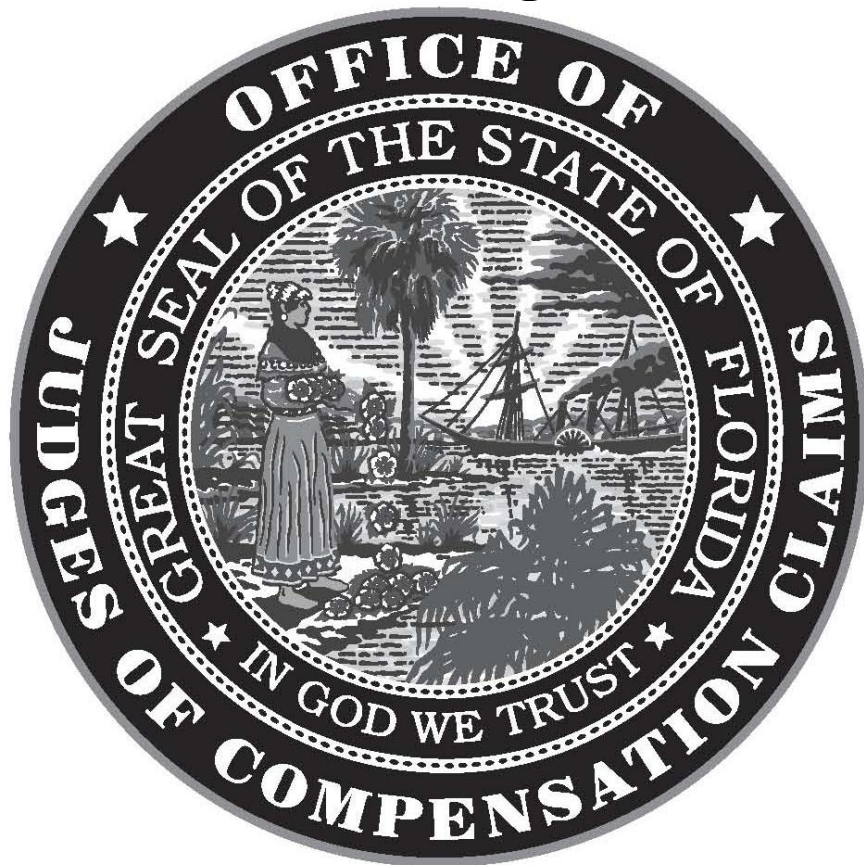


STATE OF FLORIDA

Division of Administrative Hearings



2013-2014 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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| Total e-filed documents | 521,205 (increase of 4% from 2012-13) | |
| Total user savings to date | \$2,089,361 | |
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| Petition Replication and Duplication | (3.3%, increased from 2.2% in 2012-13) | 14 |
| Pro se Cases | (10.51%, decreased from 10.94%, in 2012-13) | 16 |
| Amount of Litigation Resolved | | 17 |
| Petitions closed | 60,046 (1% increase from last year) | |
| Cost of Litigation Resolved | | 20 |
| OJCC Budget | \$16,938,037 (4.9% increase from 2012-13) | |
| Per Petition Closed | \$282.00 (eleven year avg. = \$224.00) | |
| Civil Court Comparison | \$300.00 to \$400.00 Filing Fees | |
| Number of Mediation Conferences Held | | 23 |
| Mediations held | 16,188 (2.1% increase from 2012-13) | |
| 100% of Mediators averaged less than 130 days each year in 2008-09 to 2013-14. | | |
| Disposition of Mediation Conferences | | 25 |
| Some resolution | 66.5% (consistent with 2012-13) | |
| Settled case | 37.0% (increase from 29.5% in 2012-13) | |
| Number of Continuances Granted for Mediations | | 26 |
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| Amount of Attorney's Fees Paid | | 31 |
| Claimant Fees App. | \$141,858,184 (6.6% decrease from 2012-13) | |
| Defense Fees Reported | \$237,364,154 (1.47% decrease from 2012-13) | |
| Amount of Attorney's Fees Paid in Each Case According to Accident Year | | 34 |
| Number of Final Orders Not Issued Within 30 Days after the Final Hearing | | 36 |
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| | |
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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 year 2013-14 portray an agency which has leveraged technology and 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.

The OJCC Annual Reports issued since 2002 are maintained for review on the agency website, www.fljcc.org, under the "Notices, Orders and Reports" tab. These reports memorialize the struggles this agency experienced with data uniformity and reporting. This 2013-14 report reiterates significant improvements in the collection and reporting of data and in the processes involved with adjudication of workers' compensation disputes in Florida. Despite budget reductions, personnel turnover, and legislative change, this agency has persevered over the last thirteen years. The OJCC has pioneered electronic filing and electronic service. The OJCC adjudicatory functions are as transparent as any known, and more so than many.

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 process. 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 are significantly similar.

The Florida Legislature requires an OJCC state mediation within 130 days of the filing of a Petition for Benefits (PFB). In each of the last seven fiscal years (2008-09 through 2013-14) 100% of the OJCC mediators achieved an average time to mediation within that 130 day statutory parameter, though some individual cases required a greater period to proceed to mediation. The overall averages prove 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 overall 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 requires that final orders to be issued within 30 days of the trial. Extensive efforts have been required to succinctly and uniformly 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.”² These efforts toward 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 2006-07, about 58% of trial orders were entered in less than the 30 day statutory parameter. In 2012-13, trial orders were entered within this parameter 92% of the time.

The economy and budget continue to challenge this agency. Consistently, the Legislature calls upon this agency to “do more with less,” and the OJCC has consistently heeded that call. Despite budget and staff reductions, the OJCC has continued to innovate. The OJCC has been a leader in electronic filing as a service to its customers. 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 validates the recommendations for change (electronic service 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, mandating e-filing by rule. As a result, the volume of incoming U.S. Mail dwindled in 2010-11 and is now uncommon.

The OJCC struggled in 2011-12 with the State's plan for transition from proprietary email services through an OJCC server to enterprise email services provided through the Department of Management Services (DMS). The legislature's 2012 retraction of that policy has facilitated this agency's deployment of electronic service for parties. That process became reality in 2012-13. The savings to our customers was immediate and profound. The combination of e-service and e-filing is now annually saving injured workers, employer/carriers and attorneys about \$1,000,000.

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 DMS. In 2006-07, the OJCC and DOAH began jointly deploying video teleconference systems (“VTS”) in the 17 OJCC District offices. The deployment of this equipment has continued through 2013-14. 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 31 JCCs, and to accommodate judicial disqualifications and recusals.³ This innovation is focused, flexible, and delivers value to the people of Florida through reduced travel by ALJs from the DOAH, and greater flexibility for redistribution of work among the JCCs.

Overview of Florida Workers’ Compensation:

The landscape of workers' compensation adjudication has been less than stable recently. In fiscal 2013-14, the Florida First District Court of Appeal rendered a panel⁴ decision in Westphal v. City of St. Petersburg⁵ on February 28, 2013. The panel held Section 440.15(2)(a), F.S. unconstitutional in its limitation of temporary benefits to a period not exceeding 104 weeks. In so deciding, the panel cited N.Y. Central R. Co. v. White,⁶ which espoused dicta that in analyzing the constitutionality of workers' compensation programs, these must be reasonable "from the standpoint of natural justice." Later in fiscal 2013-14, that panel decision was withdrawn⁷ and rehearing by the entire court (en banc) was granted.

In the rehearing process, multiple groups were allowed by the court to file *Amicus Curiae* (friend of the court) briefs.⁸ The rehearing occurred in fiscal year 2013-14. On September 23, 2013, the court issued an *en banc* decision,⁹ which abandoned the panel opinion references to constitutional infirmity and relied instead on statutory interpretation.

The First District court had previously, in 2011, issued an *en banc* interpretation regarding interpretation of Fla. Stat. §440.15(2)(a) in Matrix Employee Leasing v. Hadley.¹⁰ In Hadley, the court espoused an interpretation of the 104 week constraint on temporary benefits. Some members¹¹ of the District Court unsuccessfully sought to certify the Hadley interpretation to the Florida Supreme Court as a question of "great public importance."¹² Since the majority denied such certification, the state proceeded from 2012 (when rehearing was denied in Hadley) following the court's Hadley pronouncement of the appropriate application of Fla. Stat. §440.15(2)(a).

In its September 2013 *en banc* opinion in Westphal v. City of St. Petersburg, the First District Court abandoned the recent en banc Hadley interpretation and adopted instead an alternative interpretation, significantly in harmony with Judge Padovano's dissent in Hadley. In this *en banc* Westphal decision, the First District did certify the issue as one of "great public importance." In October 2013, the Florida Supreme Court accepted the case for review.¹³ The Court held oral arguments in the case on June 5, 2014 and a decision from the Court is anticipated in fiscal year 2014-15.

On October 23, 2013, the First District Court issued an opinion in Castellanos v. Next Door Company.¹⁴ This claim challenged the amount of attorney's fees awarded pursuant to Fla. Stat. §440.34. Counsel for the injured worker claimed that the fee resulting from application of this statute was inadequate and that therefore this statutory provision is unconstitutional. The First District Court concluded that "the statute is constitutional, both on its face and as applied."¹⁵

Castellanos can be viewed as a continuation of the dispute regarding attorney's fees that was litigated extensively in the end of the first decade of the twenty-first Century. That litigation culminated in the October 2008 decision of the Florida Supreme Court in Murray v. Mariner Health.¹⁶ As discussed in the 2012-13 OJCC Annual Report¹⁷ the Supreme Court in Murray did not address the constitutionality of Fla. Stat. §440.34, but instead relied upon a statutory interpretation centered on the continued presence therein of the word "reasonable." Concluding that "reasonable" was inconsistent with the percentage restrictions of the 2003 statute, the Court concluded that attorneys were entitled to "reasonable" fees despite the seeming limitation of the statutory percentage calculation. Following rendition of the Supreme Court Murray decision, in the spring of 2009, the Florida Legislature amended Fla. Stat. §440.34 to remove "reasonable," and thus to again forbid hourly fees.

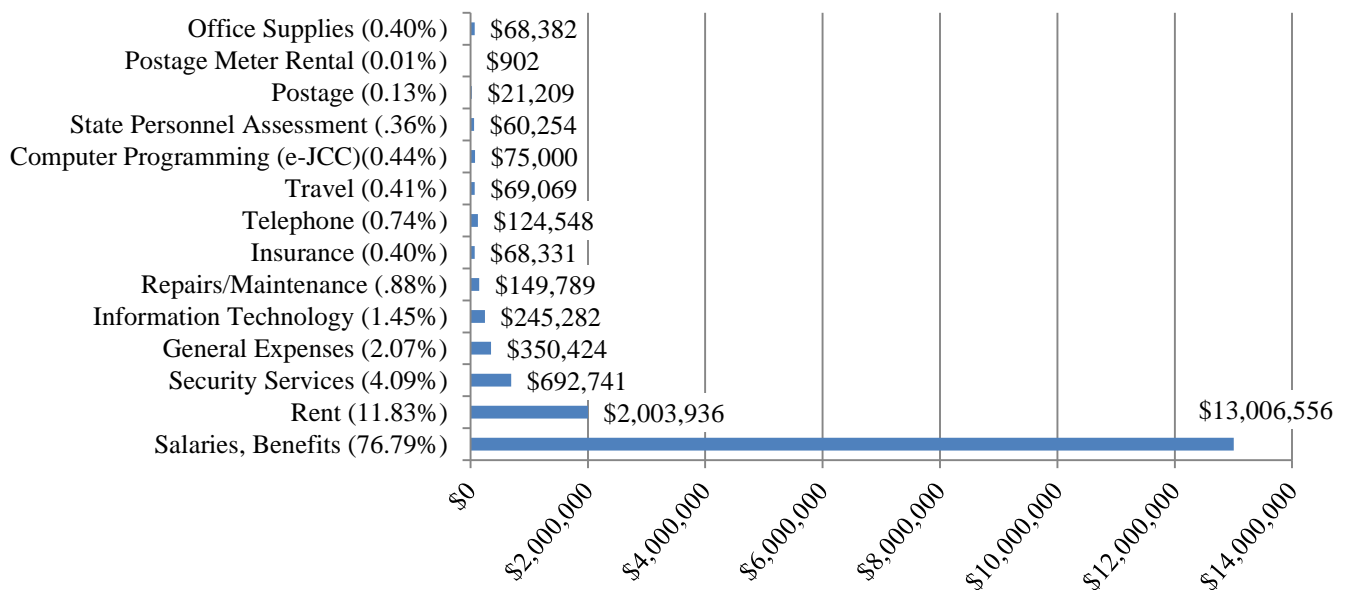
Castellanos reiterates the allegation of constitutional infirmity, seeking determination of essentially the same question that the Florida Supreme Court deferred in Murray, by electing to resolve the issue by statutory construction. The Supreme Court held the Castellanos oral argument on November 5, 2014. A decision on that case is likewise anticipated in fiscal 2014-15.

On August 13, 2014, Circuit Judge Jorge Cueto, Miami/Dade County, issued an order in Florida Workers' Advocates v. State of Florida.¹⁸ This decision found that the quantity of benefits in Florida workers' compensation has declined in recent decades. It references the change in Florida civil law from contributory to comparative negligence in tort proceedings. He concluded that as a result of the changes in benefits afforded by the workers' compensation law, the "exclusive remedy" or immunity from tort claims afforded to Florida employers by the law is unconstitutional. Judge Cueto summarily denied a request for rehearing filed by Florida's Attorney General, and an appeal was filed with the Third District Court of Appeal in Miami. The Florida Workers' Advocates filed a suggestion¹⁹ that the case be certified immediately to the Florida Supreme Court. The Third District denied that motion in October 2014. A decision on State of Florida v. Florida Workers' Advocates in fiscal 2014-15 is unlikely.

Pursuant to the Florida Constitution, the Supreme Court would be obligated²⁰ to review any determination by a District Court of Appeal that declared unconstitutional a state statute such as Fla. Stat. §440.34. Therefore, the workers' compensation and legal communities will eagerly await the decision of the Third District Court. That Court's decision may however not be controlling until review by the Supreme Court.

Florida Workers' Compensation is a self-executing system defined by Chapter 440, F.S.²¹ 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 an 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 two 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 a Petition for Benefits, or "PFB." That term is used extensively in this report. This and other terms are defined in the Glossary, page 45.

The OJCC is funded entirely through assessments on the workers' compensation industry, from the Workers' Compensation Administrative Trust Fund.²² The vast majority, almost ninety-three percent (92.71%), of the OJCC budget is expended on payroll (including benefits)(76.79%), rent for the seventeen OJCC District Offices and the OJCC Clerk's office (11.83%), and security for those offices for the protection of personnel and the public (4.09%), as described in the following graph.



The OJCC continues to strive for savings in all aspects. Inflation continues to drive lease rates on premises, and the Legislative approval of much needed cost of living salary adjustments increased the expenditures for salaries

and benefits in 2014. Savings are reinvested in updated computer hardware and further refinements in programs for the benefit of the Florida's workers' compensation marketplace.

In 2014, this included expansion of the child support information reporting process. In 2012-13, the OJCC entered a data-sharing agreement with the Department of Revenue (DOR), obtaining that agency's data on child support arrearages. A search portal was developed by OJCC and DOAH employees, to facilitate district OJCC staff searching for and reporting child support arrearage information.

This process eliminated workers' compensation practitioner interaction with DOR, saving that agency personnel hours and therefore budget dollars. The OJCC process was an added efficiency for the marketplace. Under the former DOR model, requests for arrearage were faxed or mailed to DOR, and a report was faxed or mailed to the requestor. Because each workers' compensation case has at least two parties, this process encouraged multiple requests on each case for the same report. The OJCC methodology used the existing electronic filing process for requests. The OJCC then responded by docketing and e-serving the arrearage report. This innovative method of transmitting the request and the response reduces costs, reduces time, eliminates duplicative requests and responses, streamlines the process, and increases efficiency.

In 2013-14, the OJCC implemented district clerk access to the Circuit Clerks Information System (CCIS), a database of child support information maintained by the Circuit Clerks throughout Florida. This allowed the OJCC to provide timely support obligation information from both the DOR and Circuit Clerk perspectives in one consolidated report, responding to one request, which was provided simultaneously to all parties to the case.

A cumbersome process of mail and facsimile, to DOR and various clerks, resulting in a reply to only the requestor was transformed into a streamlined process of a single e-filed request and a single e-served and docketed consolidated response. The Florida workers' compensation marketplace is improved by it.

Data Collection and Reporting:

This report is produced and published pursuant to statutory mandate. Fla. Stat. §440.45(5)(see endnote 1). The data in this report is dependent for accuracy upon the efforts of district staff working in thirty-one 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. Since fiscal year 2006-07, the OJCC has 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 and regional training. That database user manual was revised in 2013-14 and is now in an annual review and update cycle under the guidance of the OJCC Central Clerk Office. The Annual Reports since 2006-07 have documented improvements in effectiveness and efficiency that are attributable to the educational efforts. It is believed that the data presented in this report is as accurate as possible. Over the last several years, there have been ambiguous allegations as to data accuracy in prior Annual Reports. Some allege that statistics published by this Office are "false." No substantiation or details for such hearsay allegations has been provided. In the production of this annual report, particular attention has been afforded to all data sets in an attempt to identify any potential basis for this ambiguous allegation, but no basis or support has been found. All empirical data used in preparation of this report is public record and is available for review.



OJCC Achievements 2013-14:

Child Support Integration:

- Access to the Circuit Court Information System (CCIS) was negotiated and implemented.
- Entire workers' compensation system shifted to OJCC integrated child support reporting.

Video Teleconferencing Trial (VTC) Capabilities:

- The OJCC started the year with VTC access available in all 17 District Offices.
- Presented a mock trial using VTC equipment at the national Workers' Compensation Institute conference in Orlando, for education and promotion.

Visiting Judges:

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

- Miami District
"New cases" were sent to Judges in Daytona, Ft. Myers, Pensacola, Port St. Lucie, St. Petersburg and Tampa. At this time, the "out-of-district" assignments from Miami have decreased to about 50 per month from a maximum of approximately 150 new cases per month.
- Ft. Lauderdale District
"New cases" were sent to Judges in Jacksonville, Panama City, Pensacola, and Tallahassee.

Out of District Mediation

Out of District mediation was discontinued in West Palm Beach because the mediators at that office improved their efficiency and increased coverage of local mediations.

Internal Education:

- Conducted 8 monthly "Second Friday" lunchtime CLE programs for Judges and Mediators.
- Three Judges of Compensation Claims held positions of responsibility in the National Association of Workers' Compensation Judiciary.
- Judges attended prestigious educational programs in the field of workers' compensation:
 - Three Judges attended the Southern Association of Workers' Compensation Administrators (SAWCA) educational program in St. Petersburg Beach, Florida
 - Two Judges attended the SAWCA educational program in St. Simon's Island, Georgia.
 - Two Judges attended the International Association of Accident Boards and Commissions Judicial College in San Diego, California.

Public Education:

Presented multiple programs throughout the state including:

- Florida Workers' Compensation Institute.
- Workers' Compensation Forum.
- Florida Workers' Advocates Educational Conference.
- Florida Association of Self-Insured.
- Southern Association of Workers' Compensation Administrators Conference.
- International Association of Accident Boards and Commissions.
- Free public Continuing Education Seminar at the First District Court of Appeal.

Management Tools:

- Published Judicial Performance Statistics to the Judicial Nominating Commission.
- Deployed Sixth Annual Judicial Survey with The Florida Bar using interactive electronic platform.
- Published second edition user manual for OJCC personnel.

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 has continued to revise and leverage this process. In 2011-12, the OJCC began to enforce the mandatory use of electronic filing by represented parties. In 2011-12 programming was added to afford e-filing access to all users, represented or not. In 2012-13, programming was completed to allow electronic service of pleadings among and between lawyers and insurance carriers. The result is a nearly integrated electronic filing and service system that is exemplary.

In 2013-14, five hundred twenty-one thousand two hundred five (521,205) documents were e-filed with the OJCC. The filing volumes are described in this chart.

Using the parameters described in the 2006-07 OJCC Annual Report,²³ the cumulative end-user savings to date generated by this e-filing system, by the end of fiscal 2013-14, were at least two million eighty-nine thousand three hundred sixty-one dollars (\$2,089,361). The total savings to the state exceeds three million dollars to date.

Electronic service was added to the e-JCC platform in January 2013. This feature allows significant volumes of documents to be served electronically upon opposing counsel and insurance carriers in conjunction with electronic filing. This process change has enabled an annual savings to practitioners and carriers in excess of one million dollars. This achievement is particularly gratifying in light of issues and complications experienced by other states’ systems that have expended large special fund allocations building and deploying electronic filing.²⁴ The Office of Judges of Compensation Claims’ success with e-filing and e-service has been achieved without any extraordinary budget allocations, and the programming cost to date remains less than one million dollars overall.

| Fiscal Year | Filing Volume | Percent Change |
|-------------|---------------|----------------|
| 2005-06 | 361 | |
| 2006-07 | 24,133 | 6585% |
| 2007-08 | 193,745 | 703% |
| 2008-09 | 328,660 | 70% |
| 2009-10 | 380,897 | 16% |
| 2010-11 | 451,649 | 19% |
| 2011-12 | 461,820 | 2% |
| 2012-13 | 502,448 | 9% |
| 2013-14 | 521,205 | 4% |

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.” That same database is the foundation of all of the electronic filing efforts of the OJCC. Since 2006, the OJCC has invested significant resources in the education of district staff, seeking consistency in operations, and specifically in data management using this system. Recent years have evidenced continual 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.

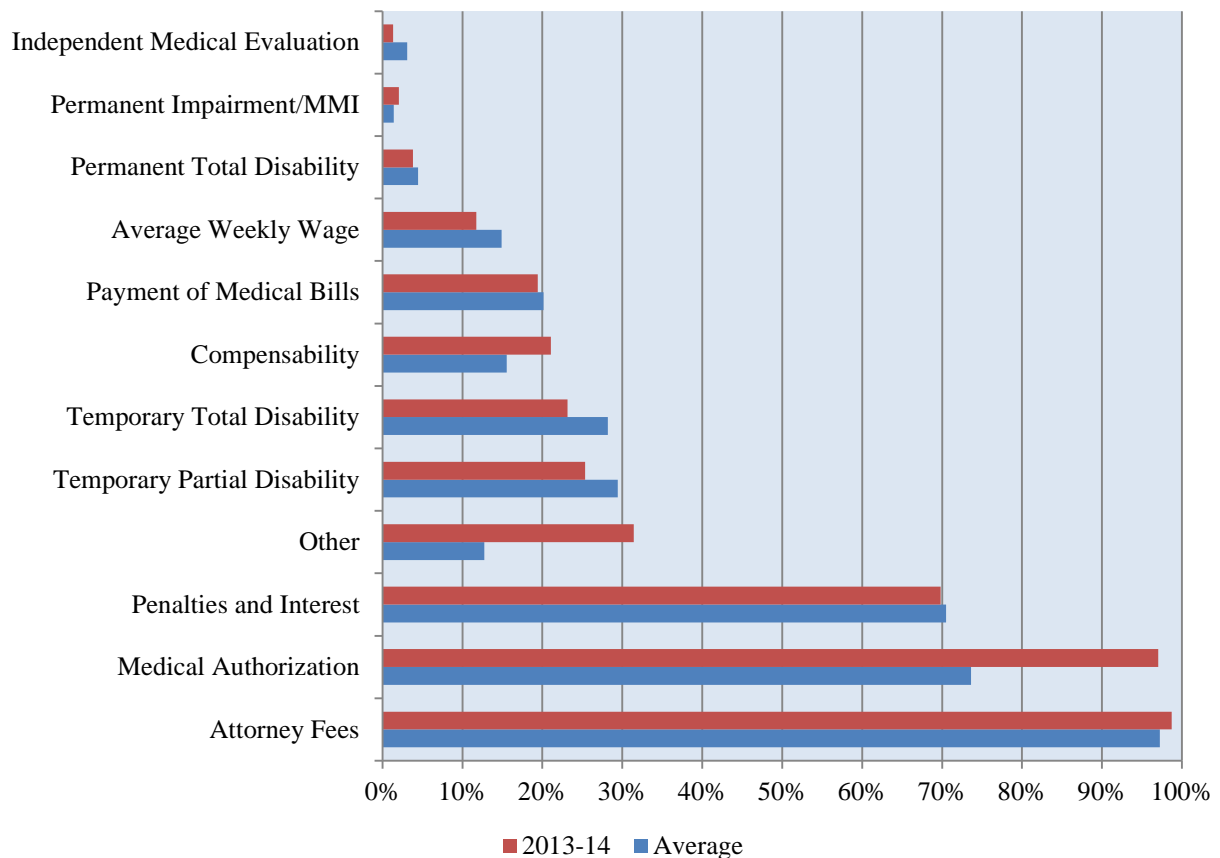
There remains one irreconcilable issue with the reporting of the “number of litigated cases.” In workers’ compensation, there simply is no clear definition for “cases.”²⁵ Litigation in Florida workers’ compensation is usually instigated with a Petition for Benefits (“PFB”). Each PFB might seek a single benefit, or many benefits.²⁶ 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 only one measure of system volume. Issues may likewise be brought before a Judge of Compensation Claims by a motion.²⁷ 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 2012-13 could seek resolution of an issue regarding an accident that occurred that year, or perhaps many years prior.²⁸

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 each the “raw PFB” measure and the “new cases” measure, the OJCC calculates and reports each. However, these metrics ignore the volume of litigated cases that are instigated by motion instead of PFB. Although these motions²⁹ 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, prevailing party cost, and similar motions.³⁰

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 the claimed substantive 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 ten-year period 2003-04 through 2012-13 (blue bars on the bottom of each category) and the rate of filing for those categories in the current fiscal year, 2013-14 (red bars). The rate of medical authorization claims and “other” claims in each of 2011-12, 2012-13 and 2013-14 was noteworthy. The volume of “compensability” and “other” disputes was also notably above average in 2012-13, and remains so in 2013-14.



The data supports a consistent and substantial increase in medical authorization claims and “other” claims. The 2012-13 OJCC Annual Report noted a significant recent increase in claims for “advances.” In 2011-12, 761 claims for advance were filed in PFB format. That decreased to 676 in 2012-13, and further to 425 in 2013-14. Interestingly, there is anecdotal evidence that many requests for advance are conversely filed by motion, and so the relevance of these decreasing volume figures may understate the volume of claims for advances in any of these years.

Gross Petition for Benefit (“PFB”) Filing:

The Florida Legislature enacted significant amendments to the Florida Workers’ Compensation Law in 1994 and again in 2003. After the 1994 reforms, PFB filing volume consistently increased each year. Just prior to the 2003 reforms, PFB filings peaked at 151,021. The progressive increase in PFB filings between 1994 and 2003 belie the efficacy of the 1994 reforms’ intent to decrease litigation. Immediately following the 2003 reforms, the PFB filing volume decreased at a consistent annual rate of approximately fifteen percent (15.21% to 15.9%) over each of the next three years, and then continued to decline with reasonable consistency through fiscal 2013 with the sole exception of a slight increase in 2008-09. PFB filing volume in 2013-14 increased; that volume remains in excess of the volume in 1994 (38,254) when that sweeping reform was passed.

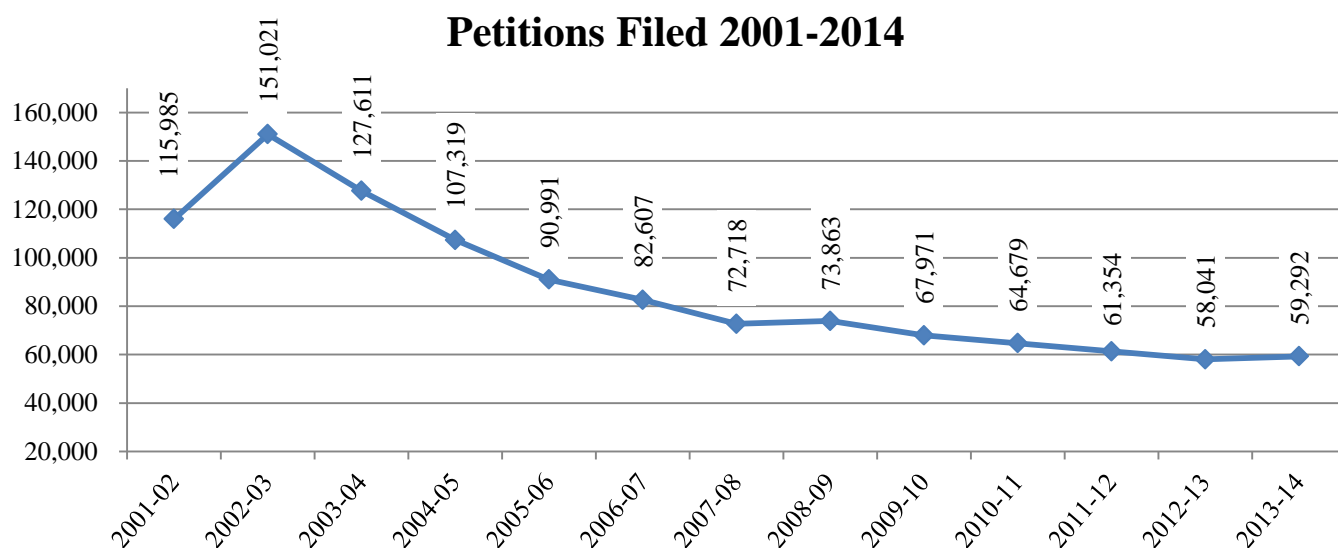
One component of the 2003 reforms was an amendment to Fla. Stat. §440.34, which addresses the payment of attorneys’ fees in workers’ compensation cases. The interpretation of that statutory change was litigated extensively, and multiple decisions of the First District Court of Appeal (“DCA”) interpreted Fla. Stat. §440.34(2003) as limiting fees to a “percentage of recovery” fee in most cases.³¹ Under those DCA interpretations of Fla. Stat. §440.34, hourly attorney’s fees were forbidden in most cases. In October 2008, the Florida Supreme Court decided Murray v. Mariner Health, 994 So.2d 1051 (Fla. 2008). The Supreme Court’s interpretation of Fla. Stat. §440.34 differed from the DCA decisions, and effectively restored entitlement to hourly attorney fees for cases with a date of accident after 2003.

The overall decrease in PFB filing volume between fiscal 2003 and fiscal 2008 was approximately fifty-two percent (51.85%). Until rendition of the Supreme Court Murray decision, the PFB filings (for the first quarter of fiscal 2008-09) had continued to demonstrate a similar downward trend.

In the spring of 2009, the Florida Legislature amended Fla. Stat. §440.34 to again forbid hourly fees. Therefore, the Court’s Murray decision affects cases between October 1, 2003 and July 1, 2009.³² Although PFB filings trended down before the Supreme Court’s decision, at the end of the fiscal year the 2008-09 PFB filings overall increased minimally (1.6%) from fiscal 2007-08.

Since 2008-09, the PFB volume had returned to downward trend. The rate was statistically consistent over the three years 2010-11³³ through 2012-13. The trend reversed slightly (+ 2.2%) in 2013-14, though not sufficiently to return to the filing volumes of 2011-12. Currently there are several constitutional challenges to Chapter 440 pending before the Florida Supreme Court.³⁴ Some suggest anticipation of the Court’s decisions may be driving PFB filing, as it perhaps did in 2008-09. Others suggest the Florida economy is rebounding from the Great Recession and that increased Florida employment overall is driving increased injury volumes and therefore injury litigation. The OJCC has no foundation to determine what if any particular force is driving the current increase.

| Fiscal Year | Petitions Filed | % Change |
|-------------|-----------------|----------|
| 2002-03 | 151,021 | |
| 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 | 73,863 | 1.6% |
| 2009-10 | 67,971 | -8.0% |
| 2010-11 | 64,679 | -4.8% |
| 2011-12 | 61,354 | -5.1% |
| 2012-13 | 58,041 | -5.4% |
| 2013-14 | 59,292 | 2.2% |

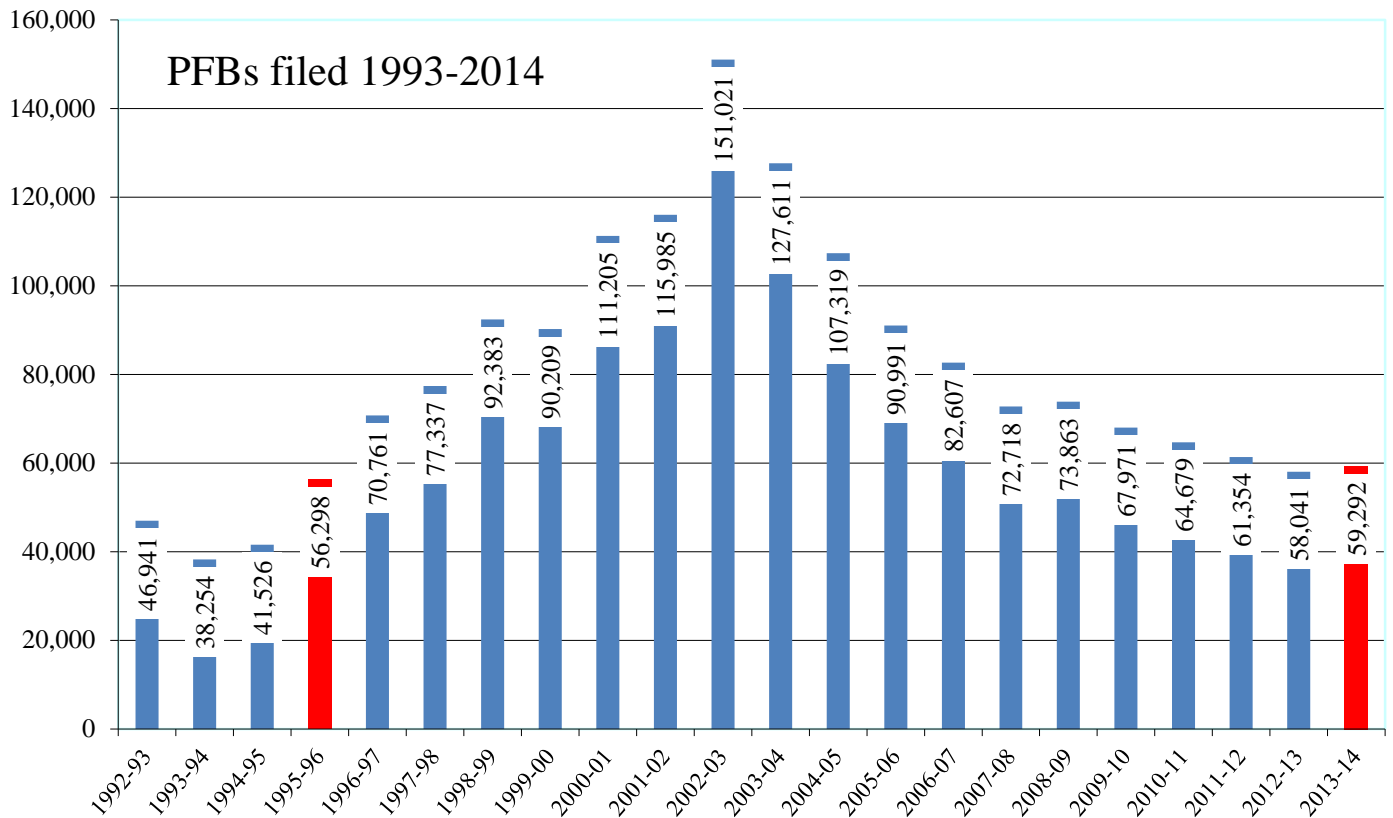


Florida workers' compensation premiums decreased significantly after the 2003 reforms. The cumulative premium decrease through fiscal 2008-09 was approximately 58%. Interestingly, in that same time period, PFB filings had decreased approximately fifty-two percent (51.85%); which might be interpreted as a close correlation. Any perceived correlation between litigation filing rates and insurance rates is difficult to defend however.

Despite consistently decreasing PFB filing rates between 2009-10 and 2012-13, workers' compensation rates increased annually as depicted in this chart. Notably, insurance rates are adjusted annually each January 1. The OJCC operates on a fiscal year basis from July 1 through June 30. Therefore the rate changes do not directly correlate. But, congruency is difficult to discern in light of this data. Even as PFB filing volumes increased in 2013-14 for the first time since 2008-09, the Office of Insurance Regulation approved a notable 5.2% decrease in Florida workers' compensation rates.⁴⁰

| Fiscal Year | PFB change | Premium change |
|-------------|------------|----------------------|
| 2009-10 | -8.0% | |
| 2010-11 | -4.8% | 7.80% ³⁵ |
| 2011-12 | -5.1% | 8.90% ³⁶ |
| 2012-13 | -5.4% | 6.10% ³⁷ |
| 2013-14 | 2.2% | 0.7% ³⁸ |
| 2014-15 | | -2.50% ³⁹ |

The following graph represents PFB filing since 1992-93. Notably, the 1994 reforms were intended to curtail litigation. Despite that intention, the PFB filings increased markedly thereafter. The OJCC was staffed by 31 judges in 1993. Following the 2012 budget/position reductions, the OJCC is again staffed by 31 judges. While the judicial workload has decreased from the demands of the exceptional filings in recent years, it has not yet returned to the baseline of 1994. The 2013-14 filings (59,292) remain about 55% higher than in 1993-94 (38,254).



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.⁴¹ 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 current statutes' 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” or “Application for Hearing” filing to PFB filing. Presuming the accuracy of these FDLES volumes, the PFB filing rate in 2012-13 was the lowest in seventeen years, since 1995-96. It is not practical to predict whether the slight increase in PFB filing volumes for 2013-14 are an anomaly, or signal a trend to increasing litigation. However, over the first quarter of 2015 (July 1, 2014 through September 30, 2014), Petition filing volume was consistent with first quarter 2014.

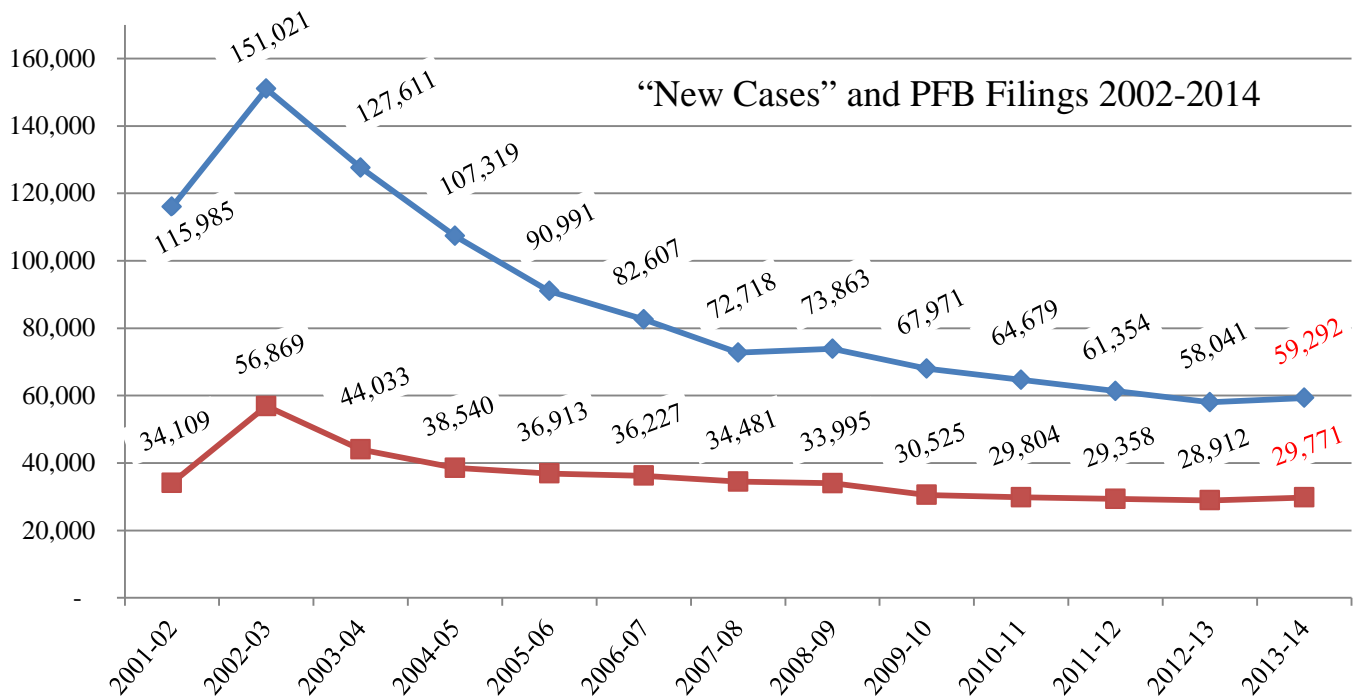
New Case Filing:

The volume of "new cases filed" has been tabulated only since the OJCC was transferred to the DOAH in 2001. The term “new cases filed” refers to the volume of PFBs filed, which represent the first PFB 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.

Generally speaking, this is the inverse of the volume of settlements approved in a year, which is similarly statistically indicative of the trend rate at which cases are leaving the OJCC litigation process. Although cases can be resolved without settlement, those that are not settled may have some potential to return to the litigation process regarding some future additional claims or issues. The “new case” measure may arguably be a more accurate indicator than PFB filing volume 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 2013-14 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.⁴² Such a case may enter litigation after many years 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 steadily declined since the 2003 statutory amendments. The rate of decline in “new cases” filing was less than the rate of PFB decline in almost every fiscal year since 2003. The exceptions are 2009-10, when “new case” filing decreased over ten percent (10%) compared to an overall PFB filing decrease of eight percent (8%), and 2013-14 which evidenced the first instance of "new case" filings increasing since 2002-03. The following graph depicts the declining OJCC "new case" filings (red), and the PFB filings (blue).



These figures support that “new cases” and PFB filings each increased significantly between 2001-02 and 2002-03. 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 cases” volume similarly “spiked” markedly in 2002-03 (56,869), but returned to pre-2002-03 levels only five years later, in 2008-09 (33,995). This comparison supports that overall PFB filing volume has demonstrated more elasticity than the “new cases” volume. The coincident increase in both PFB and “new case” volumes in 2013-14 has not occurred since 2002-03. Over the first quarter of 2015 (July 1, 2014 through September 30, 2014), “new case” continued to trend upward at approximately 3% compared to the first quarter 2014.

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 cases” volume to the corresponding annual overall PFB filing volume. This comparison demonstrates that the percentage of all PFBs that were “new cases filed” remained fairly consistent after the 2003 reforms; in fiscal 2003-04 (34.5%) and 2004-05 (35.9%). As overall PFB volumes have decreased significantly, and “new case” volumes decrease more moderately, the percentage of “new cases” has remained above 40% since 2005-06, and the overall trend is upward. In fiscal year 2001-02, new cases were approximately thirty percent (29.4%) of the overall PFB volume. In fiscal 2013-14 that percentage has increased to over fifty percent (50.2%).

| Fiscal Year | PFBs Filed | Cases Filed | New/Filed |
|-------------|------------|-------------|-----------|
| 2001-02 | 115,985 | 34,109 | 29.4% |
| 2002-03 | 151,021 | 56,869 | 37.7% |
| 2003-04 | 127,611 | 44,033 | 34.5% |
| 2004-05 | 107,319 | 38,540 | 35.9% |
| 2005-06 | 90,991 | 36,913 | 40.6% |
| 2006-07 | 82,607 | 36,227 | 43.9% |
| 2007-08 | 72,718 | 34,481 | 47.4% |
| 2008-09 | 73,863 | 33,995 | 46.0% |
| 2009-10 | 67,971 | 30,525 | 44.9% |
| 2010-11 | 64,679 | 29,804 | 46.1% |
| 2011-12 | 61,354 | 29,358 | 47.9% |
| 2012-13 | 58,041 | 28,912 | 49.8% |
| 2013-14 | 59,292 | 29,771 | 50.2% |

In summary, the available data supports several conclusions. First, the overall PFB volume stabilized in 2008-09, returned to a measured and consistent decline, and in 2013-14 increased about two percent. The volume of “new cases filed” has decreased at a much slower rate generally, punctuated by a marked decrease in 2009-10 (10.21%) and a marked increase in 2013-14 (2.97%). Fewer petitions being filed overall combined with the reasonably stable volume of “new cases” has led to “new cases” accounting for a greater percentage of the overall workers’ compensation litigation. This data does not support that constraints on the litigation process, that is the 2003 statutory amendments, are decreasing the litigation of issues in claims occurring after those revisions. The data appears to support the contrary, that litigation involving new claims remains reasonably consistent, while litigation on previously filed claims was decreased.

The intuitive conclusion from this analysis might focus on attorney fee payments, as amended in 2003. One might conclude that there is a perception that litigation early in claims is more lucrative than subsequent litigation. Such a perception might be demonstrated by a willingness to file new cases. It is possible that the potential volume of future benefits is sufficient, early in a claim, to accommodate litigation. This may be more supported in claims that are completely denied, or in which there are vast disparities in perceptions of the degree of medical care required, leading to denial of benefits with significant monetary value and thus significant associated fee issues under the statutory formula reiterated in the 2009 legislative session (see endnote 15).

In the past fee statute iterations, there was less compression on fee entitlement in subsequent litigation of comparatively minor medical issues. With hourly fees, litigation was economically viable on moderate to low monetary value benefits regardless of the stage of that claim in which such benefits were sought. With the strict percentage fee calculation in place since 2009, those subsequent benefit disputes may be less likely to enter litigation, and thus represent a significant portion of the overall decrease in general PFB filing.

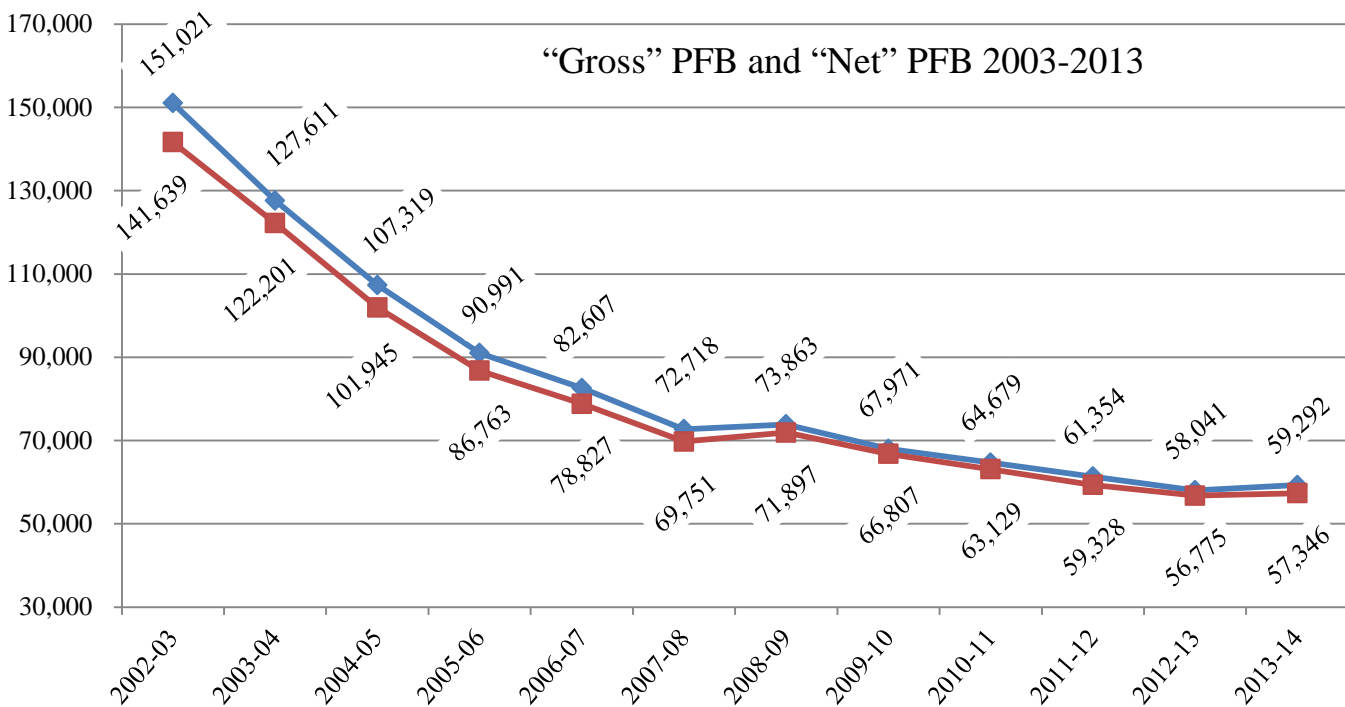
Petition Replication and Duplication:

As discussed briefly above, there has been some attorney tendency 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, which are ancillary to other benefits, are likely to be included in a single PFB. For example, claims for costs or attorney’s 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 of these two 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. Some portion of the overall decline in PFB filing volumes since that time may be attributable to the decline in the practice of replicate filings.

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, called the statutory employer, the employee of an uninsured plumber, electrician, 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 ductwork 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.

| Fiscal Year | Gross PFBs Filed | Net PFB | T/N% |
|-------------|------------------|---------|------|
| 2001-02 | 115,985 | 107,815 | 7.0% |
| 2002-03 | 151,021 | 141,639 | 6.2% |
| 2003-04 | 127,611 | 122,201 | 4.2% |
| 2004-05 | 107,319 | 101,945 | 5.0% |
| 2005-06 | 90,991 | 86,763 | 4.6% |
| 2006-07 | 82,607 | 78,827 | 4.6% |
| 2007-08 | 72,718 | 69,751 | 4.1% |
| 2008-09 | 73,863 | 71,897 | 2.7% |
| 2009-10 | 67,971 | 66,807 | 1.7% |
| 2010-11 | 64,679 | 63,129 | 2.4% |
| 2011-12 | 61,354 | 59,328 | 3.3% |
| 2012-13 | 58,041 | 56,775 | 2.2% |
| 2013-14 | 59,292 | 57,346 | 3.3% |



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 discreetly 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.⁴³ 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 claiming a “medical only fee.”

Pro se Cases:

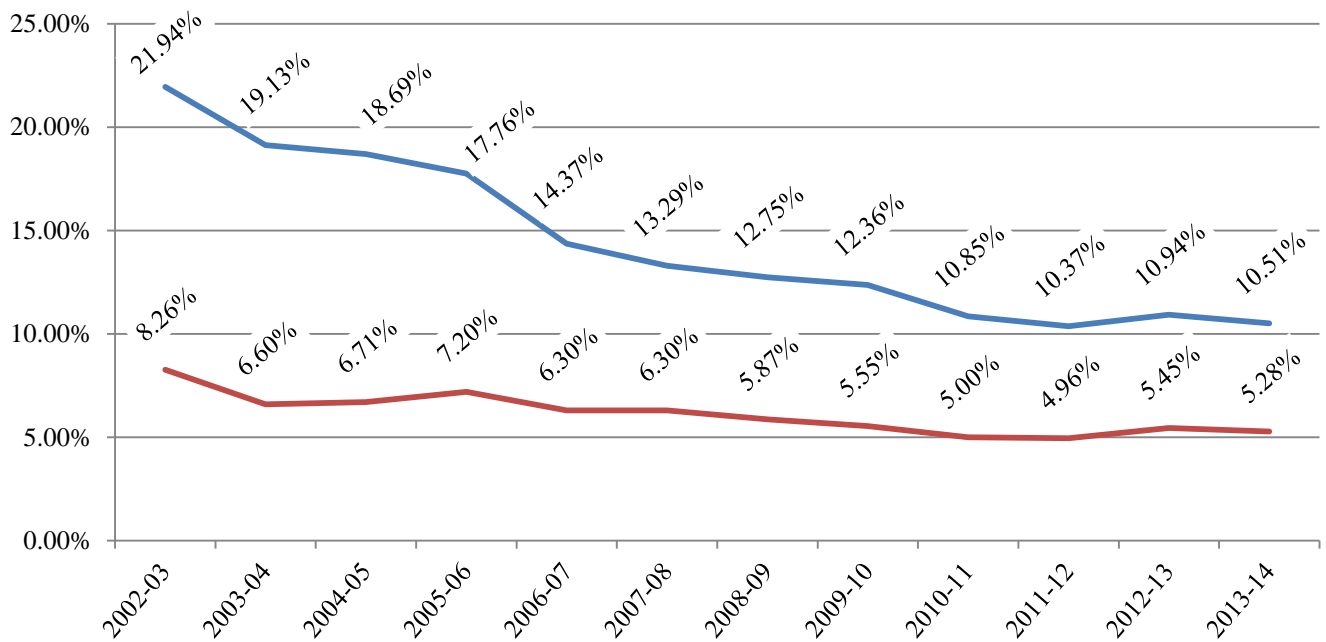
The Office of Judges of Compensation Claims (OJCC) has been asked whether there is evidence of changes in the volume of “pro se claimants,” or claimants who represent themselves. Phrased otherwise, this question is fundamentally “are more claimants filing their own cases?” This is a difficult question, 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 or inexpensively 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.

| 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% |
| 2011-12 | 29,358 | 3,044 | 10.37% |
| 2012-13 | 28,912 | 3,162 | 10.94% |
| 2013-14 | 29,771 | 3,130 | 10.51% |

The JCC Application can report the total volume of “new cases” opened in a given fiscal year and the percentage thereof on a given day that are “represented” and “pro se” cases. 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 injured workers 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.⁴⁴ The chart above 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 (each ends on June 30). Notably, if the raw number of “new cases” attributable to “pro se” claimants remained static each June 30, the percentage would nonetheless have increased due to the decrease in overall “new case” filings discussed above. The chart to the right depicts the same comparison of pro-se cases to the volume of PFB filed in the year.

| Fiscal Year | PFB | Pro Se June 30 | |
|-------------|---------|----------------|-------|
| 2002-03 | 151,021 | 12,477 | 8.26% |
| 2003-04 | 127,611 | 8,423 | 6.60% |
| 2004-05 | 107,319 | 7,205 | 6.71% |
| 2005-06 | 90,991 | 6,555 | 7.20% |
| 2006-07 | 82,607 | 5,205 | 6.30% |
| 2007-08 | 72,718 | 4,583 | 6.30% |
| 2008-09 | 73,863 | 4,333 | 5.87% |
| 2009-10 | 67,971 | 3,774 | 5.55% |
| 2010-11 | 64,679 | 3,234 | 5.00% |
| 2011-12 | 61,354 | 3,044 | 4.96% |
| 2012-13 | 58,041 | 3,162 | 5.45% |
| 2013-14 | 59,292 | 3,130 | 5.28% |

The available data does not support the conclusion that the “pro se” claimant population is increasing.⁴⁵ The data supports that there is fluctuation in the “pro se” volume and percentages. However, the changes in recent years have not been consistent with any significant trend of increased or decreased “pro se” participation.

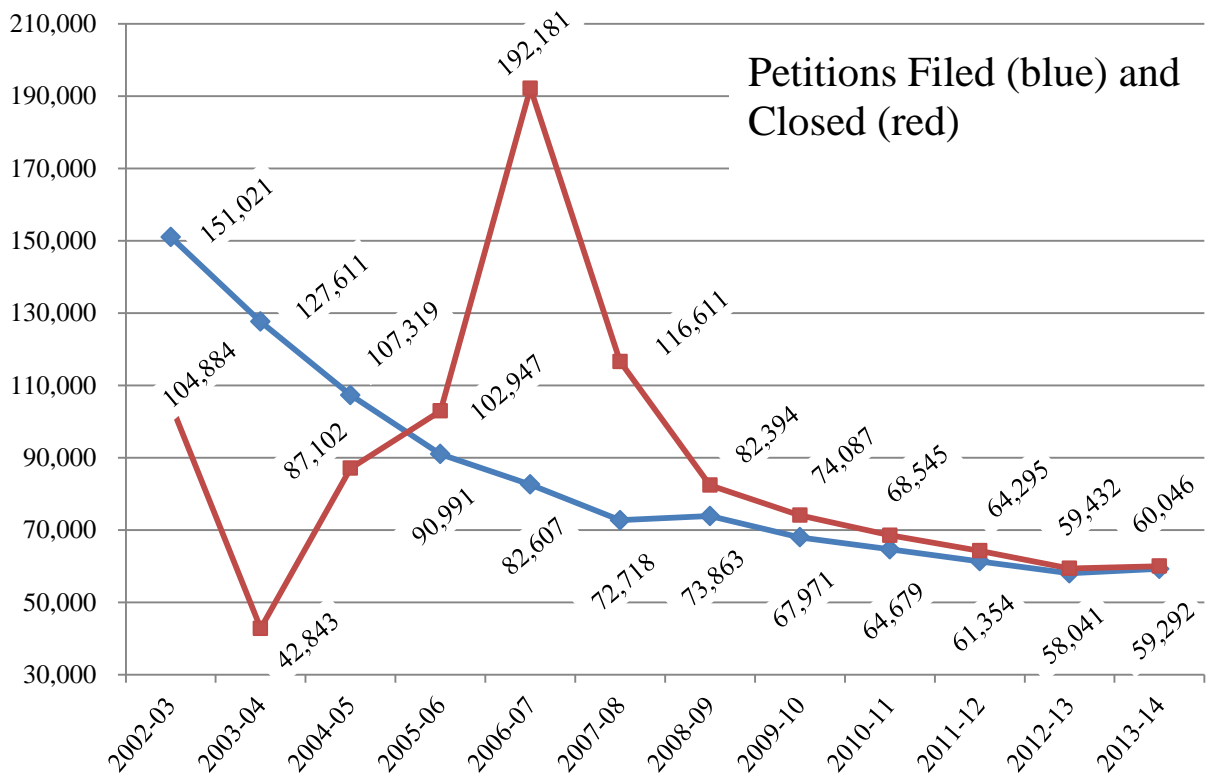


The graph above depicts the ratios (blue) of “new cases” and (red) of the Petitions to the population of “pro se” petitions on June 30 of each of the last twelve (12) fiscal years. These comparisons demonstrate minor fluctuations in “pro se” participation over the last four fiscal years. The overall trend over the 12 year period extending back to 2002-13 was to decrease until leveling more recently. The slight increase in percentages in 2012-13 appears to have been statistically insignificant in light of the 2014 figures. However, the 2012-13 percentages would have been much closer to the 2012-13 figures if not for the modest increases in both “new case” and PFB filings discussed above.

AMOUNT OF LITIGATION RESOLVED:

The OJCC struggled early in the 21st Century with the closure of petitions for benefits (PFB). The legislature has defined statutory time parameters for the mediation and trial of PFBs in Fla. Stat. §440.25.⁴⁶ This legislative mandate for timely adjudications is inconsistent with a marketplace practice of utilizing petitions (and before 1994 “claims”) 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 a historical practice of filing PFBs, not necessarily to seek provision of a particular benefit, but instead, to act as an indefinite “tolling” of the statute of limitations.⁴⁷ PFB closure was a difficult issue for the OJCC following the massive influx of PFBs in 2002-03 (151,021). The sheer volume of PFBs in 2003 markedly affected workload in most districts. Since 1994, Florida’s population grew 33% from fourteen million to nineteen and one half million people.⁴⁸ The OJCC has operated without significant increases in either Judges or staff since the addition of the mandatory mediation process in 1994. Despite the significant workload and marked increase in population, the OJCC has recently lost significant personnel, including one judge, four mediators, and multiple staff positions.

Effective management of the PFB volume early this century 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 details. 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 (red line) each year.



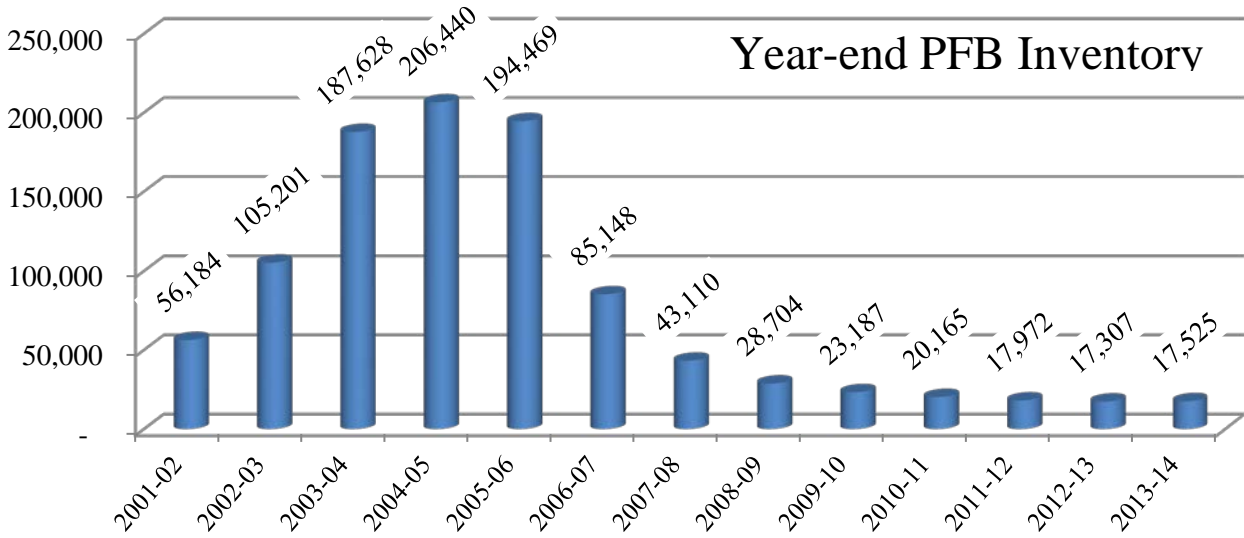
Most PFBs filed must be mediated.⁴⁹ After a PFB is filed, issues claimed therein may be resolved among the parties before mediation, at mediation, or thereafter any time until a final order is issued. There are even instances in which the parties conduct a trial on the PFB issue(s), but then, nonetheless, resolve those PFB issues before the assigned Judge enters an order adjudicating them.⁵⁰ When all of the substantive 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).

This closure is administrative. Therefore, the undetermined issues that remain are not foreclosed by the administrative closure. These issues are often the attorney fees and costs of the injured worker/claimant.⁵¹ The usual order of closure includes a reservation of jurisdiction over those issues. There have been multiple perspectives expressed regarding the closure process. The advantages of issuing a closure order are primarily focused on notice to the parties of the assigned judge’s perception that the substantive issues have been resolved or adjudicated. Receipt of the closure order may trigger a motion for rehearing based upon one or more parties having differing perceptions, and thus the order stimulates review by the parties, and thereby accuracy.

Some divisions (each Judge and their respective staff is a “division”) were historically 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 have been represented in the database as “open.” Other divisions began the 2006-07 year with their inventories overstated with PFBs that should have been administratively closed in prior years. PFB closures therefore increased dramatically in 2006-07 and 2007-08. The volume moderated in 2008-09 through 2010-11, and has remained reasonably consistent the last six fiscal years.

The result is seen in the graph above demonstrating a smooth progression in the last six 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 ten 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 17,525 at the end of fiscal year 2013-14. 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 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.



Over the last twelve fiscal years, one million seventeen thousand four hundred sixty-seven (1,017,467) PFBs have been filed, and one million fifty-five thousand three hundred sixty-seven (1,055,367) PFBs have been closed. This equates to an approximate overall closure rate of one hundred four percent (103.7%). 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 and more consistently 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”).

| Fiscal Year | Petitions Filed | PFB Closed | Closure Percentage |
|-------------|-----------------|------------|--------------------|
| 2001-02 | 115,985 | | |
| 2002-03 | 151,021 | 104,884 | 69.4% |
| 2003-04 | 127,611 | 42,843 | 33.6% |
| 2004-05 | 107,319 | 87,102 | 81.2% |
| 2005-06 | 90,991 | 102,947 | 113.1% |
| 2006-07 | 82,607 | 192,181 | 232.6% |
| 2007-08 | 72,718 | 116,611 | 160.4% |
| 2008-09 | 73,863 | 82,394 | 111.5% |
| 2009-10 | 67,971 | 74,087 | 109.0% |
| 2010-11 | 64,679 | 68,545 | 106.0% |
| 2011-12 | 61,354 | 64,295 | 104.8% |
| 2012-13 | 58,041 | 59,432 | 102.4% |
| 2013-14 | 59,292 | 60,046 | 101.3% |



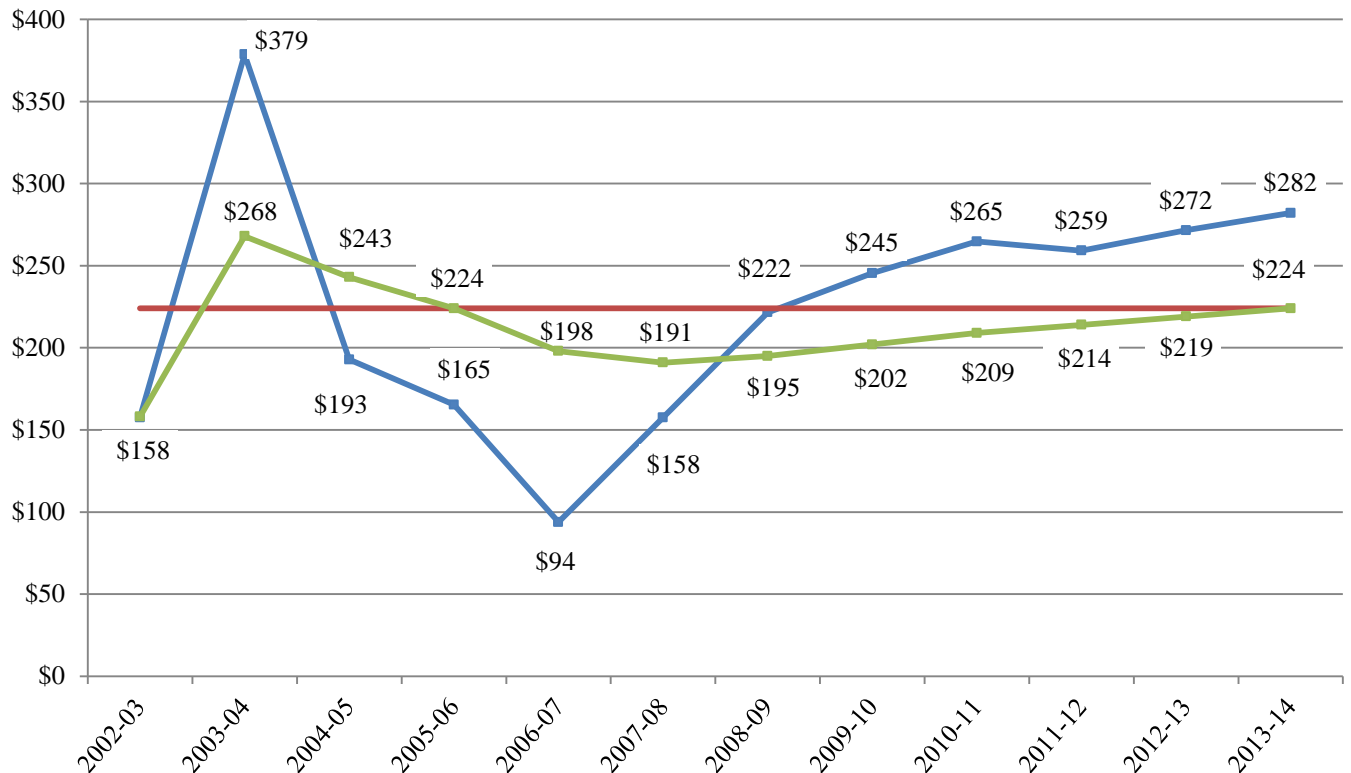
COST OF LITIGATION RESOLVED:

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.⁵² 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); for larger claims the Circuit filing fee may be as high as four hundred dollars (\$400.00).⁵³ The OJCC is demonstrably more efficient financially, with a per-petition cost well below the Circuit court filing fees. Notably, in the majority of instances, the OJCC cost is inclusive of mediation services, which generally are an additional cost to the parties in other civil litigation.

| Fiscal Yr. | Annual Budget | Petitions Closed | Cost Each |
|------------|---------------|------------------|-----------|
| 2002-03 | \$16,522,910 | 104,884 | \$158 |
| 2003-04 | \$16,225,513 | 42,843 | \$379 |
| 2004-05 | \$16,792,731 | 87,102 | \$193 |
| 2005-06 | \$17,022,942 | 102,947 | \$165 |
| 2006-07 | \$18,032,059 | 192,181 | \$94 |
| 2007-08 | \$18,367,869 | 116,611 | \$158 |
| 2008-09 | \$18,253,550 | 82,394 | \$222 |
| 2009-10 | \$18,184,779 | 74,087 | \$245 |
| 2010-11 | \$18,145,746 | 68,545 | \$265 |
| 2011-12 | \$16,662,329 | 64,295 | \$259 |
| 2012-13 | \$16,142,140 | 59,432 | \$272 |
| 2013-14 | \$16,938,037 | 60,046 | \$282 |

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 five consecutive budget reductions between 2009 and 2013. When the OJCC budget was increasing, those increases were not sufficient, in many instances, to counteract inflation. Over the last twelve fiscal years, the average cost per petition closed was \$224.00.⁵⁴

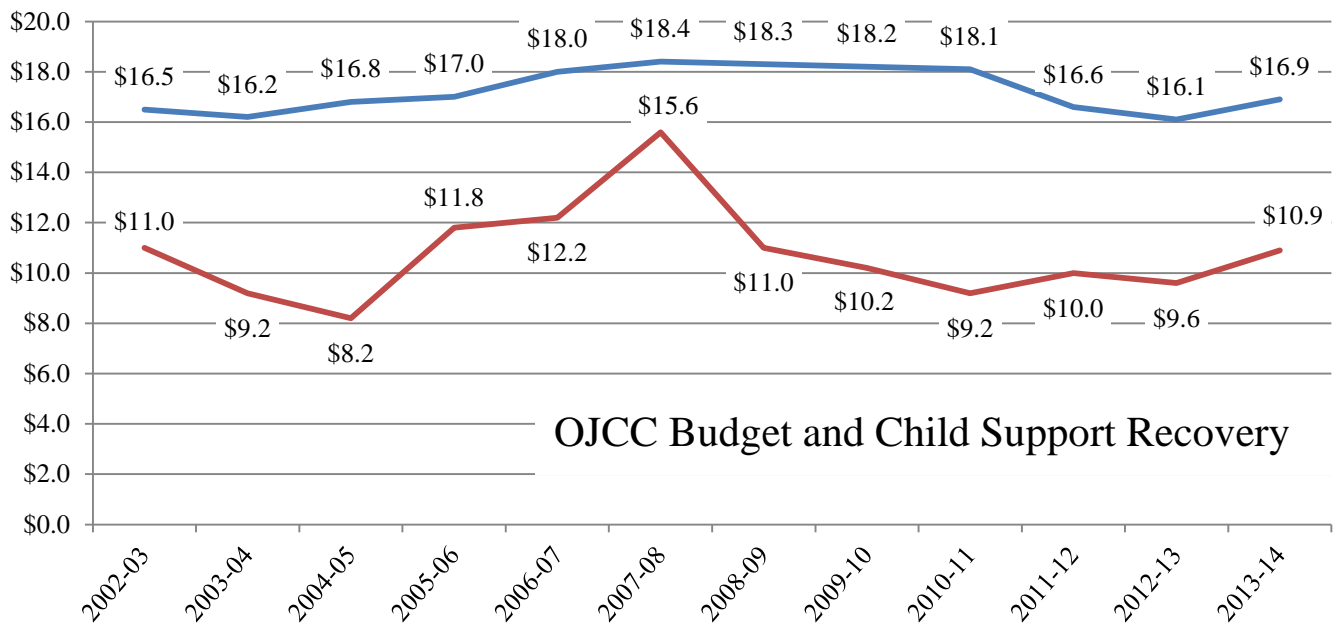
The OJCC today is spending less per full-time employee (“FTE”), adjusted for inflation, than in 1992-93. During the significant increase in case filings, resulting hearings and adjudications between 1994 and 2003, the OJCC budget effectively decreased, when adjusted for inflation. Florida’s population 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), twelve-year average cost (red), and the average calculated as of each year (green) 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.



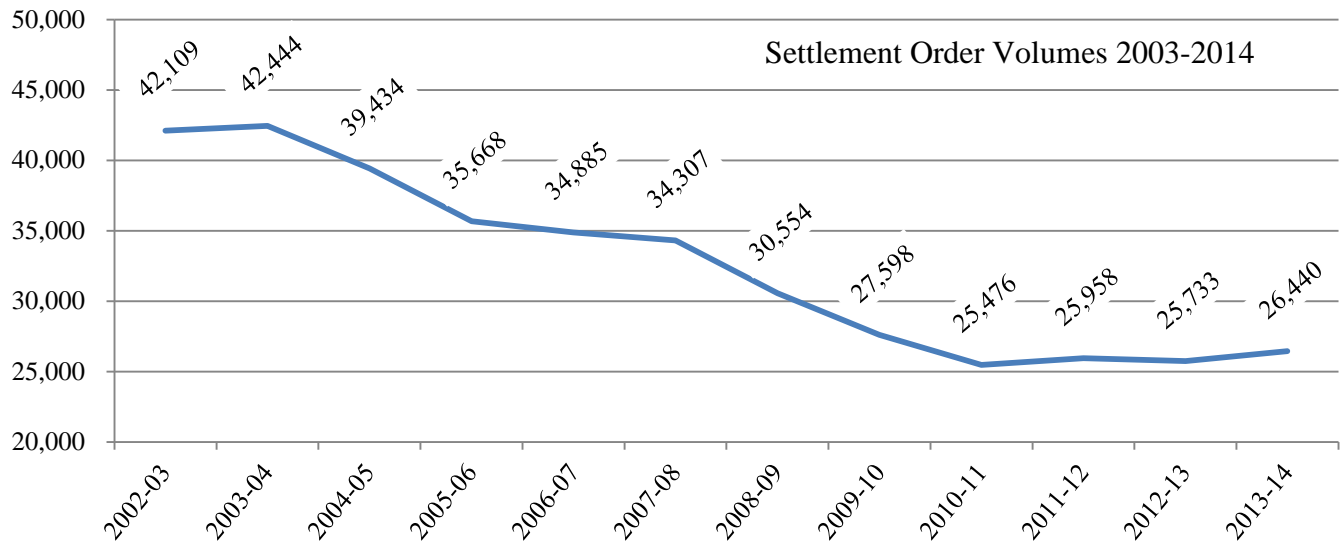
Petition for Benefit (PFB) closure rates decreased in the last five fiscal years (fiscal 2009-10 through 2013-14). There is every reason to believe that trend will continue. A minimal volume of overdue PFB inventory remains unaddressed in this litigation system, which appears from available data, to be in equilibrium. The resulting cost per PFB closed is therefore likely to increase in coming years if PFB filing volumes decrease.

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 payers 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 twelve (12) fiscal years are represented in this table, which total over one hundred twenty-eight million dollars (\$128,921,661). 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 twelve (12) 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. In 2012-13, the OJCC undertook the duties associated with reporting arrearage information on behalf of the Department of Revenue. In 2013-14 the OJCC integrated the process of reporting Circuit Clerk's arrearage information. This combination eliminated redundancy and waste across the process. Litigants in Florida's workers' compensation adjudication system now get all of their required child support information from the OJCC instead of DOR and the Circuit Clerks. These tremendous child support services on behalf of support recipients have been delivered without any additional staff or funding for the OJCC operations. The comparison of child support recovery (red) and the OJCC overall budget (blue) is illustrated in this graph (in millions).

| Fiscal Year | Annual Budget | Support Recovered | % of Budget |
|-------------|---------------|-------------------|-------------|
| 2002-03 | \$16,522,910 | \$11,031,544 | 67% |
| 2003-04 | \$16,225,513 | \$9,219,096 | 57% |
| 2004-05 | \$16,792,731 | \$8,238,113 | 49% |
| 2005-06 | \$17,022,942 | \$11,779,081 | 69% |
| 2006-07 | \$18,032,059 | \$12,266,091 | 68% |
| 2007-08 | \$18,367,869 | \$15,567,184 | 85% |
| 2008-09 | \$18,253,550 | \$10,951,854 | 60% |
| 2009-10 | \$18,184,779 | \$10,196,795 | 56% |
| 2010-11 | \$18,145,746 | \$9,176,661 | 51% |
| 2011-12 | \$16,662,329 | \$9,984,287 | 60% |
| 2012-13 | \$16,142,140 | \$9,626,855 | 60% |
| 2013-14 | \$16,938,037 | \$10,884,100 | 64% |



The decrease in child support collected in 2008-09 was significant, and the support volume has remained somewhat similar since that time. Notably, the volume of settlements that were approved by the Judges of Compensation Claims has likewise decreased in recent years, somewhat markedly, but moderating in 2010-11 through 2012-13 and slightly increasing in 2013-14. Despite legislative reductions in OJCC staffing, the OJCC undertook primary responsibility for providing workers' compensation litigants with pending child support balances from the Department of Revenue ("DOR") database in fiscal 2012-13. This was made possible through a data-sharing agreement with the DOR. With this process in place, the OJCC sought a similar data-sharing agreement with Circuit Clerks throughout Florida late in 2012-13. The implementation of a resulting centralized database of child support information process in workers' compensation was finalized in 2013-14. This OJCC database process simplified the collection of data for litigants, and reduced expense required for documentation of child support in the settlement process.



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 remains less than one million dollars. By comparison, other states have developed systems through special appropriations, deploying less robust processes, and spent far more.⁵⁵

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 participating in a process directed at consolidation of electronic mail services for all state agencies. This process would have led to loss of OJCC control over email capabilities, as the agency was to be forced into effectively "leasing" e-mail services from a vendor. Deployment of e-service was suspended as the OJCC awaited that transition. Late in 2011-12, that transition was cancelled and the OJCC undertook needed replacement of hardware and software to facilitate e-service, leading to deployment of e-service in 2012-13. Similar concerns exist as a result of recent discussions regarding consolidation of state data centers into a centralized structure.

Currently, the e-JCC system provides electronic service on all insurance carriers and servicing agents, contemporaneously with filing. The next step in the e-JCC evolution will be e-service for employers. The completion of that step will eliminate a significant postage expense for attorneys representing injured workers. The law requires that petitions for benefits are sent to employers and carriers by certified mail or approved electronic means. As the adjustments are made to accommodate electronic transmission to employers, the last remaining certified mail expense in Florida workers' compensation will be minimized.⁵⁶

The OJCC has a great deal of time invested in the innovative electronic filing and service platforms that have been deployed. Those are saving OJCC customers over one million dollars annually. They are the result of, and are

dependent upon, the OJCC's creativity and being able to nimbly address developments and innovation to maximize the effectiveness of the digital world, to the benefit of Floridians.

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 borne 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 Commission Clerks, Deputy District Clerks, and Administrative Secretaries perform duties far more similar to duties of paraprofessionals employed in the Florida Courts than 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.⁵⁷ 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 measures documented 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. However, following each trial requires preparation and publication of a substantive final order. Some JCCs orders are very detailed and require extensive effort and time, often far in excess of the time required for the trial itself. Regardless of these subtleties, however, the duties of a Judge of Compensation Claims 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 and previous iterations of 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 first published in August 2010. The OJCC has published this annual report again in each of the following years. All are available at www.fljcc.org under the “Notices, Orders and Reports” tab.

The volume of mediations held each year steadily decreased since 2002-03. Two exceptions have been noted, the first in 2008-09 (+3.95%) and the second in 2013-14 (+2.13%). The overall rate of decrease in mediations conducted through this period did not match the rate of decrease in PFB filings, as represented in this chart. Over this twelve year period, PFB filings have decreased an aggregate sixty-one percent (60.7%), while mediations held have decreased only forty-five percent (44.7%). This suggests that as PFB volume fell, OJCC mediators were able to act upon a greater percentage of the remaining volume. The 2008-09 mediations conducted by state mediators increased four percent (3.95%), which may have been due in some part to the increased PFB filings that year. That there was a similar, though less marked increase in 2013-14, also coincident with an increase in PFB filing is notable.

| Fiscal Year | Petitions Filed | % Change | Mediations Held | % Change |
|-------------|-----------------|----------|-----------------|----------|
| 2002-03 | 151,021 | | 29,253 | |
| 2003-04 | 127,611 | -15.5% | 28,072 | -4.04% |
| 2004-05 | 107,319 | -15.9% | 26,410 | -5.92% |
| 2005-06 | 90,991 | -15.2% | 25,522 | -3.36% |
| 2006-07 | 82,607 | -9.2% | 22,258 | -12.79% |
| 2007-08 | 72,718 | -12.0% | 20,021 | -10.05% |
| 2008-09 | 73,863 | 1.6% | 20,812 | 3.95% |
| 2009-10 | 67,971 | -8.0% | 19,864 | -4.56% |
| 2010-11 | 64,679 | -4.8% | 17,896 | -9.91% |
| 2011-12 | 61,354 | -5.1% | 16,881 | -5.67% |
| 2012-13 | 58,041 | -5.4% | 15,850 | -6.11% |
| 2013-14 | 59,292 | 2.2% | 16,188 | 2.13% |

In 2013-14, approximately sixteen thousand (16,188) mediations were held by state mediators, at a cost of approximately \$168.25, a reduction from the 2011-12 cost of \$184.39 each.⁵⁸ The reduction is due to the legislative action reducing the number of state mediators.

Many private mediators charge *hourly* rates well in excess of either of these figures, commonly 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 convened. Therefore comparable services from private mediators would likely cost approximately five hundred dollars (\$500.00), compared to the OJCC cost of one hundred sixty-eight and 25/100 dollars (\$168.25). Thus, the cost-efficiency of State mediation is obvious, averaging about sixty-seven percent (67.3%) of the cost of one hour of private mediation. Notably, this cost is included in the overall OJCC budget discussed above. The overall cost per claim for the OJCC, including the mediation process, is far below the Circuit Court filing fees for other civil matters. 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, within reason.

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. Most⁵⁹ 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 is statutorily obligated to 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. Greater focus on this statutory mandate for timely mediation may have resulted in these improved figures. However, the improvement has been coincident with the decrease of PFB filing described elsewhere in this report, and that decreased volume may be a significant contributing factor. As a direct consequence of efforts to comply with the 130 day statutory parameter, all of the State mediators have averaged below 130 days between PFB filing and first mediation in each of the last six fiscal years (2008-09 through 2013-14). This represents 100% statutory compliance by the OJCC state mediators in six consecutive years.

| Fiscal Year | Petitions Filed | % Change | Mediations Held | % Change |
|-------------|-----------------|----------|-----------------|----------|
| 2002-03 | 151,021 | | 29,253 | |
| 2013-14 | 59,292 | -60.7% | 16,188 | -44.7% |

The statutory requirement to send cases to private mediation may have assisted with facilitating more timely mediations in recent years. The action of sending a case to private mediation also represents a significant cost to the particular E/C ordered to private mediation. Likewise, private mediation when there is no pending PFB is a cost. In

2011-12, the OJCC began offering parties the services of the state mediators for voluntary mediation. This allows consensual mediation when there is no pending PFB, and mediation on subjects such as attorney fees that are not appropriate for mandatory mediation. Parties utilizing this service can discuss resolution of issues, facilitate communication, and do so at no cost, using the resources already provided by the OJCC. The voluntary mediation program was recognized by Florida Tax Watch with a Davis Productivity Award.

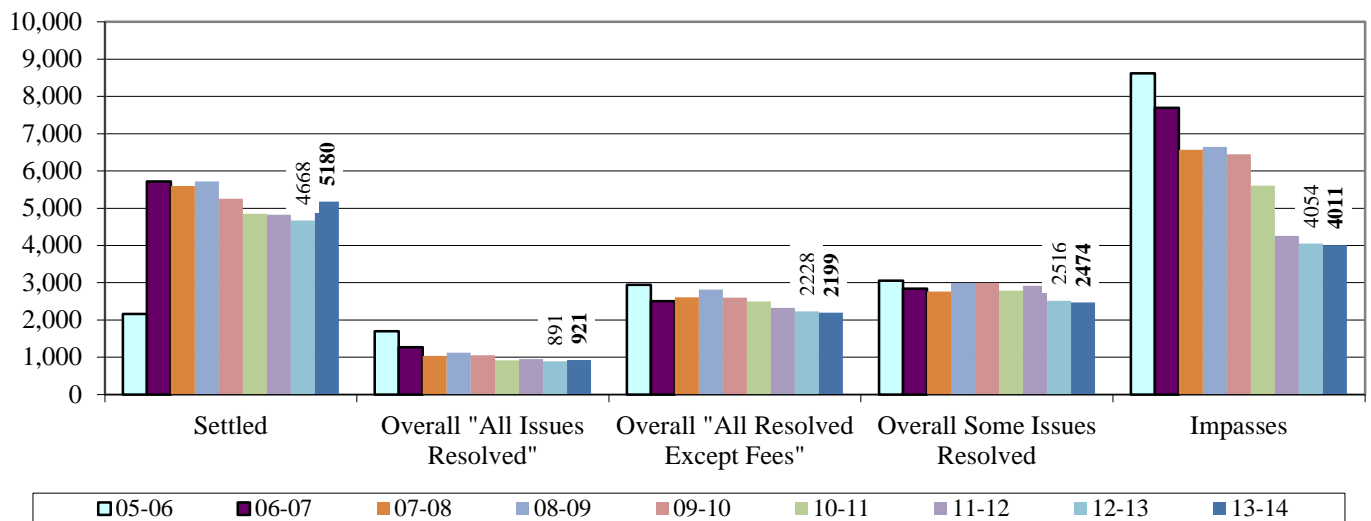
DISPOSITION OF MEDIATION CONFERENCES:

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. The various issues claimed, and their frequency, is discussed more fully on page nine of this report.

Therefore, the outcome of mediation is expressed in terms of what was resolved at that particular mediation. The characterization “impasse” is used to reflect that no issues were resolved at mediation. The characterization “settled” reflects that the entire case, including the pending issues in the PFB(s) and all future benefits as yet undue and unclaimed, were resolved. Between these two extremes of “impasse” (nothing) and “settled” (all) are a number of “partial” resolution characterizations used by the OJCC.

Previously, some mediators mislabeled resolutions that occurred prior to state mediations, characterizing those outcomes as if those cancelled mediations had occurred. That action has undoubtedly resulted in misinterpretation of outcomes in prior OJCC reports. Those erroneously characterized outcomes dictate that comparisons with future data may also be suspect. Despite this caution, the figures reported are accurate representations of the data input into the database during those years.

The term “some issues resolved,” reflects that some subset of the claimed substantive issues have been resolved. The term “all issues resolved, except attorney’s fees” reflects that all of the substantive issues and any ancillary penalty and/or interest issues were resolved, but fee/cost entitlement and/or amount issues remained. The term “all issues resolved” reflects that all claimed PFB issues, including all ancillary issues such as attorney’s fees and costs, were resolved. These potential outcomes can be expressed in a continuum, ranging from the least resolution (“impasse”), to the most resolution (“settled”). The overall results of mediation are reflected in this graph, illustrating this continuum from “all,” or “settled,” on the left side, to the least “none” or “impasse,” on the right side of the graph. The graph below reflects the last nine (9) fiscal years for each of these outcome characterizations.



Notably, a steady increase in volume of mediations that result in resolution of no issues, “impasse,” slowed in 2006-07, decreased, remained reasonably consistent for three fiscal years, and has markedly decreased the last three fiscal years. The 2013-14 results support that settlement, as a percentage of mediation outcomes, increased notably. As other outcomes remain reasonably static, the decrease in “impasse” signals exceptional effort by the state mediators. The goal of state mediation is issue resolution, and resolution of a single issue prevents impasse.

| 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% |
| 2011-12 | 16,881 | 28.60% | 5.65% | 13.78% | 17.29% | 25.19% | 9.49% |
| 2012-13 | 15,850 | 29.45% | 5.62% | 14.06% | 15.87% | 25.58% | 9.42% |
| 2013-14 | 16,188 | 32.00% | 5.69% | 13.58% | 15.28% | 24.78% | 8.67% |

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 thirty-two percent (32%) in 2013-14. The “impasse” category demonstrated a significant decrease in 2011-12, which continued through 2012-13, and decreased again in 2013-14. The decrease in “impasse” outcomes is particularly notable because the frequency of that “no resolution” outcome has been consistently and notably low for the last three 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.

State mediations are obviously very effective in resolving issues. Over the last twelve (12) years, the convened state mediations have resolved at least "some issues" approximately sixty-two percent (61.98%) of the time. In 2013-14, approximately sixty-seven (66.55%) of convened mediations resulted in resolution of some issues.⁶⁰

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, it coincided with a high volume of weather-related office closures that year, as Florida endured serial cyclone landfalls, 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 weather-related 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. Over the last two fiscal years, the volume has decreased markedly, at a rate of close to 50% per year.

| 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 |
| 2011-12 | 717 | 22 | 1.9 |
| 2012-13 | 364 ⁶¹ | 12 ⁶² | 0.9 |
| 2013-14 | 207 | 6 | 0.5 |

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. In 2013-14, two hundred seven (207) mediations were continued, under one half of one percent (.35%). As the volume of mediation continuances increased early in this Century, 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 recent fiscal years, and the rate of PFB filing decline had stabilized, the continuance rate as a percentage of PFBs filed remained reasonably stable, until the marked decline beginning in 2011-12 through 2013-14.

| 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% |
| 2011-12 | 61,354 | 717 | 1.17% |
| 2012-13 | 58,041 | 364 ⁶³ | 0.63% |
| 2013-14 | 59,292 | 207 | 0.35% |

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 responsibility to coordinate and schedule a mediation appointment to the litigants. 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 extended 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 ultimately 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 each year since. This evidences that the litigation environment can be enhanced through proactive docket management.

NUMBER OF CONTINUANCES GRANTED FOR FINAL HEARINGS:

The volume of trial continuances decreased system-wide 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. In the last two fiscal years the average volume of continuances per judge has been approximately 100 trial continuances. Anecdotally, counsel have complained that continuance occurs too infrequently. A perception has been voiced that the reporting in this format inappropriately influences judicial performance, with Judges allegedly denying continuances for the sole motivation of posting more appealing numbers in this report, either in the volume of continuances, in the measure of days between PFB filing and trial, or otherwise. The figures support that continuance of remains reasonably consistent over the last three fiscal years. The empirical data does not support that it is either impossible or impractical to obtain a continuance pursuant to statutory standards and in the appropriate circumstances.

| Fiscal Year | Total Volume | 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 | 10.8 |
| 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 |
| 2011-12 | 3,416 | 107 | 8.9 |
| 2012-13 | 3,052 | 98 ⁶⁴ | 8.2 |
| 2013-14 | 3,101 | 100 | 8.3 |

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 resolved or otherwise 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 direct proportion to the amount of advance notice received. Thus, the earlier the trial is noticed, the less likely parties are to require a continuance.

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 eight (8.3) per month in fiscal 2013-14. 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 utilized 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 2004.⁶⁵ 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:

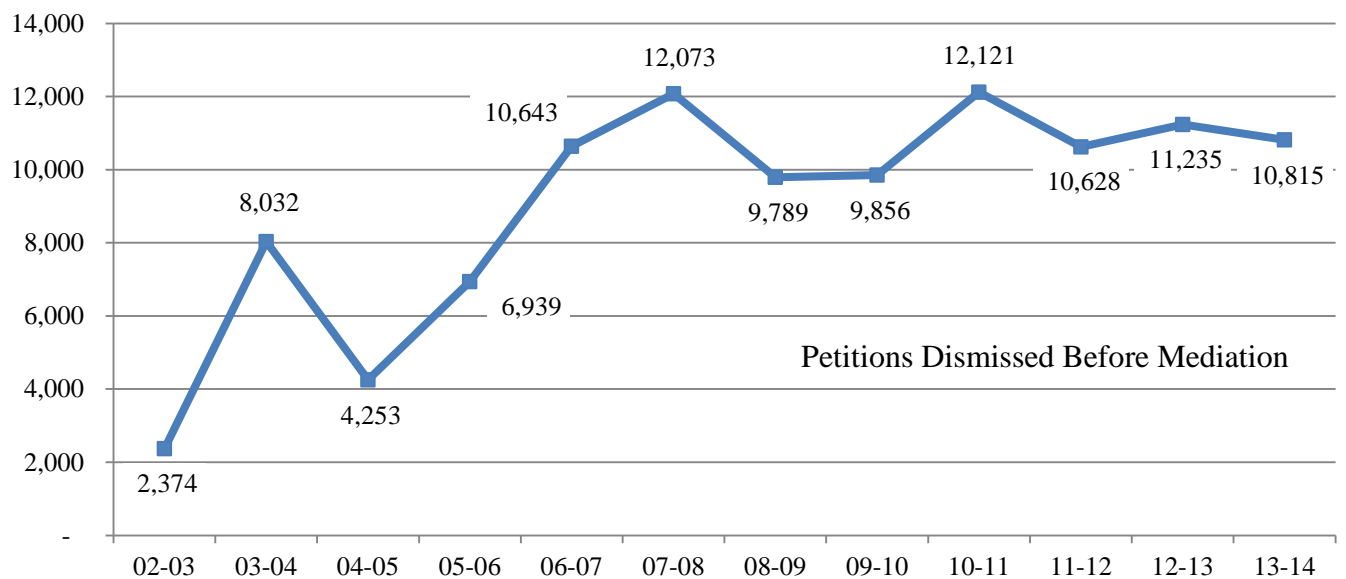
When a Petition for Benefits (PFB) is filed, it is usually filed electronically. Self-represented parties may file paper PFB. If a paper PFB is received by the OJCC, it is scanned and uploaded to the database system. This affords anyone with an internet connection to view the PFB. The petition is assigned to a Judge, and the JCC Database Application “auto-schedules” an appointment for State mediation. The combination of attorneys using e-filing (e-JCC), and the described clerk-upload process, has resulted in significant postage savings in the last three fiscal years.

The e-JCC program (e-filing) informs each Judge of new electronic PFB assignments as those documents are provided in the Judge’s “daily mail.” Similarly, each e-JCC registered attorney may access her or his list of “daily mail” in that program. This allows judges and attorneys to monitor activity in their assigned cases. The portable document format (PDF) image of the PFB, whether e-filed or scanned by the clerk (when filed by an unrepresented party), then becomes the OJCC “original,” and is accessible by any Judge in the state for viewing.

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. Although an appointment is set when the PFB arrives, attorneys have an ample window of opportunity to call the mediator or staff and select a different date that is convenient, prior to any notice being mailed. Few attorneys consistently avail themselves of the benefit of this opportunity to select their own, convenient, mediation date. However, the use of this process by some savvy counsel may be positively affecting the need to seek continuance of mediation appointments, see above.

Some Judges still utilize Fla. Stat. §440.25(4)(h) and schedule “expedited” final hearings on some portion of the petitions for benefits (PFBs) assigned to them. This practice has declined with the decreasing volume of PFB filings. 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 had fluctuated markedly, as illustrated in this graph, but has trended to consistency over the last few years.



The increase in dismissals, illustrated in this 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 filing. 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 PFBs. 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, appellate decisions in 2010 and 2011 brought them into clearer focus.⁶⁶

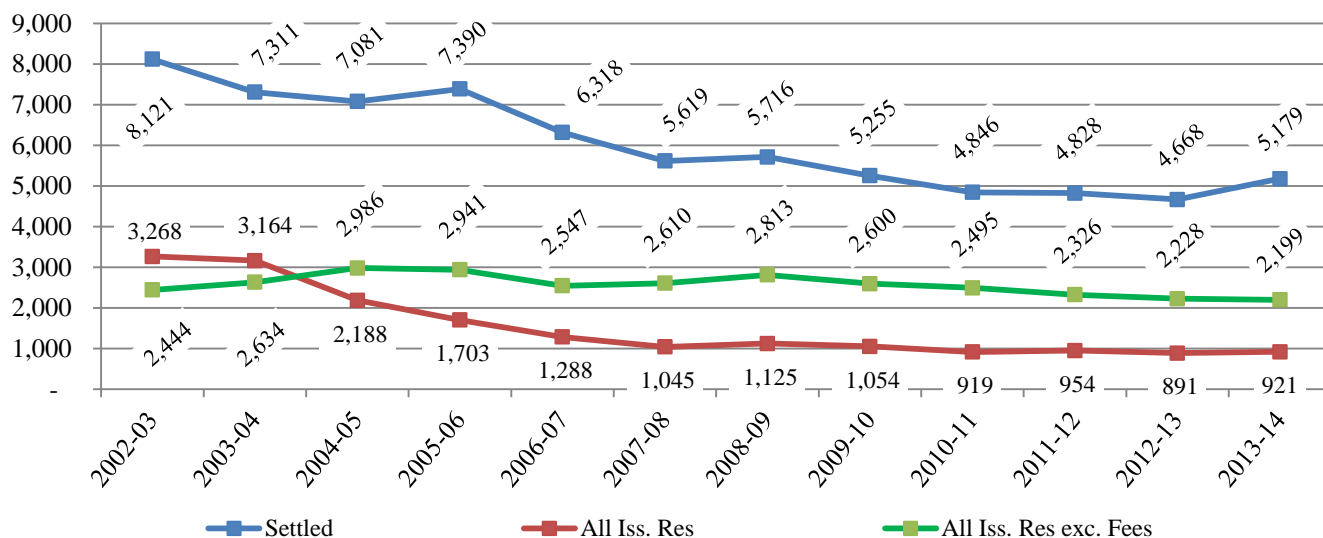
If a particular PFB is not set for expedited hearing, then the assigned JCC will either accept the auto-scheduled mediation appointment or select an alternative date. On the fortieth (40th) day after the PFB is filed, the notice of mediation is sent to the parties and attorneys associated with that case. This was a manual process for many years, with each notice necessitating an envelope and First Class postage. In 2004, the OJCC began generating these notices on automated post-cards, eliminating envelope expense and decreasing postage and labor expense. With the implementation of e-service in the OJCC e-filing program, use of postage and envelopes is now minimal, with only self-represented (“pro se”) litigants generally receiving paper copies by U.S. Mail.

Some JCCs schedule and provide notice of the pretrial and final hearing concurrently with mediation notice. 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. The simultaneous notice of all three events is the most efficient process for the OJCC.

Some mediators reported “prior” resolutions of cases as if the result was accomplished at mediation. Thus, as discussed in prior annual reports, auditing revealed that significantly more PFBs resolved “prior to” mediation than the OJCC previously reported. 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 has decreased markedly since it was described in the 2006-07 OJCC Annual Report.

| Fiscal Year | PFB Filed | PFB Dismissed Before Mediation | % Dismissed Before Mediation |
|-------------|-----------|--------------------------------|------------------------------|
| 2002-03 | 151,021 | 2,374 | 2% |
| 2003-04 | 127,458 | 8,032 | 6% |
| 2004-05 | 107,268 | 4,253 | 4% |
| 2005-06 | 90,948 | 6,939 | 8% |
| 2006-07 | 82,607 | 10,643 | 13% |
| 2007-08 | 72,718 | 12,073 | 17% |
| 2008-09 | 73,863 | 9,789 | 13% |
| 2009-10 | 67,971 | 9,856 | 15% |
| 2010-11 | 64,679 | 12,121 | 19% |
| 2011-12 | 61,354 | 10,628 | 17% |
| 2012-13 | 58,041 | 11,235 | 18% |
| 2013-14 | 59,292 | 10,815 | 18% |

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 twelve (12) fiscal years.



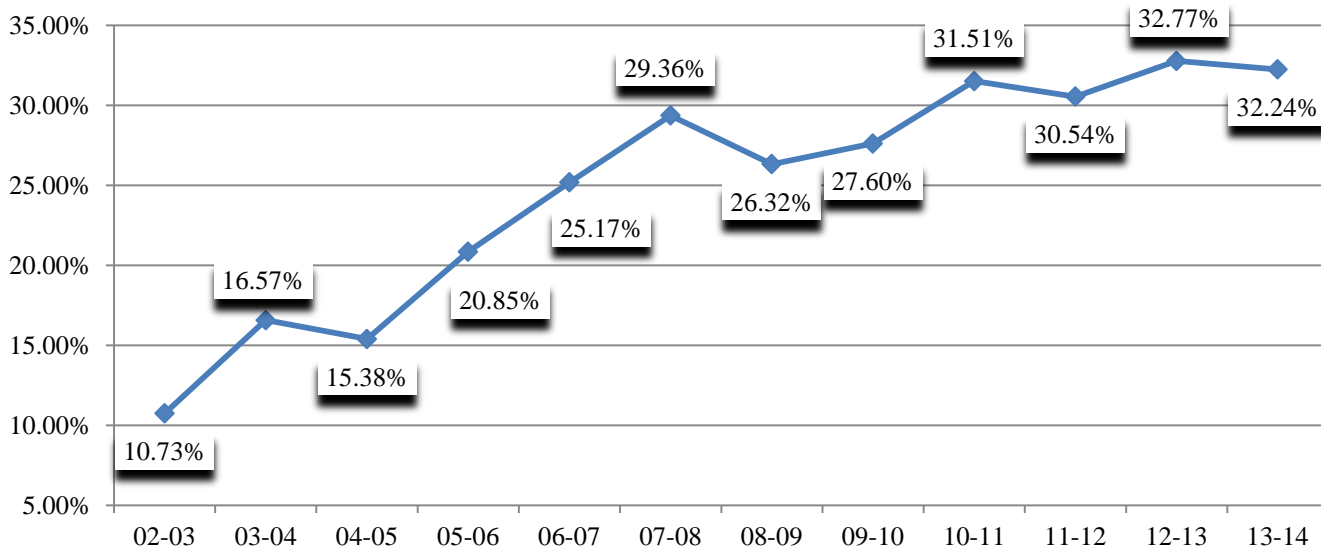
The total number of such resolutions at mediation has remained reasonably consistent for the period 2007-08 through 2013-14, between approximately thirteen percent (12.8%) and approximately 14%. It is significant that this measure reflects only the resolution of all substantive issues in that PFB (“settled,” “all issues resolved,” and “all issues resolved except fees”). Thus, this metric measures success at mediation, but since multiple PFB might be addressed in a single mediation it is not an accurate measure of PFB closure through mediation.

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.

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 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 (conservatively presuming one mediation equals one PFB), the graph below illustrates the percentage of PFBs filed that were resolved, either before or at mediation, during the last twelve (12) fiscal years. This illustrates that in 2013-14, approximately sixty-eight percent (68.11%) of PFBs filed include some issue or issues that remain unresolved at the conclusion of mediation. This has been reasonably consistent over the last three 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.

The following graph represents the percentage of filed PFB that are resolved by the conclusion of the mediation process. The percent resolved by that time has been over 30% for the last three fiscal years. A number of cases also resolve following mediation, as a result of the communication that is instigated during that process. Mediation is, at its very root, a process and not necessarily a destination. In other words, the journey itself is productive, even if no issues are resolved. Success may also be found in affording the parties the opportunity to express their concerns and positions, and in opening lines of communication. Thus, in measuring success, the subjective perspectives of participants are as important in some regard as the overall resolution of issues at the mediation itself.



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. §440.34.⁶⁷ There is no such specific requirement for the approval of fees paid by employer/carriers for their defense counsel representation.⁶⁸ Despite the absence of such specific requirement for defense fee approval, the broad language of Fla. Stat. §440.105(3)(b)⁶⁹ 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 some claimant’s attorneys and groups have questioned this interpretation.

The OJCC has required insurance carriers to report their respective total annual expenditures for aggregate defense fees.⁷⁰ The reporting requirements since fiscal year 2011 require that reporting by September first of each year.

Because these defense fee figures are reported in the aggregate, it is impossible to discern whether cost reimbursement to E/C 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. In the preparation of this report, a discrepancy was noted in the reporting for one servicing agent. Investigation revealed that the servicing agent had erroneously over-reported defense fees in each of the last eleven fiscal years.⁷¹ The servicing agent corrected the errors with amended filings completed in November 2014.

| Fiscal Year | Claimant Attorney Fees |
|-------------|------------------------|
| 2002-03 | \$210,660,738 |
| 2003-04 | \$215,322,360 |
| 2004-05 | \$211,157,073 |
| 2005-06 | \$208,369,260 |
| 2006-07 | \$191,197,443 |
| 2007-08 | \$188,701,256 |
| 2008-09 | \$181,660,686 |
| 2009-10 | \$176,996,765 |
| 2010-11 | \$157,081,084 |
| 2011-12 | \$152,848,003 |
| 2012-13 | \$151,889,627 |
| 2013-14 | \$141,858,184 |

Order Year 2013-14 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).⁷² Those figures have therefore been corrected in this, and other more recent, annual report, as noted in the chart here.

| Fiscal Year | Claimant Attorney Fees | Percent Change | Previously Reported Defense Attorney Fees | Previously Reported Percent Change | Corrected Defense Attorney Fees ⁷³ | Corrected Percent Change |
|-------------|------------------------|----------------|---|------------------------------------|---|--------------------------|
| 2002-03 | \$210,660,738 | | \$220,044,685.00 | | \$216,698,474 ⁷⁴ | |
| 2003-04 | \$215,322,360 | 2.21% | \$231,150,559.00 | 5.05% | \$226,585,434 ⁷⁵ | 4.56% |
| 2004-05 | \$211,157,073 | -1.93% | \$264,058,532.00 | 14.24% | \$259,021,415 ⁷⁶ | 14.32% |
| 2005-06 | \$208,369,260 | -1.32% | \$299,412,570.00 | 13.39% | \$290,172,000 ⁷⁷ | 12.03% |
| 2006-07 | \$191,197,443 | -8.24% | \$287,443,033.00 | -4.00% | \$277,386,580 ⁷⁸ | -4.41% |
| 2007-08 | \$188,701,256 | -1.31% | \$270,501,374.00 | -5.89% | \$260,160,946 ⁷⁹ | -6.21% |
| 2008-09 | \$181,660,686 | -3.73% | \$277,664,217.00 | 2.65% | \$269,280,414 ⁸⁰ | 3.51% |
| 2009-10 | \$176,996,765 | -2.57% | \$279,570,117.00 | 0.69% | \$269,657,104 ⁸¹ | 0.14% |
| 2010-11 | \$157,081,084 | -11.25% | \$270,955,703.00 | -3.08% | \$259,323,175 ⁸² | -3.83% |
| 2011-12 | \$152,848,003 | -2.69% | \$264,022,959.00 | -2.56% | \$242,446,703 ⁸³ | -6.51% |
| 2012-13 | \$151,889,627 | -0.63% | \$266,885,471.91 | 1.08% | \$240,894,494 ⁸⁴ | -0.64% |
| 2013-14 | \$141,858,184 | -6.60% | | | \$237,364,153 ⁸⁵ | -1.47% |

During 2013-14, a total of three hundred seventy-nine million, two hundred twenty-two thousand three hundred thirty-seven dollars (\$379,222,337) was expended on combined claimant fees and defense attorney’s fees⁸⁶ (and perhaps defense “costs”) in the Florida worker’s compensation system. This represents a significant decrease of almost 10% from the 2012-13 aggregate fees of three hundred ninety-two million, seven hundred eighty-four thousand one hundred twenty-two dollars (\$392,784,122). Both claimant’s and defense fees decreased in 2013-14, but more significantly on the claimant side.

| Fiscal Year | Aggregate Fees with Previously Reported Defense Fees | Claimant % Previously Reported | Defense % Previously Reported | Aggregate Fees with Corrected Defense Fees | Claimant % Corrected 2014 | Defense % Corrected 2014 |
|-------------|--|--------------------------------|-------------------------------|--|---------------------------|--------------------------|
| 2002-03 | \$430,705,423 | 48.91% | 51.09% | \$427,359,212 ⁸⁷ | 49.29% | 50.71% |
| 2003-04 | \$446,472,919 | 48.23% | 51.77% | \$441,907,794 ⁸⁸ | 48.73% | 51.27% |
| 2004-05 | \$475,215,605 | 44.43% | 55.57% | \$470,178,488 ⁸⁹ | 44.91% | 55.09% |
| 2005-06 | \$507,781,830 | 41.04% | 58.96% | \$498,541,260 ⁹⁰ | 41.80% | 58.20% |
| 2006-07 | \$478,640,476 | 39.95% | 60.05% | \$468,584,023 ⁹¹ | 40.80% | 59.20% |
| 2007-08 | \$459,202,630 | 41.09% | 58.91% | \$448,862,202 ⁹² | 42.04% | 57.96% |
| 2008-09 | \$459,324,903 | 39.55% | 60.45% | \$450,941,100 ⁹³ | 40.28% | 59.72% |
| 2009-10 | \$456,566,882 | 38.77% | 61.23% | \$446,653,869 ⁹⁴ | 39.63% | 60.37% |
| 2010-11 | \$428,036,787 | 36.70% | 63.30% | \$416,404,259 ⁹⁵ | 37.72% | 62.28% |
| 2011-12 | \$416,870,962 | 36.67% | 63.33% | \$395,294,706 ⁹⁶ | 38.67% | 61.33% |
| 2012-13 | \$418,775,099 | 36.27% | 63.73% | \$392,784,122 ⁹⁷ | 38.67% | 61.33% |
| 2013-14 | | | | \$379,222,337 ⁹⁸ | 37.41% | 62.59% |

The 2012-13 OJCC Annual report noted that the decrease in claimant fees documented there was the most modest decrease in the eleven years since the 2003 legislative reforms. The 2013-14 decrease of over six and one-half percent is more notable. However, the eleven percent decrease in defense fees, almost thirty million dollars, is even more notable. The aggregate attorneys' fees in Florida workers' compensation are detailed in the second chart on this page. This chart illustrates the total fees for both claimant and defense, and then provides the percentage that each make of the whole. This delineation was close to 50/50 in the early years of the comparison, but as aggregate claimant's fees have decreased and employer/carrier fees have increased, a disparity between claimant and defense fees has developed. In the six fiscal years 2008-09 through 2013-14, defense fees have accounted for sixty percent (60.45%) to sixty-four percent (63.73%) of the total fees. In 2013-14, defense fees represented approximately sixty-three percent (62.56%) despite the marked reduction in defense fee totals.

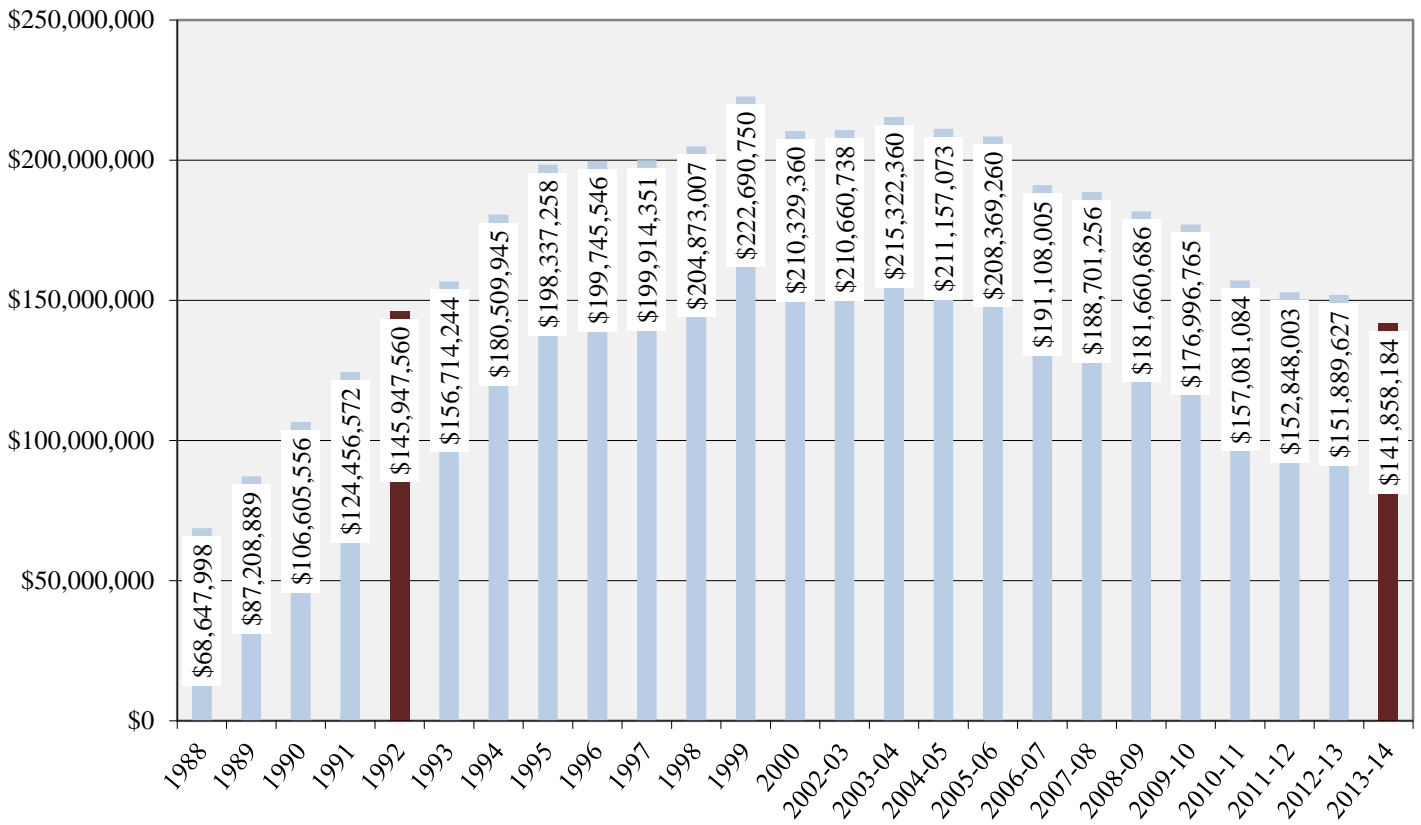
In the 2012 annual report, this Office first noted the inflation effect. Considering inflation over the last decade, this difference is more pronounced. According to the U.S. Inflation calculator,⁹⁹ the 2002-03 aggregate (\$430,705,423), in 2012 dollars, adjusted for inflation, would have been \$537,431,418. Adjusted for inflation in 2014, that same figure would have been \$556,761,665. Thus, the aggregate inflation-adjusted fees are down over the last nine years by more than one hundred thirty million dollars.

The claimant attorney fee aggregate for 2013-14, is the tenth consecutive decrease since 2003-04. The last ten fiscal years of claimant and defense attorney's fees and the annual rates of change are set forth in the table above. 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.

Reported defense attorney fees progressively increased after the 2003 statutory amendments, at a significant rate, as illustrated in the previous table. Conversely, claimant attorney's fees decreased in each of the last nine years. These decreases demonstrated some consistency, marked by notable decreases in 2006-07 (8.24%) and 2010-11 (11.25%). In sum, over the ten year period since 2002-03, claimant fees have decreased about thirty-three percent (32.66). The aggregate defense fees in 2013-14 (\$237,082,331) are much closer to the aggregate defense fees in 2003-04 (\$231,150,559). The 2013-14 defense fees are only about eight percent (7.74%) above the total in 2003-04. The aggregate defense fees of \$220,044,685 in 2002-03 adjusted for inflation would be equal to \$284,446,024 in 2014 dollars, compared to the actual figure of \$237,082,331. When inflation is factored into this analysis, the 2002-03 claimant fees of \$210,660,738 would be equivalent to \$272,315,641 in 2014 dollars, compared to the actual figure of \$141,858,184.

| Fiscal Year | Claimant Attorney Fees | Percent Change | Defense Attorney Fees | Percent Change |
|-------------|------------------------|----------------|------------------------------|----------------------|
| 2002-03 | \$210,660,738 | | \$216,698,474 ¹⁰⁰ | |
| 2013-14 | \$141,858,184 | -32.66% | \$237,087,247 | 9.41% ¹⁰¹ |

The Department of Labor and Employment Security ("DLES") compiled data regarding the attorney's 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 claimants' 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 2012-13. The level of aggregate claimant's attorney fees in 2012-13 is the lowest it has been since 1992.



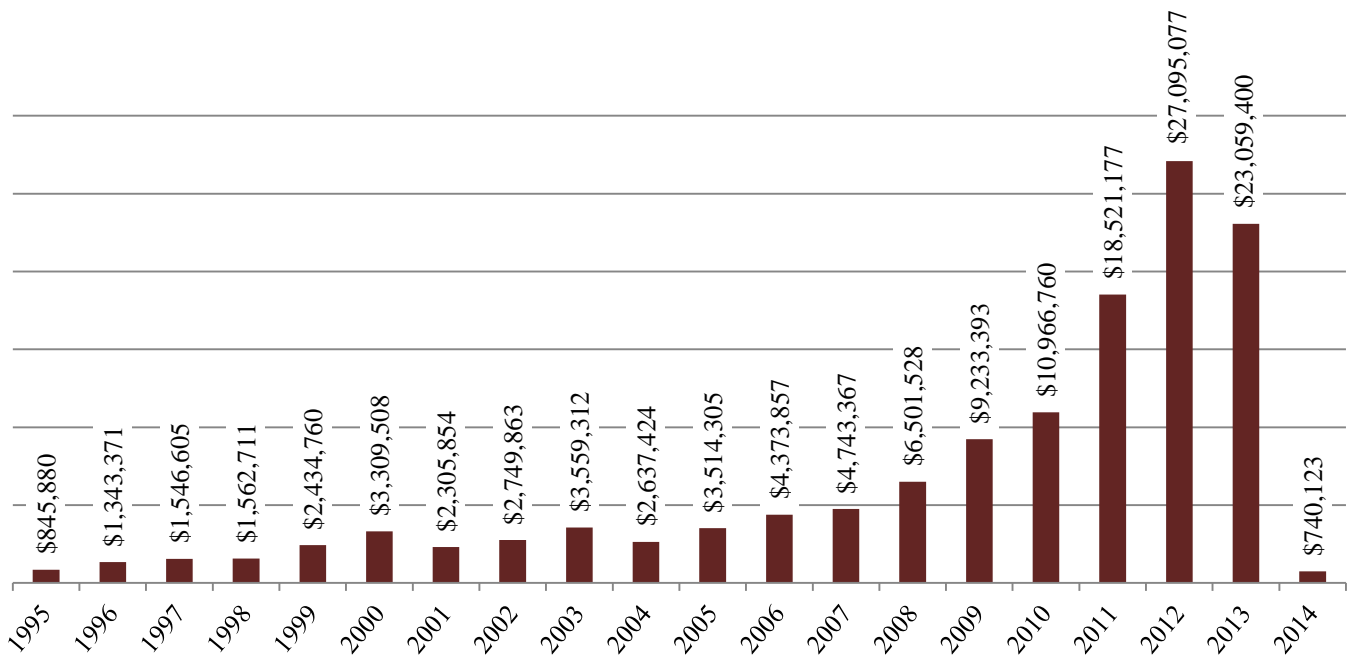
This may be significant in light of the history of Florida workers’ compensation. Workers’ compensation was enacted in Florida in 1935. Although there were statutory modifications thereafter, a major revision of the law was passed in 1979, which has been referred to as the “shift to wage loss.”¹⁰² In a 1994 legislative special session, there was a “retreat to an impairment-based system.”¹⁰³ As discussed above, the effect of the 1994 legislation was a marked period of growth in Petition for Benefits filings. Contrary to the legislature’s intent of decreasing litigation in 1994, pleading increased. The data above supports that aggregate fees also 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 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 years or decades.

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. In 2013-14 a fee was approved on a 1970 date of accident. This case illustrates the manner in which claims can occur and not come within the OJCC Jurisdiction for a significant period. The accident in this instance occurred December 1970 and the first Petition for Benefits was filed December 27, 2013.¹⁰⁴

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 any 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 at a particular time involve dates of accident prior to any current fiscal year. The chart above illustrates how many different accident years generated fees in each of the last seven fiscal years.

| Fiscal Year | Different Years Fees Paid |
|-------------|---------------------------|
| 2006-07 | 46 |
| 2007-08 | 47 |
| 2008-09 | 47 |
| 2009-10 | 48 |
| 2010-11 | 45 |
| 2011-12 | 47 |
| 2012-13 | 50 |
| 2013-14 | 44 |



The claimant fees approved in fiscal 2013-14, for accident dates in the last 20 years are illustrated in the above graph. The vast majority, approximately seventy-eight percent (78%) of the fees approved in 2013-14, related to accident dates in the ten years between January 1, 2004 and December 31, 2013. For comparison, the 2012-13 report concluded that seventy-seven percent (77%) related to the corresponding ten year period. The 2011-12 report reflected that seventy-five percent (75%) of the fees approved that year related to accidents in the seven years between January 1, 2005 and December 31, 2011. This supports that while the distribution still reflects most fees relate to reasonably recent accidents, the distribution changed in 2012-13 with more of the older accident fees included in the three-quarters percentile. 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 2013-14 with the 2012 accident fees (\$27,095,077, 19%) 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 |
| 2011-12 | 2010 | \$27,632,737 |
| 2012-13 | 2011 | \$25,875,607 |
| 2013-14 | 2012 | \$27,095,077 |

This illustrates two points. First, the most recent accidents historically account for the vast majority of Claimant’s attorney fees approved, or awarded each fiscal year, but that percentage required ten years of accident dates this 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, expedited final hearing and final hearing processes engage, and as resolution occurs, the fee issues are resolved.

Of the claimants’ attorney fees approved in 2005-06, only two percent (2%)(illustrated in the chart, right) 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% through 2012-13. This percentage increased to 8% in 2013-14. This illustrates that claims on dates of accident older that twenty years have increased in terms of their portion of the whole, but still do not represent a significant portion of the fee awards and stipulations.

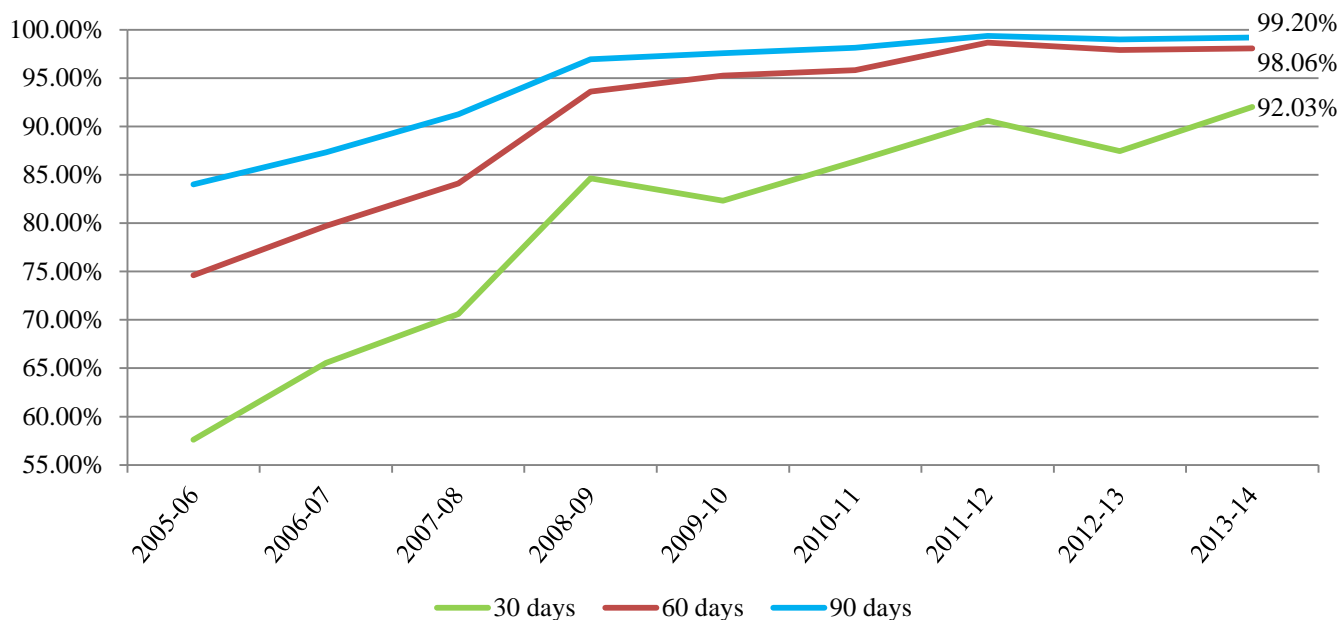
| Fiscal Year | Fees on Accident dates > 20 years |
|-------------|-----------------------------------|
| 2005-06 | 2% |
| 2006-07 | 4% |
| 2007-08 | 5% |
| 2008-09 | 6% |
| 2009-10 | 6% |
| 2010-11 | 5% |
| 2011-12 | 5% |
| 2012-13 | 6% |
| 2013-14 | 8% |

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 for entry of a final order. 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. 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 2013-14, supports that many final orders were entered on the same day of the final hearing. Overall, the JCCs entered timely (within the 30 days required by statute) final orders approximately fifty-eight percent (57.6%) of the time in fiscal 2005-06. This increased steadily through 2008-09, and was approximately ninety-two percent (92.03%) in 2012-13. These measurements are markedly similar to those in 2011-12. Thirty of thirty-one Judges averaged less than 30 days on the entry of their respective trial orders in 2013-14. This represents ninety-seven percent (97%) of the Judges that entered trial orders during 2013-14.

| Days | 05-06 | 06-07 | 07-08 | 08-09 | 09-10 | 10-11 | 11-12 | 12-13 | 13-14 |
|---------|--------|--------|--------|--------|--------|--------|--------|--------|--------|
| 30 days | 57.60% | 65.54% | 70.61% | 84.64% | 82.33% | 86.38% | 90.60% | 87.45% | 92.03% |
| 40 | 66.70% | 71.23% | 76.88% | 89.20% | 89.26% | 91.86% | 95.43% | 93.44% | 95.67% |
| 50 | 71.90% | 76.87% | 81.02% | 91.77% | 93.16% | 94.84% | 97.66% | 96.50% | 97.15% |
| 60 days | 74.60% | 79.72% | 84.09% | 93.59% | 95.26% | 95.83% | 98.67% | 97.90% | 98.06% |
| 70 | 78.60% | 82.97% | 86.93% | 95.05% | 96.32% | 96.97% | 98.94% | 98.47% | 98.80% |
| 80 | 81.60% | 85.14% | 89.30% | 95.83% | 97.02% | 97.50% | 99.10% | 98.85% | 99.03% |
| 90 days | 84.00% | 87.31% | 91.25% | 96.93% | 97.58% | 98.12% | 99.36% | 98.98% | 99.20% |
| 100 | 85.50% | 88.60% | 92.79% | 97.45% | 98.14% | 98.49% | 99.58% | 99.17% | 99.20% |

As represented in the table above, 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-nine percent (99.20%) of the cases in 2013-14. In 2005-06 orders were entered within the 30 day statutory parameter approximately fifty-eight percent (57.6%) of the time; in 2013-14 that parameter was met approximately ninety-two percent (92.03%) of the time. 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 2013-14, 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 2013-14 the longest period was four hundred forty-eight (448) days, just over one year. This represented a marked decrease in the longest time to order. 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 (448 days). The EMA process is time consuming, and delay of decisions is inherent within that procedural process. However, the OJCC continues to perform significantly within this measure. The overall volume of trial orders slowly decreased over the last four fiscal years, from 2,142 in 2009-10 to 1,570 in 2012-13. In 2013-14, 1,757 trial orders were entered.¹⁰⁵



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 stipulated/agreed attorney fees and cost reimbursements should be eliminated when all parties are represented by counsel.

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. This process has consistently been prone to gamesmanship and manipulation. That characterization is exacerbated by the continued decline in the population of certified EMA providers.

- Use of EMA provisions should be discretionary rather than mandatory.

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

Any efforts at consolidation of data centers for state government should exclude the Office of Judges of Compensation Claims and the Division of Administrative Hearings. By reacting to our respective marketplaces, these two agencies have led the state in innovations such as electronic filing and service. The dynamic relationship

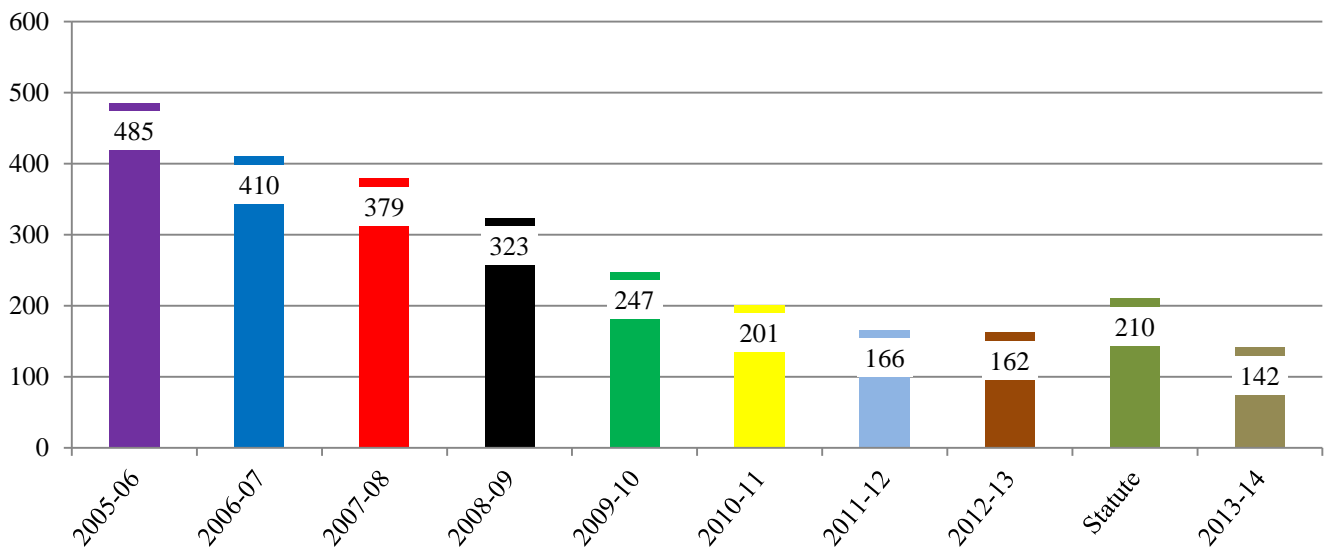
of programmers, IT professionals and the agency has afforded the opportunity for development and deployment of great tools for the marketplace, at minimal overall cost. Loss of this dynamism, into some larger process, would frustrate future innovation and development.

The data stored by this agency, similarly to the State’s Attorney and the Courts, is confidential and requires a level of security above and beyond that required for that data maintained by many other agencies. The ability to safeguard the documents and information submitted by the injured, in the course of litigating their entitlement to workers’ compensation is critical. The faith of the marketplace in our security and our focus on service to them is critical and should be maintained through OJCC/DOAH exemption from any data consolidation process.

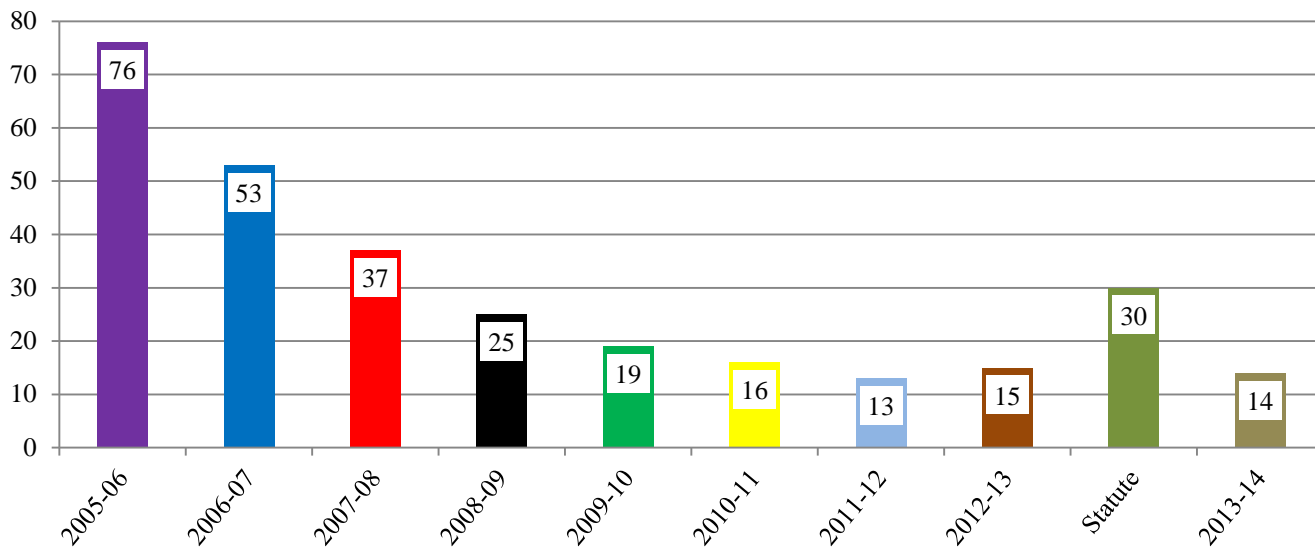
JUDGES GENERALLY ARE UNABLE TO MEET A PARTICULAR STATUTORY REQUIREMENT FOR REASONS BEYOND THEIR CONTROL, THE DEPUTY CHIEF JUDGE SHALL SUBMIT SUCH FINDINGS AND ANY RECOMMENDATIONS TO THE LEGISLATURE:

There are three main statutory requirements for the Judges of Compensation Claims. Judges are expected to have their assigned cases 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. In individual exceptional cases, however, these standards may be unreasonable, due to the facts of a 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 eight fiscal years (2005-06 through 2012-13) one hundred percent (100%) compliance with these requirements was achieved by some individual Judges and their respective staff. Overall, the OJCC did not meet all of these measures until 2010-11, which continued through 2013-14. The overall OJCC average time, from operative pleading to commencement of trial, has decreased approximately seventy-one percent (70.9%) over the last nine fiscal years. As illustrated in the following graph, the OJCC overall average (141 days) is well within the statutory parameter of 210 days.¹⁰⁶

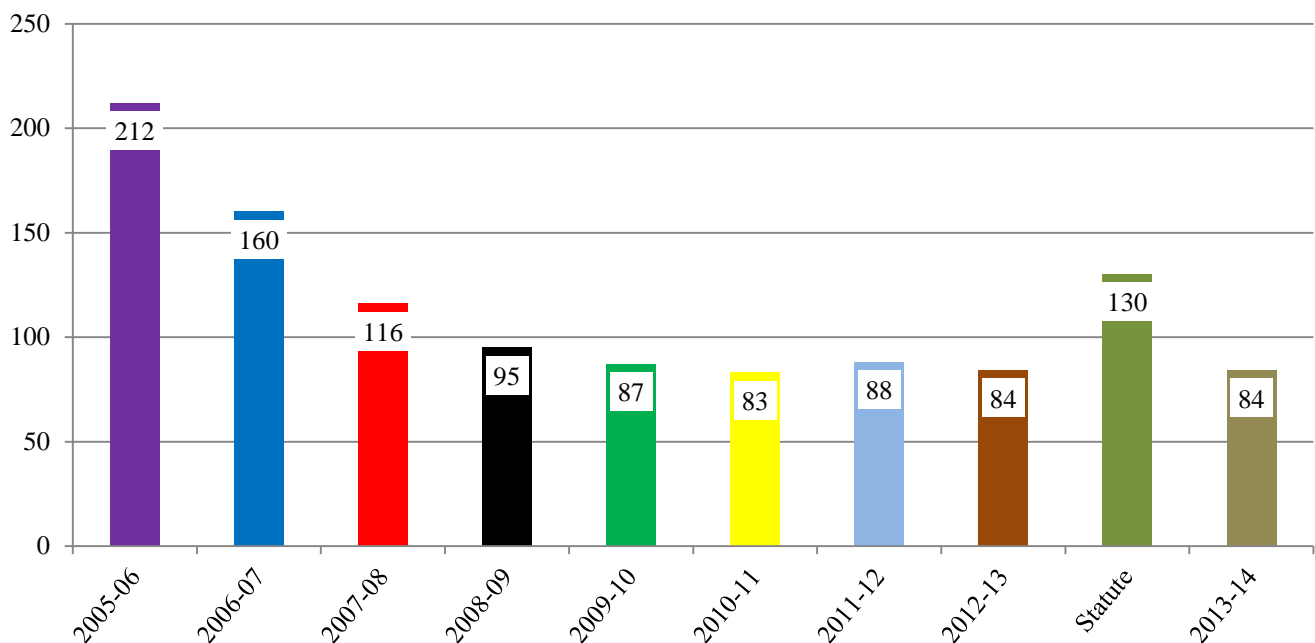


The Office of the Judges of Compensation Claims has also made significant improvement in the average time period between the commencement of the trial and the entry of the final order thereon.¹⁰⁷ The overall statewide average period, from trial to the entry of the trial order, has decreased approximately eighty-two percent (81.6% = 1-(14/76)) over the last nine 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. For the three fiscal years 2008-09 through 2010-11, 85% of the Judges averaged less than 30 days to final order entry. In 2011-12, this increased to over ninety-seven percent (97%), and has remained at that level since.

Another impressive improvement is the marked sixty percent (60.37%) reduction, in the overall statewide average time period, between petition filing 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 each of the last six fiscal years. Clearly, the OJCC efforts 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),¹⁰⁸ 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)¹⁰⁹(timely mediation), Fla. Stat. §440.25(4)(a)¹¹⁰(pretrial procedure), Fla. Stat. §440.25(4)(b)¹¹¹(appropriate continuance grounds and orders) , Fla. Stat. §440.25(4)(c)¹¹²(timely final hearing notice), Fla. Stat. §440.25(4)(d)¹¹³(timely final hearings and final orders), Fla. Stat. §440.25(4)(e)¹¹⁴(final order filing), Fla. Stat. §440.34(2)(appropriate fee order findings), Fla. Stat. §440.442¹¹⁵(Compliance with Code of Judicial Conduct). Despite the clear statutory mandate for such reporting, these statutory measures were not previously reported by the OJCC until 2006. This Annual Report marks the eighth 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). Since 2007-08 the OJCC Annual Report has provided 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 has been repeated annually since. The results of each are available on the OJCC website (www.fljcc.org), under the "Notices, Orders and Reports" tab.

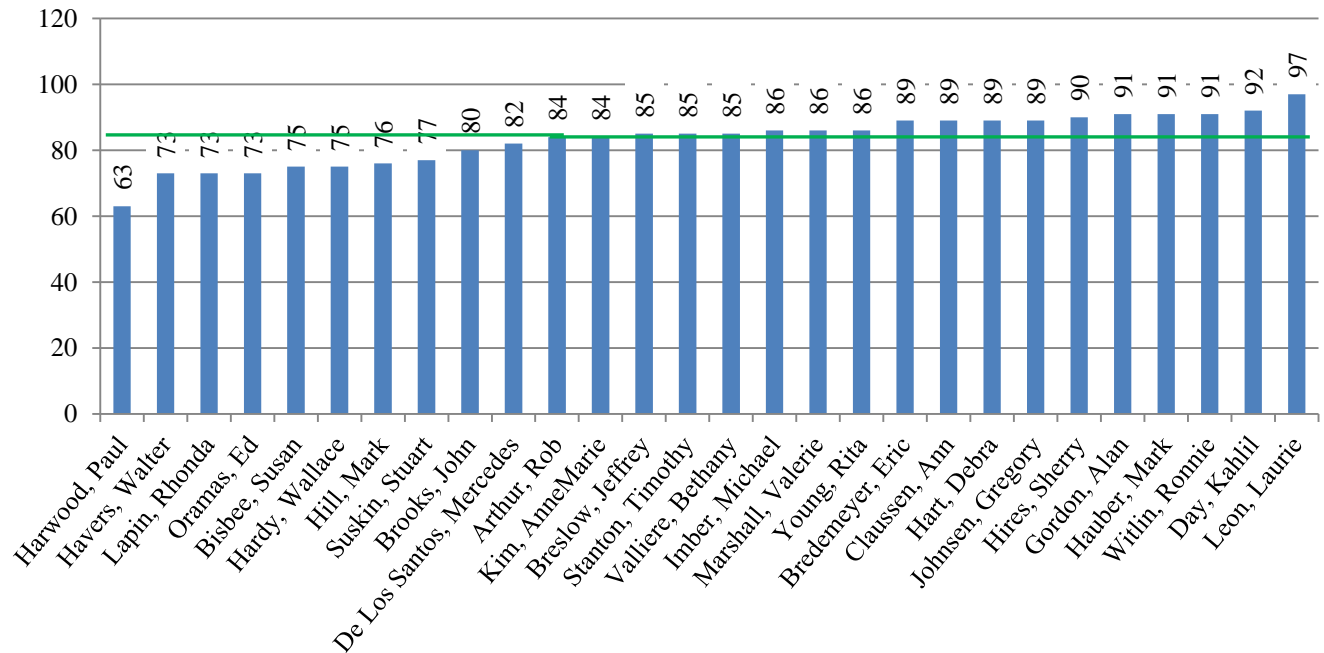
For the purposes of this report, "final hearings" include: Evidentiary Motion Hearing, Expedited Final Hearing, Fee Amount Hearing, Fee Entitlement Hearing, Final Hearing, and Fund Hearings. Therefore the information herein regarding the timely conduct of hearings and entry of "final orders," includes analysis of all instances of these types of "trials," and the orders that result.¹¹⁶ 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.

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 2013-14, 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.

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 (blue bars). The statewide average is also depicted (horizontal green line). All figures are below the 130 day statutory parameter. 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 2014 Settlement and Mediation Report,¹¹⁷ 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 84 days. In 2007-08 twenty-two (69%) of the state mediators had an average of less than 130 days (the statutory period) from PFB filing to the first mediation; in each fiscal year since 2007-08,¹¹⁸ **one hundred percent (100%)**, of the state mediators had an individual average that was within the 130 days.

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 available data 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 initially scheduled. This is often known before or fairly soon after, the hearing or mediation is initially noticed. If the parties seek to change that initial 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 shall 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 2013-14 (except those Judges whose assignments demonstrated less than 10 continuances overall). Each selected case docket was searched for a corresponding order “continuing” that hearing. A similar audit in 2012-13 revealed that many (23 of 31) Judges were not consistently complying with the statute in this regard. The 2012-13 Annual Report noted this and all judges were provided with follow-up regarding continuances. The 2013-14 audit revealed improvement. Six judges in 2013-14 periodically issued notice of a new hearing date instead of an appropriate continuance order. Seven judges continued cases without an order or notice appearing in the docket. Seven judges entered continuance orders with no hearing date expressed. Some portion of the non-compliant orders (no new trial date set forth) are continuances for evaluation by expert medical advisor, and are therefore more difficult for the assigned Judge to predict. This issue will be revisited yet again in 2014-15.

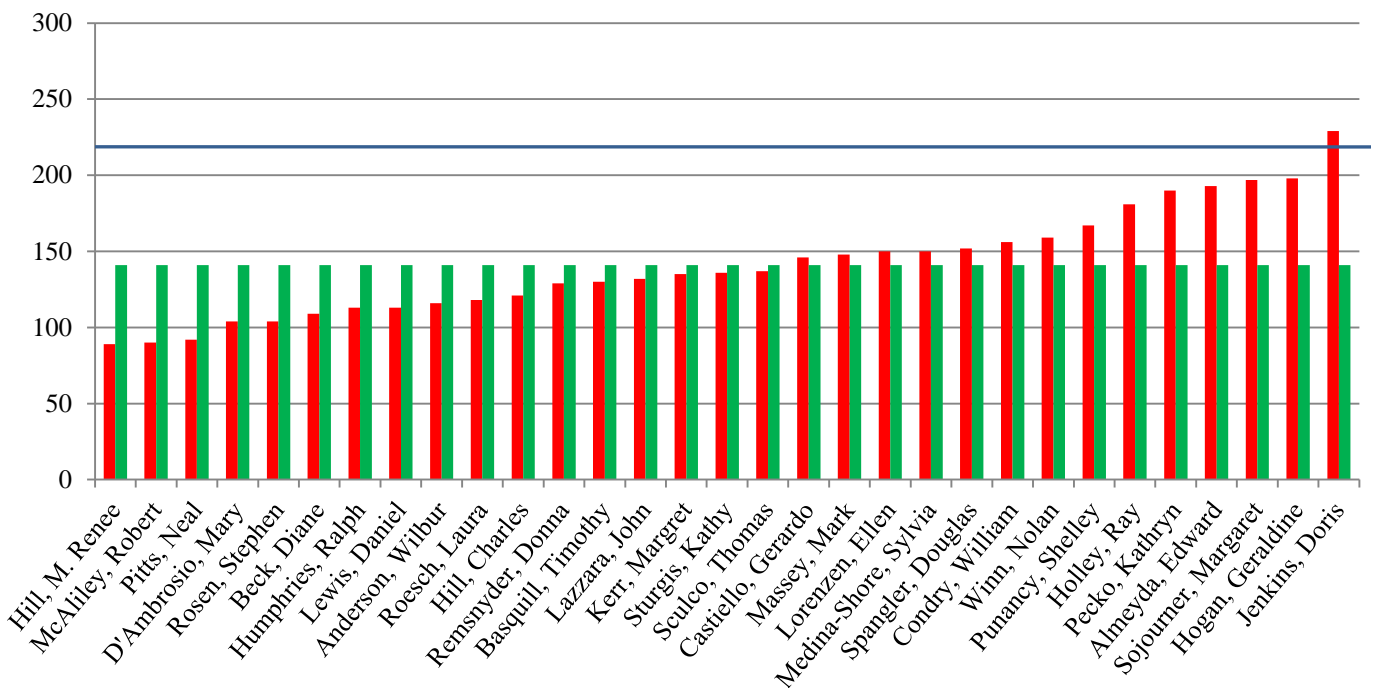
Final Order Filing:

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 supports 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.

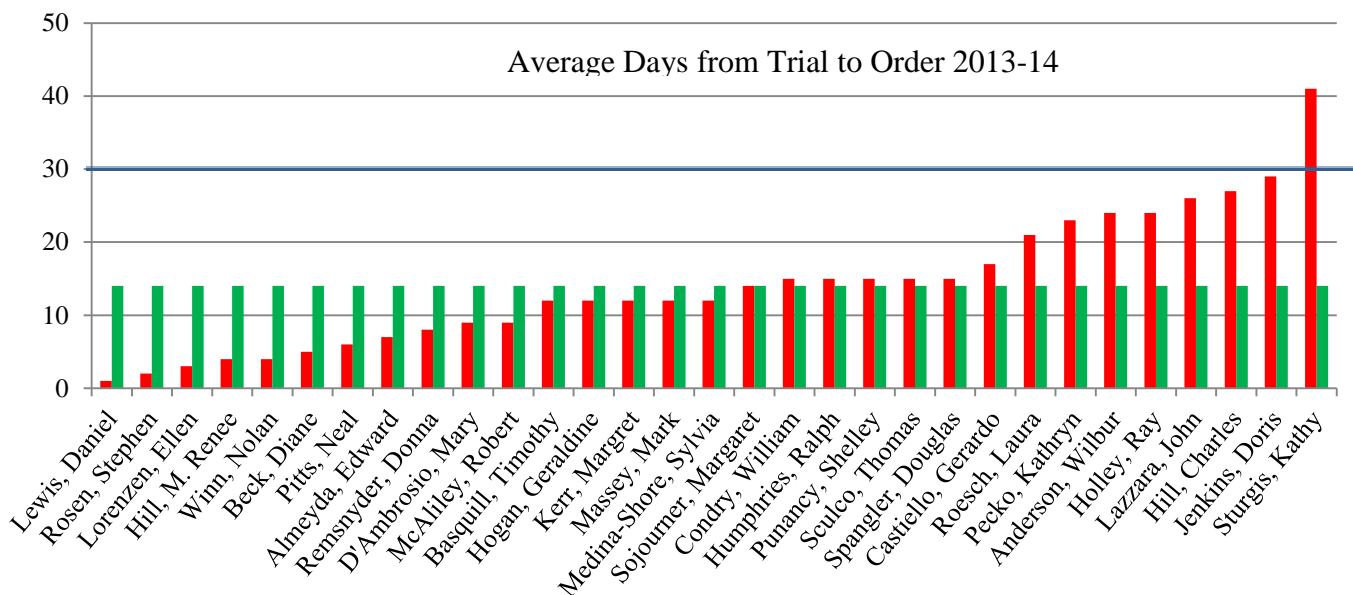
Timely Final Hearings and Final Orders:

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 2013-14 fiscal 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 141 days in 2013-14, down from 162days in 2012-13. The blue line represents the 210 day parameter from the statute.

Average Days from PFB to Trial 2013-14



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 14 days in 2013-14, down slightly from 15 days in 2012-13. The blue line represents the 30 day parameter from the statute.



Attorney’s Fee Orders:

Contents of attorneys fee orders is addressed in Fla. Stat. §440.34(2).¹¹⁹ This statutory measure requires the JCC to identify the amount, statutory basis, and type of benefits obtained through legal representation which shall be listed on all attorneys’ fees awarded by the judge of compensation claims. Claimant attorney’s fees must be approved by the assigned Judge. There has been some argument advanced that the applicable statutory provisions should be interpreted to require the same scrutiny and approval for fees paid to counsel for the employer/carrier. The operative statutory language was added to Chapter 440 in 1994. Then Chief Judge Walker interpreted the law as applying to only claimant attorney’s fees, and a notice of that interpretation was published. The current OJCC leadership does not construe anything in Chapter 440 as sufficient authority for the Deputy Chief Judge to issue such legal interpretations purportedly to control or influence the independent decision making of the 31 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 orders¹²⁰ 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 2013-14. 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 audits of the last two fiscal years. 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). In 2013-14, no violations of the Code were found.

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.¹²¹ The success of that process is patently clear again in the 2013-14 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 supporting the deployment of electronic filing at the Appellate Courts and remains proud of the electronic progress of the First District Court of Appeal.¹²² Legislation to require use of OJCC electronic filing was passed in 2011. The OJCC has adjusted processes to facilitate compliance with this new requirement. Enforcement of these requirements began in 2011-12, and has met with great success. The OJCC currently receives virtually no daily U.S. Mail. In 2010-11 the Legislature eliminated sixteen OJCC staff positions, approximately seven percent of the Office. In 2011-12, the Legislature removed four mediator positions and one judge position from the OJCC.¹²³ Answering the Legislature's call, the OJCC has done more with less again, in each of the last six 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 2014-15.



Glossary of Terms:

| | |
|------------|---|
| CCIS | The Comprehensive Case Information System is a database maintained by the State of Florida, primarily for the benefit of the state court system. This database contains records of child support arrearage. The OJCC has had access to this database since 2012-13, for the purpose of providing litigants information about child support to simplify OJCC collection efforts. |
| 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. |
| DOR | The “Department of Revenue” has responsibility for collection and documentation of child support arrearages. This agency therefore maintains records of such arrearages. Since 2012-13, the OJCC has been privileged to share access to that data, to simplify OJCC collection efforts. |
| 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 who 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. |
| Time to Trial | The “time to trial” begins on PFB (or other operative pleading such as a motion for fees or motion for contribution) filing date and runs through the first date of trial. |
| Time to Order | The “time to order,” runs from the first day of trial, “trial date,” and ends on the date the final order was entered. In the instances where an abbreviated final order was the conclusion of the process, it was counted as the “final order.” In instances in which that abbreviated order, or any final order, was later vacated, and another final order was then entered, the date of entry of the last “final order” was counted as the final order and the conclusion of the process for that PFB or trial. |
| Trial | A “trial” for the Office of Judges of Compensation Claims, such that the resulting order is counted in statistics as a “trial order” means that there must have been a substantive order entered, including findings of fact and conclusions of law, following a hearing that included the presentation of evidence. |
| 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. |

2012-13 Appendices Notes:

Since 2006-07, the Annual Report has included an appendix for each District Office. The practice has been to represent district data in column graphs. A significant volume of data has been accumulated, and column graphs have become difficult to format for readability. Since 2011-12, the column format was abandoned and replaced with bar graphs, representing the data vertically.

There are no longer 32 divisions. The Florida Legislature in 2012 reduced the funding for Judges from 32 to 31. The funding was also cut from 32 mediator positions to 28. Thus, there are areas in the district graphs which appear incongruent. For example, in Tampa, there are representations for three judge’s statistics, but in the time to mediation graph only the two remaining mediators are represented. Likewise, for example, there is no time to mediation in the LKL district, where the OJCC no longer has a full-time mediator.

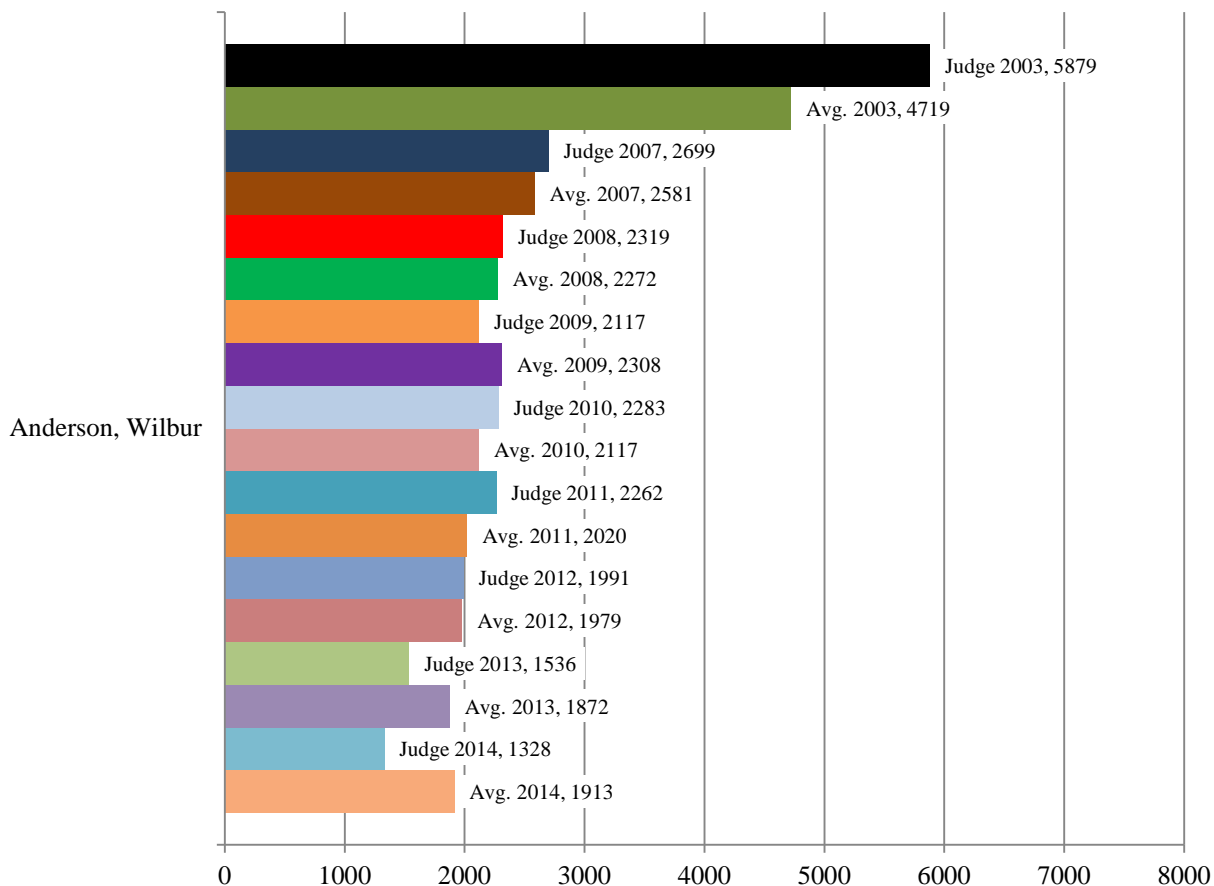
Appendix District DAY (Anderson):

District DAY includes Flagler and Volusia counties. Seminole county was also included in DAY until it was transferred to District ORL in 2006-07. District DAY traditionally had above average PFB and new case filing volumes, until the effects of the Seminole county transfer moderated the volumes. The first below-average filing year was in 2008-09. District Daytona has been remarkably consistent in annual PFB and new case filings despite consistent overall downward trends in recent years, until 2012-13 and 2013-14, when Daytona trial volumes are notably below average. It is possible that Judge Anderson formerly fulfilling the role of State Mediator in the Daytona district may be contributing to lower trial volumes as cases are heard by other judges. Timelines for mediation, trial and trial order issuance are all within the statutory parameters.

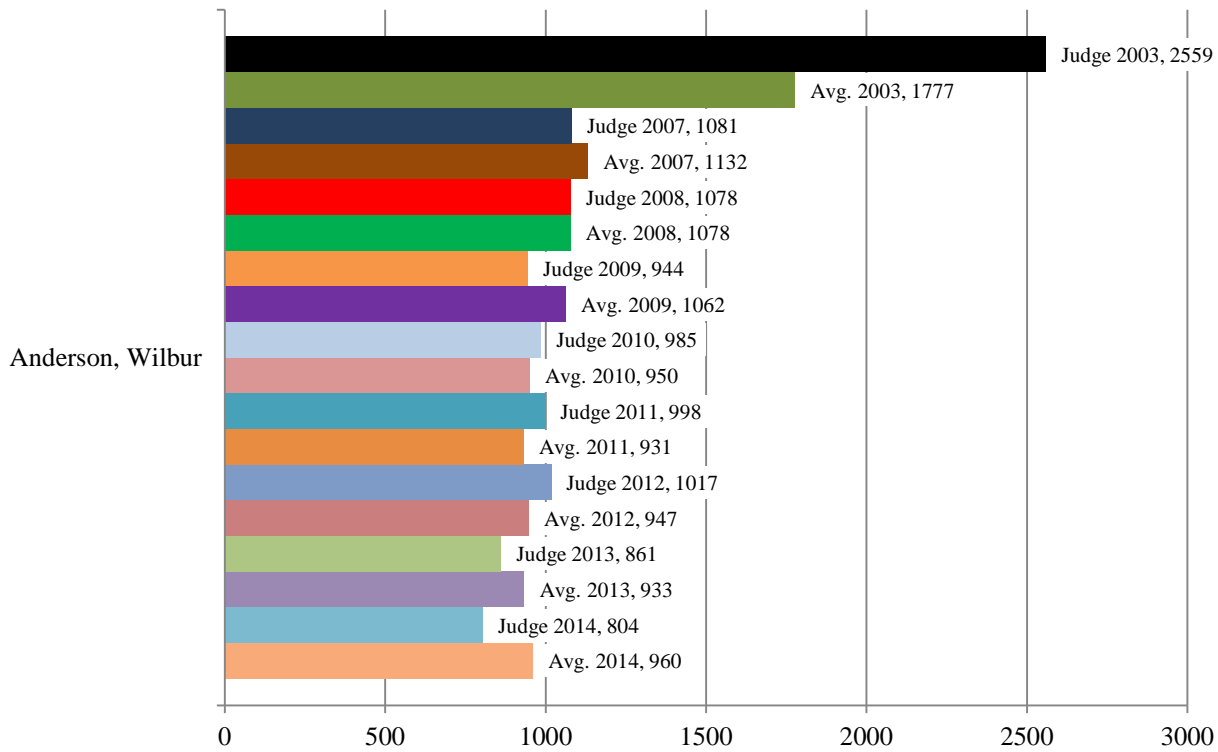
District DAY is in equilibrium with the volume of closed petitions exceeding the volume of incoming petitions. As noted elsewhere in this report, the volume of litigation is not necessarily fully quantified by petition volume as significant work is instigated with motion filings for fees, advances, and other relief. Judge Anderson's statistical measures demonstrate consistent performance within the statutory parameters, and effective management of the Daytona docket.

In 2014, Judge Anderson authored an article entitled *Schafrath to Westphal, Legislative Updates in Section 440.015, Florida Statutes*, published by the Workers' Compensation Section of The Florida Bar in the Spring 2014 edition of the *News and 440 Report*. He served as a volunteer judge for the E. Earle Zehmer National Moot Court Competition at the annual Workers' Compensation Educational Conference. He also participated with other area JCCs and the Orange County Bar Association in presenting a seminar entitled *A View from the Other Side*. Judge Anderson is a founding member of the Judge William Wieland Inn of Court and an honorary member of the E. Robert Williams Inn of Court. He is also a member of the Workers' Compensation and Alternative Dispute Resolution sections of The Florida Bar, and the Volusia County Bar Association.

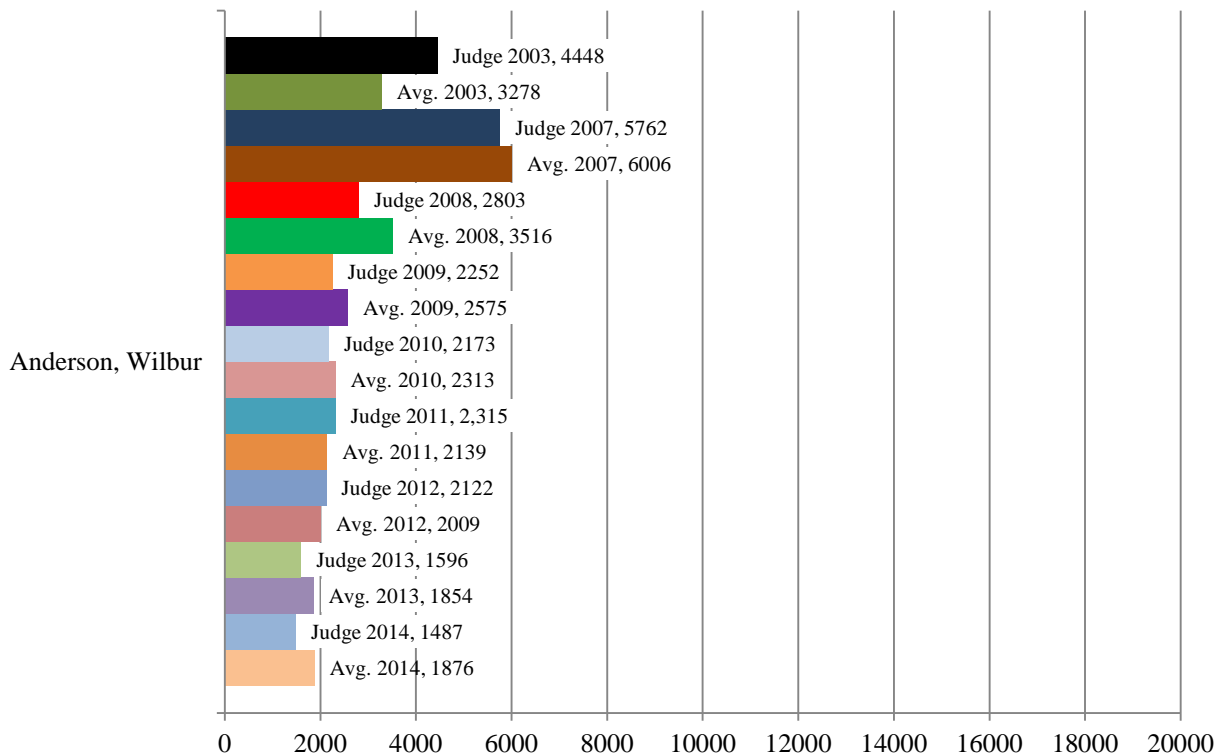
The following depicts the volume of PFBs filed in District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



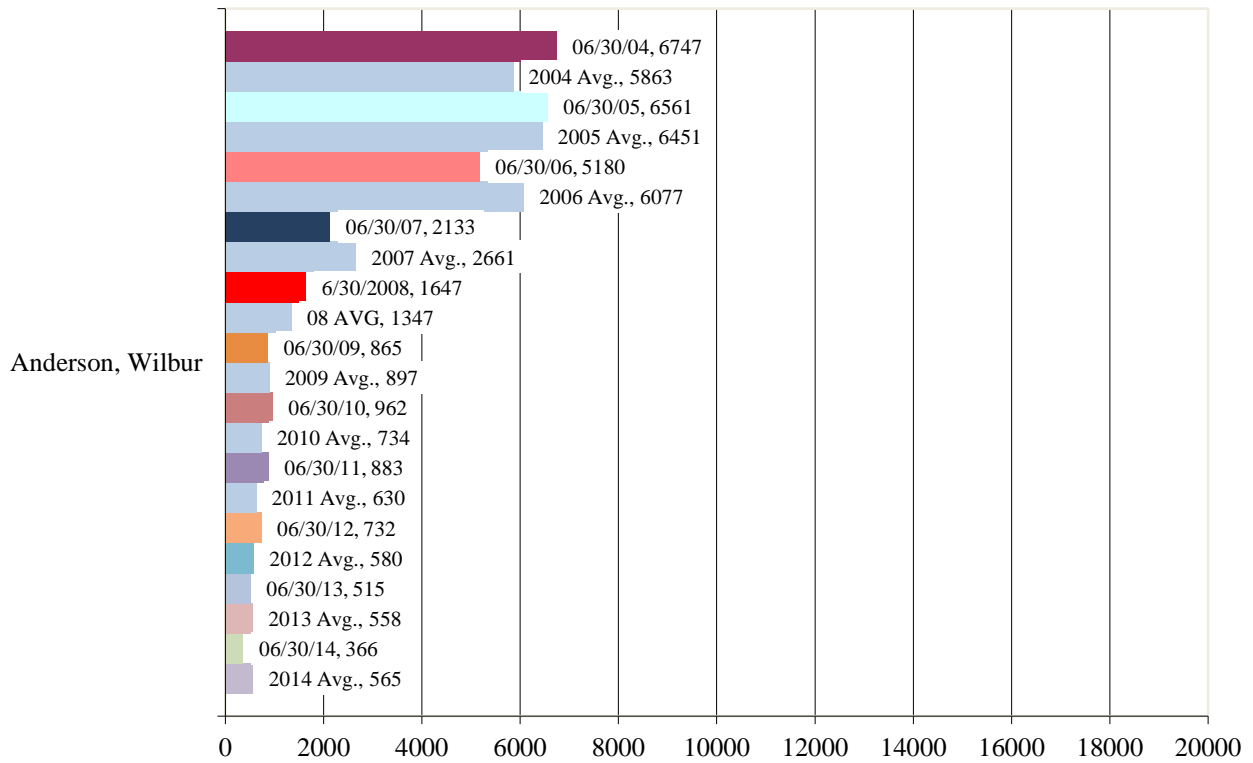
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



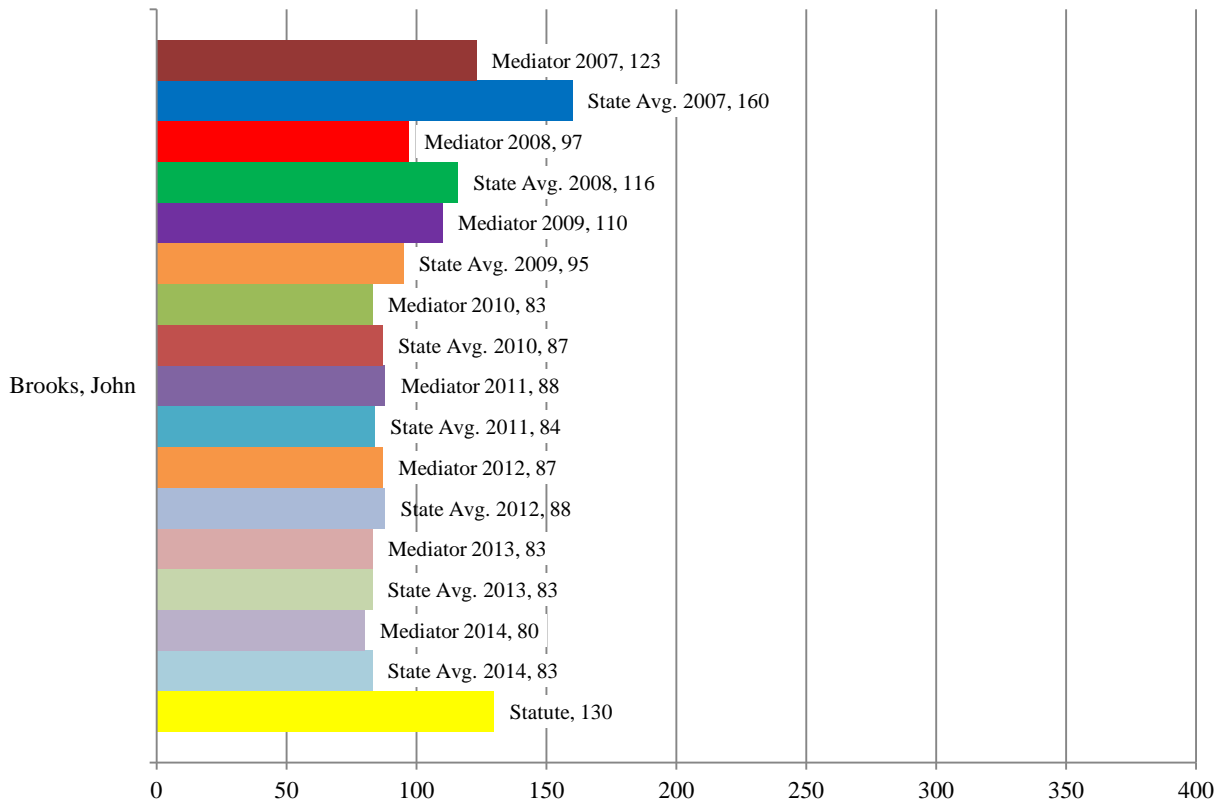
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



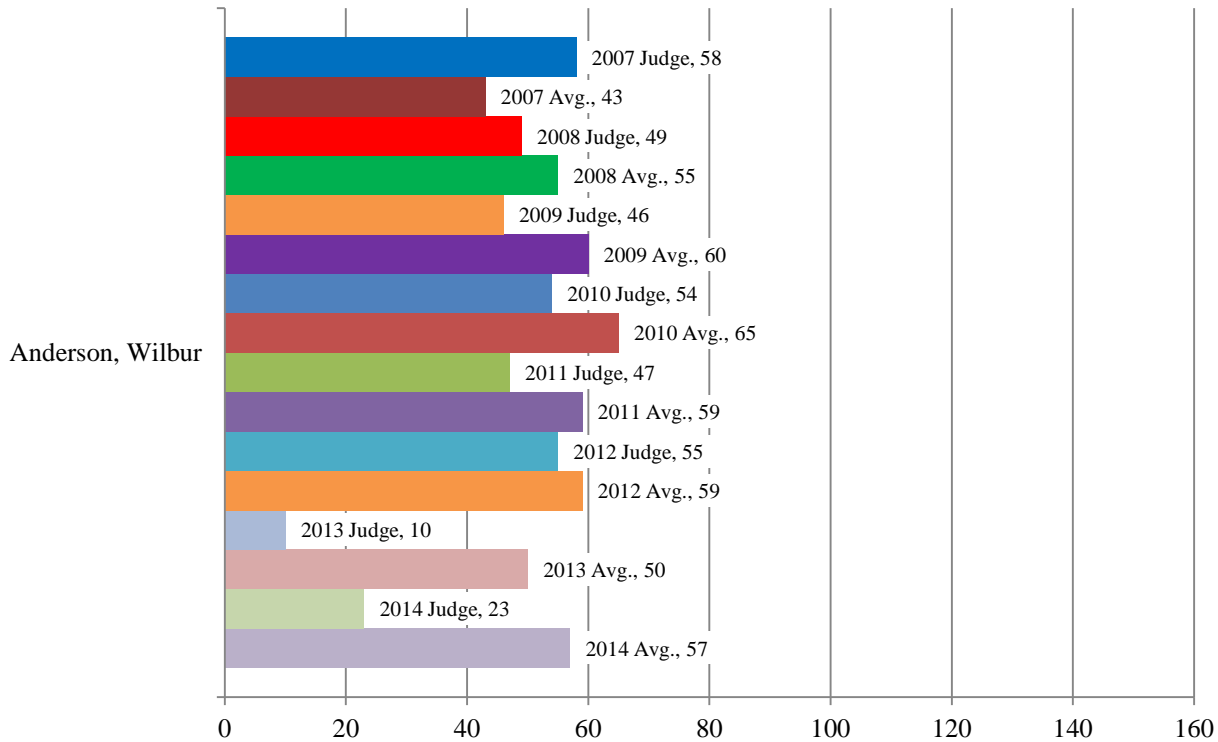
The following depicts the inventory of pending PFBs in this District and the statewide average between 2003-04 and 2013-14. The identification and values for each year are in each bar label.



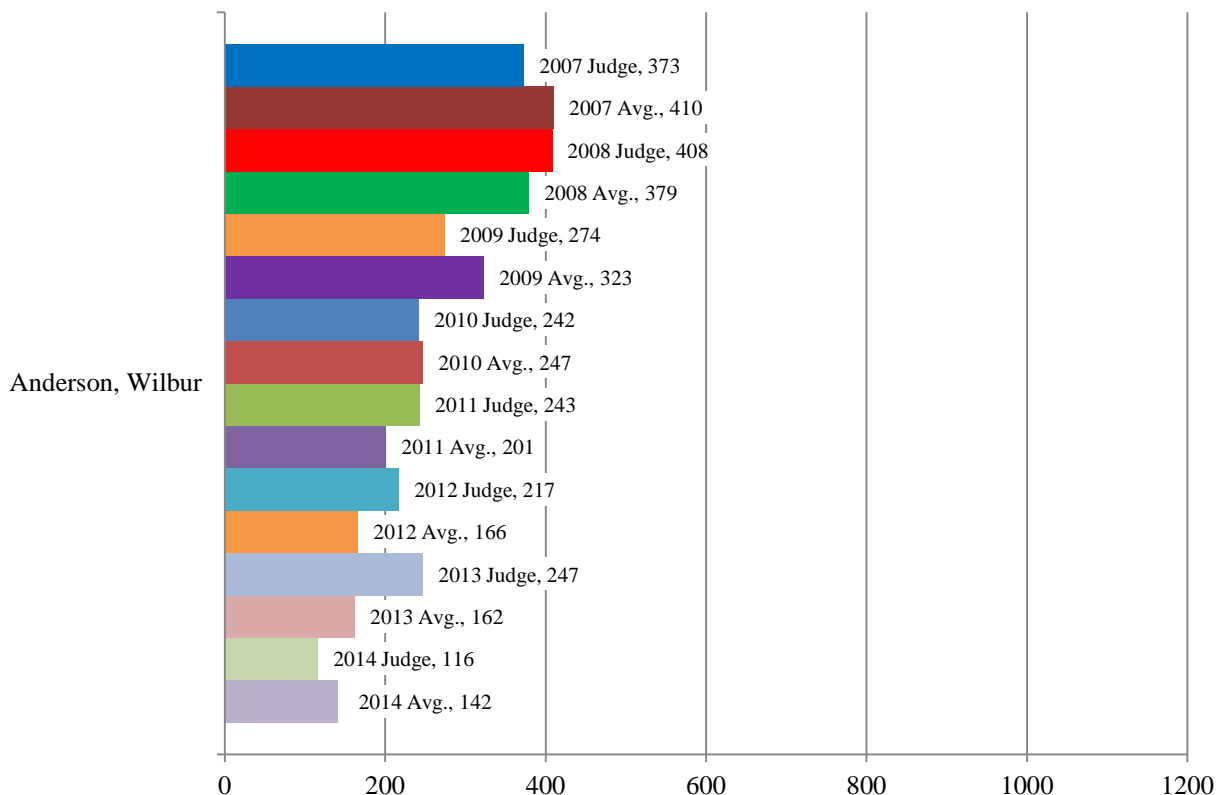
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



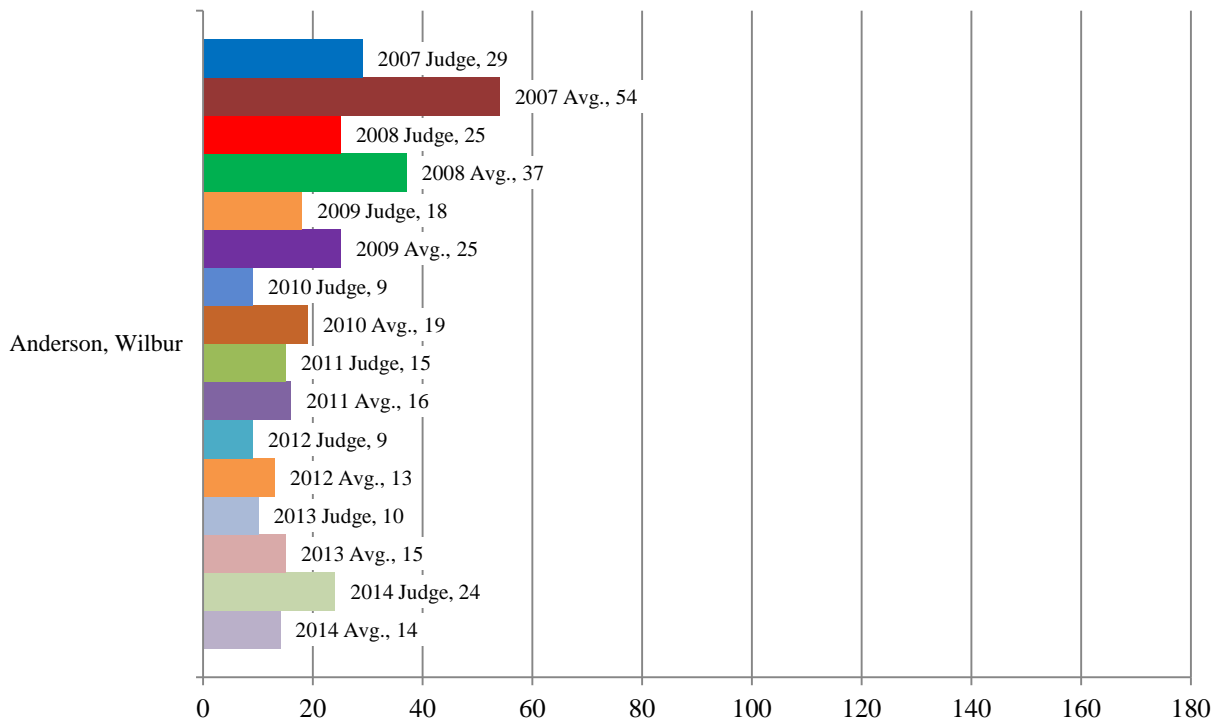
The following graph depicts the total volume of trial orders¹²⁴ uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



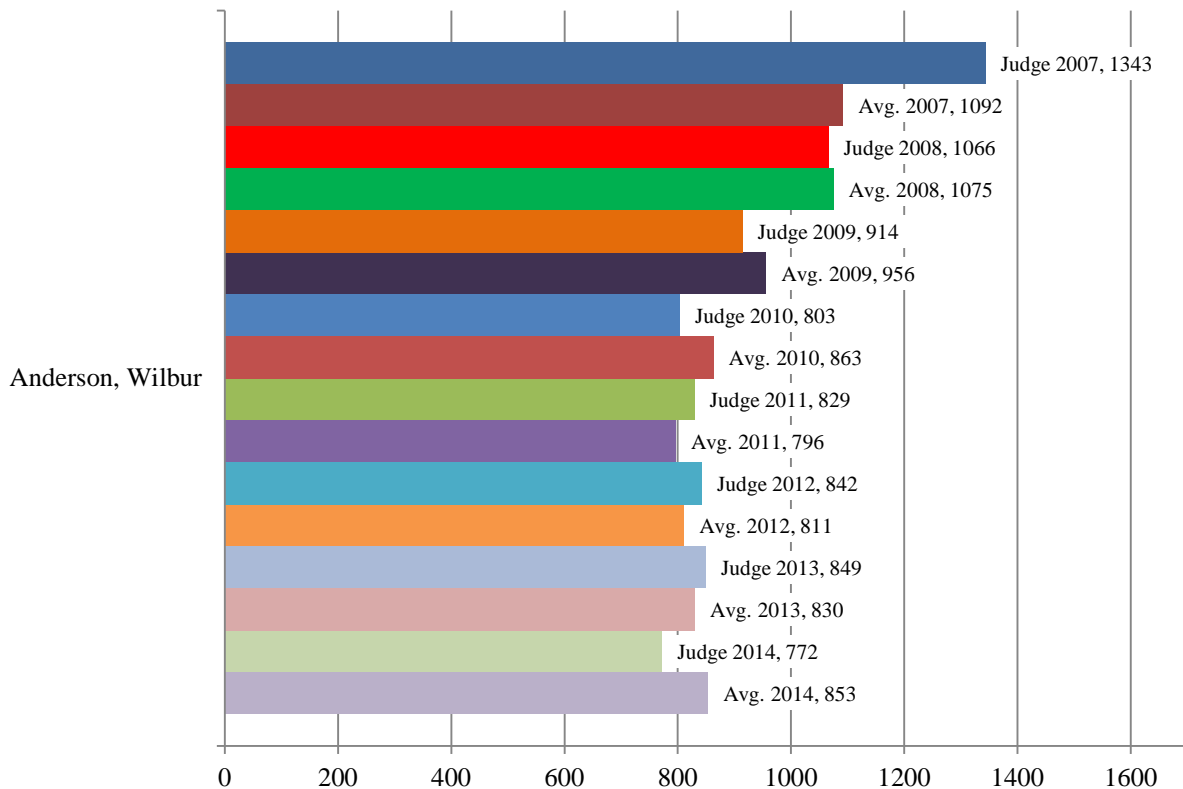
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



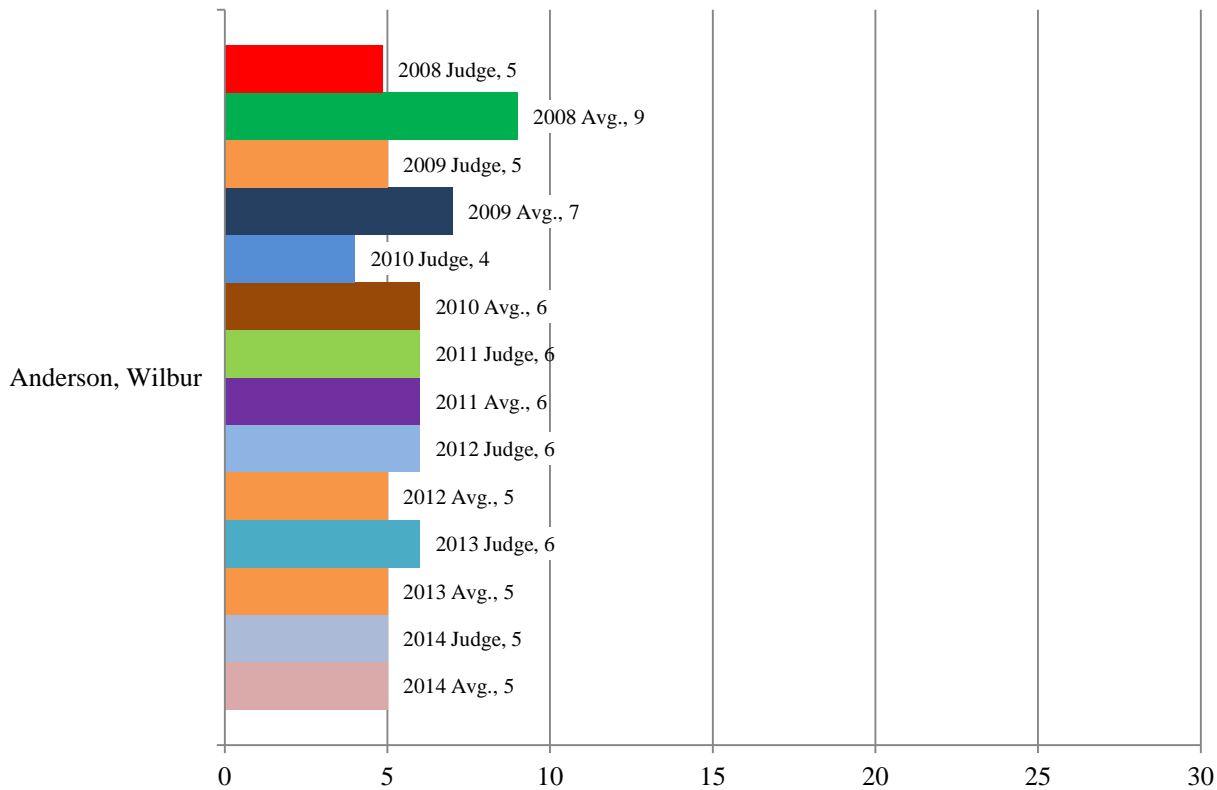
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



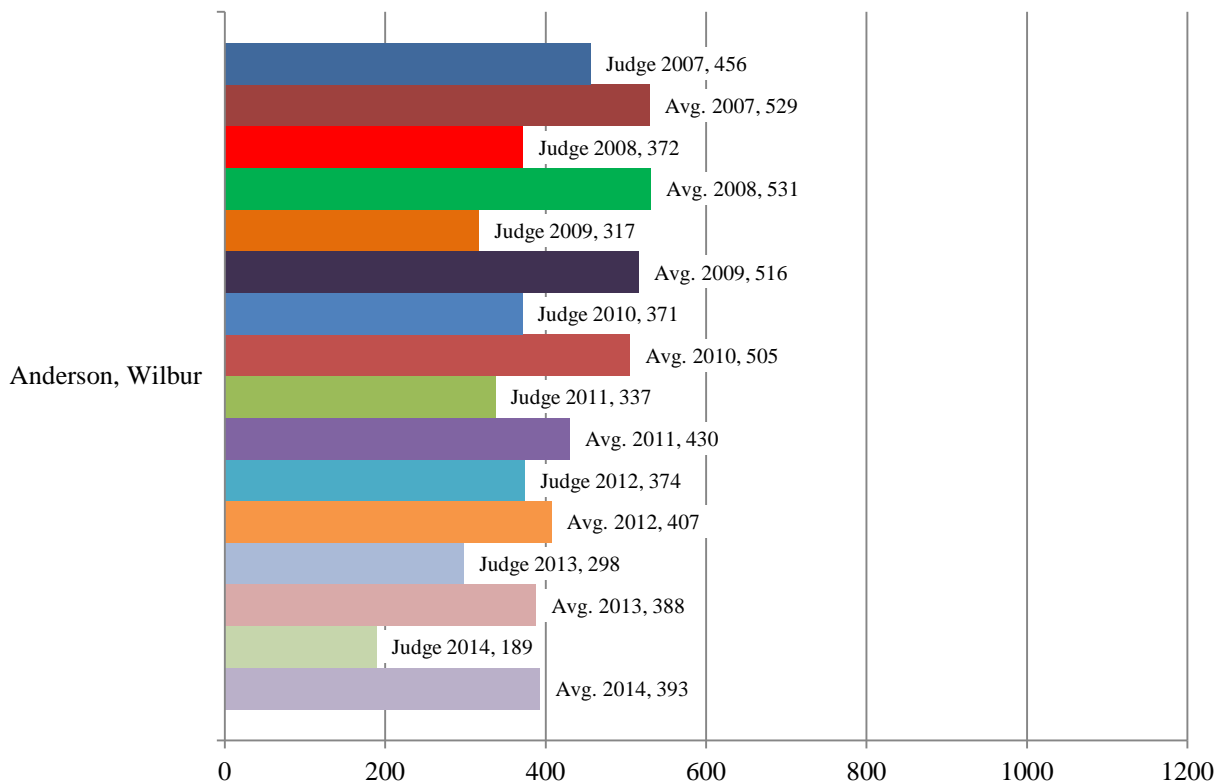
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



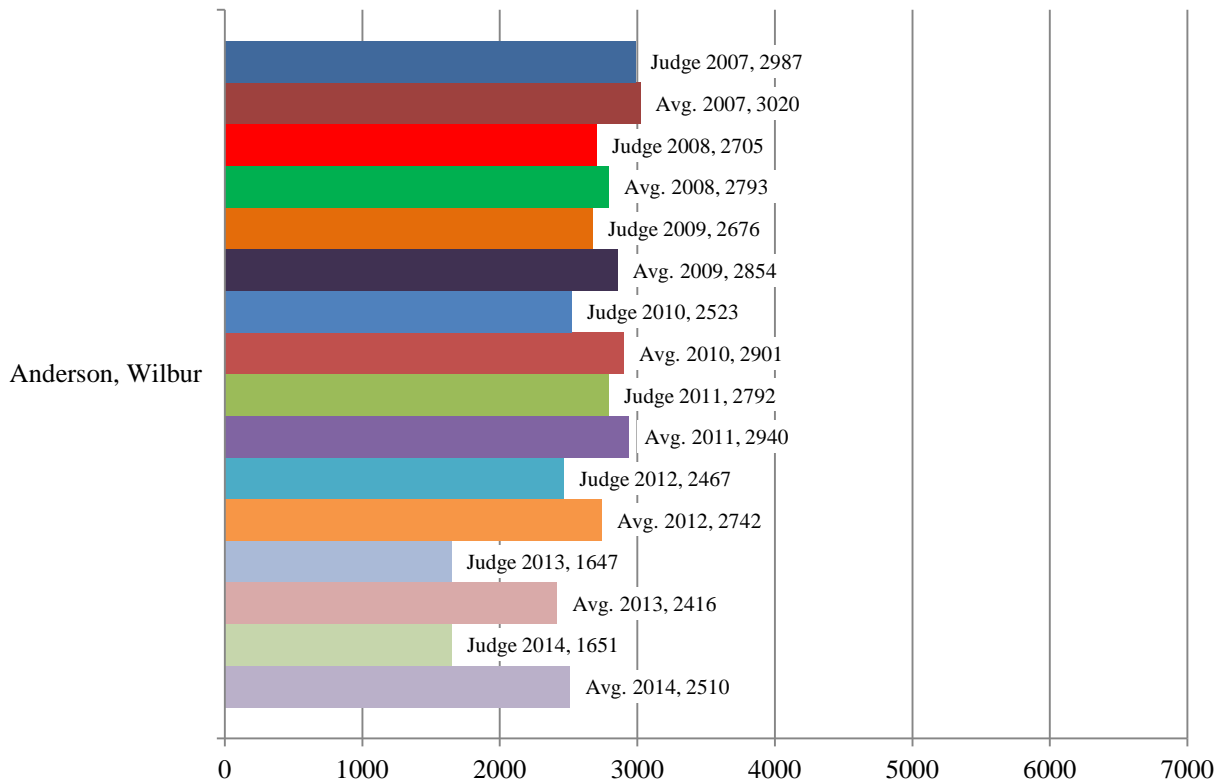
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



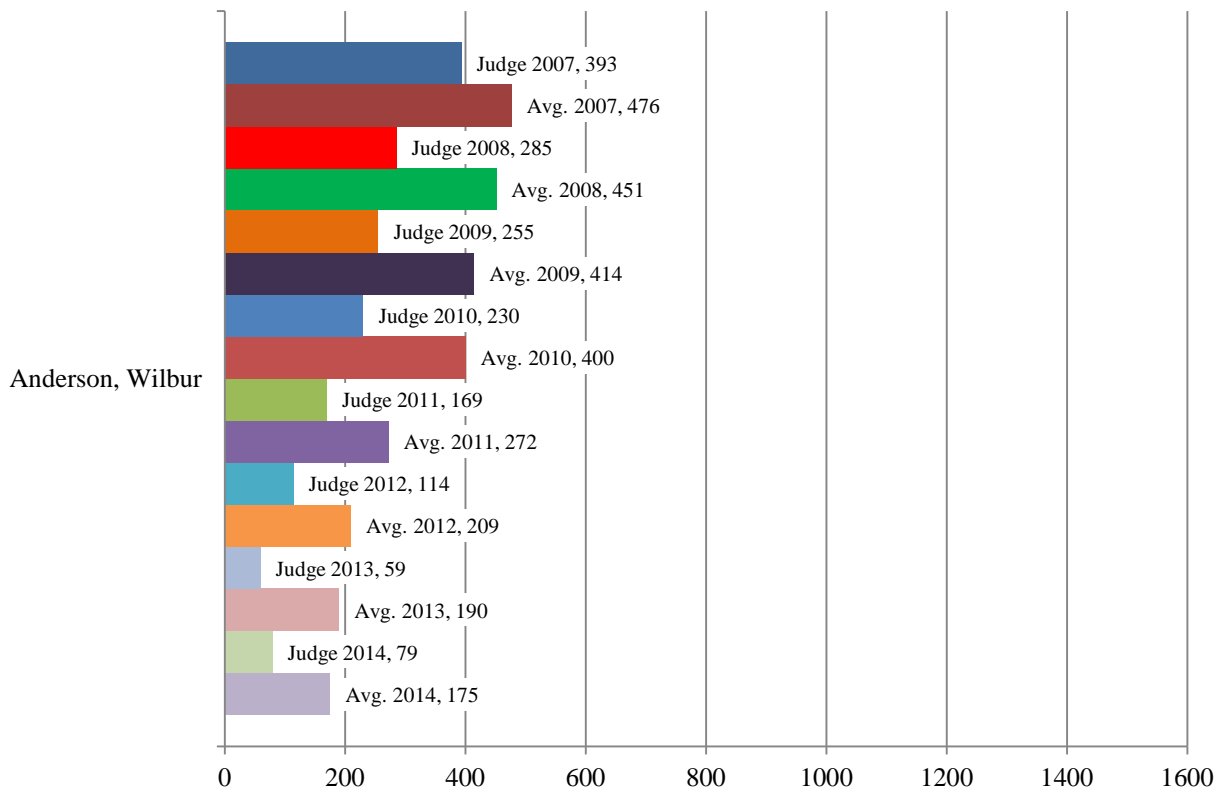
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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

District FTL includes only Broward County.

PFB and new case filings in District PFB were both below the statewide average between 2011-12 and 2013-14. This is pertinent because the FTL PFB volume had been close to, and even exceeded, the statewide averages in recent years. FTL has been assisted in 2013-14 by Judges Holley (JAX), Lazzara (TLH), Roesch (PMC) and Winn (PNS). Each of these judges received a portion of the “new cases” filed each month in Ft. Lauderdale. This effort has reduced the volume of “new cases” attributed to District FTL. District FTL is in equilibrium, with each of its three divisions closing petitions at a rate commensurate with the petition filing rate for 2013-14.

Mediation timeliness has been notable in Ft. Lauderdale since 2009. That year, each Ft. Lauderdale mediator achieved an overall average from PFB to mediation of less than the statutory 130 days. When one mediator position was eliminated in FTL in 2011-12, this report noted that timeliness might be degraded by that personnel cut. However, Mediators Breslow and Hauber have disabused that caution. The timeliness in FTL remains consistent with statewide averages despite the fact that these two mediators handle the caseload assigned to three judges.

Trial volumes in FTL are inconsistent. Judge Lewis issued 67 trial orders in 2013-14, in excess of the statewide average. The other two divisions had trial volumes well below the average at 31 and 18, respectively. The Judges in Ft. Lauderdale are all below the statutory parameter for time between PFB filing and trial. All three judges issued their trials orders in less than thirty days, on average, for the last three fiscal years. It is plausible that some of the improvements in timing, and the decreased, and below average trial volumes in some FTL division, are in part attributable to this effort. However, it is also plausible that some portion of the lower trial volumes in these two divisions of FTL are attributable to other factors.

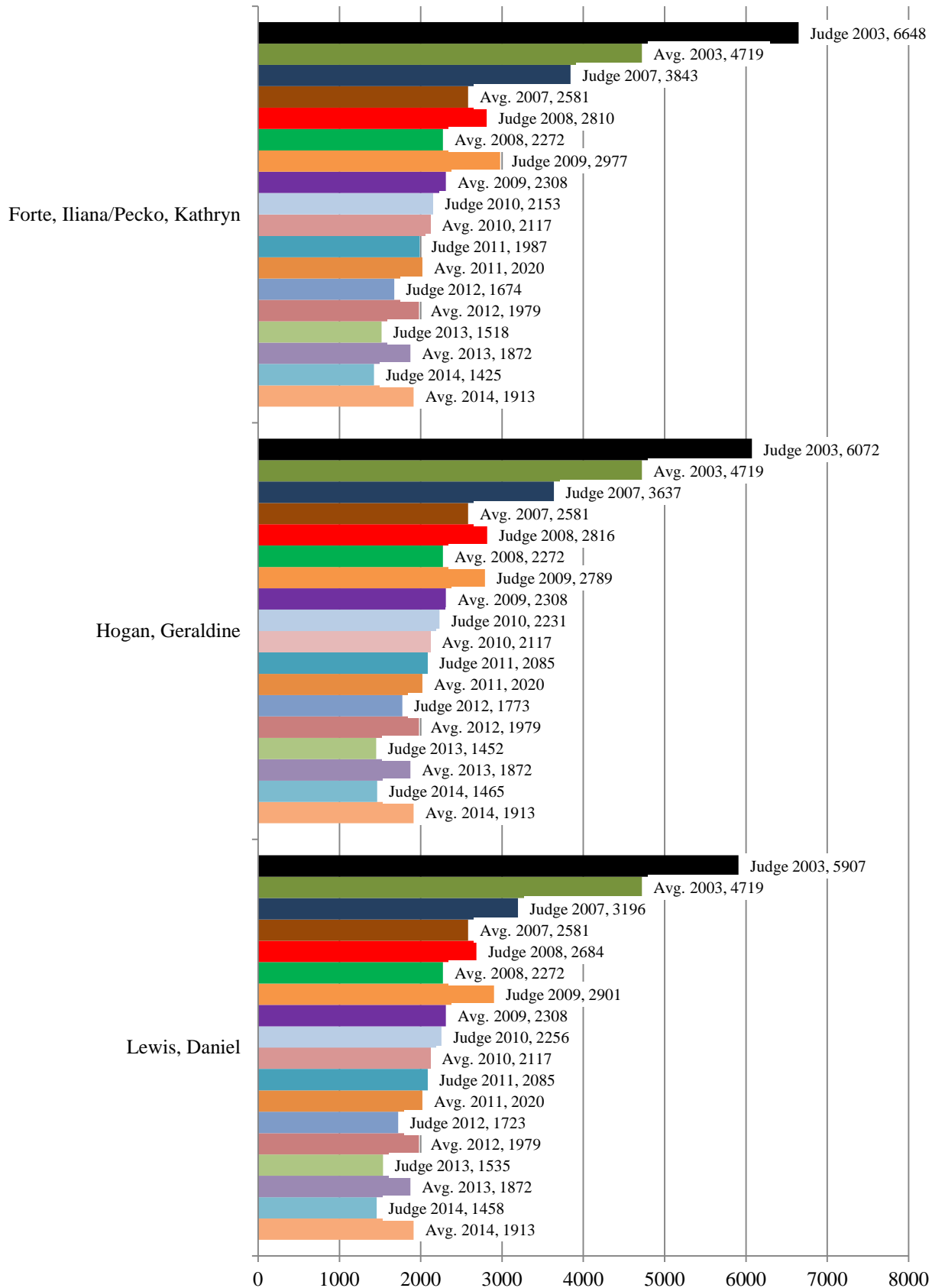
In 2013-2014, Judge Lewis remained active in the Broward County Bar Association (BCBA). In February, 2014, he presented a "Question and Answer Session with the Broward JCCs" for the BCBA's Workers' Compensation Section Seminar, "Workers' Compensation 2014 - Updates and Strategies for the Workers' Compensation Practitioner." In May, 2014, he lectured at the Plantation Renaissance Middle School for Career Day about the legal profession and his role as a Judge of Compensation Claims. Judge Lewis also served as a moot court judge for the annual 2013 E. Earle Zehmer Moot Court Competition, which was held at the Workers' Compensation Educational Conference in Orlando, Florida in August, 2013. In addition to his docket and case responsibilities, Judge Lewis serves as the Administrative Judge in District Fort Lauderdale (FTL), handling premises, equipment, security and personnel issues.

Judge Hogan is a frequent presenter at workers' compensation seminars designed to enhance the quality of the litigation process. In 2013-14, she presented Changes in Workers' Compensation, Statutory Case Law and Procedural Rules at the Friends of 440 Annual Banquet, and a View from the Bench at the Broward County Bar Association – Workers' Compensation Section. In August 2013 she presented a View from the Bench at the Fundamentals of Workers' Compensation sponsored by Sterling Educational Services.

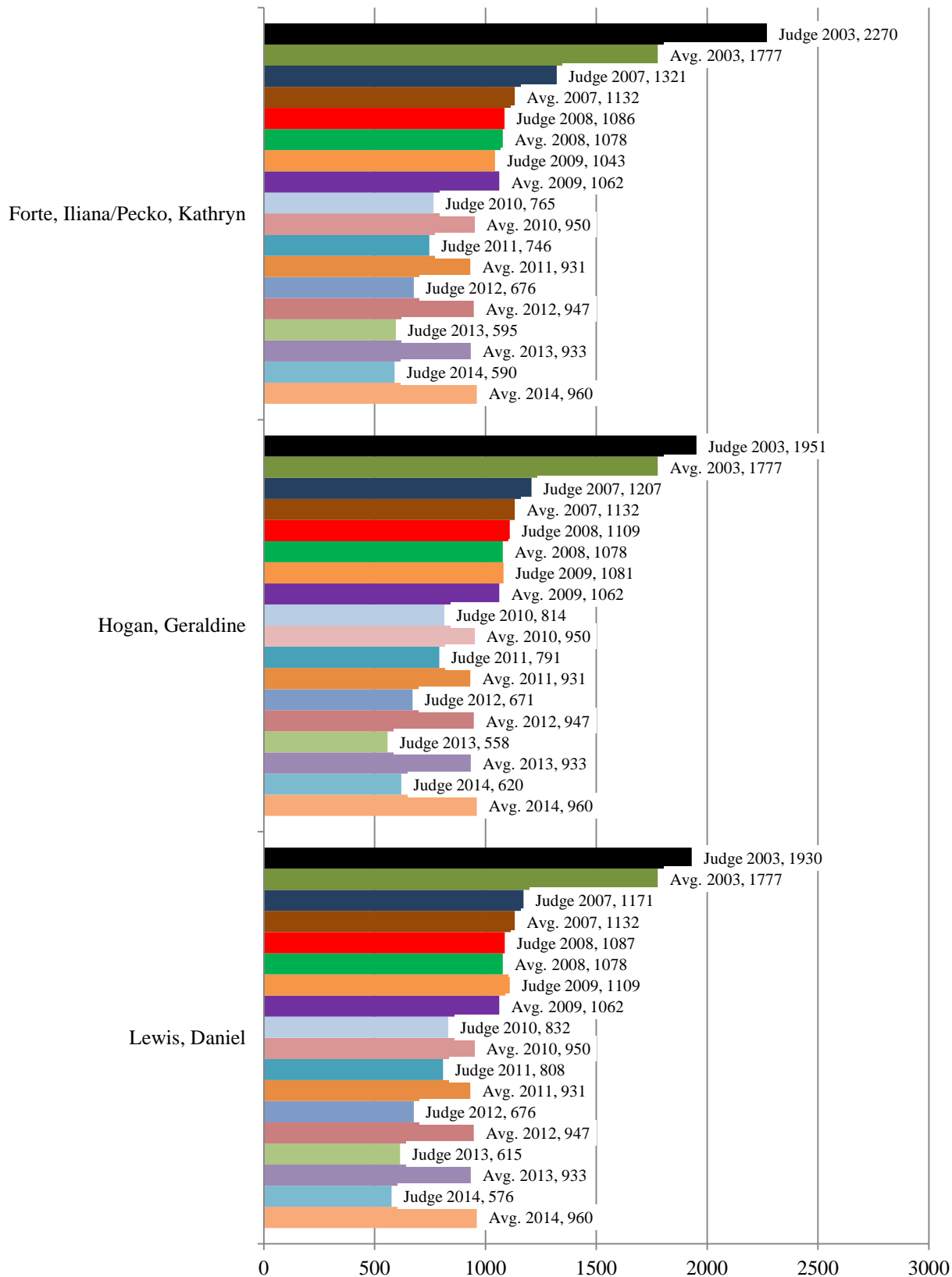
In 2013-14, Judge Iliana Forte was appointed by Governor Rick Scott to serve as the third District FTL Judge of Compensation Claims.



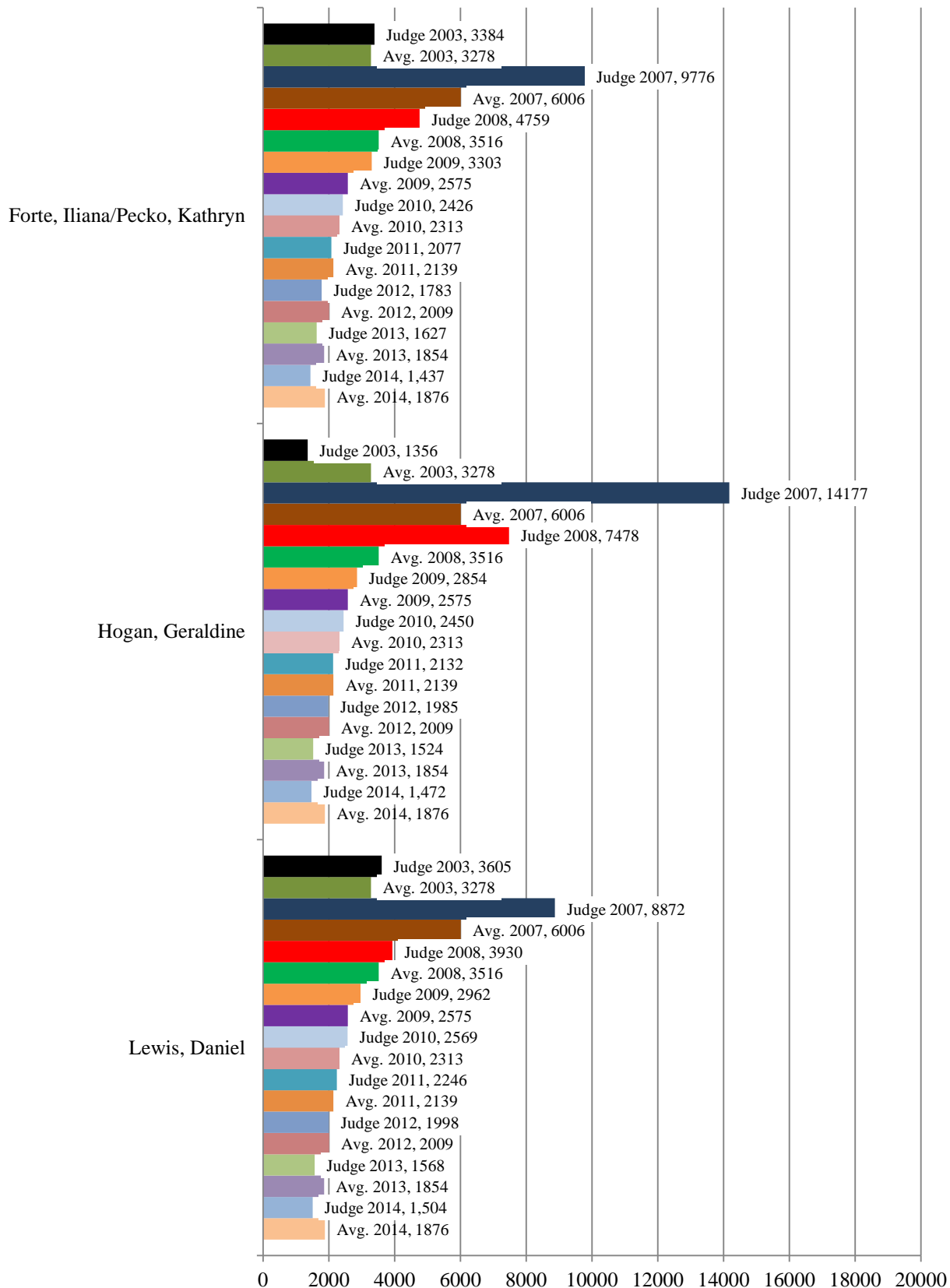
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



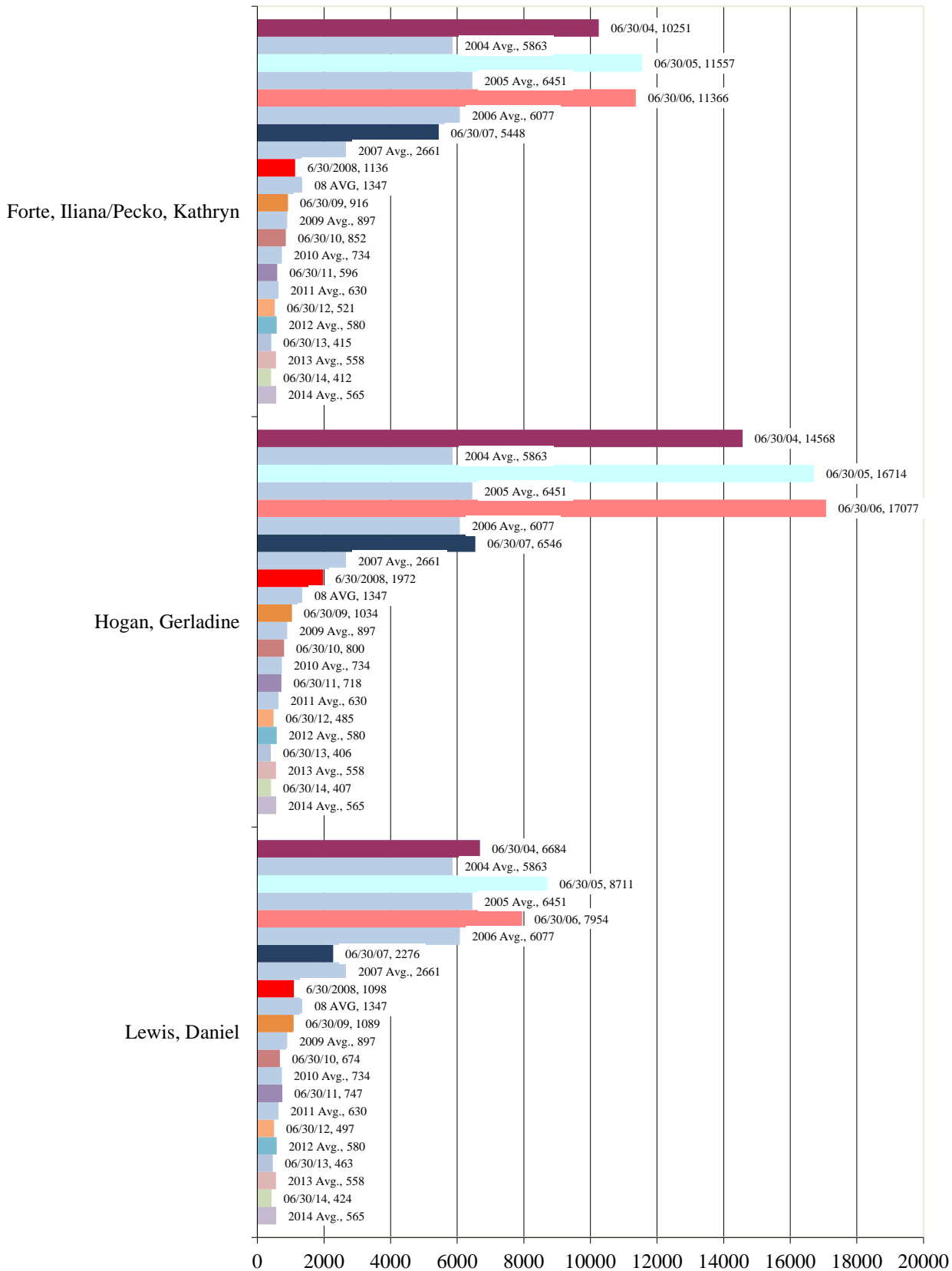
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



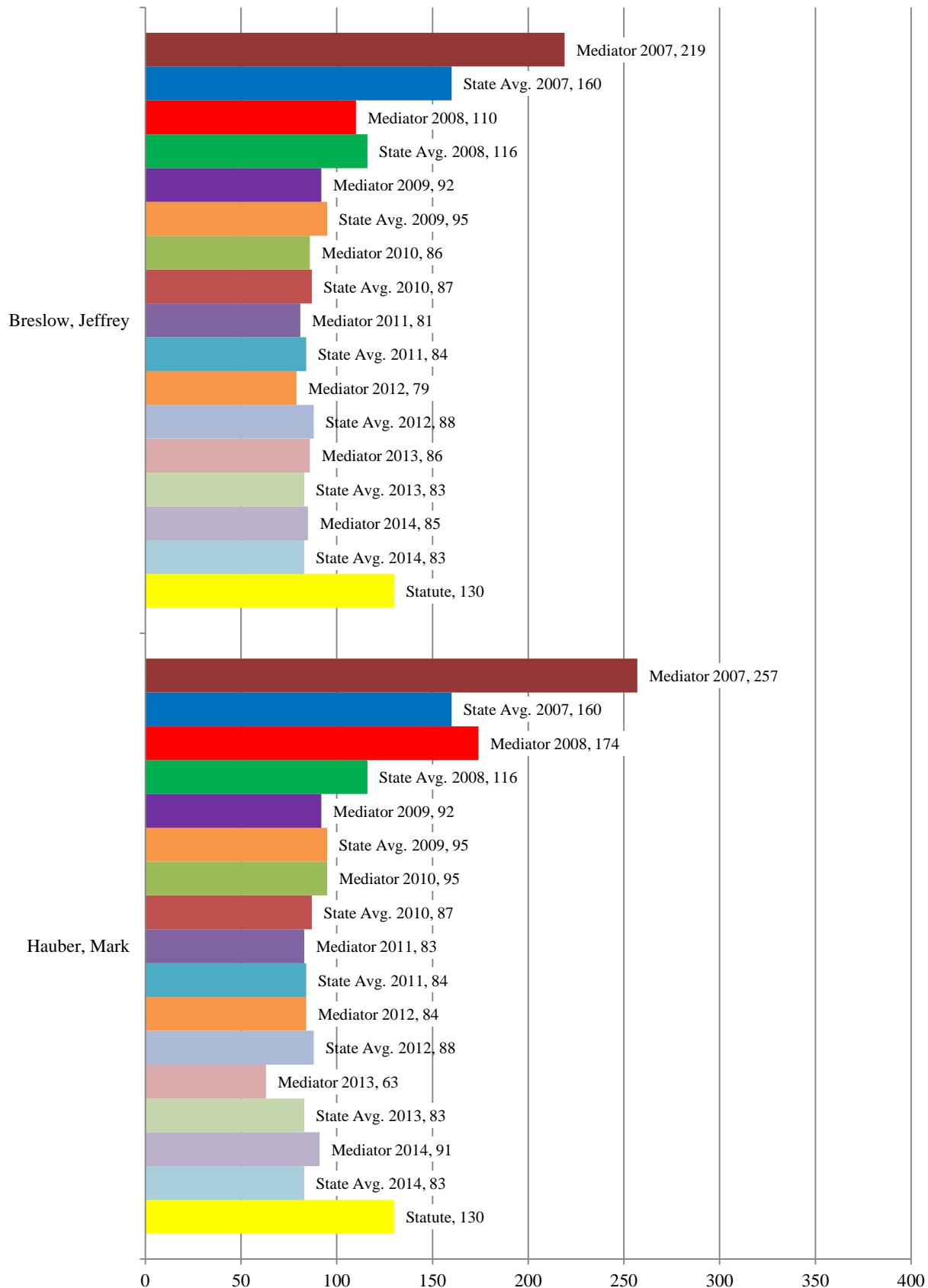
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



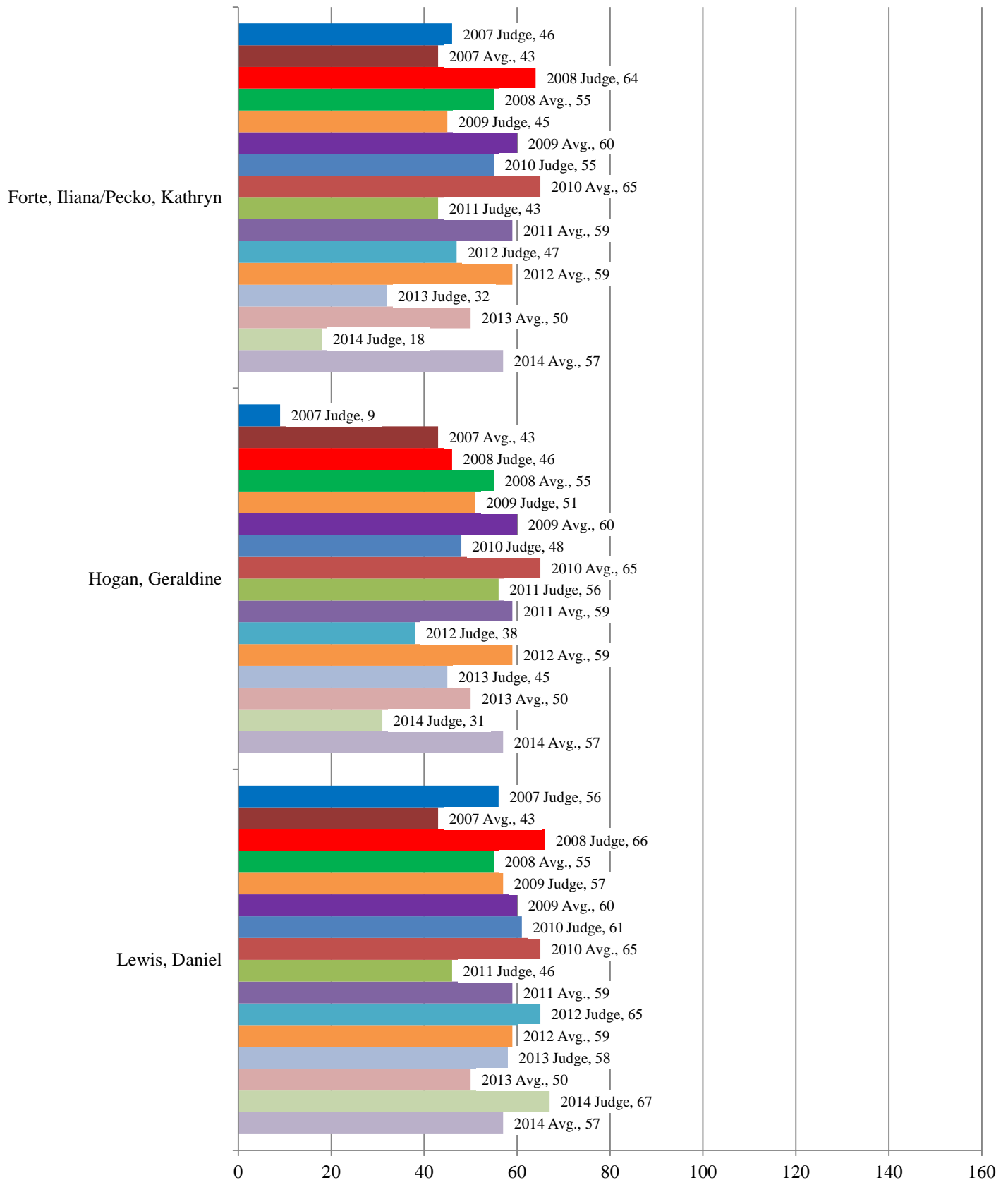
The following depicts the inventory of pending PFBs in this District and the statewide average between 2003-04 and 2013-14. The identification and values for each year are in each bar label.



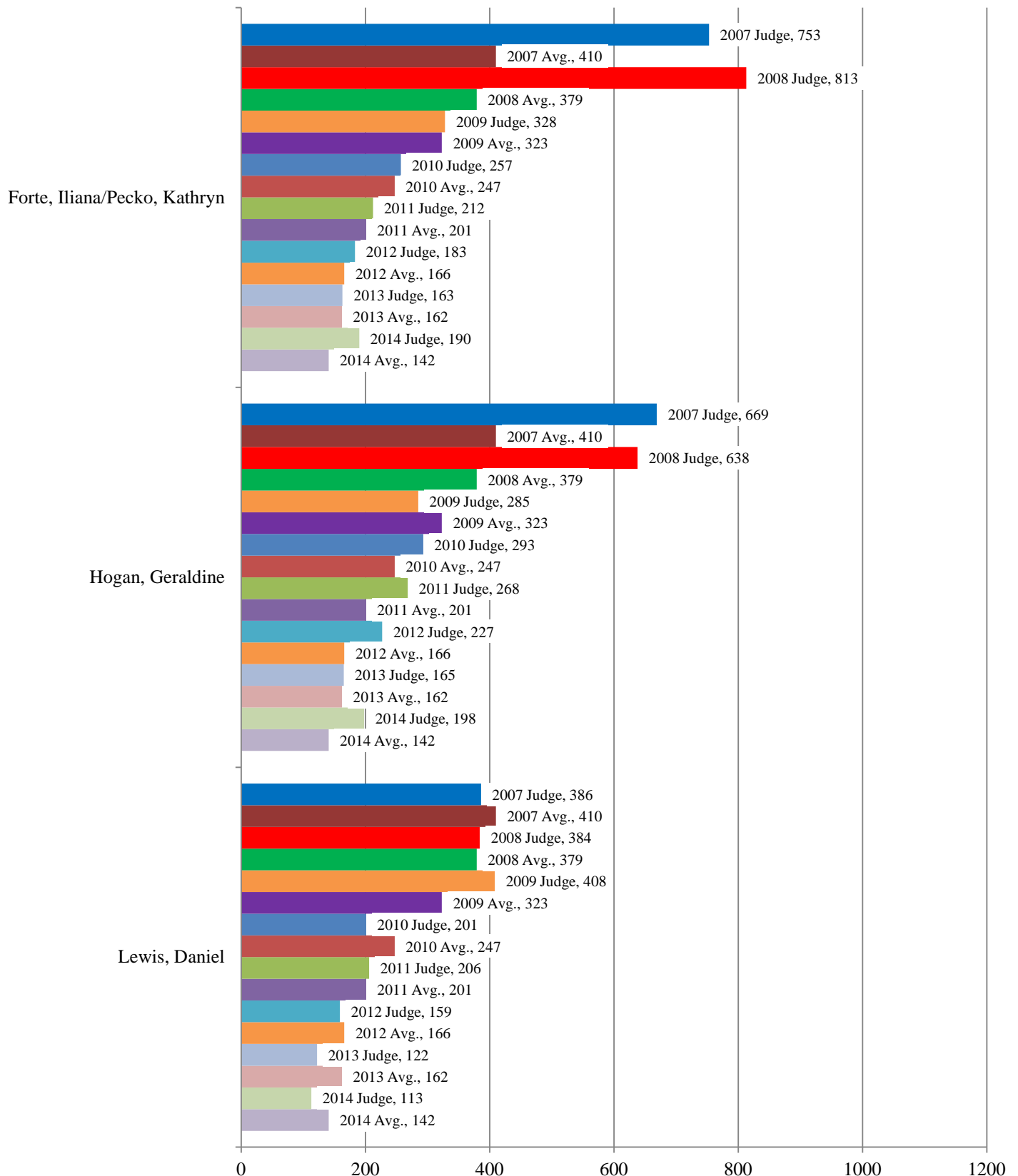
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



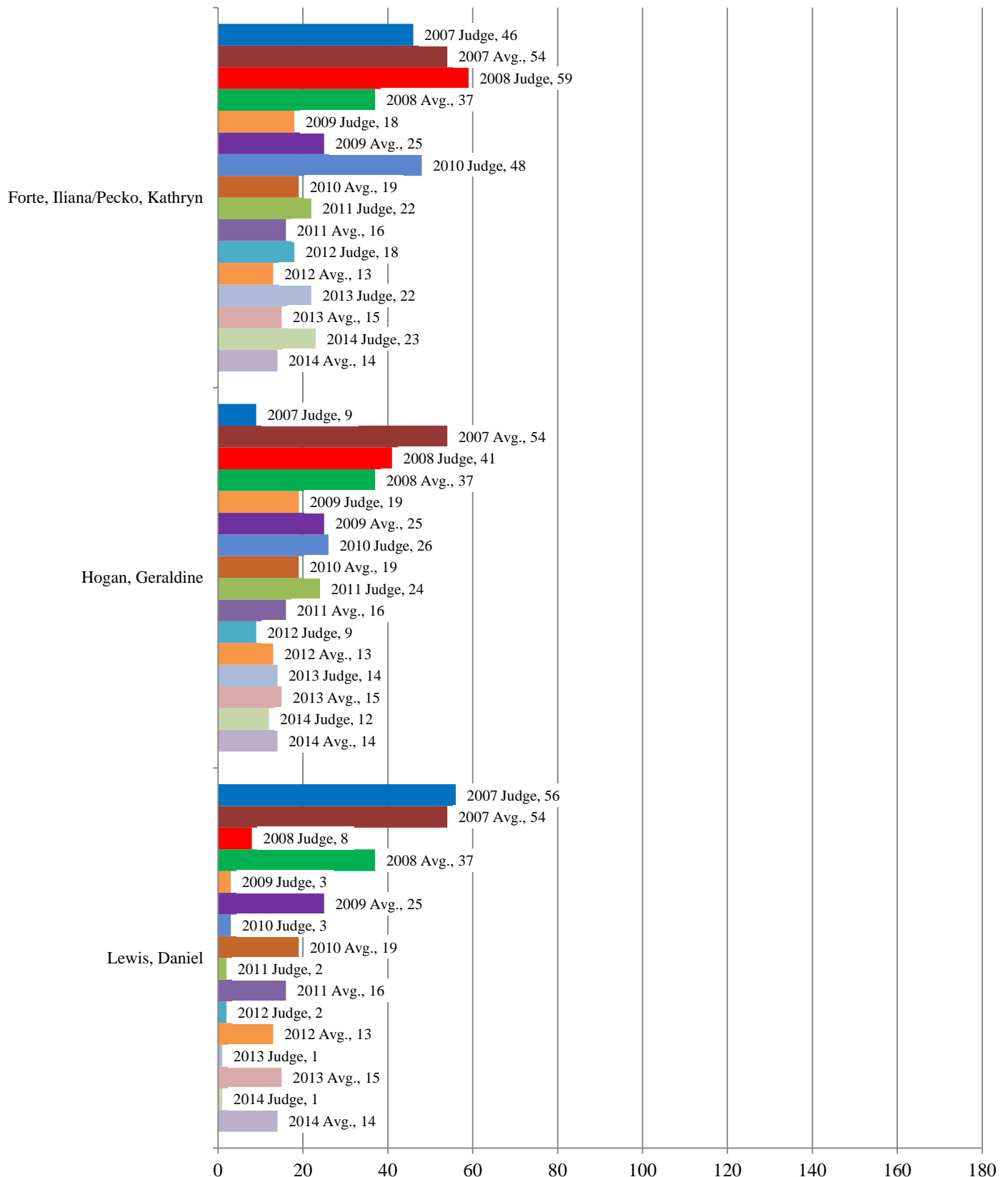
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



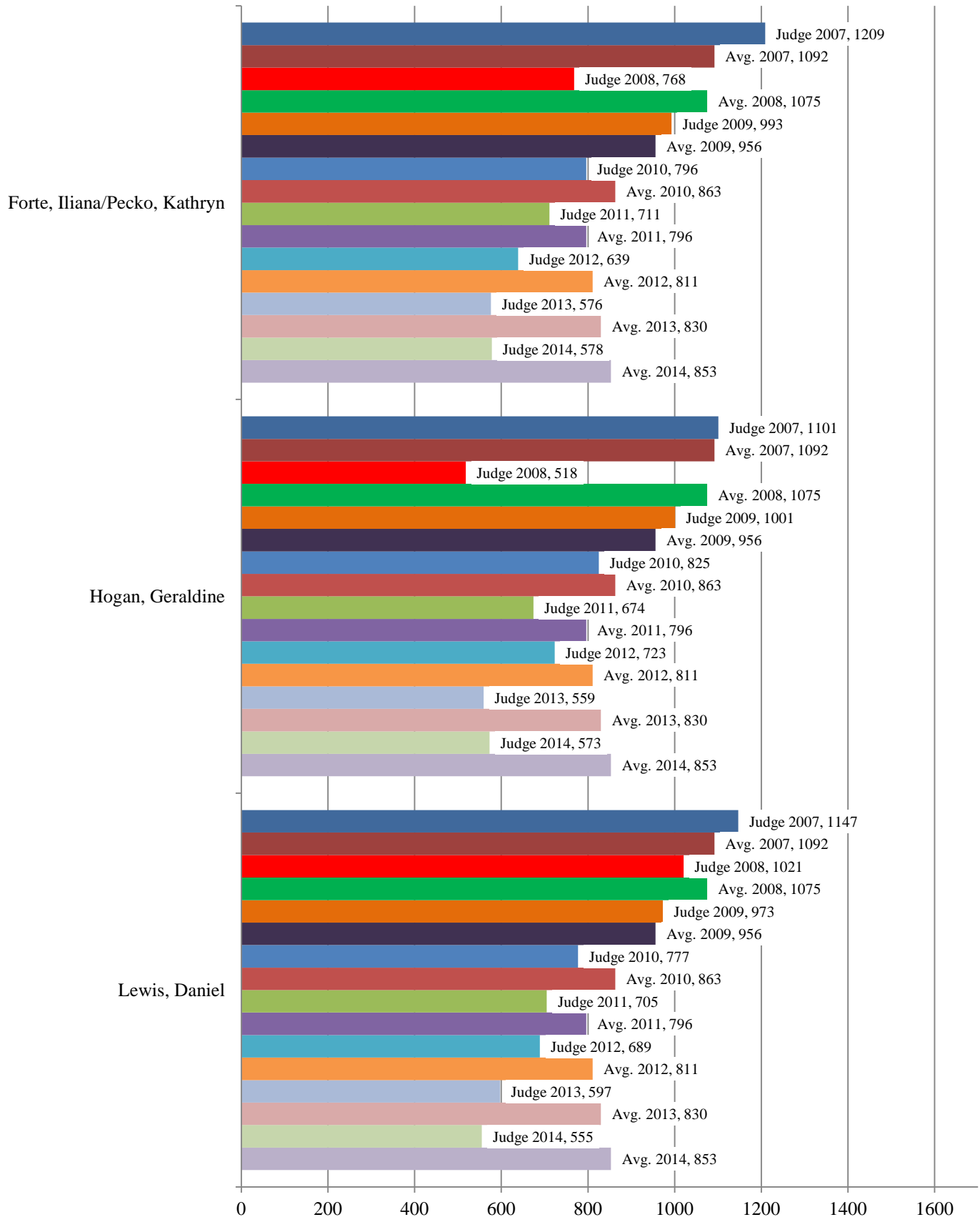
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



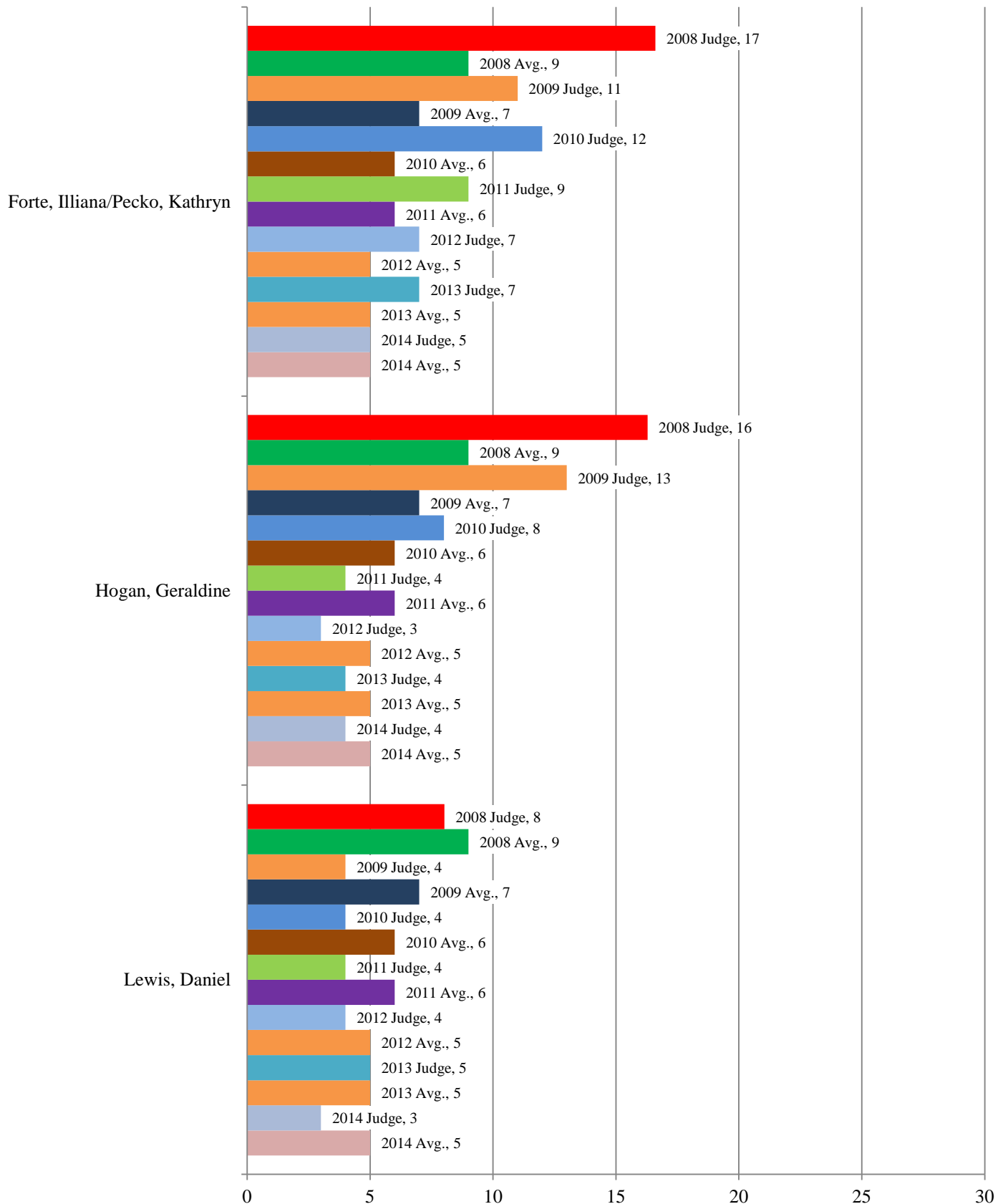
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



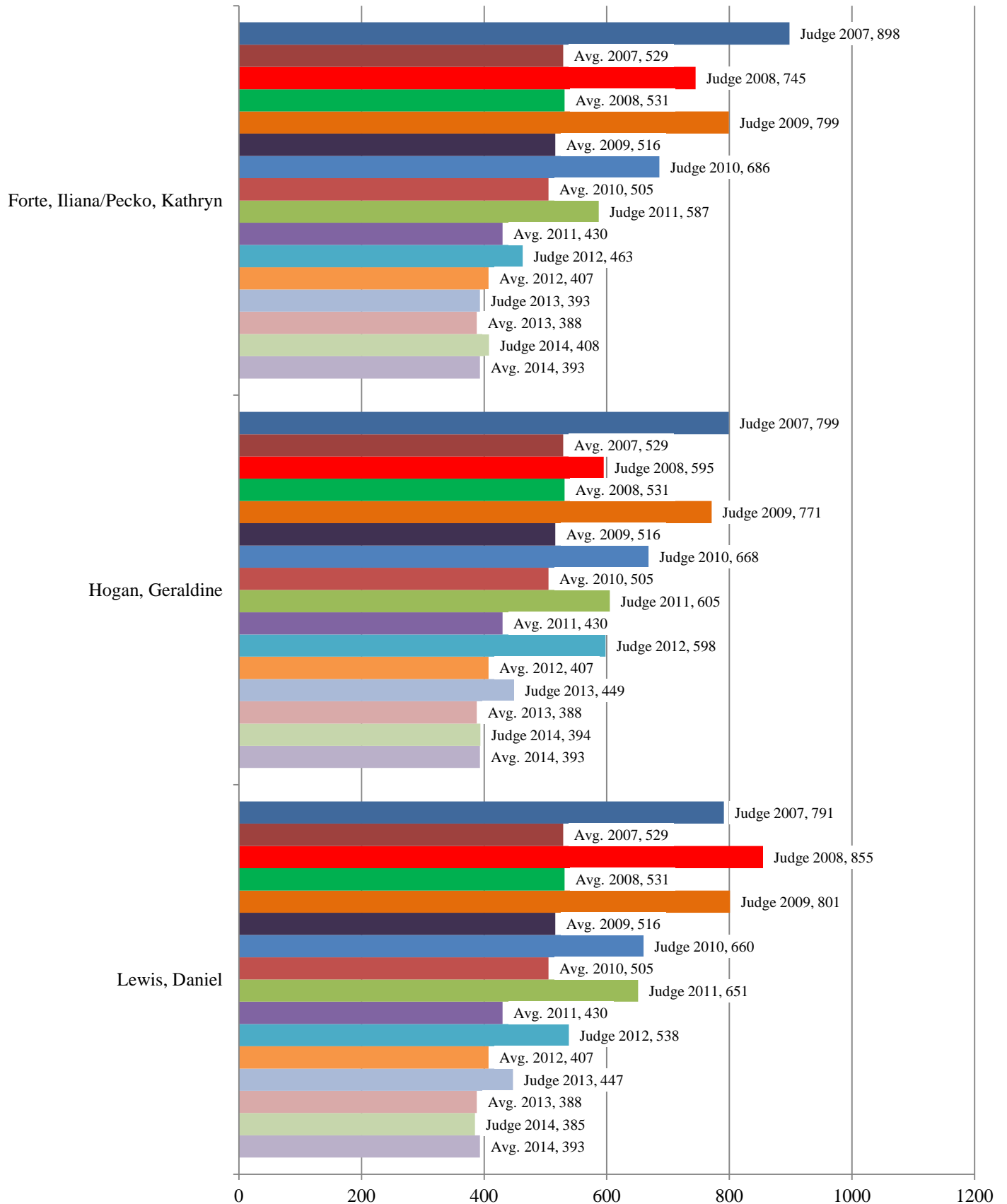
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



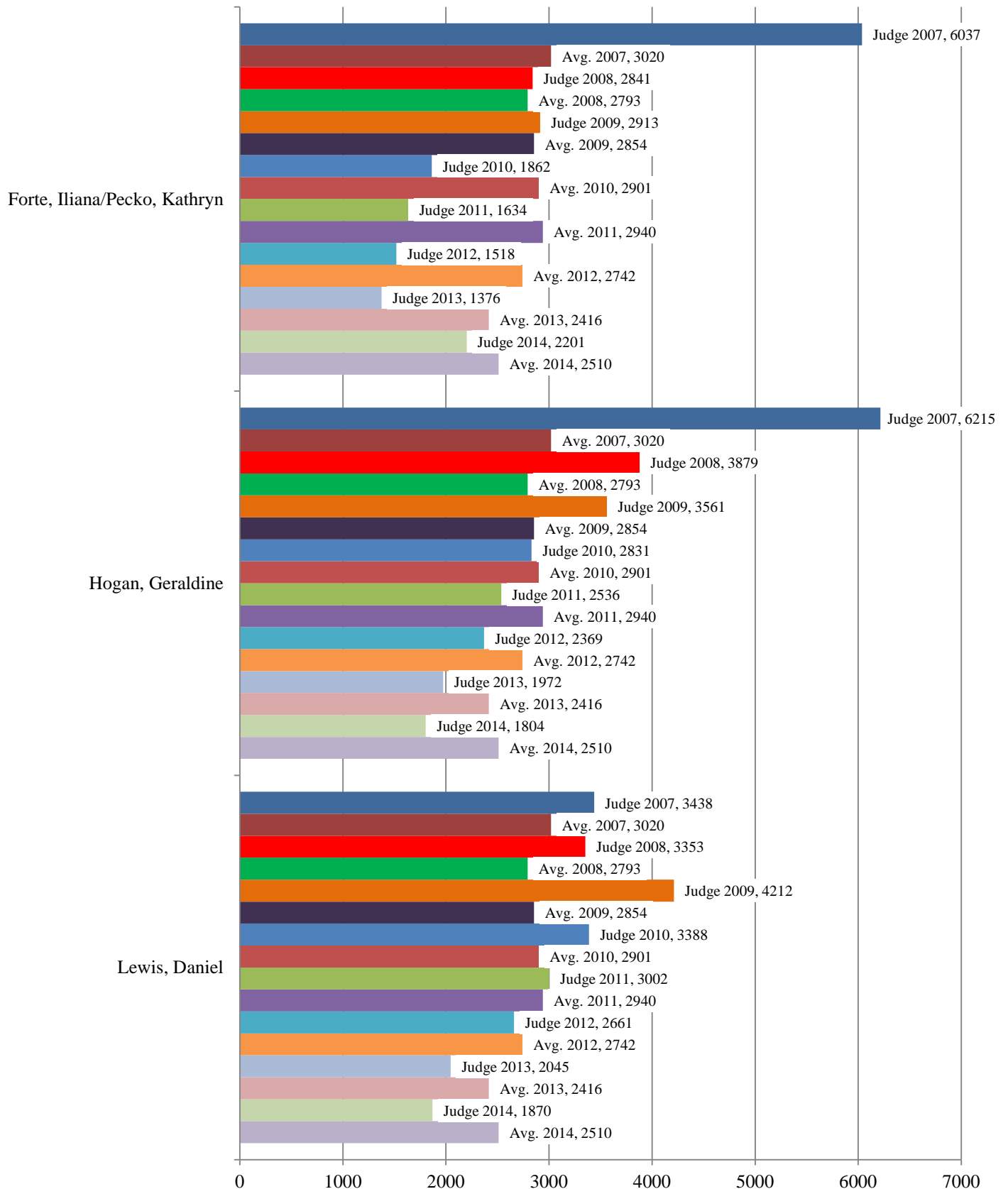
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



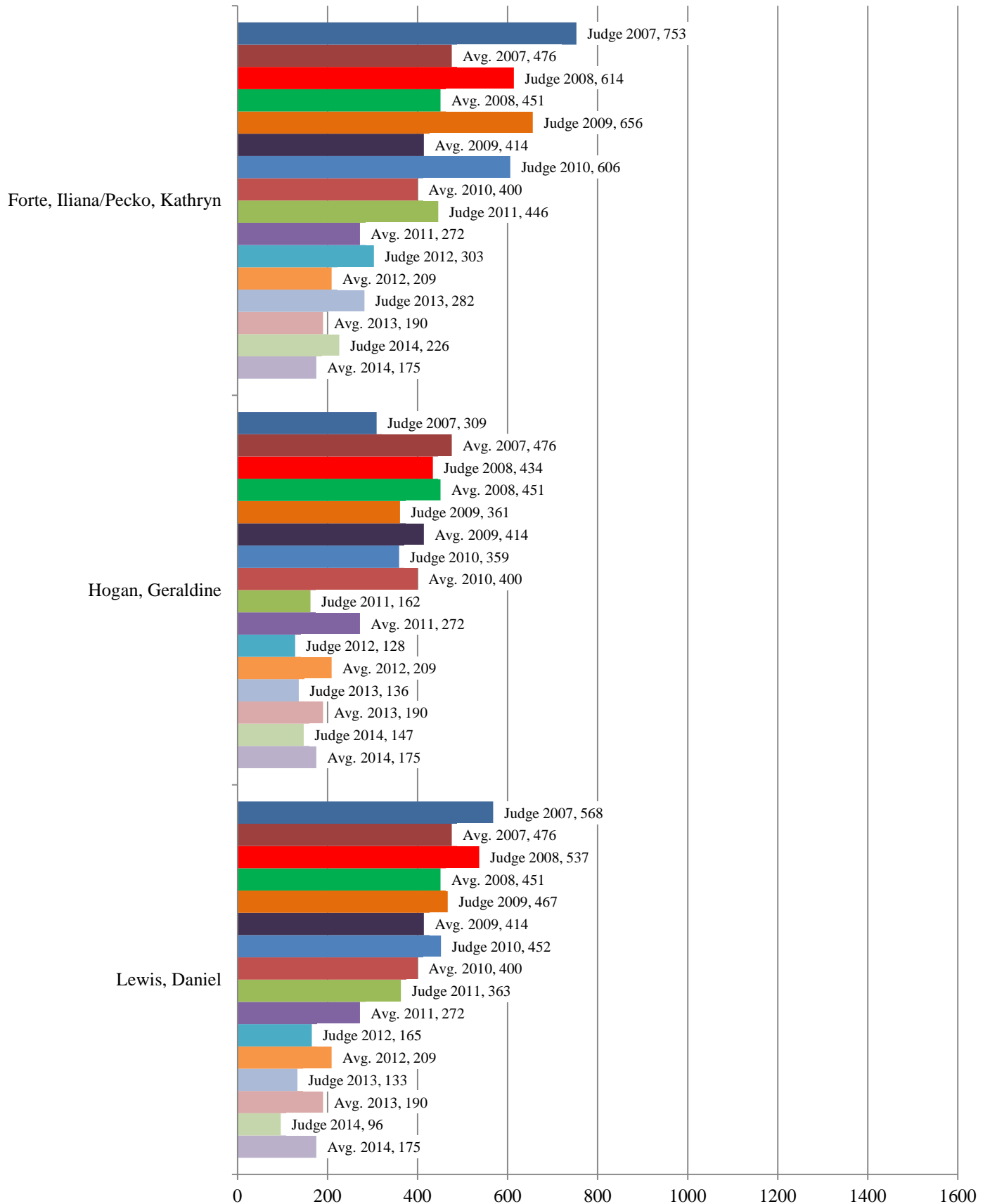
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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

District FTM includes Charlotte, Collier, DeSoto, and Lee counties.

The volume of PFB filings in District FTM are demonstrating increase in 2013-14. Both volumes exceeded the statewide average and both exceeded the prior year volumes in each of the two divisions. Both divisions were close to equilibrium, with the volume of petitions filed close to the volume of petitions closed for 2013-14. Each was also above average in terms of pending petition inventory at year end.

Each of the FTM Judges has been assigned “new cases” from outside the District, since their respective initial appointments. In 2009-10 Judge Spangler was assigned “new cases” from District MIA, and Judge Sturgis was assigned cases from District LKL. In 2010-11, with LKL under new management, and in light of the marked decrease of filings there, Judge Sturgis’ Lakeland assignments were discontinued and she was assigned assignments in MIA. This participation in the “out-of-district” program has stabilized workload in FTM. That PFB closure and filing volumes are consistent supports that the docket “load” in FTM is manageable despite this out of district work. Both FTM mediators averaged less than 130 days between PFB filing and first mediation, which is consistent with the overall mediation statistics statewide.

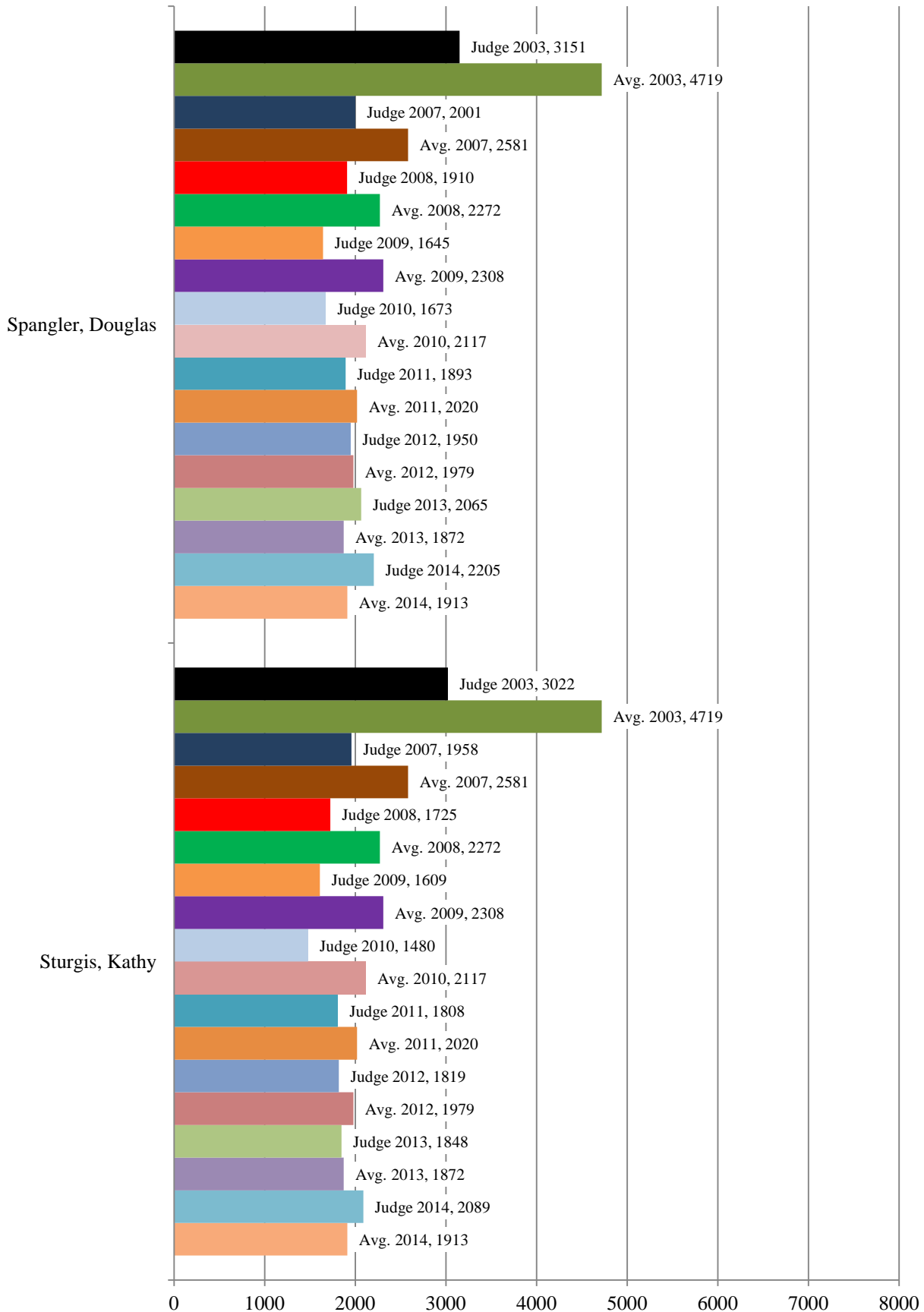
Despite the addition of “out of district” cases, the trial volumes in District FTM have been inconsistent for the last two years. In 2012-13 was interesting. Judge Spangler’s trial volume was slightly below the statewide average, and in 2013-14 it is slightly above. Judge Sturgis’ volume of trials in each of the last two years has been markedly below the statewide average. Cases are less likely to be tried in Judge Sturgis’ division.

Both Judges in FTM averaged well less than 210 days from Petition/Motion filing until trial. Judge Spangler averaged 23 days between trial and the final order entry in 2012-13, which improved to 15 days in 2013-14. Judge Sturgis averaged 49 days between trial and the entry of the resulting trial order in 2012-13, which improved to 41 days in 2013-14.

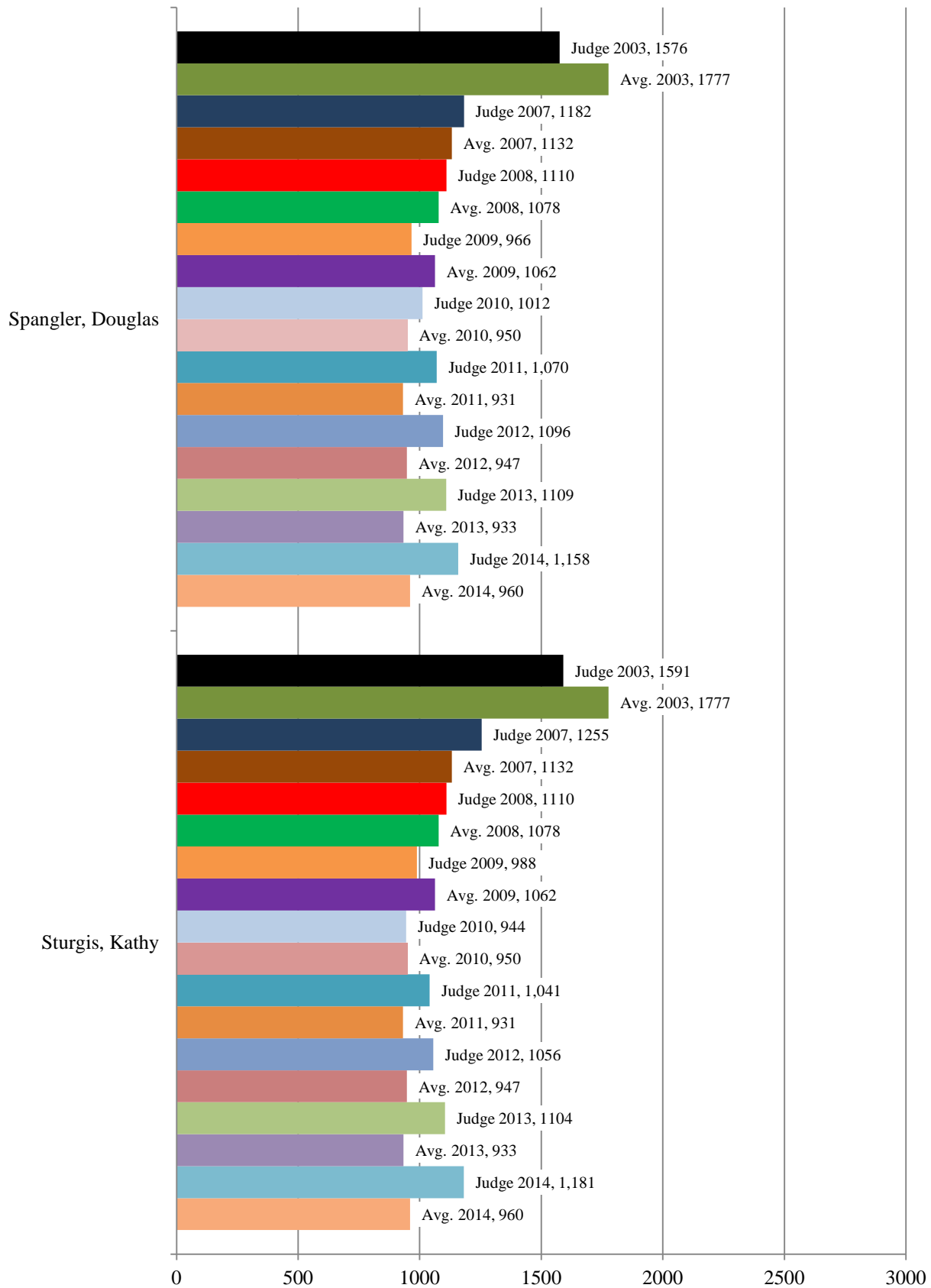
Judge Sturgis is a member of the executive committee of the Calusa Chapter of the American Inns of Court, serving as Counselor. She is also a member of the Ave Maria Law School Board of Visitors, and serves as a mentor to Ave Maria students, participating in mock interviews. She judged the Ave Maria moot court competition in 2013-14. She serves as Judge for the Lee County Foundation for Public Schools, Colors of the Rainbow Dancing Classrooms Competition.



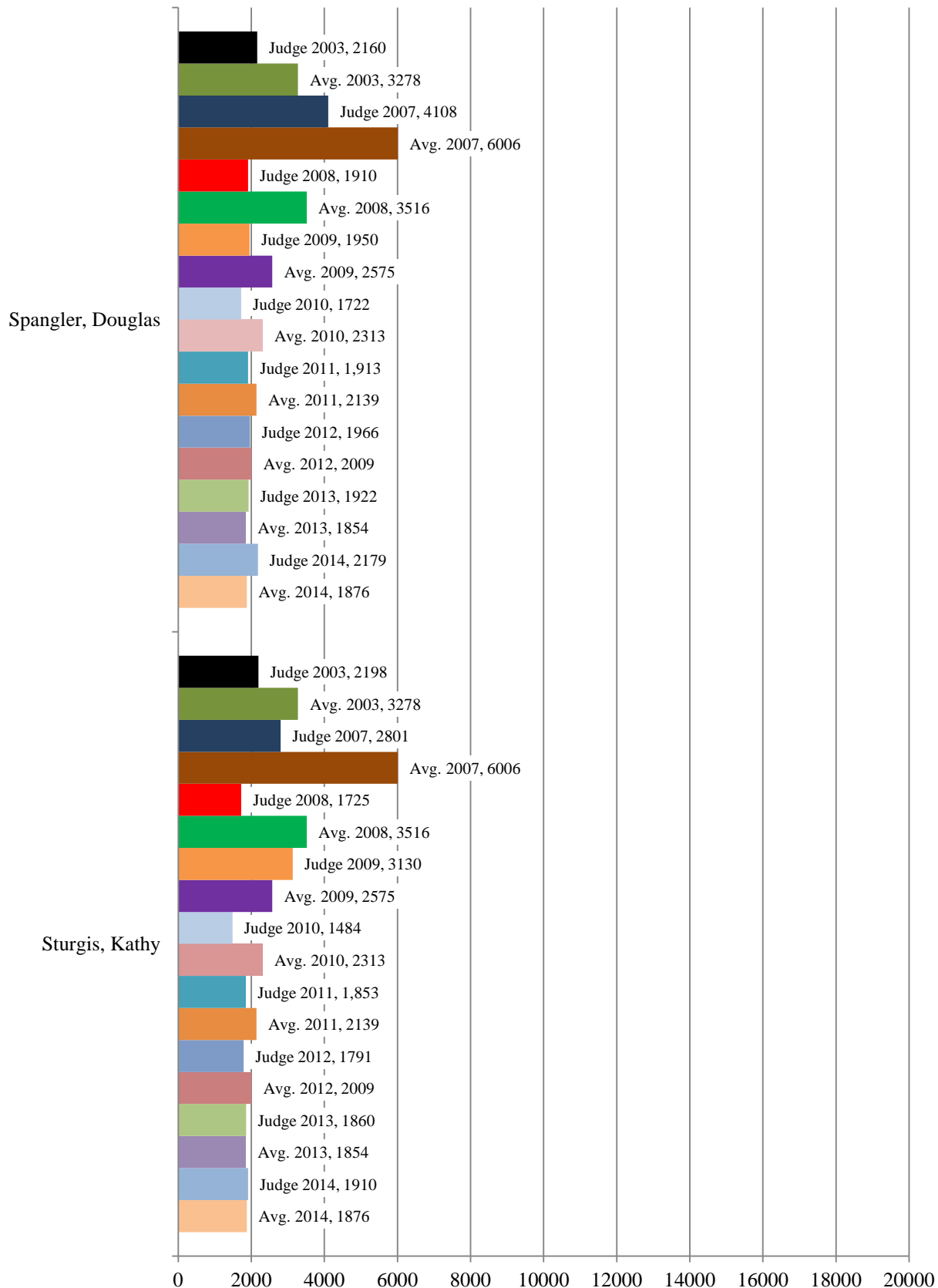
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



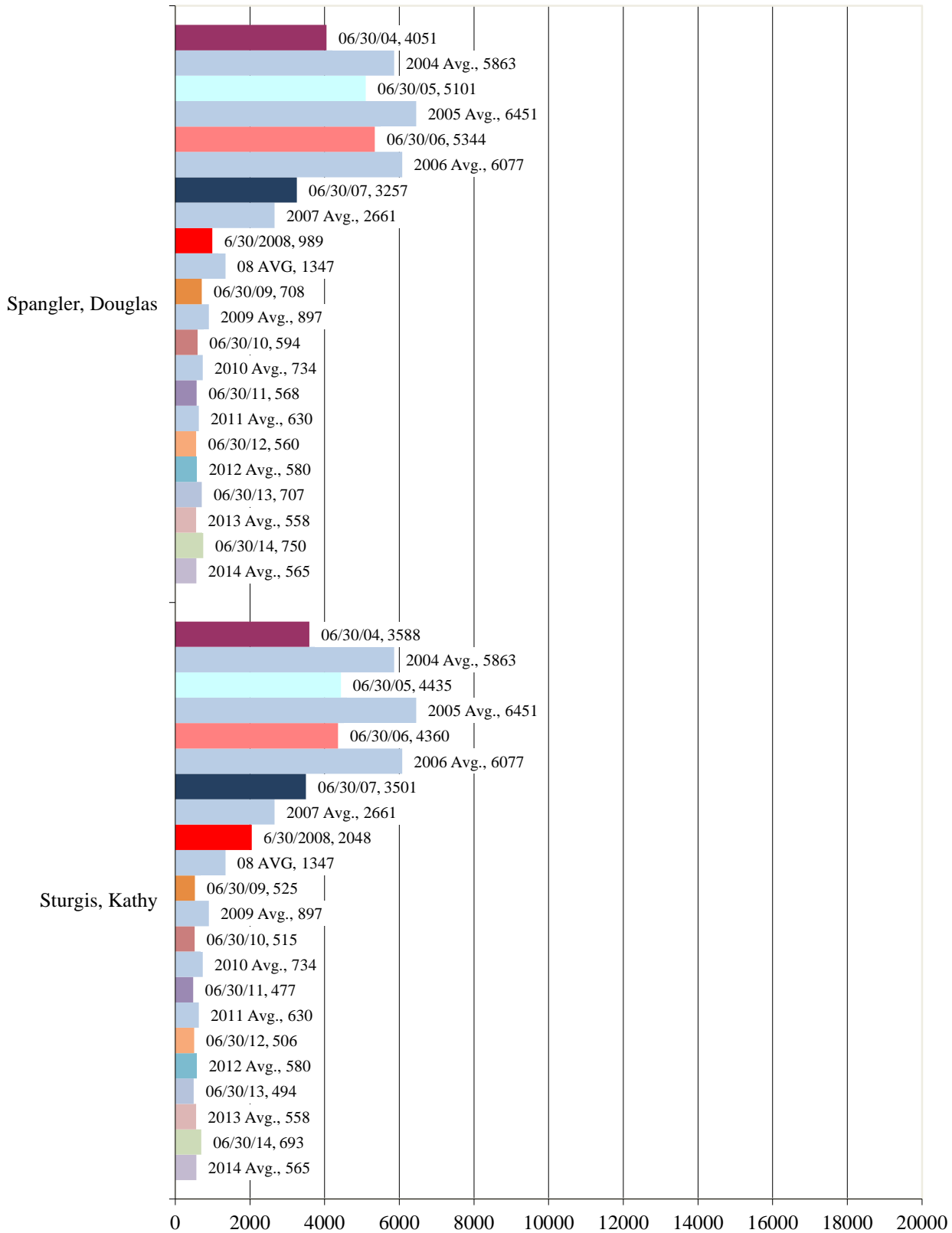
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



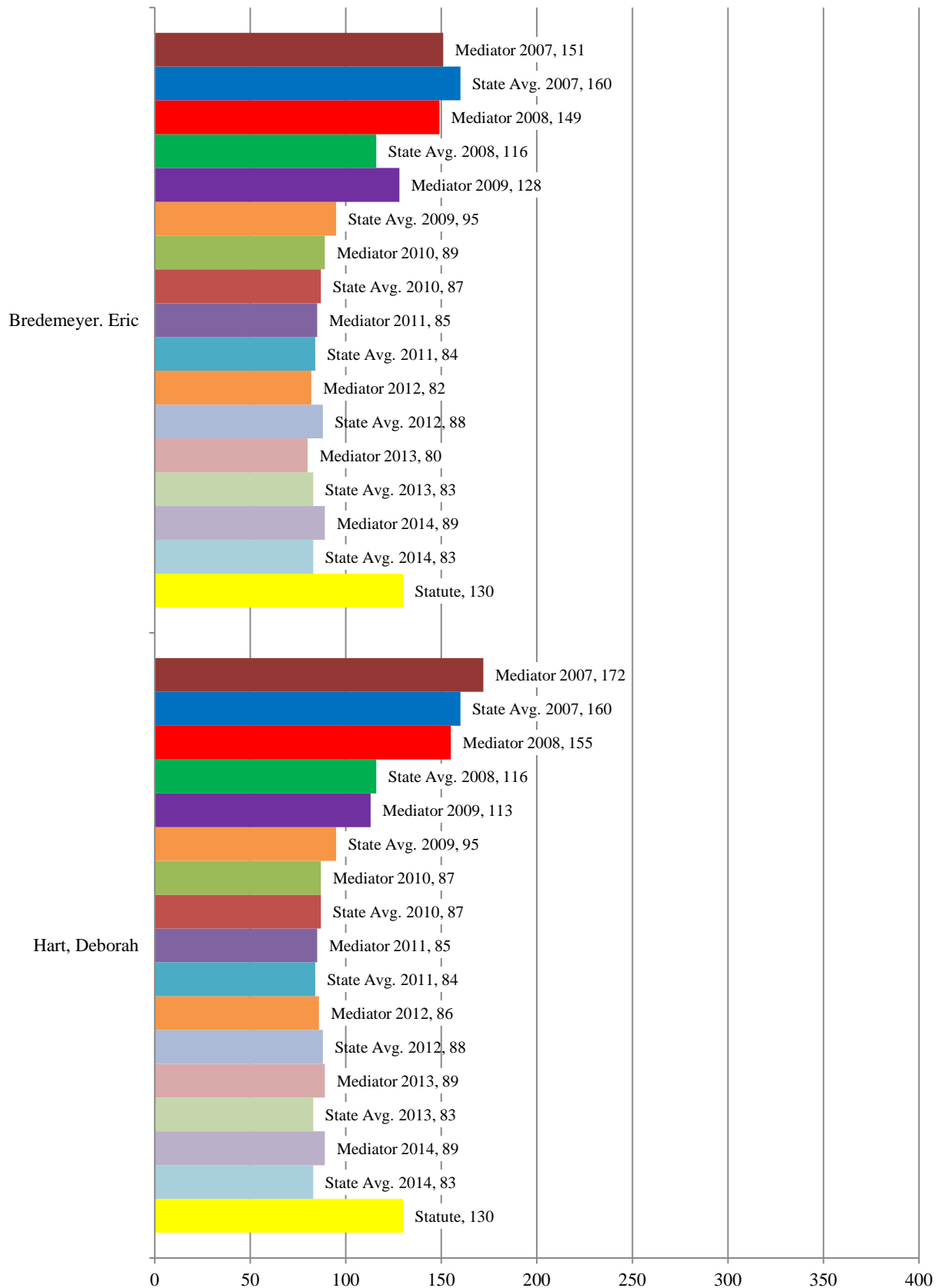
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



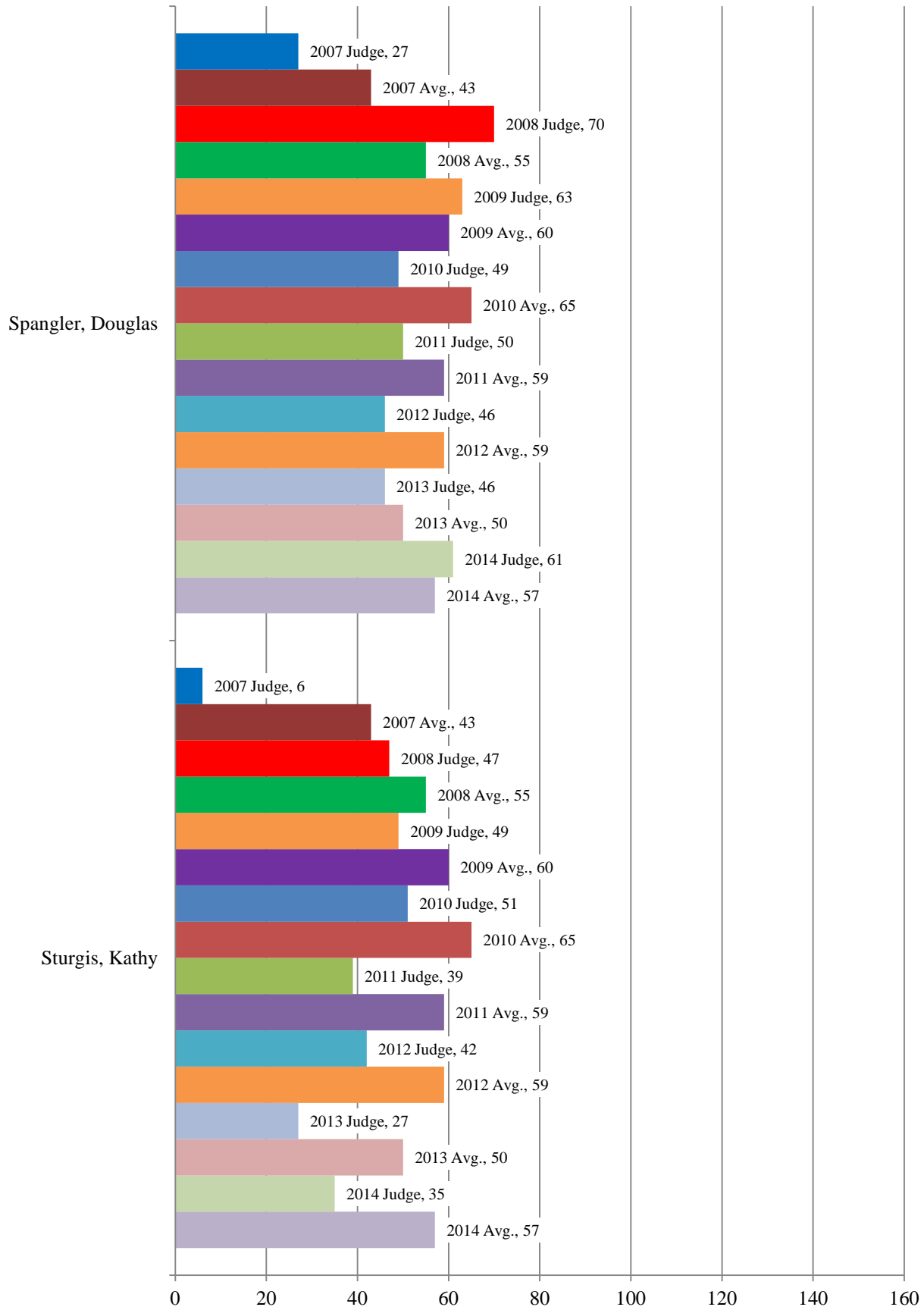
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2012-13 (2002-03 is also provided for historical reference). The identification and values for each year are in each bar label.



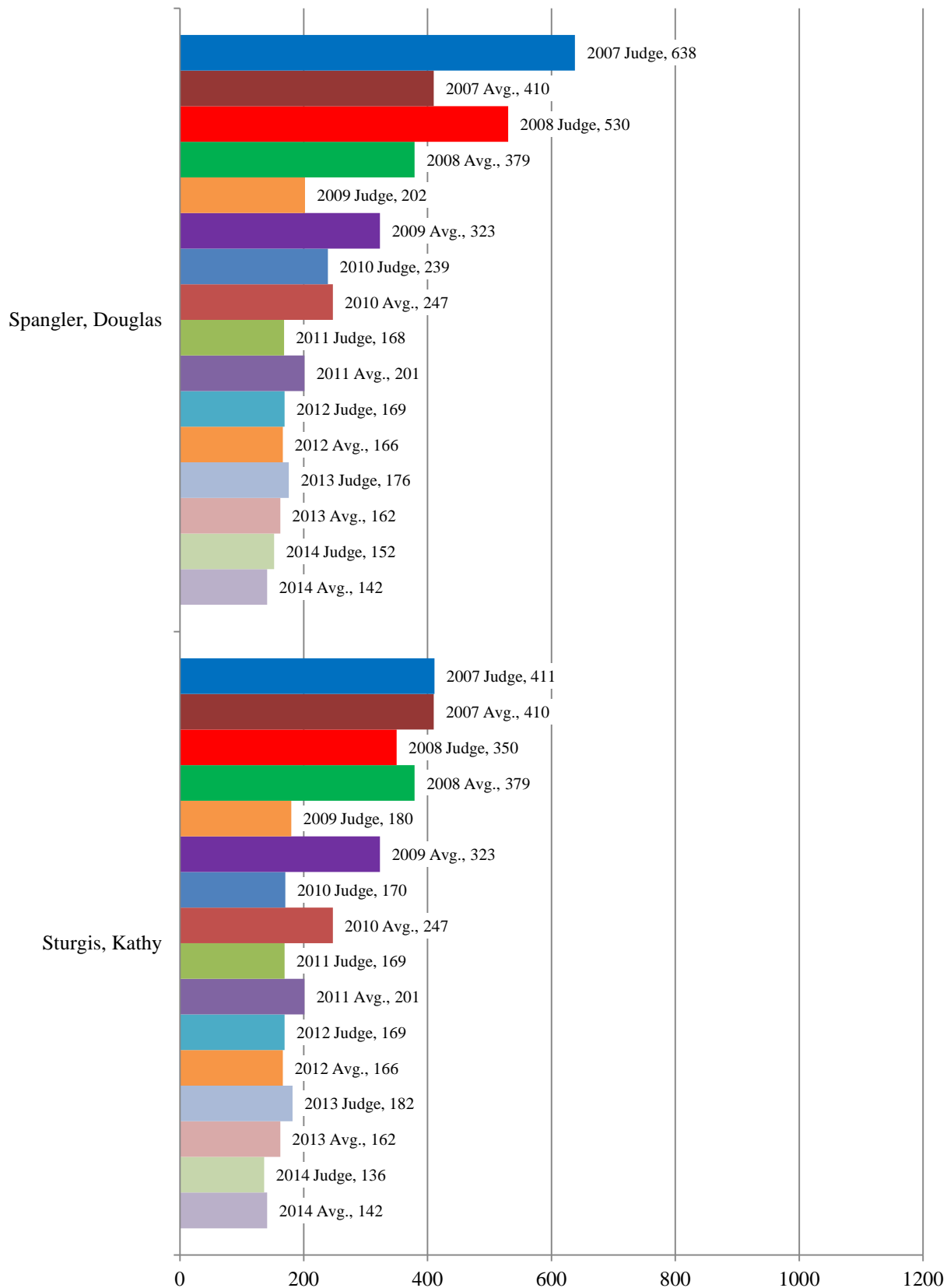
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



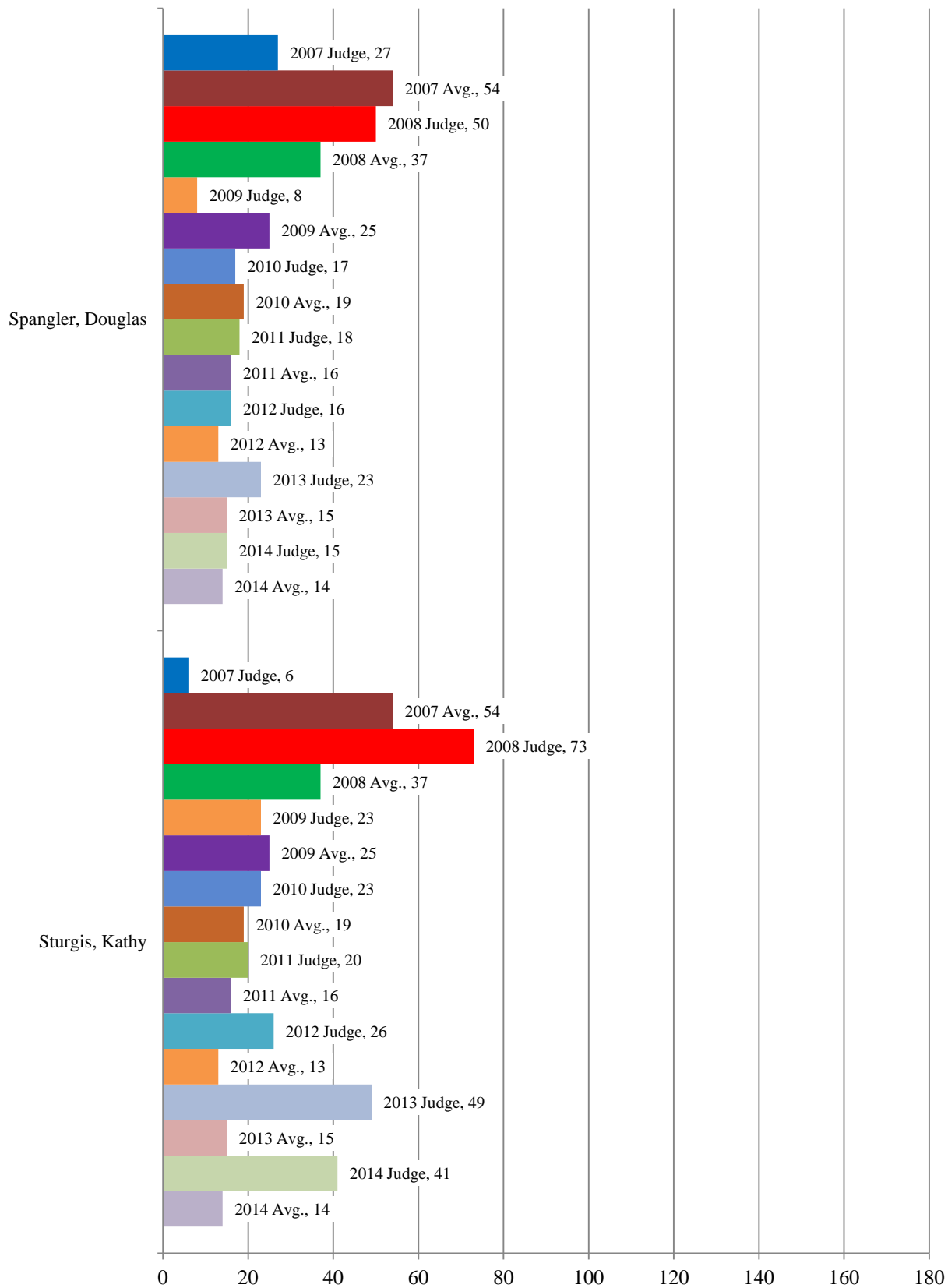
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



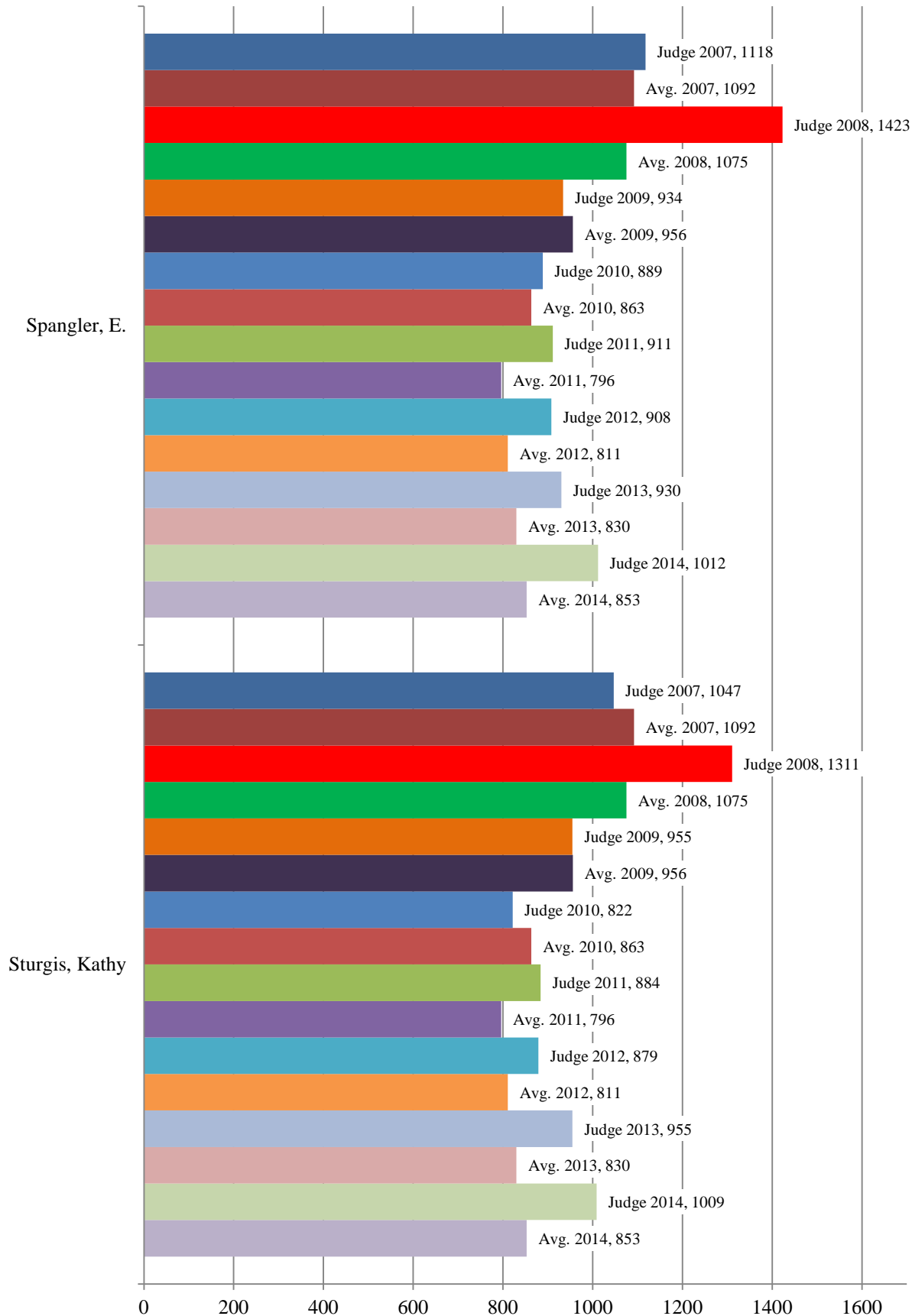
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



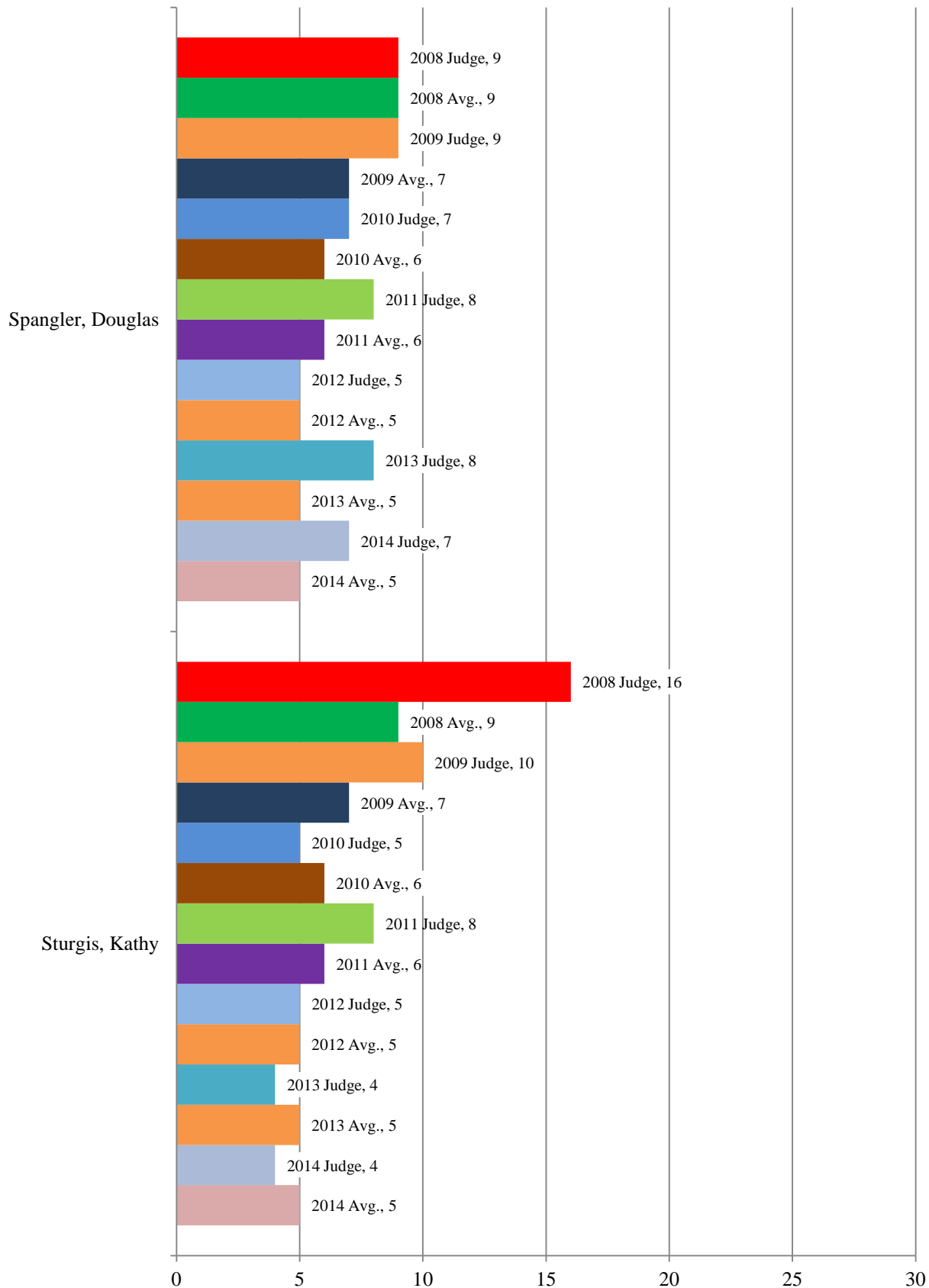
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



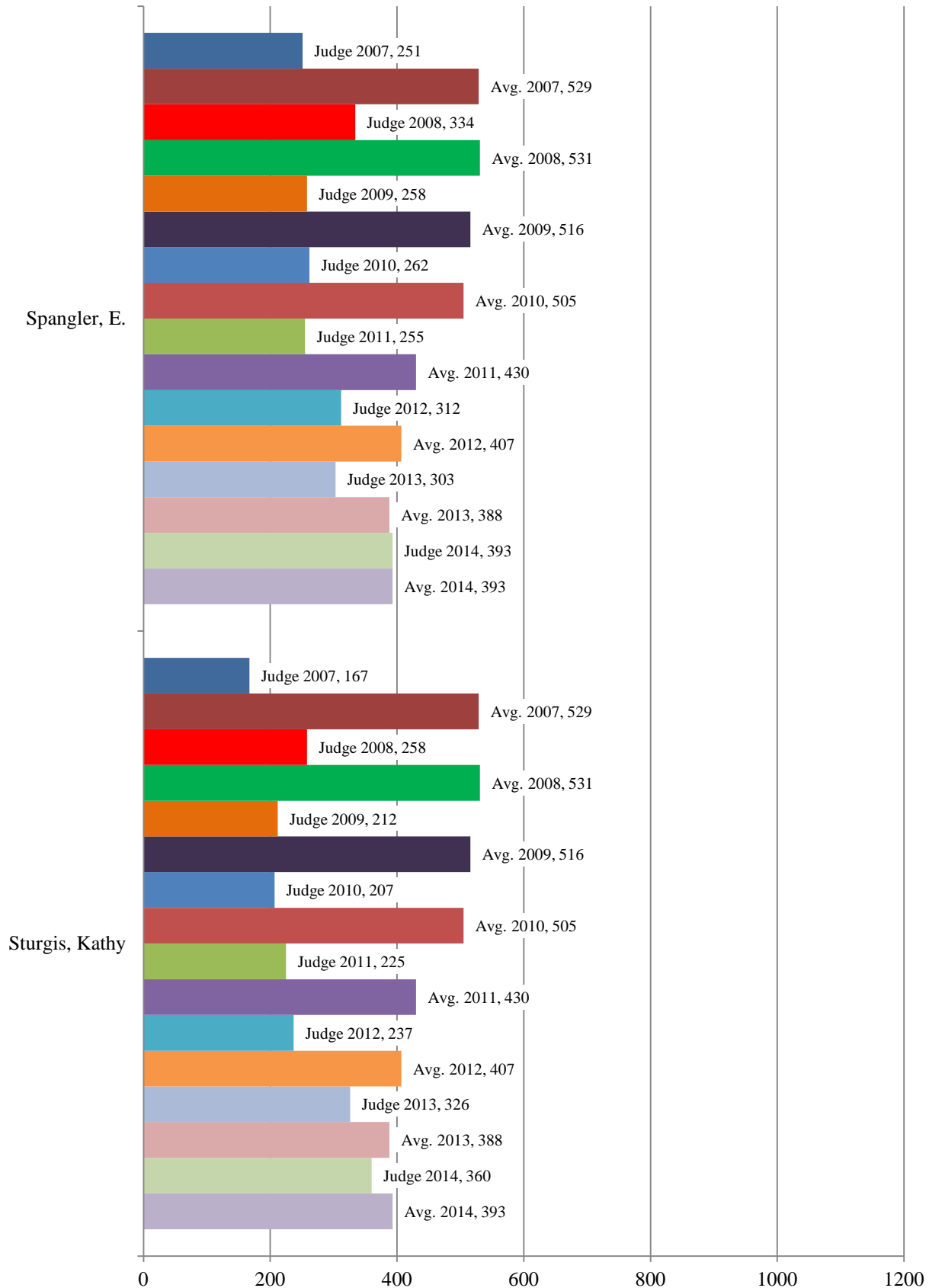
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



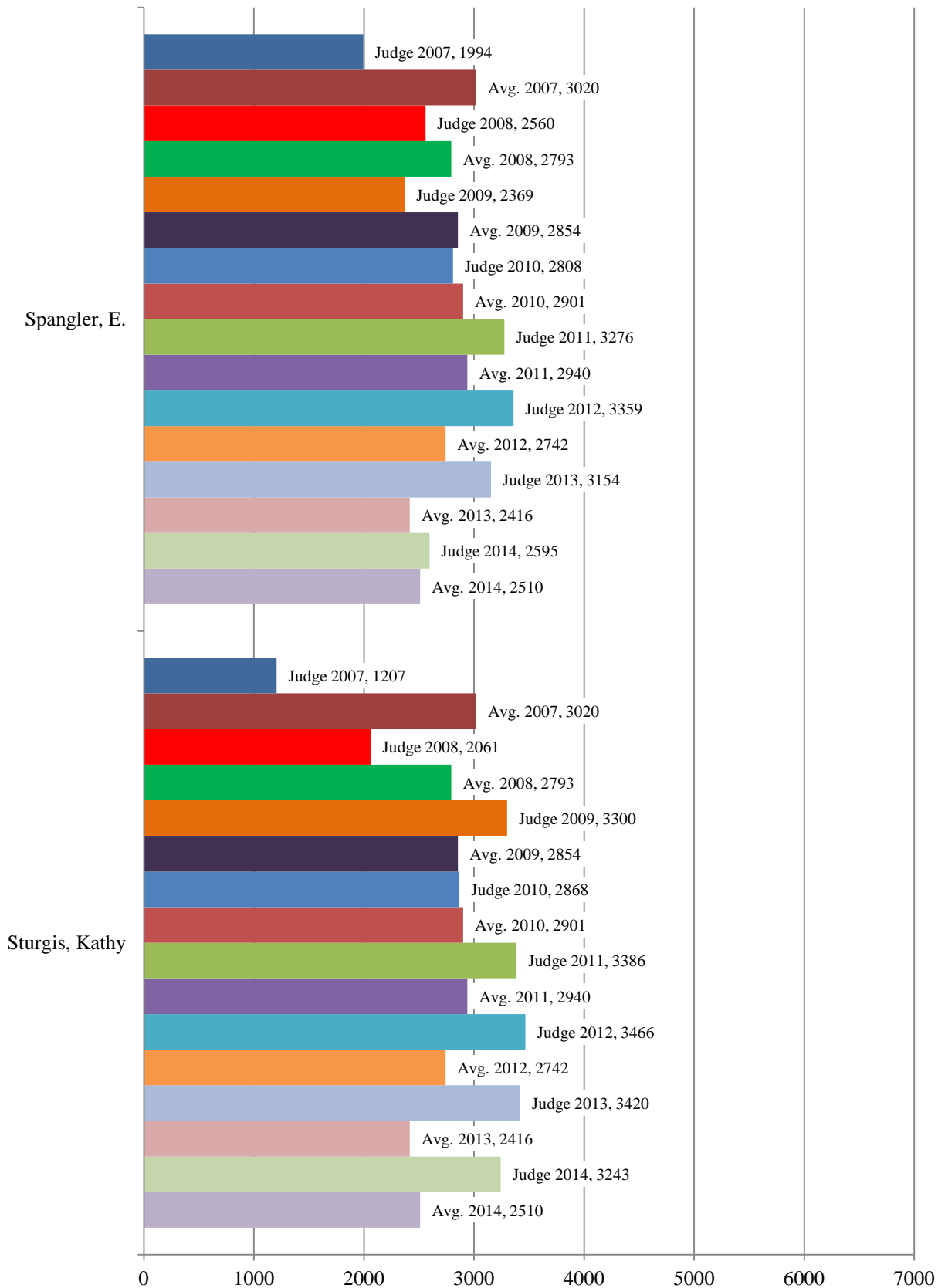
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



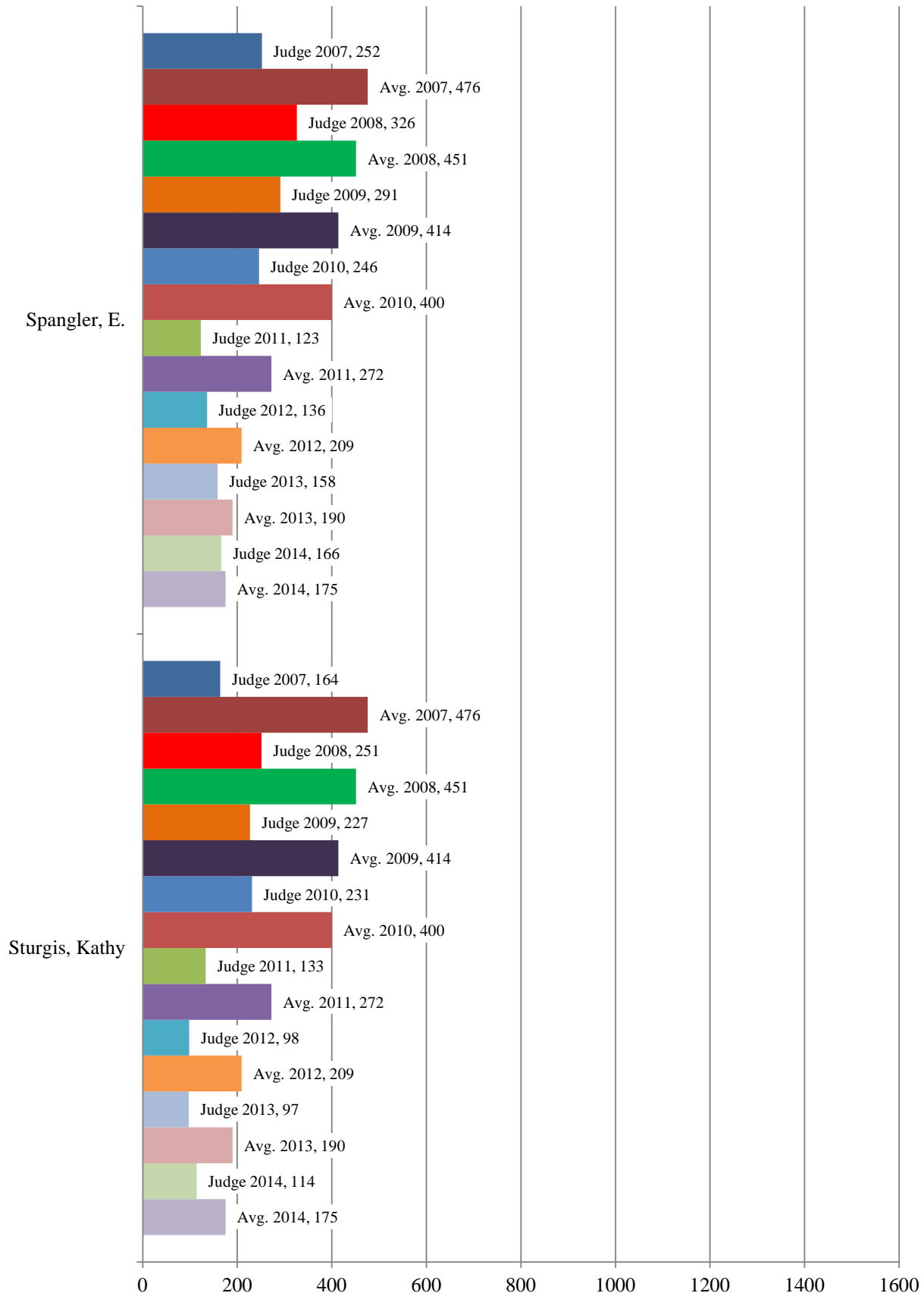
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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

District GNS includes Alachua, Columbia, Dixie, Gilchrist, Levy, and Marion counties:

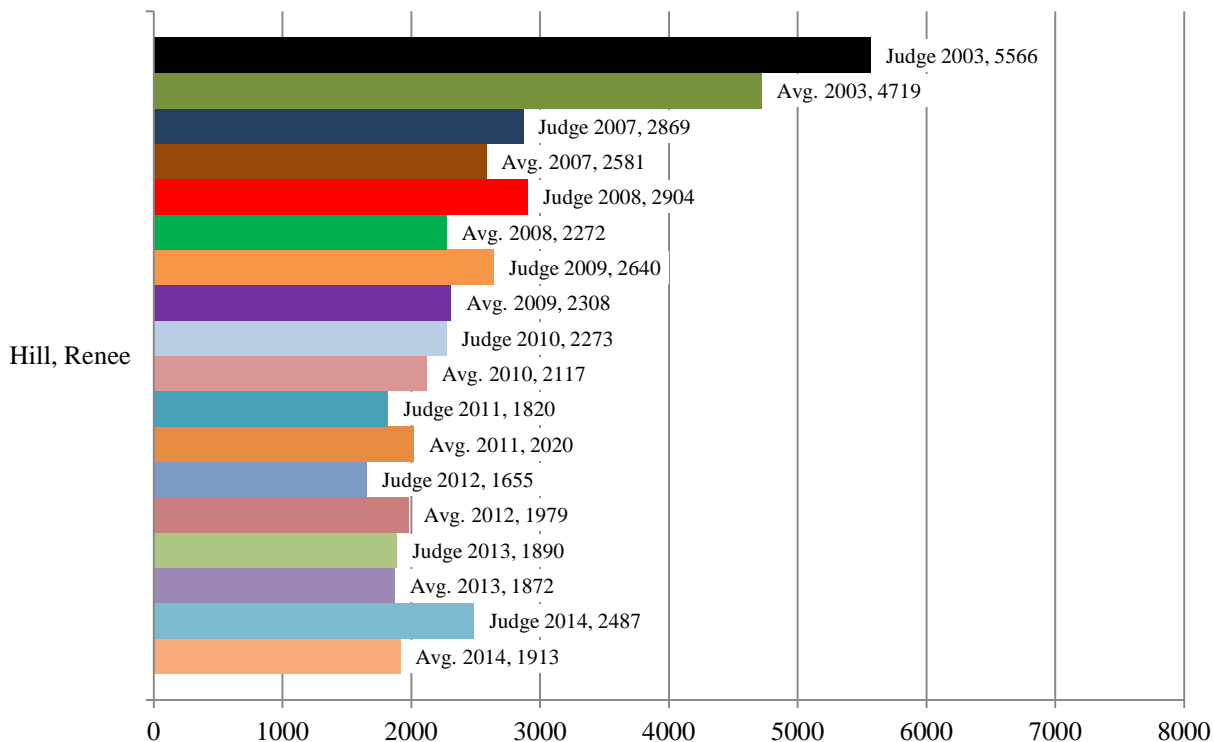
District GNS has experienced significant change in recent years, as noted in prior OJCC Annual Reports. Judge M. Renee Hill has brought stability to District GNS during her first term, and was reappointed to a second four-year term in 2012-13.

PFB filings have fluctuated in District GNS for each of the last several years. In 2013-14, however, District GNS evidenced a marked increase in PFB and “new case” filing volumes. Some of that increase may be attributable to the assignment of Miami cases to Judge Hill. Despite the increase last fiscal year, GNS remains in equilibrium with the volumes of filed and closed PFB remaining consistent. Year-end pending petition inventory volumes also support the equilibrium conclusion.

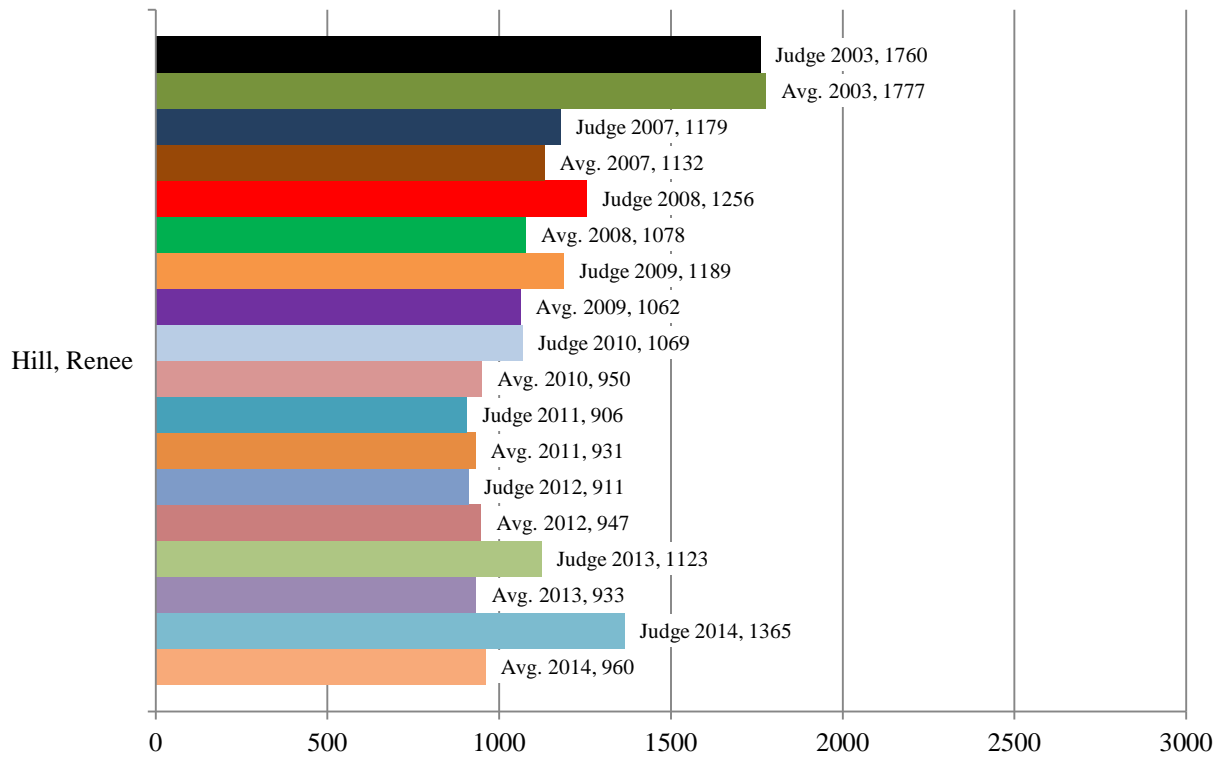
District GNS continued to significantly exceed the statewide average in trial volume in 2013-14. This has been consistent through the last five fiscal years. A significant volume of trials are held in District GNS. Despite the volume, Judge Hill averaged only 89 days from PFB/motion to trial in each of the last two fiscal years. Her average time from trial to entry of final order was six days in 2012-13, and decreased to four days in 2013-14. Both of these metrics are below the statewide average, and well within the statutory parameters. Mediation is timely in District GNS and has been consistently so.

Judge Hill is a member of the Executive Committee of the Florida Conference of Judges of Compensation Claims, serving on its Forms and Mediation Sub-Committees. She is a member of the National Association of Workers’ Compensation Judiciary. Judge Hill is a member of two Inns of Court, the E. Robert Williams Inn in Jacksonville and the Judge William Wieland Inn in Orlando. Judge Hill presented on effective practice with the Orange County Bar, Workers’ Compensation Section. She presented “Legal Ethics and Professionalism – A View from the Bench” at the Florida Workers’ Advocates Education Conference. At The Florida Bar Workers’ Compensation Forum, she presented “Evidence - The *Daubert* Standard.” At the OJCC educational program she presented “Hot Litigation Issues before OJCC Tribunals, Perspectives from the Trial Judges.”

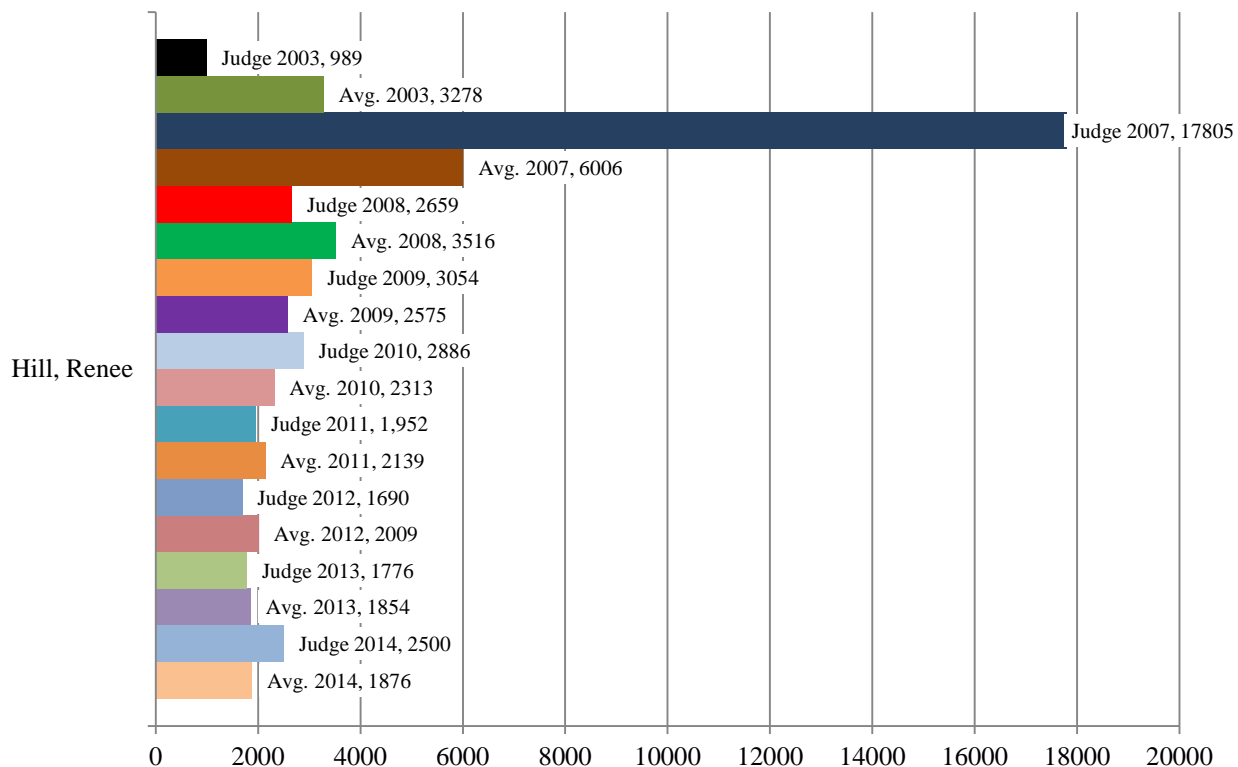
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



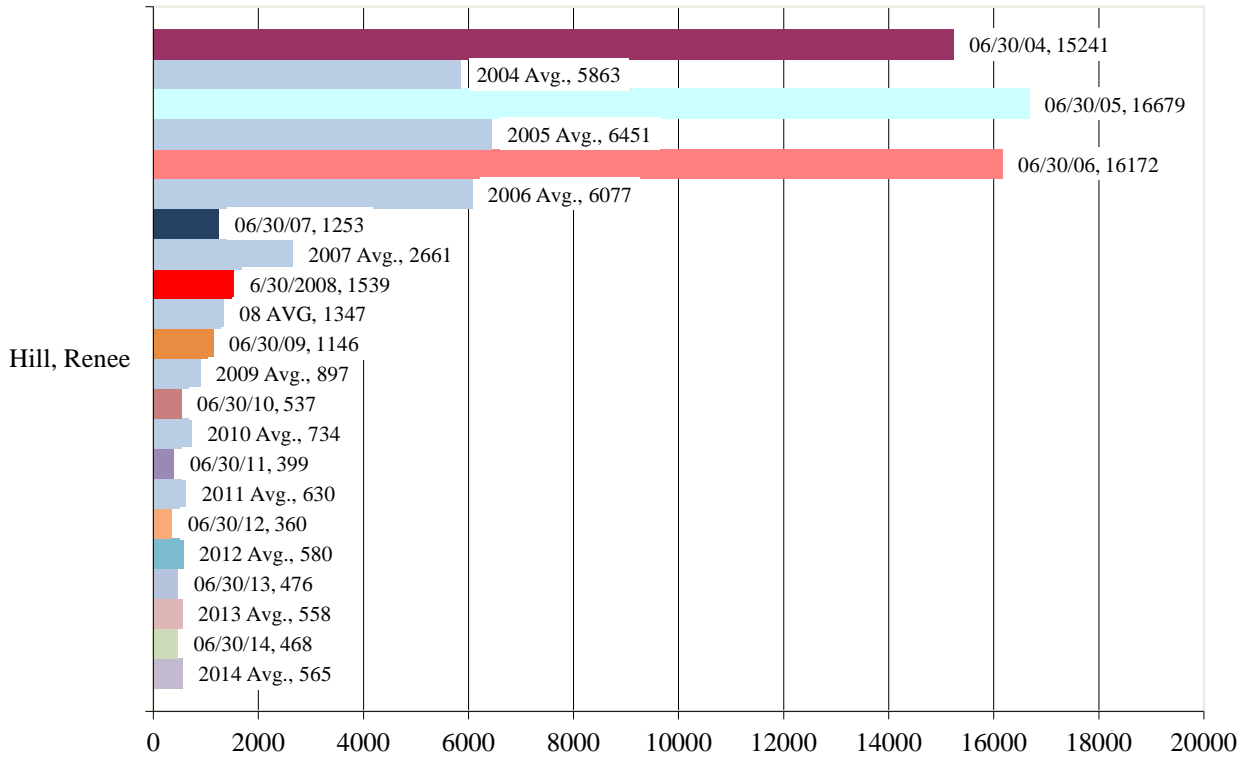
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



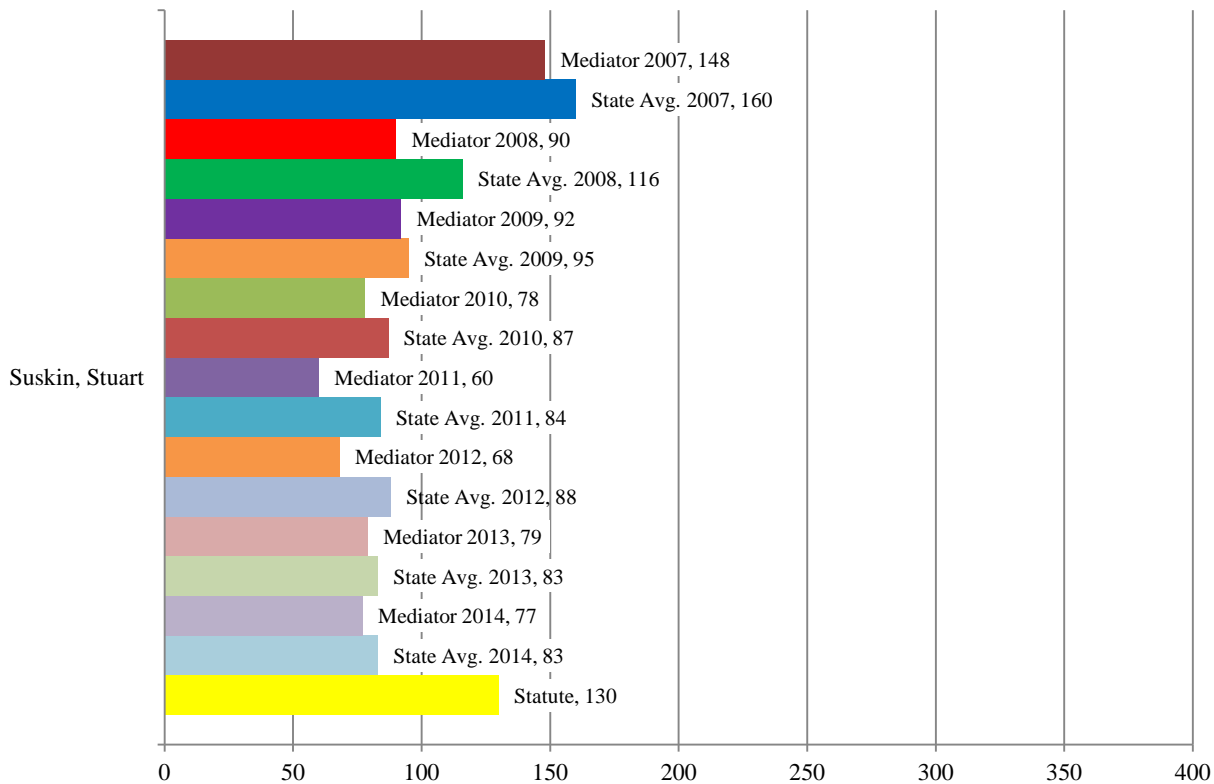
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



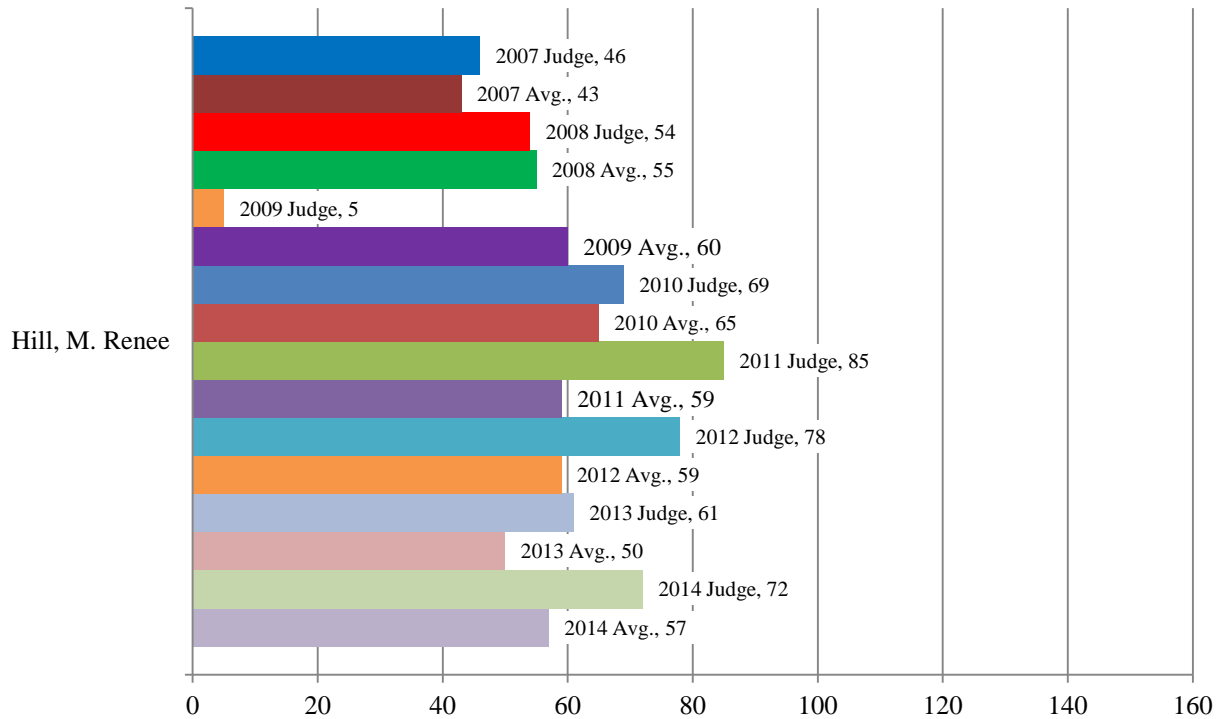
The following depicts the inventory of pending PFBs in this District and the statewide average between 2003-04 and 2013-14. The identification and values for each year are in each bar label.



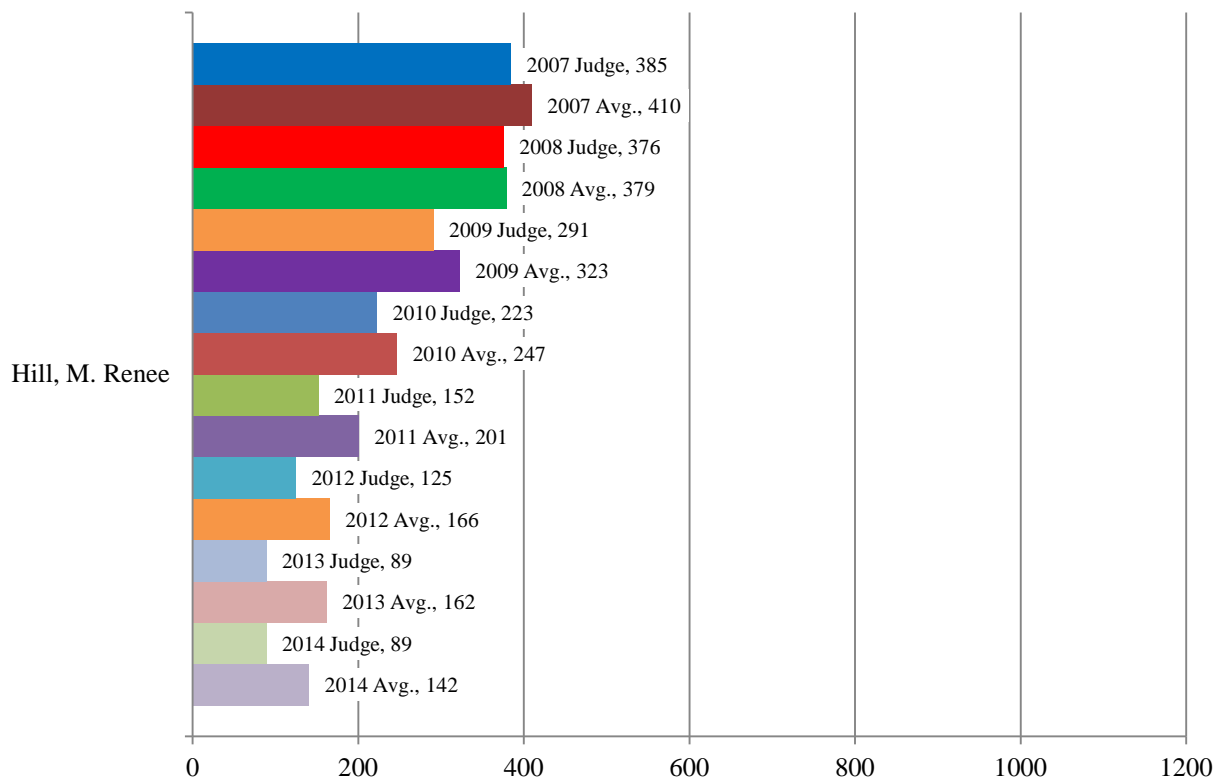
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



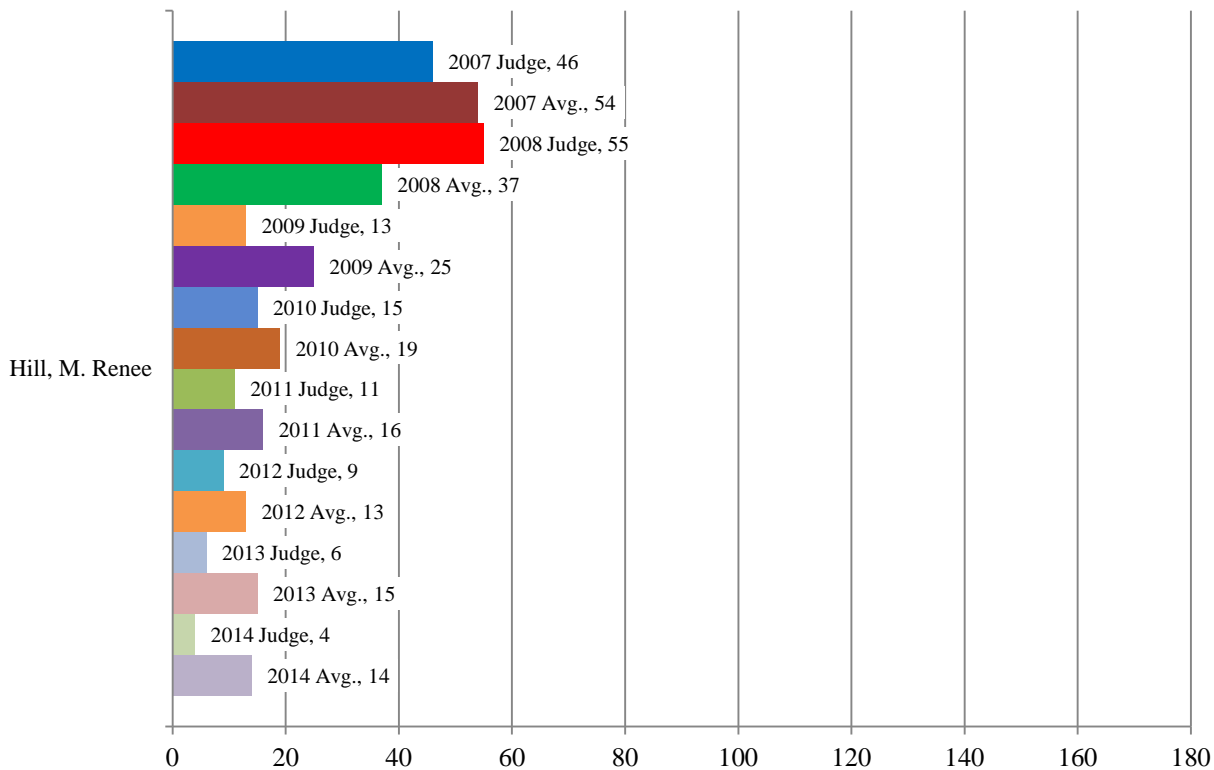
The following graph depicts the total volume of trial orders¹²⁵ uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



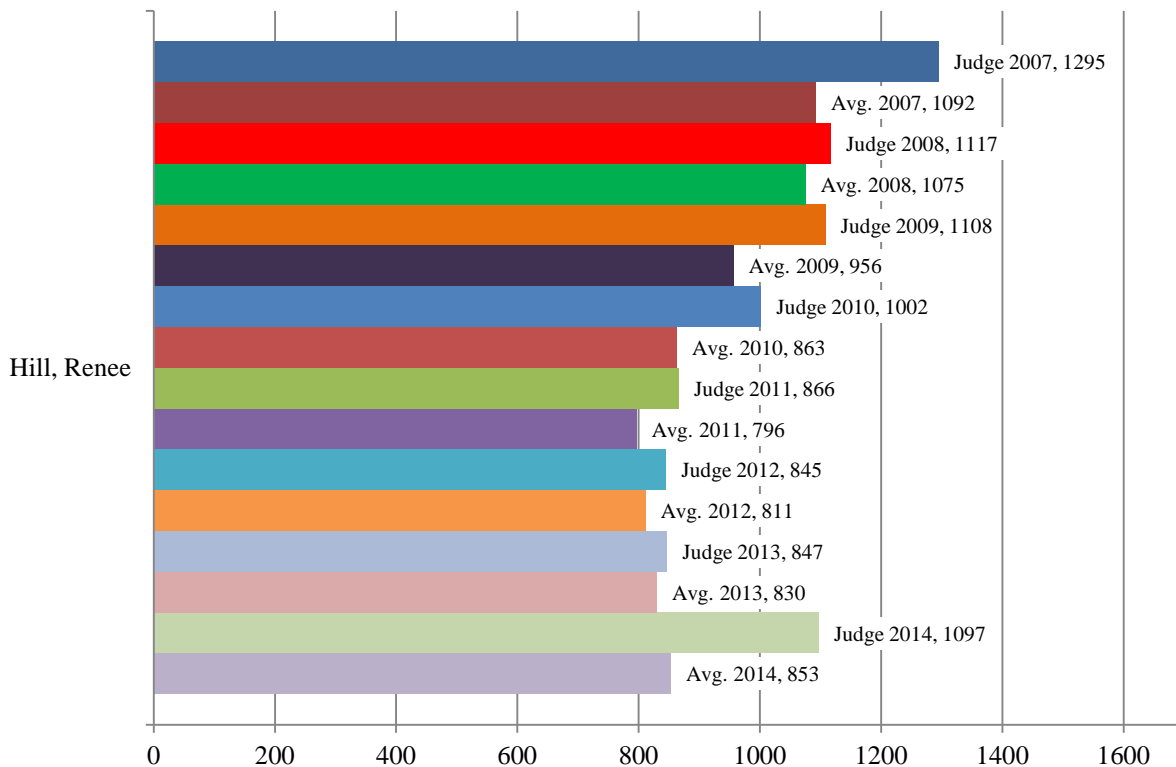
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



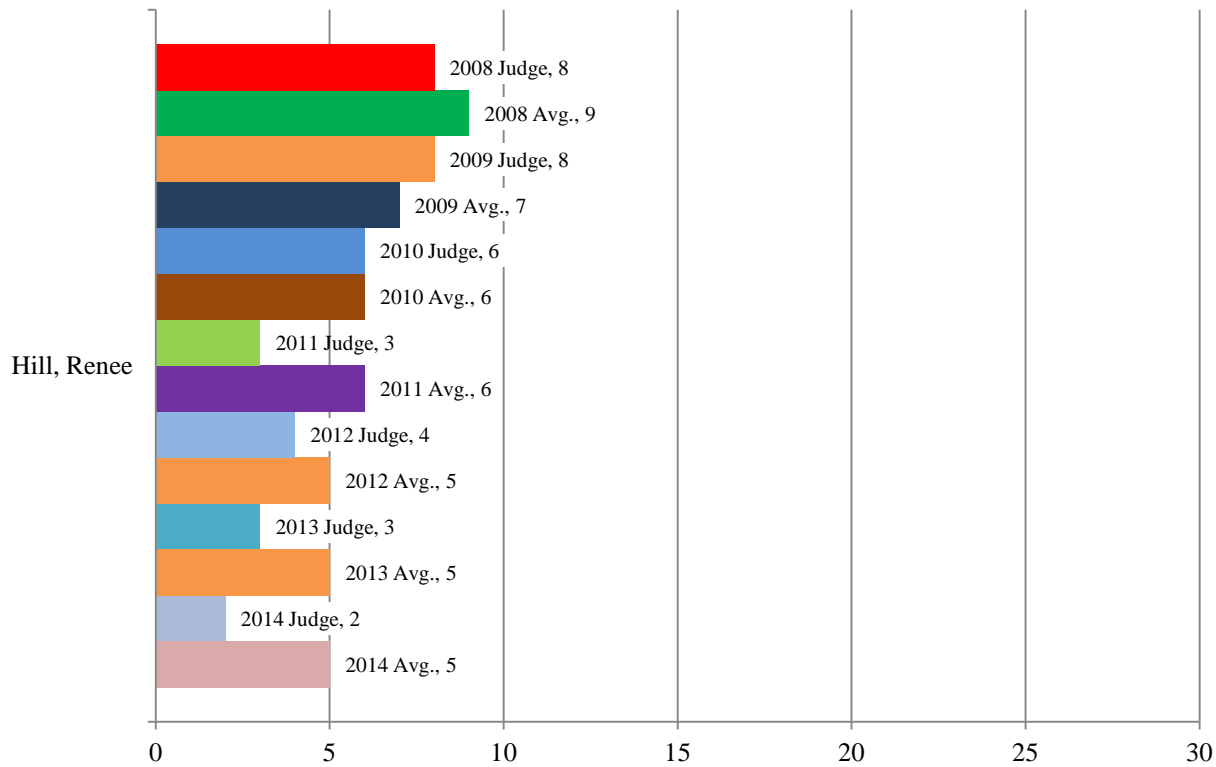
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



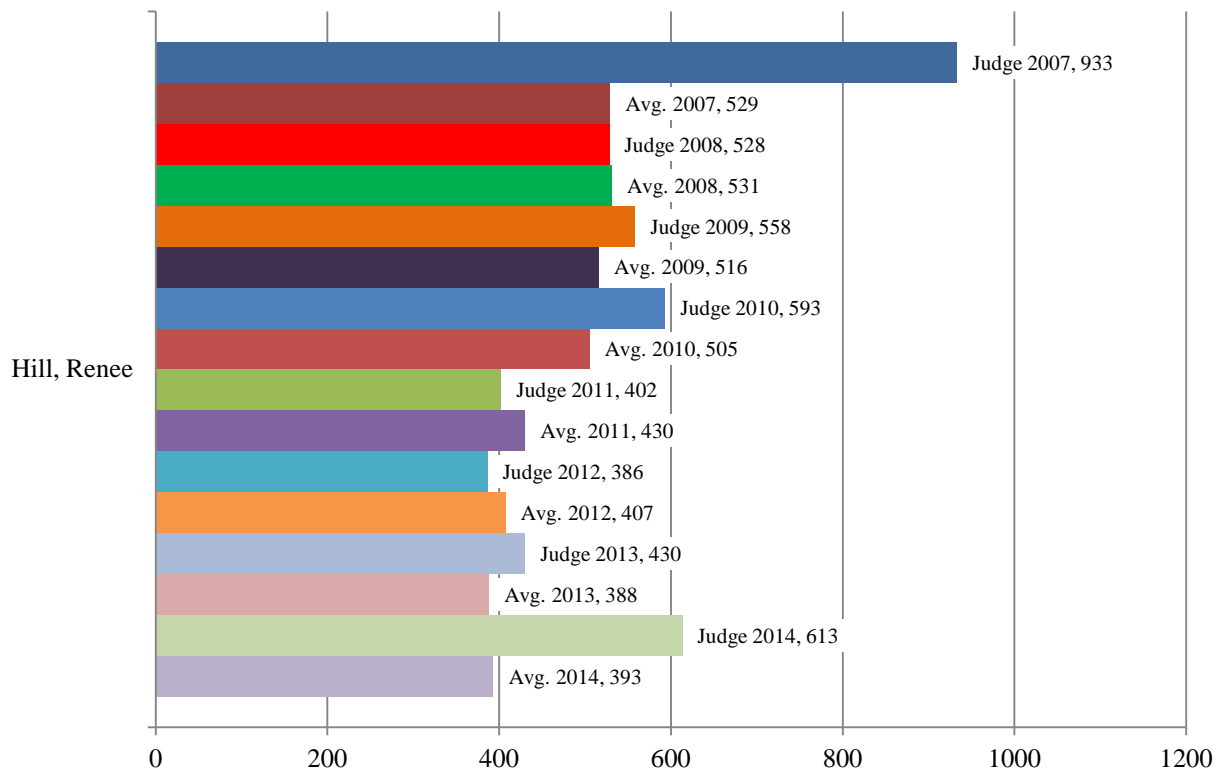
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



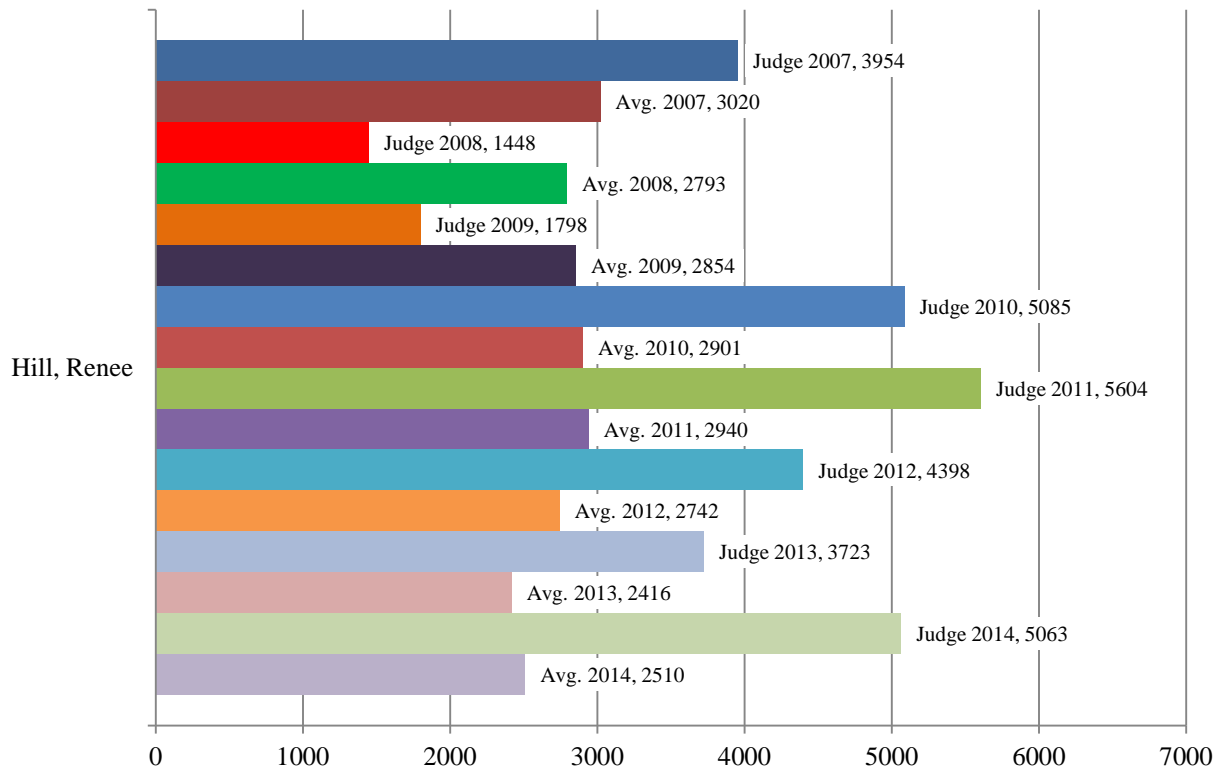
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



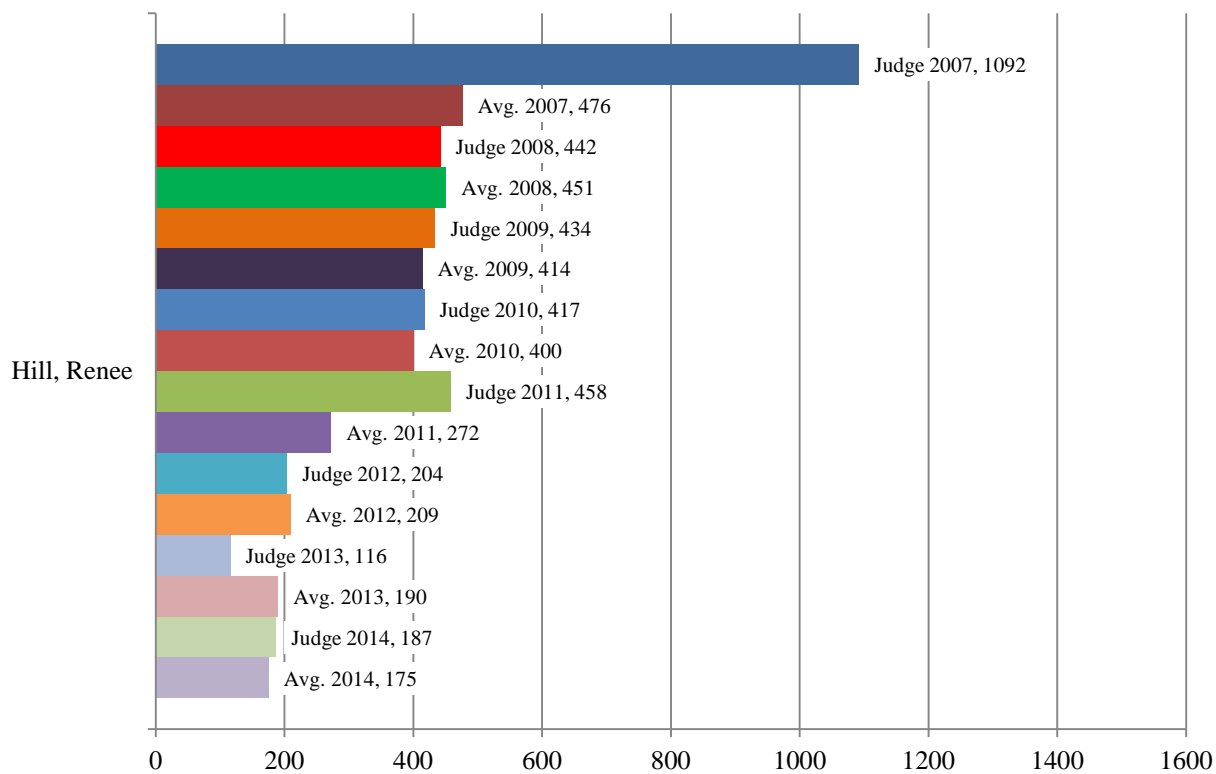
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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

District JAX includes Bradford, Clay, Duval, Nassau, Putnam, St. Johns, and Union counties.

District JAX has become a stable environment in recent years. The transparency and efficiency that Judges Holley and Humphries have continued to bring to the district over the last four years is notable. Each has maintained focus on docket management and timely disposition, each of which had been challenges in Jacksonville before 2009.

The volume of PFBs in District JAX have been reasonably consistent in recent years. It is notable that Judge Humphries’ 2013-14 PFB volumes were markedly over the statewide average and inconsistent with the volume in Judge Holley’s division. This is likely a result of Judge Humphries’ assignment of out-of-district cases from Miami, while Judge Holley’s out-of-district cases are from Ft. Lauderdale. Both JAX divisions are closing petitions at a rate commensurate with the respective petition filing volumes; thus the Jacksonville District is in equilibrium demonstrated by these metrics. The “new case” rate in Jacksonville markedly exceeded the statewide average in 2013-14 as it has in multiple prior years. District JAX is interesting in this regard, with the consistent above average “new cases” and until recently, average or lower PFB volume. Thus, more cases are filed, but the litigation overall is more efficient or less intense than elsewhere.

The JAX District has historically conducted fewer trials per Judge than the statewide average. However, in recent years, the volume of trials in Jacksonville has increased. Each JAX Judge decided more than the statewide average of trials in 2013-14, Judge Humphries markedly so. Some volume of trials was attributable to the “out-of-district” cases heard, but the trend to a higher volume of trials is also likely indicative of an increased workload in that district.

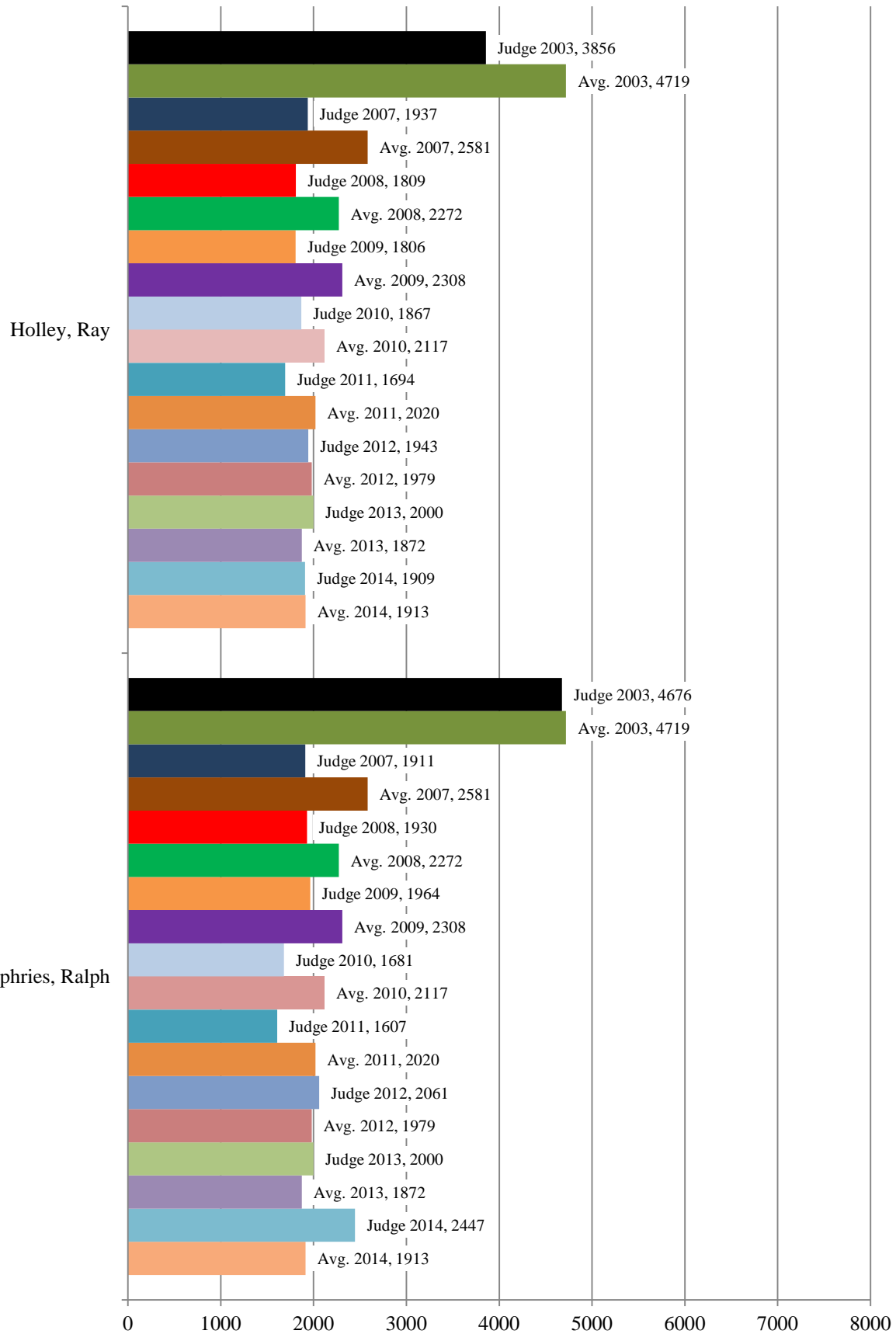
Judge Holley completed his first term as President of the E. Robert Williams Inn of Court where the Inn received the highest distinction of a Platinum Designation by the American Inns of Court. He was asked to serve a second term which he accepted. He continues to be engaged in the local and state organization of the Friends of 440 Scholarship Fun, Judges of Compensation Claims (executive committee), Florida Bar Workers Compensation Rules Advisory Committee, Stetson Alumni Association Board of Directors and the Rotary Club of Southpoint. Judge Holley presented an interactive speech to two combined third grade classes on the topic of “Rules and our System of Government.” He also made a short presentation regarding the history and introduction of the E. Robert Williams Inn of Court in front of the Northeast Florida Joint Inn of Court Meeting held at Amelia Island. Finally, Judge Holley was asked to serve as the main speaker for the William M. Wieland American Inn of Court entitled “Becoming Part of the Inn of Court Movement.”

Judge Humphries is President of the Florida Conference of Judges of Compensation Claims and Vice President of the E. Robert Williams Inns of Court. In June, he made a presentation on the subject of “Return to Work” to the First Coast Manufacturers Association. He presented in February at the 2014 Mid-Winter Workers’ Compensation Update in Tallahassee, as a panelist on “Hot Litigation Issues before OJCC Tribunals: Perspectives from the Trial Judges.” Judge Humphries served as a Judge at the 2013 Earle Zehmer Moot Court Competition.

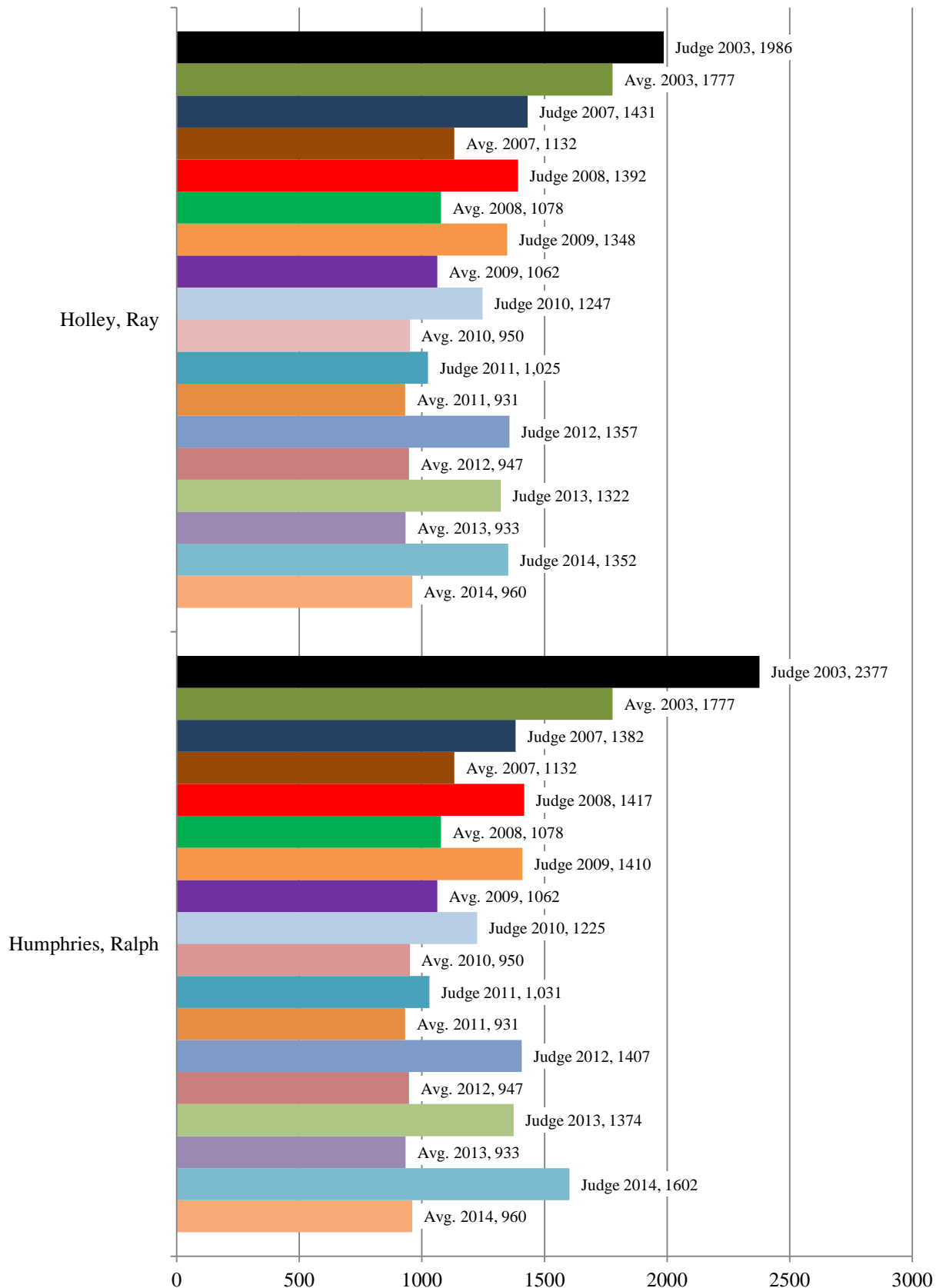
Kahlil Day continued his service as a Florida Bar Grievance mediator, served on the Florida Bar Standing Committee on Grievance Mediation and Fee Arbitration, and served as an Honorary Member of the E. Robert Williams Inn of Court. Kahlil had published *The Use of Apology in Workers Compensation Mediation* and, with Mediator Alan Gordon, *Is There a Place for Mercy in the Mediation Process* The Professional Mediation Institute Newsletter. Kahlil remains a Fellow of the Royal Society for the Arts and a Sustaining Life Fellow of the American Bar Foundation.

Mediator Alan M. Gordon along with Mediator Kahlil A. Day wrote and published an article by the Professional Mediation Institute titled *A place for Mercy*. Mediator Gordon is the immediate Past President of the E. Robert Williams Inn of Court and was selected to Chair the Committee in charge of the annual meeting of all the northeast Florida Inns of Court to be held in February 2015. Mediator Gordon continues to be rated A-V by Martindale-Hubbell.

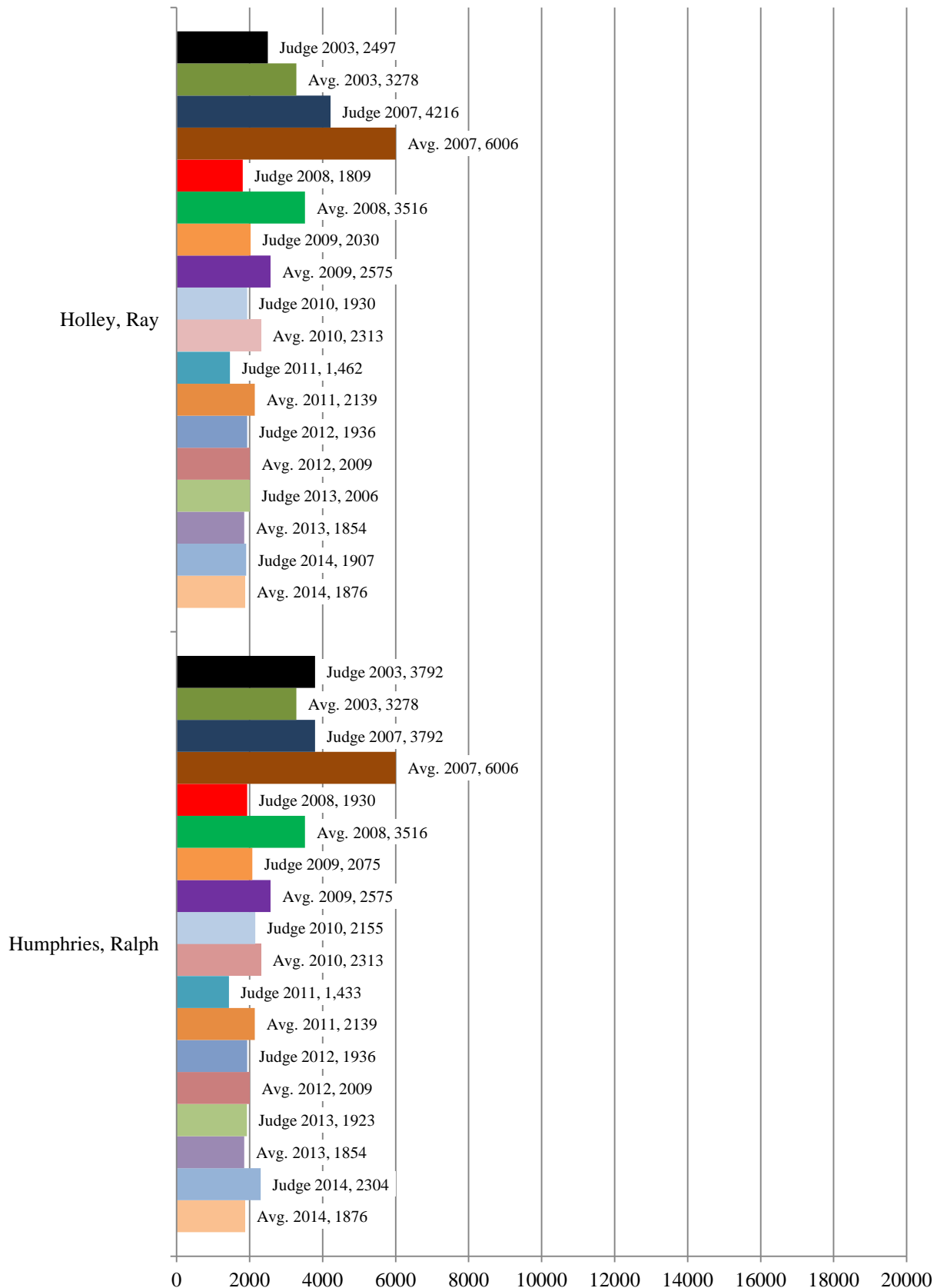
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



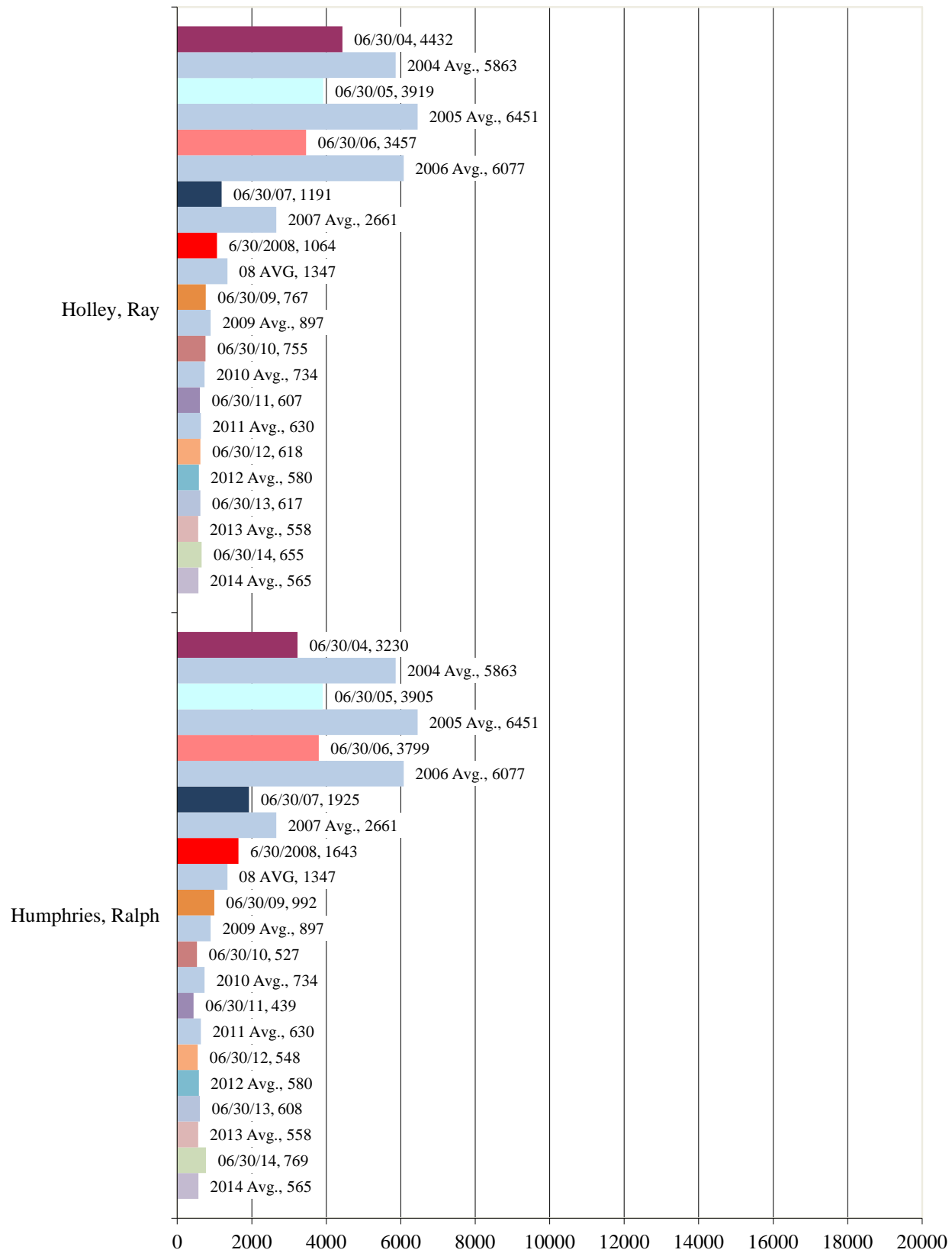
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



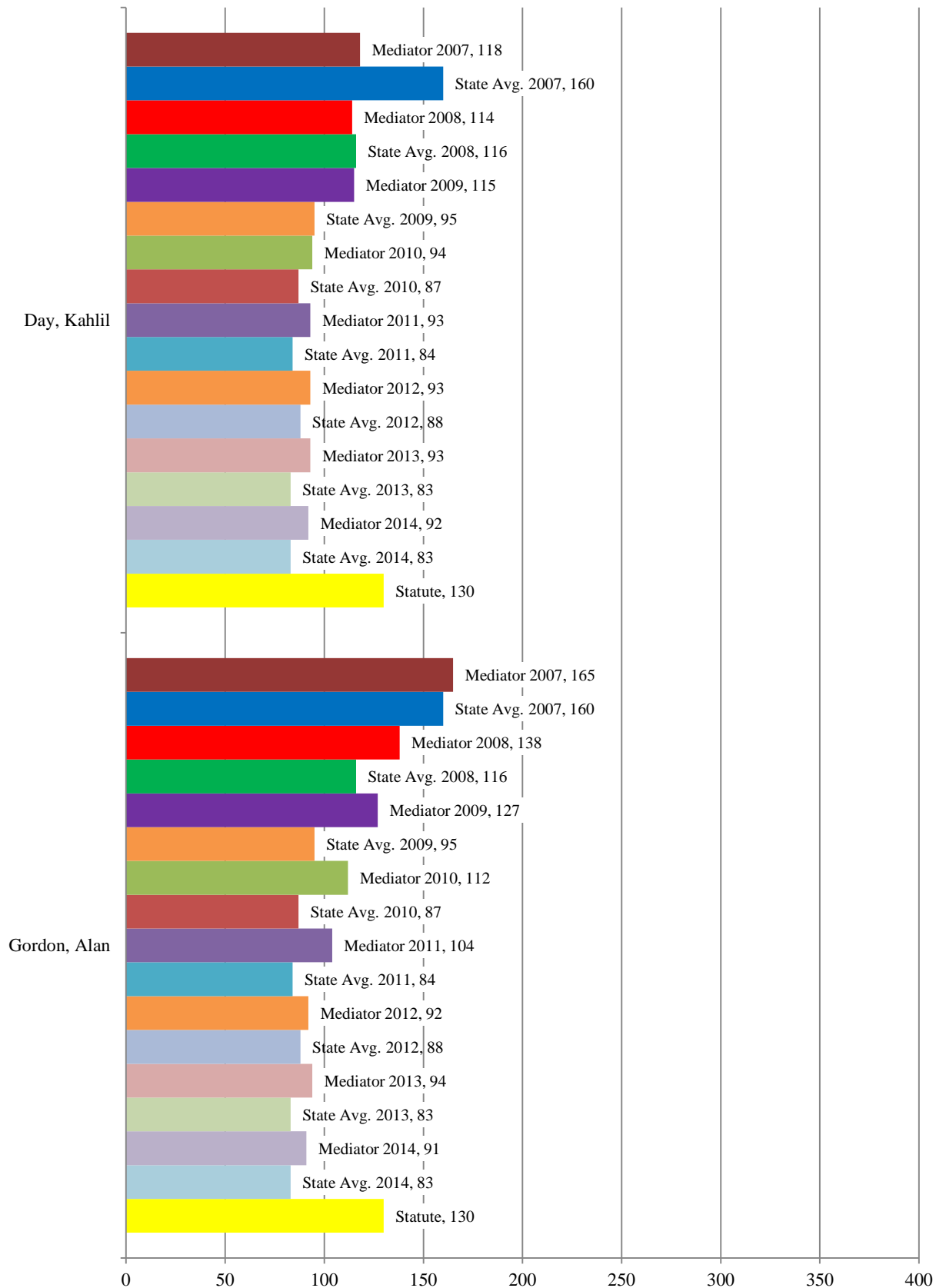
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



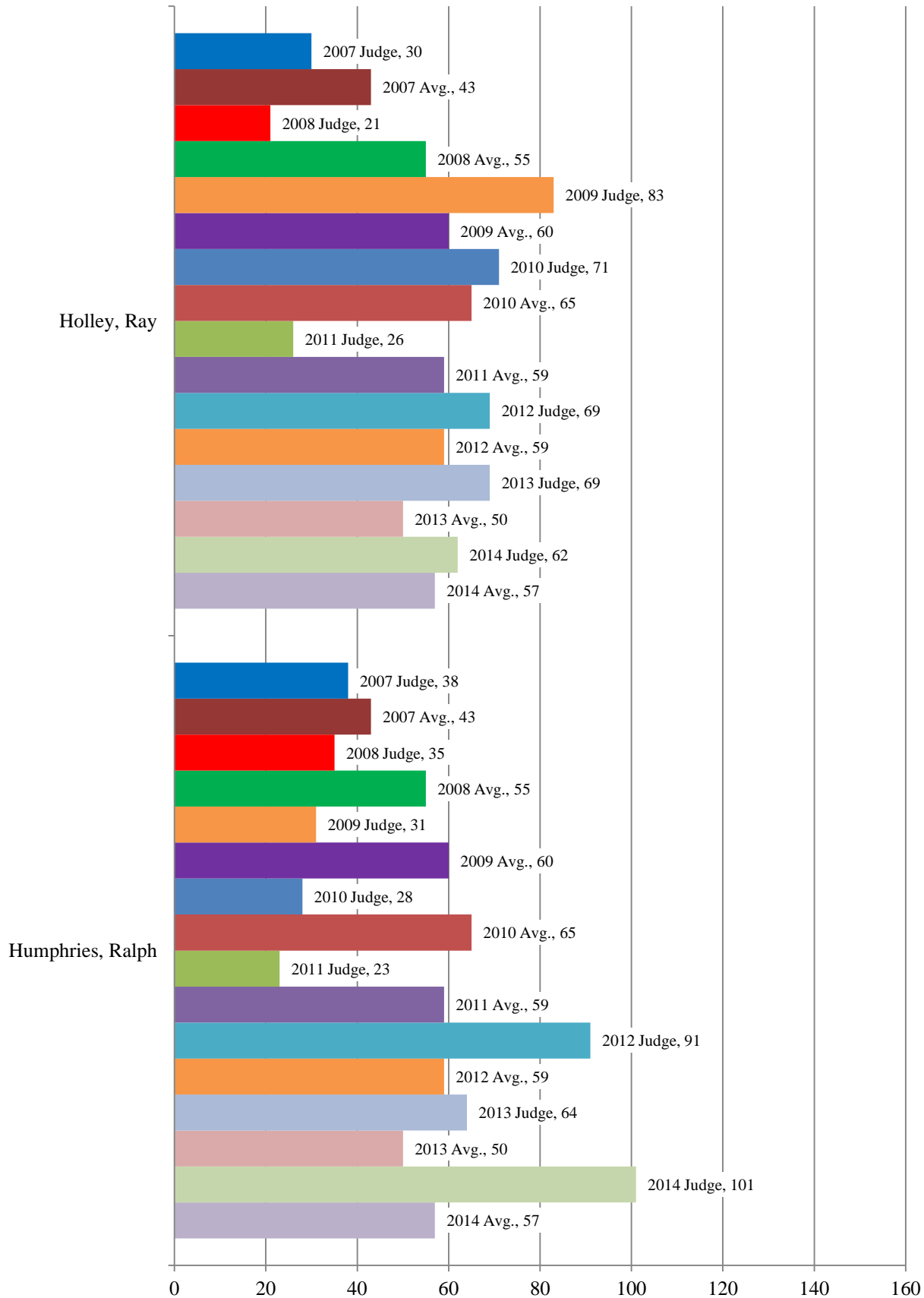
The following depicts the inventory of pending PFBs in this District and the statewide average between 2003-04 and 2013-14. The identification and values for each year are in each bar label.



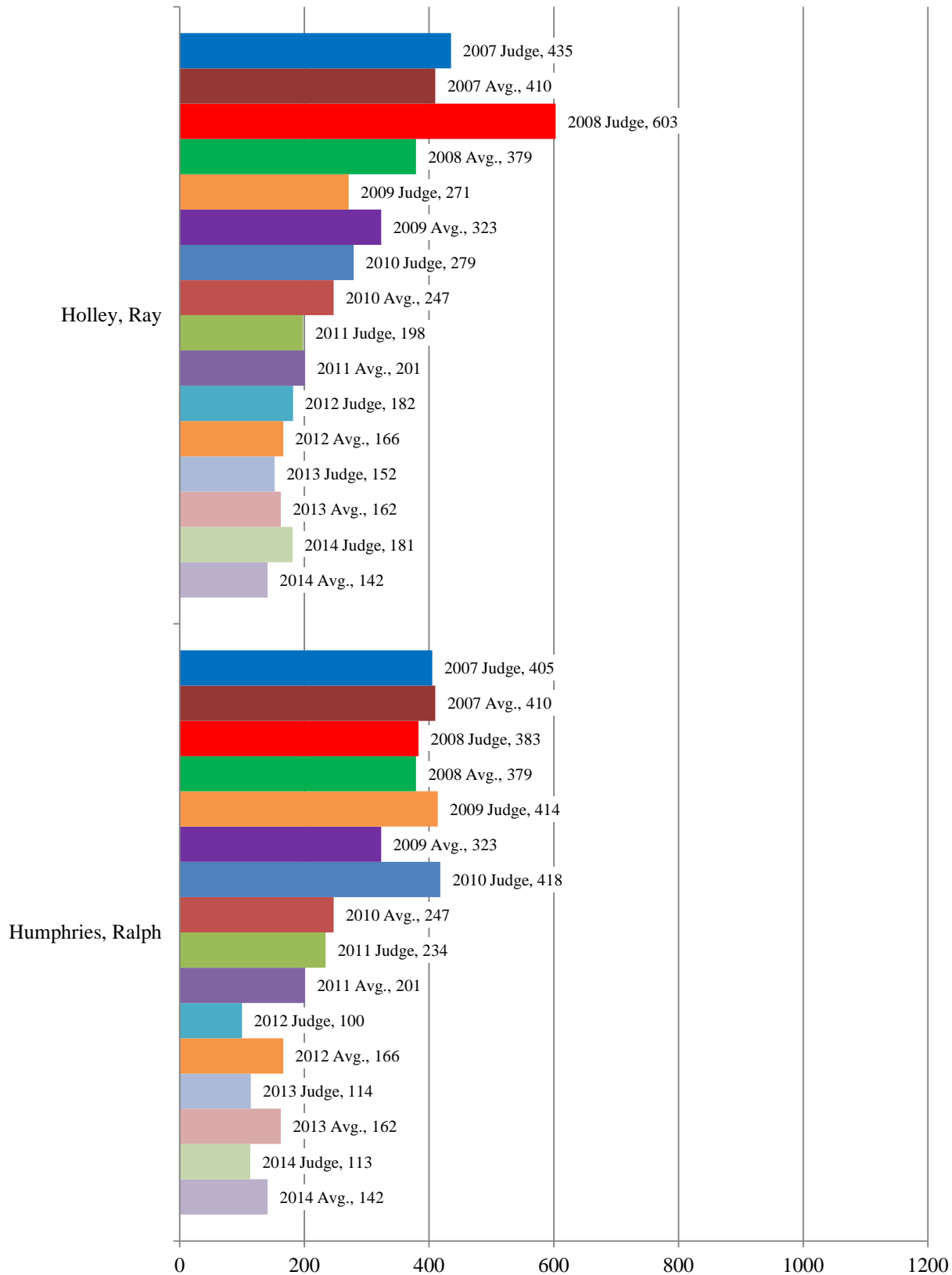
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



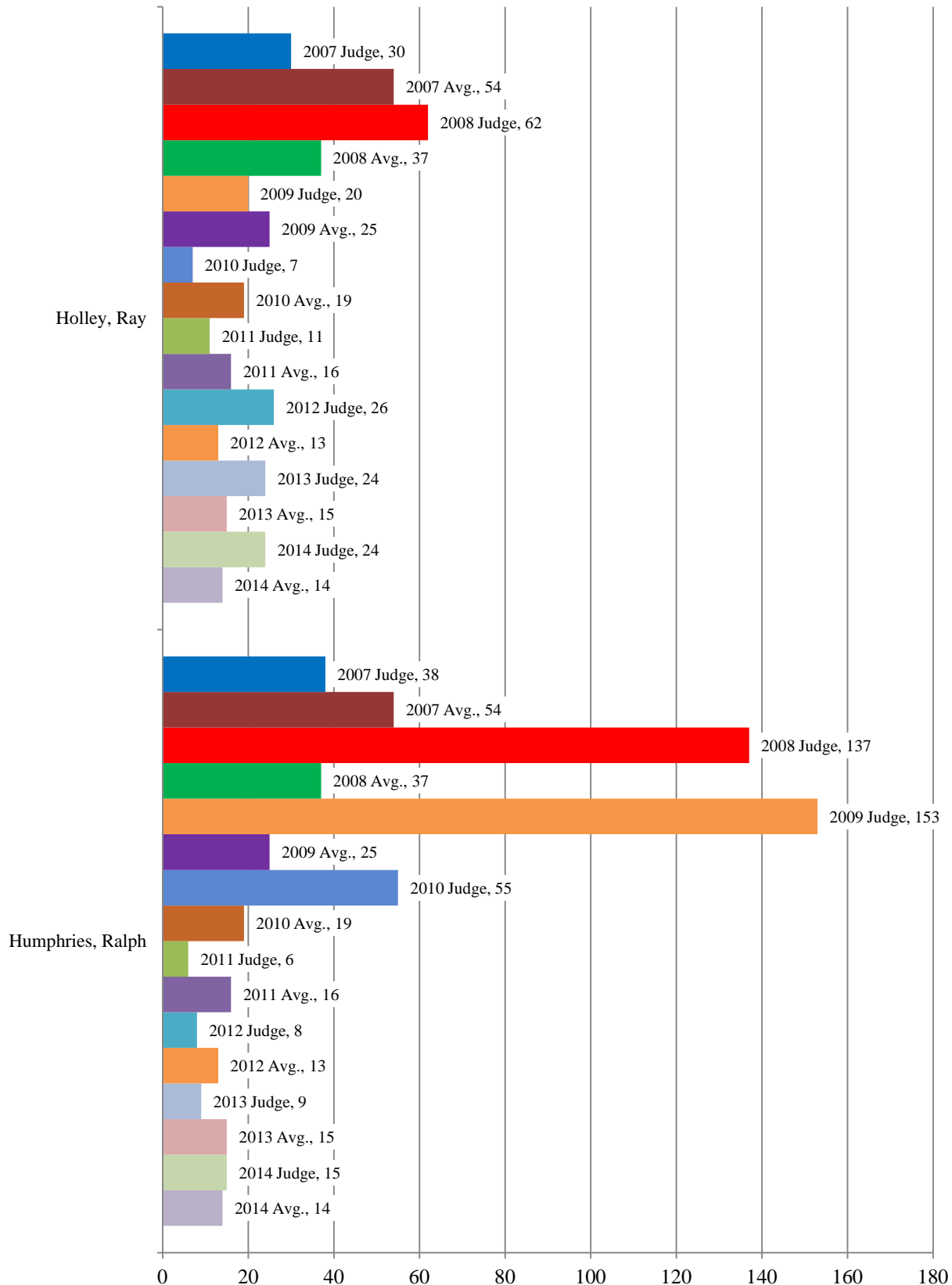
The following graph depicts the total volume of trial orders¹²⁶ uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



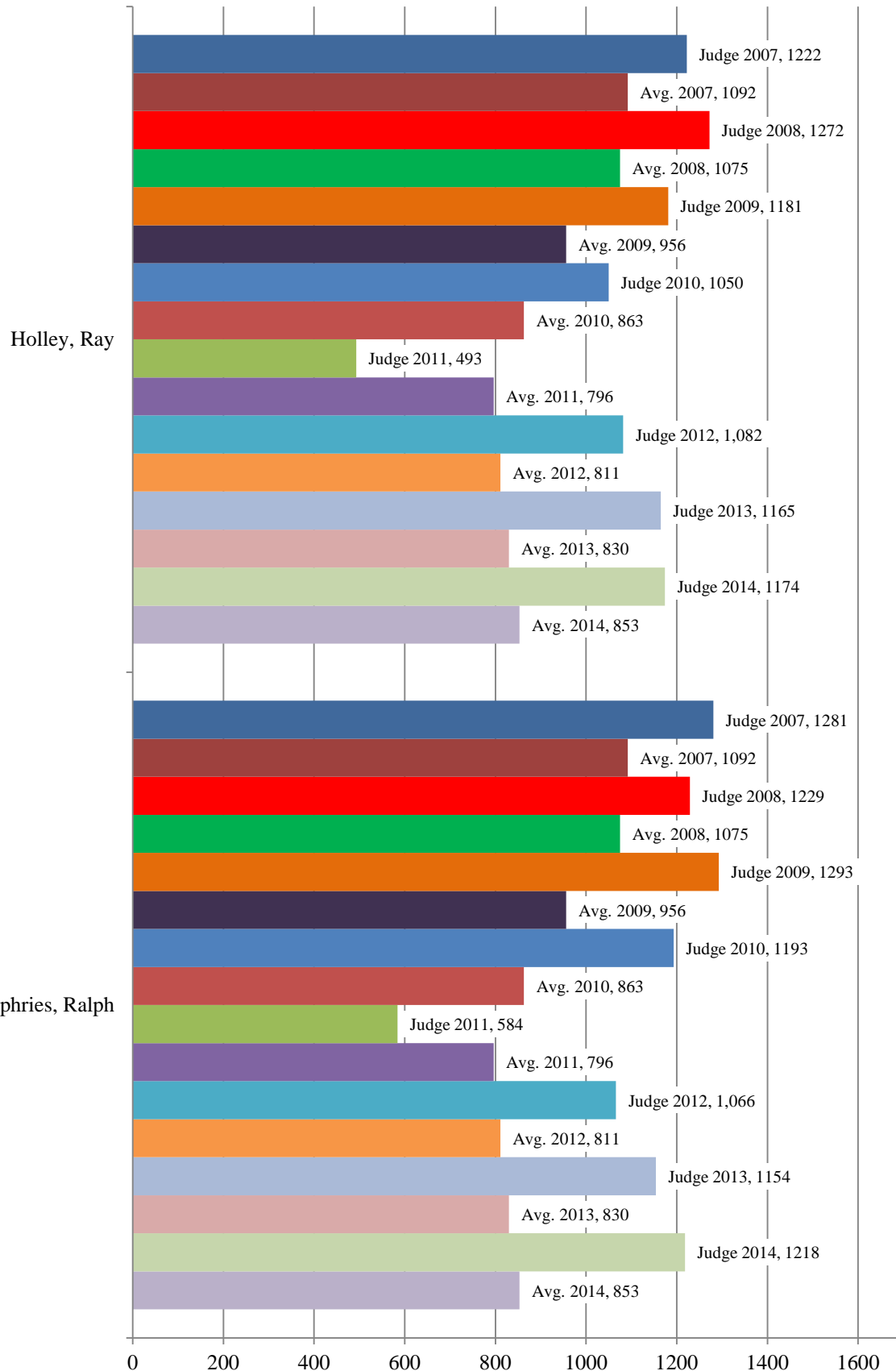
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



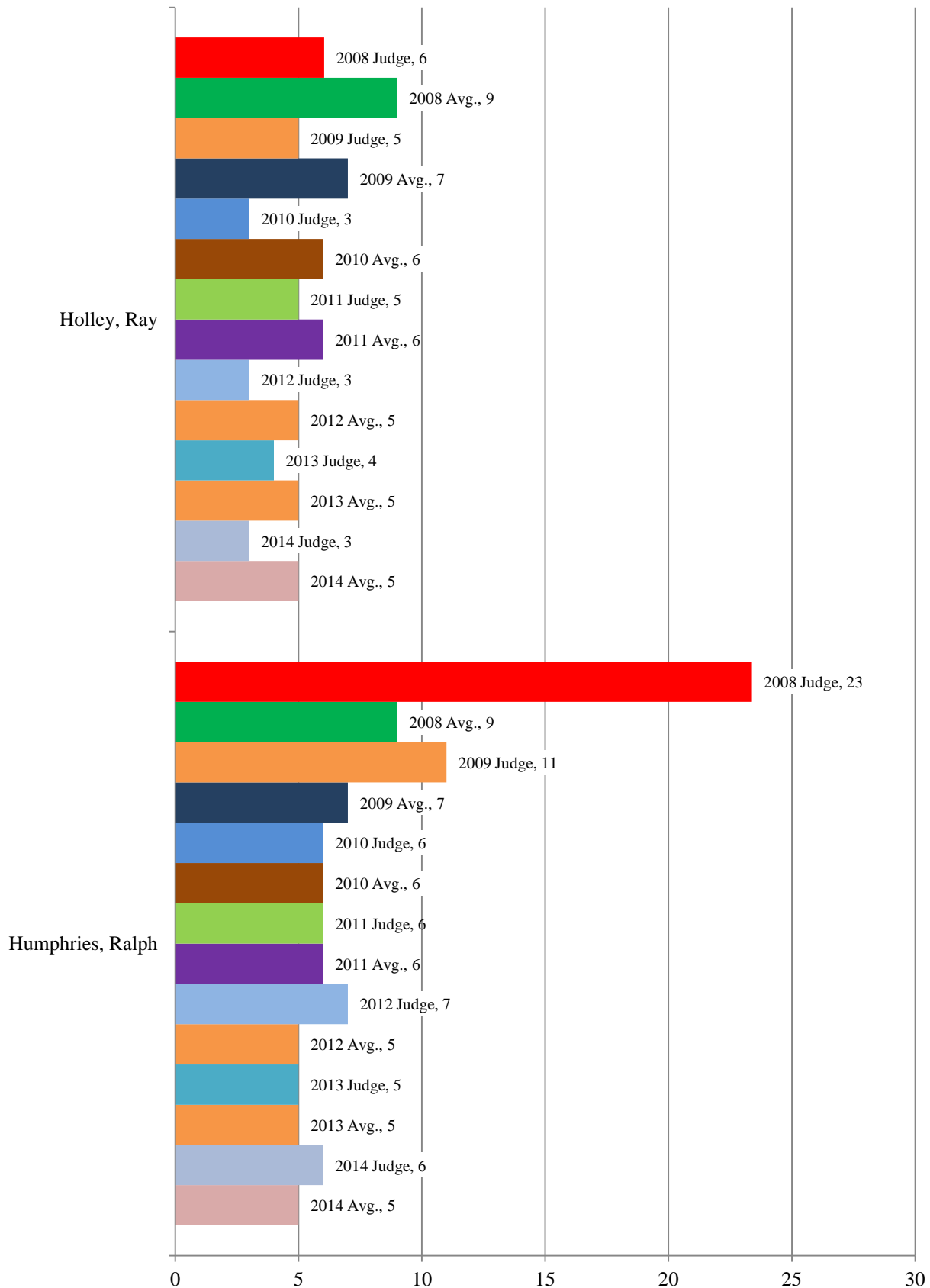
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



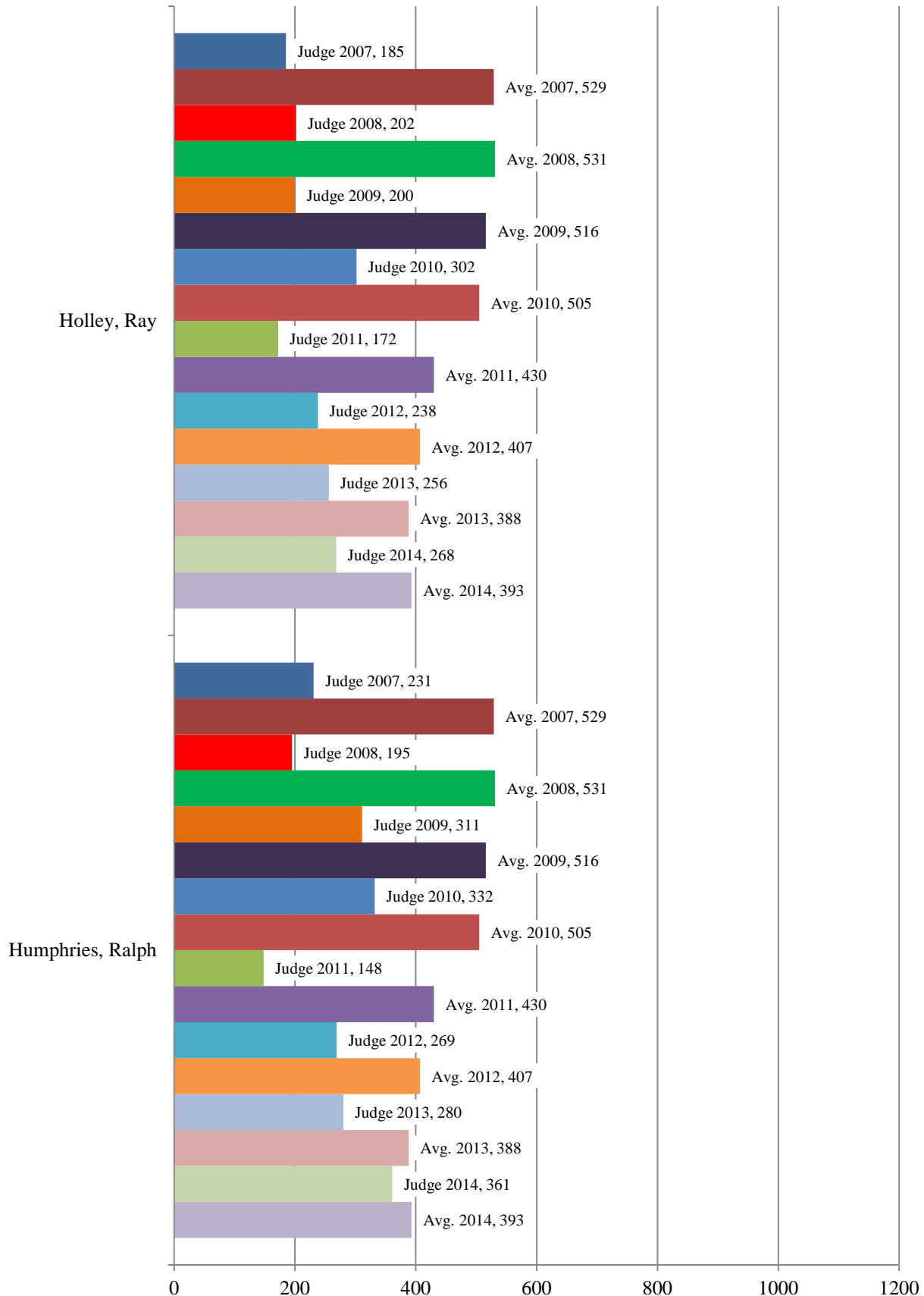
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



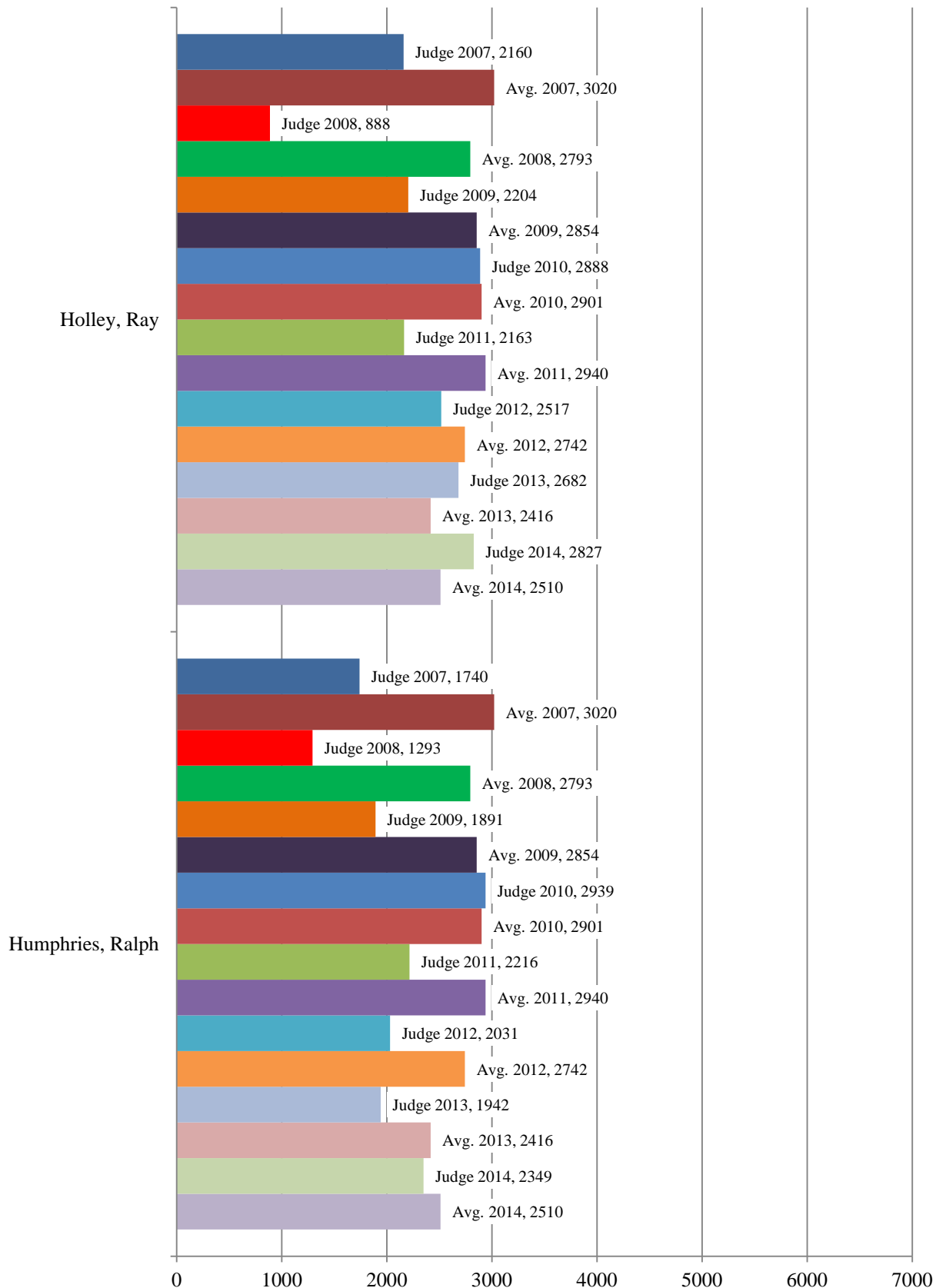
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



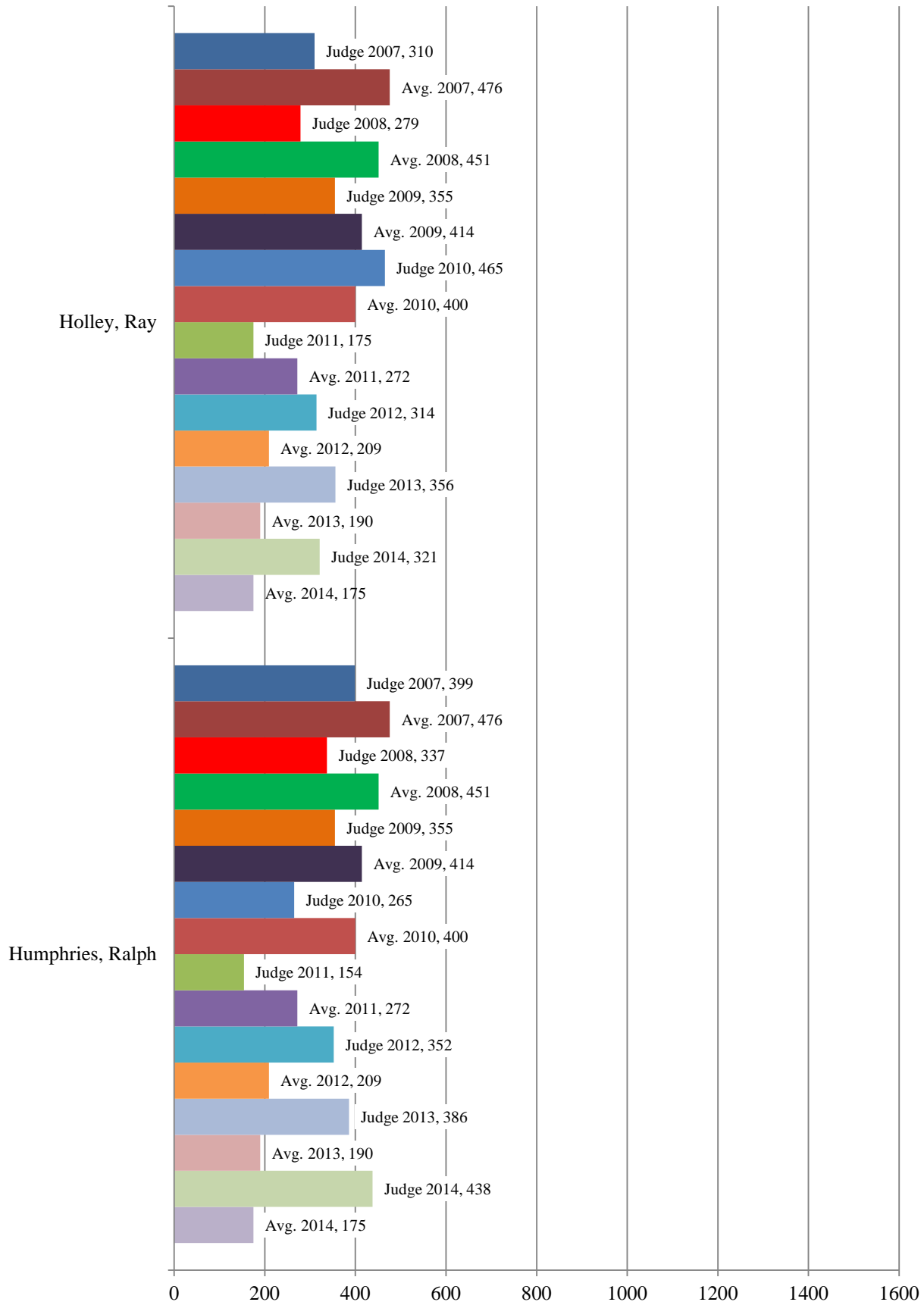
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



Appendix “6” District LKL (JCC Sojourner):

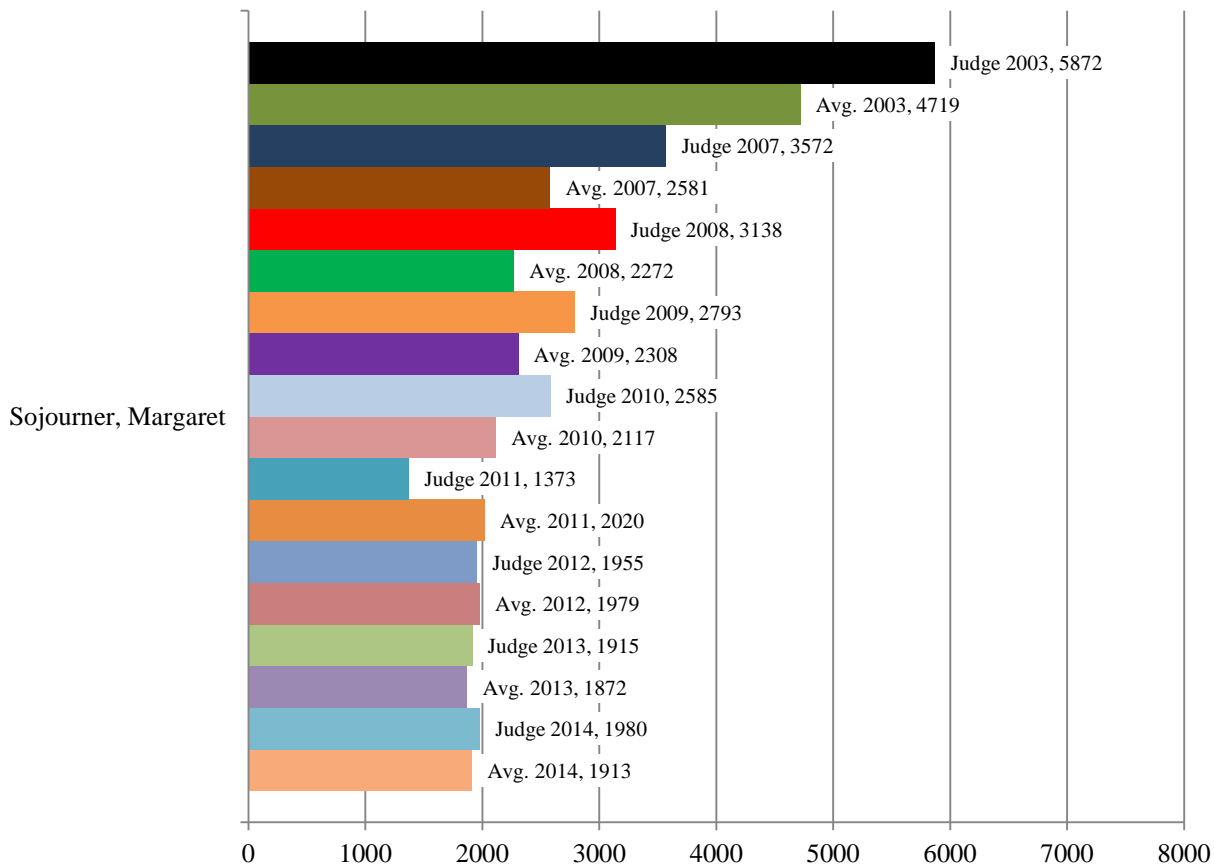
District LKL includes Hardee, Highlands, and Polk counties.

The PFBs filing volumes in LKL have moderated in recent years, and maintained very close to the statewide averages for both Petitions and “new cases” in 2013-14. The PFB closure and filing volumes are consistent, demonstrating that this District is in equilibrium. That conclusion is reinforced by the year-end pending petition inventories, which have been significantly similar to the statewide average for several years.

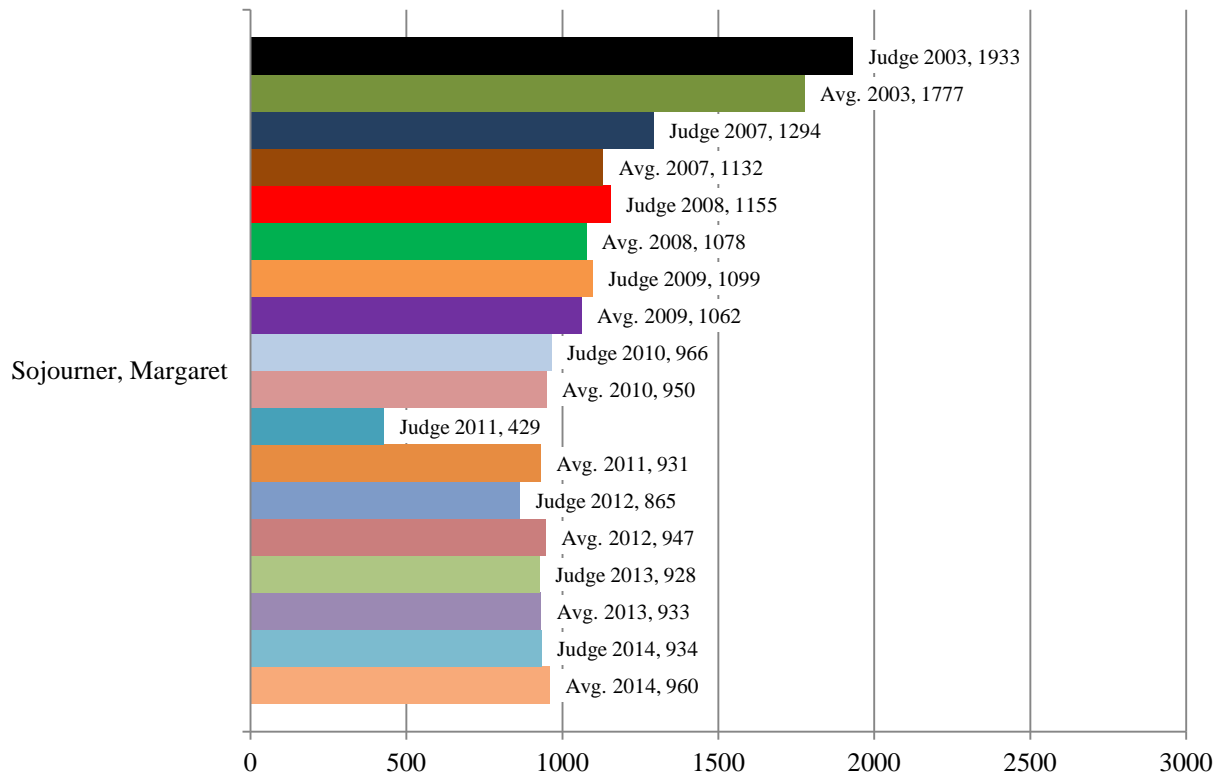
The volume of mediations conducted in District LKL has increased in recent years. When the Florida Legislature reduced OJCC positions by four mediators in the 2012 session, the LKL office was selected for elimination of a mediator position based upon the OJCC ability to cover that commitment with mediator Rob Arthur from District SPT performing in both District LKL and STP. In the last two years, the volume in LKL has demanded more of Mr. Arthur’s time and in 2014-15 his assignment will be changed to District LKL in recognition of the fact that most of his time is now spent in that District.

In 2013-14, the PFB and “new case” volumes in LKL were similar the statewide averages. A workload that at one time required the contributions of multiple out-of-district judges has become manageable with the appointment of Judge Sojourner. Trial volumes remain above average in District LKL, but Judge Sojourner has brought stability and sufficiency to the District LKL. The measures of time to trial, time to order and time to mediation all remain within the statutory parameters in Lakeland.

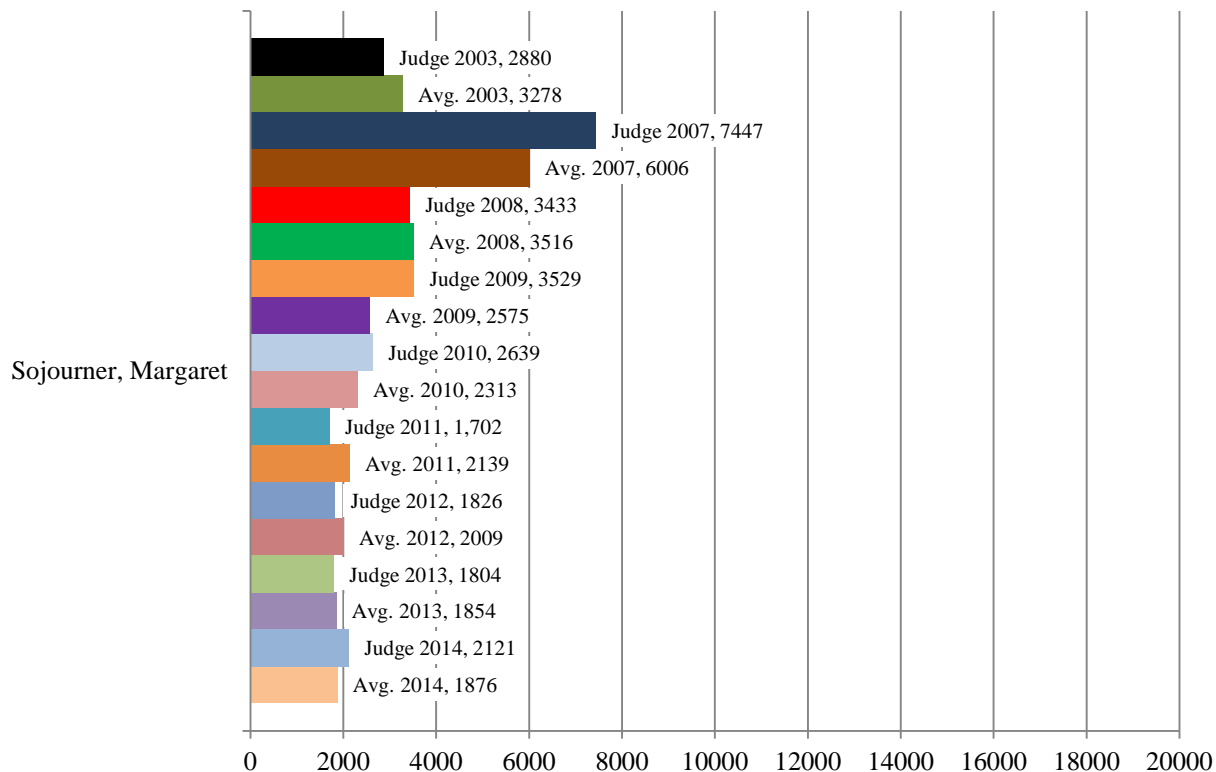
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



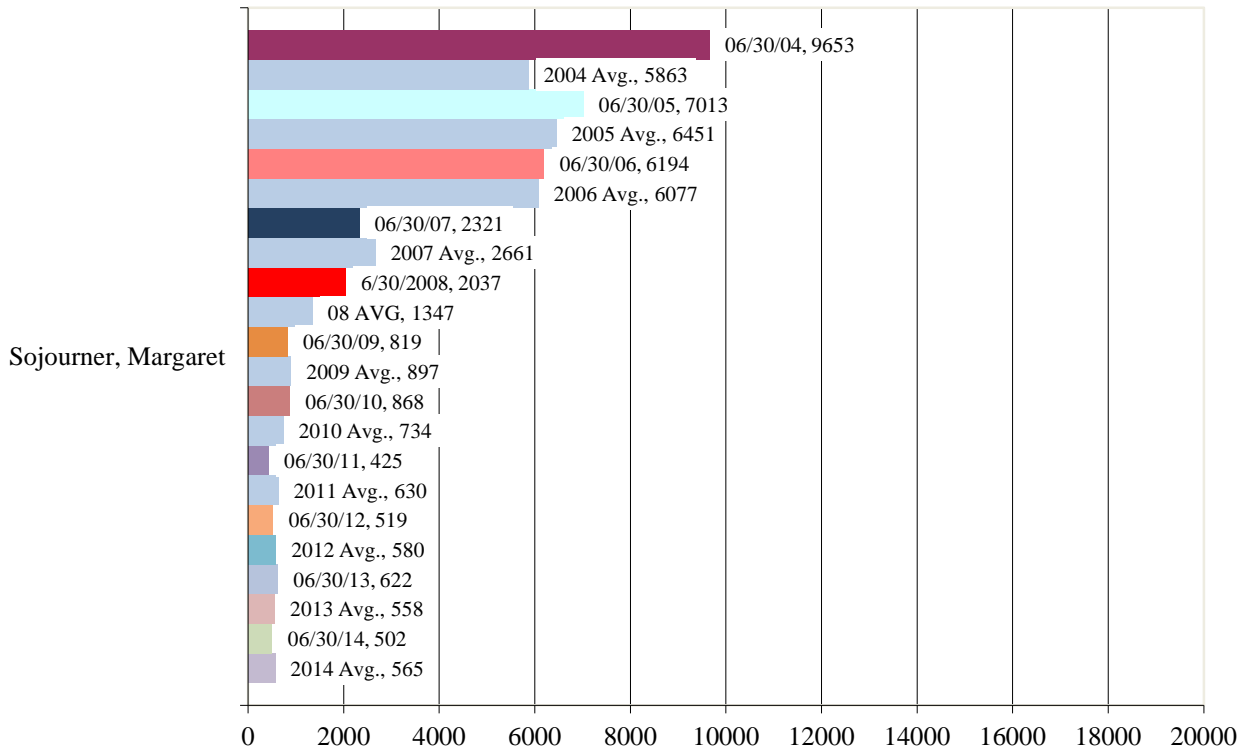
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



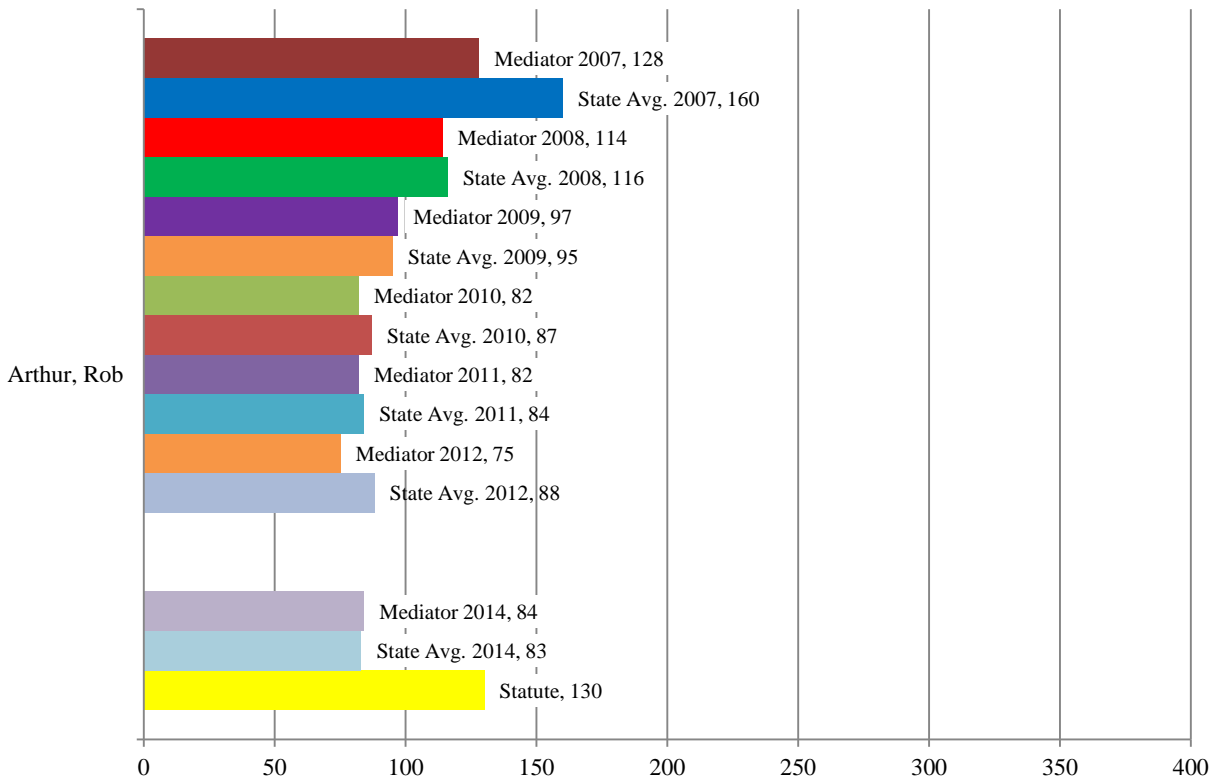
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



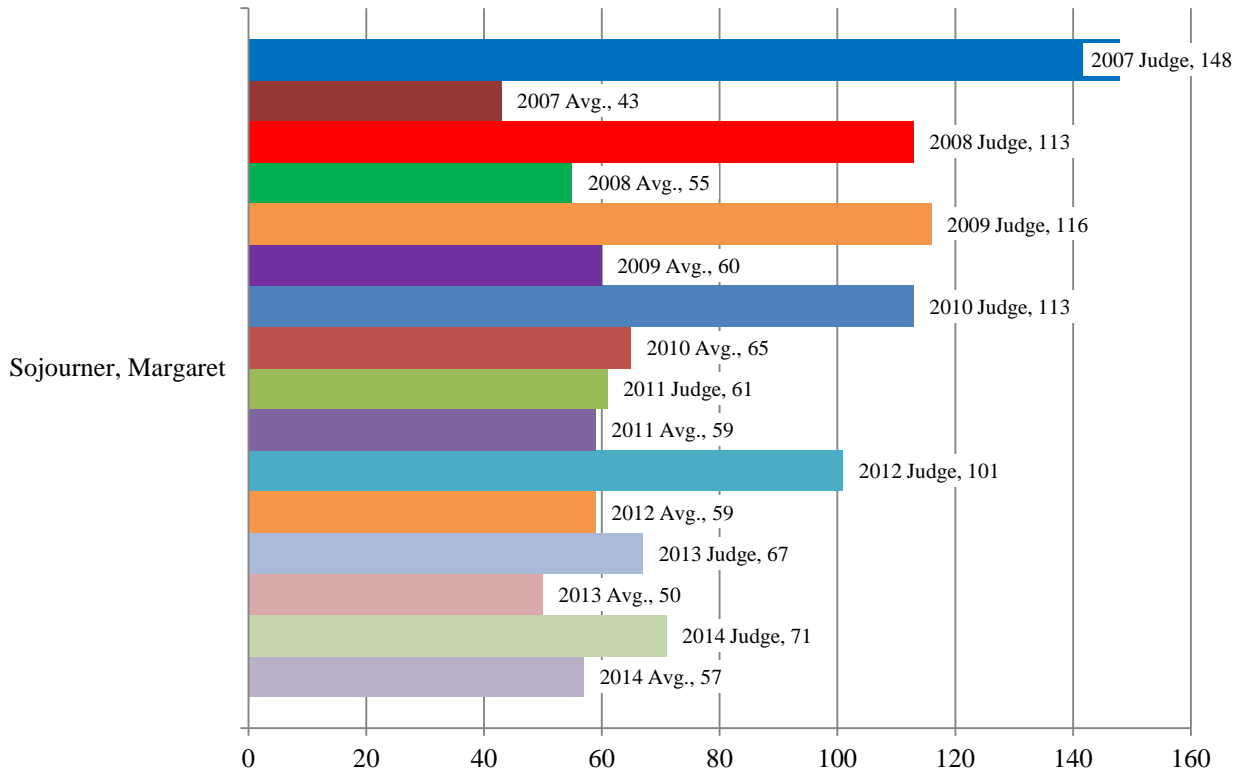
The following depicts the inventory of pending PFBs in this District and the statewide average between 2003-04 and 2013-14. The identification and values for each year are in each bar label.



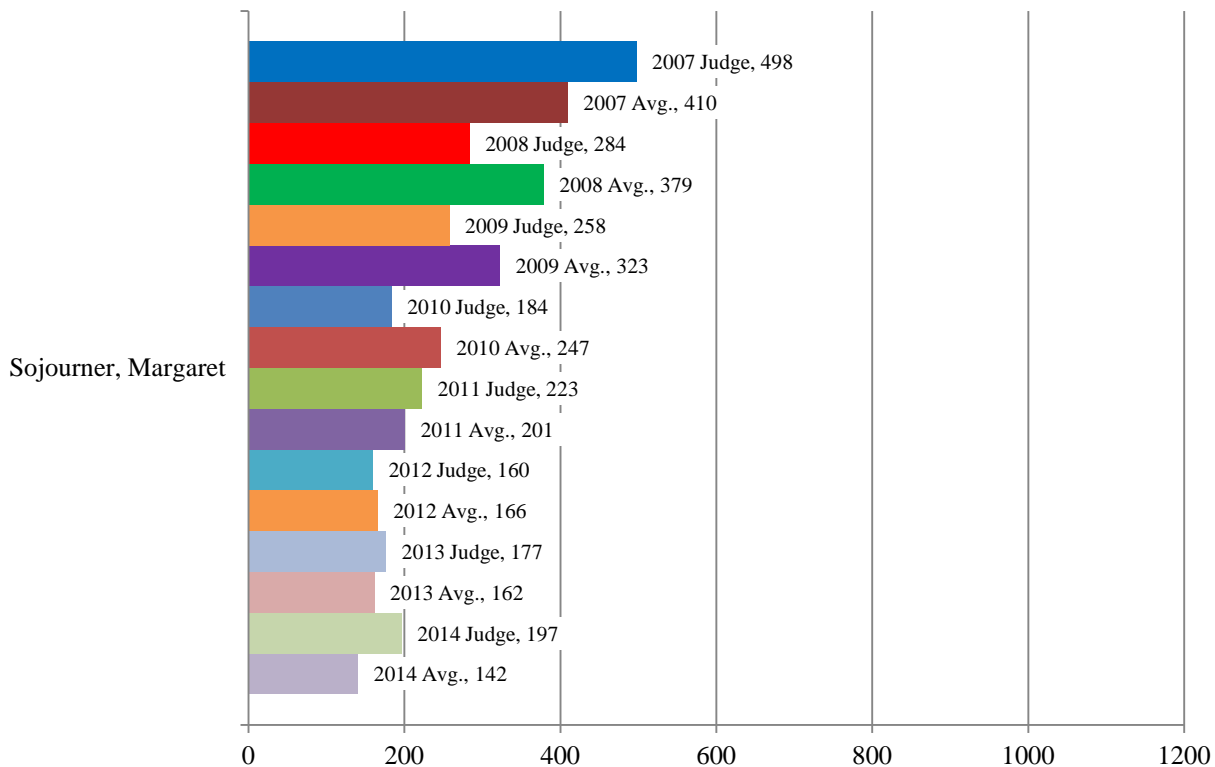
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



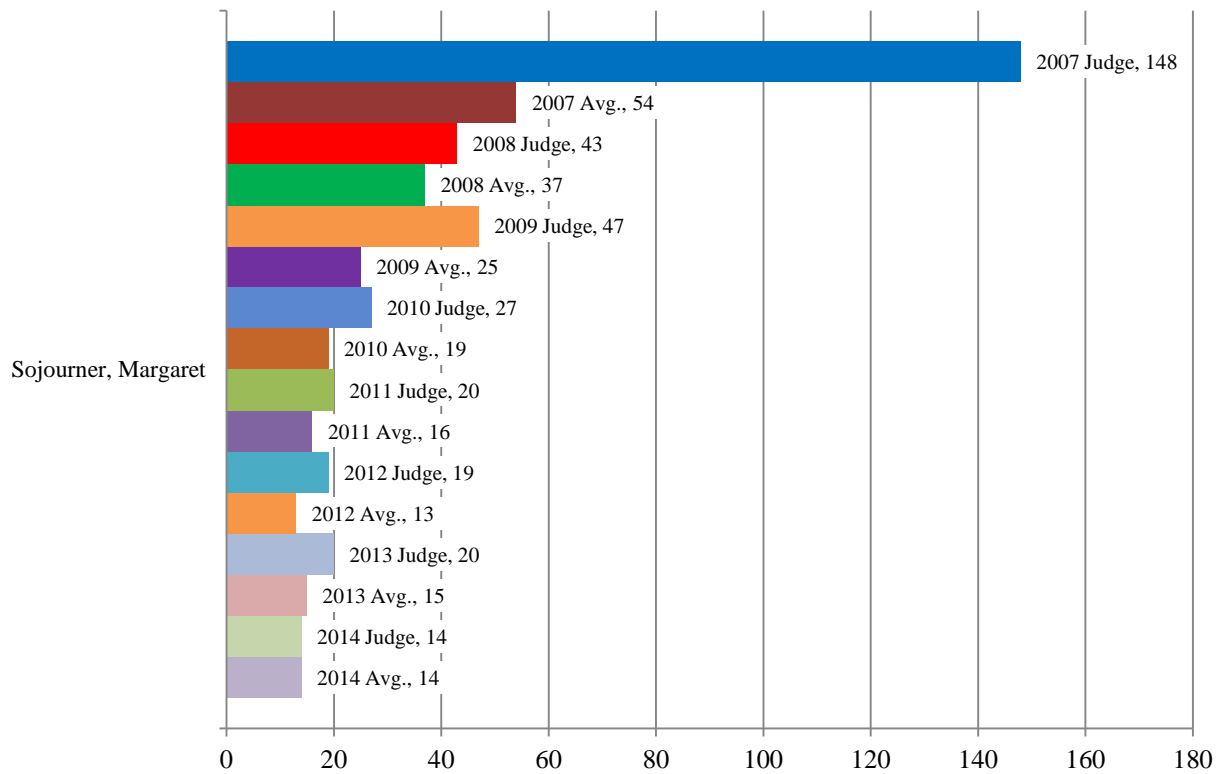
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



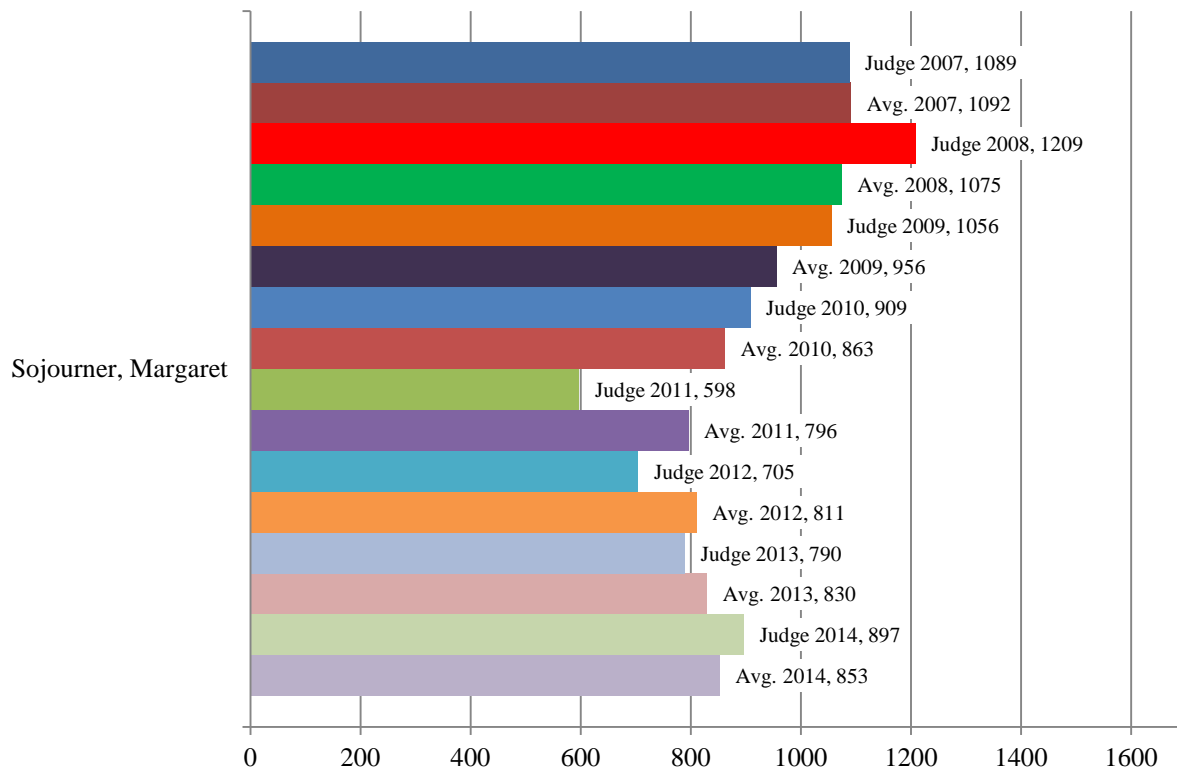
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



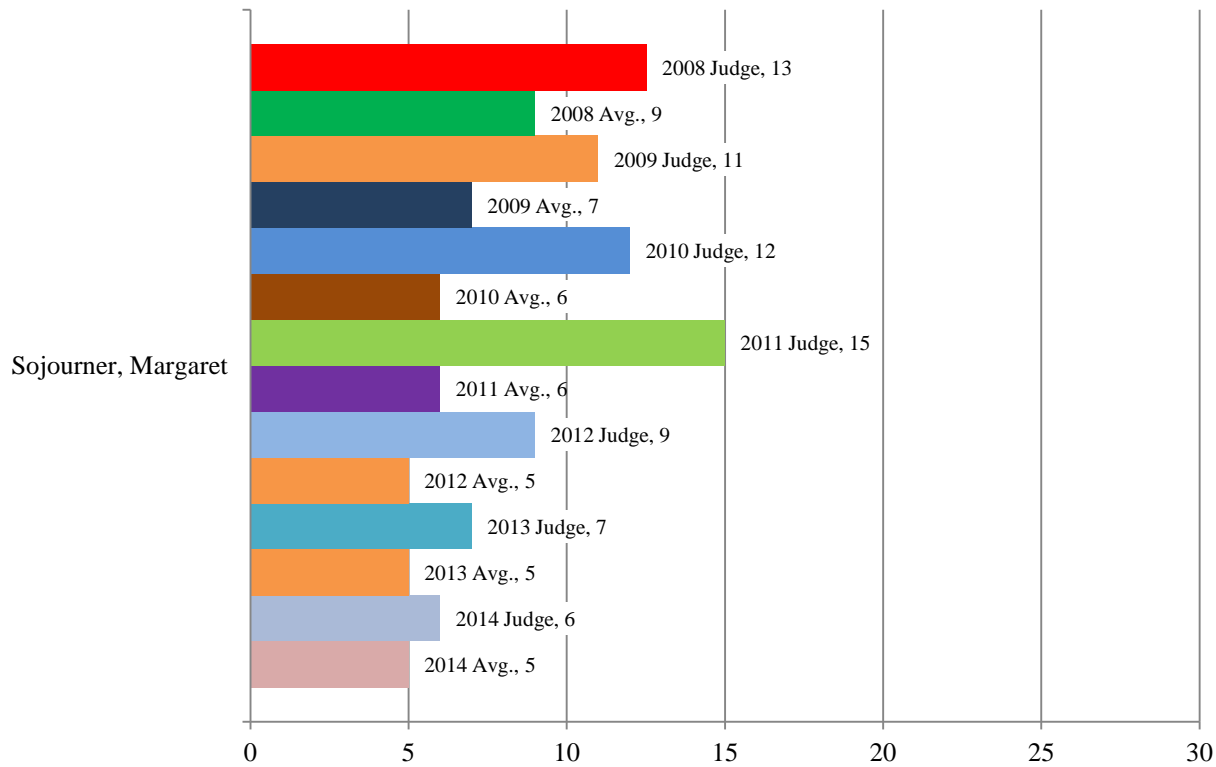
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



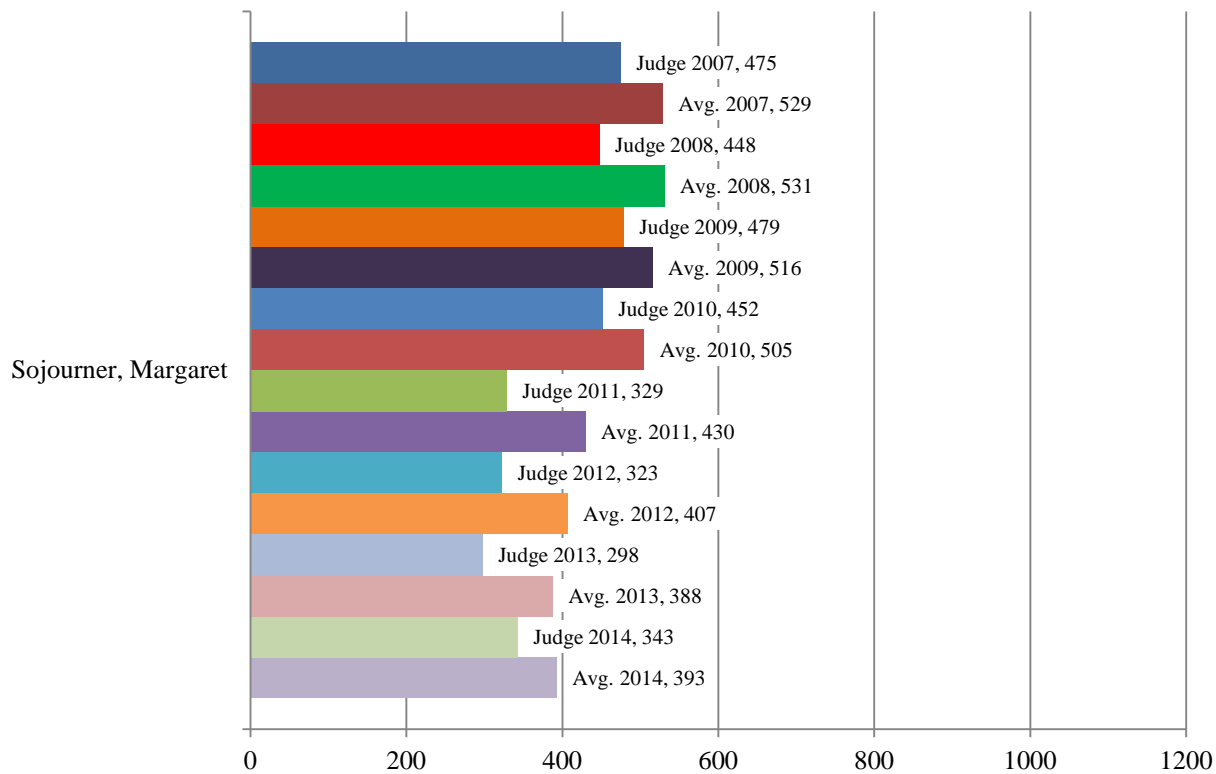
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



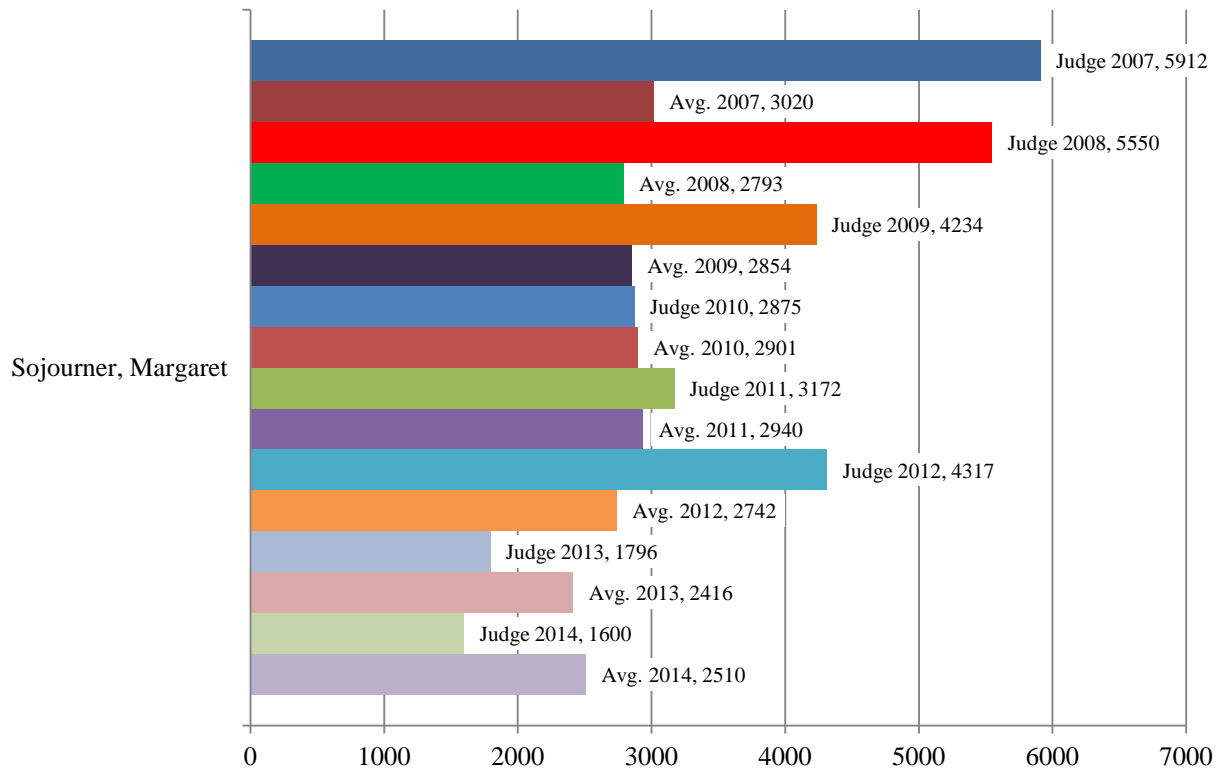
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



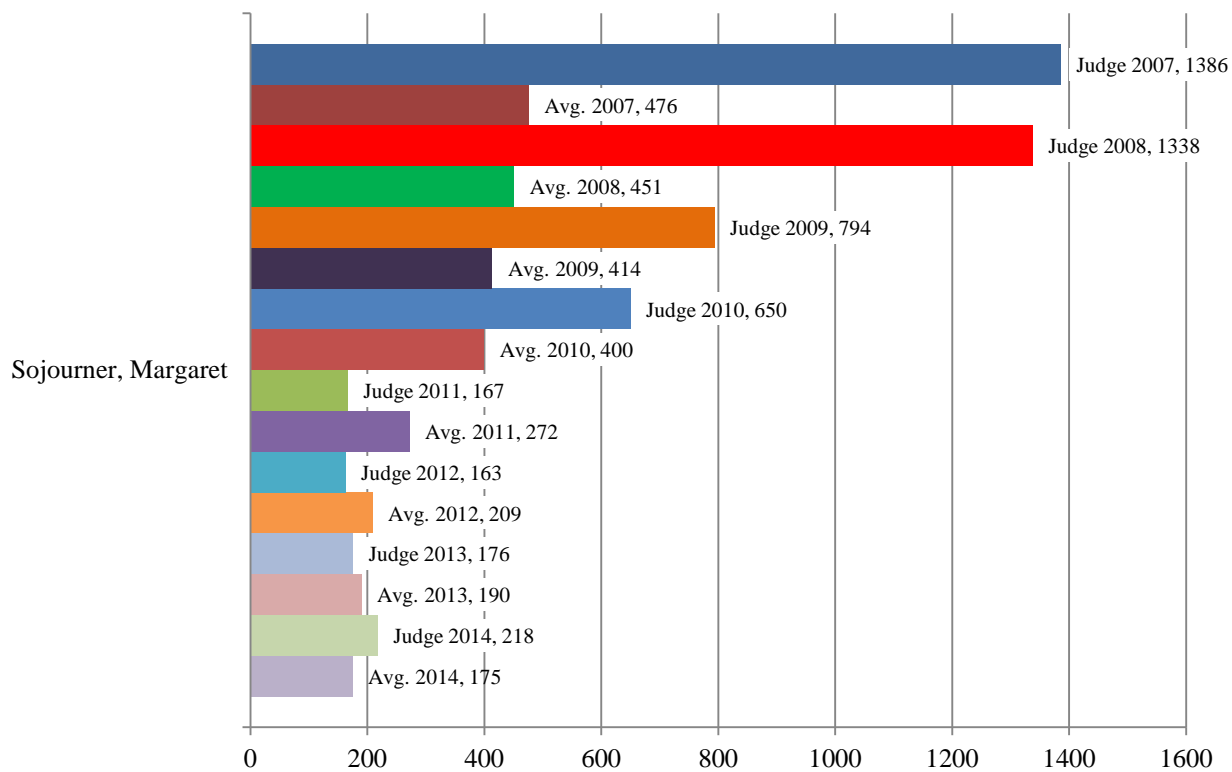
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



Appendix “7” District MEL (JCC Dietz/Remsnyder):

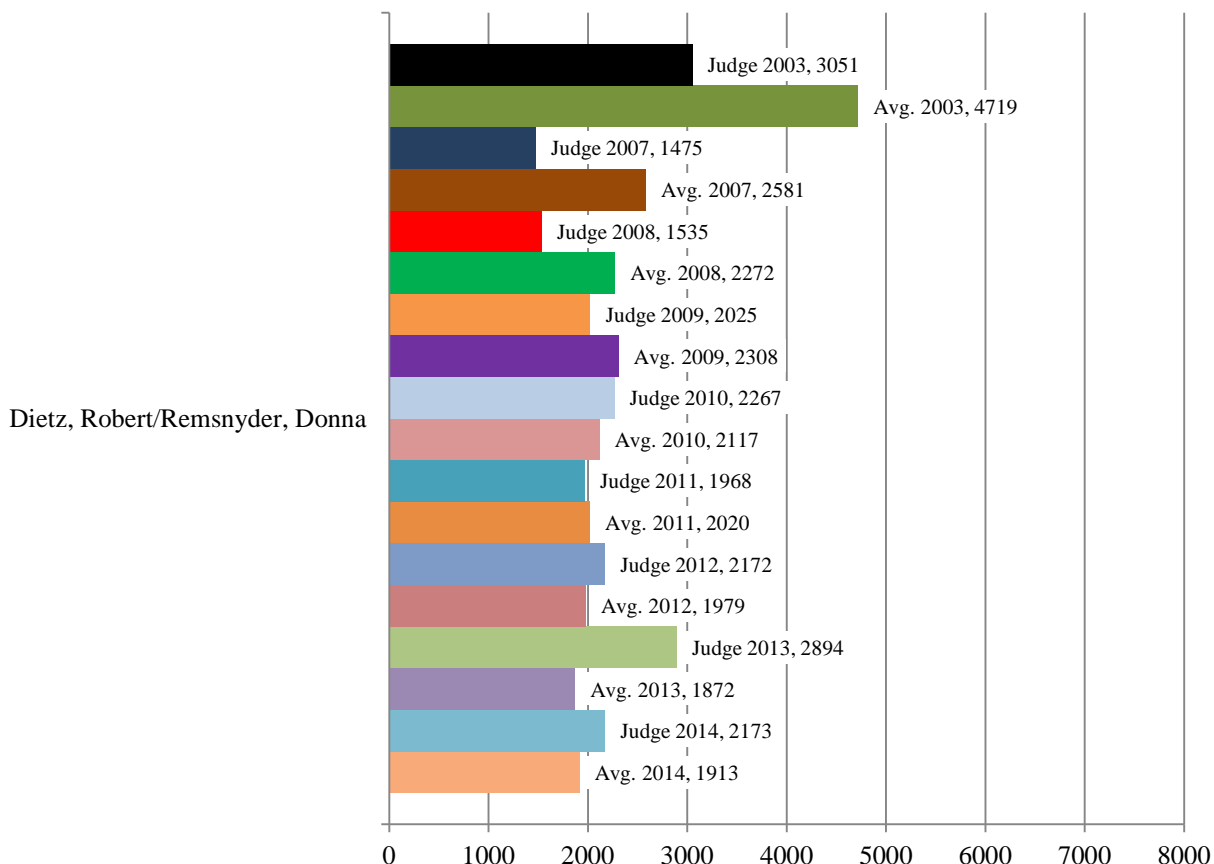
District MEL includes Brevard, Indian River, and Okeechobee counties.

Indian River and Okeechobee counties were transferred to District MEL in the spring of 2008. The District experienced significant changes in 2011-12. The office was relocated from Melbourne to Sebastian, as a result of the competitive bidding processes to procure real estate. Though there were criticisms initially from some attorneys, due to the twenty mile distance further south, those complaints have been rare in the last two years.

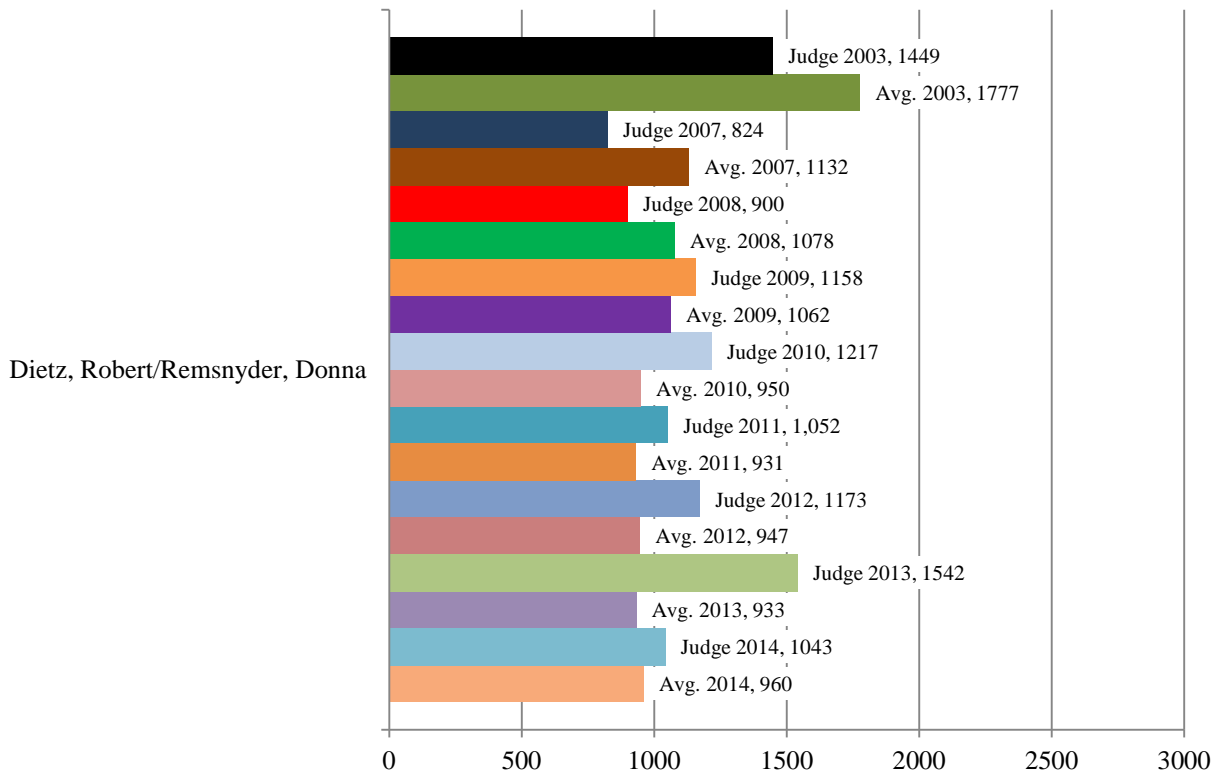
Judge Remsnyder relocated to District MEL in 2012. She brought remarkable stability and continuity to the district. Upon her retirement in 2013-14, Judge Robert Dietz was appointed and began his service at the beginning of fiscal year 2014-15.

PFB filings and “new case” filings in District MEL remained above the statewide averages in 2013-14. That has been the trend for several years. Despite the volume, petition closure and filing volumes remain consistent signaling that District MEL is in equilibrium, which is also consistent with the year-end pending petition inventory volume. Trial volume is above the statewide average in District MEL. Some portion of this was the assignment of Miami “new cases” to Judge Remsnyder during her tenure. Despite the significant trial volume, the time to trial, time to mediation and time to order in District MEL are all consistent with the statutory parameters; each is also below the statewide averages. The Melbourne district has continued to operate efficiently.

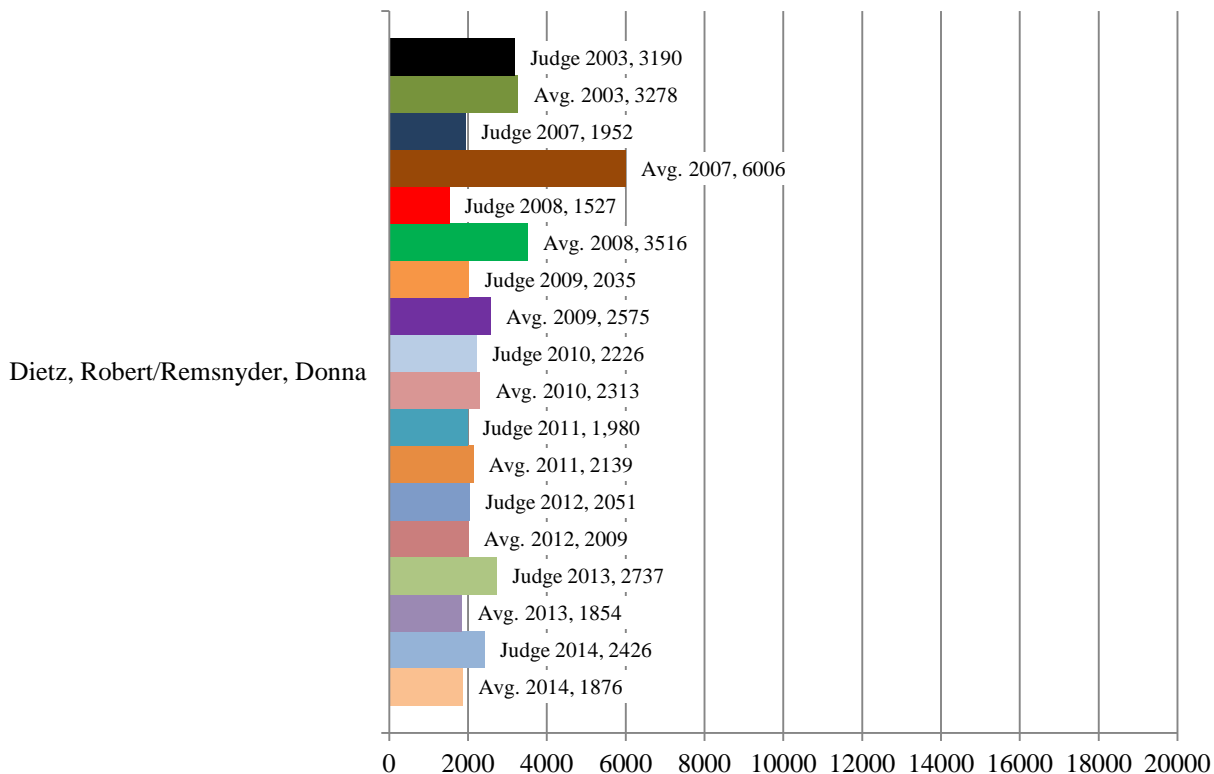
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



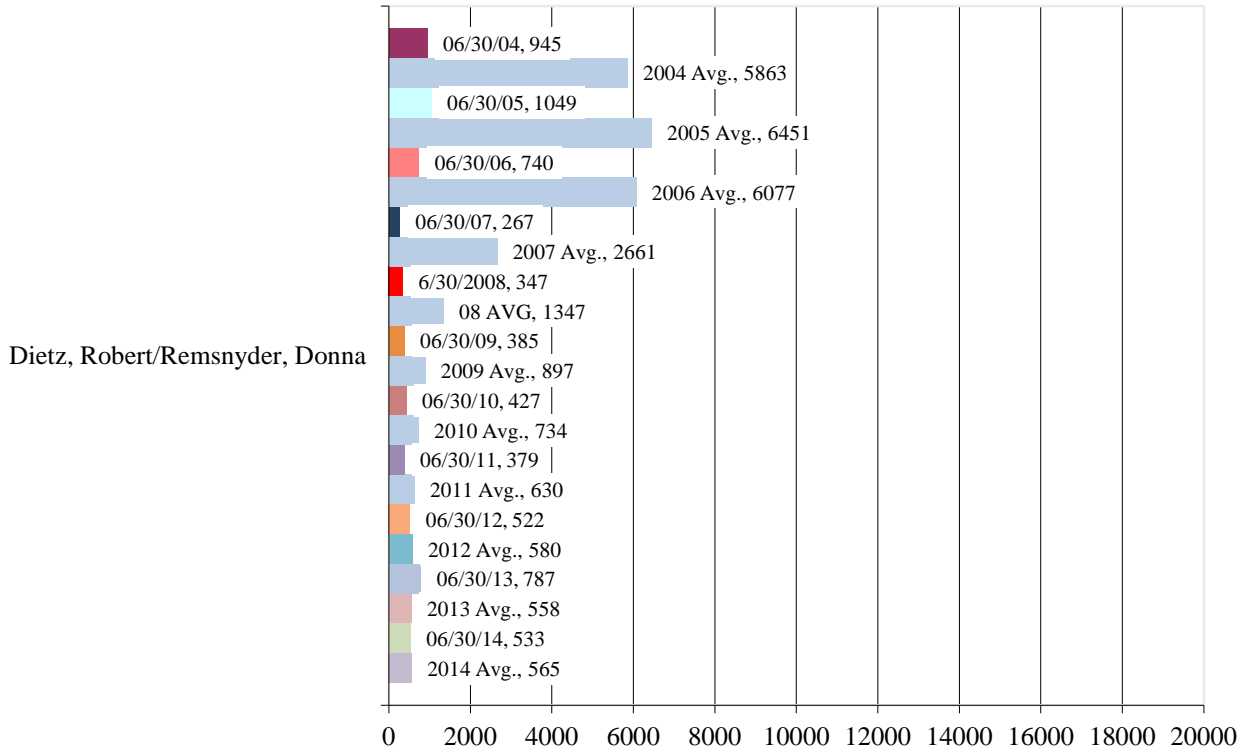
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



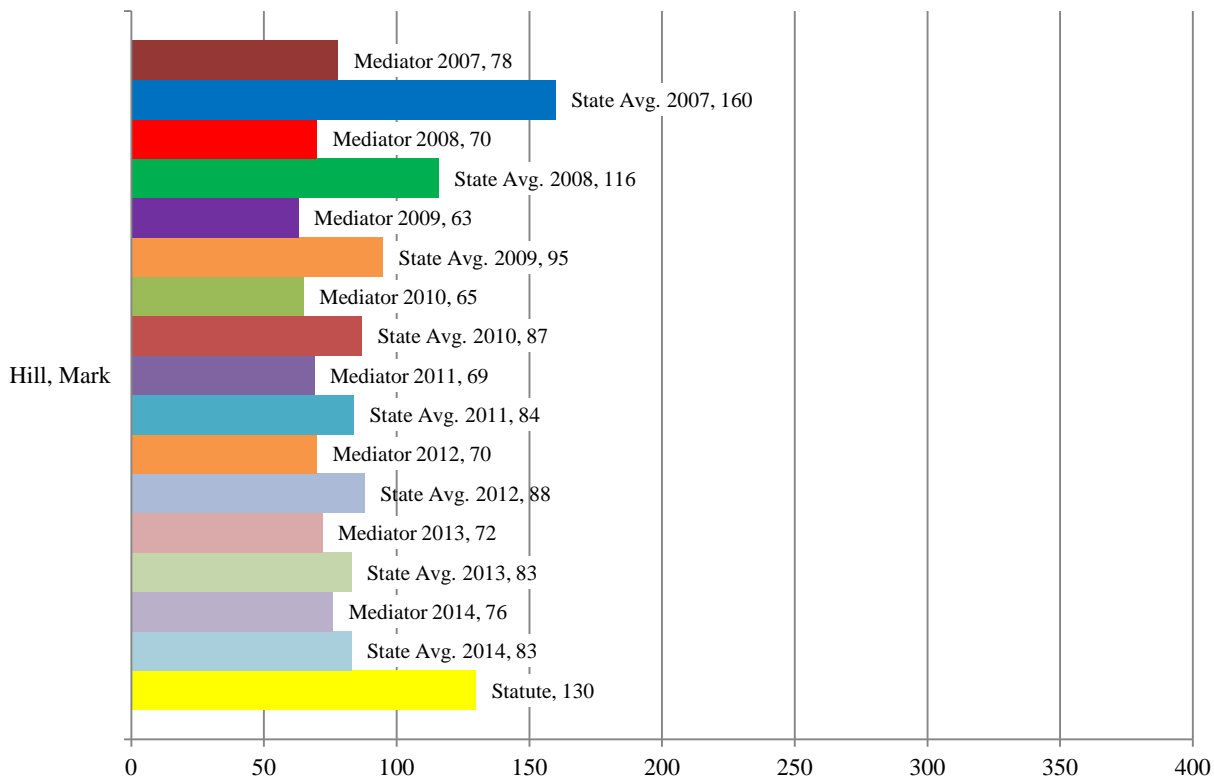
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



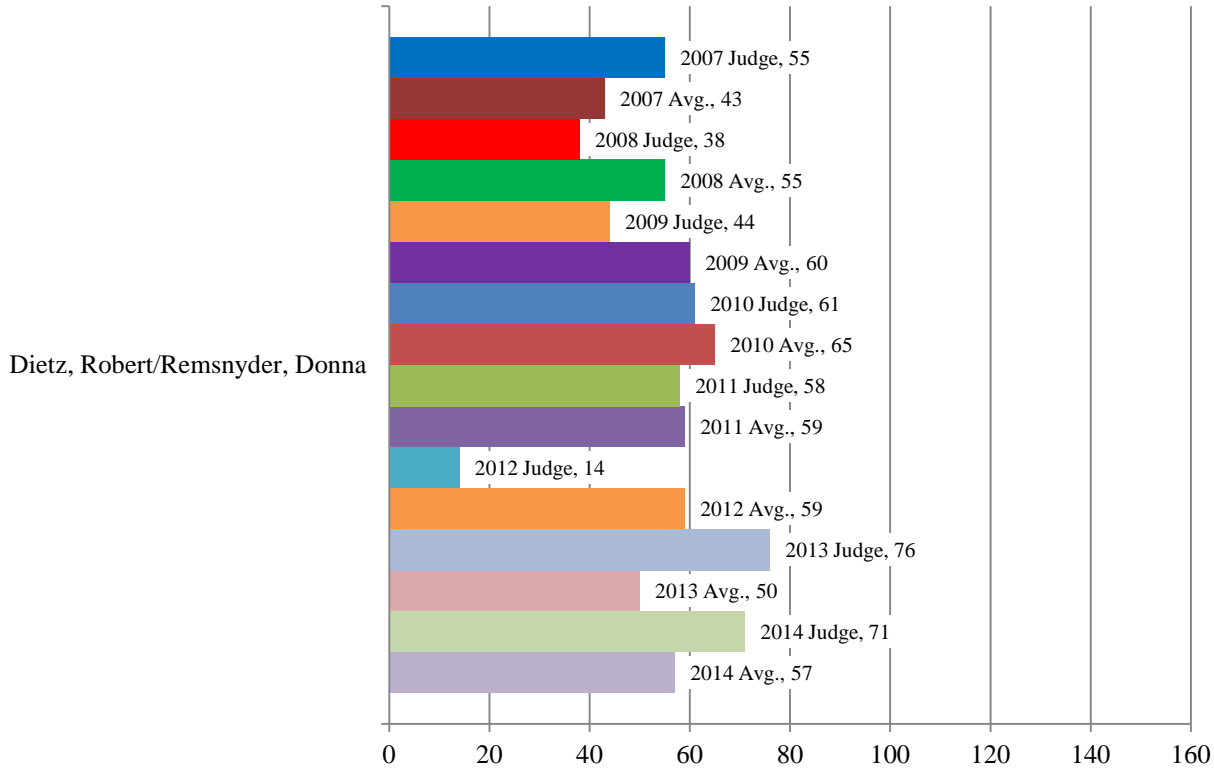
The following depicts the inventory of pending PFBs in this District and the statewide average between 2003-04 and 2013-14. The identification and values for each year are in each bar label.



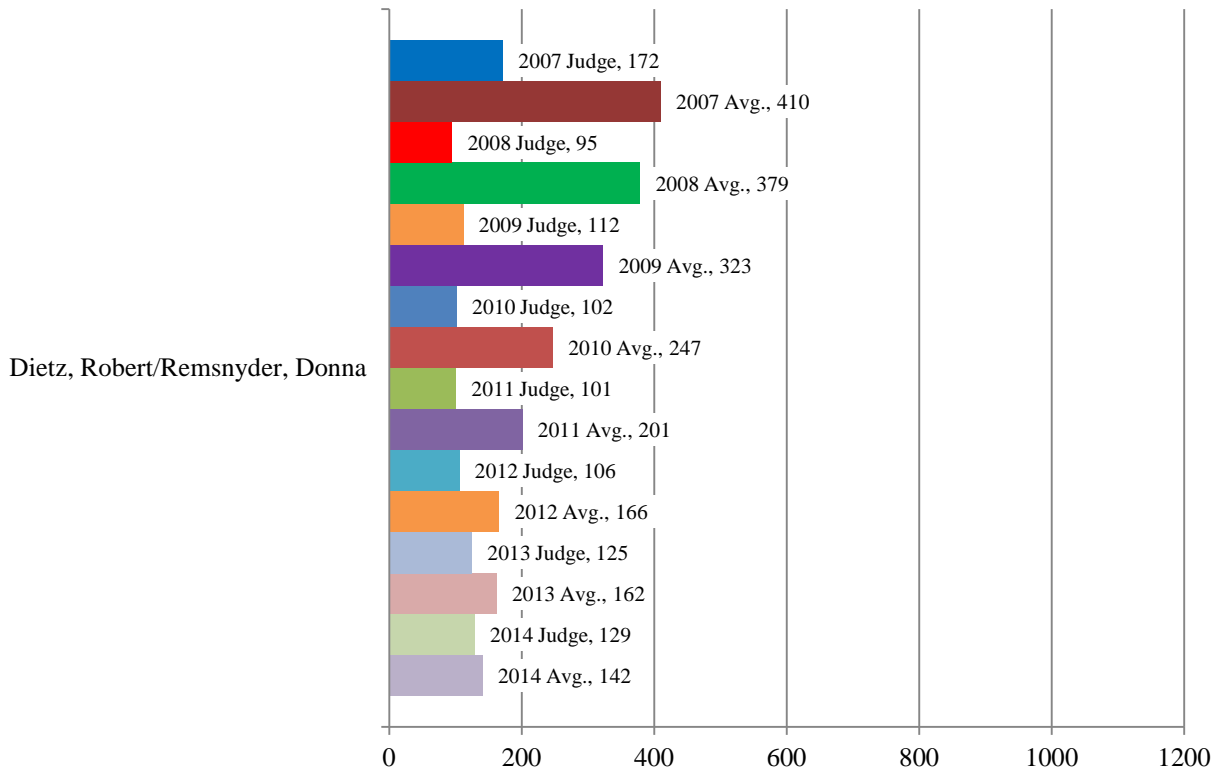
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



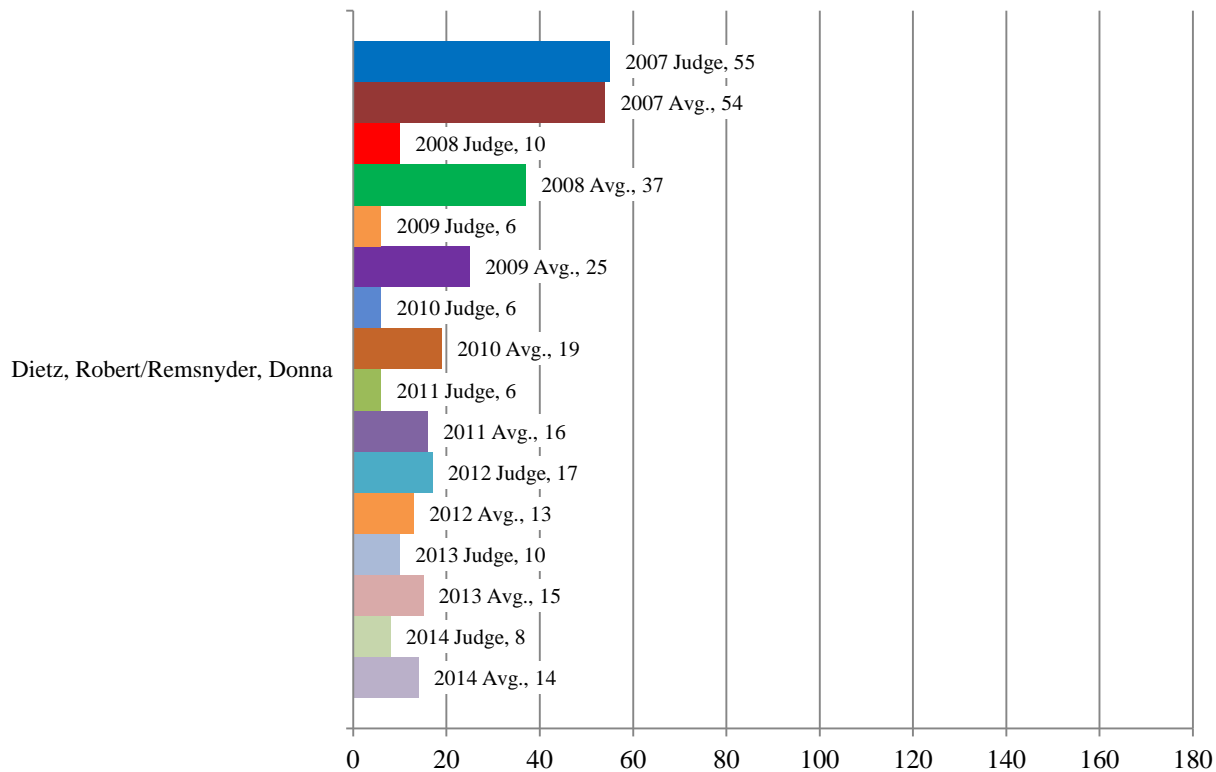
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label. See SPT for JCC Remsnyder.



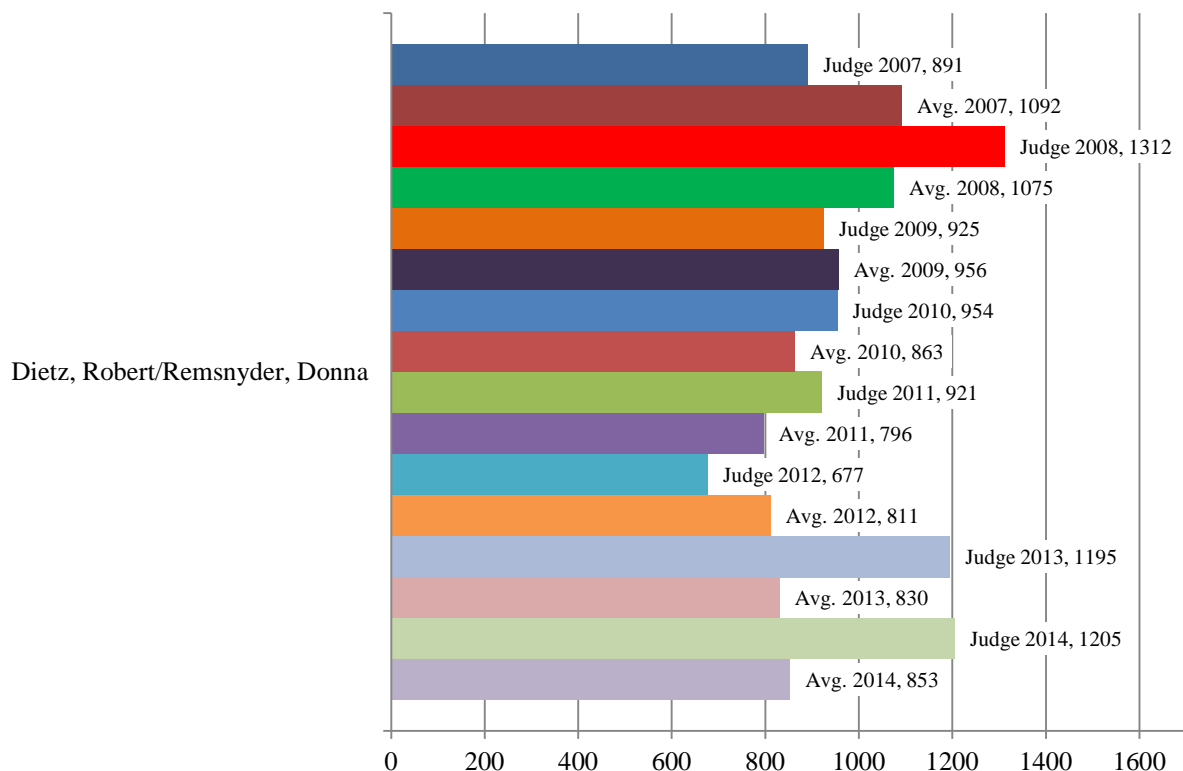
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count. See SPT for JCC Remsnyder.



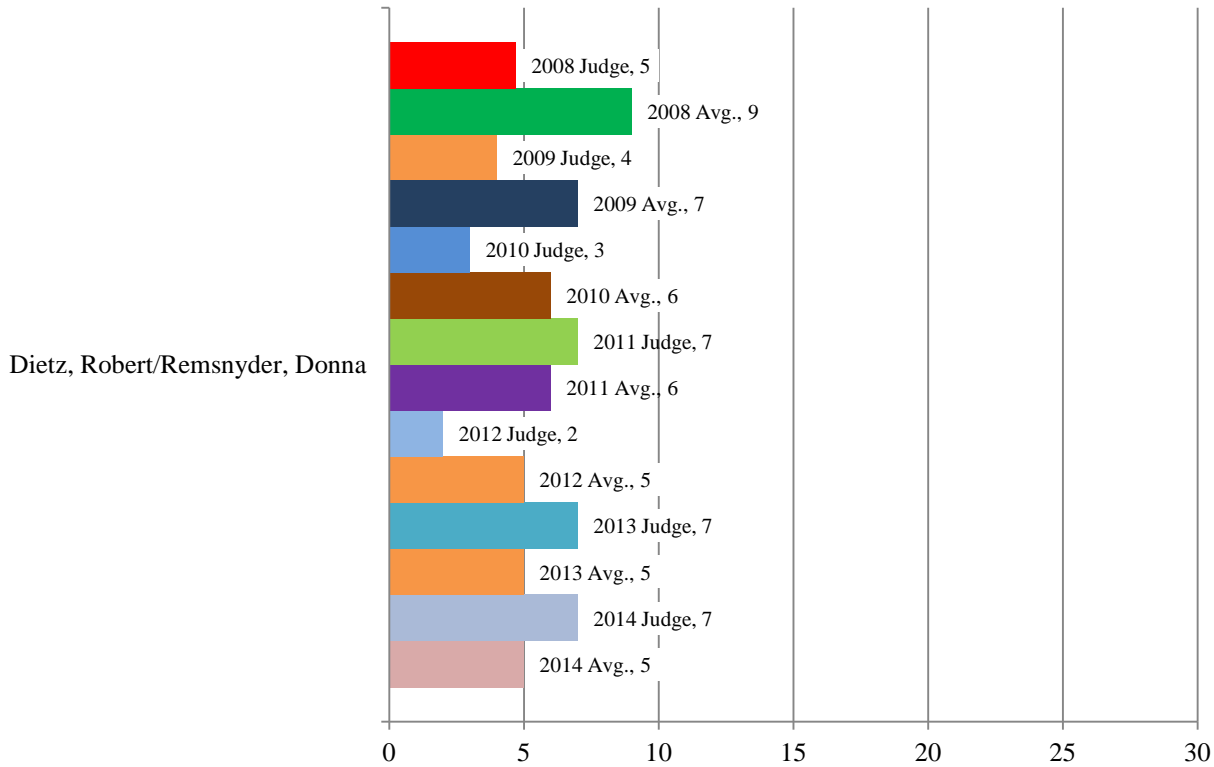
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count. See SPT for JCC Remsnyder.



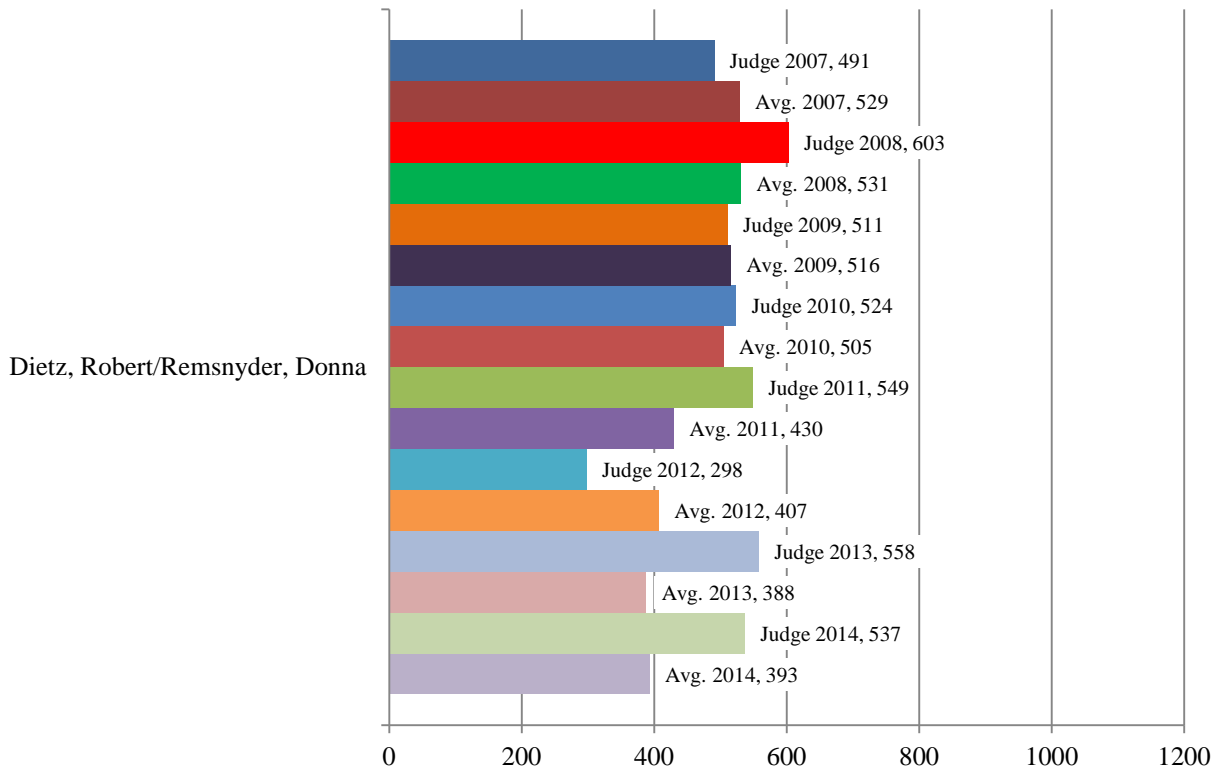
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



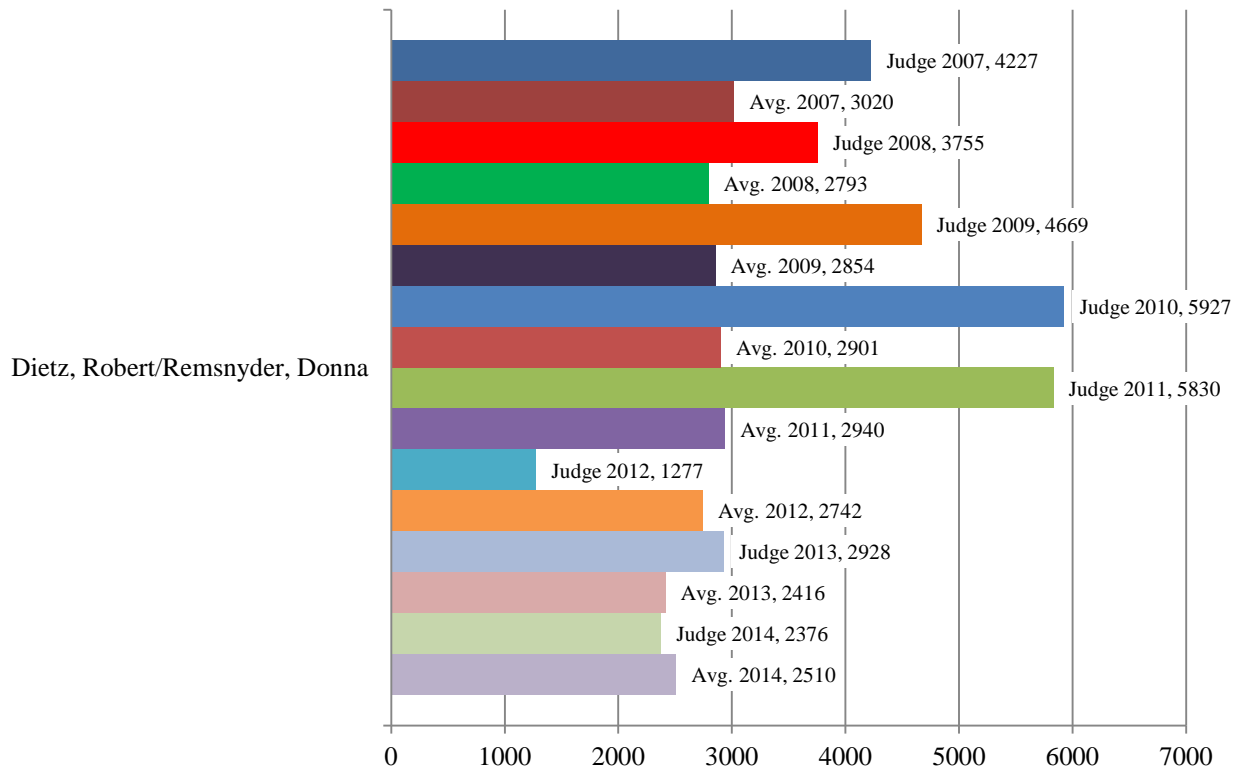
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



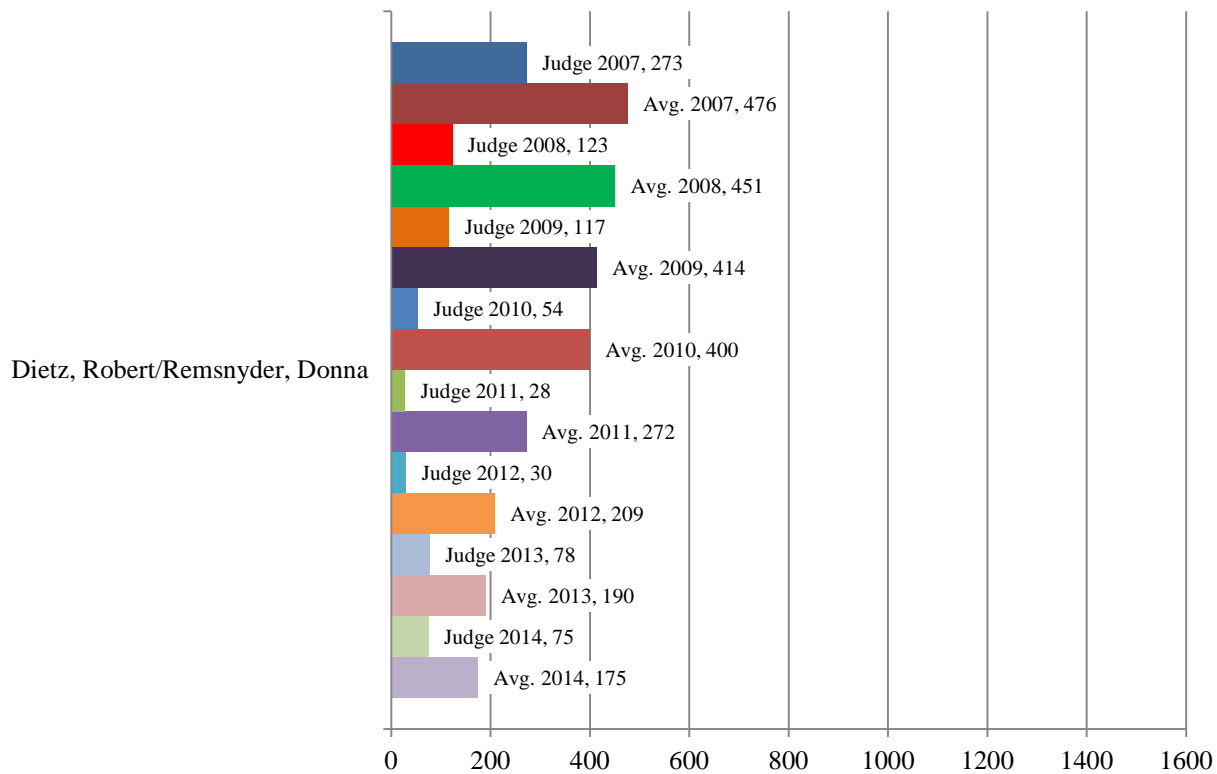
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



Appendix “8” District MIA (JCC Almeyda/Kuker, JCC Castiello, JCC Hill, JCC Kerr, JCC Medina-Shore):

District MIA includes Dade County.

District MIA historically included Dade and Monroe counties. In 2011-12, Monroe County was transferred to District Panama City briefly, and in 2012-13 to District Port St. Lucie, to alleviate disparity in workloads. Since that time, all Monroe County cases are assigned to Judge Robert McAliley.

In 2012-13 and 2013-14, Each MIA division received far fewer than the statewide average for both petitions and “new cases.” The volumes for PFB were about 23% to 43% below the statewide averages. The “new case” volumes in MIA were 47% to 61% below the statewide averages. These reductions result in part from the out-of-district process, in which MIA “new cases” were assigned to Judges Humphries (JAX), Jenkins (TPA), Pitts (ORL), Remsnyder (MEL), Spangler (FTM), and Sturgis (FTM). Converse to the pattern discerned in some other districts, with high filing rates, and comparatively low trial rates, the MIA divisions have historically demonstrated “new case” filing rates at or below the statewide average and petition filing volumes at or near the statewide averages. Despite these averages, the trial volumes in District MIA have generally been higher than statewide averages since statistics on this metric were initiated in 2006-07. Notably, in 2009-10, four of the five judges in MIA exceeded 100 trials for the fiscal year, compared to a statewide average 65 that year. Thus, the reassignment process has decreased the incoming case load in this district and helps with the timely trial of all MIA cases.

For most of fiscal 2013-14 District MIA worked with four of the five judges present. The resulting deficit was compensated by additional and extraordinary efforts by Judges Almeyda, Kerr, Massey, Medina-Shore, and Rosen. These judges covered the entirety of the MIA workload for trials, motions, settlements and more for much of the fiscal year, and their efforts and team work are noteworthy.

Mediations have been timely in District MIA in recent years and remained so in 2013-14. One mediator was absent for a significant portion of the year, and most of the mediations in that division were covered by other Miami Mediators. However, a significant number were also covered telephonically by out-of-district mediators whose teamwork and spirit are likewise worthy of recognition.

Year-end pending petition inventories in the five MIA divisions are consistent with the district as a whole being in equilibrium. The congruity between PFB filing and closure volumes also supports that conclusion.

Trial volumes in District MIA have moderated in recent years. The totals for 2013-14 demonstrate general consistency with the overall statewide averages, with some MIA divisions below the average. The time to trial, time to mediation, and time to final order in District MIA was below the statutory parameters in 2013-14.

Judge Almeyda was appointed during 2013-14. He participated on a National Association of Workers’ Compensation Judiciary panel presentation on recusal/disqualification. For much of 2013-14 Judge Almeyda managed two division’s staff in the Miami office. He published an article on electronic filing and exhibit use in the News and 440 Report.

Judge Castiello is consistently involved with the Dade and Monroe County Bar associations. In 2013-14 he participated as faculty for The Florida Bar Workers’ Compensation Forum, but did not present. He served as the Camping Coordinator for Boy Scout Troop 457, Summer Camp Communications Coordinator for Boy Scout Troop 578, and taught the Law Merit Badge at Boy Scout Camp Daniel Boone.

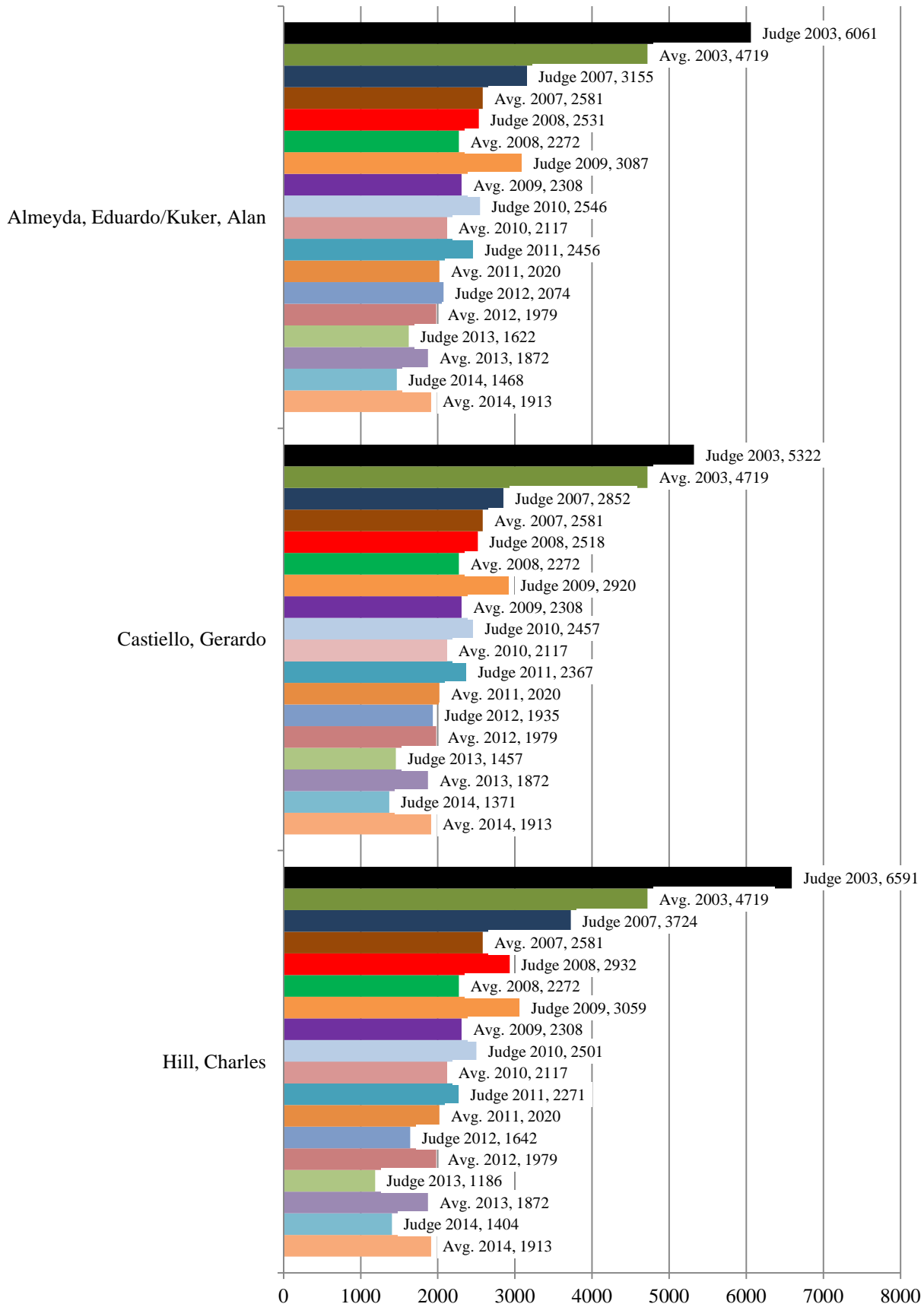
Judge Charles Hill serves on the Historic Preservation Board for the City of Miami Springs, and on the Miami Herald Silver Knight Judges’ Panel to honor Dade and Broward Counties’ most outstanding high school seniors. He organized and hosted a seminar and mock trial at the MIA District office for University of Miami Summer Scholar Students earning college credit in forensic anthropology. The mock trial involved off label pain management uses of Botox for a work injury and application of current evidentiary standards for admissibility of expert witness testimony.

Judge Kerr participated as a mock trial judge at the University of Miami Summer Scholar Program on the Daubert evidentiary standards enacted by the Florida Legislature. She spoke on Ethics and Professionalism at the Friends of 440 panel on Changes in Statutory Case Law and Procedural Rules.

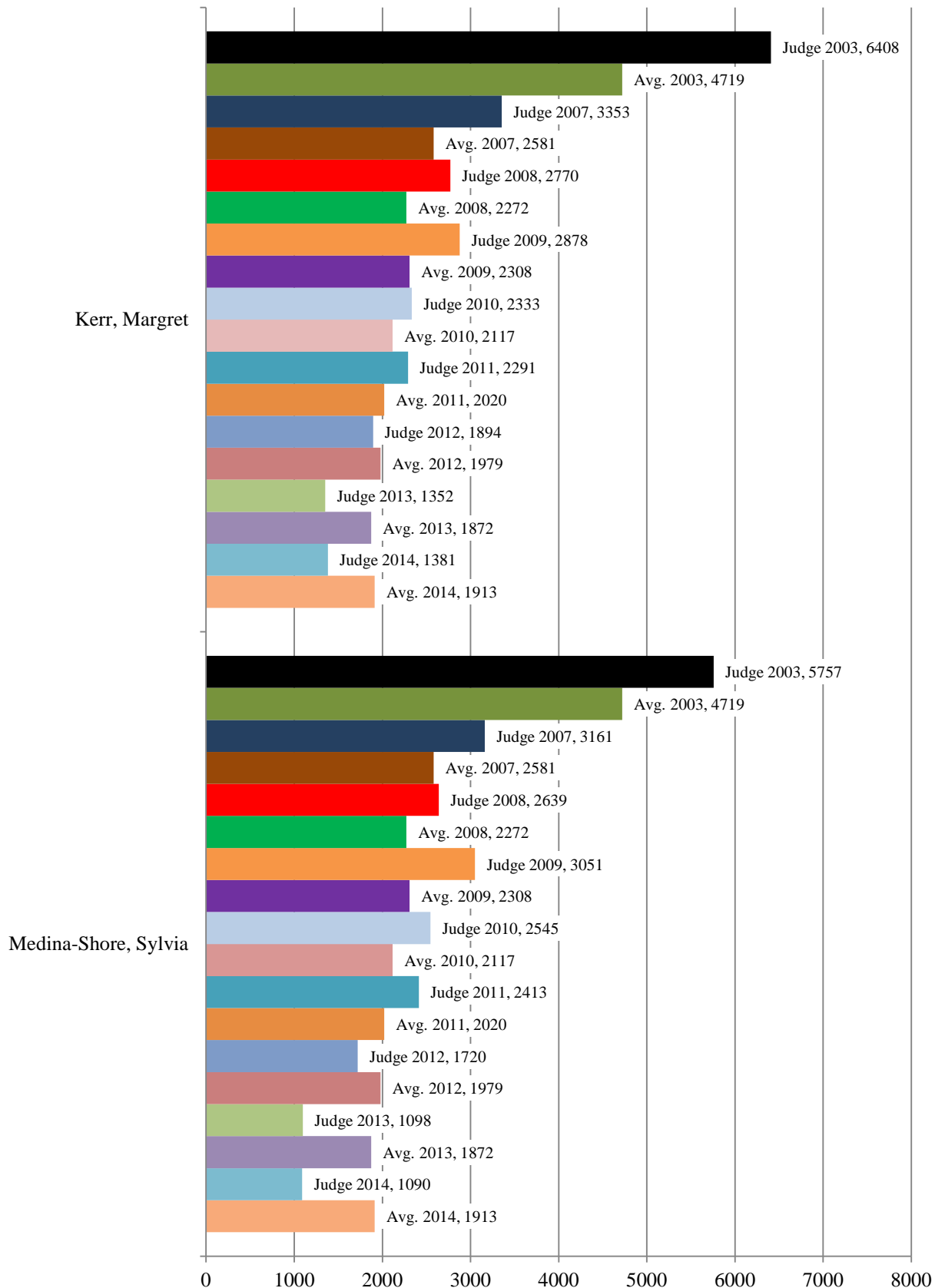
In 2012-13, Judge Medina-Shore continued to serve as MIA Administrative Judge. The success of District MIA is in large part due to her leadership. In 2013-14, her responsibilities were challenging due to the appointment of a new judge and another’s absence. She coordinated and managed trial and motion coverage during those absences. She speaks each year at the Miami-Dade Public County Middle and High Schools on the role of the judiciary in our government. She presented on “Ask the Judges” at the annual Workers’ Compensation Educational Conference, and on workers’ compensation in law courses at Florida International University and Florida Atlantic University.

Mediator Johnsen is a trustee of the Friends of 440 Scholarship Fund and the Friends of 440, Inc. Mediator Johnsen recently published an article in the 440 Quarterly Report entitled “How to Make the Most of Your State Mediation.”

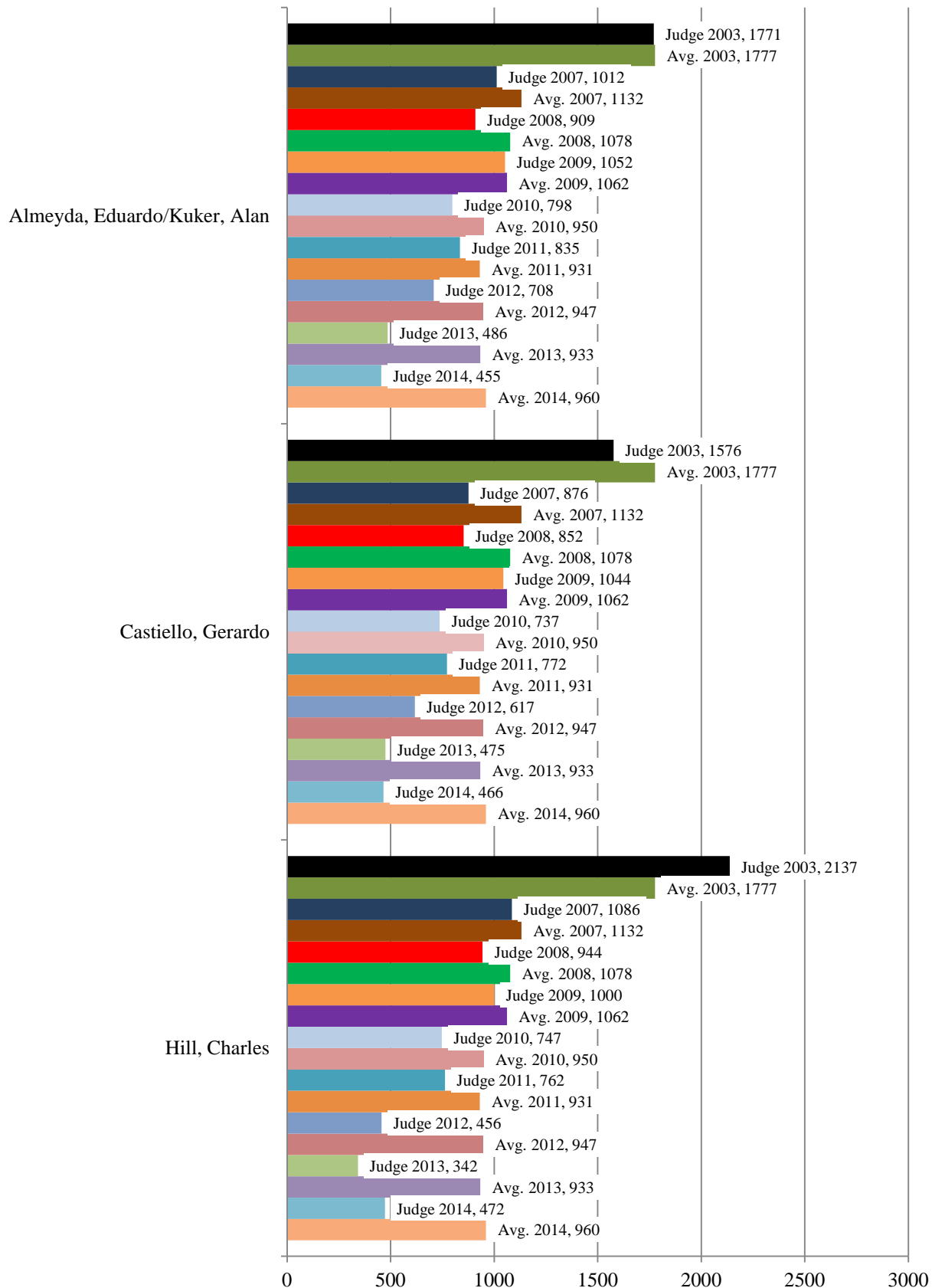
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



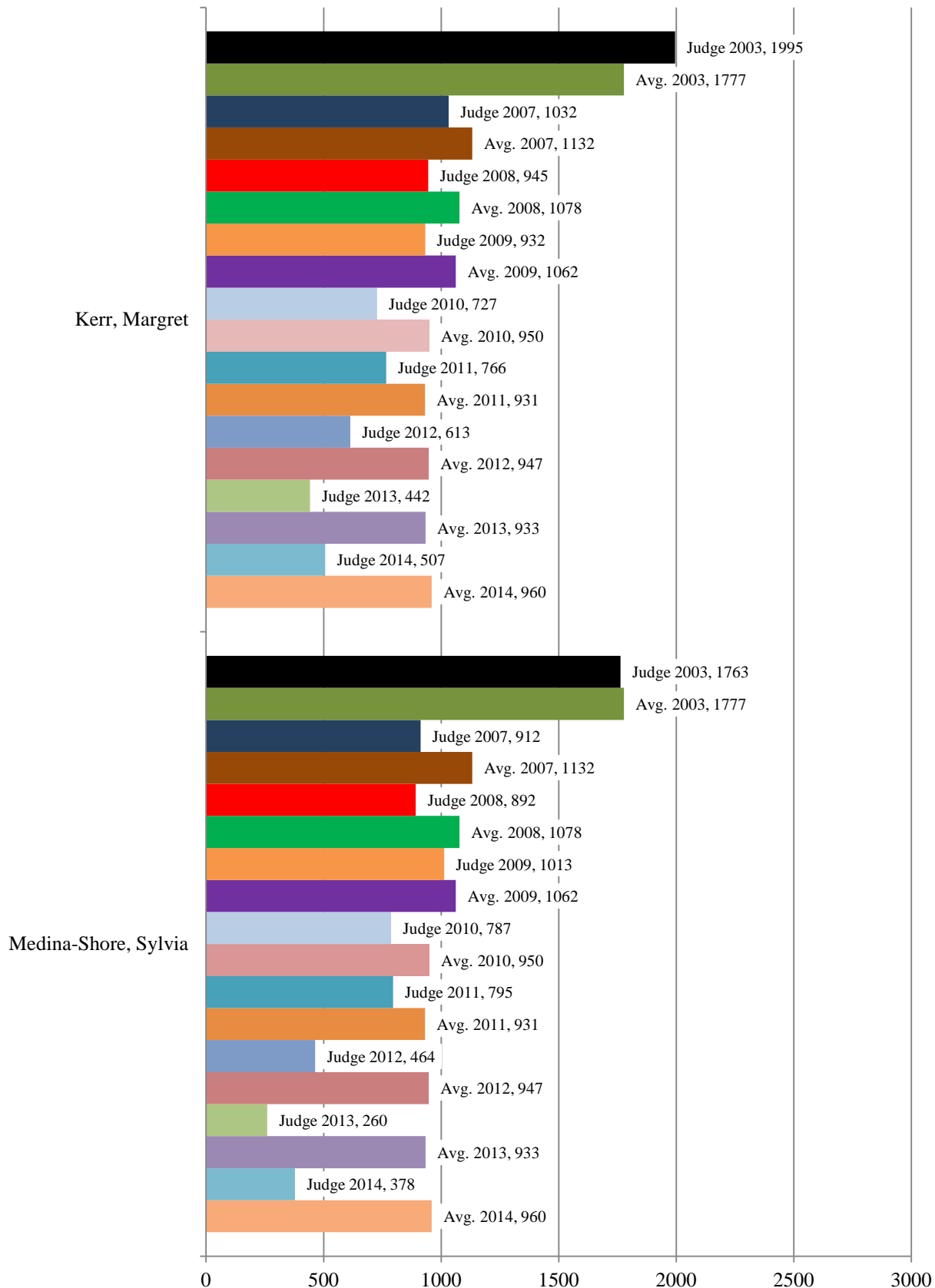
(Continued) The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



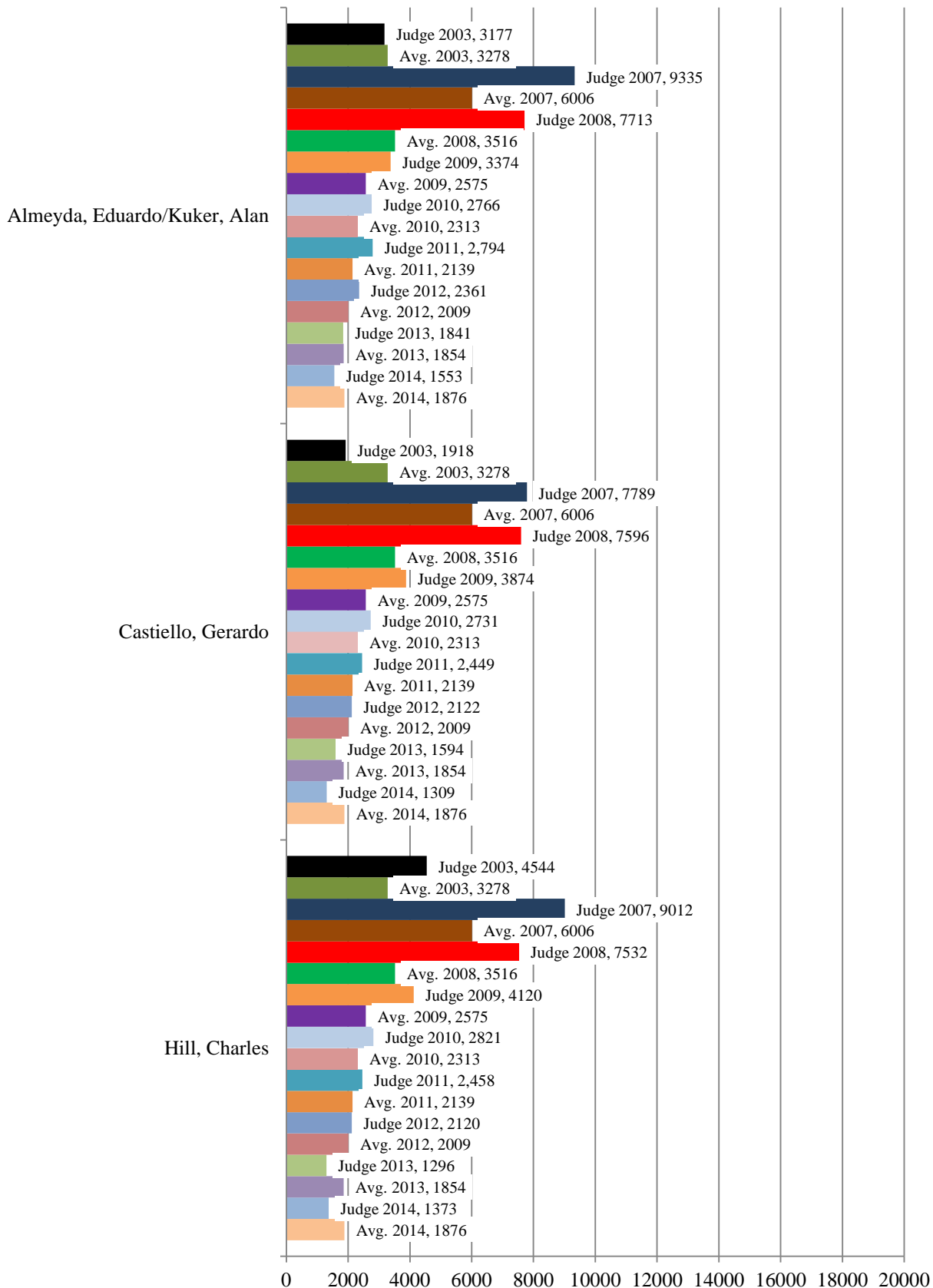
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



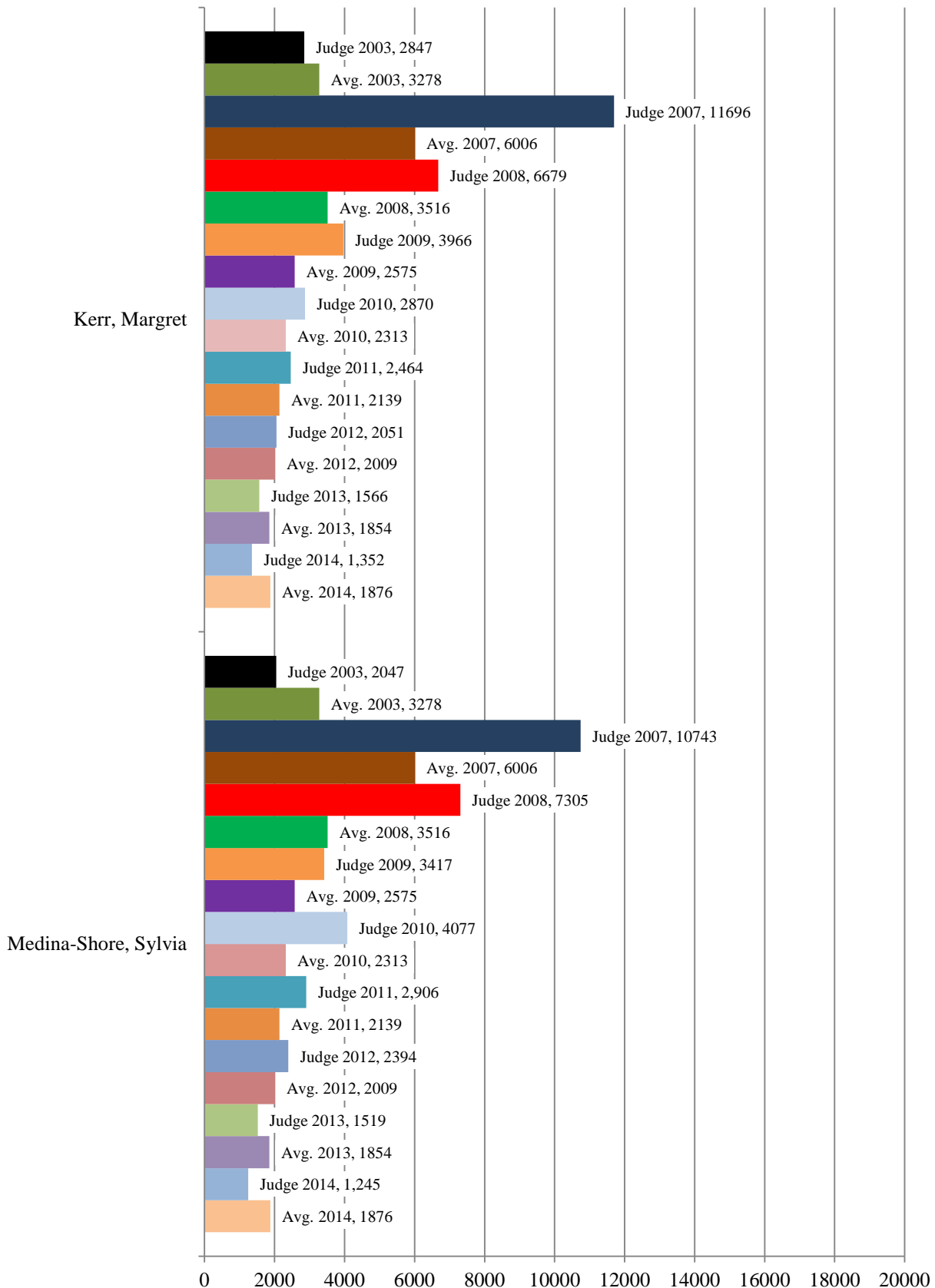
(Continued) The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



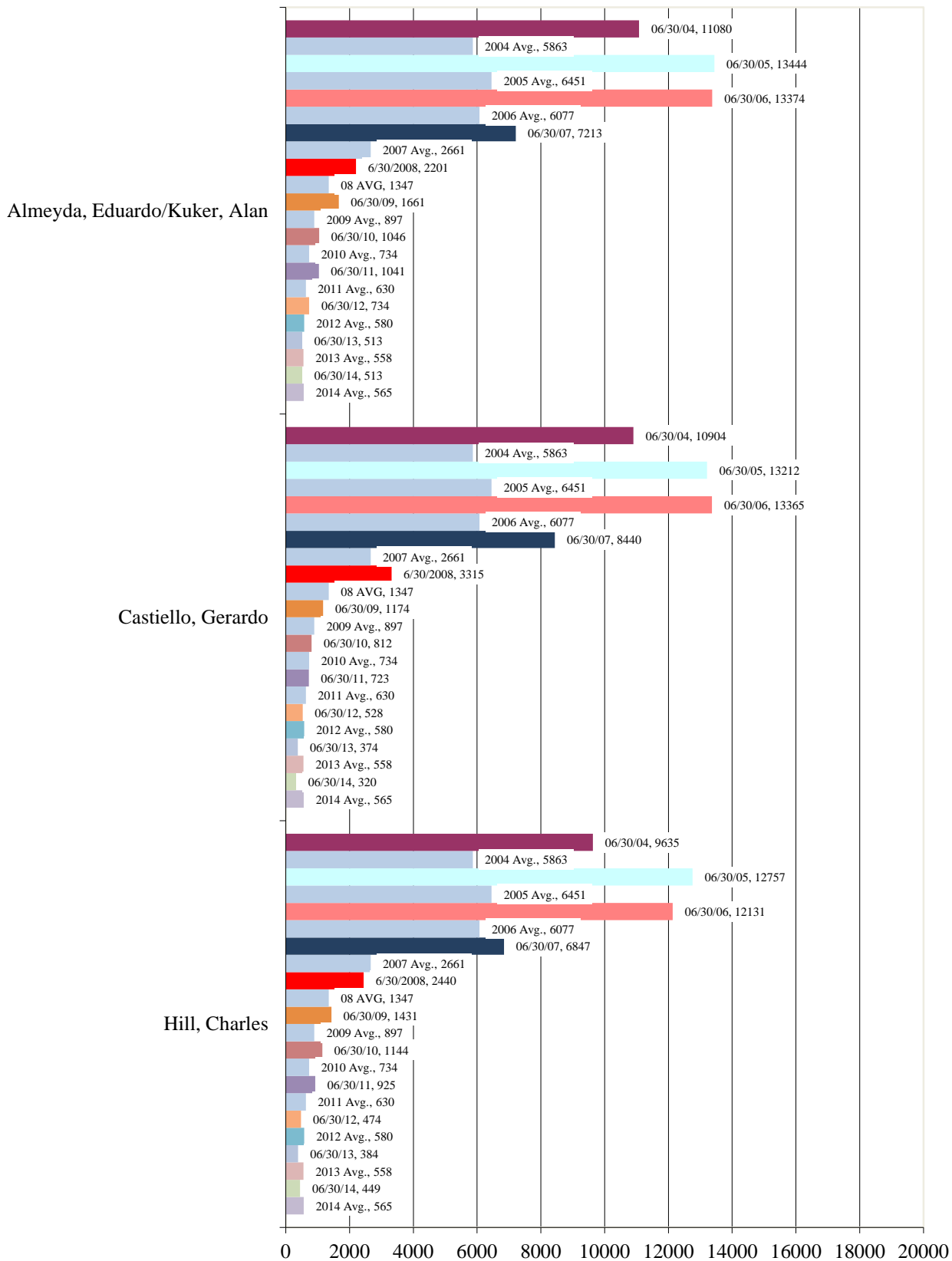
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



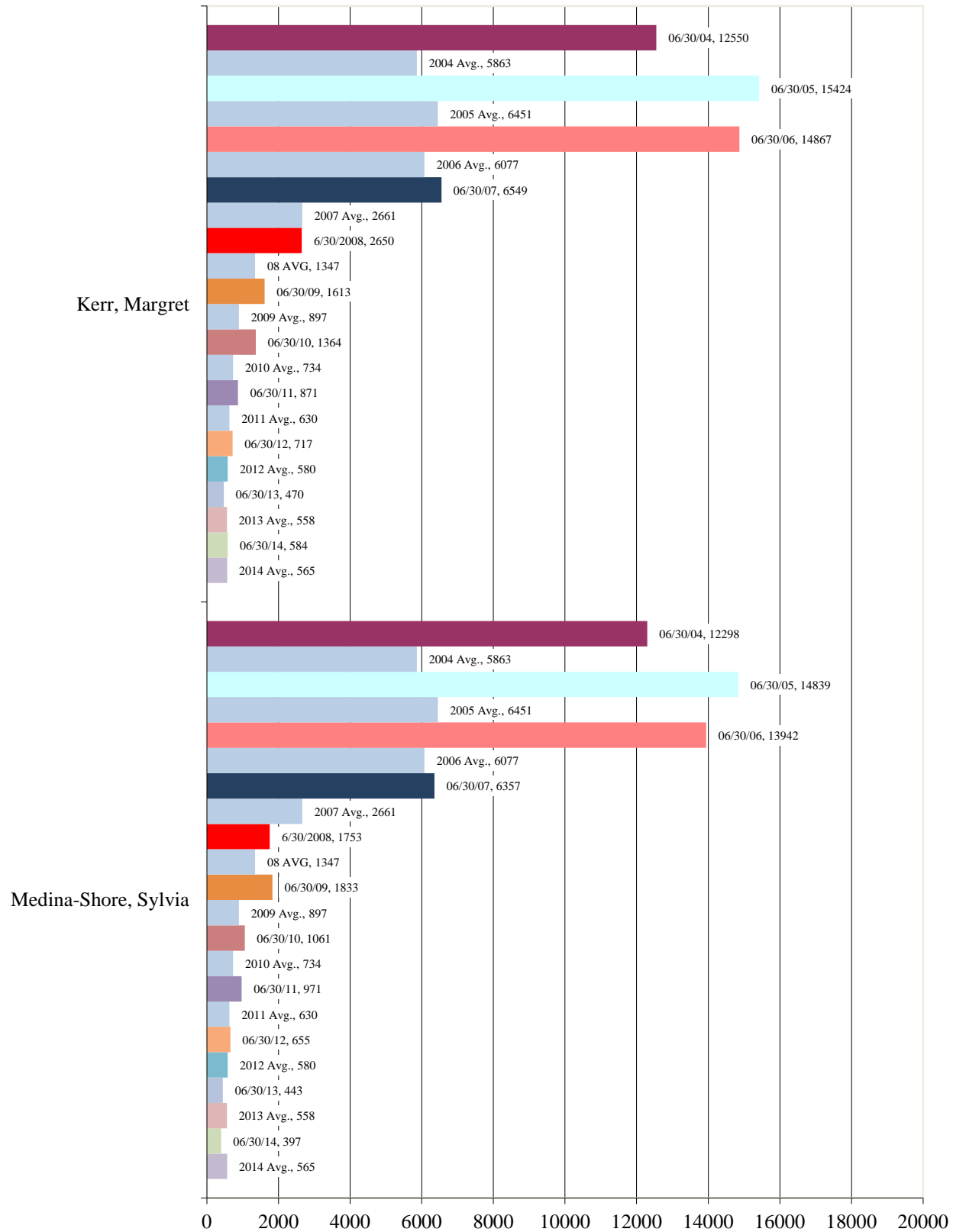
(Continued) The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



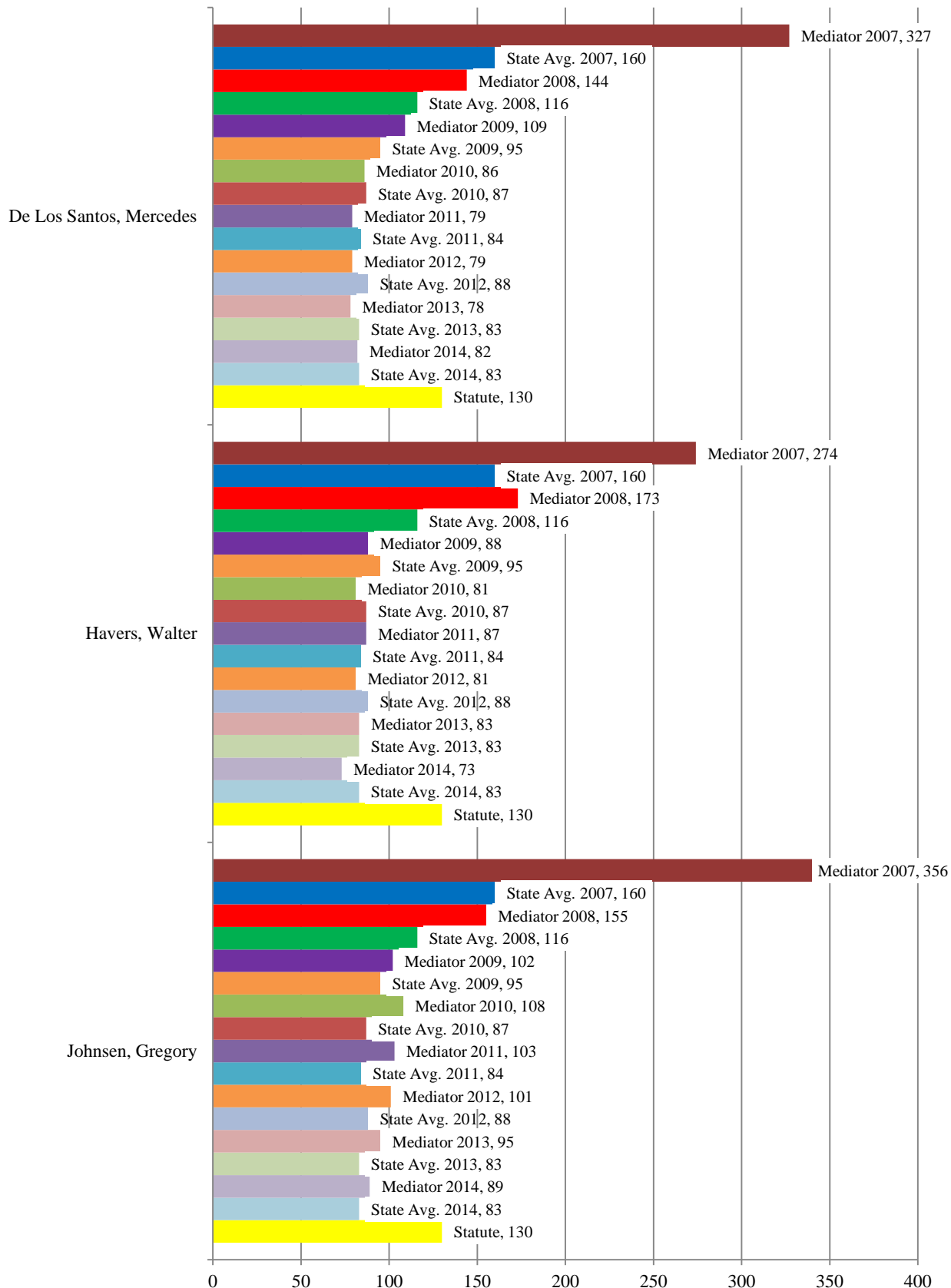
The following depicts the inventory of pending PFBs in this District and the statewide average between 2003-04 and 2013-14. The identification and values for each year are in each bar label.



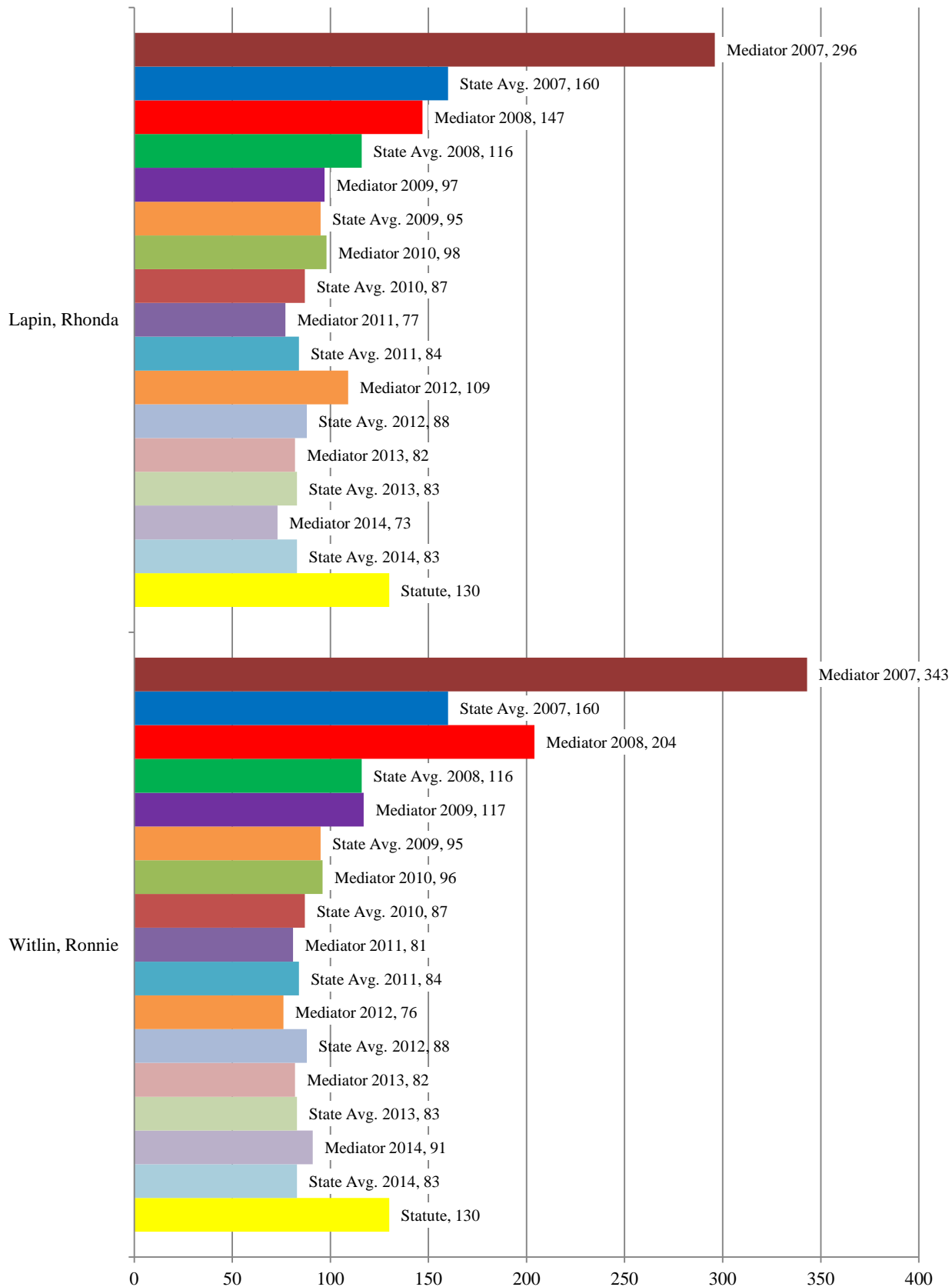
(Continued) The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2012-13 (2002-03 is also provided for historical reference). The identification and values for each year are in each bar label.



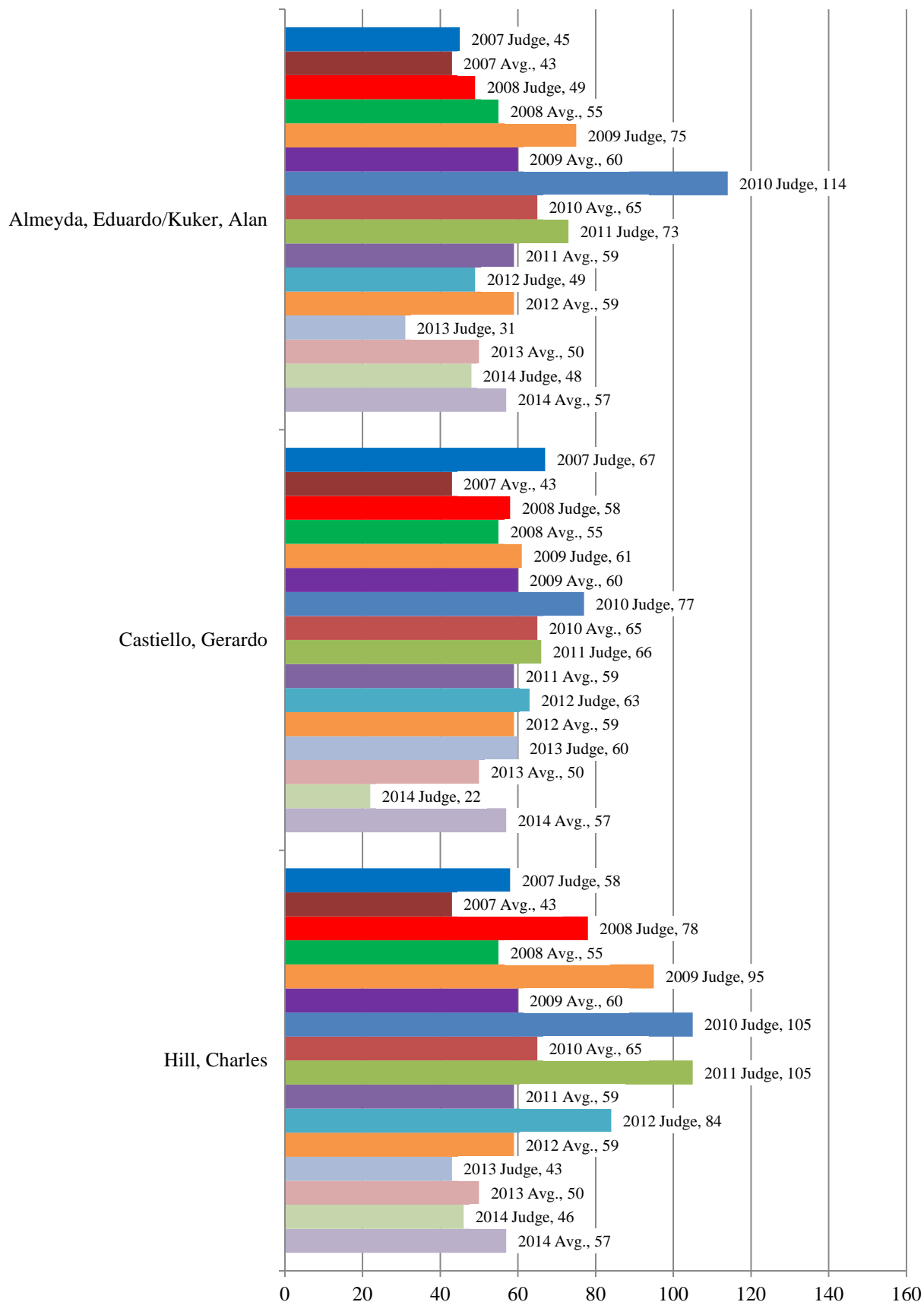
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



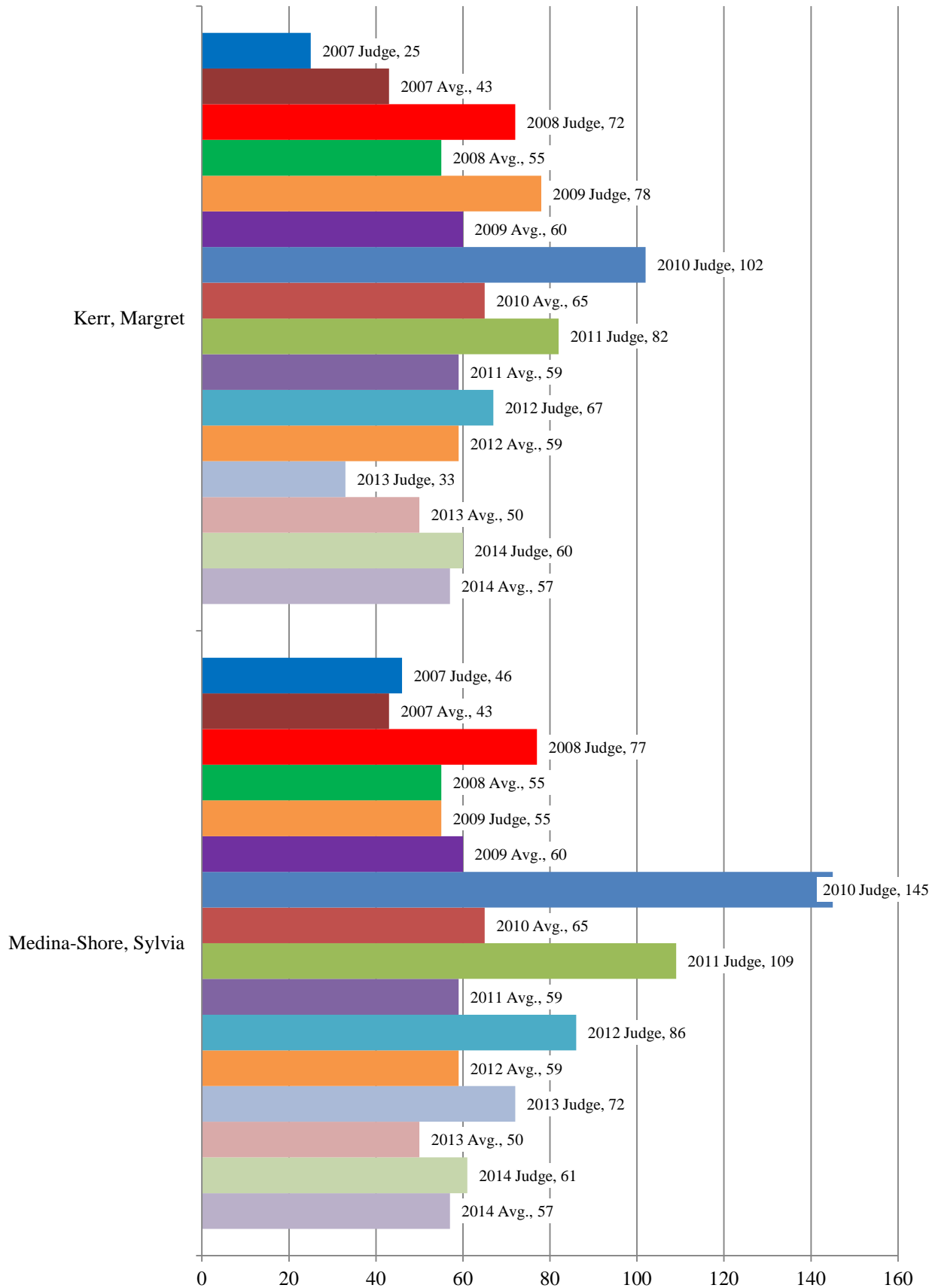
(Continued) The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



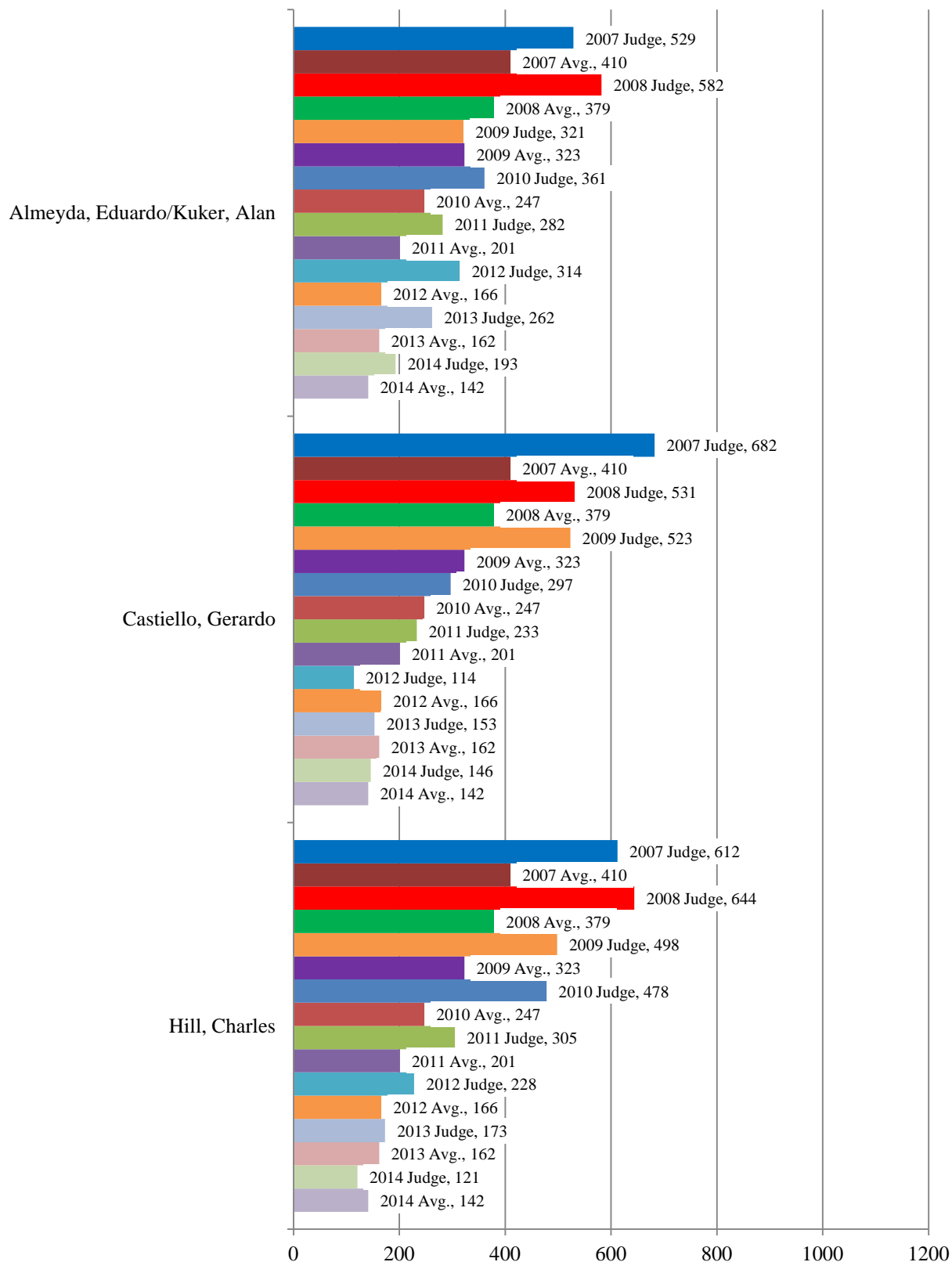
The following graph depicts the total volume of trial orders uploaded in this District¹²⁷ and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



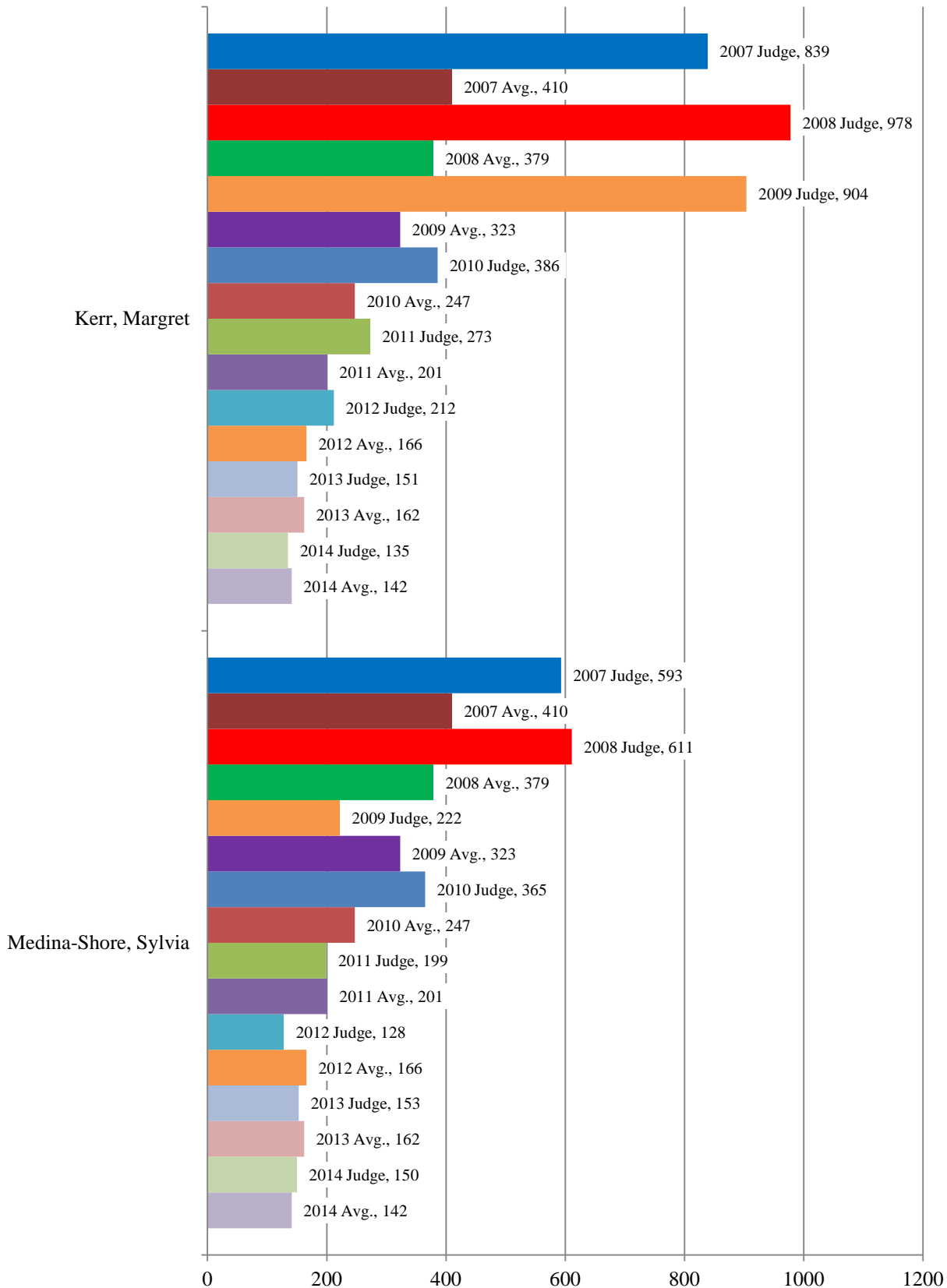
(Continued) The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



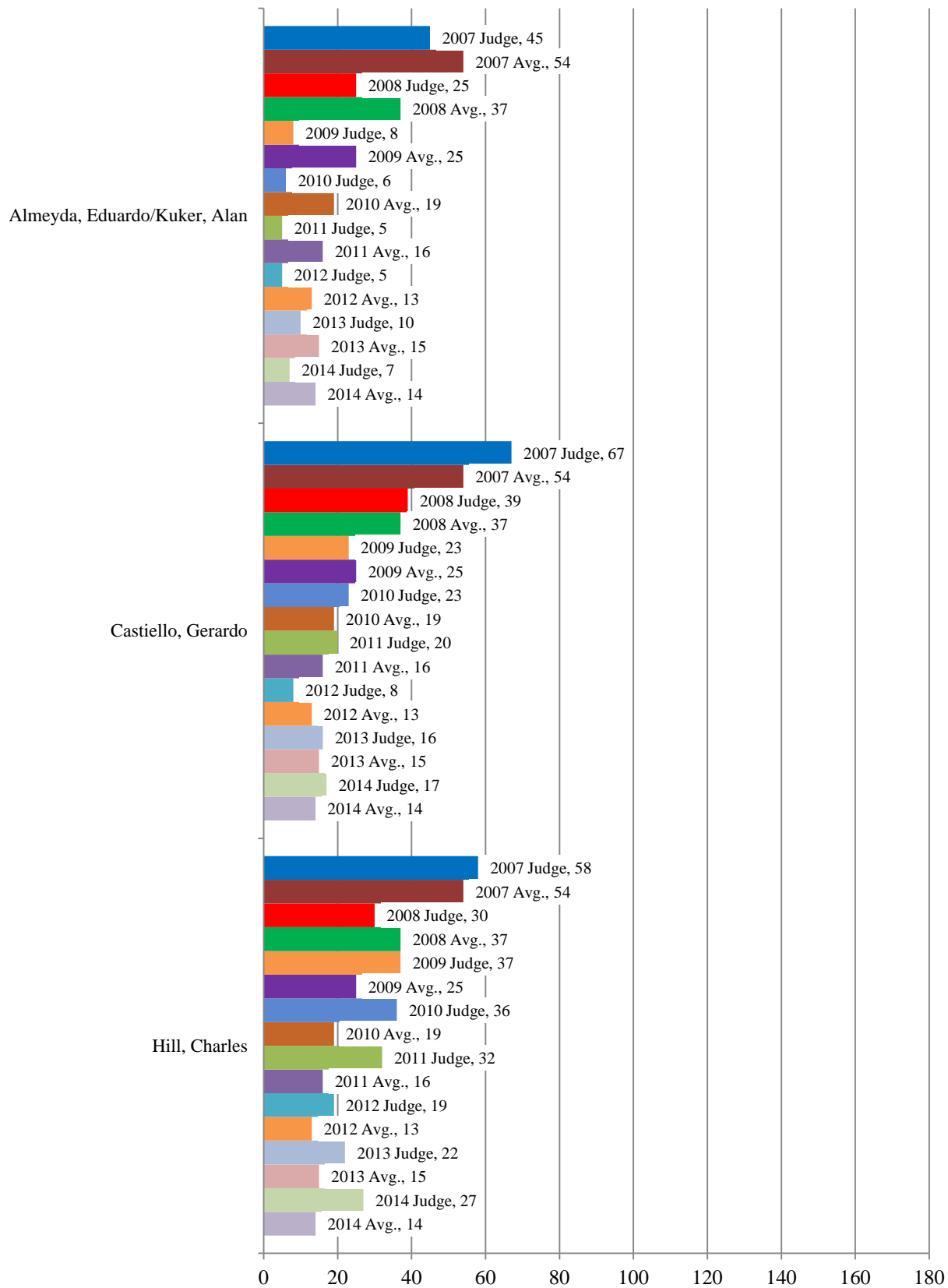
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



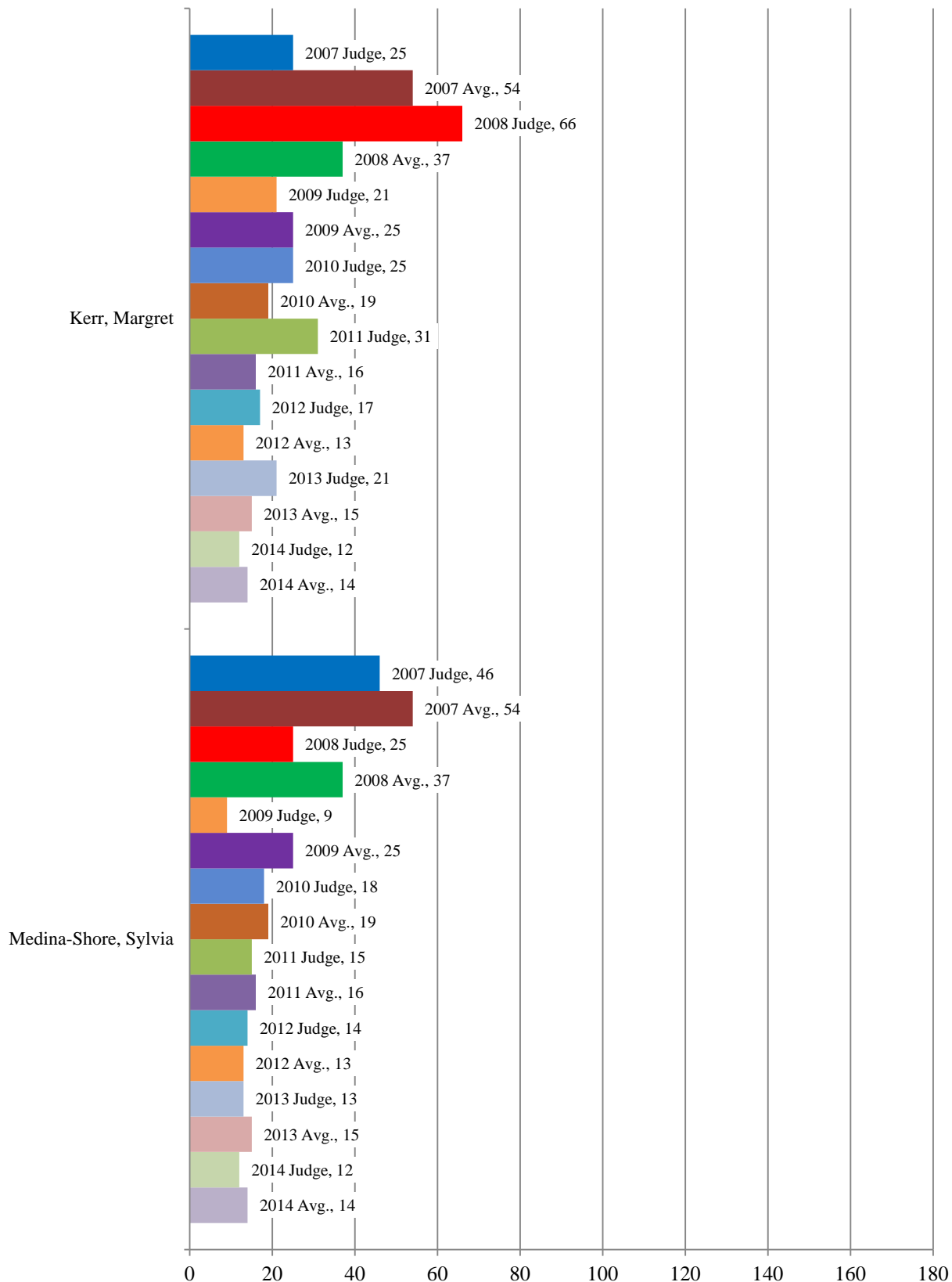
(Continued) The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



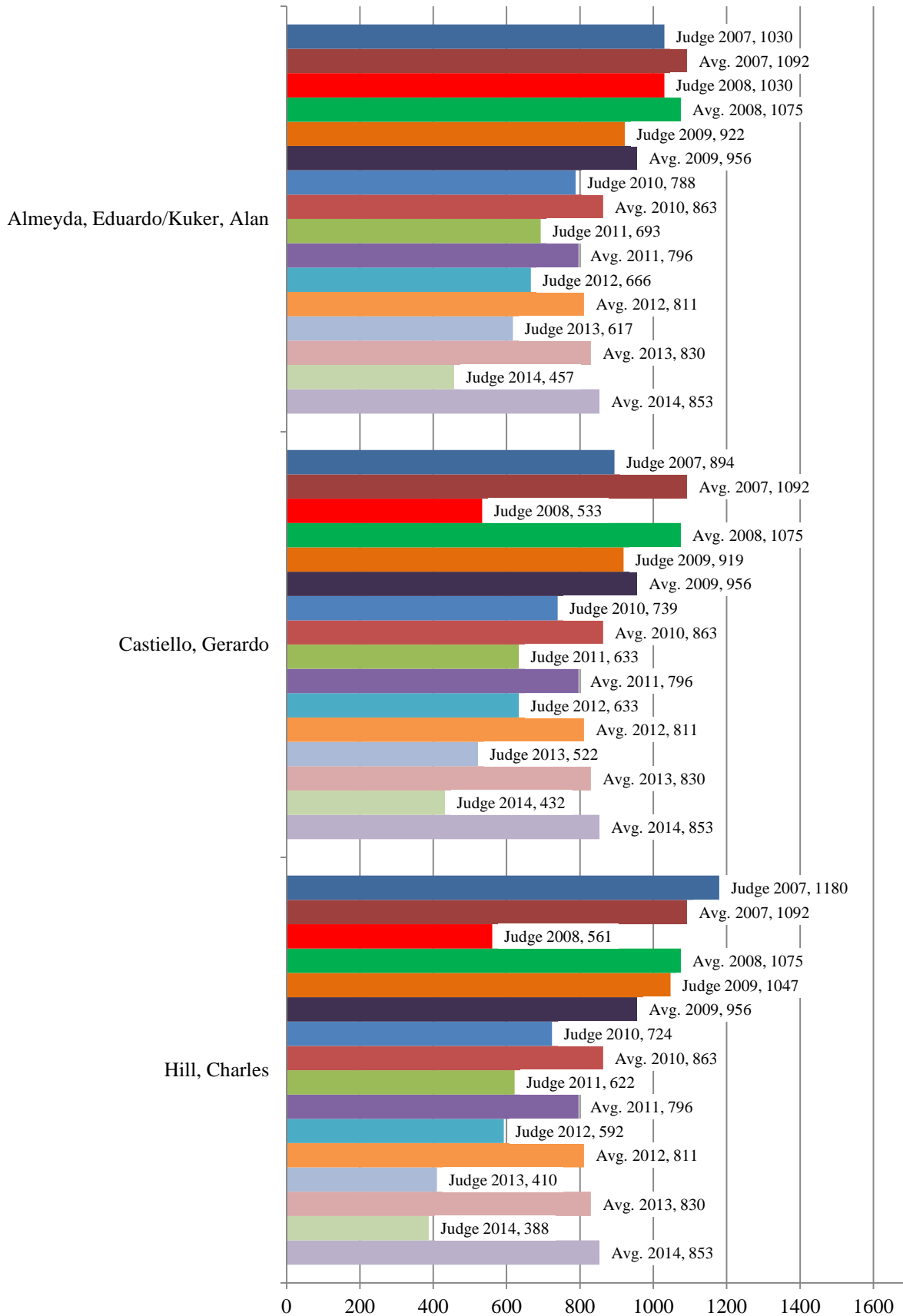
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



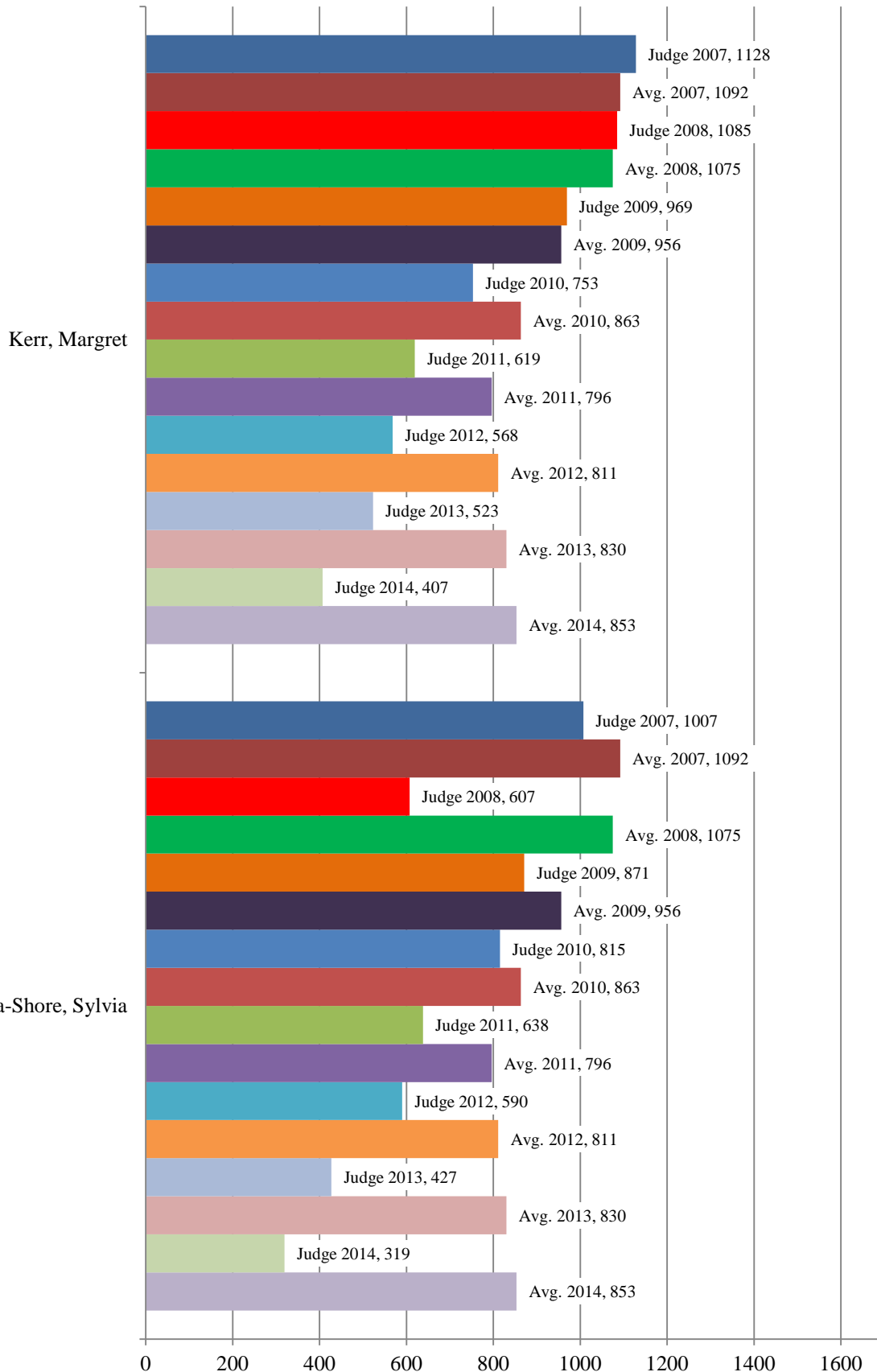
(Continued) The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



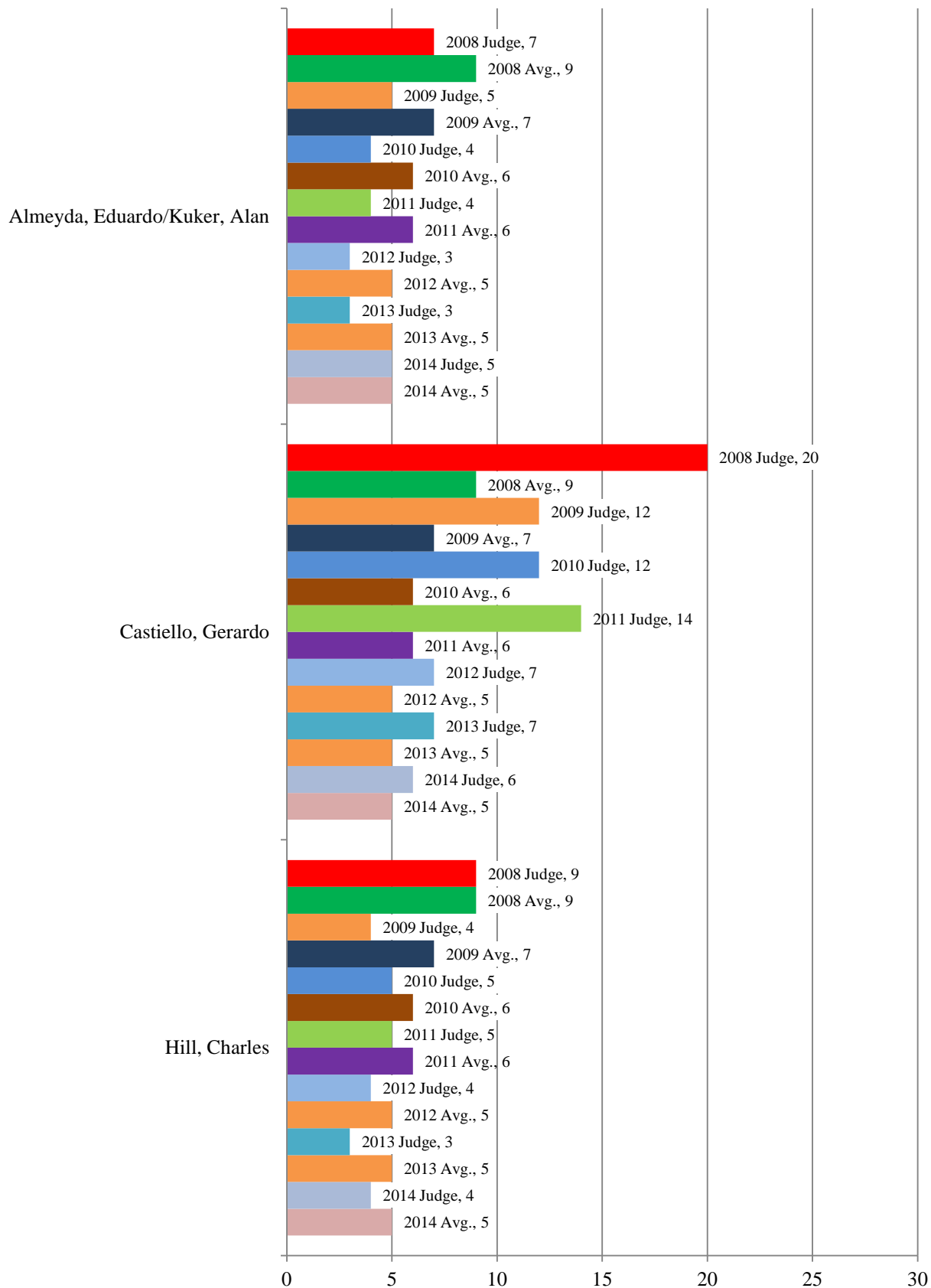
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



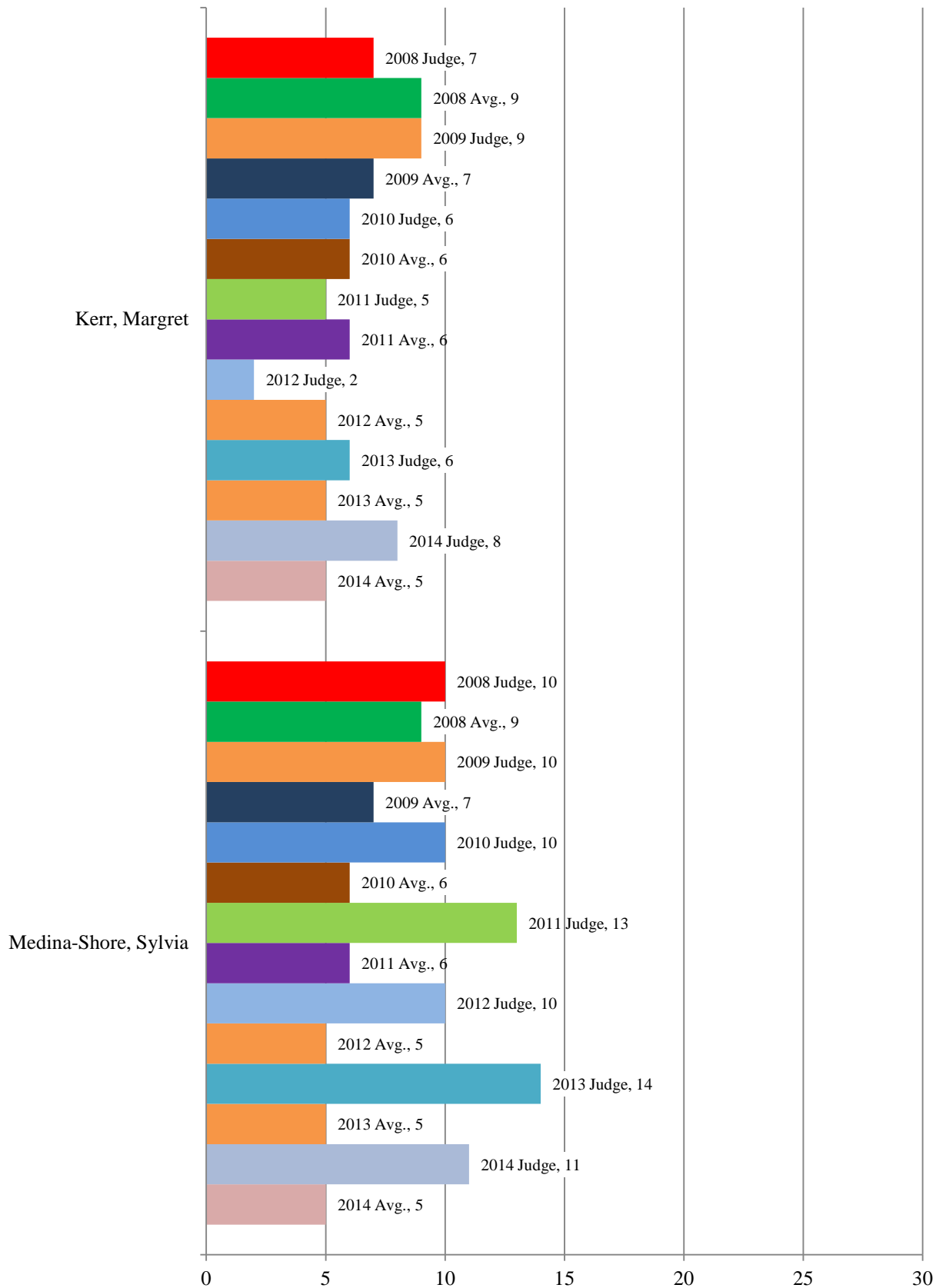
(Continued) The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



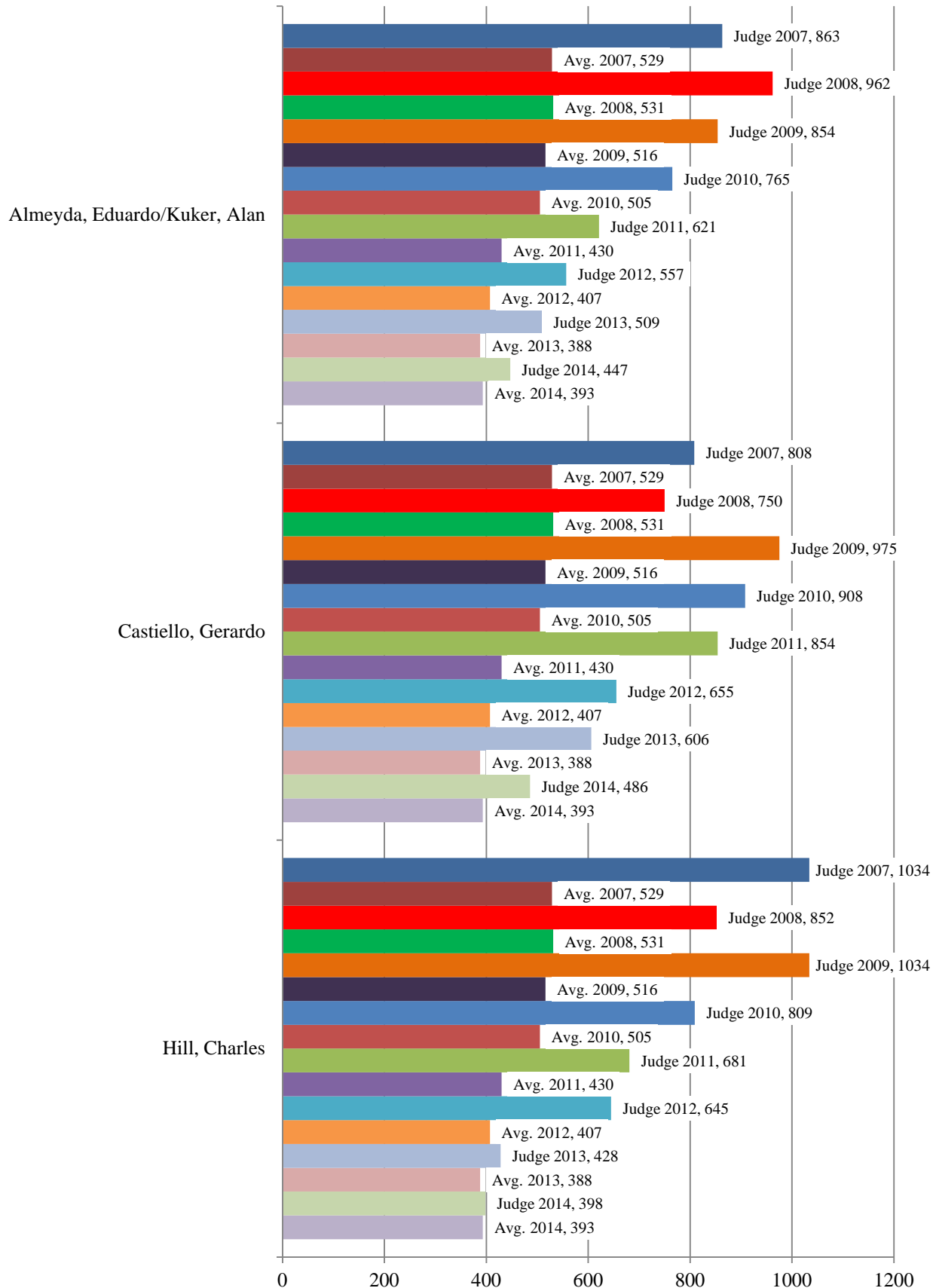
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



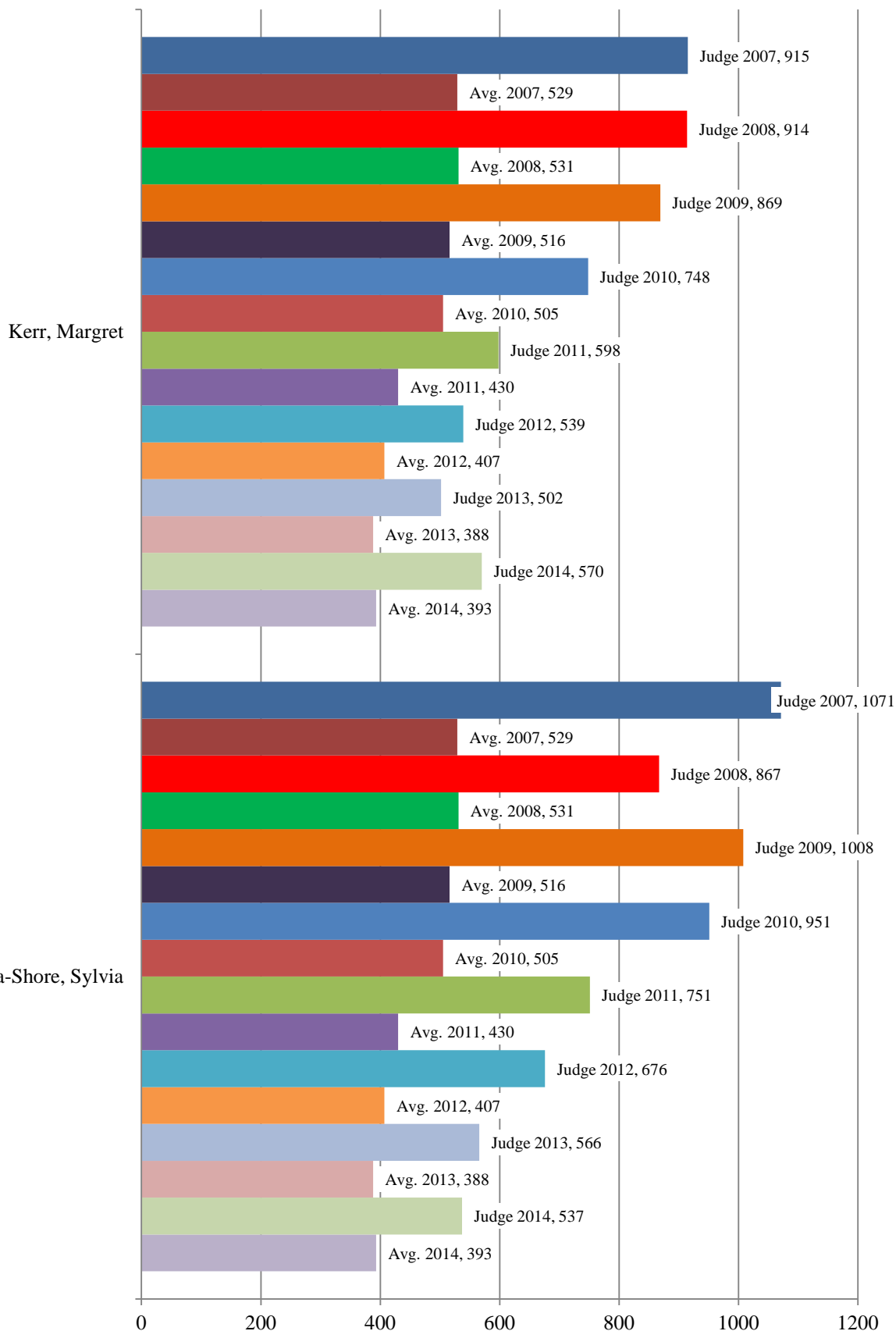
(Continued) The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



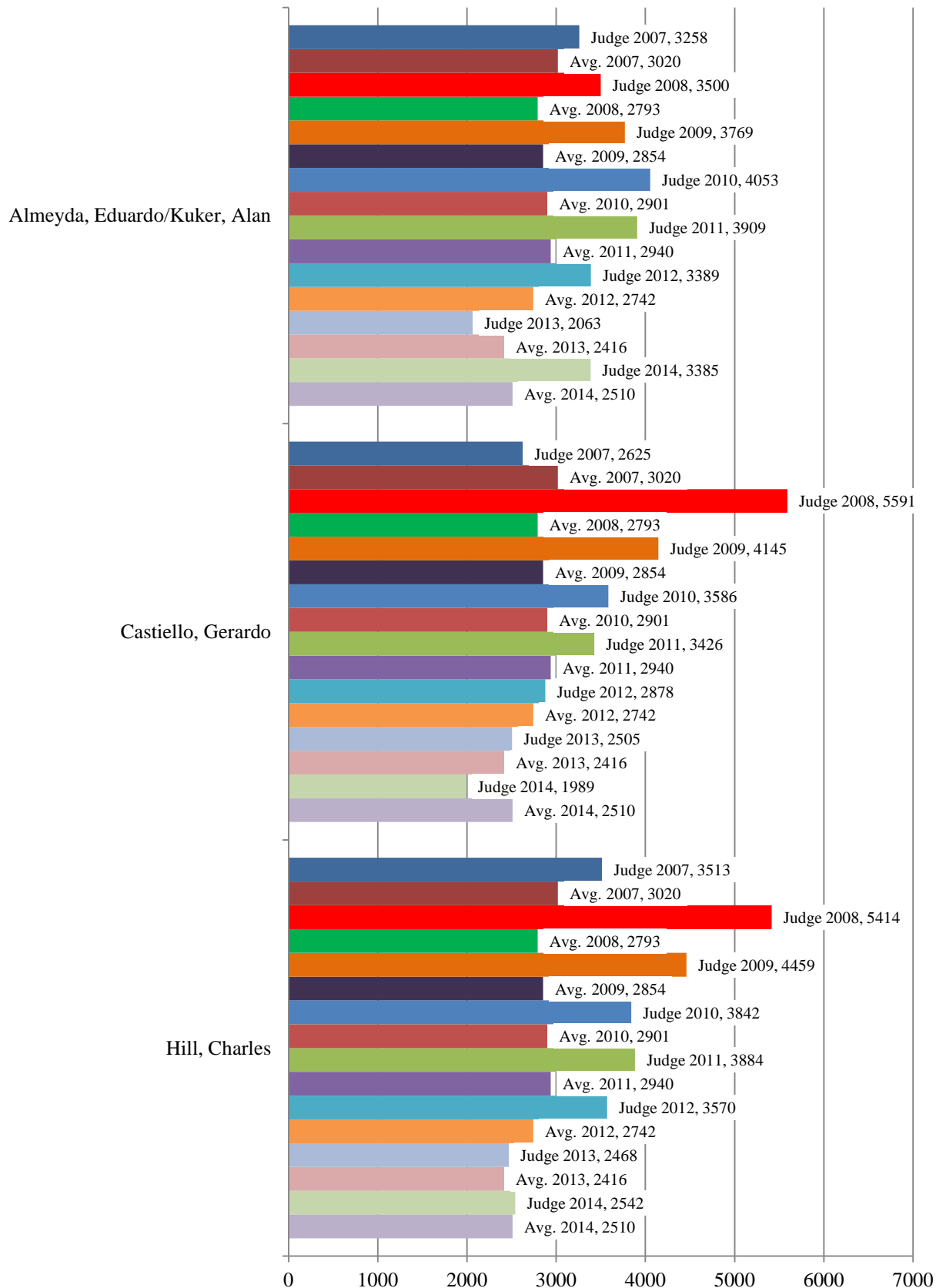
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



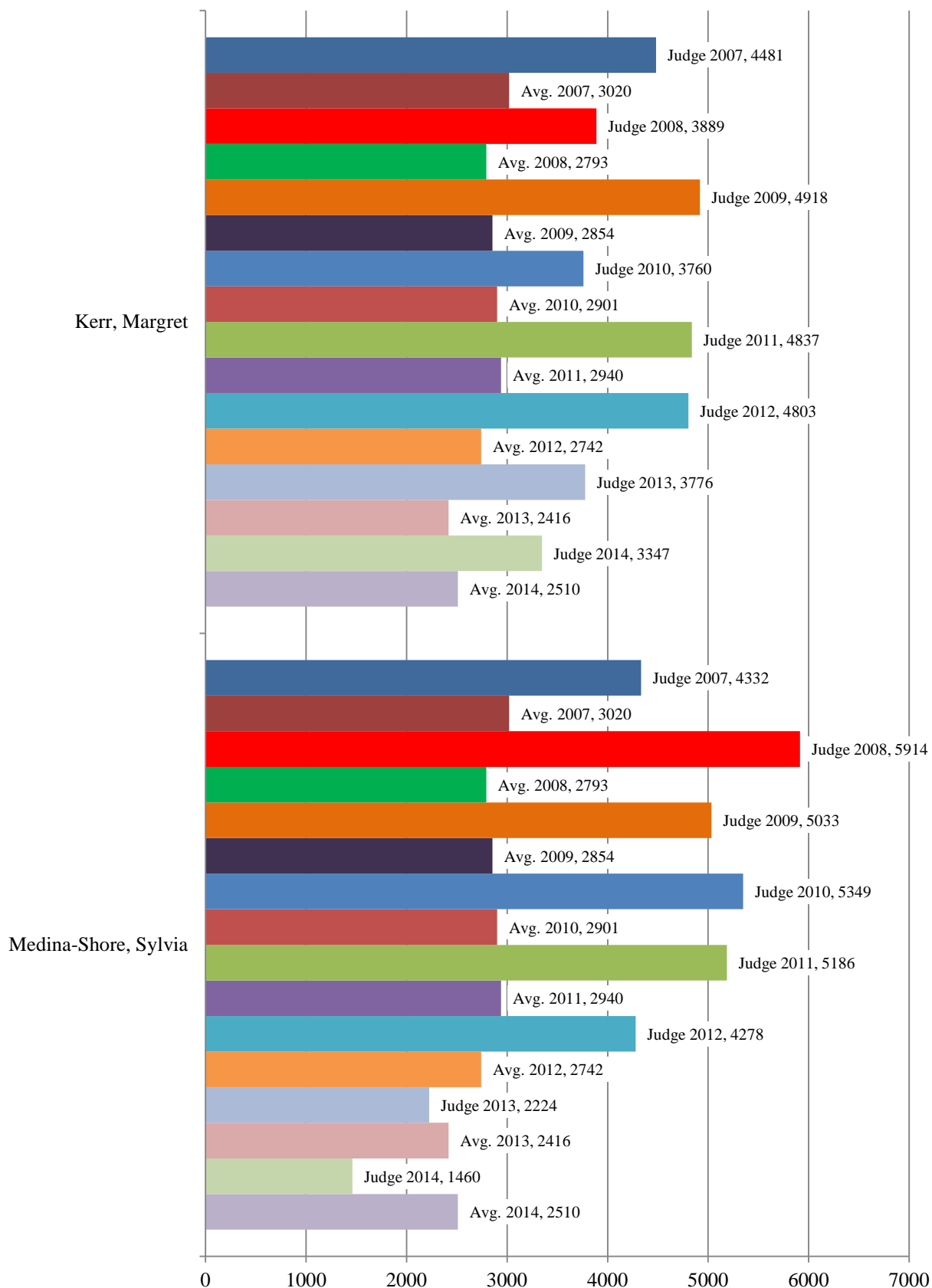
(Continued) The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



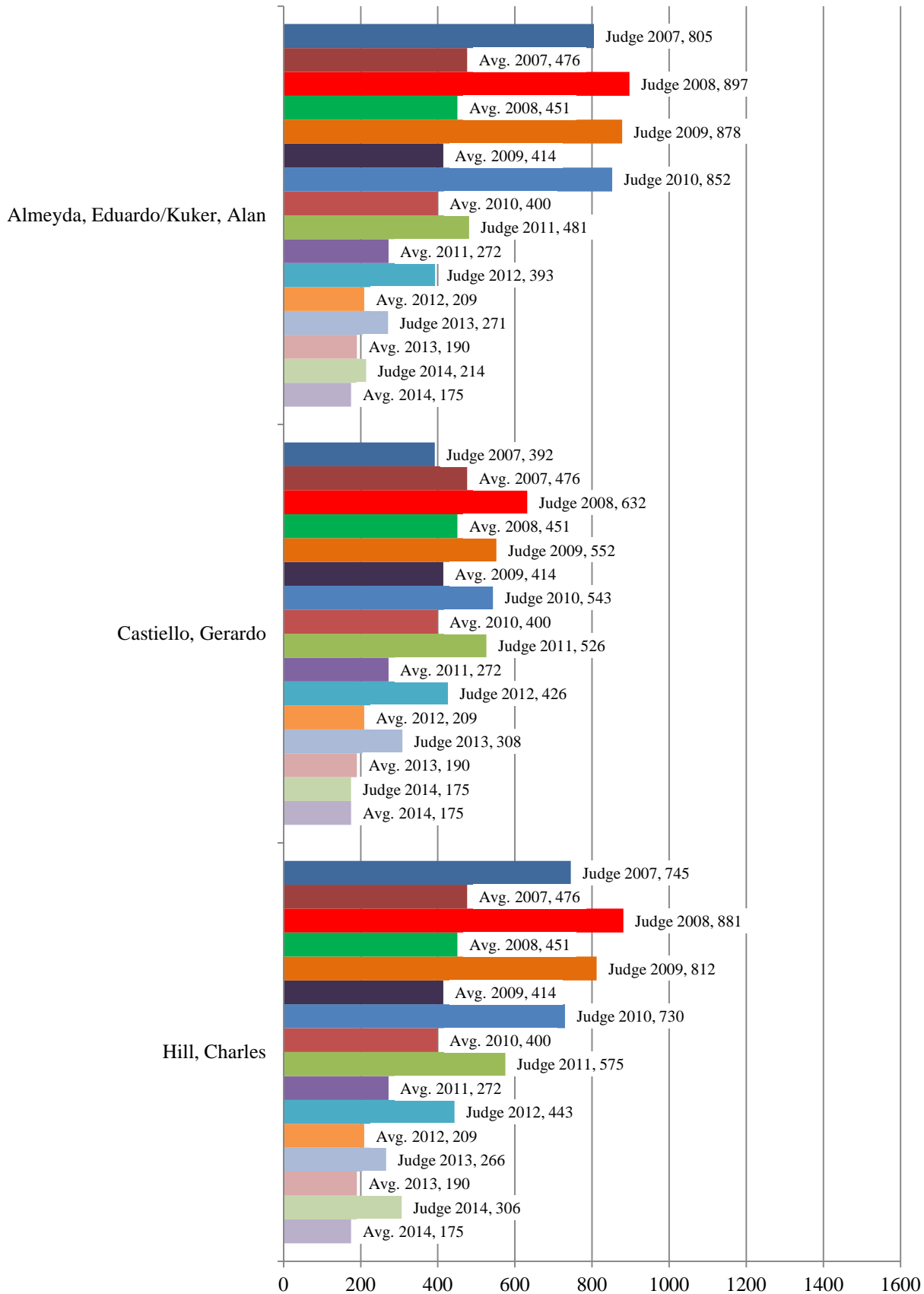
The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



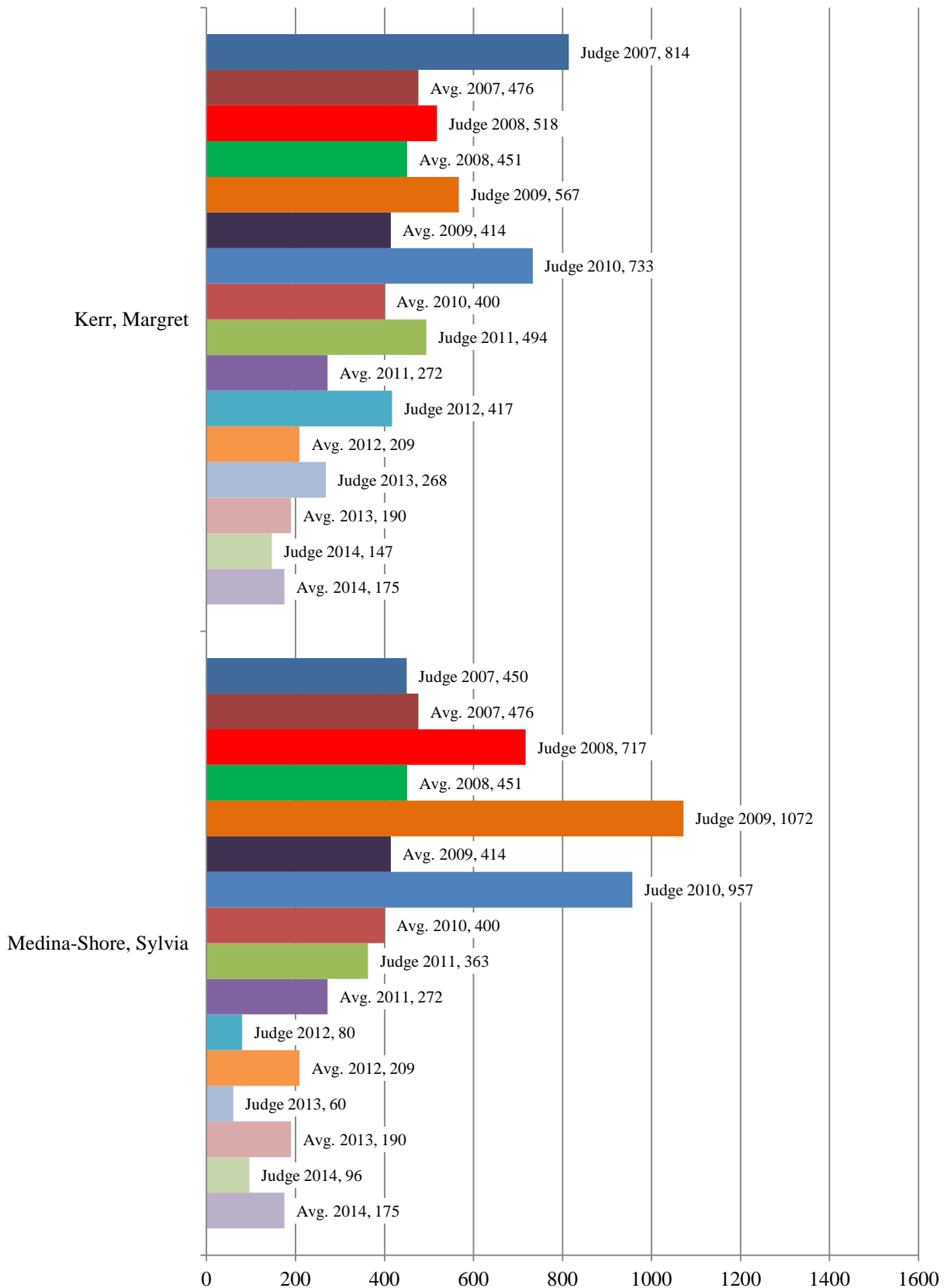
(Continued) The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



(Continued) 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 2013-14. Each bar label identifies the year and provides the numerical count.



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

District ORL includes Orange and Seminole counties.

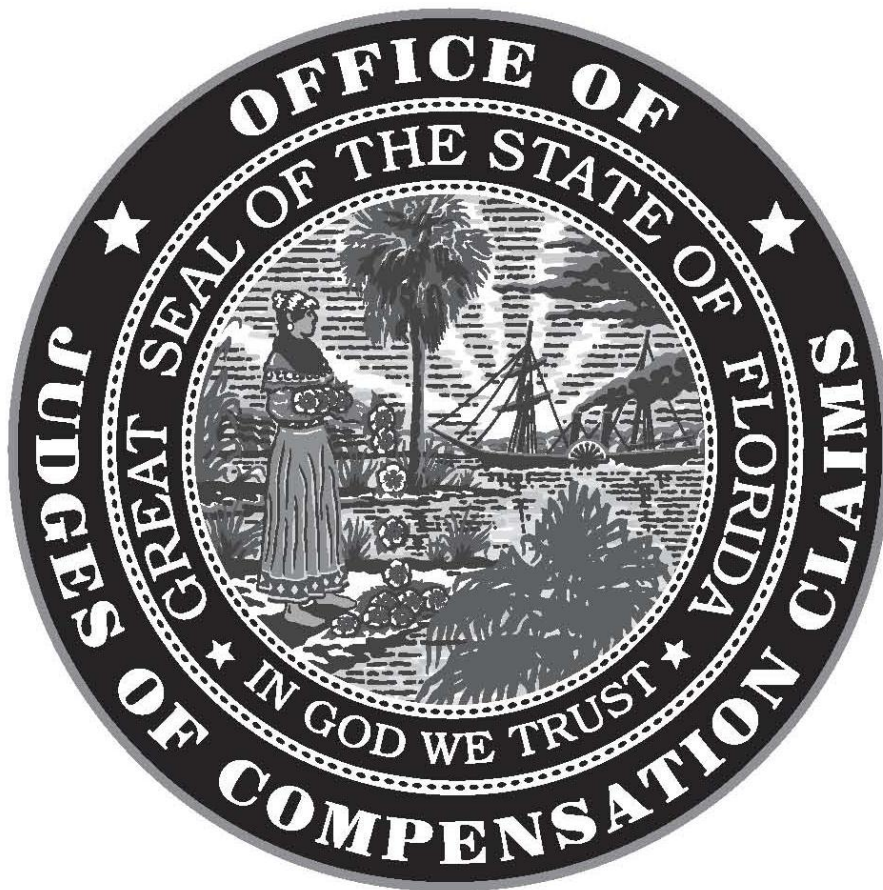
District ORL is a three-Judge District that has enjoyed some greater stability in the last three years following Judge Pitts’ transfer there from Jacksonville in mid-2010-11. Prior to that time, a series of judicial personnel changes created challenges that were consistently managed by Judges Condry and Sculco. The stability the District currently evidences is a benefit to the jurisdiction.

The PFB and “new case” volumes in District ORL consistently remain above the statewide averages, and that continued in 2013-14. The “new case” volume in particular is significant there, with each division receiving about 400 new cases above the statewide average. The PFB closure and filing volumes remain reasonably consistent, and the year-end pending petition inventory remains consistent with statewide averages. These measures support the conclusion that District ORL dockets are in equilibrium as incoming litigation and closure rates are significantly similar.

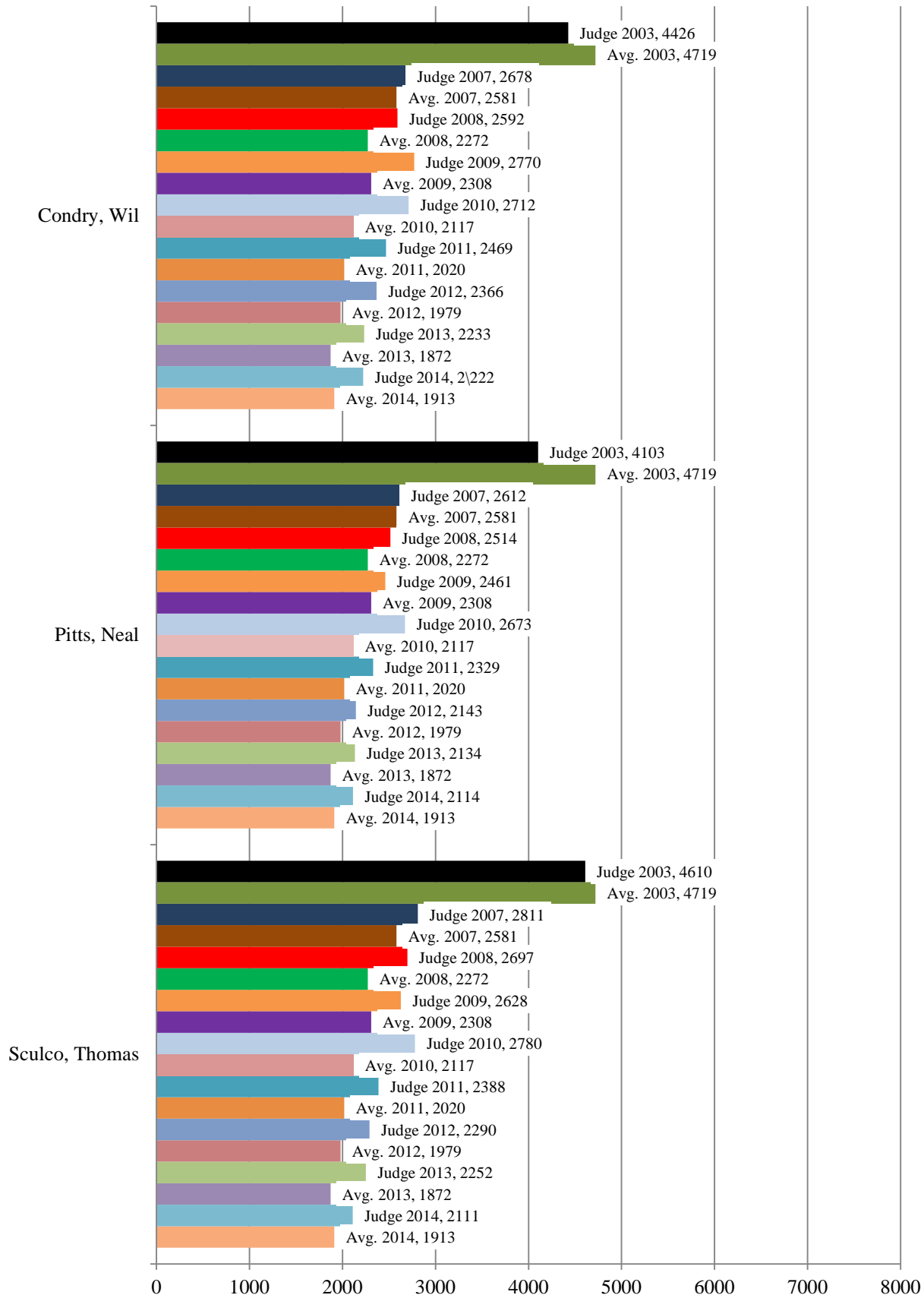
Trial order volumes in District ORL remain higher than the statewide average in 2013-14, which is consistent with trial volumes in recent years. Despite these significant volumes, the time to trial, time to mediation and time to final order performance in District ORL was within the statutory parameters in each of the three Orlando divisions.

Judge Condry volunteers, and is on the Board of Friends of 440 Scholarship Fund, an educational scholarship organization. He is Vice President of Selections for the Scholarship Fund and the 2013 Richard Sadow Award winner.

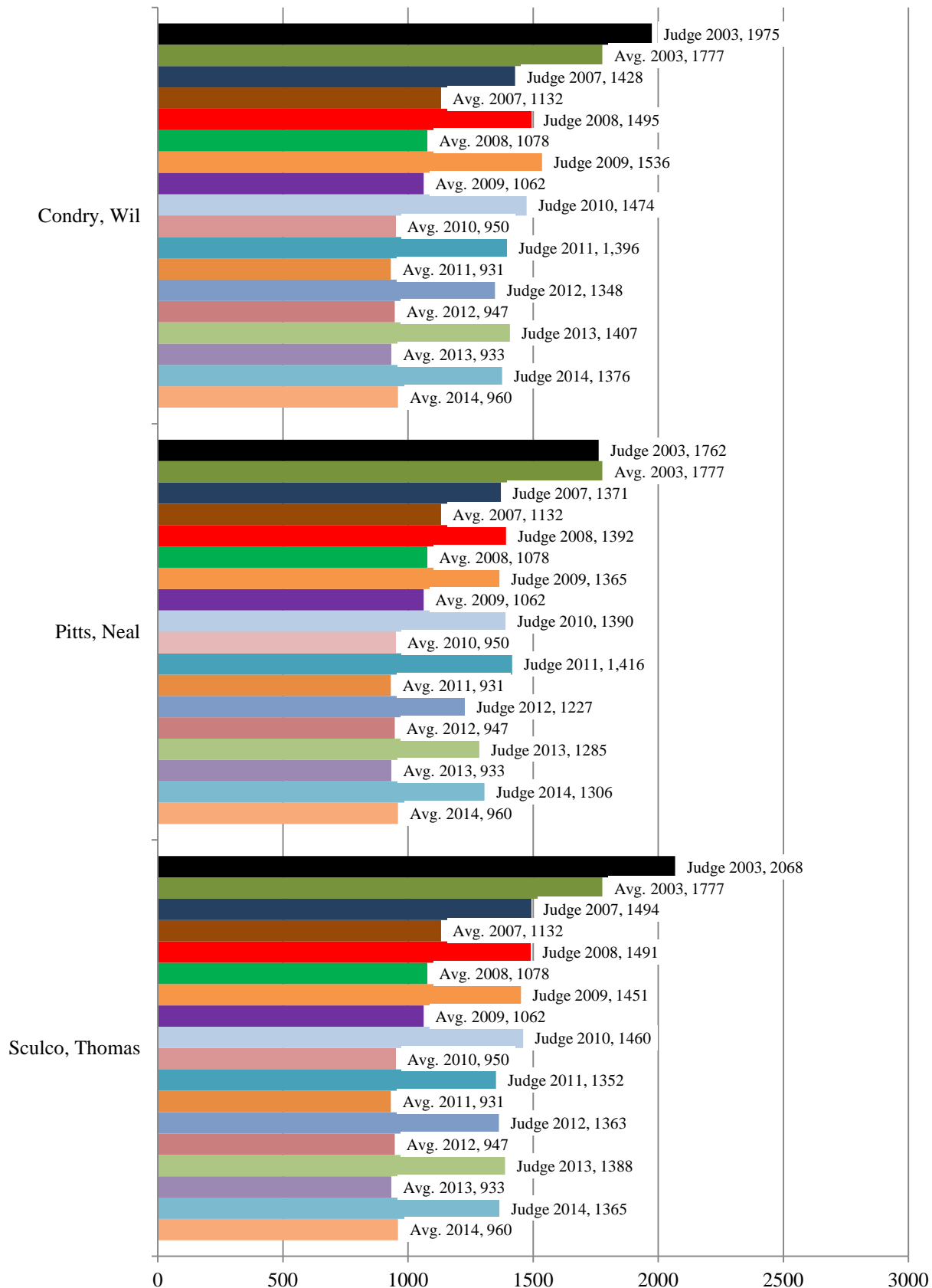
Judge Sculco teaches Judicial Externship at the Florida Agricultural and Mechanical University (FAMU) Law School.



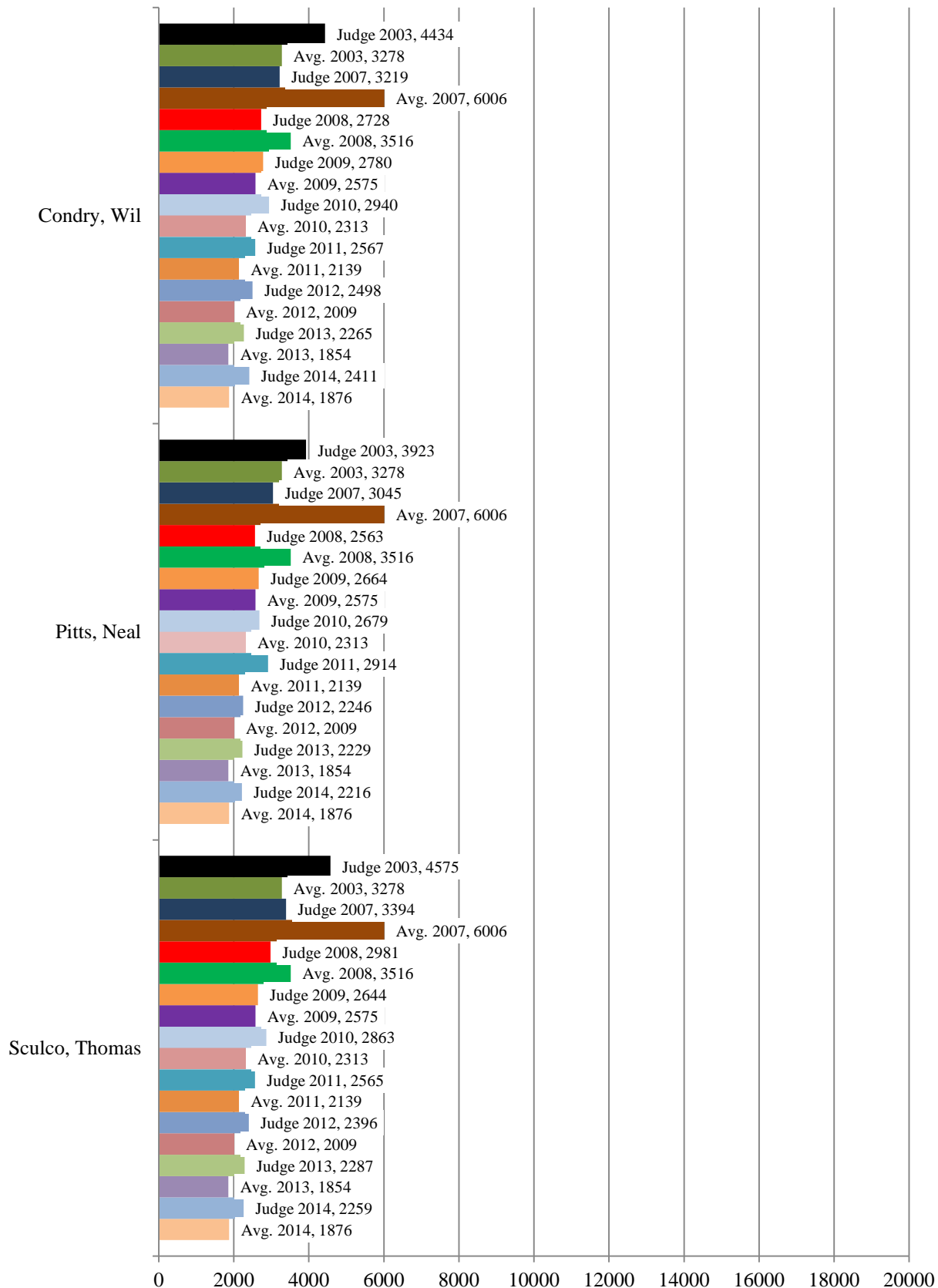
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



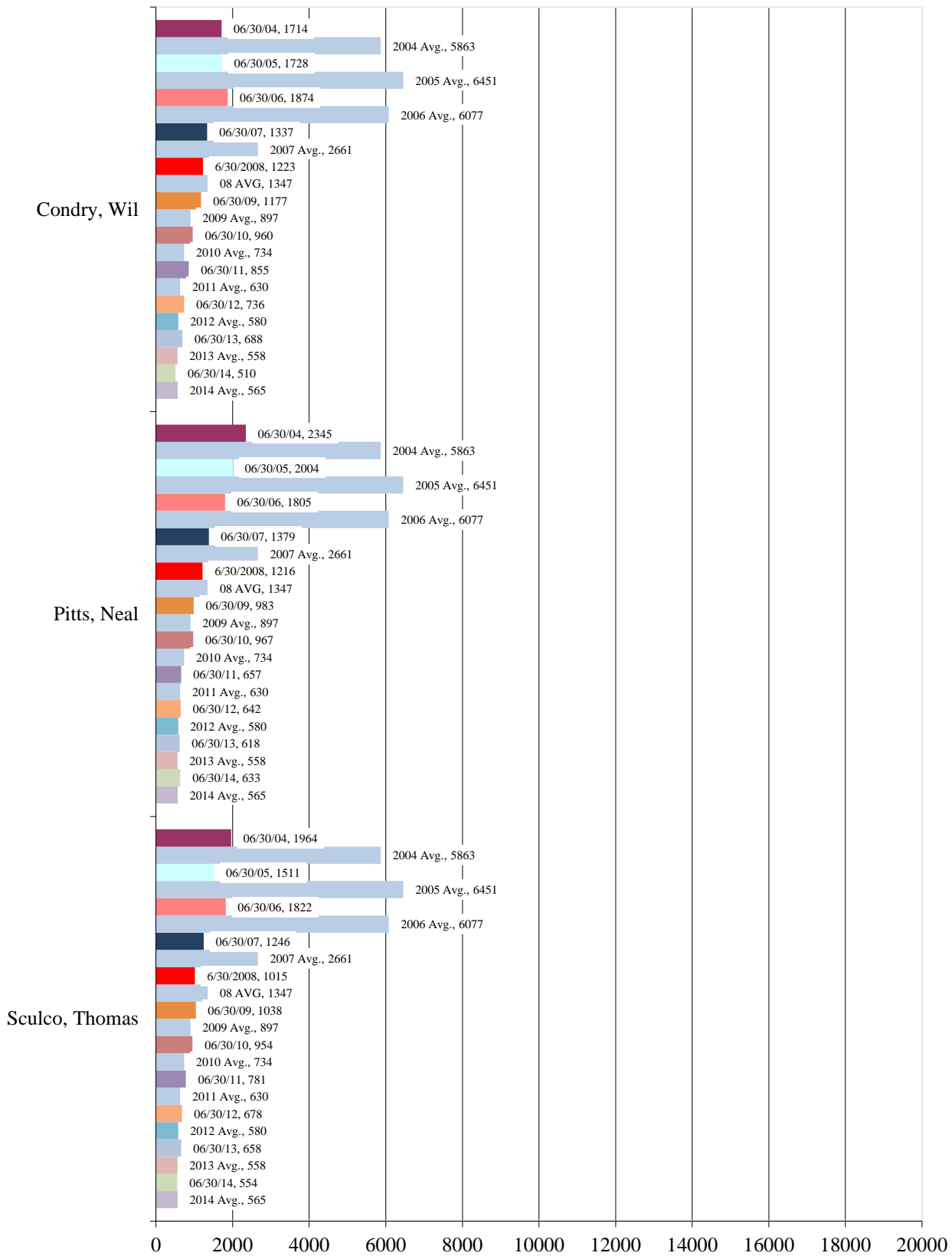
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



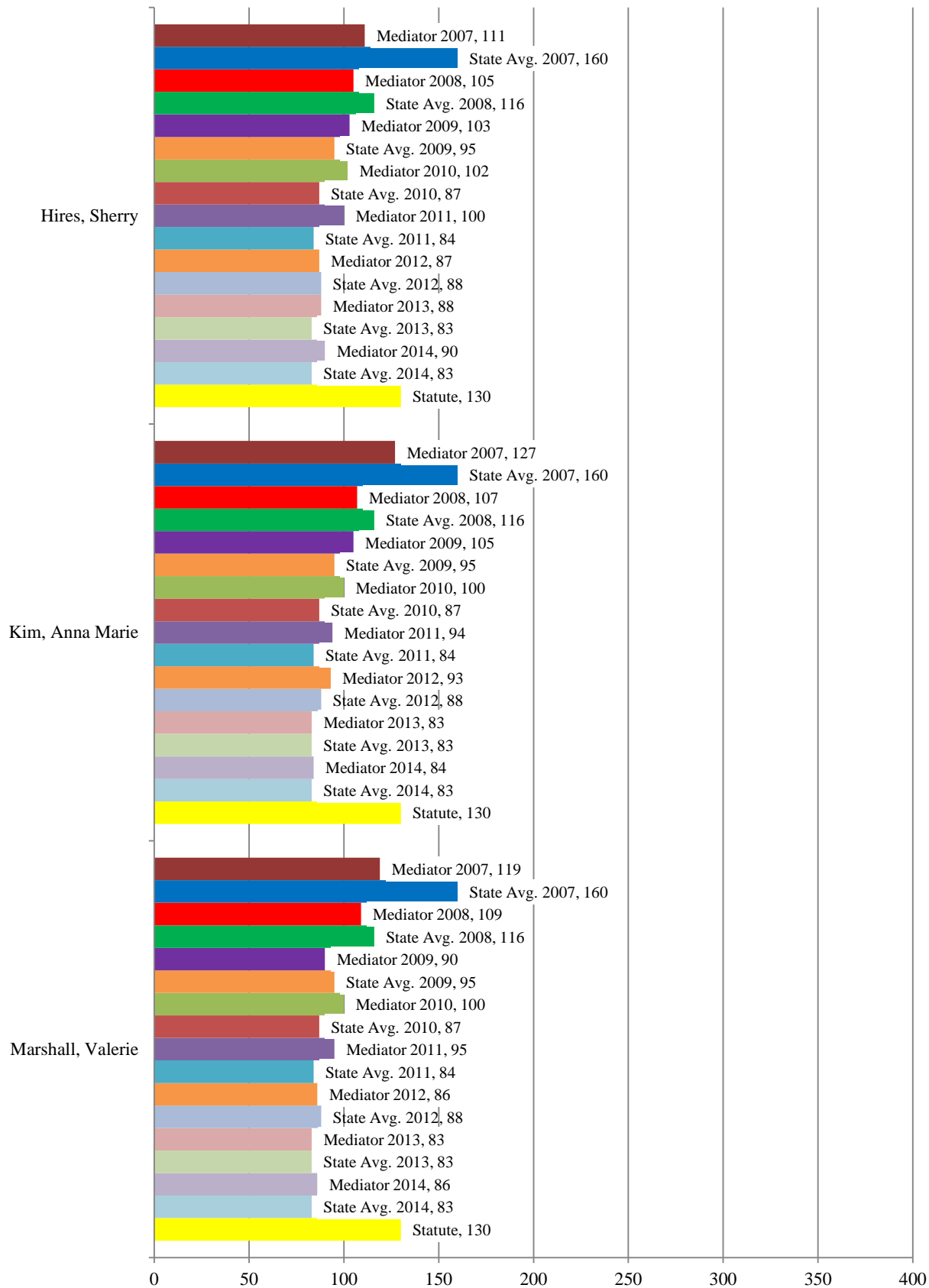
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



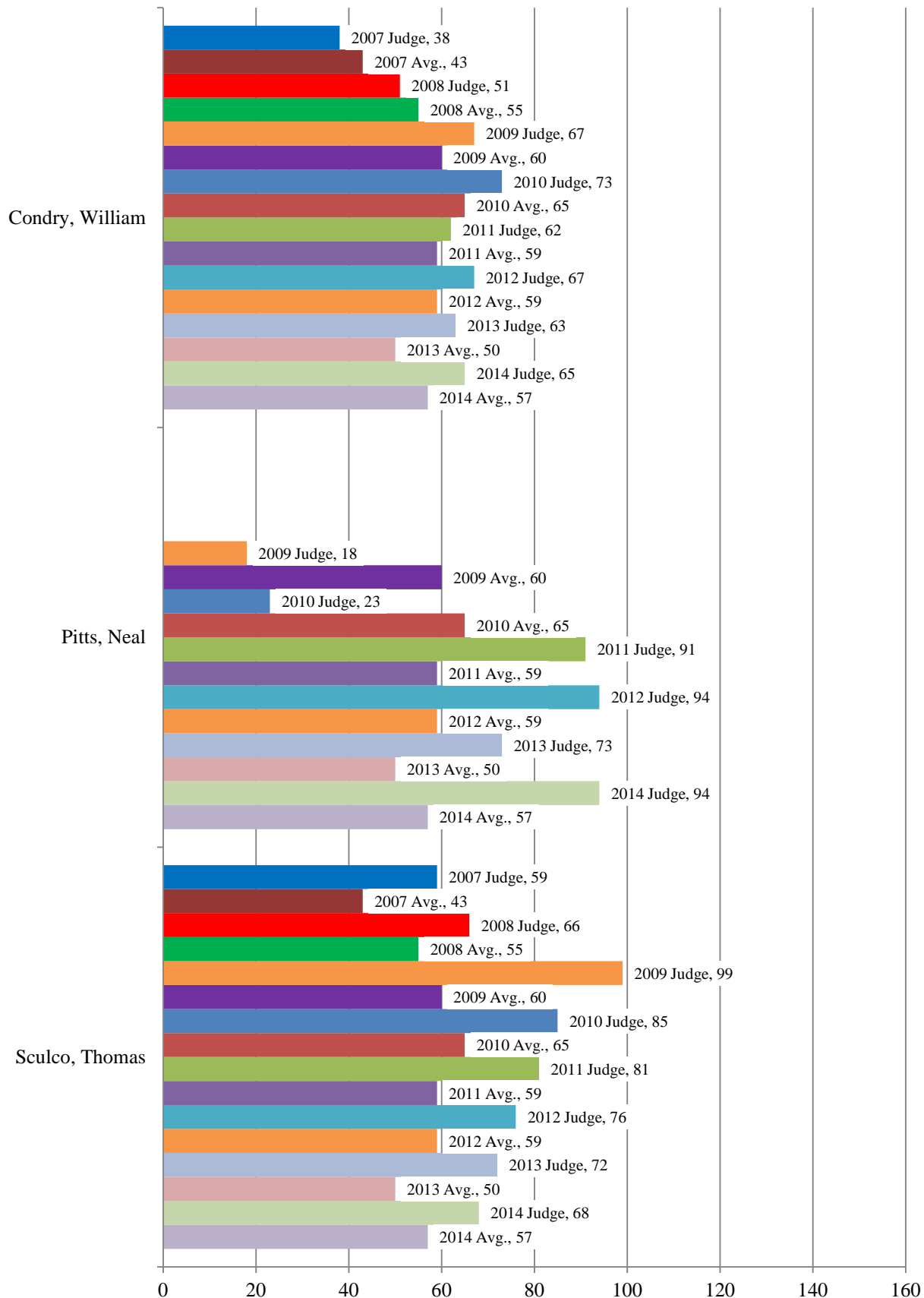
The following depicts the inventory of pending PFBs in this District and the statewide average between 2003-04 and 2013-14. The identification and values for each year are in each bar label.



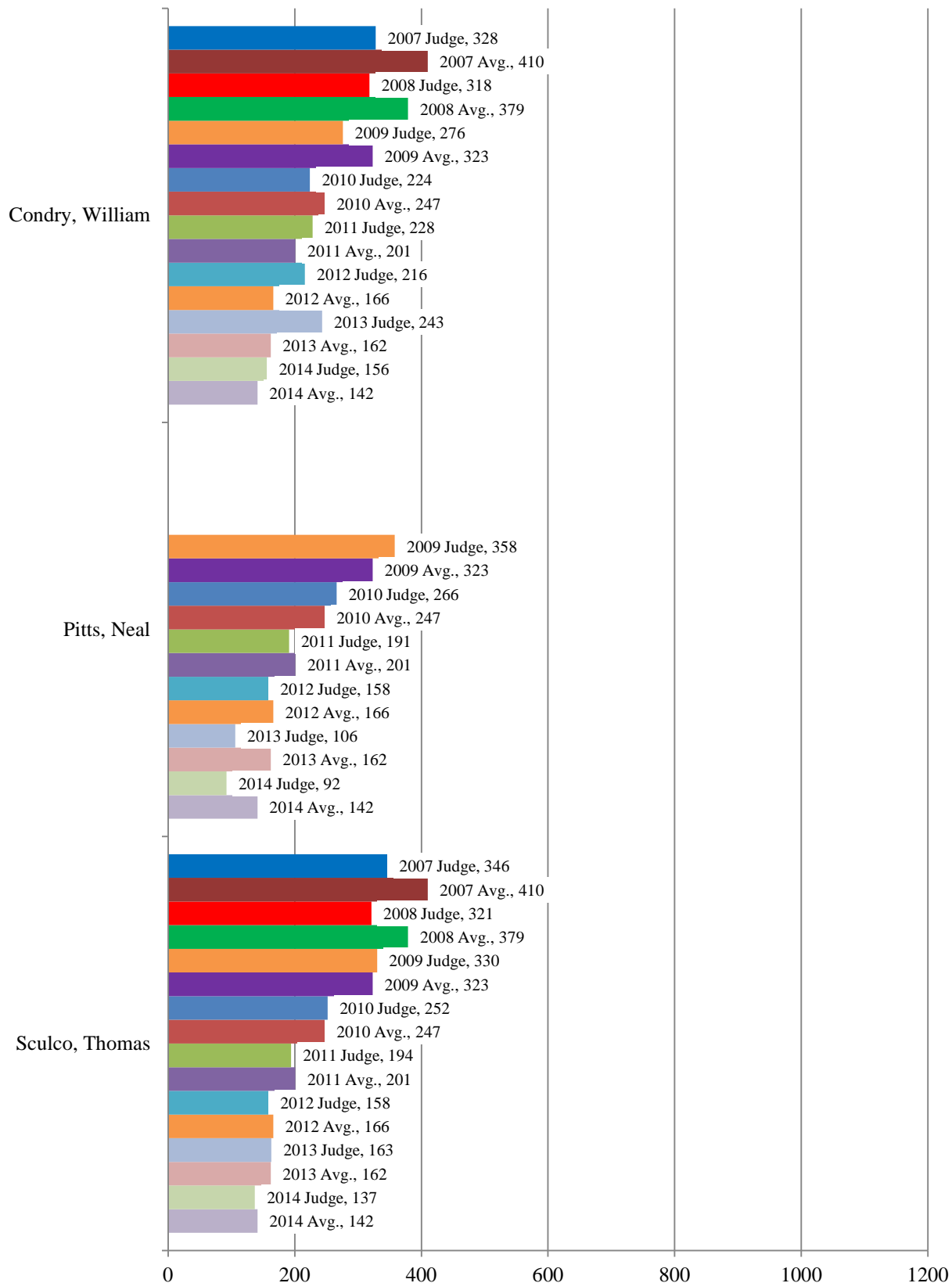
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



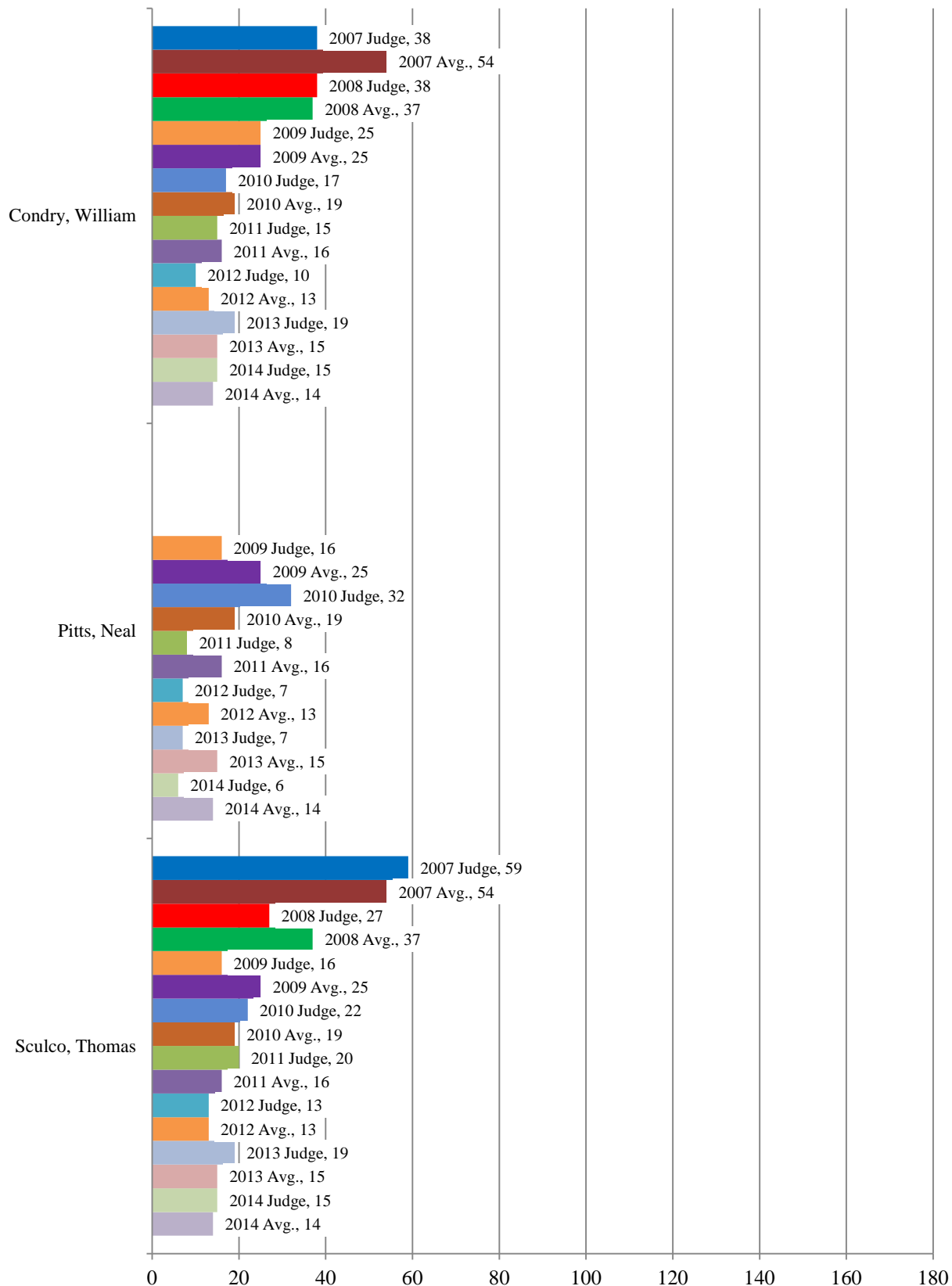
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



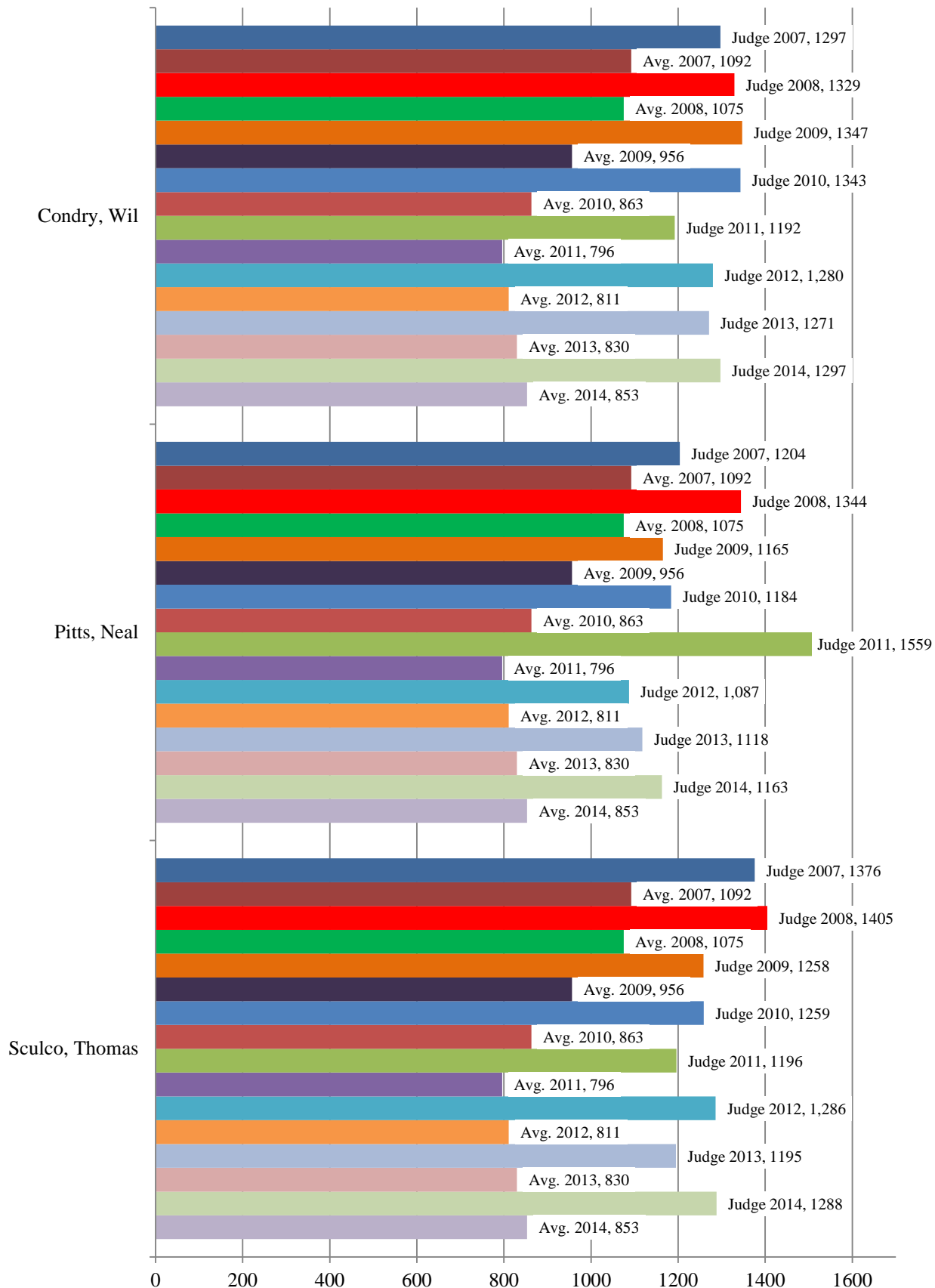
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



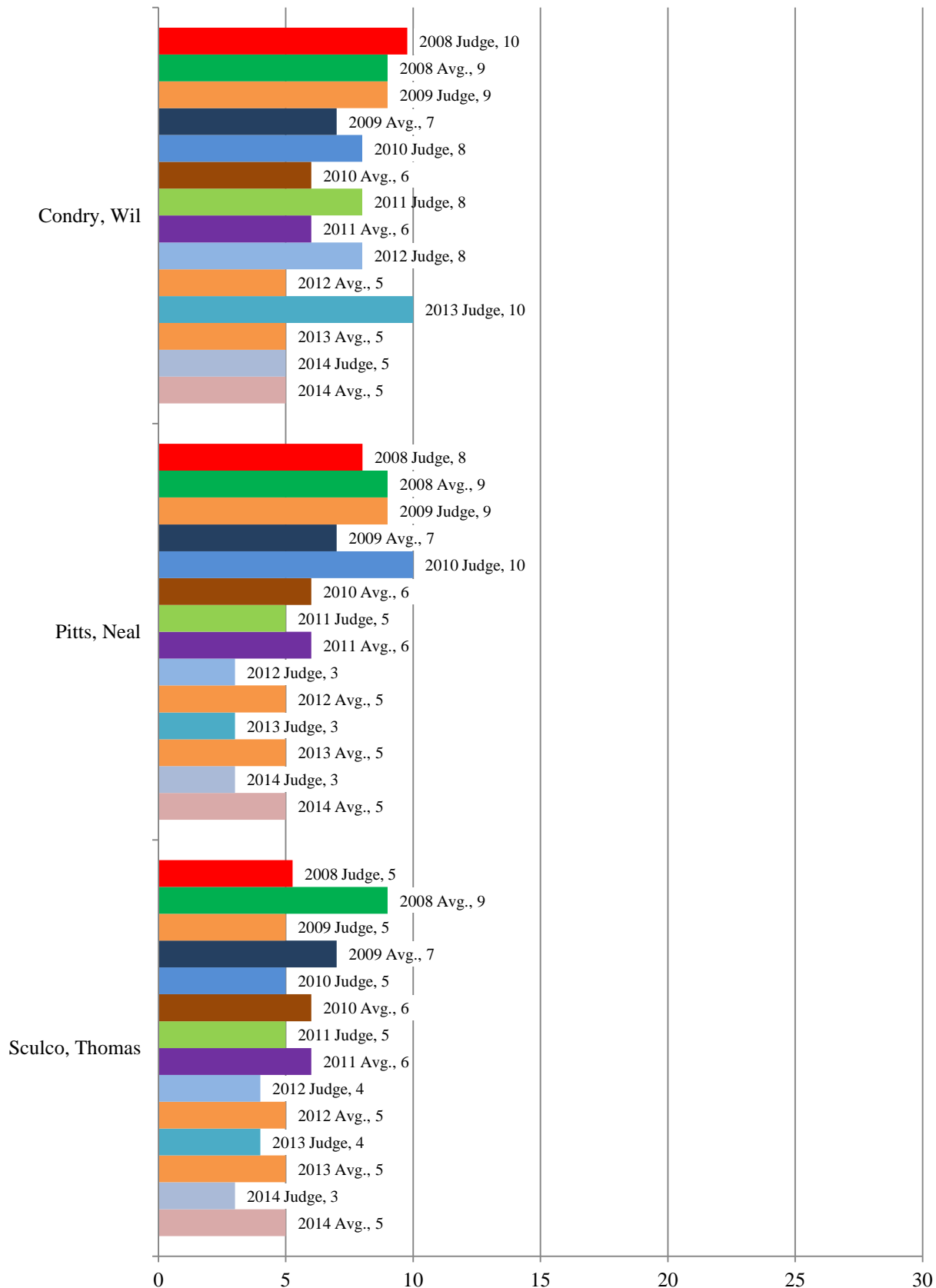
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



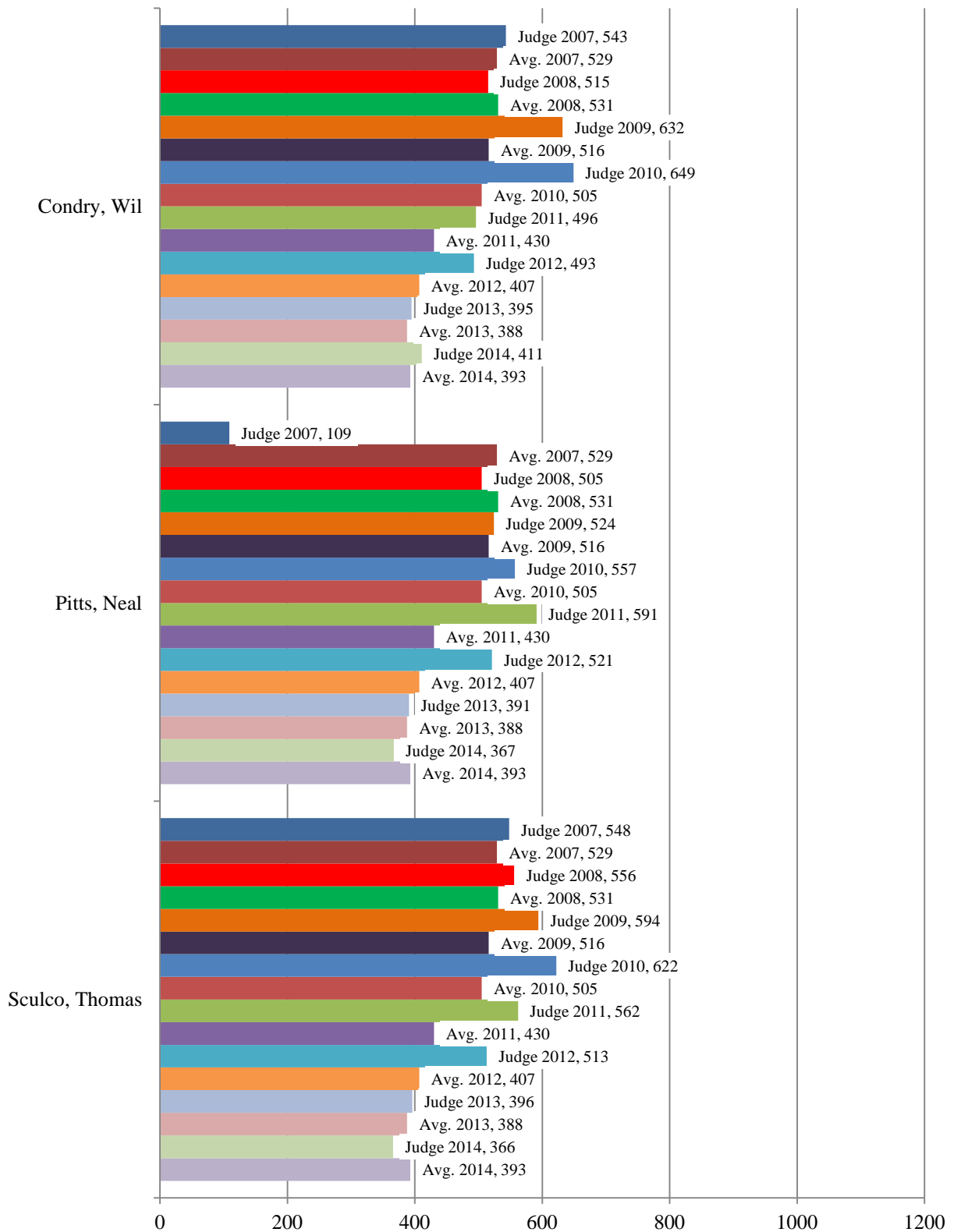
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



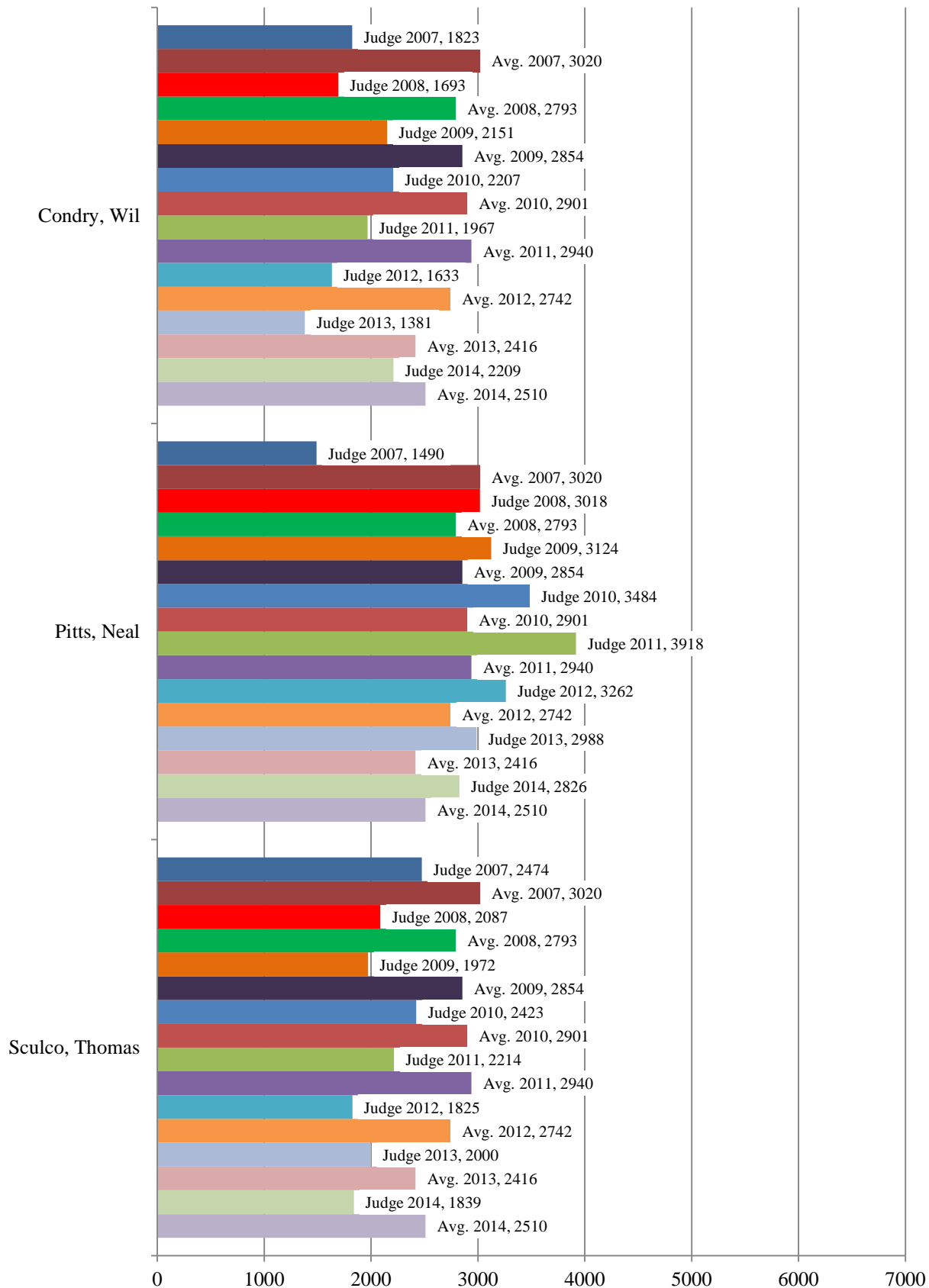
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



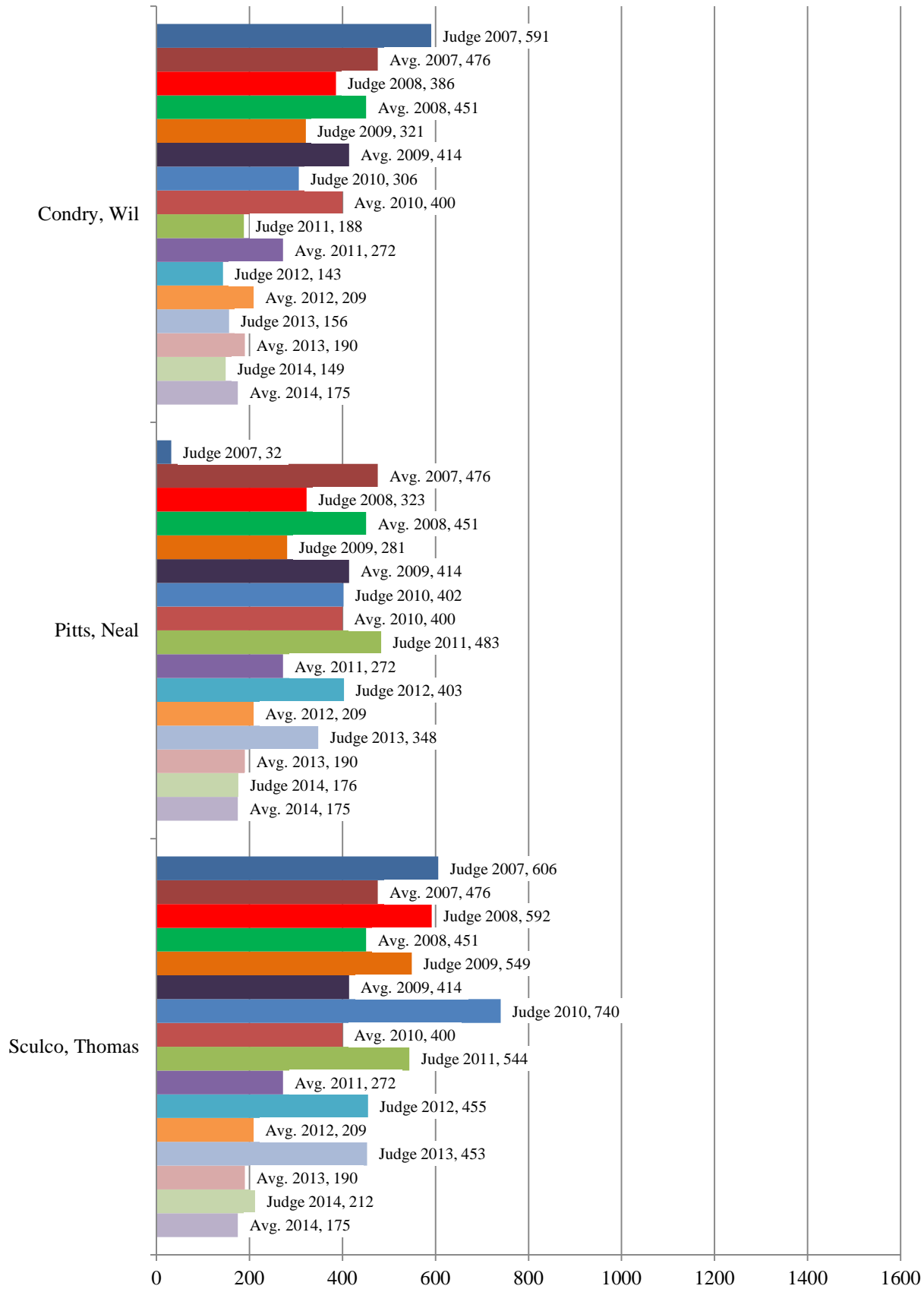
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



Appendix “10” District PMC (JCC Roesch):

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

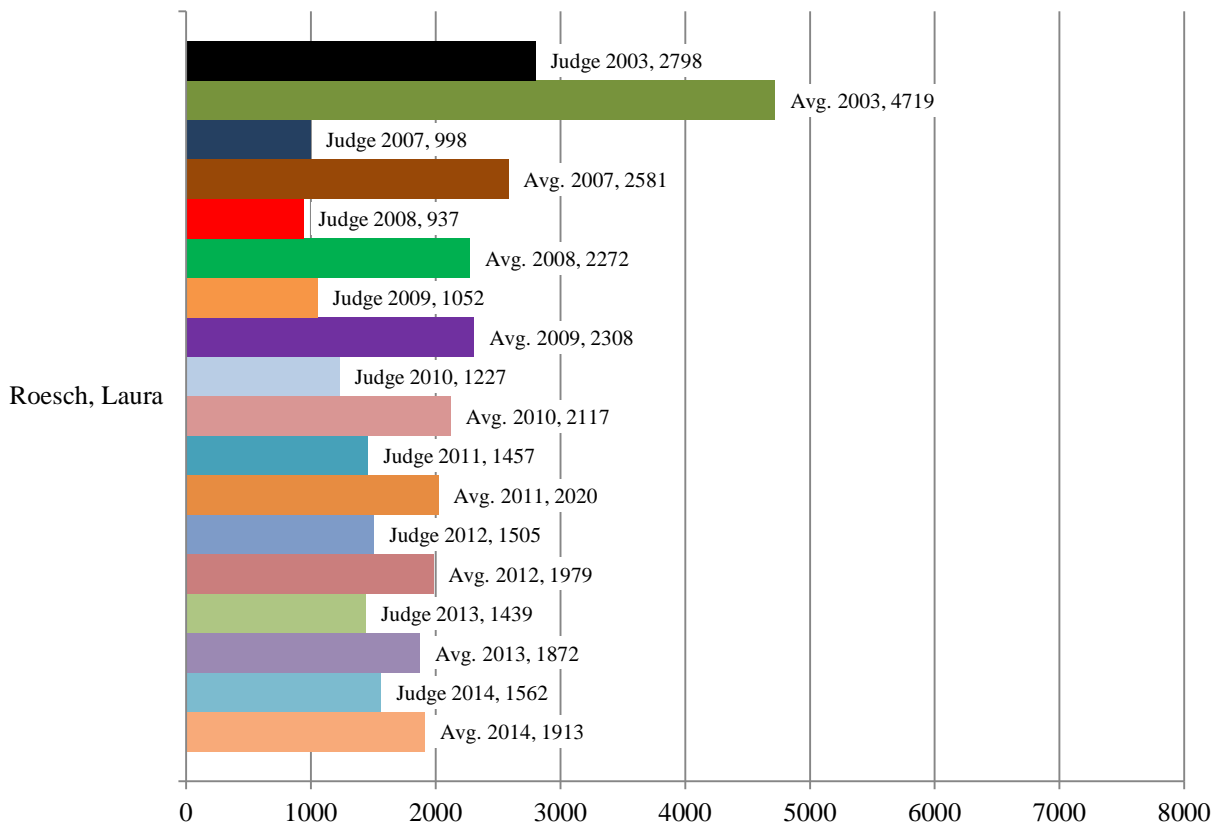
District PMC is one of the largest geographic Districts in the state. While most parties will usually agree to travel to the District office, there are occasions when trials are held remotely, by Judge Roesch, throughout this very large geographic area. The population center is Panama City, which is a significant travel from either of the next closest Districts, Tallahassee (98 miles, 126 minute drive-time) and Pensacola (103 miles, 150 minute drive-time).

In PMC, the 2013-14 PFB and “new case” filing rates remained below the statewide averages, as did the trial volume. Judge Roesch has volunteered for the last five 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, and for the last four years, Judge Roesch has been assigned “new cases” in District FTL as part of the OJCC “out-of-District” Judge program. During the time 2011-12 time following Judge Terlizze departure in District MEL, Judge Roesch and district PMC was receiving all Monroe County assignments. Following the transfer of Judge Remsnyder to District MEL, Monroe County was transferred to District PSL and Judge McAliley. The Panama City team is consistently eager to assist elsewhere in the state. The contributions of this district in regards to the out-of-district reassignment program and the various needs for coverage cannot be overstated.

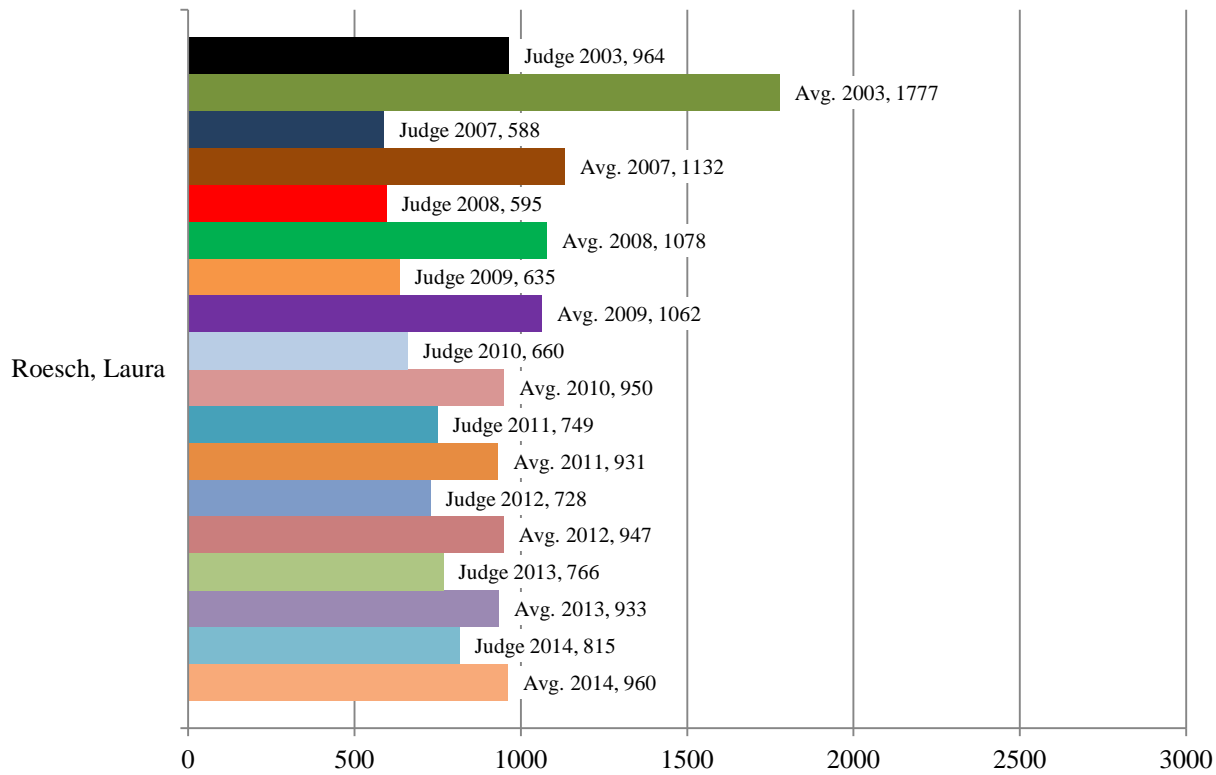
Average time to mediation, to trial, and from trial, to final order, are all within the statutory mandates in District PMC, and have been for some time. The average time between filing of a settlement motion and entry of the resulting order is also within the statewide average.

Judge Roesch is a mentor with the Bay Education Foundation’s “Take Stock in Children” program. This program is intended to help develop a “college bound” attitude, personal growth and development, and support academic success. Judge Roesch was a panel member at the 2014 Mid-Winter Workers’ Compensation Update in Tallahassee, in February 2014, speaking on the topic of “Hot Litigation Issues before OJCC Tribunals: Perspectives from Trial Judges.” She also participated at the NAWCJ Judiciary College in Orlando in August 2014, speaking on two panels, “Evidence for Adjudicators” and “From Advocate to Adjudicator.”

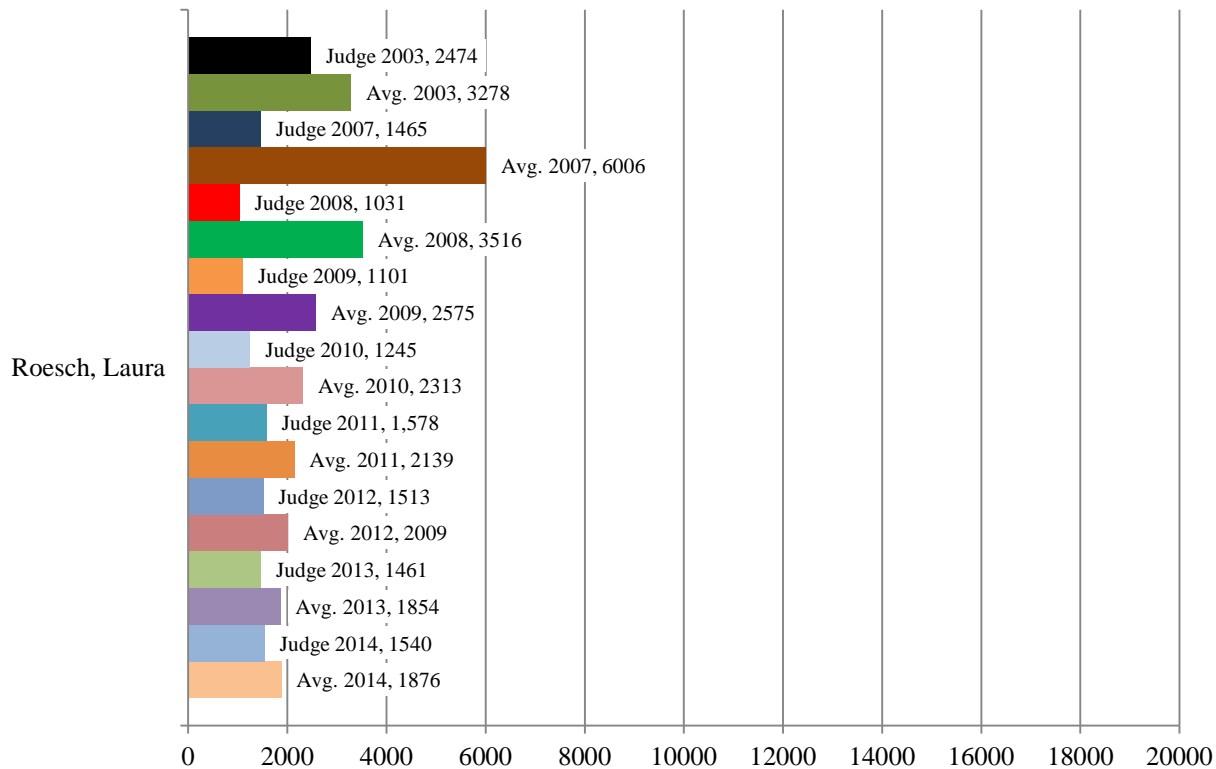
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



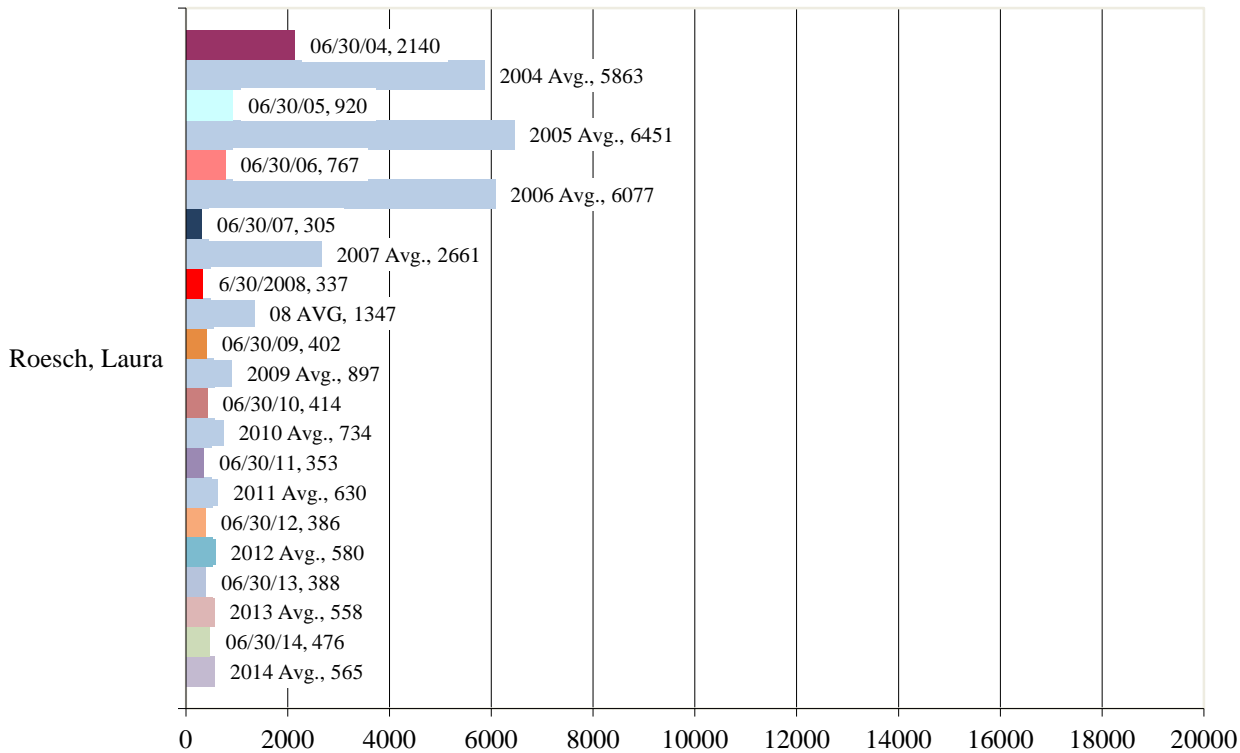
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



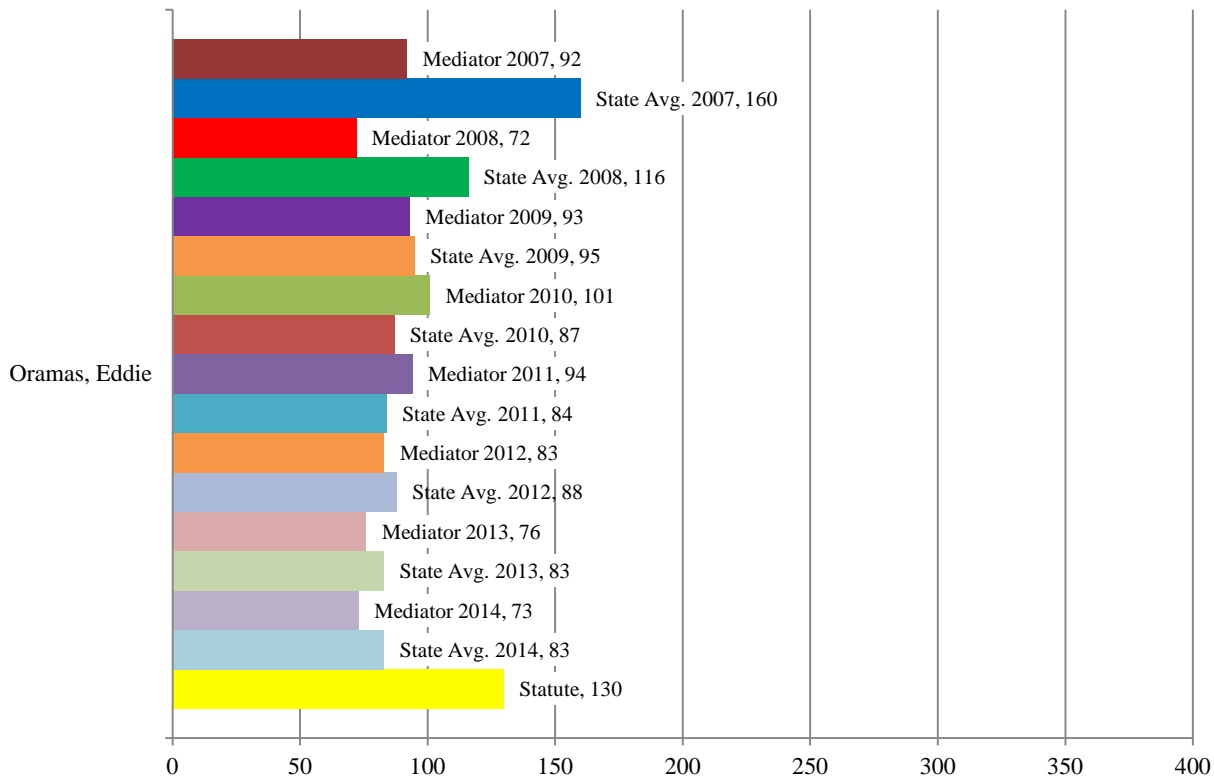
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



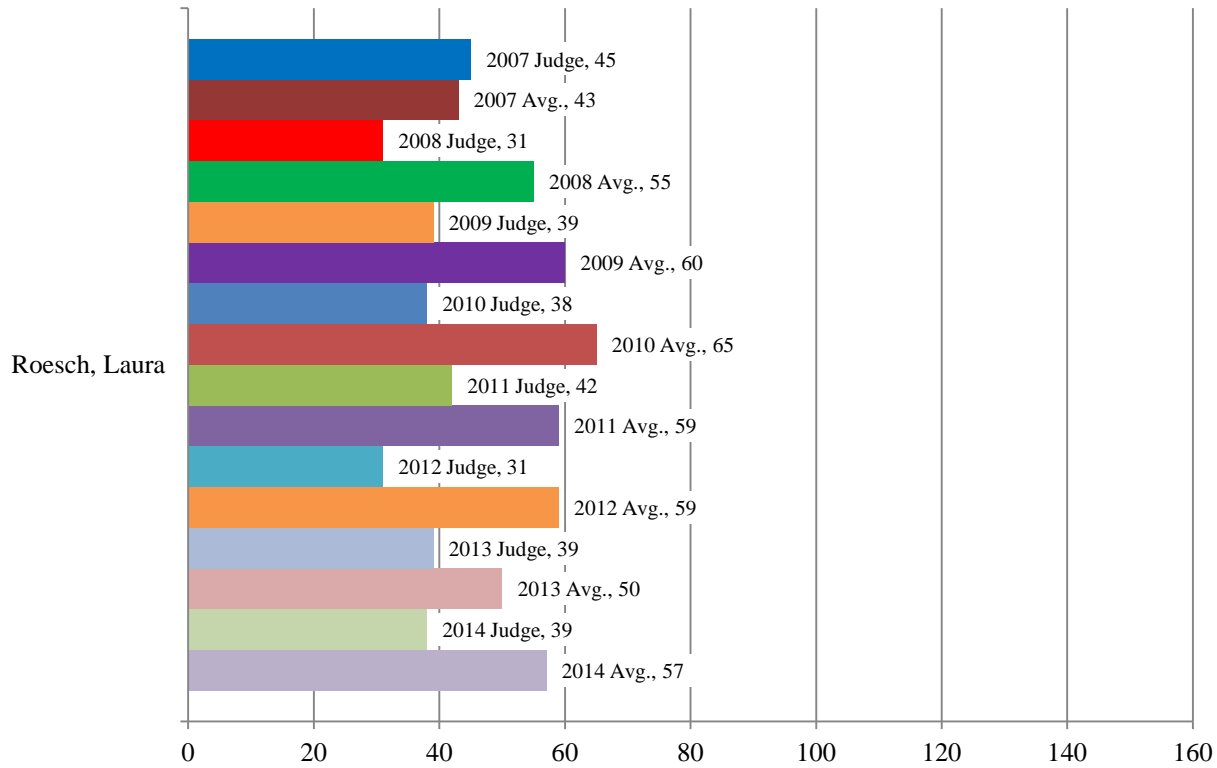
The following depicts the inventory of pending PFBs in this District and the statewide average between 2003-04 and 2013-14. The identification and values for each year are in each bar label.



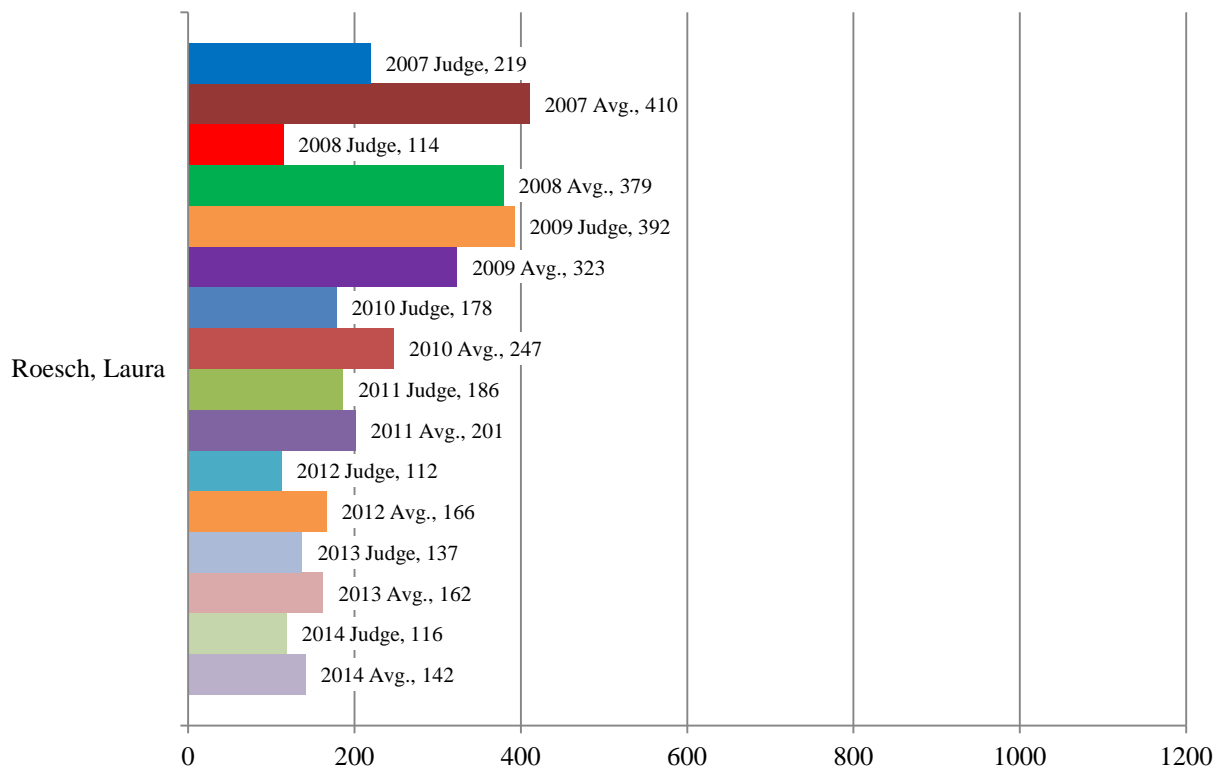
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



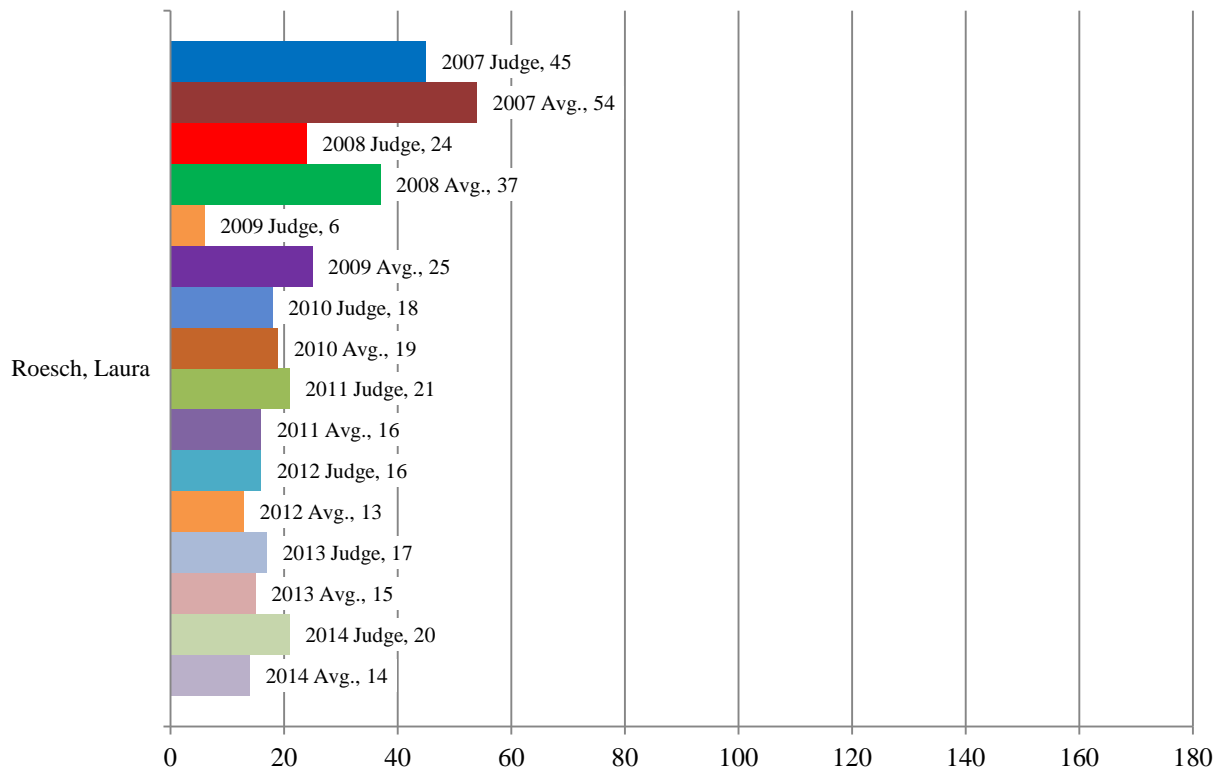
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



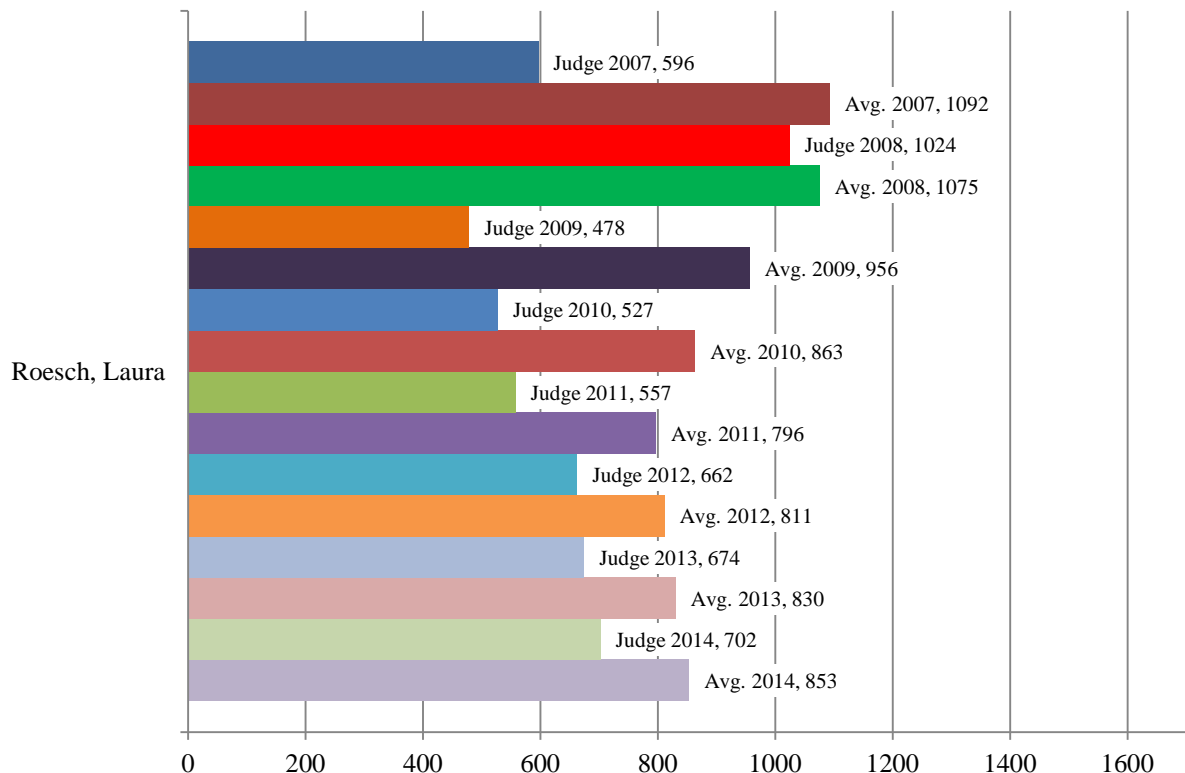
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



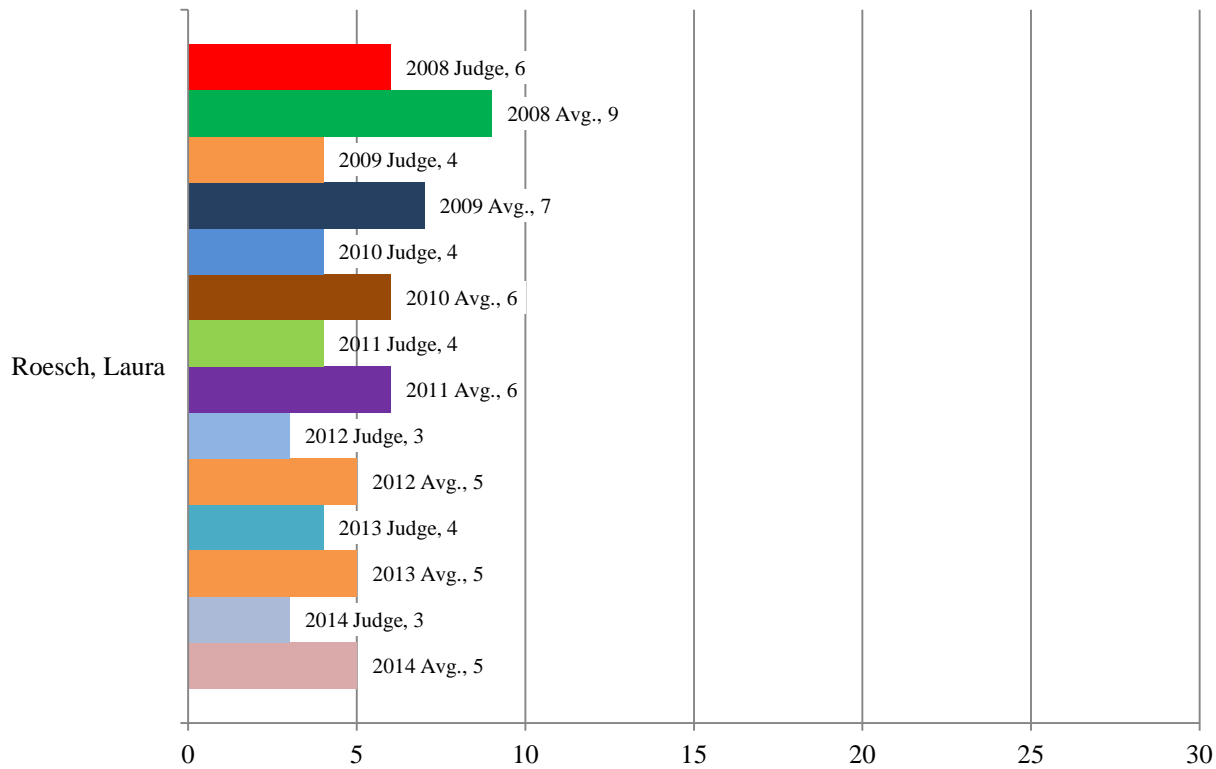
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



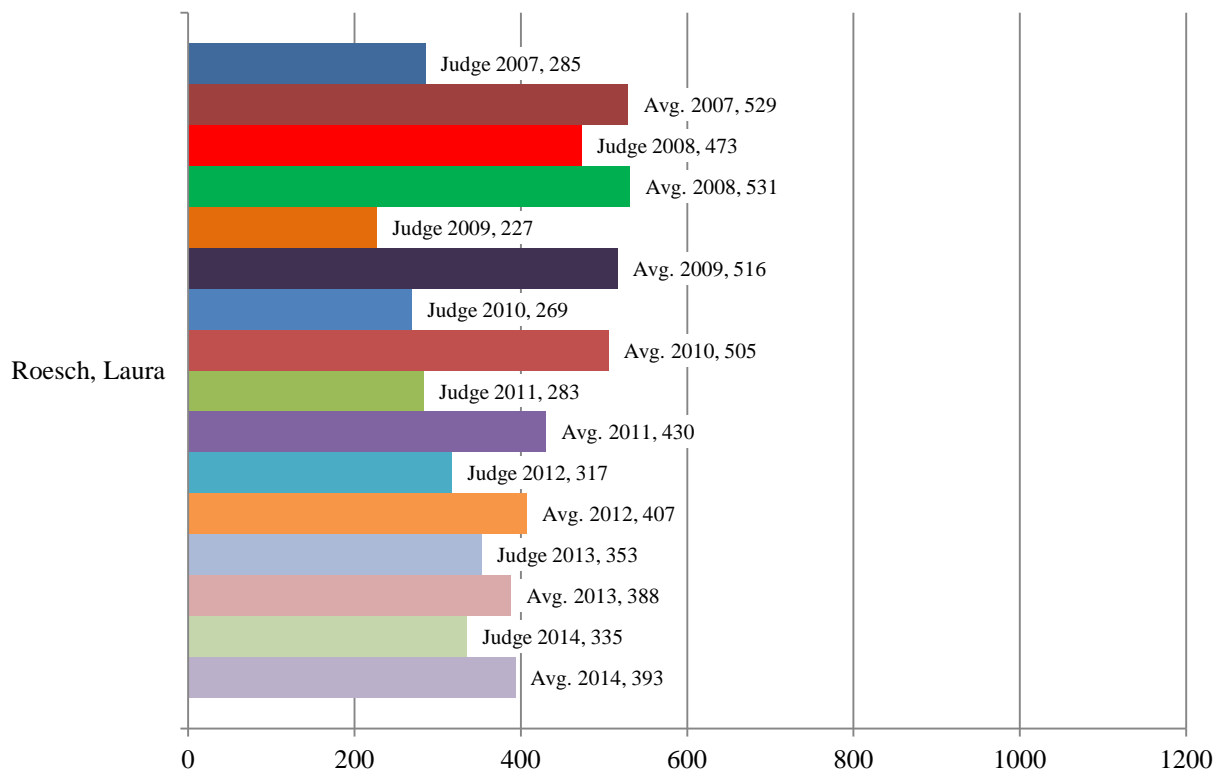
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



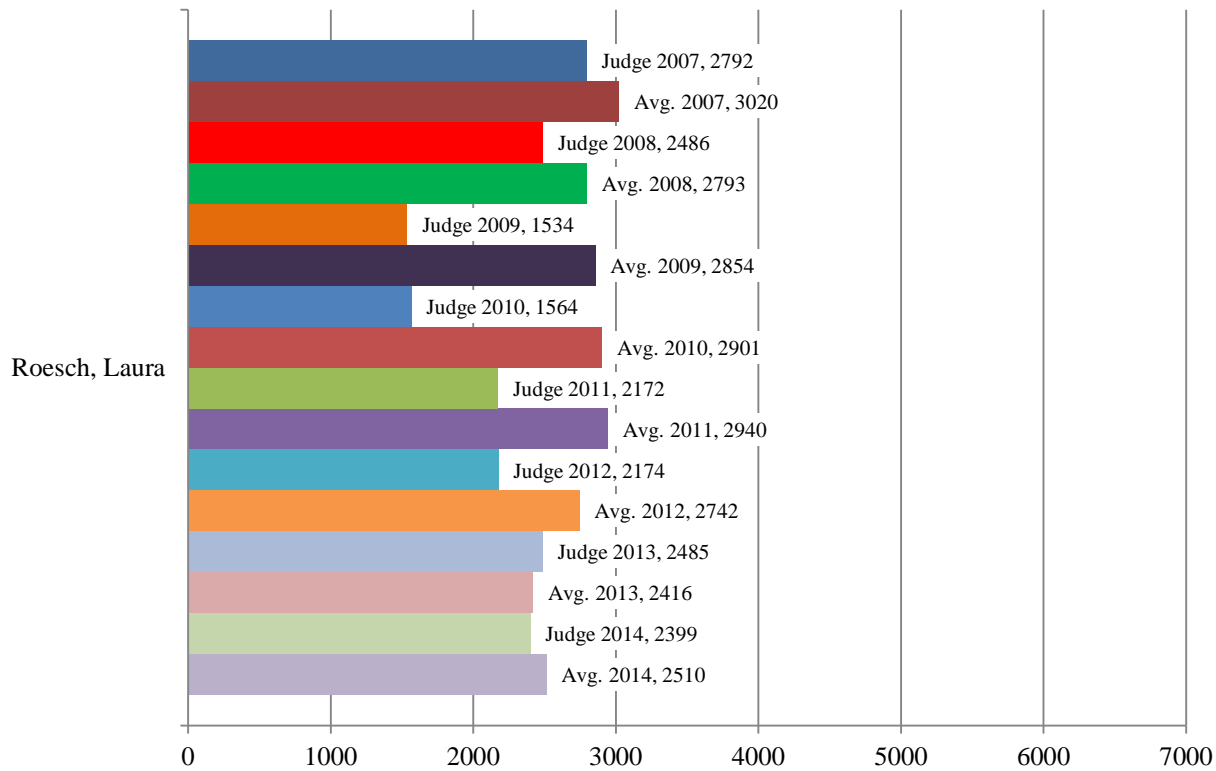
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



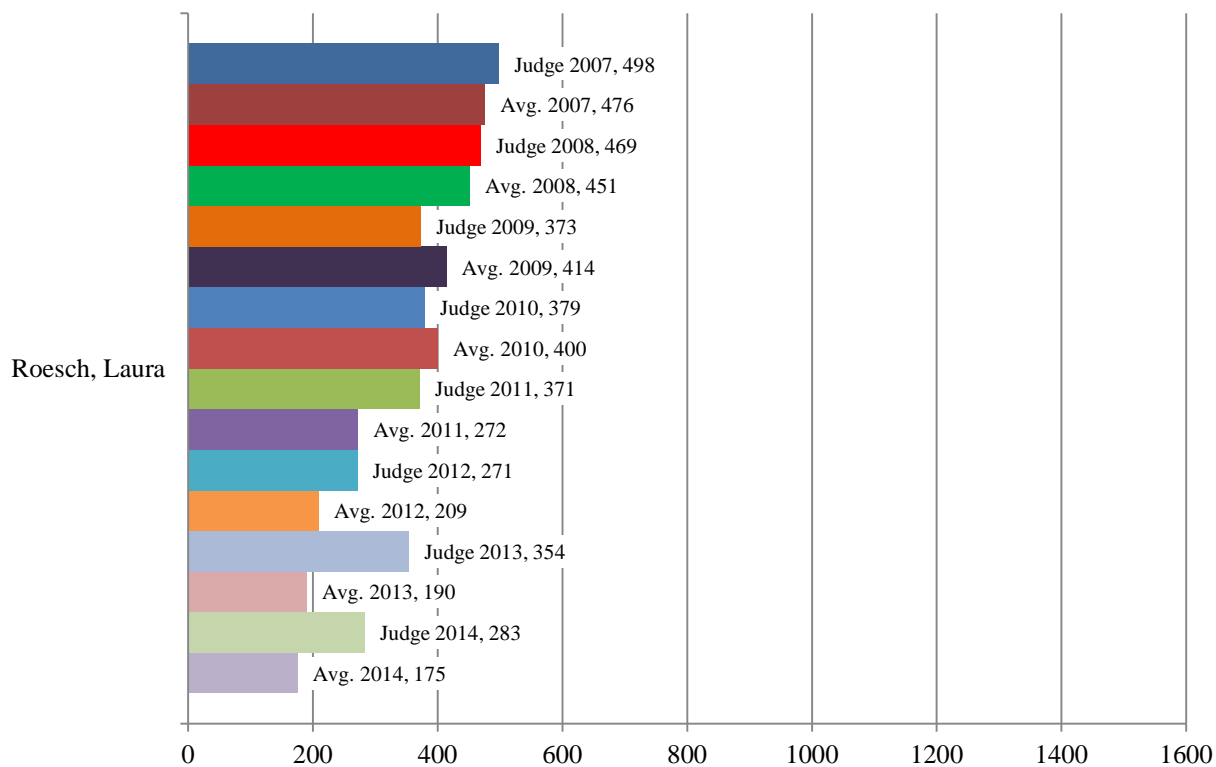
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



Appendix “11” District PNS (JCC Winn):

District PNS includes Escambia, Santa Rosa and Okaloosa counties.

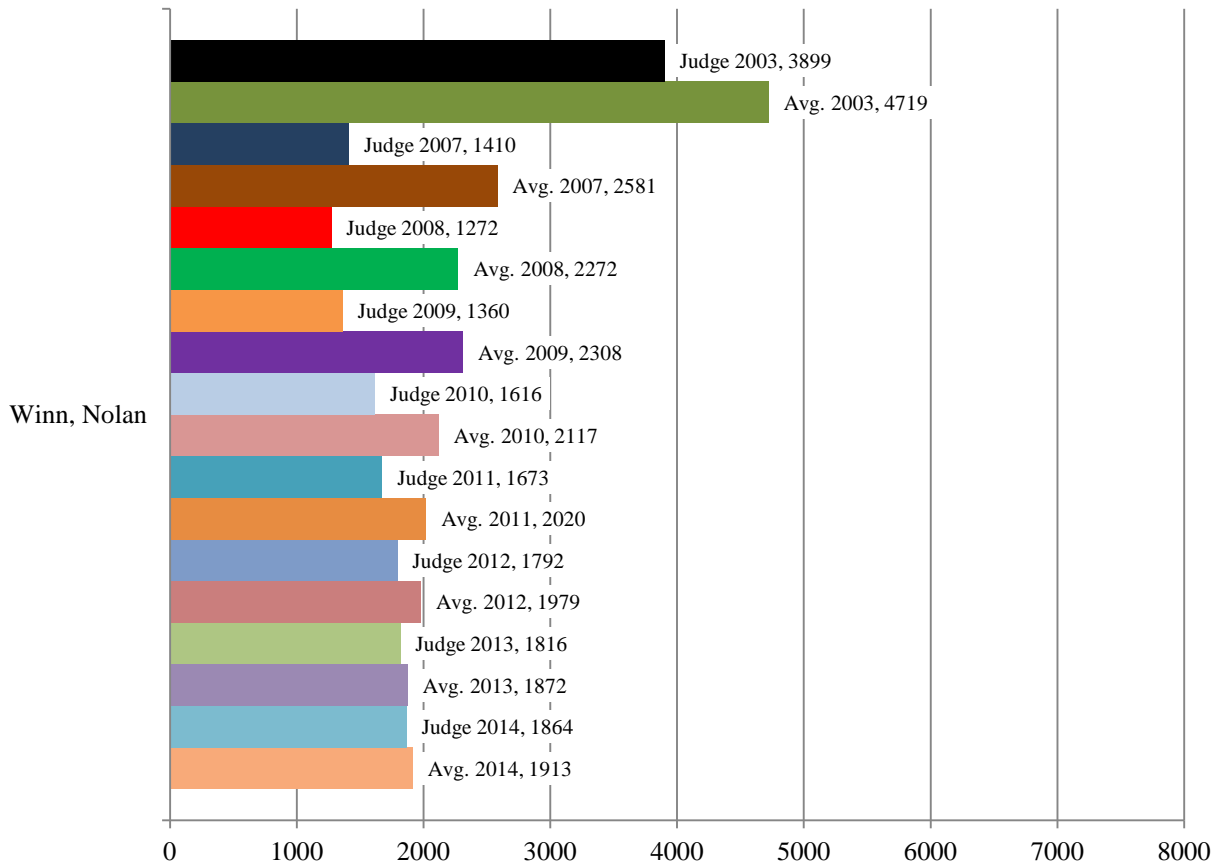
In 2013-14, the PFB volumes in District PNS were again close to the statewide average; this has been consistent in recent years. The PNS volume of “new cases” has been notably above the statewide average in recent years, and the significance of that increased markedly in 2013-14. The congruity between volumes of Petitions filed and closed, as well as the year-end pending petition inventories in recent years support the conclusion that the docket in District PNS is in equilibrium.

District PNS remains within the statutory parameters for timeliness, regarding time from PFB to mediation, PFB to trial, and trial to order. This has been a hallmark of District PNS for the last three fiscal years. Trial volume in PNS was consistent with the statewide average in 2012-13 and 2013-14, an increase from the measures in 2009-10 and 2010-11. This likely illustrates Judge Winn’s receipt of “new case” assignments from District Ft. Lauderdale (FTL) for the last four fiscal years, as part of the OJCC “out-of-district” Judge program.

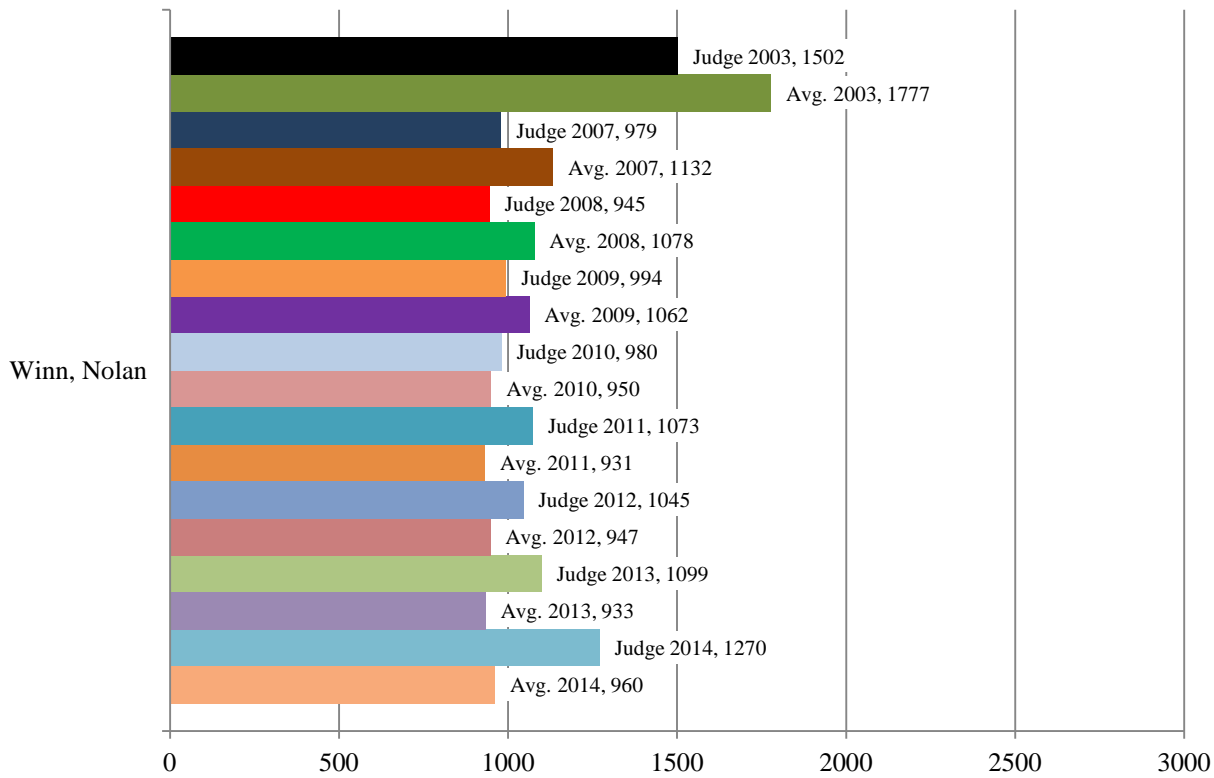
The volume of settlement orders is close to the statewide average, while the time evidenced for processing those orders is well below the statewide average. The volume of “other orders” exceeds the statewide average notably, while the volume of “other hearings” is less than half the statewide average.

Judge Winn served as a lecturer on “Legal Ethics and Professionalism,” at the Florida Workers’ Advocate’s Annual Convention in Orlando in 2014.

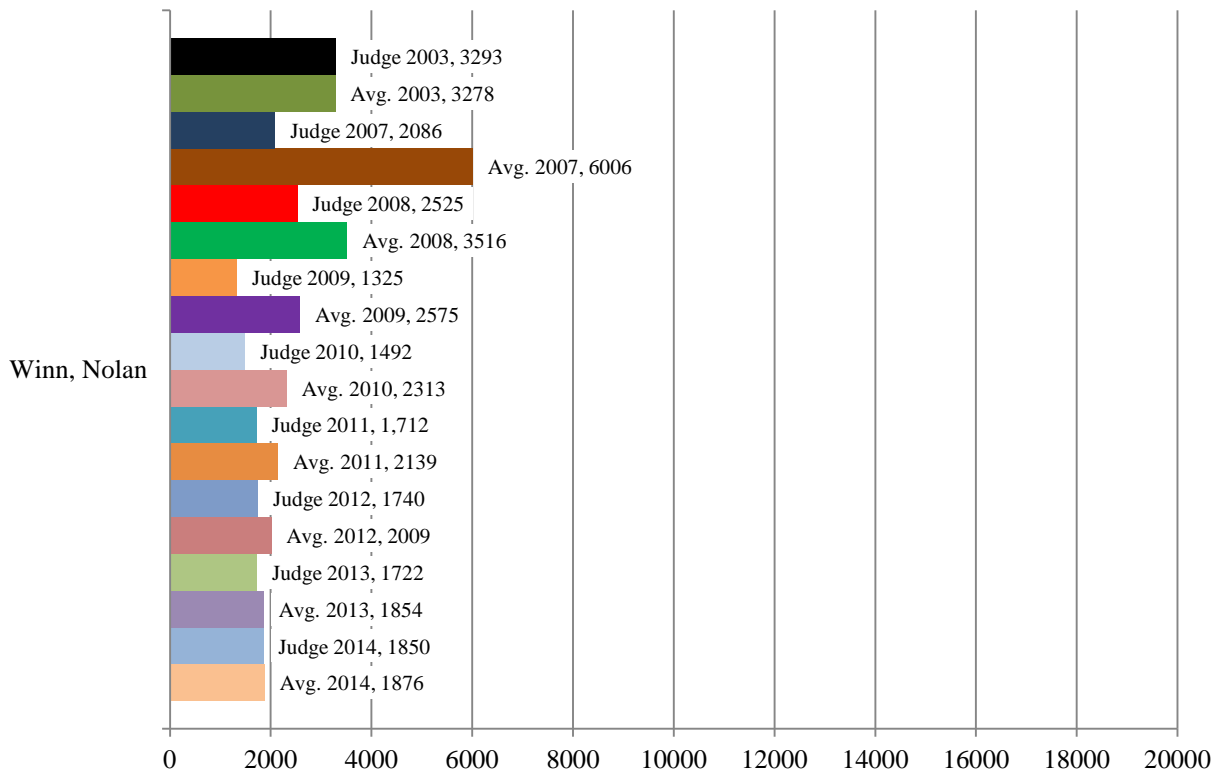
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



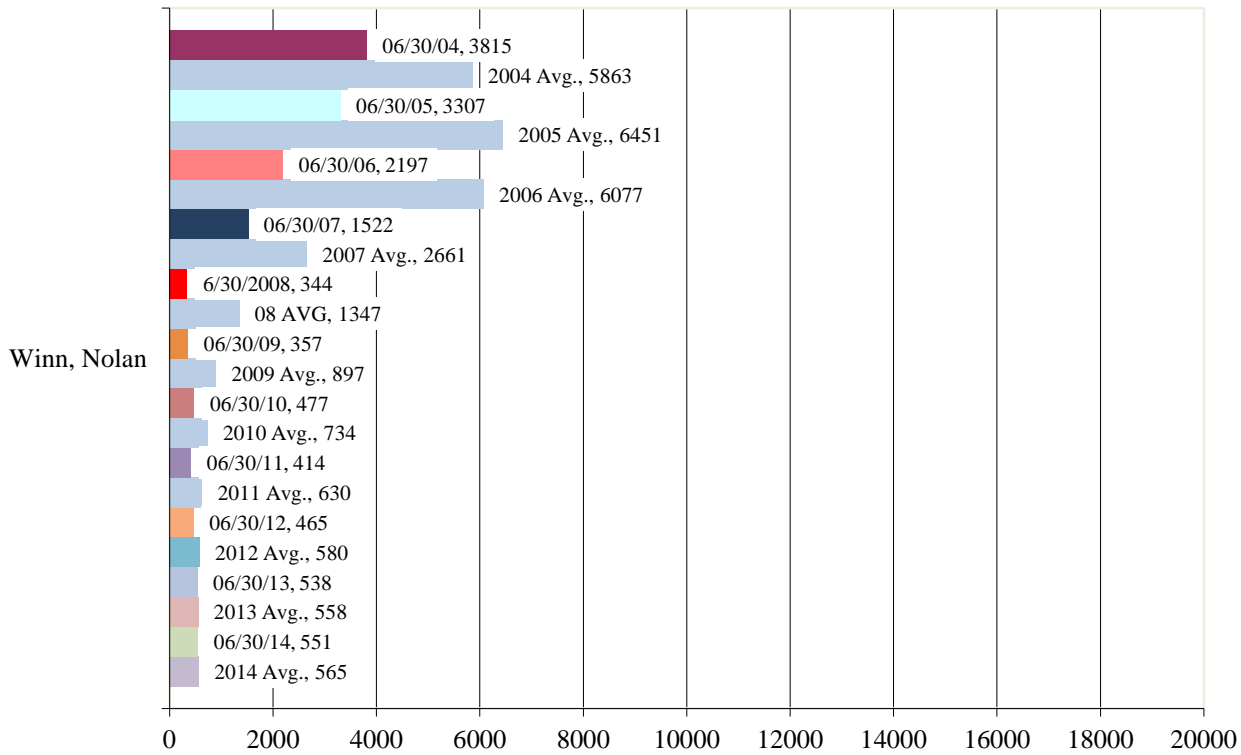
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



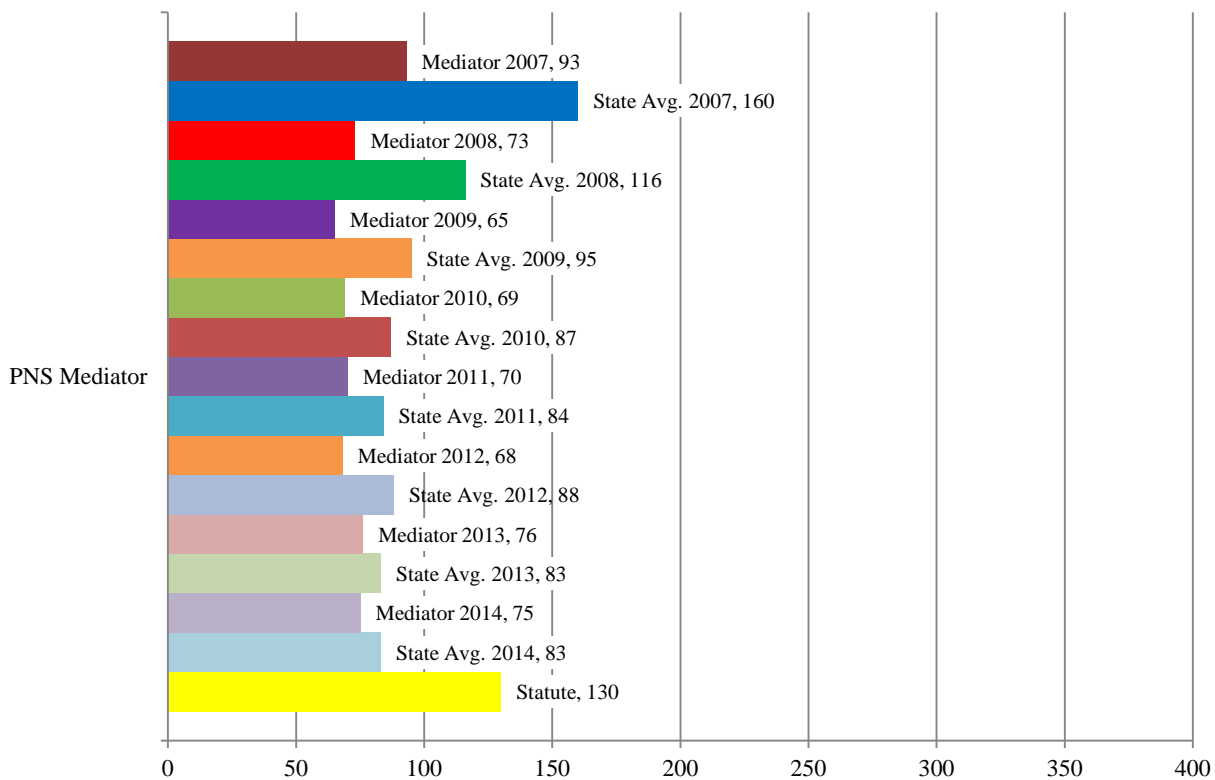
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



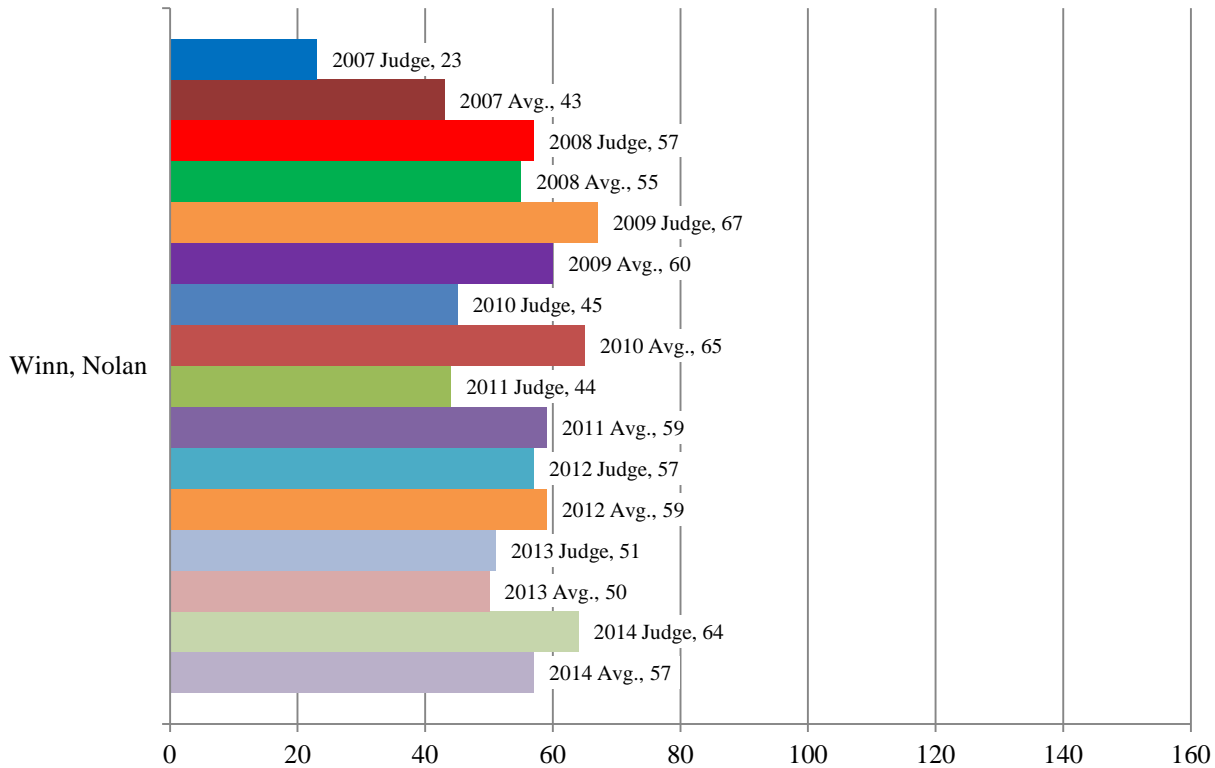
The following depicts the inventory of pending PFBs in this District and the statewide average between 2003-04 and 2013-14. The identification and values for each year are in each bar label.



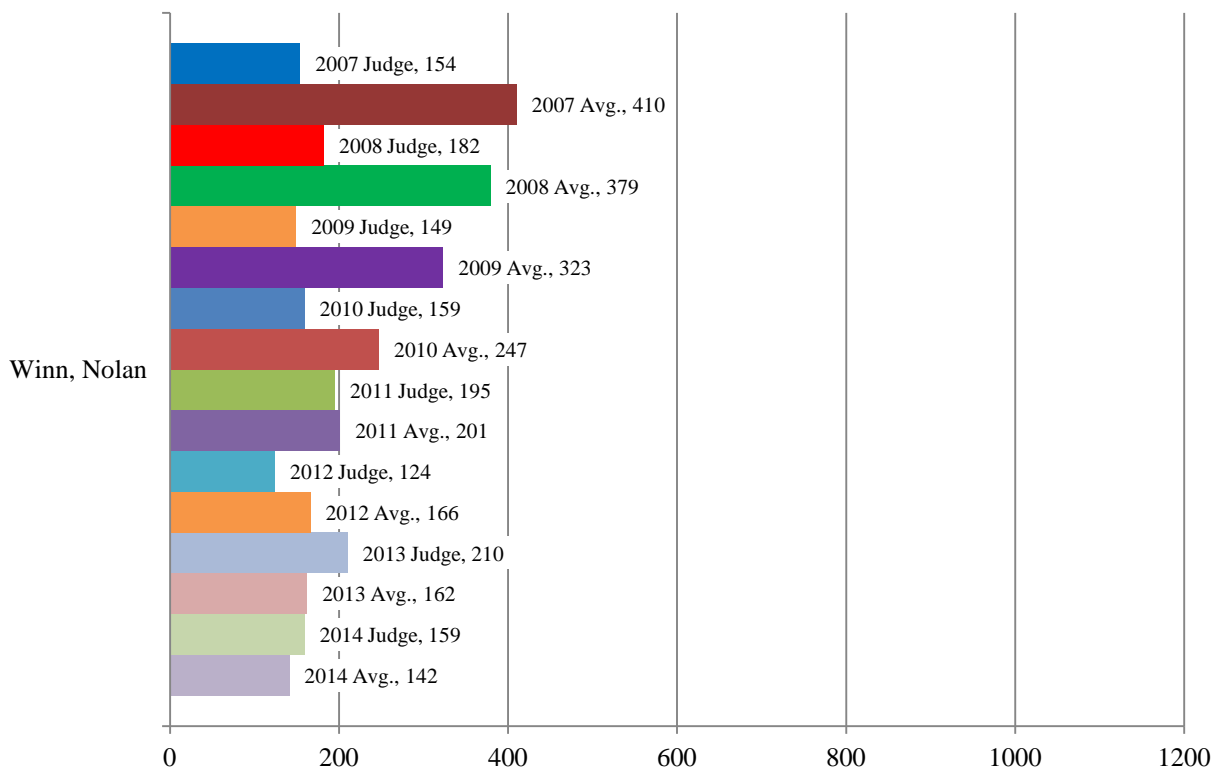
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



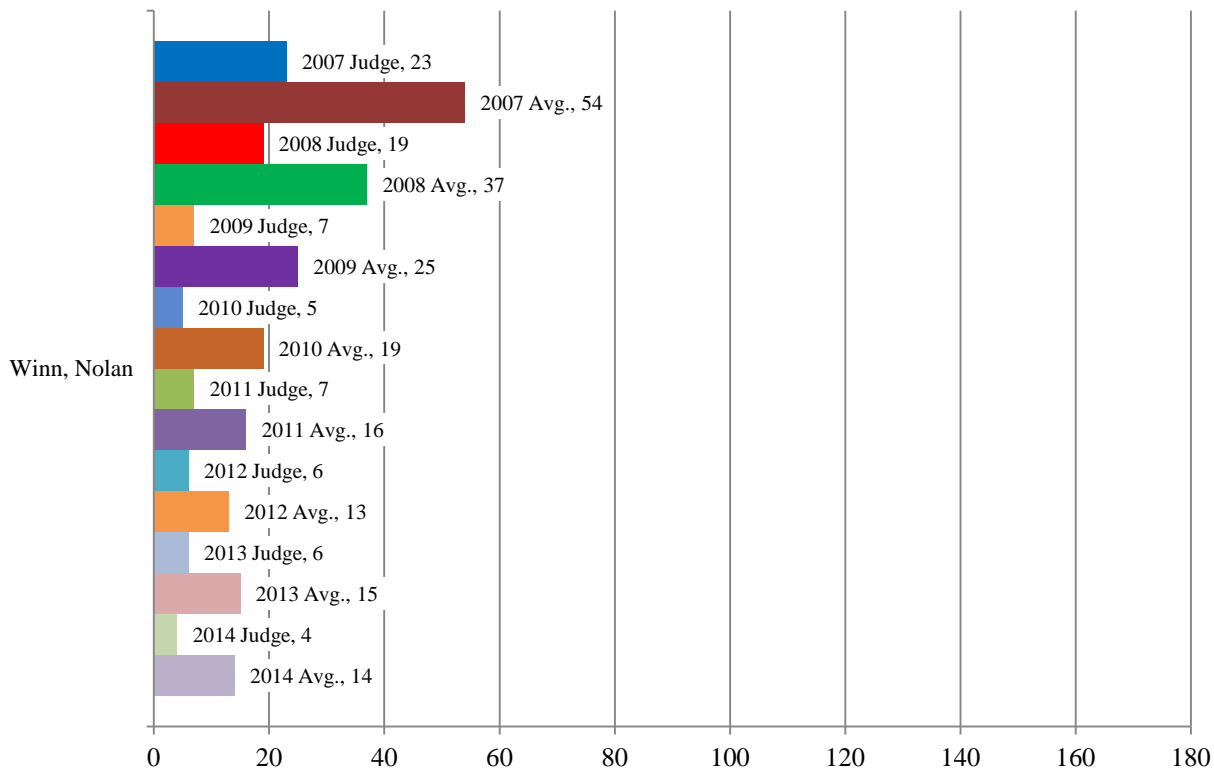
The following graph depicts the total volume of trial orders¹²⁸ uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



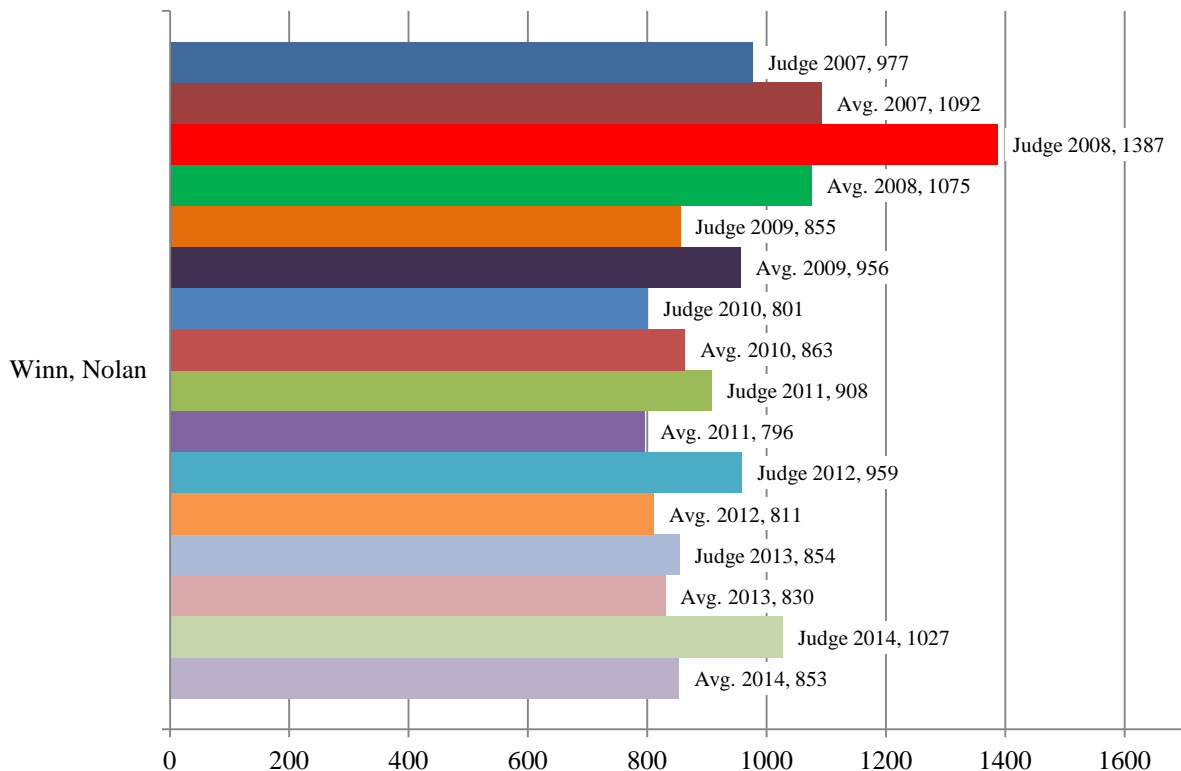
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



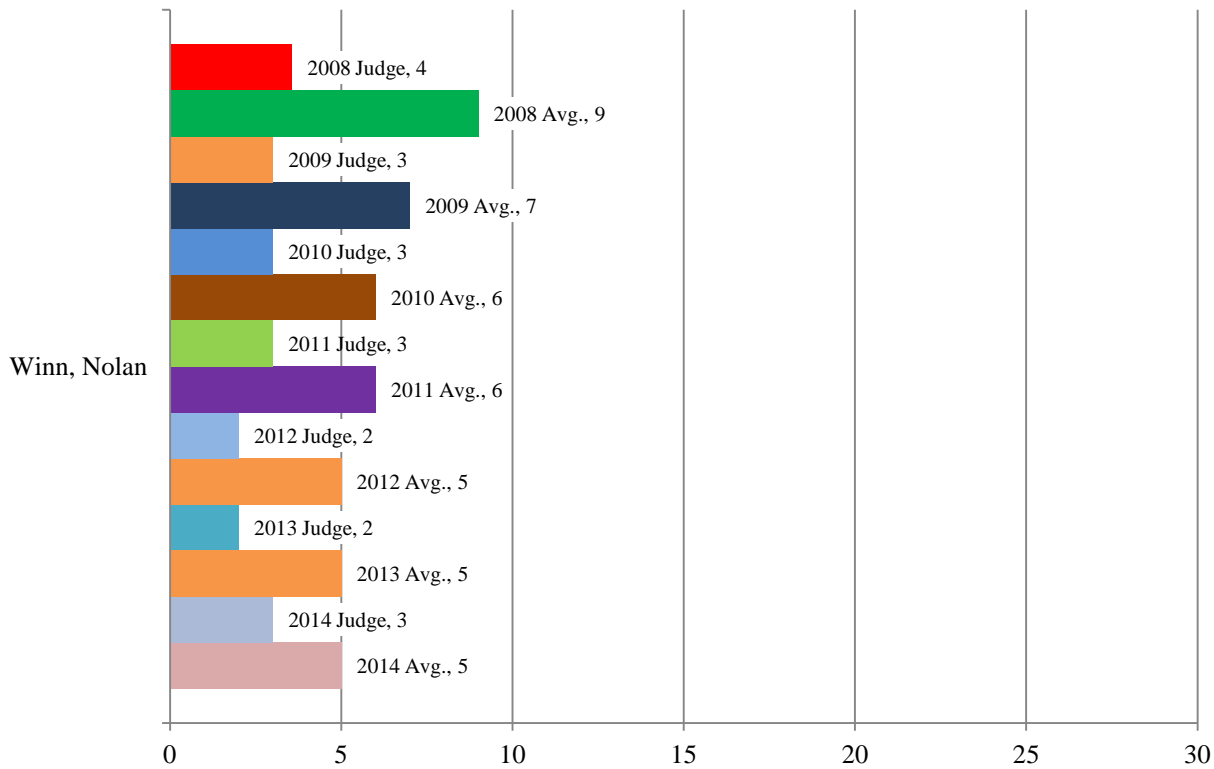
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



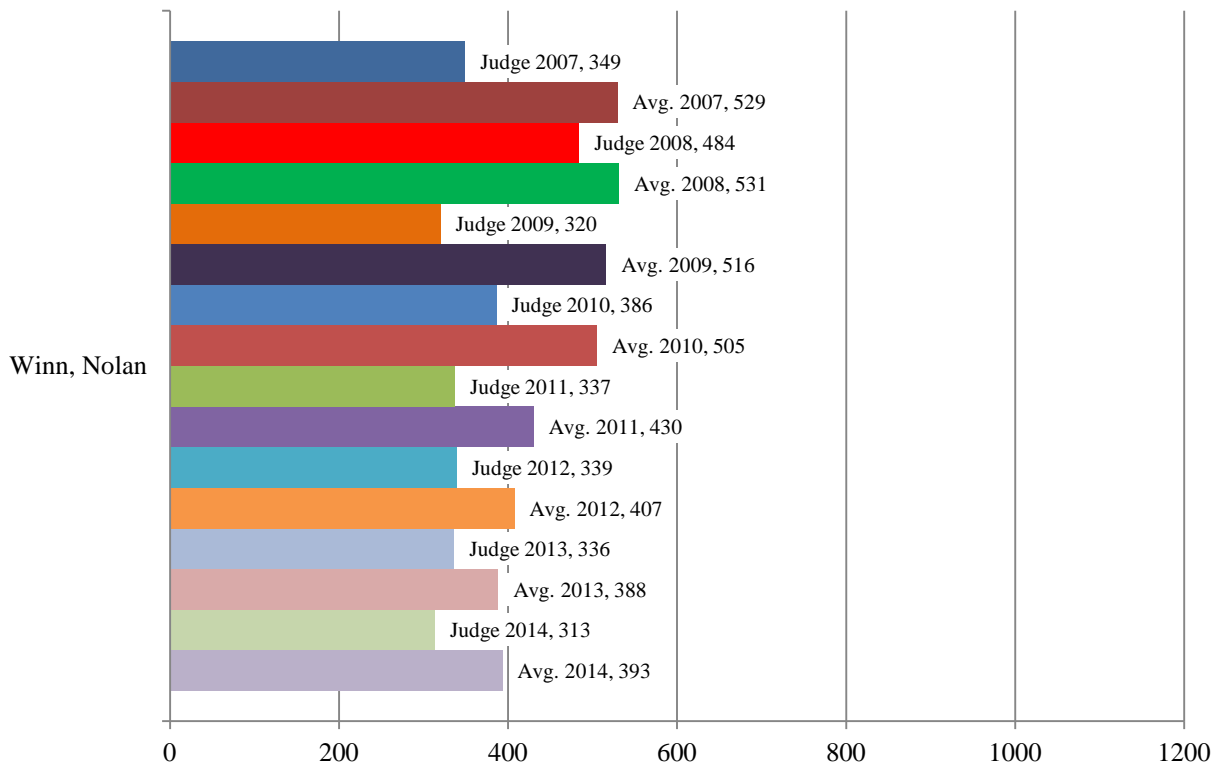
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



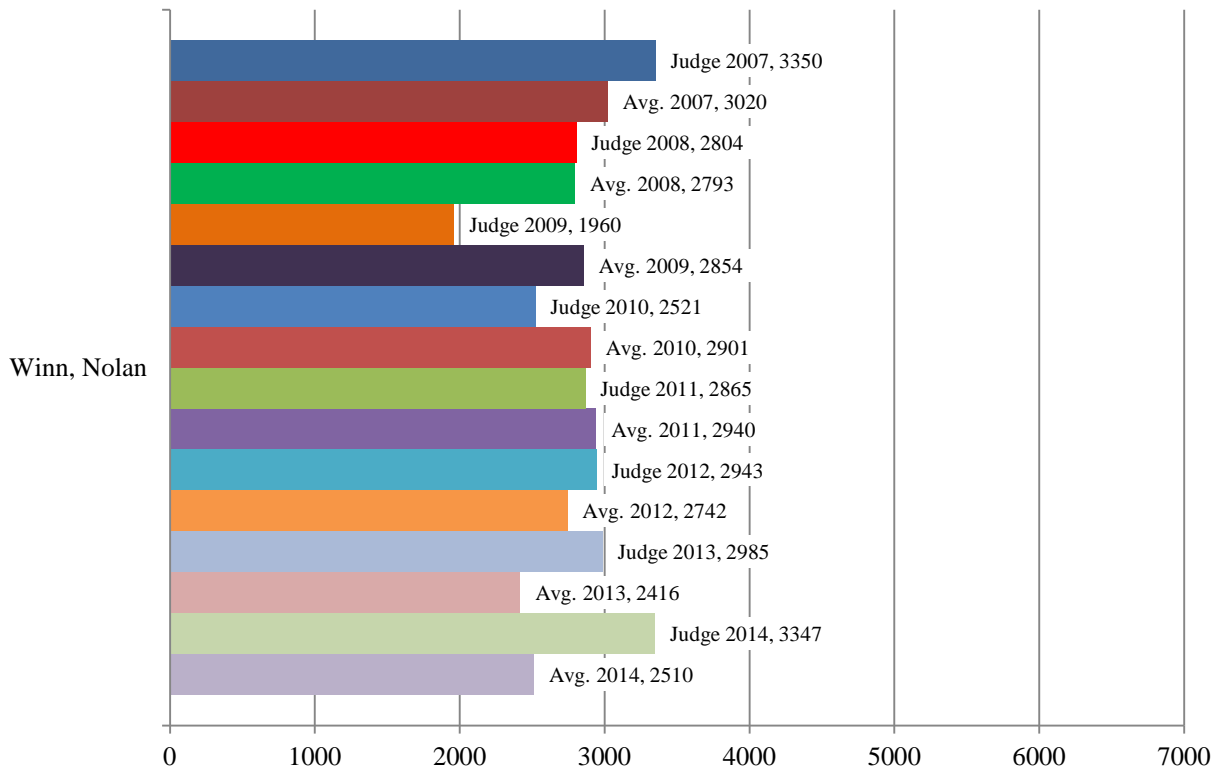
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



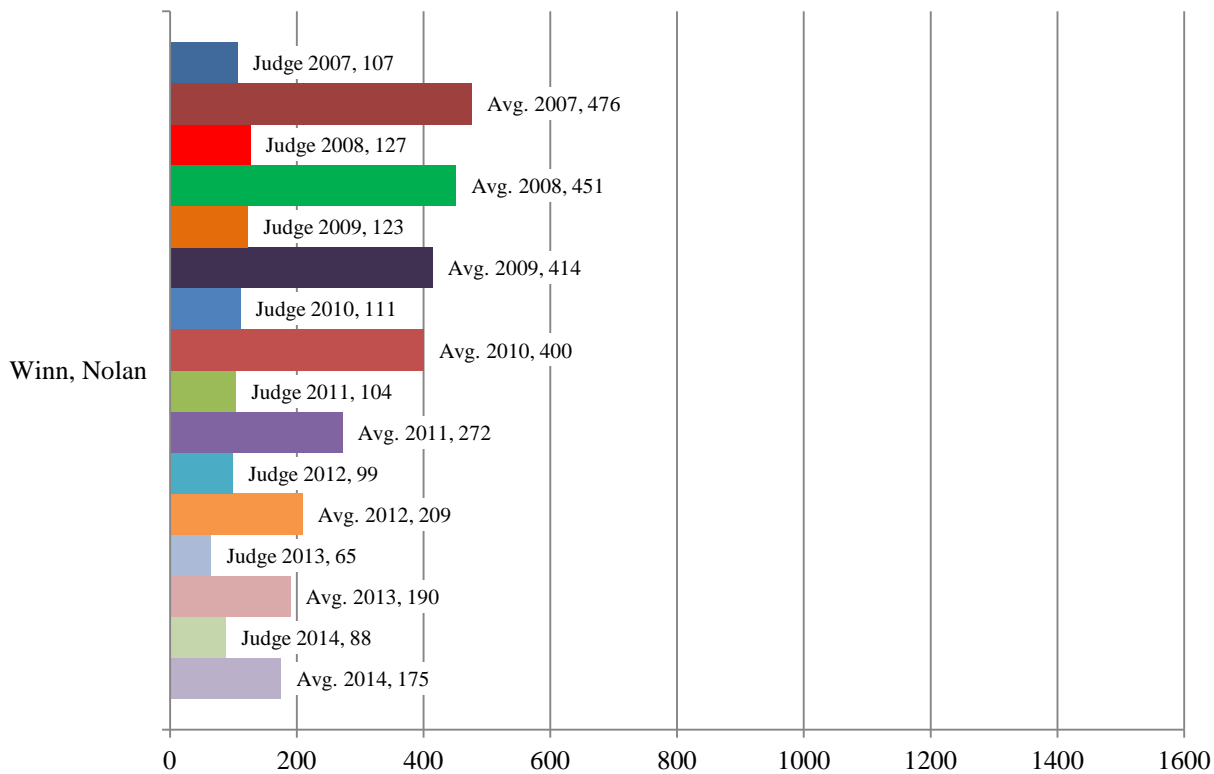
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



Appendix “12” District PSL (JCC McAliley):

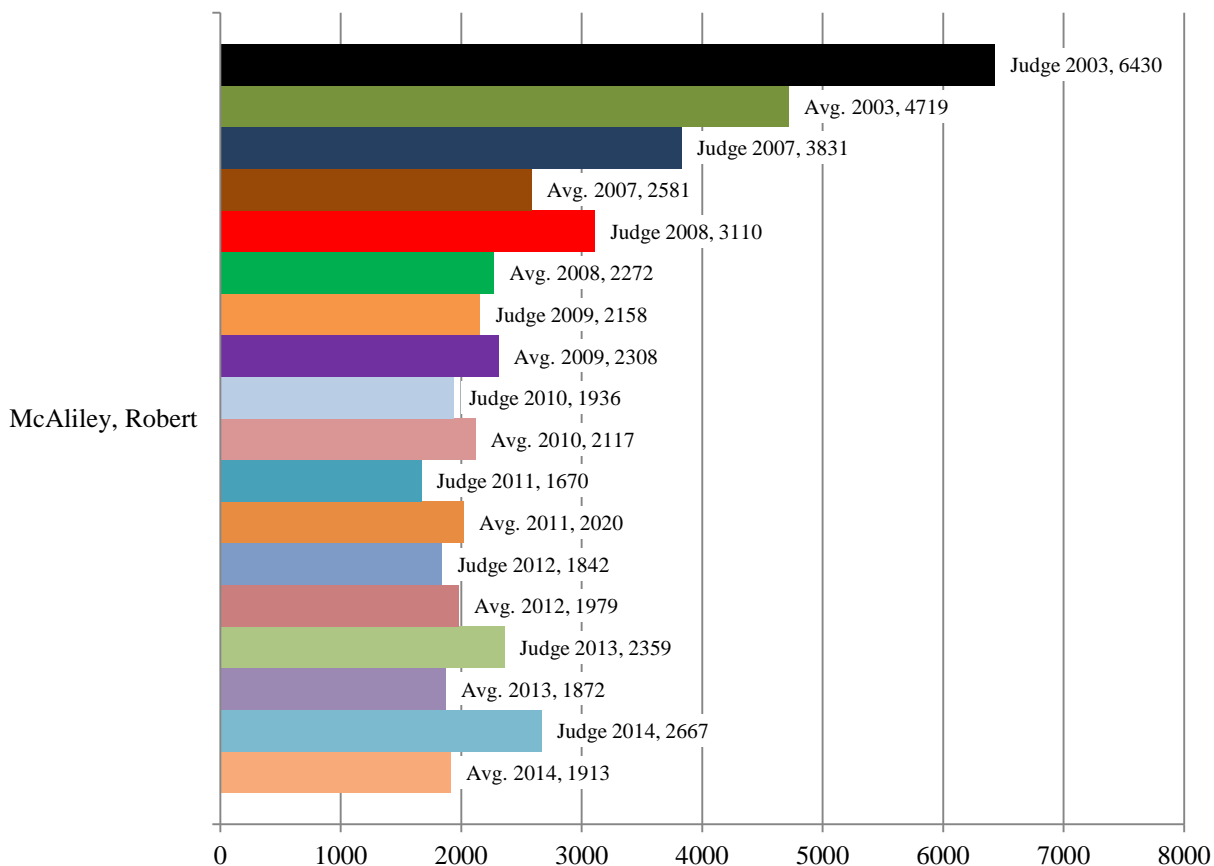
District PSL includes Martin and St. Lucie counties.

For most of 2007-08 District PSL also included Indian River and Okeechobee counties, prior to the transfer of those counties to District MEL in the spring of 2008.

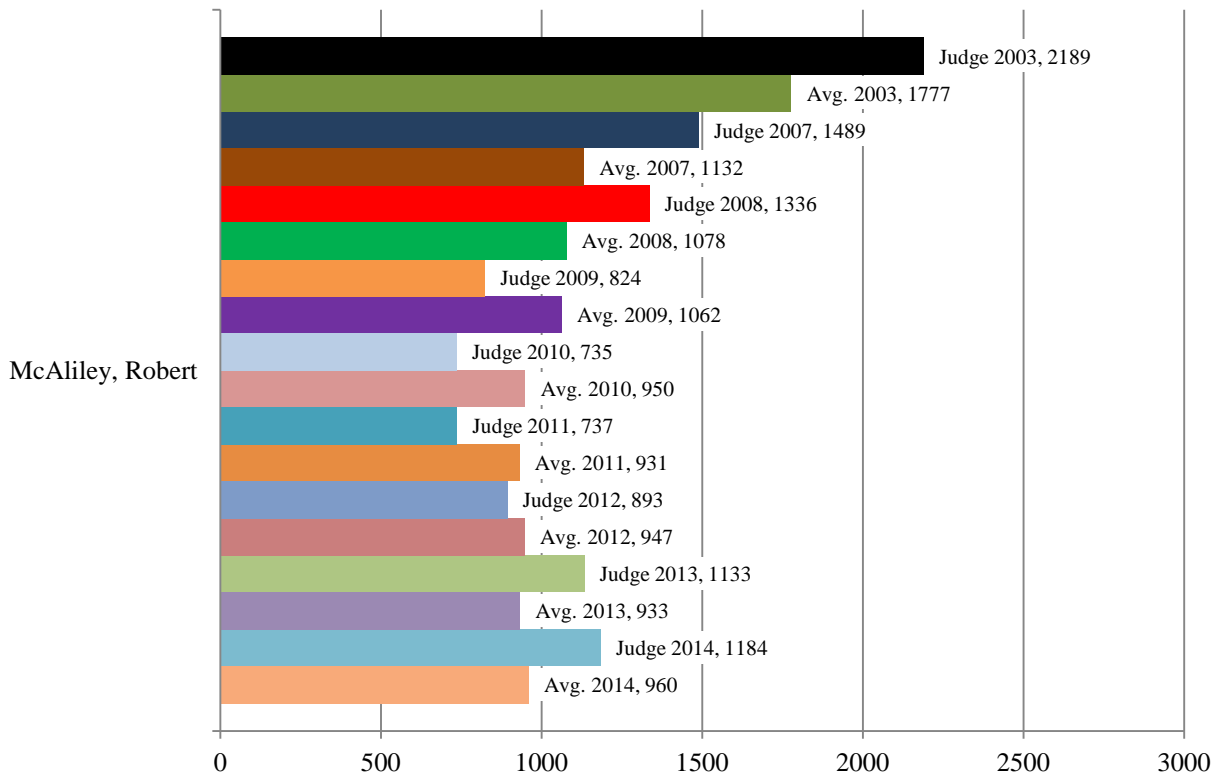
The volume of PFB in District PSL is notably above average for 2012-13 and again in 2013-14. The “new case” volume is also well in excess of the statewide averages each year. This is due, in part, to the transfer of Monroe County from District MIA to District PSL in 2012. However, the Monroe County volume does not account for all of this increase. In 2013-14 only 166 petitions were filed in Monroe County, which is essentially the Florida Keys. The size and accessibility of the Keys can present logistical challenges for trial and other proceedings. Judge McAliley’s assumption of the responsibilities for this county contributes to the alleviation of docket congestion in District MIA.

Trial volume in District PSL was above the statewide average in 2013-14, for the first time in five years. Despite this increase, the time to mediation, time to trial, and time to order statistics for PSL each remained below the statewide average and within the respective statutory parameters in 2013-14. The volumes of settlement orders, stipulation orders, “other hearings” and “other orders” have each been above the statewide average for the last two years also. These evidence the procedural processes of workers’ compensation claims and the effort that is required to maintain a docket for a multitude of cases and issues that move through the litigation process, but which do not reach the need for a trial.

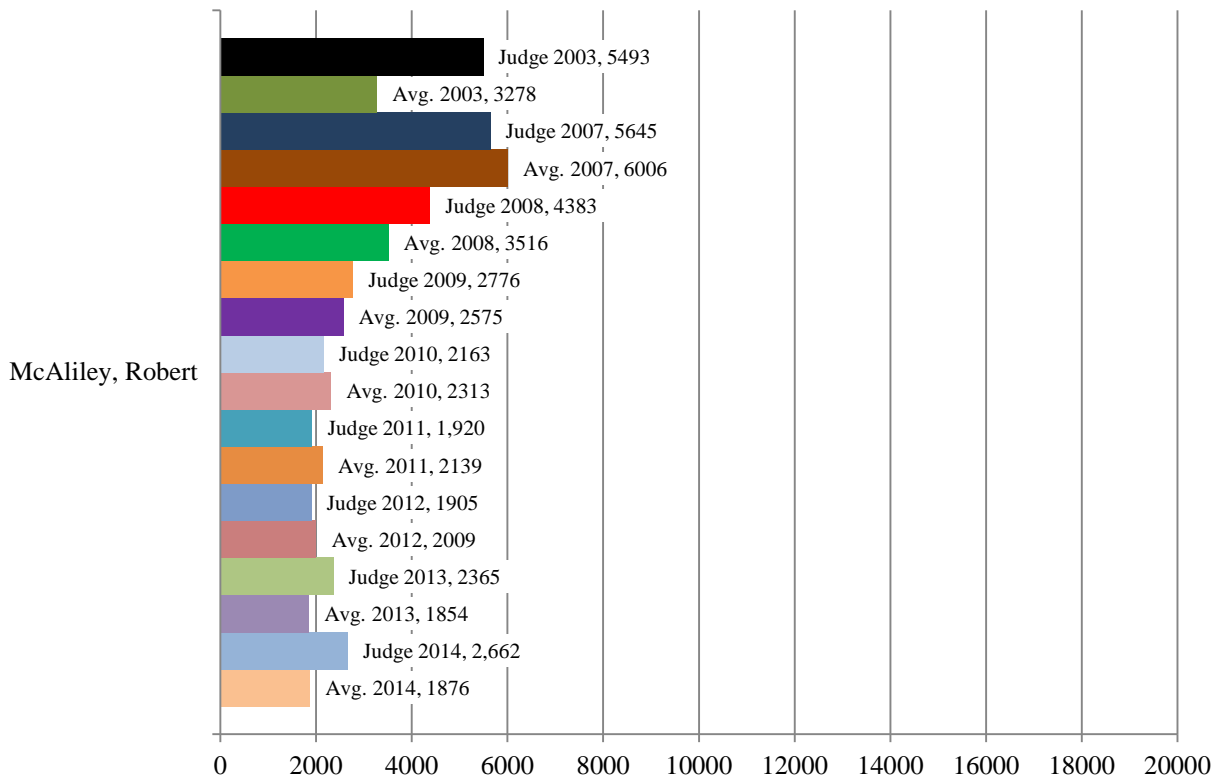
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



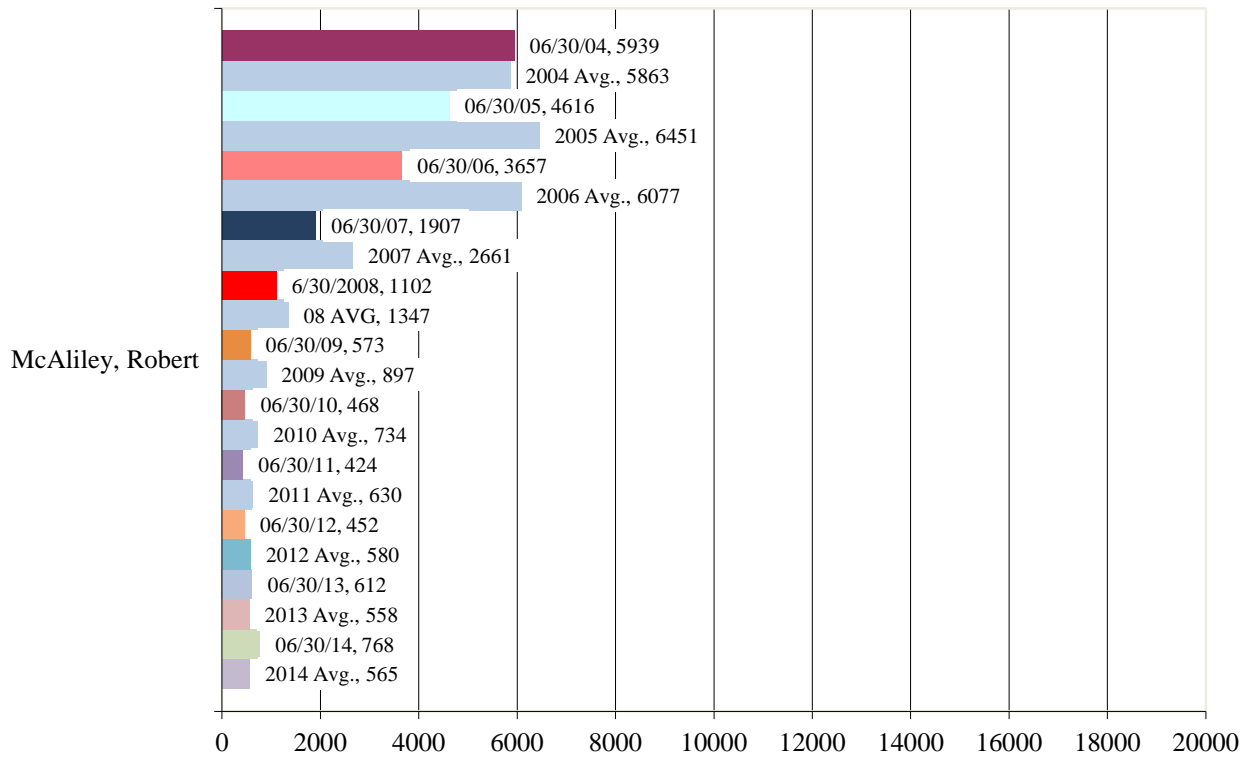
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



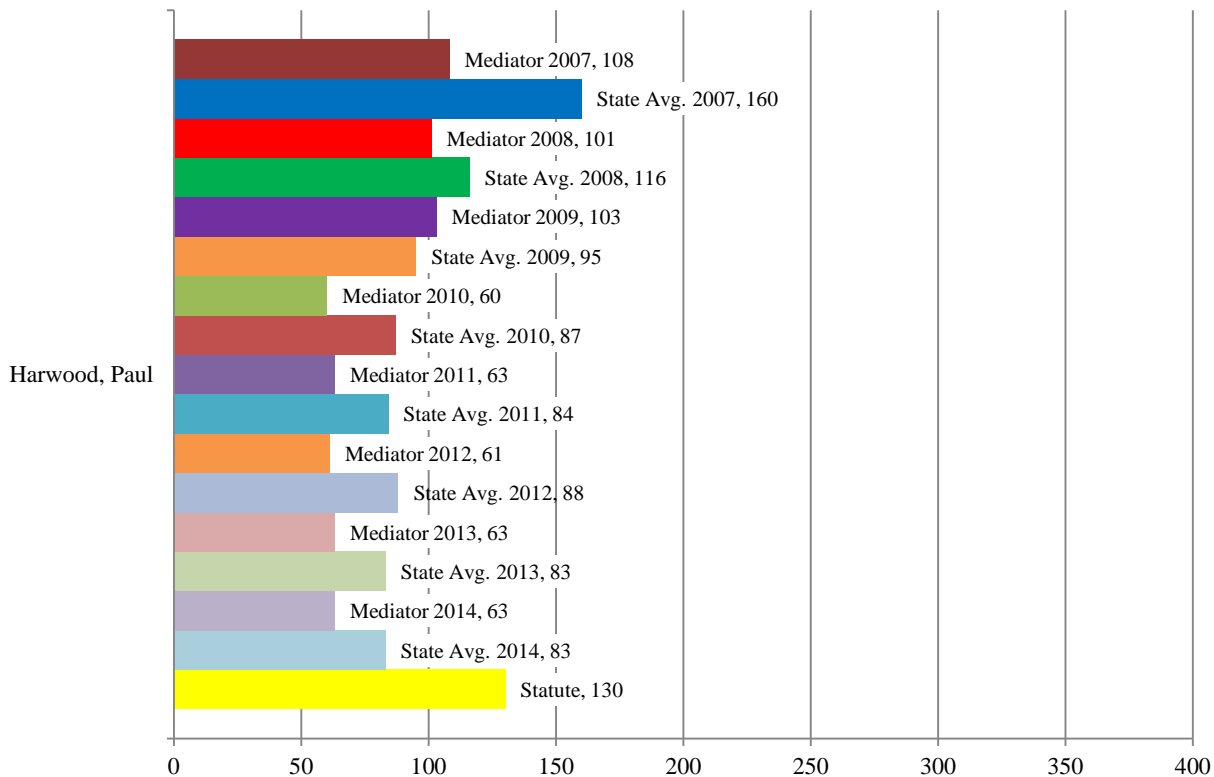
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



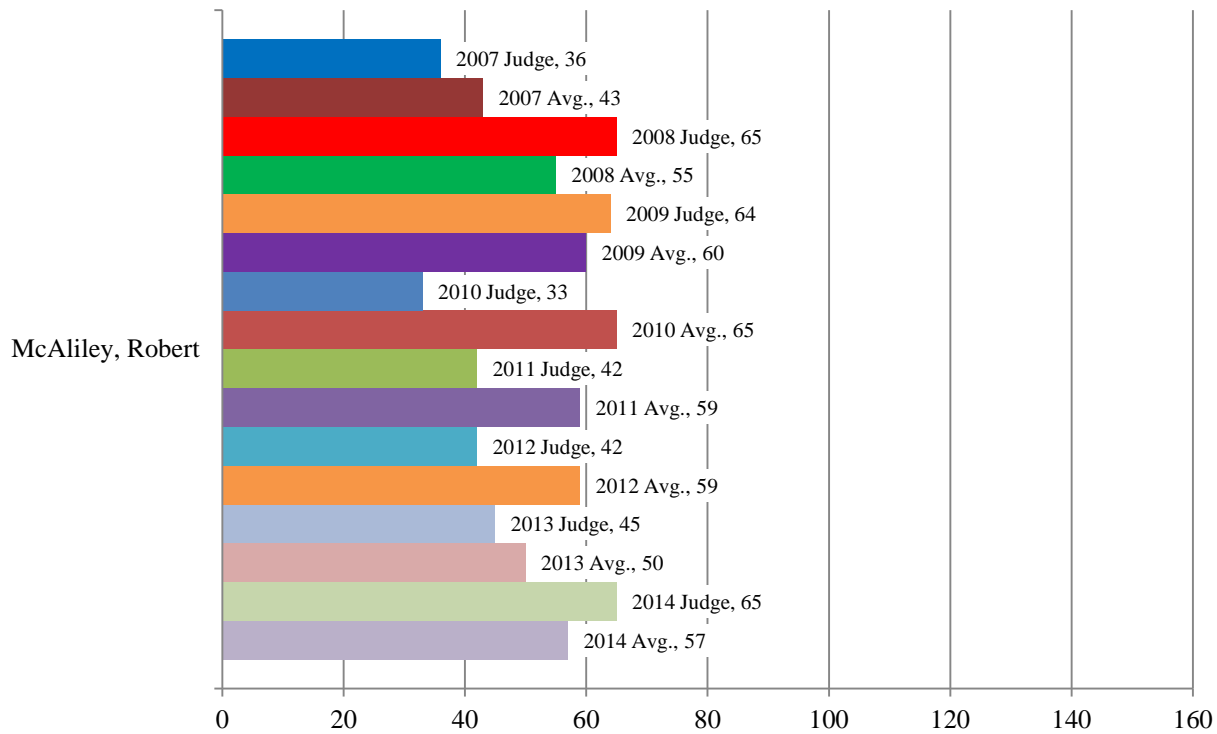
The following depicts the inventory of pending PFBs in this District and the statewide average between 2003-04 and 2013-14. The identification and values for each year are in each bar label.



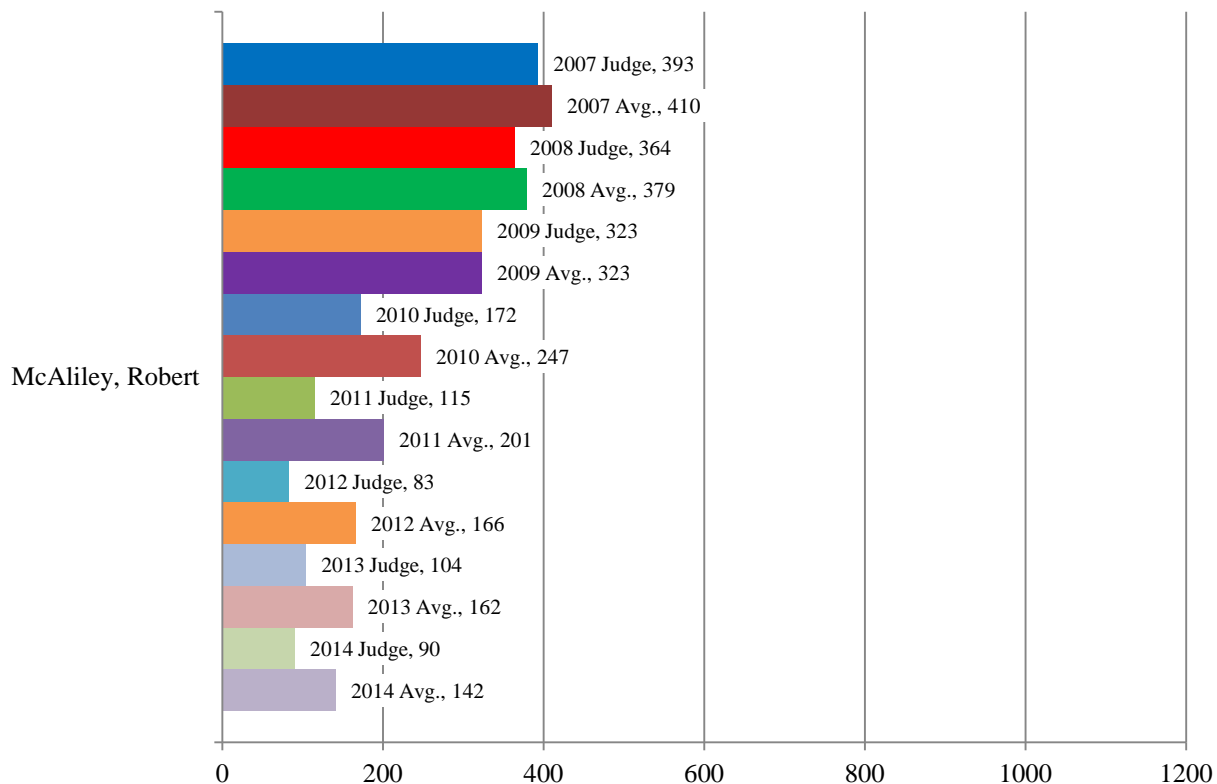
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



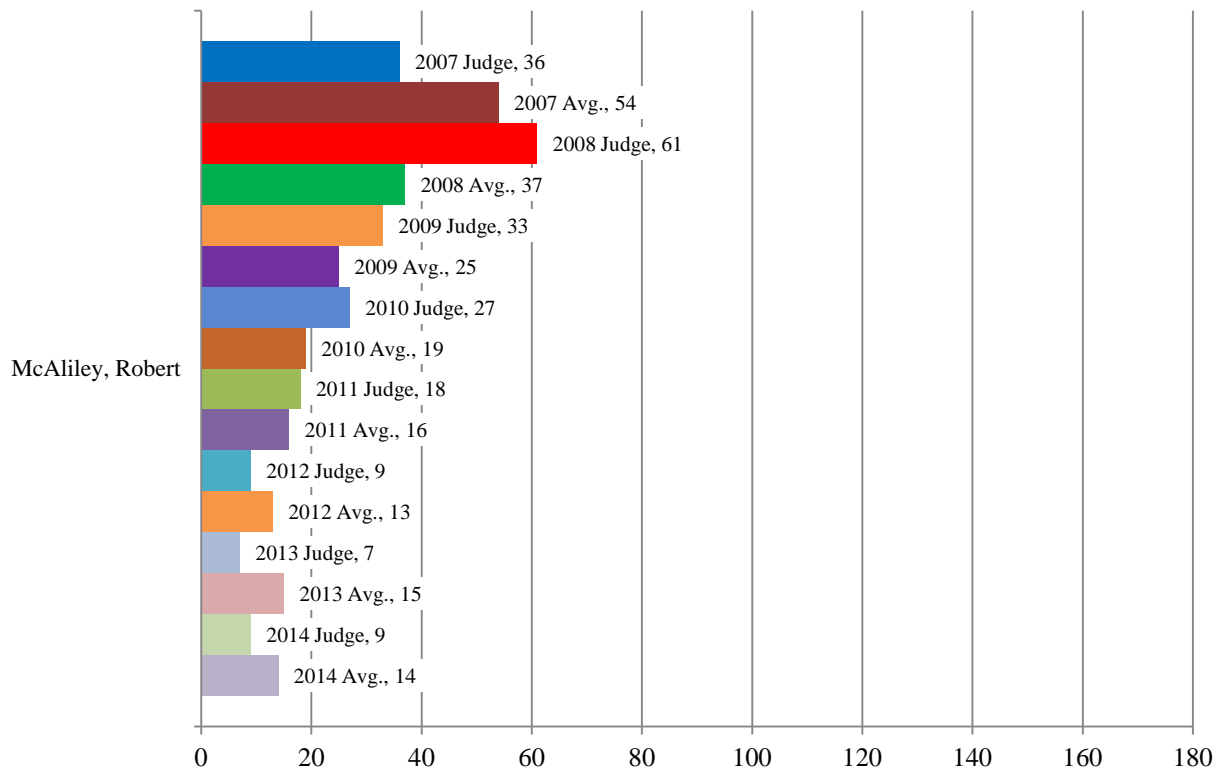
The following graph depicts the total volume of trial orders¹²⁹ uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



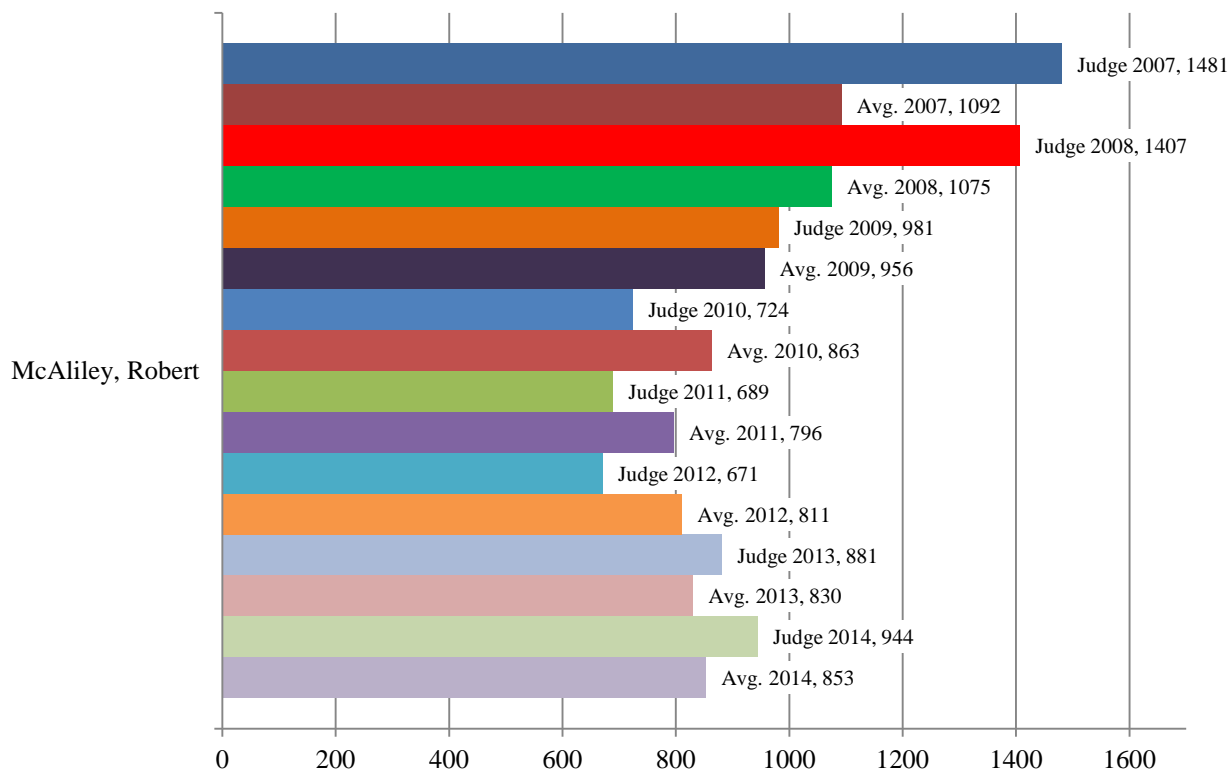
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



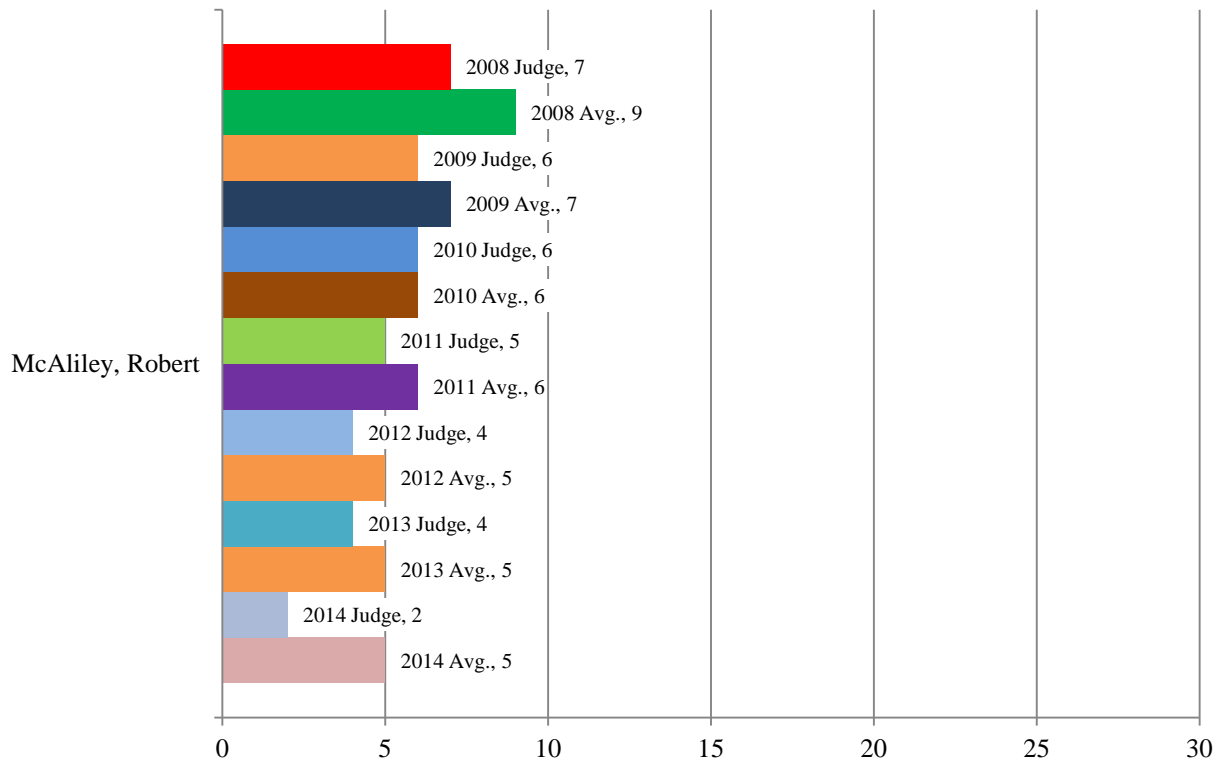
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



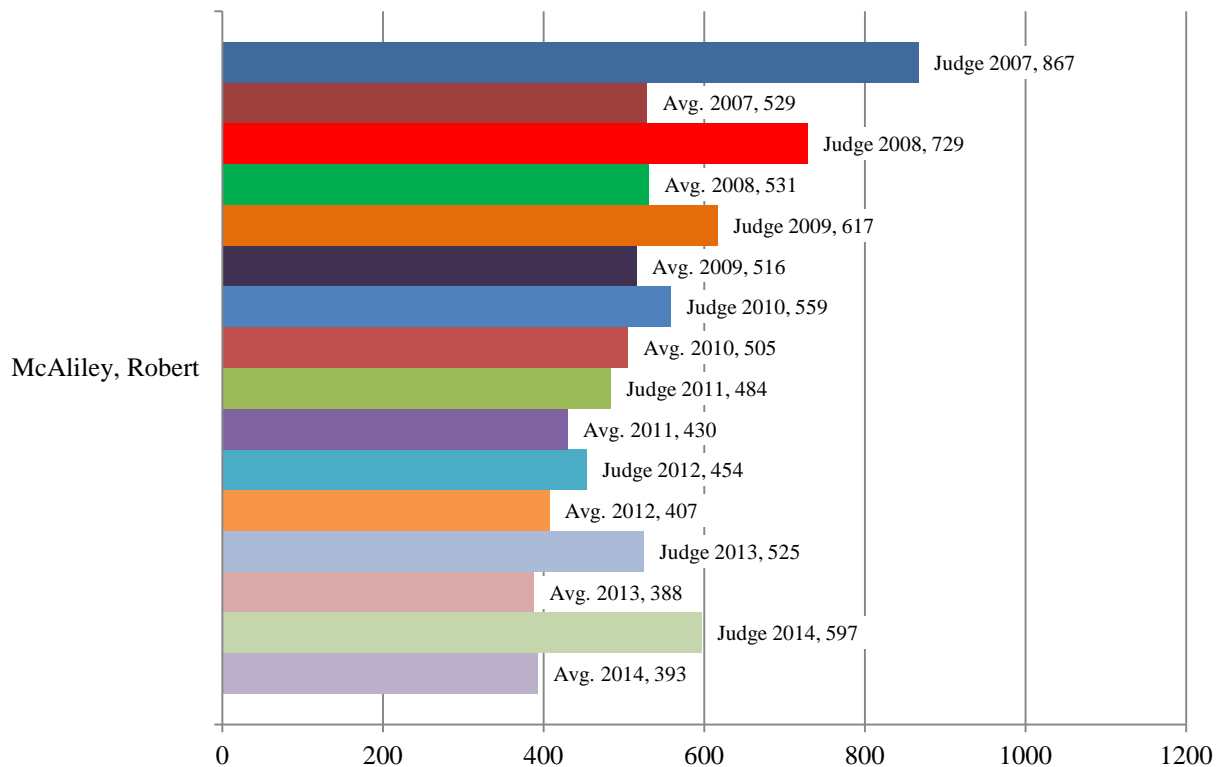
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



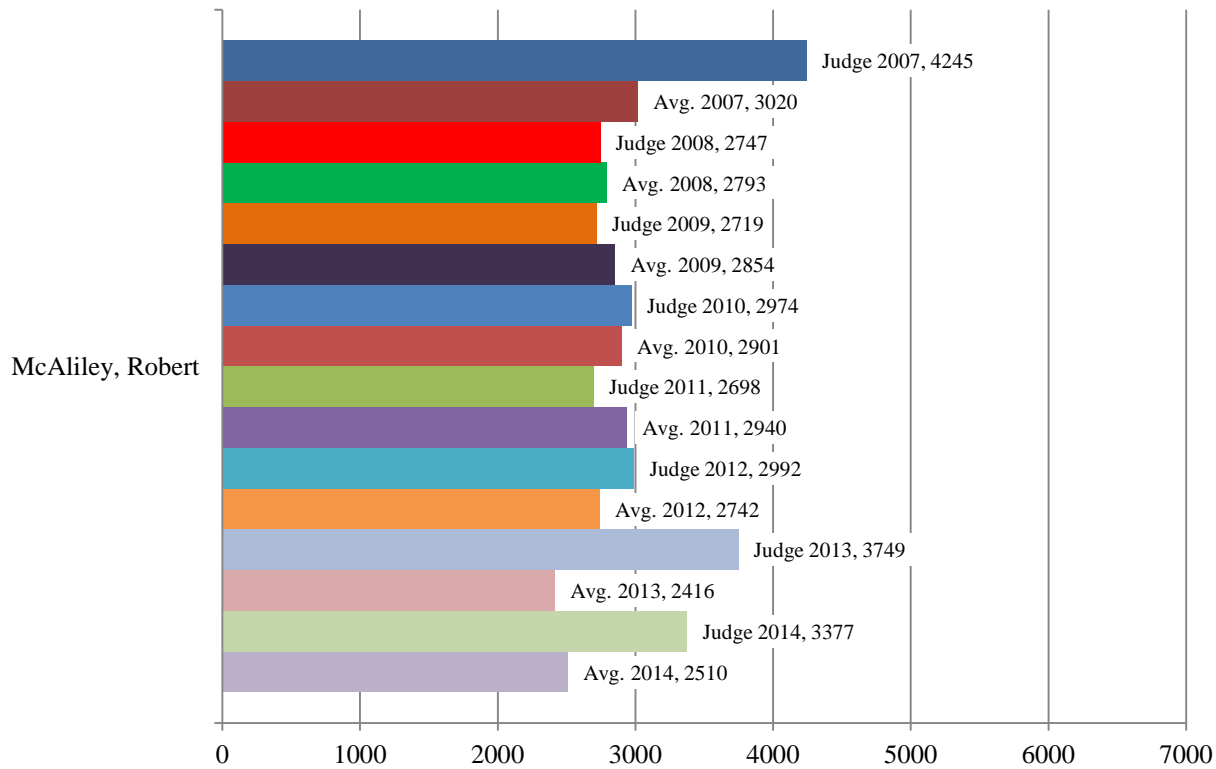
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



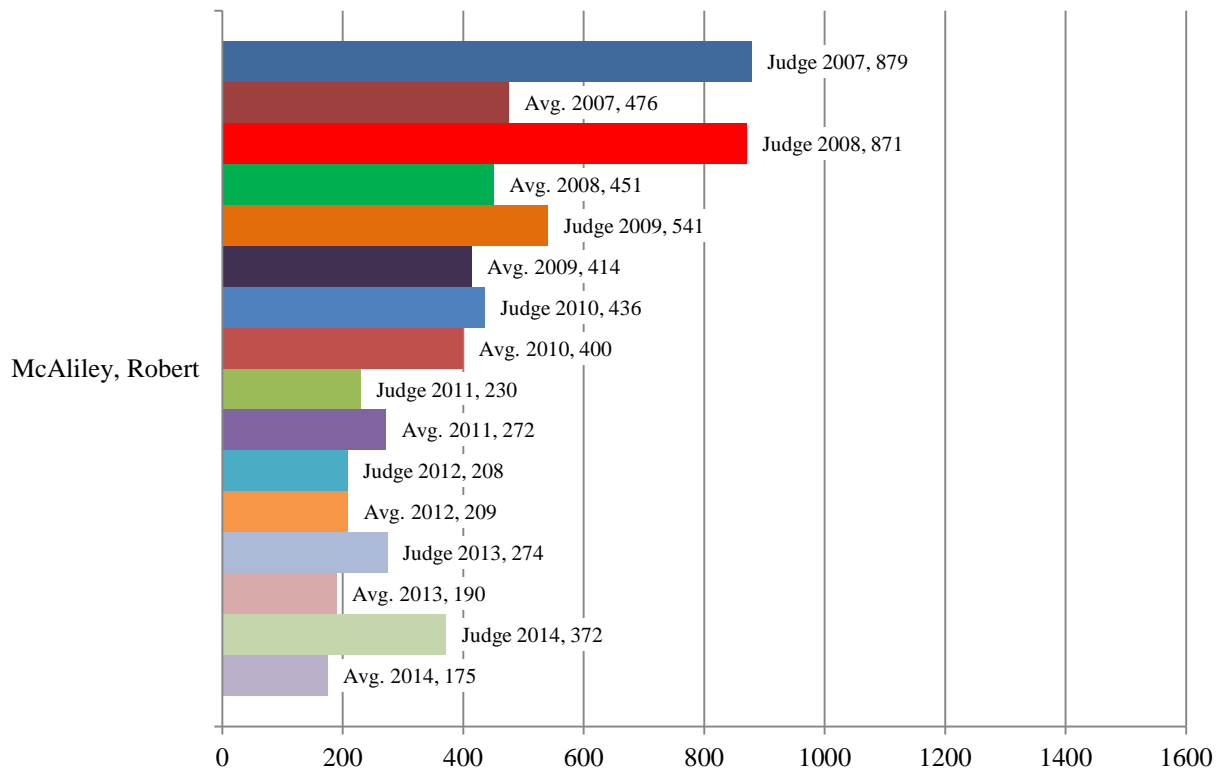
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



Appendix “13” District SAR (JCC Beck):

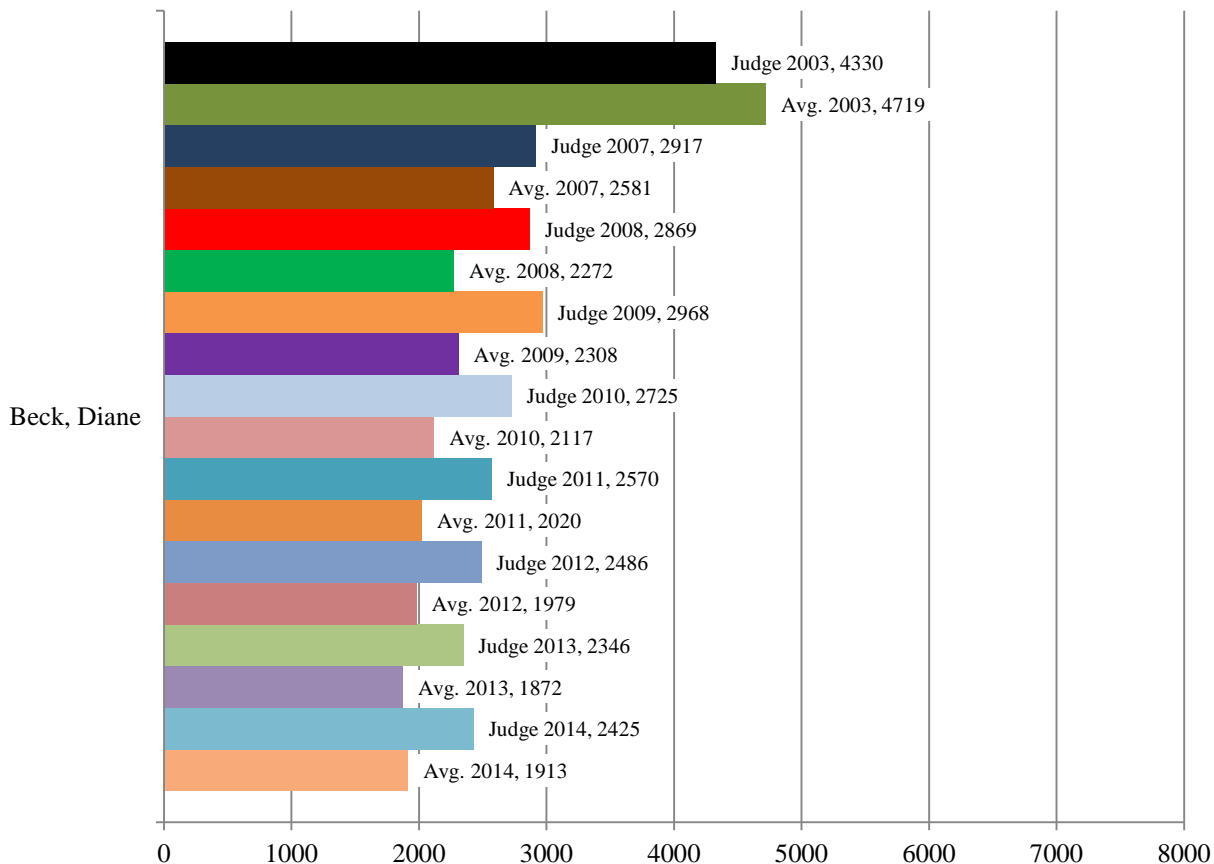
District SAR includes Manatee and Sarasota counties.

The PFB and “new case” filing volumes in District SAR both remain above the statewide averages in 2013-14, more markedly than each was last year. The above average volumes have been consistent in District SAR for the last six years. The PFB filing and closure rates are likewise consistent, suggesting that the docket there is in equilibrium, a state where incoming volumes are reasonably consistent with claim closures. Despite this, however, the year-end pending petition inventory in SAR has remained above average, suggesting that there is some population of claims that are not predictably closing. The management and consistency of Judge Beck is responsible for this equilibrium and for the efficient and effective operation of this office.

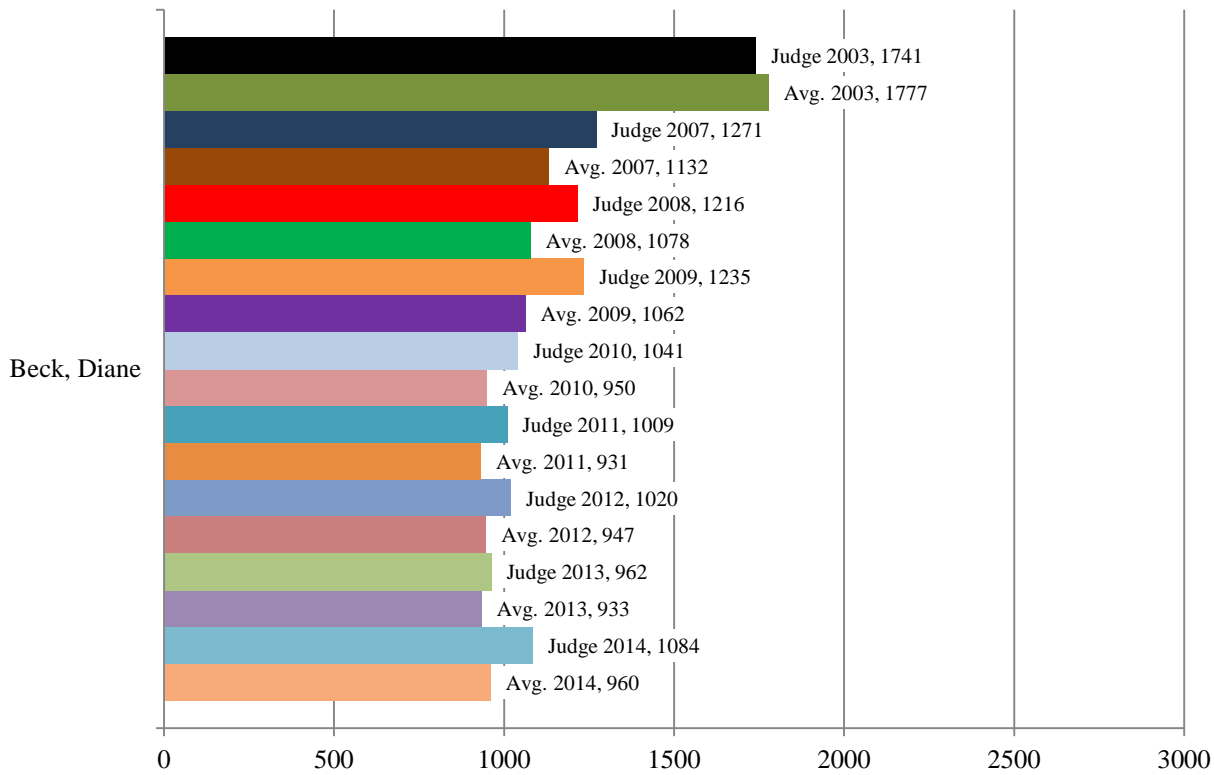
Trial volume has been above the statewide average in SAR since 2006-06, and remained markedly so for 2013-14. While that volume moderated notably in 2012-13, District SAR returned to significant trial volume in 2013-14, somewhat. The District is within the statutory time parameters for PFB to mediation, PFB/motion to trial and trial to order. This timeliness is notable in light of the significant volumes of filings and trials. The statistics support that Judge Beck minimizes the “other orders” and “other hearings,” thereby focusing on the trial process. The below average volume of “other orders” may support the conclusion that claims in District SAR are less intensive in terms of motion practice than in some other areas of the state.

Judge Beck judged preliminary rounds of Earle Zehmer Moot Court Competition in August.

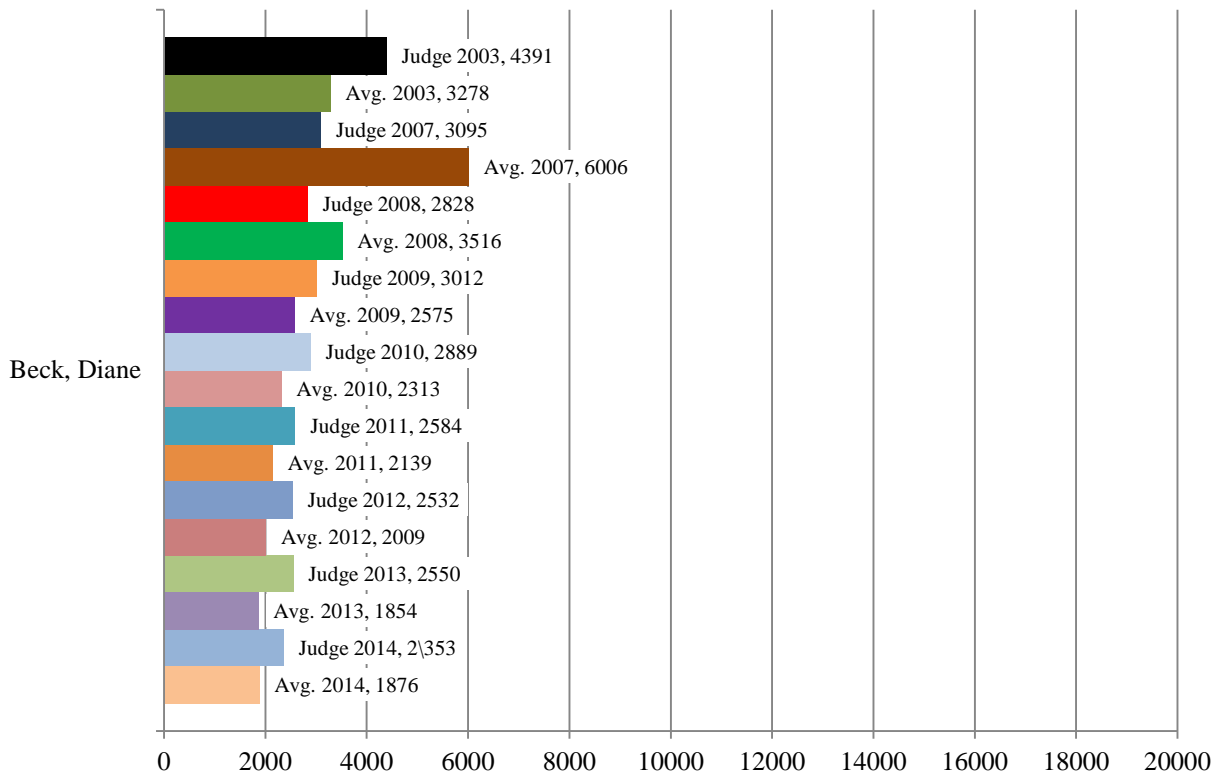
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



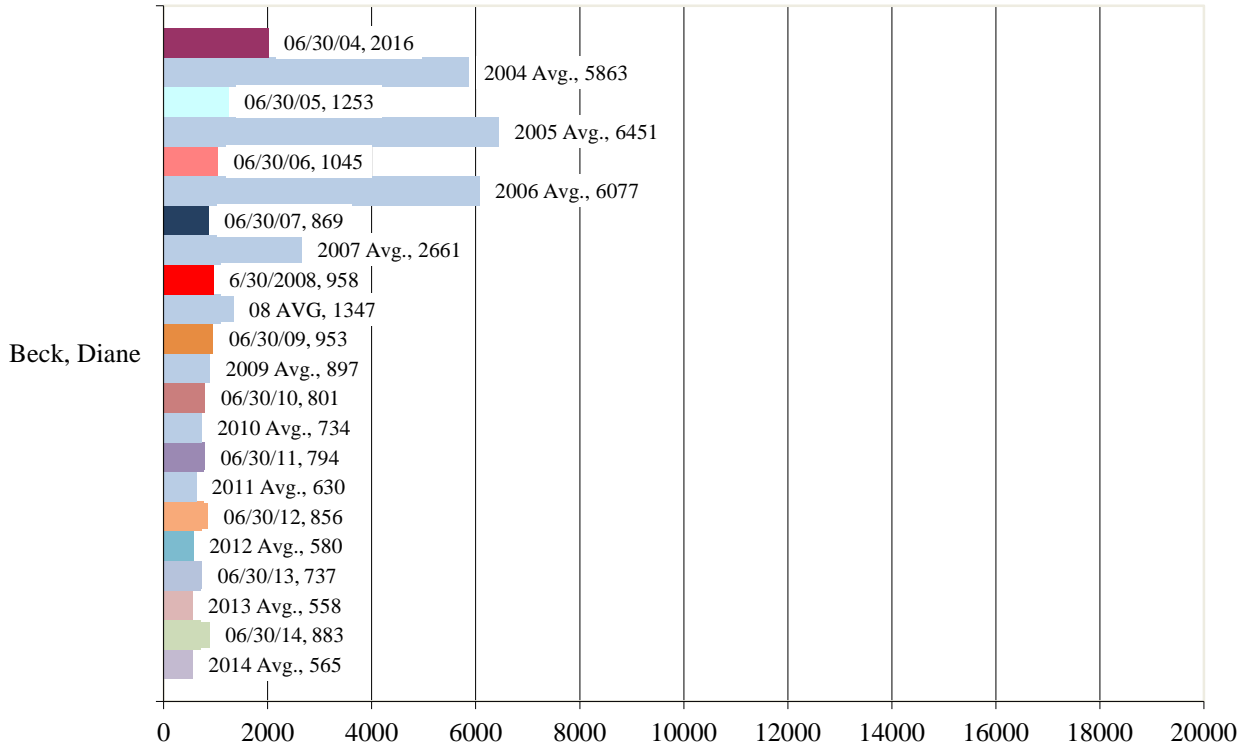
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



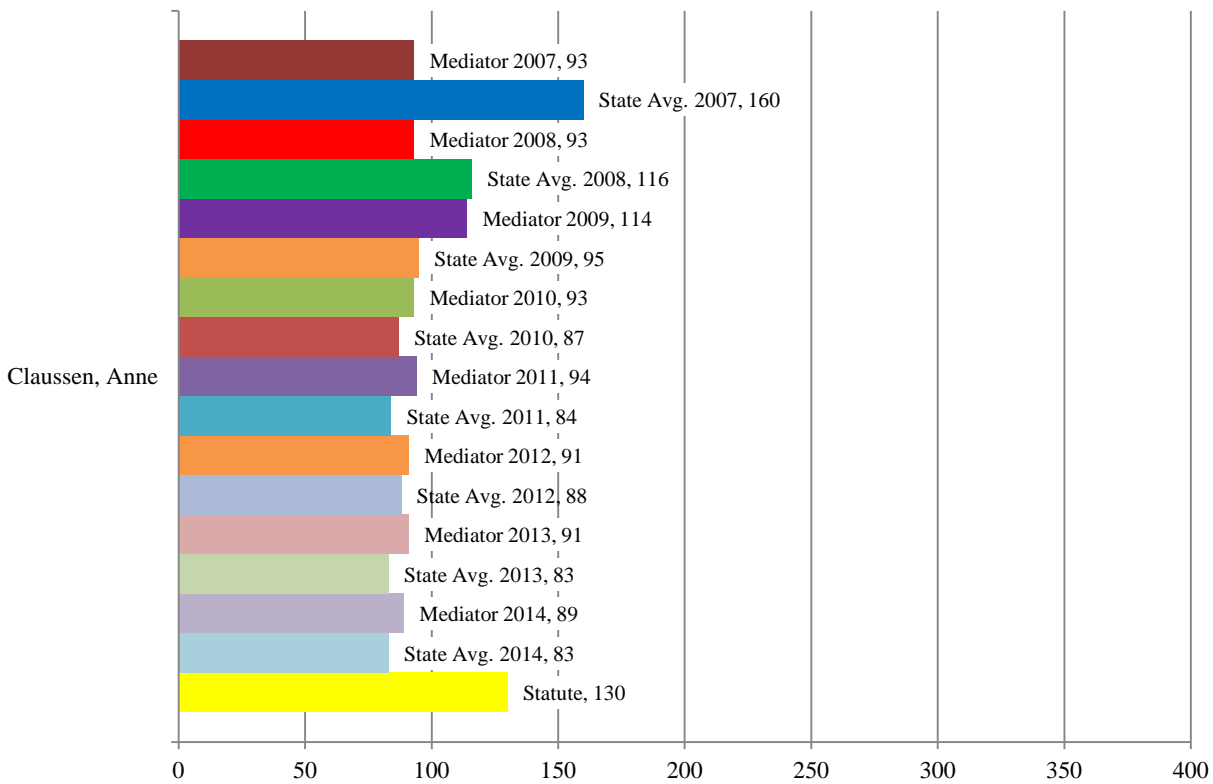
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



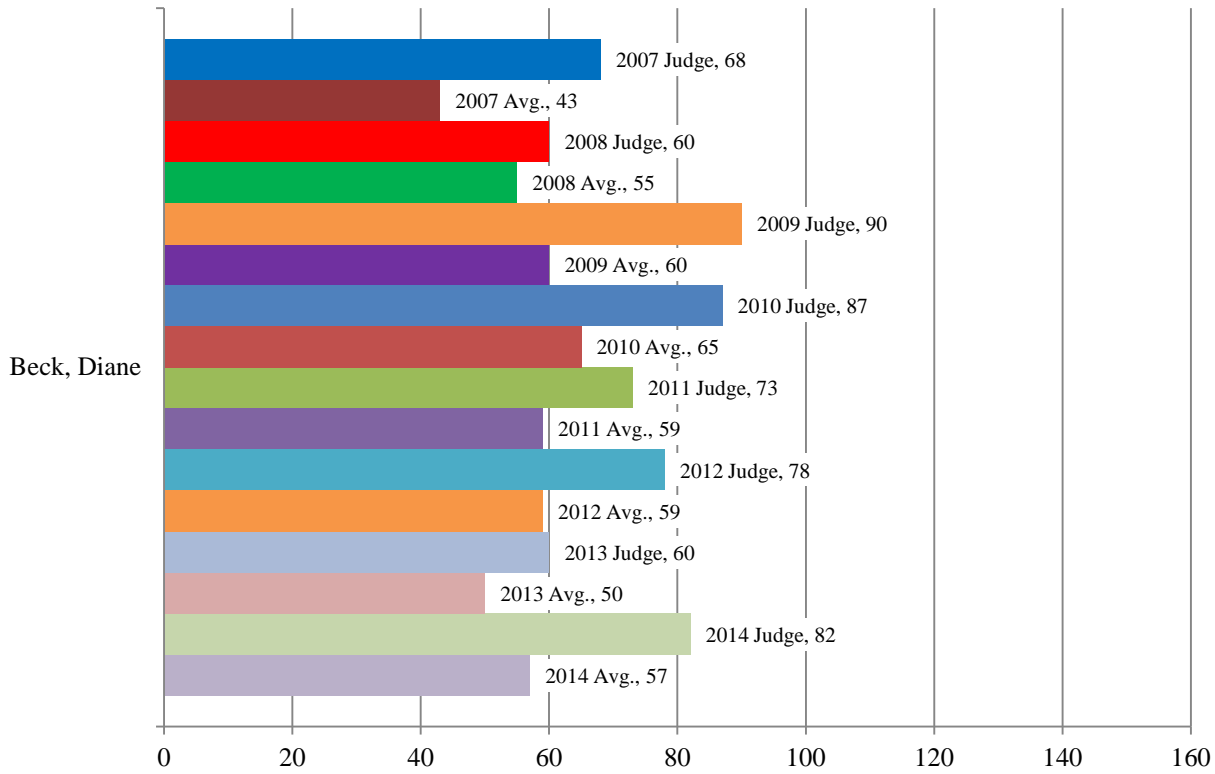
The following depicts the inventory of pending PFBs in this District and the statewide average between 2003-04 and 2013-14. The identification and values for each year are in each bar label.



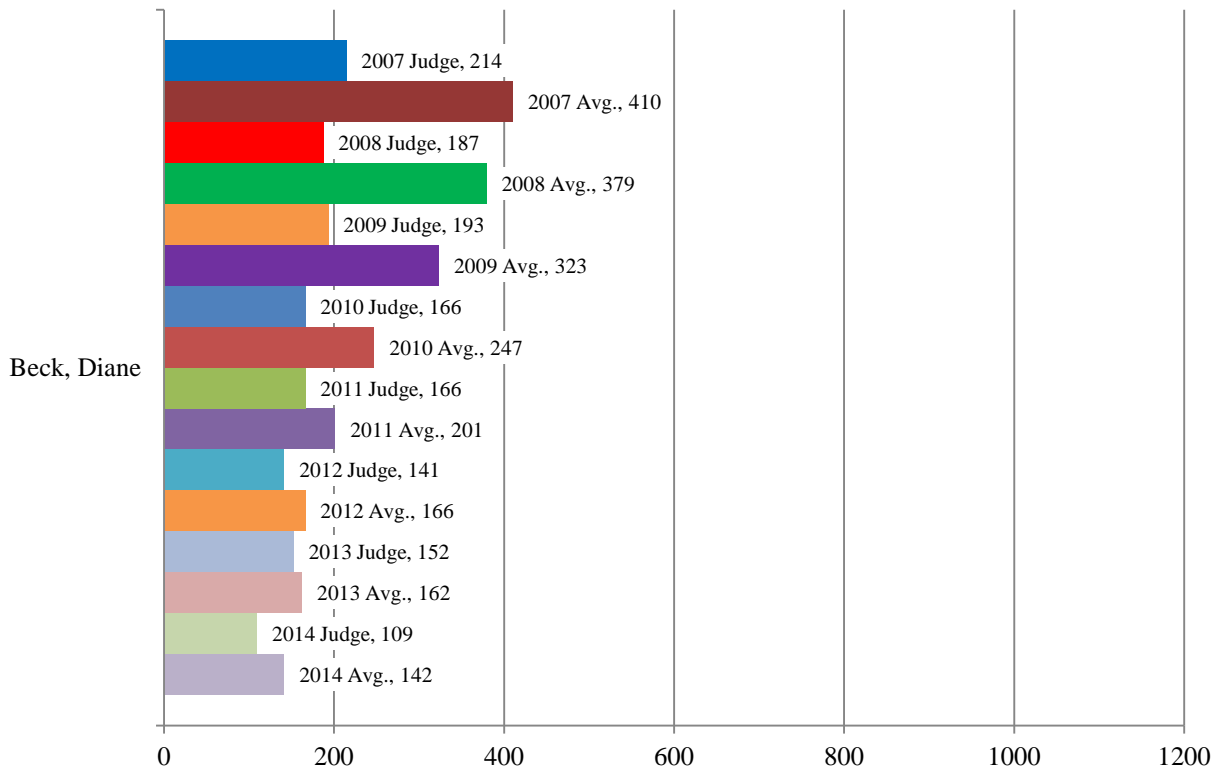
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



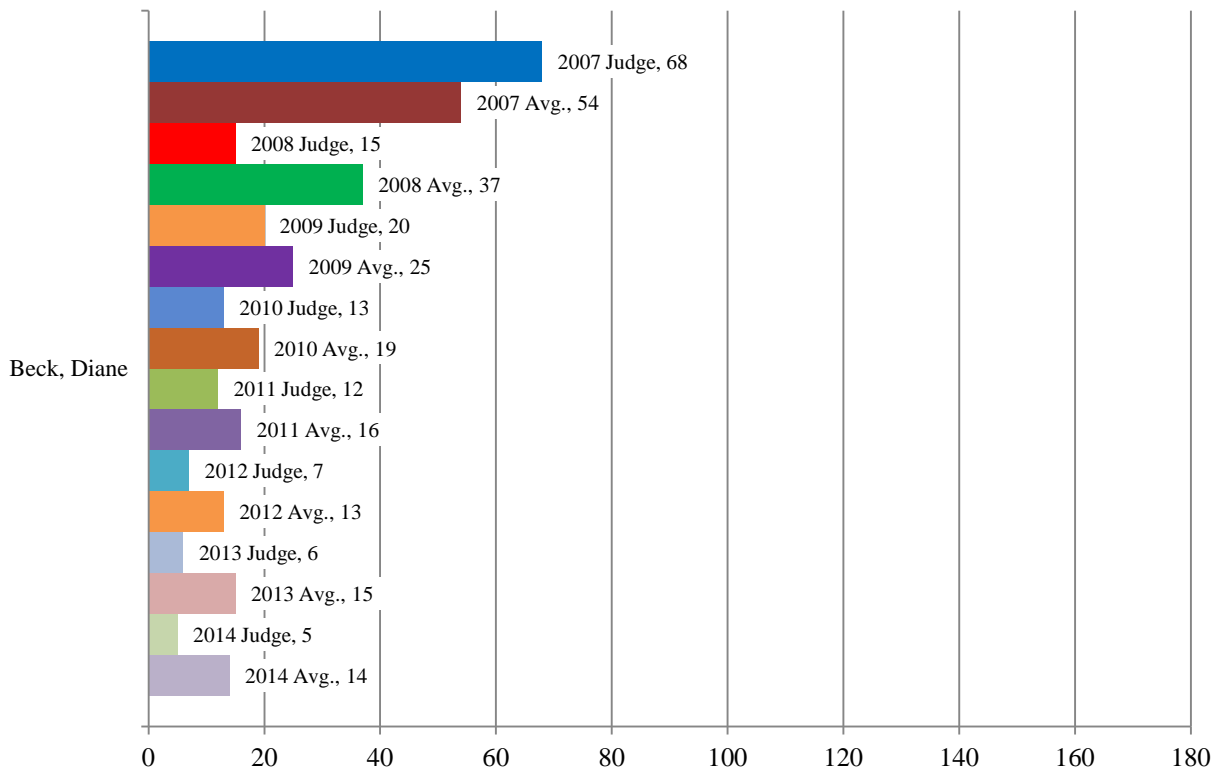
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



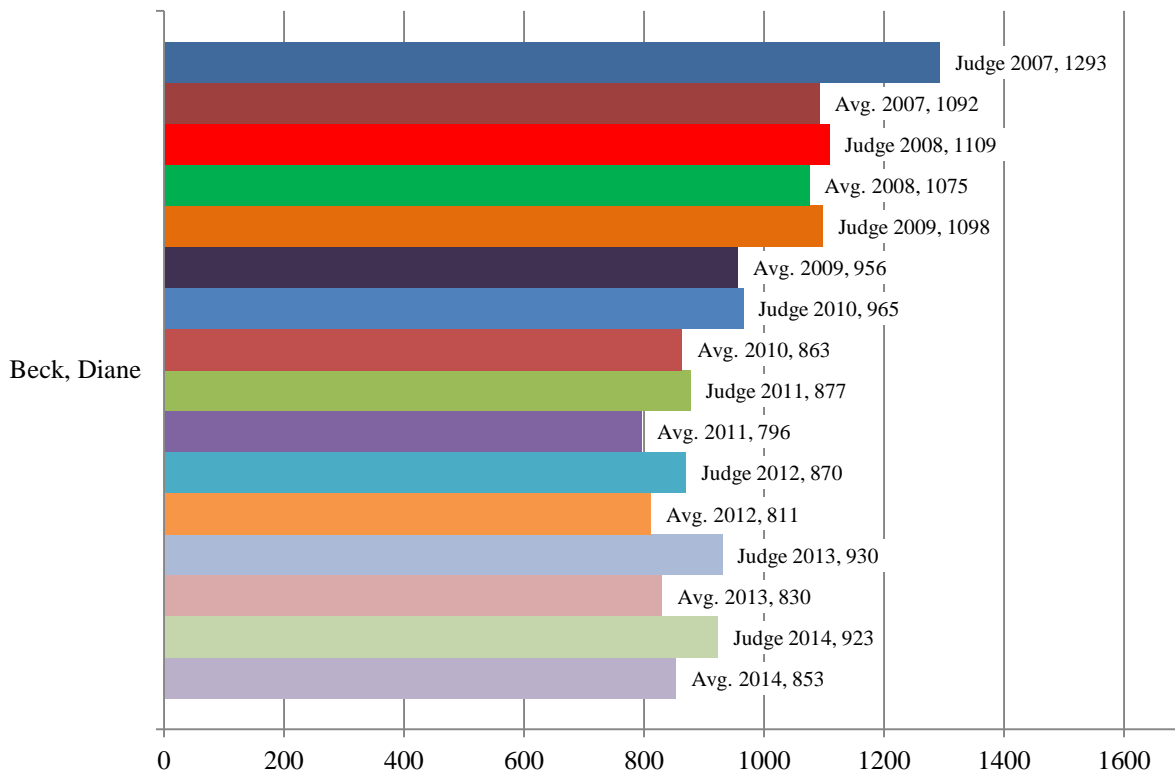
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



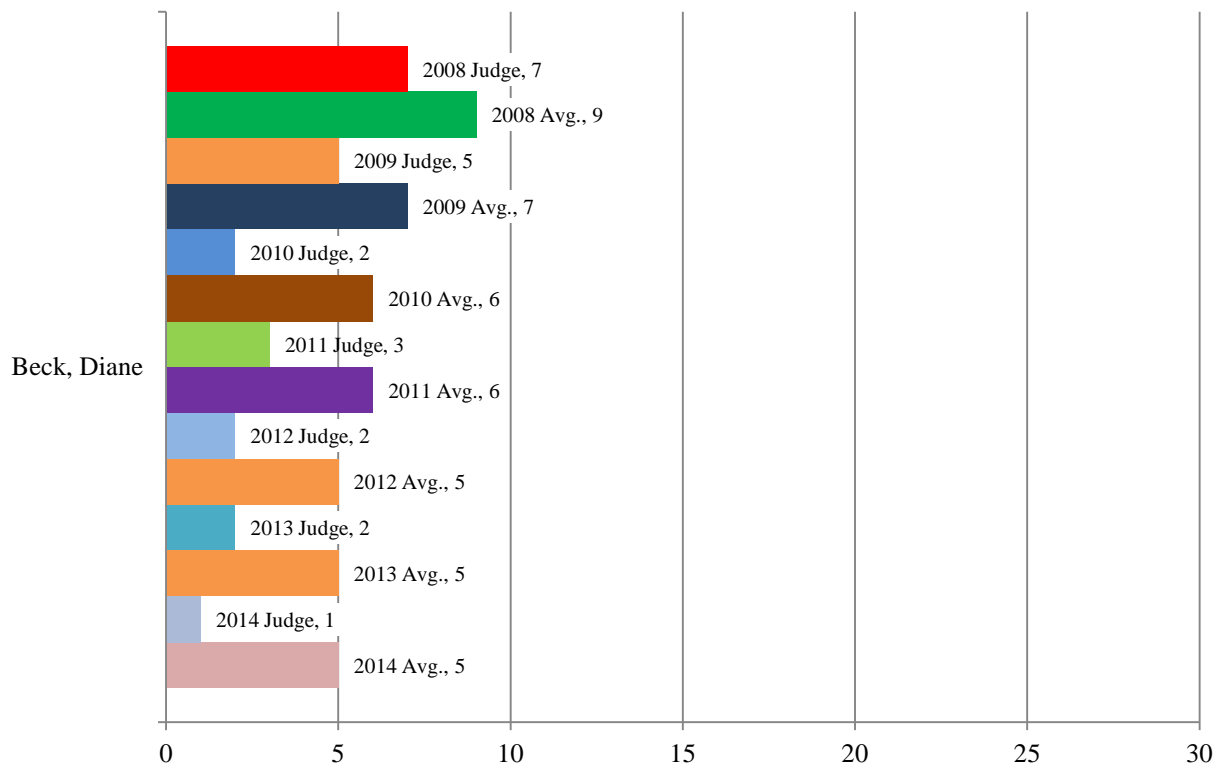
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



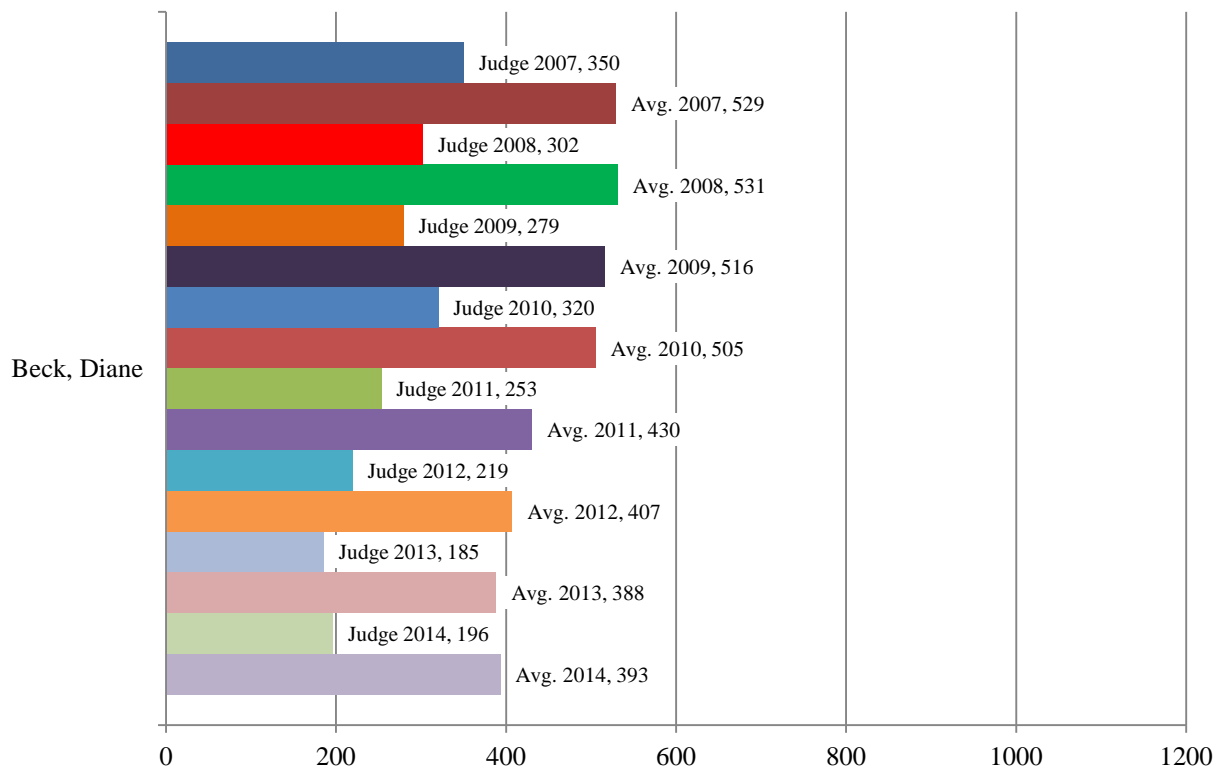
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



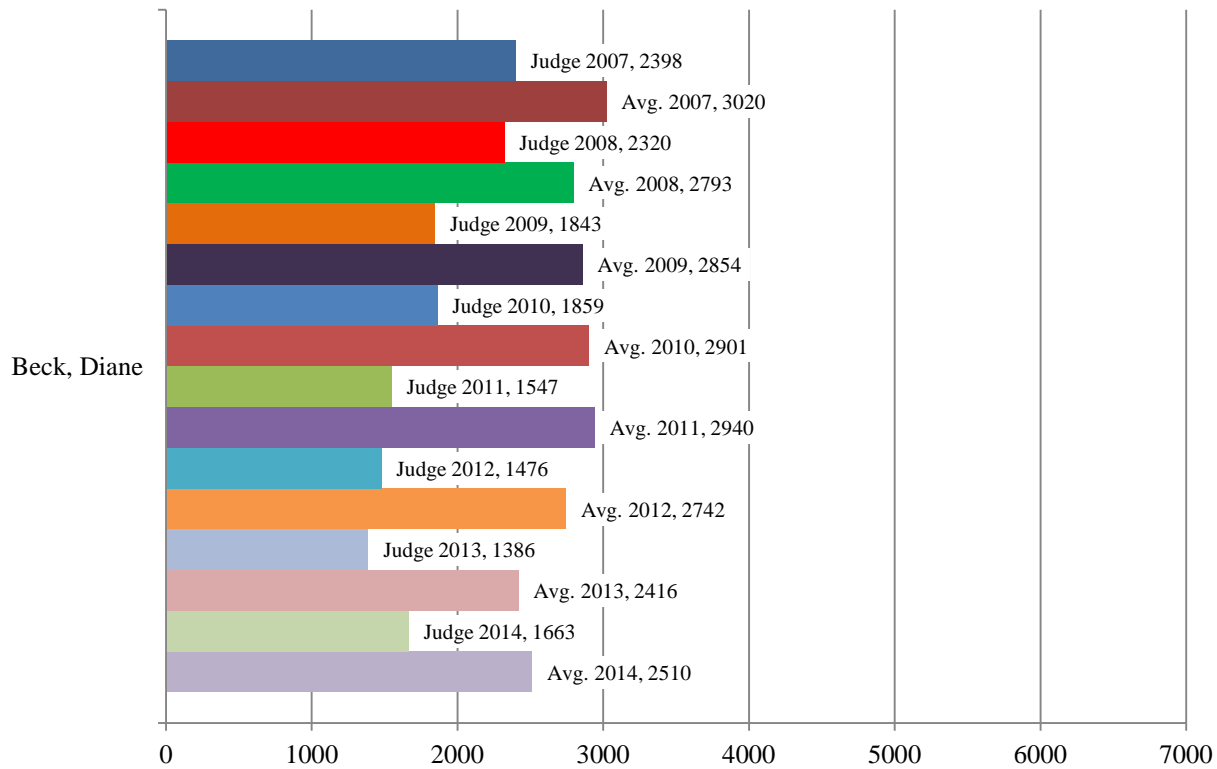
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



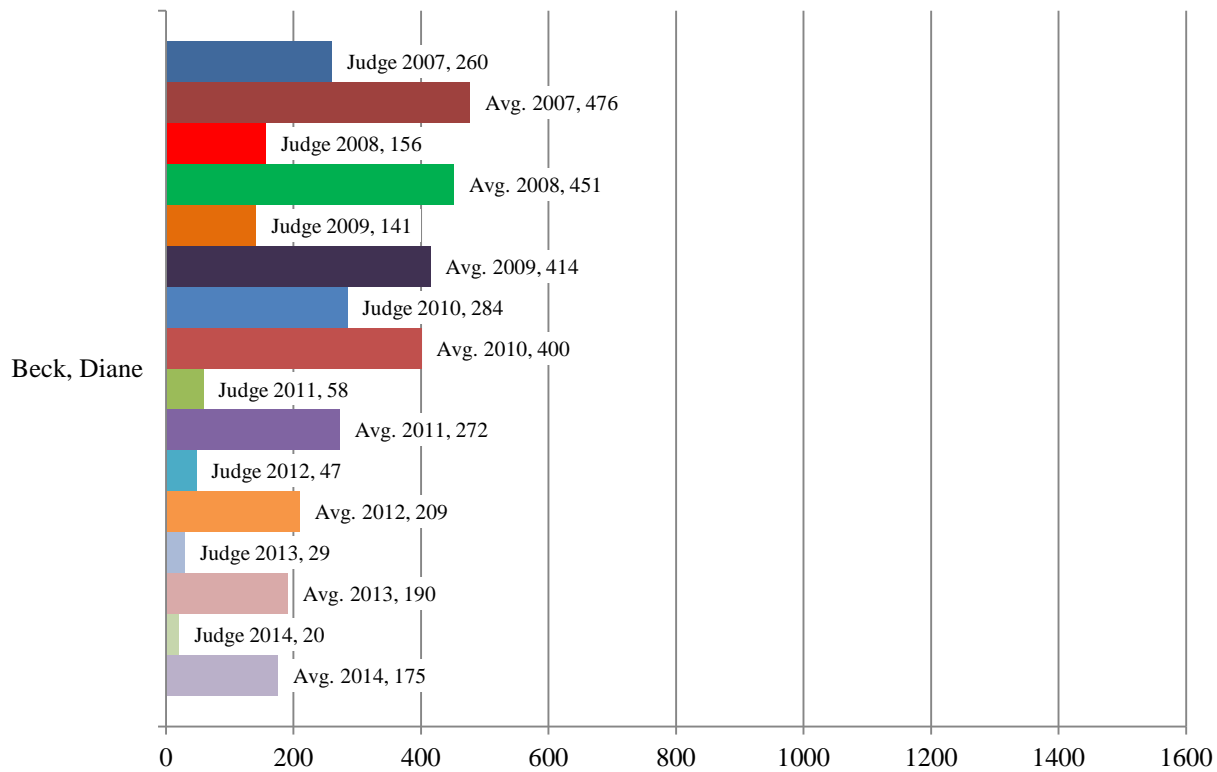
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



Appendix “14” District STP (JCC Rosen):

District STP includes Pasco and Pinellas counties.

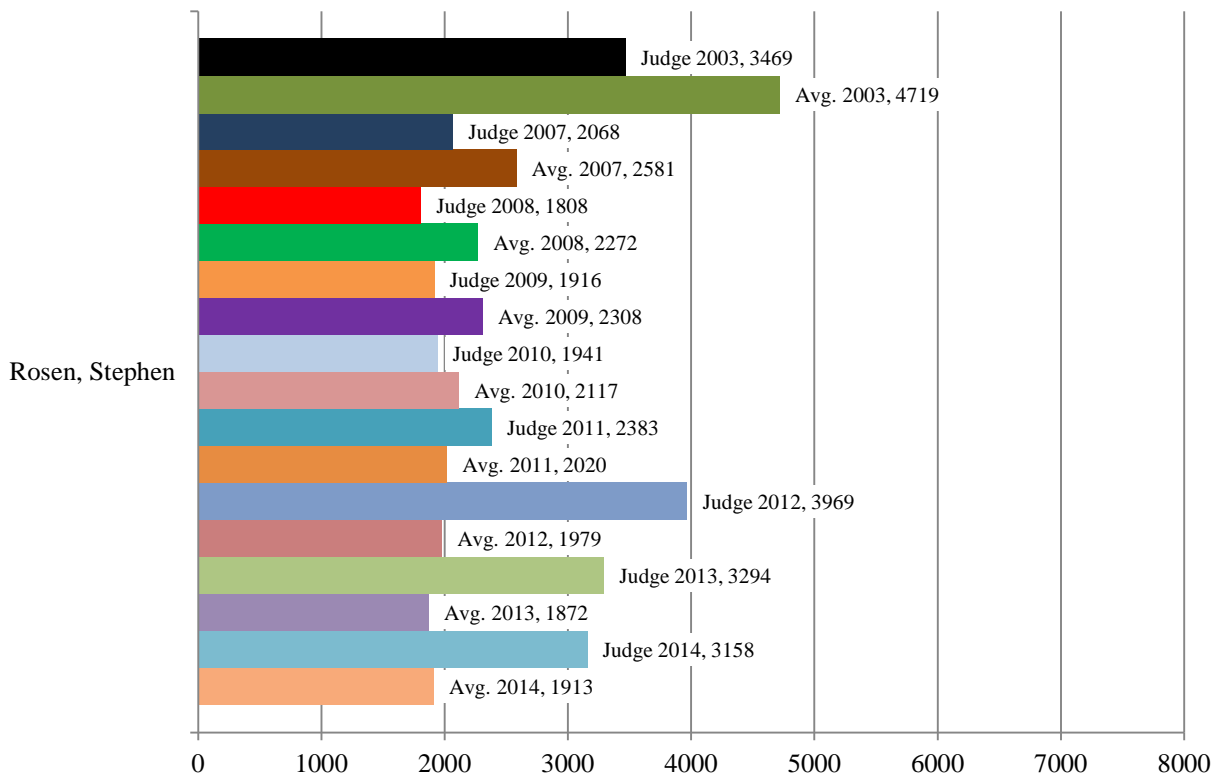
District St. Petersburg underwent significant change in 2012, becoming a one-judge District for the first time since 1974. Mediator Rob Arthur began splitting his time between District STP and District Lakeland (LKL), late in fiscal 2012, and continued that role since. A marked increase in the volume of scheduled mediation in District LKL has resulted in increasing portions of his time being devoted there.

Petition and “new case” volumes are markedly above the statewide average in District STP. The “new case” volume remains almost double the statewide average. As a consequence, the PFB closure rate is likewise above the statewide average in District STP. Despite the extraordinary volumes there, the docket evidences sound management. The PFB filing and closure volumes are consistent, demonstrating docket equilibrium in St. Petersburg. However, the year-end pending petition inventory is significantly above the statewide average in each of recent years.

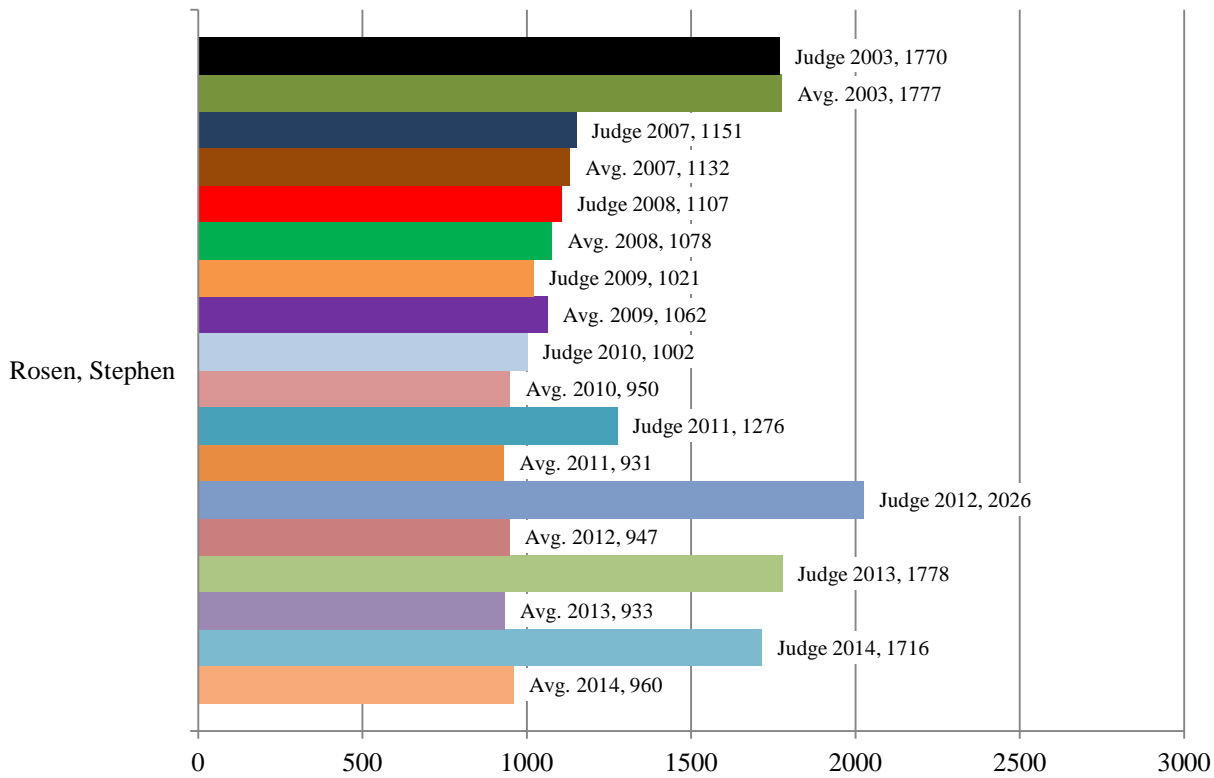
Judge Rosen also readily steps in to hear cases in other districts throughout the state. As a result of both the STP volumes and the volunteering to hear other judge’s cases, the trial volume in District STP was the highest in the state in 2012-13, at 117 trials, and again in 2013-14 at 134 trials. Judge Rosen’s trial volumes have been notably high in the last several years.

In addition to his duties in St. Petersburg District, Judge Rosen handles proceedings in various jurisdictions around the State of Florida, both on cases that are assigned to him or on short notice from other Judges, through the video teleconferencing (“VTC”) system. In 2013-14 he presented a webinar on VTC trials for the International Association of Accident Boards and Commissions (IAIABC), and presided over a VTC mock trial at the Workers’ Compensation Institute (WCI) annual educational conference. Judge Rosen also presented on a panel at the Workers’ Compensation Section Forum and at the Workers’ Compensation Institute Spring Forum. He regularly participates as a proctor of the Florida Bar examination in Tampa.

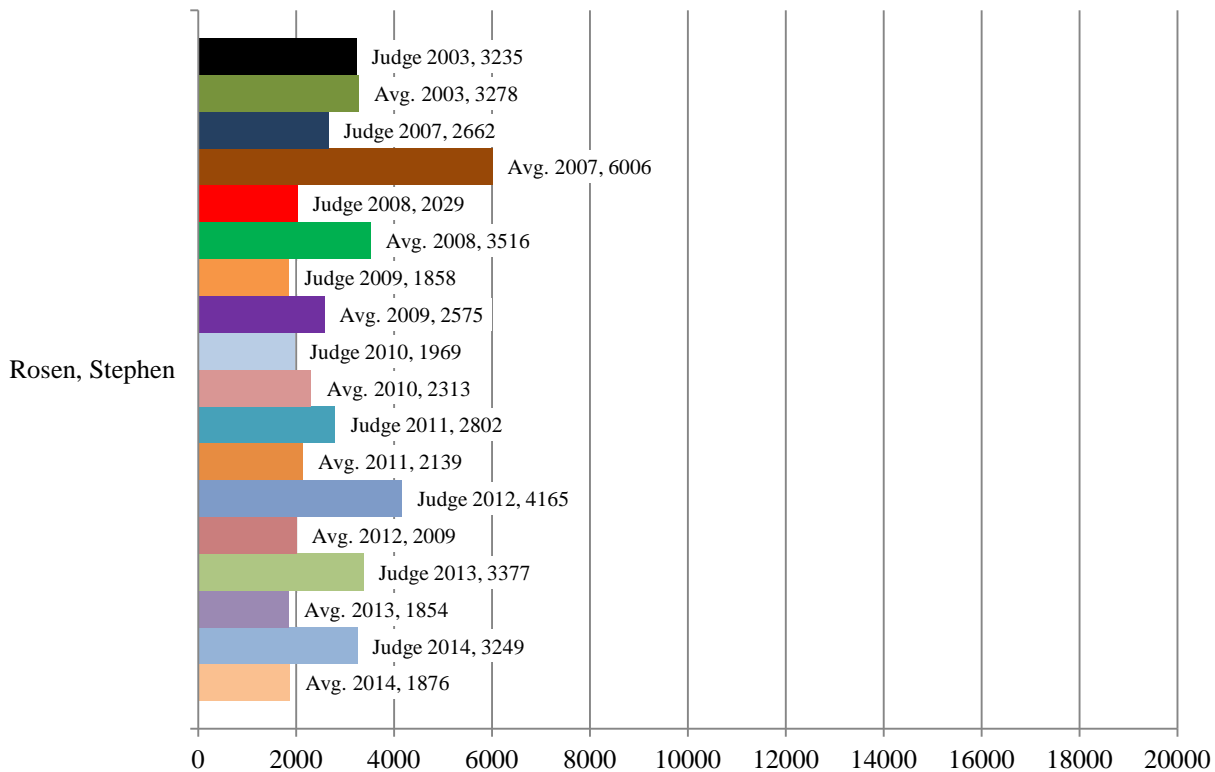
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



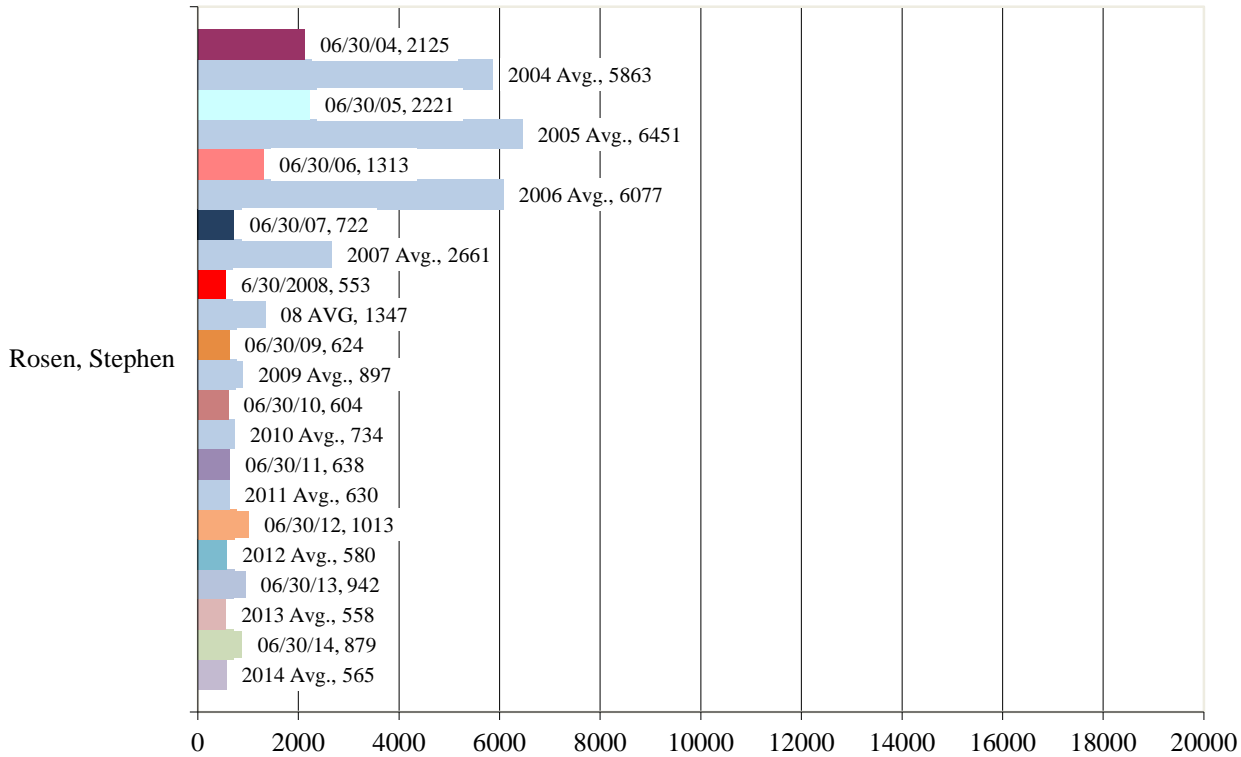
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



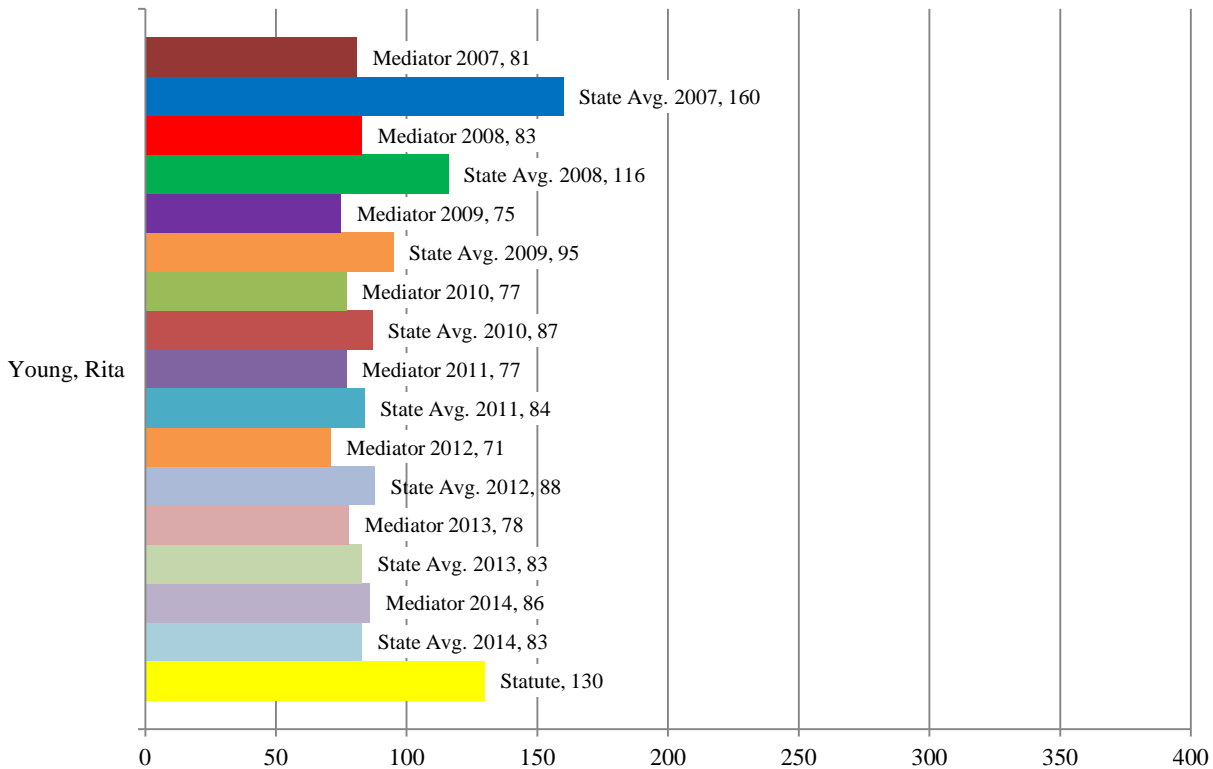
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



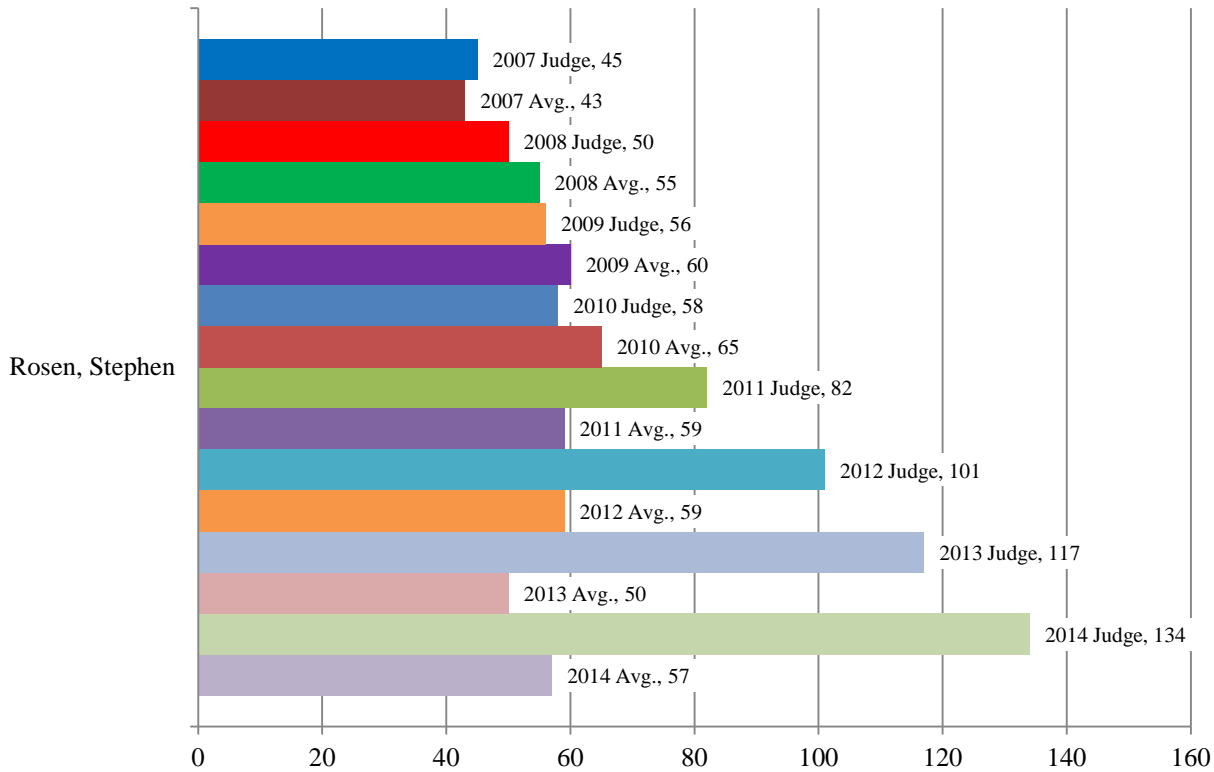
The following depicts the inventory of pending PFBs in this District and the statewide average between 2003-04 and 2013-14. The identification and values for each year are in each bar label.



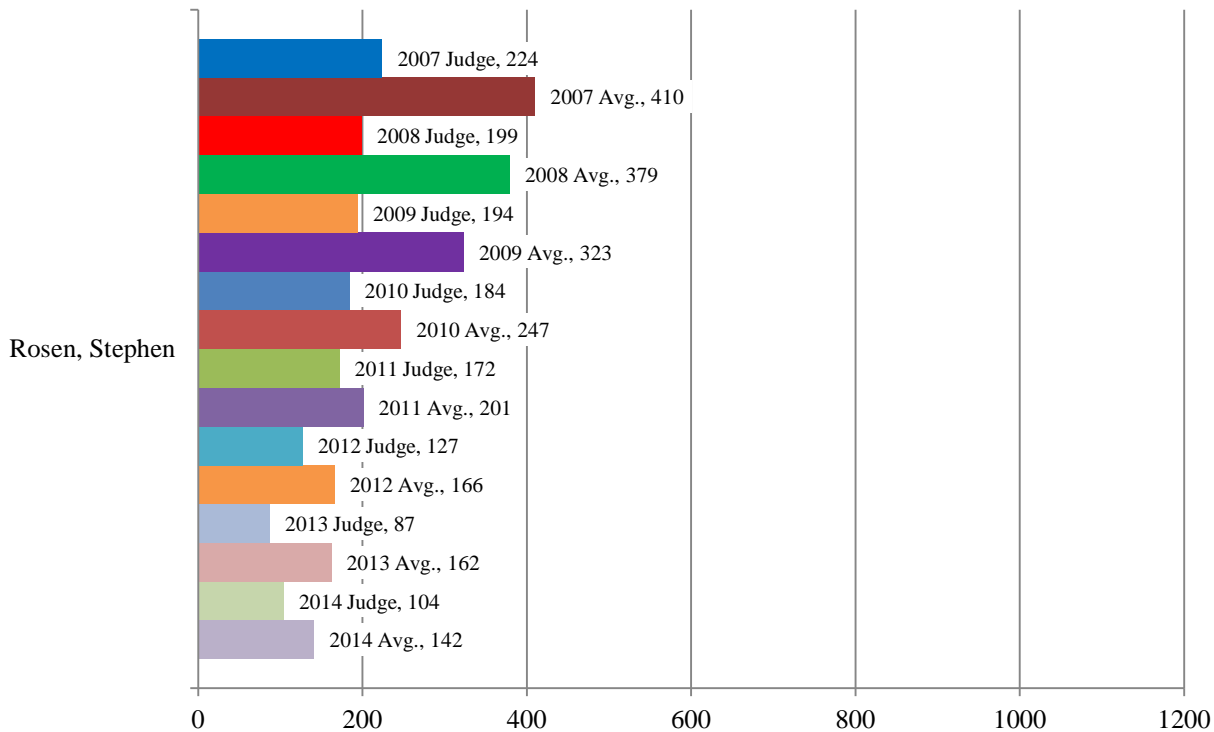
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



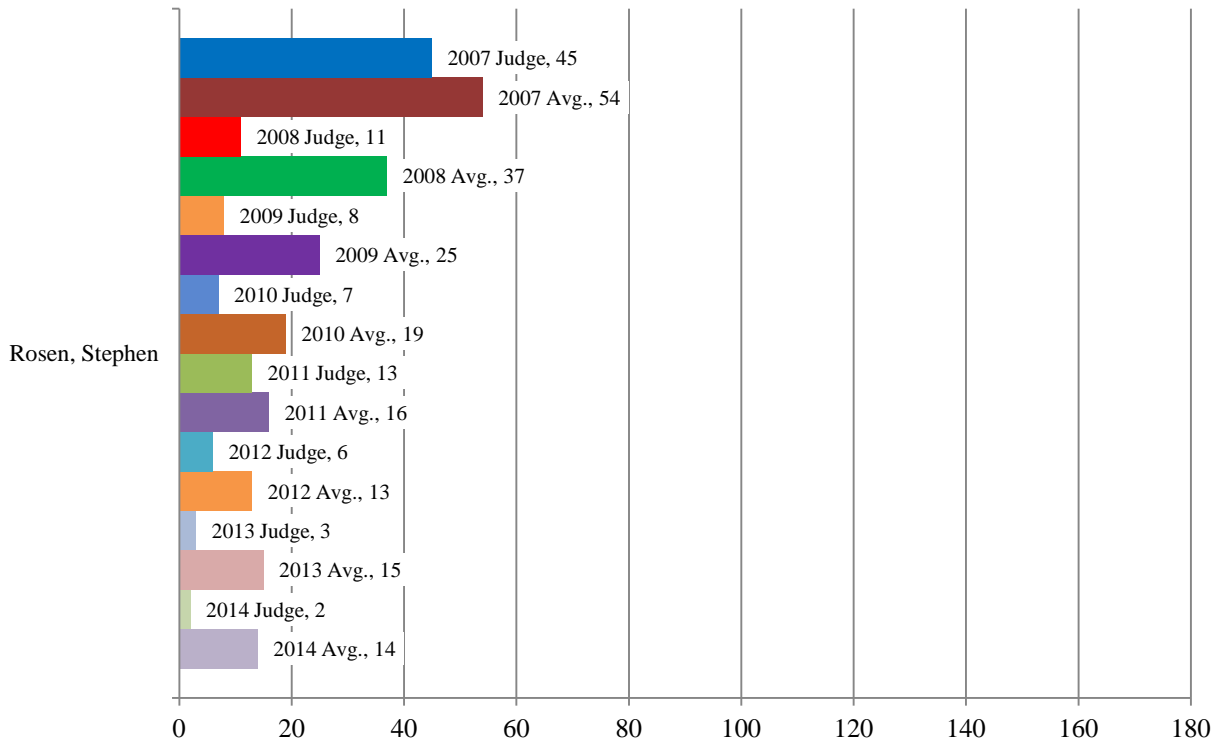
The following graph depicts the total volume of trial orders¹³⁰ uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



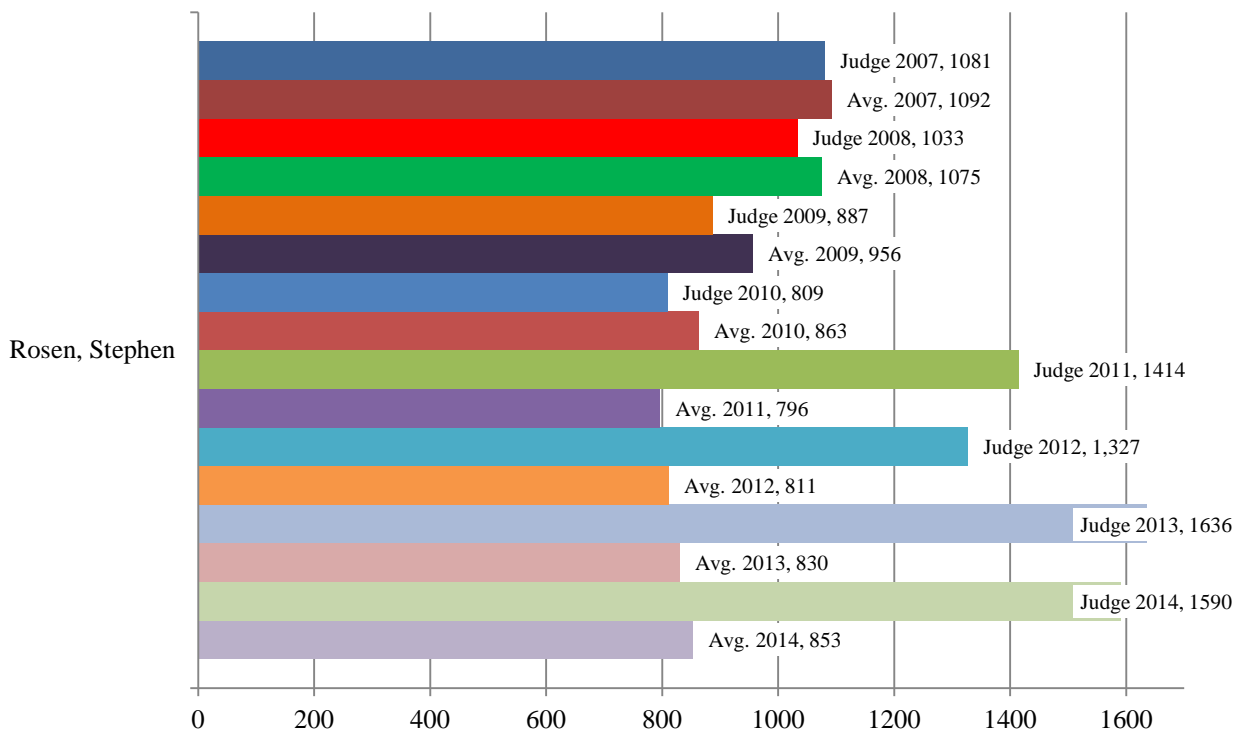
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



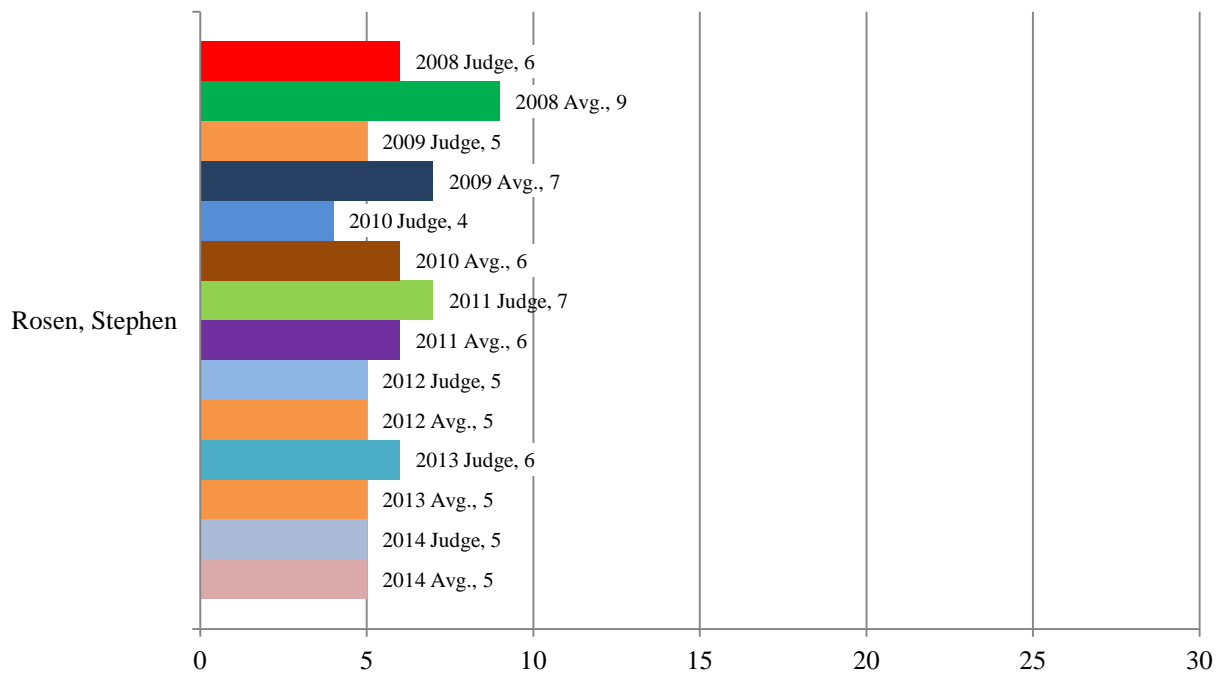
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



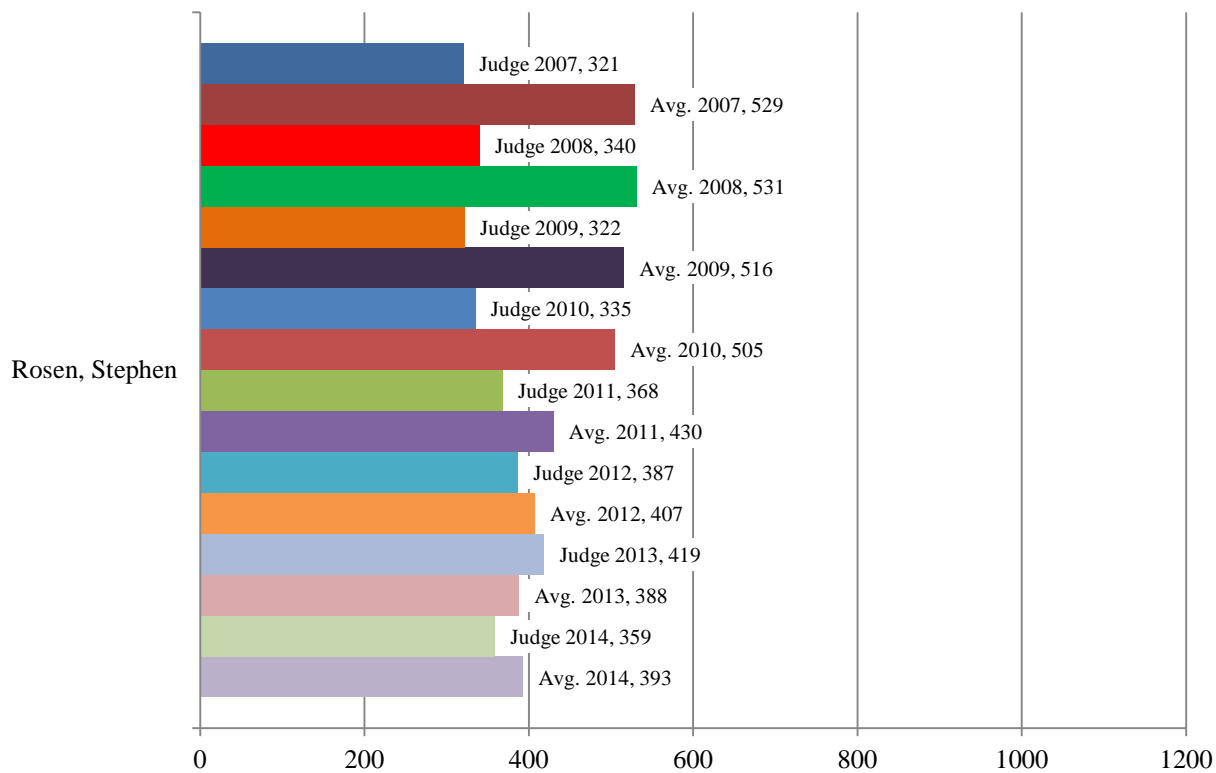
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



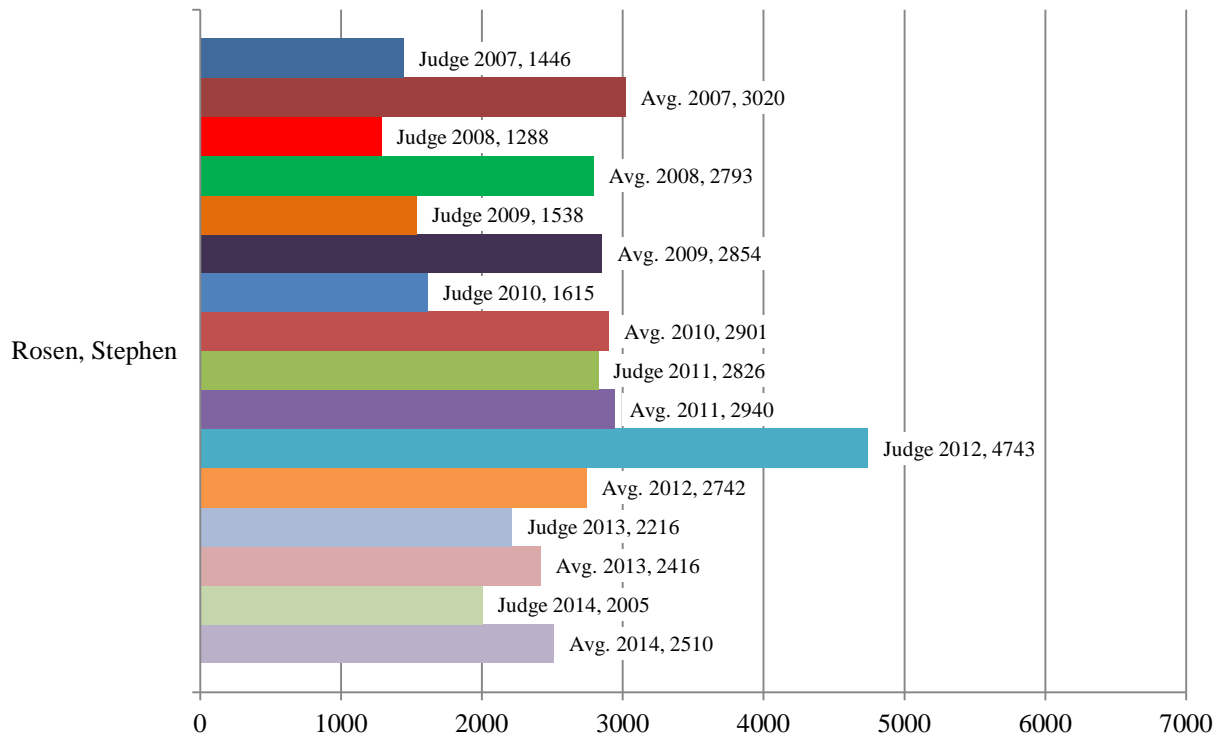
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



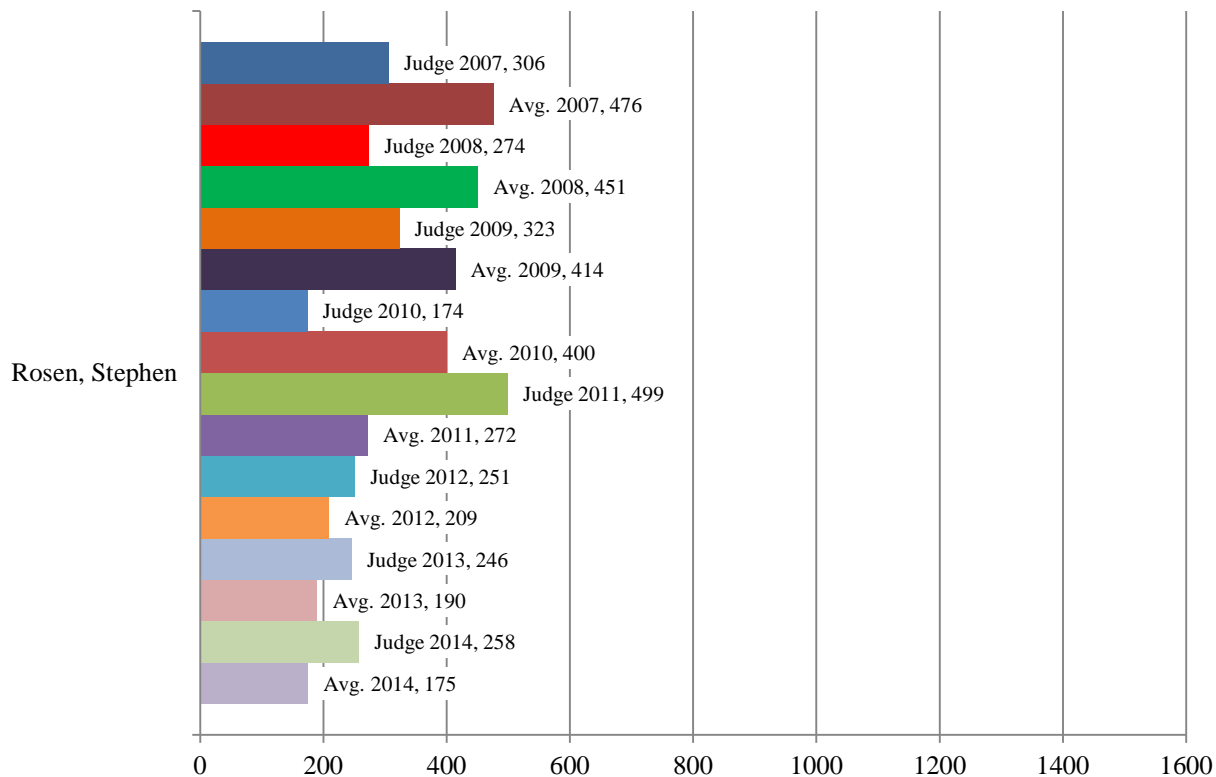
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



Appendix “15” District TLH (JCC Lazzara):

District TLH is one of the largest geographic Districts, and includes Franklin, Gadsden, Hamilton, Jefferson, Lafayette, Leon, Madison, Suwannee, Taylor and Wakulla counties.

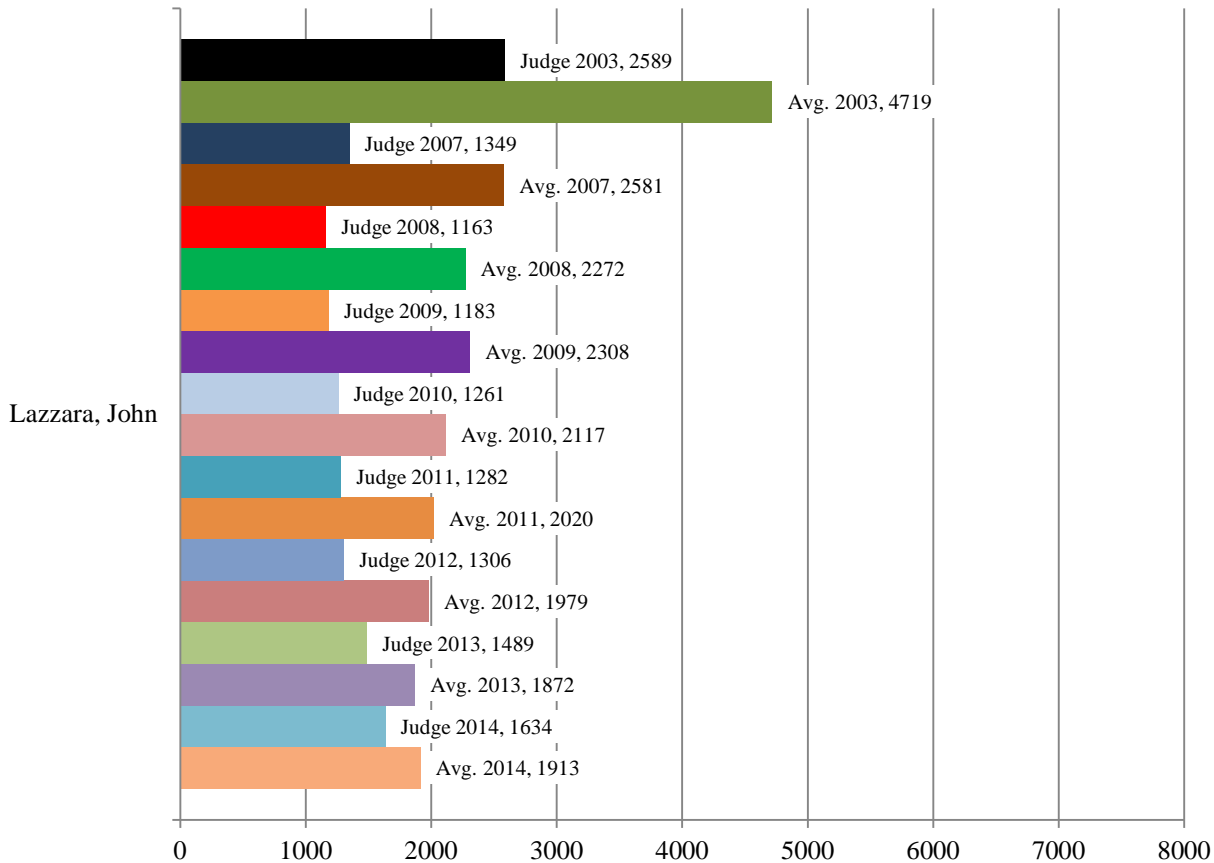
Although some of these counties have low population density, there is an exceptional level of effort required in this District due to the statutory obligation for the hearings to occur in the county in which the accident occurred if requested by the parties. Although some litigants agree to travel to 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 in 2013-14, though each increased somewhat over the last two years. The filing volumes have been reasonably consistent in TLH before Judge Lazzara began receiving out-of-district assignments from Ft. Lauderdale. The District TLH PFB closure volumes remain reasonably close to the PFB filing volumes, evidencing a District in equilibrium, which is also consistent with year-end pending petition inventory below the statewide average.

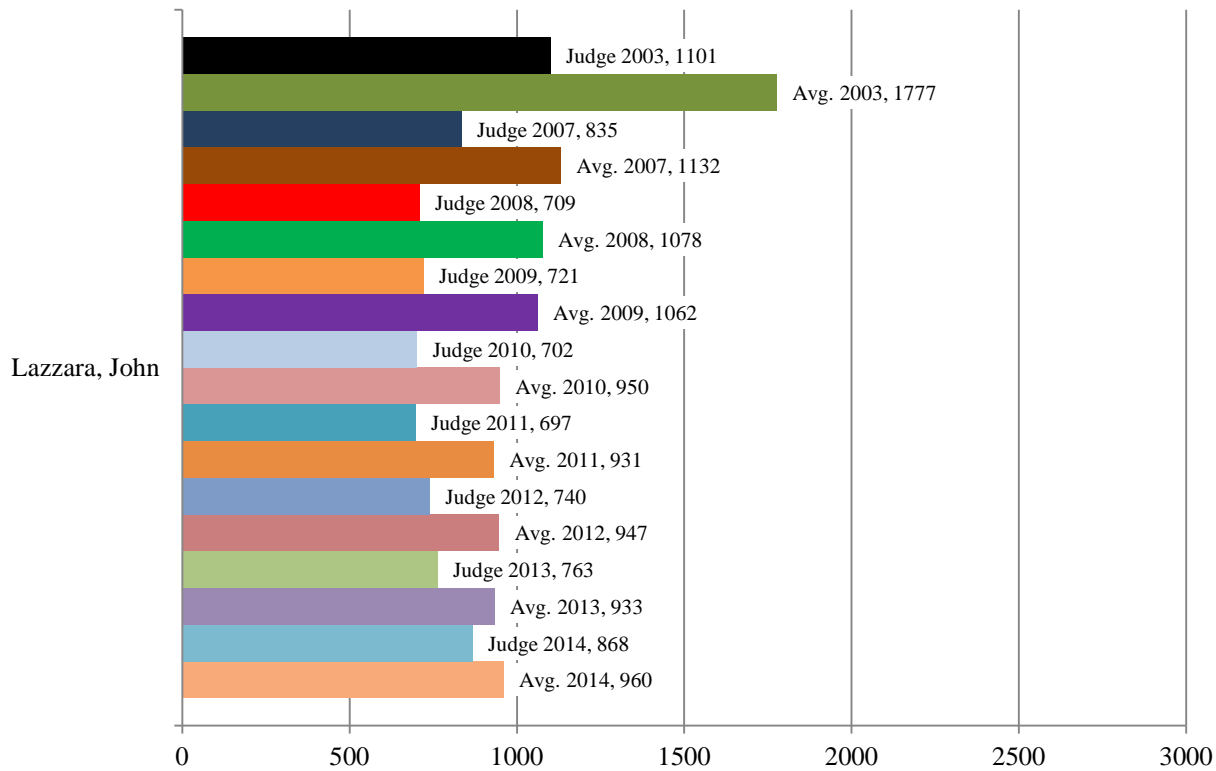
In District TLH, the trial volume has been below the statewide average in each of the last eight fiscal years, but was increased notably in 2013-14. The average days from PFB to mediation, PFB to trial and trial to order are all within the statutory parameters in District TLH. Judge Lazzara continues to receive new case assignments in Ft. Lauderdale.

Judge Lazzara served as a Board member of the National Association of Workers’ Compensation Judiciary (NAWCJ), and is a Past-President. In 2013-14, he served that organization on the College Curriculum committee and as Chair of the Bylaws and Nominations committee. He is an adjunct professor at the Florida State University School of Law, teaching workers’ compensation. He also presented and moderated at the 2014 OJCC seminar in Tallahassee, a program for which he provided much leadership and organization. Judge Lazzara is an ad hoc member of the Workers’ Compensation Law Subcommittee of The Florida Bar Appellate Rules Committee.

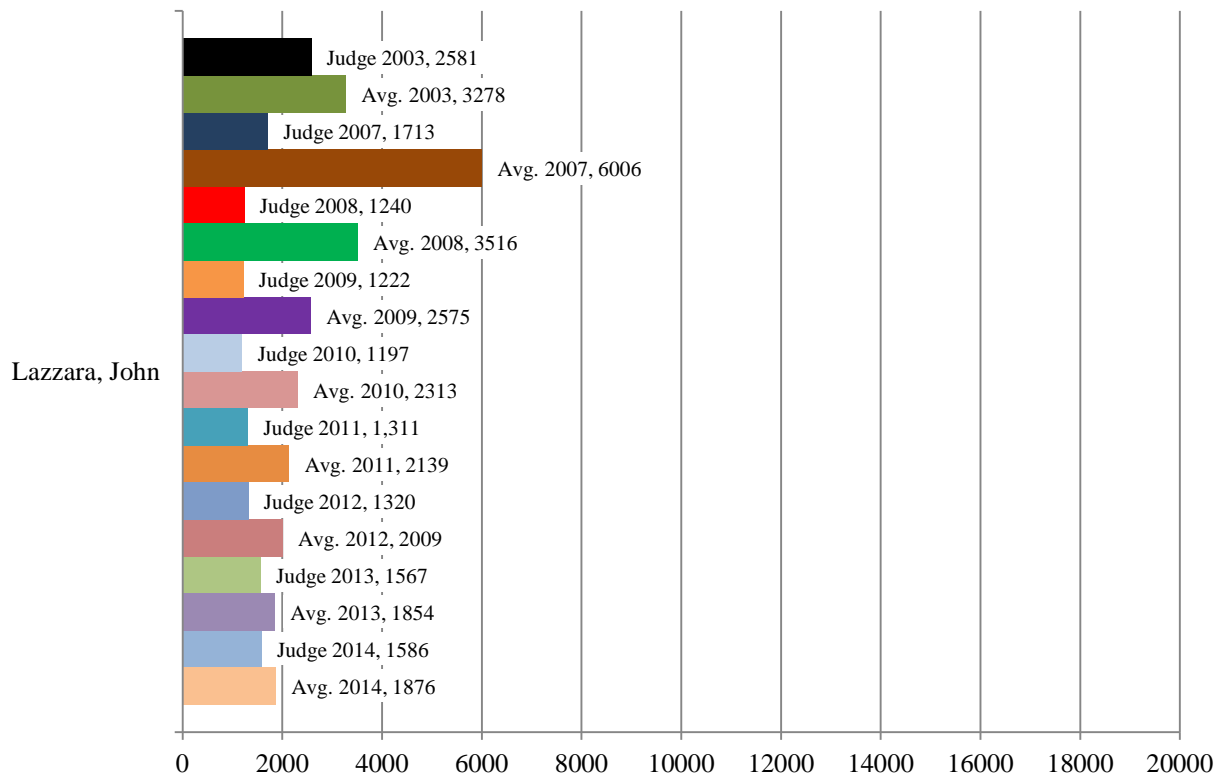
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



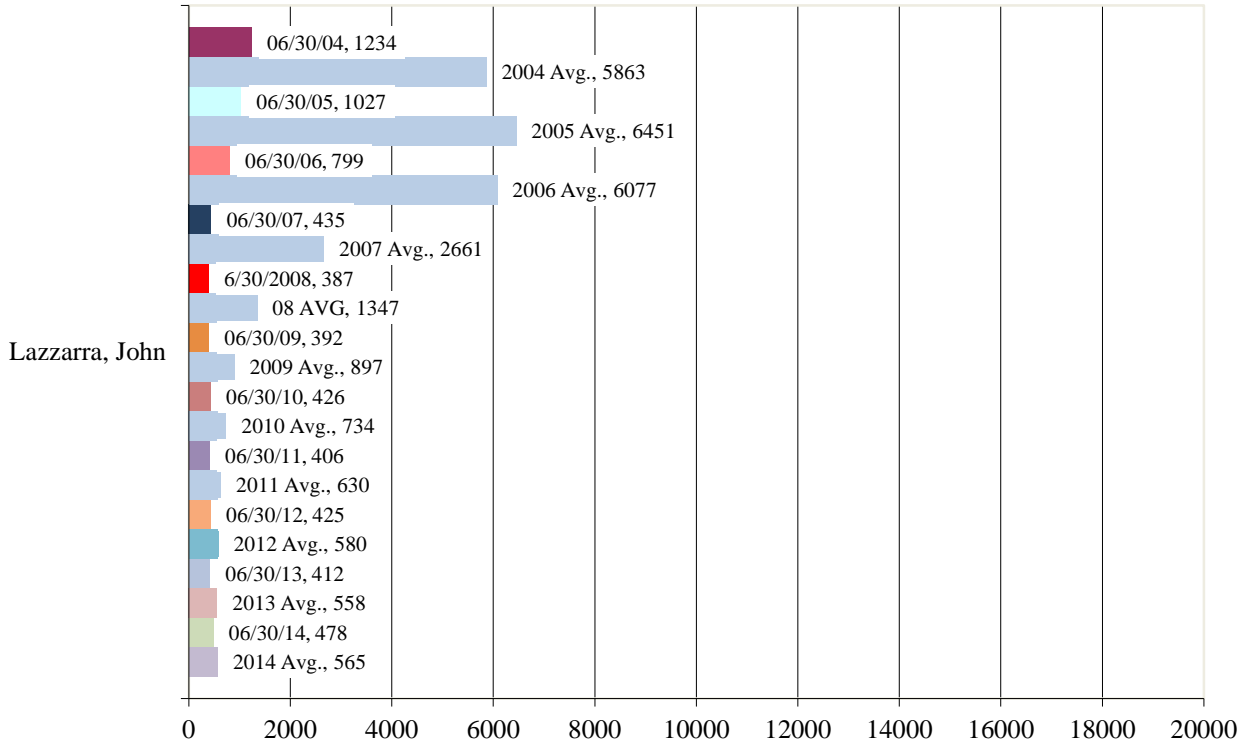
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



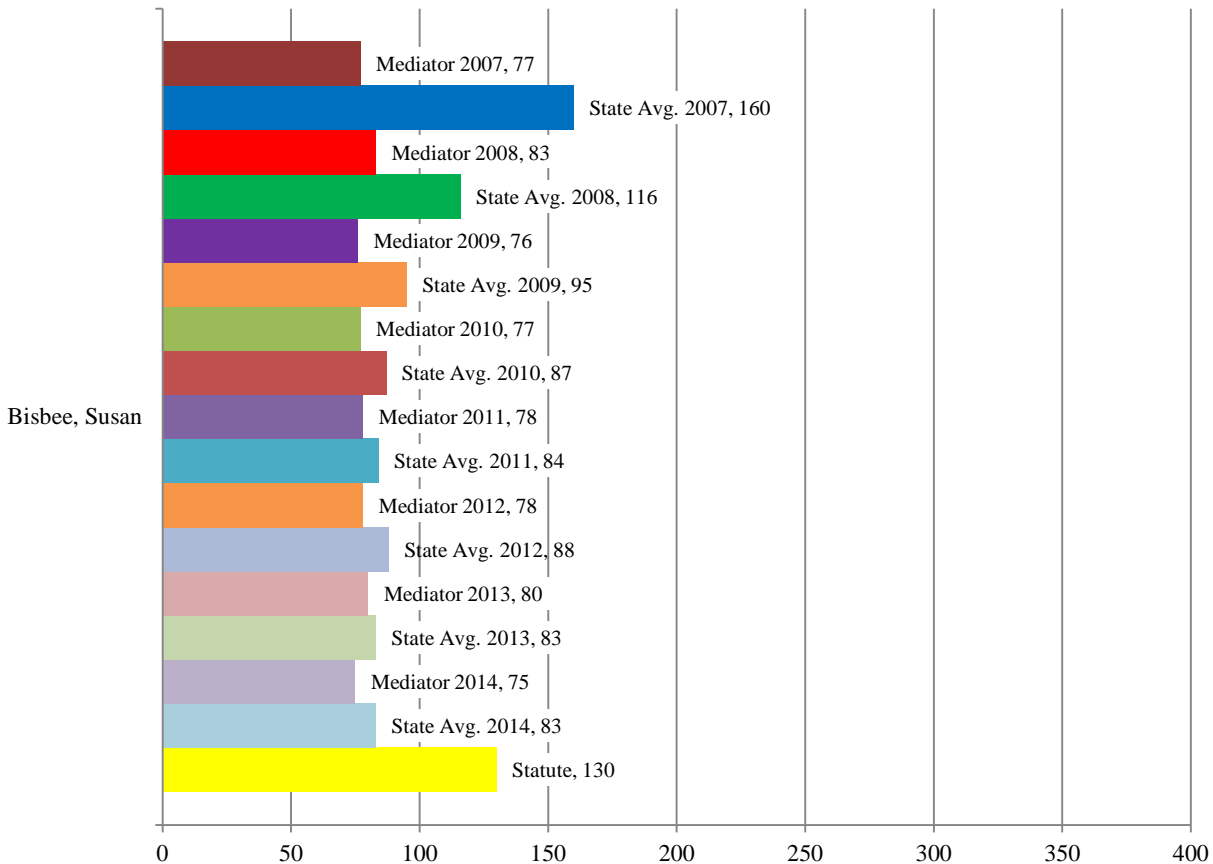
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



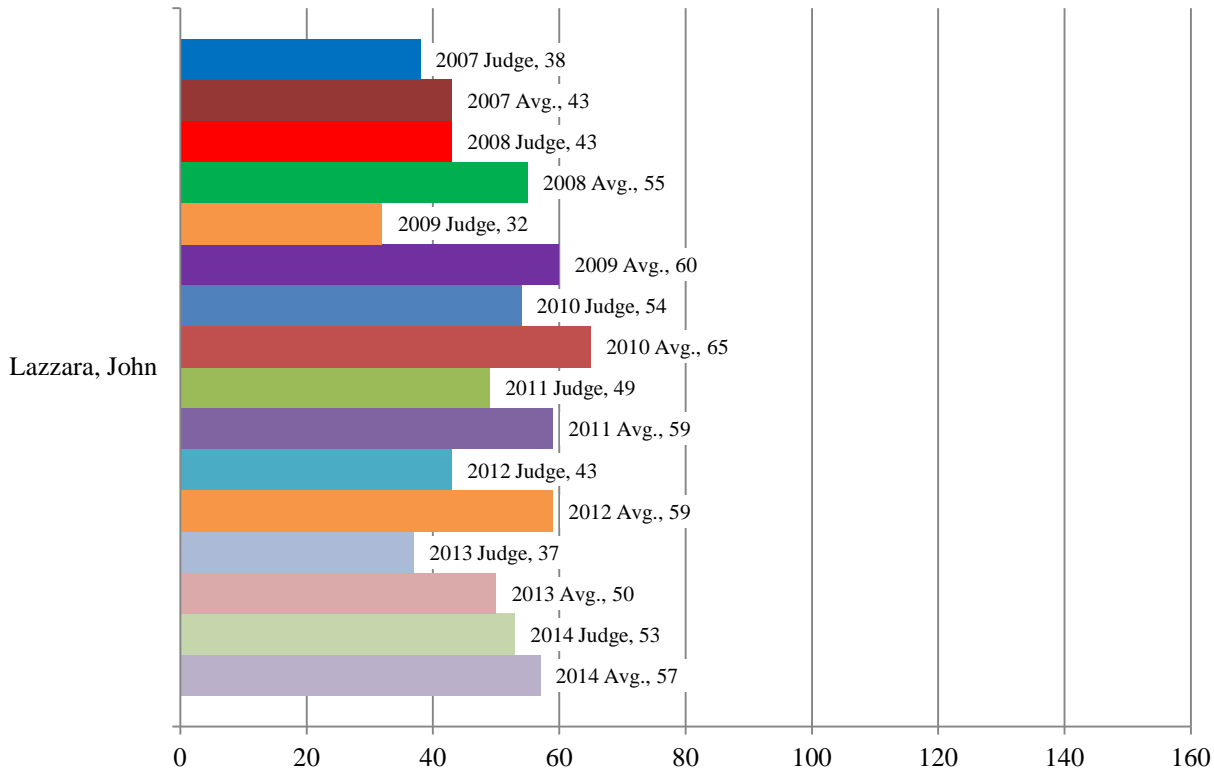
The following depicts the inventory of pending PFBs in this District and the statewide average between 2003-04 and 2013-14. The identification and values for each year are in each bar label.



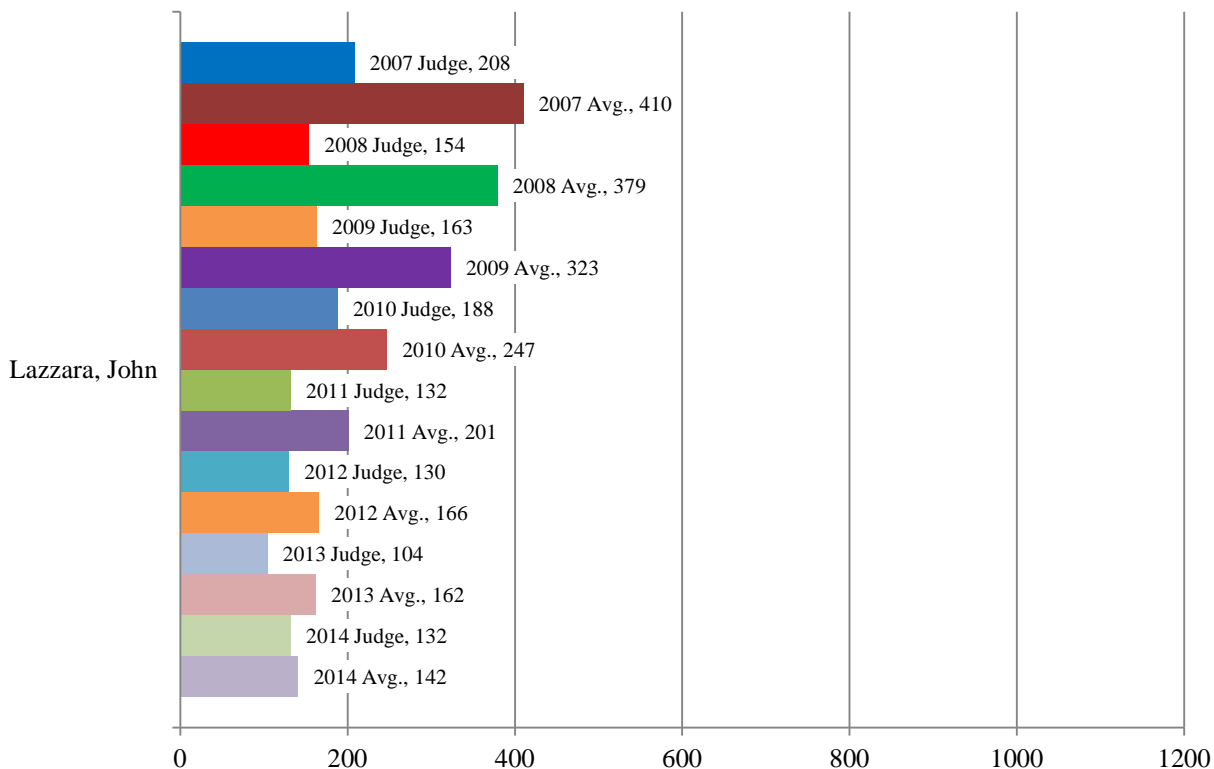
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



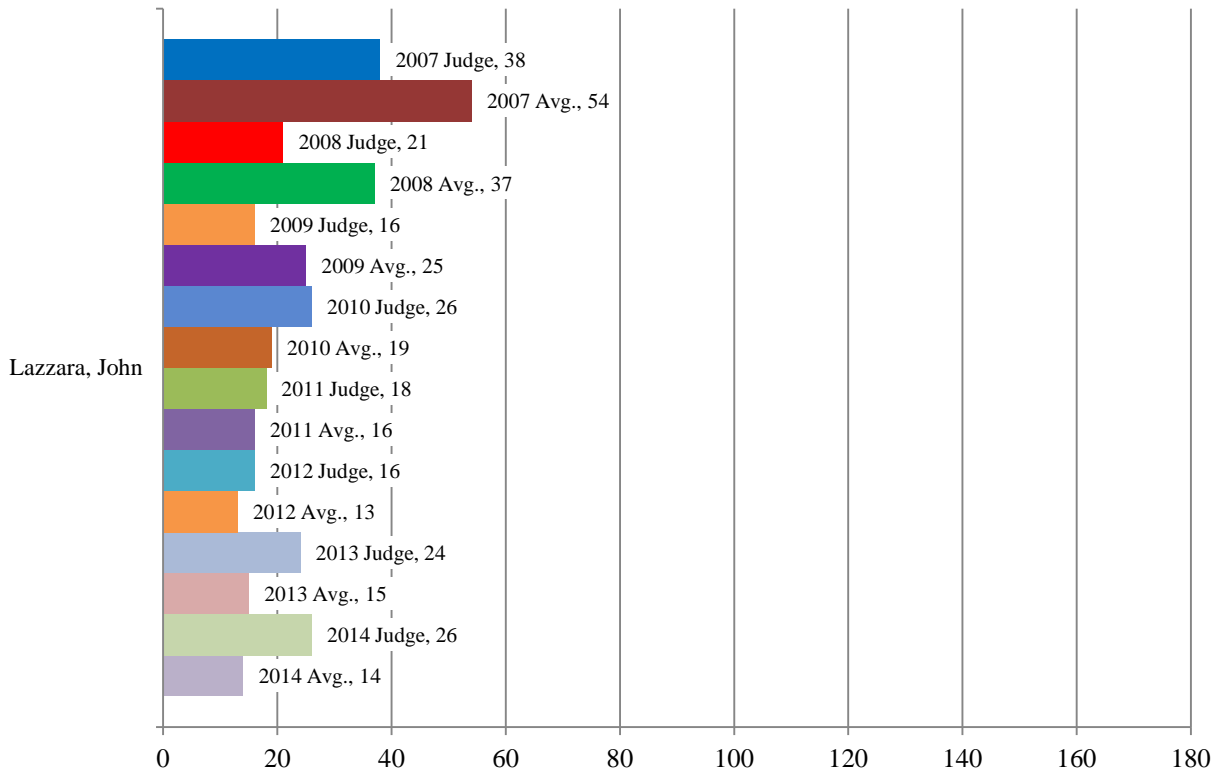
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



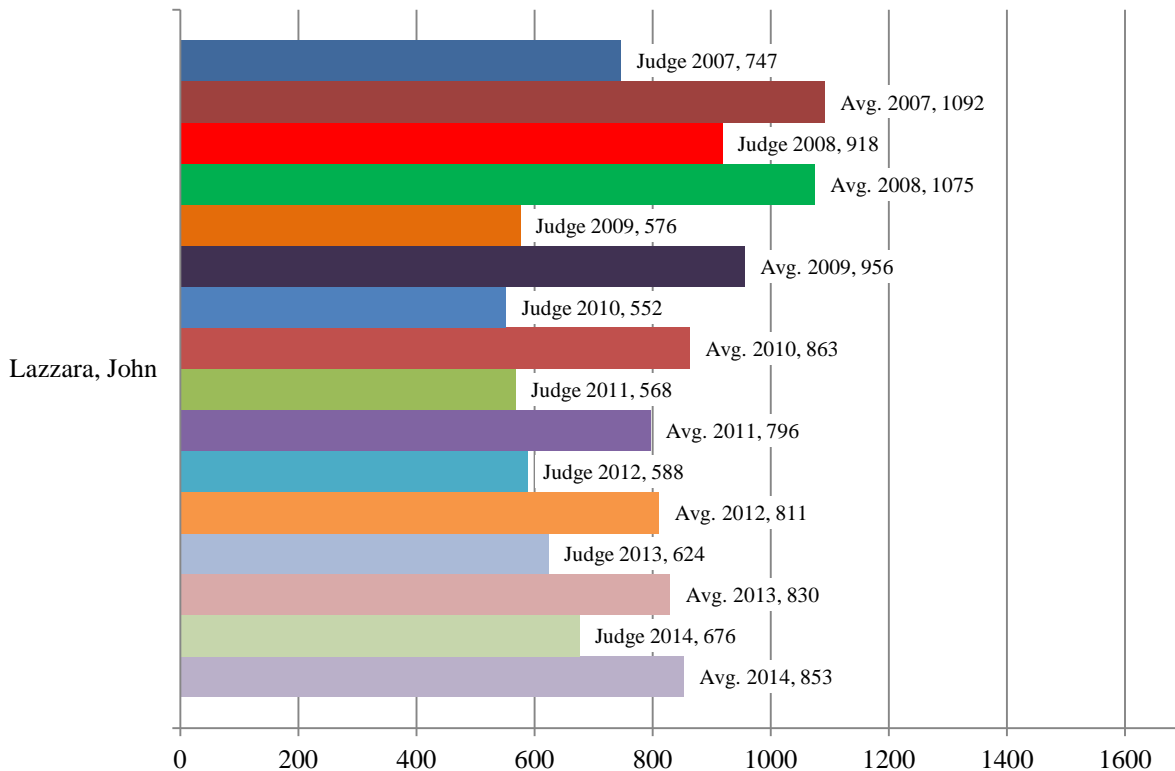
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



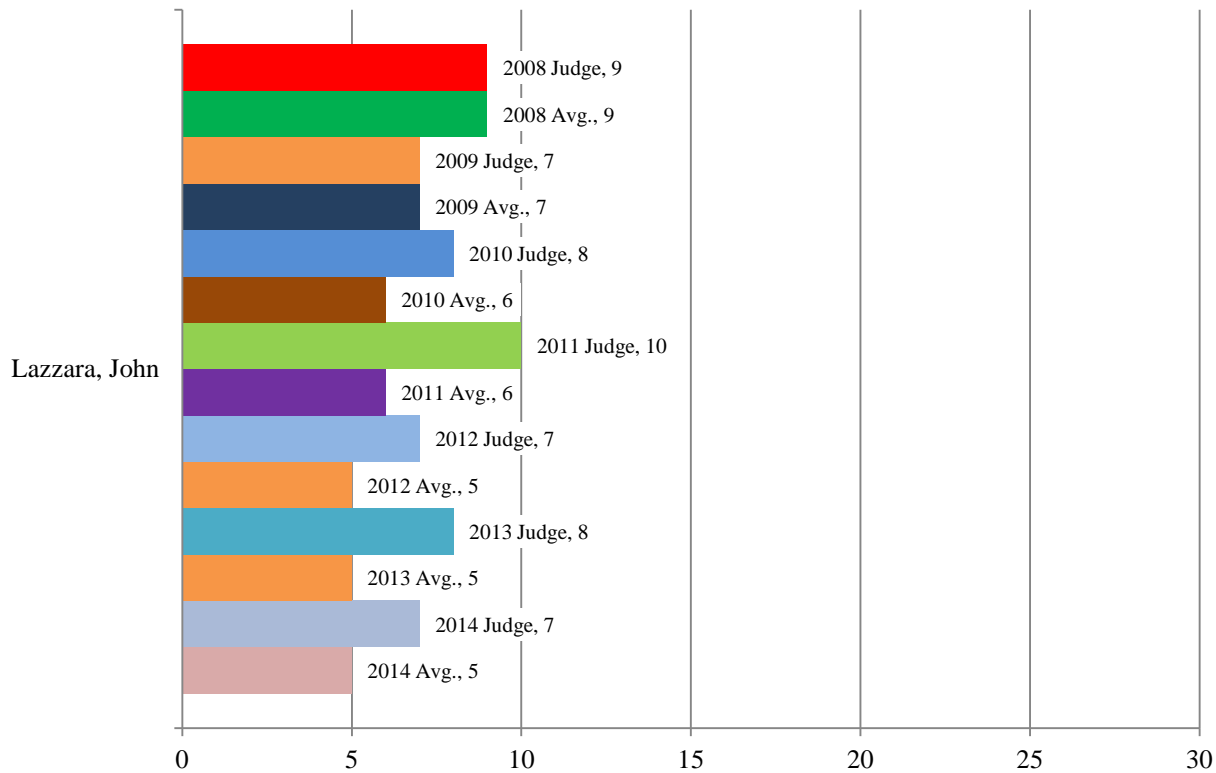
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



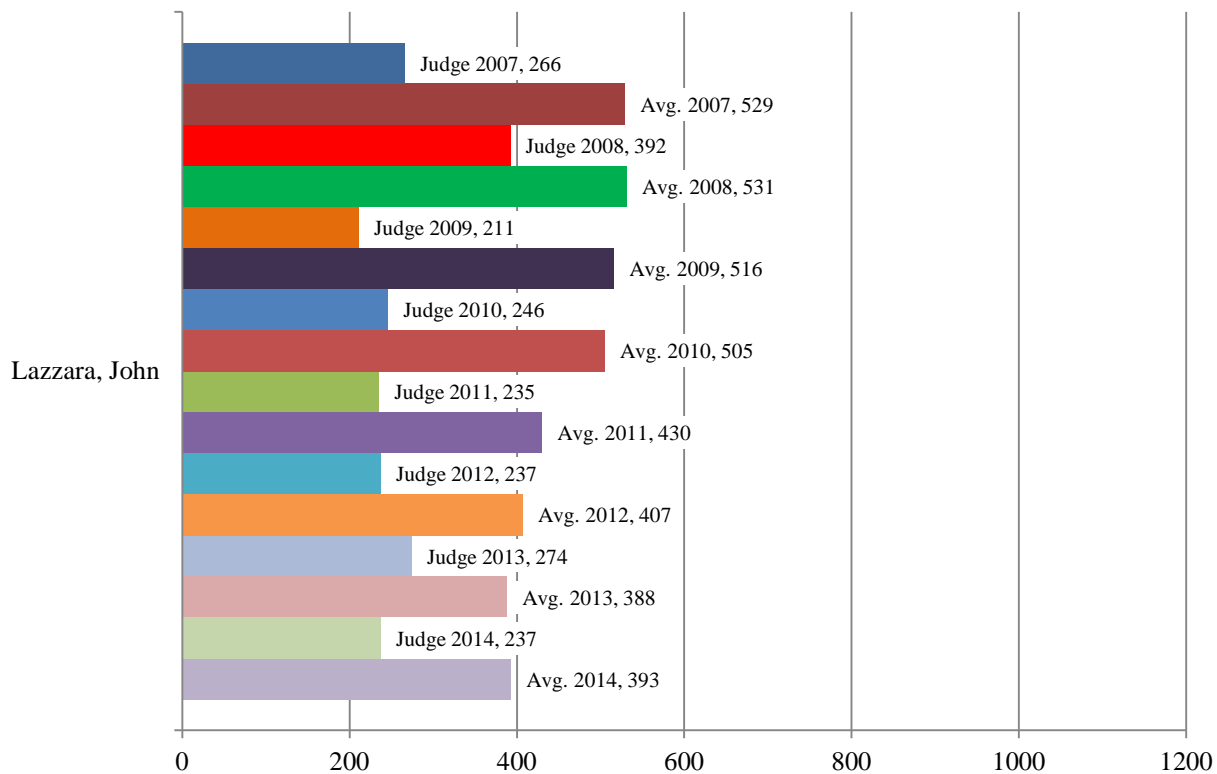
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



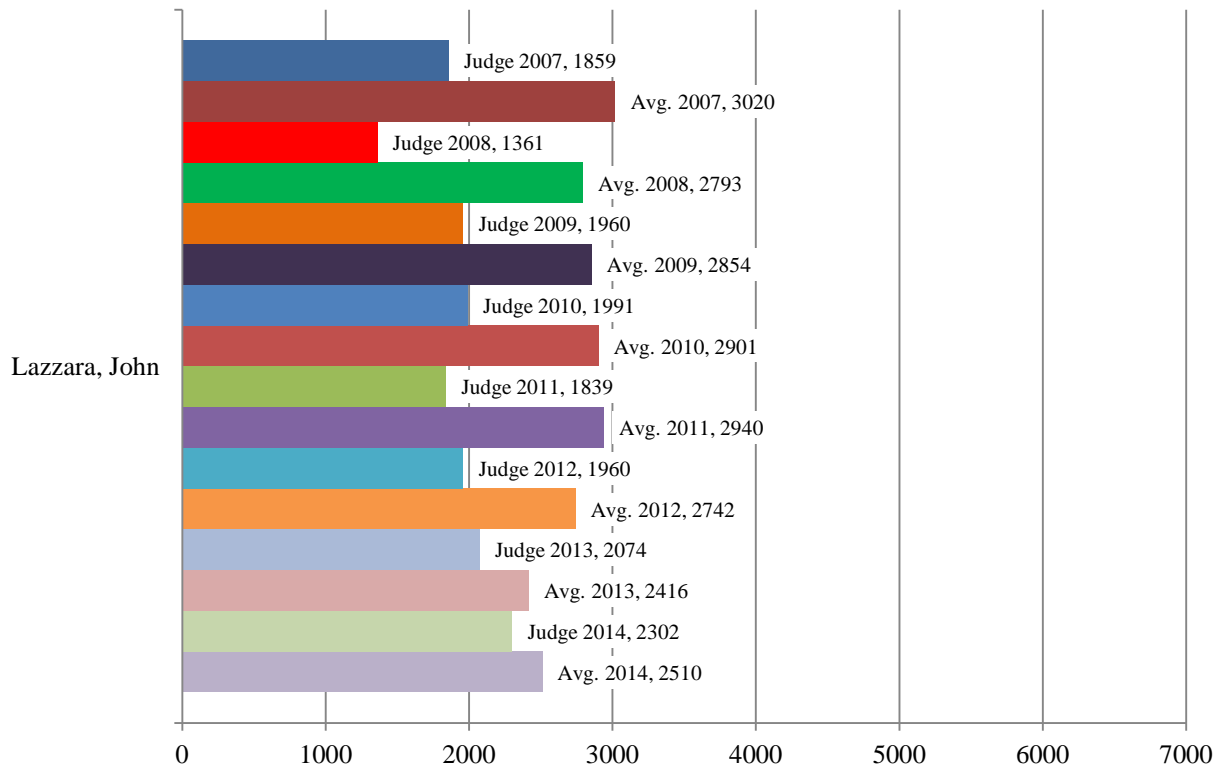
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



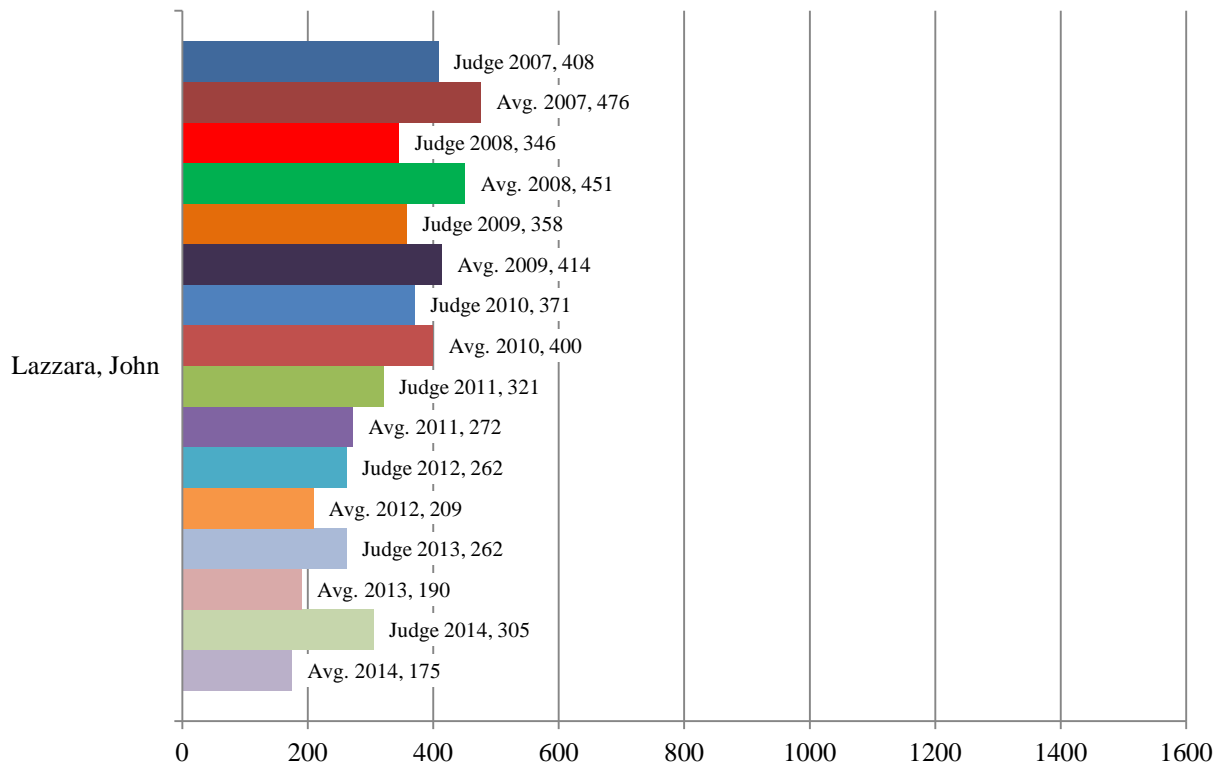
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



Appendix “16” District TPA (JCC Jenkins, JCC Lorenzen, JCC Massey):

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

2012-13 saw the retirement of long-serving Judge Joseph Murphy. Following his retirement, Mark Massey was appointed to that position. In a further effort to address the litigation demands in district MIA, Judge Massey was assigned a caseload that is primarily MIA cases. It is anticipated that in time his efforts will not be required in MIA and the TPA caseload will be redistributed among the three Judges resident in that district, including Judge Massey.

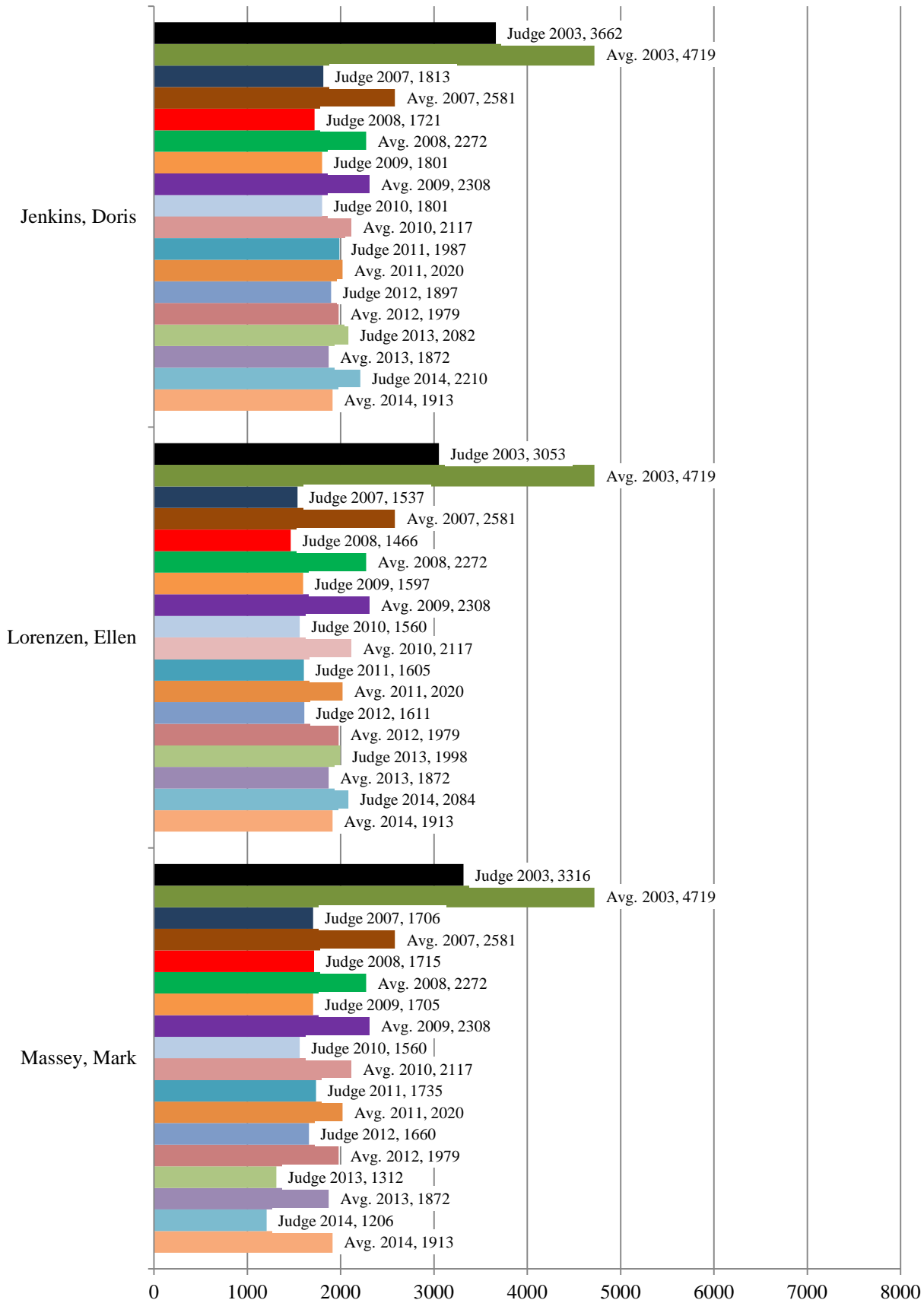
Despite the redistribution of three TPA division’s workload to two divisions (Judges Jenkins and Lorenzen), the PFB filing volumes for these two TPA judges remained close to the statewide average. The “new case” volume increased in 2012-13, above the statewide average and that trend continued in 2013-14. While the increase is noted, it is not seen as an unmanageable level. The petition filing and closure volumes in District TPA are consistent, supporting the conclusion that the TPA dockets are in equilibrium. The year-end pending petition inventories are less consistent, with Judge Jenkins’ inventory notably higher than the statewide average and the other TPA division.

Trial volume remained below average in District TPA again in 2013-14. Although the workload was split between two rather than three judges in 2012-13, the overall trial volume did not increase. The time to trial in District TPA remained above the statewide average in 2013-14, minimally so in Judge Lorenzen and Massey’s divisions. Judge Jenkin’s time to trial was markedly above the statewide average and above the 210 day statutory parameter. The time to order remained within the statutory parameter for all three judges in TPA, and below the statewide average for Judges Lorenzen and Massey.

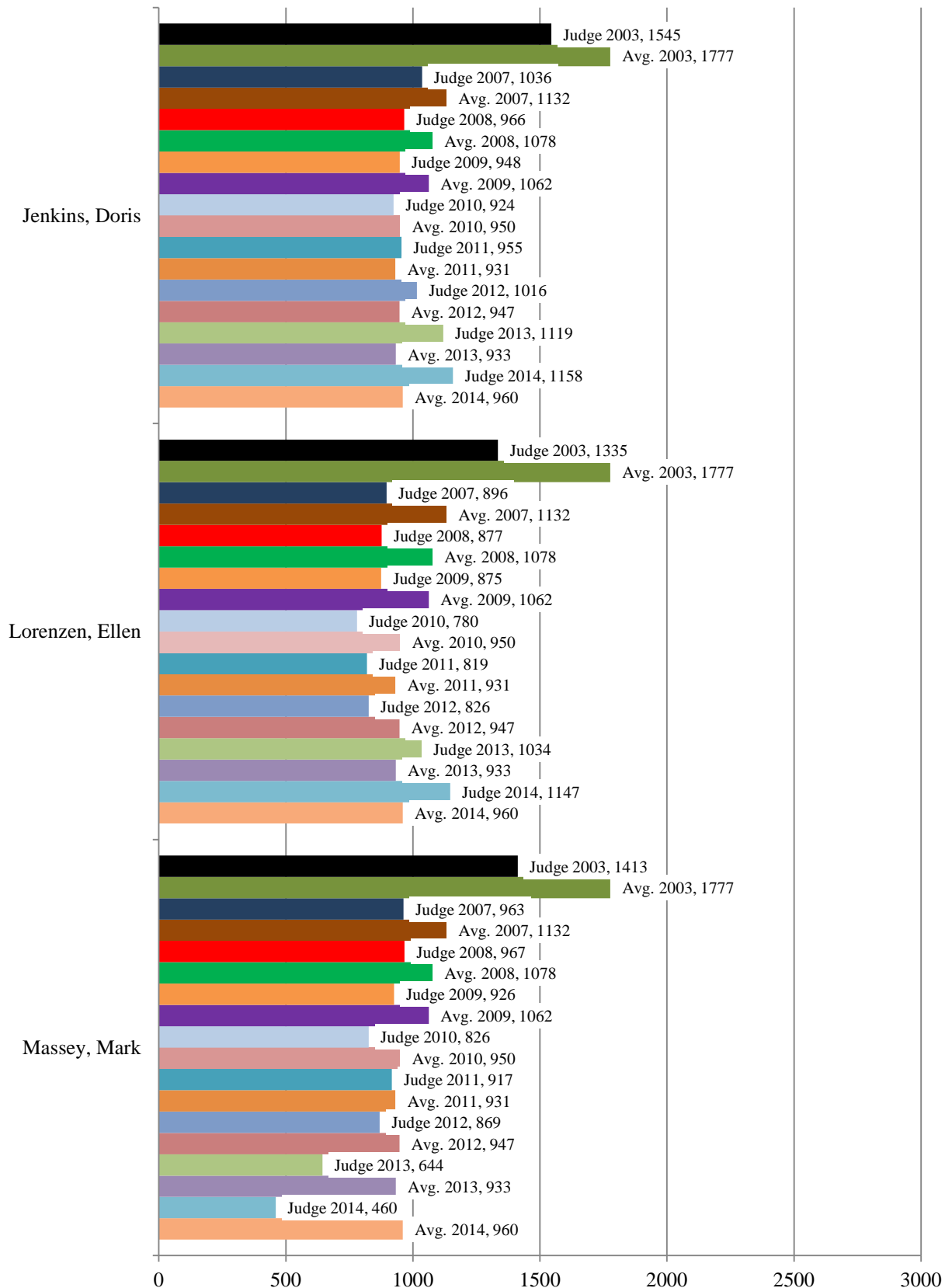
The 2012-13 volume of stipulation orders remained below the statewide average in TPA. The volume of “other” orders was reasonably consistent with statewide averages, except for Judge Massey’s division, which was markedly above the average. The volume of “other hearings” was also below the statewide average in TPA, with Judge Massey’s volume markedly below average.

Judge Lorenzen served as the immediate Past-President of the National Association of Workers’ Compensation Judiciary (NAWCJ) again in 2013-14. She has served as Administrative Judge in District TPA for the last four years. Judge Lorenzen had participated in the “out-of-district judge” program, regularly hearing cases in neighboring District Lakeland (LKL), but with the appointment of Judge Sojourner in LKL, that need was alleviated. In 2013-14, Judge Lorenzen presented Pleading and Practice Tips to the Hillsborough County Bar Workers’ Compensation Section. She presented on a panel at the ABA Midwinter Seminar of the Torts and Insurance Practice Section on “Negotiation and Mediation Techniques.” At The Florida Bar Workers’ Compensation Section Forum, she presented on a panel “Trial Practice and Procedures, Motions and Sanctions.”

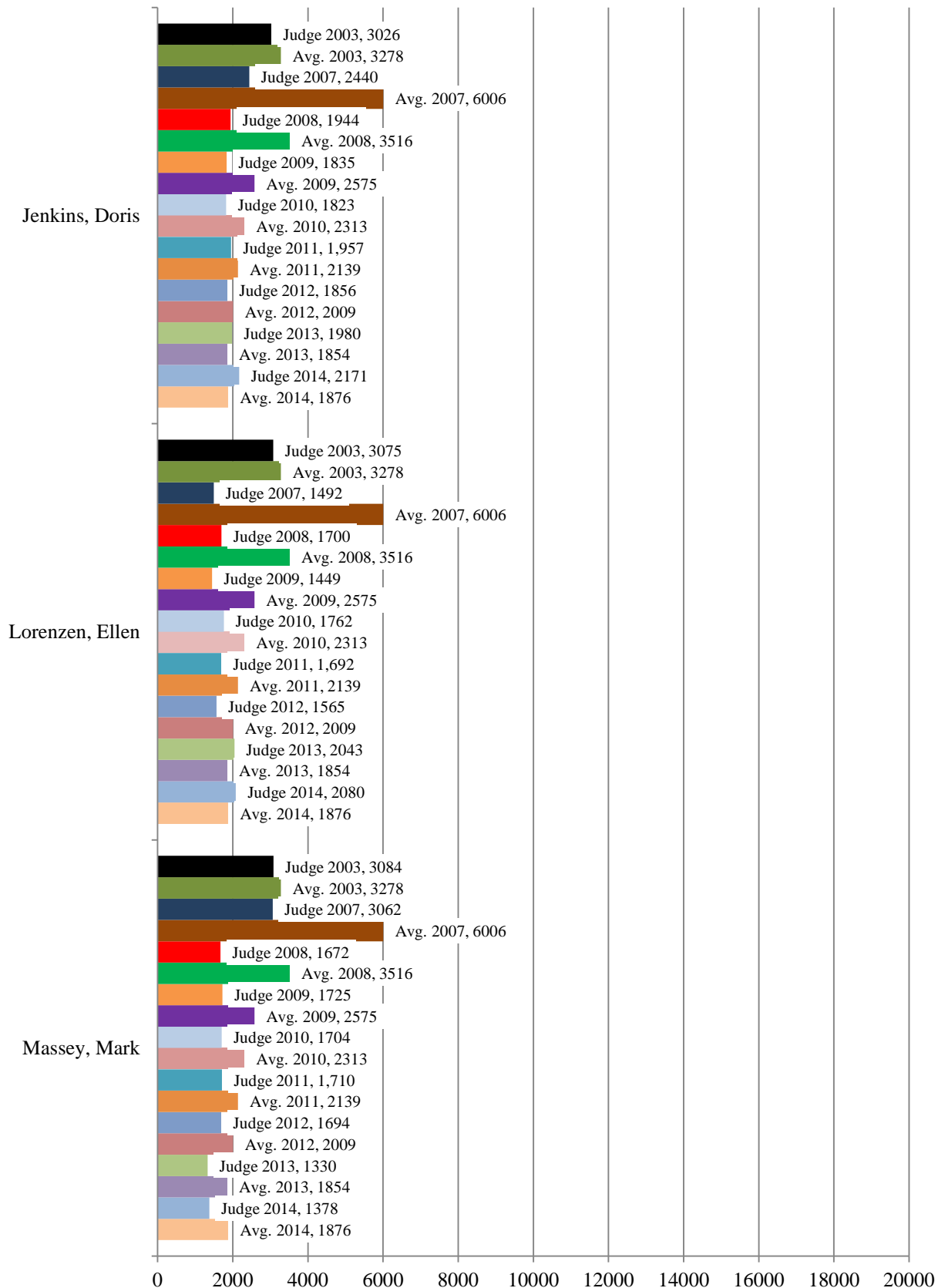
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



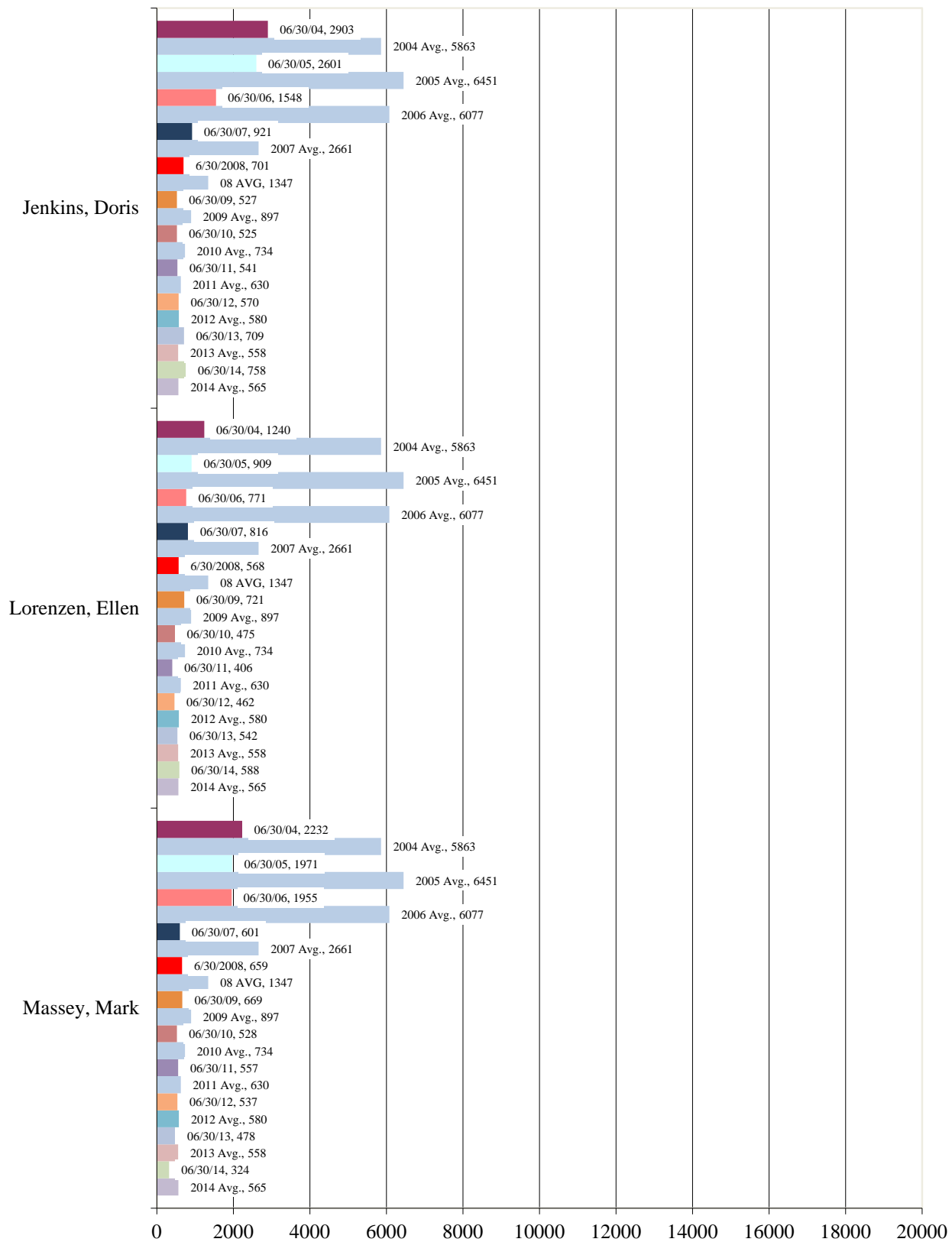
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



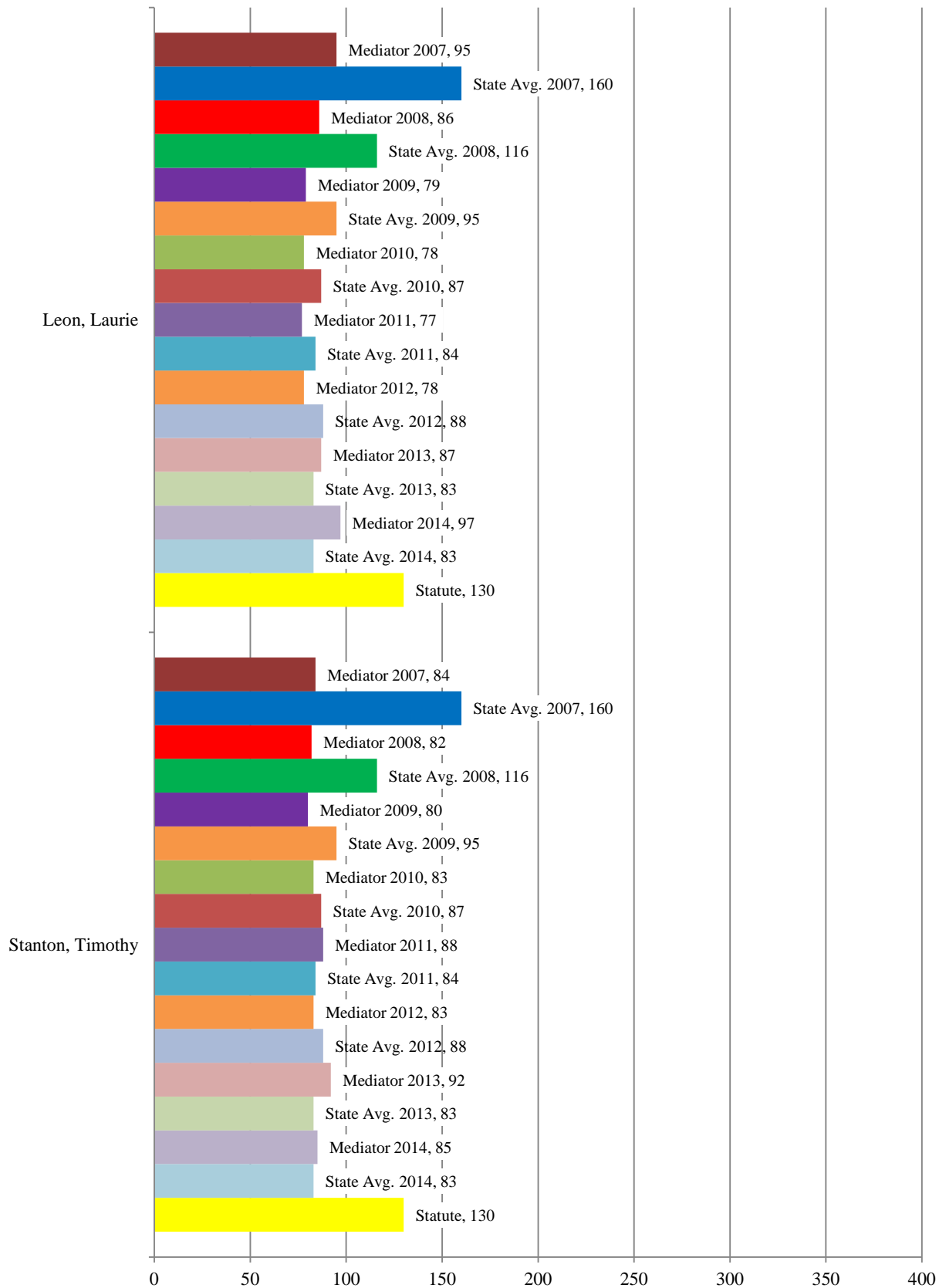
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



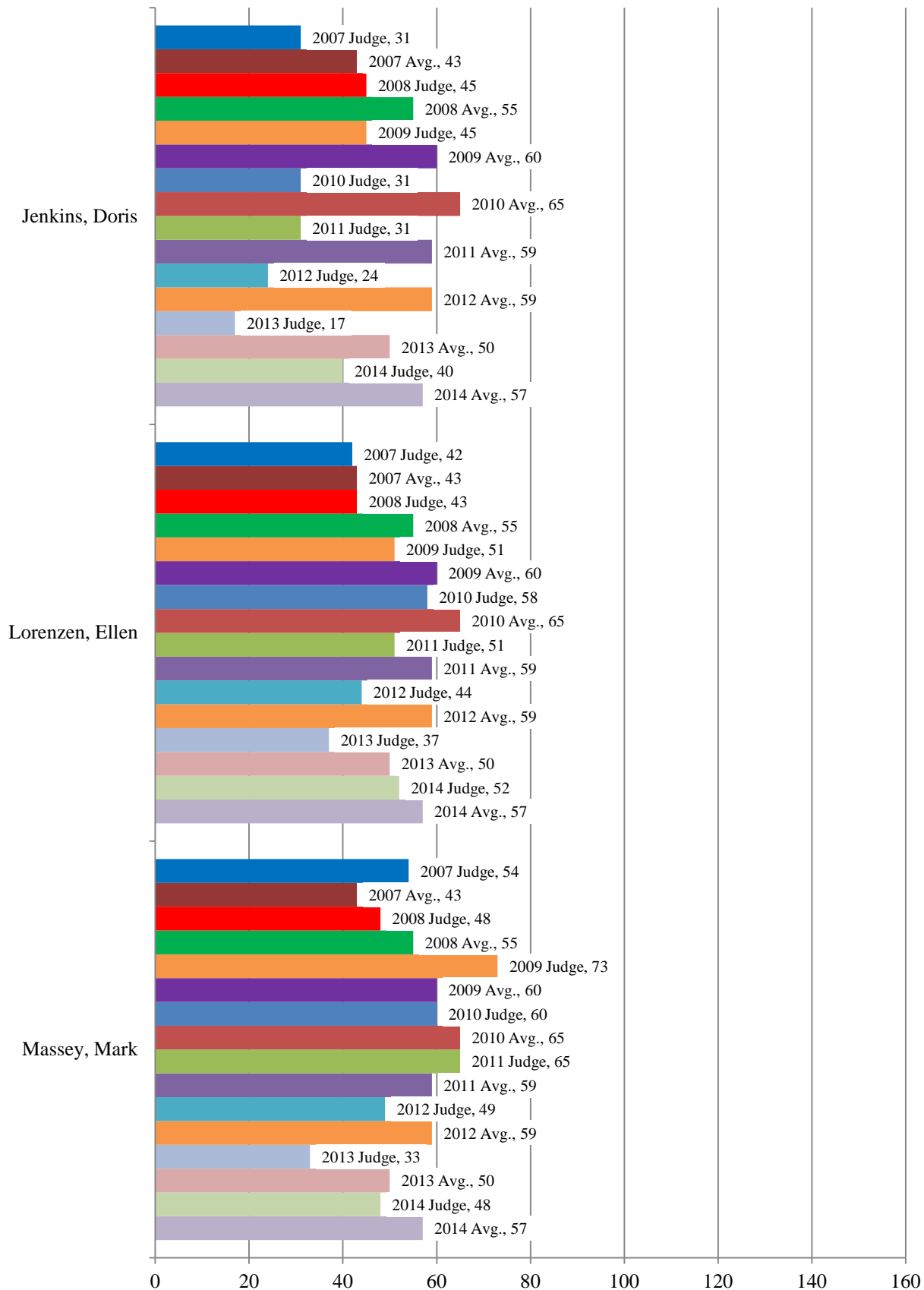
The following depicts the inventory of pending PFBs in this District and the statewide average between 2003-04 and 2013-14. The identification and values for each year are in each bar label.



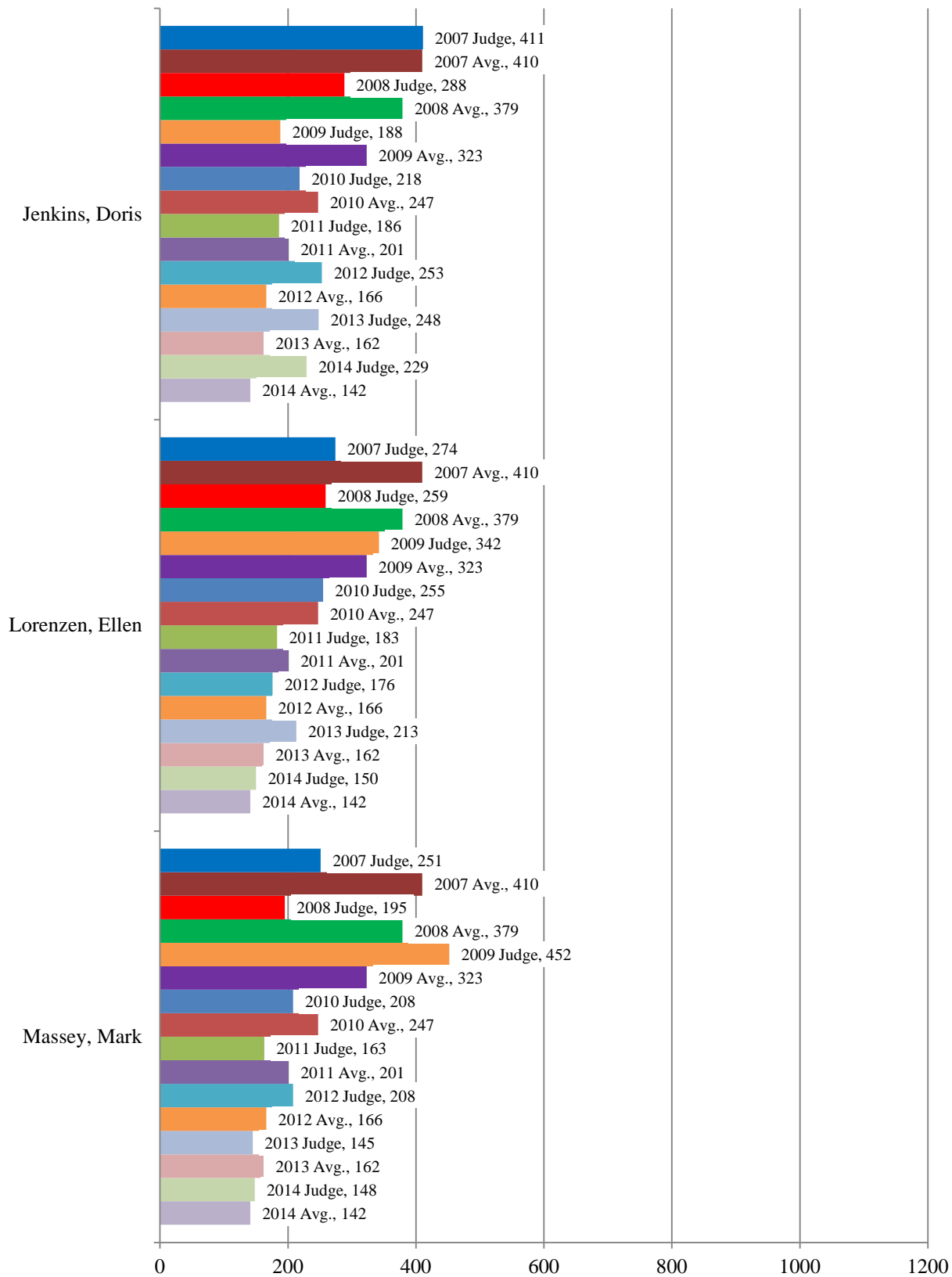
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



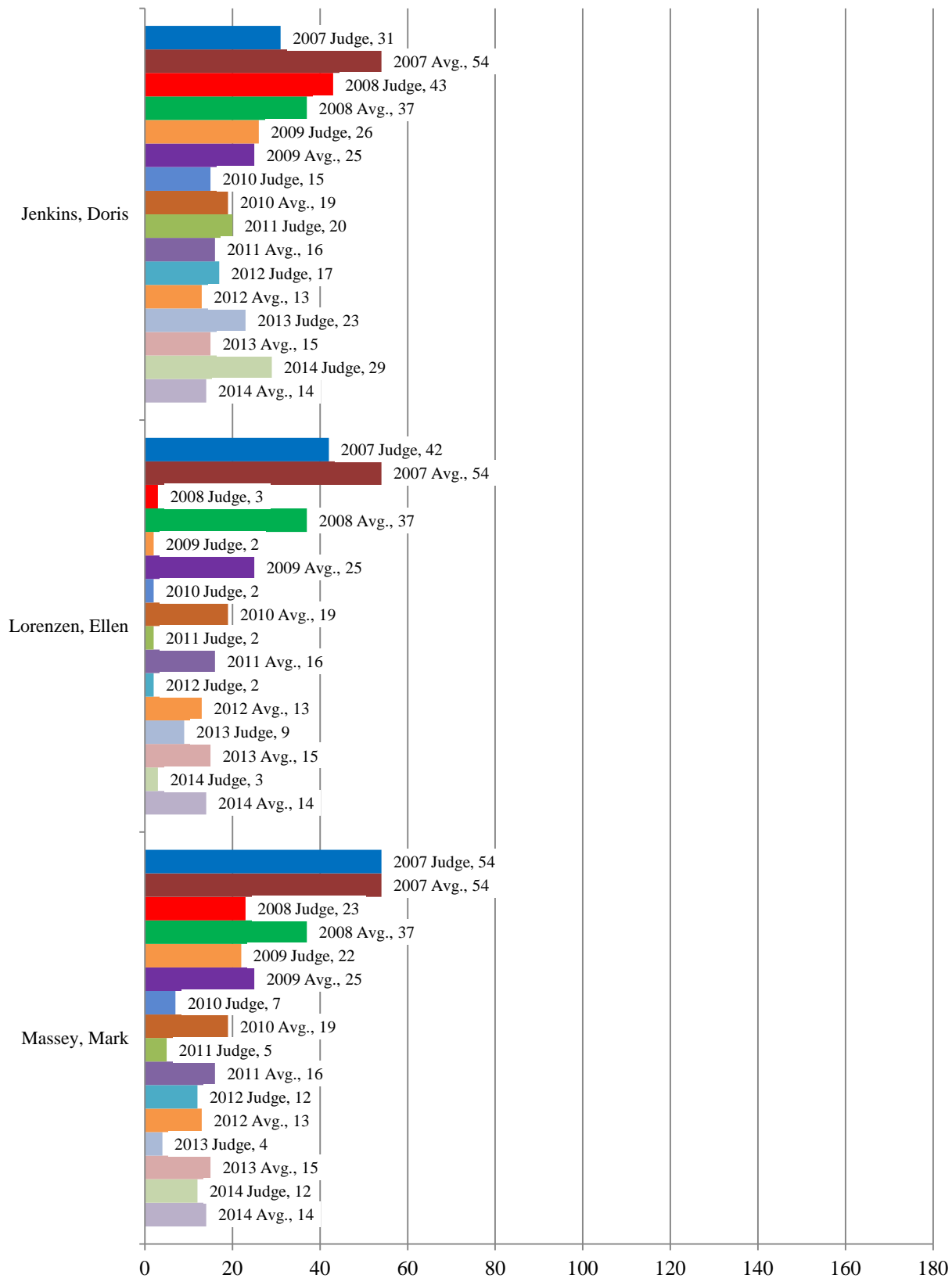
The following graph depicts the total volume of trial orders¹³¹ uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



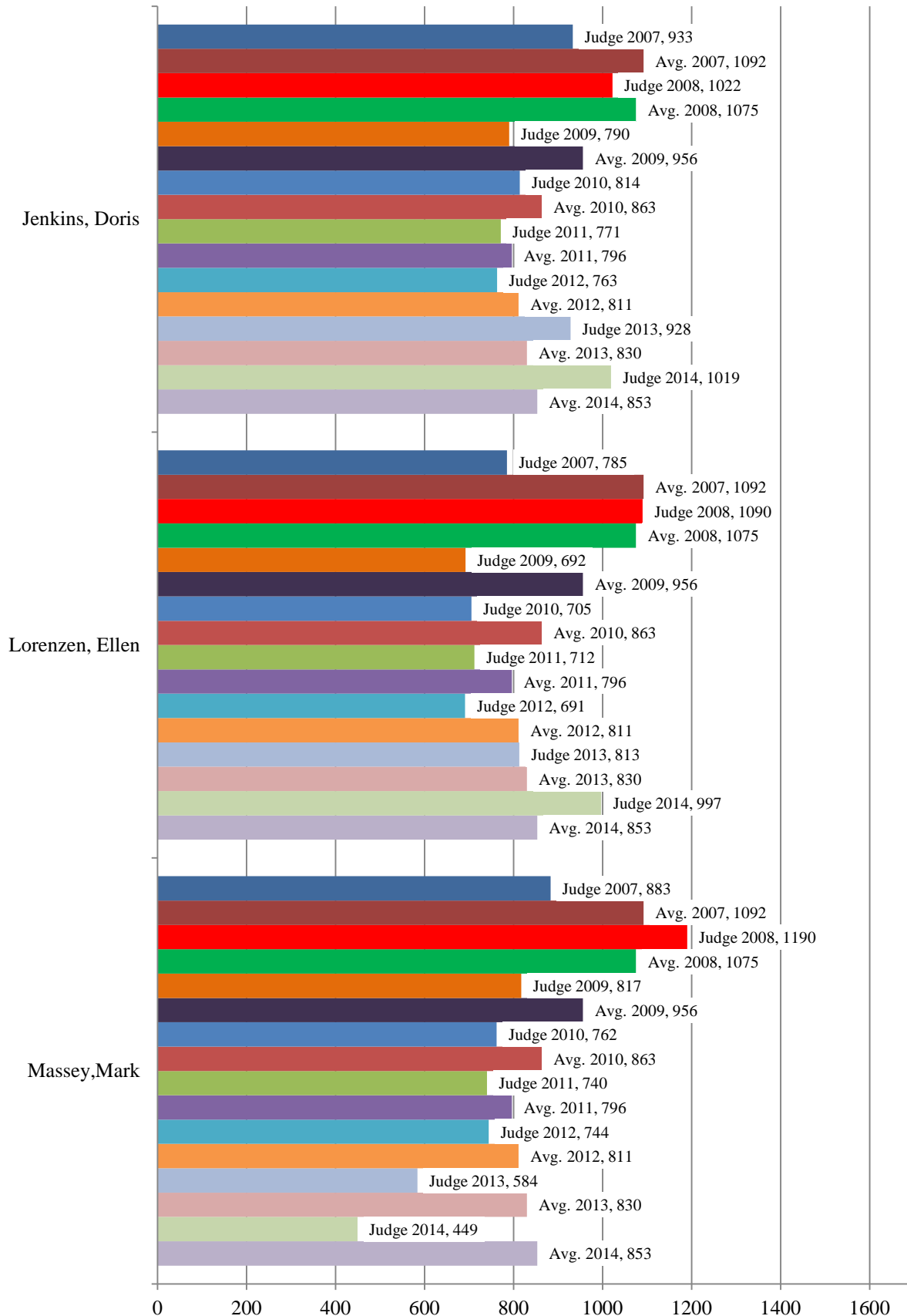
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



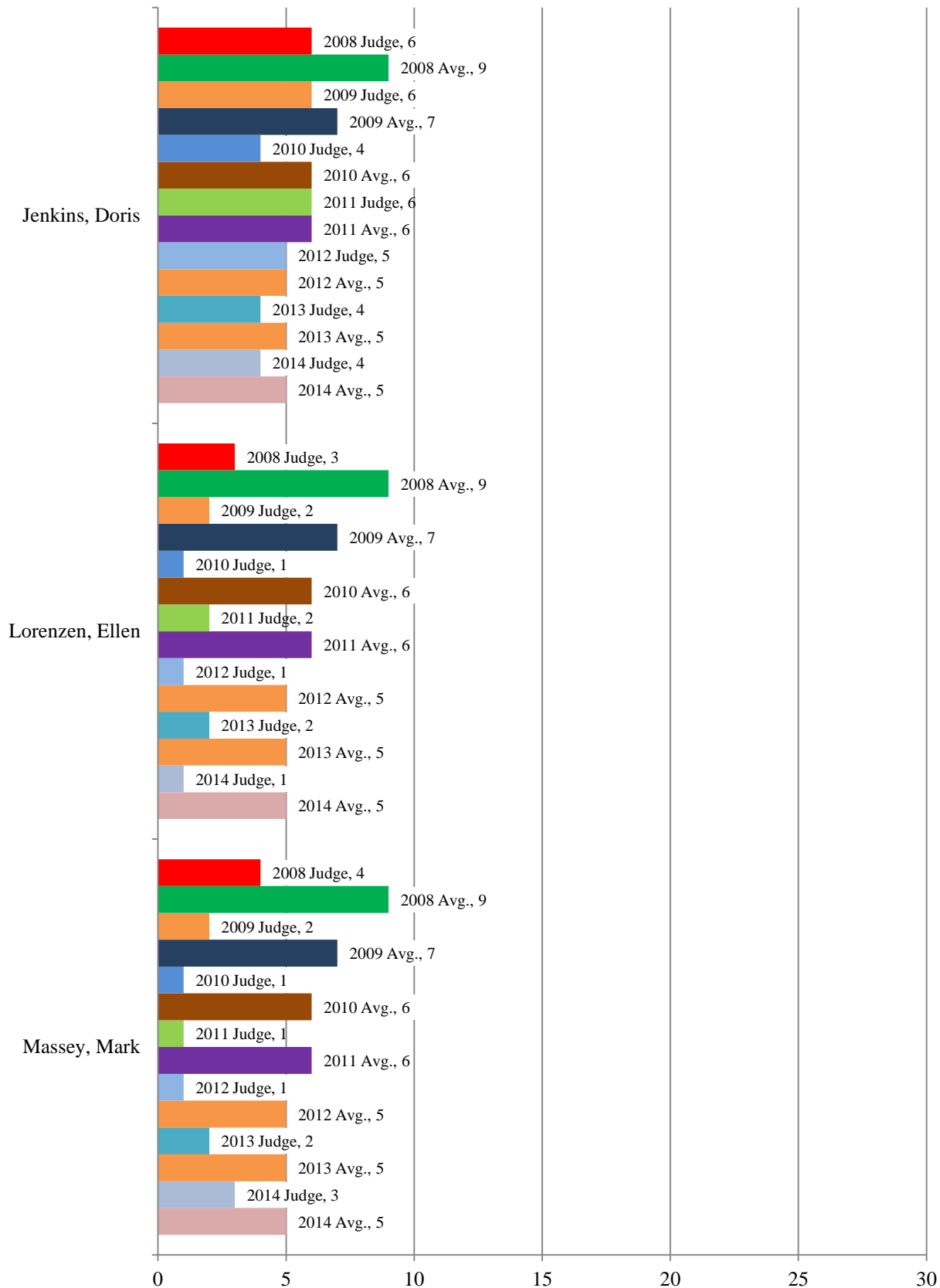
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



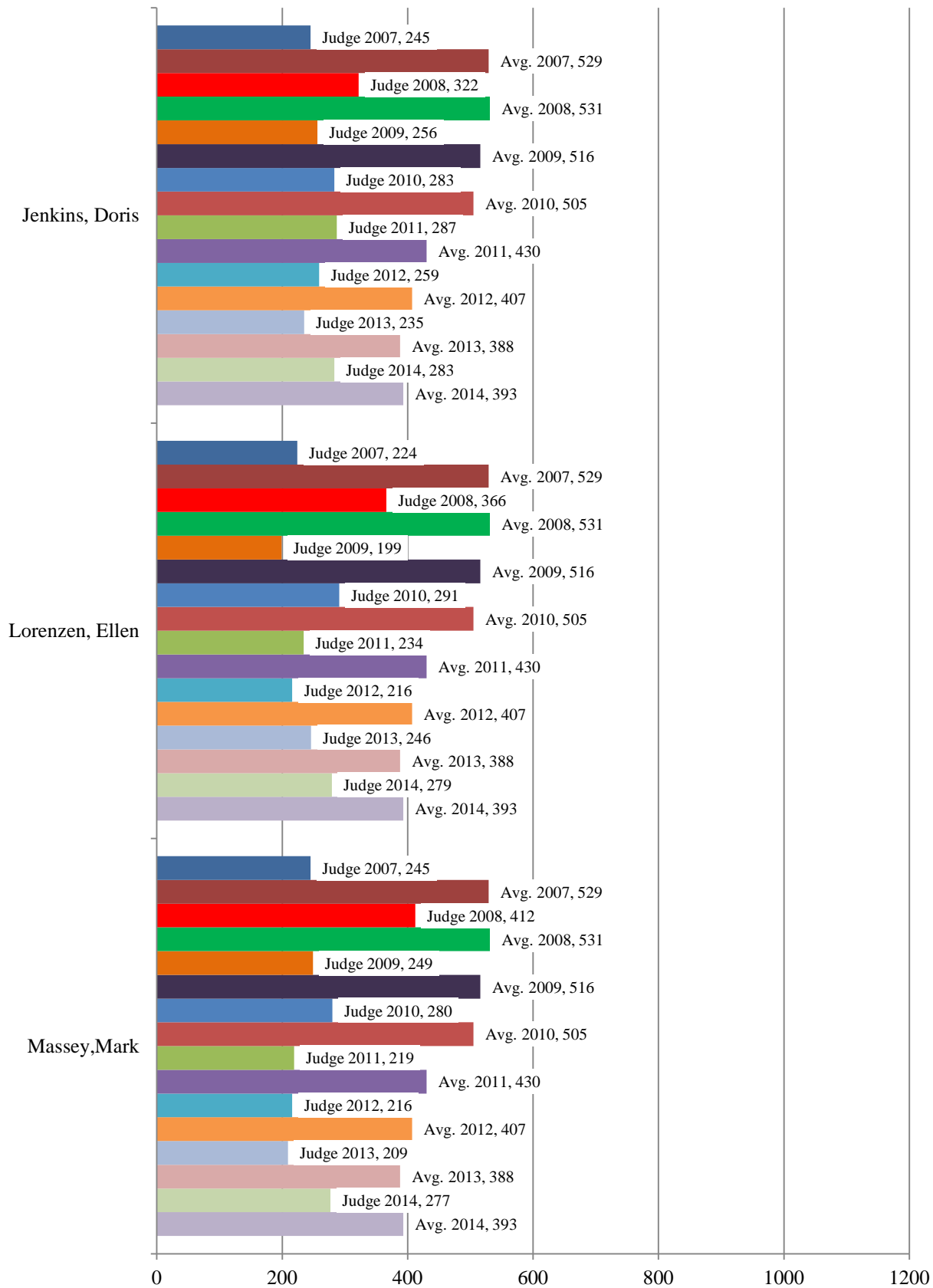
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



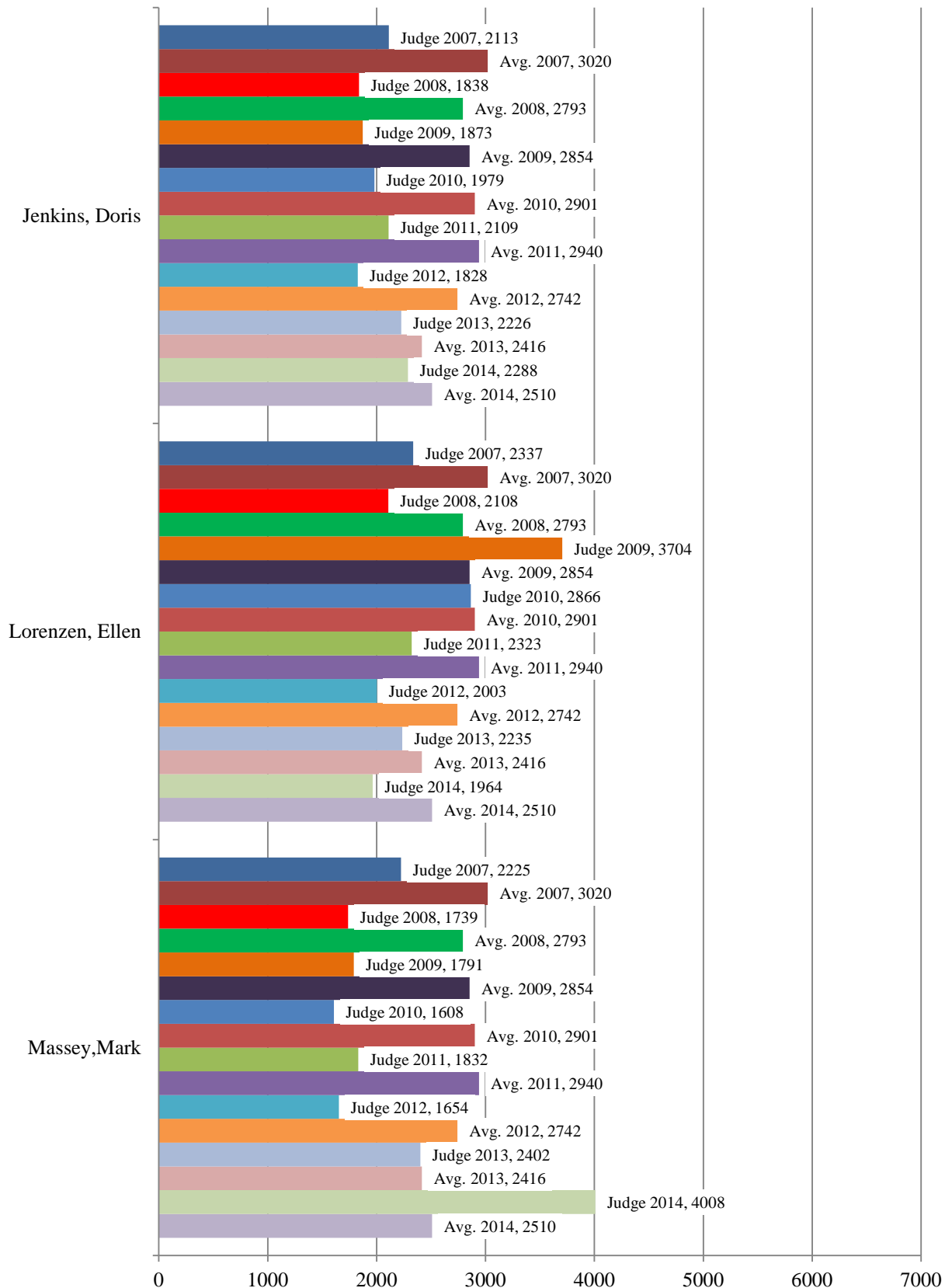
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



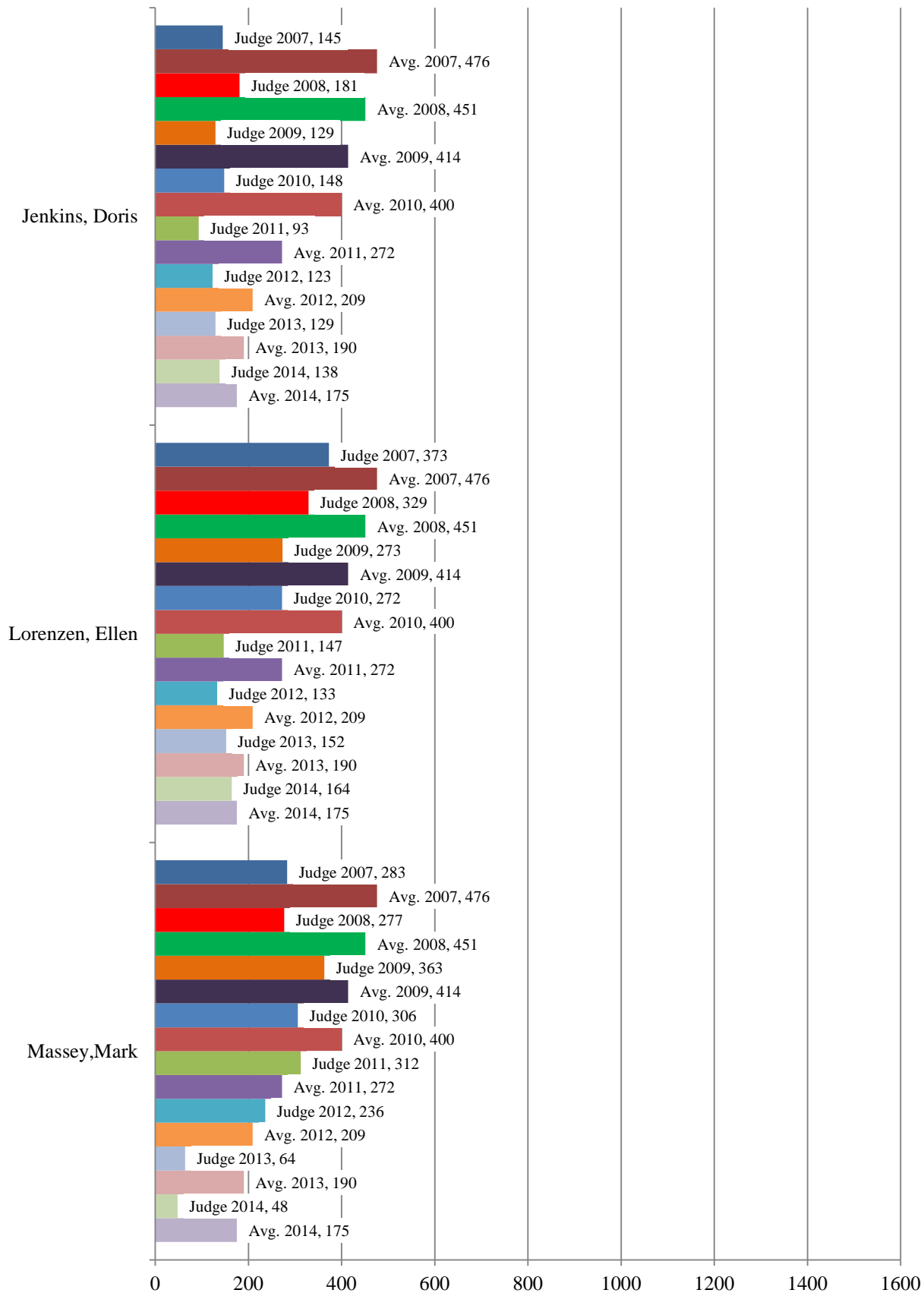
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. However, the “new case” volumes remained below average. These two trends have been reasonably consistent for the recent past. In 2012-13, the comparison of PFB filing volume and PFB closure for the year reveals that District WPB has remained in equilibrium. This is likewise supported by year-end pending petition inventories that are overall reasonably consistent with the statewide average. Mediation timeliness has remained, despite the loss of a mediator position in 2012-13. Mediators from four other districts provided assistance with telephonic mediation during 2012-13. That effort was discontinued early in 2013-14, with the two remaining WPB mediators undertaking the responsibility of all mediations there. Despite this shift in workload, mediation timeliness in District WPB remains within the statutory parameter of 130 days and is close to the statewide average.

Trial volumes for all three WPB Judges were notably below the statewide average in 2013-14. Below average trial volumes have been reasonably consistent in District WPB over the last three fiscal years. All three WPB Judges had time to trial and time to order in 2013-14 that were within the statutory parameters and in most instances below the statewide averages. The District evidenced below average settlement order volumes, but above average stipulation orders in 2013-14. The volume of “other orders” was overall reasonably consistent with the statewide average, but the volume of “other hearings” was markedly below average in 2013-14. This likely indicates consistent compliance with the procedural rule regarding consideration of motions and entry of orders on same without hearing unless in exceptional circumstances.

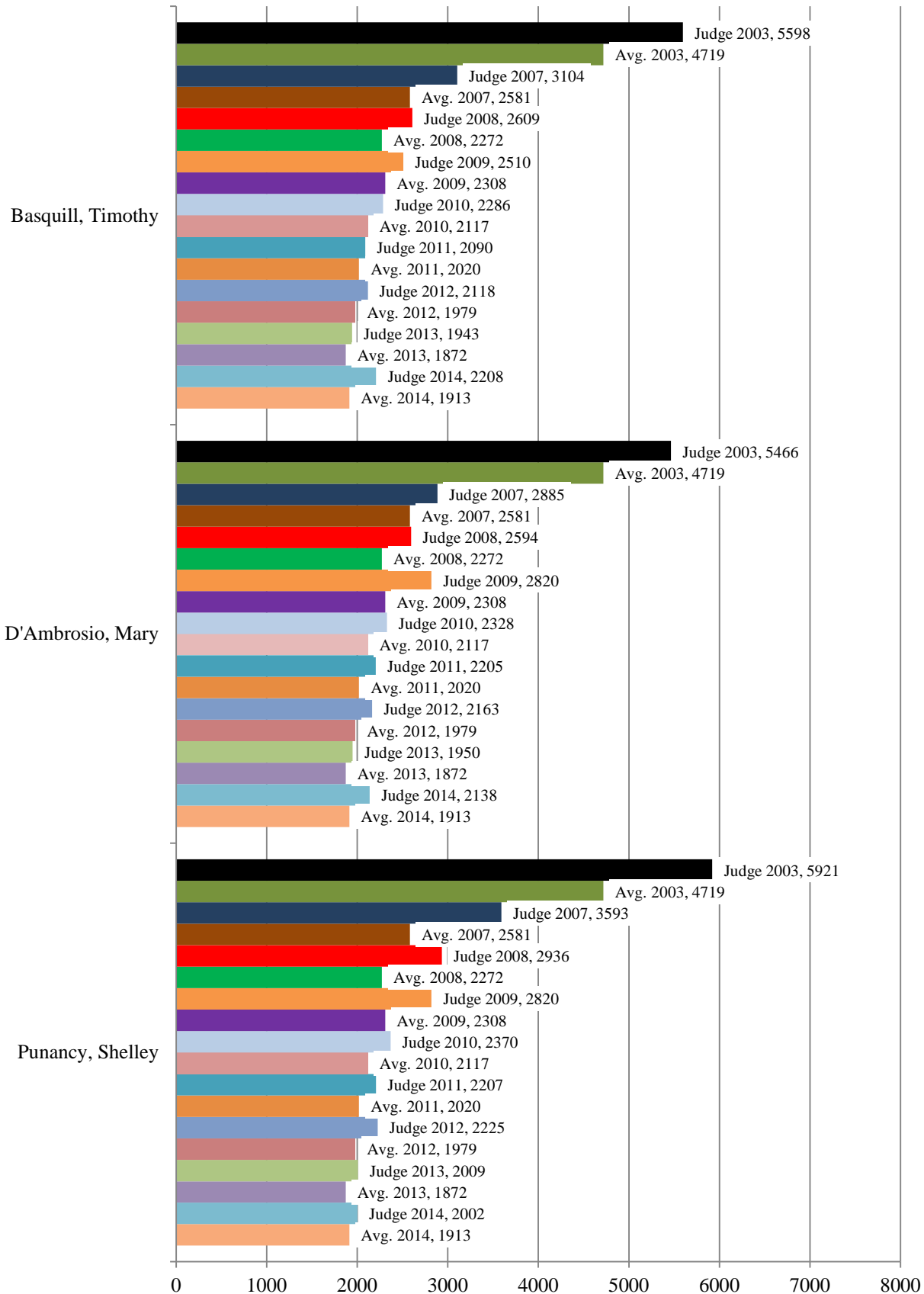
Judge Basquill presented on a panel “Not Just Comp,” at the Palm Beach County Bar Association, Workers’ Compensation Section meeting.

Judge D’Ambrosio is a member of the Palm Beach Bar Association Workers’ Compensation Committee. She participated in the 2014 Annual Bench Bar Conference, presenting on a panel “Not Just Comp” and speaking on “Law Student Diversity.” Judge D’Ambrosio presented on a panel regarding medical issues at the All Committee Conference of the Southern Association of Workers’ Compensation Administrators (SAWCA). She was the keynote speaker at the 2014 annual meeting of the Florida Association of Women Lawyers (FAWL). Judge D’Ambrosio serves as treasurer of the Conference of Judges of Compensation Claims. Judge D’Ambrosio participates in Justice Teaching at SD Spady Elementary School for 3rd, 4th and 5th graders. She participates in a program reading to students at Washington Elementary School with the Palm Beach Bar Association. In 2013-14, she continued serving as Administrative Judge in District WPB.

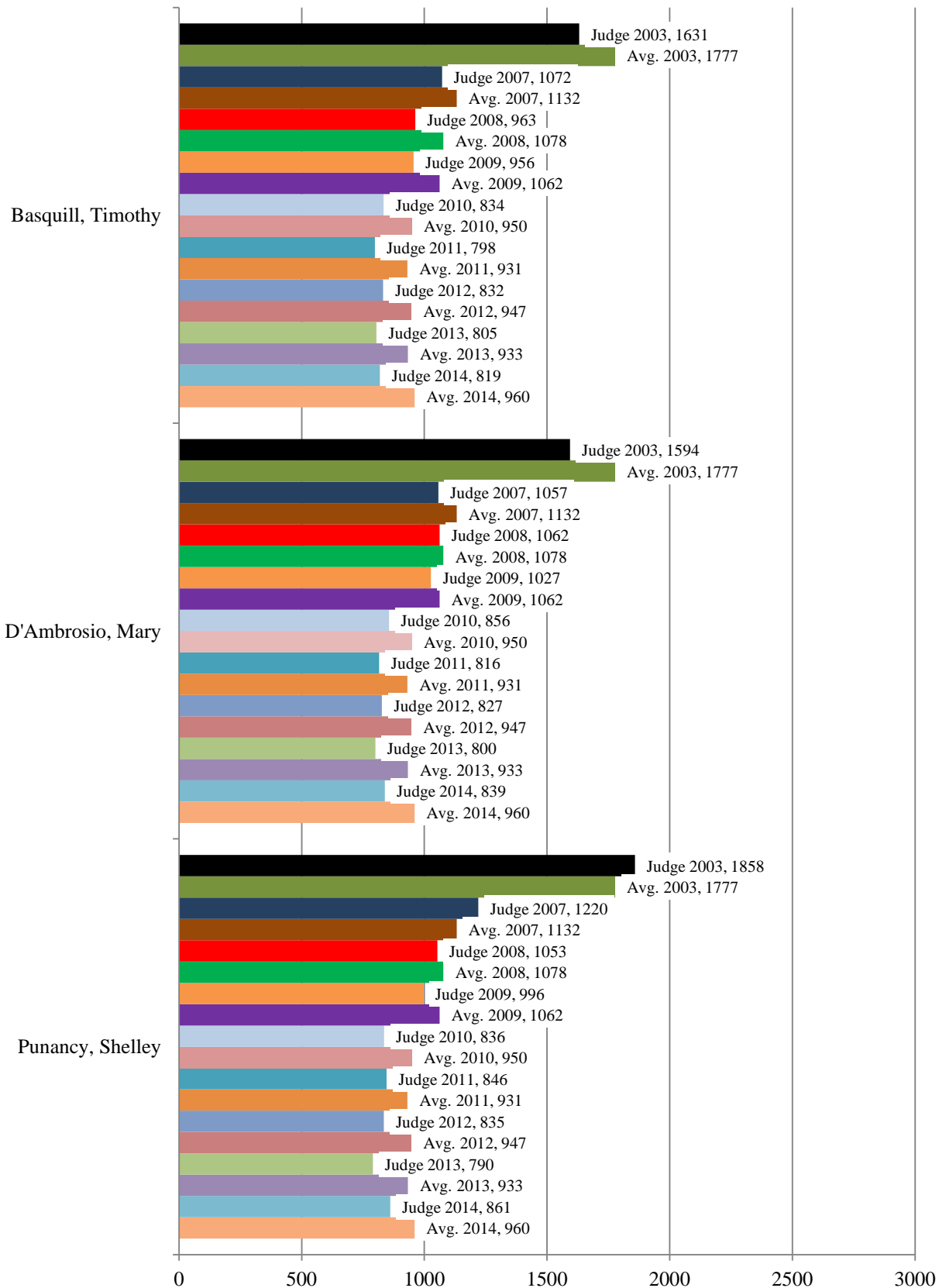
Judge Punancy participated in the WPB annual bench/bar conference. She presented on Ethical Expectations of Adjusters Taught from the Bench at the Spring Forum in Orlando.



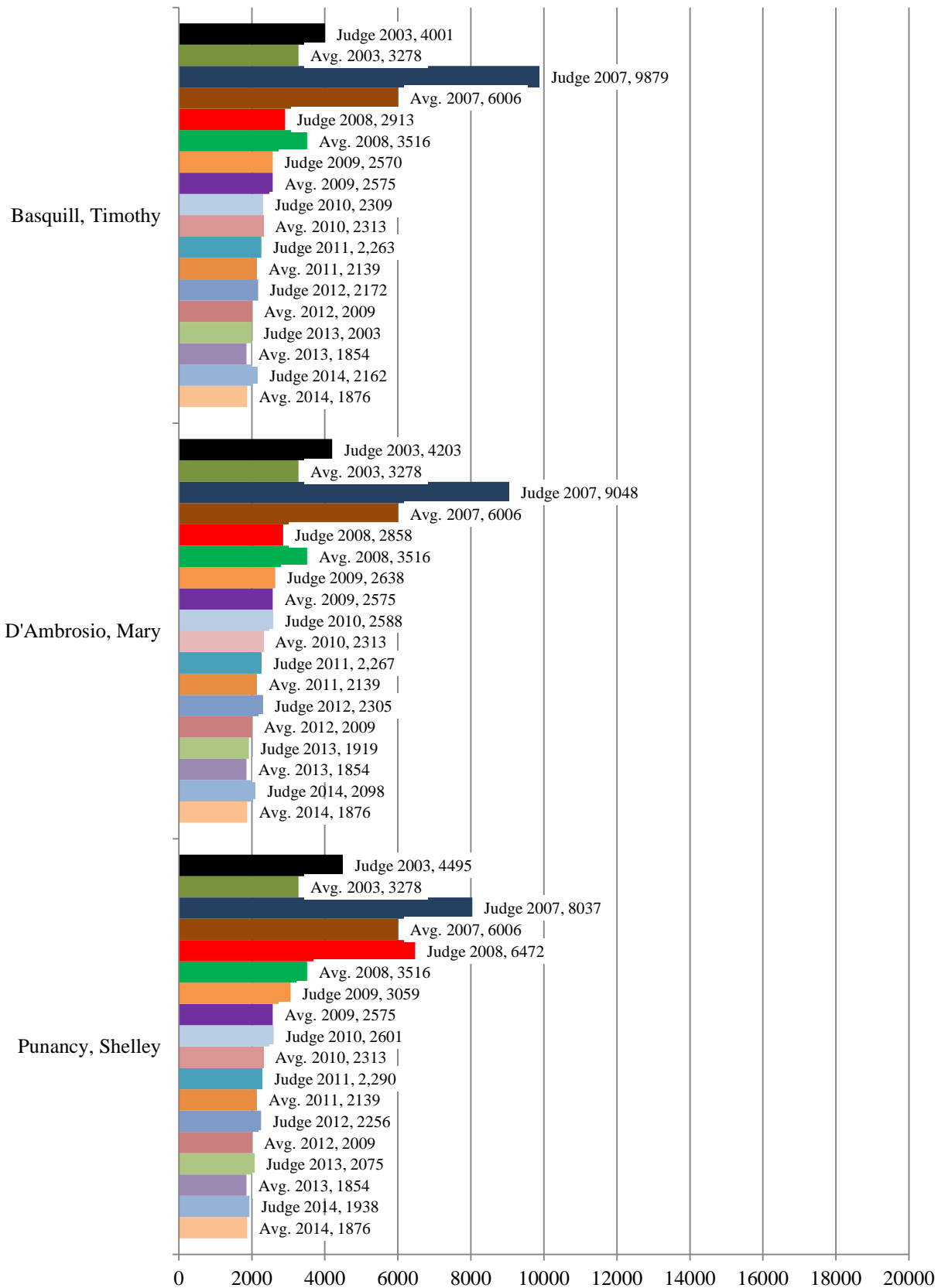
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



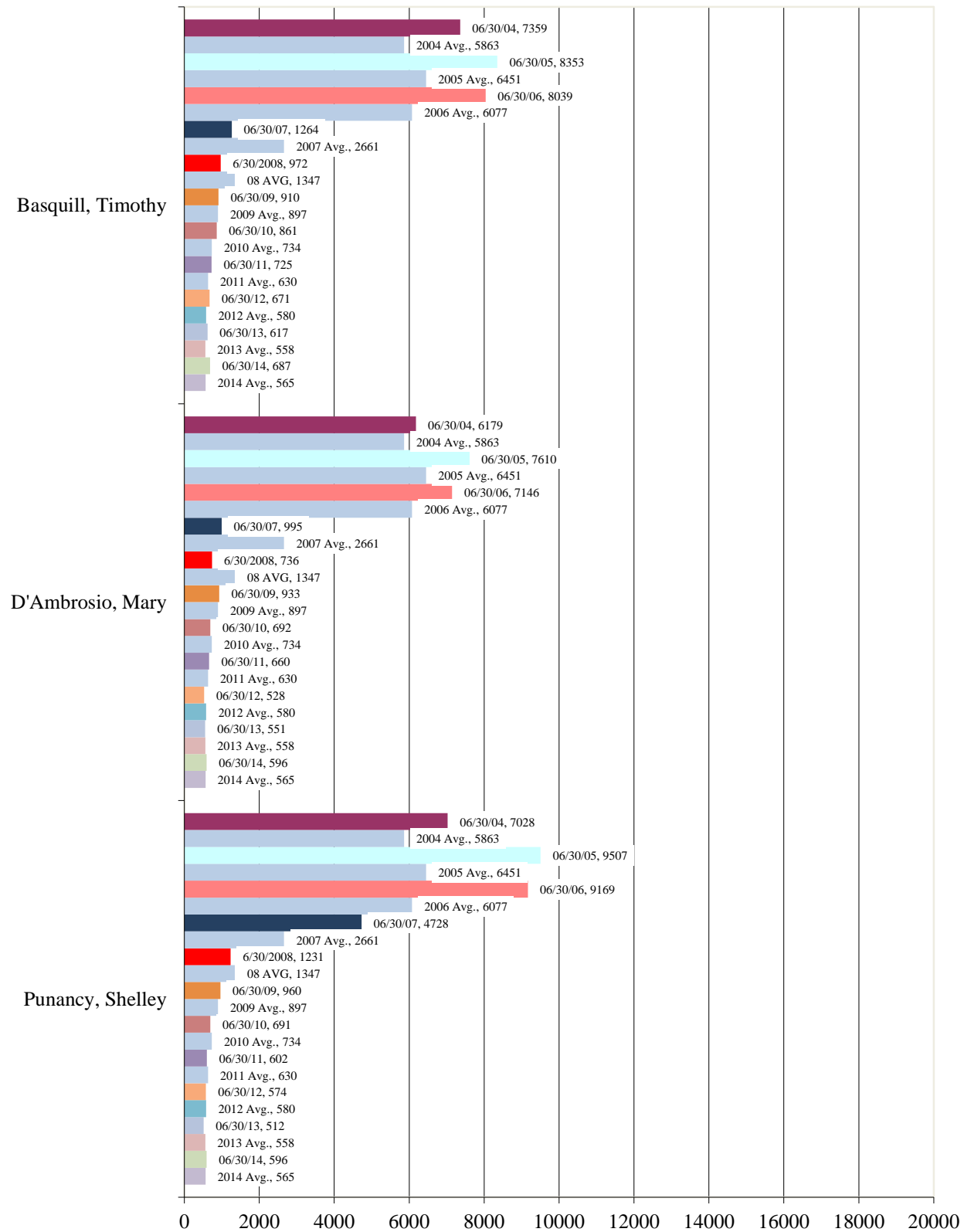
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



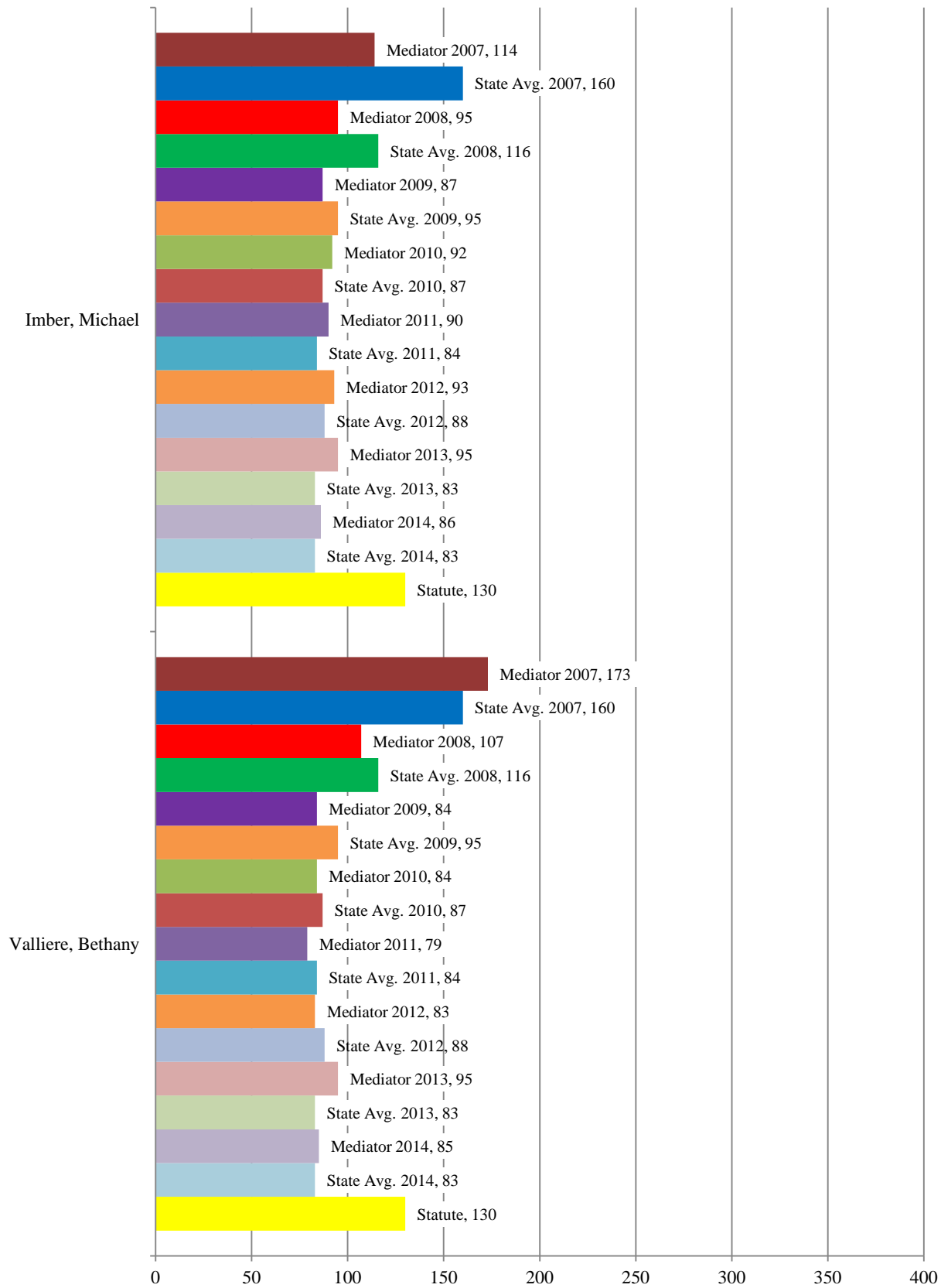
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2013-14 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



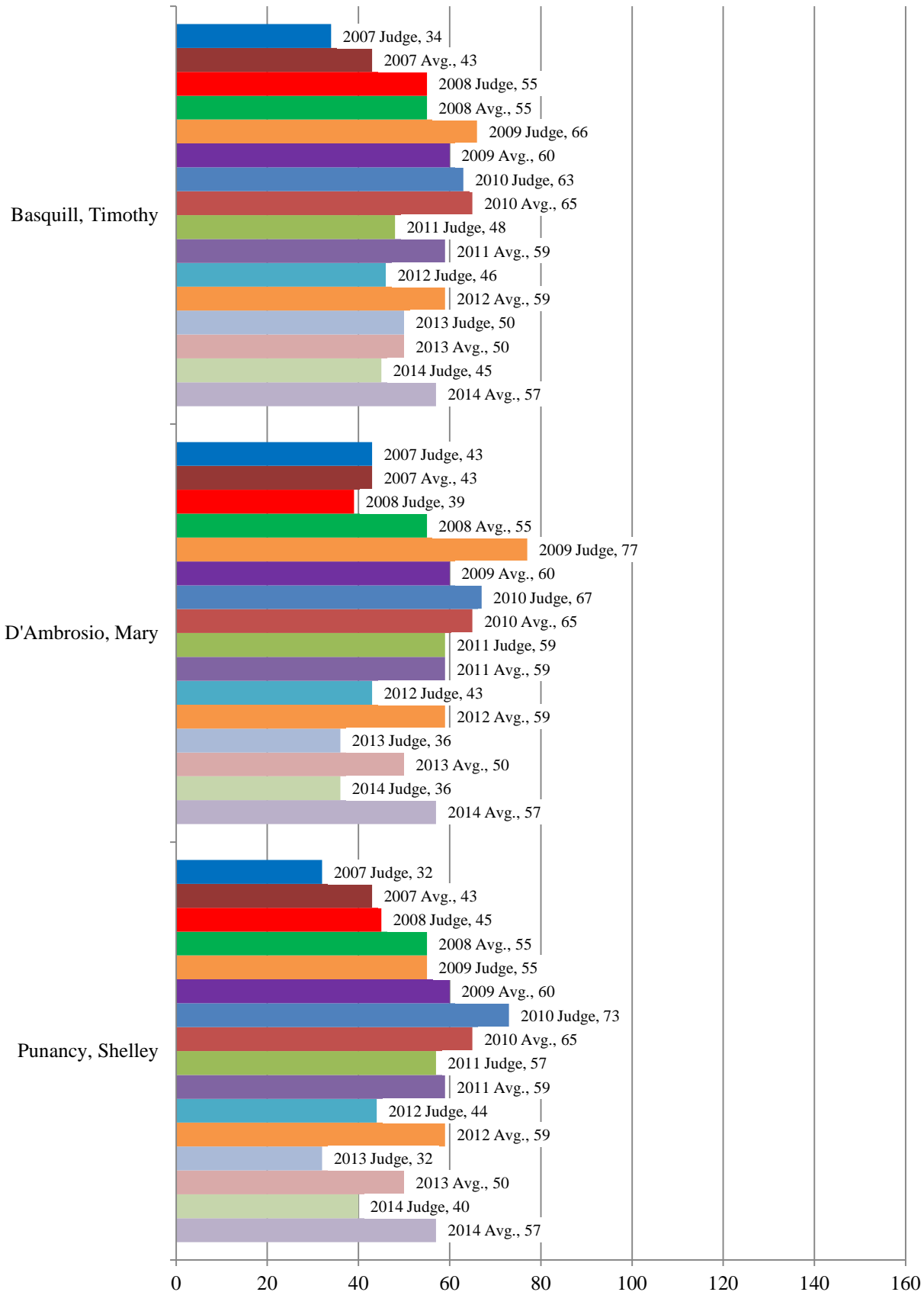
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2012-13 (2002-03 is also provided for historical reference). The identification and values for each year are in each bar label.



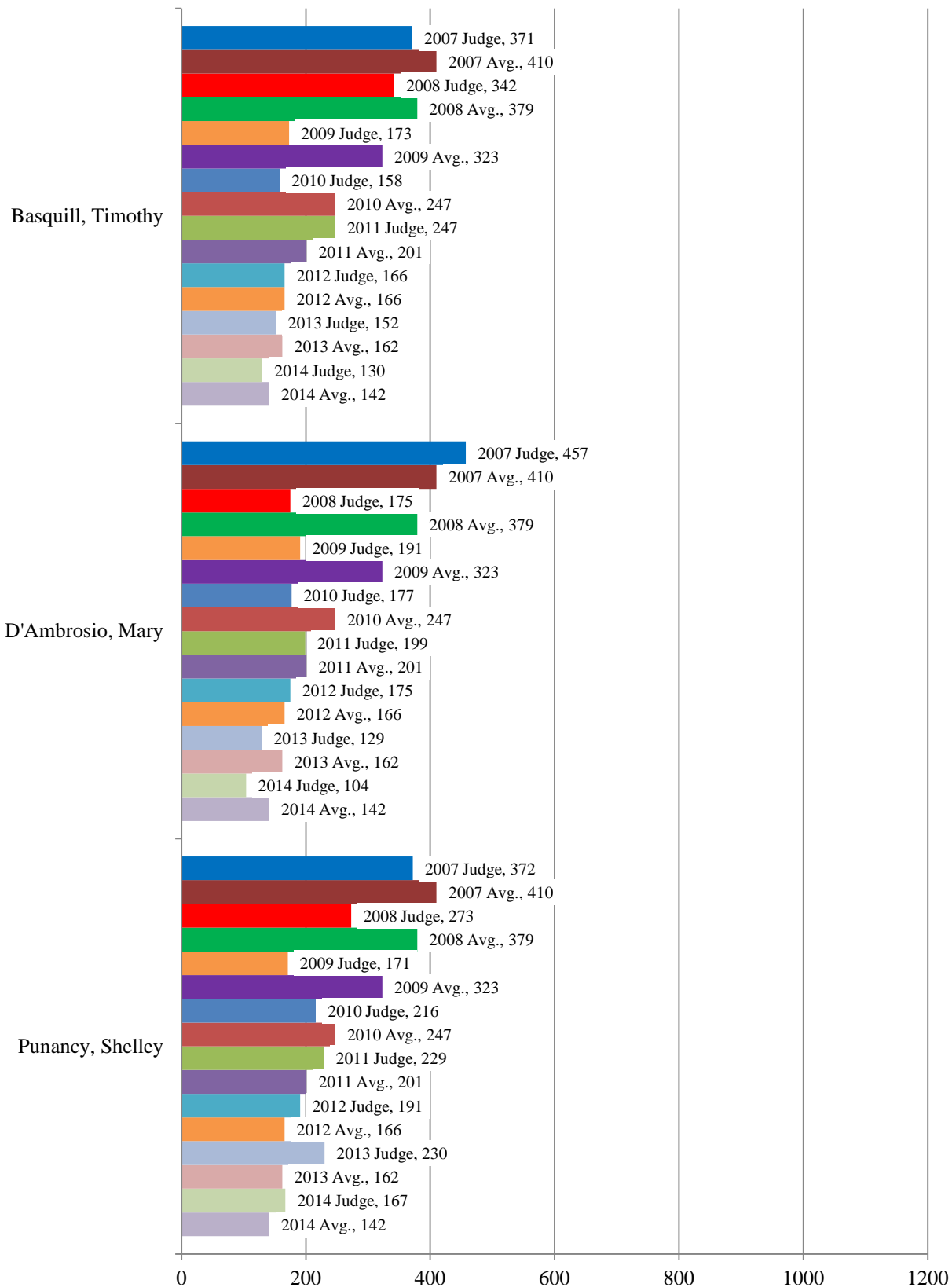
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2013-14. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



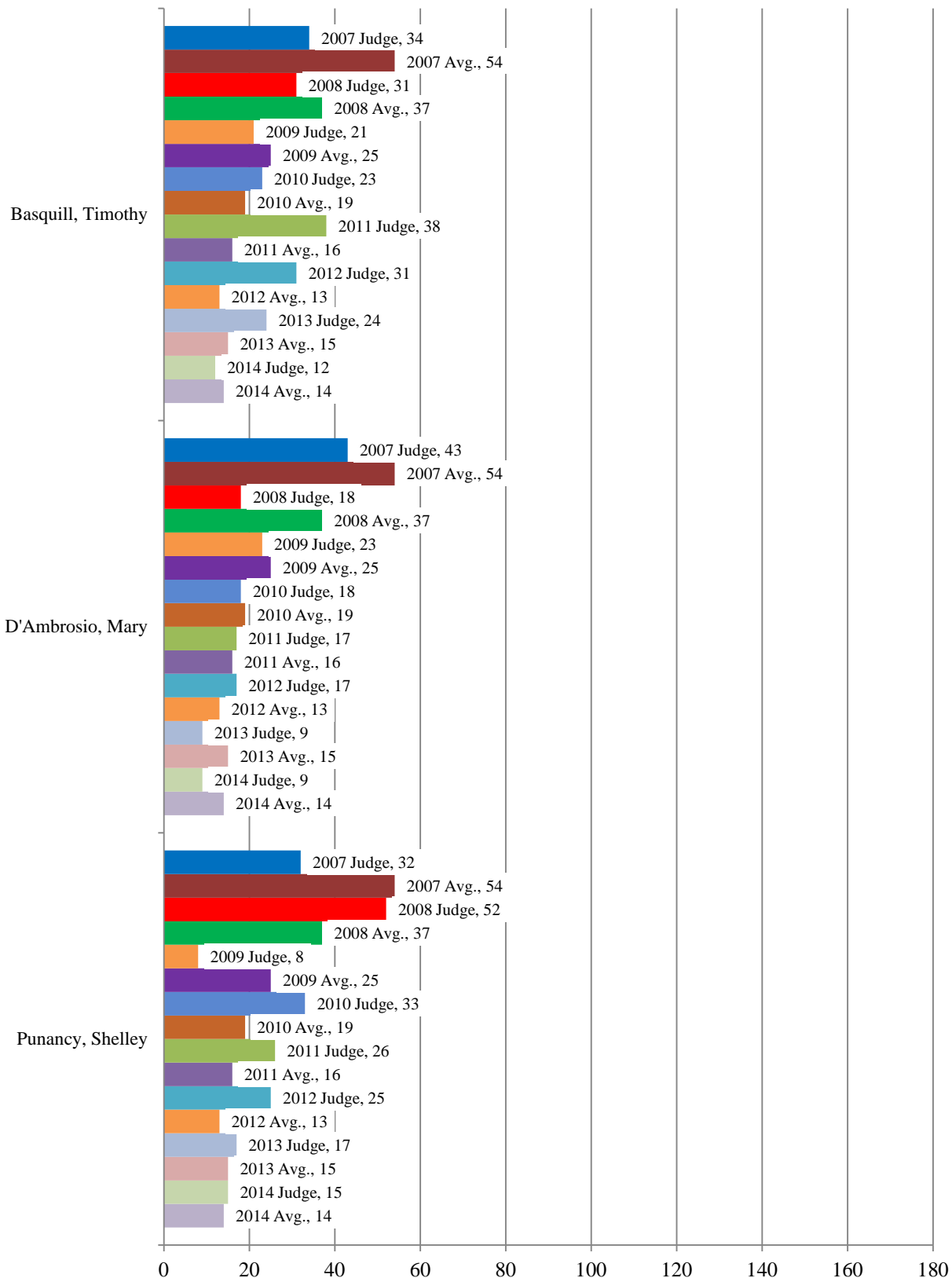
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2013-14. The identification and values for each year are in each bar label.



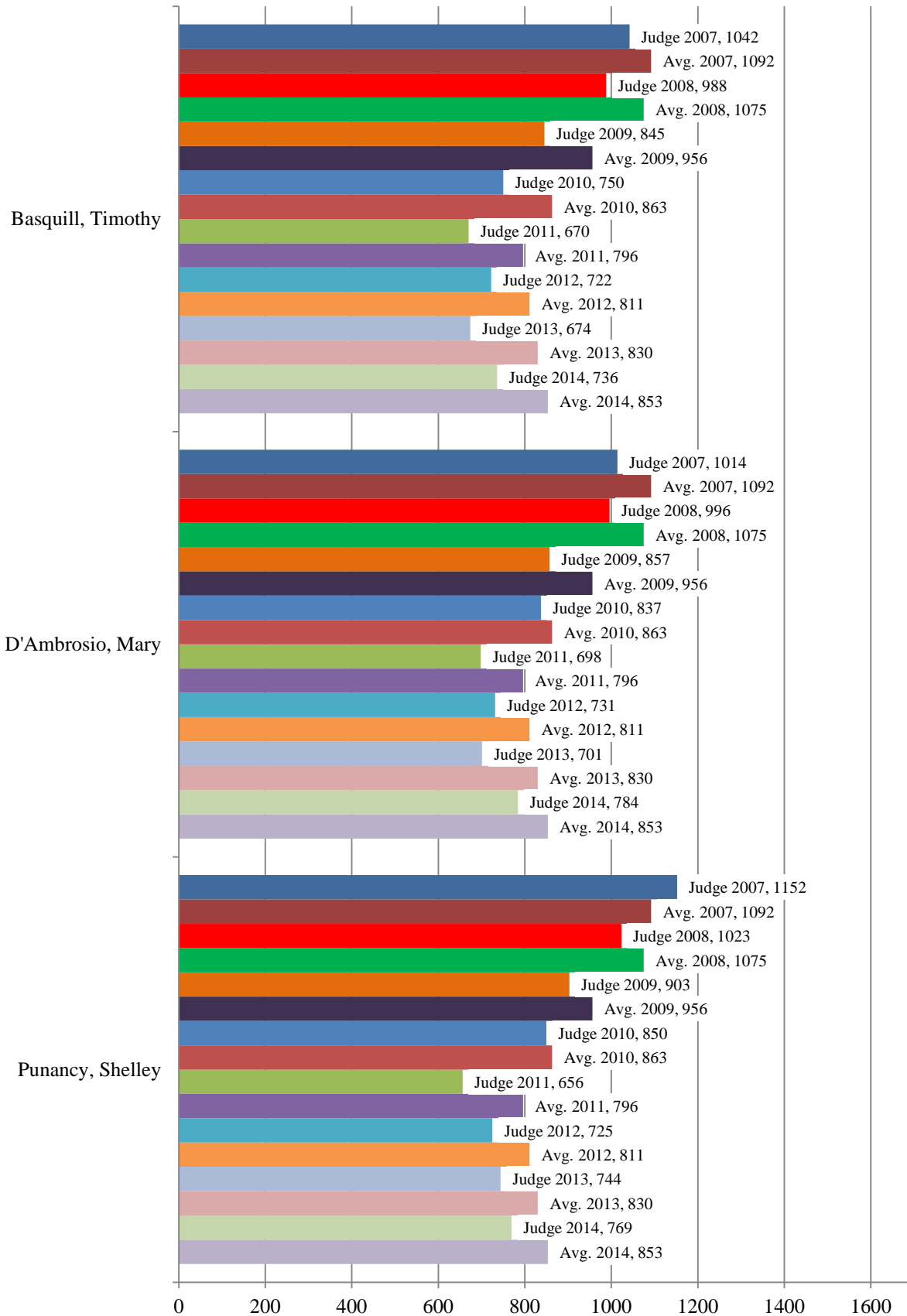
The following depicts the average days between PFB filing and trial commencing for each Judge and the statewide average between 2006-07 and 2013-14. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



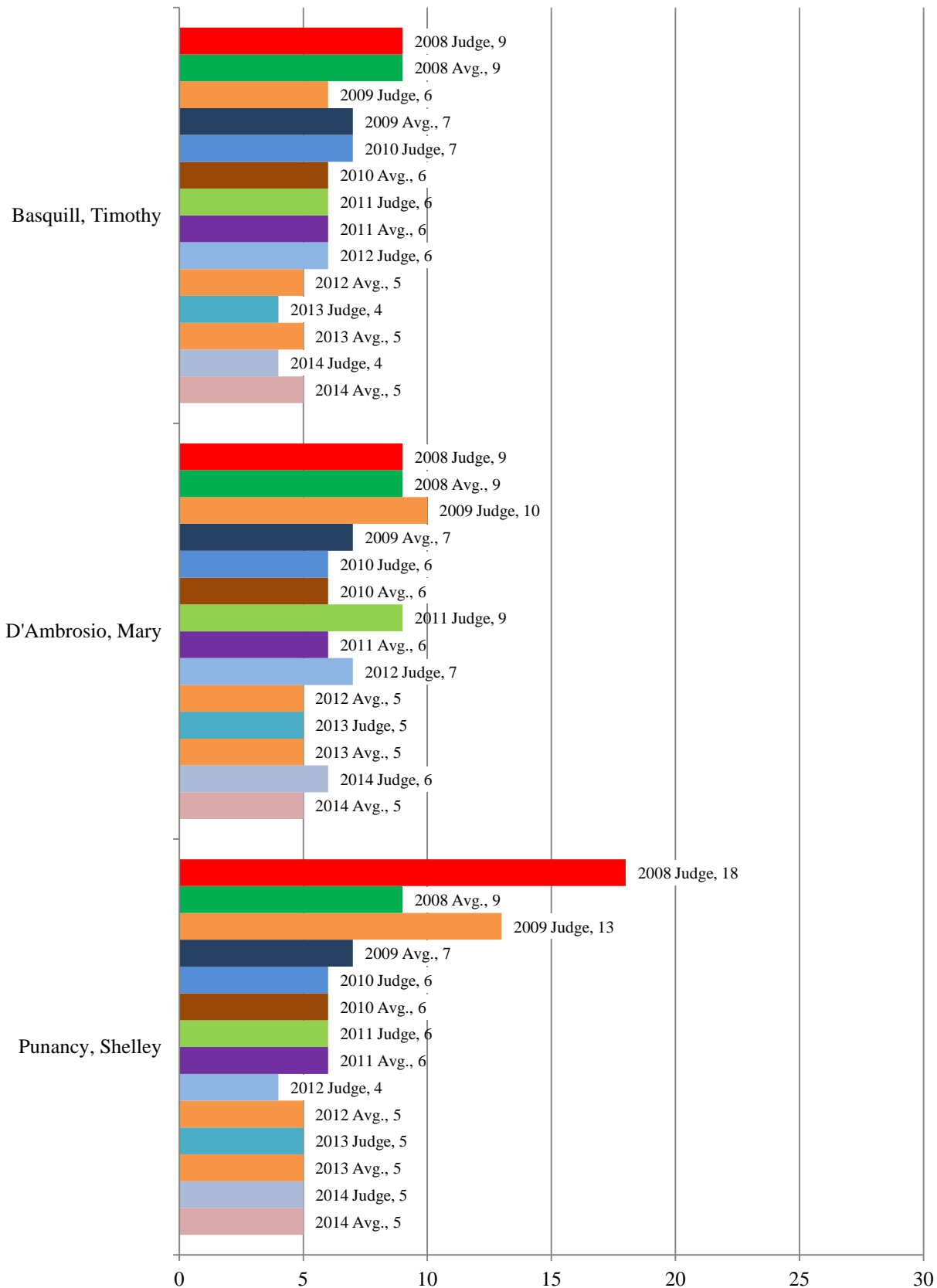
The following depicts the average days between trial commencing and entry of the trial order for each Judge and the statewide average between 2006-07 and 2013-14. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



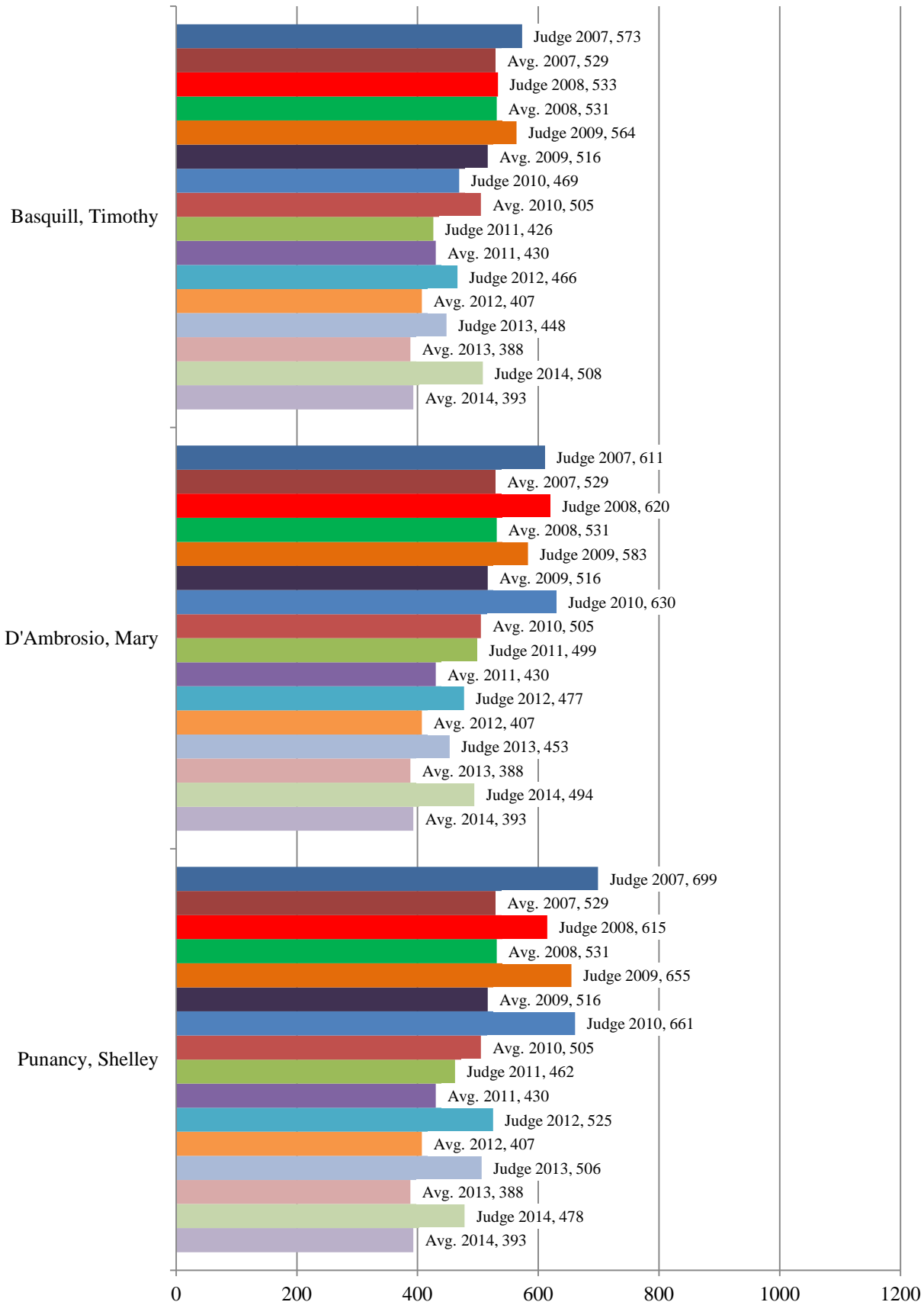
The following depicts the volume of settlement orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



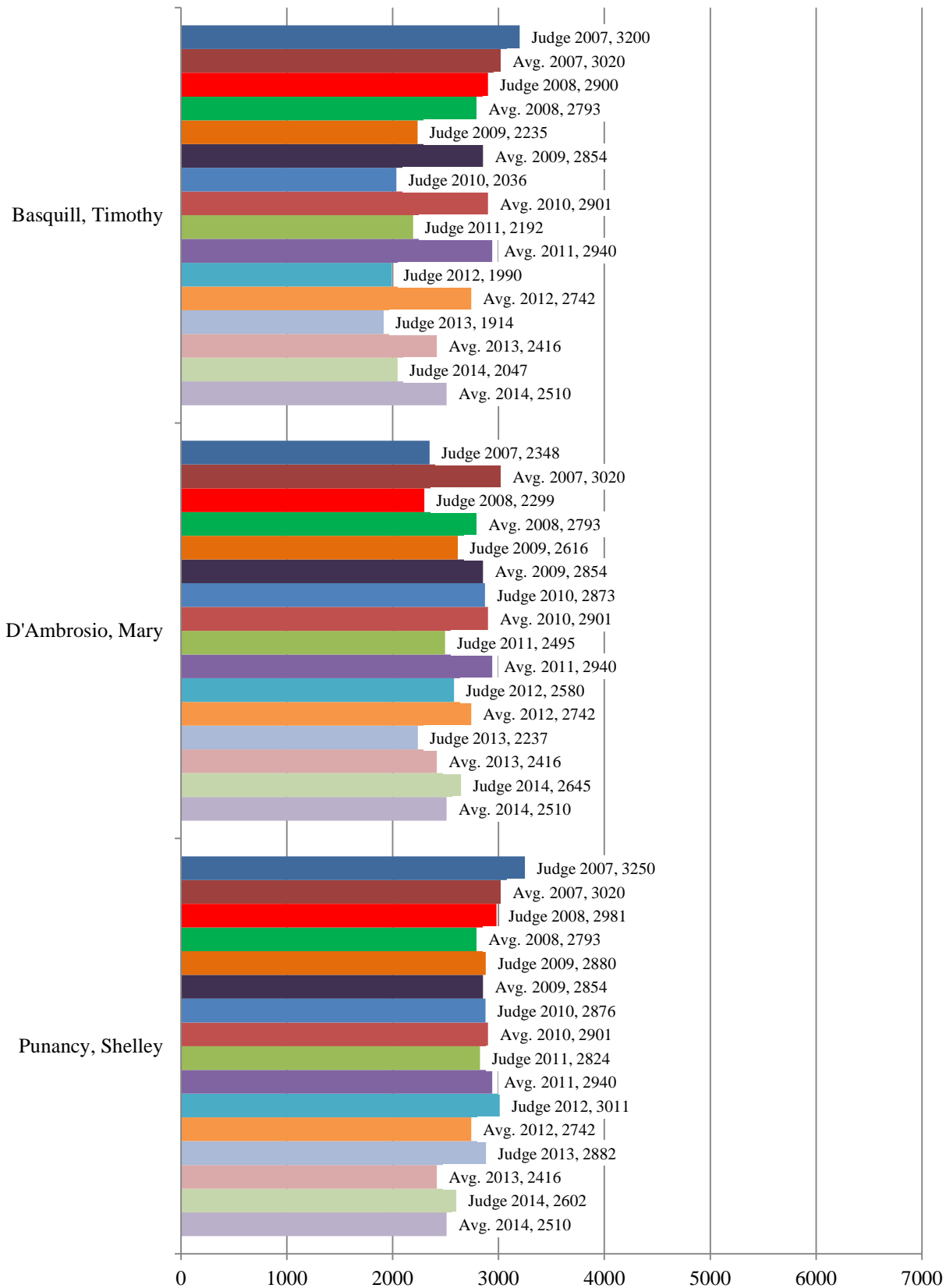
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each Judge and the statewide average between 2007-08 and 2013-14. Each bar label identifies the year and provides the numerical count.



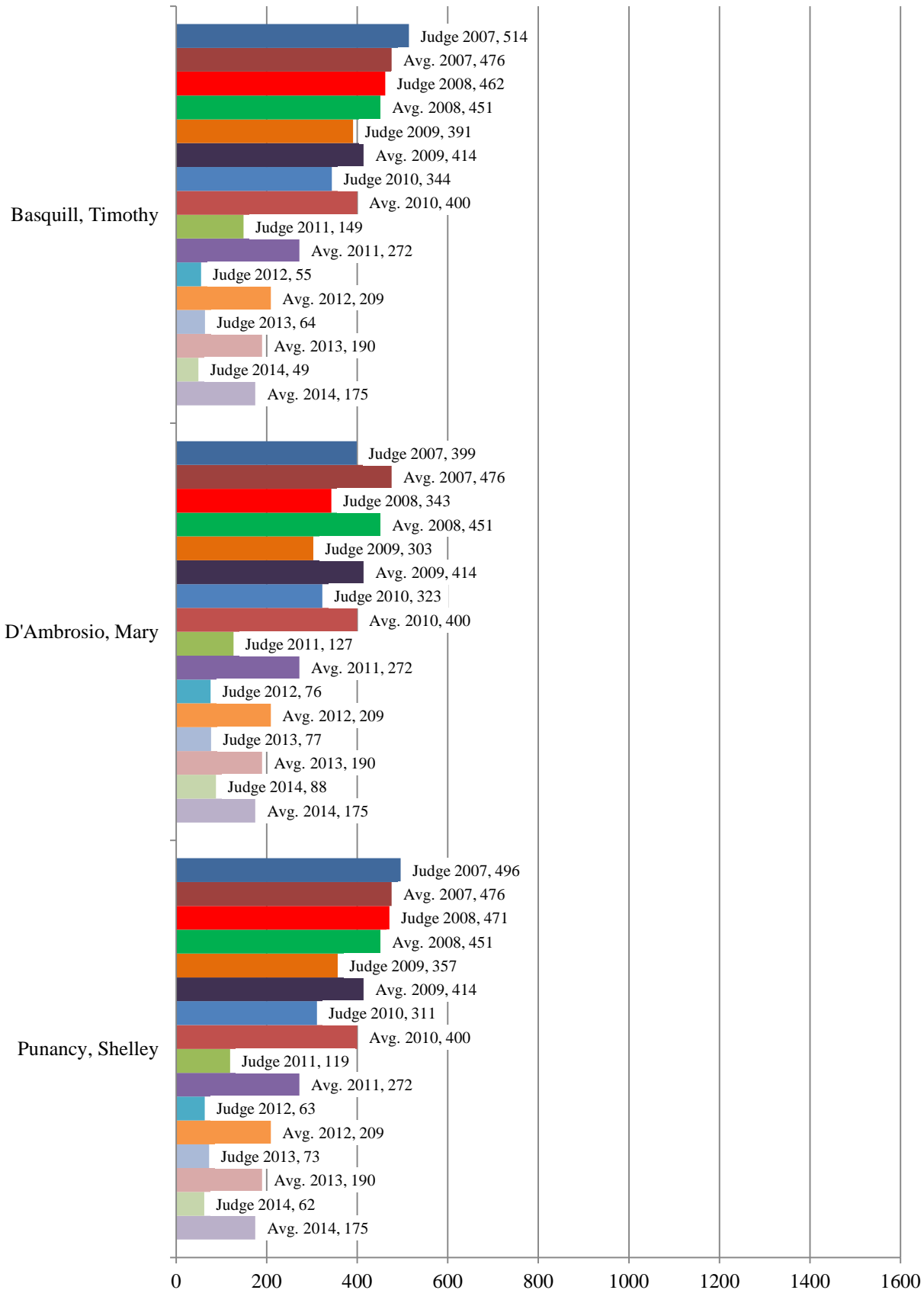
The following depicts the volume of stipulation orders entered by each Judge and the statewide average between 2006-07 and 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 2013-14. Each bar label identifies the year and provides the numerical count.



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 The OJCC defines "trial" to include Evidentiary Motion Hearings (motion), Expedited Final Hearings (petition), Fee Amount Hearings (motion), Fee Entitlement Hearing (motion), Final Hearing (petition), and Fund Hearing (petition). The parentheticals for each represent whether each is likely to result from the filing of a motion or a petition for benefits ("PFB"). This definition results in various orders being included in the definition of "trial order." This also consequently results in reporting of time parameters in terms of reaching trial ("to trial") and producing orders ("to order"). There are those who are critical of this approach, asserting that these definitions, by the inclusion of trials that are not the result of a PFB, artificially alter the time reported. As the times for "to trial" of 201 days and "to order" of 30 days are statutory benchmarks, those critical of the inclusion aver that the OJCC reporting of "to trial" should including only trials that result from PFB.
- ³ 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.”
- ⁴ Most decisions of Florida appellate courts are decided by three judges from the court sitting as a "panel." When a party is dissatisfied with such a decision, an "en banc" (by the full court) hearing can be requested. Whether to afford this to the parties is a decision for the court.
- ⁵ Case number 1D12-3563; 38 Fla.L.Weekly D504 (Fla. 1st DCA 2013); 2013 WL 718653; <http://opinions.ldeca.org/written/opinions2013/02-28-2013/12-3563.pdf> (opinion withdrawn).
- ⁶ N.Y. Cent. R. Co. v. White, 243 U.S. 188, 202 (1917). This decision is the first to conclude that social welfare and tort immunity could appropriately be quid pro quo in an arrangement designed for mutual benefit of workers and employers, and from that beginning the modern American workers' compensation process has emerged.
- ⁷ The First District filings and orders in Westphal are accessible on the court's case docket, www.ldeca.org, under the "Online Dockets" tab, and can be located using the case number 1D12-3563.
- ⁸ Amicus Curiae briefs are allowed at the discretion of the appellate court, pursuant to Florida Rules of Appellate Procedure, Rule 9.370. [http://www.floridabar.org/TFB/TFBResources.nsf/0/830A6BC6B90DA05685256B29004BFAC0/\\$FILE/Appellate%20Rules.pdf](http://www.floridabar.org/TFB/TFBResources.nsf/0/830A6BC6B90DA05685256B29004BFAC0/$FILE/Appellate%20Rules.pdf)
- ⁹ Westphal v. City of St. Petersburg, 122 So.3d 440 (Fla. 1st DCA 2013).
- ¹⁰ Matrix Employee Leasing v. Hadley, 78 So.3d 621 (Fla. 1st DCA 2011).
- ¹¹ Judges Padovano, Davis, Van Nortwick, Clark, and Marsteller.
- ¹² The Florida Constitution, Article V., section 3(b)(4) defines jurisdiction of the Florida Supreme Court to include discretionary review of cases that pass "upon a question certified by it to be of great public importance." Florida Rules of Appellate Procedure, Rule 9.030 likewise provides that the Florida Supreme Court may review cases that "pass upon a question certified to be of great public importance." The Court actually assigned two case numbers to the review of Westphal, SC13-930 and SC13-1976 (upon a cross-notice filed by the City of St. Petersburg).
- ¹³ Castellanos v. Next Door Company, 124 So.3d 392 (Fla. 1st DCA 2013).
- ¹⁴ 124 So.3d 392, 394. Citing, Kauffman v. Cmty. Inclusions, Inc./Guarantee Ins. Co., 57 So.3d 919, 920–21 (Fla. 1st DCA 2011); Campbell v. Aramark & Specialty Risk Servs., 933 So.2d 1255, 1256 (Fla. 1st DCA 2006), disapproved on other grounds by Murray v. Mariner Health, 994 So.2d 1051, 1062 (Fla.2008); Lundy v. Four Seasons Ocean Grand Palm Beach, 932 So.2d 506, 509–10 (Fla. 1st DCA 2006), disapproved on other grounds by Murray, 994 So.2d at 1062; Wood v. Fla. Rock Indus. & Crawford & Co., 929 So.2d 542, 545 (Fla. 1st DCA 2006), disapproved on other grounds by Murray, 994 So.2d at 1062.
- ¹⁵ Murray v. Mariner Health, 994 So.2d 1051 (Fla. 2008).
- ¹⁶ Page 11.
- ¹⁷ <http://media.miamiherald.com/smedia/2014/08/14/12/01/1wvUAW.S0.56.pdf>
- ¹⁸ The Florida Constitution, Article V., section 3(b)(5) defines jurisdiction of the Florida Supreme Court to include discretionary review of cases that are certified by a district court as "of great public importance, or to have a great effect on the administration of justice throughout the state, and certified to require immediate resolution by the supreme court."
- ¹⁹ The Florida Constitution, Article V., section 3(b)(1) defines jurisdiction of the Florida Supreme Court to include "shall hear appeals" "from decisions of the district courts of appeal declaring invalid a state statute or a provision of the state constitution."
- ²⁰ The Florida Statutes are available online at: <http://www.flsenate.gov/Statutes/>
- ²¹ This is defined by Fla. Stat. §440.50.
- ²² These parameters assign value to the inbound filings based upon postage and supplies saved by the filer. There is also an associated savings to the state because staff no longer has to open envelopes, remove and straighten documents, and then file the paper documents for future use.
- ²³ According to Workcompcentral.com, these states have spent far more developing their case management and litigation platforms. Notably, their systems are for all workers’ compensation claims in their respective states, while the OJCC system is for litigated claims only. Pennsylvania is reported to have spent \$45.1 million initially, and contracted for three years of support and maintenance at \$5.1 million per year. California has reportedly spent \$61 million to deploy their case management and electronic filing platform.
- ²⁴

<https://ww3.workcompcentral.com/news/story/id/a0a2e2759c516074e05f1d022d13c444m>. The Florida OJCC has deployed its e-filing, e-service, and case management platforms using existing budget funds. The total expenditures to date are less than \$1 million. In this same regard, there is no clear definition of many of the terms that are drawn upon for statistical analysis. See endnote 2 re the definitions for "trial" and thus the foundation for calculations.

For example, it is common for a PFB to contain a claim for past medical care (payment for care by a medical provider or providers) and a claim for future medical care (authorization of a particular medical provider or specialty, i.e. orthopedic surgeon) and a claim for some form of lost-wage ("indemnity") benefit, such as temporary total or temporary partial disability benefits. Many PFBs seek payment of attorney's fees and costs, and penalties and interest are commonly claimed when any form of indemnity is sought.

Motions for attorneys' fees, advances, and appointment of an expert medical advisor are commonplace in Florida Workers' Compensation. Motions for Contribution or Modification are also heard, though they are not as common as other motions.

This is discussed more fully in the report section on attorney fees by accident years, Page 34.

The appropriate method to seek determination of attorney fee entitlement or amount is usually by motion. The same is true for certain motions seeking appointment of an expert medical advisor, prevailing party costs, and otherwise. Therefore, a significant volume of each JCCs workload comprises these significant motions that require evidentiary hearings.

Because of effort that is involved in determining many motion issues, the OJCC has included the determination of some motions in the definition of "trial." A "trial" for the Office of Judges of Compensation Claims, such that the resulting order is counted in statistics as a "trial order" means that there must have been a substantive order entered, including findings of fact and conclusions of law, following a hearing that included the presentation of evidence, see endnote 2. This is stated in the Glossary section of this report (p. 45) also. The same definition has been provided in the 2012-13 report, page 44;

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)

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 however identical. 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 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.

On March 23, 2011 the Florida First DCA rejected various constitutional challenges to Fla. Stat. §440.34 (2009) in Kauffman v. Community Inclusions, Inc., 57 So.3d 919 (Fla. 1st DCA 2011). Early in fiscal 2011-12, the Florida Supreme Court denied a petition for review of that decision based on a lack of jurisdiction. That posture of the appellate courts regarding claimant attorney fees remained essentially unchanged until the Supreme Court accepted jurisdiction in Castellanos v. Next Door Company, 124 So.3d 392 (Fla. 1st DCA 2013), see endnotes 14 and 15.

See endnotes 14, 15, 31, and 32.

<http://www.flor.com/PressReleases/viewmediarelease.aspx?id=1839>

Cinicerros, Business Insurance, Florida Insurance Commissioner Approves 8.9% Workers Compensation Rate Hike, <http://www.businessinsurance.com/article/20111024/NEWS08/111029952>, October 24, 2011.

<http://www.flor.com/PressReleases/viewmediarelease.aspx?id=1984>.

<http://www.flor.com/PressReleases/viewmediarelease.aspx?id=2033>

<http://www.flor.com/PressReleases/viewmediarelease.aspx?id=2074>

<https://ww3.workcompcentral.com/news/story/id/883ffc3d1625e6a18f7b4c883217be632d8e4e71>

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.

According to a concurring opinion in Westphal v. St. Petersburg, 122 So.3d 440 (Fla. 1st DCA 2013).

See, Fla. Stat. §440.34(7).

As with other figures in this report, the fact that this answer does not precisely answer the question posed, "how many pro se litigants file petitions," does not alter the fact that this is the best answer that the OJCC can currently provide. The inability to answer the precise question is conceded, explained, and the best possible answer is provided.

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 a motion for determination or for the purpose of filing a Joint Petition to settle the case.

See endnotes 105 and 106.

See endnote 51. The Petition for benefits which claims attorney's fees and costs is effective to toll the statute of limitations, despite the dismissal of the other substantive claims therein. Administrative closure of a petition by the OJCC does not obviate that fee or cost issue.

These figures are from the estimate of the United States Census Bureau for 2013, <http://quickfacts.census.gov/qfd/states/12000.html>.

Mediation may be scheduled, on a previous PFB, at the time a subsequent PFB is filed. The OJCC Procedural Rules require that all pending PFBs 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.

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

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. The timeliness of trial orders is a service to Floridians, and is a statutory obligation of all Judges of Compensation Claims.

51 The Court has concluded that the administrative closure of a PFB does not foreclose the entitlement to attorney's fees related to benefits claimed therein. Black v. Tomoka State Park, 106 So.3d 973 (Fla. 1st DCA 2013); Longley v. Miami-Dade County School Board, 82 So.3d 1098 (Fla. 1st DCA 2012). This is consistent with the Court's earlier pronouncement of fee entitlement analysis in Allen v. Tyrone Square, 731 So.2d 699 (Fla. 1st DCA 1999).

52 The \$282.00 cost of litigation figure is a valid comparison to the Article V. Courts' filing fees. However, it is worthy of note that judiciary does not cover its complete costs. In that system, the filing fees offset only a part of the revenues needed to fund the state courts. The OJCC, on the other hand, covers our entire operations through non-general revenues sources, relying on the premium assessment. Thus, the cost of litigation in this administrative process is accomplished for less than similar court action filing fees, without any contribution of general revenue funds, and provides outstanding additional benefits to system participants and the public such as included mediation services and the collection of millions of dollars in child support arrearages.

53 This example uses the Pinellas county charges published at http://www.pinellasclerk.org/aspInclude2/fee_schedule_5_11.pdf

54 In the course of preparation of this report a mathematical/formula error was discovered in the data that calculates the average cost per petition. The 2012-13 Annual Report therefore erroneously reflected that the average was \$191 per petition; the correct figure is \$219 per petition. The 2011-12 Annual Report erroneously reflected the average as \$181 per petition; the correct figure is \$214 per petition. The 2010-11 Annual Report erroneously reflected the average as \$181 per petition; the correct figure is \$209 per petition. The 2009-10 Annual Report erroneously reflected the average as \$181 per petition; the correct figure is \$202 per petition. The 2008-09 Annual Report similarly erroneously reflected that the average was \$164 per petition; the correct figure is \$195 per petition. The 2007-08 Annual Report erroneously reflected the average as \$158 per petition; the correct figure is \$191 per petition.

55 The credit due to the DOAH IT staff is substantial. Their efforts have deployed a comparatively inexpensive electronic process and presence. Special thanks are due to DOAH IT Director Susan Brown for her leadership on this process and the success of the e-JCC platform.

56 It will likely be impractical to compile a complete database of email contact information for all Florida employers. Therefore, the probability remains that initial petitions in some volume of new cases will require certified mail transmission even after e-service is fully implemented. There are potential processes that might minimize or eliminate that expense, but will be subject to regulatory processes that will require the cooperation of multiple agencies.

57 The Article V. Courts in Florida sought additional budget dollars in its 2014-15 budget for a "competitive salary increase." They noted that "a 3.5 percent adjustment in the next fiscal year is a critical step in addressing the impact the inflation rate has had on [employees'] buying power." Their request asserted that there are retention issues, leading to employees leaving the judiciary "for higher paying jobs in the other two branches of government." This is incongruous with the anecdotal experience of the OJCC. The disparity between OJCC payroll and court payroll has been mentioned in previous annual reports of this Office. The Legislature allocated \$8.1 million to the courts in 2014 for this need.

<http://www.floridabar.org/DIVCOM/JN/jnnews01.nsf/8c9f13012b96736985256aa900624829/c6cc17380a7291d285257ccf0042745c!Op enDocument>

58 In prior years, there were 32 state mediators. The aggregate cost of salary, taxes and benefits for those 32 state mediators was \$3,112,736.65. This figure divided by the 16,881 mediations conducted yield the cost per mediation of \$184.39. With the reduction of staff by four mediators, the 28 mediators employed in 2012-13 had an aggregate cost of approximately \$2,723.645. Dividing this by the 16188 mediations in that year yields \$168.25. These figures do not include the costs of staff support or facilities or equipment. Therefore, this is a conservative cost figure.

59 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 (four mediations in fiscal 2011-13) were waived by order of the Deputy Chief Judge of Compensation Claims.

60 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 improved.

61 This figure was erroneously reported as 538 in the 2012-13 OJCC Annual Report. The 538 figure was the gross continuance volume for mediations initially reported by the database in 2012-13 prior to the audit process and adjustment for inappropriately labelled rescheduled mediations.

62 For the years 2002-03 through 2011-12, the volume per JCC resulted from division by 32 judges. The legislature eliminated one JCC position in the 2011-12 session, and so the figures for 2012-13 and thereafter are calculated dividing by 31 judges.

63 See Endnote 59. This figure was erroneously reported as 538 in the 2012-13 OJCC Annual Report. The 538 figure was the gross continuance volume for mediations initially reported by the database in 2012-13 prior to the audit process and adjustment for inappropriately labelled rescheduled mediations.

64 This was erroneously reported in the 2012-13 OJCC Annual Report as 95. This error occurred through a formula that utilized the 32 Judges present prior to the budget reduction and reduction to 31 judges of compensation claims beginning in 2012-13.

65 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.

66 Aguilar v. Kohl's Dep't Stores, Inc., 68 So.3d 356 (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).

67 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.”

68 The issue of defense fee approval has been discussed in a variety of forums in recent years. Although there is the implied penalty provision in Fla. Stat. § 440.105(3)(b), the Deputy Chief Judge has not found statutory authority upon which the OJCC could require submission of employer/carrier attorney fee billings for pre-approval by the assigned JCC. This investigation has included consultation with the Workers’ Compensation Section of The Florida Bar and the leadership of the Florida Workers’ Advocates. Substantial time has also been invested in legal research and analysis by this Office.

69 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.”

70 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 the 2010-11 Annual Report was significantly delayed by the failure of multiple carriers to report as required. No such delays occurred in 2011-12 or 2012-13 with all carriers reporting timely, despite the earlier deadline imposed by rule. In 2014, some third party administrators, or “servicing agents” elected to discontinue reporting on behalf of their self-insured clients. Those clients should therefore self-report, but in multiple instances did not. Letters were sent to all self-insured clients known to the OJCC in an attempt to facilitate reporting. It is believed that the majority have now reported.

71 The over-reporting was made by Sedgwick CMS, and the total volume of over-reporting was \$120,082,482.28.

72 Though these figures were once reported inaccurately, they were not “false,” but merely the best data recorded as of that time. That the new figures are different, based upon a greater volume of available data are likewise not “false,” despite being different.

73 In the process of preparing this report, anomalies were identified in one carrier/servicing agent’s (CSA) defense fee reporting for 2013-14. It was noted that this figure was dramatically different from the figure reported for 2012-13, and an inquiry was made regarding cause. Through this, it was discovered that figures submitted for prior years were calculated using a database query that was not appropriately filtered or adjusted, leading to the over-reporting of attorney fee information for several years. The total over-reporting for the eleven years was \$120,082,482.

74 In 2002-03 the CSA reported \$9,239,253; the actual figure as corrected in 2014 was \$5,893,042. Therefore the previously reported aggregate total of \$220,044,685 was reduced \$3,346,211 to \$216,698,474.

75 In 2003-04 the CSA reported \$9,579,046; the actual figure as corrected in 2014 was \$5,013,921. Therefore the previously reported OJCC Annual Report aggregate total of \$231,150,559 was reduced \$4,565,125 to \$226,585,434.

76 In 2004-05 this CSA reported \$10,979,196; the actual figure as corrected in 2014 was \$5,942,079. Therefore the previously reported OJCC Annual Report aggregate total of \$264,058,532 was reduced \$5,037,117 to \$259,021,415.

77 In 2005-06 this CSA reported \$14,574,141; the actual figure as corrected in 2014 was \$5,333,571. Therefore the previously reported OJCC Annual Report aggregate total of \$299,412,570 was reduced \$9,240,570 to \$290,172,000.

78 In 2006-07 this CSA reported \$15,474,623; the actual figure as corrected in 2014 was \$5,418,170. Therefore the previously reported total of \$287,443,033 was reduced \$10,056,453 to \$277,386,580.

79 In 2007-08 this CSA reported \$16,059,996; the actual figure as corrected in 2014 was \$5,719,568. Therefore the previously reported total of \$270,501,374 was reduced \$10,340,428 to \$260,160,946.

80 In 2008-09 this CSA reported \$14,962,047; the actual figure as corrected in 2014 was \$6,578,244. Therefore the previously reported OJCC Annual Report aggregate total of \$277,664,217 was reduced \$8,383,803 to \$269,280,414.

81 In 2009-10 this CSA reported \$14,962,047; the actual figure as corrected in 2014 was \$5,049,034. Therefore the previously reported OJCC Annual Report aggregate total of \$279,570,117 was reduced \$9,913,013 to \$269,657,104.

82 In 2010-11 this CSA reported \$16,343,945; the actual figure as corrected in 2014 was \$4,711,417. Therefore the previously reported OJCC Annual Report aggregate total of \$270,955,703 was reduced \$11,632,528 to \$259,323,175.

83 In 2011-12 this CSA reported \$26,087,751; the actual figure as corrected in 2014 was \$4,511,495. Therefore the previously reported OJCC Annual Report aggregate total of \$264,022,959 was reduced \$21,576,256 to \$242,446,703.

84 In 2012-13 this CSA reported \$29,333,105; the actual figure as corrected in 2014 was \$3,342,128. Therefore the previously reported OJCC Annual Report aggregate total of \$266,885,472 was reduced \$25,990,978 to \$240,894,494.

85 On November 12, 2014, the OJCC announced that the defense fee total for 2013-14 was slightly lower than this figure, at \$237,082,331. <http://fiojcc.blogspot.com/2014/11/the-data-is-corrected-florida-defense.html>. Subsequently, multiple entities reported defense fees. The increase from \$237,082,331 to \$237,364,154 resulted from these late additions.

86 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.

87 This figure combines the claimant fees accurately reported previously (\$210,660,738) and the corrected defense fees for 2002-03 (\$216,698,474), see endnote 72.

88 This figure combines the claimant fees accurately reported previously (\$215,322,360) and the corrected defense fees for 2003-04 (\$226,585,434), see endnote 73.

89 This figure combines the claimant fees accurately reported previously (\$211,157,073) and the corrected defense fees for 2004-05 (\$259,021,415), see endnote 74.

90 This figure combines the claimant fees accurately reported previously (\$208,369,260) and the corrected defense fees for 2005-06 (\$290,172,000), see endnote 75.

91 This figure combines the claimant fees accurately reported previously (\$191,197,443) and the corrected defense fees for 2006-07 (\$277,386,580), see endnote 76.

92 This figure combines the claimant fees accurately reported previously (\$188,701,256) and the corrected defense fees for 2007-08 (\$260,160,946), see endnote 77.

93 This figure combines the claimant fees accurately reported previously (\$181,660,686) and the corrected defense fees for 2008-09 (\$269,280,414), see endnote 78.

94 This figure combines the claimant fees accurately reported previously (\$176,996,765) and the corrected defense fees for 2009-10 (\$269,657,104), see endnote 79.

95 This figure combines the claimant fees accurately reported previously (\$157,081,084) and the corrected defense fees for 2010-11 (\$259,323,175), see endnote 80.

96 This figure combines the claimant fees accurately reported previously (\$152,848,003) and the corrected defense fees for 2011-12 (\$242,446,703), see endnote 81.

97 This figure combines the claimant fees accurately reported previously (\$151,889,627) and the corrected defense fees for 2012-13 (\$240,894,494), see endnote 82.

98 This figure combines the accurately reported claimant fees (\$141,858,184) and the correct defense fees for 2013-14 \$237,364,153.56), see endnote 83.

99 <http://www.usinflationcalculator.com/>

100 See endnote 73.

101 The percentage of change over time is markedly different. In the 2012-13 Annual Report, this change was reported as 21.29% change which was erroneous due to the over-reporting of defense fees.

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

103 Id.

104 Case number 13-029834.

105 Trial orders are a category of substantive orders entered by the Judges of Compensation Claims. This category includes orders entered following trials, which are defined as Evidentiary Motion Hearing, Expedited Final Hearing, Fee Amount Hearing, Fee Entitlement Hearing, Final Hearing, and Fund Hearing. Therefore "trials" includes far more than final hearings on petitions for benefits. Thus, the count of trial orders and trials is an inclusive calculation.

106 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.

107 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.

108 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).

109 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. 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."

110 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."

111 Fla. Stat. § 440.25(4)(b): “The final hearing shall 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.”

112 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.”

113 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.”

114 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.”

115 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.”

116 This inclusion has been consistent for several years. The description of what constitutes a “trial order” is iterated in various prior Annual Reports. With these descriptions published, the inclusionary nature of the term should be readily apparent.

117 <http://www.fljcc.org/jcc/files/reports/2012SR-MSR.pdf>

118 In 2008-09, 2009-10, 2010-11, 2011-12, 2012-13 and 2013-14.

119 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.”

120 The term “trial order” includes those substantive orders which result from a hearing, at which evidence was presented. These include final orders regarding benefits sought through a Petition for Benefits, attorney fee orders on either entitlement or amount, cost orders, some expert medical advisor orders, contribution orders, and others. See endnote 9, 55, and the Glossary of Terms in this report. The term “trial order” necessarily means the order resulted from a trial. Evidentiary orders may be entered without a hearing. See endnotes 123-130.

121 Despite the definitions, and their transparent representation, there are those who disagree with the definitions. Rather than express disagreement with the published, consistent and transparent definitions, some of those instead have elected to refer to the statistics in this report as “false.” No evidence has been provided or proffered in support of the “false” characterization. There is no support to conclude that any information in this report is false.

122 As of this report, the First, Fourth and Fifth District Courts have deployed the e-DCA electronic filing platform which was adapted from the e-JCC platform developed and deployed by the Office of Judges of Compensation Claims.

123 This caused the OJCC to operate in 2011-12 in contravention of state law which requires the OJCC to maintain the Judges, mediators and offices as they were when the legislature moved the OJCC into the DOAH in 2001. As the Legislature added one judge and mediator in

2006, the removal of one judge and mediator in 2012 did not contradict that statute. However, the removal of three additional mediators clearly put the OJCC in violation of that law.

124 In addition, Judge Anderson entered one evidentiary order without a hearing. This is not included in the calculation of “trial” orders because that metric measures trials. In the absence of a trial, the resulting order cannot by definition be a “trial order.” There are Judges who contend that the entry of evidentiary orders without trial should be nonetheless recognized separately in this report. The evidentiary orders entered without hearing, as memorialized in this report are based on a review of all uploaded evidentiary orders and self-reporting by the judges of compensation claims, which was then subjected to audit.

125 In addition, Judge Hill entered sixteen evidentiary order without a hearing. See endnote 123 for explanation.

126 In addition, Judge Humphries entered one evidentiary order without a hearing. See endnote 123 for explanation.

127 In addition, Judge Castiello entered one evidentiary order without a hearing. See endnote 123 for explanation.

128 In addition, Judge Winn entered two evidentiary orders without a hearing. See endnote 123 for explanation.

129 In addition, Judge McAliley entered two evidentiary orders without a hearing. See endnote 123 for explanation.

130 In addition, Judge Rosen entered four evidentiary orders without a hearing. See endnote 123 for explanation.

131 In addition, Judge Jenkins entered two evidentiary orders without a hearing; Judge Lorenzen also entered two evidentiary orders without a hearing. See endnote 123 for explanation.