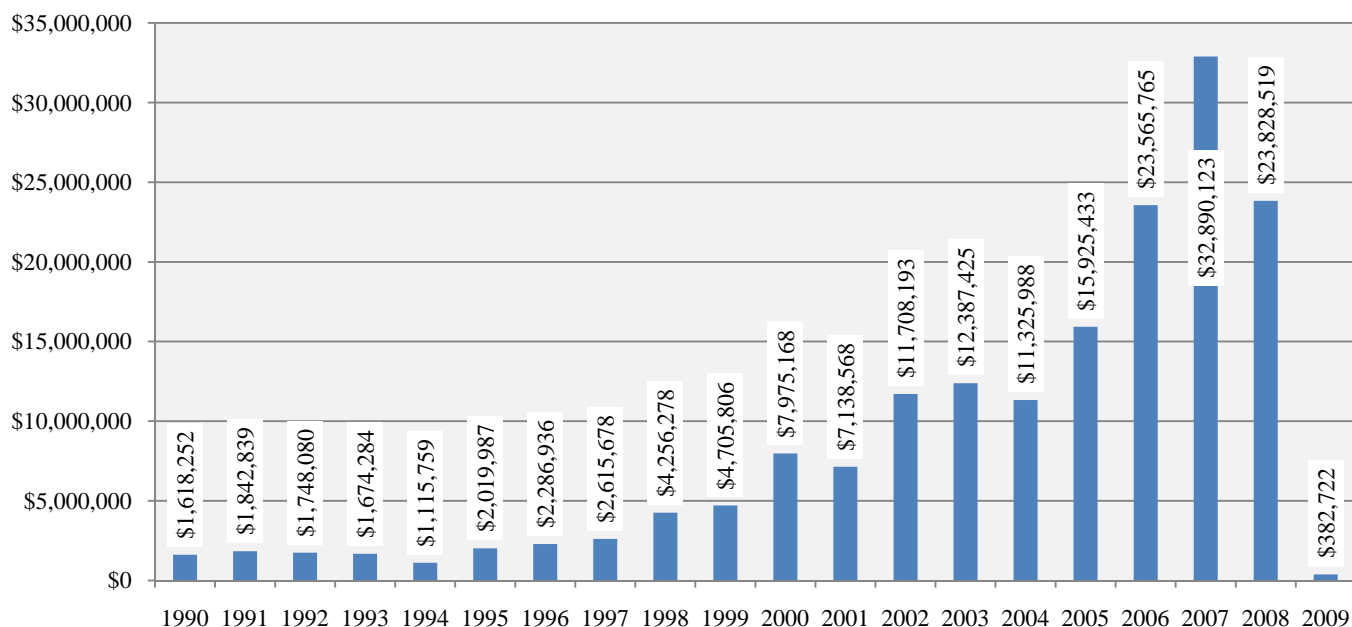
The decline in aggregate fees paid to claimant’s attorneys, compared to the aggregate fees paid to defense attorneys, has significantly altered the comparative percentage of claimant’s fees compared to all fees in the last five fiscal years (2004-05 through 2008-09). The figures support that the overall combination of defense and claimant fees increased over the four fiscal years after the 2003 statutory amendments (2002-03 through 2005-06). However, during that period, aggregate defense fees were increasing while aggregate claimant fees decreased. Thus the overall increase was attributable to defense fees. In fiscal year 2006-07 both claimant and defense aggregate fees decreased, and continued to each year thereafter through 2007-08. In 2008-09, defense fees rebounded slightly (approximately 2.7%), while aggregate claimant fees continued to decline (approximately -3.7%).

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, the following graph represents the claimant fees (fees plus costs) paid from 1988 through 2000 and the claimant fees paid from fiscal 2002-03 through 2008-09. The level of aggregate Claimant’s attorney fees in 2008-09 is the lowest it has been since 1994.



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 (46) different accident years, and in 2007-08 fees were paid in forty-seven (47) accident years. Coincidentally, fees were paid for accident dates in forty-seven different years in 2008-09 also, as depicted in this table.



Of the claimant’s attorneys fees approved in 2005-06, only two percent (2%) were for dates of accidents more than 20 years prior to that fiscal year. In fiscal 2006-07, approximately four percent (4%) of the total fees approved were related to accident dates more than 20 years prior. This increased again in fiscal 2007-08 to five percent (5%) of the total and again in 2008-09 to approximately six percent (6%) of the total. Older claims are contributing a larger percentage of the fees approved each year. The growth rate is slow, but the trend is consistent.

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.²⁴ In 2008-09, the percentage represented by the accidents in the seven most recent years decreased minimally to seventy-two percent (72.46). This consistency supports that most litigation in Florida workers’ compensation occurs within seven years of the accident date.

The claimant fees approved in fiscal 2008-09 for the last 20 years are illustrated in the above graph. In 2007-08, the aggregate fees paid on 2004 cases was notably inconsistent with 2003 and 2005. That same 2004 inconsistency is noted for the 2008-09 fiscal year also. 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.

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 by a minority of Judges 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. It is believed that

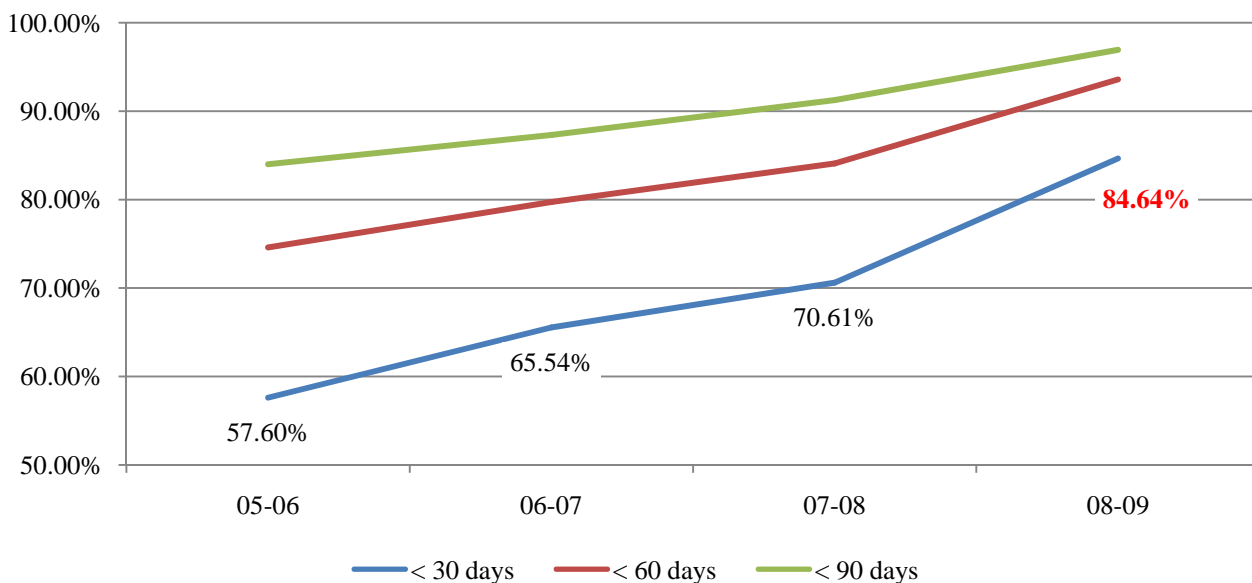
the “reconvene” practice has decreased markedly as a result of the consistent publication of the data in this report. In this regard, the OJCC elects to report conservative figures that cannot overstate performance. Review of all of the final merits orders entered during fiscal 2005-06, 2006-07, 2007-08 and 2008-09 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 2008-09 to approximately eighty-five percent (84.64%) of the time. Twenty-nine of thirty-four²⁵ Judges averaged less than 30 days on the entry of their respective trial orders in 2008-09. Coincidentally, this represents eighty-five percent (85%) of the Judges that entered trial orders during 2008-09.

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 approximately ninety-seven percent (97.45%) of the cases in fiscal 2008-09. This clearly illustrates the professionalism and focus of the Judges serving Florida in the OJCC.

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. This represented a decrease in the longest period of over sixteen hundred days (4.6 years), a decrease of almost 60%. The shortest period from trial to order in 2008-09 remained zero (0) days, and the longest period decreased to nine hundred thirty-two days, a decrease of two hundred ninety-two (292) days (eight-tenths of a year), a decrease of approximately 24%.

Days	Percentage Entered 05-06	Percentage Entered 06-07	Percentage Entered 07-08	Percentage Entered 08-09
30	57.60%	65.54%	70.61%	84.64%
40	66.70%	71.23%	76.88%	89.20%
50	71.90%	76.87%	81.02%	91.77%
60	74.60%	79.72%	84.09%	93.59%
70	78.60%	82.97%	86.93%	95.05%
80	81.60%	85.14%	89.30%	95.83%
90	84.00%	87.31%	91.25%	96.93%
100	85.50%	88.60%	92.79%	97.45%

As long as the current statutory mandates remain regarding appointment of expert medical advisors (EMA), there will likely continuously be some volume of orders that are entered after what would otherwise appear to be an inordinate period of time. The EMA process is time consuming, and delay of decisions is inherent within that construct. 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 2008-09 increase (14%) in the volume of orders entered within the statutory thirty days. The dramatic improvement in the issuance of timely orders is illustrated in this graph.



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

The parity of relief from postage expenses for all parties to OJCC litigation is discussed in detail in the 2007-08 OJCC Annual Report. It is respectfully submitted that minor amendments to Chapter 440 would provide this postage expense relief on an equal basis to all parties. Similarly, statutorily mandating the use of electronic filing (e-JCC) would result in significant savings to practitioners and the OJCC alike.

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. The detrimental effect of EMA on timely adjudications remains and is illustrated above. 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 three previously expressed concerns.

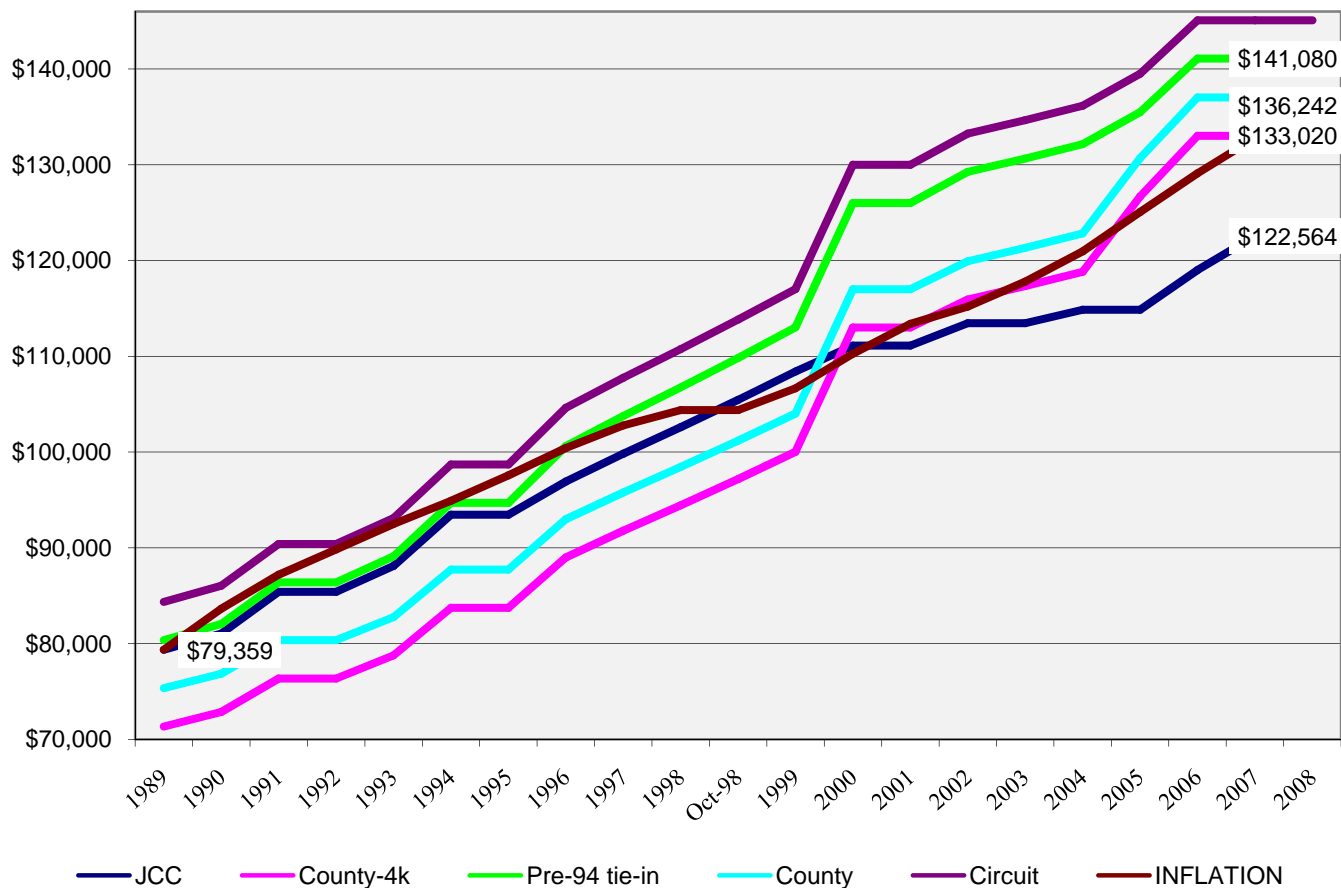
The structure of the OJCC is statutorily defined. The legislature has defined the number of District offices that the OJCC “shall” maintain (17) and the number of Judges that the OJCC shall maintain (31) Fla. Stat. §440.44(5). In 2006, the legislature provided full-time staff positions for an additional 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

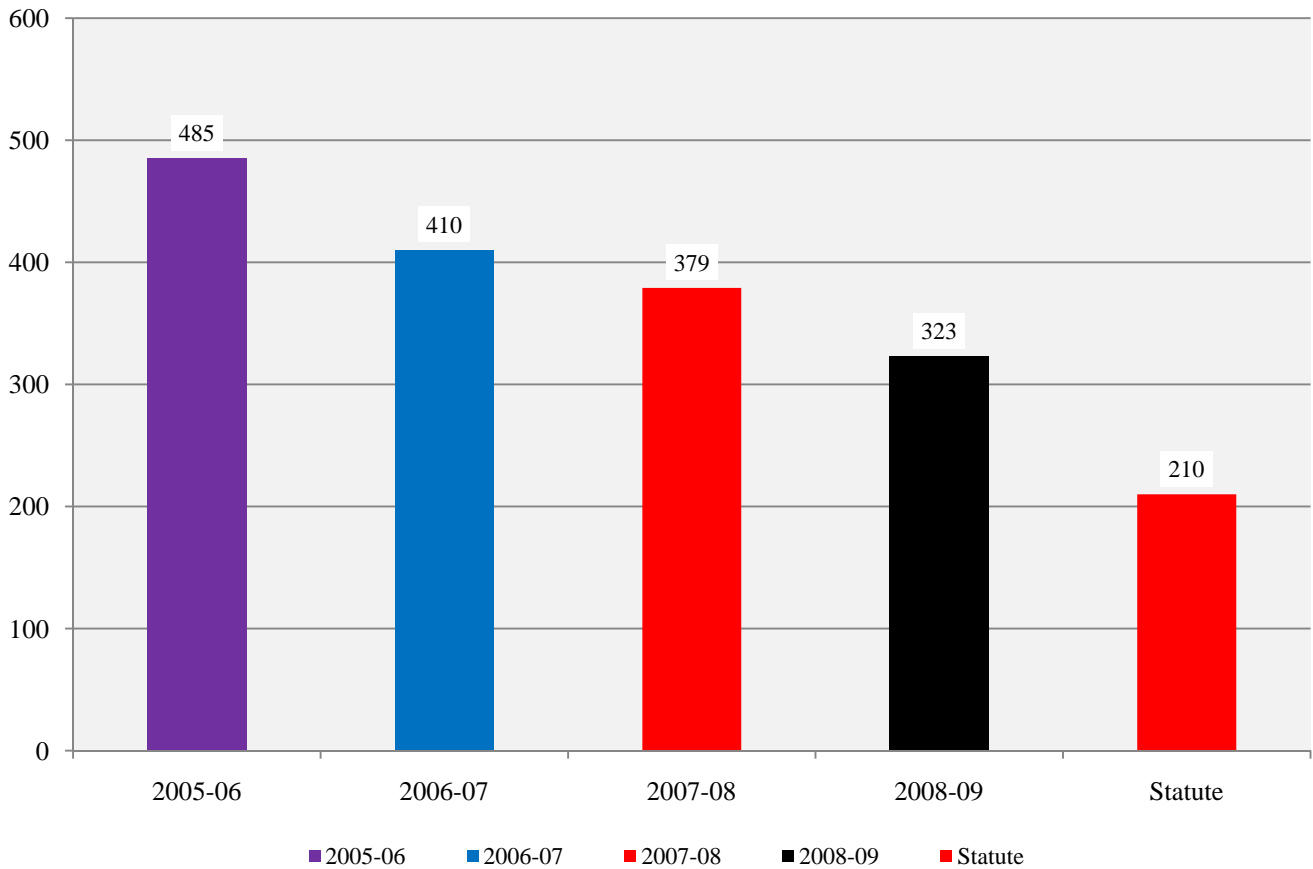
executive secretaries in the OJCC’s North Florida offices earn about 13% less than similar Court system employees. A similar “tie-in” between Judges of Compensation Claims and OJCC mediators was likewise deleted from the statute, leading to a growing gap between Judge and mediator pay scale. That tie-in should likewise be re-established to assure that the OJCC can attract and retain qualified mediators to continue the mediation success and improvements detailed in this report.

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.

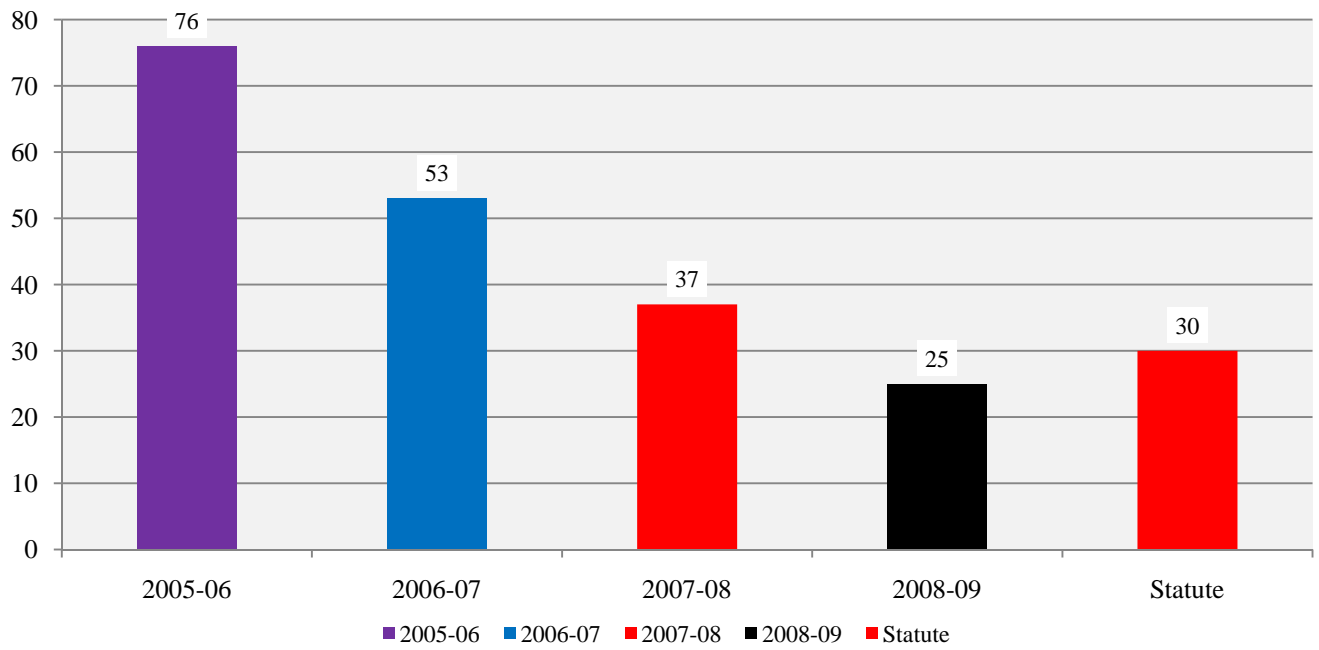


JUDGES GENERALLY ARE UNABLE TO MEET A PARTICULAR STATUTORY REQUIREMENT FOR REASONS BEYOND THEIR CONTROL, THE DEPUTY CHIEF JUDGE SHALL SUBMIT SUCH FINDINGS AND ANY RECOMMENDATIONS TO THE LEGISLATURE:

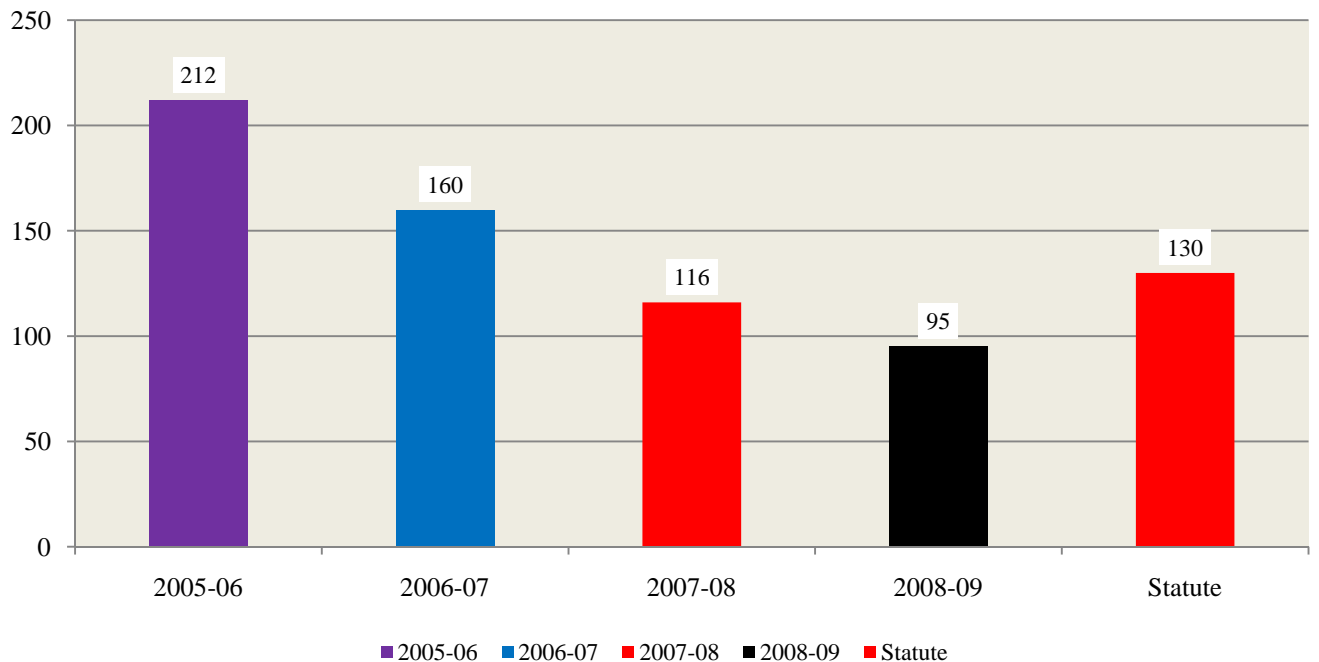
Each statutory requirement can clearly be accomplished in the vast majority of cases. This fact is indisputable and has been proven repeatedly in various districts throughout Florida. It is therefore disingenuous to claim that cases “cannot” be tried within two hundred ten (210) days of PFB filing or 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 each of the last four fiscal years (2005-06, 2006-07, 2007-08 and 2008-09) 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 33% (323/485) over the last three fiscal years. As illustrated in the following graph, the OJCC overall average is decreasing steadily towards the statutory parameter of 210 days.²⁶



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.²⁷ The overall statewide average period from trial to the entry of the trial order has decreased more than 67% (25/76) over the last three 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. Certainly, the most impressive improvement of the OJCC since 2006 is the dramatic improvement in the overall average time from trial inception to entry of the final order. The decrease of 67% is a dramatic improvement. Coupled with the facts that 85% of the Judges averaged less than 30 days to final order entry last year, and that 85% of all final orders were entered within 30 days, this 67% decrease aptly and clearly demonstrates the effort and dedication of the Judges. Another impressive improvement is the marked 55% decrease (95/160) in the overall statewide average period between the filing of a petition and the first mediation conference held thereon. This improvement is illustrated in the following graph. This achievement is compelling evidence of better record keeping, better customer service, and the professionalism of our Judges and Mediators. It bears repeating here that 100% of state Mediators averaged less than the statutory 130 days to mediation in 2008-09. Clearly, the efforts on timely customer service are improving the value that the OJCC brings to the lives of Floridians.



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),²⁸ 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)²⁹(timely mediation), Fla. Stat. §440.25(4)(a)³⁰(pretrial procedure), Fla. Stat. §440.25(4)(b)³¹(appropriate continuance grounds and orders) , Fla. Stat. §440.25(4)(c)³²(timely final hearing notice), Fla. Stat. §440.25(4)(d)³³(timely final hearings and final orders), Fla. Stat. §440.25(4)(e)³⁴(final order filing), Fla. Stat. §440.34(2)(appropriate fee order findings), Fla. Stat. §440.442³⁵(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 third 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). Both the 2007-08 and this Report provide data regarding each of the eight.

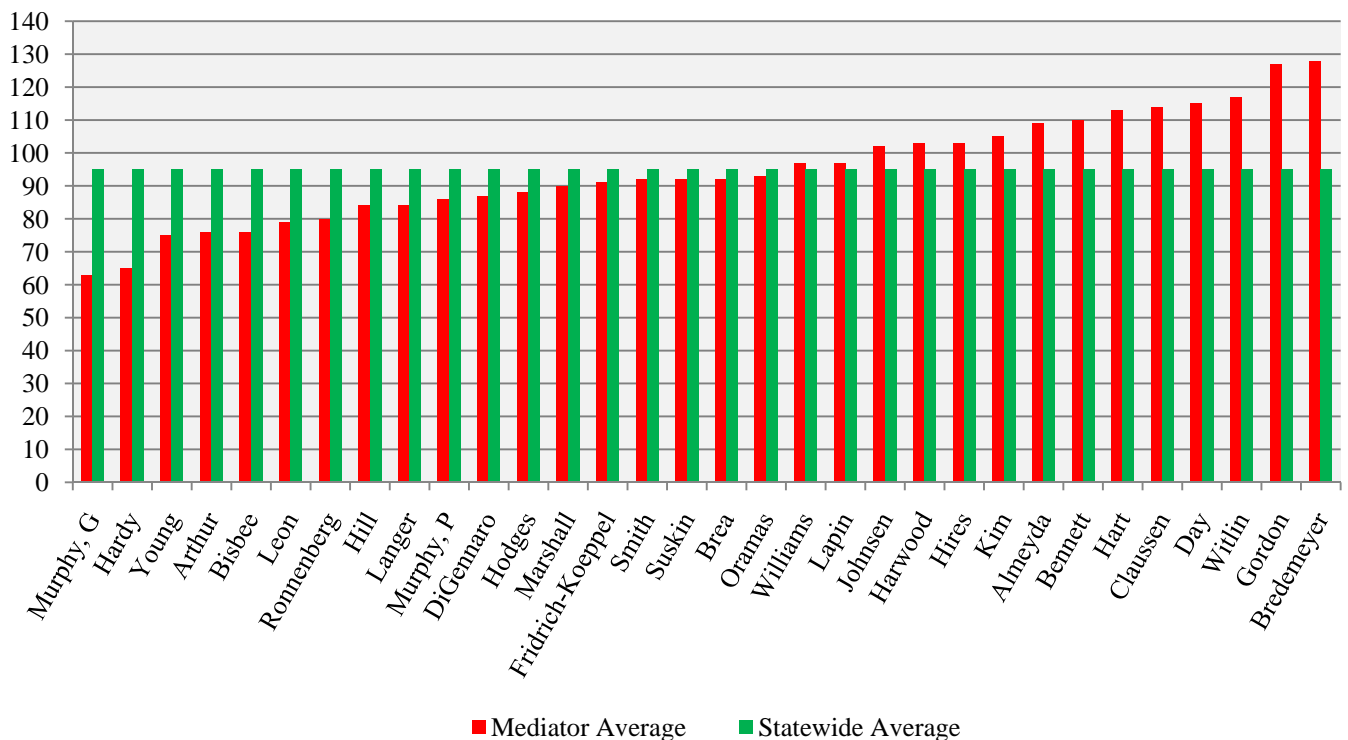
Although the reporting of these specific measures is mandated by Statute, these measures do not completely evaluate the volume of work required of a JCC. Therefore, it is also appropriate to quantify variations in work-load between and among Judges and districts. Furthermore, these statutory measures 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 non-empirical 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. That survey process was repeated in 2008-09. The results of each are available on the OJCC website (www.fljcc.org), under the "Notices, Orders and Reports" tab.

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 ("Mediator Average") 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 2008-09, the statewide average decreased twenty-three percent (55%) to 95 days. 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; in 2008-09 **one hundred percent** of the state mediators had an individual average that was within 130 days.



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 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 2008-09 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. Such an audit is beyond the resources of the OJCC.

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 2008-09 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 continue to monitor and evaluate in 2009-10 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. The docket annotation of

notice provision or uploaded notice will continue to be utilized to determine the timing of notice and thereby the compliance with this measure.

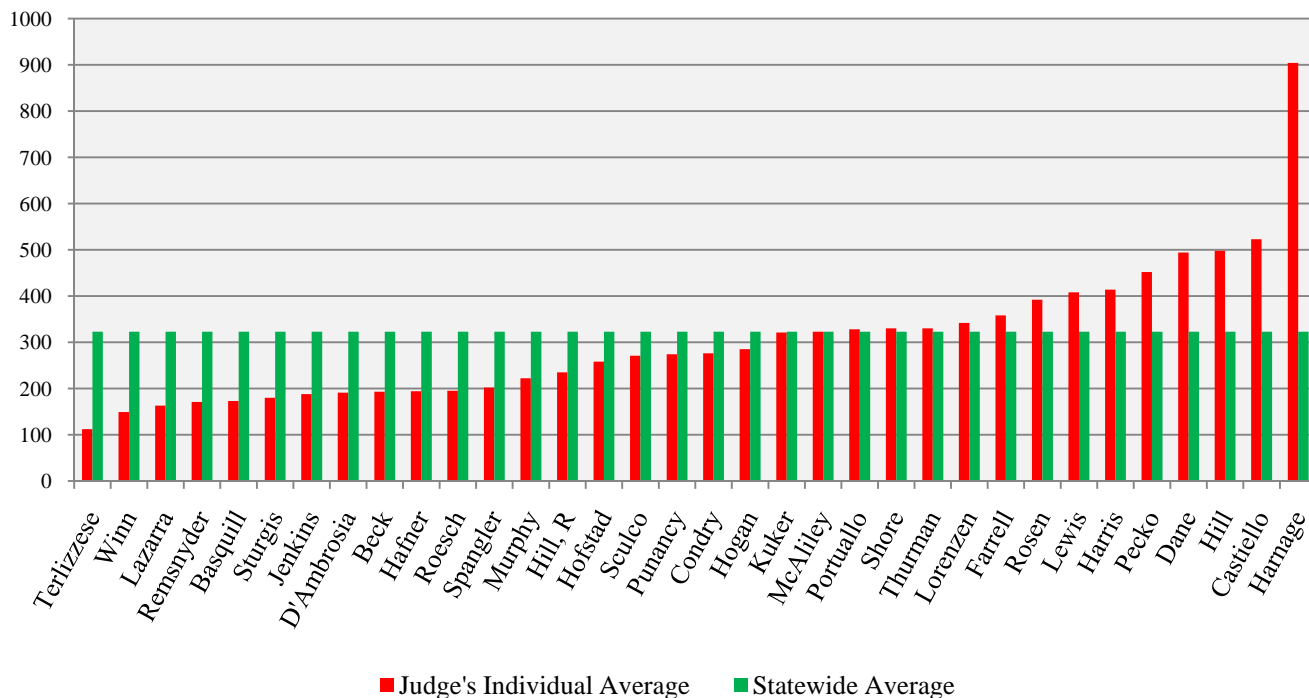
Final Hearing Continuance:

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 before or 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.

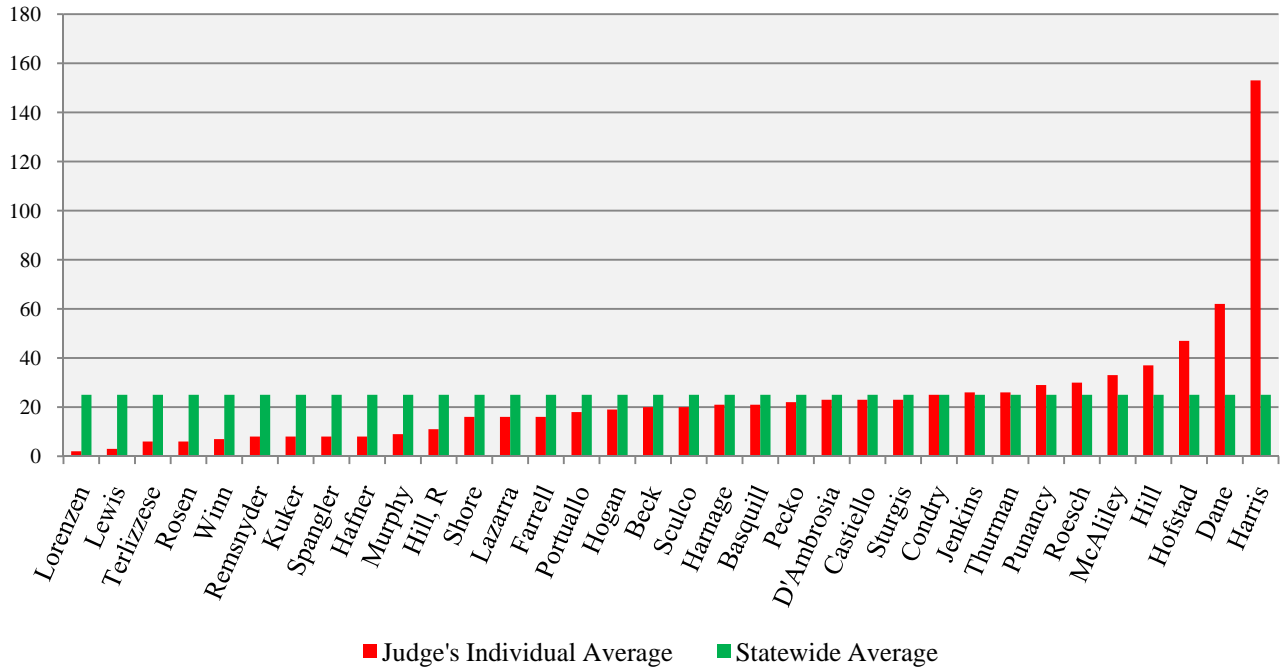
Continuance of final hearings is addressed in Fla. Stat. §440.25(4)(b). This statutory measure requires that the Judge generally only grant a continuance in defined circumstances. Ten continued final hearings were randomly selected for each Judge during 2008-09 (except those Judges whose assignments demonstrated less than 10 continuances overall). Each of those case dockets was searched for a corresponding order “continuing” that hearing. The aggregate statistics support that most Judges are entering continuance orders and the vast majority of those orders set forth a new hearing date. In 2009-10, the OJCC will continue audit sampling of “continued” final hearings and may begin reporting individual compliance.

Timely Final Hearings and Final Orders:

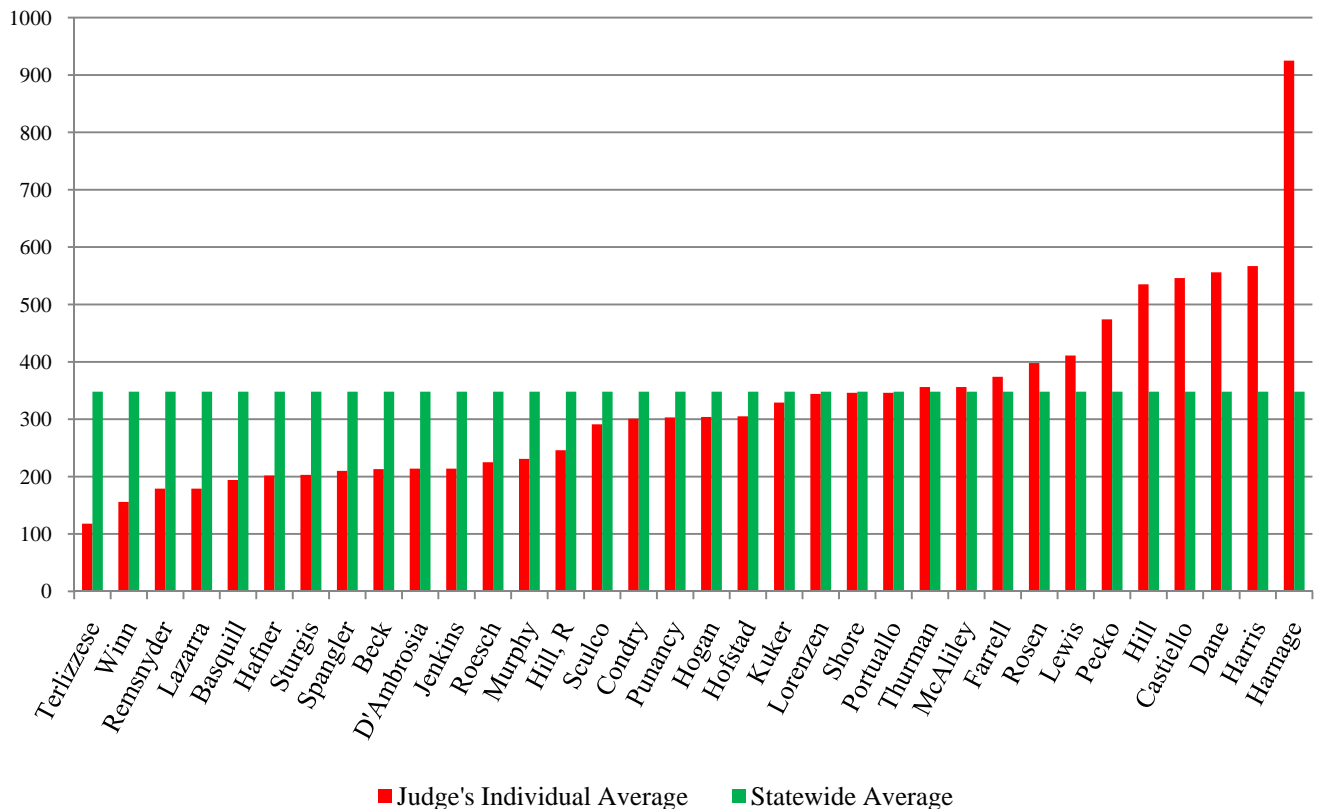
Timely final hearing proceedings are defined by Fla. Stat. §440.25(4)(d). This Legislatively mandated measure requires that the Judge conduct a final hearing within two hundred ten (210) days of PFB filing. This statute also mandates that the resulting final order be published and served within thirty (30) days of the final hearing. Each trial order entered by each JCC during the 2008-09 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 (red bars) and the statewide average for all Judges (green bars), which was 323 days.



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 (red bars) and the statewide average for all Judges (green bars) which was 25 days.



The following graph depicts each JCC's average number of days between PFB filing and entry of the final order (red bars), and the statewide average (green bars). This depicts the total combined time from PFB filing to adjudication.



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).³⁶ 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 attorneys' 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 pled 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-pled 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 2008-09. 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 2008-09. Therefore, each JCC fulfilled this measure for fiscal year 2008-09. 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 the years since. The success of that process is patently clear in the 2008-09 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, web-based dissemination of information, electronic mail for service, and video teleconference (VTC) technology. The next year will require adjustment to the implementation of these tools and further effort at utilizing electronically filed documents effectively. The OJCC consistently innovates, leads and serves. Answering the Legislature's call, the OJCC has done more with less again in 2008-09. The effects of effort and dedication should be recognized by the Legislature, and adequate funding should be appropriated to provide adequate staff, mediator and Judicial salary in 2009-10.

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” 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 traditionally had above average PFB and new case filing volumes. Fiscal 2008-09 is significant because each of these 2008-09 DAY volumes is below the statewide average.

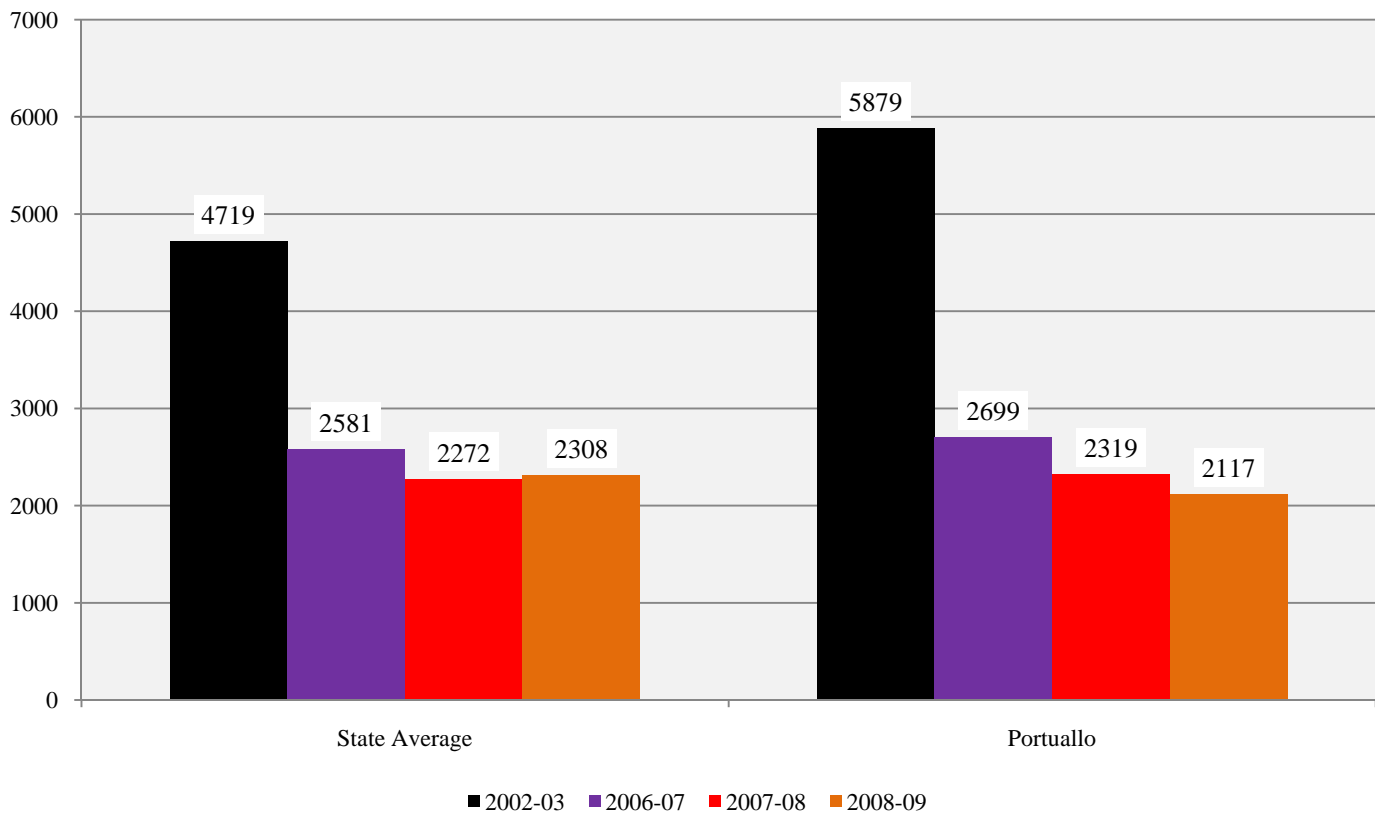
The average time between PFB filing and the initial mediation (110 days) is within the 130 days required by statute. The average time for entry of a final order after trial in DAY last year was also within the 20 day statutory time. The volume of petitions closed in 2008-09 (2,252) was greater than the district PFB filing rate (2,117) and is consistent with further progress on closing a backlog inventory of pending PFB. District DAY is a well run and effective District.

Judge Portuallo is a Volunteer Judge with the Volusia County Teen Court, a criminal court diversion program focused on peer intervention. He has volunteered with them since 1998. He was awarded a Certificate of Appreciation from The Volunteer Lawyers Project “...in recognition of time and dedication in pursuing justice for all and for providing free legal assistance to low-level income residents of our community” as a result of his teen court efforts. Judge Portuallo was also recognized last year by The Supreme Court of Florida, the Young Lawyers Division of The Florida Bar, and the Florida Pro Bono Coordinators Association for his exceptional pro bono efforts in Teen Court.

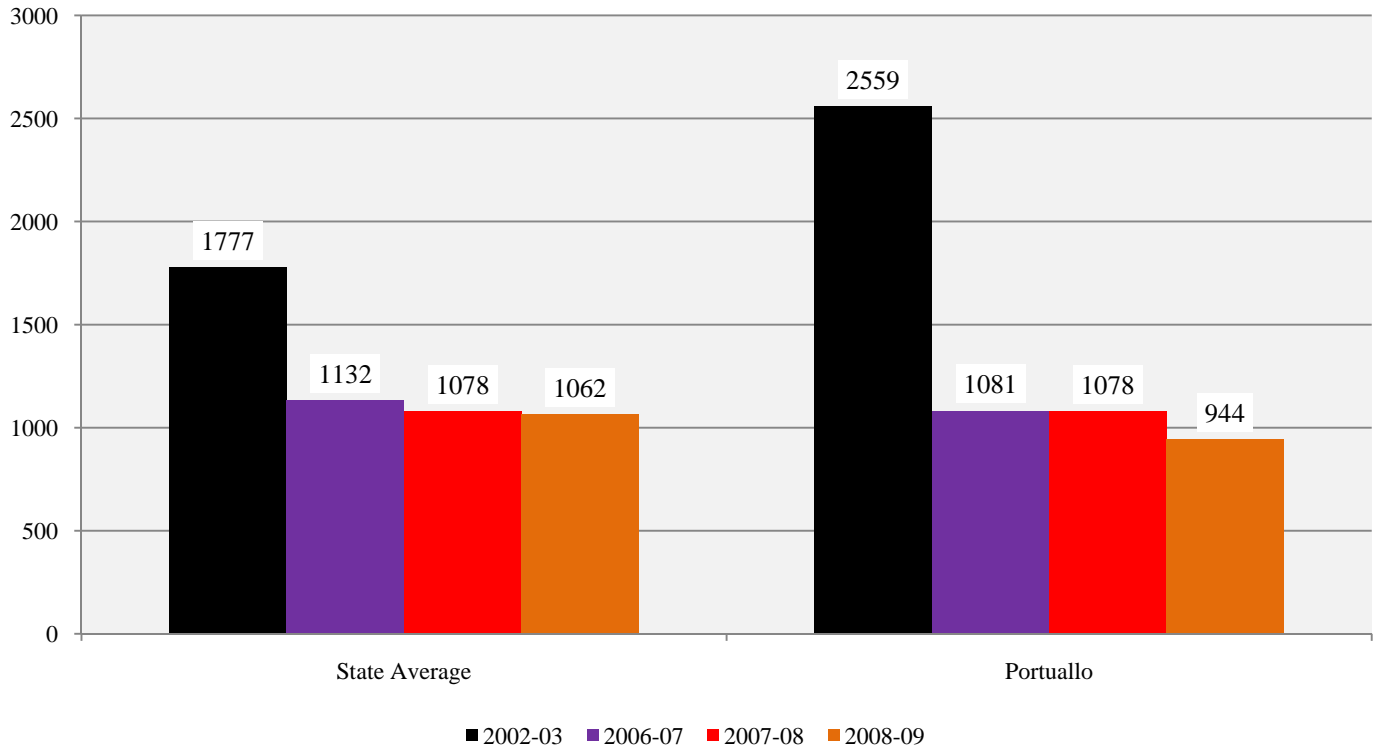
Judge Portuallo presented as part of a panel at The Florida Bar Workers’ Compensation Forum on “Trial Proceedings; Procedures; Motions; Sanctions; Orders; and Ethical Considerations,” at the Florida Workers’ Compensation Institute on “JCC’s Authority to Sanction Attorneys’ and Inappropriate Conduct” and as a panel member for an adjuster program titled “Everyday Ethical Dilemmas in Workers’ Compensation.”

Judge Portuallo is involved in, and was founding leader of Cub Scout Pack 447, Boy Scouts of America, Central Florida Council, Kings Road District in recognition of achievements in 2008.

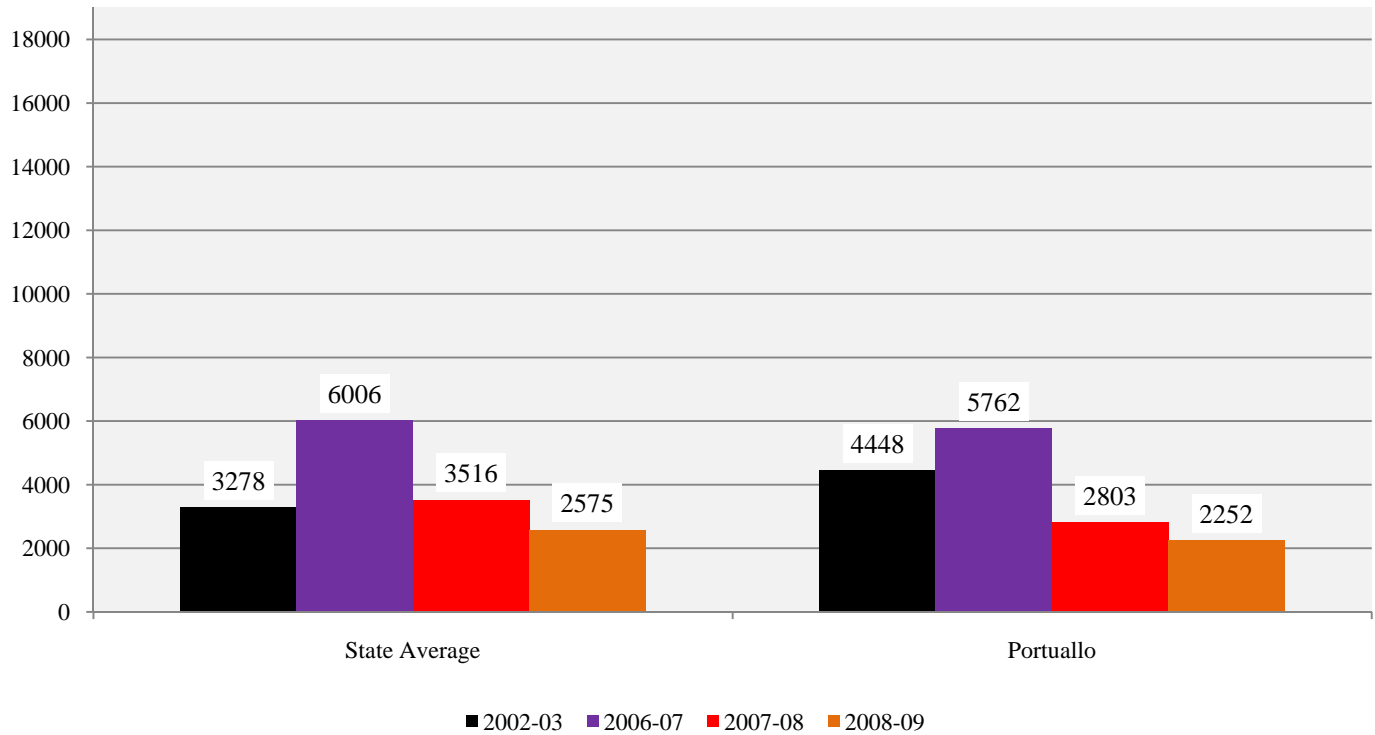
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



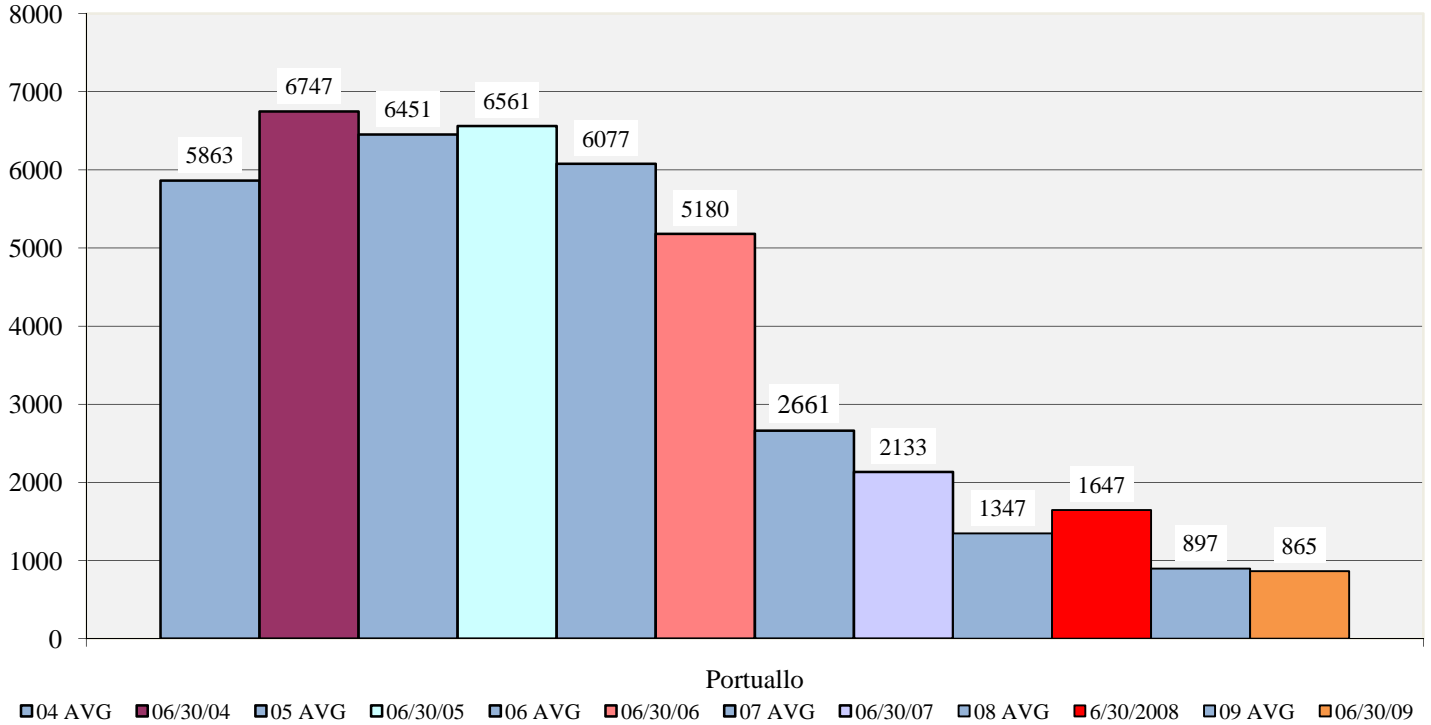
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



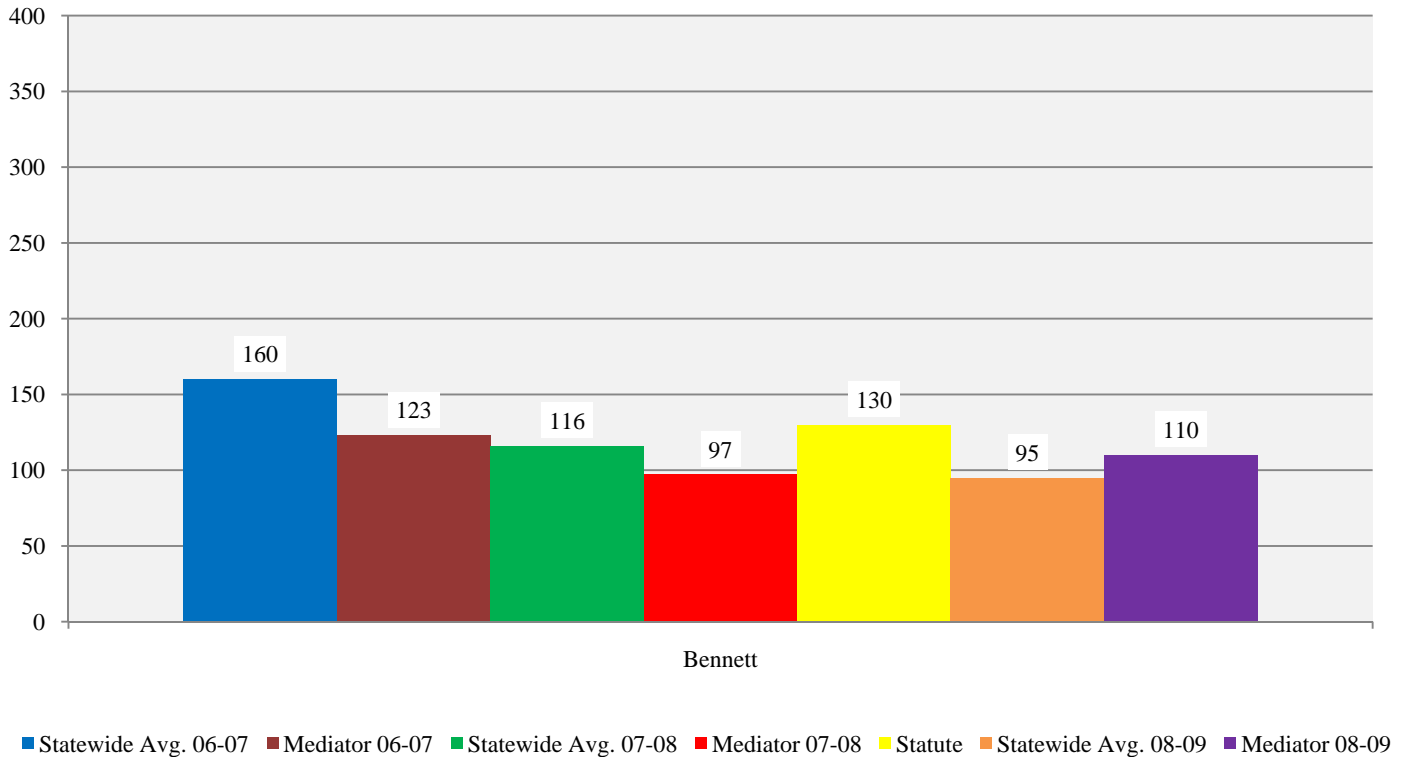
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



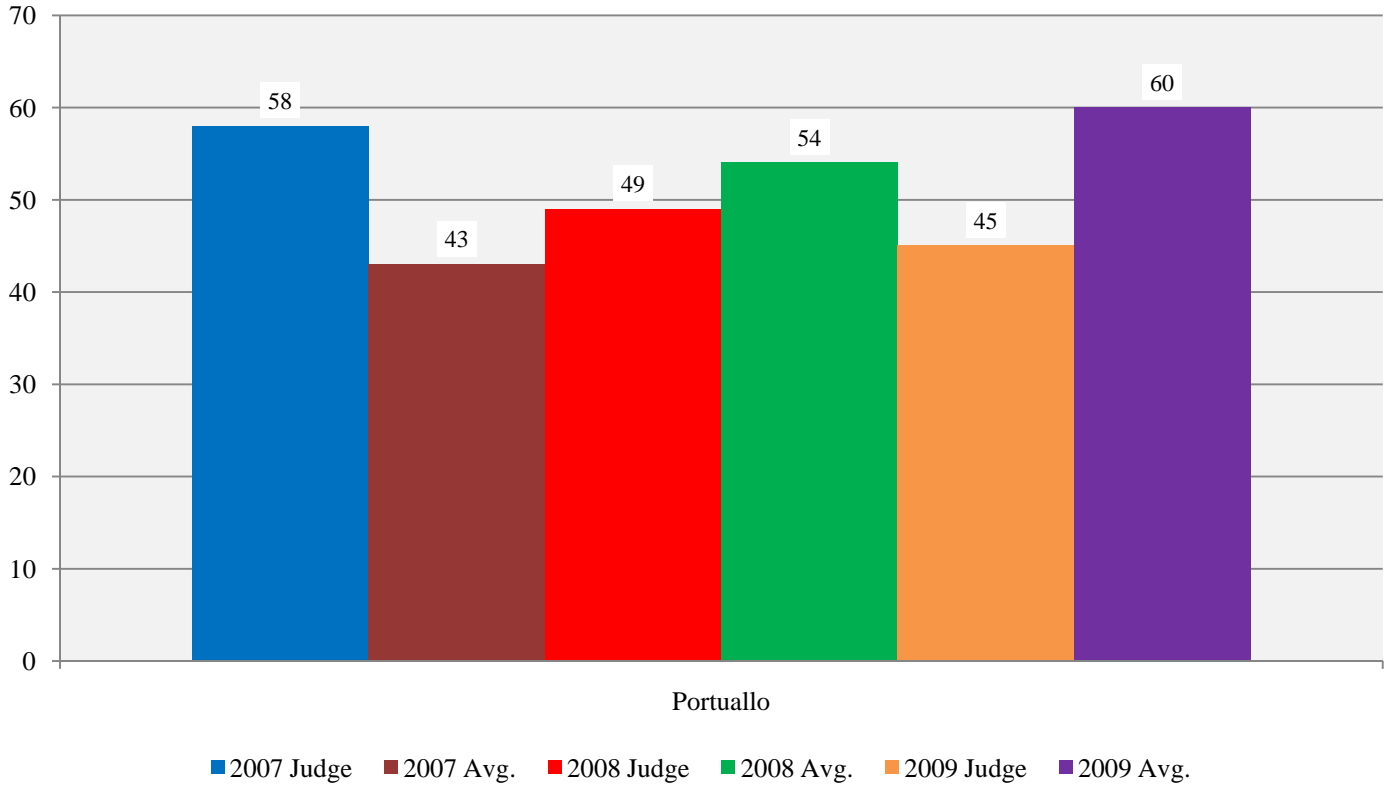
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



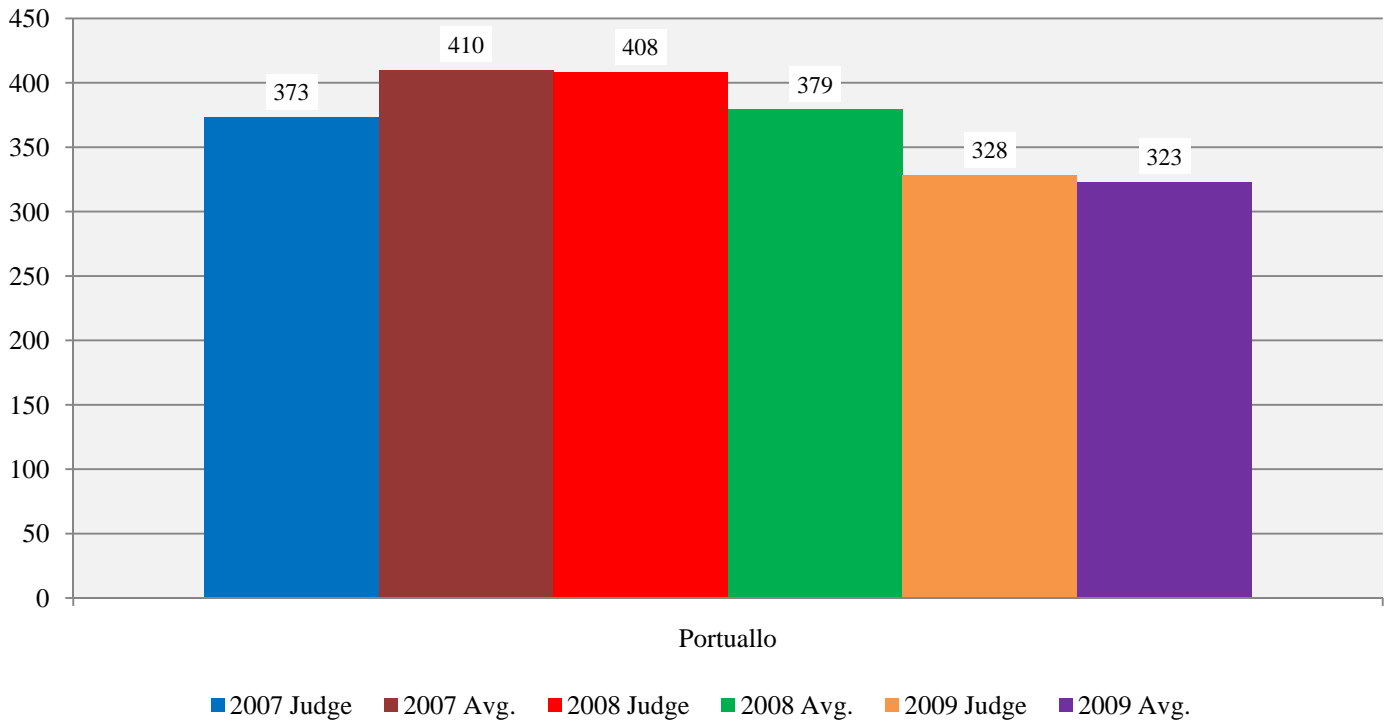
The following graph depicts the average days between PFB filing and the first mediation held thereon for each mediator in the district (brown = 07)(red = 08)(orange = 09) and the statewide average (blue = 07)(green = 08)(purple = 09).



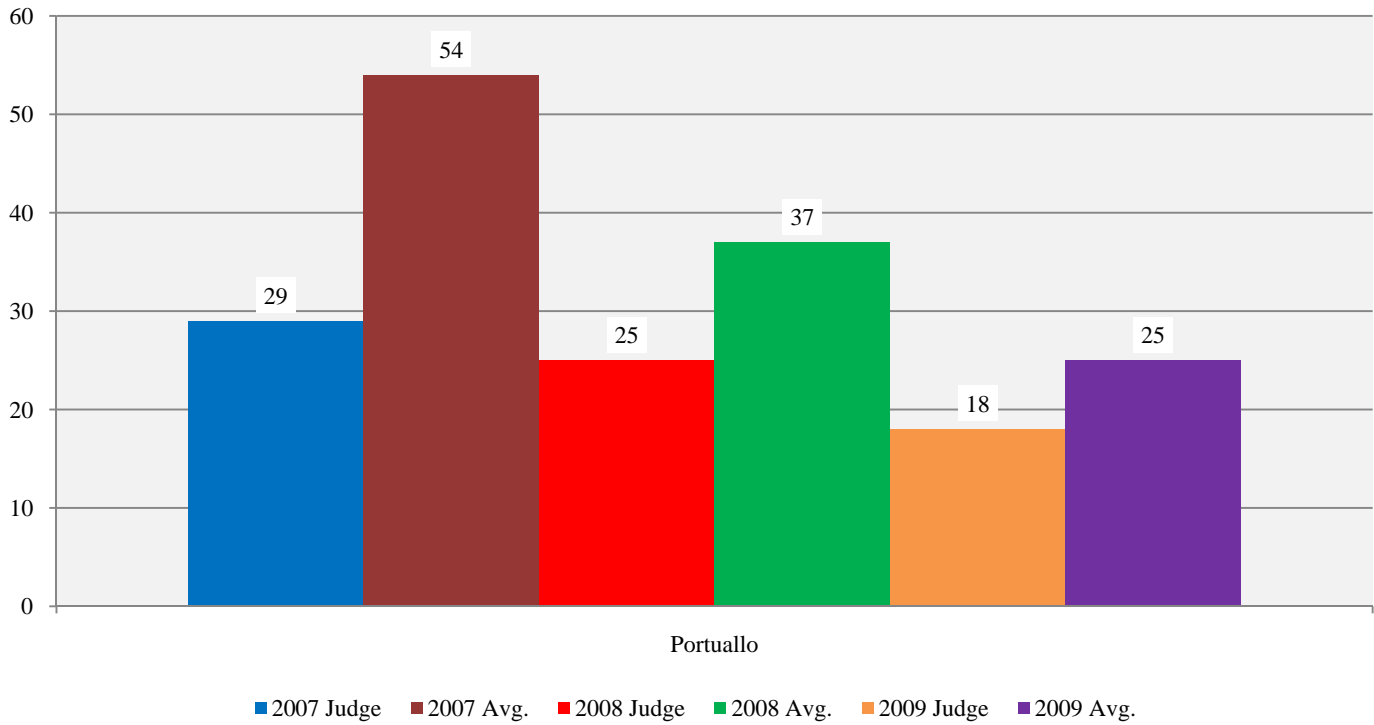
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



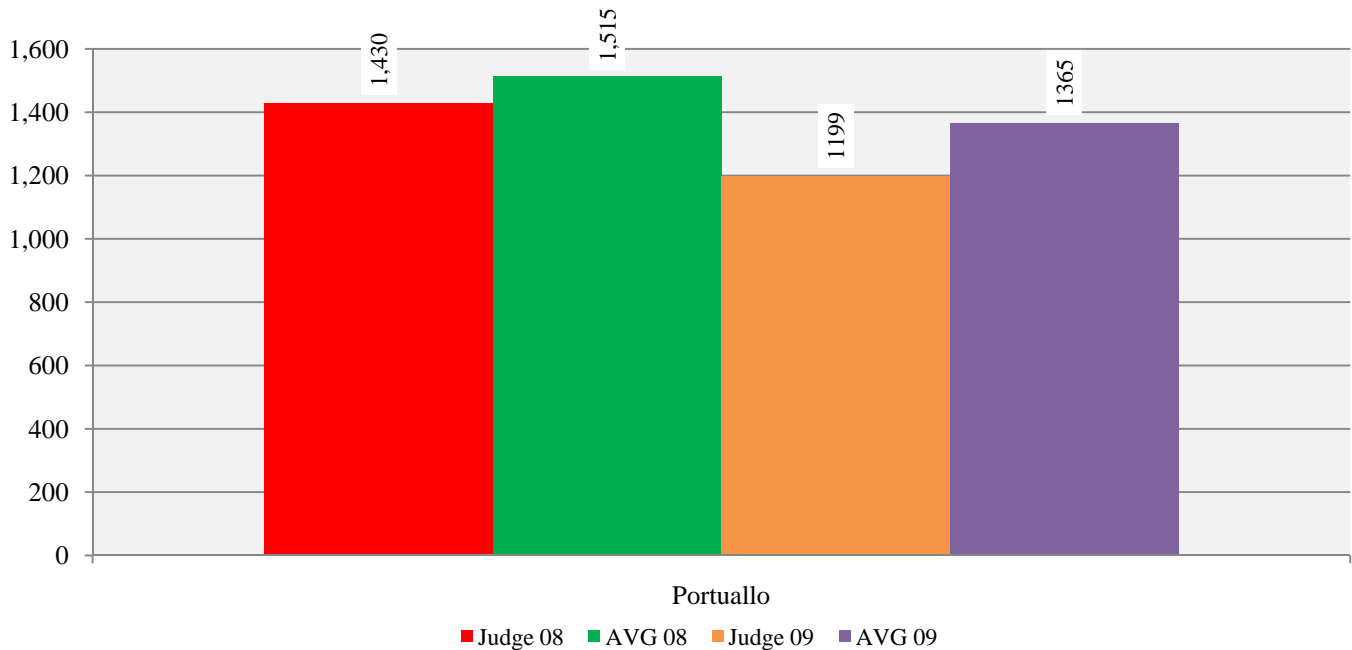
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



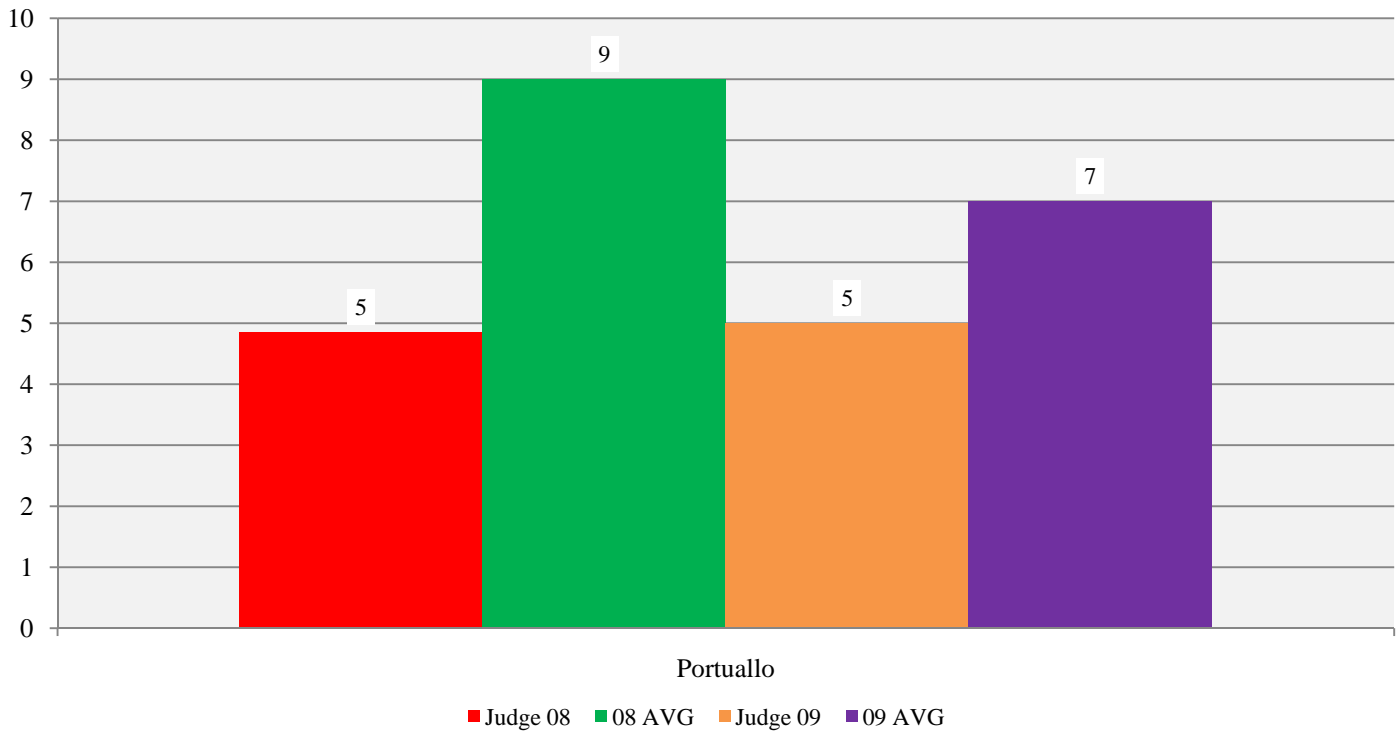
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



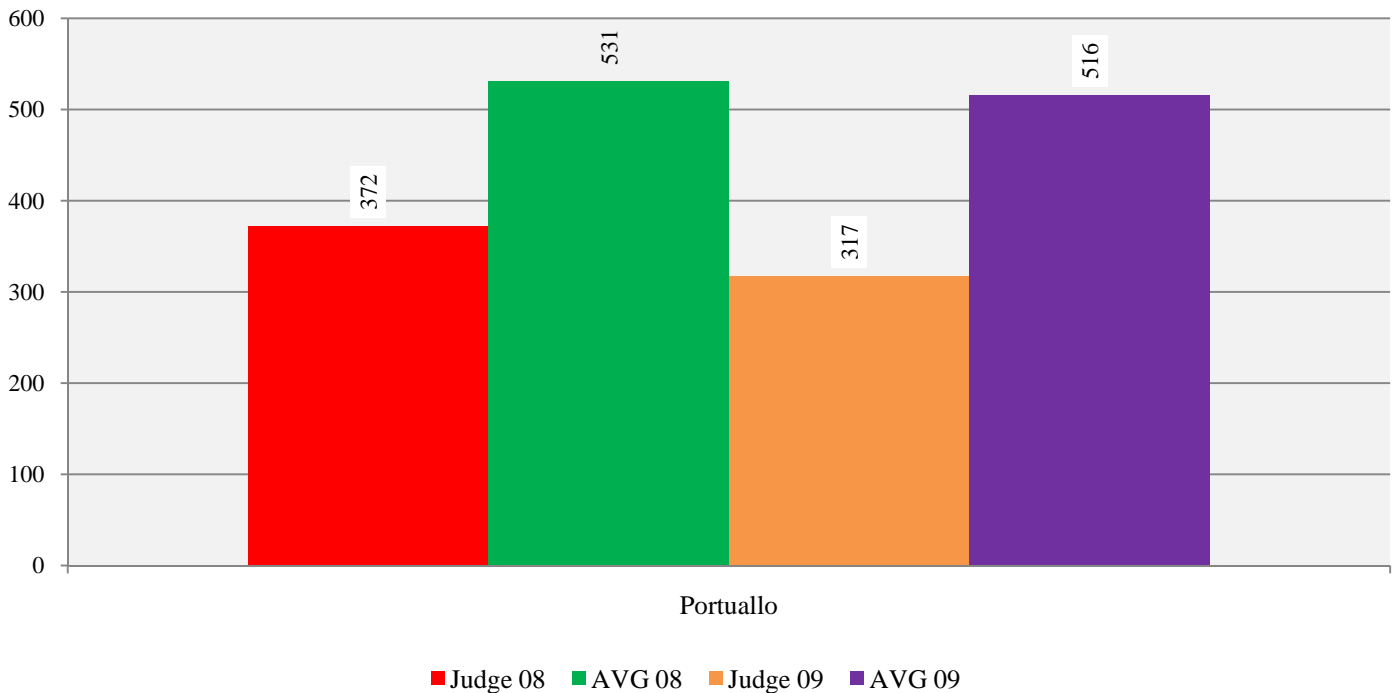
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



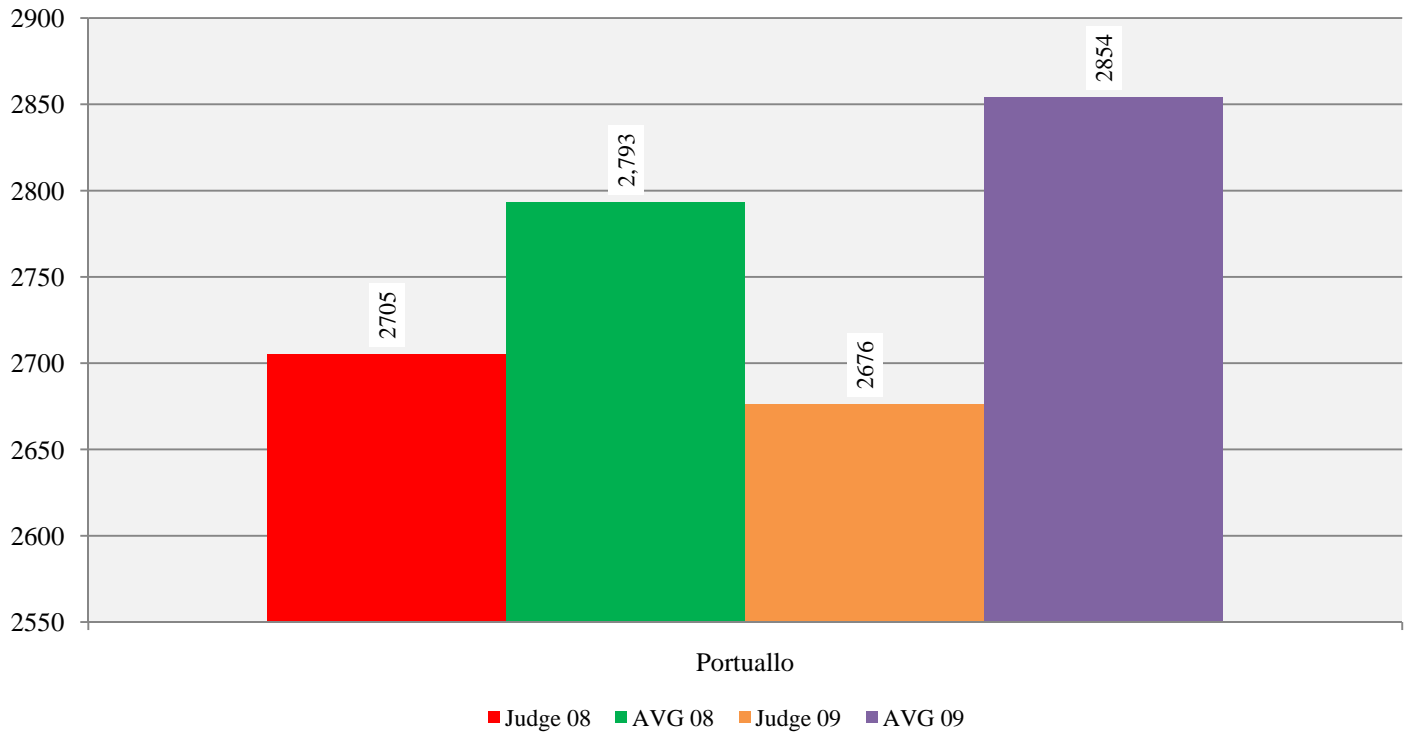
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



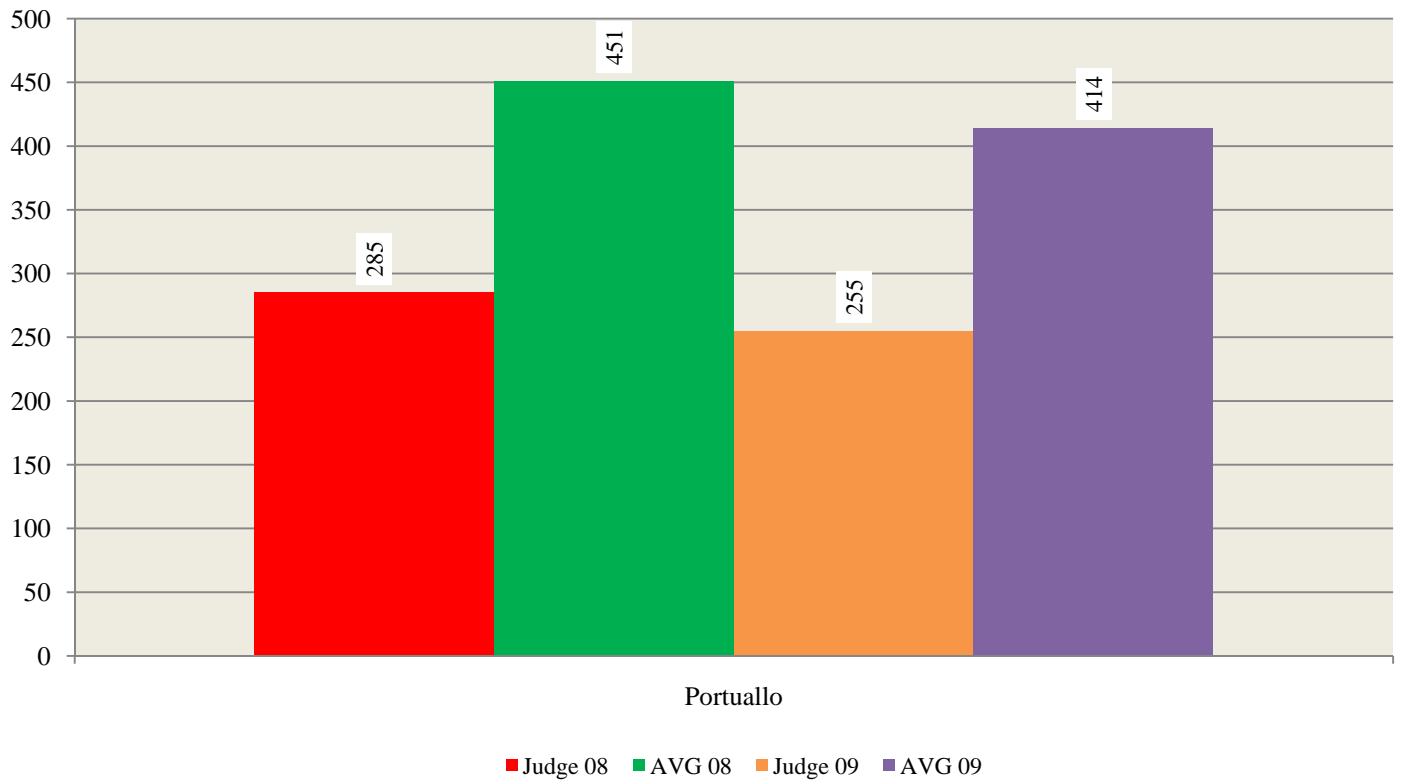
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



Appendix “2” District FTL (JCC Hogan, JCC Lewis, JCC Pecko):

District FTL includes only Broward County.

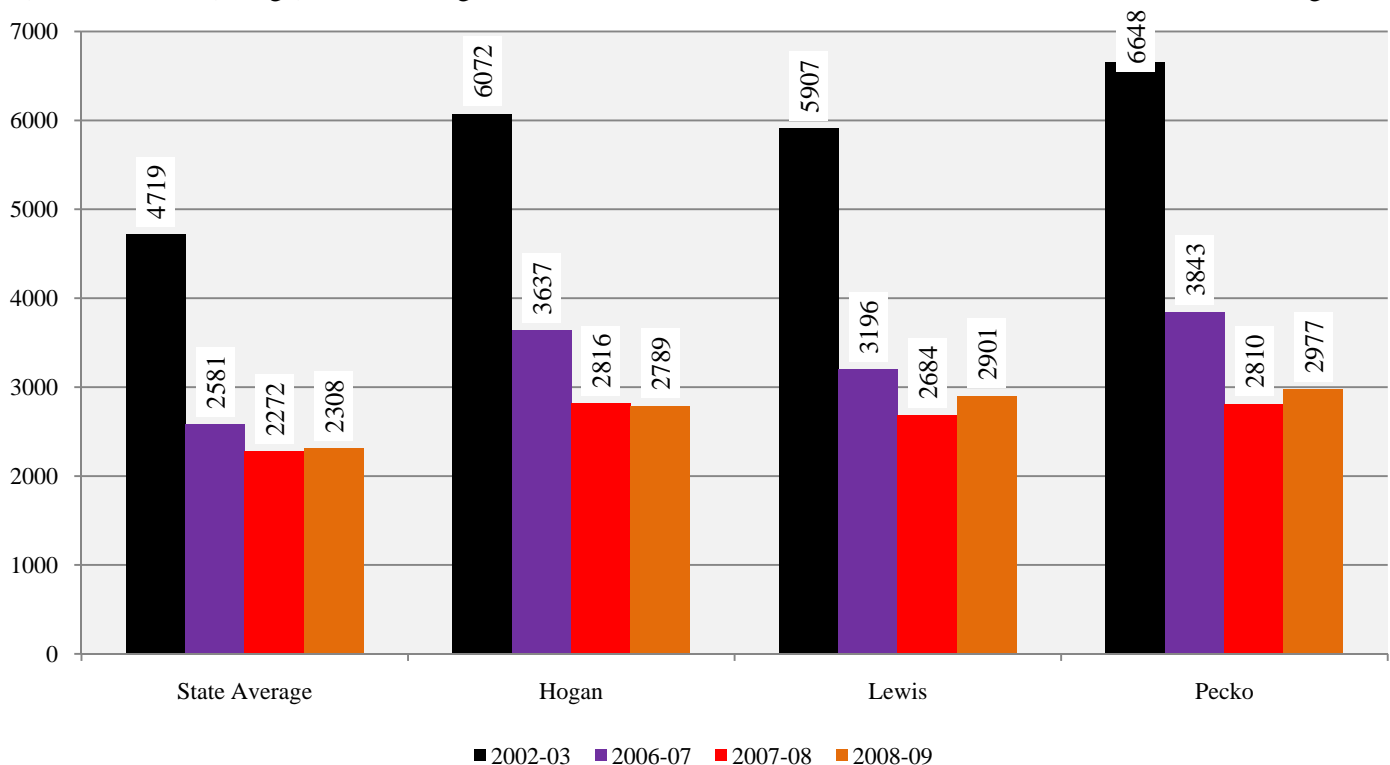
PFB volumes in FTL remain well above the statewide average. Interestingly, the FTL volume of “new cases” was below the average for Judge Hogan, and only slightly higher than average for Judges Lewis and Pecko last year. Each division in District FTL closed more PFB in 2008-09 than were filed during the year. The PFB closures in FTL were also higher than the statewide PFB closure average for all Judges. These each indicate continued effort last year in closing existing PFG inventory in FTL.

The average time from PFB filing to first mediation in District FLT was below 130 days in 2008-09 for all three FTL mediators. This is a dramatic improvement from the significantly longer periods demonstrated in this District in the past. Trial volume was more moderate in District FTL last year, with all three Judges filing less trial orders than the statewide average. The average days between PFB filing and trial is also close to the statewide average for all three Judges, marking significant improvement for some and continued effectiveness of Judge Lewis. Each FTL Judge enters a significant volume of settlement orders each year, and despite this Judge Lewis enters those orders significantly faster than the statewide average of all Judges. All three FTL Judges decreased that processing time in 2008-09.

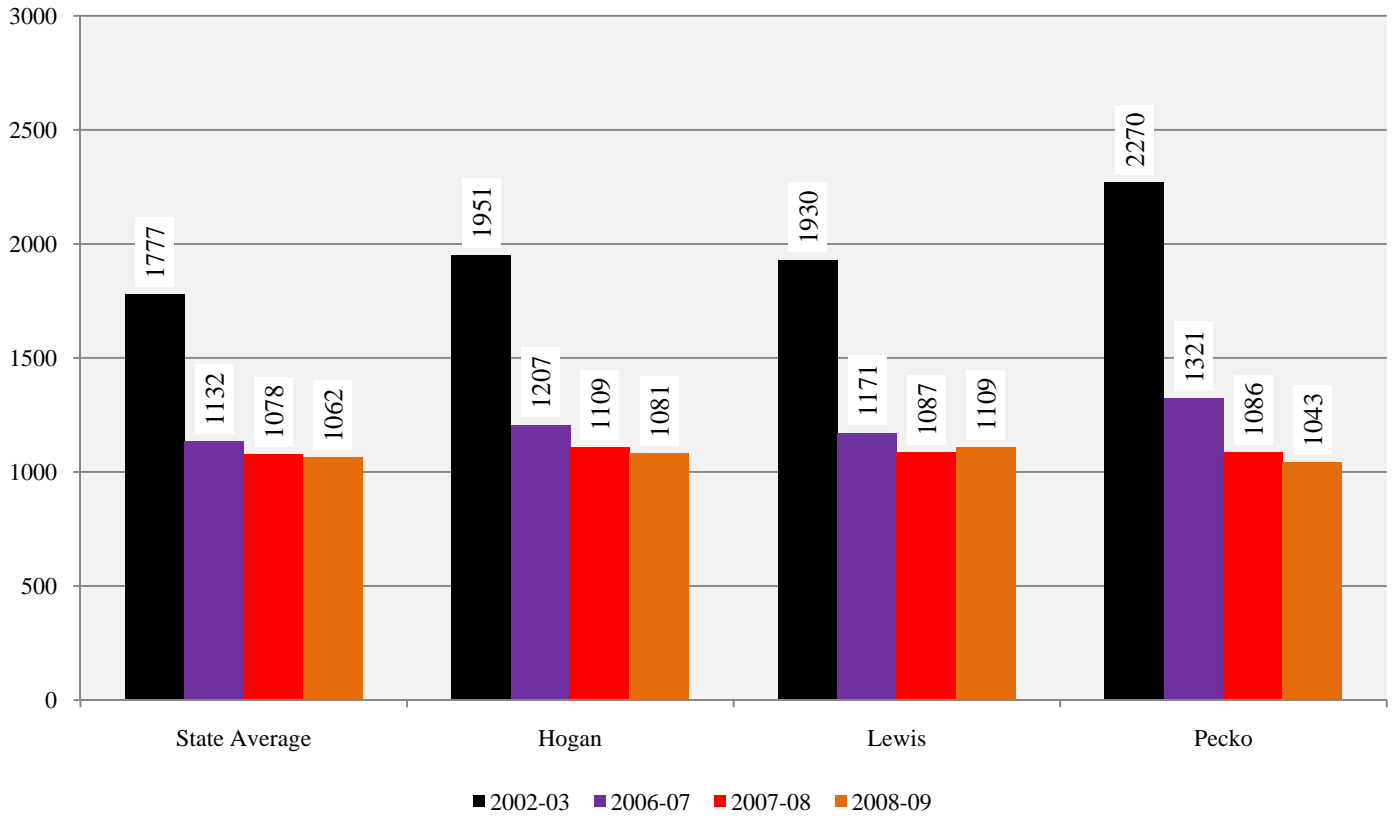
In 2008-09 Judge Lewis presented “View from the Bench -Questions You Always Wanted to Ask the Broward JCCs” at the Broward County Bar Association Workers’ Compensation Section seminar, “Practicing Workers’ Comp Law Effectively (Post Emma Murray),” in Fort Lauderdale. He also presented “Current Trends from the Judges’ Perspective” at the Broward County Bar Association Workers’ Compensation Section seminar, “Stayin’ Alive in Workers’ Compensation Today,” in 2008, and was a Judge in the Workers’ Compensation Trial Advocacy Program presented by The Florida Bar Workers’ Compensation Section in 2009.

Judge Hogan serves on the scholarship selection committee for the Friends of 440. Last year she presented a seminar for the Broward County Bar Association.

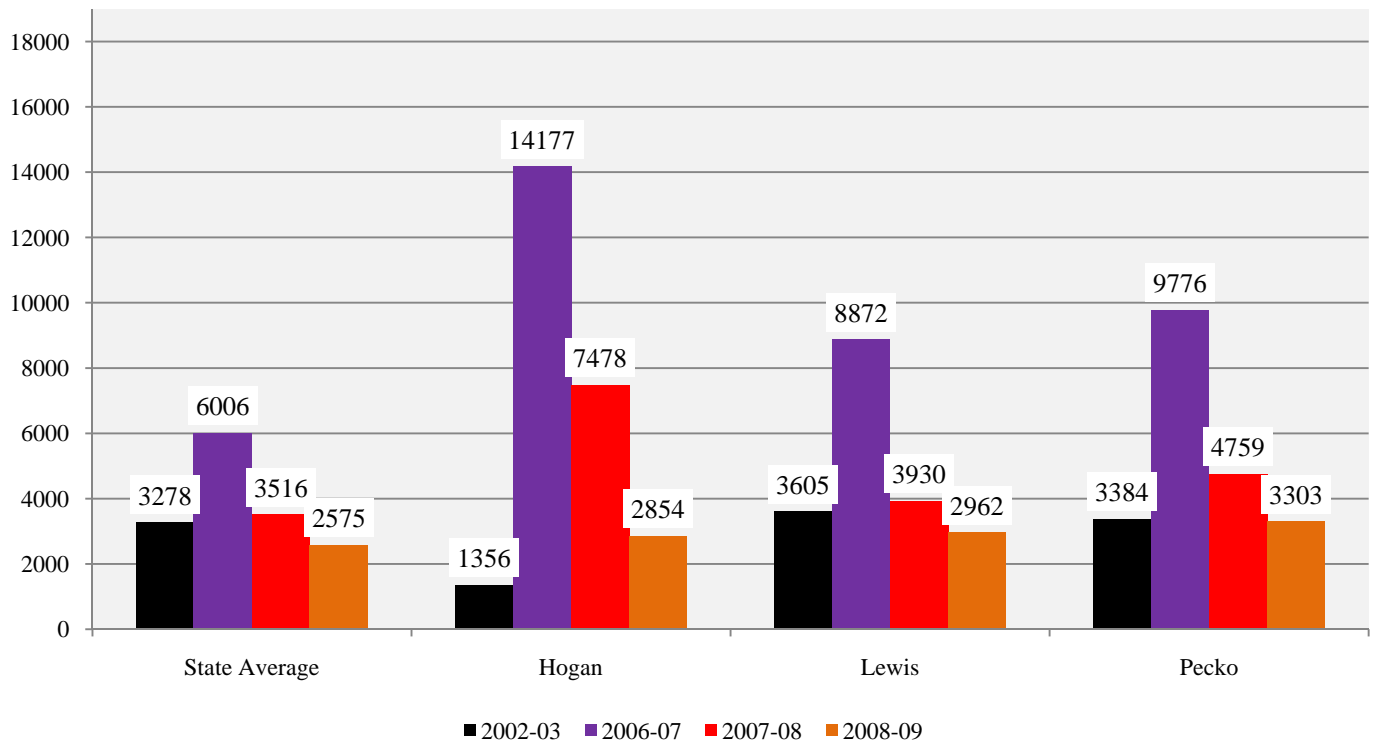
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



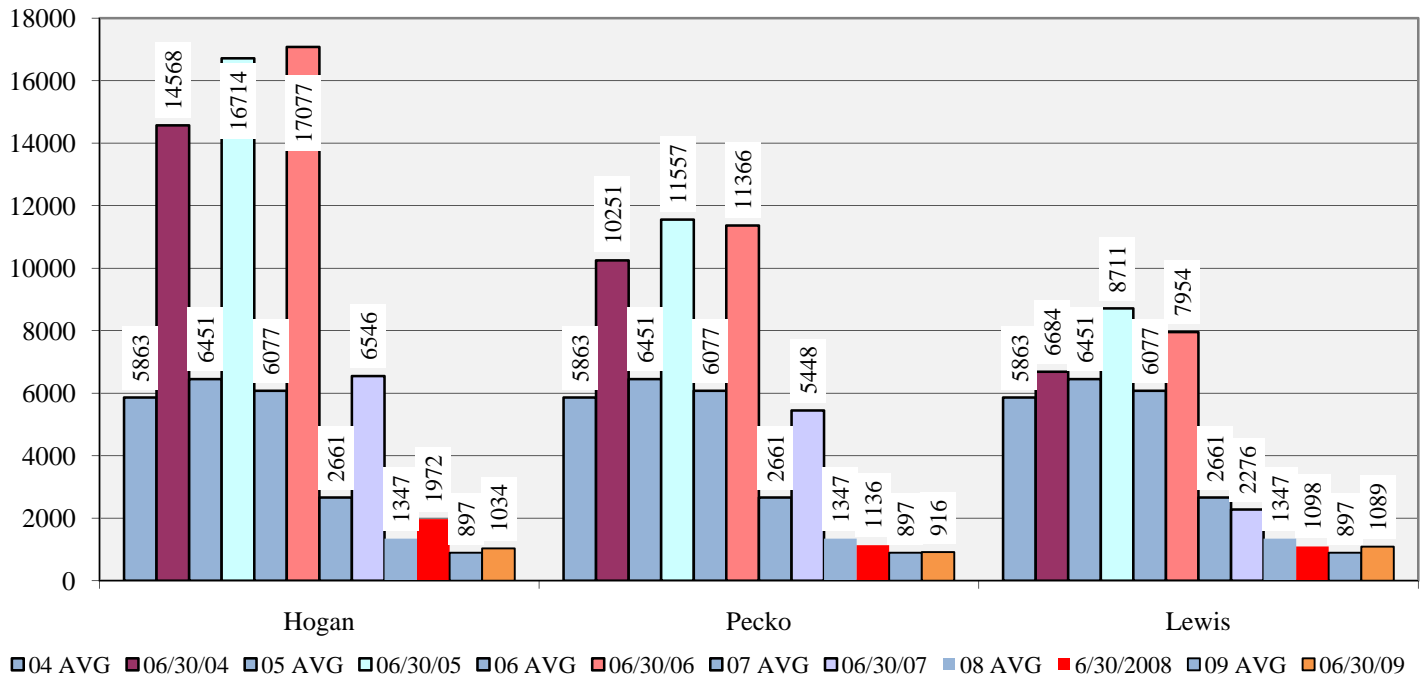
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



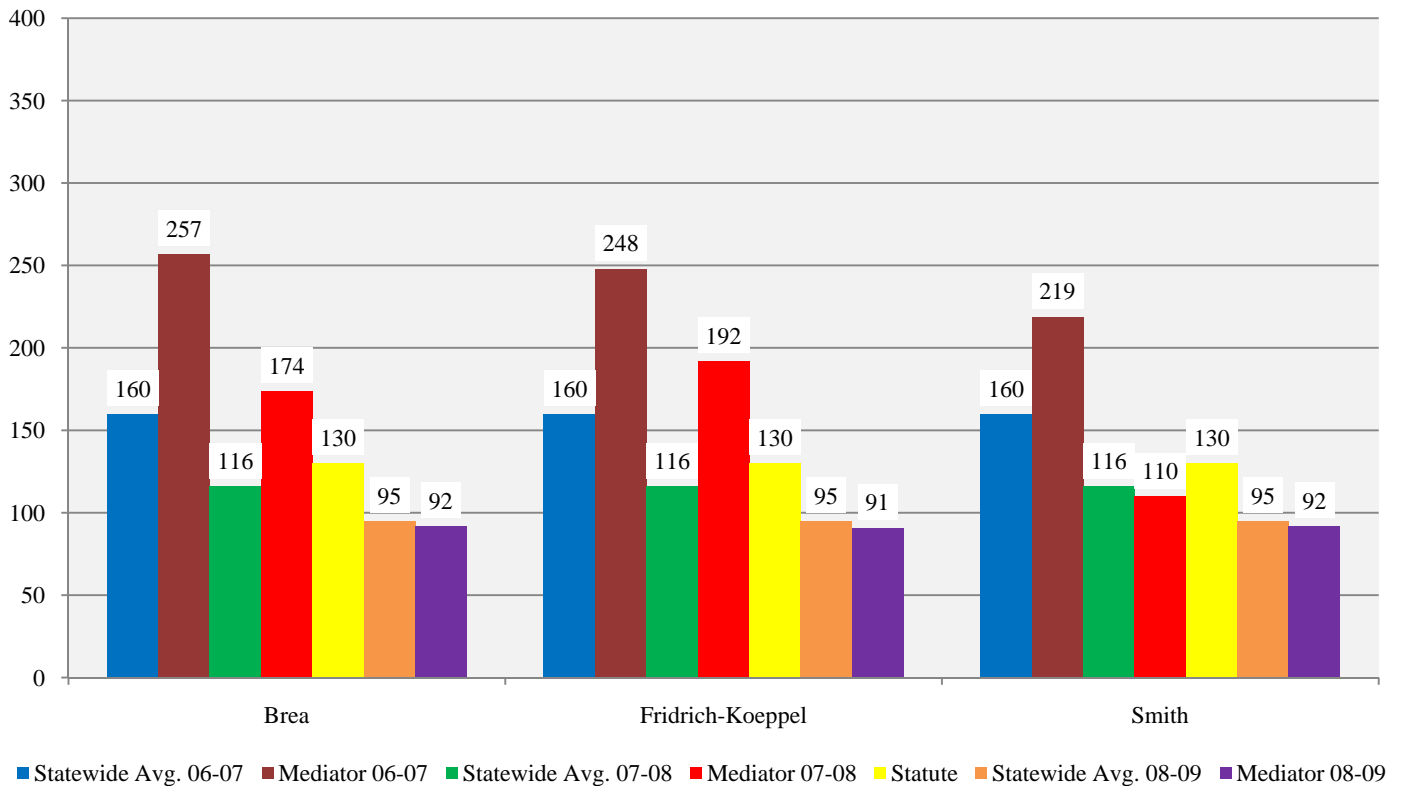
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



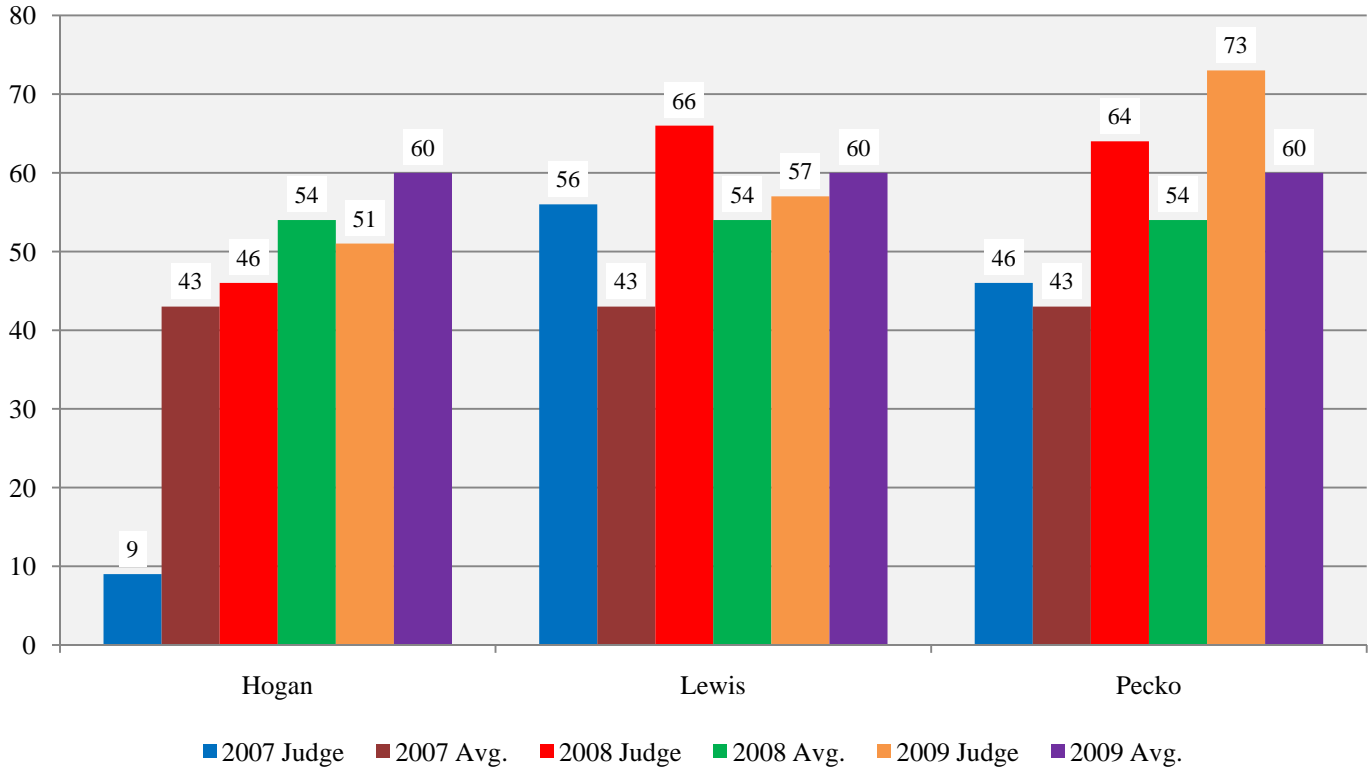
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



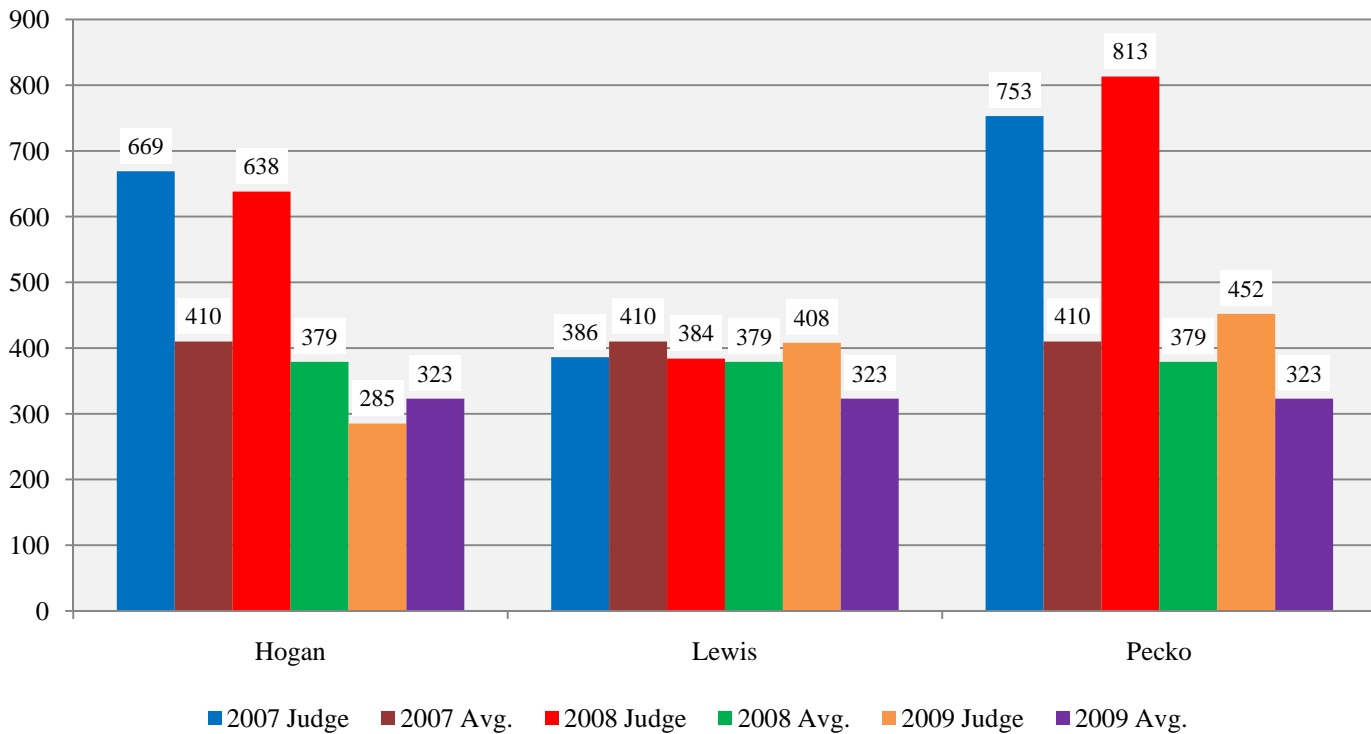
The following graph depicts the average days between PFB filing and the first mediation held thereon for each mediator in the district (brown = 07)(red = 08)(orange = 09) and the statewide average (blue = 07)(green = 08)(purple = 09).



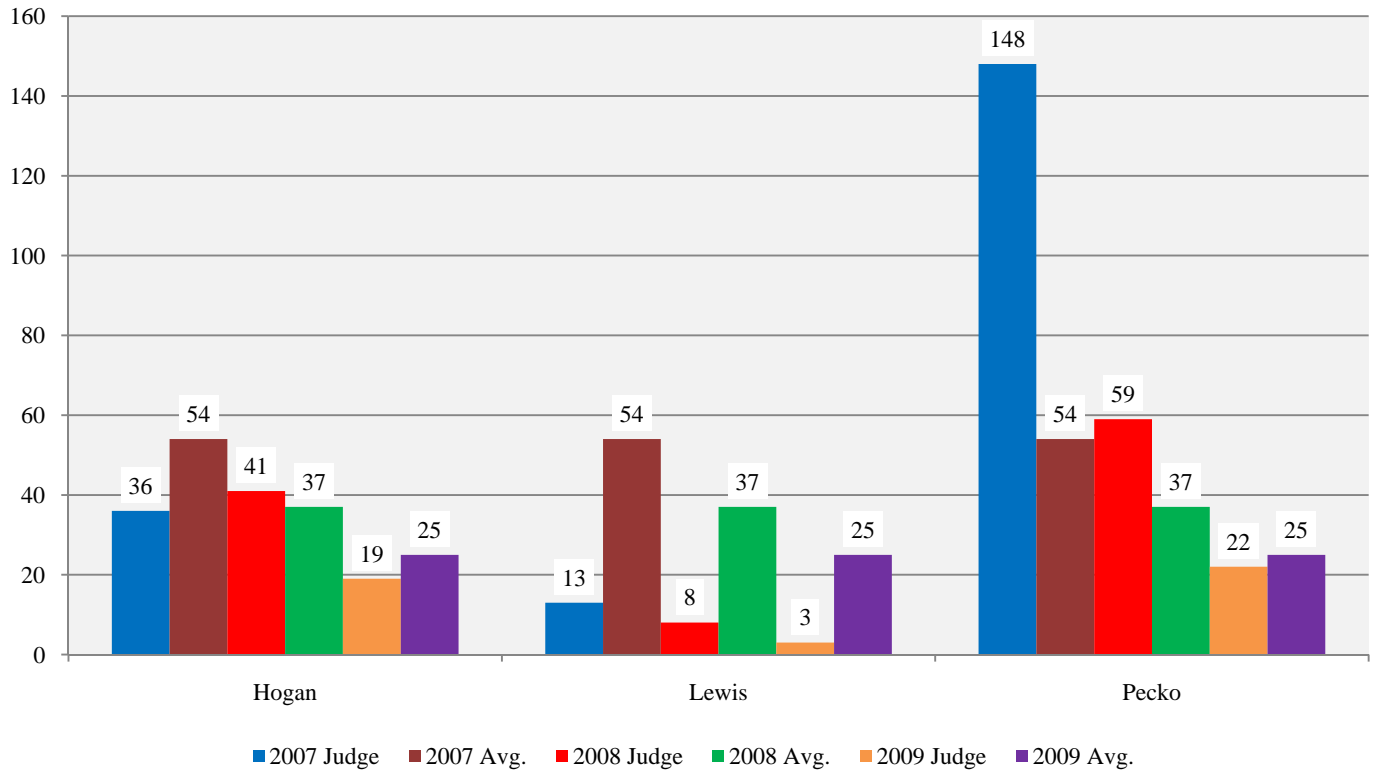
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



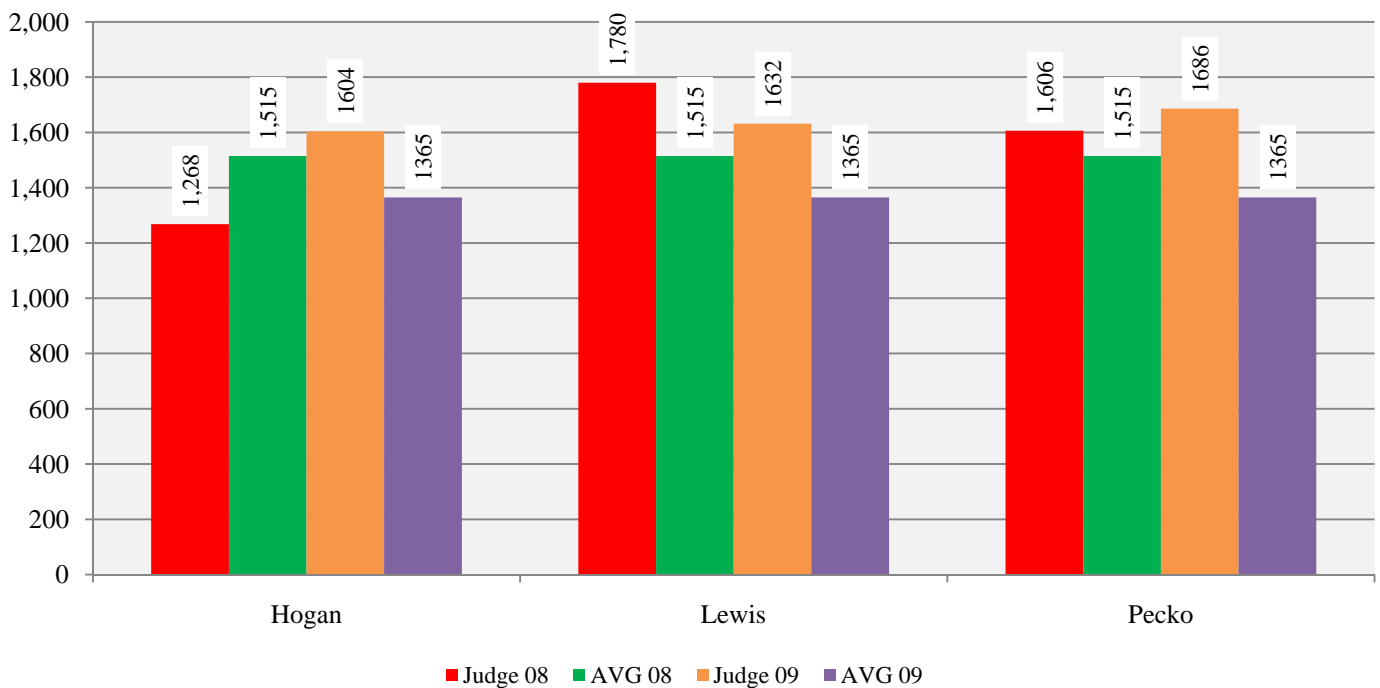
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



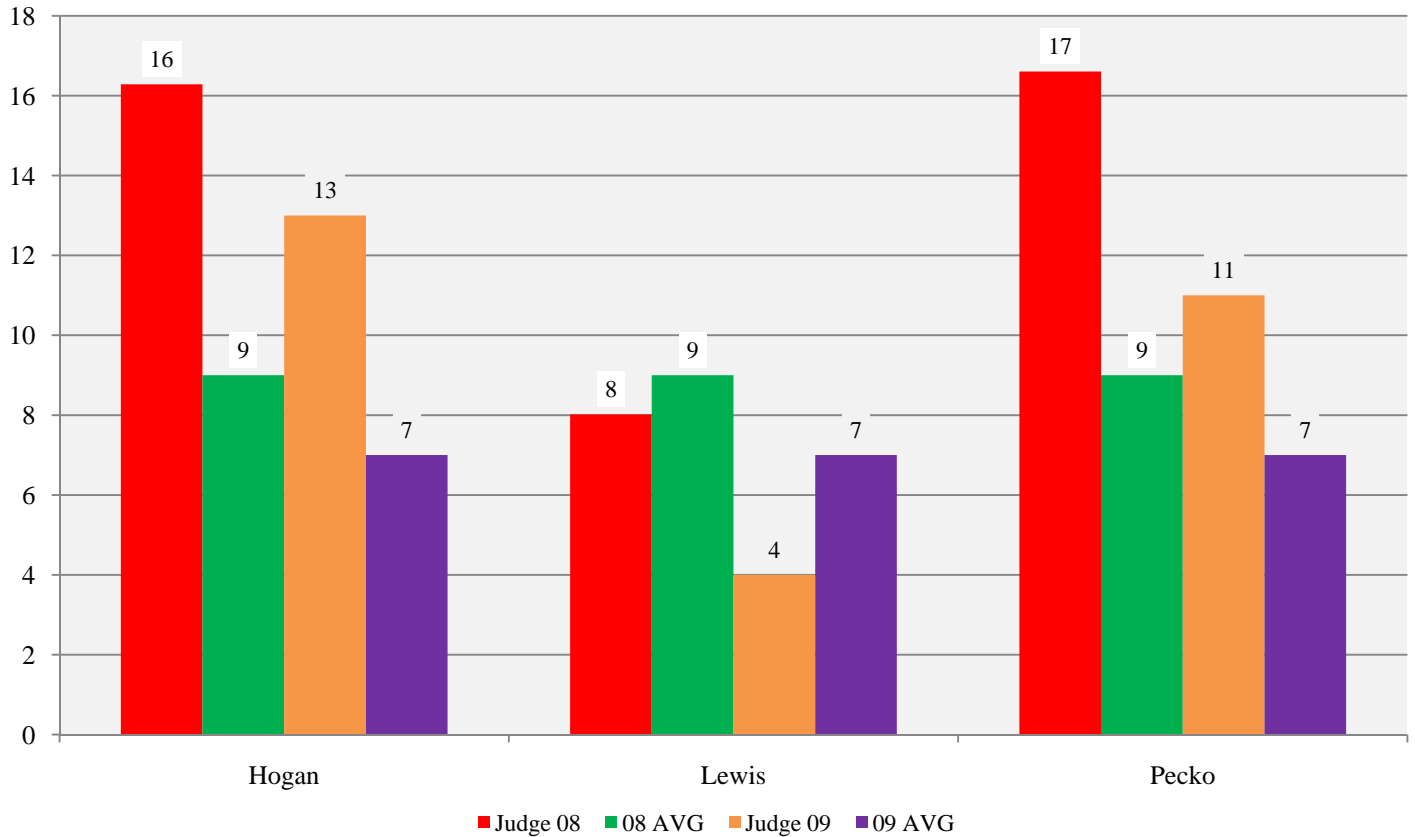
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order



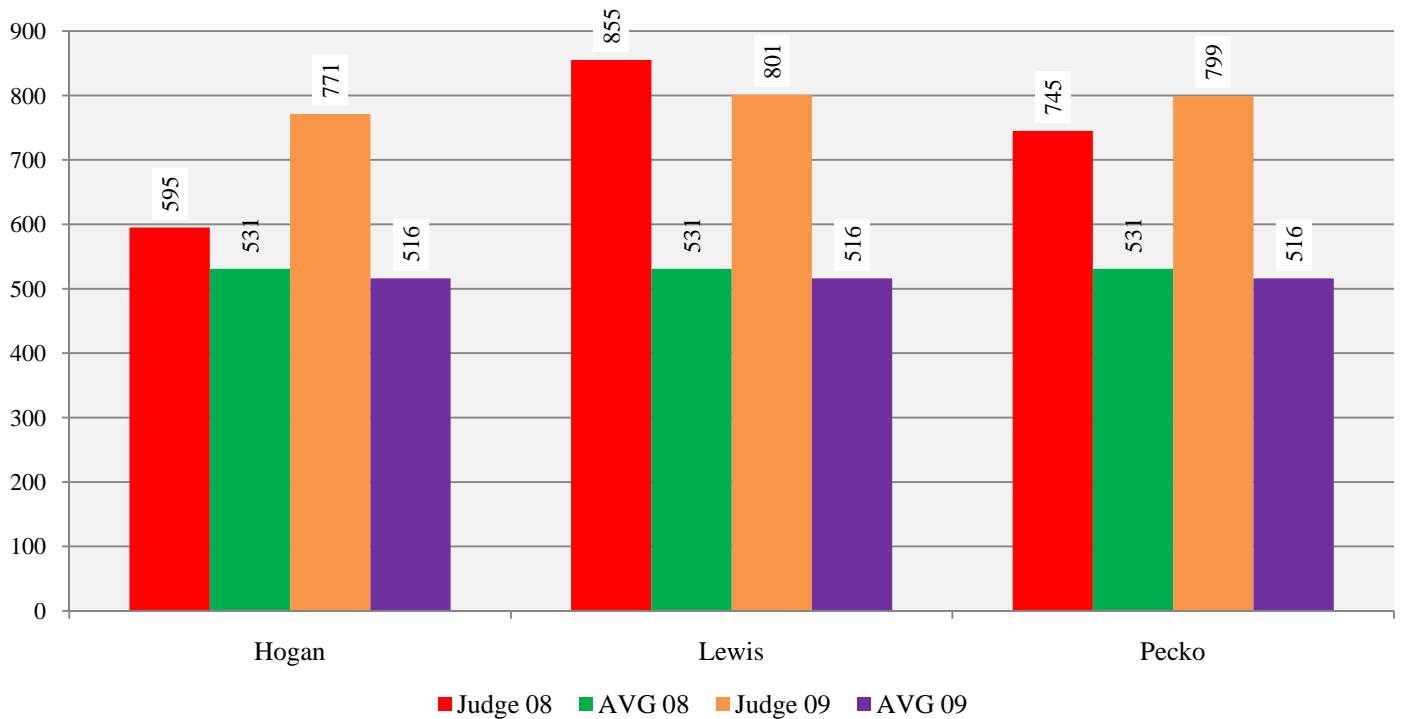
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



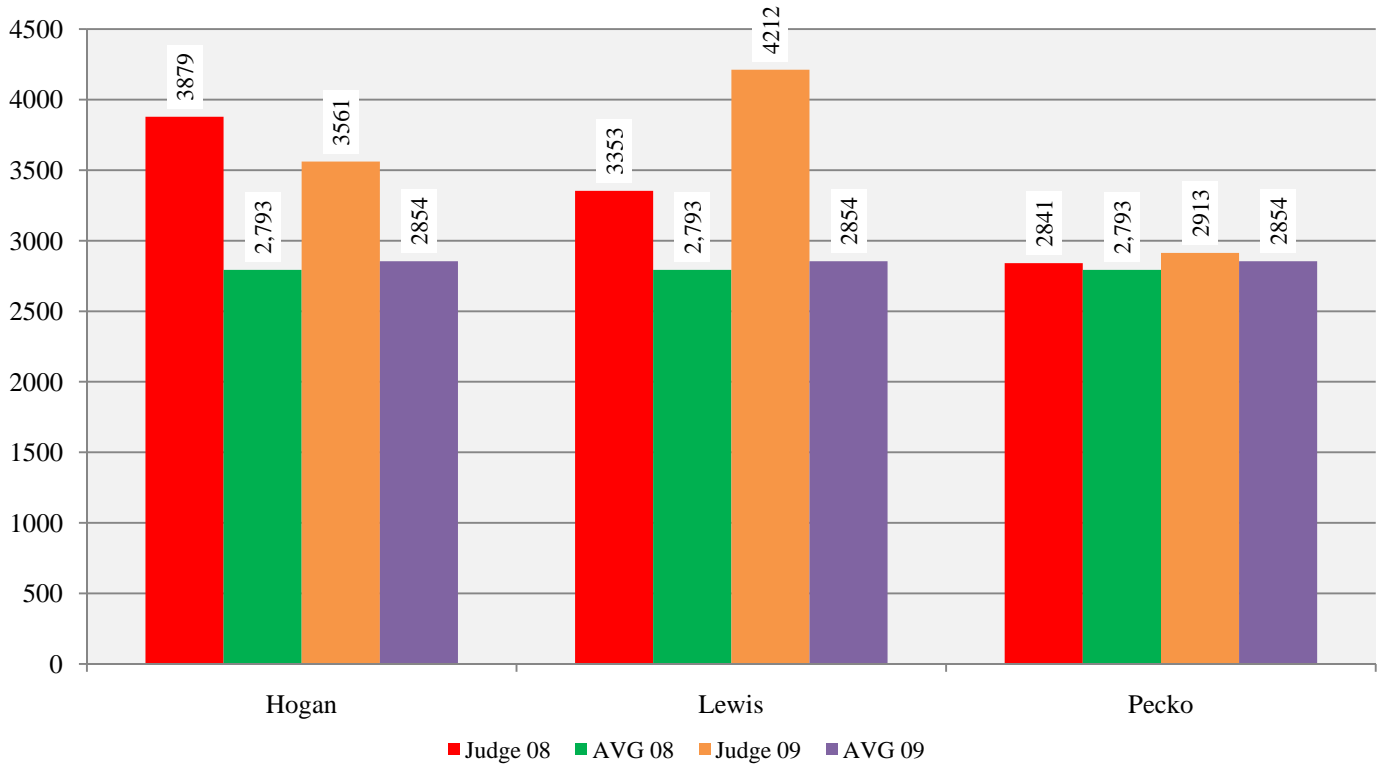
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



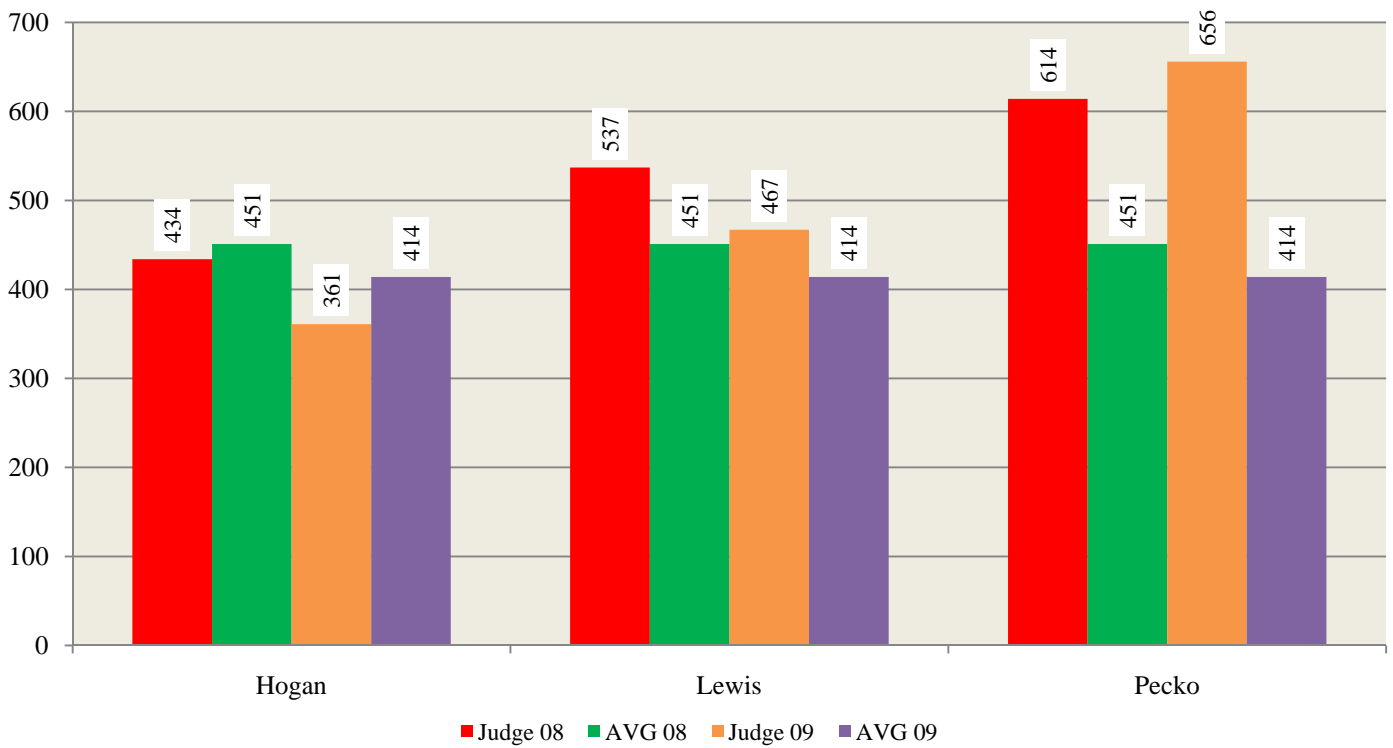
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



Appendix “3” District FTM (JCC Spangler, JCC Sturgis):

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

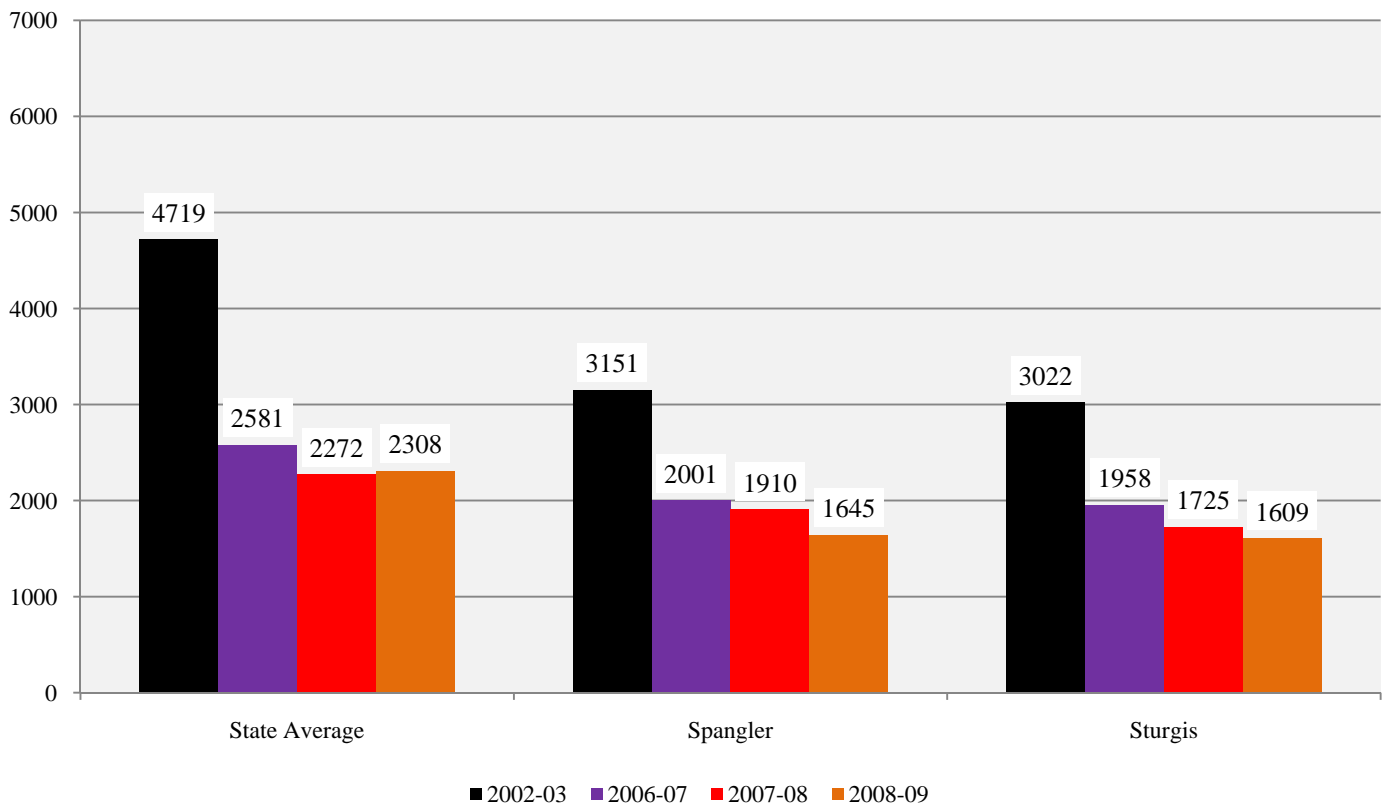
The volume of both PFB and “new cases” in District FTM were below the statewide averages in 2008-09. Judge Spangler’s division closed a significant volume of PFB, well in excess of the volume of PFB filed in that division last year. This demonstrates continued improvement in addressing the PFB backlog. An even greater volume of PFB was closed in Judge Sturgis’ division last year, which is indicative of significant effort at addressing backlog PFB. Both FTM mediators averaged less than 130 days between PFB filing and first mediation. This marks the first time that any mediator in District FTM has met the statutory mediation timeliness requirement.

The average time from PFB and trial in District FTM was both below the statewide average and within the statutory 210 days last year. More significantly, both Judges entered timely trial orders following trial, averaging less than statewide average and within the 30 day statutory mandate.

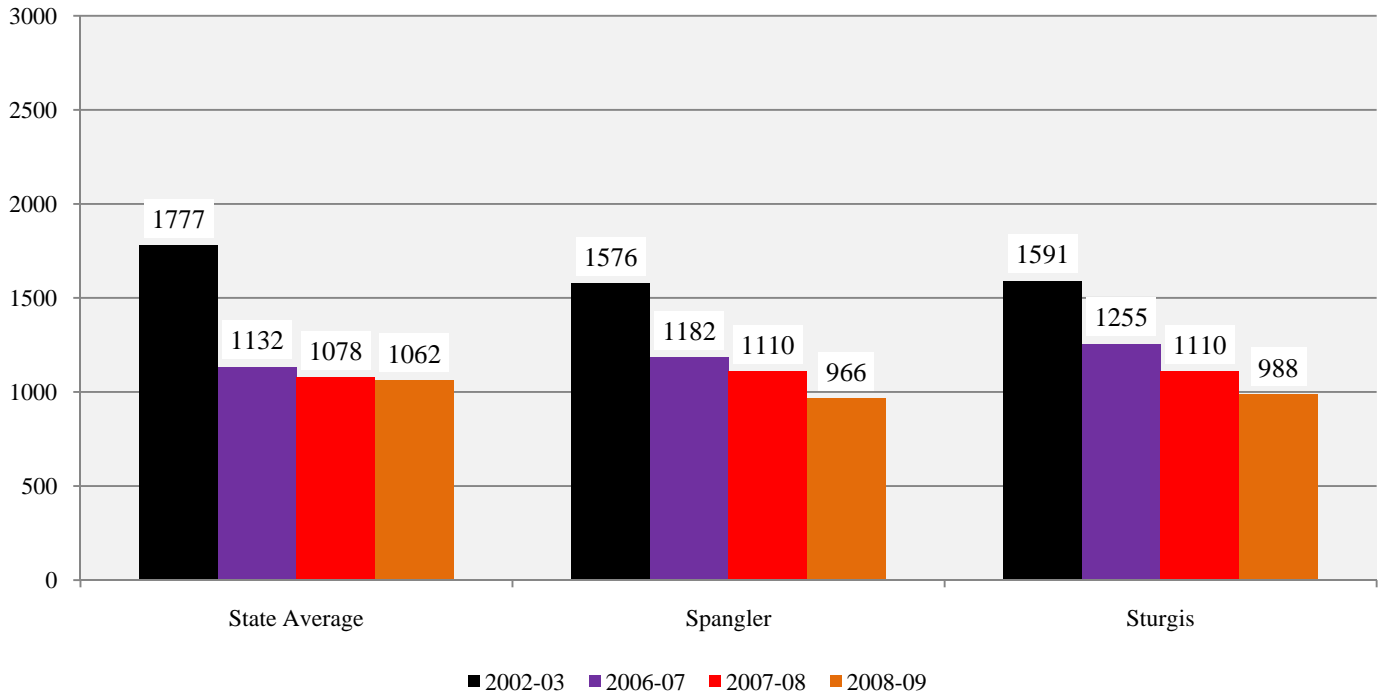
Overall, the trend in District FTM is improving timeliness and efficiency. District FTM has been burdened with the transition from a one-Judge to two-Judge District in mid fiscal year 2006-07. The addition of a Judge and mediator did not coincide with the term of District FTM’s lease, and as a result the increased volume of staff has struggled to co-exist in significantly less office space than that with which other Districts are privileged. The impact of these transitions is anticipated to moderate in fiscal 2009-10 as the District FTM office relocates into adequate space, and as the two-Judge organization structure becomes increasingly familiar.

Judges Spangler and Sturgis each participated in hearing cases outside of District FTM in 2008-09. Their support of District LKL will continue in 2009-10 with the introduction of “new case” assignment of District LKL venue “new cases” directly to these two Judges.

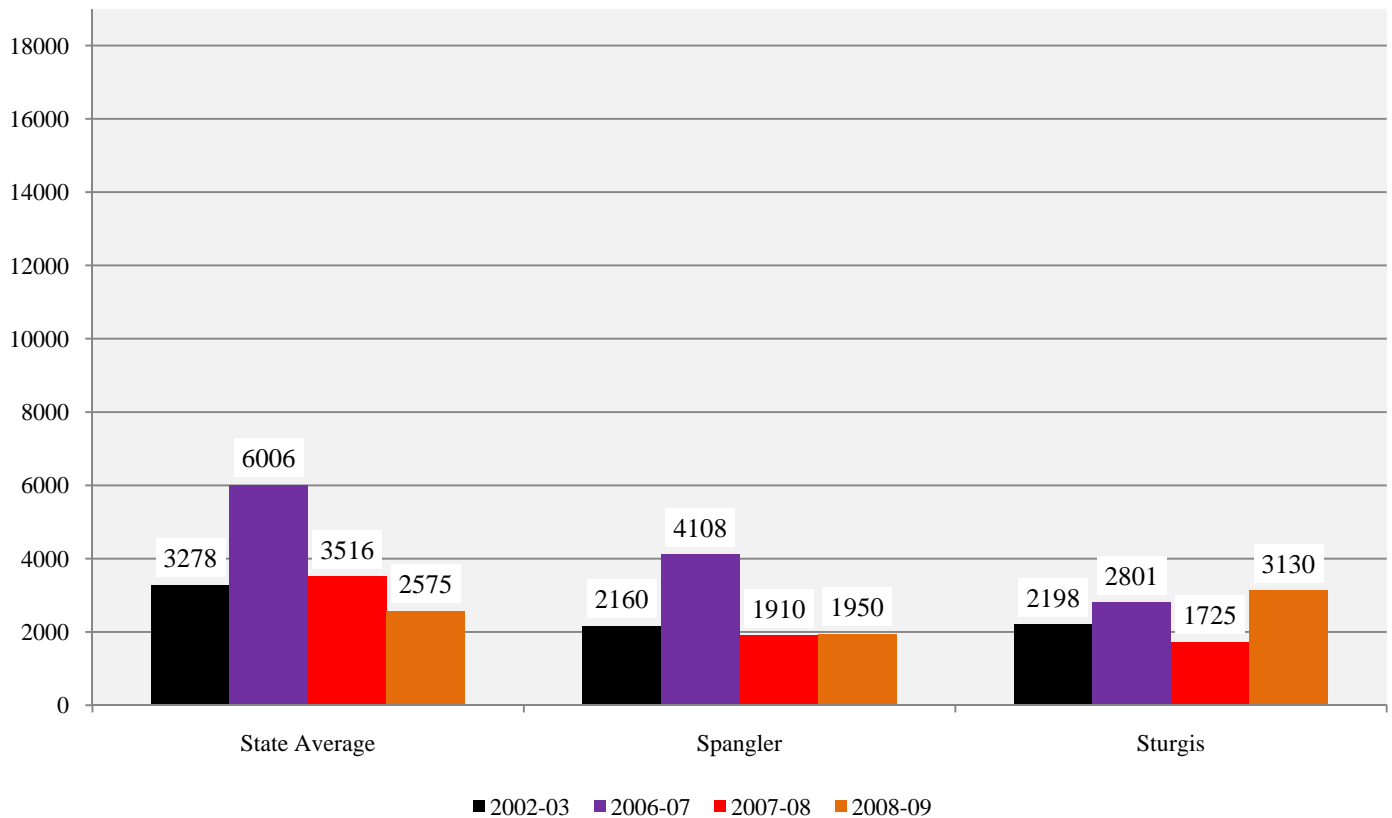
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



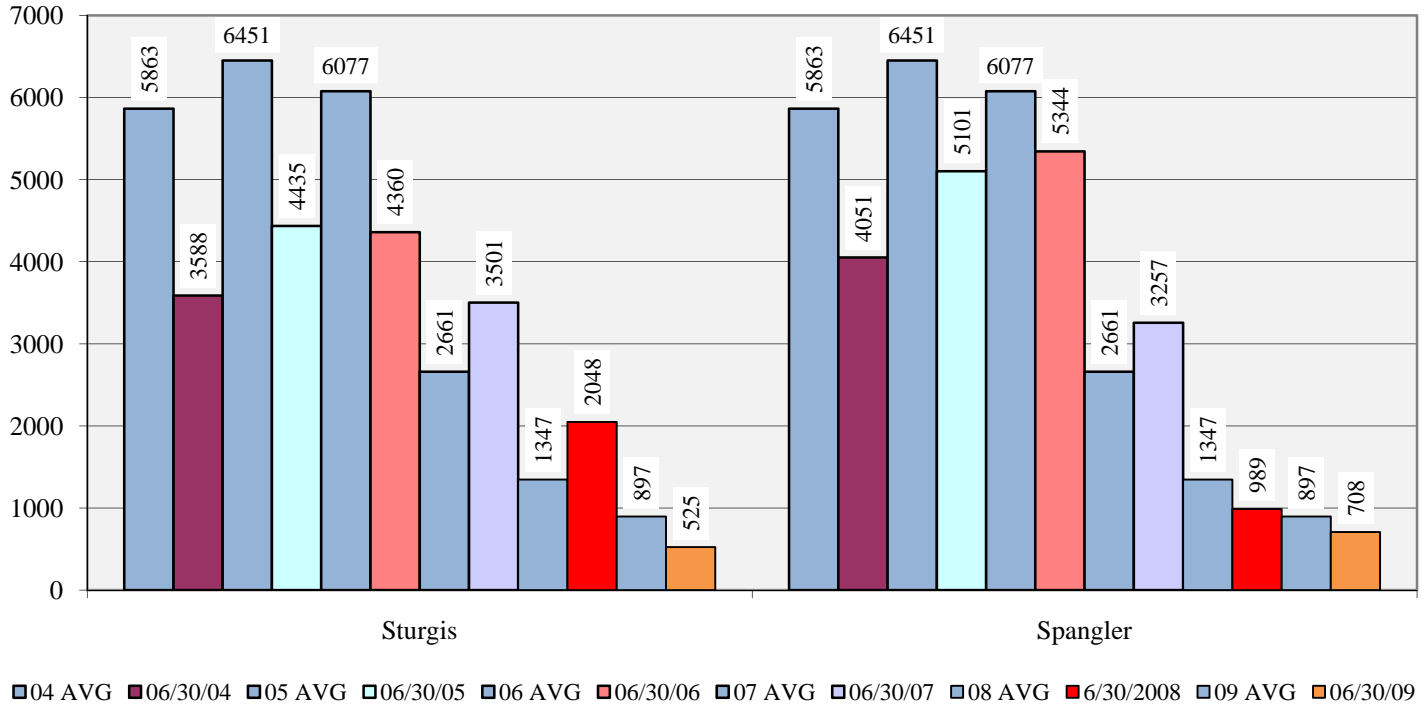
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



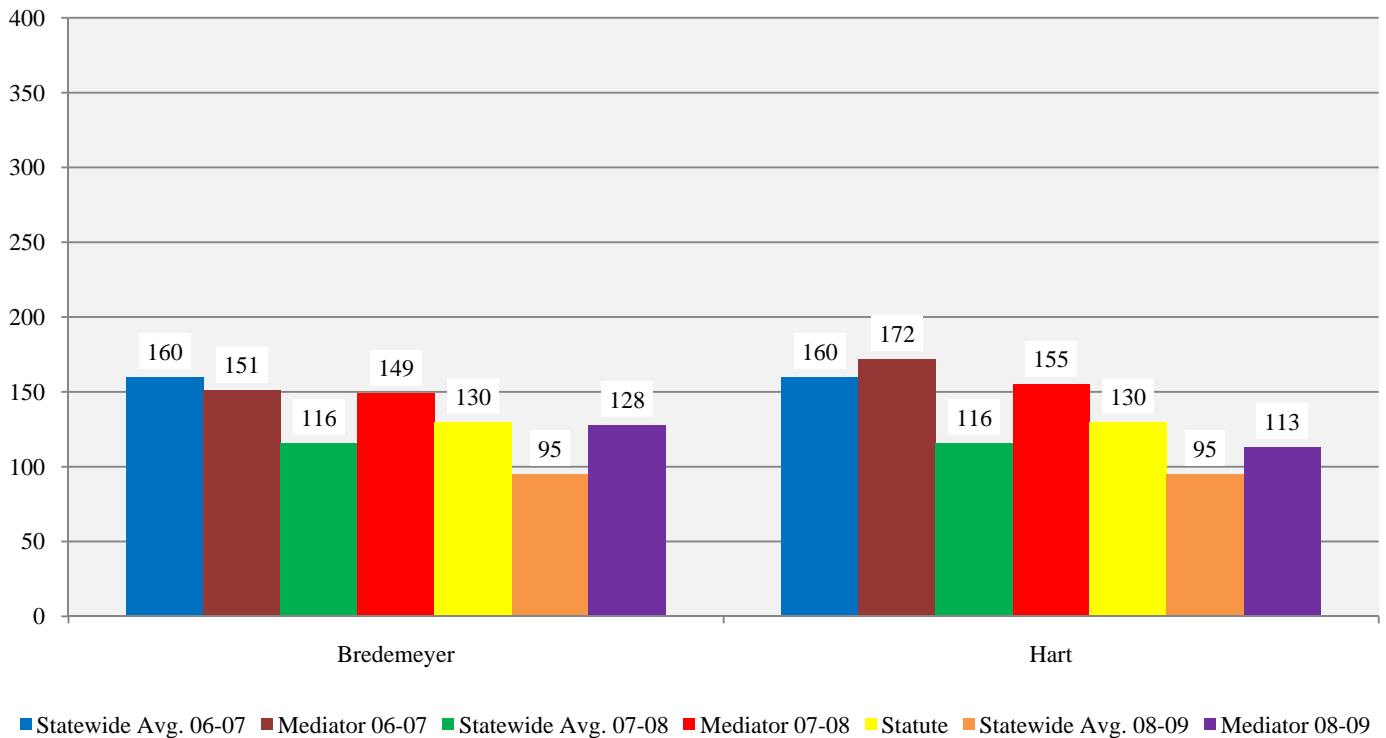
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



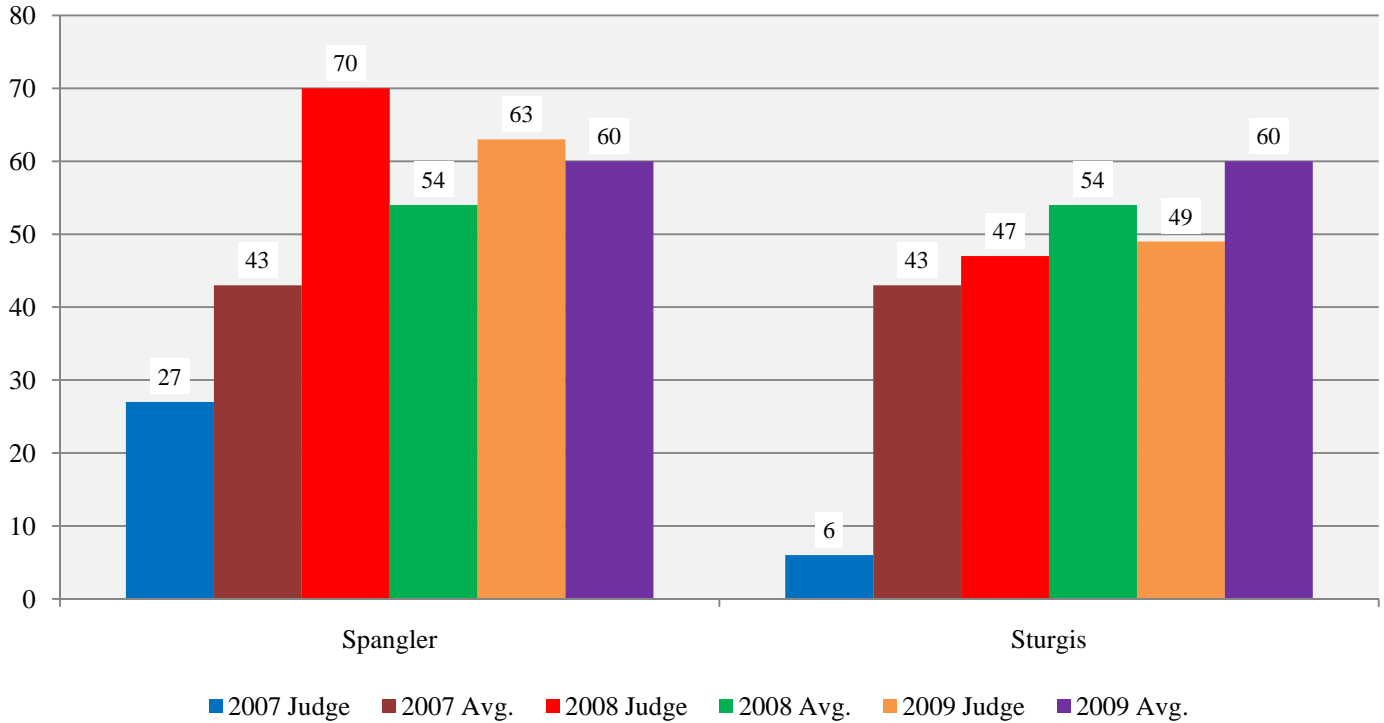
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



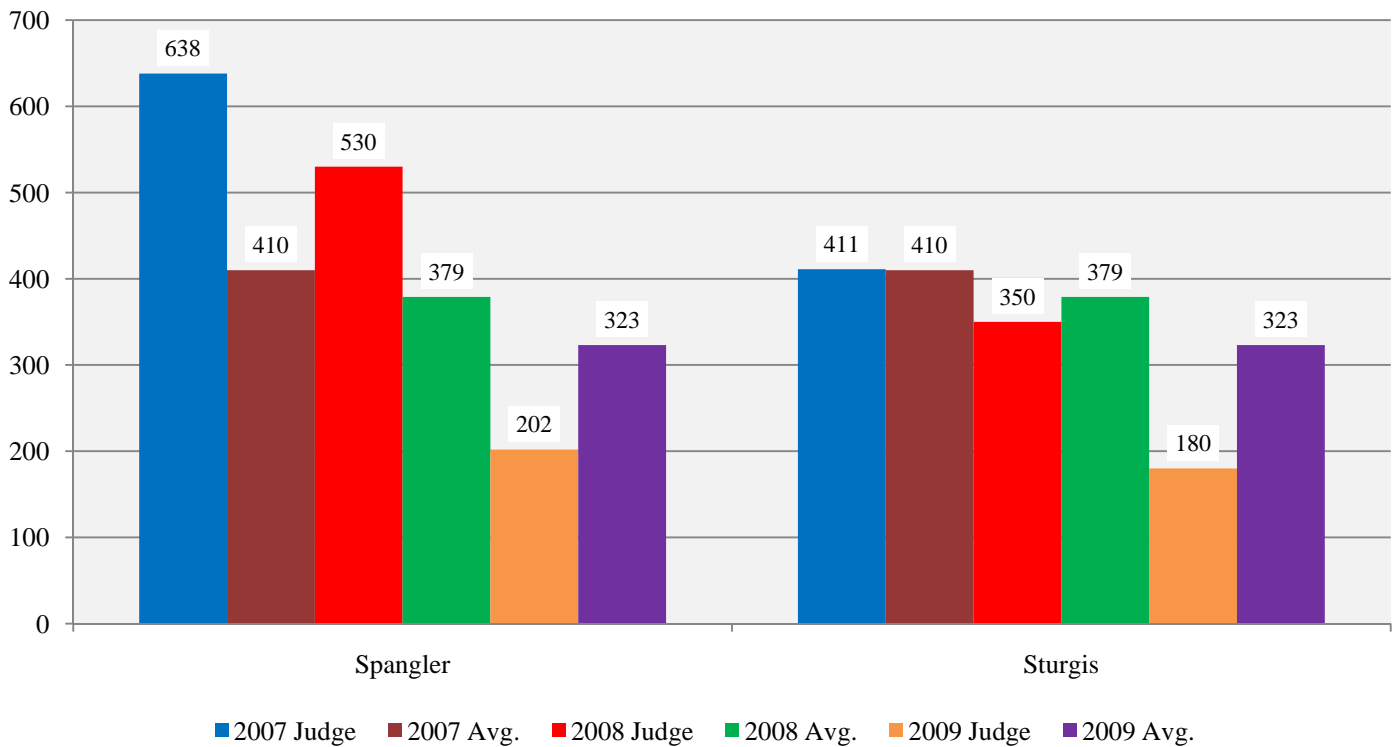
The following graph depicts the average days between PFB filing and the first mediation held thereon for each mediator in the district (brown = 07)(red = 08)(orange = 09) and the statewide average (blue = 07)(green = 08)(purple = 09).



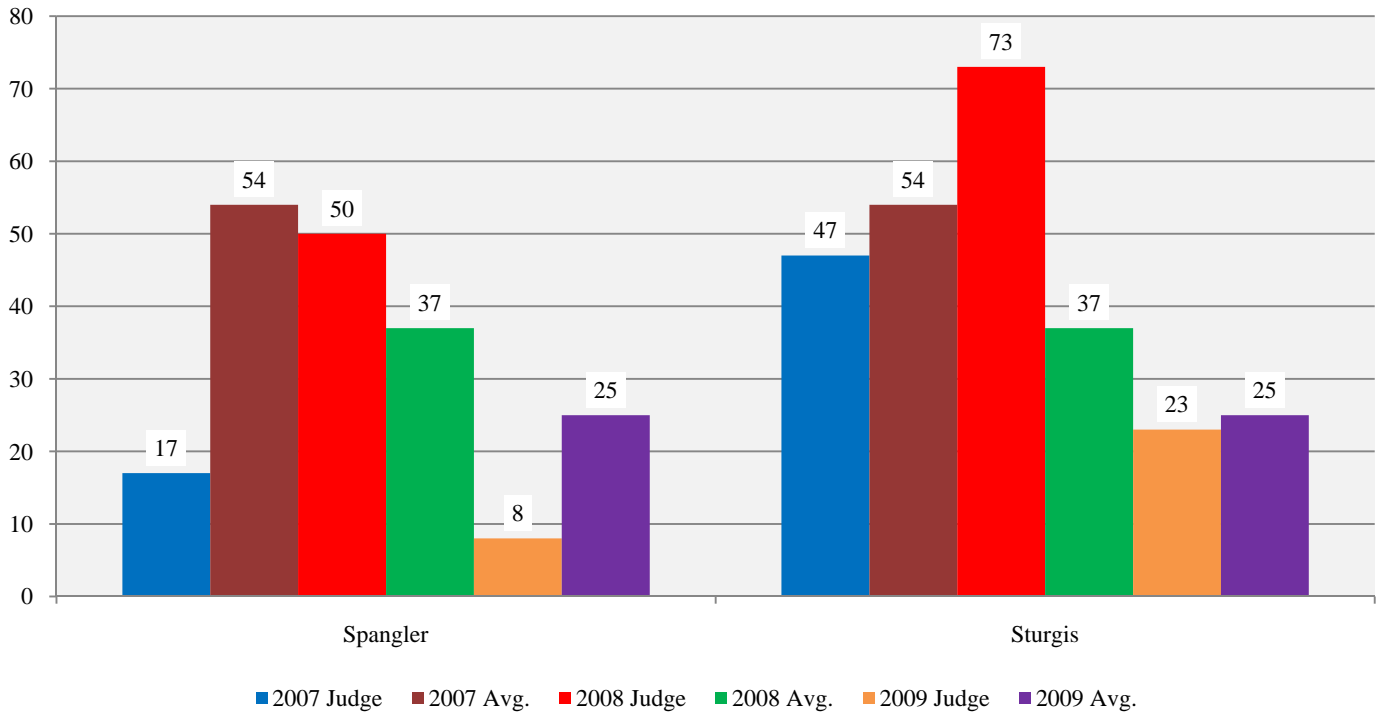
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



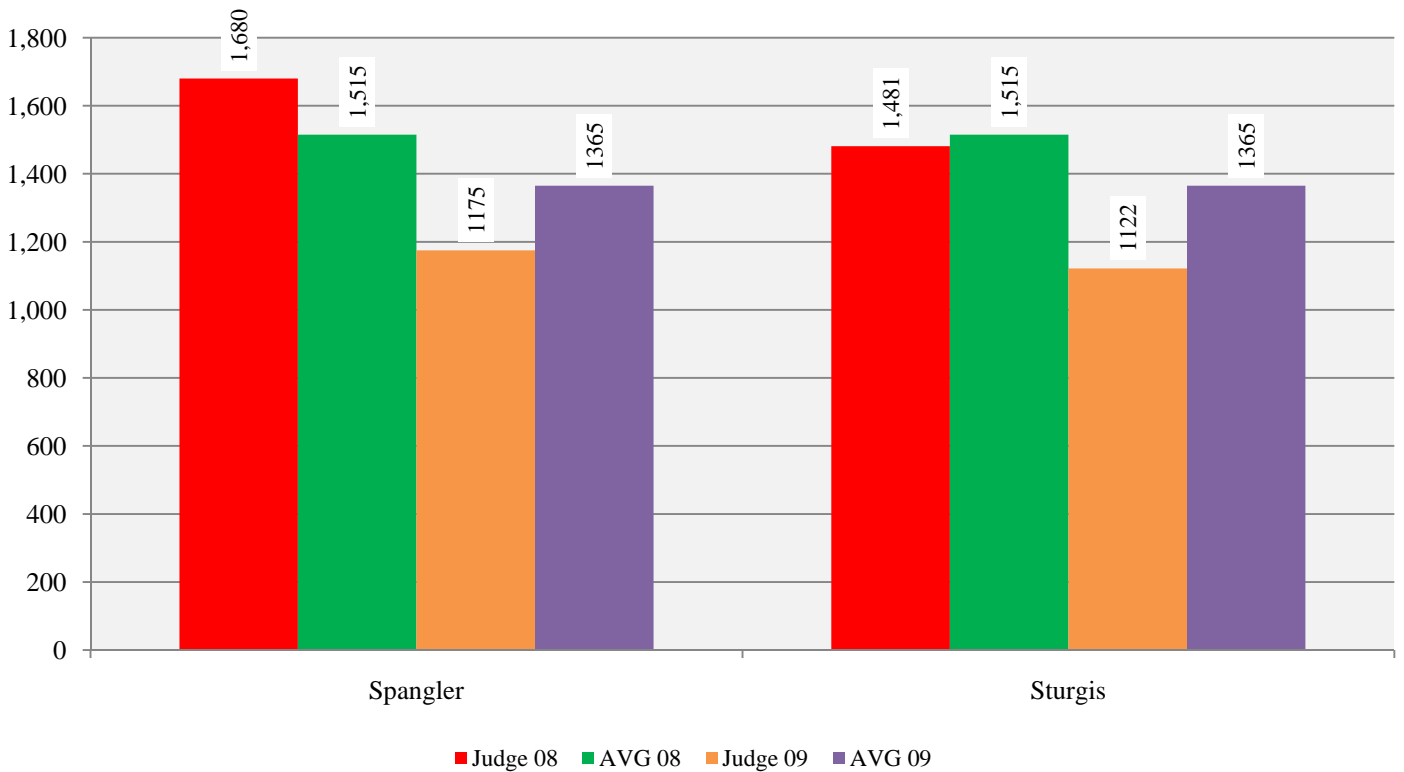
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



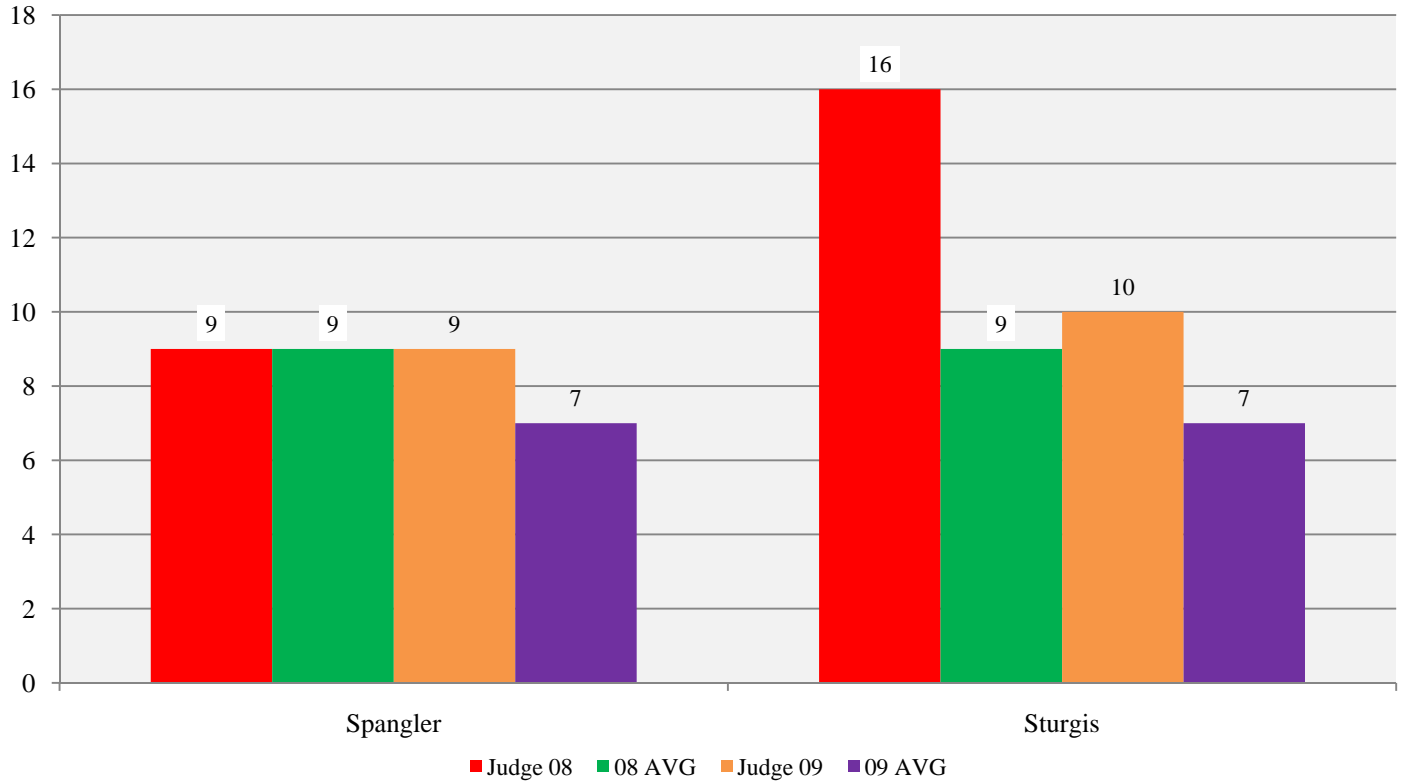
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



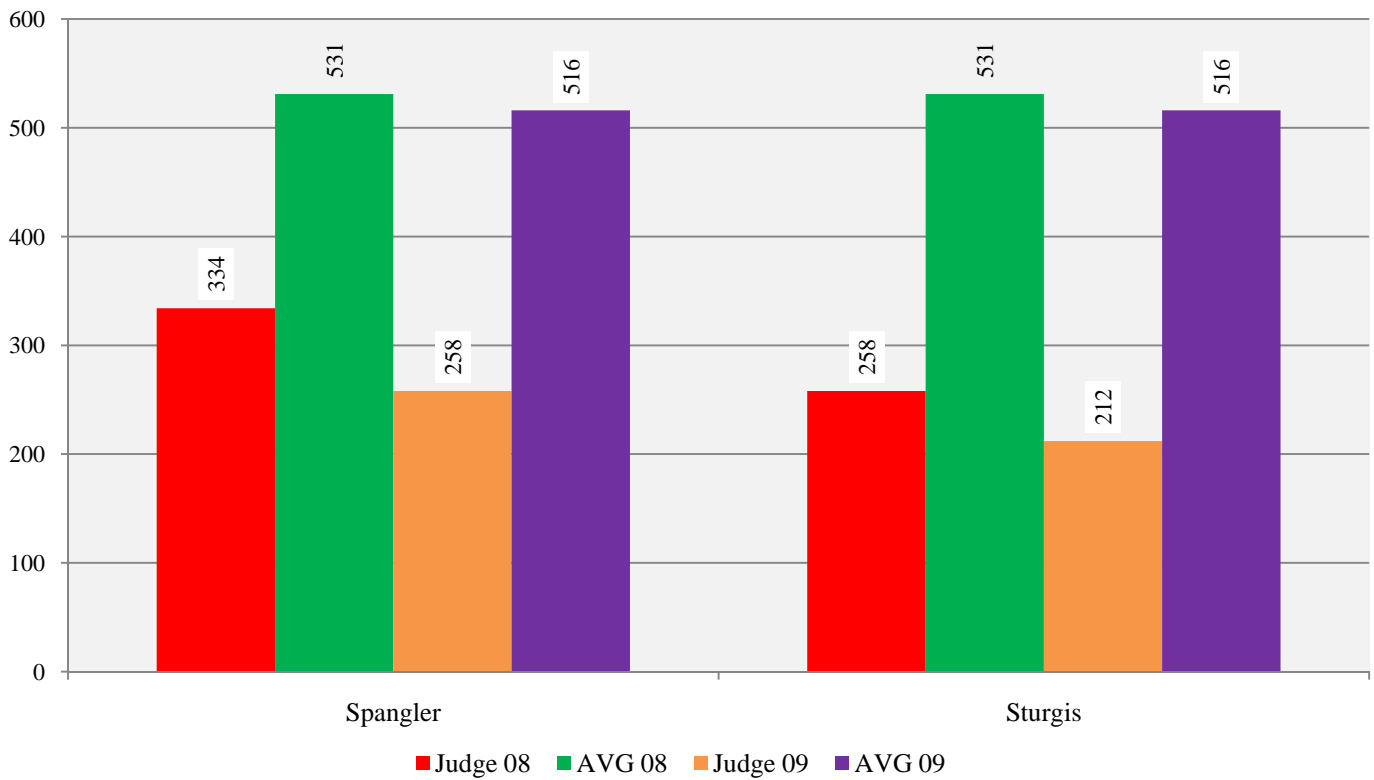
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



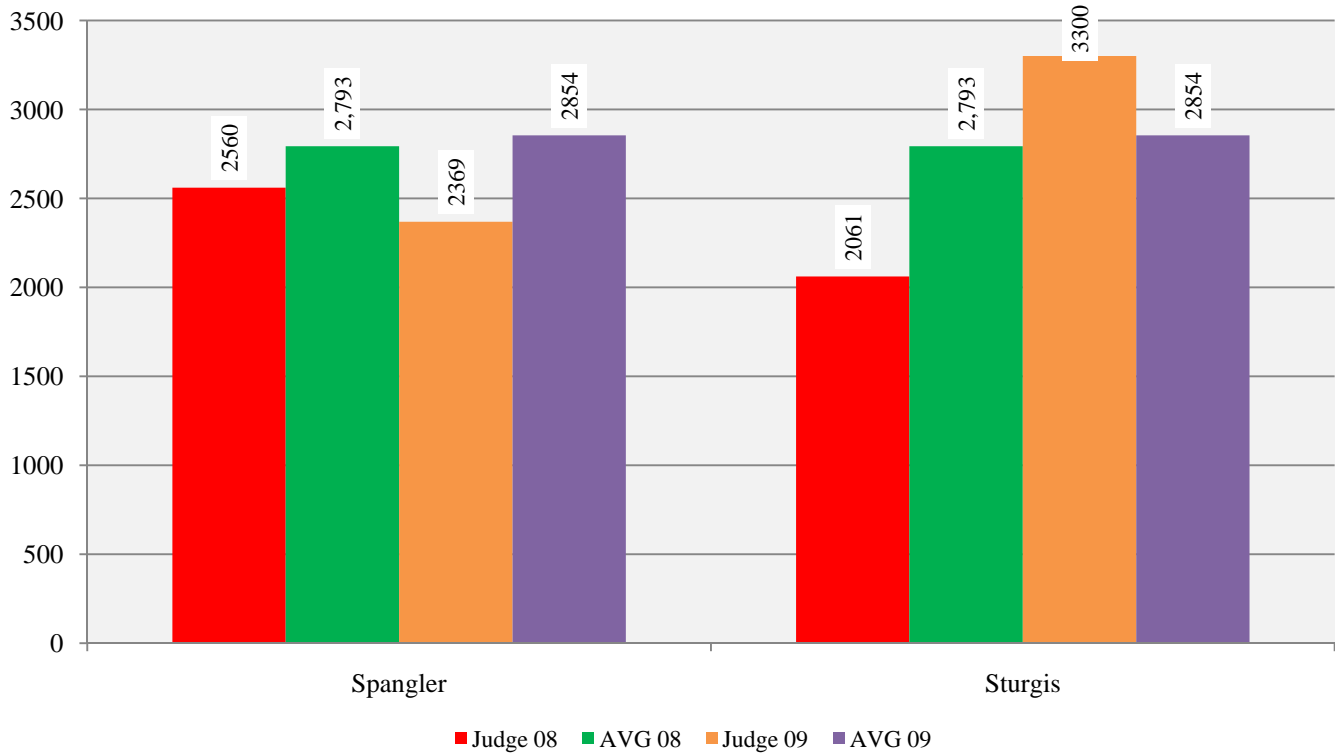
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



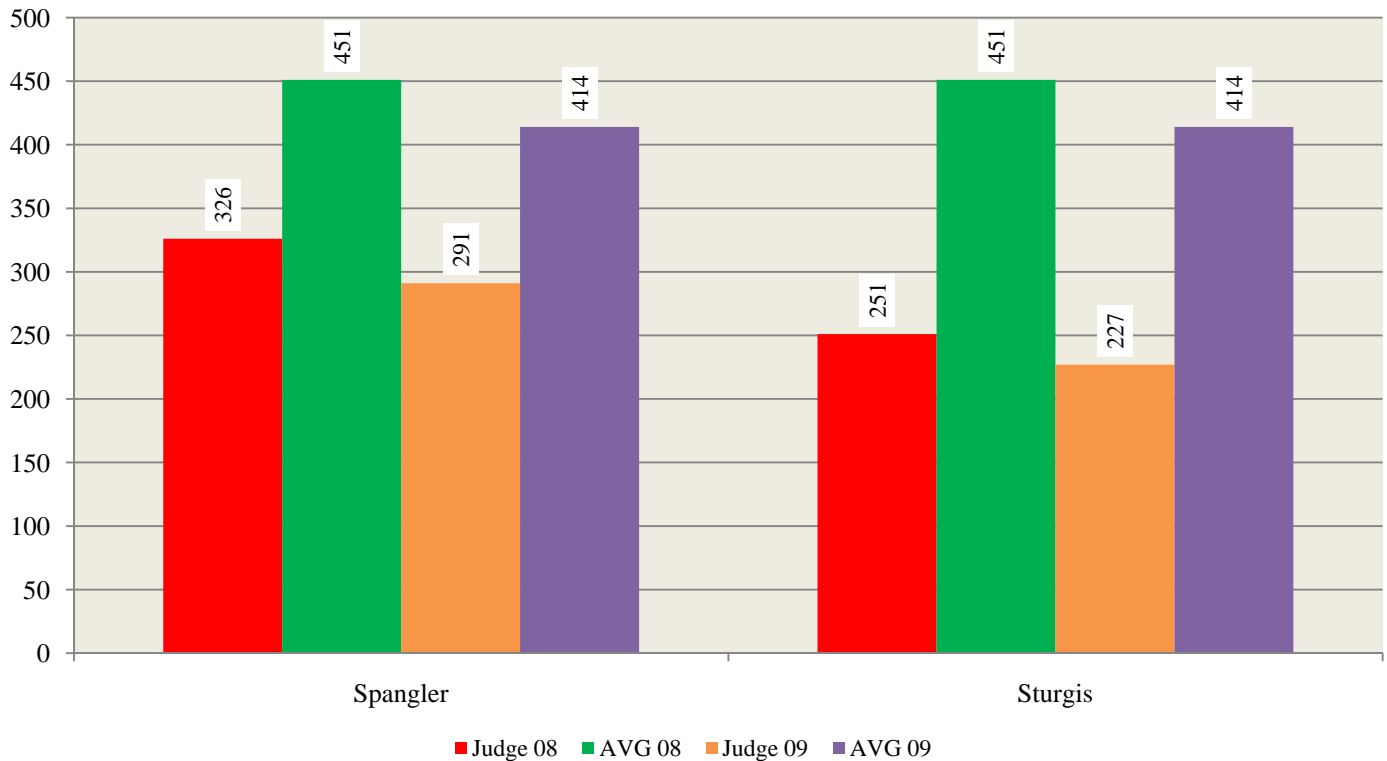
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



Appendix “4” District GNS (JCC Hill, R.):

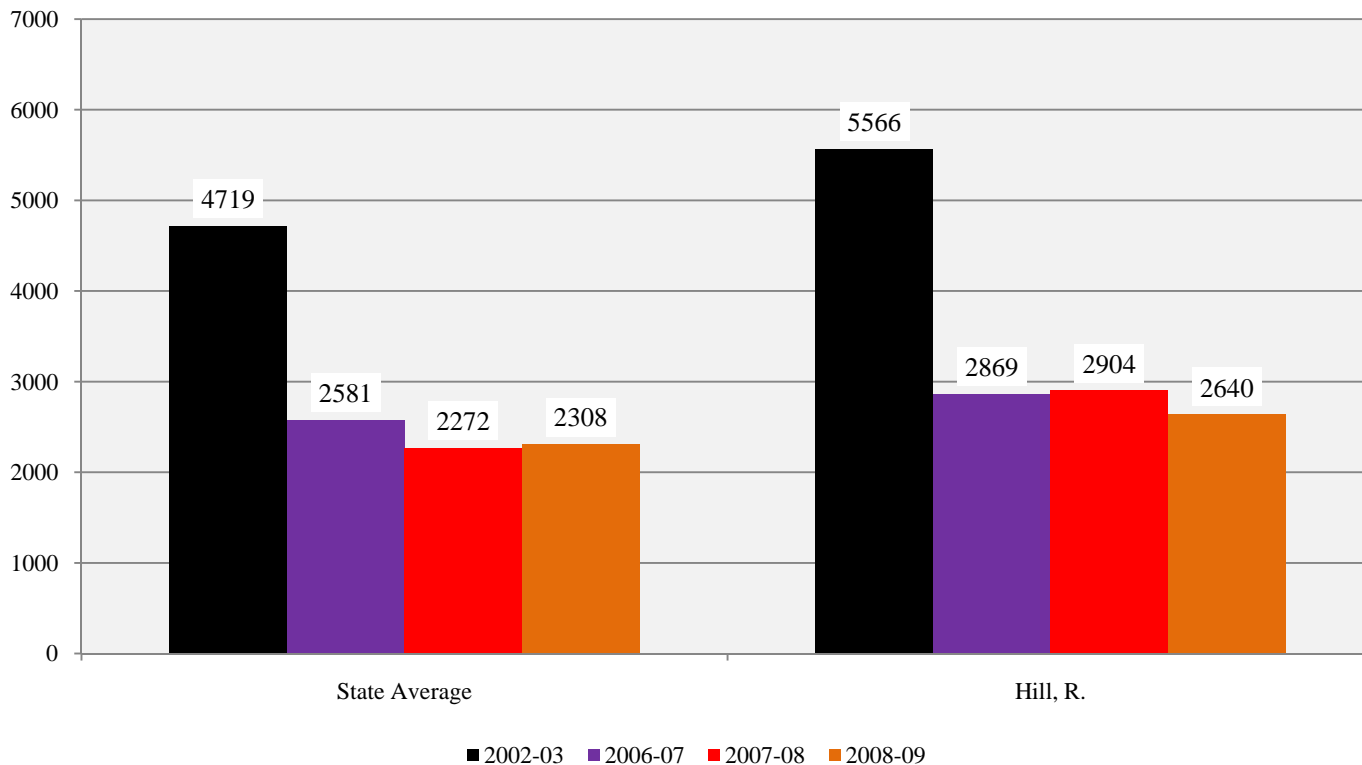
District GNS includes the following counties: Alachua, Columbia, Dixie, Gilchrist, Levy, Marion.

District GNS has experienced significant change in recent years. Judge Jonathon Ohlman served there for many years prior to his appointment to the Circuit bench in 2006-07. Judge John Thurman transferred to District GNS following Judge Ohlman’s appointment, assuming that position close to the beginning of fiscal 2007-08. Six weeks before the end of fiscal year 2008-09, Judge Thurman retired and Judge Renee Hill was appointed to this District.

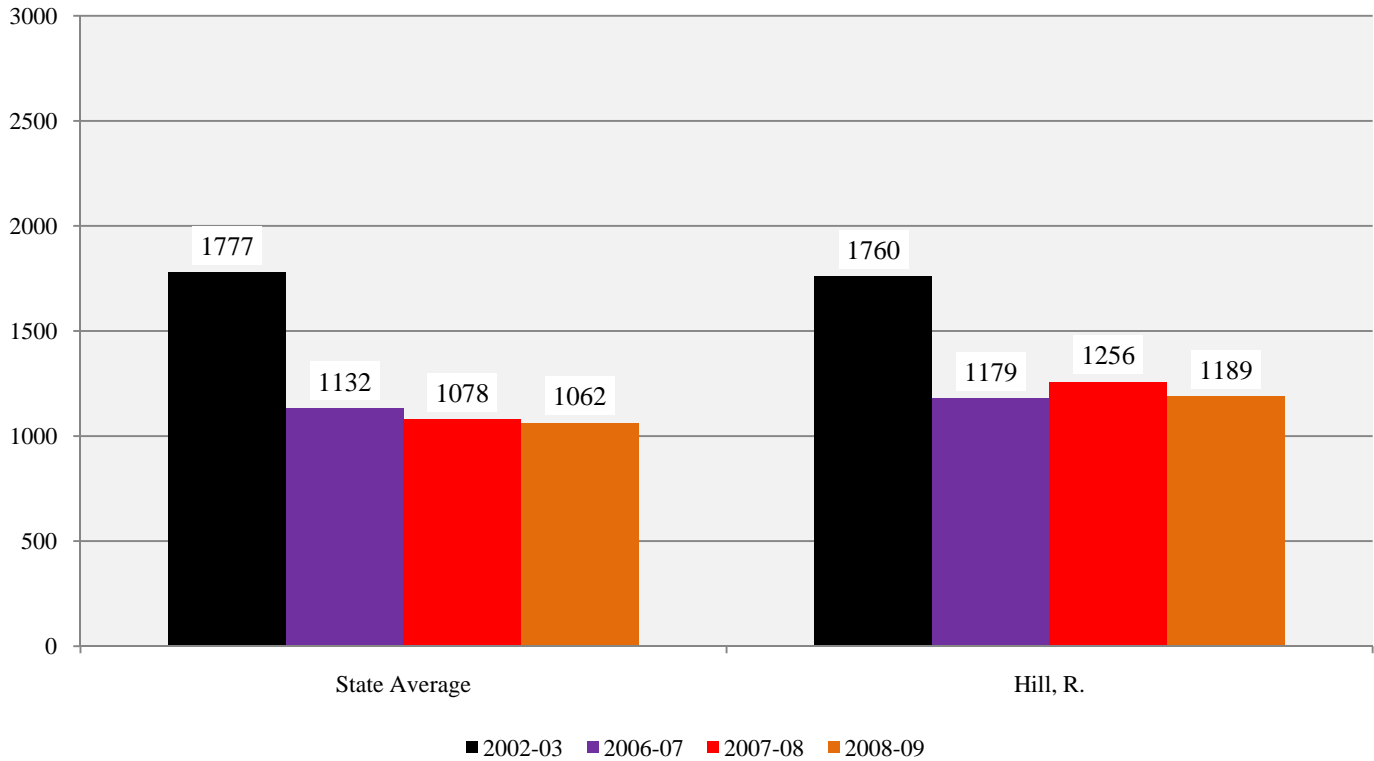
PFB filings decreased in District GNS in 2008-09, but not significantly, and District GNS remains above the statewide average for both PFB and “new case” filings. Despite tremendous PFB closures by Judge Thurman in 2006-07, significant volumes of PFB were closed in both 2007-08 and again in 2008-09. Judge Hill was in office for only a small portion of Fiscal 2008-09, and thus the “trial volumes” appear very low as they include only her trial orders and not Judge Thurman’s. However, the combination of trial orders entered by both Judge Thurman and Judge Hill is below the statewide average. In this regard, the relatively high volume of PFB and “new cases” in District GNS has not translated into a similar relatively high volume of trials.

The average time from PFB to mediation in GNS was well below the statutory 130 days last year. Judge Hill’s average time to enter a final order after trial was also well within the statutory 30 day mandate.

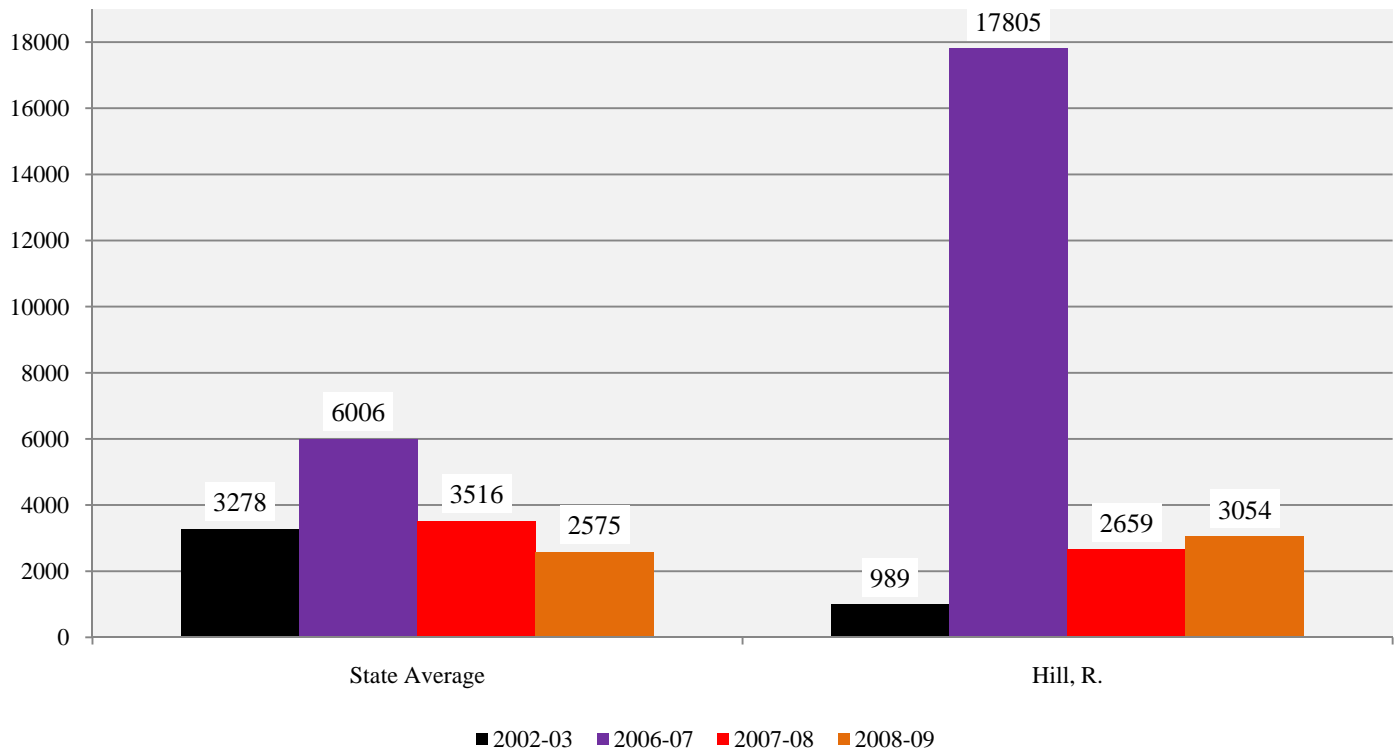
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



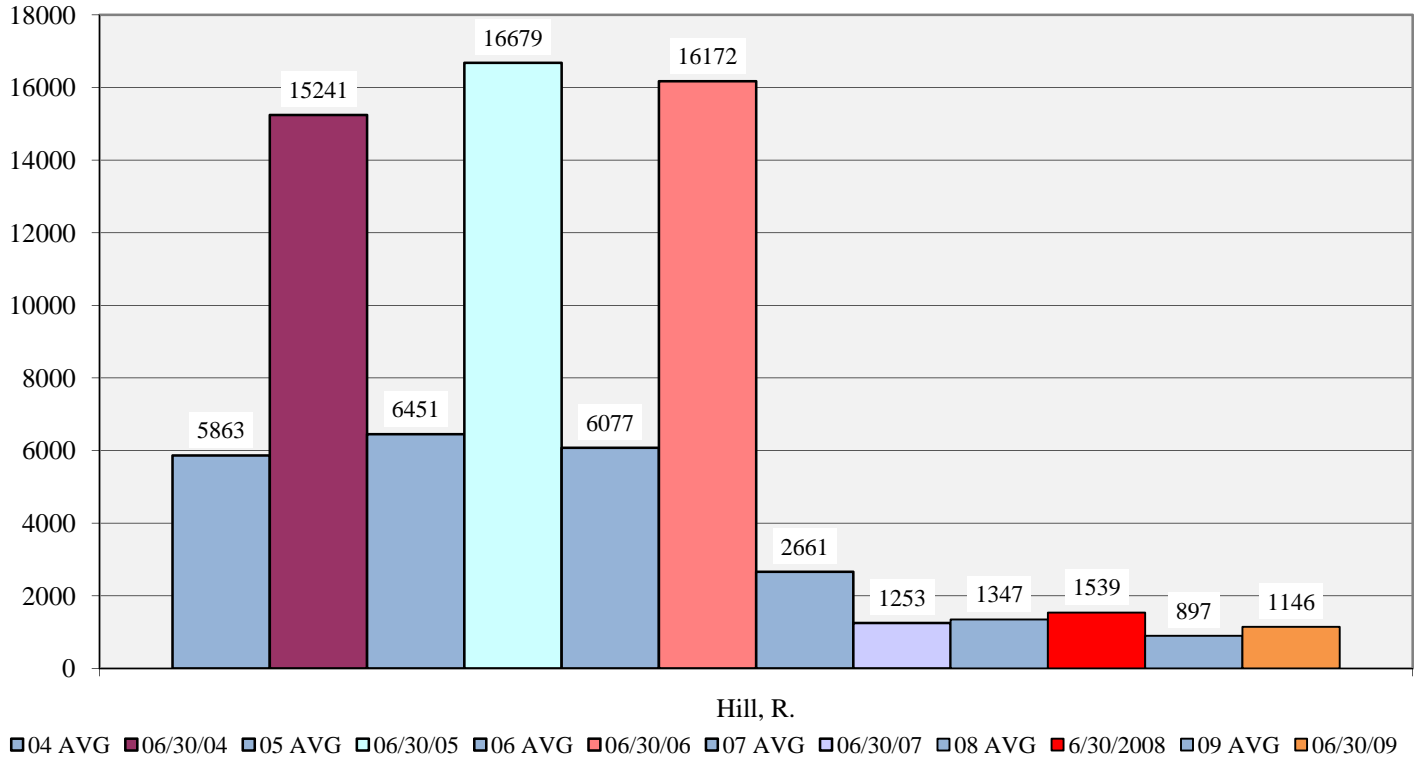
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



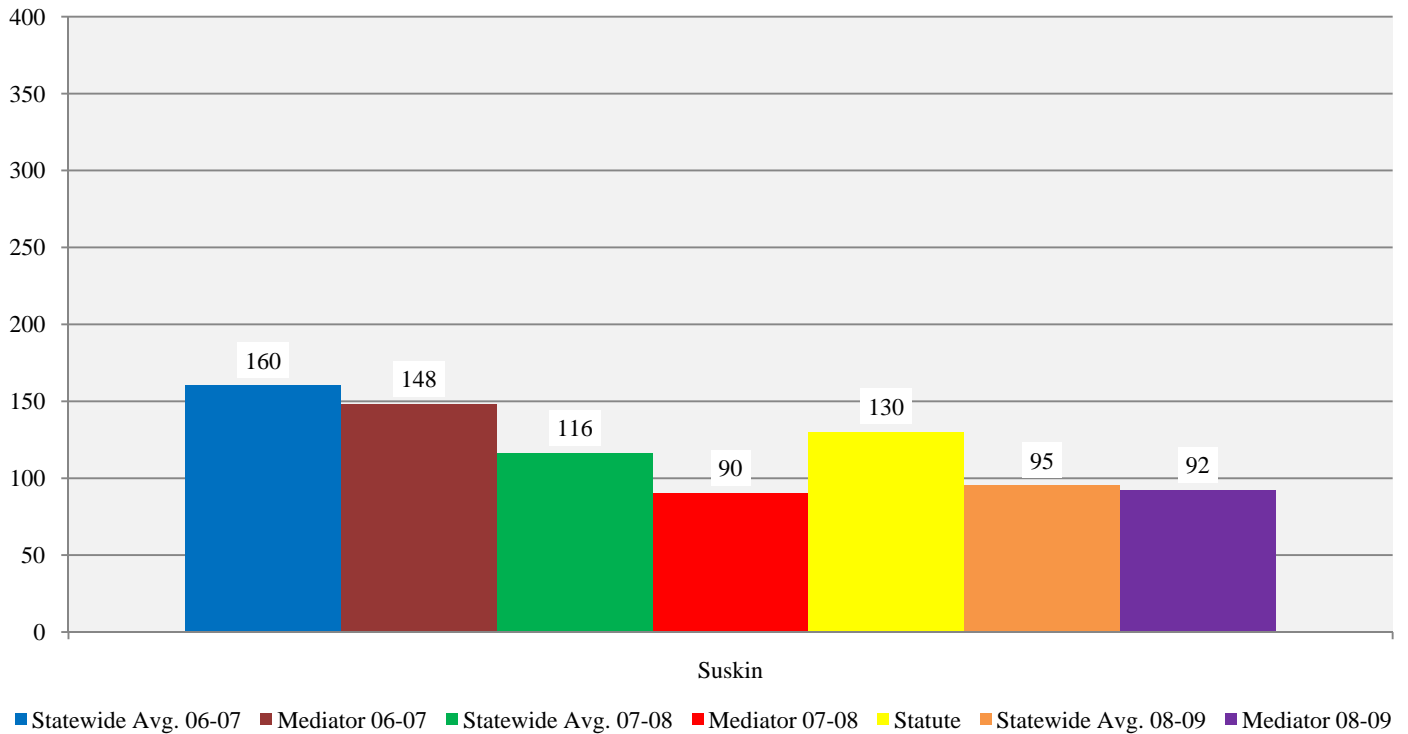
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



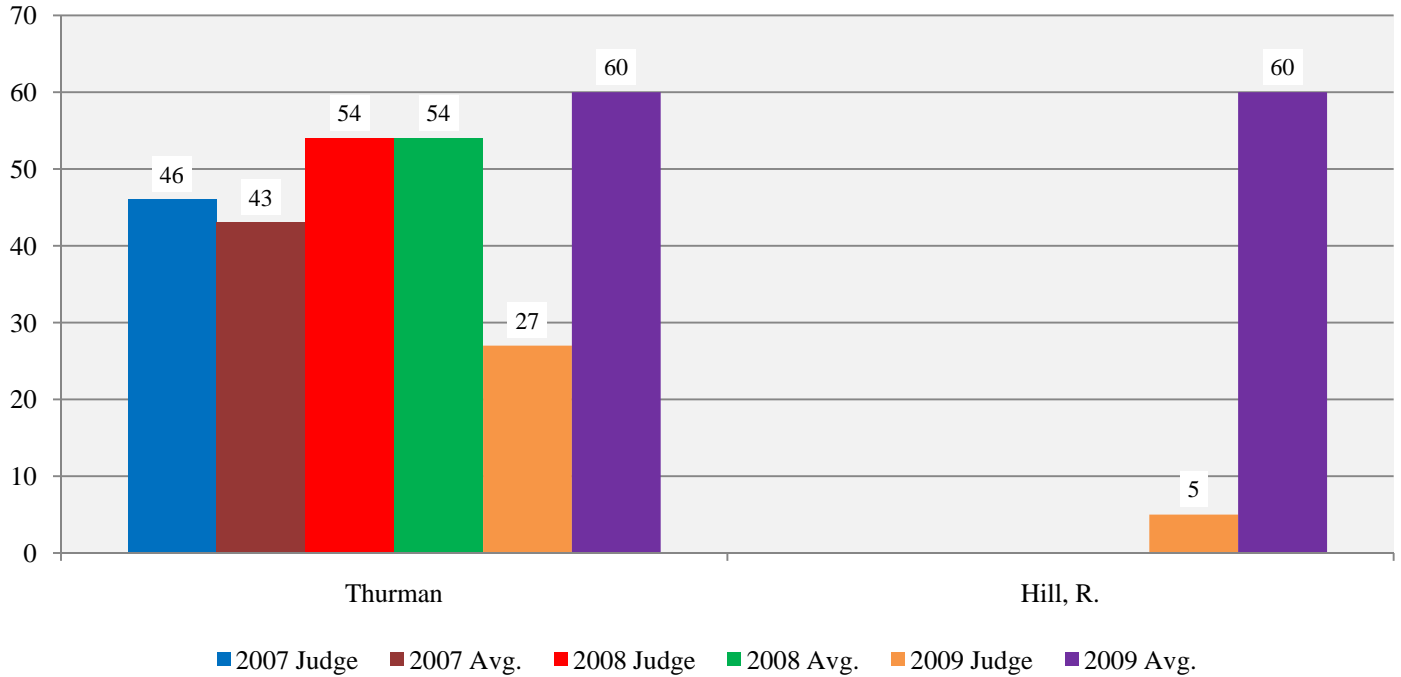
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



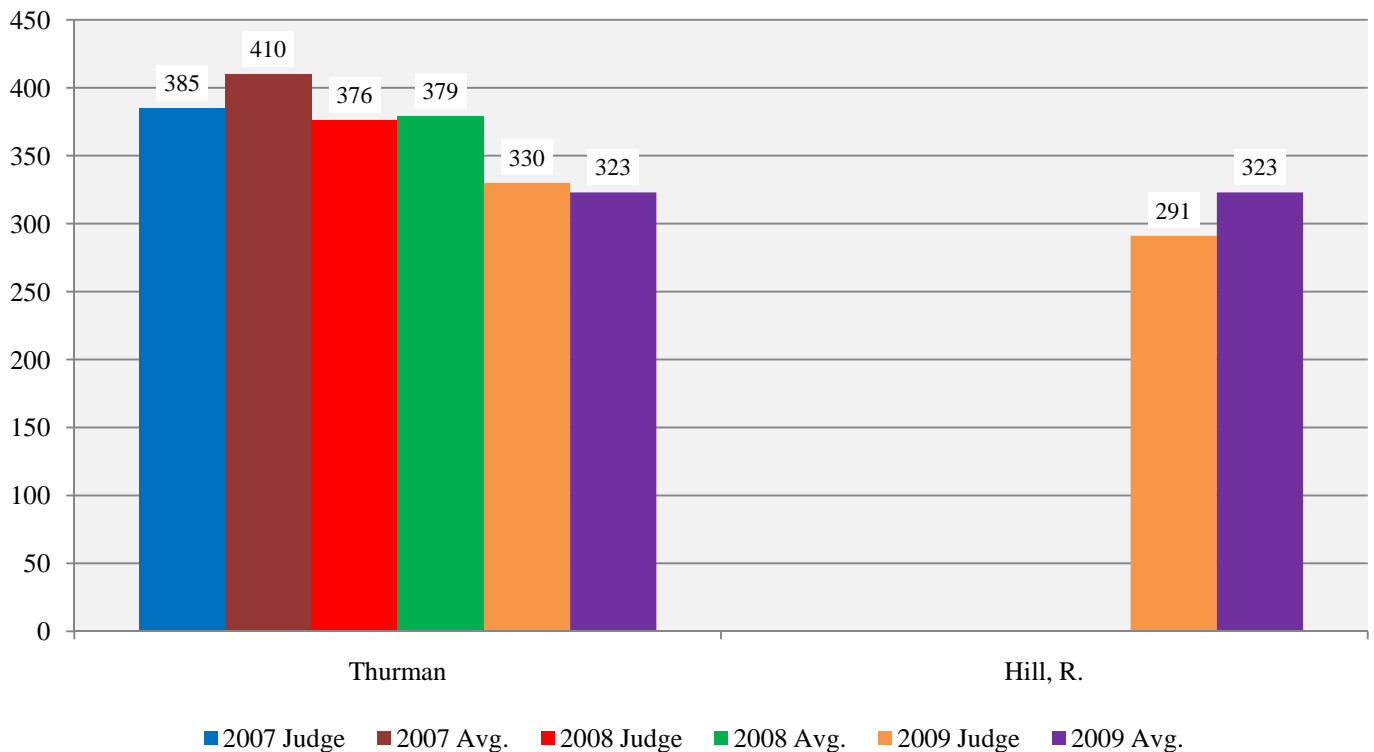
The following graph depicts the average days between PFB filing and the first mediation held thereon for each mediator in the district (brown = 07)(red = 08)(orange = 09) and the statewide average (blue = 07)(green = 08)(purple = 09).



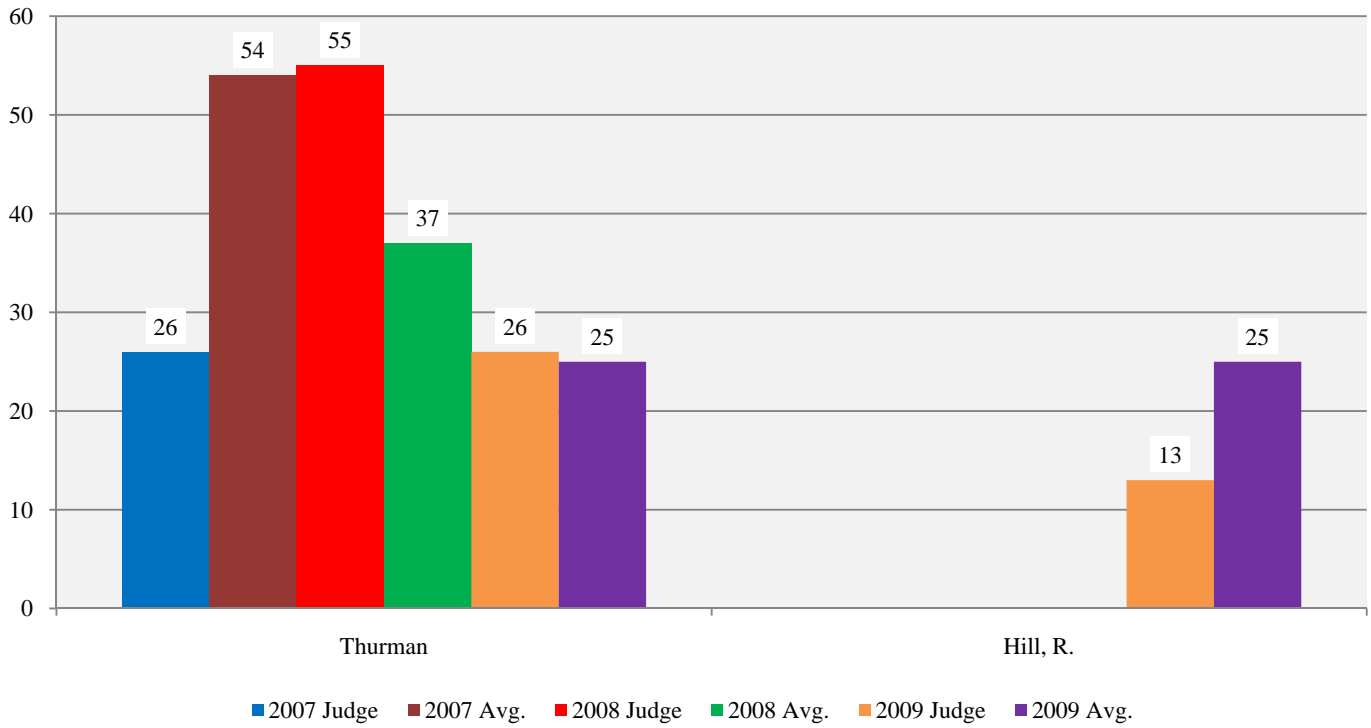
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



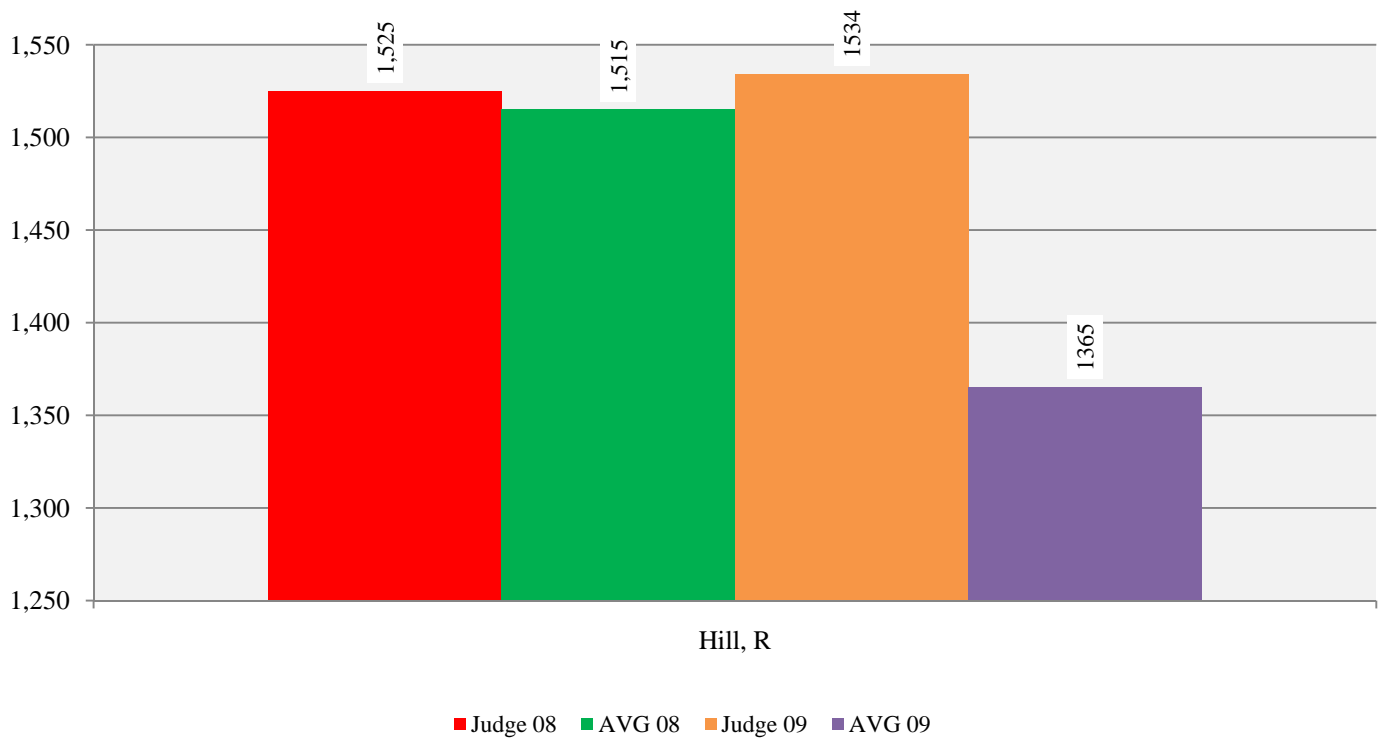
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



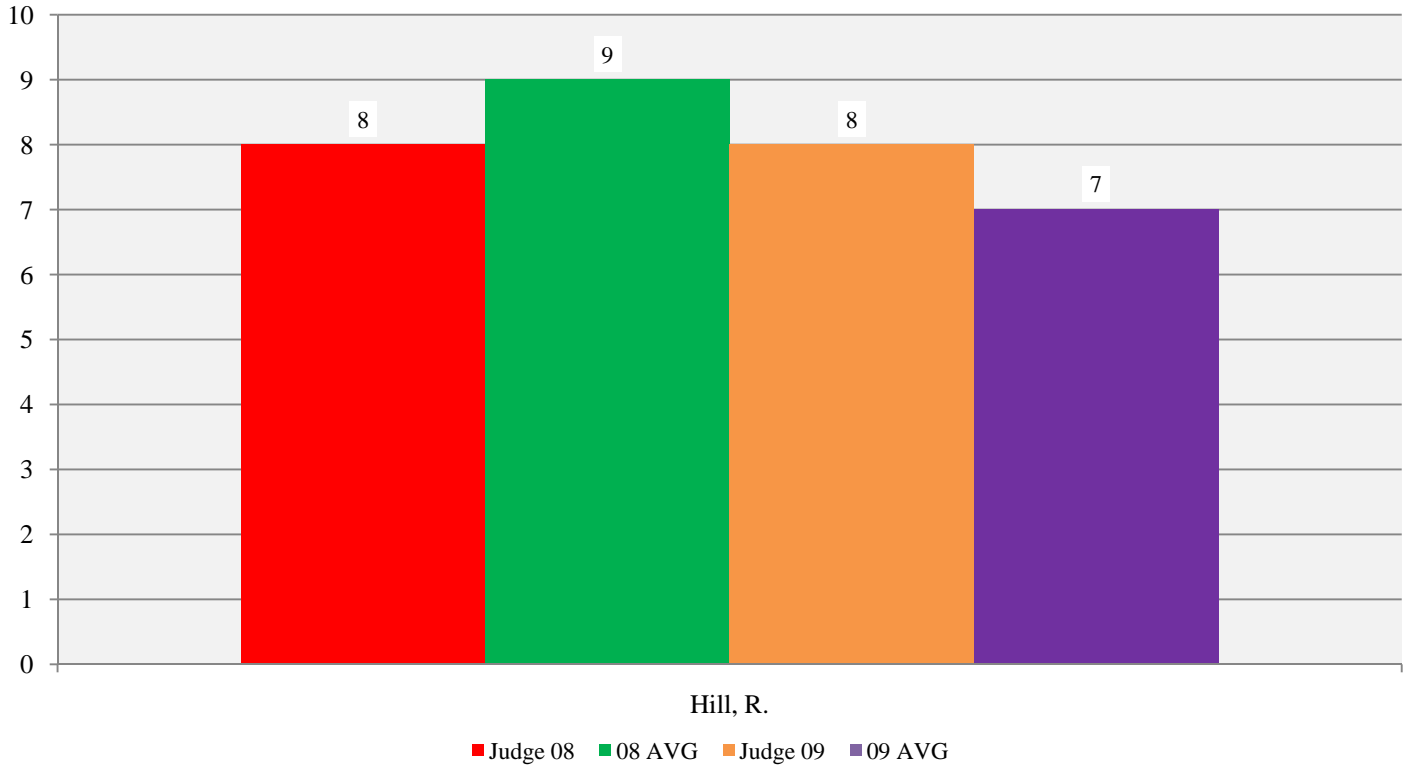
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



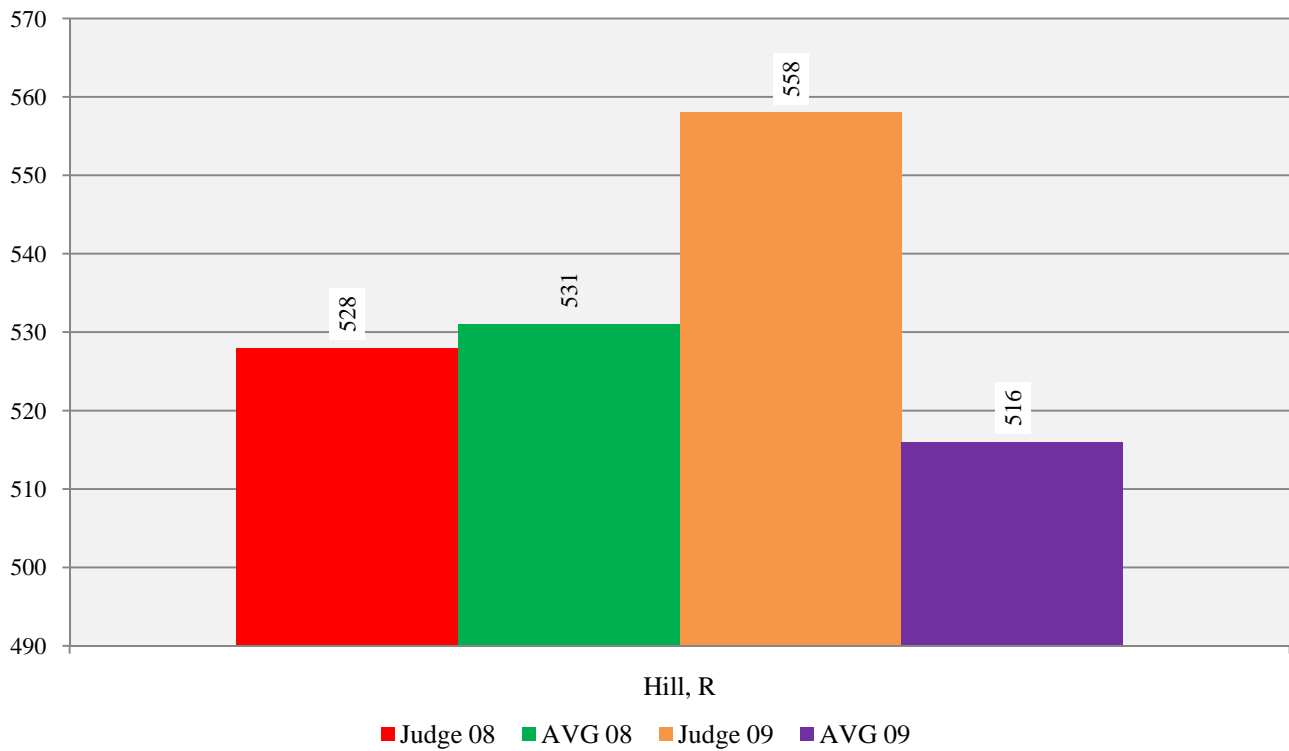
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



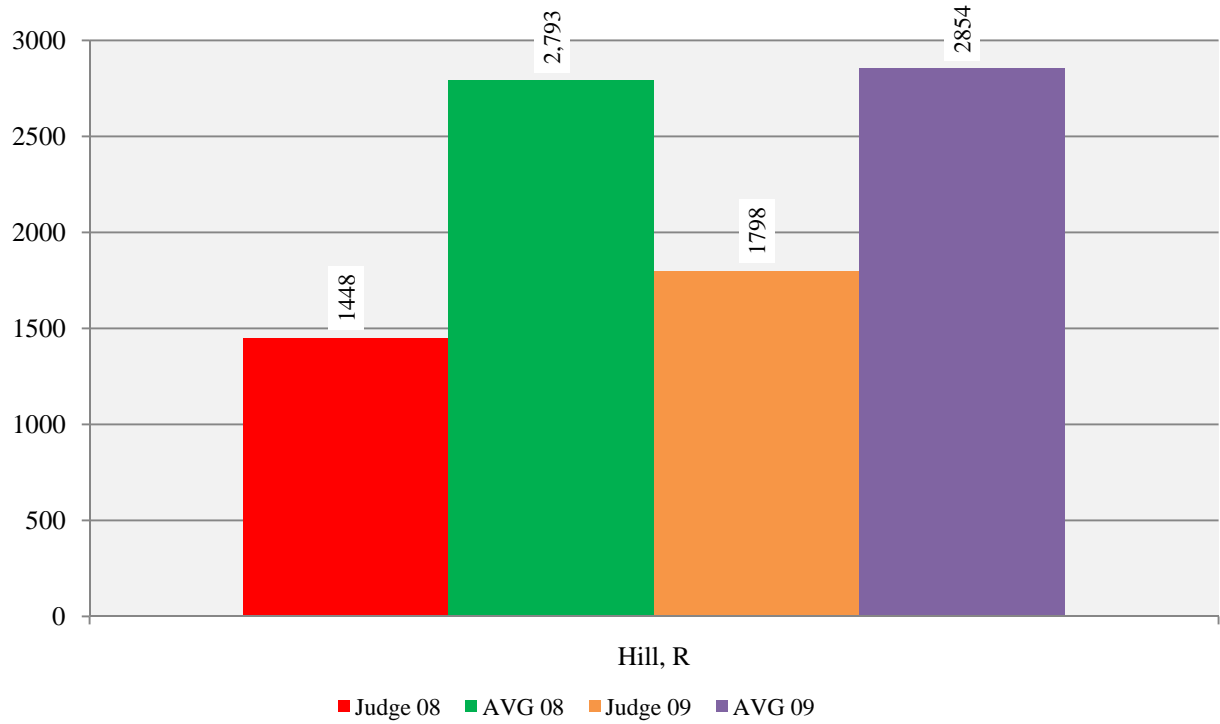
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



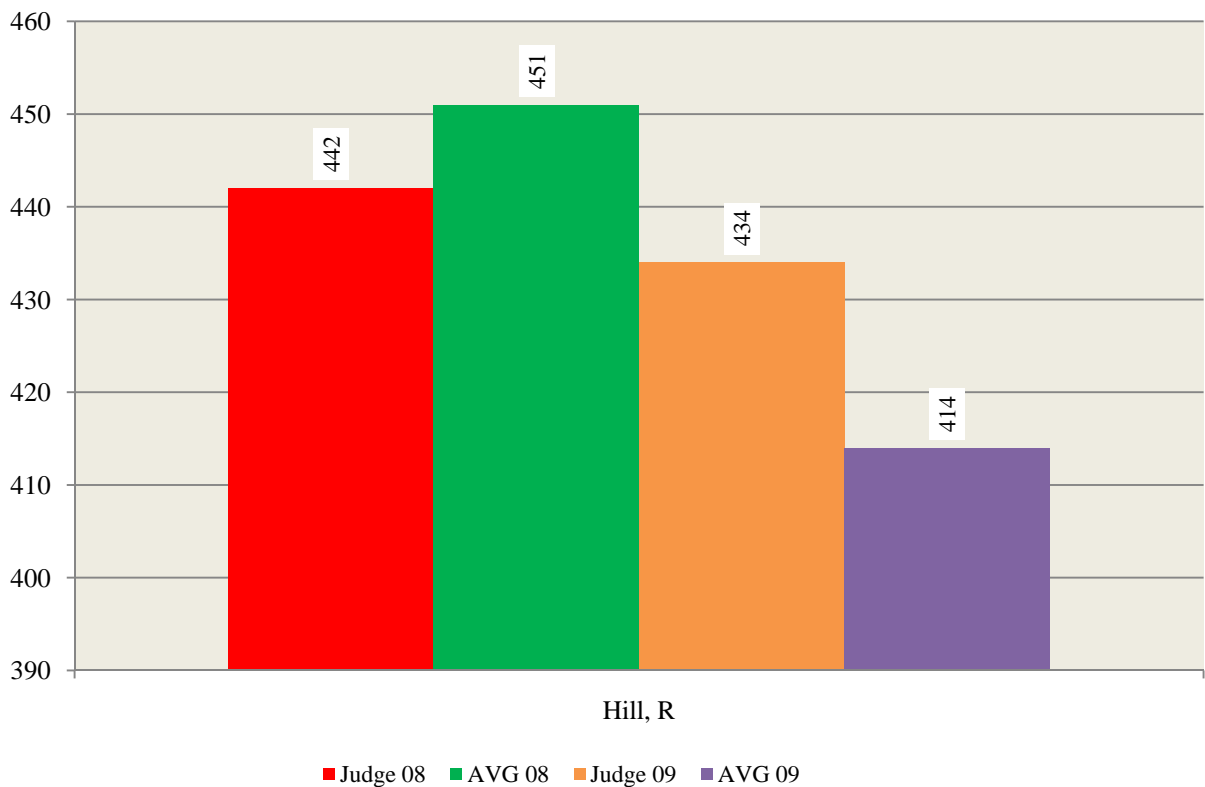
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



Appendix “5” District JAX (JCC Harris and JCC Rosen):

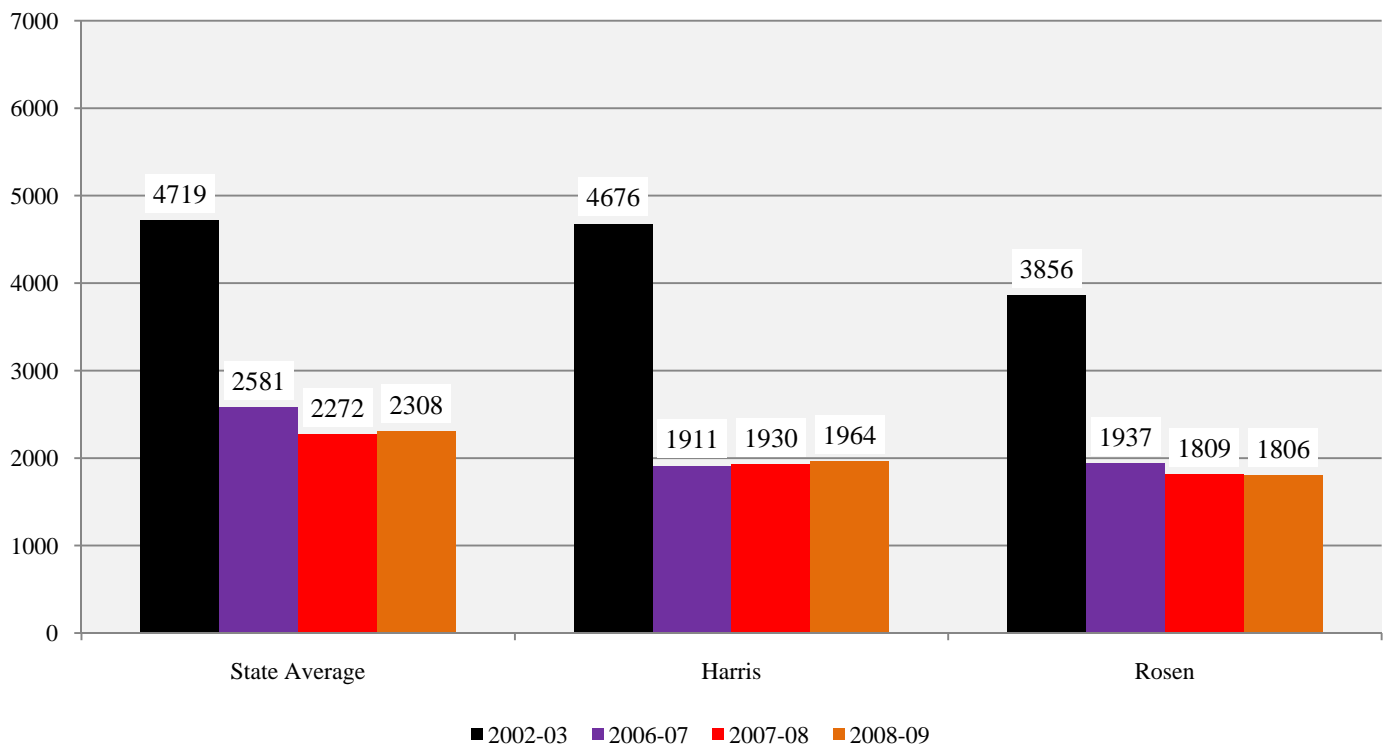
District JAX includes the following counties: Baker, Bradford, Clay, Duval, Nassau, Putnam, St. Johns, and Union.

The volume of PFB filed in JAX is below the statewide average. Conversely, the volume of “new cases” in JAX has remained above the statewide average in recent years. JAX closed a significant volume of PFB in 2006-07, which addressed much of the existing inventory backlog. The volume of PFB closures in 2007-08 and 2008-09, compared to the JAX PFB filings those years, demonstrates continued effort at addressing older PFB in the inventory.

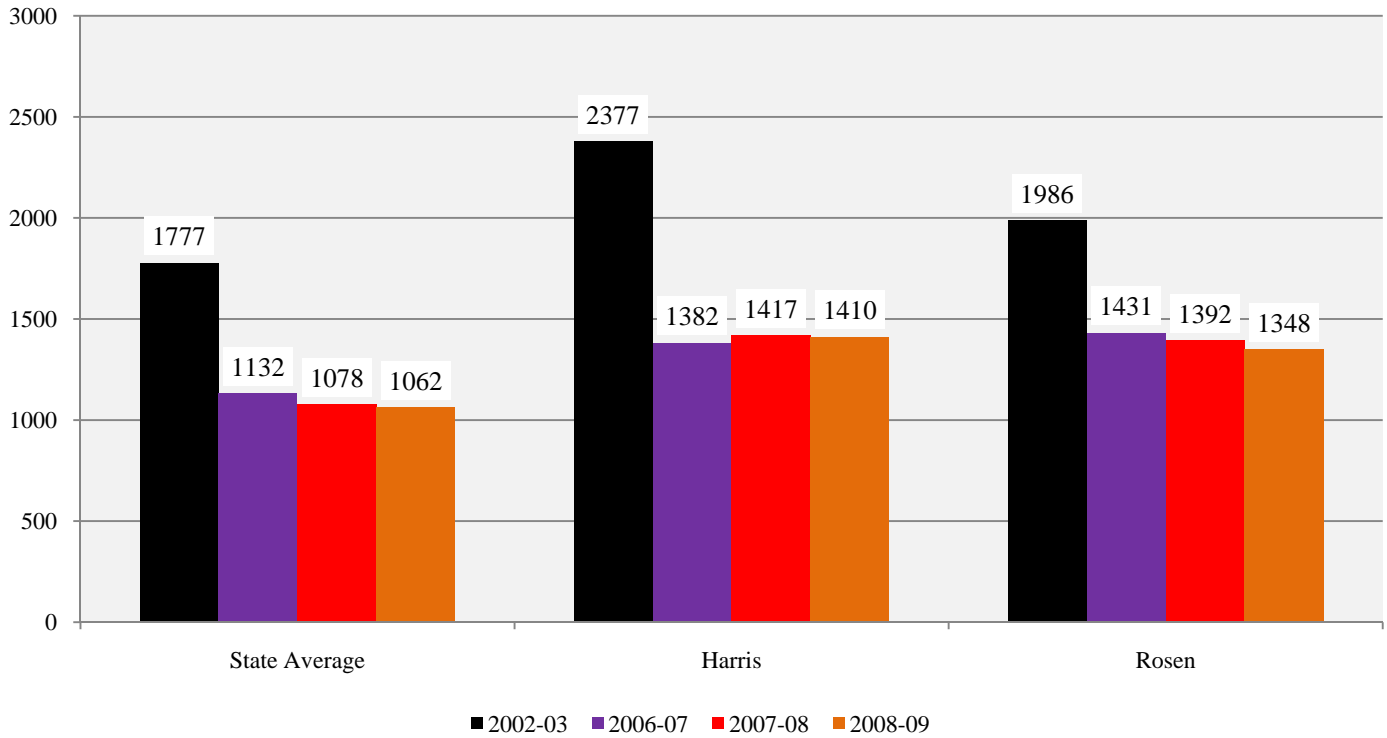
2008-09 brought change to JAX with the appointment of Judge Steven Rosen to replace Judge William Dane, who was not reappointed by the Governor. Judge Rosen’s appointment in December 2008 brought a wealth of trial experience to JAX. Although he was appointed at the mid-point of fiscal 2008-09 he conducted a significant volume of trials in his initial six months, in excess of the volume conducted by the other JAX Judges. Judge Rosen’s appointment was followed by his designation as “administrative judge” for the JAX office. His leadership and management in the six months following his appointment have worked significant improvement throughout the JAX District office. He concluded the fiscal year with significant success in refocusing the JAX office on the delivery of efficient customer service to Floridians. Significant additional change in JAX is anticipated in 2010 following Judge Harris’ announcement of her retirement.

The JAX District has generally conducted fewer trials per Judge than the statewide average. However, the volume of trials conducted by Judge Rosen in the first six months of his tenure (39) is greater than the volume that prior year statistics would have indicated probable. Despite the relative low volume of trials, the average time from trial to order entry in the other JAX division was the highest in the state in 2008-09. Despite a significant increase in the volume of settlement orders (Motion for Approval of Attorney’s Fees and Child Support Allocation) in Judge Harris’ division last year, the average time for entry of a corresponding order decreased markedly, but remained in excess of the statewide average.

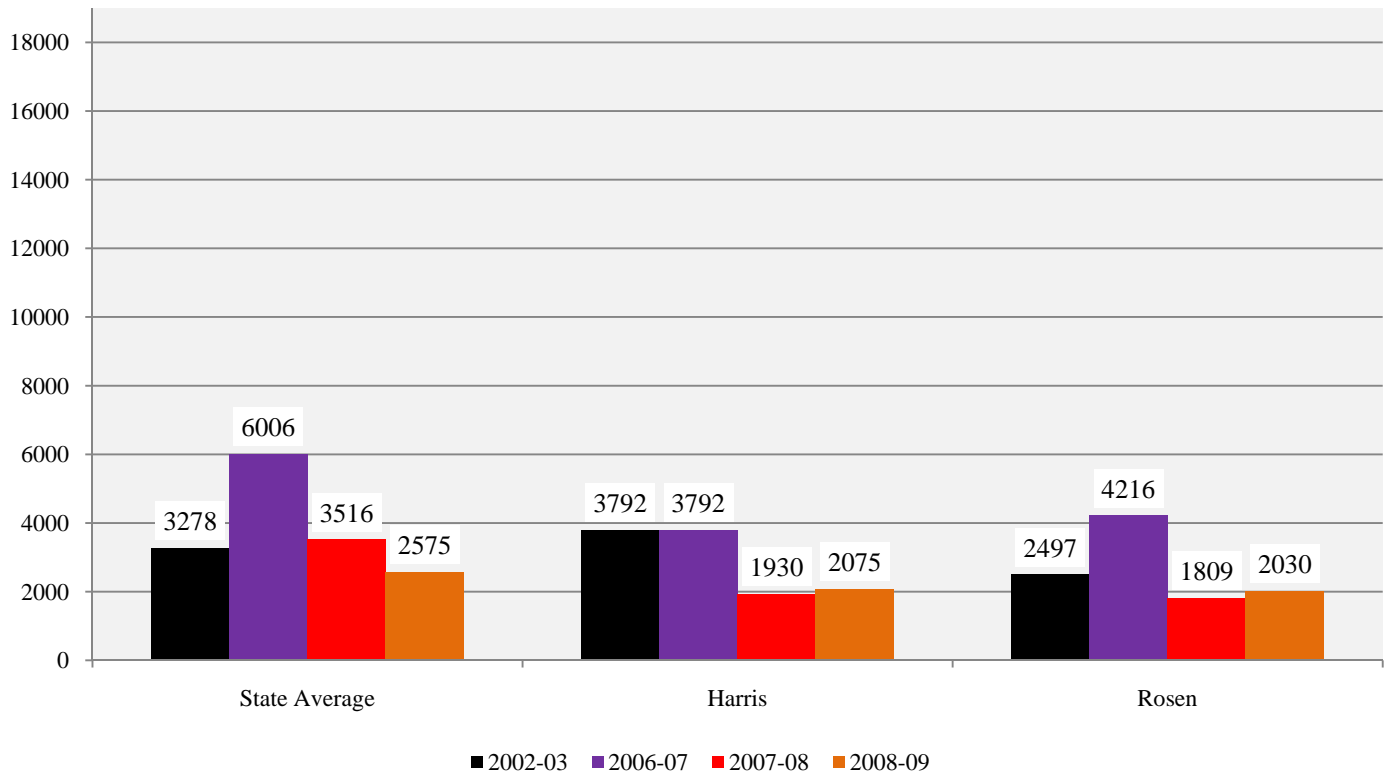
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



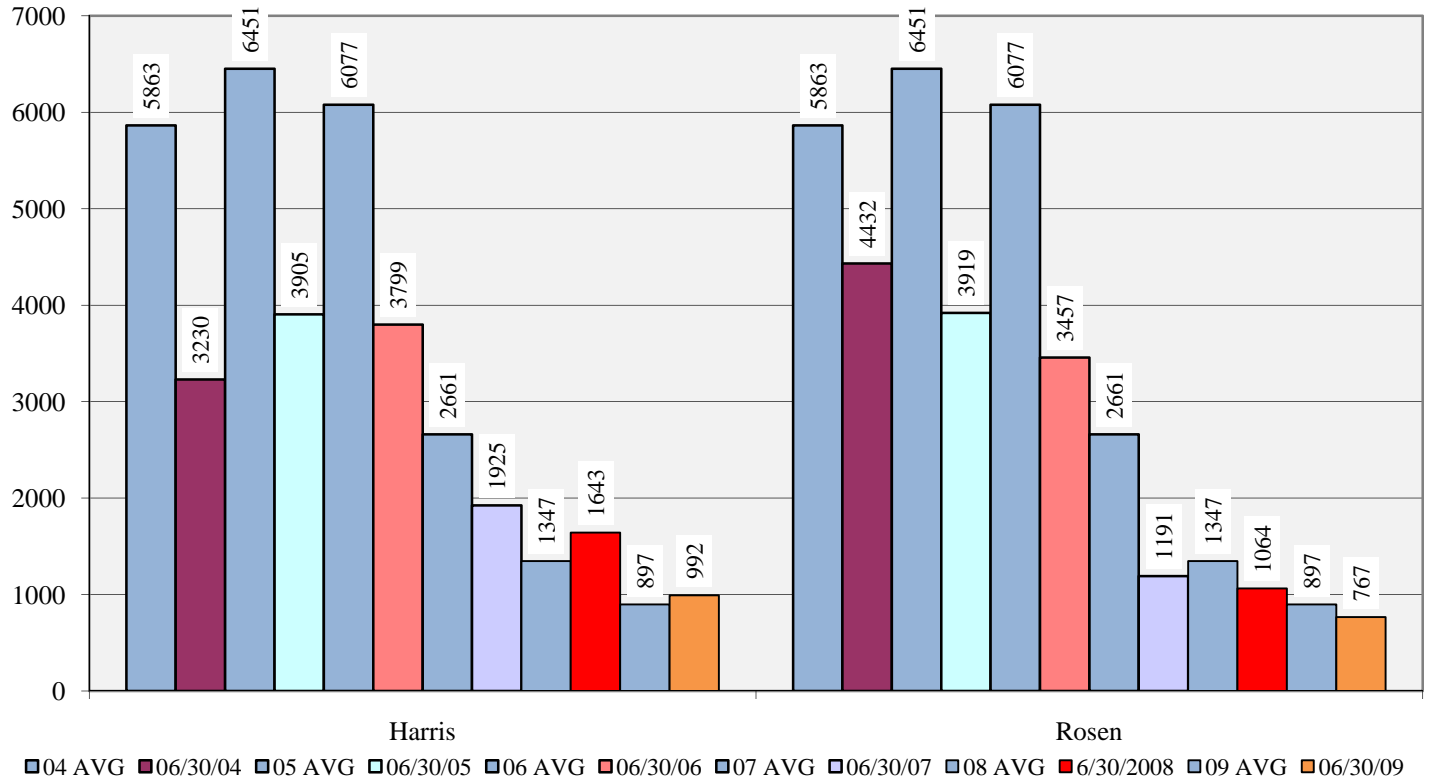
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



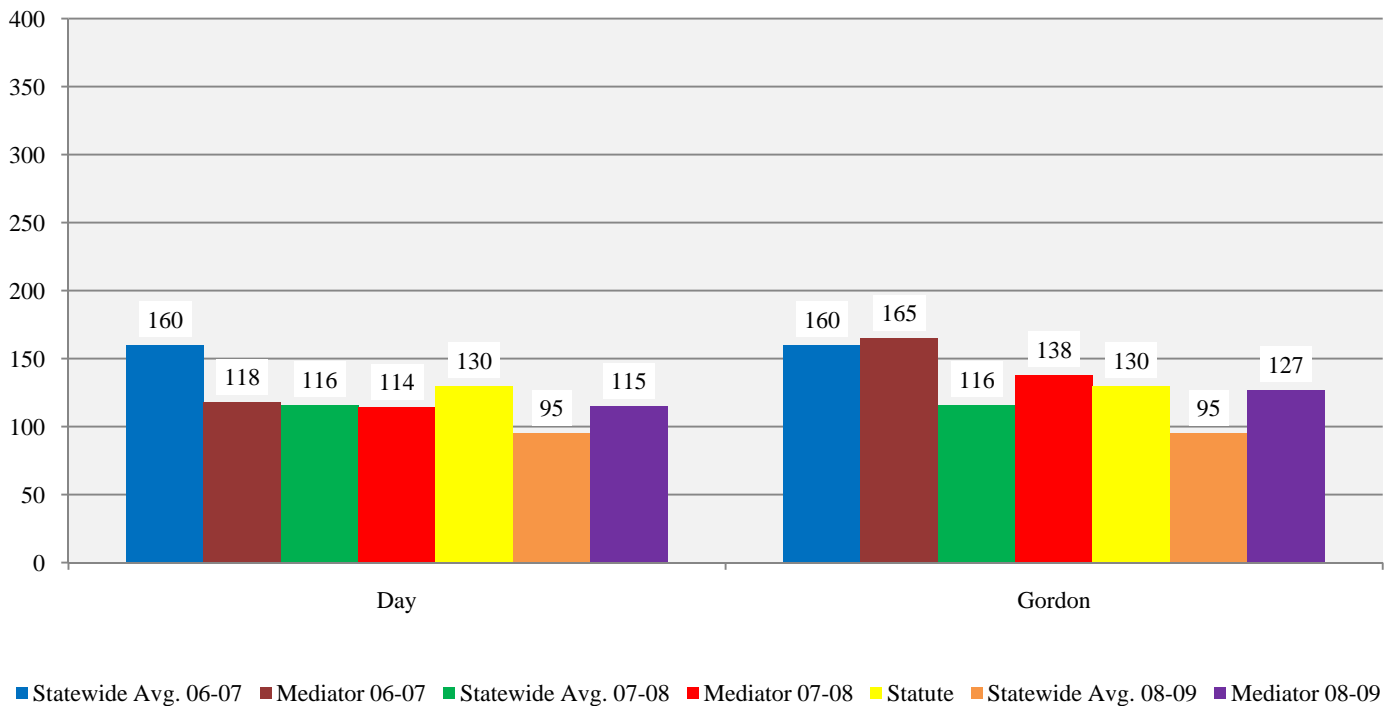
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



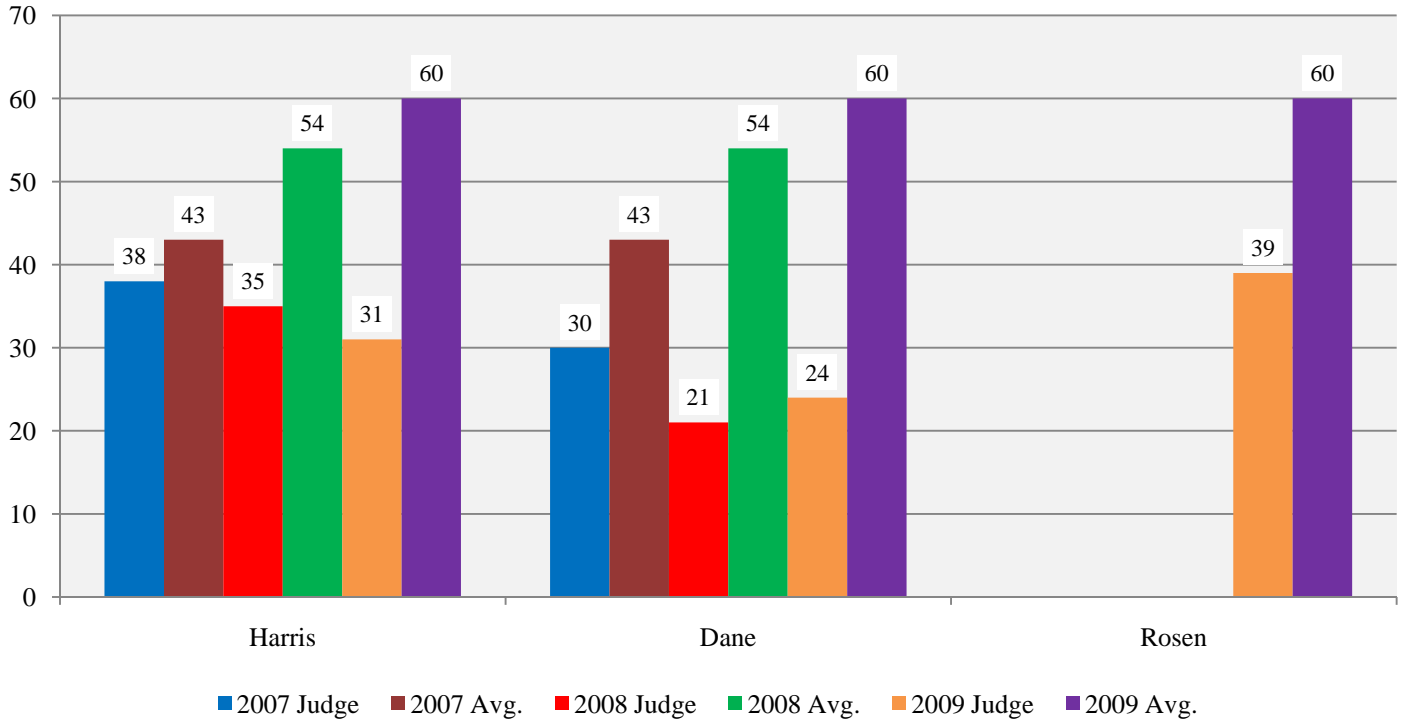
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



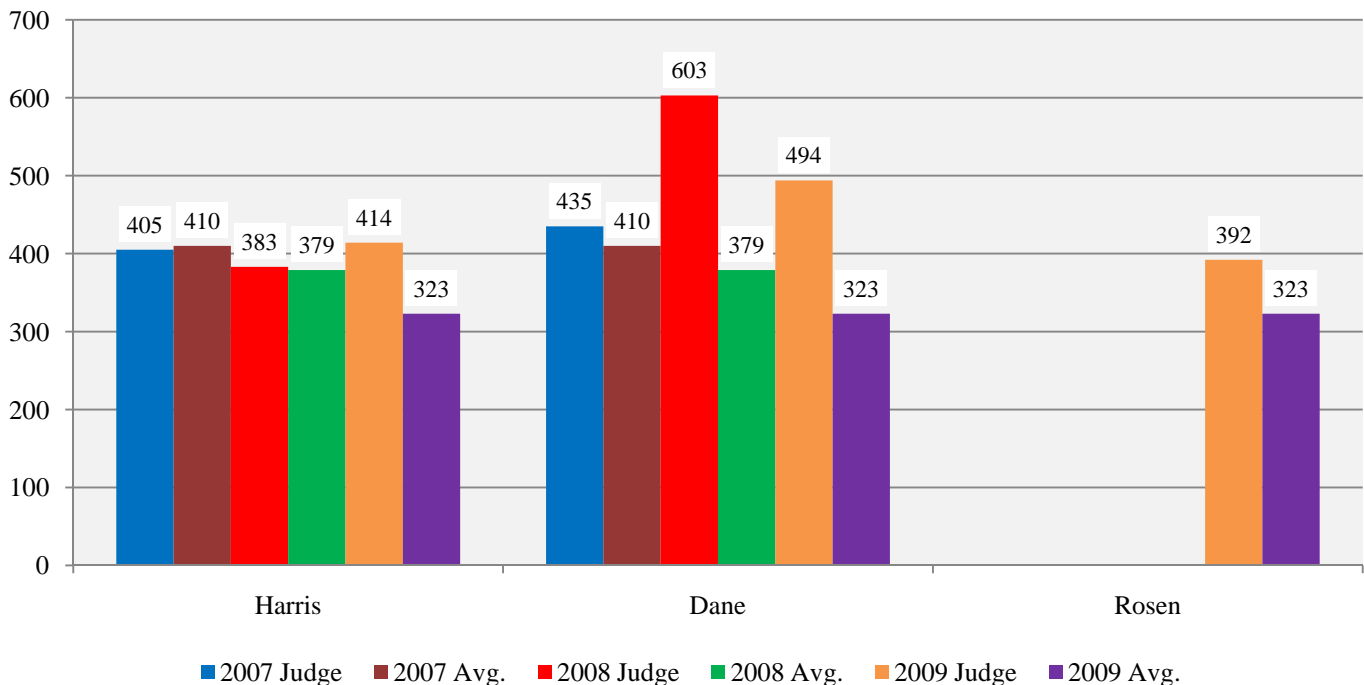
The following graph depicts the average number of days between PFB filing and the first mediation held thereon for each mediator in the district (purple (07) and red (08)) and the statewide average is represented (blue (07) and green (08)).



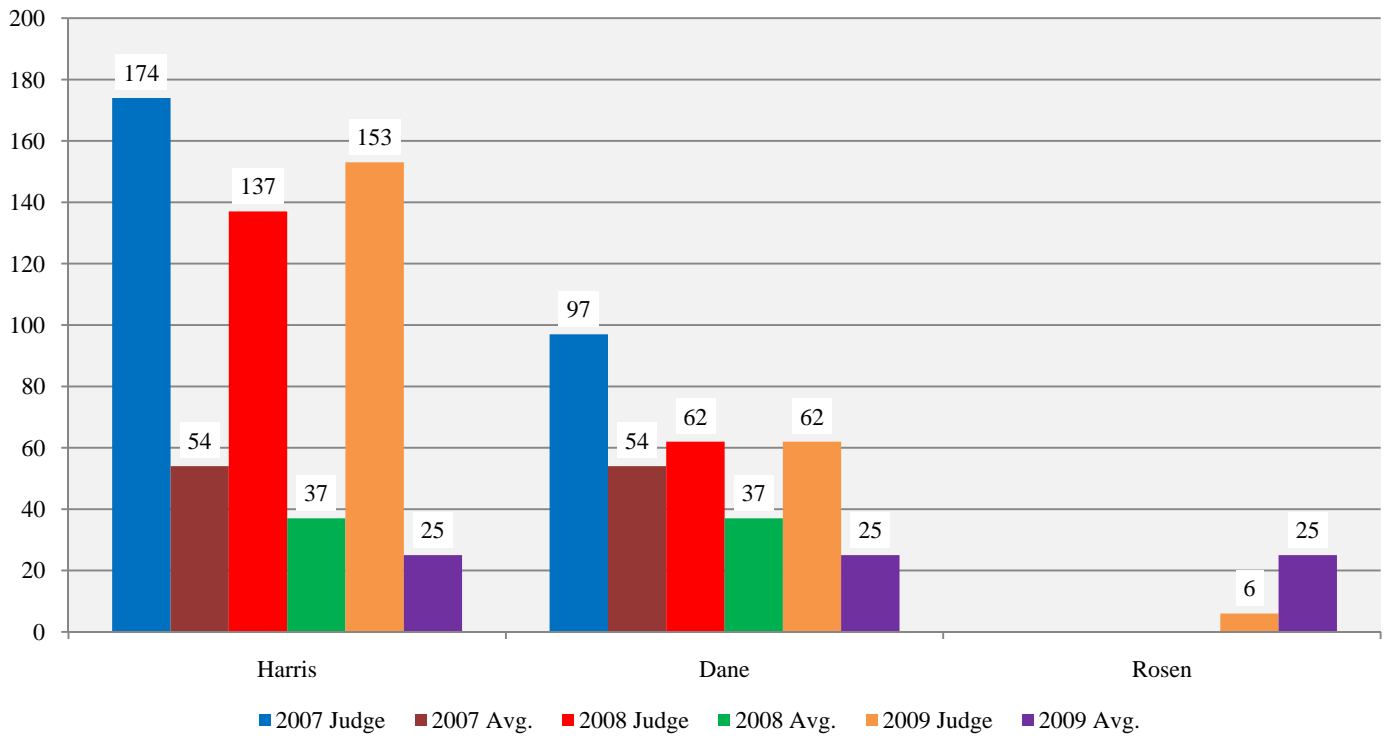
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



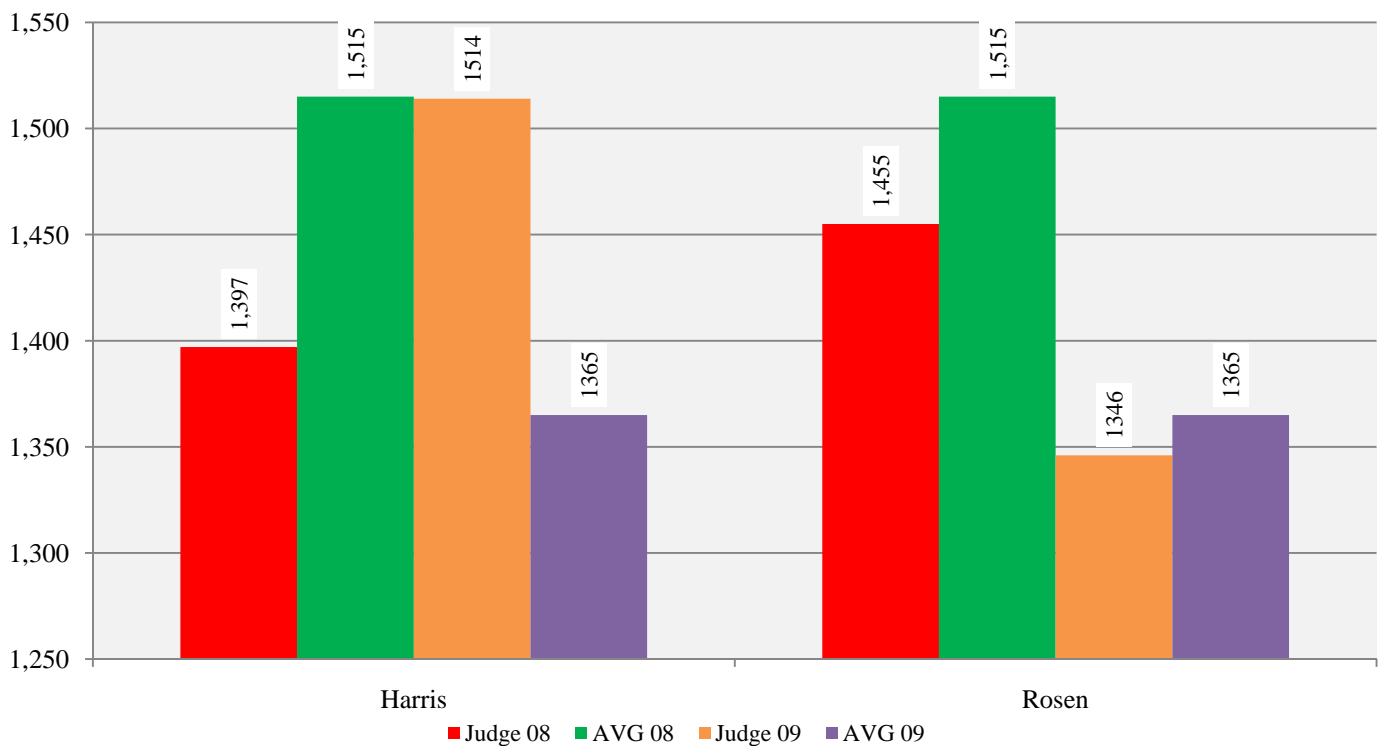
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



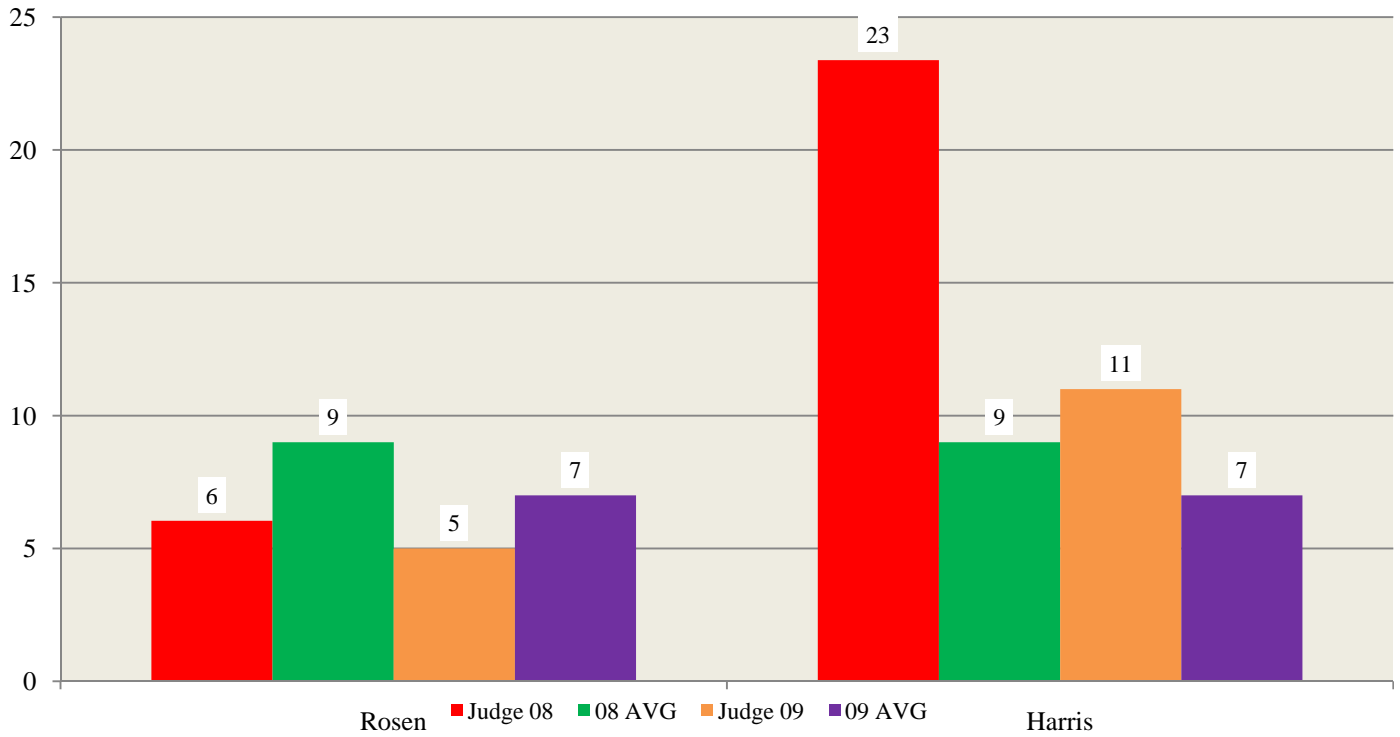
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



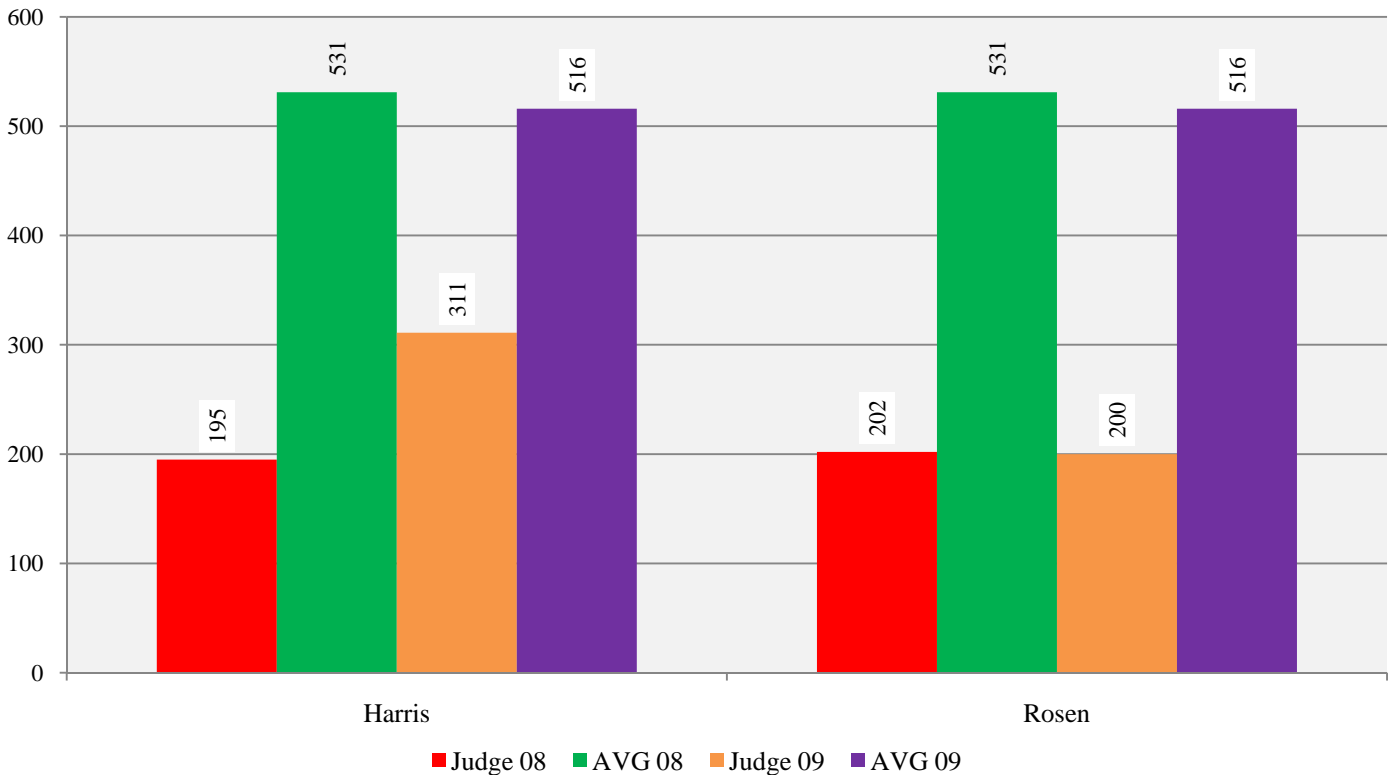
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



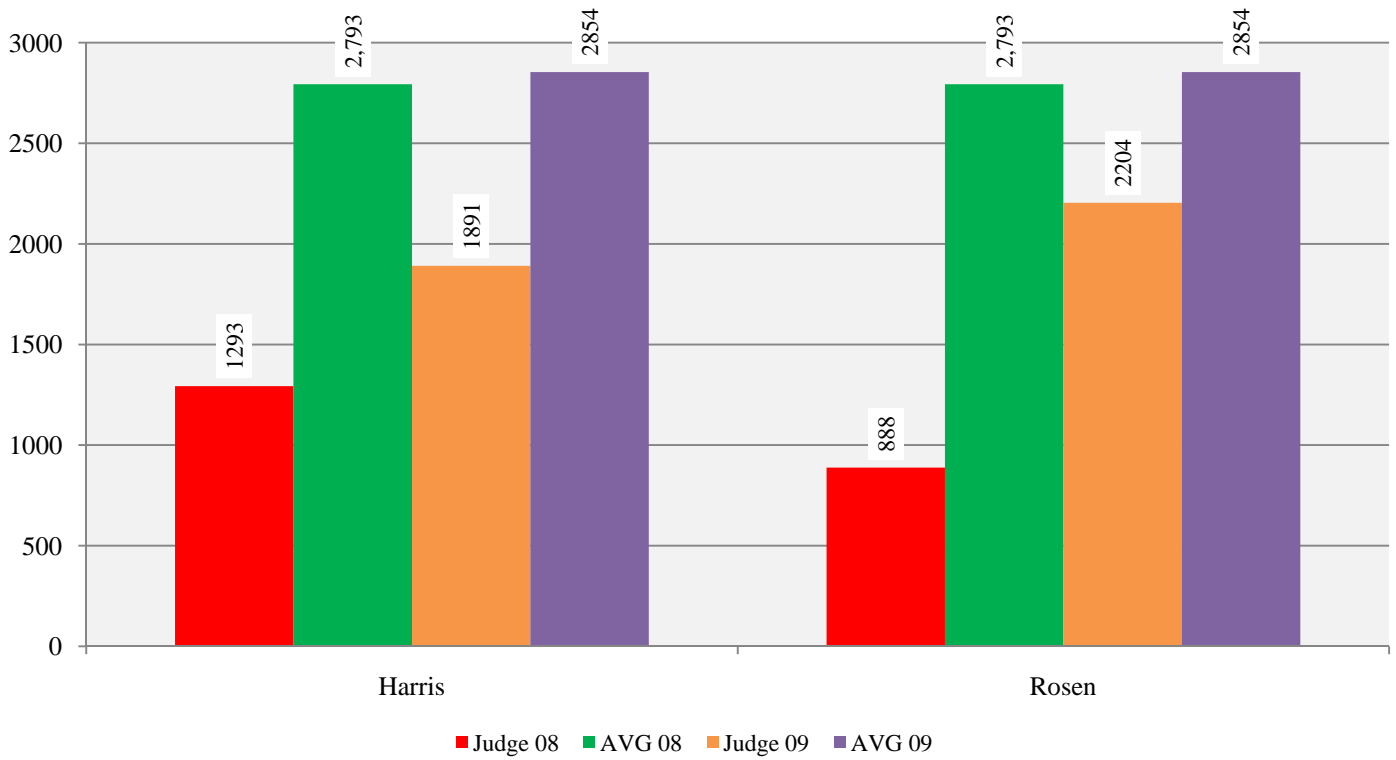
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple)



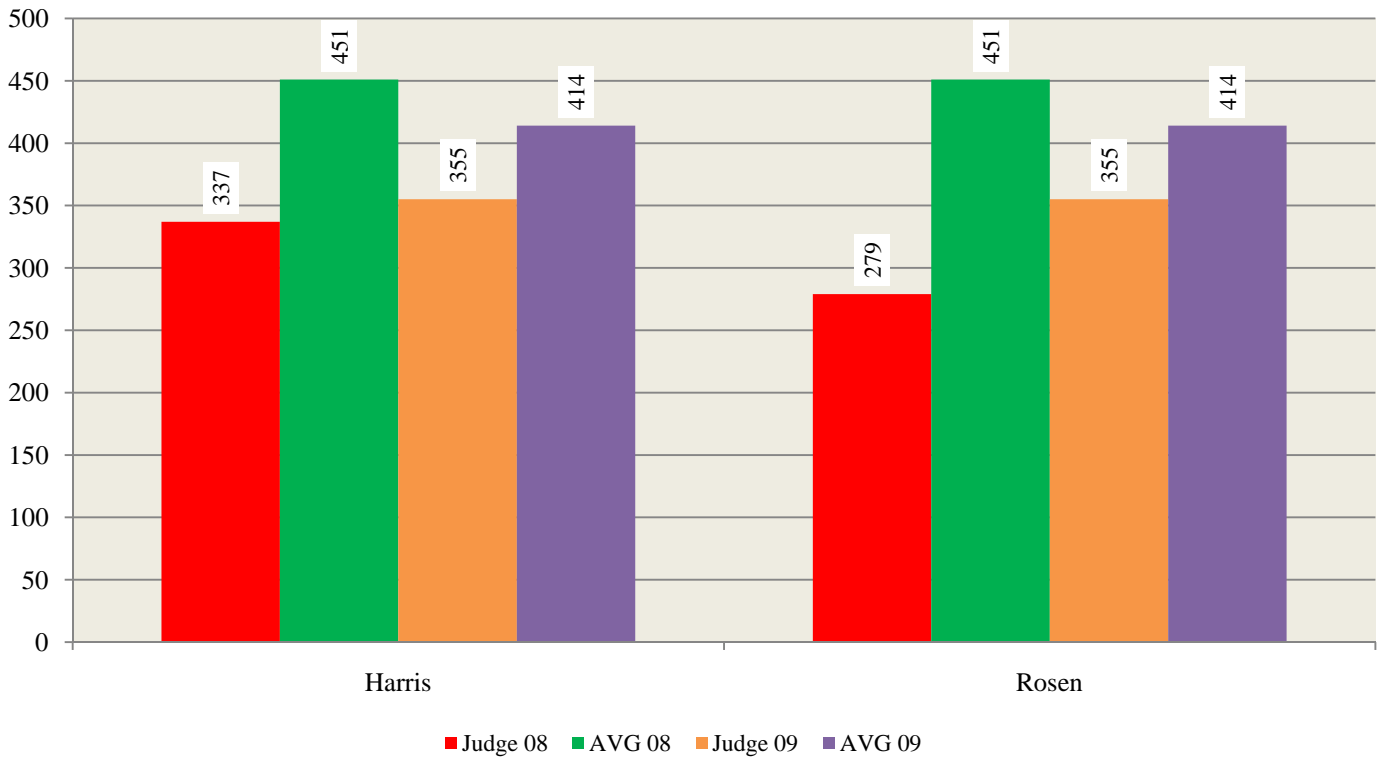
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



Appendix “6” District LKL (JCC Hofstad):

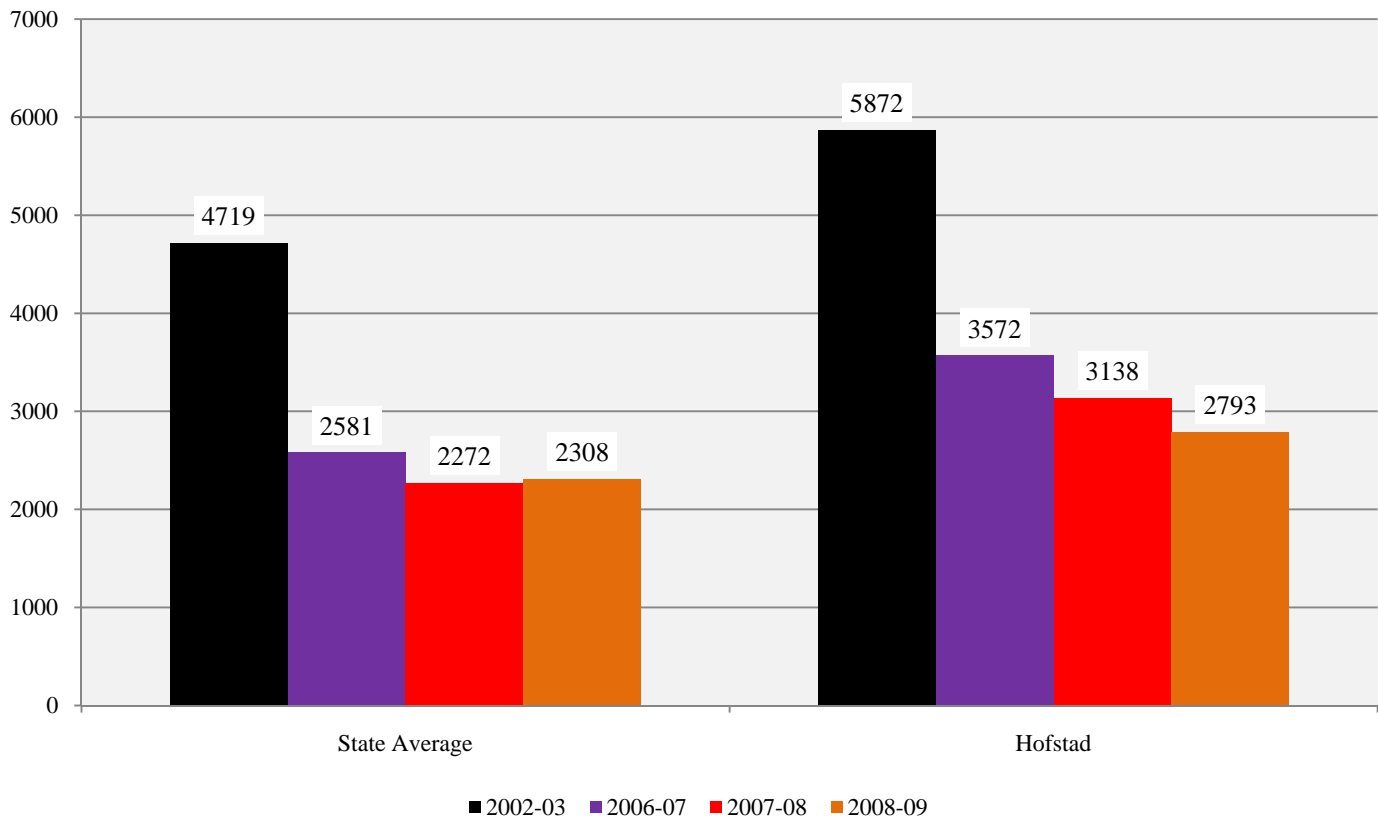
District LKL includes Hardee, Highlands, and Polk counties.

The PFB and “new case” filing volumes in LKL were higher than the statewide average again in 2008-09, although both volumes are slowly decreasing over recent years. Judge Hofstad closed a significant volume of PFB in 2008-09, more than the statewide average. The closure over the last three fiscal years demonstrates significant effort at identifying and addressing pending PFB inventory. District LKL ended fiscal 2008-09 with the lowest PFB inventory on record.

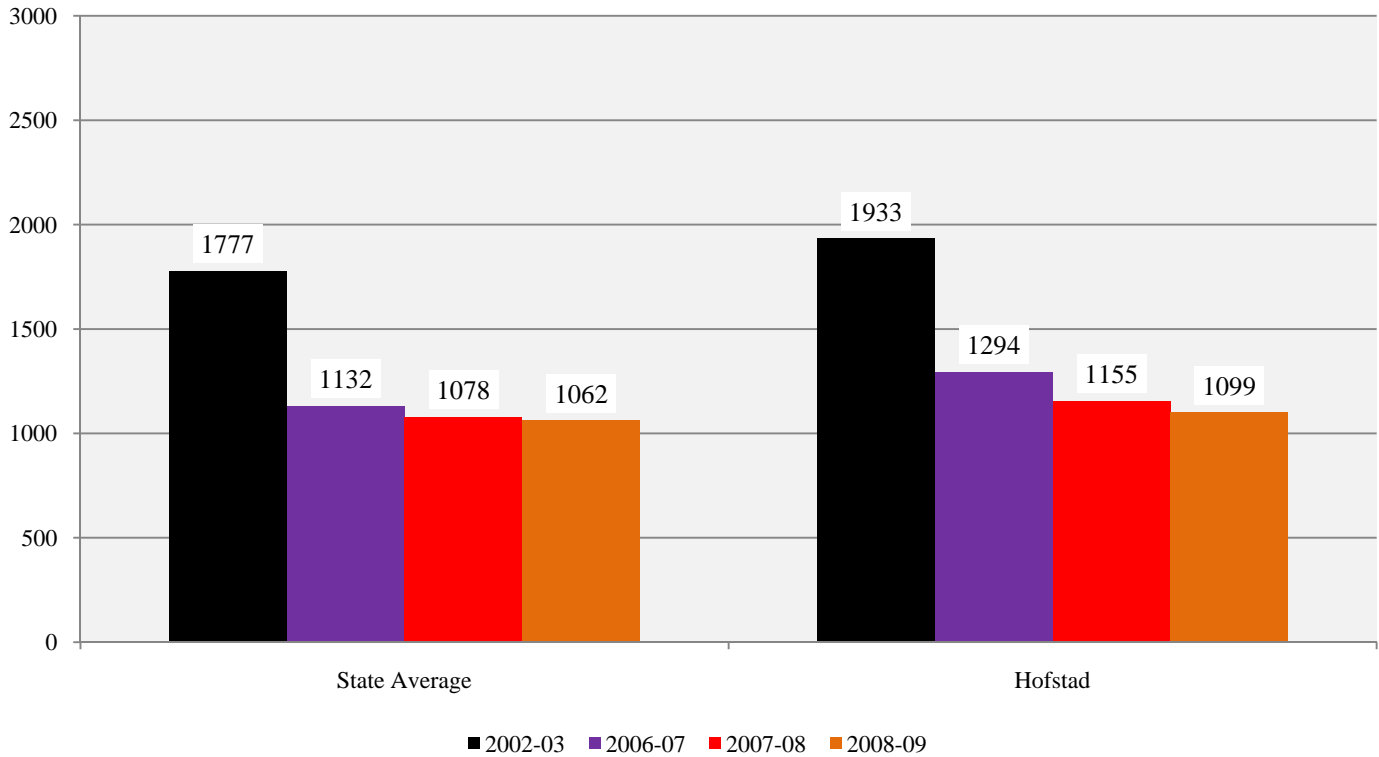
District LKL has the highest trial volume (108) in Florida, despite other divisions in Florida having similar PFB filing volumes. It remains unclear why trial volumes remain elevated in District LKL. Despite this, cases proceed to trial in District LKL in less than the statewide average, although entry of final orders averaged 47 days, well in excess of the statewide average. The data herein supports that a significantly above average volume of stipulation orders are entered in District LKL, and a significantly higher than average volume of “other hearings” are held. Each of these are workloads that directly impact the Judge’s time and the volume of these efforts in this District may well result in less judicial time available to address trial orders and settlement orders.

The efforts of Judge Hofstad in Lakeland were again supplemented in 2008-09 by Judges Murphy (TPA), Jenkins (TPA), Remsnyder (SPT), Hafner (SPT), Beck (SAR), Roesch (PMC) and Spangler (FTM). Of particular note, Judge Lorenzen (TPA) volunteered to hear many weeks of trials in LKL. The volume of trial orders entered by these visiting judges are not included in the 108 total, which is attributable solely to Judge Hofstad’s efforts. In 2009-10, the OJCC will begin a process of re-distributing workload in several Districts, including LKL. It is anticipated that this effort will result in decreased workload for the District LKL Judge and continued improvement in timely addressing that workload.

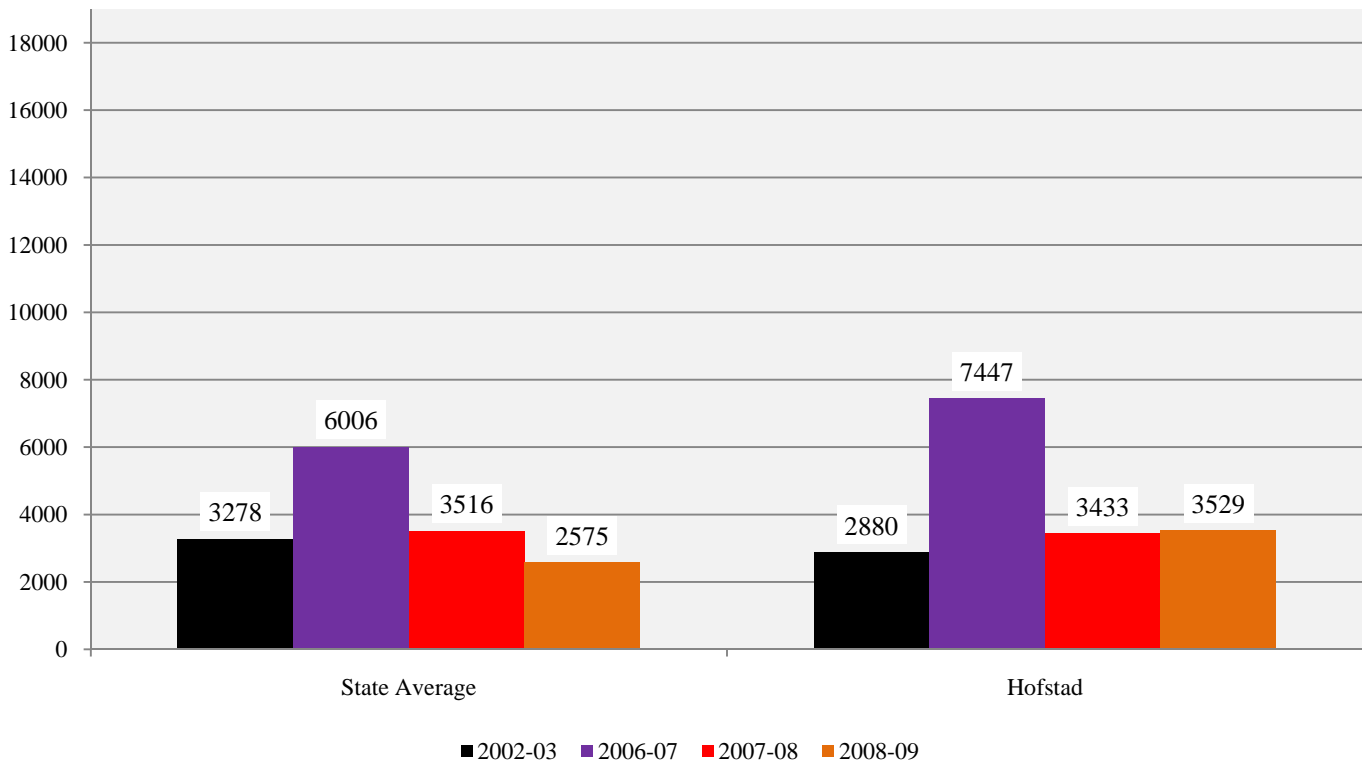
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



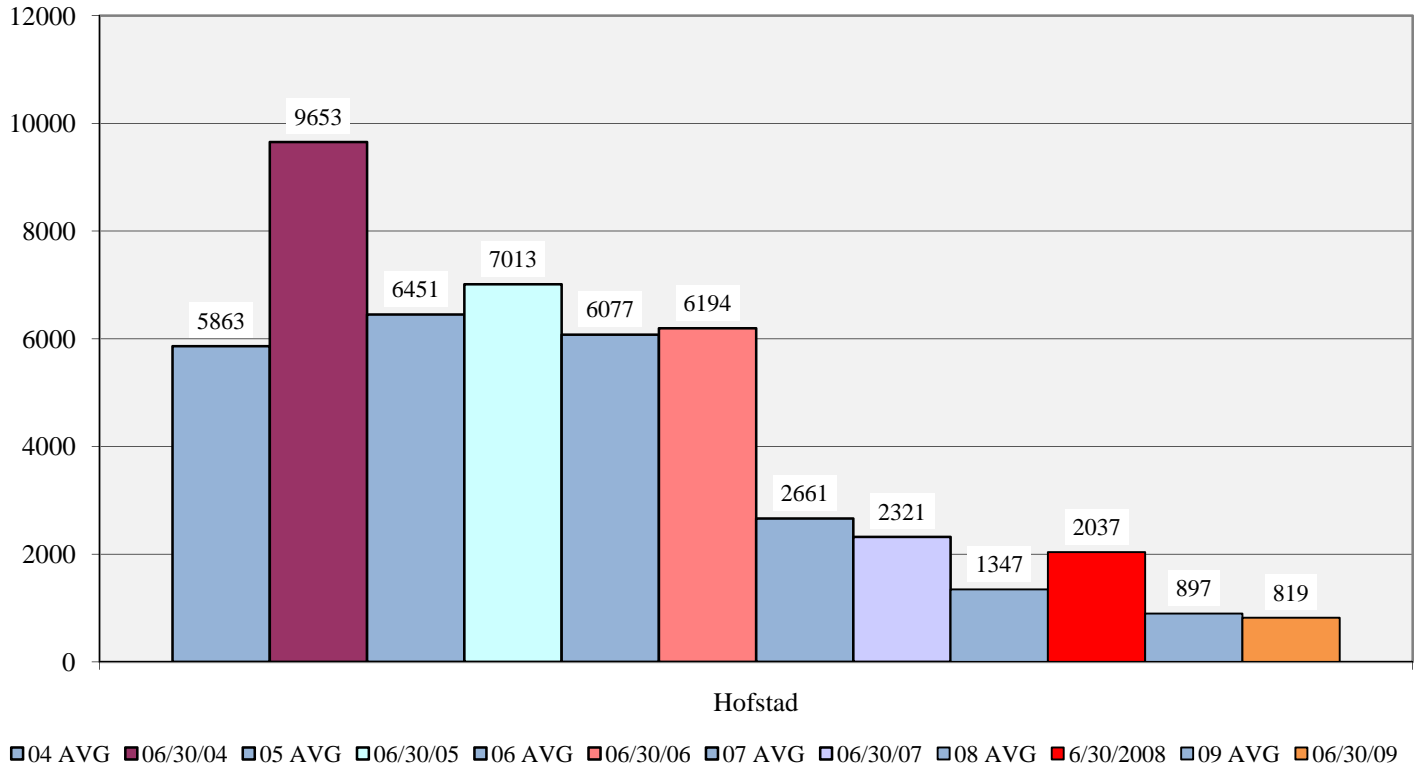
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



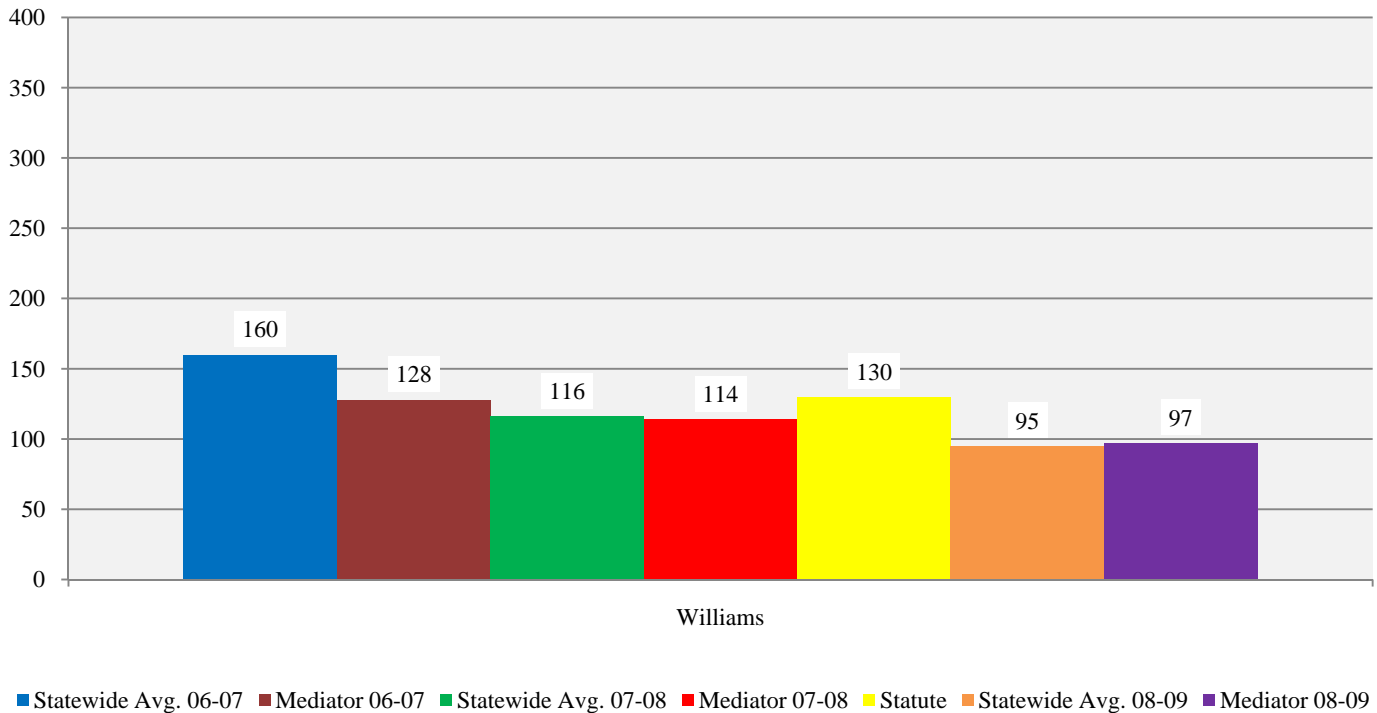
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



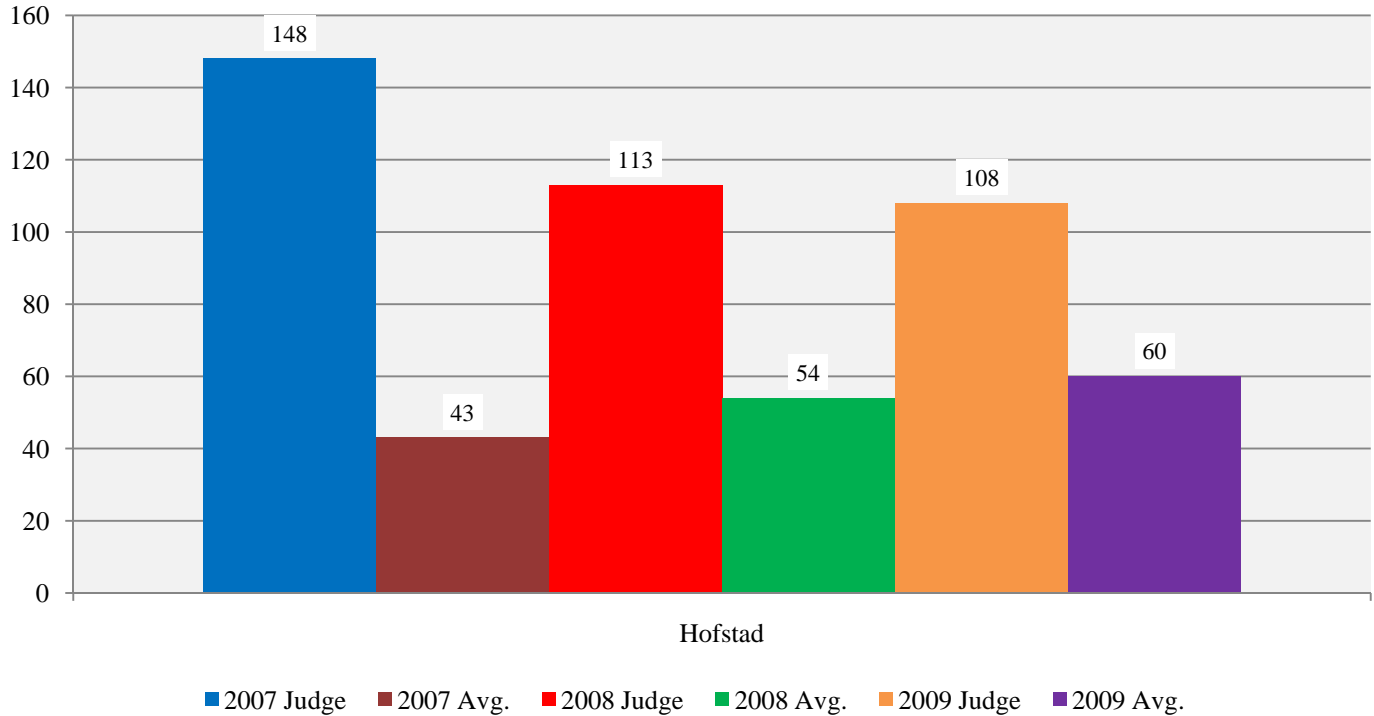
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



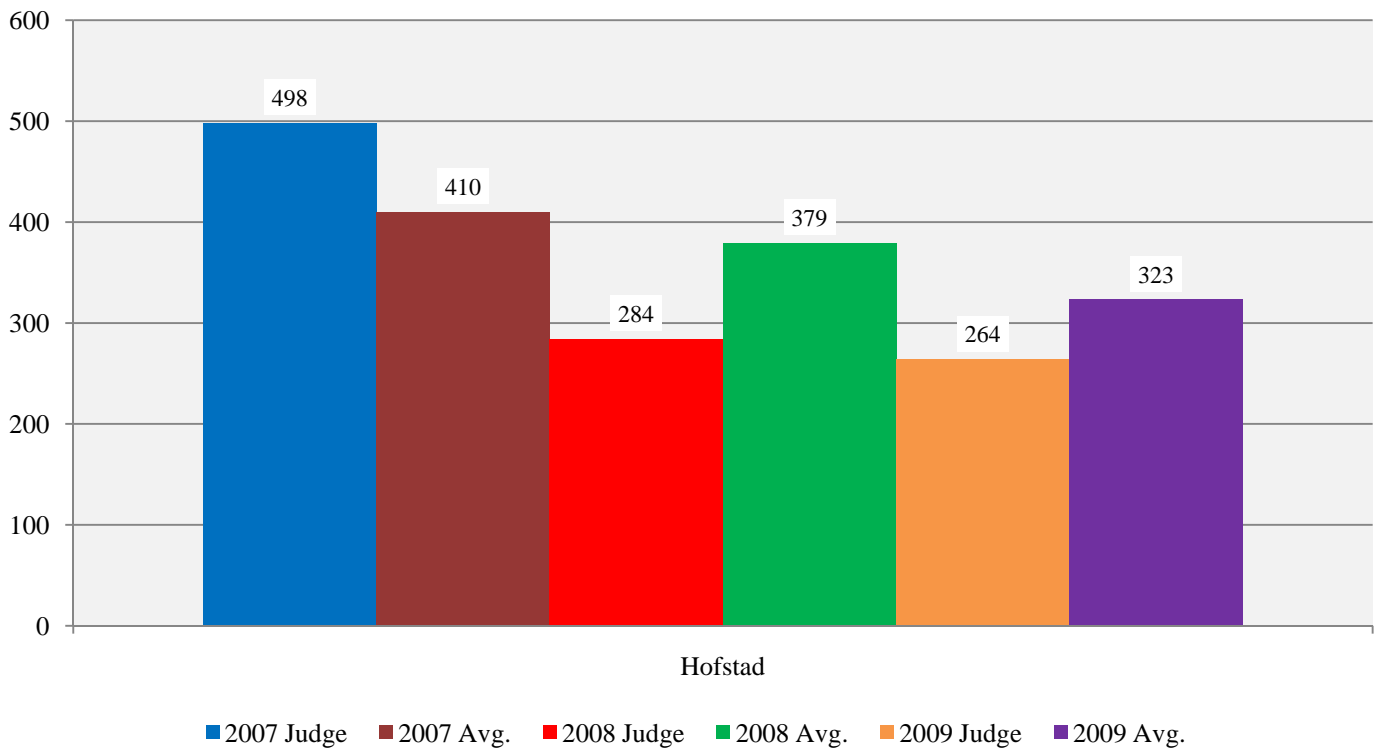
The following graph depicts the average days between PFB filing and the first mediation held thereon for each mediator in the district (brown = 07)(red = 08)(orange = 09) and the statewide average (blue = 07)(green = 08)(purple = 09).



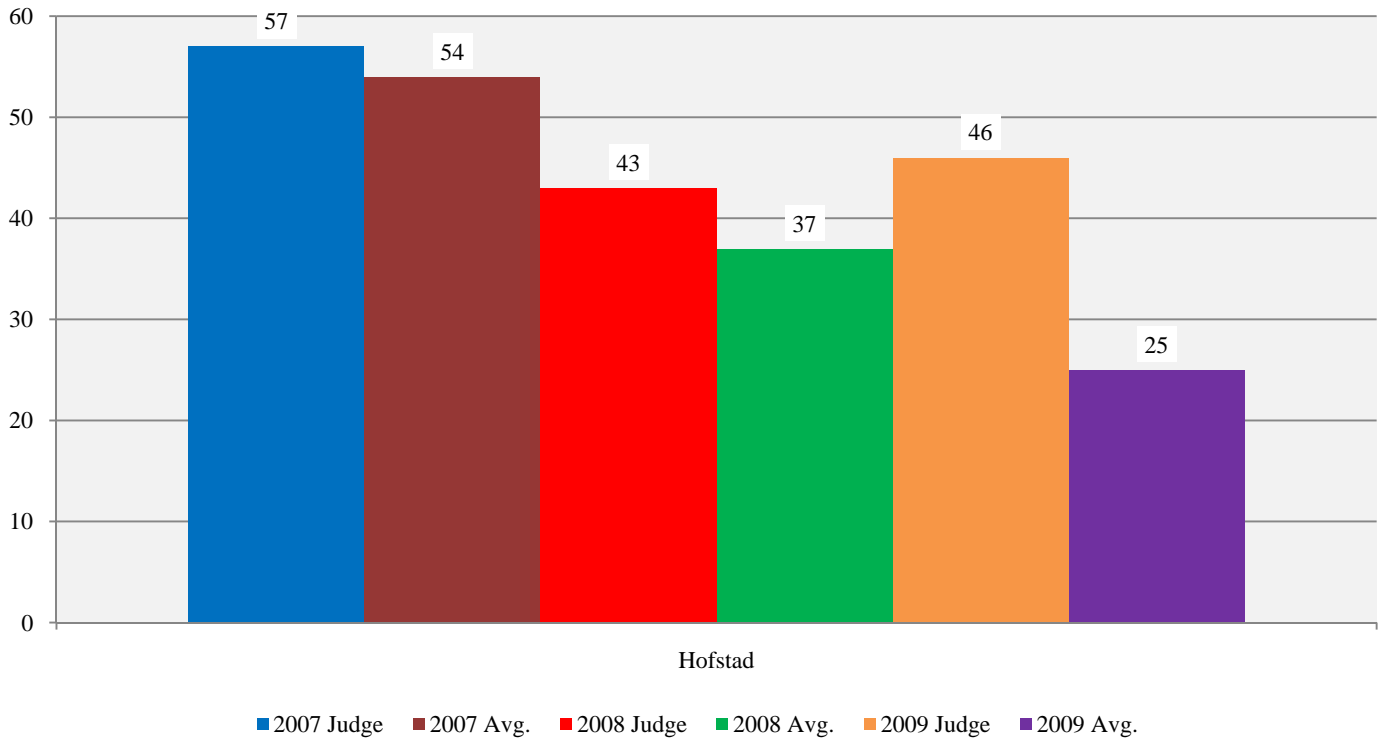
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



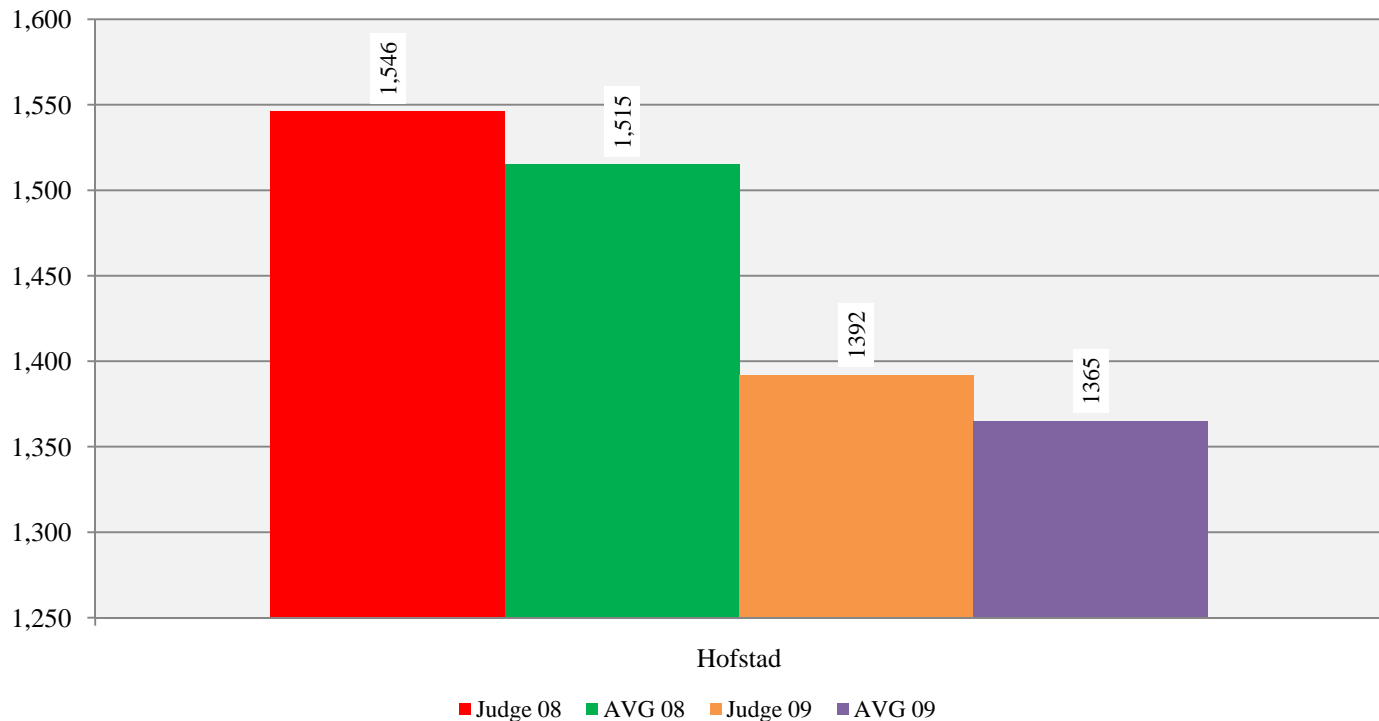
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



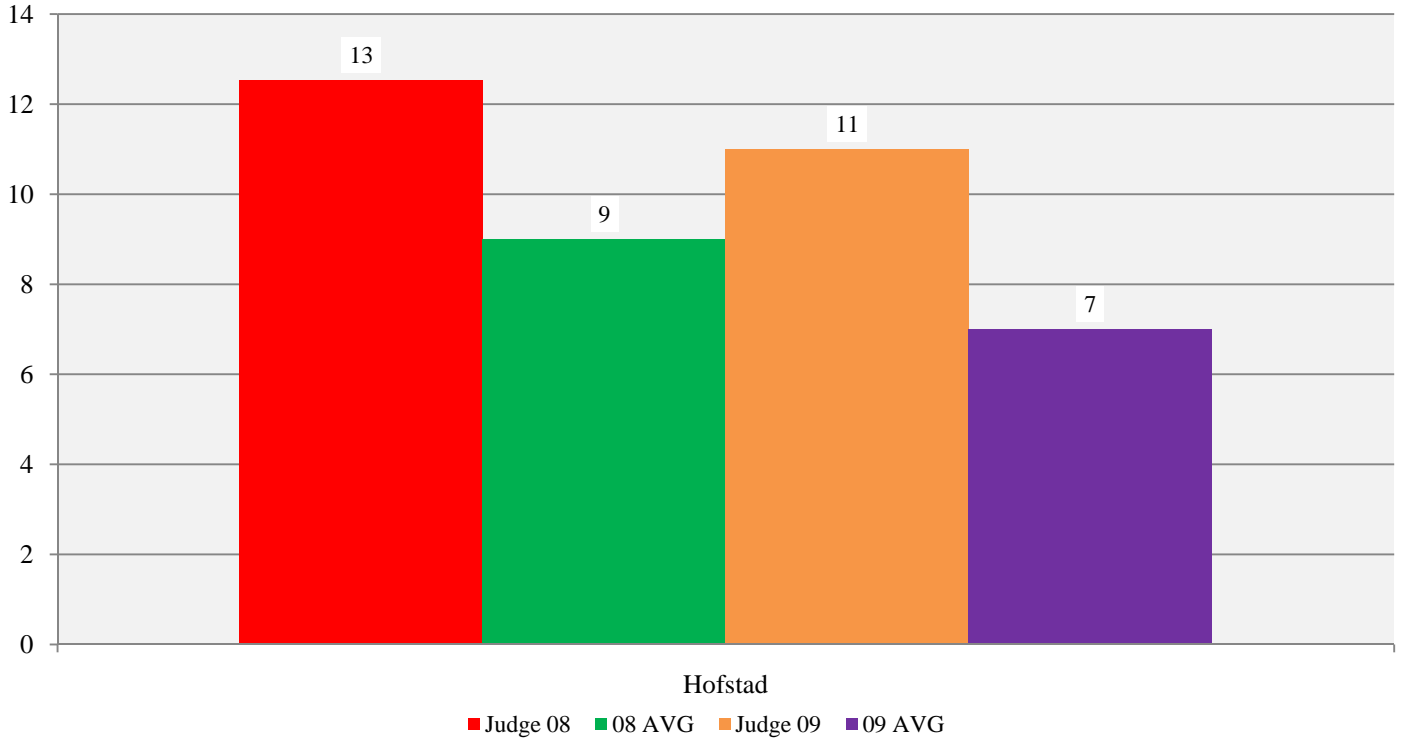
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



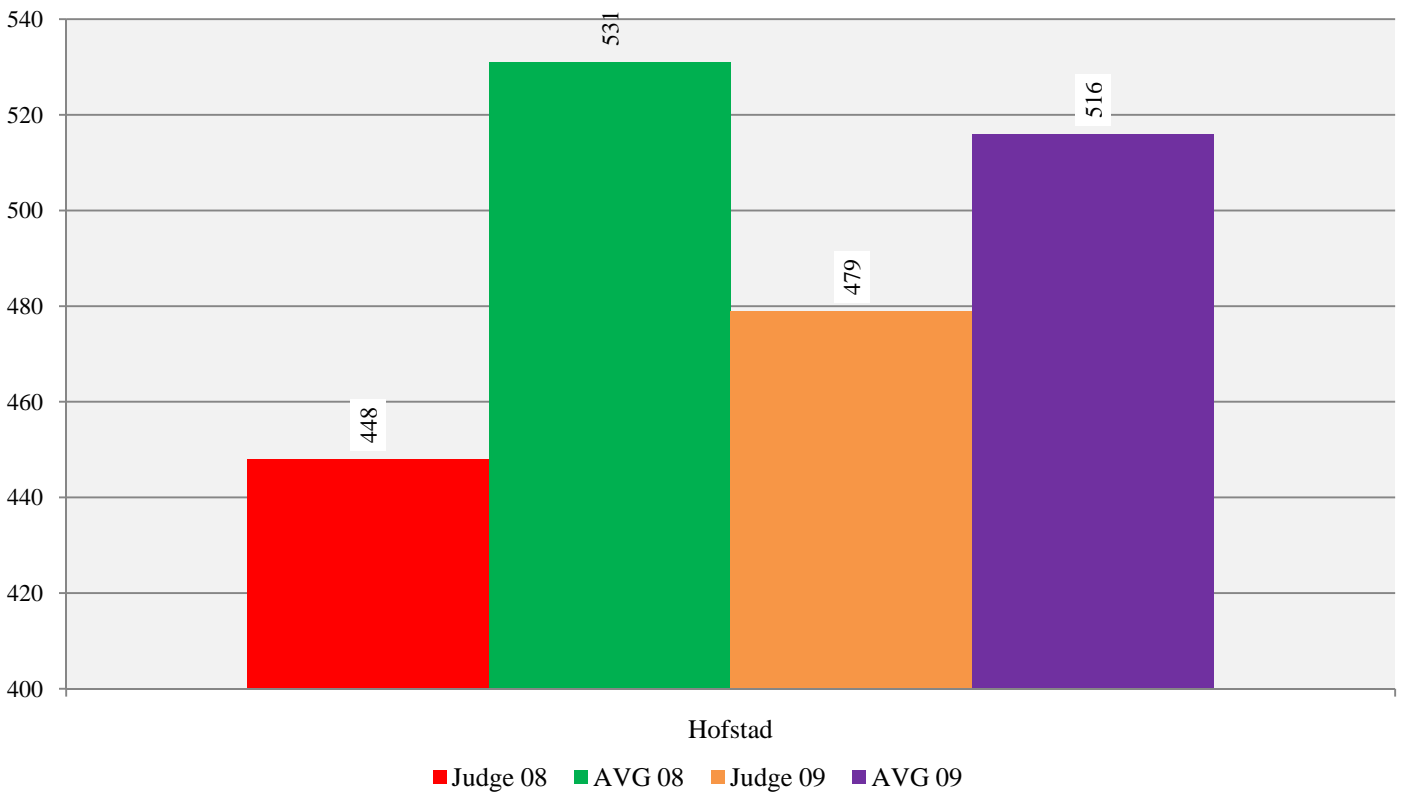
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



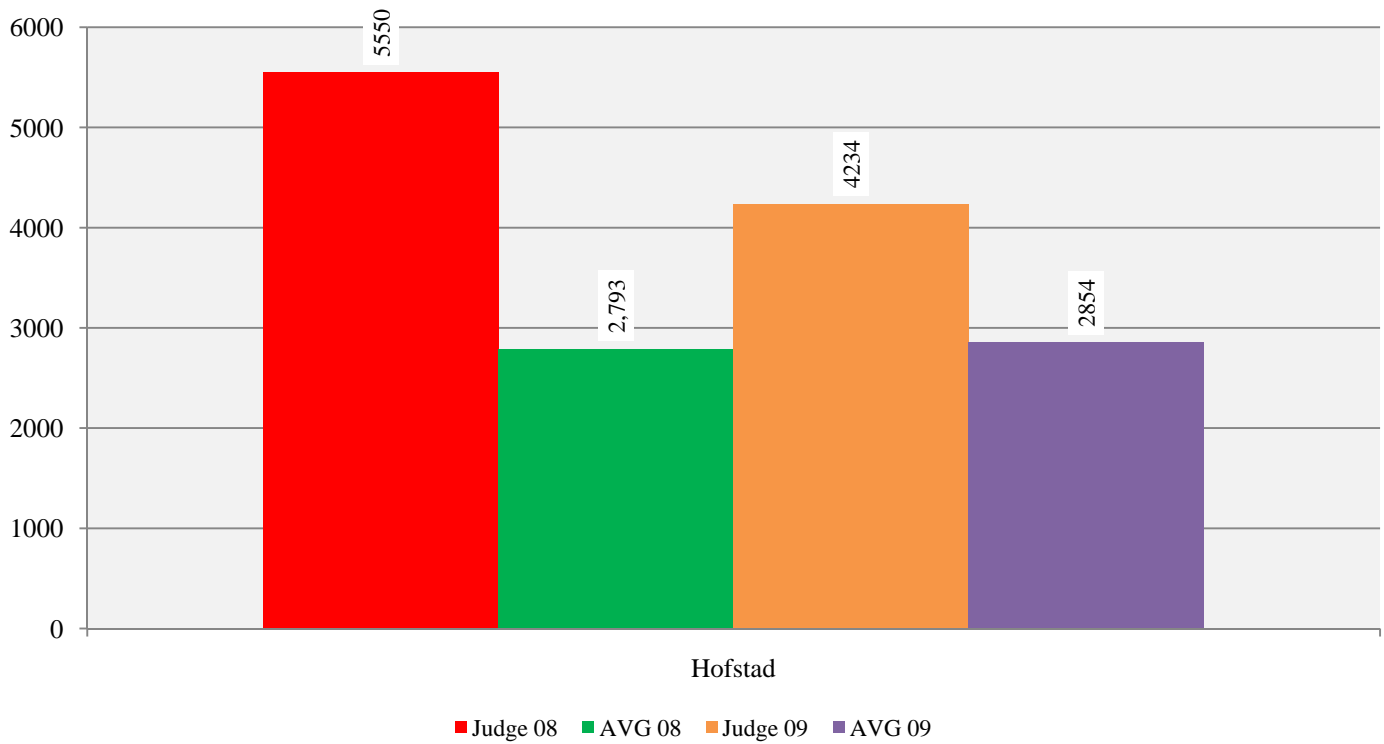
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



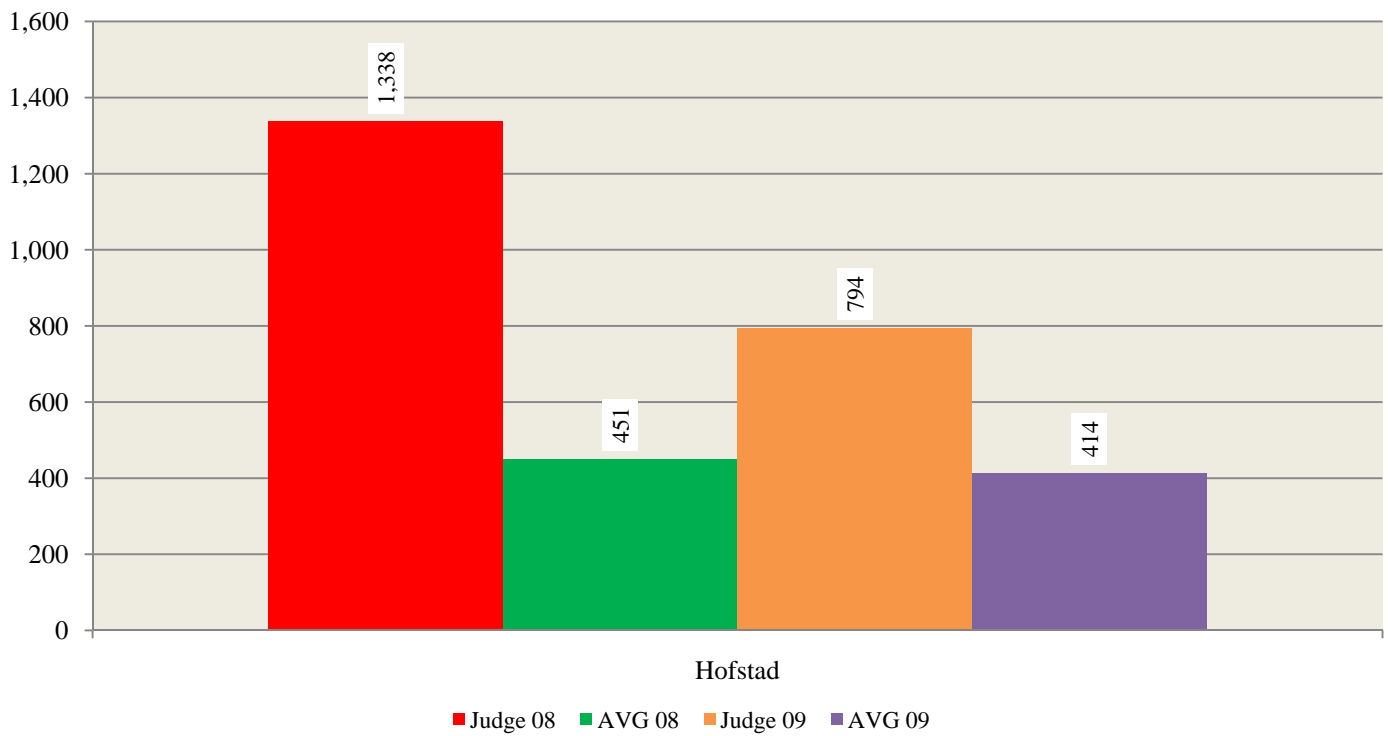
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



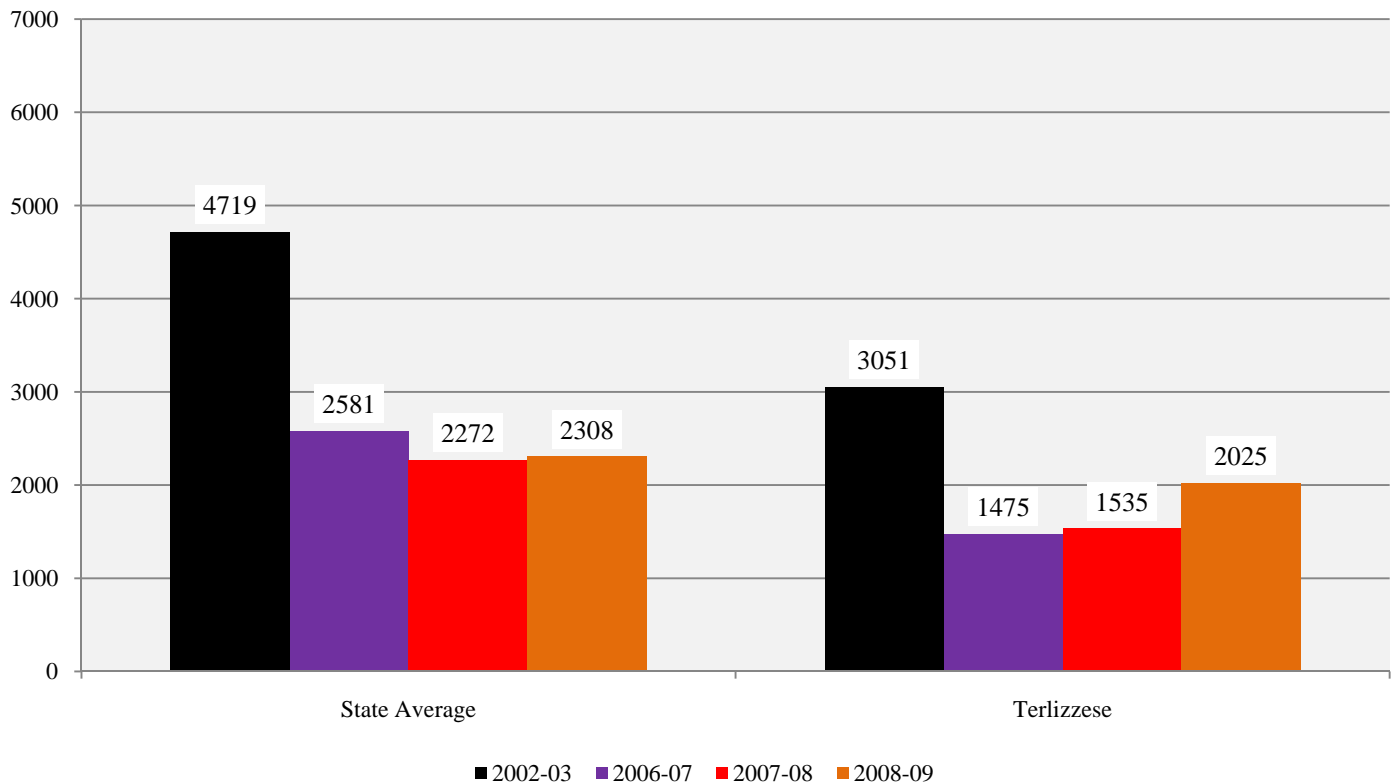
Appendix “7” District MEL (JCC Terlizzese):

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

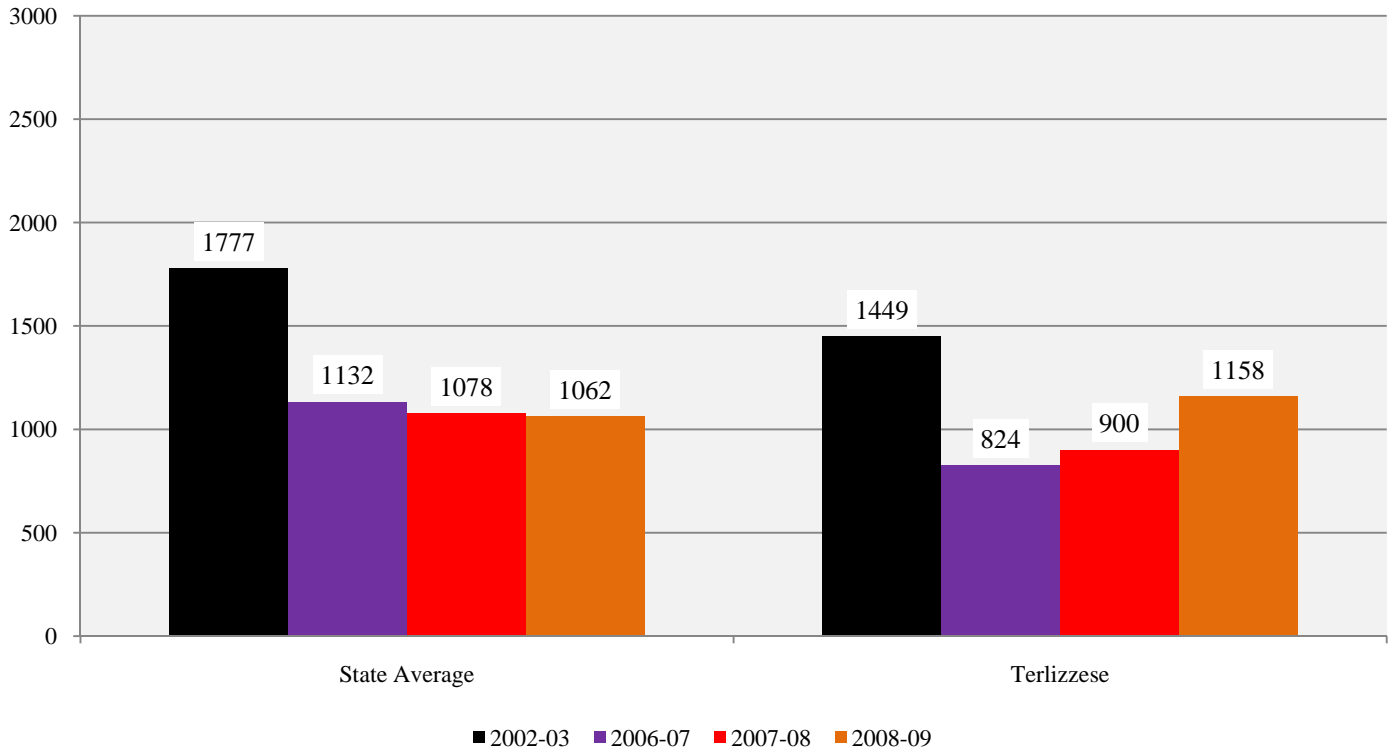
District MEL included only Brevard county at the beginning of 2007-08. Due the volume of filings and trials in the PSL district to the South, however, Judge Terlizzese volunteered to accept additional counties of responsibility. Indian River and Okechobee counties were transferred to District MEL in the spring of 2008. PFB filings increased in District MEL in 2008-09. Additionally “new case” filings increased in District MEL and were above the statewide average in 2008-09, which increases are likely all related to the county transfer at the end of the prior fiscal year.

MEL had the lowest average days between PFB filing and first mediation (63 days) in 2008-09. This is well below the statewide average (95) and the statutory period (130). District MEL had a trial volume (44) below the 2008-09 statewide average (54), and Judge Terlizzese’s average days from PFB filing to trial was only 112 days in 2008-09, which was the lowest average in the state.

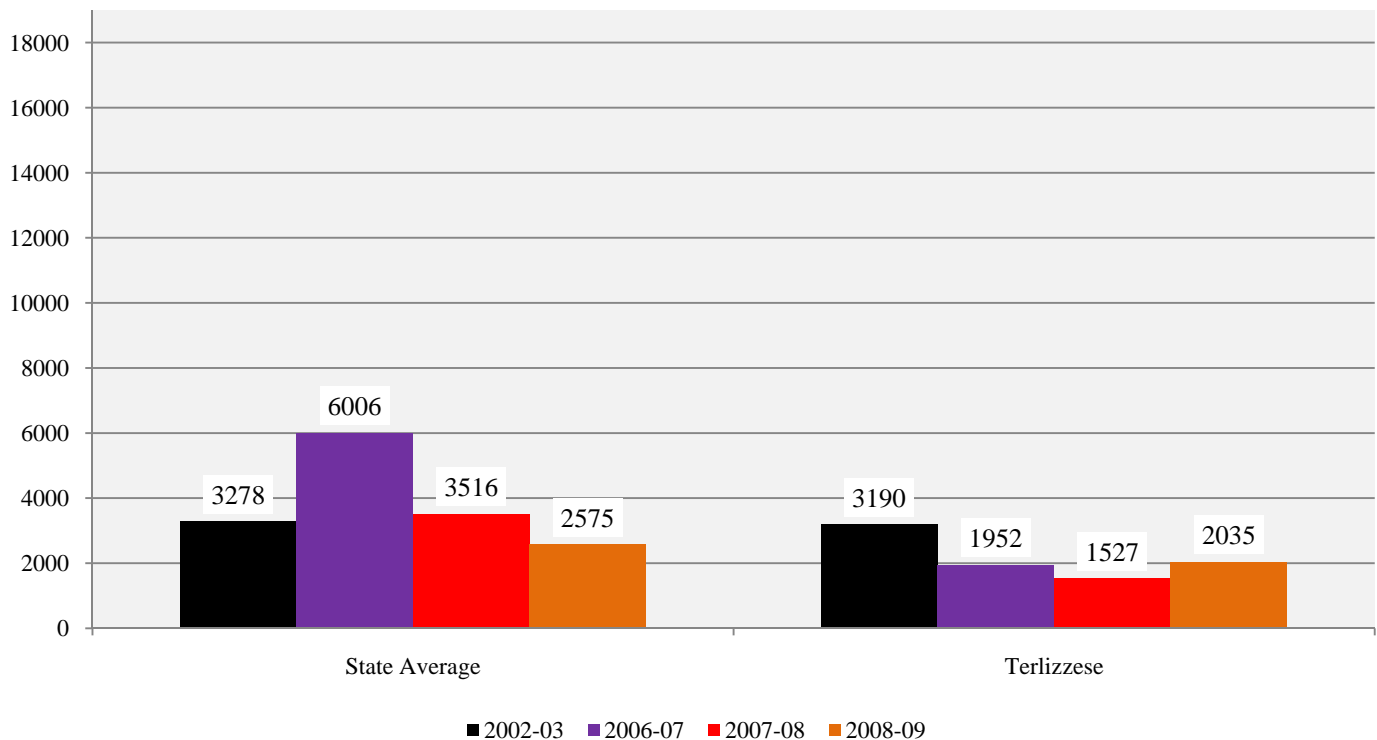
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



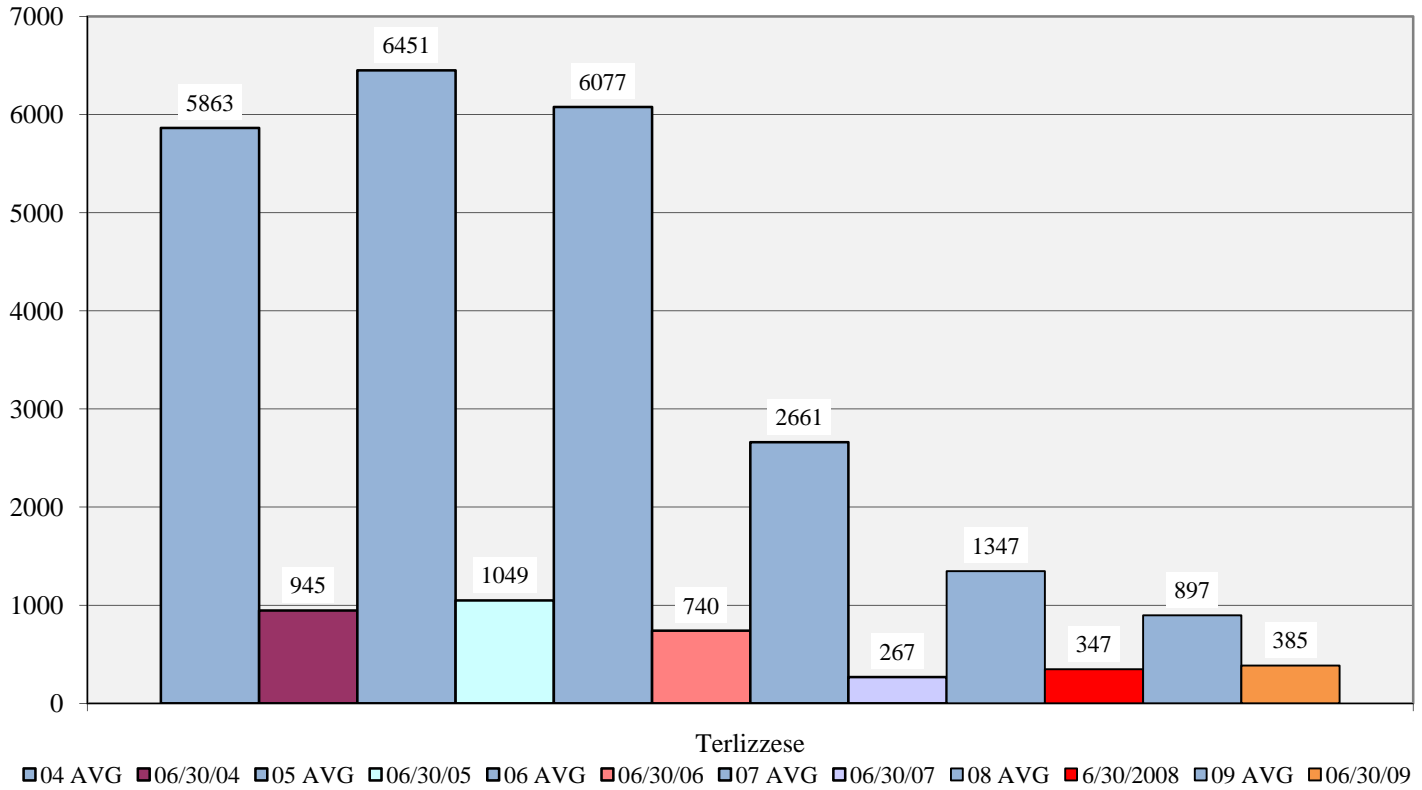
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



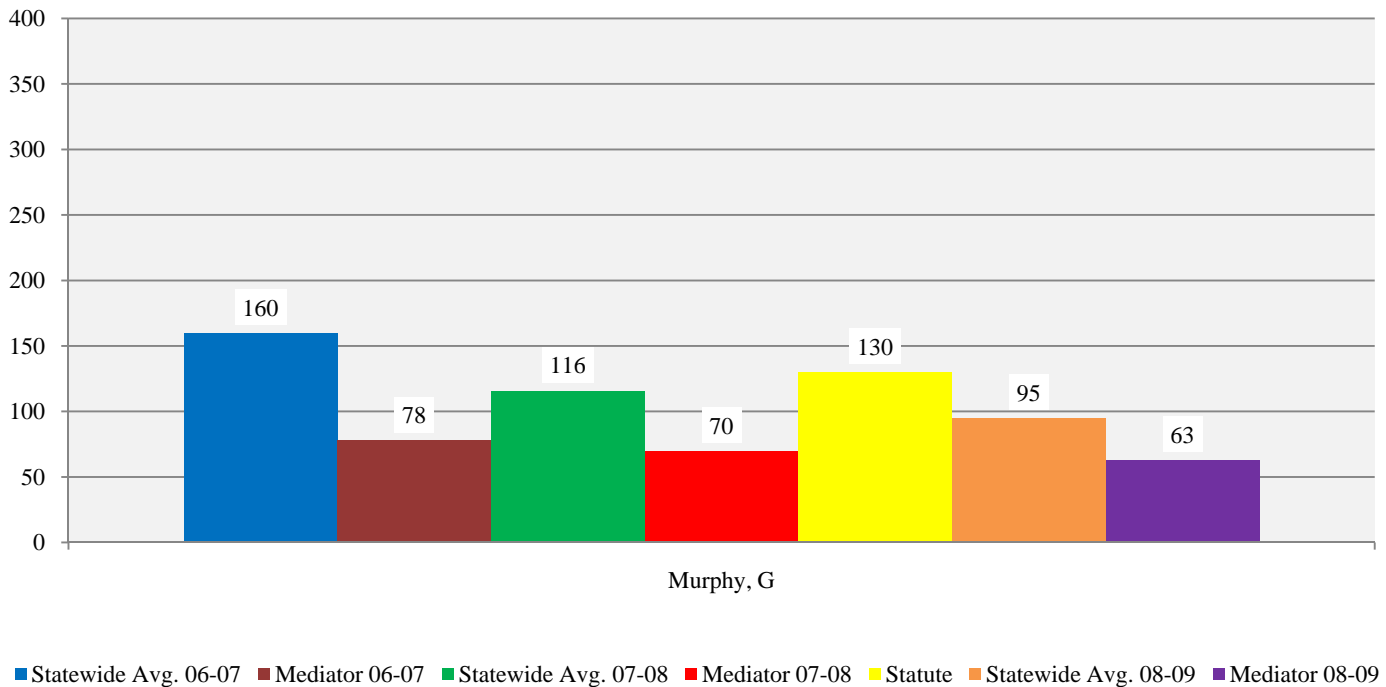
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



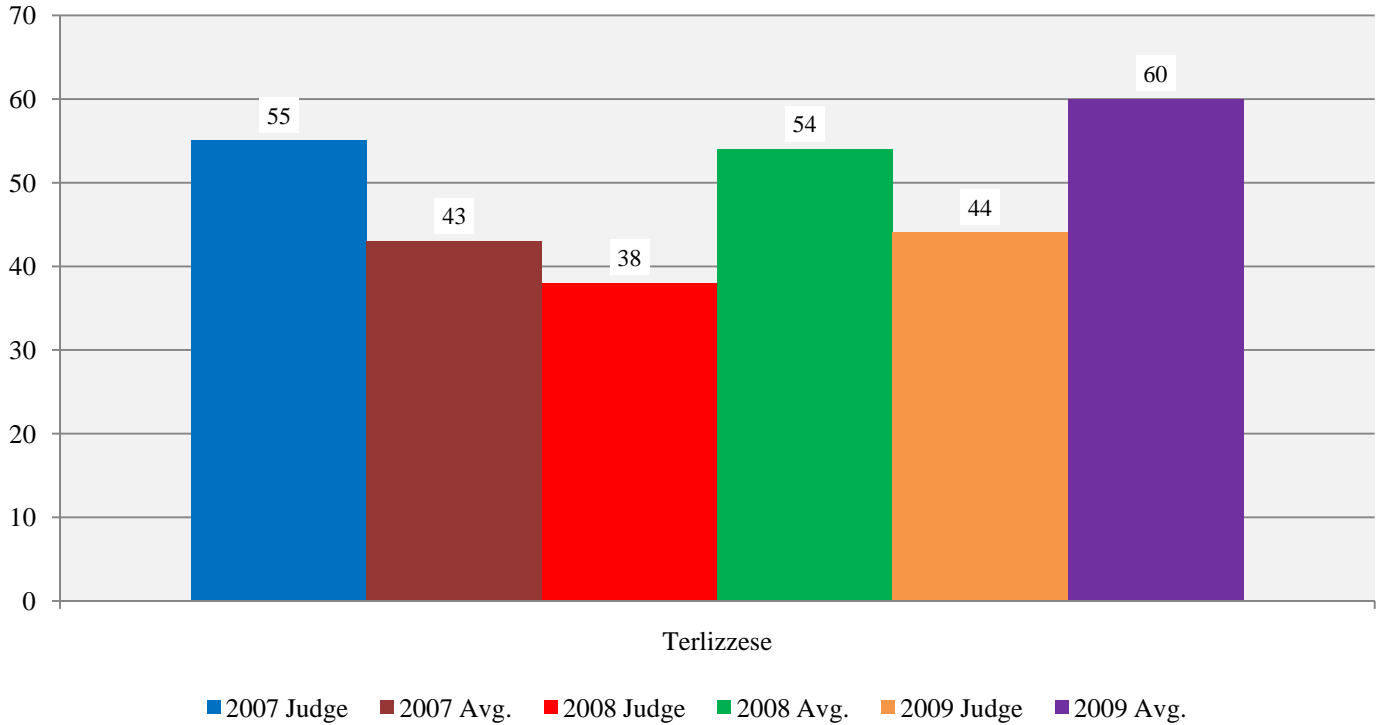
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



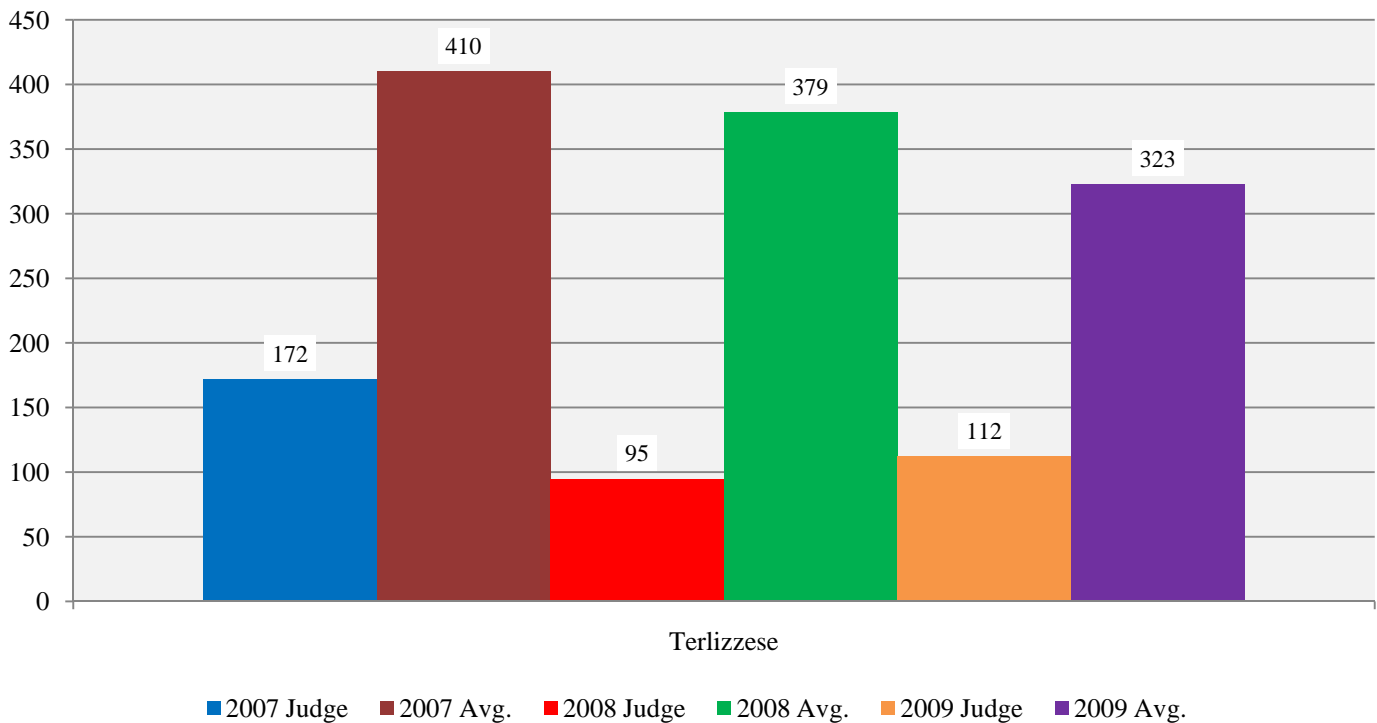
The following graph depicts the average days between PFB filing and the first mediation held thereon for each mediator in the district (brown = 07)(red = 08)(orange = 09) and the statewide average (blue = 07)(green = 08)(purple = 09).



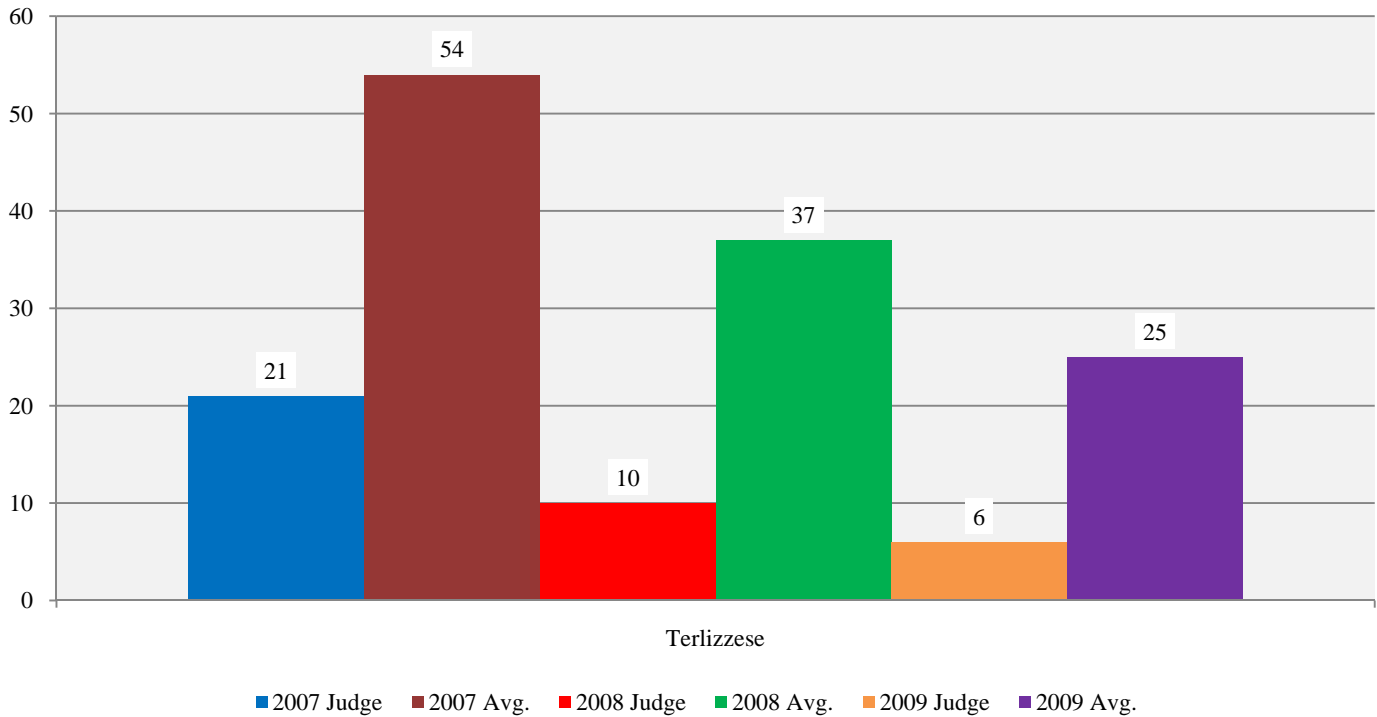
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



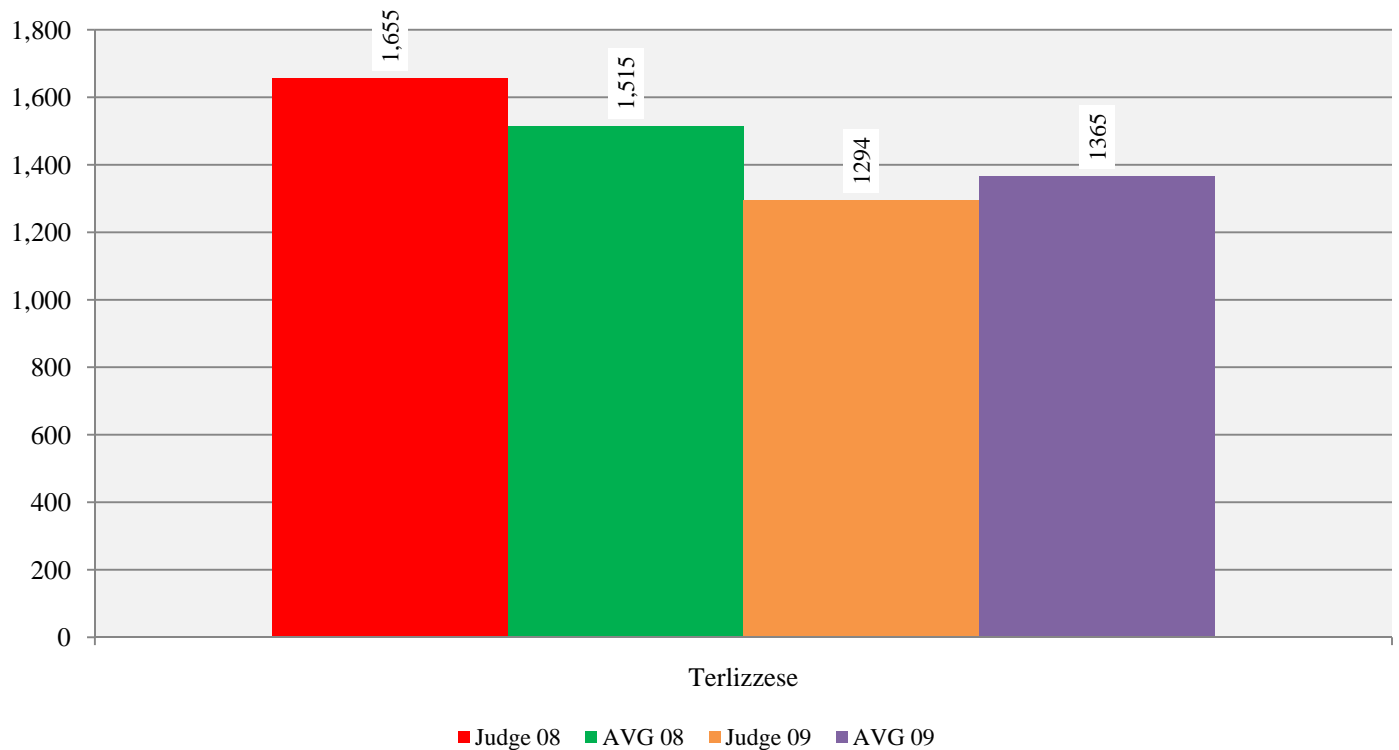
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



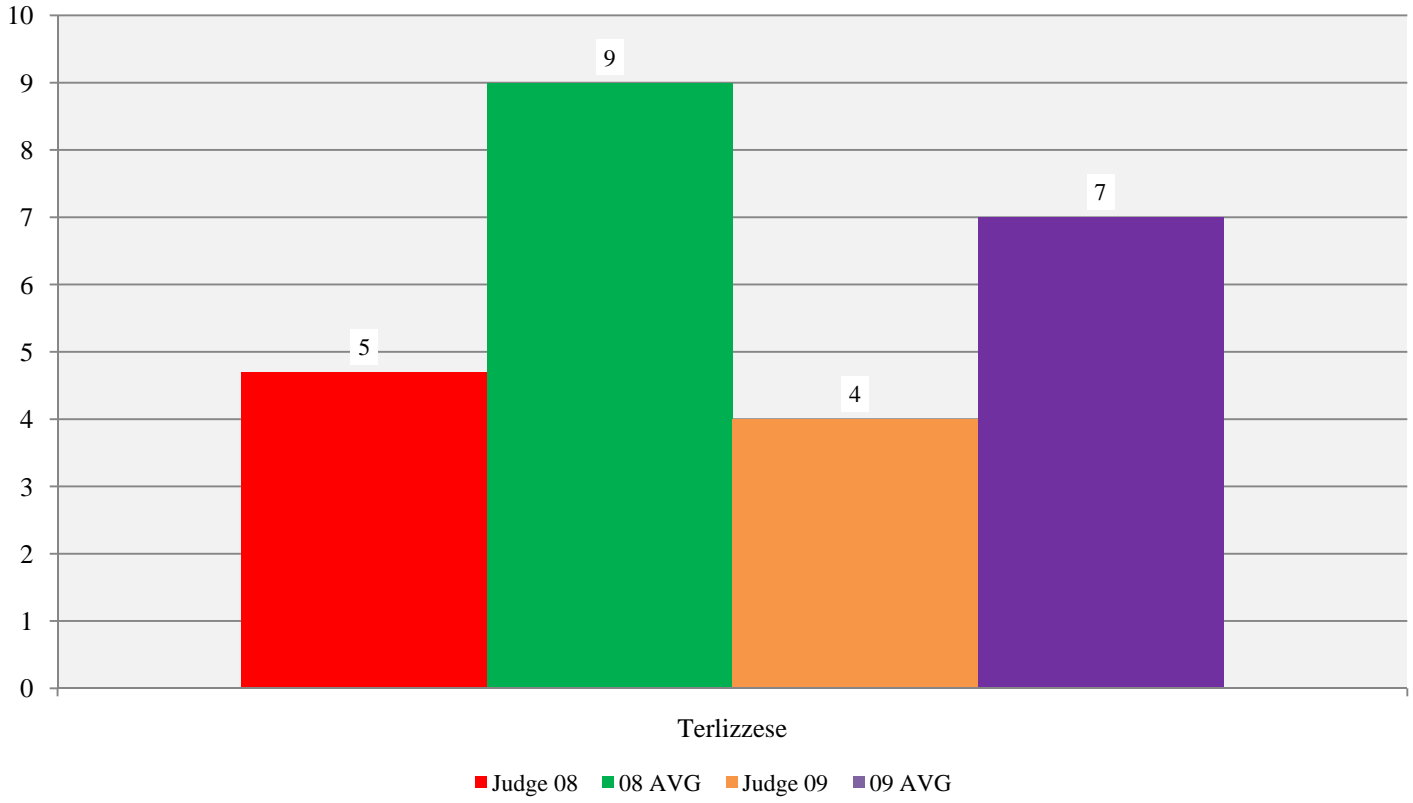
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



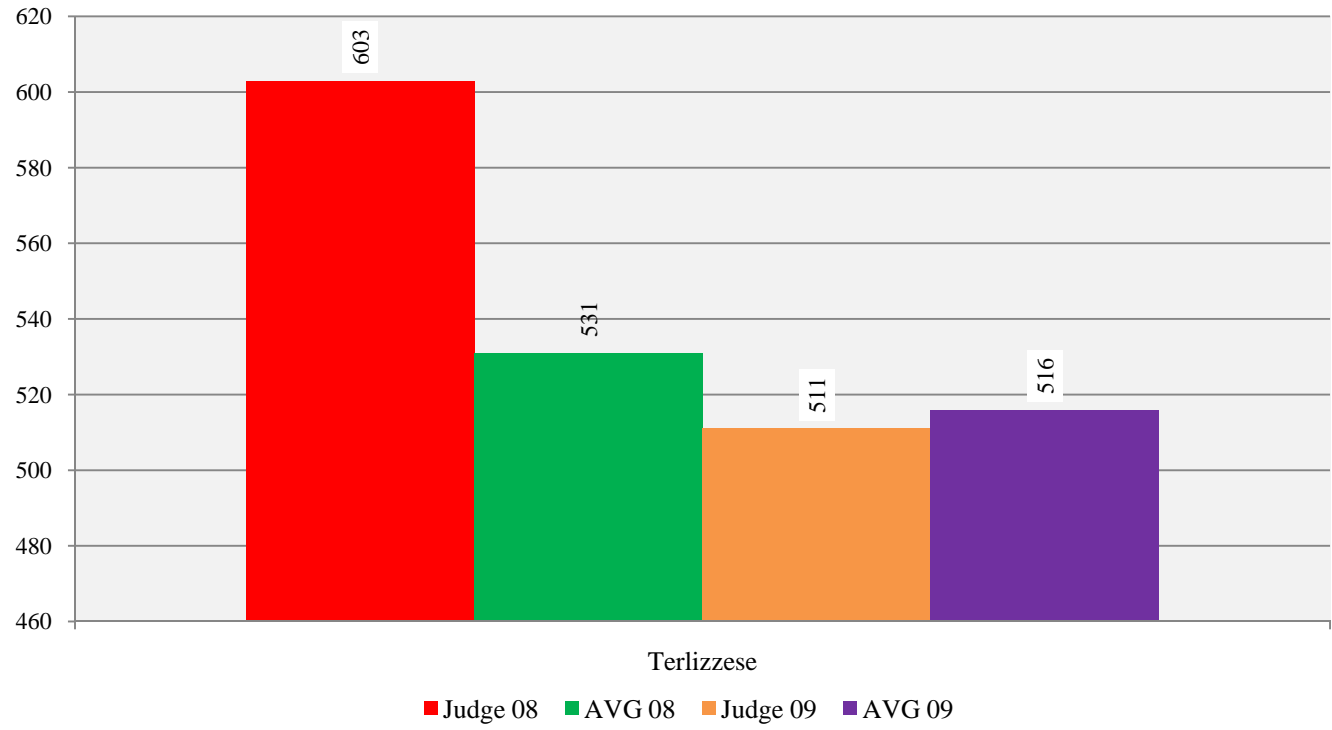
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



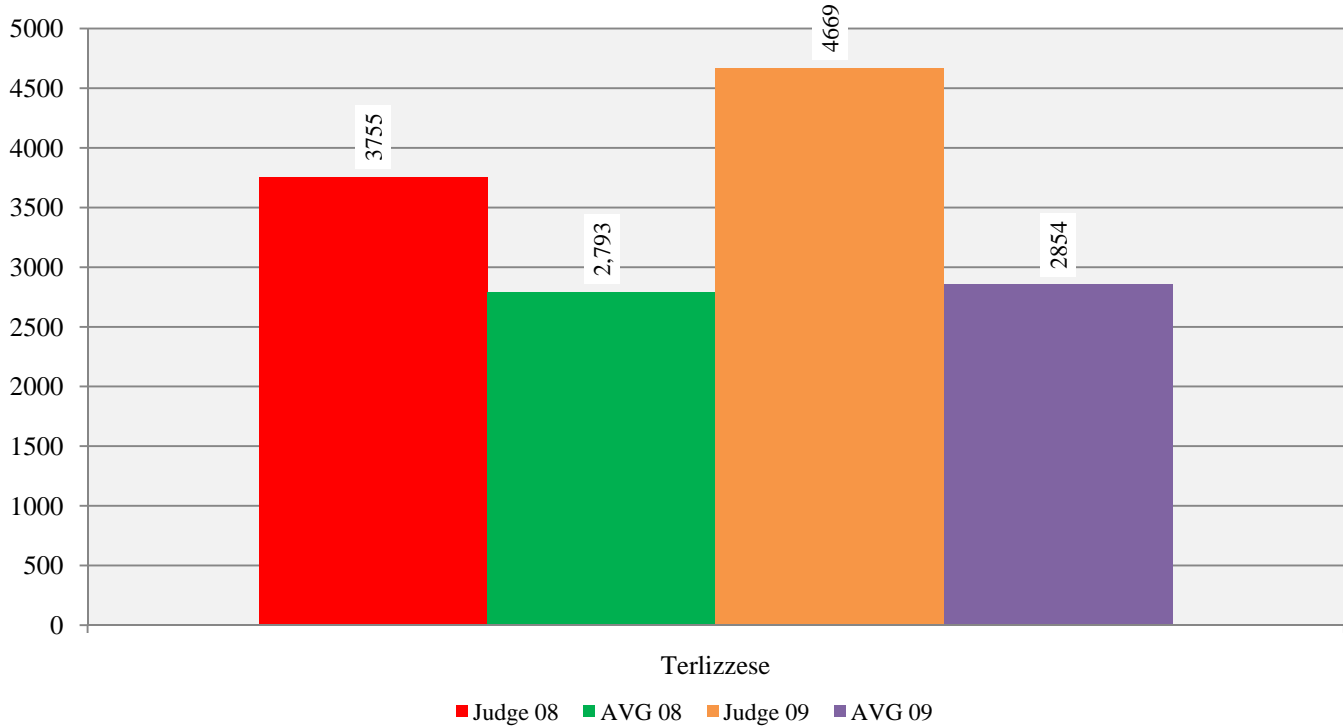
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



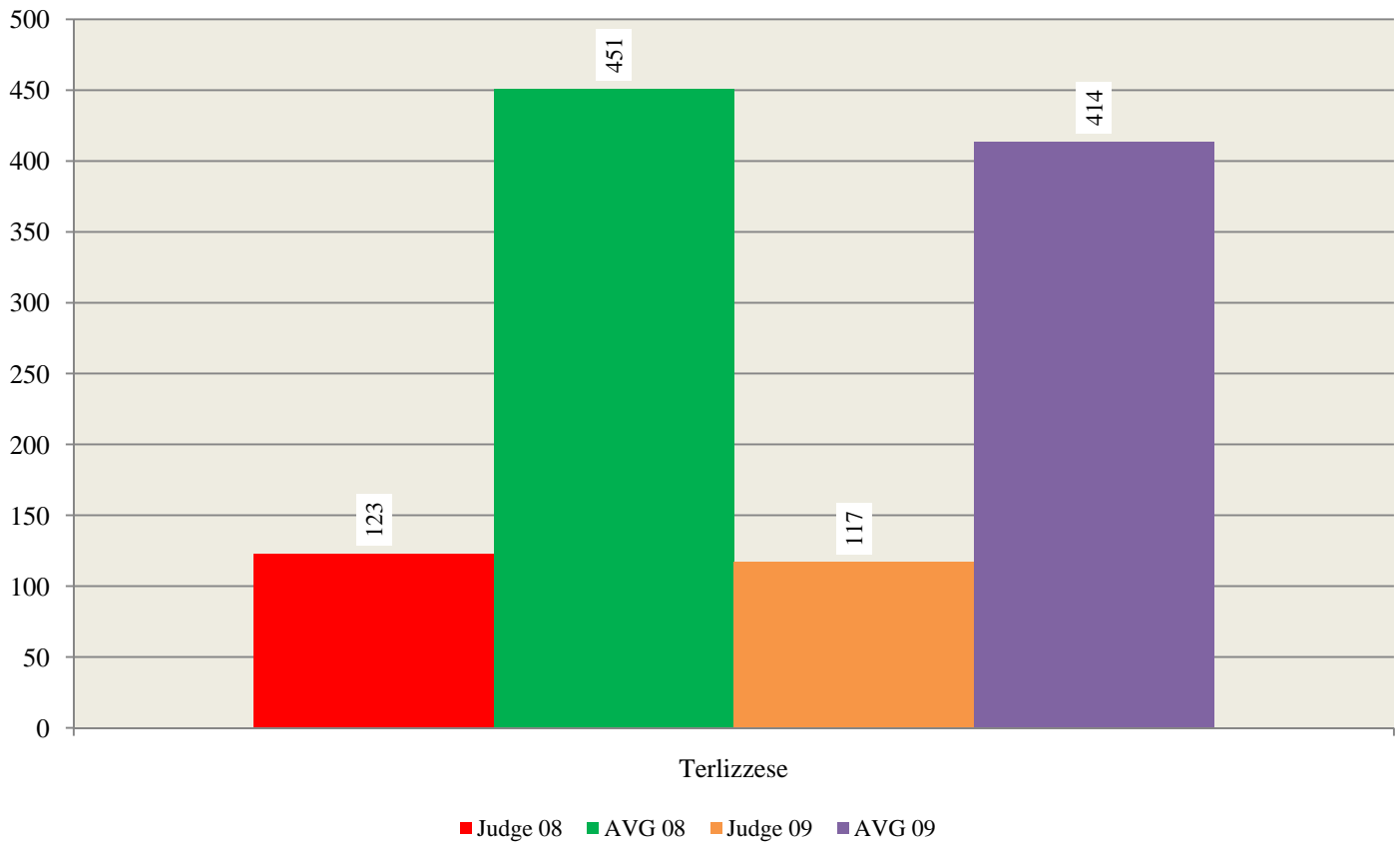
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



Appendix “8” 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 again had above-average PFB volumes in 2008-09, but each also again had slightly below average “new case” filings. Each MIA division closed more PFB than were filed in 2008-09, and each also closed more than the statewide average. These each illustrate the effort of all five Judges to address the inventory of existing PFB and to move the issues therein to resolution or adjudication.

Each MIA mediator averaged less than 130 days from PFB filing to first mediation in 2008-09. This marks a significant improvement in timely mediation in District MIA and illustrates the significant effort invested by the mediators in District MIA.

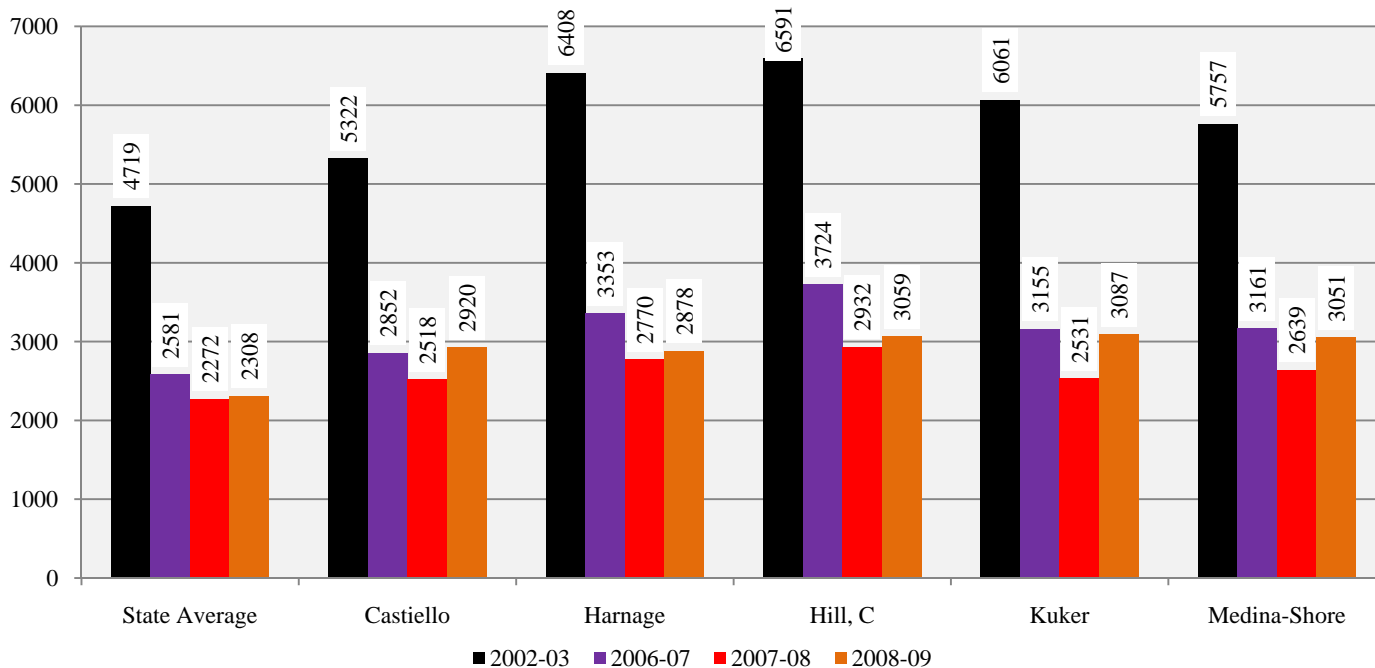
Notably, the trial volumes in District MIA are significant in most divisions. Both Judge Hill and Judge Medina-Shore’s divisions entered trial order volumes close to the highest in Florida for the fiscal year. Despite this volume, the average days from PFB filing to trial and from trial to final order continued to improve in MIA in 2008-09. Despite significant effort, Judge Harnage continues to address the trial of PFB that are significantly older than those currently being addressed in other MIA divisions. The marked improvement of mediation timeliness in that division in 2008-09 is anticipated to signal a marked decrease in the age of tried PFB in that division in 2009-10 however.

Judge Castiello spoke at the Dade County Bar Association Workers' Compensation Section meeting three times last year, on topics including "Judicial Perspectives," "Expedited Final Hearings," "Attorneys Fees," and "Prosecution of Sanctions Under Section 440.32." He spoke at the Florida Workers' Compensation Institute Spring Forum on "JCC Approval of E/C Paid Fees - Ethical Considerations." He lectured on "Courts and Our Legal System" for the Boy Scouts. Judge Castiello participated in career day at Everglades K-8 Center, Booker T. Washington High School and Palmetto Middle School.

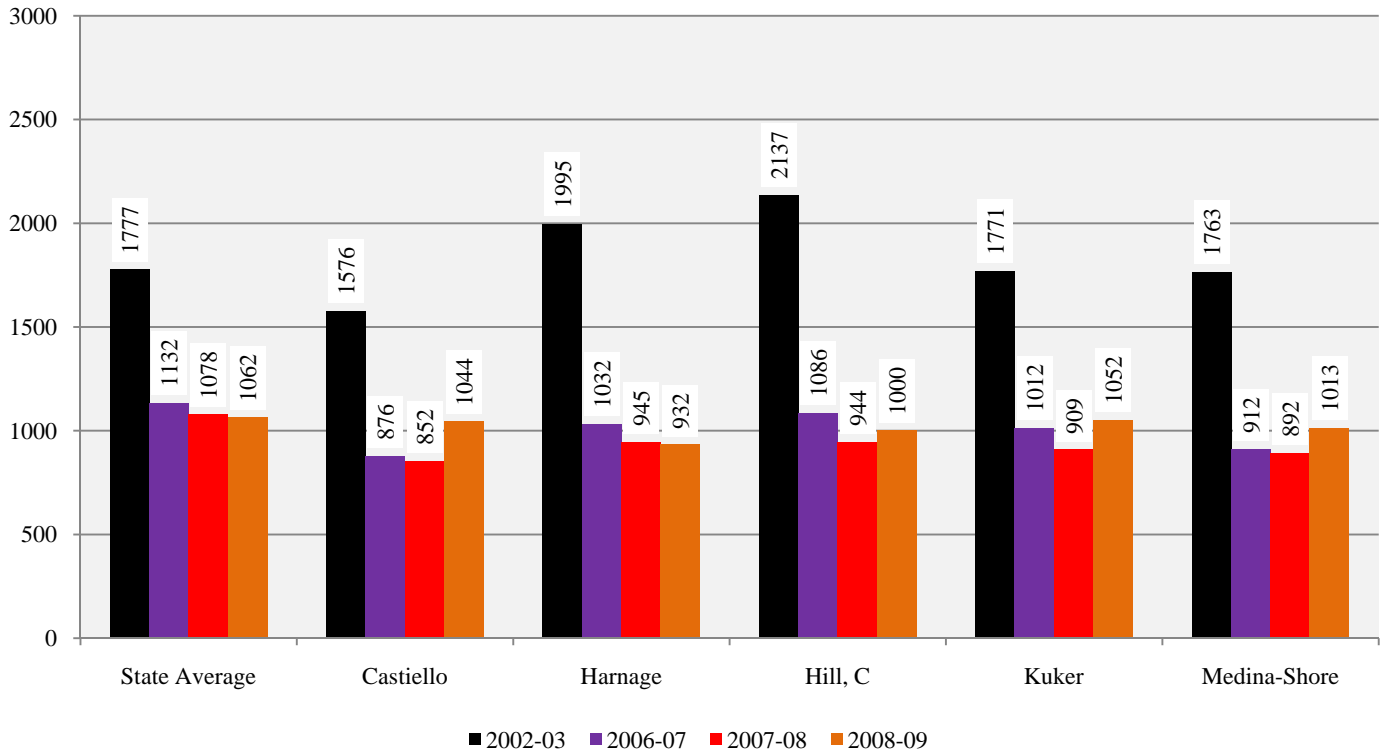
Judge Kuker is the Statewide Vice President of The Friends of 440 Scholarship Fund which has averaged \$70,000 a year in college scholarships to the children of injured workers since 1992. He is involved in Justice Teaching about constitutional law and civics to the children at North Miami Beach Elementary school, and lectures for the Hispanic American Compensation Lawyers and the Friends of 440. He was a moot court appellate Judge for the FWCI.

Judge Hill participated last year in quarterly panel discussions presented by the Workers' Compensation Section of the Dade County Bar Association. He is a member of the Miami Springs Historical Preservation Board. Judge Hill is a Judge in the Miami Herald "Silver Knight Awards" program. Last year, he also participated in a panel discussion before Friends of 440 Scholarship Fund.

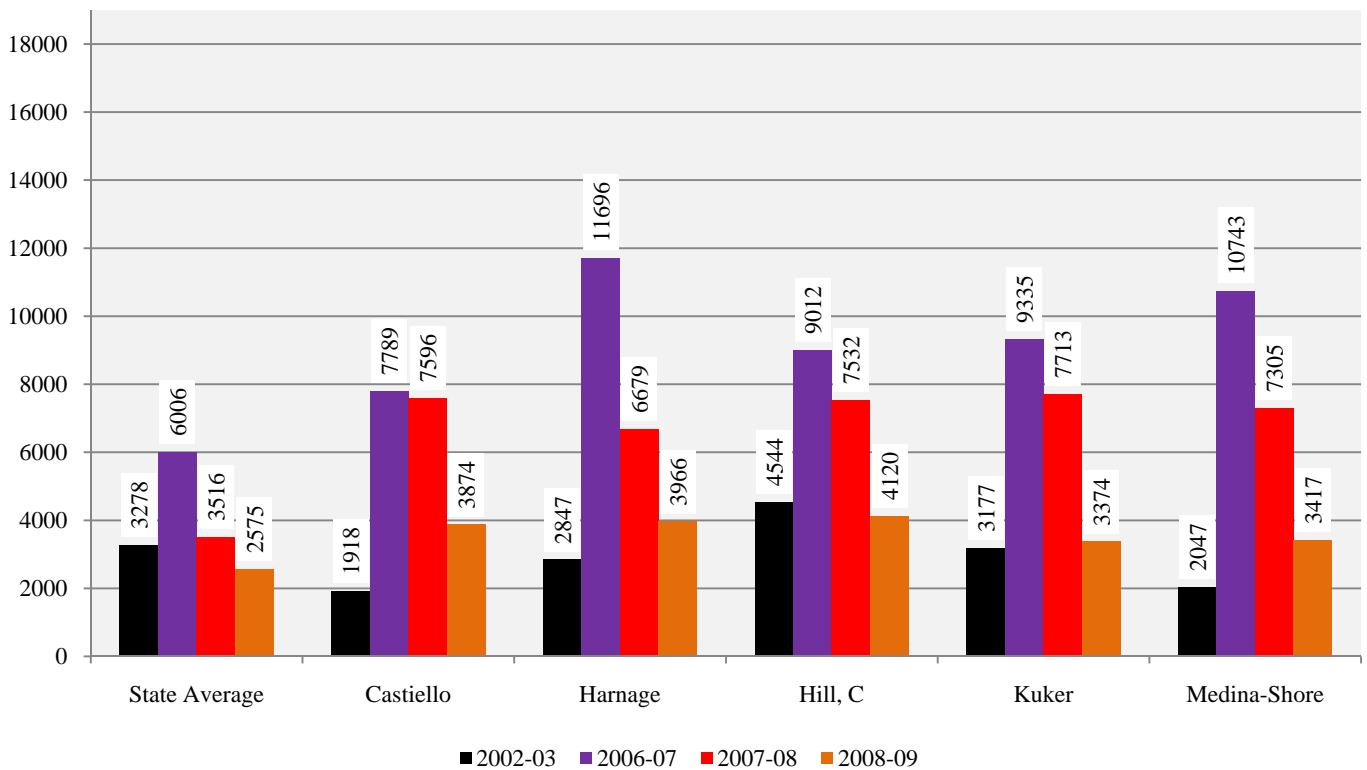
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



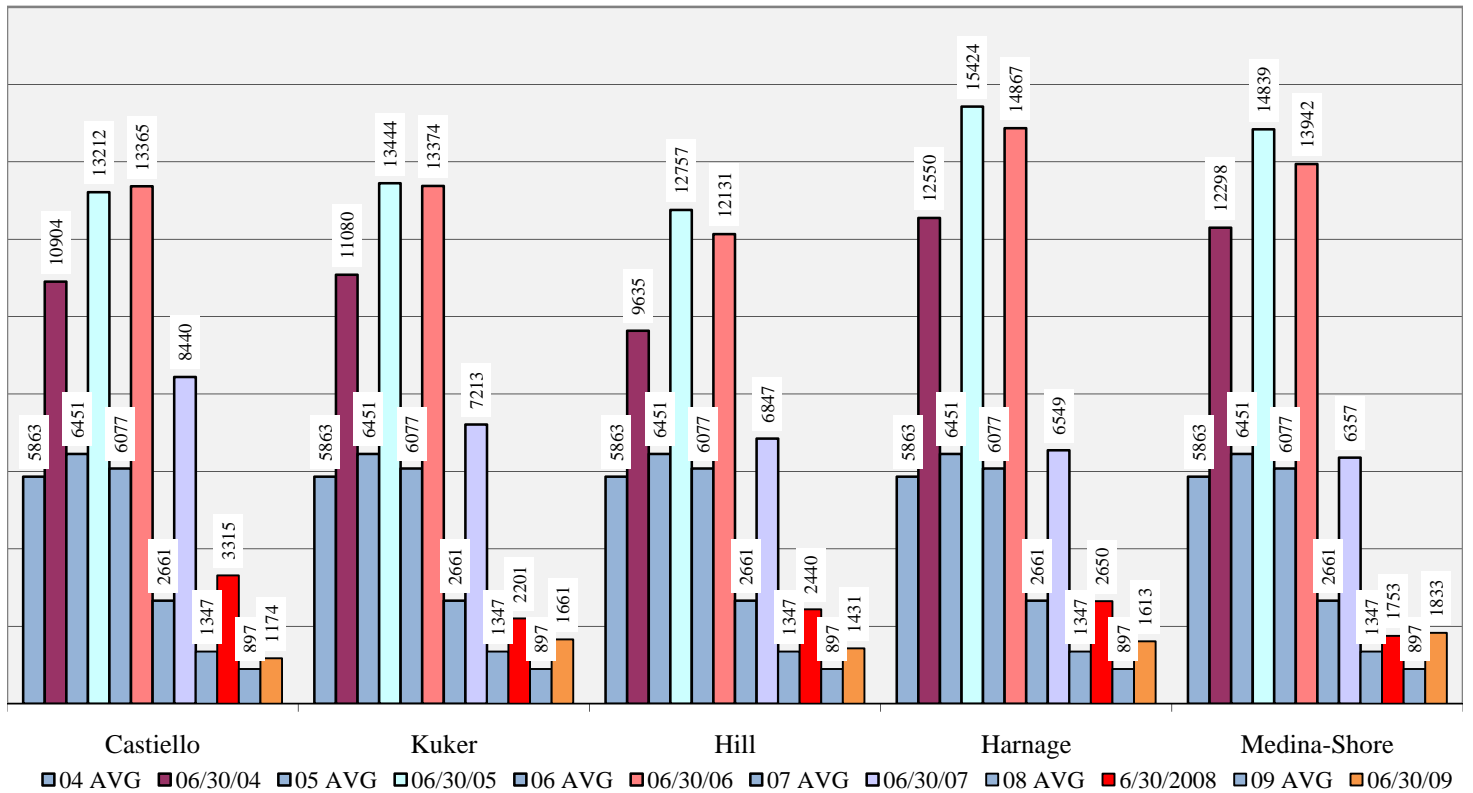
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



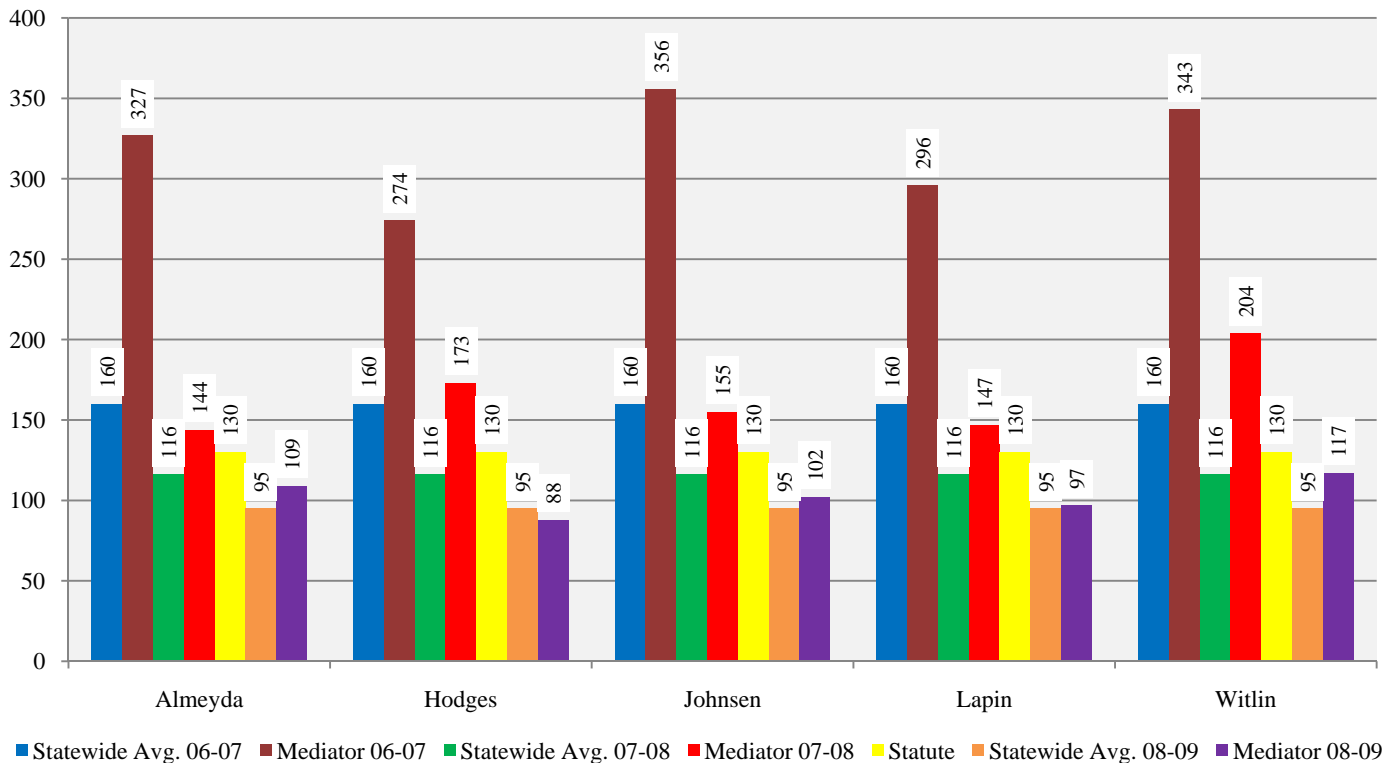
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



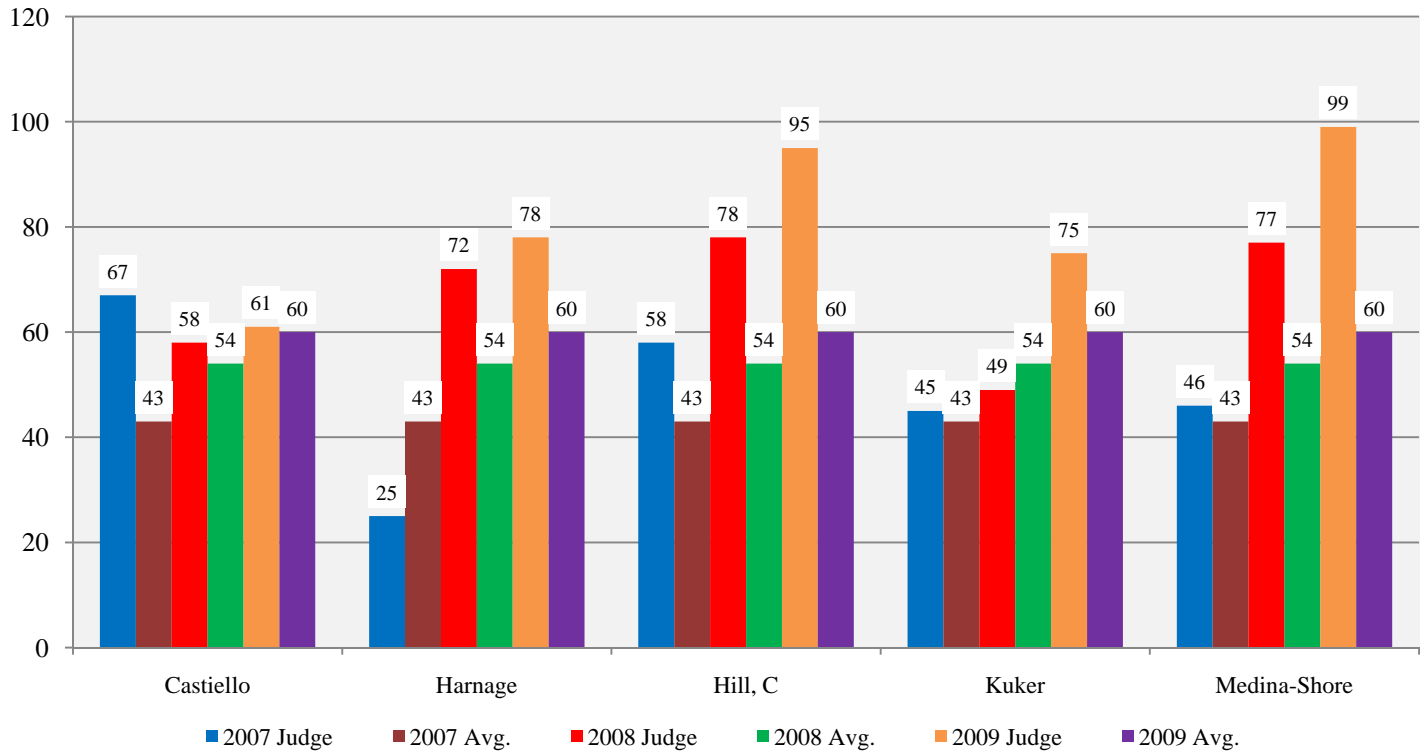
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



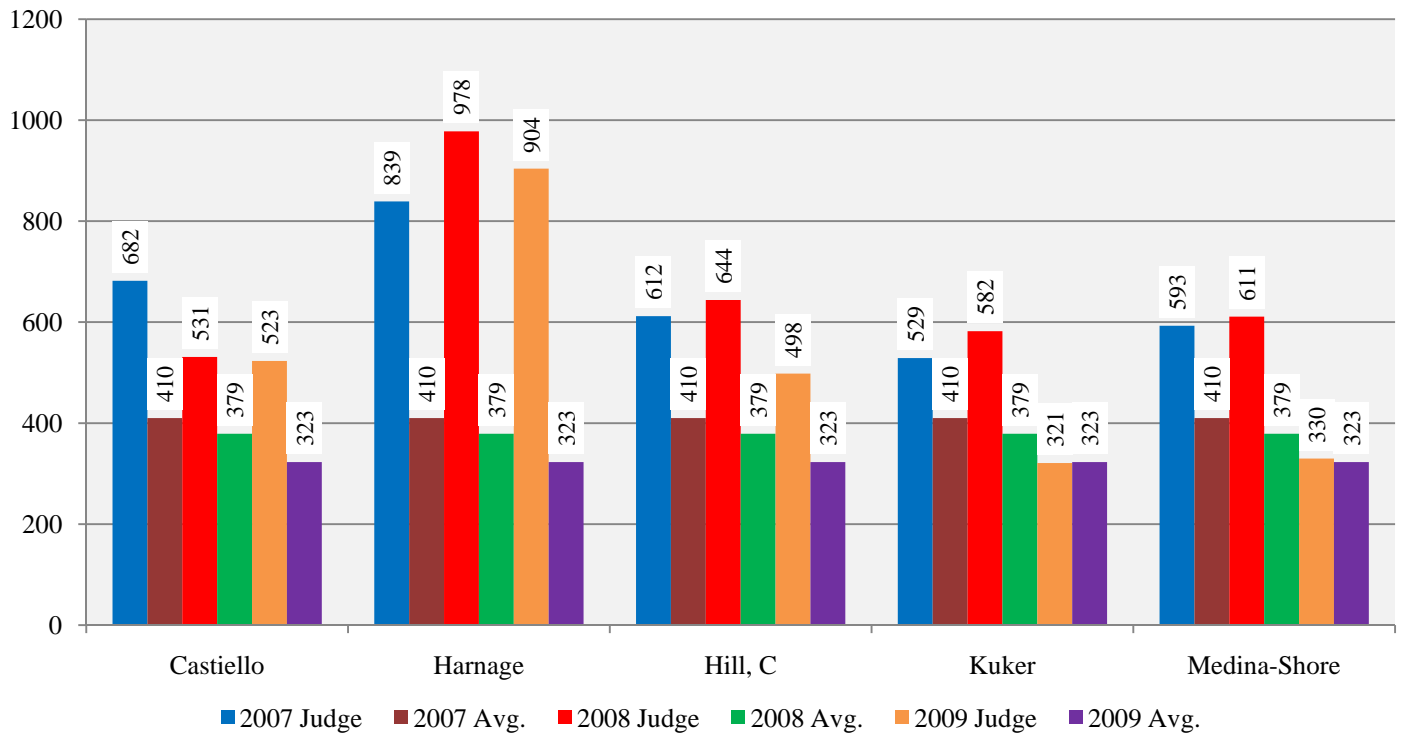
The following graph depicts the average days between PFB filing and the first mediation held thereon for each mediator in the district (brown = 07)(red = 08)(orange = 09) and the statewide average (blue = 07)(green = 08)(purple = 09).



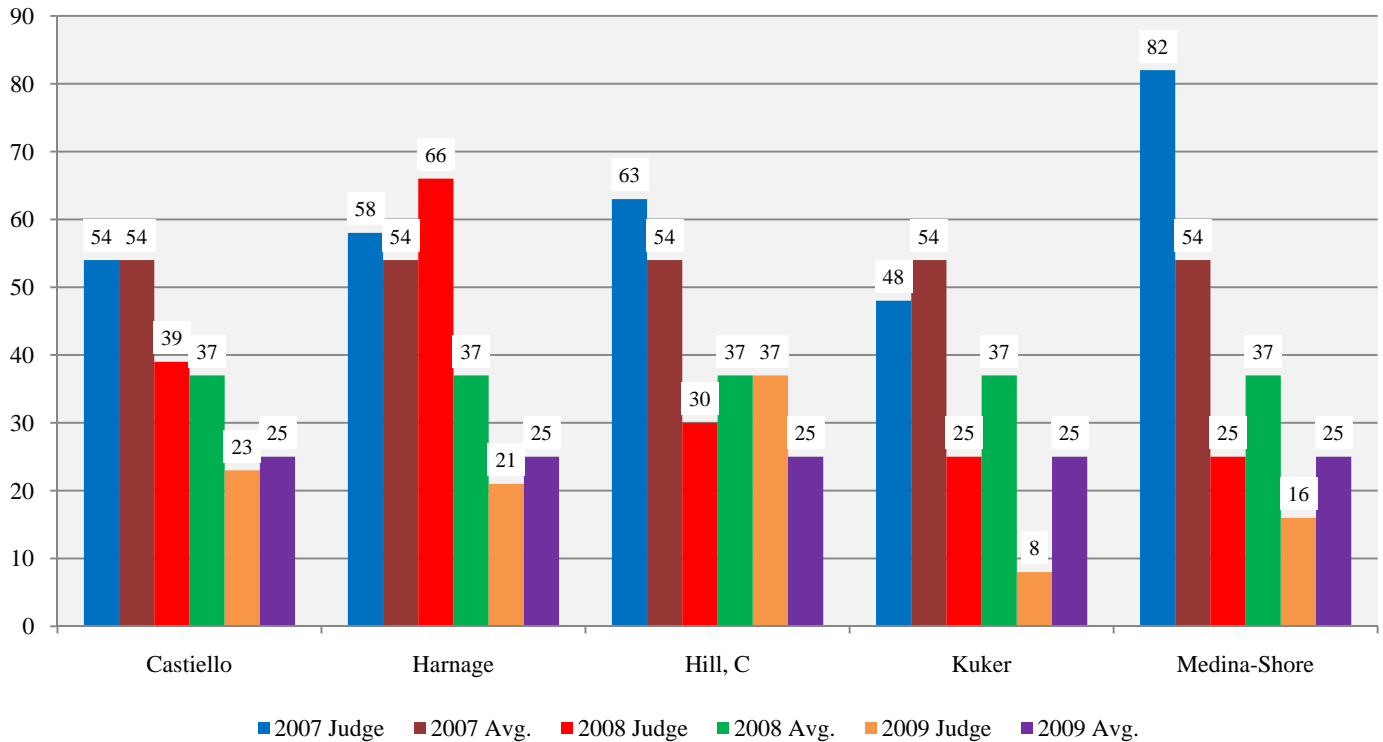
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



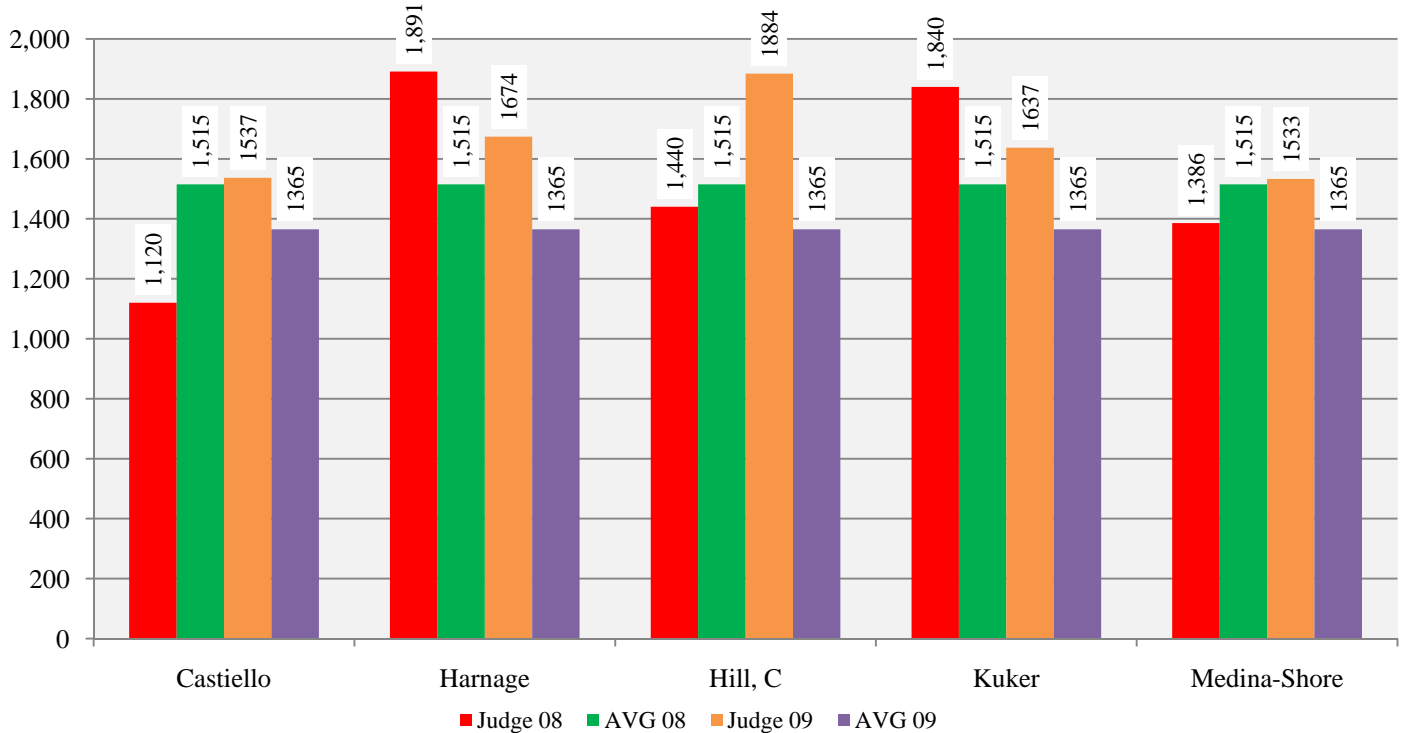
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



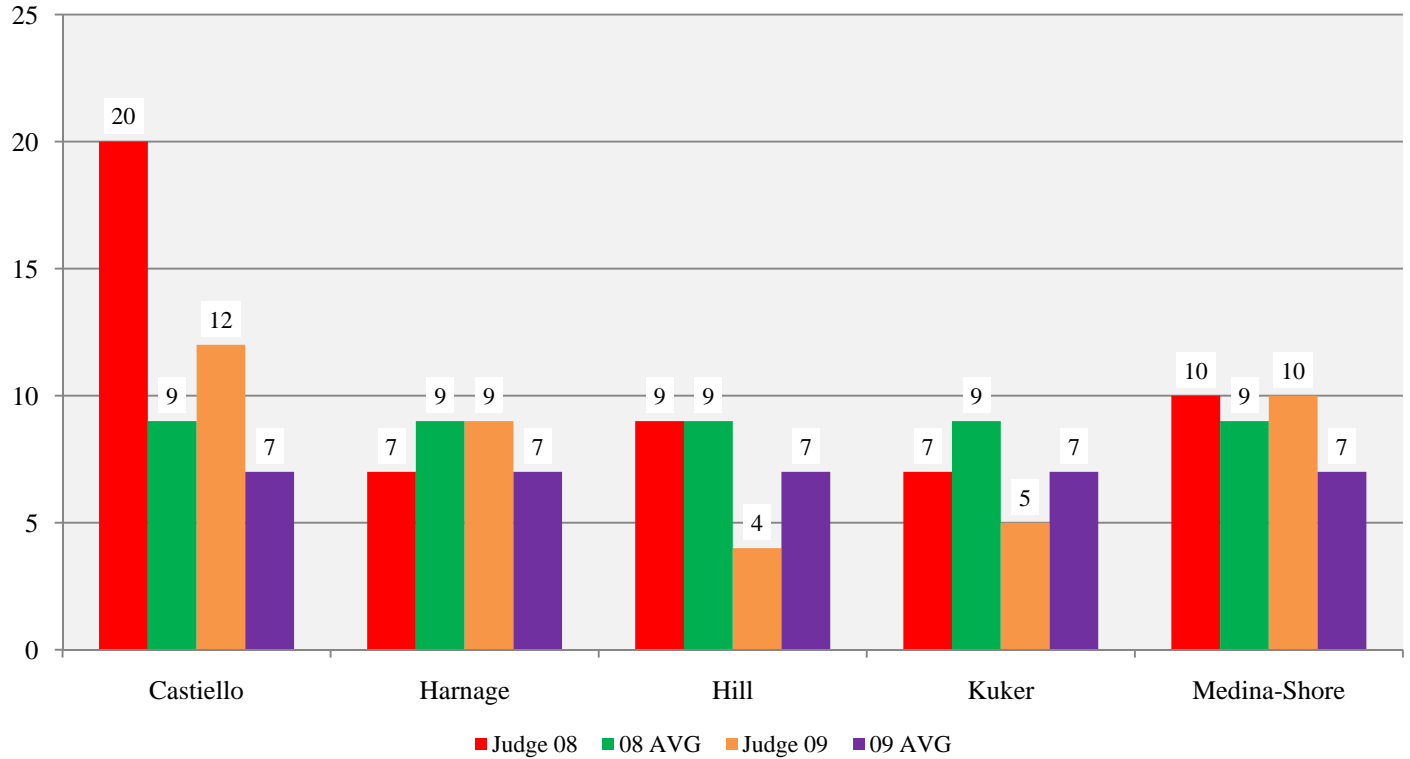
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



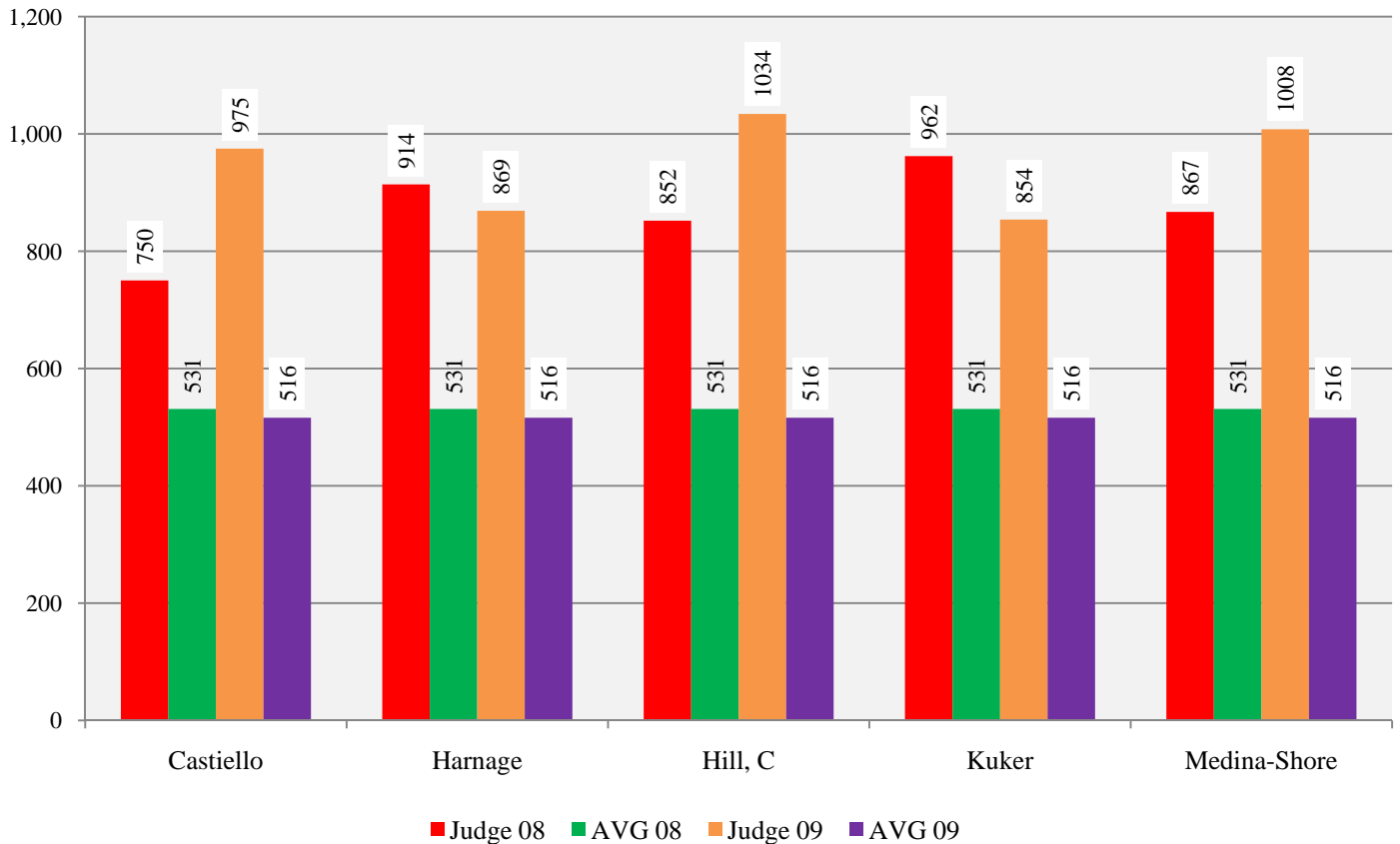
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



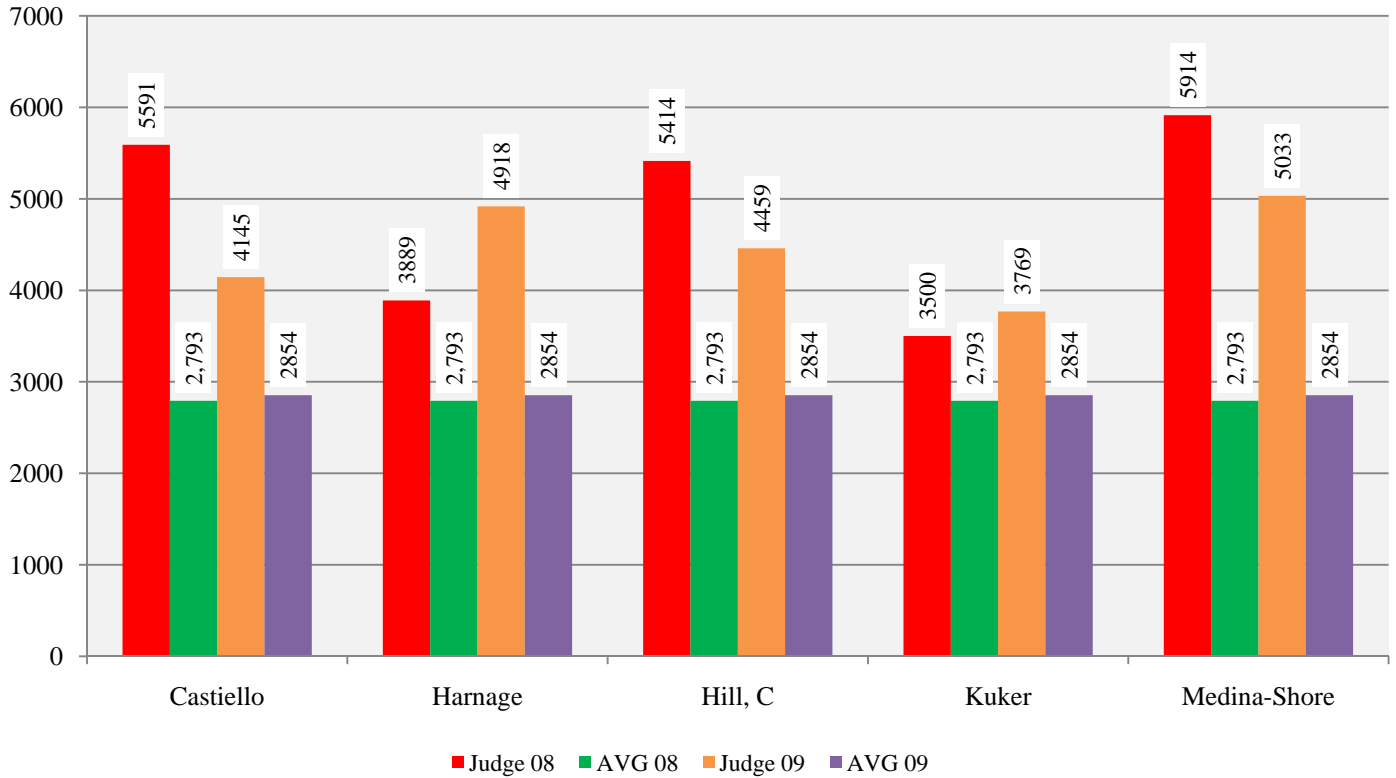
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



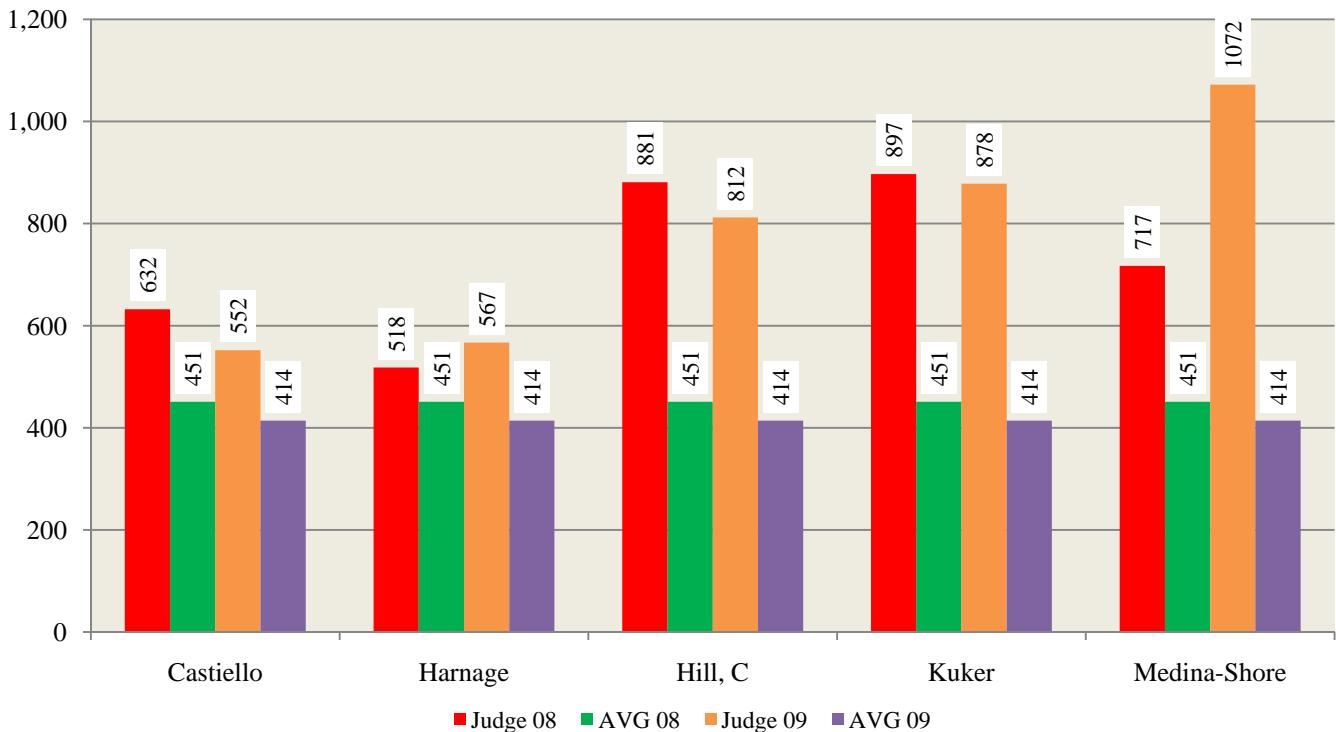
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



Appendix “9” District ORL (JCC Condry, JCC Sculco, JCC Farrell):

District ORL includes the following counties: Orange, Seminole,

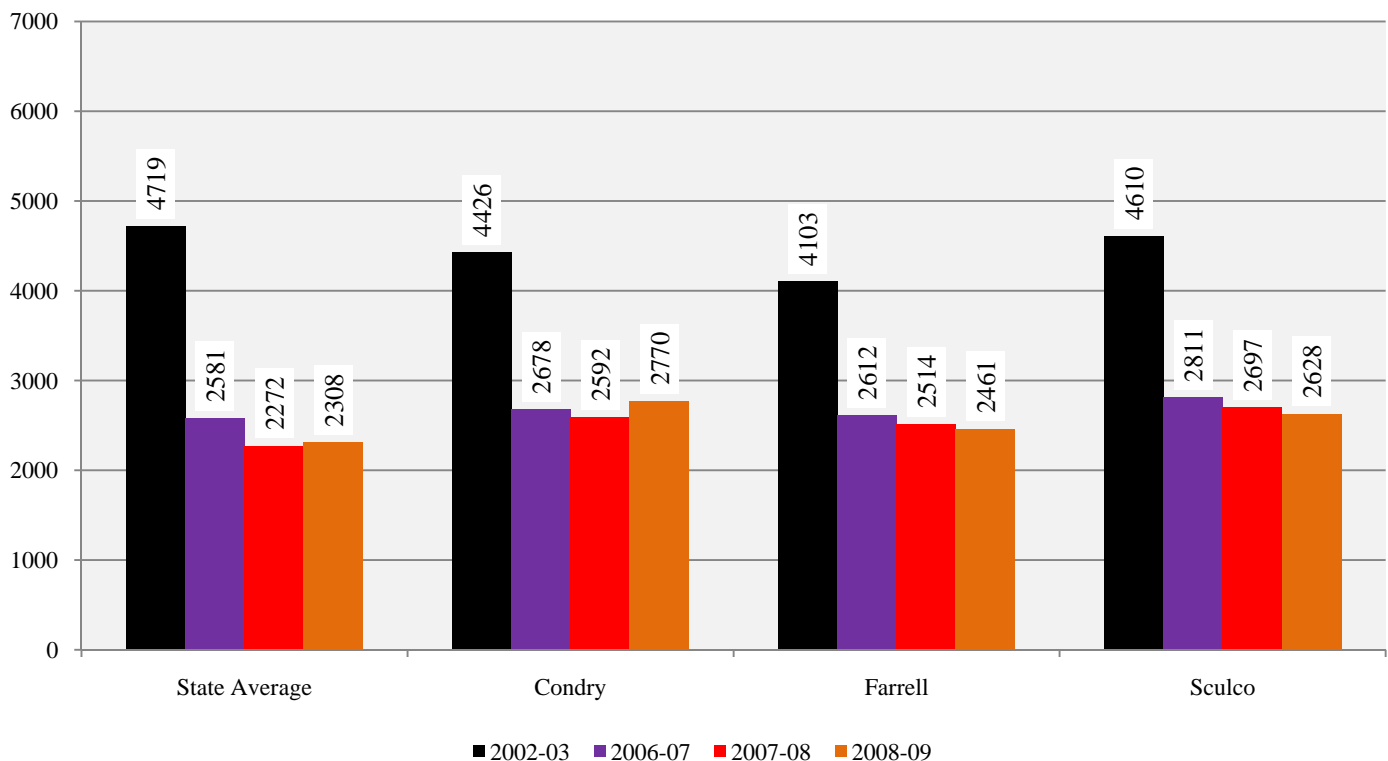
District ORL is a three-Judge District that was been supported and managed by two Judges throughout 2007-08 and the first half of 2008-09, following the transfer of Judge Thurman to District GNS in May 2007. In December 2008 Judge Farrell was appointed to the vacant position.

PFB and “new case” volumes in District ORL remain well above average in 2008-09. PFB closure volumes and filing volumes are very similar in all three ORL divisions, evidencing workload that is remaining close to equilibrium, but year-end PFB inventory remains above the statewide average. All three mediators averaged from PFB filing to first mediation less than the statutory period (130). Trial volumes in ORL were significantly above statewide average in District ORL last year. This is likely attributable in part to the distribution of three divisions of assigned trials among only two judges for half of the fiscal year until Judge Farrell’s appointment in December. Despite that volume, all three Judges entered trial orders on average within the 30 day statutory period. Consistent with the increased volume of PFB and “new case” filings, District ORL entered an above average volume of settlement orders.

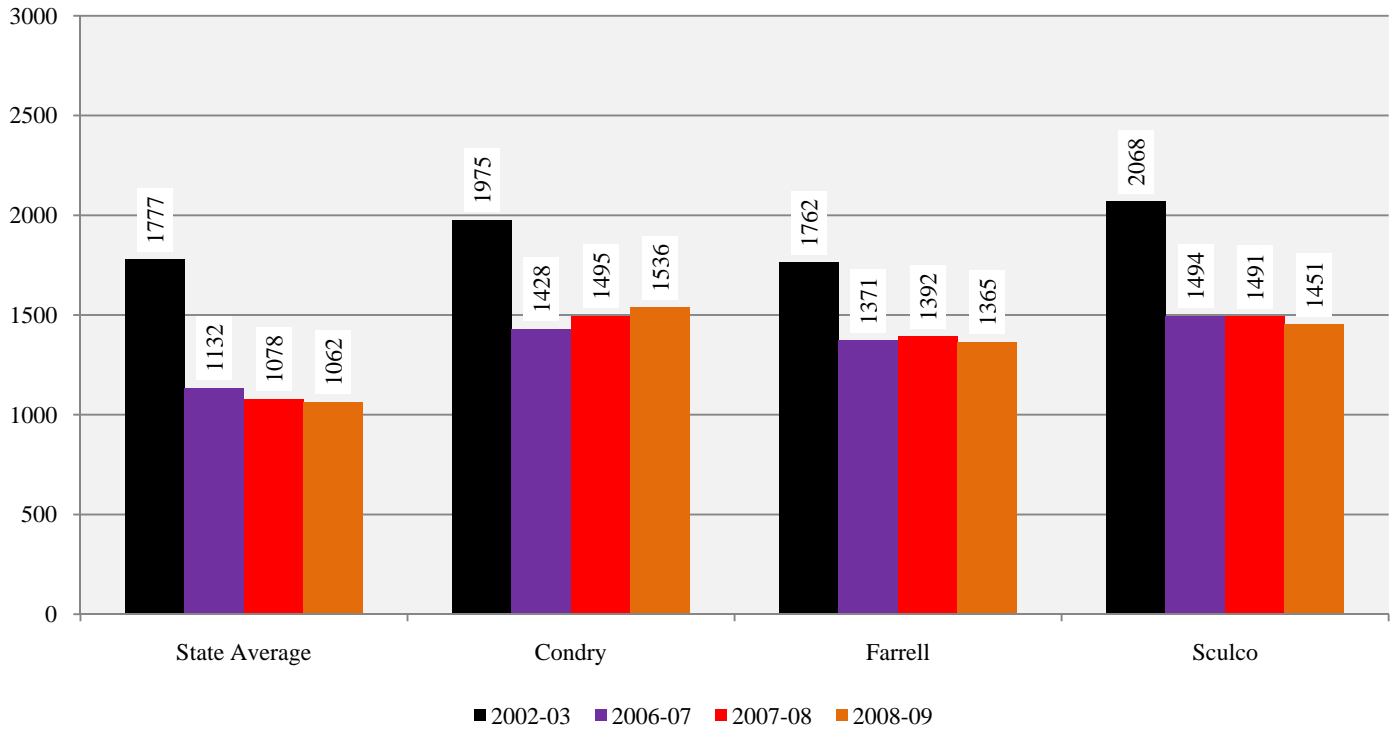
Judge Farrell teaches workers’ compensation at the Barry University School of Law. Last year he lectured in U.S. Government at Valencia Community College.

Judge Sculco teaches workers’ compensation at the Florida Agricultural and Mechanical University Law School.

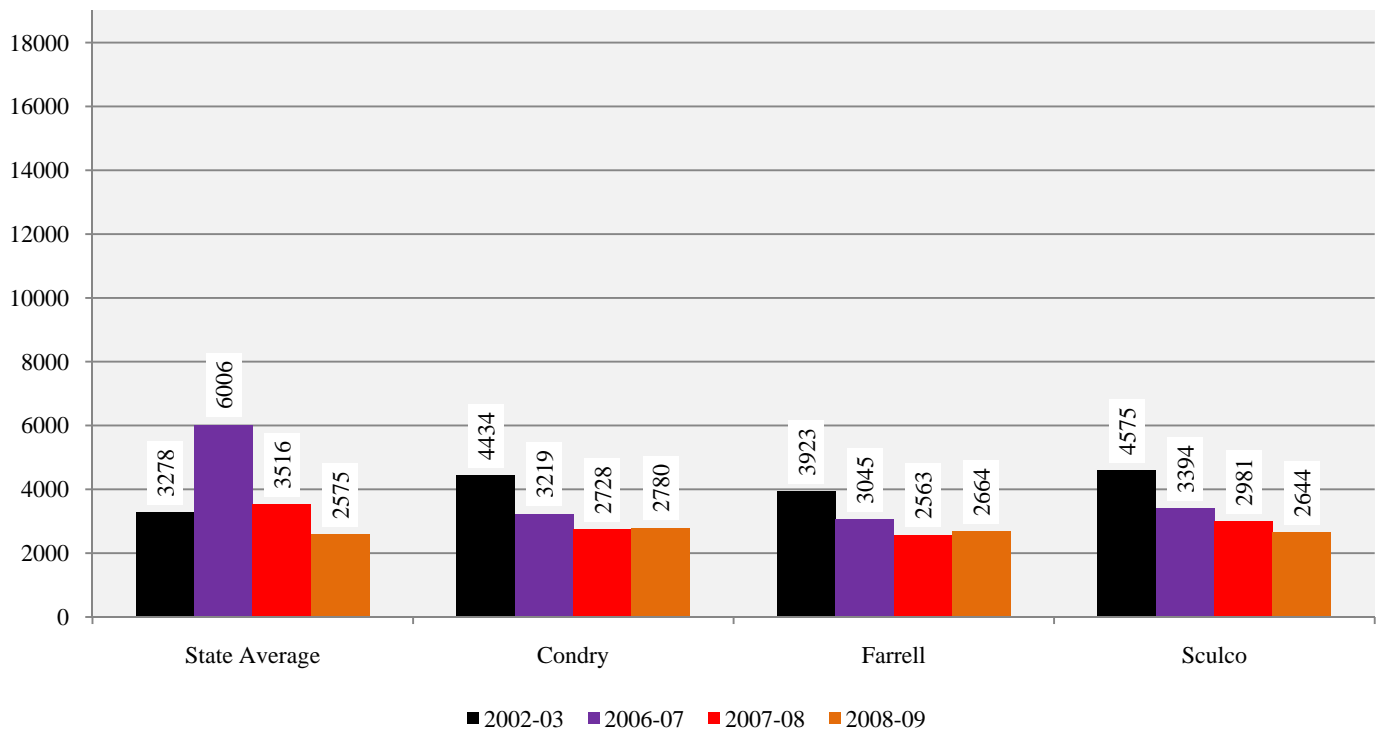
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



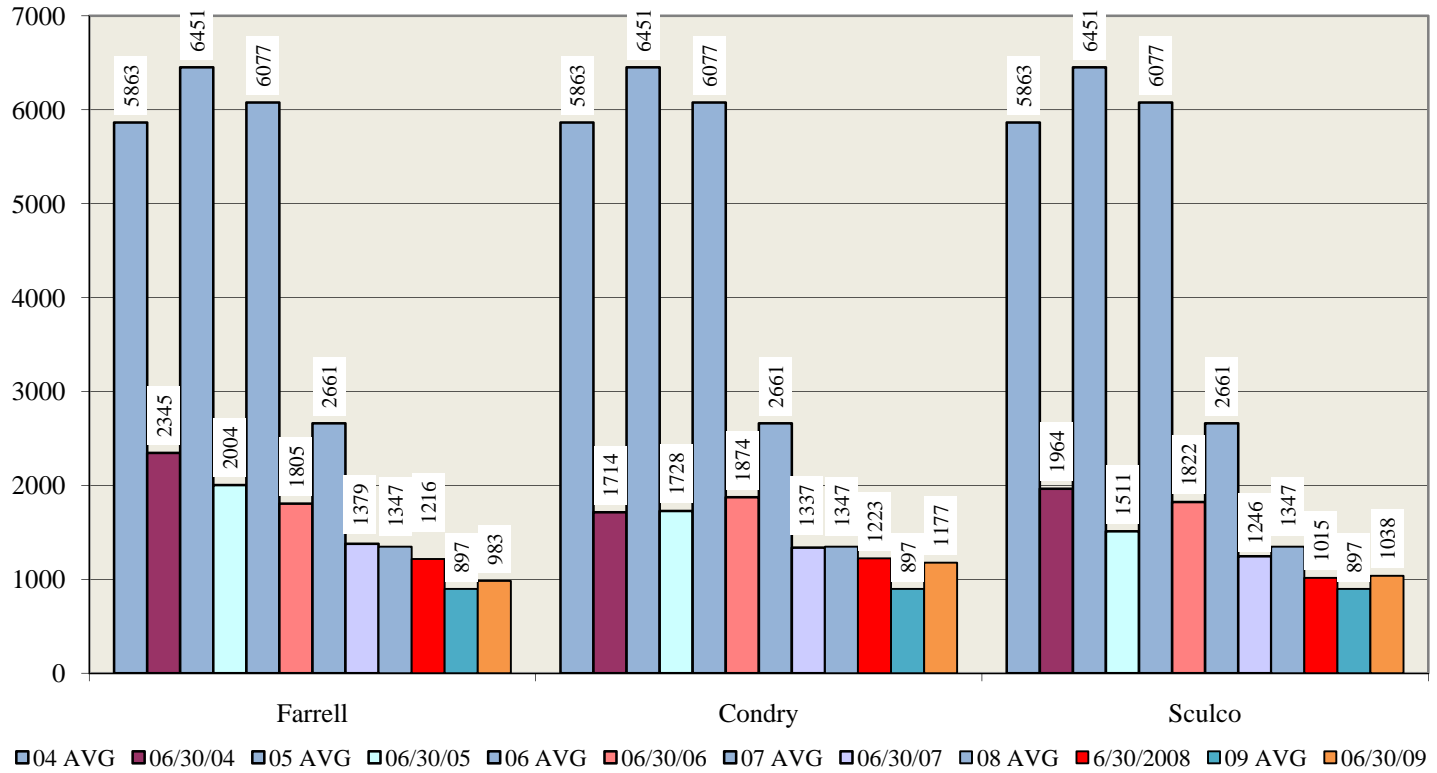
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



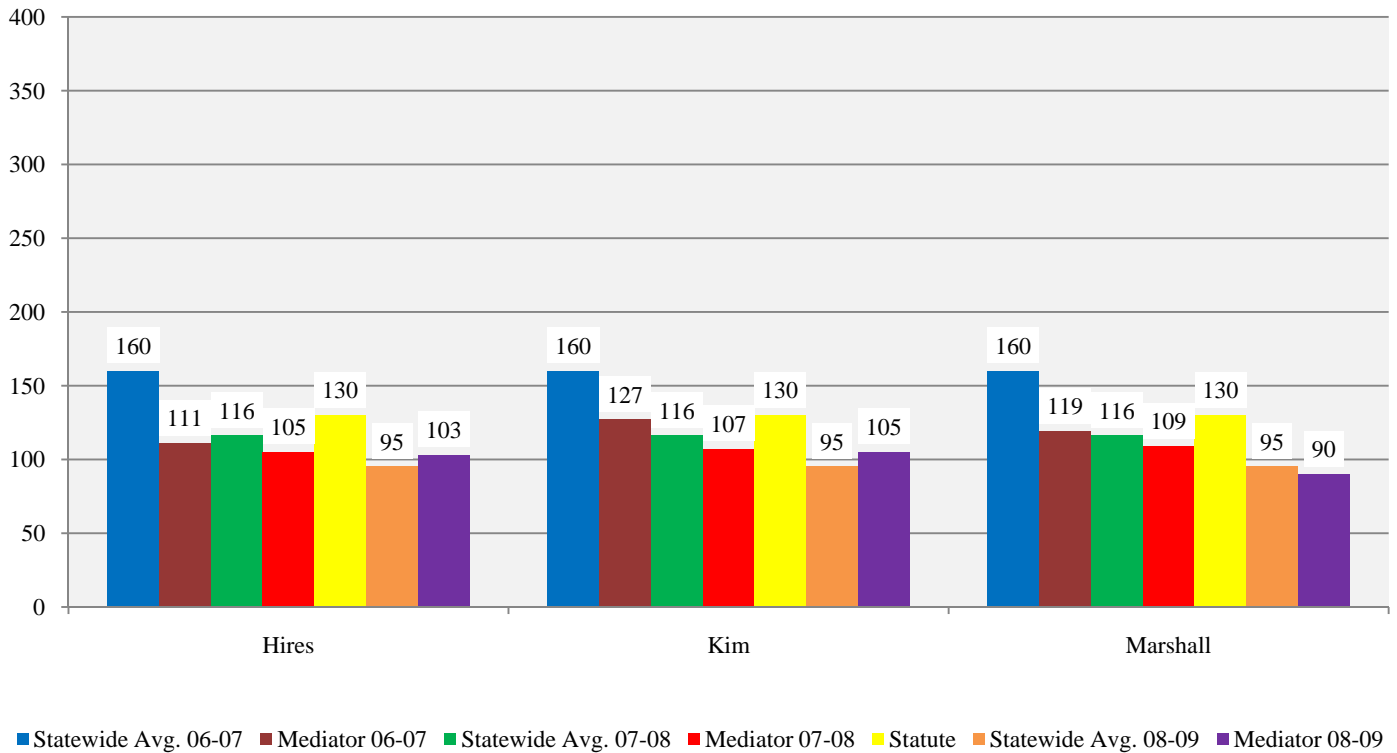
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



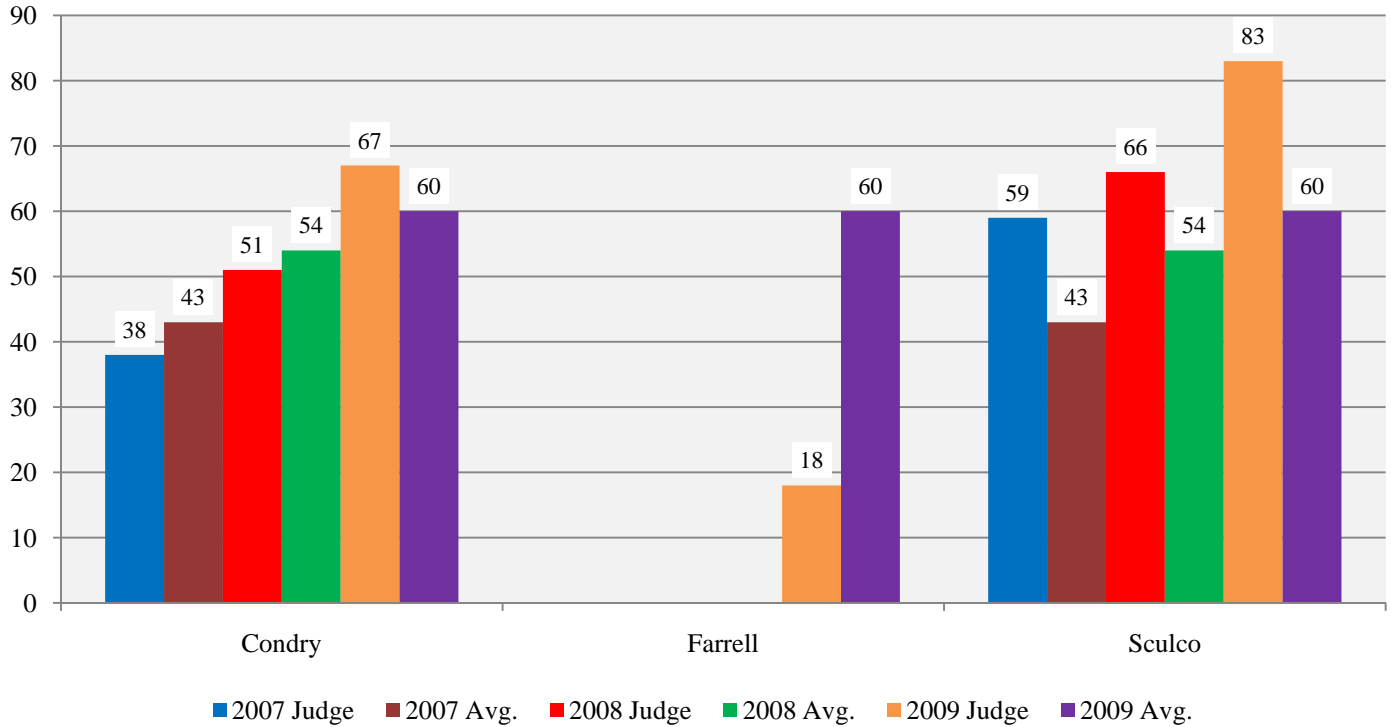
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



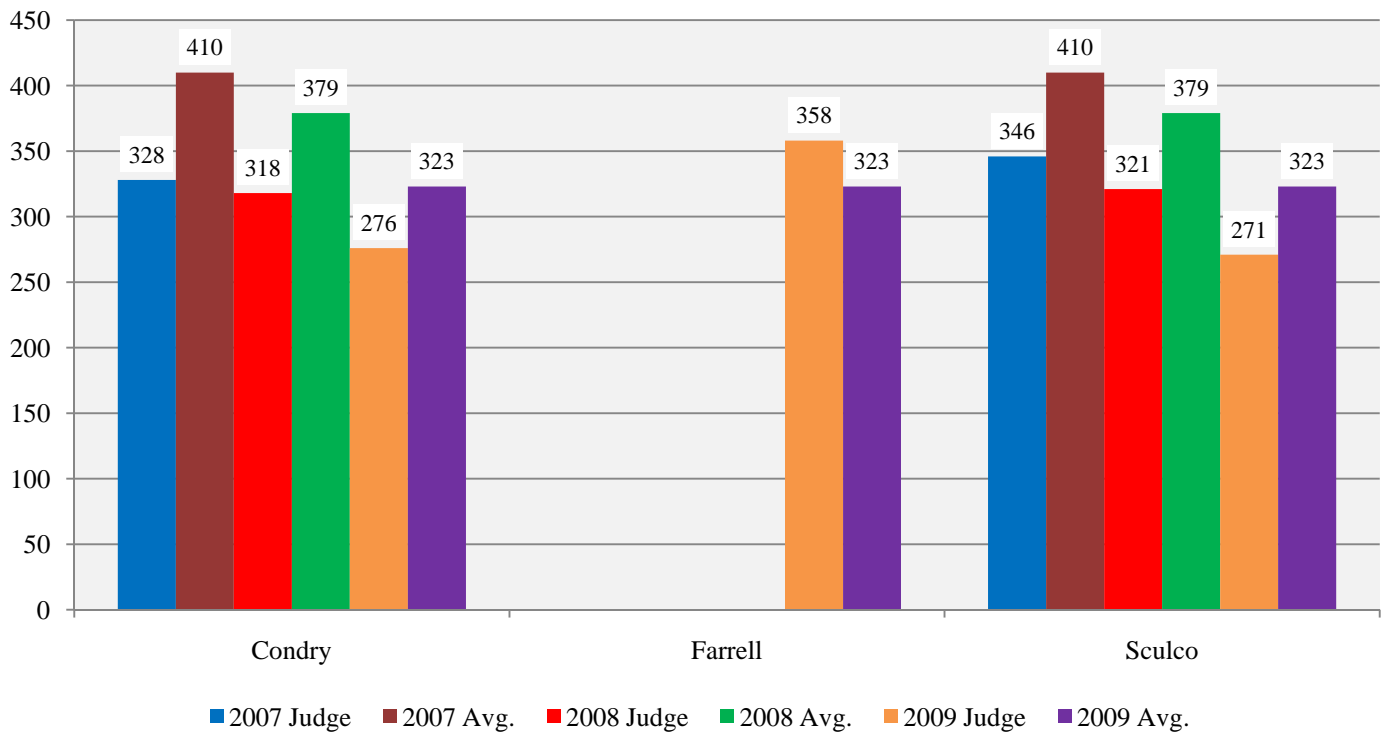
The following graph depicts the average days between PFB filing and the first mediation held thereon for each mediator in the district (brown = 07)(red = 08)(orange = 09) and the statewide average (blue = 07)(green = 08)(purple = 09).



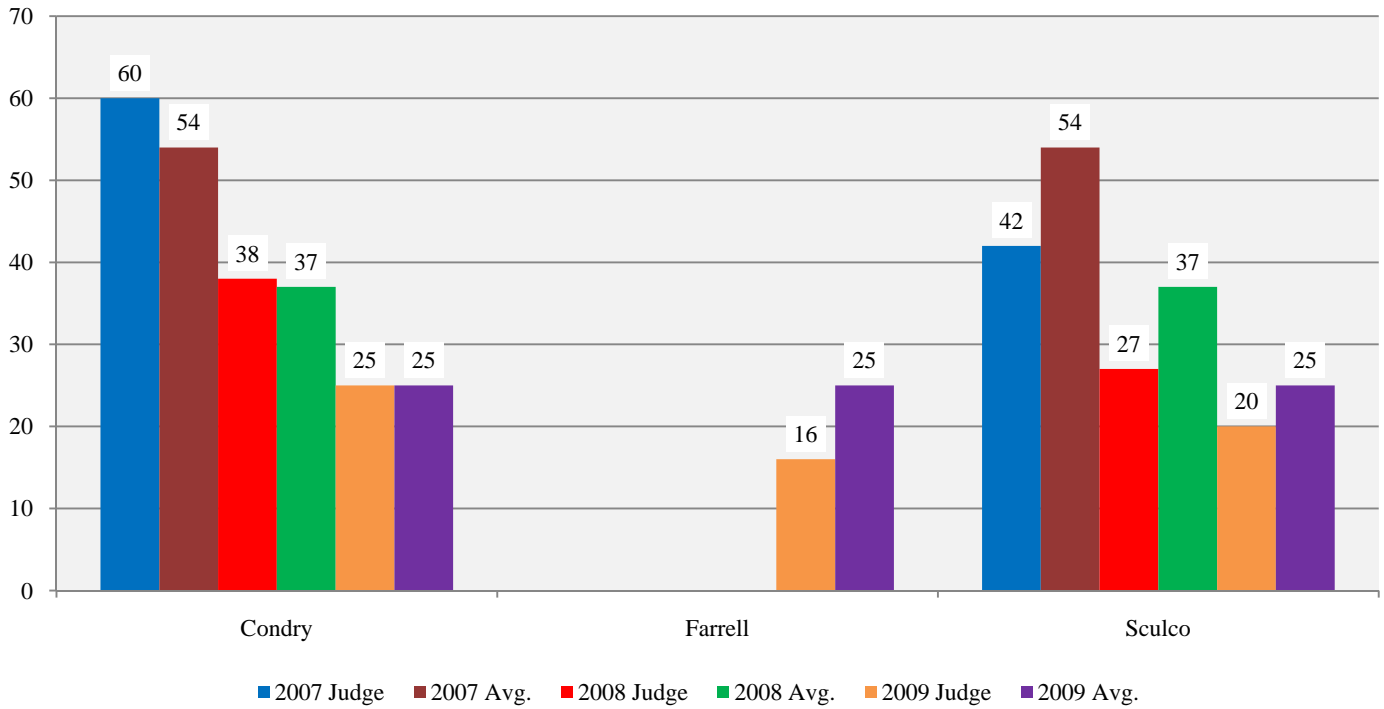
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



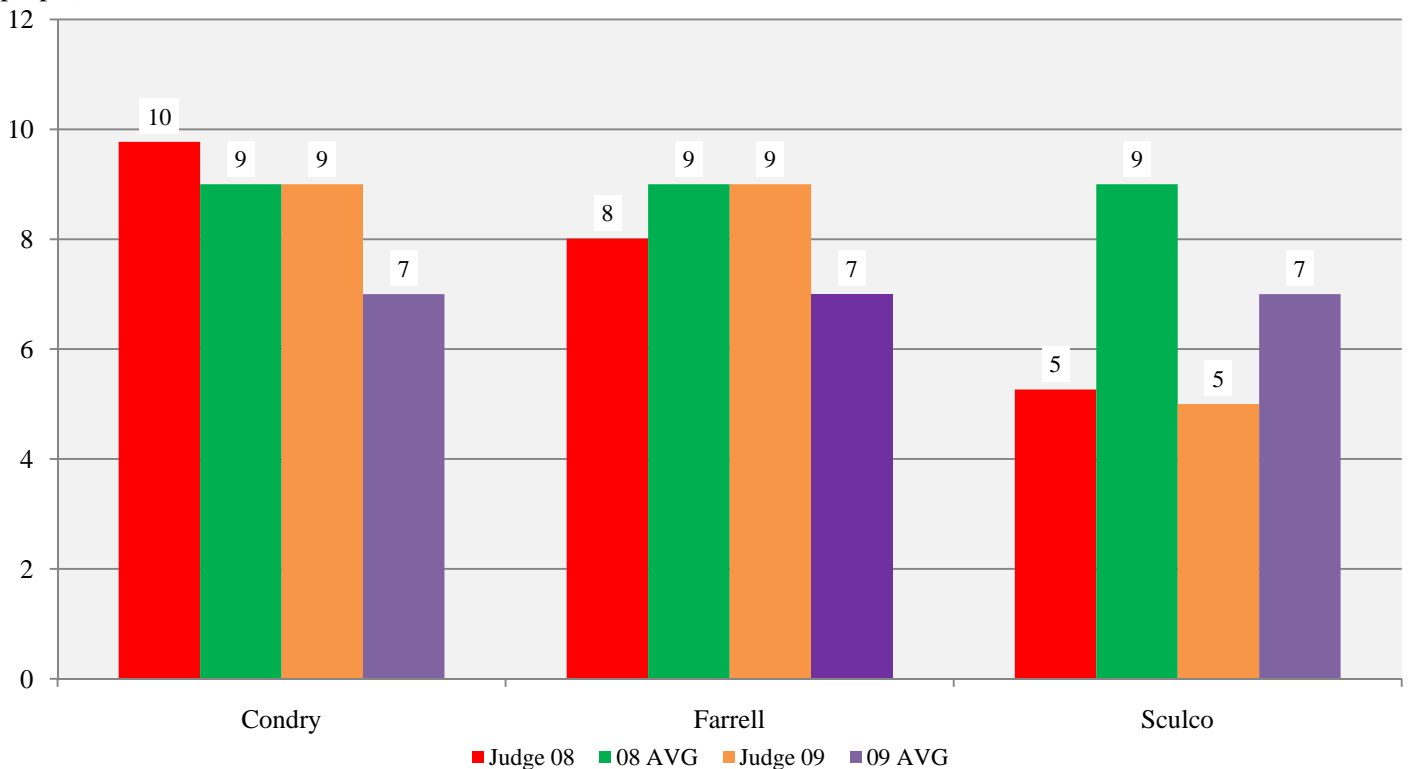
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



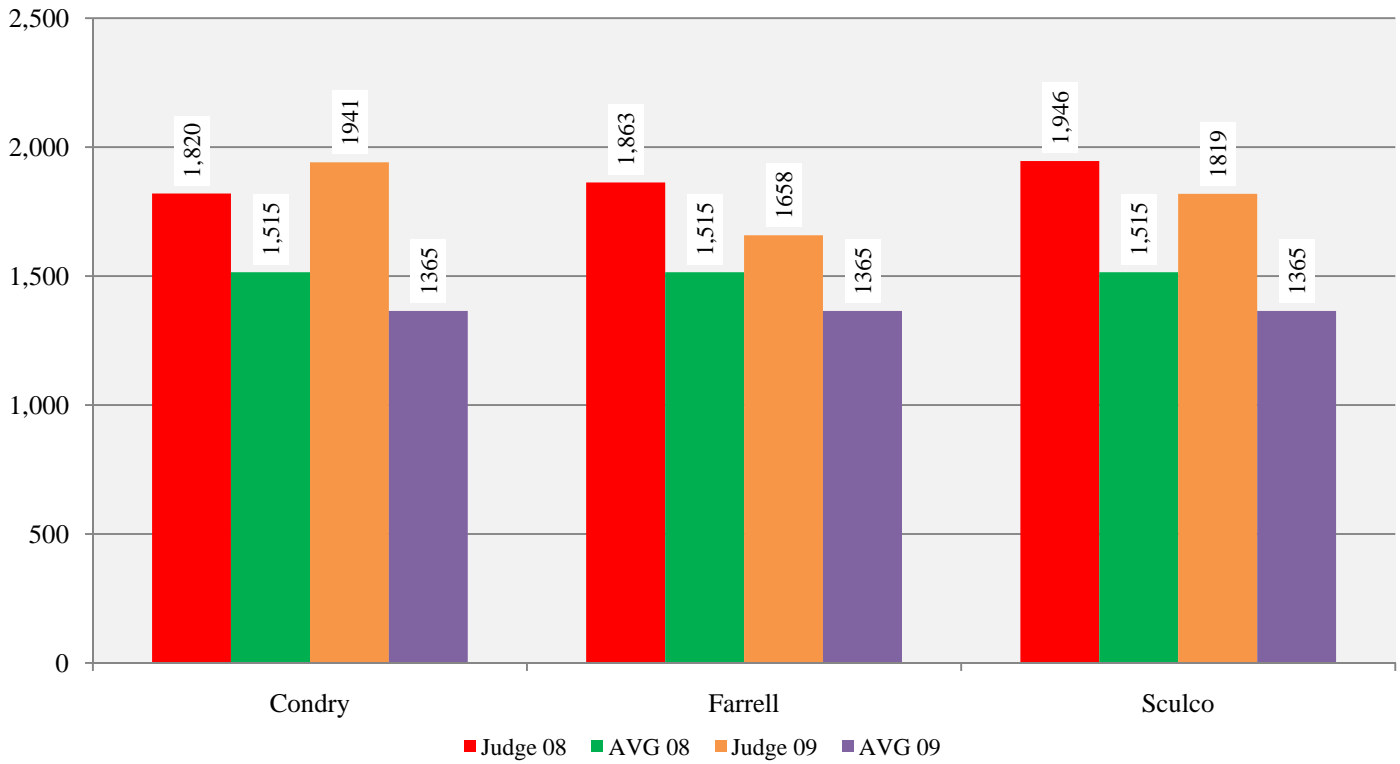
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



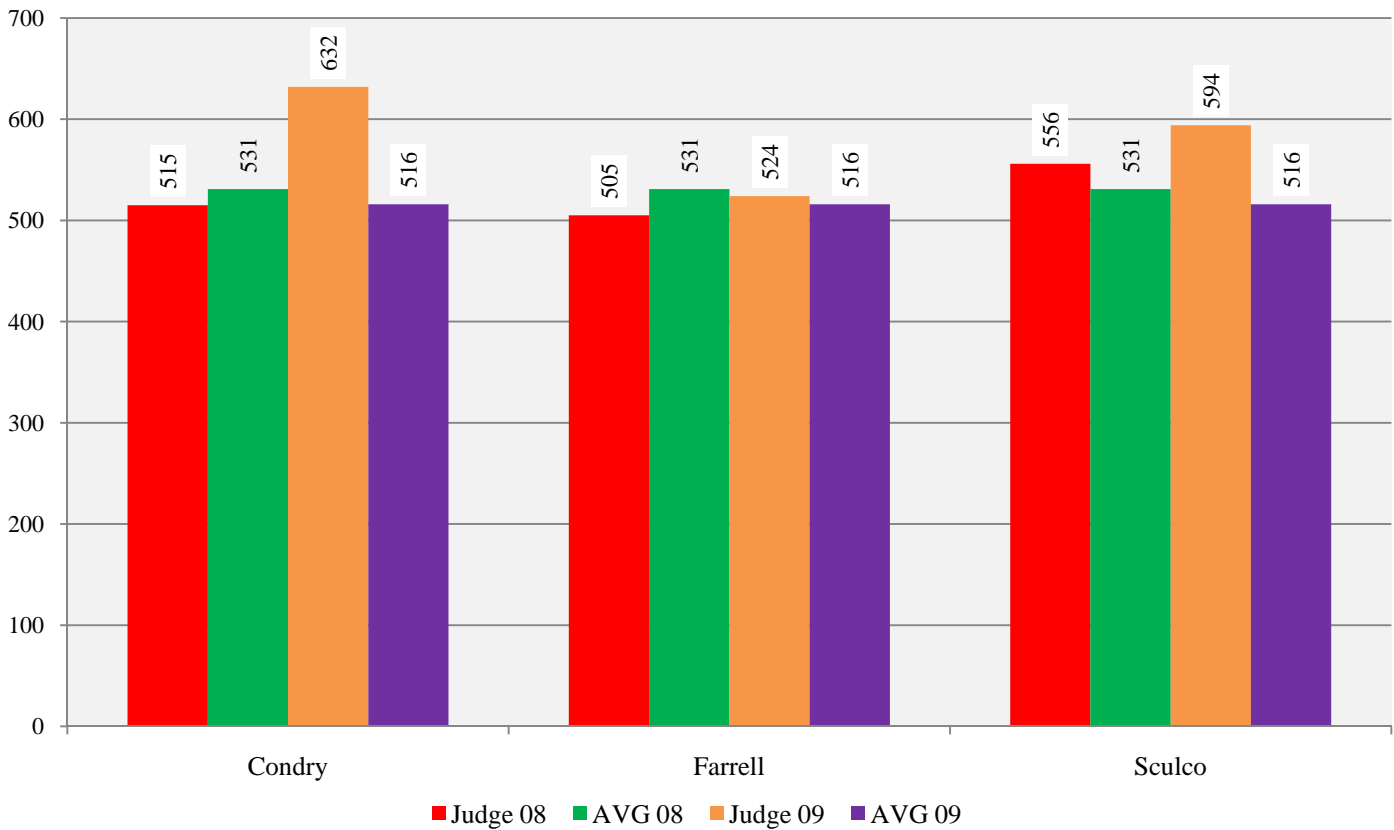
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



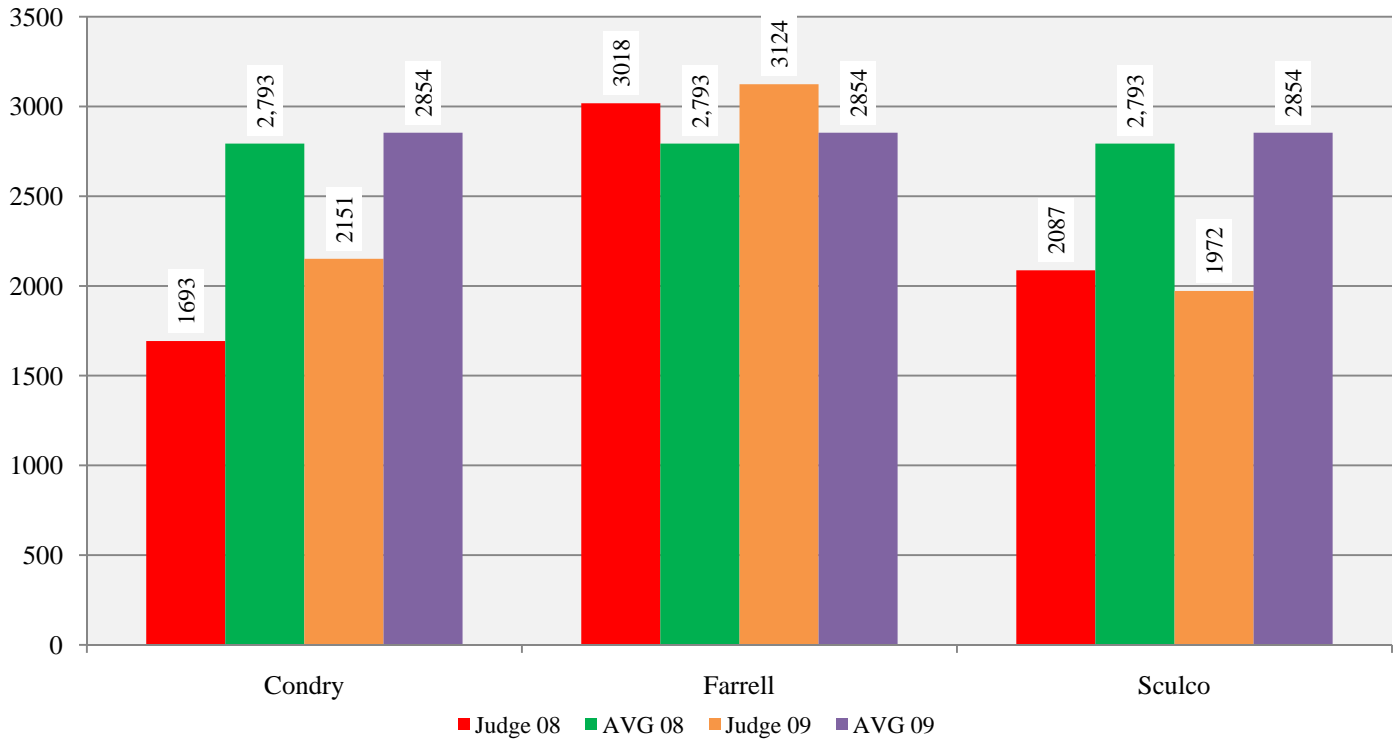
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



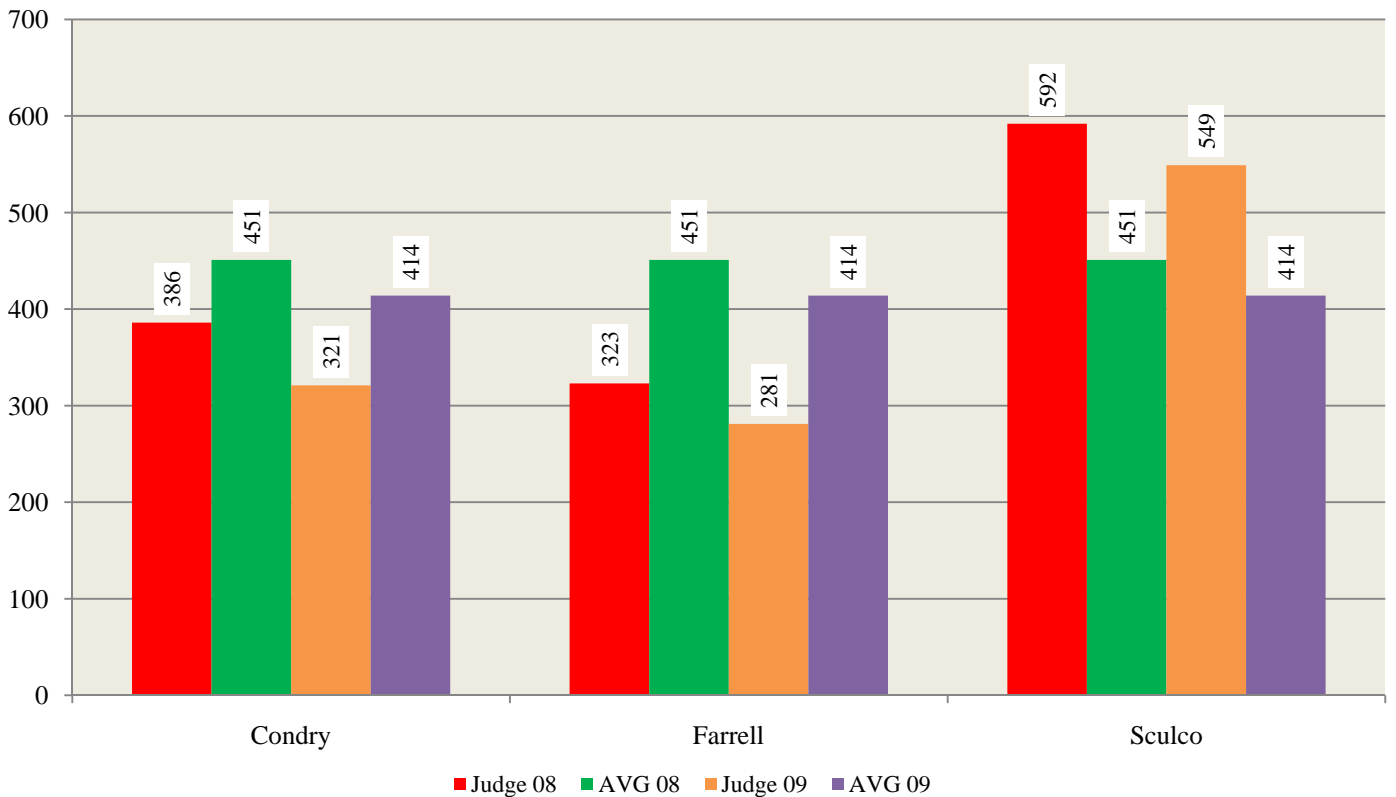
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



Appendix “10” District PMC (JCC Roesch):

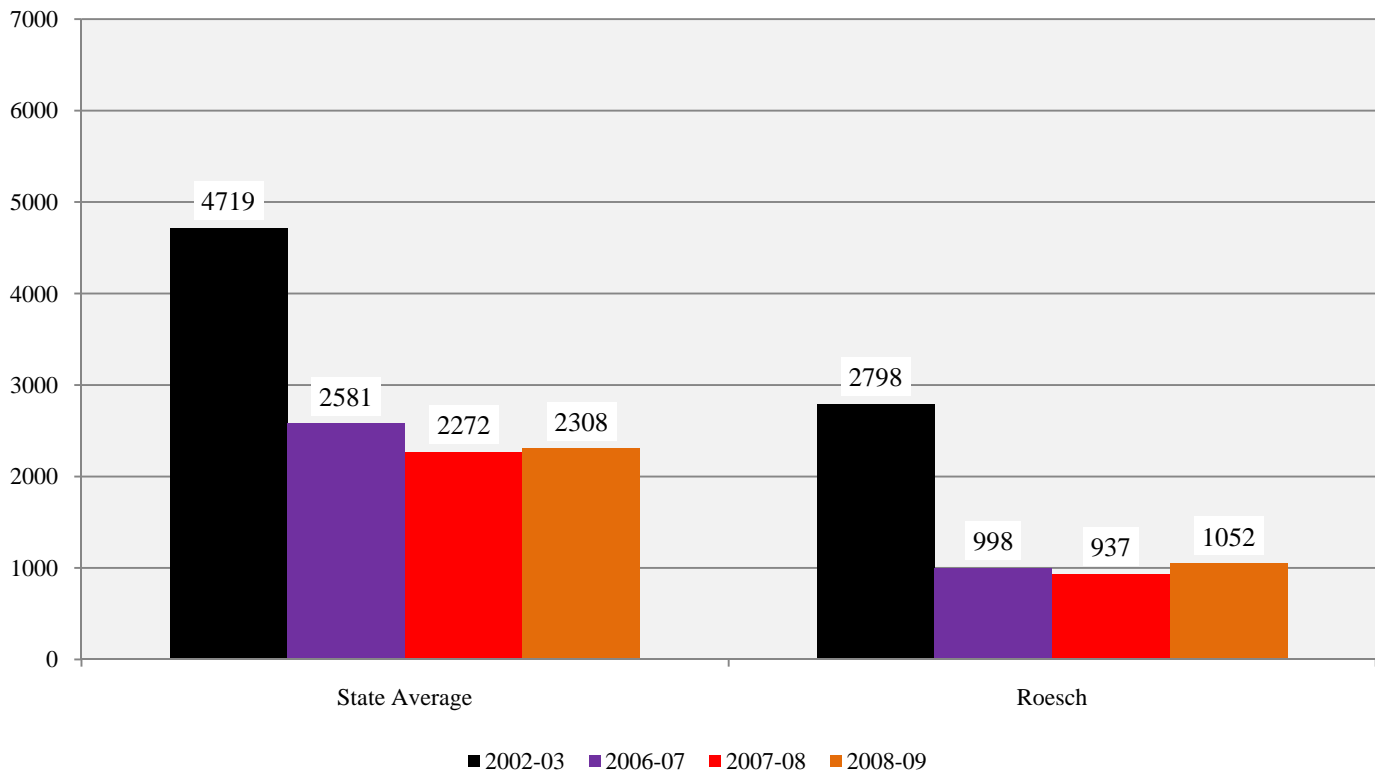
District PMC in Panama City includes the following counties: Bay, Calhoun, Gulf, Holmes, Jackson, Liberty, Walton, and Washington. District PMS is one of the largest geographic Districts in the state. While most of the parties will usually travel to the District office, there are occasions when trials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

In PMC, the PFB and “new case” filing rates are well below the statewide averages, as is the trial volume. Judge Roesch has volunteered in 2008-09 to hear cases remotely in other Districts using the video teleconference (VTC) network deployed by the OJCC over the last two fiscal years. In 2009-10 District PMC will undertake responsibility for a volume of “new cases” from District FTL in an effort to relieve the above average work-load in FTL, which is consistent with her consistent past efforts as a visiting judge and in providing assistance with settlement and other motions from other Districts.

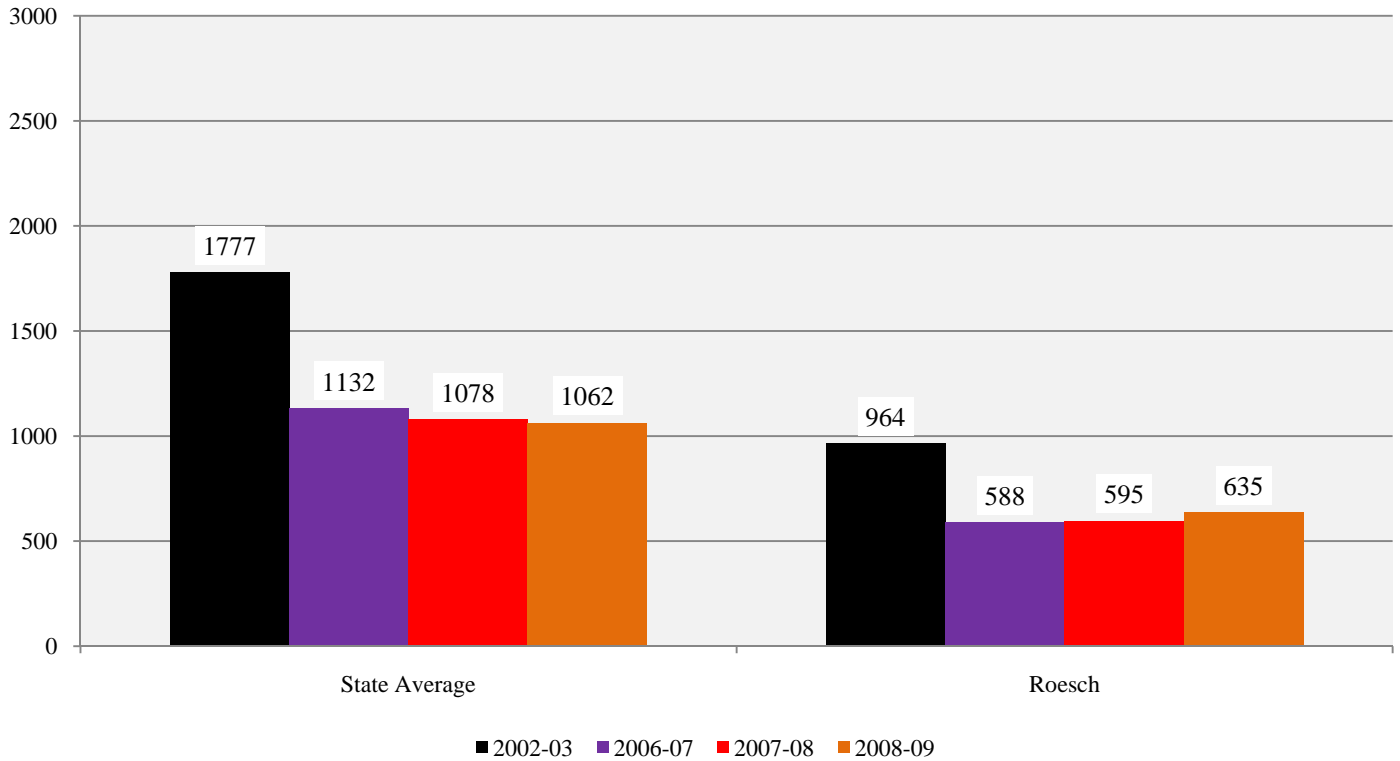
Average time to mediation, to trial and from trial to final order are all within the statutory mandates in District PMC. The average time between filing of a settlement motion and entry of the resulting order is also well below the statewide average.

Judge Roesch is the president of the Florida Compensation Judge’s Conference. She consistently participates as moot court judge at the FWCI Earle Zehmer Workers' Compensation Moot Court Competition. Judge Roesch volunteers with the Bay Conservancy project as well as the "Justice Teaching" program in the Fourteenth Judicial Circuit. She has also served as a member of the Bay County Planning Commission, Bay County law library, League of Women Voters, Bay County Ad Hoc Recycling Committee, Bay County Teen Court, Inc., Big Brothers/Big Sisters, Girl Scouts of America, Gulf Coast Triathlon Committee, Bay County Extension Office Master Gardeners program, St. Andrews Bay American Inn of Court and Rotary Club of Panama City Beach literacy project.

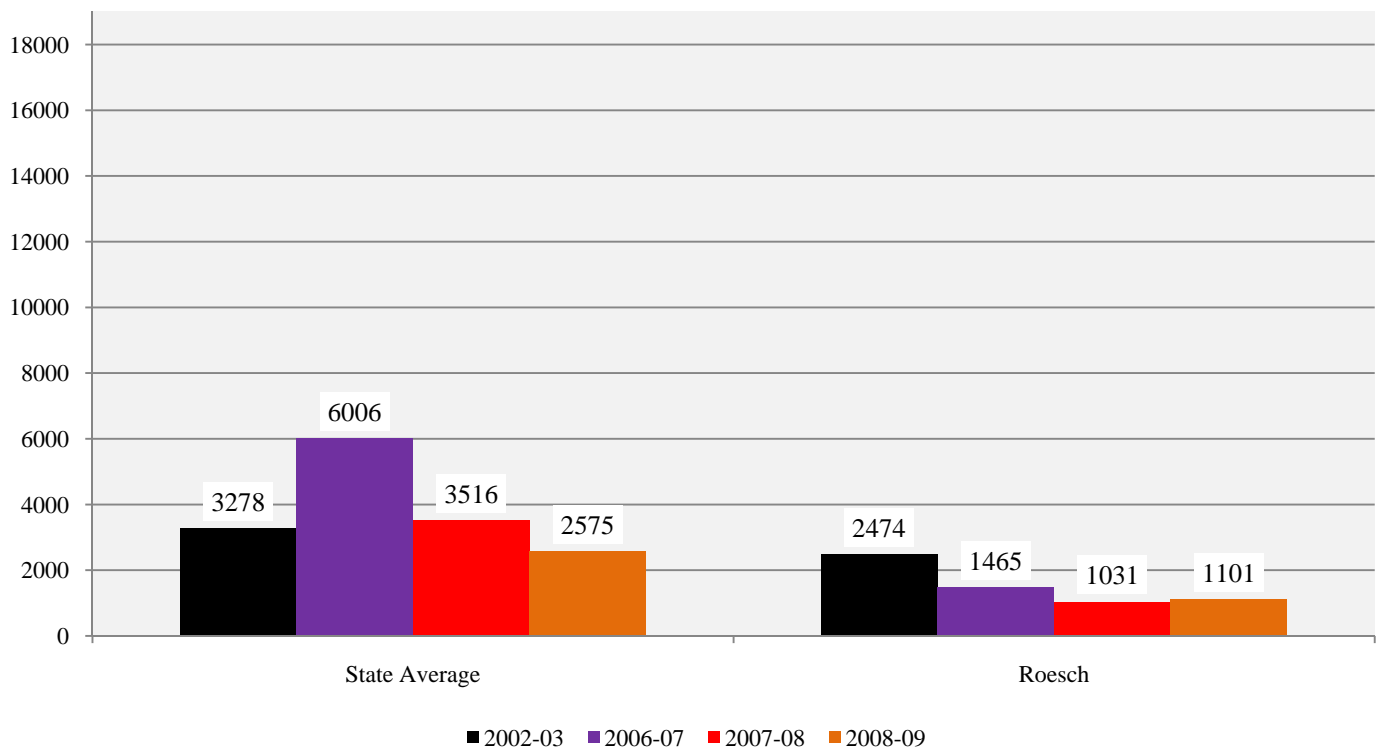
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



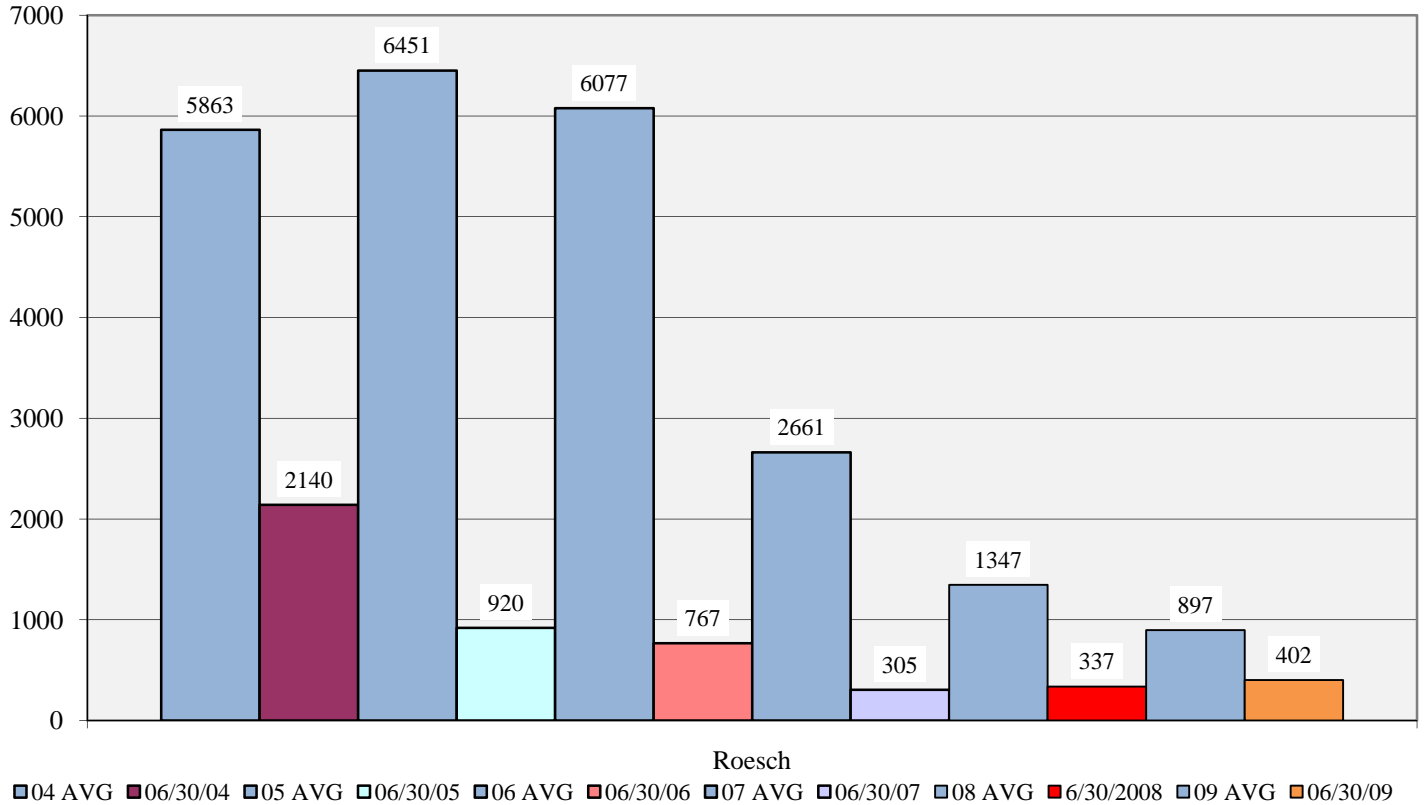
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



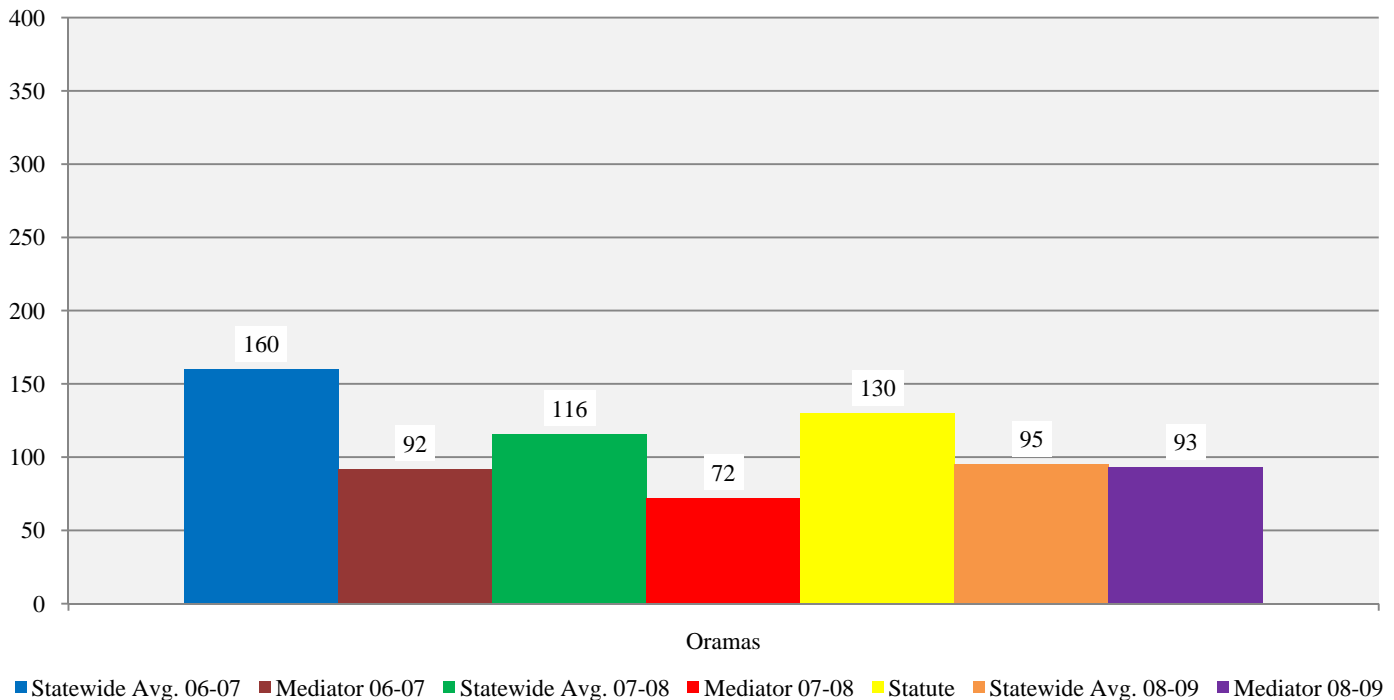
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



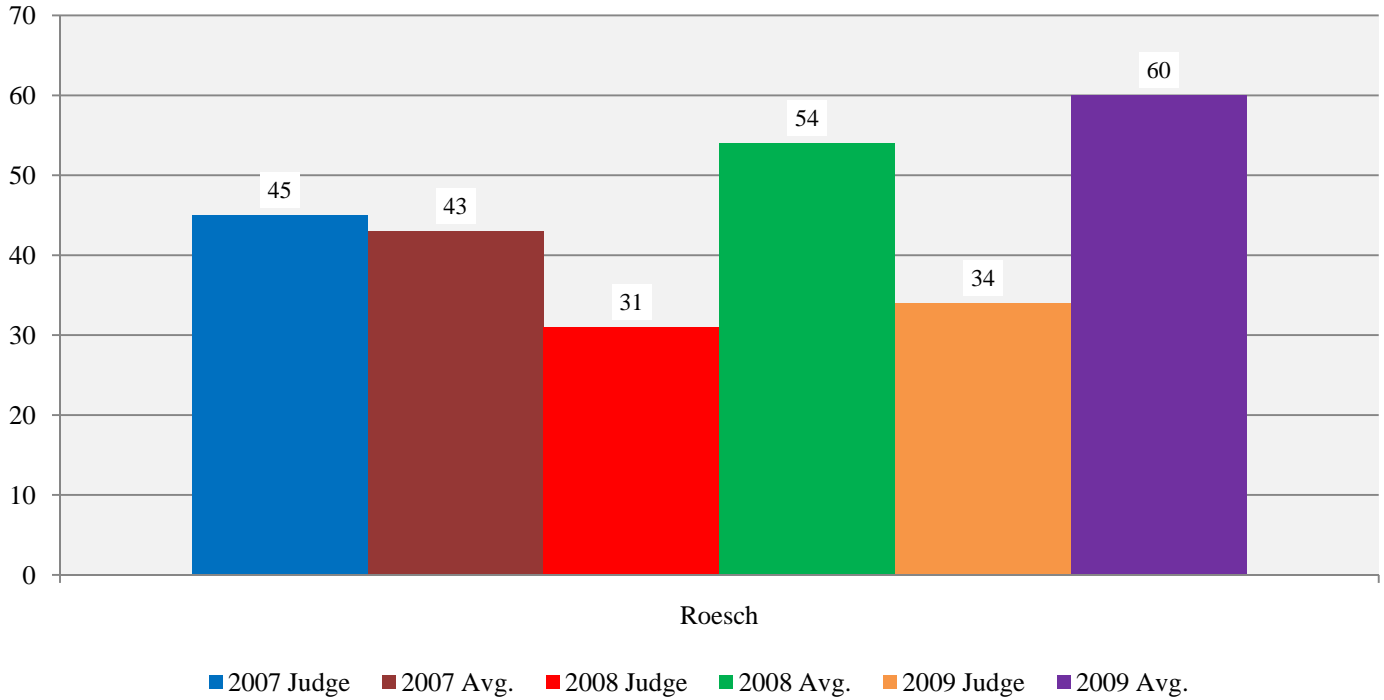
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



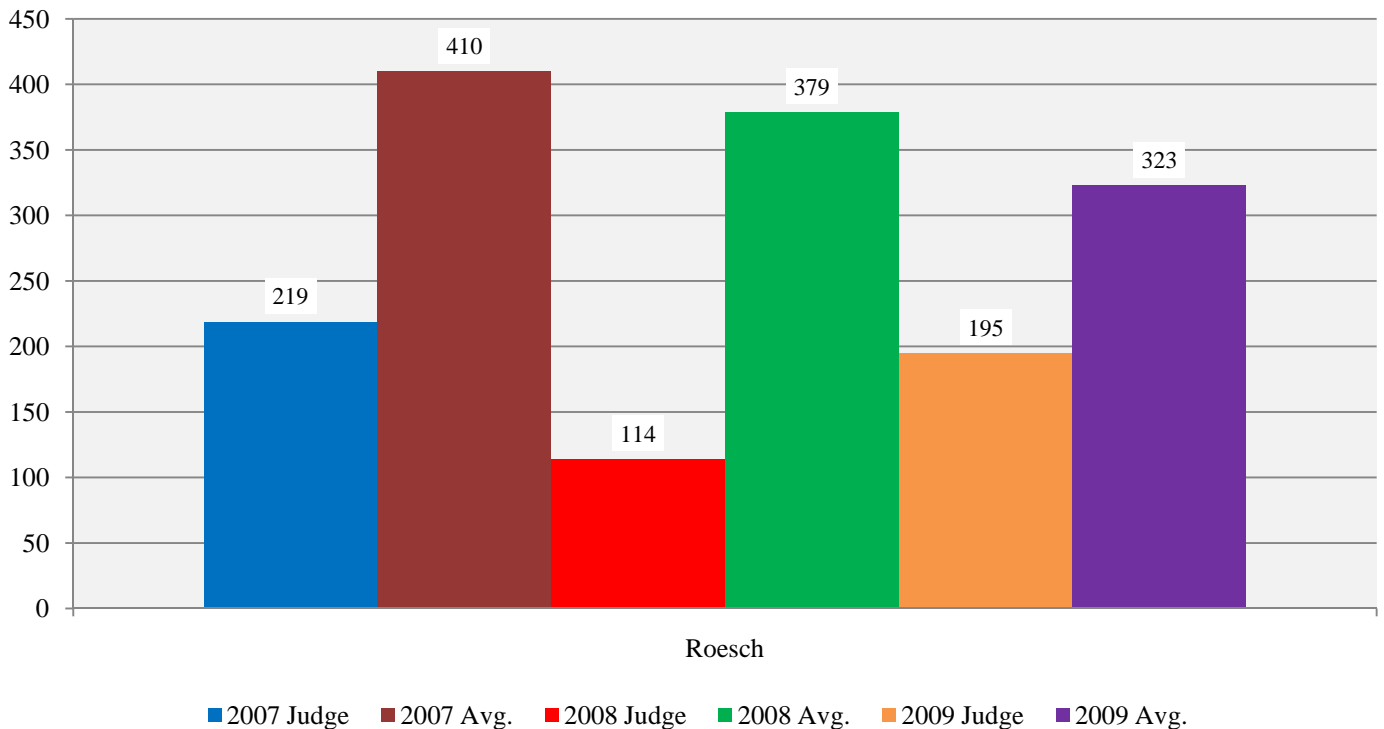
The following graph depicts the average days between PFB filing and the first mediation held thereon for each mediator in the district (brown = 07)(red = 08)(orange = 09) and the statewide average (blue = 07)(green = 08)(purple = 09).



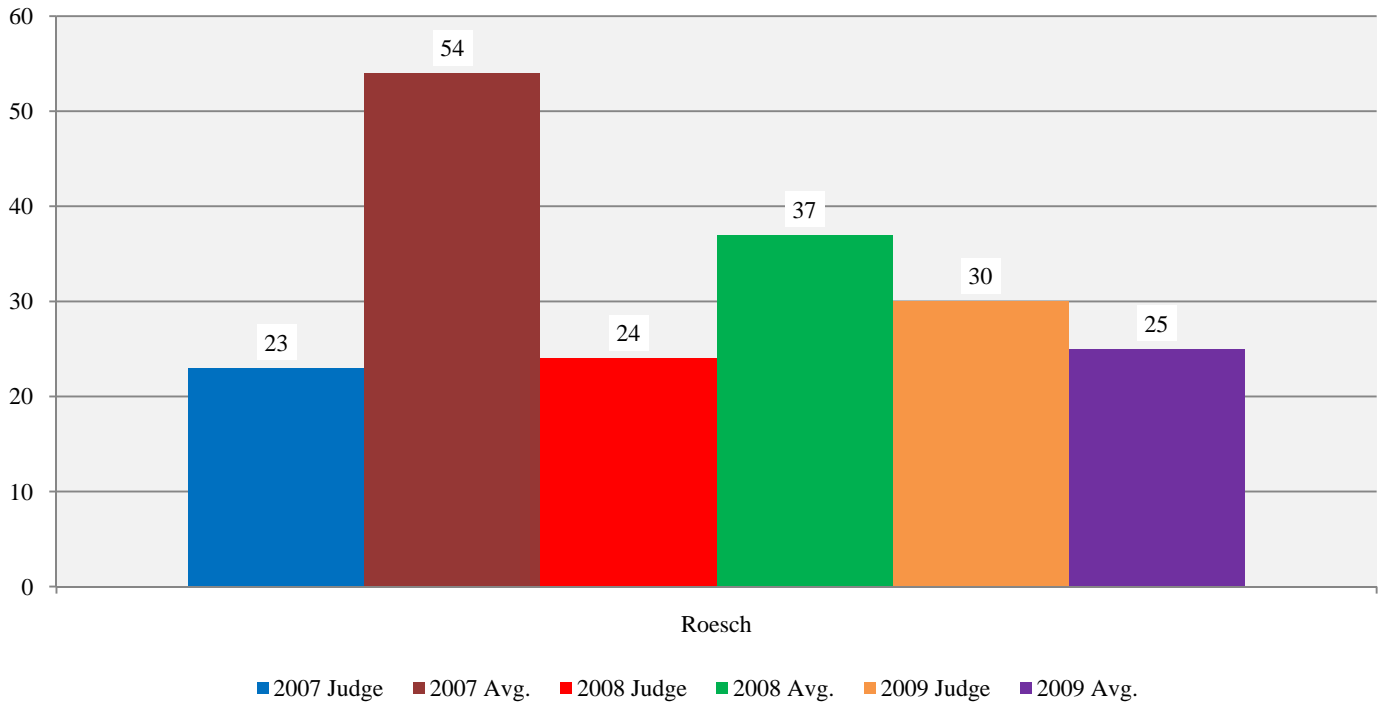
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



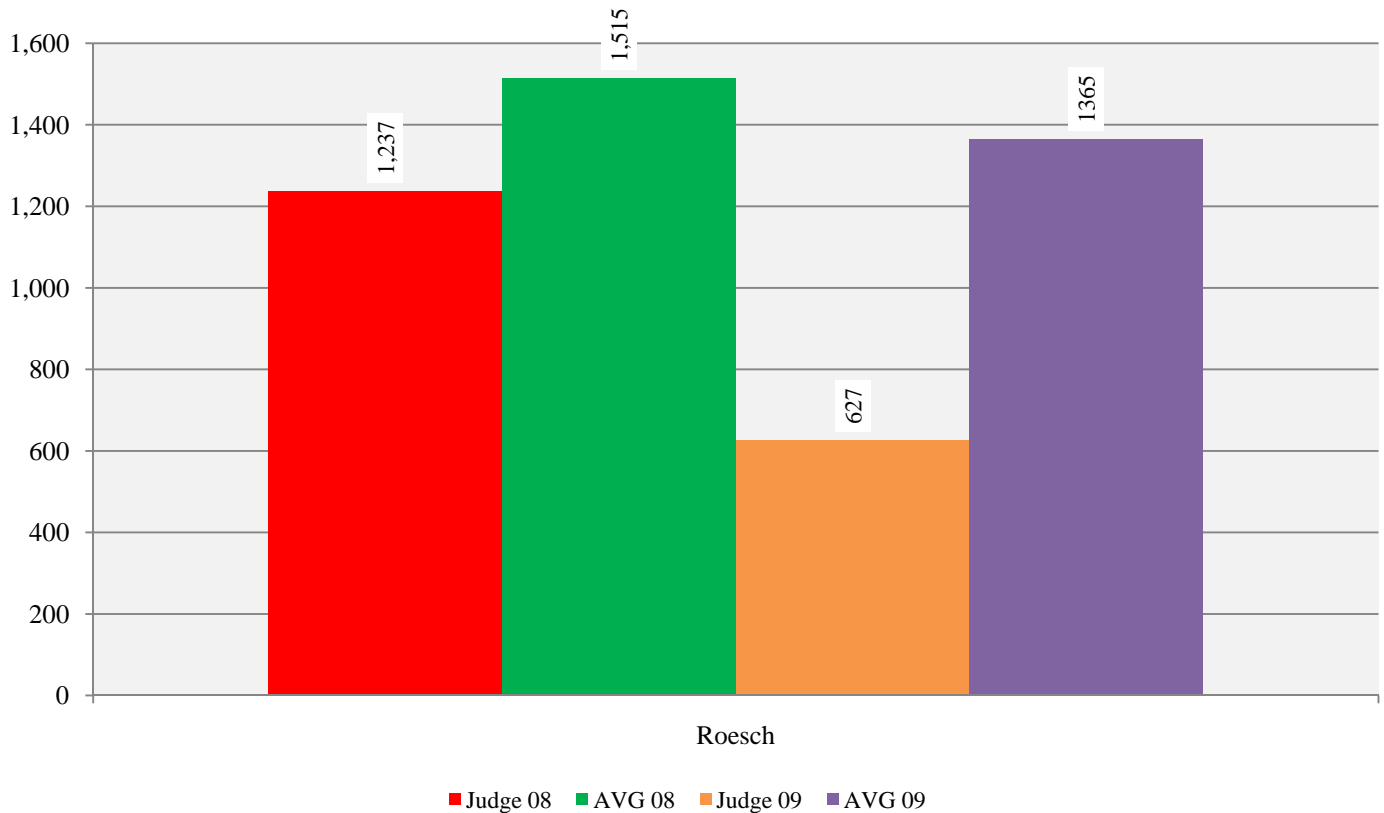
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



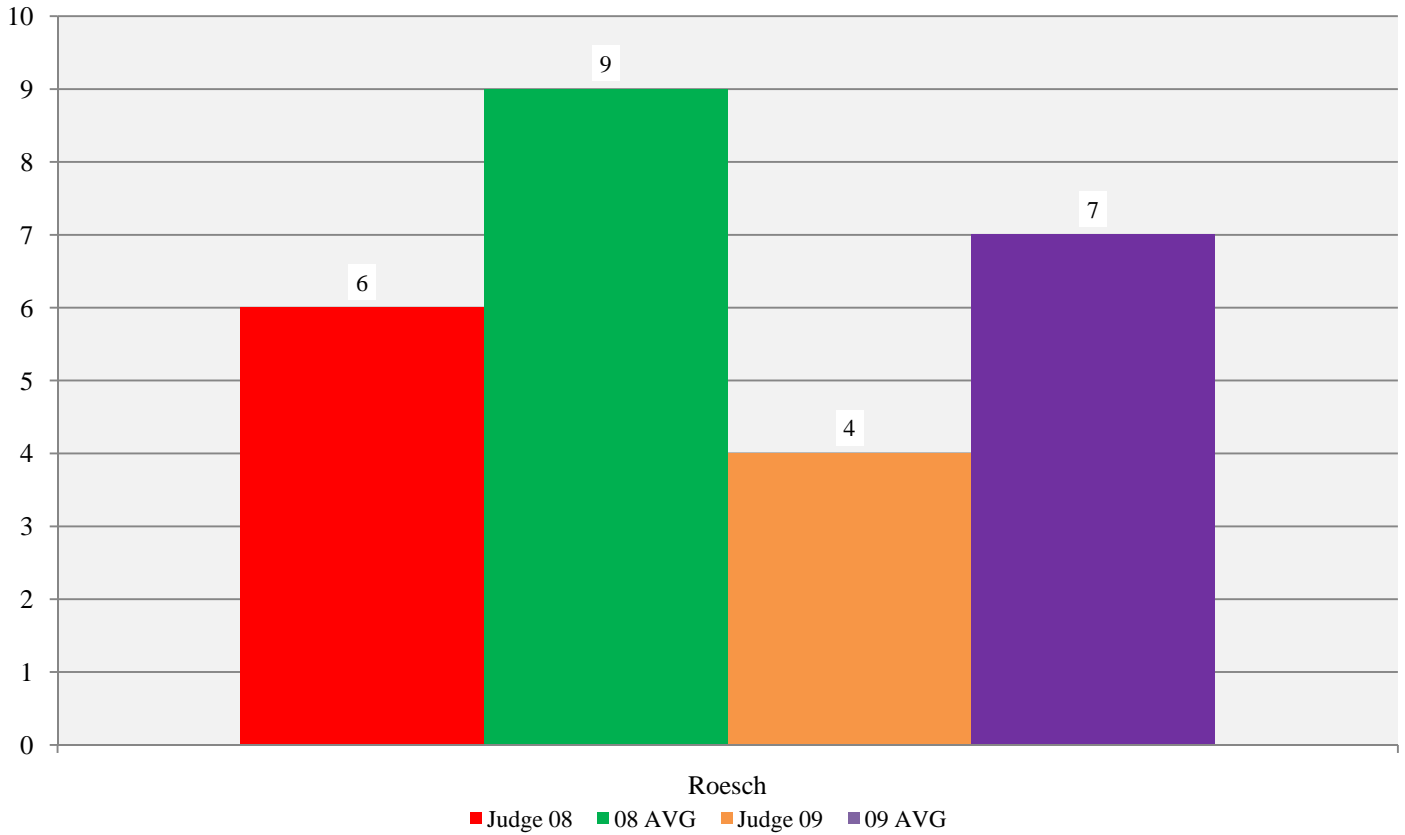
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



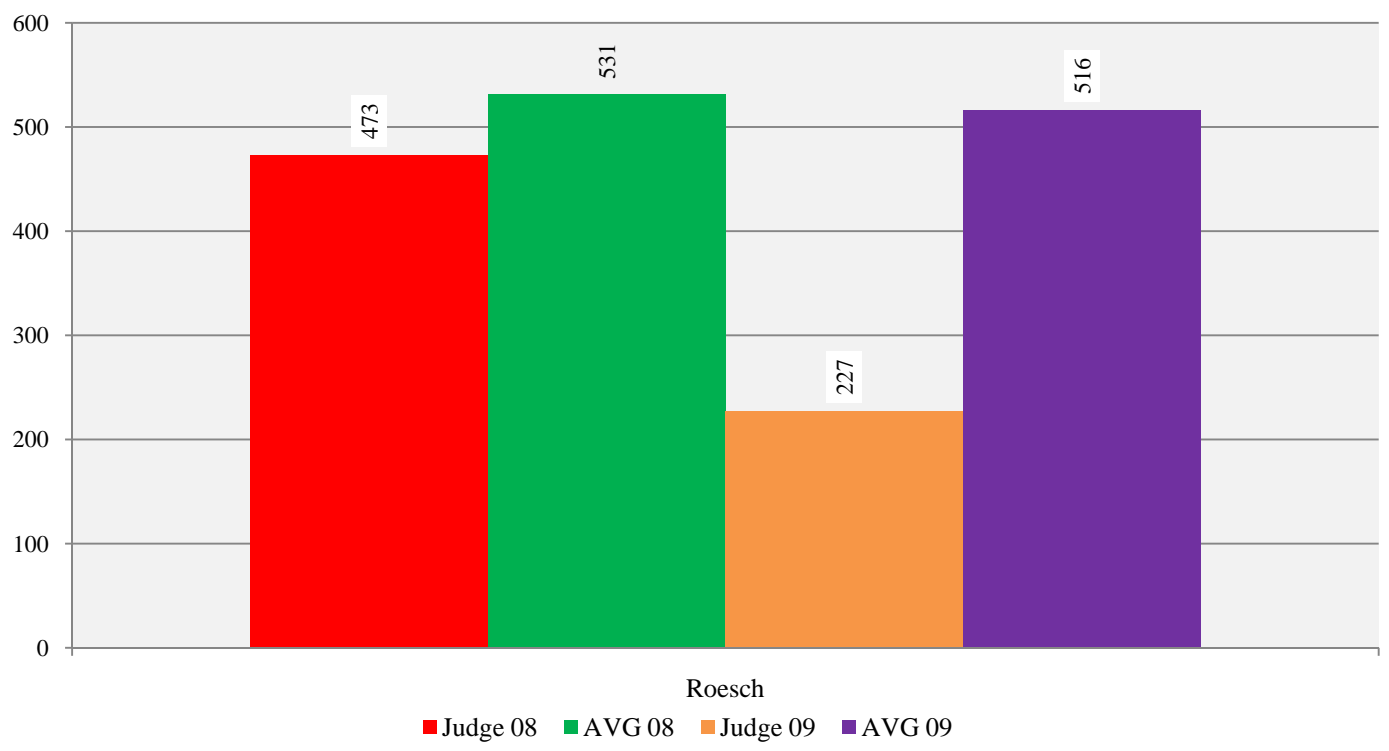
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



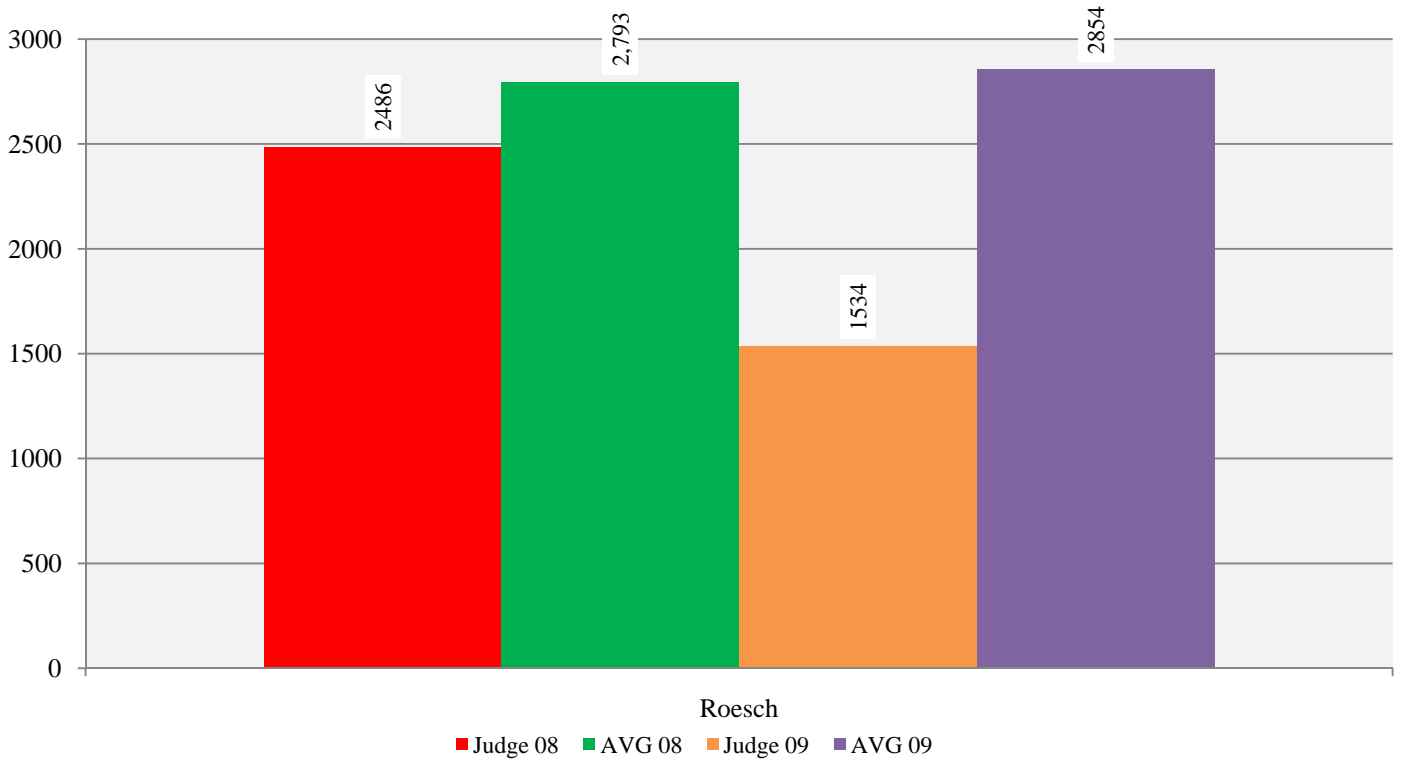
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



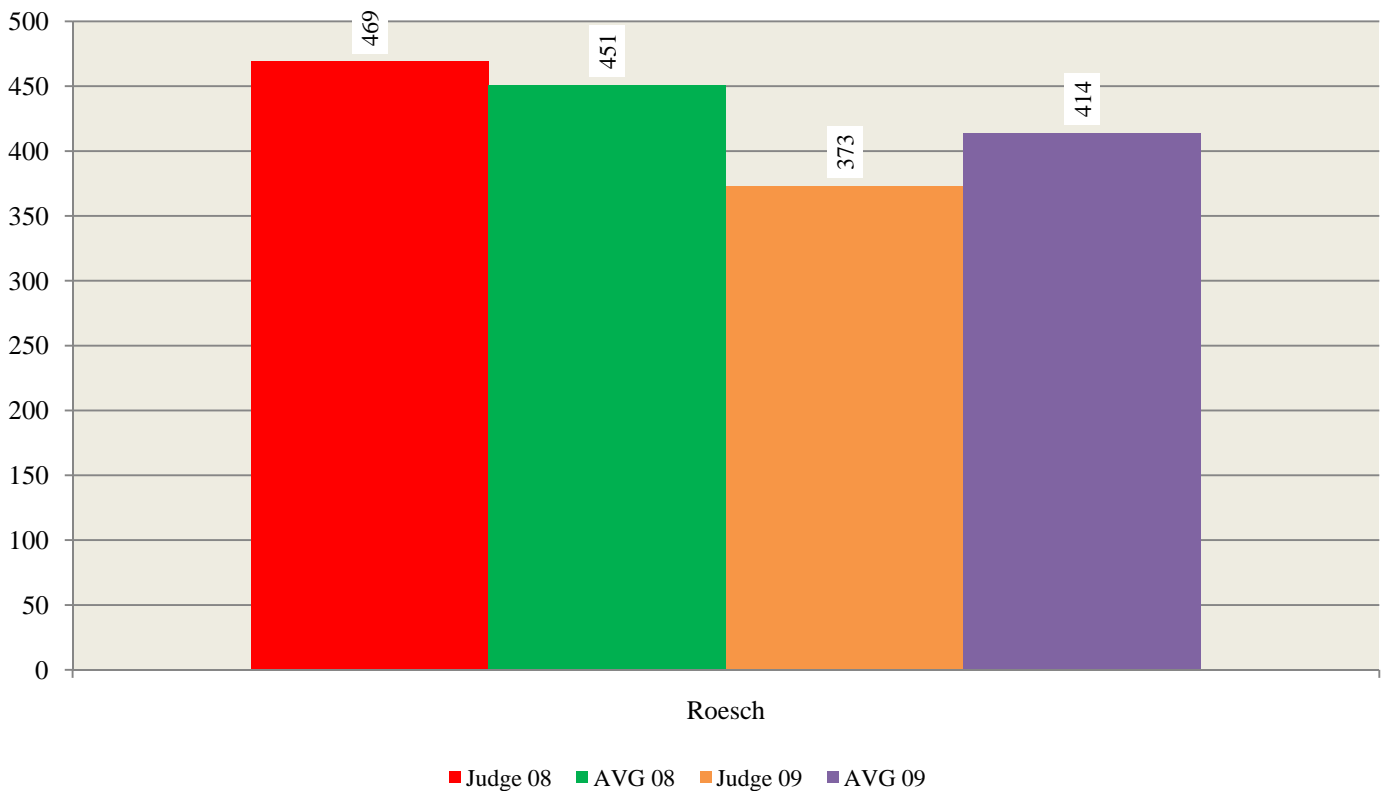
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



Appendix “11” District PNS (JCC Winn):

District PNS includes Escambia, Santa Rosa and Okaloosa counties.

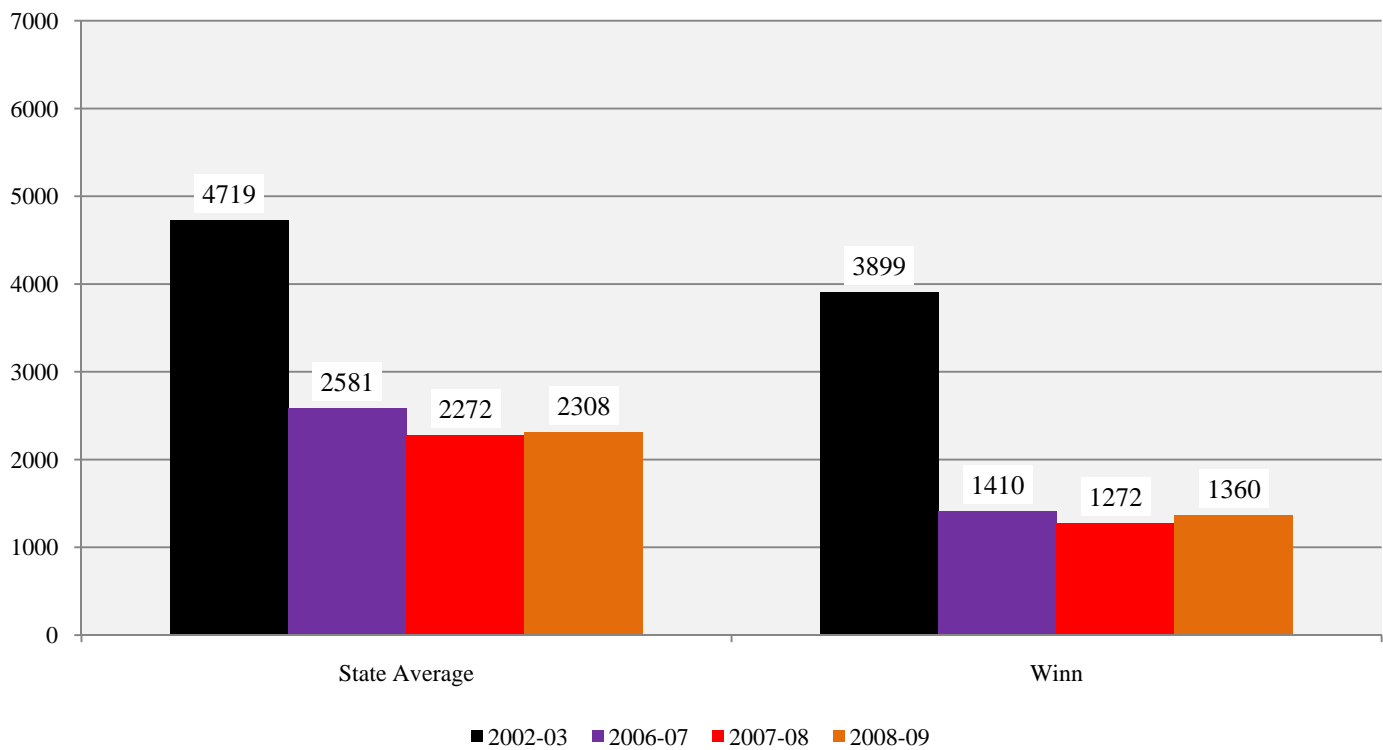
Petition volumes in District PNS are significantly lower than the statewide average. The PNS volume of “new cases” is also slightly below the statewide average. In 2008-09 District PNS closed almost the same volume of PFB as were filed, signifying an inventory close to equilibrium.

Mediator Hardy averaged 65 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 again above average (67) in 2008-09, a trend that has been reasonably consistent. The average period from PFB to trial in PNS was within the 210 day statutory period again in 2008-09. The average days from trial and entry of a final order was well below the statewide average and the statutory (30 day) periods.

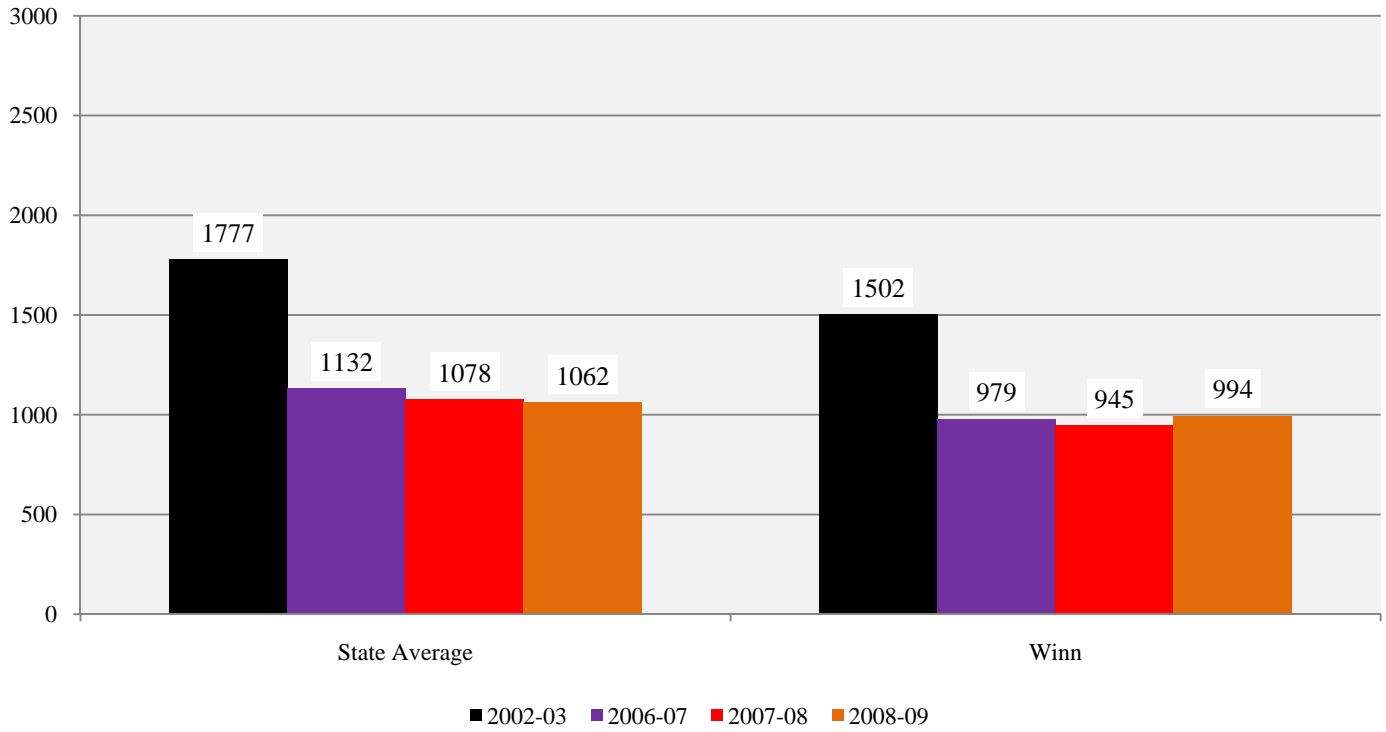
In 2009-10 Judge Winn will be assigned “new cases” from south Florida venue in an attempt to decrease the workload and redistribute judicial effort. This process is consistent with Judge Winn’s consistent willingness to participate as a visiting Judge since his appointment in 2006.

Judge Winn spoke at a local continuing legal education meeting in 2009.

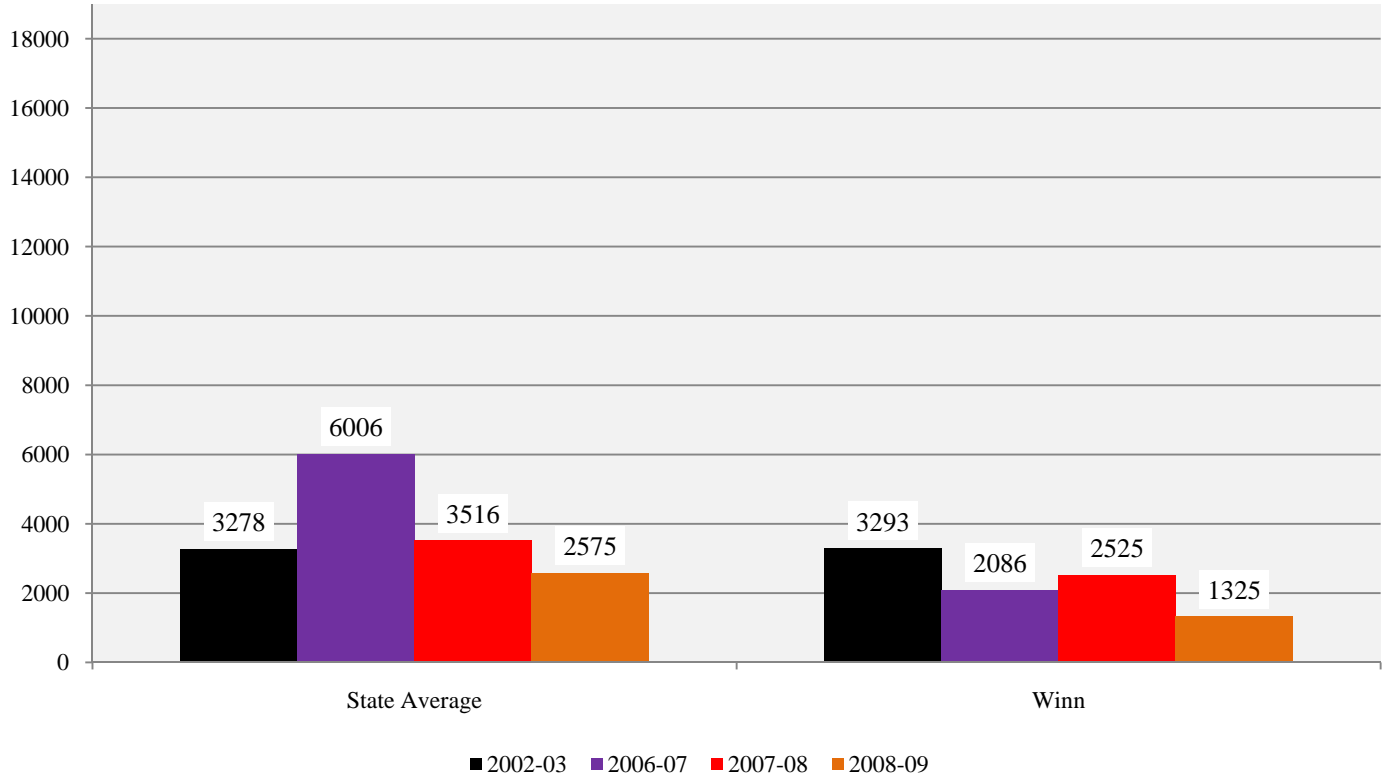
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



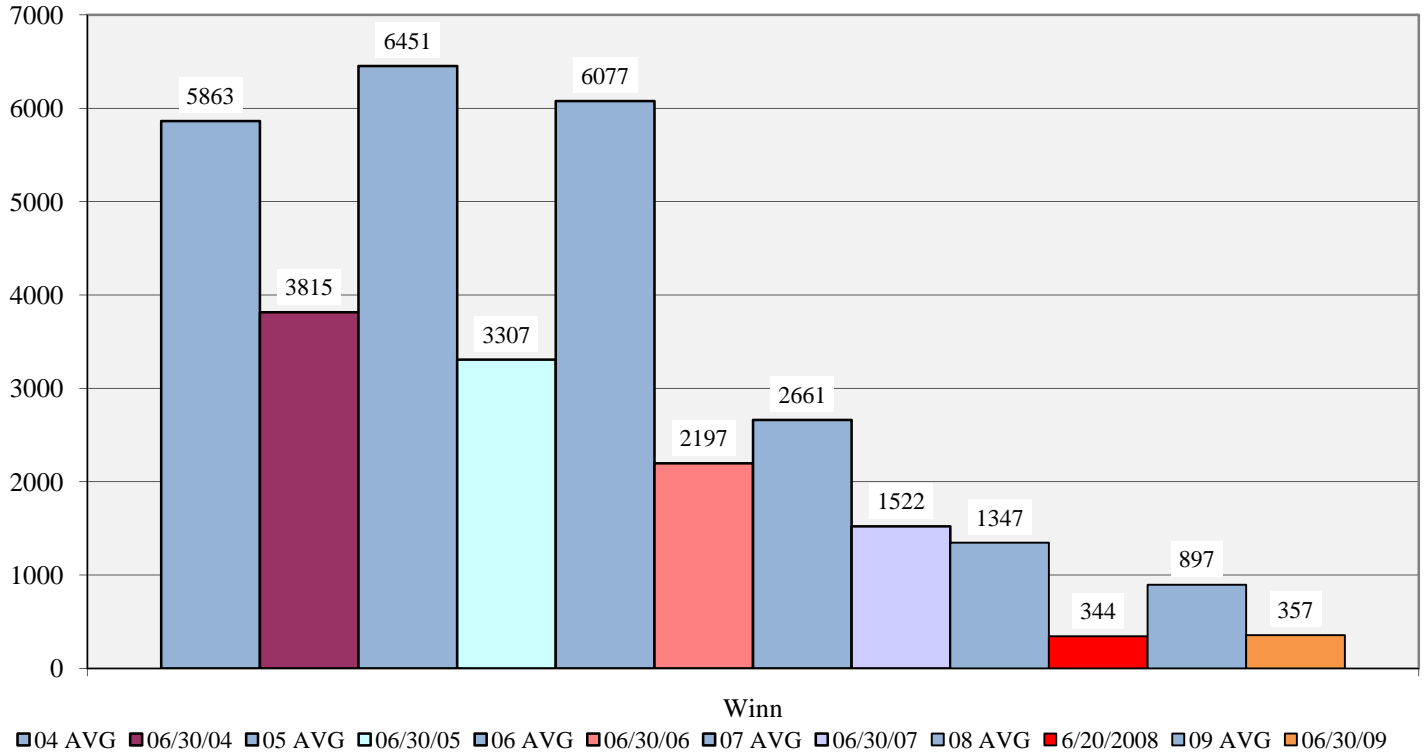
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



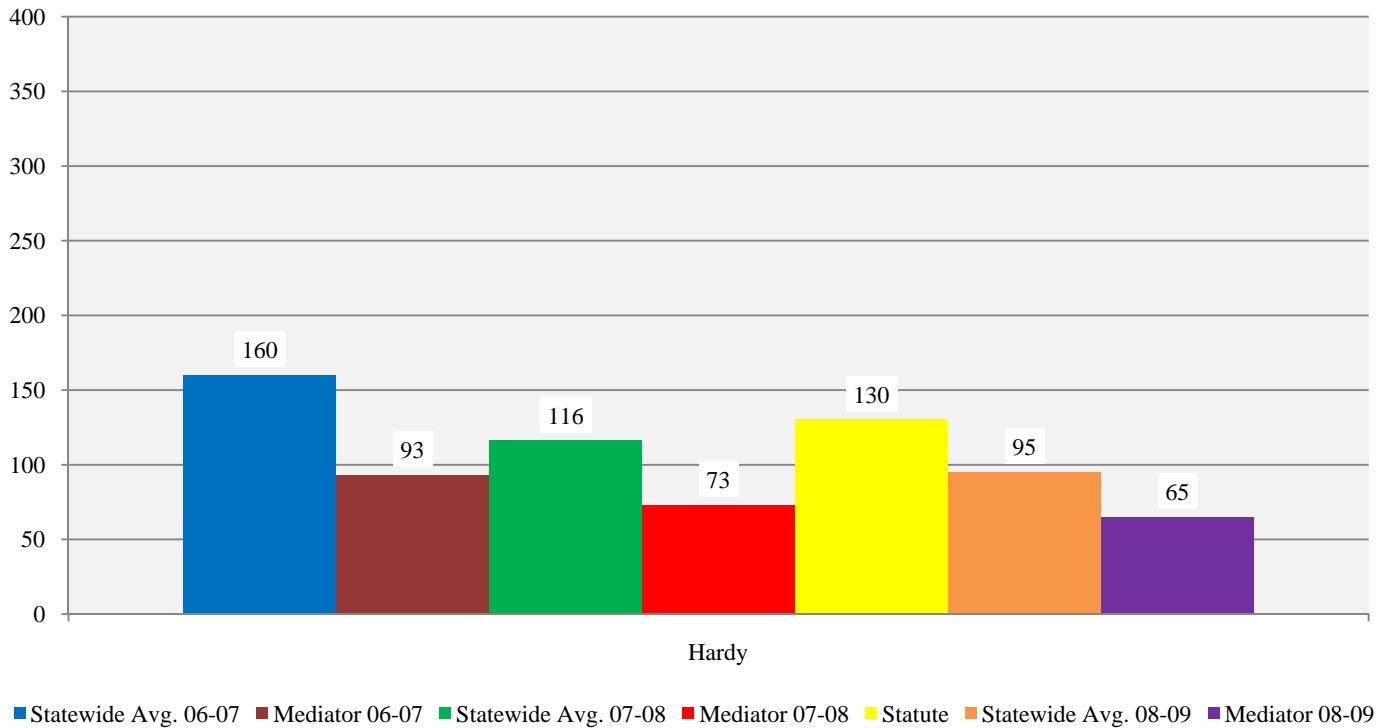
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



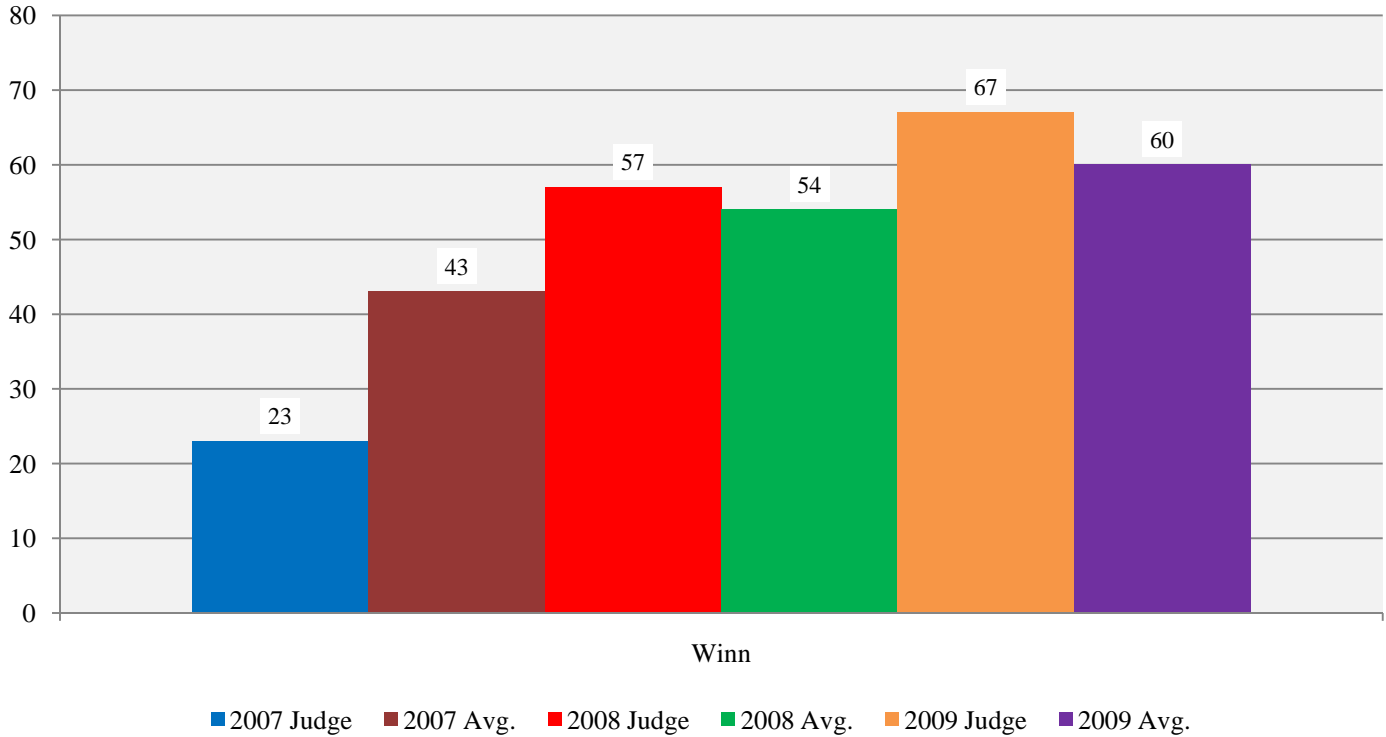
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



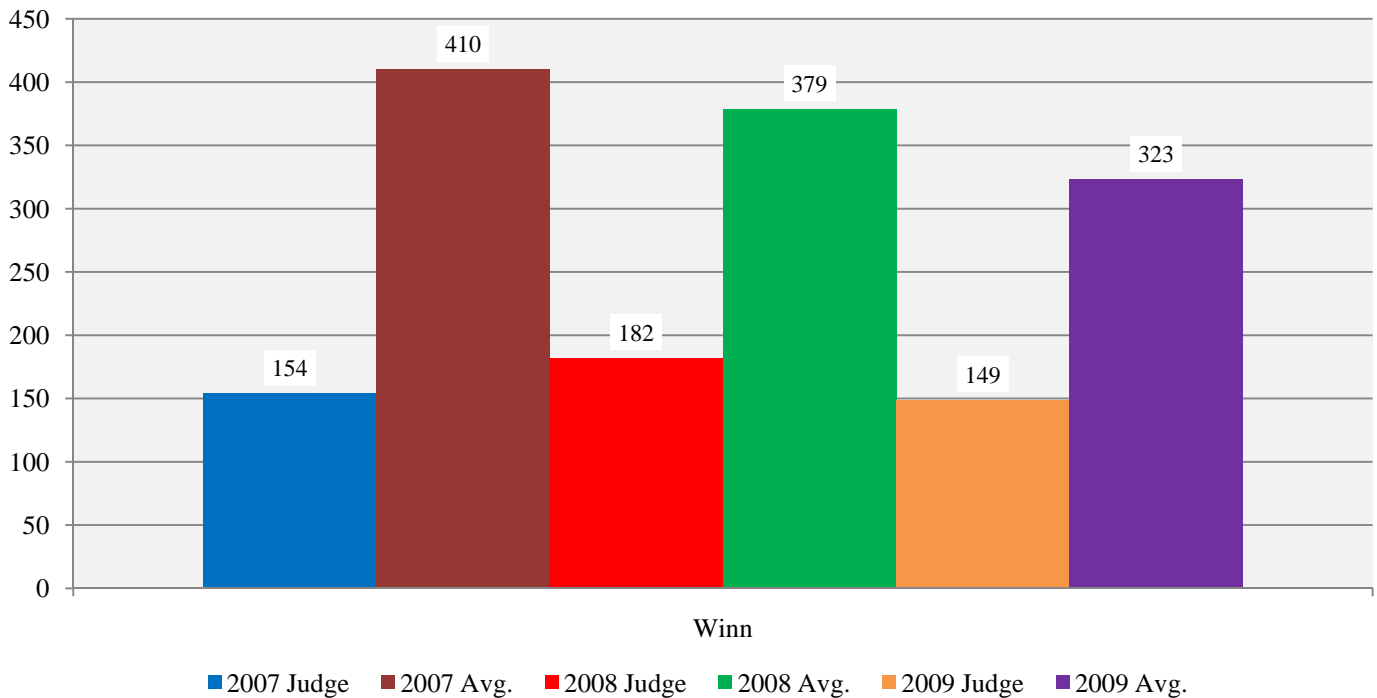
The following graph depicts the average days between PFB filing and the first mediation held thereon for each mediator in the district (brown = 07)(red = 08)(orange = 09) and the statewide average (blue = 07)(green = 08)(purple = 09).



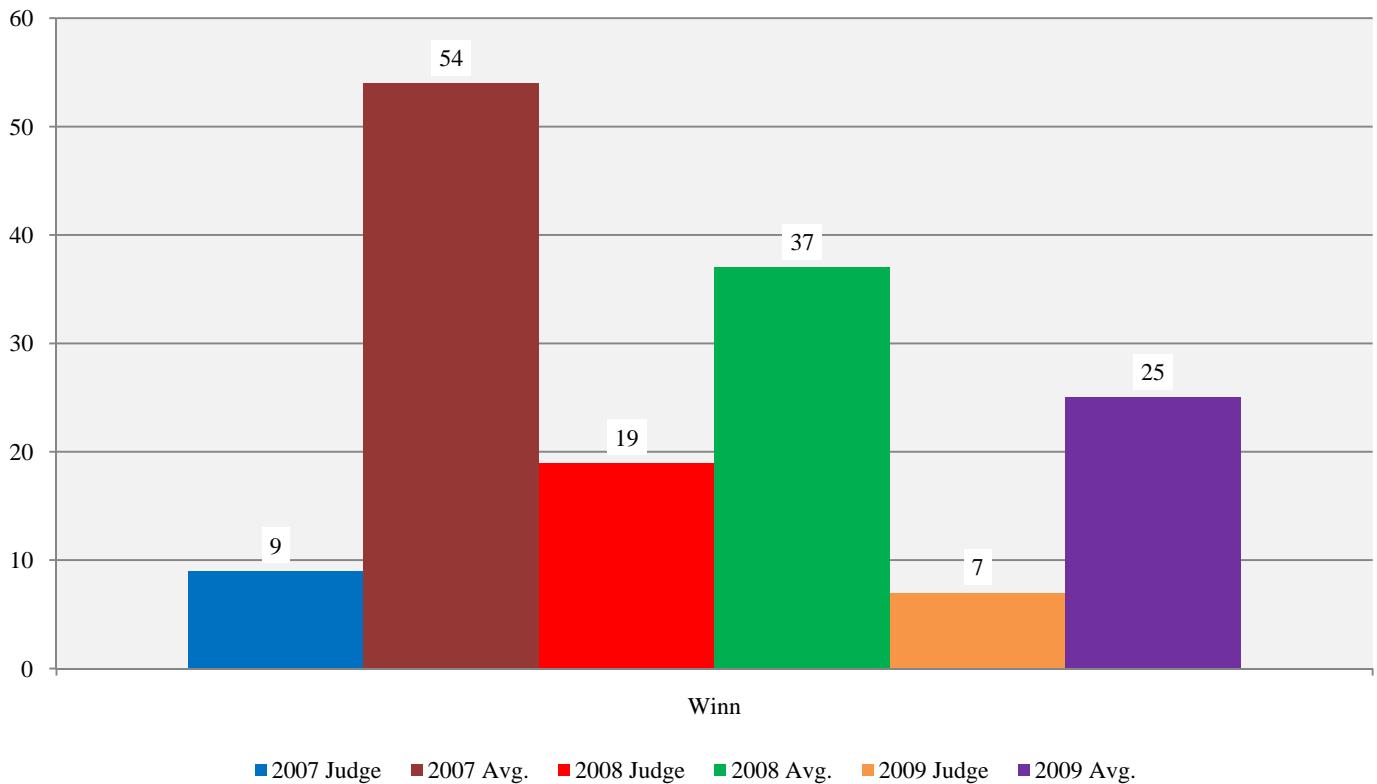
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



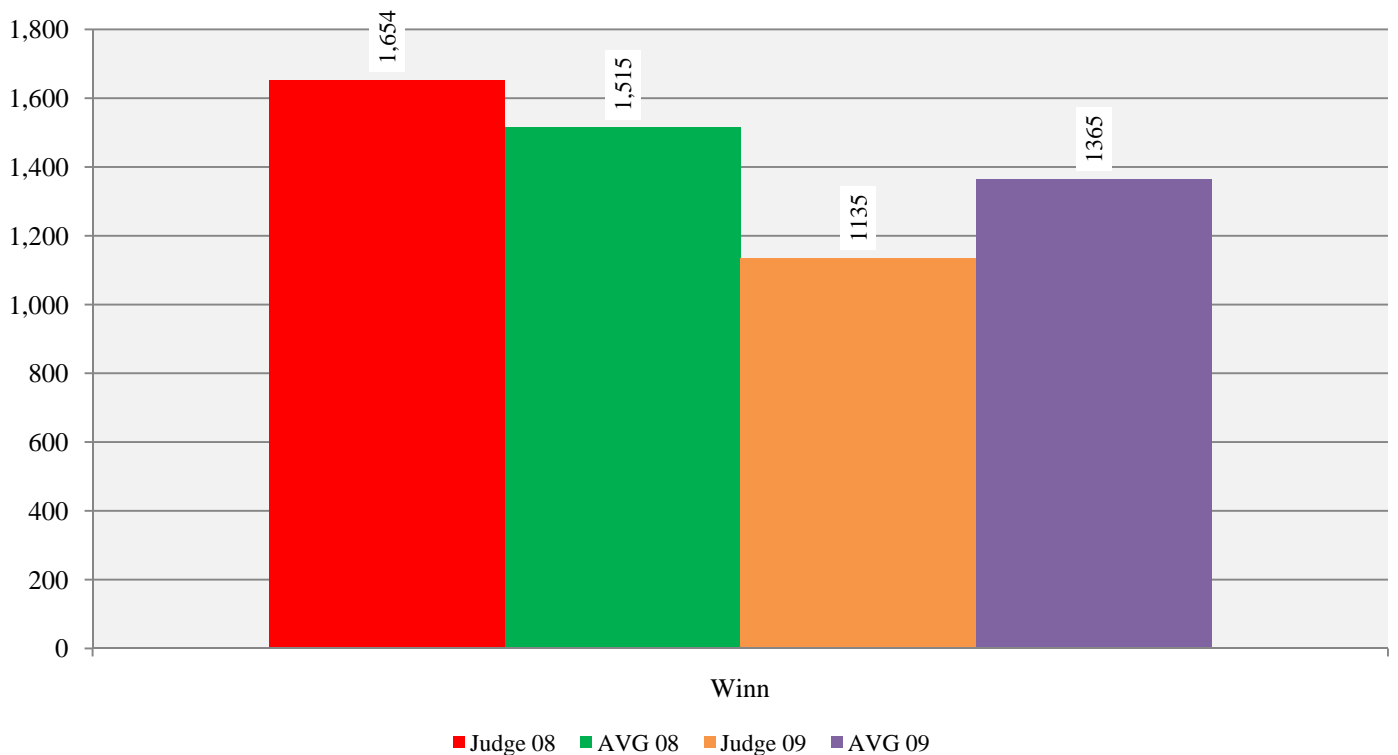
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



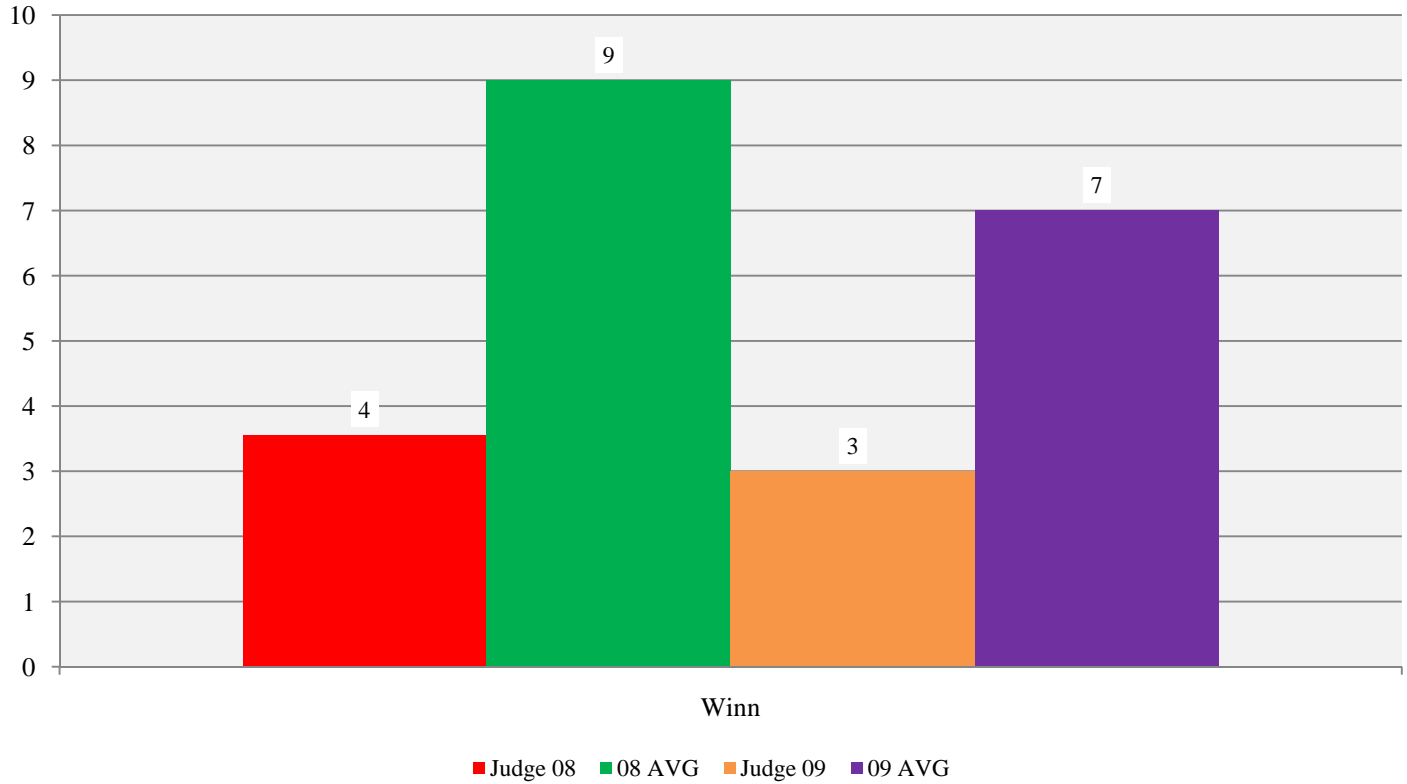
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



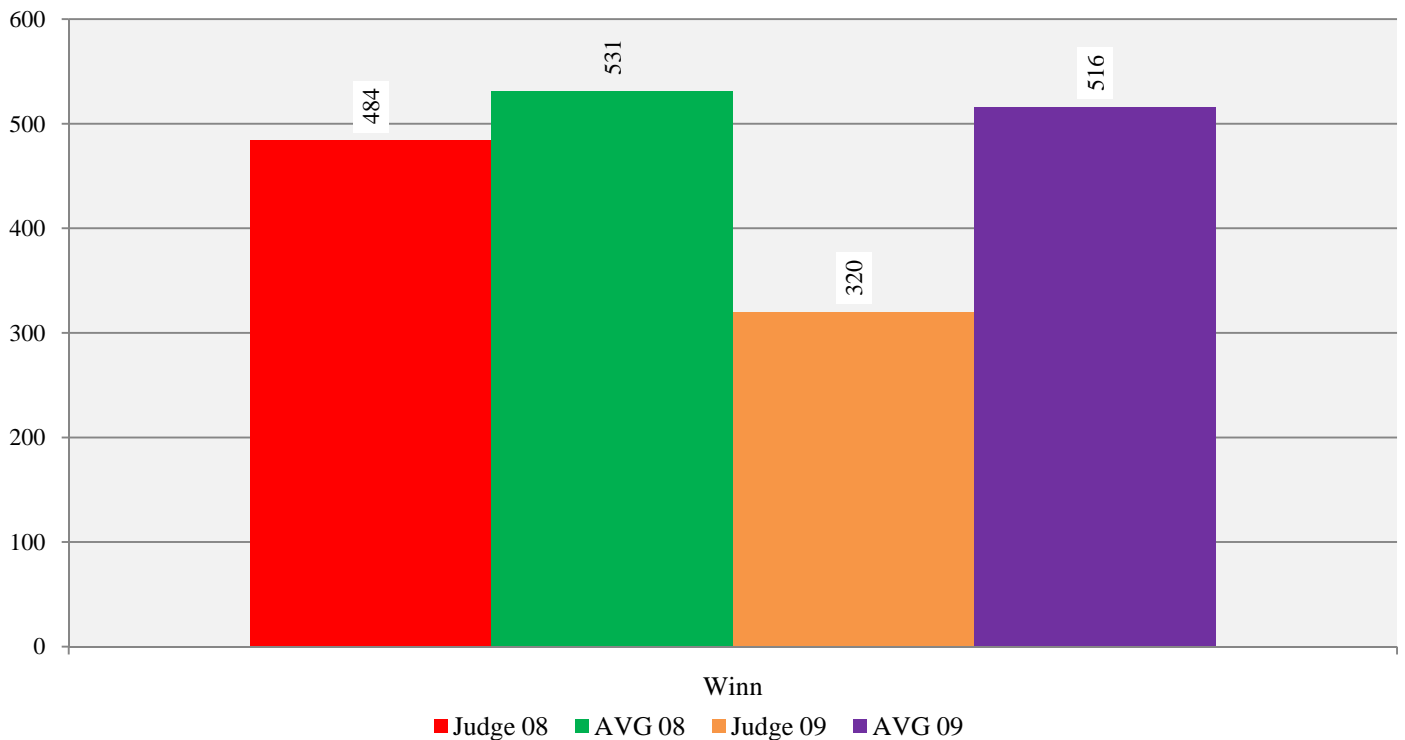
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



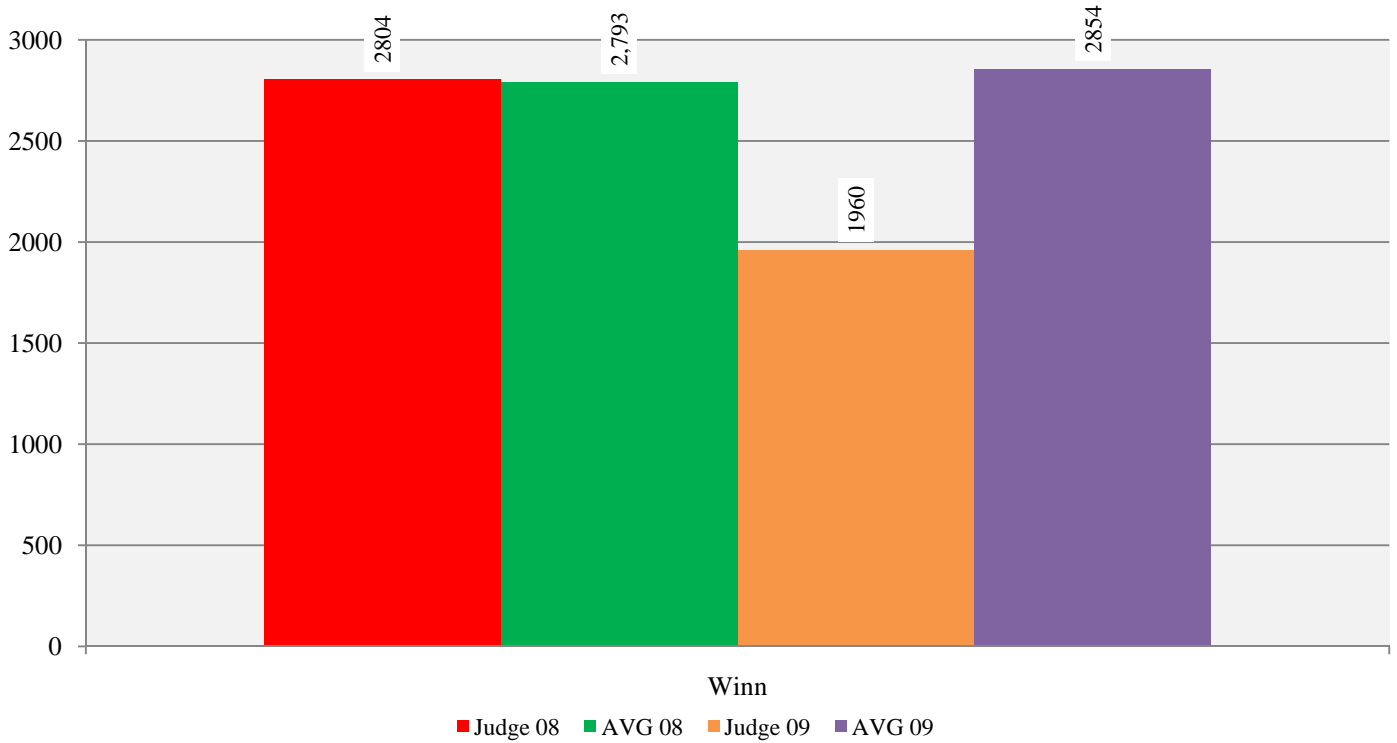
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



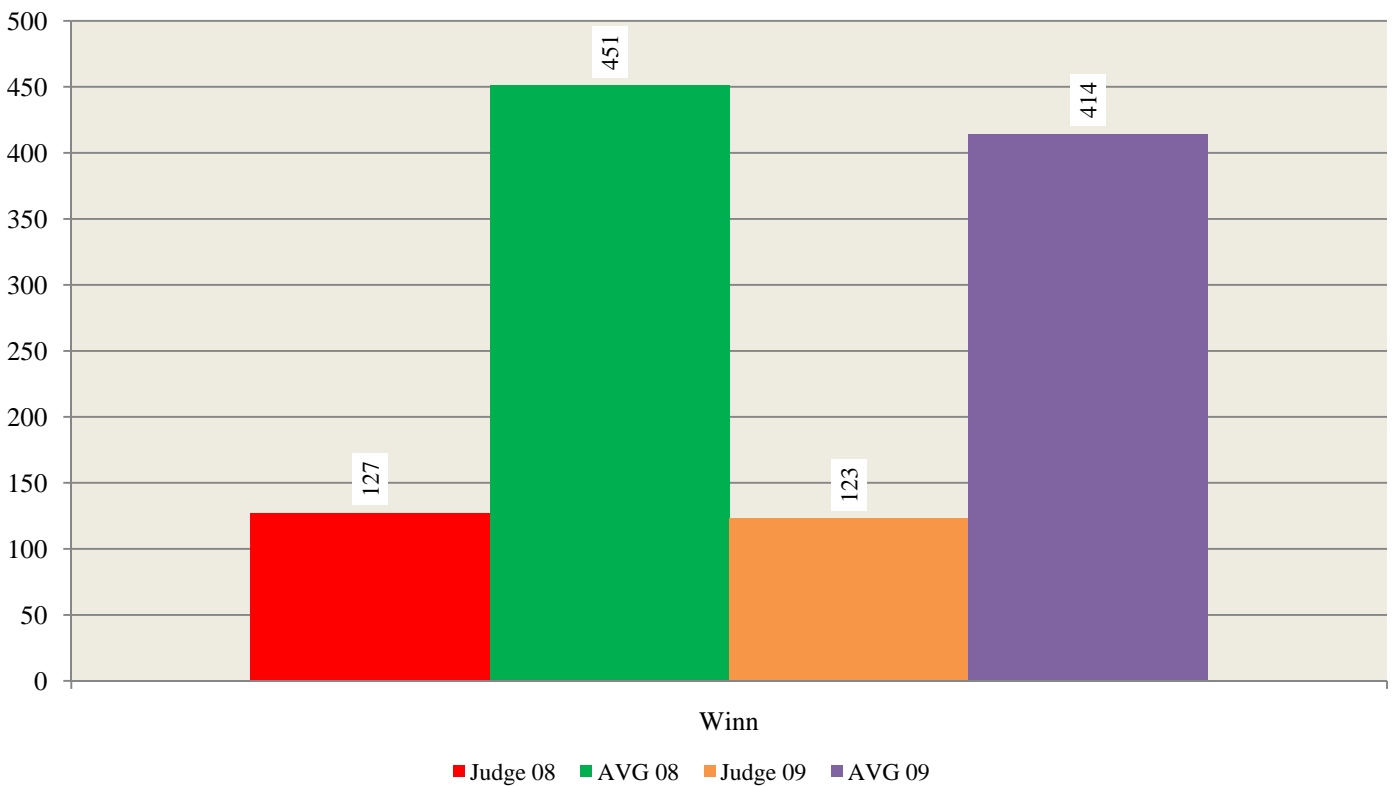
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



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).



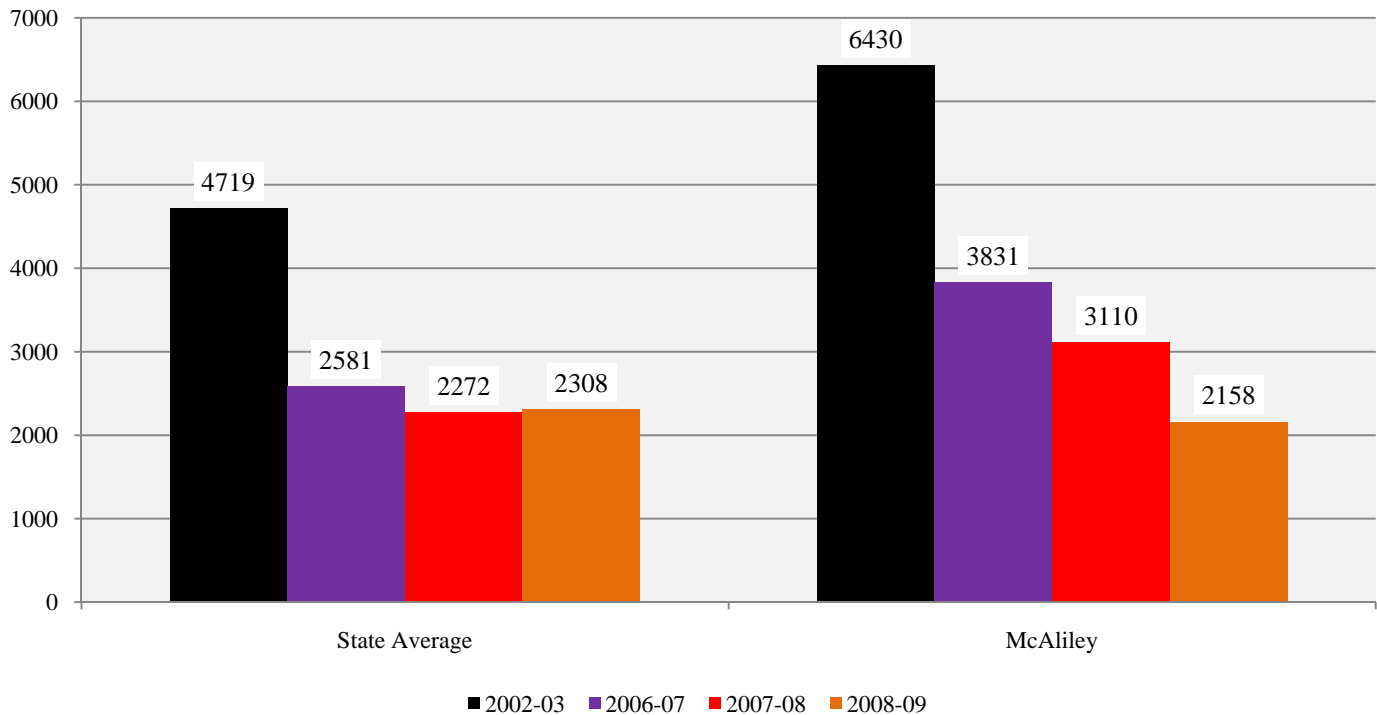
Appendix “12” District PSL (JCC McAliley):

District PSL includes Martin and St. Lucie counties. 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. Thus 2008-09 statistics for the first time reflect the effect of the re-districting change.

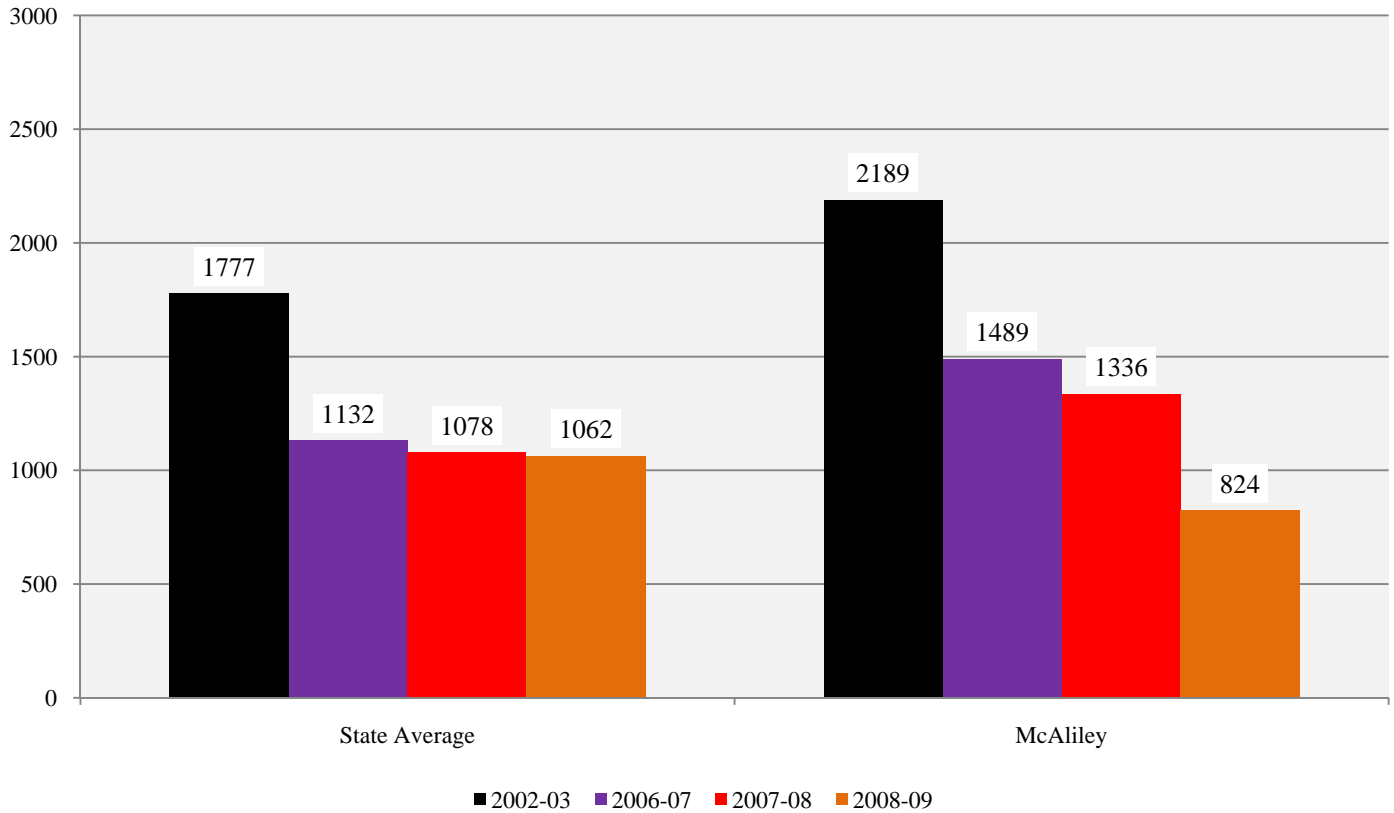
PFB and “new case” filing volumes in District PSL are both below statewide average in 2008-09. Notably, the PFB closure rate in District PSL continued to exceed the statewide average last year, illustrating continued effort at addressing the backlog PFB inventory. The PSL year-end PFB inventory was dramatically lower this year than in past years, and well below the statewide average.

Mediation occurred within the 130 day statutory average again in 2008-09. The time between PFB filing and trial was equal to the statewide average in 2008-09, and demonstrated a significant improvement from 2007-08. The time between trial end entry of a final order likewise improved dramatically decreasing from 62 days average in 2007-08 to 33 days on average in 2008-09.

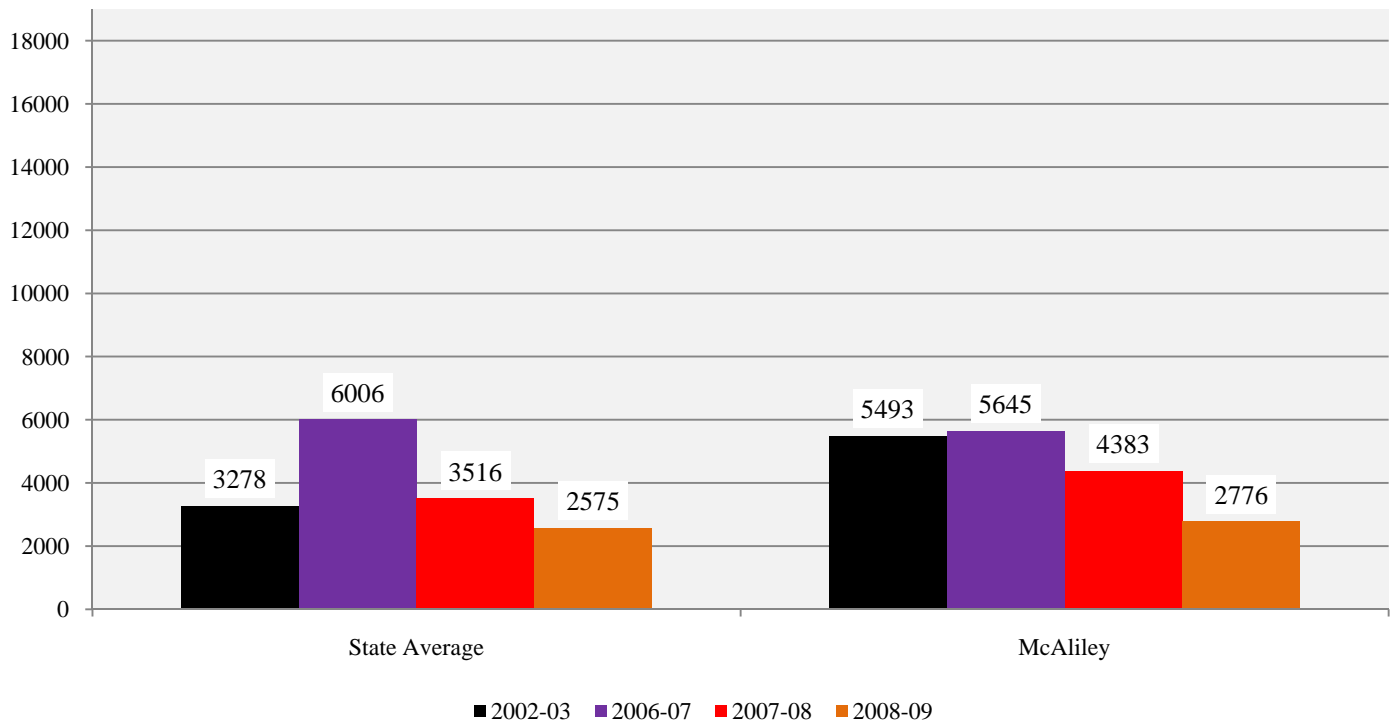
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



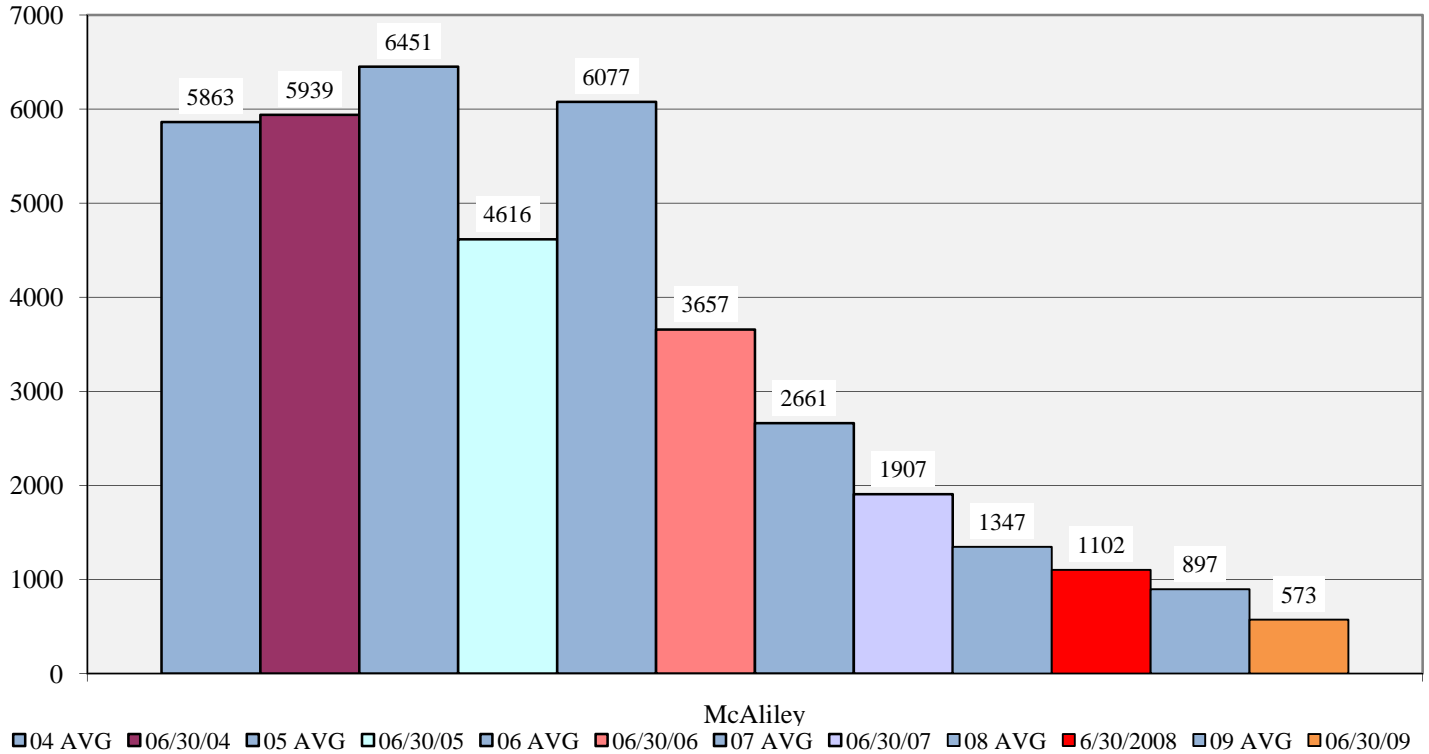
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



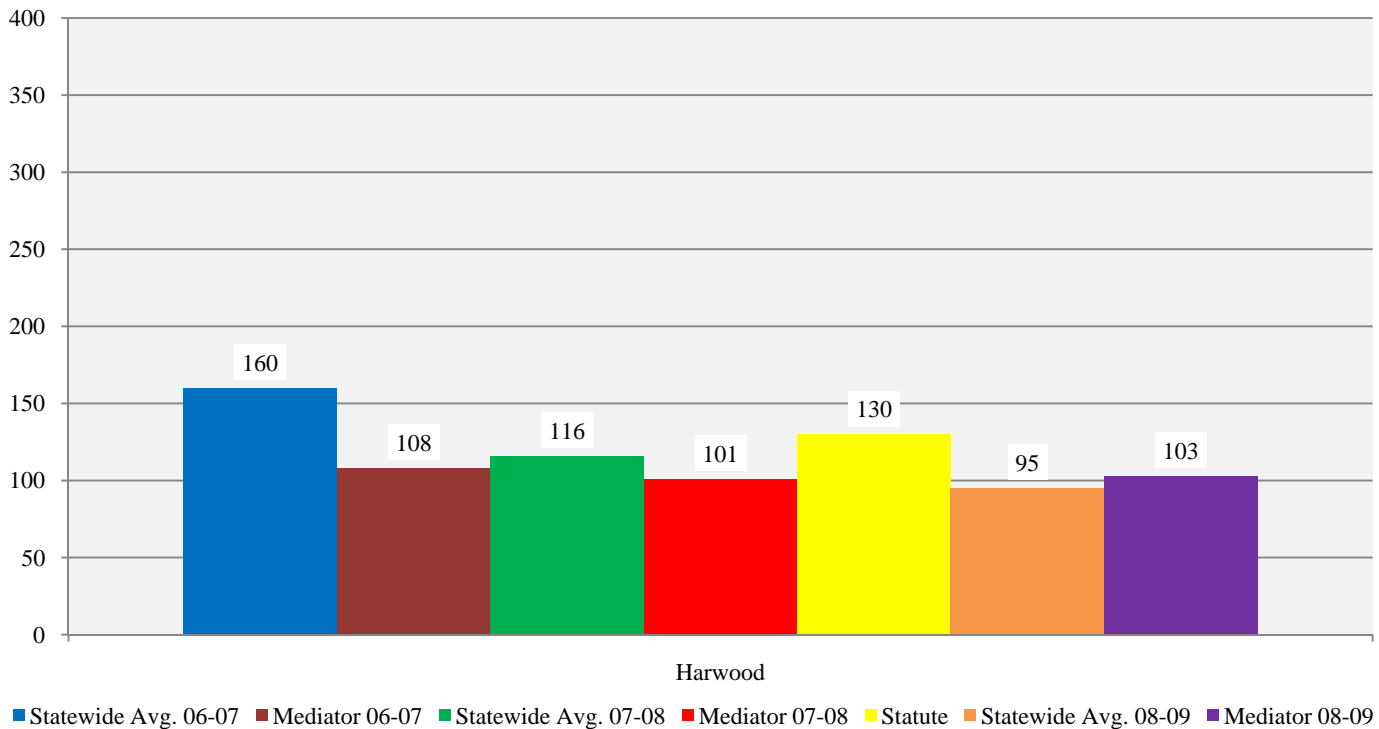
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



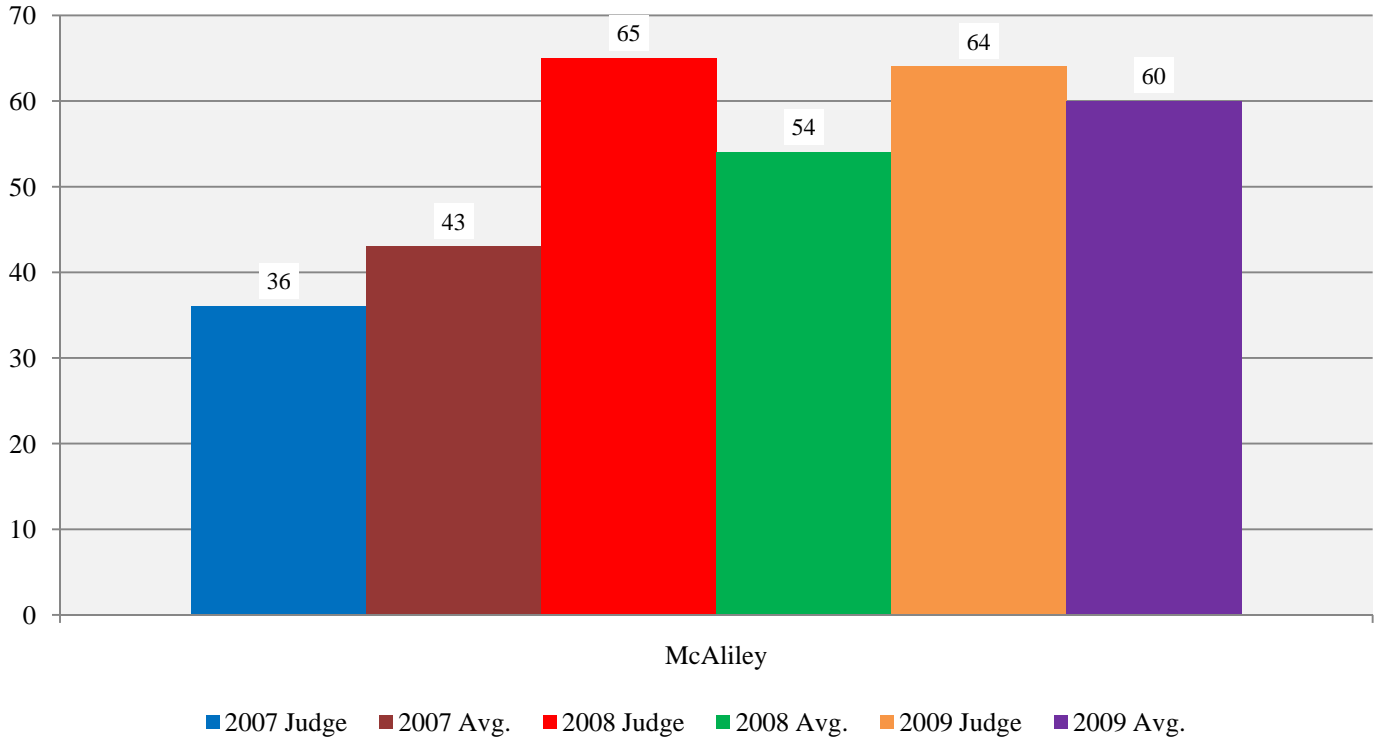
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



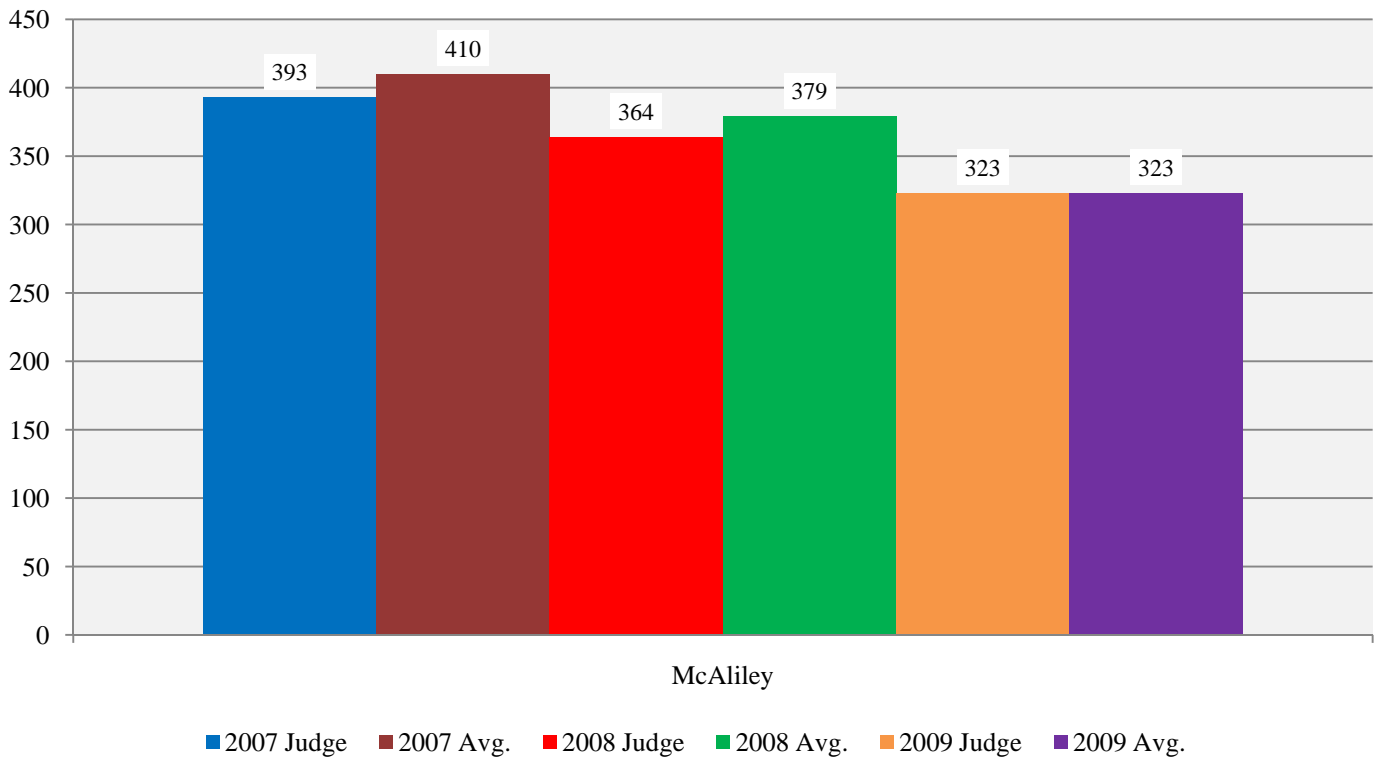
The following graph depicts the average days between PFB filing and the first mediation held thereon for each mediator in the district (brown = 07)(red = 08)(orange = 09) and the statewide average (blue = 07)(green = 08)(purple = 09).



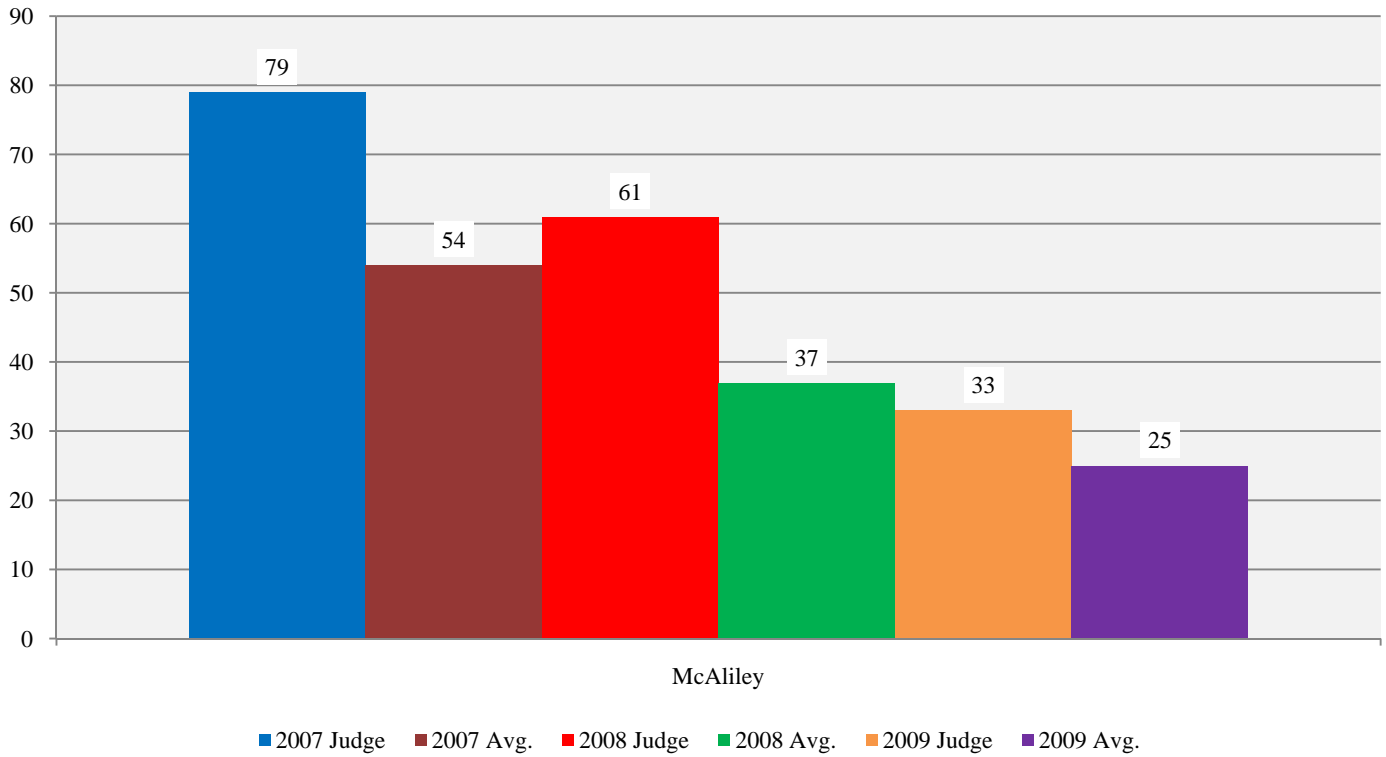
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



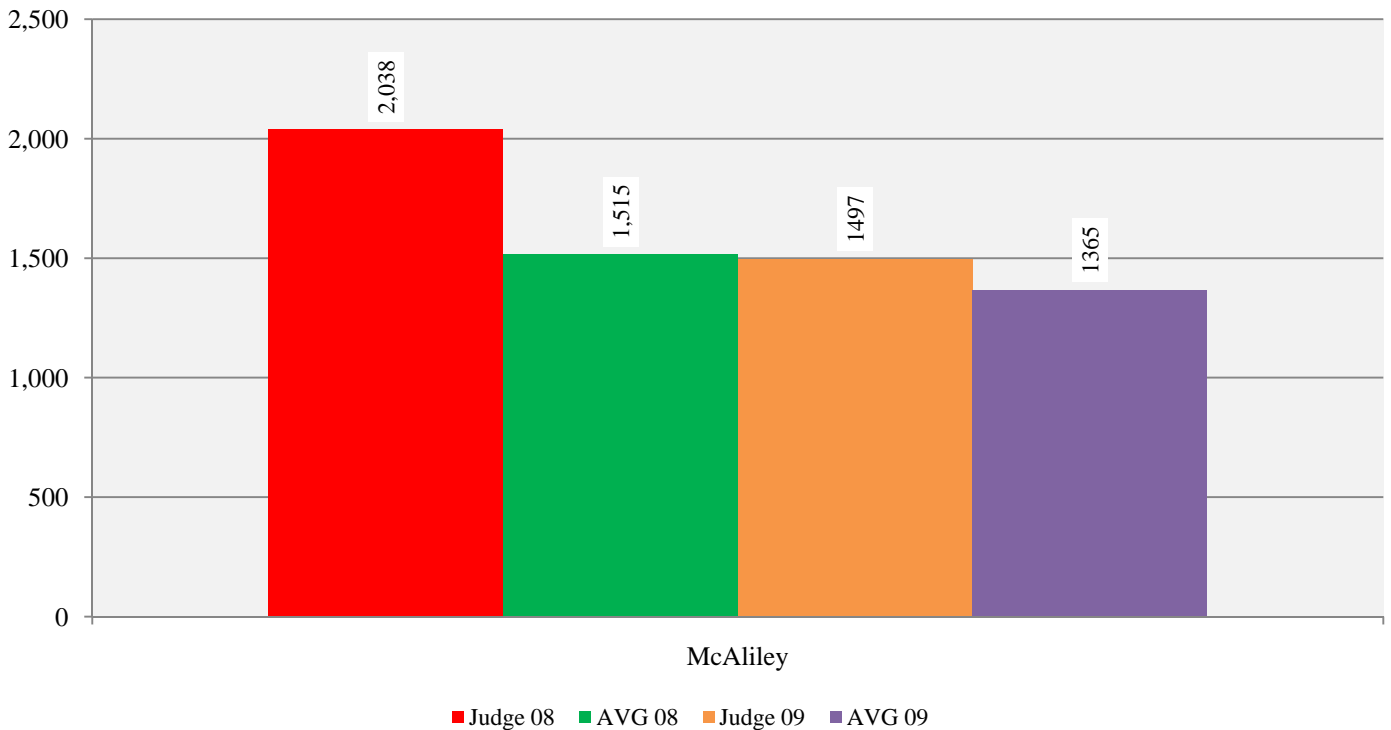
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



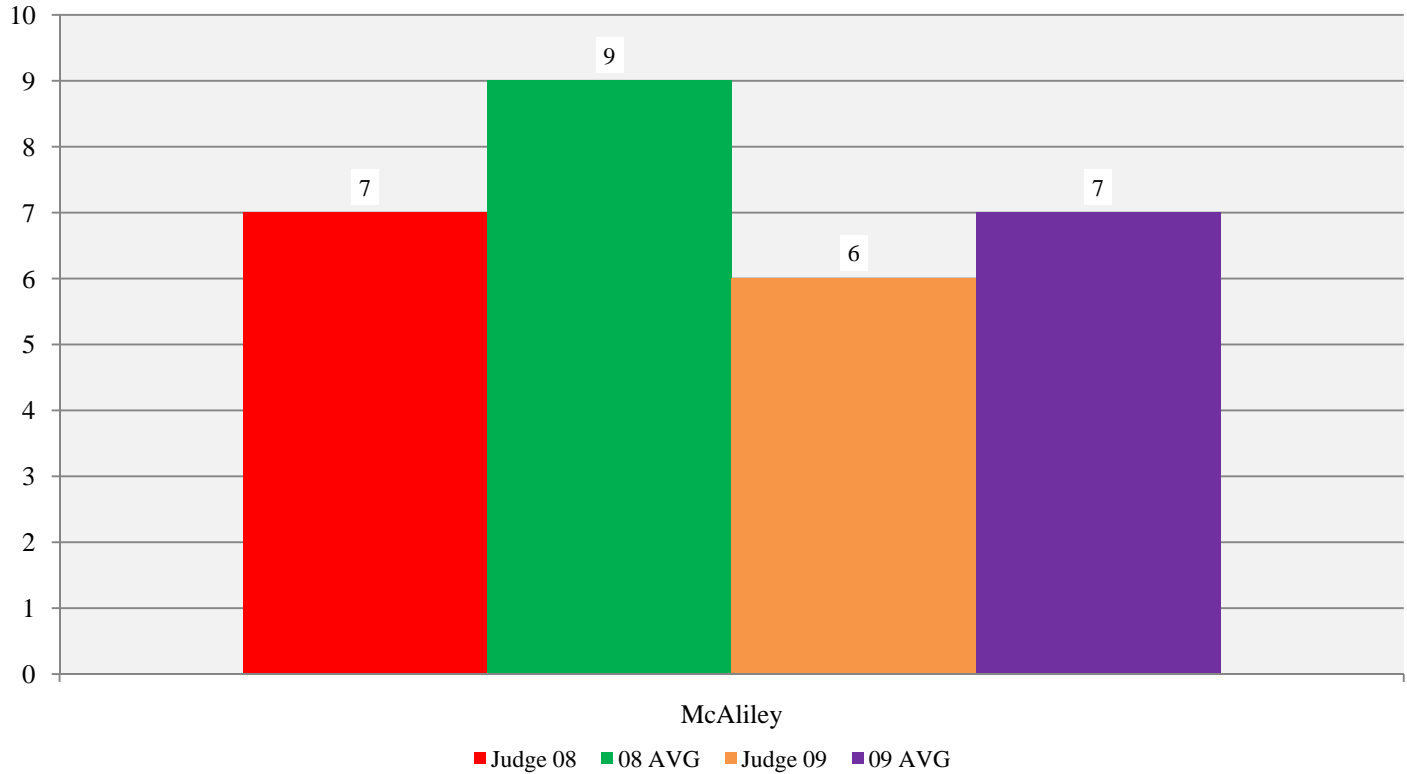
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



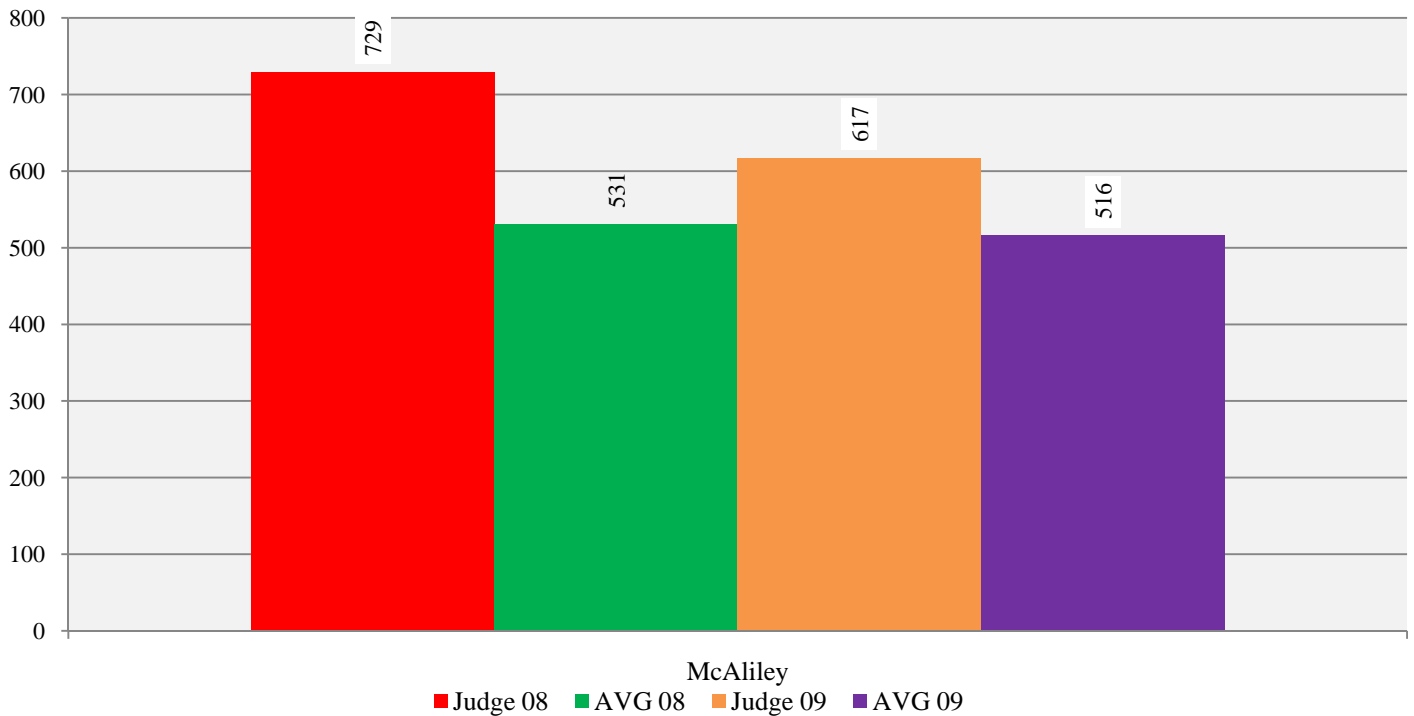
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



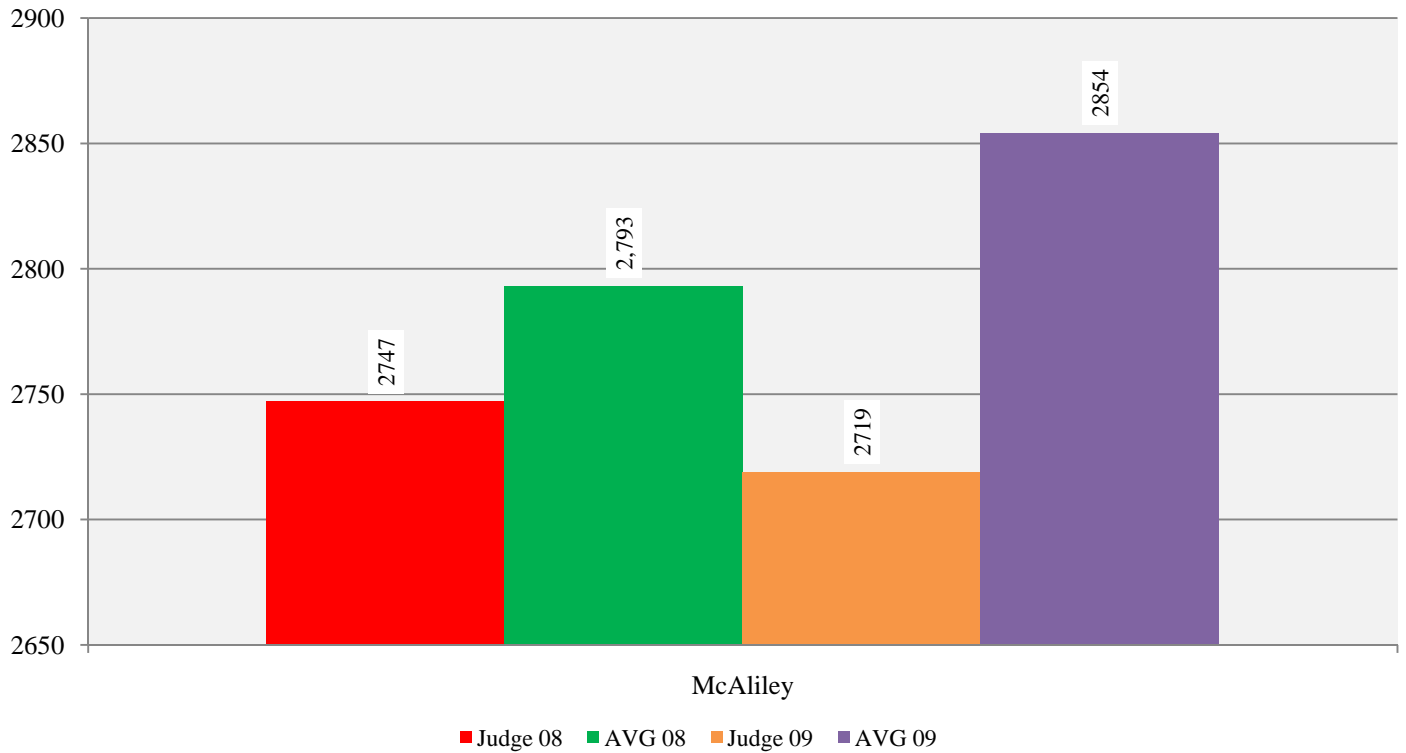
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



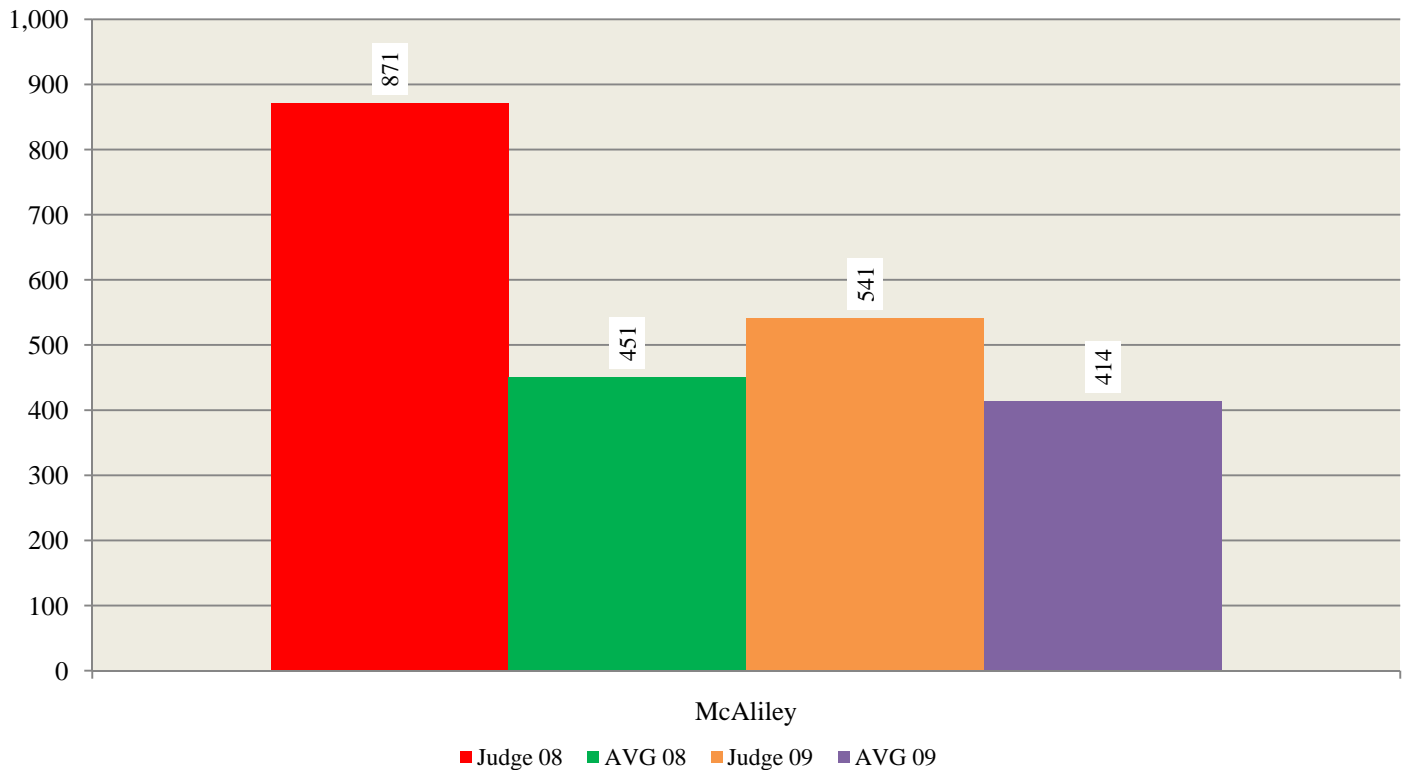
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



Appendix “13” District SAR (JCC Beck):

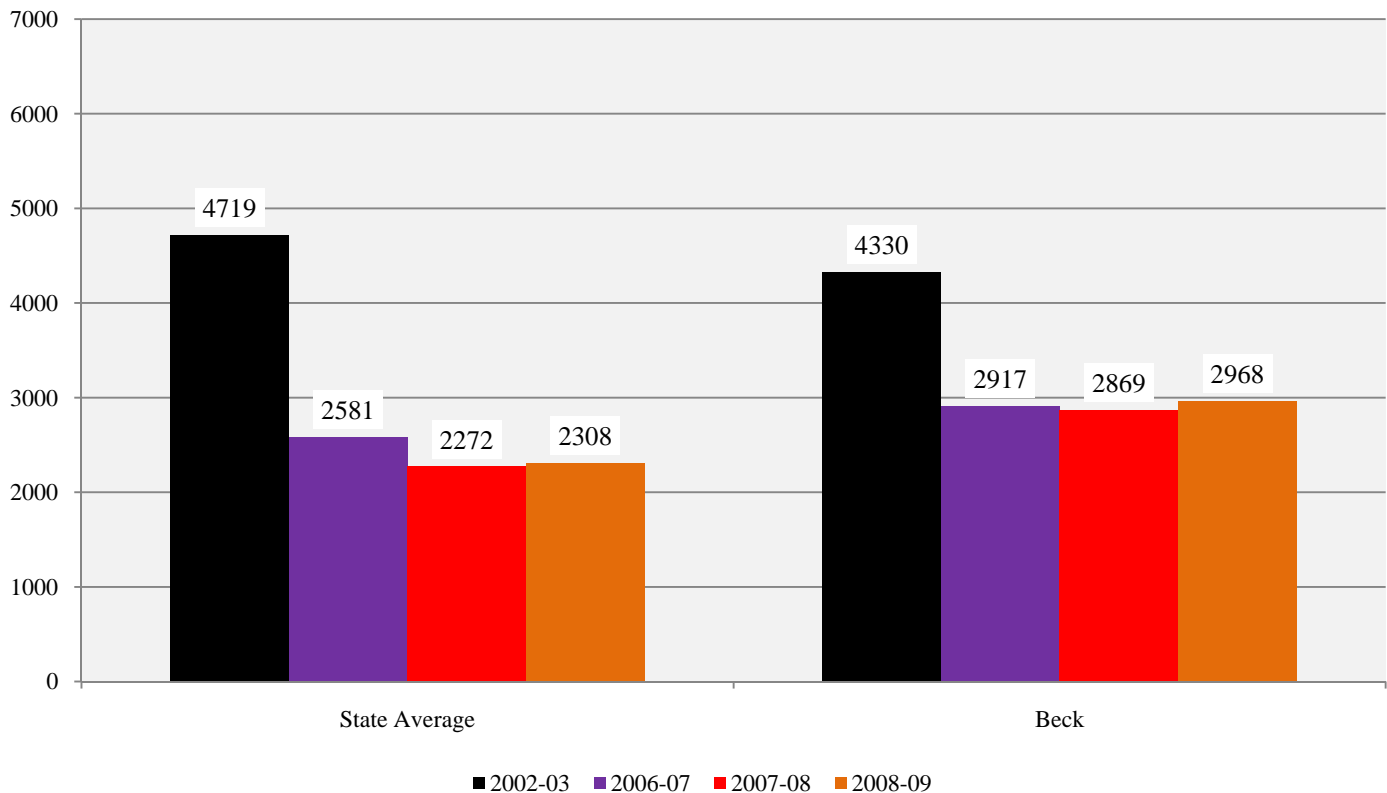
Manatee and Sarasota counties comprise District SAR.

The PFB and “new case” filing volumes in District SAR both remain consistently well above the statewide averages. The PFB closure rate in SAR is similar to the PFB filing rate, demonstrating another District in, or close to, equilibrium.

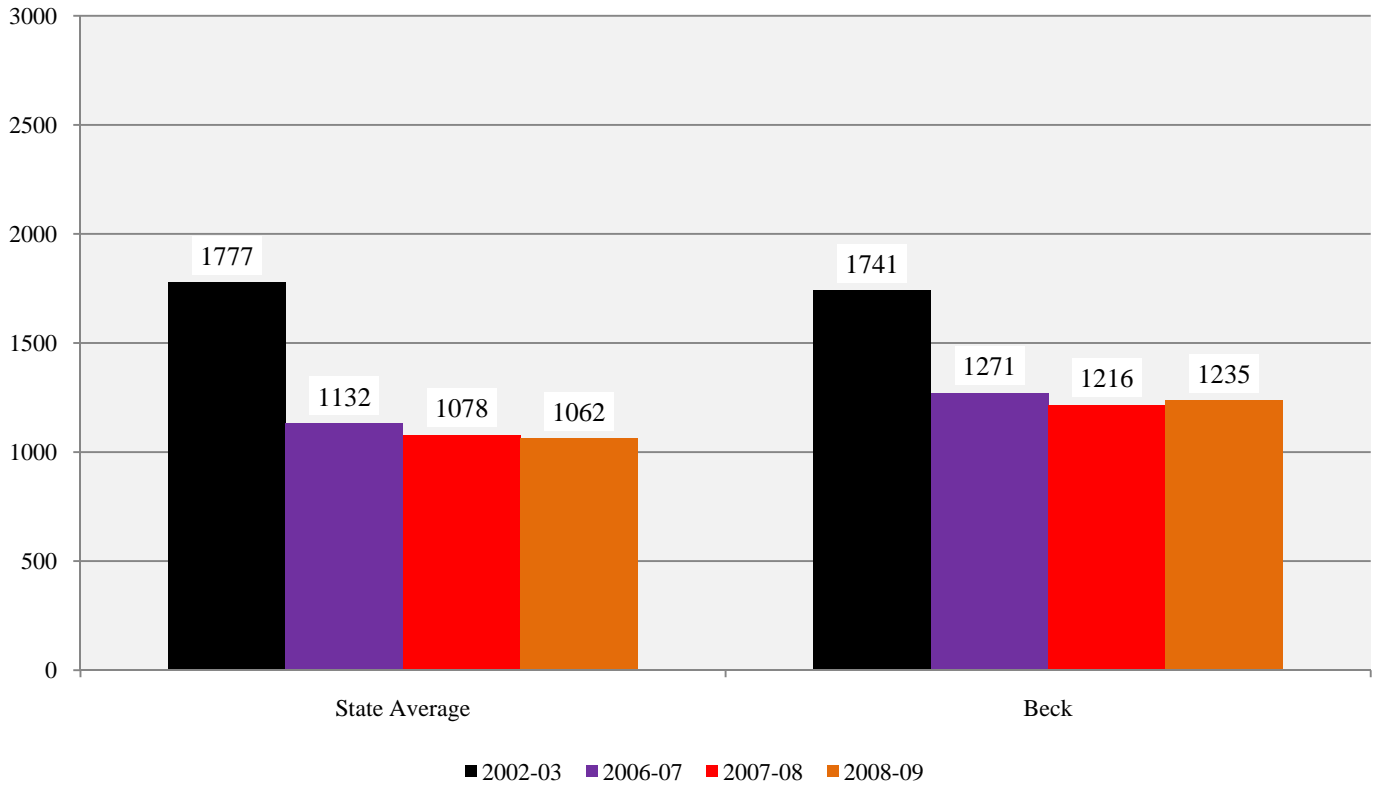
The average number of days between PFB filing and the first mediation was 95 days, which is well within the 130-day statutory period. Judge Beck’s trial volume last year (90) is above the statewide average (60), and is a marked increase from the prior fiscal year. Despite the significant filing and trial volumes, the average days between PFB filing and trial in SAR (193) is below both the statutory period (210) and the statewide average (323). Judge Beck entered trial orders in 2007-08 in an average of 20 days. This likewise is below the statewide average (25) and the statutory period (30). These timely efforts are significant in light of the significant volumes of filings and trials. Despite her significant workload in SAR, during 2008-09 Judge Beck again volunteered to hear cases as visiting Judge in District LKL.

Judge Beck was a faculty member of the Florida Bar Workers’ Compensation Trial Advocacy Workshop in Miami. She spoke to the Southwest Florida District, International Association of Rehabilitation Professionals last year. Judge Beck was also a moot court judge at the Florida Workers’ Compensation Institute in Orlando. She is active in the Florida Conference of Judges of Compensation Claims, and currently serves on the mediation committee.

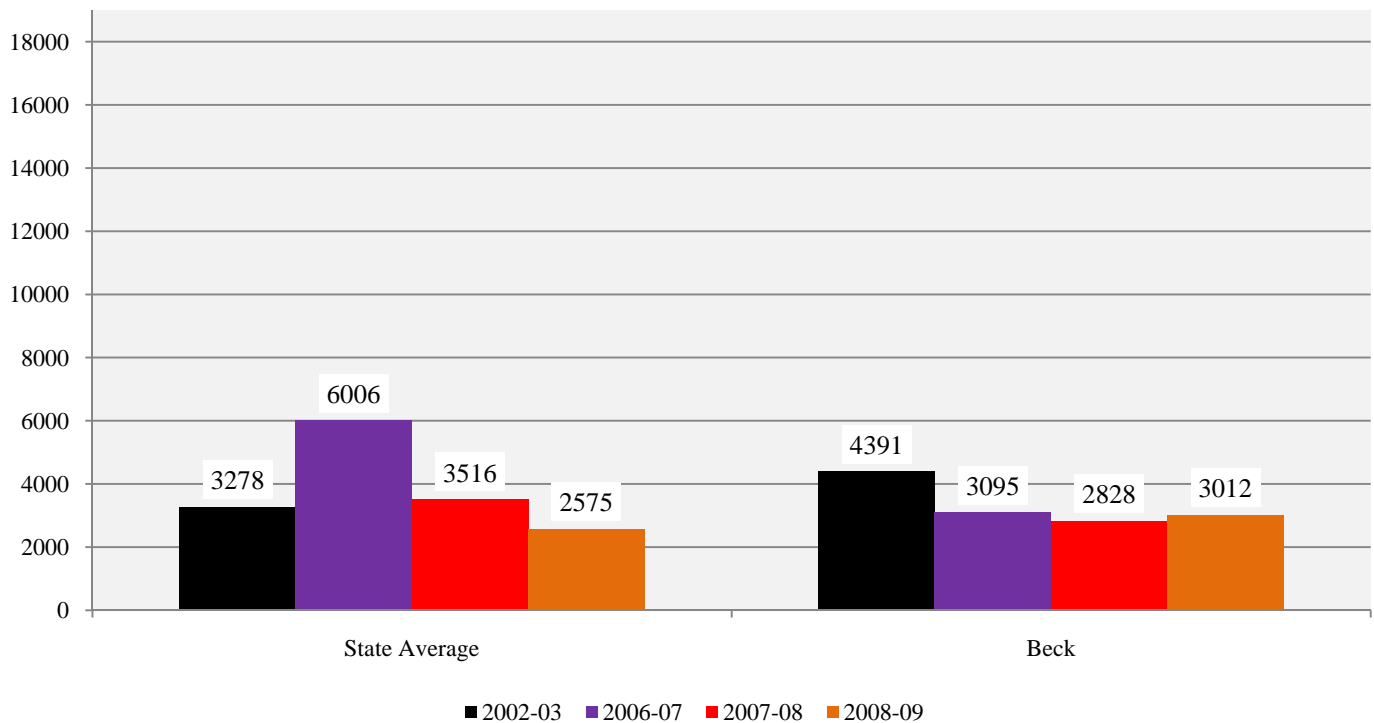
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



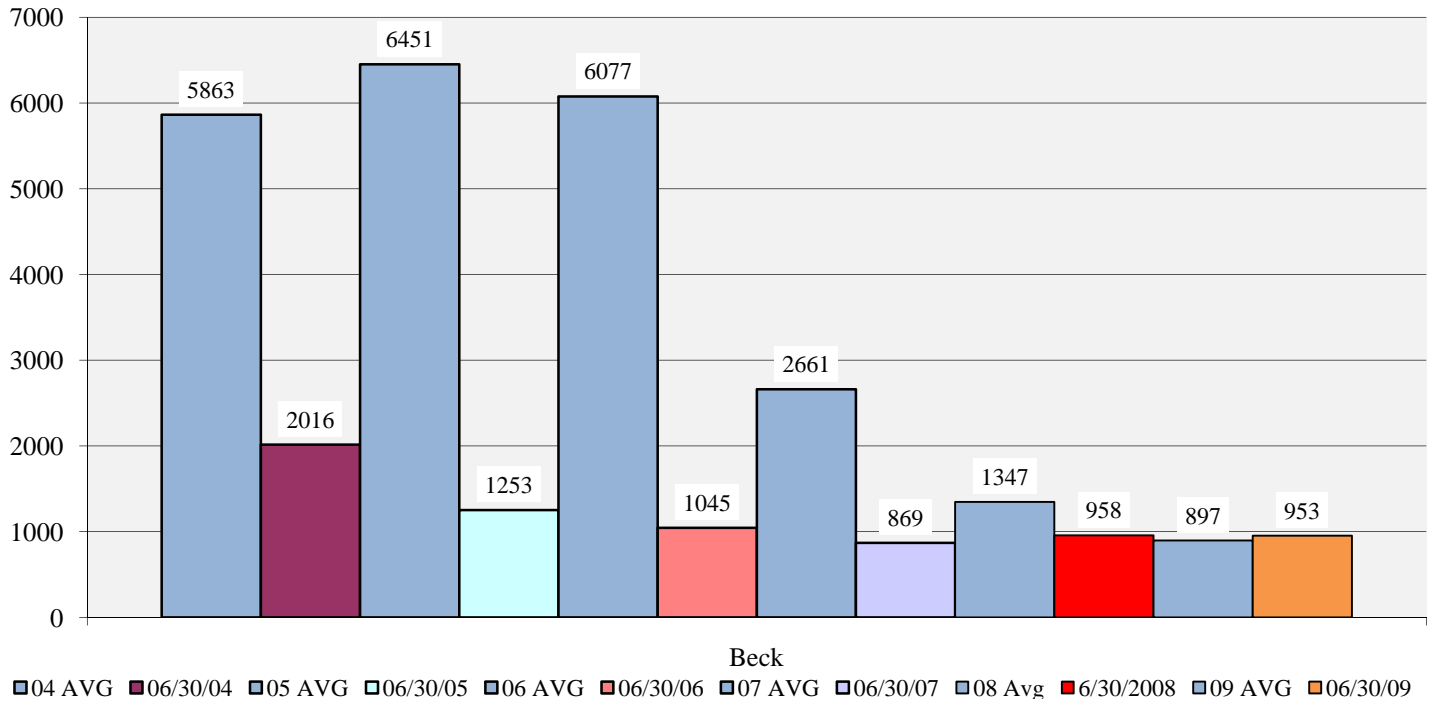
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



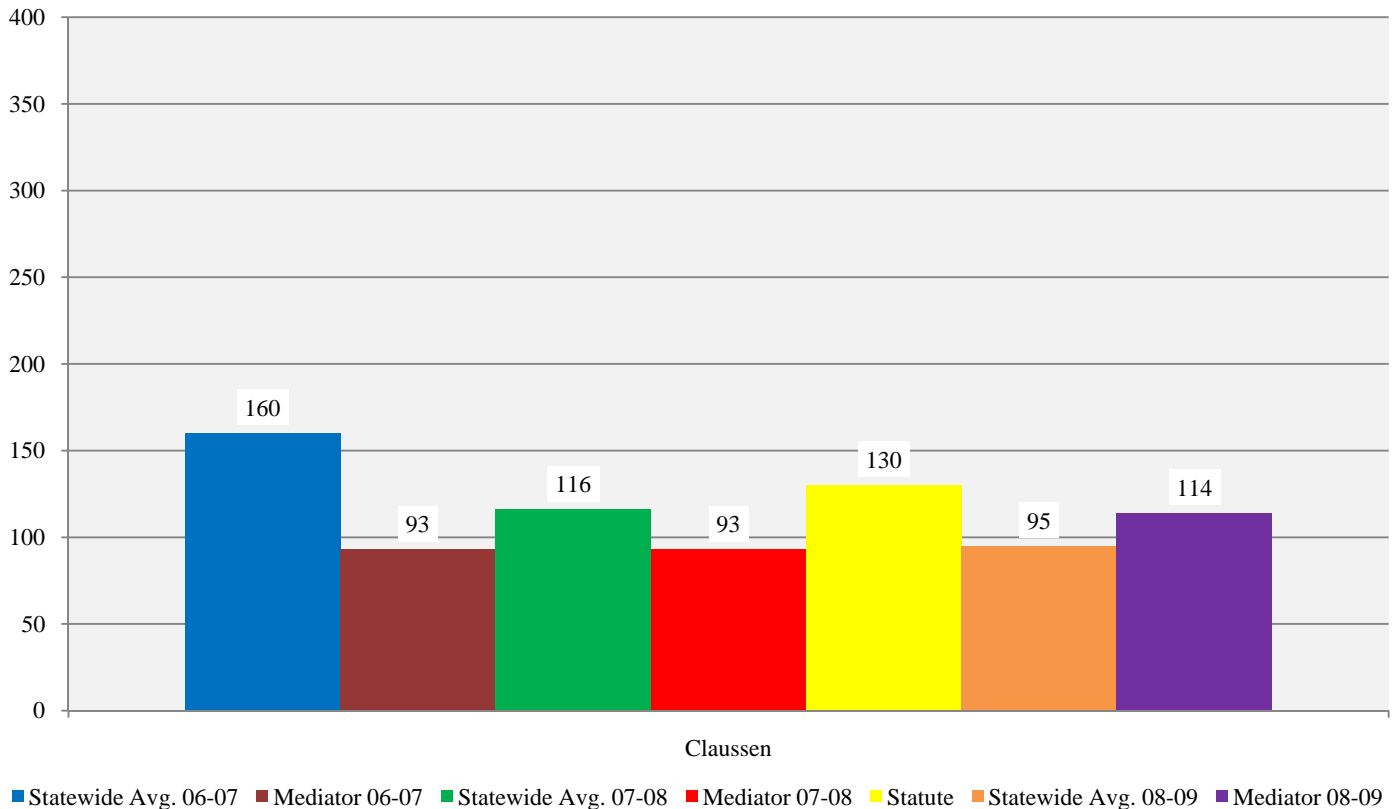
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



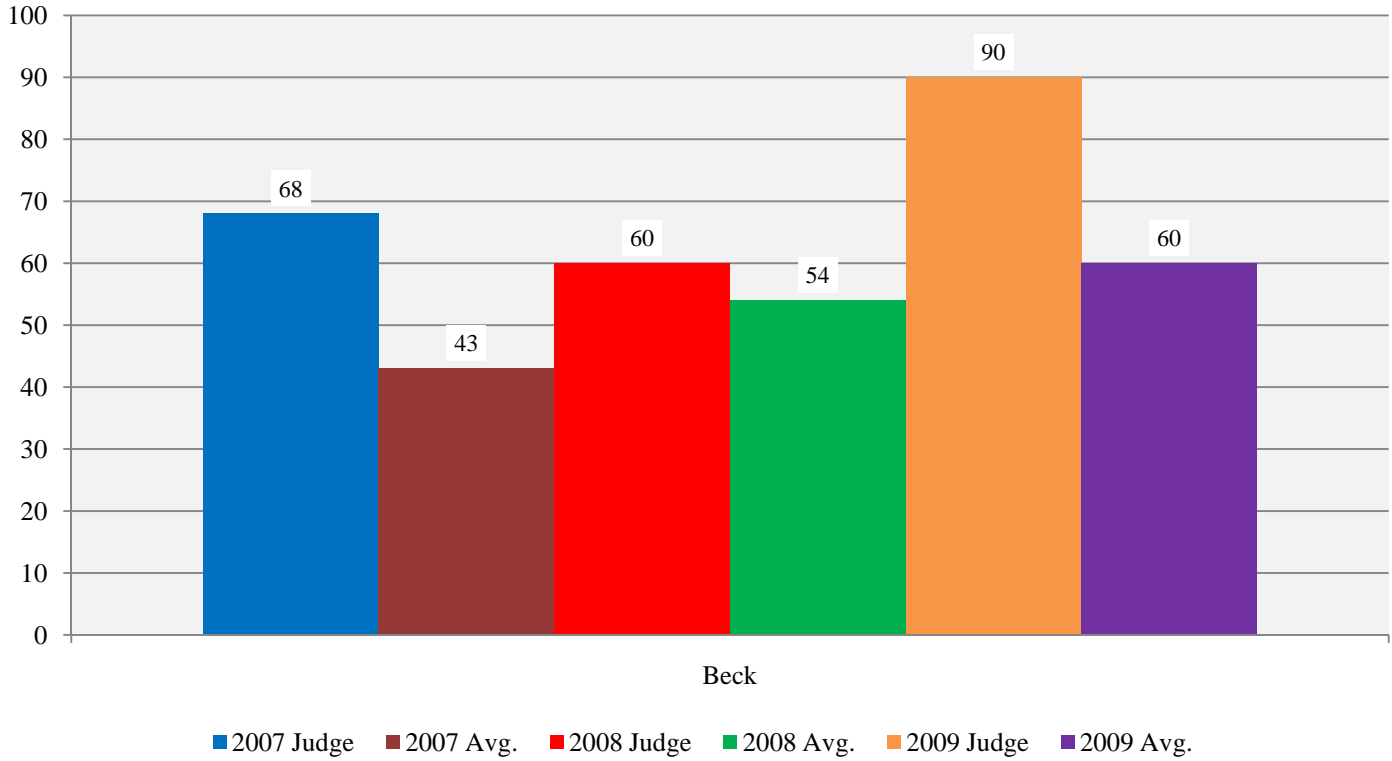
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



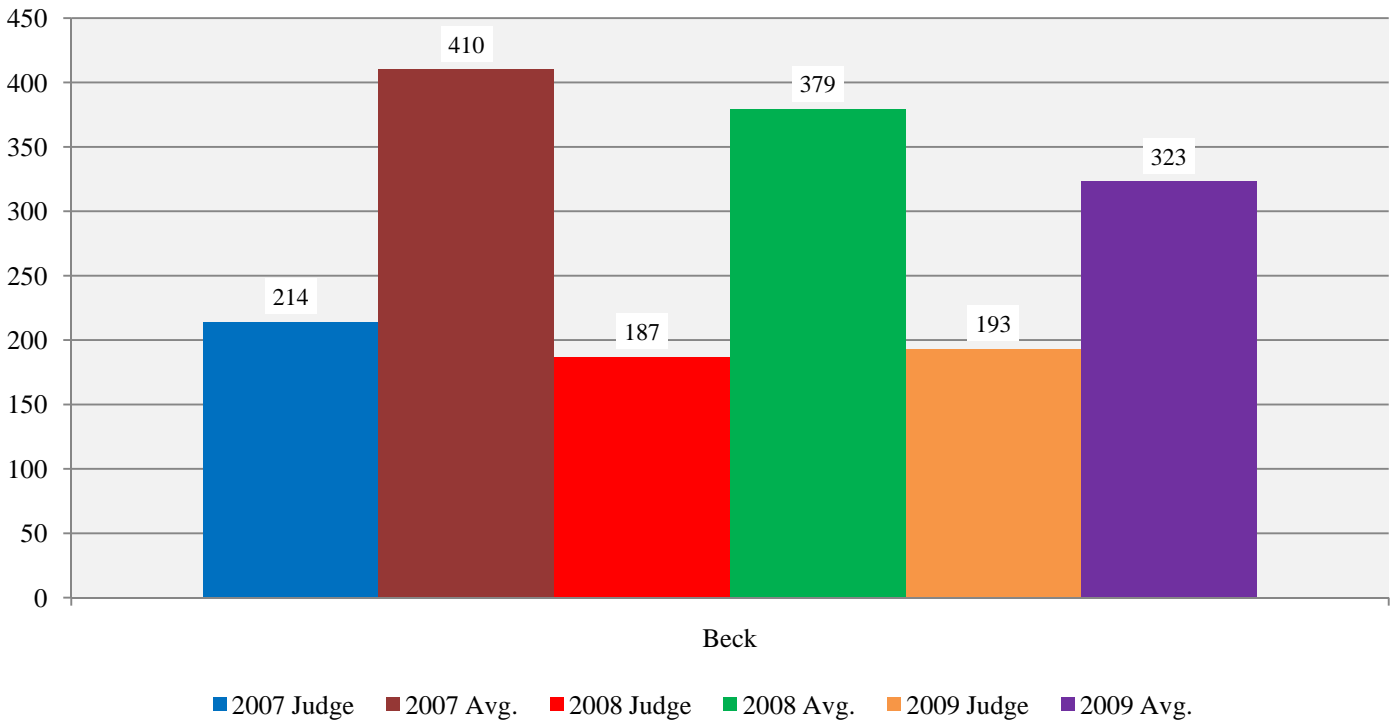
The following graph depicts the average days between PFB filing and the first mediation held thereon for each mediator in the district (brown = 07)(red = 08)(orange = 09) and the statewide average (blue = 07)(green = 08)(purple = 09).



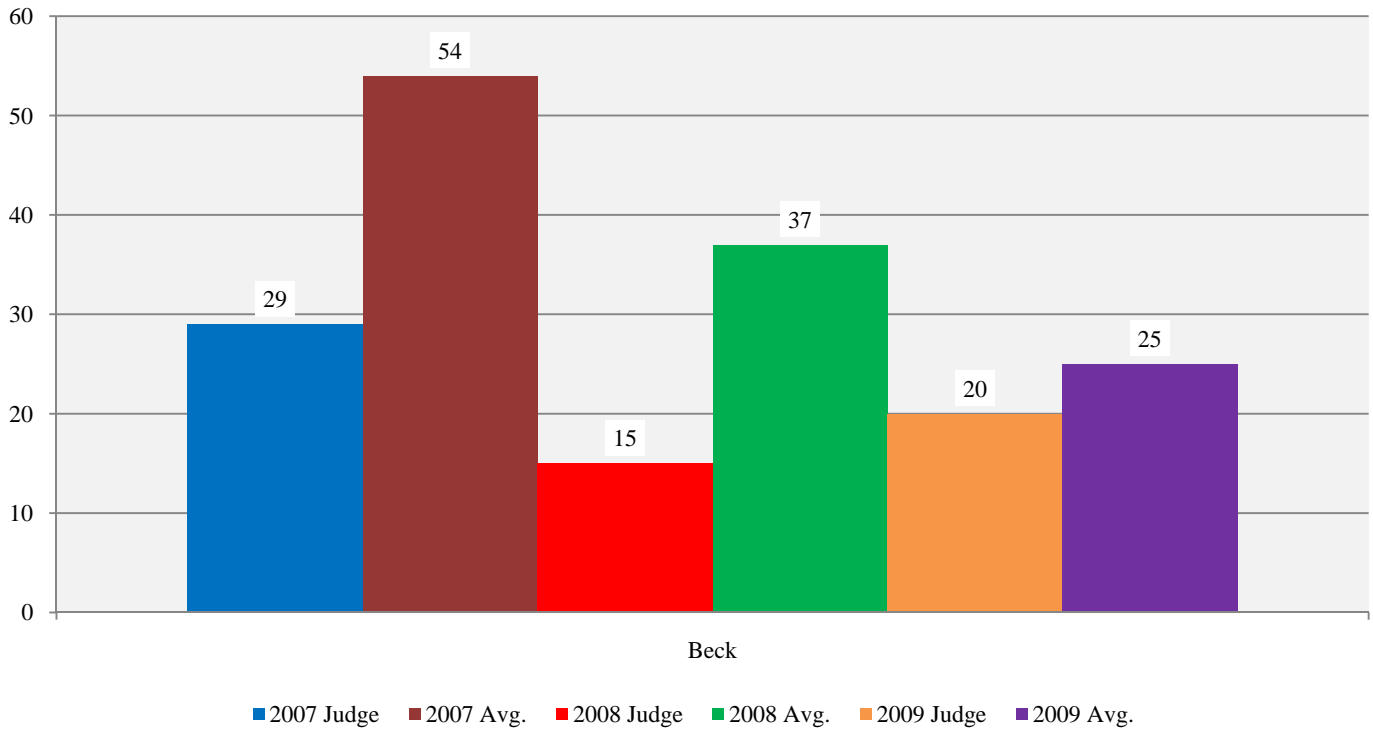
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



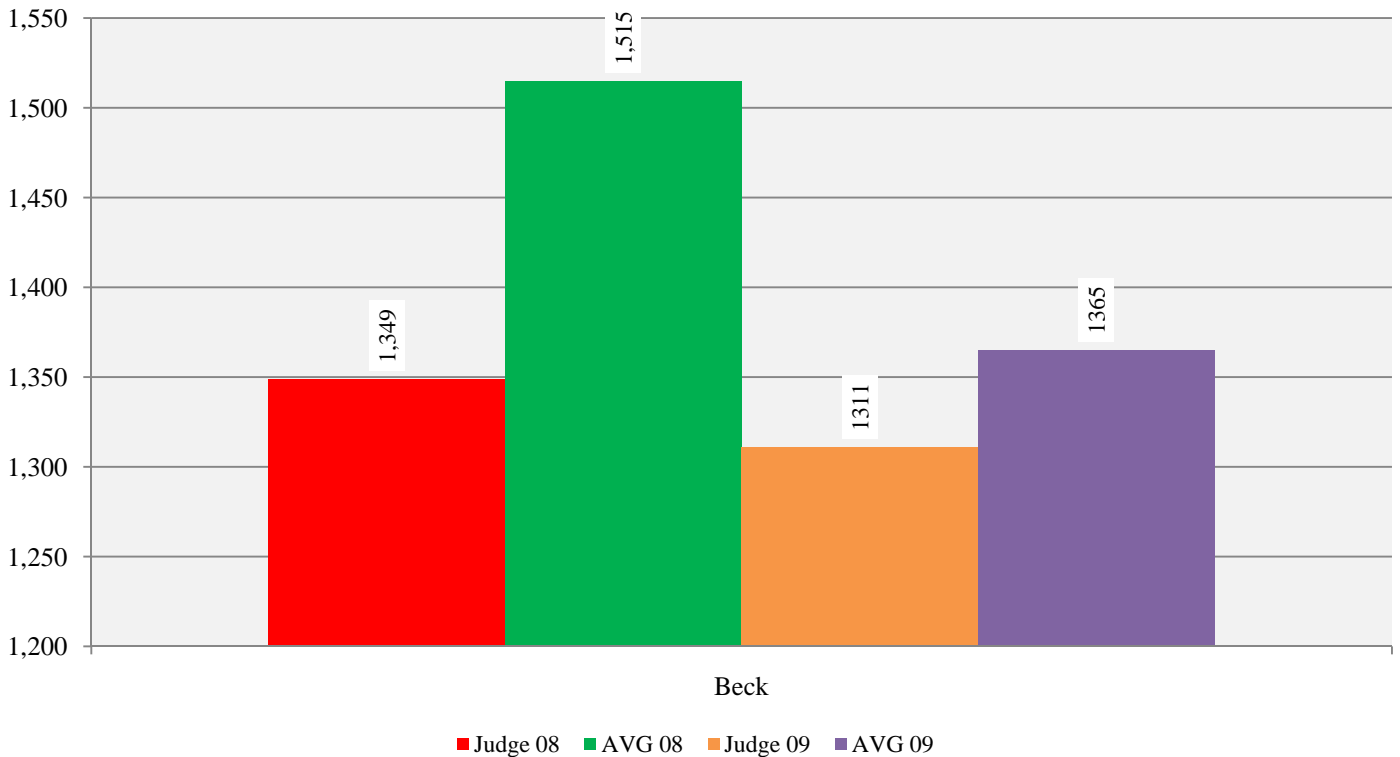
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



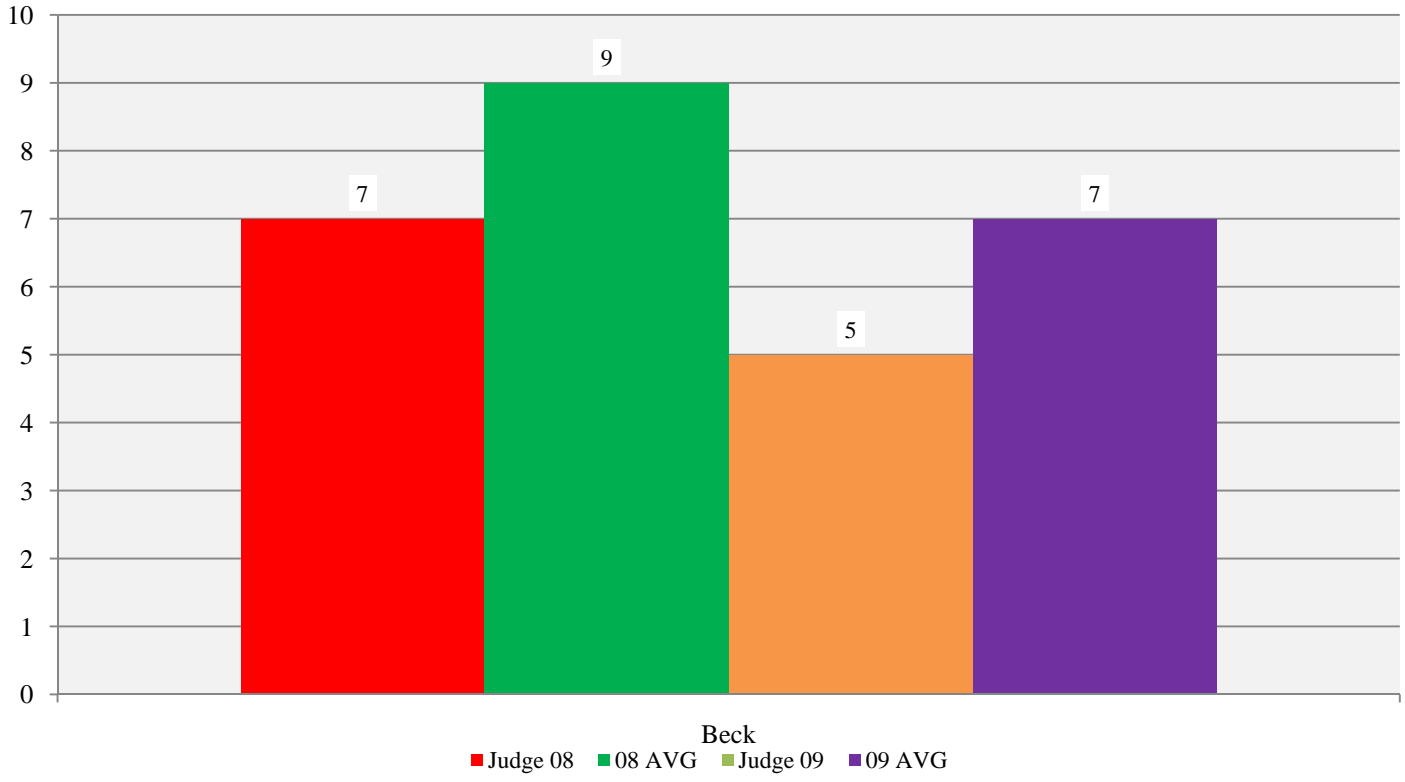
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



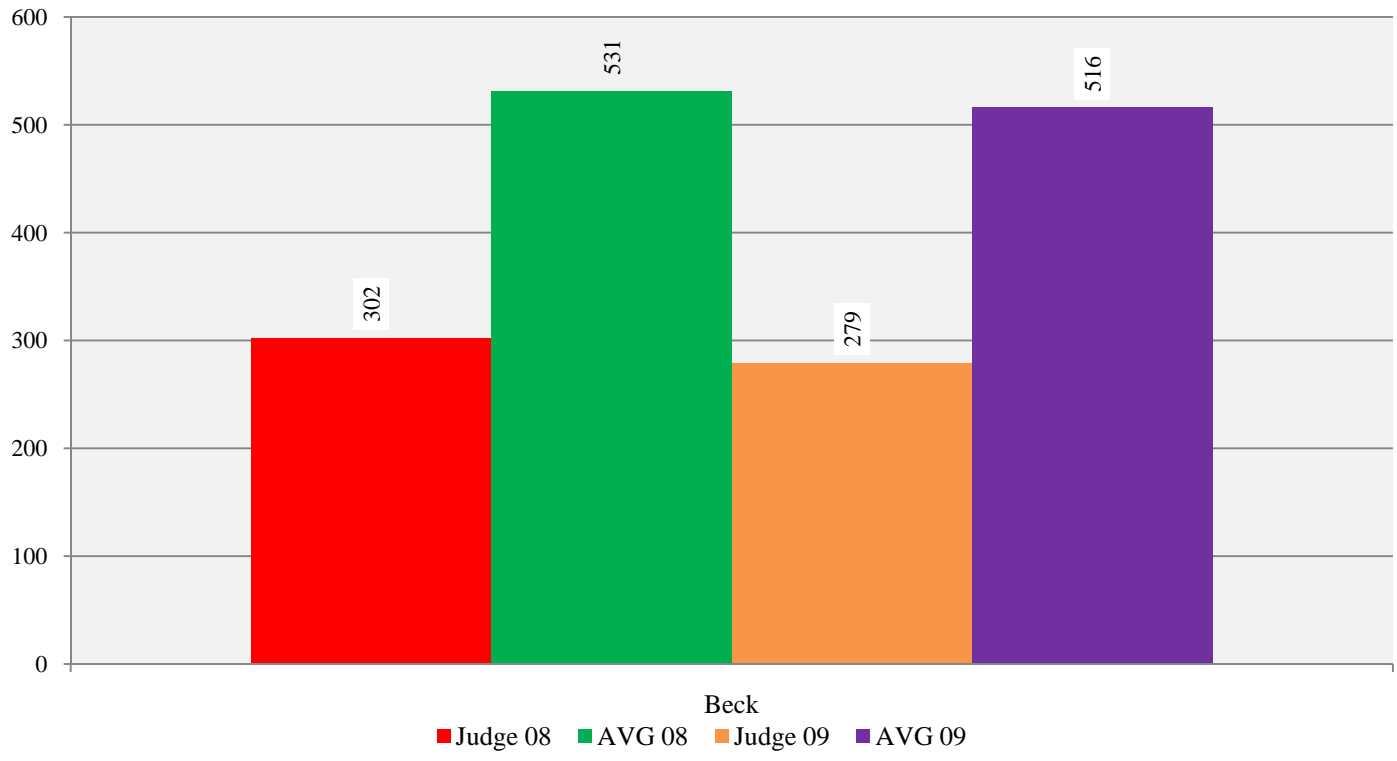
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



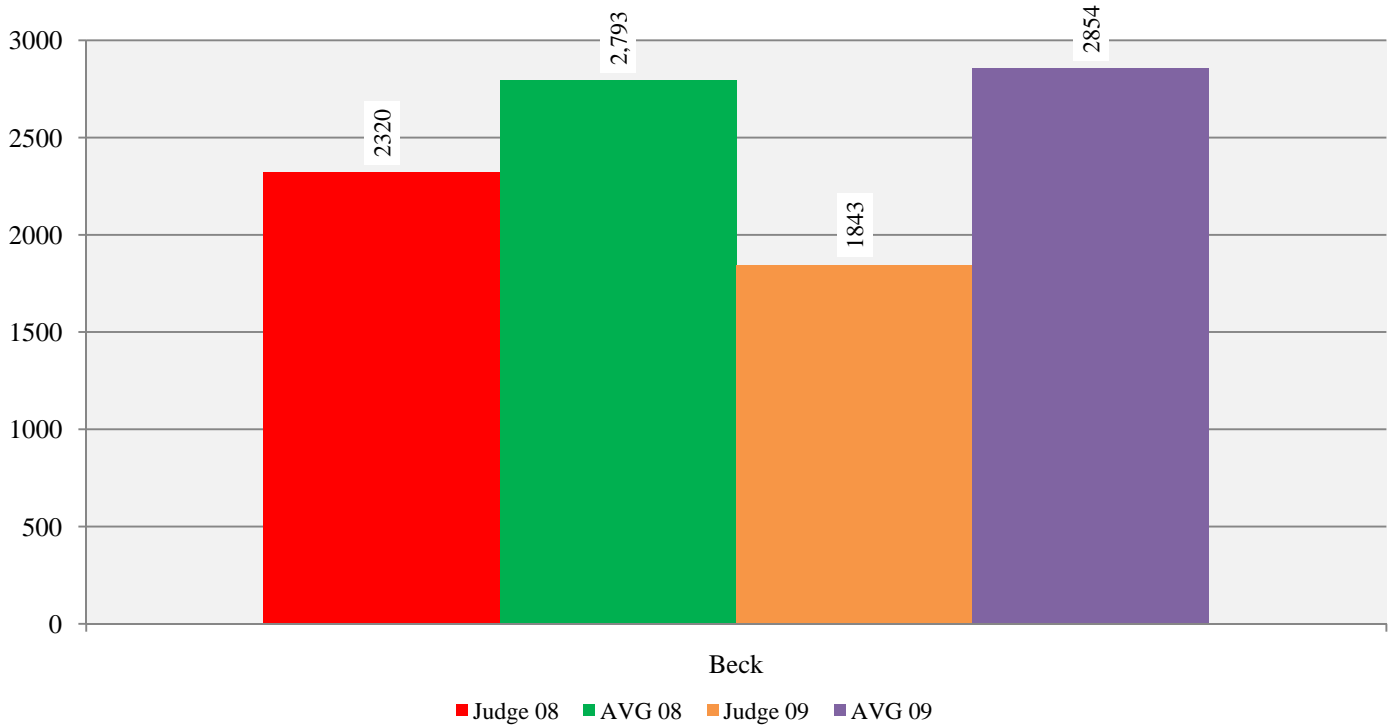
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



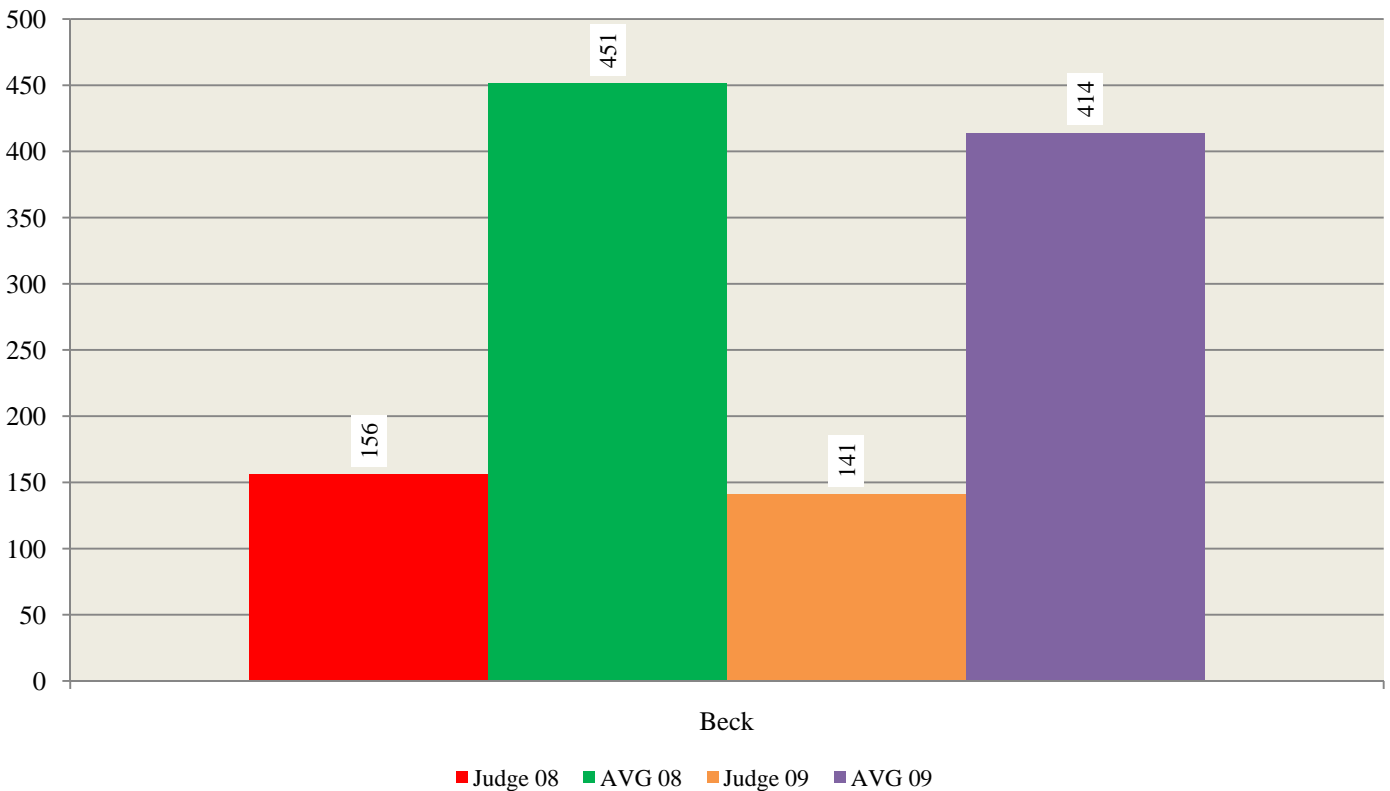
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



Appendix “14” District STP (JCC Hafner, JCC Remsnyder):

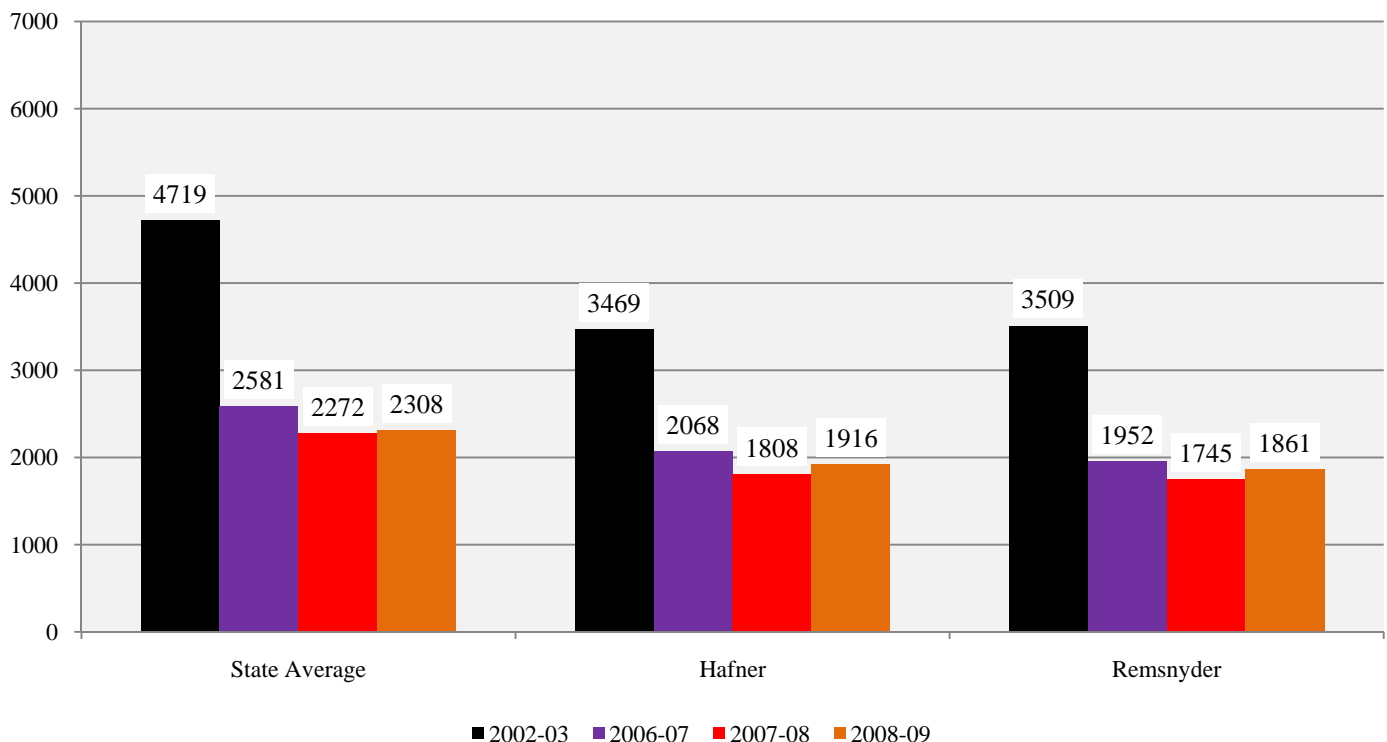
District STP includes Pasco and Pinellas counties.

District STP has seen marked decreases in PFB and “new case” filings in recent years. In 2008-09, however, PFB filings increased, and “new case” filings were close to the statewide average. The PFB closure volumes kept pace with these filings, however, leaving the STP petition inventory close to equilibrium. Judges Remsnyder and Hafner each volunteered as visiting Judge in LKL last year, and each will also begin to receive “new case” assignments in 2009-10 for trial by video teleconference (VTC).

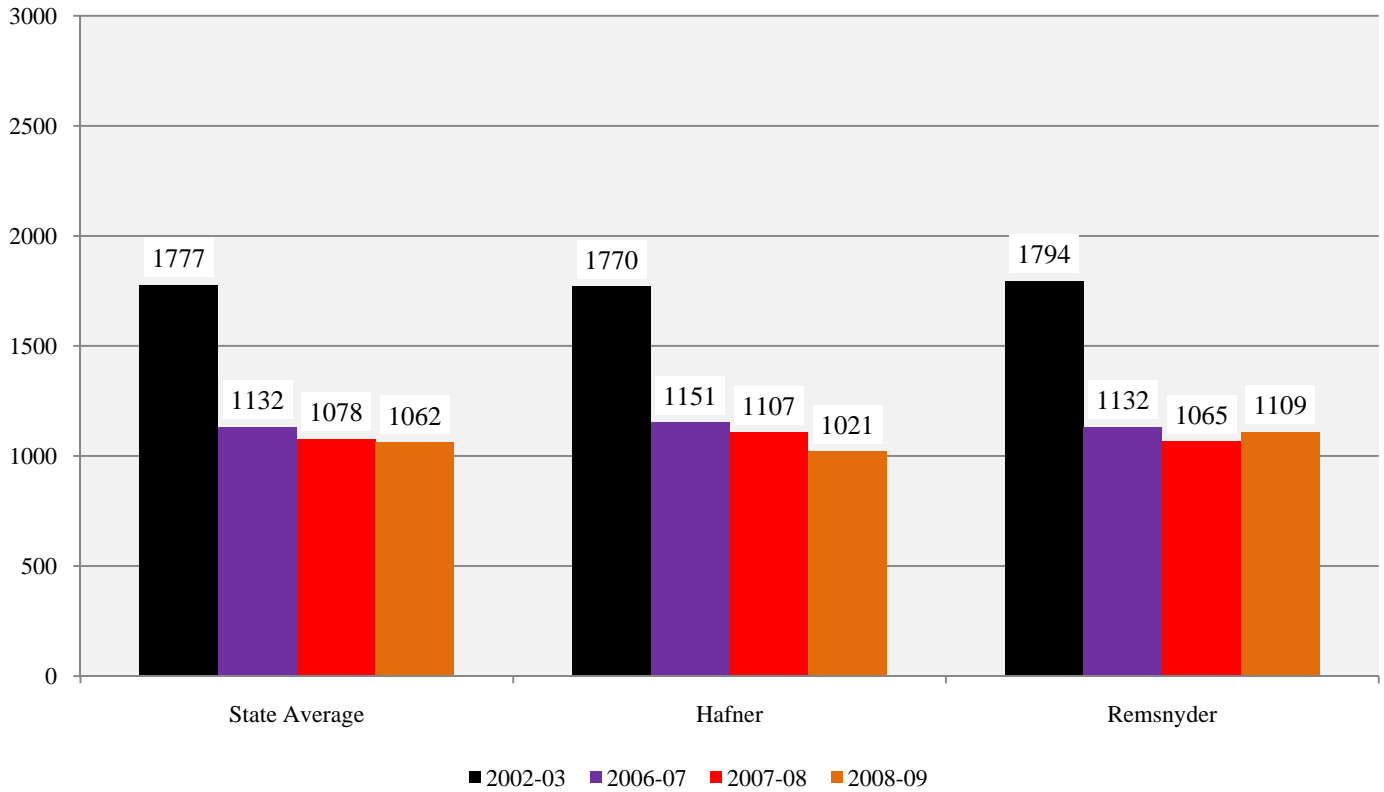
In District STP, the time from PFB to first mediation in 2008-09 was well within the statutory 130 day period. Trial occurred on average well within the statutory 210 day period, and final orders were entered within the 30 day statutory mandate on average. Overall, STP is a consistently timely and effective OJCC District.

The SPT District continues to display exceptional efficiency and effectiveness, teamwork and management. In 2008-09 Judges Hafner and Remsnyder spoke to the St. Petersburg Bar Association about e-filing, attorney fees, costs, and other “hot topics.” Judge Remsnyder serves on the Board of Directors of the 440 Scholarship and she is the Chairperson of the scholarship Selection Committee.

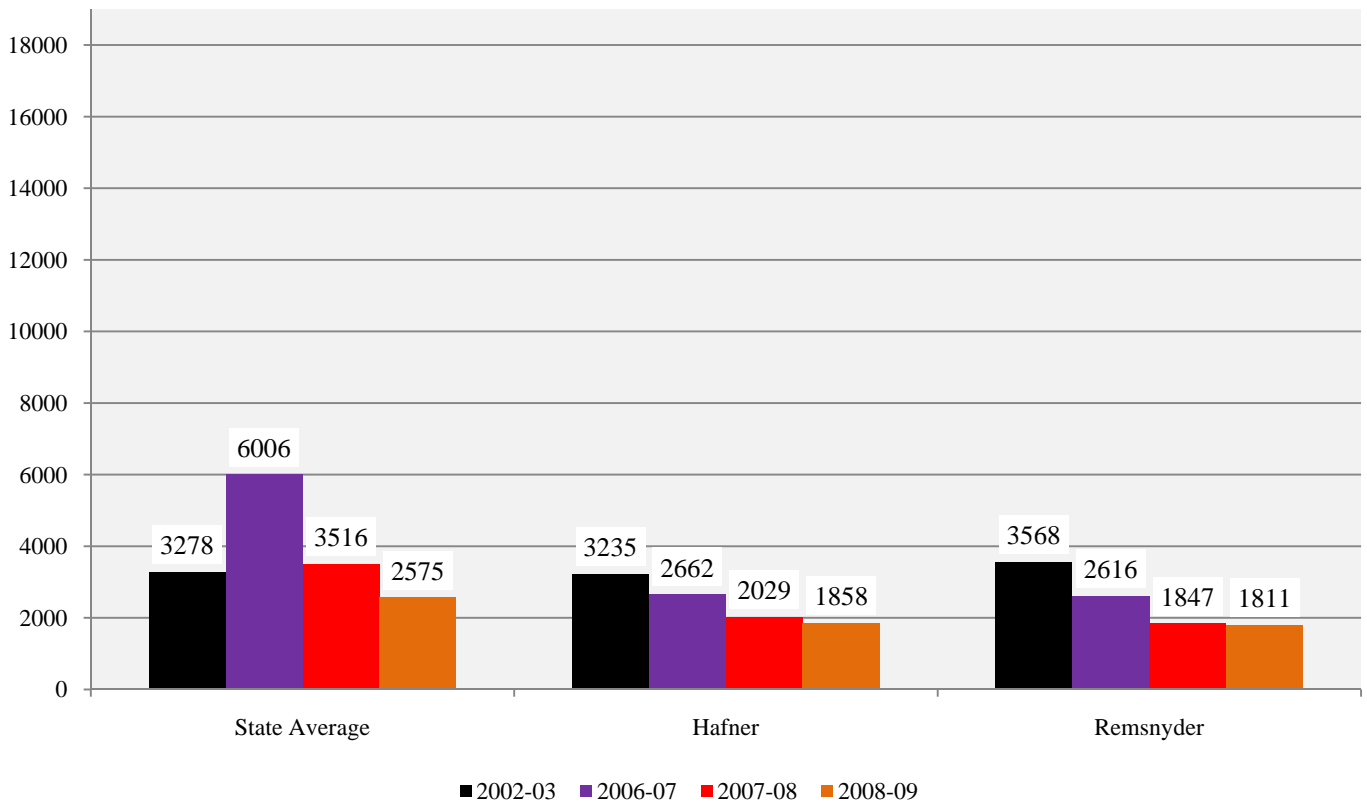
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



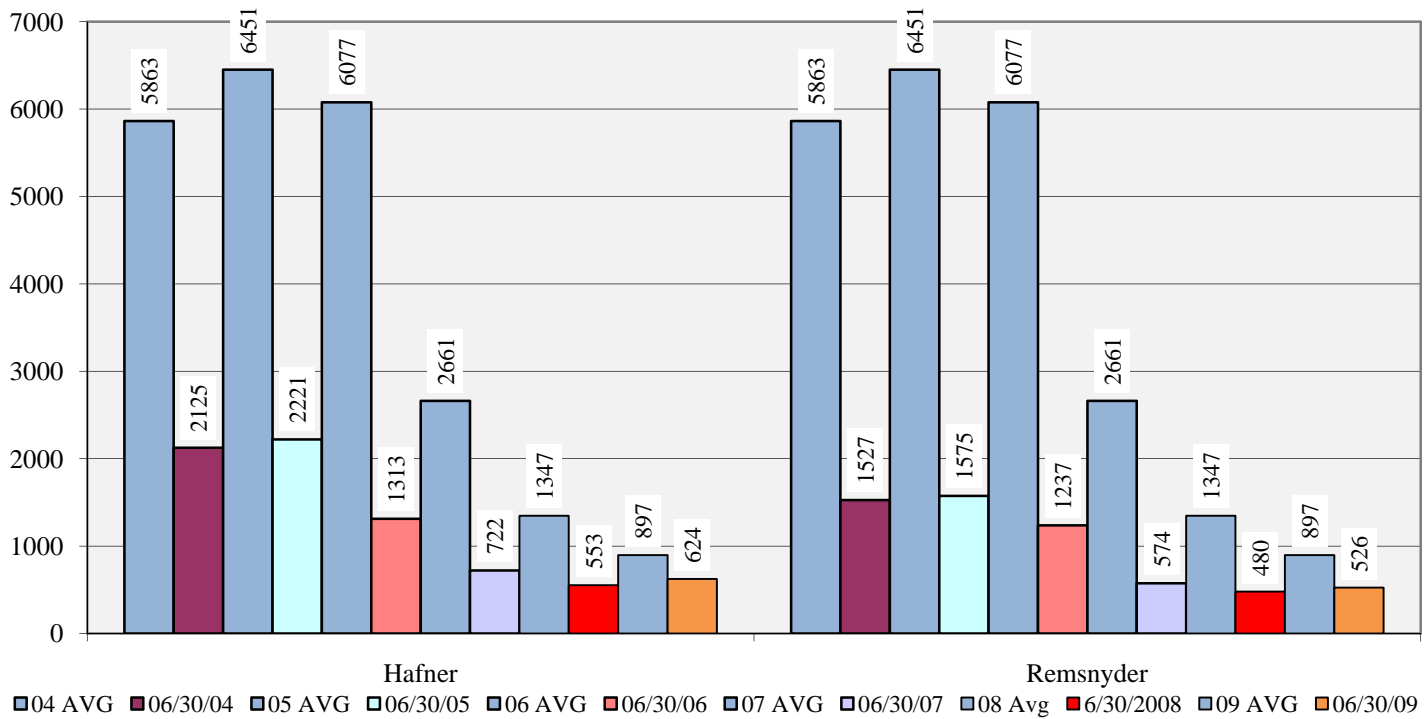
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



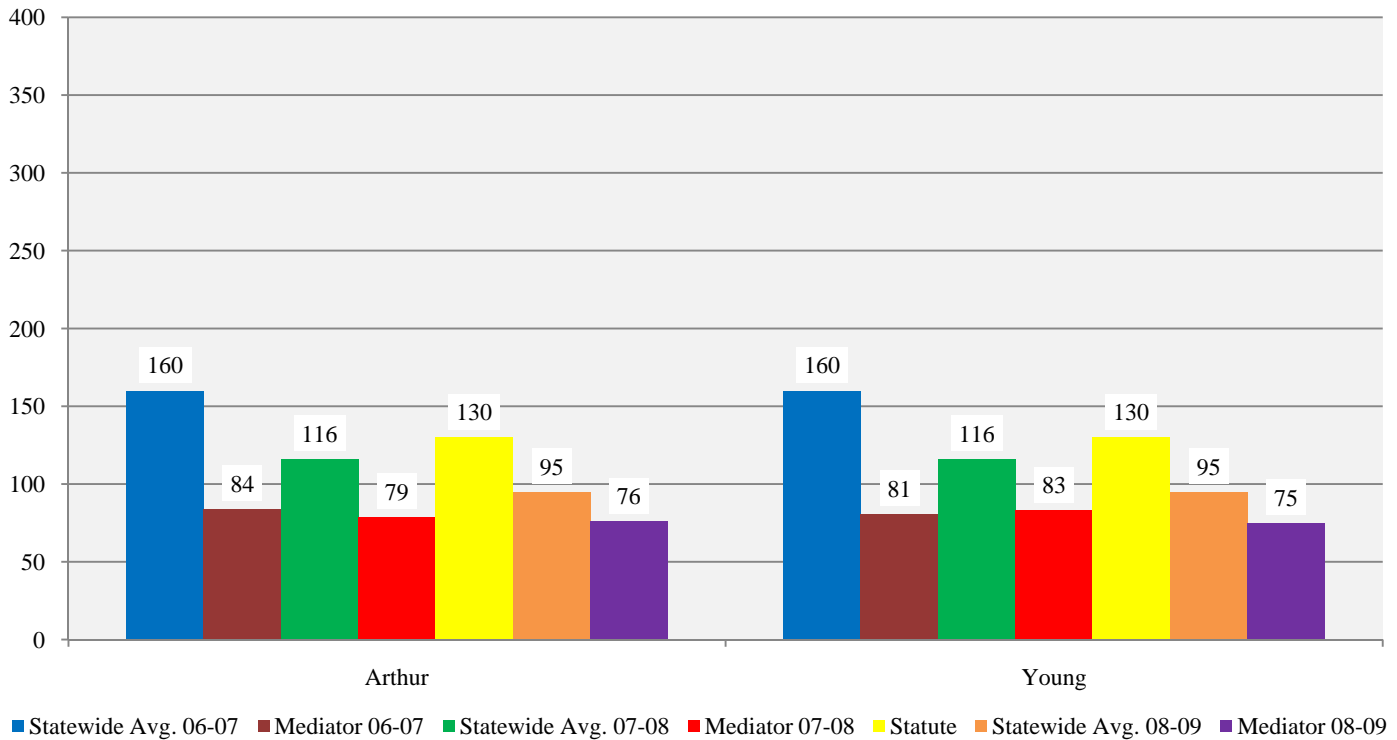
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



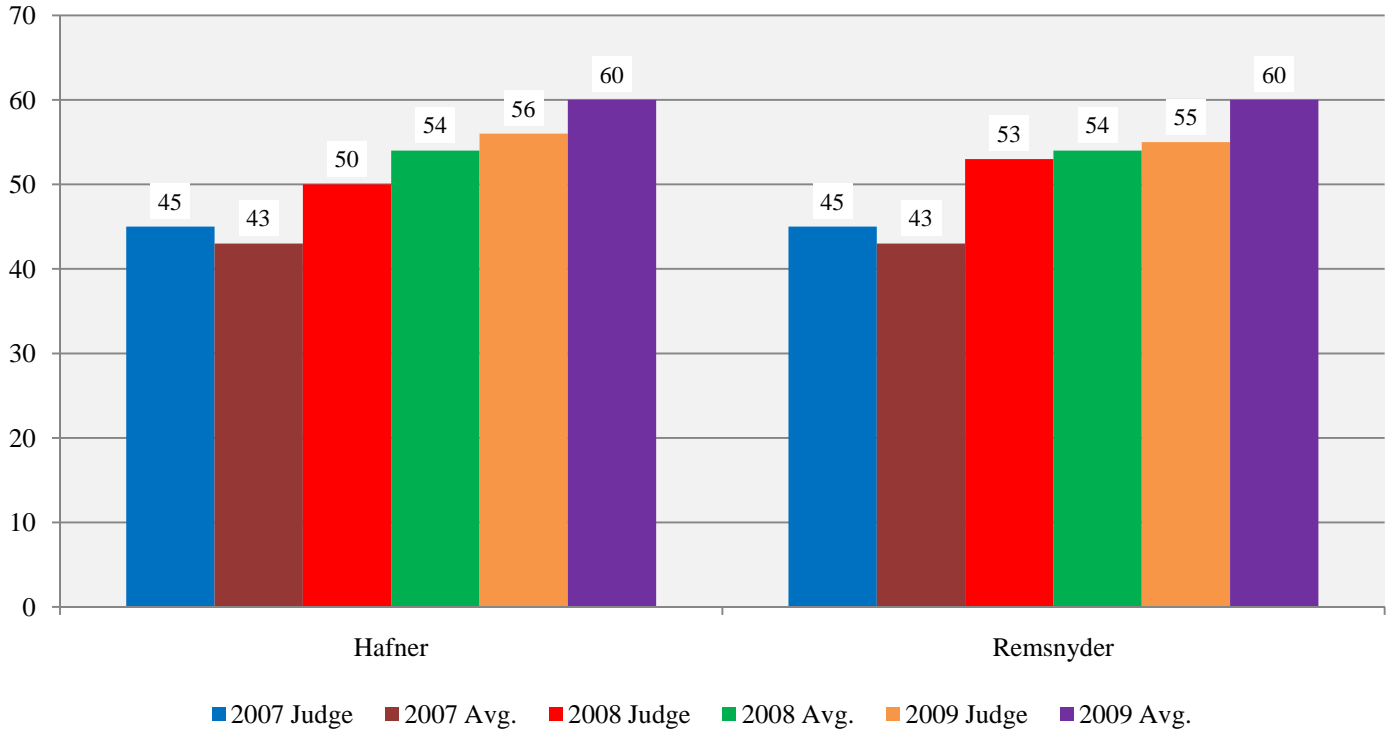
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



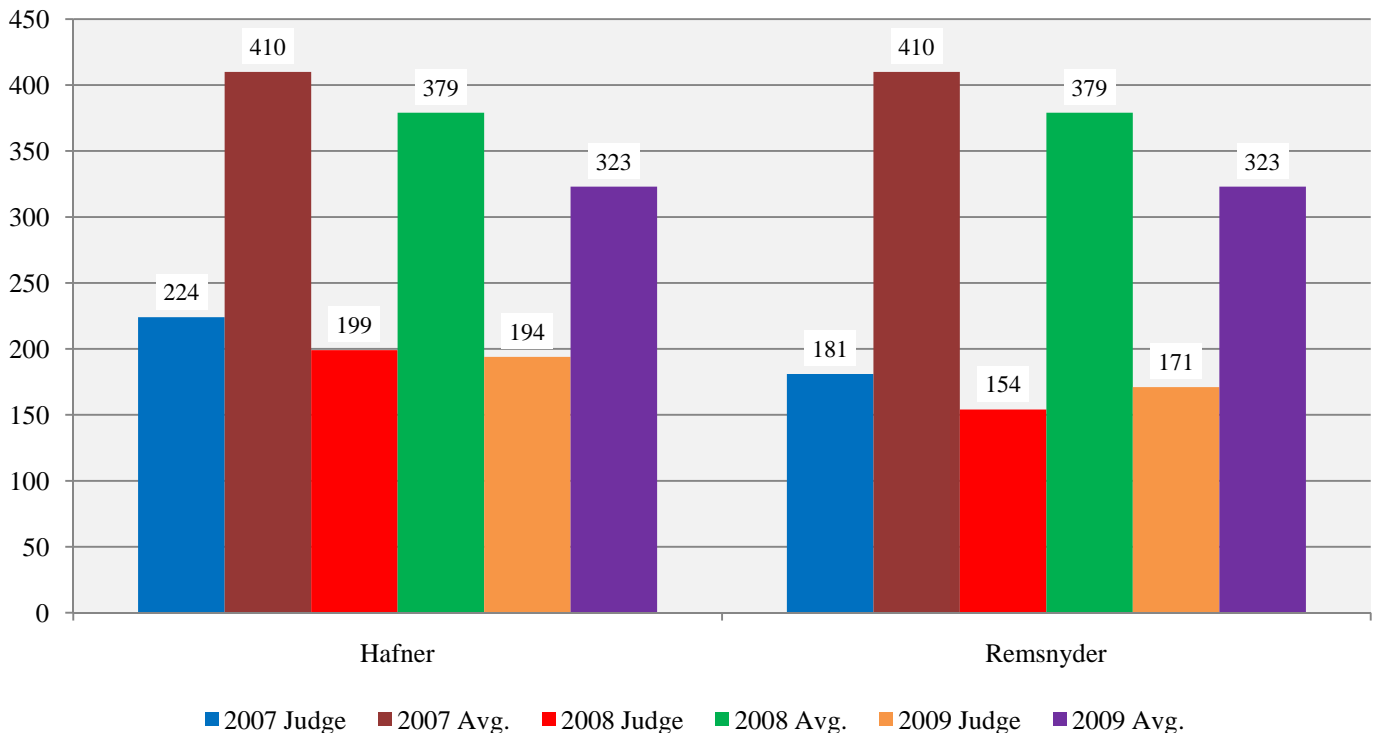
The following graph depicts the average days between PFB filing and the first mediation held thereon for each mediator in the district (brown = 07)(red = 08)(orange = 09) and the statewide average (blue = 07)(green = 08)(purple = 09).



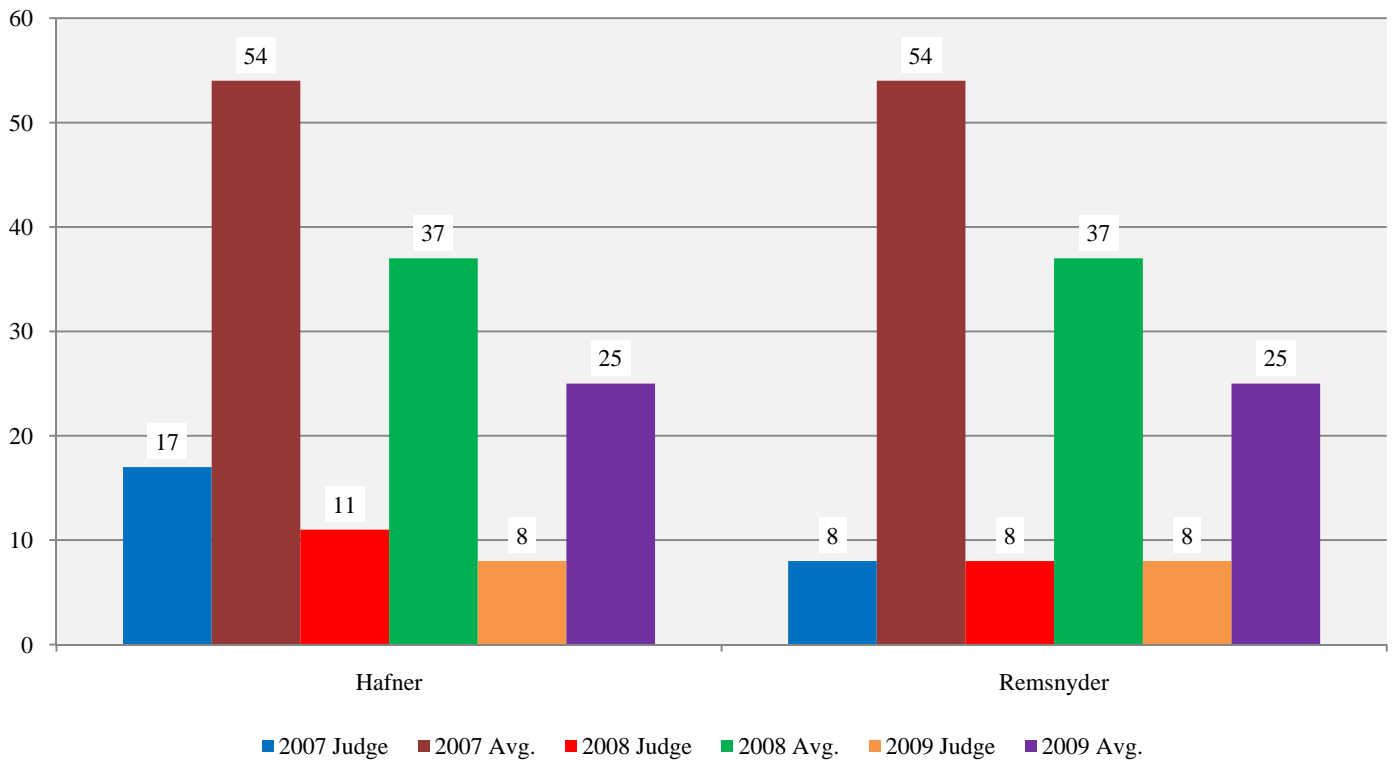
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



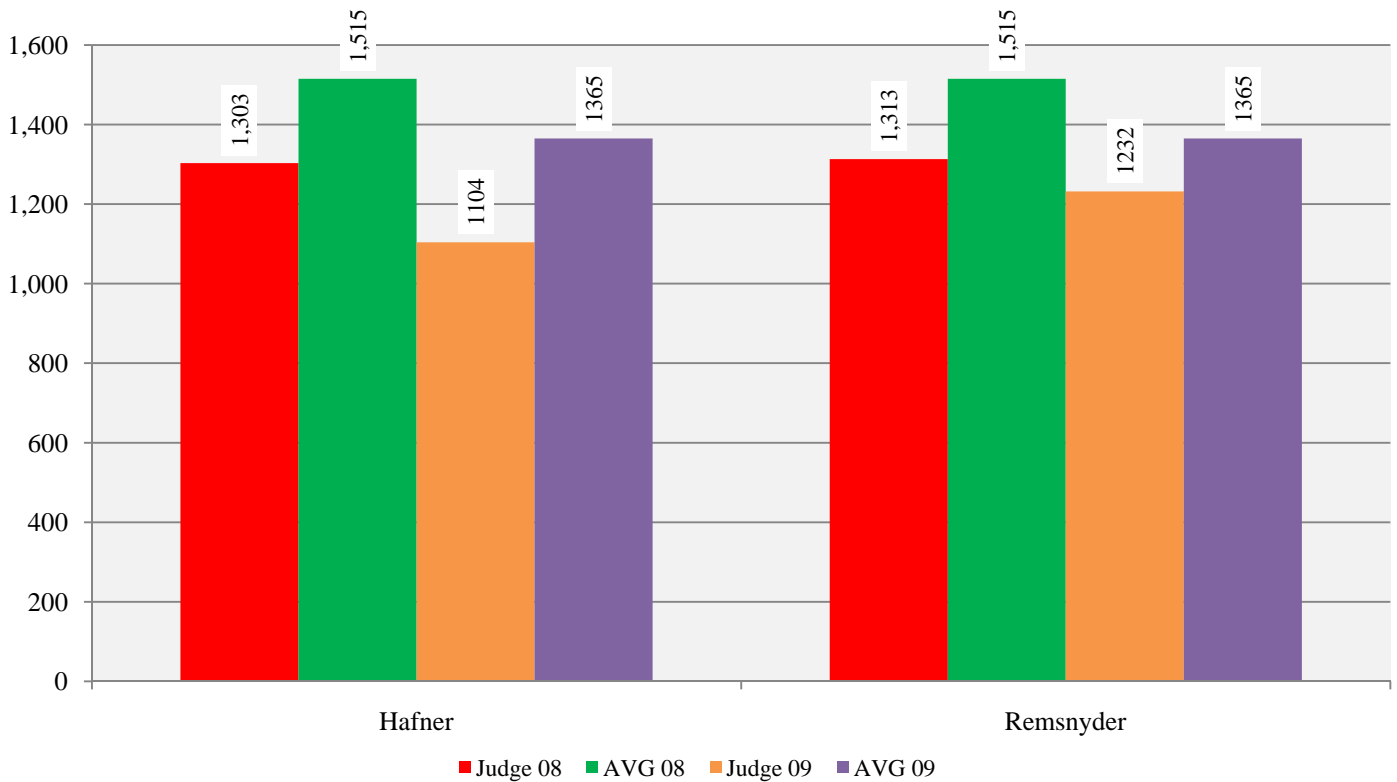
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



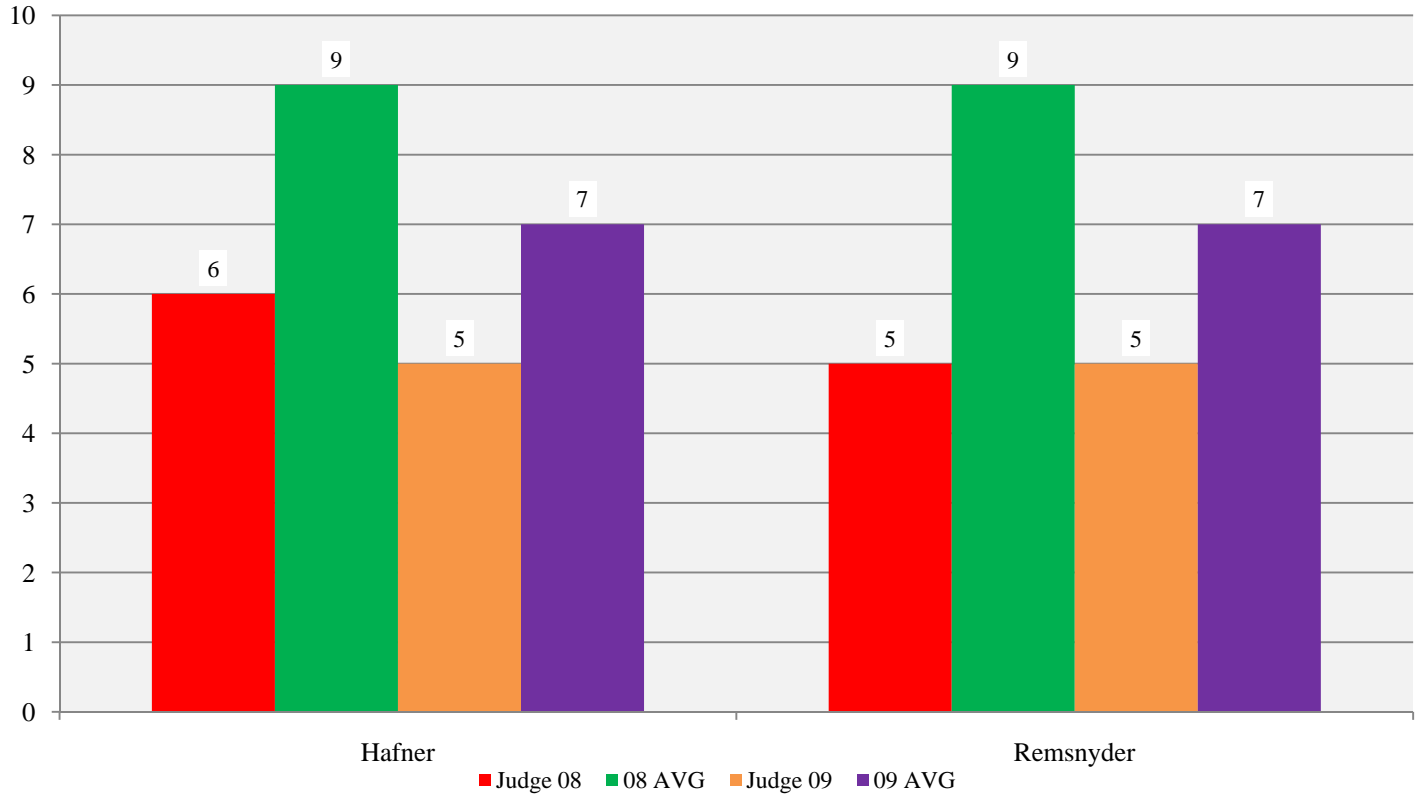
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



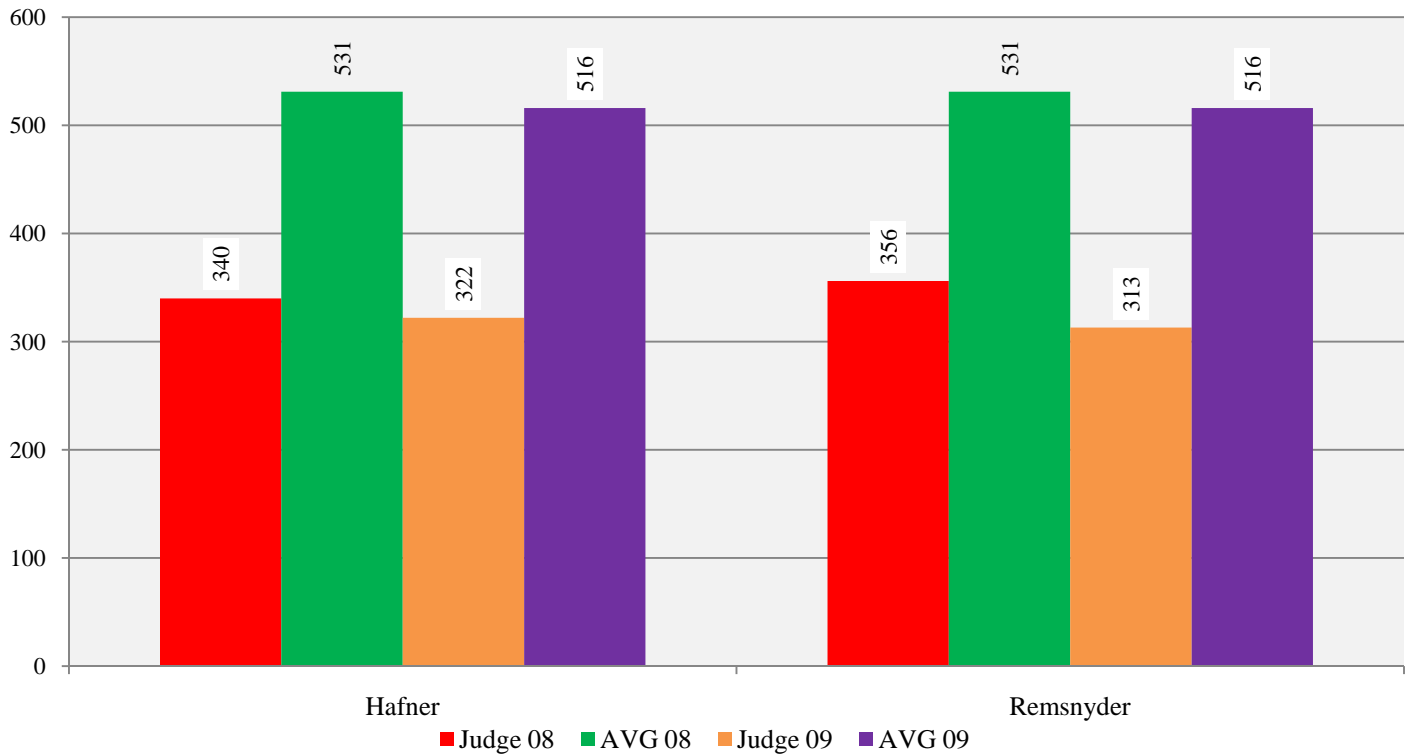
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



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 in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



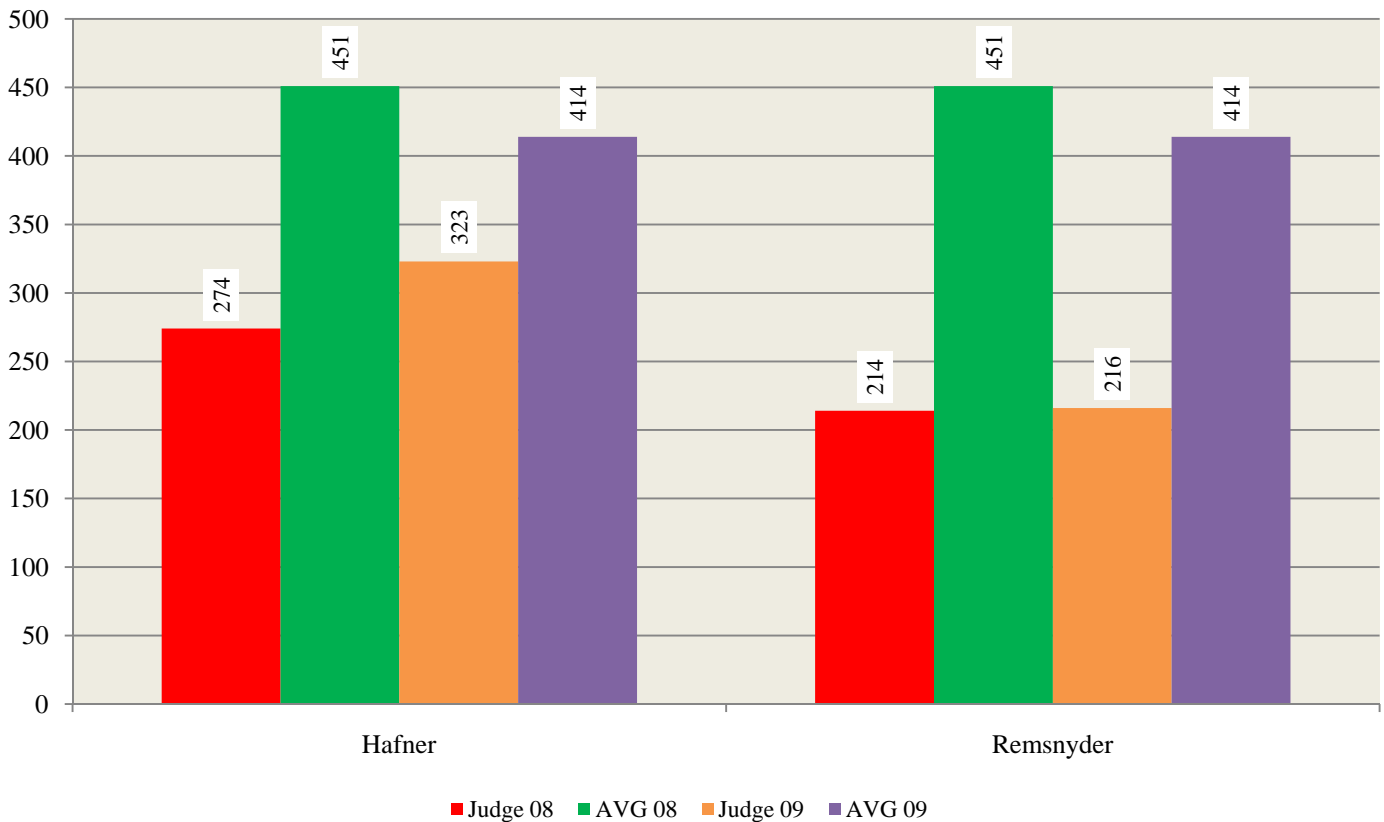
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



Appendix “15” 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 regularly travels for hearings in other counties on a regular basis.

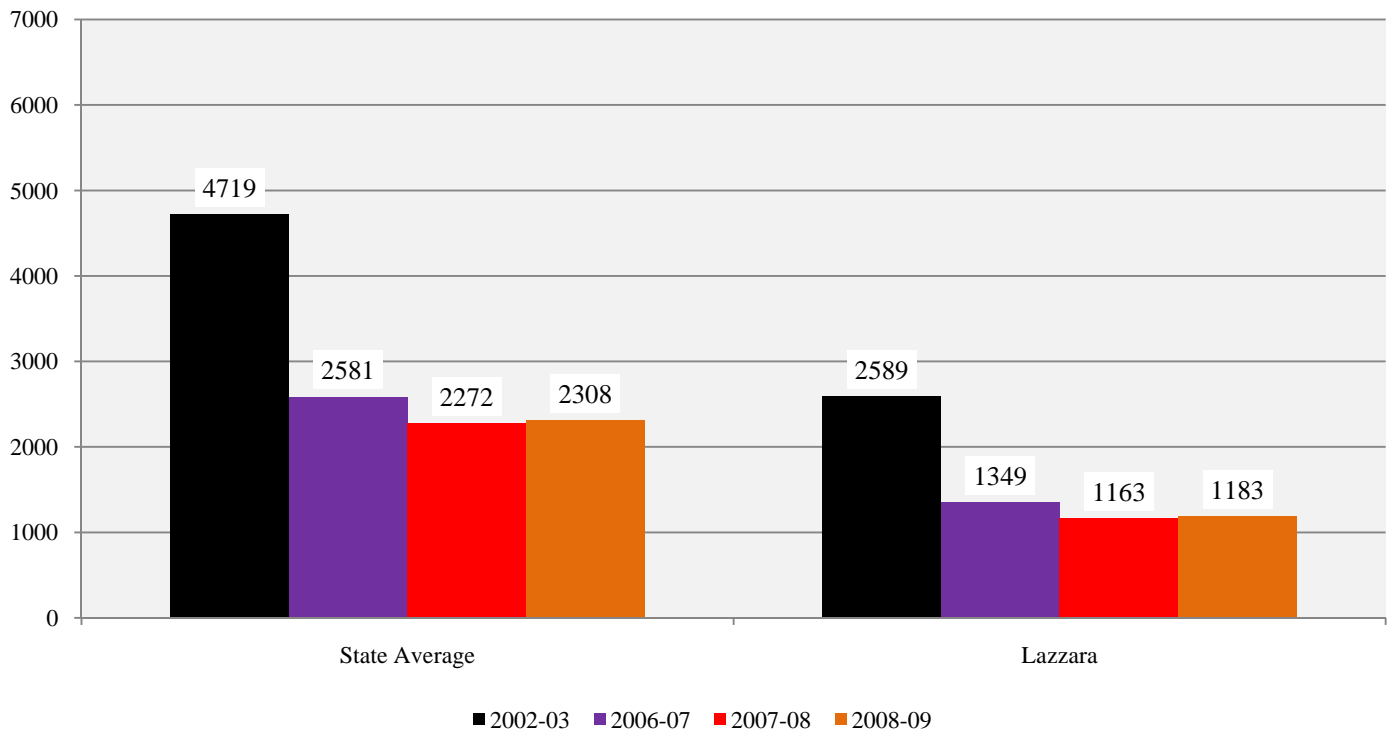
The volume of PFB and “new case” filings in TLH are below the statewide average. The TLH PFB closure volumes are very close to the PFB filing volumes, evidencing a District in equilibrium. In 2008-09, Judge Lazzara volunteered as visiting Judge in LKL and GNS. In District TLH, the average days from PFB filing to mediation was well below the statutory 130 days last year. Trial volume was significantly below the statewide average, and the time from PFB filing to trial and the time from trial to final order were both within the statutory requirements of 210 days and 20 days respectively.

Judge Lazzara spoke at the 2008 Florida Workers’ Compensation Institute Spring Forum on “Trends in Litigation.” He presented “Top 10 Questions You Always Wanted to Ask the JCC ...”, for the Florida Bar Workers’ Compensation Section. He was a panelist for “*Do You Remember Back When ... A View of, and from, the Trenches – Workers’ Compensation Practice Considerations for Young Lawyers*”, for the American Bar Association Workers’ Compensation Midwinter Seminar & Conference, New Orleans, LA. He was also a guest lecturer on workers’ compensation at the Florida State University Law School.

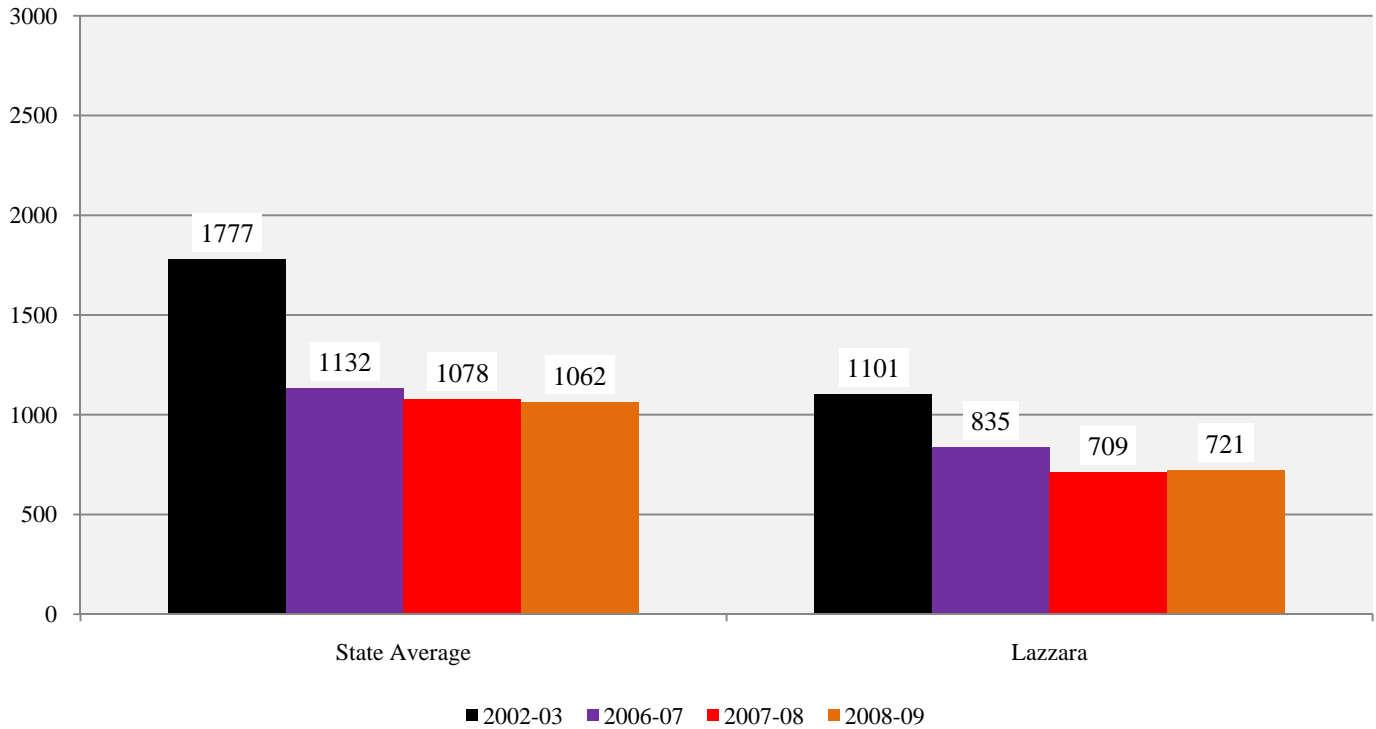
Judge Lazzara serves as President of the National Association of Workers’ Compensation Judiciary (NAWCJ), is a member of the Executive Committee of the Conference of Florida Judges of Compensation Claims, is the Co-chair of the Florida Bar Workers’ Compensation Section Professionalism Committee, and a member of the OJCC/Florida Bar survey committee. He is Treasurer and on the Board of Directors, Literacy Volunteers of Leon County, and Vice-President of the Epilepsy Association of the Big Bend.

Judge Lazzara served as presiding Mock Trial Judge, 2008 Florida High School Regional Mock Trial Competitions, 2nd Circuit, and as an appellate judge at the Florida Workers’ Compensation Institute Moot Court Competition. Judge Lazzara is a Certified BBQ Judge, Kansas City BBQ Society and Florida BBQ Association.

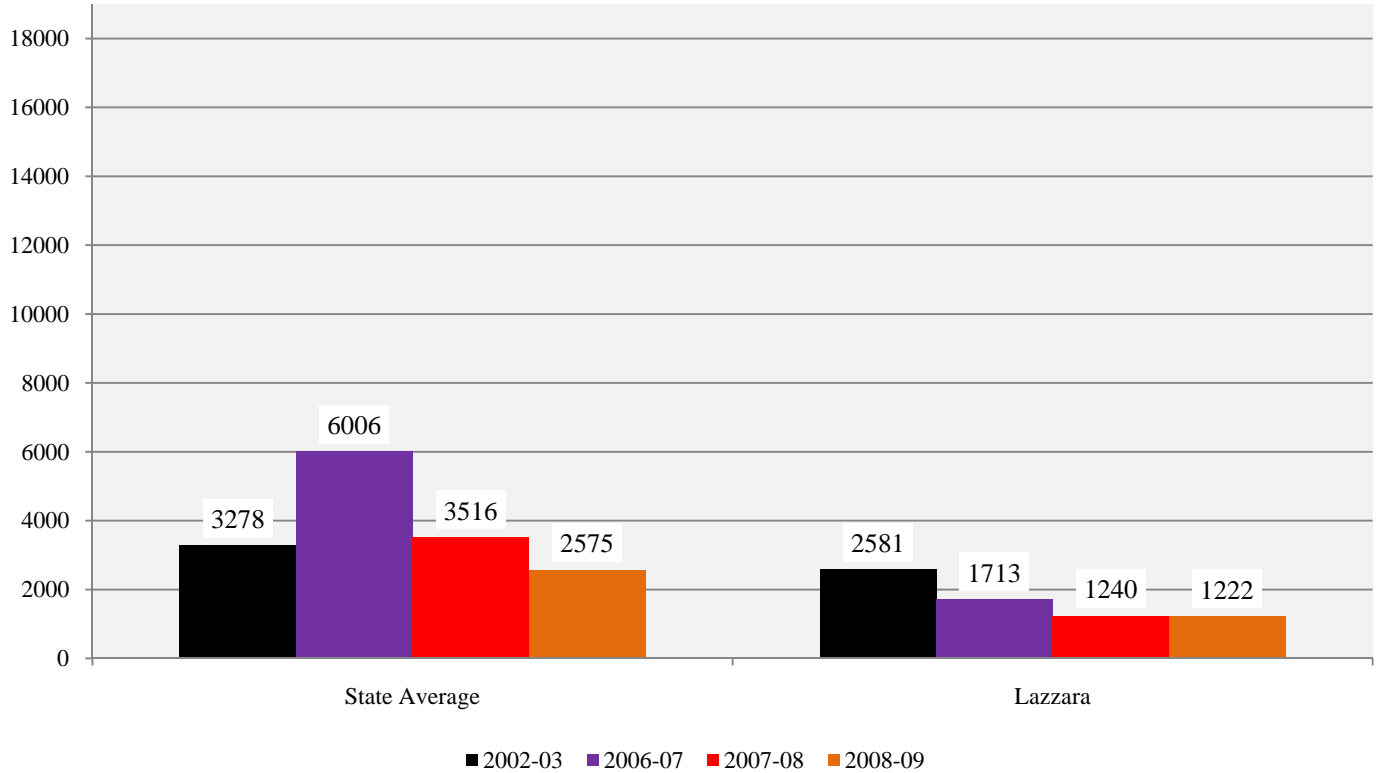
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



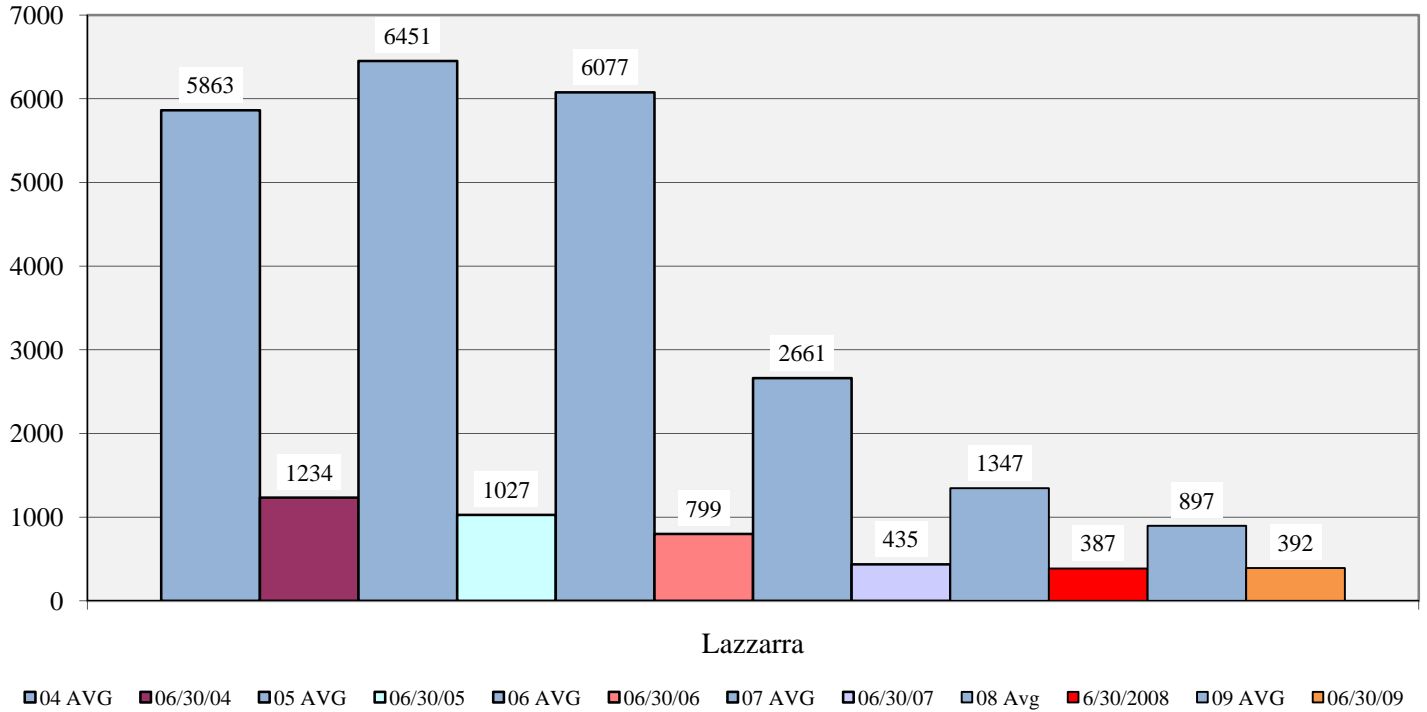
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



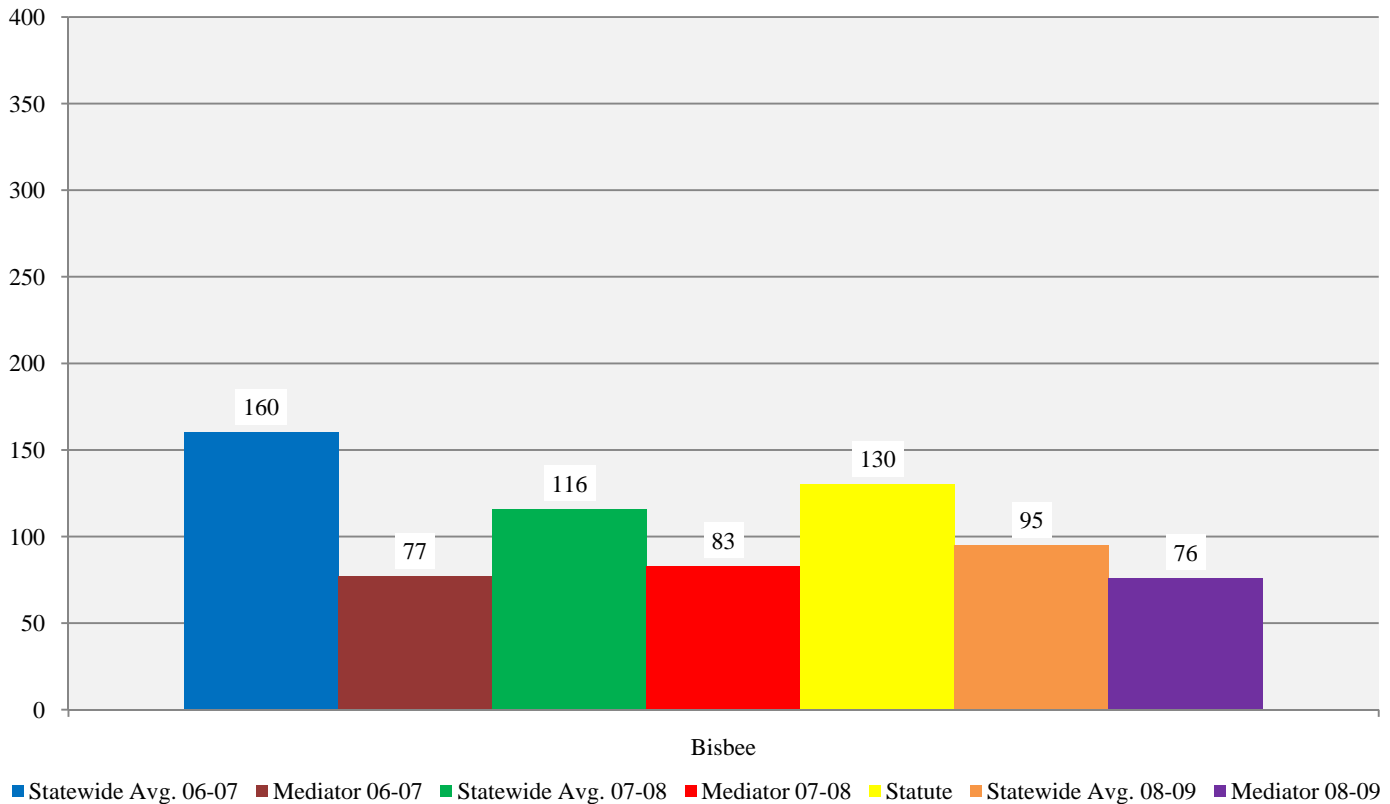
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



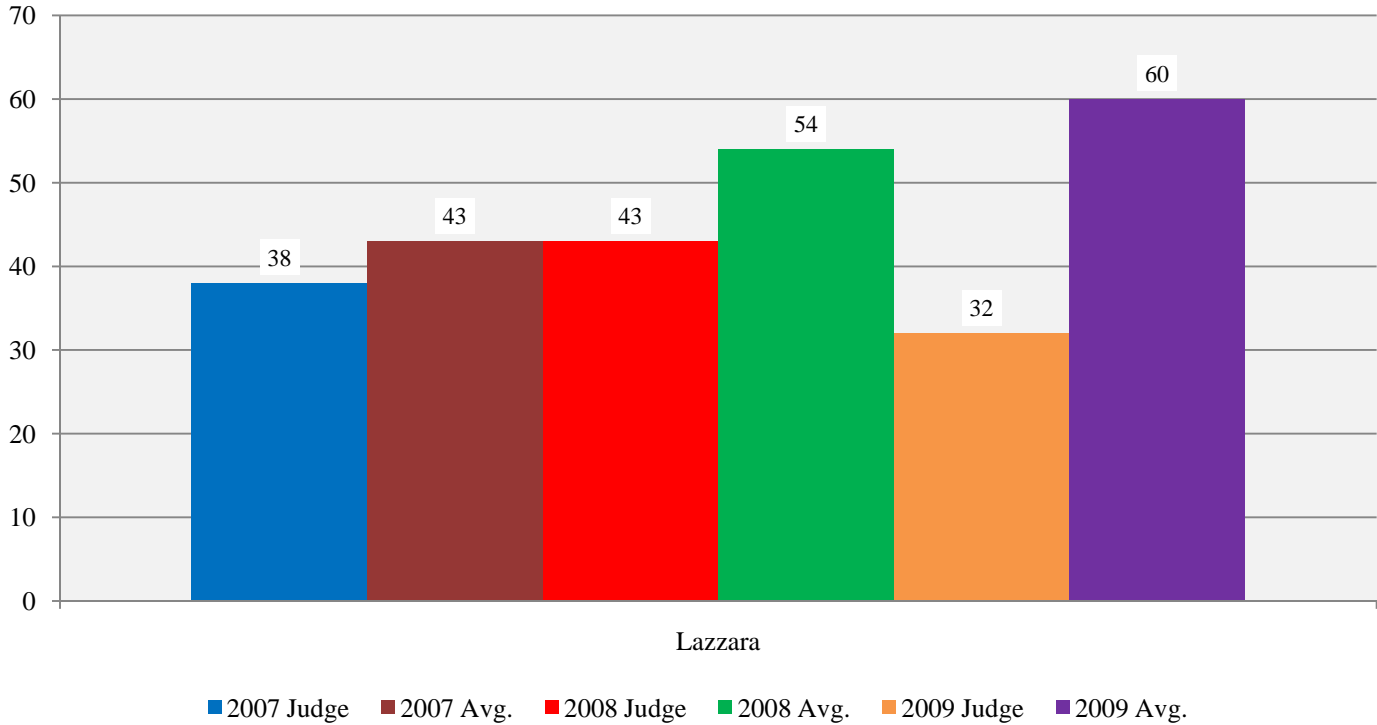
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



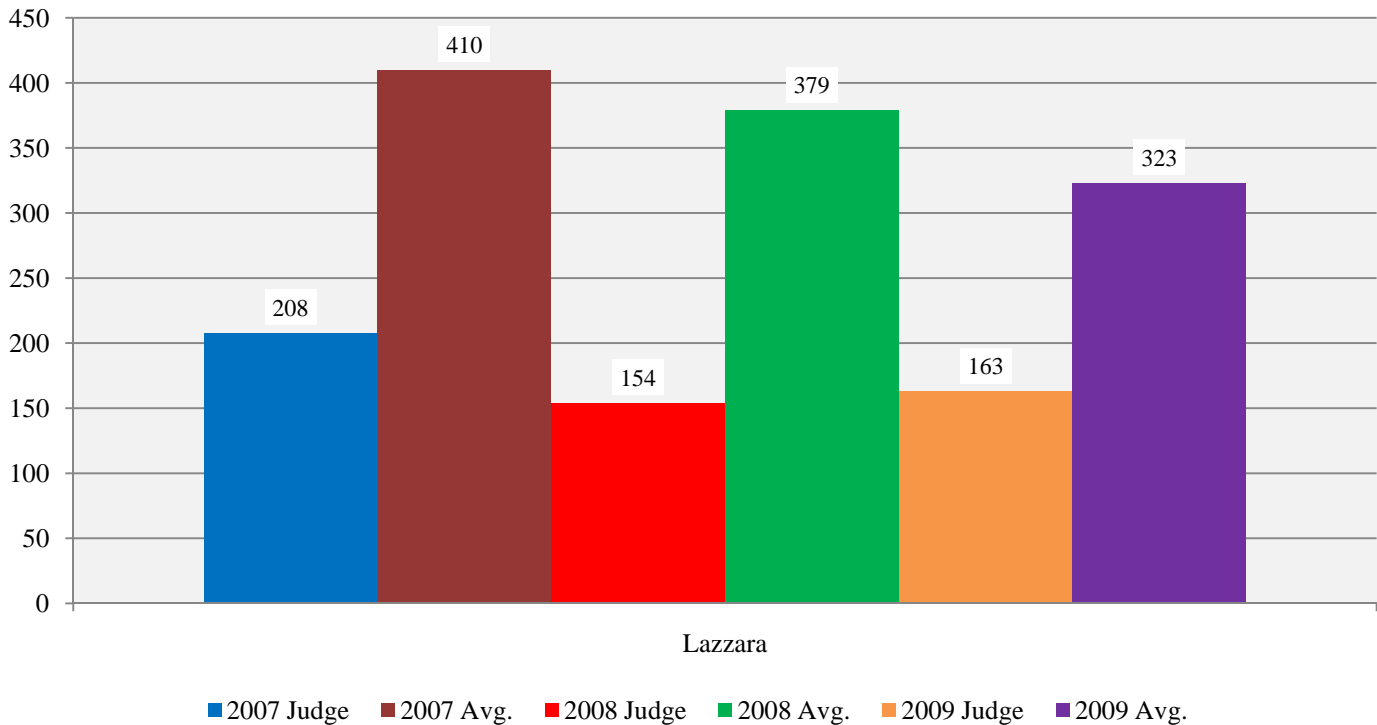
The following graph depicts the average days between PFB filing and the first mediation held thereon for each mediator in the district (brown = 07)(red = 08)(orange = 09) and the statewide average (blue = 07)(green = 08)(purple = 09).



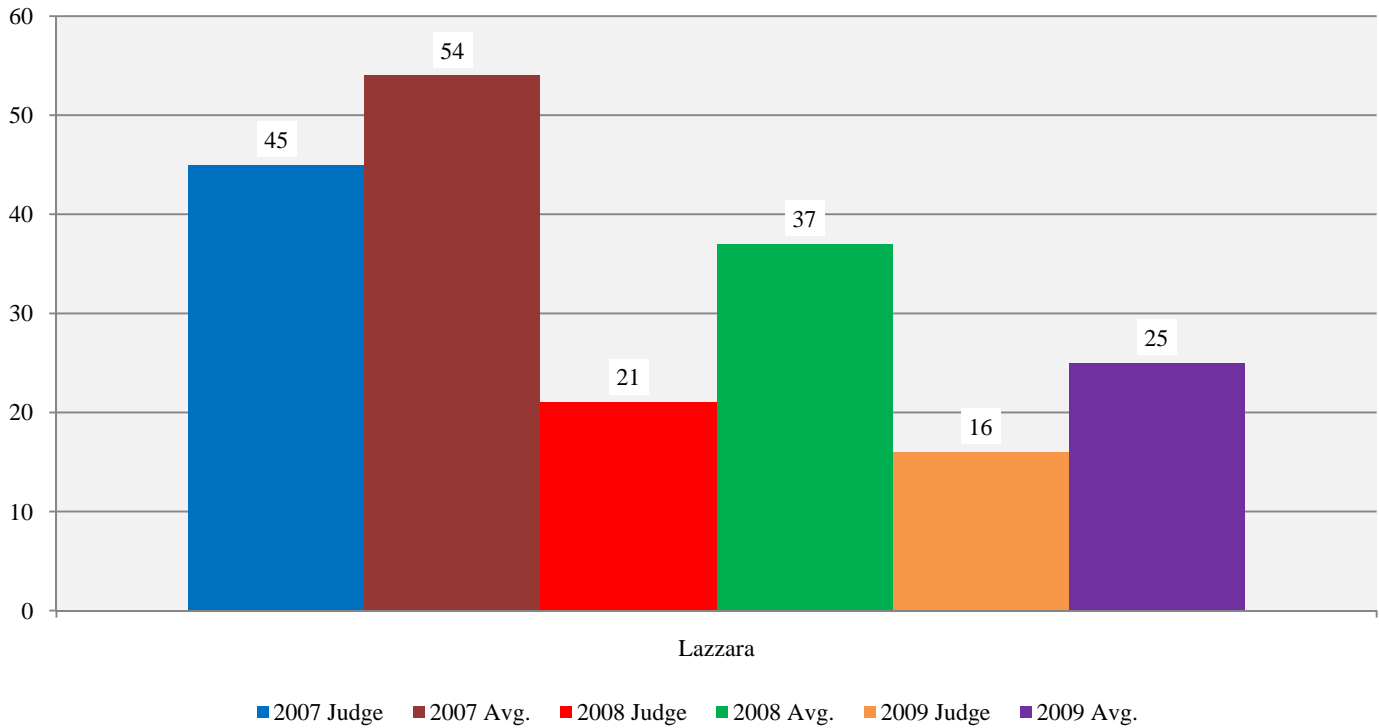
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



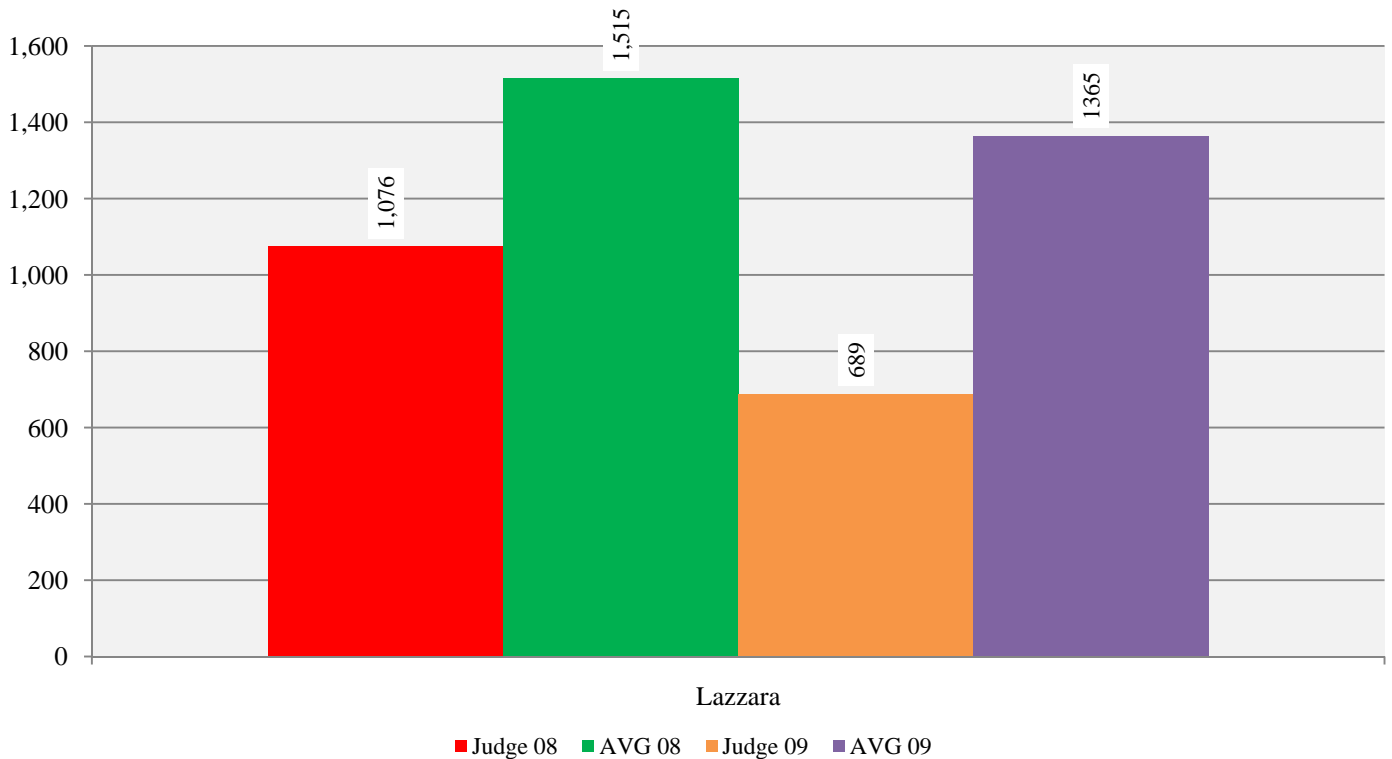
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



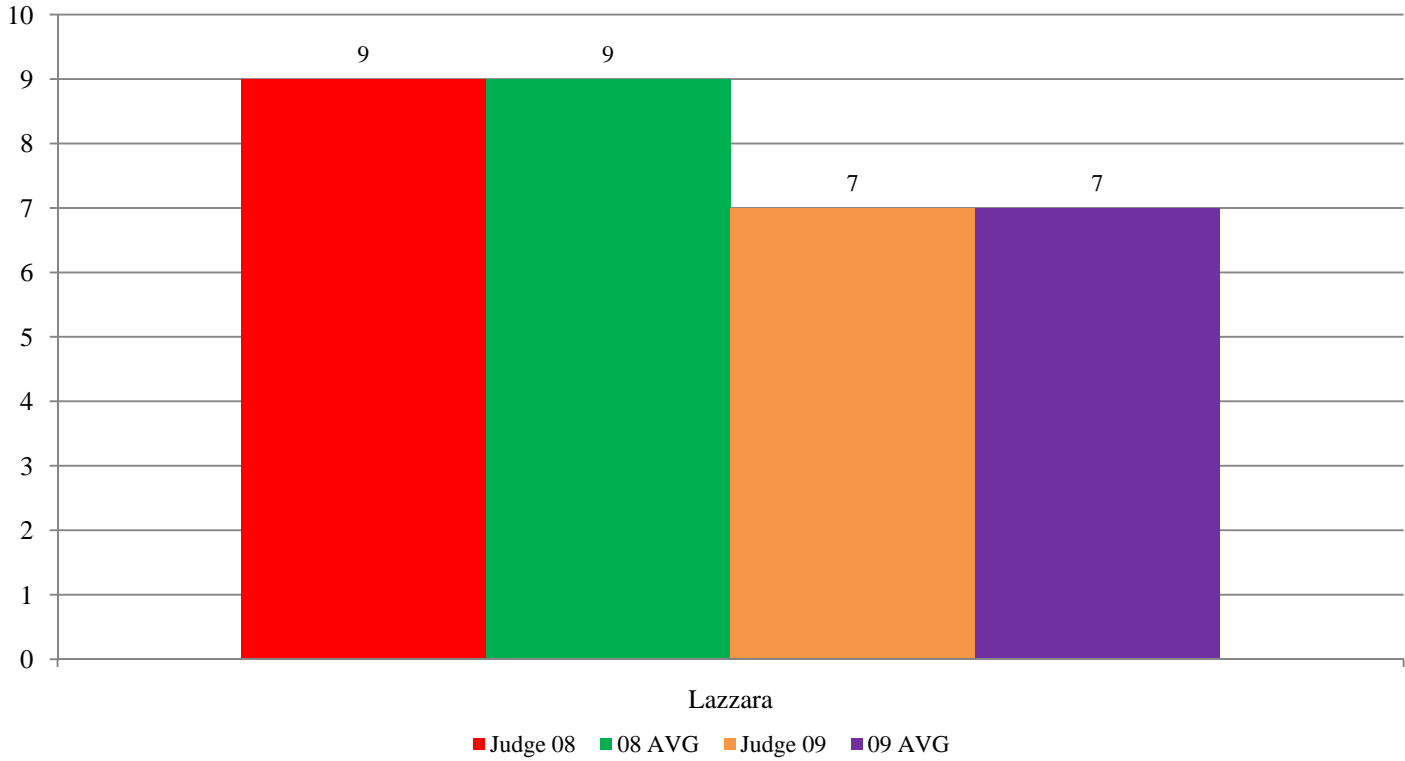
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



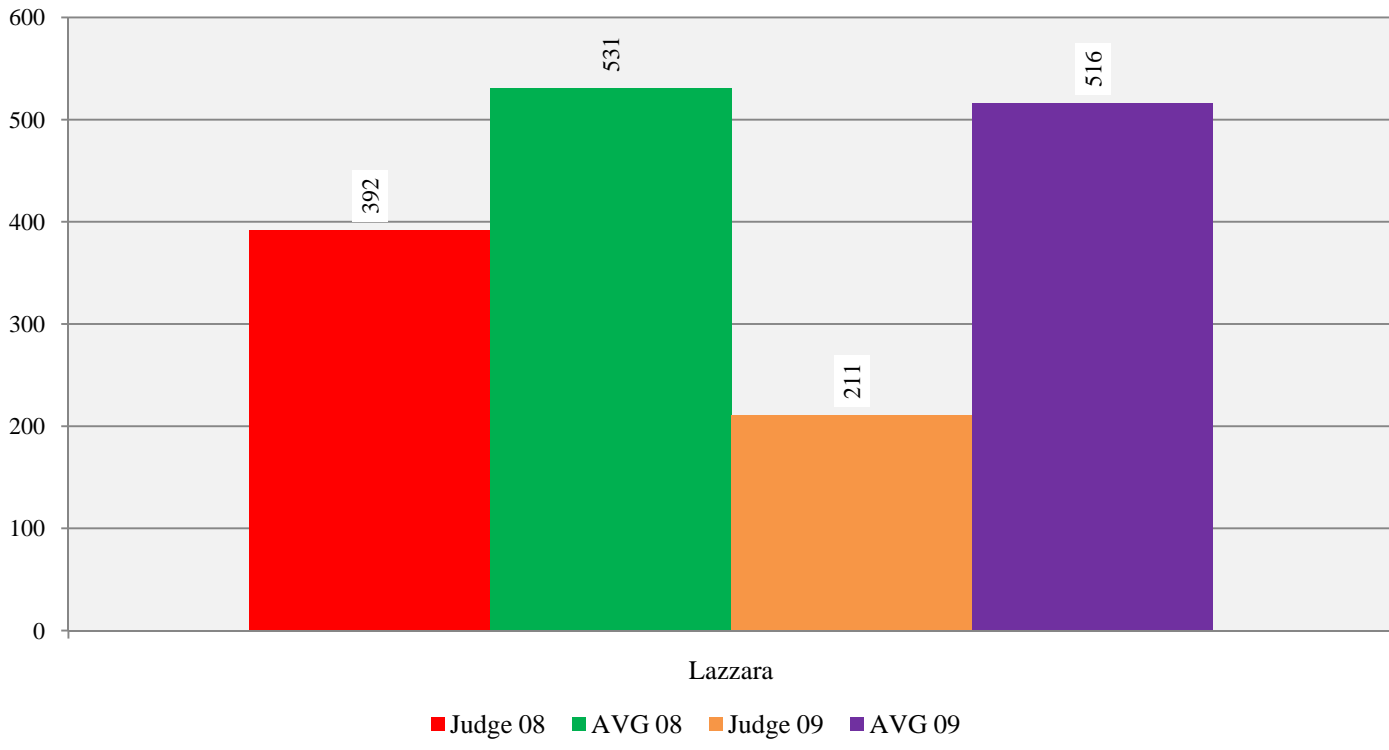
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



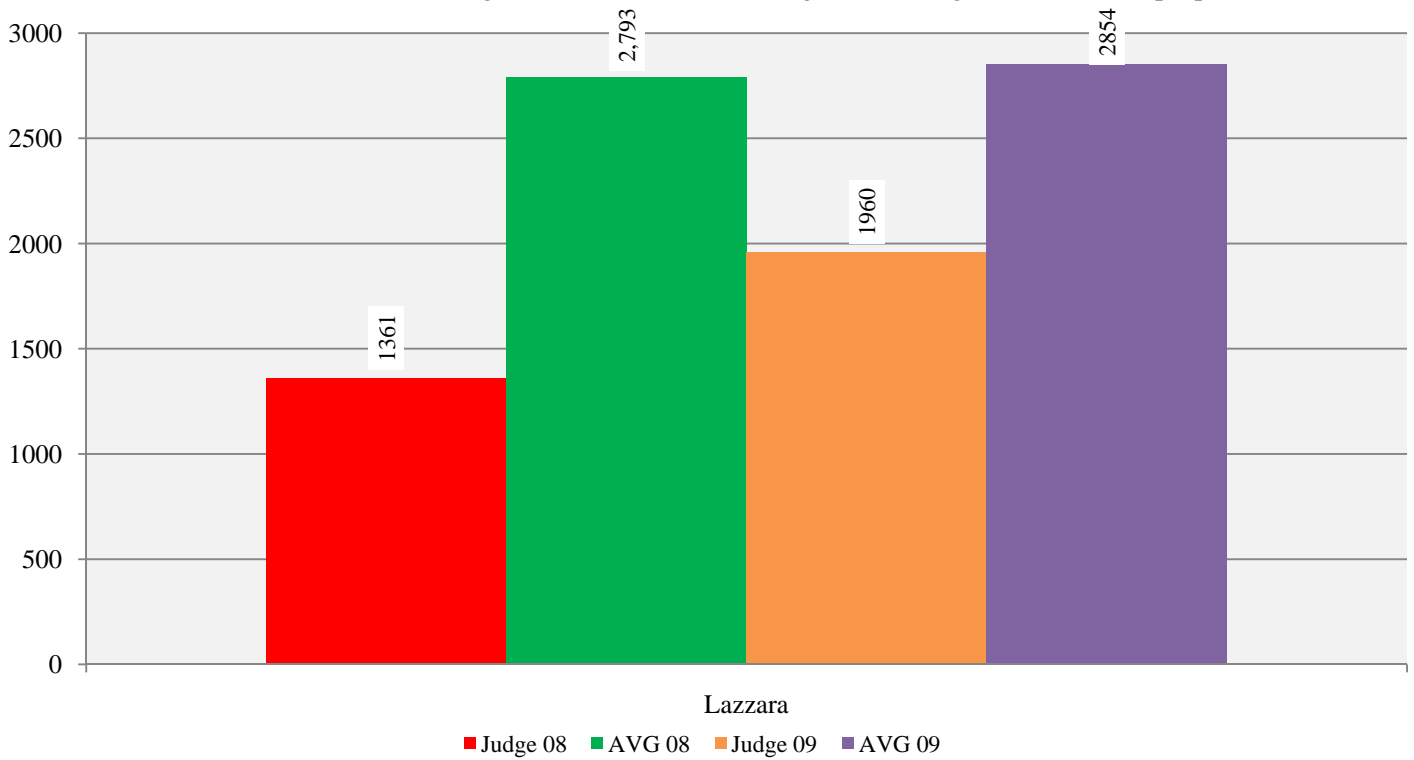
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



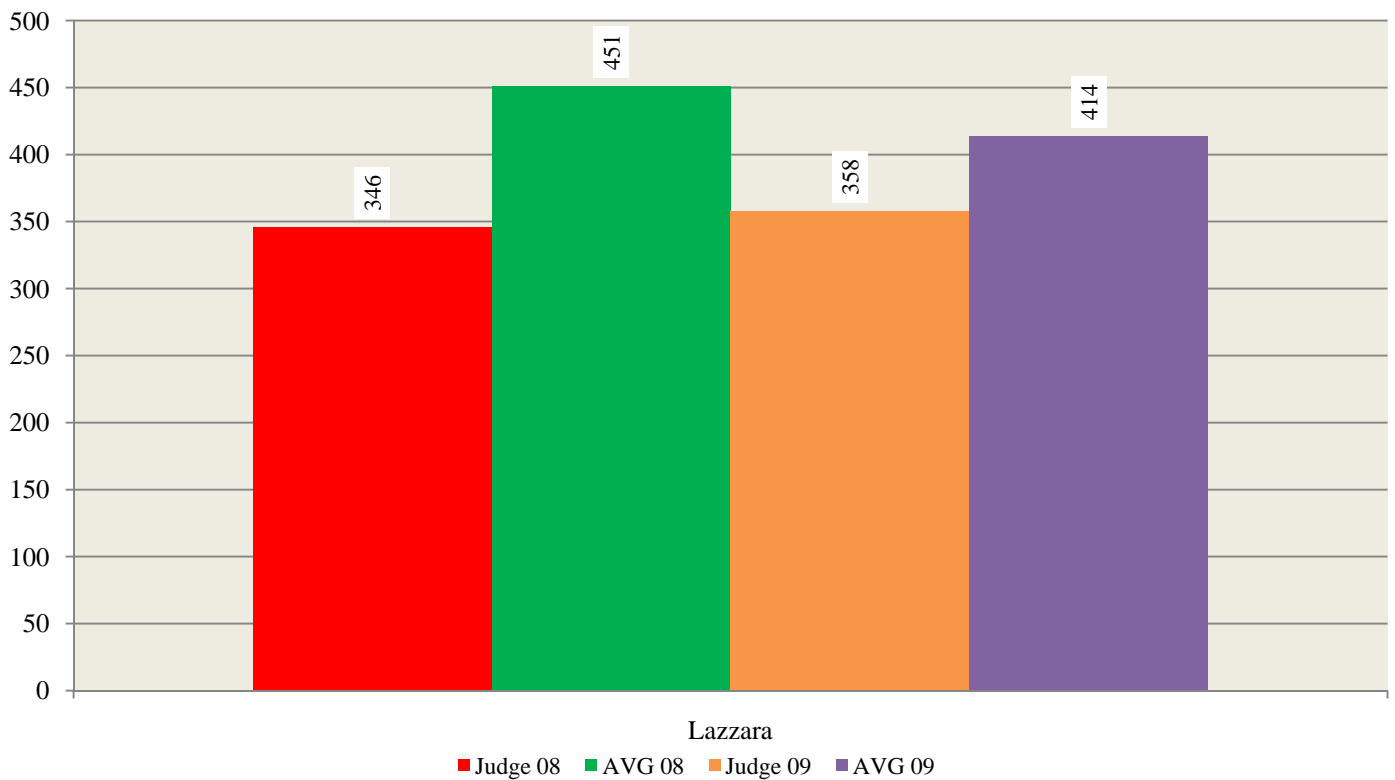
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



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 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 again for 2008-09. The close relationship between the filed PFB volume and the PFB closure volume over the course of fiscal 2008-09 evidence a District in equilibrium, and is a tribute to sound docket management. Each of the TPA Judges volunteered to hear cases in LKL during 2007-08.

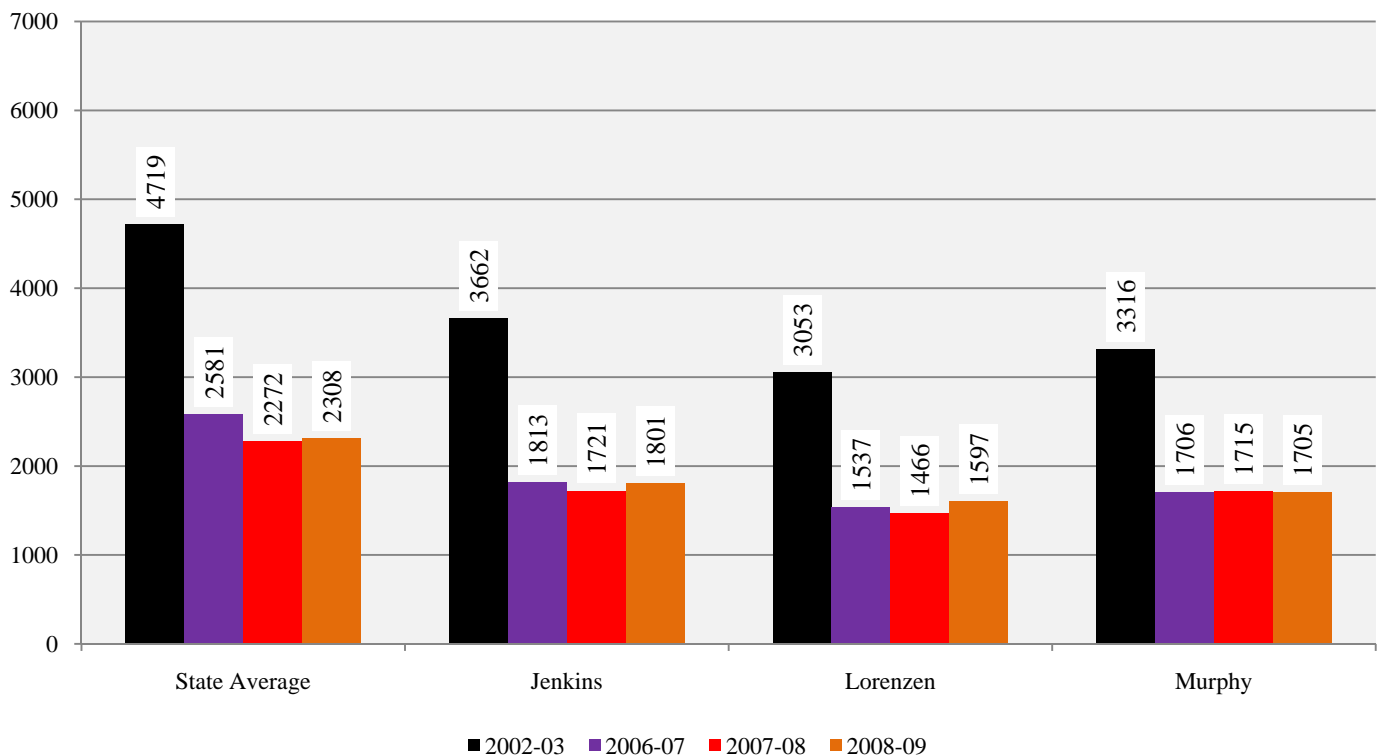
Mediation in District TPA occurred on average well within the statutory 130 day period in fiscal 2008-09. Despite their efforts at assisting LKL, trial volumes were below average in District TPA. Judge Jenkins averaged less than the statutory 210 days between PFB filing and trial last year, while Judge Murphy’s average was very close to that parameter. All three Judges in TPA averaged less than 30 days between trial and final order. Judge Lorenzen’s average time to final order was only 2 days, the lowest average in the state.

Judge Lorenzen spoke in 2008-09 at the Florida Workers’ Compensation Institute Spring Forum and at the Florida Workers’ Advocates Annual Educational Conference presenting “View from the Bench.” She presented a program on effective mediation and trial testimony to Workcomp Solutions, and presented “Strategies for conducting trial in an era of increasing workload and decreasing budget” to the National Association of Hearing Officers. Judge Lorenzen participated in a panel discussion on workers’ compensation with Judge Beck at the Southwest Florida District, International Association of Rehabilitation Professionals. She is involved with scholarship selection for the Friends of 440. In March 2009 she was a panelist on the American Bar Association, Workers’ Compensation Committee Midwinter Seminar and Conference, “How various states deal with the common problems associated with a return to work which fails to work.”

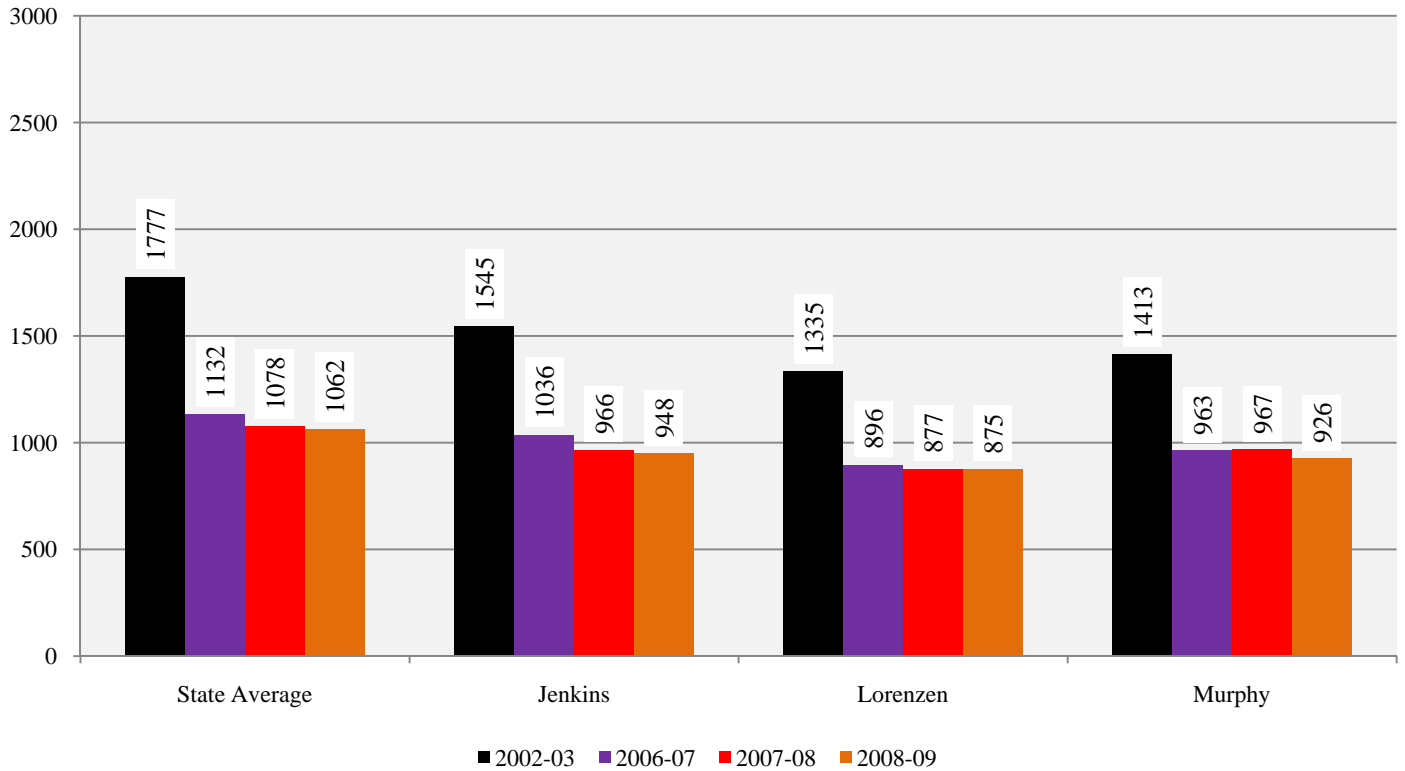
Last year, Judge Murphy presented “Balancing Your Job, Your Boss, & Your Life” to the J. Clifford Cheatwood American Inn of Court. He also presented “Professionalism and Impairment in the Practice of Law” to the Workers’ Compensation Section of the St. Petersburg Bar Association and “Workers’ Compensation Rules & Procedures” to the Hillsborough County Bar Association.

Judge Jenkins was a Member of Board of Directors of Ferguson White American Inn of Court last year, and is a former President of that Inn. In 2009 she presented a continuing education seminar entitled “Workers’ Compensation Rules and Procedures.”

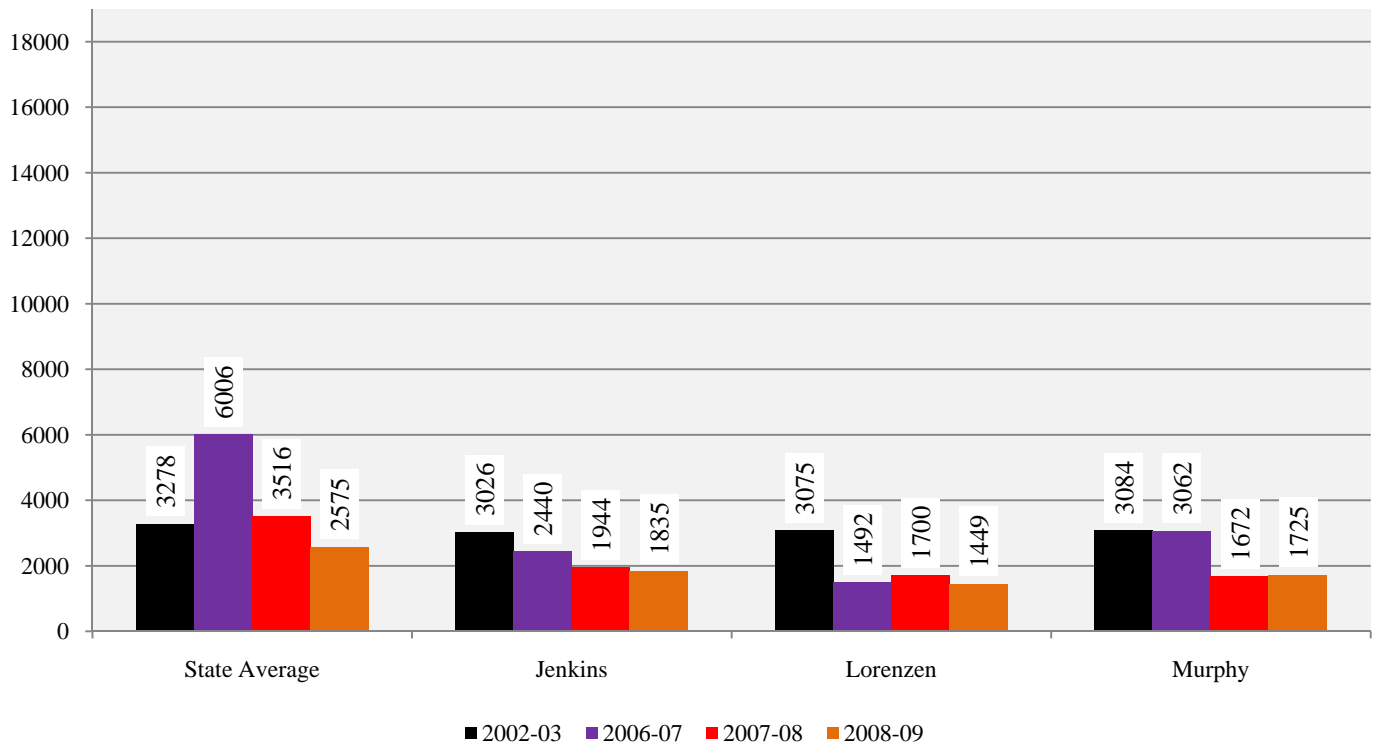
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



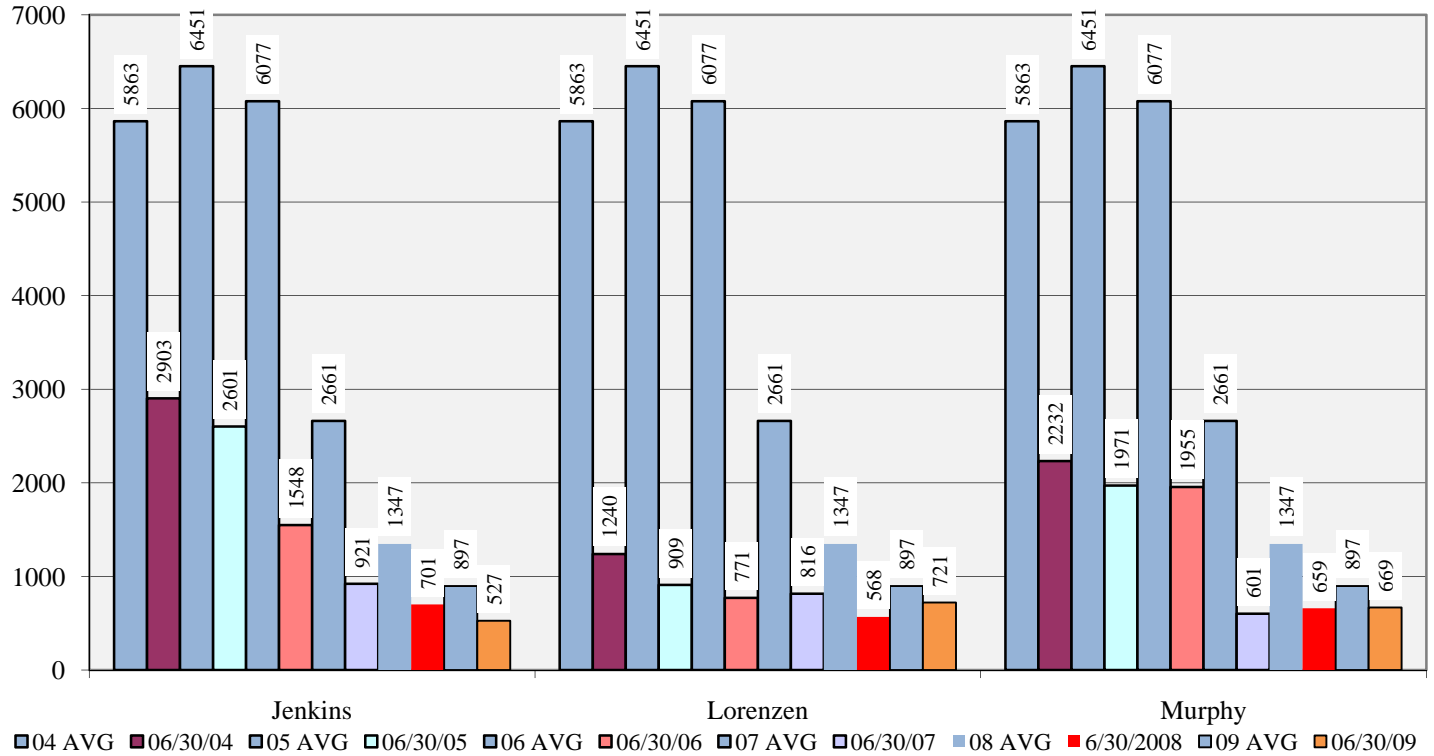
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



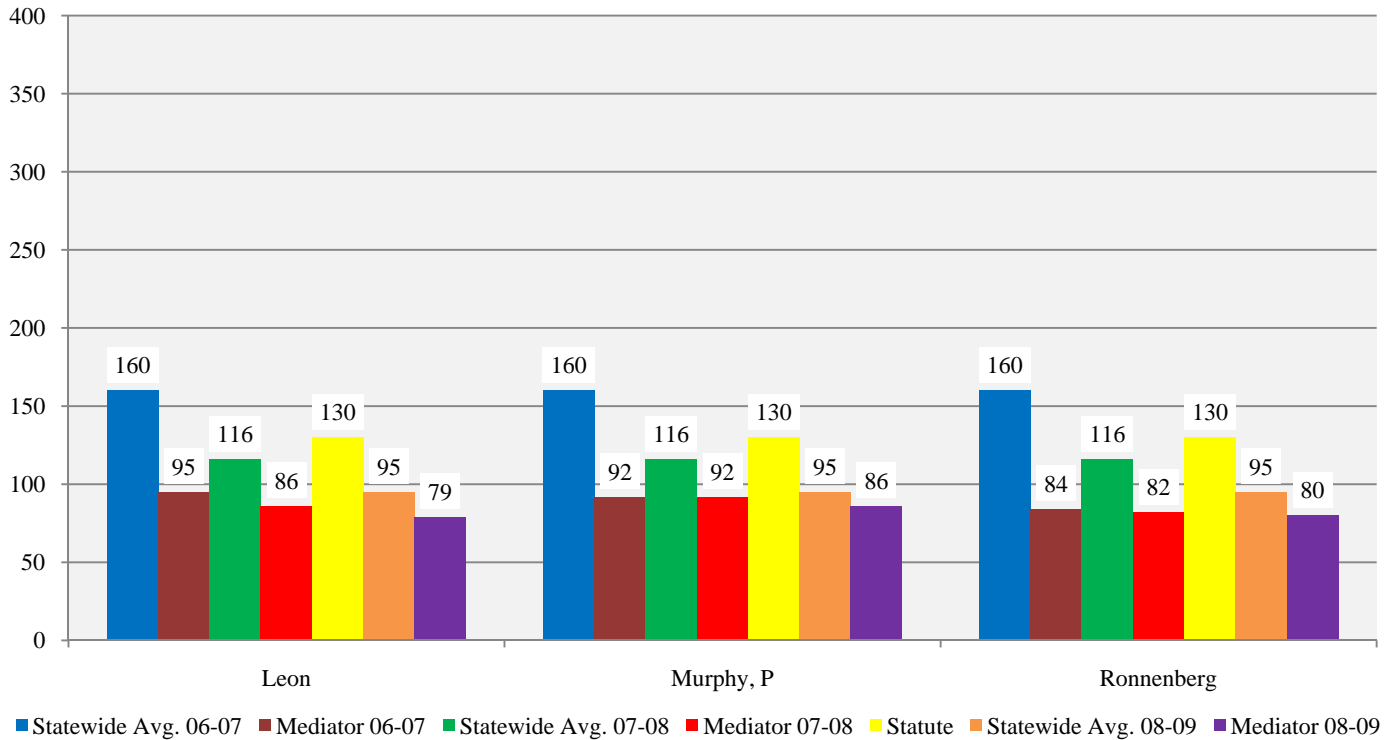
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



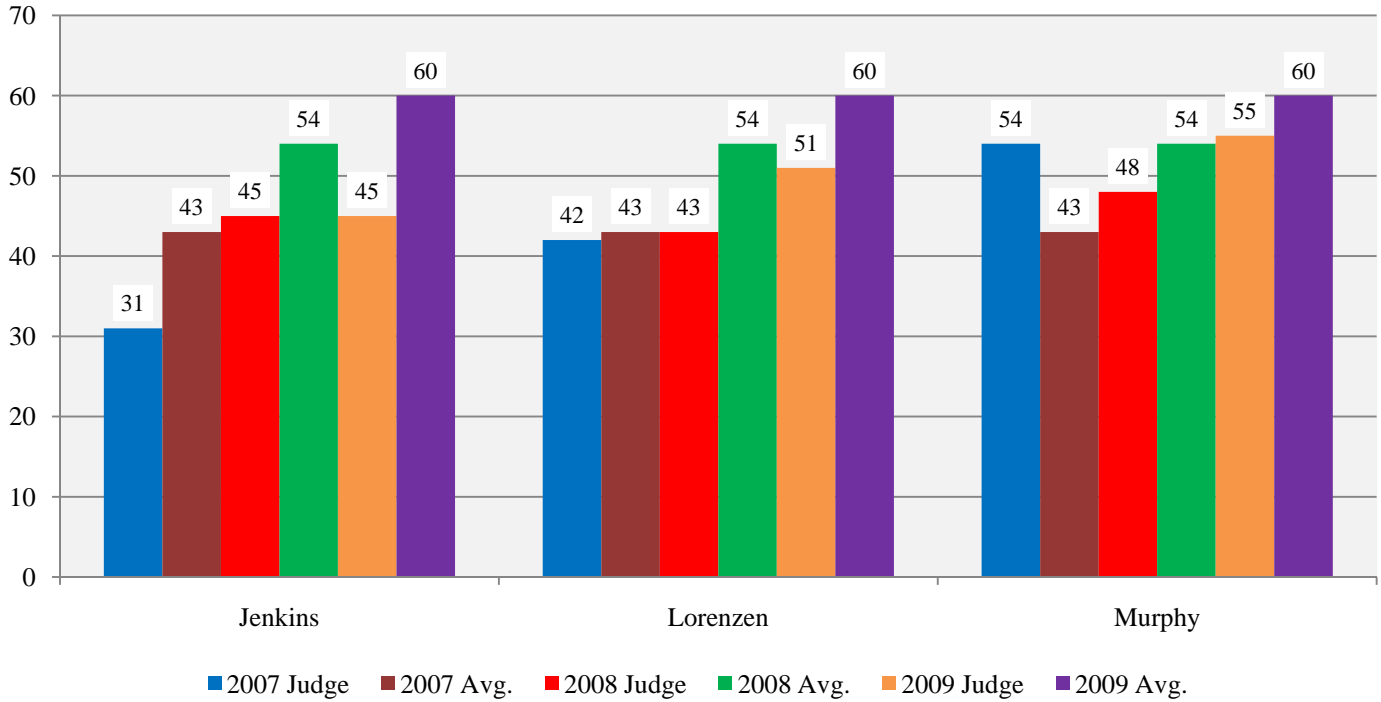
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



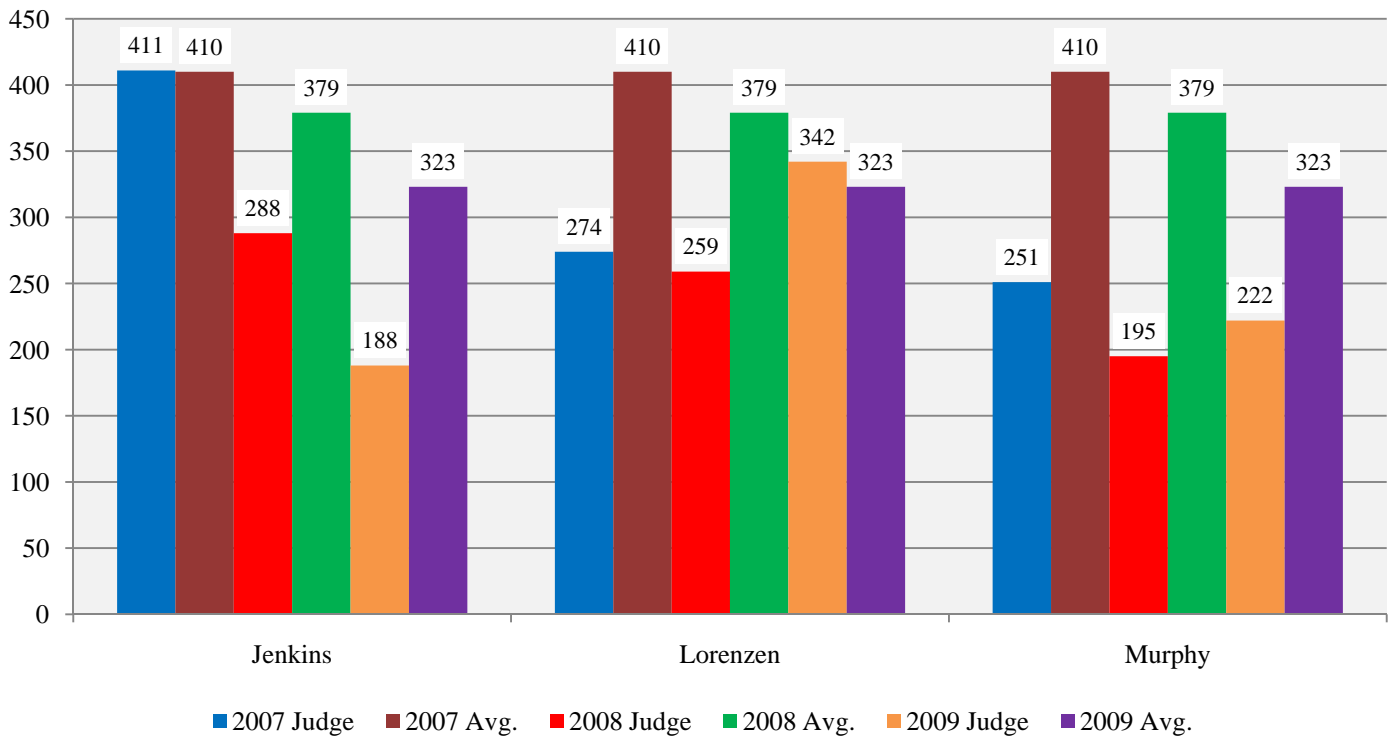
The following graph depicts the average days between PFB filing and the first mediation held thereon for each mediator in the district (brown = 07)(red = 08)(orange = 09) and the statewide average (blue = 07)(green = 08)(purple = 09).



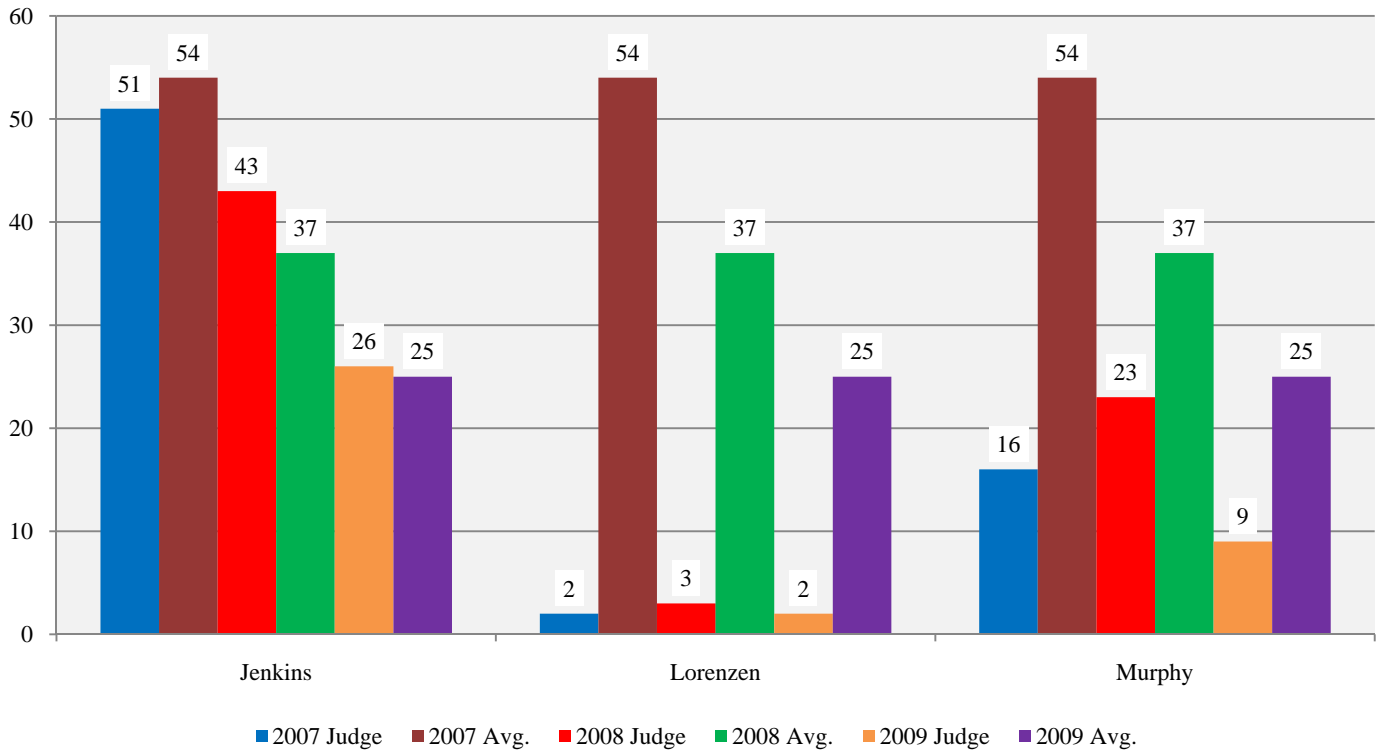
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



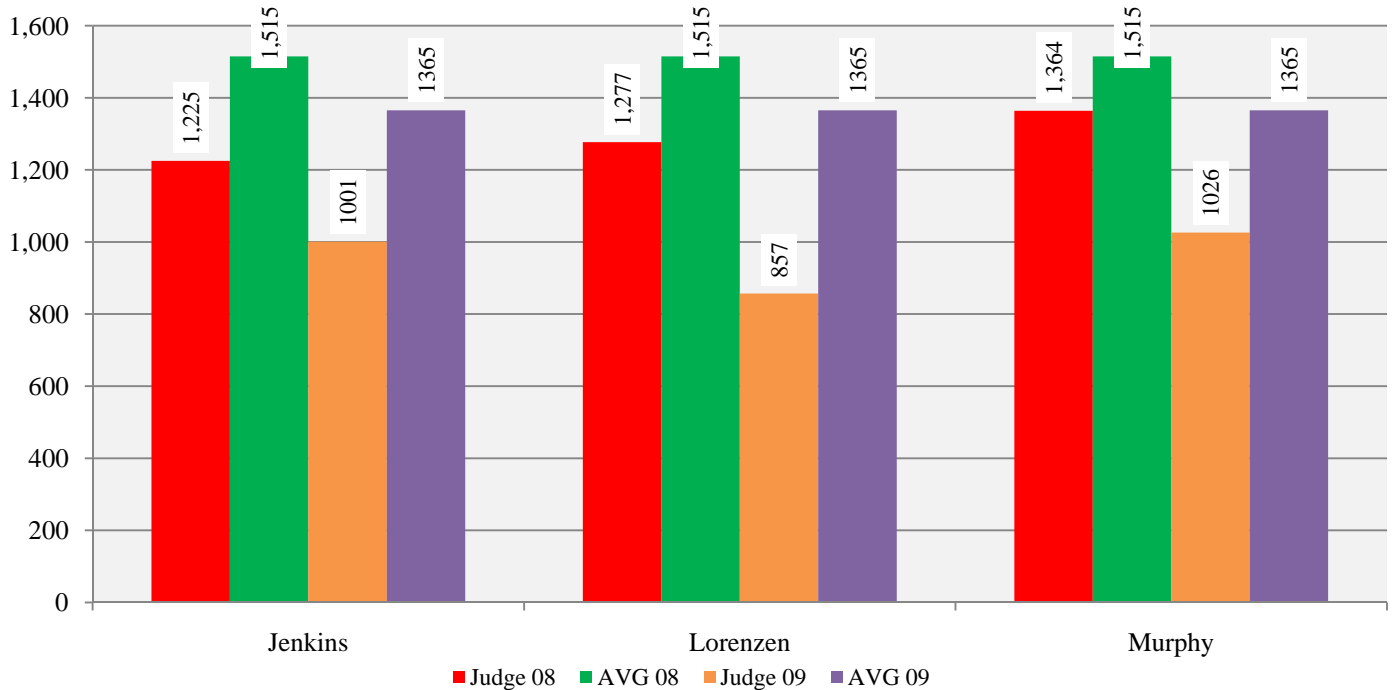
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



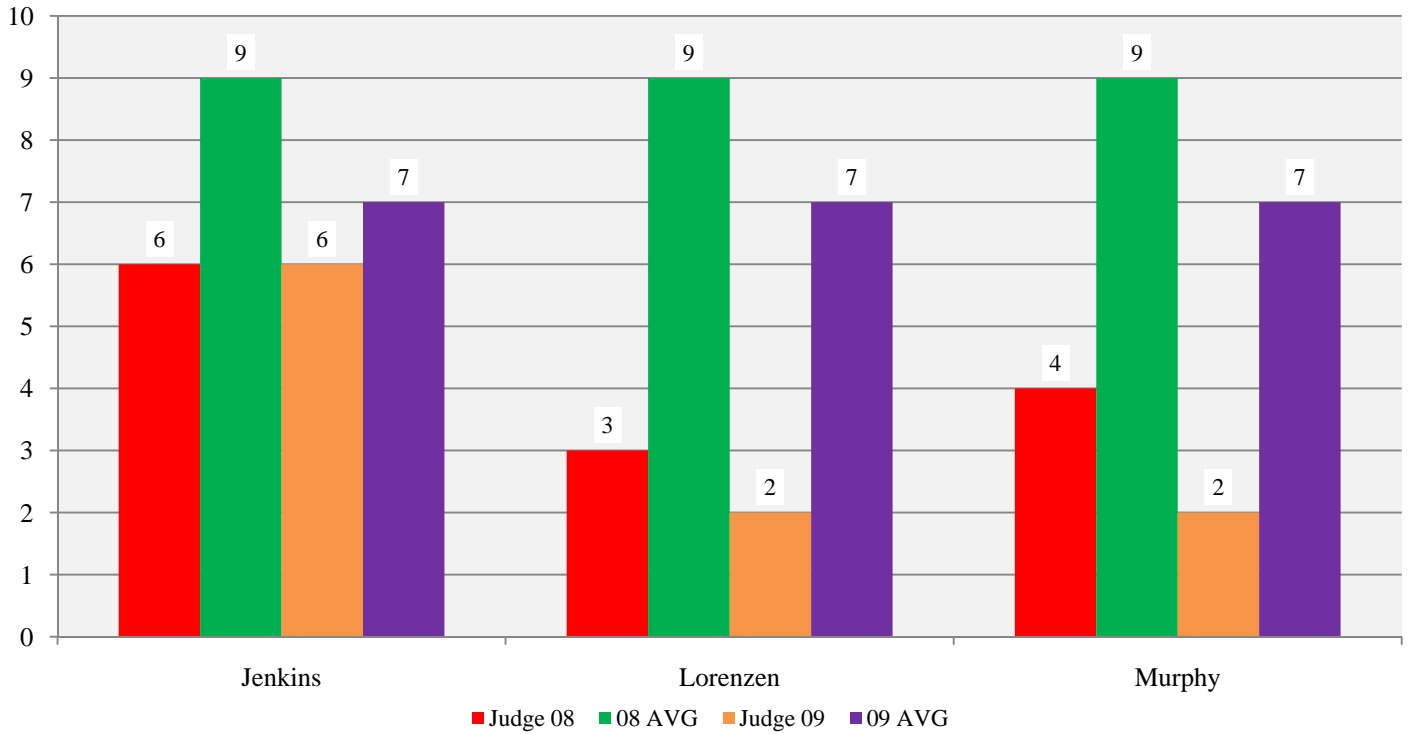
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



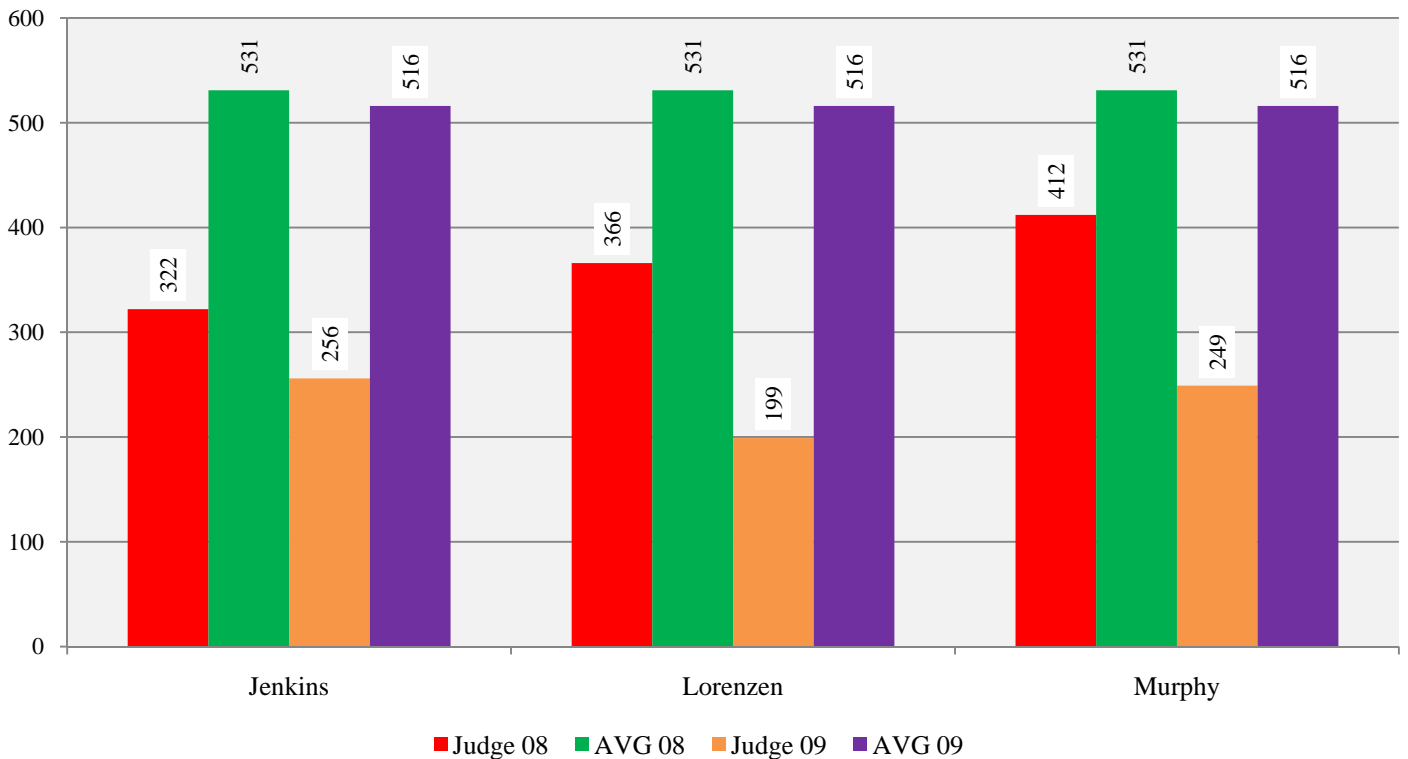
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



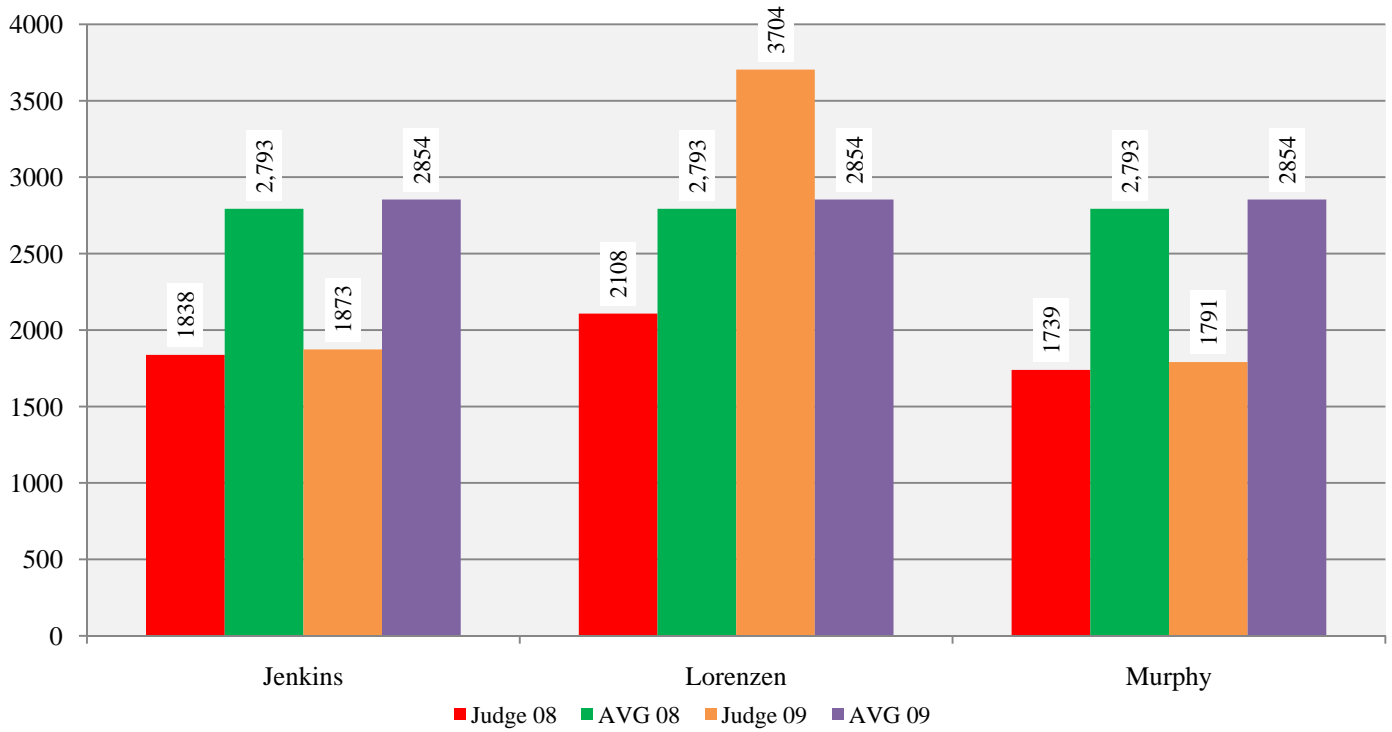
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



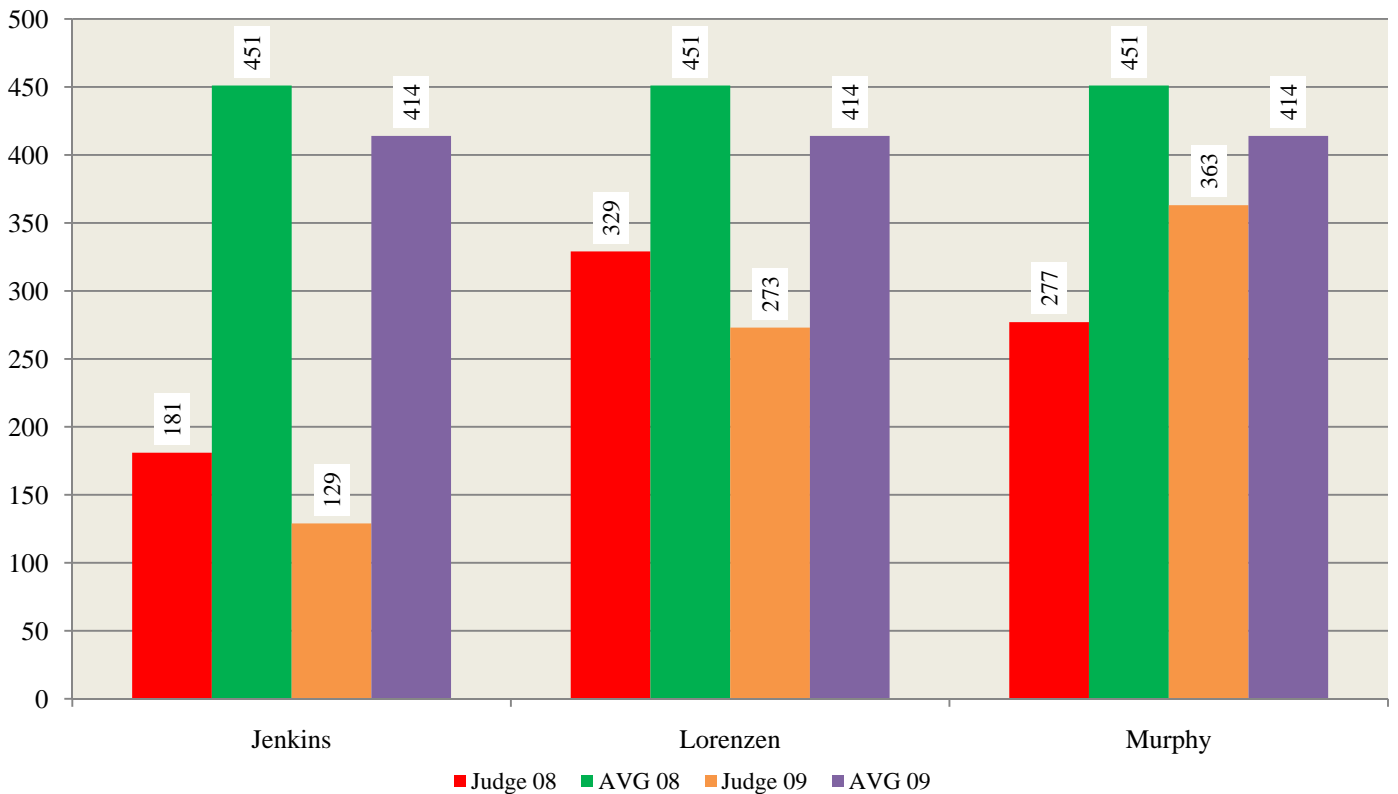
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



Appendix “17” District WPB (JCC Basquill, JCC D’Ambrosio, JCC Punancy):

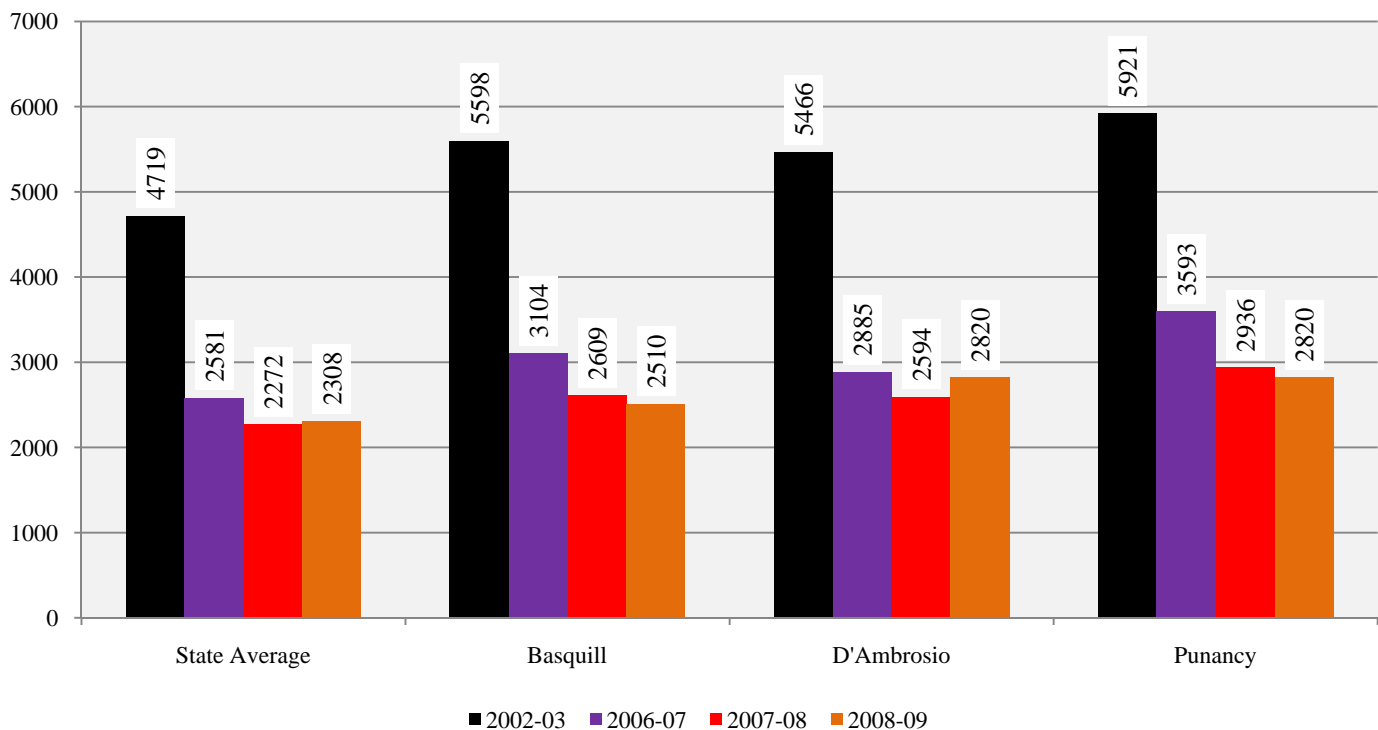
District WPB includes Glades, Hendry and Palm Beach Counties.

The filing volumes for PFB in District WPB were above average in 2008-09. The “new case” volumes were slightly below average. Each of these is consistent with fiscal year 2007-08 also. District WPB documented significant volumes of PFB closure in 2006-07, resulting in markedly reduced year-end PFB inventory that year. Since then, closure volume has exceeded filing volume generally, and indications are that District WPB is either at an equilibrium point or rapidly approaching it. This is a tribute to sound docket management and apparent significant effort. It is anticipated that closure volumes are likely to continue above average through the next fiscal year. Overall, trial volume in WPB is significant. Judges Basquill and D’Ambrosio each heard more than the statewide average of trials.

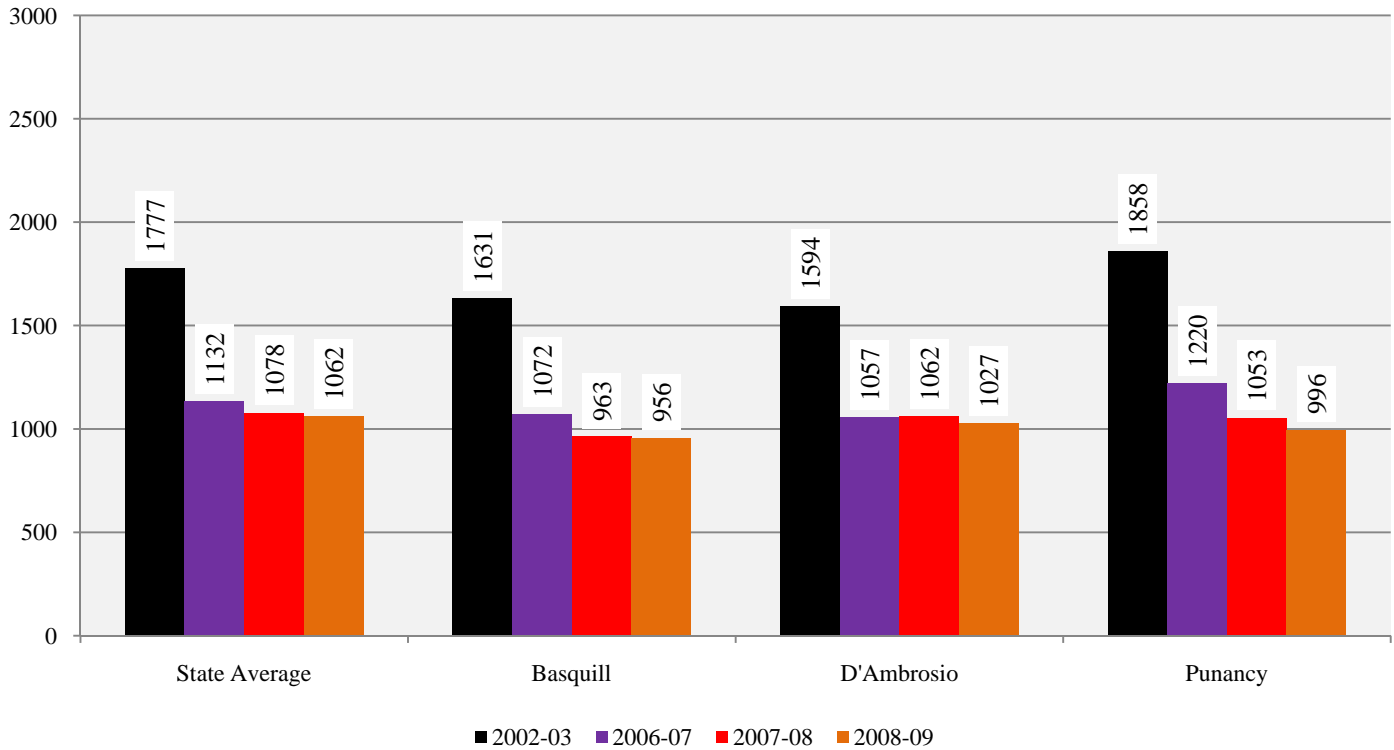
All three state mediators in WPB averaged less than the statutory 130 days between PFB filing and mediation last year. Despite their significant, above average trial volume, Judges Basquill and D’Ambrosio each averaged less than the statutory 210 days between PFB filing and trial. All three WPB Judges averaged less than 30 days between trial and entry of a final order.

In 2008-09, West Palm Beach District Office (WPB) was the site for a Mock Trial program for 8th grade students from 2 local middle schools. Each Judge held two trials, took evidence and made rulings. The students were assisted by local Workers’ Compensation attorneys who visited their schools in advance to assist them with preparation for the trial. Approximately 120 students were involved in this program.

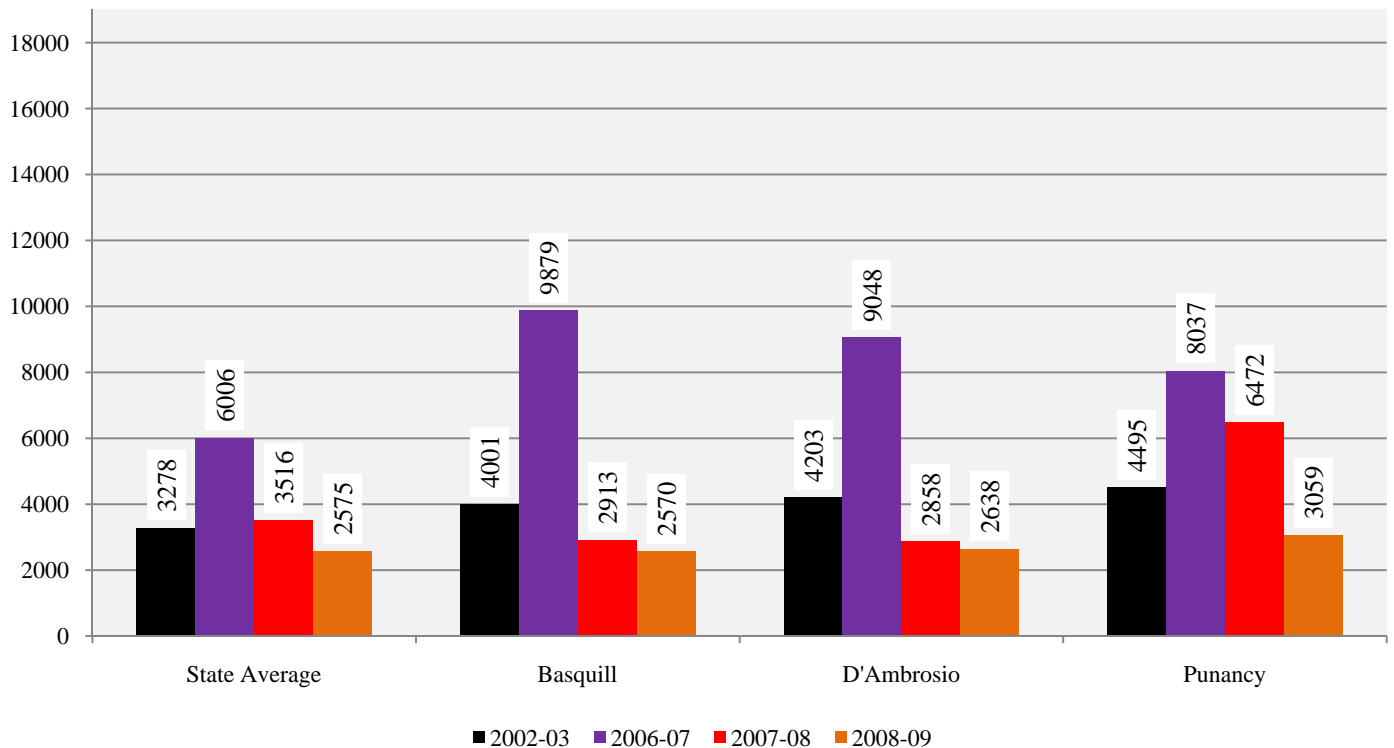
The following graph depicts the volume of PFB filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



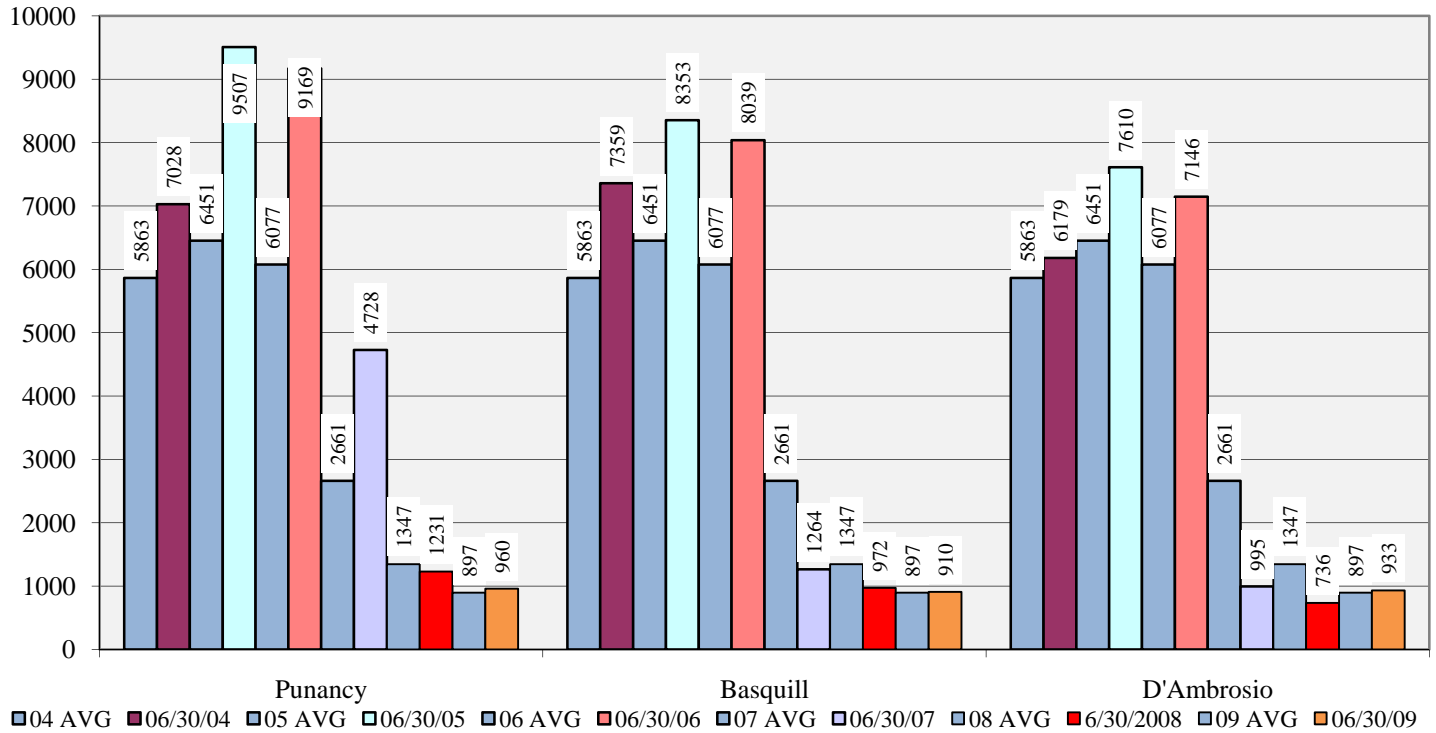
The following graph depicts the volume of new cases filed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



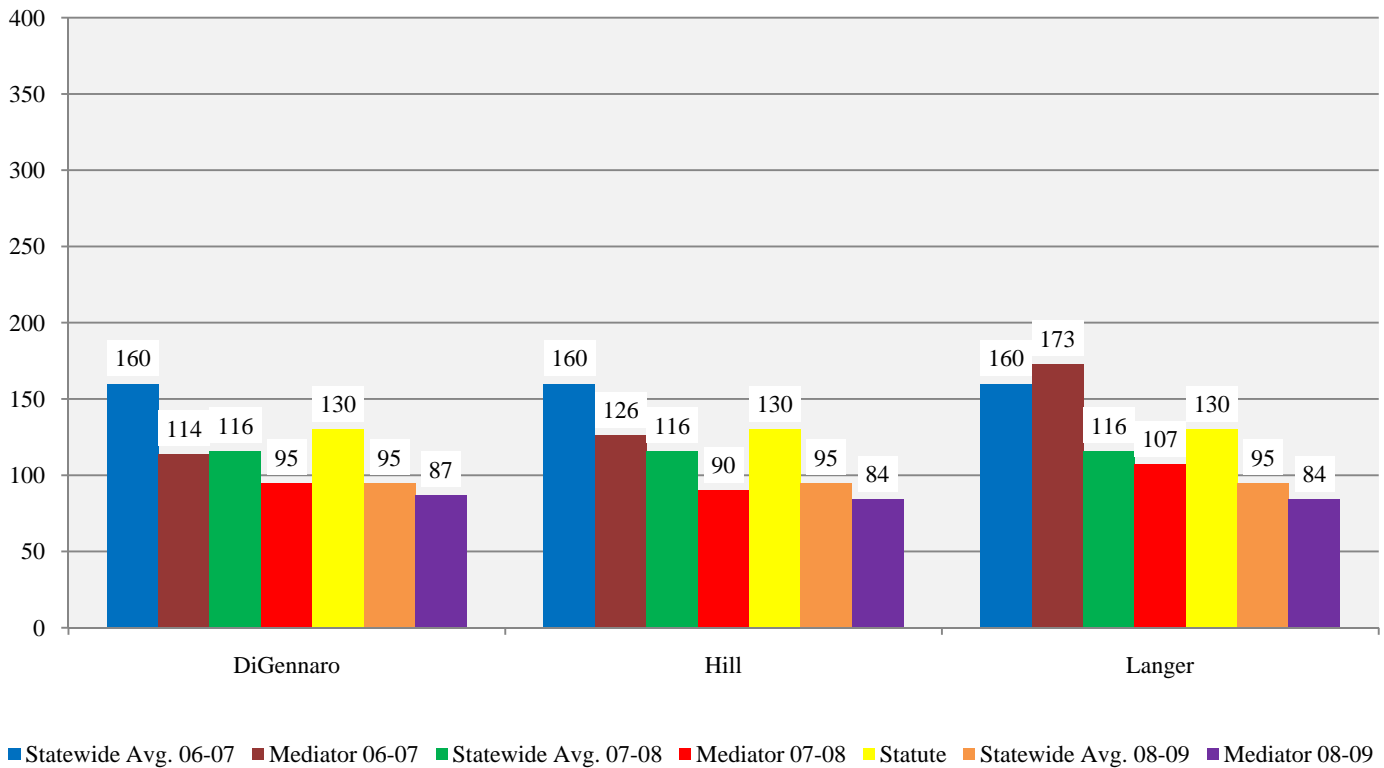
The following graph depicts the volume of PFB closed in this district during 2002-03 (black), 2006-07 (purple), 2007-08 (red), and 2008-09 (orange) for each Judge in the district. In monochrome, the columns are in that order left to right.



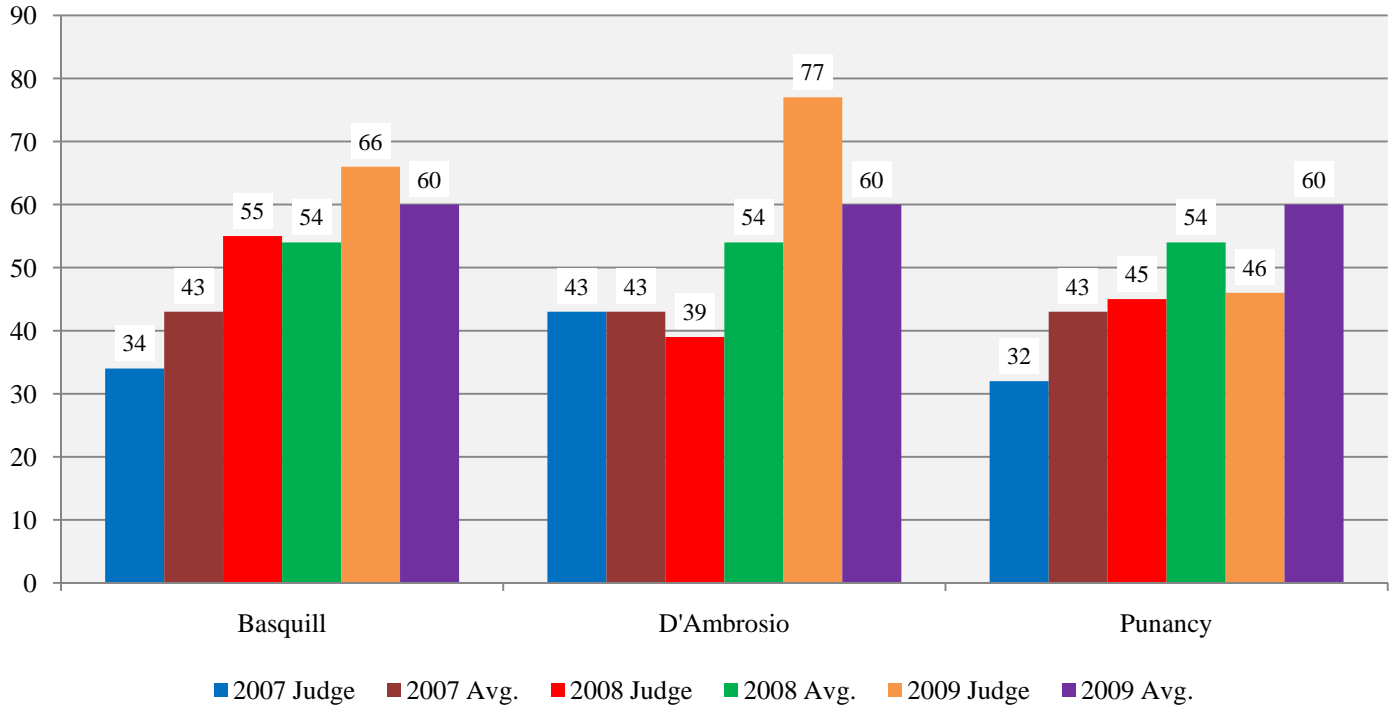
The following graph depicts the inventory of pending PFB in this district at the conclusion of the last six fiscal years for each Judge in the district (multicolor bars, orange on far right is 2009) and the statewide average for each year is represented by the blue bars immediately to the left of each year.



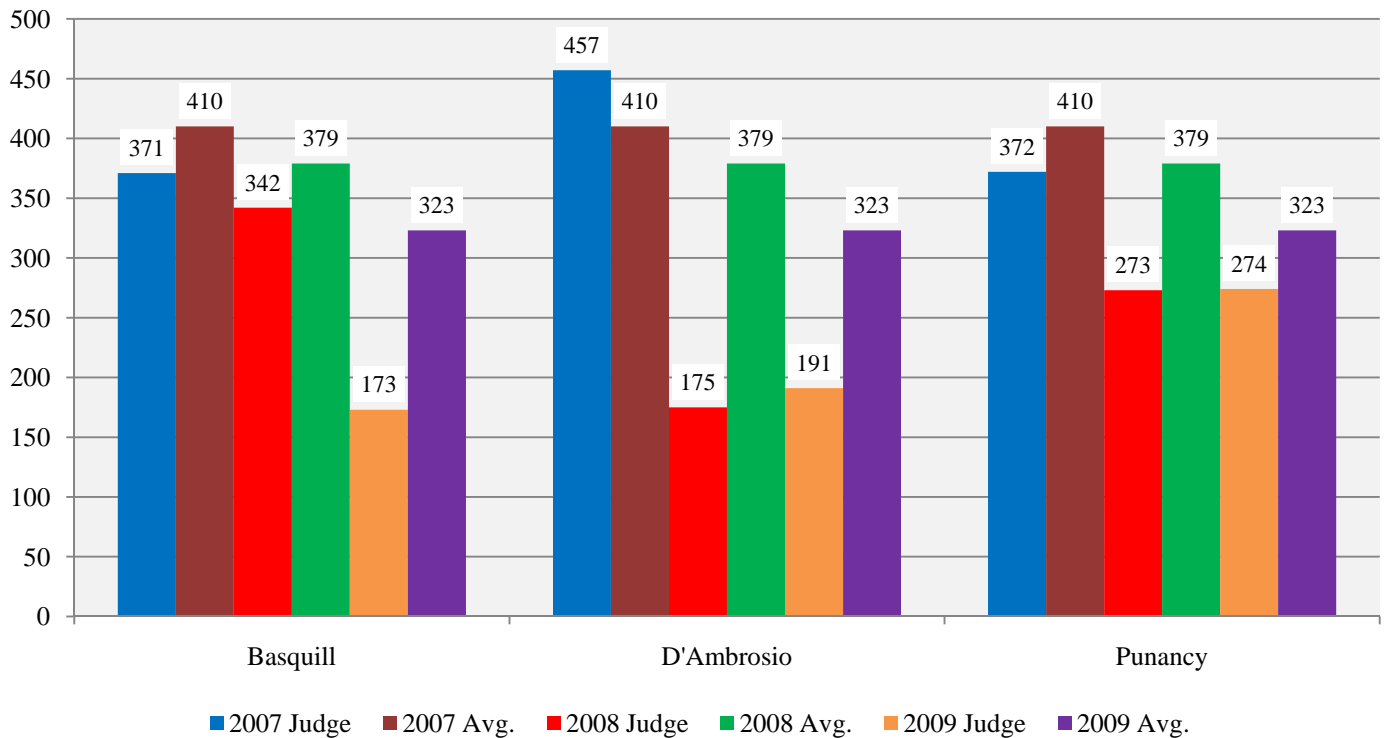
The following graph depicts the average days between PFB filing and the first mediation held thereon for each mediator in the district (brown = 07)(red = 08)(orange = 09) and the statewide average (blue = 07)(green = 08)(purple = 09).



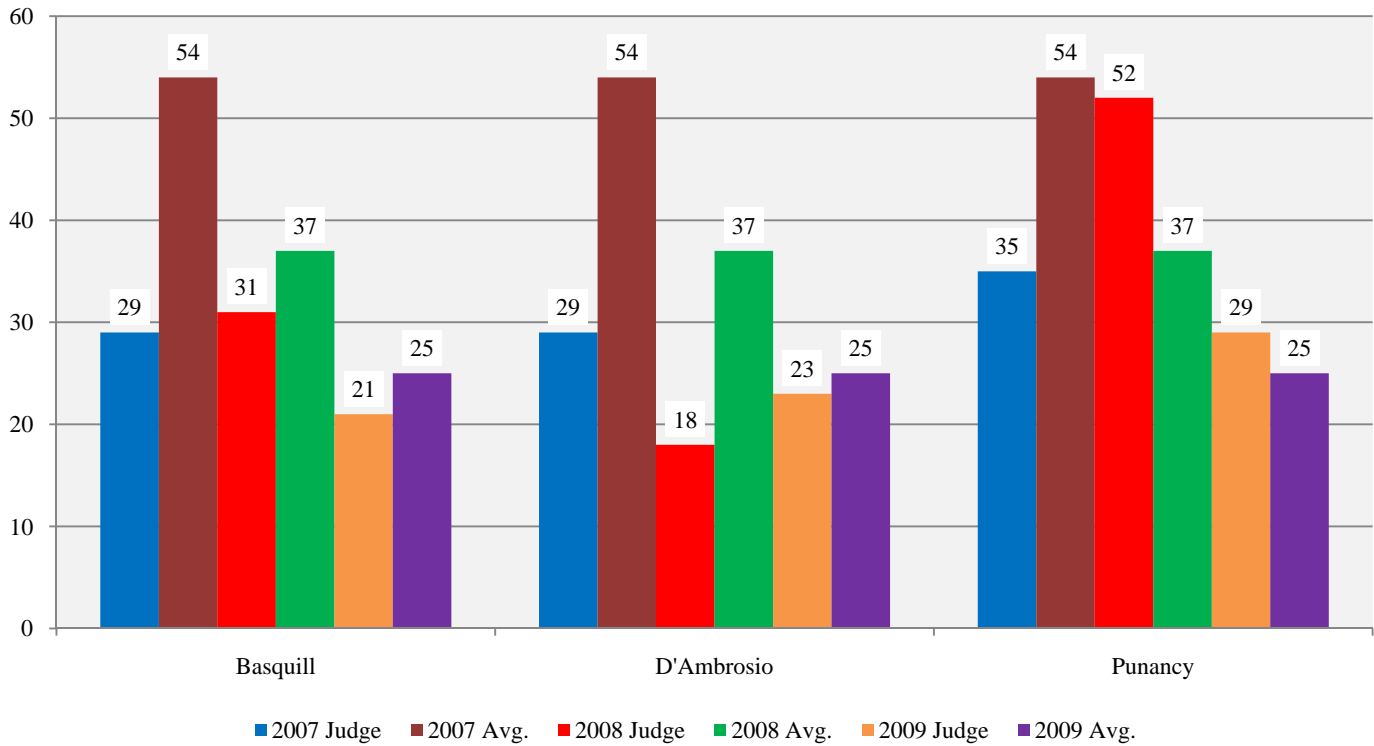
The following graph depicts the total volume of trial orders uploaded in this district during 2006-07 (blue), 2007-08 (red) and 2008-09 (orange) for each Judge in the district and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple).



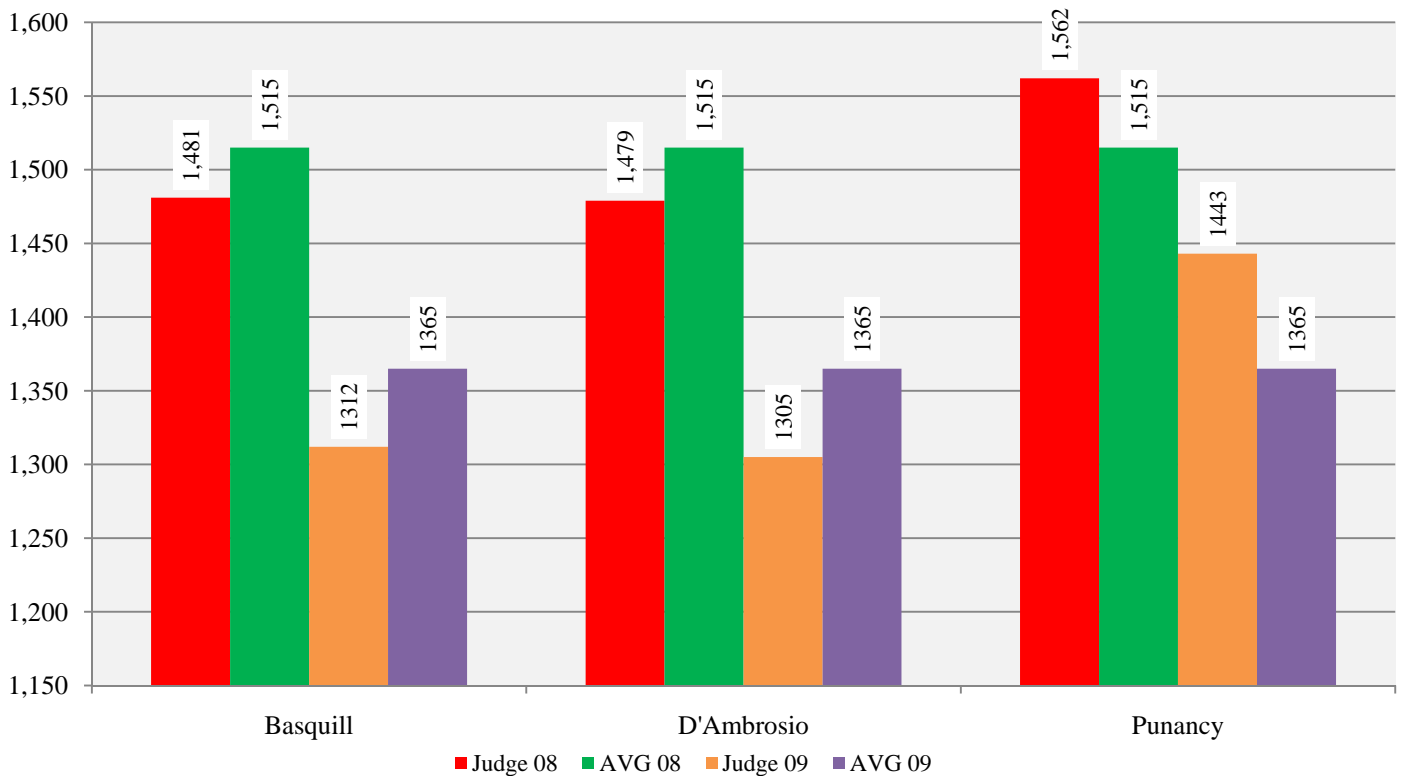
This graph depicts the average days between PFB filing and trial commencing for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange) and the statewide averages: 2006-07 (rust), 2007-08 (green), 2008-09 (purple). For these calculations, only the first day of trial is considered. Any days after the first day of trial are included in the average for days between trial and final order.



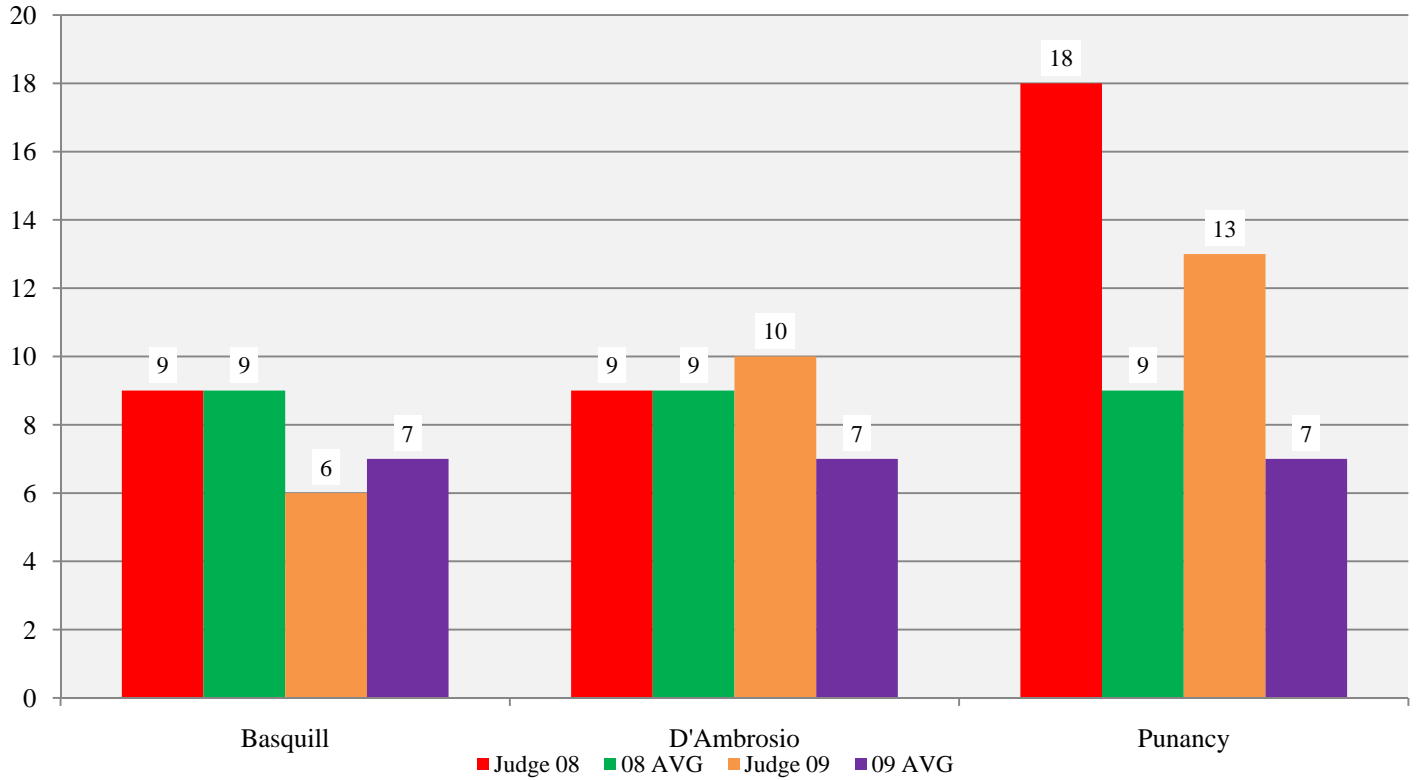
The following graph depicts the average number of days between trial (commencing) and the final order entry for each Judge in 2006-07 (blue), 2007-08 (red), 2008-09 (orange), and the statewide average for 2006-07 (rust), 2007-08 (green), and 2008-09 (purple). All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order.



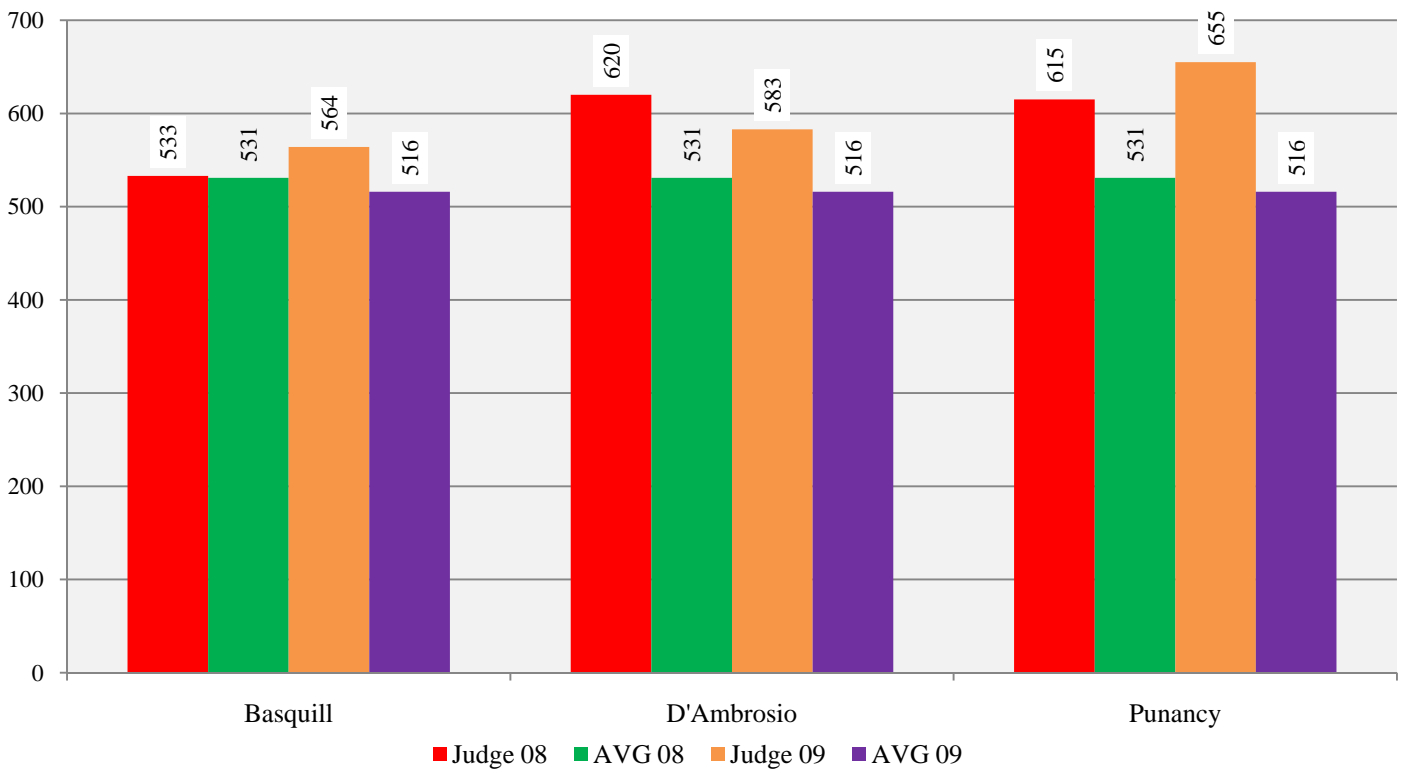
The following graph depicts the volume of settlement orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange), and the statewide average in 2007-08 (green), 2008-09 (purple).



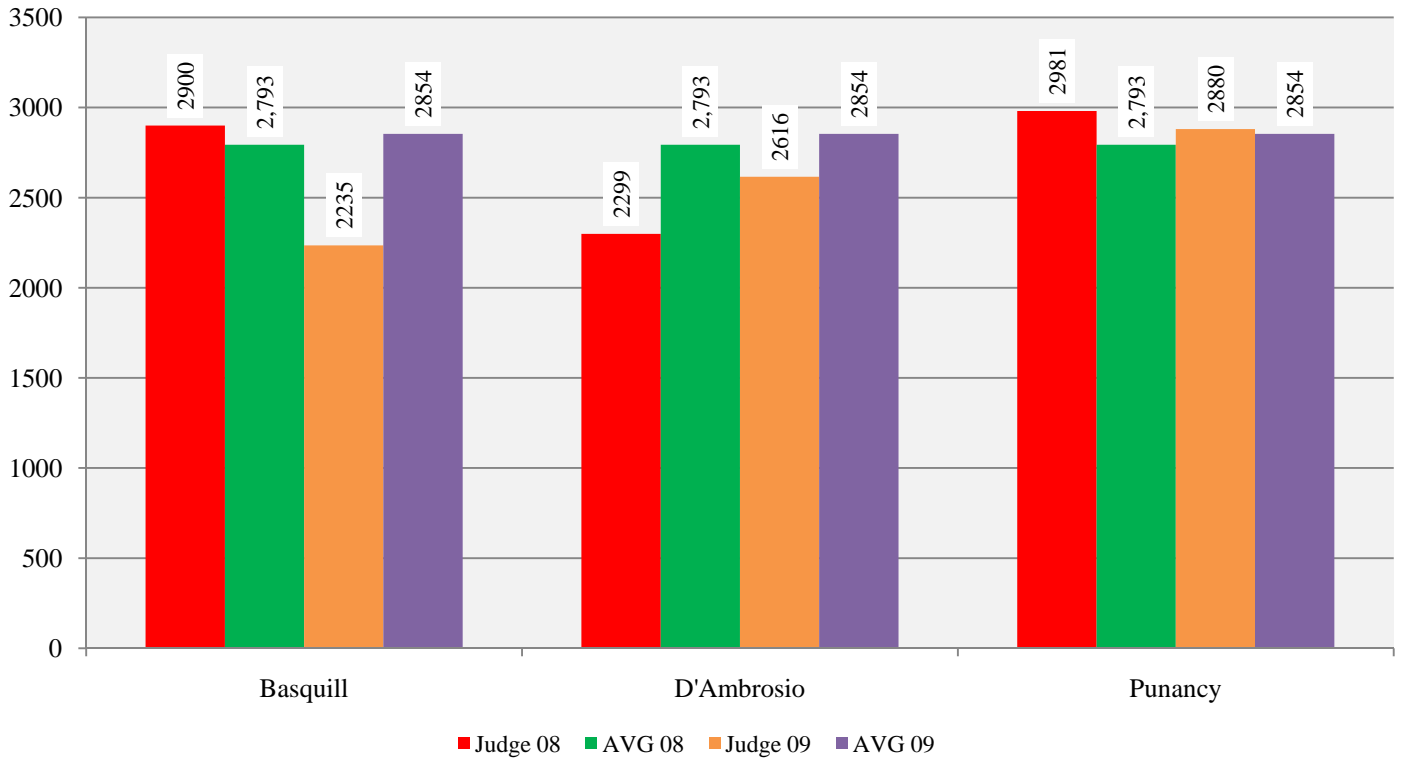
The following graph depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



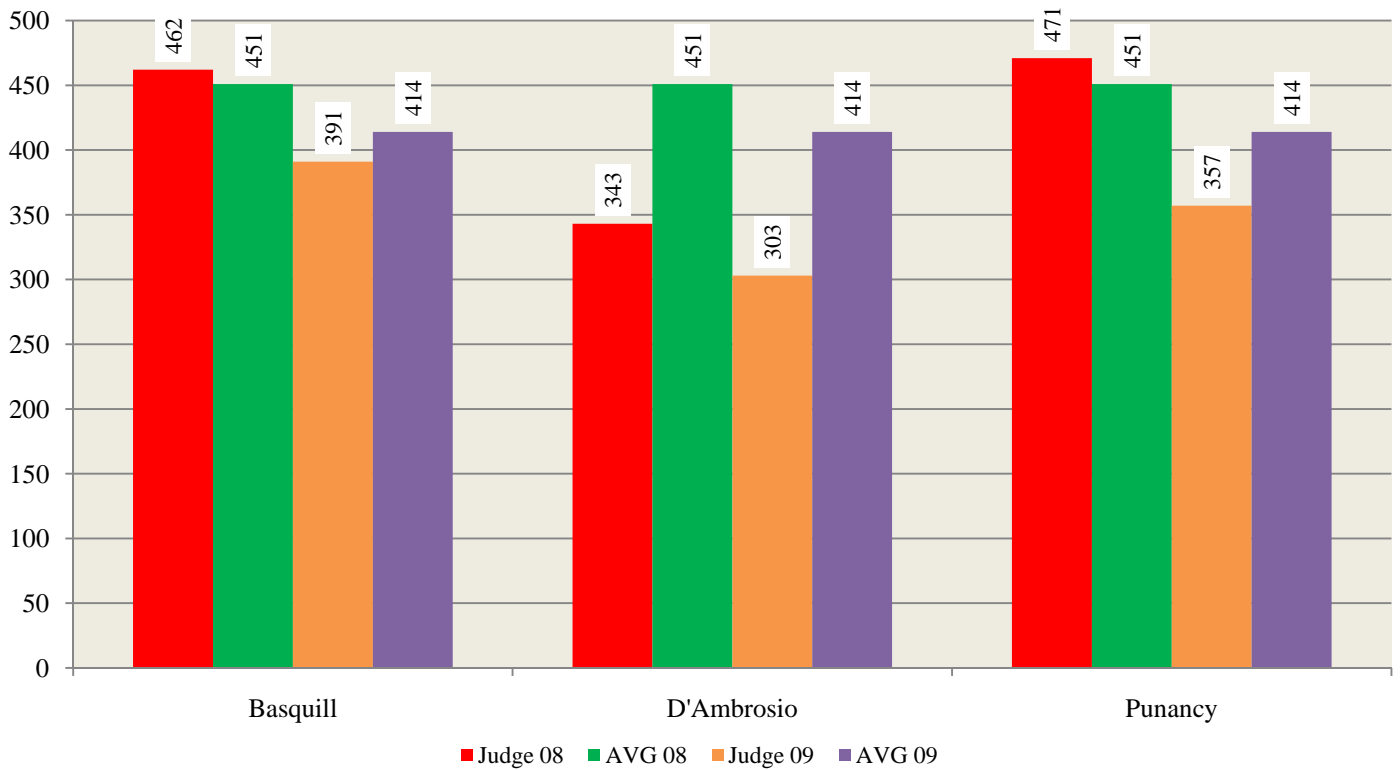
The following graph depicts the volume of stipulation orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



The following graph depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge in the district in 2007-08 (red), 2008-09 (orange) and the statewide average 2007-08 (green), 2008-09 (purple).



Endnotes:

- ¹ 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.”
- ² All OJCC reports are published on the internet at www.fljcc.org, in the “Reports” section.
- ³ The Division website is <http://www.fldfs.com/WC/>.
- ⁴ The Florida Statutes are available online at: <http://www.flsenate.gov/Statutes/>
- ⁵ 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 PFB seek payment of attorney’s fees and costs, and penalties and interest are commonly claimed when any form of indemnity is sought.
- ⁶ 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.
- ⁷ Anecdotal, there is evidence that some attorneys file multiple PFB 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 inflates the overall PFB volume because in those instances two (2) or even three (3) PFB are filed to seek a group of benefits that could more logically (and inexpensively as PFB 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.
- ⁸ Lundy v. Four Seasons Ocean Grand Palm Beach, 932 So.2d 506 (Fla. 1st DCA 2006); Campbell v. Aramark, 933 So.2d 1255 (Fla. 1st DCA 2006); Wood v. Fla. Rock Indus., 929 So.2d 542 (Fla. 1st DCA 2006); Murray v. Mariners Health/ACE USA, 946 So.2d 38 (Fla. 1st DCA 2006).
- ⁹ 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.
- ¹⁰ These figures are from the Florida Department of Health, <http://www.floridacharts.com/charts/popquery.aspx>.
- ¹¹ 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.
- ¹² 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 have effectively forced parties to reach settlements, from sheer frustration with the ineffectiveness of a particular Judge. 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.
- ¹³ 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 This is an adjusted figure, see endnote 13.
- ¹⁵ The aggregate cost of salary, taxes and benefits for 32 state mediators was \$3,112,736.65. This figure divided by the 20,812 mediations conducted yield the cost per mediation of \$149.56. 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 PFB 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 2008-09) were waived by order of the Deputy Chief Judge of Compensation Claims.

17 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.

18 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.

19 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.”

20 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.”

21 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."

22 The deadline for Carrier and Servicing Agent reporting of defense fees is October 1. Rule 60Q6.124(4). On that date the 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 2008-09. These carriers were contacted individually to prompt compliance and the reporting website remained active to facilitate their late reporting. On October 23, 2009 the reporting link was closed, and this report prepared in draft. On November 6, a full month late, Enterprise Management Ltd. elected to respond. The figure in this report represents the total fees reported through November 6, 2009. Subsequent visitors to the fee reporting website may still report fees, but through a mechanism that will allow the OJCC to easily identify any carrier or servicing agent reporting thereafter. As of November 6, 2009, Alea North America Insurance Company, PMA Risk Management Corp., Risk, and Virginia Surety had neglected or refused to comply with the statutory and rule requirements for reporting. The OJCC has no statutory authority to enforce compliance with the reporting requirement.

23 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, or value of, defense fees.

24 Of the fees approved in fiscal year 2006-07, 77% 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).

25 Thirty-four Judges of Compensation Claims entered final orders in fiscal 2008-09. This was due to change in Jacksonville with the departure of Judge Dane and appointment of Judge Rosen, and change in Gainesville with the retirement of Judge Thurman and the appointment of Judge M. Hill. Judge Farrell was also appointed in 2008-09, however he was appointed to a vacant position in Orlando.

26 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.

27 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.

28 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).

29 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 PFB are pending, or if additional PFB are filed after the scheduling of mediation, the judge of compensation claims shall consolidate all PFB 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."

30 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."

31 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."

32 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."

33 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 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."

34 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."

35 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."

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.”