

STATE OF FLORIDA

Division of Administrative Hearings



2010-2011 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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Per Petition Closed	\$265.00 (nine year avg. = \$209.00)	
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Number of Mediation Conferences Held		22
Mediations held	17,896 (9.9% decrease from 2009-10)	
100% of Mediators averaged less than 130 days each year in 2008-09 to 2010-11.		
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Some resolution	61.74% (increase from 57.21% in 2009-10)	
Settled case	27.08% (increase from 25.25% in 2009-10)	
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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 continues to develop, innovate and improve performance. The measures documented in this report for fiscal 2009-10 represent an agency which has overcome historical struggles with technological innovation, methodically transitioned to greater awareness and acceptance of the benefits of digital docket management and document processing, and which today is clearly among the most efficient and proactive Florida agencies.

This report memorializes marked improvements in the compensation claim litigation process. Challenges remain. Although investment decisions in recent years have accomplished an unparalleled level of excellence and efficiency, several OJCC District Offices remain mired in a twentieth century paper-intensive paradigm while most of the OJCC has transitioned to a paperless process. The majority of the OJCC has taken a paper-intensive, delay-plagued process and evolved to a responsive and timely agency. Our focus is on effective and efficient delivery of the adjudication and mediation services that are mandated in Chapter 440, F.S. The historical reputation of this agency as delay-stricken and unresponsive has been eroded consistently in recent years. A variety of efforts and initiatives have facilitated reallocation of work-load and more efficient document processing. The Legislature has reduced the OJCC budget, which is consistent with the challenges that face all agencies in the current economy. These cuts resulted in the reduction of the OJCC workforce in 2011. Despite the budget and personnel reductions, the OJCC of 2011 remains a model for other workers’ compensation systems and adjudicatory agencies and courts.

Leadership is critical to exemplary performance. The OJCC historically operated as a loose confederation of independent Judges, deployed throughout the state. In 2001, the OJCC was moved from the Department of Labor and Employment Security (“DLES”) into the Division of Administrative Hearings (“DOAH”). There are a great variety of cases which the DOAH is charged with processing and adjudicating. The OJCC focus by contrast is strictly workers’ compensation benefit disputes. Despite these marked jurisdictional differences, there have been significant synergisms affected by the similarity of the core service rendered through each adjudication. The concepts of docket management, document processing, and the transition to a twenty-first century digital platform, are all areas in which the core missions of the DOAH and the OJCC have significantly similar requirements.

The Florida Legislature has required that state mediation occur within 130 days of the filing of a petition for benefits (PFB). In each of the last three fiscal years (2008-09, 2009-10 and 2010-11), 100% of the thirty-two OJCC mediators achieved an average time period to mediation within that 130 day statutory parameter. The OJCC recognizes that some cases required a greater period to proceed to mediation. The broad view of this performance, however, supports that this agency is now effective at processing incoming litigation, providing overall timely delivery of mediation services and effectively documenting these efforts. The effort required for compliance with the timeliness requirements of the statute has been significant. The effort of the OJCC mediators has been exceptional. The performance reported herein is a clear indication of their team attitude, and focus on serving the public.

The Florida Legislature has required that final orders are issued within 30 days of the trial. Extensive efforts have been required to succinctly define “trial,” which have been described in prior OJCC Annual Reports. The OJCC reports since 2002 are available for download at www.fljcc.org, under “reports.” The OJCC defined key terms in 2006, including “trial.” These efforts towards definition and standardization in the collection and reporting of data have resulted in uniformity and consistency. The OJCC data collection is not perfect, and errors are accepted as a consequence of human involvement. However, significant improvement has occurred and continues. In each fiscal year 2009-10 through 2010-11 the Judges of Compensation Claims entered 85% of all trial orders within the 30 days mandated by statute.

The economy and budget continue to challenge this agency. Consistently, the Legislature calls upon this agency to “do more with less.” The OJCC has heeded that call. During the economic downturn in recent years, the OJCC has continued to innovate. This innovation has come within the regular budgetary parameters and has not required any additional funding or support. The OJCC has been a leader in electronic filing. In 2011 the Legislature recognized the efficacy of electronic filing, and the success of the OJCC filing system. The passage and signing of SB170 in 2011 rendered e-filing mandatory for represented parties in workers’ compensation proceedings. This legislative recognition and action validates the recommendations for change (electronic service efficacy and mandatory e-filing) in the 2008 and 2010 OJCC Annual Reports. Even prior to the legislative mandate, the OJCC amended the workers’ compensation procedural rules in 2010 and mandated e-filing by rule. The volume of

incoming U.S. Mail has dwindled in 2010-11. A challenge for the OJCC in 2011-12 will be the transition from proprietary email services through a DOAH email server to email services provided by a vendor, as legislatively mandated. Anticipation of this transition has delayed implementation of automated electronic service of filed documents among counsel and parties. When the transition is complete, the electronic service of documents will again be a priority for the OJCC.

The DOAH pioneered use of video teleconference for trials throughout Florida. Their efforts initially utilized equipment in the DOAH Tallahassee facility connected to remote video teleconference facilities maintained by the Florida Department of Management Services (DMS). In 2006-07, the OJCC and DOAH began jointly deploying video teleconference systems (“VTS”) in the OJCC District offices. The deployment of this equipment has continued in 2010-11. All OJCC District Offices currently have one VTS unit installed several offices have two or more installed. This technology empowers the OJCC to shift workload among the 32 JCCs, and to accommodate judicial disqualifications and recusals.² This innovation is focused, flexible, and delivers value to the people of Florida through less necessitated travel by ALJs from the DOAH, and greater flexibility for redistribution of work among the JCCs.

The OJCC implemented a new appellate record process in 2008-09. The integration of effort enabled by this process has been an unqualified success. This has resulted in cost savings to litigants, the OJCC, and the District Court. This innovation is thought to be unique, and was fully described in the 2010 Annual Report. In 2011, the OJCC has continued to refine and improve this process. Postage expense for movement of the records on appeal and storage expense associated with those records has been eliminated.

In 2010-11, the OJCC began efforts regarding its facilities in Melbourne and Tampa. After significant efforts by the DOAH Administrative Services Director Lisa Mustain, leases have been executed for new facilities in each of these Districts. In 2011-12, these offices will be relocating.

Overview of Florida Workers’ Compensation:

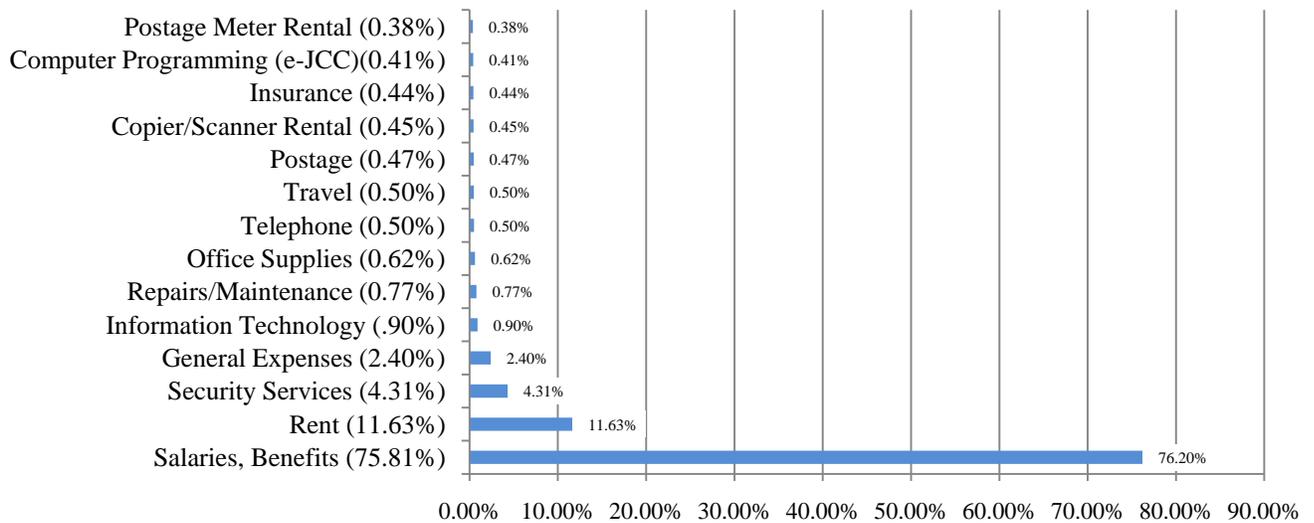
Florida Workers' Compensation is a self-executing system defined by Chapter 440, F.S.³ The purpose of workers' compensation is to provide individuals injured at work with certain defined benefits for the treatment of the resulting medical condition(s) and for replacement of a portion of the wages lost 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 49.



Judges Sturgis, Sojourner, and Roesch presented part of a free OJCC public program on the new 60Q Procedural Rules at the First District Court of Appeal in February.

The OJCC is funded entirely through assessments on the workers' compensation industry, from the workers' compensation administrative trust fund. The vast majority, more than ninety-two percent (92.15%), of the OJCC budget is expended on payroll (including benefits)(76.2%), rent for the seventeen OJCC District Offices and the

OJCC Clerk's office (11.63%) and security for those offices for the protection of personnel and the public (4.31%), as described in the following graph.



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 thirty-two divisions in seventeen District Offices 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. The Annual Reports since that time have documented improvements in effectiveness and efficiency that are attributable to those efforts.



Judges Lazzara, Hogan, Rosen, Pitts, Ervin (retired 1st DCA), Roesch, Sturgis and Spangler at the OJCC/FWCI February education program. Offered free to the public, this program included segments on “The New Procedural Rules,” “Appropriate Drafting Techniques for Pleadings,” and “Ethical Issues in Attorney Fees and Costs.”

OJCC Achievements 2010-11:

District Office Enhancements:

Entered into lease for relocation of Melbourne District Office
Entered negotiations for renovation or relocation of Tampa District Office

Video Teleconferencing Trial (VTC) Capabilities:

The OJCC Started the year with VTC access available in all 17 District Offices.

In 2010-11 the OJCC installed

A second unit, Ft. Lauderdale

A second unit, St. Petersburg

In 2011-12 further installations are planned:

A second unit, Jacksonville

Electronic Filing:

Presented e-filing seminars at Florida Workers' Compensation Institute 2010.

Presented e-filing seminar at Florida Workers' Compensation Institute, Spring Forum 2010.

Visiting Judges:

Continued to shift caseload using "out of district" Judge program.

- Lakeland District

"New cases" were sent to Judges in St. Petersburg, Ft. Myers, and Tampa. At the close of 2011, effective docket management in Lakeland allowed reduction in reallocations with only two "out of district" Judges supporting Lakeland.

- Miami District

"New cases" were sent to Judges in Daytona, Ft. Myers, Melbourne, Pensacola and Tampa. Mid-year, the Melbourne Office declined to accept further assignments and requested reassignment of all "out of district" cases. At the close of 2011, additional Judges in St. Petersburg, Jacksonville and Ft. Myers were added to the support of Miami. Currently more than 100 new cases per month are diverted to "out of district" Judges.

- Ft. Lauderdale District

"New" cases were sent to Judges in Jacksonville, Panama City, Pensacola, and Tallahassee.

Internal Education:

Conducted 10 monthly "Second Friday" lunchtime CLE programs for Judges and Mediators.

Three Judges held positions of responsibility in the National Association of Workers' Compensation Judiciary.

Public Education:

Presented multiple programs throughout the state including:

Florida Workers' Compensation Institute.

Workers' Compensation Forum.

Florida Workers' Advocates programs.

Florida Association of Self-Insured.

Free public Continuing Education Seminar at the First District Court.

Management Tools:

Published Judicial Performance Statistics to the Judicial Nominating Commission.

Deployed third annual Judicial Survey with The Florida Bar.

Electronic Filing Initiative:

Having led the way into the twenty-first Century in 2005-06 with deployment of electronic filing (“e-filing,” or “e-JCC”), the OJCC continued in 2010-11 to advocate the efficacy of this process. In 2010-11, the OJCC mandated electronic filing for all represented parties by rule. In the 2011 legislative session, the passage and signing of SB170 mandated this process by law. The Chapter 440 amendments effected by SB170 included statutory authority for implementation of electronic service of pleadings between lawyers. As the fiscal year concluded, efforts had begun to examine the appropriate methodology for implementation of e-service. As a “voluntary” system, the e-JCC program had four hundred fifty-one thousand six hundred forty-nine (451,649) documents filed in 2010-11. This is an increase of over eighteen percent (18.58%). Using the parameters described in the 2006-07 OJCC Annual Report, the user savings generated by this e-filing system by the end of fiscal 2010-11 were almost one million dollars (\$943,977.03).

In 2008-09 the First District Court of Appeal deployed an electronic filing system, e-DCA, similar in some respects to the OJCC/DOAH systems. The synergistic development of that program has led to further innovation and development of the e-JCC program. In fiscal 2009-10 the OJCC district staff began using e-DCA for submission of appellate documents to the court. The inverse of this, District Court Clerks utilizing the e-JCC system to upload documents directly to the OJCC is possible. The Court has determined that their use of e-JCC would be a burden however, and will continue to transmit documents by email to the OJCC. In this paradigm, the OJCC runs three parallel processes for incoming documents, e-JCC, paper filings, and emailed documents from the DCA. Similarly, the Court uses two parallel process for incoming documents, e-DCA and paper filings. The OJCC uses three process for transmission of documents, electronic mail service (e-service), U.S. mail for those without email addresses, and by uploading documents to the Court by e-DCA. The Court limits their transmission to two methods, either e-DCA e-service or U.S. Mail. If the Court utilized e-JCC for transmissions to the OJCC, that would add a third transmission process to their document distribution. Of course, their addition of a third transmission method (e-JCC) would allow the OJCC to decrease their incoming document processes from three to two. In the future, a genuinely integrated process may be conceived which eliminates a burden on either the Court or the OJCC without creating an equal and positive additional burden on the other. As the Florida Courts become more uniformly committed to electronic data transmission, the probability of such genuine integration grows. However, at the present time, there are many entities languishing in the twentieth century paradigm, some entities striving for ever-increasing automation, and the Court must do business with the entire spectrum of entities.

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 developed and uses 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 continual 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 the Annual Reports since that time are worthy of that same confidence.

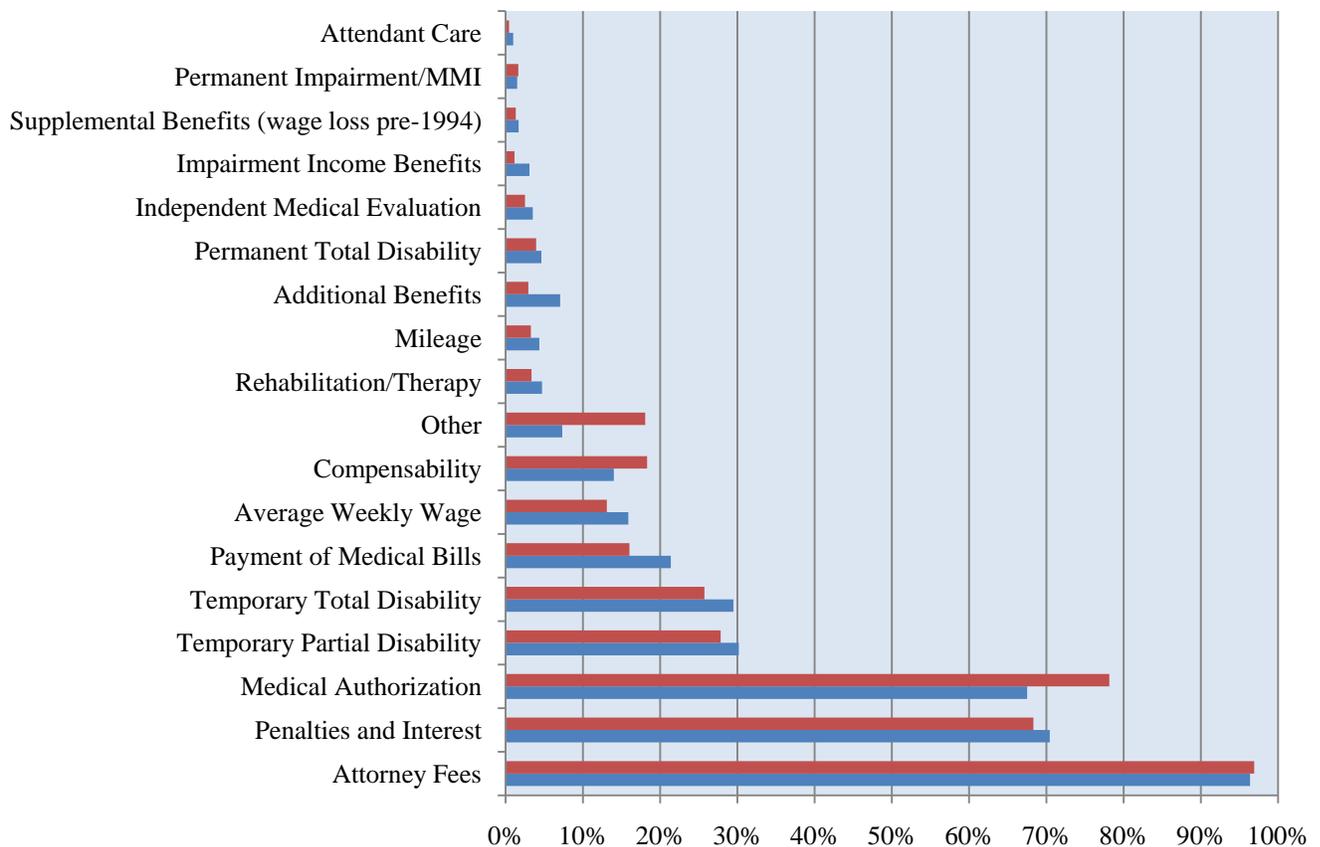
There remains one irreconcilable issue with the reporting of the “number of litigated cases.” In workers’ compensation, there simply is no clear definition for “cases.” Litigation in Florida workers’ compensation is instigated with a Petition for benefits (“PFB”). Each PFB might seek a single benefit, or many benefits.⁴ A given workers’ compensation trial might decide the issues in one PFB or several PFBs serially filed prior to trial. The overall number of PFBs 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 2009-10 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. “New Case” PFBs may likewise reference a date of accident that is either recent or remote, but each “new case” PFB certainly represents only an accident(s) for that particular injured worker that is new to litigation, i.e. “new” to the OJCC. This metric measures “new”

litigation, but ignores the intensity of litigation. Conversely, the overall PFB number more accurately reflects litigation intensity.

Therefore the raw PFB volume and the “new case PFB” are each 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 PFBs are filed, at what point in the history of the claim, and how many issues are plead in each of those PFBs. 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 motions⁵ 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.

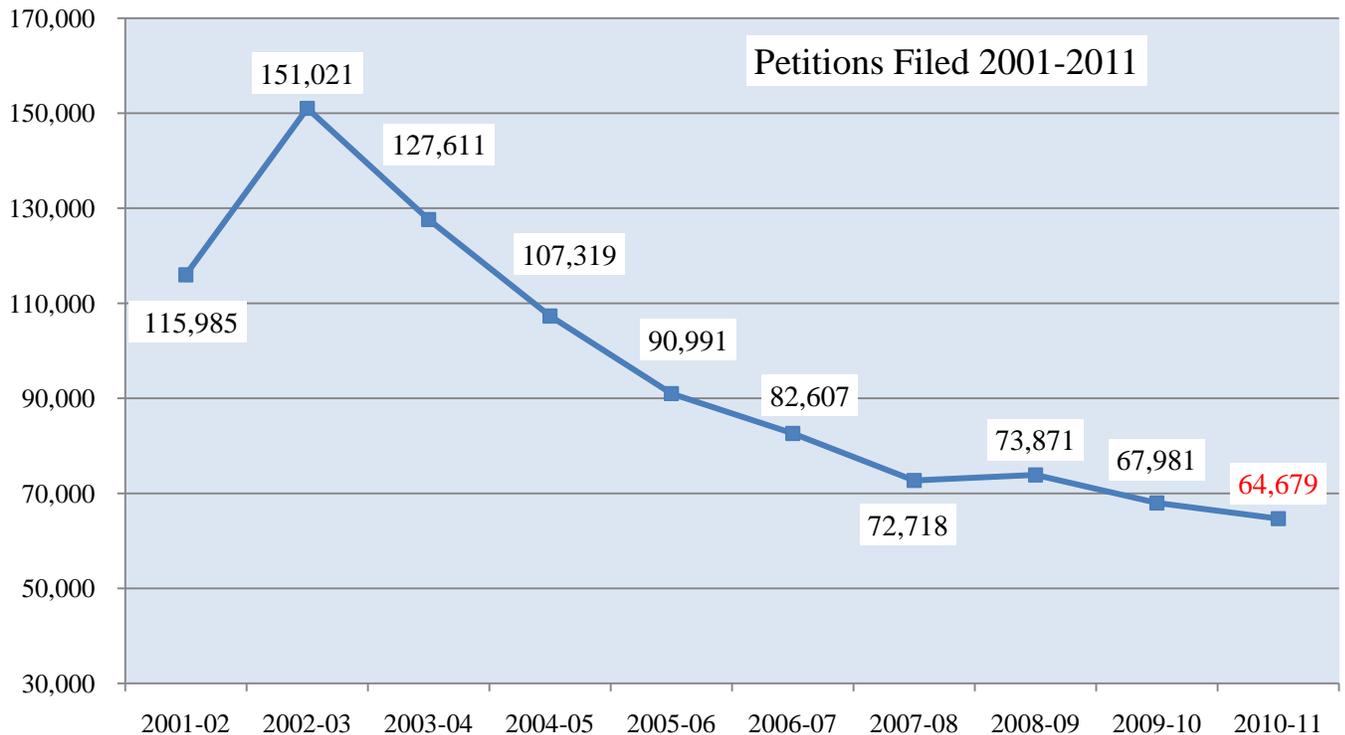
A single PFB could theoretically seek each and every benefit potentially available to an injured worker under the law. An injured worker seeking that same quantum of benefits might instead serially file a multitude of individual PFBs each seeking one particular benefit. Typically, most PFBs seeking a 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 PFBs filed over the six-year period 2003-04 through 2009-10 (blue bars on the bottom of each category) and the rate of filing for those categories in fiscal year 2010-11 (red bars).



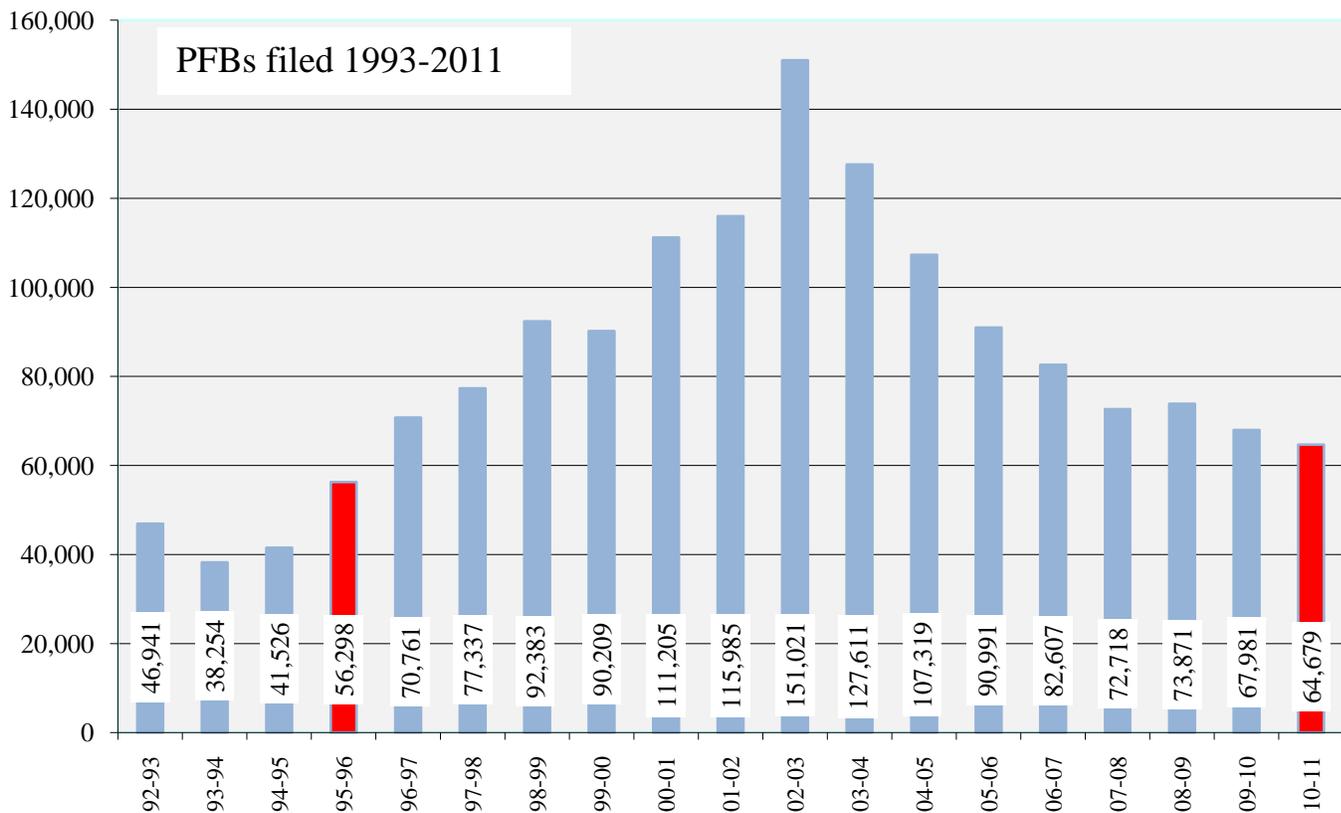
Gross PFB Filing:

The Florida Legislature enacted significant amendments to the Florida Workers’ Compensation Law in 1994 and again in 2003. In the years after 1994, PFB filing consistently increased each year. Immediately following the 2003 reforms, the volume of PFBs 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 (9.21%) and 2007-08 (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.⁶ 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. In the spring of 2009, the Florida Legislature amended Fla. Stat. § 440.34 to again forbid hourly fees. Therefore, the Court’s interpretation affects cases between October 1, 2003 and July 1, 2009.⁷ Although PFB filings trended down before the Court’s analysis, at year end, the 2008-09 PFB filings had increased minimally (1.6%) from fiscal 2007-08. In 2009-10 the PFB volume returned to its downward trend (8%). That trend continued in 2010-11, while constitutional challenges to the provisions of Fla. Stat. § 440.34 (2009) proceeded through the appellate process. On March 23, 2011 the Florida First District Court of Appeal rejected various constitutional challenges to Fla. Stat. § 440.34 (2009) in *Kauffman v. Community Inclusions, Inc.*, 57 So.3d 919 (Fla. 1st DCA 2011). At the close of fiscal 2011, a petition for review was pending at the Florida Supreme Court.⁸

Fiscal Year	PFBs 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%
2009-10	67,981	-8.0%
2010-11	64,679	-4.9%



Florida workers' compensation premiums decreased significantly after the 2003 reforms. The cumulative premium 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. In fiscal 2009-10, despite the trend downward in PFB filings (-8%), the Florida Insurance Commissioner approved a 7.8% increase in workers' compensation rates. As the 2011 OJCC Annual Report was prepared, a request for an increase of 8.9% for 2012 was pending before the Florida Office of Insurance Regulation. The past two years of increasing insurance rates for periods of decreasing litigation volume suggests that any perceived correlation or similarity in the filing and rate declines between 2003 and 2009 was coincidental, and rates do not necessarily trend similarly to litigation volume trends. The overall aggregate decrease in PFB filing from 2002-03 to 2010-11 is fifty-seven percent (57%). 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 as to 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 a separate pleading, 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 1992-93. Presuming the accuracy of these FDLES numbers, the PFB filing rate in 2010-11 was the lowest in fifteen years, since 1995-96.

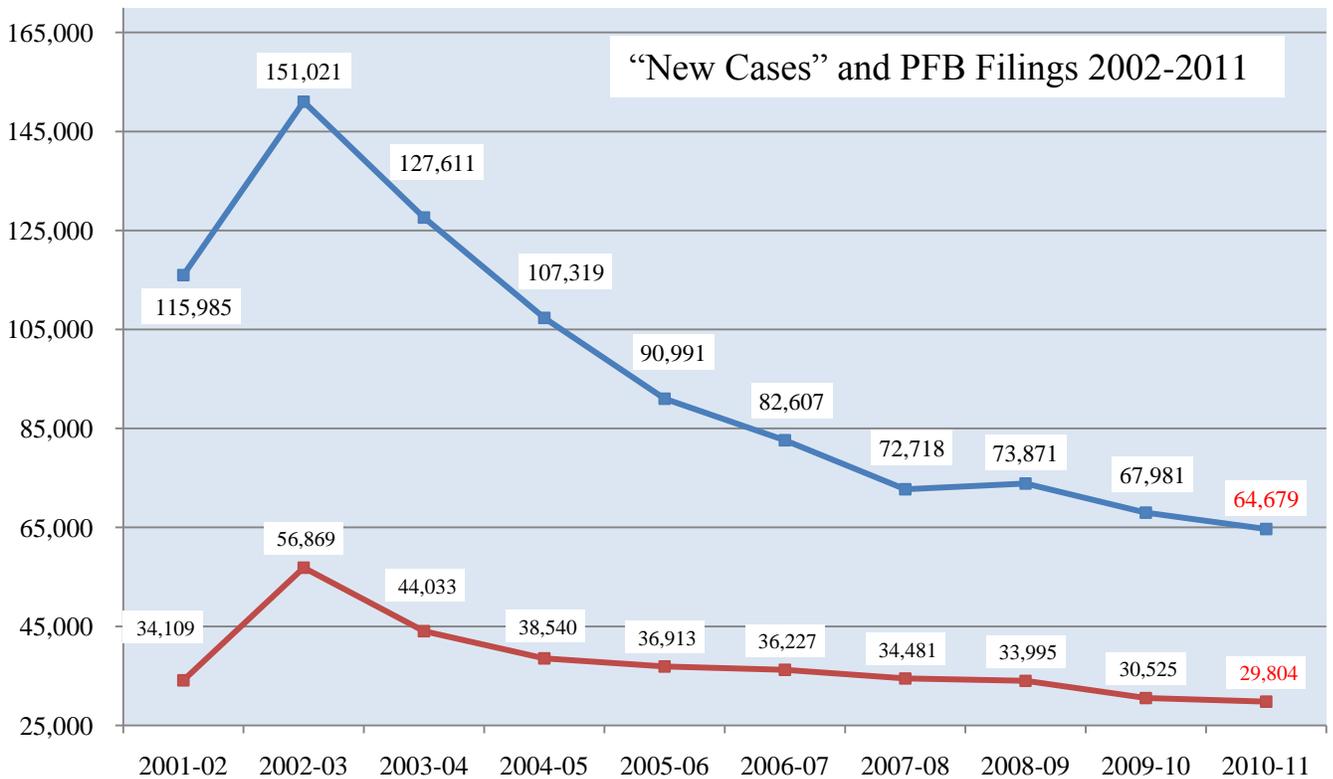
New Case Filing:

The volume of "new cases filed" has been monitored only since the OJCC joined the DOAH in 2001. The term "new cases filed" refers to the volume of PFBs filed, which represent the first time a PFB is filed in the history of that particular accident by that particular injured worker. Workers' Compensation cases often involve the litigation of multiple, serial PFBs over the course of years. The rate at which "new cases" are filed is indicative of the rate at which discrete cases are entering the OJCC litigation process, and is not affected by the serial nature 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 trend rate at which cases are leaving the OJCC litigation process. The "new case" measure may arguably be a more accurate indicator of the effect of legislative changes to the substantive benefits provided to Florida employees through Chapter 440. F.S.

However, a "new case" filed in 2009-10 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, and enter litigation after a decade or more of administrative delivery of some benefits. 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" filing has been less than the rate of PFB decline however in every fiscal year since 2003, until this year. In 2009-10, "new case" filing decreased by over ten percent (10%) compared to the decrease in PFB filing overall of eight percent (8%). The marked decrease of over ten percent (10%) is notable. The following graph depicts the declining OJCC "new case" filings (red), and the PFB filings (blue).

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%
2009-10	30,525	-10.21%
2010-11	29,804	-2.36%



These figures support that “new cases” increased significantly between 2001-02 and 2002-03, as did the overall PFB filings discussed above. Notably, in 2004-05 (107,319), two years after the 2002-03 volume “spike” (151,021) PFB volumes returned to a level reasonably consistent with 2001-02 (115,985). The “new case” volume similarly “spiked” markedly in 2002-03 (56,869), but returned to pre-2002-03 levels five years later, in 2008-09 (33,995). This comparison supports that overall petition filing volume has demonstrated more elasticity than the “new case” volume, but that the elasticity demonstrated a marked change in 2009-10, which appears to have moderated in 2010-11.

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 PFBs 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 decrease more moderately, the percentage of “new cases” remained above 40% since 2005-06, and has remained reasonably consistent for the last three fiscal years. The comparative percentage increases in “new cases,” result primarily from the slower 2003 through 2009 decrease in “new cases” compared to the more significant concurrent decrease in PFBs 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. Since that time, however, the percentage representing “new cases” has remained relatively consistent.

Fiscal Year	PFBs Filed	Cases Filed	New/Filed
2001-02	115,985	34,109	29.4%
2003-03	151,021	56,869	37.7%
2003-04	127,611	44,033	34.5%
2004-05	107,319	38,540	35.9%
2005-06	90,991	36,913	40.6%
2006-07	82,607	36,227	43.9%
2007-08	72,718	34,481	47.4%
2008-09	73,871	33,995	46.0%
2009-10	67,981	30,525	44.9%
2010-11	64,679	29,804	46.1%

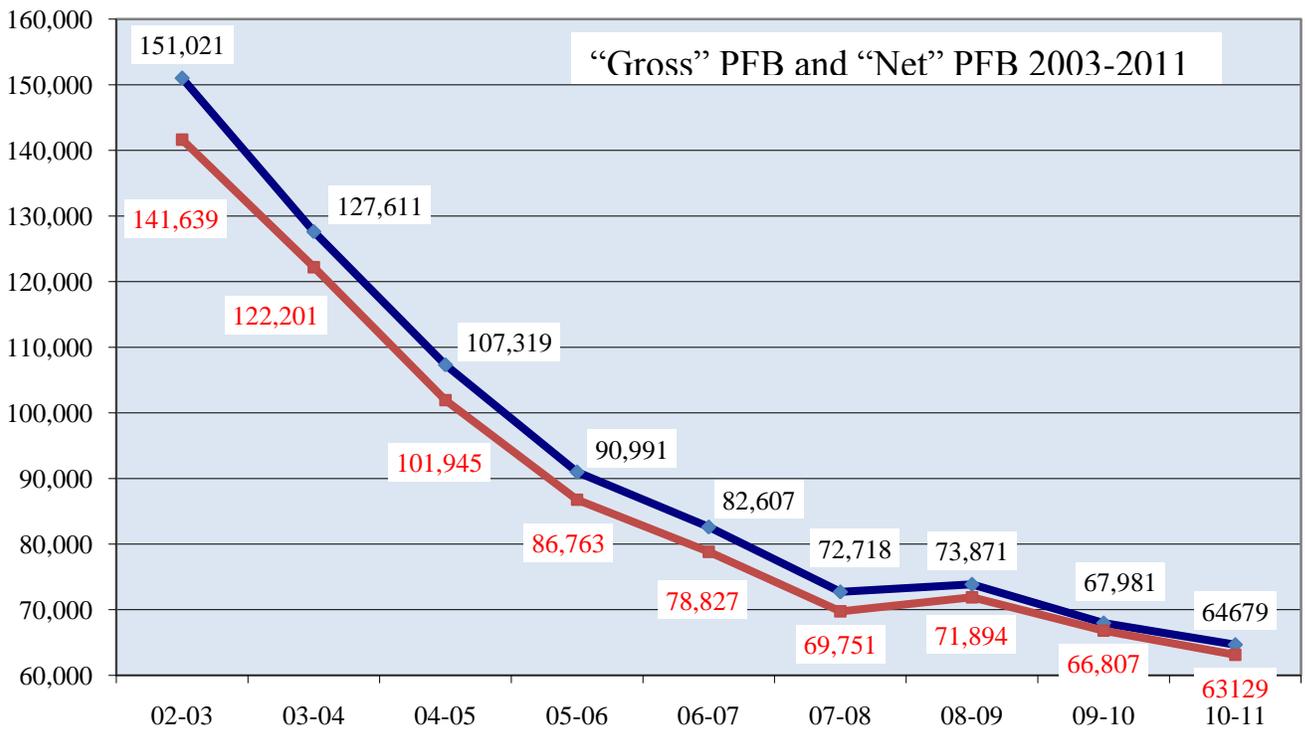
In summary, the available data supports several conclusions. First, the overall PFB volume after appearing to stabilize in 2008-09, has returned to a marked rate of decline. The volume of “new cases filed” decreased between 2003 and 2008-09, but at a much slower rate, compared to a marked decrease in 2009-10 (10.21%). The 2009-10 return to marked PFB filing decline (8%), followed by the 2010-11 decline (5%) may suggest a continued downward trend in PFB filing.

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 assert. 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 pled in the same PFB that asserts that change of physician claim. Similarly, permanent total disability (PTD) supplemental benefits are normally pled in the same PFB that seeks the underlying PTD benefits determination. Other issues are more easily separated for multiple filings. For example, a Claimant that is seeking both a change in physicians and PTD 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 related attorney fees and costs. The situation involving multiple “one issue” PFBs cannot be described as “duplicate” PFBs because they are not identical, or in some cases even similar. Therefore, an accurate appellation for the second single PFB is a “replicate” PFB in that it replicates the act of filing, albeit for a separate discreet claimed benefit. The purpose of this practice is unclear, and it artificially inflates the apparent PFB volume. This practice was identified in the OJCC 2008 Annual Report.

Fiscal Year	Total PFB	Net PFB	R/D %
2001-02	115,985	107,815	7.0%
2003-03	151,021	141,639	6.2%
2003-04	127,611	122,201	4.2%
2004-05	107,319	101,945	5.0%
2005-06	90,991	86,763	4.6%
2006-07	82,607	78,827	4.6%
2007-08	72,718	69,751	4.1%
2008-09	73,871	71,897	2.7%
2009-10	67,981	66,807	1.7%
2010-11	64,679	63,129	2.4%

There is also a similar practice of filing essentially “duplicate” PFBs. This occurs in instances that present uncertainty regarding responsibility for a given accident or illness. These situations often arise in the construction industry. The Florida Workers’ Compensation Law places ultimate responsibility for coverage on construction’s “general contractor.” Because of this legal doctrine, the employee of an uninsured plumber or electrician or framer or roofer may be legally deemed to be the employee of the insured general contractor. In much of the construction industry, multiple contractor/subcontractor/sub-subcontractor relationships may exist. A general contractor might hire a carpentry subcontractor that in turn hires a cabinetry subcontractor. Likewise, a general contractor might hire an air-conditioning subcontractor that in turn hires a duct-work subcontractor. In those situations, an injured employee of the cabinetry company or the ductwork company might need to file a PFB against their nominal employer, a second PFB against the carpenter/air conditioner subcontractor, and yet a third against the general contractor. These PFBs are often identical in every regard except for the name/address/phone number of the “employer” and “carrier.” The duplication of PFBs for such instances of uncertain responsibility is a natural consequence of the circumstances of such cases. Thus, there are appropriate and inappropriate reasons for filing multiple PFBs. 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 that 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 PFBs. 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. Anecdotally, the belief is evidenced currently in a portion of the attorney fee stipulations submitted to this Office, which claim a “medical only fee”

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, and markedly decreased again in 2009-10, following that documentation of the process. Anecdotal evidence supports that both replicate and duplicate filing continues at this time. The 2010-11 data supports that replicate filing increased in 2010-11. The cause for resurgence of this practice is not apparent.

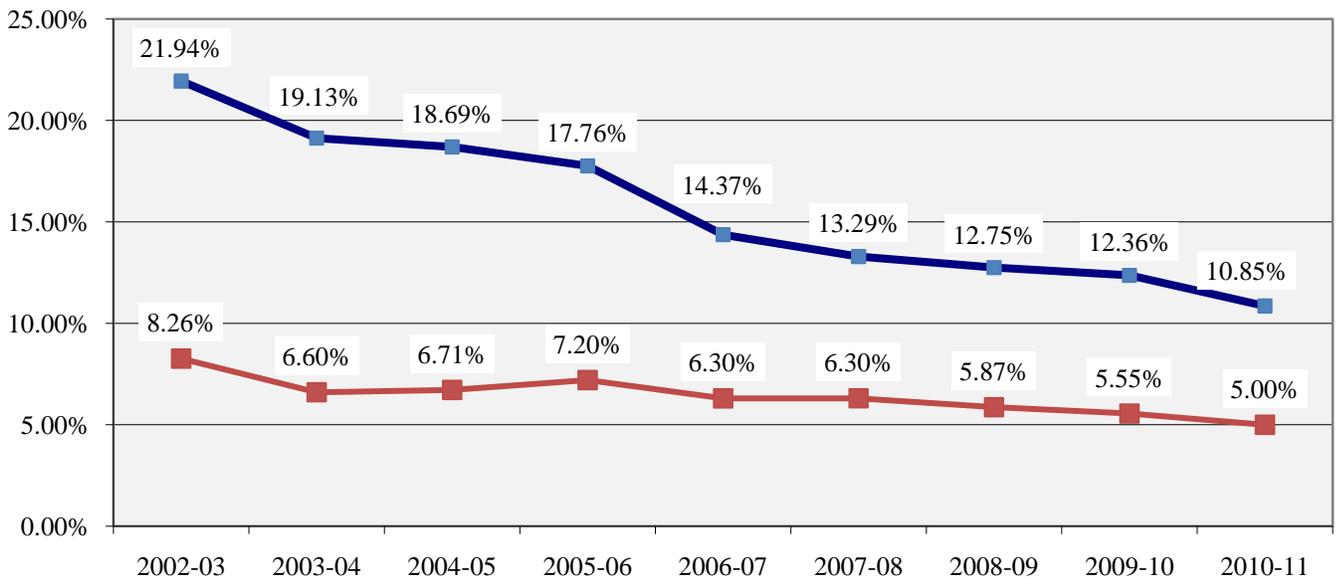
Pro-Se Cases:

The Office of Judges of Compensation Claims (OJCC) has been 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 PFBs for various benefits. The JCC Application database would then reflect three “open” PFBs attributable to a “represented” claimant. If the claimant thereafter ceased to be represented, and filed one pro-se PFB, the database would then reflect four “open” PFBs attributable to a “pro-se” claimant, despite the fact that three of those were in fact filed by (former) counsel. If that same claimant then hired a new attorney, who then filed a fifth PFB, the JCC Application database would then reflect five “open” PFBs 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 compared to the “new cases” filed that year. Likewise, the OJCC can calculate the percentage of “pro se” cases compared to the total volume of PFBs filed during the preceding year. Neither of these is an accurate reflection of the actual population of PFBs 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.

Fiscal Year	New Cases	Pro Se June 30	
2002-03	56,869	12,477	21.94%
2003-04	44,033	8,423	19.13%
2004-05	38,540	7,205	18.69%
2005-06	36,913	6,555	17.76%
2006-07	36,227	5,205	14.37%
2007-08	34,481	4,583	13.29%
2008-09	33,995	4,333	12.75%
2009-10	30,525	3,774	12.36%
2010-11	29,804	3,234	10.85%

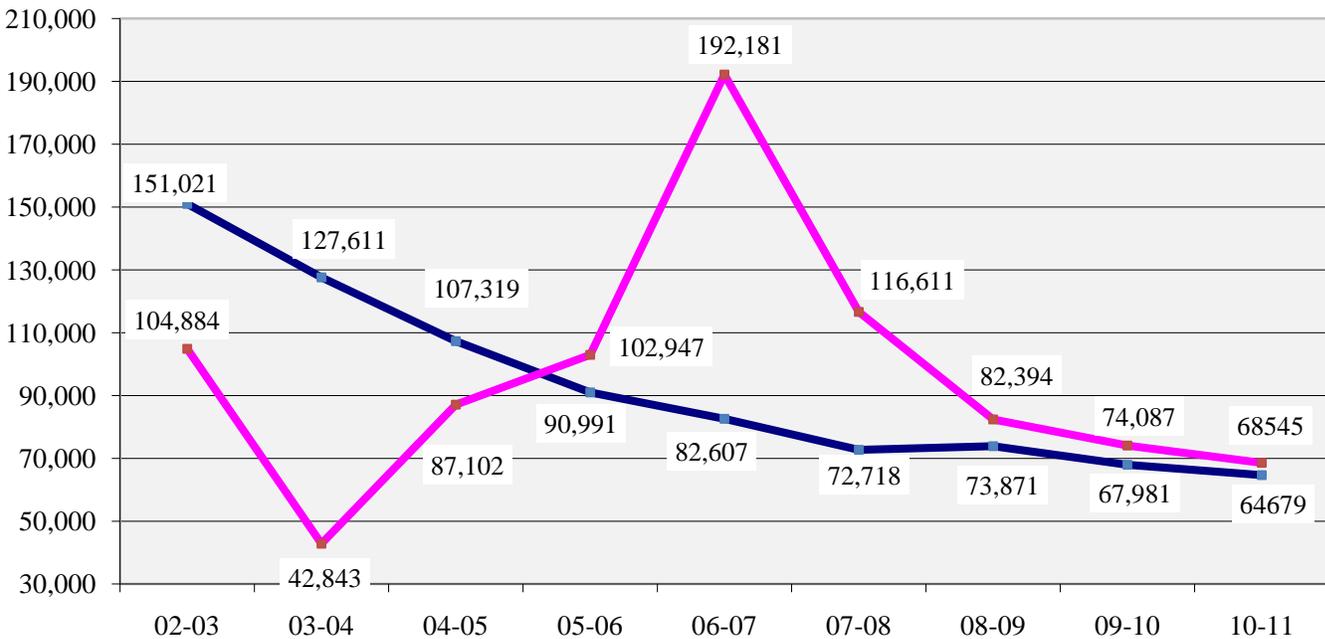
Because the “pro-se” percentage has decreased in the midst of significant PFB filing decreases generally, the available data supports that less injured workers are representing themselves in the OJCC system, as illustrated in the following graph. There are multiple perspectives regarding what this data indicates.



The graph above depicts the ratios (blue) of “new cases” to the population of “pro-se” petitions on June 30 of each of the last nine (9) fiscal years. Also represented are the ratios (red) of overall PFB filed to the year-end “pro se” population. This comparison of those PFBs that are “pro se” as of June 30, 2010 and the total of PFBs filed during the fiscal year also does not support the conclusion that the volume or percentage of self-represented claimants is increasing.

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 PFBs 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 historical existence of a practice of filing PFBs not to necessarily seek provision of a particular benefit, but instead to act as a tool indefinitely “tolling” the statute of limitations. PFB closure has been a difficult issue for the OJCC following the massive influx of PFBs in 2002-03 (151,021). The sheer volume of PFBs in 2003 was troublesome. 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 Effective management of these PFB was further hindered by a lack of effective data management tools to identify PFBs 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) “open” PFBs. 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). The 2006-07 OJCC Annual Report provides detail regarding this. During fiscal 2006-07, the OJCC worked to identify “active” PFBs whose status should have previously been changed to reflect a “resolved” or “closed” status. This effort included providing the Judges with access to database reports that identified aging PFBs. The inventory of “pending” PFBs for many Judges improved dramatically in 2006-07, and that improvement continues. The following chart illustrates, the OJCC is close to equilibrium in terms of the PFBs being filed (blue line) and the PFBs being closed (pink line) each year.



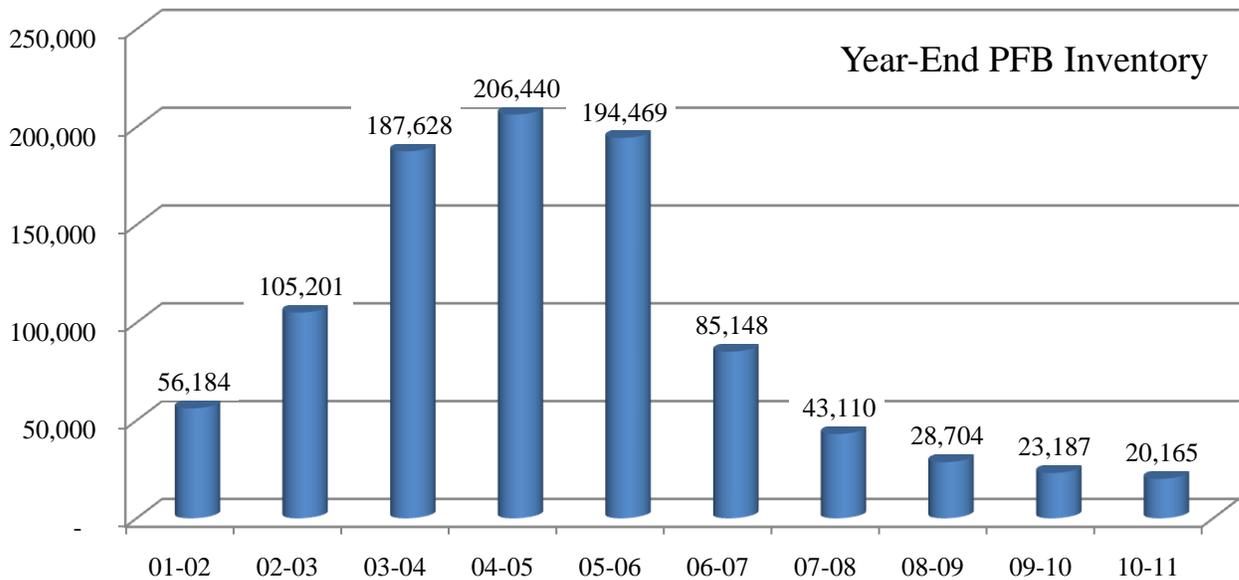
Most PFBs filed must be mediated.¹¹ After a PFB is filed, issues claimed therein may be resolved among the parties before mediation, at mediation, or thereafter any time until a final order is issued. There are even instances in which the parties conduct a trial on the PFB issue(s), but then nonetheless 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).

Some divisions (each Judge and their respective staff is a “division) have historically been more efficient than others in documenting the closure of PFBs, as noted in previous OJCC Annual Reports (available at www.fljcc.org, under the “reports” tab). Several divisions began 2006-07 with accurate PFB inventories, meaning their inventory included only PFBs that appropriately should be represented as “open.” Other divisions began the 2005-06 year with their inventories overstated with PFBs that should have been closed in prior years. PFB closures increased dramatically in 2006-07 and 2007-08. The volume moderated in 2008-09, through 2009-10 and into 2010-11. The result is seen in the graph above demonstrating a smooth progression in the last three fiscal years to equilibrium in the OJCC system, meaning that in a given year the OJCC will close approximately the same volume of PFBs that are opened that year. 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” PFBs for the last nine fiscal years is represented in the following graph. This depicts that from a peak of 206,440 pending PFBs in the system as of the end of fiscal year 2004-05, the OJCC has decreased inventory of pending PFBs to 20,165 at the end of fiscal year 2010-11. This represents a decrease in inventory of 90% in six years. These two analyses, PFB closure versus PFB filing and the aggregate year-end inventory, support that the OJCC is now effectively processing each year’s incoming claims. Anecdotally, there are still instances of stale PFBs remaining pending, but these are ever more isolated instances. Furthermore, with the docket management tools now in place, it is believed that those stale cases remain pending with the knowledge of the assigned Judge, and therefore for appropriately documented reasons.



Lyna Hickman (Panama City Clerk), Ruby Brown (Lakeland Secretary), Dee Harrison (Tampa Clerk) and Marla Miller (Orlando Secretary) presented “Dealing with the District Office at the 2010 Florida Workers’ Compensation Institute Paralegal Education Program.”



Over the last eight fiscal years, six hundred eighty-seven thousand seven hundred seventy-seven (687,777) PFBs have been filed and seven hundred sixty-six thousand seven hundred ten (766,710) PFBs have been closed. This equates to an approximate overall closure rate of one hundred twelve percent (111.5%). This further 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 PFBs transferred as “open” from the DLES and the JCC Application database now accurately represents the actual status of those PFBs.

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 PFBs closed during a year equals the number of PFBs filed during the same period, the OJCC litigation process would be in equilibrium. For a number of years, until 2003, the steadily increasing PFB filing rates coupled with the lack of closure documentation generated a growing inventory (backlog) of PFBs in some divisions (one Judge and staff is a “division”). Previous reports have predicted a more rapid trend to actual equilibrium (one closed for each one filed). The trend continues in that direction, but foreshadows the probability that true equilibrium remains approximately two years distant based upon current data and trends.

Fiscal Year	Petitions filed	Petitions closed	% closed
2003-04	127,611	42843	33.6%
2004-05	107,319	87102	81.2%
2005-06	90,991	102947	113.1%
2006-07	82,607	192181	232.6%
2007-08	72,718	116611	160.4%
2008-09	73,871	82394	111.5%
2009-10	67,981	74087	109.0%
2010-11	64,679	68545	106.0%
	687,777	766,710	111.5%

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. These figures should be considered in comparison to filing fees in Florida’s Circuit Courts. For “small claims” filings, the Circuit filing fees may be as low as fifty-five dollars (\$55.00), but for claims with a value over \$2,500.00 the filing fee is three hundred dollars (\$300.00), and for larger claims the Circuit filing fee may be as high as four hundred dollars (\$400.00).¹³ The OJCC is demonstrably more efficient financially, with a per-petition cost well below the Circuit court filing fees. Notably, the OJCC cost is inclusive of mediation services in the majority of instances, a service that is an extra cost in other civil litigation.

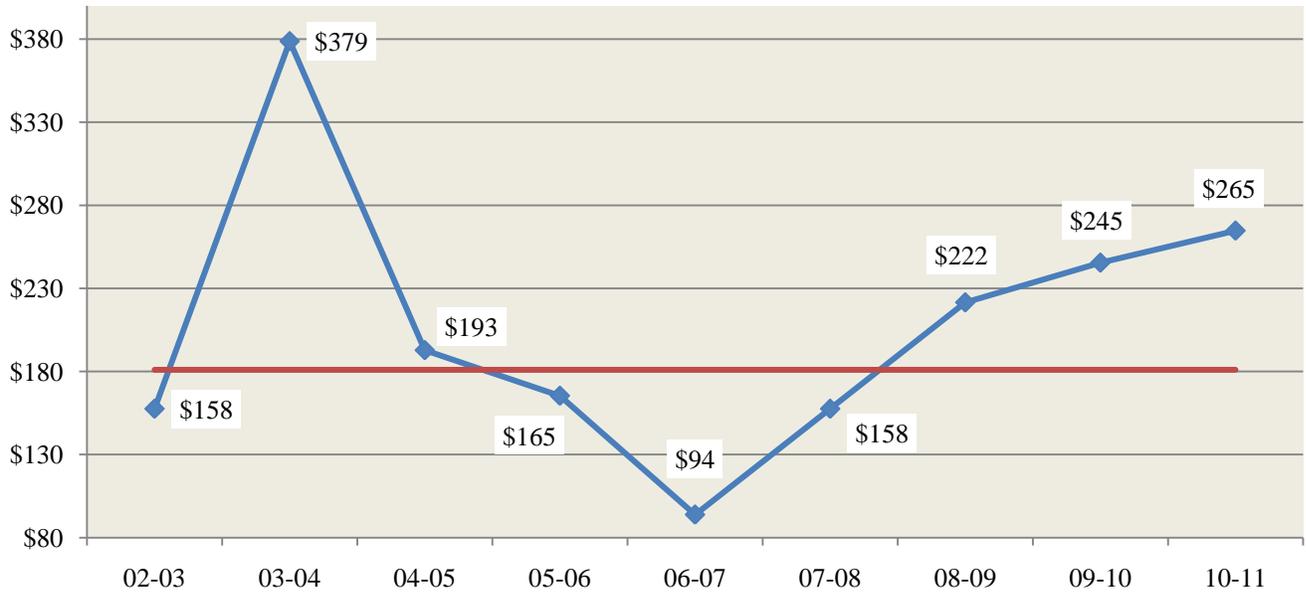
Fiscal Yr.	Annual Budget	Petitions Closed	Cost Each
02-03	\$16,522,910	104,884	\$158
03-04	\$16,225,513	42,843	\$379
04-05	\$16,792,731	87,102	\$193
05-06	\$17,022,942	102,947	\$165
06-07	\$18,032,059	192,181	\$94
07-08	\$18,367,869	116,611	\$158
08-09	\$18,253,550	82,394	\$222
09-10	\$18,184,779	74,087	\$245
10-11	\$18,145,746	68,545	\$265

The fluctuations of “per PFB” costs is also attributable to the minimal growth in the OJCC annual budget in recent years through 2008, followed by three consecutive budget reductions between 2009 and 2011. When the OJCC budget was increasing, those increases were not sufficient in many instances to counteract inflation. 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



Florida Judges of Compensation Claims judged the preliminary round of the Earle E. Zehmer Moot Court Competition. Pictured here are Judges Winn (PNS), Beck (SAR) and Pitts (ORL).

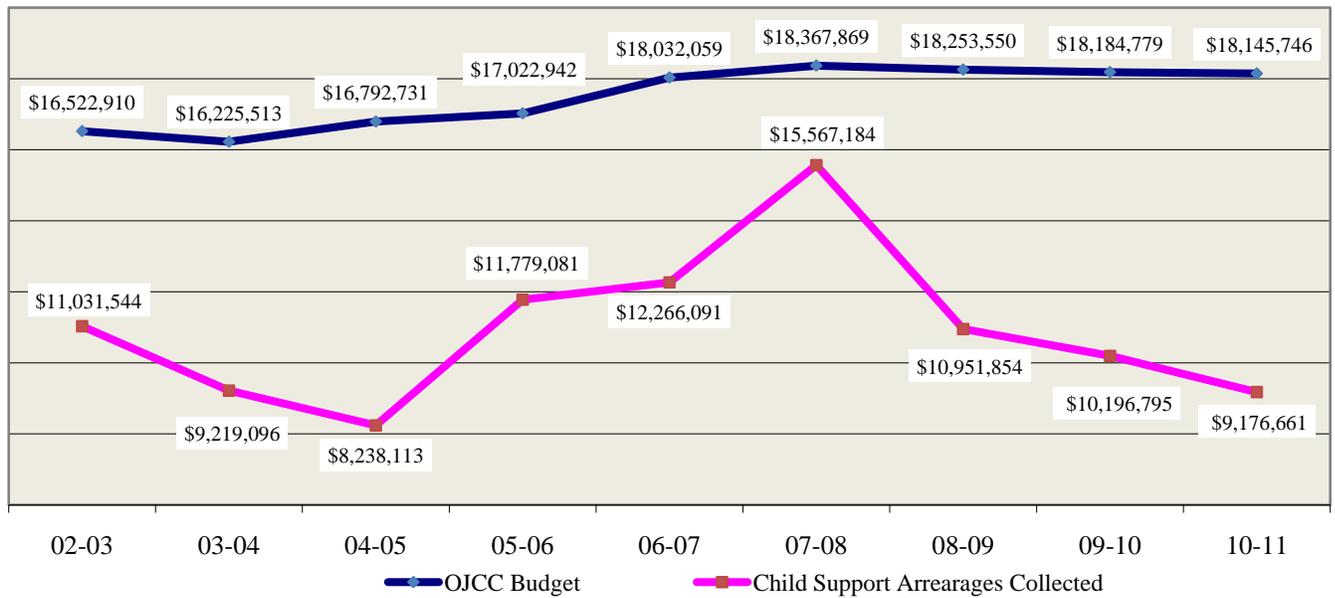
budget effectively decreased, when adjusted for inflation and the expanding OJCC workforce added in 1994 for the mandatory mediation process. Florida’s population has also grown markedly in the last twenty years. However, the number of Judges has remained virtually static over the same period. These 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. The decrease in cost per closed PFB for fiscal 2005-06 through 2007-08 is each overstated due to the extraordinary PFB closure rate during these years.



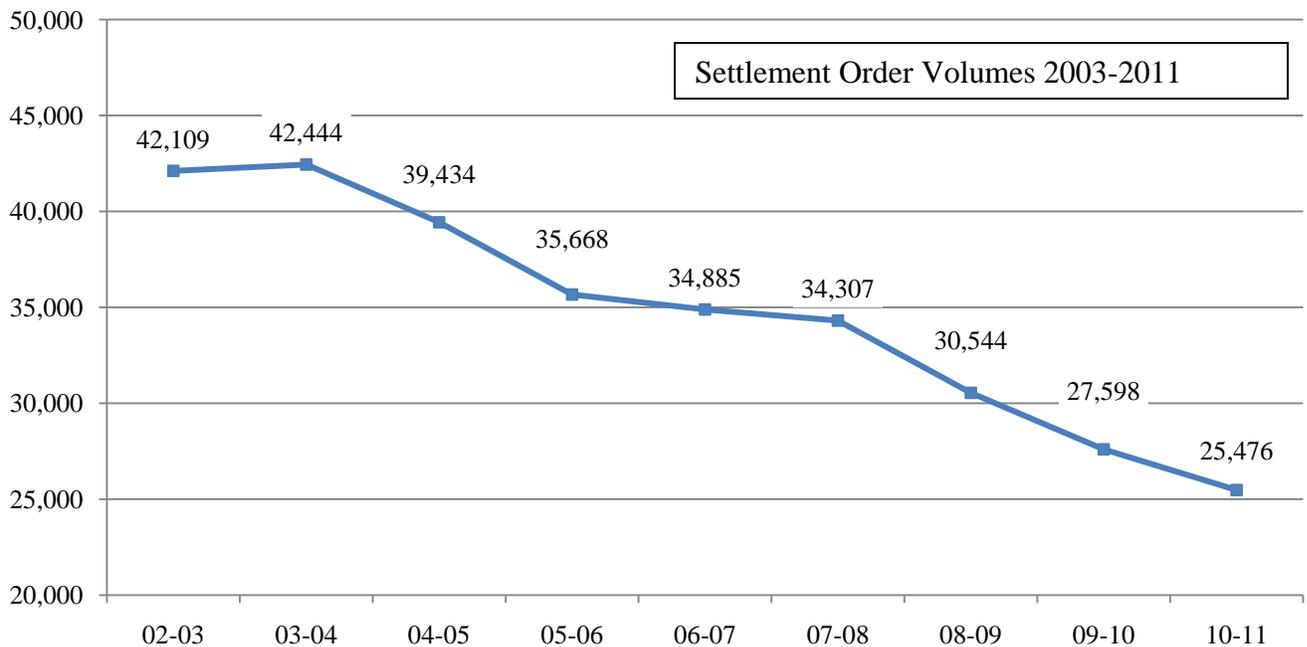
Petition for Benefit (PFB) closure rates decreased in the last two fiscal years, fiscal 2009-10, and are anticipated to decrease again in 2011-12. Very little overdue PFB inventory remain unaddressed in this litigation system, which appears from available data, to be in equilibrium.¹⁴ Therefore, it is expected that the volume of closure in 2011-12 will continue the downward trend, and that this trend will continue unless some factor leads to increased PFB filing. The resulting cost per PFB closed is therefore likely to increase in coming years as PFB filing volumes decrease. The average cost per closed PFB over the nine-year period 2002-03 through 2010-11 was \$181.00 (depicted in the graph above by the red line).

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 nine (9) fiscal years are represented in this table, which total almost one hundred million dollars (\$98,426,419). When the Judges were given the responsibility for recovering these arrearages, no staff or budget was added to the OJCC to accomplish this charge. The volume of child support arrearages collected is particularly interesting when considered in light of the overall OJCC budget discussed above. Over the last nine (9) fiscal years, the OJCC has collected an average of 62% 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 operations. The comparison of child support recovery and the OJCC overall budget is illustrated in this graph.

Fiscal Year	Annual Budget	Support Recovered	% of Budget
02-03	\$16,522,910	\$11,031,544	67%
03-04	\$16,225,513	\$9,219,096	57%
04-05	\$16,792,731	\$8,238,113	49%
05-06	\$17,022,942	\$11,779,081	69%
06-07	\$18,032,059	\$12,266,091	68%
07-08	\$18,367,869	\$15,567,184	85%
08-09	\$18,253,550	\$10,951,854	60%
09-10	\$18,184,779	\$10,196,795	56%
10-11	\$18,145,746	\$9,176,661	51%



The decrease in child support collected in 2008-09 was significant, and the support volume has steadily declined in recent years. Notably, the volume of settlements that were approved by the Judges of Compensation Claims has likewise decreased in recent years, markedly for the last two fiscal years. Between 2008-09 and 2010-11, child support collections decreased approximately sixteen percent (16%) (\$10,951,854 - \$9,176,661 = \$1,775,193/\$10,951,854). During the same period, the volume of settlement orders entered decreased approximately seventeen percent (16.6%) (30,544 - 25,476 = 5,068/30,544).



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. In 2009-10 Florida began a process directed at consolidation of electronic mail services for all state agencies. This process will inevitably lead to loss of OJCC control over email capabilities as the agency is forced into effectively “leasing” e-mail services from a vendor. The potential exists that this loss of control may negatively impact the flexibility and innovative spirit that has led to many of the advances and initiatives described herein.

The OJCC is an adjudicatory system, a “court system” situated 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 paraprofessionals 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 marked 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.

In conclusion, the OJCC has been efficient and effective in managing litigation of workers’ compensation claims in recent years. The cost per Petition closed has been reasonable, and is well below even the filing fee charged by the Article V. Courts. The transition to a digital process and system, and the skill levels required to maintain that paradigm, justifies adjusting the OJCC budget to allow commensurate compensation for the personnel responsible for the successes described in this report.

NUMBER OF MEDIATION CONFERENCES HELD:

In an effort to provide greater detail regarding mediation efforts of the OJCC, a Settlement and Mediation Statistics Report was published in August 2010. The OJCC published the second annual Settlement and Mediation Statistics Report in August 2011. Both are available at www.fljcc.org under the “Notices, Orders and Reports” tab.

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 have been due in some part to the increased PFB filings that year. However, in 2009-10, the volume of mediations was 19,864 (157 less than in 2007-08), despite a markedly lower PFB volume that year compared to 2007-08. For the last three years, the trend has continued downward. Over the nine (9) year cumulative period ending June 30, 2011, PFB filings have decreased approximately fifty-seven percent (57%), while mediations conducted by State mediators have decreased approximately thirty-nine percent (39%). In 2010-11, almost eighteen thousand (17,896) mediations were held by state mediators, at a cost of approximately \$173.93 each.¹⁵ Many private mediators charge *hourly* rates well in excess of this figure, some as high as two hundred fifty dollars (\$250.00) per hour. Anecdotal evidence also supports that some private mediators charge minimum time commitment (such as a two-hour minimum) for all mediations scheduled. Therefore comparable services from private mediators would likely cost approximately five hundred dollars (\$500.00) compared to the OJCC cost of one hundred seventy-three and 93/100 dollars (\$173.93). Thus, the cost-efficiency of State mediation is obvious, averaging about sixty-nine percent (69%) of the cost of one hour of private mediation. Notably, this cost is included in the overall OJCC budget discussed above. Despite the cost per claim for the OJCC is far below the Circuit Court filing fees, the mediation process in workers’ compensation is included in that cost, compared to civil matters, which are all mediated at significant cost in addition to the court filing fees. 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	% Change	Mediations Held	% 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%
2009-10	67,971	-7.98%	19,864	-4.56%
2010-11	64,679	-4.84%	17,896	-9.91%

There are multiple possible explanations for the marked difference in the rates of decrease in PFB and mediation in recent years. The most likely explanation for this difference is the probability that private mediations were decreasing at greater rates. Anecdotal evidence supports this hypothesis, but anecdotal evidence is rarely as trustworthy as broader indicators. Most¹⁶ PFBs must be mediated before they may proceed to final hearing, 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, 2009-10 and 2010-11. This represents 100% statutory compliance by the OJCC state mediators in three consecutive years.

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 the OJCC Settlement and Mediation Report published August 2011.¹⁷

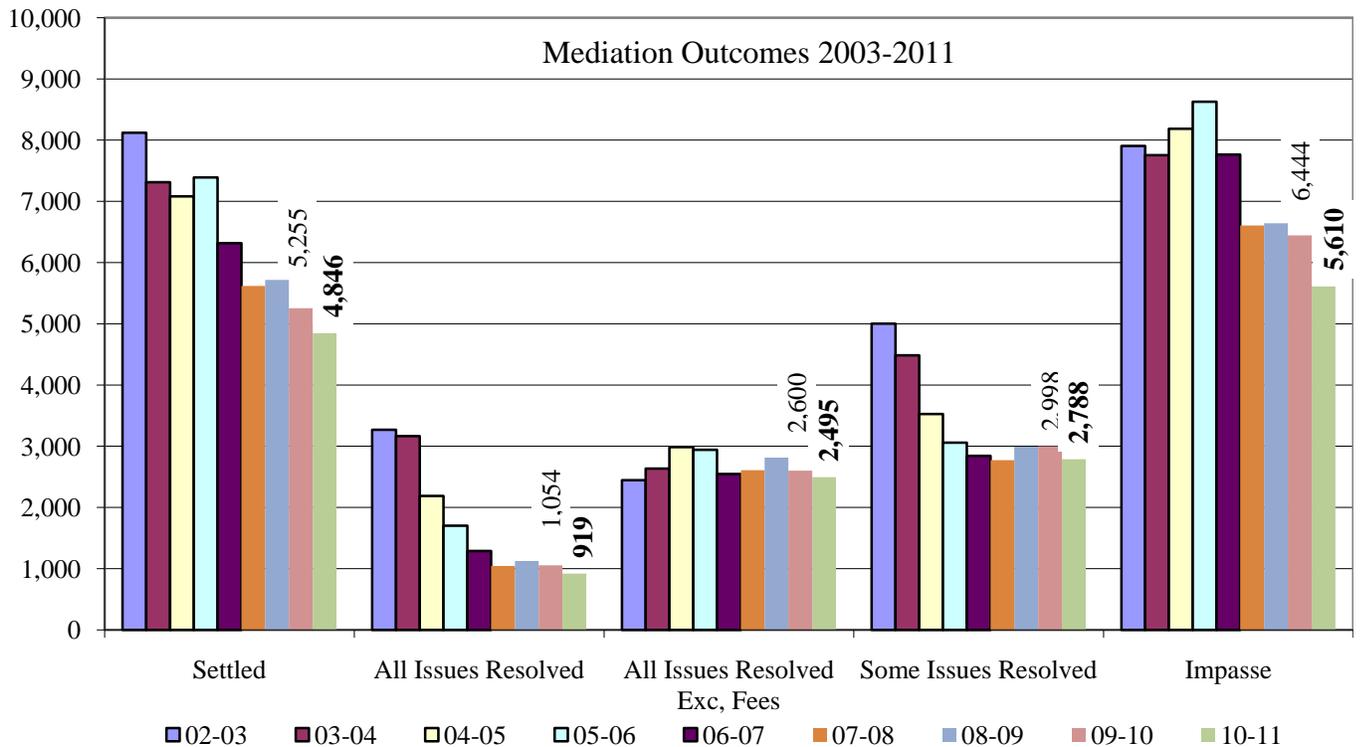
Fiscal Year	Petitions Filed	% Change	Mediations Held	% Change
2002-03	150,801		29,253	
2010-11	64,679	-57.11%	17,896	-38.82%

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 PFBs also include claims for ancillary benefits related to one or more of these substantive benefits, such as penalties and/or interest on late paid indemnity benefits, and attorney’s fees and costs for the prosecution of all claimed benefits in the PFB. Additionally, a mediation may include the issues from one PFB or several.

Therefore, the outcome of mediation is expressed in terms of what was resolved at that particular mediation. The characterization “impassé” 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 “impassé” (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 (“impassé”) 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 “impassé” on the right side of the graph. The graph below reflects the last nine (9) fiscal years for each of these outcome characterizations.



Notably, the steady increase in volume of mediations that result in resolution of no issues, “impassé,” slowed in 2006-07, remained reasonably consistent for three fiscal years, and markedly decreased in 2010-11. There has been a somewhat steady decrease in the volume of cases “settled,” although that trend paused briefly in 2008-09, which might have been related to the litigation of attorney fee calculations referenced above (see endnote 8, regarding Kauffman).

This table 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, compared to approximately twenty-seven percent (27.08%) in 2010-11. The category “all issues resolved” demonstrated significant decrease between 2004-05 and 2006-07, but has remained reasonably static between five and six percent (5%-6%) in recent years. Following several years of increased frequency in no resolution (“impasse”), the frequency of that outcome has decreased the last four fiscal years. The respective rates of the potential outcomes are set forth in this chart, illustrating the success rates of state mediation. The distinction between “settled” and “all issues resolved” is merely that “settled resolves all present and all future issues, while “all issues resolved” affects only the current and past issues, but leaves the case open for future disputes.

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%
2009-10	19,864	26.45%	5.31%	13.09%	15.09%	32.44%	7.50%
2010-11	17,896	27.08%	5.14%	13.94%	15.58%	31.35%	6.92%

State mediations are obviously very effective in resolving issues. Over the last nine (9) 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, and compliant record keeping has improved.

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 20), which affected virtually every Florida county. Those storms caused Carriers to close offices in central Florida (frustrating mediations in unaffected districts elsewhere) and caused district office closures at which the mediations would otherwise have been held. Those situations were far fewer in 2005-06 and 2006-07, which suggests that causes other than weather played some significant role in the volume of continuances during the period 2004 through 2007, see below. The mediation continuance trend reversed in 2006-07, and after remaining reasonably stable for two years, decreased significantly in 2009-10 and remained consistent in 2010-11.

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
2009-10	940	29	2.4
2010-11	963	30	2.5

Some portion of the stabilization is likely attributable to staff training, while some portion is also likely related to greater uniformity in scheduling throughout the state, leading to greater predictability for litigants and attorneys. Some portion of the 2009-10 and 2010-11 decreases is certainly related to the overall decrease in PFB filing.

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 PFBs 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 four fiscal years, and the rate of PFB filing decline had stabilized, the continuance rate as a percentage of

PFBs filed remained reasonably static in 2007-08 and 2008-09, and then decreased yet again in 2009-10 and 2010-11. This is likely interrelated to the decreased volume of petitions overall.

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 PFBs. Those effects were similarly seen in the long average time periods between PFB filing and first mediation and likely contributed to the very high average time between PFB filing and trial (which cannot occur until after mediation) in many divisions. Although the implementation of auto-scheduled mediations likely led, in part, to the increase in mediation continuances initially after implementation, that process promoted the timely mediation of all PFBs. 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, and that achievement was duplicated in 2009-10 and 2010-11. This evidences that the litigation environment can be enhanced through proactive docket management.

Fiscal Year	Petitions Filed	Mediations Continued	Med. Cont. v. PFB Filed
2002-03	151,021	2,755	1.82%
2003-04	127,458	2,036	1.60%
2004-05	107,268	3,333	3.11%
2005-06	90,948	4,756	5.23%
2006-07	82,607	2,336	2.83%
2007-08	72,718	1,328	1.83%
2008-09	73,863	1,302	1.76%
2009-10	67,971	940	1.38%
2010-11	64,679	963	1.49%

NUMBER OF CONTINUANCES GRANTED FOR FINAL HEARINGS:

The volume of trial continuances system-wide decreased markedly between fiscal 2003-04 and 2006-07. The volume of continuances per Judge increased slightly thereafter, but returned to 2006-07 levels in 2009-10. That trend is likewise demonstrated in the figures for 2010-11, marking a consistent trial continuance volume in the OJCC. 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 PFBs 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 by that particular Judge. 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 greater efficacy of either alternative. However, it is probable that the rate of continuance decreases in proportion to the amount of advance notice received. Thus, the earlier the trial is noticed, the less likely parties are to require a continuance.

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
2009-10	4,129	129	10.8
2010-11	3,682	115	9.6

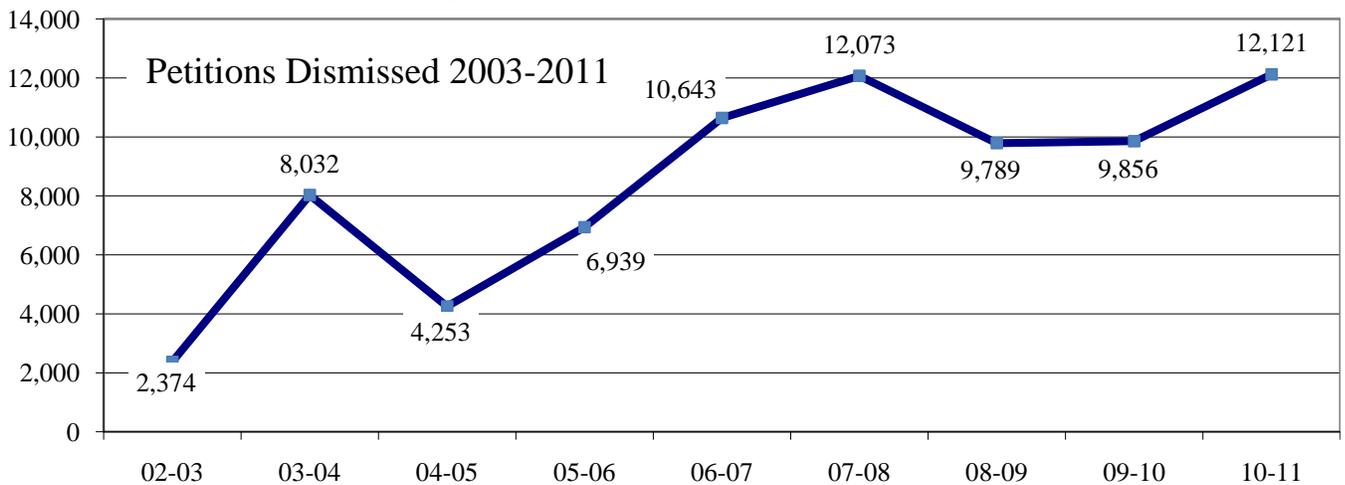
The available data supports that trial continuances per JCC have declined from seventeen and one-half (17.5) per month in fiscal 2002-03 to approximately ten (9.6) per month in fiscal 2010-11. This illustrates a marked system-wide decrease in trial continuances in recent fiscal years. This downward trend 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.

It is notable that 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 2004.¹⁸ The cyclone activity has been minimal in more recent years, and coincidentally continuance rates have stabilized. Though this factor presents a challenge, it is believed that the OJCC is more prepared to absorb the effects of such emergencies in the future, having made adjustments to process in response to the prior heavy storm season issues.

OUTCOME OF LITIGATED CASES:

Once a case is assigned to a Judge, the JCC Database Application “auto-schedules” an appointment for State mediation. The e-JCC program (e-filing) informs each Judge of new electronic PFB assignments. The Central Clerk uploads each manually filed (paper) PFBs to the OJCC database program, which likewise then informs the assigned Judge. The portable document format (PDF) image of the PFBs, whether e-filed or scanned by the clerk, then becomes the OJCC “original,” and is accessible by any Judge in the state for viewing. The combination of attorneys using e-filing (e-JCC) and this clerk upload process has resulted in significant postage savings in the last three fiscal years. 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 significant 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 (PFBs) 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 PFBs 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 PFBs, 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 PFBs dismissed prior to mediation increased markedly from 2004-05 through 2007-08 as illustrated in this graph. However, in 2008-09, the volume of PFBs dismissed prior to mediation dropped significantly from 12,073 to 9,789, and the volume remained consistent in 2009-10, followed by a significant rebound in 2010-11.



The increase in dismissals in the graph is significant in gross terms. Any petition might be dismissed in the same fiscal year during which it was filed. Similarly, however, a petition might be filed one fiscal year and dismissed in the next, or even subsequent to the year immediately after. Despite the potentiality of such temporal differences, the comparison between PFB filed and PFB dismissed before mediation, admittedly not a perfect

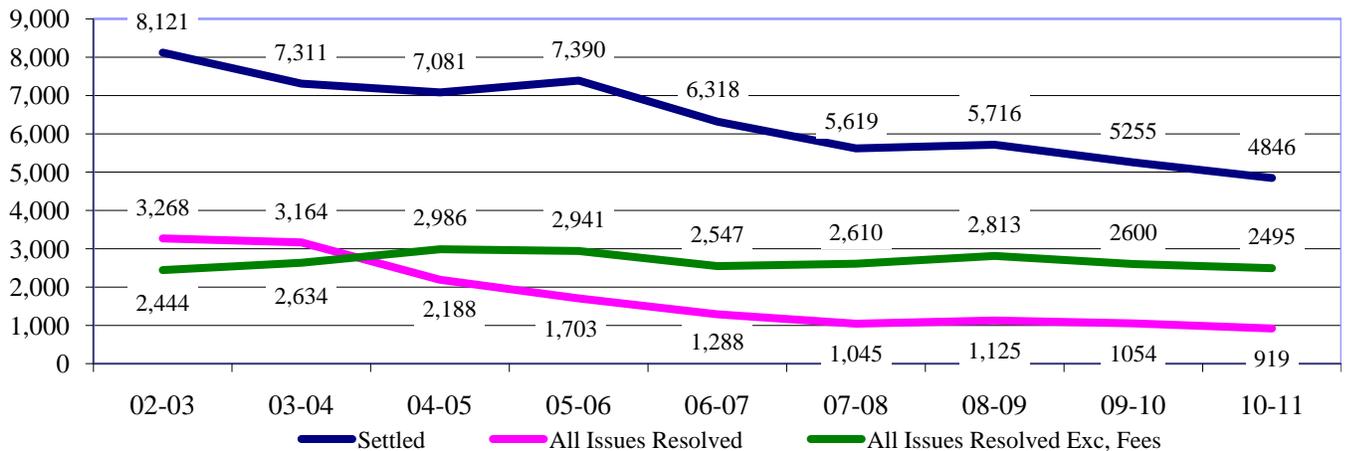
comparison, is nonetheless illustrative of a notable trend of a seemingly increasing trend to dismiss PFB. This trend may be attributable to the attorney fee limitations imposed by the 2009 legislative reaction to Murray (see endnote 6), or perhaps to the imposition of “prevailing party” costs awardable to the Employer/Carrier by the 2003 legislative amendments. Although the 2003 amendments are eight years past, recent appellate decisions have brought them into clearer focus.¹⁹

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 (40th) day after the PFB is filed, the notice of mediation is sent 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, use of postage and envelopes has become minimal, with only self-represented (“pro-se”) litigants receiving paper copies by U.S. Mail. 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, and minimizes the effort of district staff in monitoring case status.

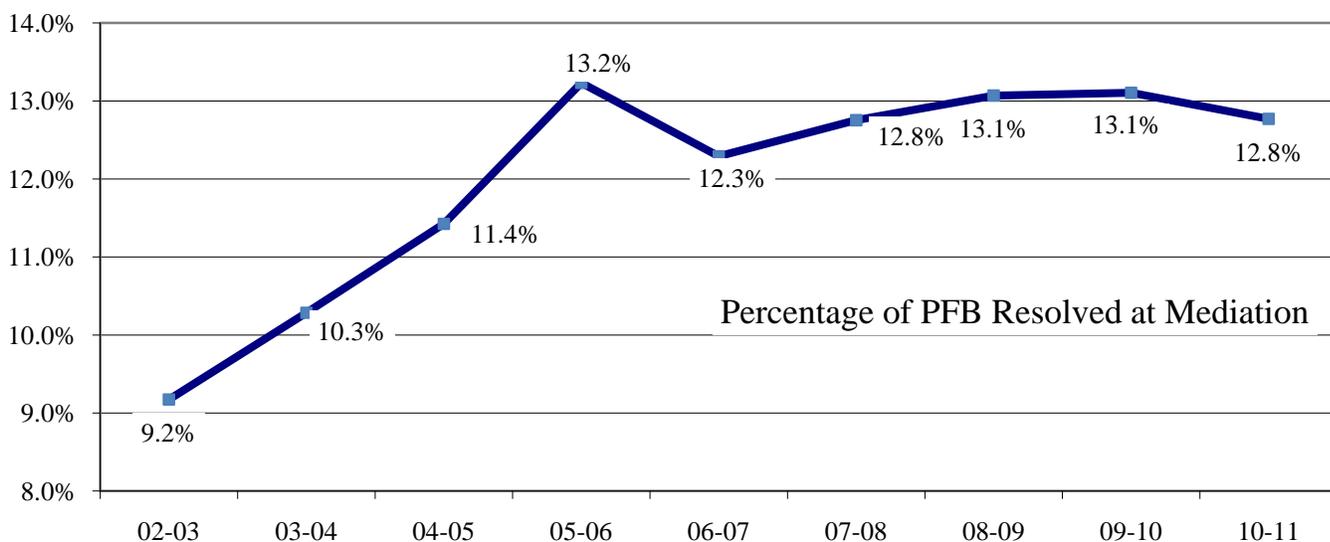
Fiscal Year	PFB Filed	PFB Dismissed Before Mediation	% Dismissed Before Mediation
02-03	151,021	2,374	2%
03-04	127,458	8,032	6%
04-05	107,268	4,253	4%
05-06	90,948	6,939	8%
06-07	82,607	10,643	13%
07-08	72,718	12,073	17%
08-09	73,863	9,789	13%
09-10	67,971	9,856	15%
10-11	64,679	12,121	19%

As discussed in prior annual reports, auditing revealed that significantly more PFBs resolved “prior to” mediation than the OJCC previously reported, 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 PFBs 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 PFBs that resolved on the eve of mediation as if the mediation had in fact occurred (“all issues resolved”), rather than as “resolved prior.” This practice was described and published in the 2006-07 OJCC Annual Report. Since that time, it appears that this practice has decreased markedly.

Once a mediation conference is convened, any of the following mediation outcome characterizations would reflect that the pending PFB(s) has been resolved, and no final hearing would be required (although an attorney fee entitlement and/or amount hearing may be necessary): “Settled,” “All Issues Resolved,” and “All Issues Resolved Except for Fees.” When these three (3) mediation outcomes are combined, the total reflects the frequency at which the pending PFB(s) is resolved at mediation. The JCC Application does not, however, capture data which reflects whether, in such mediation, one or multiple discrete PFBs were resolved. This graph illustrates the combination of these three (3) outcomes in each of the last nine (9) fiscal years.

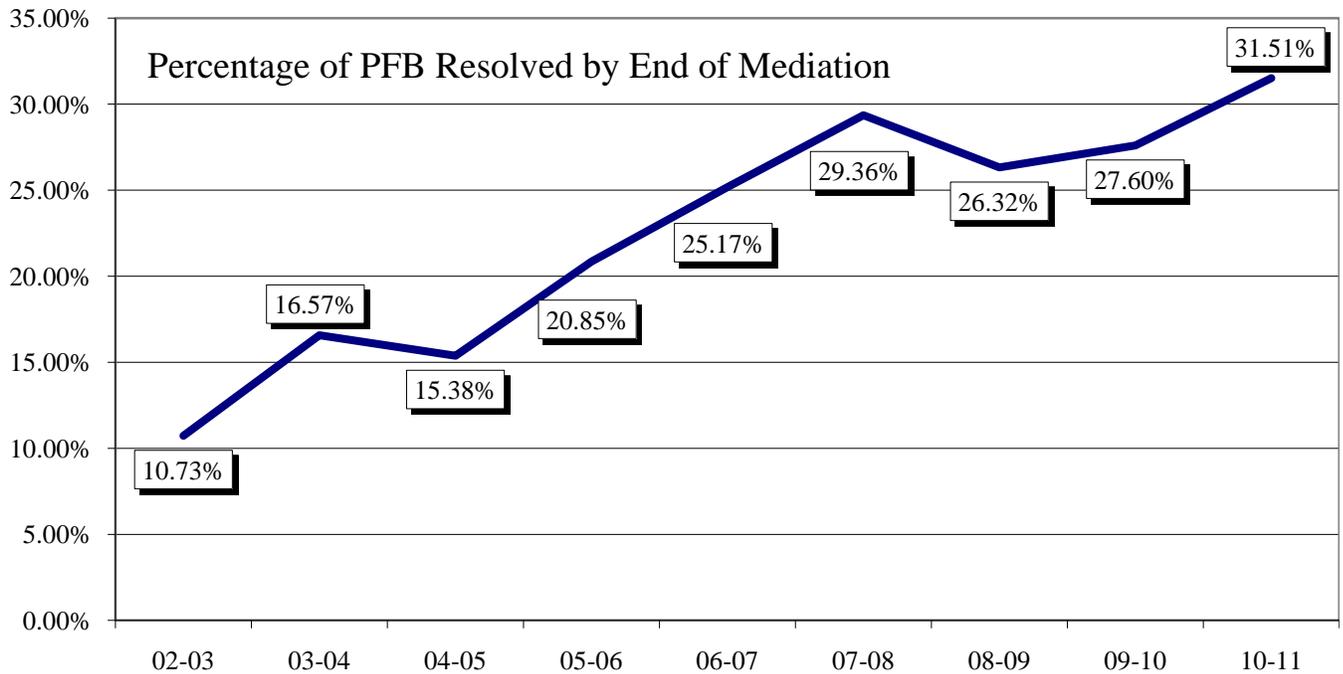


The total number of such resolutions at mediation has been decreasing each year, as has the total volume of PFBs filed. It is significant that this measure reflects only the resolution of all substantive issues in that PFB (“settled,” “all issues resolved,” and “all issues resolved except fees”). Therefore, while this statistic represents the number of PFBs resolved at mediation, it does not 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 PFBs as resolving at mediations that did not in fact occur. When the total reported volume of PFBs resolved at mediation is expressed as a percentage of the PFBs “filed” during the same fiscal year, the graph below illustrates the overall percentage frequency of resolution at mediation.



This illustrates that the raw volume of PFBs resolving at mediation is consistent despite the decreasing volume of PFBs filed.

An important issue for JCCs is the volume of PFBs that remain for resolution or adjudication after mediation has occurred. Those that remain after mediation has concluded must be scheduled for pretrial hearing and final hearing (unless the PFB was already scheduled for these at the time mediation was scheduled). This illustrates the additional staff labor burden affected by monitoring cases for resolution and noticing trial only after mediation. These remaining PFBs are also very likely to contribute to the assigned JCC’s motion calendar. Simply stated, the greater the volume resolved by the conclusion of mediation, the less the volume that must be further managed, pre-tried and heard. If the volume of PFBs dismissed prior to mediation is combined with the volume of PFBs that were resolved at mediation, the graph below illustrates the percentage of PFBs filed that were resolved either before or at mediation during the last nine (9) fiscal years. This illustrates that in 2010-11, approximately sixty-eight percent (68.49%) of PFBs filed include some issue or issues that remain unresolved at the conclusion of mediation. This is a decrease compared to the two prior fiscal years. Recognizing that workers’ compensation benefits are “serial” in nature, these outcomes are not unexpected. These macro figures also ignore that many issues in a discrete PFB 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. § 440.34.²⁰ 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)²¹ 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, although claimant’s attorneys and groups have questioned this interpretation. Recently, other states have announced efforts to investigate defense attorney payments.²²

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
09-10	\$176,996,765
10-11	\$157,081,084

The OJCC has required insurance carriers to report their respective total annual expenditures for aggregate defense fees.²³ The reporting requirements in fiscal year 2011 require that reporting by September 1 of each year.

Because these defense fee 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 2010-11 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). Those figures have therefore been corrected in this annual report, as noted in the chart here.

During 2010-11, a total of four hundred twenty-seven million, nine hundred fifty-two thousand one hundred seventy dollars (\$427,952,170) was expended on combined claimant fees and defense attorney’s fees²⁴ (and perhaps

defense “costs”) in the Florida worker’s compensation system. This represents an approximate six percent (6.27%) reduction from the 2009-10 aggregate fees of four hundred fifty-six million, five hundred sixty-six thousand eight hundred eighty-two dollars (\$456,566,882). The 2010-11 aggregate (\$427,952,170) is very similar to the 2002-03 aggregate (\$430,705,423) overall. The claimant attorney fee aggregate for 2009-10 is the seventh 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	2.65%
09-10	\$176,996,765	-2.57%	\$279,570,117	0.69%
10-11	\$157,081,084	-11.25%	\$270,955,703	-3.08%

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 generally decreased slowly (approximately 1% - 2%) annually between 2003 and 2005. In 2006-07, a more significant decrease of over eight percent (8.24%) occurred in Claimant’s attorney fees. The aggregate Claimant’s attorney fees decreased significantly in 2008-09 (3.73%), and 2009-10 (2.57%), however these significant decreases are somewhat nominal compared to the 2010-11 decrease of approximately eleven percent (11.25%). In sum, over the eight year period since 2002-03, claimant fees have decreased over twenty-five percent (25.43%) and defense fees have increased over twenty-three percent (23.1%). 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 2010-11 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 eight (8) years since the statutory revisions in 2003.

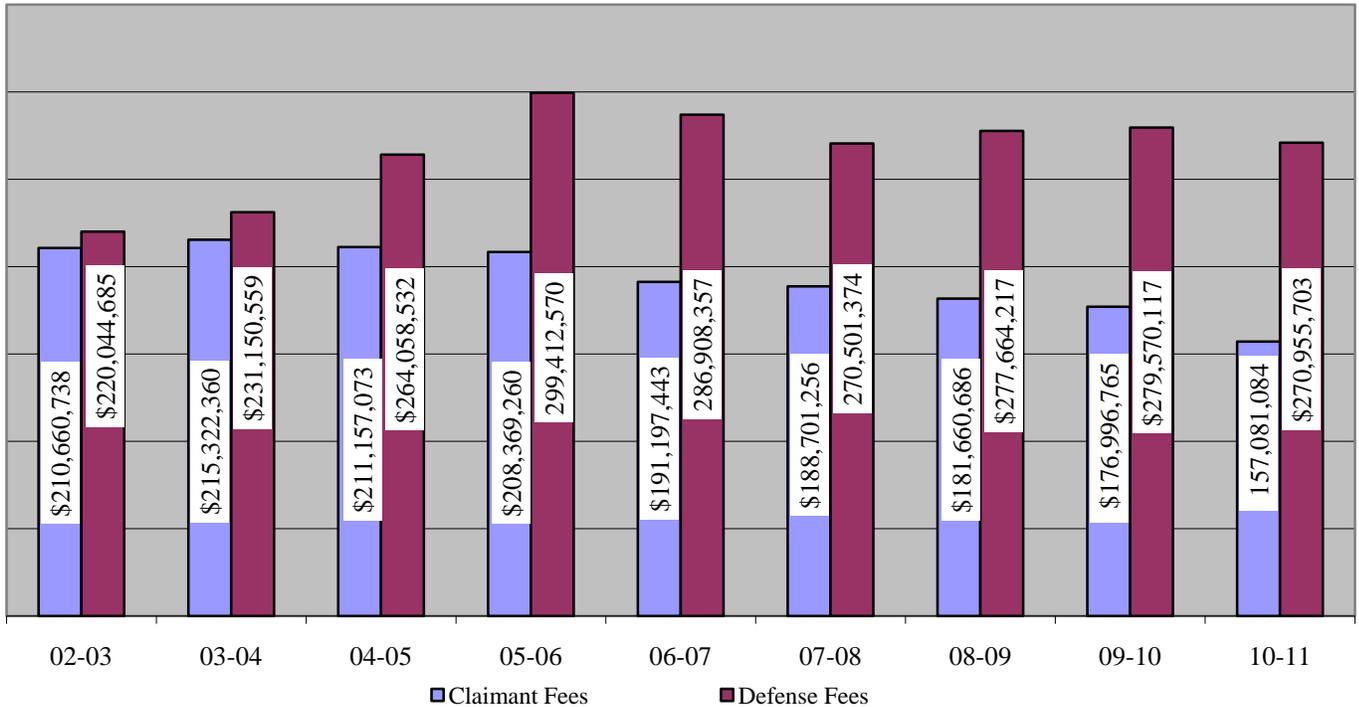
Fiscal Year	Claimant Attorney Fees	Percent change	Defense Attorney Fees	Percent change
02-03	\$210,660,738		\$220,044,685	
10-11	\$157,081,084	-25.43%	\$270,955,703	23.14%

The overall trend of aggregate fees has been reasonably static for the three years 2007-08 through 2009-10, a trend that has not continued in 2010-11. Likewise the trend in clamant attorney fees has been consistent decrease. The defense fee trend has been less consistent and punctuated with marked increases and decreases in various years. Over the last nine years, however, the “balance” between claimant and defense has been markedly altered. In 2002-03, approximately forty-nine percent (48.9%) of aggregate fees were claimant and approximately fifty-one (51.1%) were defense. In 2010-11 the claimant fees account for only approximately thirty-seven percent (36.7%) of the aggregate and defense fees have increased to approximately sixty-three percent (63.3%), illustrated in this chart. Some argument could be made that the aggregate of fees would be expected to decrease in some relation to the decrease in PFBs filed. While this comparison may be validly made, it is complicated by the time lag between PFB filing and closure. Because that period of litigating between filing and closure might be years in some instances, fees paid last fiscal year might have related to PFBs filed in the prior year, or even many years earlier. This is further complicated by

Fiscal Year	Aggregate Fees	Claimant %	Defense %
02-03	\$430,705,423	48.9%	51.1%
03-04	\$446,472,919	48.2%	51.8%
04-05	\$475,215,605	44.4%	55.6%
05-06	\$507,781,830	41.0%	59.0%
06-07	\$478,640,476	39.9%	60.1%
07-08	\$459,202,630	41.1%	58.9%
08-09	\$459,324,903	39.5%	60.5%
09-10	\$456,566,882	38.8%	61.2%
10-11	\$428,036,787	36.7%	63.3%

Because that period of litigating between filing and closure might be years in some instances, fees paid last fiscal year might have related to PFBs filed in the prior year, or even many years earlier. This is further complicated by

the fact that an attorney may elect to wait years after obtaining a benefit before filing the necessary motion for determination of the fee entitlement or fee amount. It is this later filing which results in either compromise or adjudication of that fee. Furthermore, significant fees were paid last year on settlement of cases in which no PFBs 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.

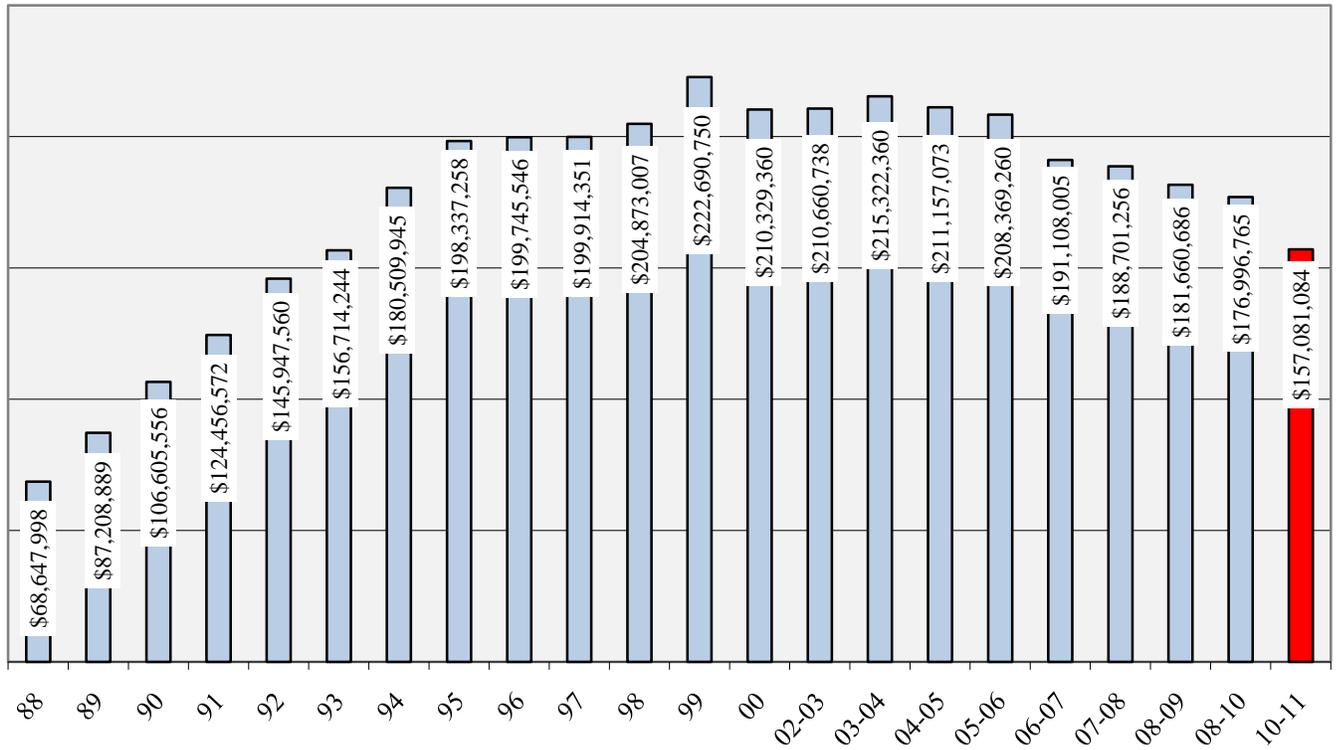


The DLES compiled data regarding the attorneys fees paid to claimant’s counsels for a number of years. In the DLES 2001 Dispute Resolution Report, fees for calendar years 1988 through 2000 were reported. These figures are helpful for broad comparisons with current fees and trends. However, it is important 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 easily differentiate fees from costs 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 (perhaps fees plus costs) paid from 1988 through 2000 and the claimant fees paid from fiscal 2002-03 through 2009-10. The level of aggregate claimant’s attorney fees in 2010-11 is the lowest it has been since 1993. This may be significant in light of the history of Florida workers’ compensation. Workers’ compensation was enacted in Florida in 1935. Although there were statutory modifications thereafter, a major revision of the law was passed in 1979, which has been referred to as the “shift to wage loss.”²⁵ In a 1994 legislative special session, there was a “retreat to an impairment-based system.”²⁶ As discussed above, the effect of the 1994 legislation was a marked period of growth in petitions for benefits filings. Contrary to the legislature’s intent of decreasing litigation in 1994, pleading increased. Despite that conclusion, the data below supports that aggregate fees increased after 1994 but that the increase did not match that of petition filing. This may be explained by the election of claimant’s counsel not to file fee claims after the award of



The OJCC and others formed the National Association of Workers’ Compensation Judiciary. Judge Lazzara (left) was the inaugural President, succeeded by Judge Lorenzen (right). They are pictured here as Judge Lorenzen presents a plaque recognizing outstanding service to Judge Lazzara.

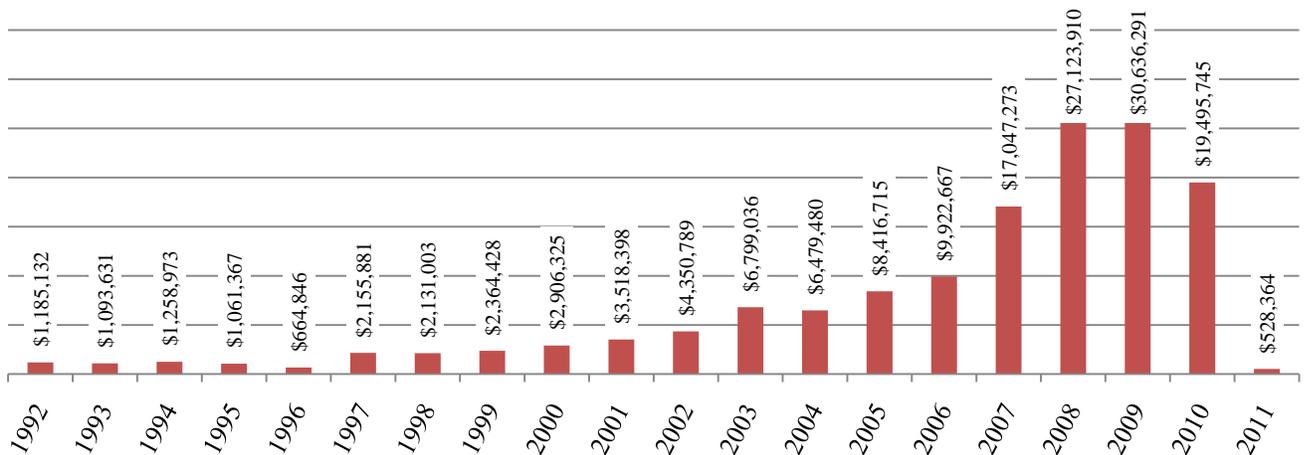
benefits in the past. It is possible a significant volume of such fees issues remain outstanding, including entitlement and/or amount. These may remain outstanding for determination, and thereafter payment, for a number of years.



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. This chart illustrates how many different accident years generated fees in each of the last five fiscal years.

Fiscal Year	Different Years Fees Paid
2006-07	46
2007-08	47
2008-09	47
2009-10	48
2010-11	45



The claimant fees approved in fiscal 2009-10, for accident dates in the last 20 years are illustrated in the above graph. The vast majority, approximately seventy-six percent (75.8%), of the fees approved in 2010-11 related to accident dates in the seven years between January 1, 2004 and December 31, 2010. This is reasonably consistent with the distribution of fees by accident year reported in prior OJCC Annual Reports. Generally, the highest single “accident date year” in this annual analysis is the year two years prior to any particular Annual Report. This is illustrated again above for 2010-11 with the 2009 accident fees (\$30,636,291, or 20%) the highest single year illustrated.

Fiscal Year	Highest Fee Accident Year	Dollar Amount
2007-08	2006	\$31,929,514
2008-09	2007	\$32,890,123
2009-10	2008	\$40,364,949
2010-11	2009	\$30,636,291

This illustrates two points. First, the most recent accidents historically account for the vast majority of Claimant’s attorneys fees approved or awarded each fiscal year; second, the most significant accident year for Claimant’s attorney fees is usually two years prior to the reporting year. This is overall consistent with the resolution of cases demonstrated above. Petitions are filed, the state mediation process and expedited final hearing and final hearing processes engage, and as resolution occurs, the fee issues are resolved.

Fiscal Year	Fees on Accident dates > 20 years
2005-06	2%
2006-07	4%
2007-08	5%
2008-09	6%
2009-10	6%
2010-11	5%

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 to 5% in 2007-08 and it has fluctuated between 5% and 6% since that time. This illustrates that claims on dates of accident older than twenty years do not represent a significant portion of the fee awards and stipulations.

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

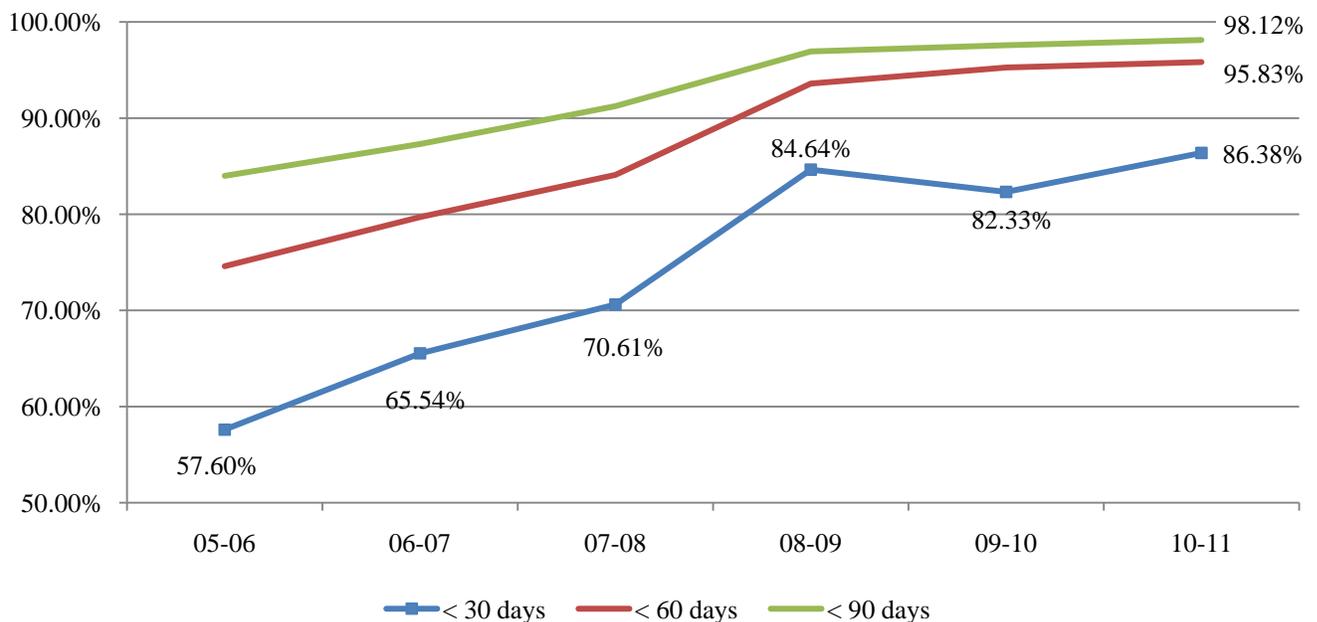
Many legitimate reasons may require a trial to be reconvened on a second or even third day after the initial trial date. However, anecdotal evidence supports that such a process was historically employed by a minority of Judges to delay record closure and artificially extend statutory deadlines. Determination 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 very small minority of cases, the OJCC reports the number of cases in which the final order is entered within thirty days of the final hearing initially convening.

Days	Percentage Entered 05-06	Percentage Entered 06-07	Percentage Entered 07-08	Percentage Entered 08-09	Percentage Entered 09-10	Percentage Entered 10-11
30	57.60%	65.54%	70.61%	84.64%	82.33%	86.38%
40	66.70%	71.23%	76.88%	89.20%	89.26%	91.86%
50	71.90%	76.87%	81.02%	91.77%	93.16%	94.84%
60	74.60%	79.72%	84.09%	93.59%	95.26%	95.83%
70	78.60%	82.97%	86.93%	95.05%	96.32%	96.97%
80	81.60%	85.14%	89.30%	95.83%	97.02%	97.50%
90	84.00%	87.31%	91.25%	96.93%	97.58%	98.12%
100	85.50%	88.60%	92.79%	97.45%	98.14%	98.49%

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 through fiscal 2010-11 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

steadily through 2008-09, and after a slight decrease in 2009-10 was approximately eighty-six (86.38%) in 2010-11. Thirty-one of thirty-four²⁷ Judges averaged less than 30 days on the entry of their respective trial orders in 2010-11. Coincidentally, this represents eighty-five percent (85%) of the Judges that entered trial orders during 2010-11.

As represented in this table, final orders were entered in under one hundred (100) days in approximately eighty-six percent (85.5%) of all cases in 2005-06 and in approximately ninety-eight percent (98.12%) of the cases in 2010-11. This clearly illustrates the professionalism and focus of the Judges currently serving Florida in the OJCC. For final orders entered during fiscal 2006-07 through 2010-11, the shortest period between final hearing and final order has consistently been zero (0) days. During fiscal 2006-07 the longest period was two thousand, nine hundred eleven (2,911) days, or approximately eight years. In 2010-11 the longest period was four hundred twenty-one (421) days, or approximately one and two-tenths years. This represented a decrease in the longest time to order of almost two thousand five hundred (2,490) days, a decrease of over 85%. With the current statutory mandates in place regarding appointment of expert medical advisors (EMA), there will likely continue to 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 procedural process. However, the OJCC continues to make significant improvement in this measure. It is pertinent that the overall volume of trial orders increased in fiscal 2009-10 (from 1987 in 2008-09 to 2151), and yet the timeliness of trial order rendition improved.



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

The disparate salary and benefit issues for Judges of Compensation Claims, OJCC mediators and staff are detailed in the 2008-09 OJCC Annual Report. These disparities are a frustration to the efficient operation of this Agency and are wasteful of resources. The disparities lead inexorably to staff turnover and significant time and financial costs involved in recruiting, acclimating and training replacements. The pay equity recommendations in the 2008-09 report are reiterated.

- Judicial appointments should be amended to six years.
- Judicial pay should be increased and tied to County Court salaries.
- State mediator pay should be increased and tied to Judicial salaries.
- Resources should be provided to establish pay equity for OJCC staff.

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.

Judicial approval of agreed attorney fees and cost reimbursements should be eliminated.

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.

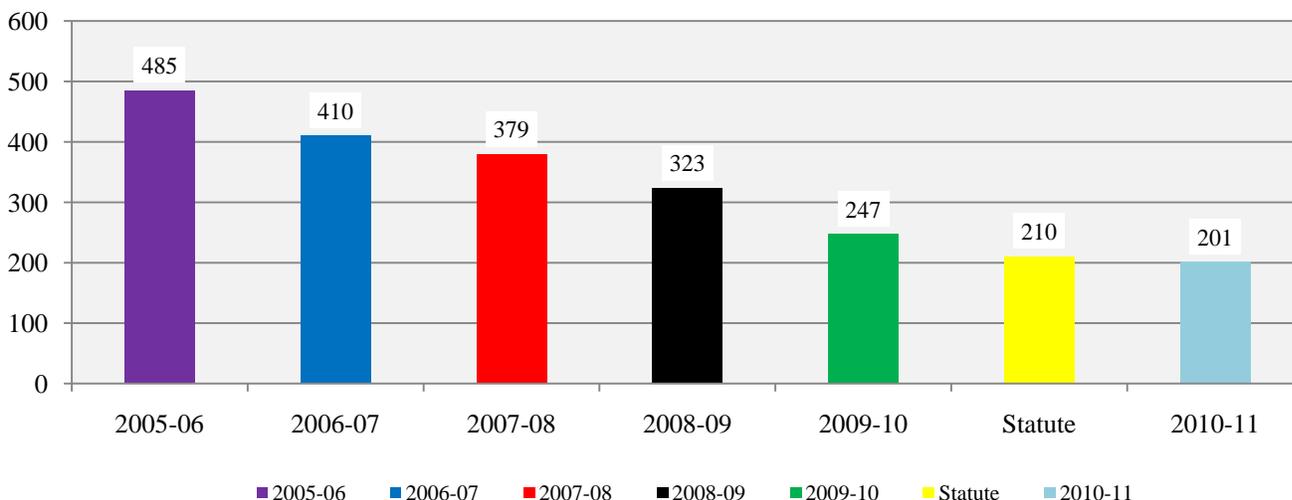
Use of EMA provisions should be discretionary rather than mandatory.

The OJCC again recommends further consideration of these three previously expressed concerns.

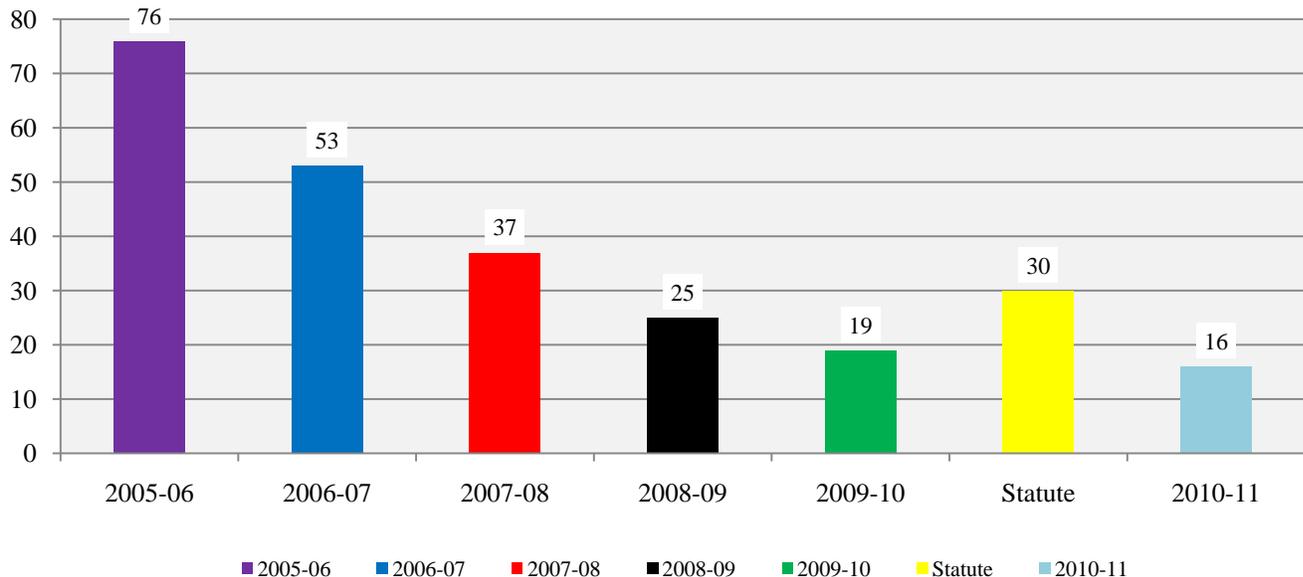
JUDGES GENERALLY ARE UNABLE TO MEET A PARTICULAR STATUTORY REQUIREMENT FOR REASONS BEYOND THEIR CONTROL, THE DEPUTY CHIEF JUDGE SHALL SUBMIT SUCH FINDINGS AND ANY RECOMMENDATIONS TO THE LEGISLATURE:

There are three main statutory requirements for the Judges of Compensation Claims. Judges are expected to have the cases assigned to them proceed to mediation within 130 days and proceed to trial within 210 days. These two are somewhat within the control of the presiding Judge, although there are many circumstances that can extend the required time, such as carrier bankruptcy, expert medical advisors, scarcity of qualified physicians within the geographic area and others. The final statutory requirement is that trial orders are issued within 30 days of trial. This is a parameter that is within the control of the presiding Judge.

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. There can be no generalized 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. Within the facts of a particular exceptional case, however, these standards 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 six fiscal years (2005-06 through 2010-11) one hundred percent (100%) compliance with these requirements was achieved by some individual Judges. Overall, the OJCC did not meet all of these measures until 2010-11. The overall OJCC average time from operative pleading to commencement of trial has decreased 59% (284/485) over the last five fiscal years. As illustrated in the following graph, the OJCC overall average is within the statutory parameter of 210 days.²⁸

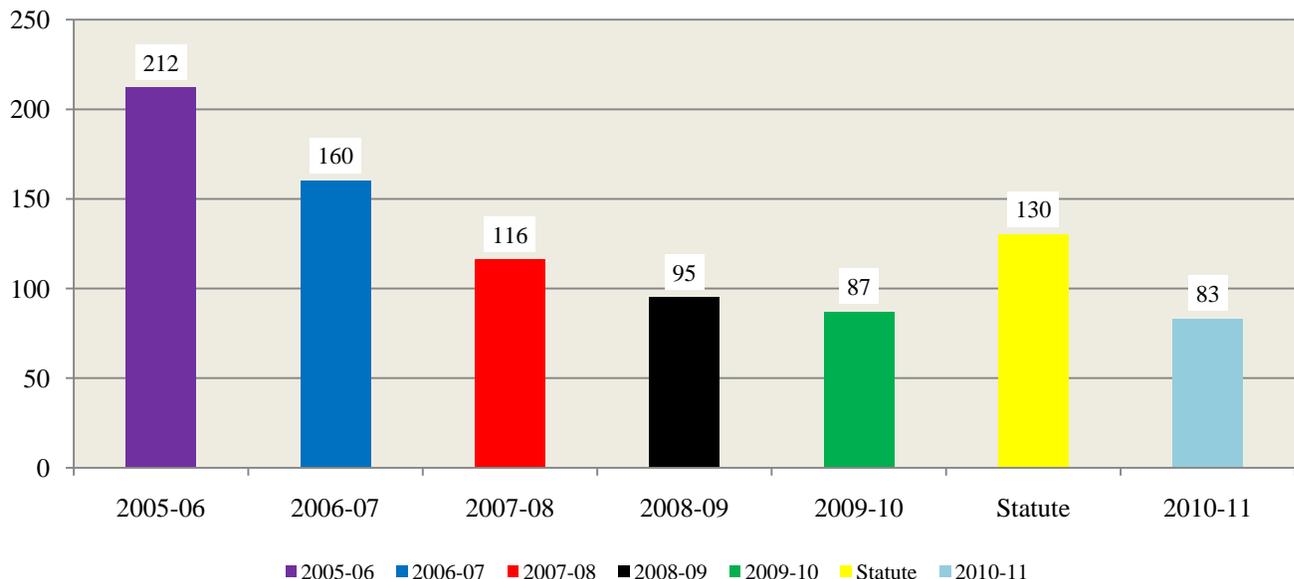


The Office of the Judges of Compensation Claims has also made significant improvement in the average time period between the commencement of the trial and the entry of the final order thereon.²⁹ The overall statewide average period from trial to the entry of the trial order has decreased more than 79% (60/76) over the last five 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 the Judges of Compensation Claims. In 2010-11 13% of “second continuances” were attributed to EMA. 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 79% is a dramatic improvement. For the last three fiscal years, 85% of the Judges averaged less than 30 days to final order entry. This metric is expected to demonstrate continued improvement.

Another impressive improvement is the marked 61% decrease (129/212) 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, 2009-10 and 2010-11. Clearly, the efforts on timely customer service are improving the value that the OJCC brings to the lives of Floridians.



Statutory Measures:

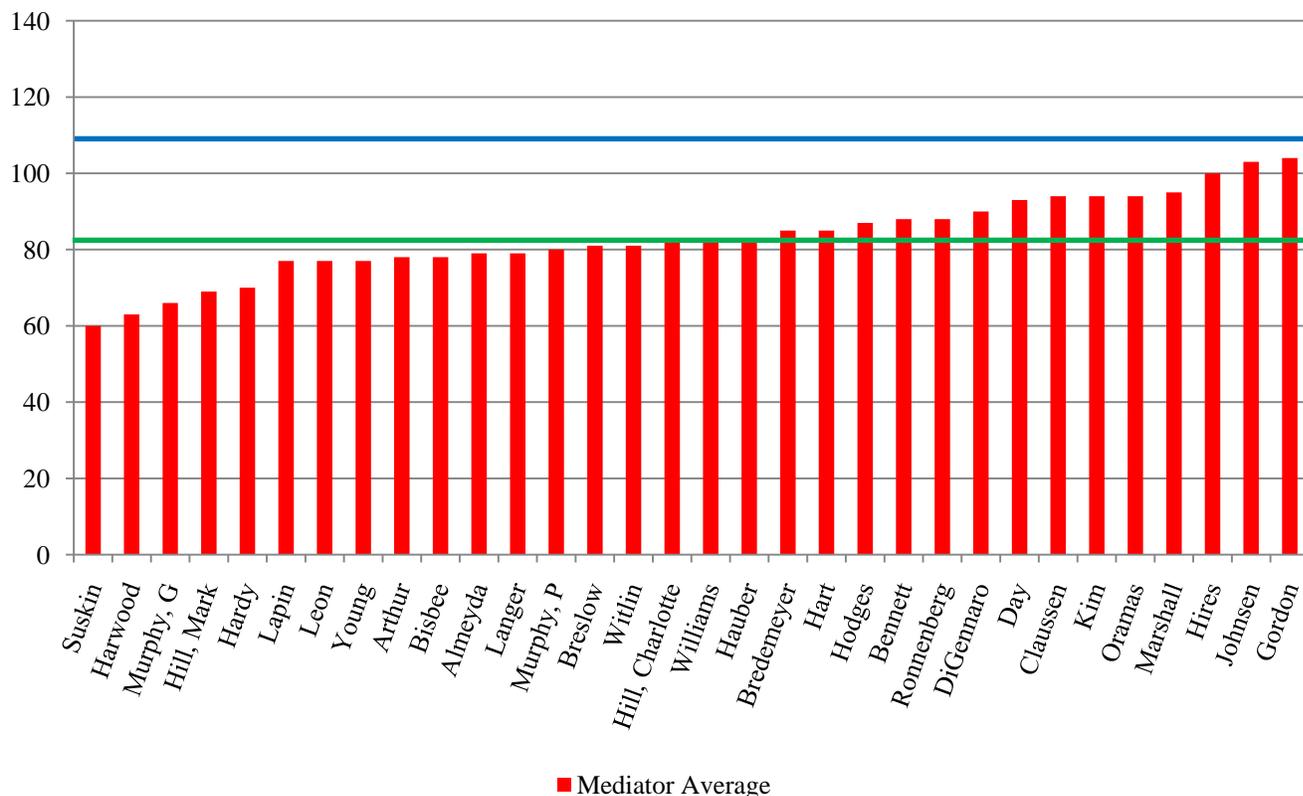
Judges of Compensation Claims (JCC) are appointed by the Governor for a term of four (4) years. A JCC may thereafter be re-appointed by the Governor for successive four year terms. The re-appointment process is to be initiated approximately six (6) months prior to the expiration of the JCC's terms with review of the Judge's performance by the Statewide Nominating Commission (SNC). Fla. Stat. § 440.45(2)(c),³⁰ 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)³¹(timely mediation), Fla. Stat. § 440.25(4)(a)³²(pretrial procedure), Fla. Stat. § 440.25(4)(b)³³(appropriate continuance grounds and orders) , Fla. Stat. § 440.25(4)(c)³⁴(timely final hearing notice), Fla. Stat. § 440.25(4)(d)³⁵(timely final hearings and final orders), Fla. Stat. § 440.25(4)(e)³⁶(final order filing), Fla. Stat. § 440.34(2)(appropriate fee order findings), Fla. Stat. § 440.442³⁷(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). This Report and the two immediately prior reports 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 and 2009-10. 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. Likewise, "trial orders" include substantive orders issued after hearings on evidentiary matters, where inclusion of that order in the statistics is consistent with the time and effort involved in that order/hearing being a substantial equivalent to a hearing on a petition for benefits.

Mediation:

Timeliness of mediation 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 (horizontal green line). All figures are below the 130 day statutory parameter (blue line). 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. Greater detail regarding the success of state mediation within the OJCC is provided in the 2011 Settlement and Mediation Report,³⁸ available under the "Notices, Orders and Reports" tab on the OJCC website, www.fljcc.org.



The data for this measure indicates significant improvement in the frequency of timely mediation. Since fiscal year 2005-06, the statewide average for all state mediators has decreased from 212 days to 83 days. In 2007-08 twenty-two (69%) of the state mediators had an average of less than 130 (the statutory period) from PFB filing to the first mediation; in 2008-09, 2009-10, and 2010-11 **one hundred percent** of the state mediators had an individual average that was within the 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 2010-11 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.

Docket review of the 32 divisions, within the seventeen OJCC District Offices, supports the conclusion that each OJCC division is in compliance with the requirement of timely pretrial notice.

Final Hearing Notice:

Timely notice of final hearing 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 2010-11 statistical audit of case dockets supports that timely notice is being provided for all final hearings. Some case dockets do not contain automatic docket remarks because that particular Judge has elected not to utilize the database function which uses automation for producing the trial notice. As mentioned above, the absence of any complaints of untimely final hearing notice also anecdotally supports that appropriate statutory notice is being provided. The OJCC continually monitors and audits to assure compliance with this requirement.

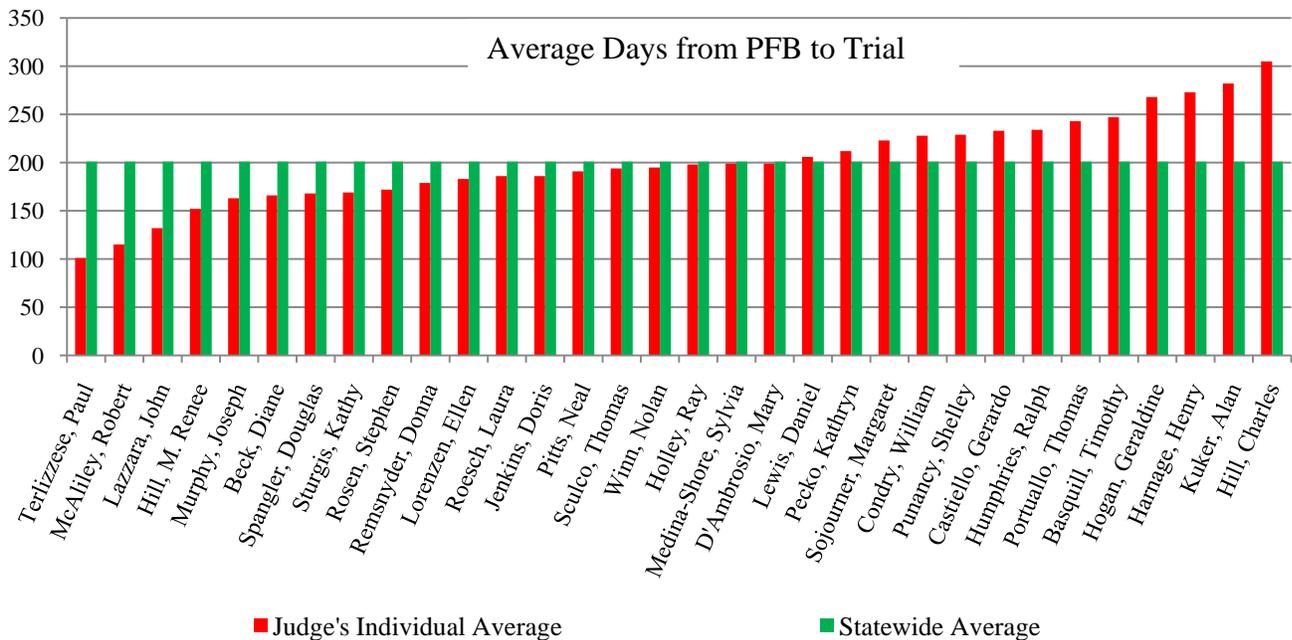
Final Hearing Continuance:

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.

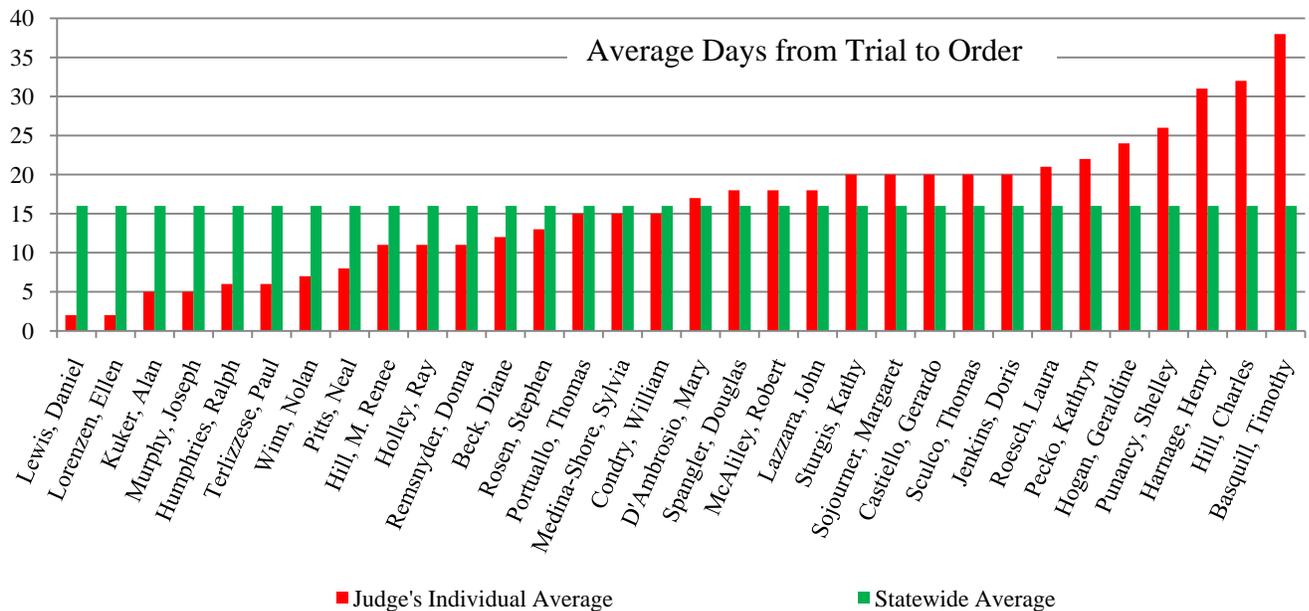
Continuance of final hearings is addressed in Fla. Stat. § 440.25(4)(b). This statutory measure requires that the Judge generally only grant a continuance in defined circumstances. Ten continued final hearings were randomly selected for each Judge during 2008-09 (except those Judges whose assignments 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. Comparable examination in 2009-10 and 2010-11 have yielded the conclusion that most divisions remain in substantial compliance with this statutory parameter.

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 2010-11 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 201 days in 2010-11, down from 247 days overall in 2009-10.



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 16 days in 2010-11, down from 19 days in 2009-10.



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. As an aid to the public, the OJCC initiated a program in 2009-10 which provides a list of “recent trial orders” to the public on the OJCC website, www.fljcc.org. This listing is automatically updated each time a division complies with this statutory requirement and uploads a trial order.

Attorney’s Fee Orders:

Contents of attorneys fee orders is addressed in Fla. Stat. § 440.34(2).³⁹ 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 (see above and endnotes 24-25). 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 or 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. This is one of the reasons that fees awarded or approved in each fiscal

year often include fees for dates of accident in the reasonably remote past, see above. 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.

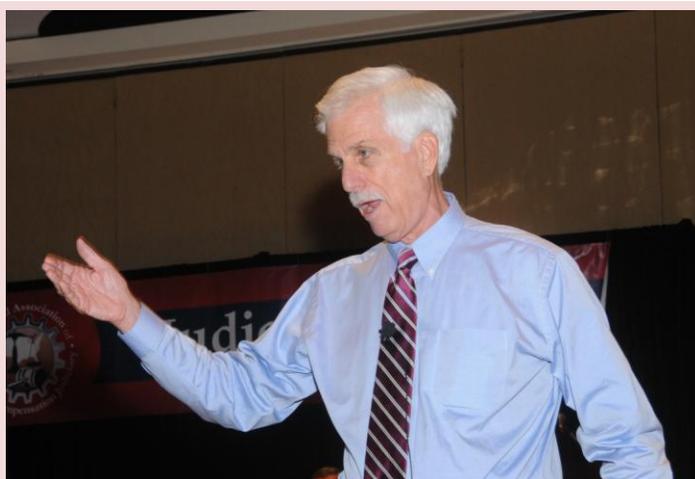
The OJCC audited JCC orders awarding contested attorney's fees for fiscal 2009-10. This audit revealed overall compliance with the statutory requirements for order content found in Fla. Stat. § 440.34(2). The same conclusion was reached following 2010-11 audits. As the OJCC progresses with the ability 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 comply 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 2009-10. 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 again in the 2010-11 data output which demonstrates the general 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. In 2009-10 the OJCC participated in a process of support for the deployment of electronic filing at the Appellate Courts and was proud of the progress of the First District Court of Appeal. Legislation to require use of OJCC electronic filing was passed in 2010, but vetoed by the Governor as it was part of a larger bill. In 2010-11, a more focused mandatory e-filing bill was passed and signed. The OJCC will spend 2011-12 adjusting processes to facilitate compliance with this new requirement. Some portion of this effort will focus on assisting the small minority of attorneys that have, as yet, accepted the benefits of embracing technological changes. In 2010-11 the Legislature eliminated sixteen OJCC staff positions, approximately seven percent of the Office. Answering the Legislature's call, the OJCC has done more with less again in each of the last five fiscal years. The effects of effort and dedication should be recognized by the Legislature, and adequate funding should be appropriated from the industry-supported trust fund to provide adequate staff, mediator and Judicial salary in 2011-12.



Florida State University Law School Professor Emeritus Charles Ehrhardt lectured on evidence at the National Association of Workers' Compensation Judiciary College, August 2010

Glossary of Terms:

District	The OJCC operates seventeen offices throughout Florida. Each office 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 by 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 workers’ 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.



The Office of Judges of Compensation Claims participated in the second annual National Association of Workers’ Compensation Judiciary College in August 2010, pursuing adjudicatory excellence through judicial education.

Appendix “1” District DAY (Portuallo):

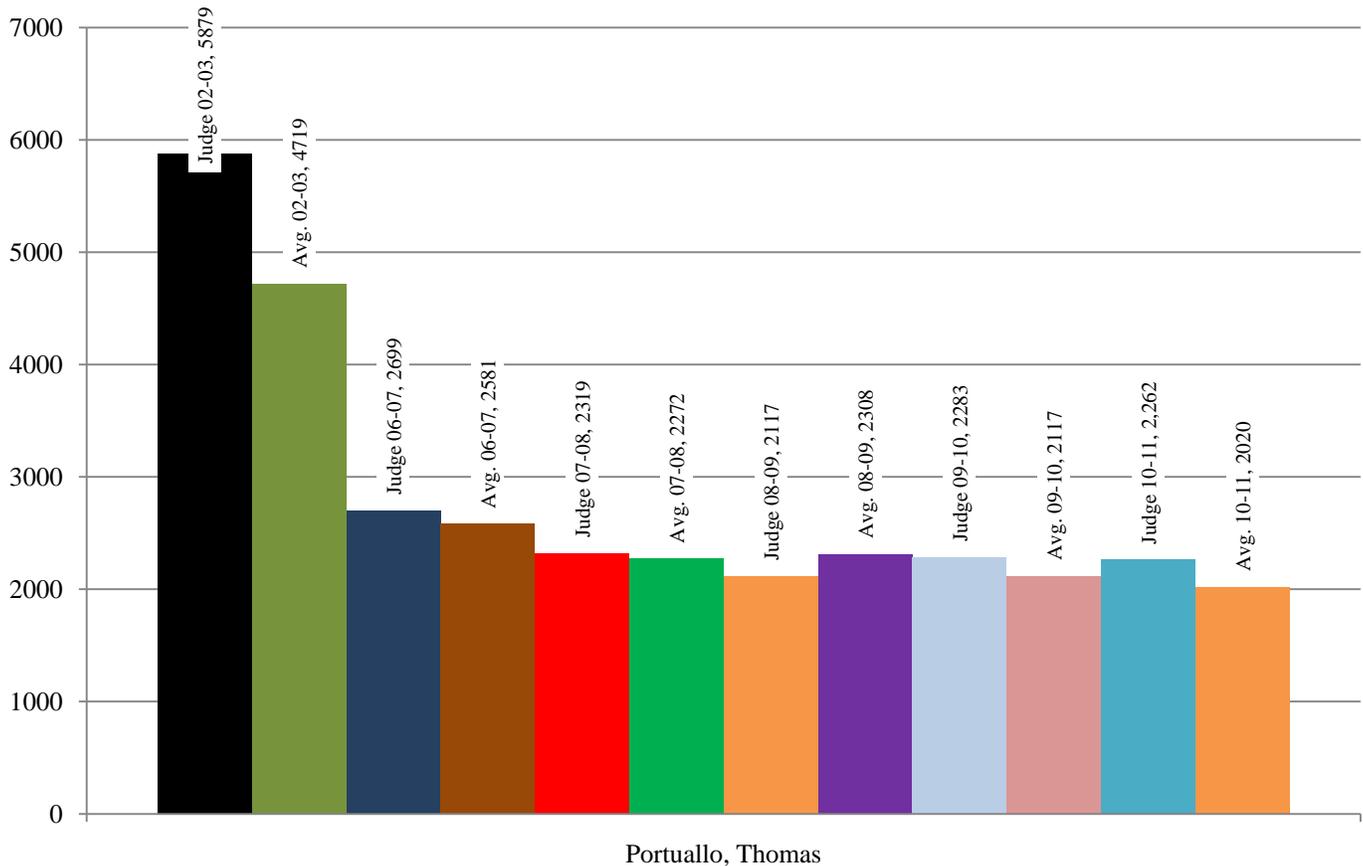
District DAY includes the following counties: Flagler and Volusia. Seminole county was also included until it was transferred to District ORL in 2006-07. District DAY traditionally had above average PFB and new case filing volumes. Daytona was below average in 2008-09, but each returned to slightly above average for 2009-10 and 2010-11.

The average time between PFB filing and the initial mediation (88 days) demonstrates consistency in recent years, and 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 30 day statutory time, and has been consistently. The volume of petitions closed in 2010-11 (2,315) was generally consistent with the PFB filing rate (2,262). District DAY is a well run, efficient and effective District.

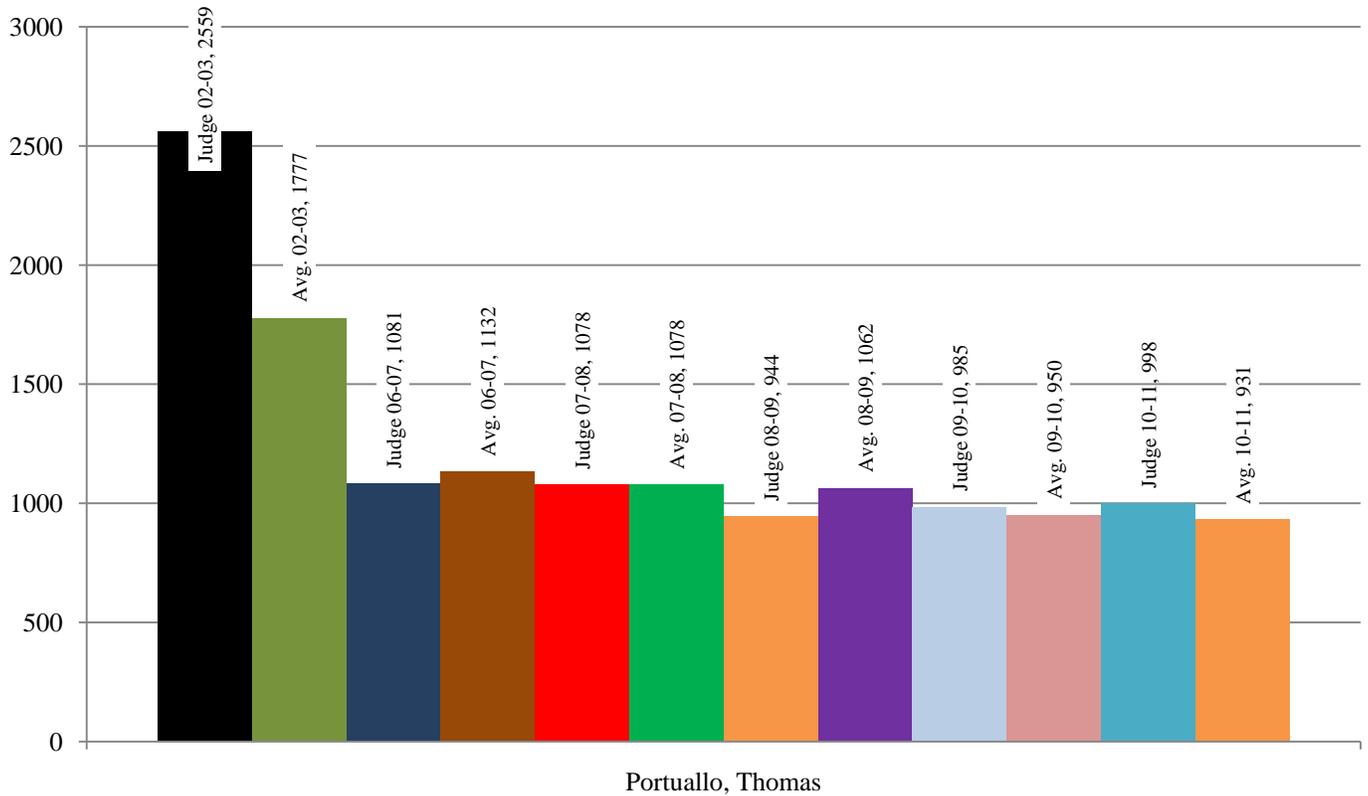
Judge Portuallo is a Volunteer Judge with the Volusia County Teen Court, a criminal court diversion program focused on peer intervention. He has volunteered with them since 1998. He was awarded a Certificate of Appreciation from The Volunteer Lawyers Project “in recognition of time and dedication in 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 acted significantly as a visiting Judge in Orlando during Judge Farrell’s illness and absences through 2009-10 and into 2010-11. Since 2009-10 he has accepted assignments of “new cases” from District MIA, which helps with distribution of workload and facilitating timely hearings.

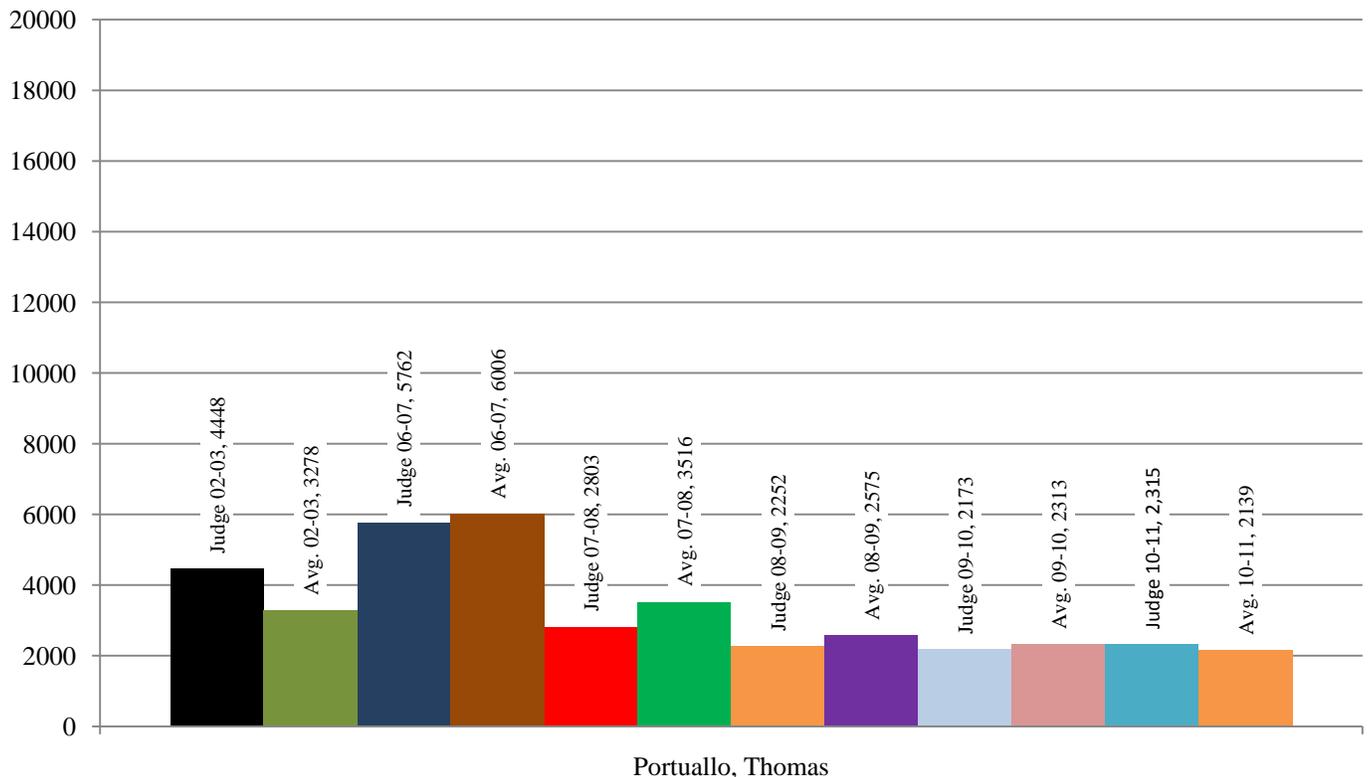
The following depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



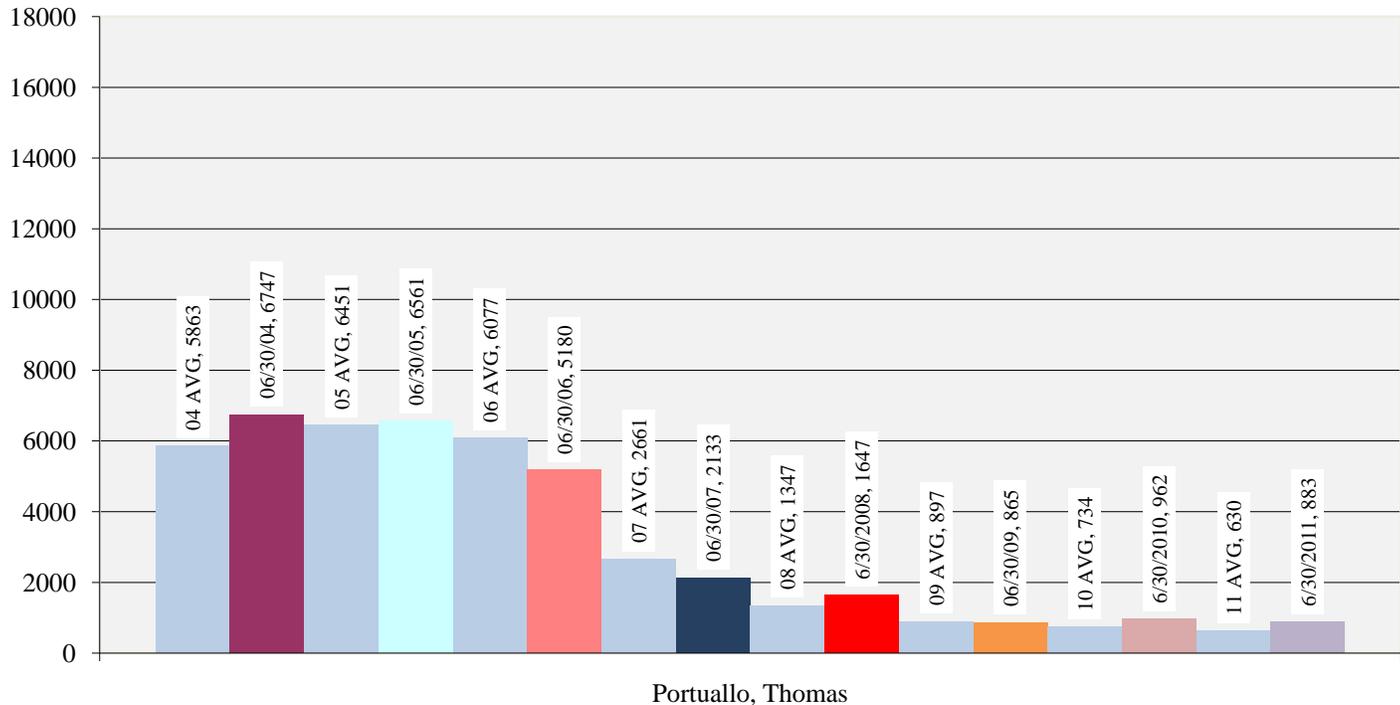
The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



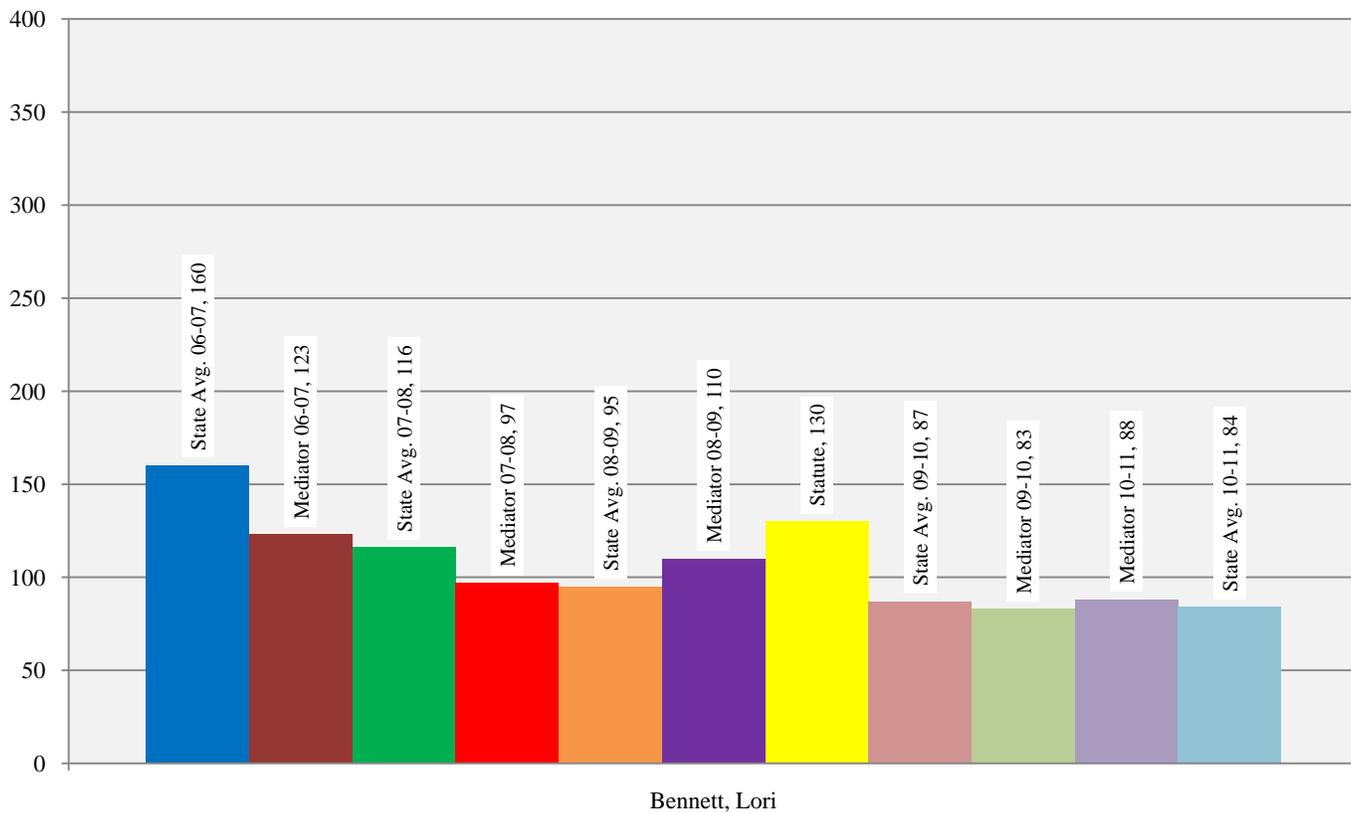
The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



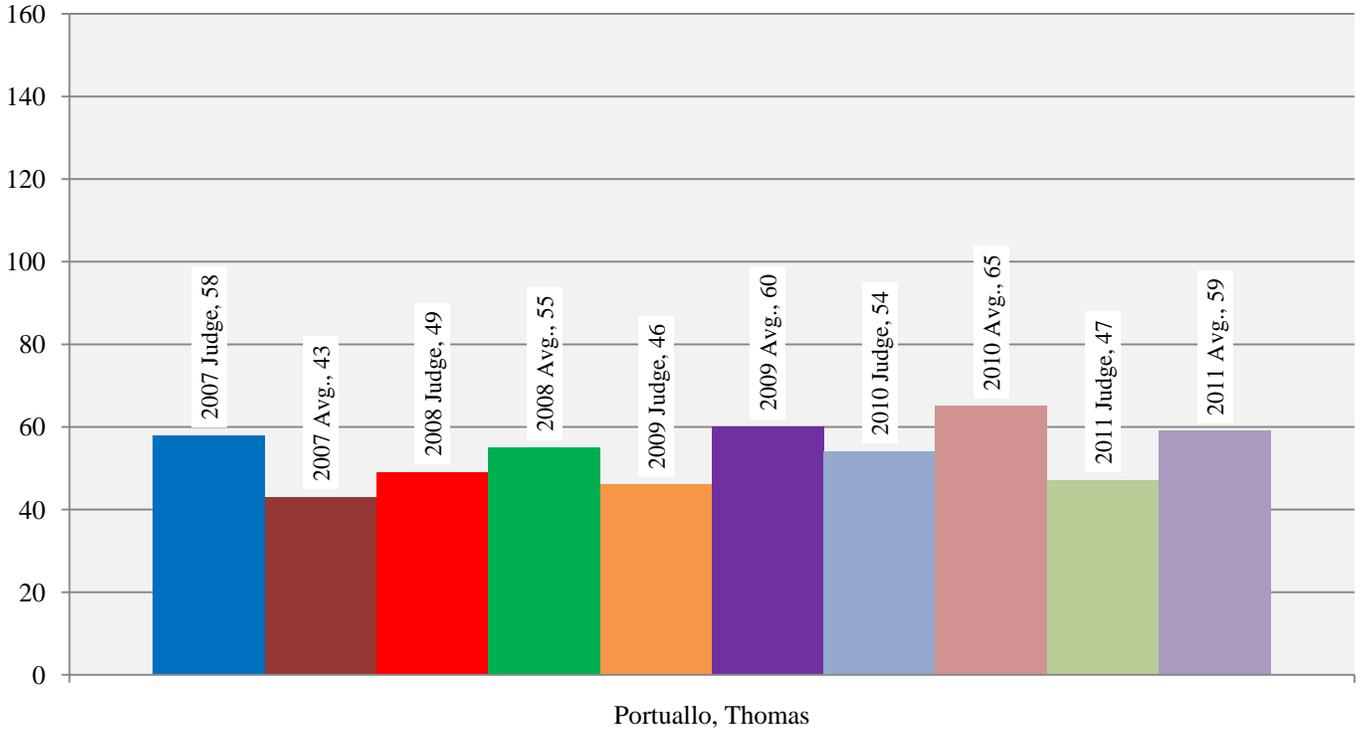
The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



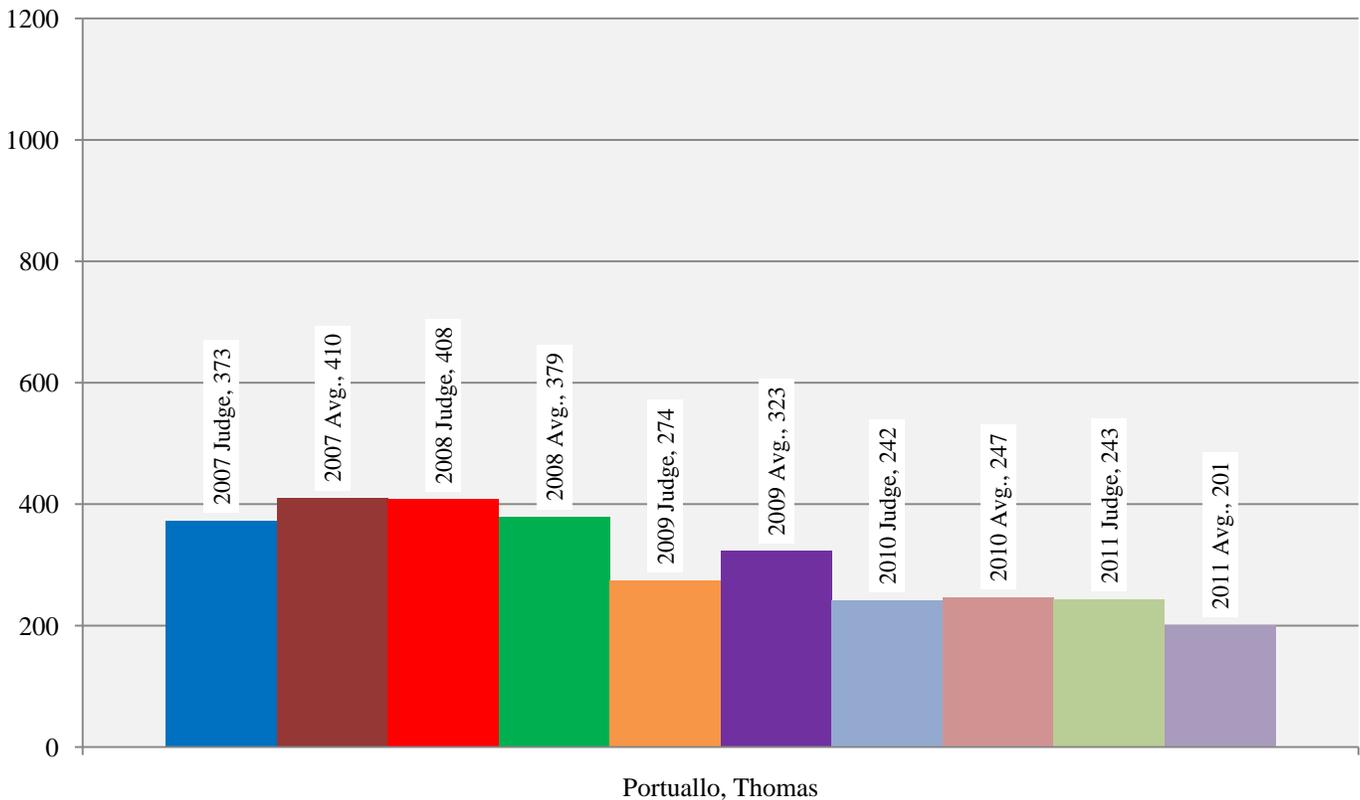
The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.



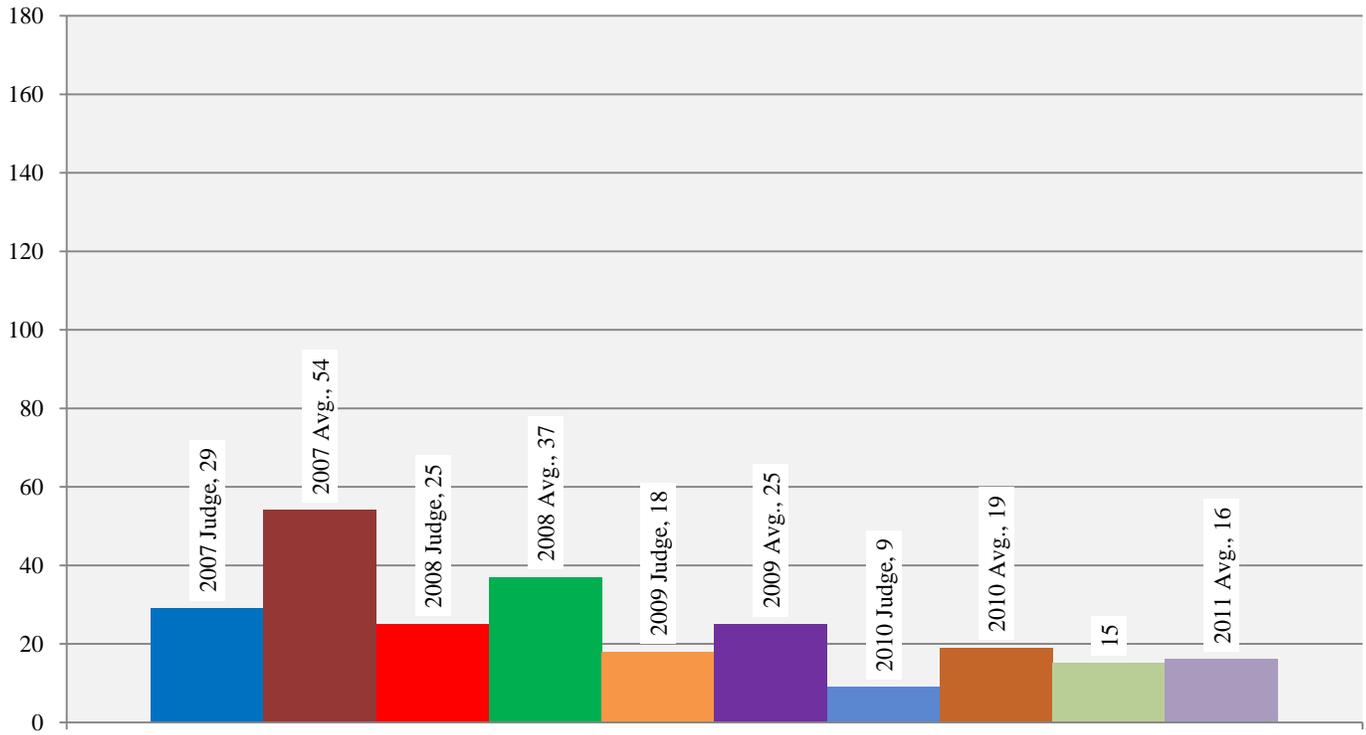
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2010-11. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. The identification for each year and the values are in each column label.

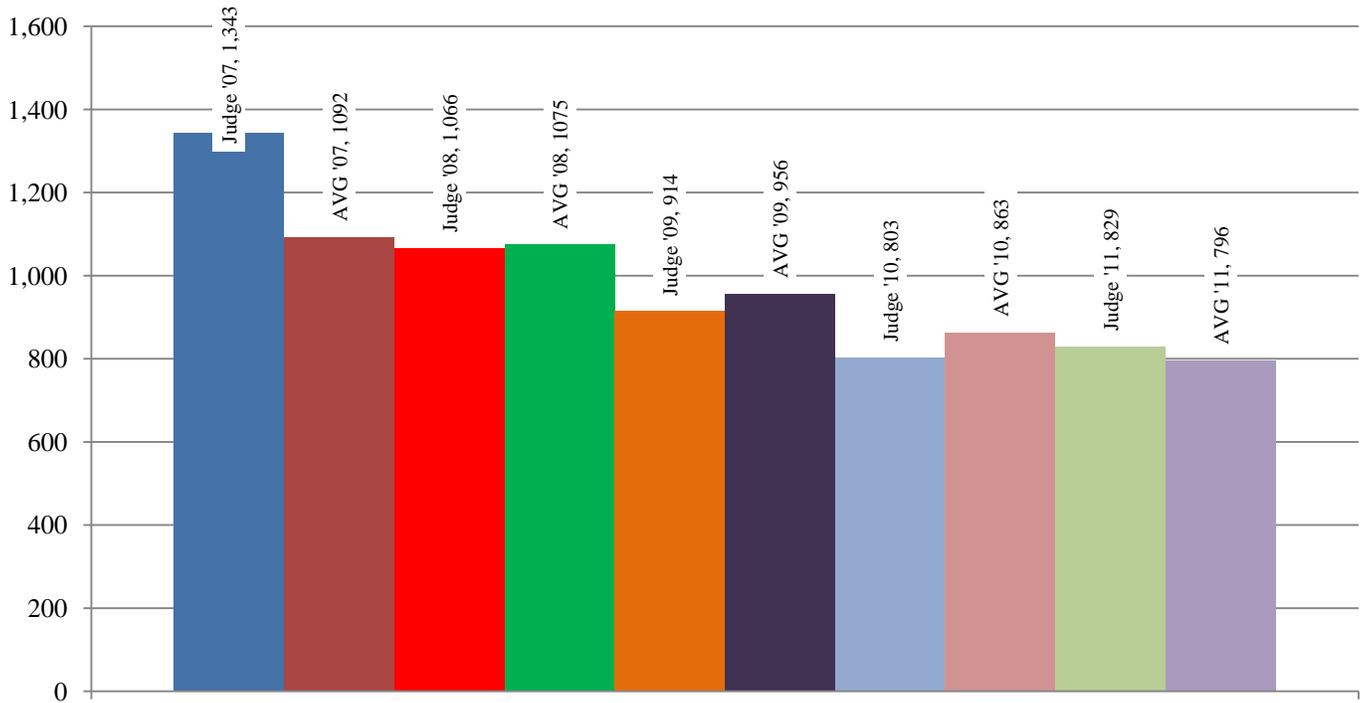


The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



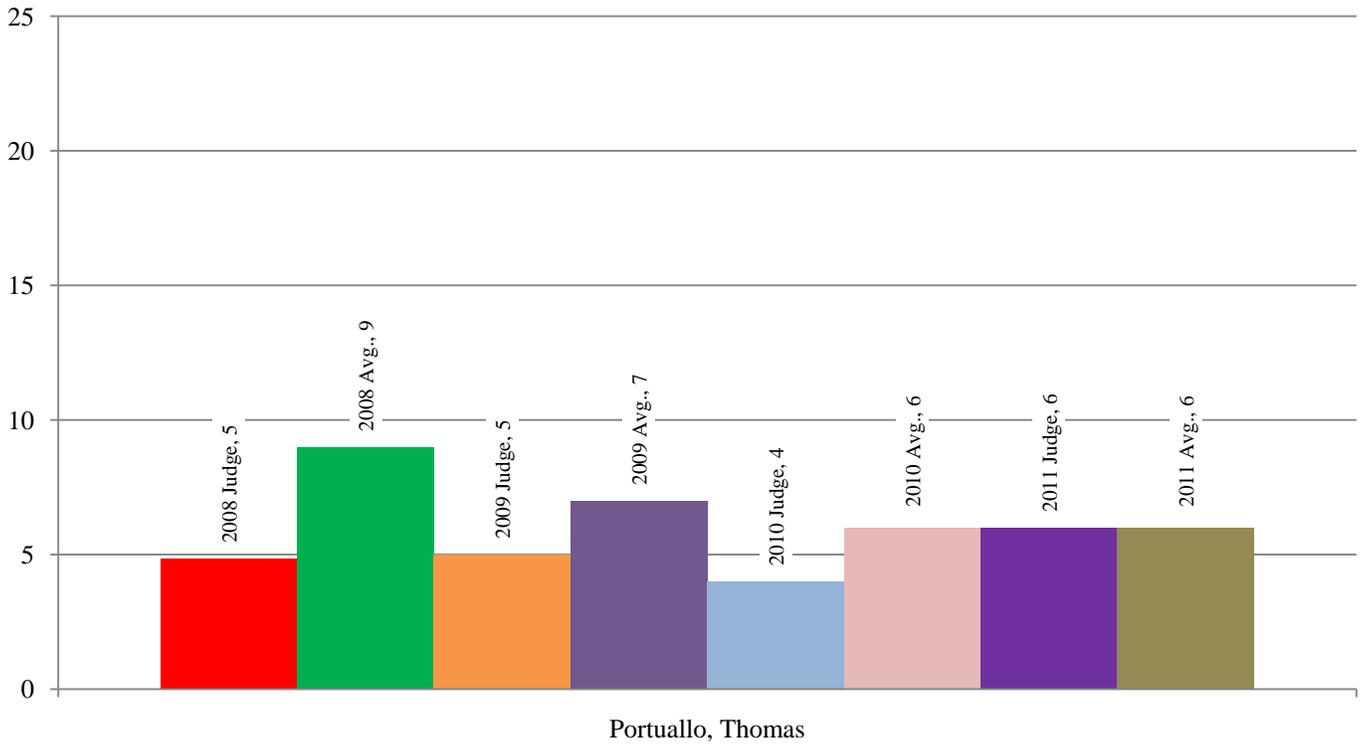
Portuallo, Thomas

The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.

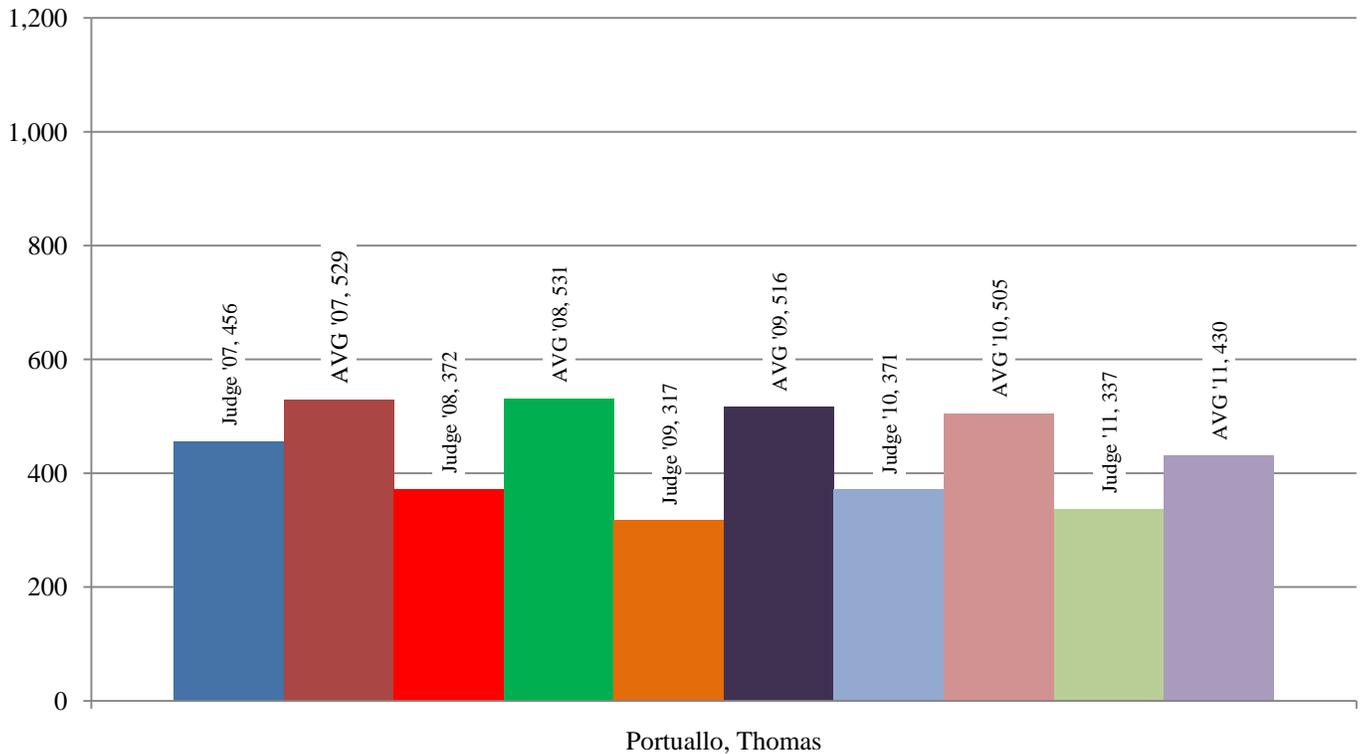


Portuallo, Thomas

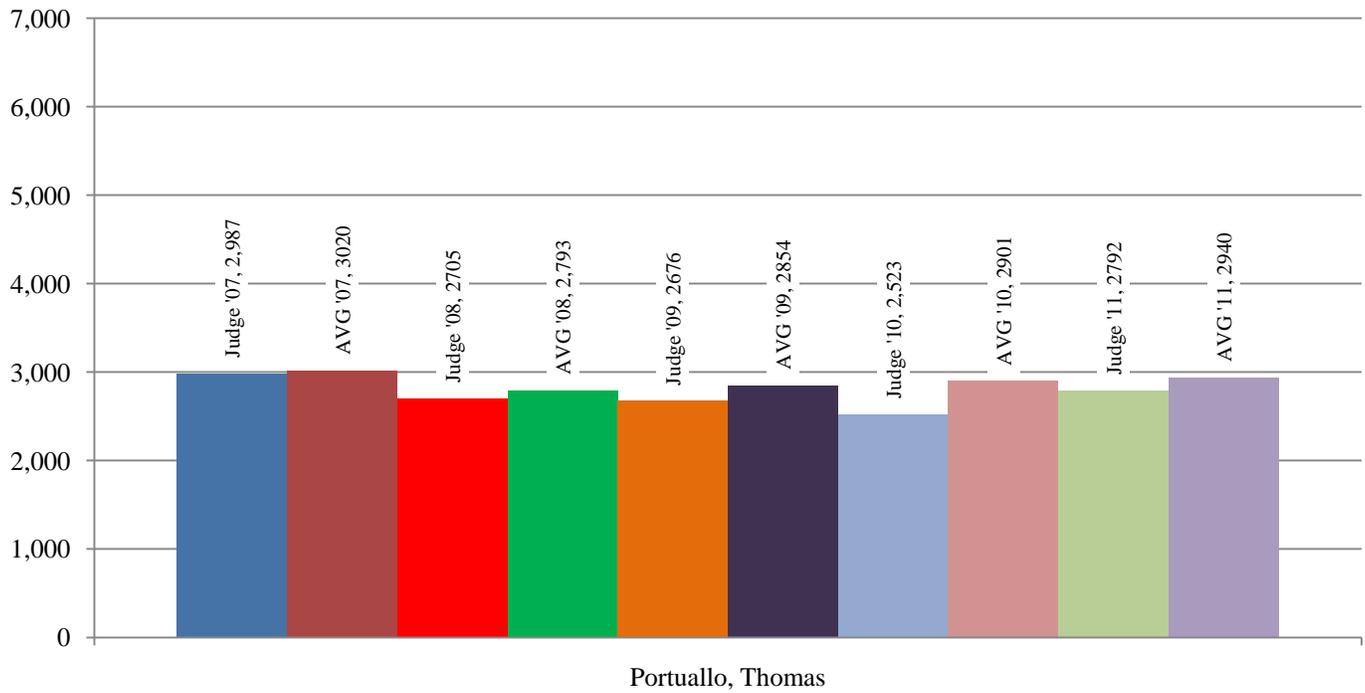
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



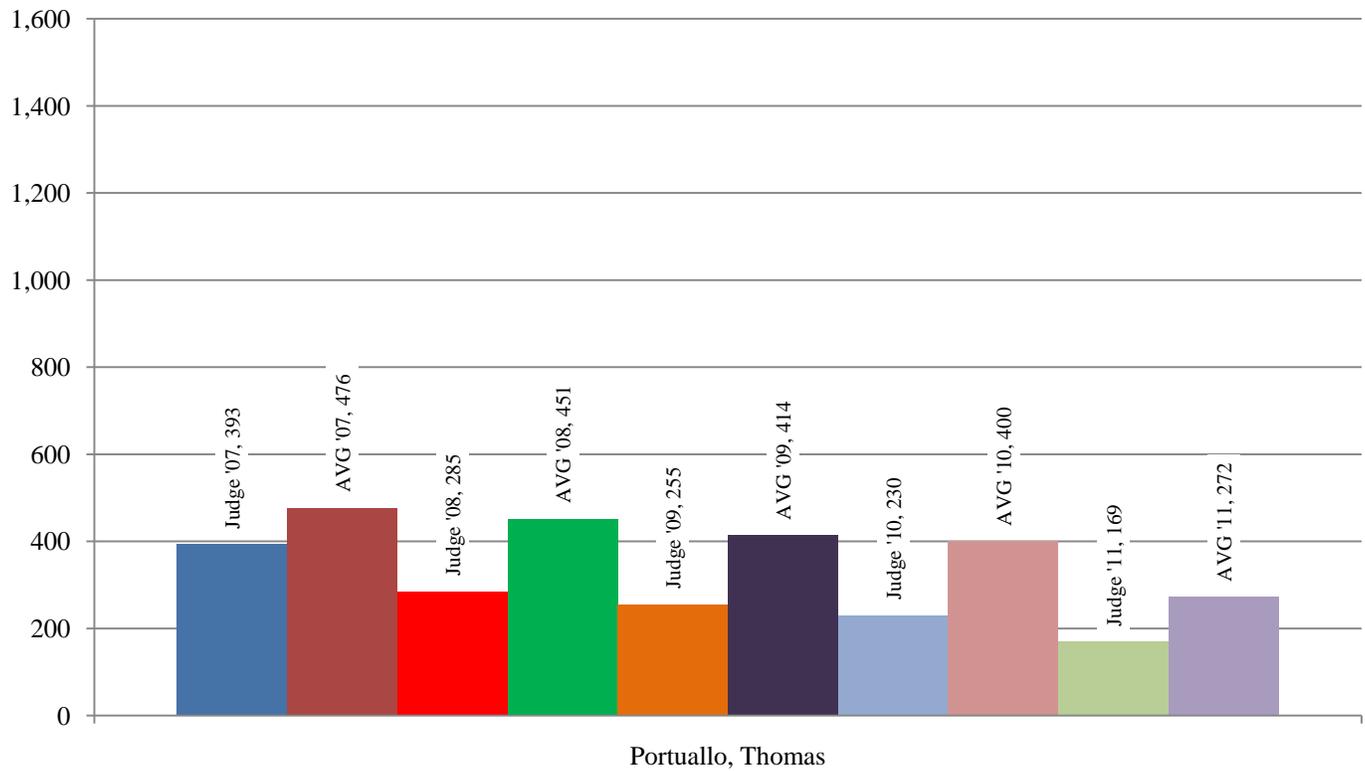
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



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

District FTL includes only Broward County.

PFB volumes in FTL moderated in 2010-11, and are now consistent with the statewide average. The OJCC use of VTC technology and assignment of Broward PFBs to Judges in other Districts (JAX, TLH, PMC, PNS) has likely contributed significantly to this result. The FTL volume of “new cases” was below the average for the Broward Judges in each of the last two fiscal years. This is due in part to decreasing filings and in part to the assignments to out-of-District Judges. Each division in District FTL closed more PFBs than were filed during both 2009-10 and 2010-11, demonstrating consistent progress on the pending backlog. This demonstrates the attention which FTL Judges may focus, with the assistance of out-of-District Judges, to assist with newer workload.

Mediation timeliness is demonstrated in the FTL data, marking significant improvement in recent years. Trial volume in District FTL has moderated in recent years. In both 2009-10 and 2010-11 all three FTL Judges filed less trial orders than the statewide average.

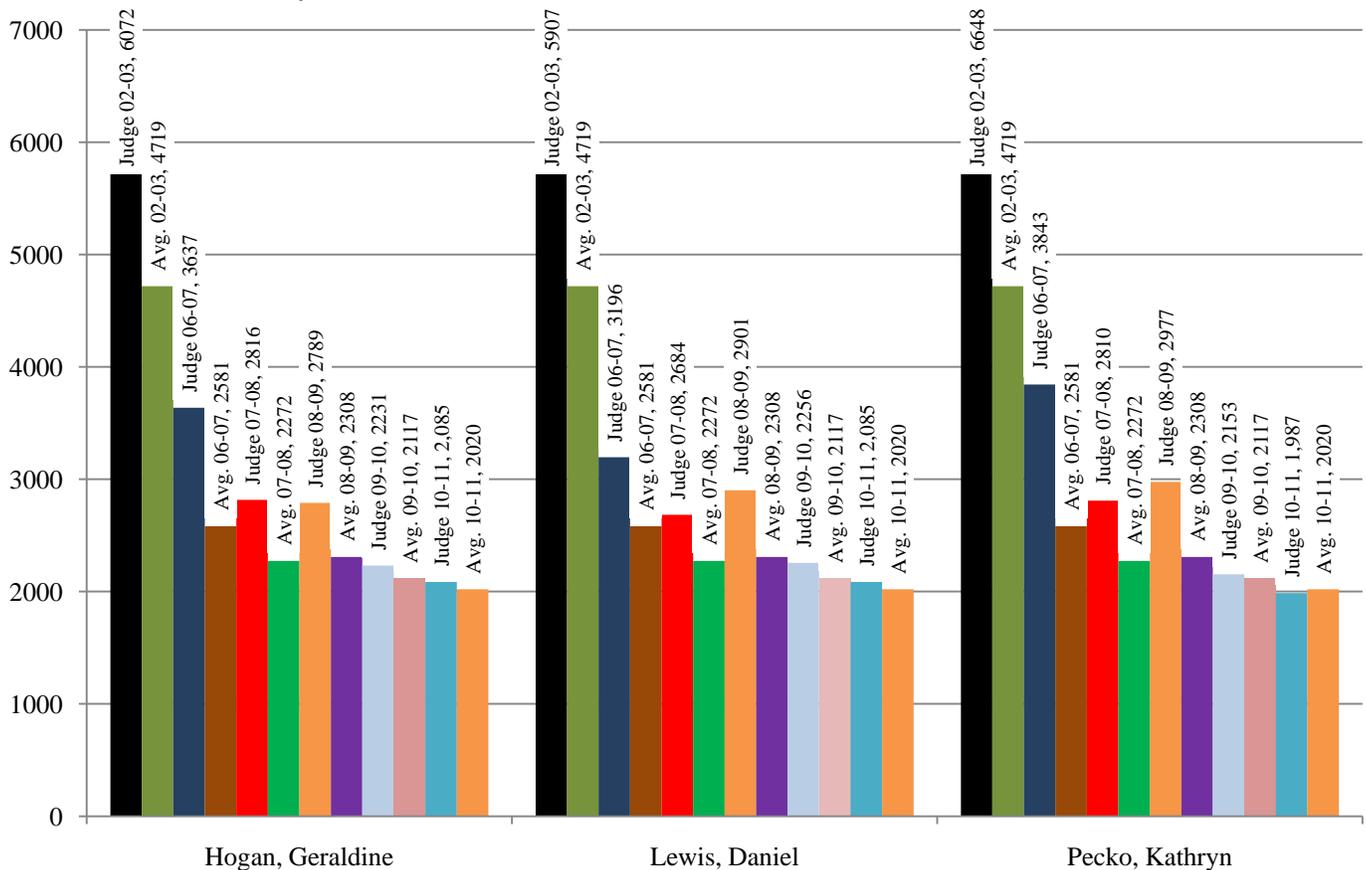
In 2010-11 Judge Lewis remained active in the Broward Bar Association, he presented a “Question and Answer Session with Broward JCCs” in March 2011. He also participated as a Judge in The Florida Bar Trial Advocacy Workshop in Miami in June 2011.

Judge Pecko also participated in the “Question and Answer Session with Broward JCCs” in March 2011. She also assists with the selection process of scholarship applicants for the Friends of 440 Scholarship Fund.

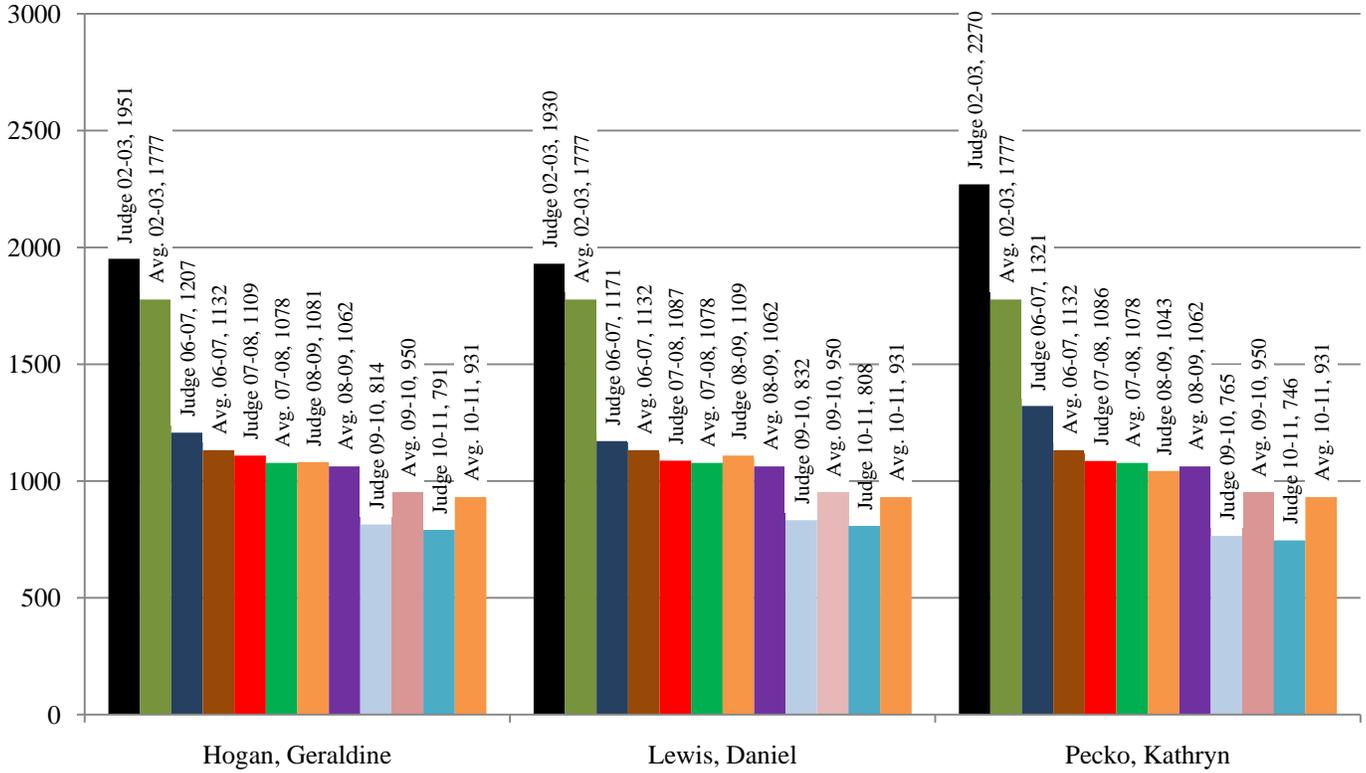
Judge Hogan served on the scholarship selection committee for the Friends of 440 Scholarship Fund and as a Moot Court Appellate Judge for FWCI’s 2010 Moot Court Competition. She presented at the OJCC CLE program for adjusters in Tallahassee in February 2010, at the Broward Bar Association in March 2011, The Florida Bar Trial Advocacy Program in June 2011.

Mediator Breslow is chair of the tennis program for the Friends of 440 David Levine Memorial Golf and Tennis Classic.

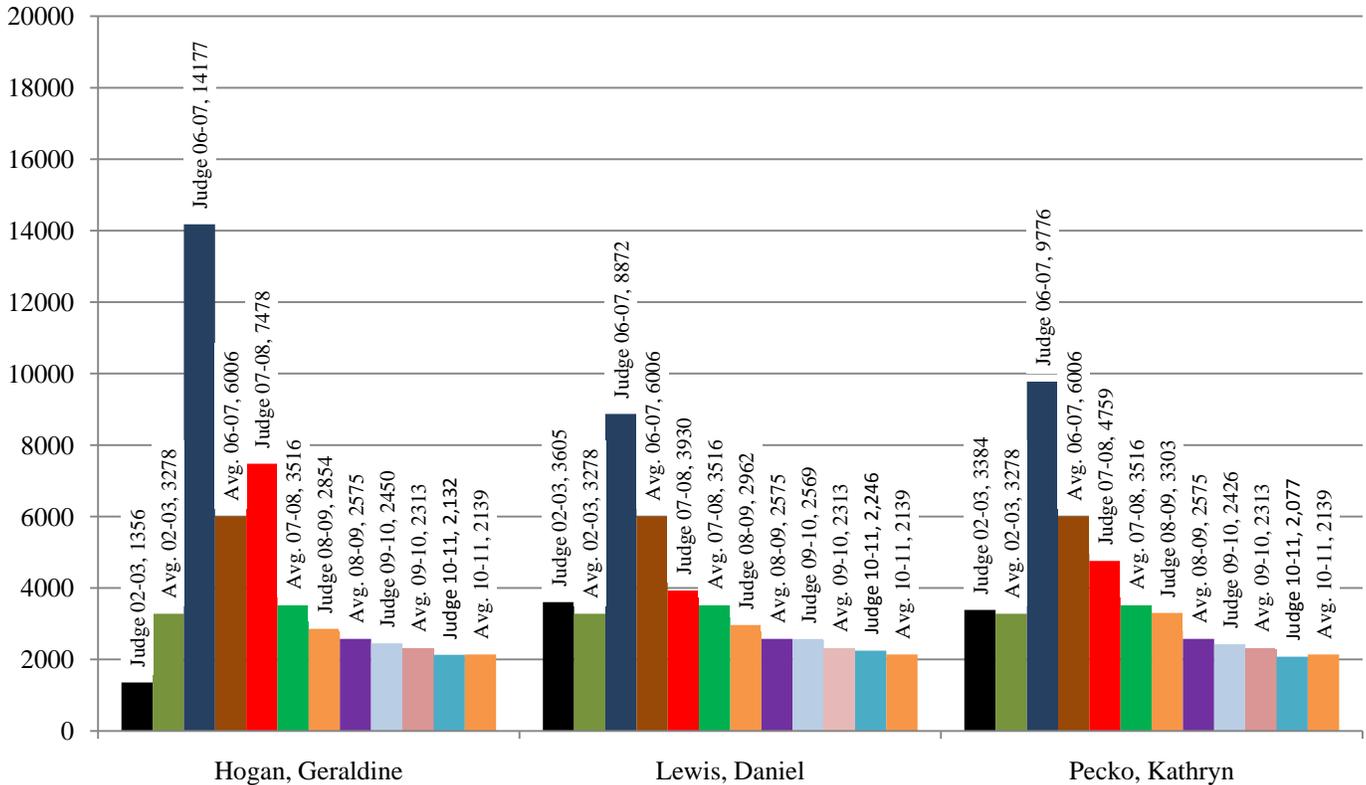
The following depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



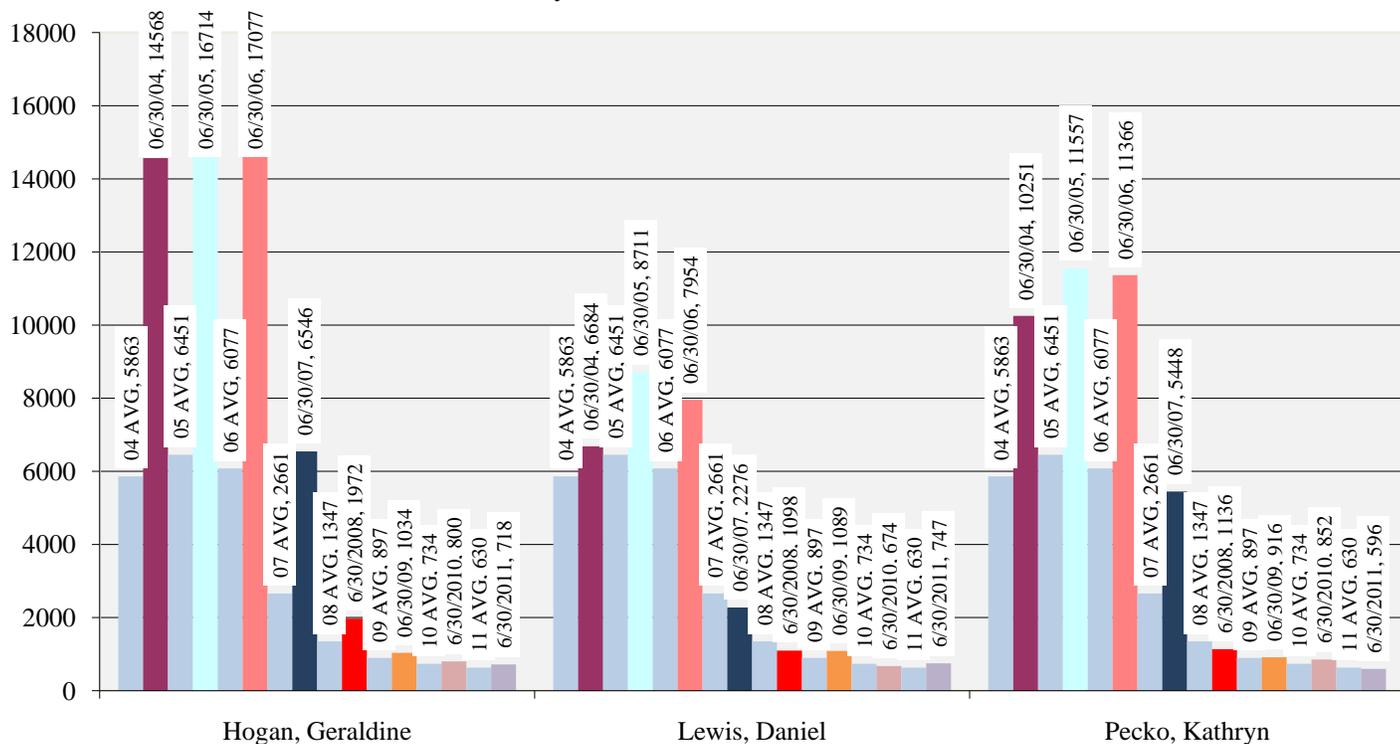
The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



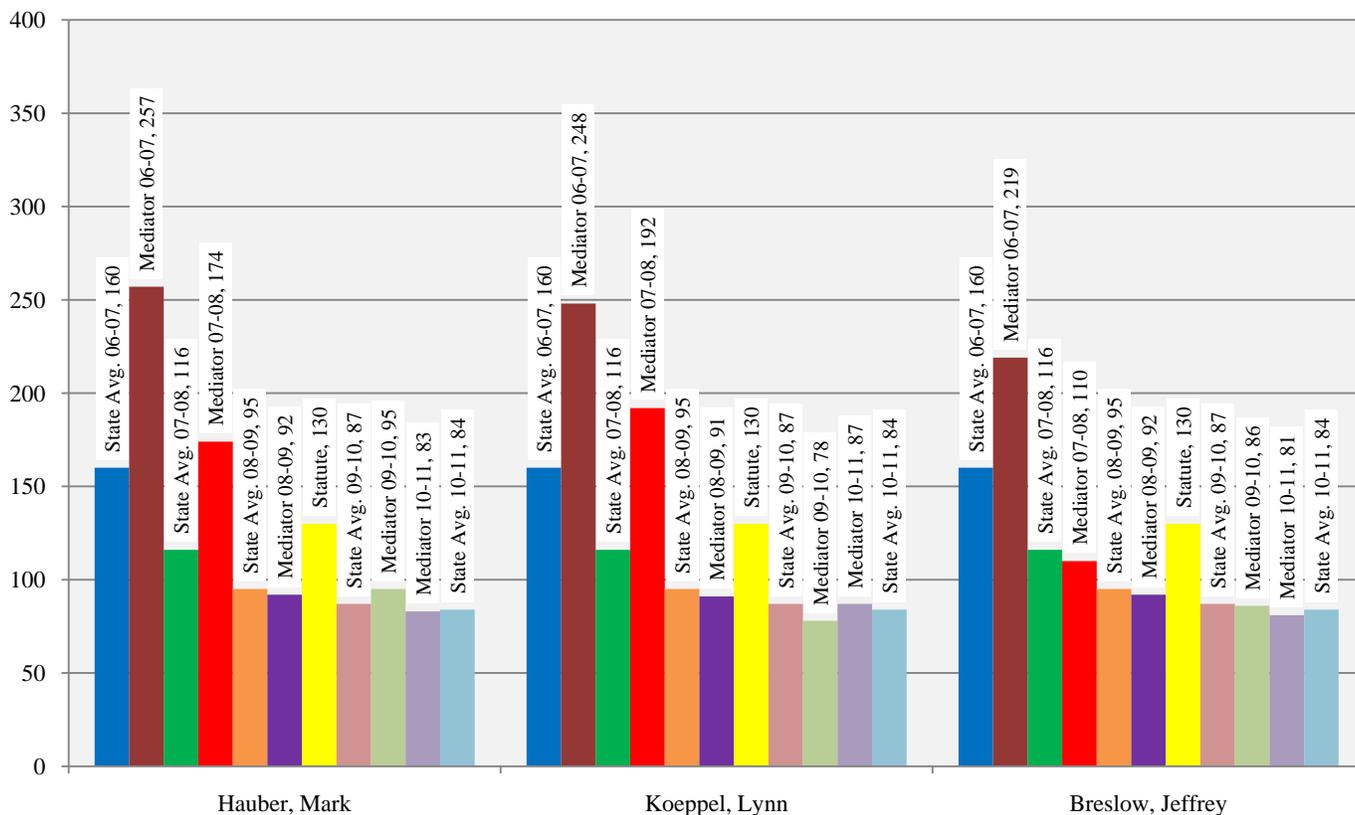
The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



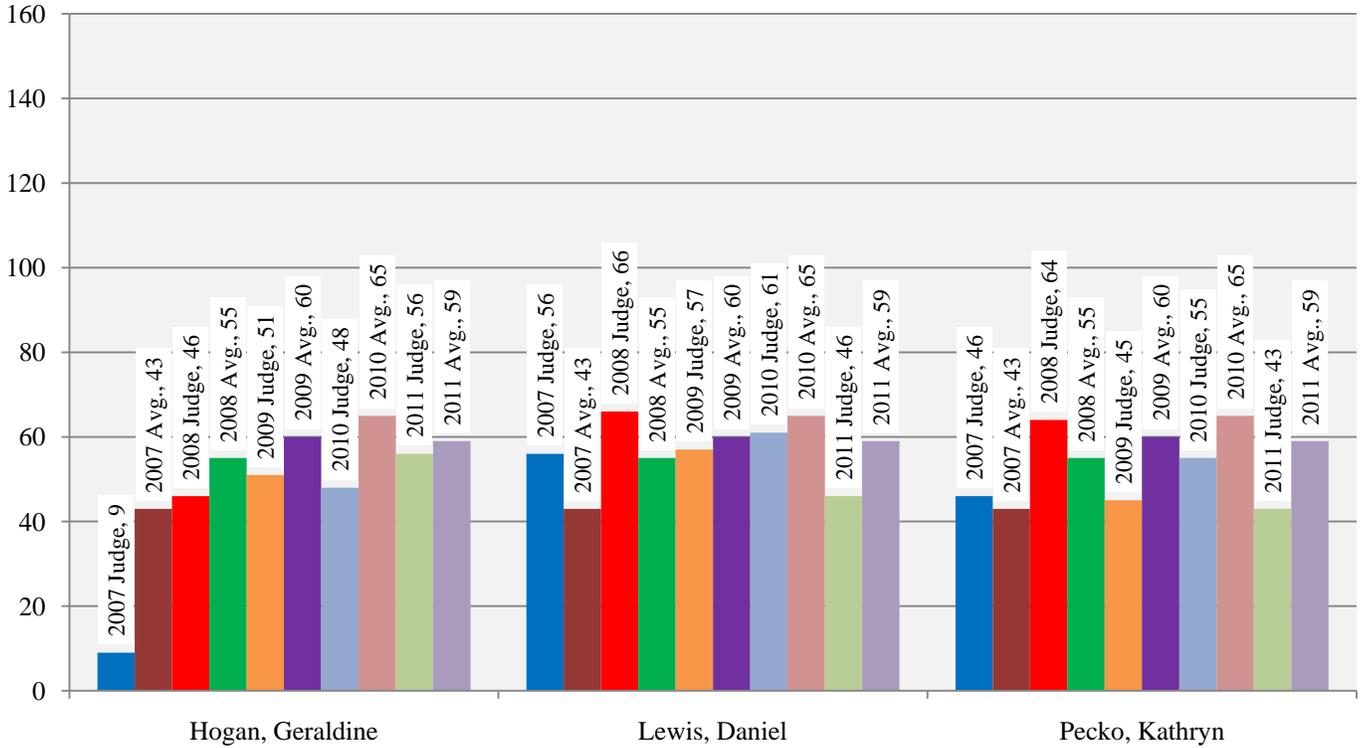
The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



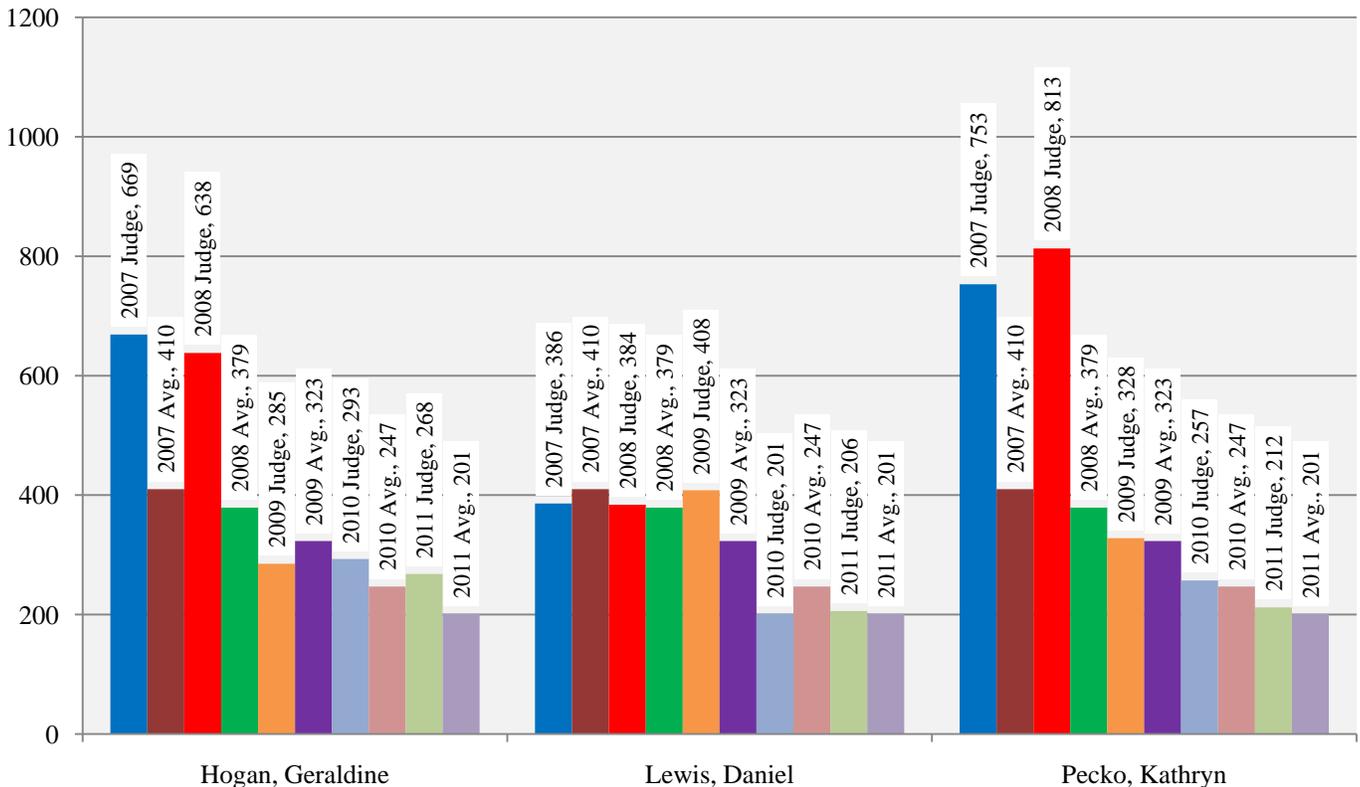
The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.



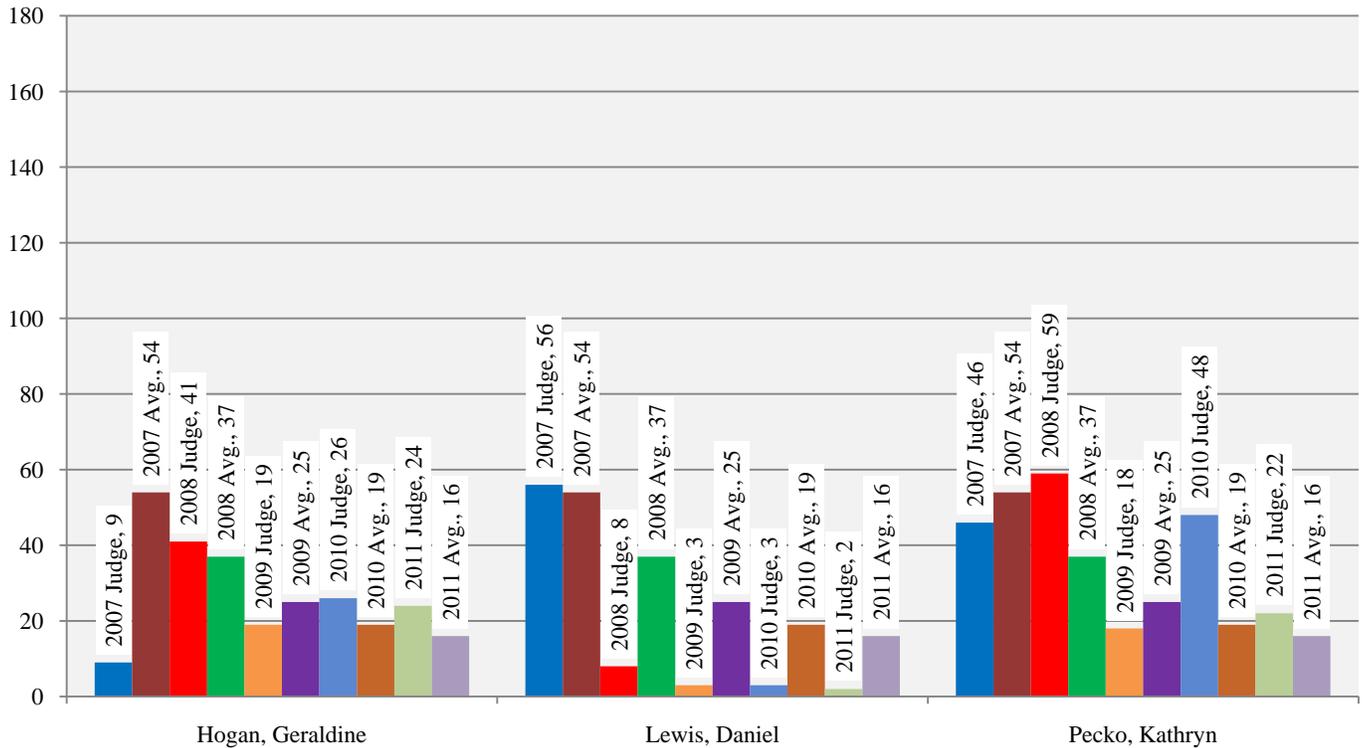
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



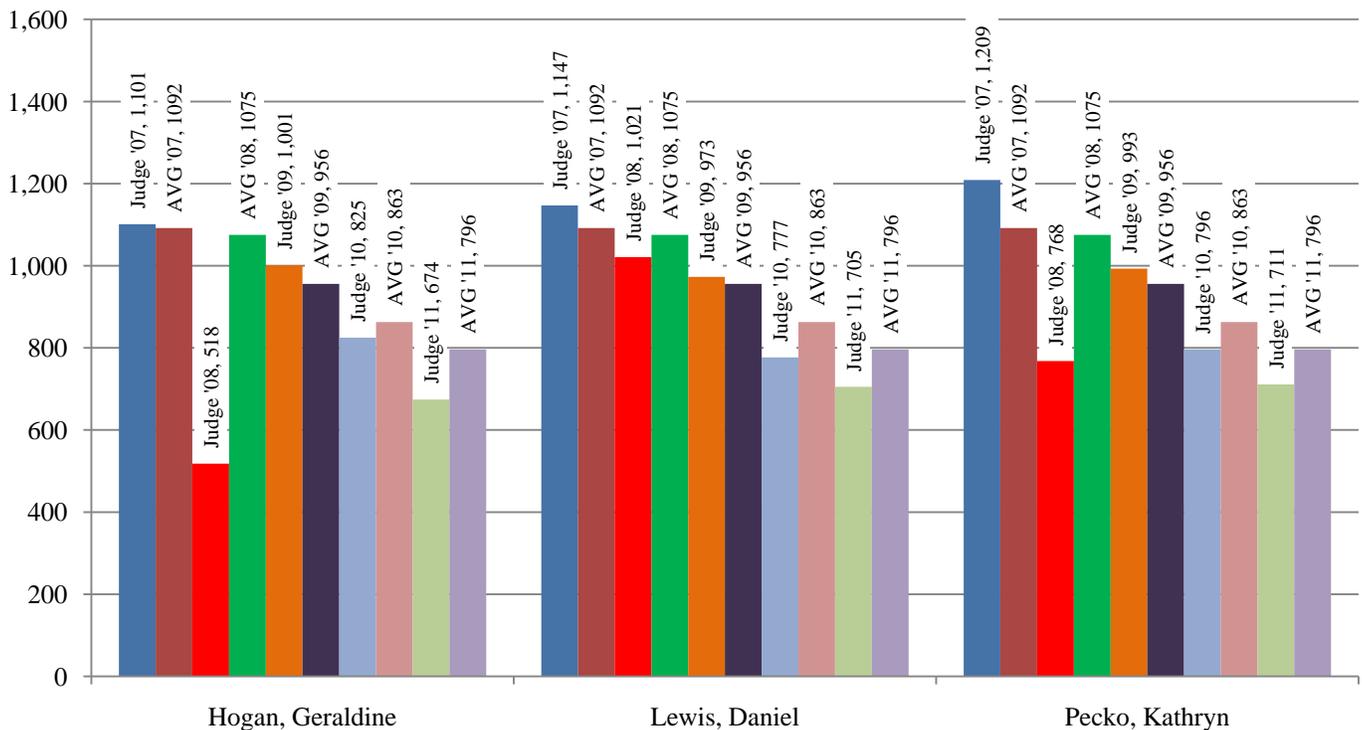
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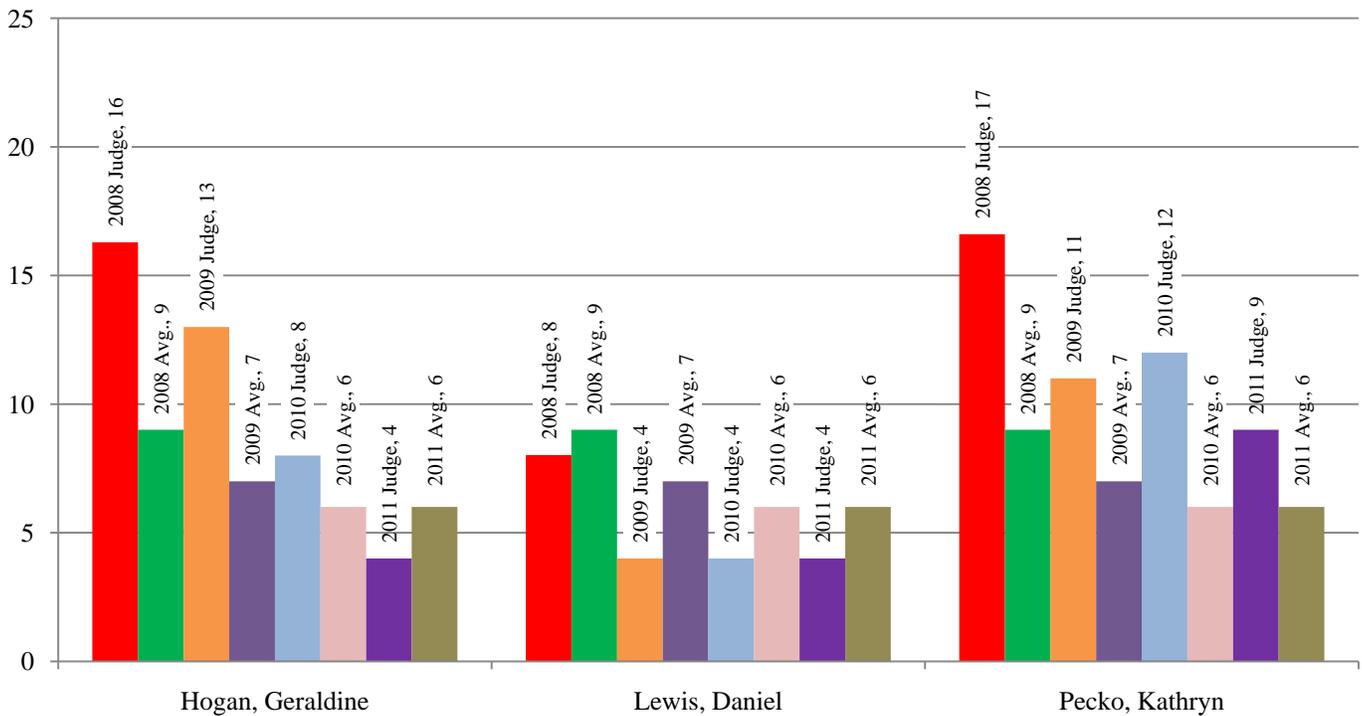
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



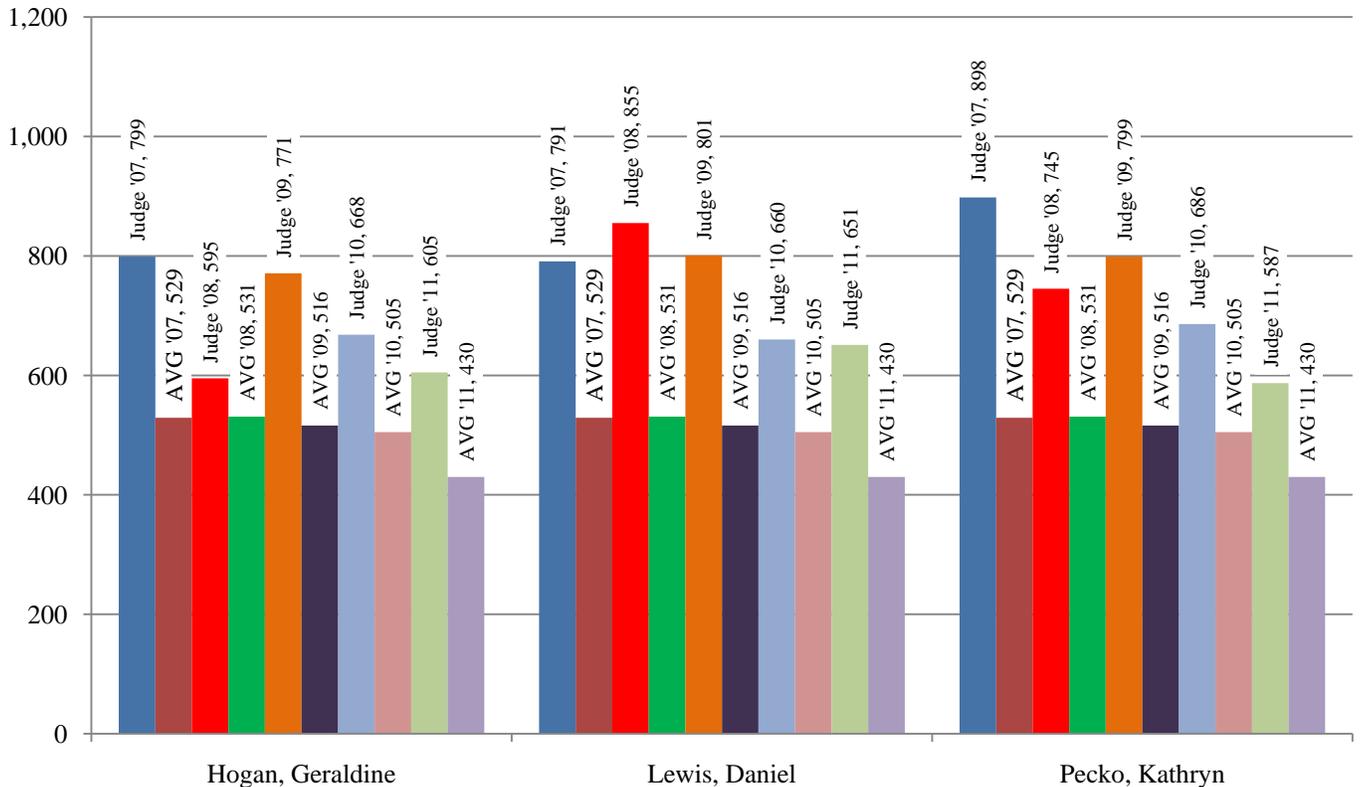
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



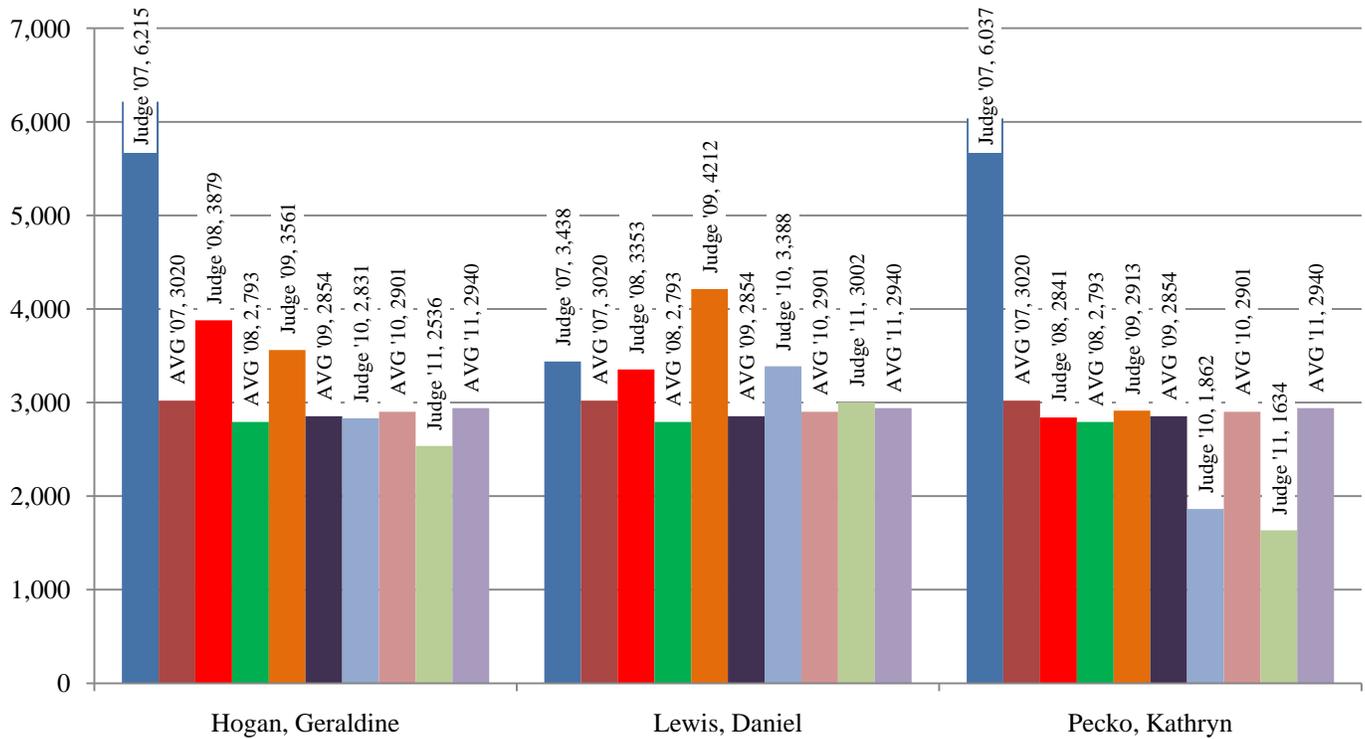
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



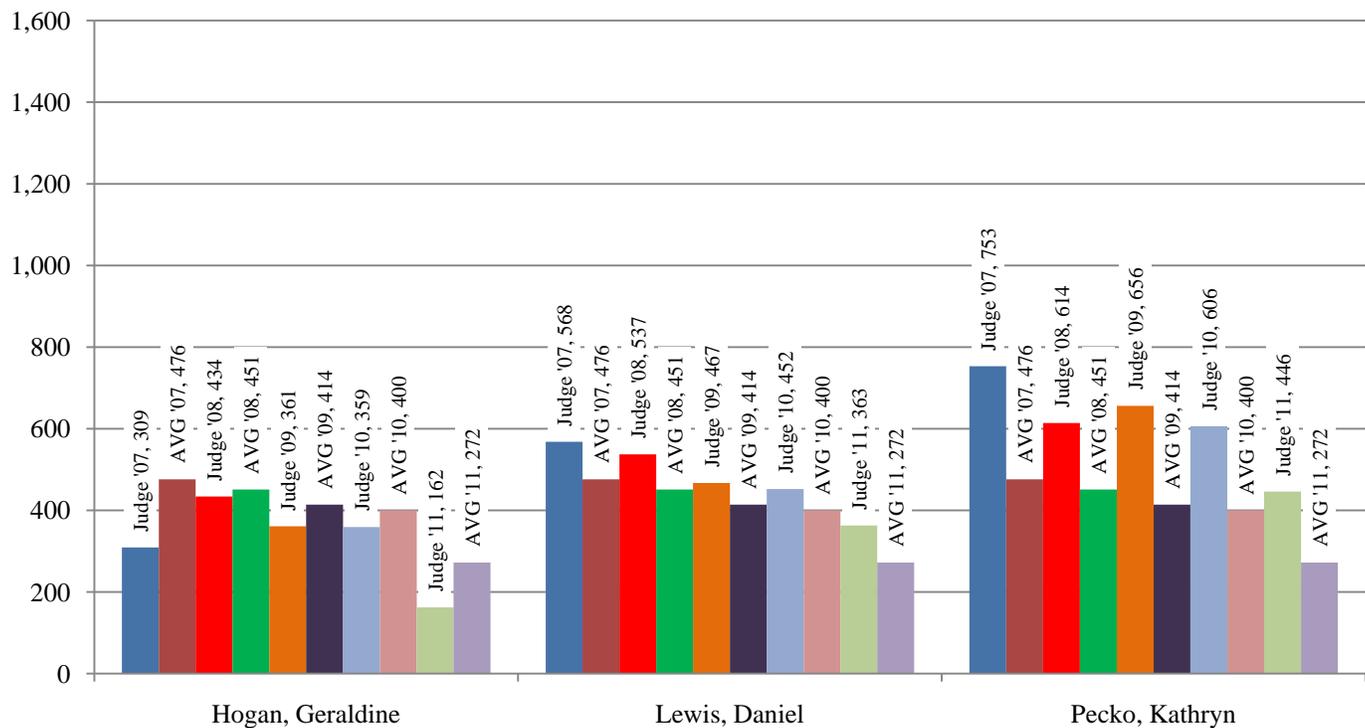
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The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



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

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

The volume of PFB filings in District FTM remained below the statewide average in 2010-11, but the volume of “new cases” slightly exceeded the statewide average during the last two years. This coincides with both FTM Judges accepting “new cases” from outside the District. Both Judges in FTM closed about the same volume of PFB as were filed in 2009-10 and 2010-11, evidencing a docket “load” that is manageable and in a state of equilibrium. Both FTM mediators averaged less than 130 days between PFB filing and first mediation, at or very close to the statewide average. This marks continued perseverance and performance.

The volume of trial orders uploaded in FTM was below the statewide average last year. Despite the incoming volume of cases, trial is less frequent in this venue. Both Judges in FTM averaged less than 210 days from Petition/Motion filing until trial. More significantly, both Judges entered timely trial orders following trial again in 2010-11.

Judges Spangler and Sturgis have each heard out-of-District cases since their initial appointment. In 2009-10 Judge Spangler began accepting “new cases” from District MIA, and Judge Sturgis began accepting them from District LKL. In 2010-11, with LKL under new management and in light of the marked decrease of filings there, Judge Sturgis also began accepting out-of-District assignments in MIA.

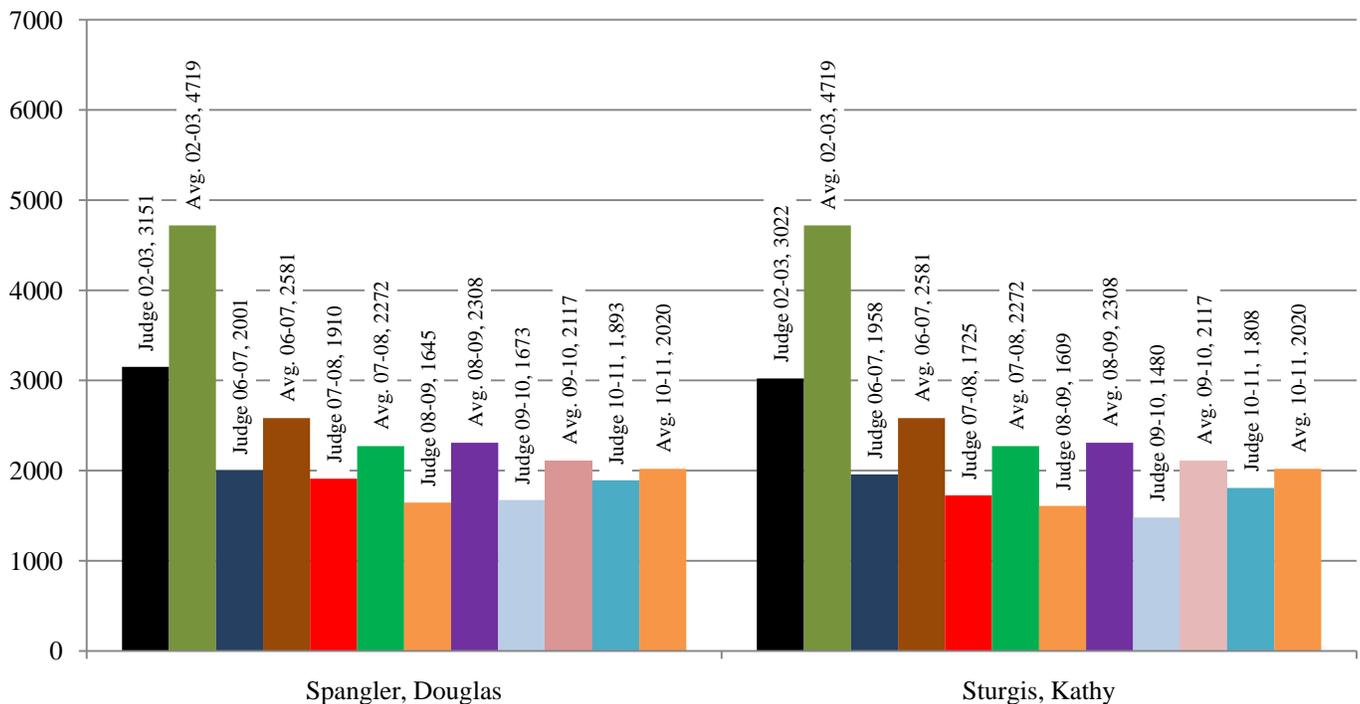
In 2010-11, Judge Spangler participated as presiding Judge in the Lee County High School mock trial program. He also participated as faculty in The Florida Bar Trial Advocacy program in Miami in June 2010. He presented a panel topic “Litigating Effectively before the OJCC” in Tallahassee in February 2010. He has been active in the Friends of 440, participating in the “hockey night” promotion in Ft. Myers and a golf function in Manatee County. He is also active in the scholarship recipient selection process.

Judge Sturgis presented a panel topic “The New OJCC Rules” in Tallahassee in February 2010. She also participated with the Friends of 440, participating in the “hockey night” program with the Florida Everblades. She is a Master in the Calusa American Inns of Court, Chair of the Women’s Legacy Fund of the SW Florida Community Foundation, a Justice Teaching Volunteer and a member of the Board of Visitors of Ave Maria Law School.

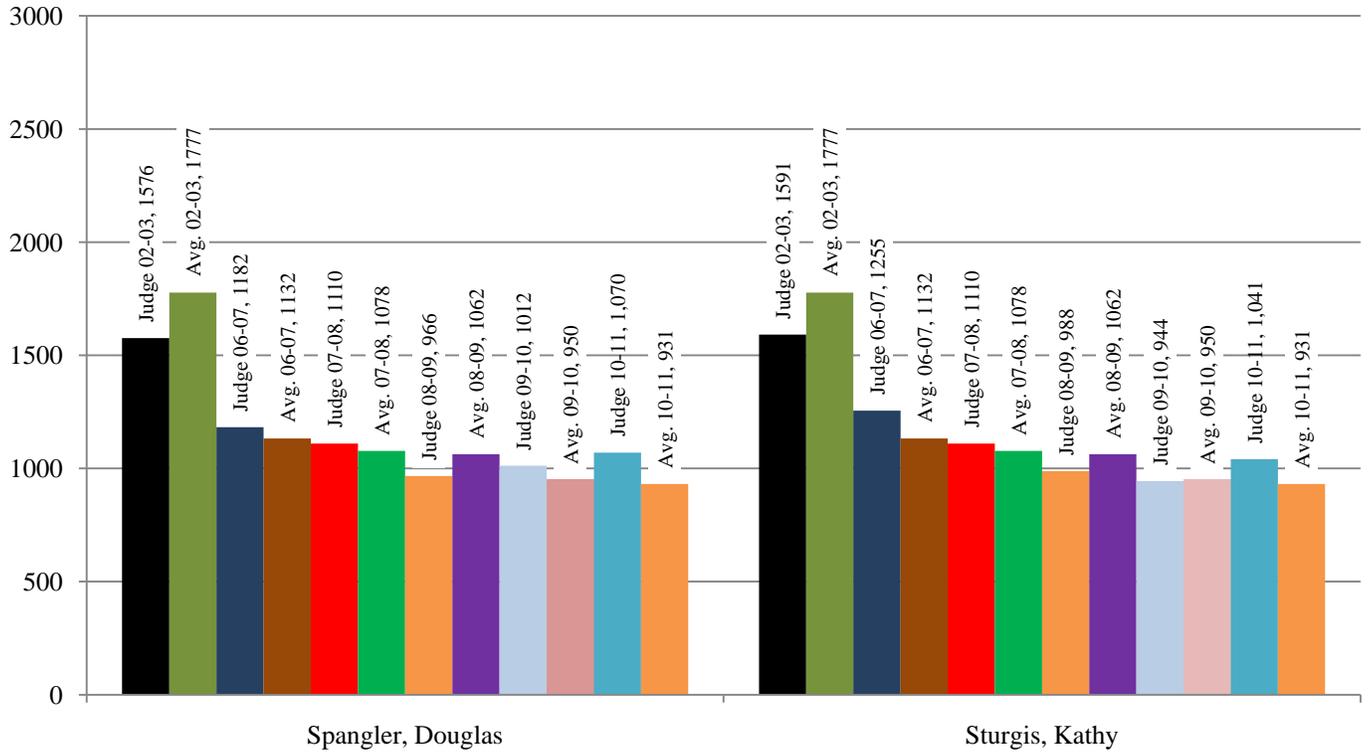
Mediator Bredemeyer concluded thirty years of service in the JAG Corps, US Navy. He participated in support of the Naval War College mentoring junior judge advocates, line officers and legalmen.

Mediator Hart assisted the Office of Judges of Compensation Claims in 2010-11 with coverage for mediations in Sarasota and Orlando Districts.

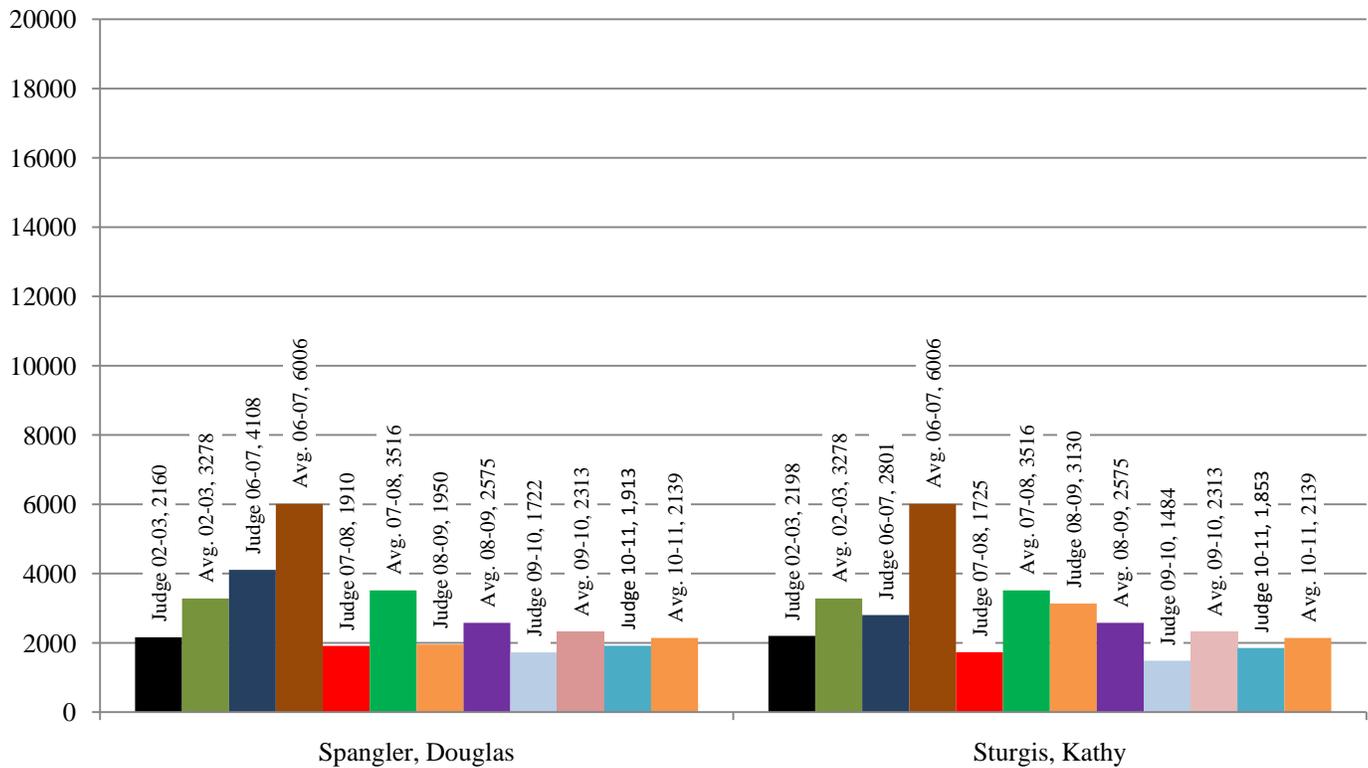
The following depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



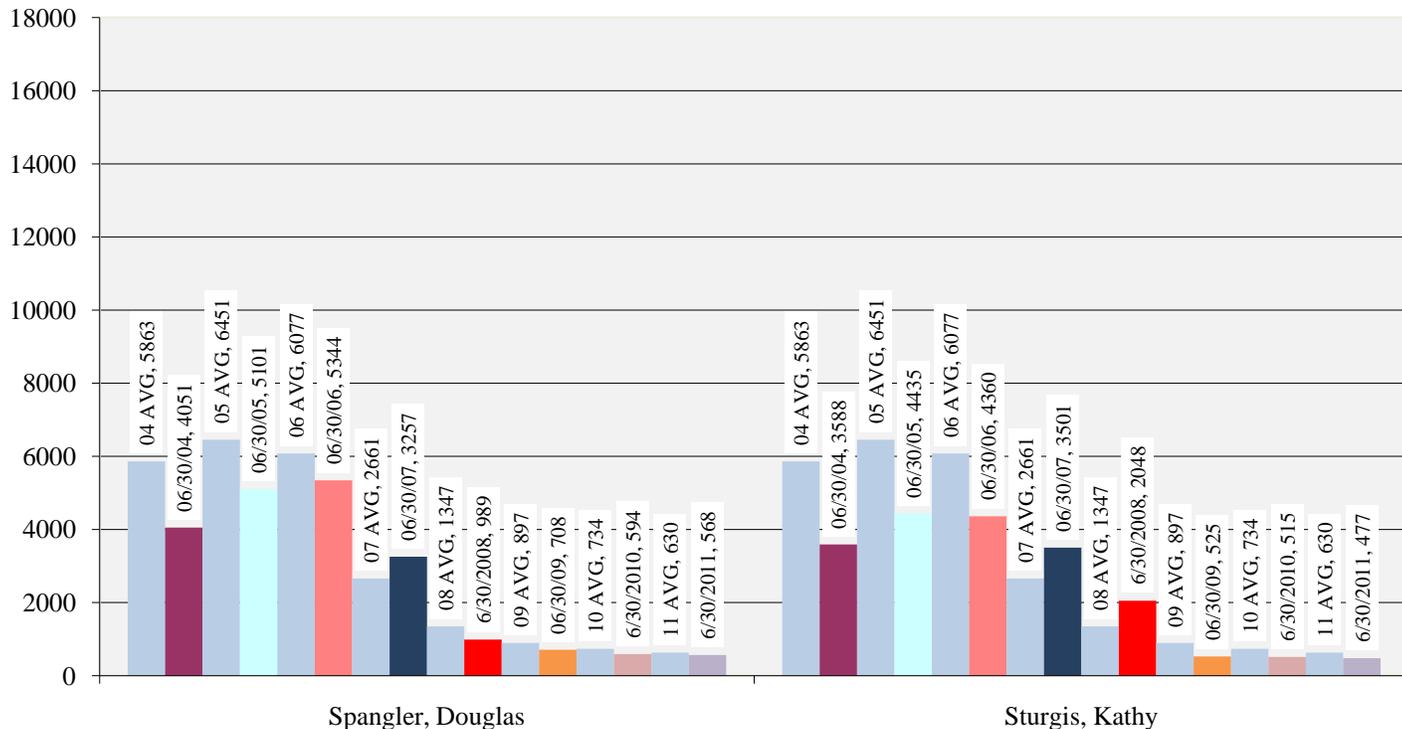
The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



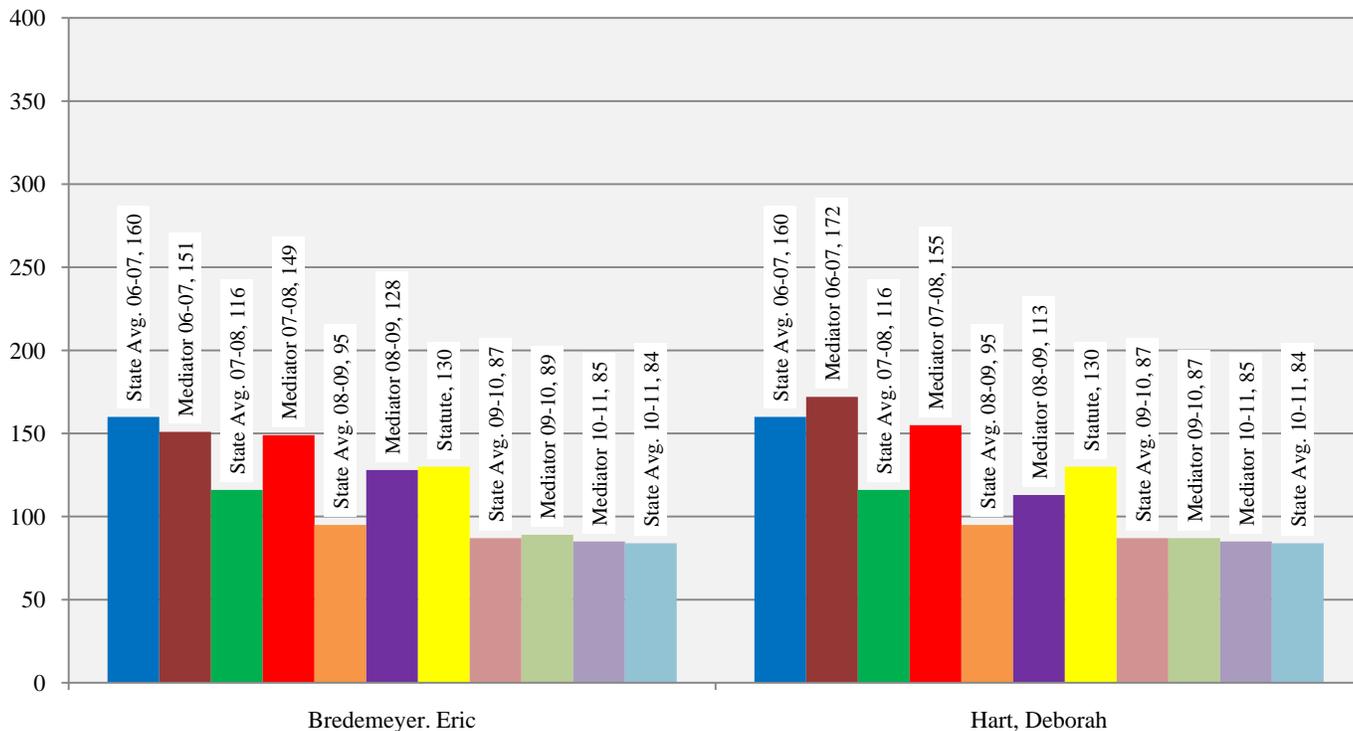
The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



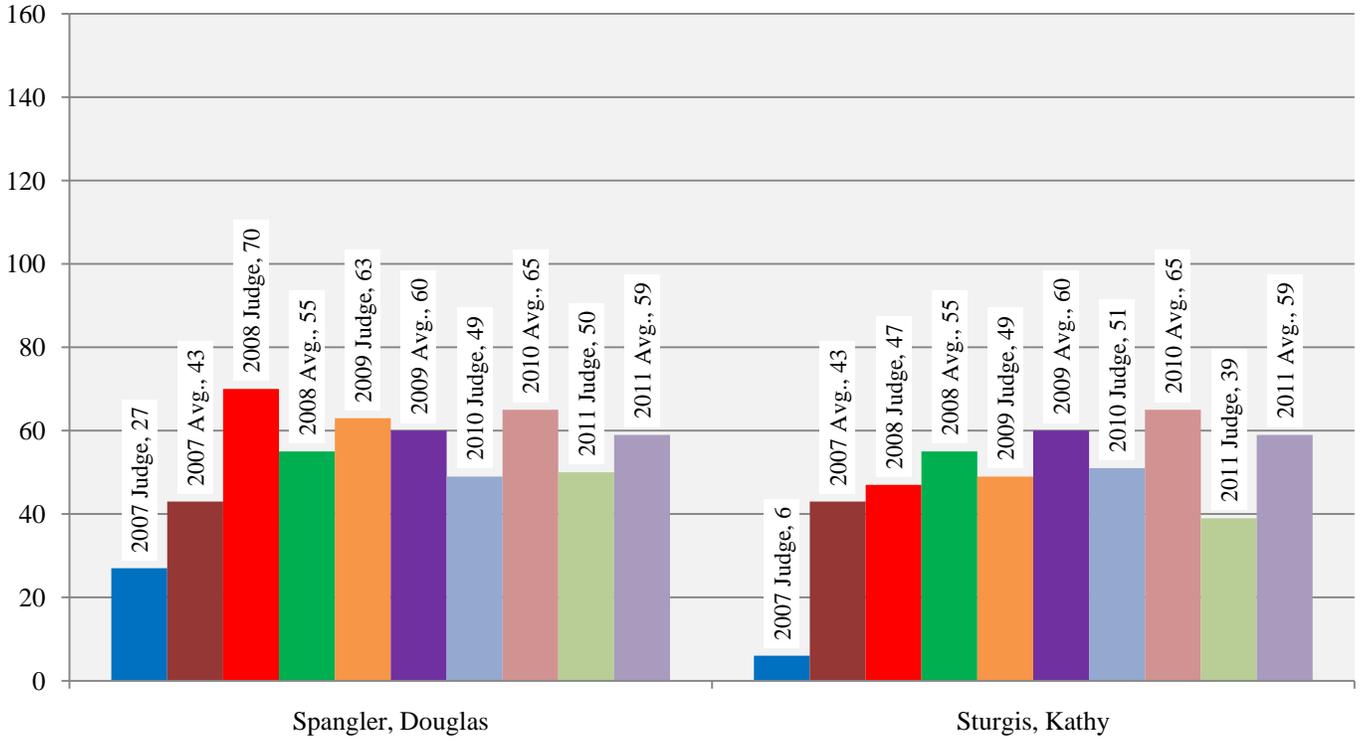
The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



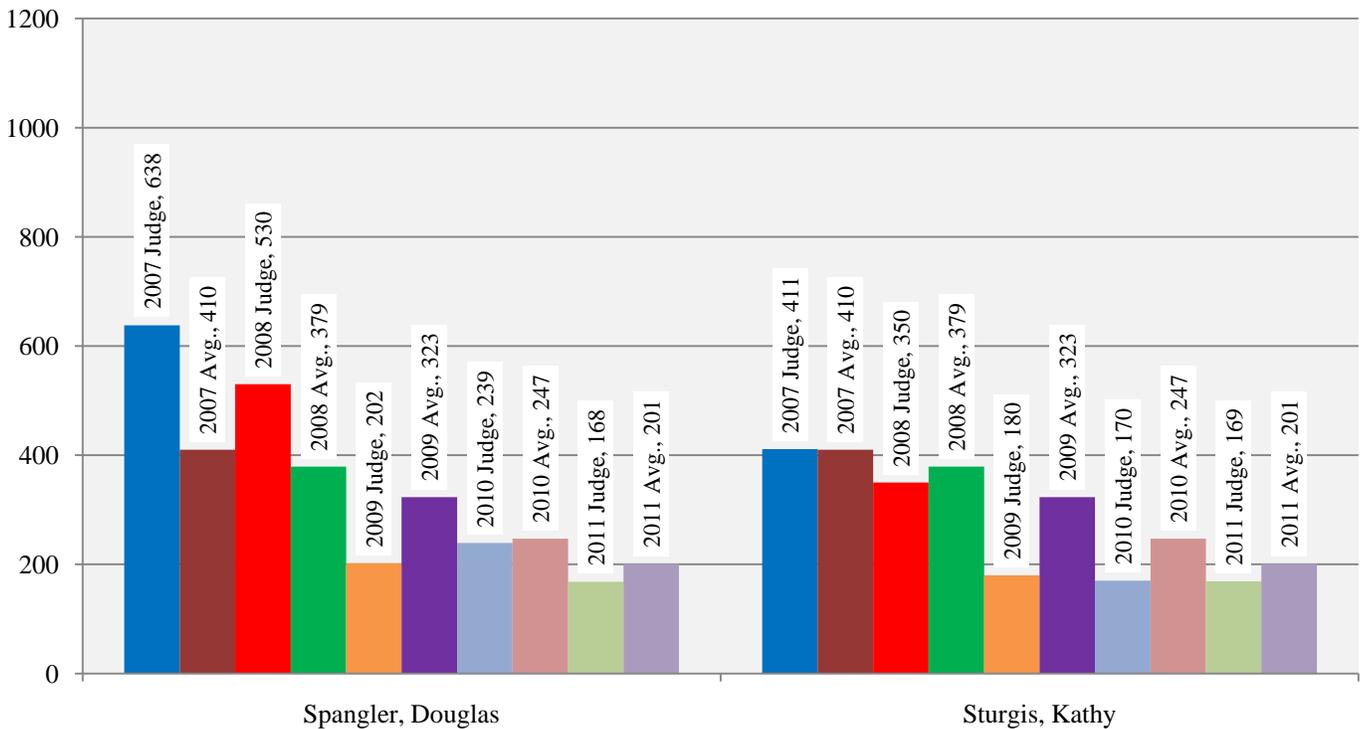
The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.



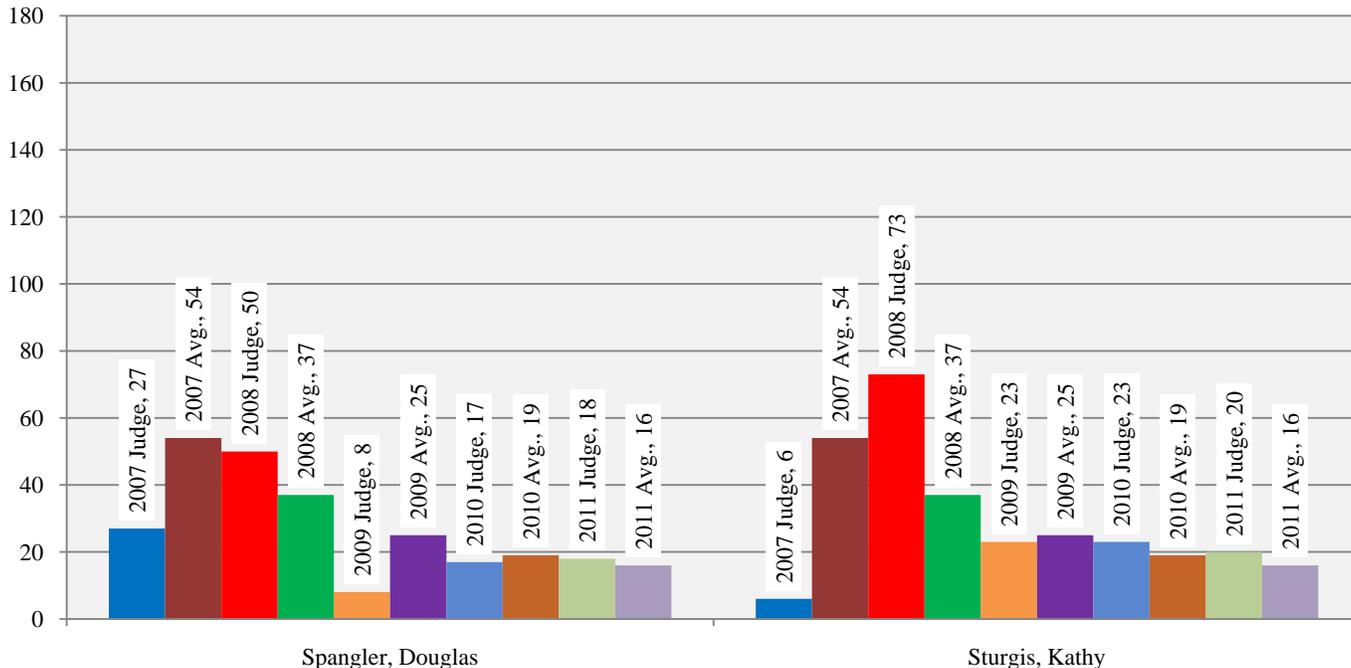
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



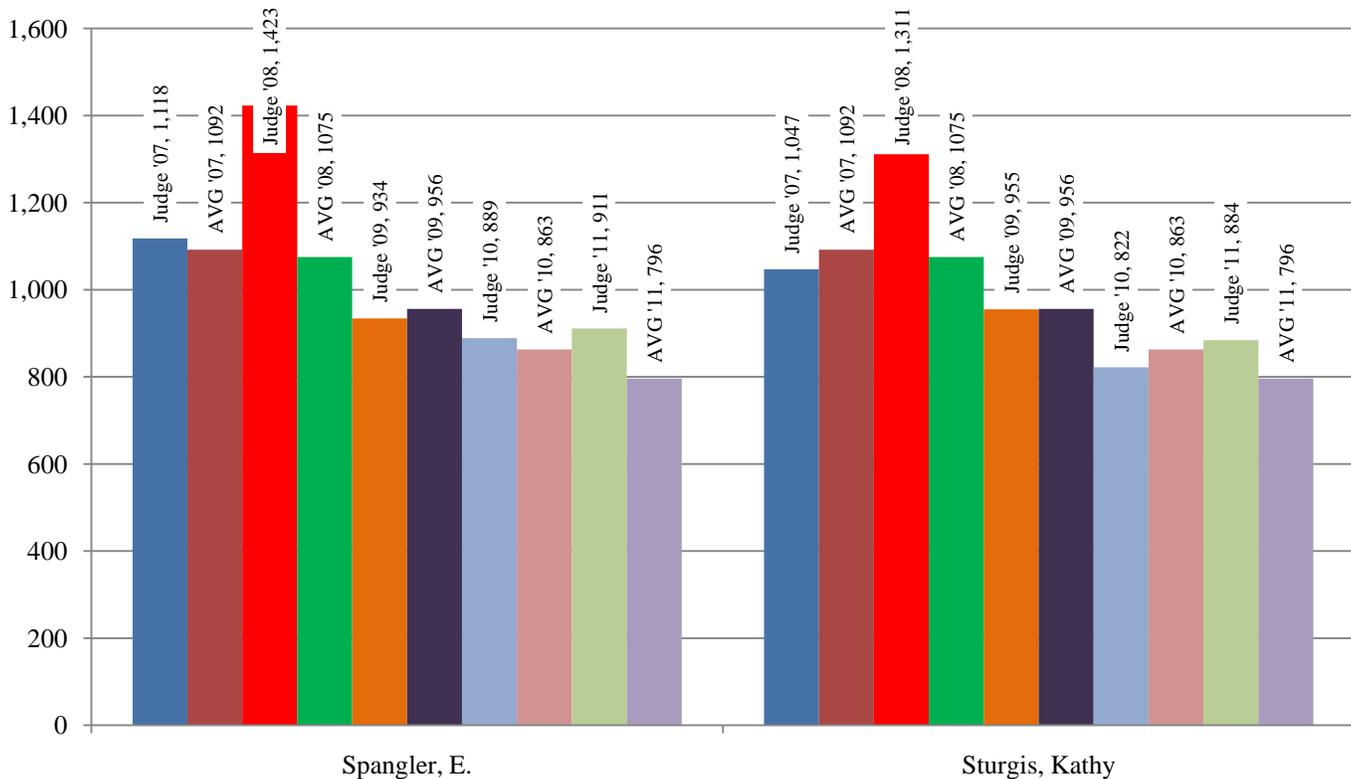
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2010-11. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. The identification for each year and the values are in each column label.



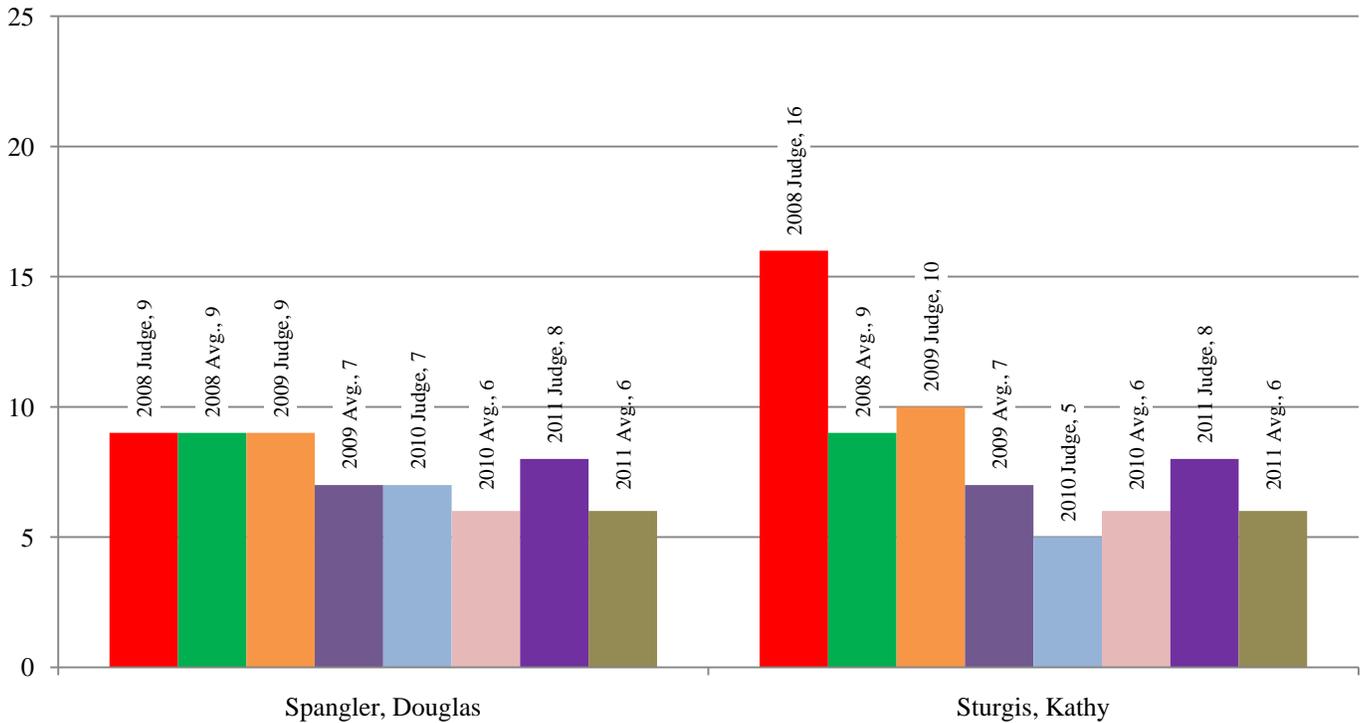
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



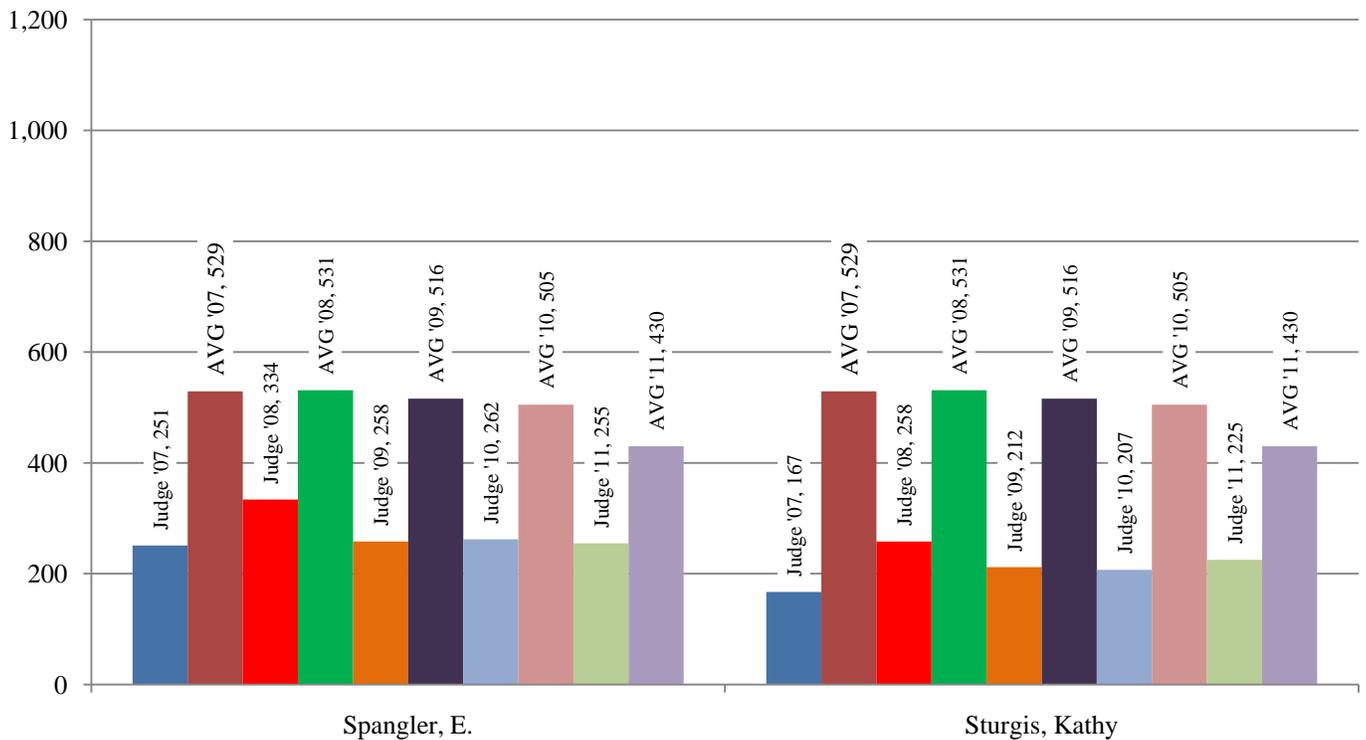
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



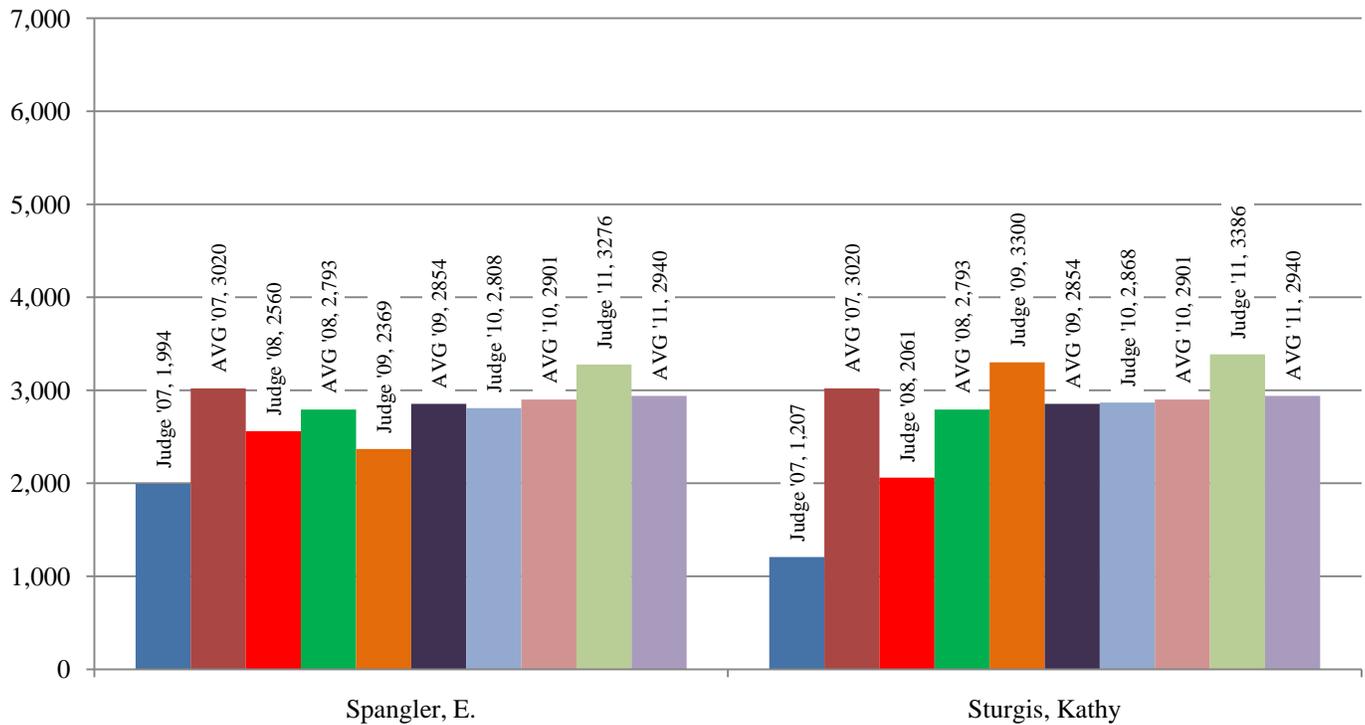
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



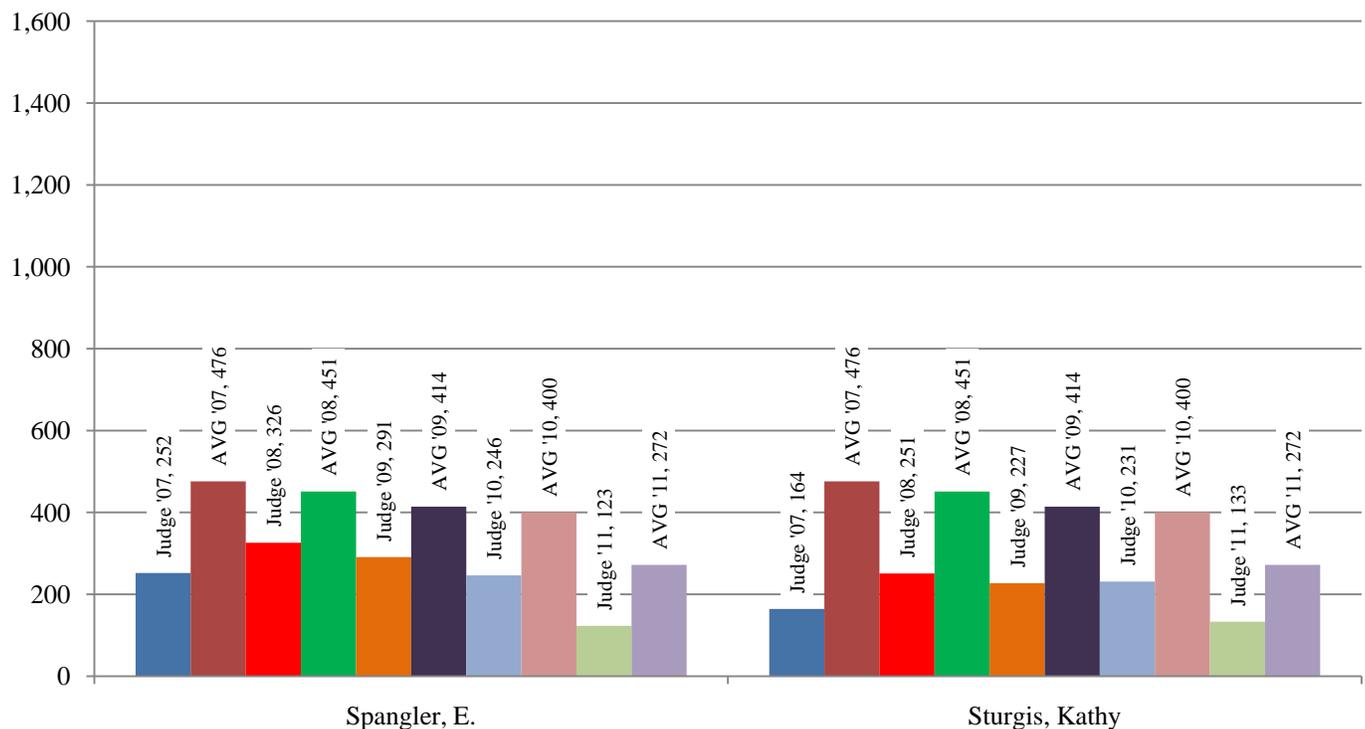
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



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

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

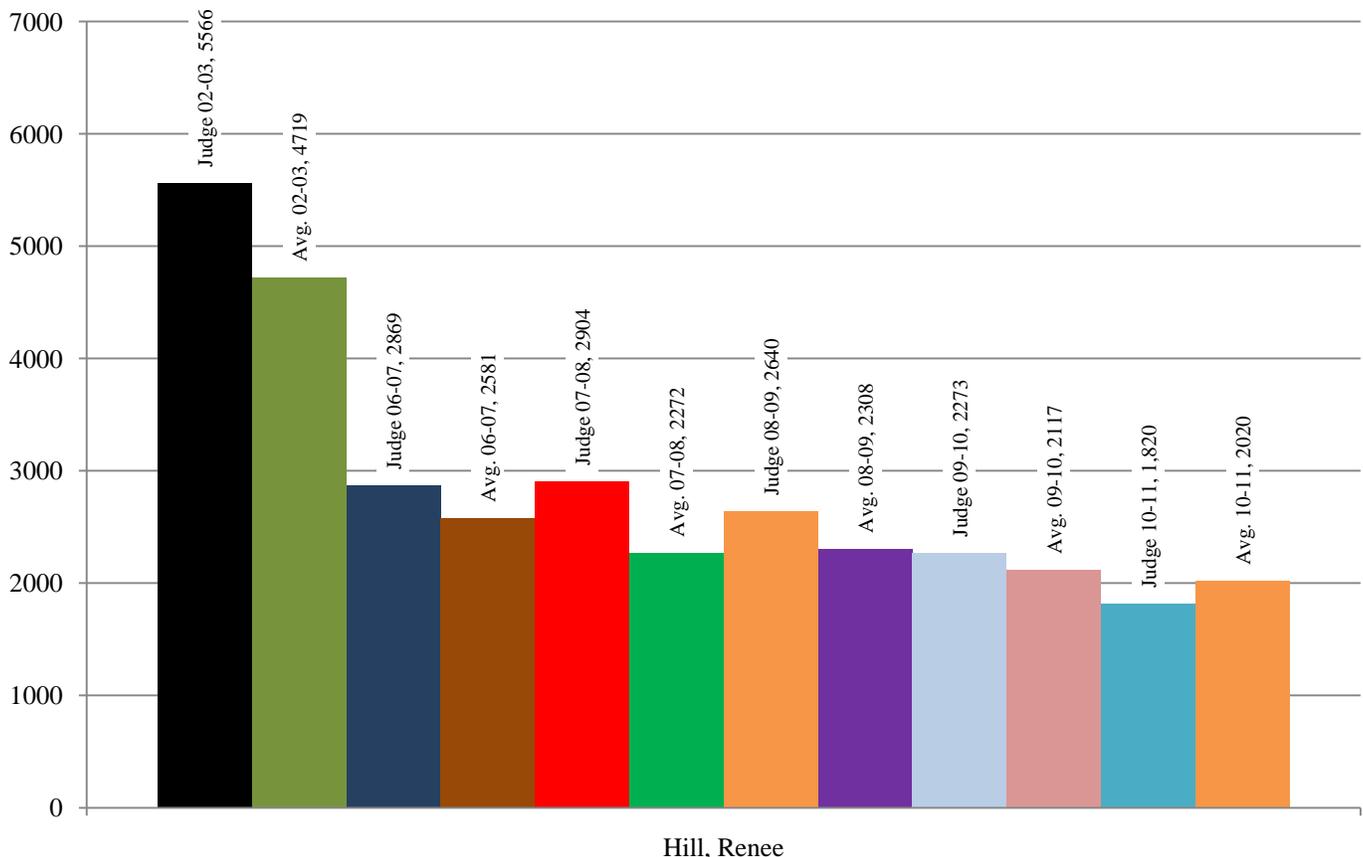
District GNS has experienced significant change in recent years. As noted in the last two OJCC Annual Reports. Notably, Judge M. Renee Hill is the third Judge to serve in that office in the last five years. Her presence is bringing stability to District GNS.

PFB filings decreased in District GNS again in 2010-11, for the first time falling below the statewide average. Similarly, “new case” filings fell below average in 2010-11. Each of these follow the recent trend of decreases, but are significant illustrations of District GNS progress. District GNS closed more petitions than were filed in 2009-10 and 2010-11, demonstrating a consistent trend towards equilibrium. Trial volume in District GNS is markedly above average again for 2010-11. The average time between petition filing and trial decreased markedly in District GNS in 2009-10, but even more dramatically in 2010-11; at 152 days average for 2010-11, District GNS is well within the statutory parameter of 210 day. Despite the significant trial volume, Judge Hill entered her trial orders in an average of 11 days last year, well within both the statutory parameter and below the statewide average.

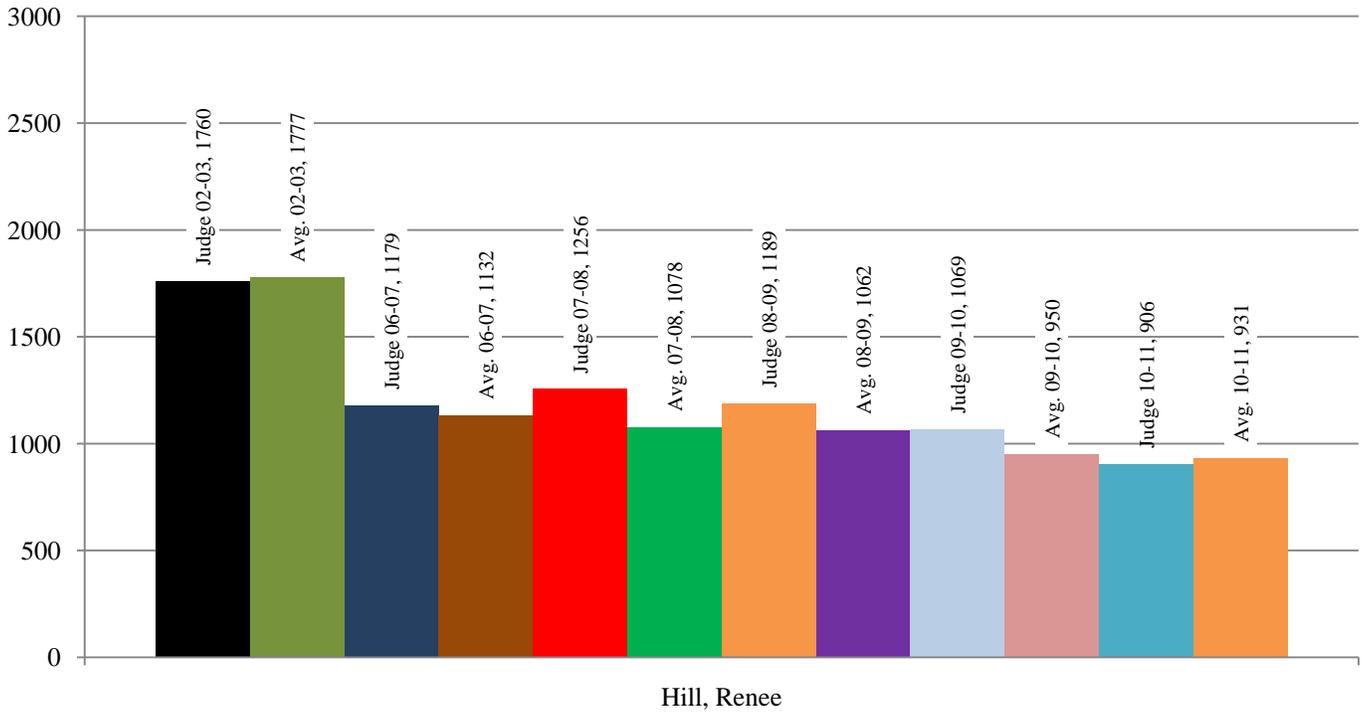
Judge Hill’s reorganization and re-training in District GNS is demonstrating significant progress. District GNS is an efficient and effective team, despite the significant trial volume there.

Mediator Suskin is President of the Gainesville chapter of the Friends of 440 Scholarship Fund and Member of the Statewide Board of Directors. He serves on the Board of Directors of the Florida Mediation Institute, and on the Steering Committee of The Forum Seminar. He has been moderator of the Hot Topics Panel of the Attorneys’ Breakout at the FWCI Educational Conference for past 4 years, and is a Frequent guest Speaker at the UF Law School for Workers’ Compensation and Mediation Classes. Mediator Suskin volunteers with Habitat for Humanity and the United Way Fundraising Campaign. He is Board Certified Emeritus, Workers’ Compensation.

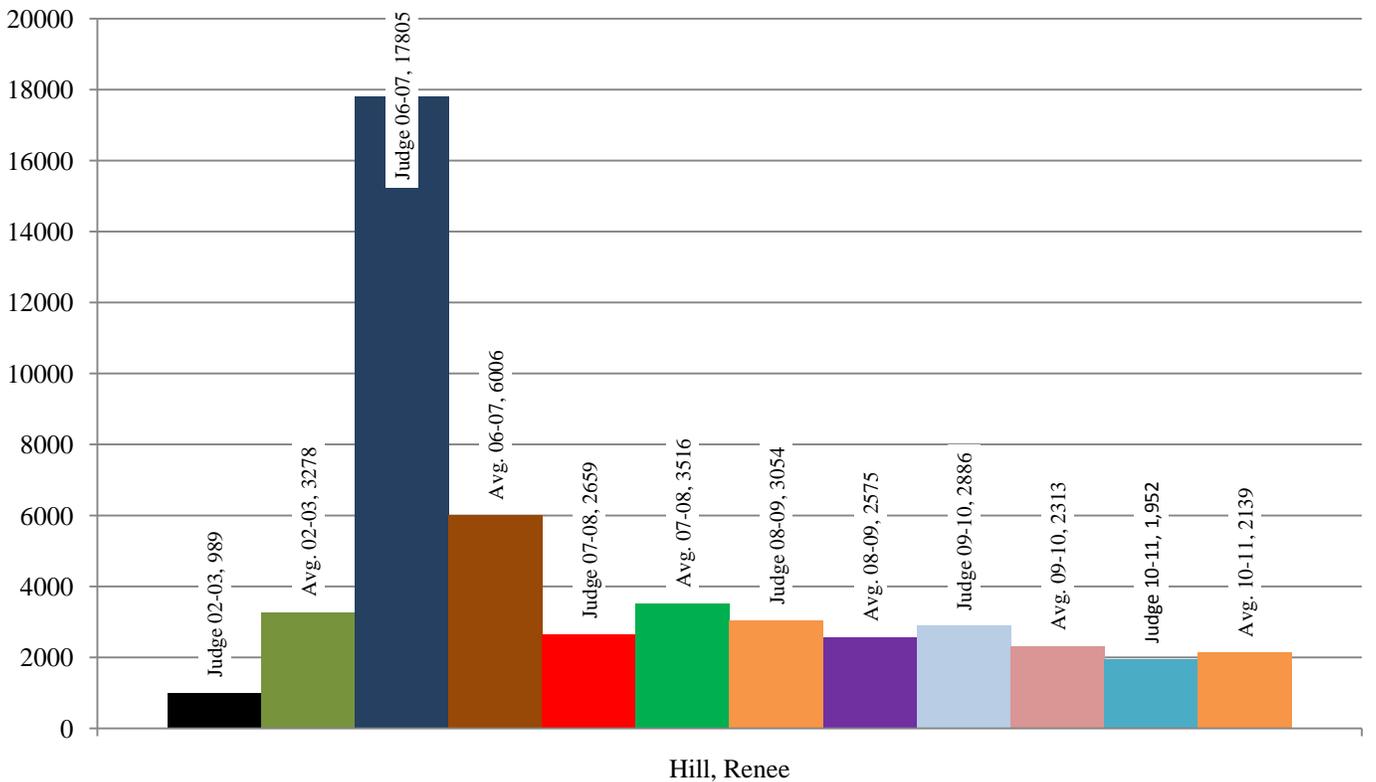
The following depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



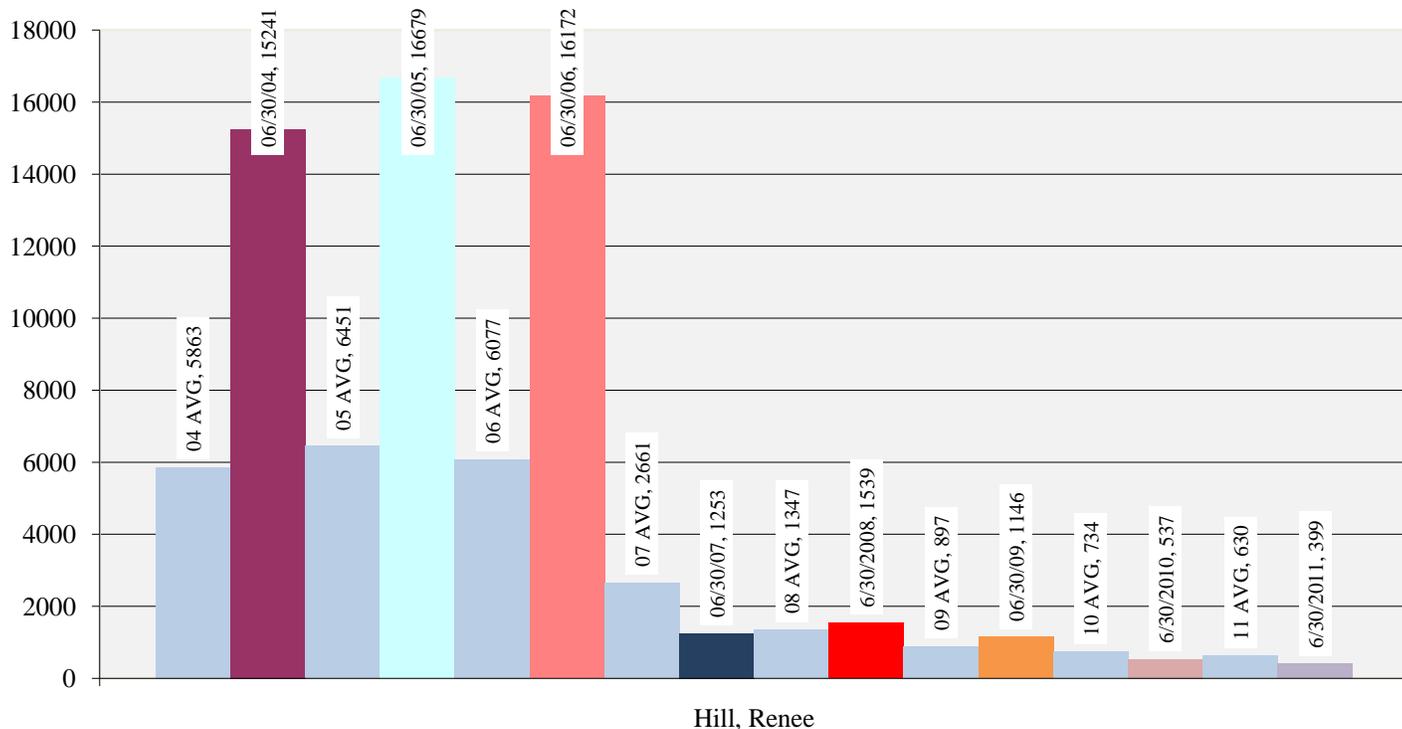
The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



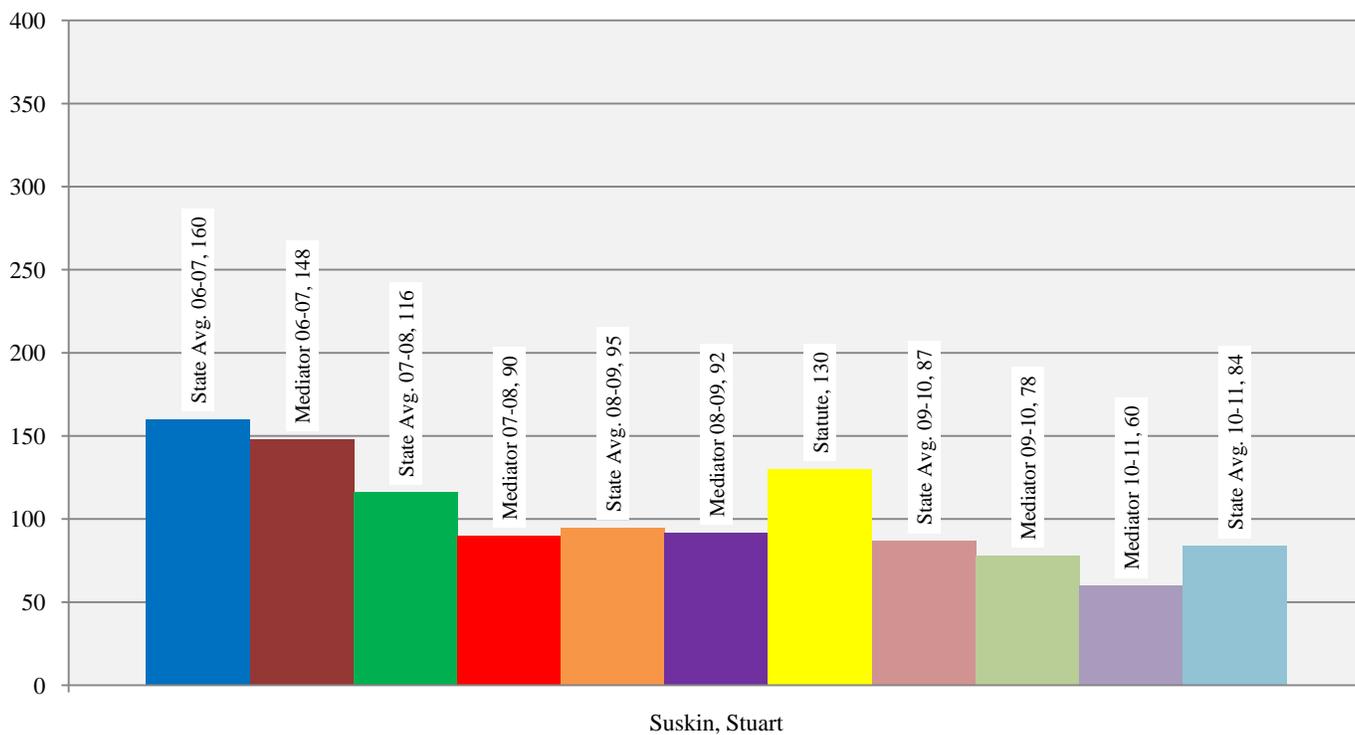
The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



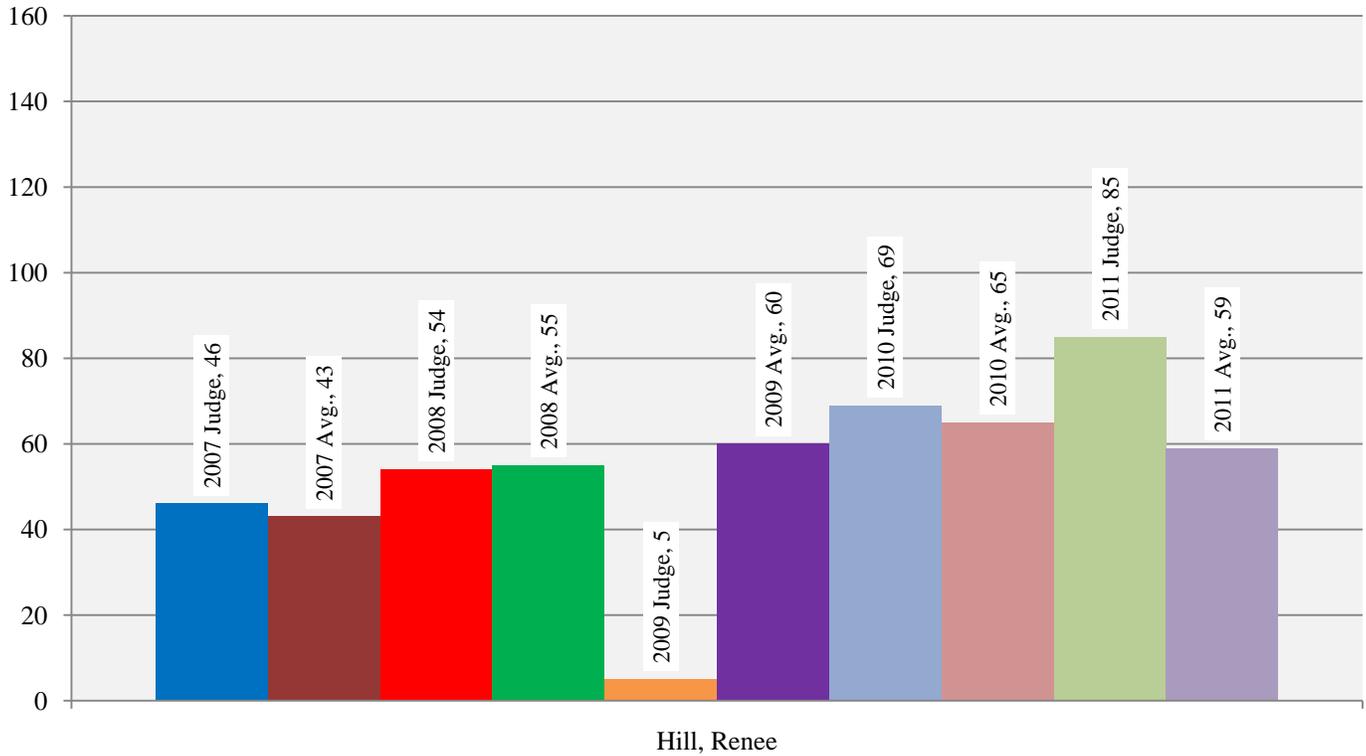
The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



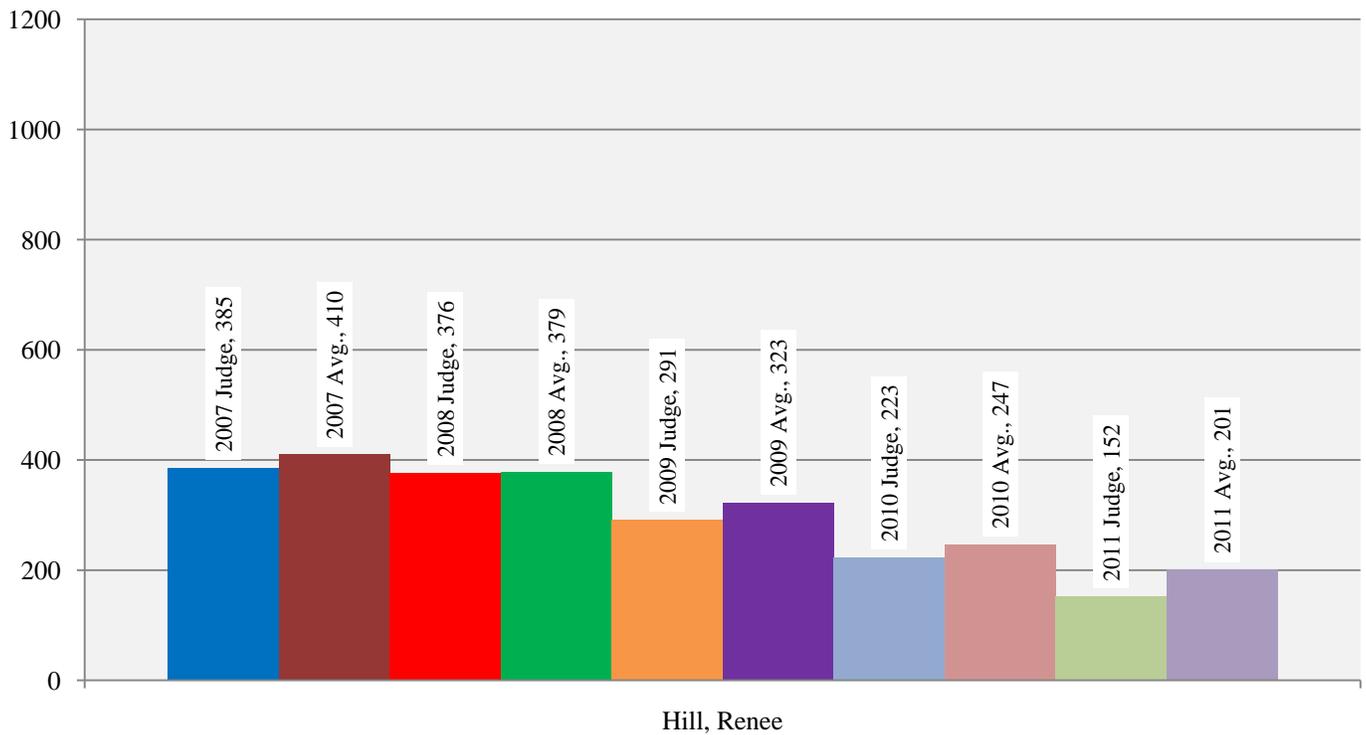
The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.



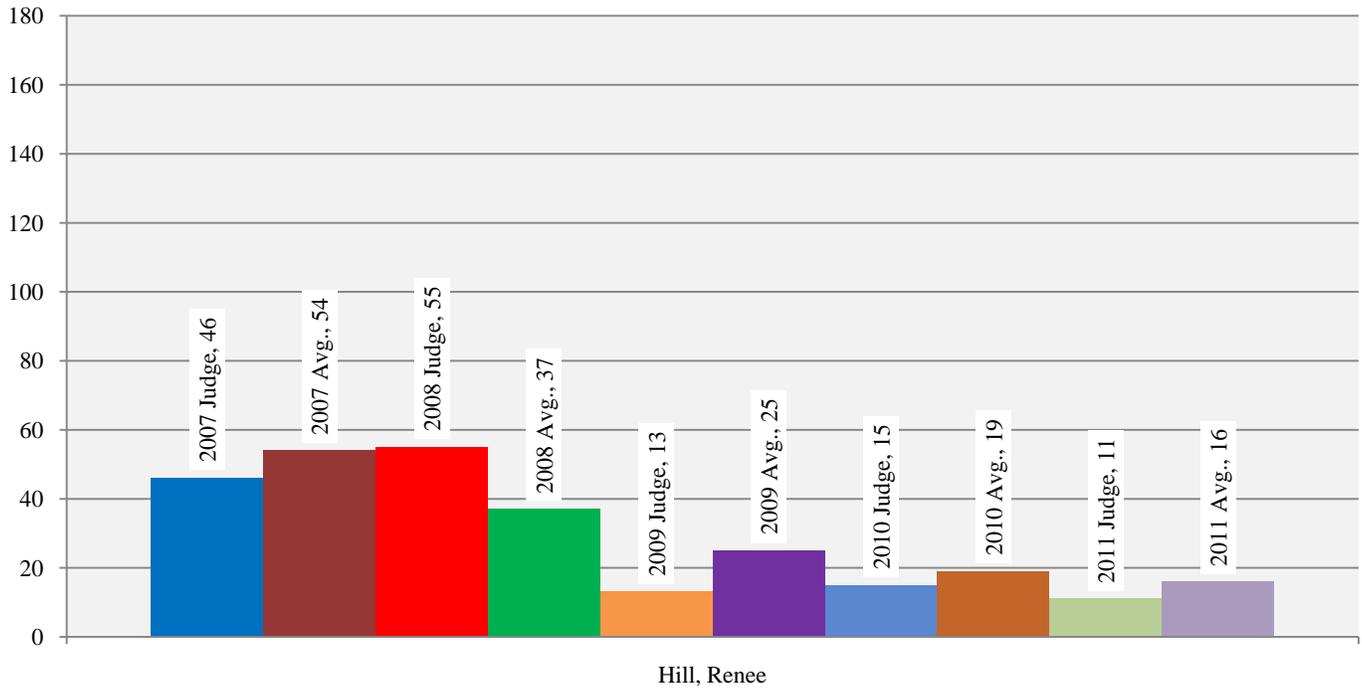
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



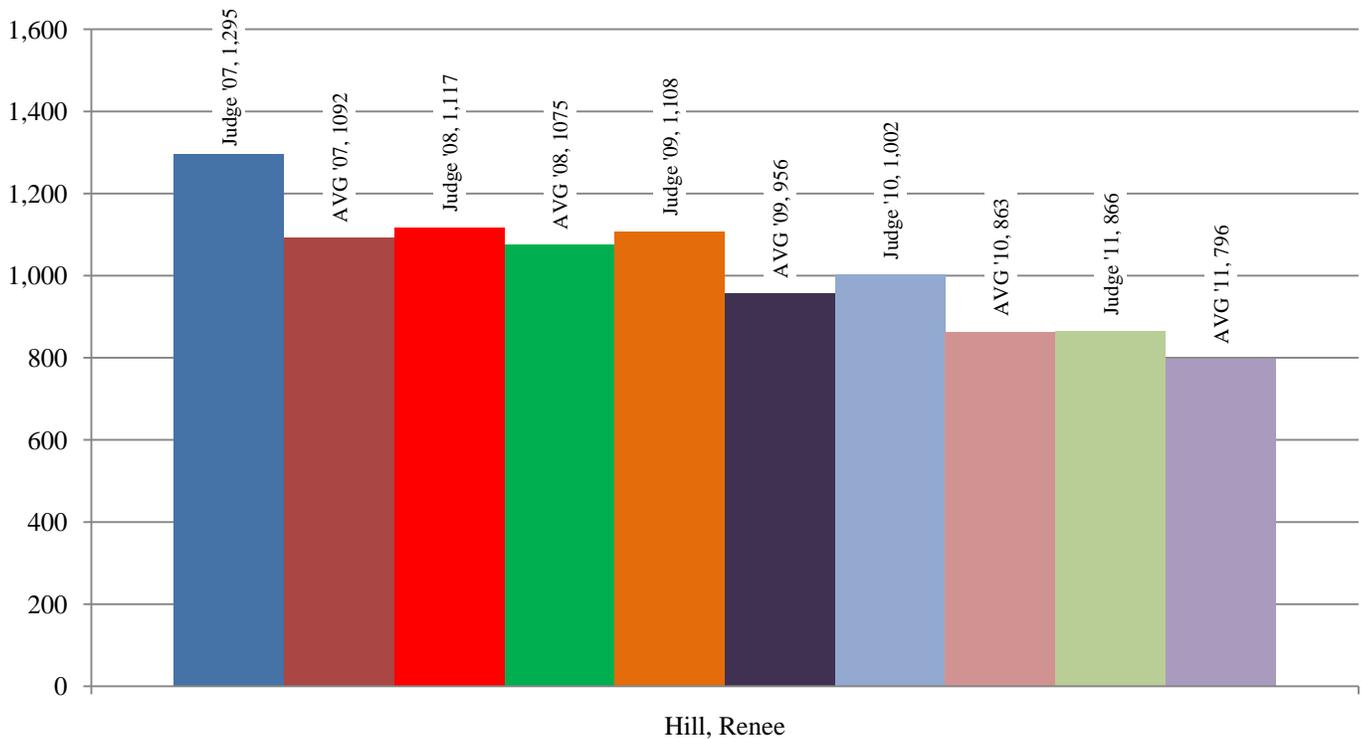
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2010-11. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. The identification for each year and the values are in each column label.



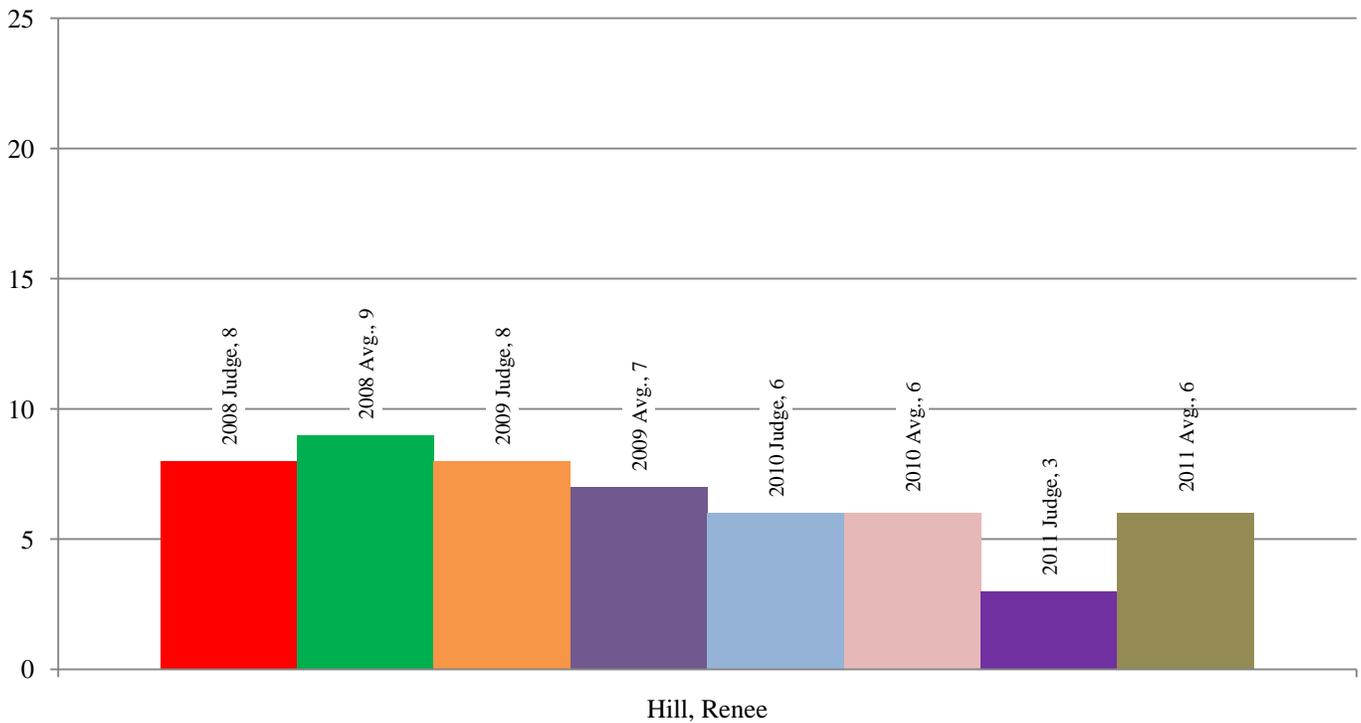
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



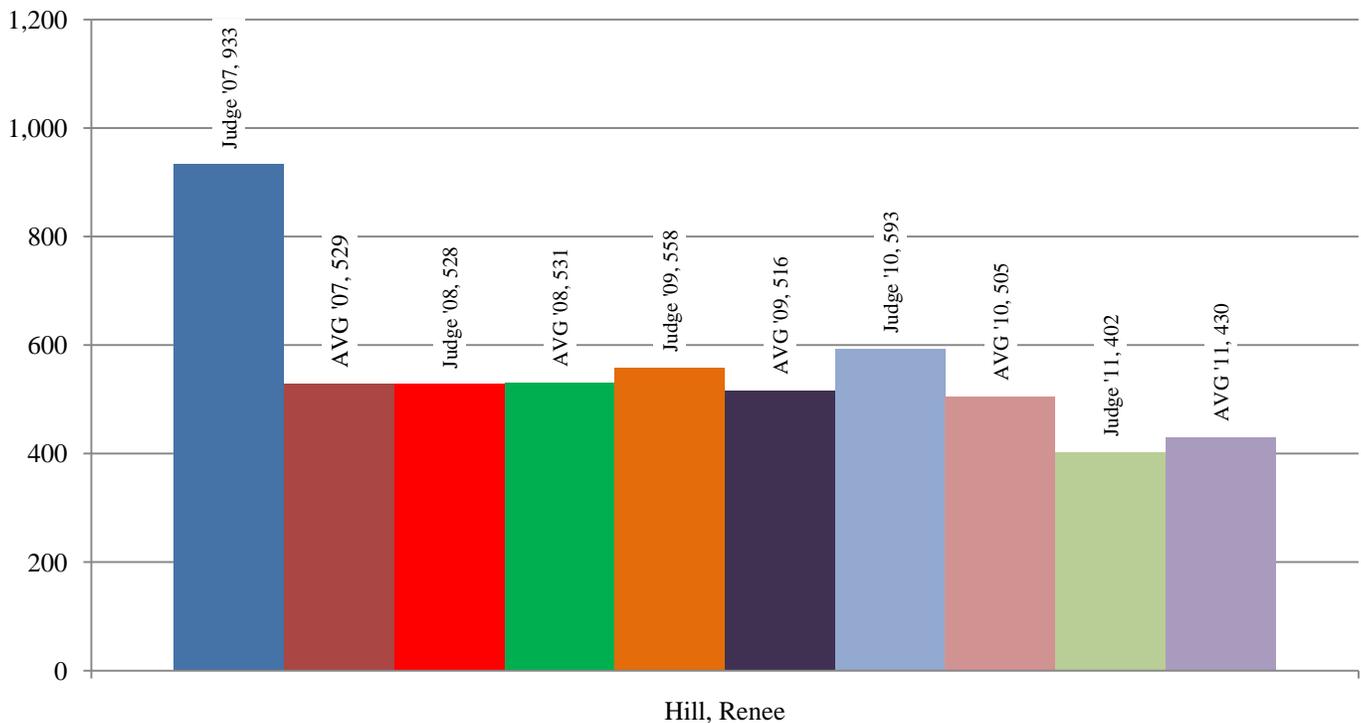
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



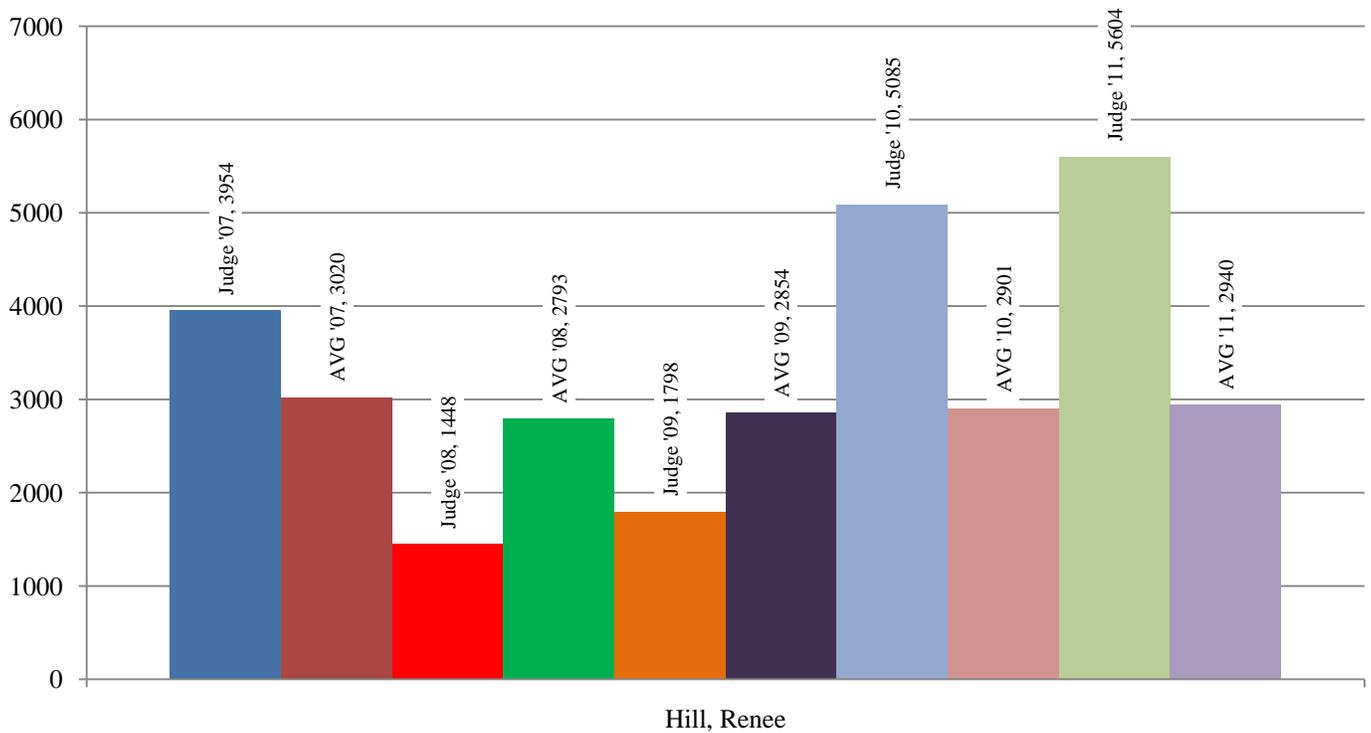
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



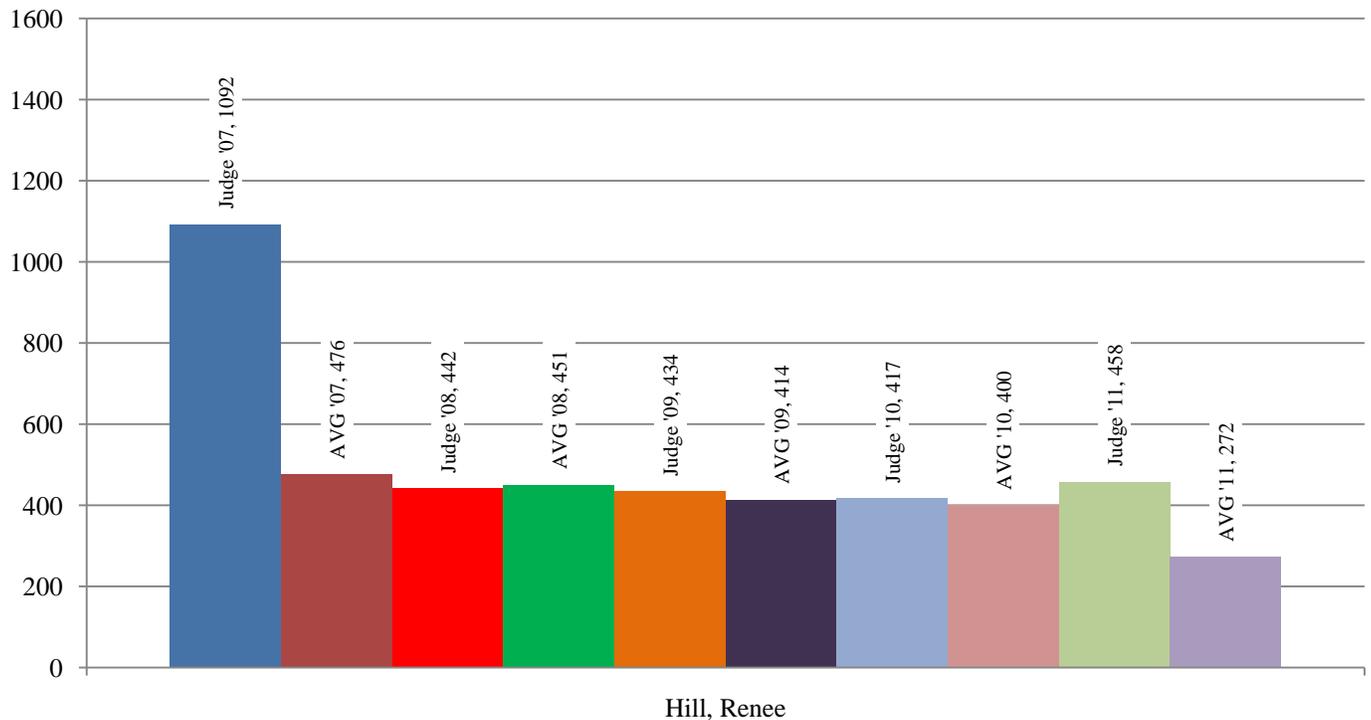
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



Appendix “5” District JAX (JCC Holley, JCC Humphries):

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

District JAX has endured significant change in recent years, described in the 2009-10 OJCC Annual Report. Mid-year Fiscal 2010-11, Judges Holley and Humphries were appointed to replace Judges Pitts (transfer to District ORL) and Rosen (transfer to District SPT).

The volume of PFB filed in JAX 2010-11 remained below the statewide average, and the “new case” volume remained above the statewide average. This is consistent with JAX historically. The relatively high volume of “new cases” contrasting with below-average PFB volume illustrates a significant volume of cases with relatively low litigation activity in each.

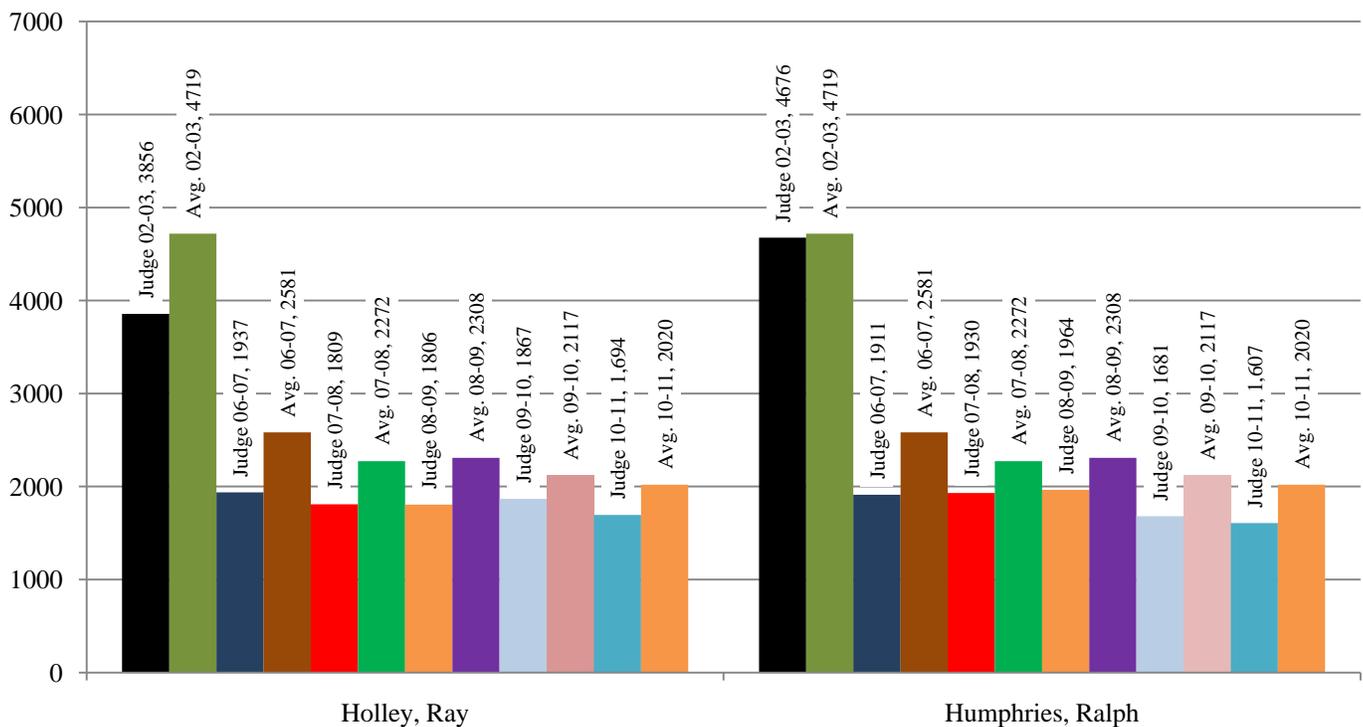
The JAX District has historically conducted fewer trials per Judge than the statewide average. The trend is difficult to measure precisely with the variety of Judges hearing JAX cases in 2010-11, as new appointments and transitions were managed. However, annualizing Judge Holley’s and Judge Humphries’s trial volumes for the six months served last year, trial volumes in JAX are below the state average. Judge Holley manages an out-of-District docket in Ft. Lauderdale and Judge Humphries manages a Miami docket.

Judges Holley and Humphries are members of the E. Robert Williams Inns of Court. Judge Holley serves that Inn as Treasurer and Master of the Bench, and he is also involved in the Jacksonville chapter of the Friends of 440 Scholarship organization. Judge Holley is also a member of Leadership Stetson, the Workers’ Compensation Rules Advisory Committee and the Rotary Club of Southpoint.

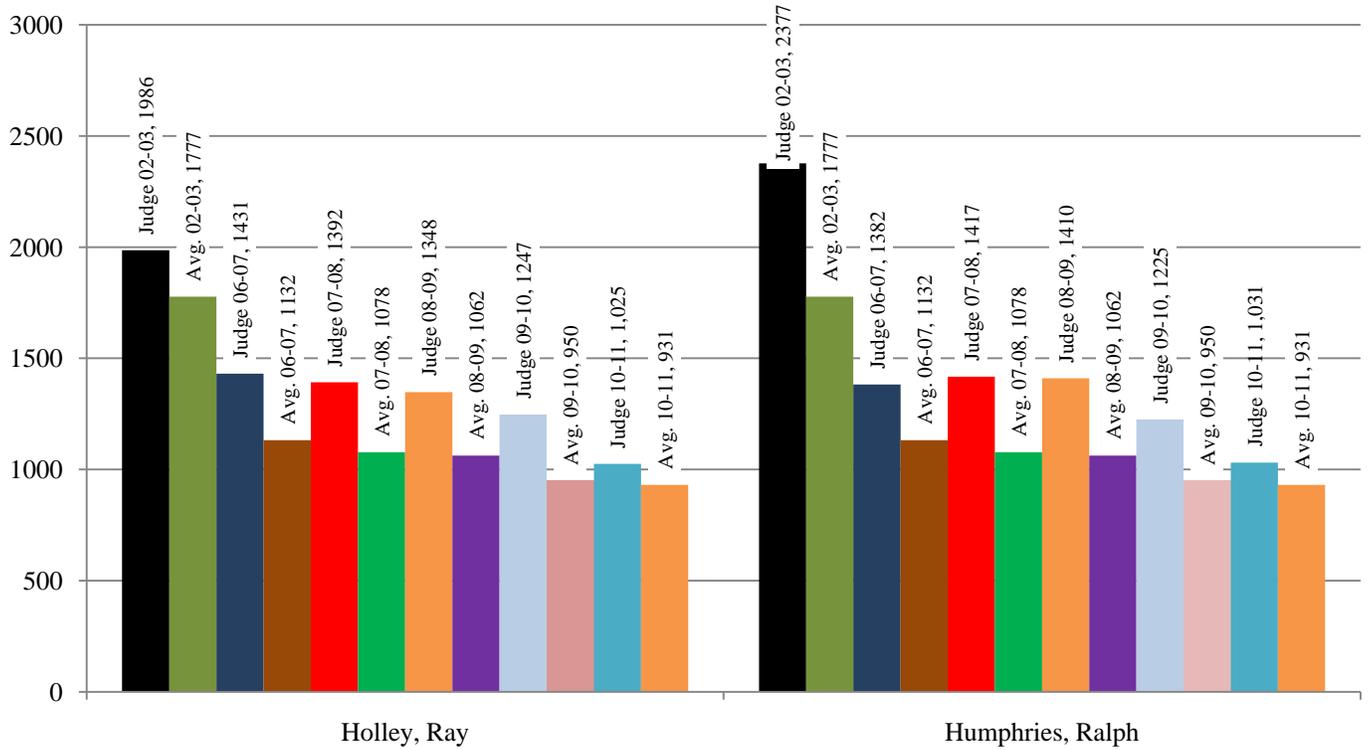
Mediator Day is a member of the Mediator Ethics Advisory Committee, appointed by the Chief Justice of the Florida Supreme Court, Vice Chair of The Florida Bar Grievance and Fee Arbitration Committee, a Life Fellow of the American Bar Foundation, an Honorary Member E. Robert Williams American Inn of Court, a Fellow of The Florida Bar Foundation, a Florida Bar Grievance mediator, and a member of the ABA TIPs ADR Committee. He recently Published in the Spring 2011 Committee Newsletter *Idle thoughts of a Florida Mediator*.

Mediator Gordon is the President-Elect/Counselor of the E. Robert Williams Inn of Court, dedicated to the practice of Workers’ Compensation law. In June 2011 he presented at the 4th annual Jacksonville Bar Association Mediation and Ethics Continuing Education Seminar.

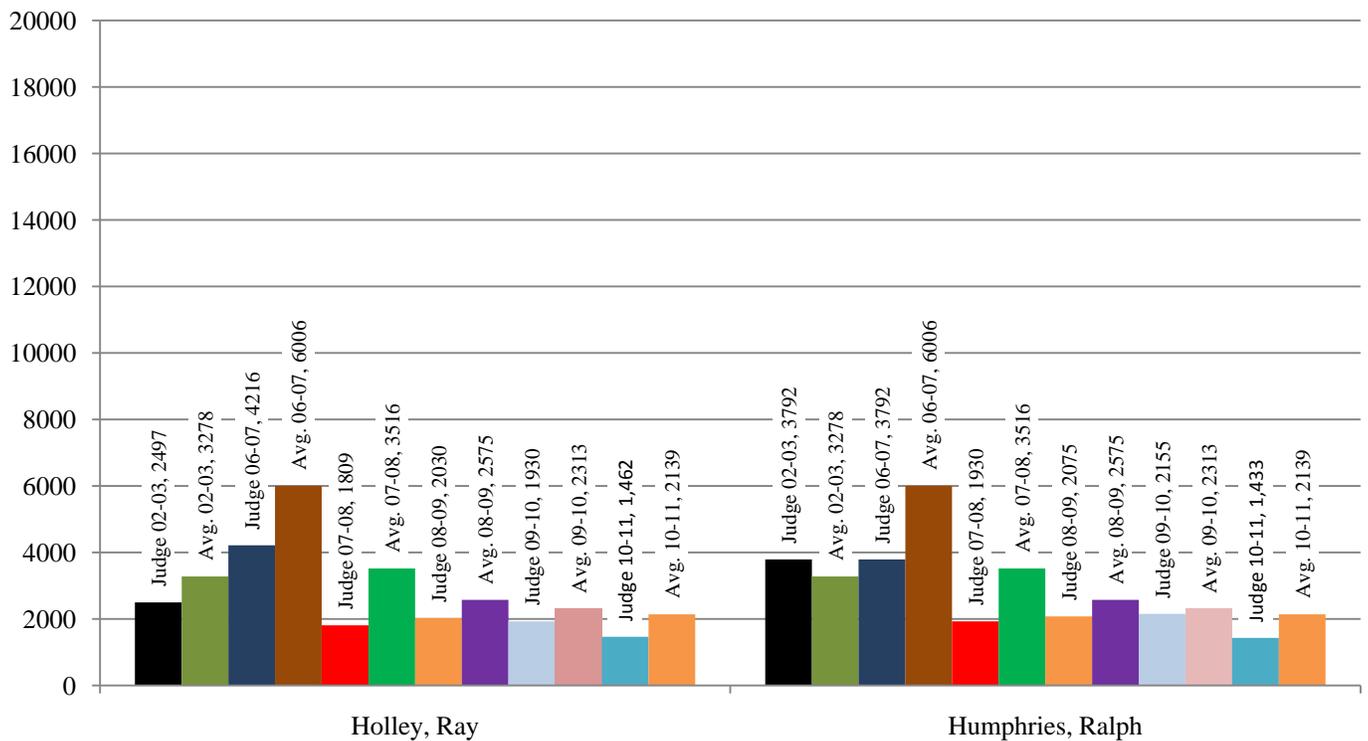
The following depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



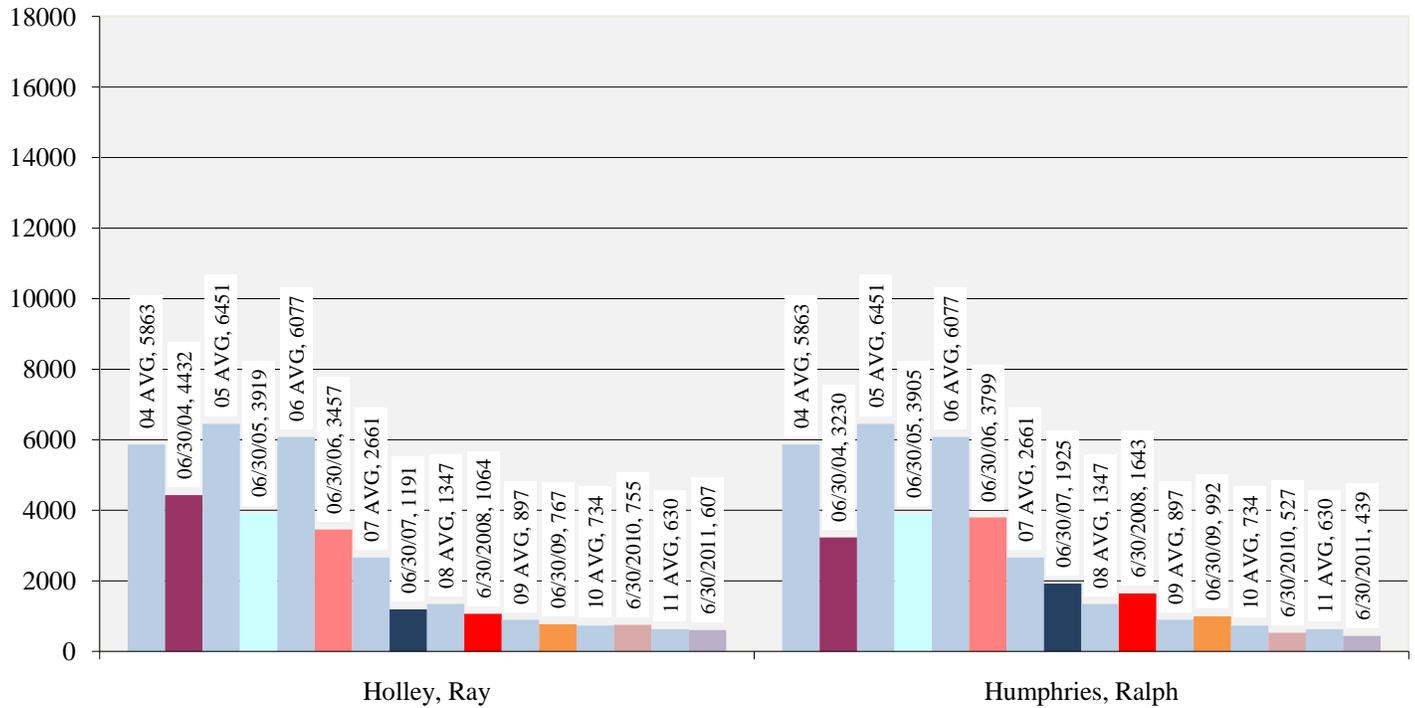
The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



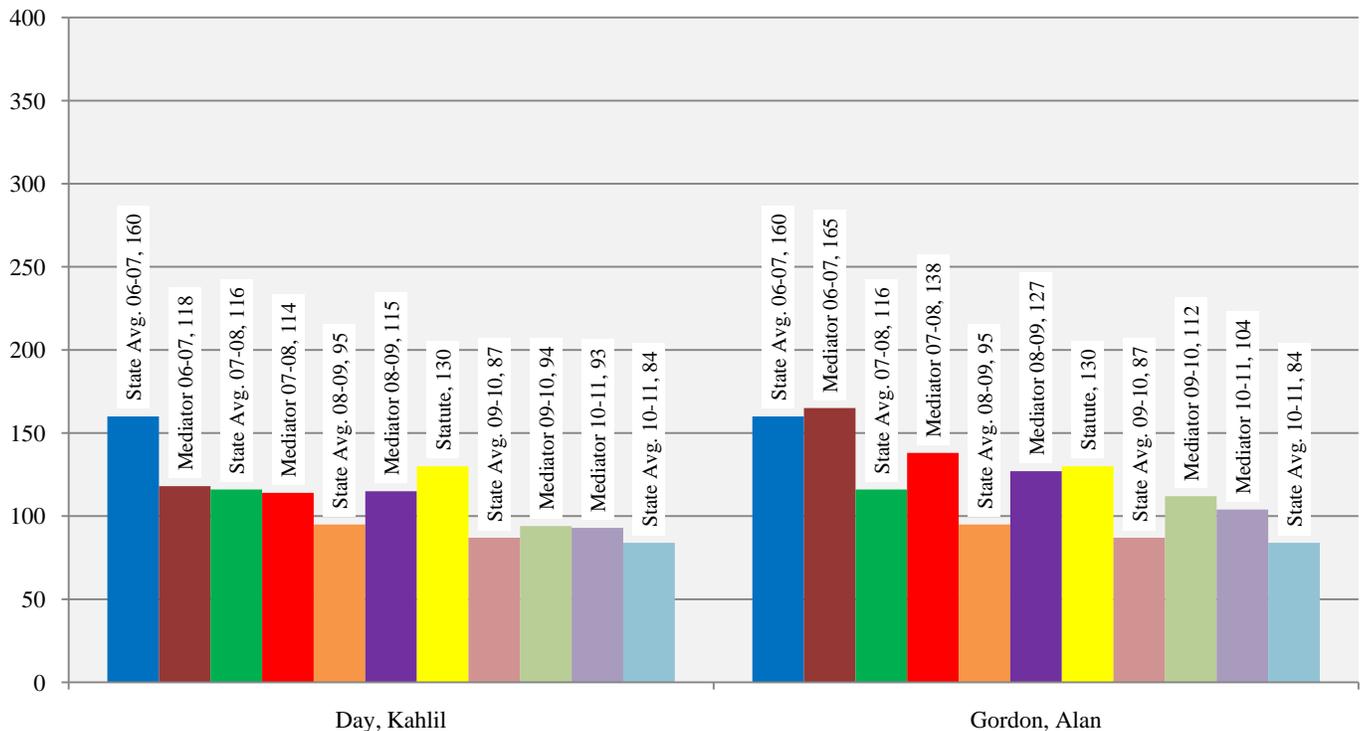
The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



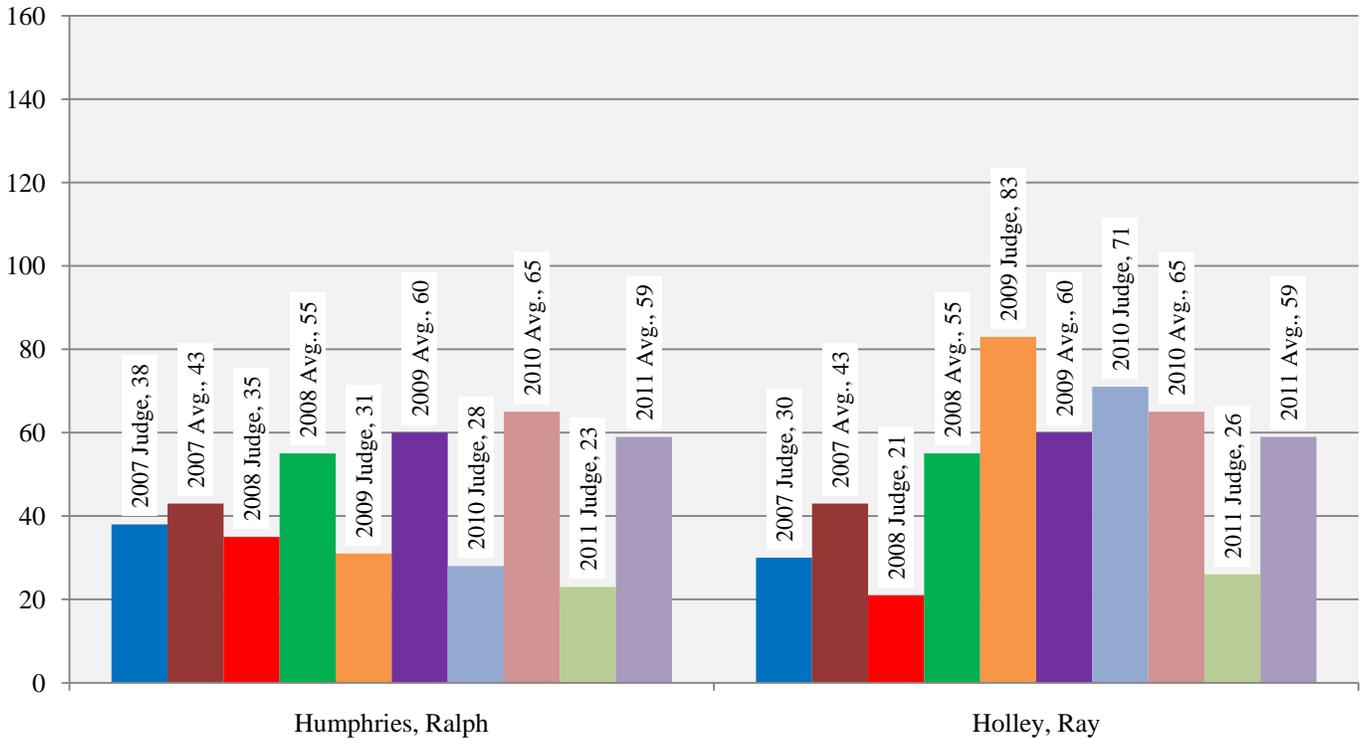
The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



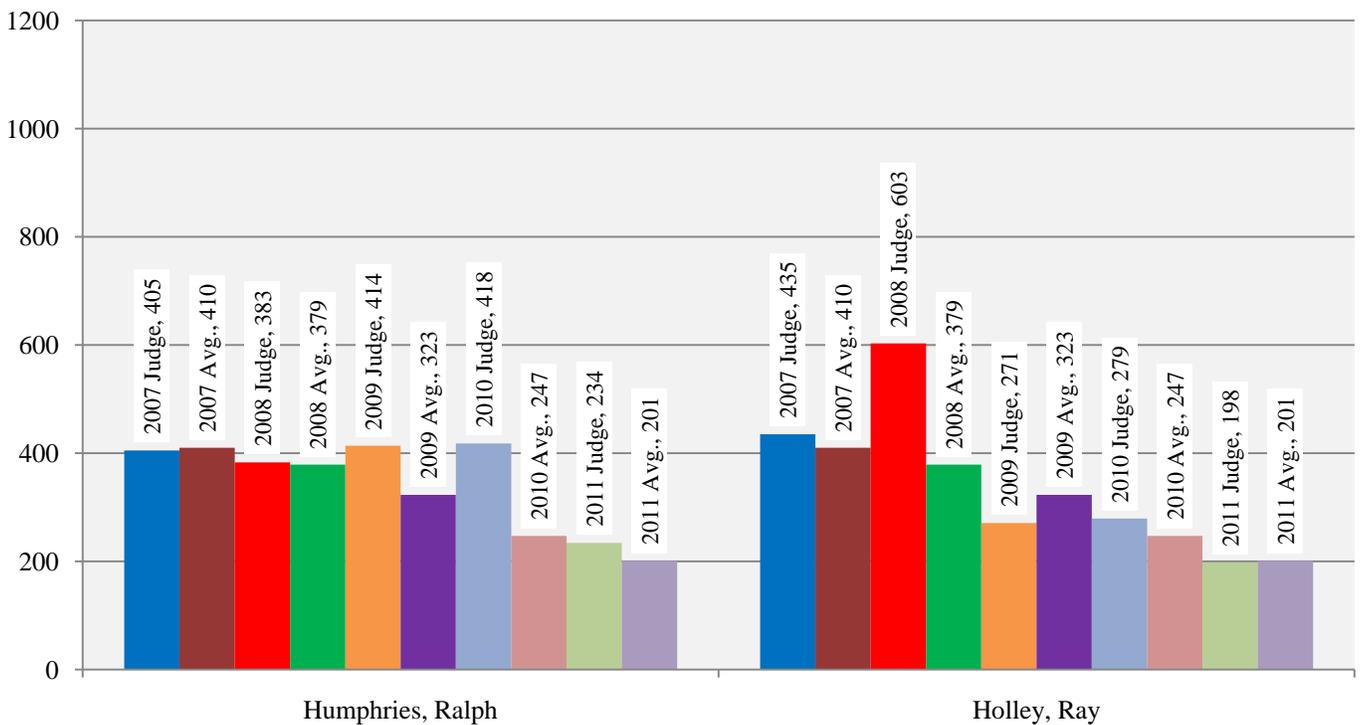
The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.



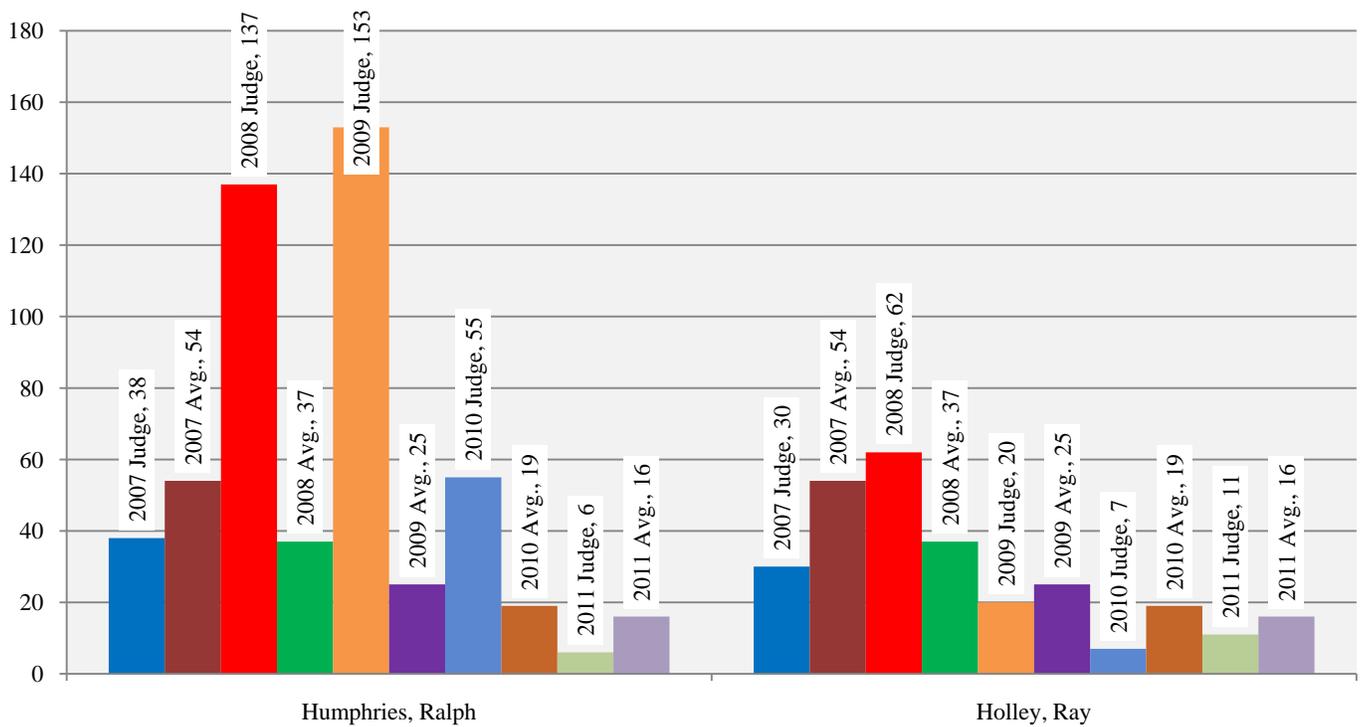
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



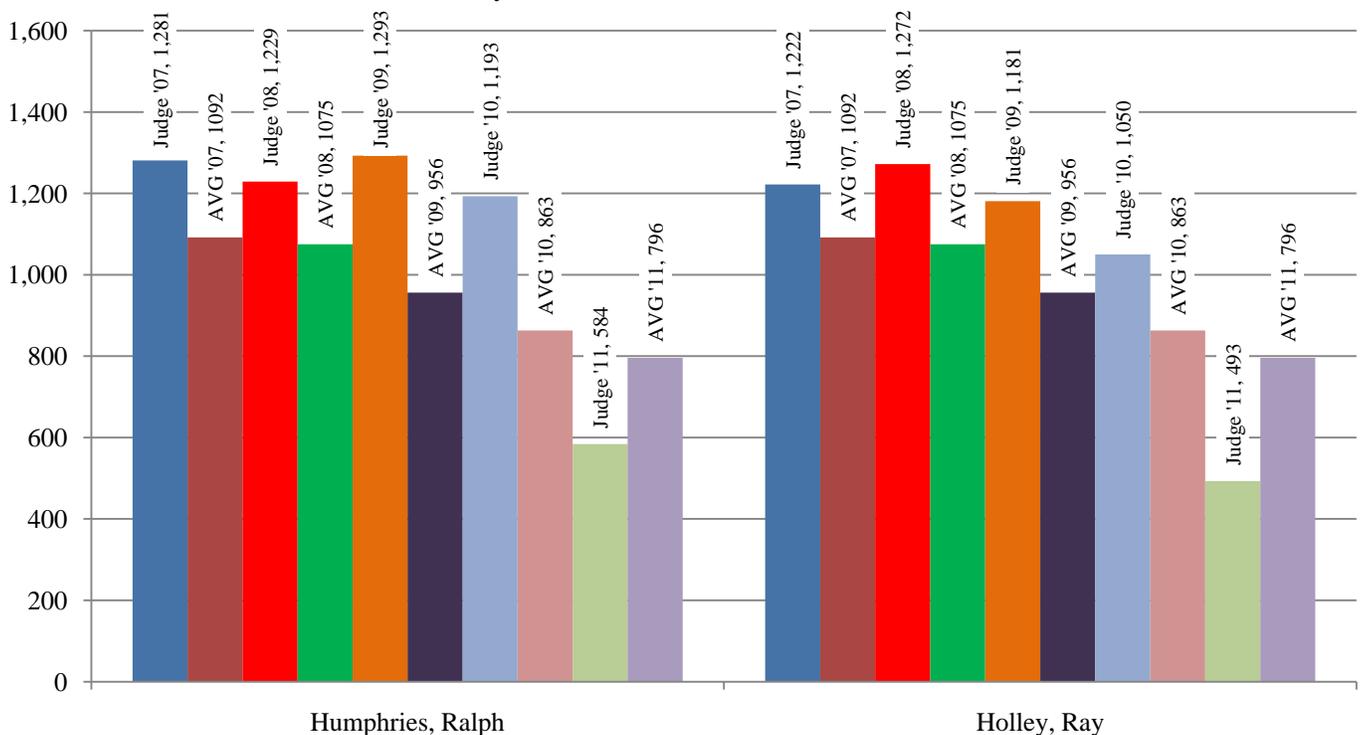
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2010-11. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. The identification for each year and the values are in each column label.



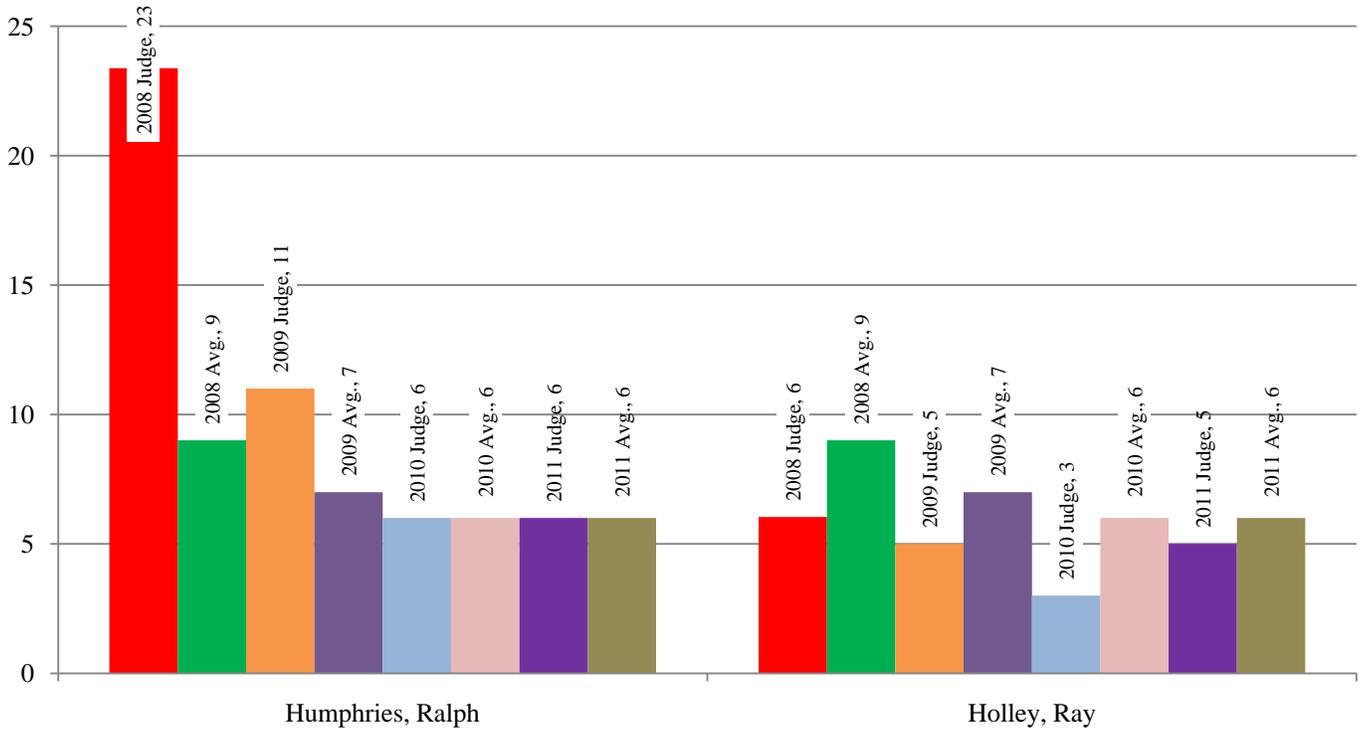
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



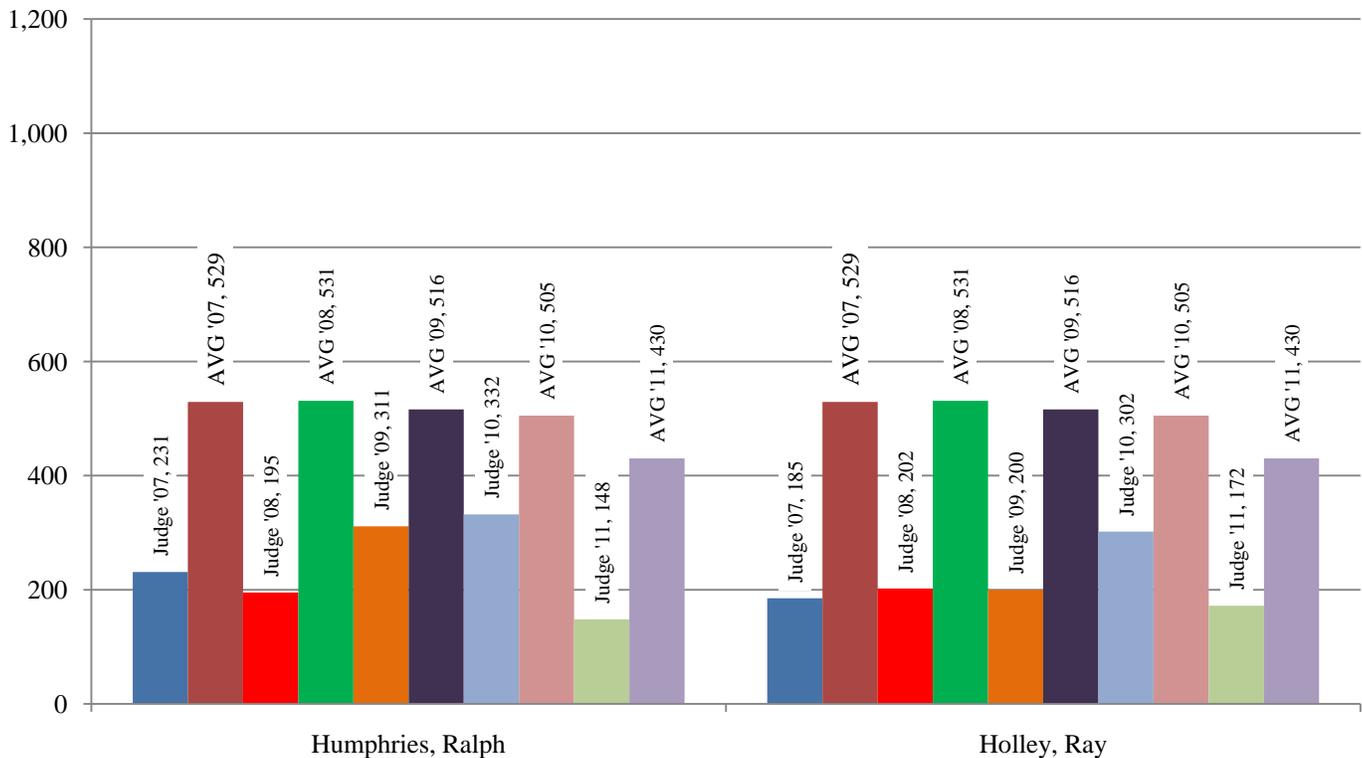
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



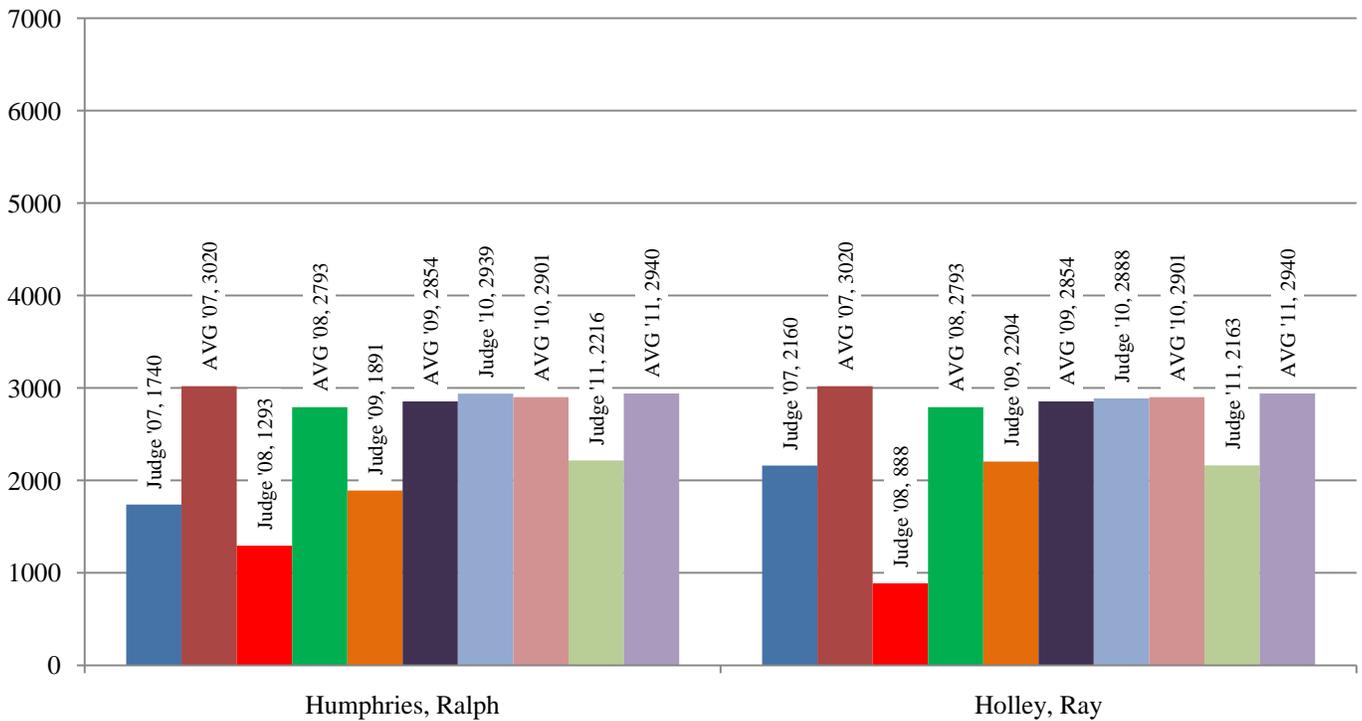
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



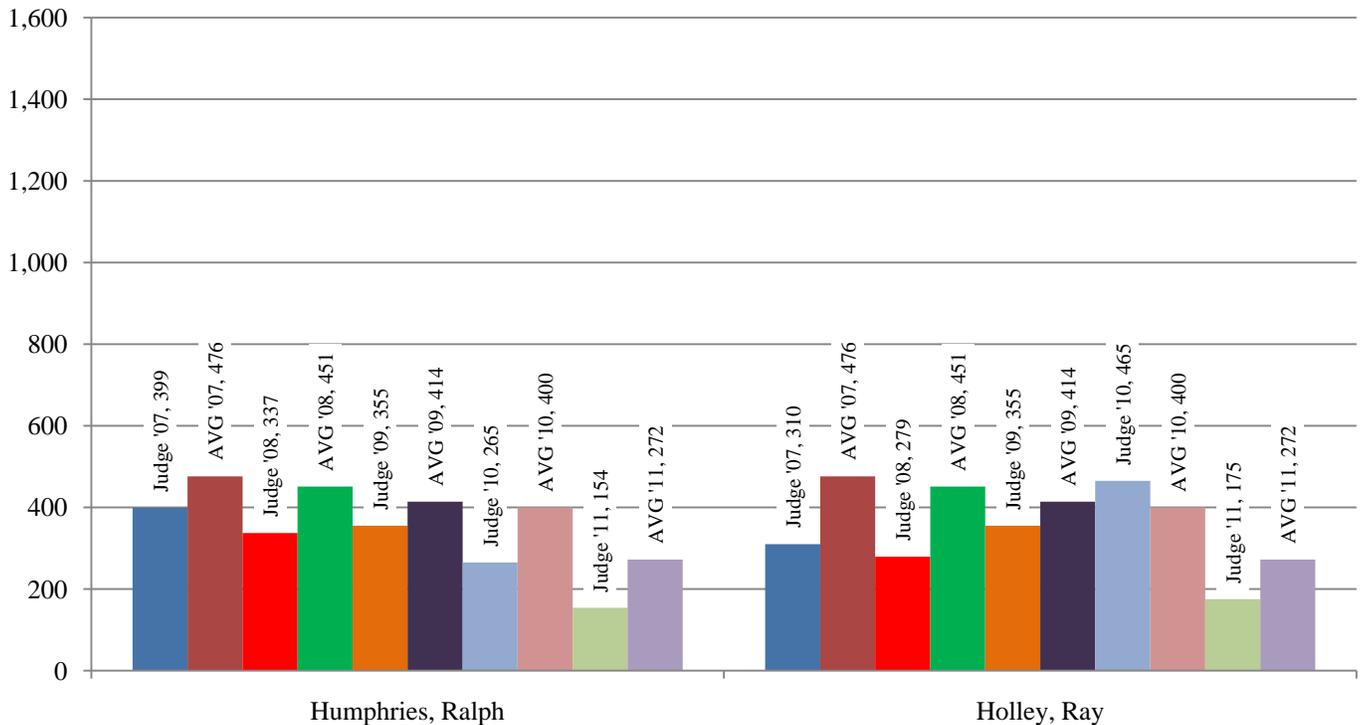
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



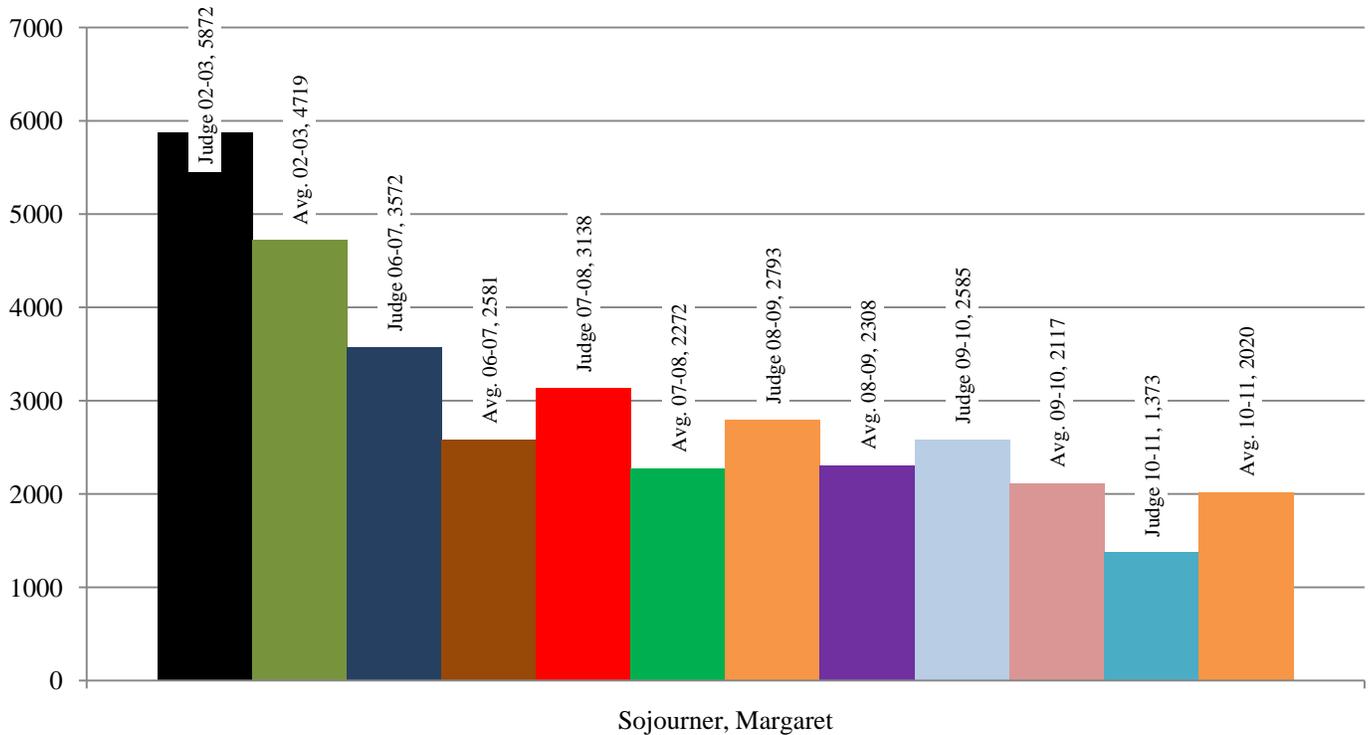
Appendix “6” District LKL (JCC Sojourner):

District LKL includes Hardee, Highlands, and Polk counties.

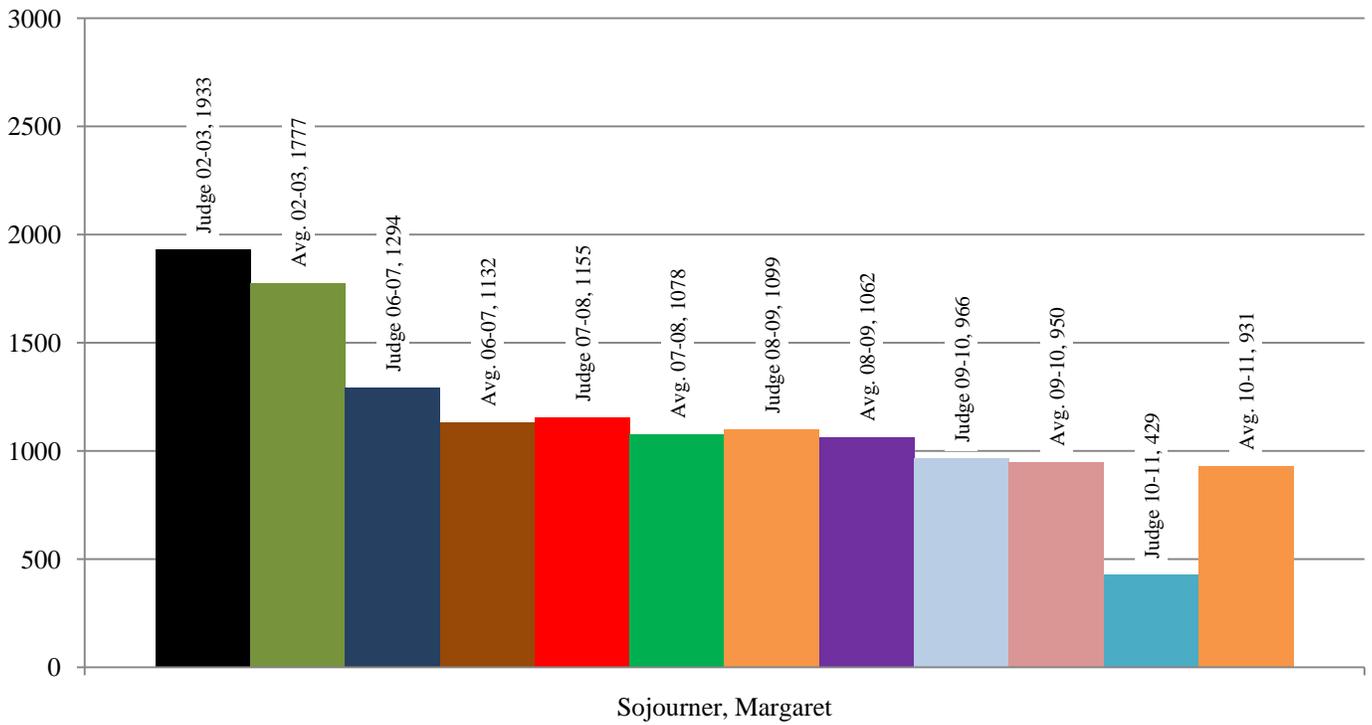
The PFBs filing volumes in LKL have been above average for a number of years, but decreased significantly (-47%) in 2010-11. The “new case” filing rate dropped more significantly (-55%). Both metrics signal a marked decrease in litigation in District LKL. Significant efforts by Judge Sojourner and five out-of-District Judges (Hafner (SPT), Lorenzen (TPA), Murphy(TPA), Remsnyder (SPT), and Sturgis (FTM)) have addressed the historically significant trial volumes in District LKL. At the end of 2010-11, the volume of cases assigned out-of-District was severely curtailed and only Judges Murphy and Lorenzen remained as out-of-District support, with the other Judges’ efforts shifted to support of District MIA.

District LKL had a 2010-11 trial volume consistent with the statewide average for the first time since the OJCC established definitions for “trial” and began publishing these statistics. Judge Sojourner has brought effective docket management to District LKL. In her first year, she has averaged less than 30 days between trial and final order.

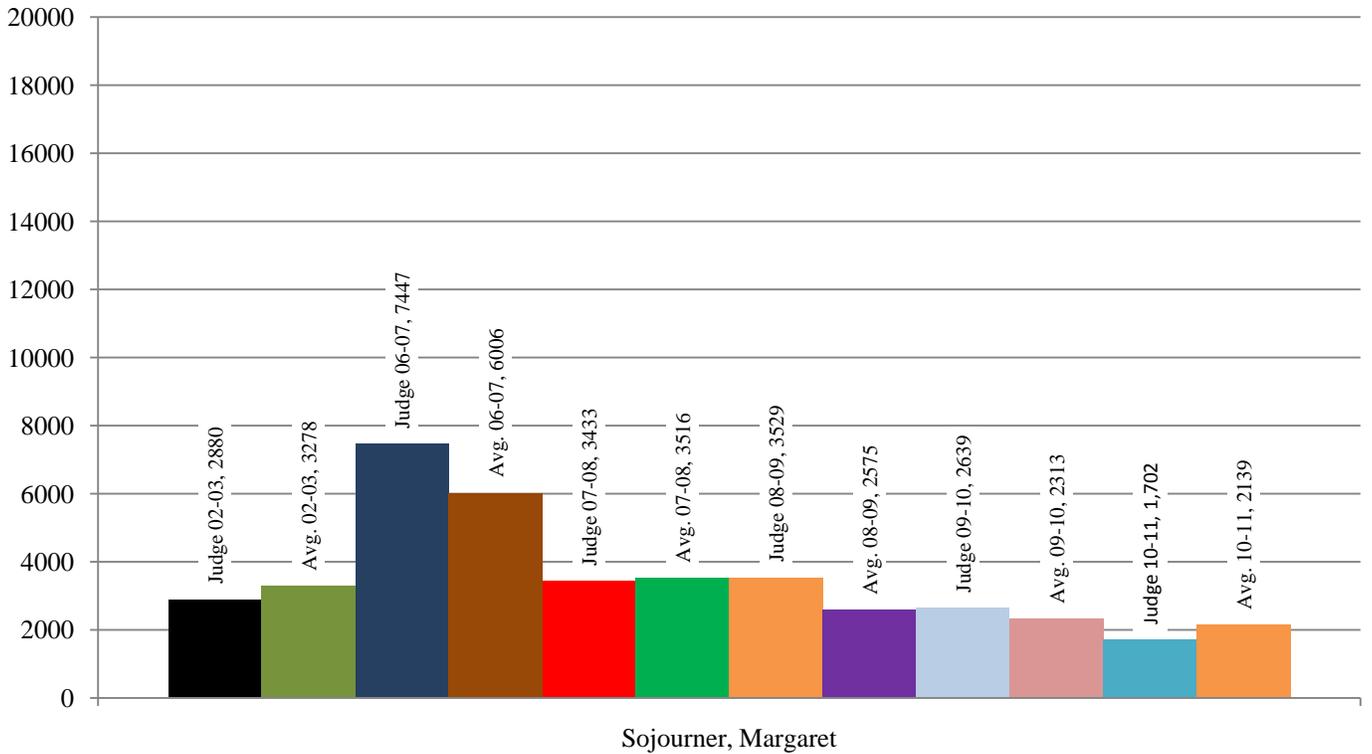
The following depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



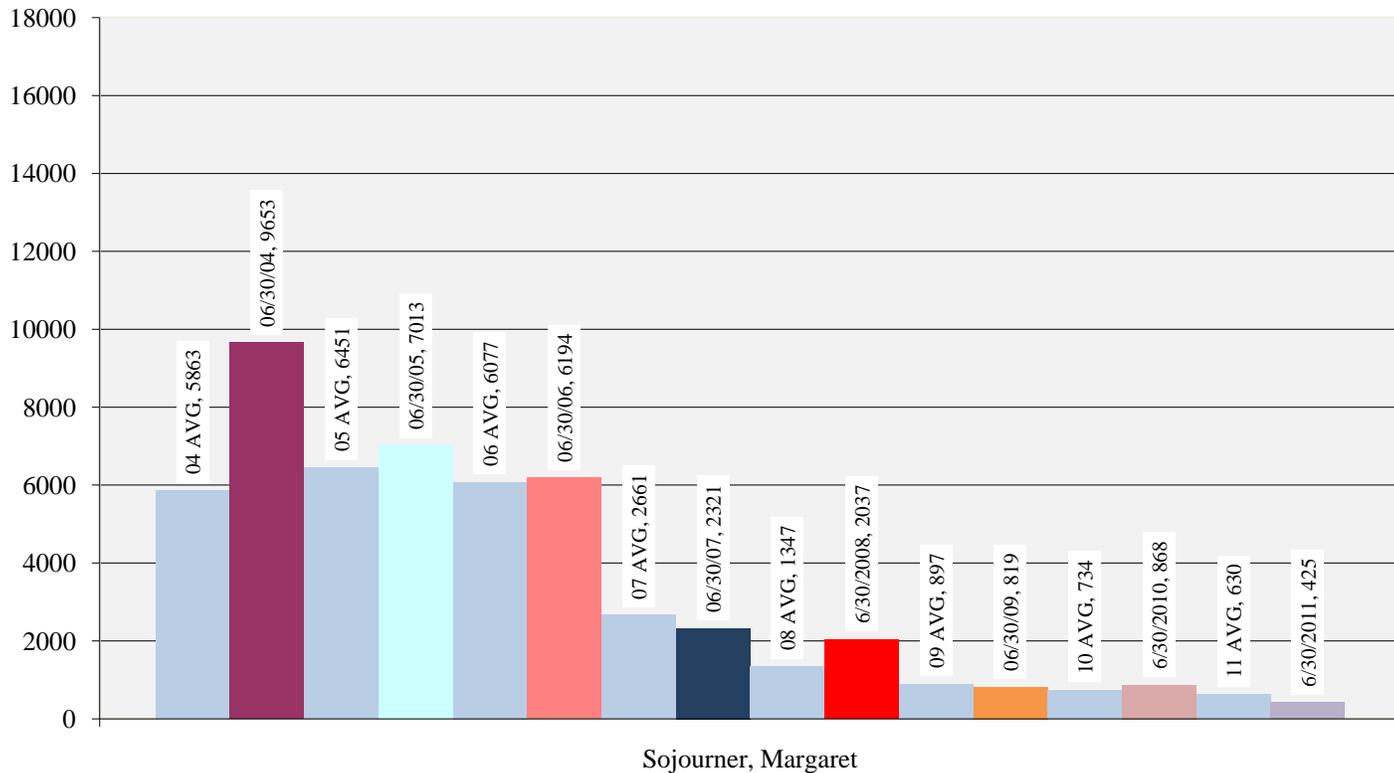
The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



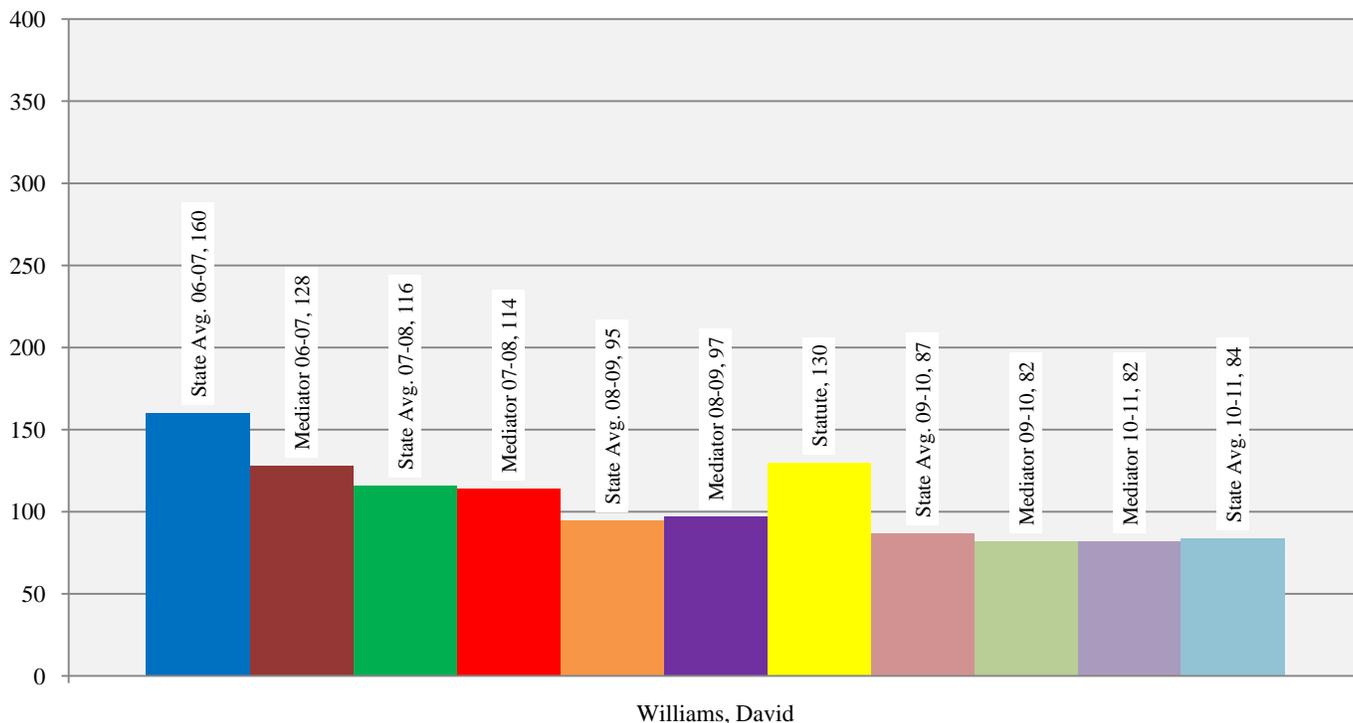
The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



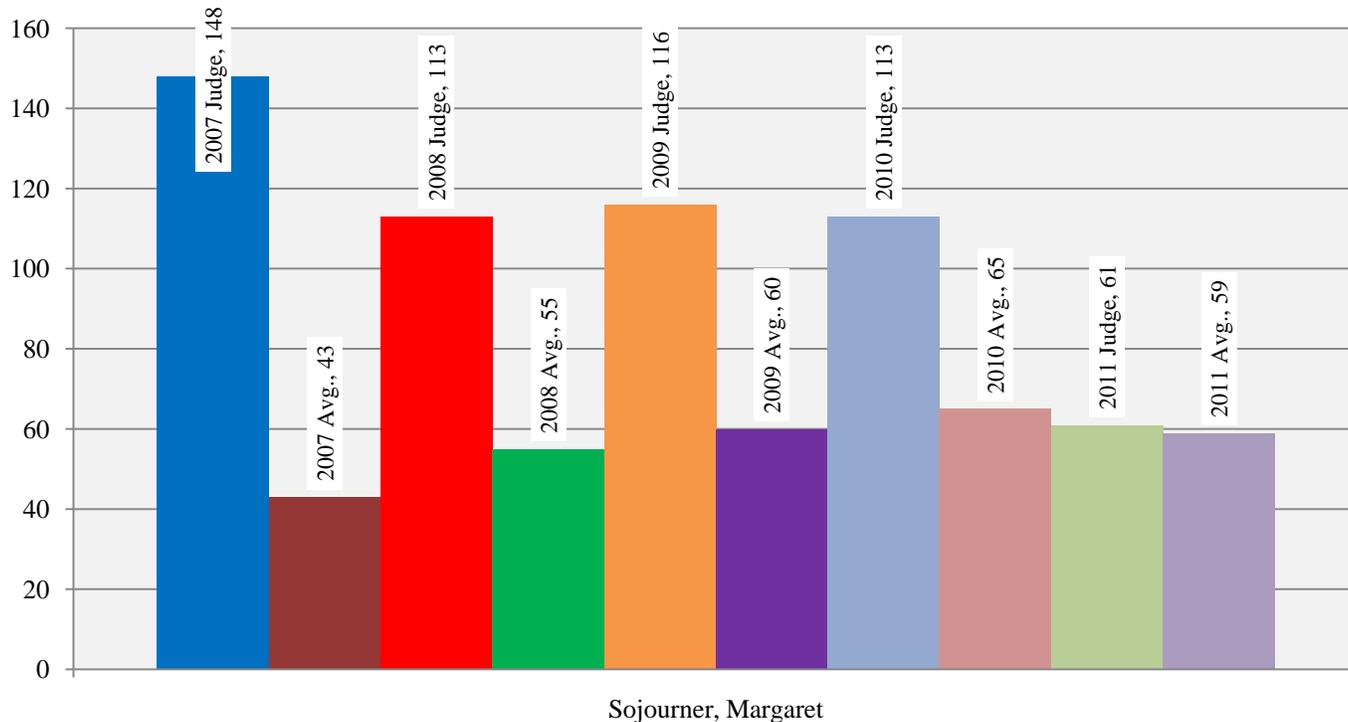
The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



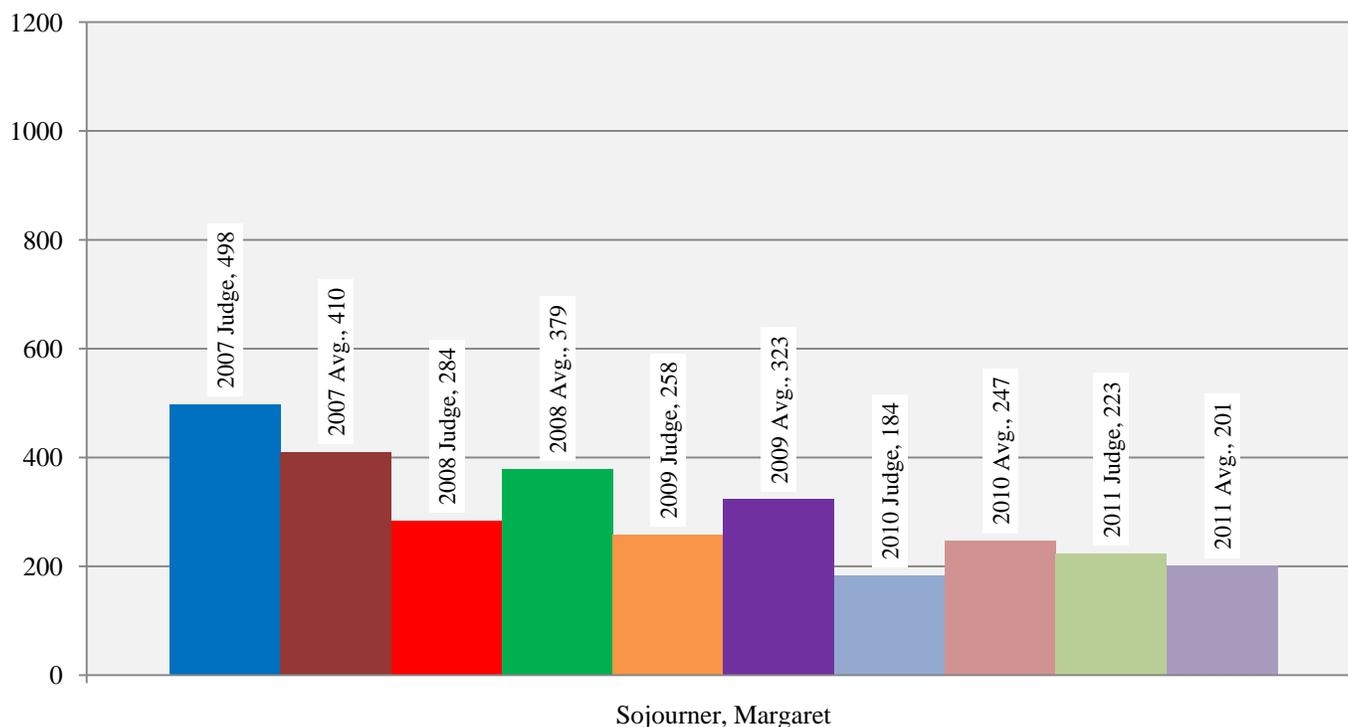
The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.



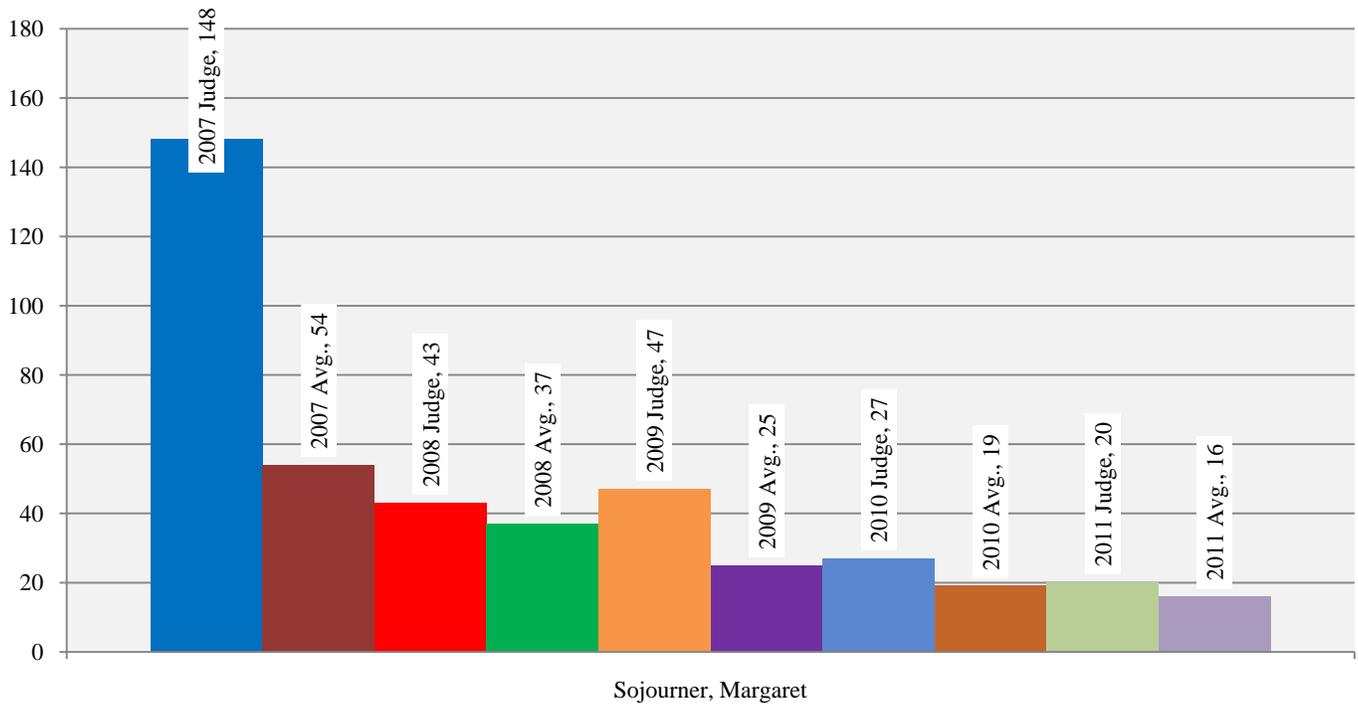
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



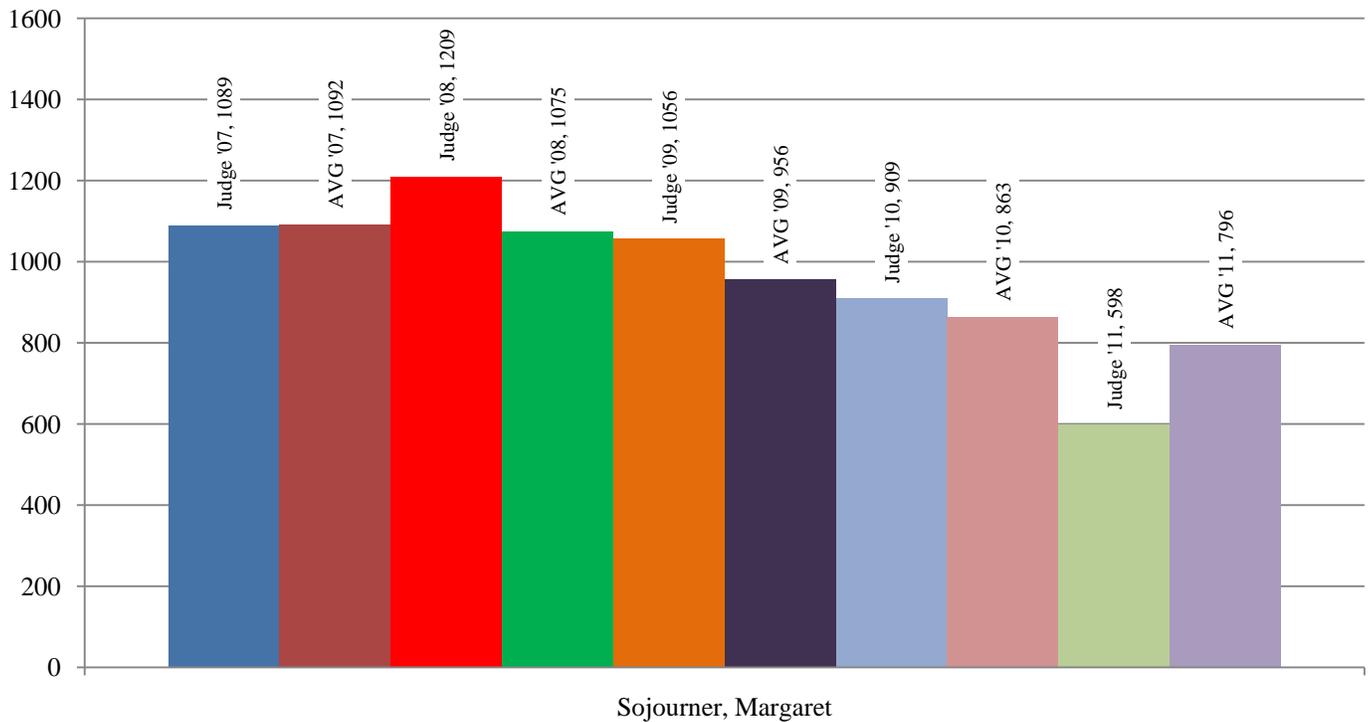
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2010-11. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. The identification for each year and the values are in each column label.



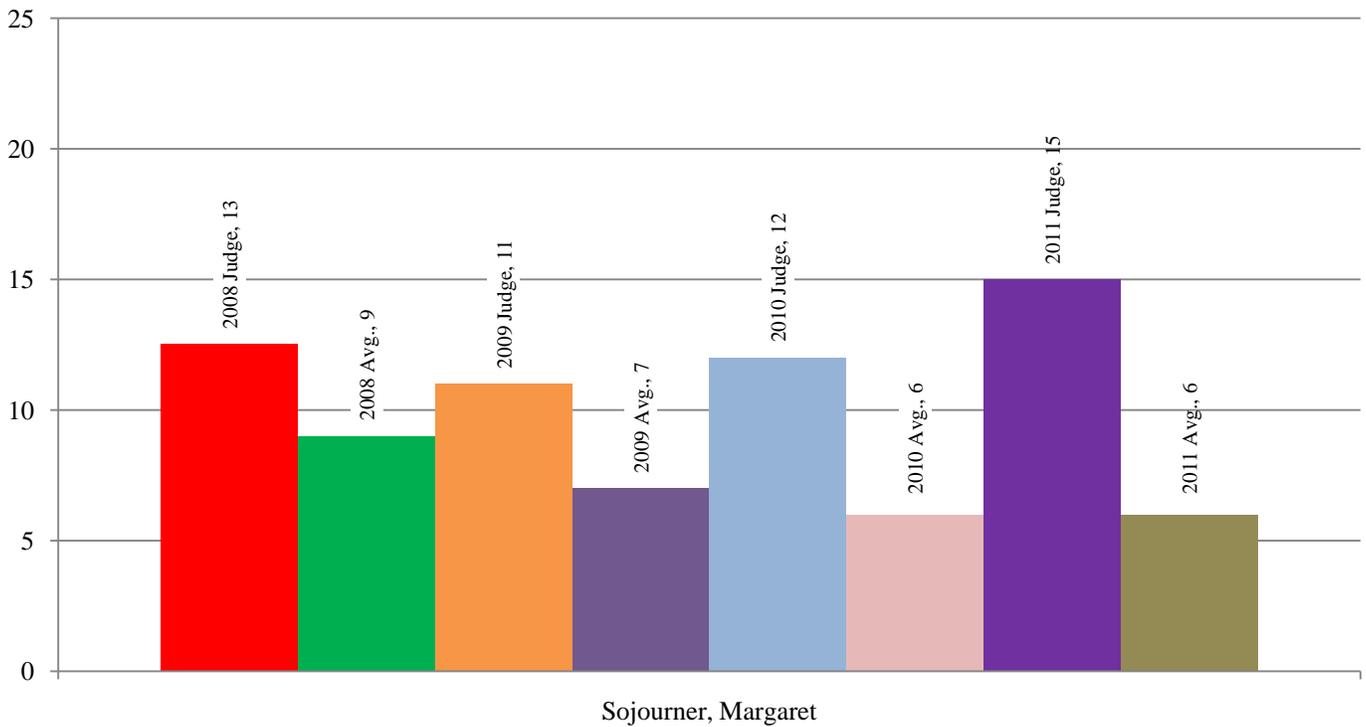
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



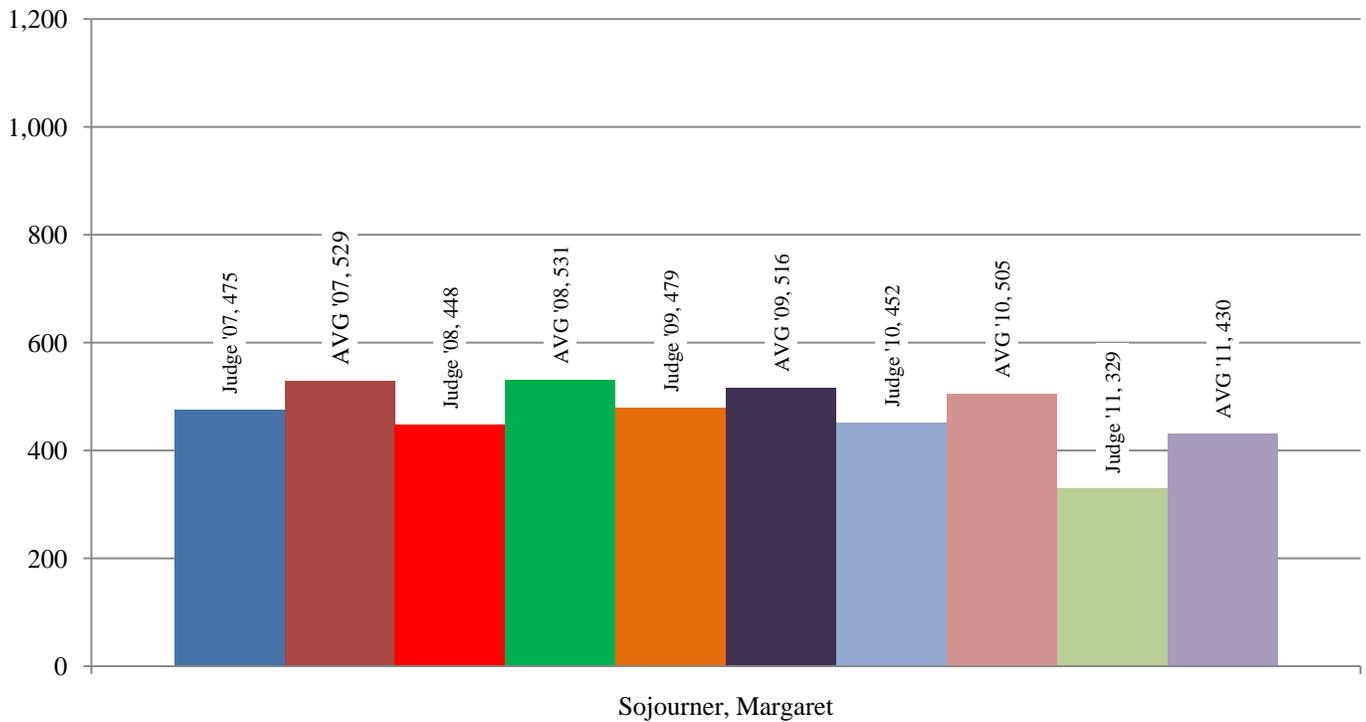
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



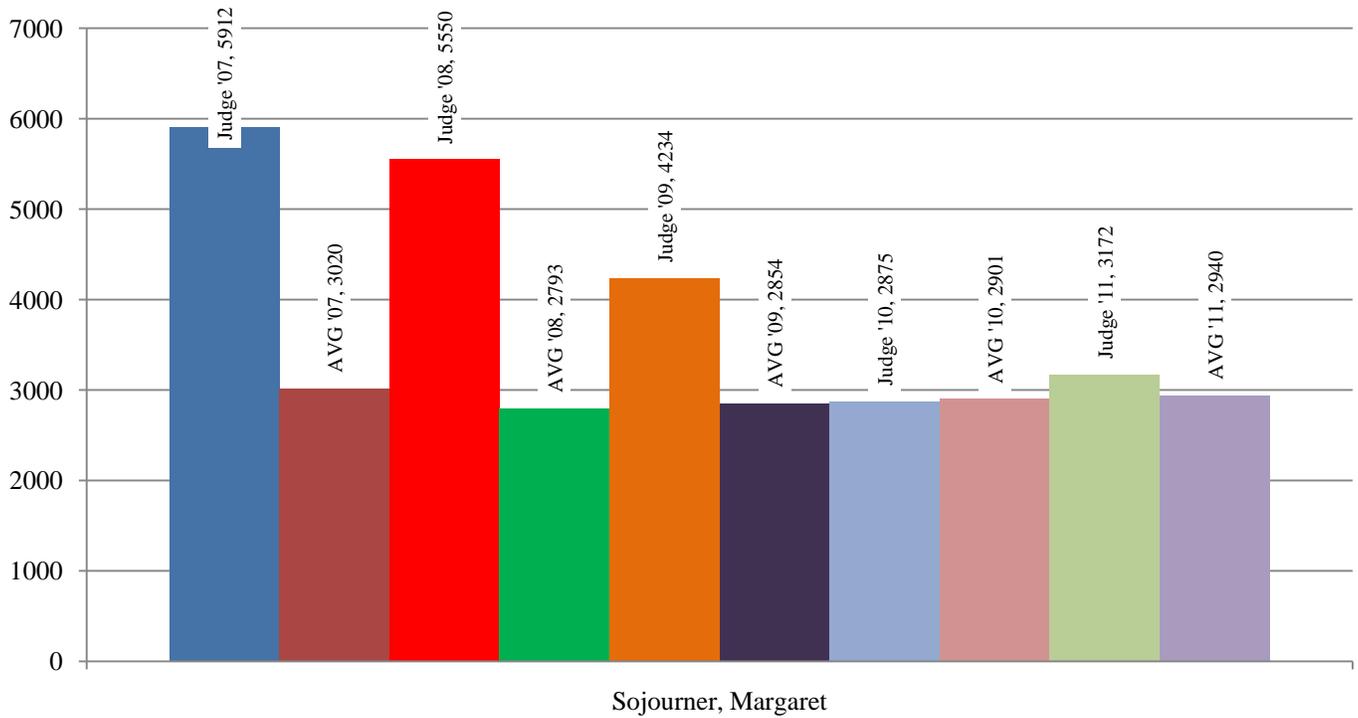
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



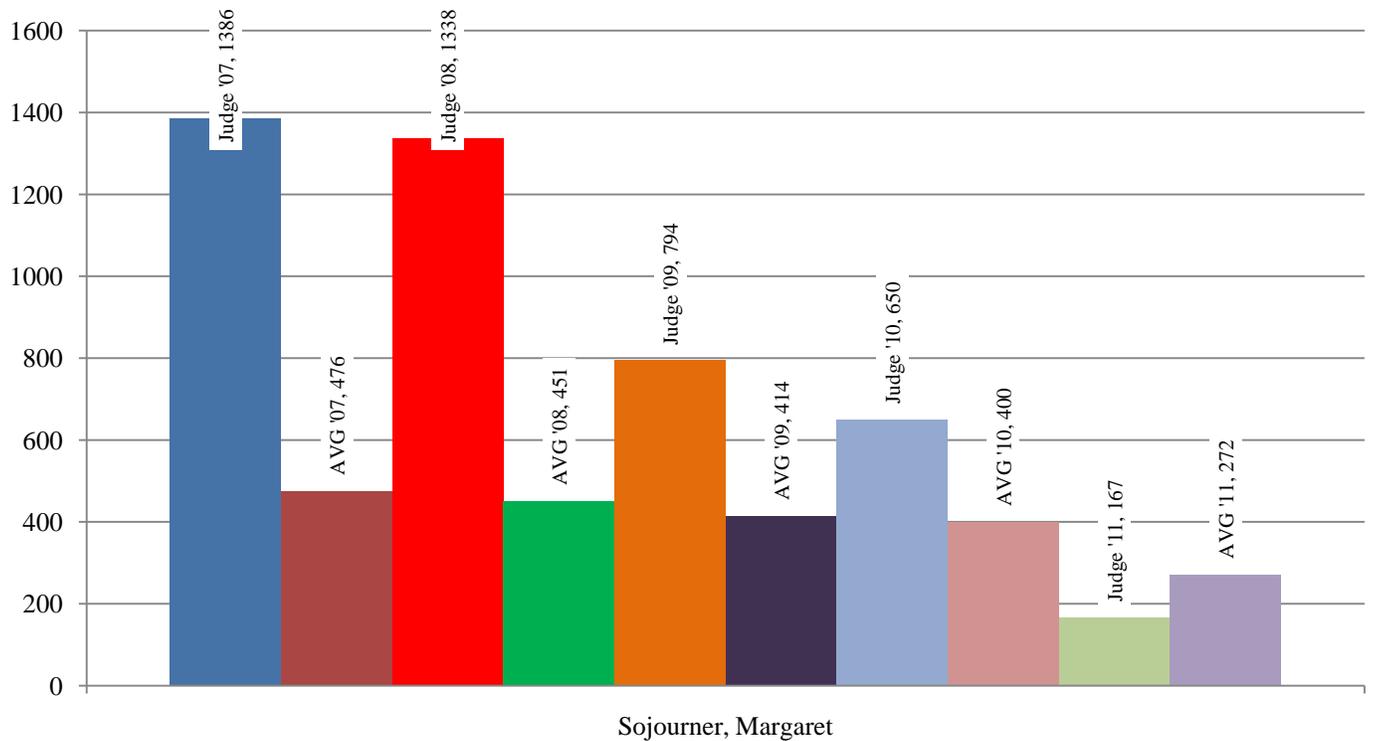
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



Appendix “7” District MEL (JCC Terlizzese):

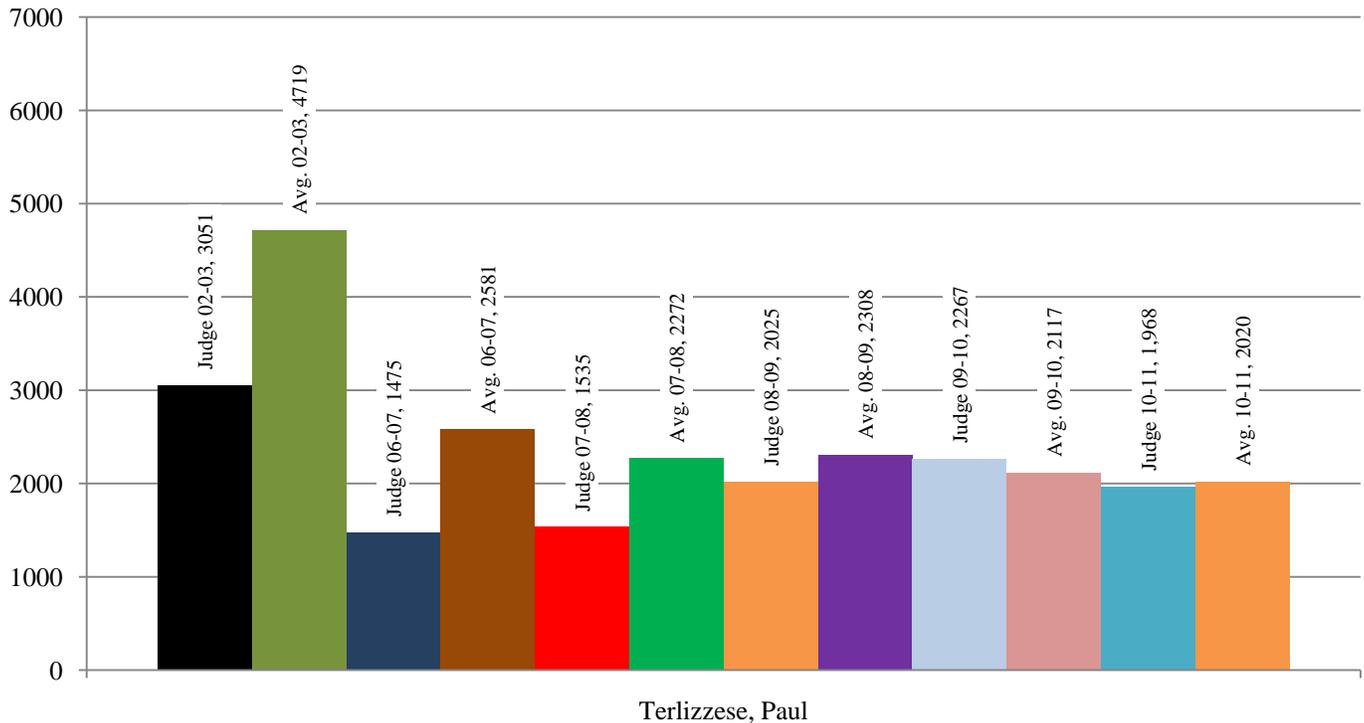
District MEL includes Brevard, Indian River, and Okeechobee counties.

Indian River and Okeechobee counties were transferred to District MEL in the spring of 2008. PFB filings increased in District MEL thereafter, and have remained consistent with statewide averages since that time. “New case” filings increased in District MEL after that transition, but have moderated since. Judge Terlizzese was assigned out-of-District cases in 2010-11, but requested cessation of these assignments and reassignment of his pending Miami docket mid-year.

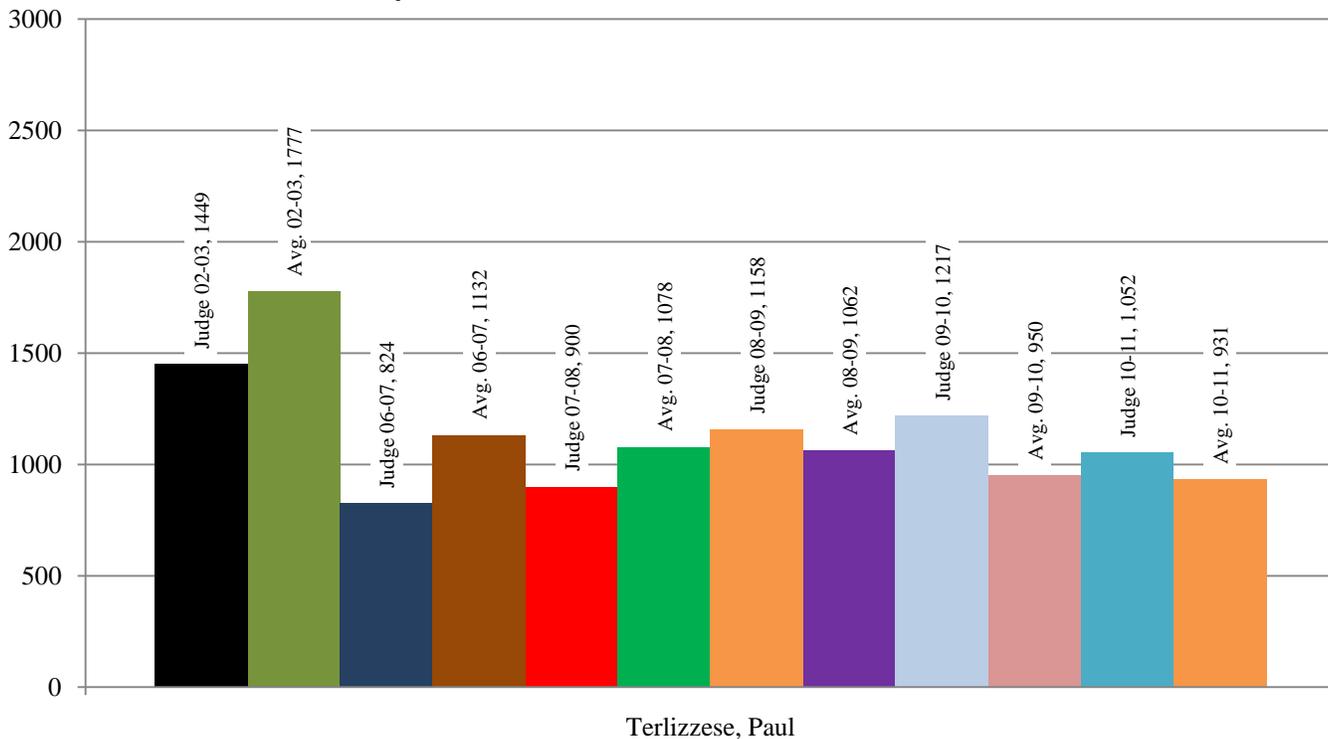
District MEL maintains a very low inventory of pending PFB with PFB closure rates closely tracking PFB filing rates each year. The trial volume has been consistent with the statewide averages for the last two years, following a period of notably lower trial volume. The time to trial and time to order are among the lowest in the state consistently for the past five years. The conformance with OJCC Procedural Rules is apparent from the significant volume of “other” orders and the significantly below average volume of “other” hearings.

Mediator Hill Joined the OJCC during the fiscal year. He is involved in the Justice Teaching program and is President of the Indian River County Bar Association.

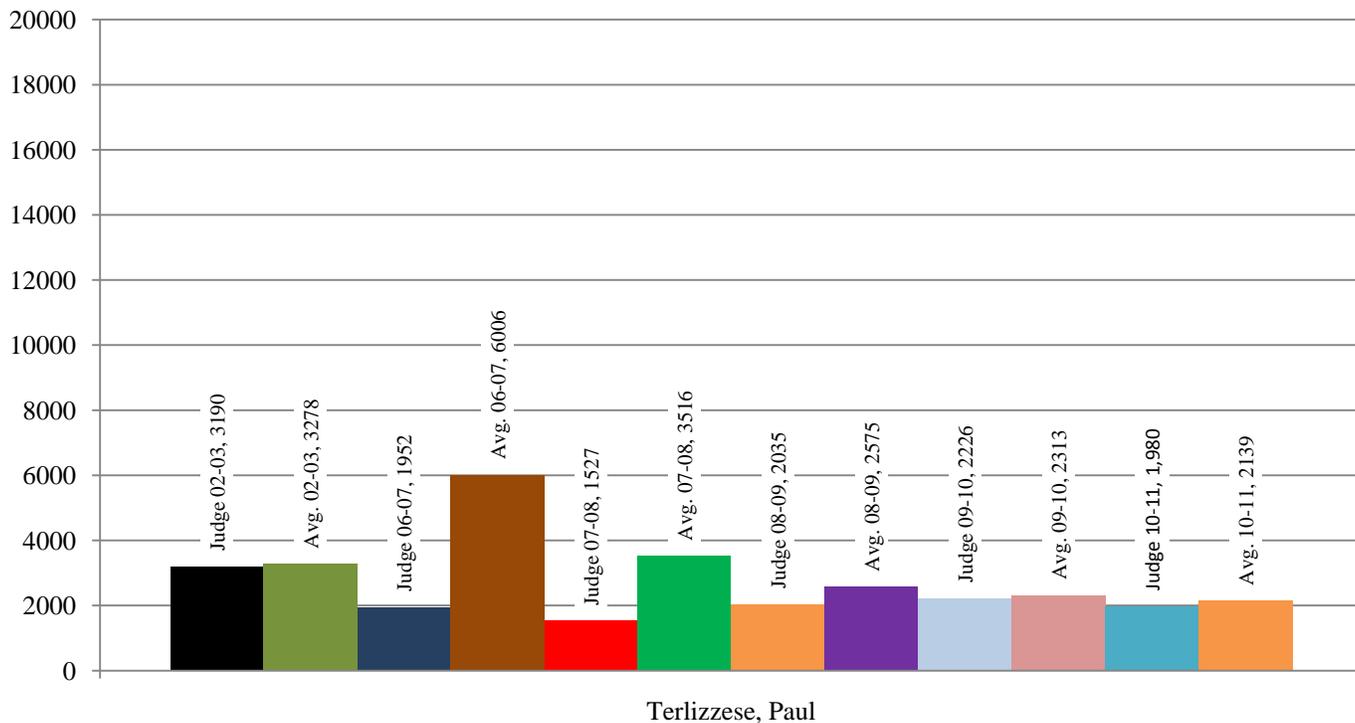
The following depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



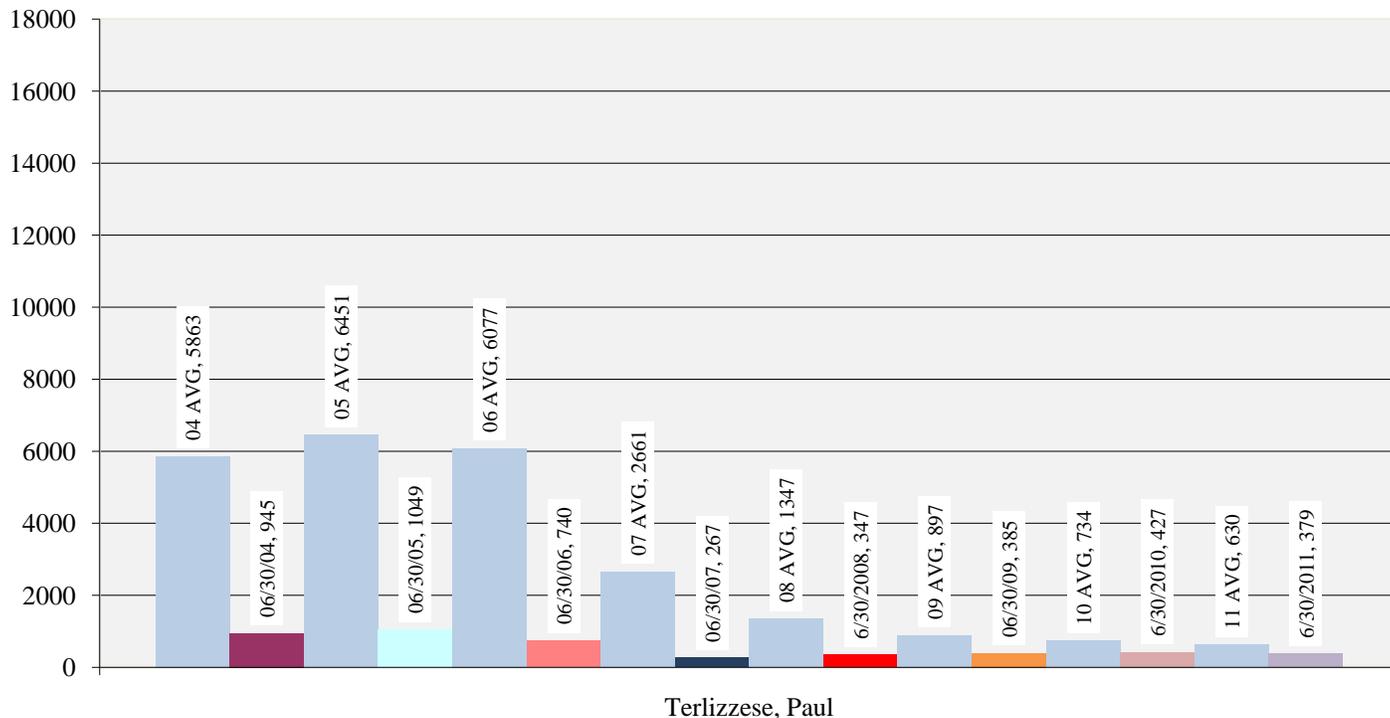
The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



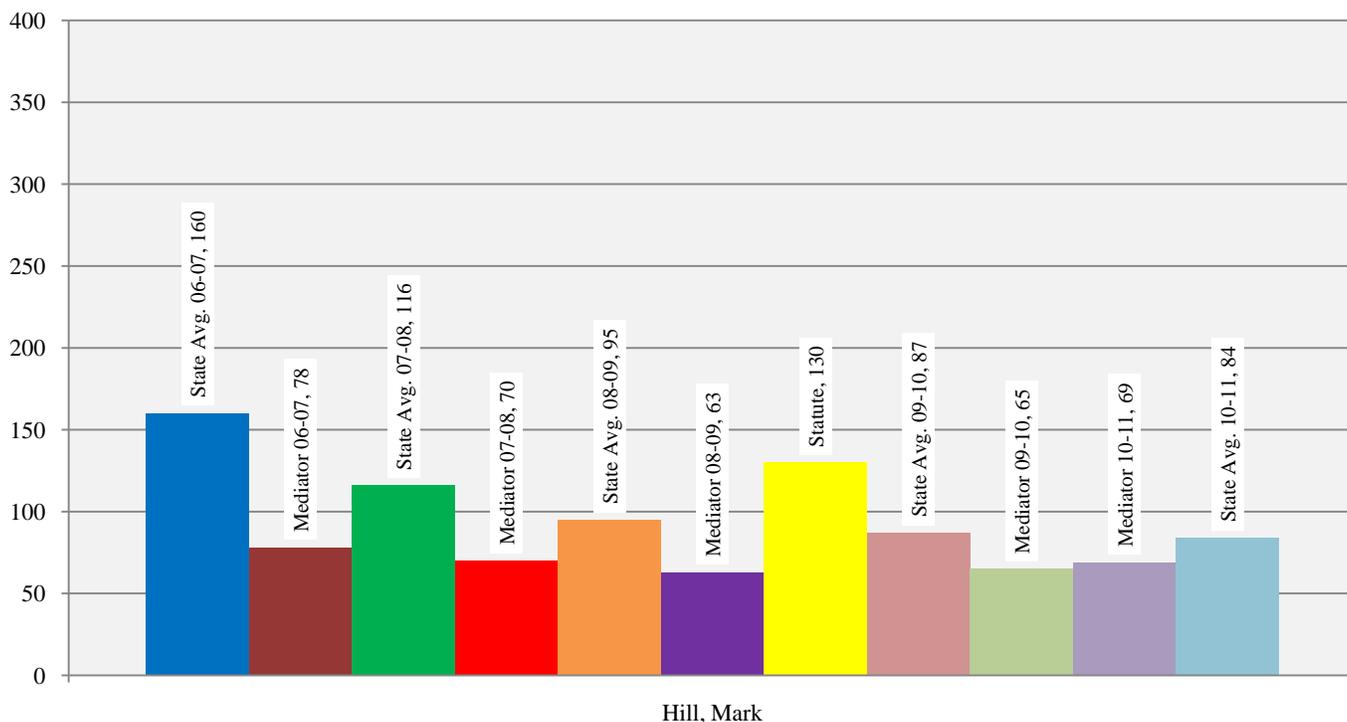
The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



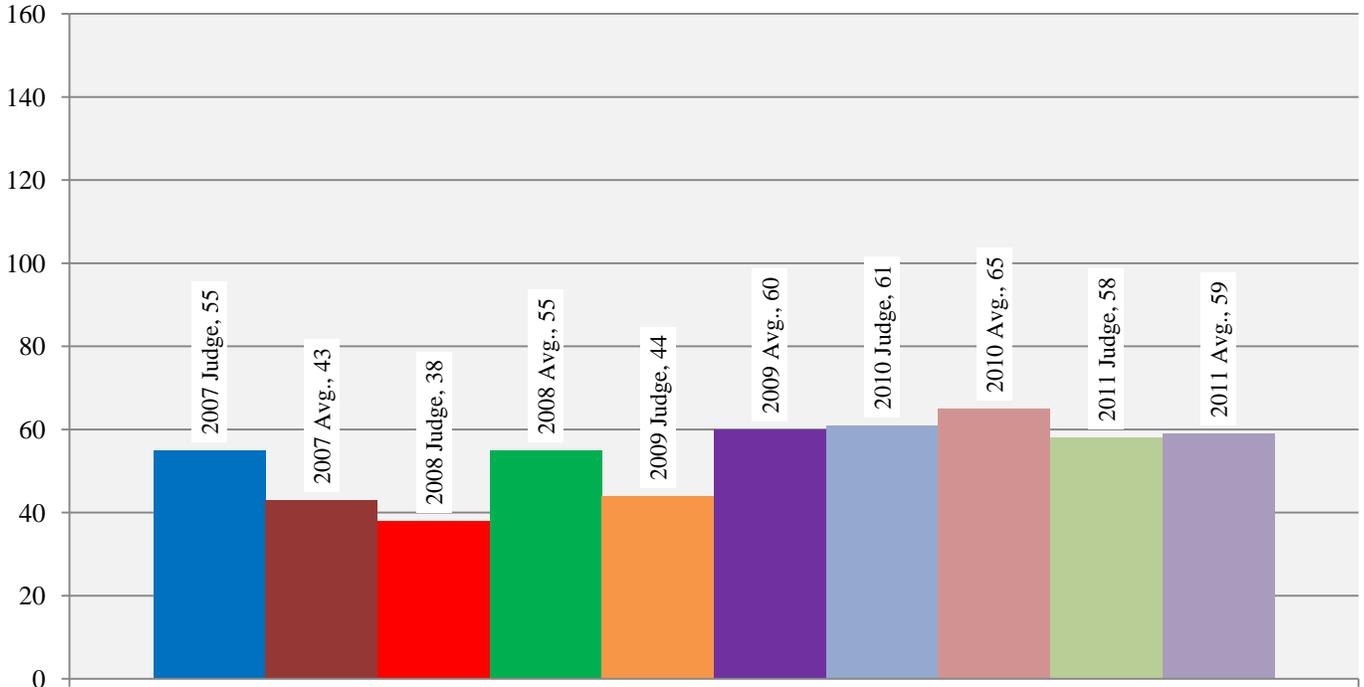
The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.

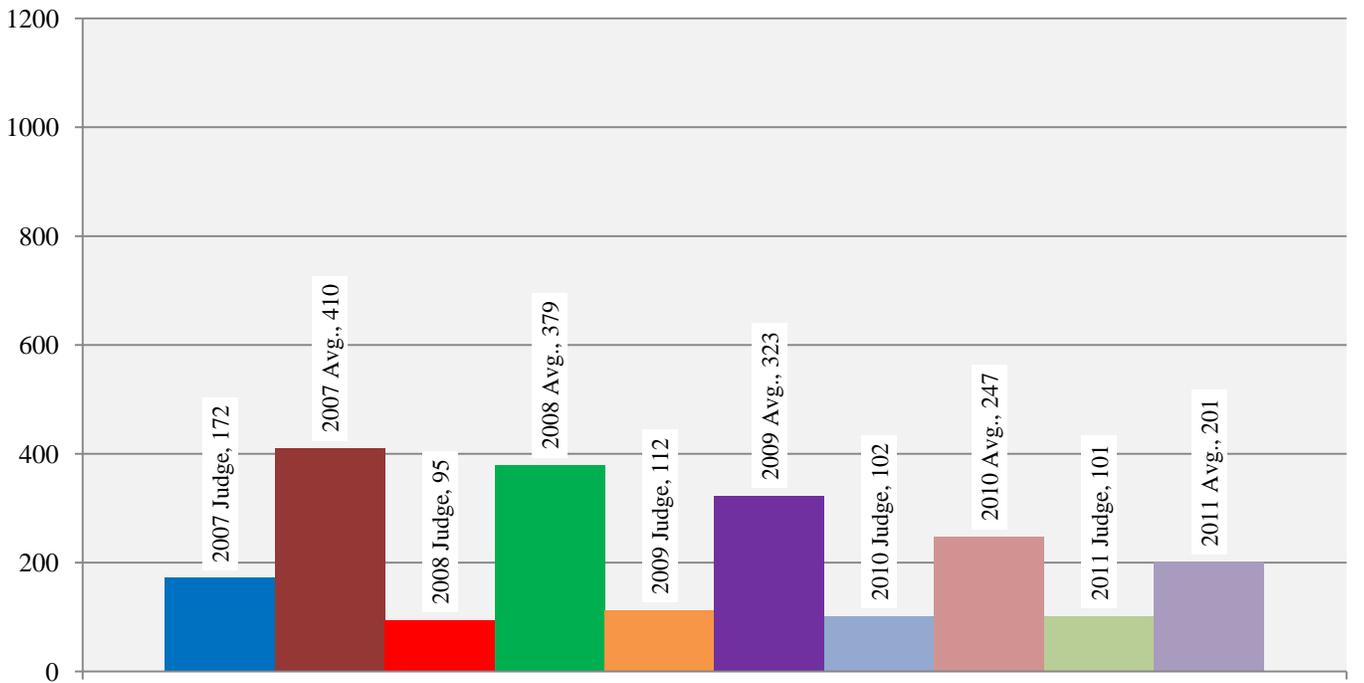


The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



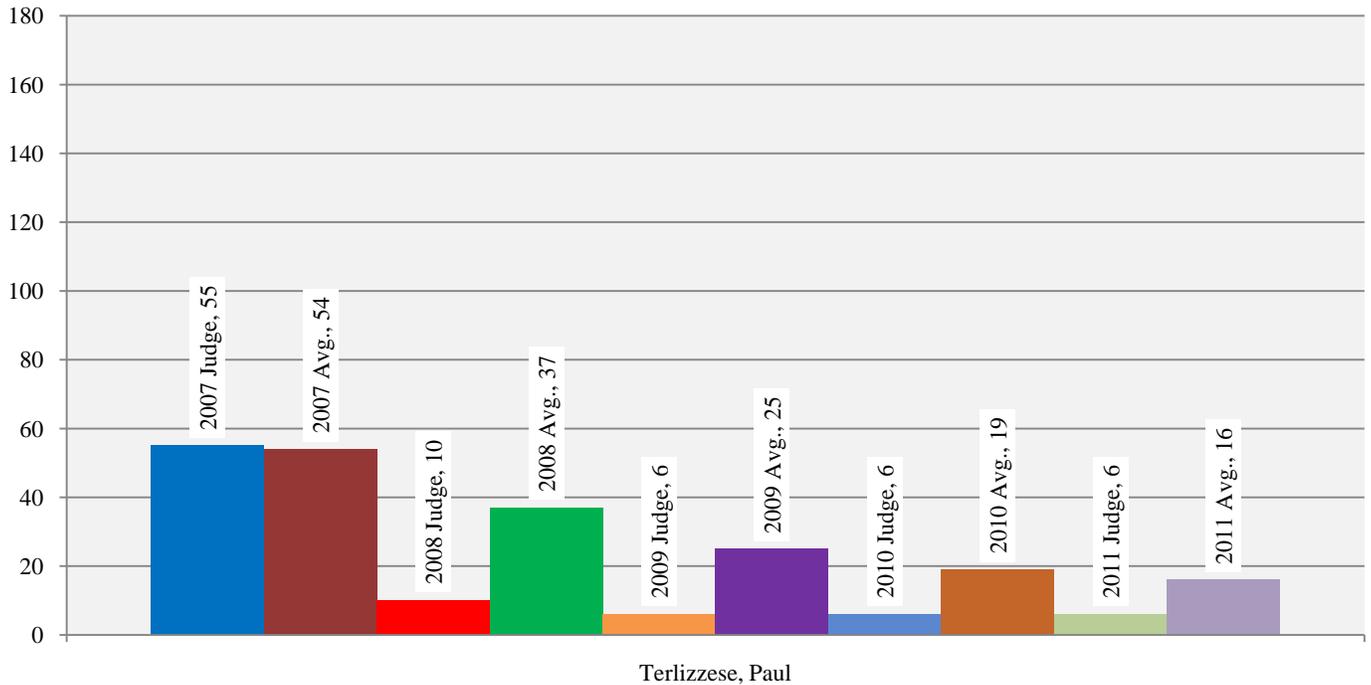
Terlizzese, Paul

The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2010-11. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. The identification for each year and the values are in each column label.

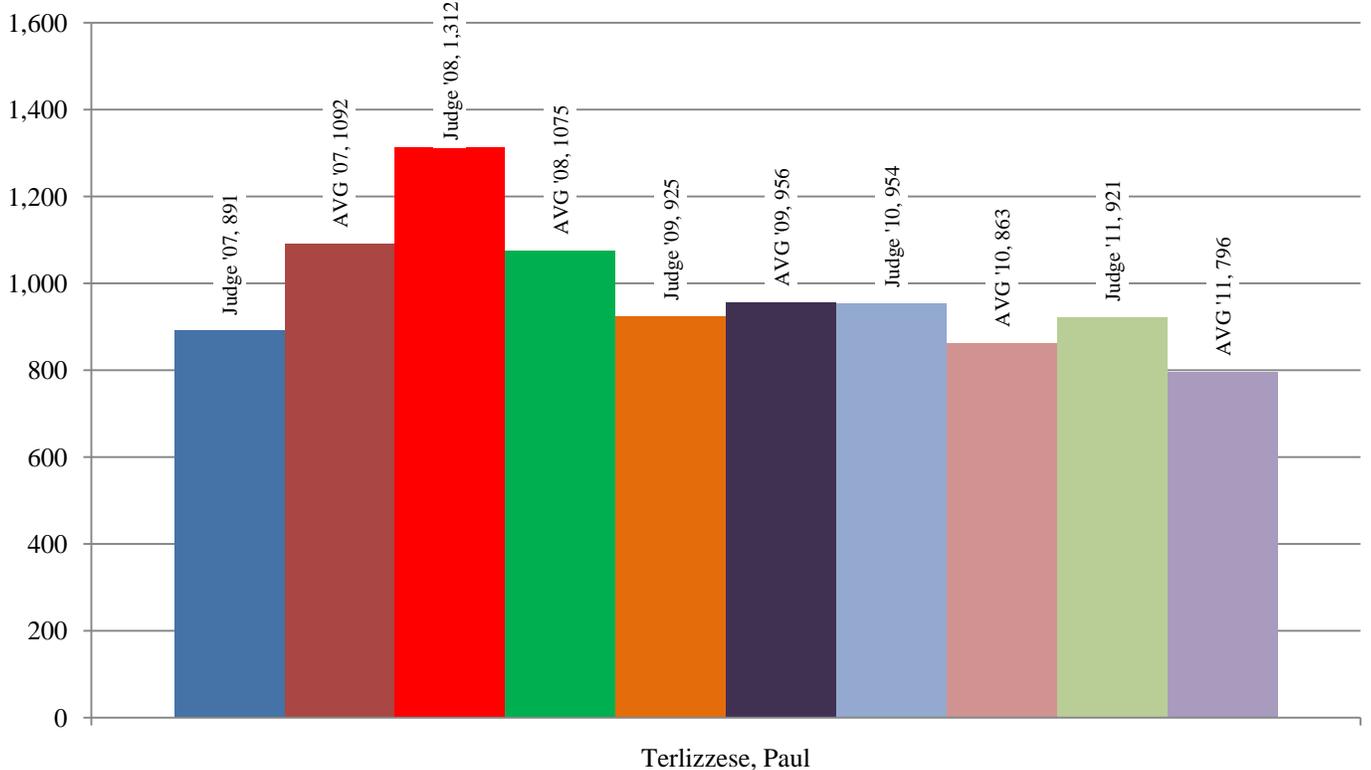


Terlizzese, Paul

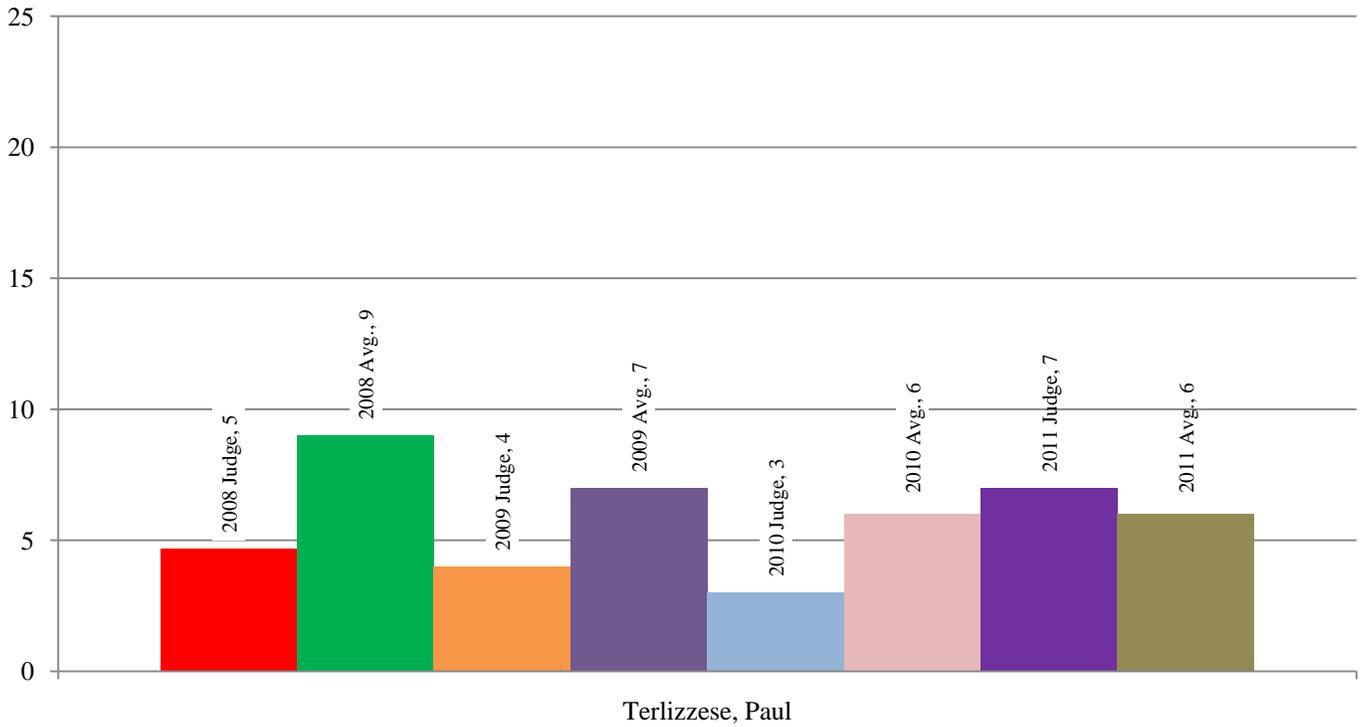
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



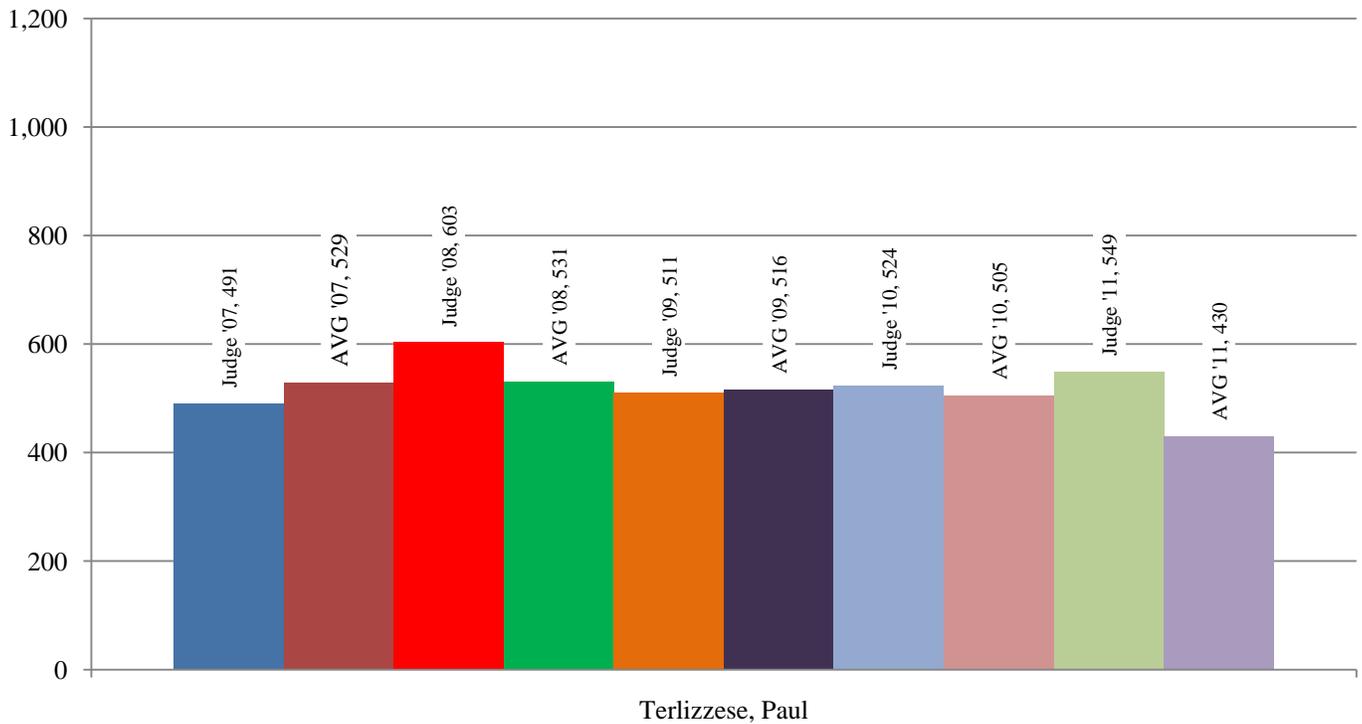
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



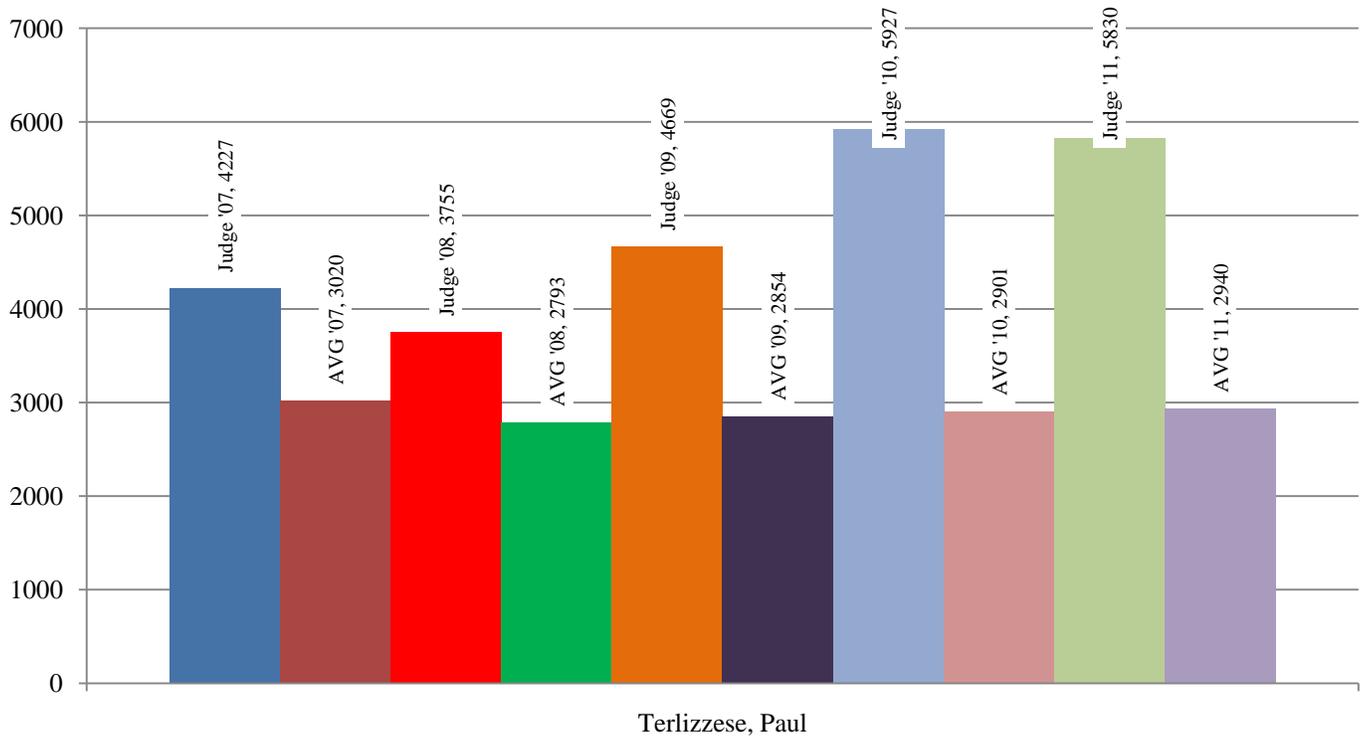
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



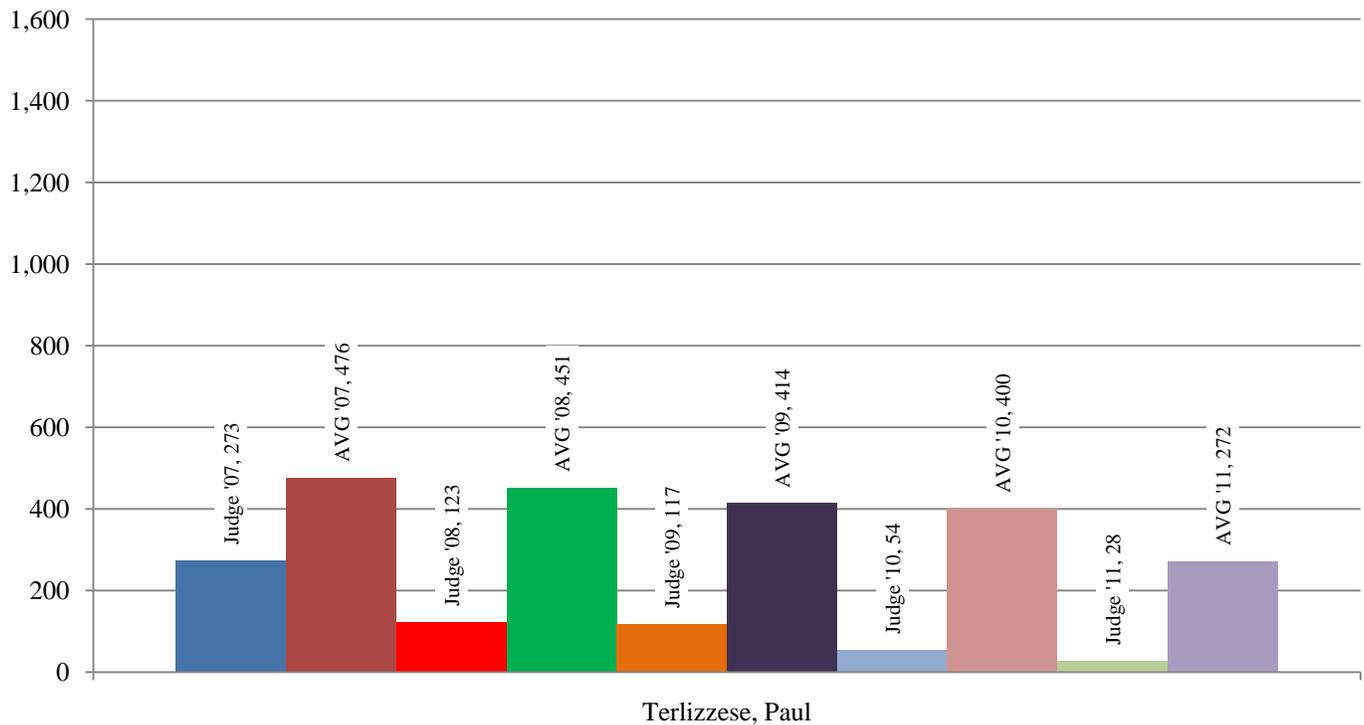
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



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 slightly above-average PFB volumes in 2010-11, but each also again had notably below average “new case” filings. These figures indicate that fewer cases are filed in MIA, but the cases tend to each involve more petitions. Each MIA division has closed more PFBs than were filed between 2008-09 and 2010-11. This metric reflects significant and consistent effort in District MIA at docket management and PFB inventory controls. Timelines are shortening in District MIA for mediation, trial and trial orders. This evidences marked effort of the resident Judges and easing of docket congestion from the efforts of out-of-District Judges.

Notably, the trial volumes in some divisions in District MIA are significant, while others are close to the statewide average. Judges Hill (105) and Medina-Shore (109) each adjudicated in excess of 100 trials again in 2010-11. Despite this volume, the average days from PFB filing to trial and from trial to final order were notably improved in MIA in 2009-10, and the trend continued in 2010-11.

In 2010-11, Judge Medina-Shore continued to serve as Administrative Judge in District MIA.

Judge Kuker serves on the Friends of 440 scholarship selection committee and statewide Board of Directors. He is involved with Justice Teaching, the Workers’ Compensation Section of The Florida Bar. He serves on the Trial Advocacy Program committee, and as a Judge for that program. He served again in 2010-11 as a Moot Court Appellate Judge in the Earle Zehmer Moot Court program at the Florida Workers’ Compensation Institute.

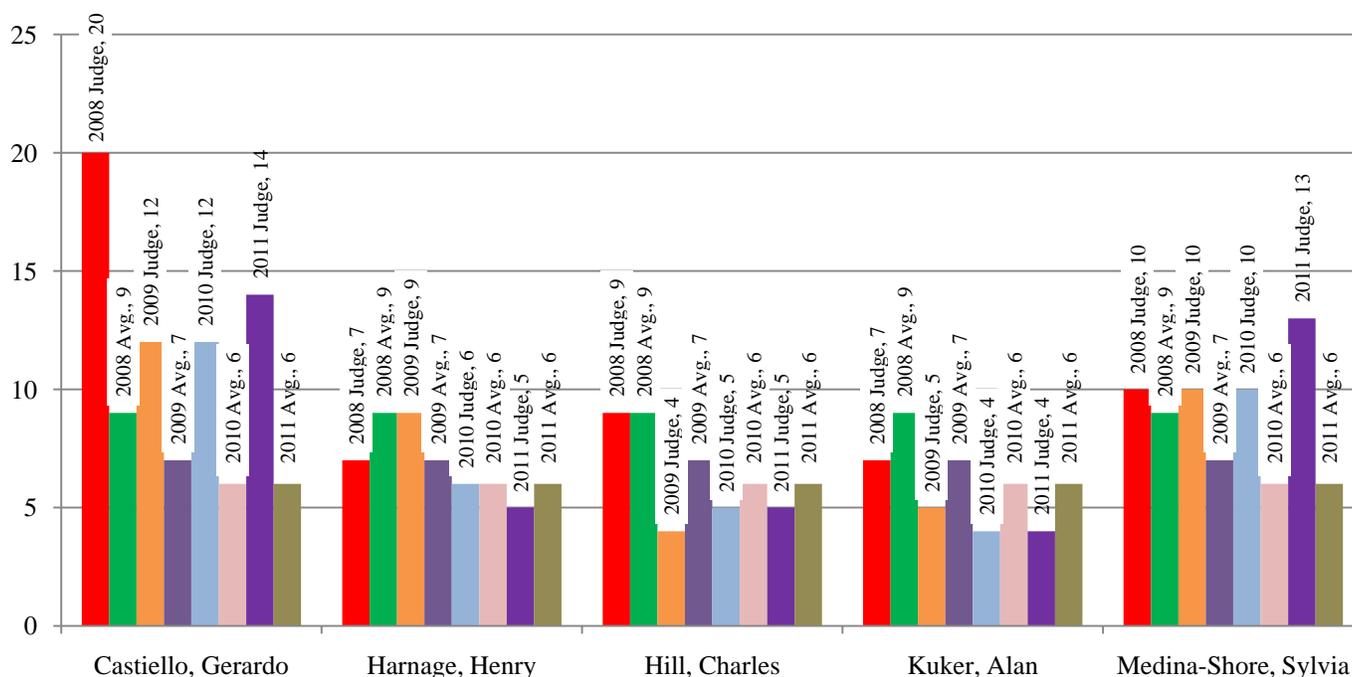
Judge Hill serves on the Historic Preservation Board for The City of Miami Springs, and on the Silver Knight Panel to honor Dade County’s most outstanding high school seniors. In 2010-11 he presented a panel presentation for the Monroe County Bar Association on the Heart/Lung presumptions in workers’ compensation.

Judge Castiello presented to the paralegals of the Dade County Bar Association Workers’ Compensation Section, and spoke at Miami-Dade County Public Schools’ Career Day. He also presented “Nuts and Bolts In-House Legal” to the Dade County School board. He is a member of the Monroe County Bar Association, and presented the “Gold E. Locks” trial in a Monroe County Public Schools. He is a member of the Professionalism Project and presented at the Certification Review Seminar of the Workers’ Compensation Section of The Florida Bar.

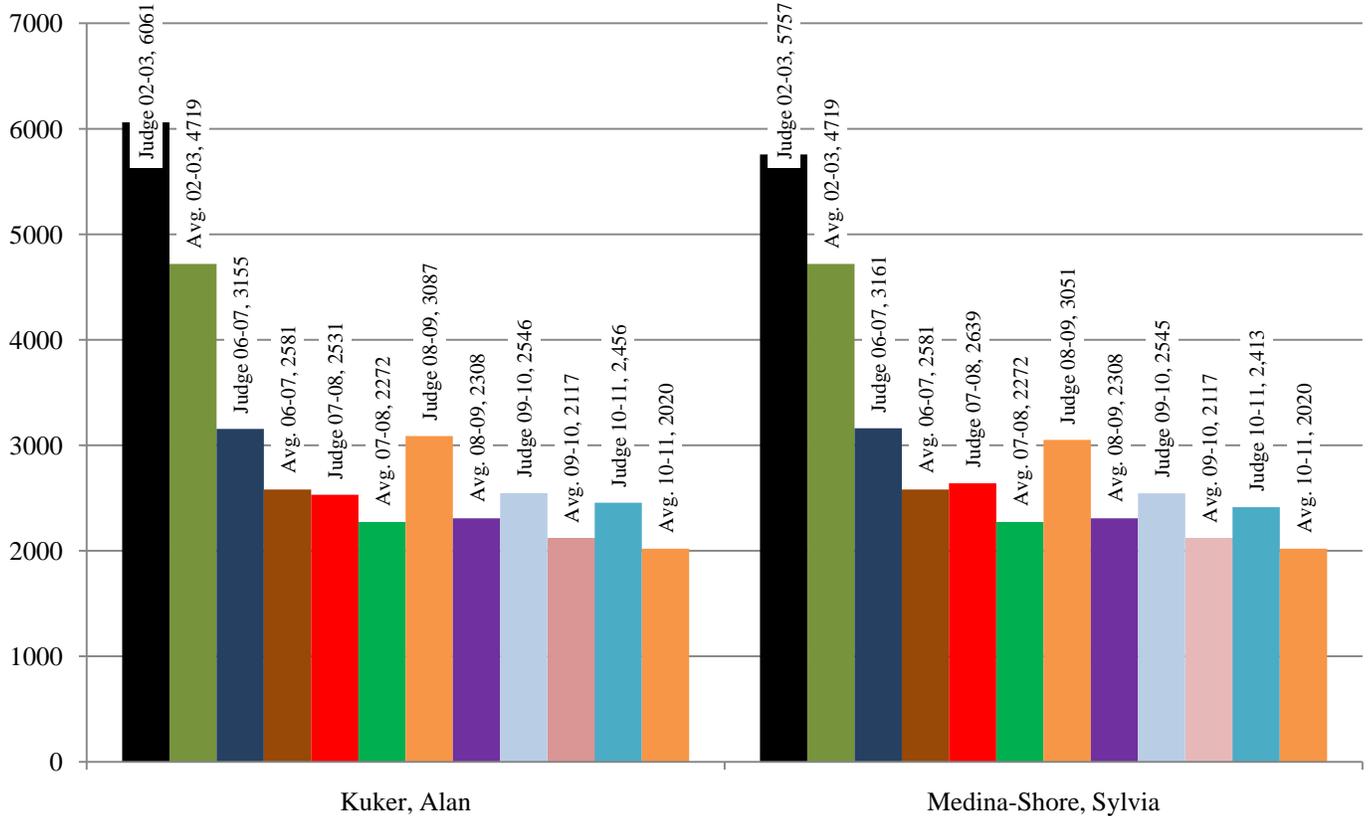
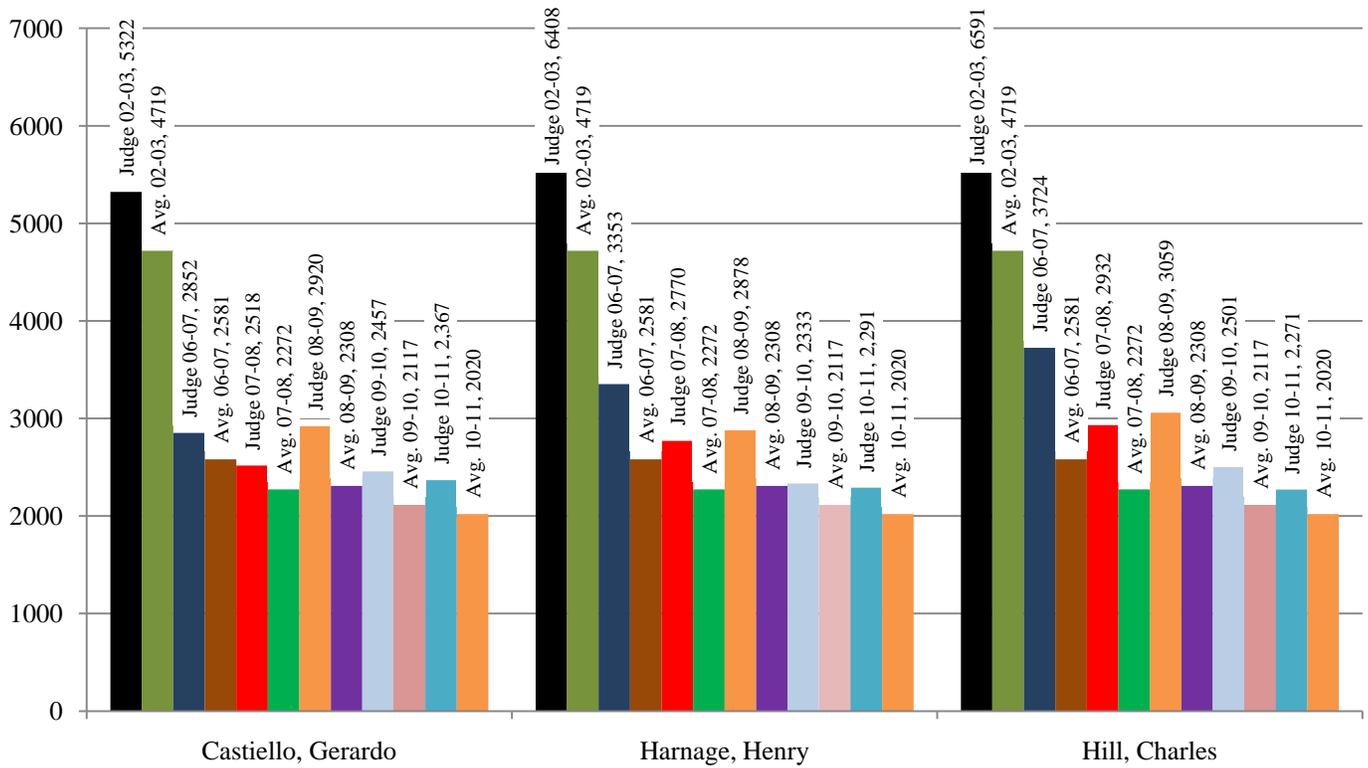
Judge Harnage presented in 2010-11 at The Florida Bar Workers’ Compensation Section annual Forum and at several presentations to the Dade County Bar Association’s Workers’ Compensation Section. He is a Trustee, and Vice-President of Scholarship Recipient Selection for the Friends of 440.

Mediator Johnson is involved in the Friends of 440 Scholarship organization.

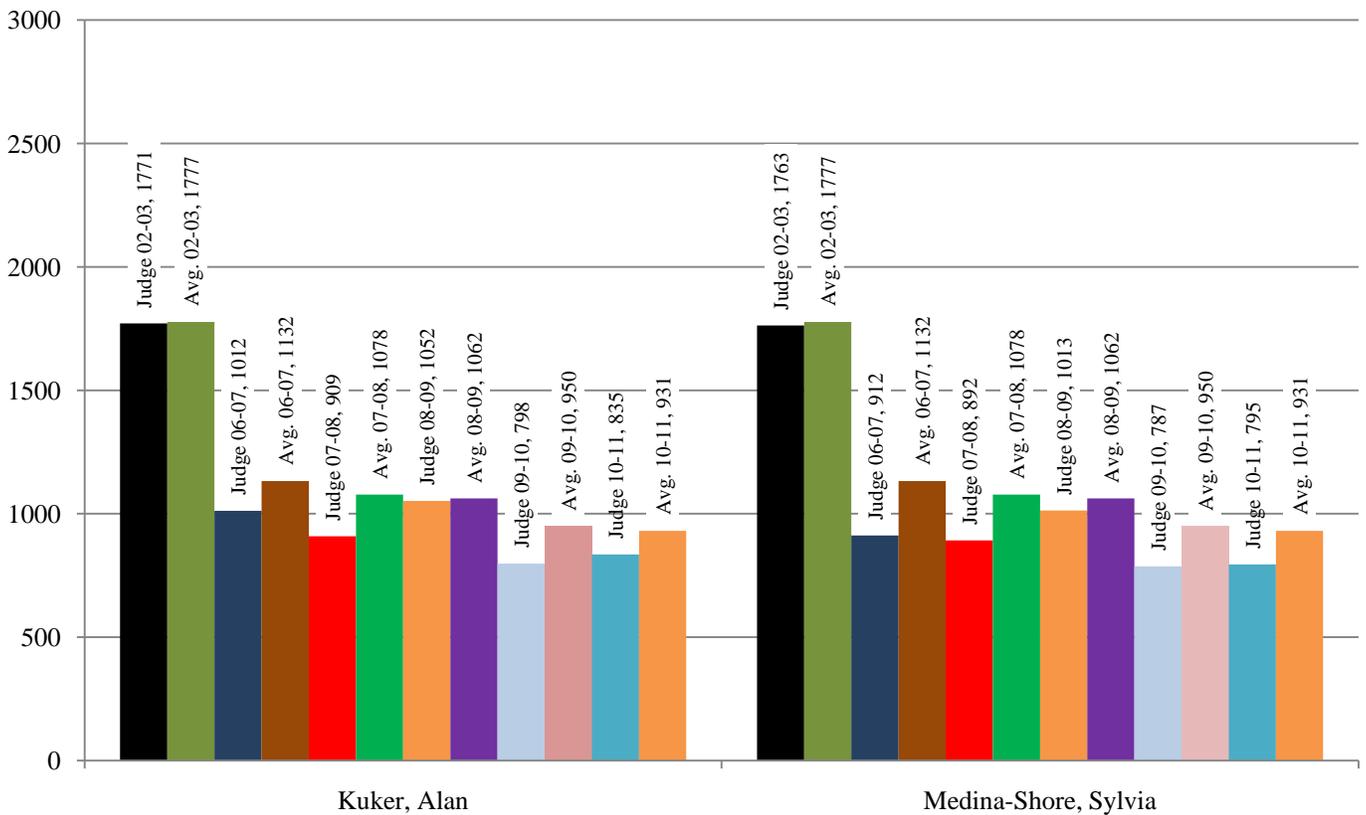
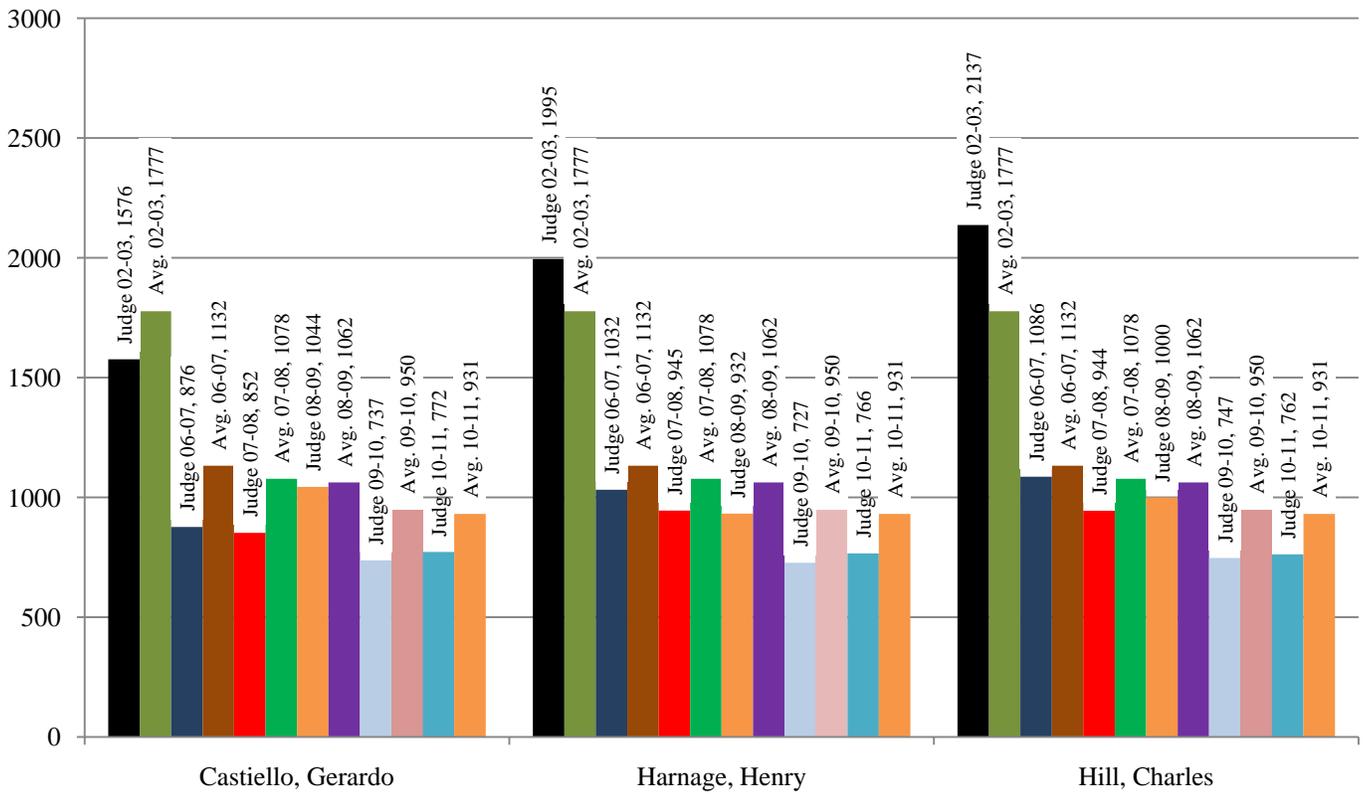
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



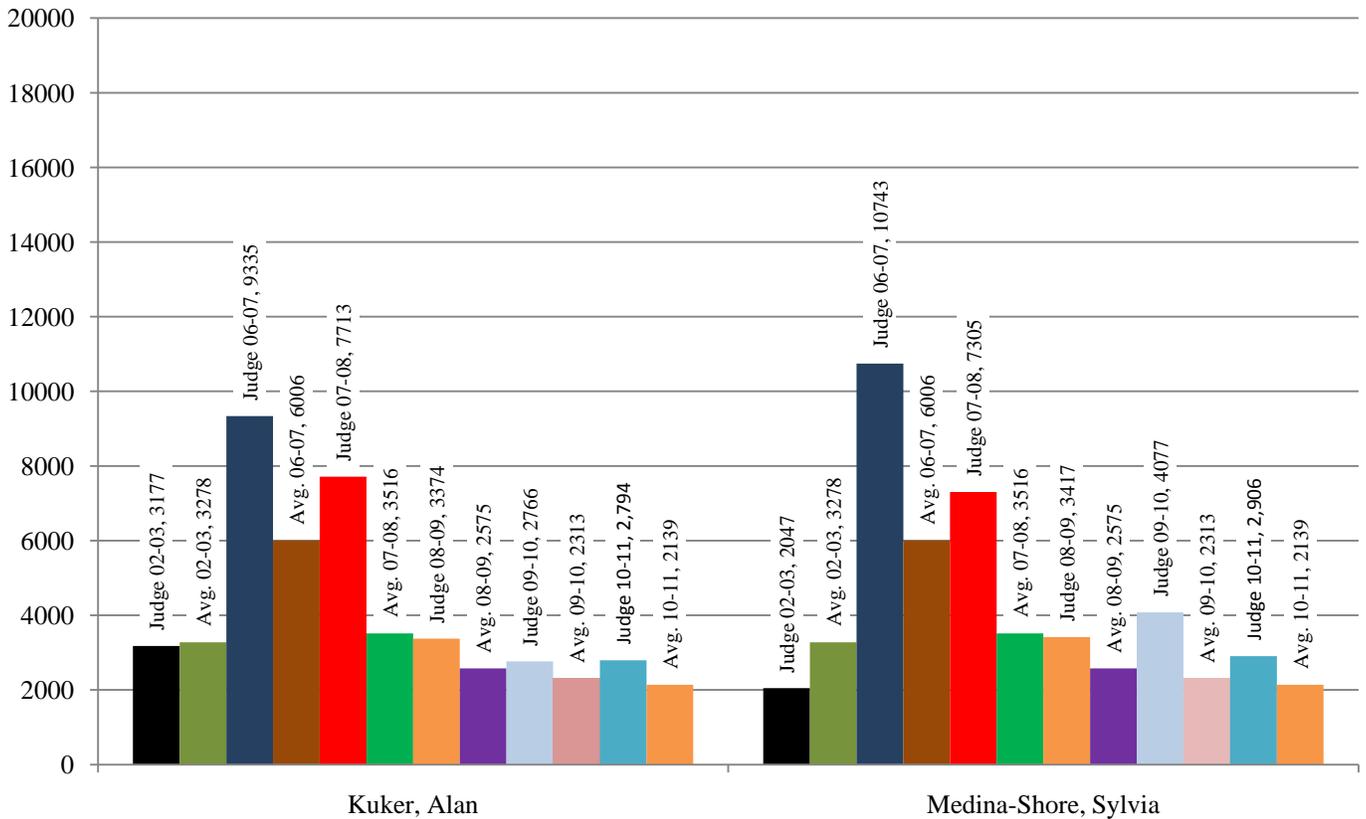
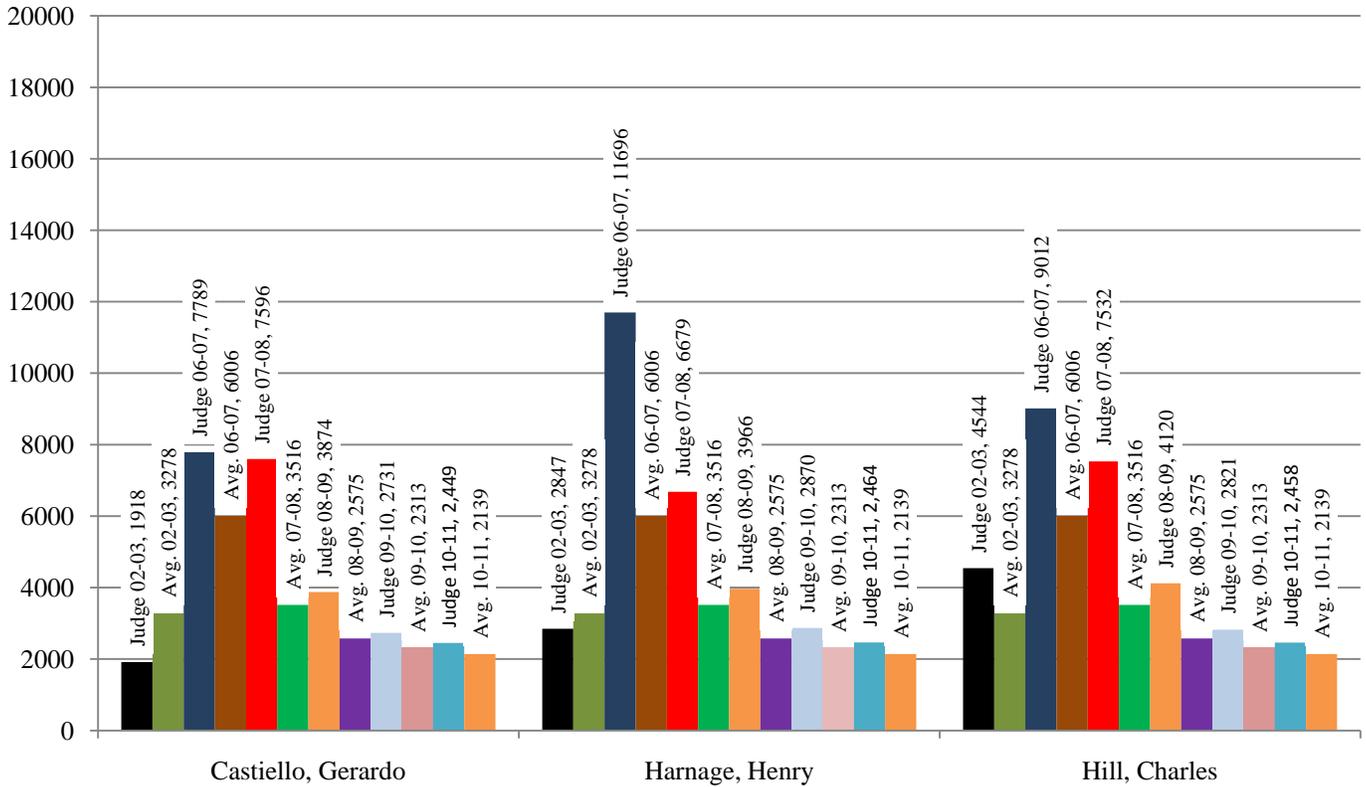
The following depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



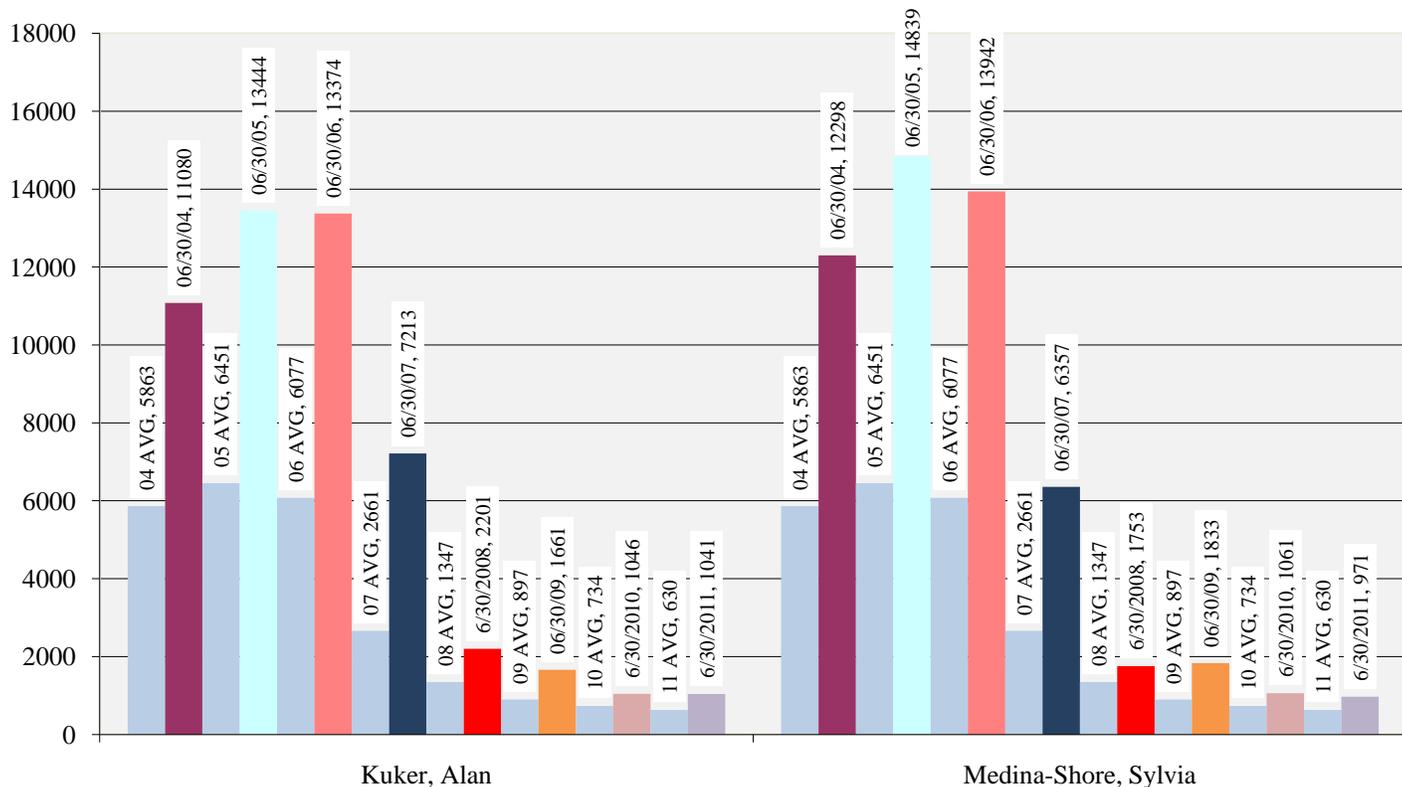
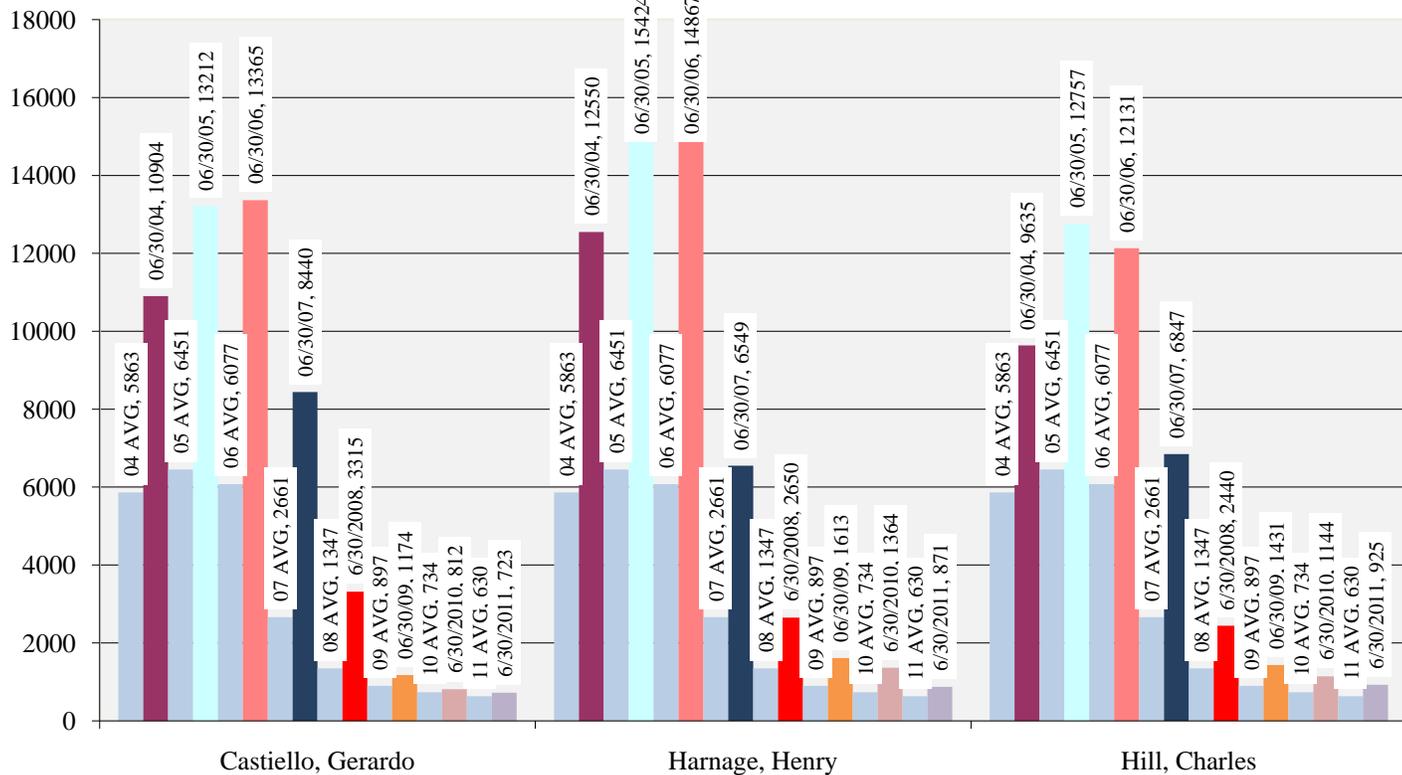
The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



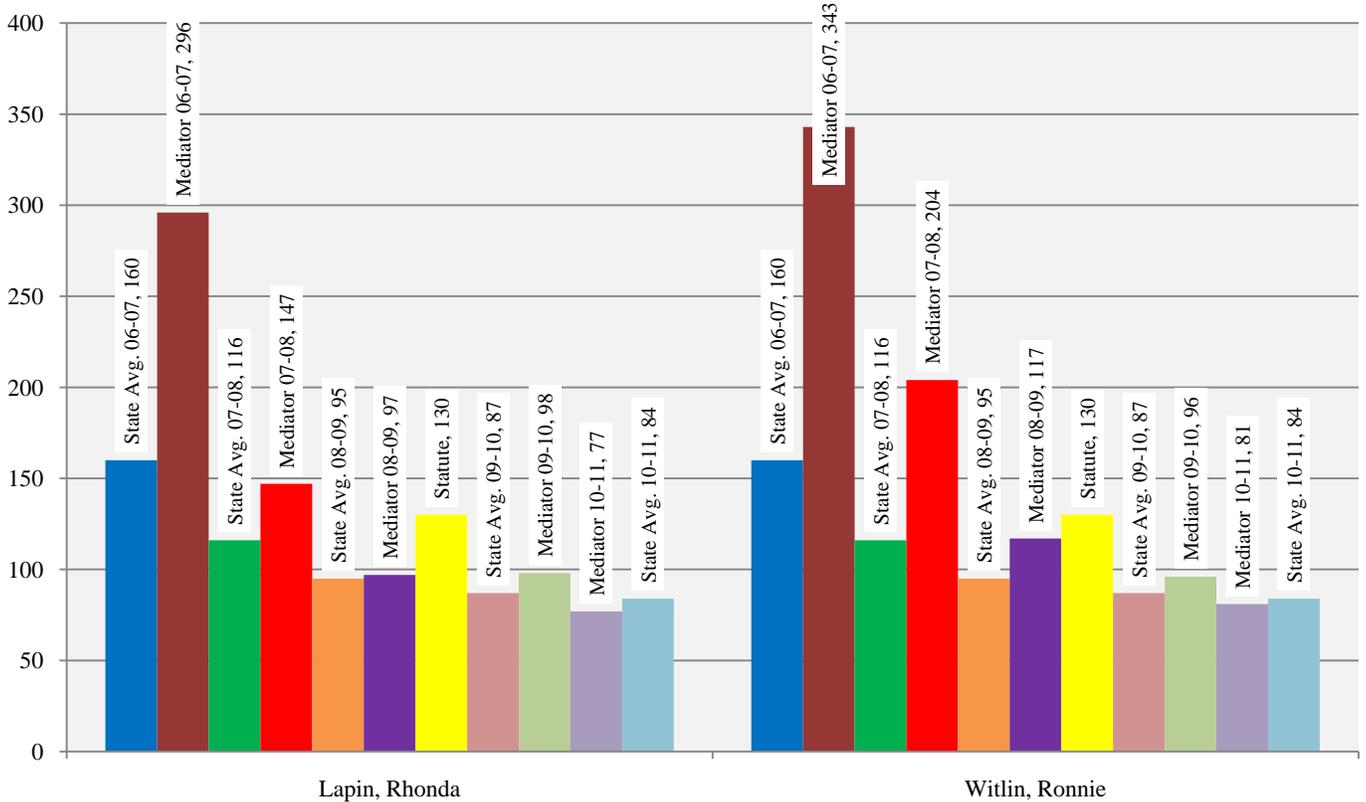
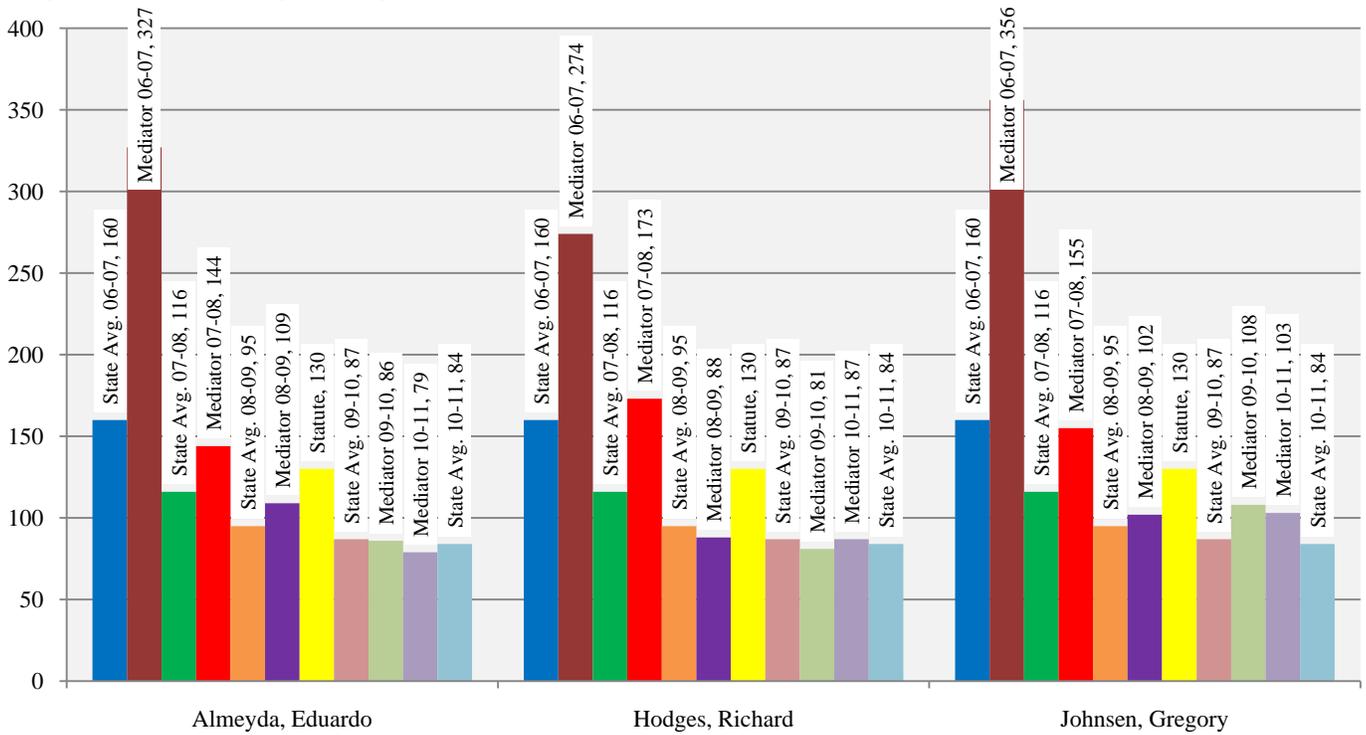
The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



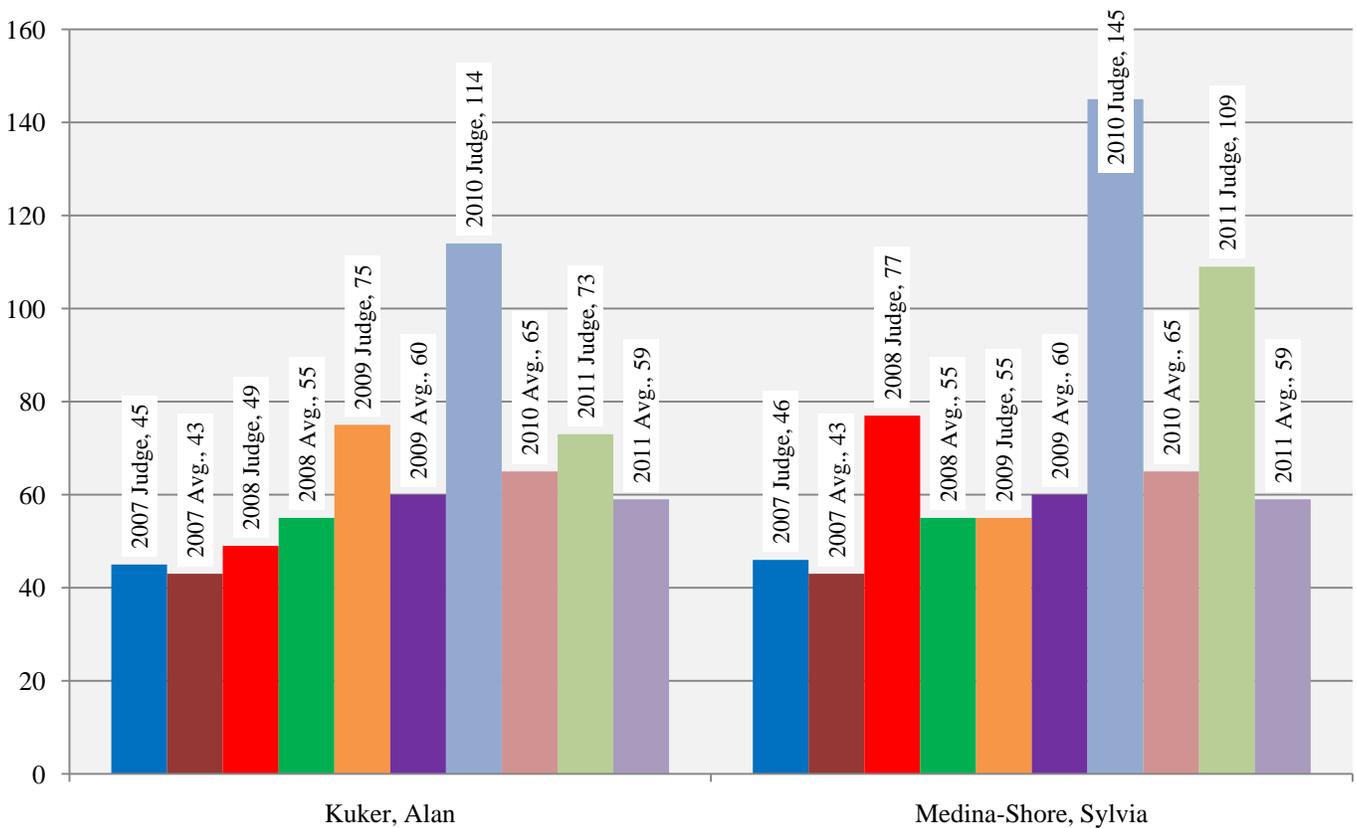
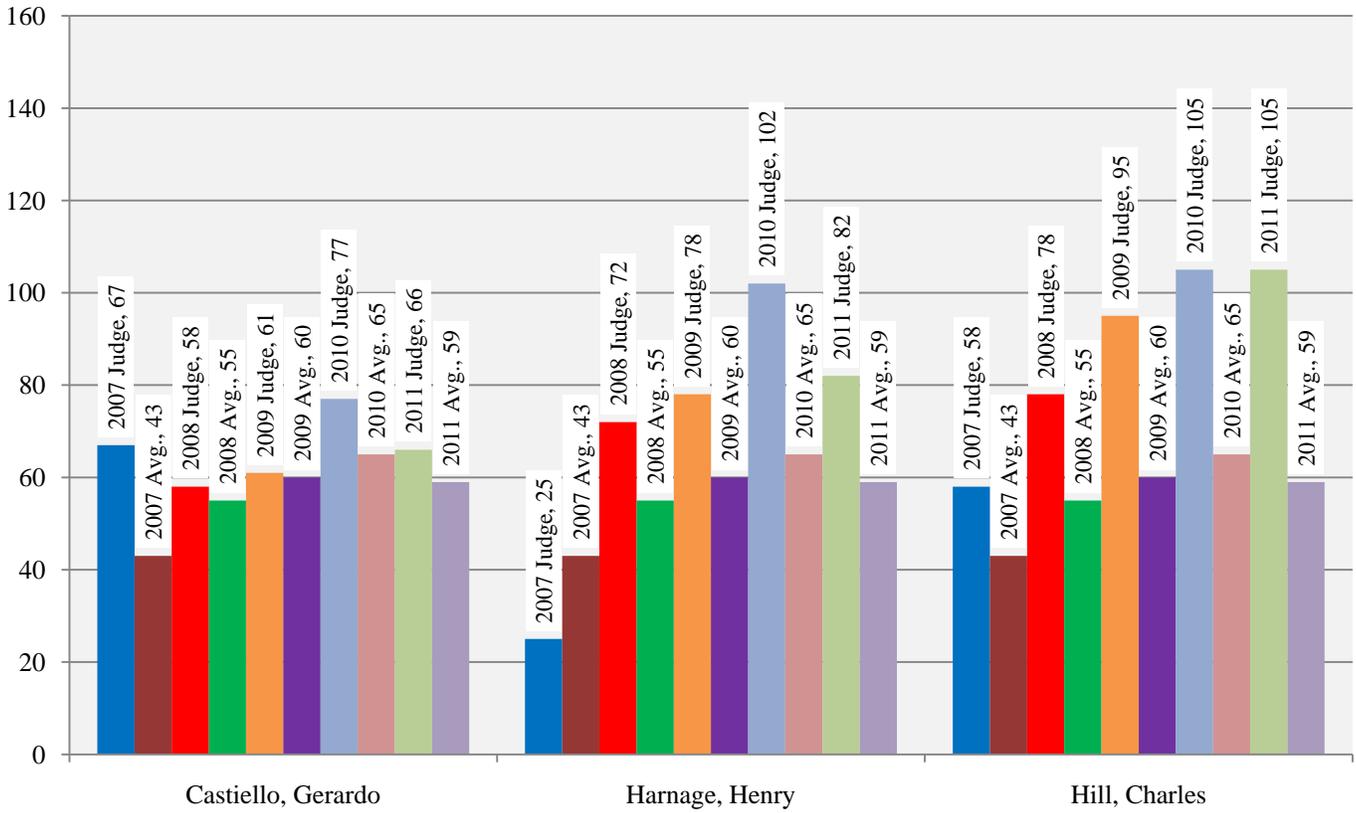
The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



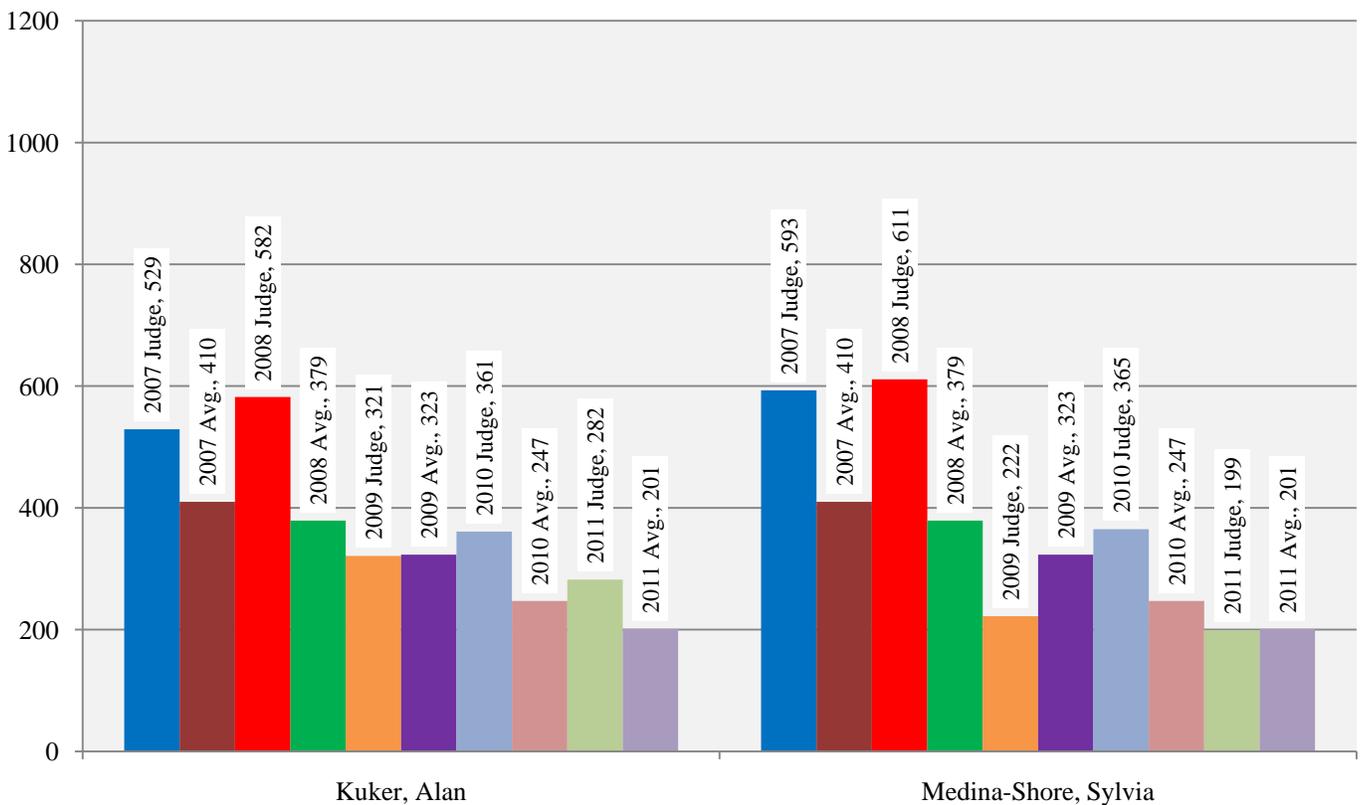
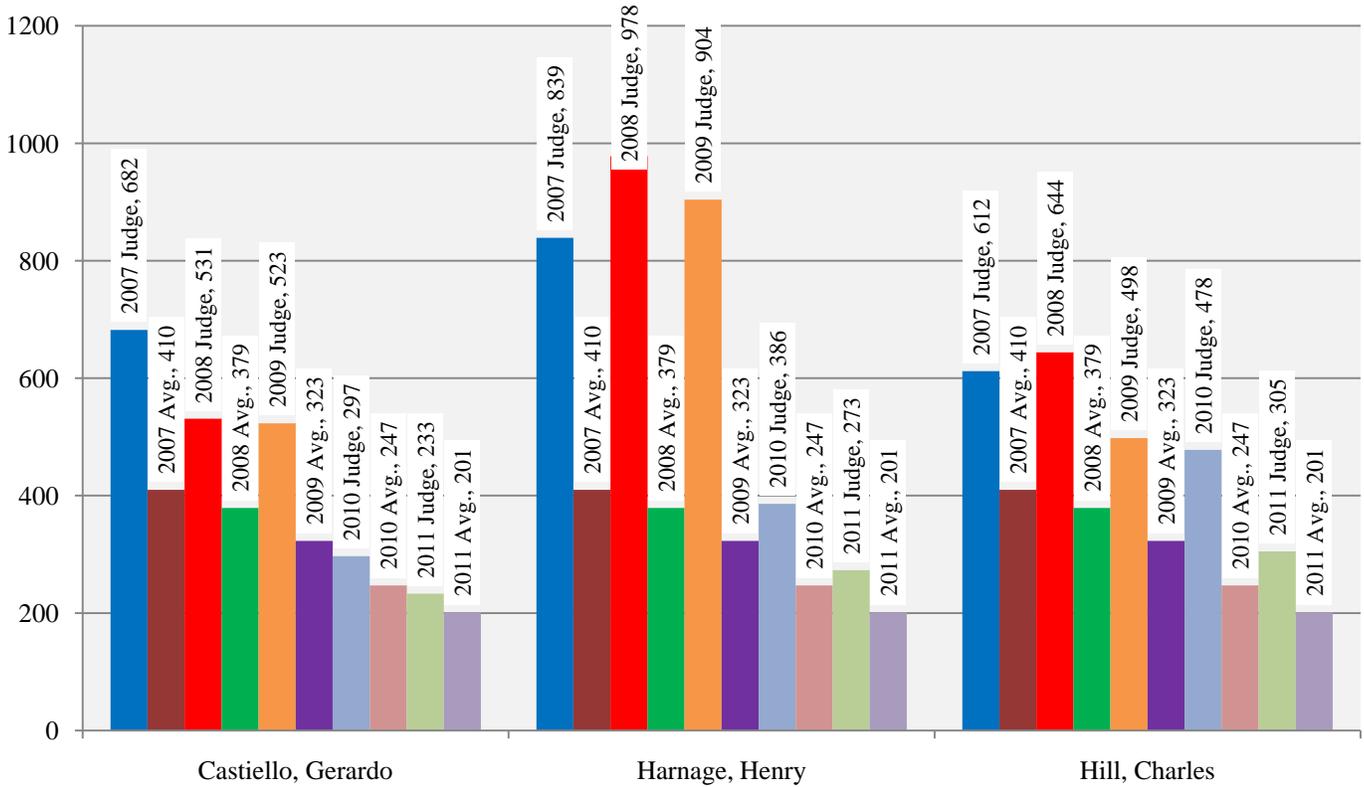
The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.



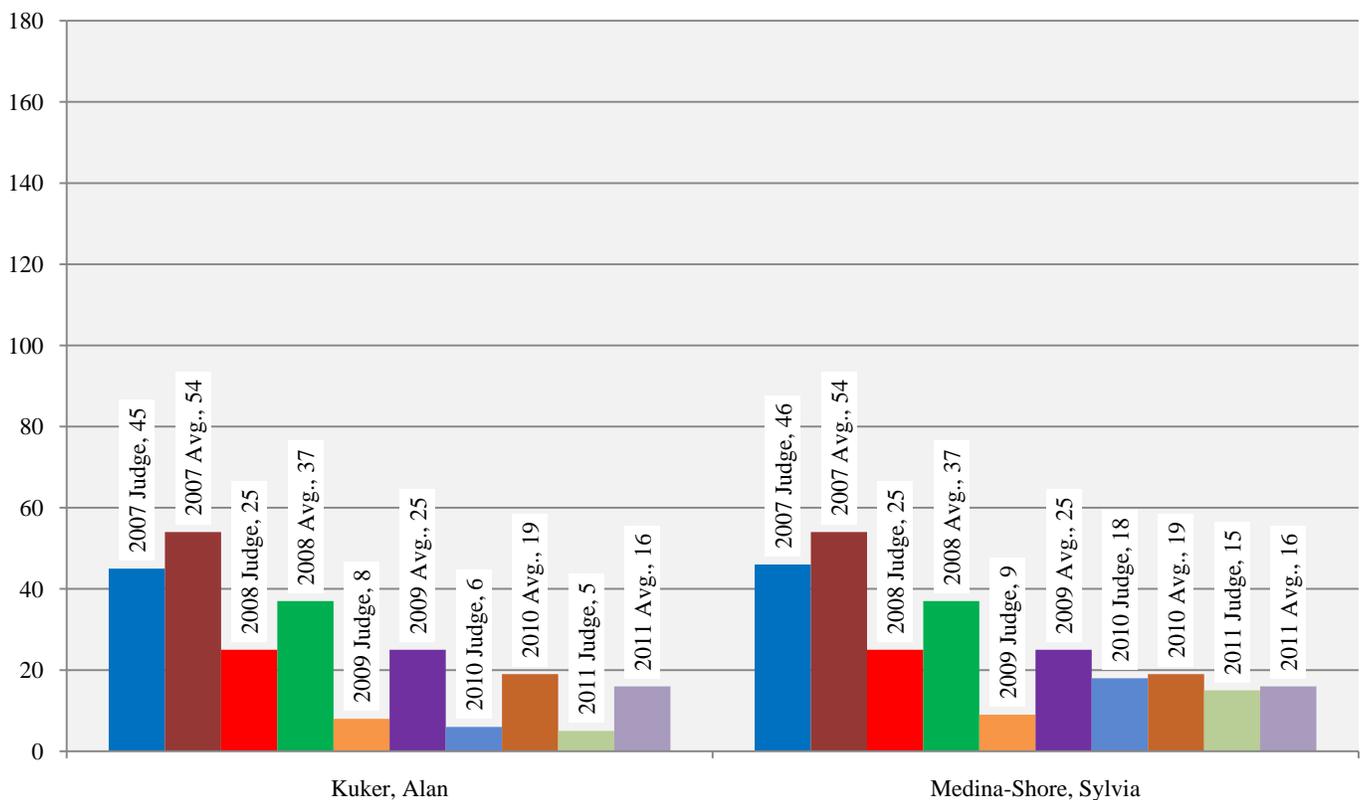
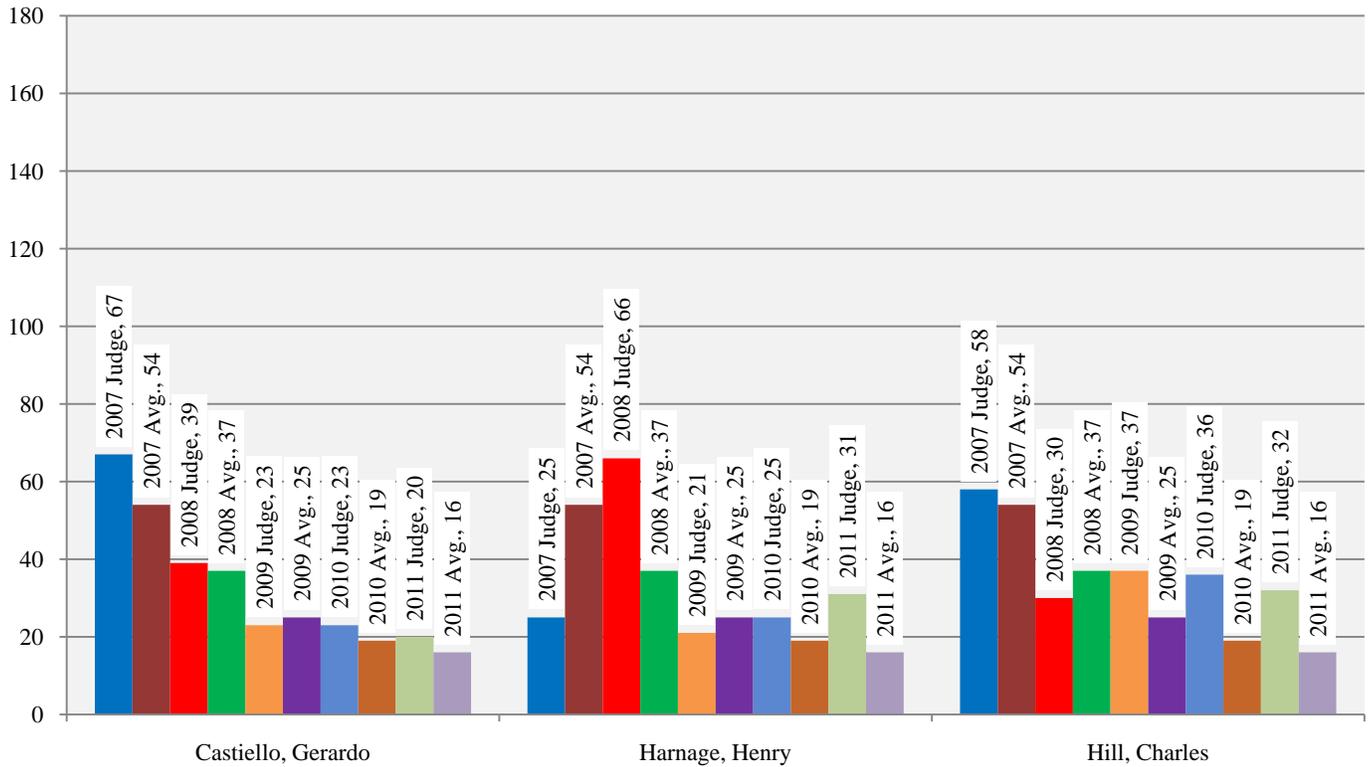
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



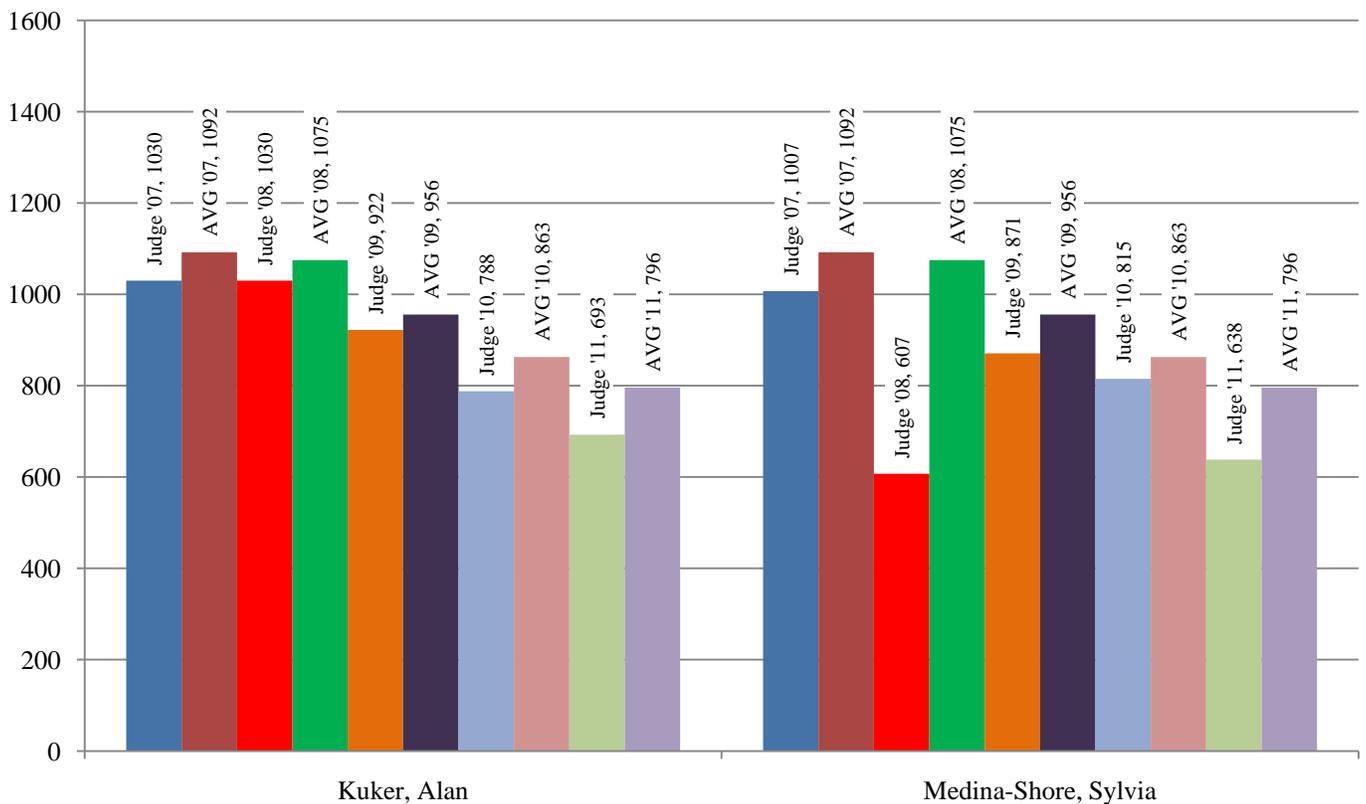
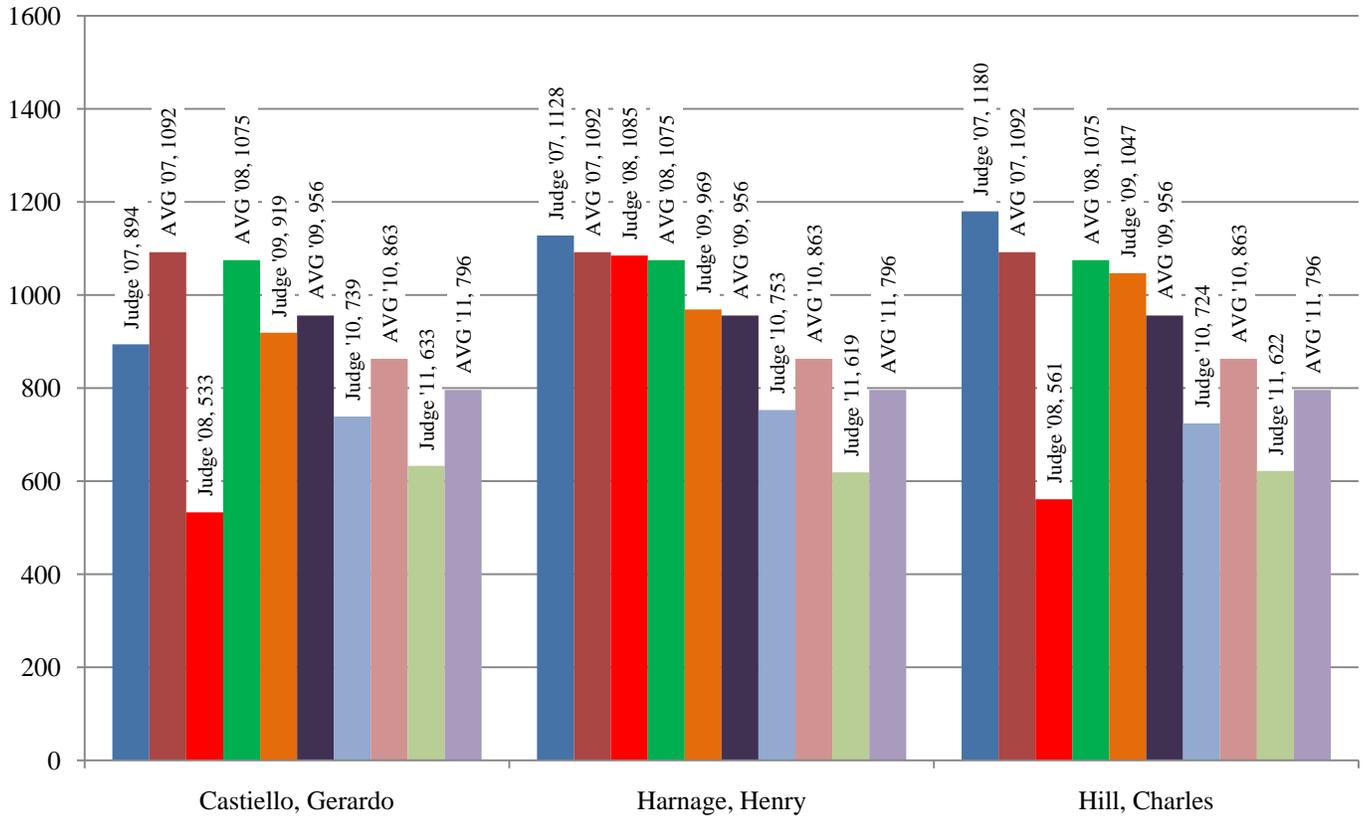
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2010-11. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. The identification for each year and the values are in each column label.



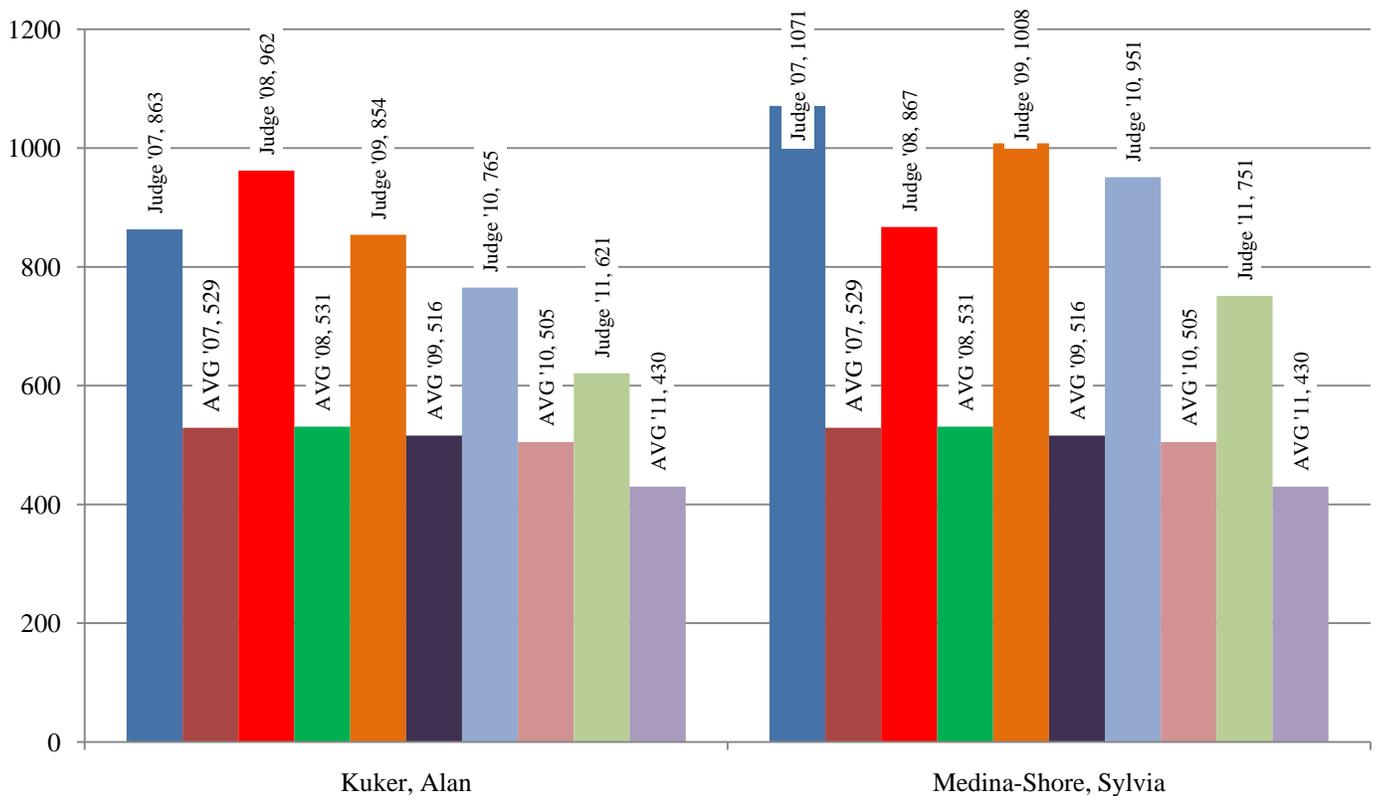
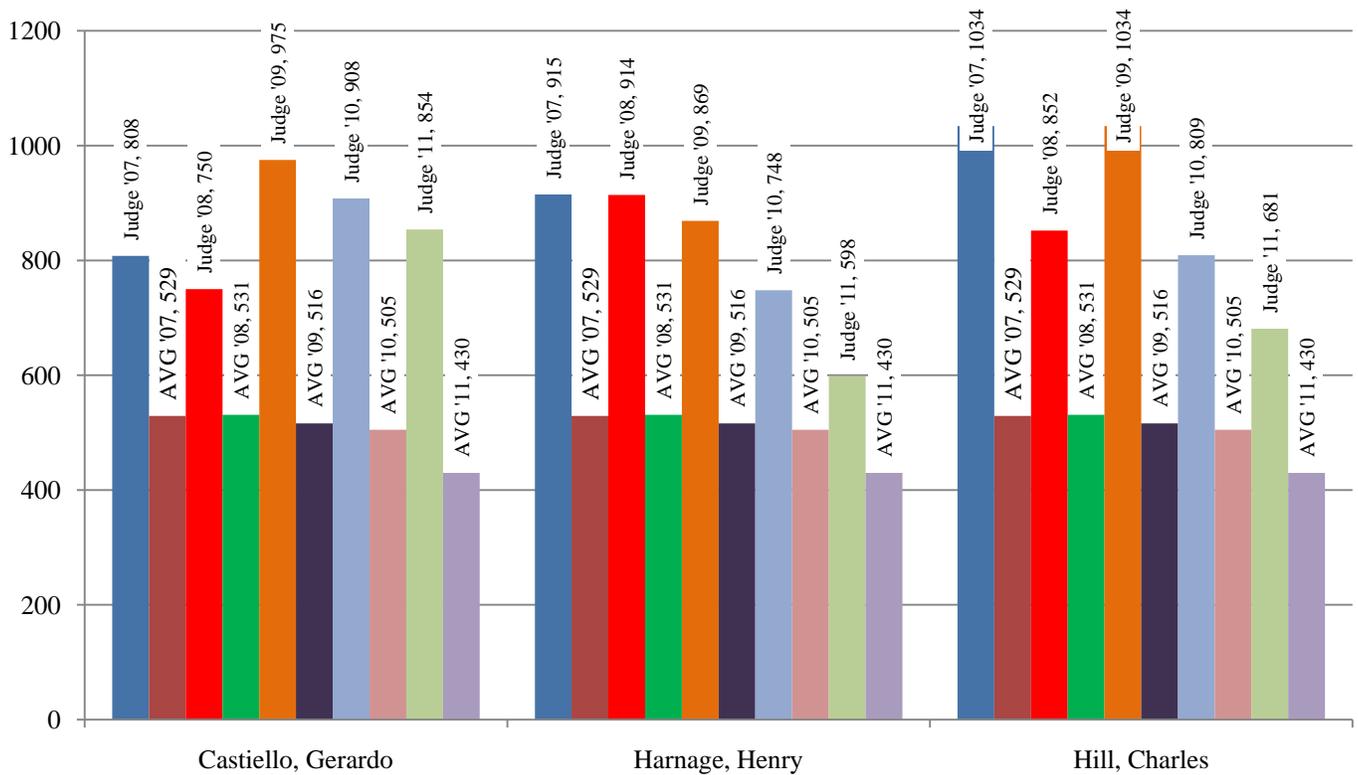
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



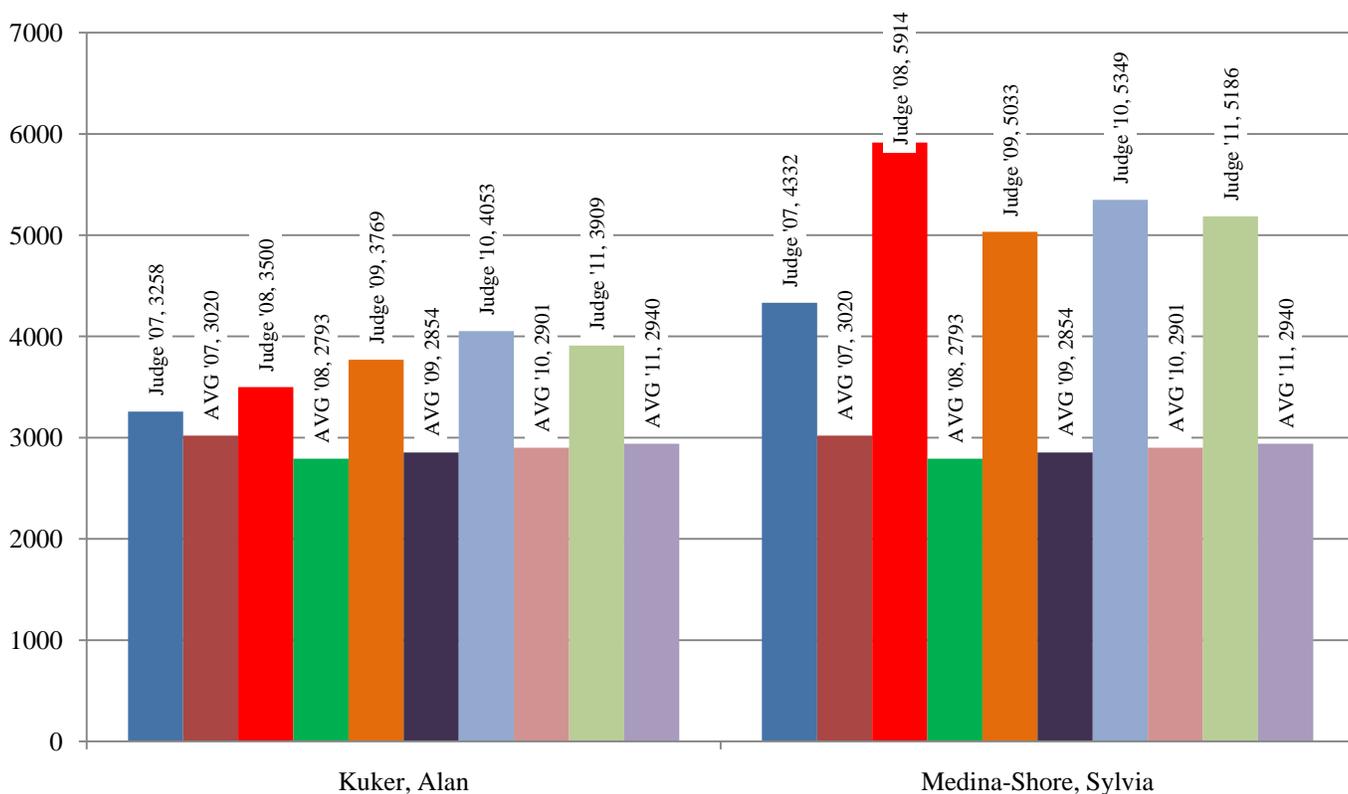
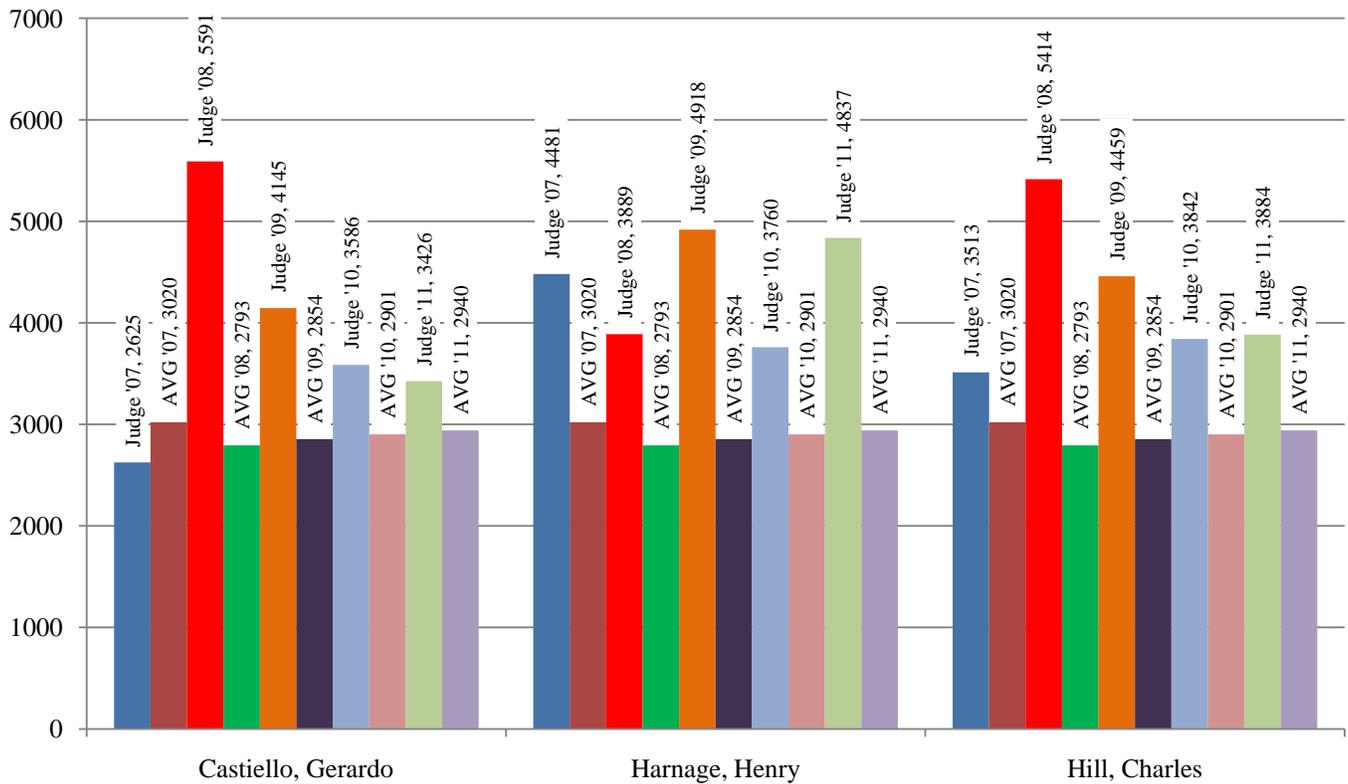
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



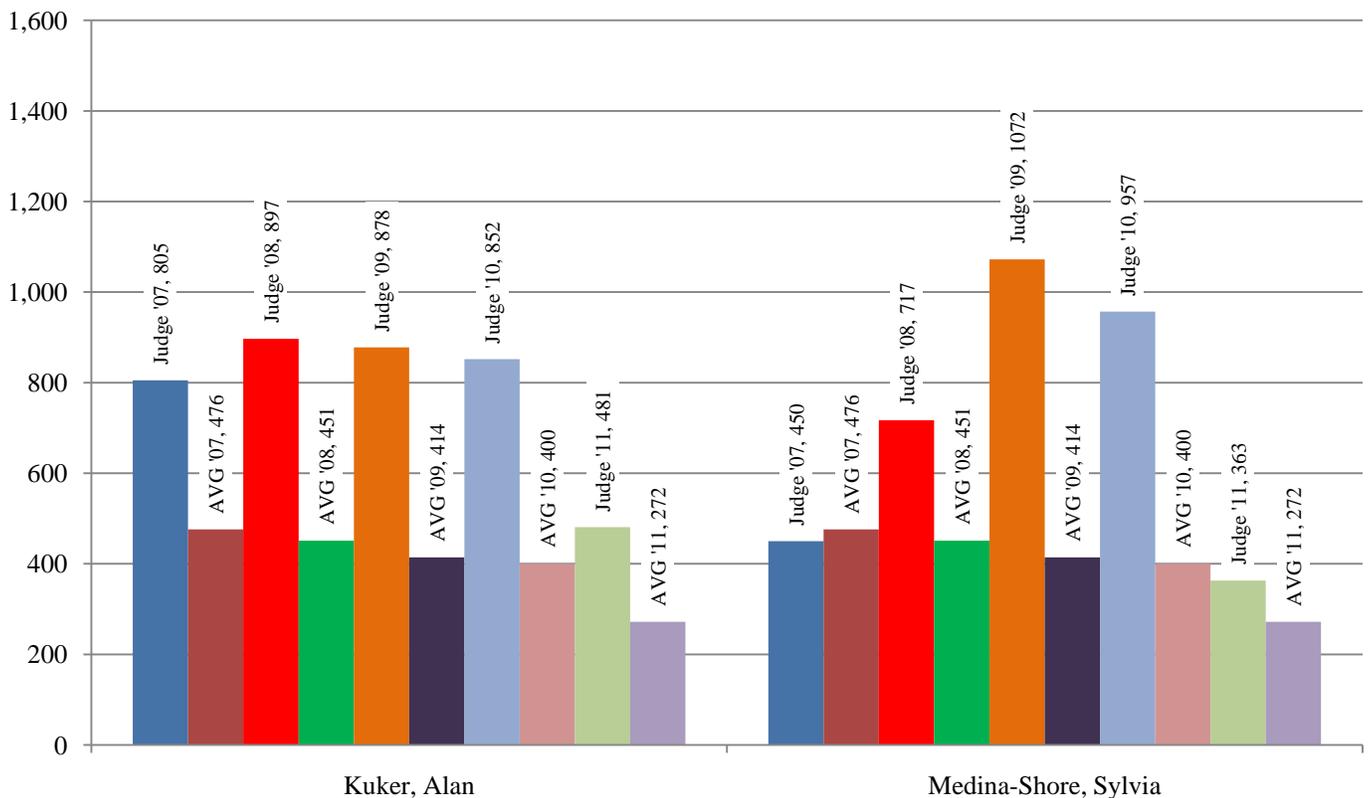
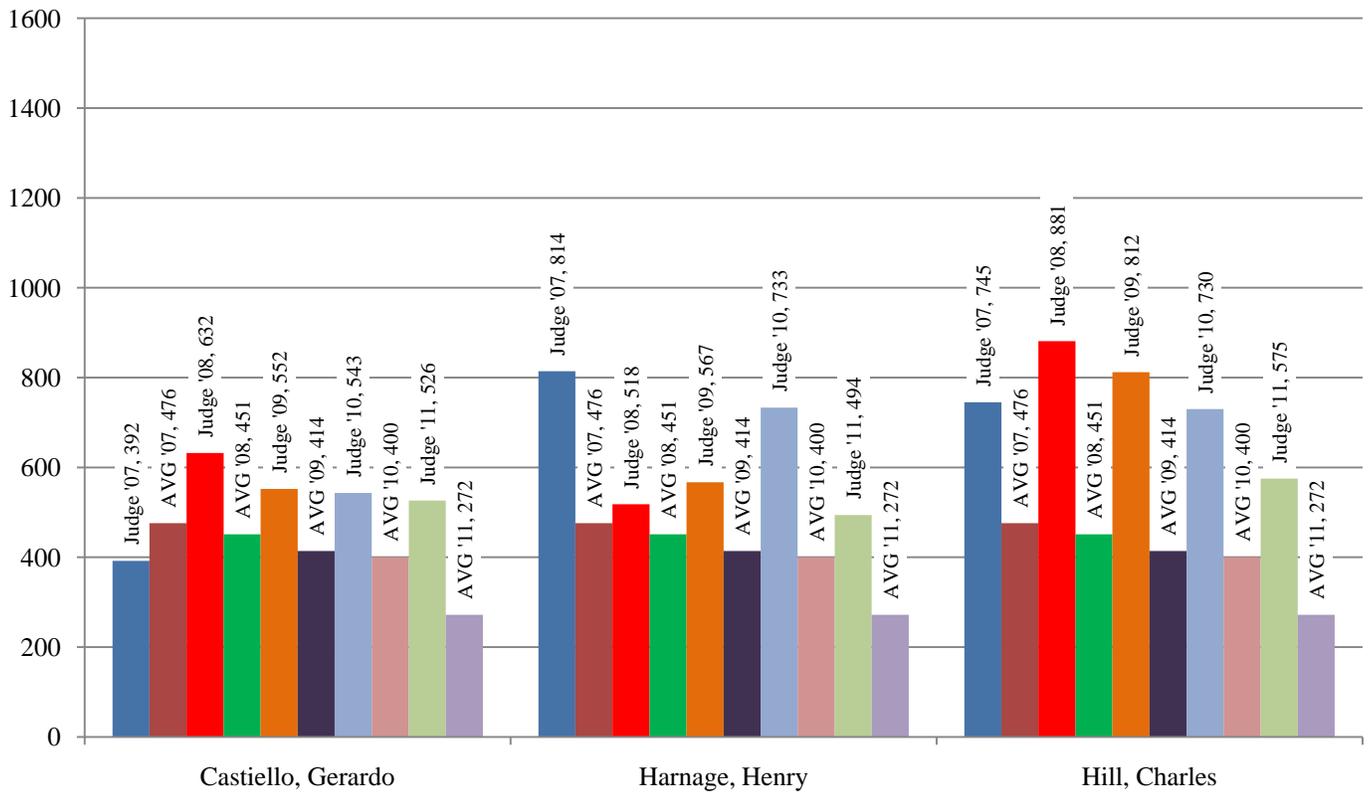
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



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

District ORL includes the following counties: Orange, Seminole,

District ORL is a three-Judge District that has been supported and managed by two Judges throughout 2007-08 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. Unfortunately, Judge Farrell experienced significant absences throughout fiscal year 2009-10, followed by his untimely death late in the year. Because of those issues, Judges Condry and Sculco notably contributed above and beyond the call to keeping the third division functional over the last four years. In Mid 2010-11 Judge Pitts transferred to ORL from District JAX.

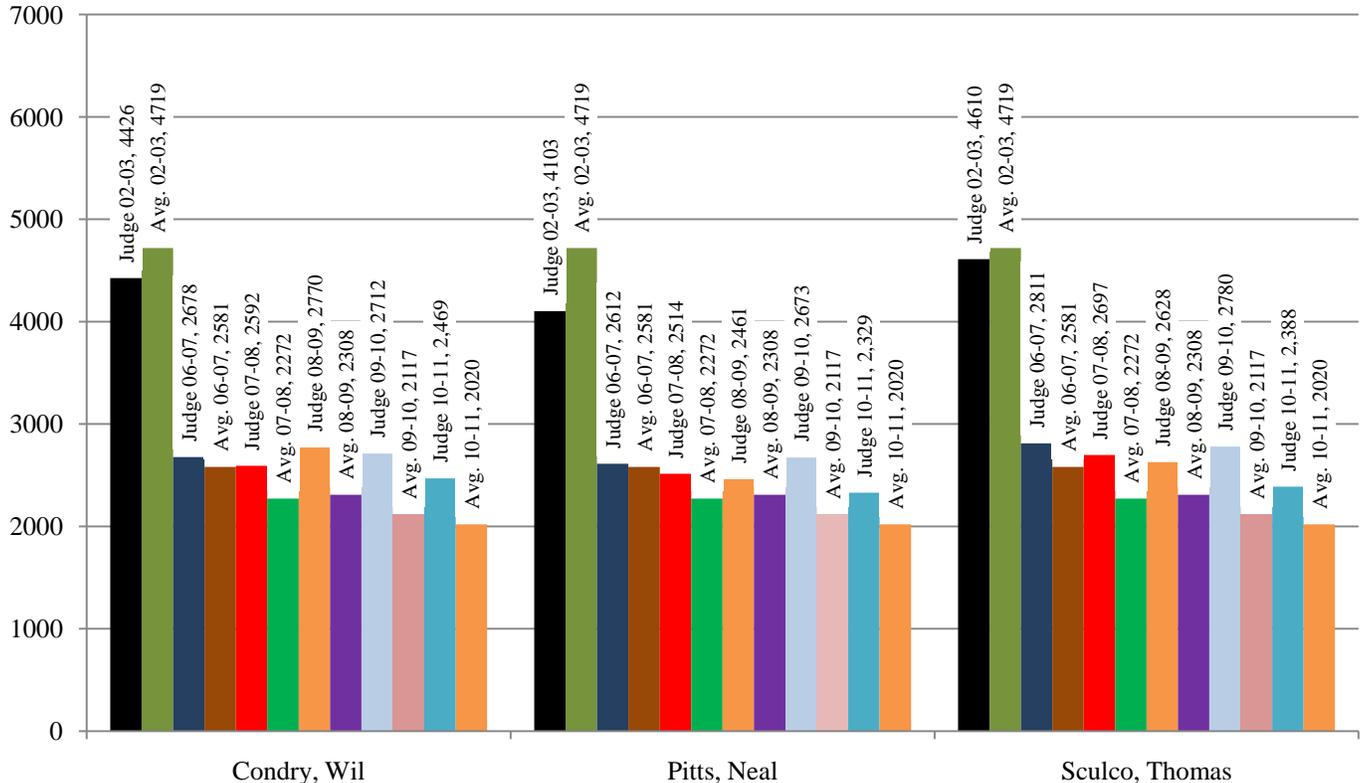
PFB and “new case” volumes in District ORL remain well above average in 2010-11. PFB closure volumes and filing volumes are very similar in all three ORL divisions, evidencing workload that is remaining close to equilibrium, and year-end PFB inventory is approaching the statewide average. Overall, trial volumes in ORL were significantly above statewide average in District ORL last year, but appear to be moderating. Despite that volume, the time to trial and time to order for all three judges continues to evidence efficient docket management.

Judge Condry volunteers and is on the Board of Friends of 440, an educational scholarship organization.

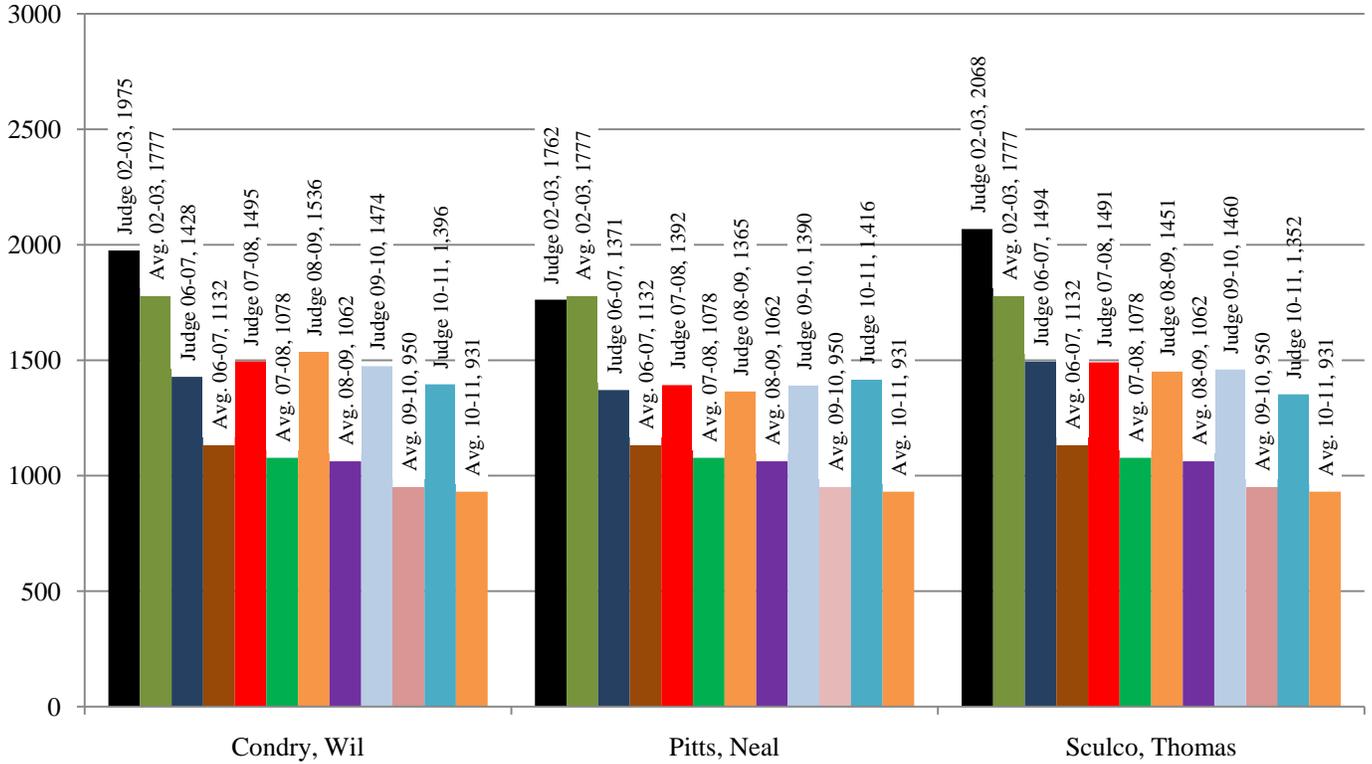
Judge Sculco teaches workers’ compensation at the Florida Agricultural and Mechanical University Law School. He serves as the chair of the workers’ compensation board certification committee, and is President-elect of the Florida conference of Judges of Compensation Claims.

Mediator Kim is the Statewide board secretary and the Orlando District coordinator for Friends of 440 Scholarship Fund. She is a Committee member for Central Florida Association of Women Lawyers Judicial Reception and New Members, and an Arbitrator for the Better Business Bureau. Mediator Kim is also a Workshop Instructor for University of Florida Trial Advocacy

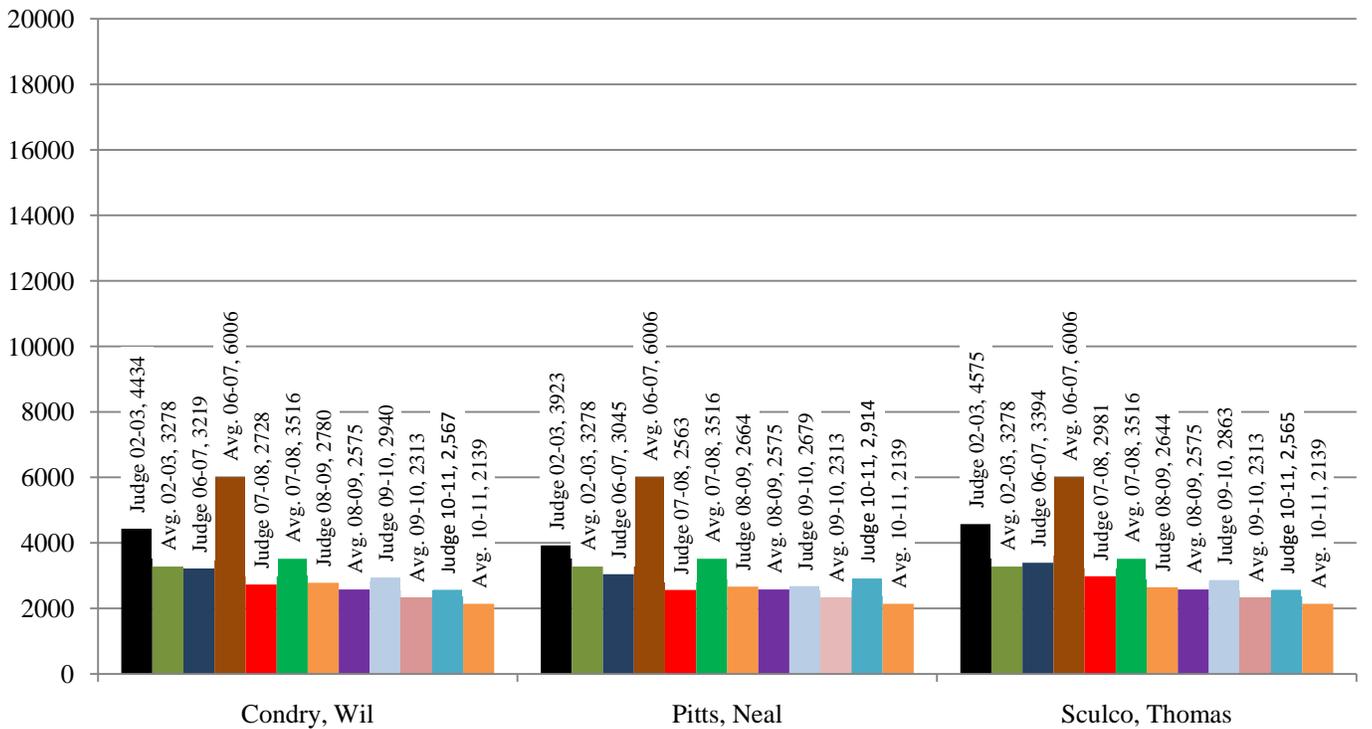
The following depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



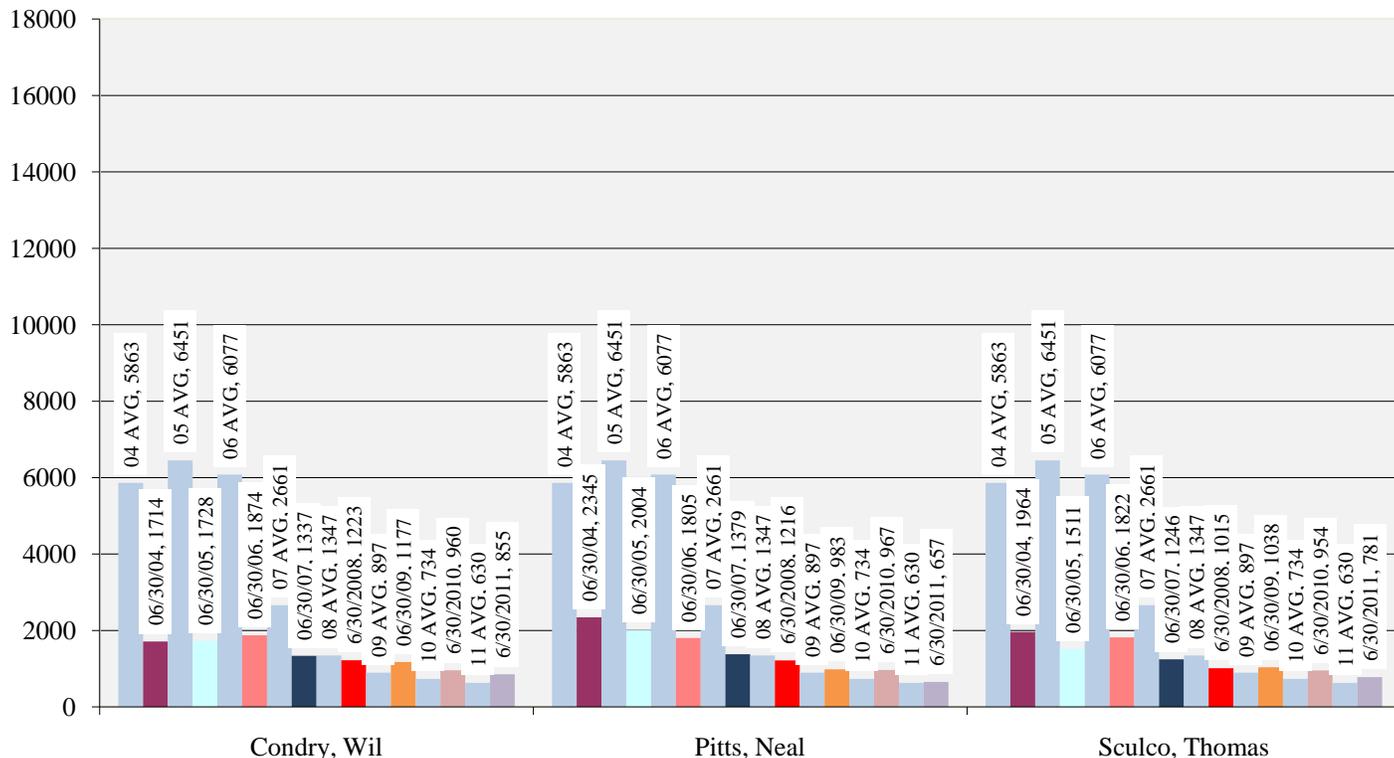
The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



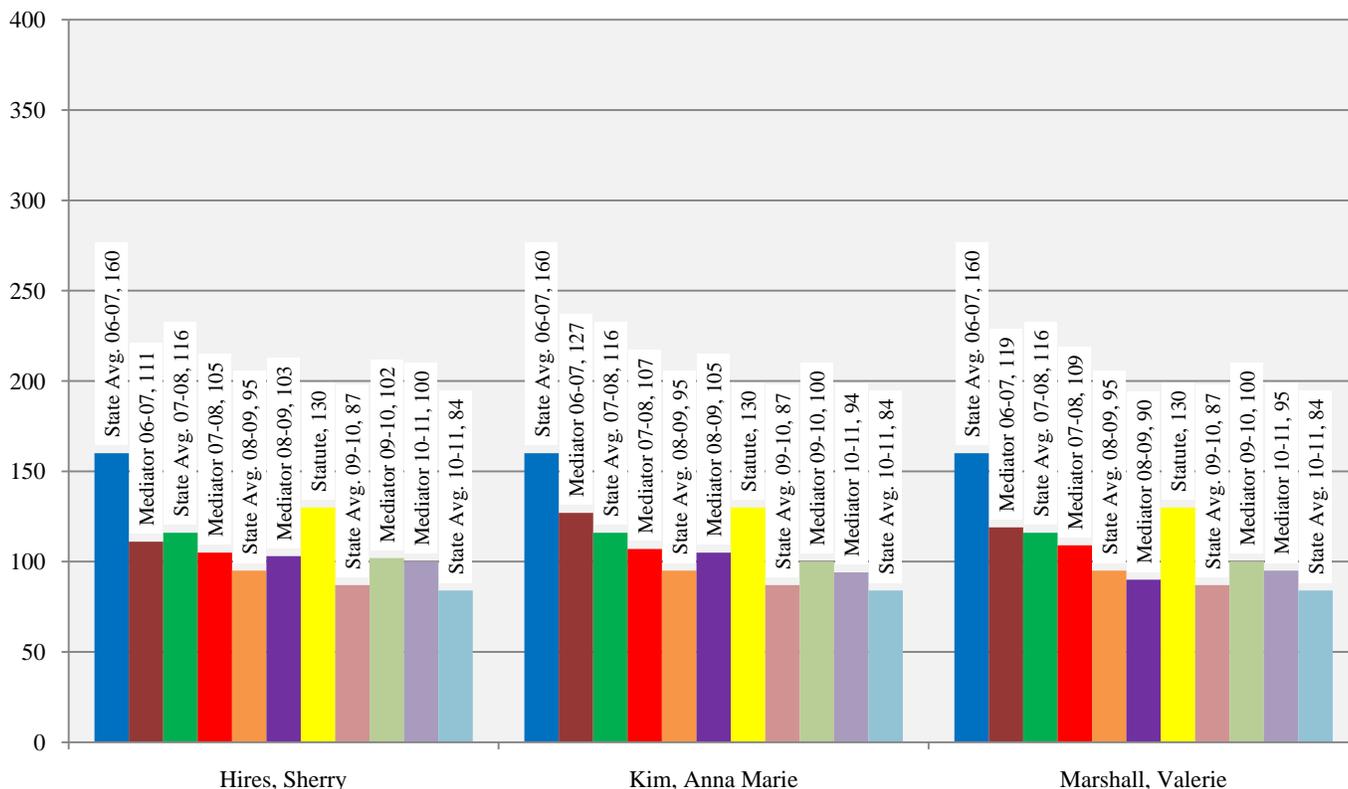
The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



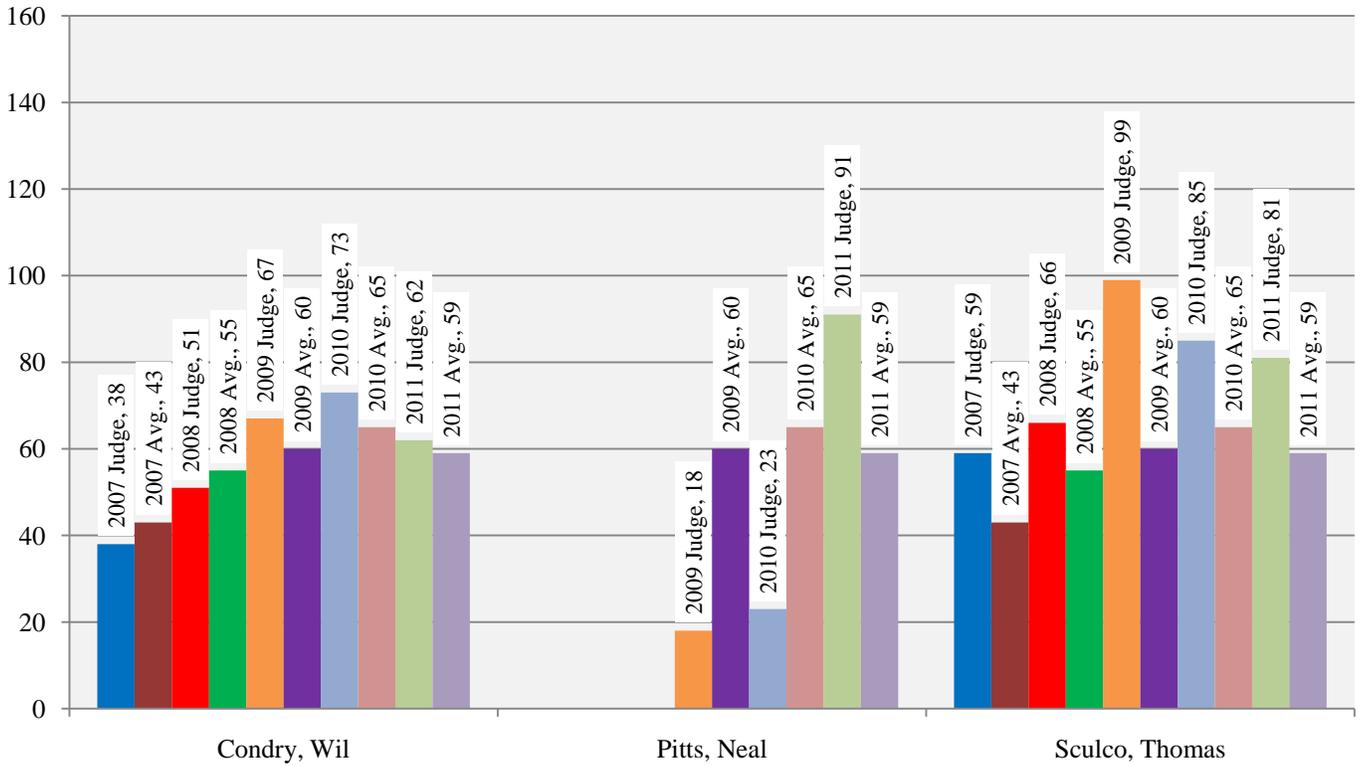
The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



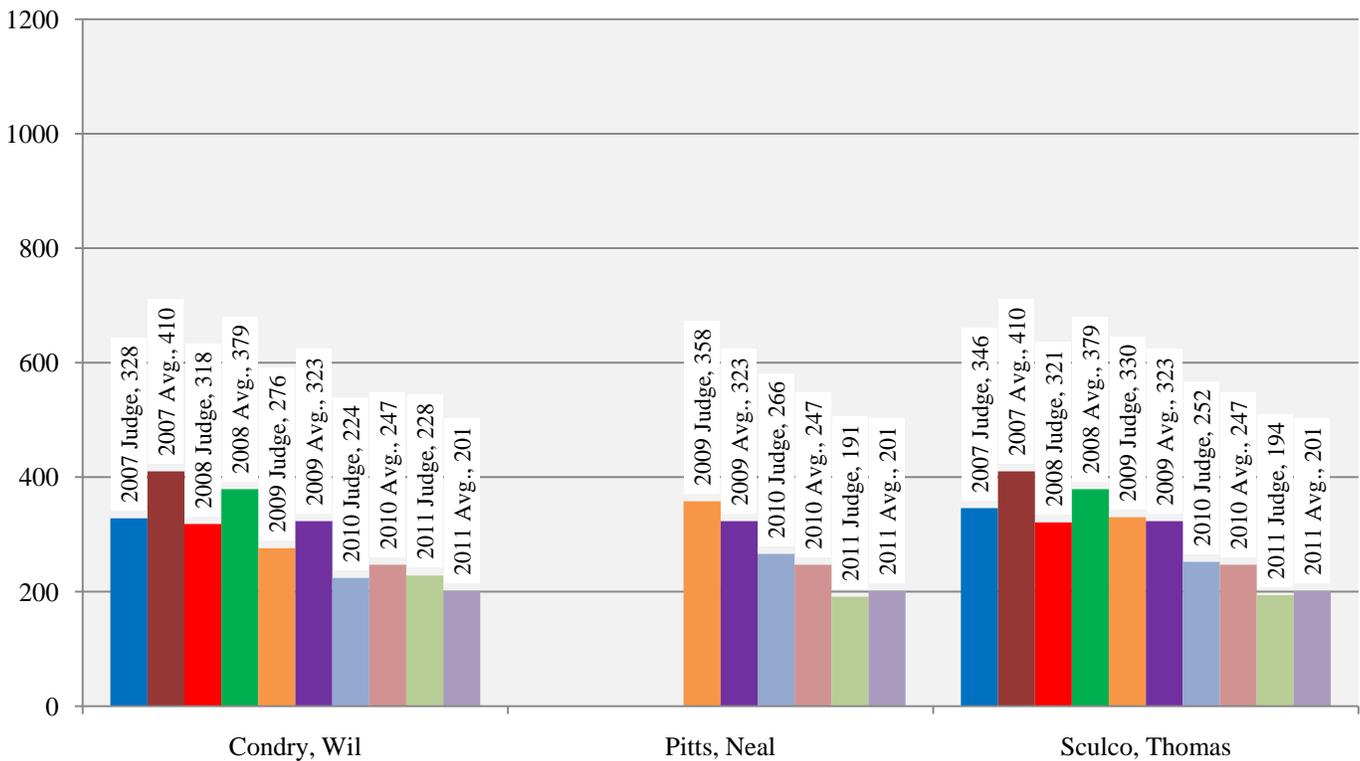
The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.



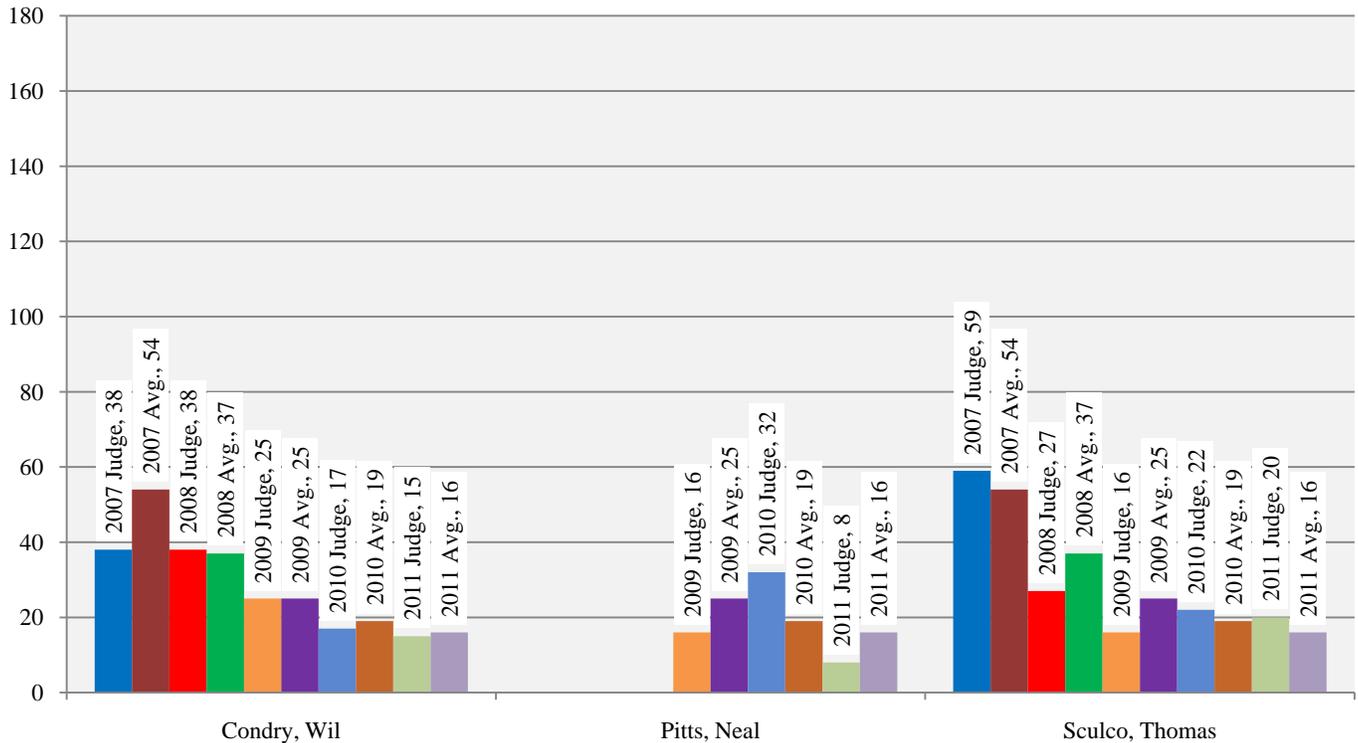
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



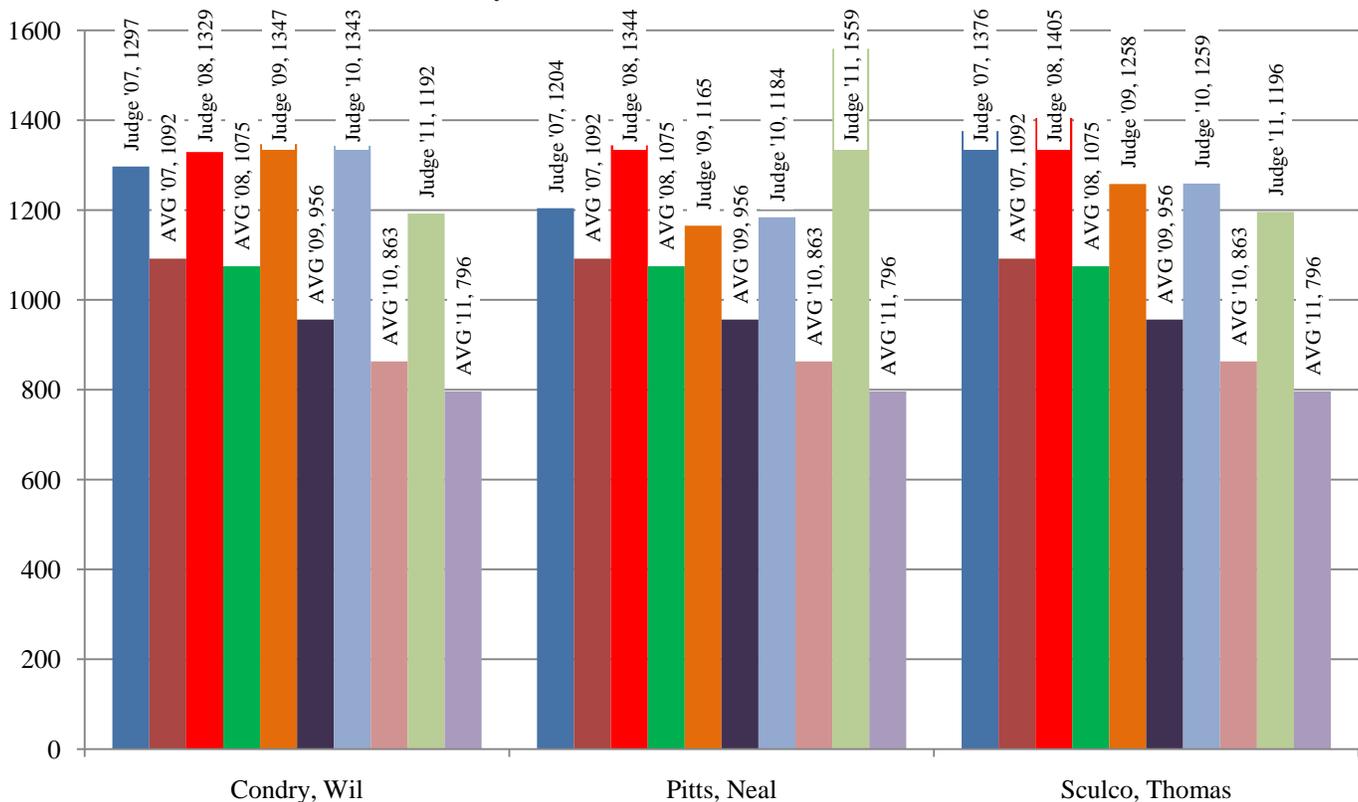
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2010-11. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. The identification for each year and the values are in each column label.



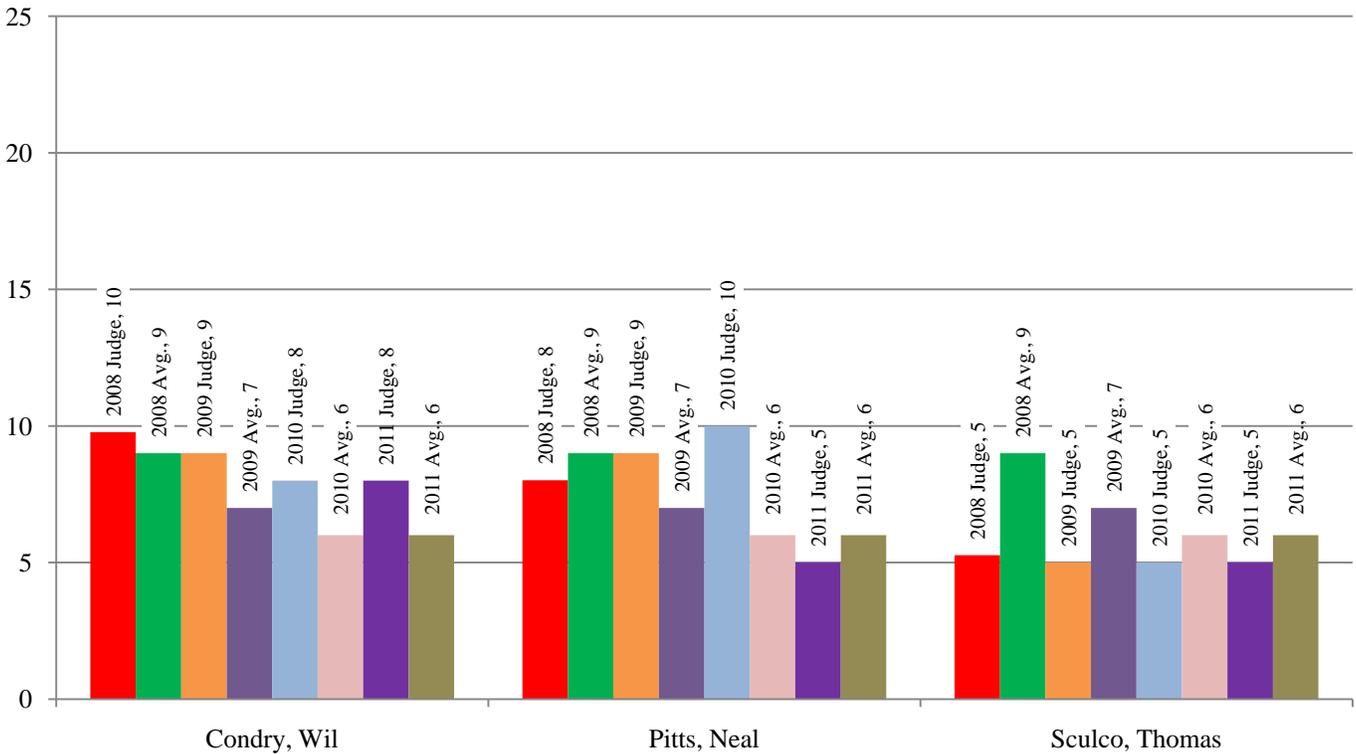
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



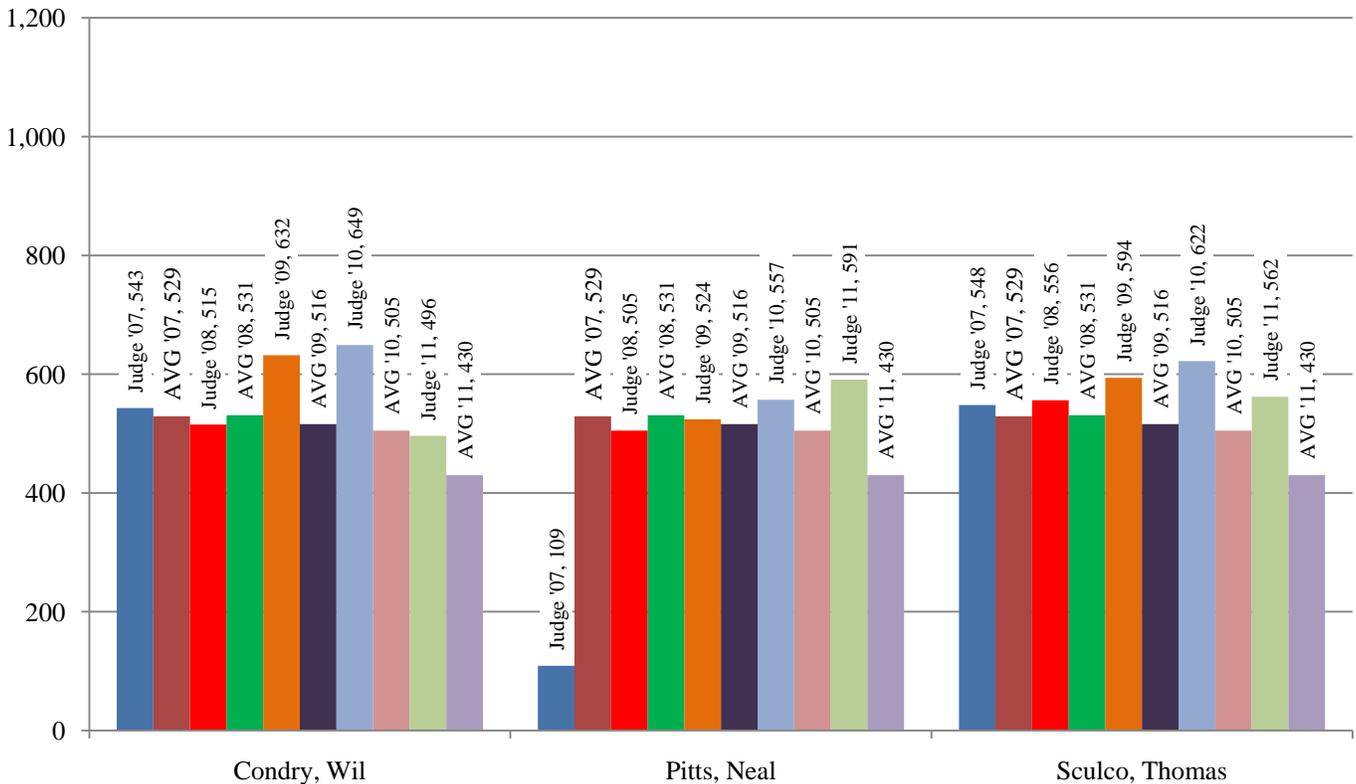
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



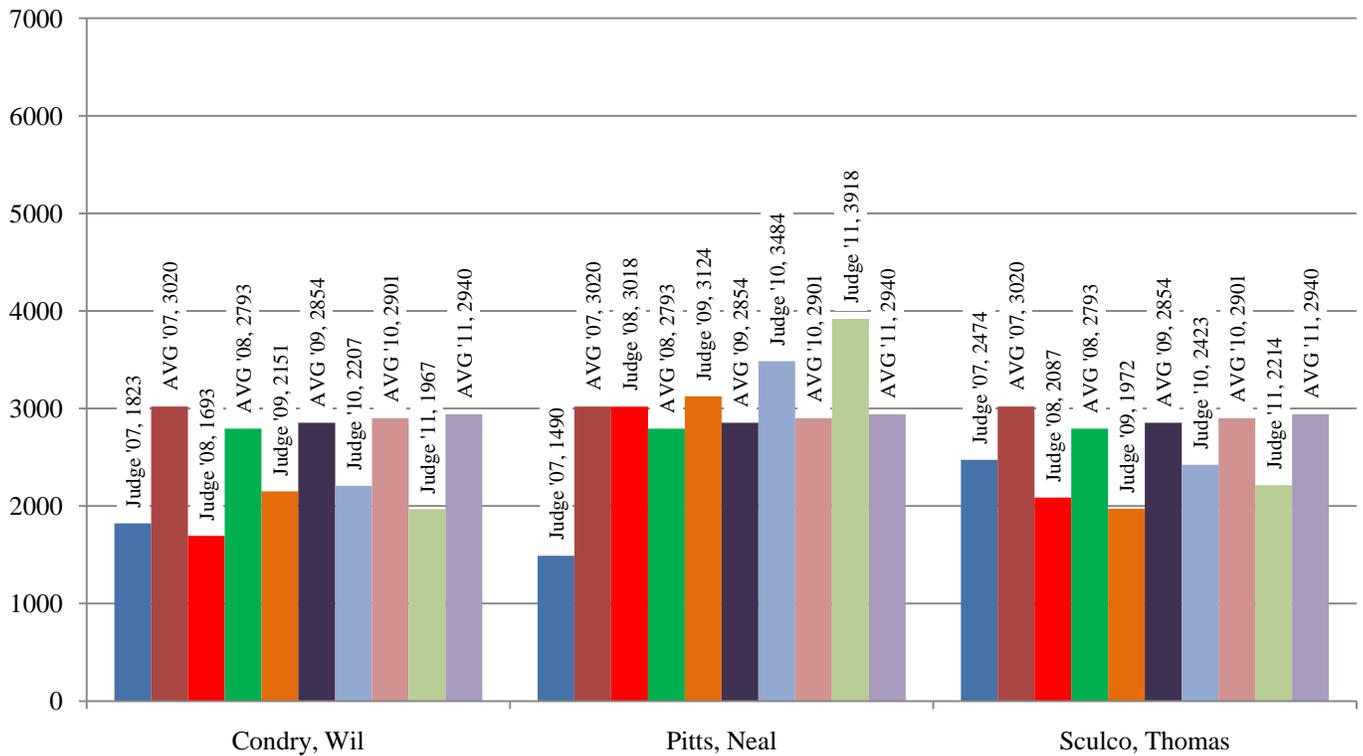
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



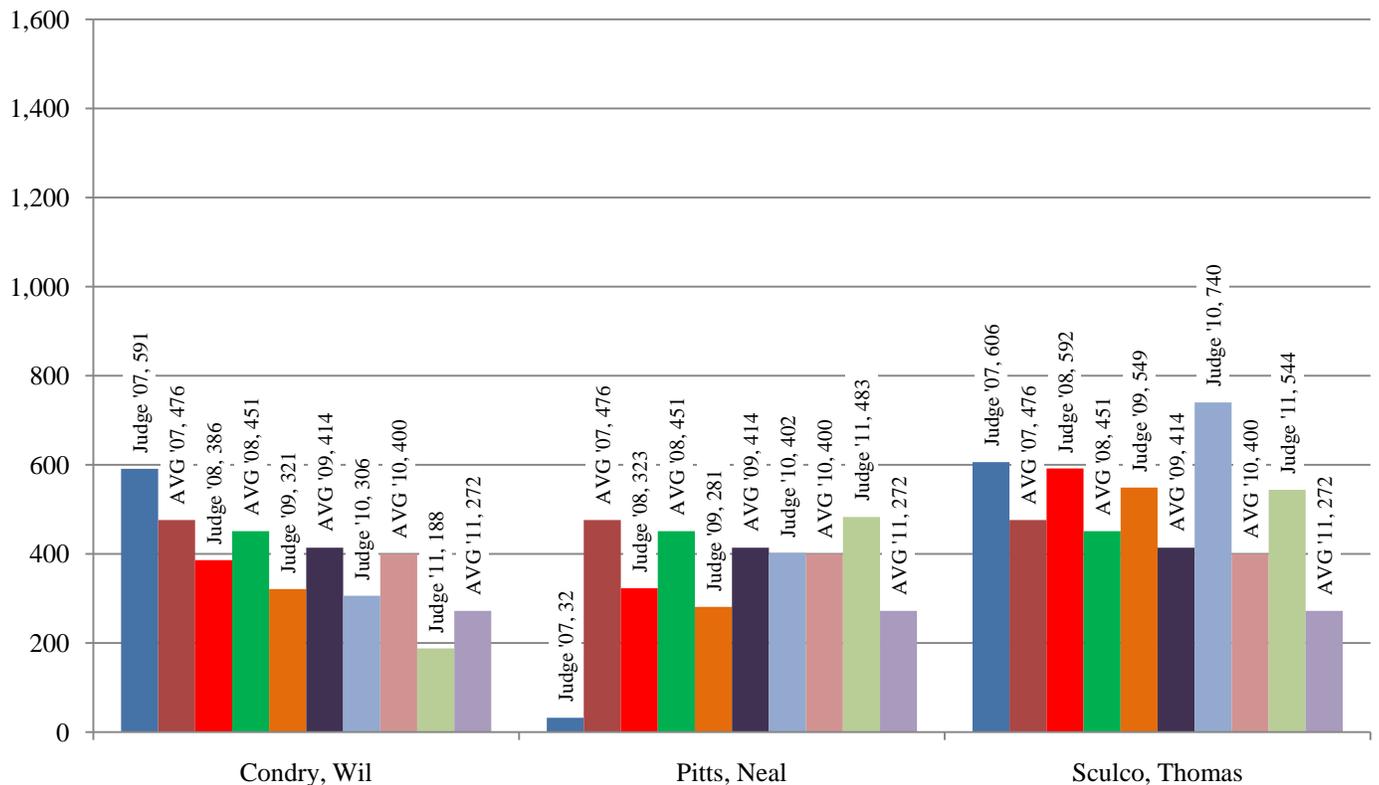
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



Appendix “10” District PMC (JCC Roesch):

District PMC in Panama City includes the following counties: Bay, Calhoun, Gulf, Holmes, Jackson, Liberty, Walton, and Washington.

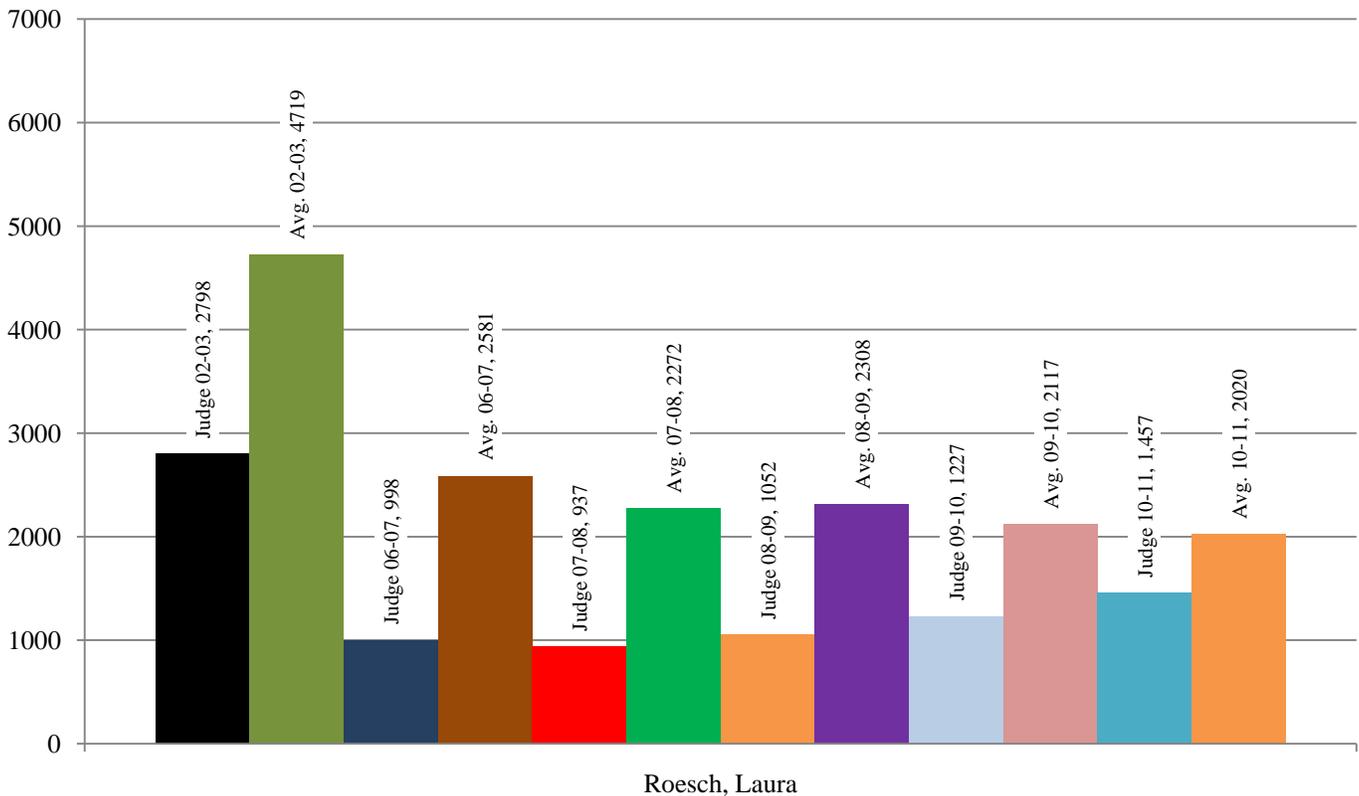
District PMC is one of the largest geographic Districts in the state. While most parties will usually travel to the District office, there are occasions when trials are held remotely by Judge Roesch throughout this very large geographic area.

In PMC, the 2010-11 PFB and “new case” filing rates remained well below the statewide averages, as did the trial volume. Judge Roesch has volunteered for the last three fiscal years to hear cases remotely in other Districts using the video teleconference (VTC) network. This has included efforts in District LKL and ORL as a visiting Judge. For the last two years, Judge Roesch has been assigned “new cases” in District FTL as part of the OJCC “out-of-District” Judge program.

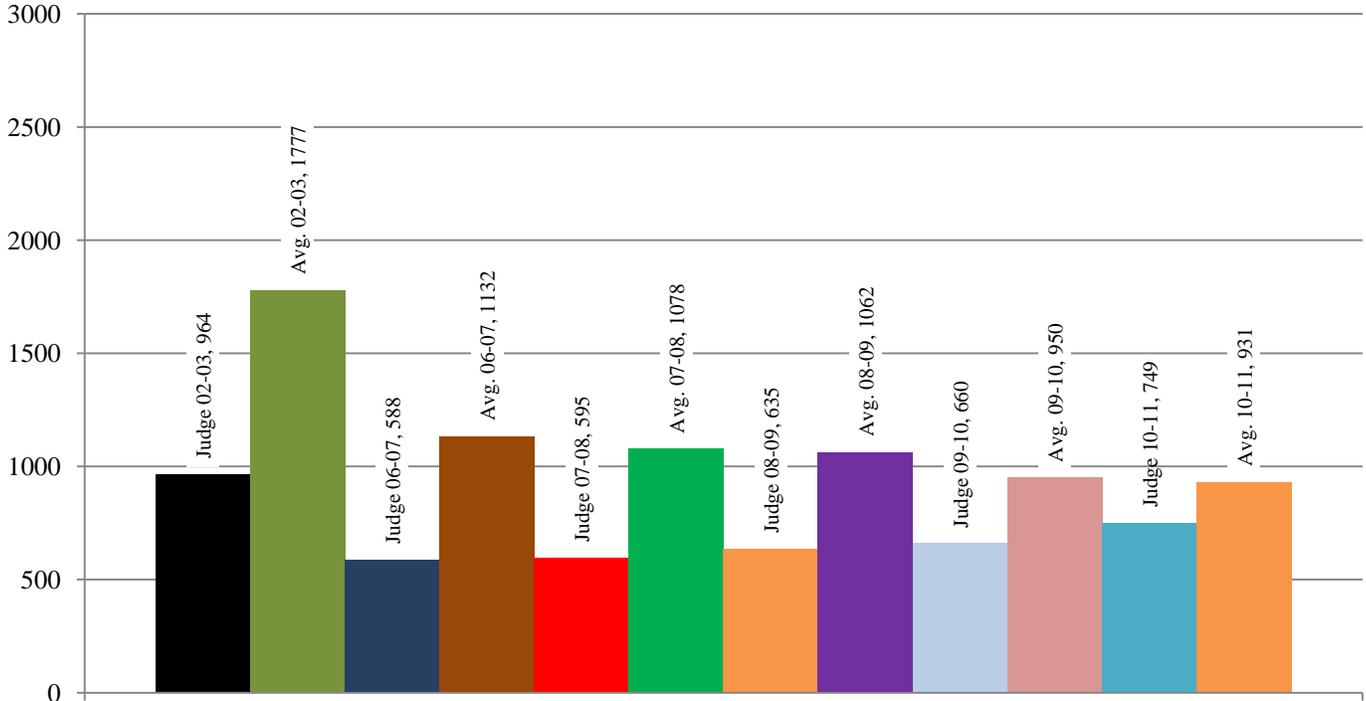
Average time to mediation, to trial and from trial to final order are all within the statutory mandates in District PMC, and have been for some time. The average time between filing of a settlement motion and entry of the resulting order is also well below the statewide average.

Judge Roesch was the president of the Florida Compensation Judge’s Conference last year. 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 depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.

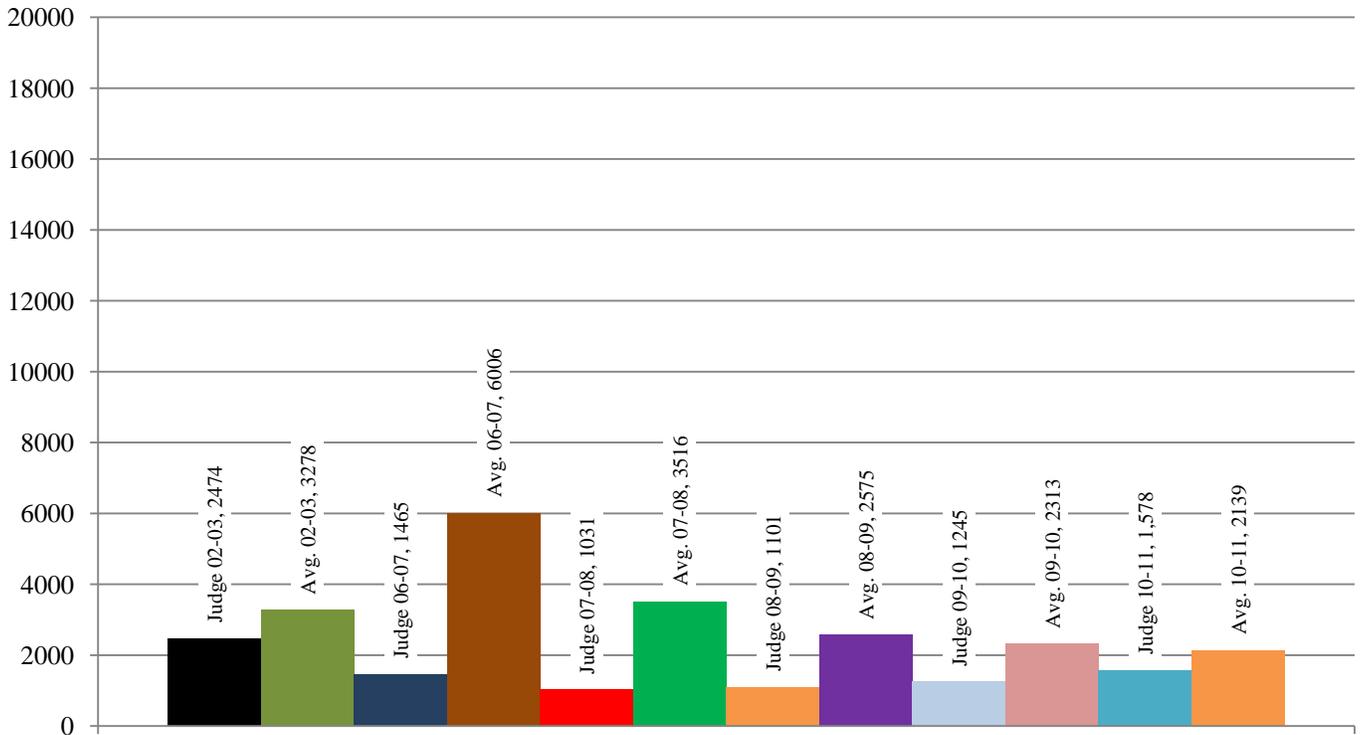


The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



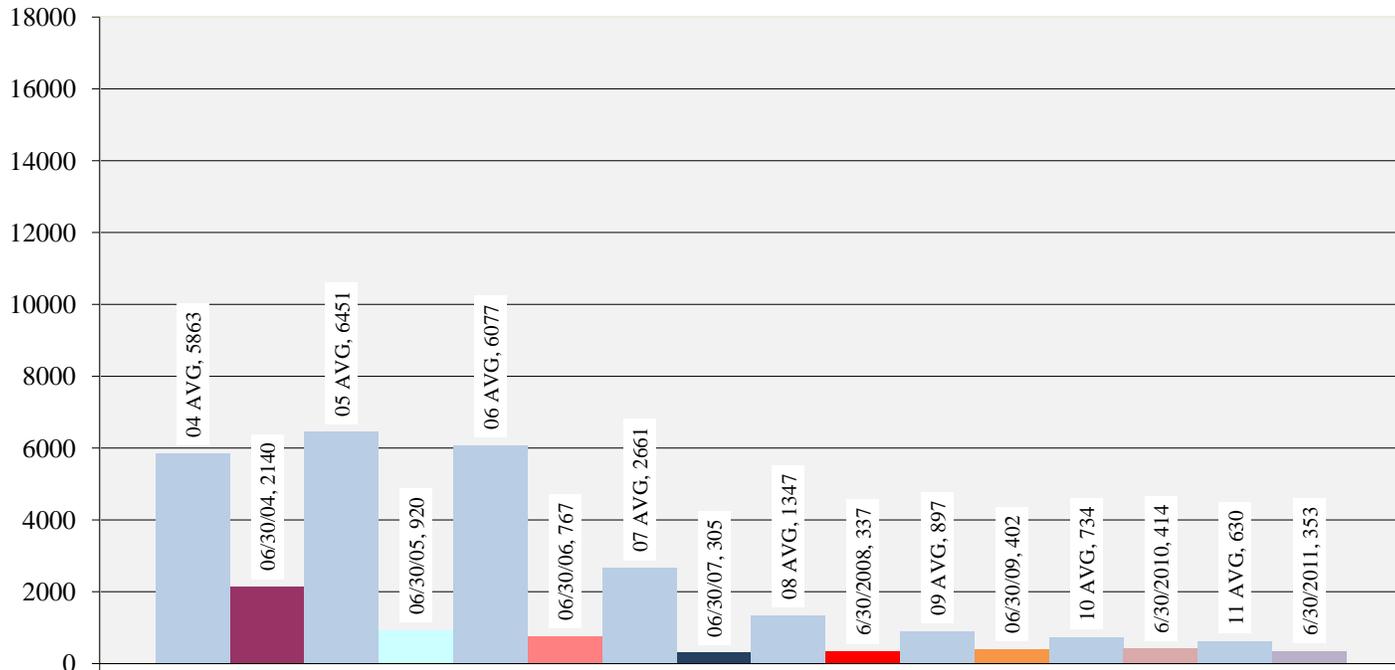
Roesch, Laura

The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



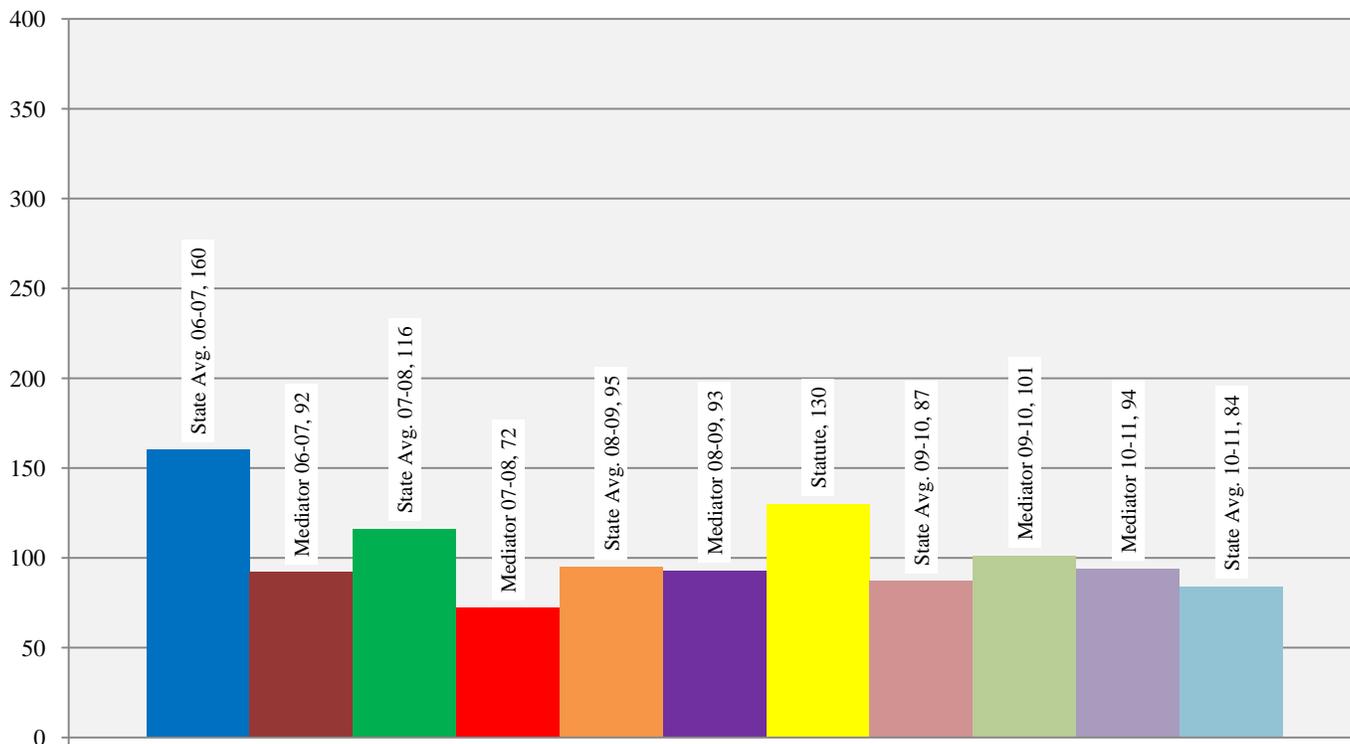
Roesch, Laura

The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



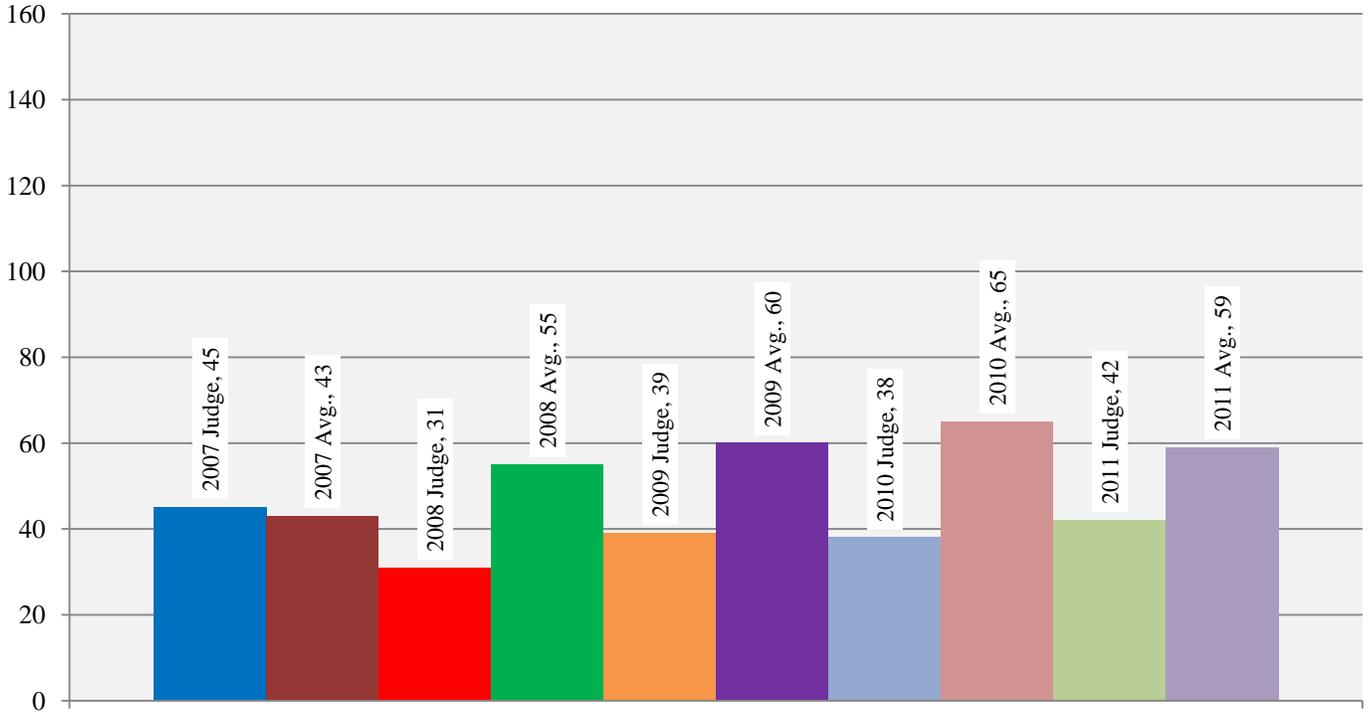
Roesch, Laura

The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.



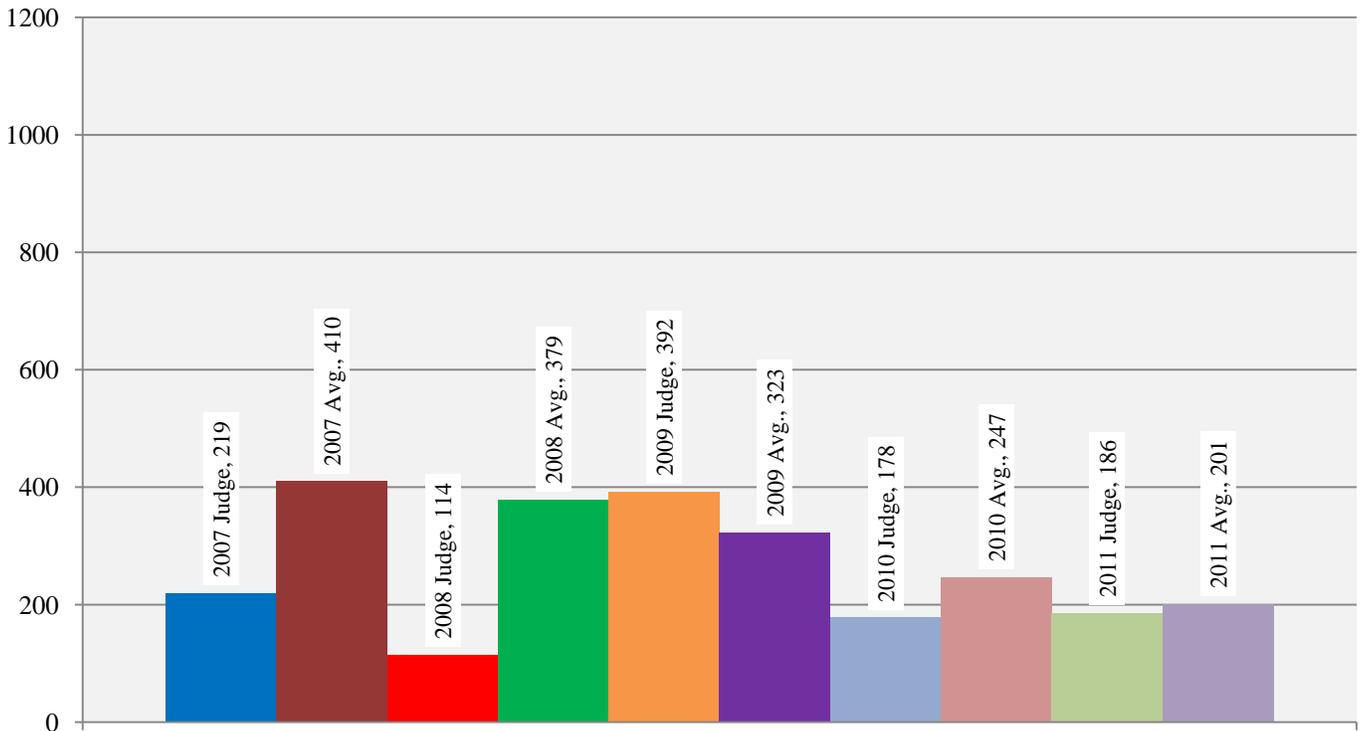
Oramas, Eddie

The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



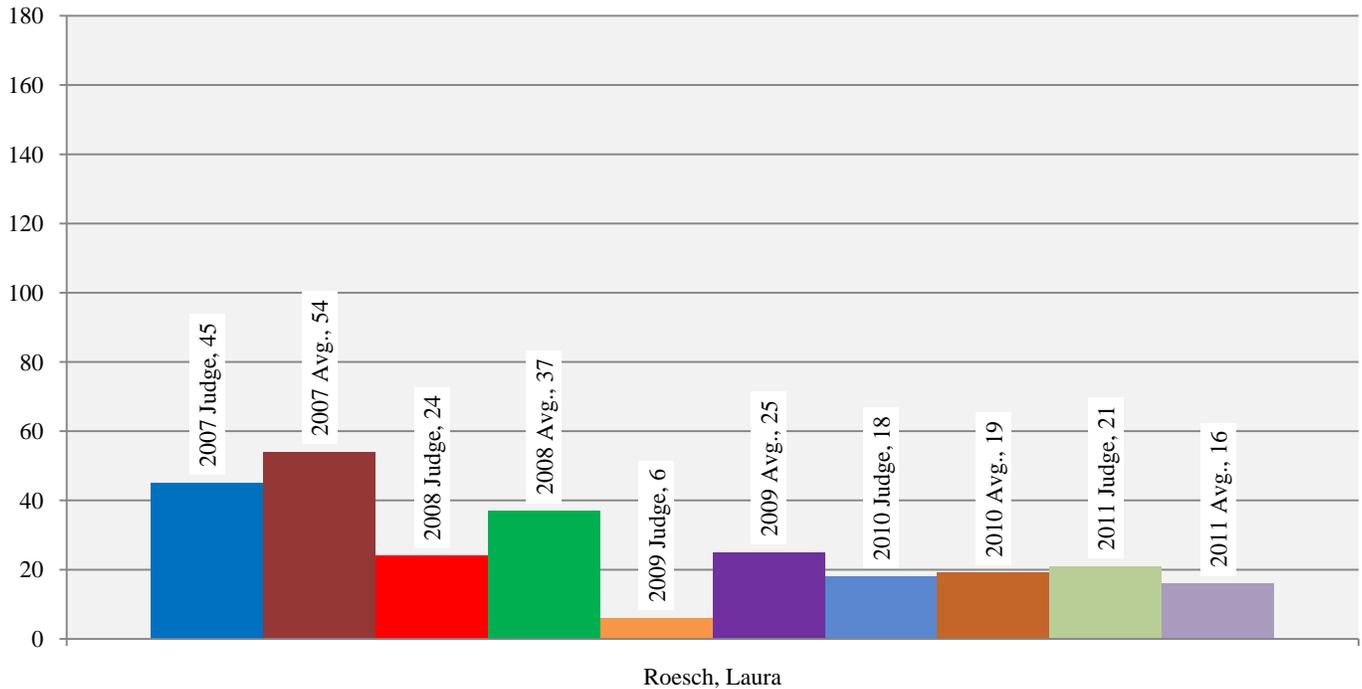
Roesch, Laura

The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2010-11. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. The identification for each year and the values are in each column label.

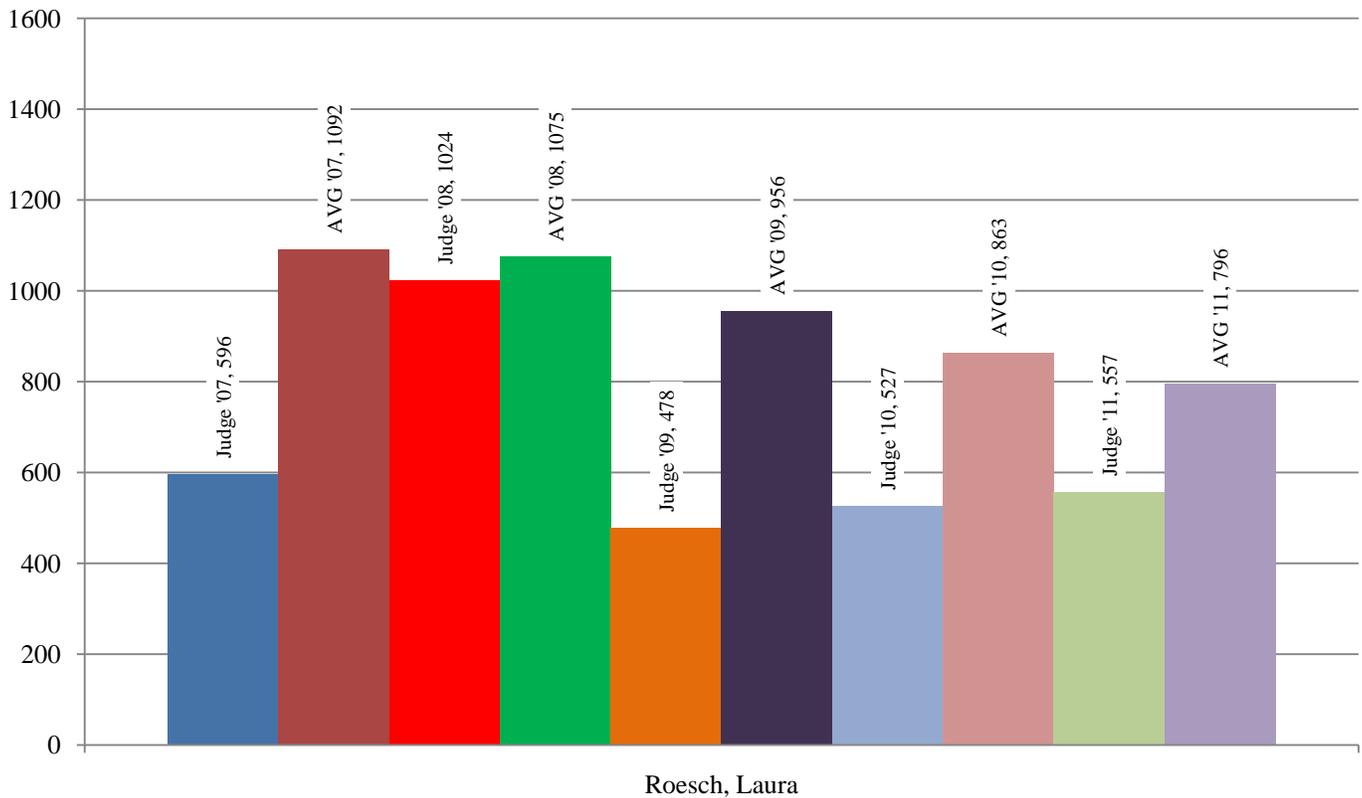


Roesch, Laura

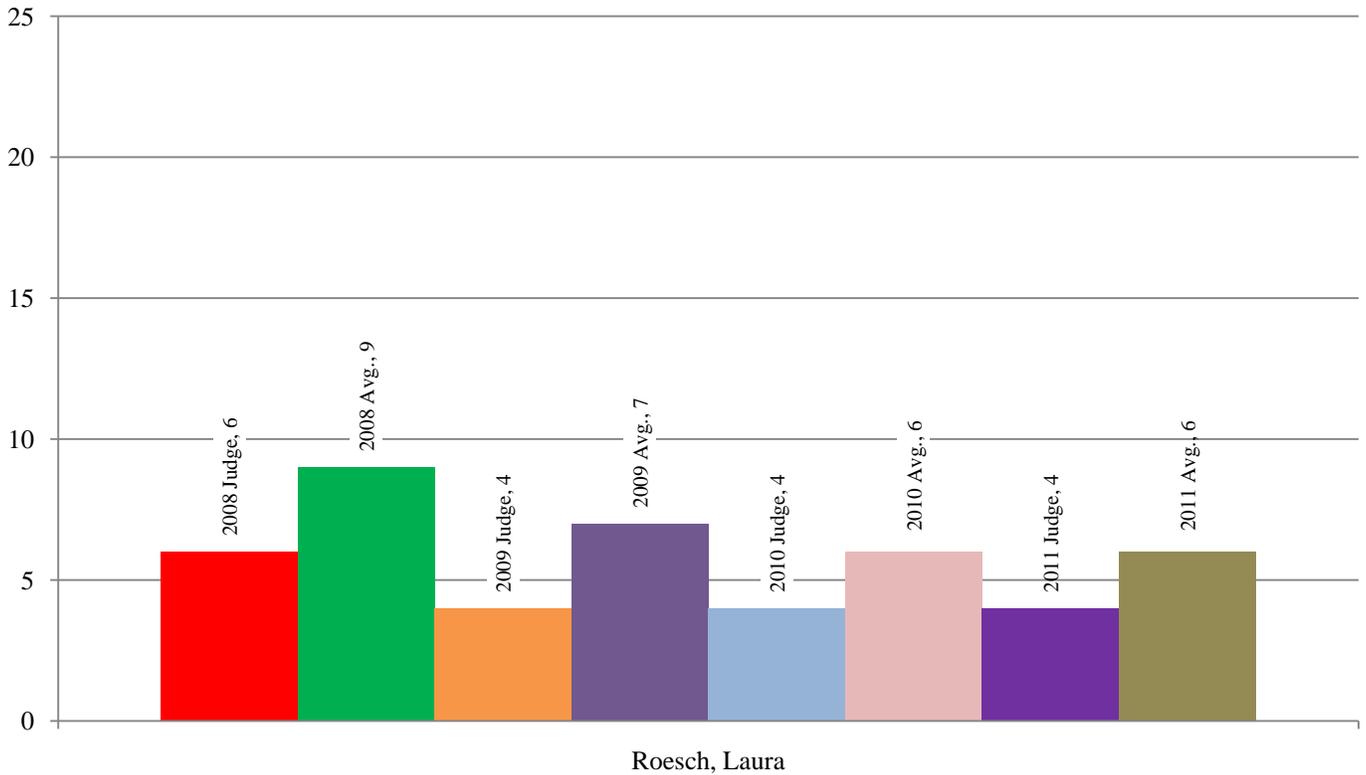
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



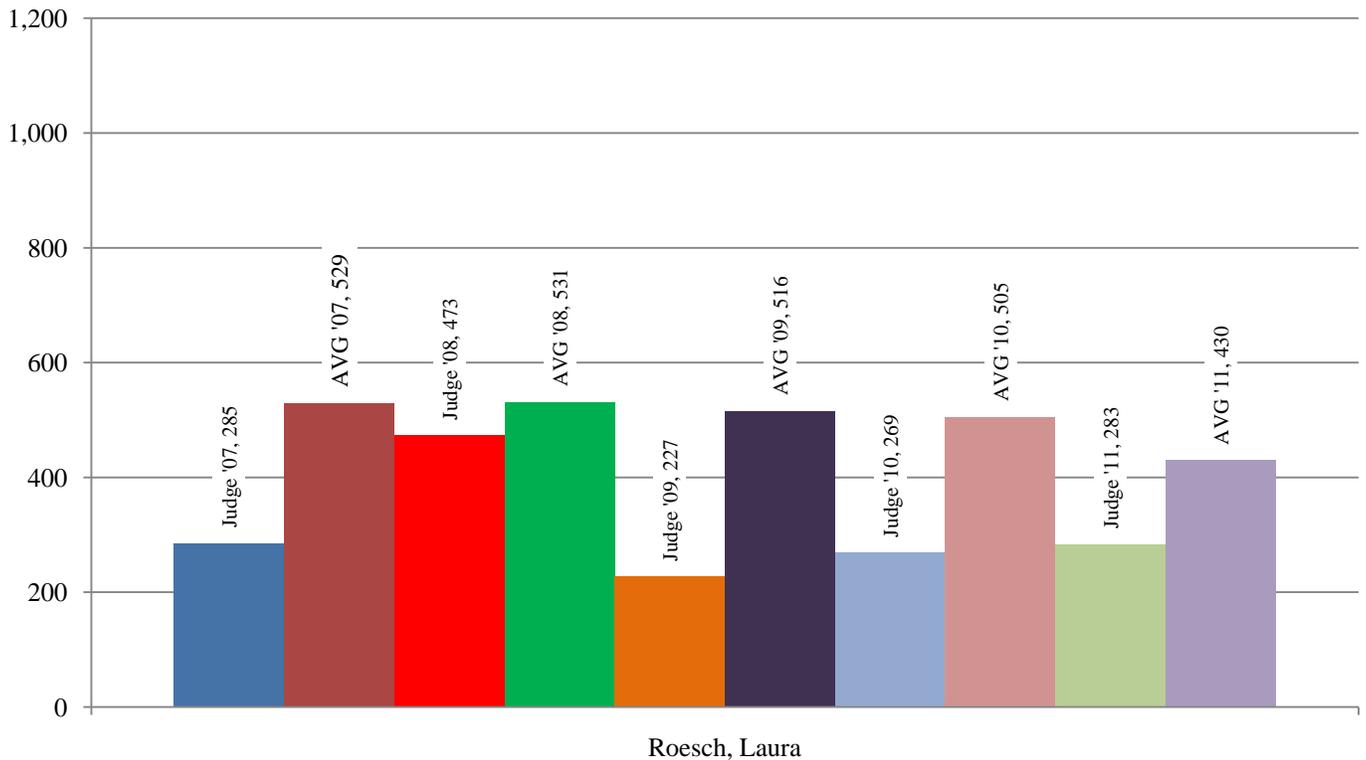
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



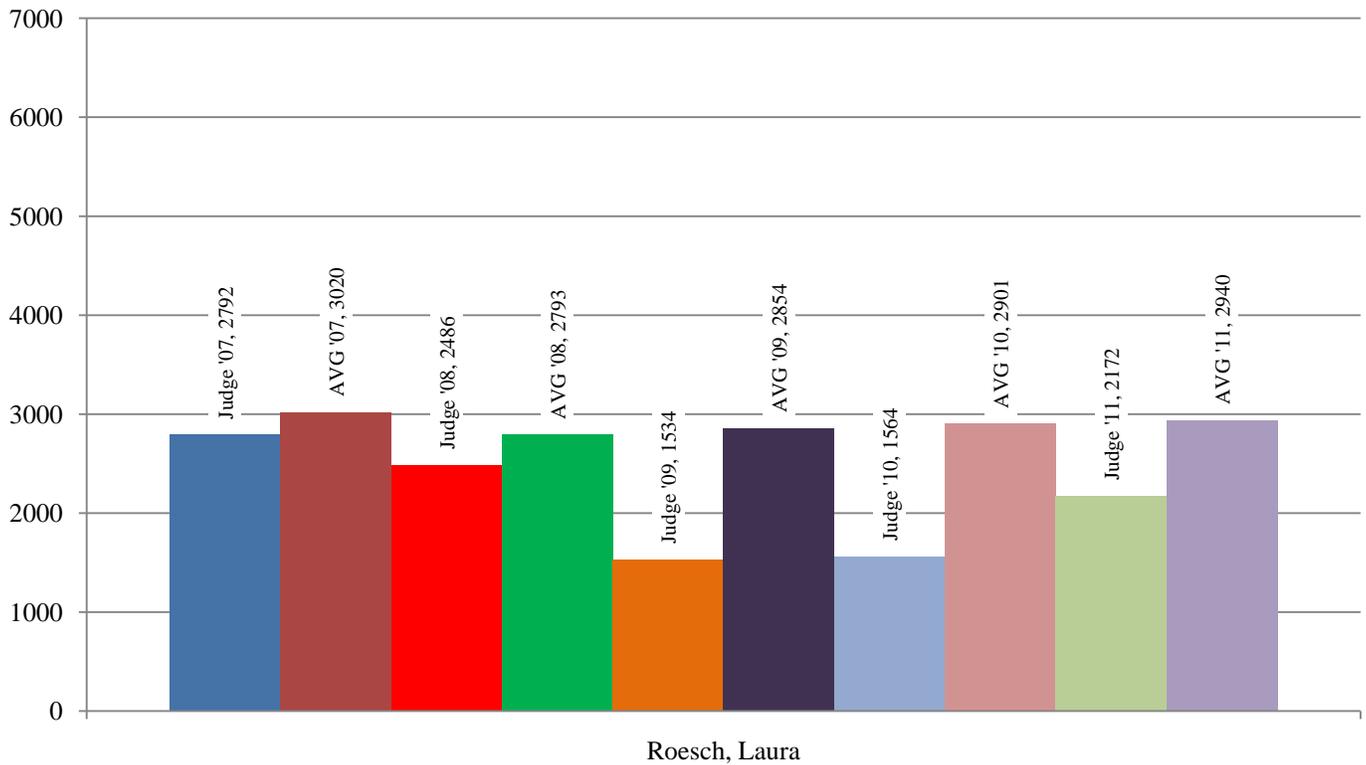
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



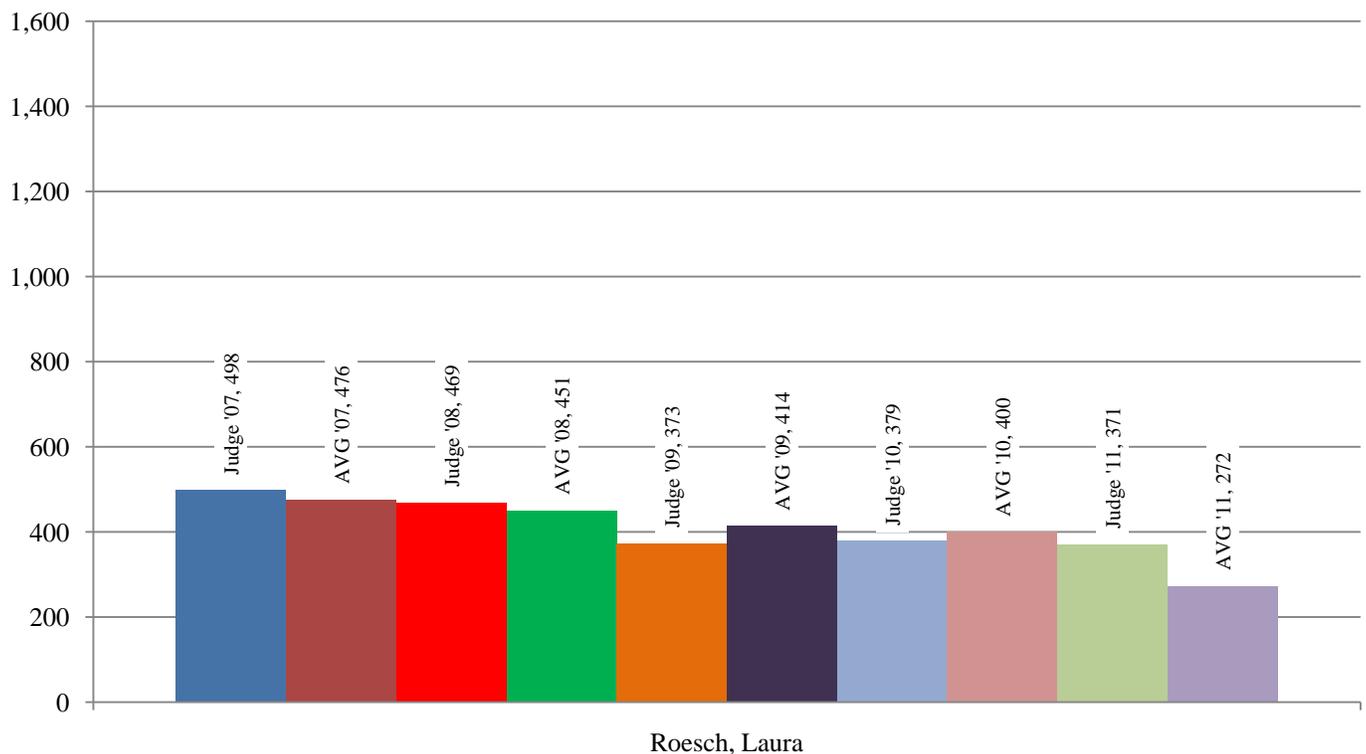
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



Appendix “11” District PNS (JCC Winn):

District PNS includes Escambia, Santa Rosa and Okaloosa counties.

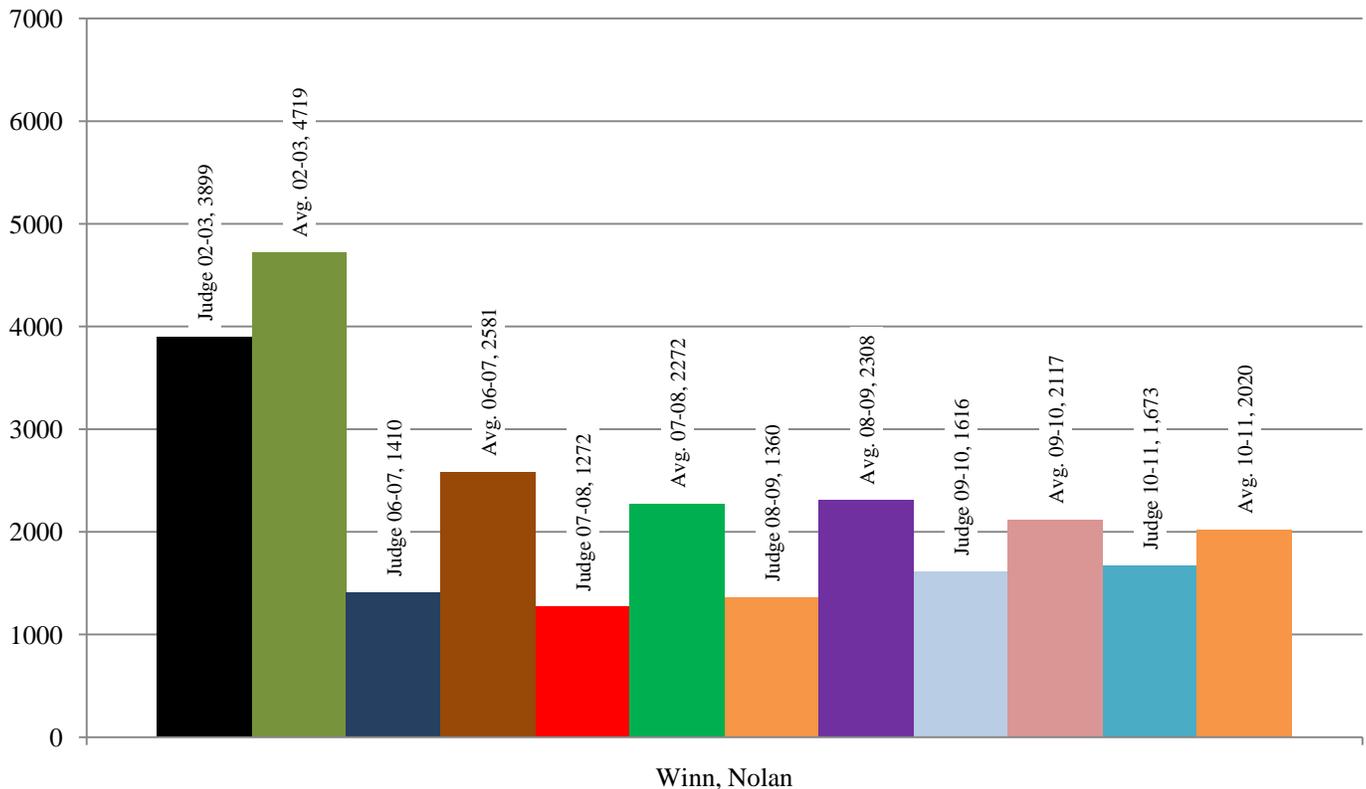
2010-11 Petition volumes in District PNS remain significantly lower than the statewide average. The PNS volume of “new cases” was slightly above the statewide average in 2009-10, and more markedly so in 2010-11.

District PNS is within the statutory parameters for timeliness regarding time from PFB to mediation, PFB to trial and Trial to order. Trial volume in District PNS has been below the statewide average for the last two fiscal years. This is despite the cases Judge Winn heard as a volunteer judge, and the cases assigned from District FTL based upon his participation in the OJCC “out-of-District” assignment program.

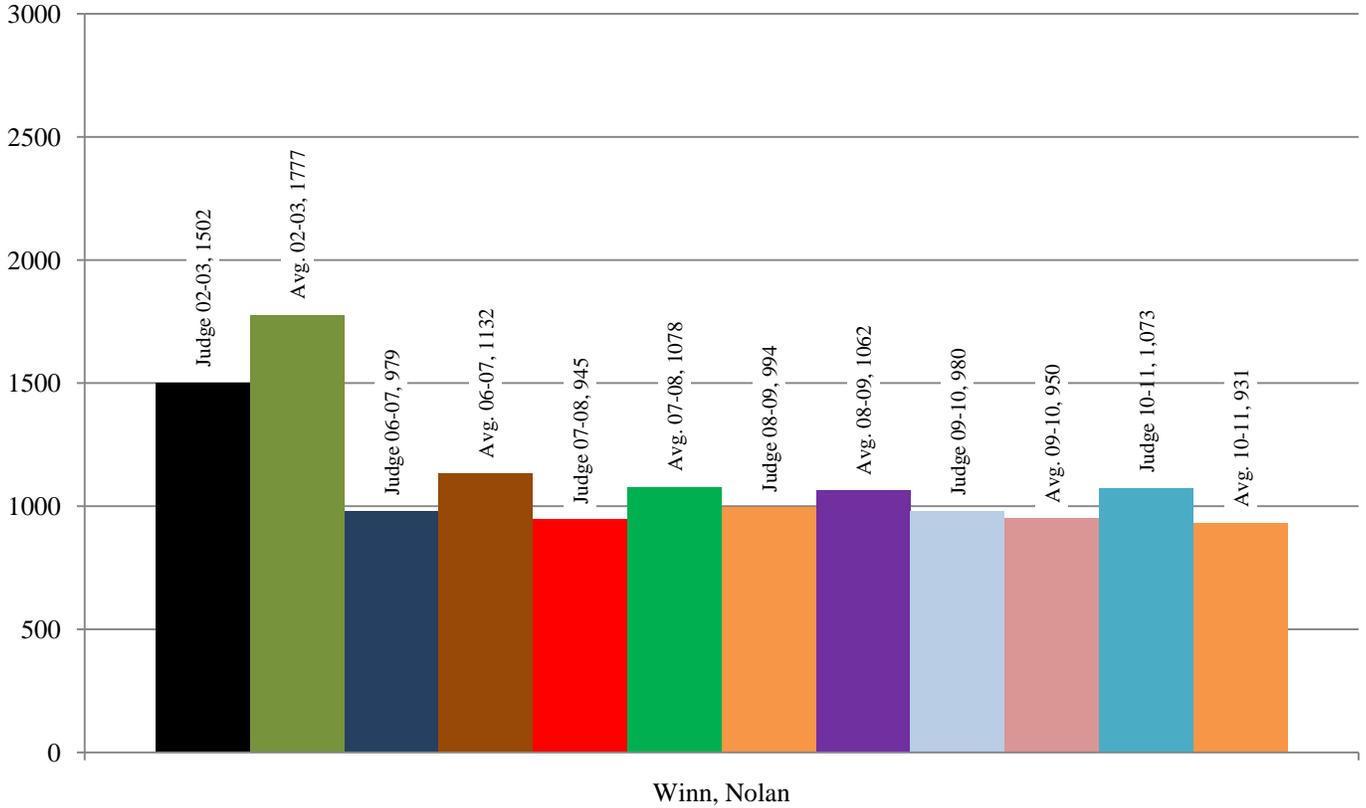
In 2009-10 Judge Winn was assigned “new cases” from Ft. Lauderdale (FTL) venue in an attempt to decrease the workload and redistribute judicial effort. This process is consistent with Judge Winn’s consistent willingness to participate as a visiting Judge since his appointment in 2006. Judge Winn also assisted with the management of District LKL following Judge Hofstad’s appointment to the Circuit Court.

In 2010-11 Mediator Hardy taught the workers’ compensation section of the Torts II class at Pensacola State College.

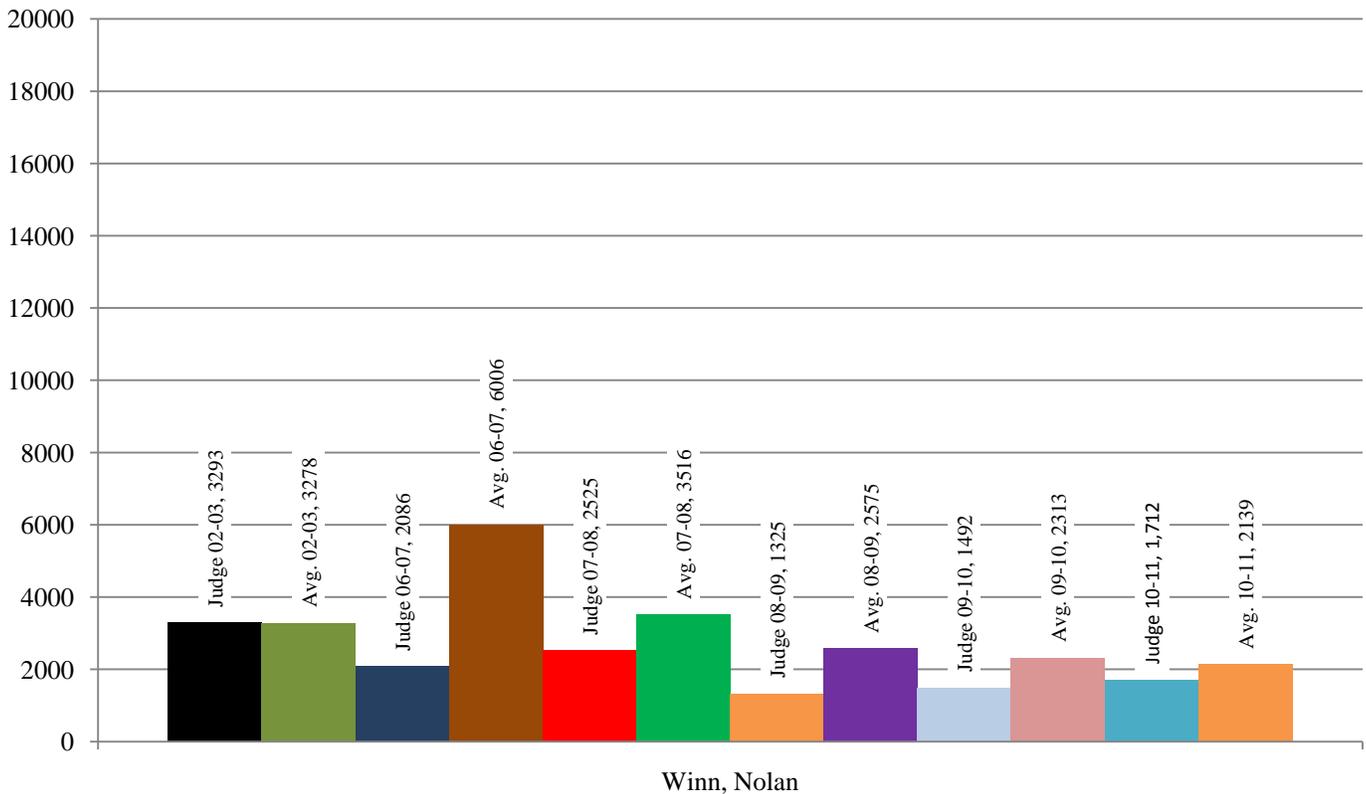
The following depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



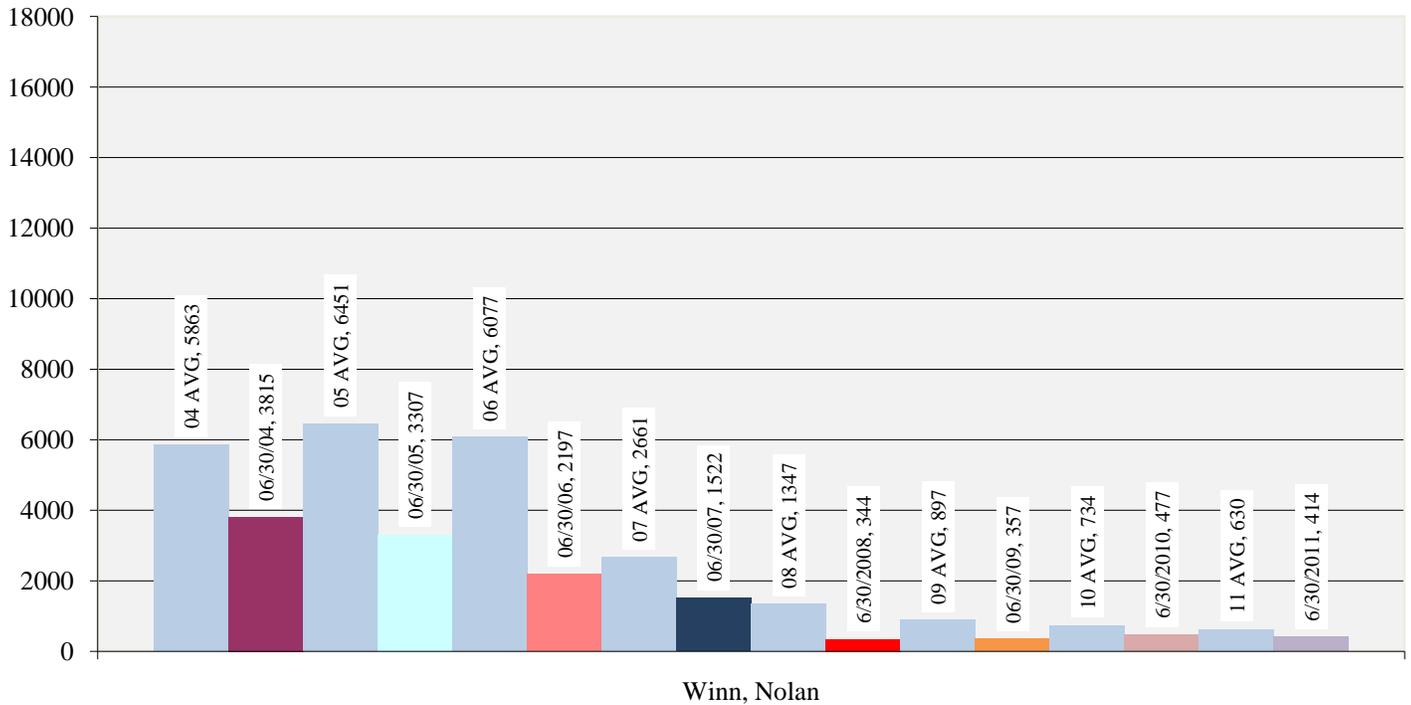
The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



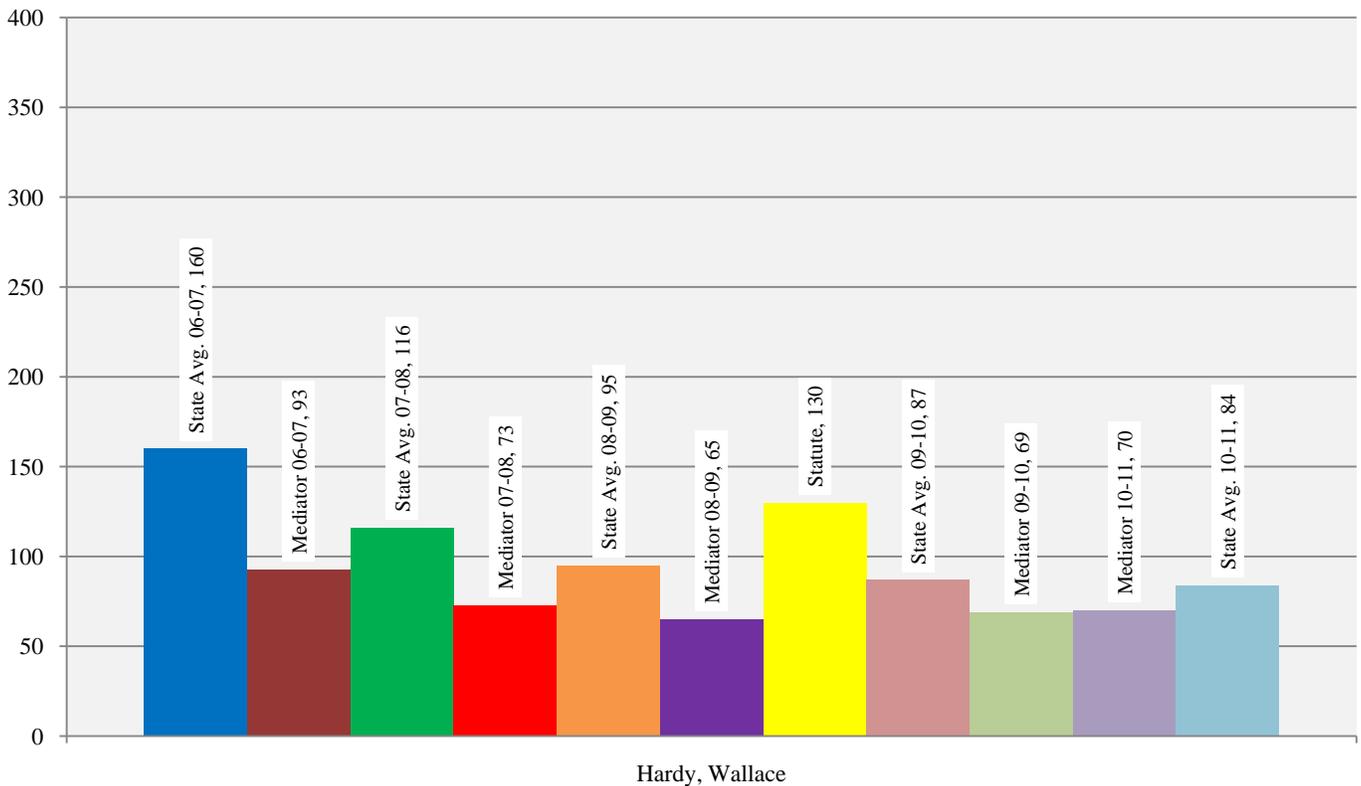
The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



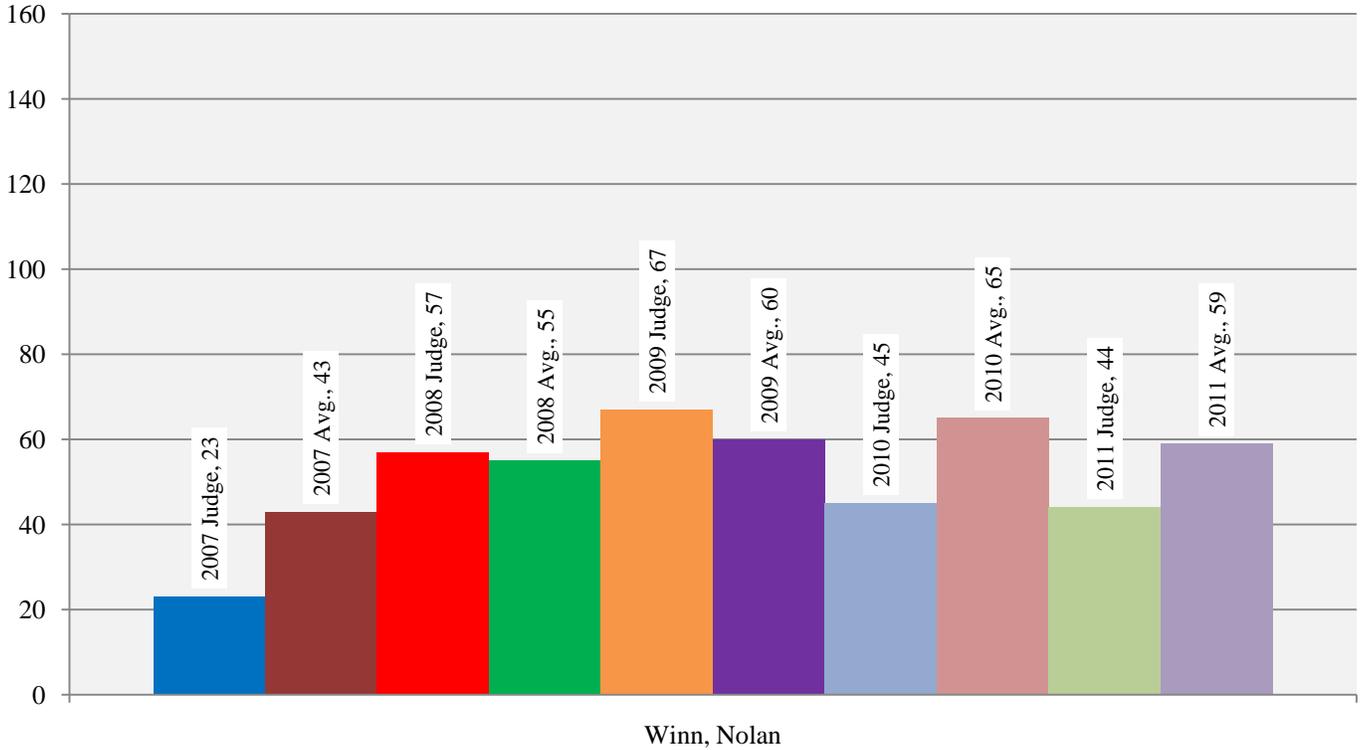
The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



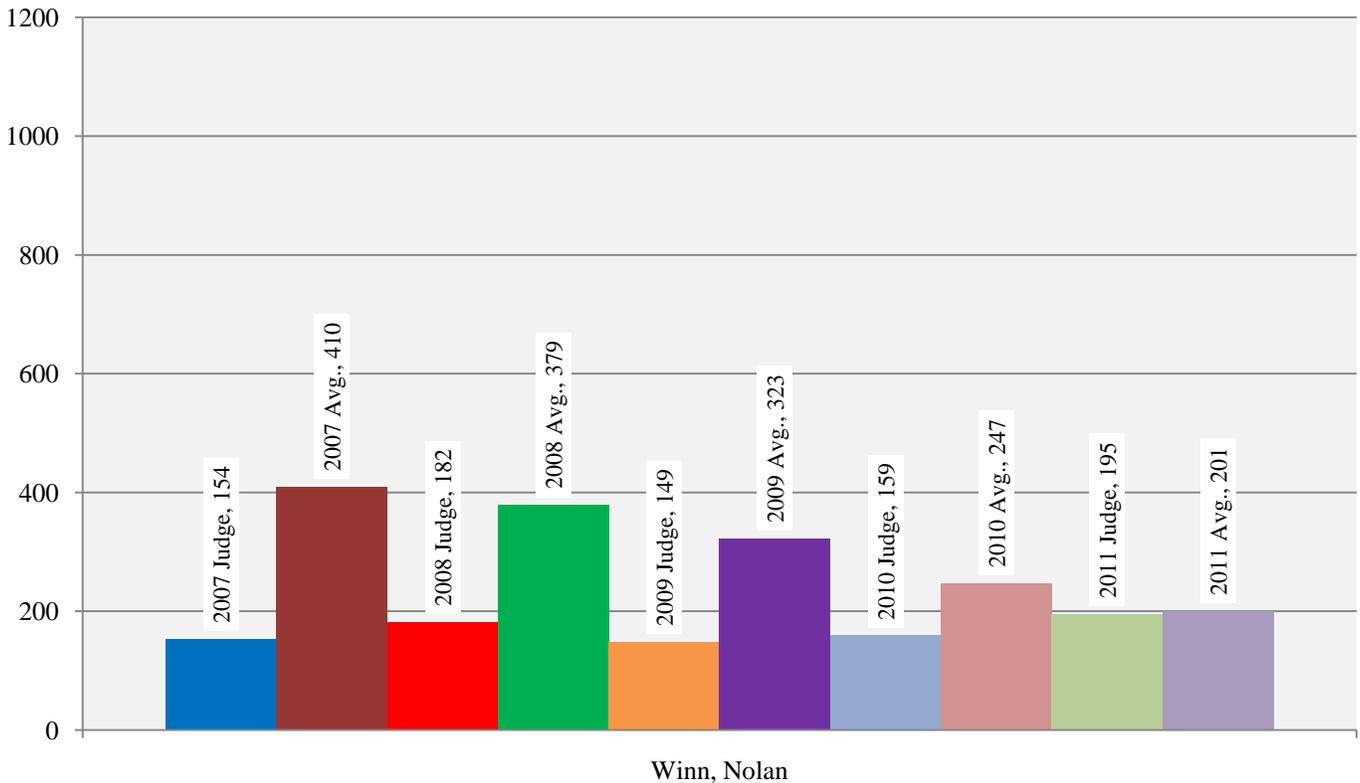
The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.



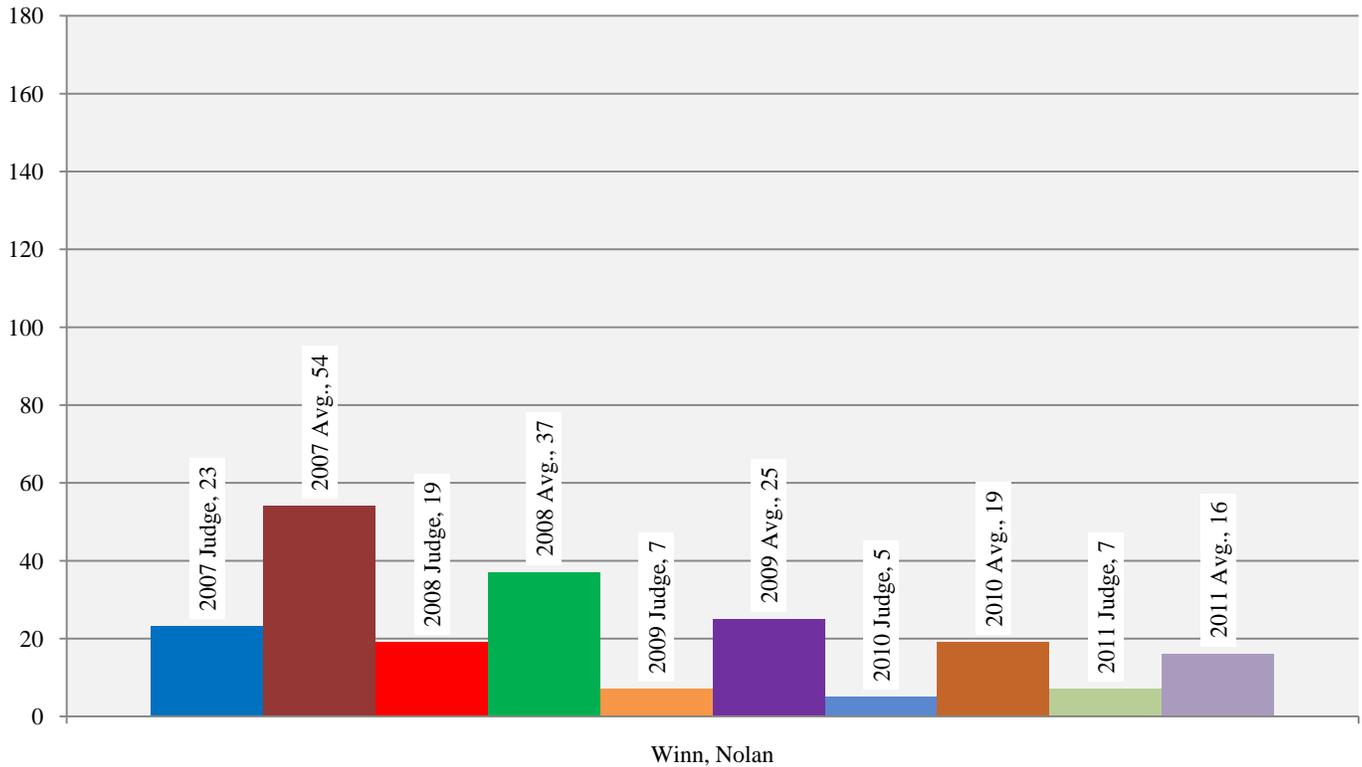
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



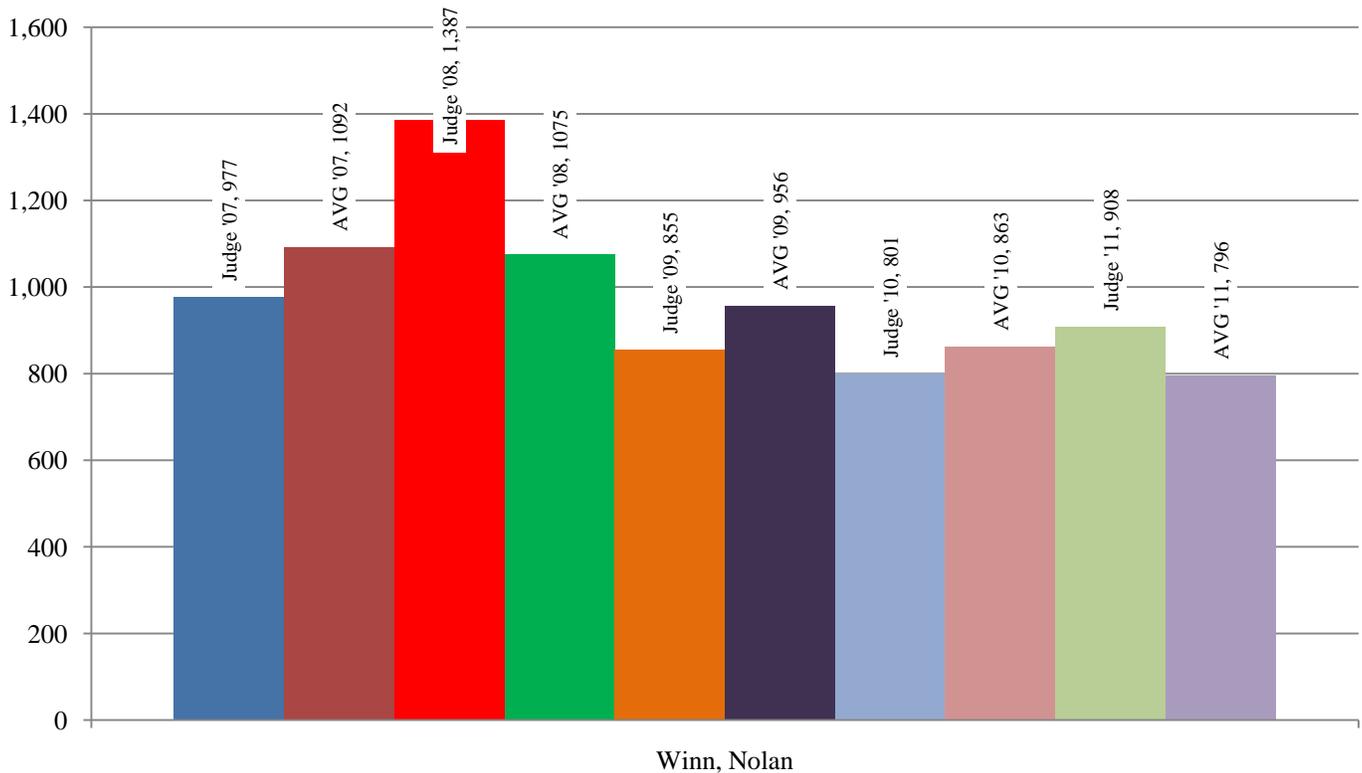
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2010-11. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. The identification for each year and the values are in each column label.



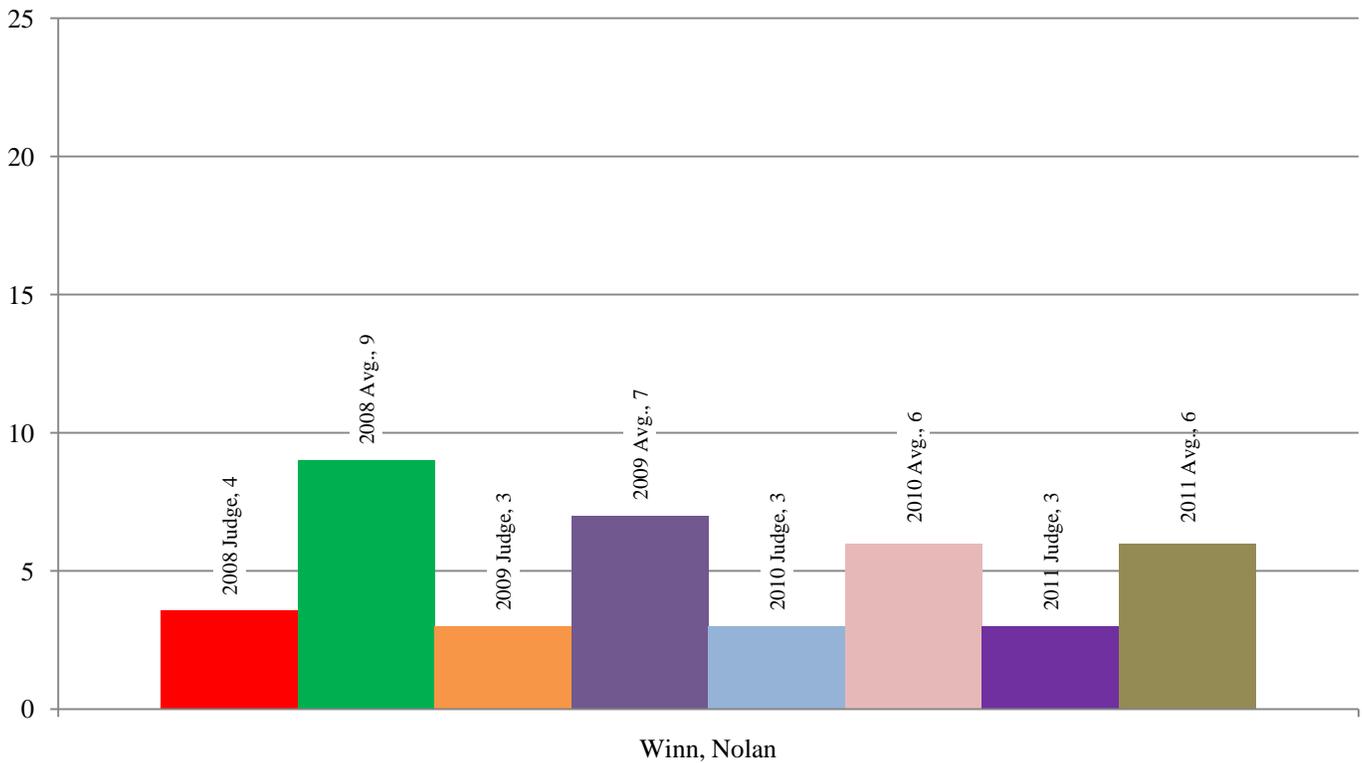
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



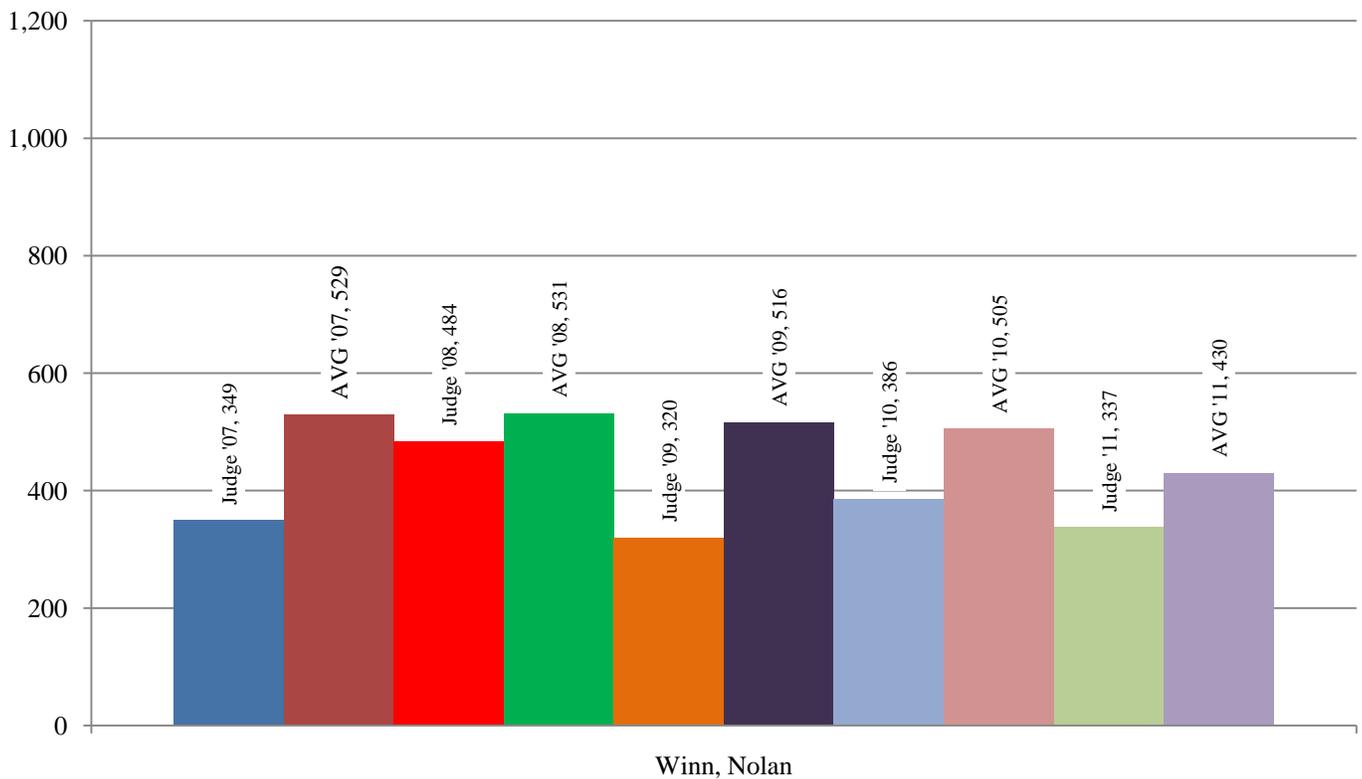
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



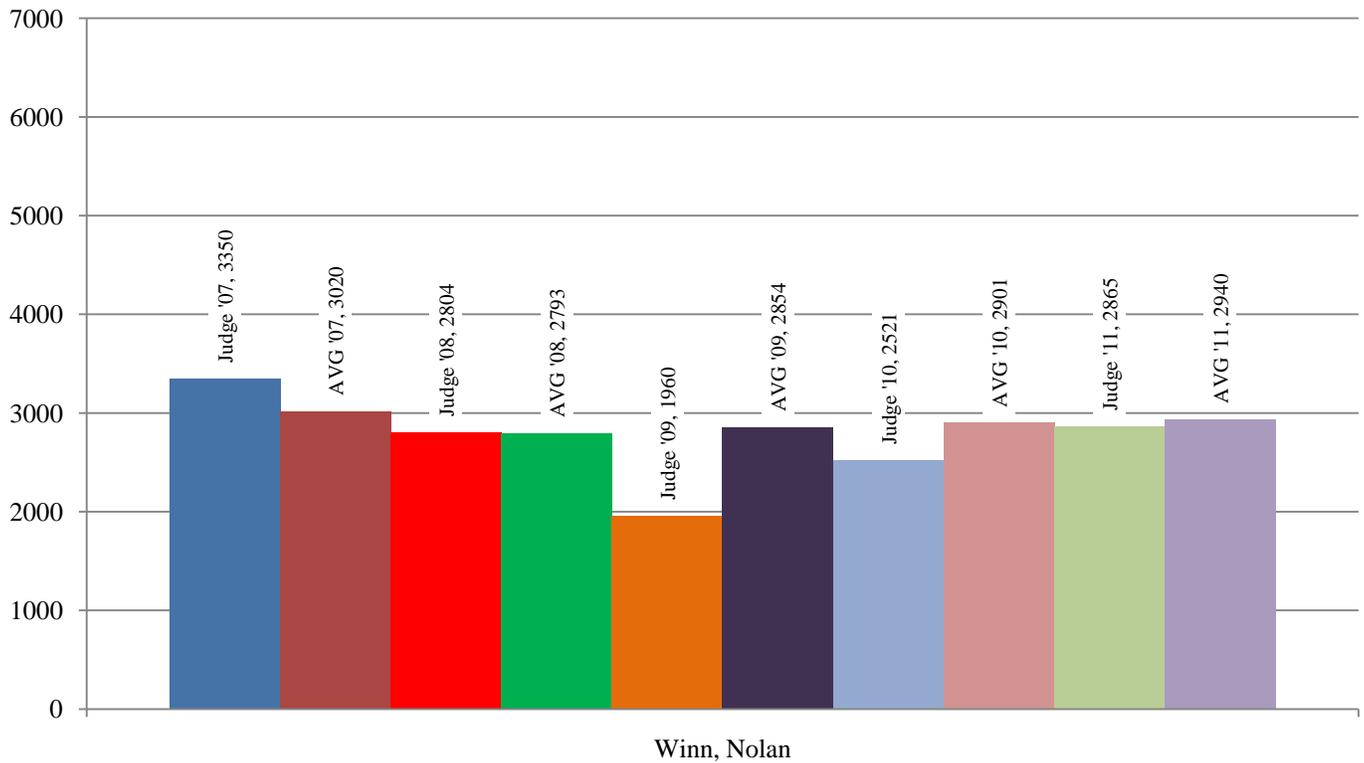
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



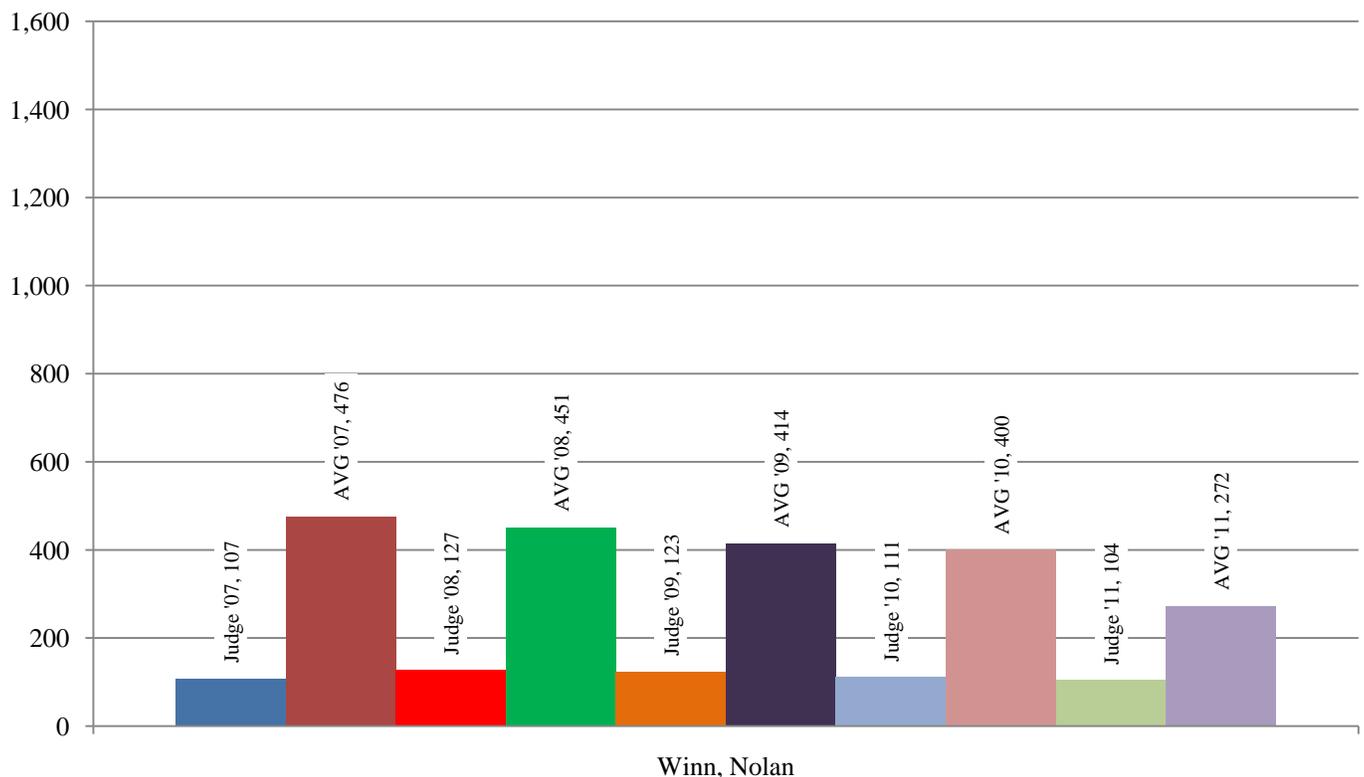
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



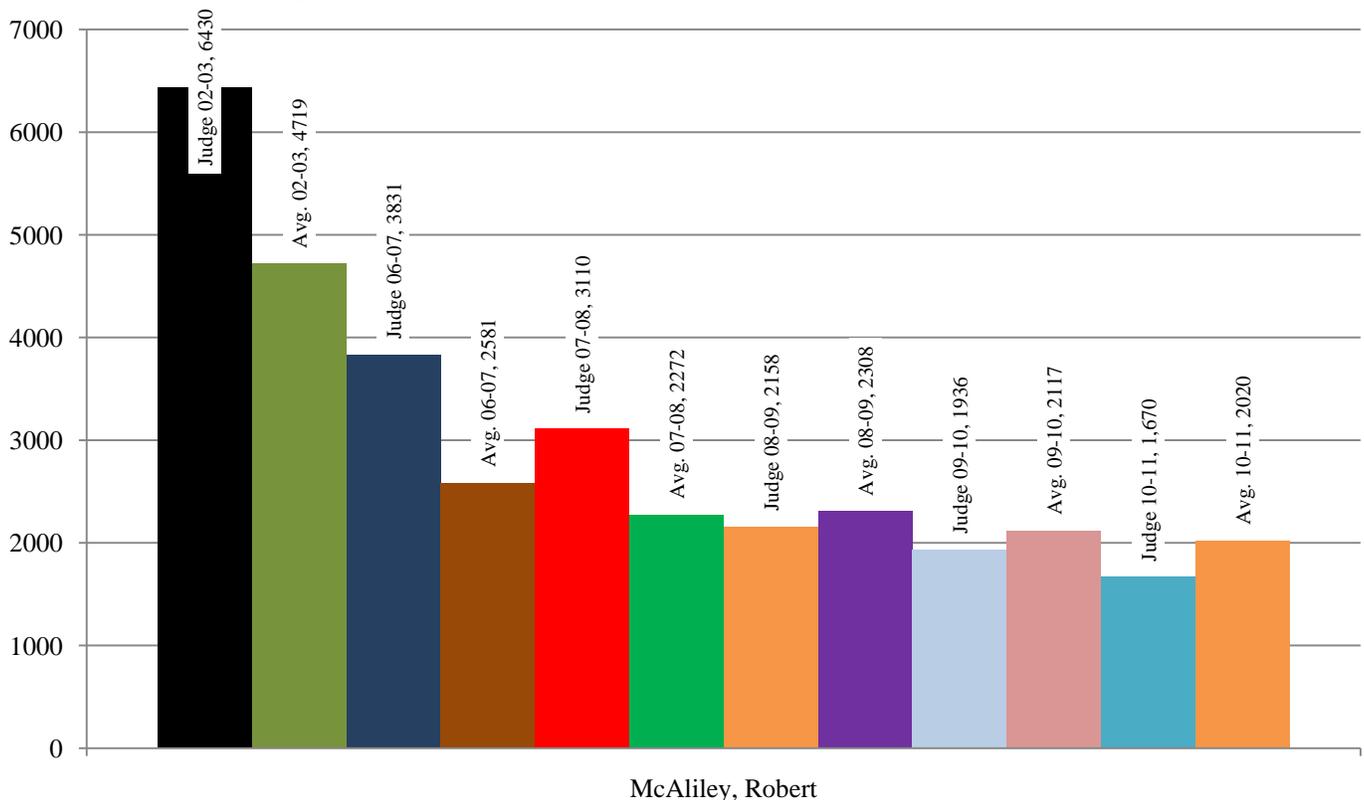
Appendix “12” District PSL (JCC McAliley):

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

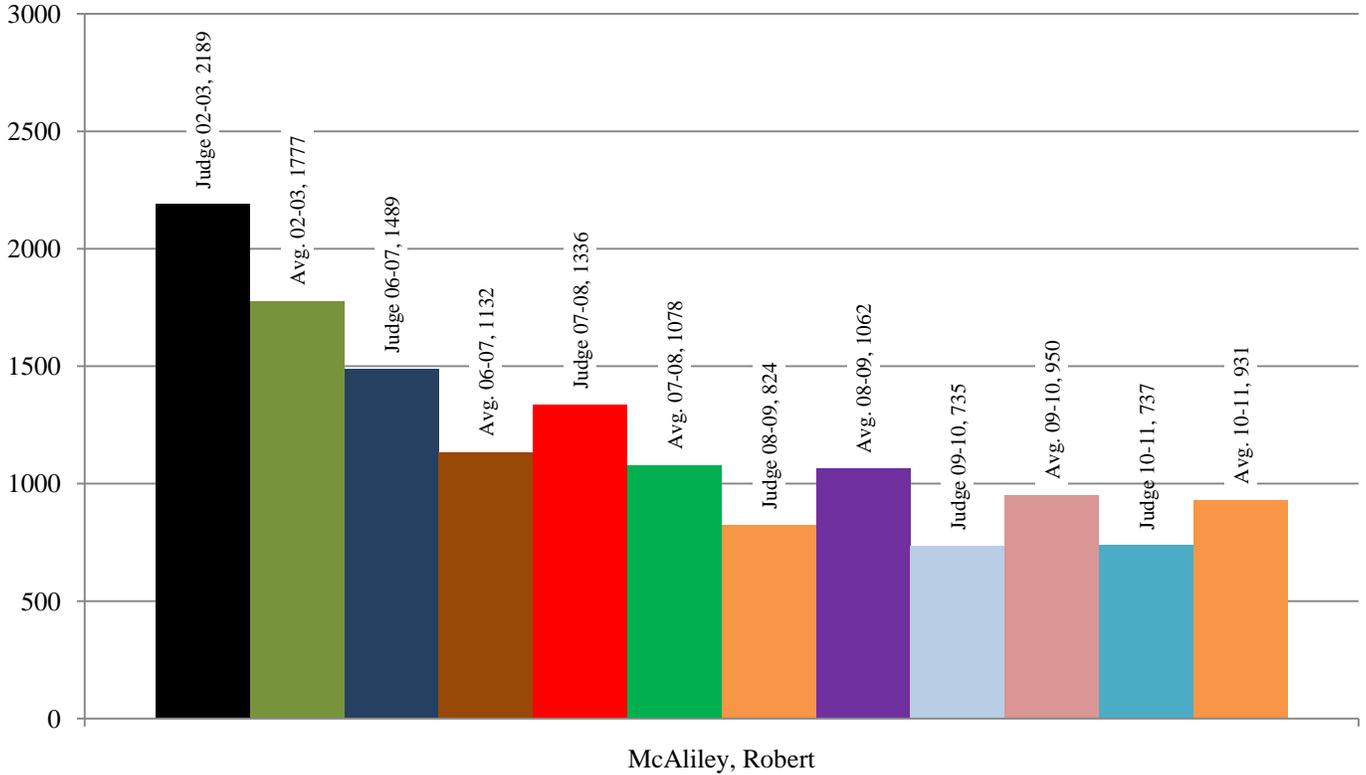
PFB and “new case” filing volumes in District PSL were both below statewide average again in 2010-11. The Notably, the PFB closure rate in District PSL remains higher than the filing rate, reflecting continued progress in alleviating backlog. District PSL is nearing a point of PFB volume equilibrium.

The average days between PFB to mediation, PFB to trial, and trial to order are all within the statutory time frames in District PSL. Timeliness and efficiency are obvious in the metrics of this District. The trial volume is significantly below the statewide average, and case assignment adjustments in fiscal 2011-12 are planned.

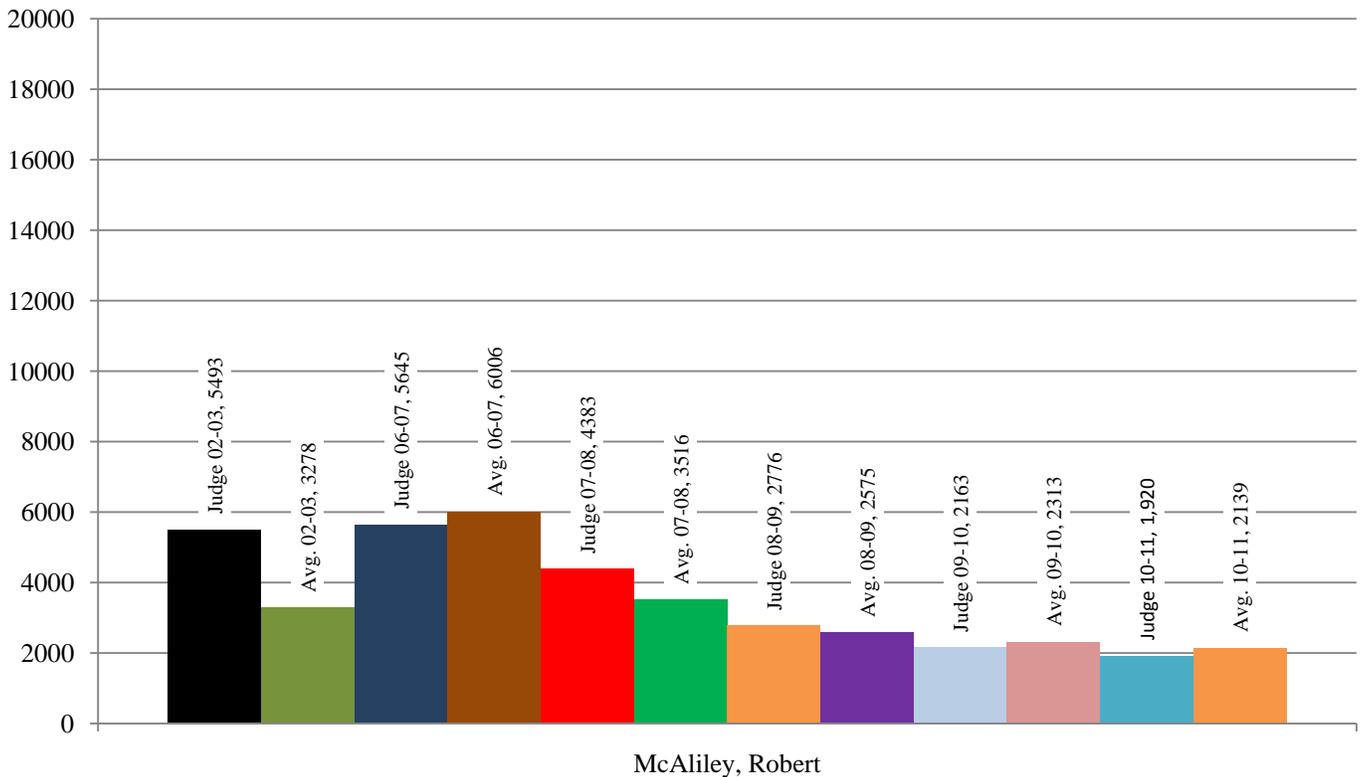
The following depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



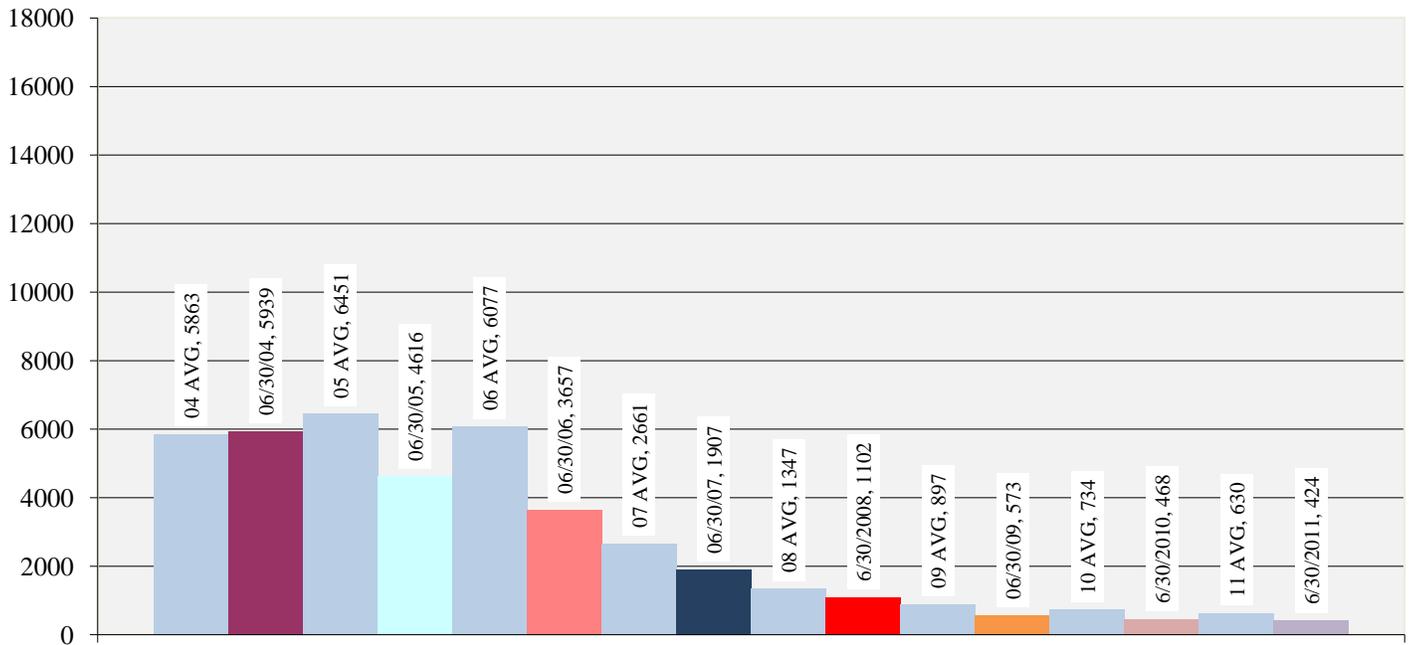
The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.

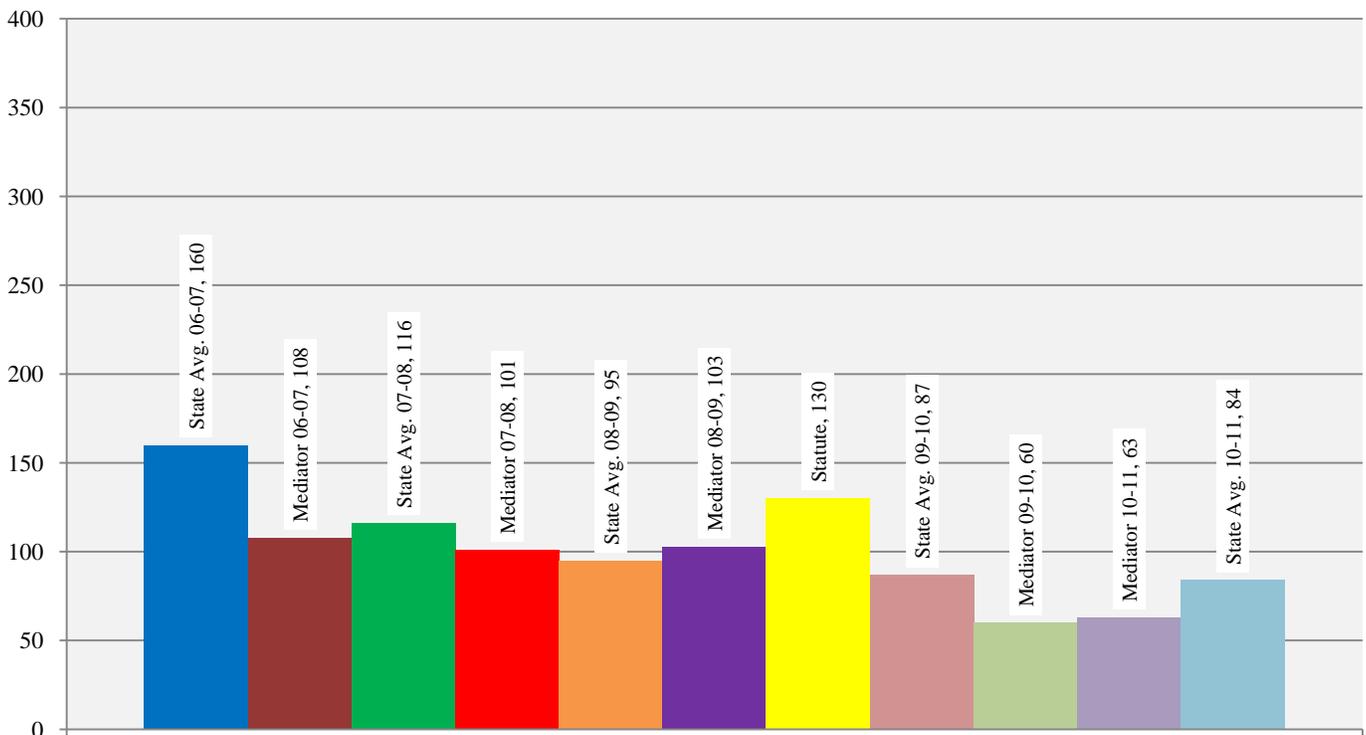


The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



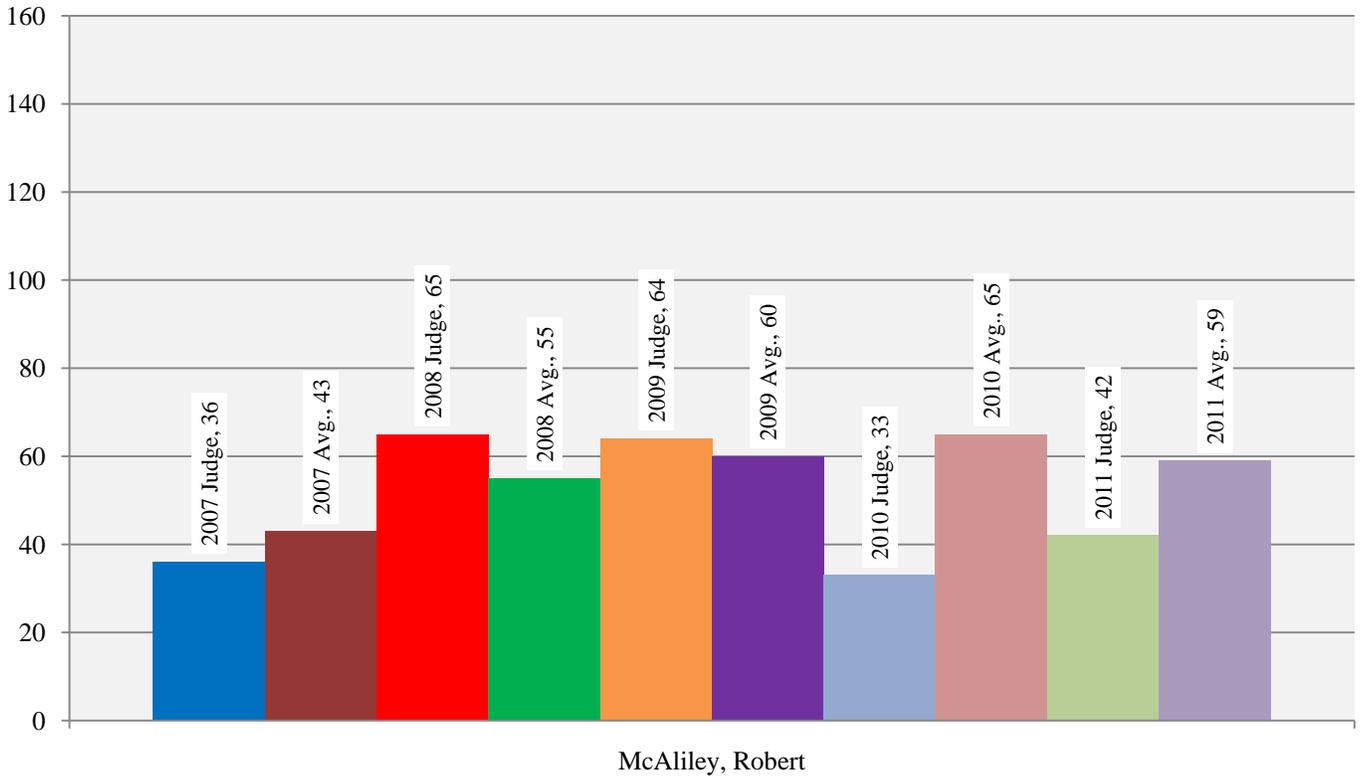
McAliley, Robert

The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.

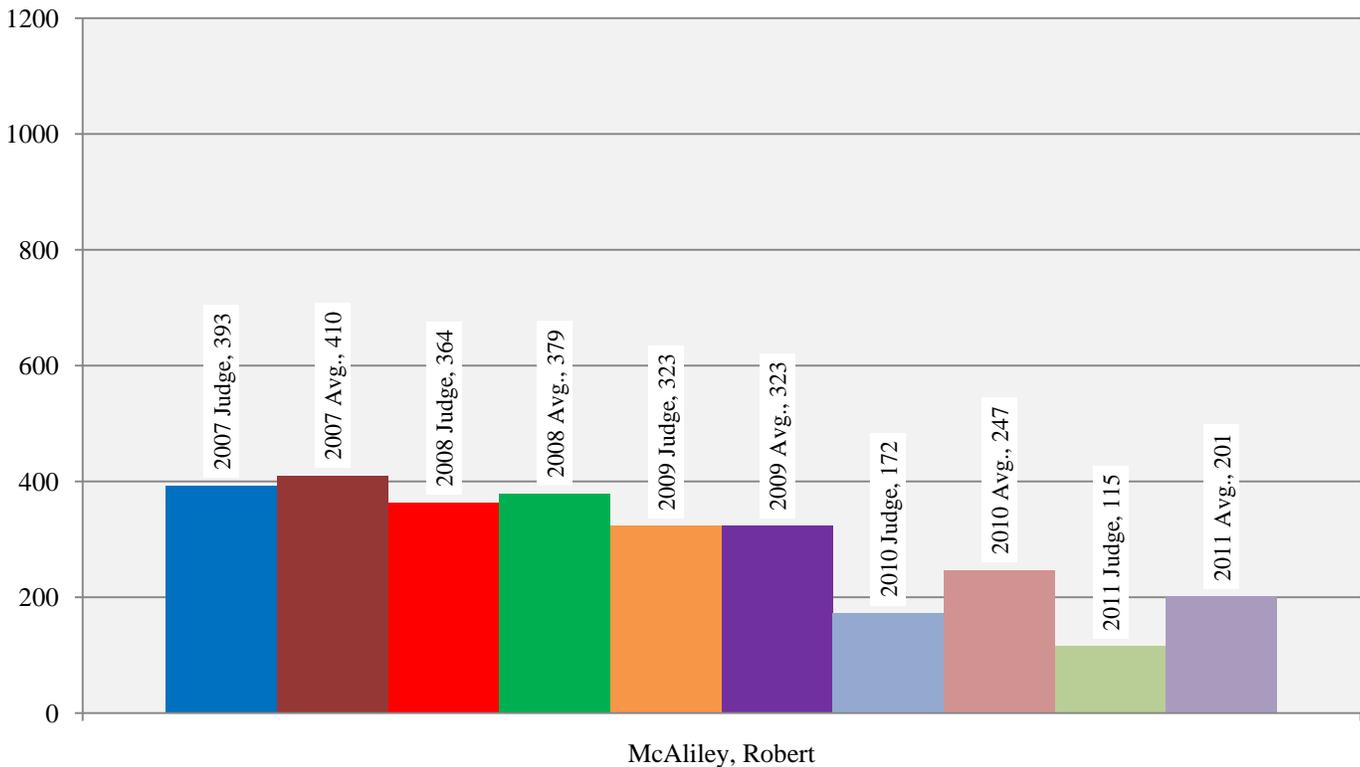


Harwood, Paul

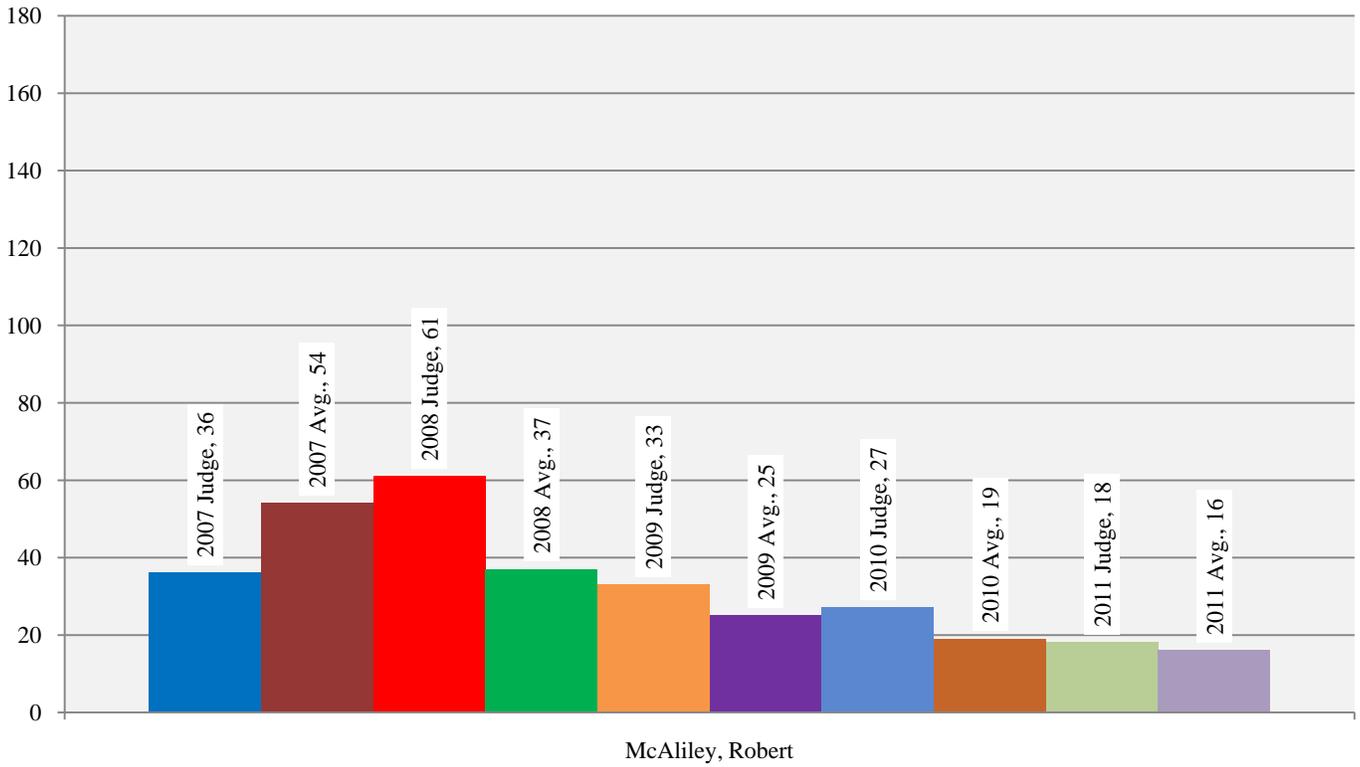
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



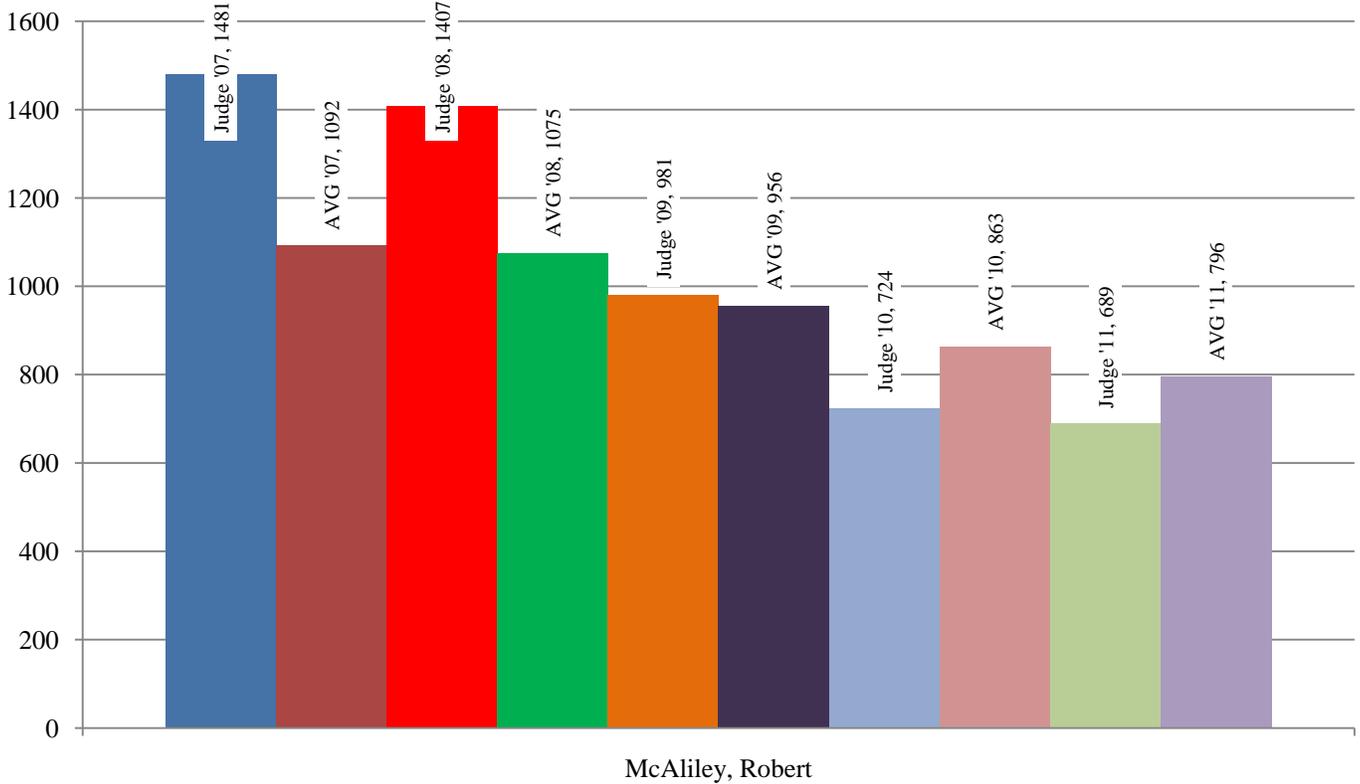
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2010-11. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. The identification for each year and the values are in each column label.



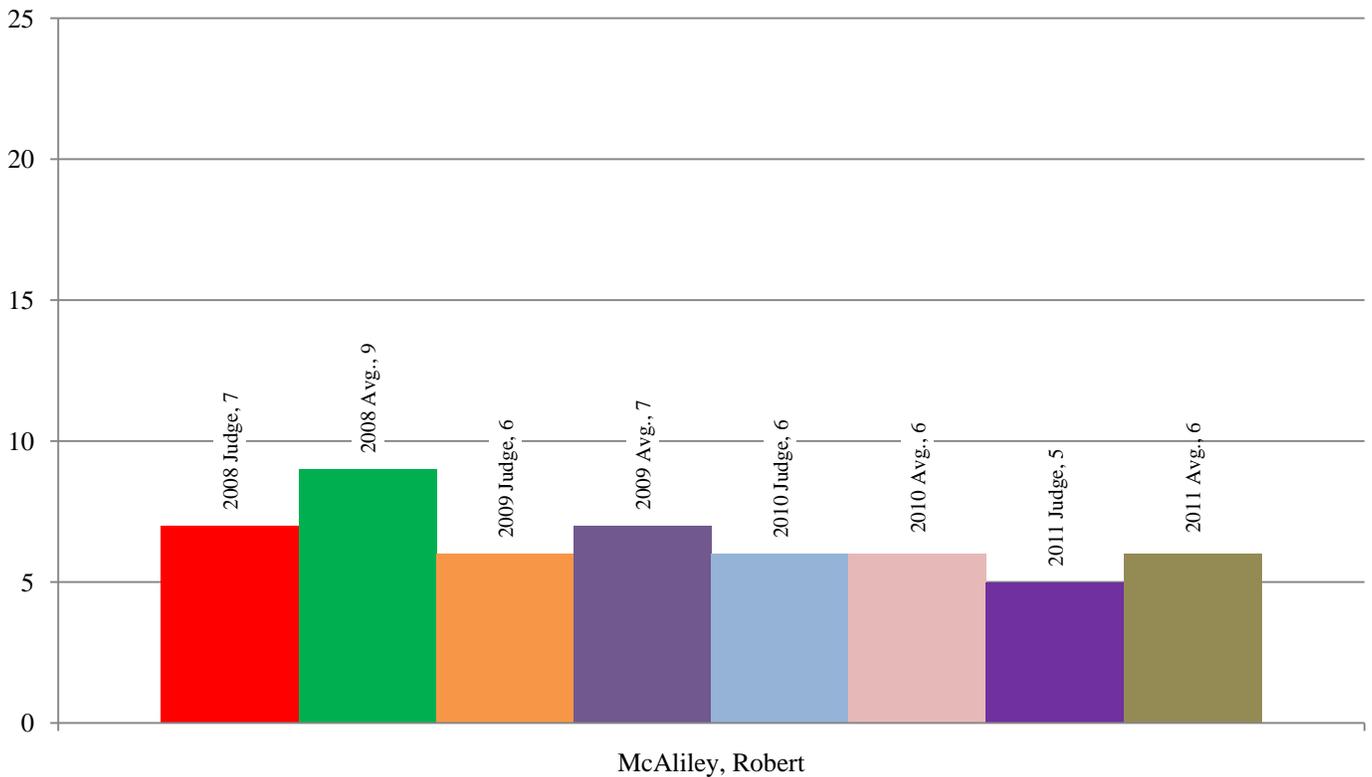
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



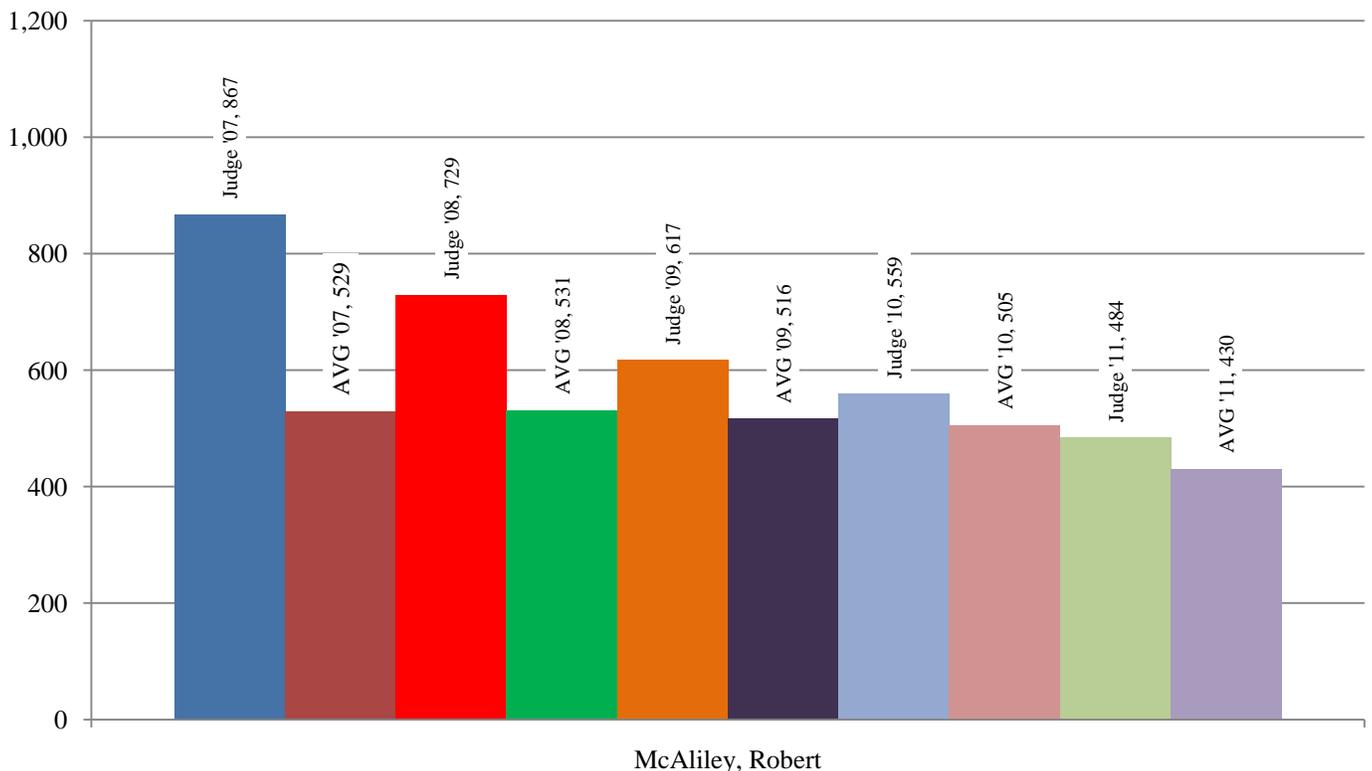
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



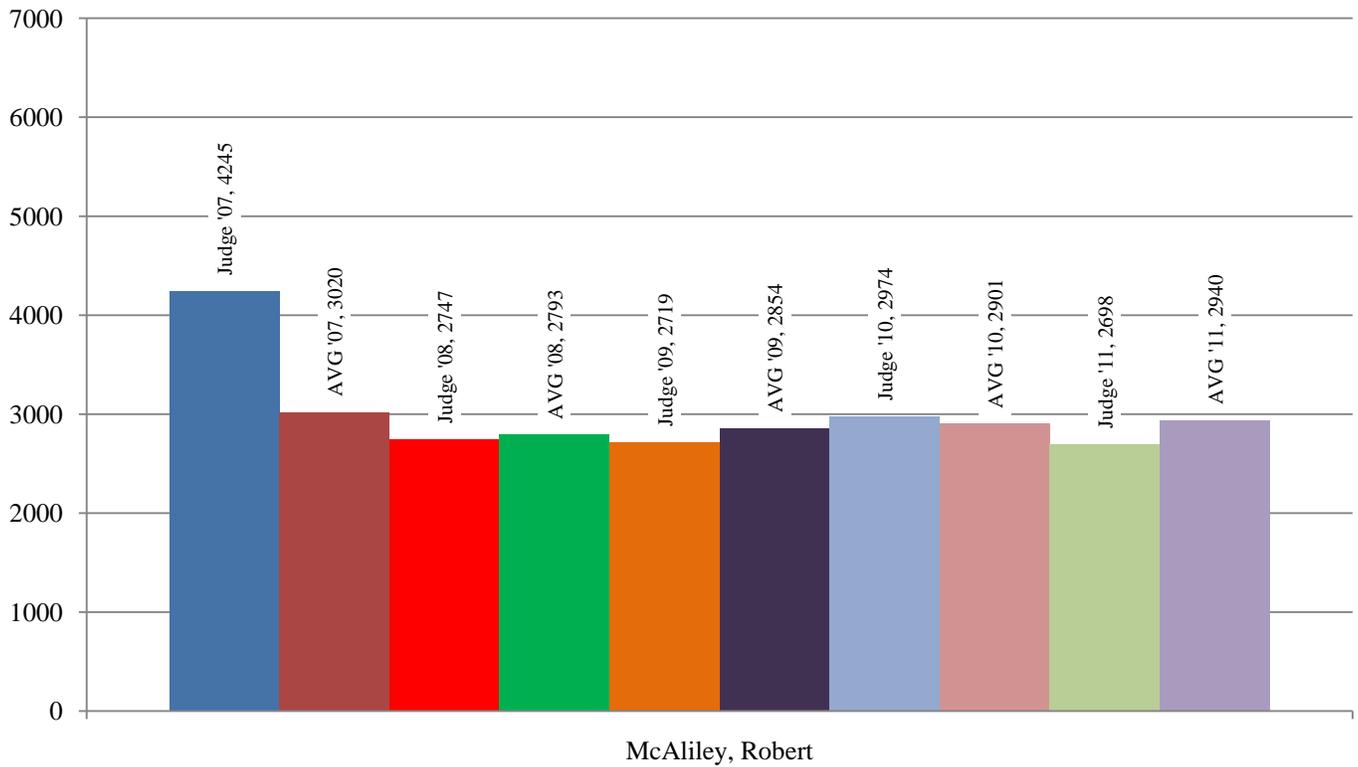
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



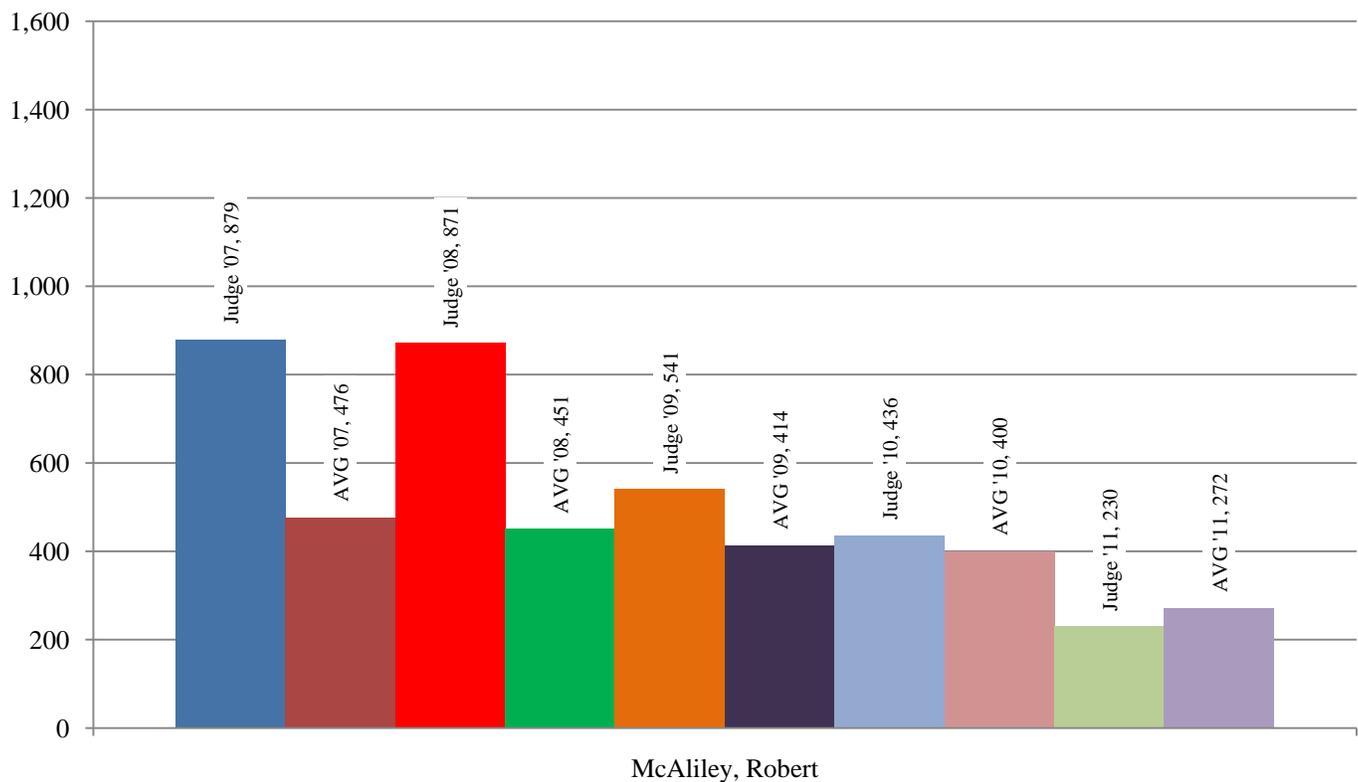
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



Appendix “13” District SAR (JCC Beck):

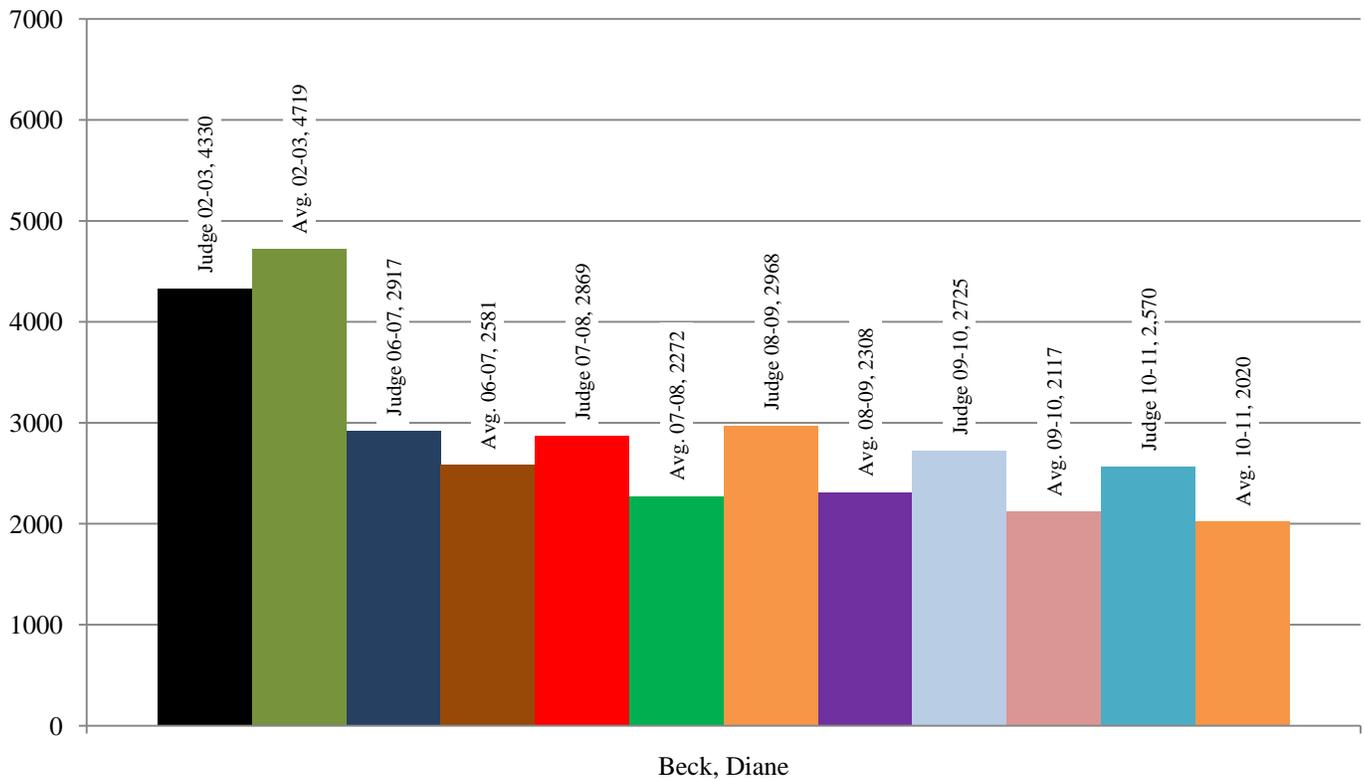
Manatee and Sarasota counties comprise District SAR.

The PFB and “new case” filing volumes in District SAR both remain slightly above the statewide averages. This is consistent with the trend in recent years, but the volumes are moderating. The PFB filing and closure volumes are very similar, demonstrating another District in, or close to, equilibrium.

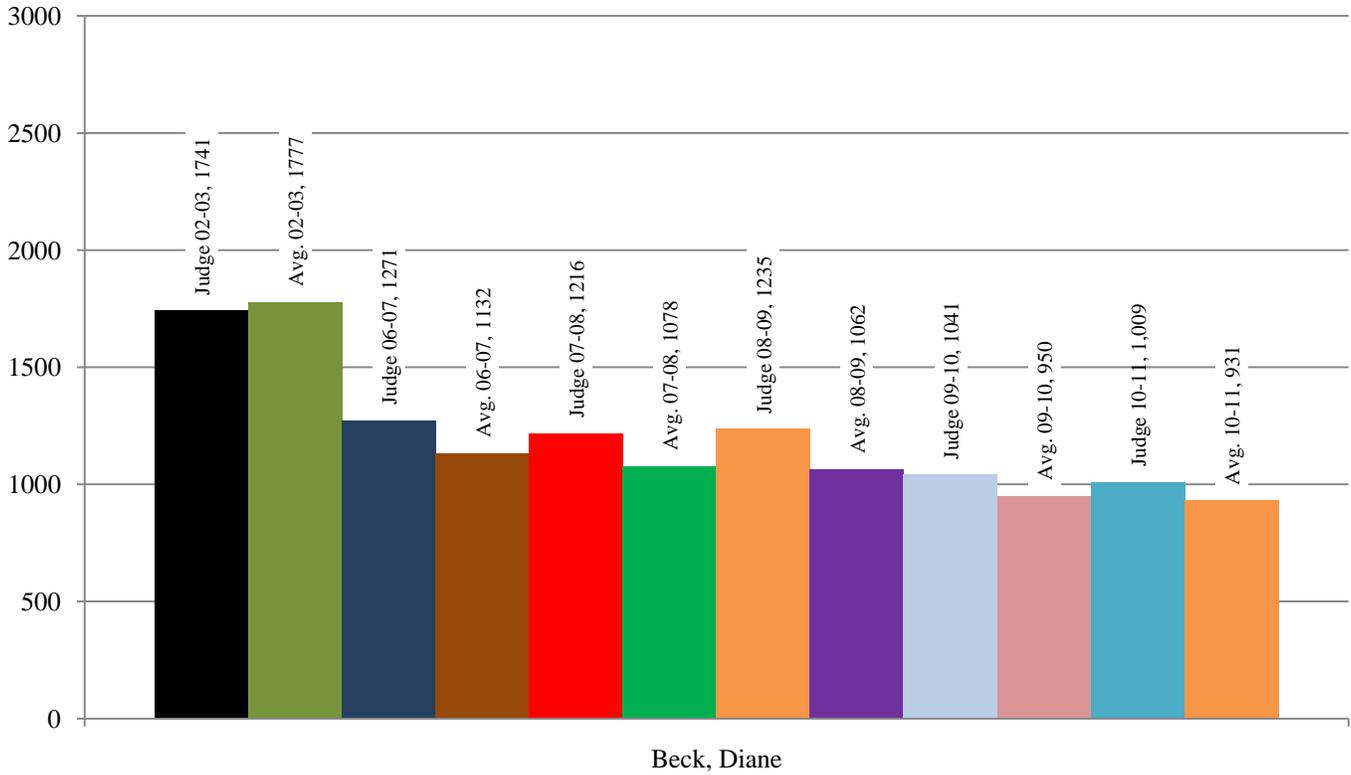
Trial volume is notably above average in SAR. Despite this, the District is within the statutory time parameters for PFB to mediation, PFB to trial and Trial to order. These timely efforts are significant in light of the significant volumes of filings and trials.

Judge Beck spoke at the FWCI Spring Forum on Workers’ Compensation, presenting “A View from the Bench.” She participates as an Appellate Judge in the Earle Zehmer Moot Court program of the Florida Workers’ Compensation Institute, and is active in the Florida Conference of JCCs and serves on the mediation committee.

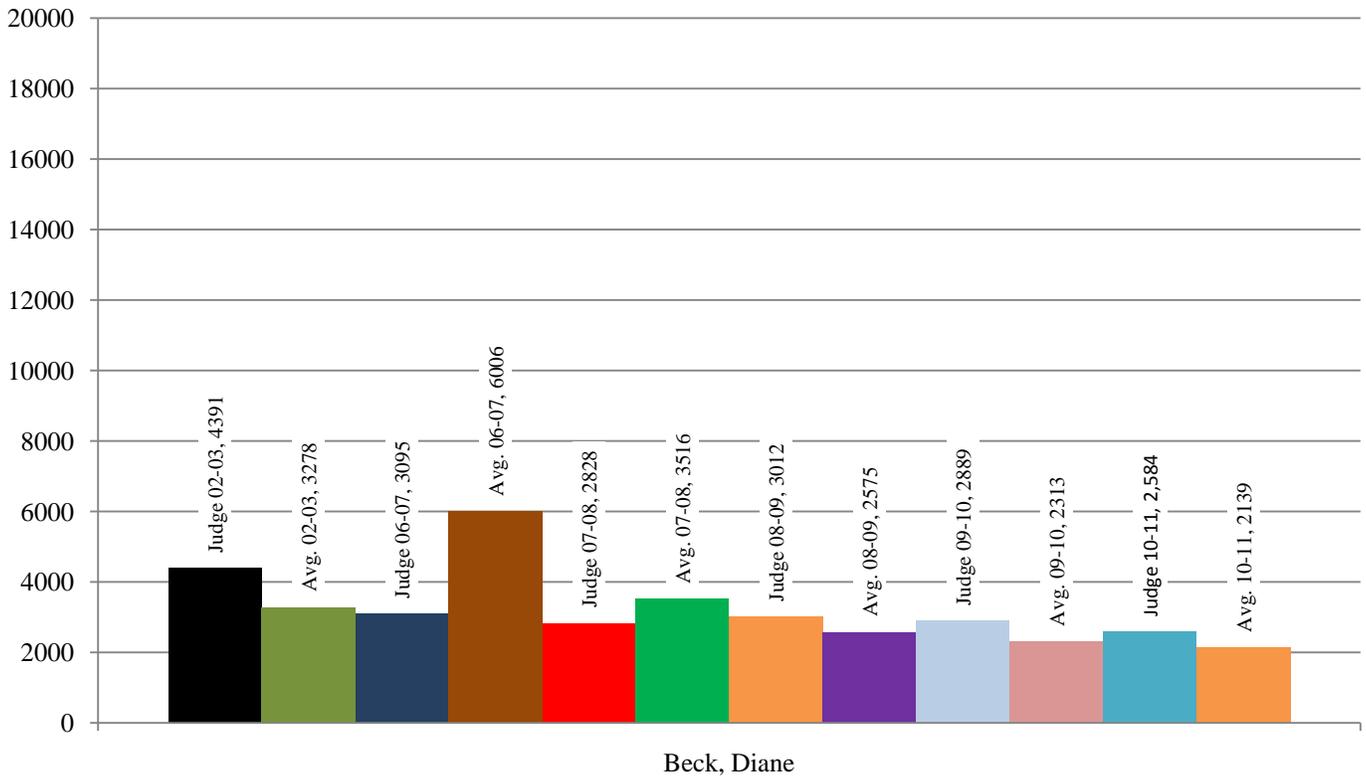
The following depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



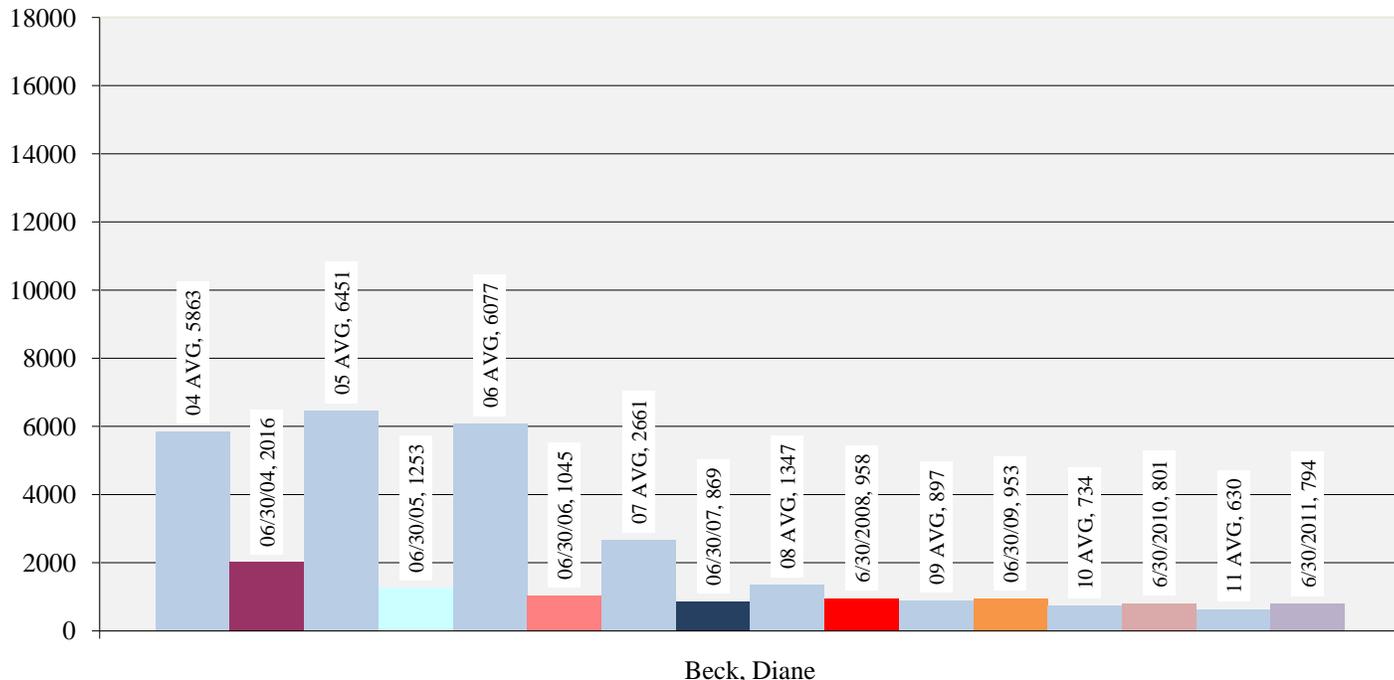
The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



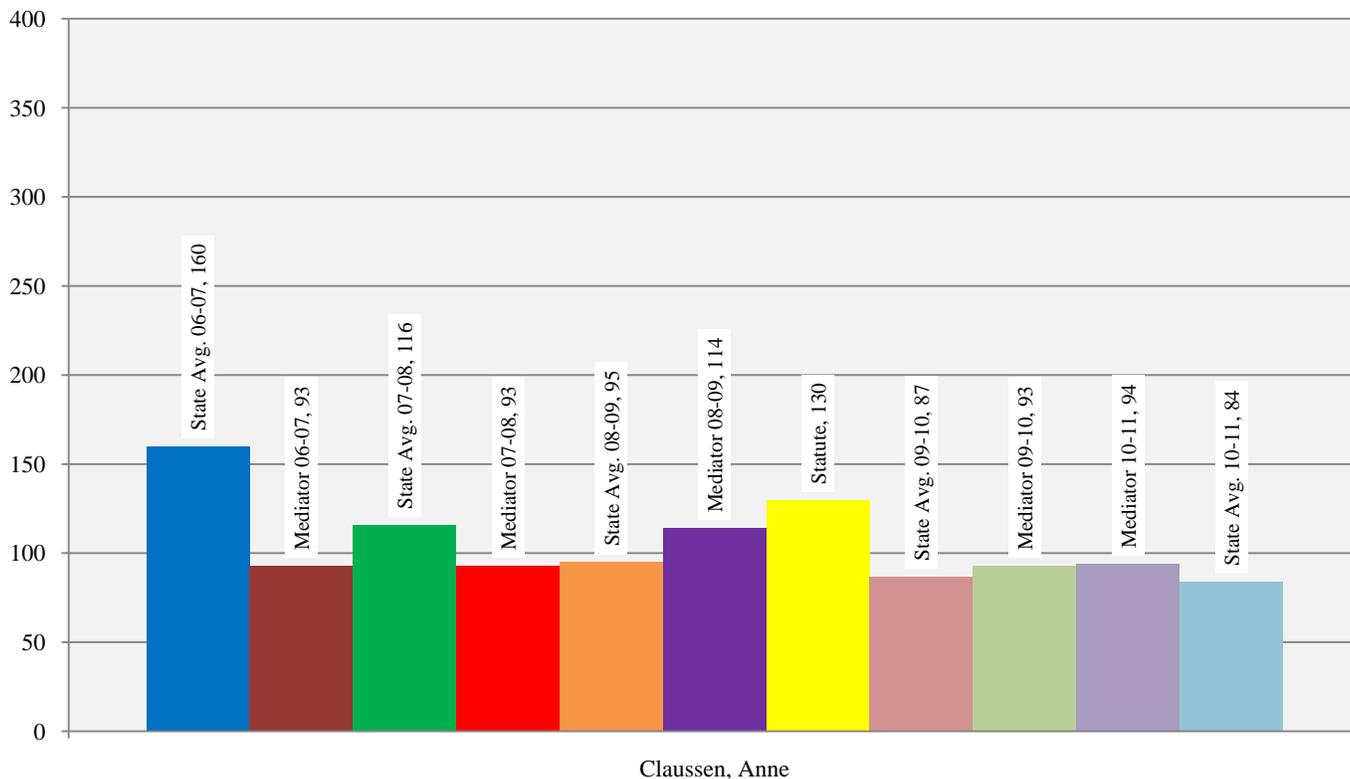
The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



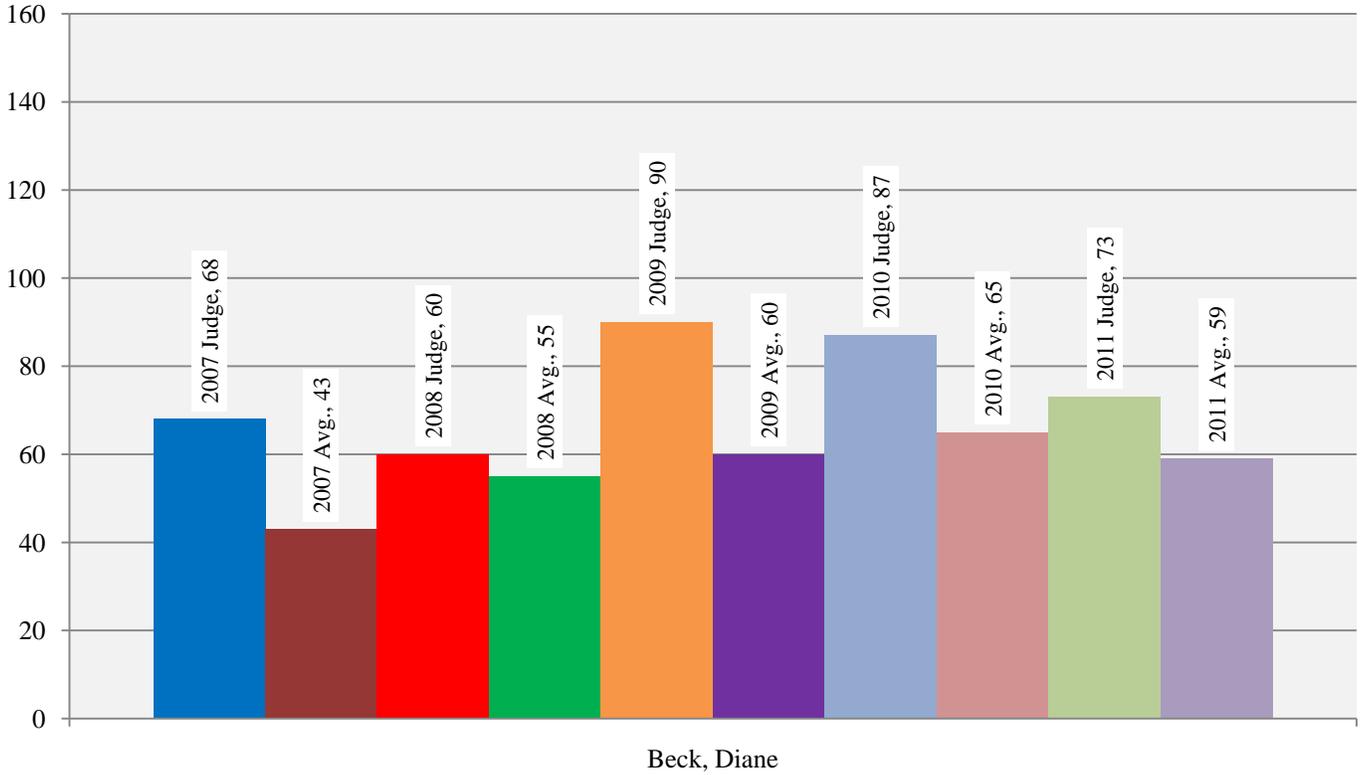
The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



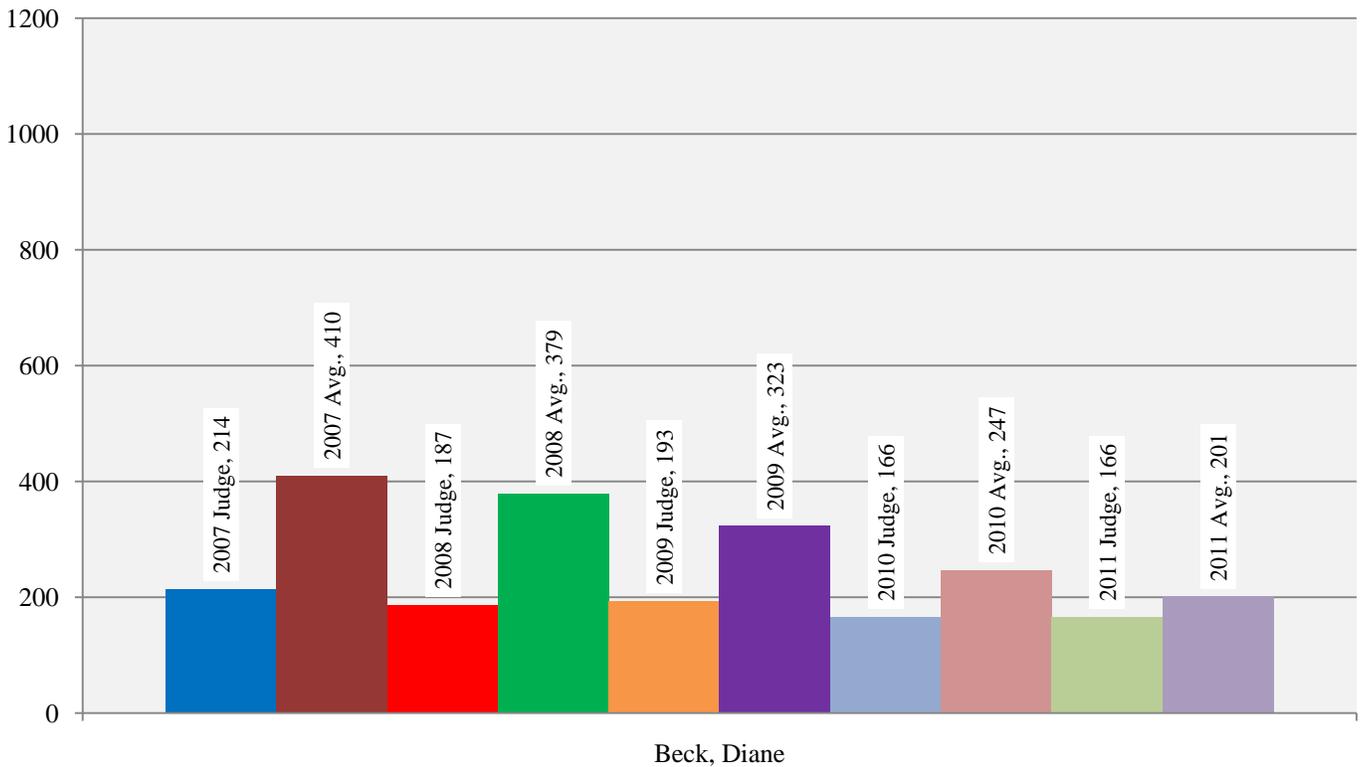
The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.



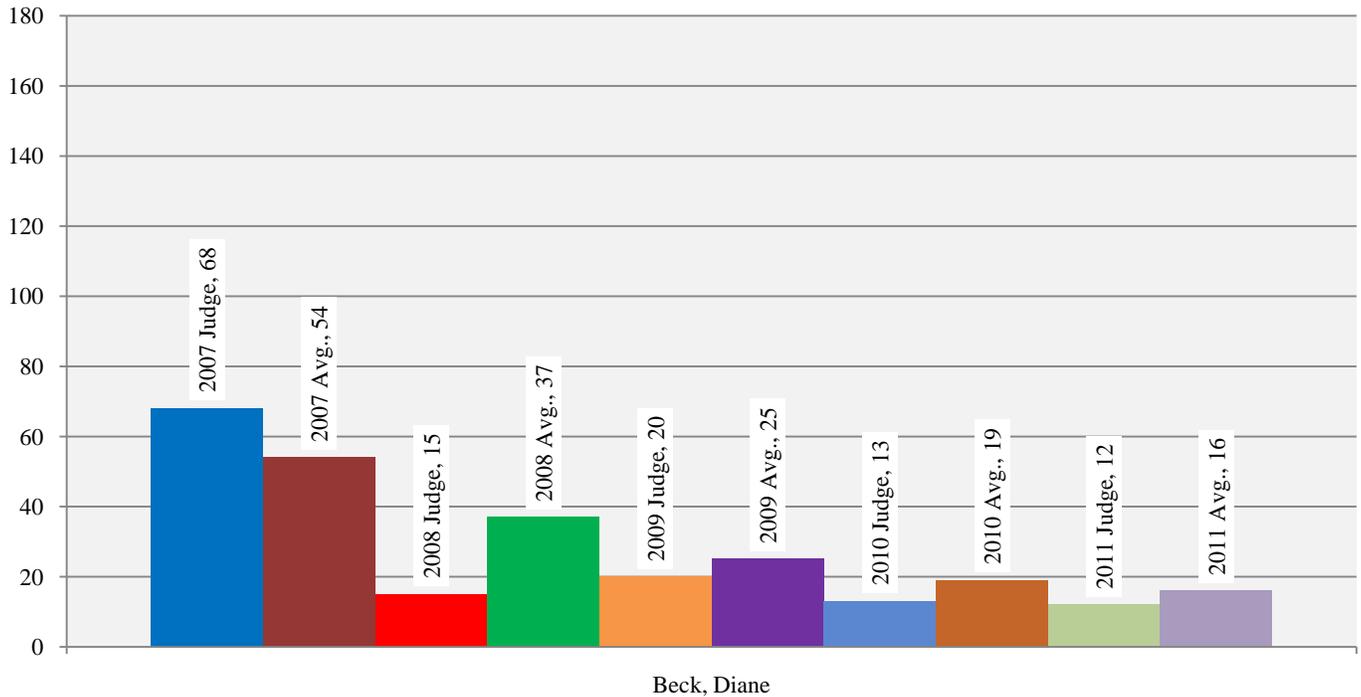
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



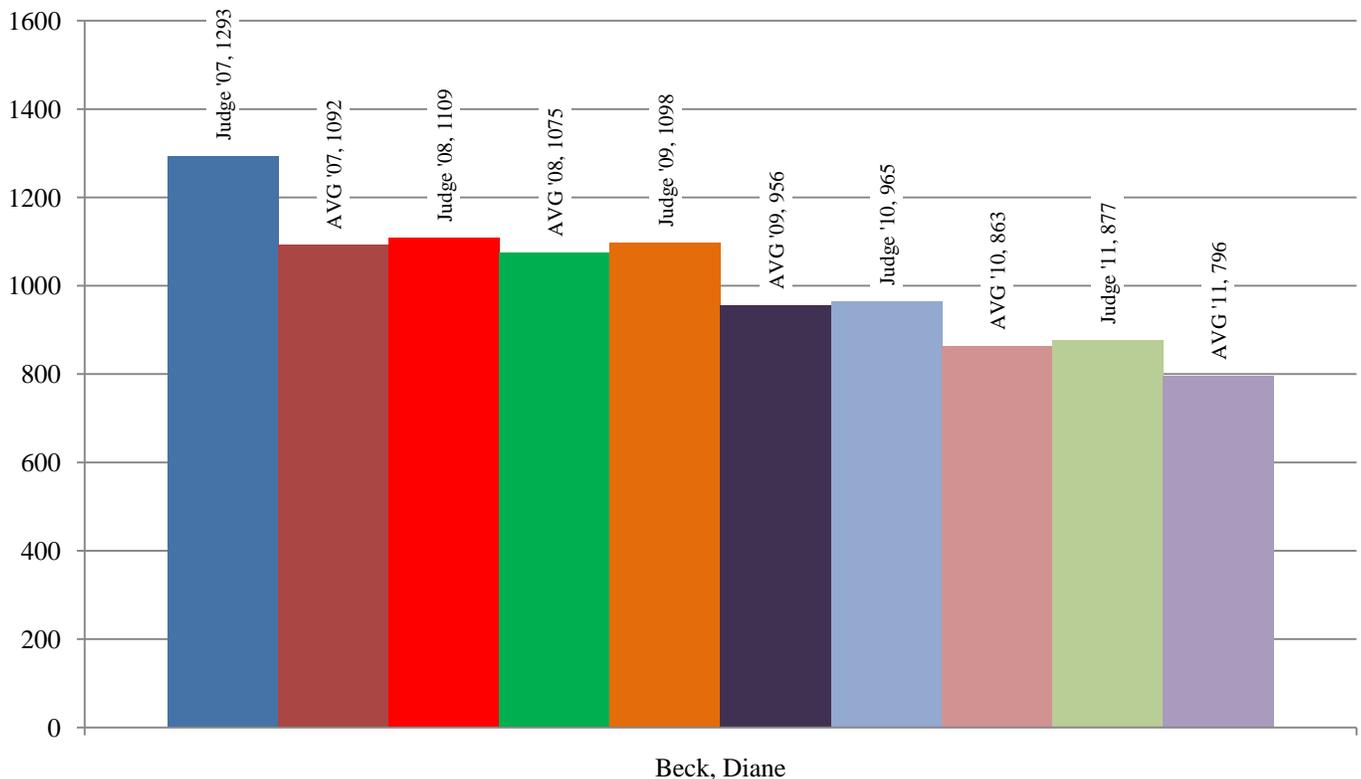
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2010-11. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. The identification for each year and the values are in each column label.



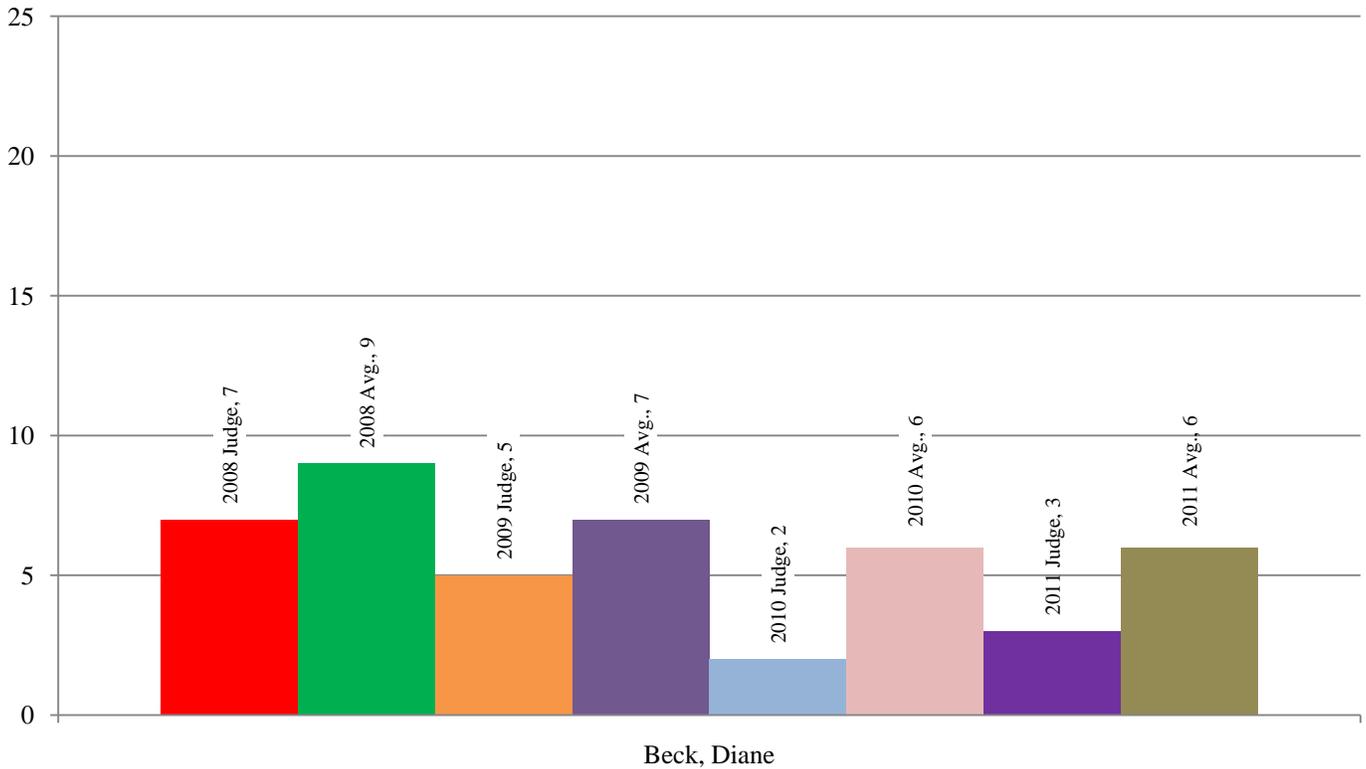
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



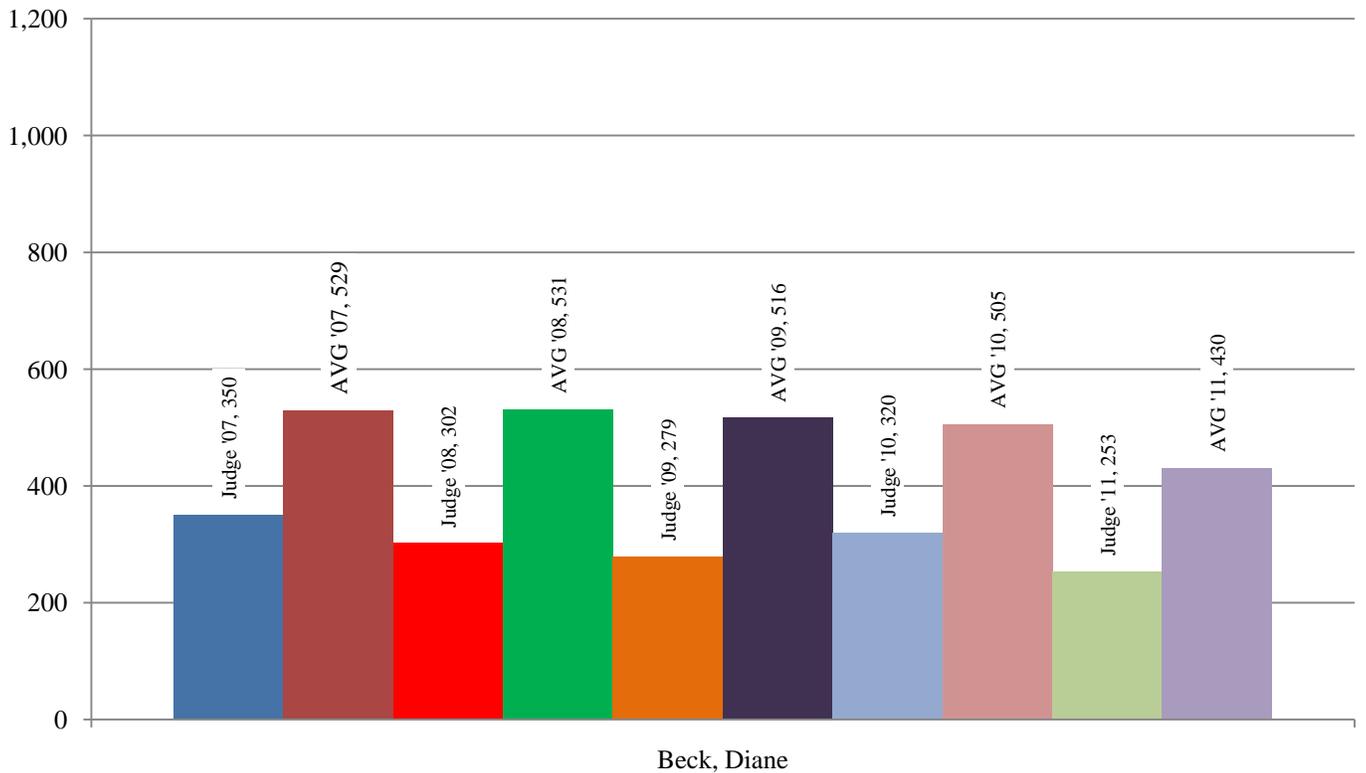
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



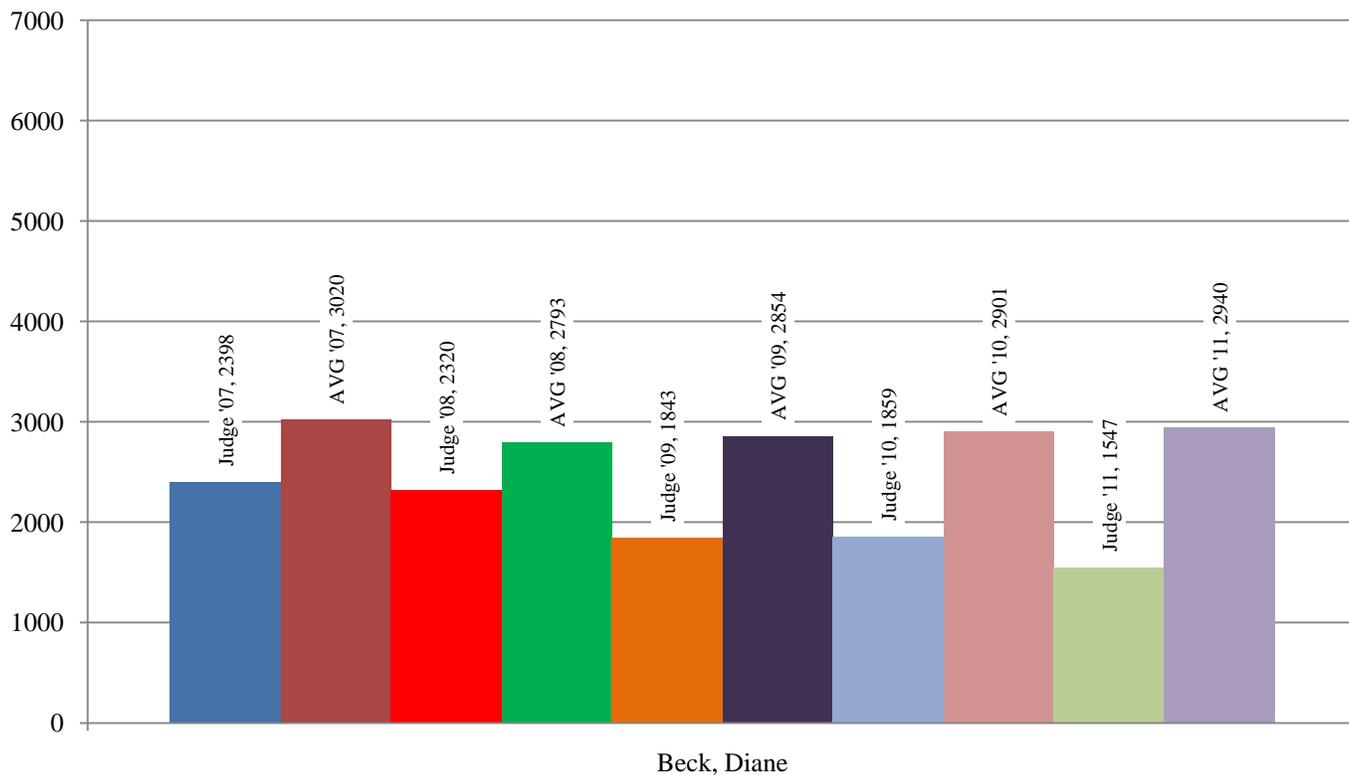
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



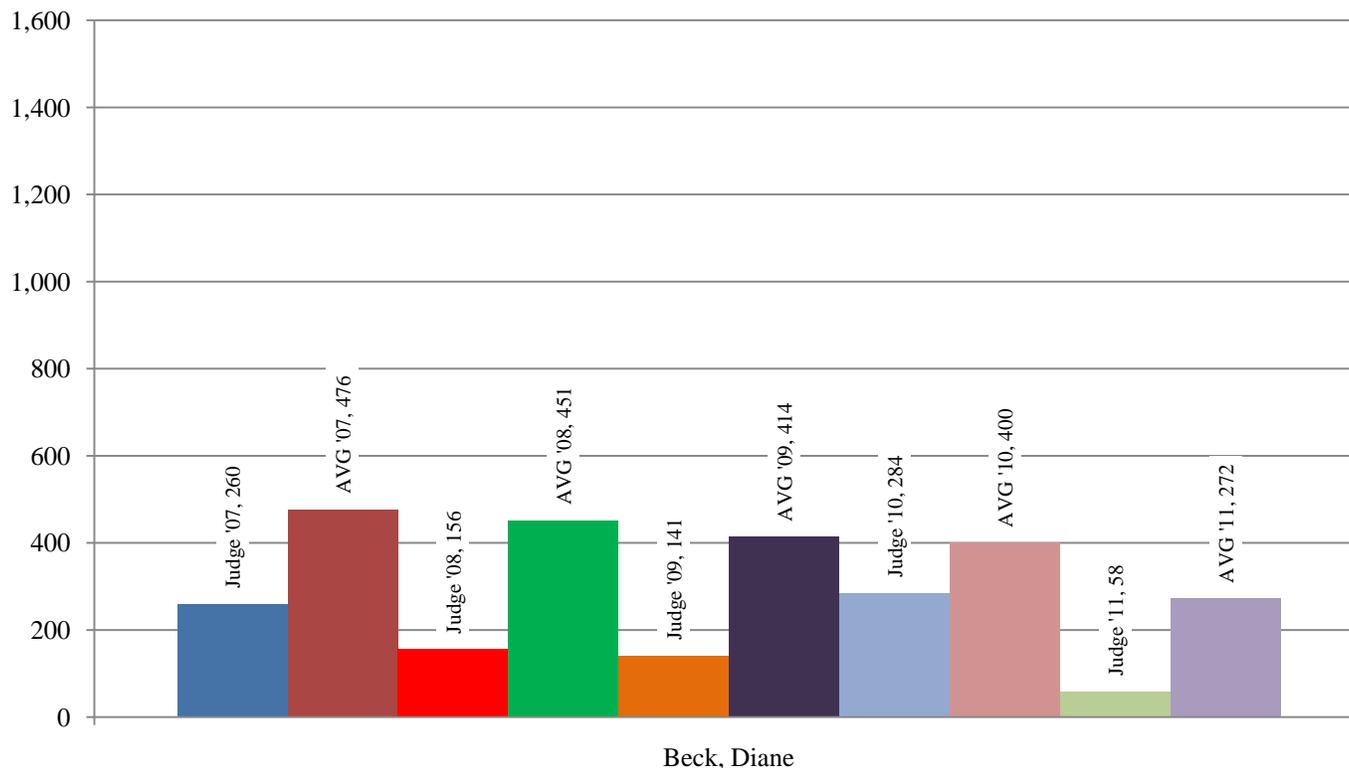
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



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

District STP includes Pasco and Pinellas counties.

District STP experienced increases in both PFB and “new Case” volumes in 2010-11. The PFB volumes in 2010-11 were the highest SPT has reflected since 2002-03. The “new case” volumes were higher than evidenced since 2006-07. The heavy volume of assignments accepted by the two SPT Judges likely contributed to this rebound in volumes. Overall, more PFB were closed than were filed in District SPT in 2010-11. This is a District which is effectively managing their workload and actively participating in the “out-of-District” program, hearing trials by VTC.

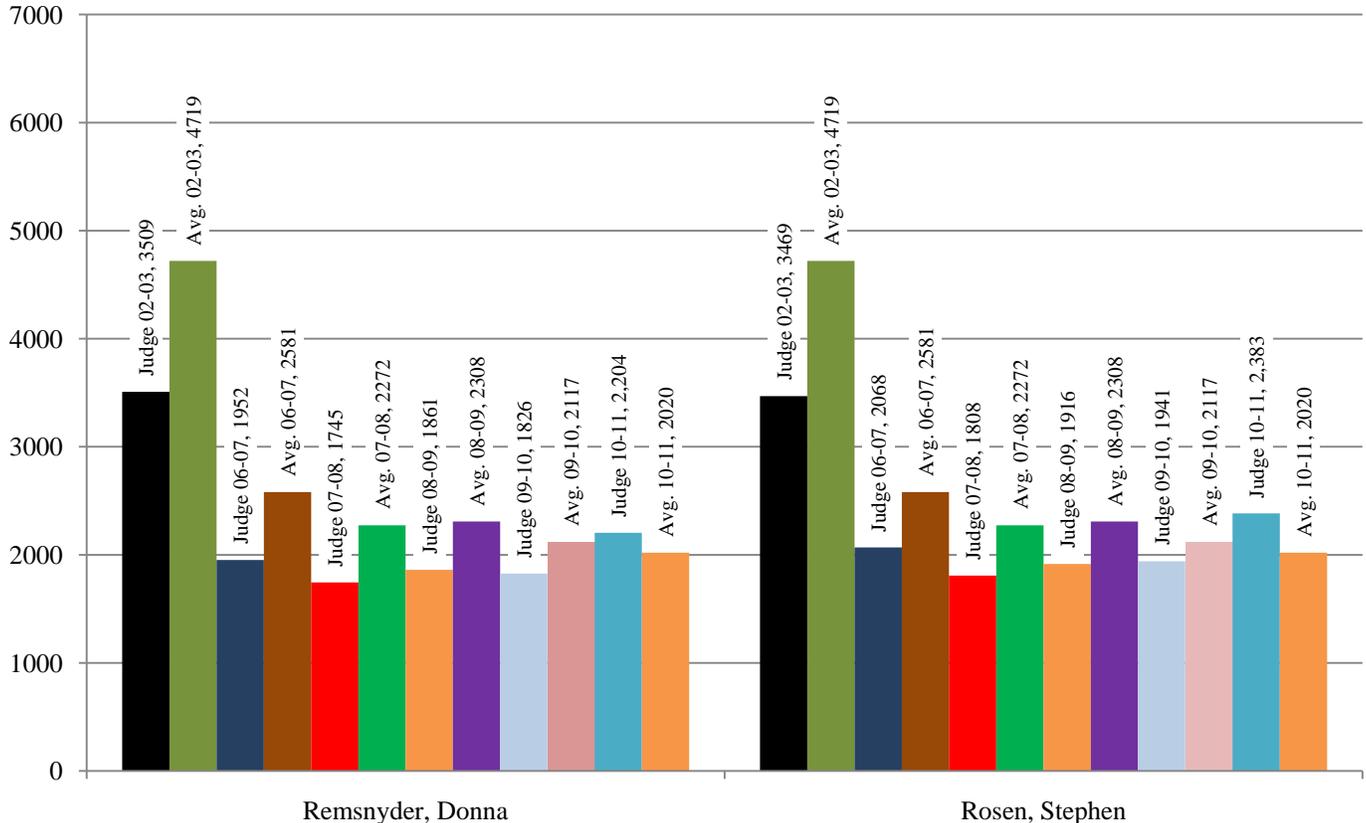
Despite the “out-of-District” assignments, trial levels are moderate in SPT. Judge Rosen’s 2010-11 trial volume is deceptive as a SPT indicator as much of that volume resulted from his voluntary support efforts in LKL after the departure of Judge Hofstad in late 2009-10. During the fall of 2010, Judge Rosen maintained his JAX docket, covered much of the LKL workload and transitioned to SPT in early calendar 2011.

Judge Remsnyder is a member of the Board of Directors for the Friends of 440, and serves as Chair of the Scholarship Selection Committee. She is involved in the Justice Teaching program and the St. Petersburg Mayor’s Mentoring Program. Judge Remsnyder Board member of the Suncoast Gem & Mineral Society and teaches silversmithing.

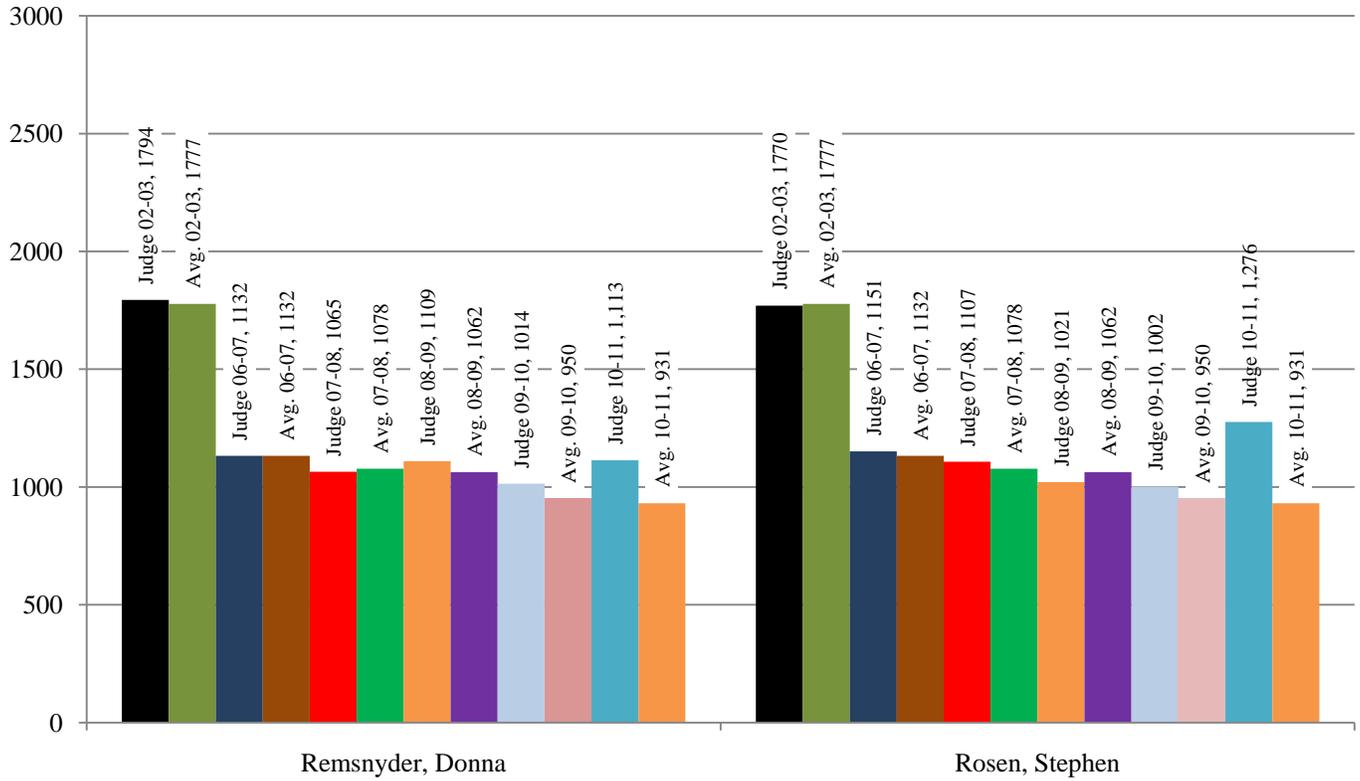
Judge Rosen transferred to SPT in late calendar year 2010.

Mediator Young has participated in the Justice Teaching Program, the Hernando County Bar Association, and the Teen Court Program.

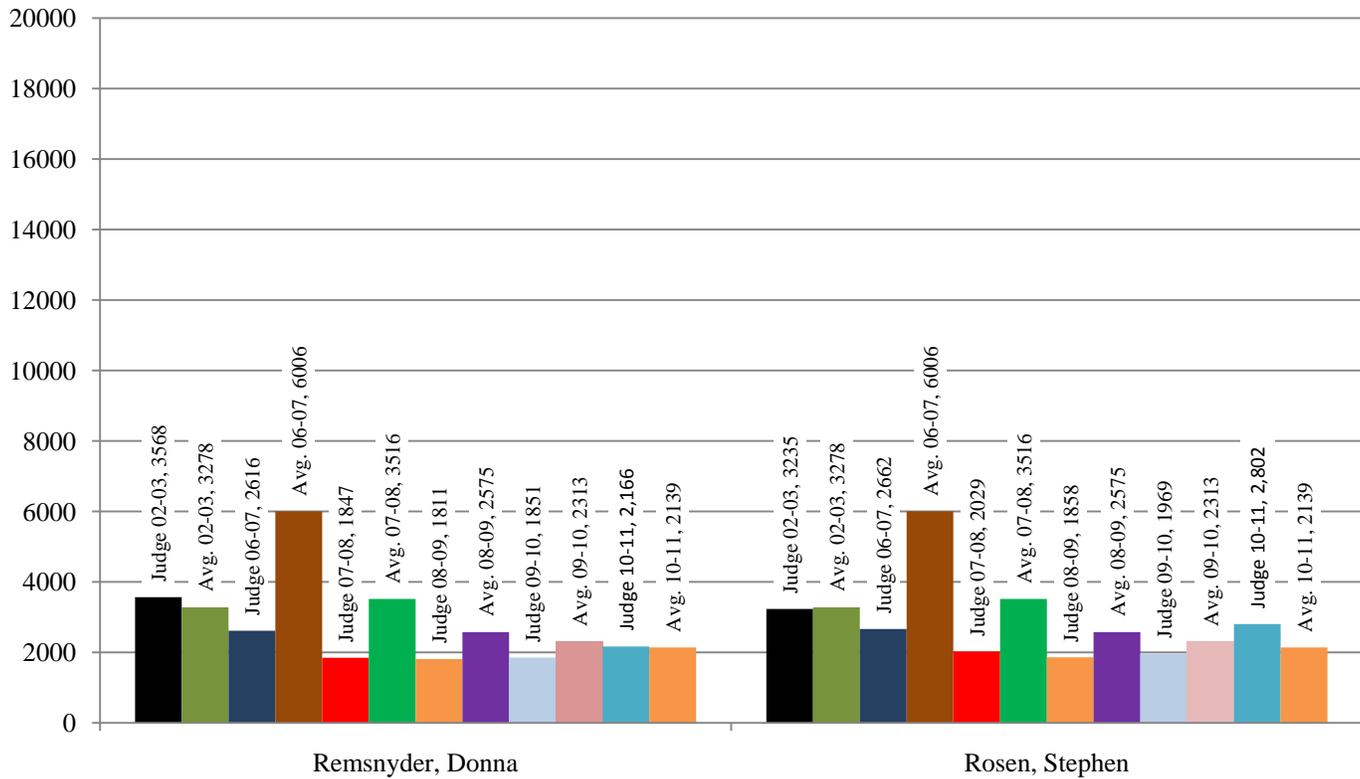
The following depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



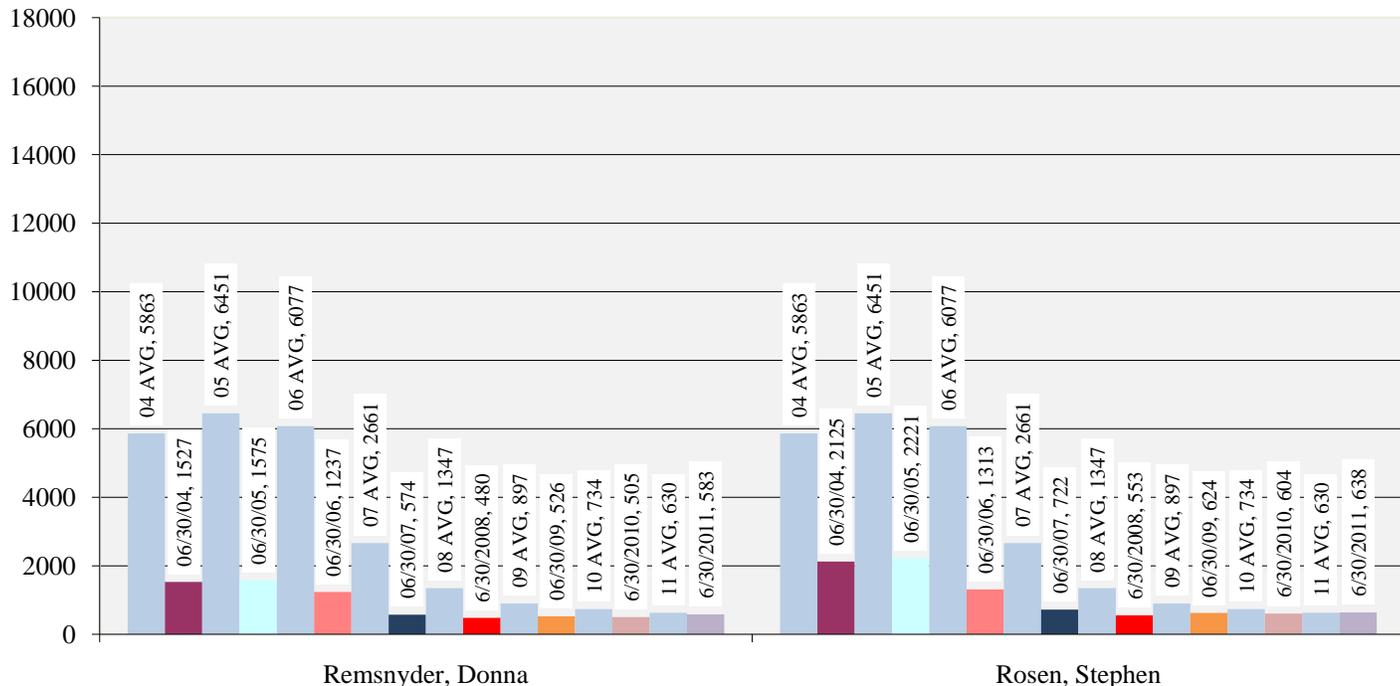
The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



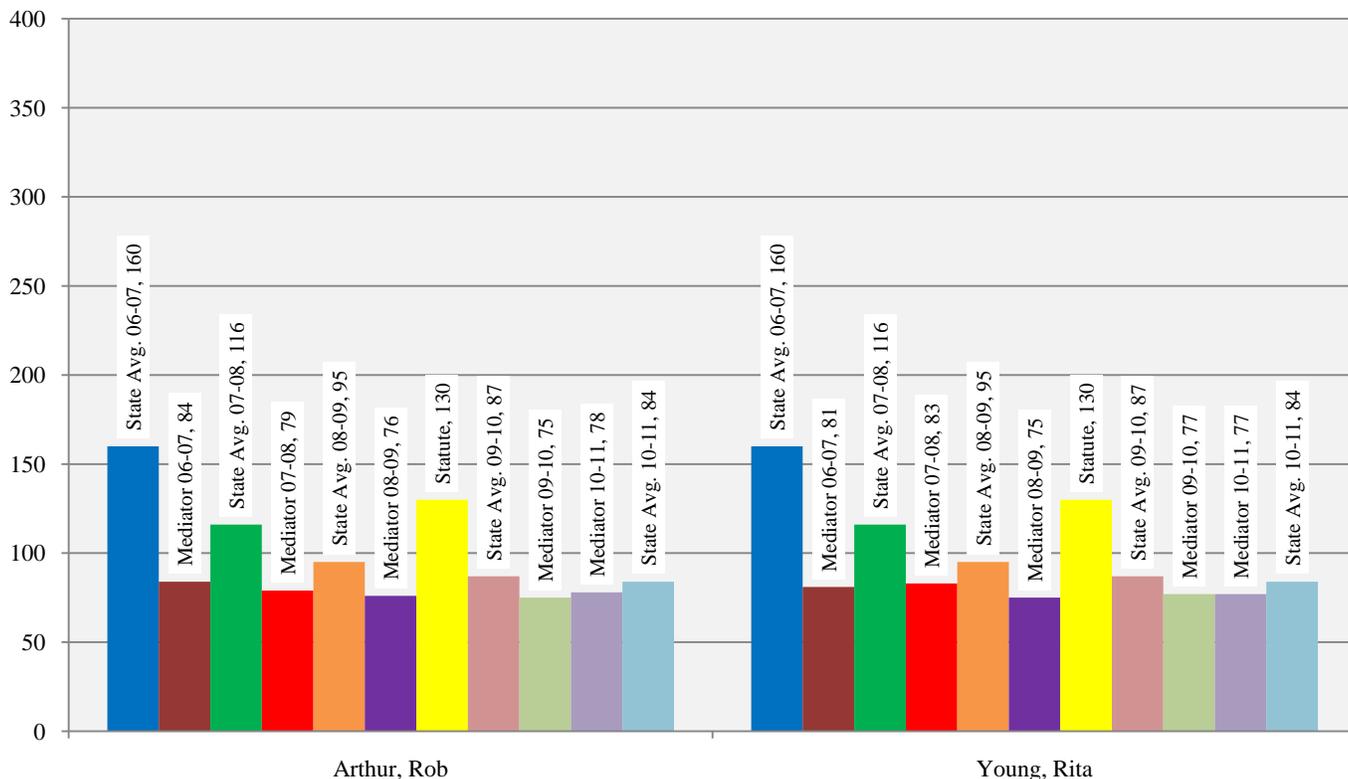
The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



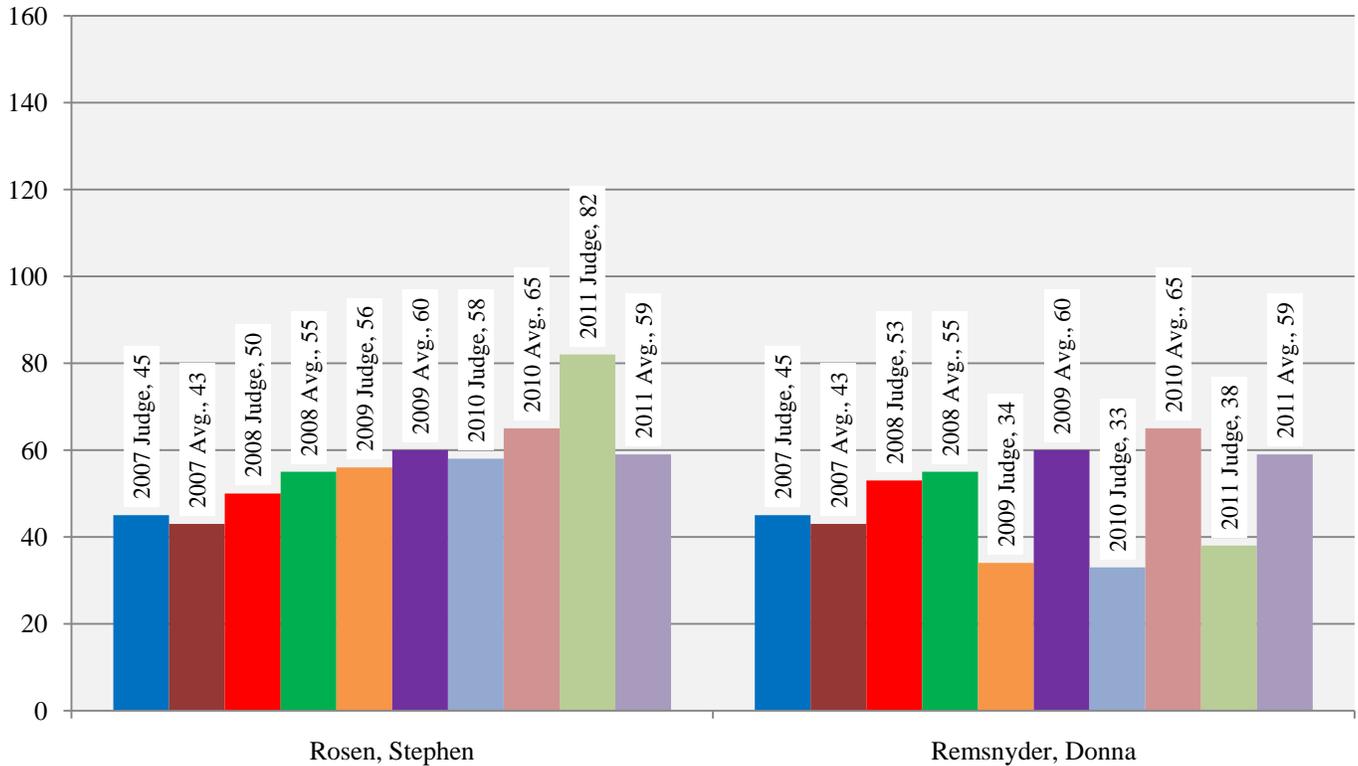
The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



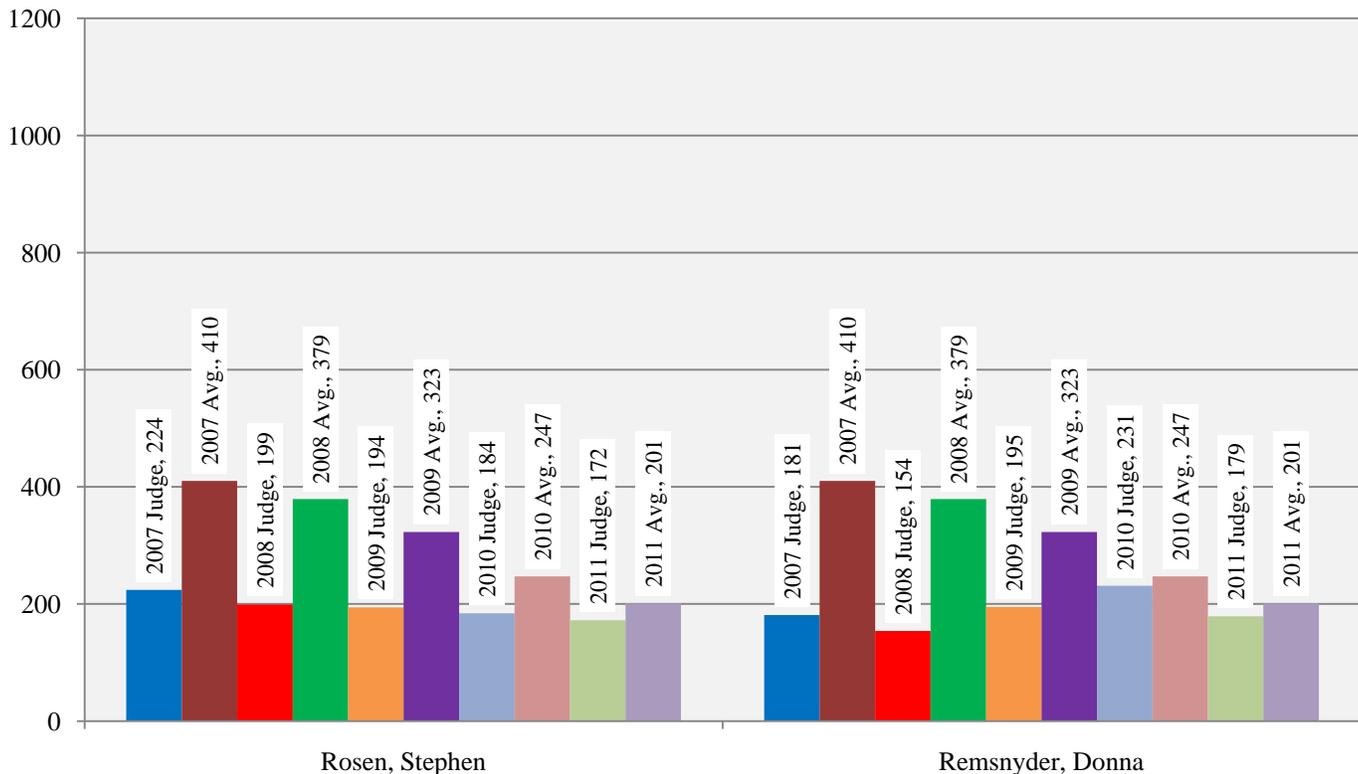
The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.



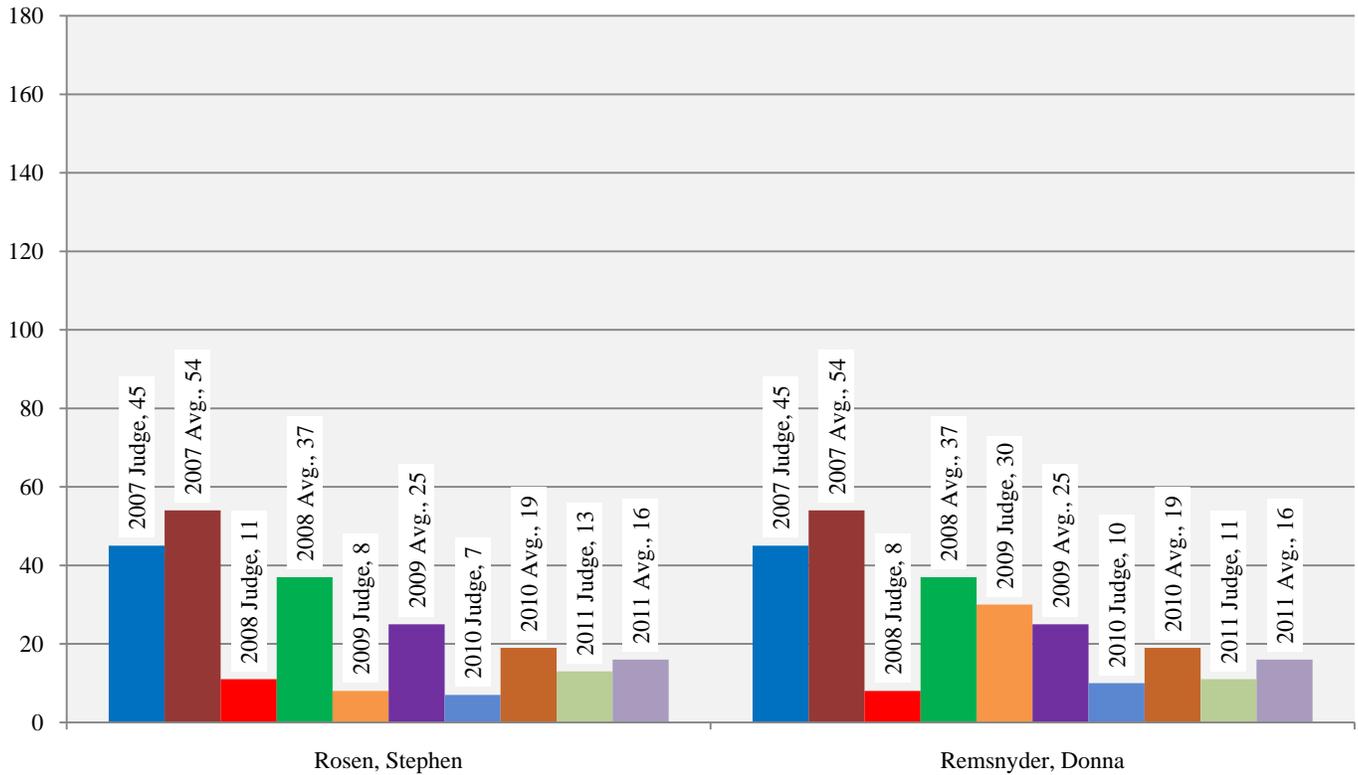
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



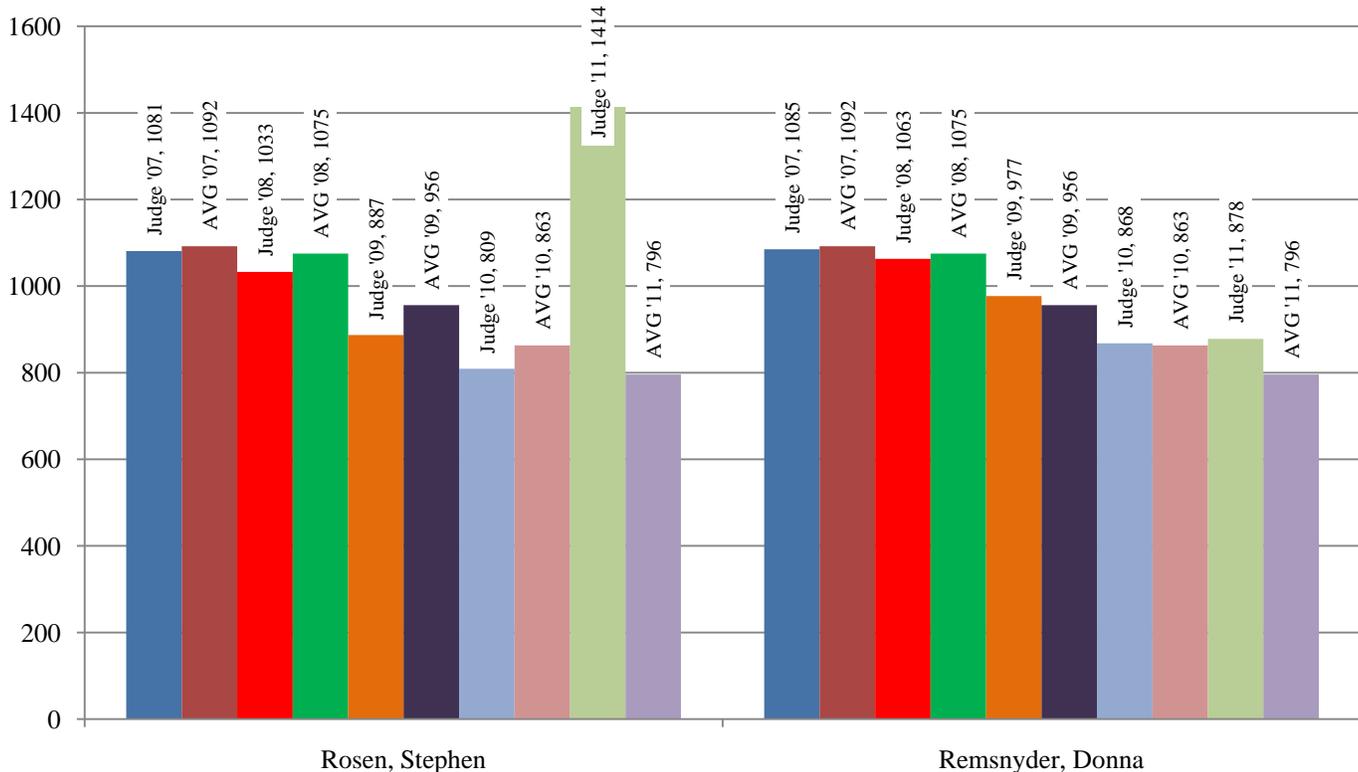
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2010-11. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. The identification for each year and the values are in each column label.



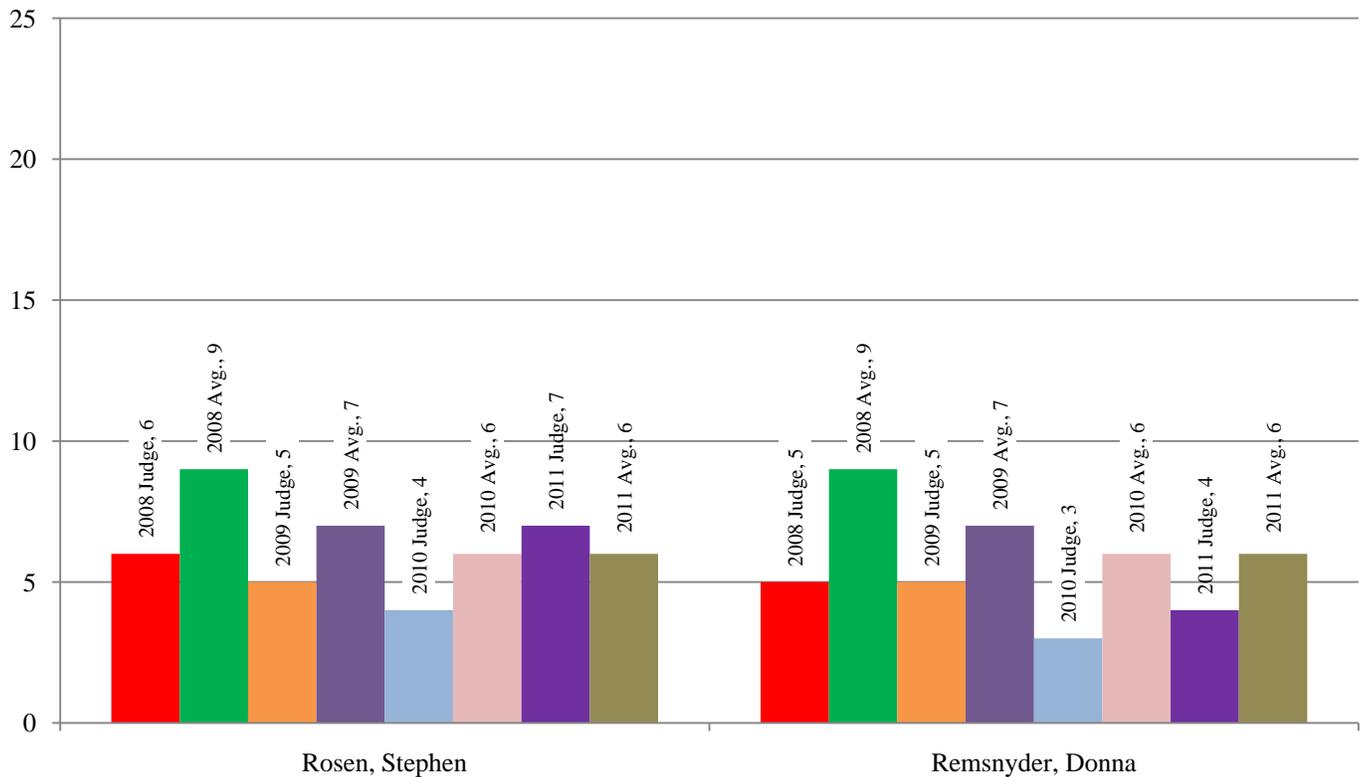
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



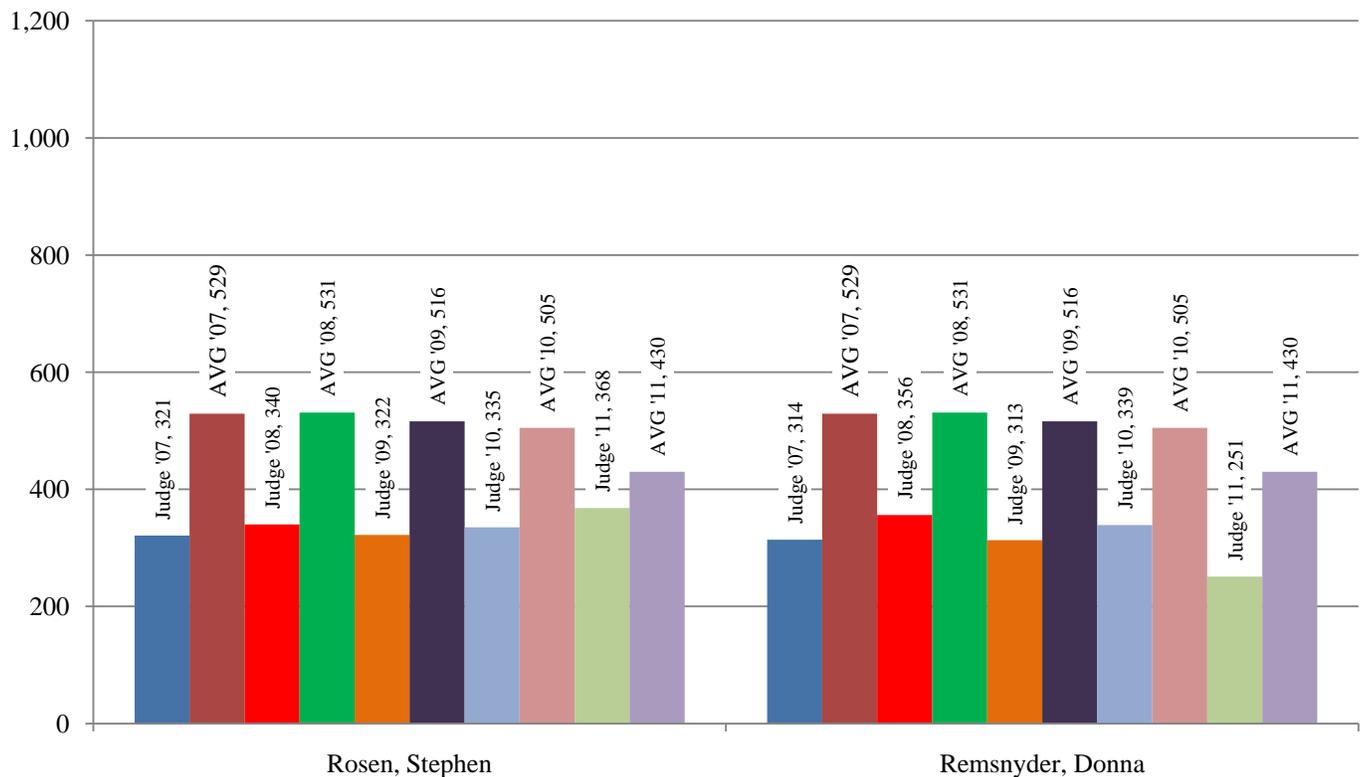
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



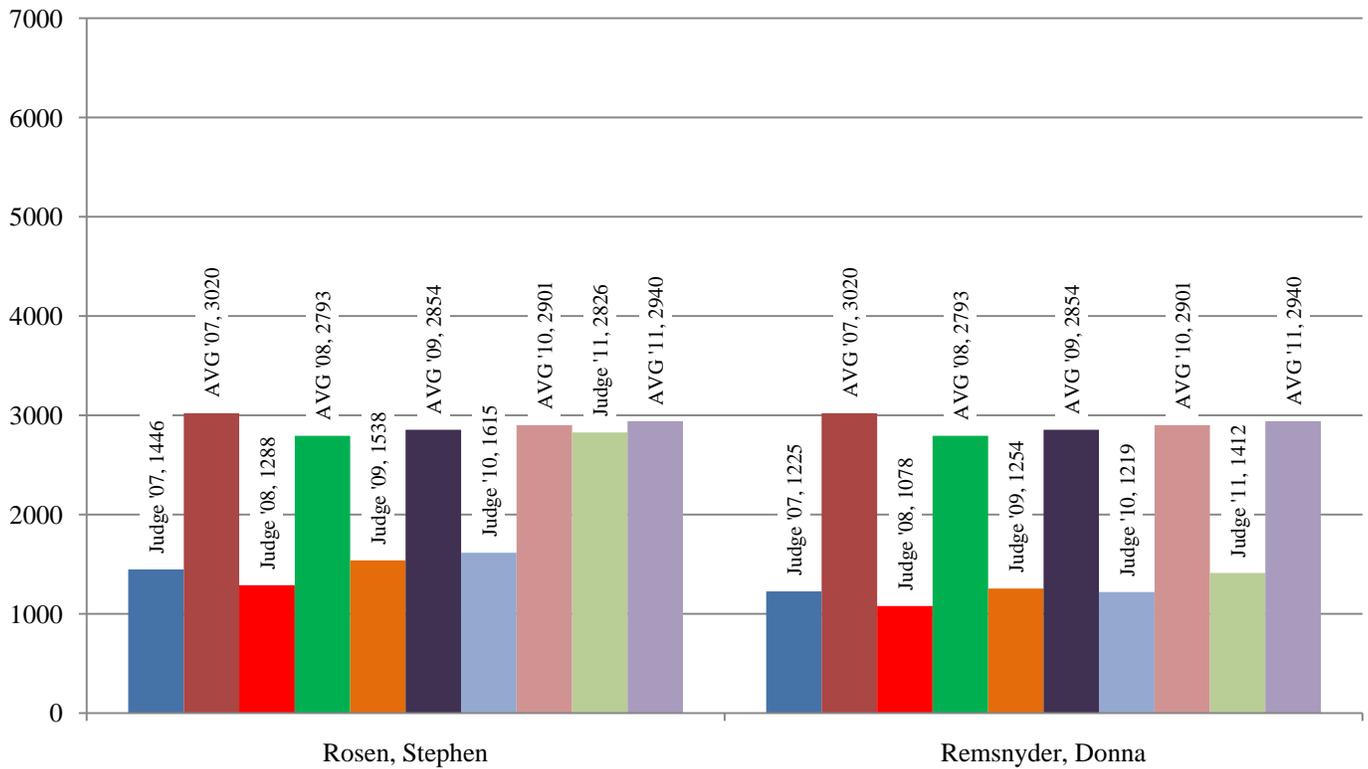
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



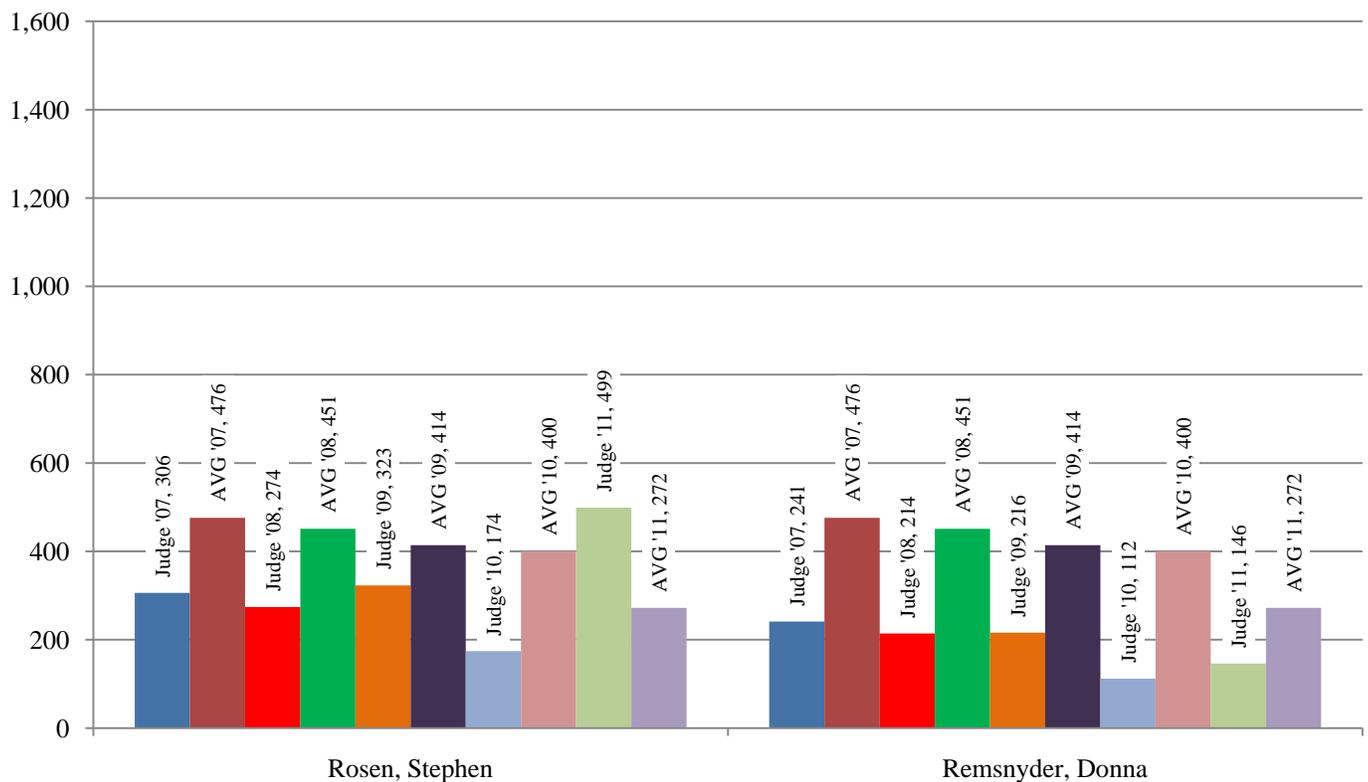
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



Appendix “15” District TLH (JCC Lazzara):

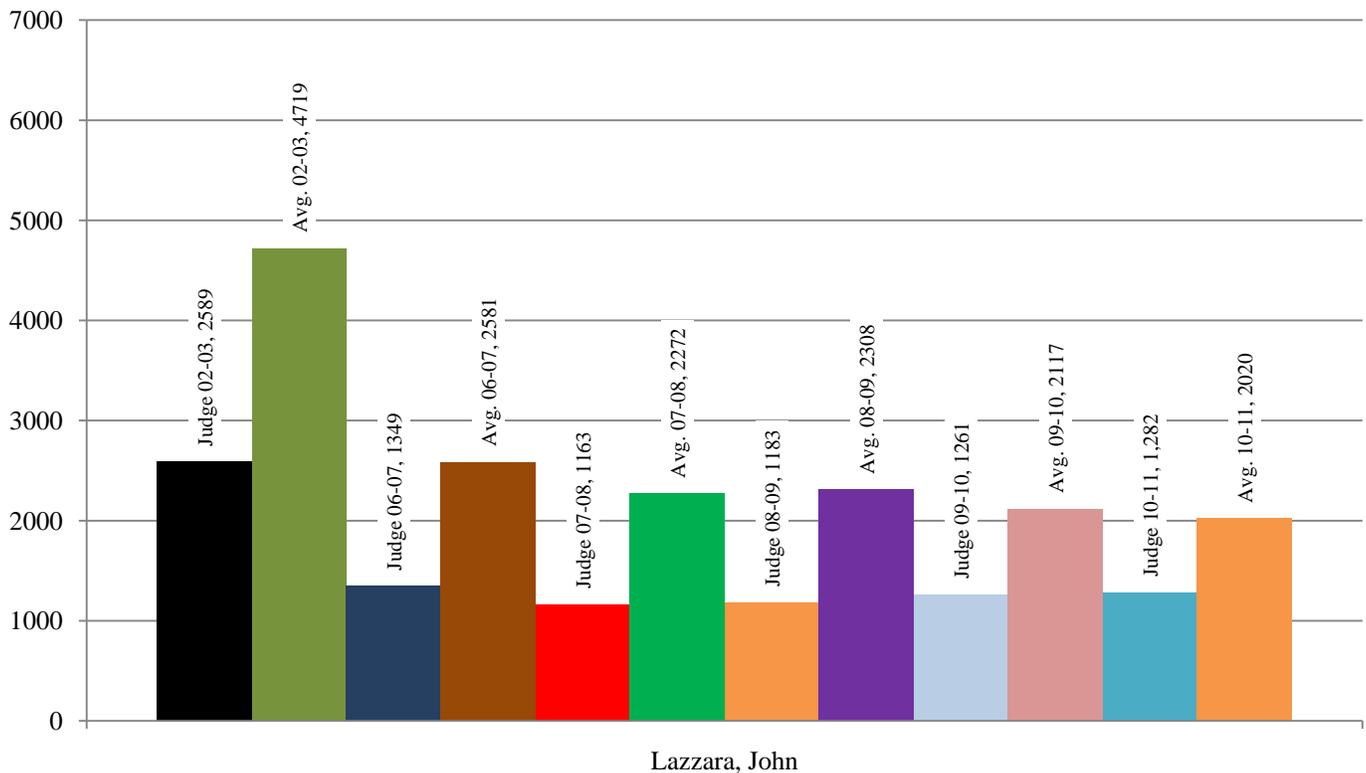
District TLH is one of the largest geographic Districts, and includes the following counties: Franklin, Gadsden, Hamilton, Jefferson, Lafayette, Leon, Madison, Suwannee, Taylor, Wakulla. Although some of these counties have low population density, there is an exceptional level of effort required in this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

The volume of PFB and “new case” filings in TLH remain below the statewide average. The TLH PFB closure volumes are very close to the PFB filing volumes, evidencing a District in equilibrium. In 2009-10 Judge Lazzara volunteered as visiting Judge in LKL, ORL and GNS. Last year, he began accepting “new case” assignments in District FTL.

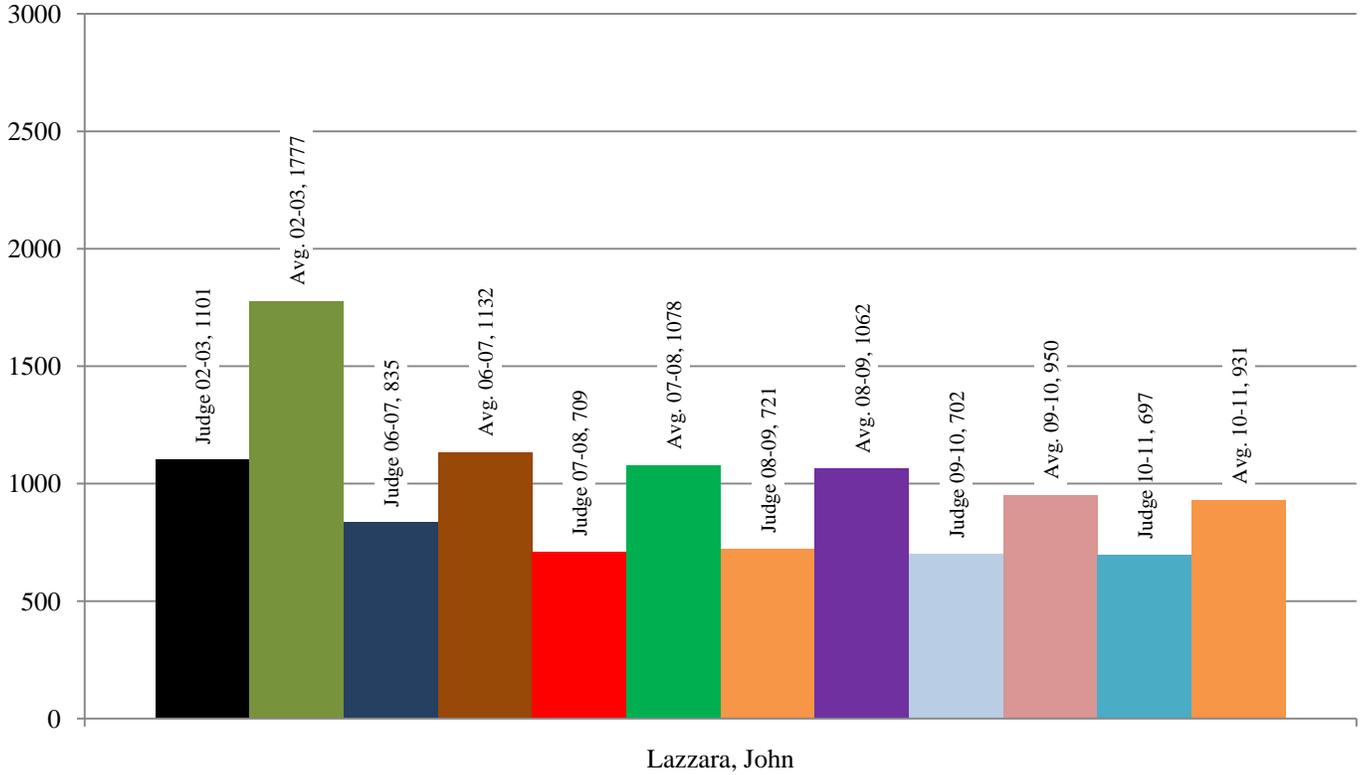
Petition and “new case” volumes remain low in District TLH. The District is geographically vast, but not densely populated. In District TLH, the average days from PFB to mediation, PFB to trial and trial to order are all within the statutory parameters. Judge Lazzara has actively participated in the out-of-District program, routinely accepting assignments in Ft. Lauderdale. He has also been covering the vast majority of out of district disqualification and recusal reassignments from JAX since the appointment of two Jacksonville attorneys to the bench at the end of calendar 2010.

Judge Lazzara serves as Immediate Past President of the National Association of Workers’ Compensation Judiciary (NAWCJ), and is a member of the OJCC/Florida Bar survey committee. He is a member of the Dispute Resolution Section of The Florida Bar. 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. In 2010-11 he moderated *Litigating Effectively Before the OJCC in the Twenty-First Century*, 1st DCA, Tallahassee and *Judges’ Panel: Ethics and Professionalism in the Litigation and Adjudication of Workers’ Compensation Matters*, at the ABA convention in Boston. He also served as a panelist for *Judicial Perspectives: View from The Bench*, Florida Workers’ Compensation Institute, Spring Forum, Orlando.

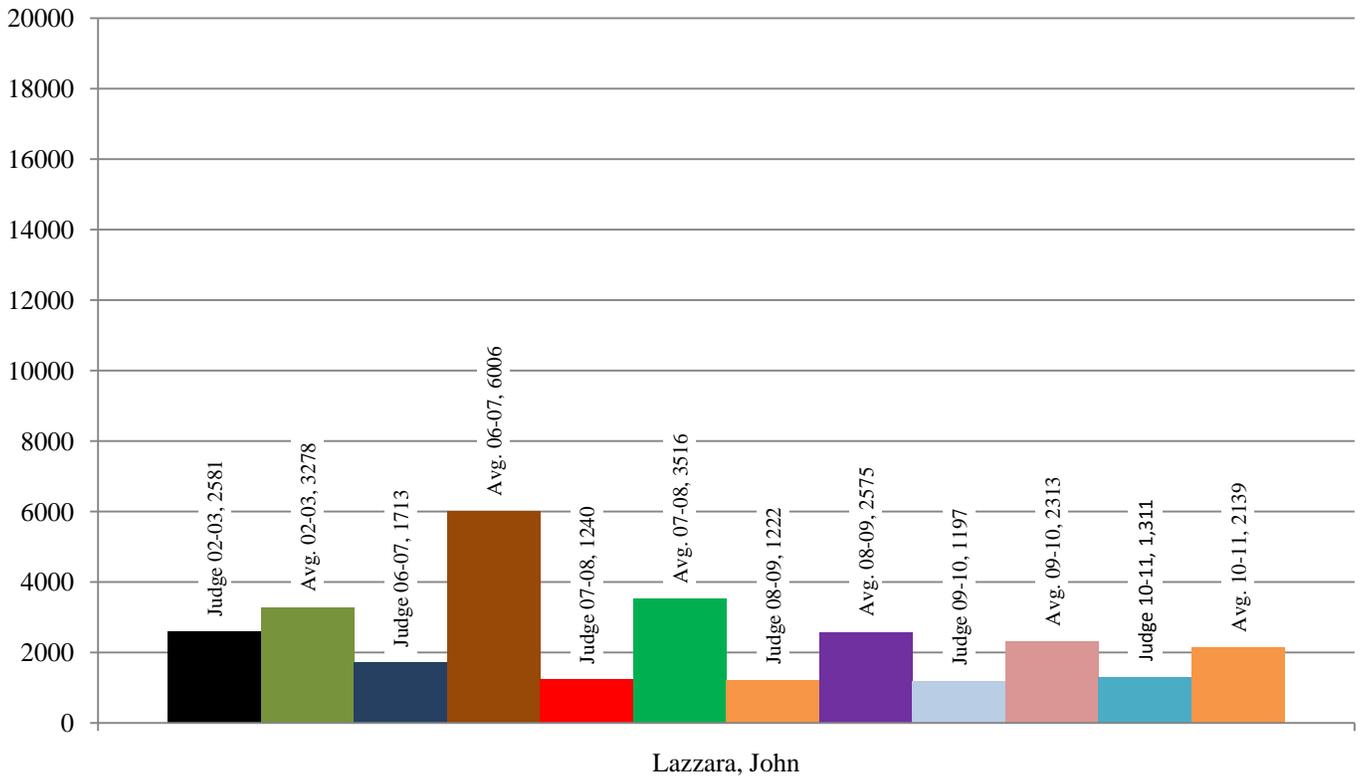
The following depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



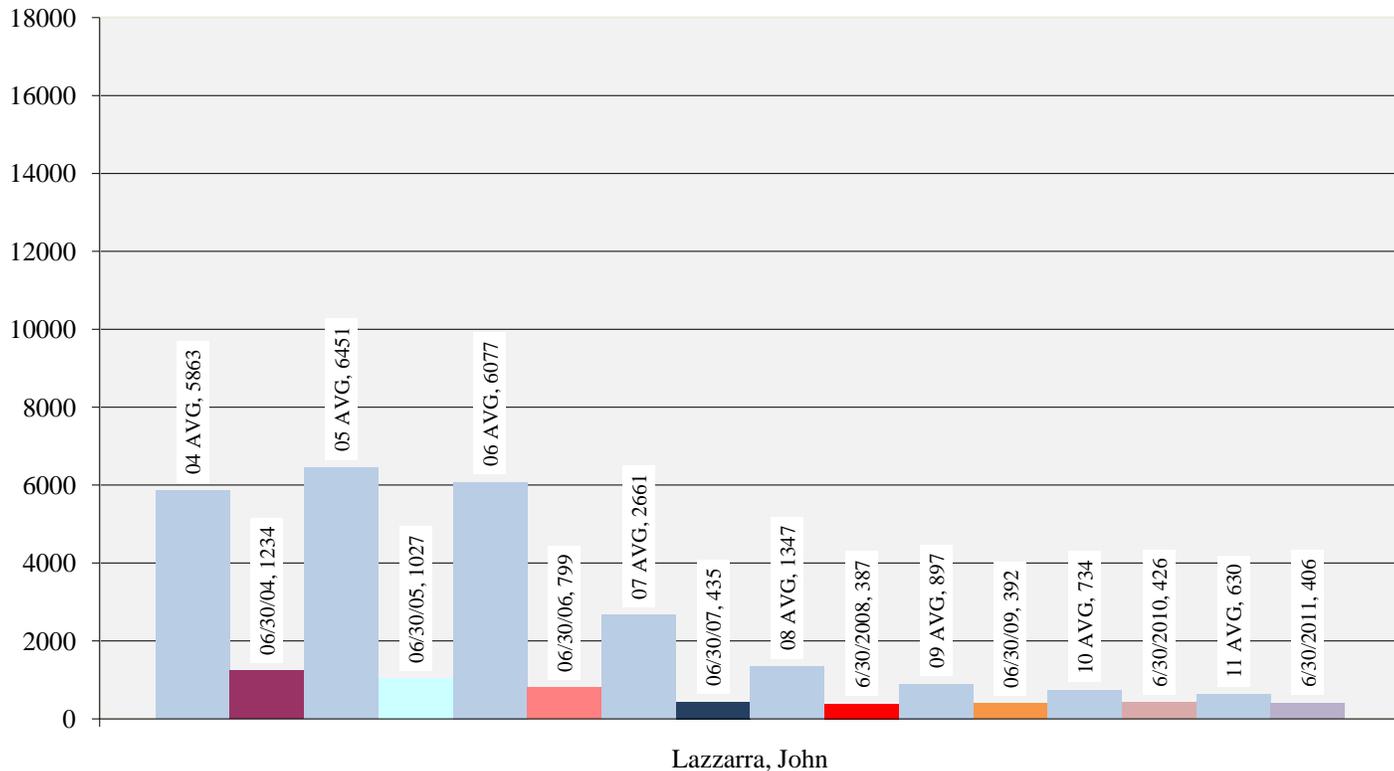
The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



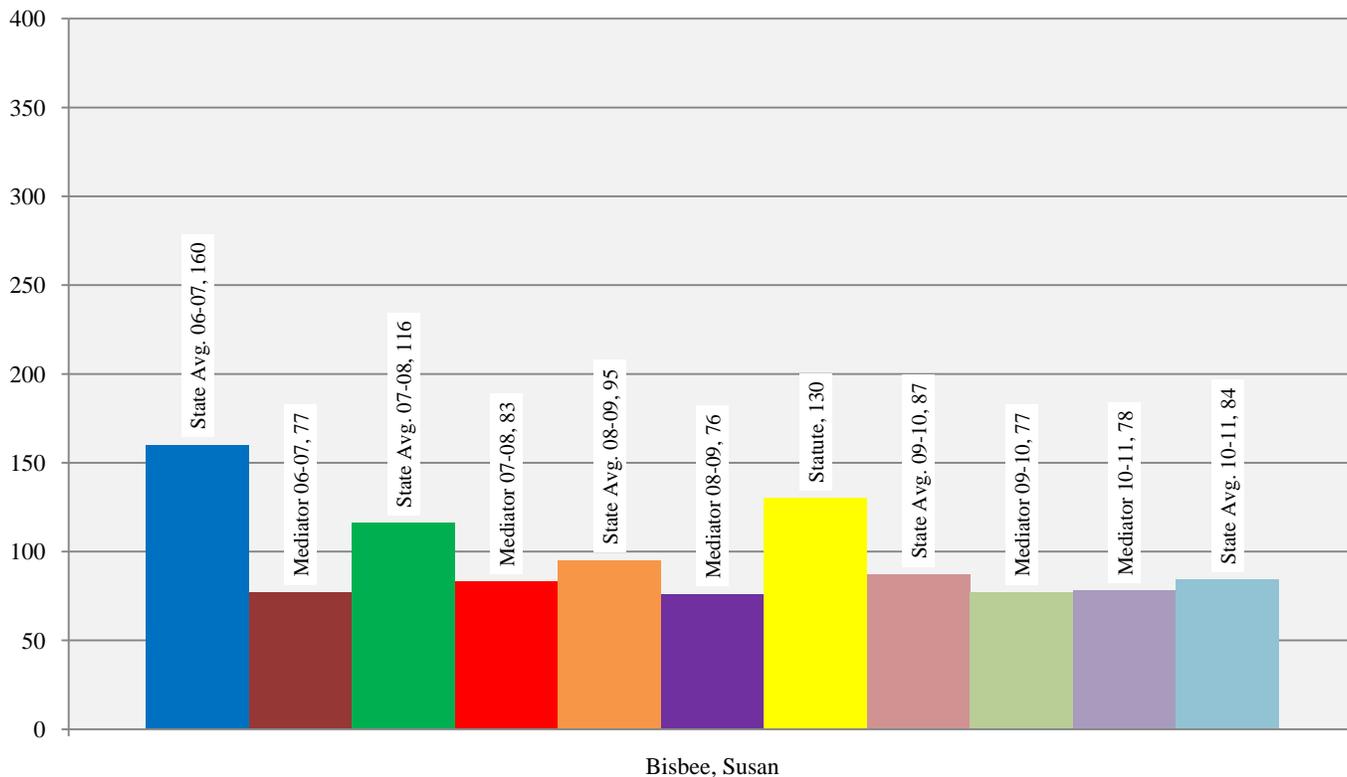
The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



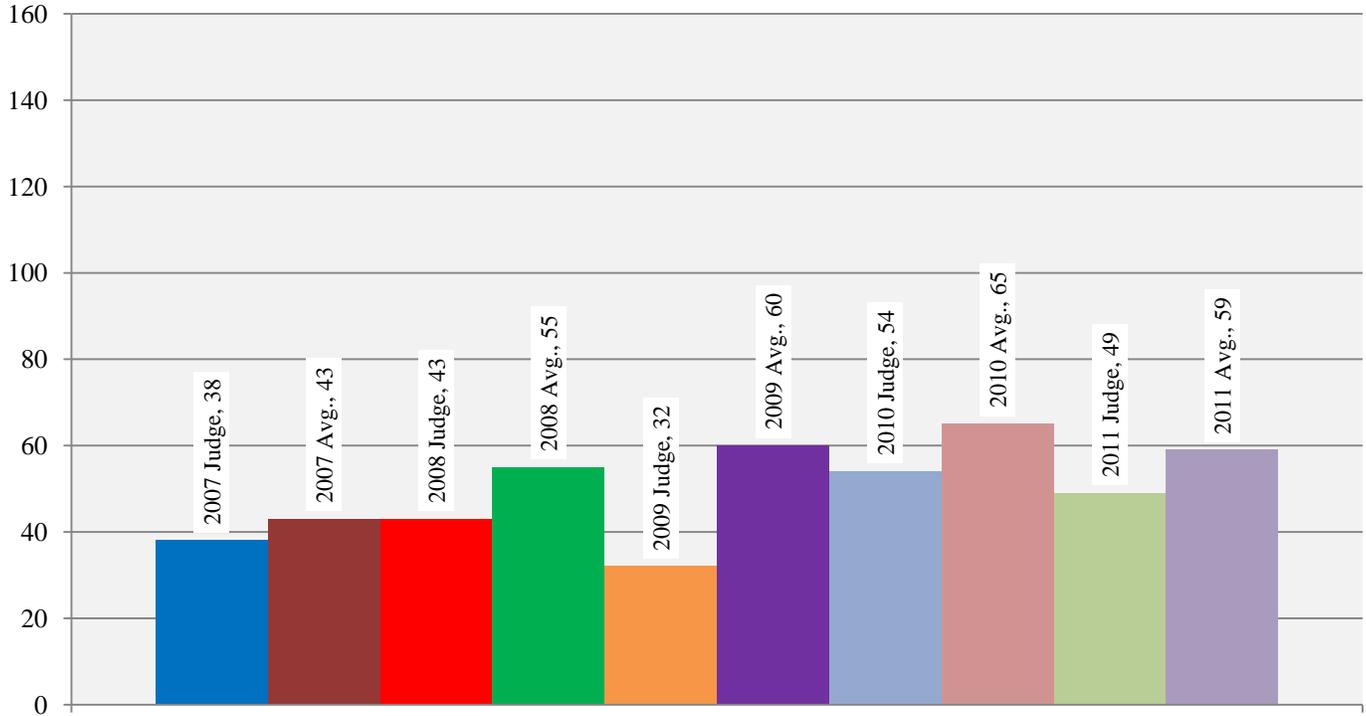
The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.

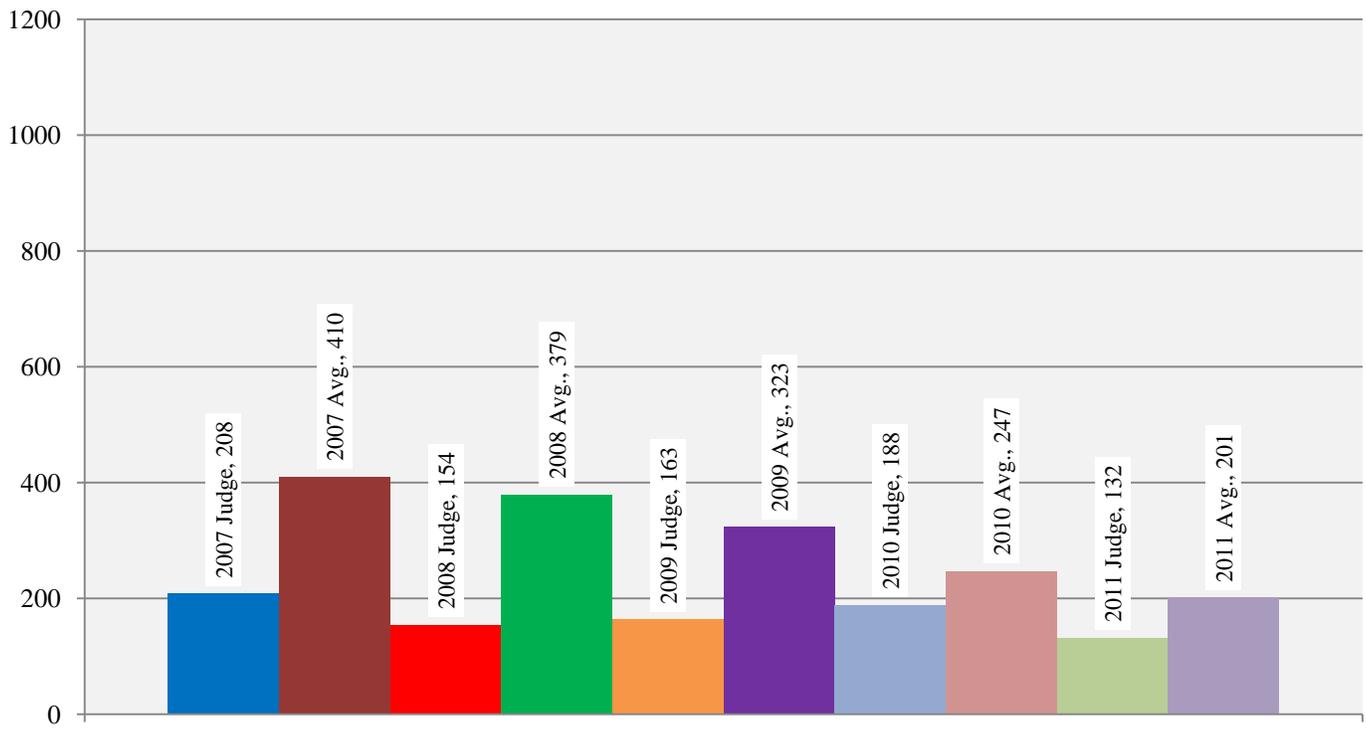


The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



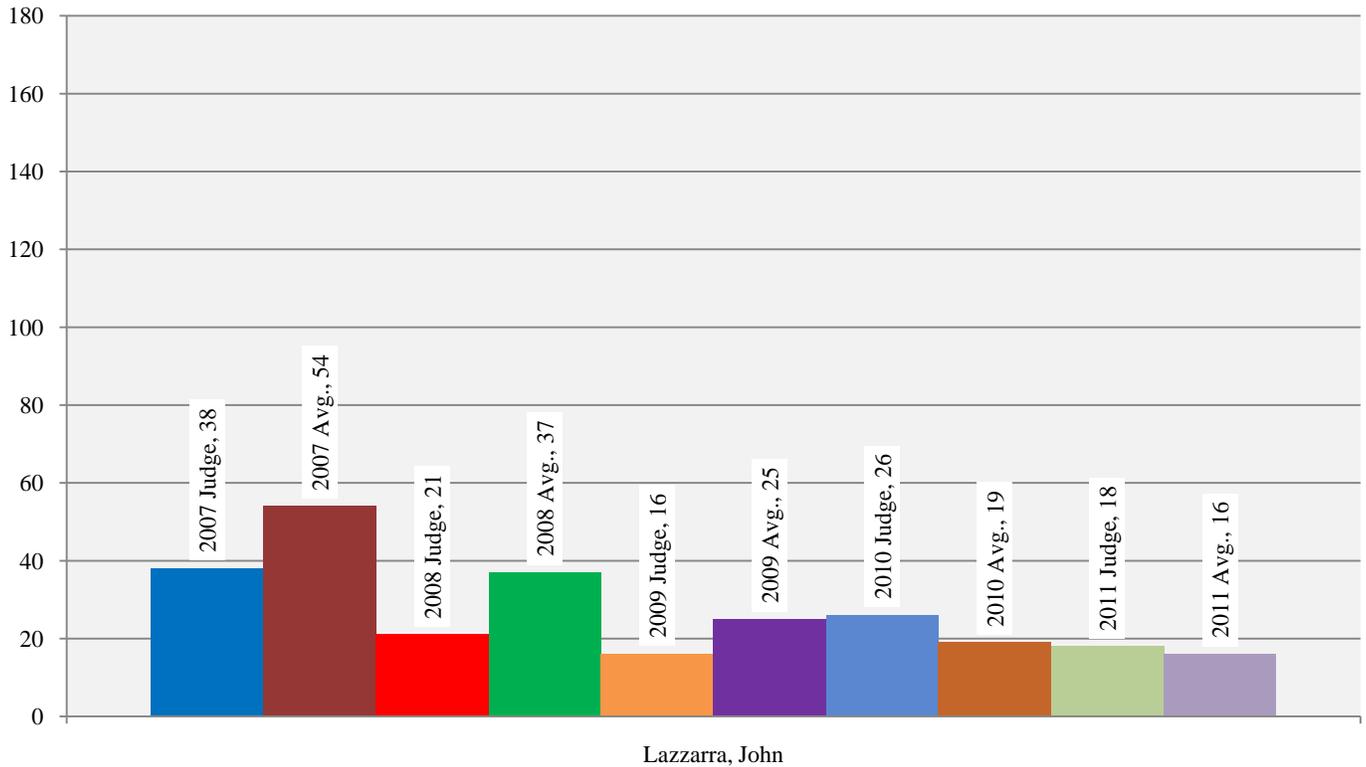
Lazzarra, John

The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2010-11. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. The identification for each year and the values are in each column label.

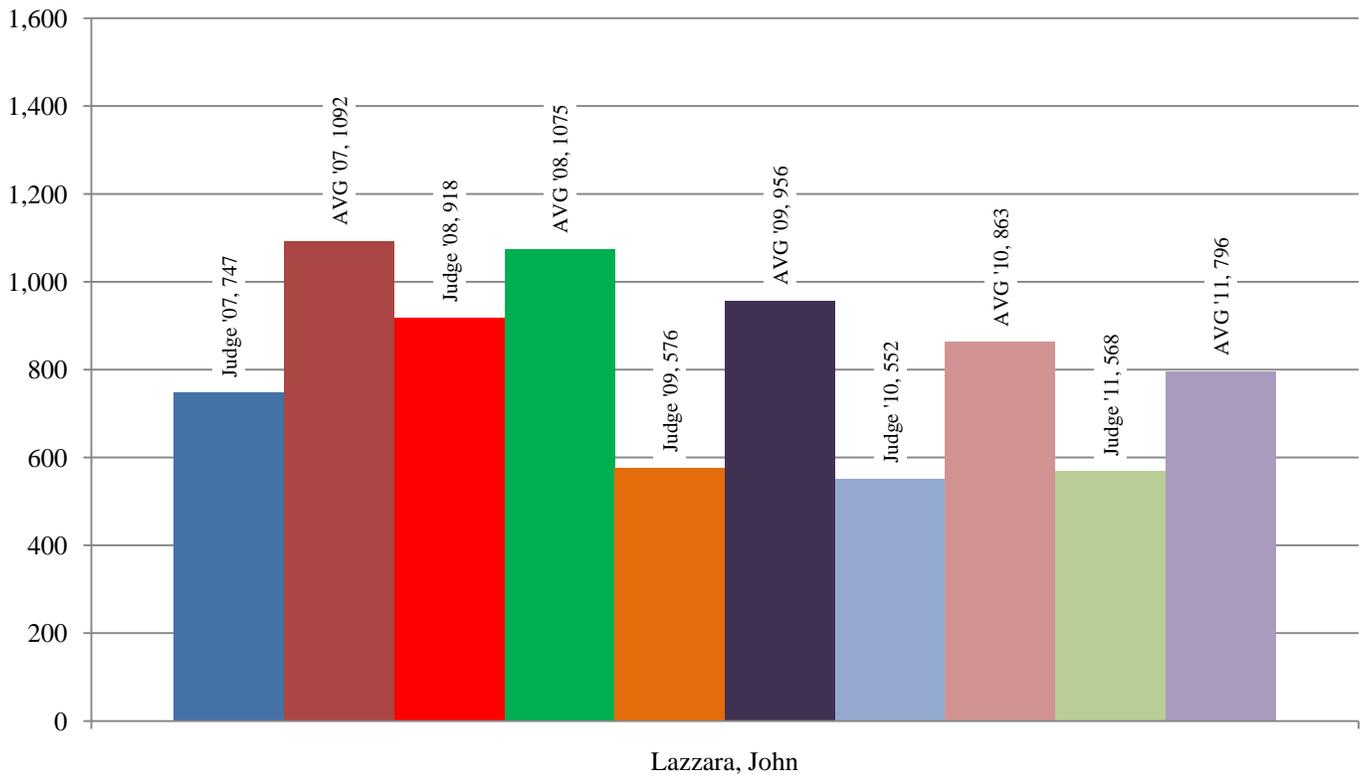


Lazzarra, John

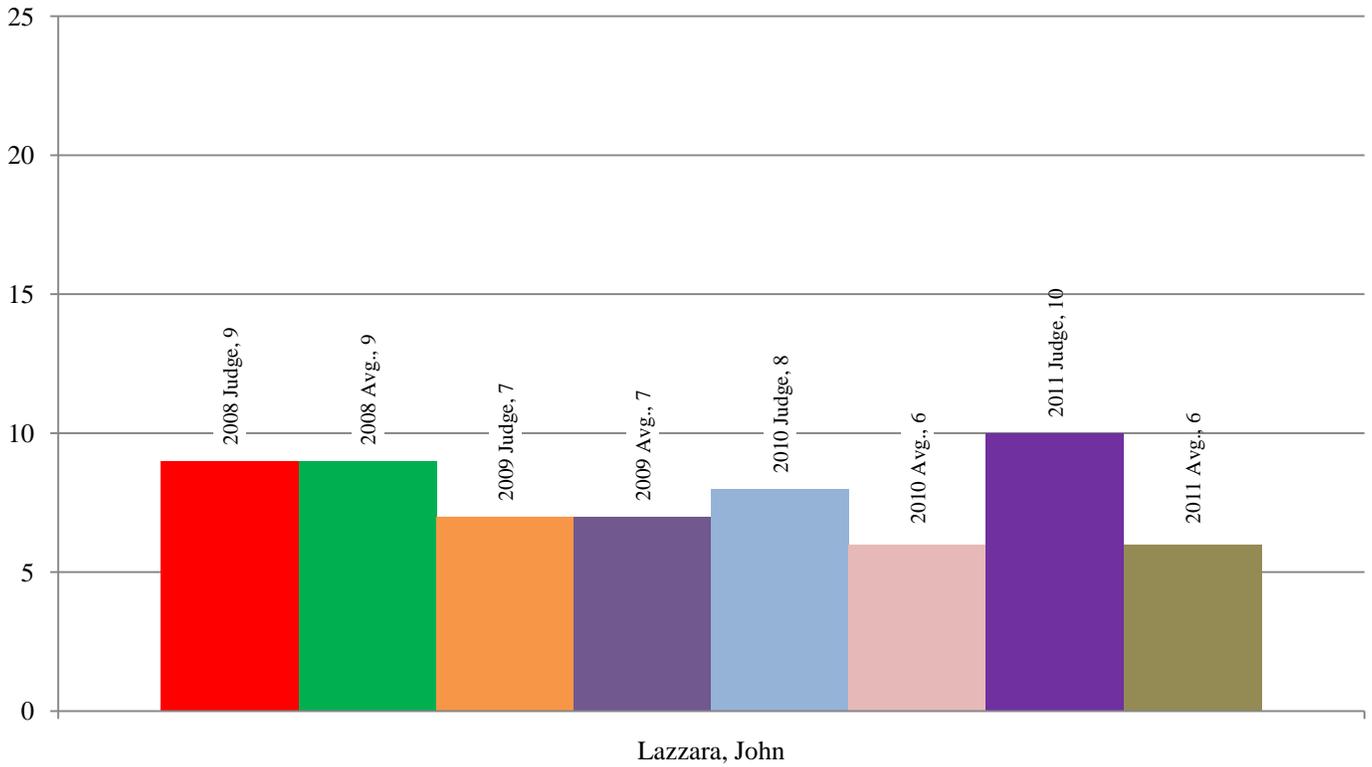
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



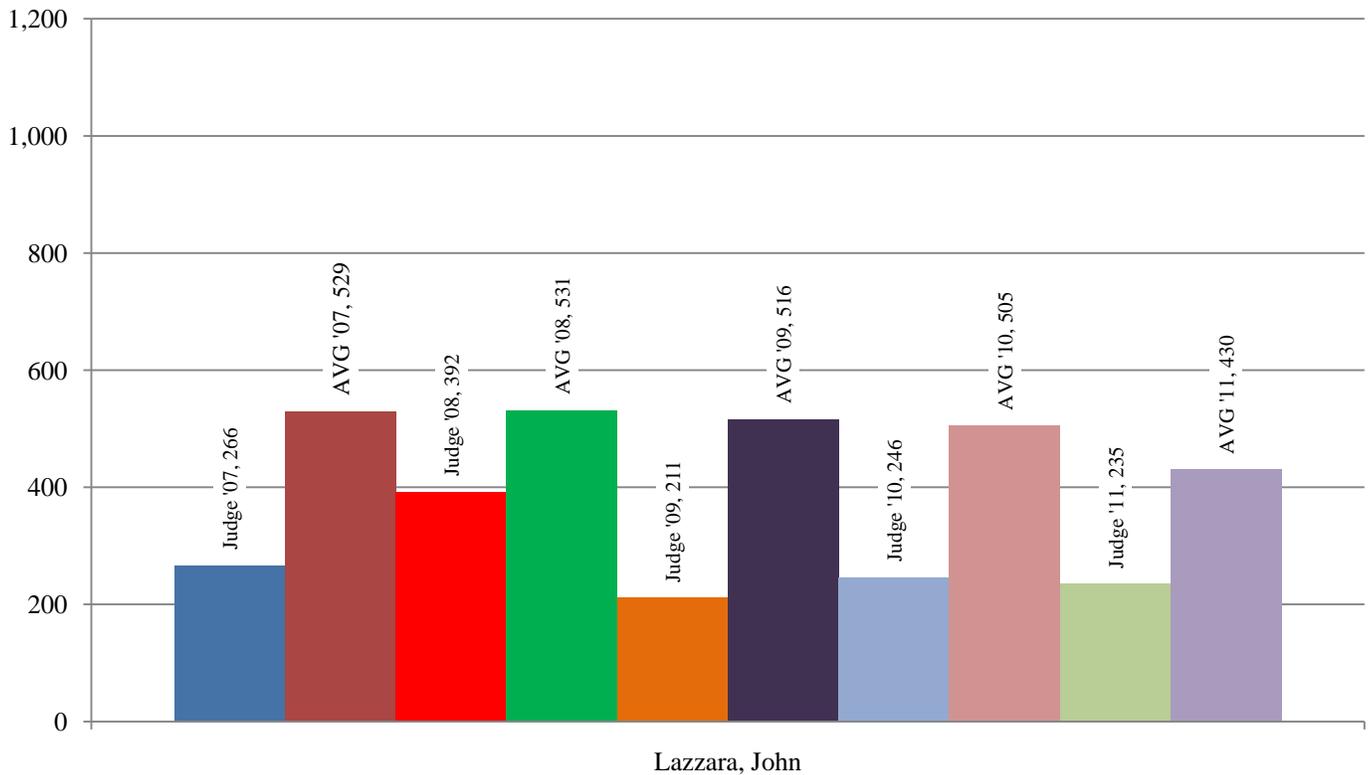
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



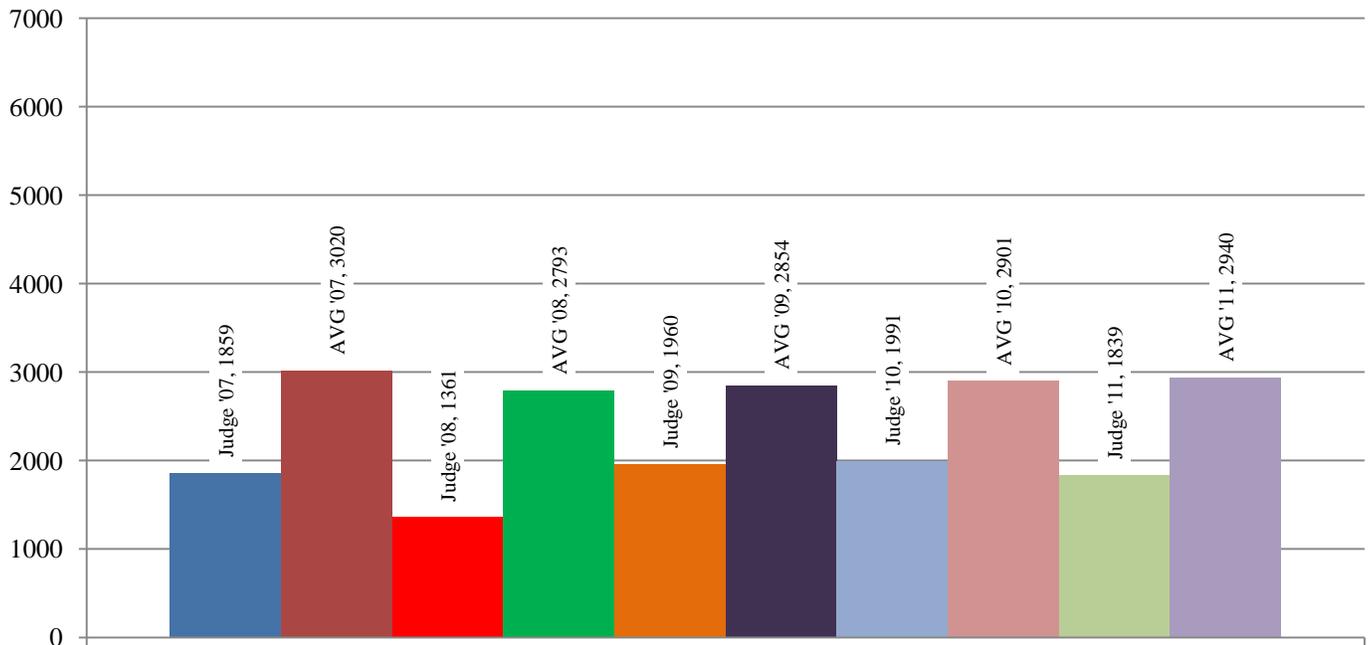
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.

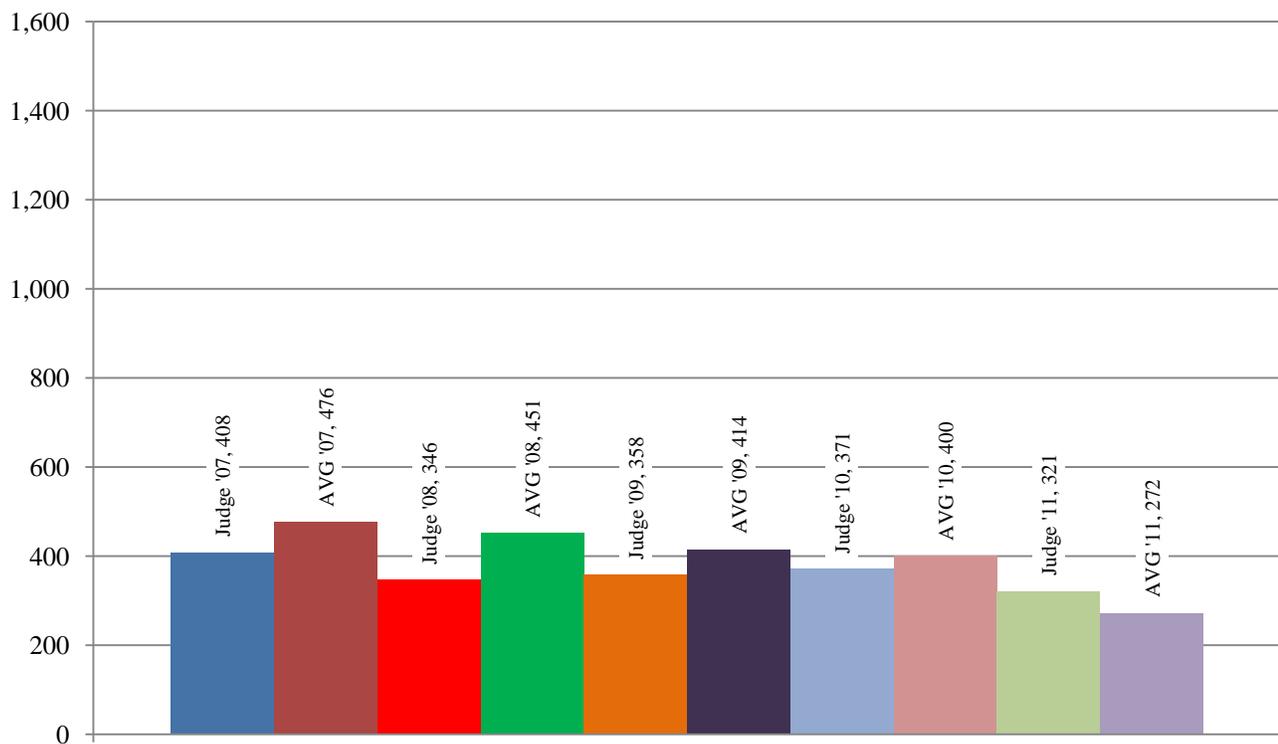


The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



Lazzara, John

The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



Lazzara, John

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 remain below average in TPA again for 2010-11, but new case filing volumes rebounded somewhat. Each of the TPA Judges began accepting “out-of-District” case assignments in 2009-10; Judge Jenkins in District MIA and Judges Lorenzen and Murphy in District LKL. At the end of 2010-11, only Judges Murphy and Lorenzen remain involved in LKL out-of District cases, as the other volunteer Judges’ efforts have all been shifted to District MIA.

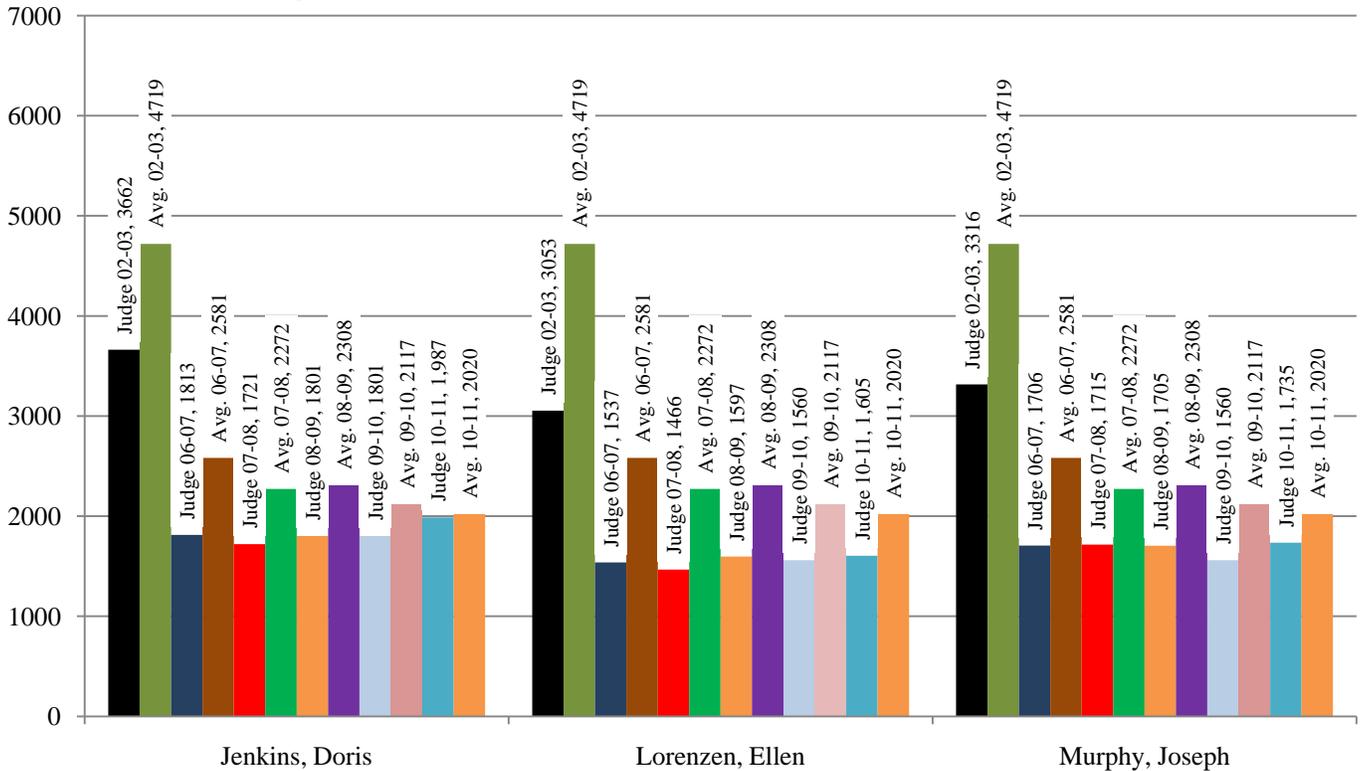
The trial volumes are inconsistent in TPA, with Judge Murphy conducting above the statewide average, Judge Lorenzen conducting slightly below the average and Judge Jenkins conducting well below the statewide average. The TPA District is consistently timely however. All three divisions in District TPA are within the statutory parameters for time PFB to mediation, PFB to trial and trial to Order.

Judge Lorenzen served as President of the National Association of Workers’ Compensation Judiciary in 2010-11.

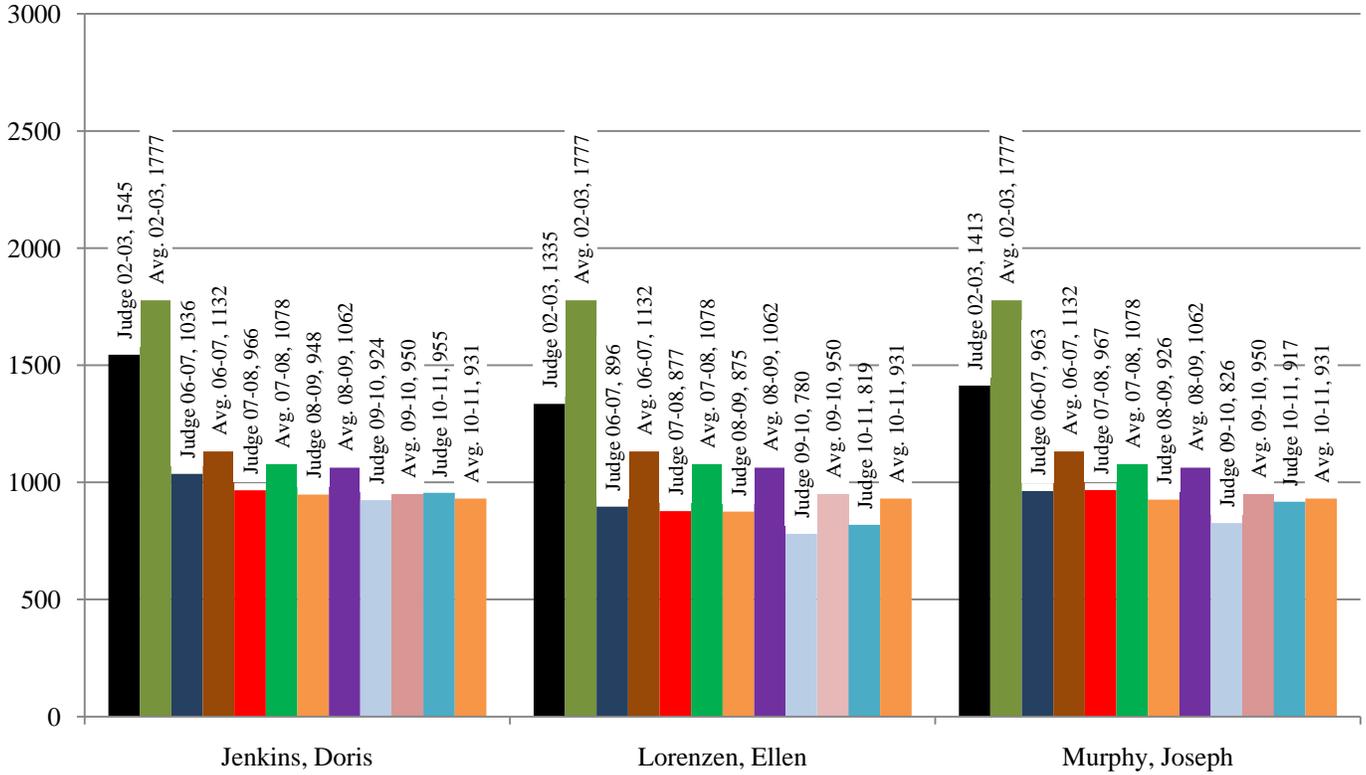
In 2009-10 Judge Murphy was appointed Director Emeritus, Florida Lawyers Assistance, Inc., and he maintained that leadership in 2010-11.

In 2010-11 Judges Jenkins, Lorenzen and Murphy made a presentation at the Hillsborough County Bar Associations Bench Bar Seminar.

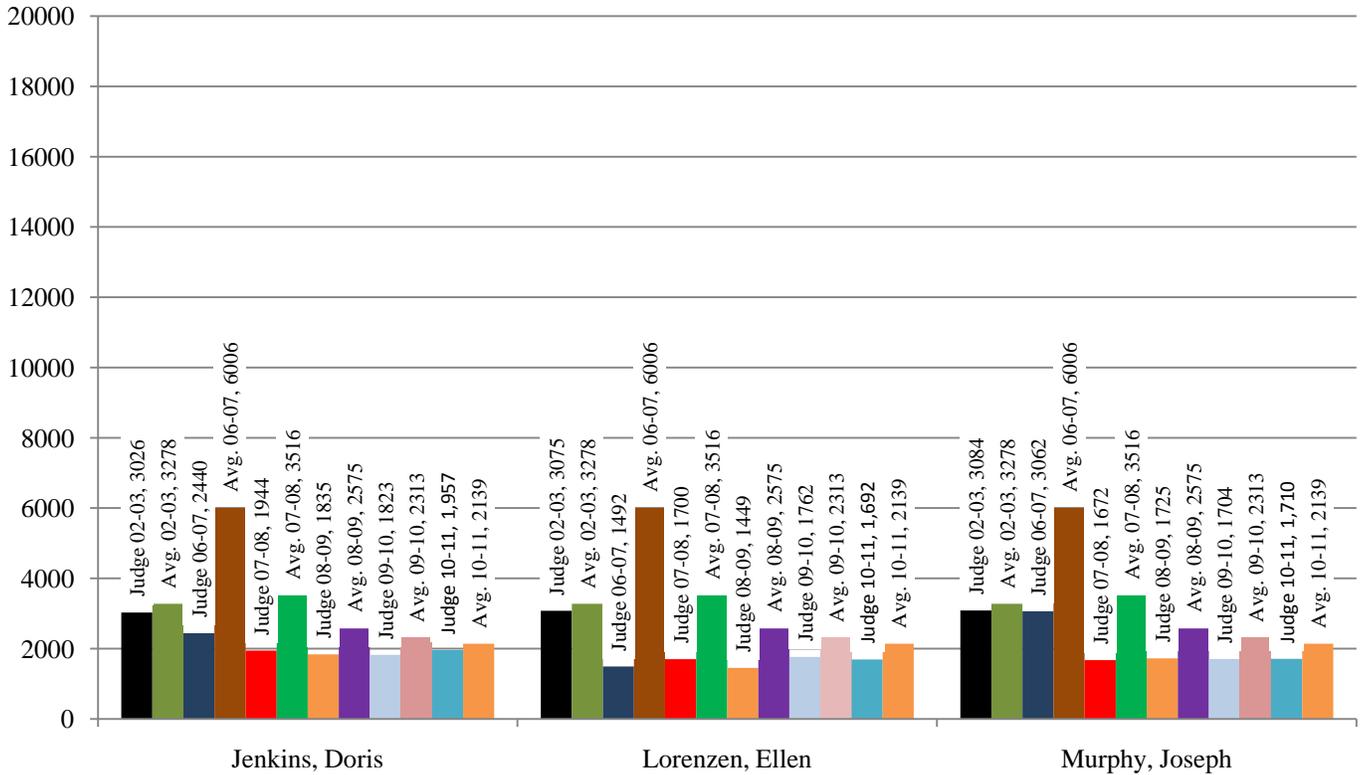
The following depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



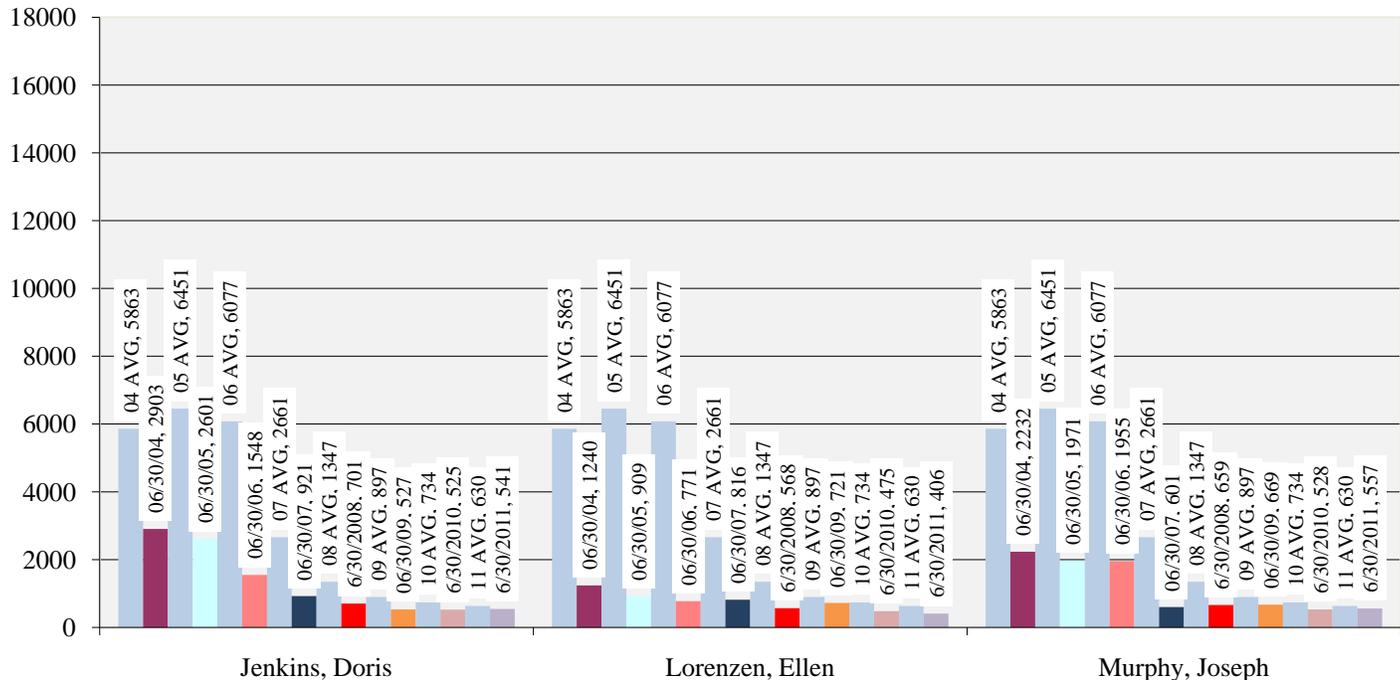
The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



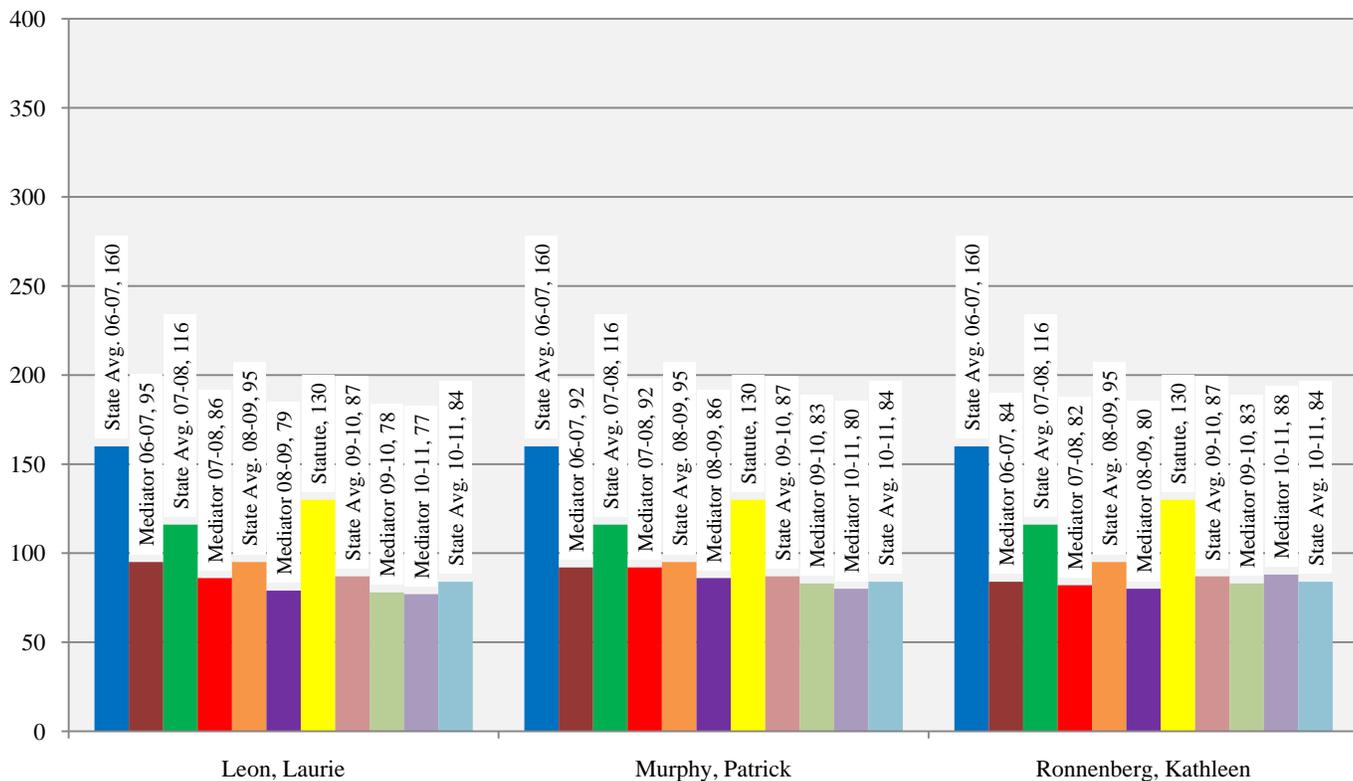
The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



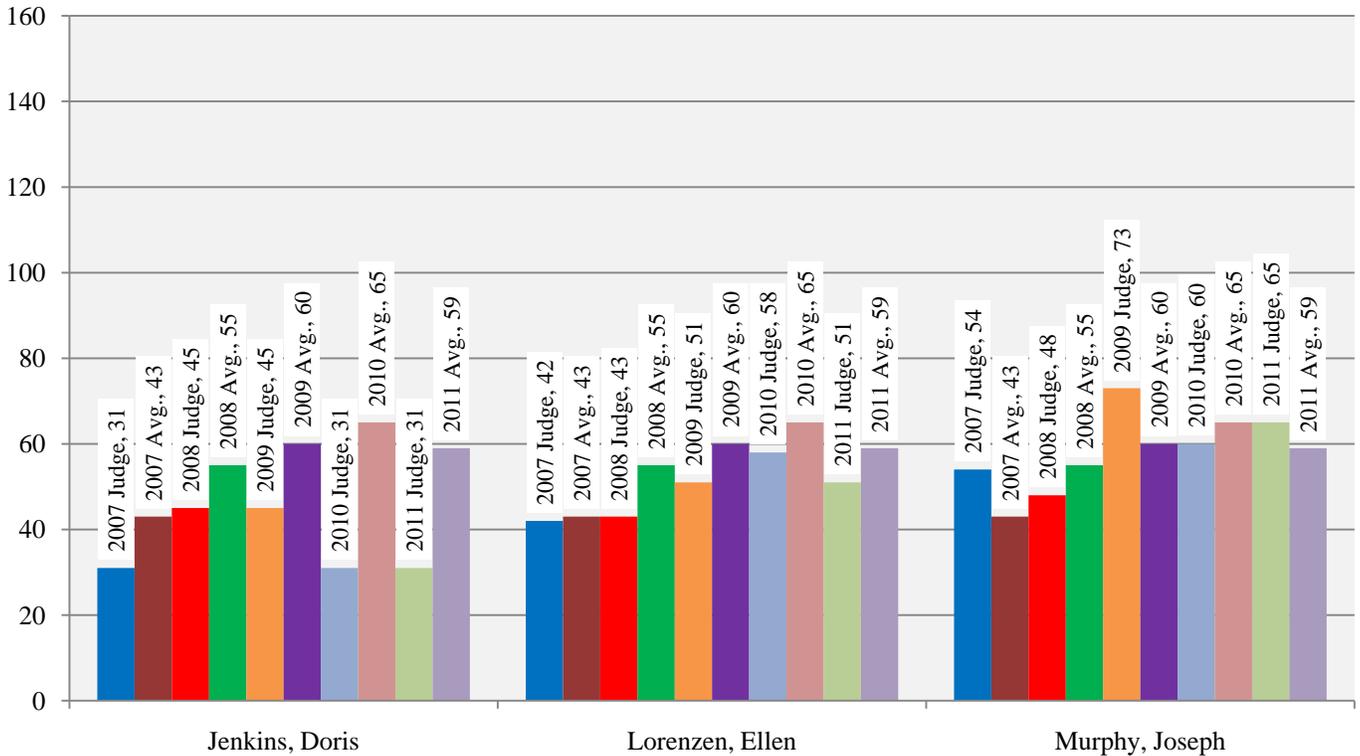
The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



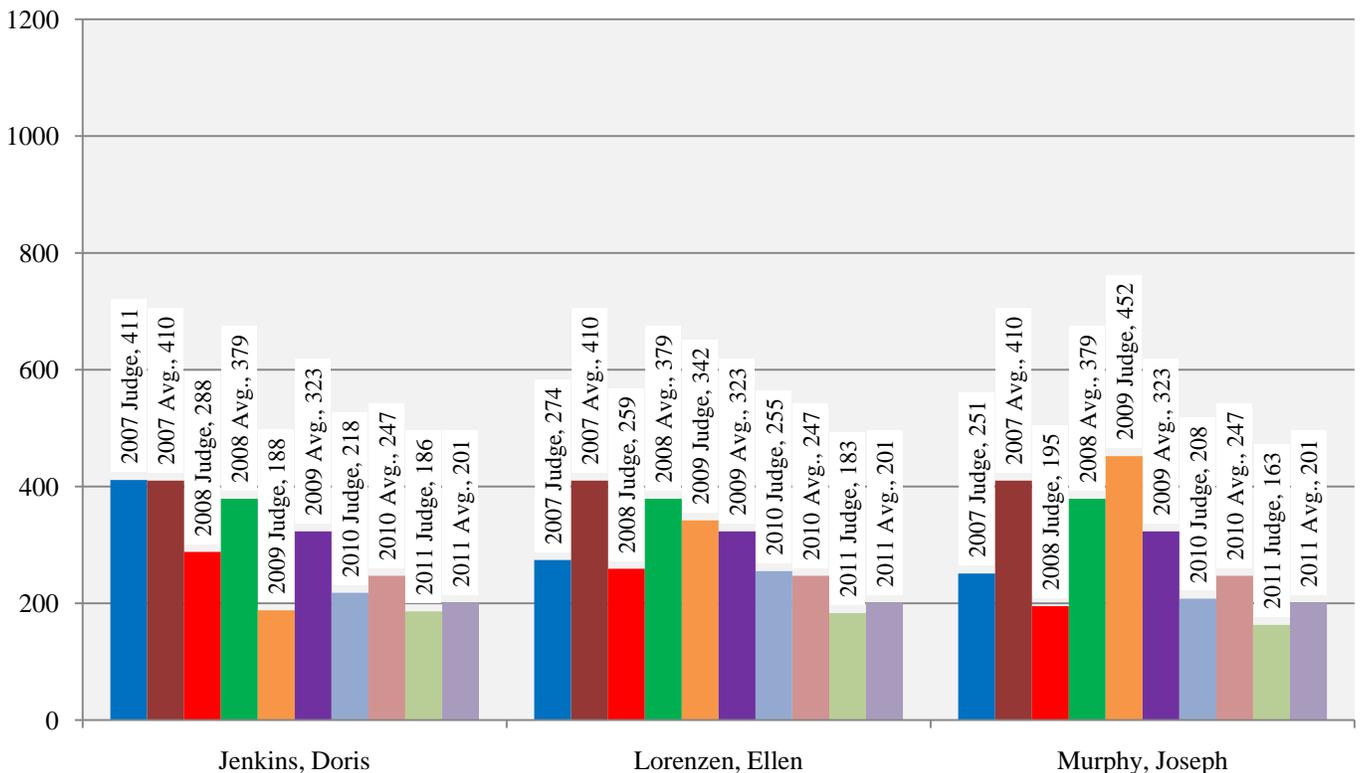
The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.



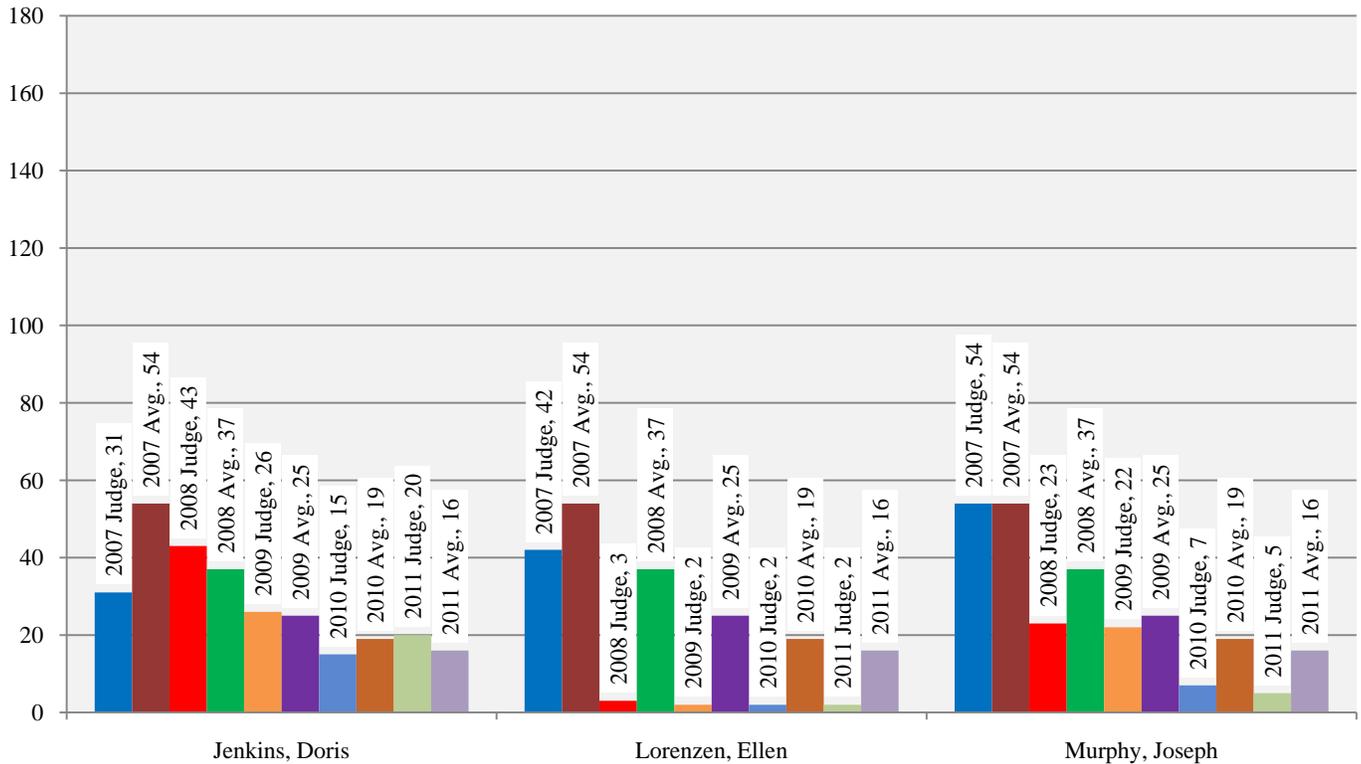
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



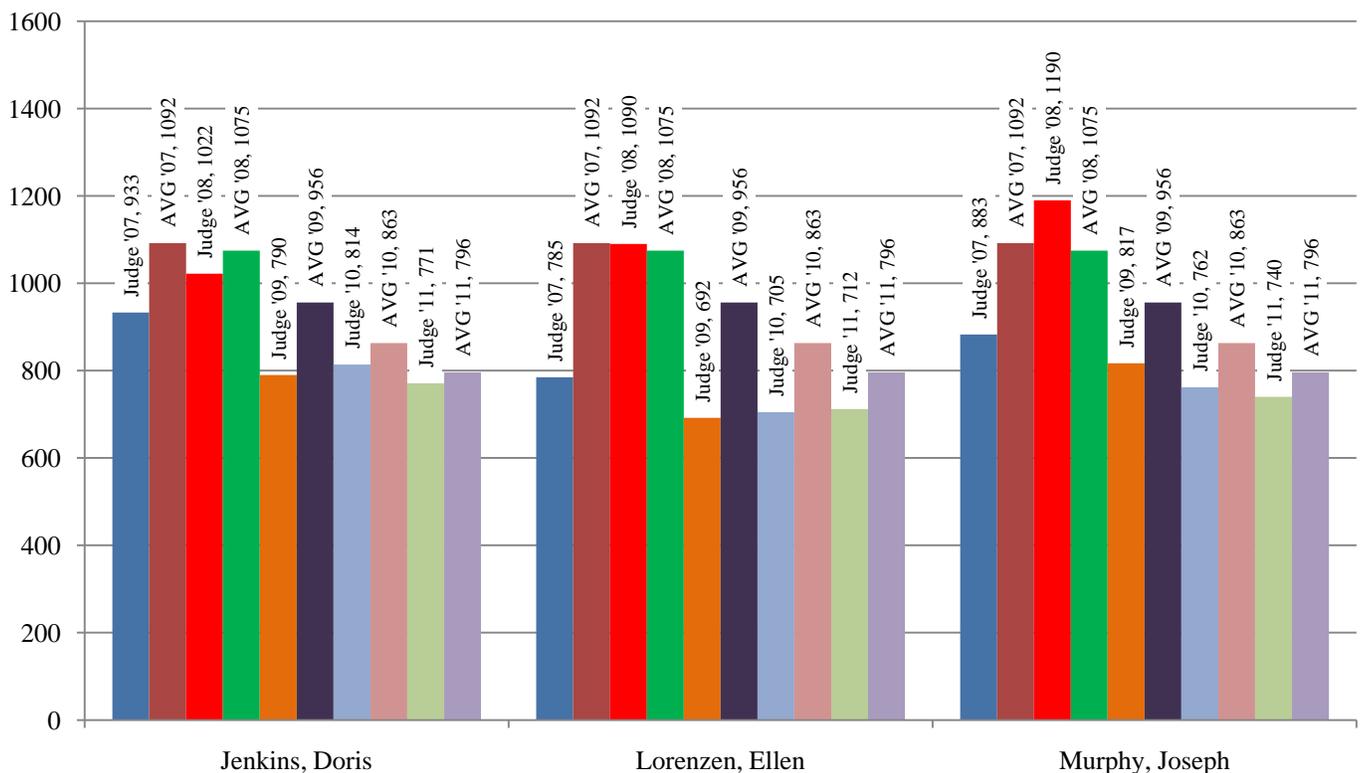
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2010-11. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. The identification for each year and the values are in each column label.



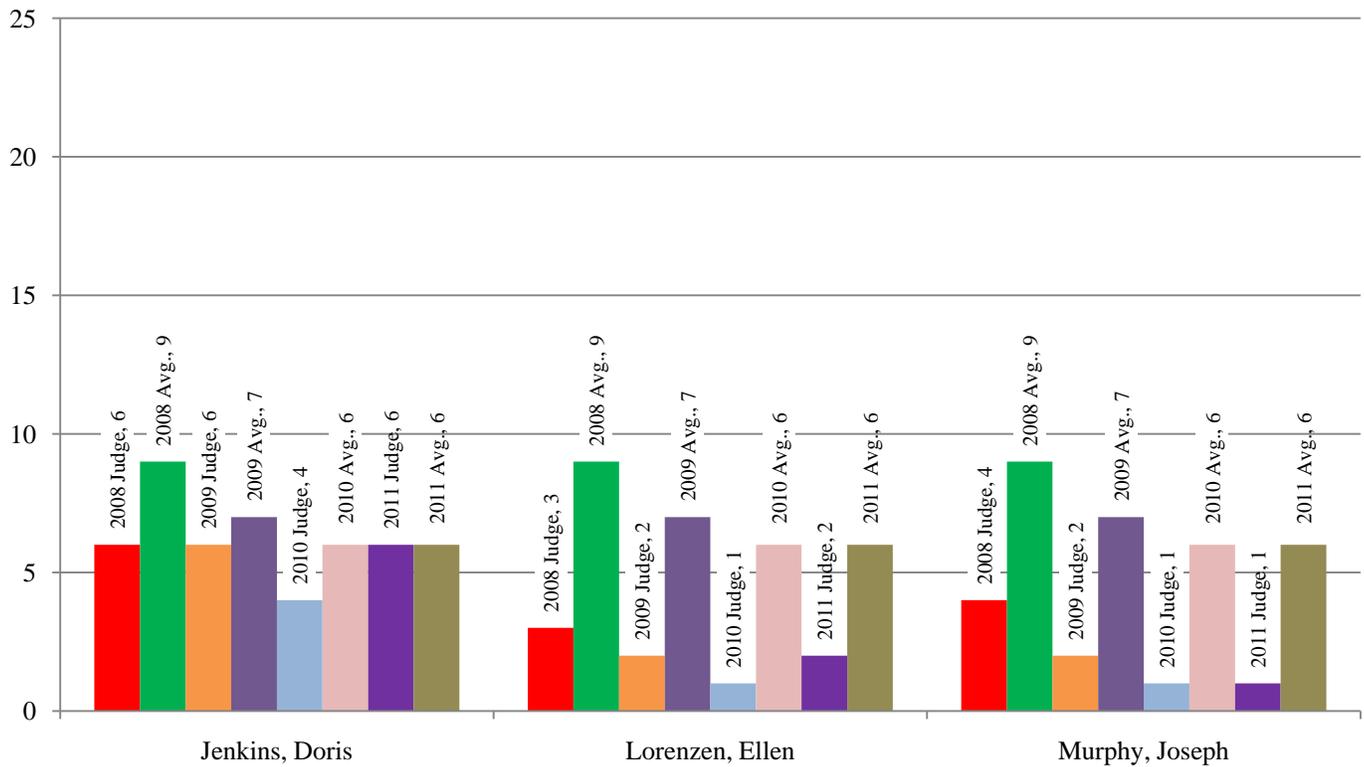
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



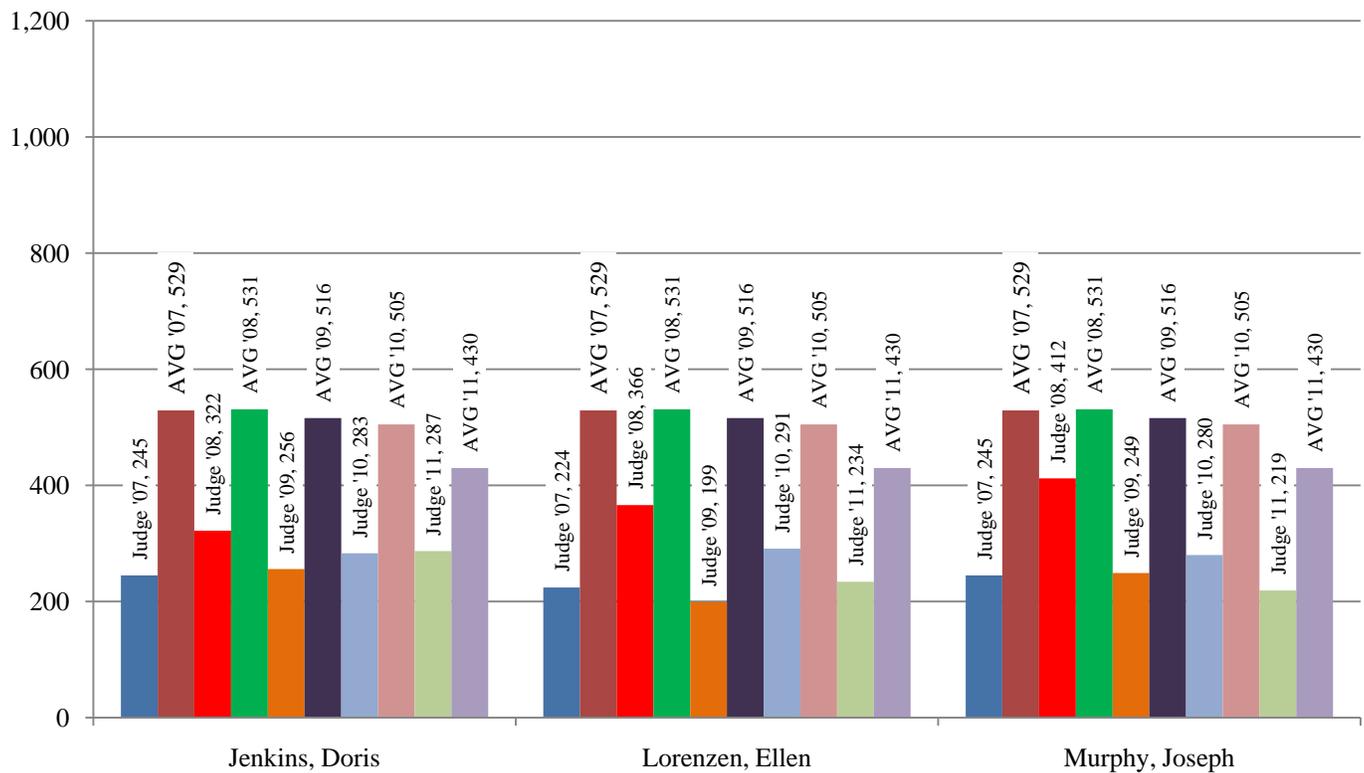
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



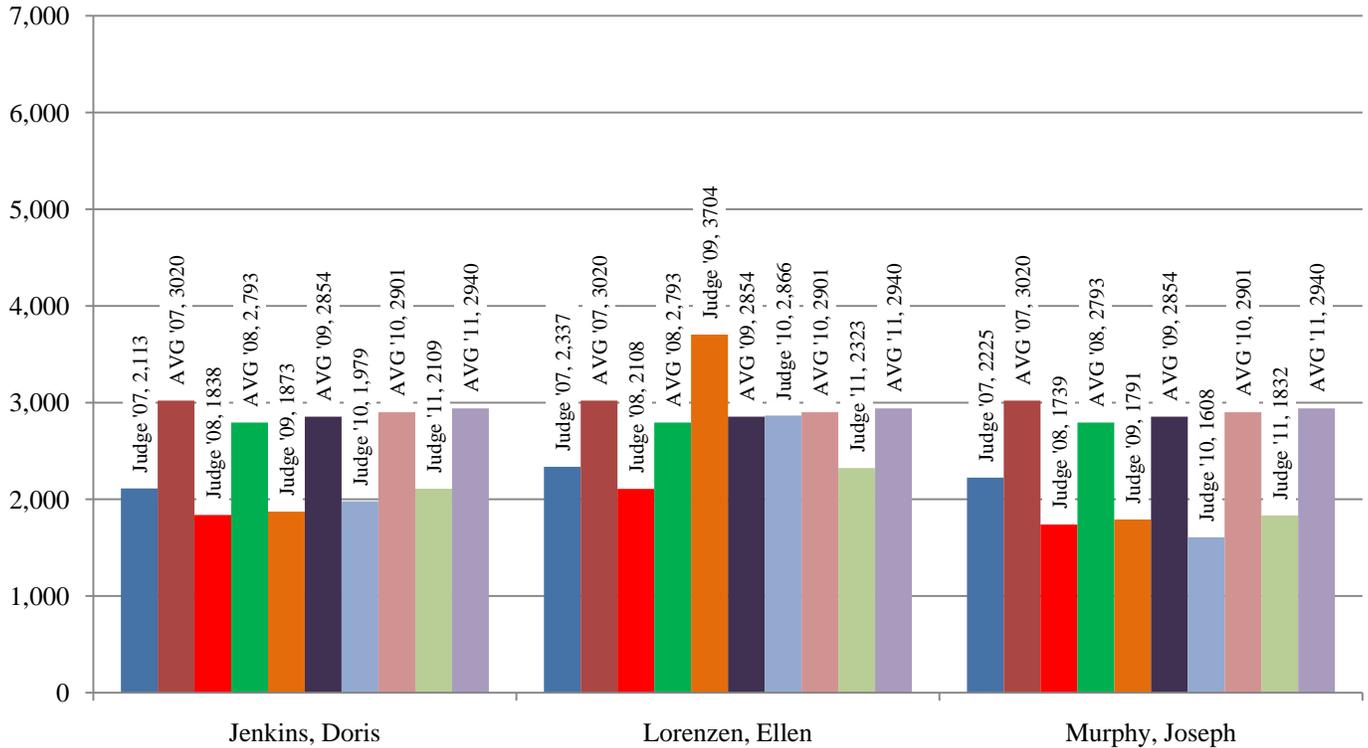
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



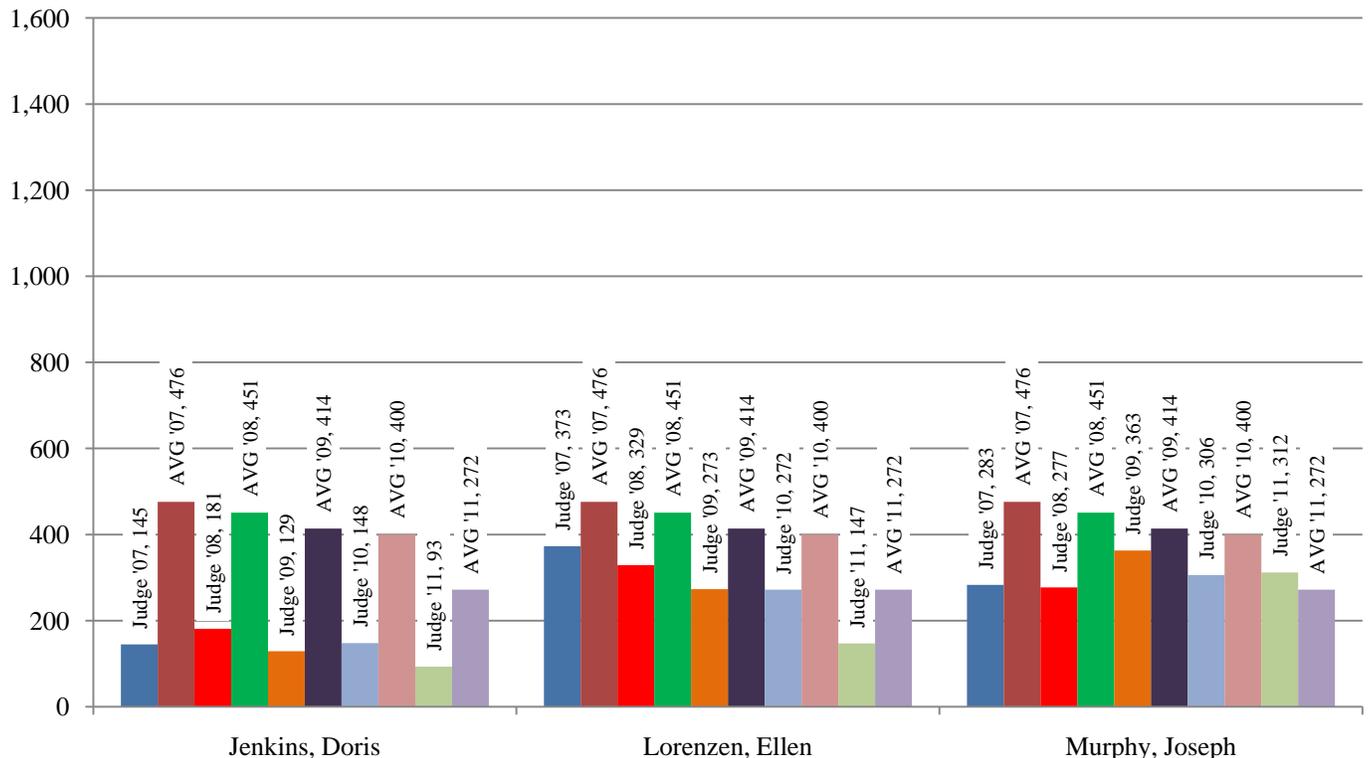
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



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

District WPB includes Glades, Hendry and Palm Beach Counties.

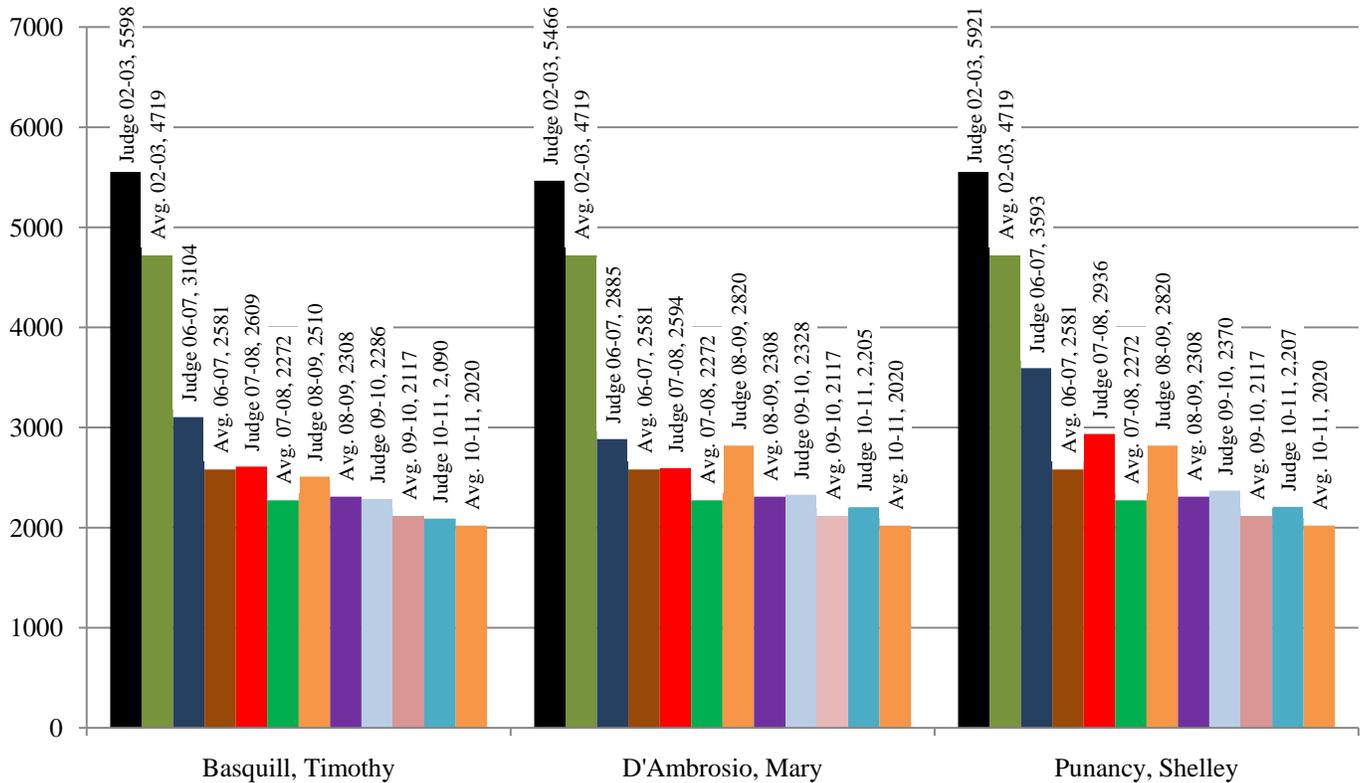
The filing volumes for PFBs in District WPB were above average again in 2010-11. The “new case” volumes remained below average however. Each of these has been reasonably consistent for the recent past. District WPB documented significant volumes of PFB closure in 2006-07, resulting in markedly reduced year-end PFB inventory that year. Since then, closure volume has continued to exceed filing volume generally, and indications are that District WPB continues to move towards an equilibrium point. This is a tribute to sound docket management and apparent significant effort. Overall, trial volume in WPB is consistent with the statewide average.

Trial volumes for all three WPB Judges are close to the statewide average. Judge D’Ambrosio averaged less than the statutory parameter of 210 days from PFB to trial in 2010-11, and the other Judges only barely exceeded that parameter. All three WPB divisions averaged less than the statutory parameter of 130 days between PFB filing and the first mediation.

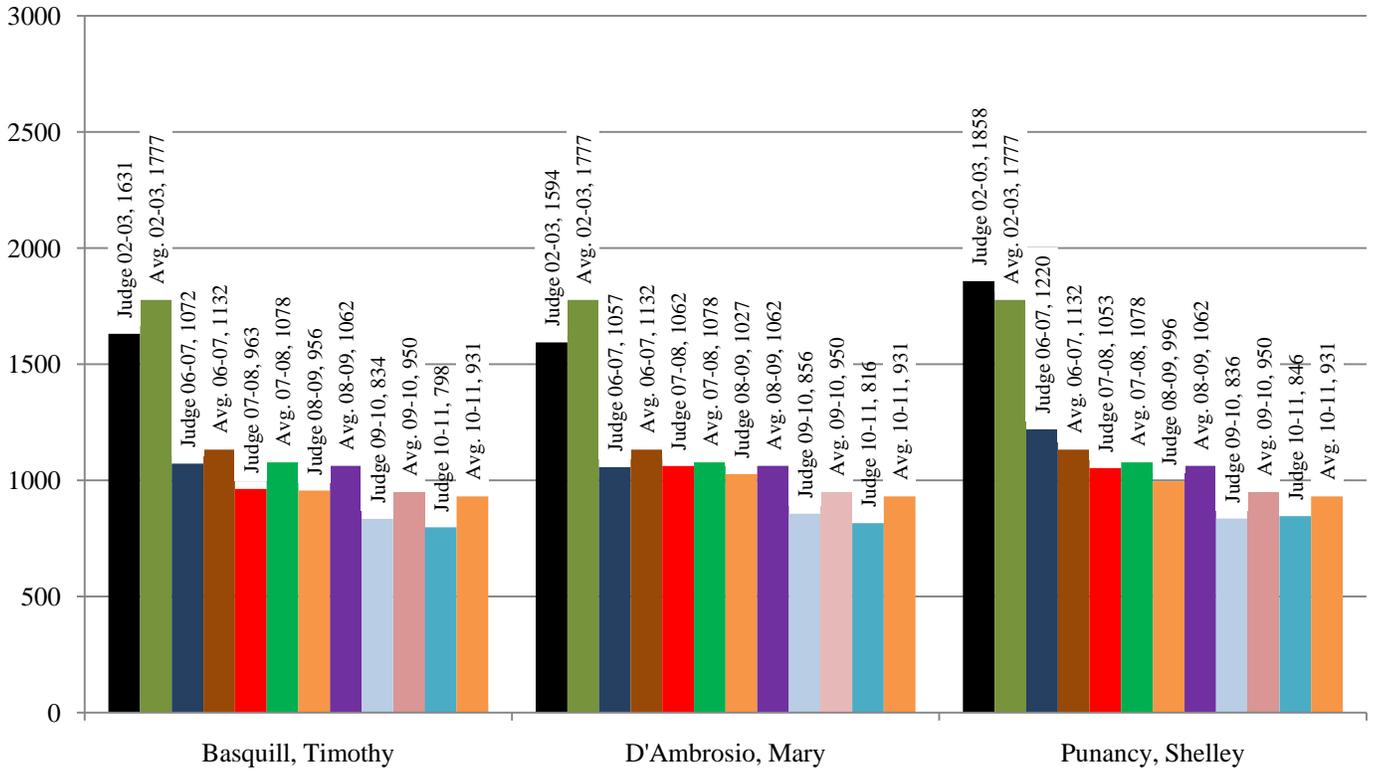
Judge Punancy participated in the WPB annual bench/bar conference. She evaluates applications for Friends of 440 scholarships. In 2010-11 she acted as a Moot Court Judge for trials conducted by students at local schools.

Mediator Langer is a member of the Board of the Florida Mediation Institute, and works with the Friends of 440 Scholarship organization.

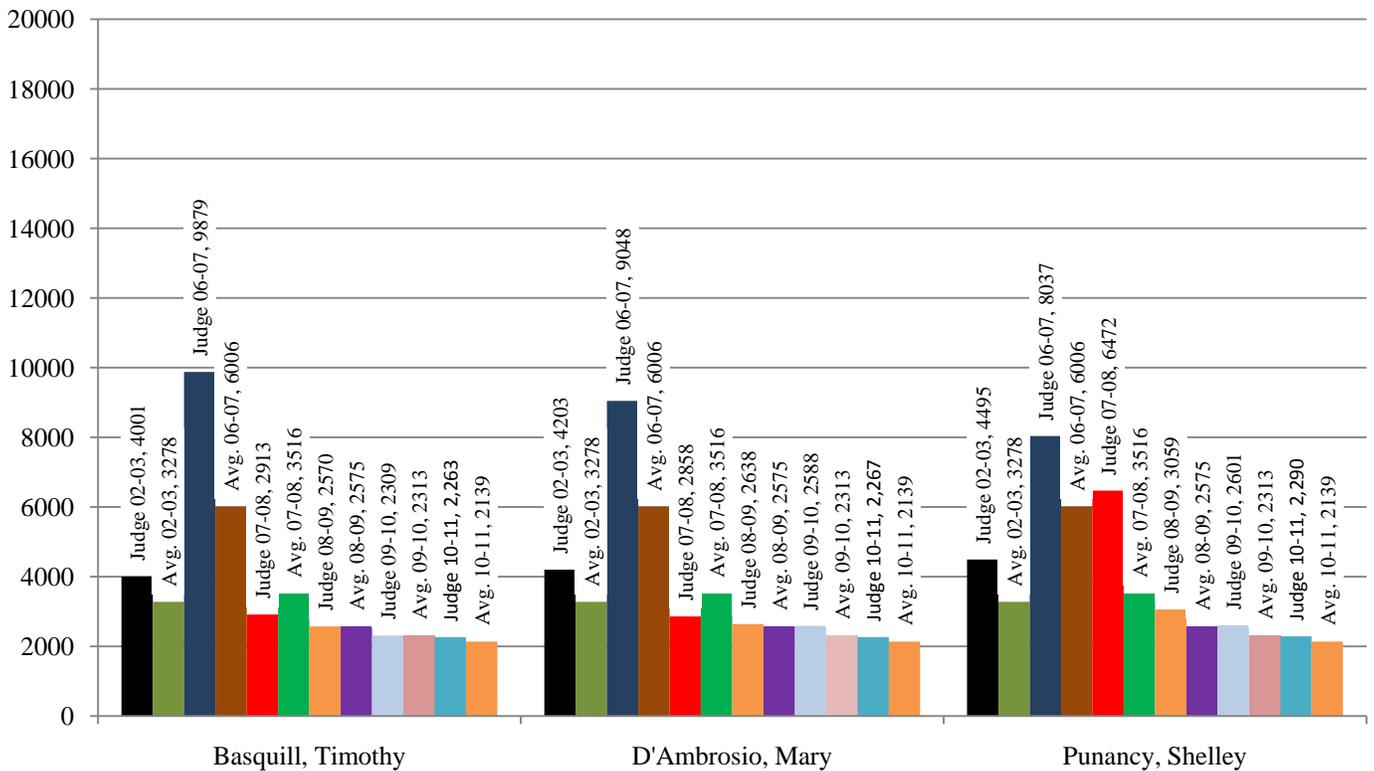
The following depicts the volume of PFBs filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



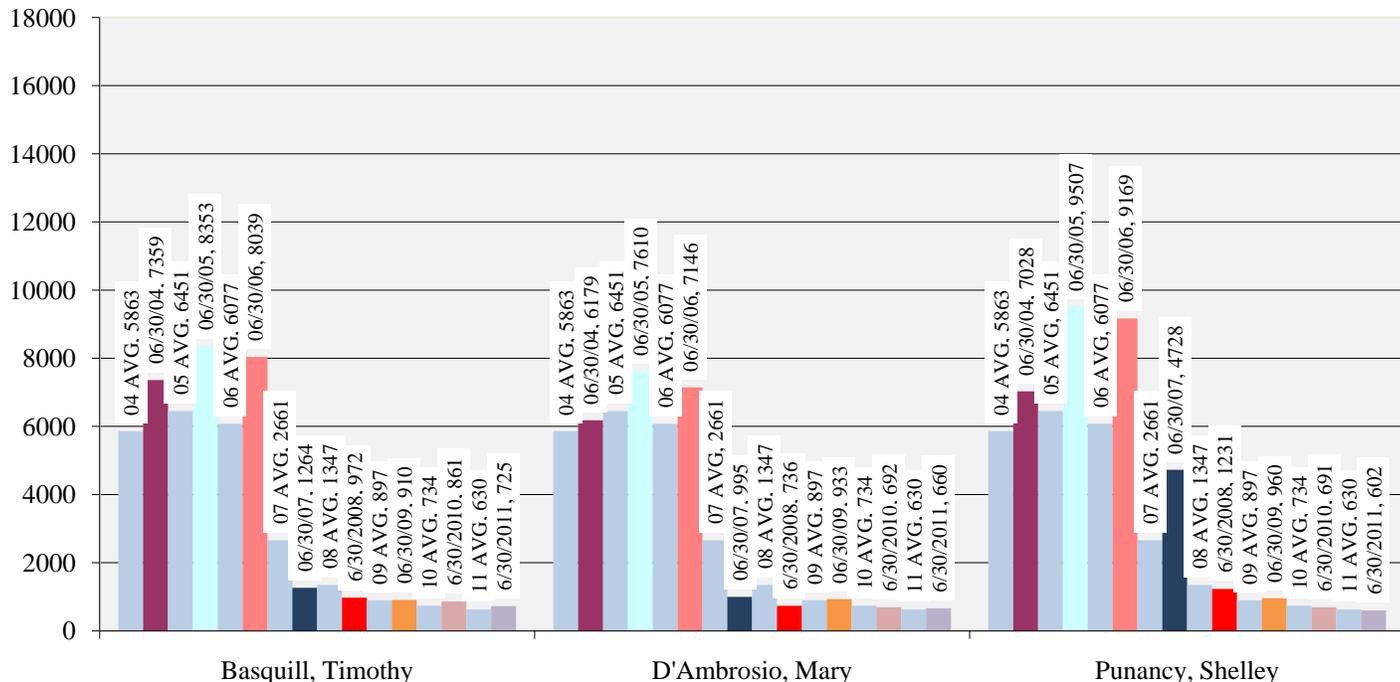
The following depicts the volume of new cases filed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



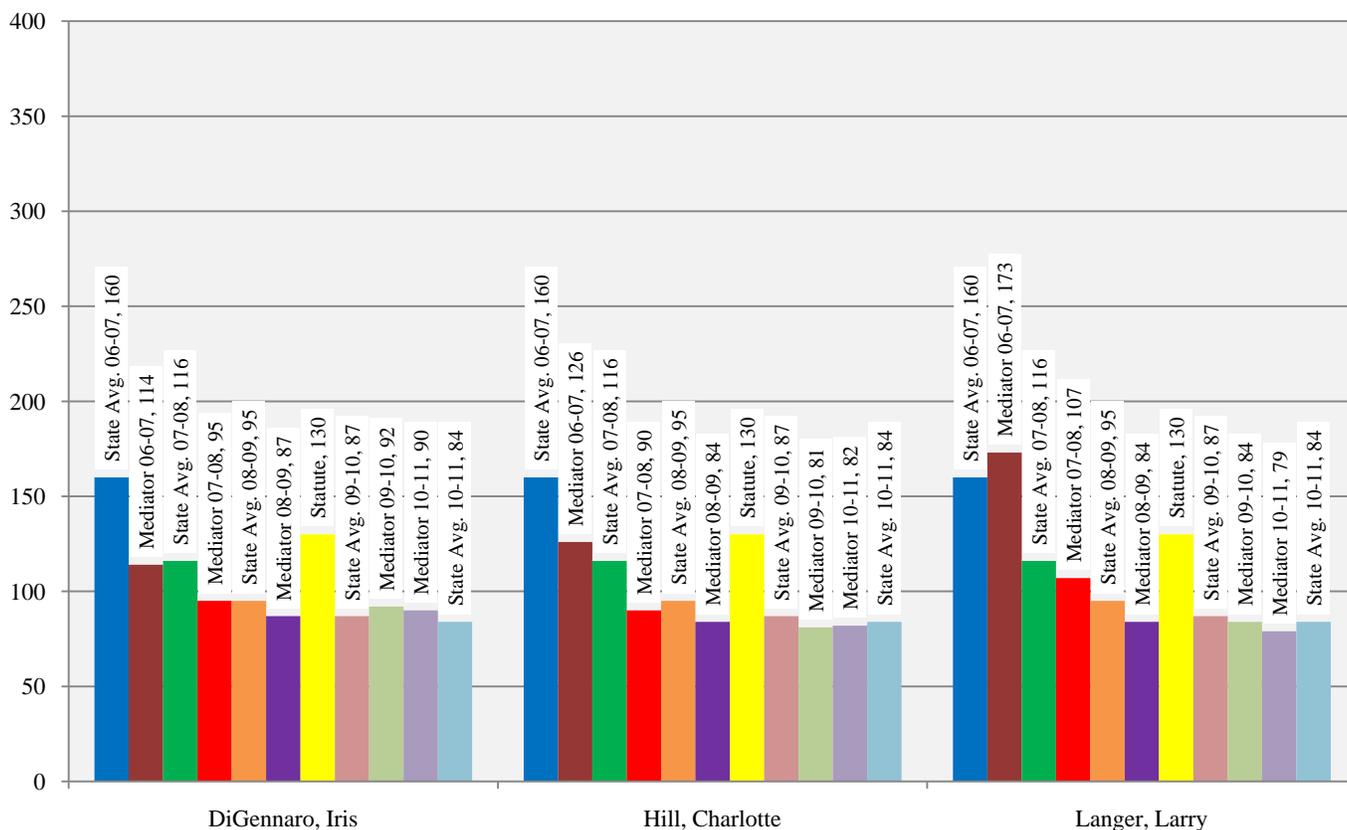
The following depicts the volume of PFBs closed in this District and the statewide average between 2002-03 and 2010-11. The identification for each year and the values are in each column label.



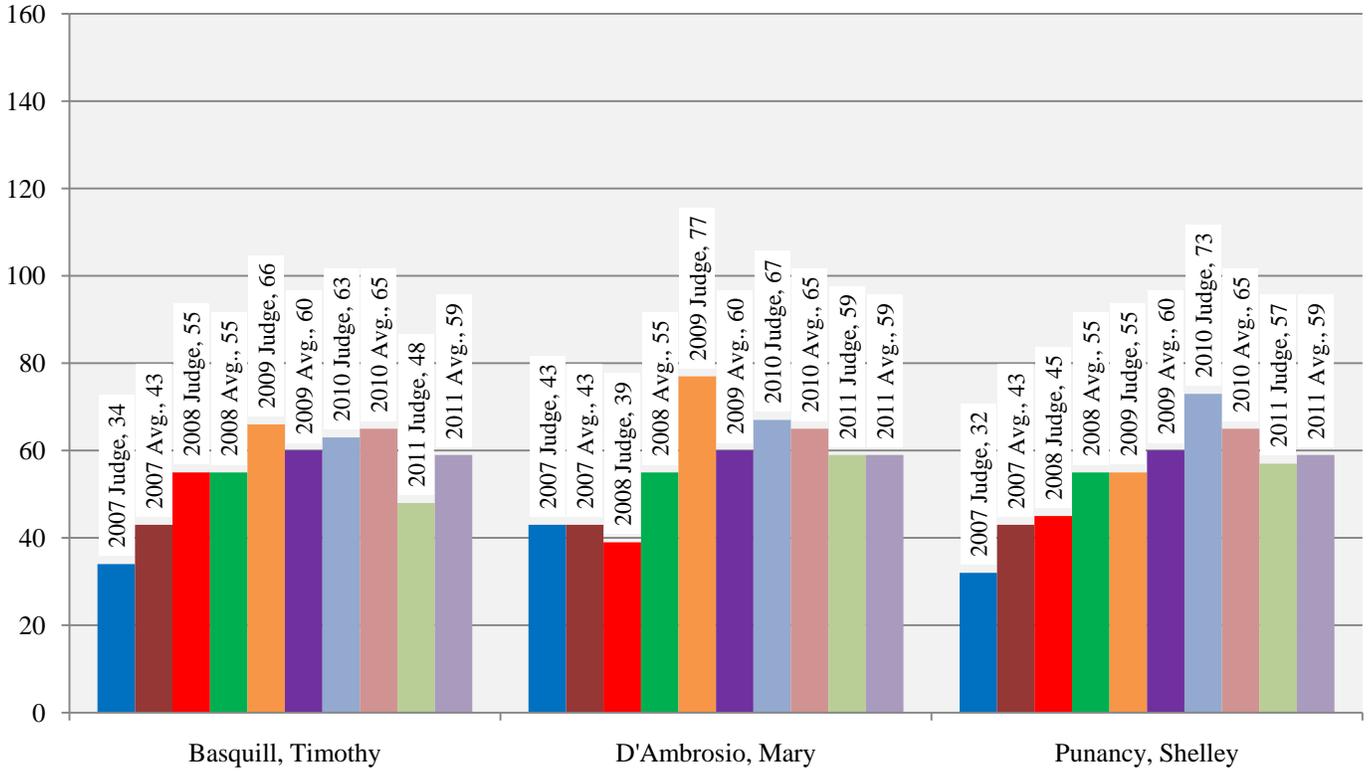
The following depicts the inventory of pending PFBs in this District and the statewide average between 2002-03 and 2010-11. The identification and values for each year are in each column label.



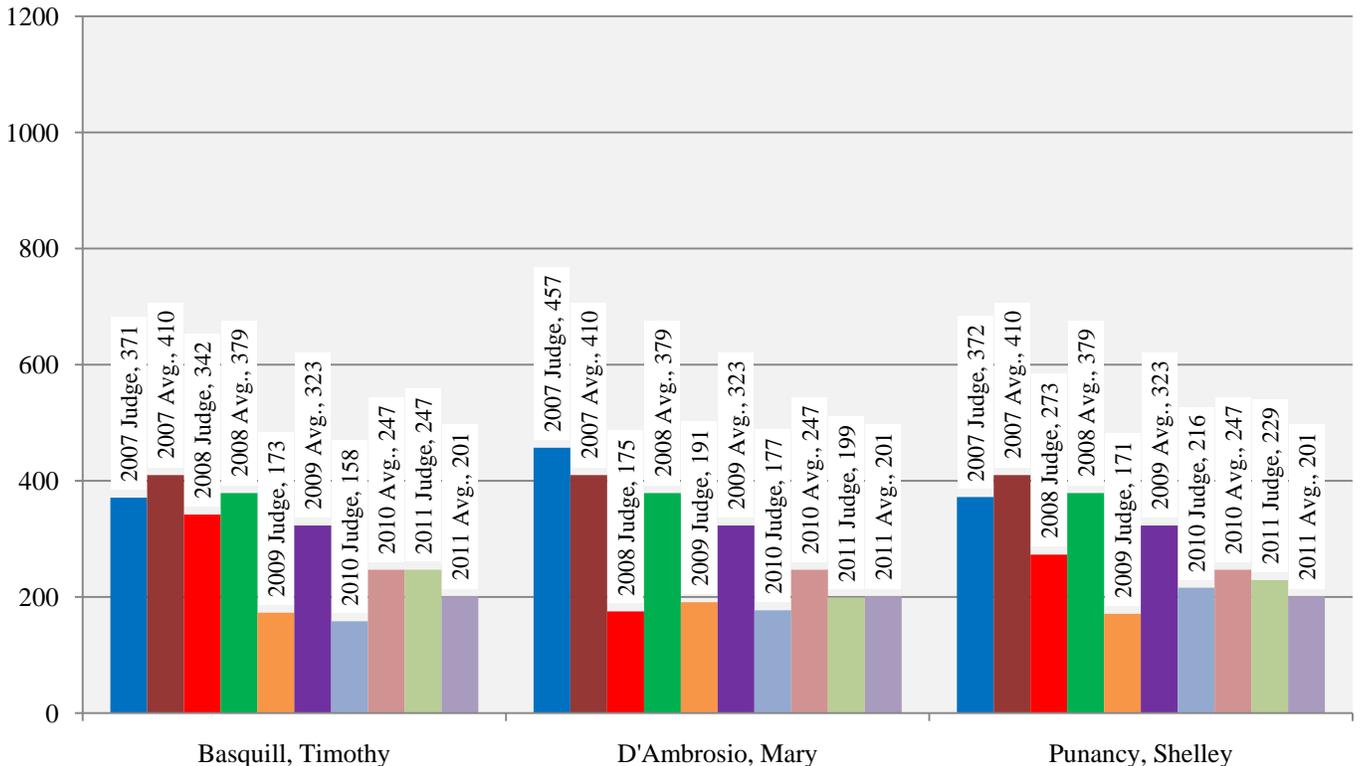
The following depicts the average days between PFB filing and the first mediation held thereon for each mediator in the District between 2002-03 and 2010-11. The identification and values for each year are in each column label. The yellow bar represents the statutory 130 days.



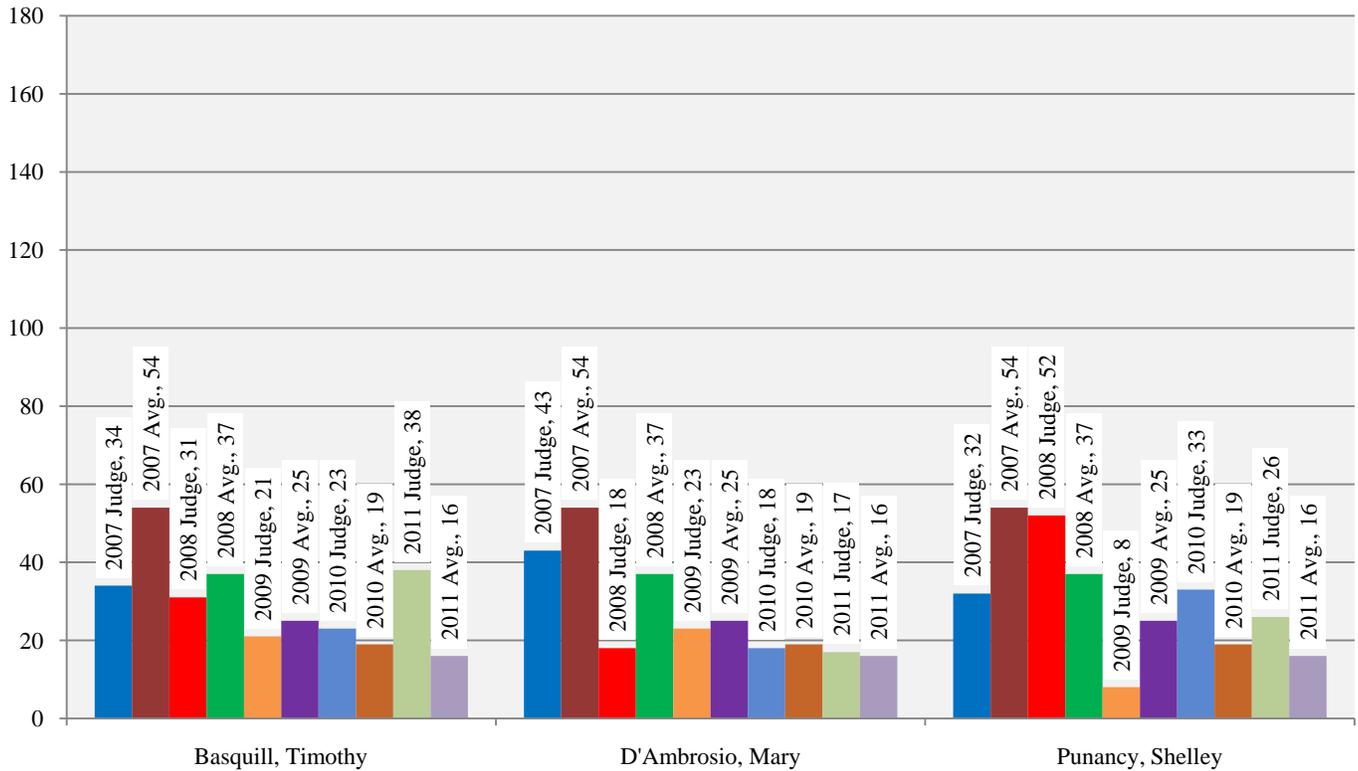
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2010-11. The identification and values for each year are in each column label.



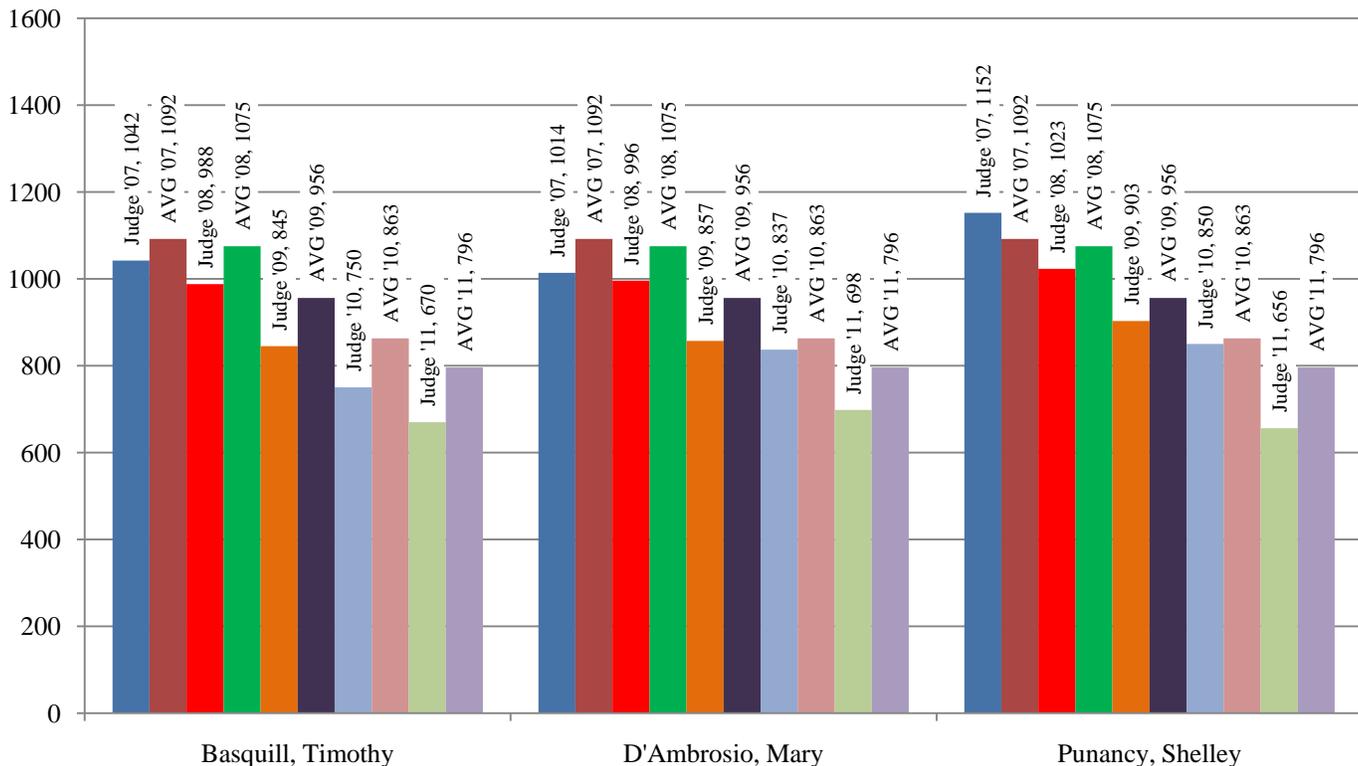
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2010-11. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. The identification for each year and the values are in each column label.



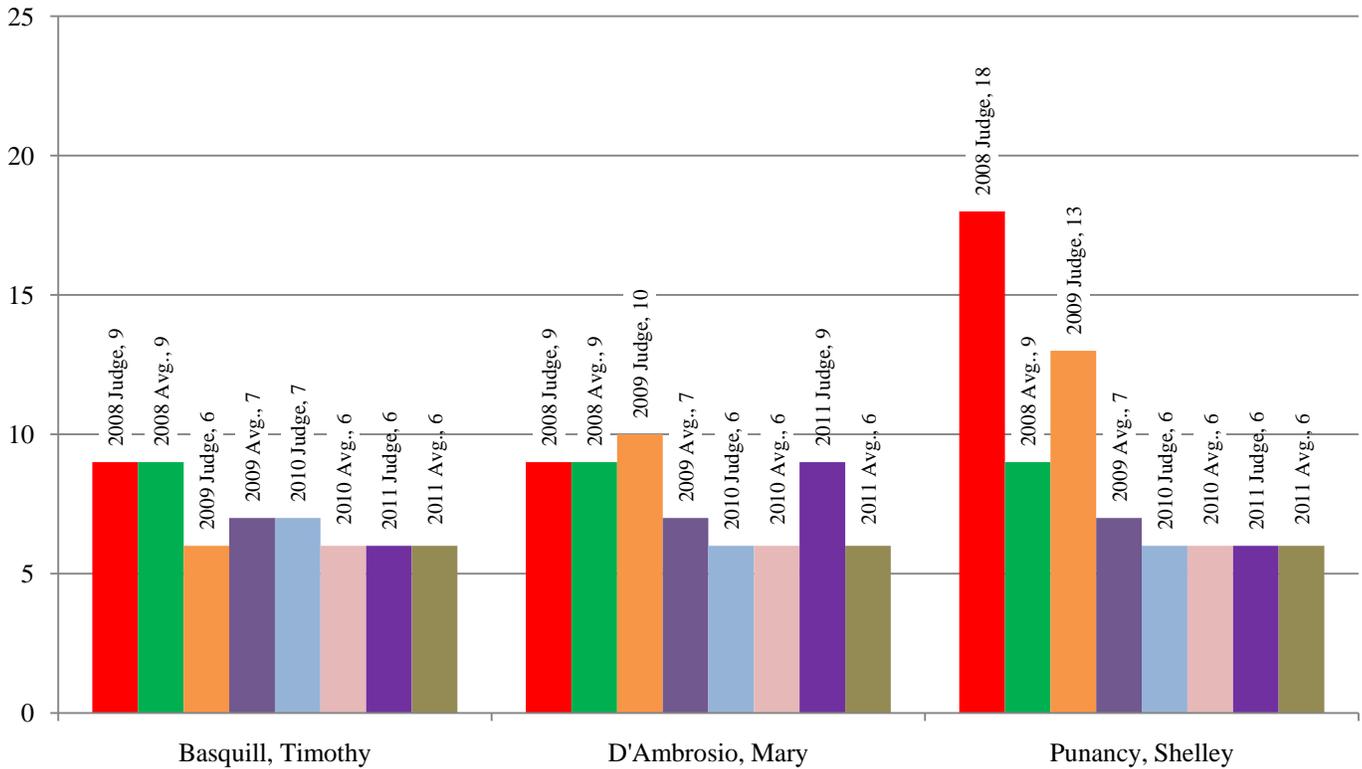
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2010-11. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. The identification for each year and the values are in each column label.



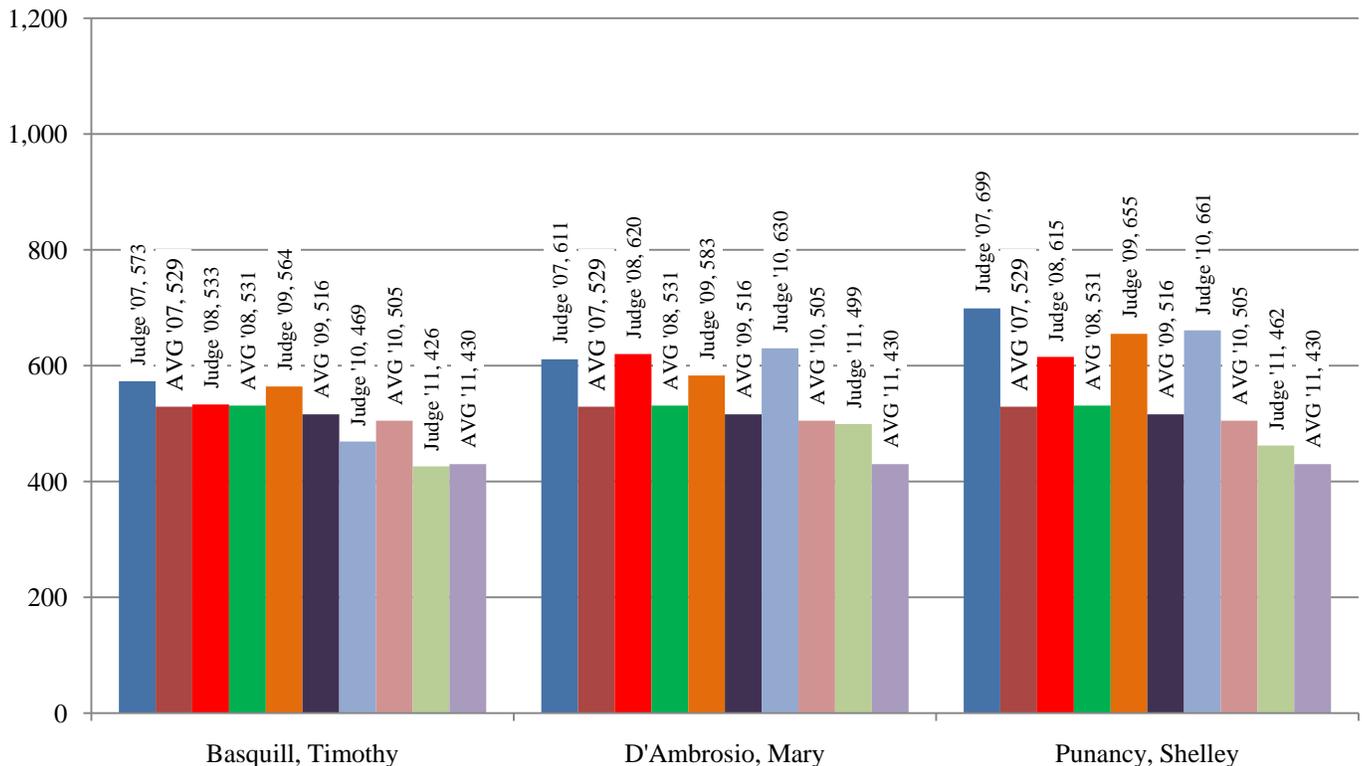
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



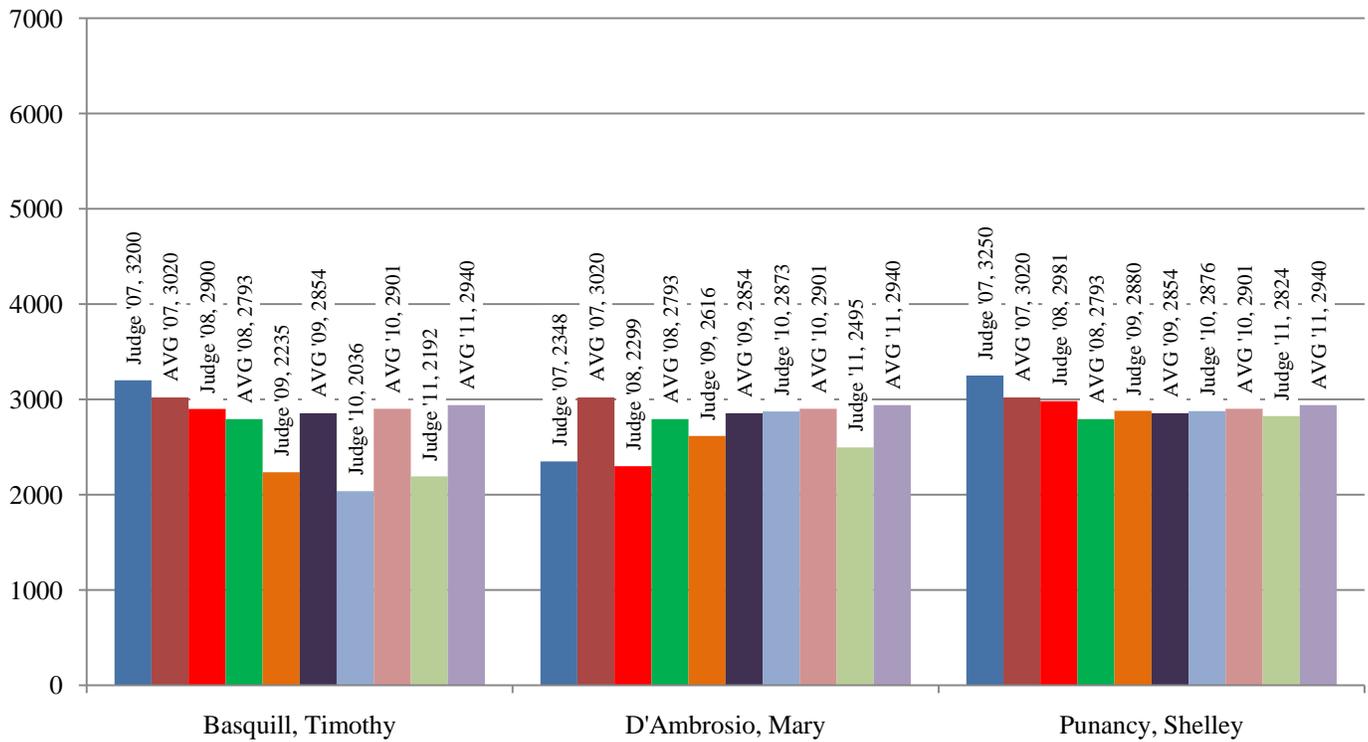
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



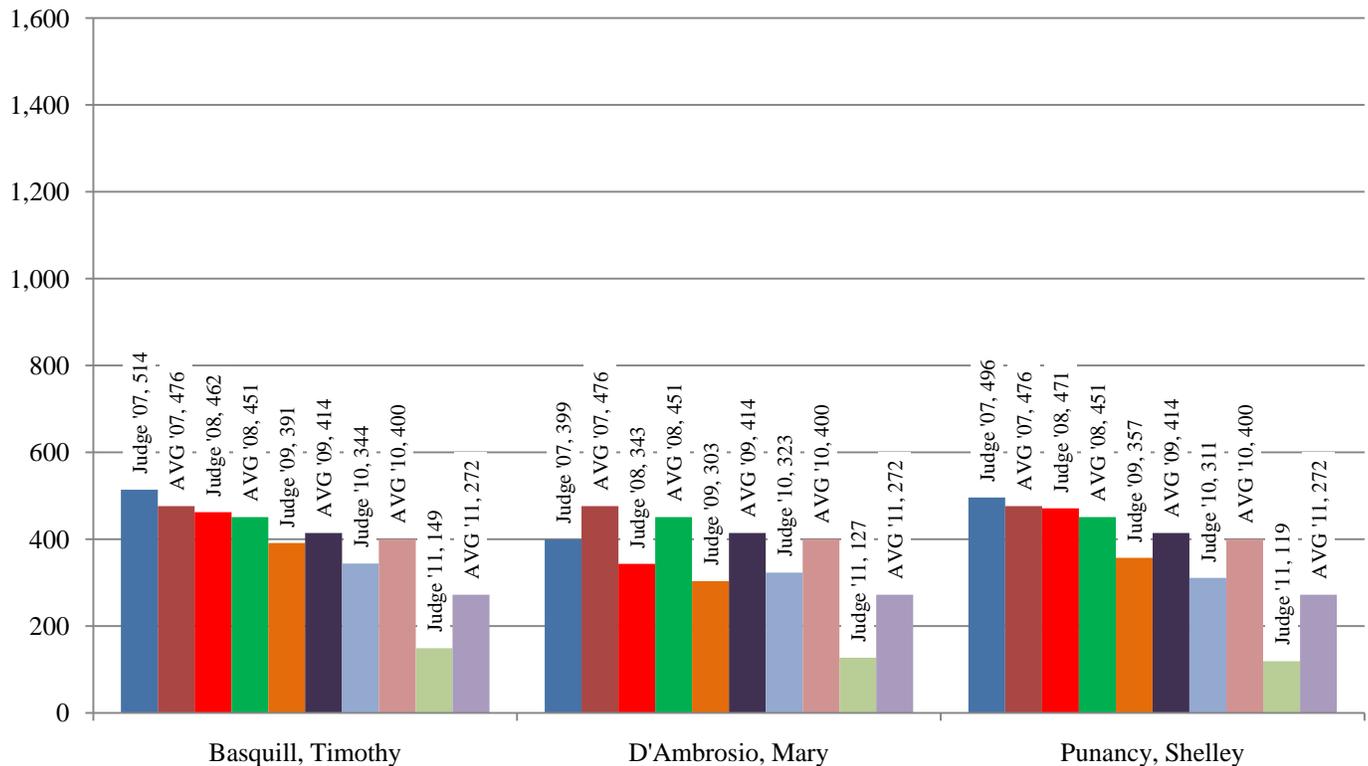
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2006-07 and 2010-11. The identification for each year and the values are in each column label.



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 There are occasions in which a Judge determines that it is not appropriate to hear a case. This may be because of a conflict of interest or some perception of conflict. Instances in which a party requests this, and the Judge agrees, are called “disqualification.” Instances in which a Judge removes themselves, without a parties’ request, are called “recusals.”

³ The Florida Statutes are available online at: <http://www.flsenate.gov/Statutes/>

⁴ 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.

⁵ 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.

⁶ 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).

⁷ 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.

⁸ Early in Fiscal 2011-12, the Supreme Court declined to accept jurisdiction. Kauffman v. Cmty. Inclusions, Inc., 2011 Fla. LEXIS 1768 (Fla. July 27, 2011).

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 PFBs at one mediation is common. Some PFBs are scheduled for expedited final hearing. These PFBs regard issues that are of a moderate financial value (\$5,000.00 or less), and mediation is not required for these PFBs.

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 This example uses the Pinellas county charges published at

<http://clerk.co.pinellas.fl.us/aspinclude2/ASPInclude.asp?pageName=fees.htm#smclaims> and

<http://clerk.co.pinellas.fl.us/aspinclude2/ASPInclude.asp?pageName=fees.htm#circcivil>

¹⁴ This litigation system will be “in equilibrium” when the annual input (PFB filed) and the annual output (PFB closed) are equal. In 2010-11 the output (68,545) exceeded in put (64,679) by approximately six percent (.059%).

¹⁵ The aggregate cost of salary, taxes and benefits for 32 state mediators was \$3,112,736.65. This figure divided by the 17,896 mediations conducted yield the cost per mediation of \$173.93. 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 Published on the OJCC website, www.fljcc.org; hyperlink <http://www.fljcc.org/jcc/files/reports/2011SR-MSR.pdf>.

¹⁸ 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.

19 Aguilar v. Kohl's Dep't Stores, Inc., 36 Fla.L.W D 1863 (Fla. 1st DCA 2011); Punsky v. Clay County Bd. of County Comm'rs, 60 So.3d 1088 (Fla. 1st DCA 2011); F.A. Richard & Assocs. v. Fernandez, 975 So.2d 1224 (Fla. 1st DCA 2008); Hernandez v. Manatee County Gov't, 50 So.3d 57 (Fla. 1st DCA 2010).

20 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."

21 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."

22 New York State Workers' Compensation Board Chairman Robert Beloten created a committee in October 2010 to make inquiry into this subject. As this report is finalized, that committee has met once, and remains discordant as to their mission and their focus according to workcompcentral.com (First Meeting of Attorney Fee Panel Called 'Free Fall,' workcompcentral.com, November 10, 2010).

23 Until recently, 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." The revisions of the OJCC procedural rules effective October 31, 2010 altered that requirement to require reporting no later than September 1 of each year. The publication of this report was significantly delayed by the failure of multiple carriers to report as required.

24 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.

25 See, *Workers' Compensation in Florida 1935-1995, The history, people and politics*. Creston Nelson-Morrill, Florida Workers' Compensation Institute Press.

26 Id.

27 Thirty-four Judges of Compensation Claims entered final orders in fiscal 2010-11. This was due to change in St. Petersburg with the retirement of Judge Hafner, and in Jacksonville with the departure of Judge Rosen to replace her in St. Petersburg and the departure of Judge Pitts from Jacksonville to replace Judge Farrell (deceased) in Orlando.

28 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.

29 The 30-day parameter applies by definition to the entry of final orders on PFBs. 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.

30 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).

31 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."

32 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."

33 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."

34 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."

35 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."

36 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."

37 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."

38 <http://www.fljcc.org/jcc/files/reports/2011SR-MSR.pdf>

39 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."