

STATE OF FLORIDA

Division of Administrative Hearings



2014-2015 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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Number of Litigated Cases		10
Gross Petitions filed	60,021 (1.2% increase from 2013-14)	12
New Cases filed	29,870 (>.5% increase from 2013-14)	13
Pro se Cases	(10.22%, decreased from 10.51%, 2013-14)	16
Amount of Litigation Resolved		17
Petitions closed	60,825 (1% increase from last year)	
Cost of Litigation Resolved		20
OJCC Budget	\$17,109,499 (1% increase from 2013-14)	
Per Petition Closed	\$281.00 (twelve year avg. = \$229.00)	
Civil Court Comparison	\$300.00 to \$400.00 Filing Fees	
Number of Mediation Conferences Held		24
Mediations held	15,421 (5% decrease from 2013-14)	
100% of Mediators averaged less than 130 days each year in 2008-09 to 2014-15.		
Disposition of Mediation Conferences		25
Some resolution	64.9% (decrease from 66.5% in 2013-14)	
Settled case/All Issues Resolved	35.2% (decrease from 37.7% in 2013-14)	
Number of Continuances Granted for Mediations		26
Mediation Continuances	172 (decrease from 207 in 2013-14)	
Number of Continuances Granted for Final Hearings		27
Trial Continuances	3,204 (increase from 3,101 in 2013-14)	
Outcome of Litigated Cases		28
Resolved at Mediation	7,579 (decrease from 8,299 in 2013-14)	
Amount of Attorney's Fees Paid		31
Claimant Fees Approved	\$136,180,202 (4.0% decrease from 2013-14)	
Defense Fees Reported	\$234,592,581 (1.17% decrease from 2013-14)	
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		35
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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 2014-15 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 2014-15 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 2014-15) 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 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 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 2014-15, trial orders were entered within this parameter approximately 94% 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 Rules of Procedure for Workers’ Compensation Adjudications in 2010, mandating e-filing by rule. As a result, the volume of incoming U.S. Mail dwindled in 2010-11 and receipt of U.S. Mail 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 were 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 the use of video teleconference systems (VTS) for trials throughout Florida. Their efforts initially utilized equipment in the DOAH Tallahassee facility connected to remote VTS facilities maintained by the Florida Department of Management Services (DMS). In 2006-07, the OJCC and DOAH began jointly deploying VTS in the 17 OJCC District offices. The deployment of this equipment has continued through 2014-15. 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 Florida workers' compensation has continued to be less than stable in 2014-15. In fiscal 2012-13, the Florida First District Court of Appeal (DCA) rendered a panel⁴ decision in Westphal v. City of St. Petersburg⁵ on February 28, 2013. The panel held Fla. Stat. §440.15(2)(a) 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 Thus, there has been input by the marketplace regarding the interpretation. 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.¹⁰

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.¹¹ In Hadley, the court interpreted the 104 week constraint on temporary benefits. Some members¹² of the First DCA unsuccessfully sought to certify the Hadley interpretation to the Florida Supreme Court as a question of "great public importance."¹³ Since the majority denied such certification, the state proceeded from 2012 (when certification 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,¹⁴ the First DCA 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 DCA did certify the issue as one of "great public importance." In October 2013, the Florida Supreme Court accepted the case for review.¹⁵ The Court held oral arguments in the case on June 5, 2014 and a decision from the Court was anticipated in fiscal year 2014-15. That did not occur, and as this report was prepared a decision from the Supreme Court remains pending.

On October 23, 2013, the First District Court issued an opinion in Castellanos v. Next Door Company.¹⁶ 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."¹⁷ That was also certified to the Supreme Court as a question of "great public importance."

Castellanos is a continuation of the attorney fee dispute litigated extensively following passage of the 2003 reforms. That litigation culminated in the October 2008 decision of the Florida Supreme Court in Murray v. Mariner Health.¹⁸ As discussed in the 2012-13 OJCC Annual Report¹⁹ 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"²⁰ fees despite the seeming limitation of the statutory percentage calculation. Following rendition of the Supreme Court's 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 resort to statutory construction. The Supreme Court held the Castellanos oral argument on November 5, 2014. The Court thereafter allowed issues to be briefed and argued in additional cases challenging the application of Fla. Stat. §440.34 (collectively referred to as

“the companion cases”).²¹ A decision on Castellanos or some combination of the companion cases was likewise anticipated in fiscal 2014-15, but remains pending. The delay in rendition of a final decision regarding attorney’s fees has created anxiety and expectation in the Florida workers’ compensation marketplace for two years. Workers’ compensation is a massive enterprise, paying \$60.21 billion in benefits in 2011. Florida is the 6th largest market in the country, responsible for 4.5% of those benefits, or about \$3 billion dollars. The impact of Castellanos may be that decisions and resolutions remain pending (stalled) until the Supreme Court renders its decision in this case.

Castellanos could result in a determination that Fla. Stat. §440.34 is unconstitutional “on its face.” This means that there is no set of conceivable facts in which this statute could reach a constitutional result. That determination would render the current language of Fla. Stat. §440.34 inapplicable to any case thereafter. This is considered to be a very unlikely outcome. The Court could determine that Fla. Stat. §440.34 “as applied” in some particular factual setting is unconstitutional (this is referred to as “as applied”). Such a determination would apply only to that case. The Courts have consistently concluded that as statutory judges, the Judges of Compensation Claims lack authority to decide a statute is unconstitutional.²² A decision by the Florida Supreme Court holding Fla. Stat. §440.34 unconstitutional “as applied” to some set of facts may create a procedural conundrum for the Florida litigation system.

If the Court in Castellanos determines that the fee in that factual setting is unconstitutional “as applied,” a JCC, presented with nearly identical facts in another case the next day, cannot declare the application of Fla. Stat. §440.34 unconstitutional in that next case. The JCC will likely be compelled by Fla. Stat. §440.34 to deny any fee beyond that resulting from the language of the statute. The aggrieved party (the injured worker) will then face the expense associated with seeking review of the First District Court of Appeal (DCA).²³ Any hourly attorney fee determination deemed appropriate by the Florida Supreme Court in Castellanos, therefore leads to the necessity of many more attorney fee challenges before the First DCA thereafter. It is likely that the cost of such appeals, as well as appellate attorney fees for their prosecution, would be assessed against the employer/carriers in those cases. Thus, the application of Fla. Stat. §440.34 in this setting could frustrate the self-executing nature of the Florida Workers’ Compensation Law.²⁴

On August 13, 2014, Circuit Judge Jorge Cueto, Miami/Dade County, issued an order in Florida Workers’ Advocates v. State of Florida.²⁵ He found the quantity of benefits in Florida workers’ compensation has declined in recent decades. His order cites other examples of change, such as Florida’s tort law transition from contributory to comparative negligence. Judge Cueto 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.

Following Judge Cueto’s summary denial of the Florida’s Attorney General’s request for rehearing, an appeal was filed with the Third District Court of Appeal (DCA) in Miami. That Court denied a request for the case to be certified directly to the Florida Supreme Court. On June 24, 2015 the Third DCA reversed Judge Cueto’s summary decision. The Court concluded that the putative plaintiffs, Florida Workers’ Advocates (FWA), Workers Injury Law Group (WILG), and Ms. Padgett lacked standing to challenge the statute’s constitutionality. The Court further held that the case was rendered moot by actions of the original parties to that suit prior to the intervention of the FWA, WILG and Ms. Padgett.

The FWA, et. al. requested review of the Florida Supreme Court, filed July 7, 2015. Jurisdictional briefs have been filed, and the workers’ compensation marketplace awaits the Court’s decision regarding whether it will consider the merits of the case. Pursuant to the Florida Constitution, the Supreme Court is not obligated²⁶ to review the determination by the Third DCA, as that Court did not declare unconstitutional a state statute.

Florida has not been alone in high-profile workers’ compensation litigation in the last year. New Mexico, Tennessee, and Pennsylvania have experienced judicial interpretations rendering some portion of their statute unconstitutional. In Rodriguez v. Brand West Dairy,²⁷ the New Mexico Court of Appeals struck a provision exempting agricultural workers from mandatory workers’ compensation coverage. A trial court judge in Tennessee concluded that the state’s statutory provision distinguishing workers’ compensation benefits based on immigration status is unconstitutional. The Court in Martinez v. Lawhon²⁸ concluded that the regulation of immigration status is a specifically enumerated power of the federal government and so state regulation in this form violated the preemption doctrine.²⁹

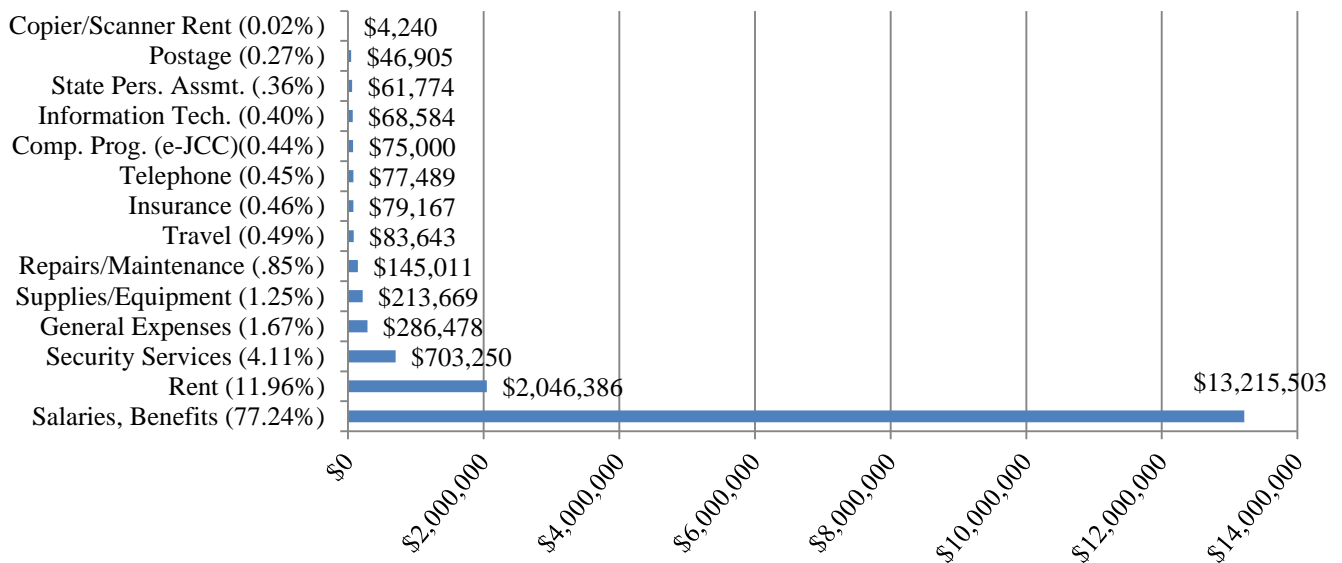
An appellate court in Pennsylvania, the Commonwealth Court, struck Pennsylvania’s statute section 306(a.2) that requires that the “degree of impairment” shall be determined “pursuant to the **most recent edition** of the *American Medical Association Guides to the Evaluation of Permanent Impairment*.”³⁰ (Emphasis added). When

that statute was enacted, the AMA Guides, Fourth Edition was the “most recent.” With no further legislative action, Pennsylvania has since used both the Fifth and Sixth Editions, as each in turn became the “most recent.” The injured worker challenged the used of the Sixth Edition, and the benefit calculation that resulted. The Court concluded that the state was delegating its function of determining methodology for assigning impairment to the American Medical Association, by allowing that organization to amend its publication at will, and to allow the statute to automatically adopt such changes. The Court could have concluded that this language should be interpreted to mean the “most recent” at the time the statute was passed, a statutory interpretation.³¹ Instead, the Court concluded that the language was an inappropriate delegation of state power to a private entity.

Florida workers’ compensation is a self-executing system defined by Fla. Stat. ch. 440³² 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. Fla. Stat. ch. 440 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, pages 45-46.

The OJCC is funded entirely through assessments on the workers’ compensation industry, from the Workers’ Compensation Administrative Trust Fund.³³ The vast majority, over ninety-three percent (93.31%), of the OJCC budget is expended on payroll (including benefits)(77.24%), rent for the seventeen OJCC District Offices and the OJCC Central Clerk’s office (11.96%), and security for those offices for the protection of personnel and the public (4.11%), 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. There are likewise instances of cost savings from postage and equipment changes. These are reinvested in updated computer hardware and further refinements in programs for the benefit of the Florida’s workers’ compensation marketplace.

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 a biennial 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 educational efforts. It is believed that the data presented in this report is as accurate as possible, but it is likely that flaws persist. Over the last several years, there have been ambiguous allegations as to data accuracy in prior Annual Reports. Some have alleged 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.

Compliance with Procedural Rules

Data interpretation is a focus of this report. For the integrity of the data presented, criteria are uniformly applied to the categorization of orders and judicial efforts. This is in an attempt to produce consistent results. The OJCC does not exercise any guidance or control, however, over the methodology each judge employs for docket management.

Thus, judicial independence dictates that whether to hold an evidentiary hearing, a procedural hearing, or to adjudicate a matter without hearing is up to the assigned judge. There are those judges who appear to hold a significantly higher volume of evidentiary hearings than other judges. Some judges accuse others of holding such hearings for the sole purpose of producing statistics published in this report. It is impossible to determine a judge’s subjective decision to hold a trial or to rule without a trial. The data reported herein is therefore primarily a recitation of the volumes, but not an analysis of propriety or necessity for such activities.

There are also judges who appear to hold a great many more procedural hearings than do other judges. For procedural matters, the Rules of Procedure for Workers' Compensation Adjudications provide that the vast majority of motions will be determined without hearing, and that motion hearings will be held only in exceptional circumstances.³⁴ It appears that there are some judges who tend to conclude that any dispute is an exceptional circumstance and hold many procedural motion hearings.

Anecdotally, there are also some judges who decline to follow the Rules of Procedure for Workers' Compensation Adjudications in other instances, including ignoring the Rules’ provision regarding approval of costs in conjunction with fee stipulations and motions.



OJCC Achievements 2014-15

E-filing

- Surpassed \$1 million in total expenditures for development of integrated OJCC case management and electronic filing platform e-JCC.
- User savings at end of fiscal year 2015 exceeded \$2.6 million. OJCC/system savings at end of fiscal year 2015 exceeded \$3.7 million.
- Total return on \$1 million investment exceeds \$6.2 million, or over 600%.

Visiting Judges:

Continued to shift caseload using “out of district” Judge Program.

- Miami District
“New cases” were sent to judges in Daytona, Ft. Myers, Gainesville, Port St. Lucie, St. Petersburg and Tampa. At the close of the fiscal year, the “out-of-district” assignments from Miami had decreased to about 60 per month from a maximum of approximately 150 new cases per month.
- Ft. Lauderdale District
“New cases” were sent to Jacksonville, Panama City, Pensacola, and Tallahassee.

Internal Education:

- Conducted 8 monthly “Second Friday” lunchtime telephonic 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 Sarasota, Florida.
 - Two Judges attended the SAWCA educational program in Hilton Head, South Carolina.
 - Two Judges attended the International Association of Accident Boards and Commissions Judicial College in Austin, Texas.

Public Education:

Presented multiple programs including:

- Florida Workers’ Compensation Institute
 - Workers’ Compensation Educational Conference
 - Spring Forum.
- The Florida Bar Workers’ Compensation Forum.
- Florida Workers’ Advocates Educational Conference.
- Florida Association of Self-Insureds.
- Southern Association of Workers’ Compensation Administrators Conference.
- International Association of Accident Boards and Commissions.
- The American Bar Association Trial Practice Program in Naples.
- Free public Continuing Education Seminar at the First District Court of Appeal.
- Georgia Workers’ Compensation Board, Judge Meeting.
- Workers’ Compensation Research Institute, Cambridge Massachusetts.
- 2015 Florida Insurance Summit.
- National Association of Workers’ Compensation Judiciary College 2014.
- Southern Association of Workers’ Compensation Administrators Regulator College 2014.
- Tennessee Workers’ Compensation Division Judicial Training.

Management Tools:

- Published Judicial Performance Statistics to the Judicial Nominating Commission.
- Deployed Seventh Annual Judicial Survey with The Florida Bar using interactive electronic platform.

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 2014-15, five hundred twenty-two thousand three hundred twenty-one (522,321) 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,³⁵ the cumulative end-user savings to date generated by this e-filing system, by the end of fiscal 2014-15, were at least two million six hundred forty-seven thousand nine hundred twenty-three dollars (\$2,647,923). The total savings to the state is almost four 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 additional annual savings to practitioners and carriers in excess of one million dollars due to the ability to serve each other documents electronically. 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.³⁶ 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 through fiscal year 2014-15 is approximately 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%
2014-15	522,321	0.2%

NUMBER OF LITIGATED CASES:

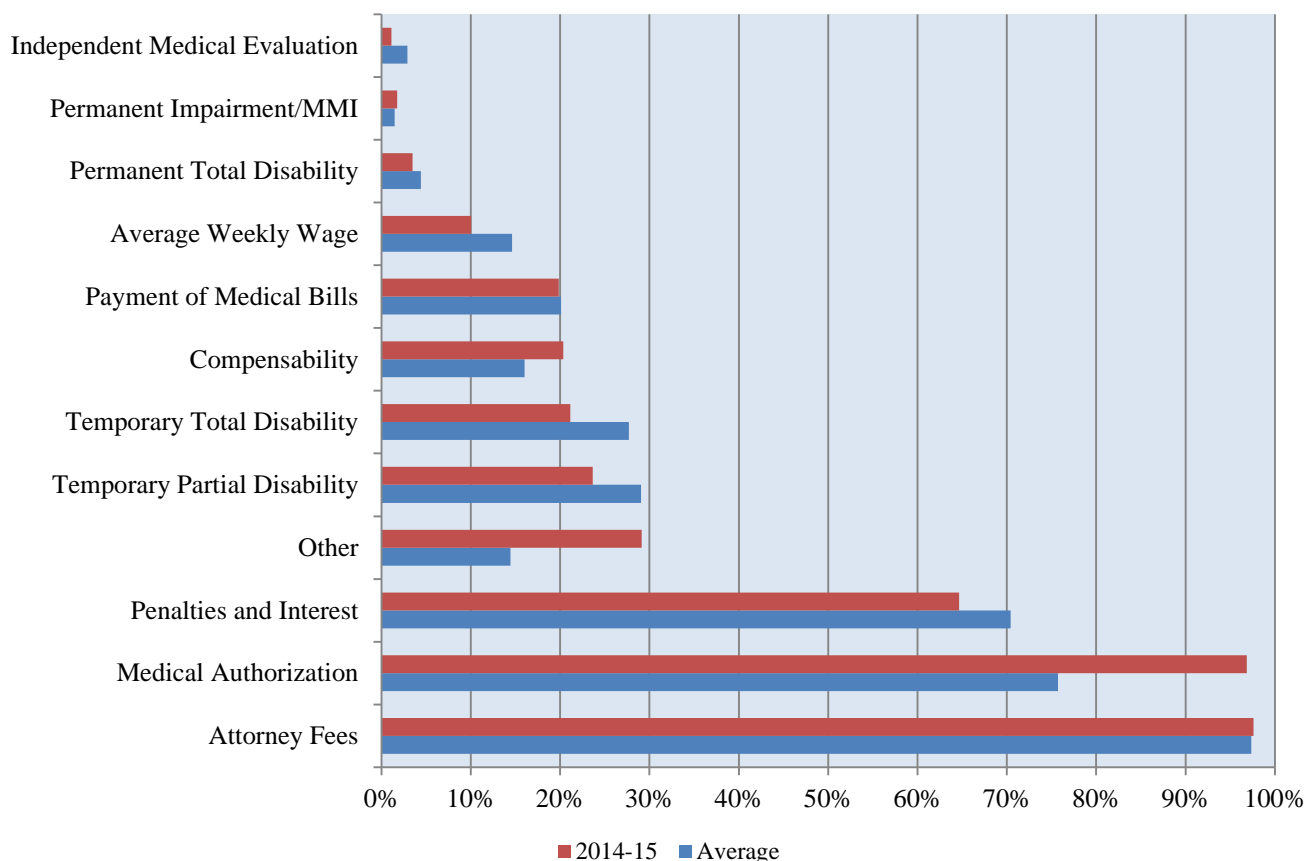
It is difficult to ascertain with absolute certainty how many “cases” are in litigation at a given moment in time. The OJCC developed and uses a proprietary and dynamic database that includes a powerful case management program, the JCC Application, or “JCCA.” That same database is the foundation of all 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.”³⁷ Litigation in Florida workers’ compensation is usually instigated with a Petition for Benefits (“PFB”). Each PFB might seek a single benefit, or many benefits.³⁸ 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.³⁹ 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 2014-15 could seek resolution of an issue regarding an accident that occurred that year or perhaps many years prior.⁴⁰

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 both the “raw PFB” measure and the “new cases” measure, the OJCC calculates and reports each. Notably, each of these metrics ignores the volume of litigated cases that are instigated by motion instead of PFB. Although these motions⁴¹ 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 evidentiary motions.⁴²

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 benefits such as penalties and interest related to indemnity claimed, as well as 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 eleven-year period 2003-04 through 2013-14 (blue bars on the bottom of each category) and the rate of filing for those categories in the current fiscal year, 2014-15 (red bars). The rate of medical authorization claims has been noteworthy for the last four fiscal years (2011-12 through 2014-15). The volume of “compensability” and “other” disputes was also notably above average in each of the last three (2012-13 through 2014-15) fiscal years.



The 2012-13 OJCC Annual Report noted a significant 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 to 425 in 2013-14, but increased again to 466 in 2014-15. 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

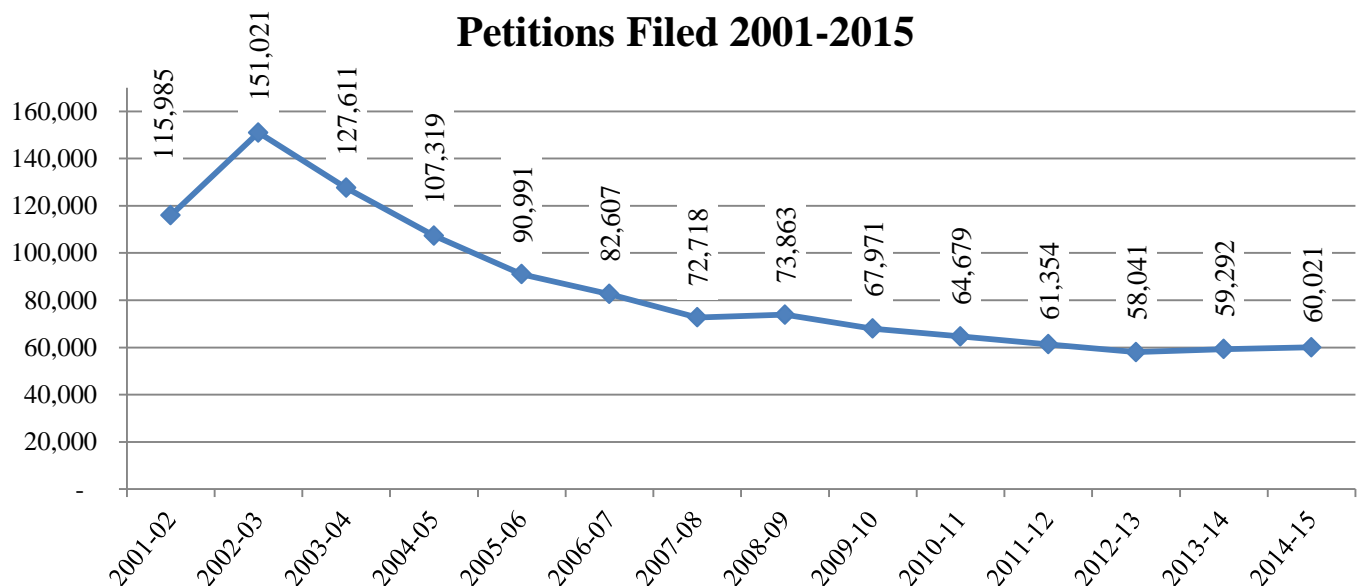
The Florida Legislature enacted significant amendments to the Florida Workers’ Compensation Law in 1994 and again in 2003. After the 1994 reforms, PFB filing volume consistently increased each year. Just prior to the 2003 reforms, annual PFB filings peaked at 151,021. The progressive increase in PFB 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 increased just over two percent in 2013-14 and another 1% increase in 2014-15. The PFB volume in 2014-15 was about 57% higher than the 38,254 filed in 1993 before that “sweeping reform” was passed.⁴³

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.⁴⁴ 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.⁴⁵ 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.

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%
2014-15	60,021	1.2%

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. It is possible the marginal increase (1.6%) in 2008-09 was interrelated with the Murray decision.

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, 2009.⁴⁶ It is in the context of that legislation that the current Castellanos case is pending. It is, again, possible that perceptions of the outcome of Castellanos is affecting PFB filing volumes currently. Some suggest instead that 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.

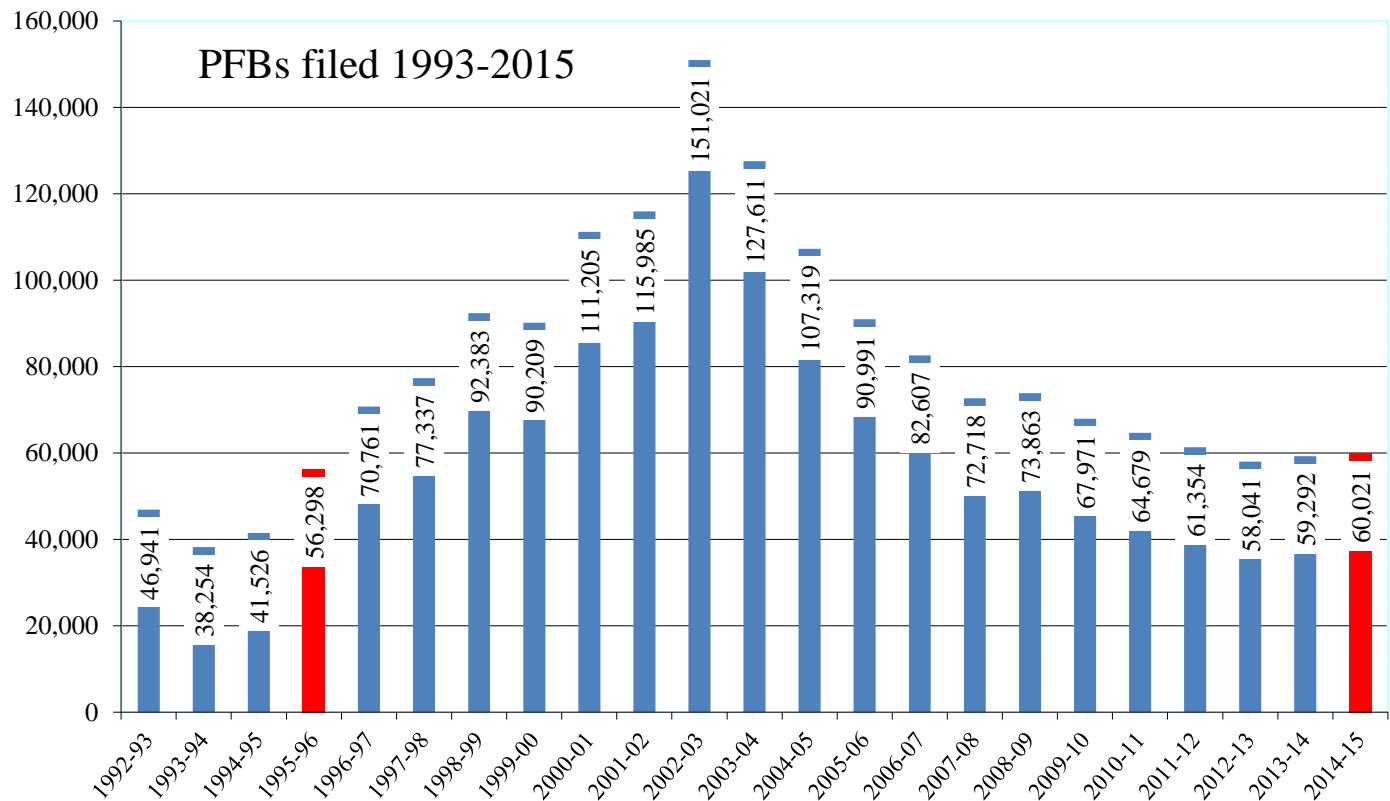


Florida workers' compensation premiums decreased significantly after the 2003 reforms. The cumulative premium decrease through fiscal 2008-09 was approximately 58%. Interestingly, in that same time period, PFB filings had decreased approximately fifty-two percent (51.85%), which might be interpreted 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. At the same time PFB filing rates decreased. 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.⁵²

The following graph represents PFB filing since 1992-93. 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 2014-15 filings (60,021) remain about 57% higher than in 1993-94 (38,254).

Fiscal Year	PFB change	Premium change
2009-10	-8.0%	
2010-11	-4.8%	7.80% ⁴⁷
2011-12	-5.1%	8.90% ⁴⁸
2012-13	-5.4%	6.10% ⁴⁹
2013-14	2.2%	0.7% ⁵⁰
2014-15	1.2%	-2.50% ⁵¹



The figures for periods prior to 2001 (the transfer of the OJCC from the DLES to the DOAH) are based upon data previously published by the DLES. The reliability of these statistics can no longer be independently verified.⁵³ 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 Fla. Stat. ch. 440 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 eighteen years, since 1995-96. It is not practical to predict whether the slight increase in PFB filing volumes for 2013-14 and 2014-15 are an anomaly, or signal a trend to increasing litigation.

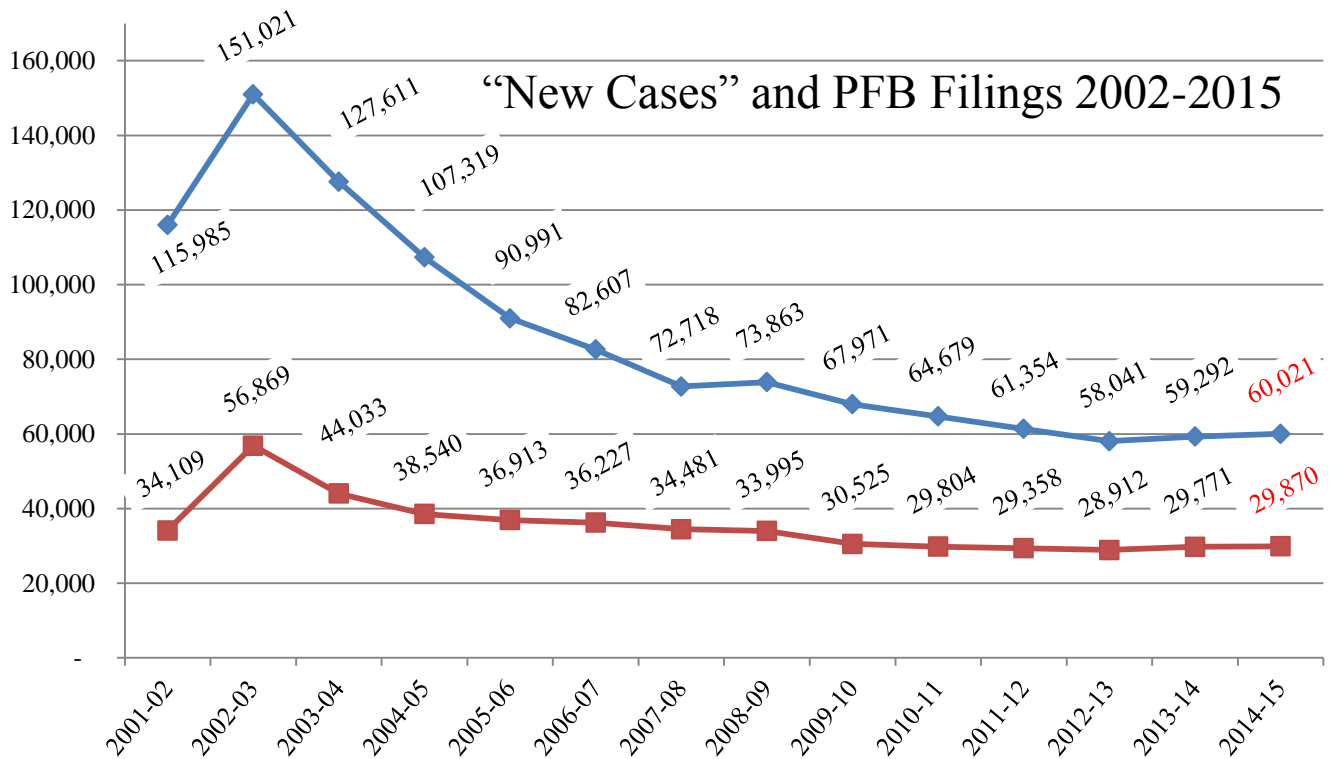
New Case Filing

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 Fla. Stat. ch. 440.

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.⁵⁴ 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 steadily declined after 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%). In 2013-14 and 2014-15 “new case” filings increased slightly. 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. It may be significant that the volumes each increased again in 2014-15.

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 decreased more moderately, the percentage of “new cases” has remained above 40% since 2005-06, and the overall trend has been upward, but in 2014-15 seems to have plateaued.

Fiscal Year	PFBs Filed	New Cases Filed	New/Gross PFB
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%
2014-15	60,021	29,870	49.8%

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, followed by a one percent increase in 2014-15. 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 has decreased over time.

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.⁵⁵ 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 future 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 17).

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 pleaded in the same PFB that asserts that change of physician claim. Similarly, permanent total disability (PTD) supplemental benefits are normally pleaded 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 PFBs 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 discrete 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 phenomenon appears to have abated over the last ten years. In the last three fiscal years, about 1,000 petitions have been filed annually that may present one of the situations described above, i.e. a duplicate or replicate petition. This does not appear to be a significant issue.

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 him or herself. 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 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 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*.

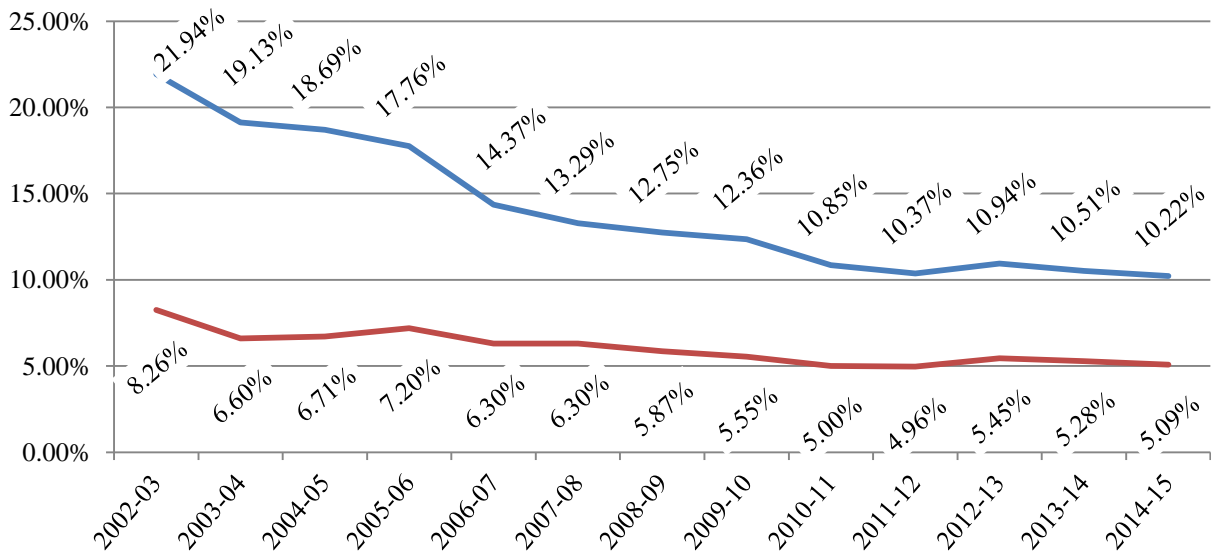
Fiscal Year	New Cases	Pro Se June 30	
2002-03	56,869	12,477	21.94%
2003-04	44,033	8,423	19.13%
2004-05	38,540	7,205	18.69%
2005-06	36,913	6,555	17.76%
2006-07	36,227	5,205	14.37%
2007-08	34,481	4,583	13.29%
2008-09	33,995	4,333	12.75%
2009-10	30,525	3,774	12.36%
2010-11	29,804	3,234	10.85%
2011-12	29,358	3,044	10.37%
2012-13	28,912	3,162	10.94%
2013-14	29,771	3,130	10.51%
2014-15	29,870	3,053	10.22%

The JCC Application database 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.⁵⁶ 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 in prior years 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.

The available data does not support the conclusion that the *pro se* claimant population is increasing.⁵⁷ 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 trends are represented in the graph below, which illustrates a downward trend in *pro se* representation as a percentage of either new cases or petitions for benefits.

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%
2014-15	60,021	3,053	5.09%



The graph above depicts the ratios of “new cases” (blue) and of the Petitions (red) to the population of “*pro se*” petitions pending on June 30 of each of the last thirteen (13) fiscal years. These comparisons demonstrate minor fluctuations in “*pro se*” participation over the last five fiscal years. The overall trend over the 13 year period extending back to 2002-03 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 figures in the last two fiscal years.

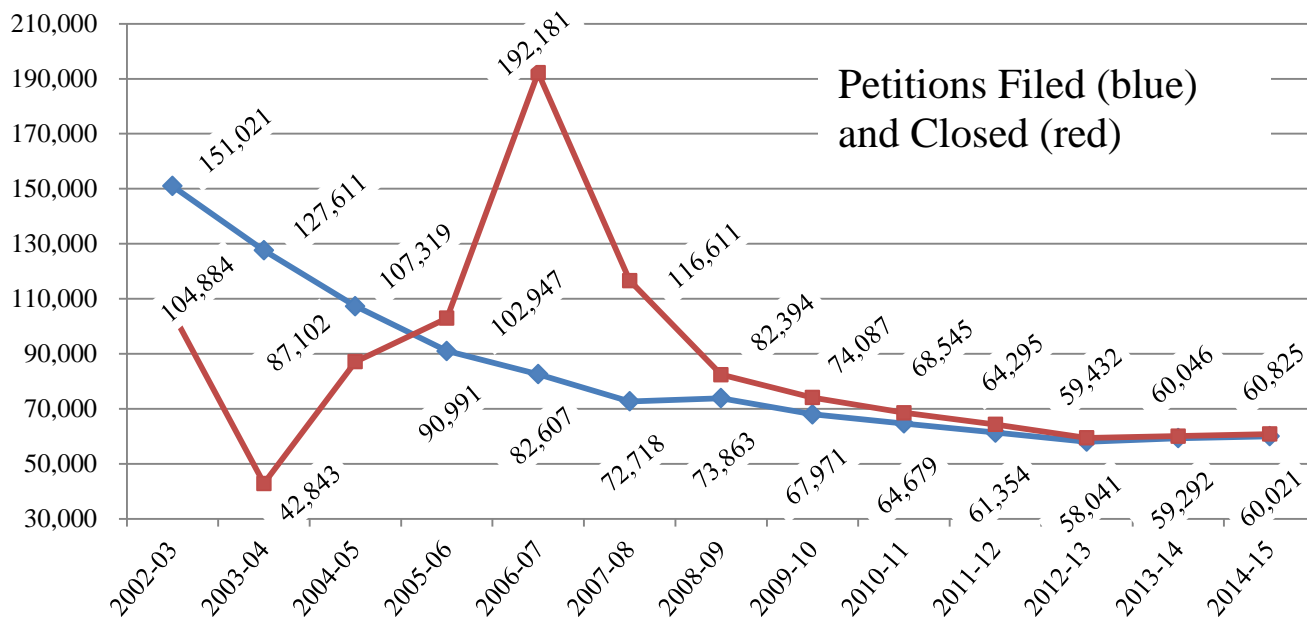
AMOUNT OF LITIGATION RESOLVED

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. §440.25.⁵⁸ This legislative mandate for timely adjudications is inconsistent with a marketplace practice of utilizing petition (and before 1994 “claim”) filing to indefinitely preserve the status quo against the possible effectiveness of the statute of limitations in Fla. Stat. §440.19. So long as a PFB is “pending,” then the statute of limitations will not run. Anecdotally, there is support for 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.⁵⁹ 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.

In the context of litigation volumes, it is notable that Florida has grown significantly. Since 1994, Florida’s population grew 33% from fourteen million to almost twenty million people.⁶⁰ 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 thereafter. 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.



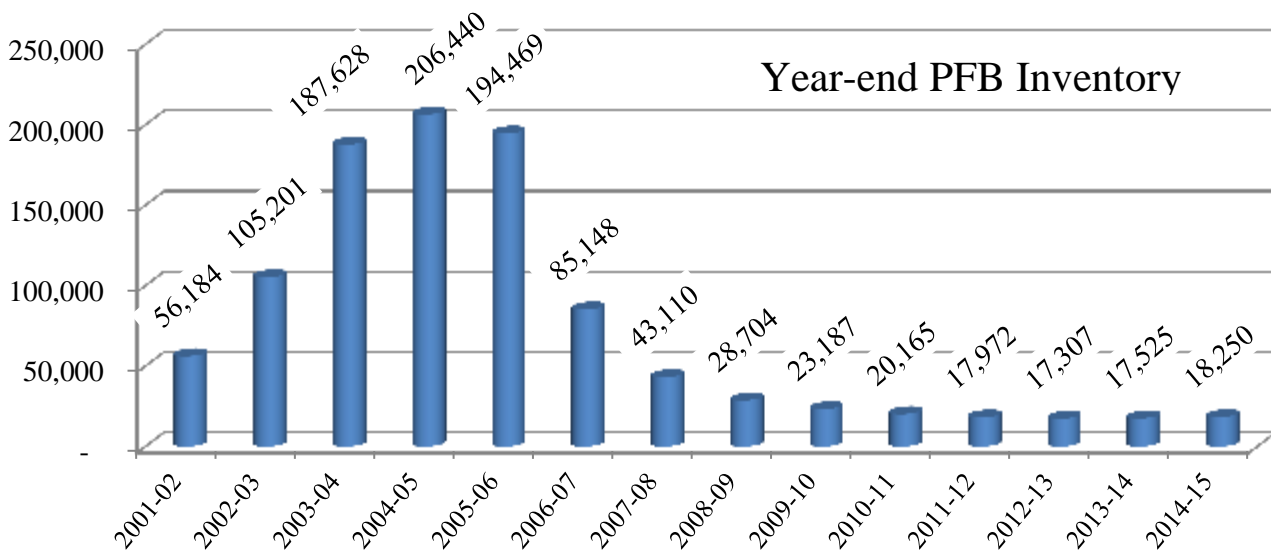
Most PFBs filed must be mediated.⁶¹ After a PFB is filed, issues claimed therein may be resolved among the parties before mediation, at mediation, or thereafter any time until a final order is issued. There are even instances in which the parties conduct a trial on the PFB issue(s), but then, nonetheless, resolve those PFB issues before the assigned judge enters an order adjudicating them.⁶² 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.⁶³ The usual closure order 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 involves the parties in promoting accuracy.

Some divisions (each judge and her/his 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 seven fiscal years.

The result is seen in the graph above demonstrating a smooth progression in the last seven fiscal years to equilibrium in the OJCC system, meaning that in a given year the OJCC will close approximately the same volume of PFBs as 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 18,250 at the end of fiscal year 2014-15. 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 thirteen fiscal years, one million seventy-seven thousand four hundred eighty-eight (1,077,488) PFBs have been filed, and one million one hundred sixteen thousand one hundred ninety-two (1,116,192) PFBs have been closed. This equates to an approximate overall closure rate of one hundred four percent (103.6%). 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	Petitions Closed	Closed/ Filed
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%
2014-15	60,021	60,825	101.3%
	1,077,488	1,116,192	103.6%

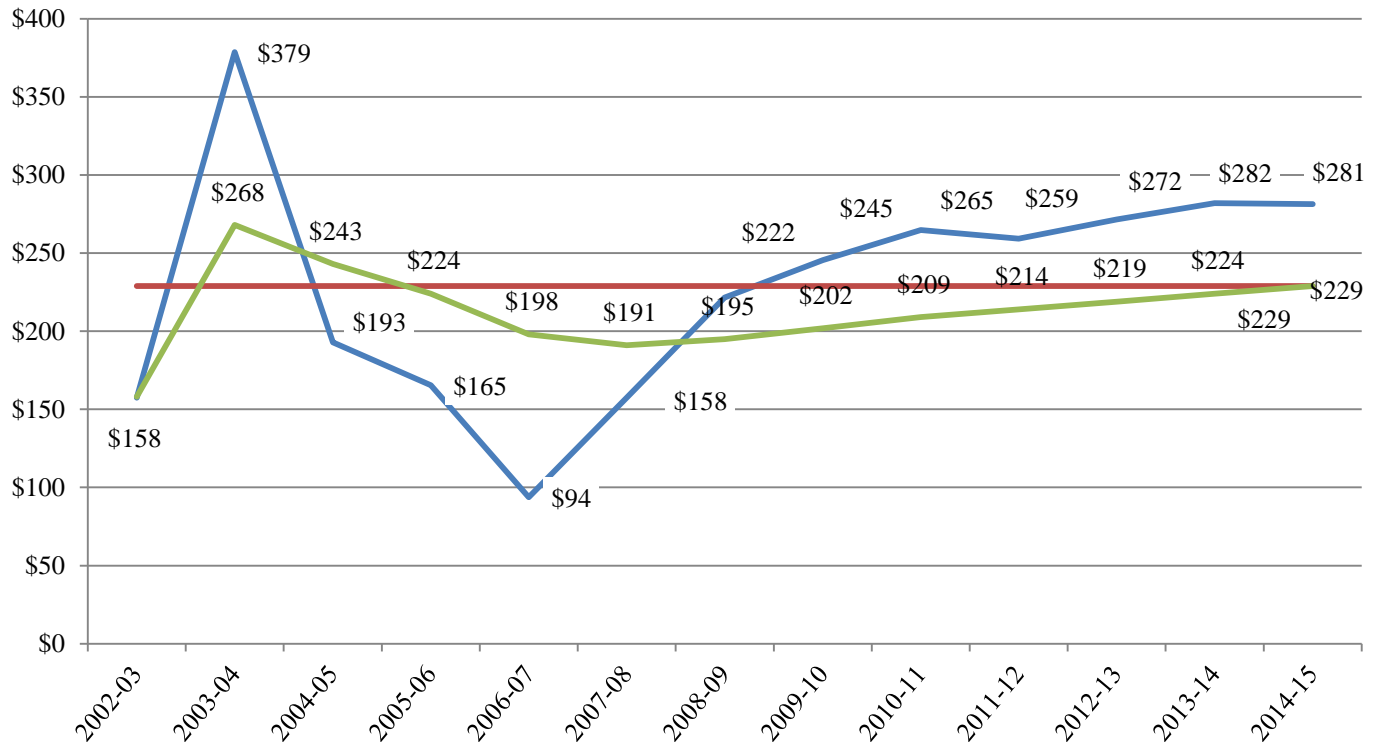
COST OF LITIGATION RESOLVED

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.⁶⁴ For “small claims” filings, the Circuit filing fees may be as low as fifty-five dollars (\$55.00), but for civil 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).⁶⁵ The OJCC is demonstrably more efficient financially, with a per-petition cost well below the Circuit Court filing fees. Additionally, 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 (see further on P. 24).

The fluctuations of “per PFB” costs is also attributable to the minimal growth in the OJCC annual budget through 2008, followed by five consecutive budget reductions between 2009 and 2013. The OJCC budget has seen minimal growth, periodic reductions, and has not maintained pace overall with inflation. Over the last thirteen fiscal years, the average cost per petition closed was \$229.00.

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 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. In the graph below, the varying cost of PFB closure (blue), thirteen-year average cost (red), and the average calculated as of each year (green) are depicted. 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.

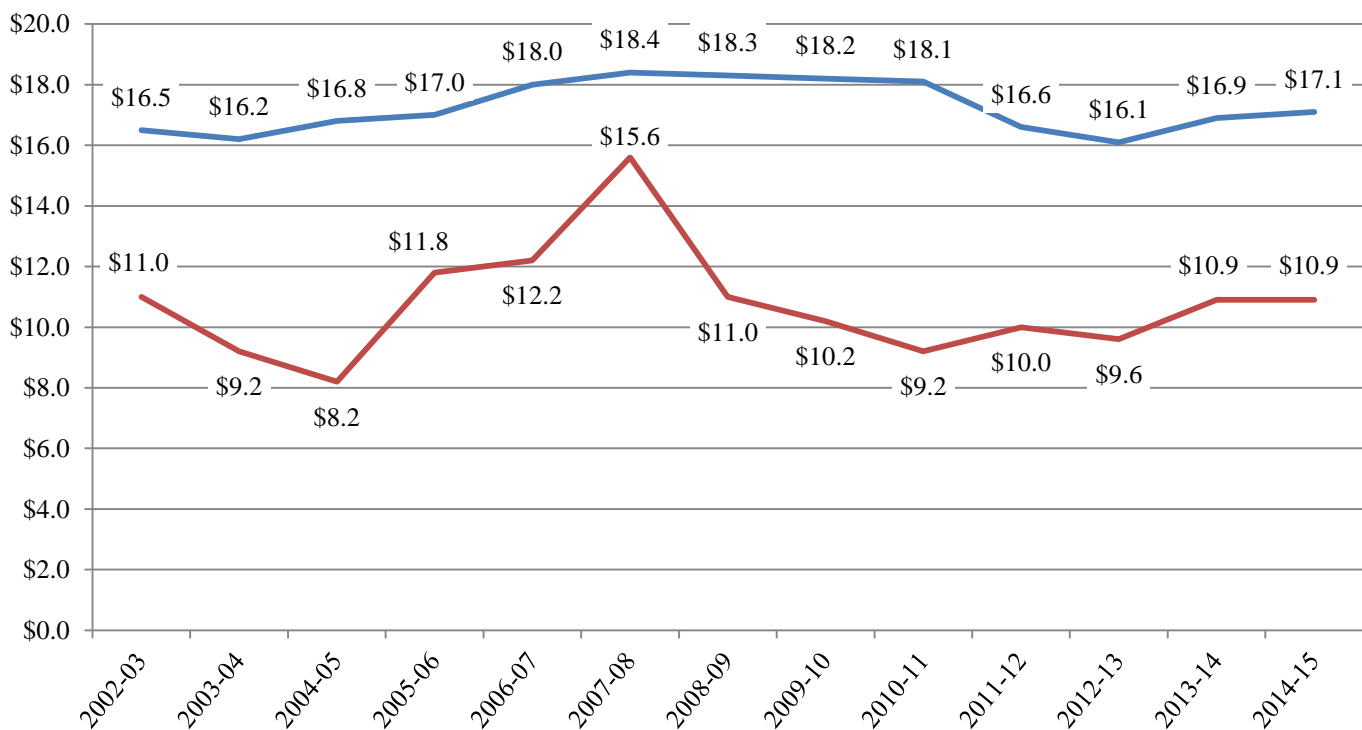
Fiscal Yr.	Annual Budget	Petitions Closed	Cost Each
2002-03	\$16,522,910	104,884	\$158
2003-04	\$16,225,513	42,843	\$379
2004-05	\$16,792,731	87,102	\$193
2005-06	\$17,022,942	102,947	\$165
2006-07	\$18,032,059	192,181	\$94
2007-08	\$18,367,869	116,611	\$158
2008-09	\$18,253,550	82,394	\$222
2009-10	\$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
2014-15	\$17,109,499	60,825	\$281



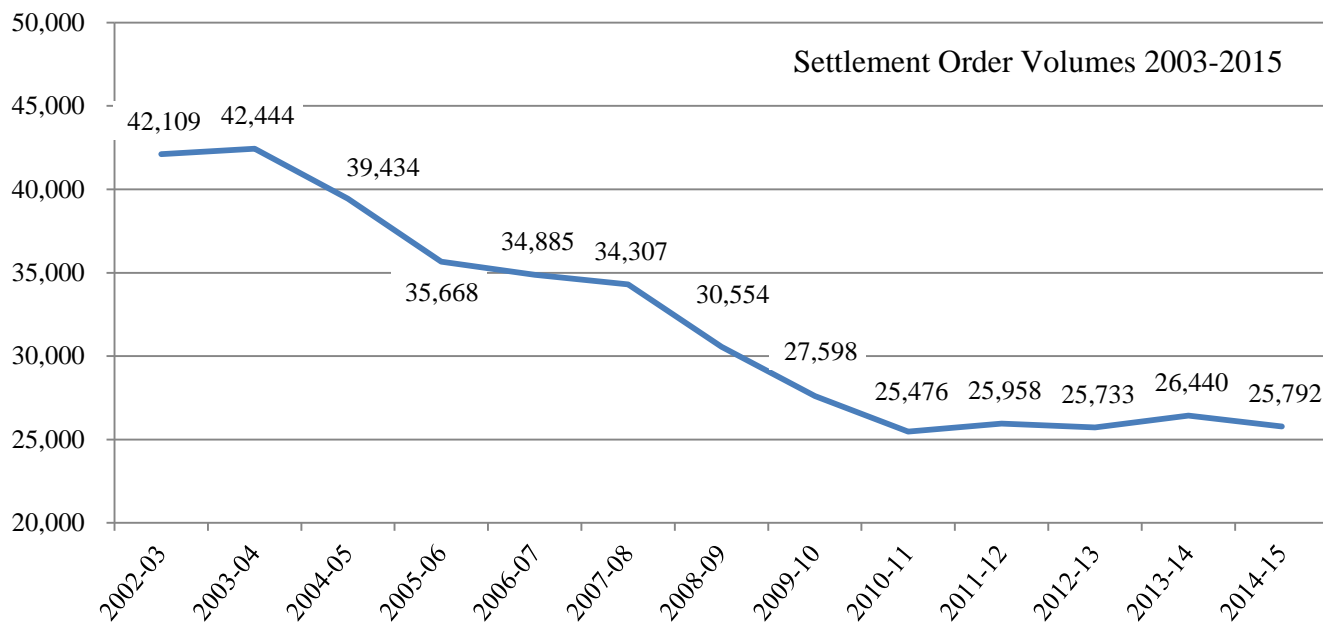
Petition for Benefit (PFB) closure rates have stabilized and closely follow the current filing rates. There is every reason to believe that trend will continue. A minimal volume of overdue PFB inventory may remain unaddressed in this litigation system, which appears from available data, to be in equilibrium. 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 thirteen (13) fiscal years are represented in this table, which total almost \$140 million (\$139,836,594). When the judges were given the responsibility for recovering these arrearages, no staff or budget was added to the OJCC to accomplish this task. The volume of child support arrearages collected is particularly interesting when considered in light of the overall OJCC budget discussed above. Over the last thirteen (13) 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 arrearage 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%
2014-15	\$17,109,499	\$10,914,933	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 likewise decreased contemporaneously, and has then remained significantly consistent for the last five fiscal years (graph below). 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 has just reached one million dollars in 2014-15. By comparison, other states have developed systems through special appropriations, deploying less robust processes, and spent far more.⁶⁶

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.⁶⁷

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 Deputy Clerks, Deputy District Clerks, and Administrative Secretaries are 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 software. 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.⁶⁸ 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 Fla. Stat. ch. 440. 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 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 the electronic platform, 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 that report annually since. 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 increase in 2013-14 may have been anomalous as the volume in 2014-15 declined notably below even the 2012-13 level. The overall rate of decrease in mediations conducted through the period (2002 through 2015) was -47%, which did not match the rate of decrease in PFB filings over that period, which was -60%. This suggests that as PFB volume fell, OJCC mediators were able to act upon a greater percentage of the remaining volume, but the overall volume of mediations held nonetheless has decreased by almost half over the last 13 years.

In 2014-15, approximately fifteen thousand (15,421) mediations were held by state mediators, at an average cost of approximately \$176.62, an increase from the 2013-14 figure of \$168.25, but still below the 2011-12 cost of \$184.39 each.⁶⁹ The cost savings is due to the legislative action reducing the number of state mediators. The cost will adjust upwards unless the volume of mediations improves or the mediator positions decrease.

Many private mediators charge *hourly* rates well in excess 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 an average of approximately five hundred dollars (\$500.00) or more, compared to the OJCC cost of one hundred seventy-six and 62/100 dollars (\$176.62). Thus, the cost-efficiency of State mediation is obvious, averaging about seventy percent (70.6%) 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, if 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. Conversely, as the volume of mediations decreases, the unit cost will rise unless further reductions are made in the mediator staffing levels.

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. Most⁷⁰ 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 seven fiscal years (2008-09 through 2014-15). This represents 100% statutory compliance by the OJCC state mediators in six consecutive years.

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

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%
2014-15	60,021	1.2%	15,421	-4.74%

Fiscal Year	Petitions Filed	% Change	Mediations Held	% Change
2002-03	151,021		29,253	
2014-15	60,021	-60.3%	15,421	-47.3%

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.

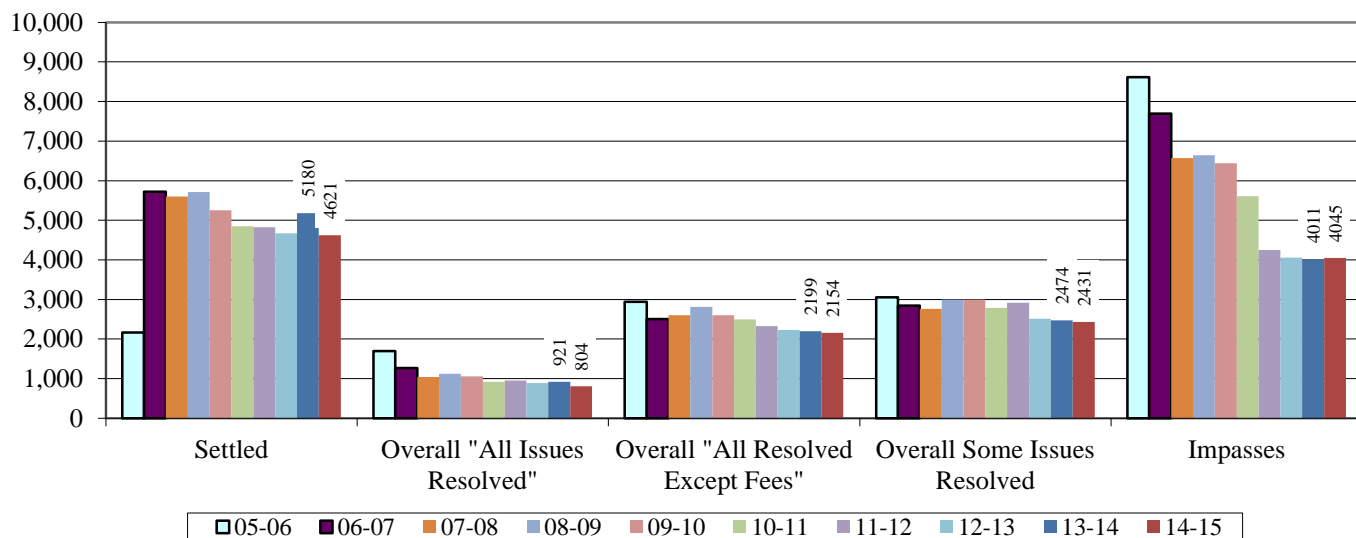
DISPOSITION OF MEDIATION CONFERENCES

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 related benefits, such as penalties and/or interest on late paid indemnity benefits, and attorney’s fees and costs for the prosecution of the PFB. A mediation may include the issues from one PFB or several. The various issues claimed, and their frequency, is discussed more fully on page eleven of this report.

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. 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. This may also have artificially inflated the volume of mediations held in a particular year. That action 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 caveat, 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 ten (10) fiscal years for each of these outcome characterizations.



Notably, the volume of mediations that result in resolution of no issues, “impasse,” increased early in the first decade of the century, and began declining in 2010-11. The rate of impasse has now returned to essentially the rate in 2002-03. Settlement, as a percentage of mediation outcomes, remains the most likely mediation outcome. All of the outcome ratios for 2014-15 remain reasonably consistent with recent years.

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	16188	31.99%	5.69%	13.58%	15.28%	24.78%	8.67%
2014-15	15421	29.97%	5.21%	13.97%	15.76%	26.23%	8.86%

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 percent (29.97%) in 2014-15. The “impasse” category in 2014-15 was twenty-six percent (26.23%) compared to twenty-seven percent (27.02%) in 2002-03. State mediations are obviously very effective in resolving issues. Over the last thirteen (13) years, the convened state mediations have resolved at least “some issues” approximately sixty-two percent (62.21%) of the time. In 2014-15, approximately sixty-five (64.91%) of convened mediations resulted in resolution of some issues.⁷¹

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. The volume has continued to decrease, reaching its lowest recorded level in 2014-15.

Fiscal Year	Total Volume	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	12 ⁷²	0.9
2013-14	207	7	0.6
2014-15	172	6	0.5

Some portion of the decrease is likely attributable to better documentation and uniformity among the district offices. The OJCC defined continuance as a postponement of mediation outside of the 130 day statutory period. Despite that definition, some staff had persistently labelled any rescheduling of mediation a “continuance,” but use of that mischaracterization has improved and has led to more reliable and consistent statistics.

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 2014-15, one hundred seventy-two (172) mediations were continued, just over one-quarter of one percent (.29%). 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 2014-15.

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	0.63%
2013-14	59,292	207	0.35%
2014-15	60,021	172	0.29%

The implementation of the “auto-scheduling” of mediations by the OJCC Central Clerk’s Office 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 three fiscal years the average annual volume of continuances per judge has been approximately 100 trial continuances.

Anecdotally, attorneys have complained that continuance occurs too infrequently. A perception has been voiced that the reporting of data in this report 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 final hearings remains reasonably consistent over the last four 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	8.2
2013-14	3,101	100	8.3
2014-15	3,204	103	8.6

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 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 of trial received by the parties. The earlier the trial is noticed, the more time is afforded to prepare and 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 nine (8.6) per month in fiscal 2014-15. 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 contributed 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 2004.⁷³ The Florida 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

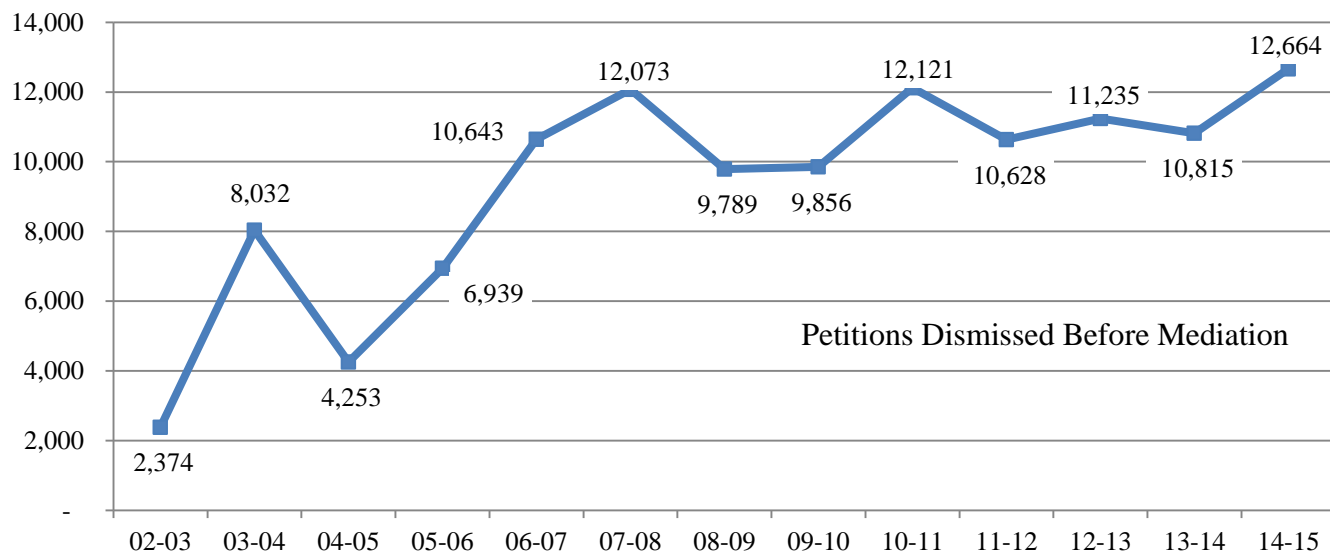
When a Petition for Benefits (PFB) is filed, it is usually filed electronically. Self-represented parties may file paper PFBs. If a paper PFB is received by the OJCC, it is scanned and uploaded to the database system. This affords anyone with an internet connection to view the PFB. The petition is assigned to a judge, and the JCC Database Application (“JCCA”) “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 four 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 filings.” Similarly, each e-JCC registered attorney may access her or his list of “daily filings” 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 viewable by any judge in the state.

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.⁷⁴ 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 by the JCC database. 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’s Office prior to notification of assignment to the respective district office, placing a PFB in the expedited process requires cancellation of that mediation date.

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 some year subsequent to the year of 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 propensity to dismiss PFBs. This trend may be attributable to the attorney fee limitations imposed by the 2009 legislative reaction to Murray (see endnotes 17 and 18), or perhaps to the imposition of “prevailing party” costs awardable to the employer/carrier by the 2003 legislative amendments. Although the 2003 amendments are twelve years past, appellate decisions in 2010 and 2011 brought the prevailing party cost issues into clearer focus and consistency.⁷⁵

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 JCCA database transmits a notice of mediation 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.

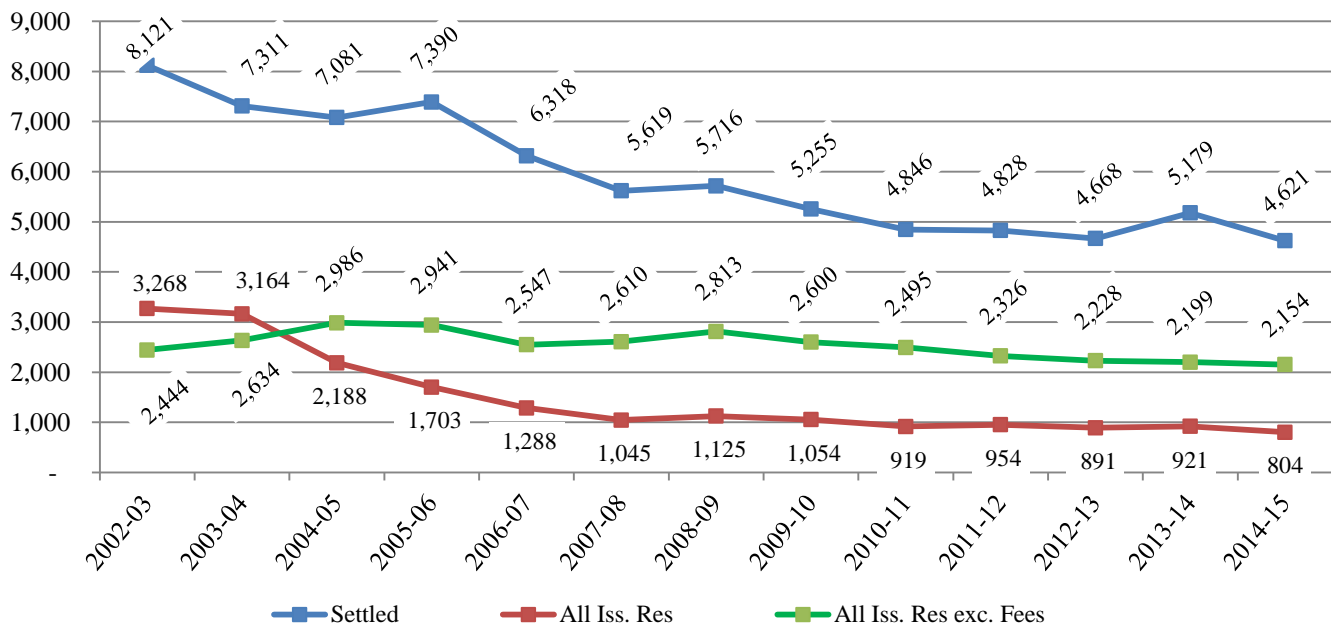
Some JCCs schedule and provide notice of the pretrial and final hearing concurrently with mediation notice. This process of a single notice for three hearings affords the parties significant opportunity to plan their litigation calendar months in advance, and minimizes the effort of OJCC district staff 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 fiscal years prior to 2008-09 are 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

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	19%
2013-14	59,292	10,815	18%
2014-15	60,021	12,664	21%

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.

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 thirteen (13) fiscal years.



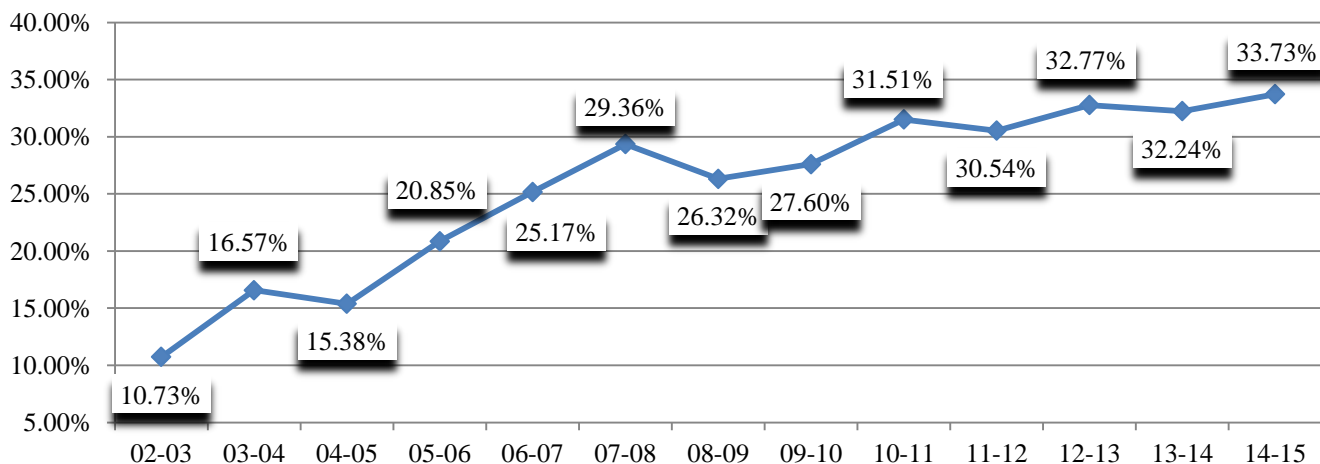
Over the last ten fiscal years, these three characterizations have averaged a total of almost half of conducted mediations, forty seven percent (47.41%). It is significant that this measure reflects only the resolution of all substantive issues in that PFB (“settled,” “all issues resolved,” and “all issues resolved except fees”). Thus, this metric measures success at mediation, but since multiple PFBs 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 information upon which the parties are willing to rely 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 impact 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 thirteen (13) fiscal years. This illustrates that in 2014-15 approximately sixty-six percent (66.27%) of PFBs filed include some issue or issues that remain unresolved at the conclusion of mediation. This two-thirds rate 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 PFBs that are resolved by the conclusion of the mediation process. The percent resolved by that time has been over 30% for the last five fiscal years. A number of cases also resolve following mediation, as a result of the communication that is initiated 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. §440.34.⁷⁶ There is no such specific requirement for the approval of fees paid by employer/carriers for their defense counsel representation.⁷⁷ Despite the absence of such specific requirement for defense fee approval, the broad language of Fla. Stat. §440.105(3)(b)⁷⁸ arguably could require OJCC approval of defense attorneys’ fees. However, this statutory authority has historically not been interpreted to require approval of defense attorneys’ 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.⁷⁹ The OJCC rules since fiscal year 2011 require that reporting by September 1 of each year. Because these defense fee figures are reported in the aggregate, it is impossible to discern whether cost reimbursement to 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 the 2013-14 Annual 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.⁸⁰ The servicing agent corrected the errors with amended filings completed in November 2014. Those corrected figures were published last year and are restated below for historical perspective.

Order Year 2014-15 Attorney Fees

Previous OJCC annual reports detailed payment of claimant attorneys’ fees, based upon the best information available, when those reports were prepared. The OJCC gathers claimant attorneys’ 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).⁹⁴ Those figures have therefore

Fiscal Year	Claimant Attorney Fees	Percent Change	Defense Attorney Fees ⁸¹	Percent Change
2002-03	\$210,660,738		\$216,698,474 ⁸²	
2003-04	\$215,322,360	2.21%	\$226,585,434 ⁸³	4.56%
2004-05	\$211,157,073	-1.93%	\$259,021,415 ⁸⁴	14.32%
2005-06	\$208,369,260	-1.32%	\$290,172,000 ⁸⁵	12.03%
2006-07	\$191,197,443	-8.24%	\$277,386,580 ⁸⁶	-4.41%
2007-08	\$188,701,256	-1.31%	\$260,160,946 ⁸⁷	-6.21%
2008-09	\$181,660,686	-3.73%	\$269,280,414 ⁸⁸	3.51%
2009-10	\$176,996,765	-2.57%	\$269,657,104 ⁸⁹	0.14%
2010-11	\$157,081,084	-11.25%	\$259,323,175 ⁹⁰	-3.83%
2011-12	\$152,848,003	-2.69%	\$242,446,703 ⁹¹	-6.51%
2012-13	\$151,889,627	-0.63%	\$240,894,494 ⁹²	-0.64%
2013-14	\$141,858,184	-6.60%	\$237,364,154 ⁹³	-1.47%
2014-15	\$136,180,202	-4.00%	\$234,592,581	-1.17%

been corrected in this, and other more recent, annual report, as noted in the chart here.

During 2014-15, a total of three hundred seventy million, seven hundred forty-one thousand eight hundred ninety-six dollars (\$370,741,896) was expended on combined claimant attorneys’ fees and defense attorneys’ fees⁹⁵ (and perhaps defense “costs”) in the Florida worker’s compensation system. This represents a small decrease, about 2%, from the 2013-14 aggregate fees of three hundred seventy-nine million two hundred twenty-two thousand three hundred thirty seven dollars (\$379,222,337). Both claimant and defense fees decreased in 2014-15, more significantly on the claimant side, for the second consecutive year.

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 was more notable, and is followed in 2014-15 by an additional four percent decrease. Defense fees have been decreasing the last five fiscal years, but at a generally more modest overall pace.

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, 2002-03, but as aggregate claimant fees have decreased and employer/carrier fees first increased markedly and then decreased at more moderate pace, a disparity between claimant and defense fees has developed. In the seven fiscal years 2008-09 through 2014-15, defense fees have accounted for sixty percent (59.72%) to sixty-three percent (63.27%) of the total fees.

Fiscal Year	Aggregate Fees	Claimant %	Defense %
2002-03	\$427,359,212	49.29%	50.71%
2003-04	\$441,907,794	48.73%	51.27%
2004-05	\$470,178,488	44.91%	55.09%
2005-06	\$498,541,260	41.80%	58.20%
2006-07	\$468,584,023	40.80%	59.20%
2007-08	\$448,862,202	42.04%	57.96%
2008-09	\$450,941,100	40.28%	59.72%
2009-10	\$446,653,869	39.63%	60.37%
2010-11	\$416,404,259	37.72%	62.28%
2011-12	\$395,294,706	38.67%	61.33%
2012-13	\$392,784,122	38.67%	61.33%
2013-14	\$379,222,337	37.41%	62.59%
2014-15	\$370,741,896	36.73%	63.27%

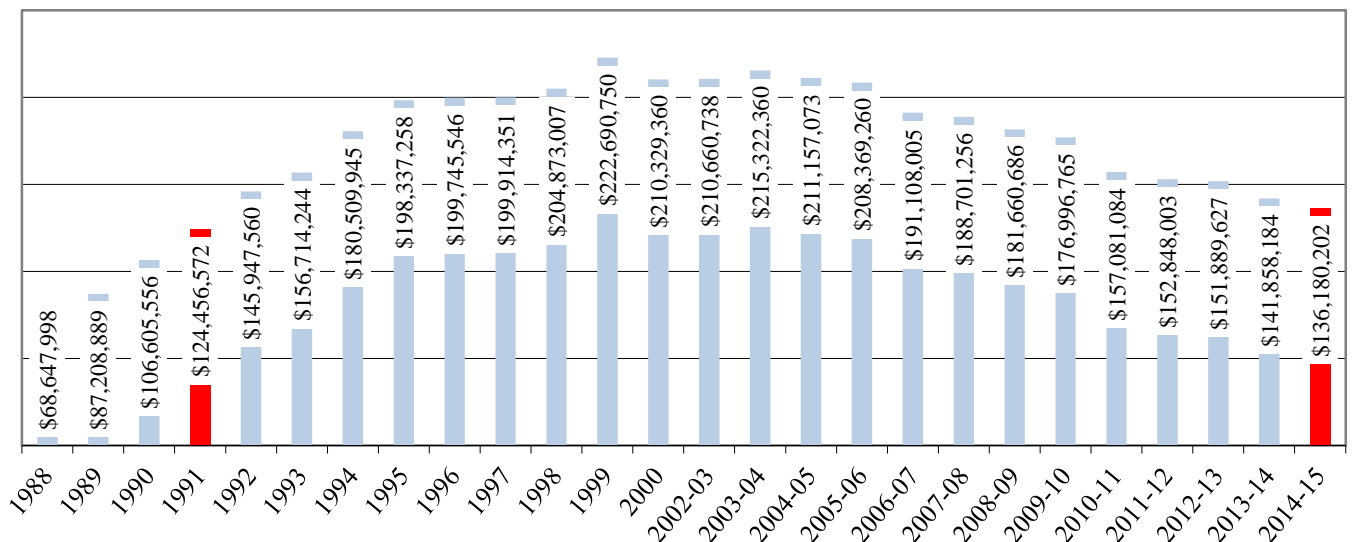
In the 2012 annual report, this Office first noted the inflation effect. Considering inflation over the last decade, this difference is more pronounced. According to the U.S. Inflation Calculator,⁹⁶ the 2002-03 aggregate (\$427,359,212), in 2015 dollars, adjusted for inflation, would have been \$566,128,615. This is \$195,386,719 more than the 2014-15 aggregate of \$370,741,896. Adjusted for inflation in 2015 dollars, aggregate attorney’s fees in Florida workers’ compensation have decreased almost two hundred million dollars in the last thirteen years.

The claimant attorneys’ fee aggregate for 2013-14 is the eleventh consecutive decrease since 2003-04. The last thirteen 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 (in the period 2004-05 through 2009-10) are attributable solely to more effective data collection and carrier compliance following the implementation of the Internet-based defense fee reporting system/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 attorneys’ 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 eleven years. These decreases demonstrated some consistency, punctuated by notable decreases in 2006-07 (8.24%) and 2010-11 (11.25%). In sum, over the eleven year period since 2002-03, claimant fees have decreased about thirty-five percent (35.36%). The aggregate defense fees in 2014-15 (\$234,592,581) are much closer to the aggregate defense fees in 2003-04 (\$226,585,434). The 2013-14 defense fees are only about eight percent (8.26%) above the total in 2003-04. The aggregate defense fees of \$216,698,474 in 2002-03 adjusted for inflation would be equal to \$287,063,444 in 2015 dollars, compared to the actual figure of \$234,561,693, a difference of about \$52 million. The 2002-03 claimant fees of \$210,660,738 would be equivalent to \$279,065,172 in 2015 dollars, compared to the actual figure of \$136,180,202. Claimant’s fees in 2014-15, in real dollars, are more than 50% lower than in 2002-03.

Fiscal Year	Claimant Attorney Fees	Percent Change	Defense Attorney Fees	Percent Change
2002-03	\$210,660,738		\$216,698,474	
2014-15	\$136,180,202	-35.36%	\$234,592,581	8.26%

The Department of Labor and Employment Security (“DLES”) compiled data regarding the attorney’s fees paid to claimant’s counsel 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 attorney 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 claimants’ attorneys’ fees in 2014-15 is the lowest it has been since 1991.



This may be significant in light of the history of Florida workers' compensation. Workers' compensation was enacted in Florida in 1935. There have been statutory modifications thereafter. A major revision of the law was passed in 1979, which has been referred to as the "shift to wage loss."⁹⁷ In a 1994 legislative special session, there was a "retreat to an impairment-based system."⁹⁸ 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, litigation 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 fee issues remain outstanding, including entitlement and/or amount. These may remain outstanding for determination, and thereafter payment, for years or decades.

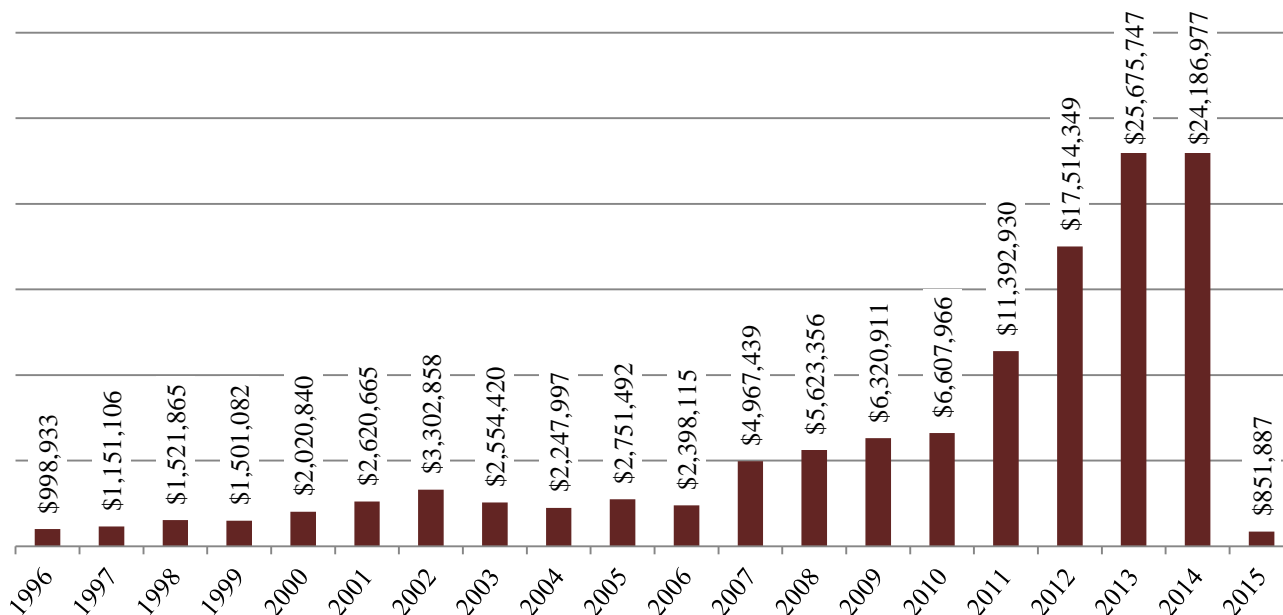
Attorney Fees by Accident Year

The figures above 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. More likely, the approved fee might be related to a date of accident prior to that fiscal year, perhaps many years prior. In 2014-15 a fee was approved on a 1964 date of accident (51 year-old claim). In fiscal 2013-14 a fee was paid on a 1970 claim. These cases illustrate the manner in which claims can occur and not come within the OJCC jurisdiction for a significant period. The accident in that instance occurred December 1970 and the first Petition for Benefits was filed December 27, 2013.⁹⁹

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
2014-15	48

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 to the right illustrates how many different accident years generated fees in each of the last nine fiscal years.

The claimant fees approved in fiscal 2014-15, for accident dates in the last 20 years are illustrated in this graph.



The vast majority, approximately seventy-nine percent (79%) of the fees approved in 2014-15 related to accident dates in the ten years between January 1, 2005 and December 31, 2014. For comparison, 2013-14 report concluded that seventy-eight percent (78%) of the fees that year related to the ten full years prior. The 2012-13 report concluded that seventy-seven percent (77%) related to the corresponding ten year period. This supports that while the distribution still reflects most fees relate to reasonably recent accidents, the portion attributable to the most recent accidents appears to be increasing slowly. 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 2014-15 in the chart above, and in the comparison chart to the right.

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
2014-15	2013	\$25,675,747

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; second, the most significant accident year for claimants’ attorneys’ 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, final hearing processes engage, and as resolution occurs, the fee issues are resolved. Despite the notably short statutory time frames for mediation (130 days) and trial (210 days), it is unlikely most cases will reach the point of fee awards in the first twelve months after accident date.

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%
2014-15	7%

Of the claimants’ attorneys’ fees approved in 2005-06, only two percent (2%)(illustrated in the chart, left) 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 increased to 8% in 2013-14, and remained above average at 7% in 2014-15. This illustrates that claims on dates of accident older than twenty years have increased in terms of their proportion to the whole, but still do not represent a significant part of the fee awards and stipulations.

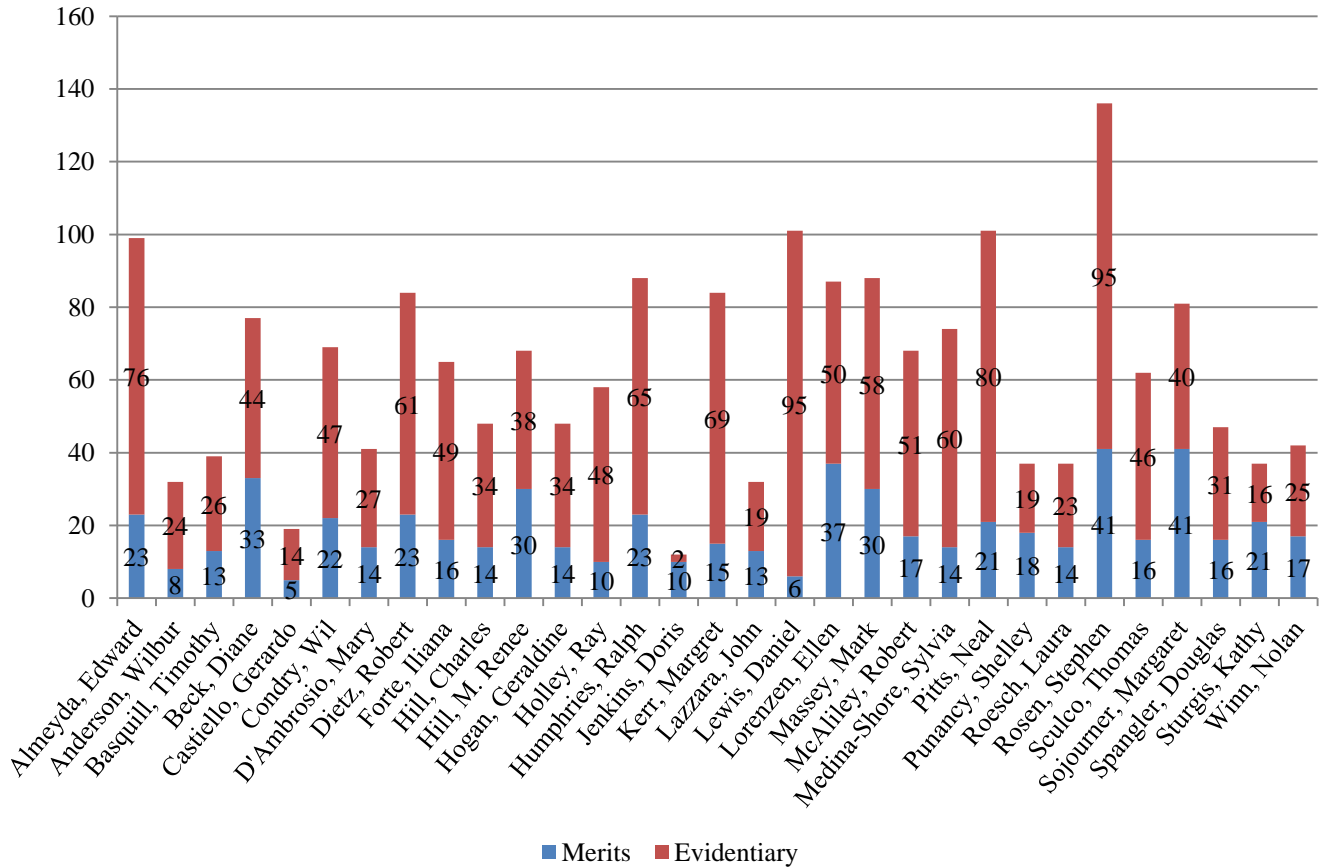
NUMBER OF FINAL ORDERS NOT ISSUED WITHIN 30 DAYS AFTER THE FINAL HEARING OR CLOSURE OF THE HEARING RECORD

Many legitimate reasons may require a trial to be reconvened on a second or even third day after the initial trial date. However, anecdotal evidence supports that such a process was historically employed by a minority of judges to delay record closure and artificially extend statutory deadlines for entry of a final order. Determination of the legitimacy of such subsequent proceedings in any particular 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 contrived “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 2014-15, 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-four percent (93.67%) in 2014-15. 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 2014-15. This represents ninety-seven percent (97%) of the judges that entered trial orders during 2014-15.

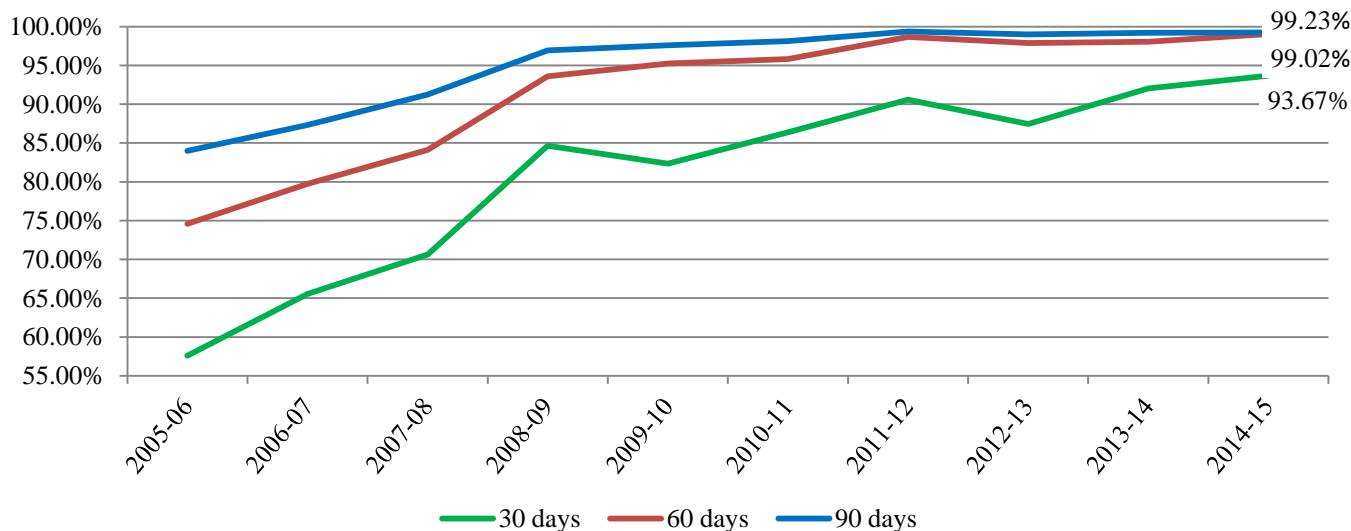
Days	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15
30 days	57.60%	65.54%	70.61%	84.64%	82.33%	86.38%	90.60%	87.45%	92.03%	93.67%
40	66.70%	71.23%	76.88%	89.20%	89.26%	91.86%	95.43%	93.44%	95.67%	96.55%
50	71.90%	76.87%	81.02%	91.77%	93.16%	94.84%	97.66%	96.50%	97.15%	98.15%
60 days	74.60%	79.72%	84.09%	93.59%	95.26%	95.83%	98.67%	97.90%	98.06%	99.02%
70	78.60%	82.97%	86.93%	95.05%	96.32%	96.97%	98.94%	98.47%	98.80%	99.23%
80	81.60%	85.14%	89.30%	95.83%	97.02%	97.50%	99.10%	98.85%	99.03%	99.23%
90 days	84.00%	87.31%	91.25%	96.93%	97.58%	98.12%	99.36%	98.98%	99.20%	99.23%
100	85.50%	88.60%	92.79%	97.45%	98.14%	98.49%	99.58%	99.17%	99.20%	99.23%

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 over ninety-nine percent (99.23%) of the cases in 2014-15. In 2005-06 orders were entered within the 30 day statutory parameter approximately fifty-eight percent (57.6%) of the time; in 2014-15 that parameter was met approximately ninety-four percent (93.67%) of the time. This clearly illustrates the professionalism and focus of the judges currently serving Florida in the OJCC.

The mix of final hearings (on PFB issues) and final evidentiary hearings (on motions) may also be influencing these statistics. There are observers who believe that this report should only document final merits orders (“FMO”), i.e. trials that result from a Petition for Benefits. Such a calculation would ignore the significant similarity of a variety of other final evidentiary motion proceedings, which result in final evidentiary orders (“FEO”). It is not uncommon for attorney fee hearings (FEO) to consume greater time than is required for final merits hearings (FMO). Others have questioned whether the mixture of FMO and FEO is changing, with the increase in final evidentiary orders influencing the timelines between trial and order. The following graph represents the mix of FMO and FEO for each judge for fiscal 2014-15. The change of this mixture over time is set forth for each judge individually in the appendices that follow.



For final orders entered during fiscal 2006-07 through 2014-15, 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 2014-15 the longest period was two hundred fifteen (215) days. 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. 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. But in 2013-14, 1,757 trial orders were entered, and in 2014-15 1,944.¹⁰⁰



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 continue to frustrate 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 attorneys’ 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.

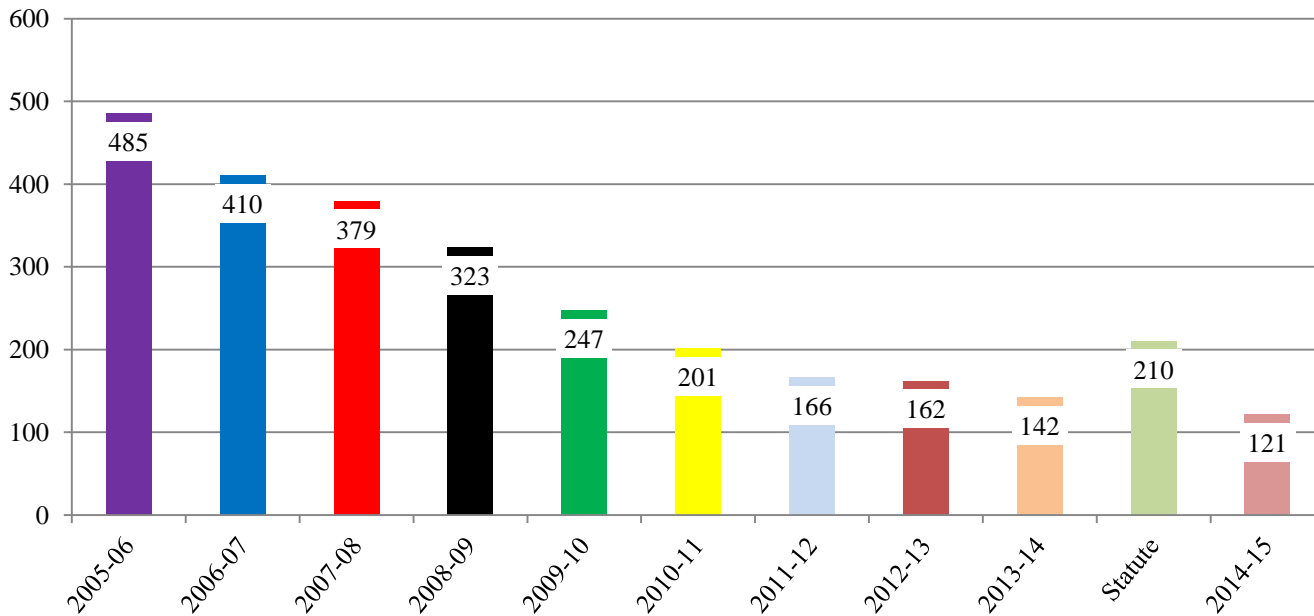
Use of EMA provisions should be discretionary rather than mandatory.

The OJCC again recommends further consideration of these previously expressed areas of concern.

ARE JUDGES GENERALLY UNABLE TO MEET A PARTICULAR STATUTORY REQUIREMENT FOR REASONS BEYOND THEIR CONTROL?

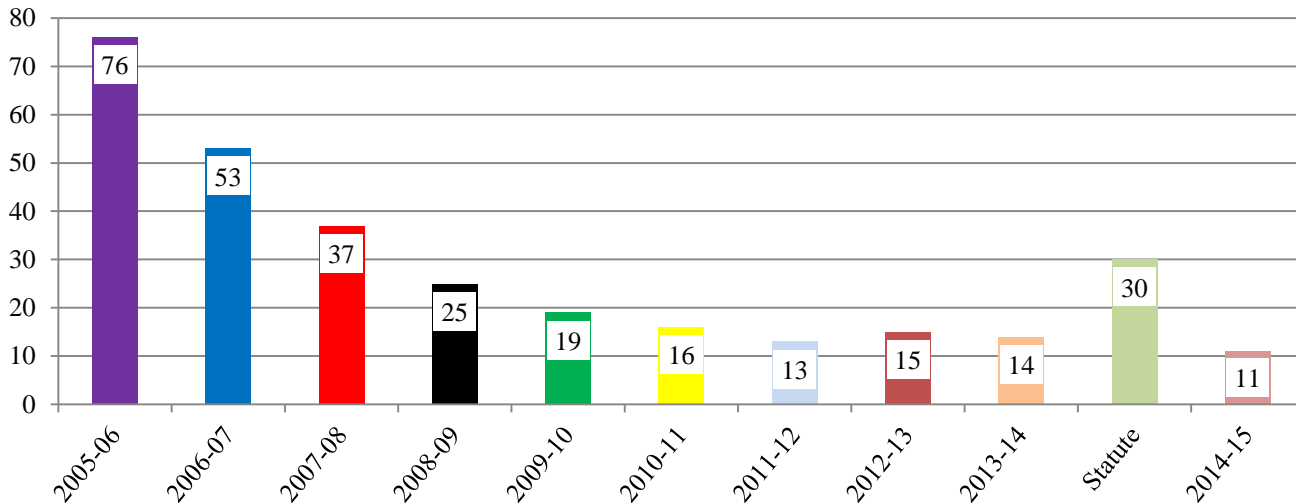
There are three main statutory requirements for the Judges of Compensation Claims. Judges are expected to have their assigned cases proceed to mediation within 130 days and to trial within 210 days. These two are somewhat within the control of the presiding judge, although there are many circumstances that can extend the required time, such as carrier bankruptcy, expert medical advisor (“EMA”) appointment, 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 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 ten fiscal years (2005-06 through 2014-15) 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 2014-15. The overall OJCC average time, from operative pleading to commencement of trial, has decreased approximately seventy-five percent (75.1%) over the last ten fiscal years. As illustrated in the following graph, the OJCC overall average (121 days) is well within the statutory parameter of 210 days.¹⁰¹



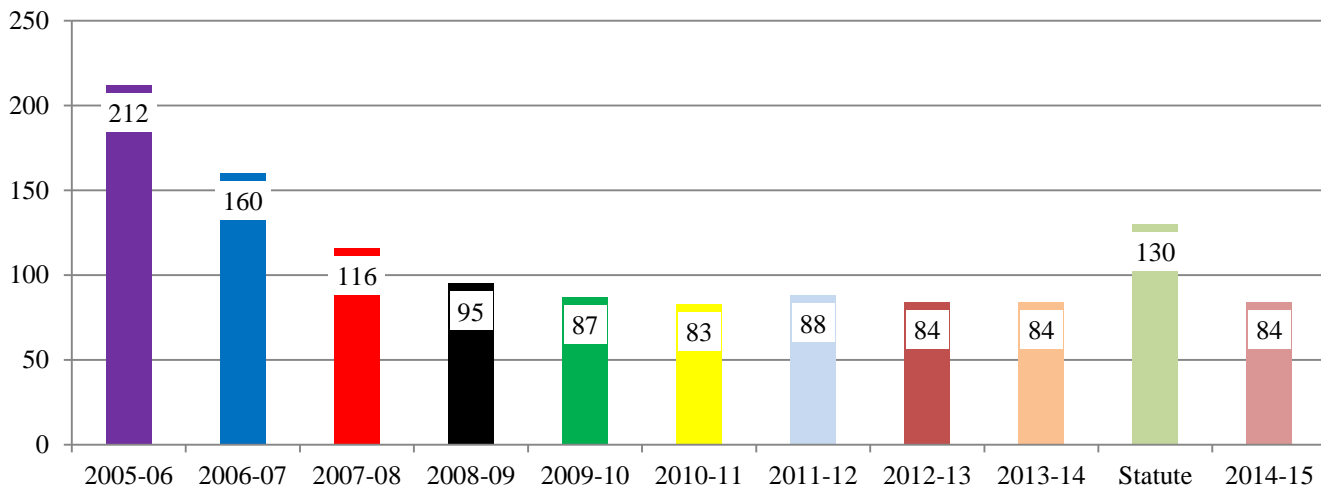
The Office of the Judges of Compensation Claims has also made significant improvement in the average time period between the commencement of the trial and the entry of the final order thereon.¹⁰² The overall statewide

average period, from trial to the entry of the trial order, has decreased approximately eighty-five percent (85.48% = 1-(11/76)) over the last nine fiscal years, as illustrated in the following graph.



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)¹⁰³ 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)¹⁰⁴(timely mediation), Fla. Stat. §440.25(4)(a)¹⁰⁵(pretrial procedure), Fla. Stat. §440.25(4)(b)¹⁰⁶(appropriate continuance grounds and orders), Fla.

Stat. §440.25(4)(c)¹⁰⁷(timely final hearing notice), Fla. Stat. §440.25(4)(d)¹⁰⁸(timely final hearings and final orders), Fla. Stat. §440.25(4)(e)¹⁰⁹(final order filing), Fla. Stat. §440.34(2)(appropriate fee order findings), Fla. Stat. §440.442¹¹⁰(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 tenth 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.

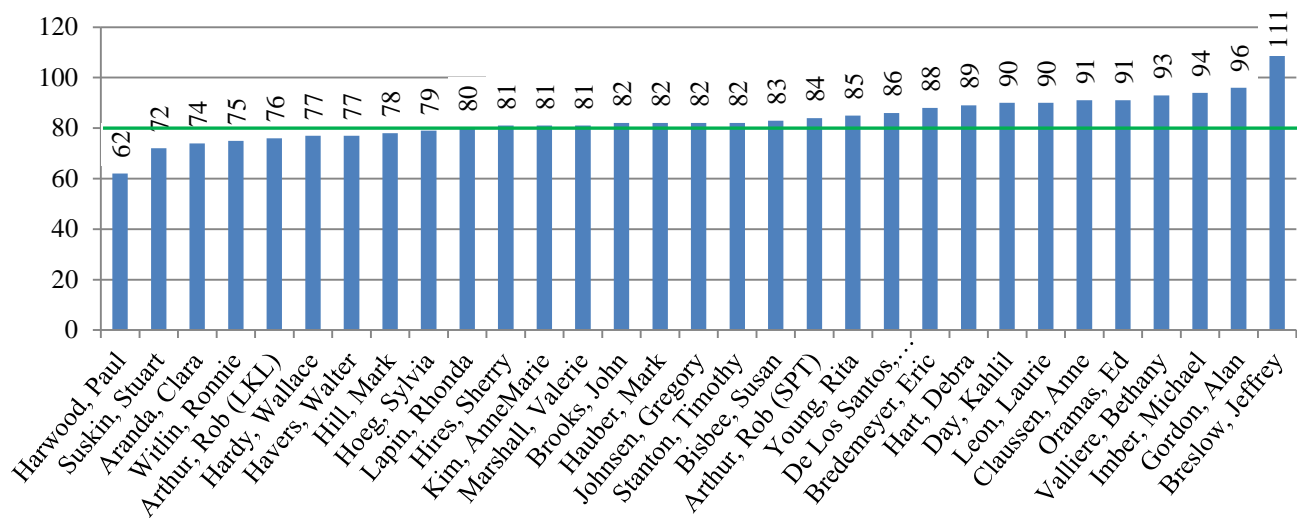
For the purposes of this report, "final hearings" include: Evidentiary Motion Hearings, Expedited Final Hearings, Fee Amount Hearings, Fee Entitlement Hearings, Final Hearings, and Fund Hearings. Therefore the information herein regarding the timely conduct of hearings and entry of "final orders," includes analysis of all instances of these types of "trials," and the resulting orders.¹¹¹ 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, 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 2014-15, 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 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 2015 Settlement and Mediation Report,¹¹² available under the "Notices, Orders and Reports" tab on the OJCC website, www.fljcc.org.



The data for this measure indicates consistent effectiveness 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 2007-08,¹¹³ **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 the production 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 context, 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.

In 2014-15 the following judges' audits did not reveal any continuances for which no order could be located on the case docket: Anderson, Condry, D'Ambrosio, Renee Hill, Hogan, Lazzara, Lewis, Lorenzen, Massey, McAliley, Medina-Shore, Punancy, Roesch, and Winn. The following judges' audits did not uncover any continuance orders which did not contain a new trial date as required by the statute: Almeyda, Anderson, Basquill, Beck, Castiello, Dietz, Forte, Charles Hill, Renee Hill, Hogan, Humphries, Kerr, Lorenzen, McAliley, Medina-Shore, Pitts, Sojourner, and Sturgis. The judges in full compliance (both the requirement of an order and stated therein a new trial date) with the requirements of this statute in 2014-15 were Anderson, Renee Hill, Hogan, Lorenzen, McAliley, and Medina-Shore.

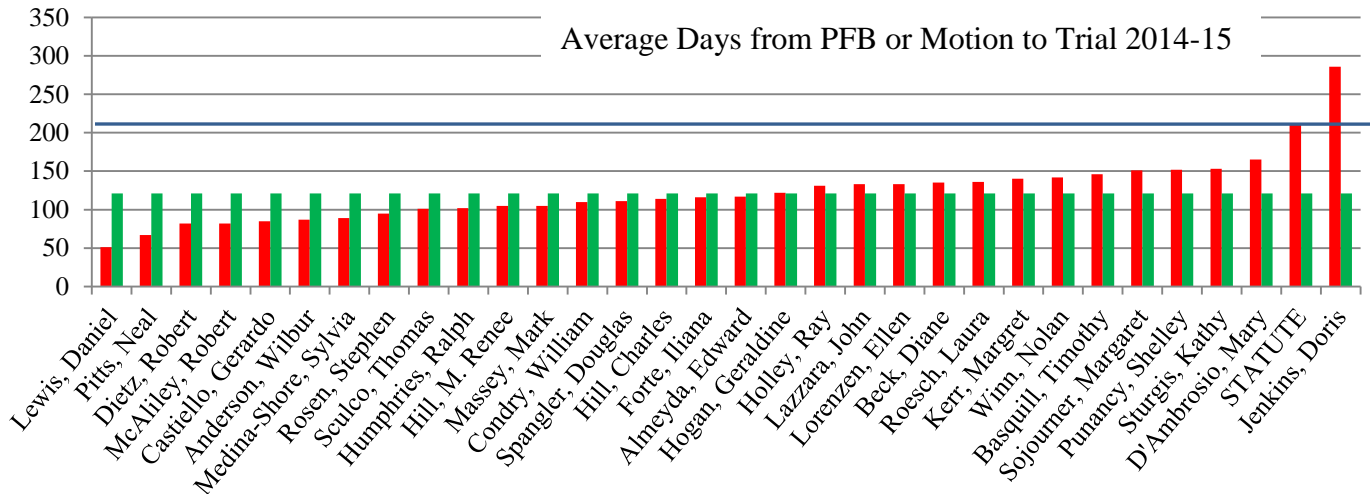
Some portion of the non-compliant orders (no new trial date set forth) are continuances for evaluation by expert medical advisor, and are therefore more difficult for the assigned judge to predict. This issue will be revisited yet again in 2015-16.

Final Order Filing

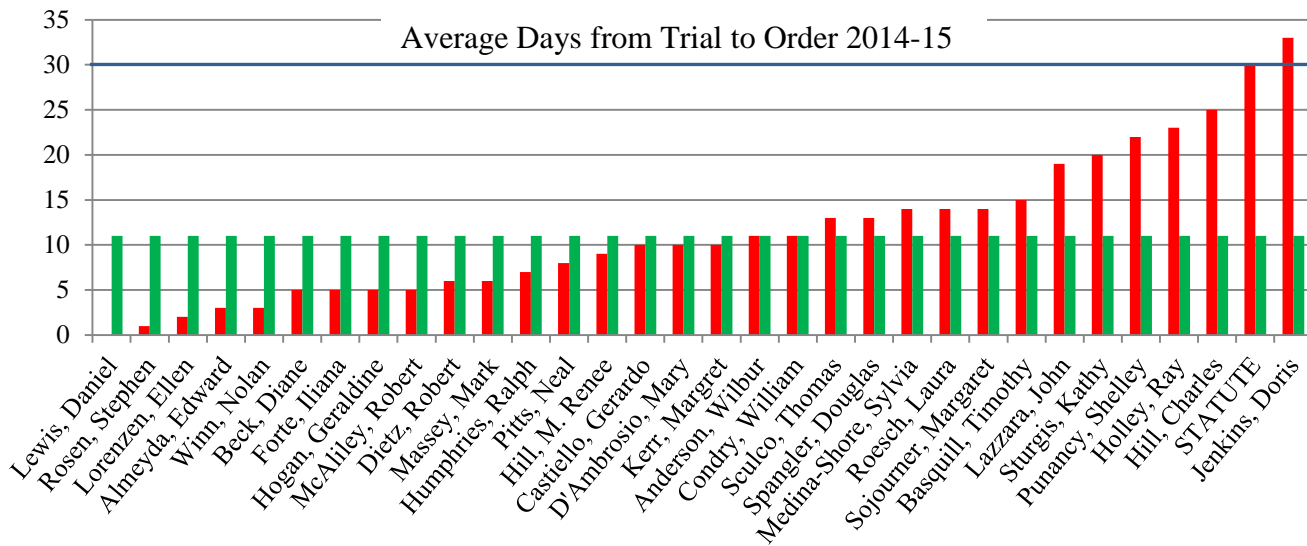
The filing of final orders in Tallahassee, Florida is mandated by Fla. Stat. §440.25(4)(e). This statutory measure requires that the judge file all final orders with the Office of the Judges of Compensation Claims in Tallahassee, Florida. The data supports that all of the JCCs are in complete compliance 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 one hundred twenty-one (121) days in 2014-15 down from one hundred forty-one (141) days in 2013-14. The blue line represents the two hundred ten (210) day parameter from the statute.



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 11 days in 2014-15, down from 14 days in 2013-14. The blue line represents the 30 day parameter from the statute.



Attorney Fee Orders

Contents of attorneys' fee orders is addressed in Fla. Stat. §440.34(2).¹¹⁴ 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 attorneys' 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 Fla. Stat. ch. 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 Fla. Stat. ch. 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 pleaded 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 pleaded 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. 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 orders¹¹⁵ 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 2014-15. 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 2014-15, 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.¹¹⁶ The success of that process is patently clear again in the 2014-15 data output which demonstrates the general consistency and marked improvement in the OJCC's 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 information dissemination, electronic mail for service, and video teleconference system (VTS) 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.¹¹⁷

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.¹¹⁸ 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 salaries in 2015-16.

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” is responsible 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 allows 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-one 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-one Judges of Compensation Claims (“JCC”), twenty-eight 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 the PFB (or other operative pleading such as a motion for fees or motion for contribution) filing date and runs through the first day of trial.
Time to Order	The “time to order,” runs from the first day of trial (the 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.
VTS	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.

2014-15 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 became 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 judges’ statistics, but in the time to mediation graph only the two remaining mediators are represented. Likewise, for example, there are years for which there is no time to mediation in the LKL district, where the OJCC had no full-time mediator for two years.

Appendix “1” District DAY (JCC Anderson):

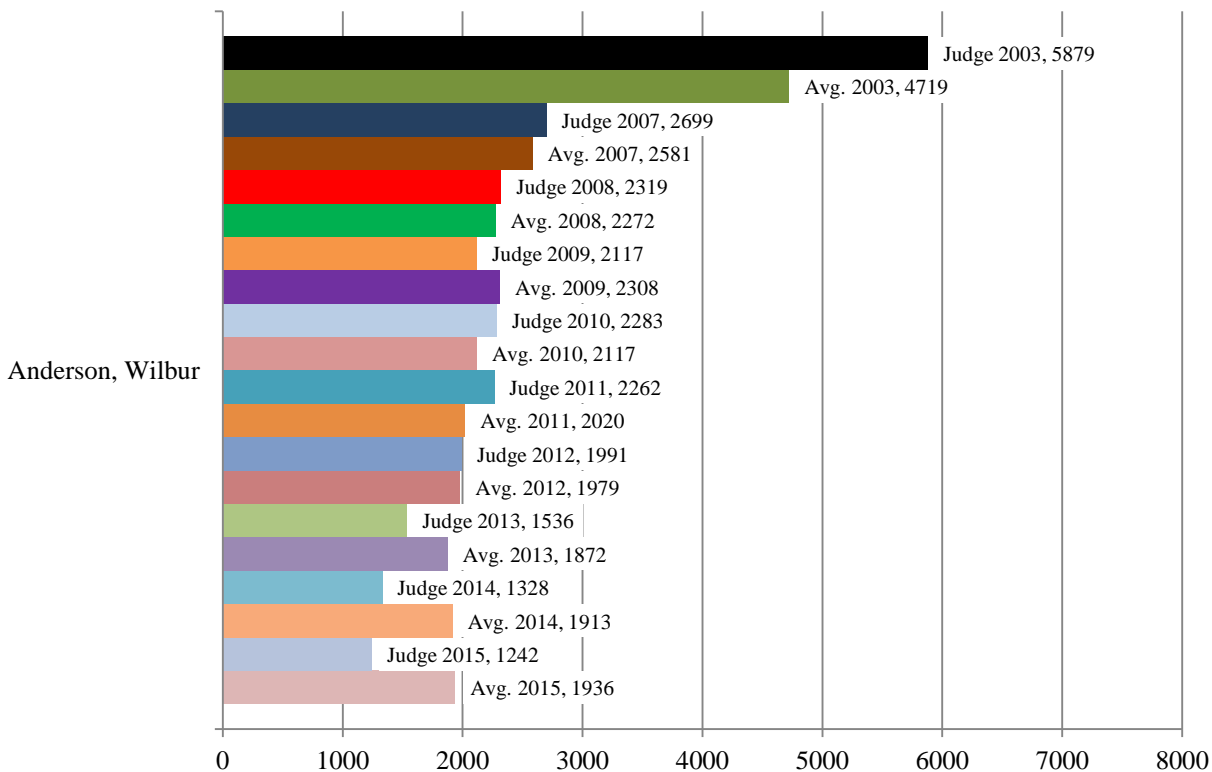
District DAY includes Flagler and Volusia counties. Seminole county was also included in DAY until it was transferred to District ORL in 2006-07. District DAY traditionally had above average PFB and new case filing volumes, until the effects of the Seminole county transfer moderated the volumes. The 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. 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 have contributed to lower trial volumes initially, as cases he previously mediated were heard by other judges. However, he has now been on the bench in Daytona for two years, and such instances would likely be diminishing. 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.

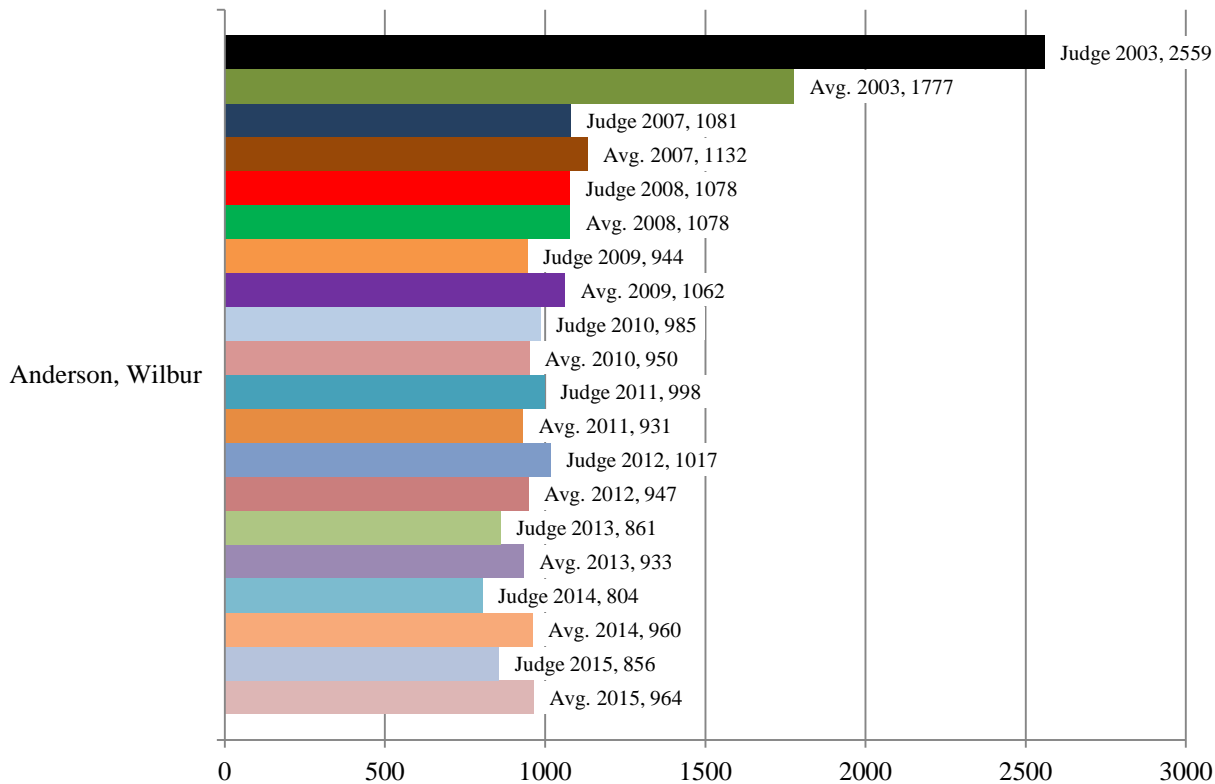
In 2014, Judge Anderson served as a volunteer judge for the E. Earle Zehmer National Moot Court Competition at the annual Workers’ Compensation Educational Conference. In 2015, he served as a panelist at the OJCC/WCI Mid-Winter Seminar, at the FWA Educational Conference, and at the Workers’ Compensation Educational Conference. Judge Anderson is a founding member of the Judge William Wieland Inn of Court where, in 2015, he led a presentation on the new workers’ compensation rules of procedure. He is an honorary member of the E. Robert Williams Inn of Court, a member of the Workers’ Compensation and Alternative Dispute Resolution sections of The Florida Bar, and a member of the Volusia County Bar Association.

Mediator John Brooks co-moderated the Mediation Panel discussion at the Forum in April 2015.

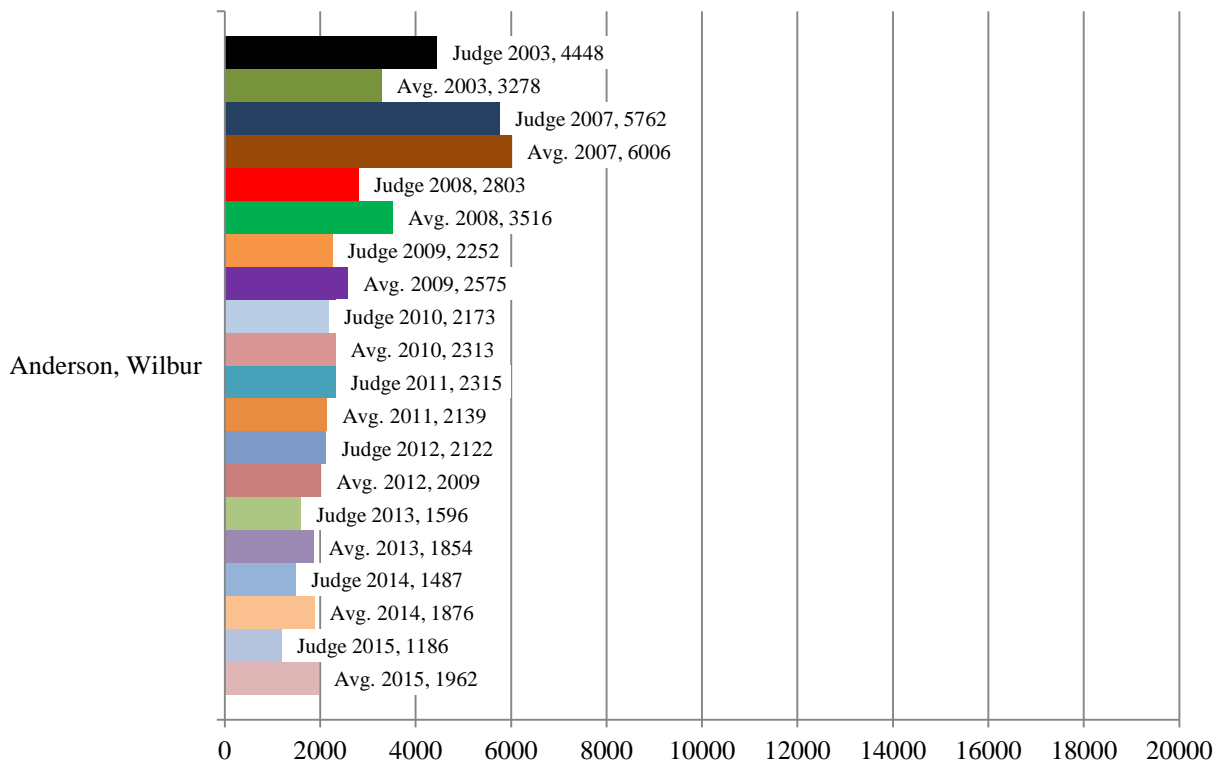
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



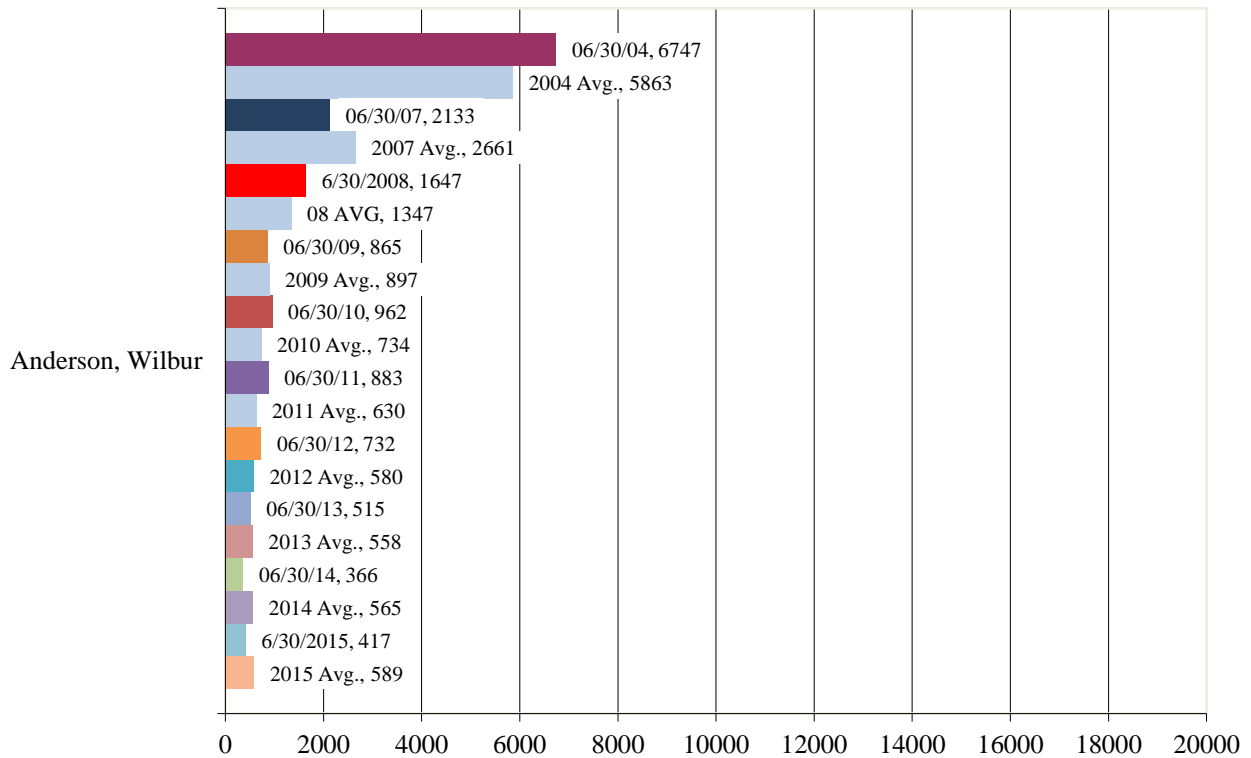
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



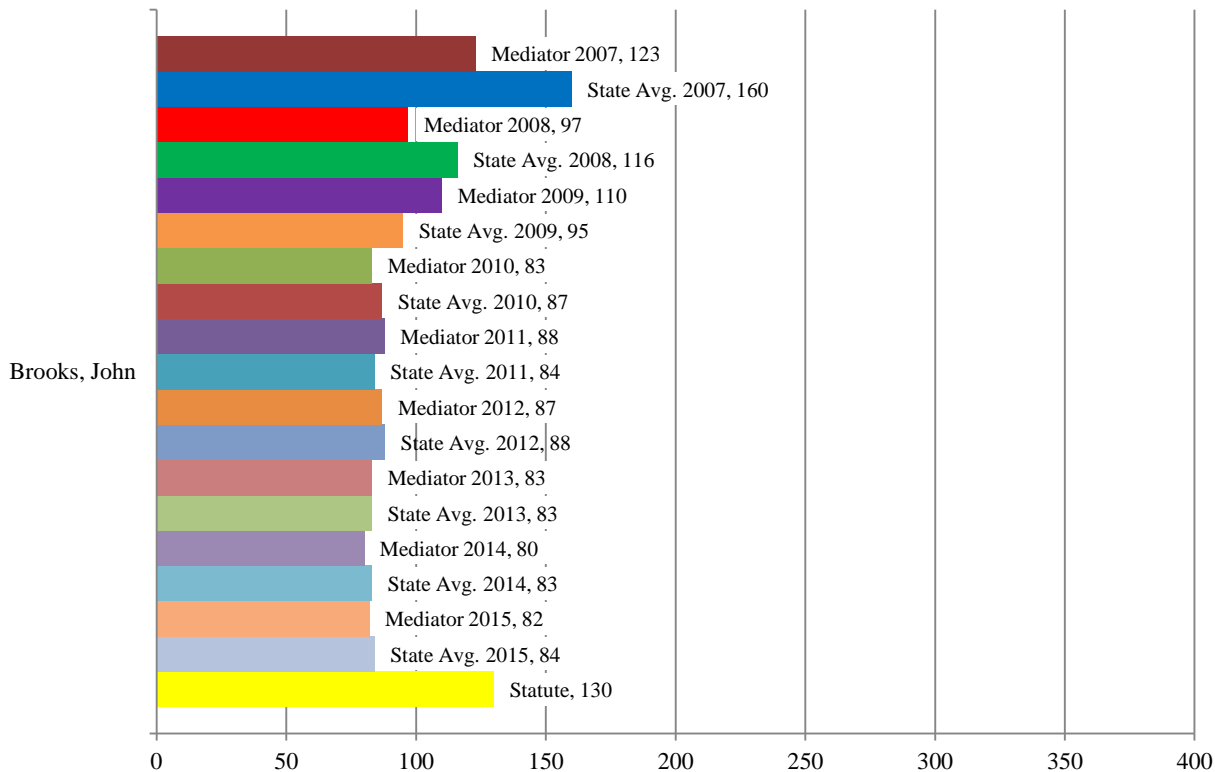
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



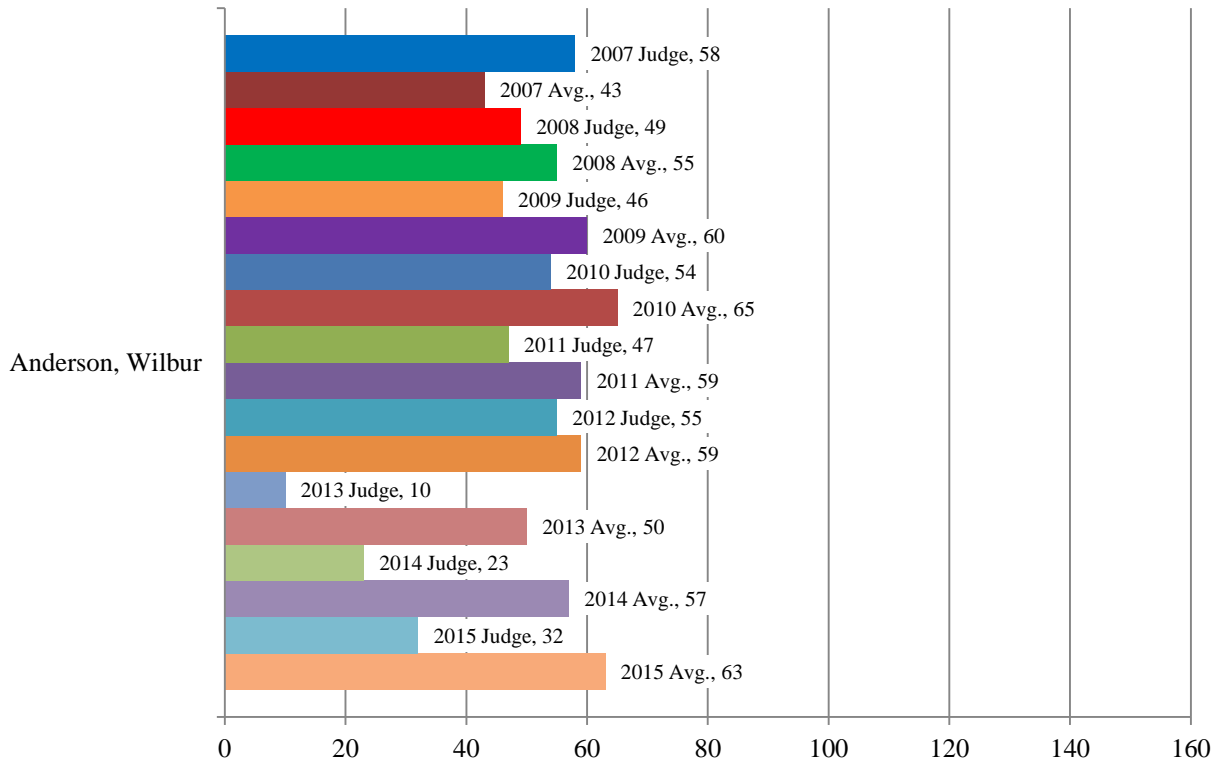
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2014-15 (2003-04 is also provided for historical reference). The identification and values for each year are in each bar label.



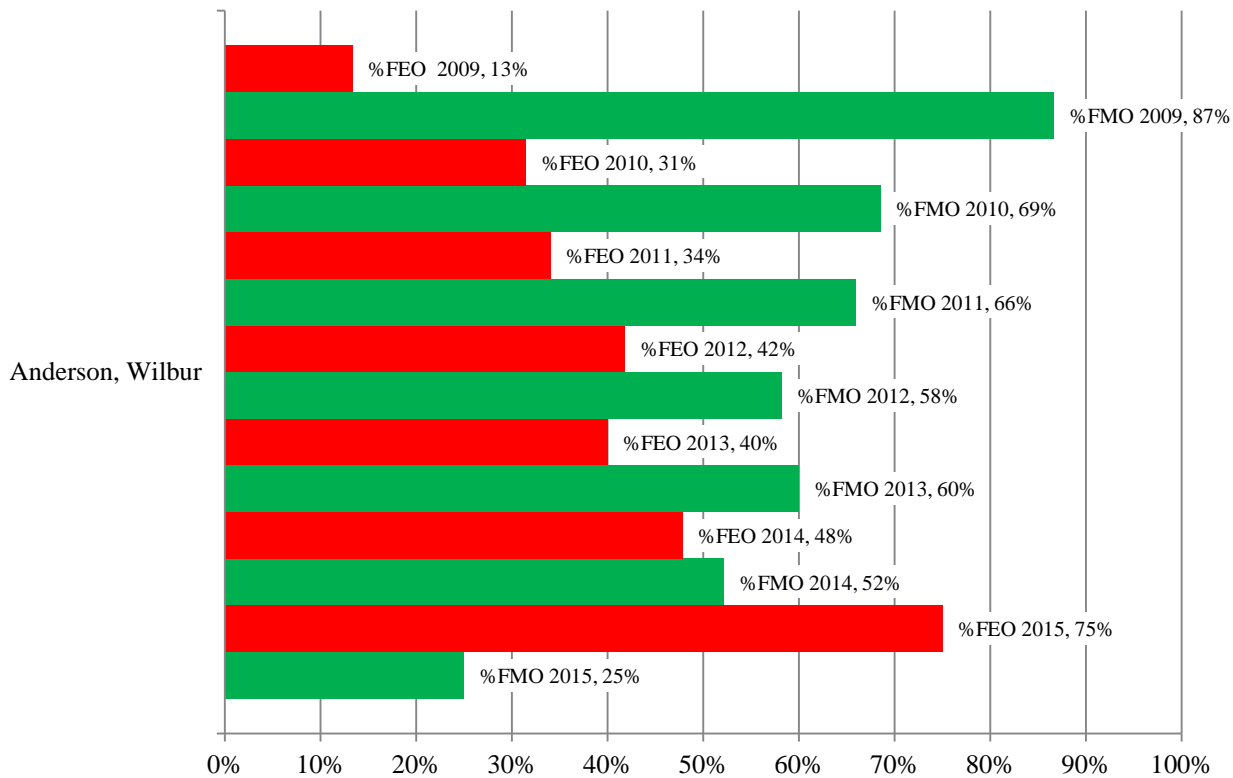
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



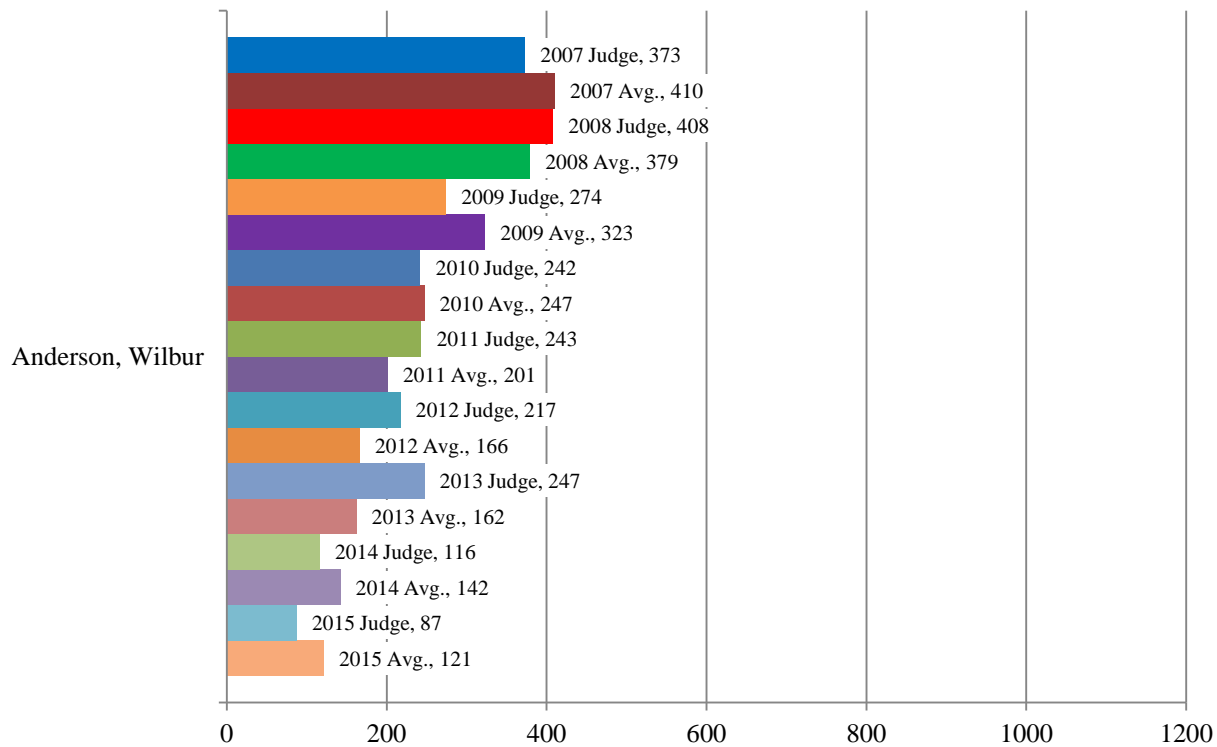
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



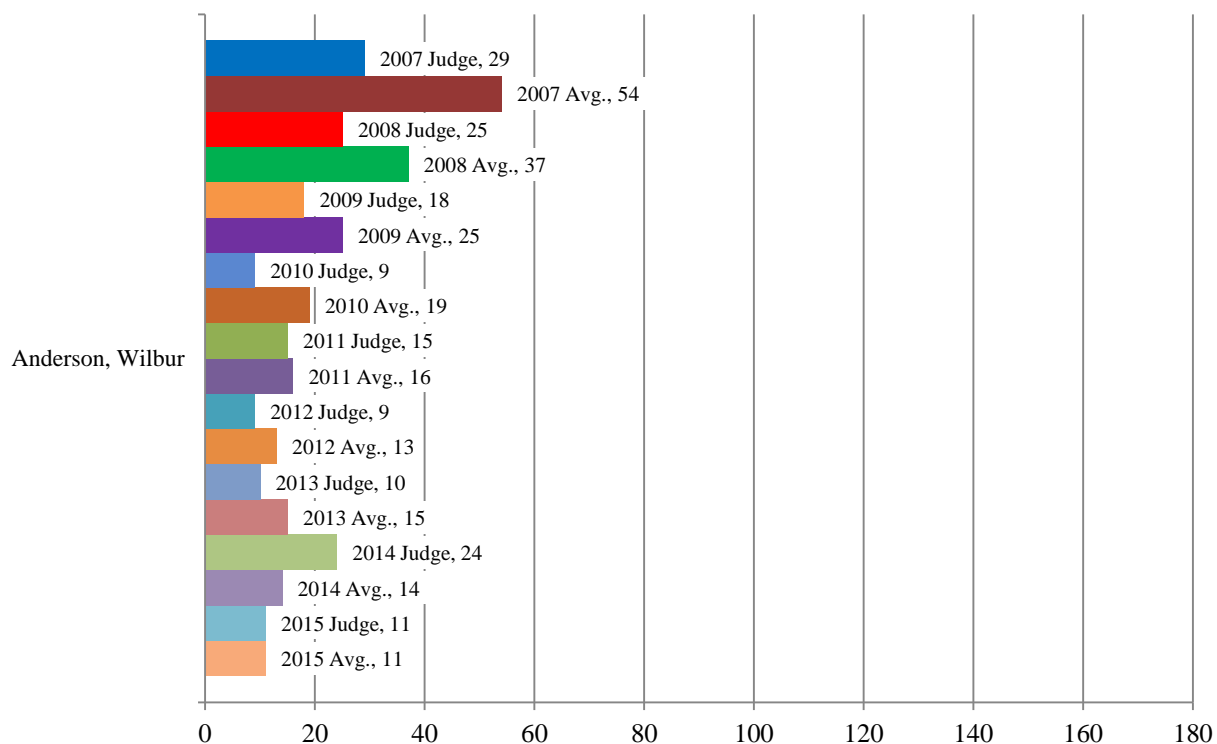
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



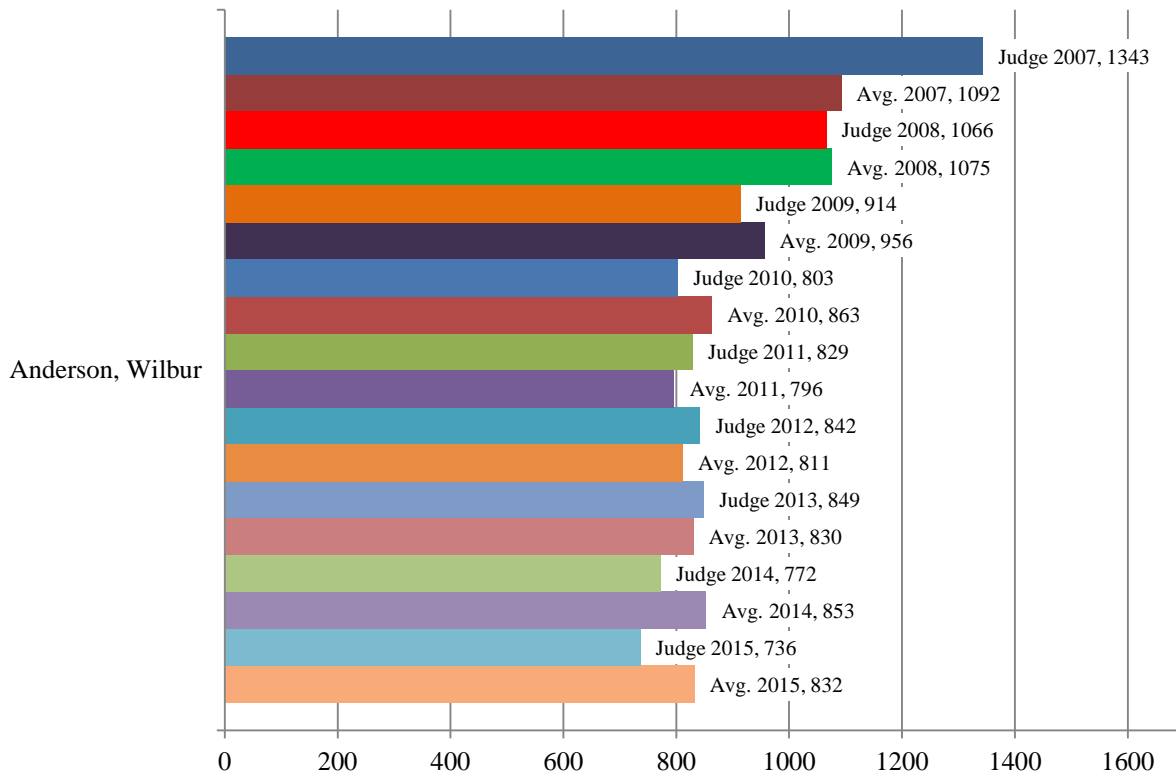
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



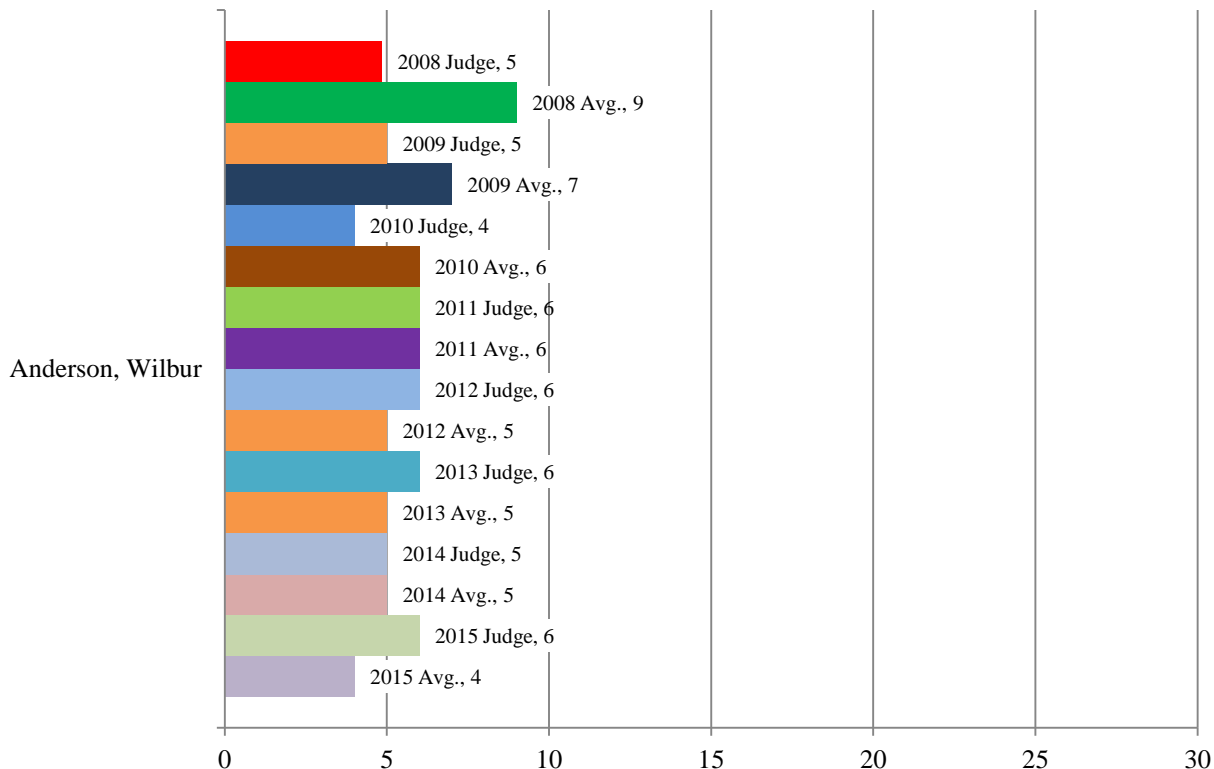
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



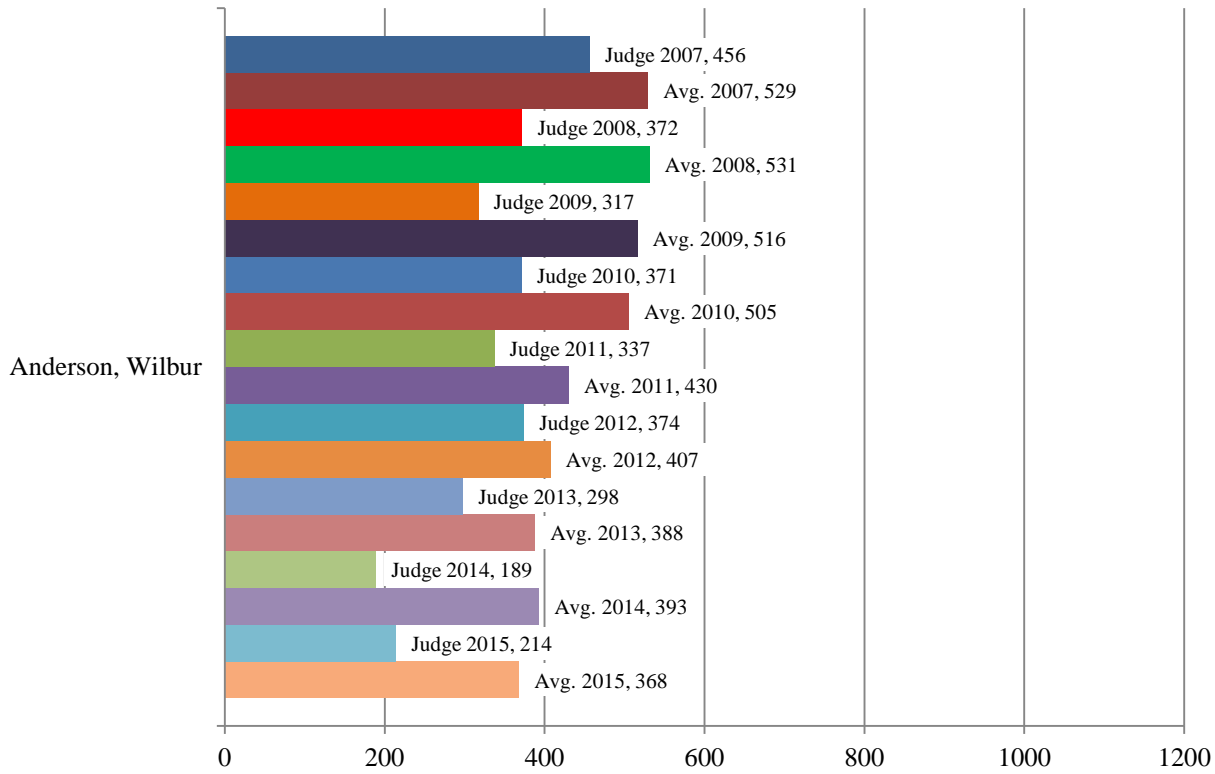
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



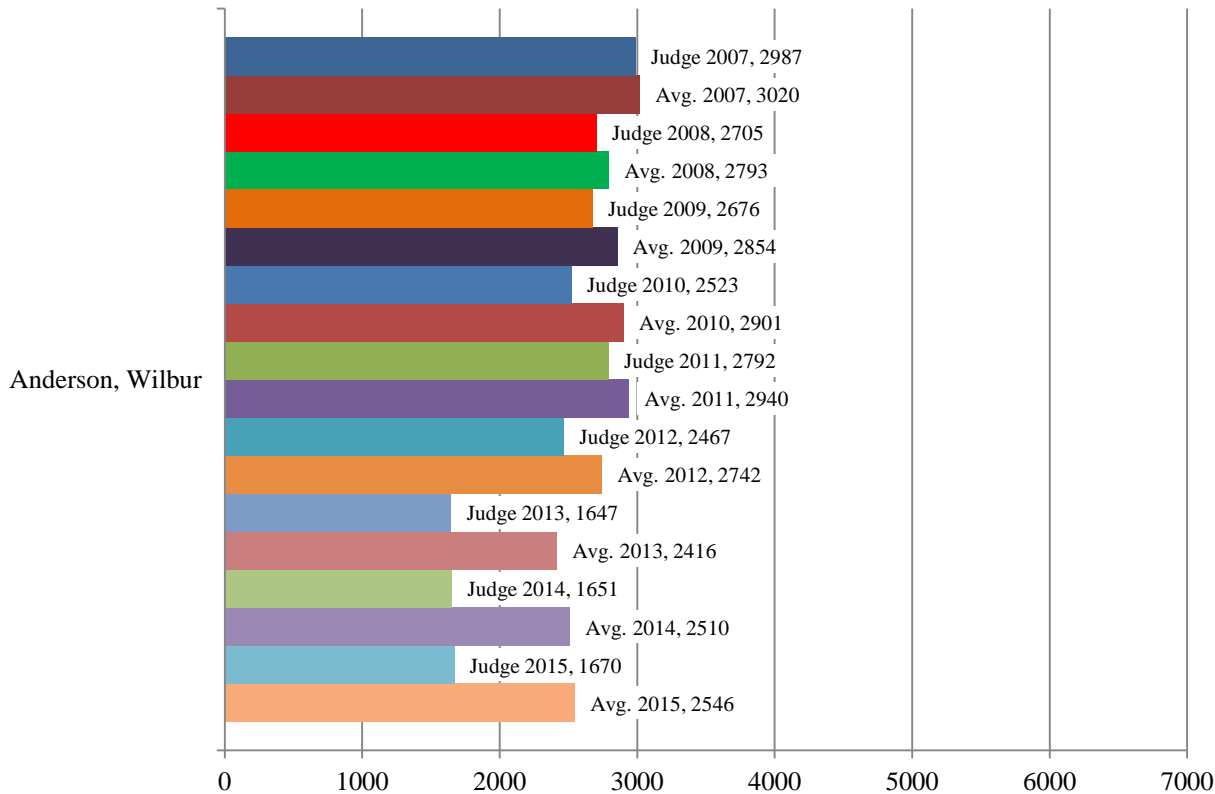
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



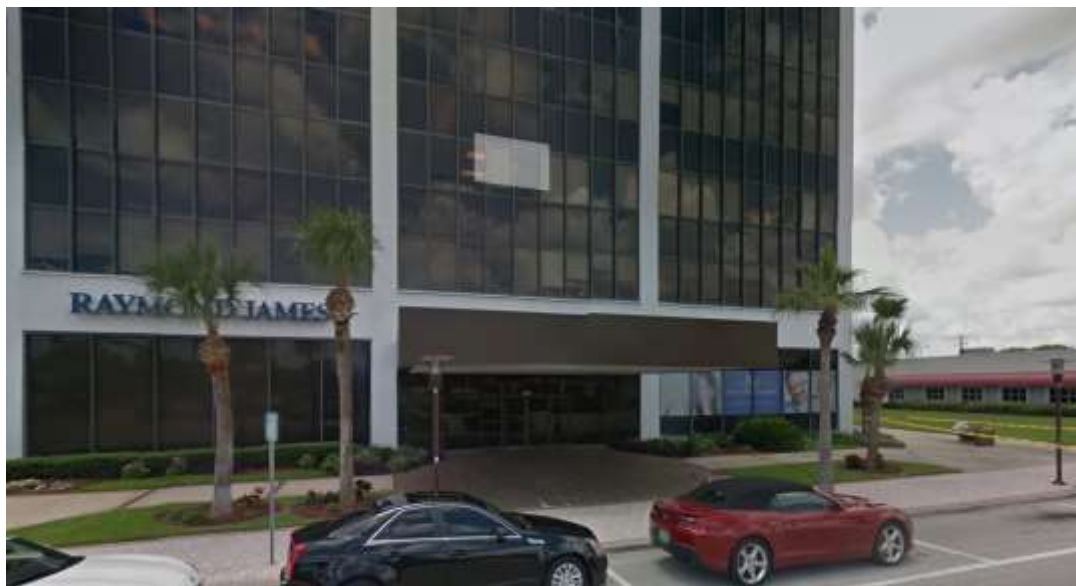
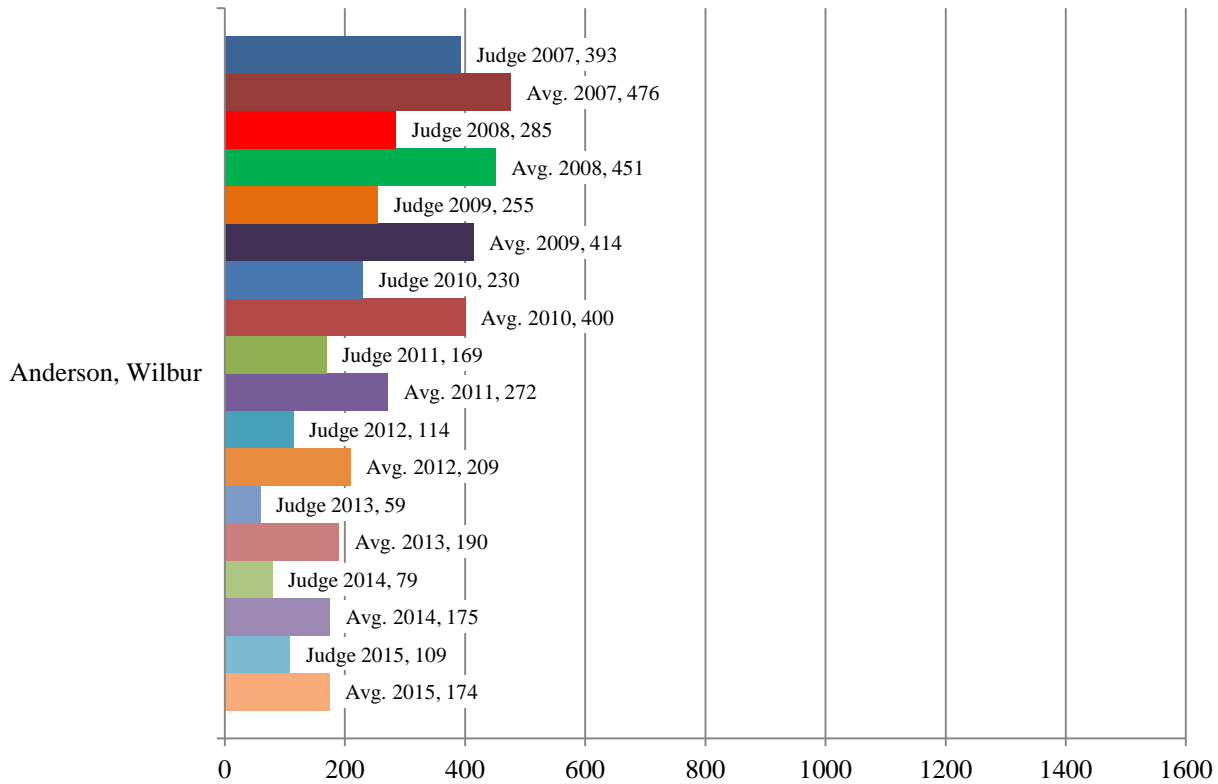
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2006-07 and 2014-15. 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 the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



Daytona District Office, on Seabreeze Boulevard.

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

District FTL includes only Broward County.

PFB and new case filings in District FTL were both below the statewide average between 2011-12 and 2014-15. This is pertinent because the FTL PFB volume had been close to, and even exceeded, the statewide averages in previous years. FTL has been assisted in 2014-15 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 2014-15.

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 rapidly disproved that possibility. 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 101 trial orders in 2014-15, well in excess of the statewide average. The other two divisions had trial volumes well below the average in 2013-14 and closer to the statewide average in 2014-15. The new analysis this year, illustrates the mix of trial orders that are “final merits orders” (FMO) and “final evidentiary orders” (FEO). The very high percentage of trials that result in FEO in Judge Lewis’ division may partially explain the disparity. The judges in Ft. Lauderdale are all below the statutory parameter for time between PFB filing and trial. The judges in all three Divisions have issued their trials orders in less than thirty days, on average, for the last three fiscal years. The very low average between trial and order in Judge Lewis’ division may be in part due to the high percentage of trials in that division that result in FEO.

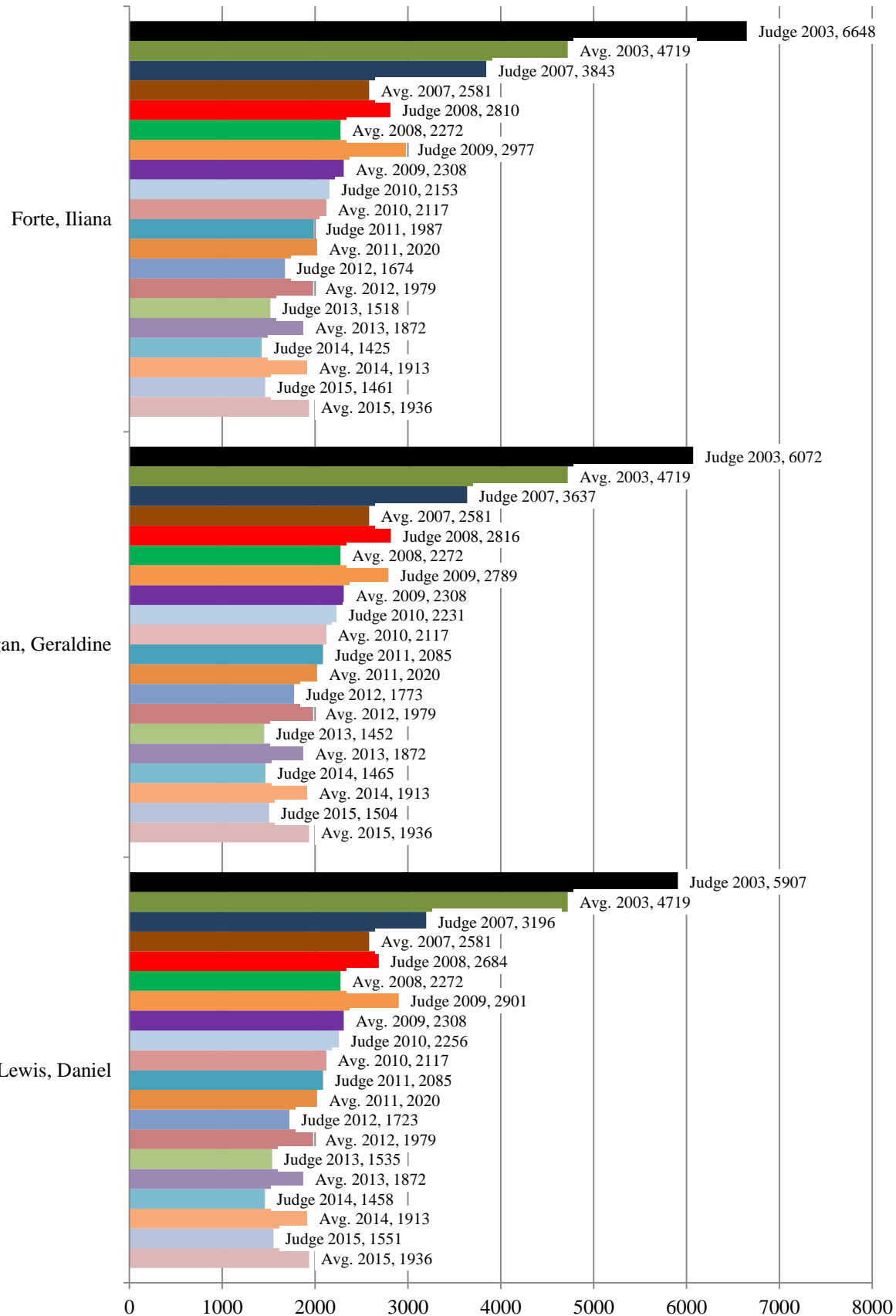
In 2014-15, Judge Lewis remained active in the Broward County Bar Association (BCBA). On February 27, 2015, he presented a "Question and Answer Session with the Broward JCCs" for the BCBA’s Workers’ Compensation Section Seminar, "Workers’ Compensation 2015 - Stepping up to the Challenge." At that conference, Judge Lewis was also awarded the inaugural Vance B. Moore Professionalism Award by the BCBA Workers’ Compensation Section in recognition of his dedication and commitment to professionalism. On April 10, 2015, Judge Lewis interviewed scholarship applicants for the Broward County Selection Committee of the Friends of 440 Scholarship Fund. On June 12, 2015, he presented a seminar to judges and mediators for the Second Fridays OJCC educational program. The seminar dealt with issues of the JCC's responsibility to confirm the identity of witnesses/parties to whom the oath is administered, the efficacy of administering the oath telephonically and the JCC's review of attorney's fee motions and stipulations to avoid the approval or award of excessive fees. Judge Lewis also served as a moot court judge for the annual 2014 E. Earle Zehmer Moot Court Competition held at the Workers’ Compensation Educational Conference in Orlando, Florida in August 2014. 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 2014-15, she presented a “Question and Answer” Session with the Broward JCCs” for the BCBA’s Annual Workers’ Compensation Section Seminar. She also served on the faculty for the Trial Advocacy seminar presented by the Workers’ Compensation Section of The Florida Bar.

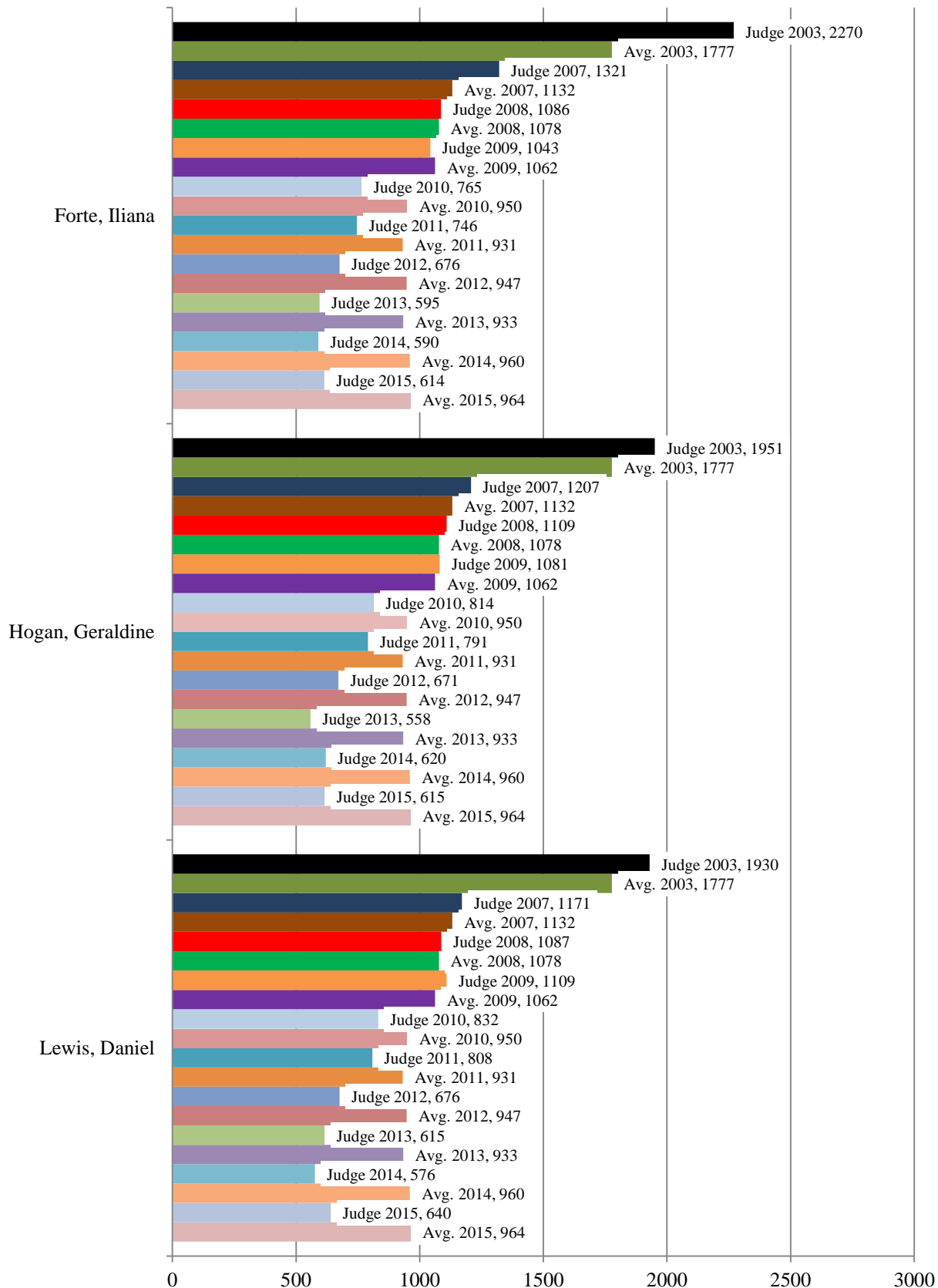
Judge Forte was appointed and began her service at the beginning of fiscal year 2014-15. Her first year has been stable and has demonstrated continuity of excellent service to the Ft. Lauderdale District.

Mediator Gregory Johnsen transferred from Miami to Ft. Lauderdale in 2015. He serves on the Dade County Friends of 440 Scholarship Selection Committee and interviewed scholarship candidates in April of 2015.

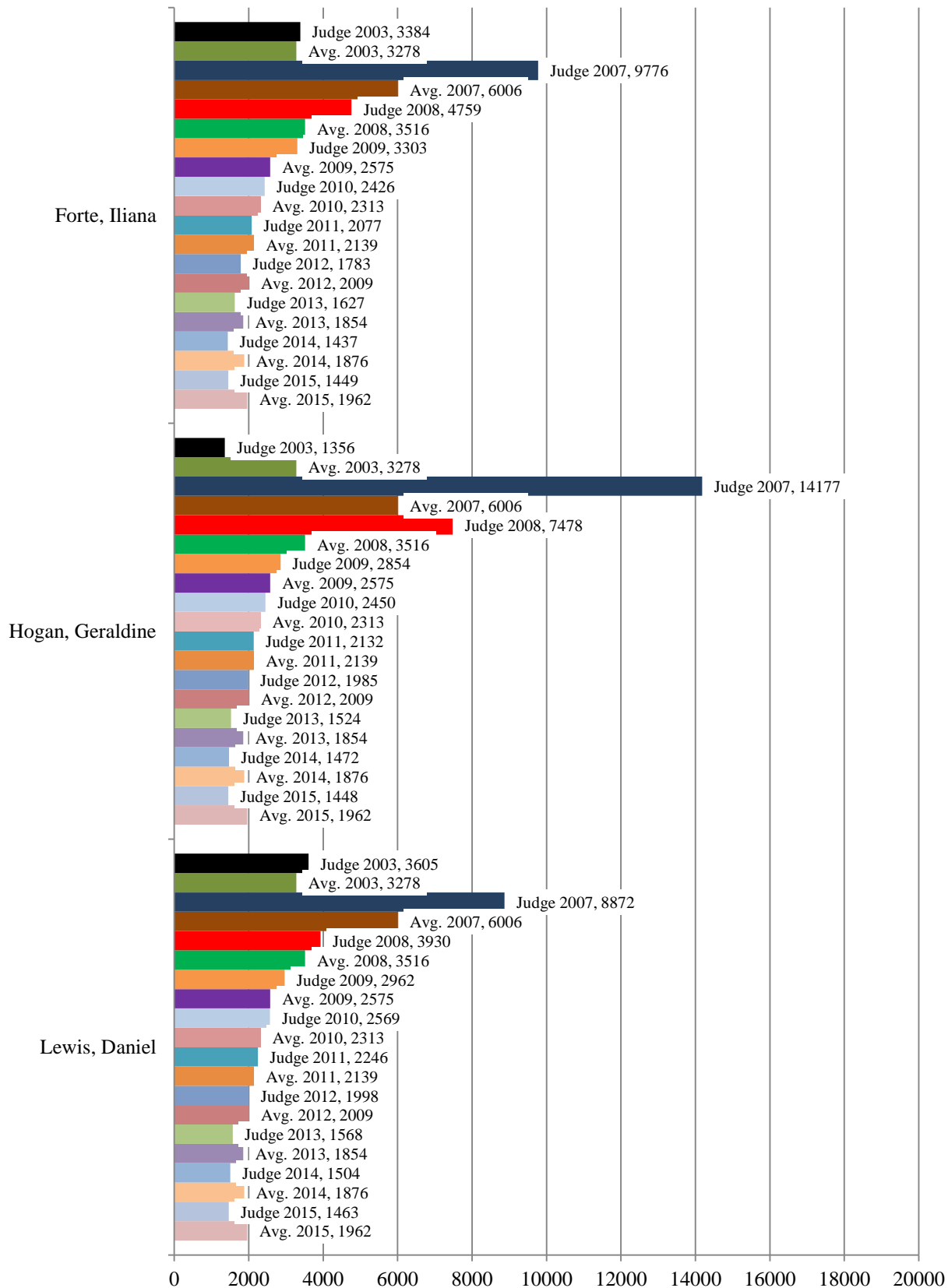
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



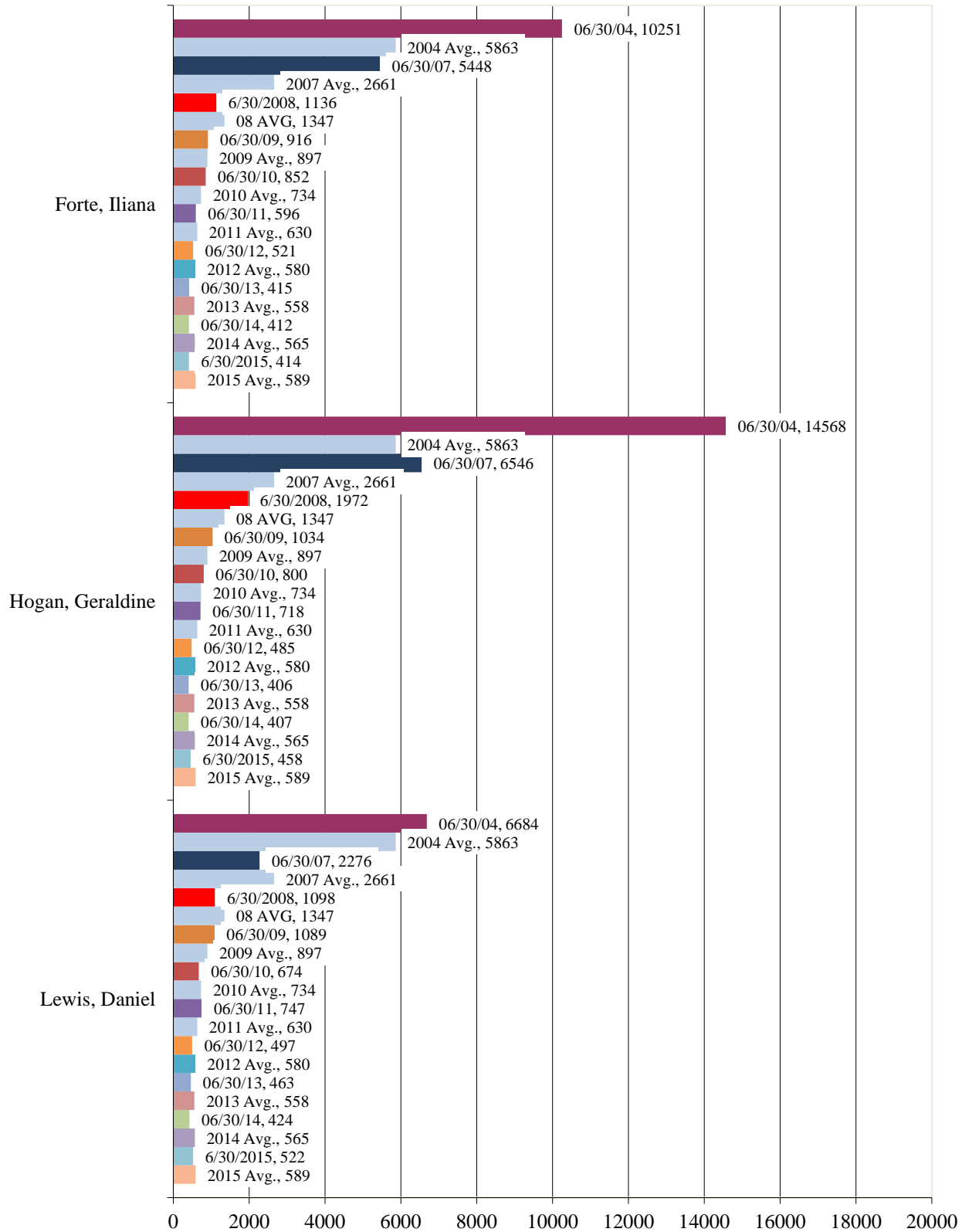
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



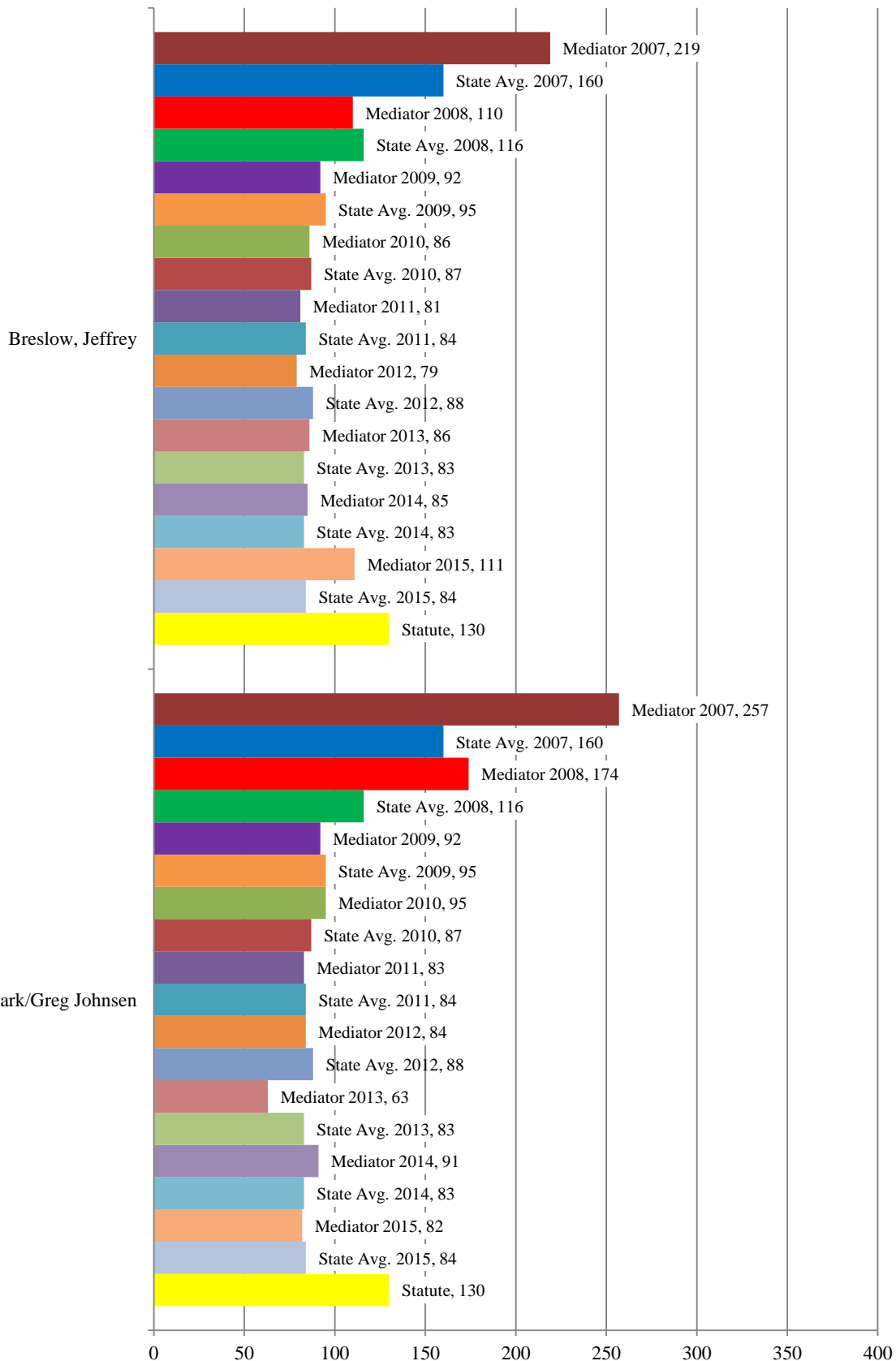
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



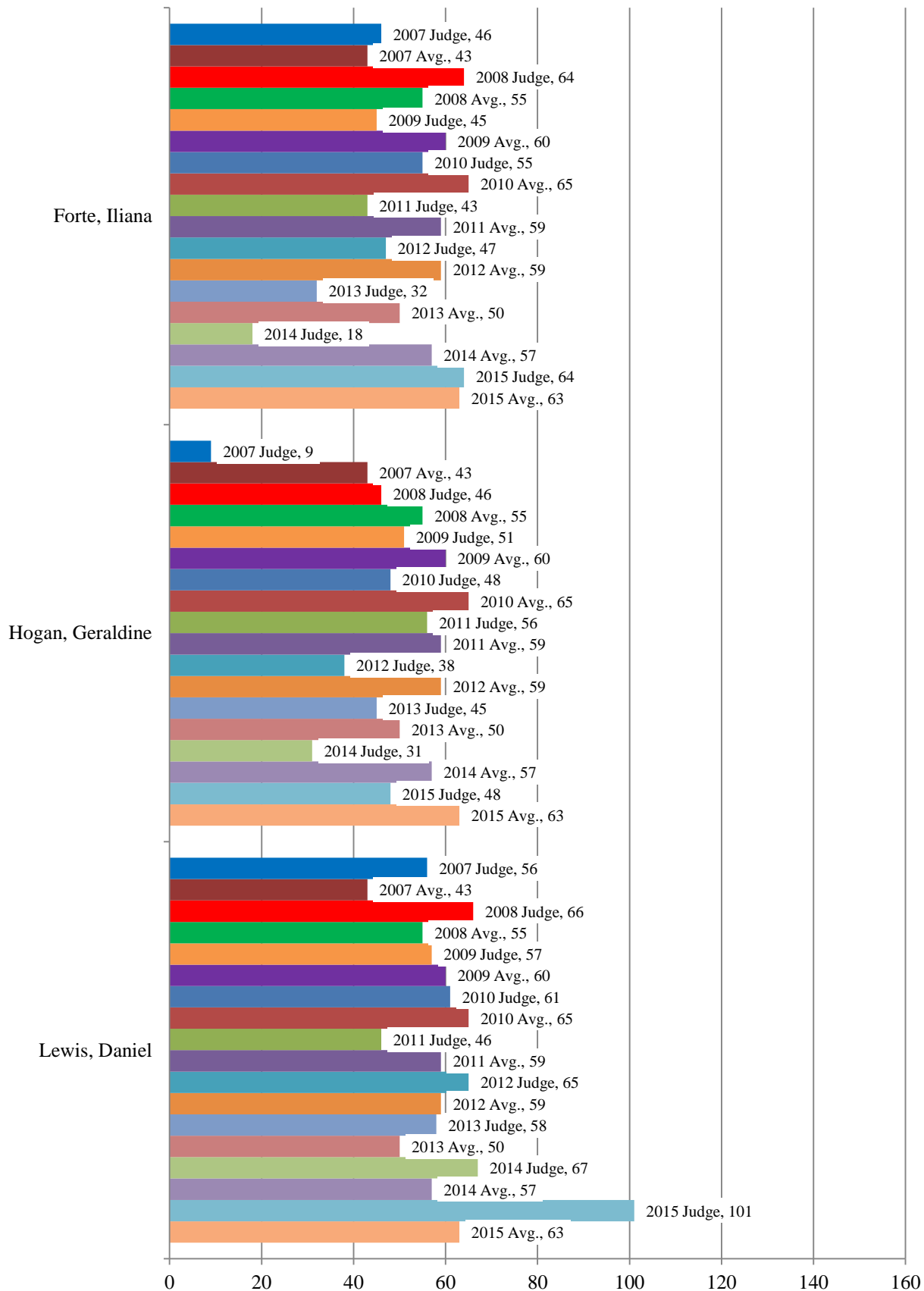
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2014-15 (2003-04 is also provided for historical reference). The identification and values for each year are in each bar label.



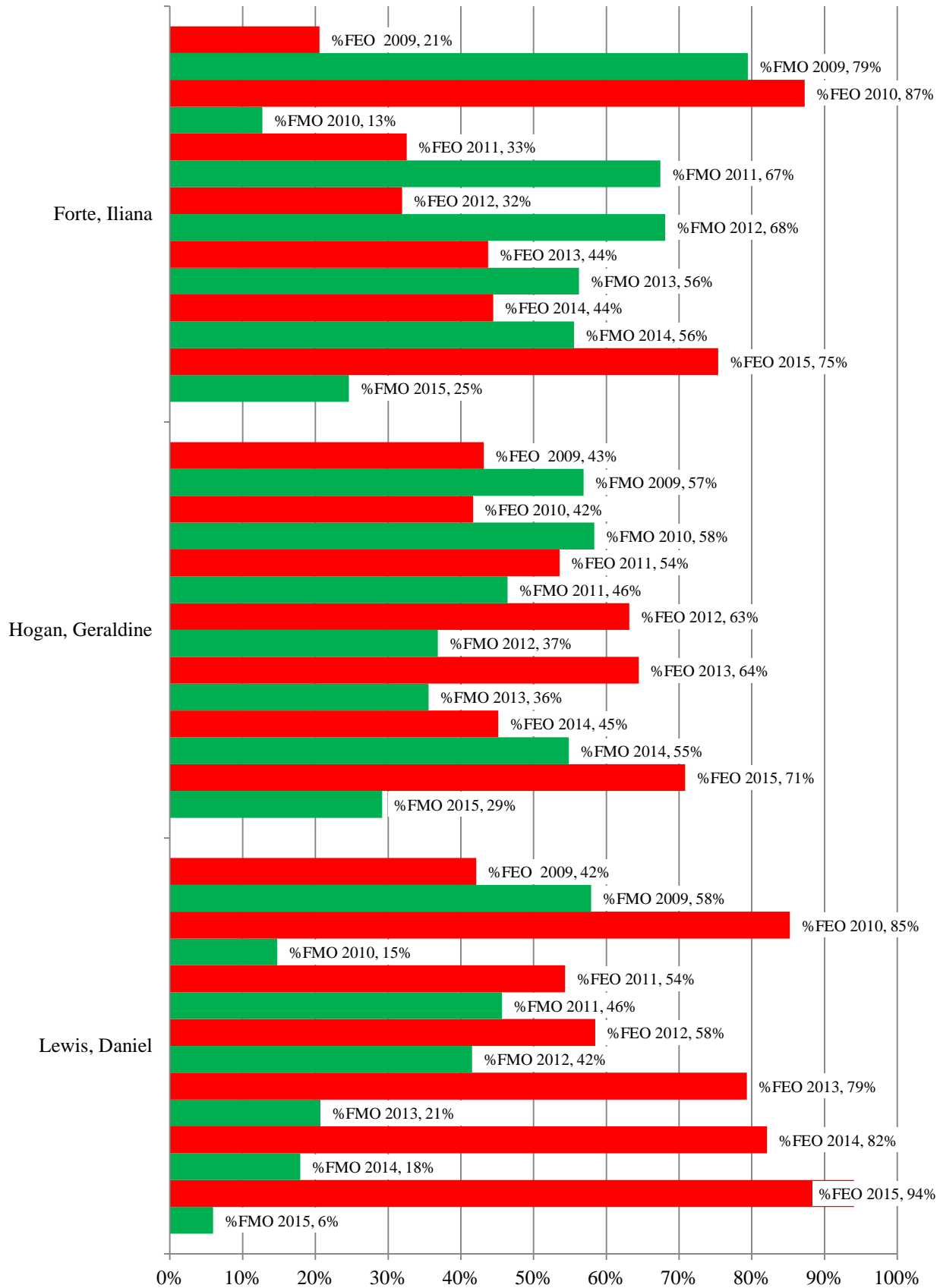
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



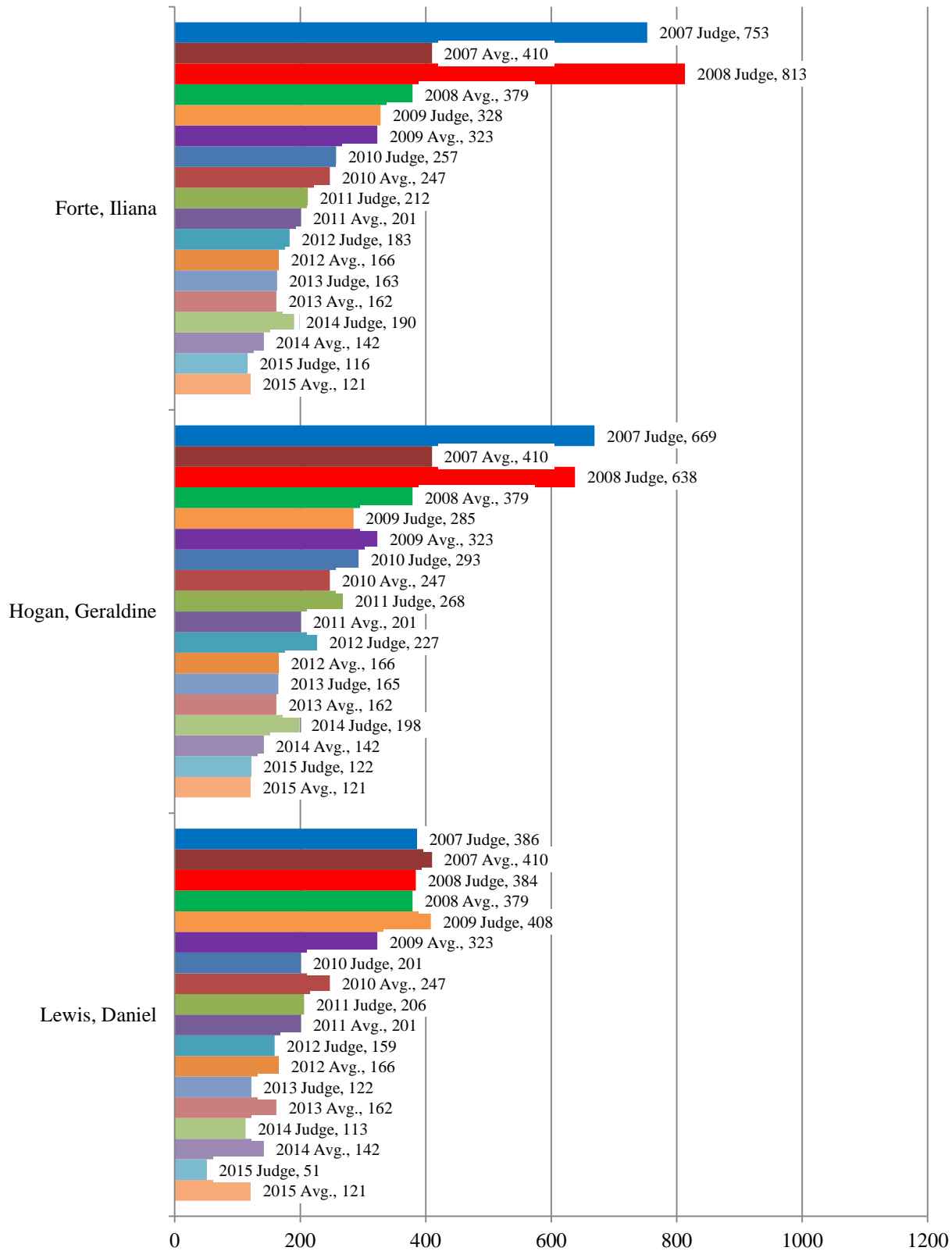
The following graph depicts the total volume of trial orders¹¹⁹ uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



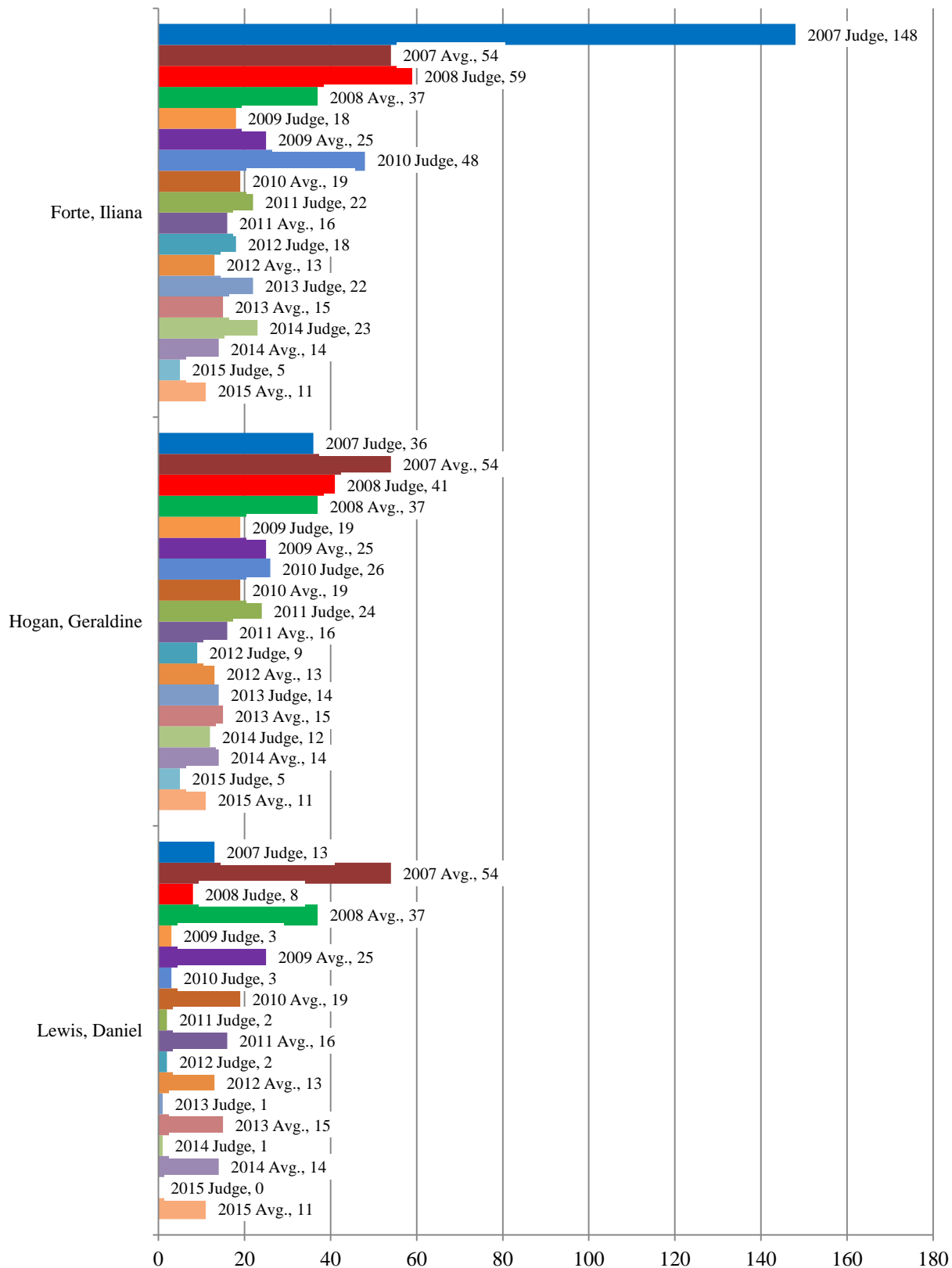
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



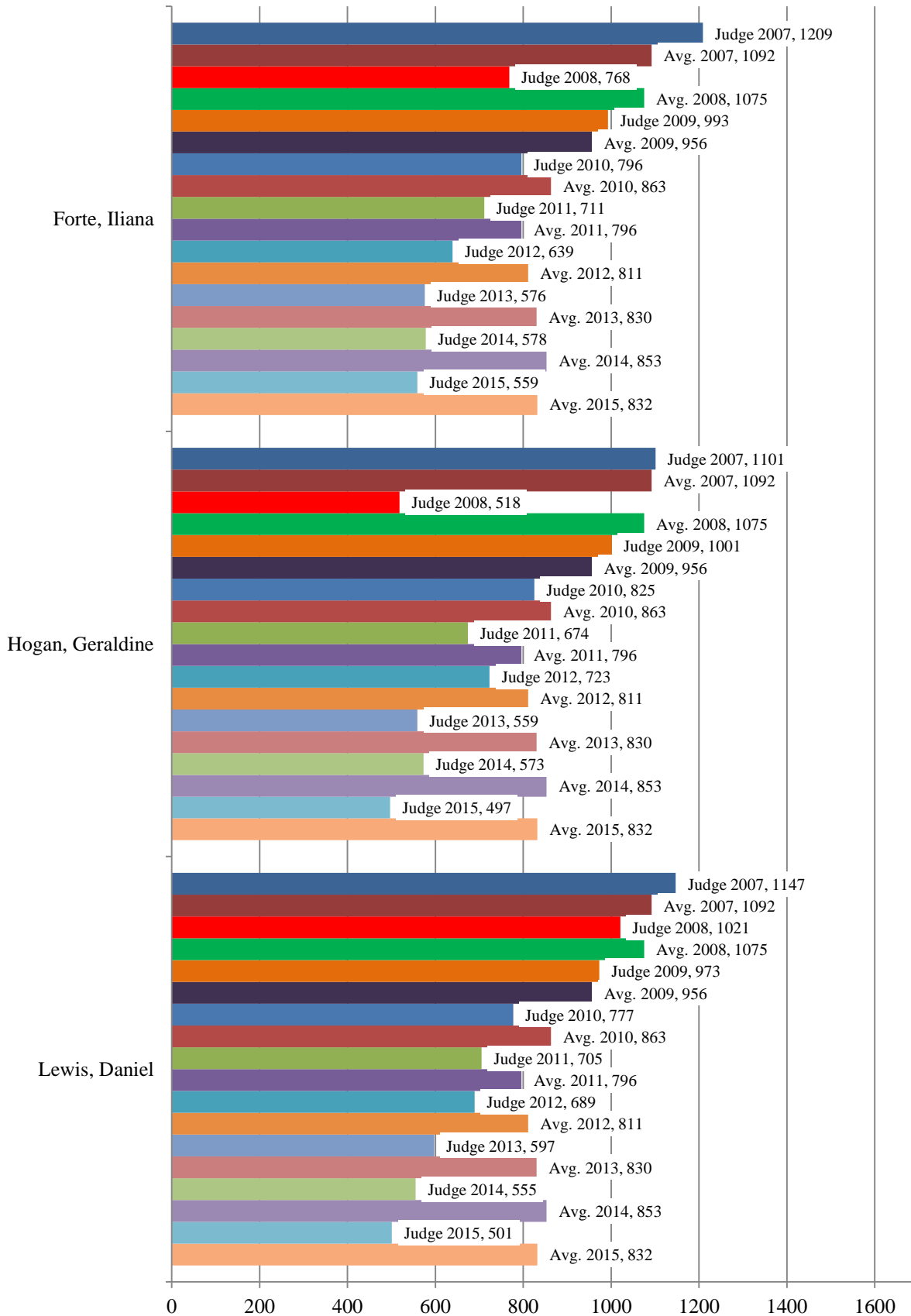
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



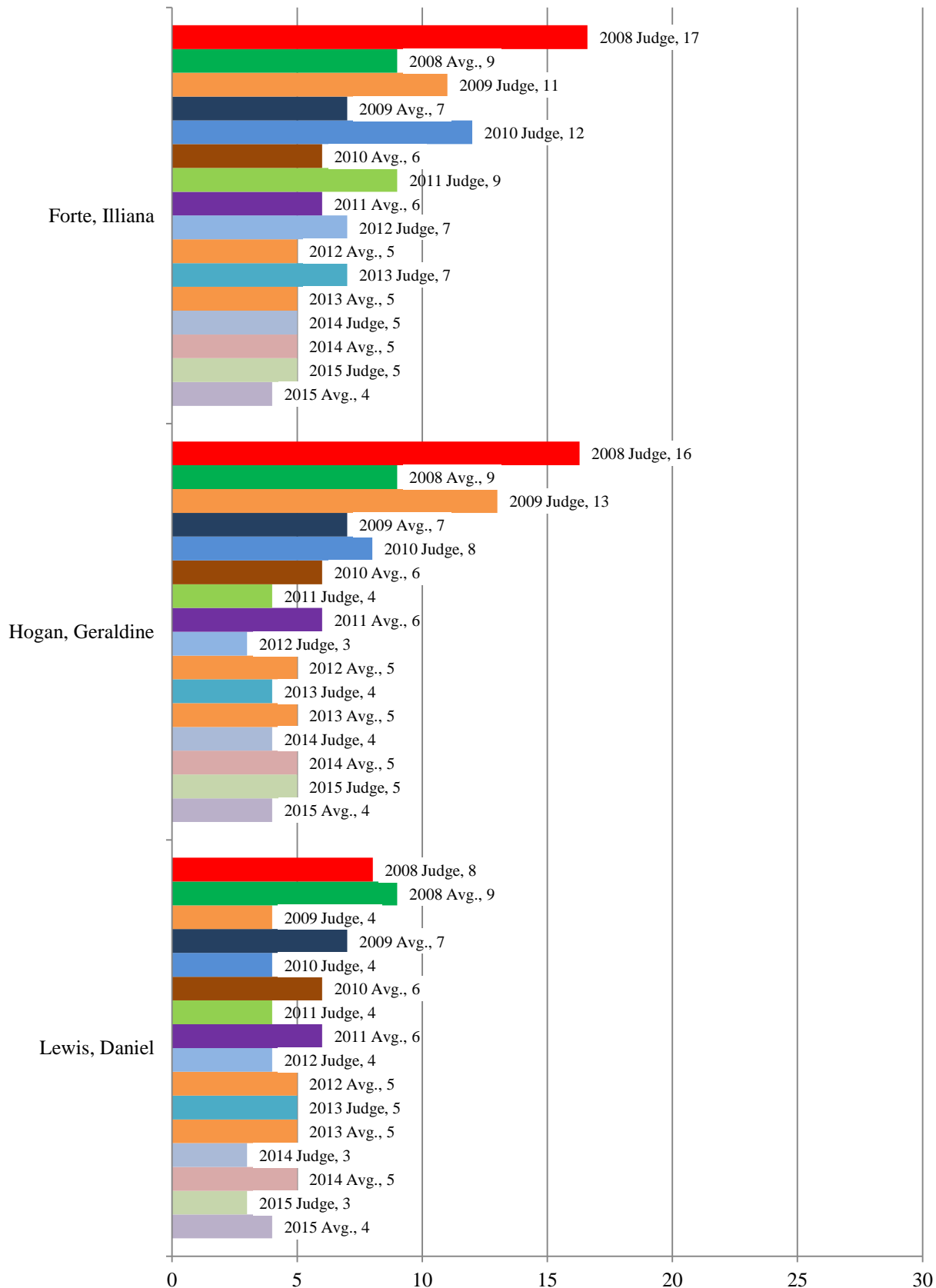
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



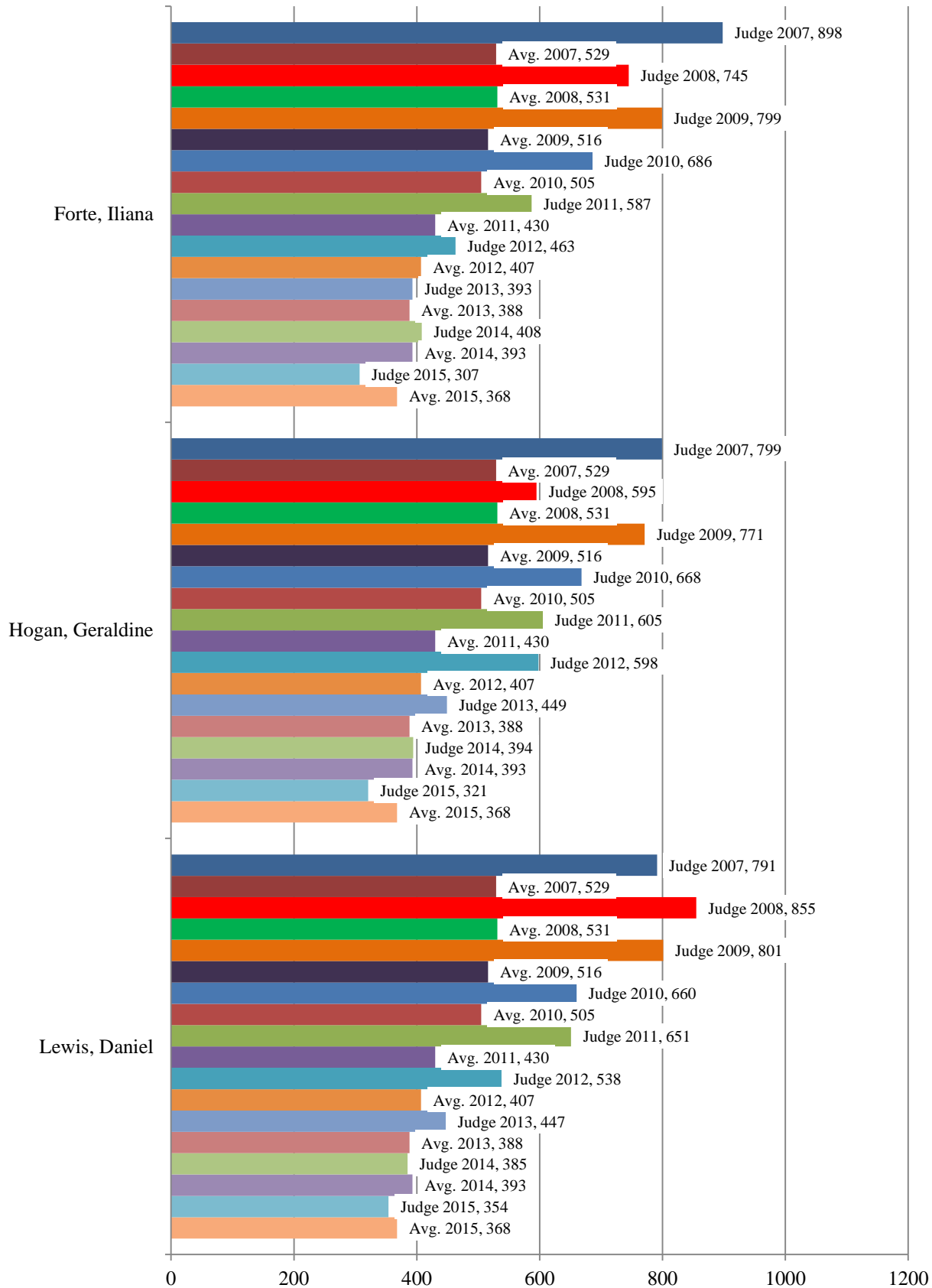
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



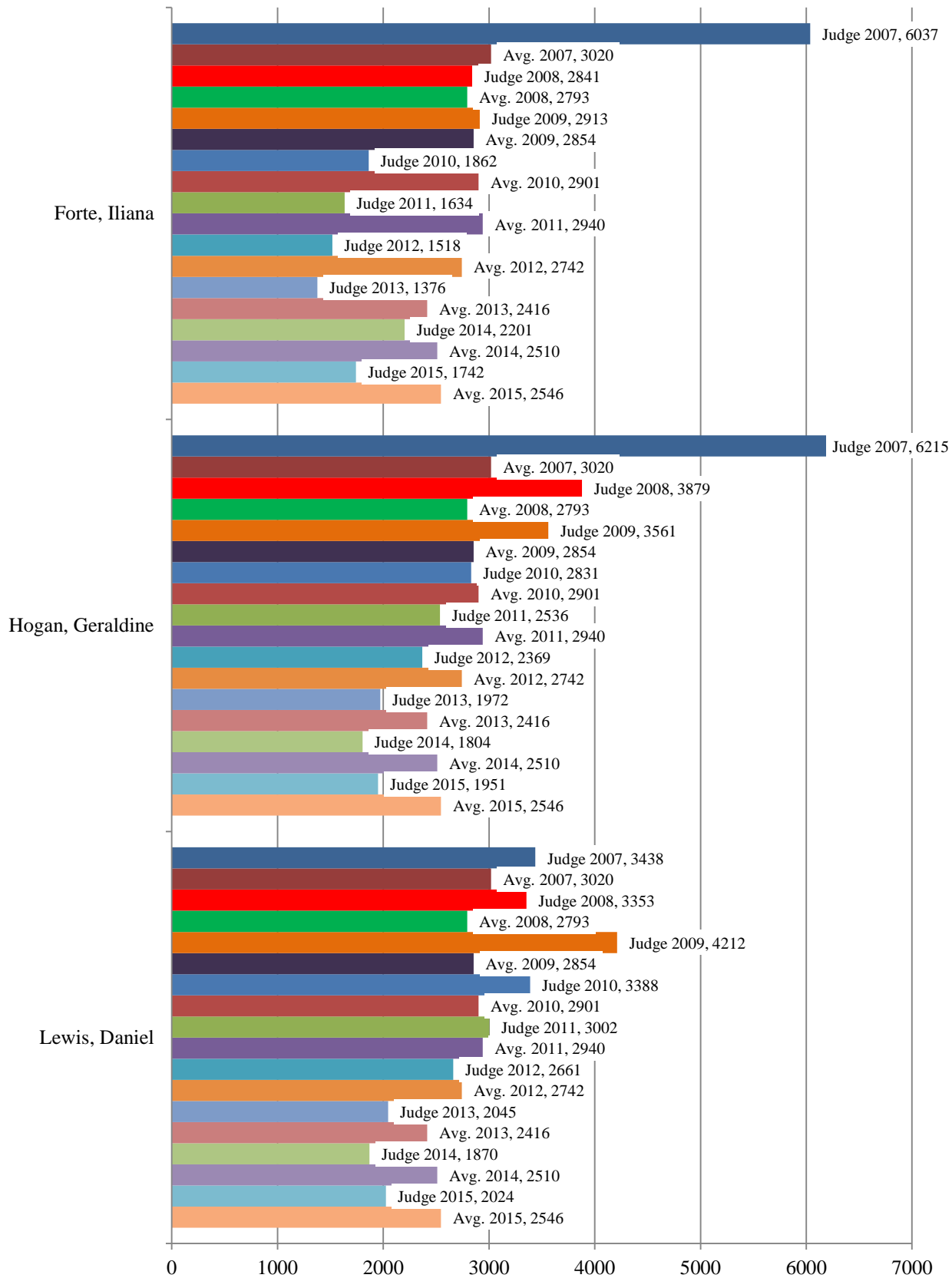
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



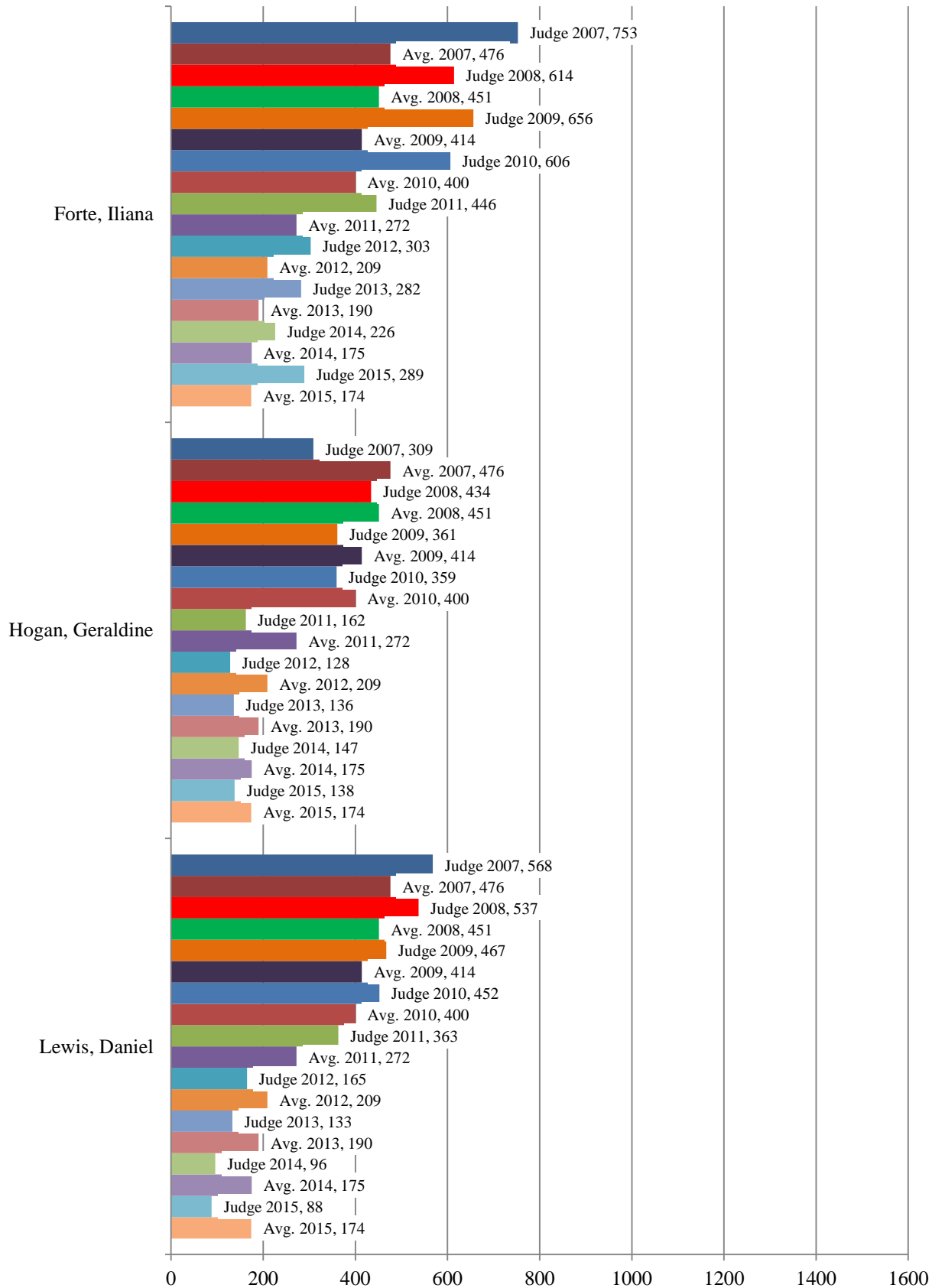
The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



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 2014-15. 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 2014-15. 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 increased in 2013-14, and remained reasonably consistent in 2014-15. Both PFB and “new case” 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 again in 2014-15. 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. The docket “load” in FTM is manageable despite the addition of out-of-district work, as evidenced by the consistency between PFB filing and closure. Both FTM mediators averaged less than 130 days between PFB filing and the first mediation, which is consistent with the overall mediation statistics statewide.

Both judges in FTM averaged well less than 210 days from Petition/Motion filing until trial. Each judge also entered trial orders in a timely manner, well within the 30 day statutory parameter.

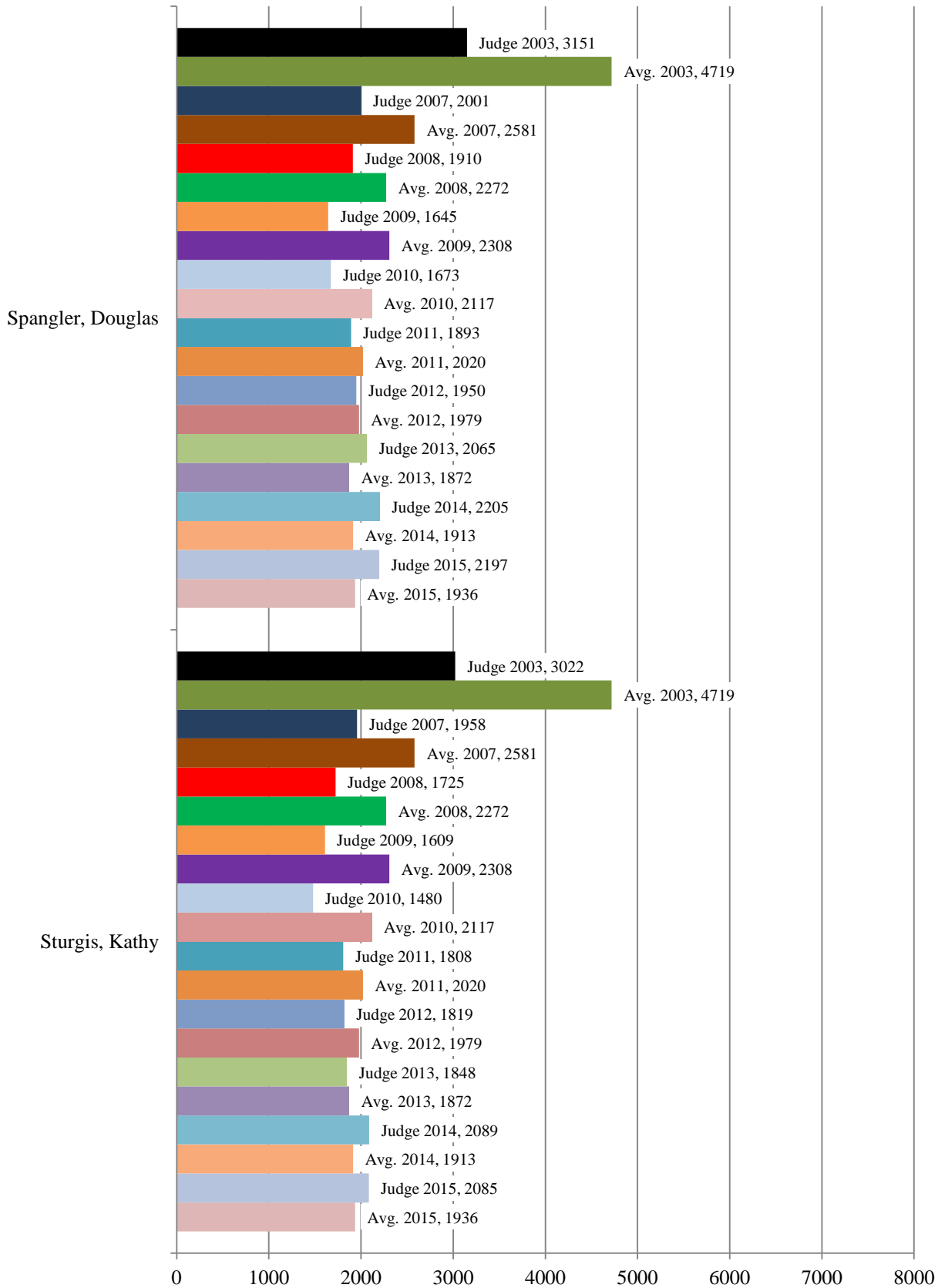
Judge Spangler served as presiding judge during the annual Lee County Mock Trial Competition in January 2015. He also has served for the last three years on the Vestry (governing board) of his parish in Sarasota County-The Church of the Redeemer. Judge Spangler serves on the Appellate Rules Committee-Worker’s Compensation Subcommittee. Near the end of fiscal 2015, Judge Spangler transferred to District TPA to replace Judge Doris Jenkins upon her retirement.

Judge Sturgis is a member of the executive committee of the Calusa Chapter of the American Inns of Court, serving as Treasurer until May 2015 when she became President-elect. She represented the Calusa Inns of Court at the American Inns of Court leadership summit in May. Judge Sturgis is 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 2014. She serves as Judge for the Lee County Foundation for Public Schools, Colors of the Rainbow Dancing Classrooms Competition. Judge Sturgis also judged the Lee County Bar Association Mock Trial Competition.

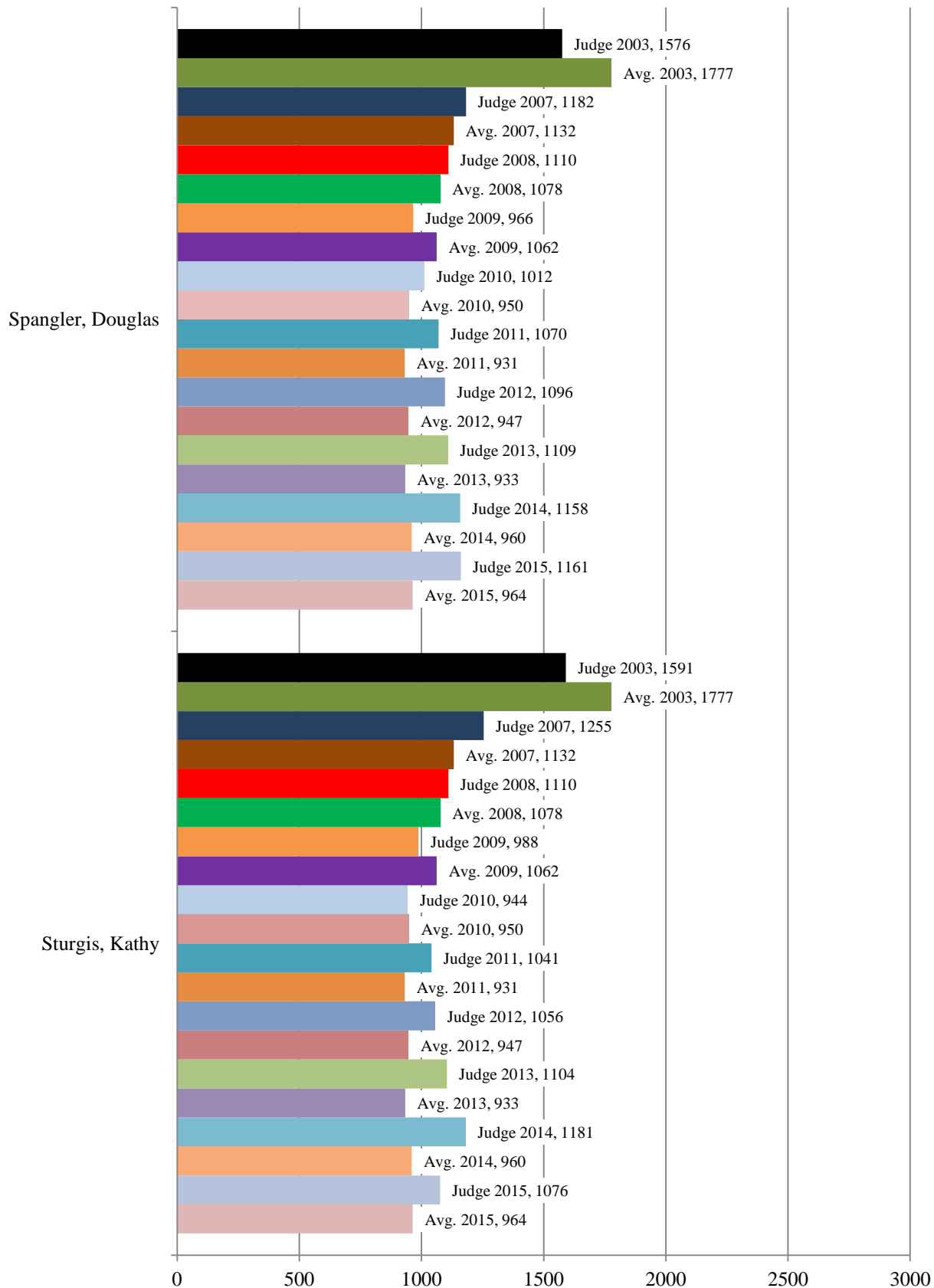


The Ft. Myers District Office on Colonial Boulevard.

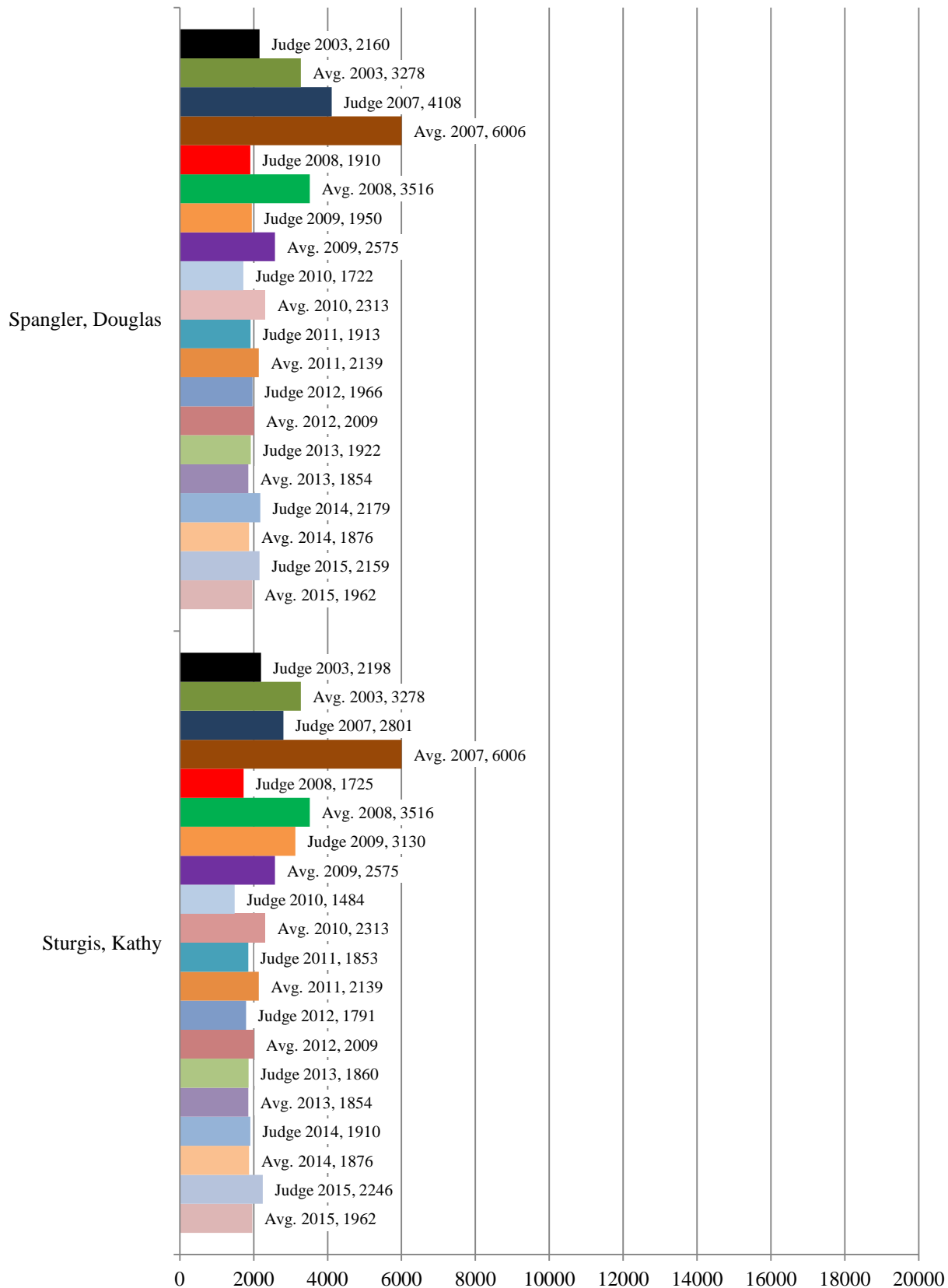
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



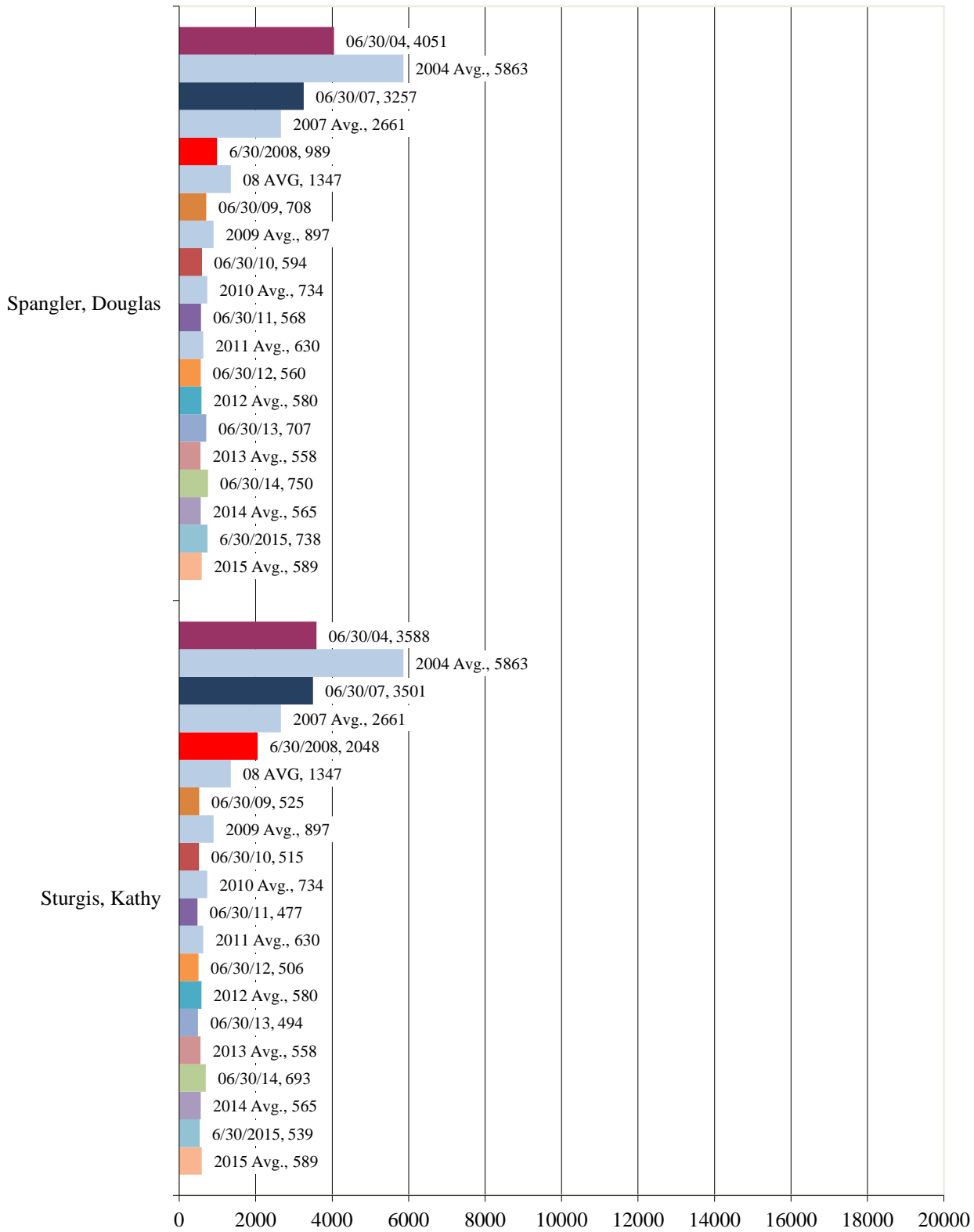
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



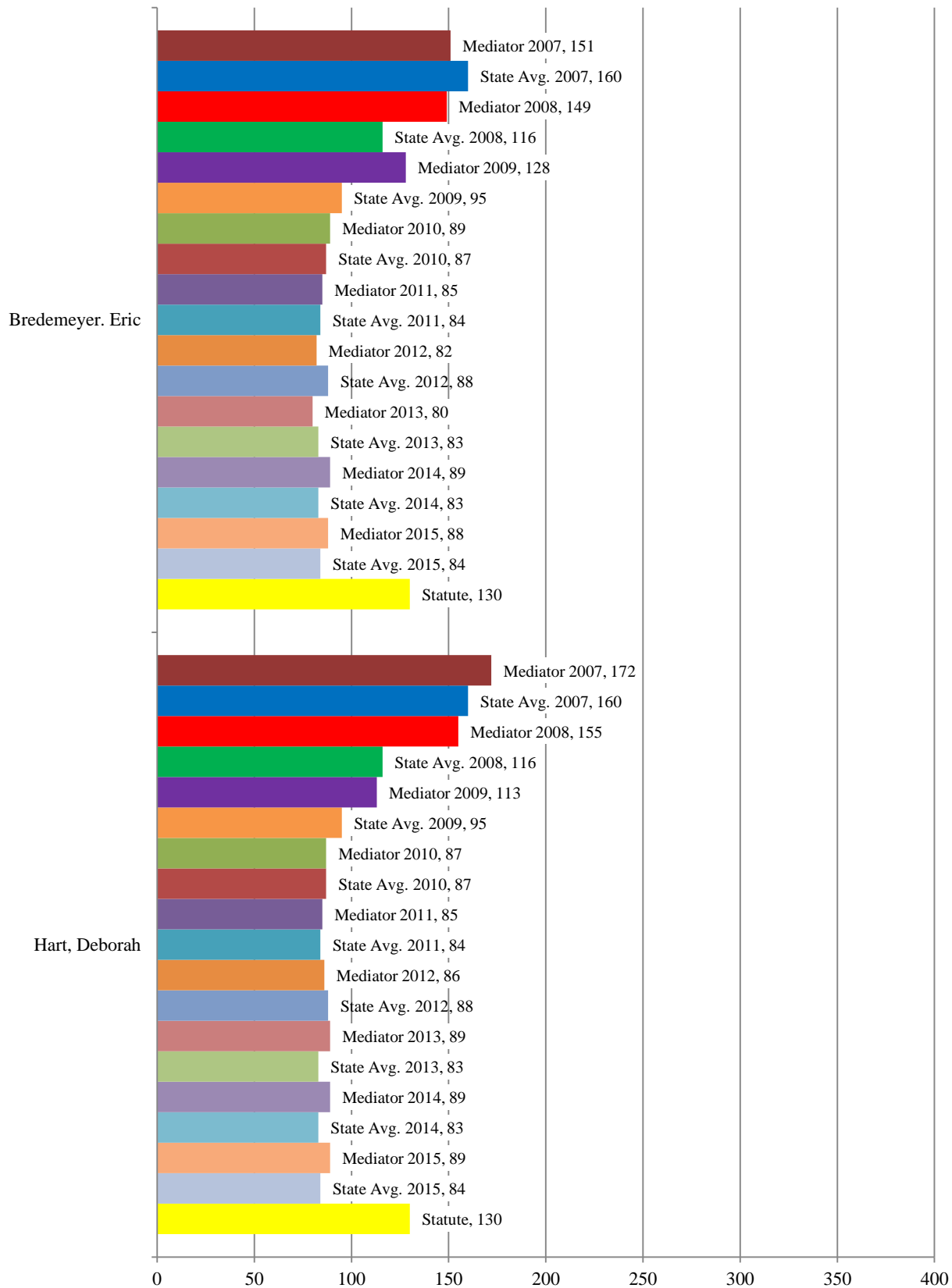
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



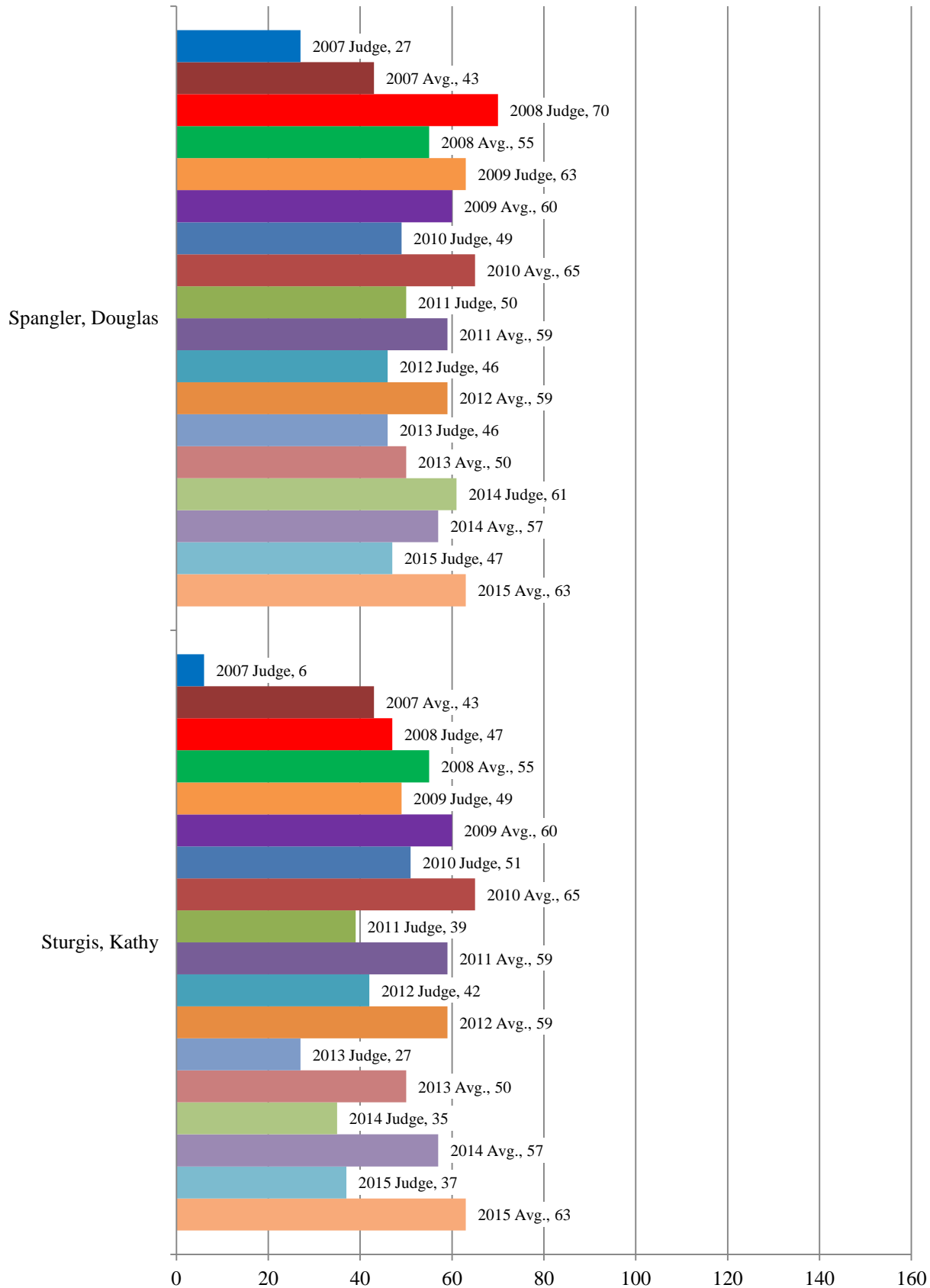
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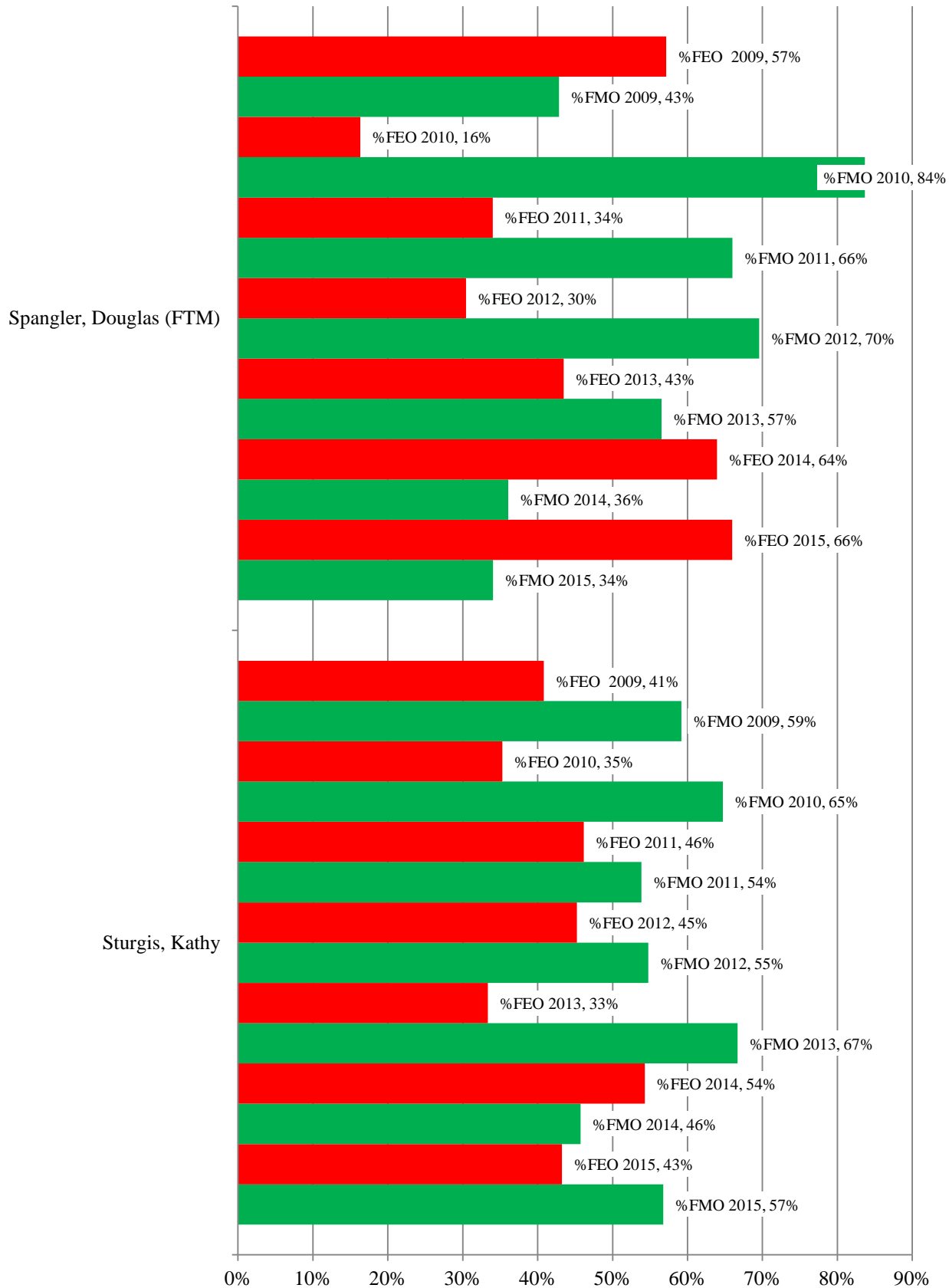
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



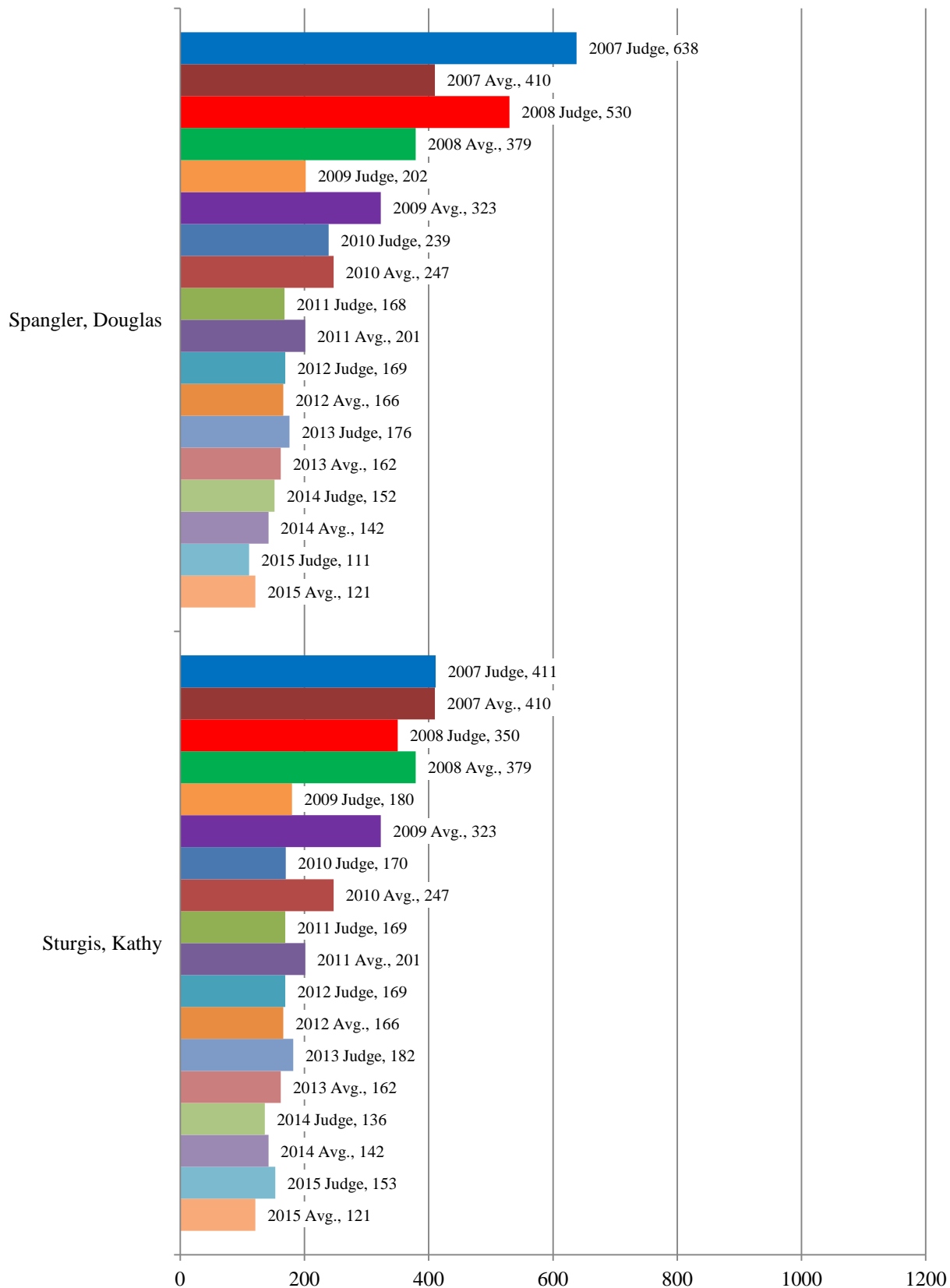
The following graph depicts the total volume of trial orders¹²⁰ uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



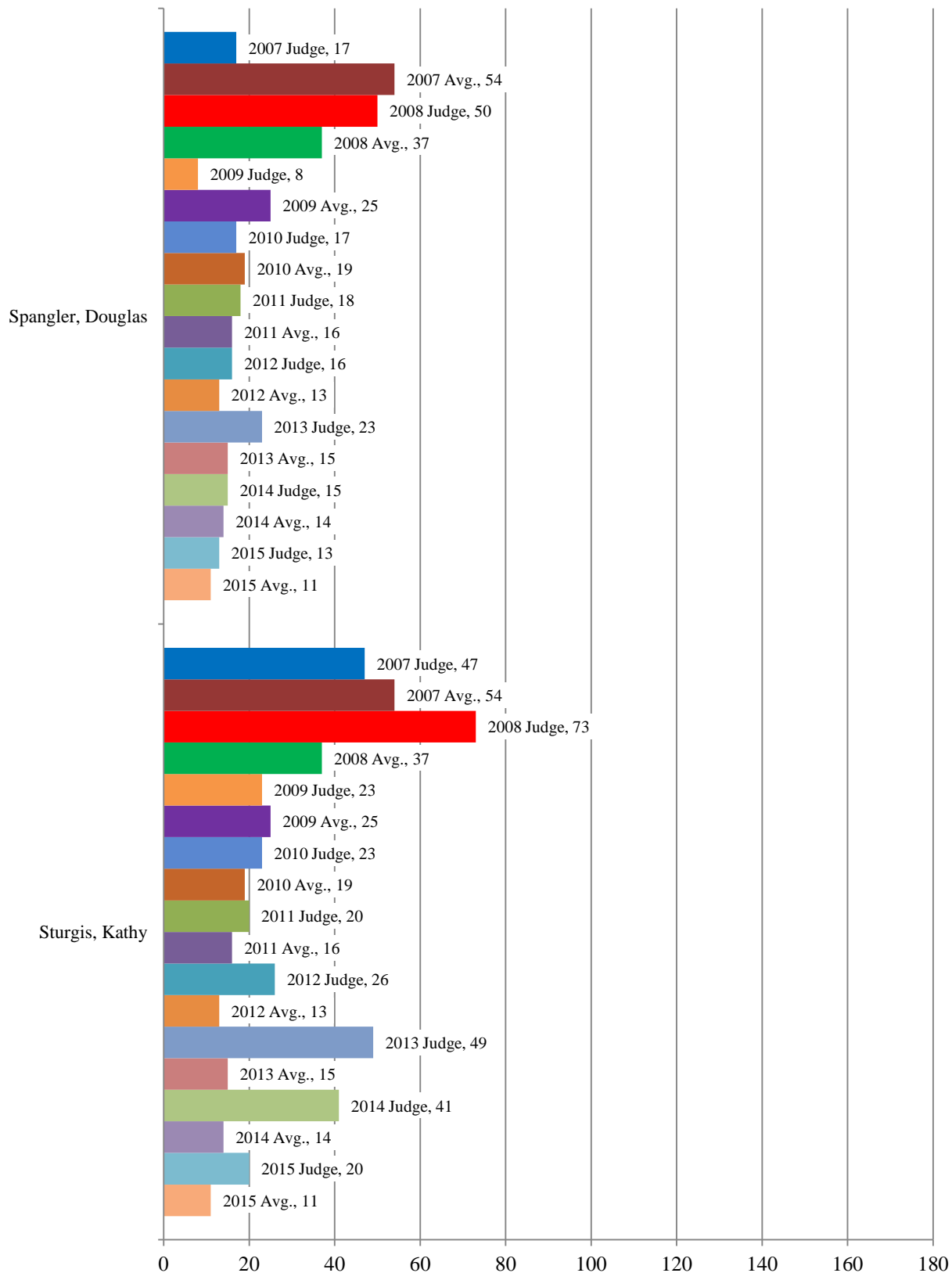
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



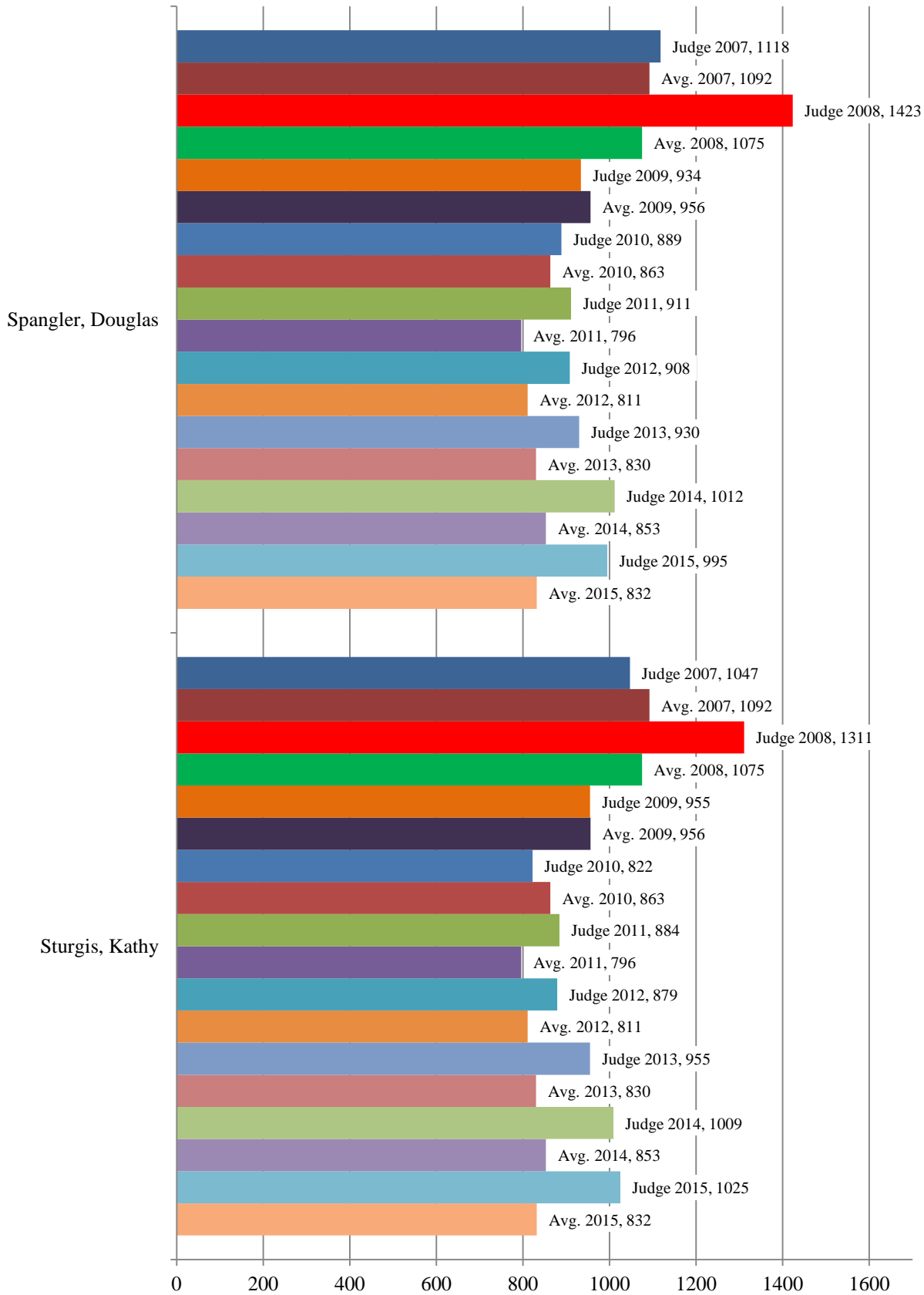
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



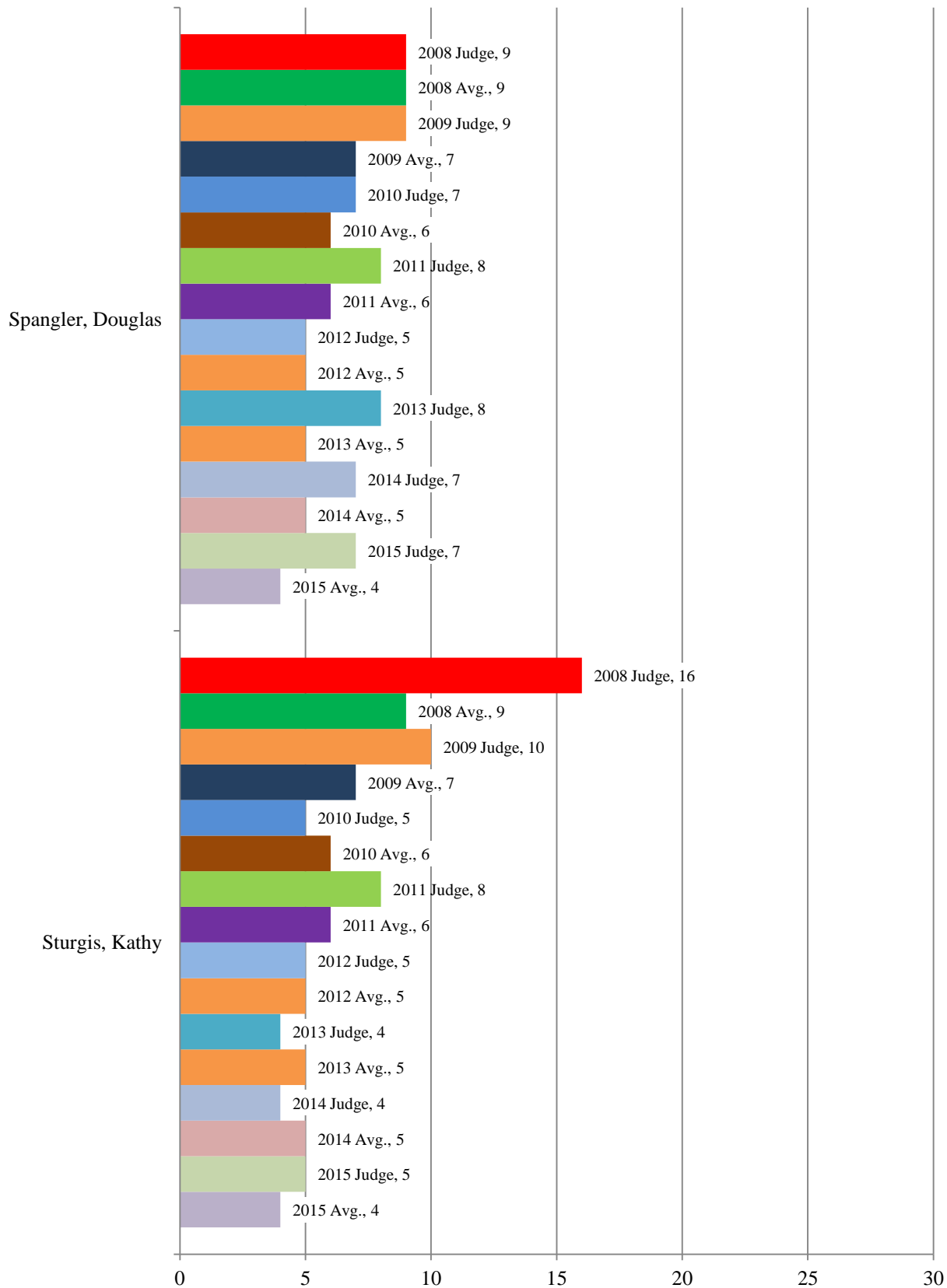
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



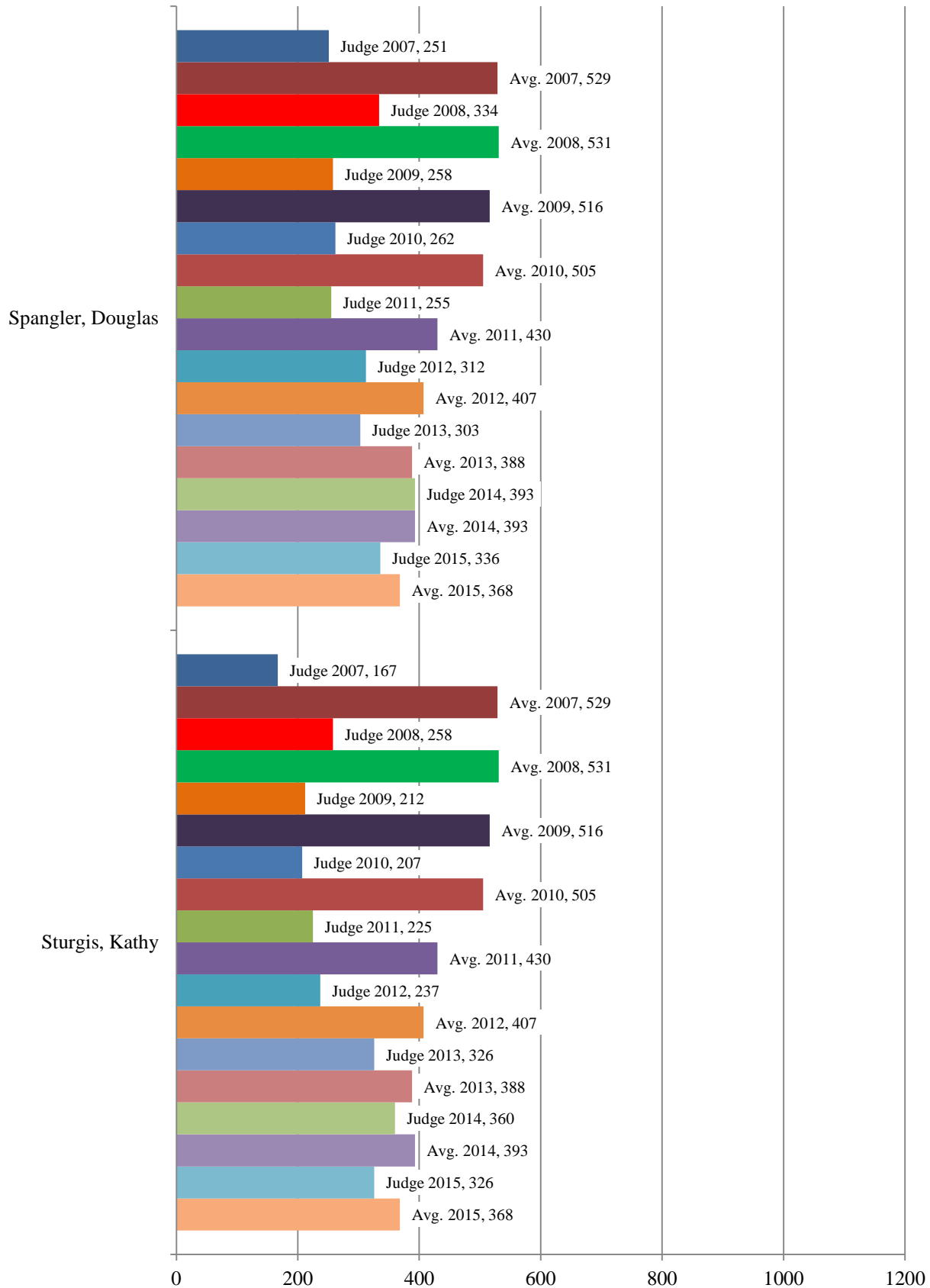
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



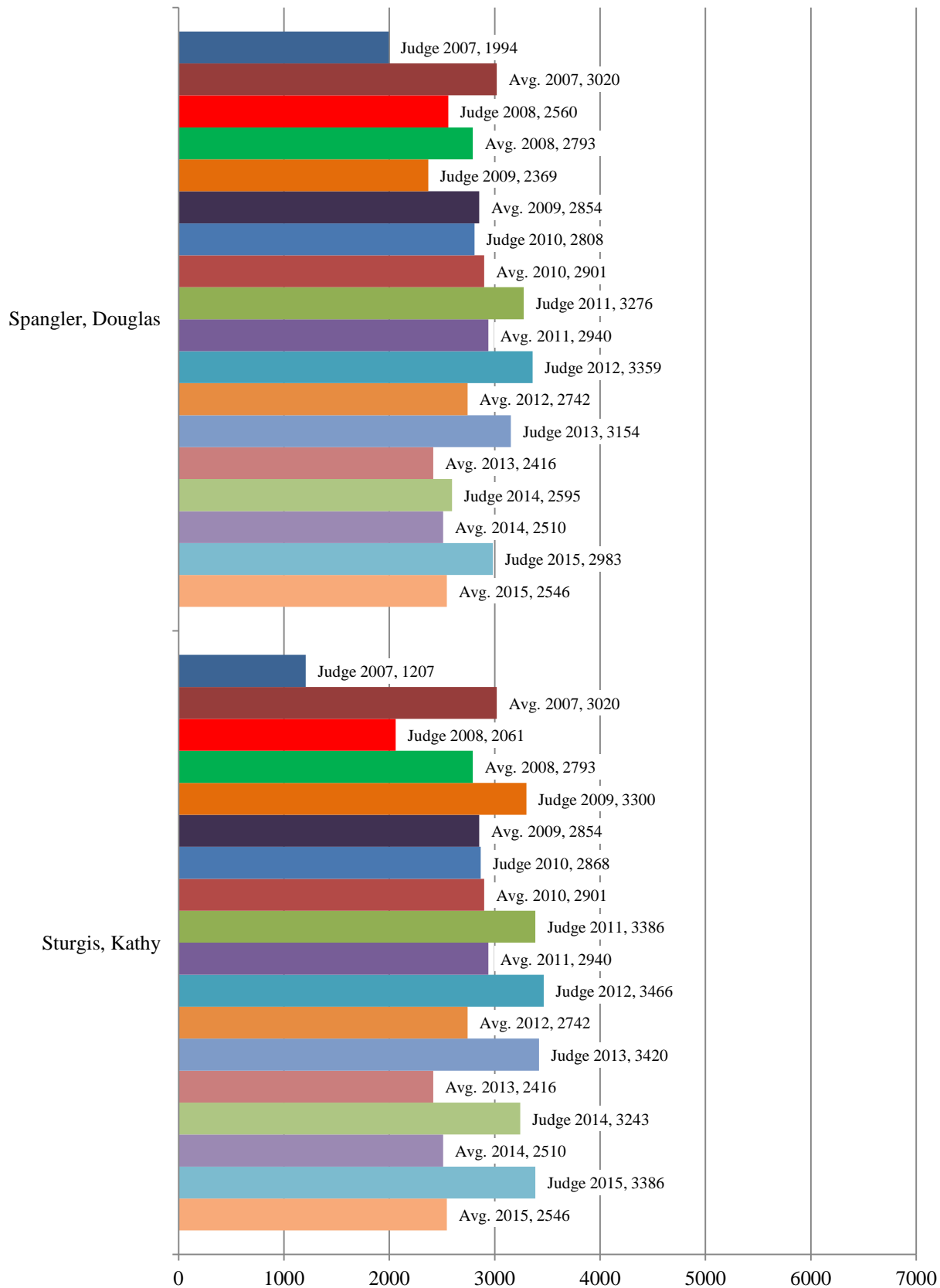
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



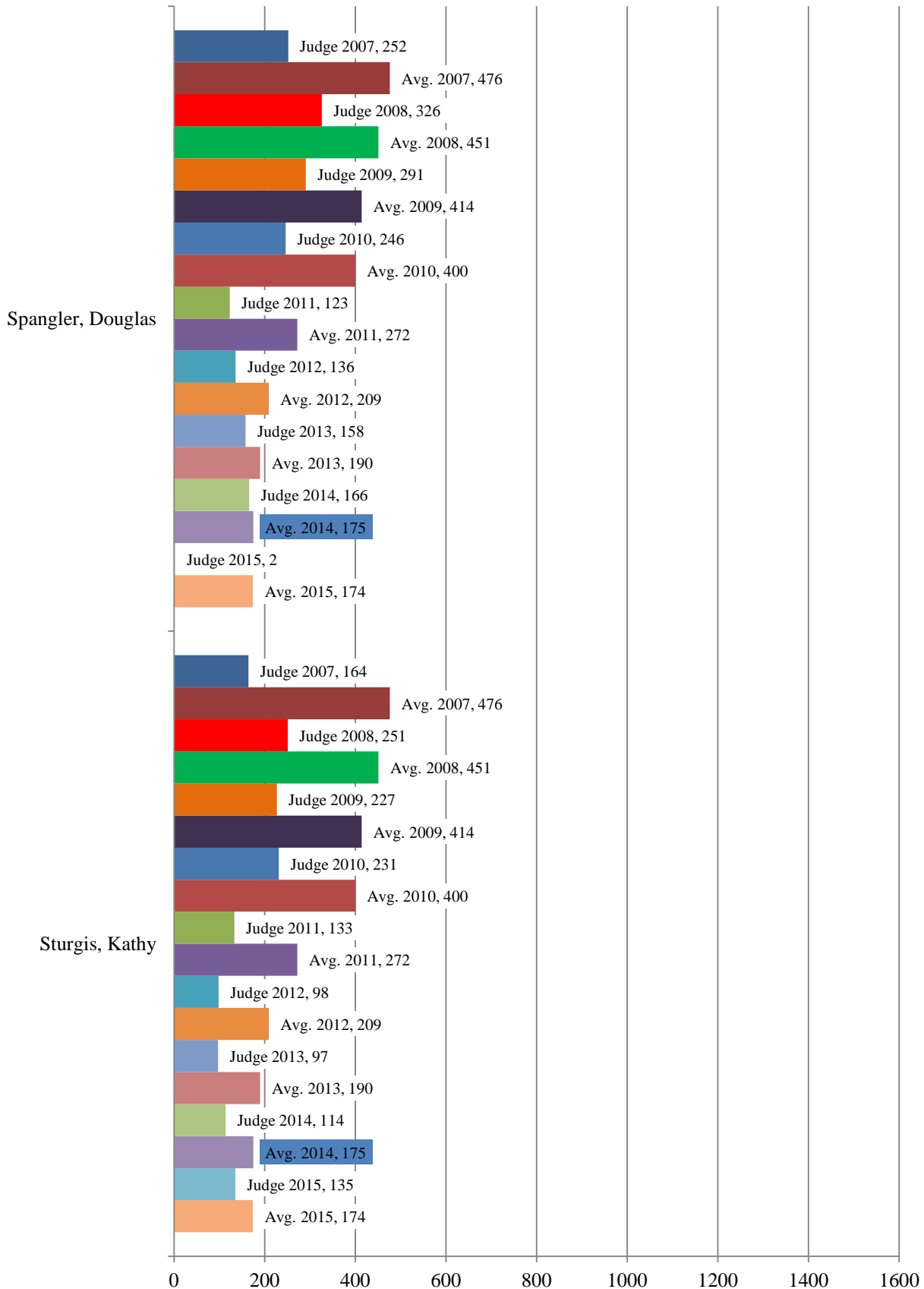
The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



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 2014-15. 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 2014-15. 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.

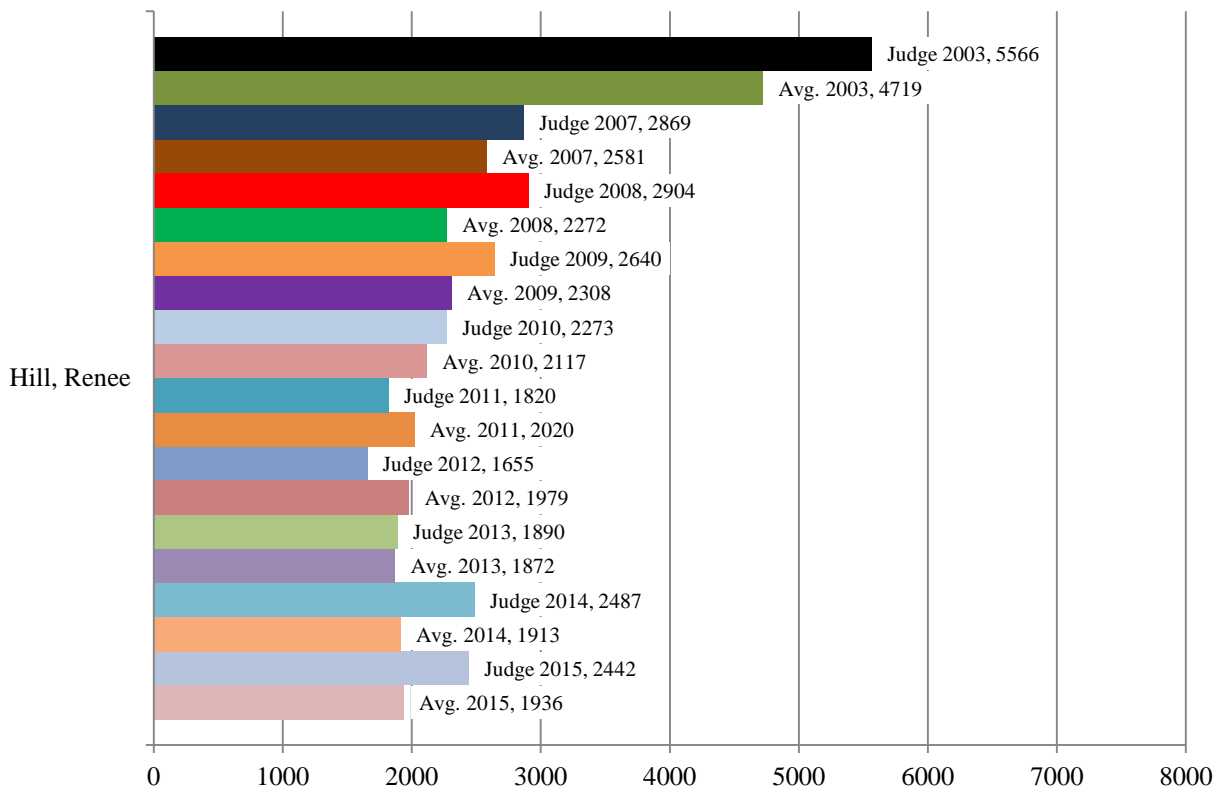
PFB filings have fluctuated in District GNS, but have been above the statewide average for the last two fiscal years. New case volumes are also significantly above average for the last three fiscal years. The trends suggest a growth of litigation in this district. Some of that increase may be attributable 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 2014-15. This has been consistent through the last six fiscal years. A significant volume of trials are held in District GNS. Despite the volume, Judge Hill averaged well below the statutory 210 days from PFB/motion to trial in each of the last five fiscal years. Her average time from trial to entry of final order was under ten days in each of the last four fiscal years. Mediation is timely in District GNS and has been consistently so.

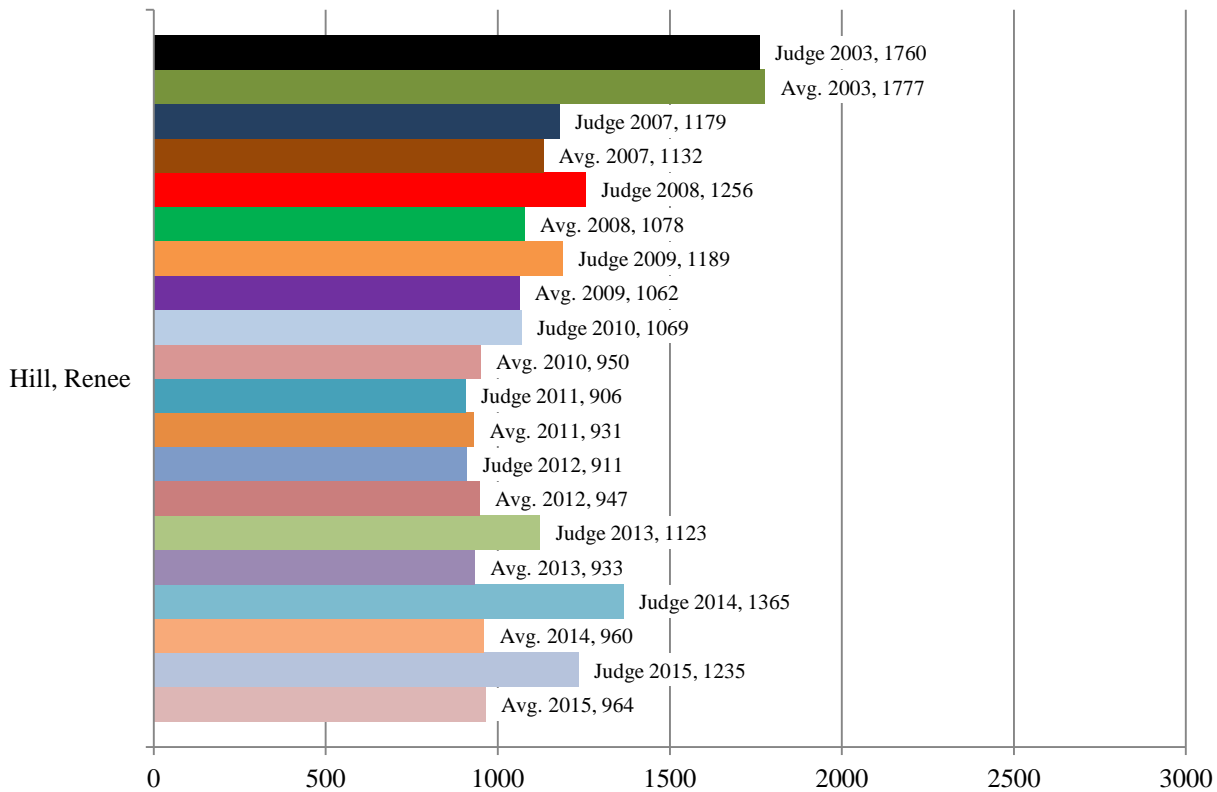
Judge Hill is a member of the National Association of Workers’ Compensation Judiciary, and a member of two Inns of Court: the E. Robert Williams Inn in Jacksonville, and the Judge William Wieland Inn in Orlando. Judge Hill served on a judicial panel addressing effective practice and procedure presented by the Workers’ Compensation Section of the Orange County Bar. She also presented lectures entitled “Daubert for Judges,” “How to Practice More Effectively: Rules, Procedure, and Perfecting the Daubert Challenge,” and “Daubert for the Workers’ Compensation Practitioner.”

Stuart Suskin is a regular lecturer at the University of Florida Levin College of Law Mediation class, as well as a provider for mediation students to observe and shadow a mediator conducting one or more live mediations. He is a board member of The Forum Seminar and the Professional Mediation Institute Program, and regular lecturer at each program. Stuart has been the President of the “Conference of State Mediators” for over 10 years.

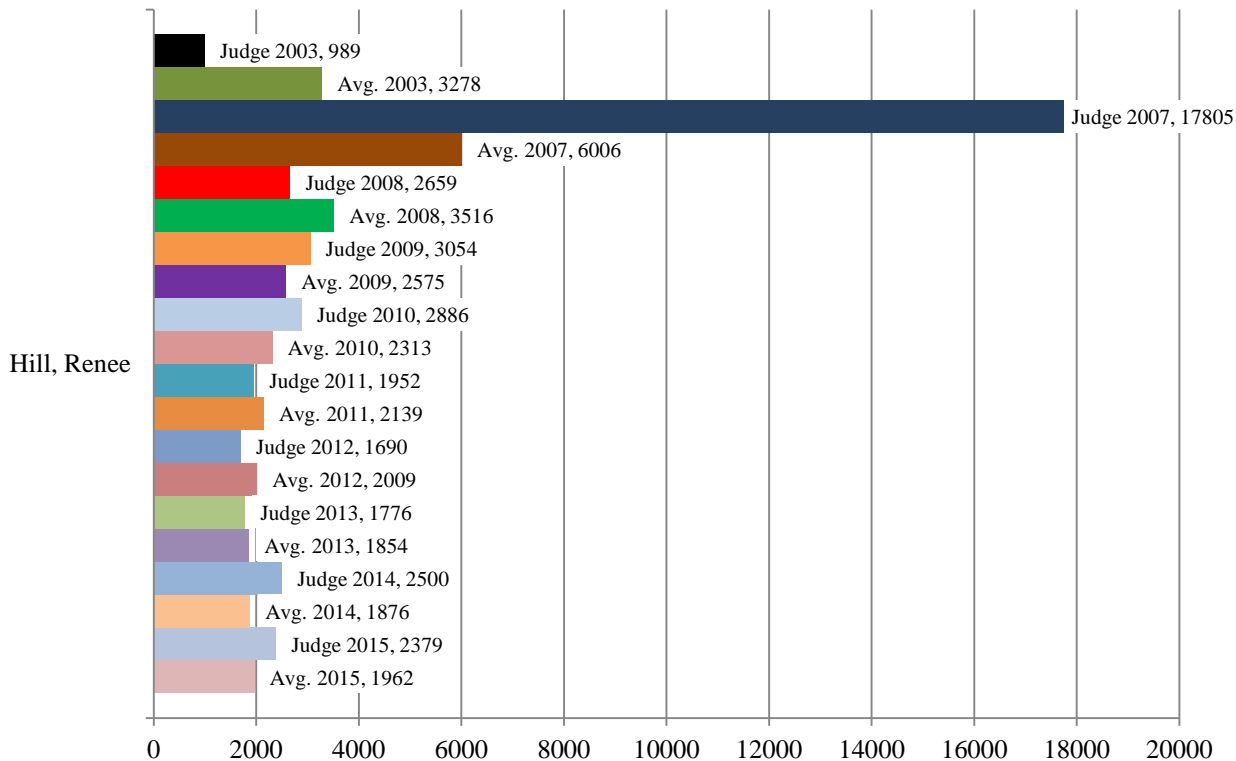
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



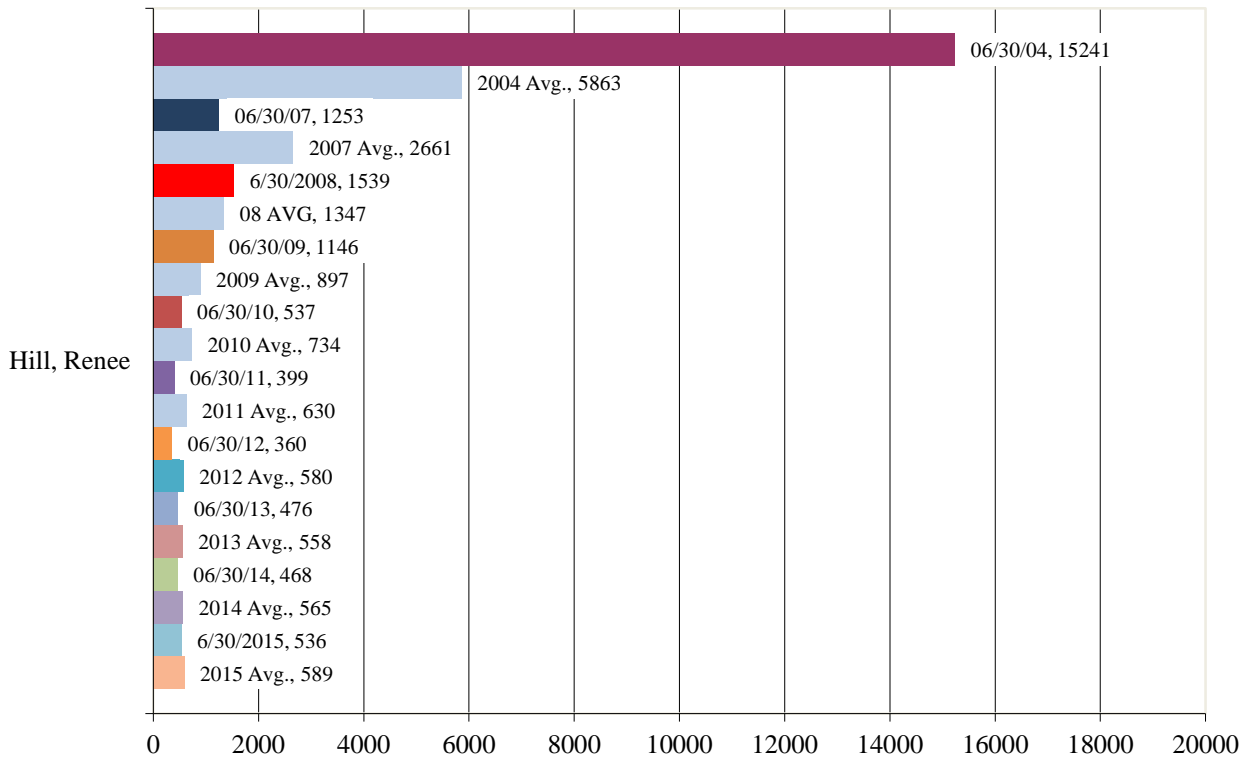
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



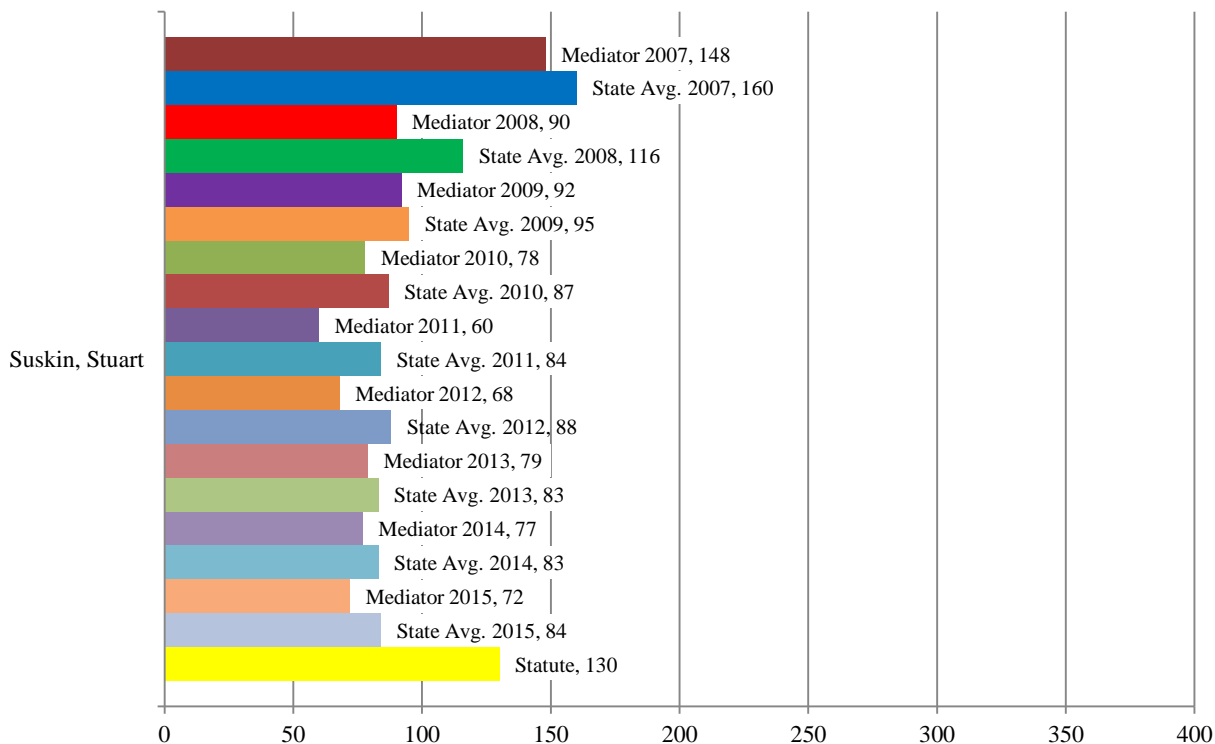
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



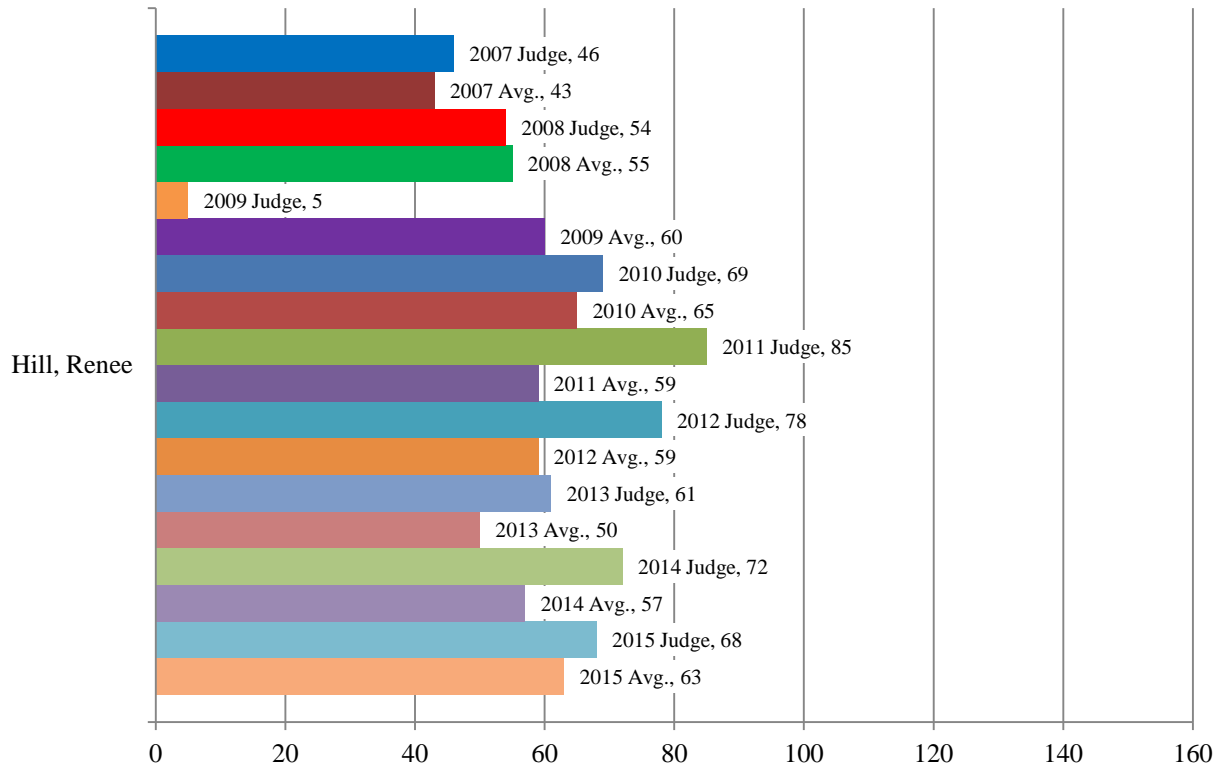
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2014-15 (2003-04 is also provided for historical reference). The identification and values for each year are in each bar label.



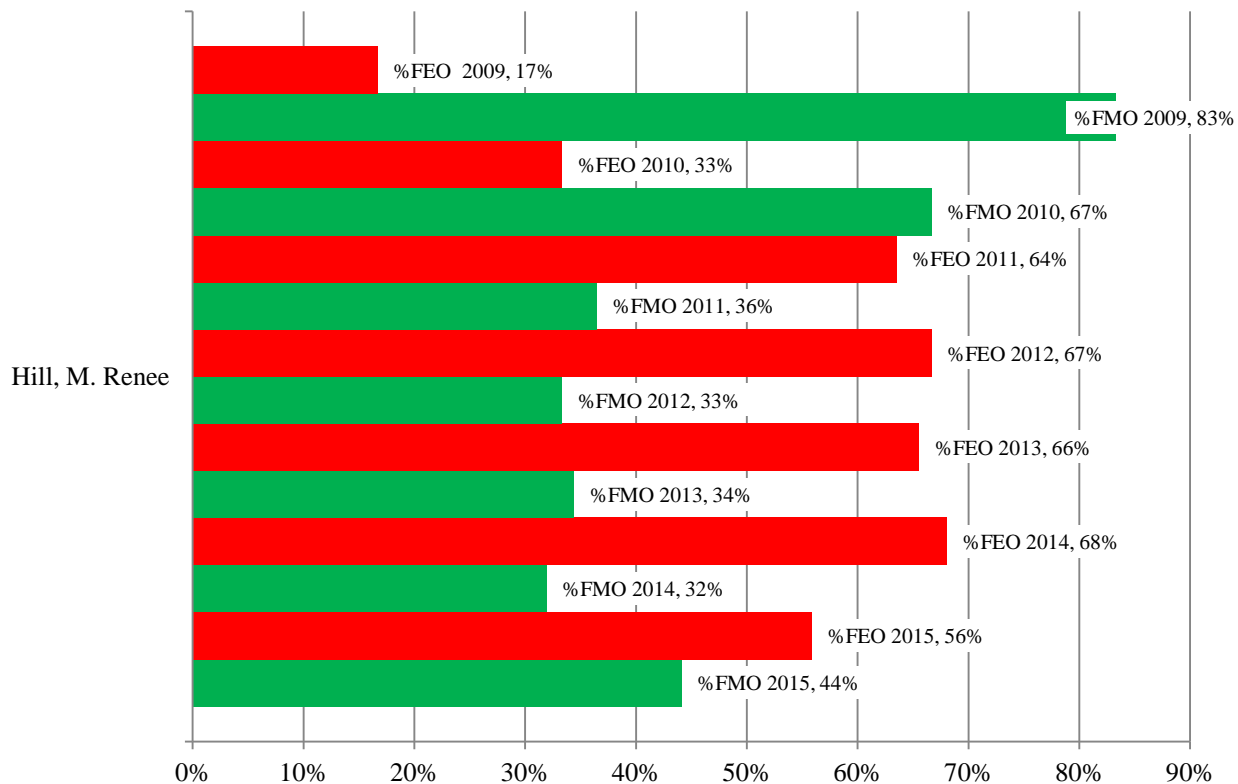
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



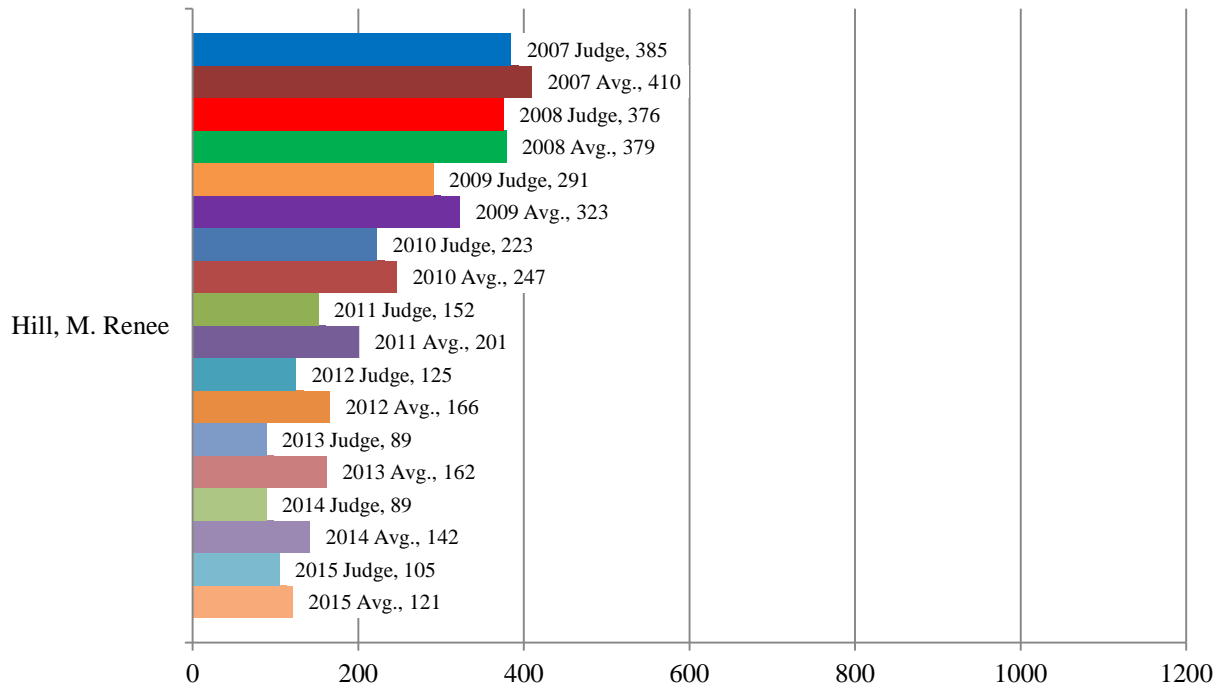
The following graph depicts the total volume of trial orders¹²¹ uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



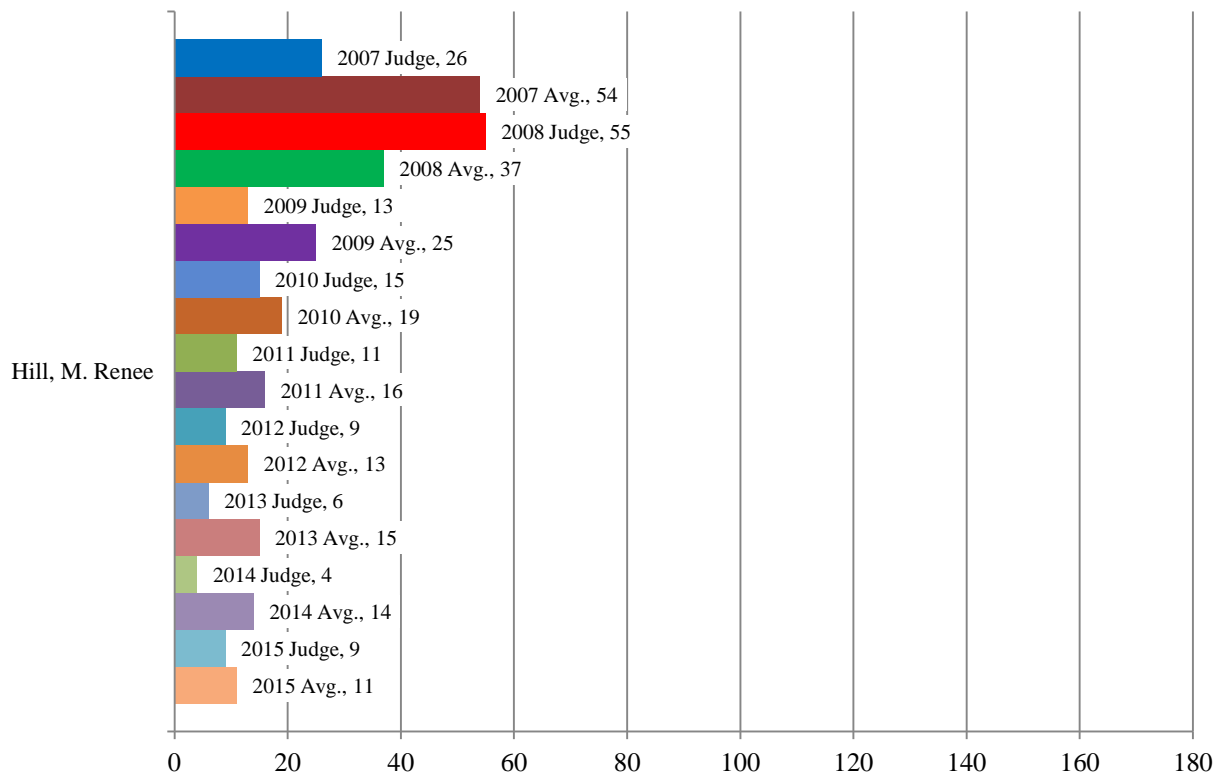
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



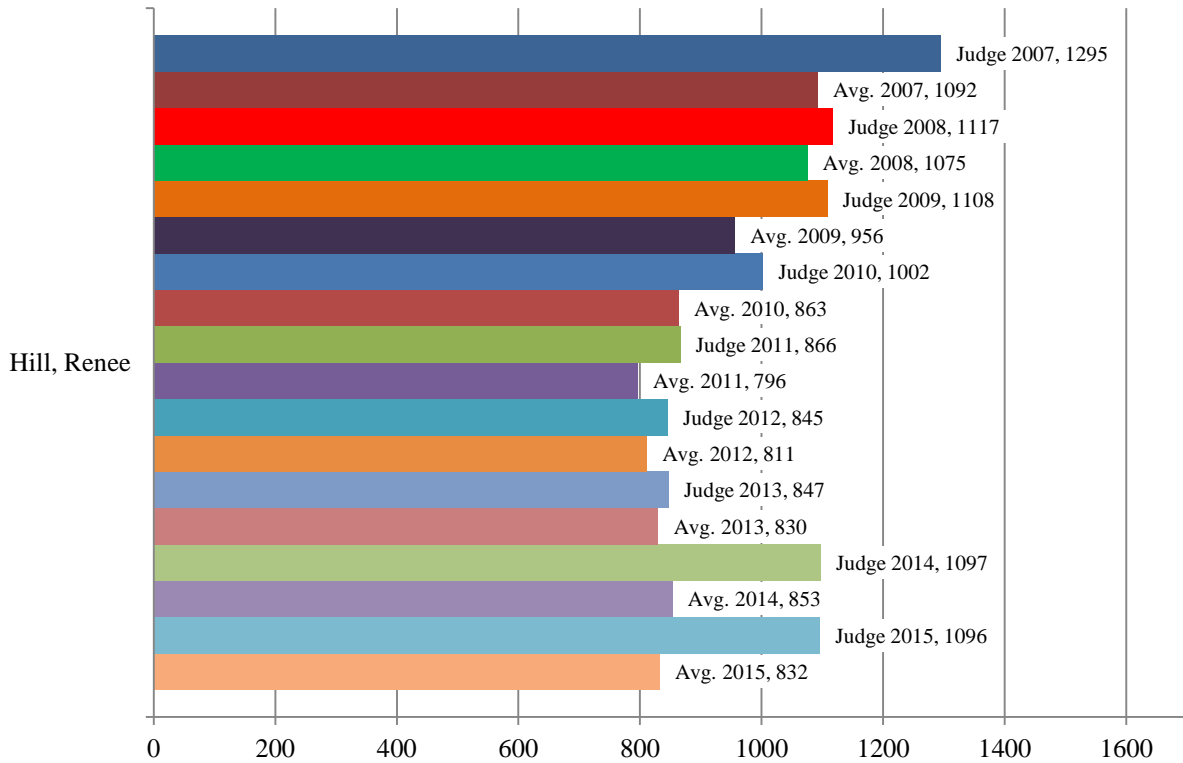
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



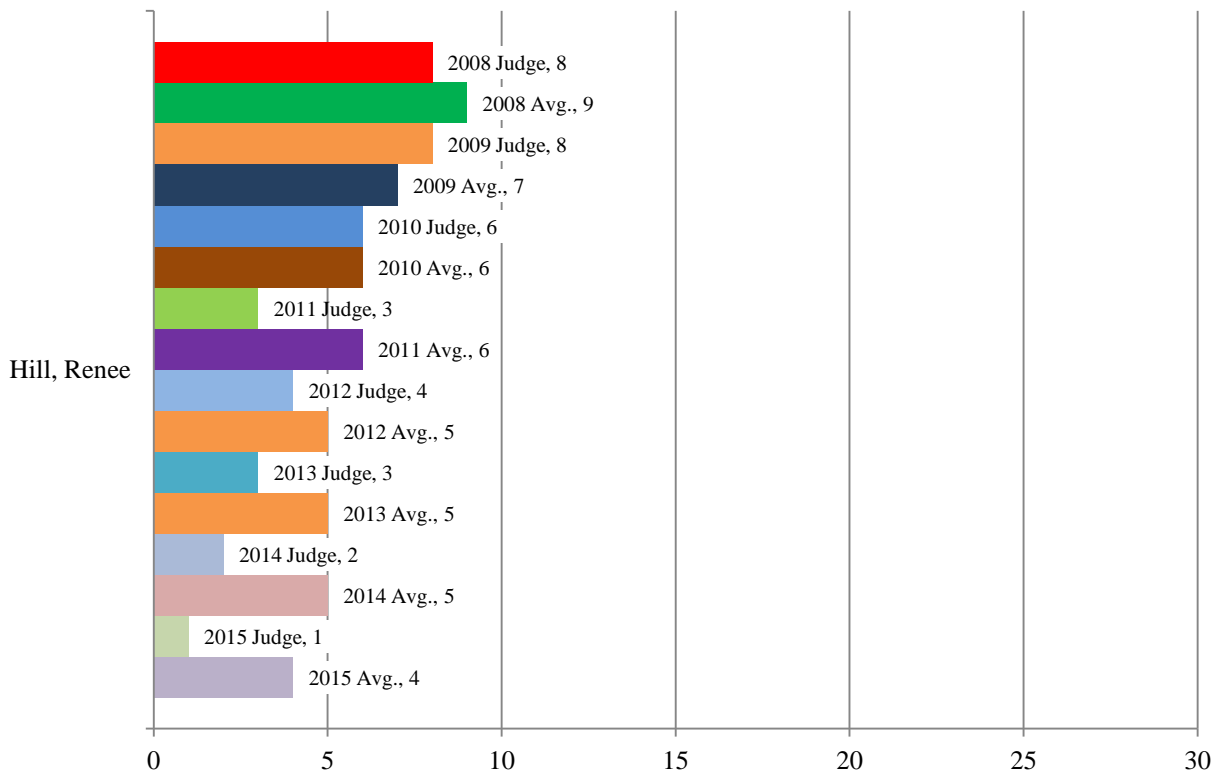
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



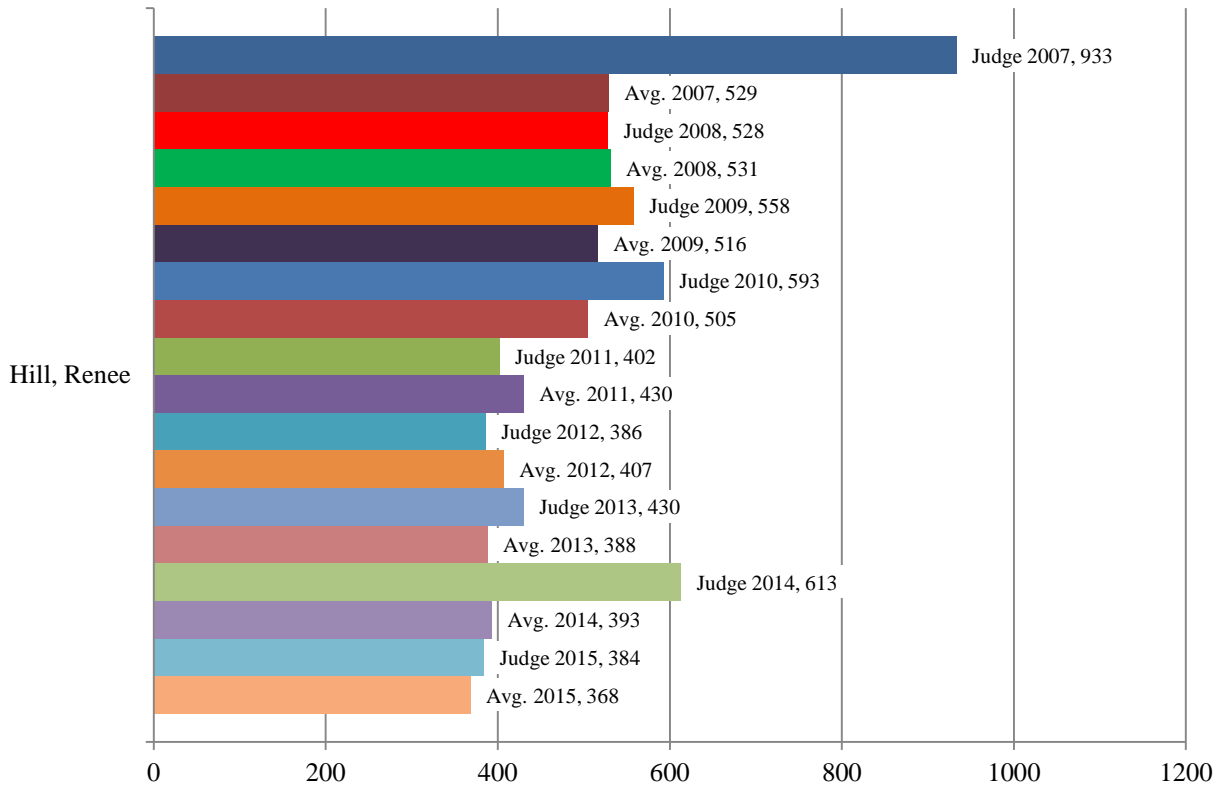
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



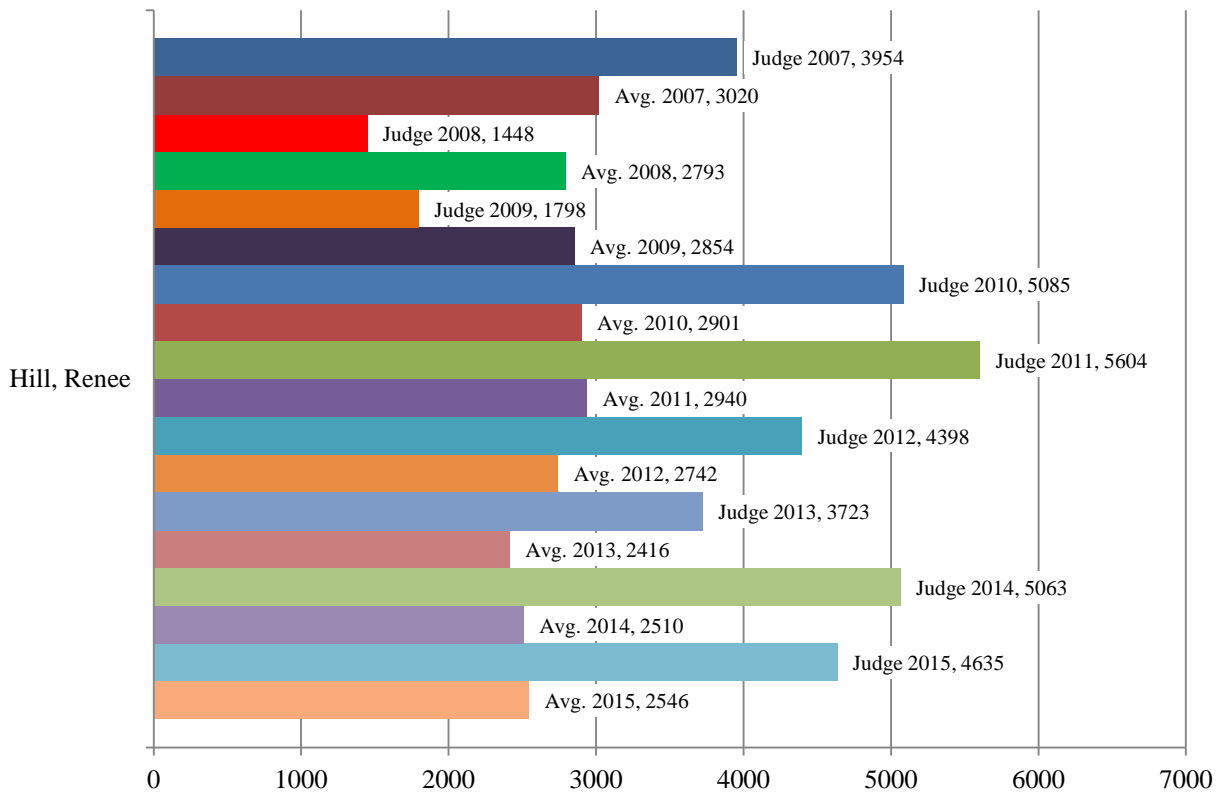
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



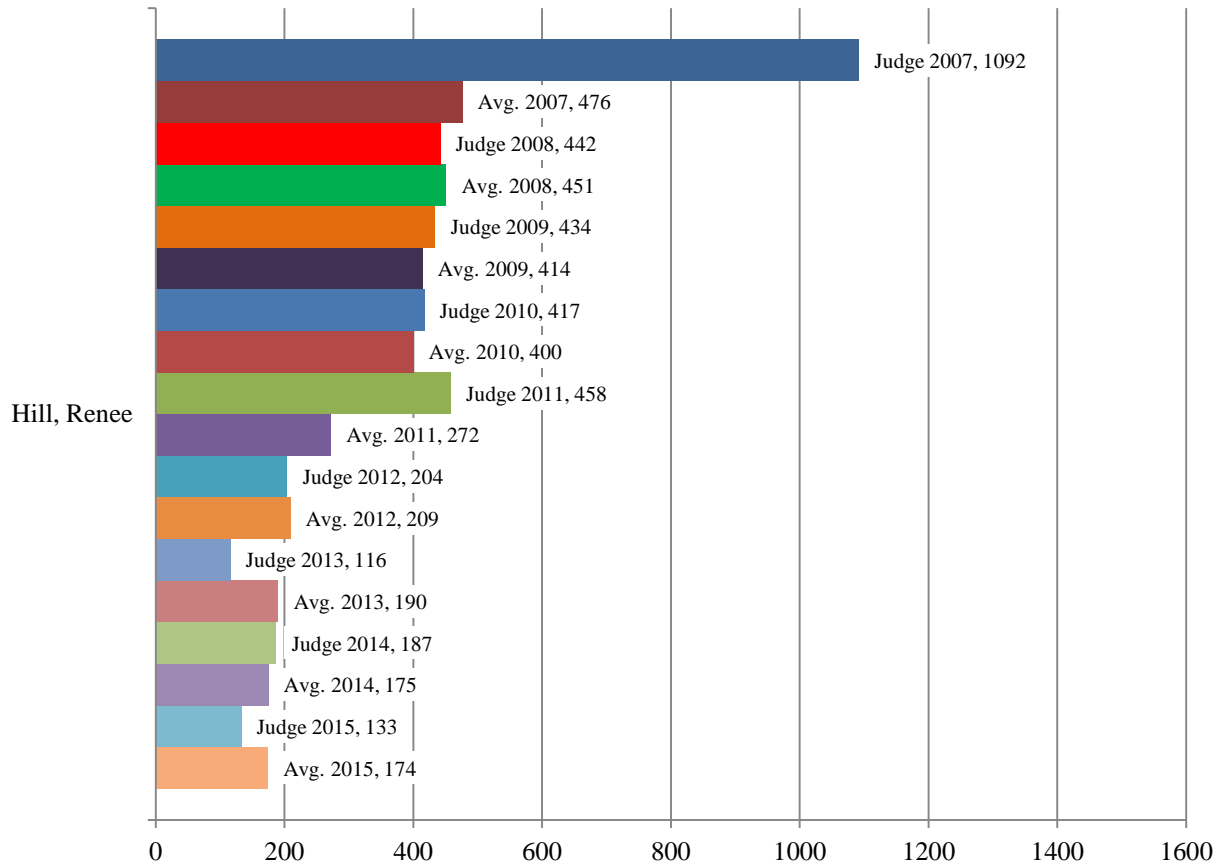
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2006-07 and 2014-15. 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 the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



Gainesville District Office on West 34th Street

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

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

District JAX remains a stable environment in 2014-15. 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. Each was reappointed in 2015.

The volume of PFBs in District JAX has been reasonably consistent in recent years. It is notable that Judge Humphries’ 2013-14 PFB volumes were markedly higher than 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 divisions in JAX are well above average in their new case volumes in 2014-15 and that has been very consistent over recent years. 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 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, but that moderated some in 2014-15; Judge Humphries’ volumes were markedly above average in each of the last two fiscal years. 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.

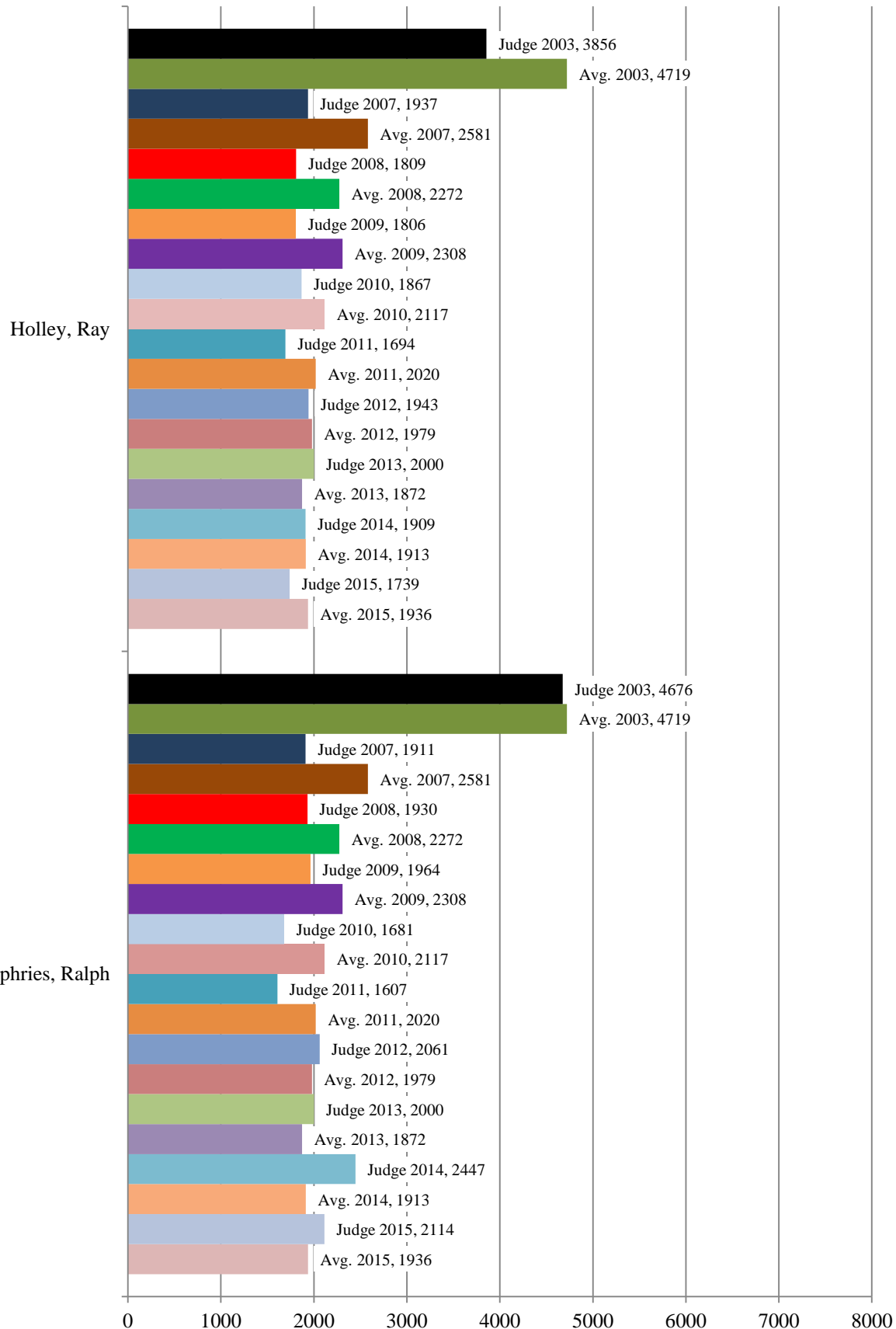
Judge Holley completed his second term as President of the E. Robert Williams Inns of Court where the Inn was again awarded the highest distinction of a Platinum Designation by the American Inns of Court. Under his leadership, the Inns successfully hosted for the first time the Northeast Florida Joint Meeting of the American Inns of Court. He further completed his service as a Member-at-Large of the JCC Conference (two terms 2011-2015) and the Workers Compensation Rules Advisory Committee (2009-2015). Judge Holley continues to serve his community and profession through his involvement with the Inn of Court’s Executive Committee, Friends of 440 Scholarship Fund, Florida Bar Voluntary Bar Liaison Committee, Jacksonville Bar Association (JBA) Appellate and Professionalism Committees, Temporary Loan Closet – Independent Living Center Advisory Board, the Stetson University Alumni Association Board of Directors as President-Elect, and the Rotary Club of Southpoint. During the past year, Judge Holley was a judicial panelist for the JBA Professionalism Symposium, faculty member of the WC Trial Advocacy Seminar, and a moot court judge for the Earle Zehmer Moot Court Competition.

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 Judicial Demeanor at the Tennessee Workers’ Compensation Conference. Judge Humphries served as a Judge at the 2014 Earle Zehmer Moot Court Competition.

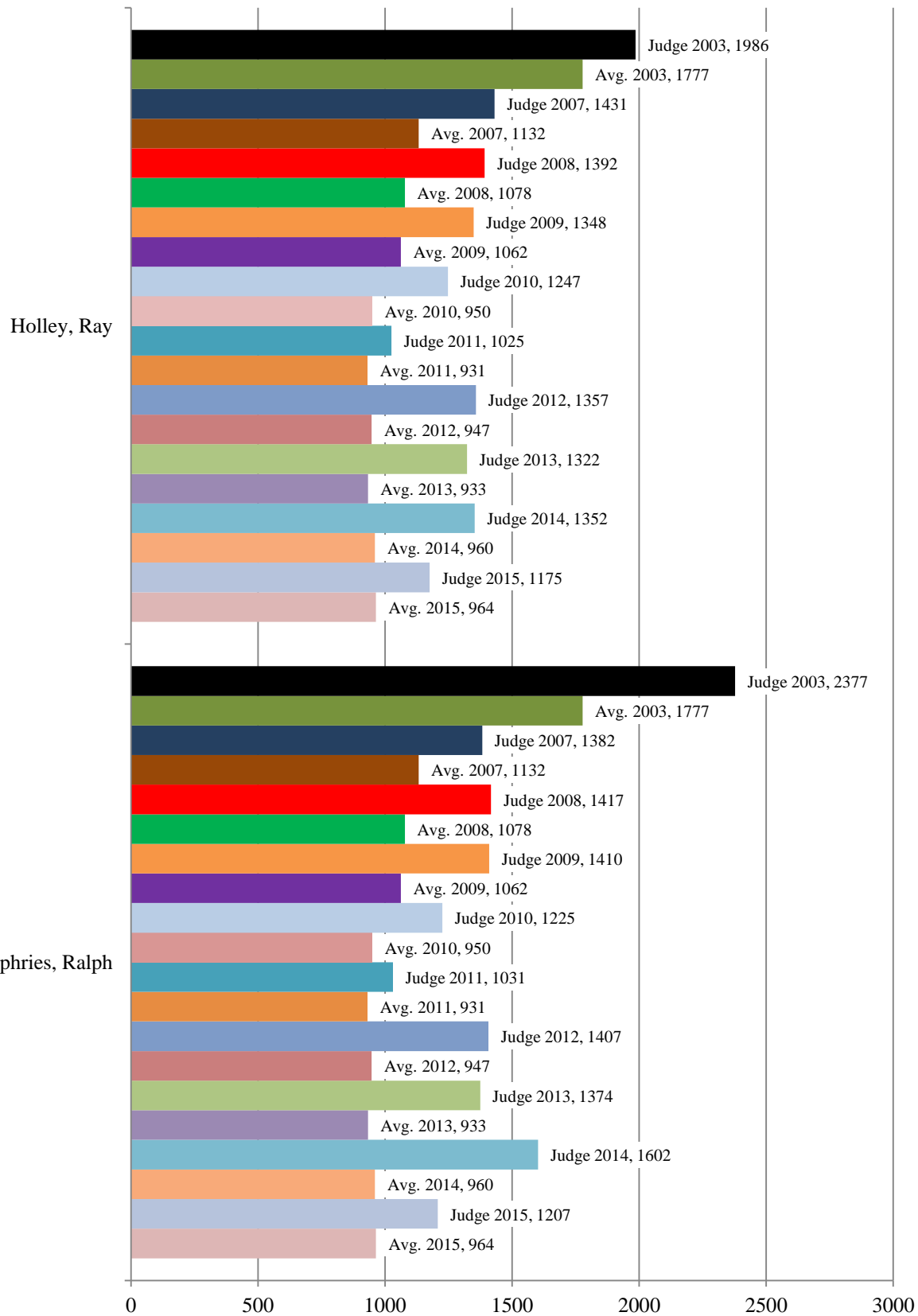
State mediator Kahlil Day continues to serve as a Florida Bar grievance mediator and as a member of the Grievance Mediation and Fee Arbitration Committee. Kahlil also continues as a Barrister member of Phi Delta Phi, an honorary member of the E. Robert Williams American Inns of Court, a Fellow of the Royal Society for the Encouragement of the Arts, and as a Life Fellow of the American Bar Foundation. During this past year Kahlil had published in WCI 360, with Alan Gordon, *Florida Workers Compensation Mediation: Facilitation of an Evaluative Process*.

Mediator Alan M. Gordon was the recipient of the 2014 John J. Schickel Professionalism Award. The Schickel Award is given annually by the E. Robert Williams Inns of Court and it is the Inn’s highest honor that is bestowed on its members. Alan was the chair of the committee responsible for the fourth annual joint meeting of the northeast Florida Inns of Court that had over 280 members in attendance from six area Inns. During the past year Alan published in the Professional Mediation Institute newsletter, with Mediator Kahlil Day, *Florida Workers Compensation Mediation: Facilitation of an Evaluation Process*. Alan continues to hold an AV rating from Martindale-Hubbell and is a Past President and honorary member of the E. Robert Williams Inns of Court.

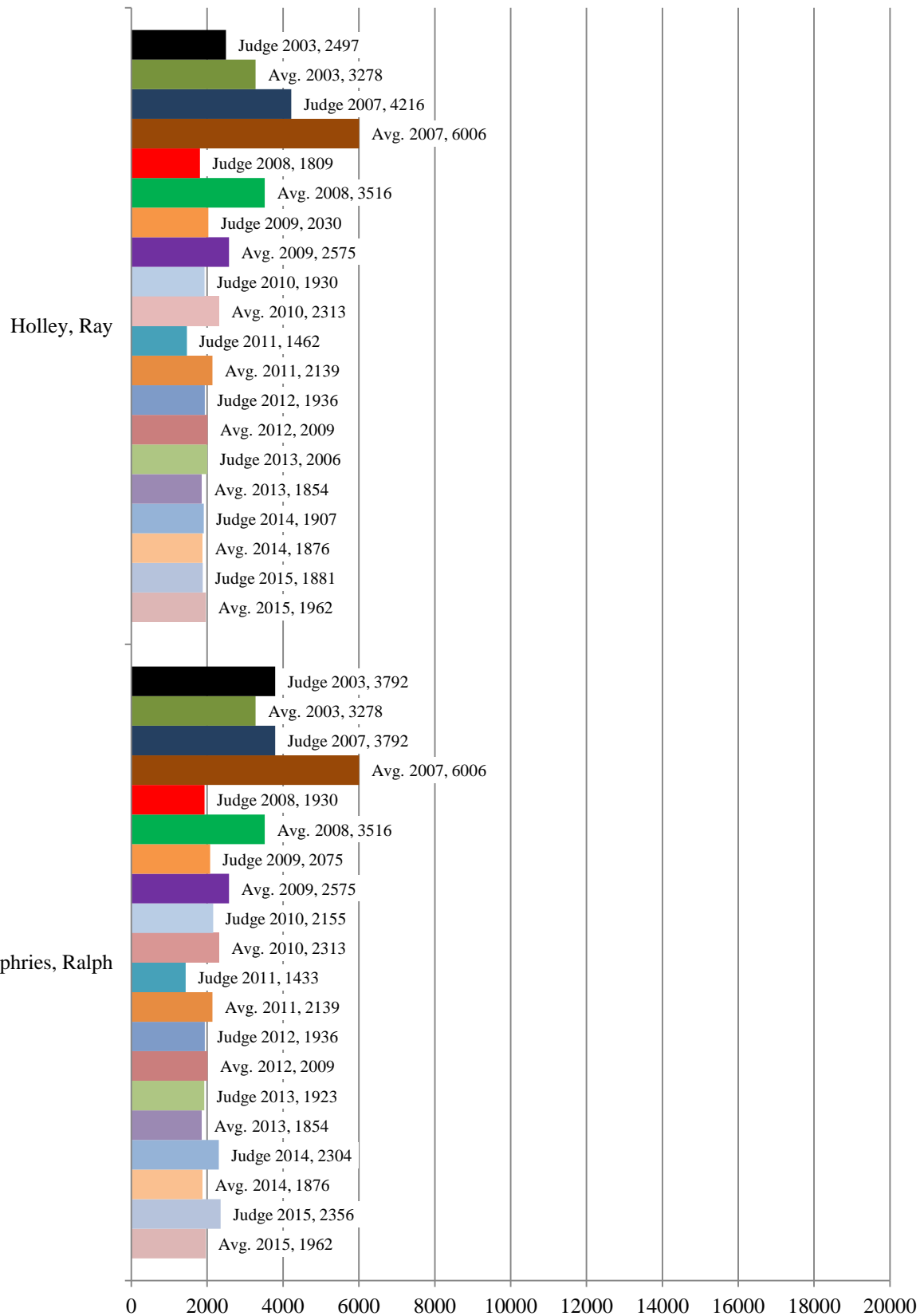
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



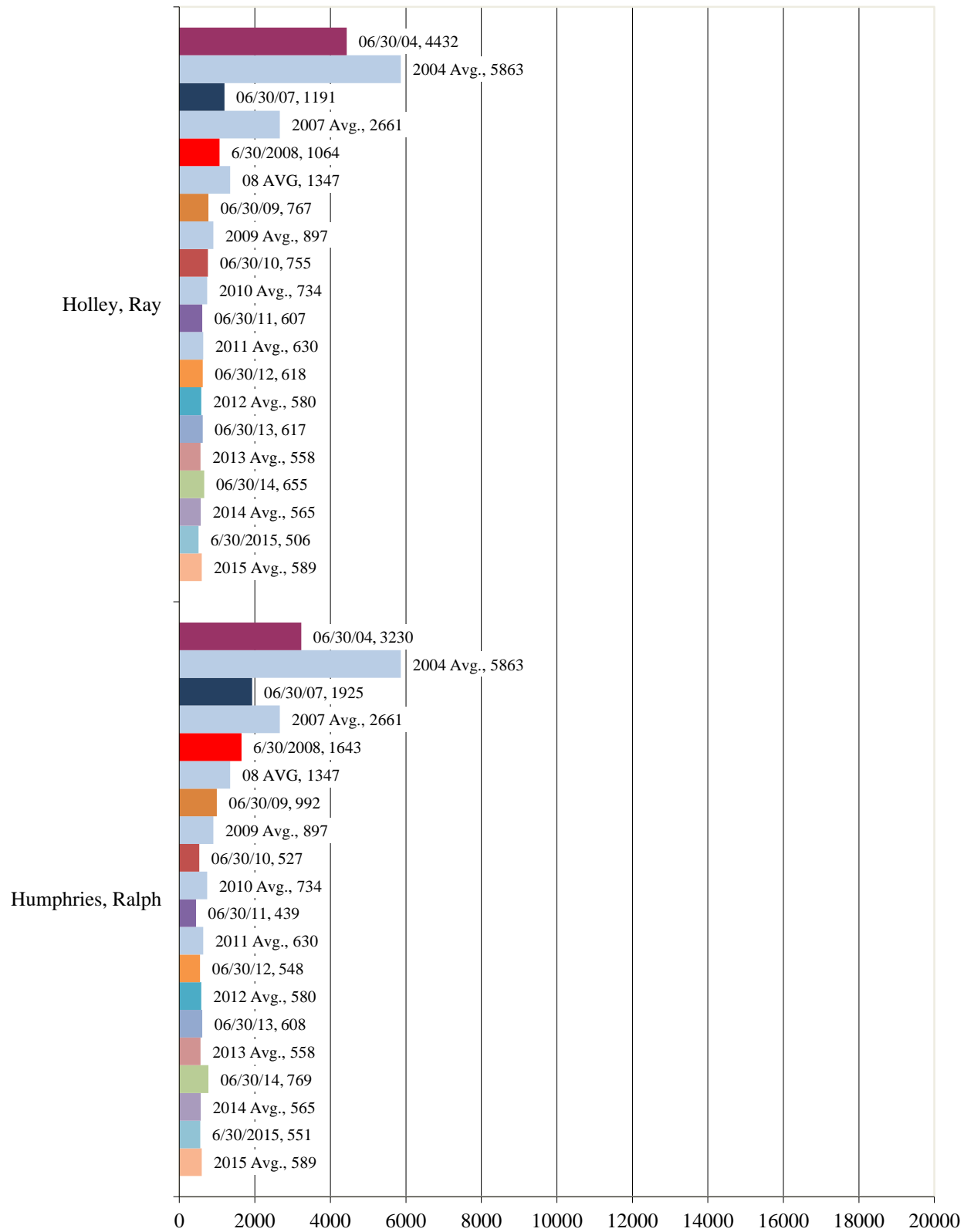
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



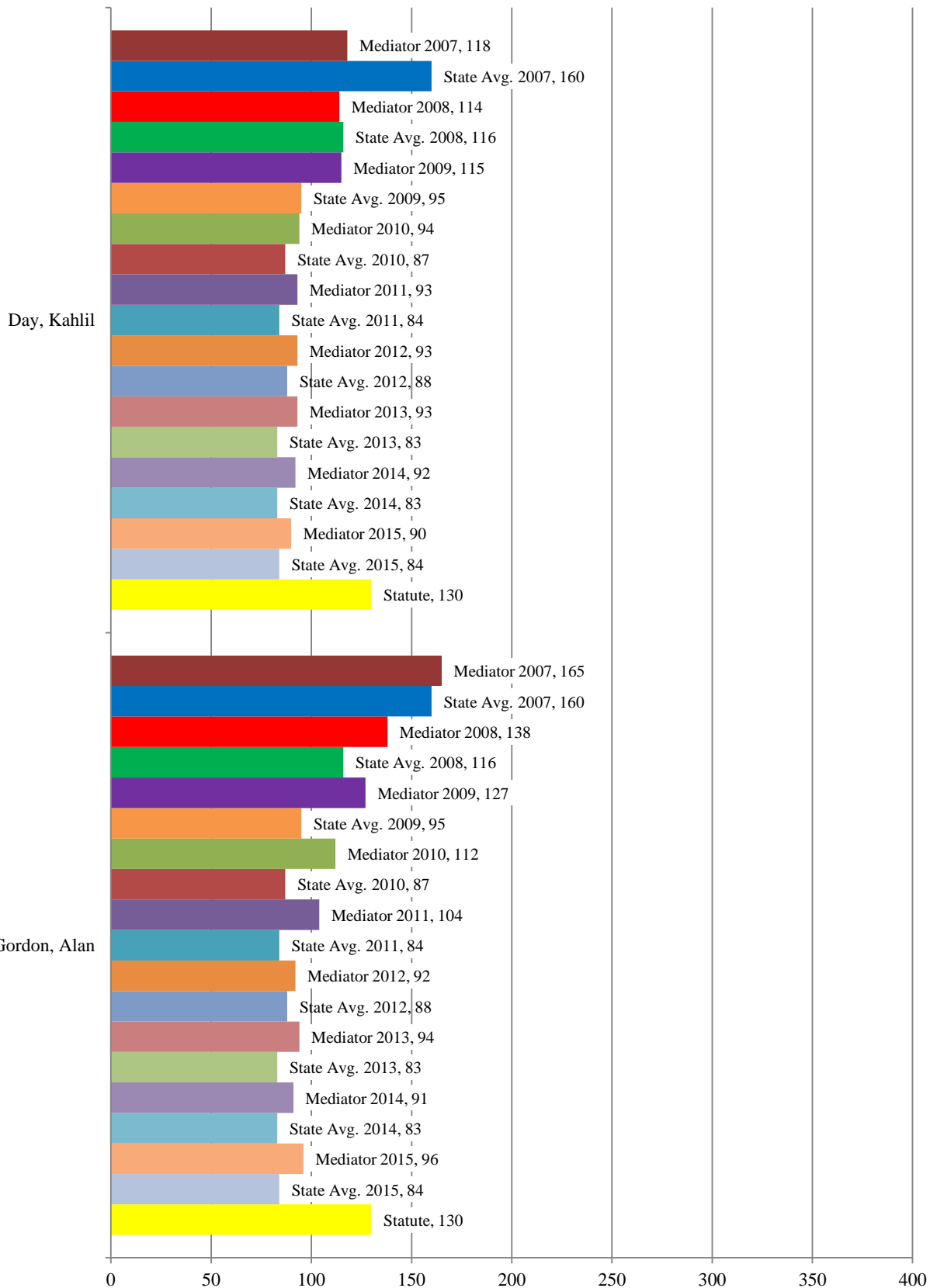
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



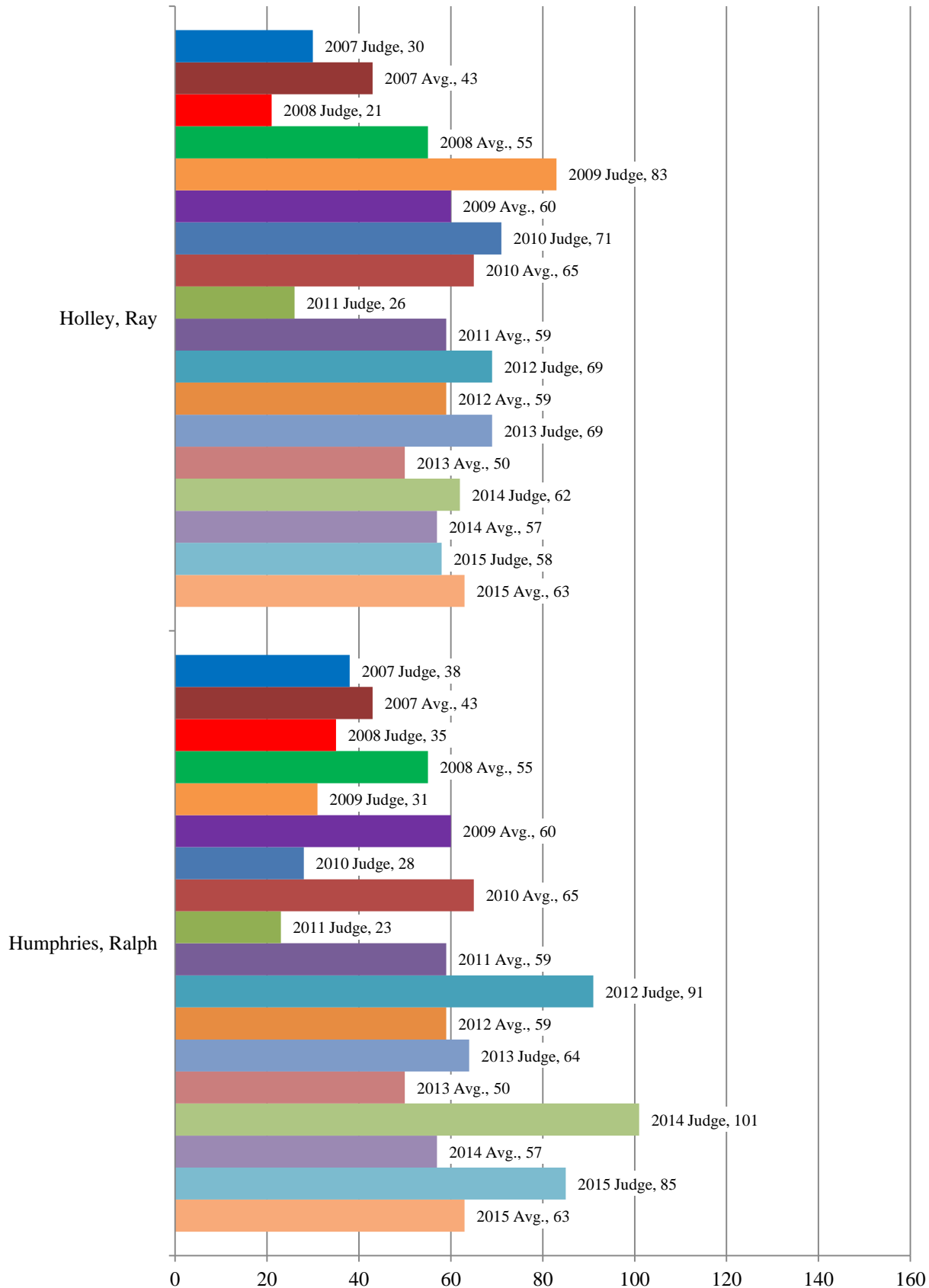
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2014-15 (2003-04 is also provided for historical reference). The identification and values for each year are in each bar label.



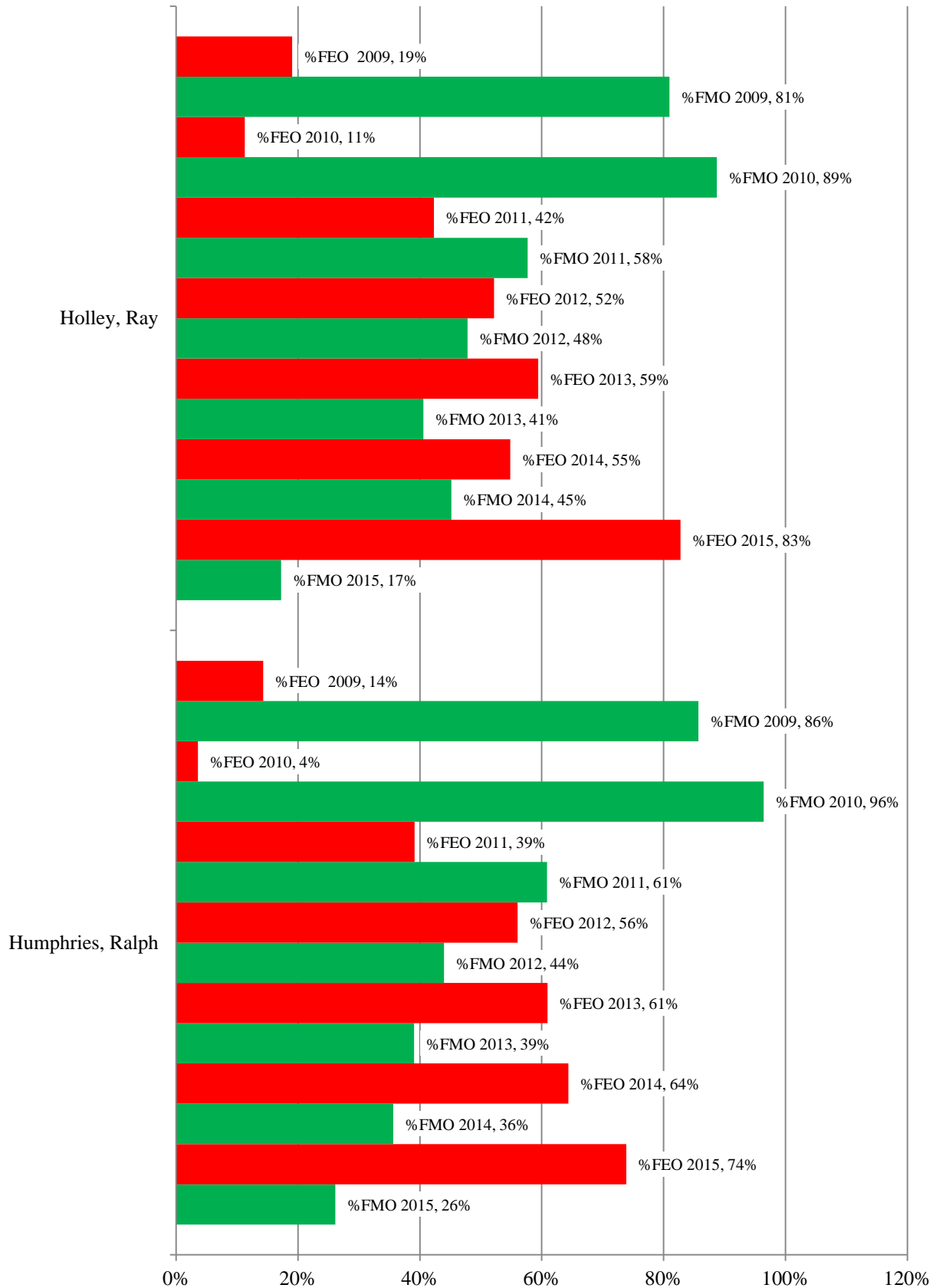
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



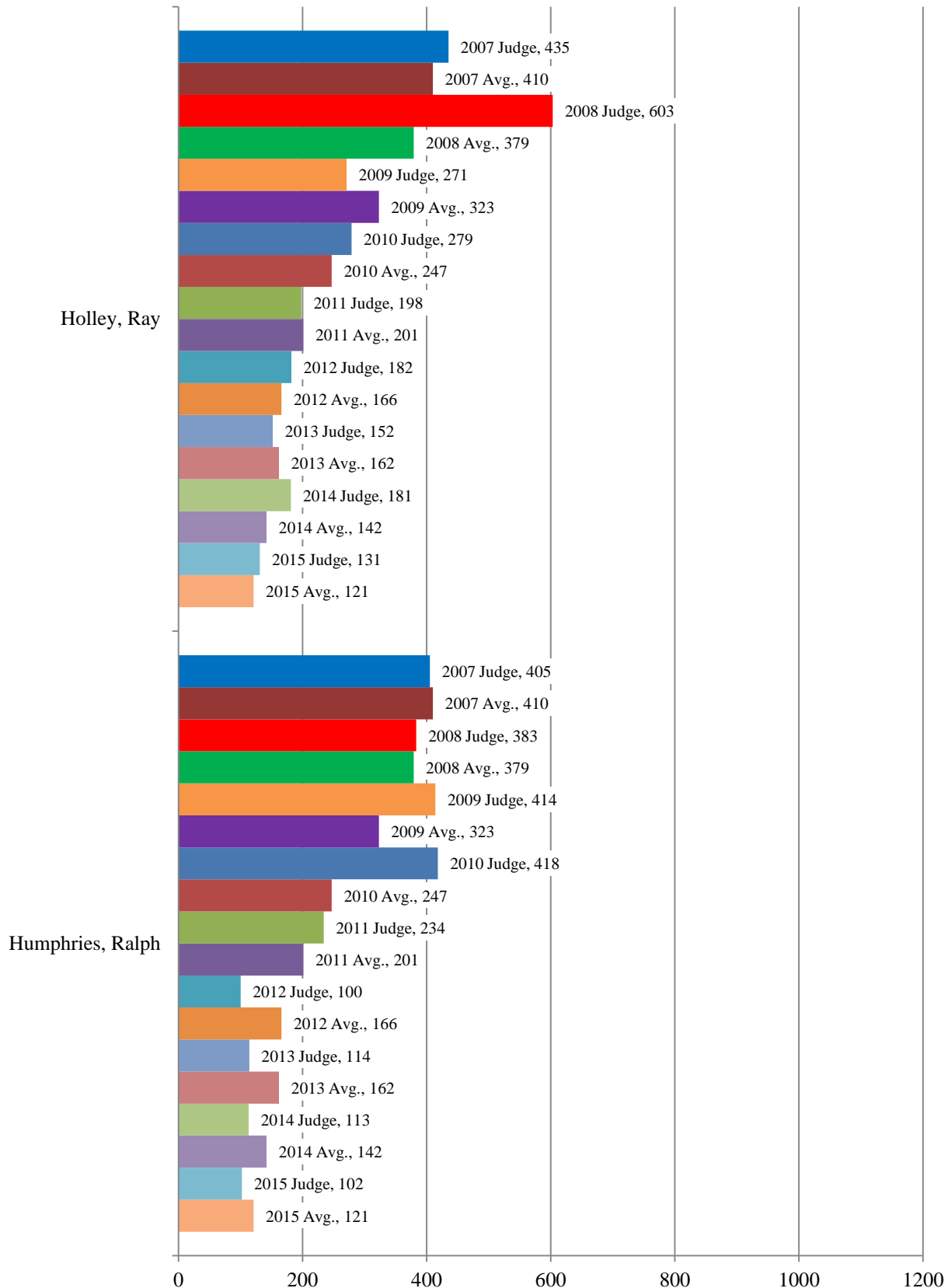
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



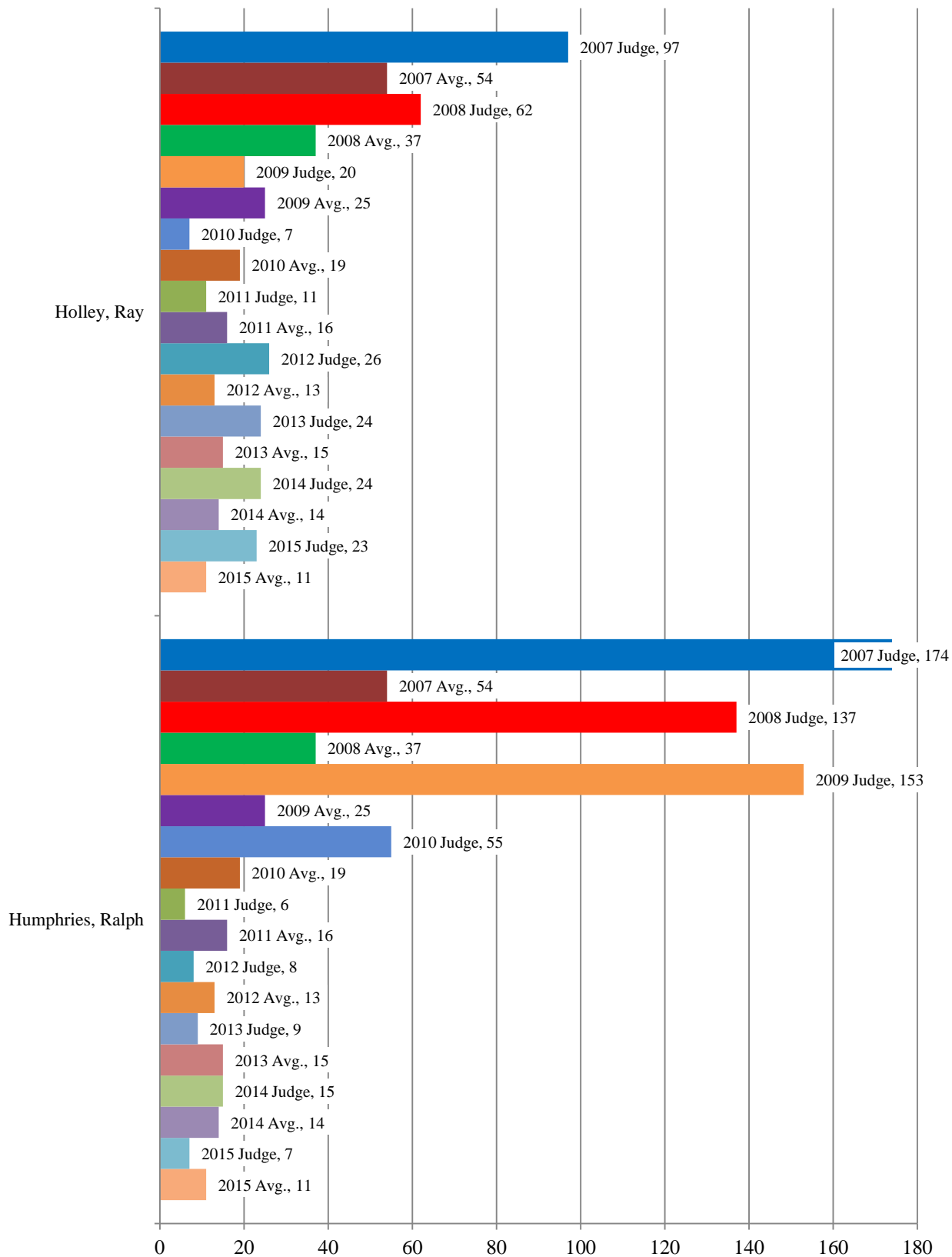
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



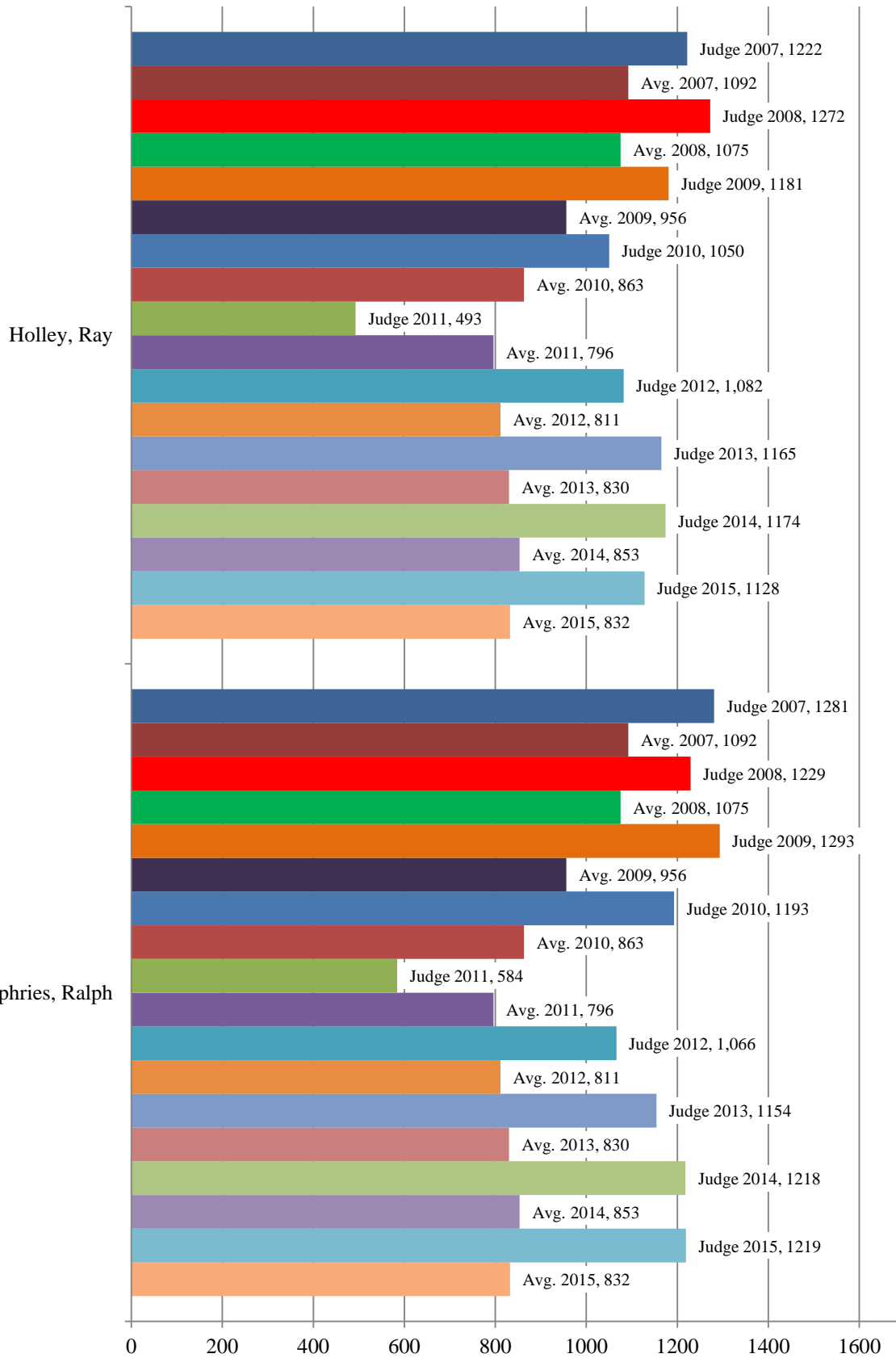
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



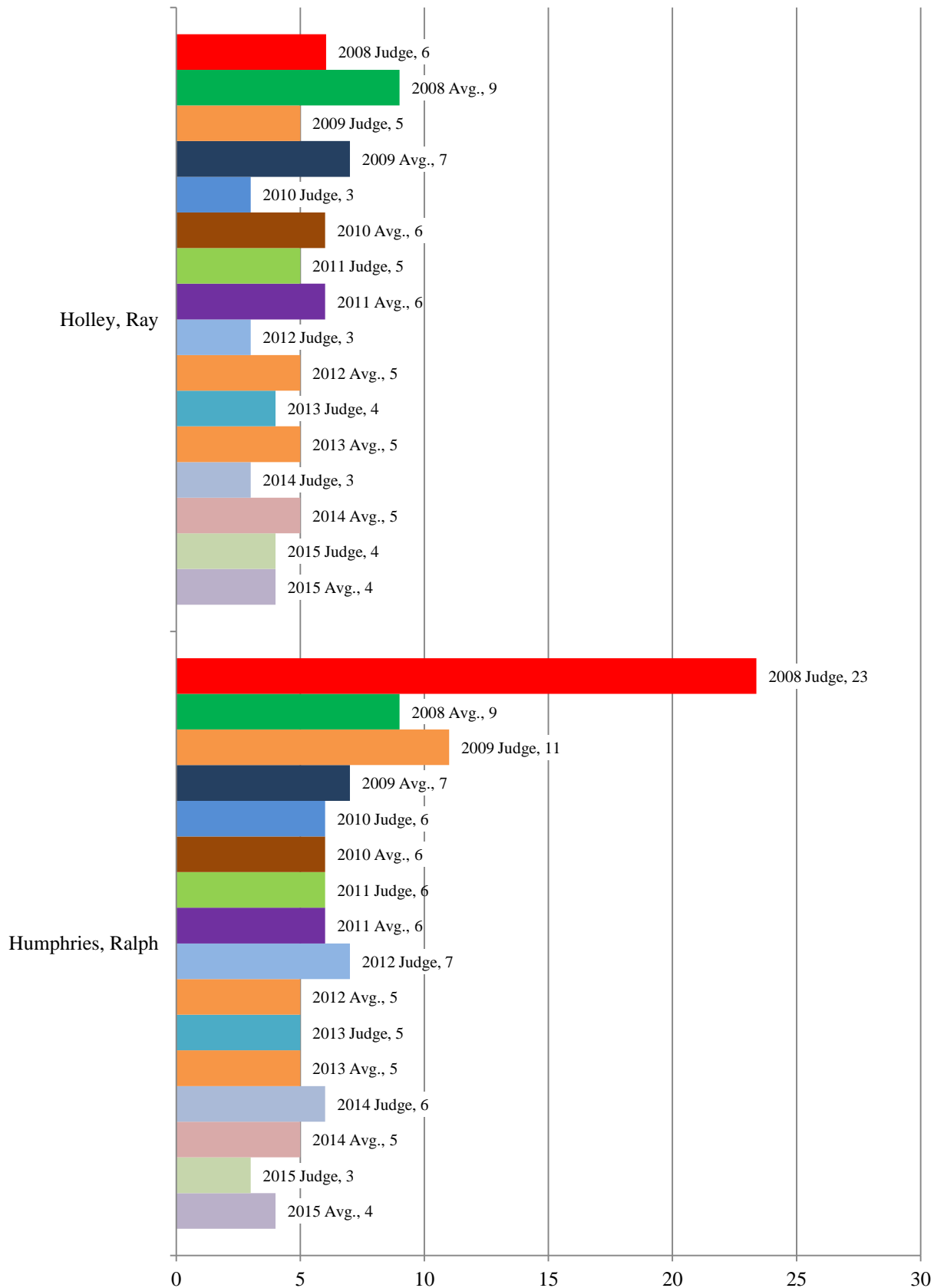
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



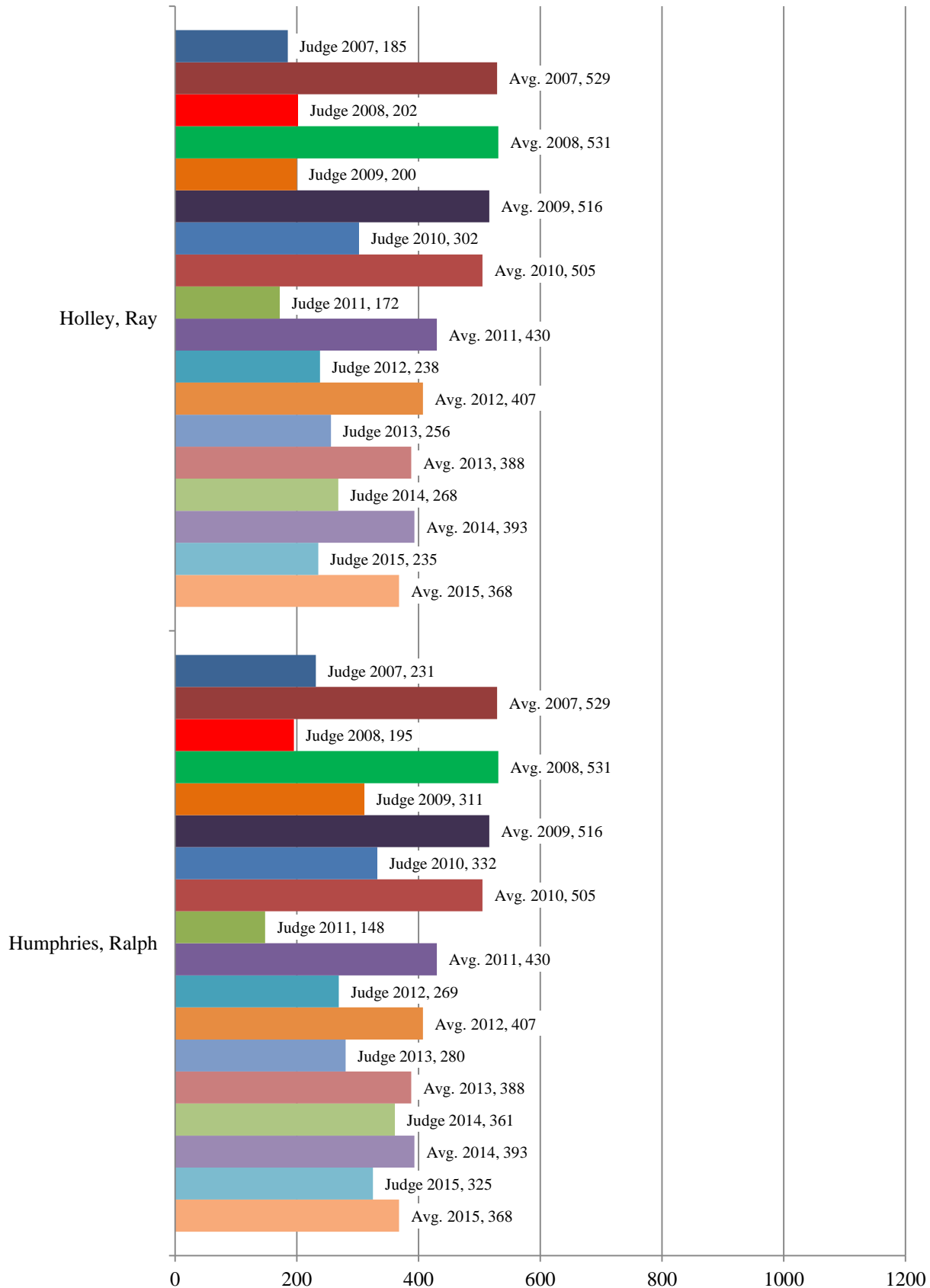
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



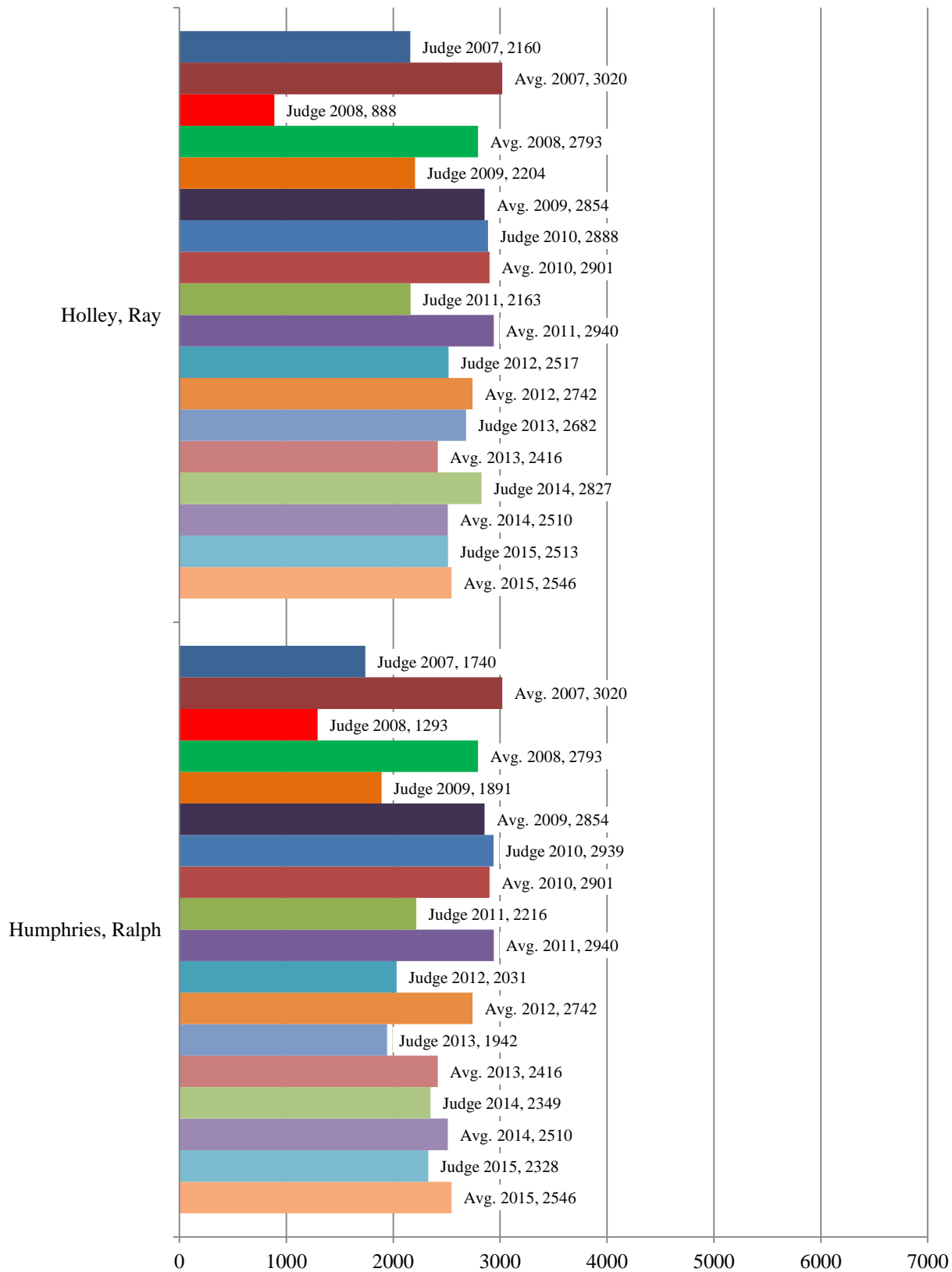
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



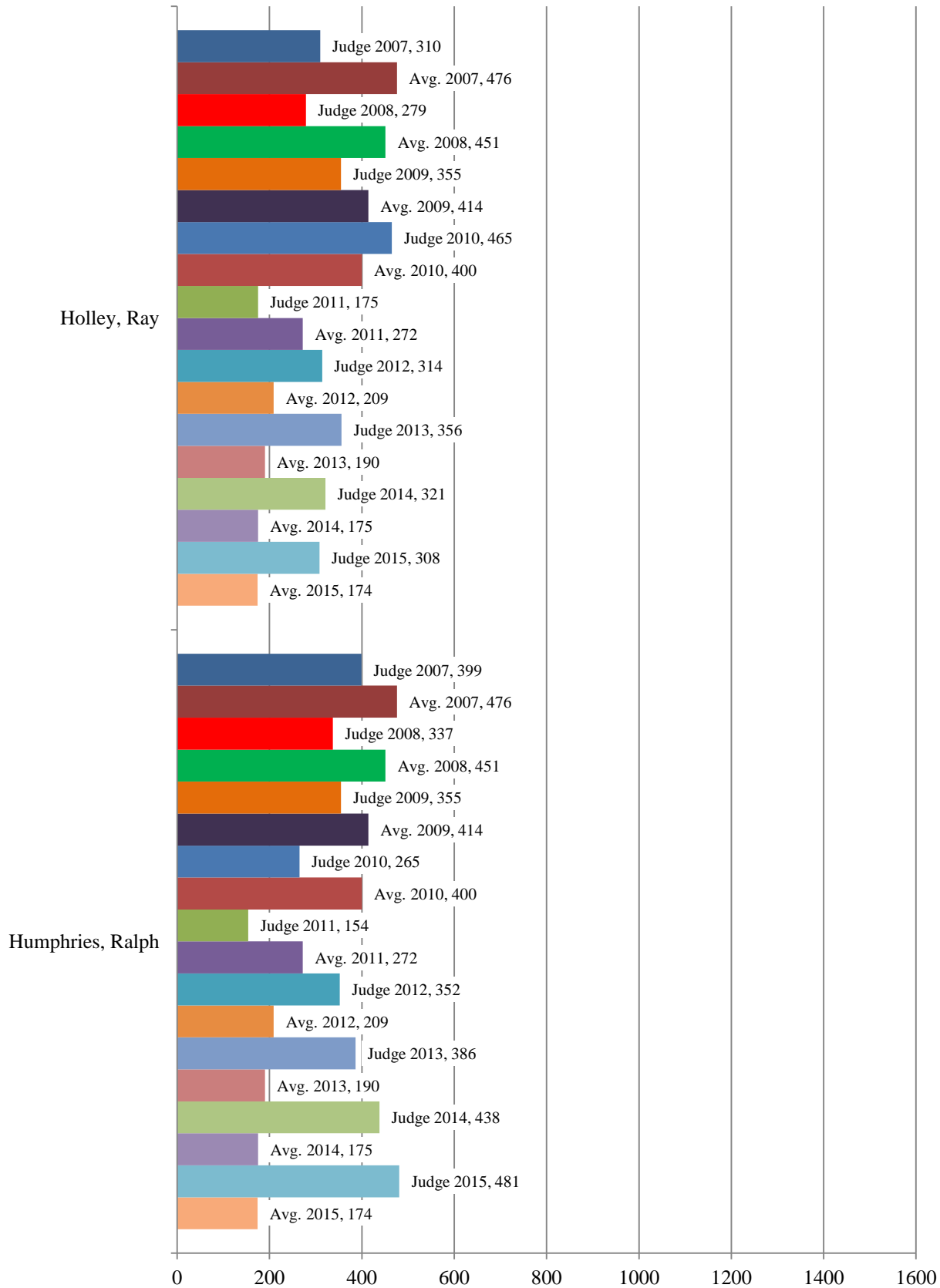
The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



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 2014-15. 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 2014-15. 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 PFB filing volumes in LKL have moderated in recent years, and maintained very close to the statewide averages for both Petitions and “new cases” again in 2014-15. The PFB closure and filing volumes are consistent, demonstrating that this District remains 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. In these respects, Lakeland is a notably average district. The trial volumes, however, are above the statewide average, and have been consistently.

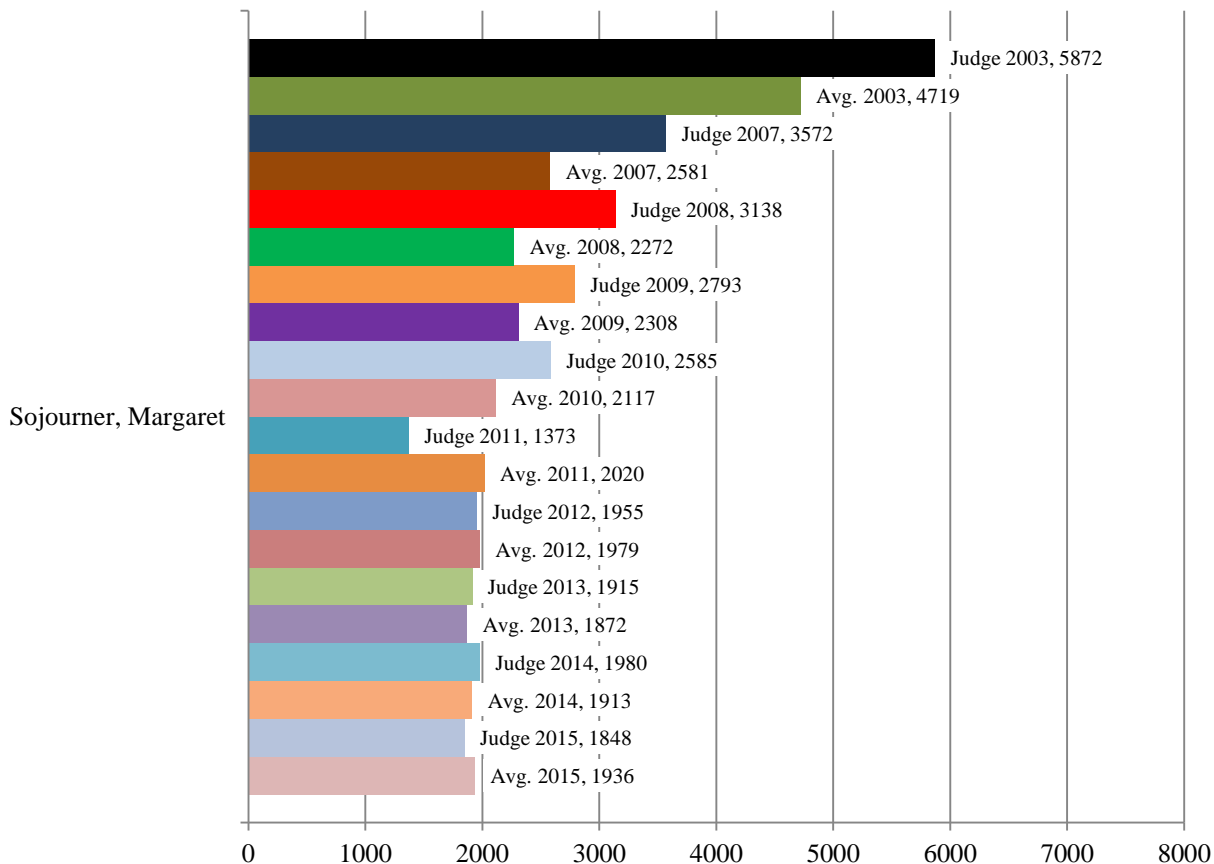
The volume of mediations conducted in District LKL has increased in recent years. When the Florida Legislature reduced OJCC positions by four mediators in the 2012 session, the LKL office was selected for elimination of a mediator position based upon the OJCC ability to cover that commitment with mediator Rob Arthur from District SPT performing in both District LKL and STP. As volumes increased, his assignment was changed to District LKL.

Notably, the Lakeland workload at one time required the contributions of multiple out-of-district judges. That has become unnecessary during Judge Sojourner’s tenure. Judge Sojourner has brought stability and self-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.

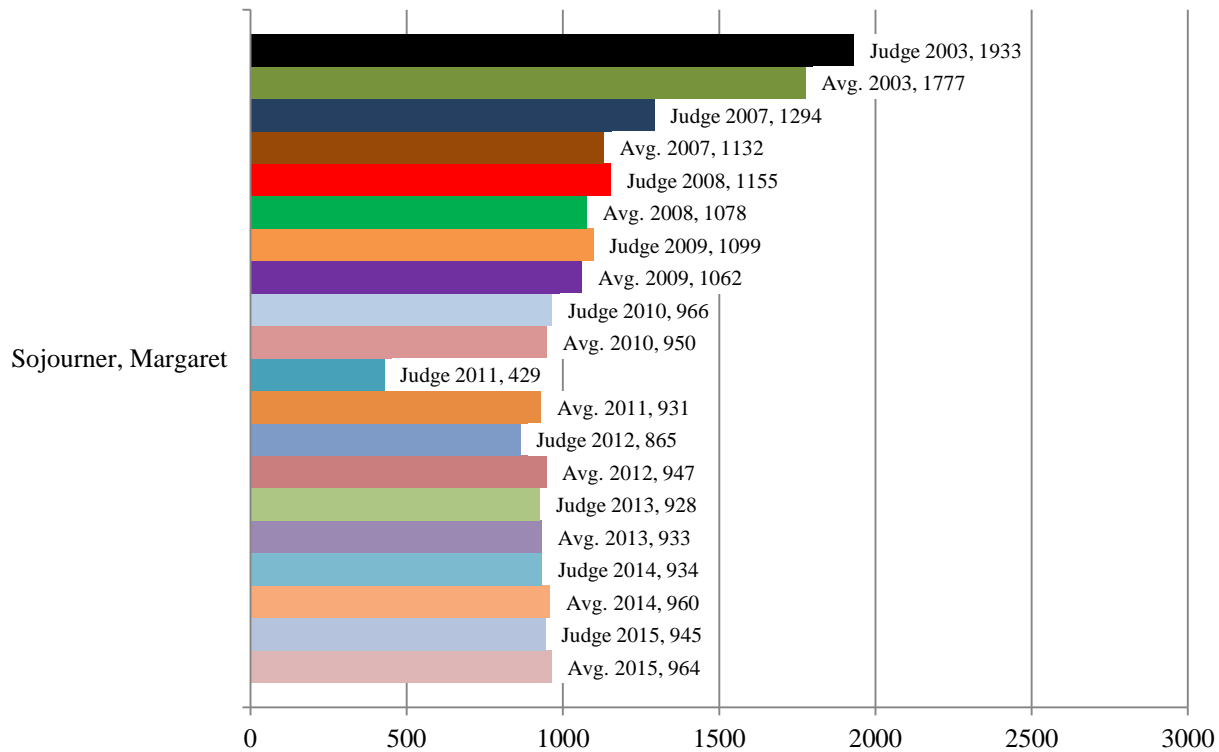
District LKL was relocated in 2014-15. The move was only a few blocks to a new building, but the change is tremendous. This was the last OJCC office in Florida that did not have all operations in a secure setting, behind armed security personnel. The LKL office was arranged with mediation occurring in a different suite. That has been alleviated with the new premises and the OJCC is now 100% secure.

In 2014-15, Judge Sojourner wrote an article regarding pretrial procedure for the News and 440 Report. She presented on an ethics panel at the National Association of Workers’ Compensation Judiciary at the annual Judicial College. Judge Sojourner also serves on the membership committee of the Judge William Wieland Inns of Court.

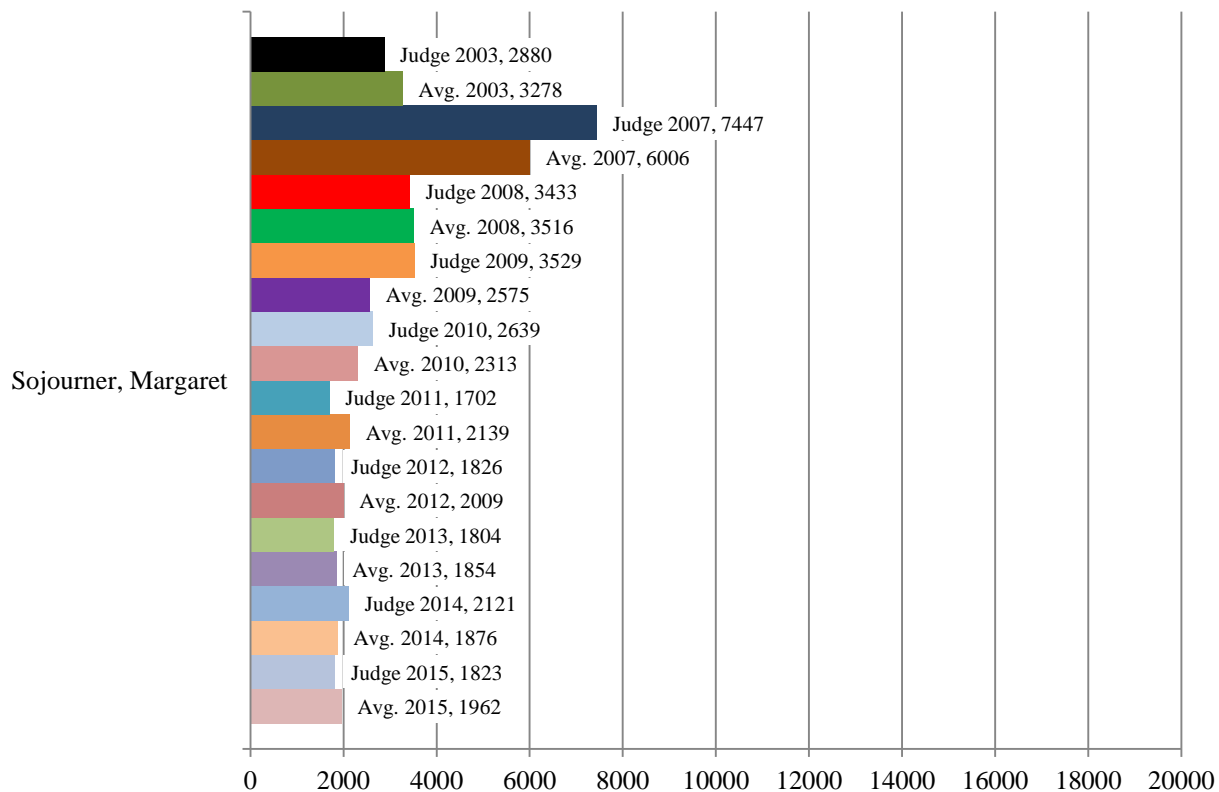
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



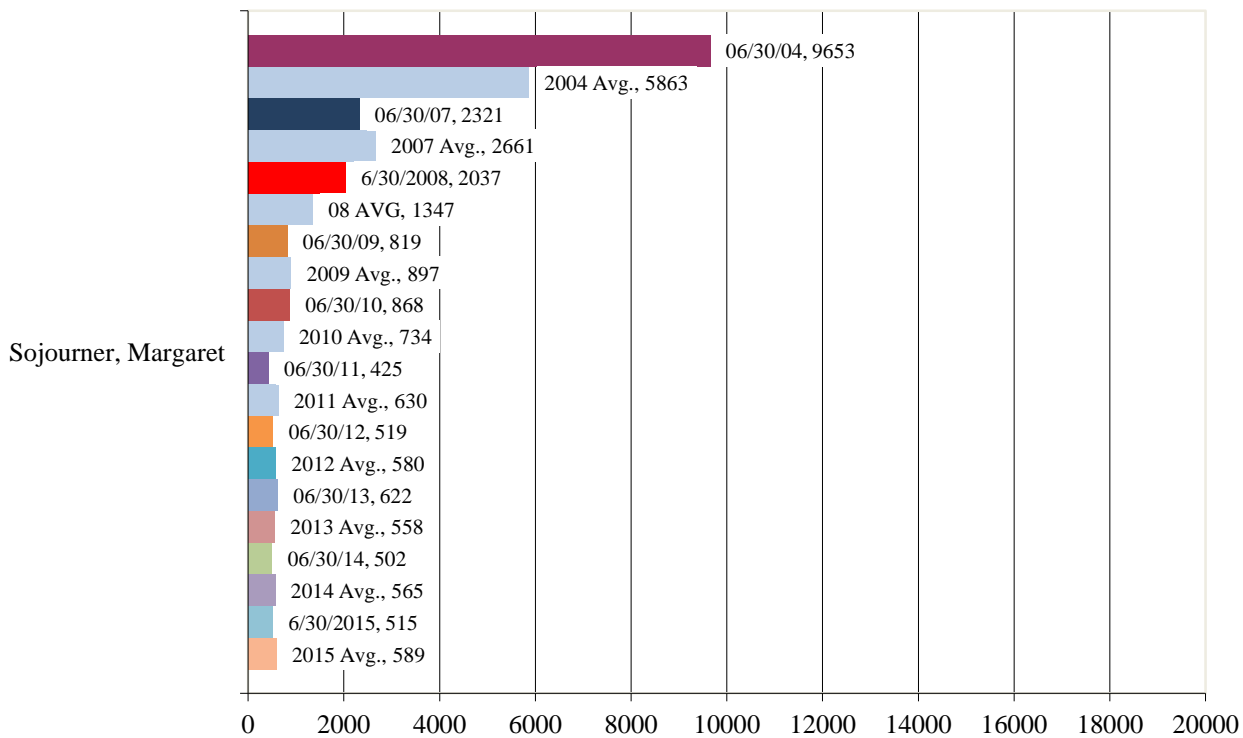
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



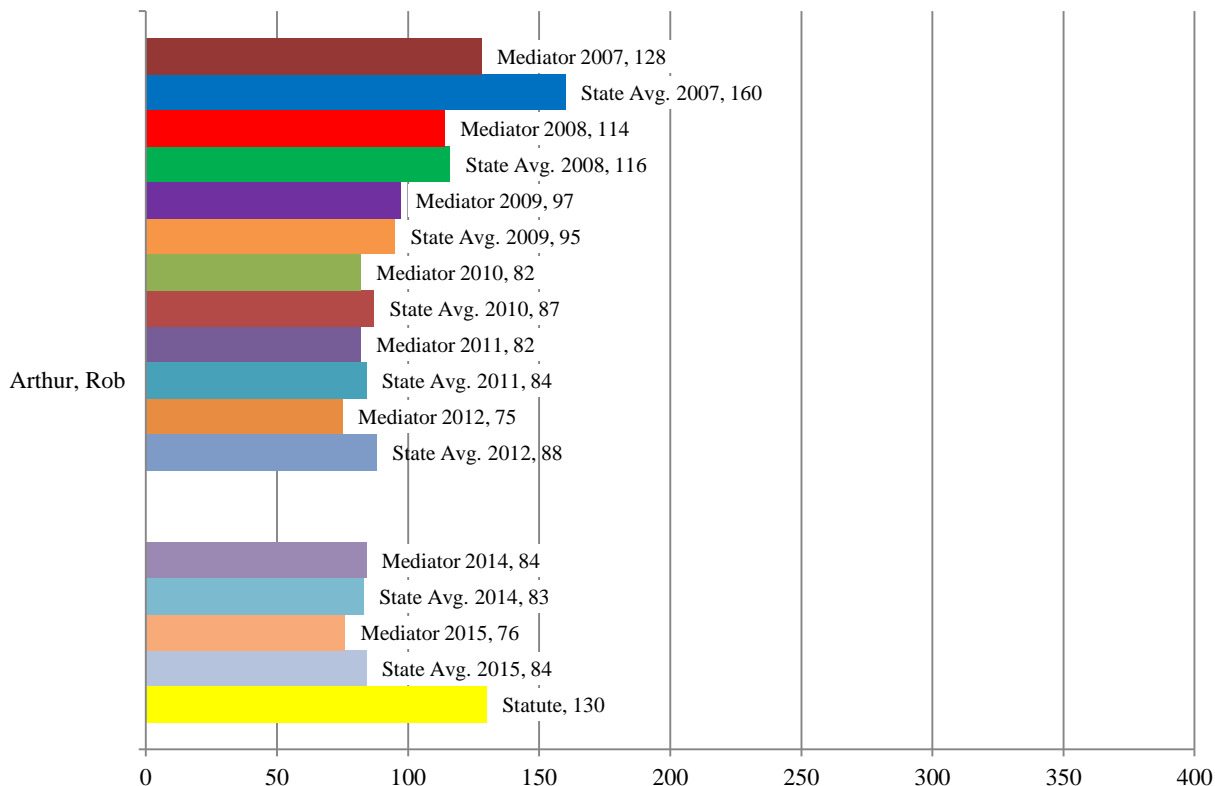
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



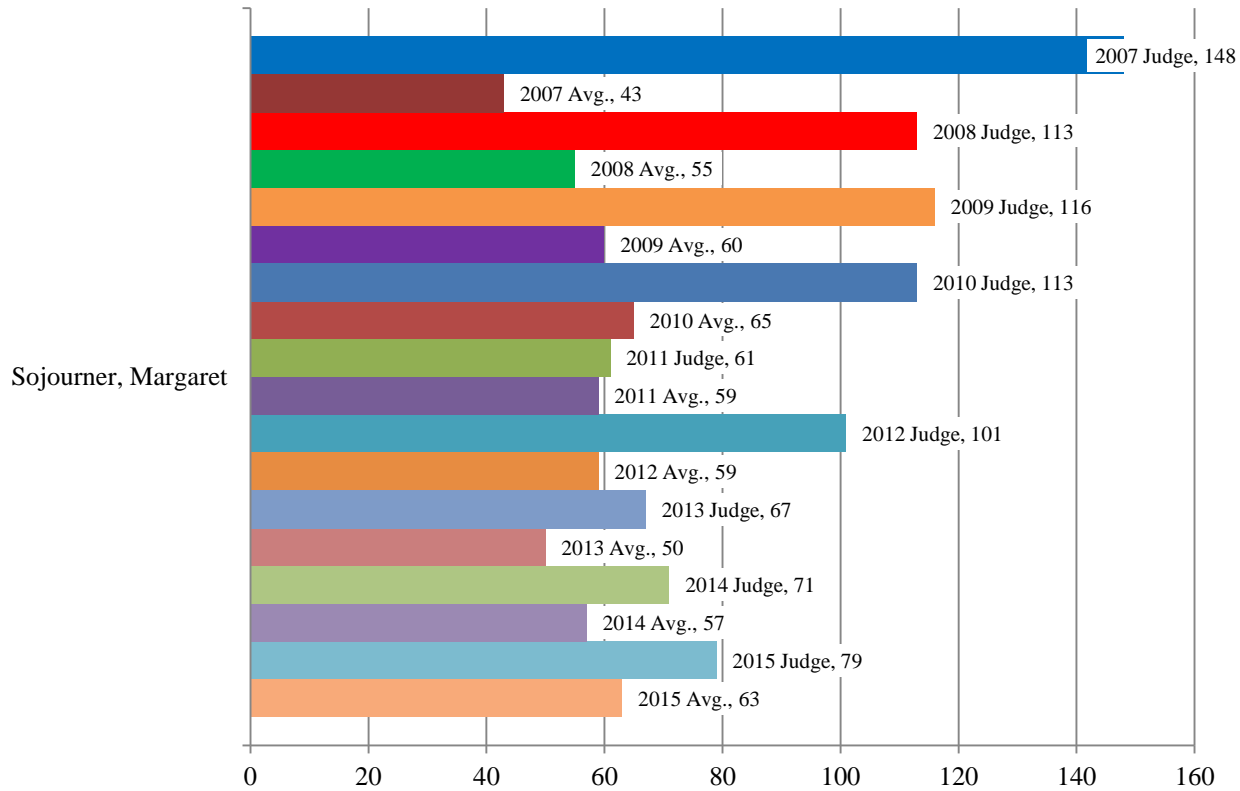
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2014-15 (2003-04 is also provided for historical reference). The identification and values for each year are in each bar label.



The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



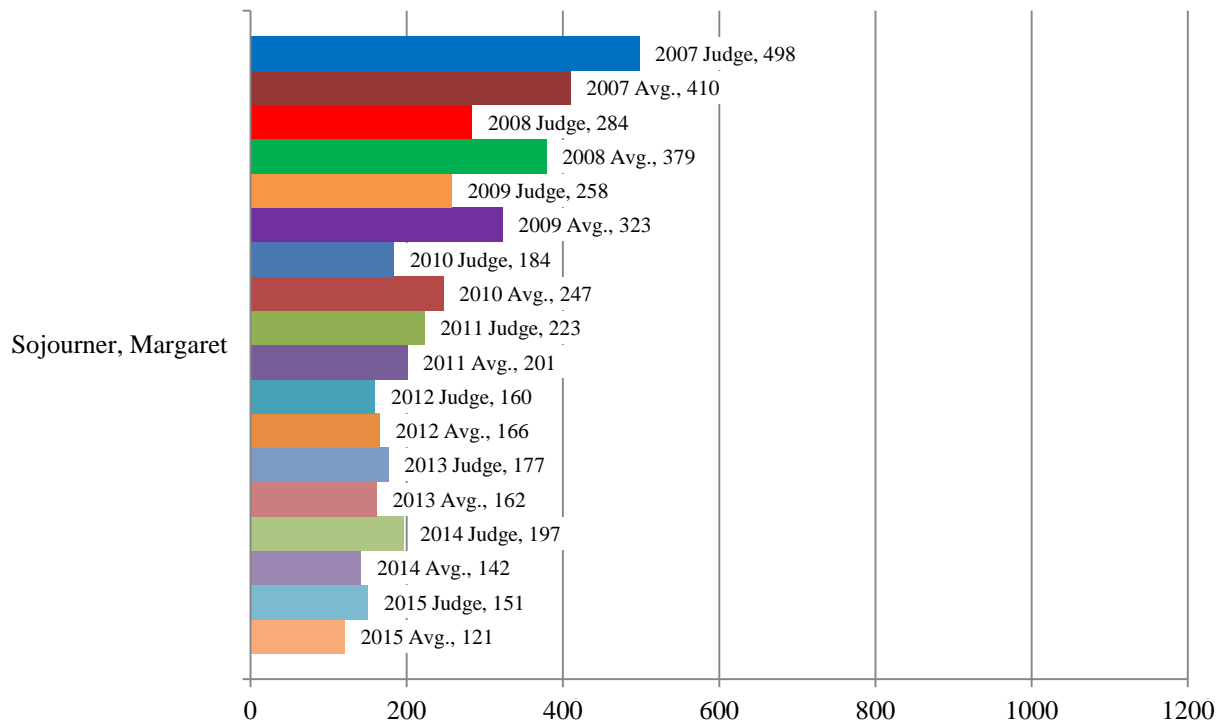
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



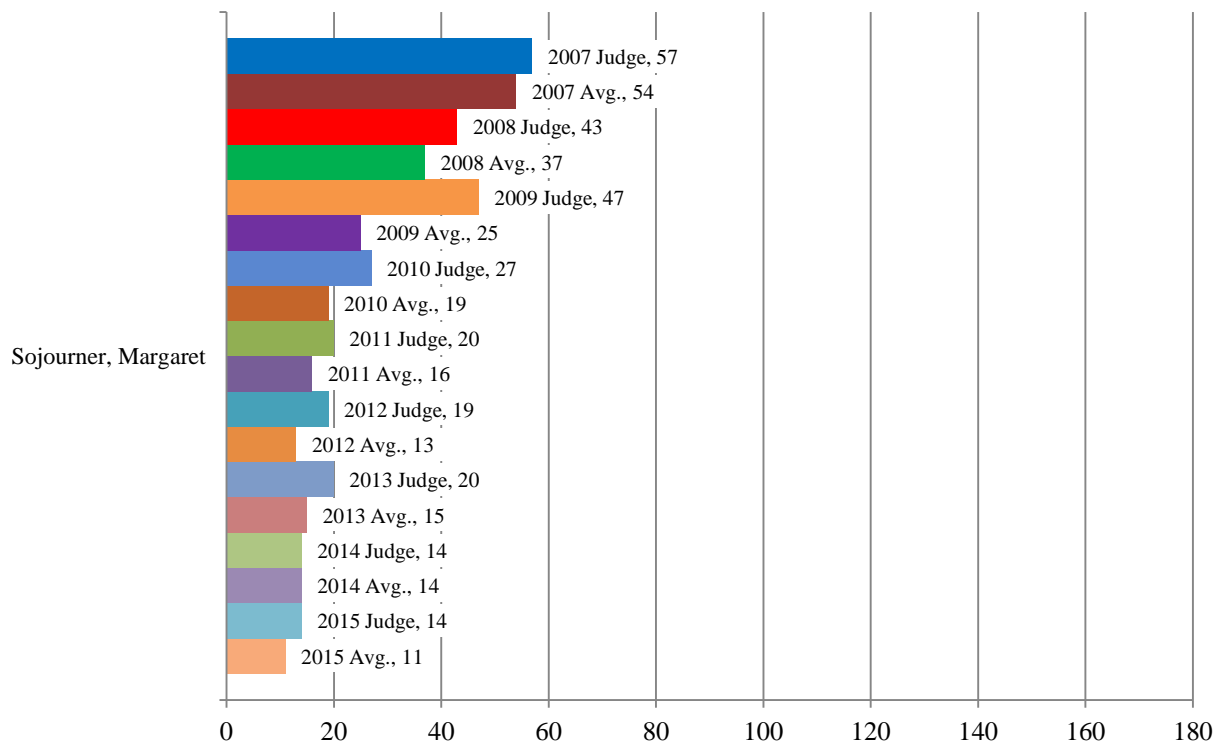
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



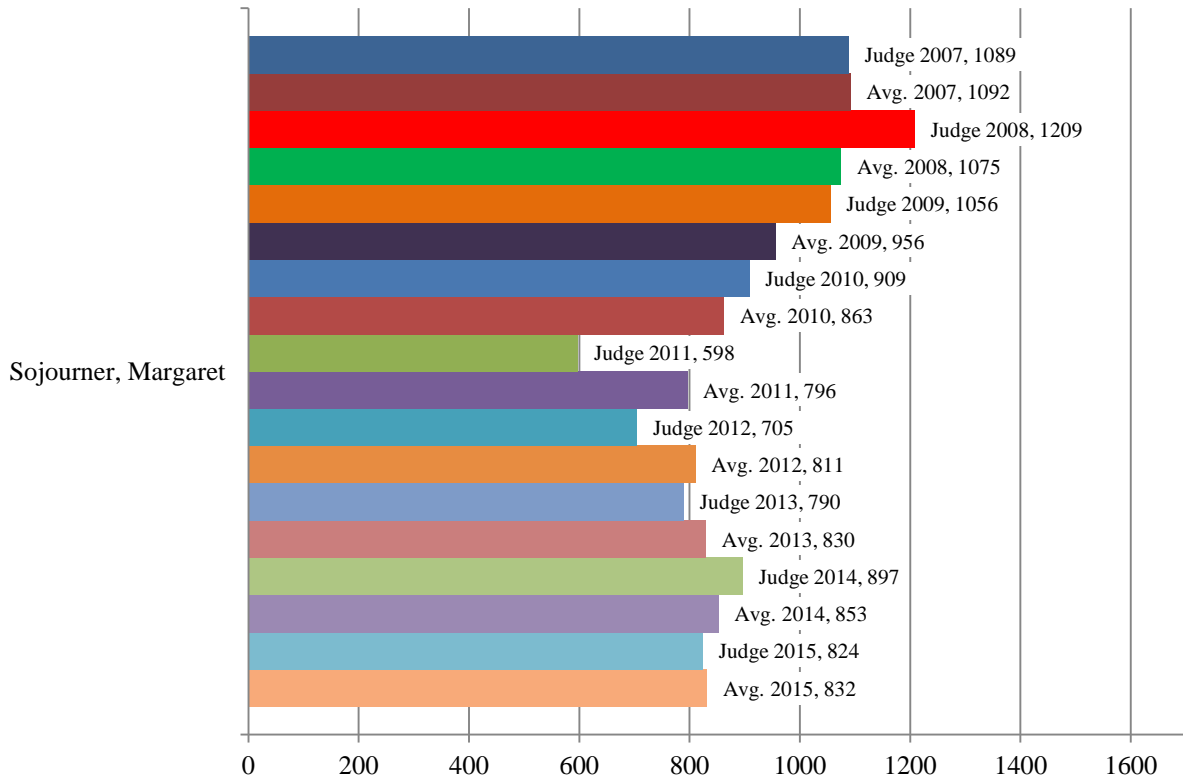
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



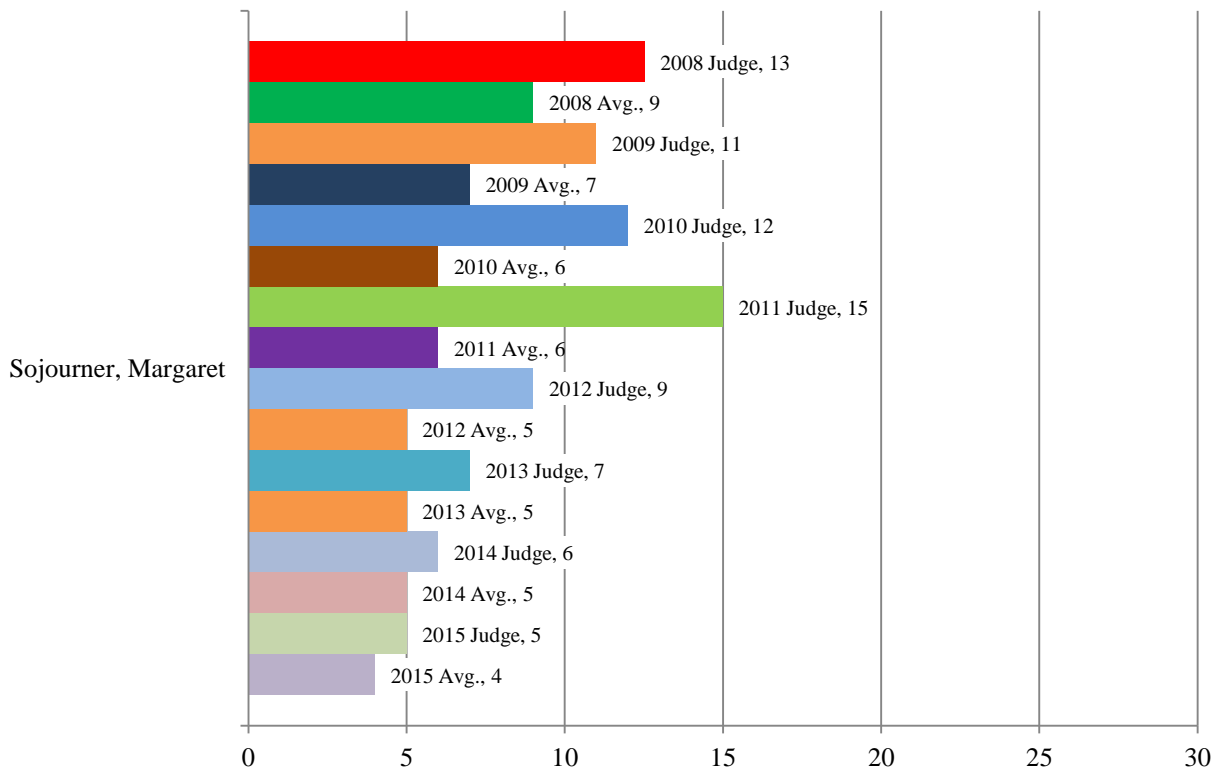
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



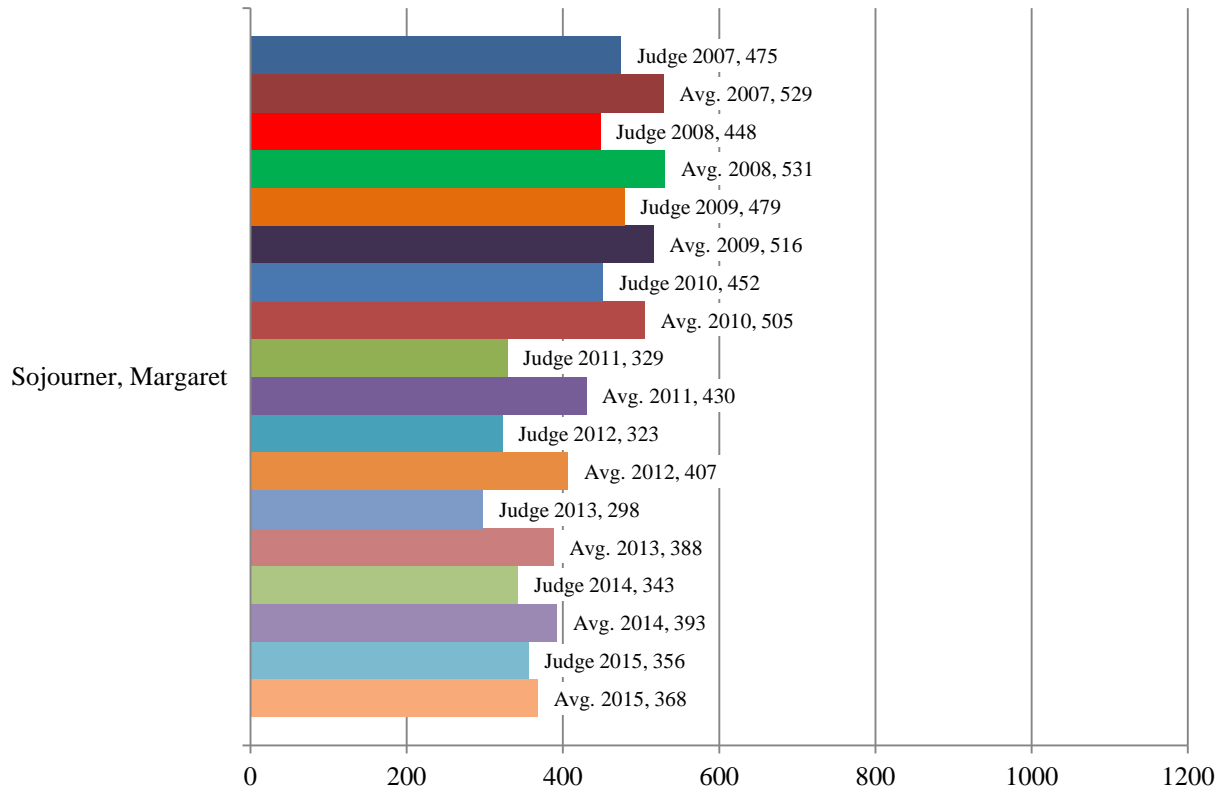
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



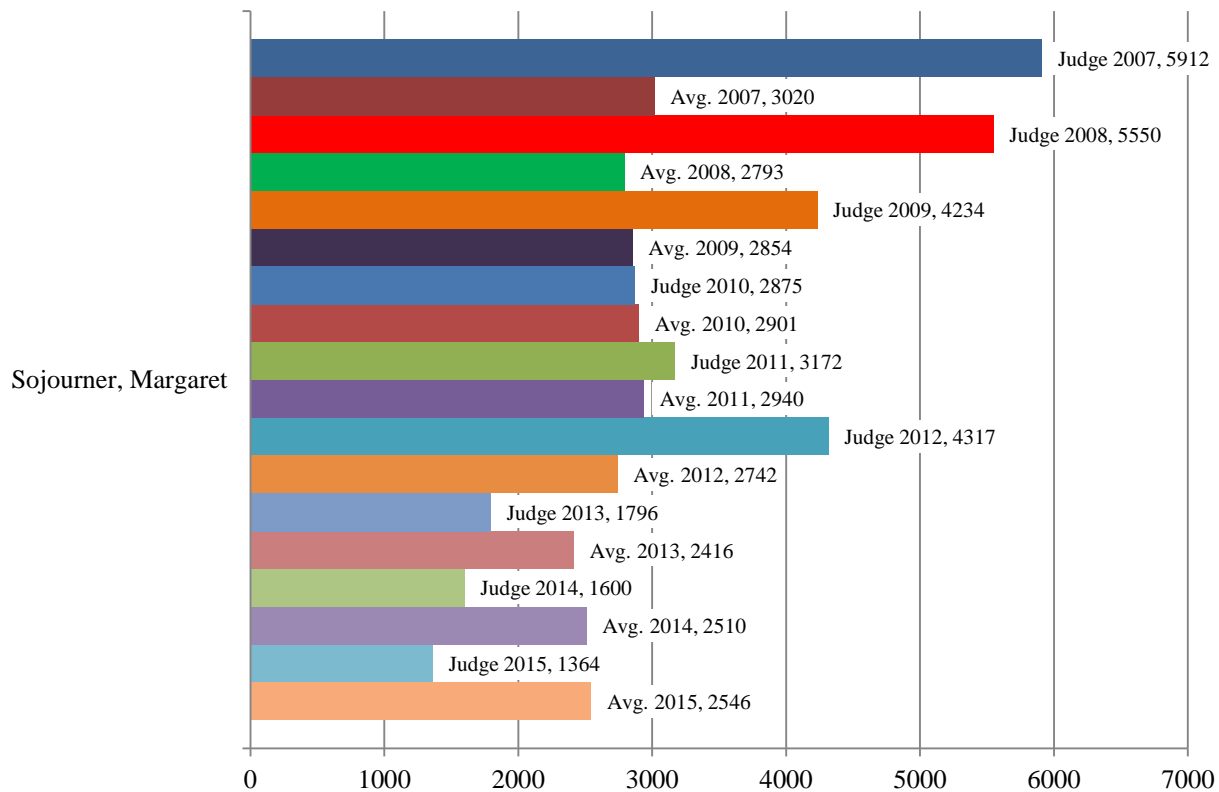
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



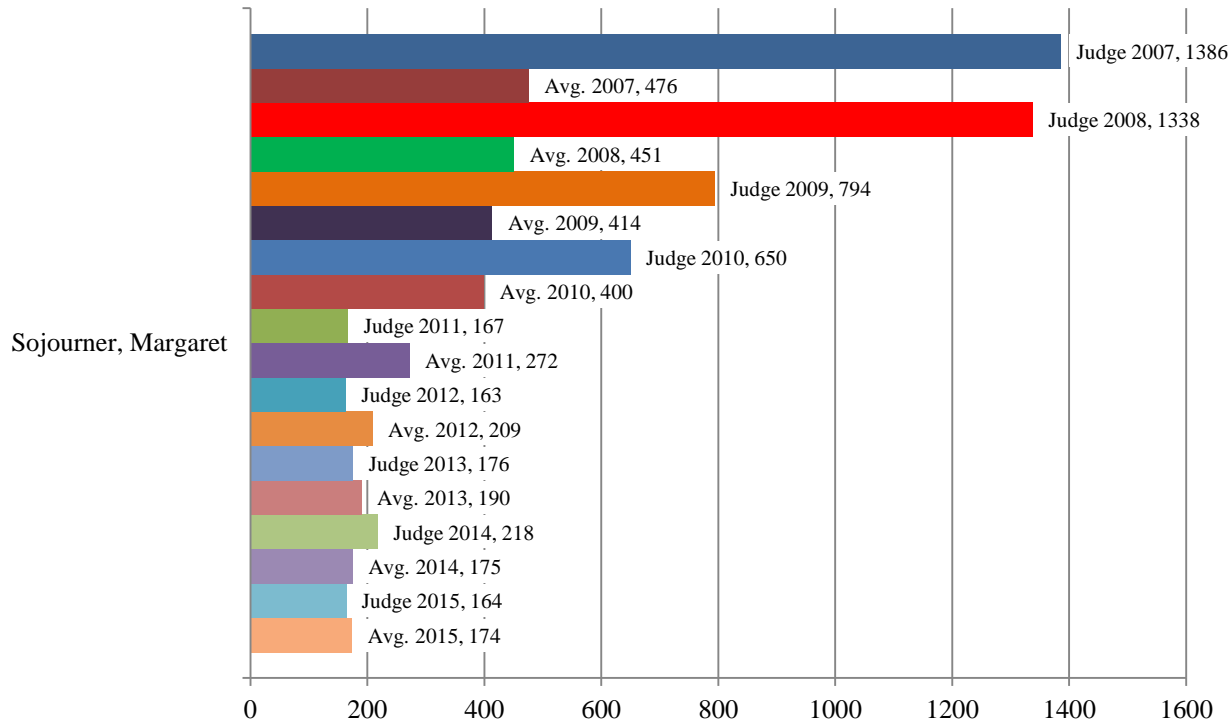
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2006-07 and 2014-15. 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 the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



The new Lakeland District Office. A welcome change for central Florida.

Appendix “7” District MEL (JCC Dietz):

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

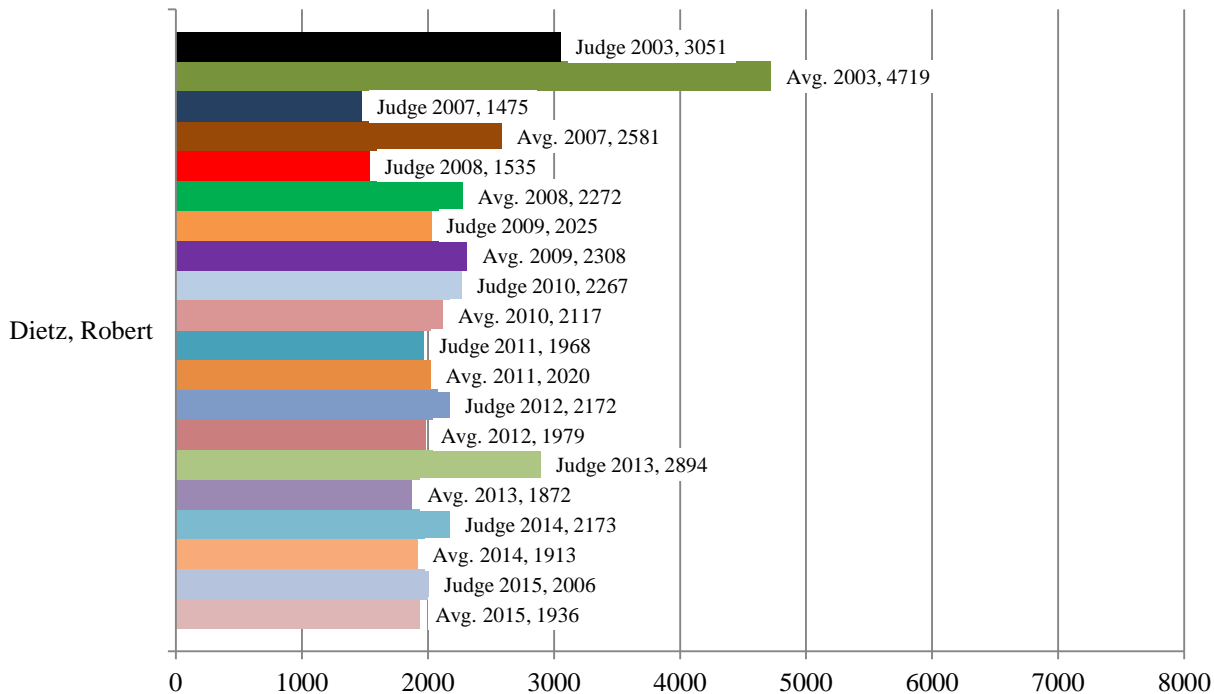
Indian River and Okeechobee counties were transferred to District MEL in the spring of 2008. The District experienced significant changes in 2011-12. The office was relocated from Melbourne to Sebastian, as a result of the competitive bidding processes to procure real estate. Though there were criticisms 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. His first year has been stable and has demonstrated continuity of excellent service to the Space Coast community.

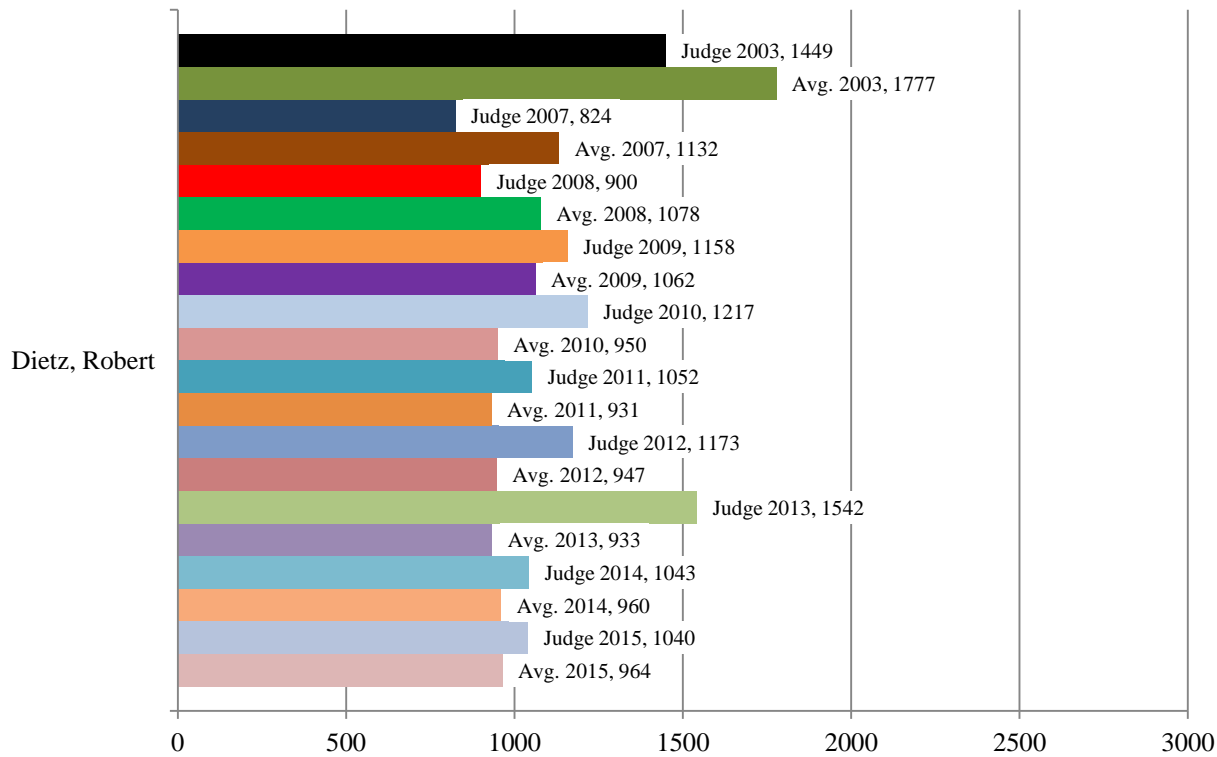
PFB filings and “new case” filings in District MEL remained above the statewide averages in 2014-15. That has been remarkably similar for several years. Despite the volume, petition closure and filing volumes remain consistent signaling that District MEL is in equilibrium, which is also consistent with the year-end pending petition inventory volume. Trial volume remains above the statewide average in District MEL. Some portion of this was the assignment of Miami “new cases” to Judge Remsnyder during her tenure. However, with her departure, the trial volumes have remained significant. 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. In 2014-15 mediator Mark Hill returned to private practice and mediator Mark Hauber transferred from Ft. Lauderdale to District Melbourne.

Judge Dietz has spoken at the Professional Mediation Institute (PMI) and the Florida Association of Self-Insurers, and at the First District Court of Appeals, the Workers’ Compensation Institute (WCI), the Florida Workers’ Advocates, and the Orange County Bar Assoc. Workers’ Compensation Committee. He is a charter member of the William M. Wieland Inns of Court and volunteers for Special Olympics, the Down Syndrome Association, Give Kids the World, and the Friends of 440. He refereed 24 Upward Basketball games, chaired the deacon council at his church, served on the Board of Directors for the PMI, and co-hosted a social media webinar for Civitan International. He judged the moot court competition at the WCI and at Florida A&M Law School. He is an adjunct professor teaching workers’ compensation law at Barry University Law School in Orlando. He is a member of the Brevard County and Indian River Bar Associations and the College of Workers’ Compensation Lawyers.

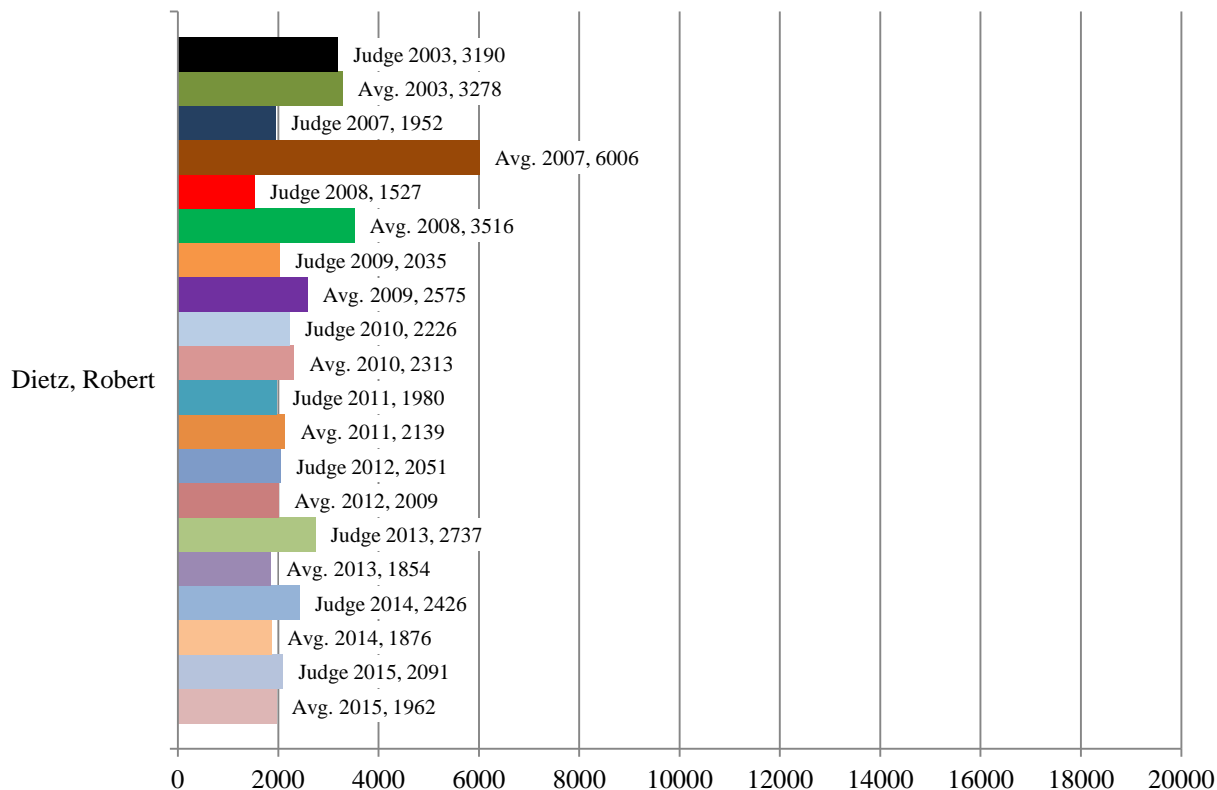
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



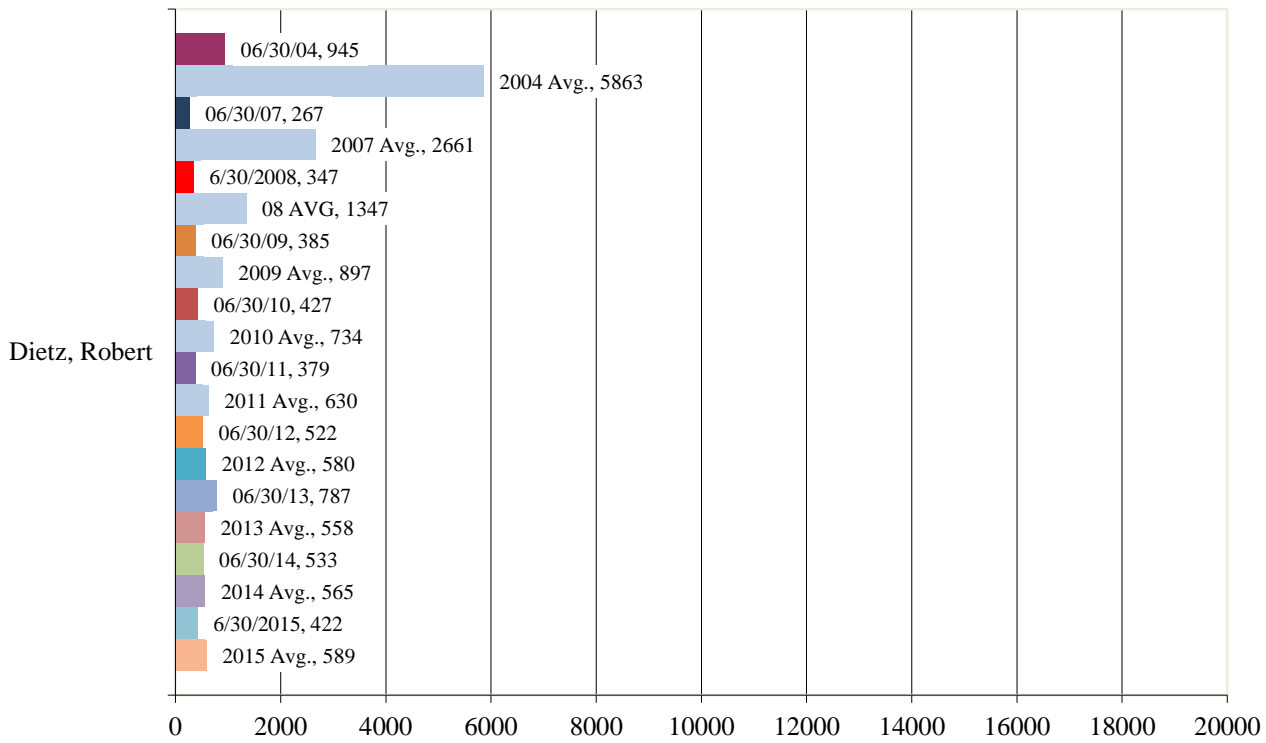
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



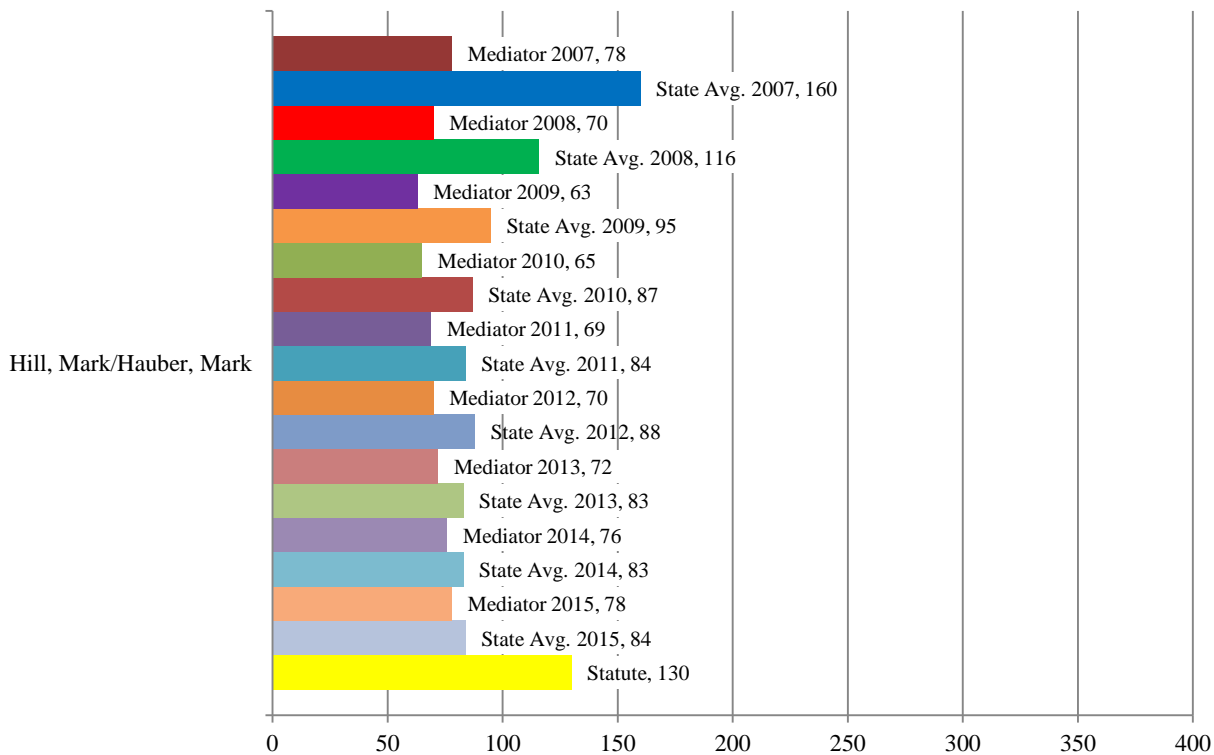
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



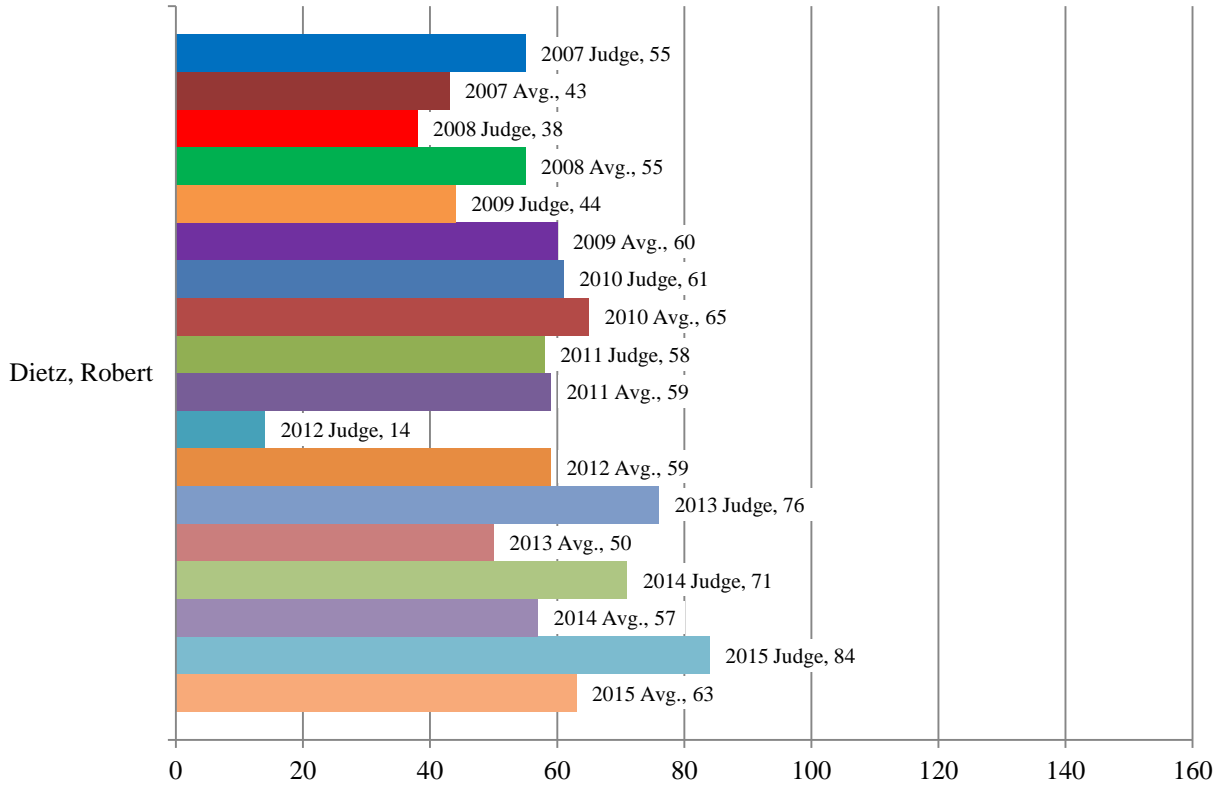
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2014-15 (2003-04 is also provided for historical reference). The identification and values for each year are in each bar label.



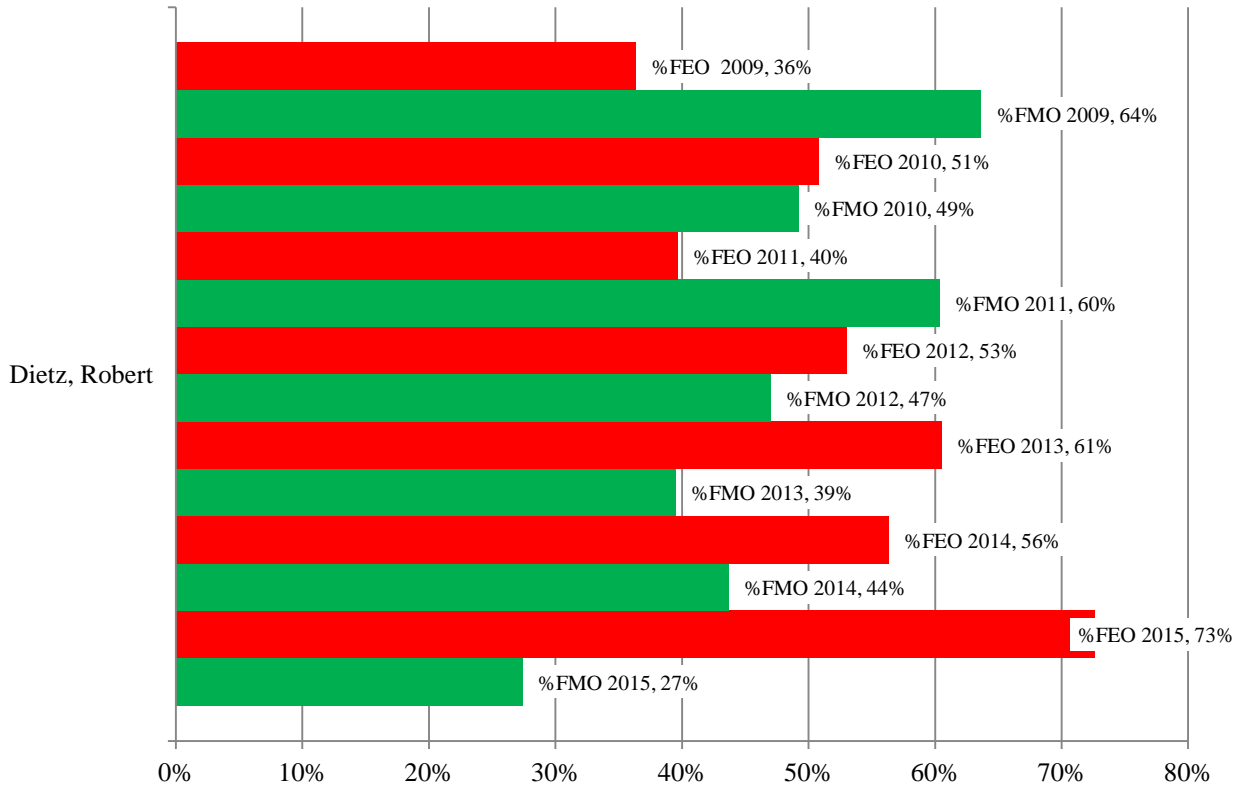
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



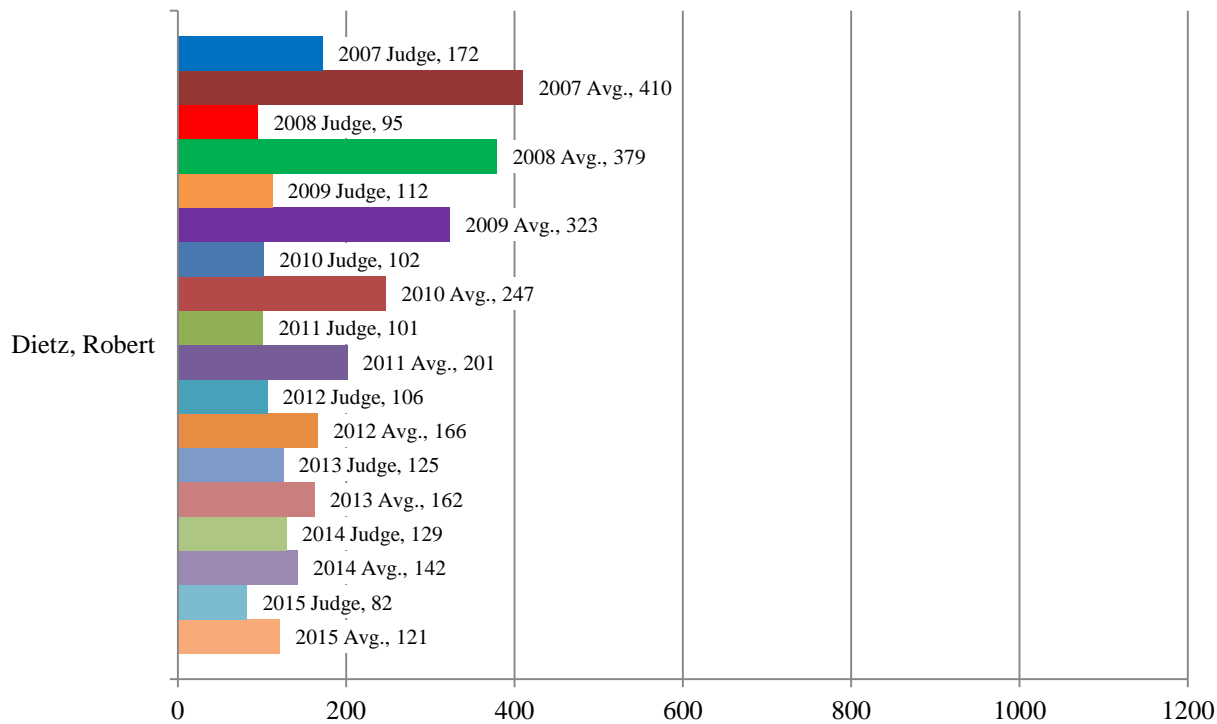
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



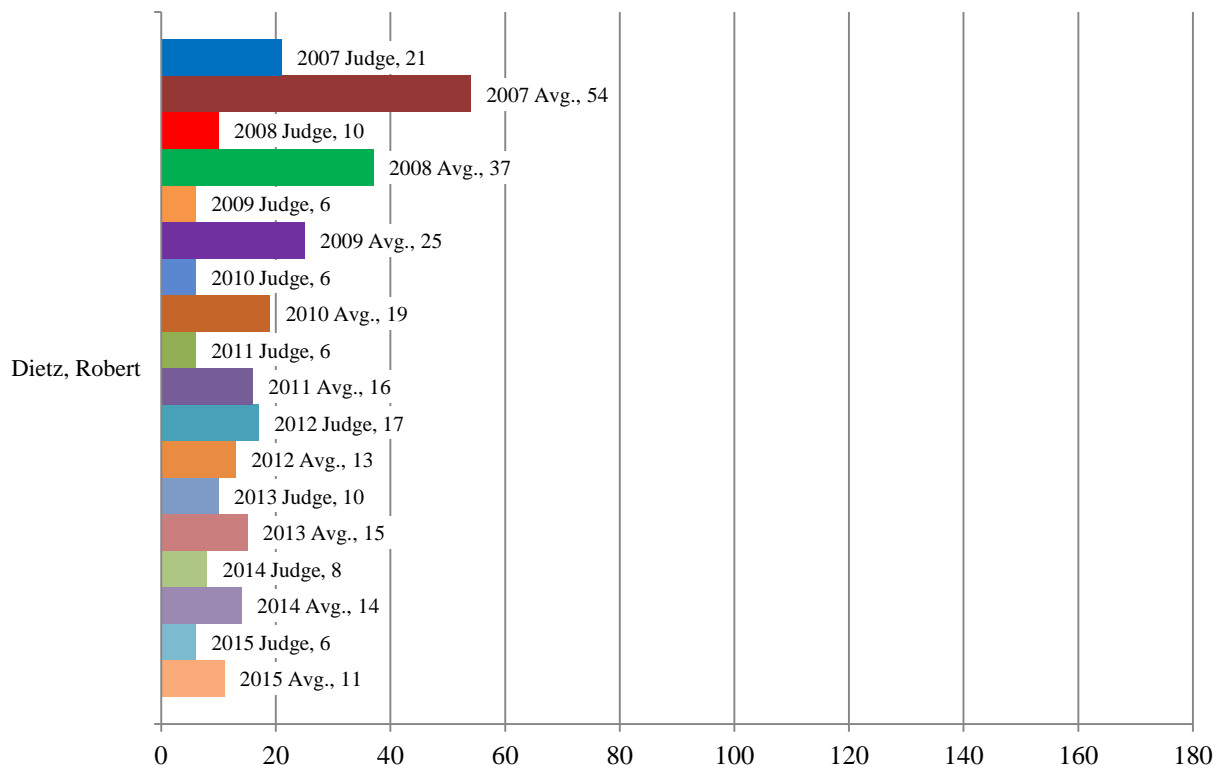
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



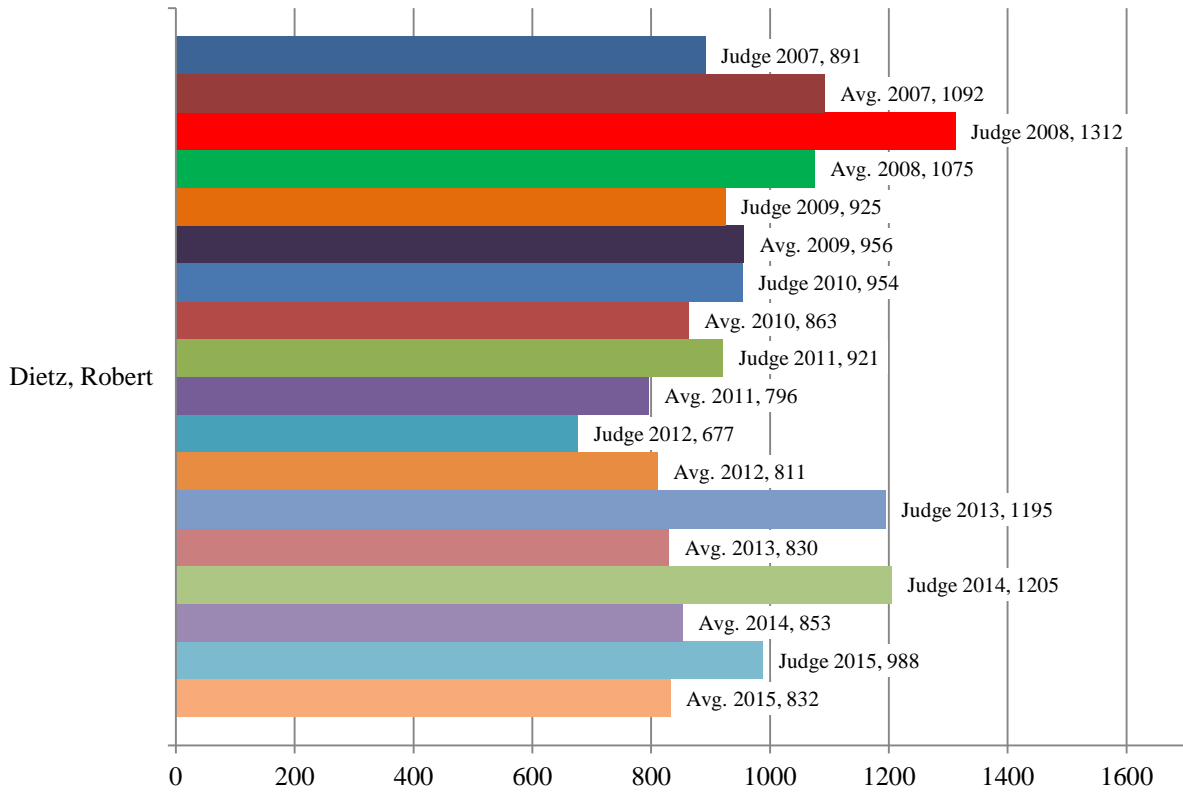
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



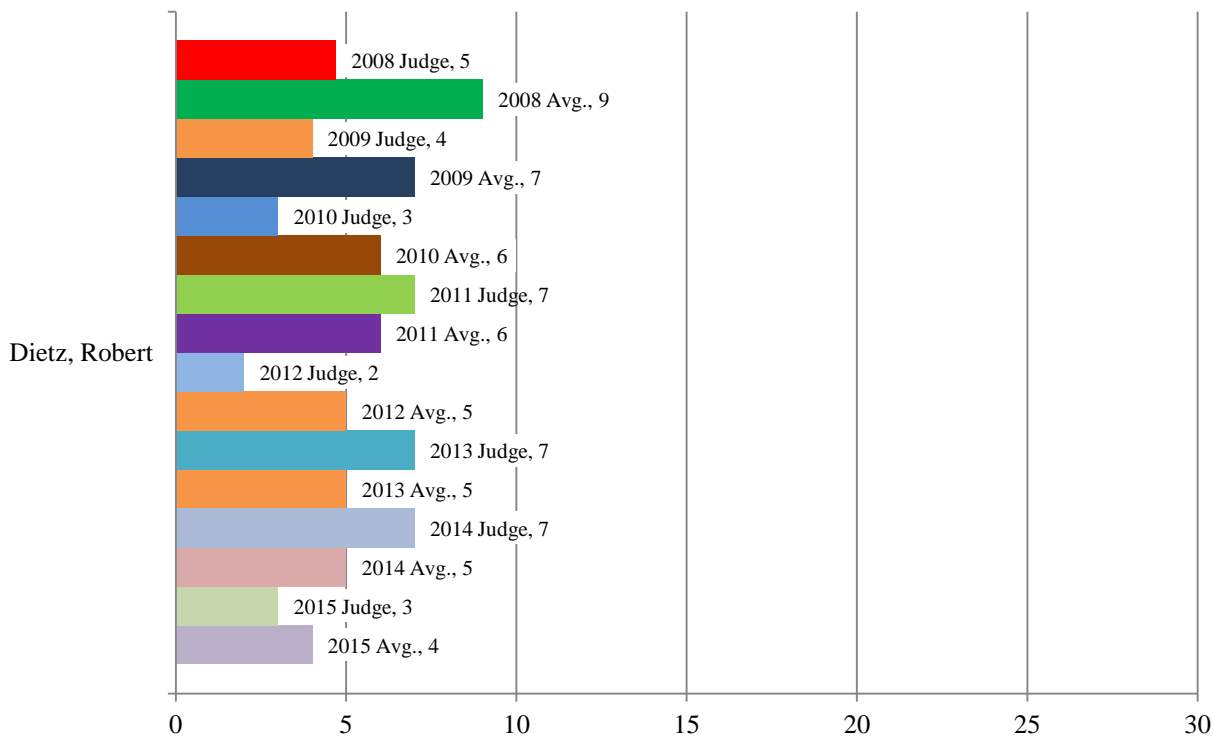
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



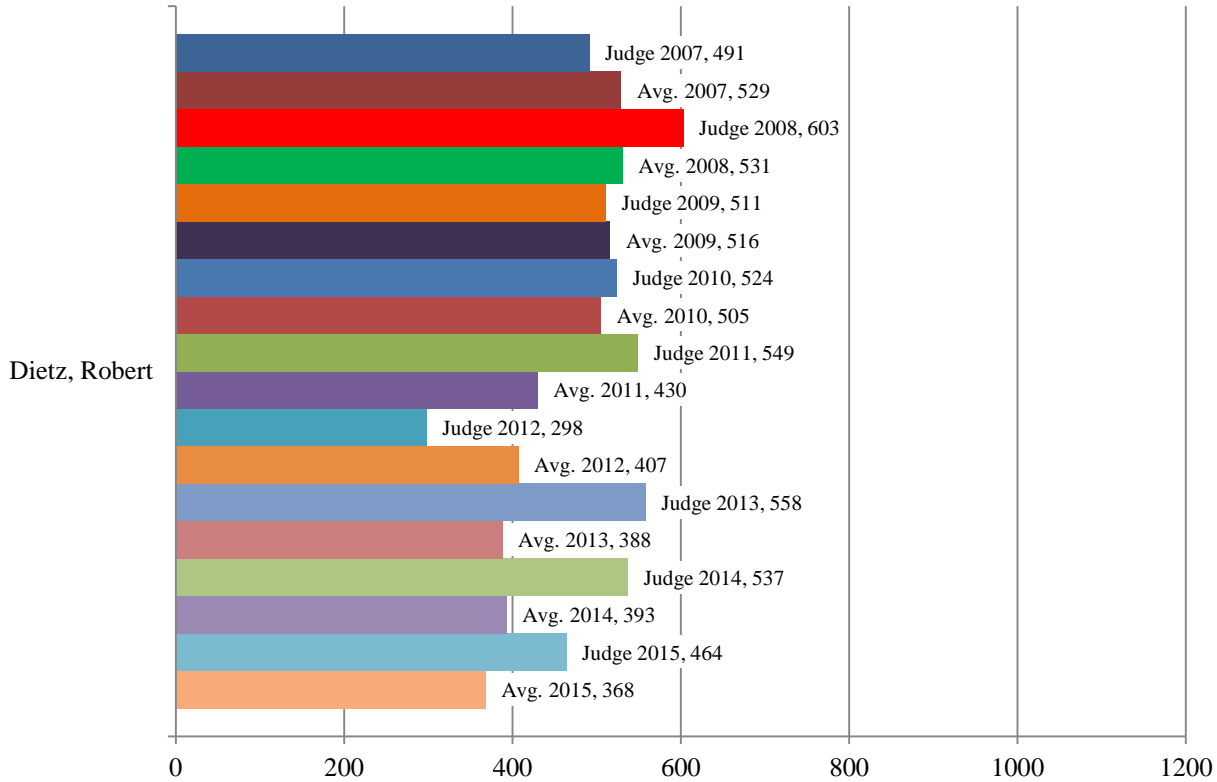
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



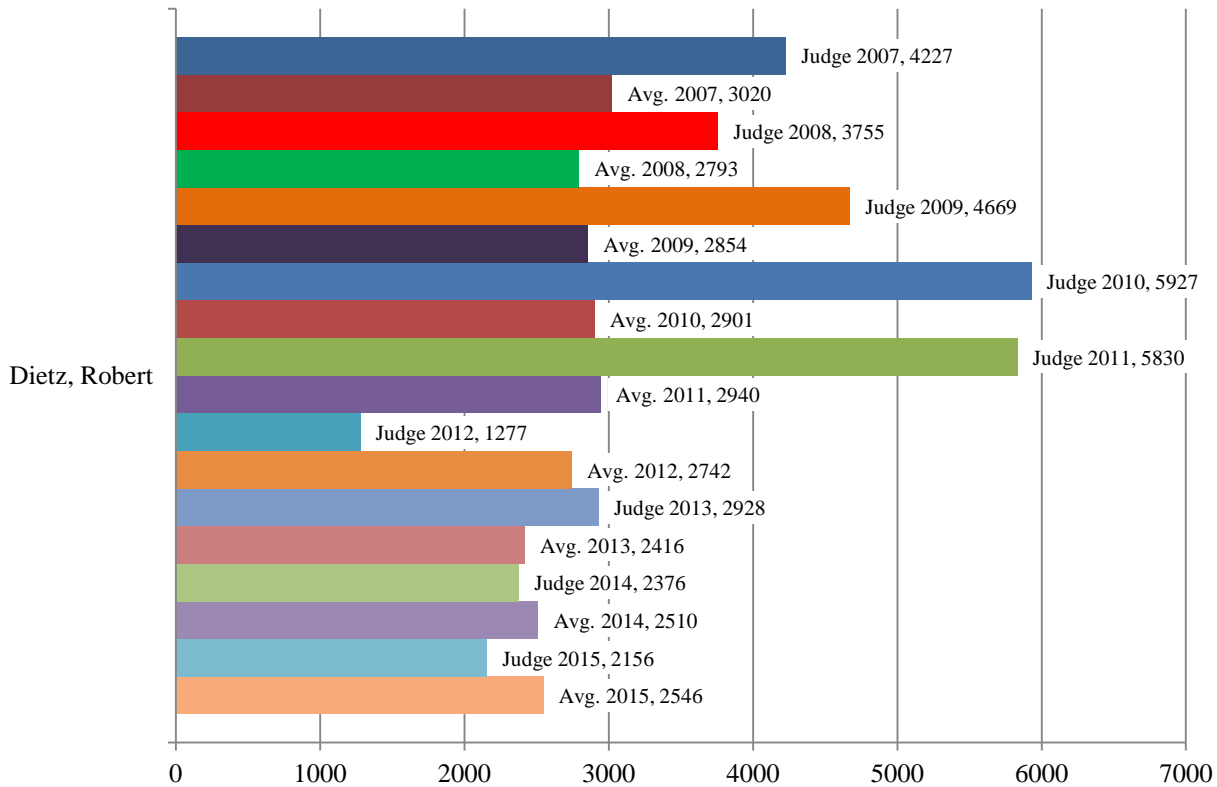
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



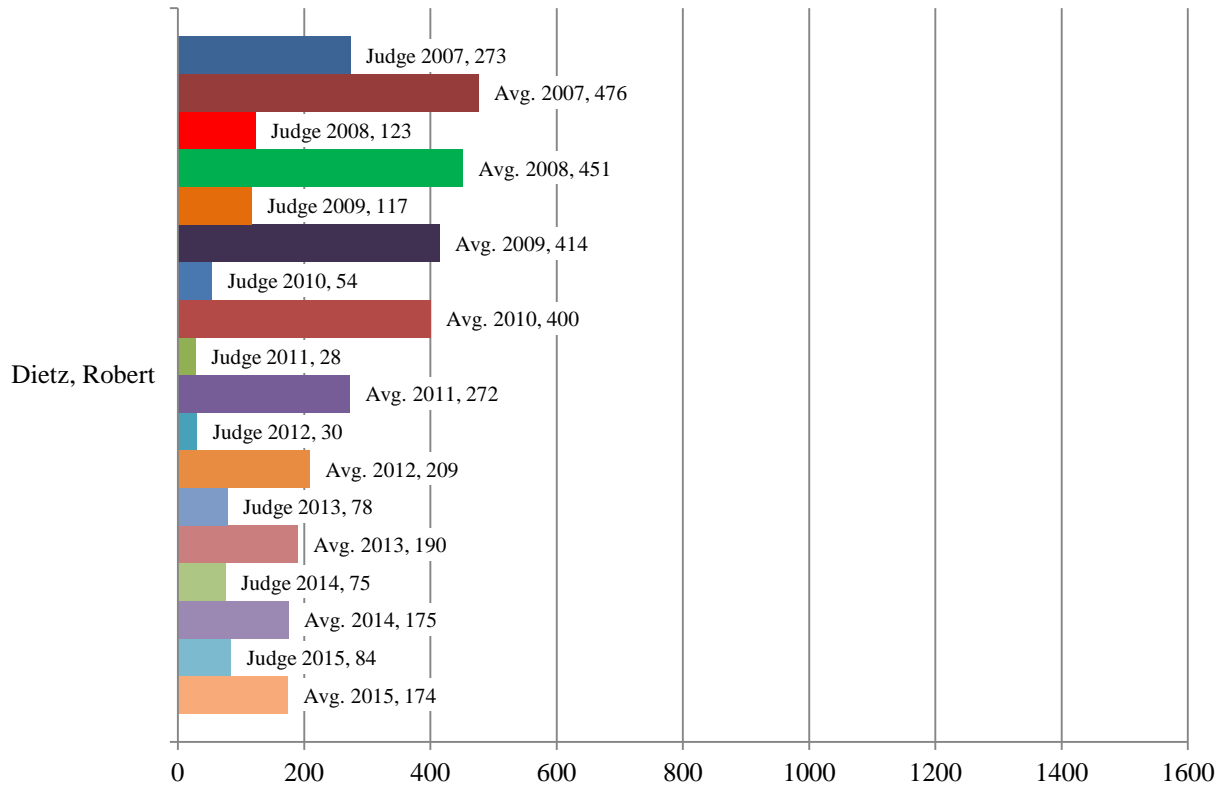
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2006-07 and 2014-15. 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 the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



Sebatian/Melbourne District on on U.S. Highway 1, Sebatian.

Appendix “8” District MIA (JCC Almeyda, JCC Castiello, JCC C. 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.” Petition volumes were notably higher in Judge Kerr’s and Judge Medina-Shore’s divisions in 2014-15. These MIA “new cases” volumes have been below average for many years, but some portion of the current disparity may result in part from the out-of-district process, in which MIA “new cases” were assigned to Judges Humphries (JAX), Jenkins (TPA), Pitts (ORL), 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. The marked trial volume in 2009-10 has moderated notably for the district as a whole, but three of five Miami judges had trial volumes in excess of the statewide average in 2014-15.

Mediations have been timely in District MIA in recent years and remained so in 2014-15.

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.

Judge Castiello presented on attorney’s fees at the Palm Beach Bar Association workers’ compensation seminar. He was on a panel “Appellate Error – Preserving the Record” for the Broward County Bar Association Workers’ Compensation Section annual meeting. He participated in writing the outline for that program. He remains involved with the Monroe County Bar Association.

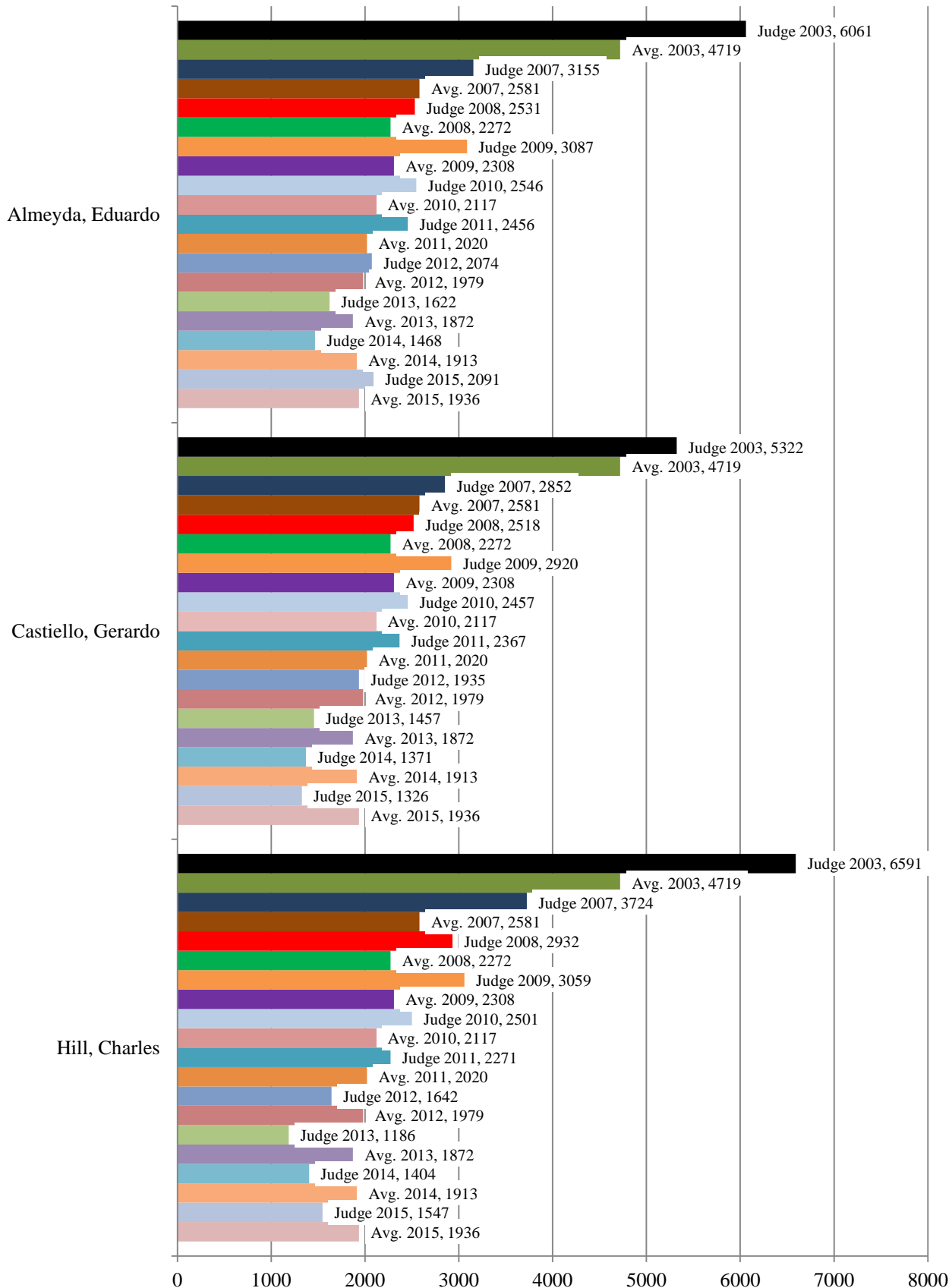
Judge Charles Hill served as a judge in the Florida High School Mock Trial Competition. He serves on the Historic Preservation Board for the City of Miami Springs, and on the Miami Herald Silver Knight Judges’ Panel to honor Dade and Broward Counties’ most outstanding high school seniors. Judge Hill 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.

Judge Kerr participated as a mock trial judge at the University of Miami Summer Scholar Program. She presented on a panel, “From Advocate to Adjudicator,” for the National Association of Workers’ Compensation Judiciary in August 2014. Judge Kerr presented on Social Security Disability for the OJCC Second Fridays program and on the West Palm Beach Annual Bench and Bar Seminar, Panel on Perspectives from the Bench. She was a judge on the Florida High School Mock Trial Competition in 2015. She presented at the Florida Workers Advocates regarding “Rules of Procedure,” and participates in the Miami-Dade Bench and Bar, “Chat with the Judges” quarterly seminars. She currently serves on the Head of School Search Committee for St. Thomas Episcopal Parish School.

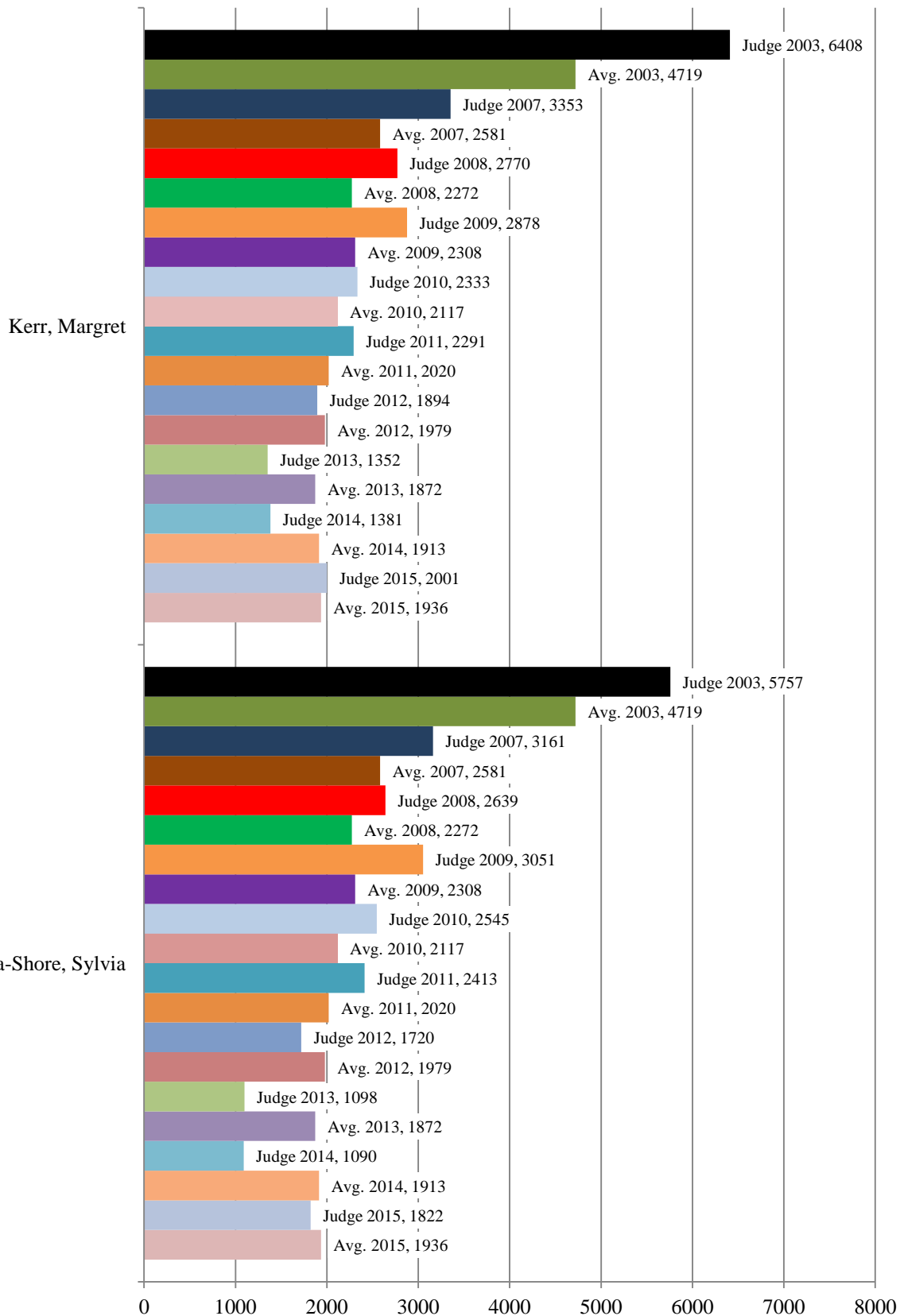
In 2014-15, Judge Medina-Shore continued to serve as MIA Administrative Judge. The success of District MIA is in large part due to her leadership. She lectured at University of Miami Summer Scholar Program Forensic Investigation, was a guest lecturer for Higher Education and Law at Florida International University, presided over Mock Trial for Girl Scouts, and was a Florida High School Mock Trial Competition Judge. She participates in the Miami-Dade Bench and Bar “Chat with the Judges” quarterly seminars and in “Career Day” in Miami-Dade Middle and High Schools.



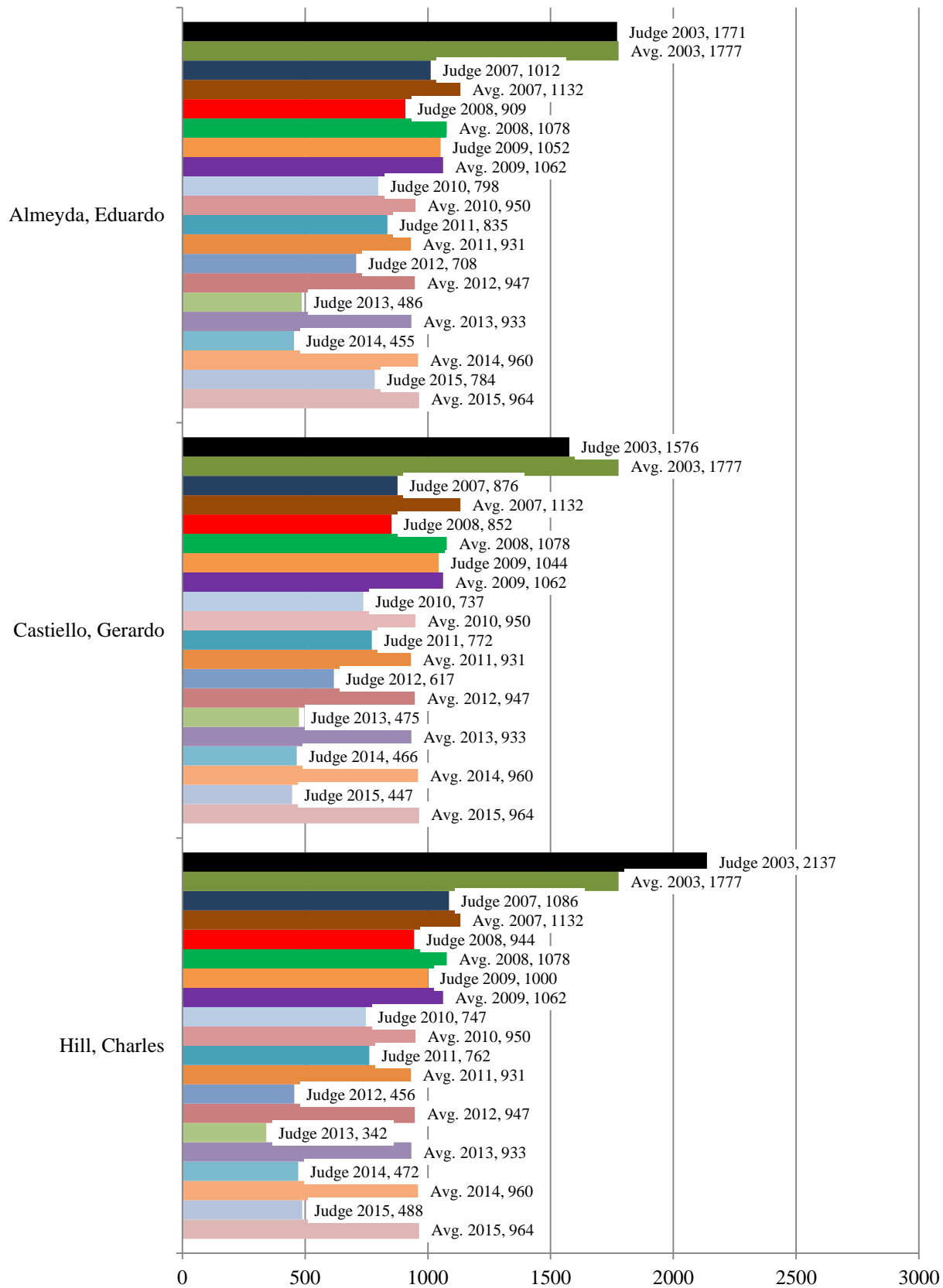
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



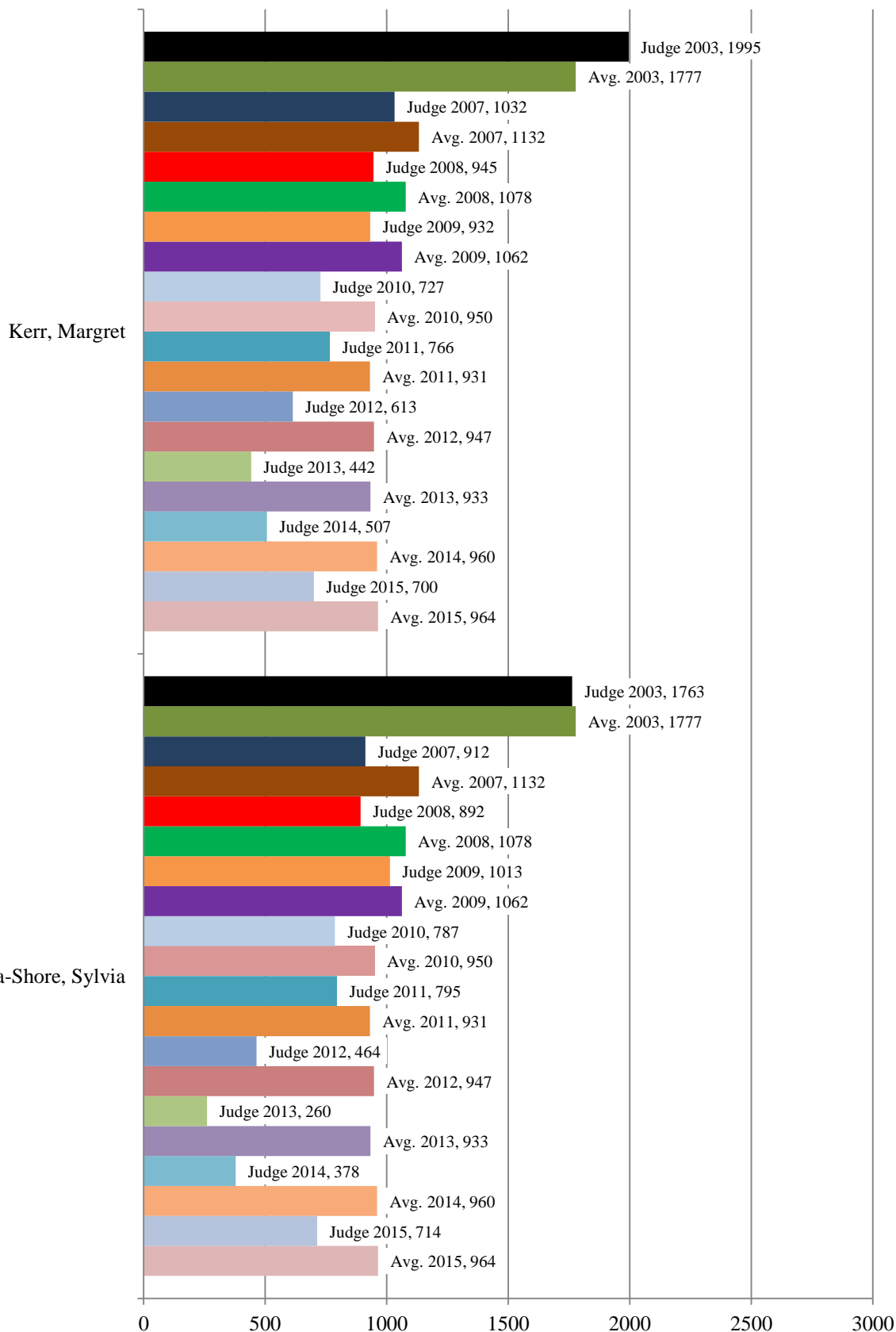
(Continued) The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



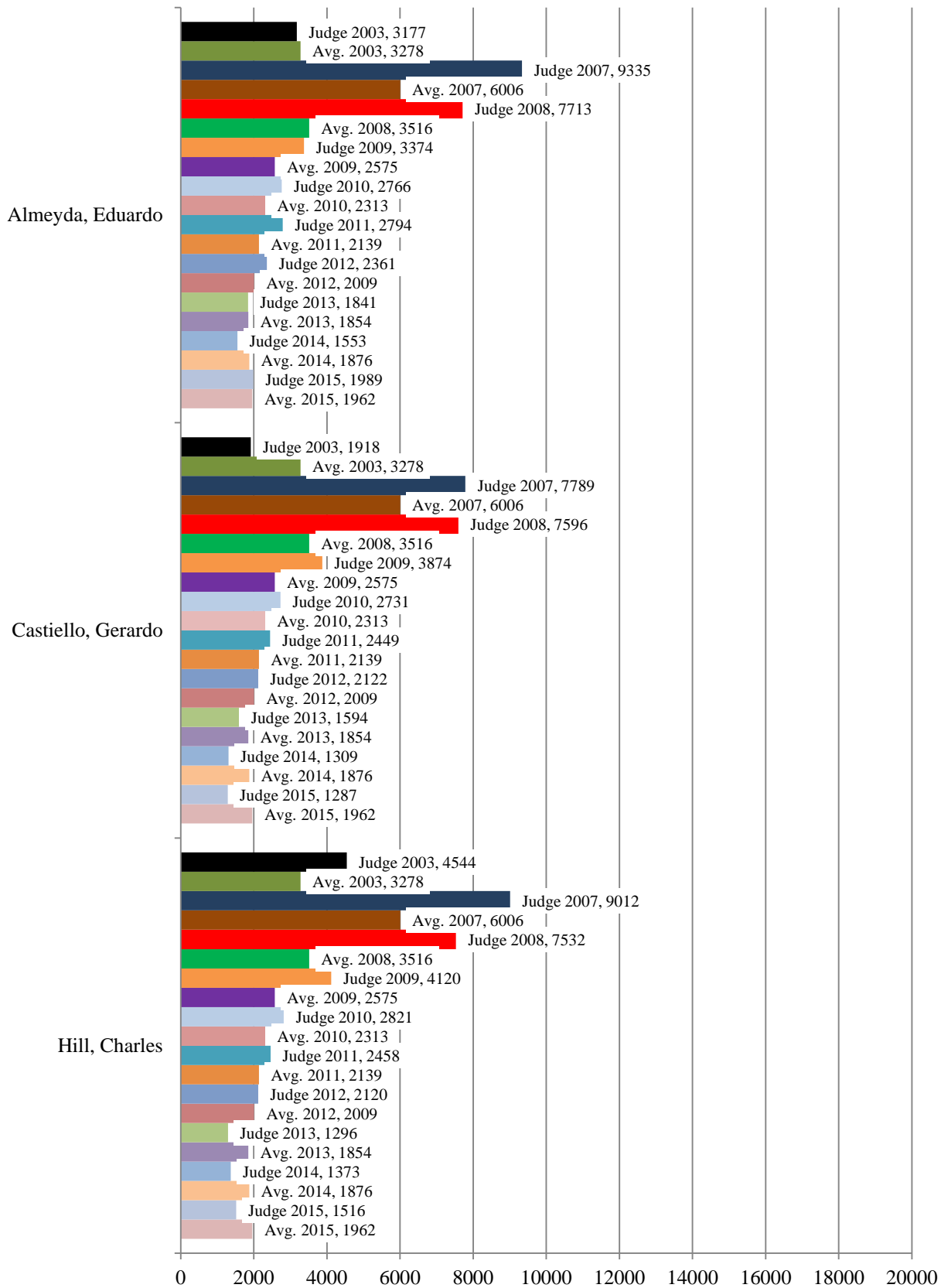
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



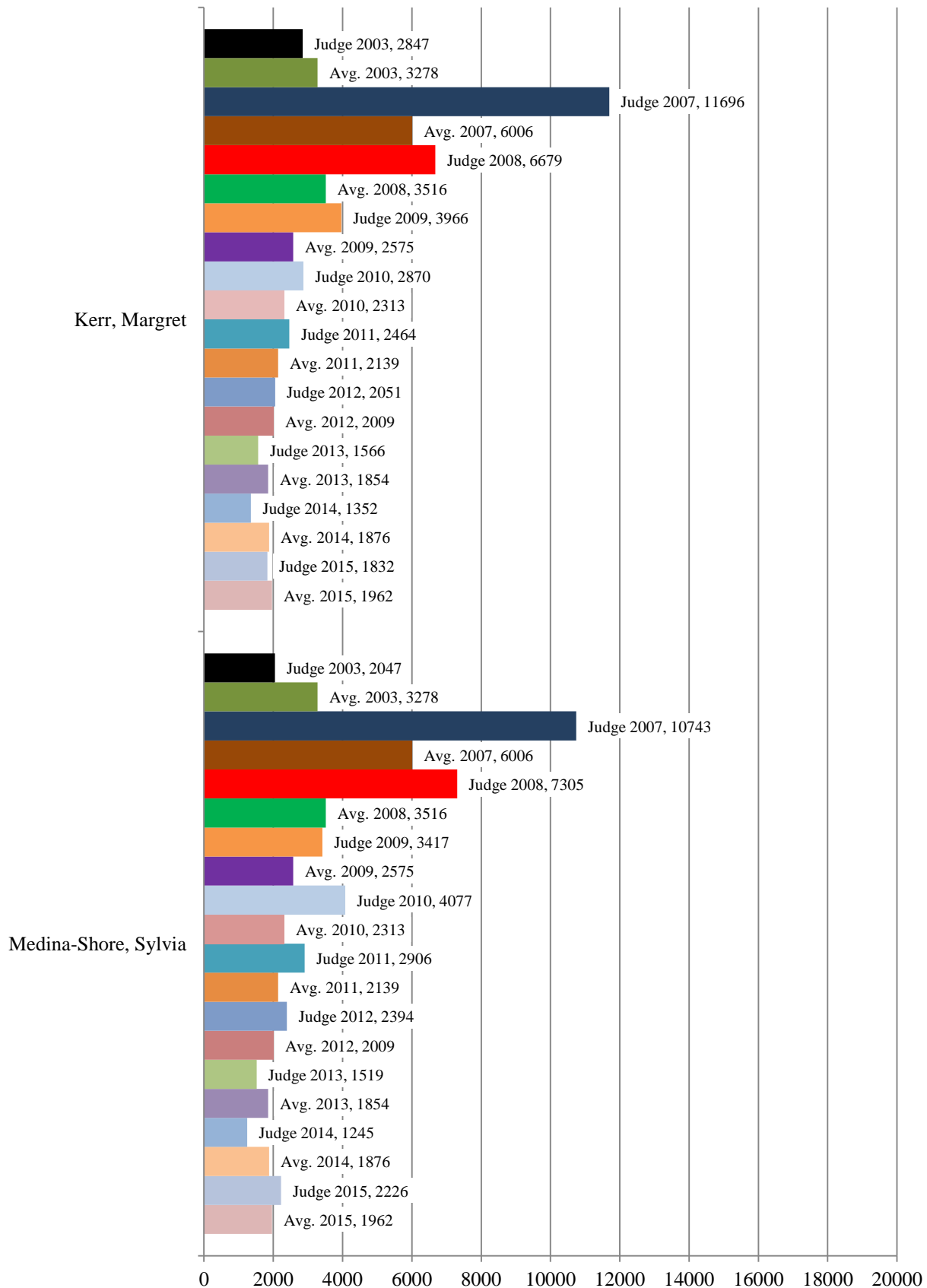
(Continued) The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



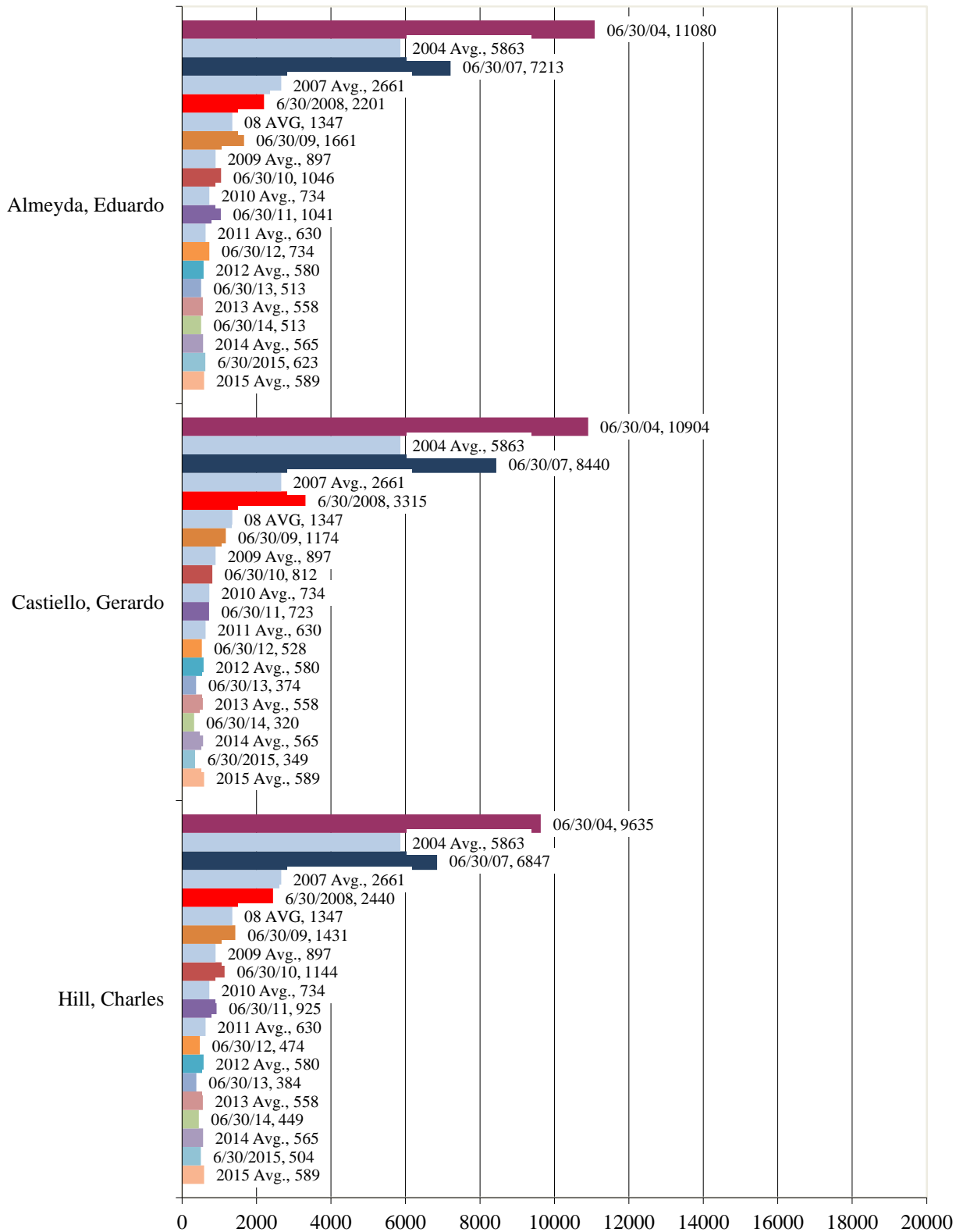
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



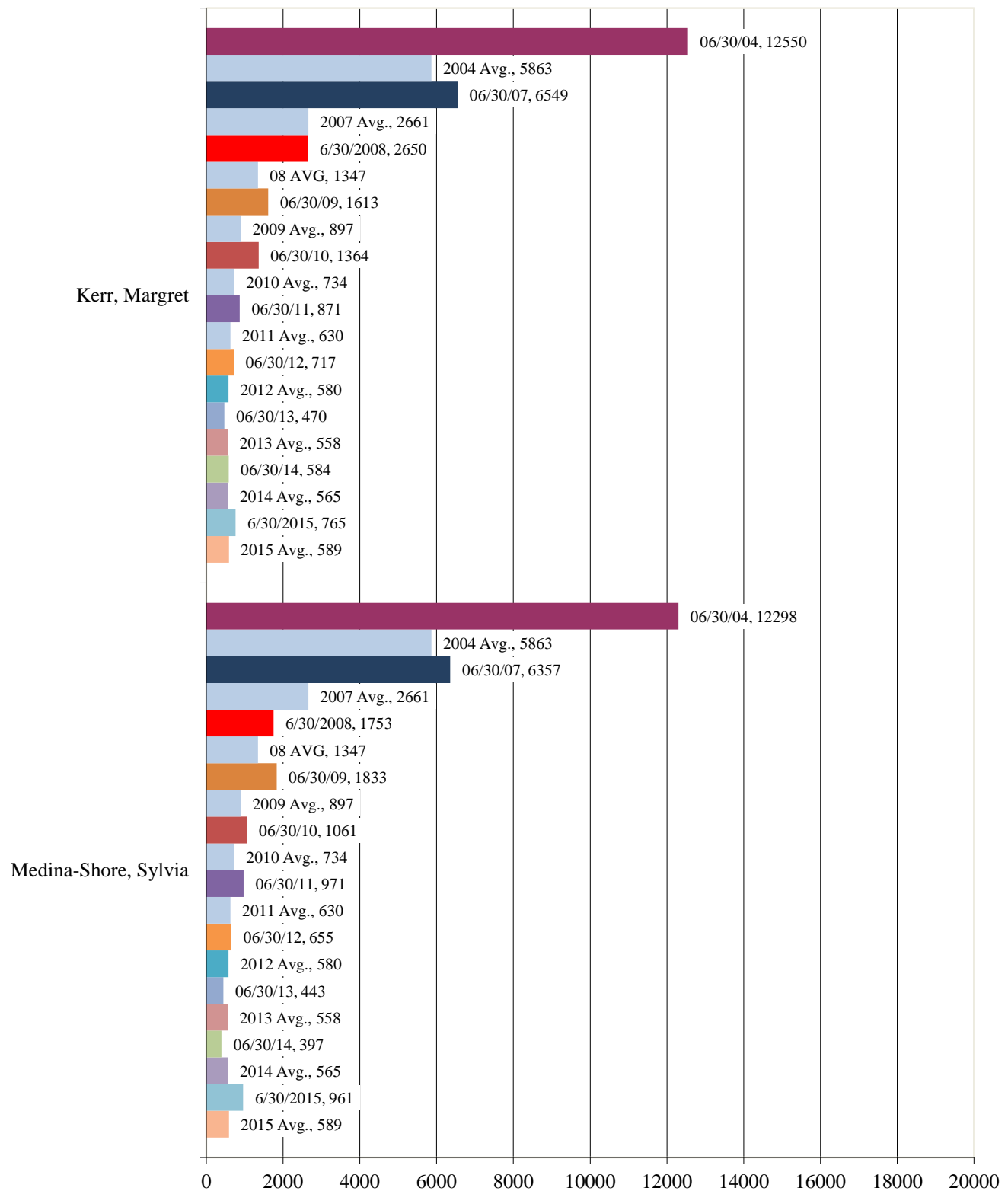
(Continued) The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



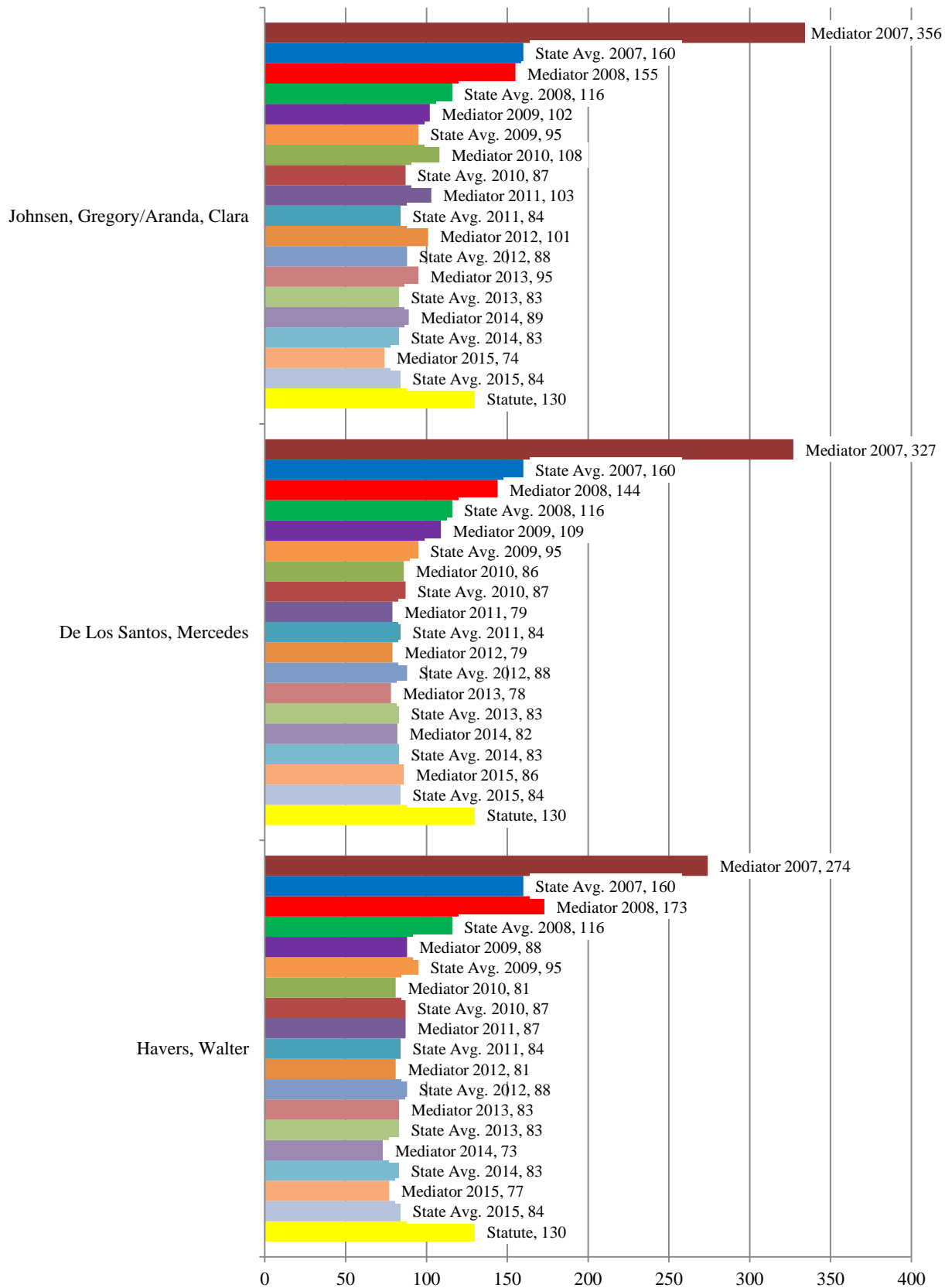
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2014-15 (2003-04 is also provided for historical reference). The identification and values for each year are in each bar label.



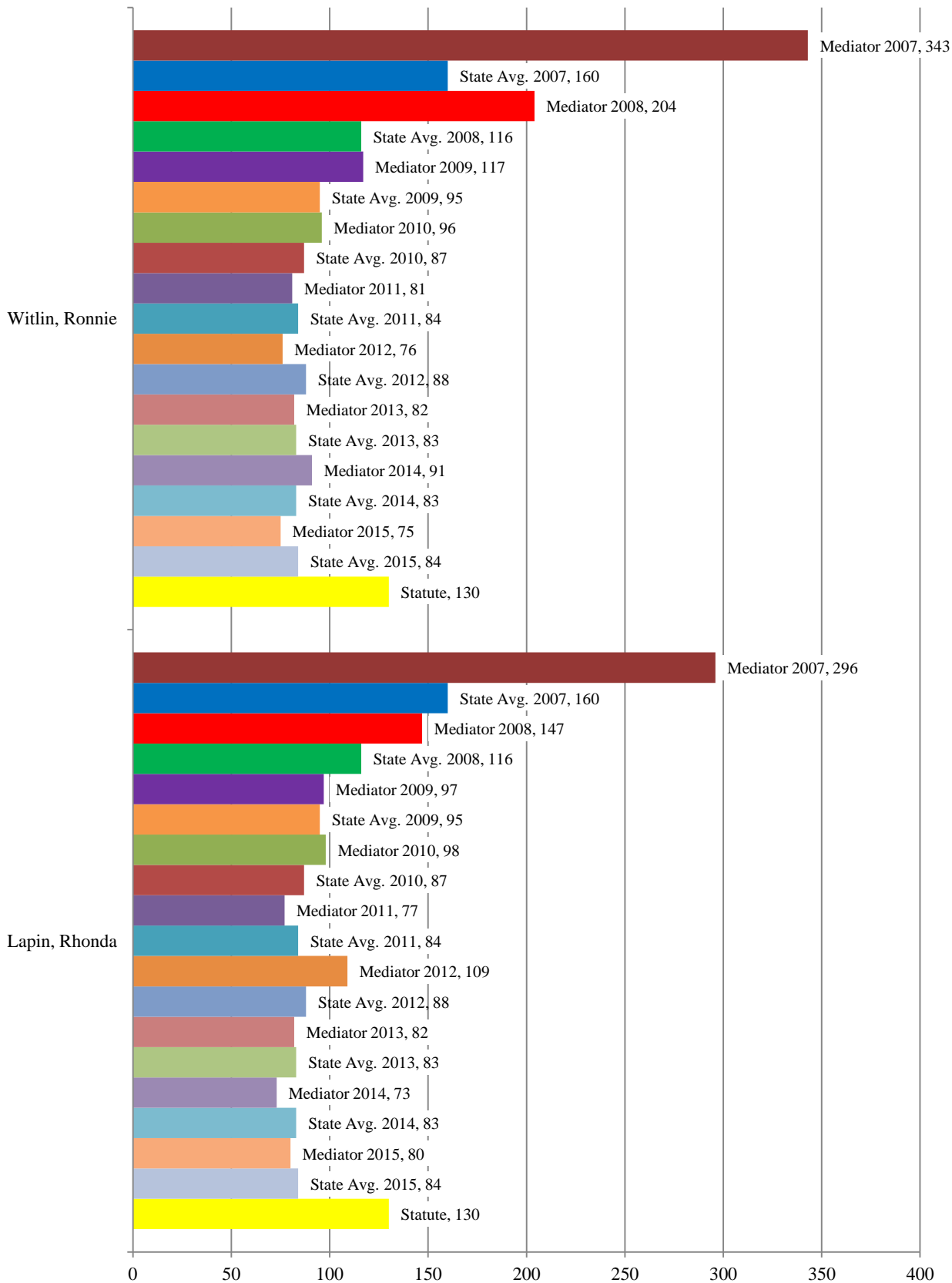
(Continued) The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2014-15 (2003-04 is also provided for historical reference). The identification and values for each year are in each bar label.



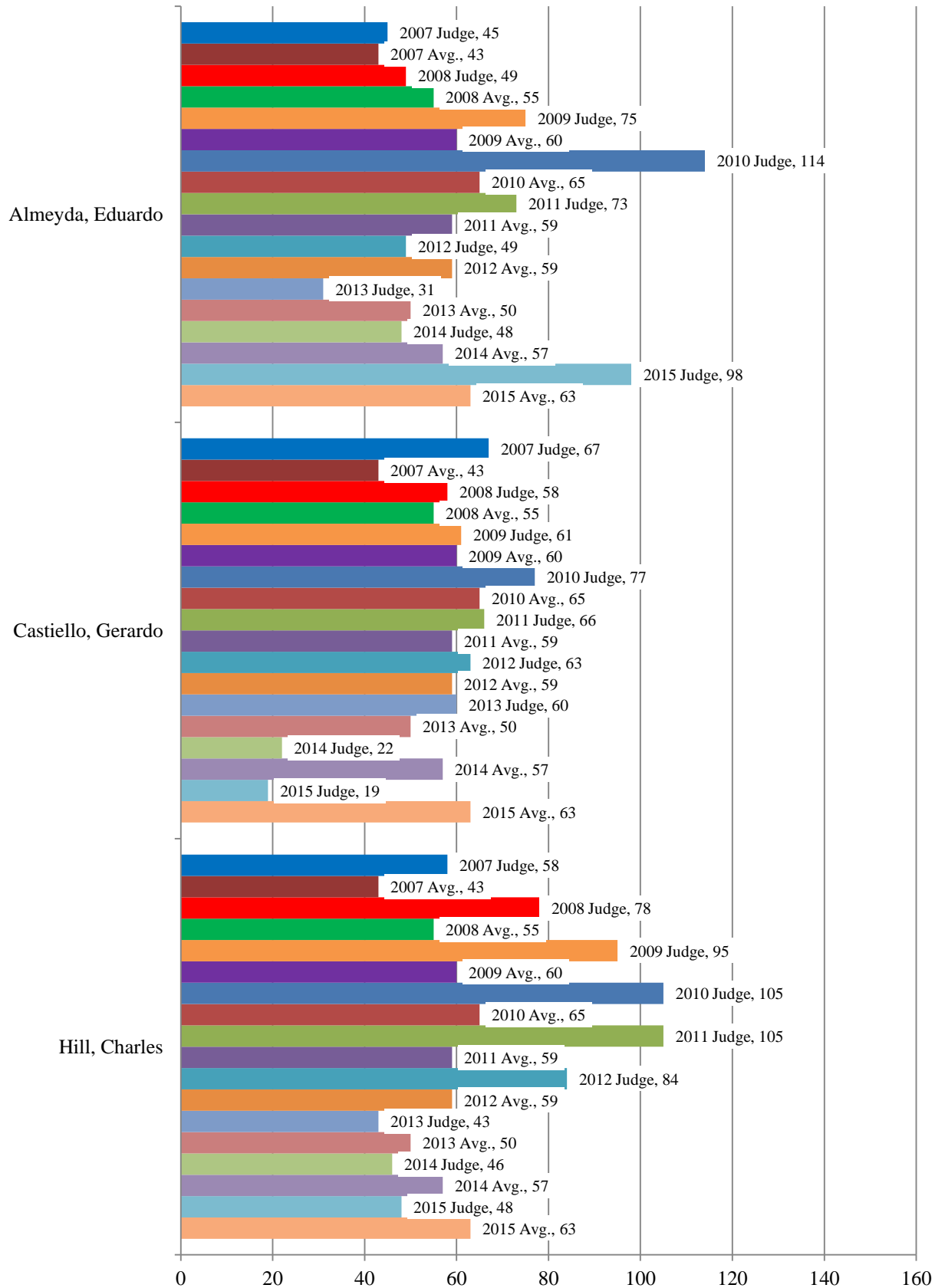
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



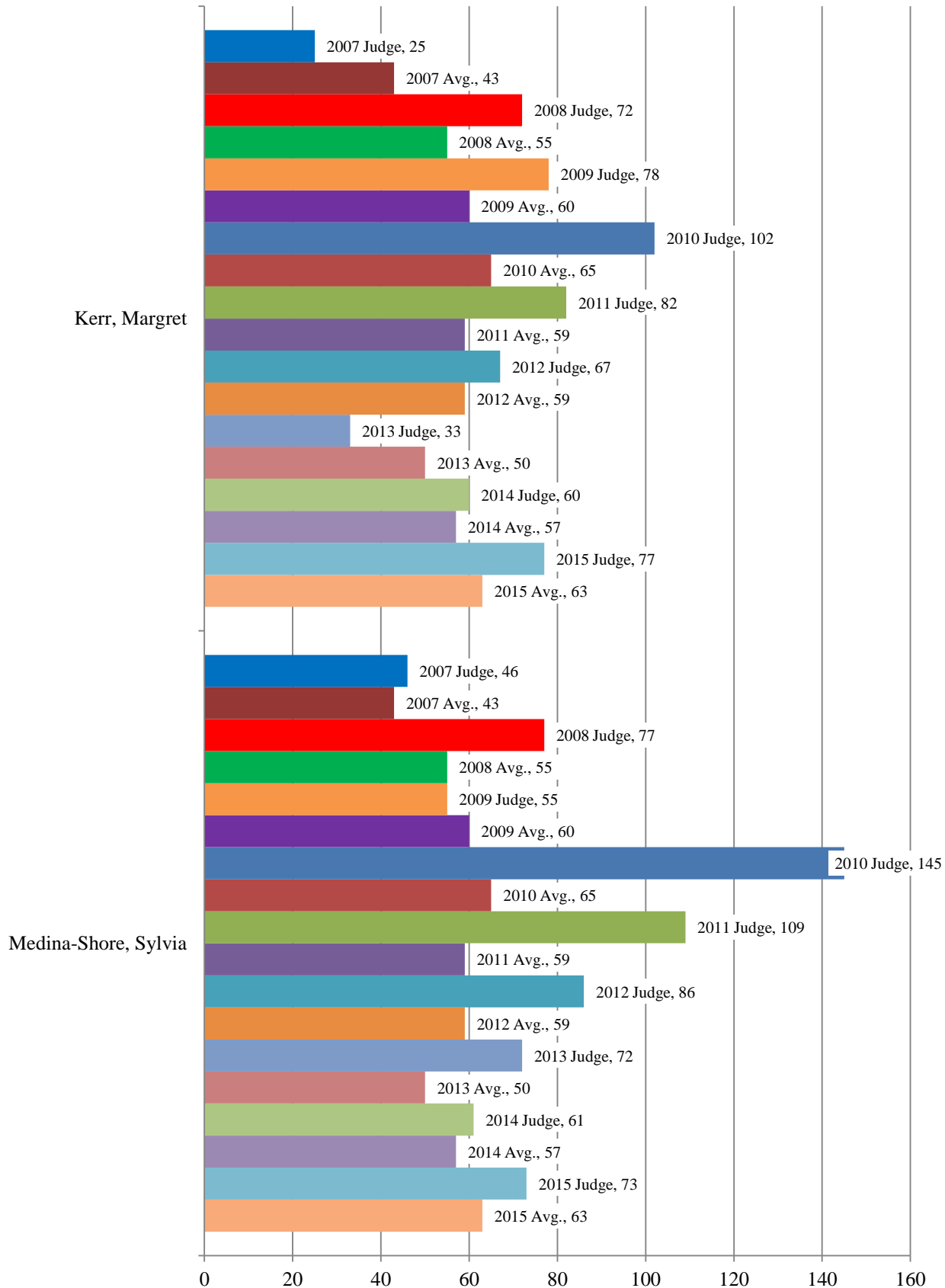
(Continued) The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



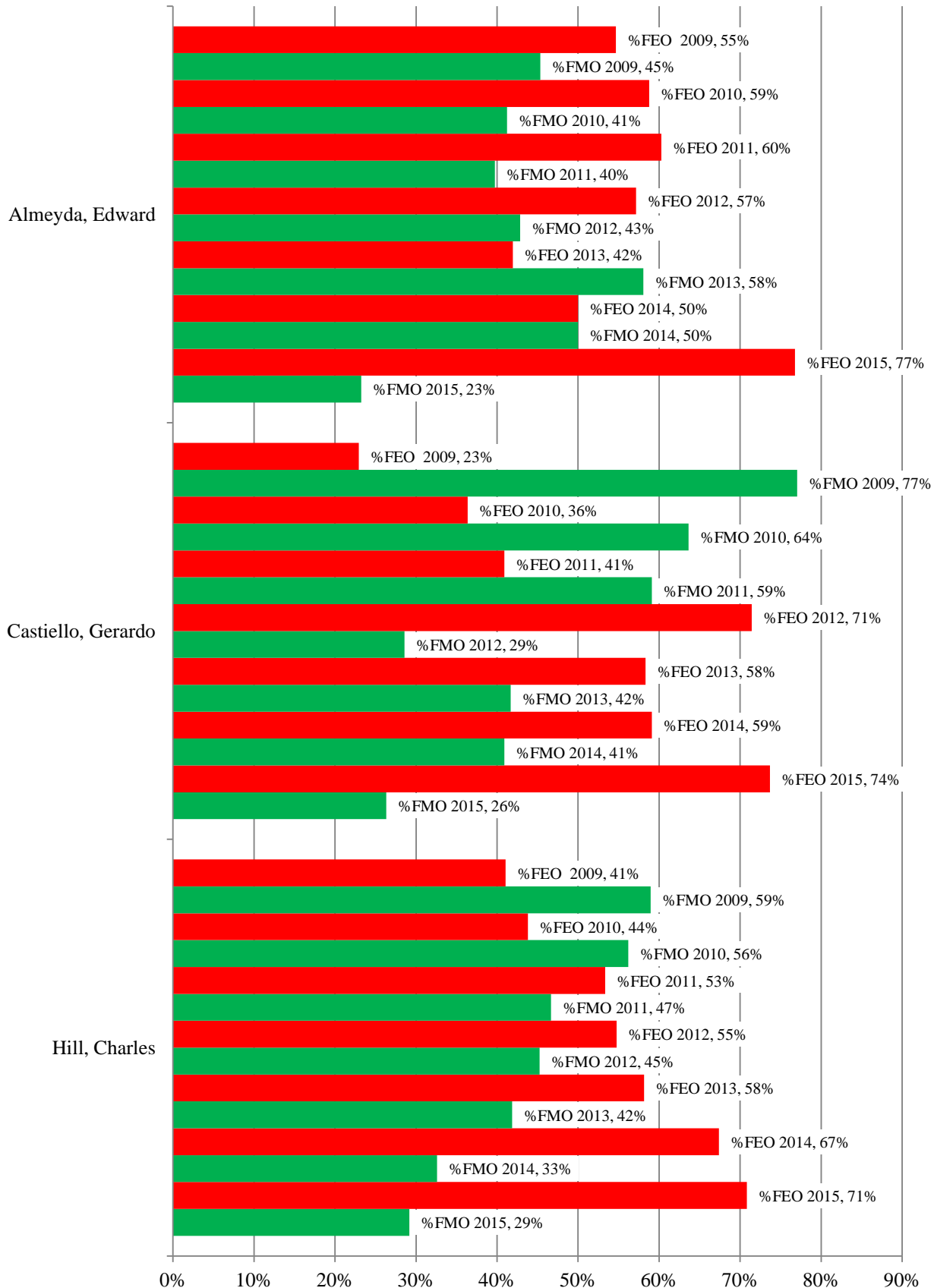
The following graph depicts the total volume of trial orders¹²² uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



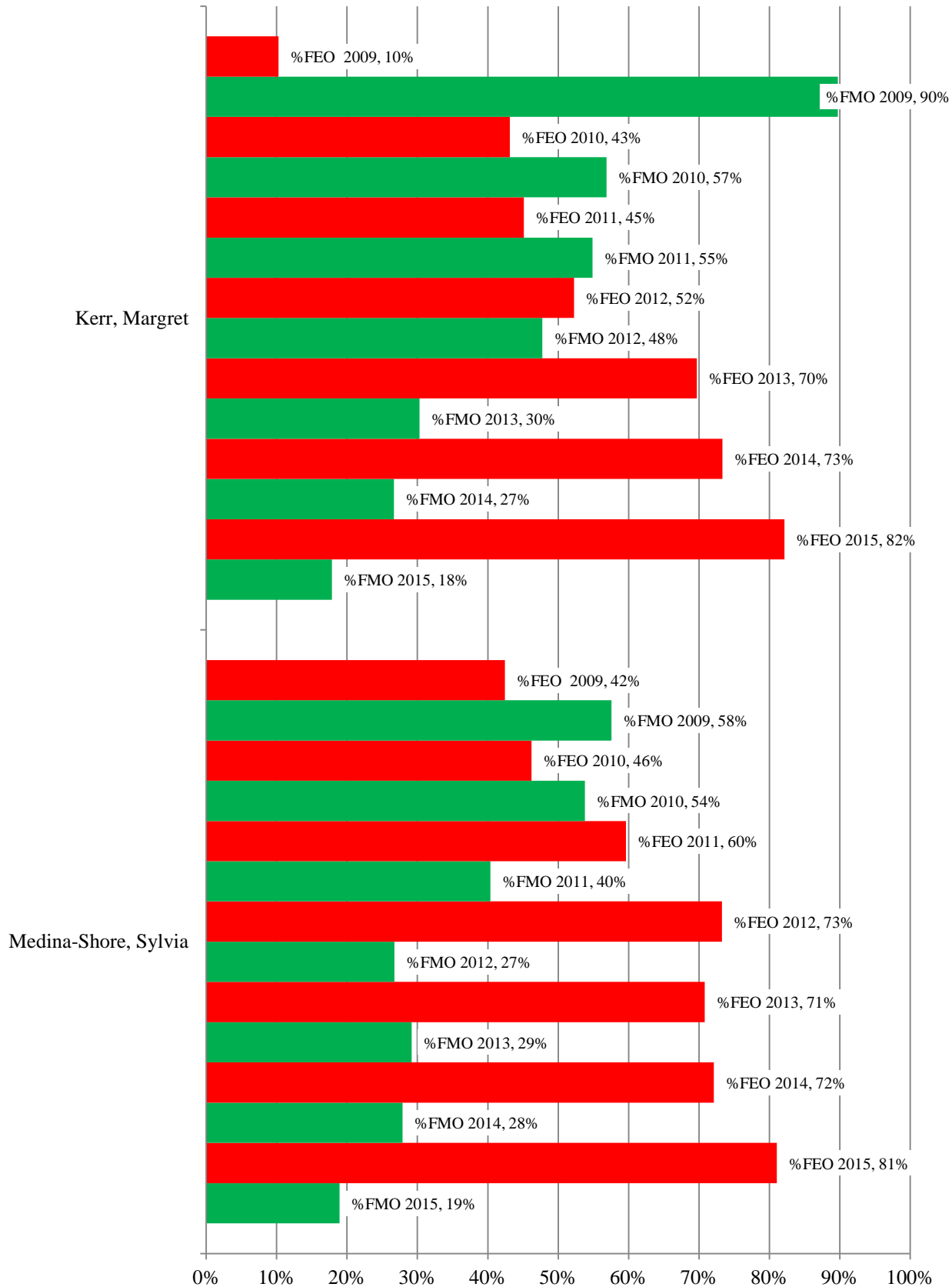
(Continued) The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



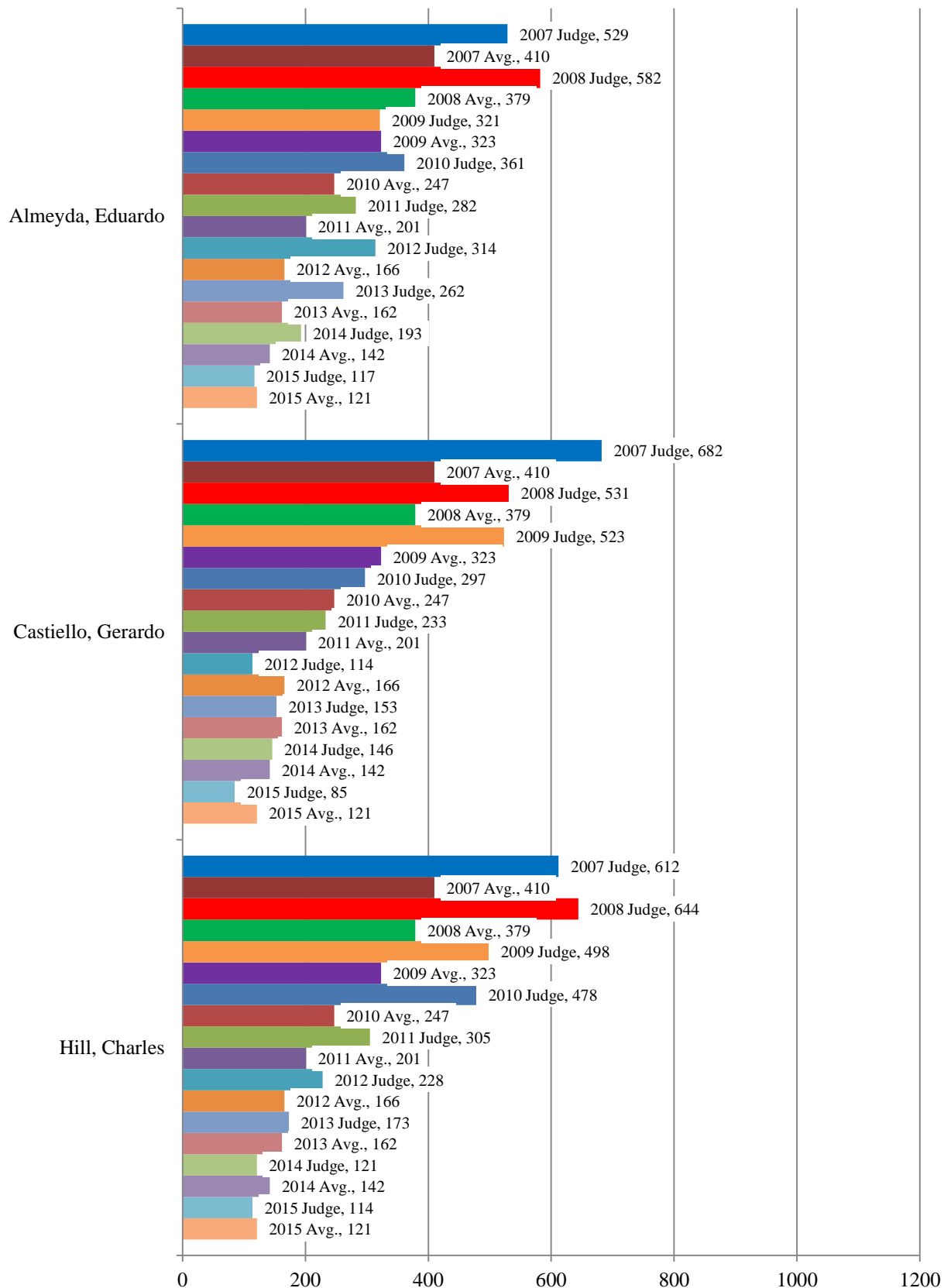
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



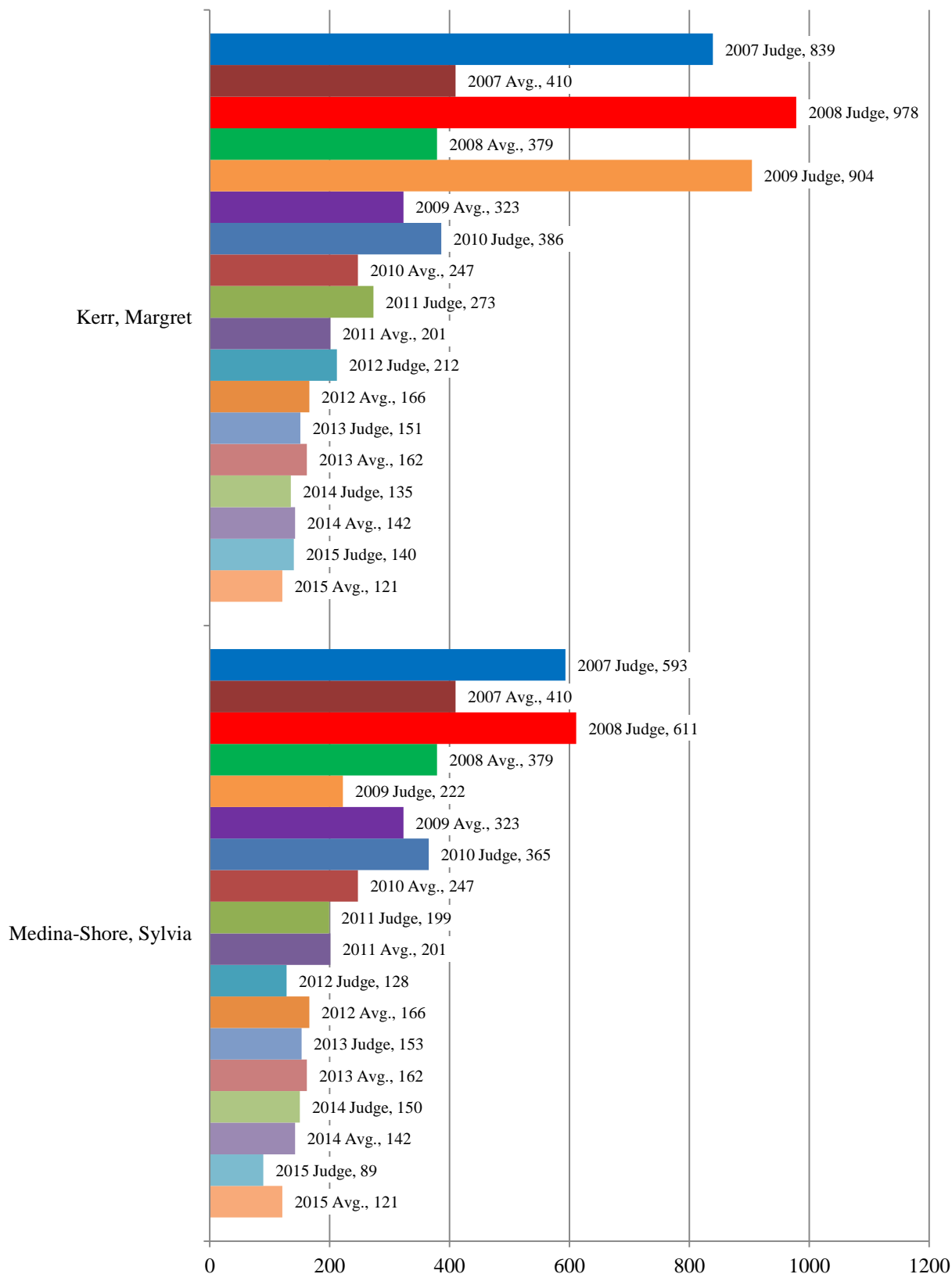
(Continued) The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits



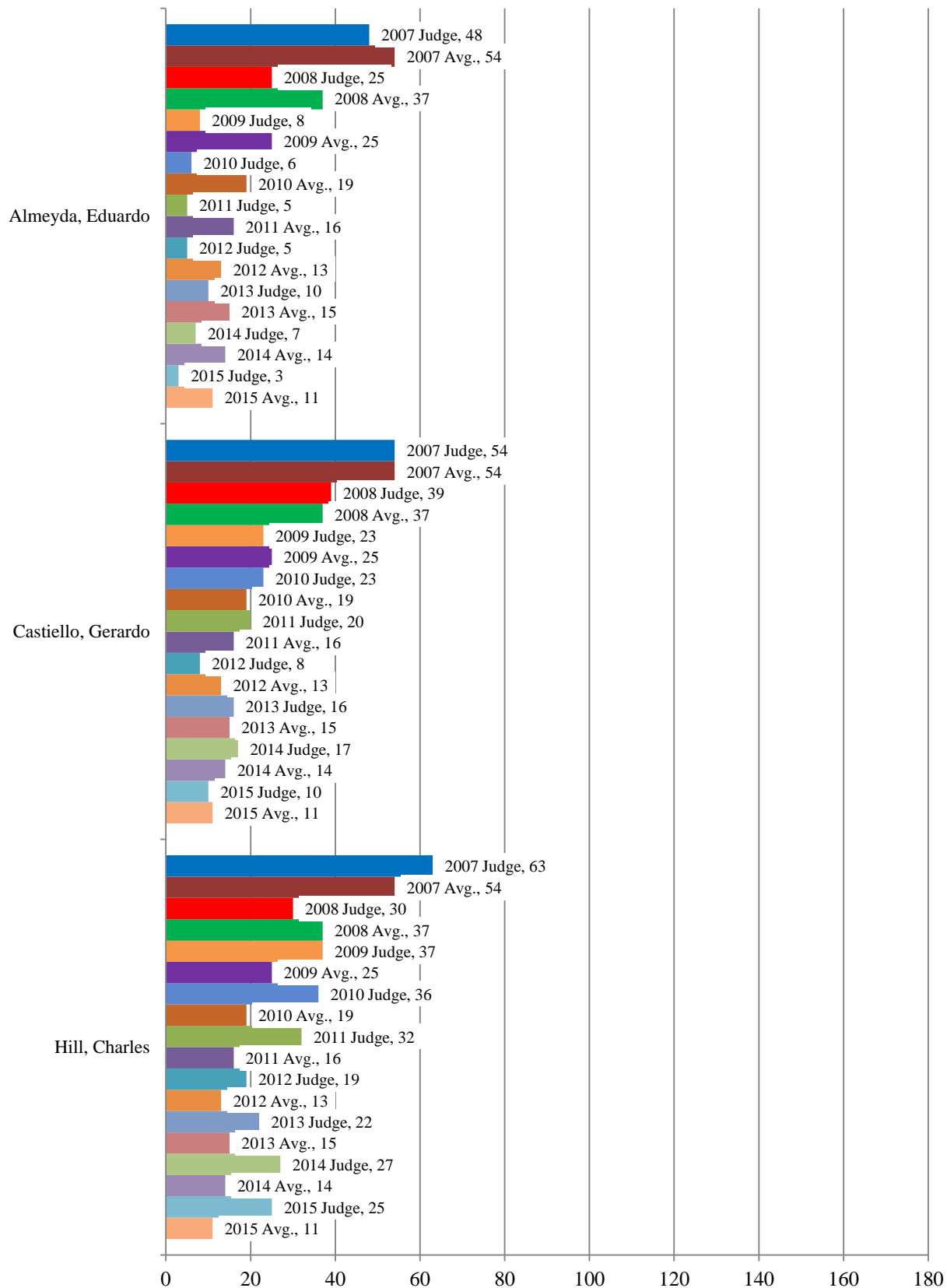
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



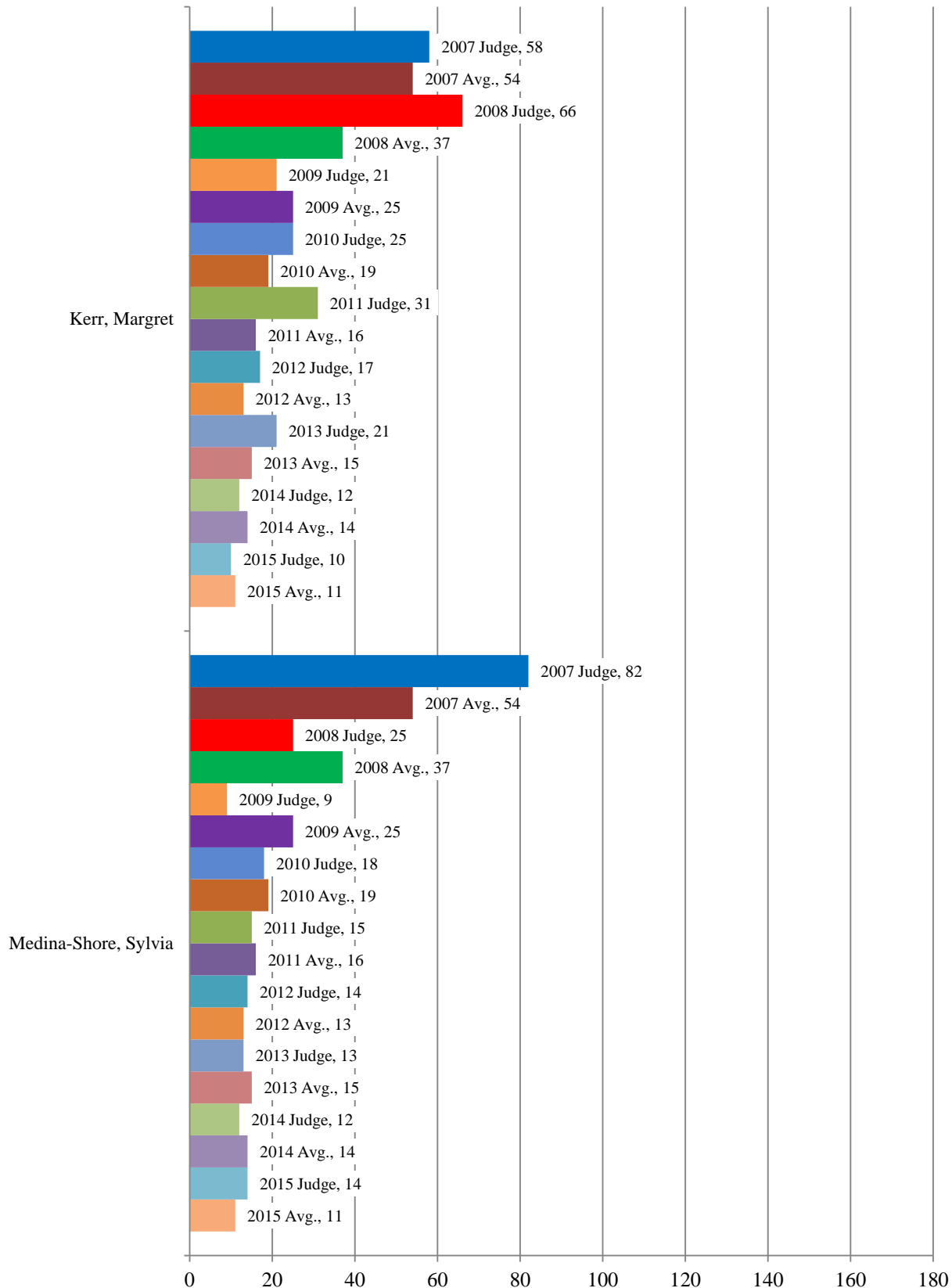
(Continued) The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



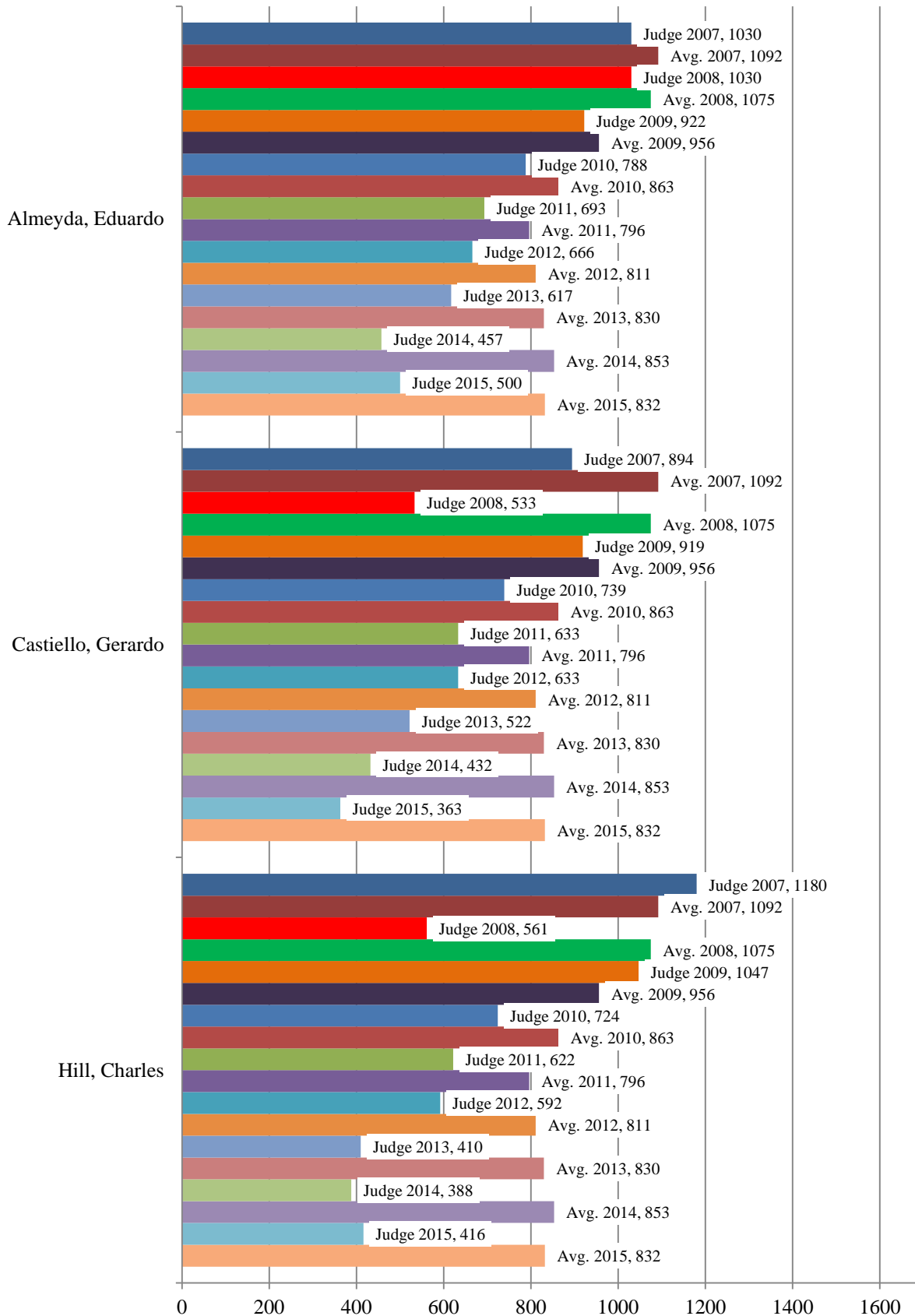
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



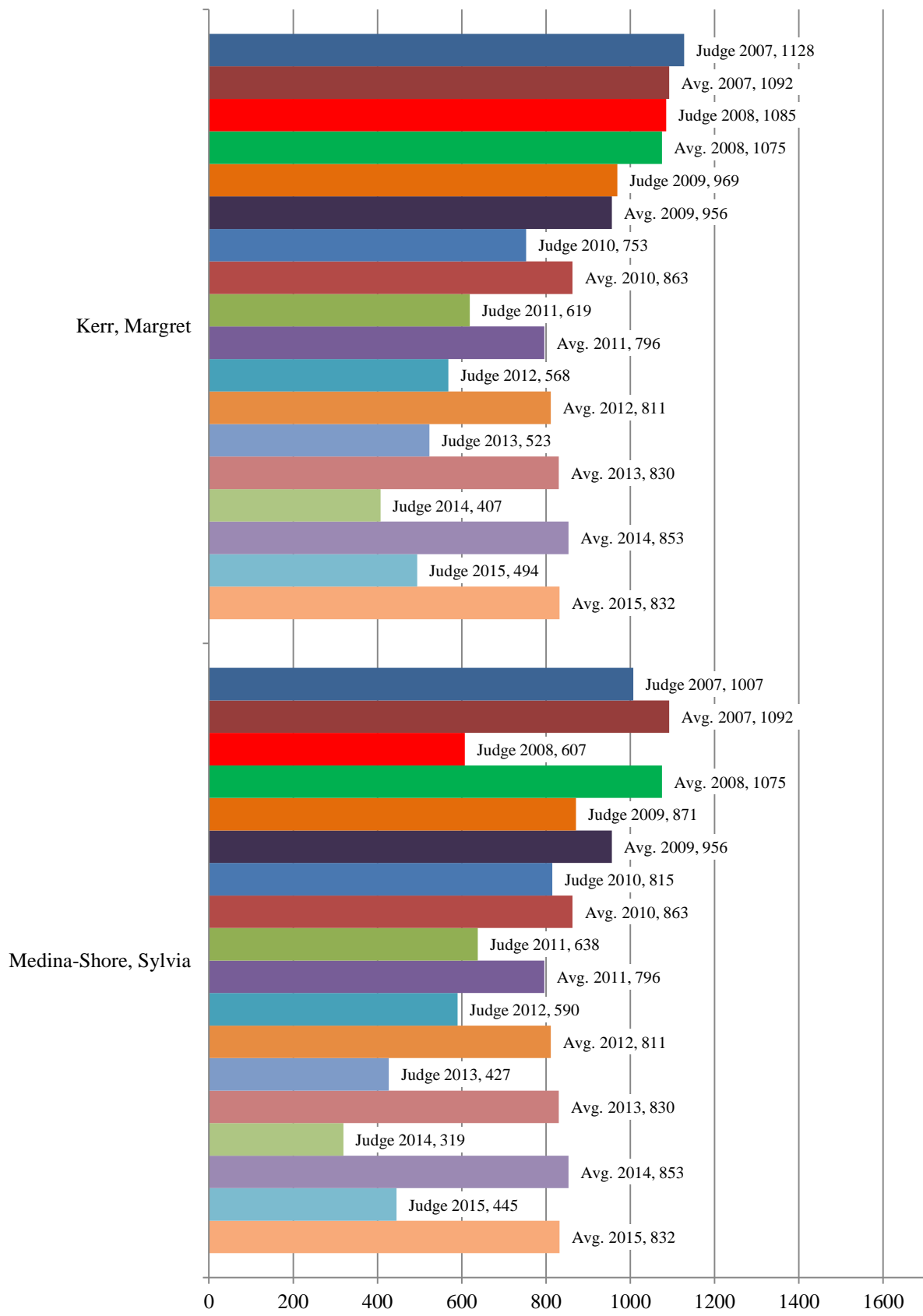
(Continued) The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



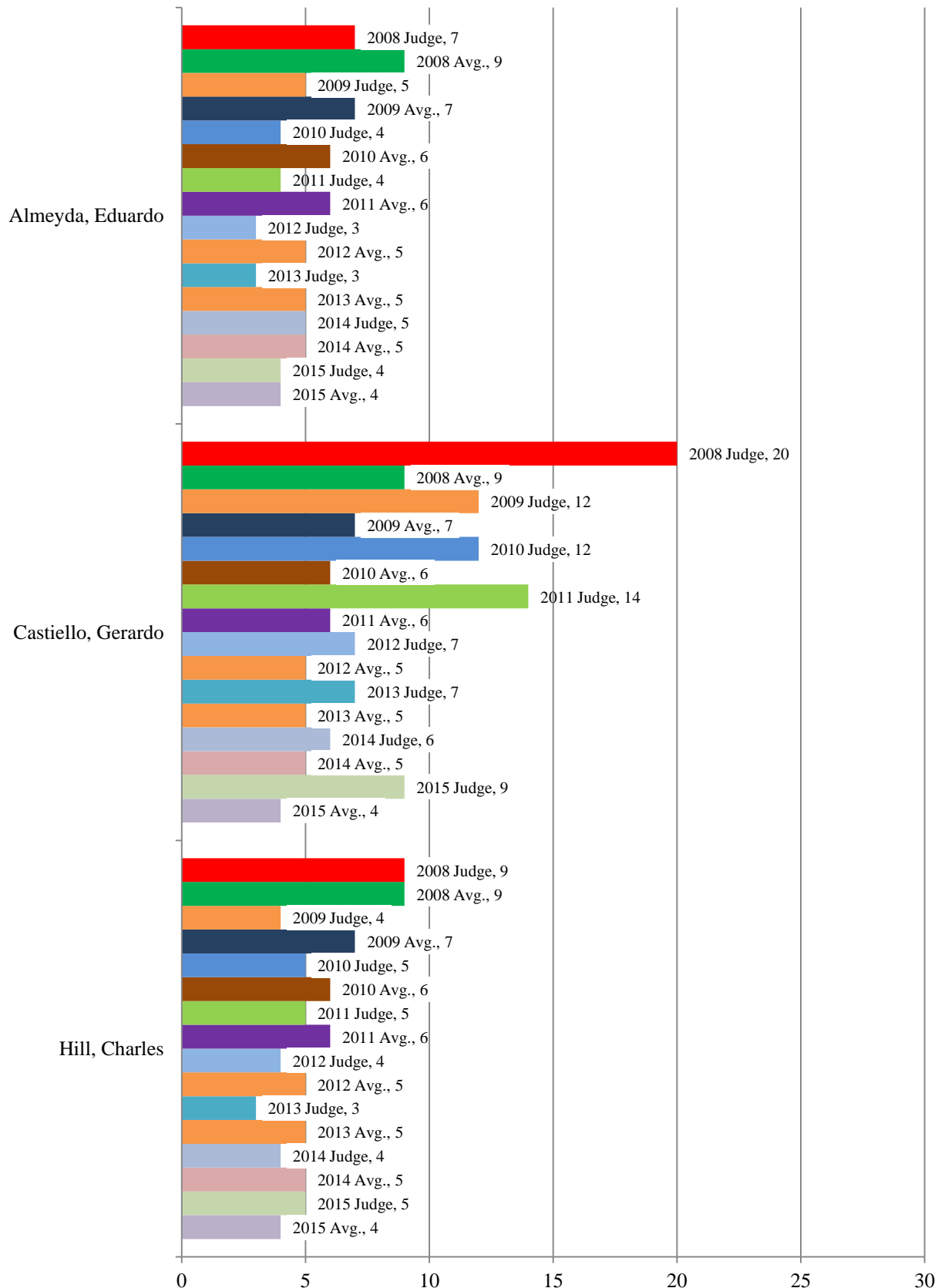
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



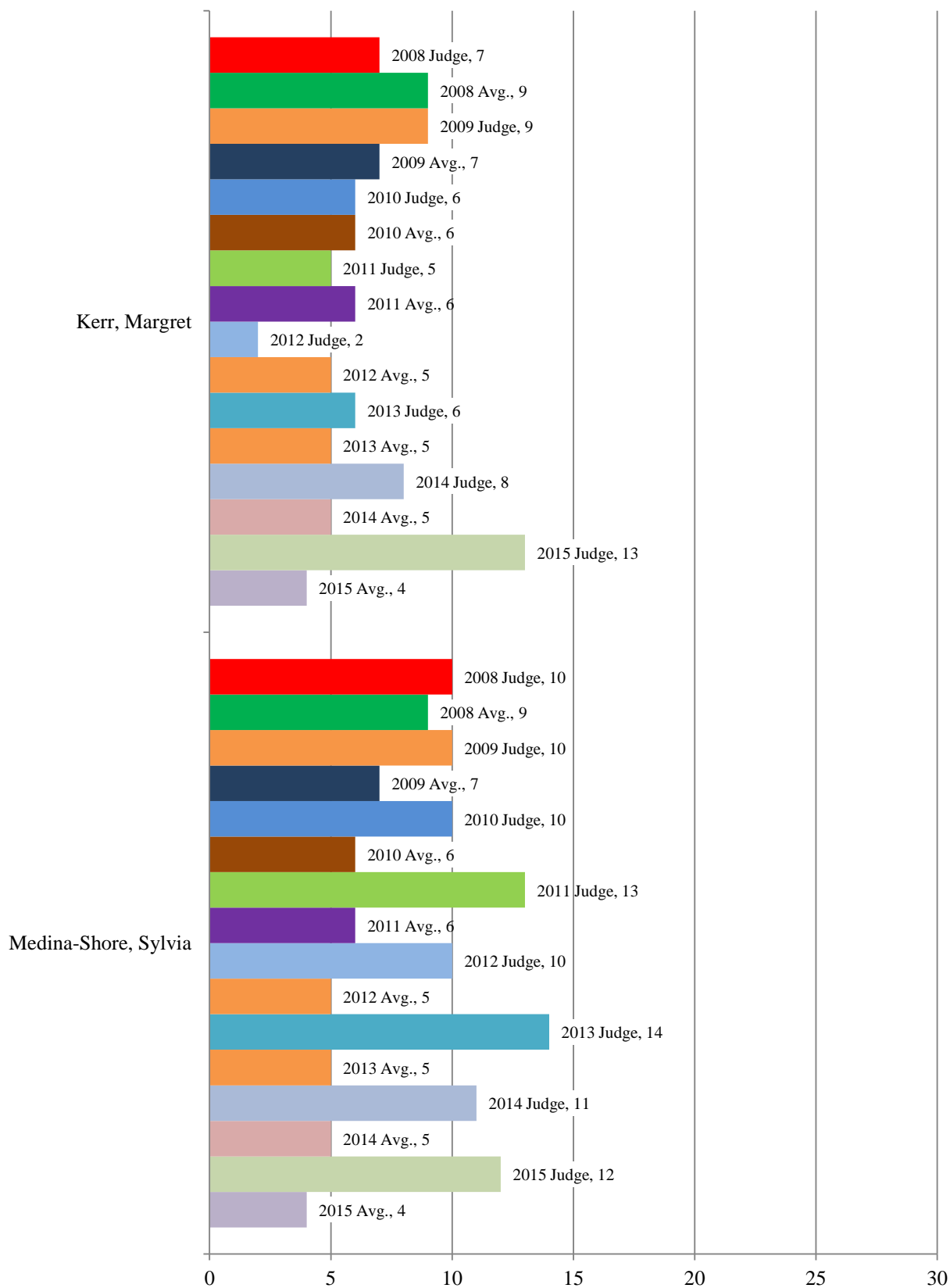
(Continued) The following depicts the volume of settlement orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



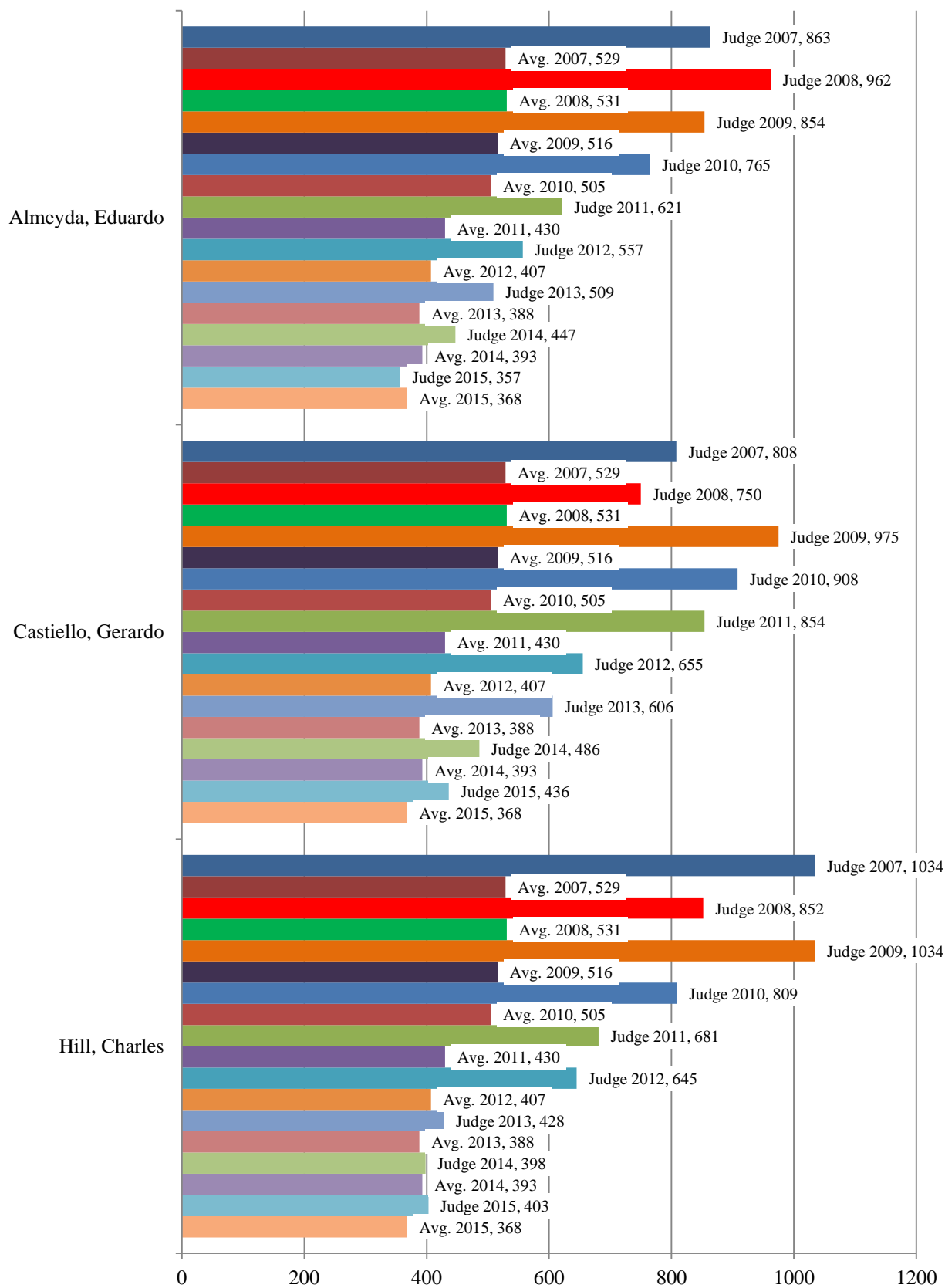
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



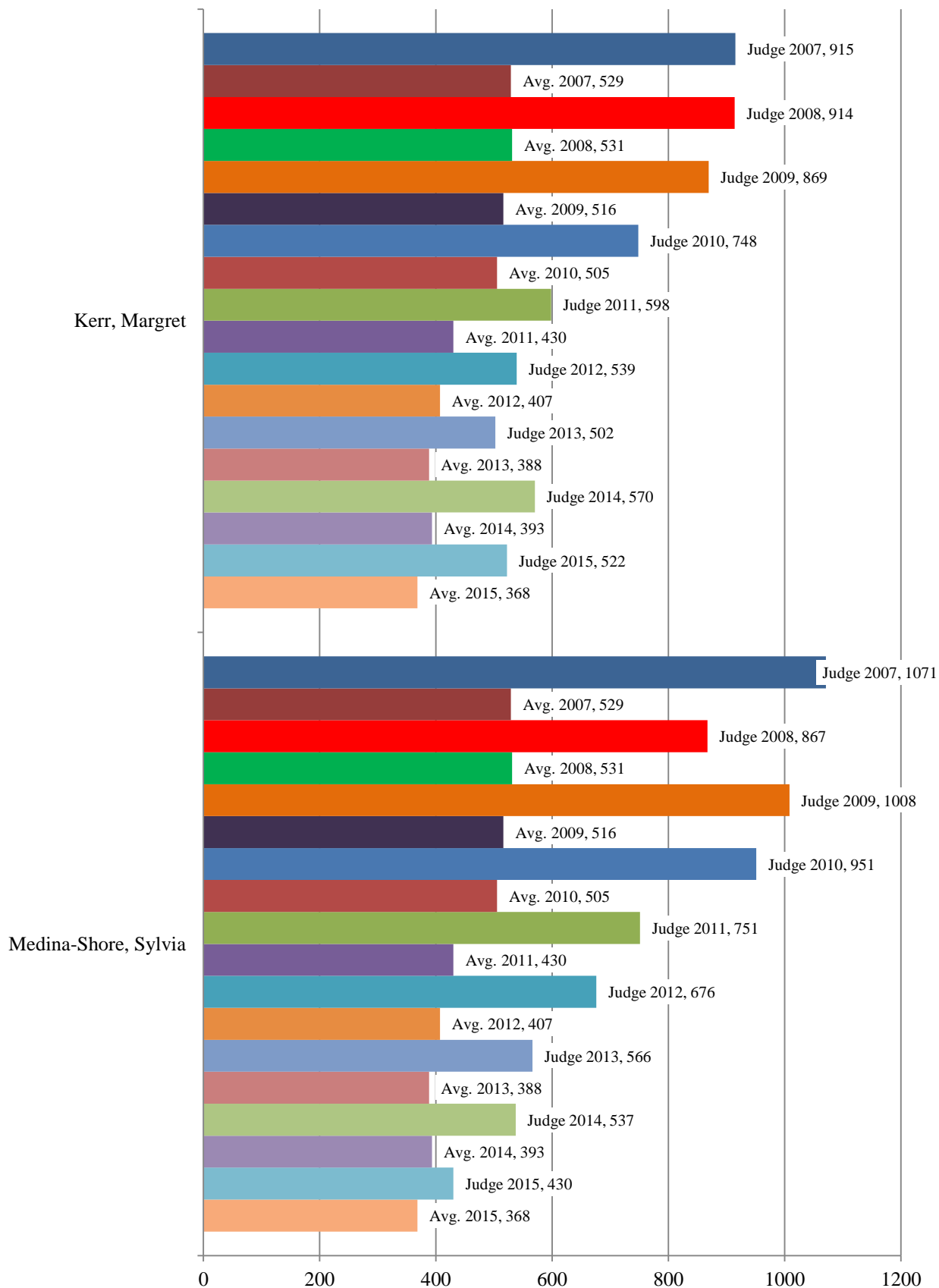
(Continued) The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



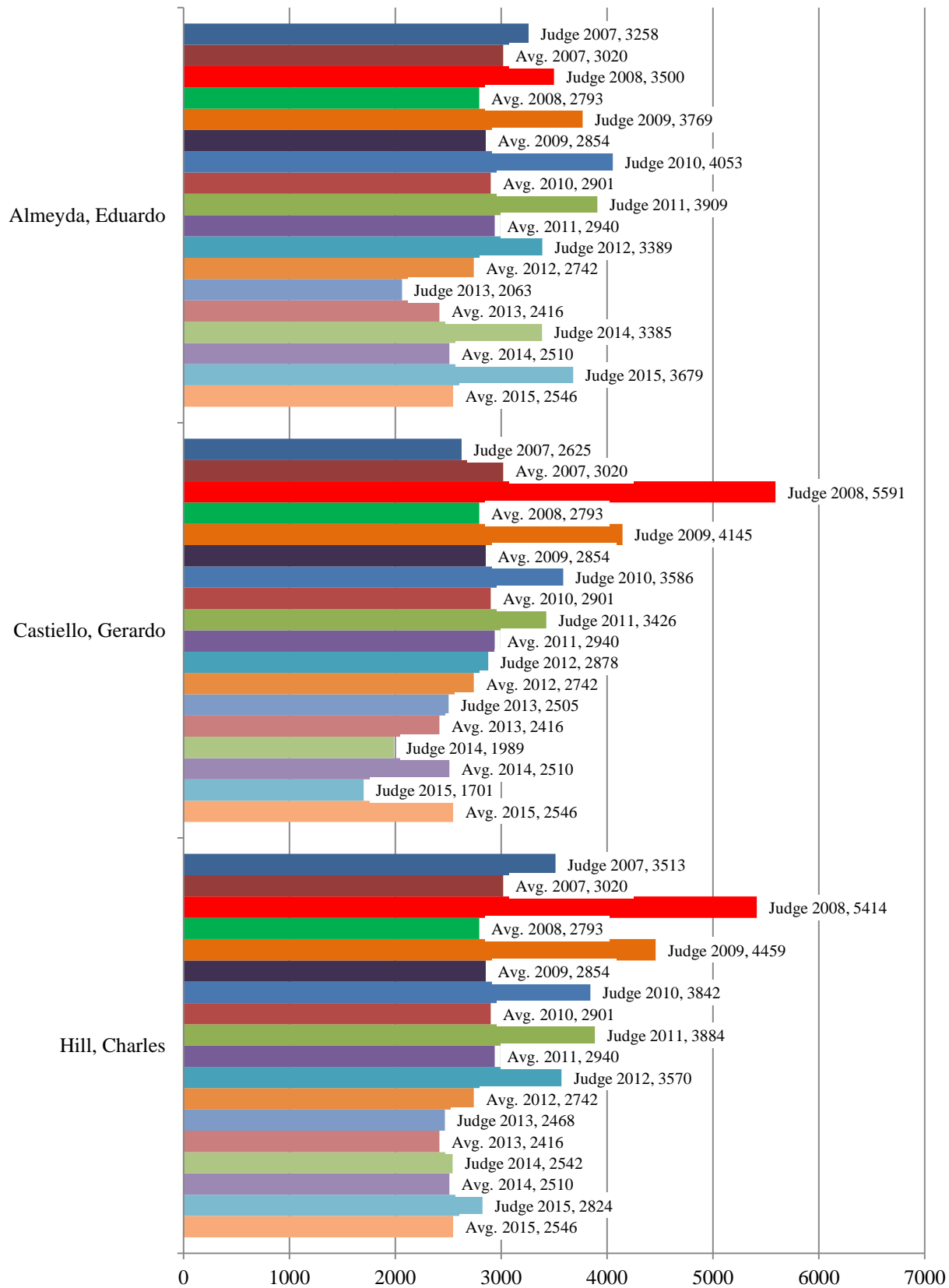
The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



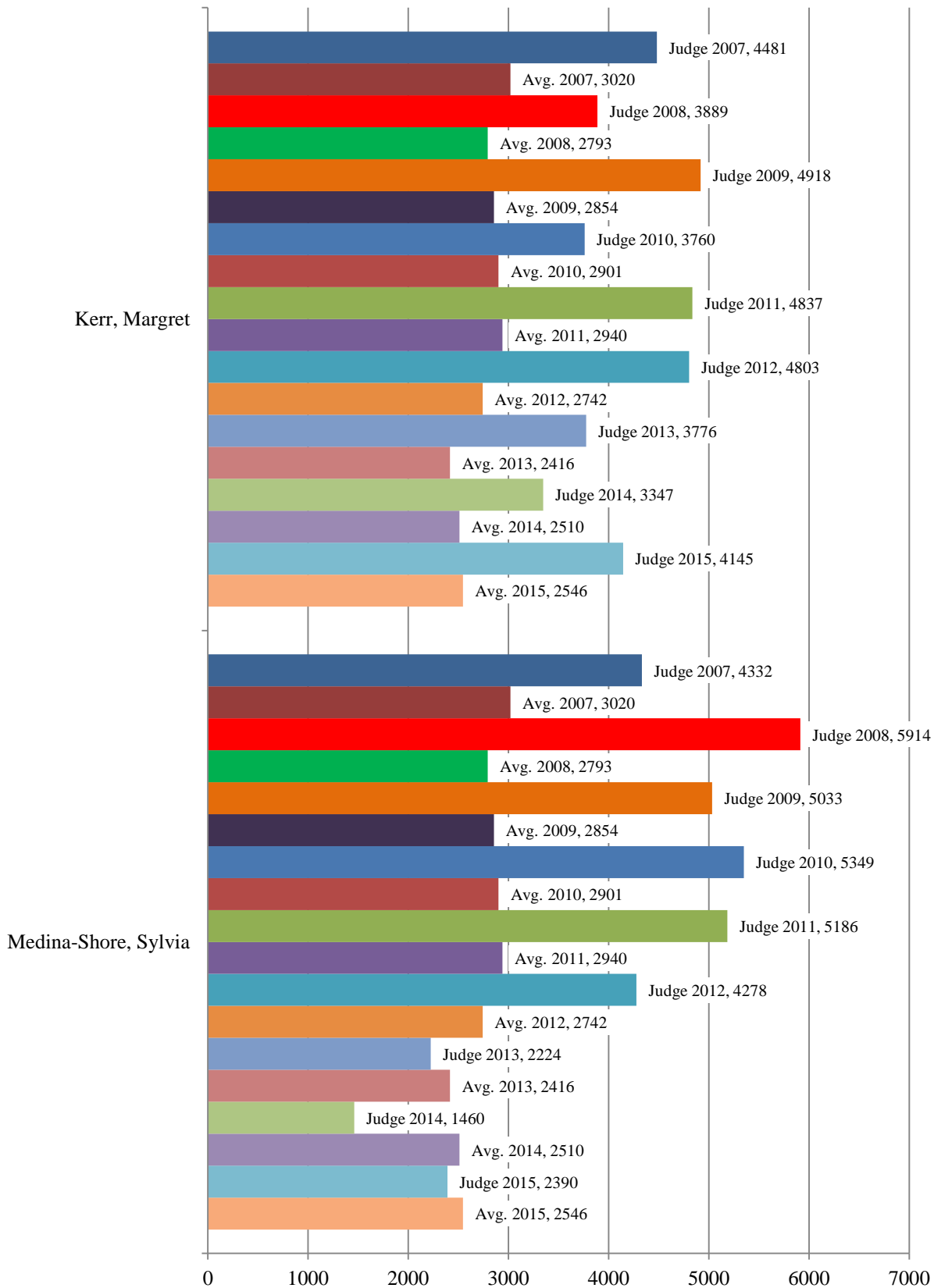
(Continued) The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



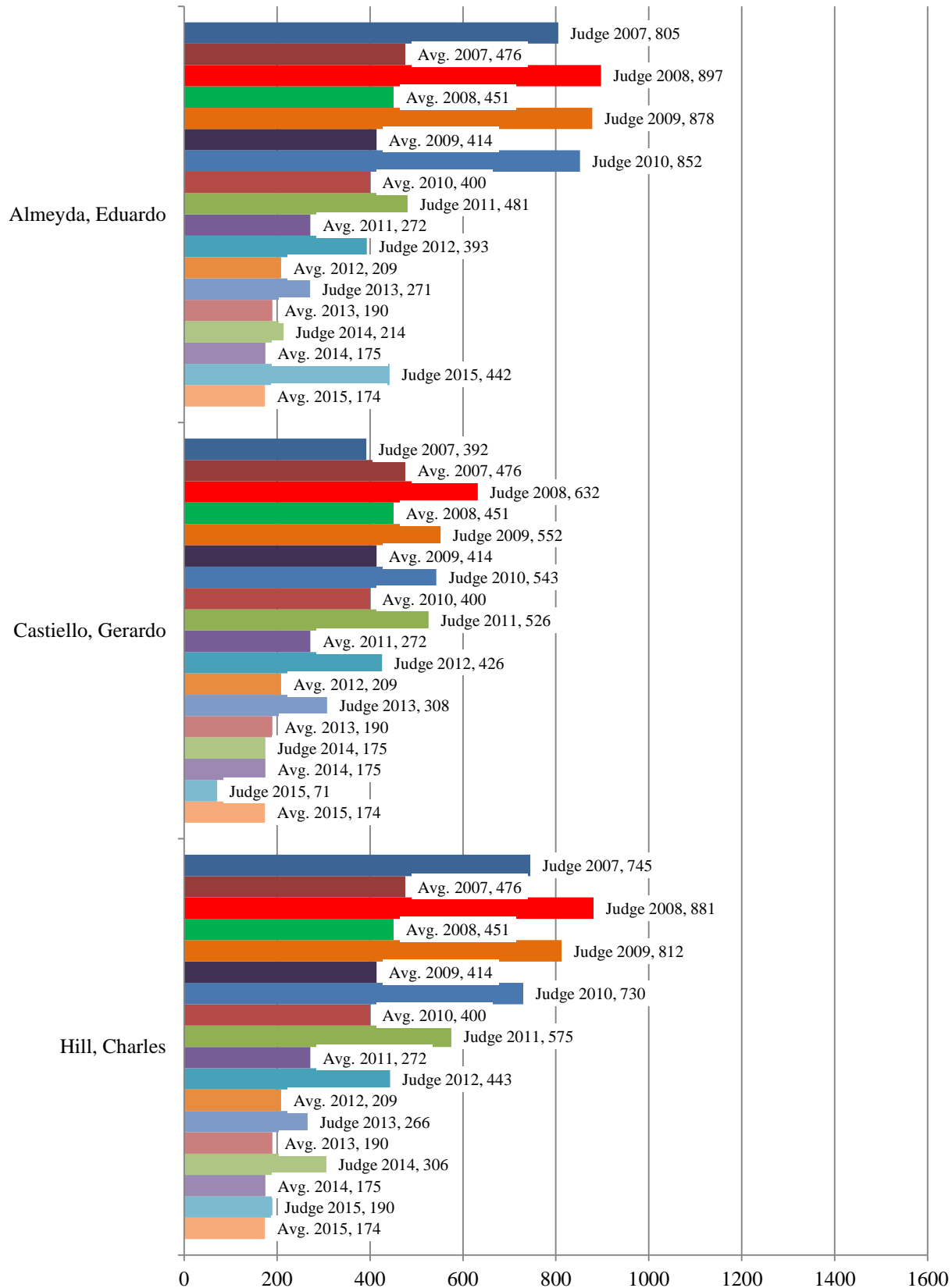
The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



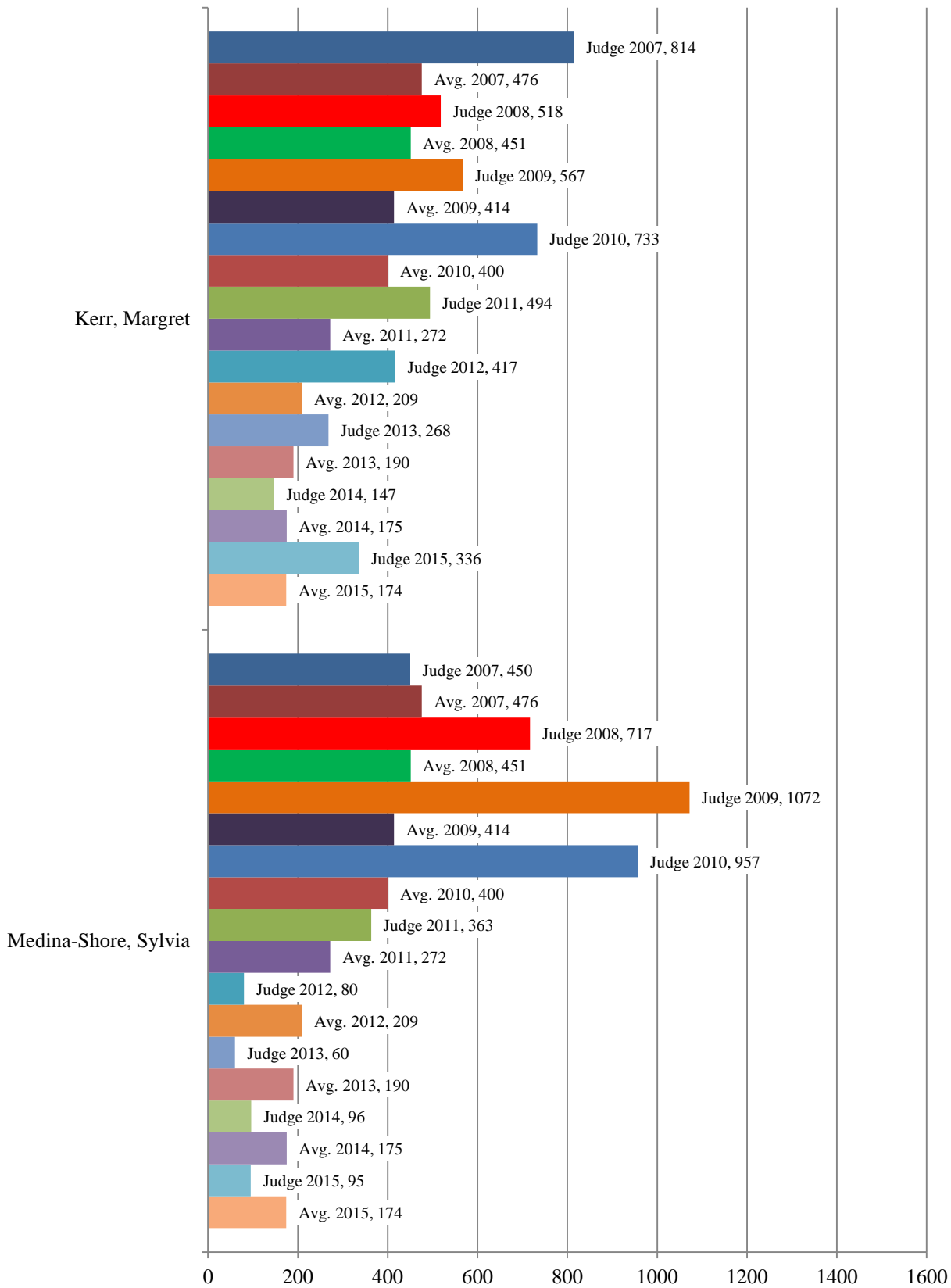
(Continued) The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



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 2014-15. 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 2014-15. 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 four 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 District currently evidences stability and that 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 2014-15. 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 2014-15, 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. In 2015, he presented on a panel regarding undocumented workers and the process of change in workers compensation at the SAWCA all committee conference in Hilton Head, South Carolina.

In 2015, Judge Pitts served on the development board for the College of Public Health and Health Sciences at the University of Florida. He spoke at the Section’s Winter Seminar in Colorado on the application of Daubert and at the April Forum on the “Judges and Lawyers Round Table” panel regarding Daubert. Judge Pitts presented for the Workers’ Compensation Section Lunch and Learn Seminar on “Hot Topics,” which discussed the new Chapter 60Q Rules. He was President of the Judge William Wieland American Inns of Court, and was a guest speaker/panelist at both Barry and FAMU law schools

Judge Sculco attended the Southern Association of Workers’ Compensation Administrators in Sarasota in 2014, where he participated in a presentation on the challenges of eyewitness testimony. At the Workers’ Compensation Institute, Judge Sculco presented on two panels, “Focus on Ethics and Professionalism” and “First Responder Heart and Hypertension Claims: The Current State of Law & Medicine”

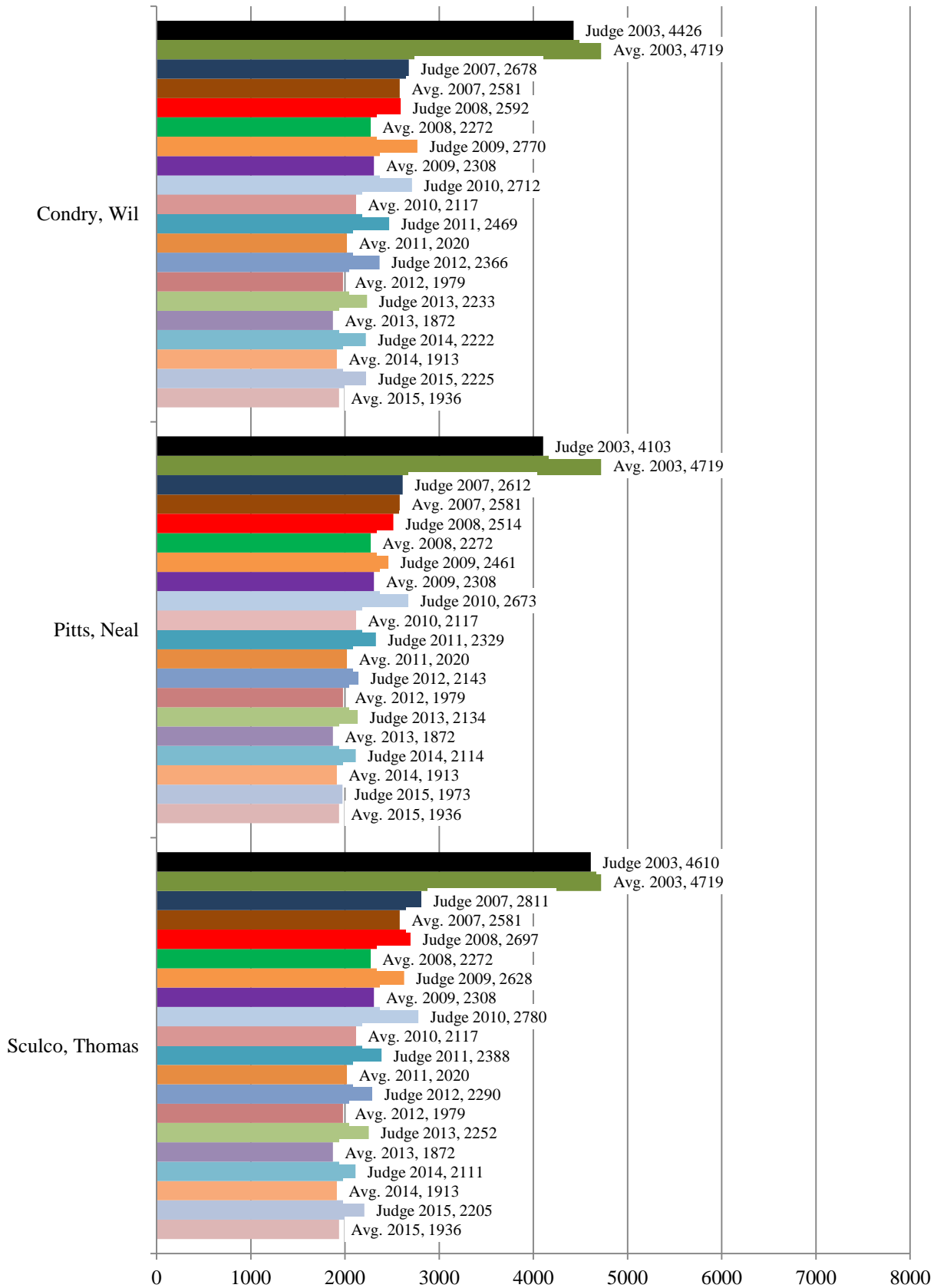
Mediator Sherry Hires presented on a panel “The Changing Face of Mediation” at the continuing educational seminar Florida Workers’ Compensation in the Year of the Supreme Court.

Mediator AnnaMarie Kim is Statewide board Secretary of the Friends of 440 Scholarship Fund and Richard Sadow award 2014 recipient. She serves as Vice President of the Judge William Wieland American Inns of Court and is on the board of Professional Mediation Institute.

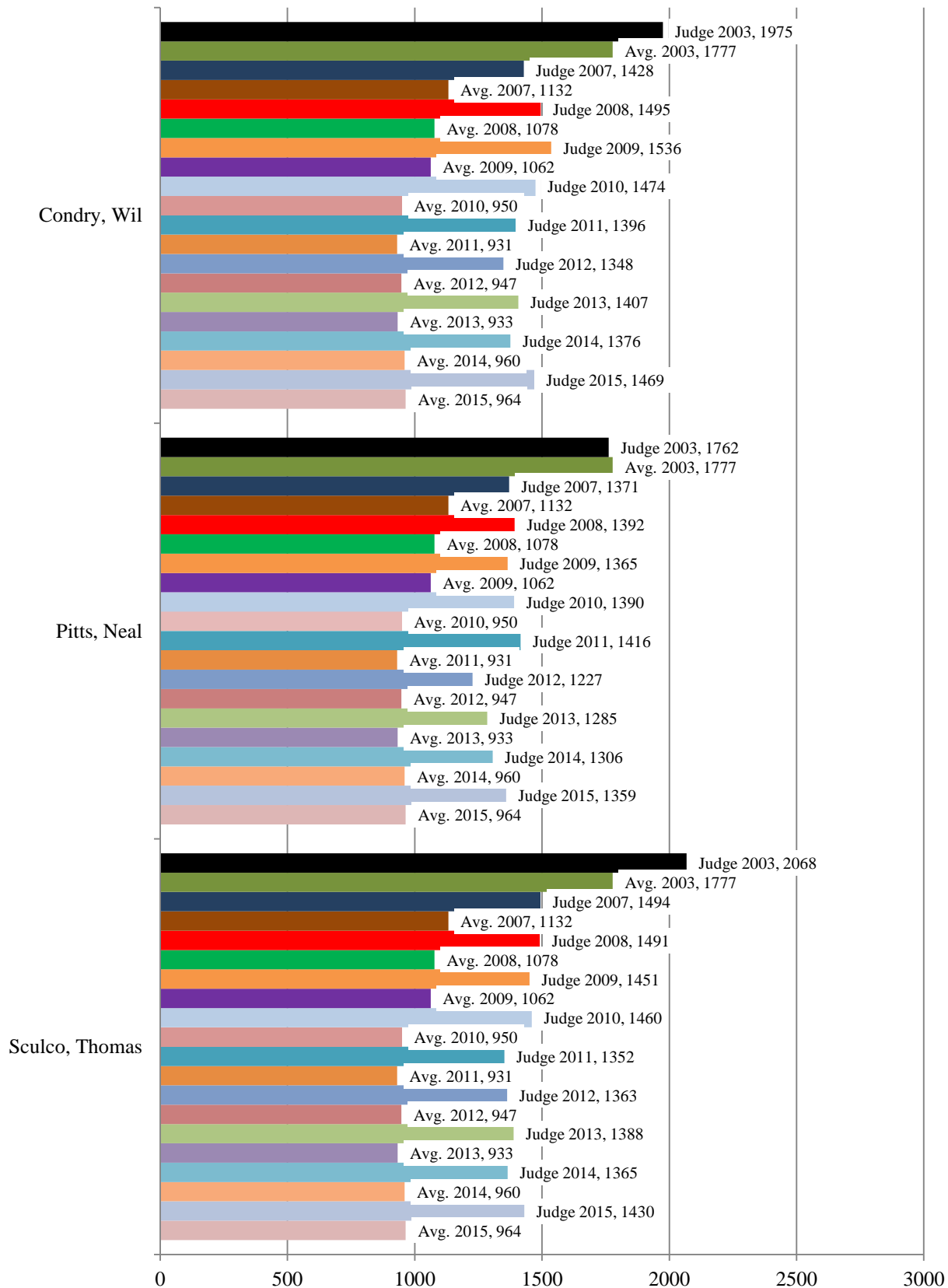


The Orlando District Office on West Robinson Street

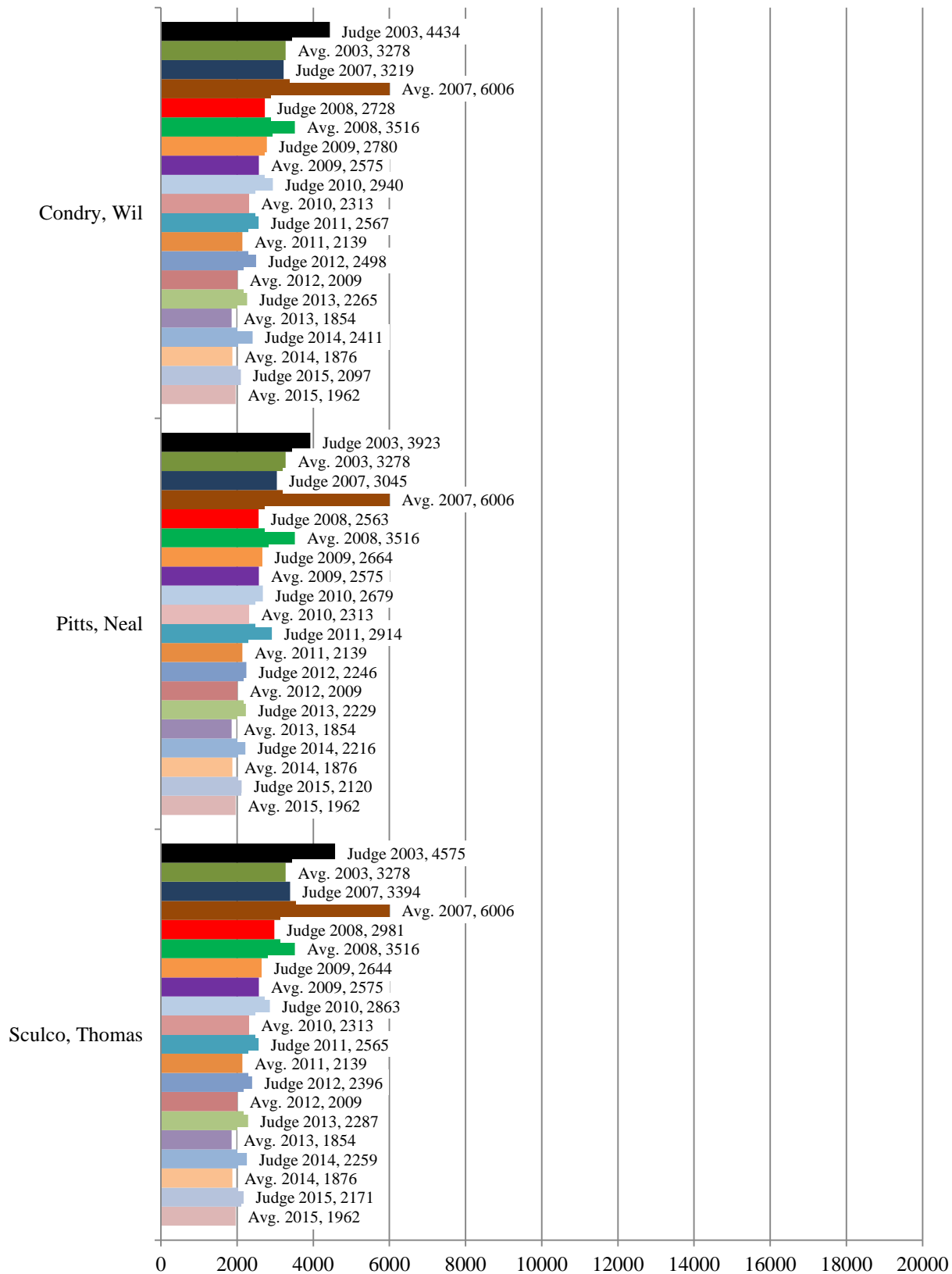
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



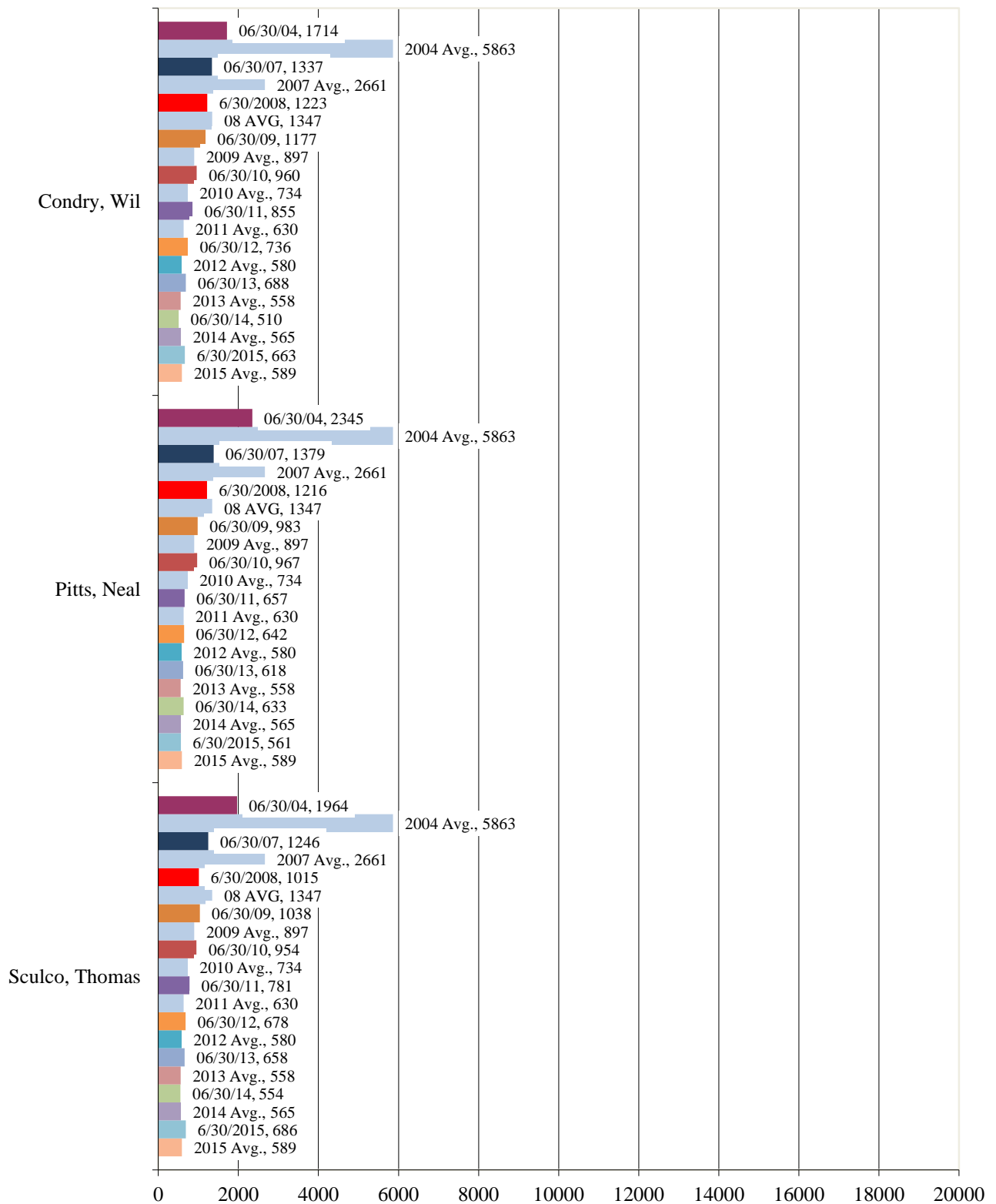
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



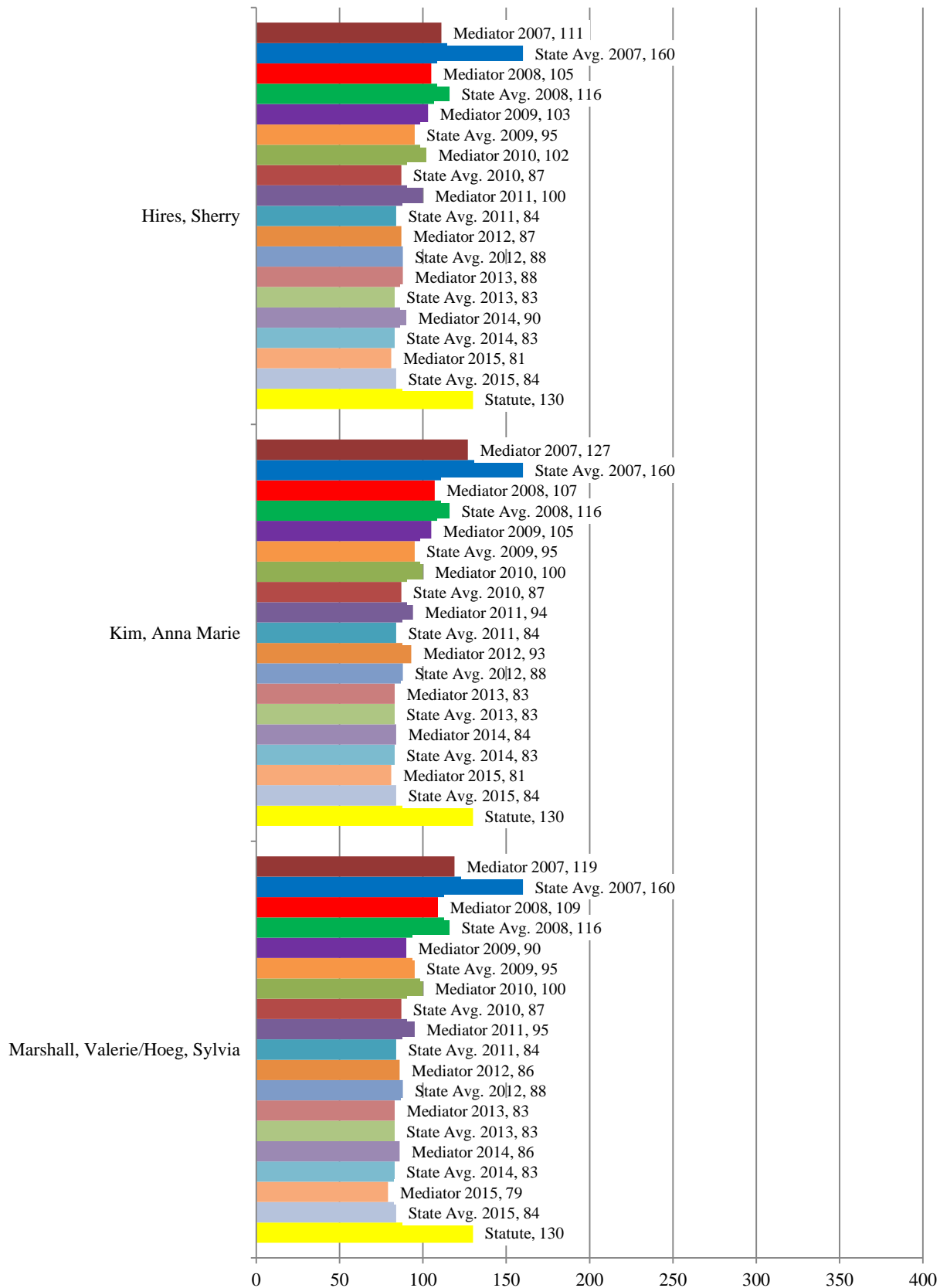
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



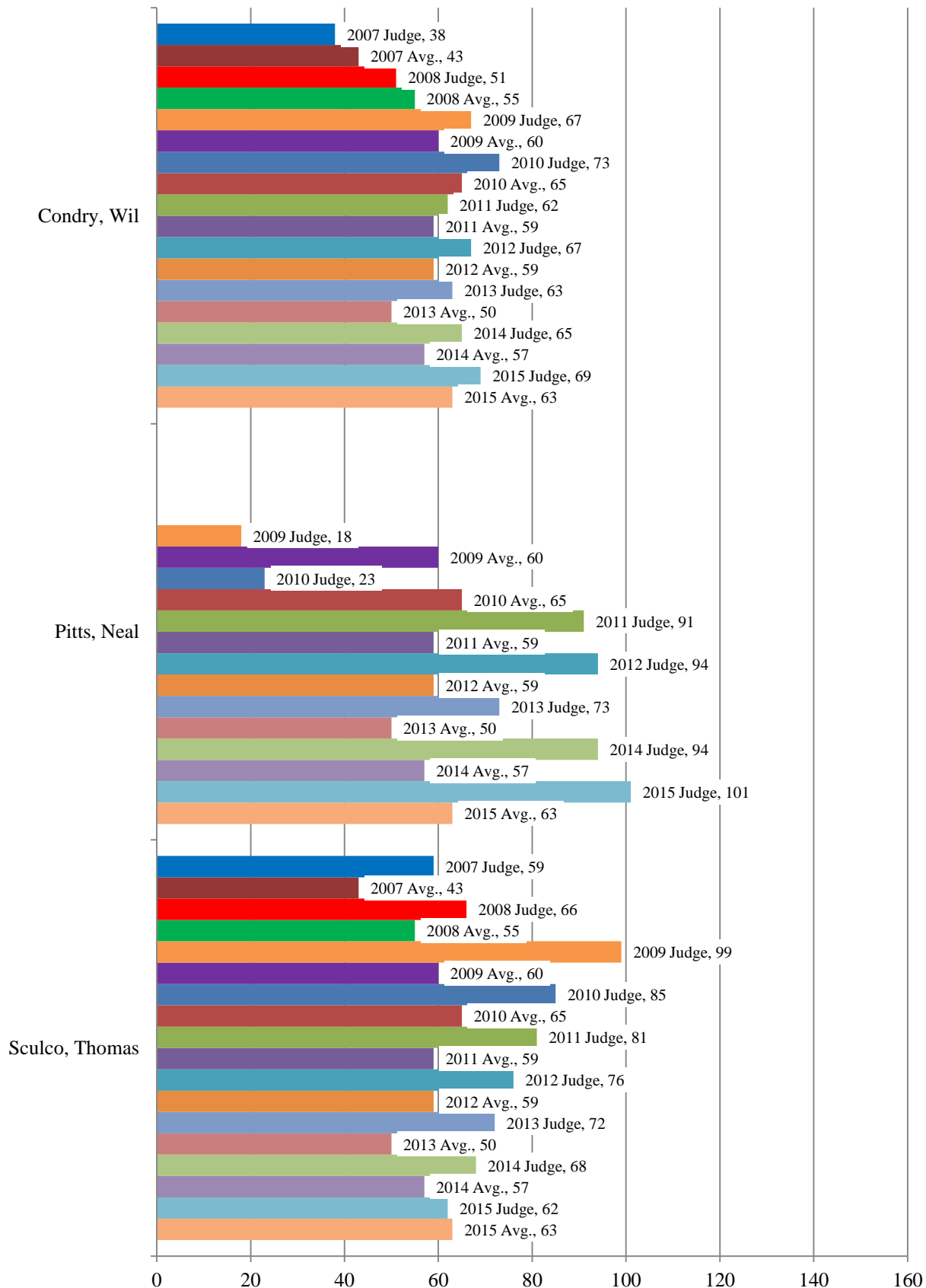
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2014-15 (2003-04 is also provided for historical reference). The identification and values for each year are in each bar label.



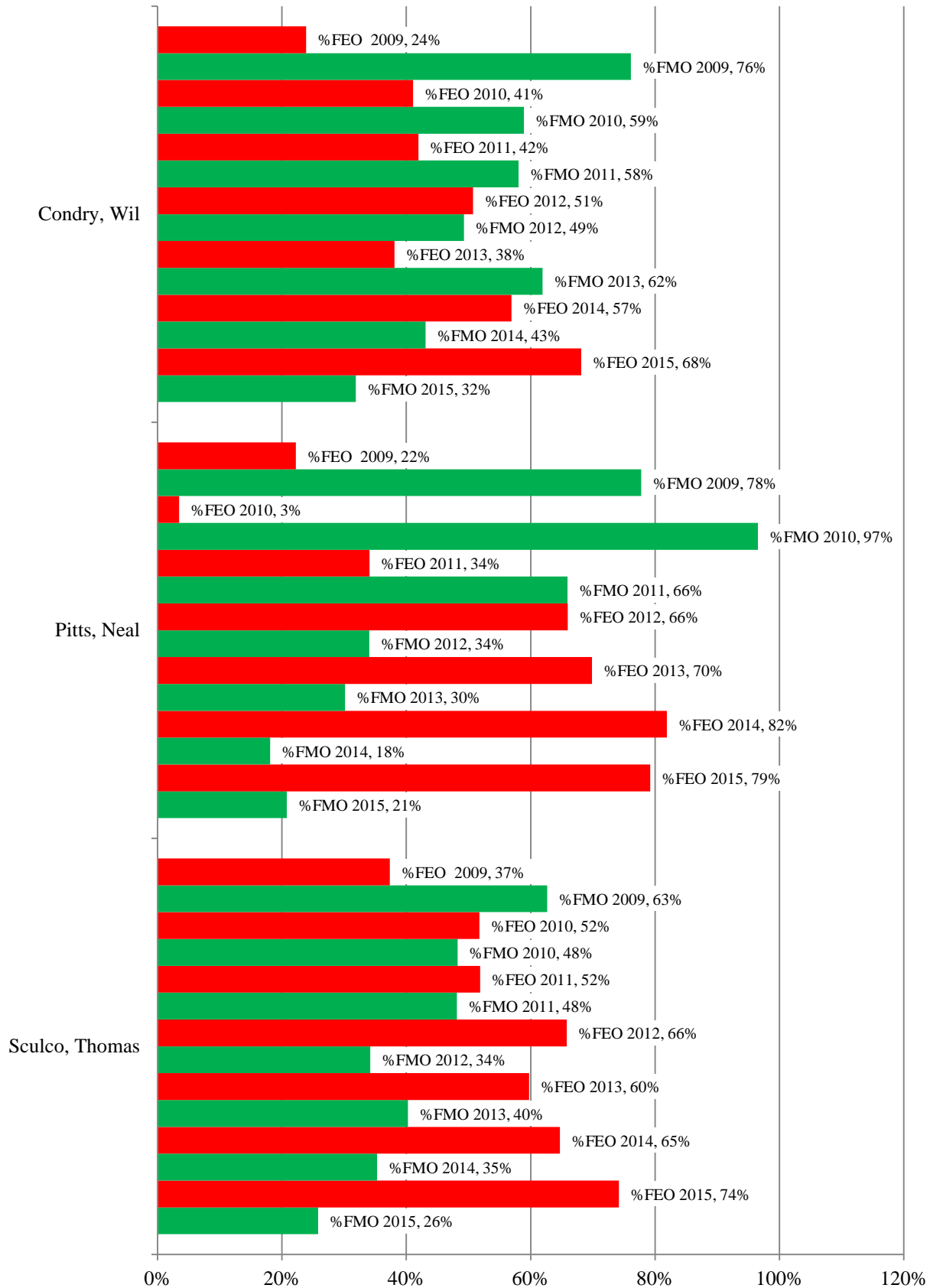
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



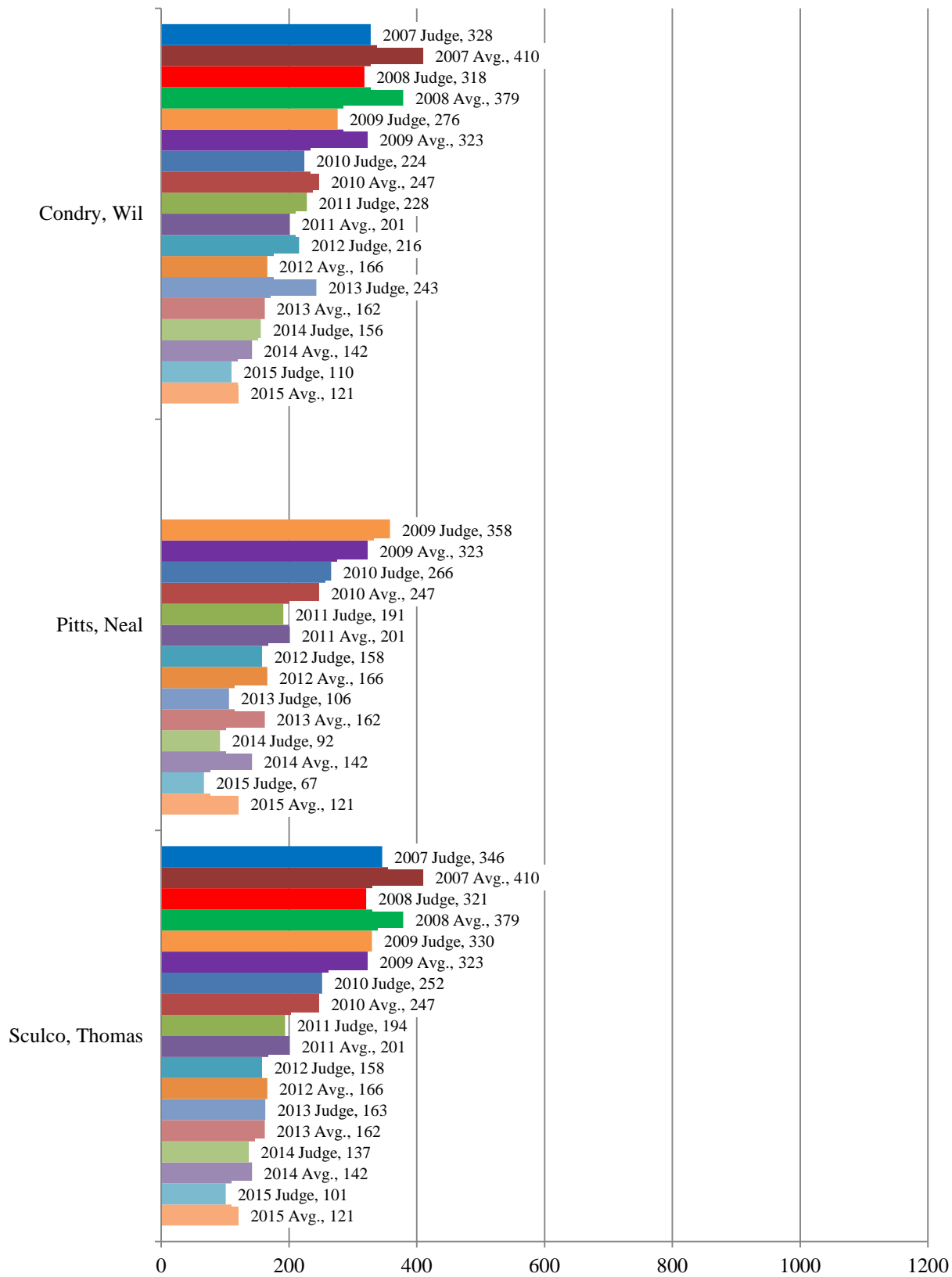
The following graph depicts the total volume of trial orders¹²³ uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



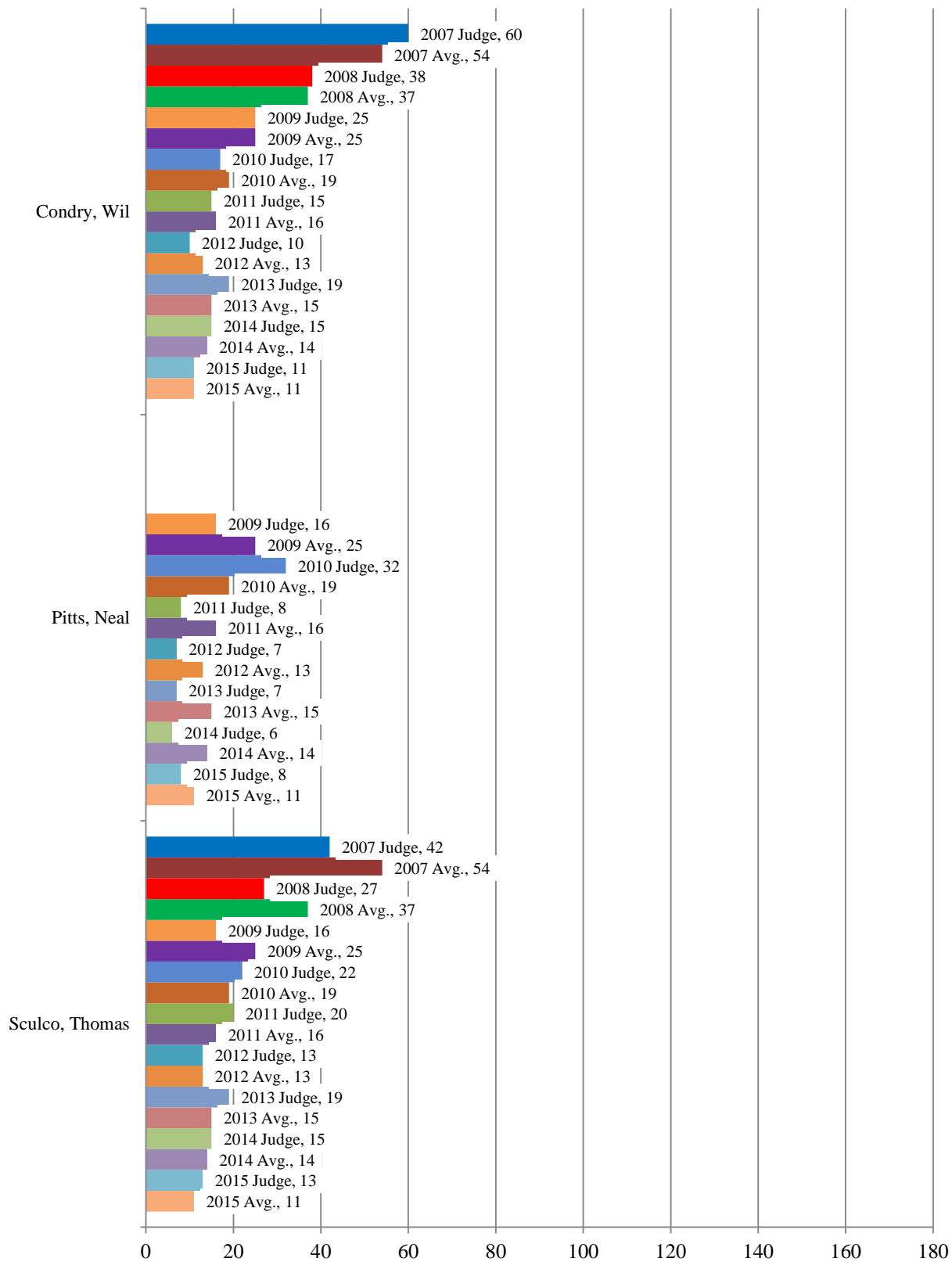
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



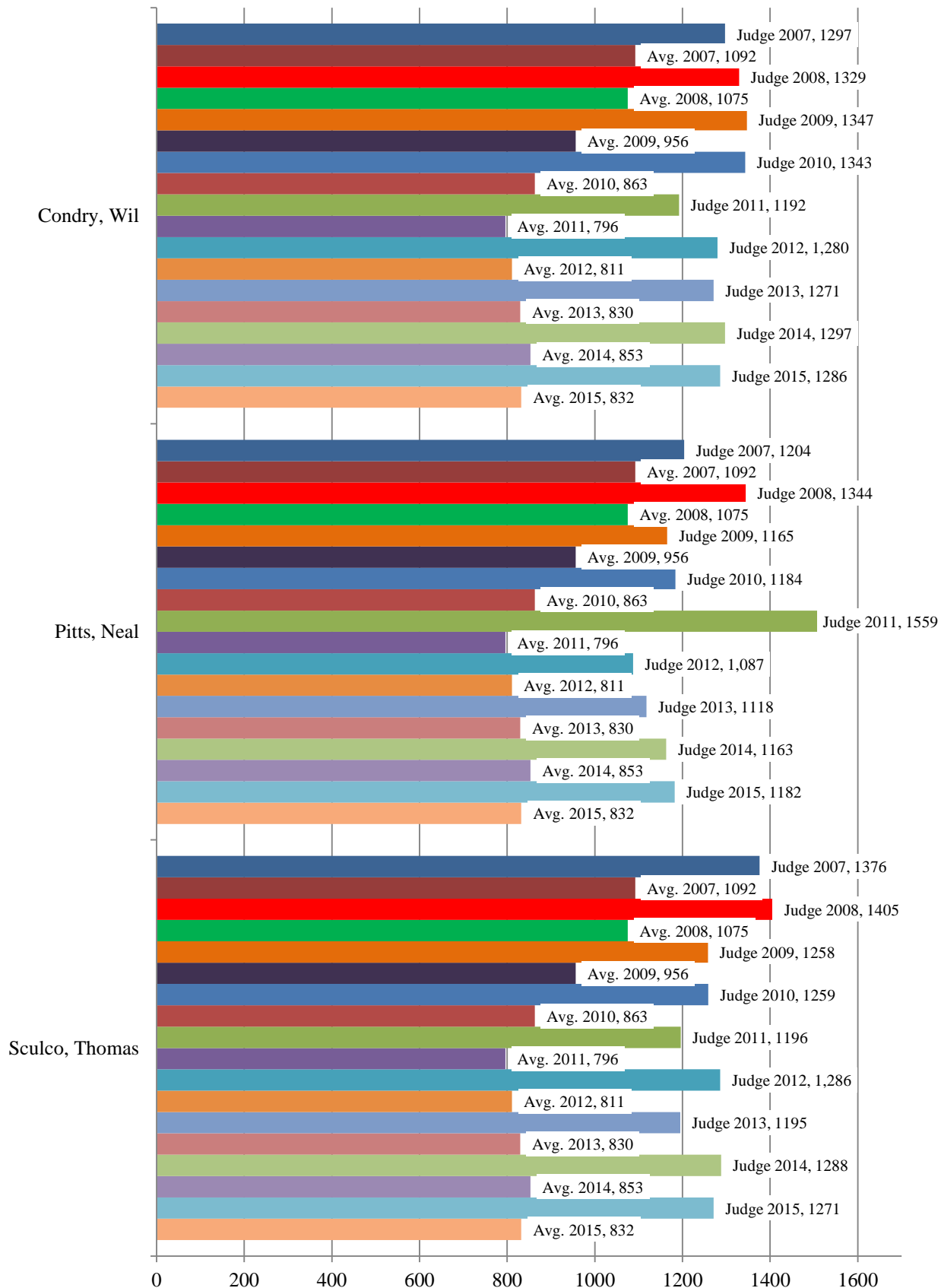
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



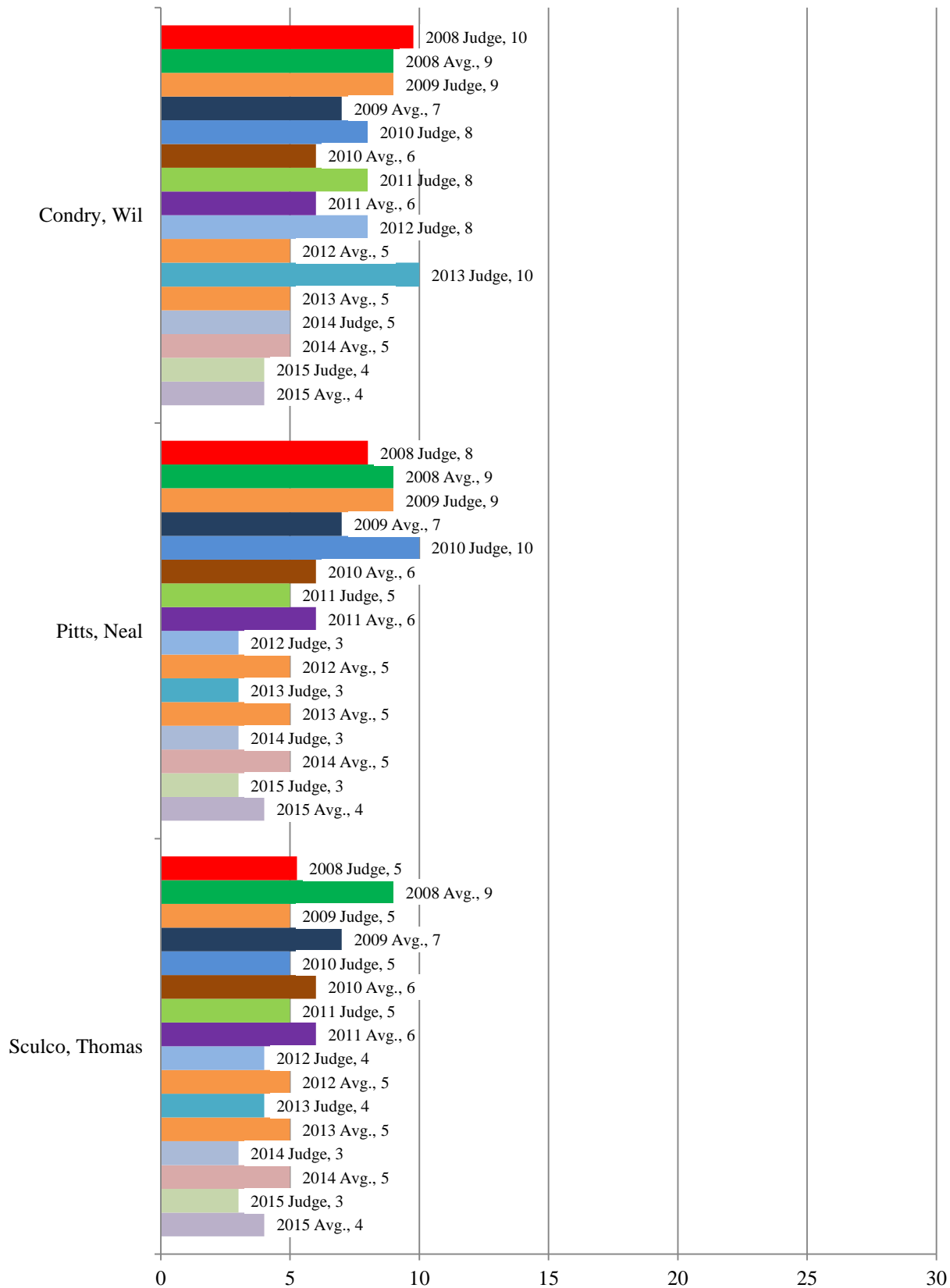
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



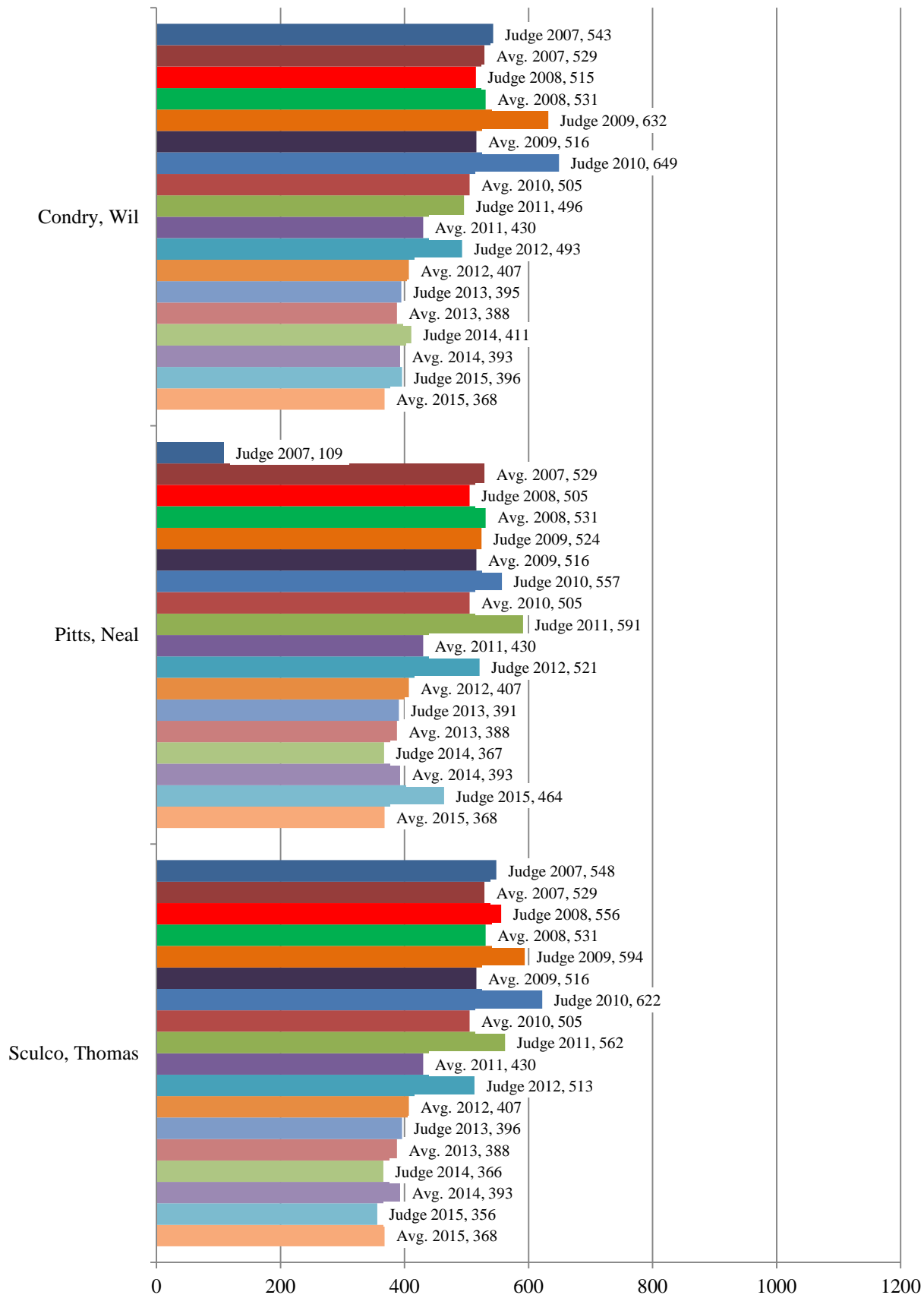
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



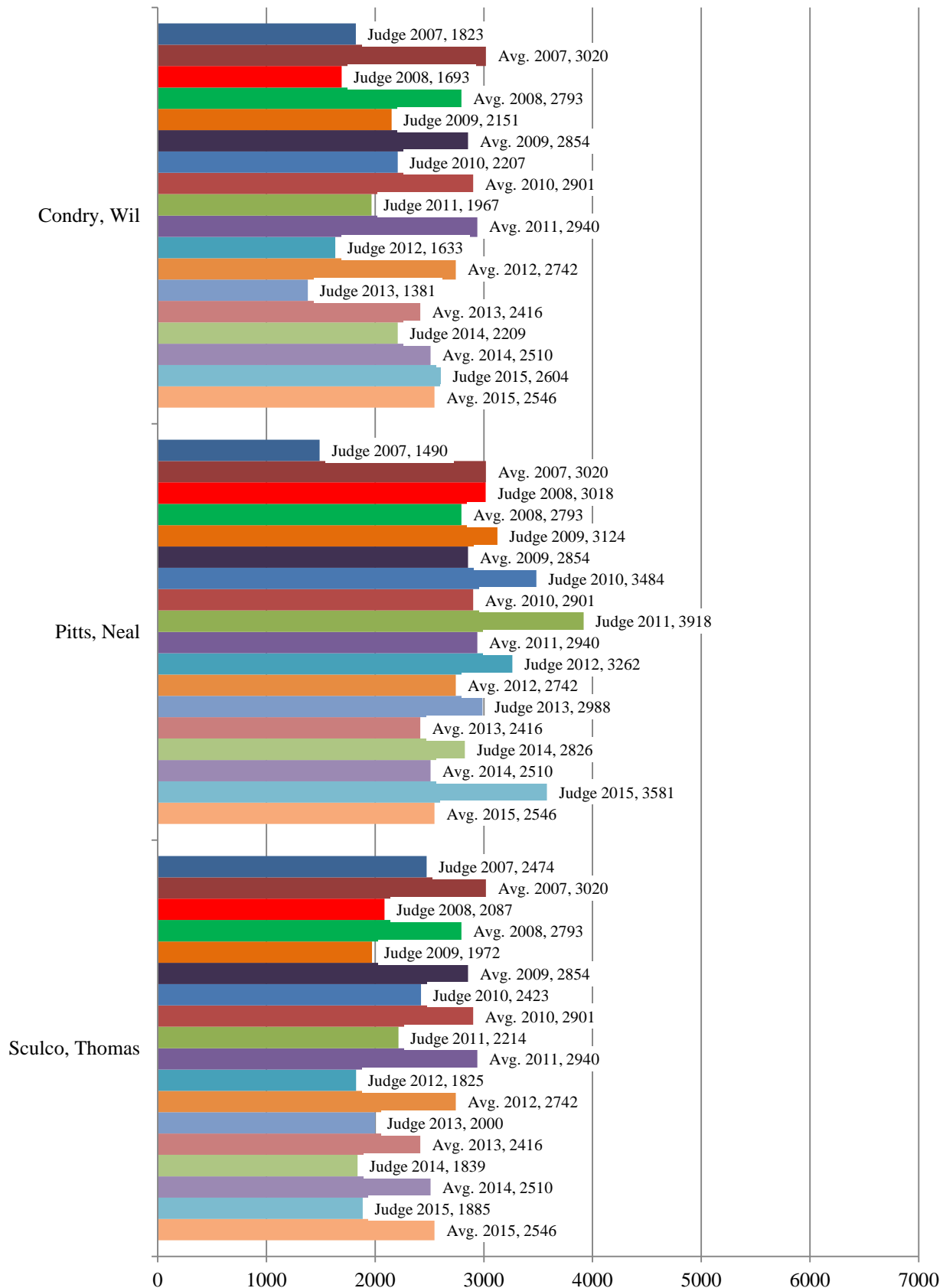
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



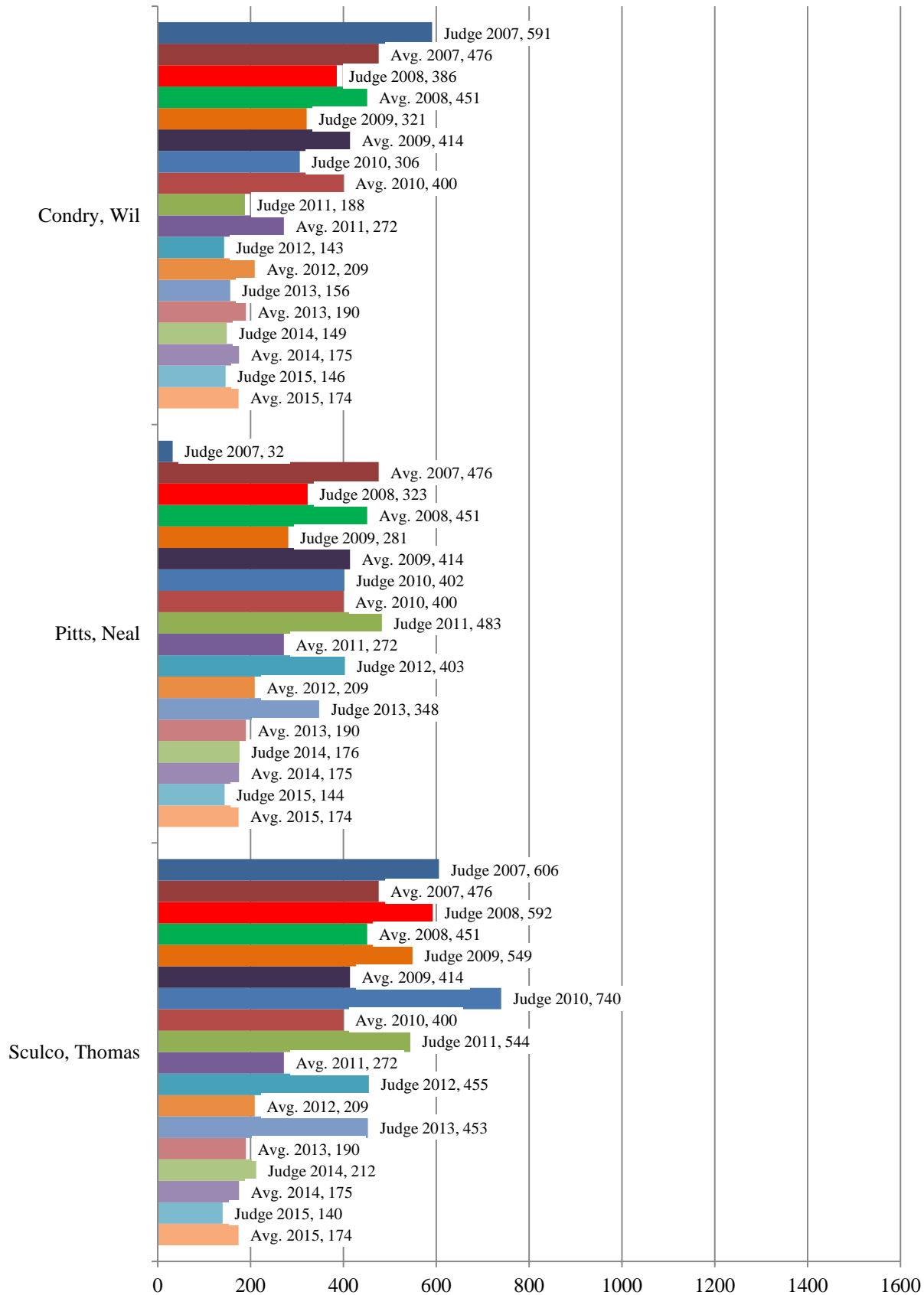
The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



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 2014-15. 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 2014-15. 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.

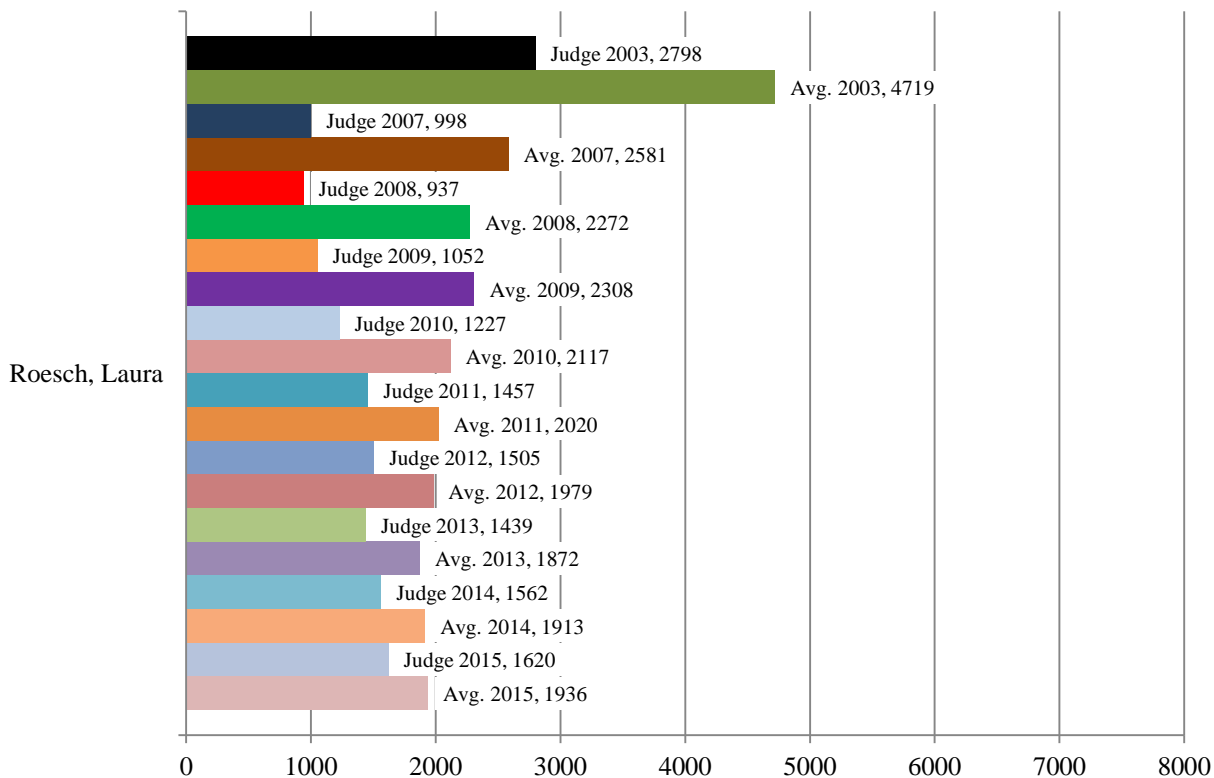
District PMC is one of the largest geographic Districts in the state. While most parties will usually agree to travel to the District office, there are occasions when trials are held remotely, by Judge Roesch, throughout this very large geographic area. The population center is Panama City, which is 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 2014-15 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 system (VTS) 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. 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.

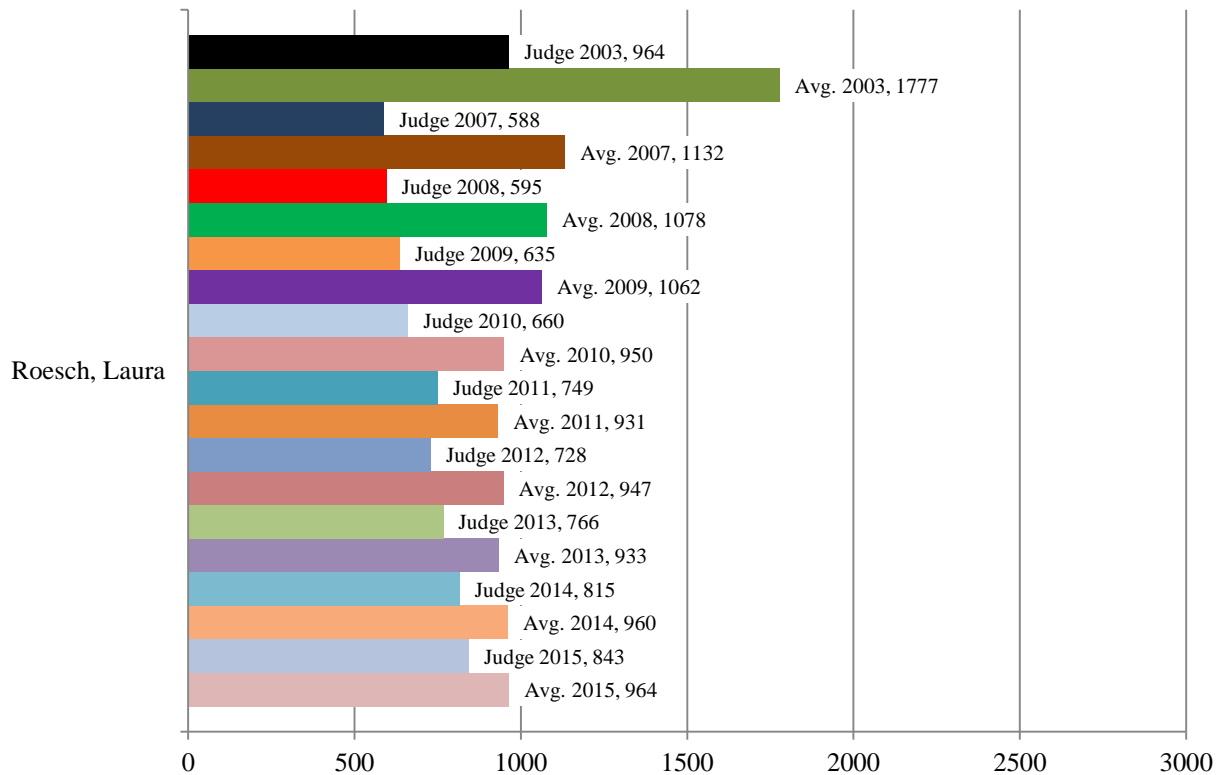
Average time to mediation, to trial, and from trial, to final order, are all within the statutory mandates in District PMC, and have been for some time. The average time between filing of a settlement motion and entry of the resulting order is also within the statewide average.

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.

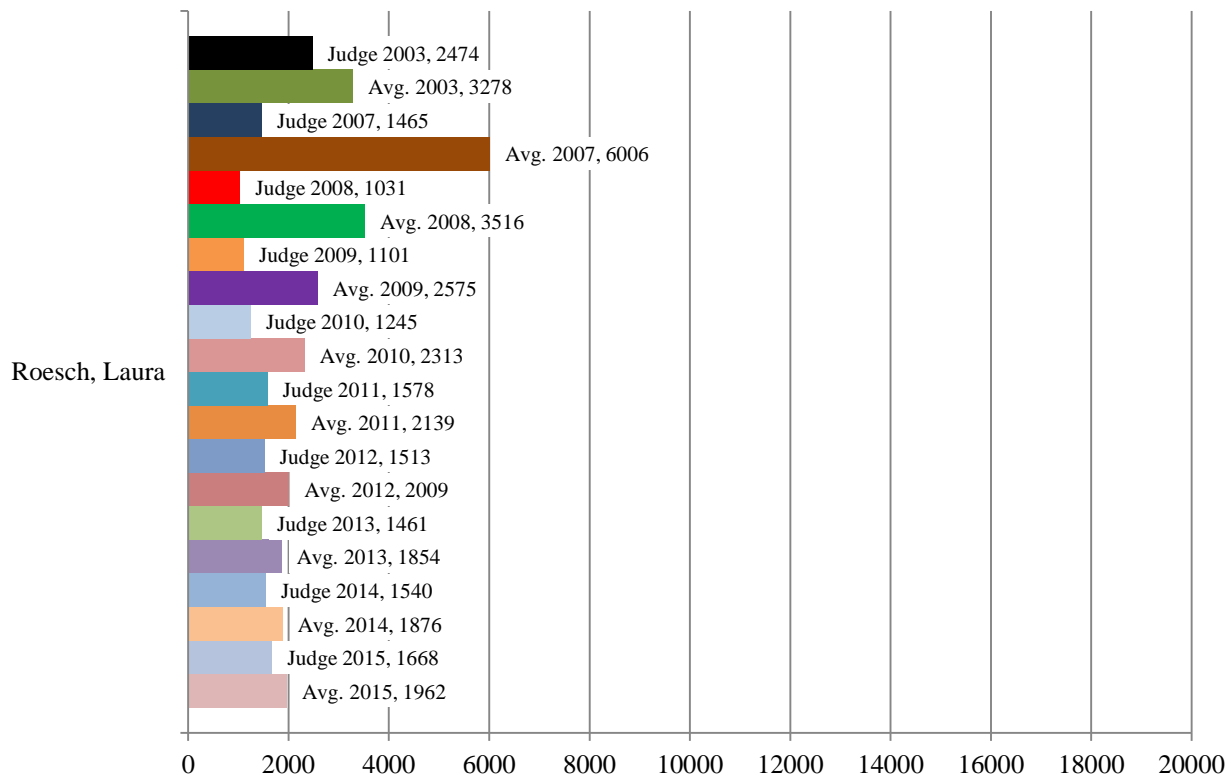
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



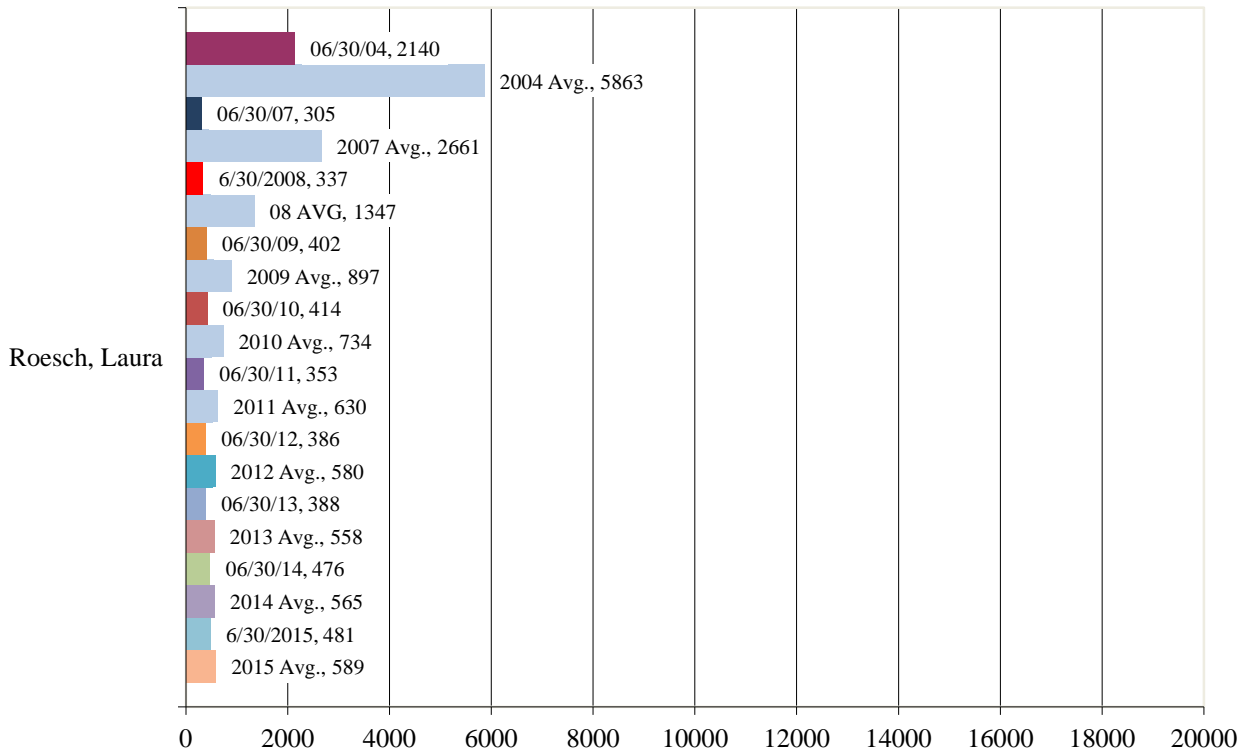
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



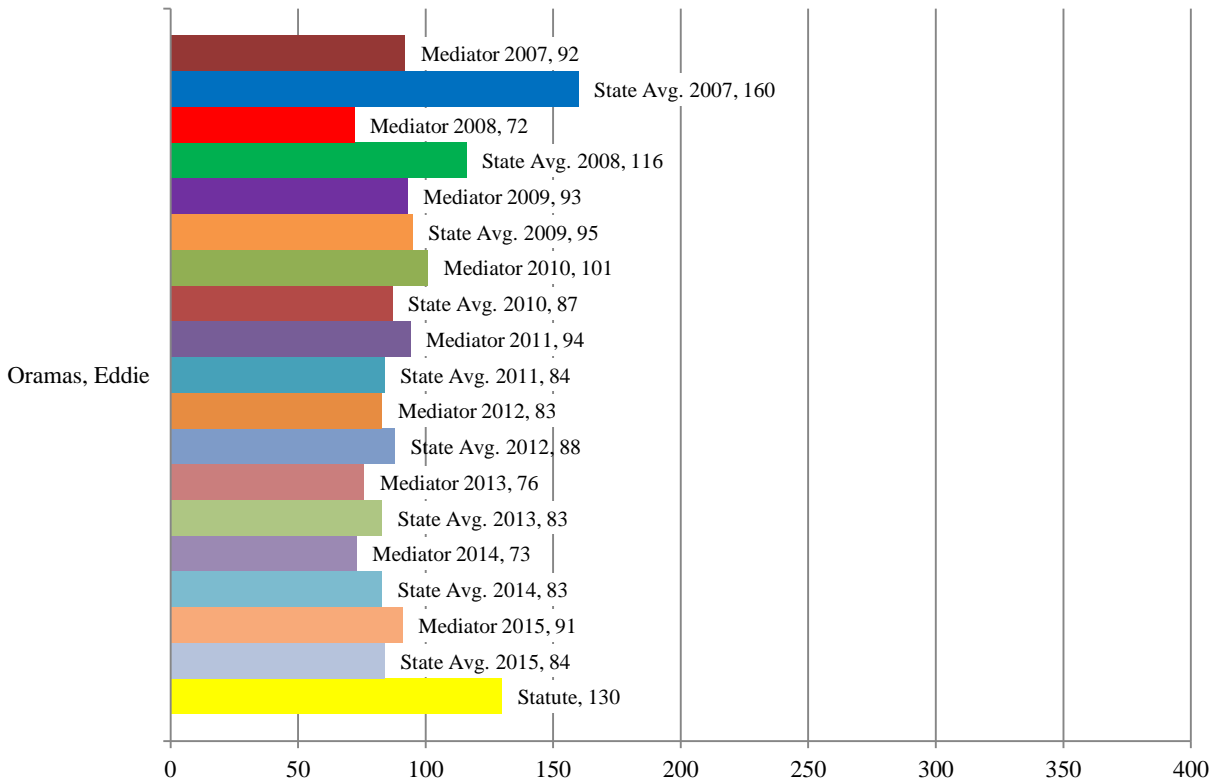
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



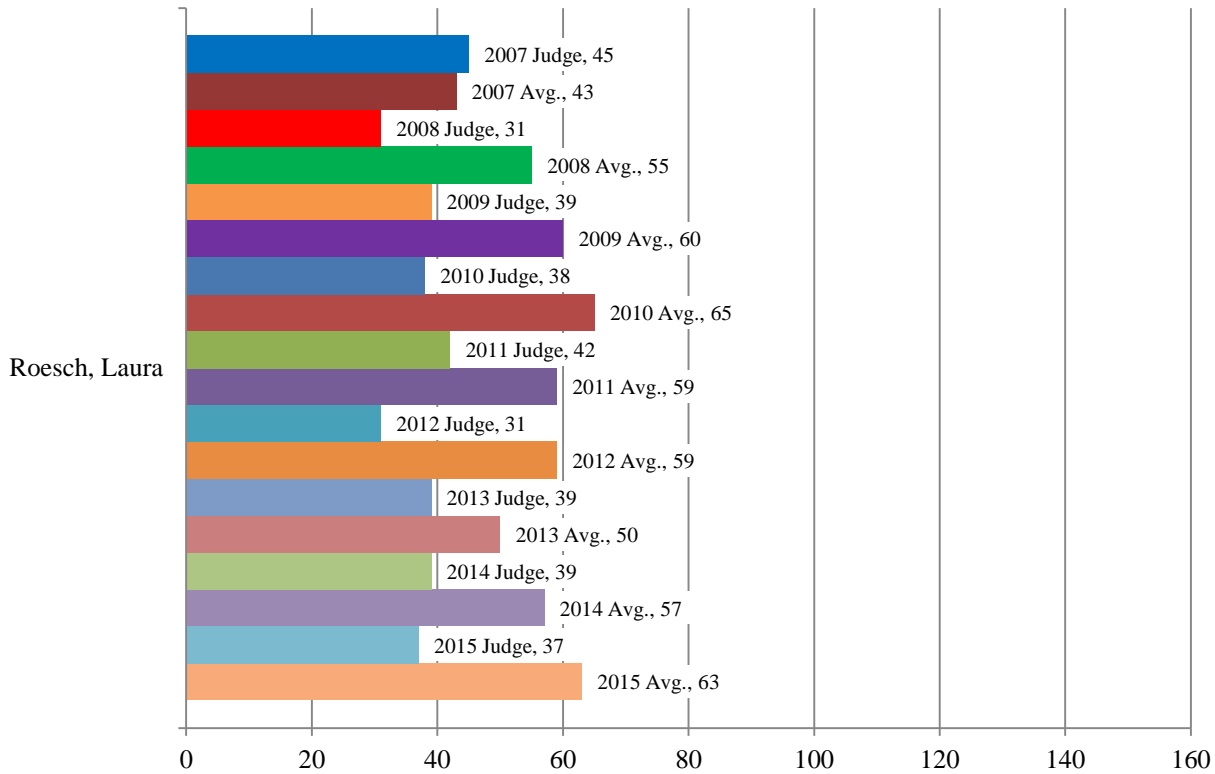
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2014-15 (2003-04 is also provided for historical reference). The identification and values for each year are in each bar label.



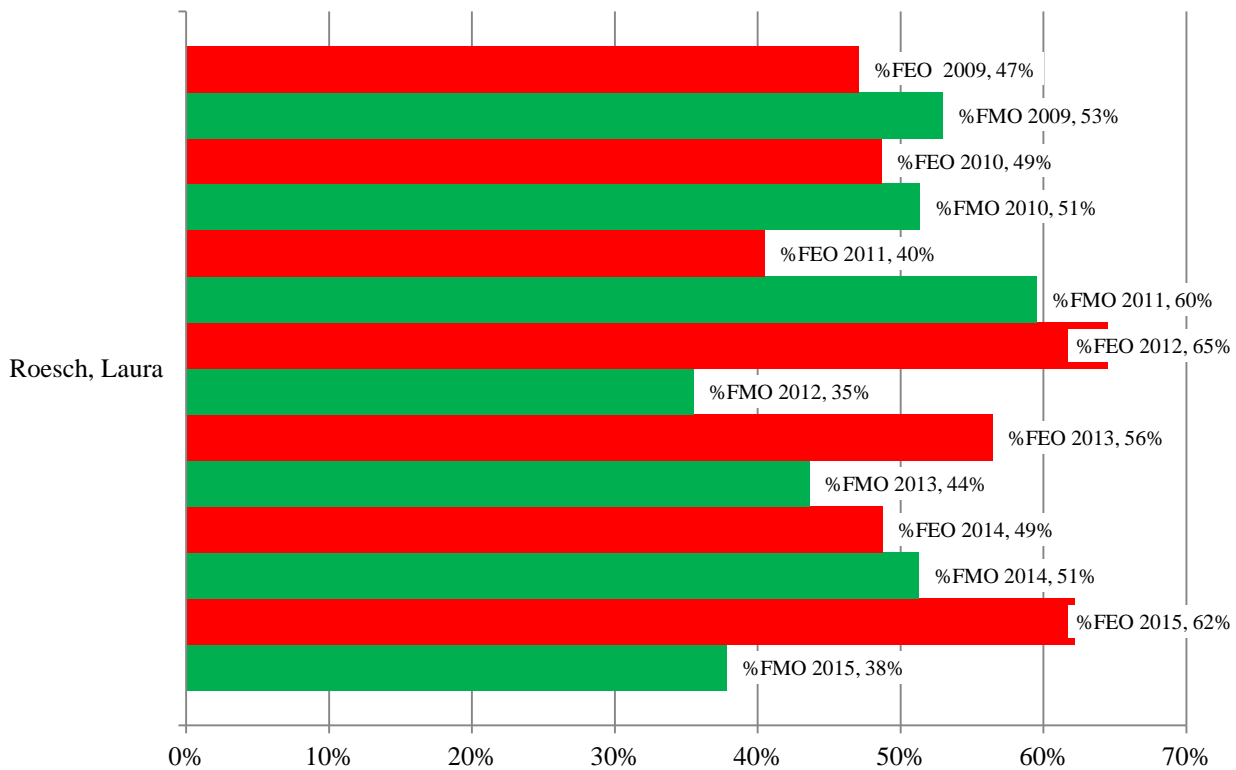
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



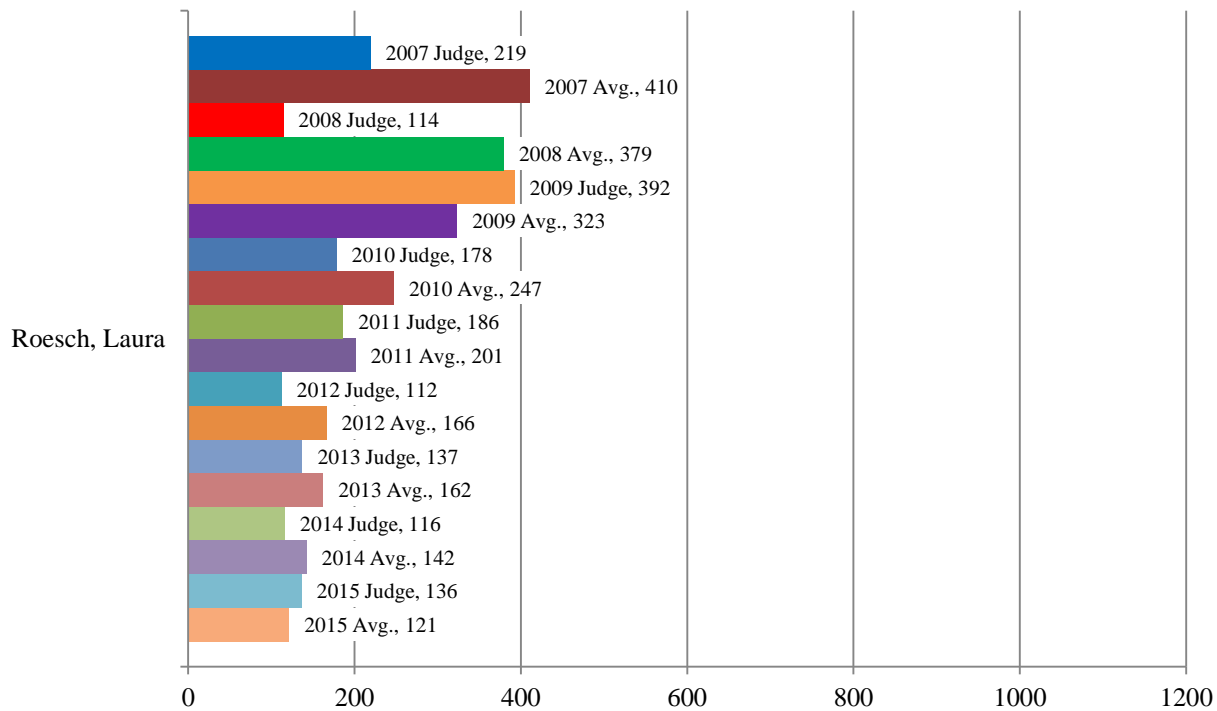
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



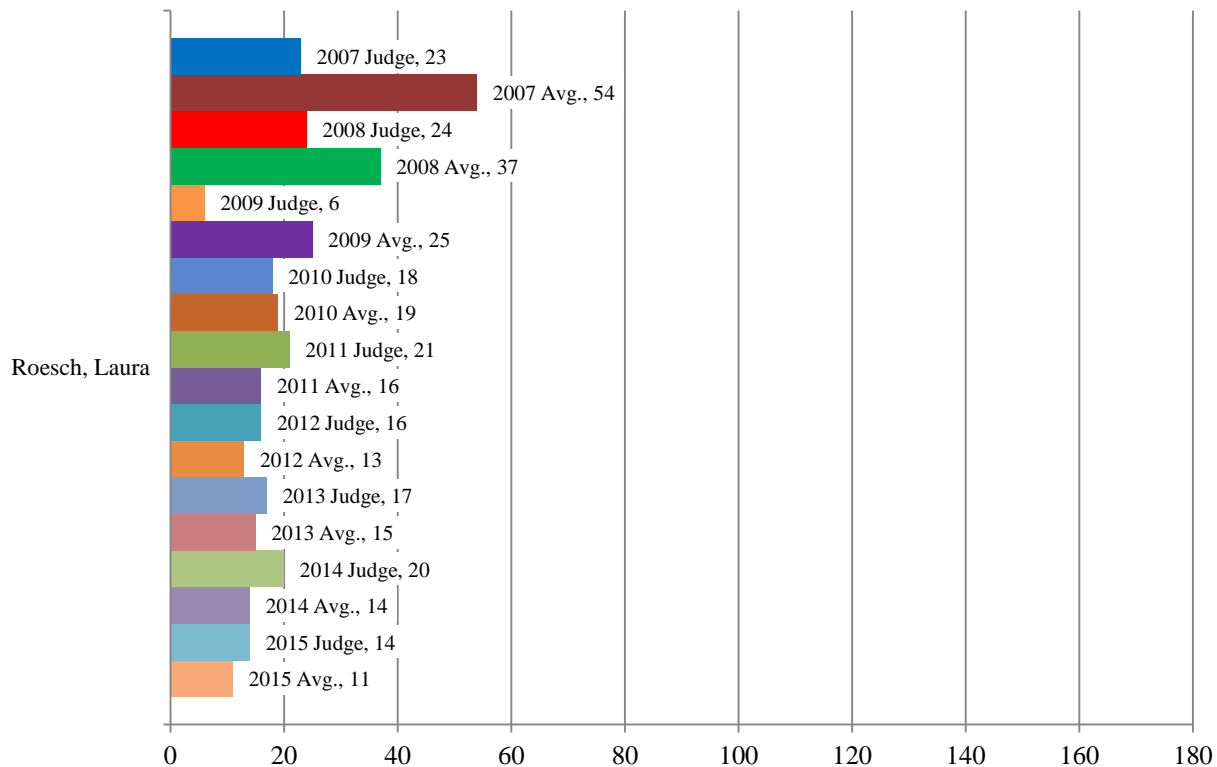
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



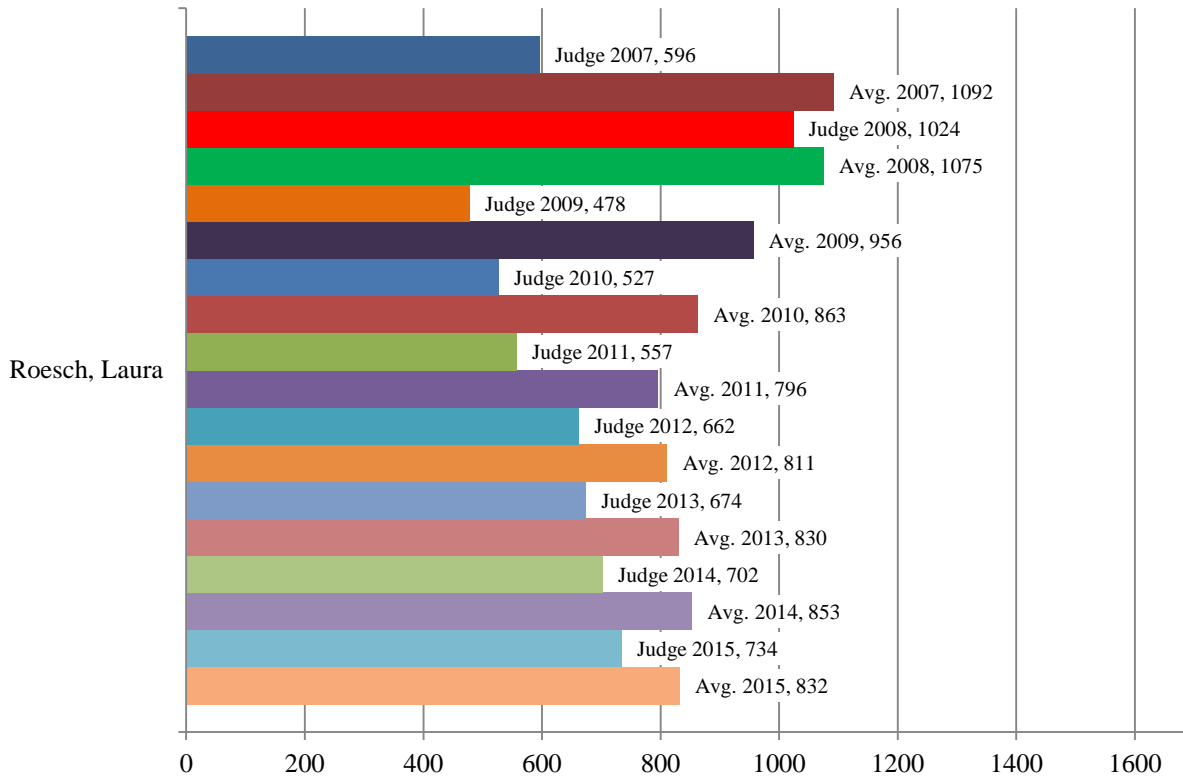
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



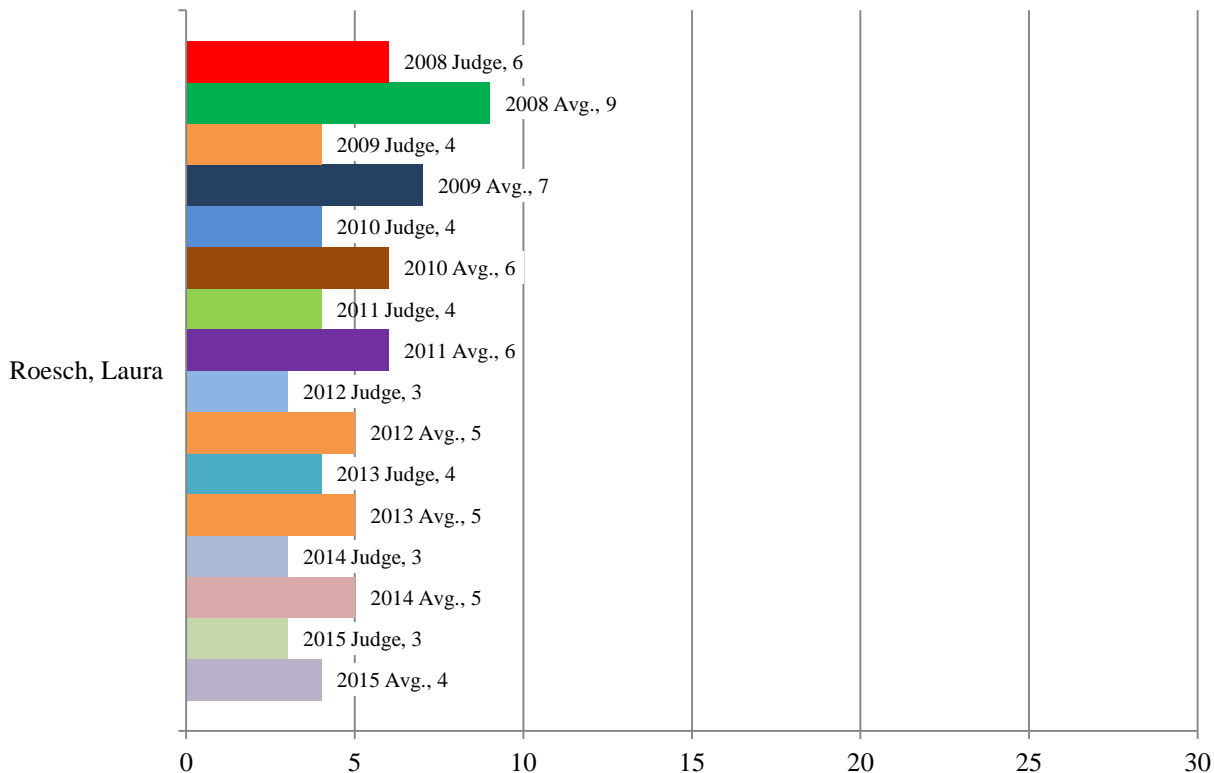
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



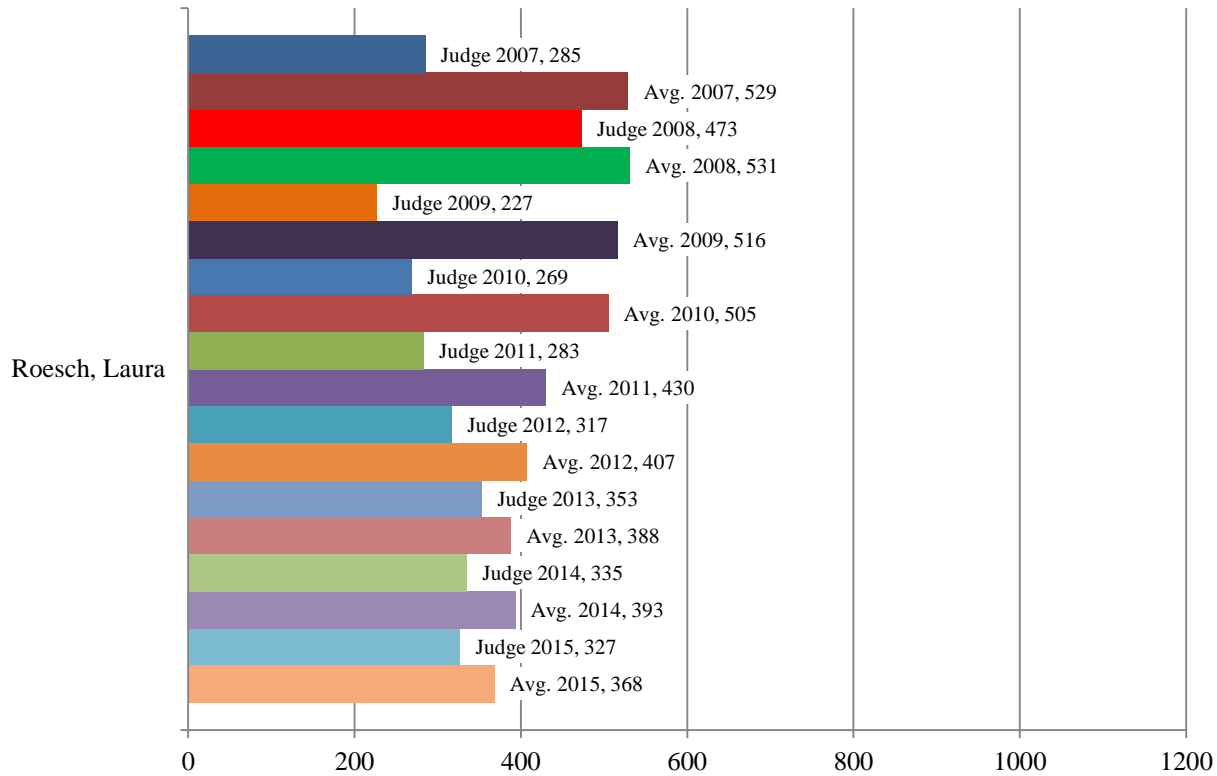
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



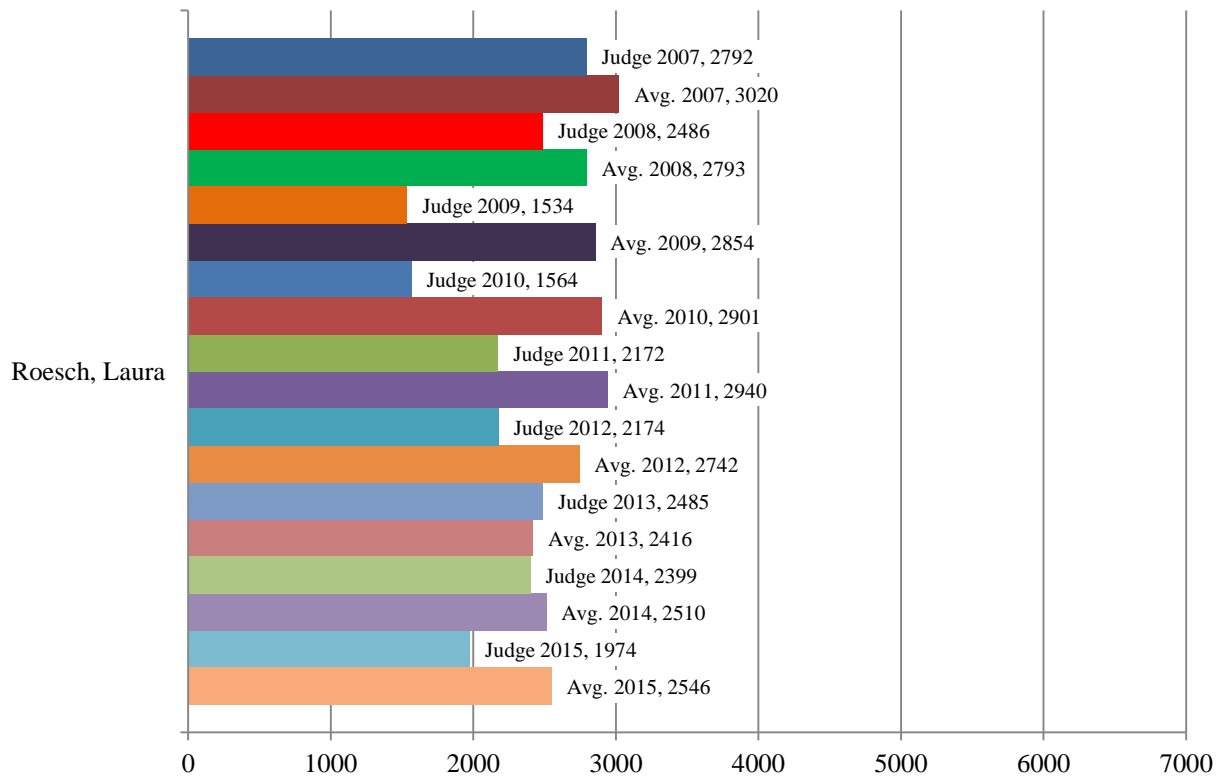
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



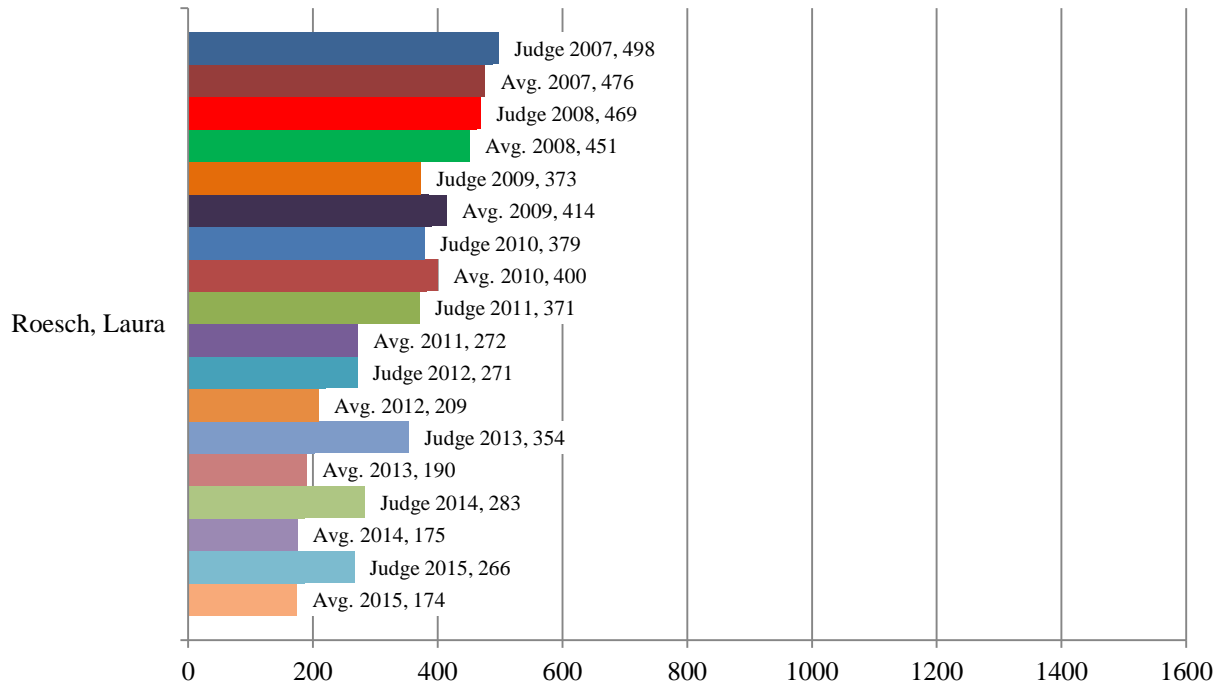
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2006-07 and 2014-15. 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 the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



Panama City District Office on State Street and 23rd Circle

Appendix “11” District PNS (JCC Winn):

District PNS includes Escambia, Santa Rosa, and Okaloosa counties.

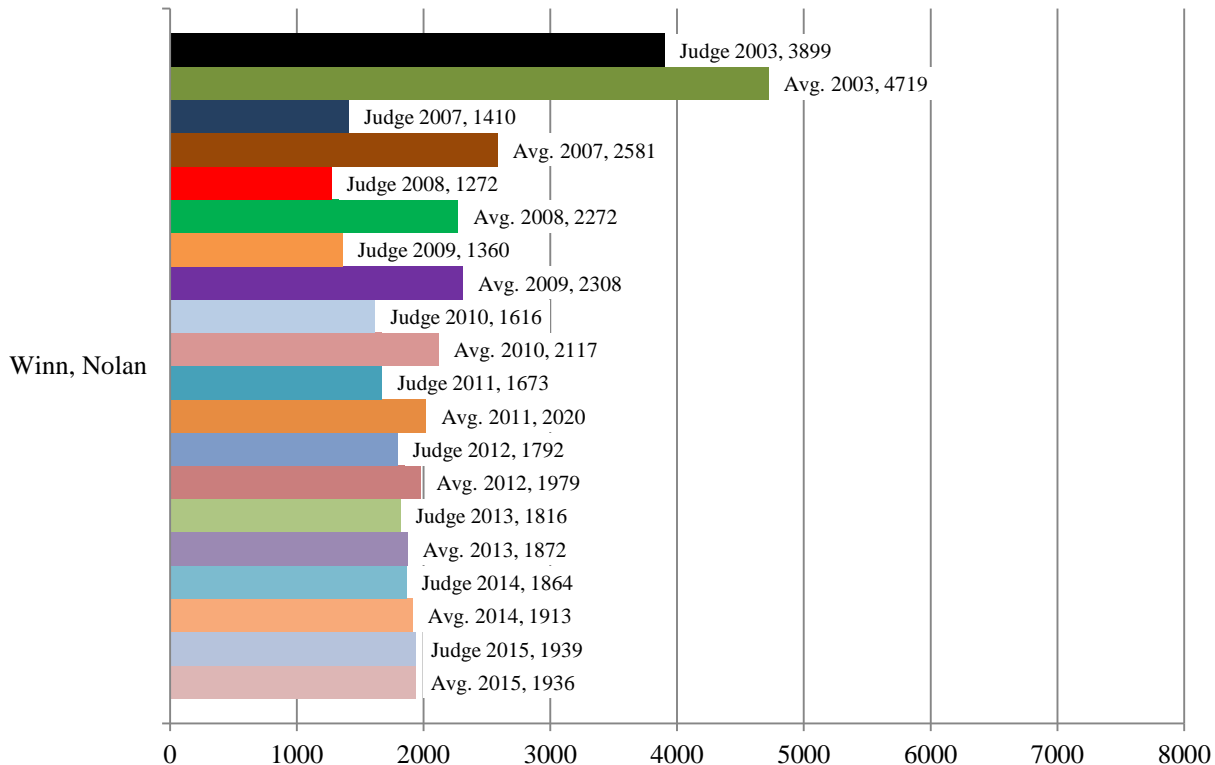
In 2014-15, the PFB volumes in District PNS were again close to the statewide average; this has been consistent in recent years. The PNS volume of “new cases” has been notably above the statewide average in recent years, and the significance of that remained notable in 2014-15. The congruity between 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. The district was without a mediator for a full year following the retirement of Wallace Hardy. During this time, Edward Oramas of District PMC handled the mediation volume by telephone. There were anecdotal complaints about this process, but the statistics do not support that there was any empirical impact on the resolution of cases in PNS.

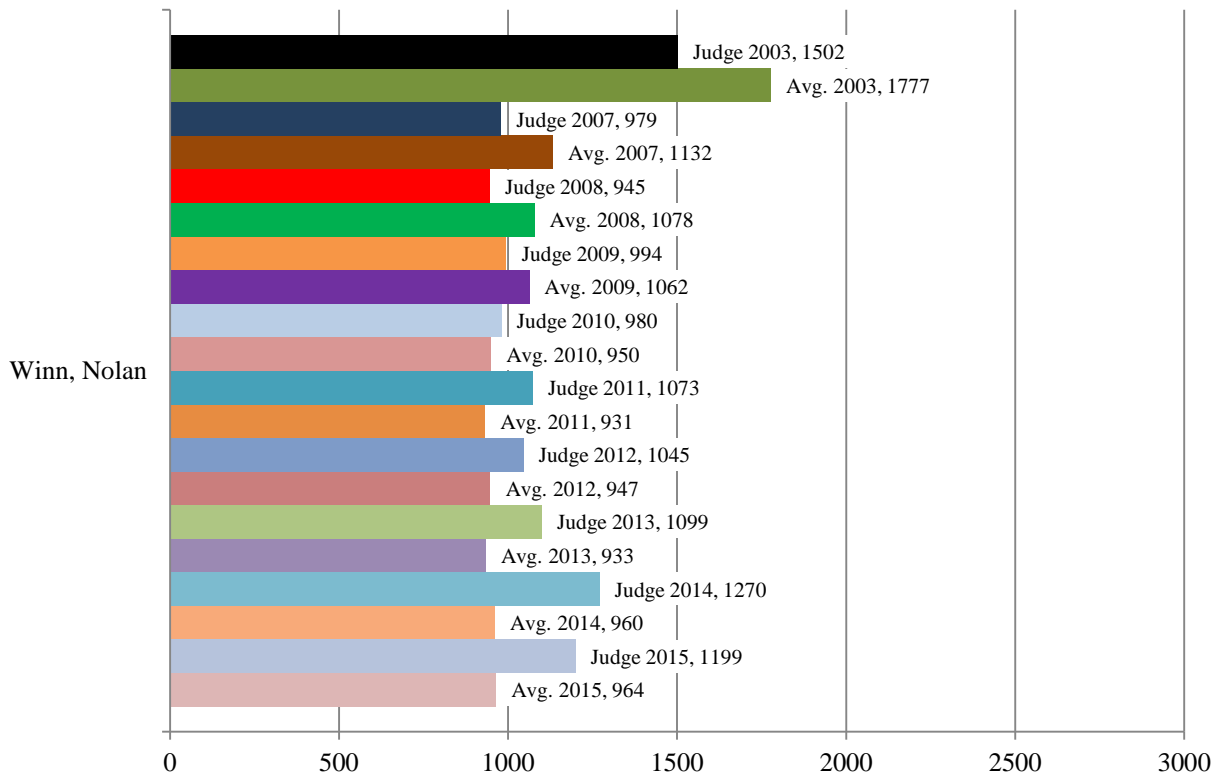
Trial volume in PNS has been consistent with the statewide average in 2012-13 and 2013-14, followed by a marked increase in 2013-14, but a notable decrease in 2014-15. The empirical data thus does not support that the absence of a live mediator in PNS resulted in a greater volume of trials.

The volume of settlement orders is above the statewide average, which also does not support the contention that resolution was hindered by the lack of live mediation.

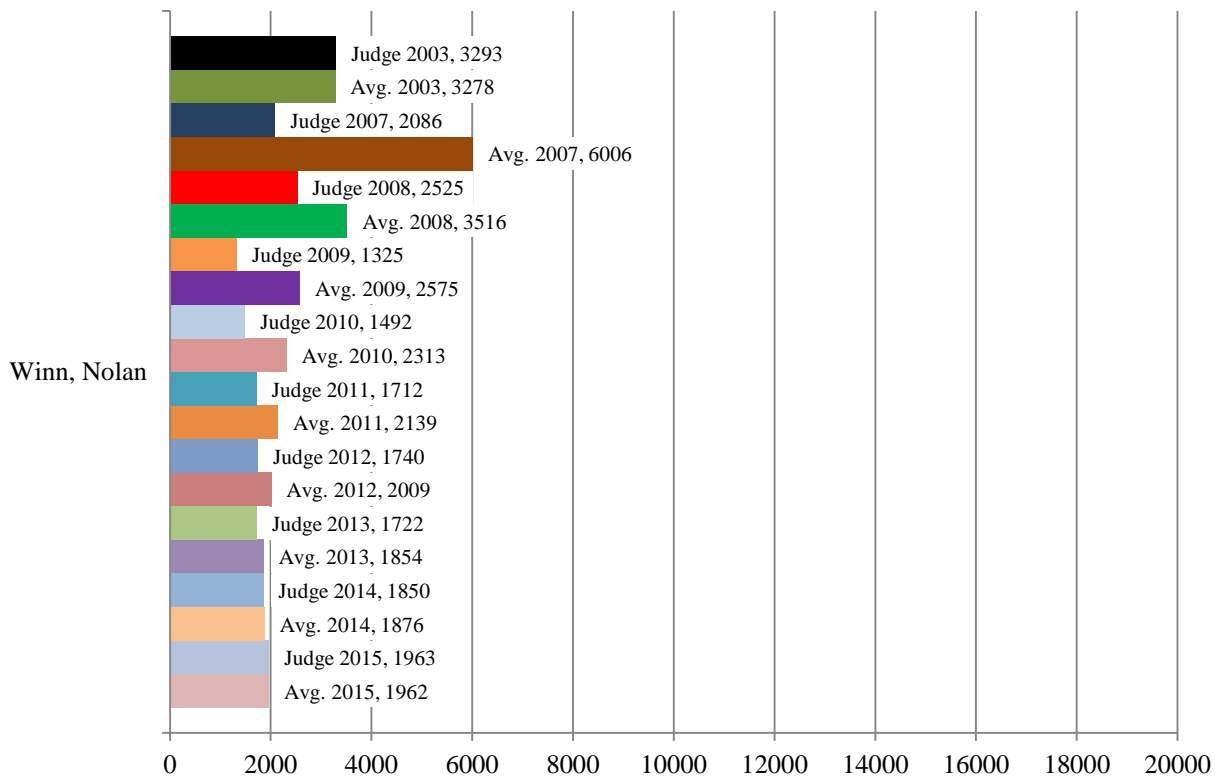
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



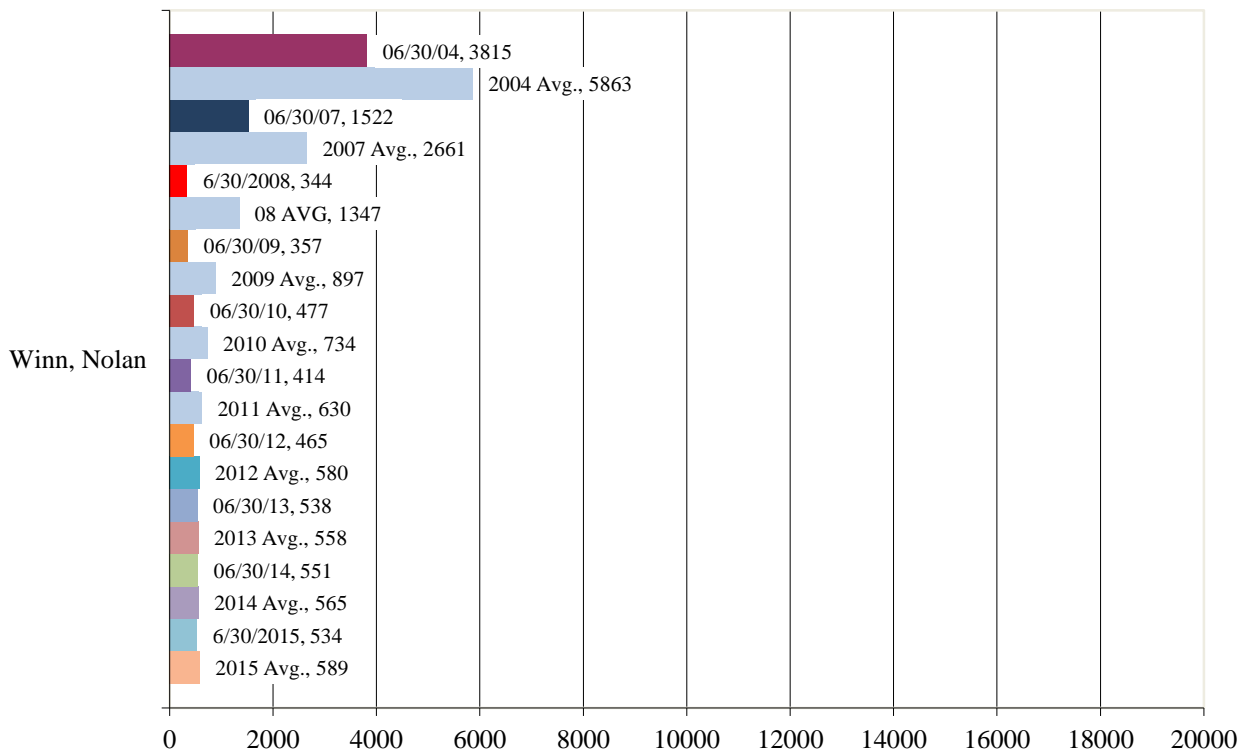
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



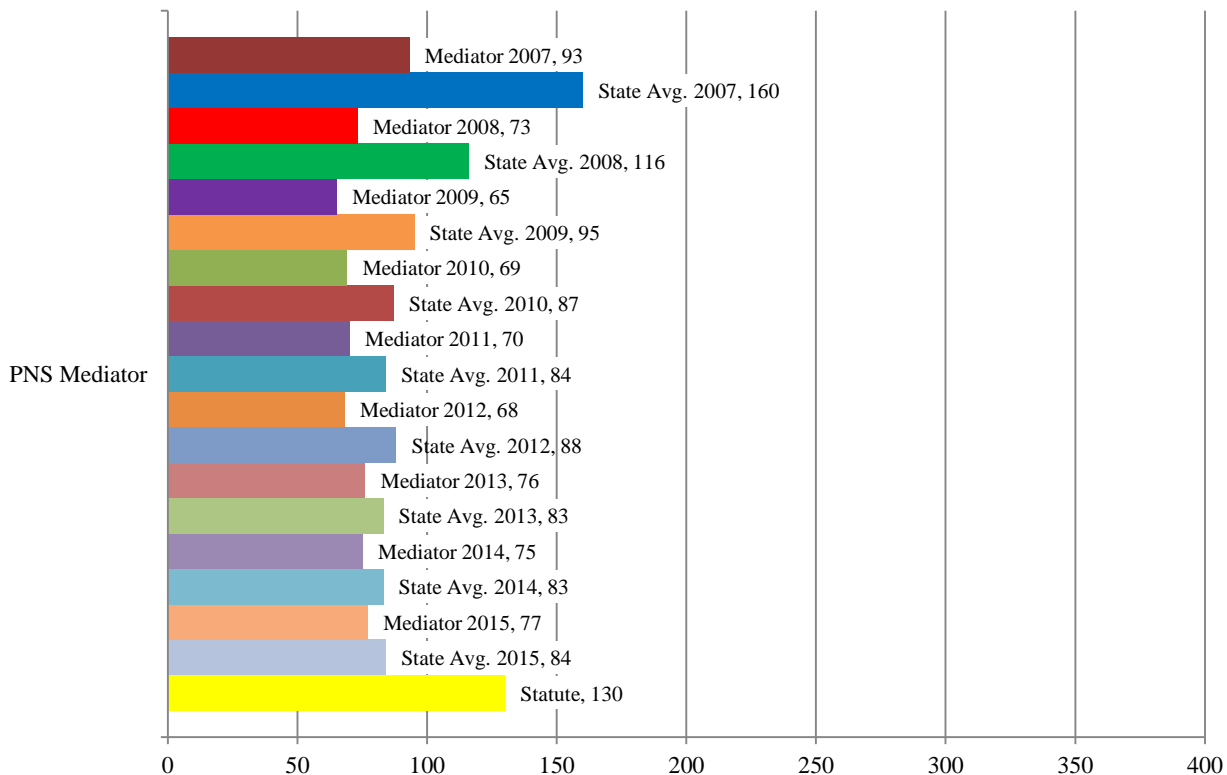
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



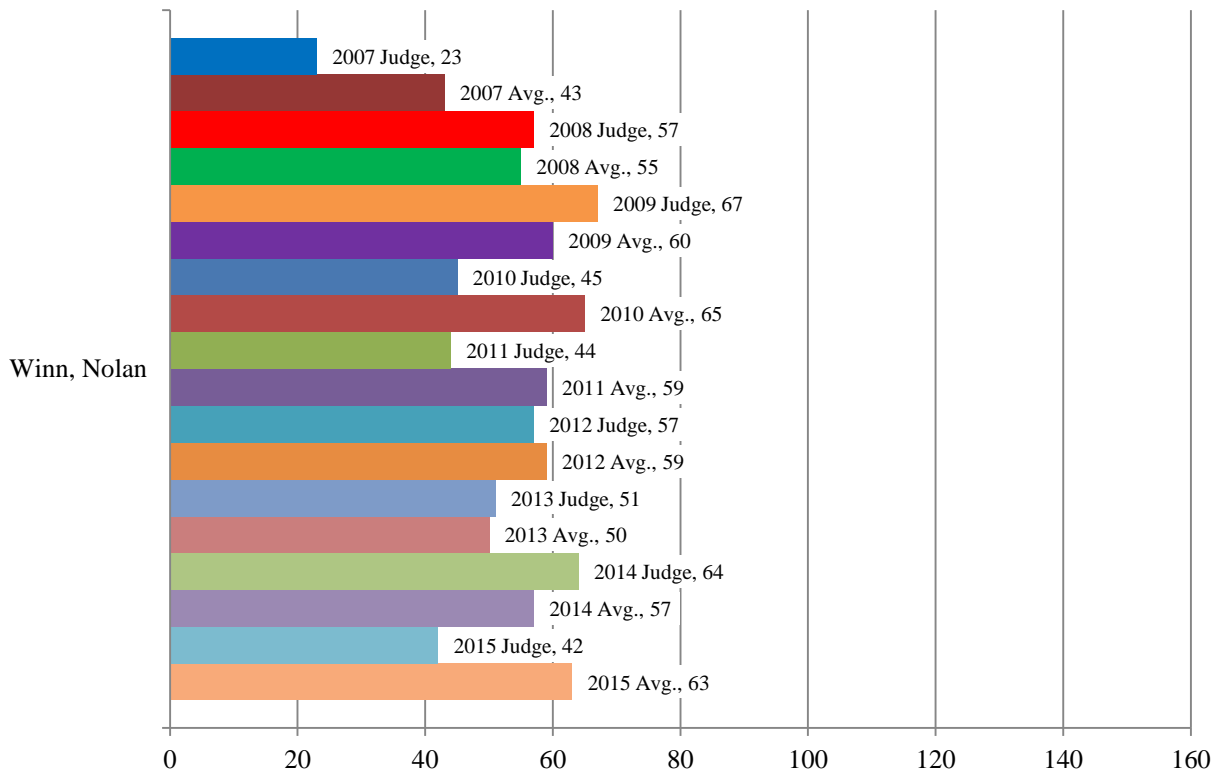
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2014-15 (2003-04 is also provided for historical reference). The identification and values for each year are in each bar label.



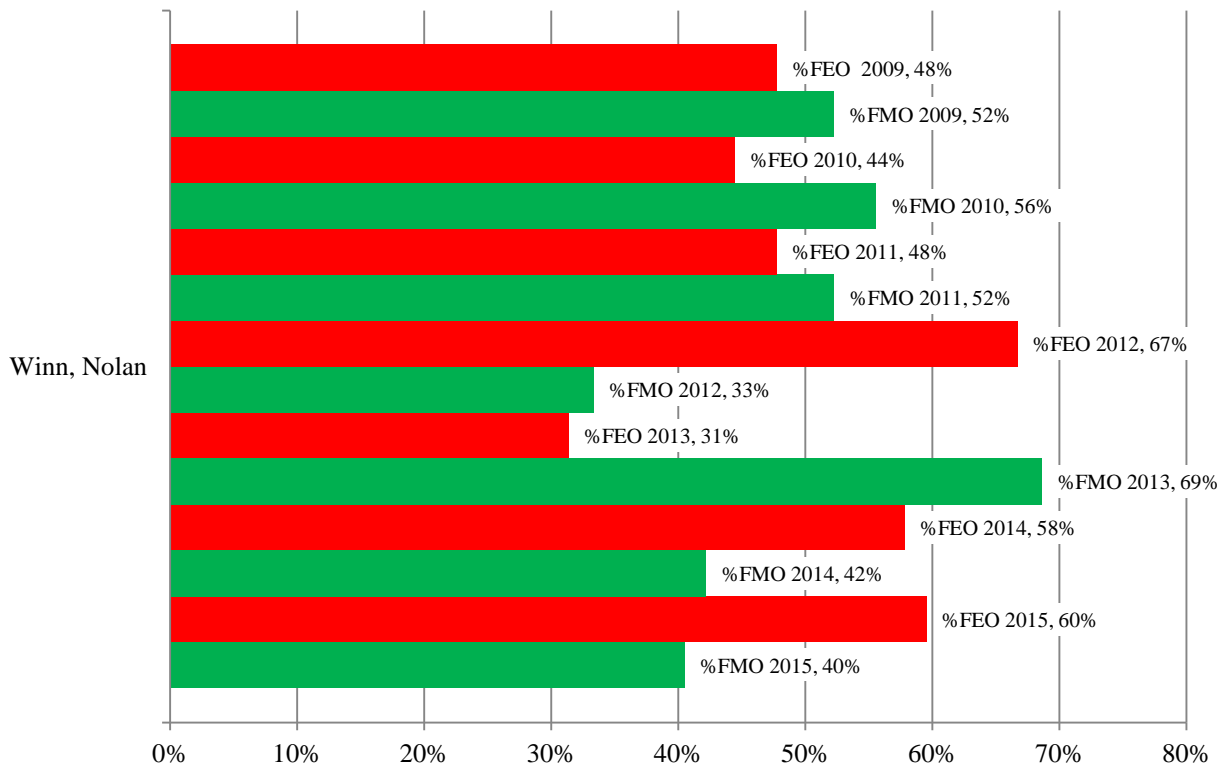
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



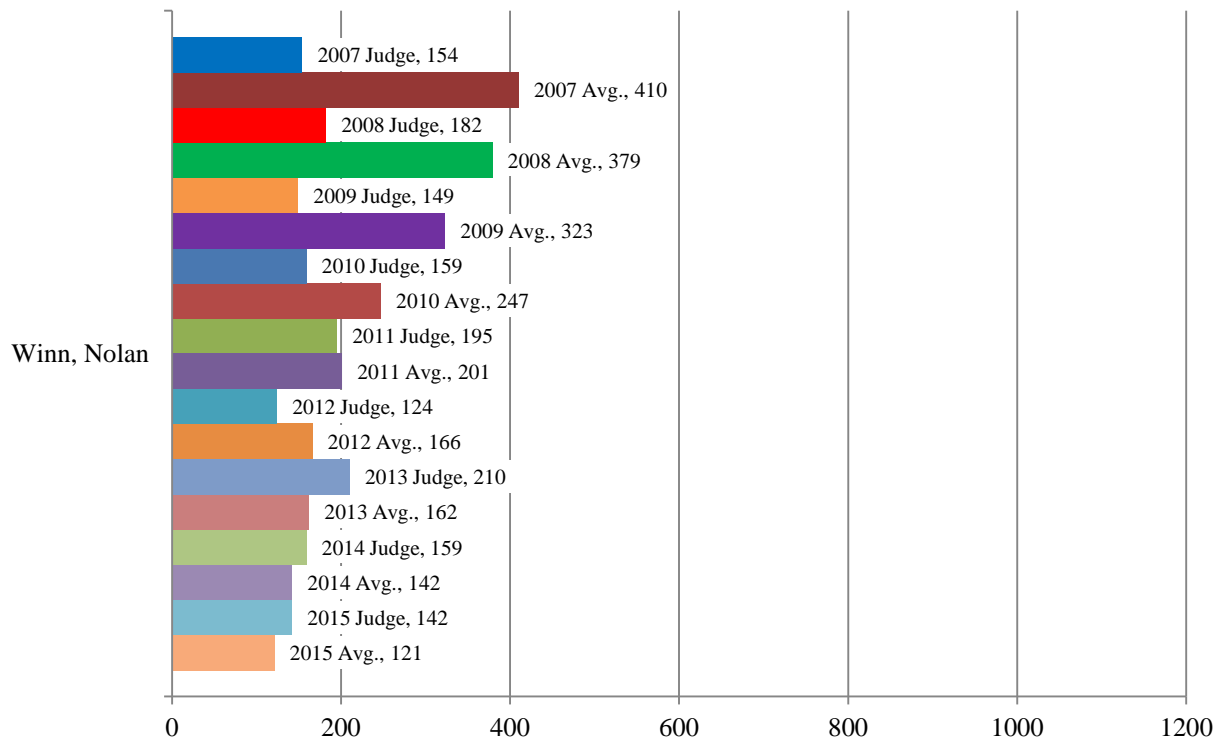
The following graph depicts the total volume of trial orders¹²⁴ uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



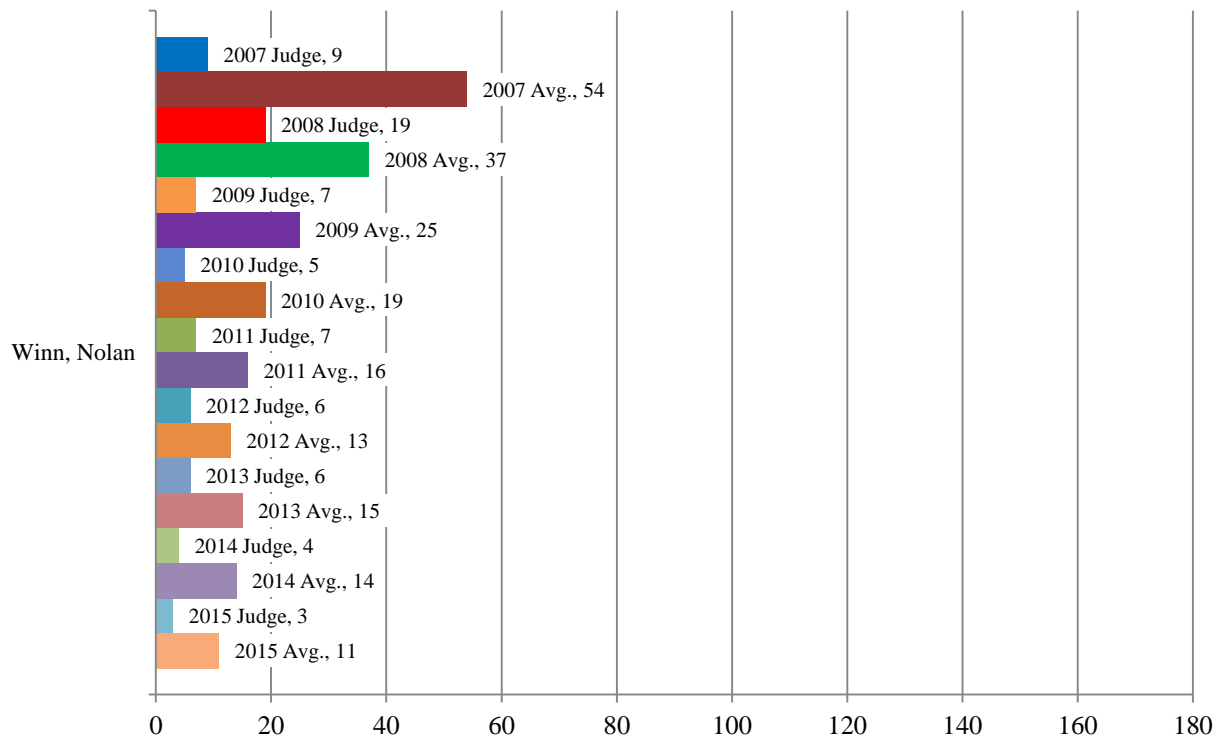
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



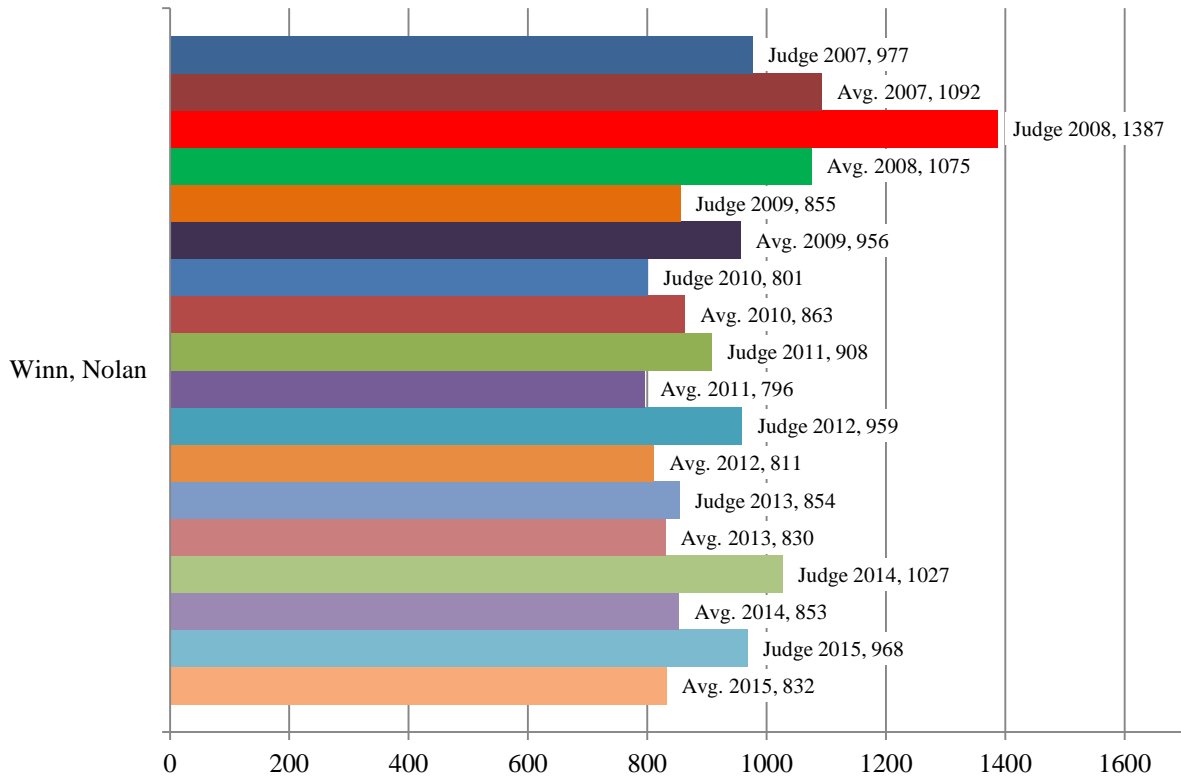
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



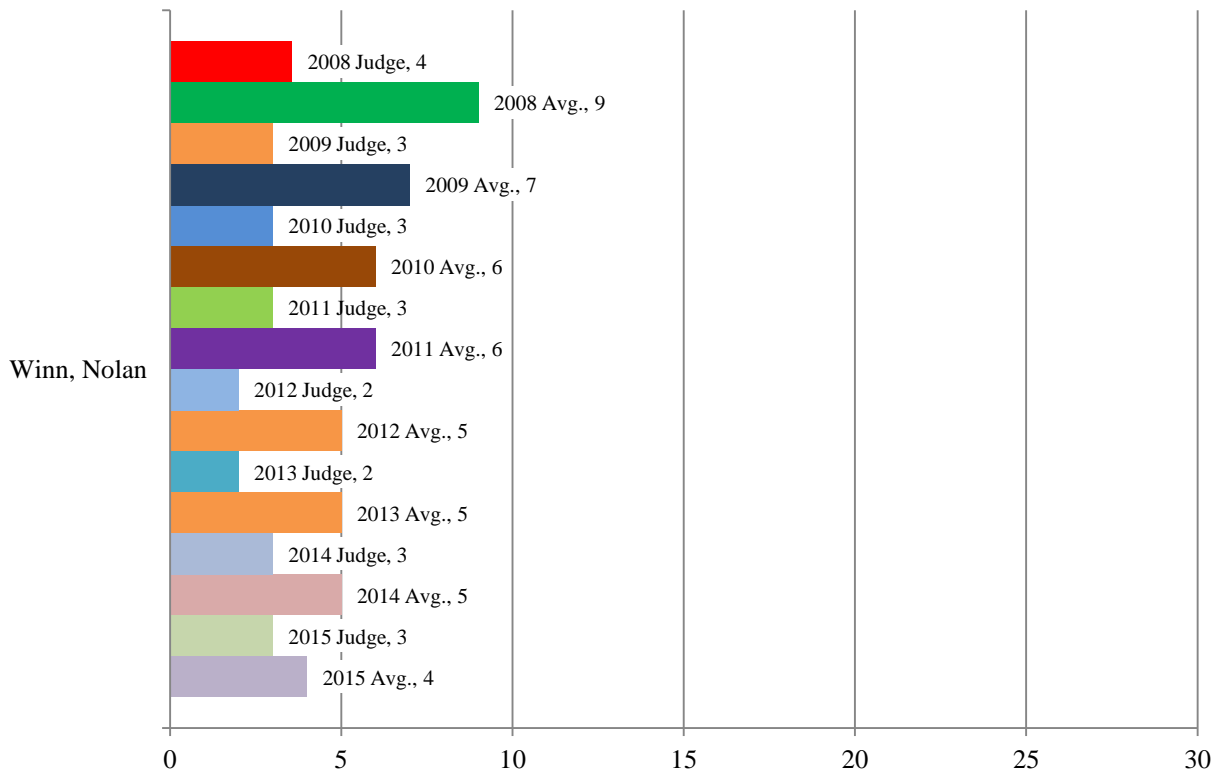
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



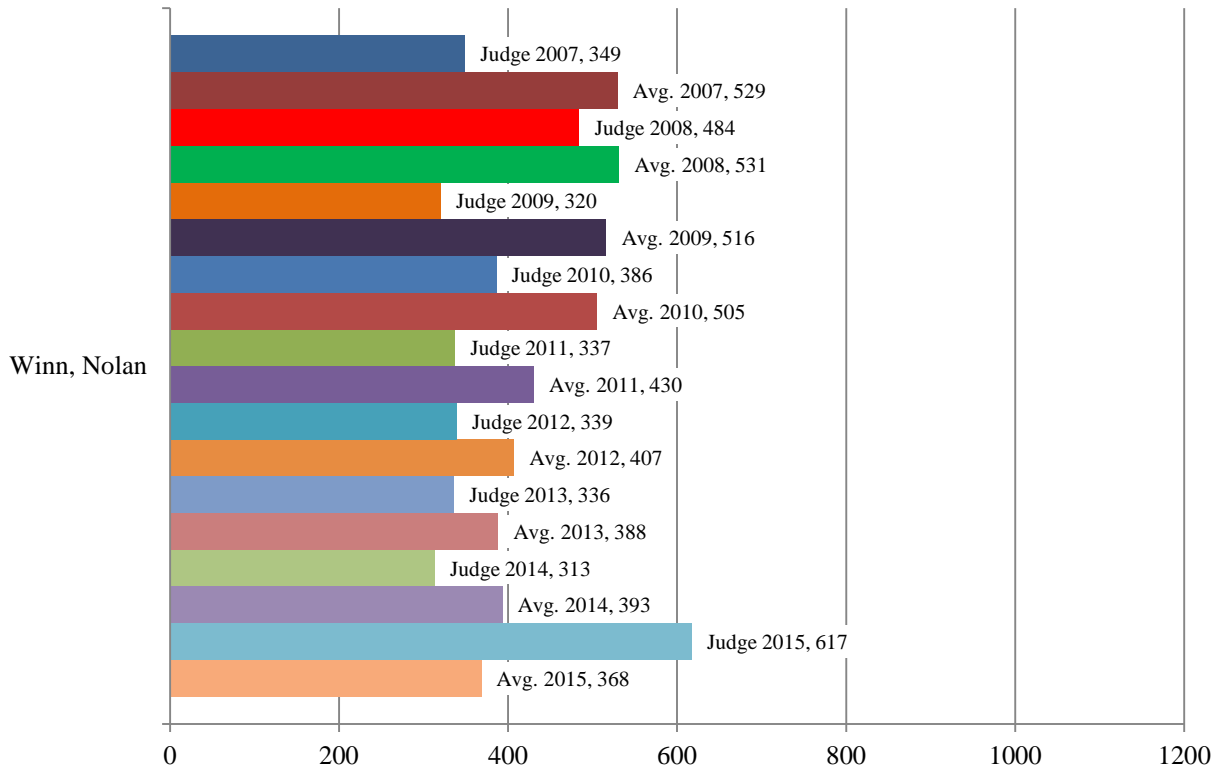
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



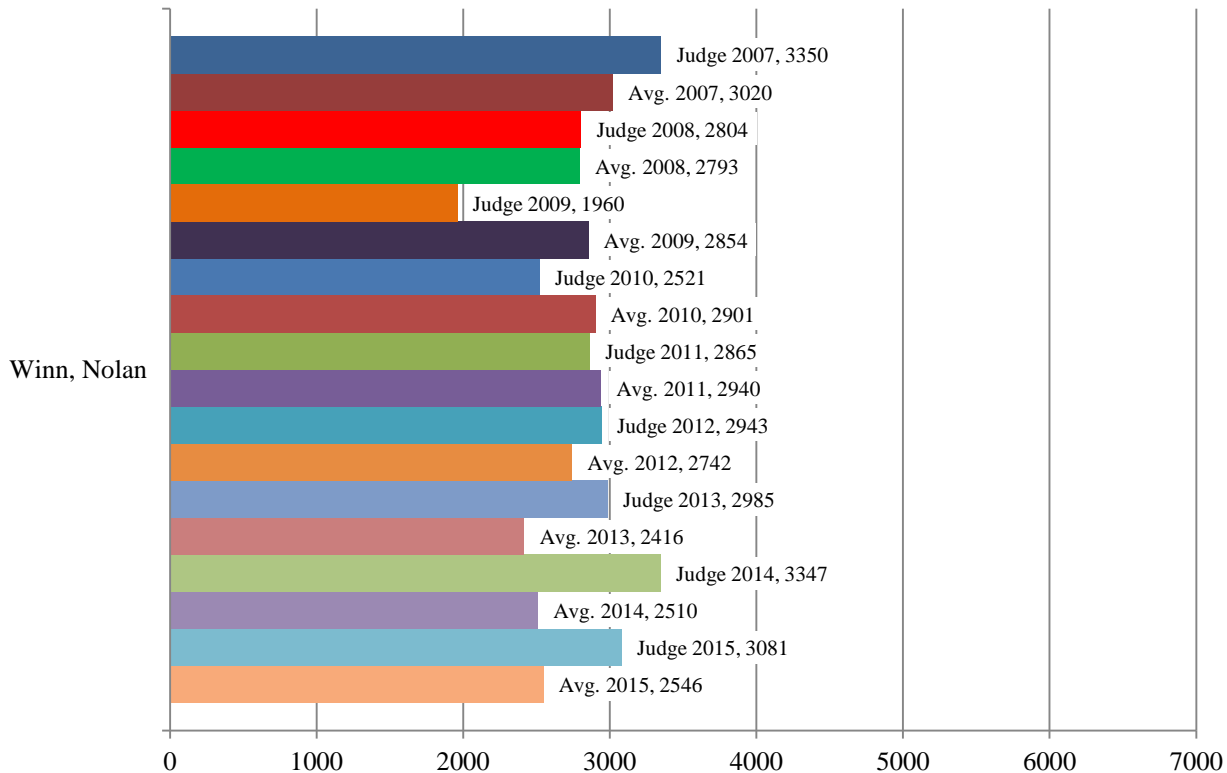
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



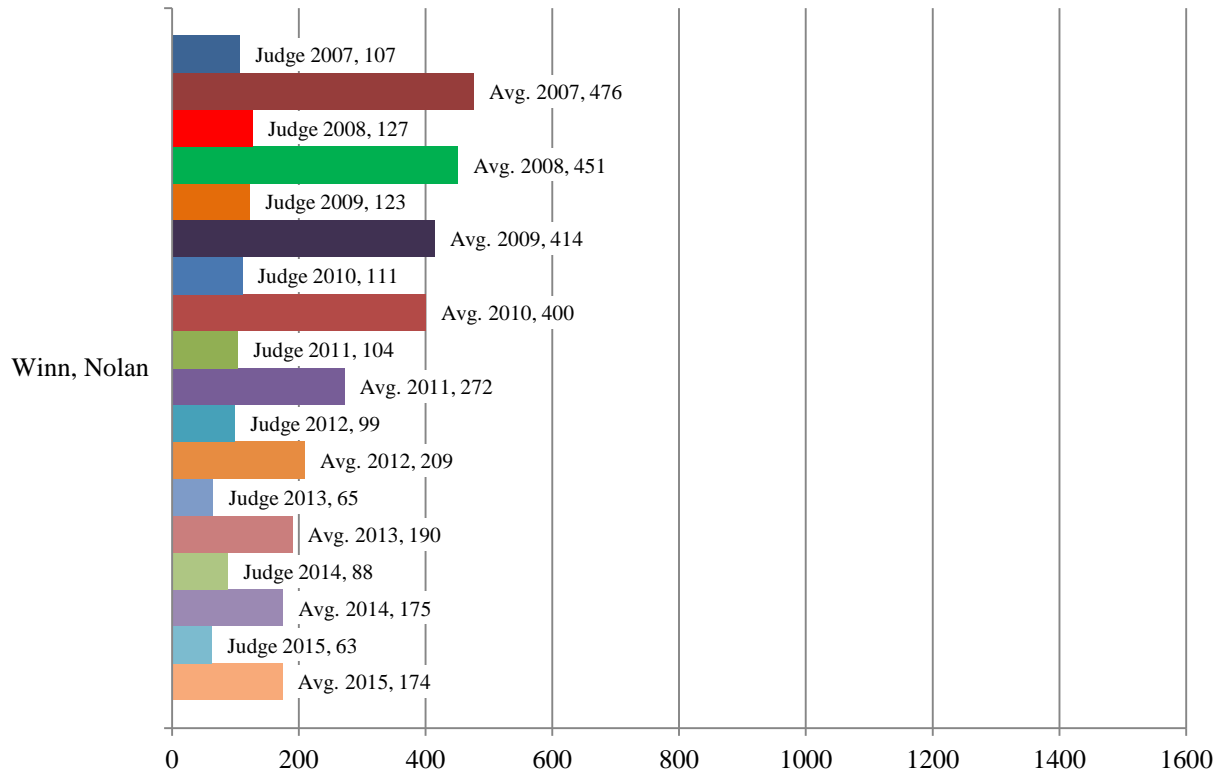
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2006-07 and 2014-15. 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 the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



Pensacola District Office on Palafox Street

Appendix “12” District PSL (JCC McAliley):

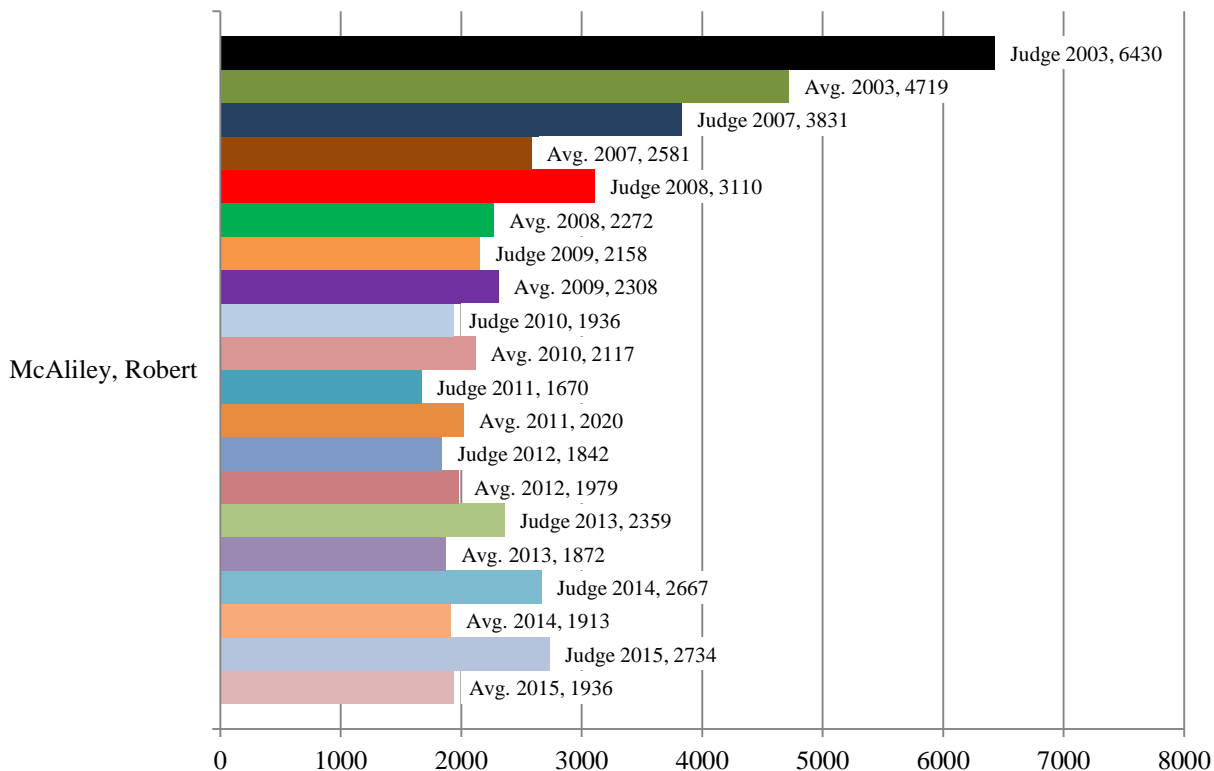
District PSL includes Martin and St. Lucie counties.

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.

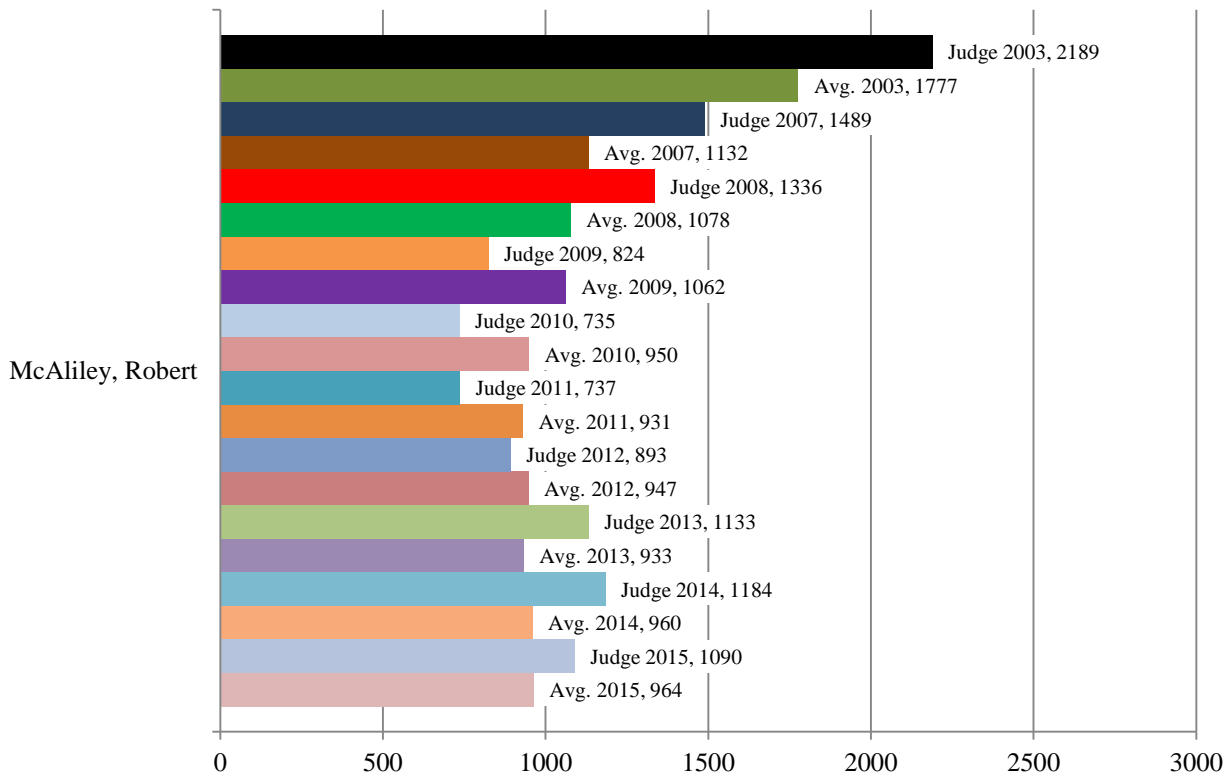
The volume of PFB and “new cases” in District PSL is notably above average for the last three years. This is due, in part, to the transfer of Monroe County from District MIA to District PSL in 2012. However, the Monroe County volume does not account for all of this increase. For example, in 2013-14 only 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 and video teleconference system (VTS) congestion in District MIA.

Trial volume in District PSL was above the statewide average for the last two 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 2014-15. Judge McAliley has elected not to seek an additional term. There will be a new judge assuming the responsibility for PSL in fiscal 2017.

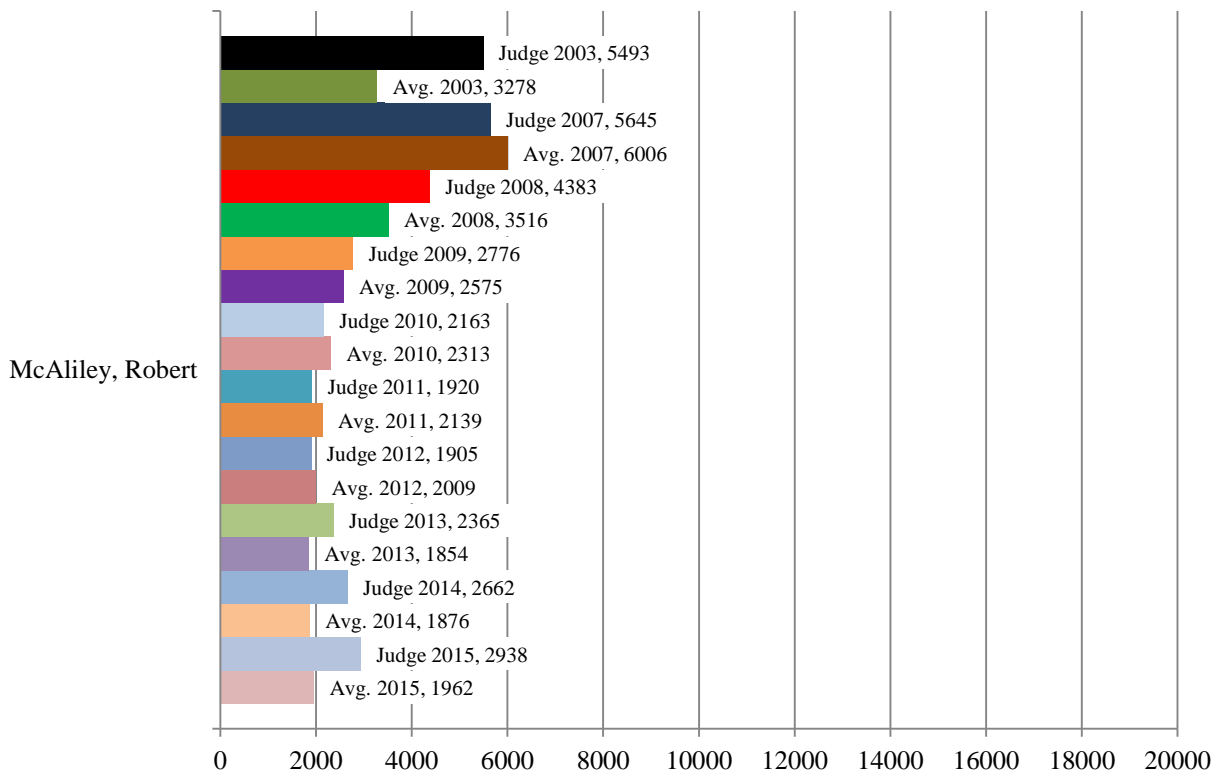
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



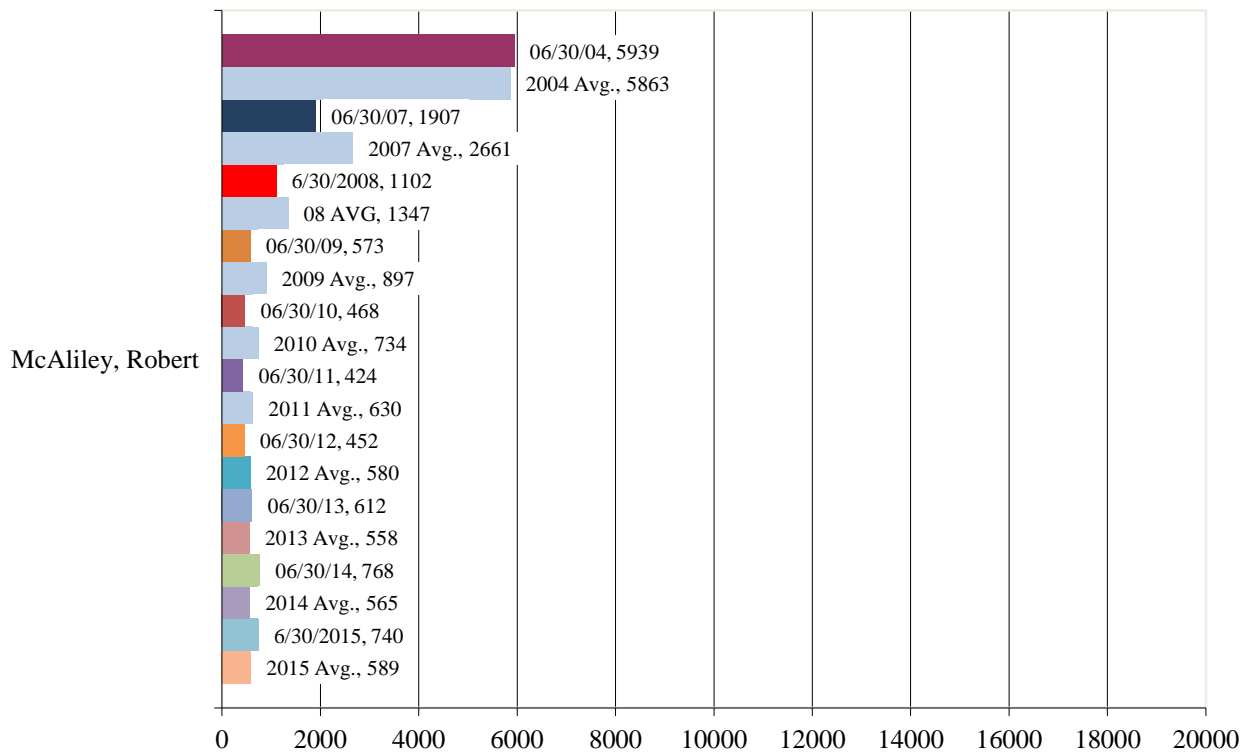
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



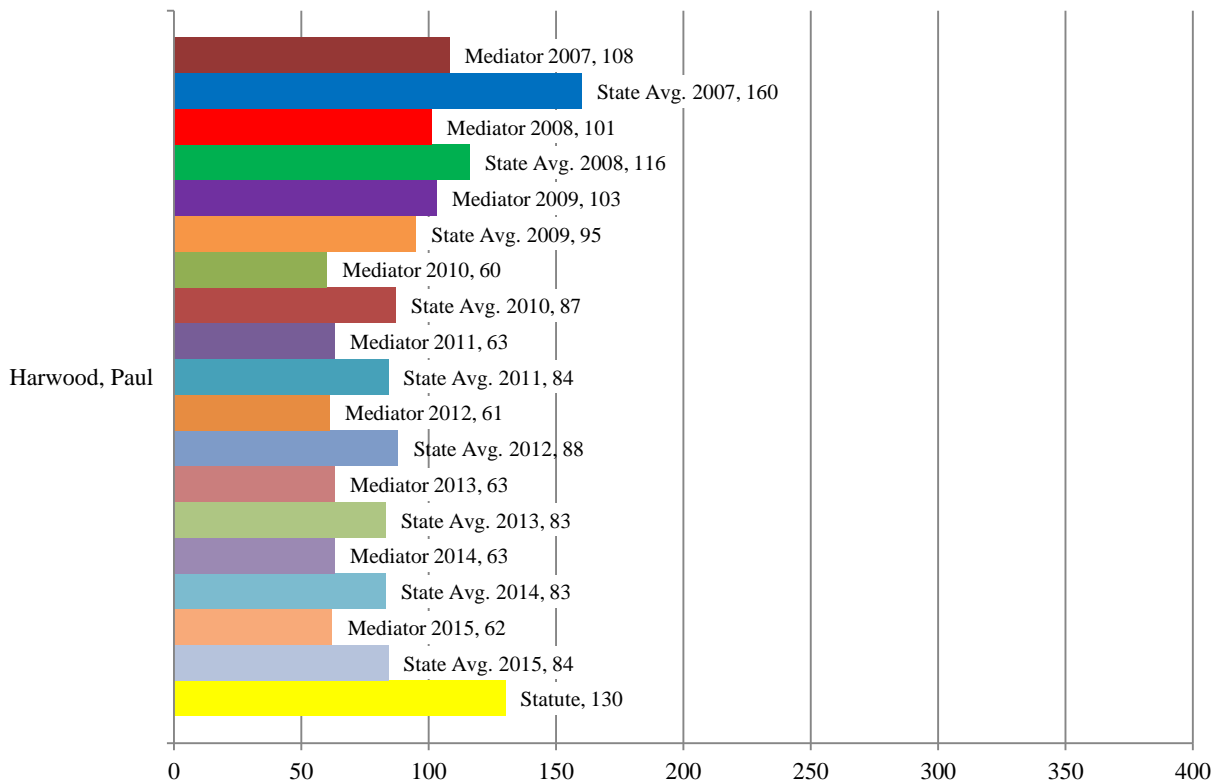
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



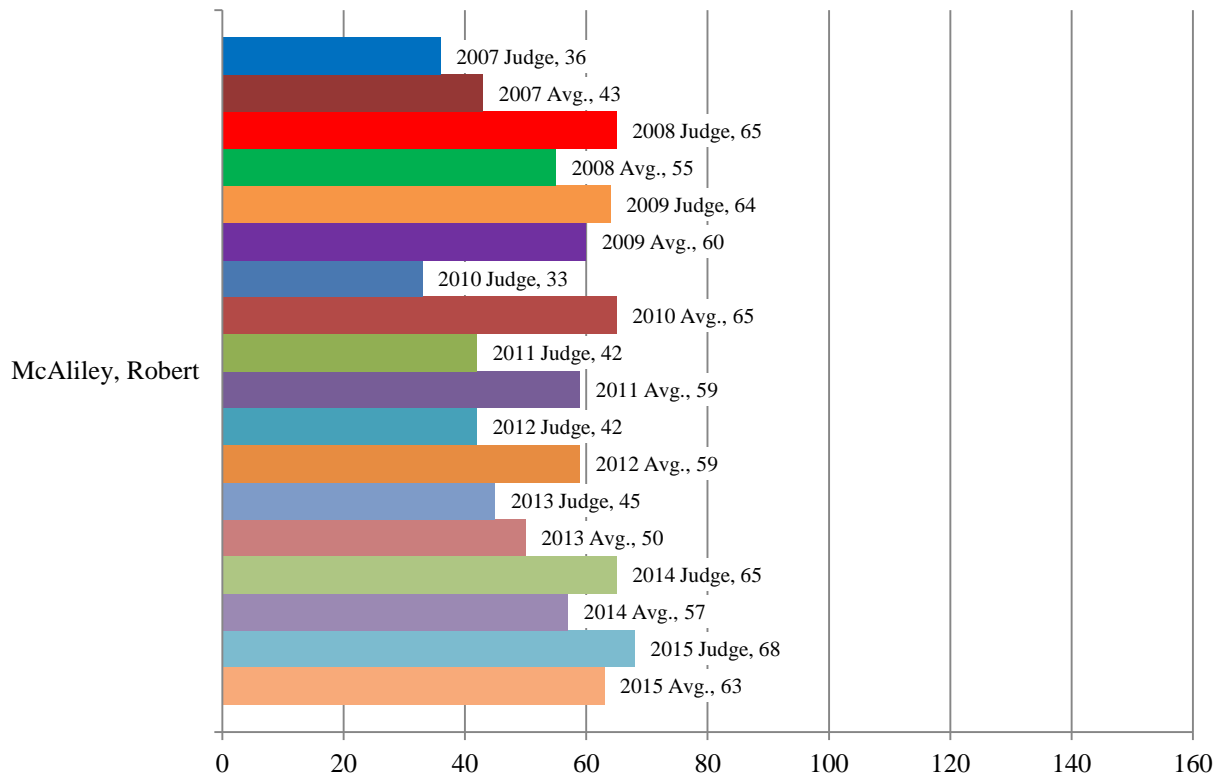
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2014-15 (2003-04 is also provided for historical reference). The identification and values for each year are in each bar label.



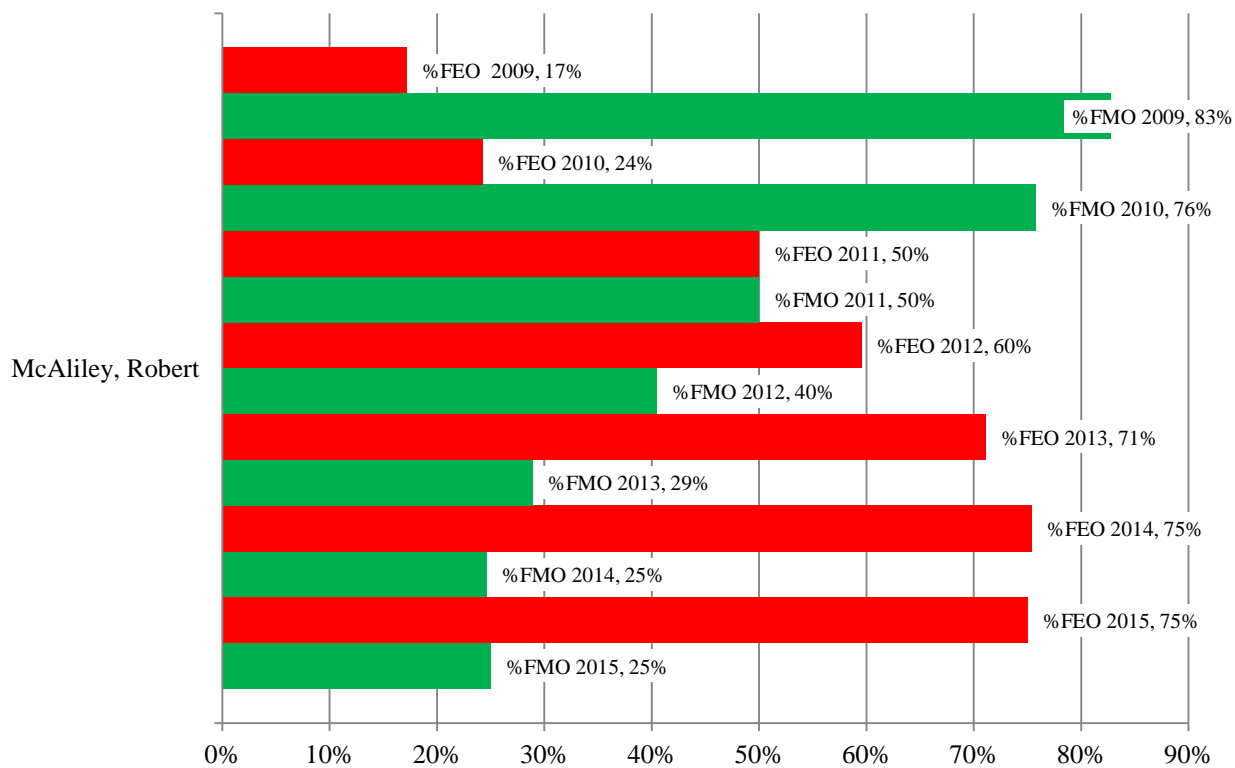
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



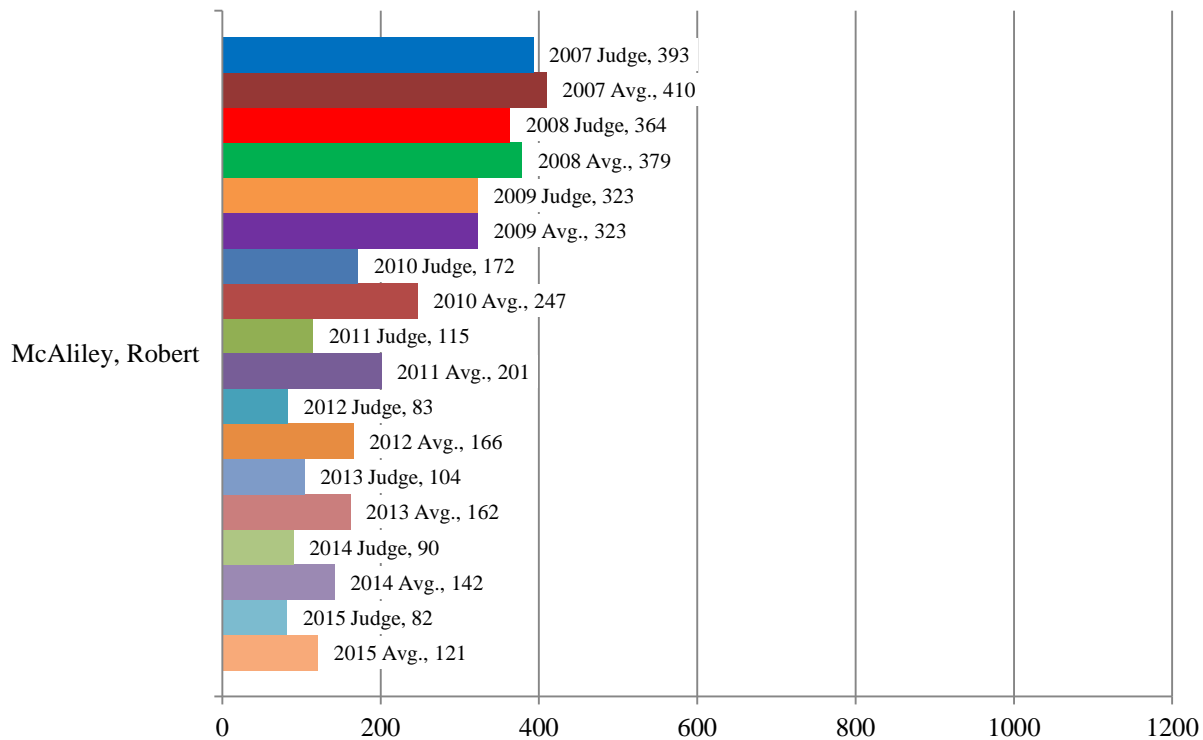
The following graph depicts the total volume of trial orders¹²⁵ uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



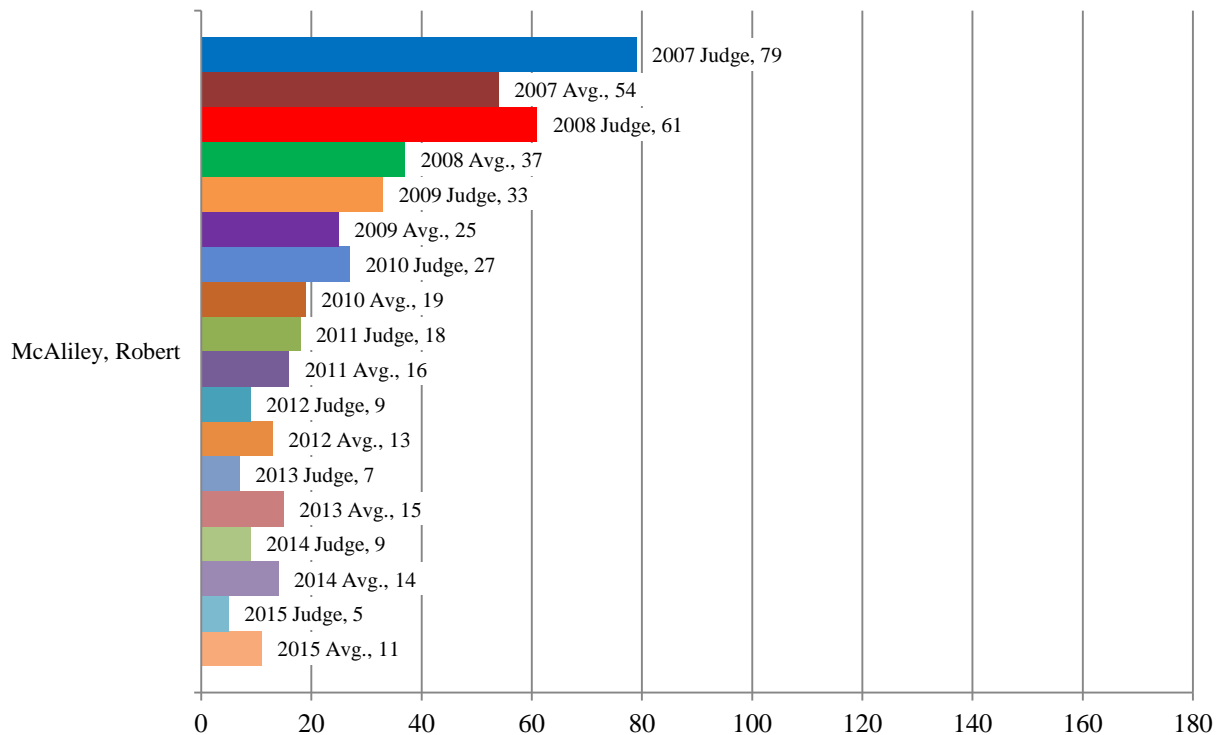
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



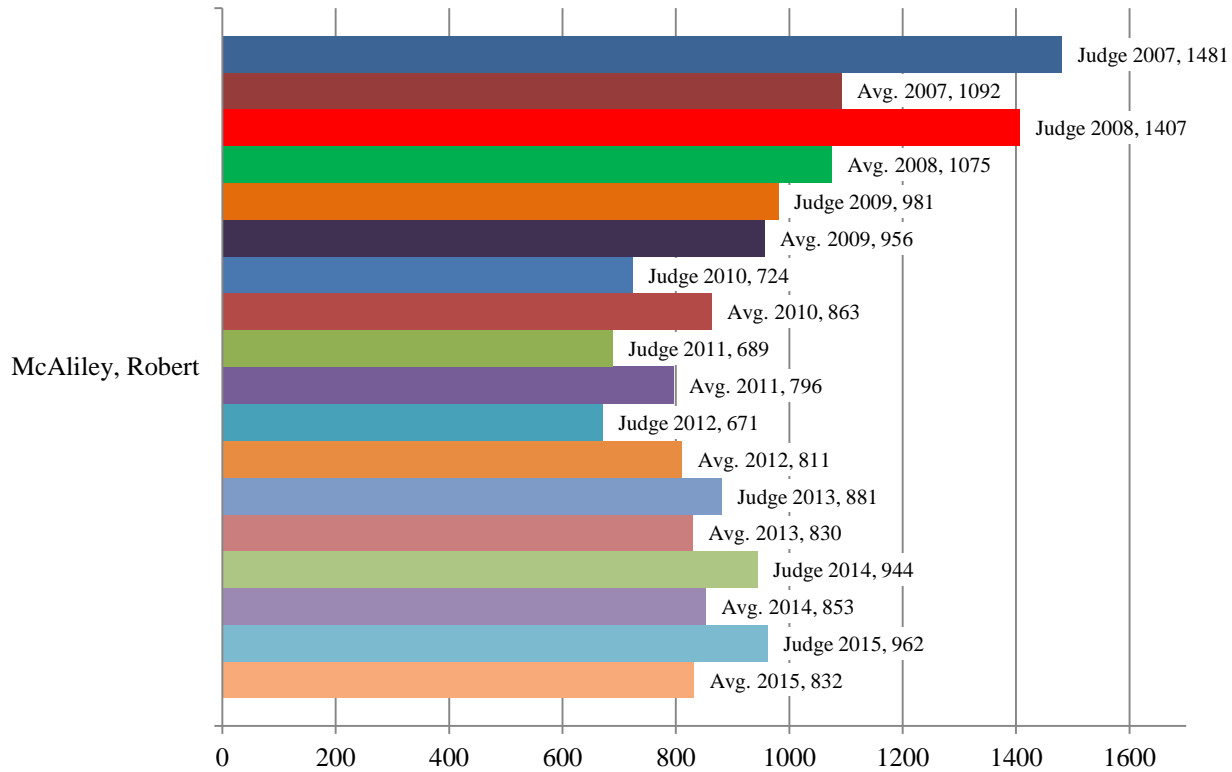
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



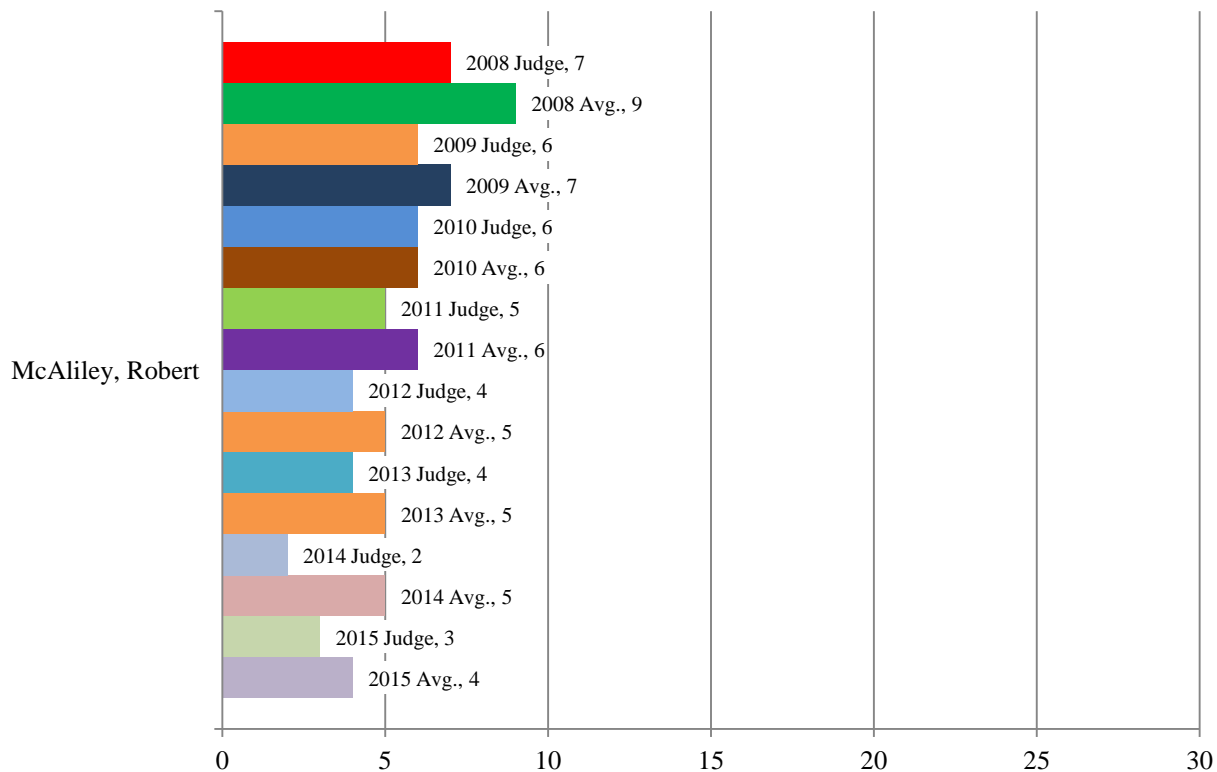
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



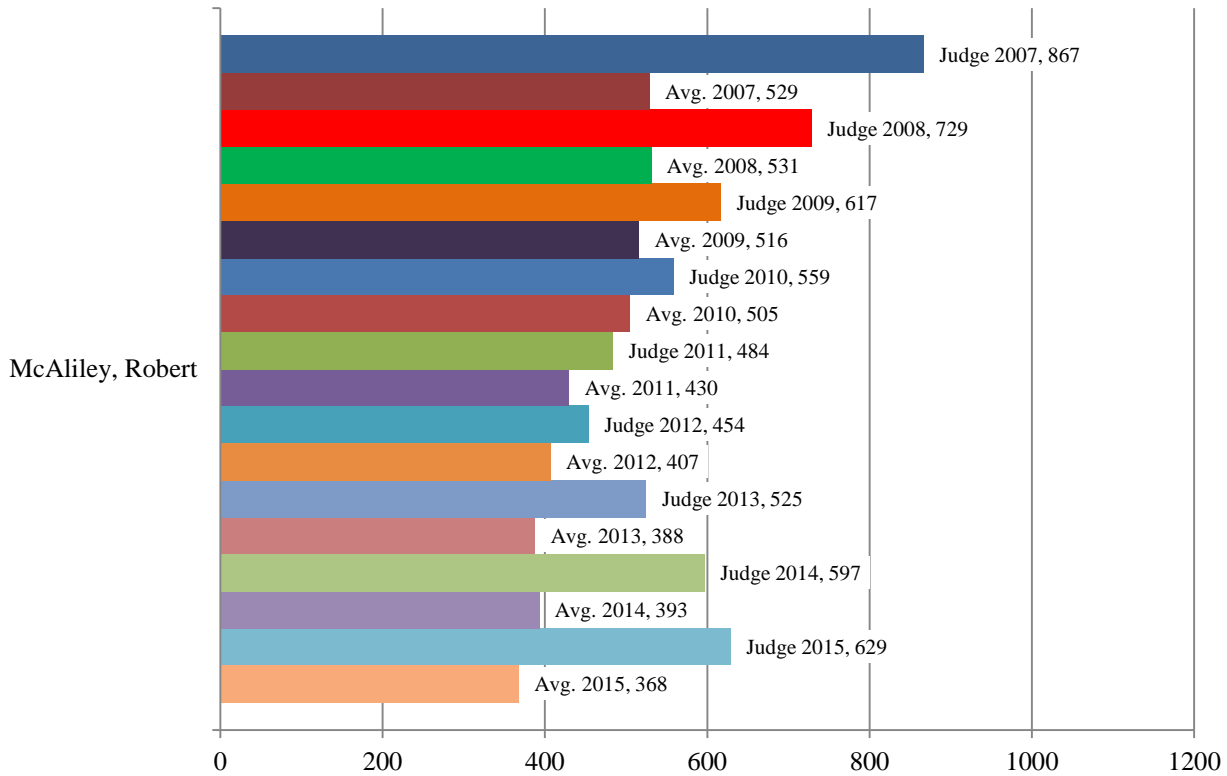
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



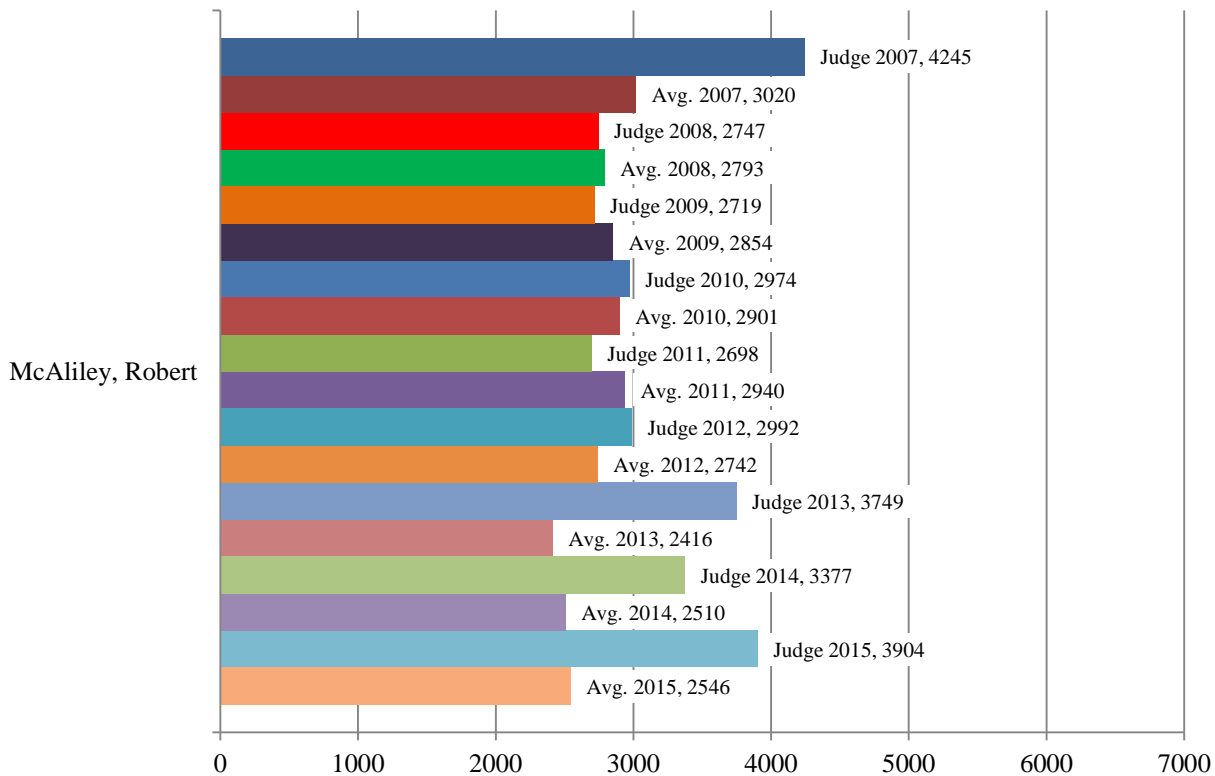
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



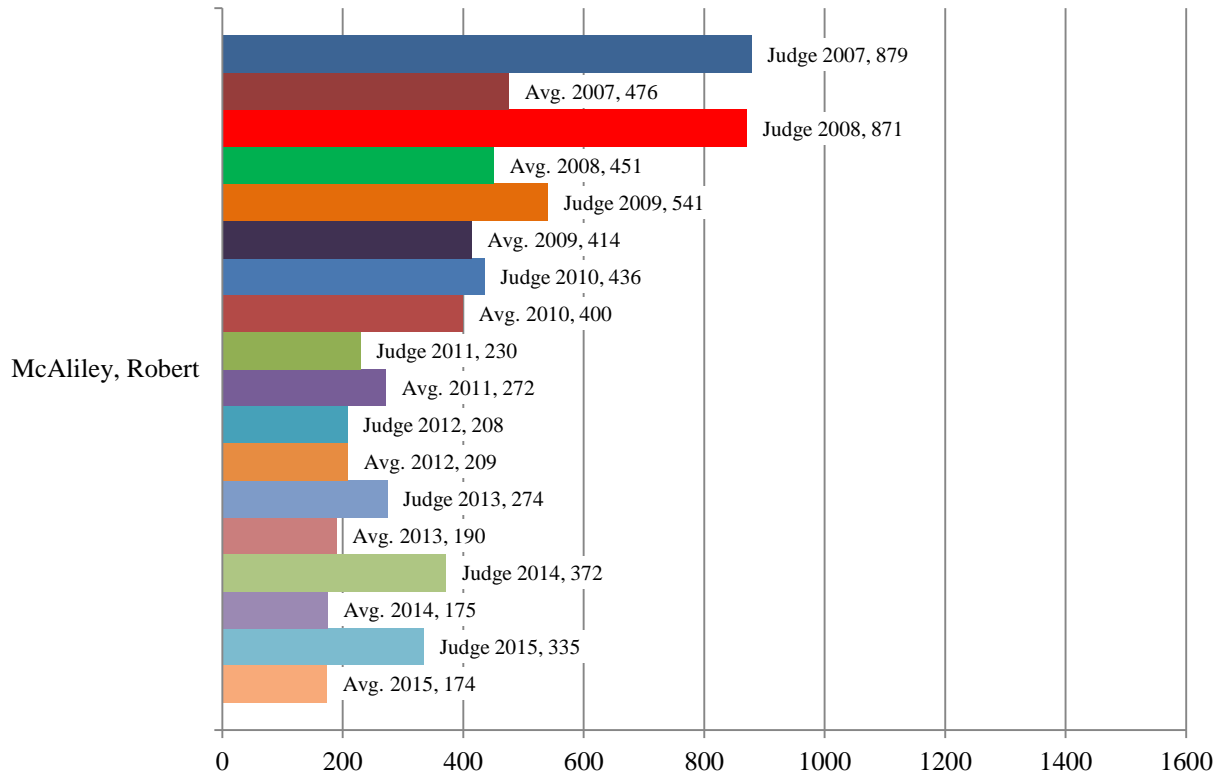
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2006-07 and 2014-15. 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 the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



Port St. Lucie District on Northwest University Boulevard

Appendix “13” District SAR (JCC Beck):

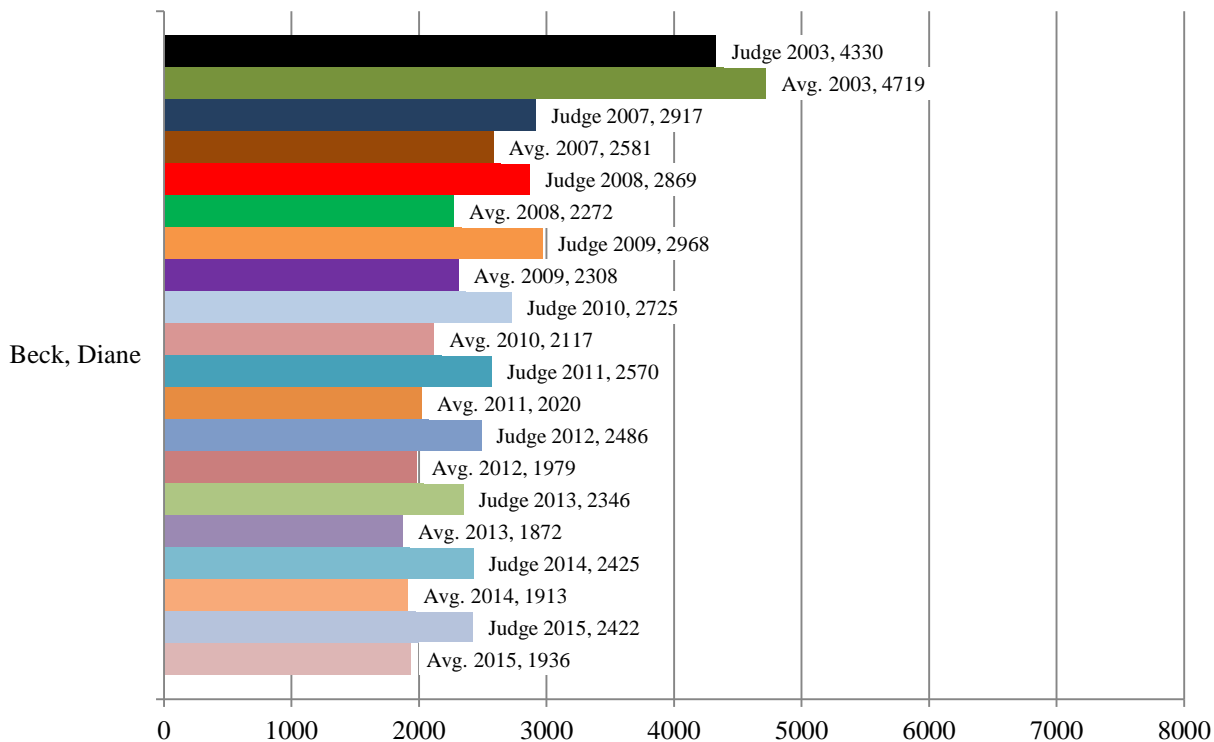
District SAR includes Manatee and Sarasota counties.

The PFB and “new case” filing volumes in District SAR both have been above the statewide averages for most of the last ten 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 somewhat 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.

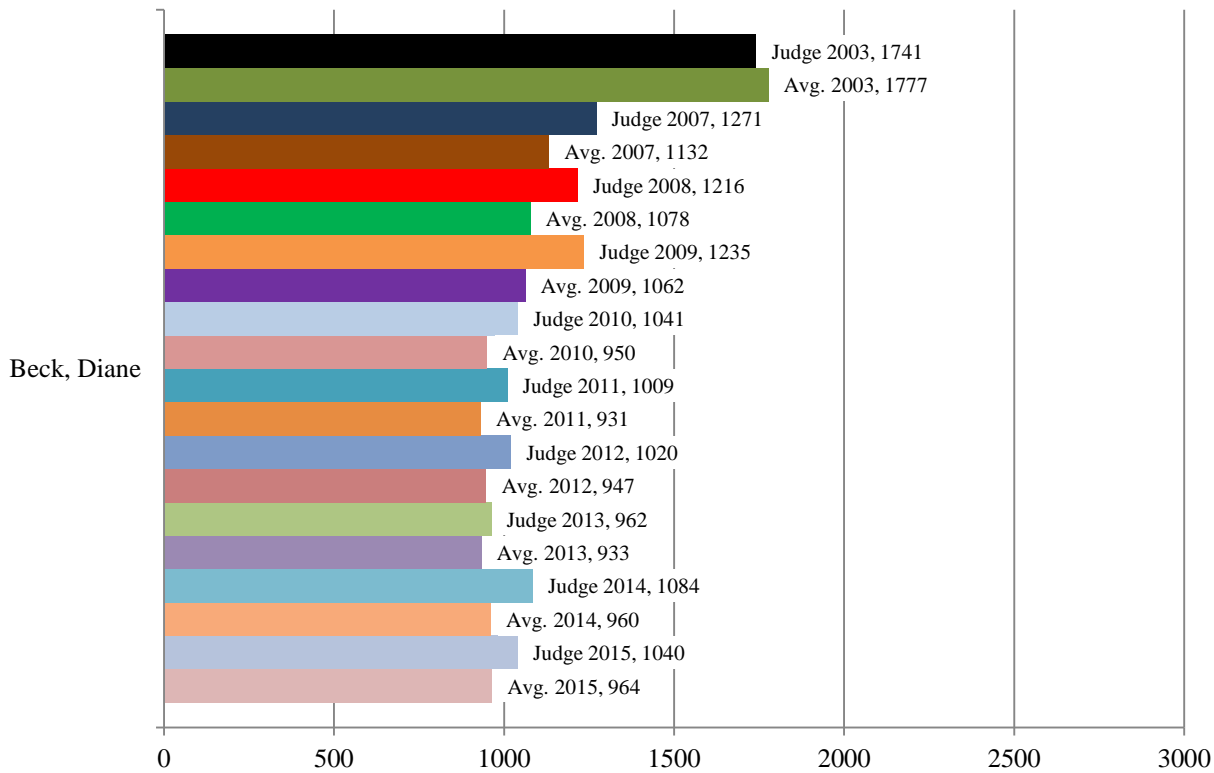
Trial volume has been above the statewide average in SAR since 2006-07. While that volume moderated notably in 2012-13, District SAR returned to significant trial volume in 2013-14 and 2014-15. The District is within the statutory time parameters for PFB to mediation, PFB/motion to trial and trial to 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 again judged preliminary rounds of Earle Zehmer Moot Court Competition in August.

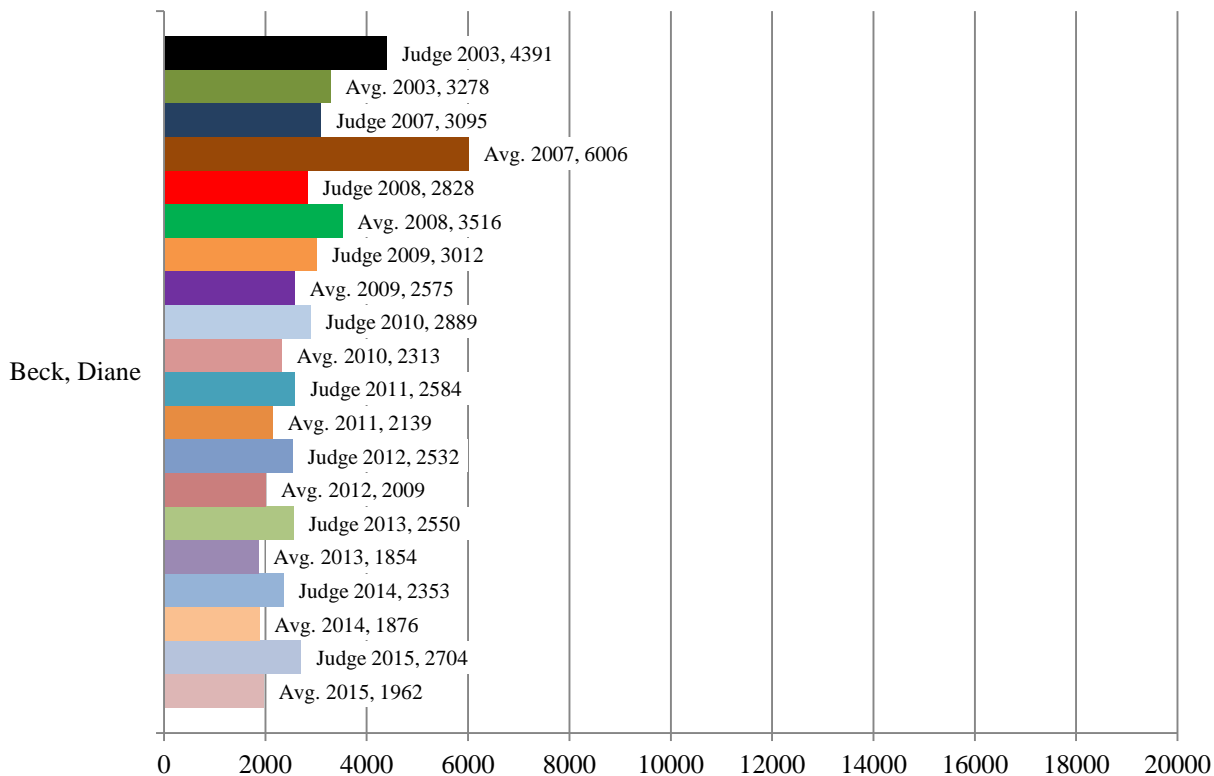
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



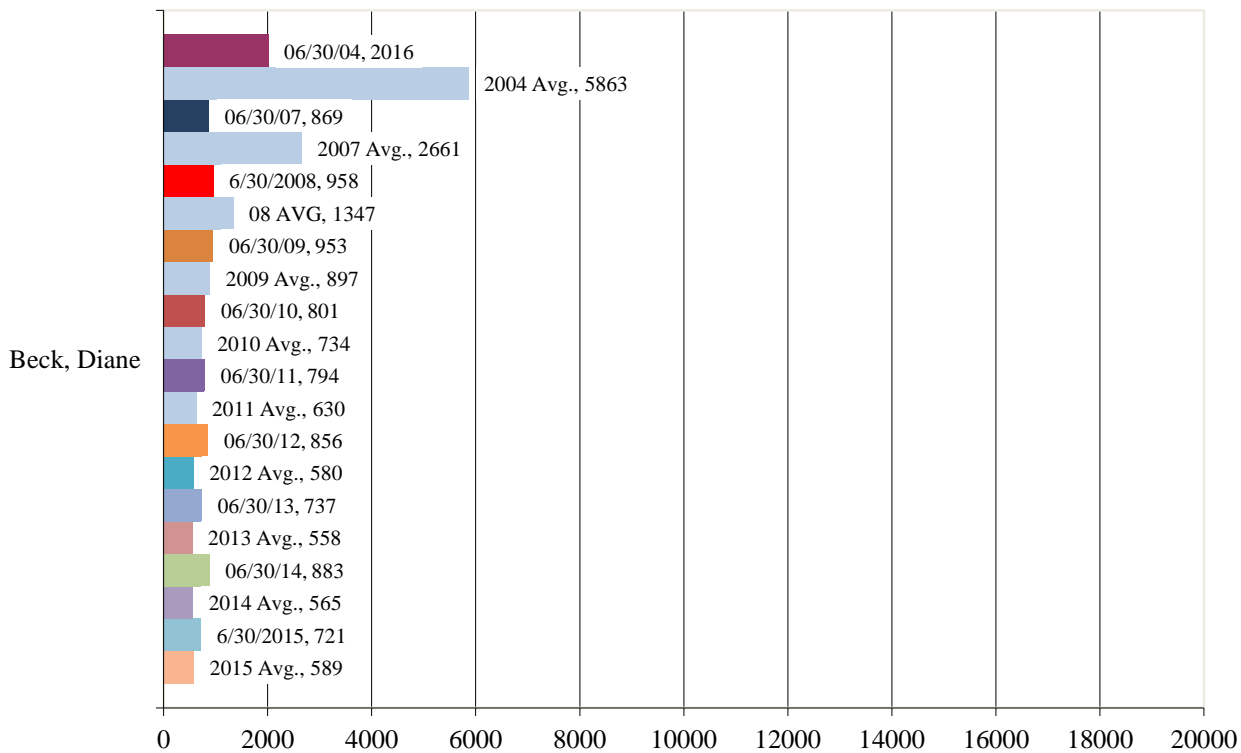
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



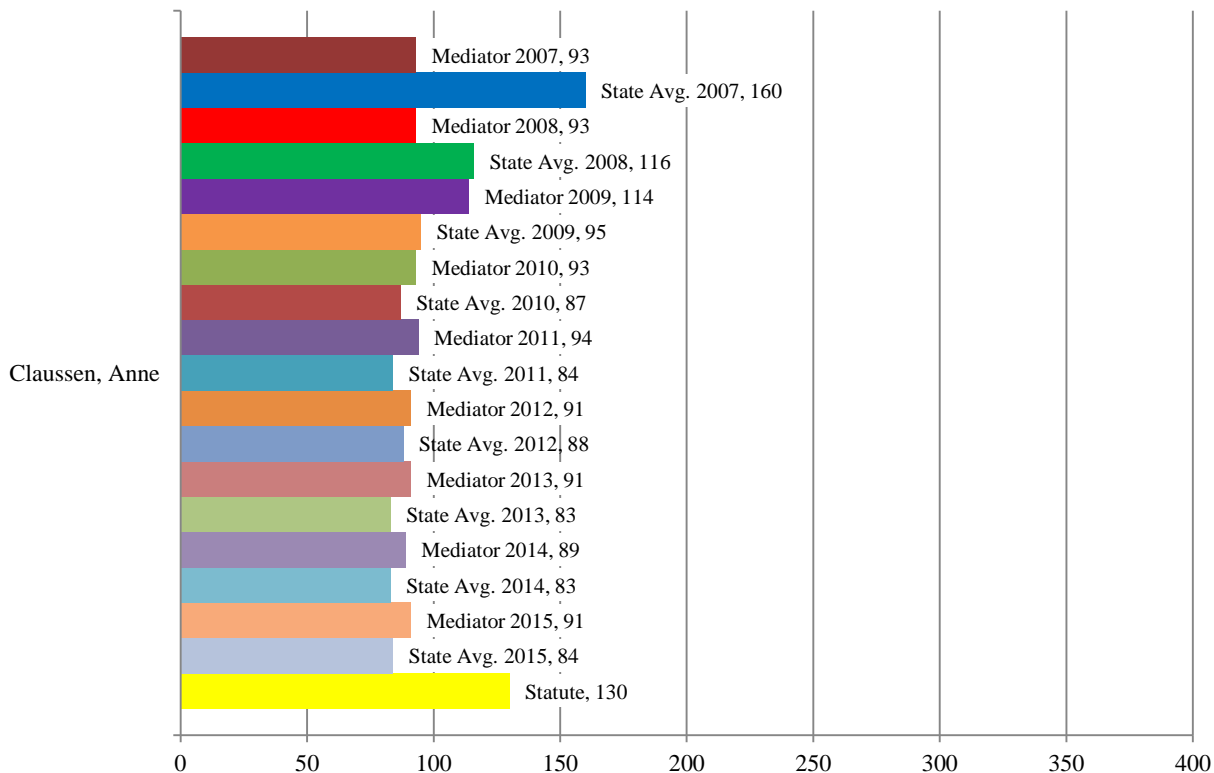
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



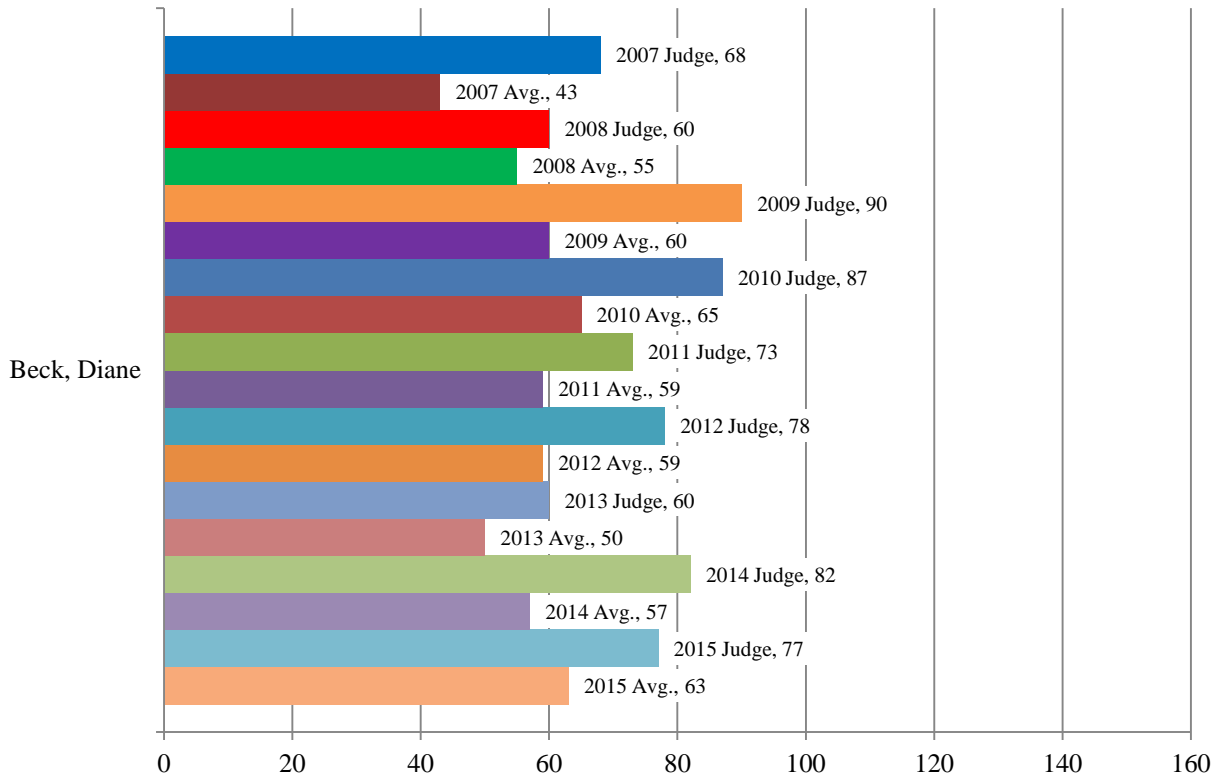
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2014-15 (2003-04 is also provided for historical reference). The identification and values for each year are in each bar label.



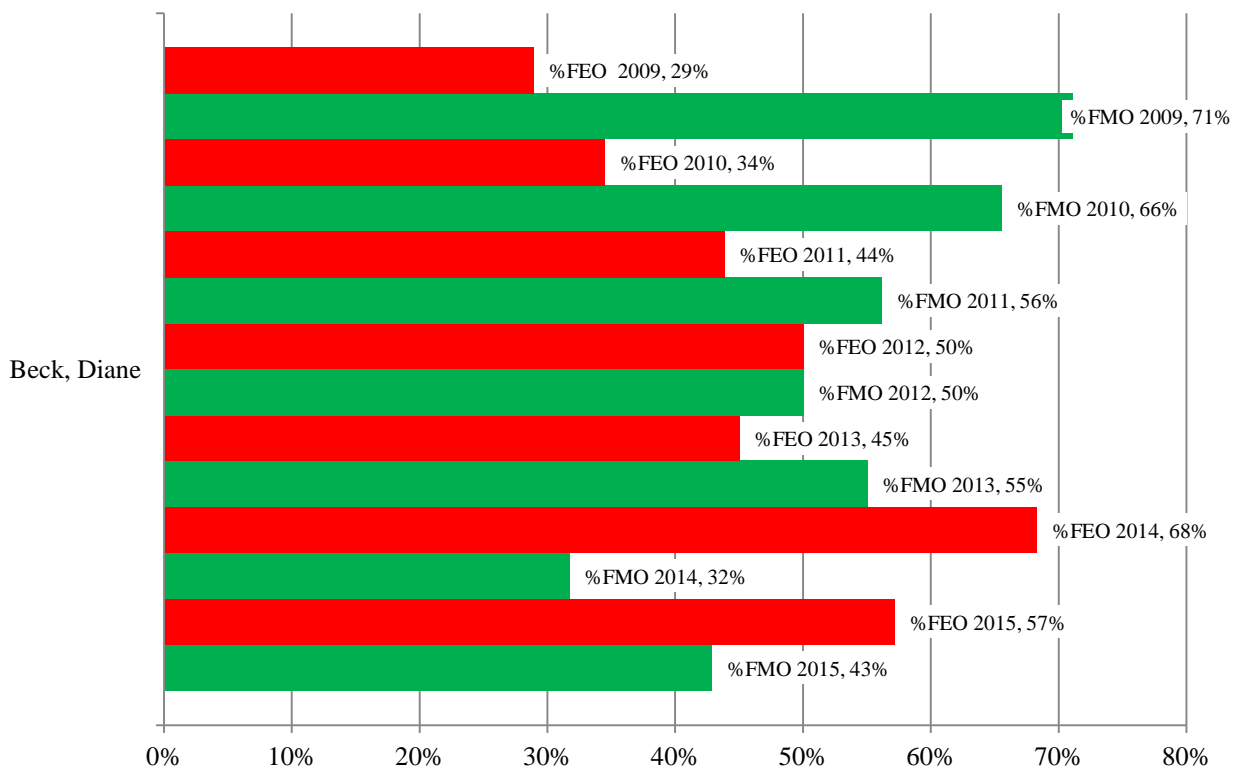
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



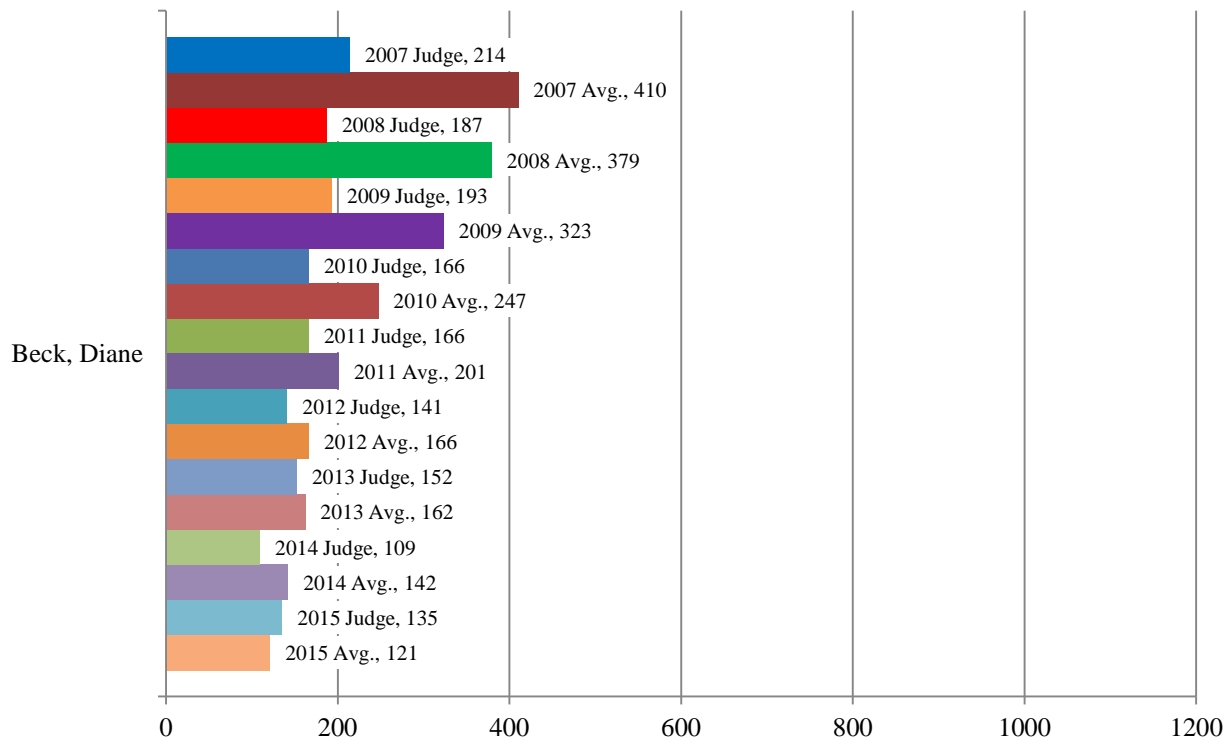
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



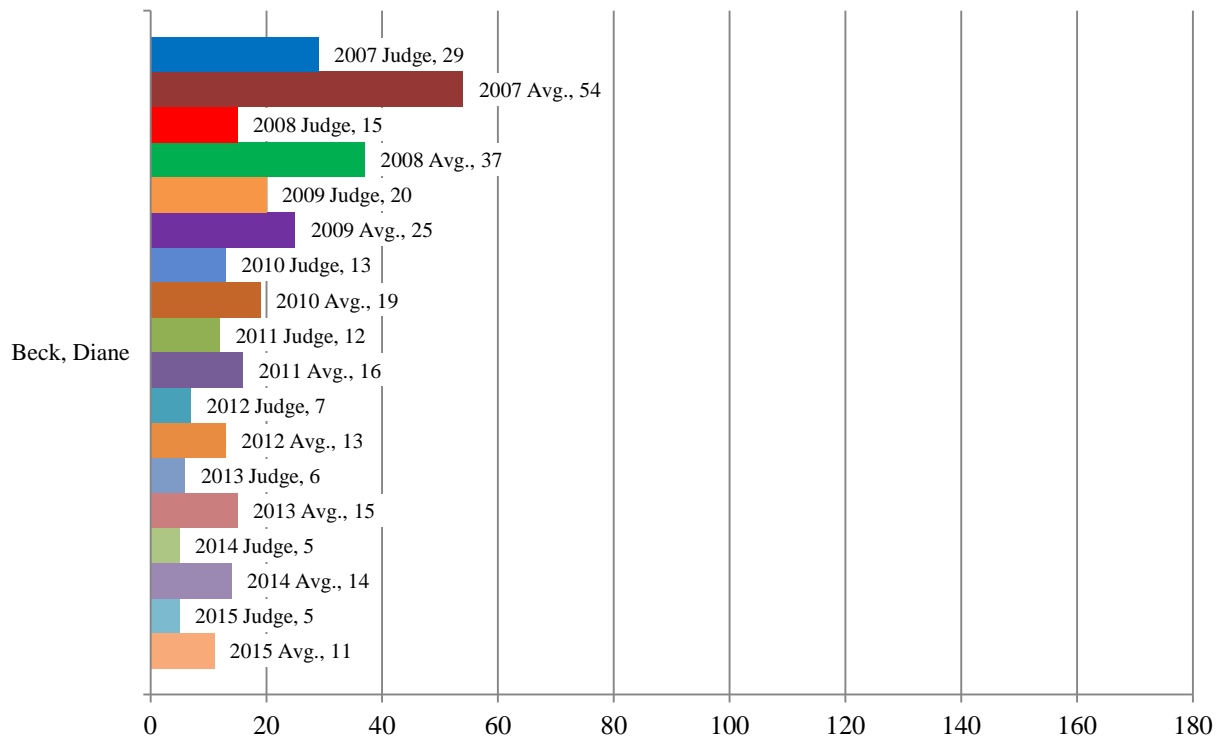
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



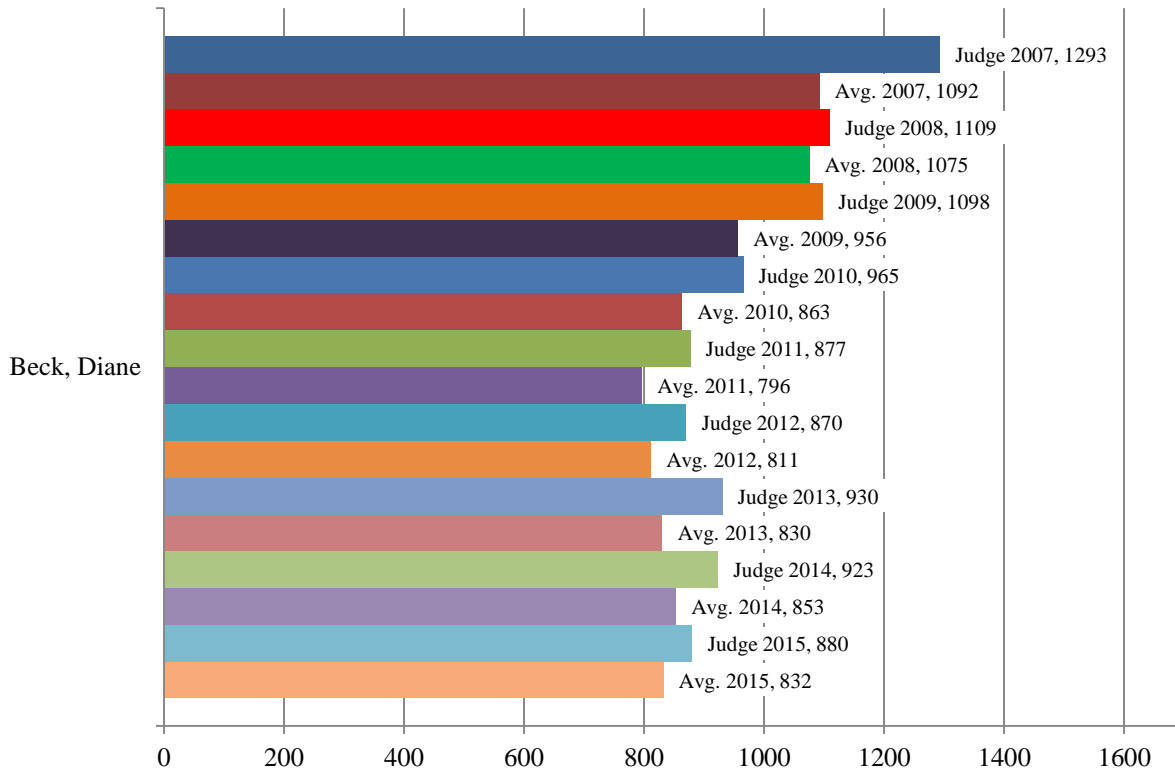
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



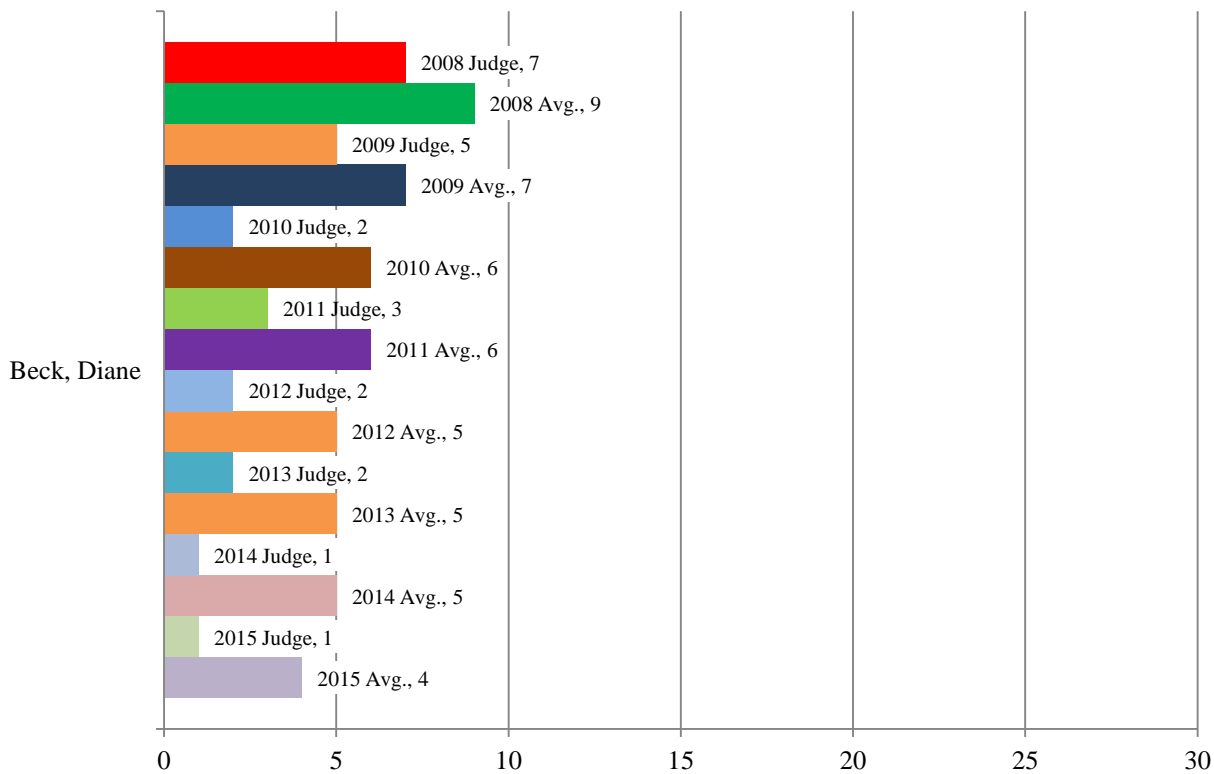
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



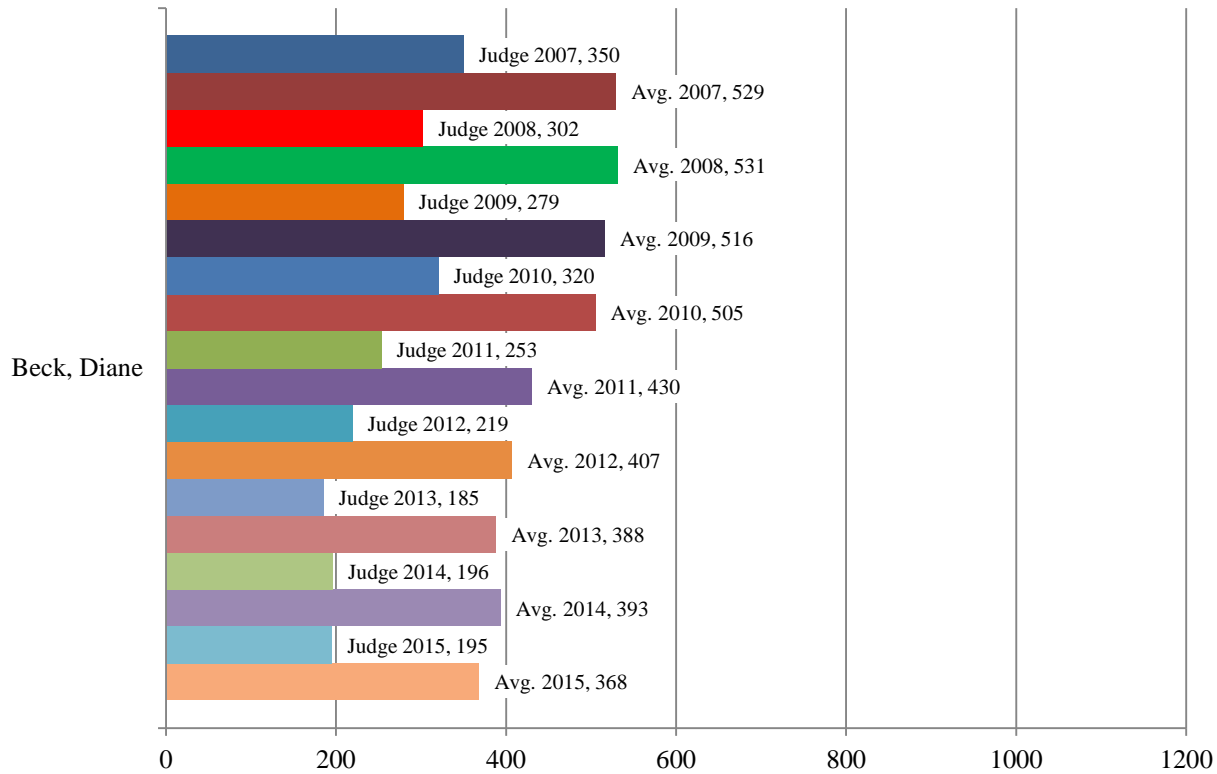
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



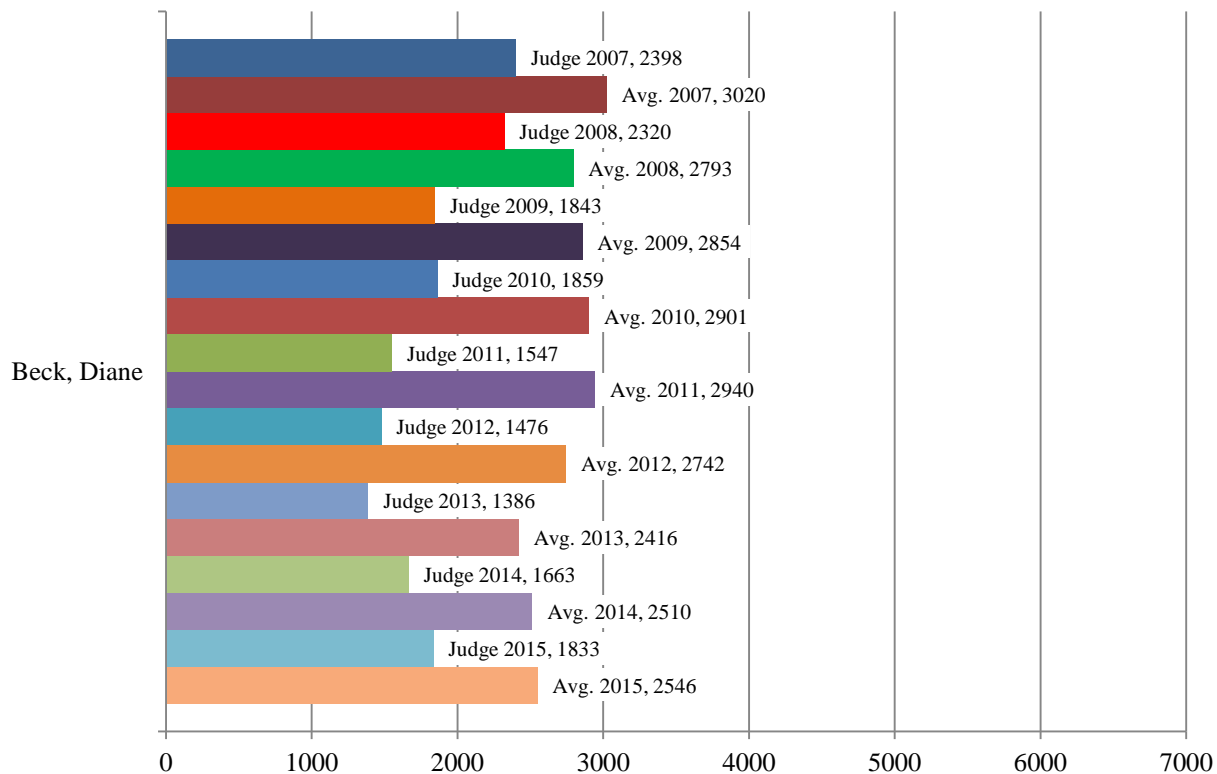
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



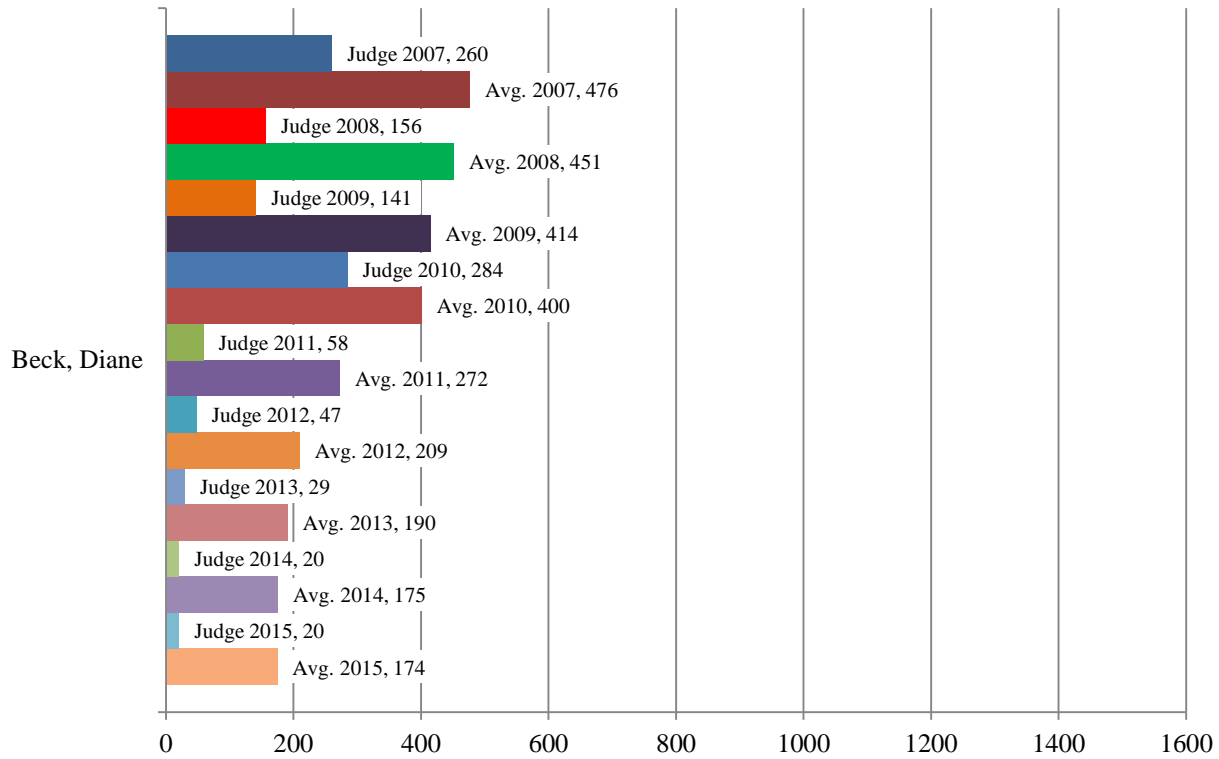
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2006-07 and 2014-15. 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 the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



Sarasota District Office on Parkland Drive

Appendix “14” District STP (JCC Rosen):

District STP includes Pasco and Pinellas counties.

District STP 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, though his time has been primarily in LKL for the last year. 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, while well above average, has been trending to decrease the last two fiscal years. The PFB closure rate is likewise above the statewide average in District STP. In response to inquiries regarding the effects of transitioning this to a one judge office, this report includes PFB, “new case,” PFB closure, and year end PFB inventory data for both Judge Rosen and for Judge Remsnyder in the years prior to the transition. Though the district still demonstrates above average filings, they do not equate to the volume when this was a two-judge district. An additional reason for the lower volume is that this district has not been directly assigned newly opened cases from other districts since it became a single judge office in 2012.

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 recent years.

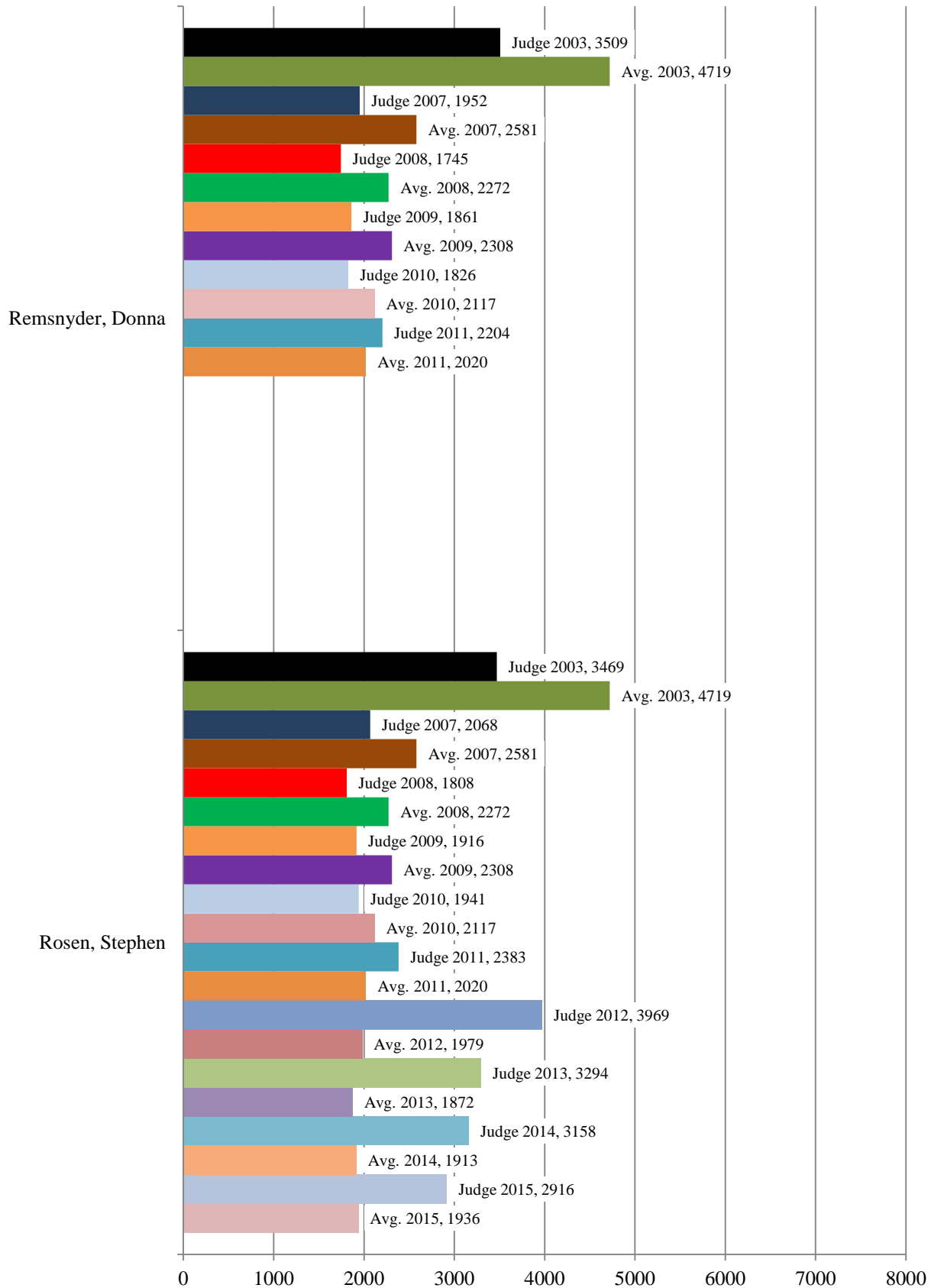
Judge Rosen also readily steps in to hear cases in other districts throughout the state. As a result of both the STP volumes and his volunteering to hear other judges’ cases, the trial volume in District STP was the highest in the state in the last three fiscal years.

In 2014-15, Judge Rosen authored “Daubert and the Expert Medical Advisor in Florida,” published in News and 440 Report, spring 2015. He moderated Judicial Perspectives seminar, OJCC Second Fridays and the Judicial Perspectives panel at the Workers’ Compensation Institute. Judge Rosen proctored The Florida Bar Examination and organized the annual Florida Worker’s Compensation Hall Of Fame induction dinner.

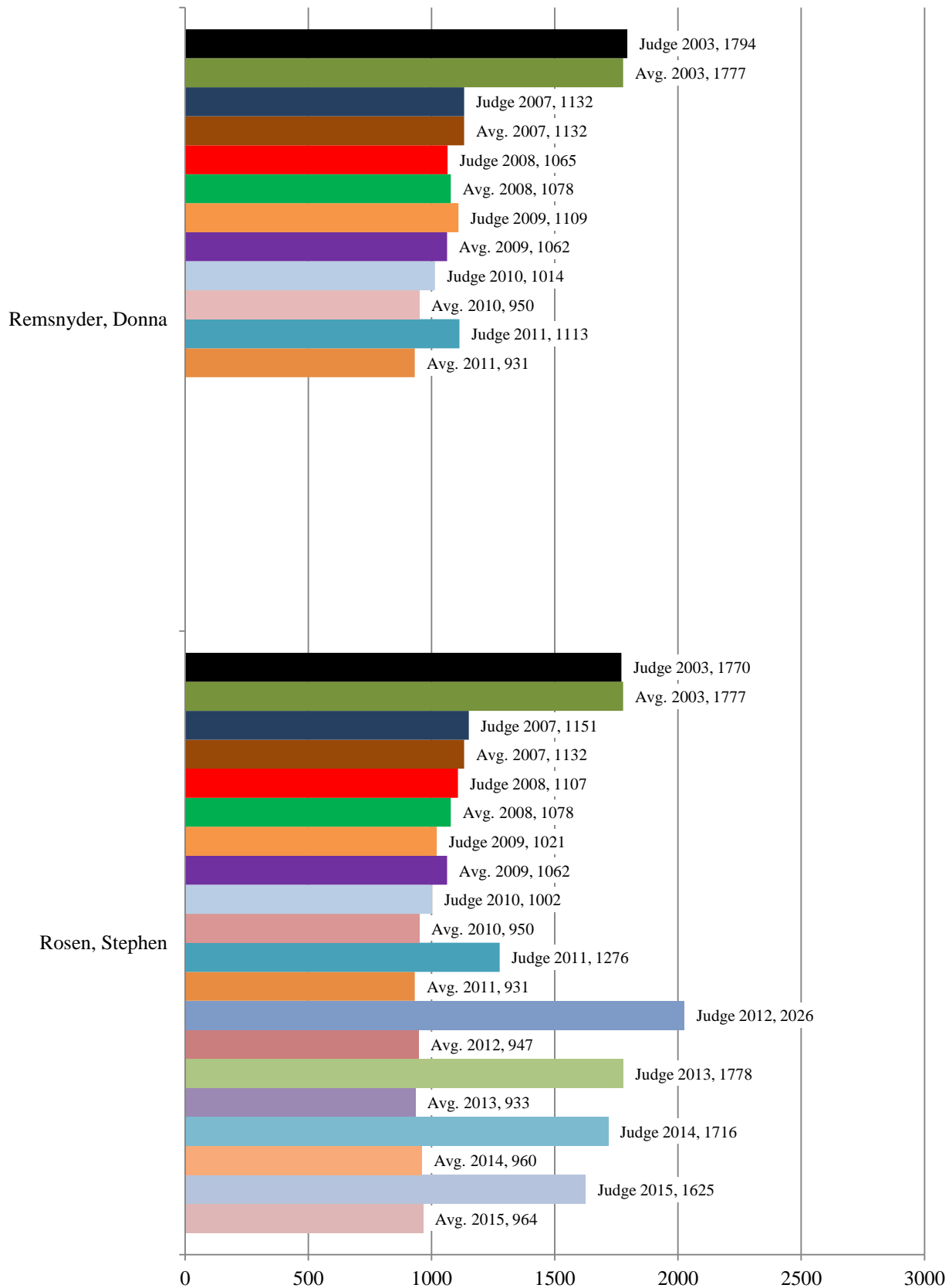


St Petersburg District on First Avenue North.

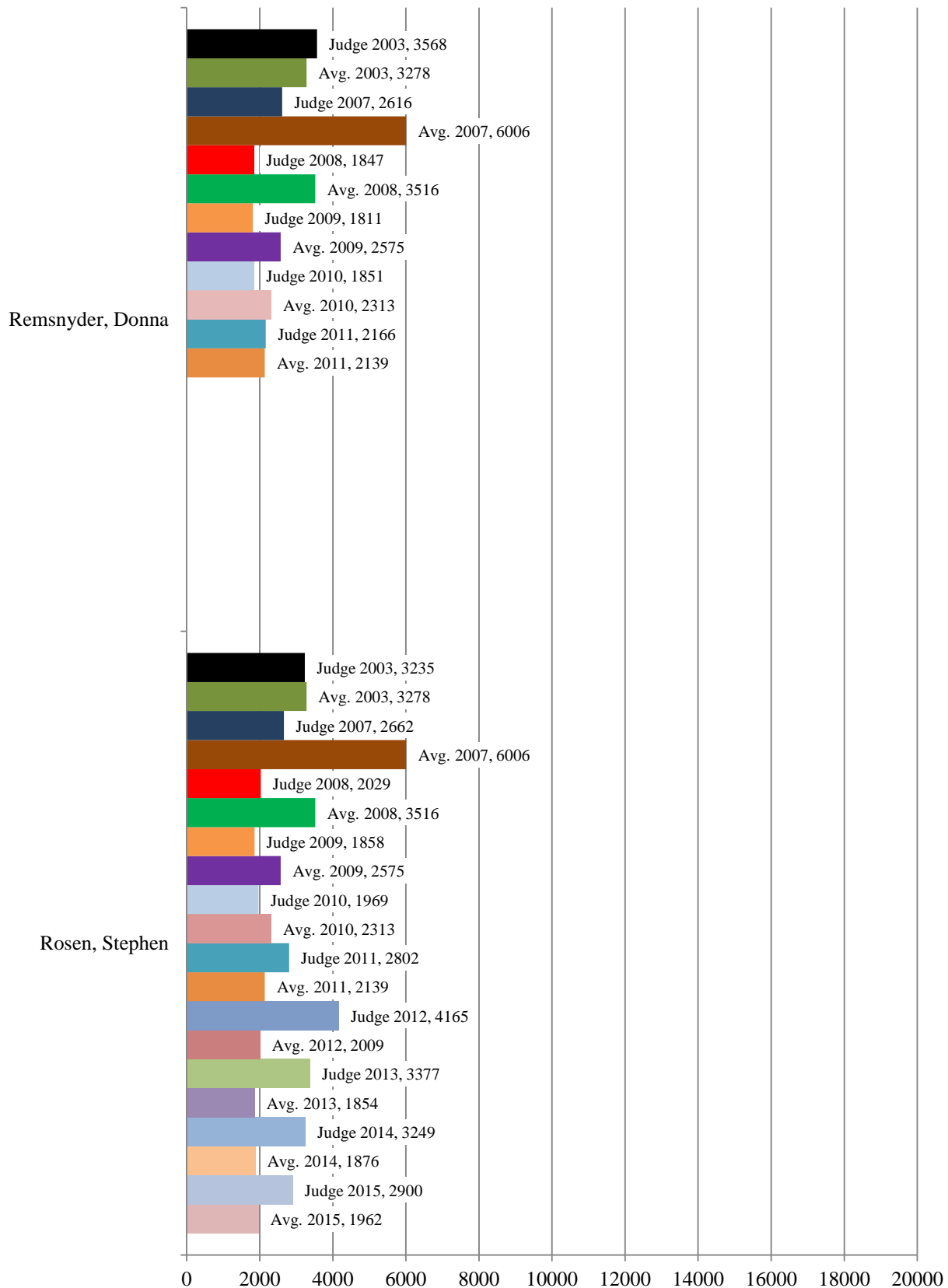
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



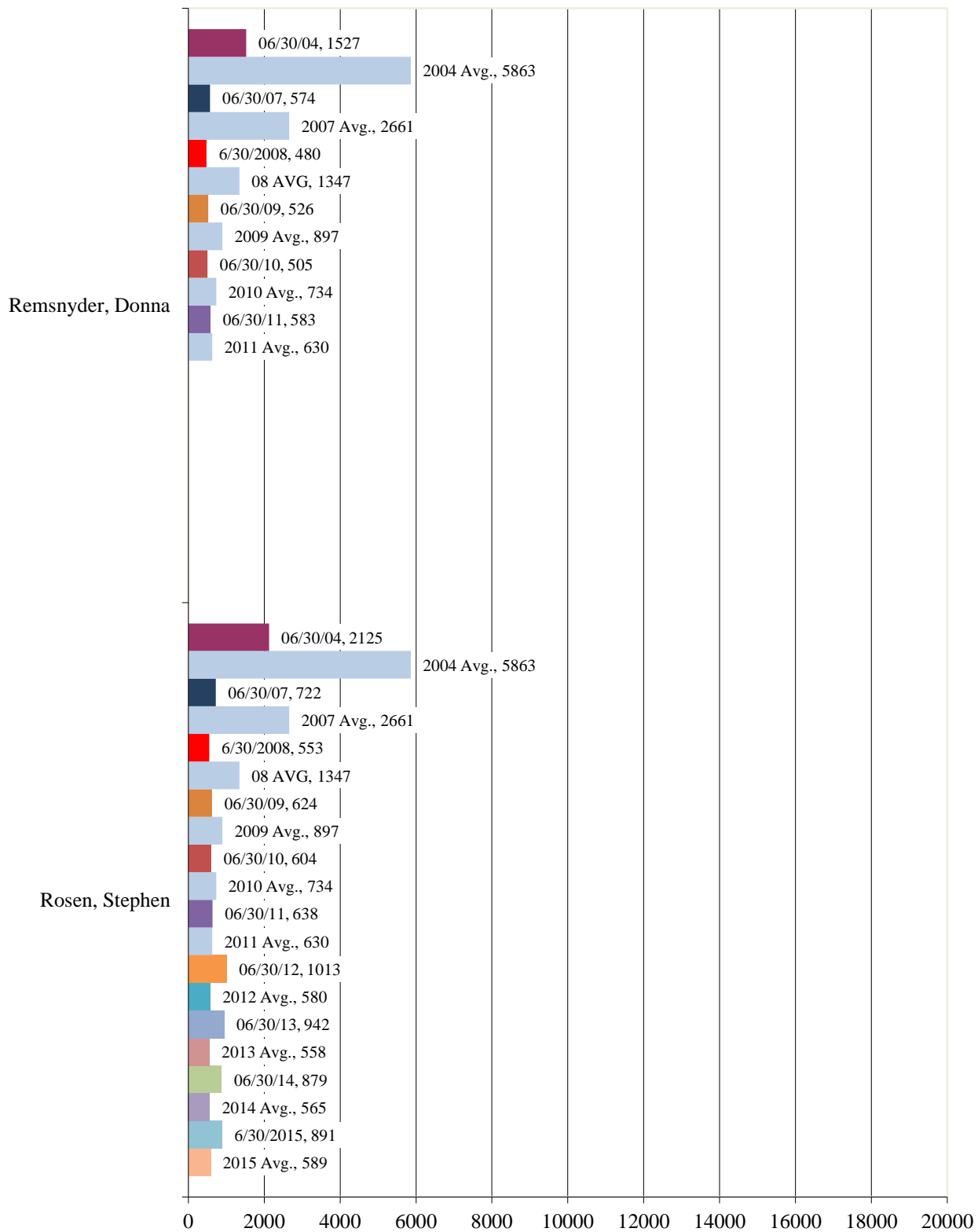
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



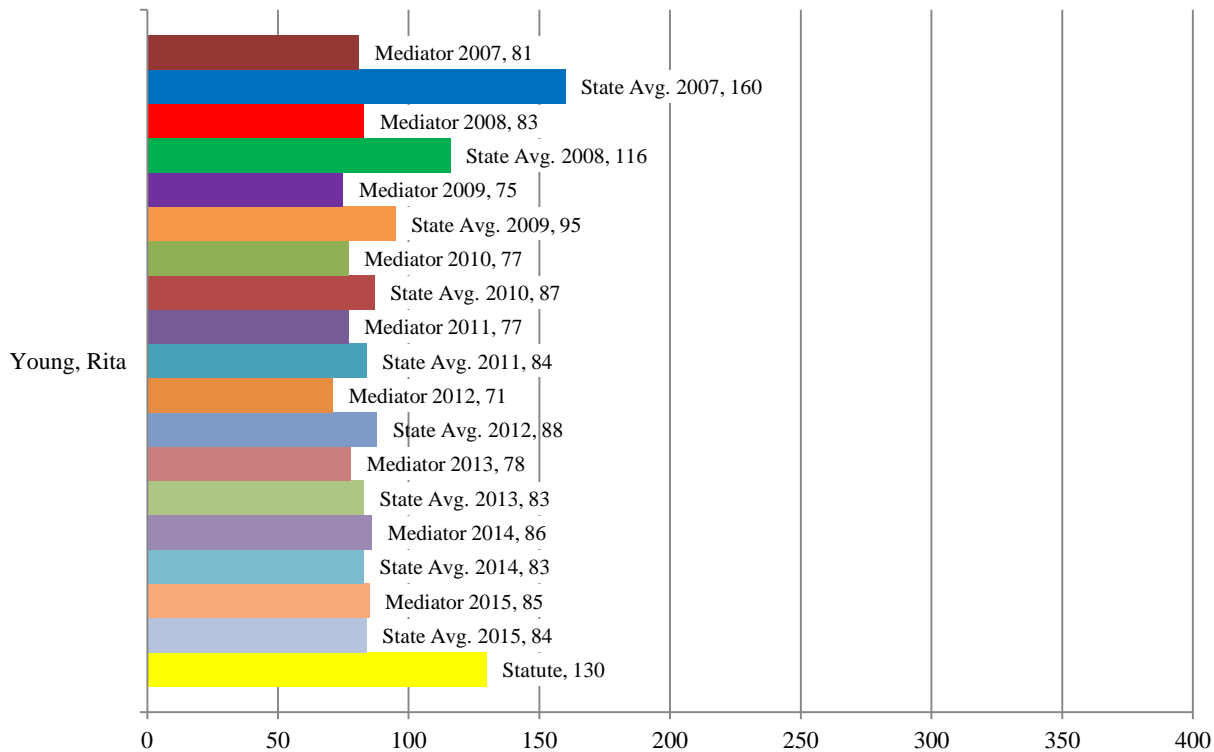
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



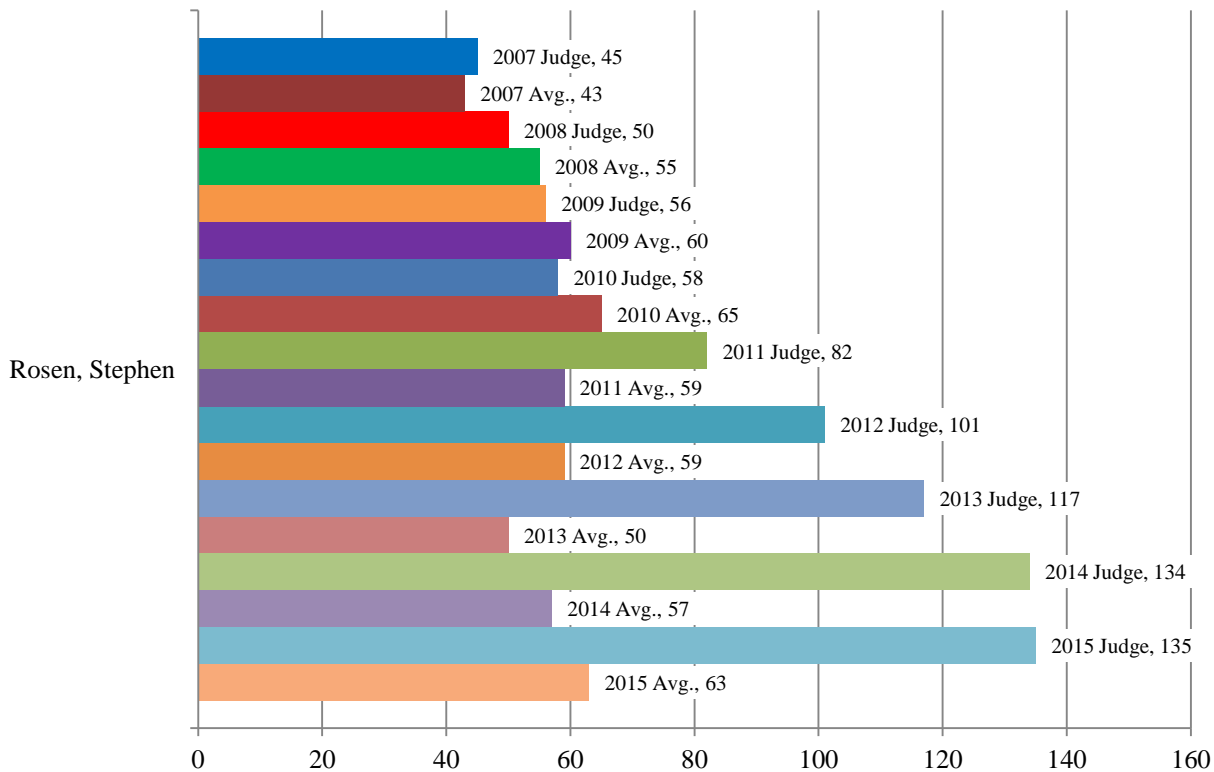
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2014-15 (2003-04 is also provided for historical reference). The identification and values for each year are in each bar label.



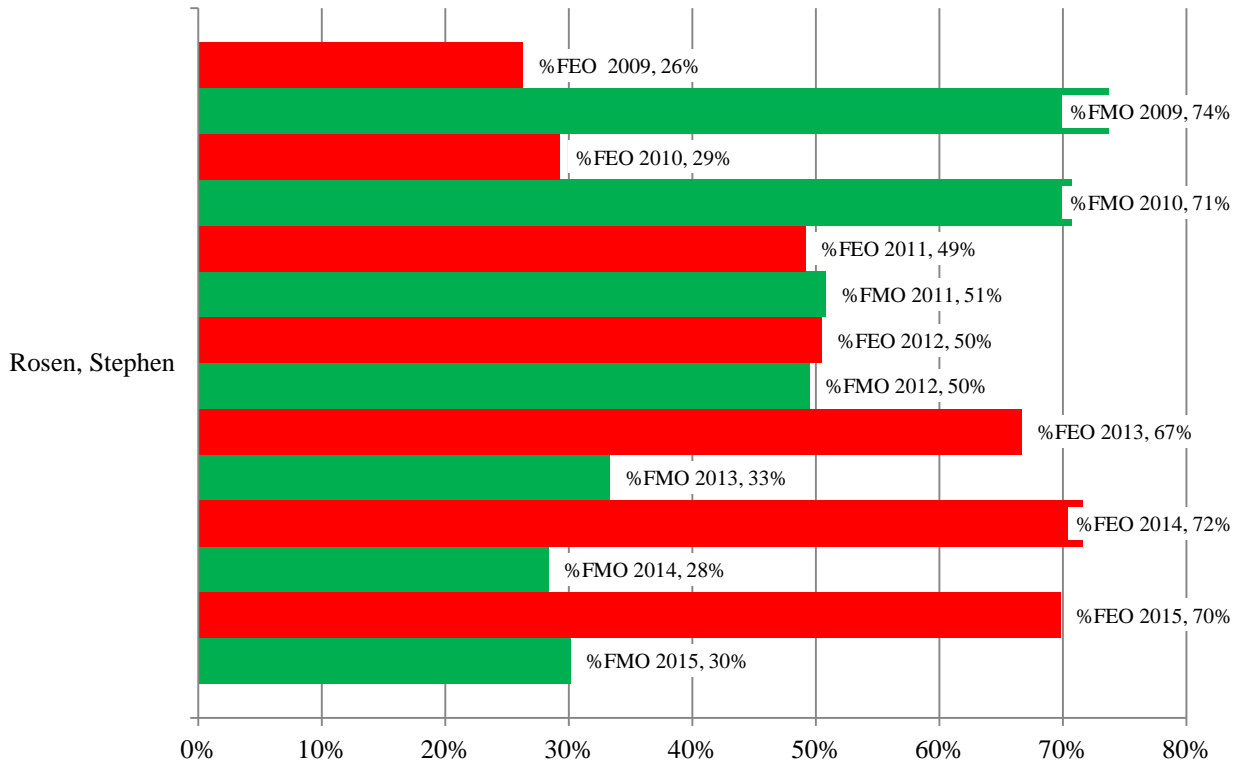
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



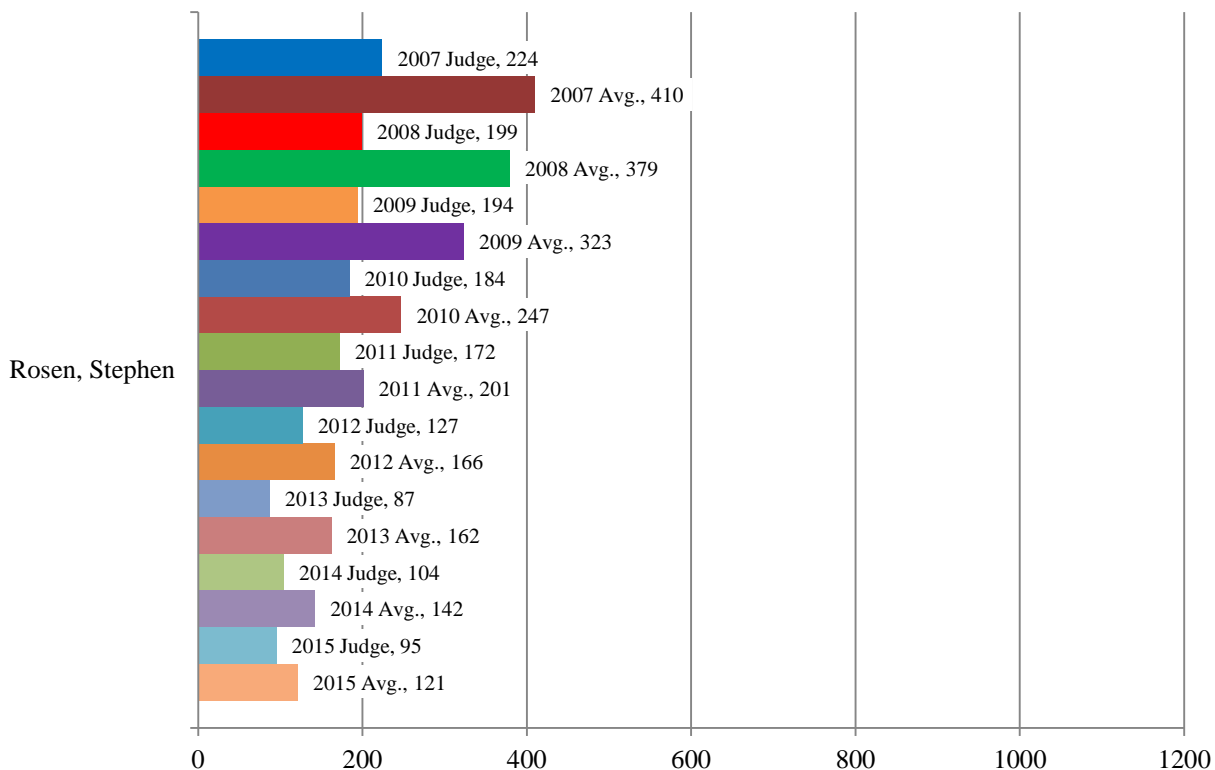
The following graph depicts the total volume of trial orders¹²⁶ uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



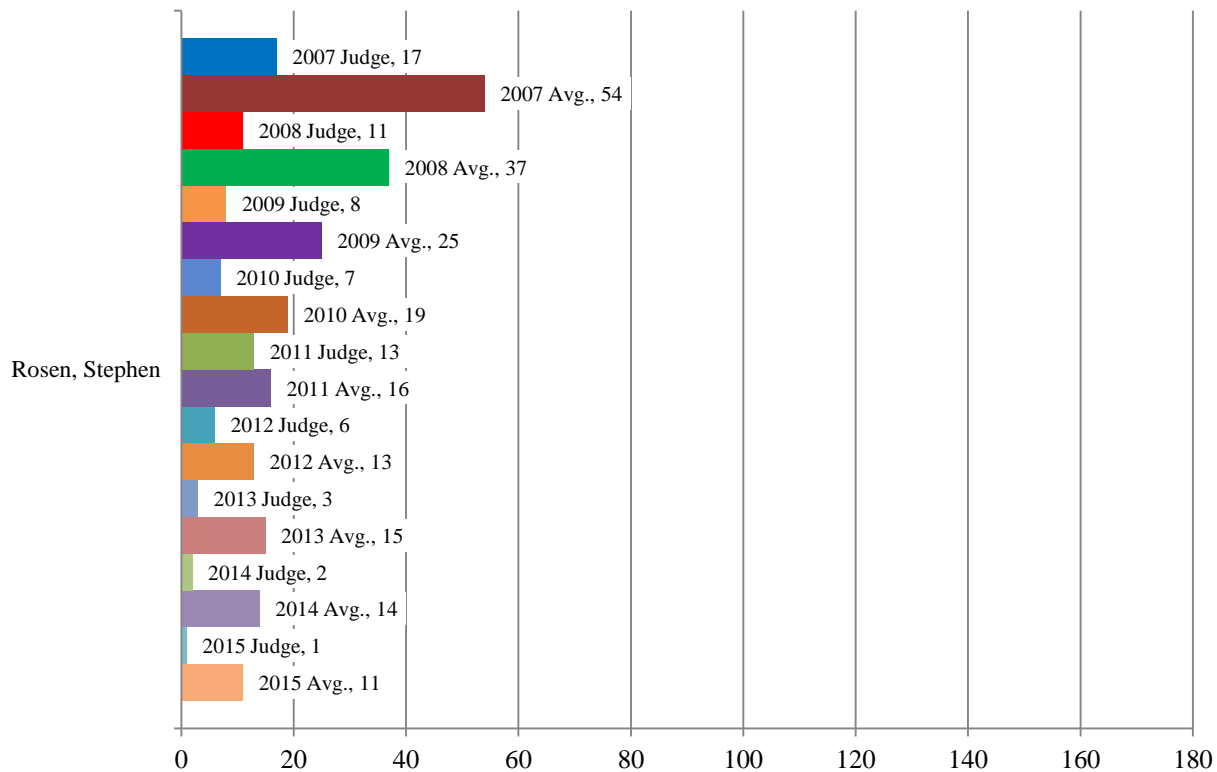
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



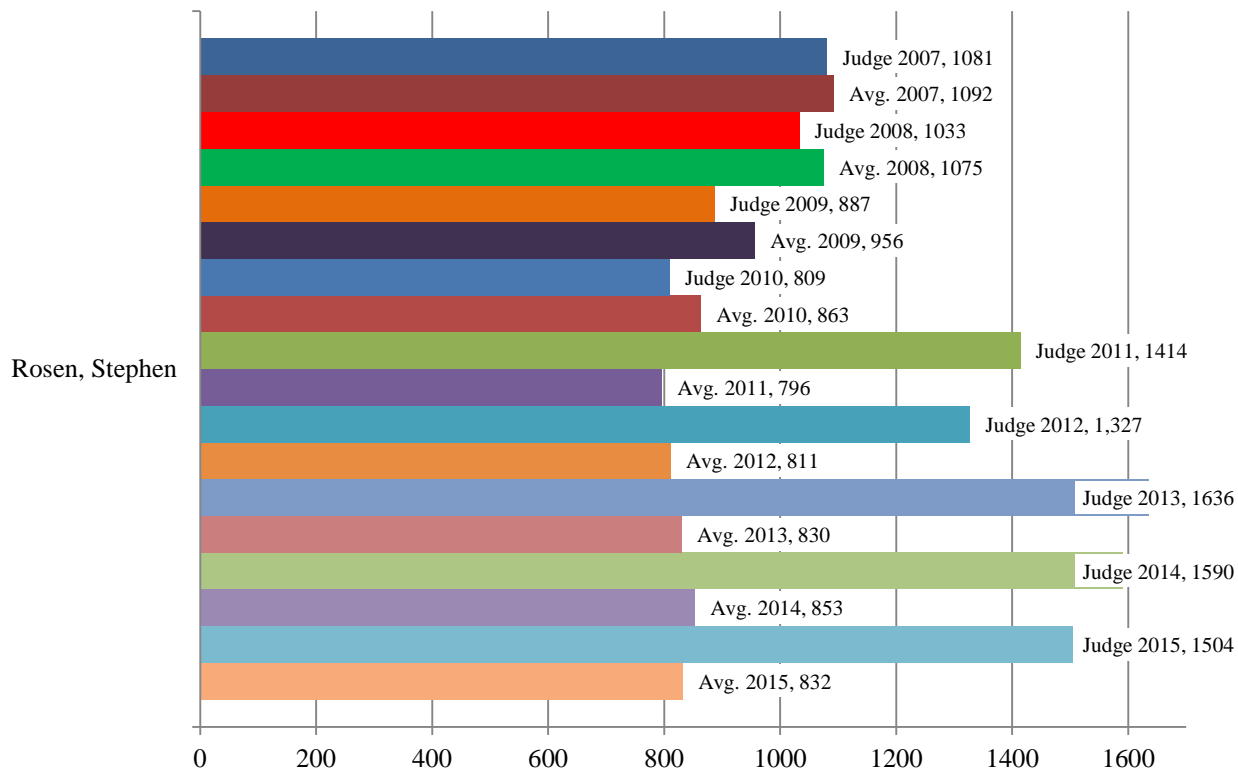
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



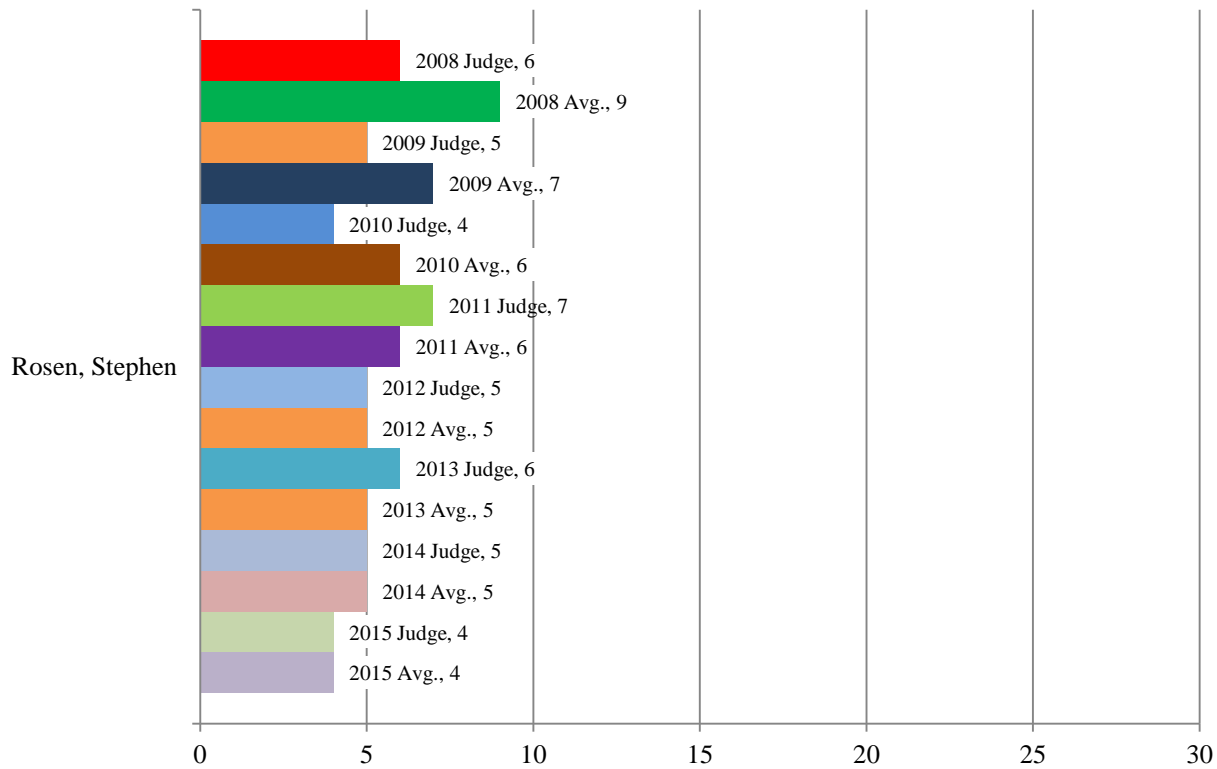
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



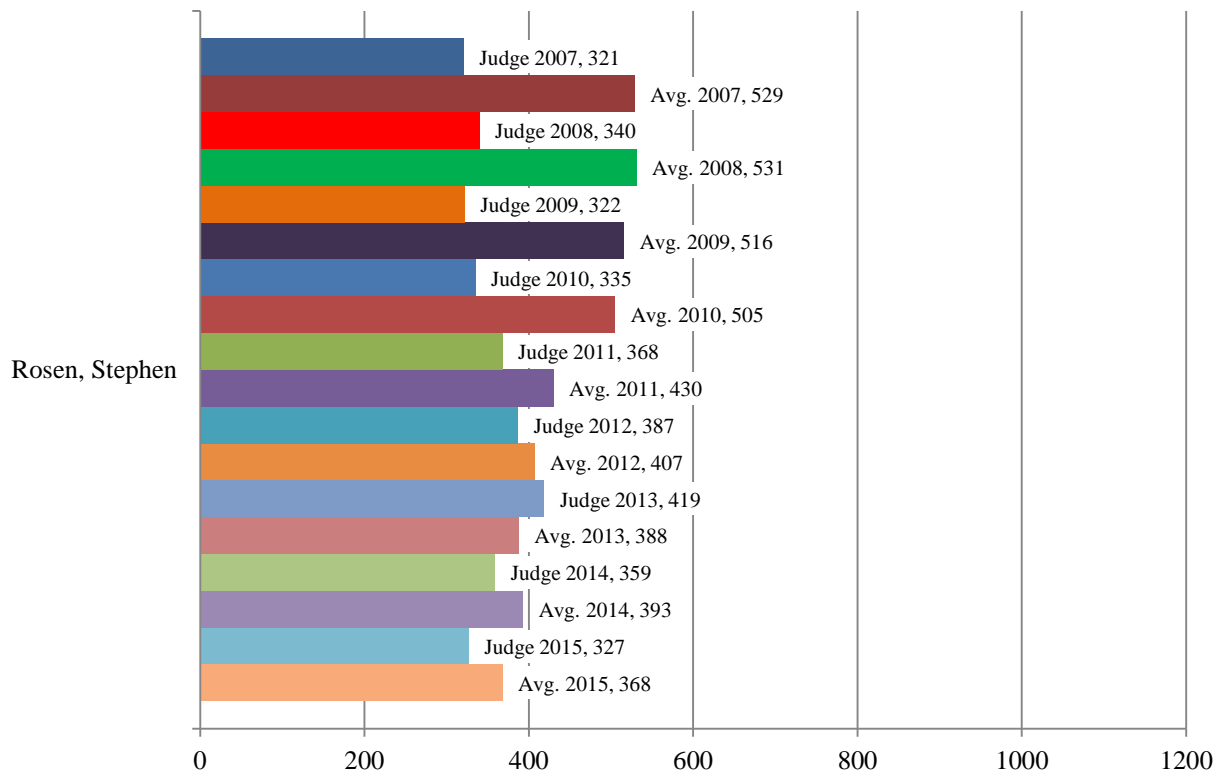
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



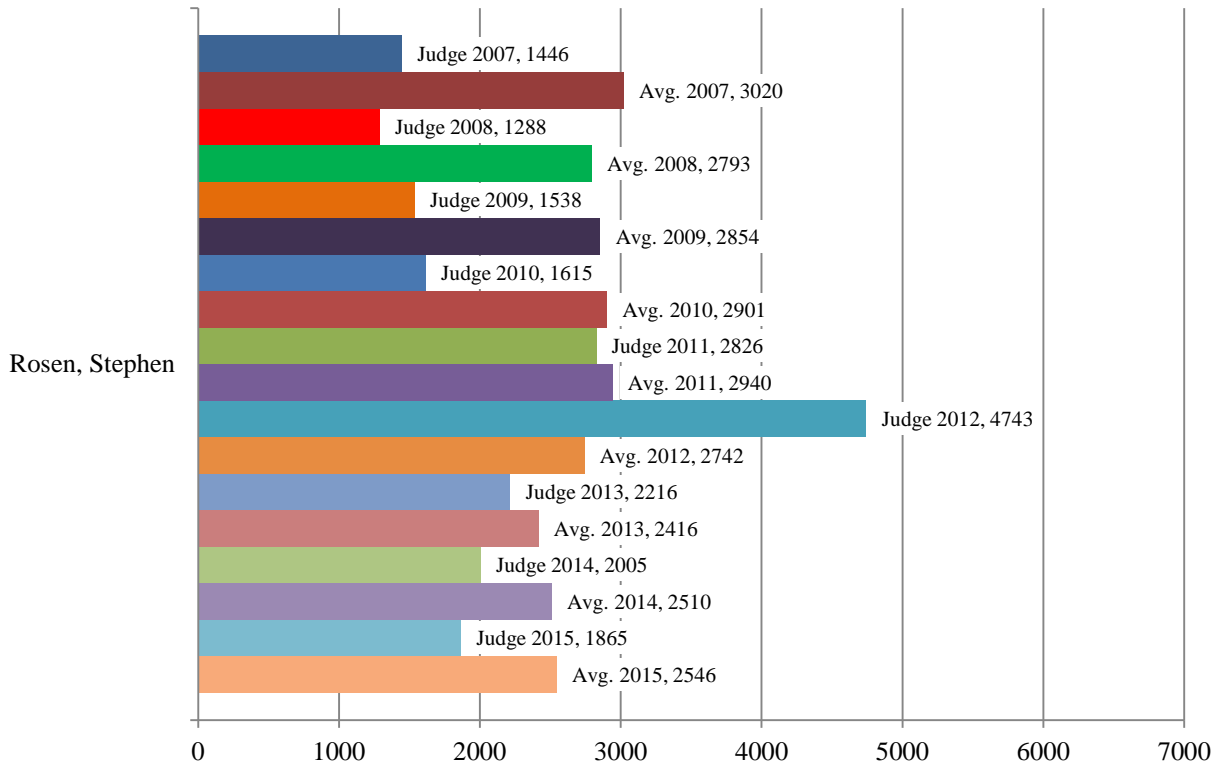
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



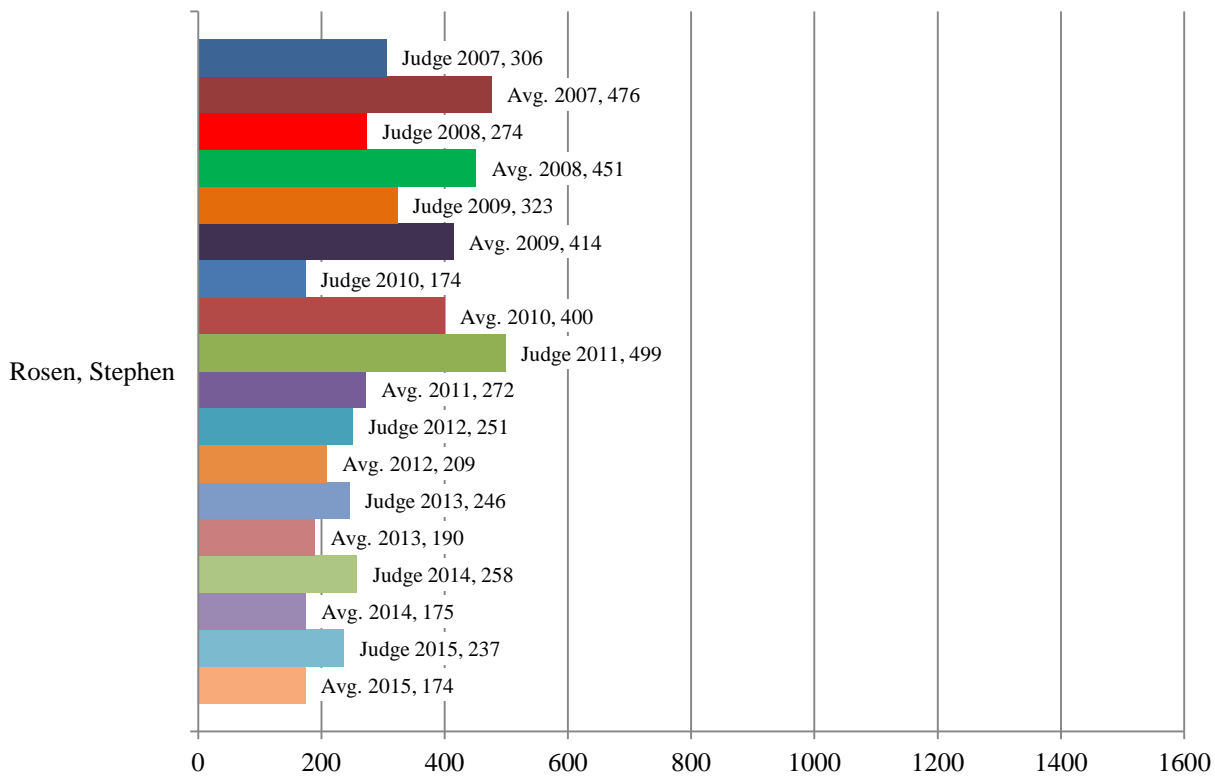
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2006-07 and 2014-15. 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 the judge and the statewide average between 2006-07 and 2014-15. 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.

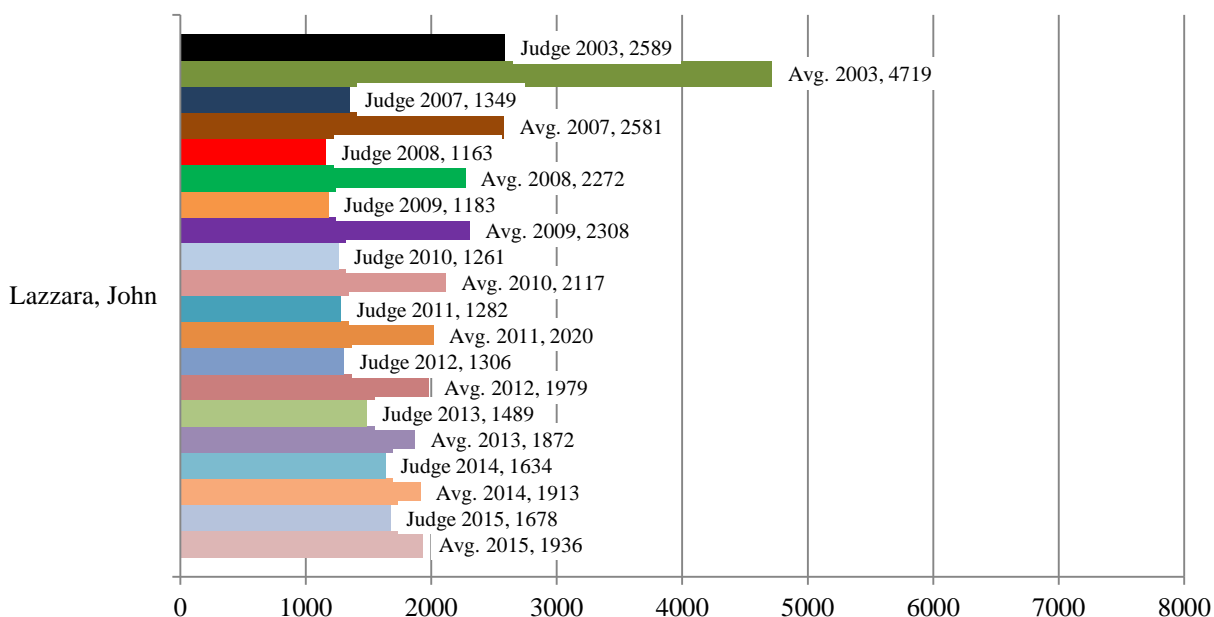
The volume of PFB and “new case” filings in TLH remain below the statewide average in 2014-15, though each increased somewhat over the last three years. The filing volumes have been reasonably consistent in TLH before Judge Lazzara began receiving out-of-district assignments from Ft. Lauderdale. The 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 2014-15. 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.

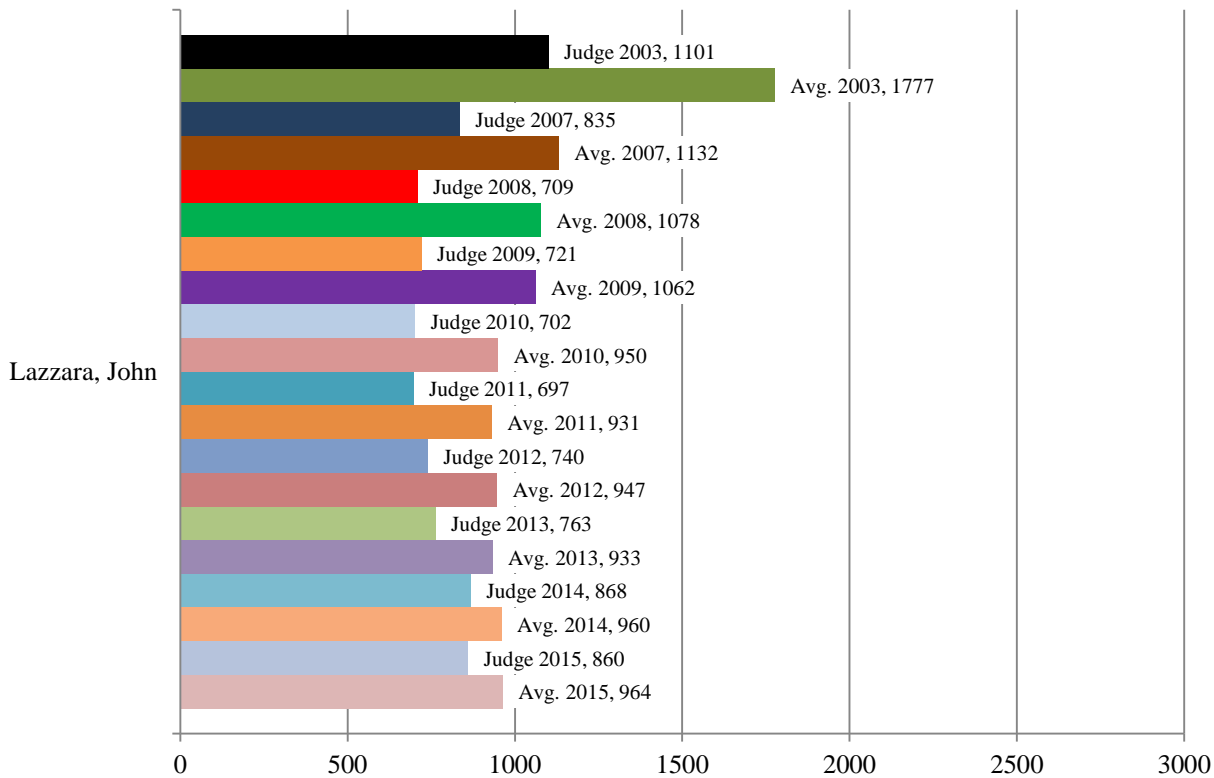
Judge Lazzara served as a Board member of the National Association of Workers’ Compensation Judiciary (NAWCJ), and is a Past-President. In 2014-15, he served on the NAWCJ College Curriculum committee and as Chair of the Bylaws and Nominations committee. He is an adjunct professor at the Florida State University School of Law, teaching workers’ compensation. In 2014, he presented *Florida Mediation In Action*, International Association of Industrial Accident Boards and Commissions (IAIABC) Centennial Convention and was a panelist, *Evaluation of State Return to Work Programs: Can Workers Safely Return to Work Sooner?* At the Annual Labor & Employment Law Conference in Los Angeles. He moderated and presented at the OJCC/WCI Workers’ Compensation Mid-Year Seminar, *Florida Workers’ Compensation In The Year of the Supreme Court* in Tallahassee and was a panelist, *Two Enduring Workers’ Compensation Legal-Ethical Problems: Unrepresented Parties and Undocumented Workers*, ABA Sections of Labor and Employment Law & Tort, Trial Practice and Insurance, Naples, Florida and as a panelist, *Judicial Perspectives: View from the Bench*, at the Florida Workers' Compensation Institute, 2015 Spring Forum. He is a fellow of the College of Workers’ Compensation Lawyers.

Mediator Bisbee participated in an Ask the Judge and Mediator Luncheon for attorneys, providing CLE credit. She also participates in the North Florida Friends of 440, serving on the fundraising committee. She is on the board and is President-elect of the Alzheimer’s Project, Inc. a non-profit organization.

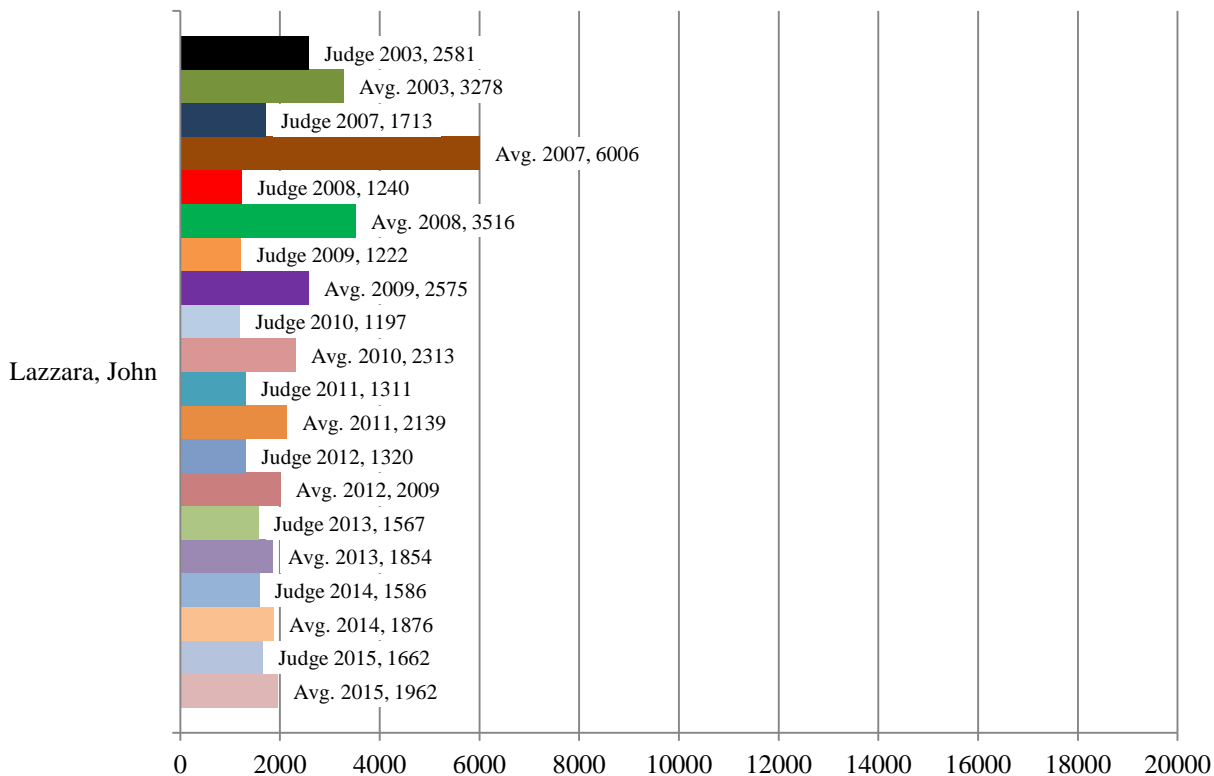
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



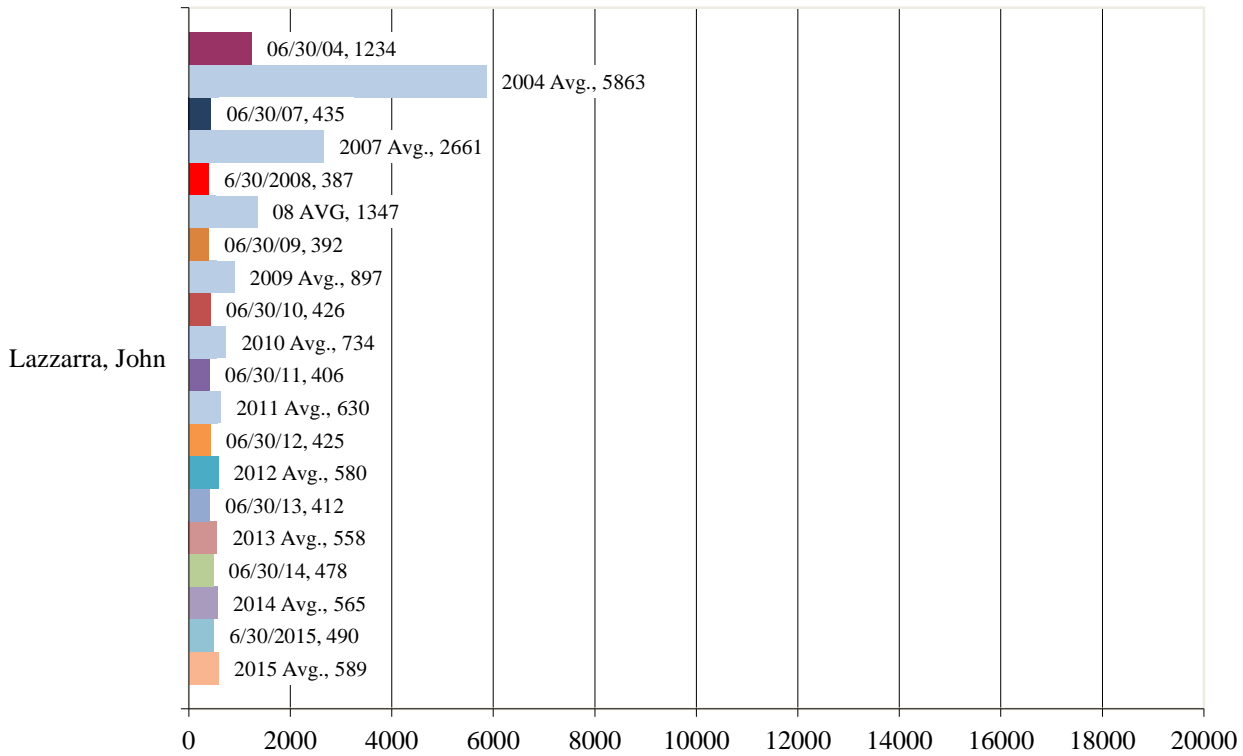
The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



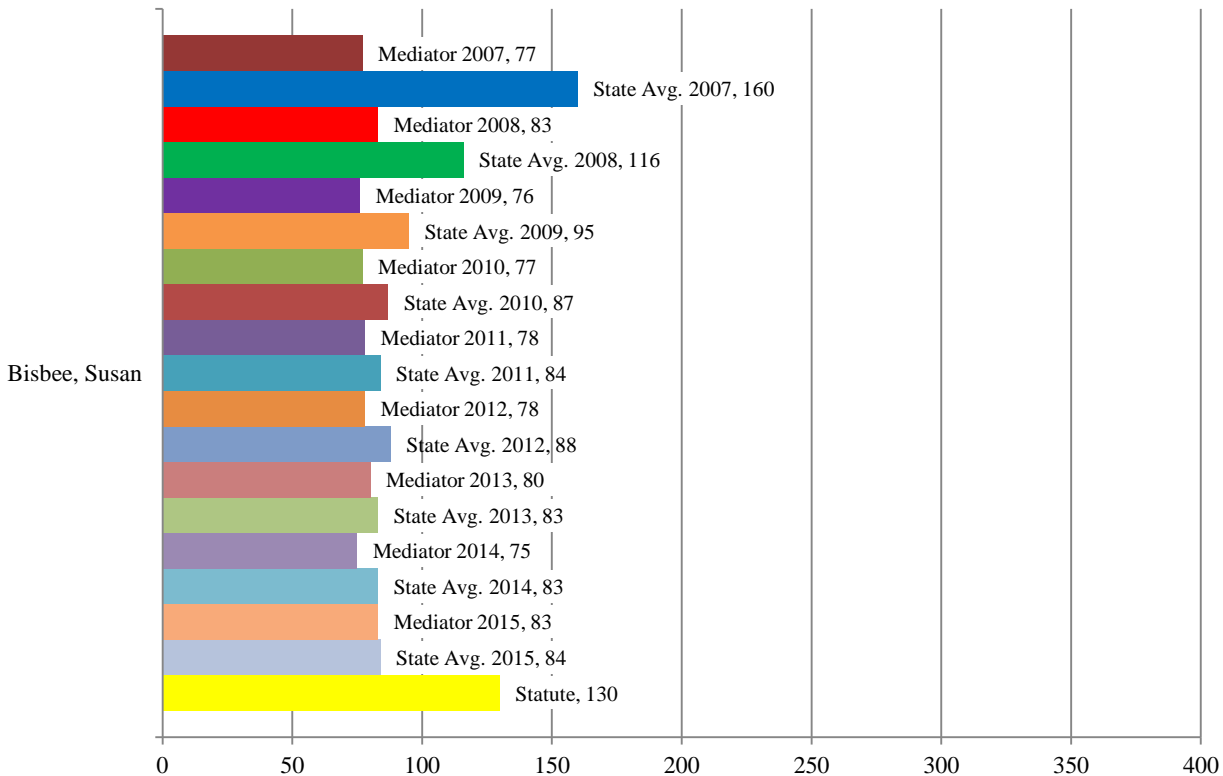
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



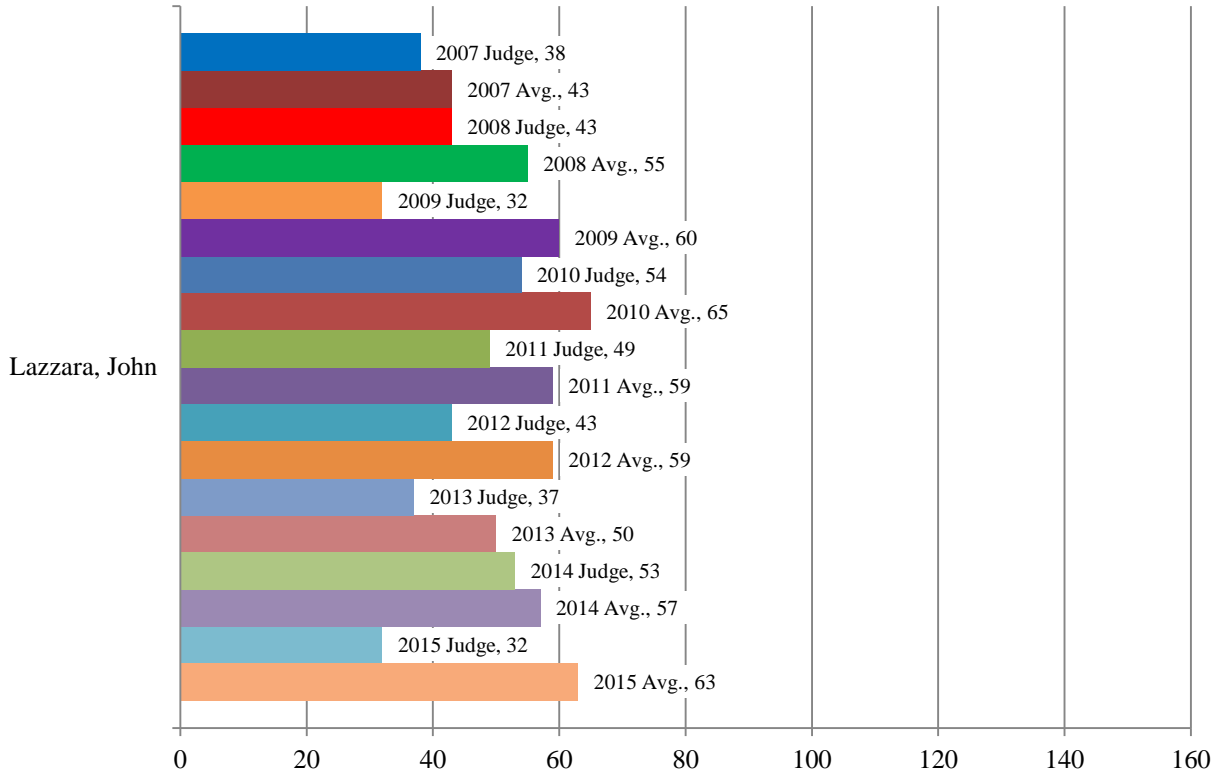
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2014-15 (2003-04 is also provided for historical reference). The identification and values for each year are in each bar label.



The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



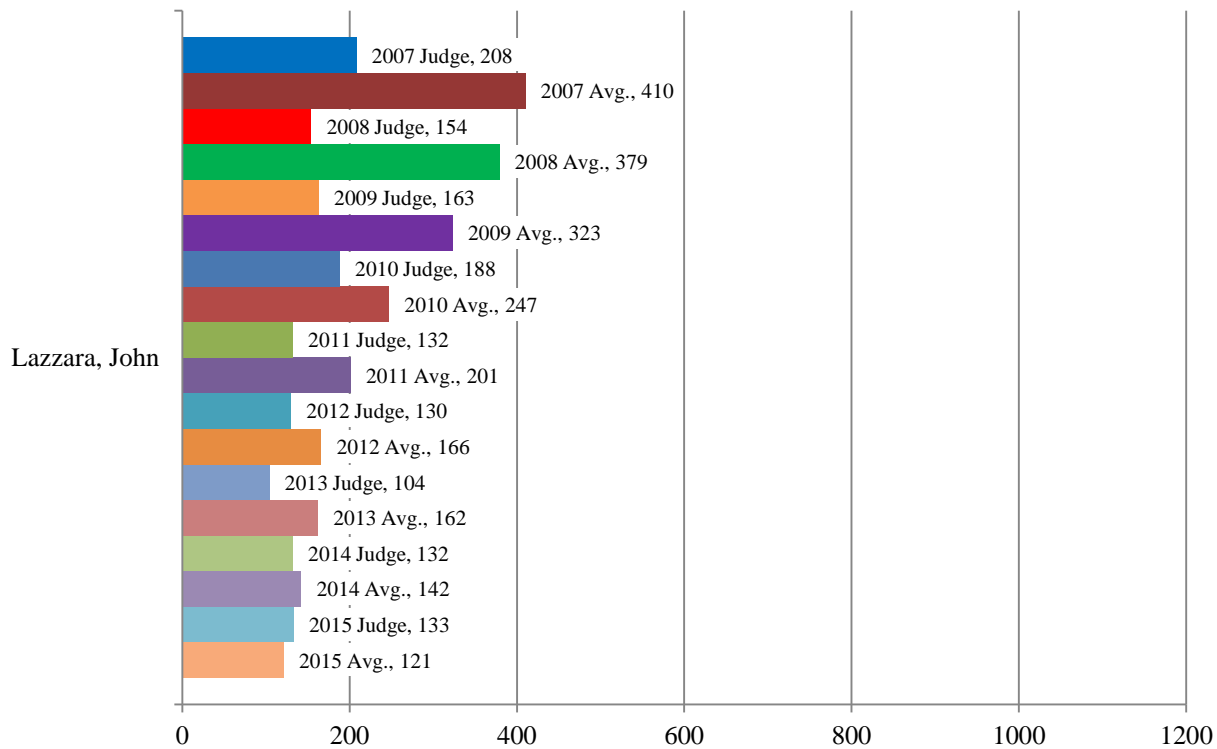
The following graph depicts the total volume of trial orders uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



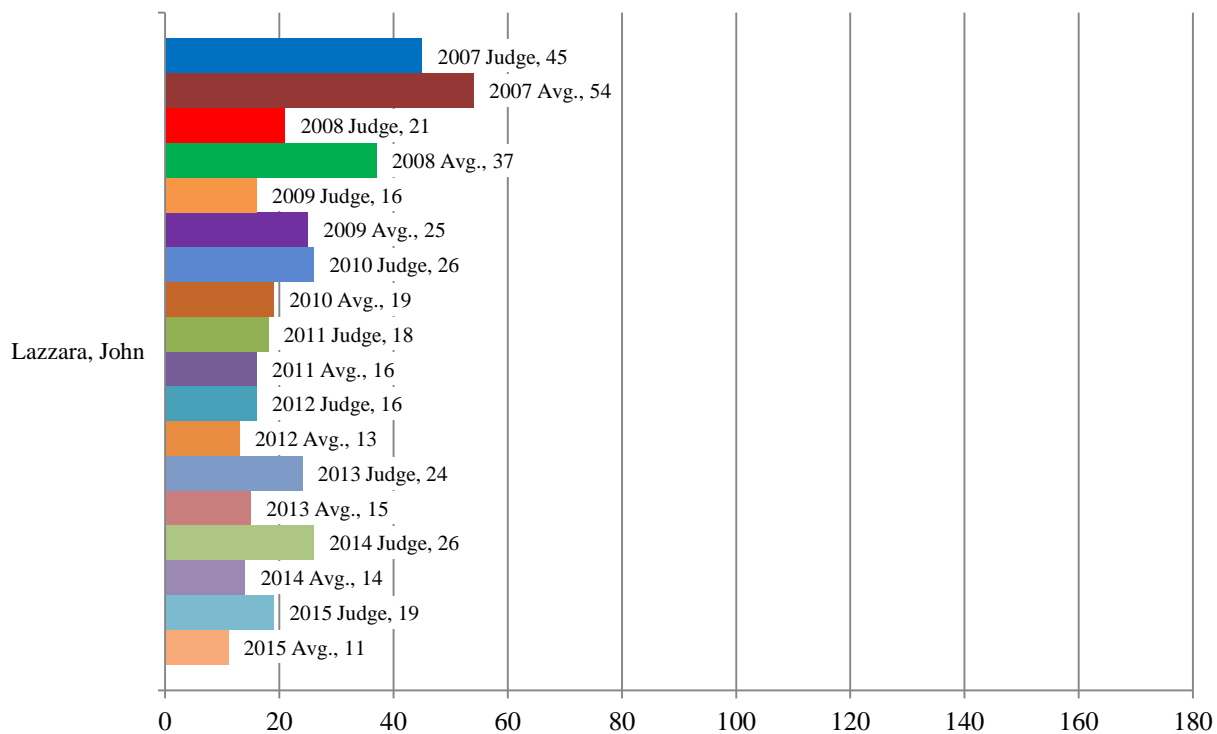
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



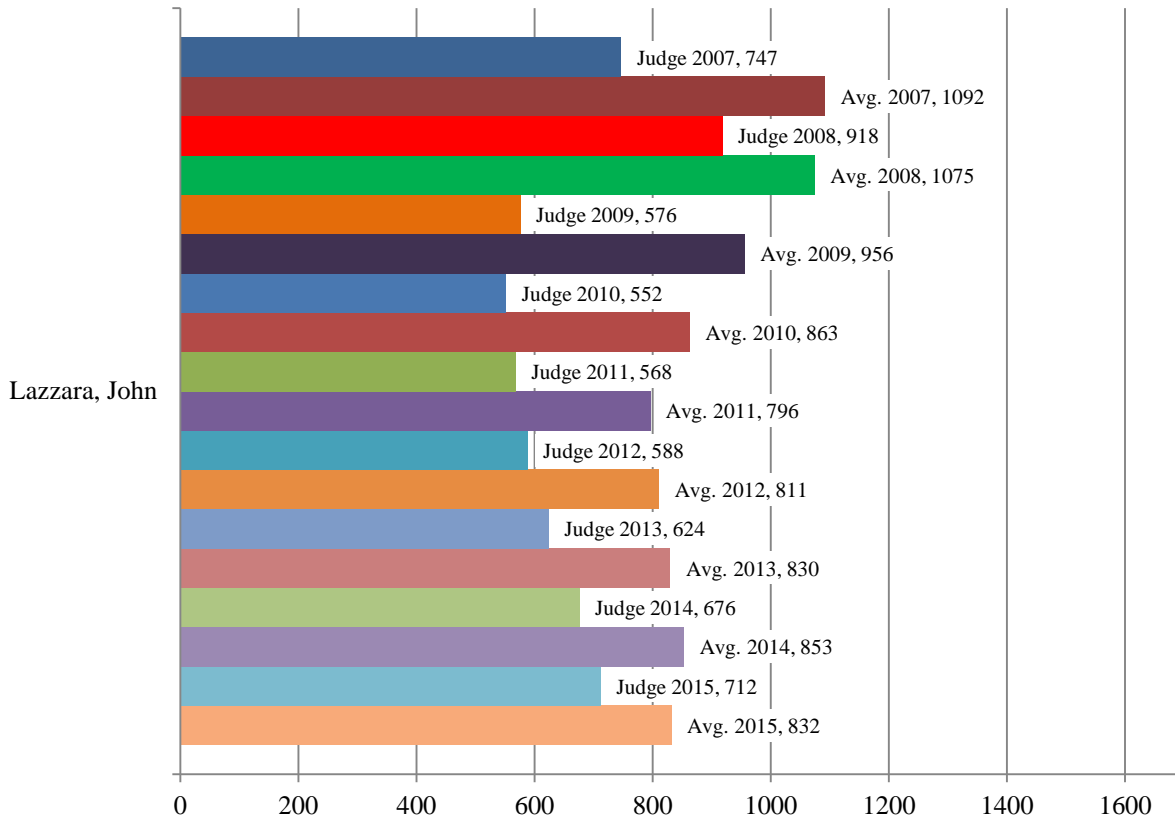
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



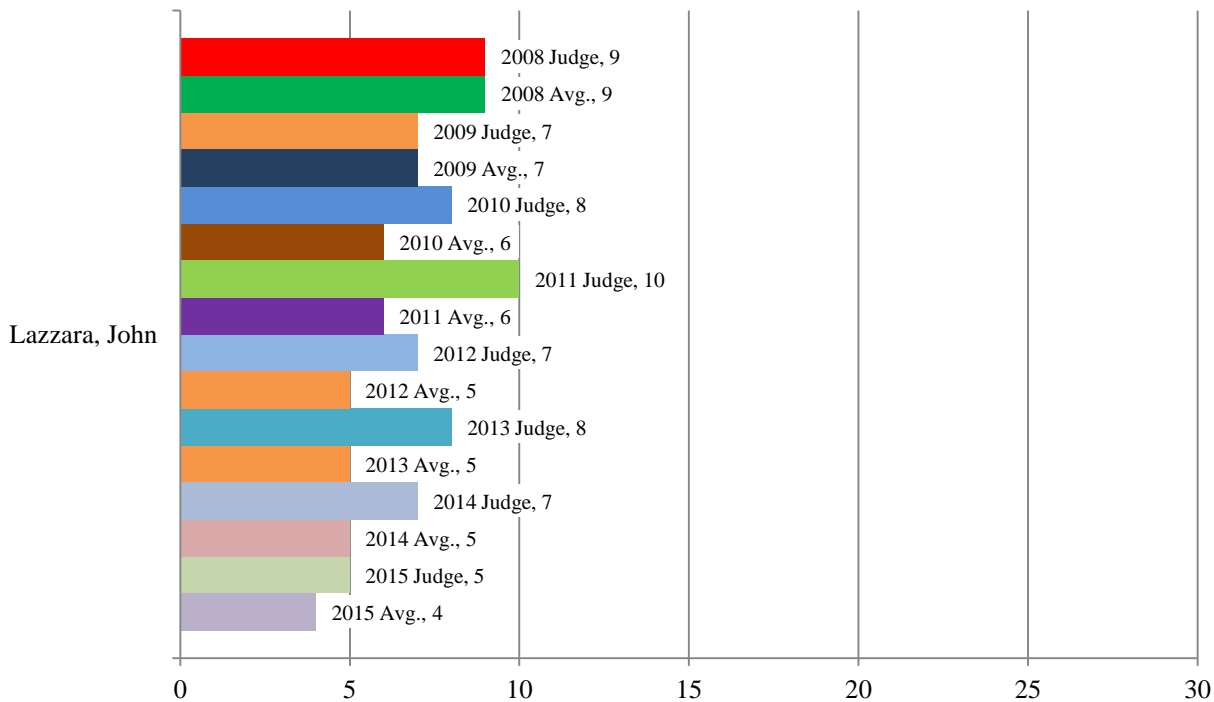
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



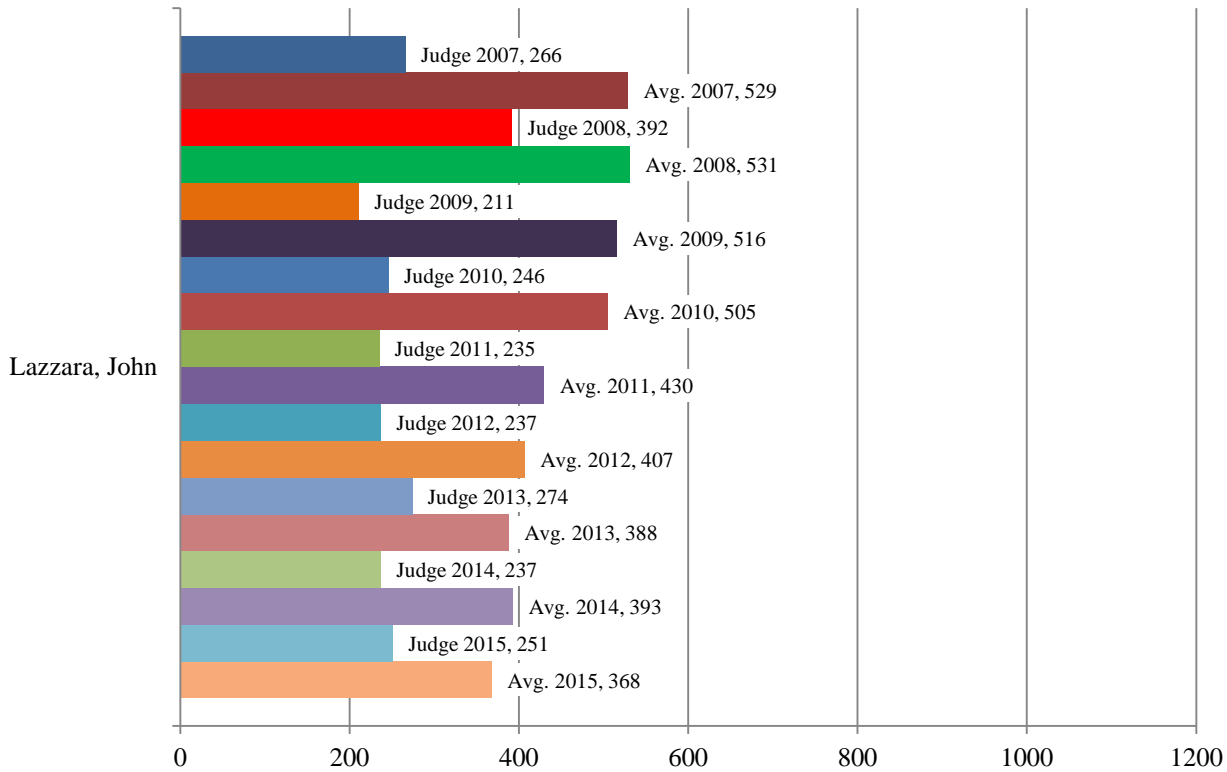
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



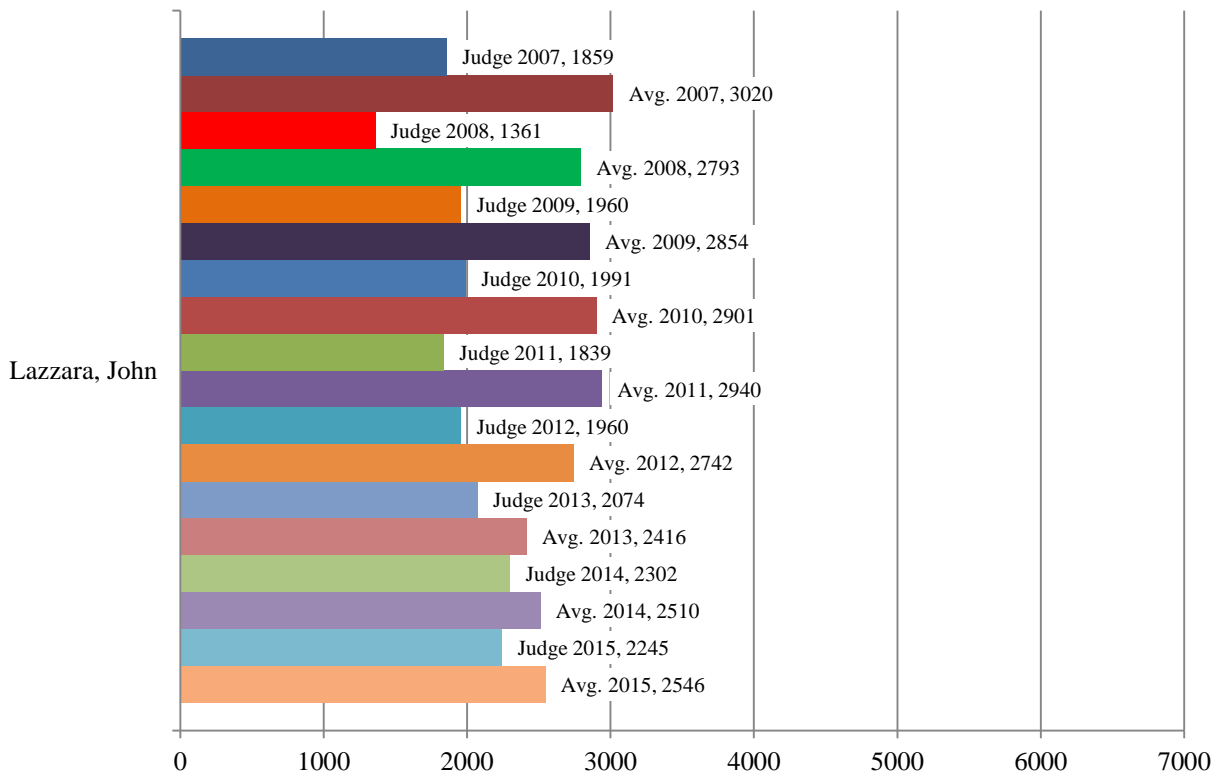
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



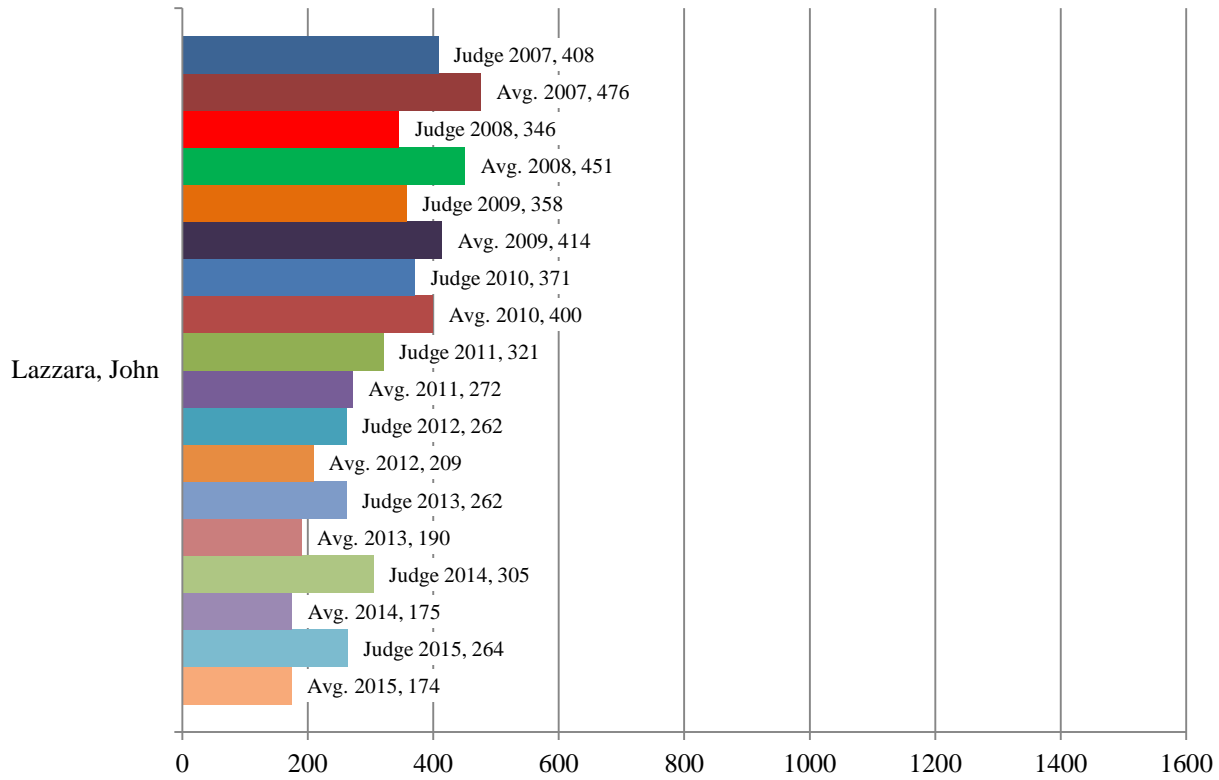
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2006-07 and 2014-15. 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 the judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



Tallahassee District Office on Apalachee Parkway

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

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

In 2014-15 Judge Jenkins retired and Judge Spangler transferred from District FTM to TPA. One TPA judge, Mark Massey, had been handling primarily a MIA docket, via video teleconference. Both Judge Spangler and Judge Massey now handle MIA and TPA cases.

Trial volume was above average in District TPA in 2014-15, except in Judge Jenkins’ division. Trial volume in TPA appears to be increasing overall, though some of that volume comes from MIA cases. The time to order remained within the statutory parameter for Judges Lorenzen and Massey in 2014-15.

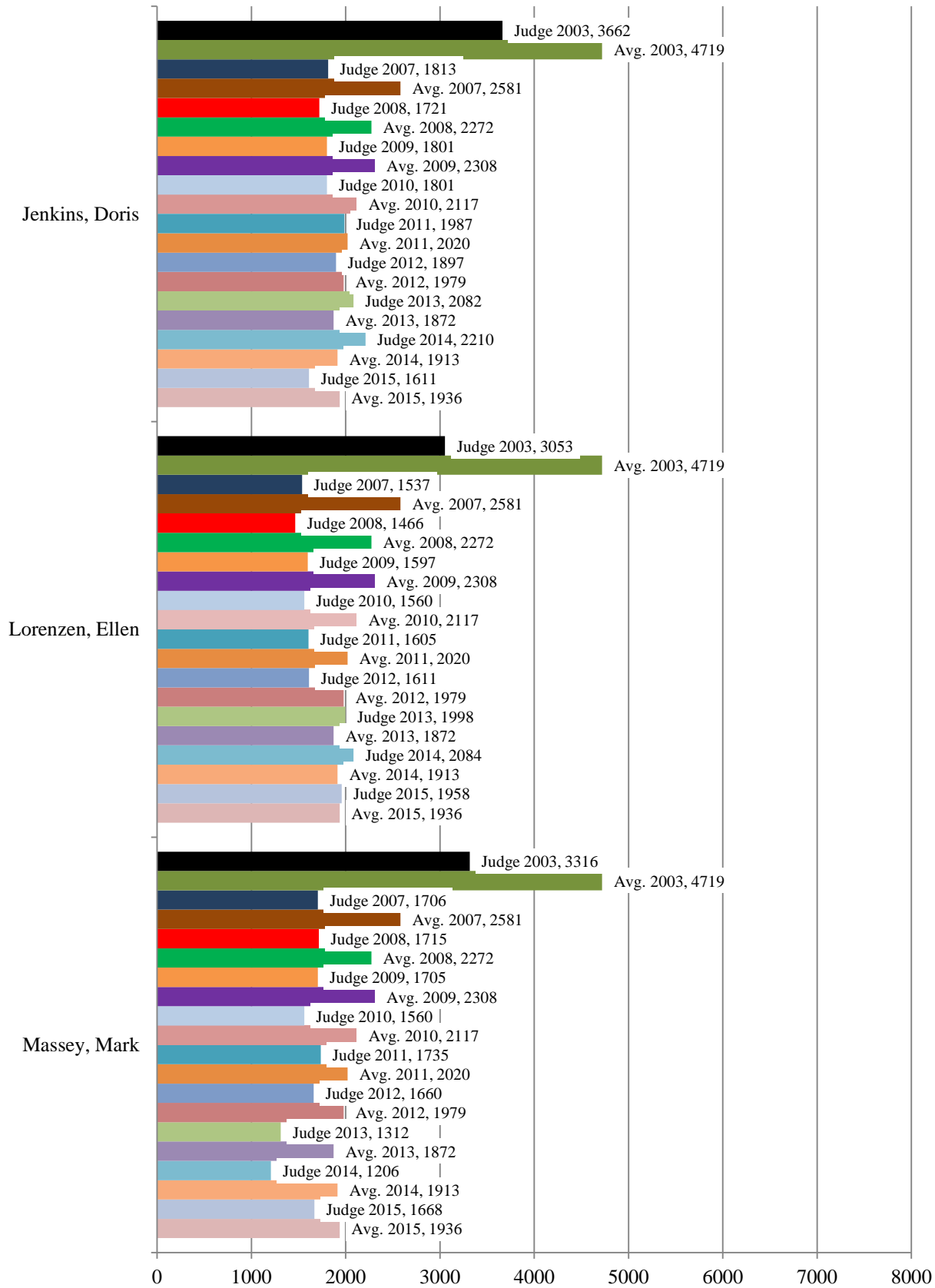
The 2014-15 volume of stipulation orders remained below the statewide average in TPA. The volume of “other” orders was reasonably consistent with statewide averages as in recent years, except for Judge Massey’s division, which was markedly above the average. The volume of “other hearings” was also below 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), and remained on the board again in 2014-15. She has served as Administrative Judge in District TPA for the last five 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 2014-15, Judge Lorenzen presented at the NCCI State Advisory Forum 2014, on “Court Cases and Emerging Issues.” She presented at The Florida Bar Workers’ Compensation Forum on “Trial Practice and Procedures, Motions and Sanctions,” for which she also prepared materials which were published by the Bar. Judge Lorenzen spoke at the WCI Spring Forum on “Judicial Jeopardy” and served as a judge for The Florida Bar Workers’ Compensation Trial Advocacy Workshop.

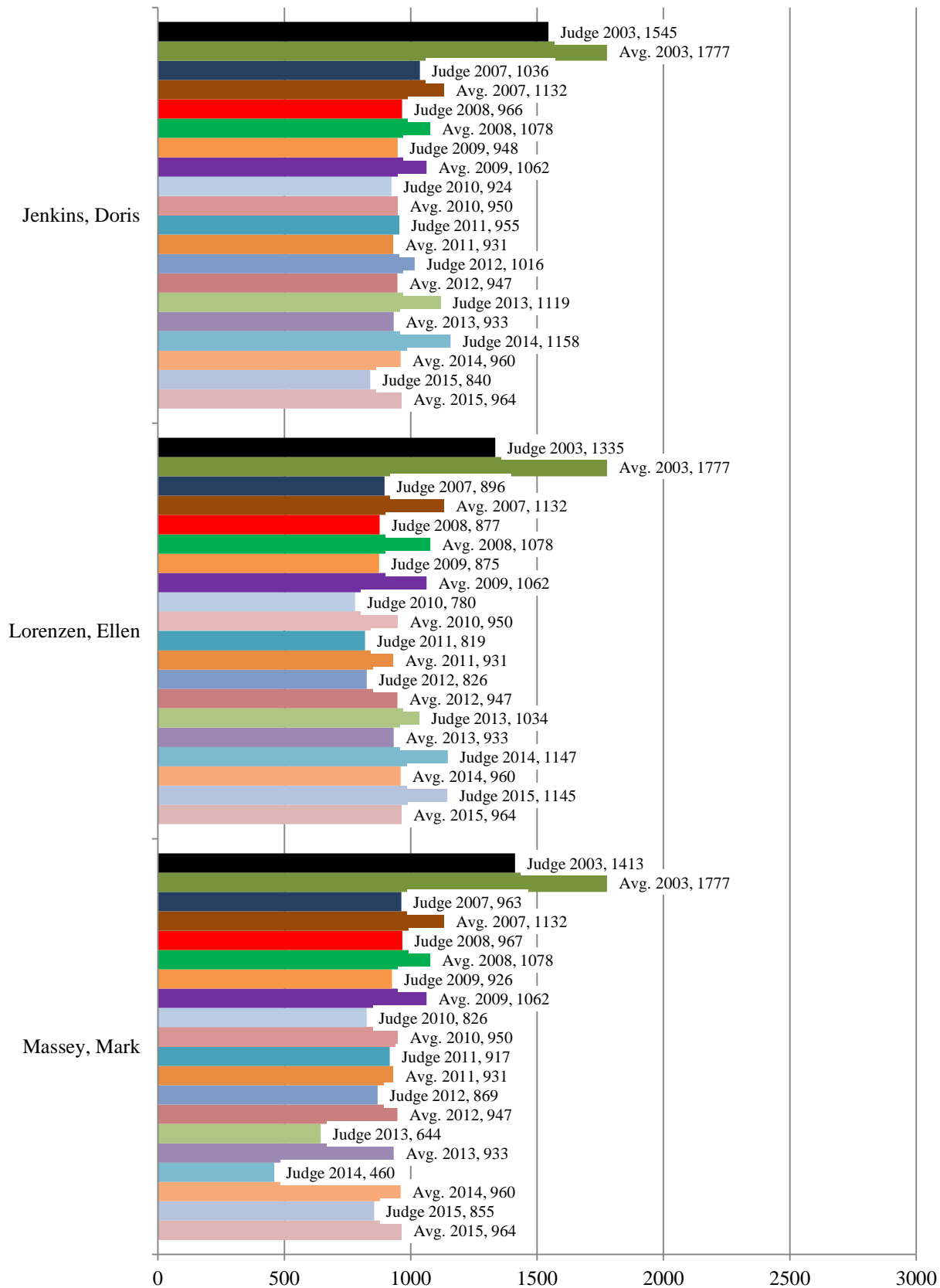


Tampa District Office on Martin Luther King Boulevard

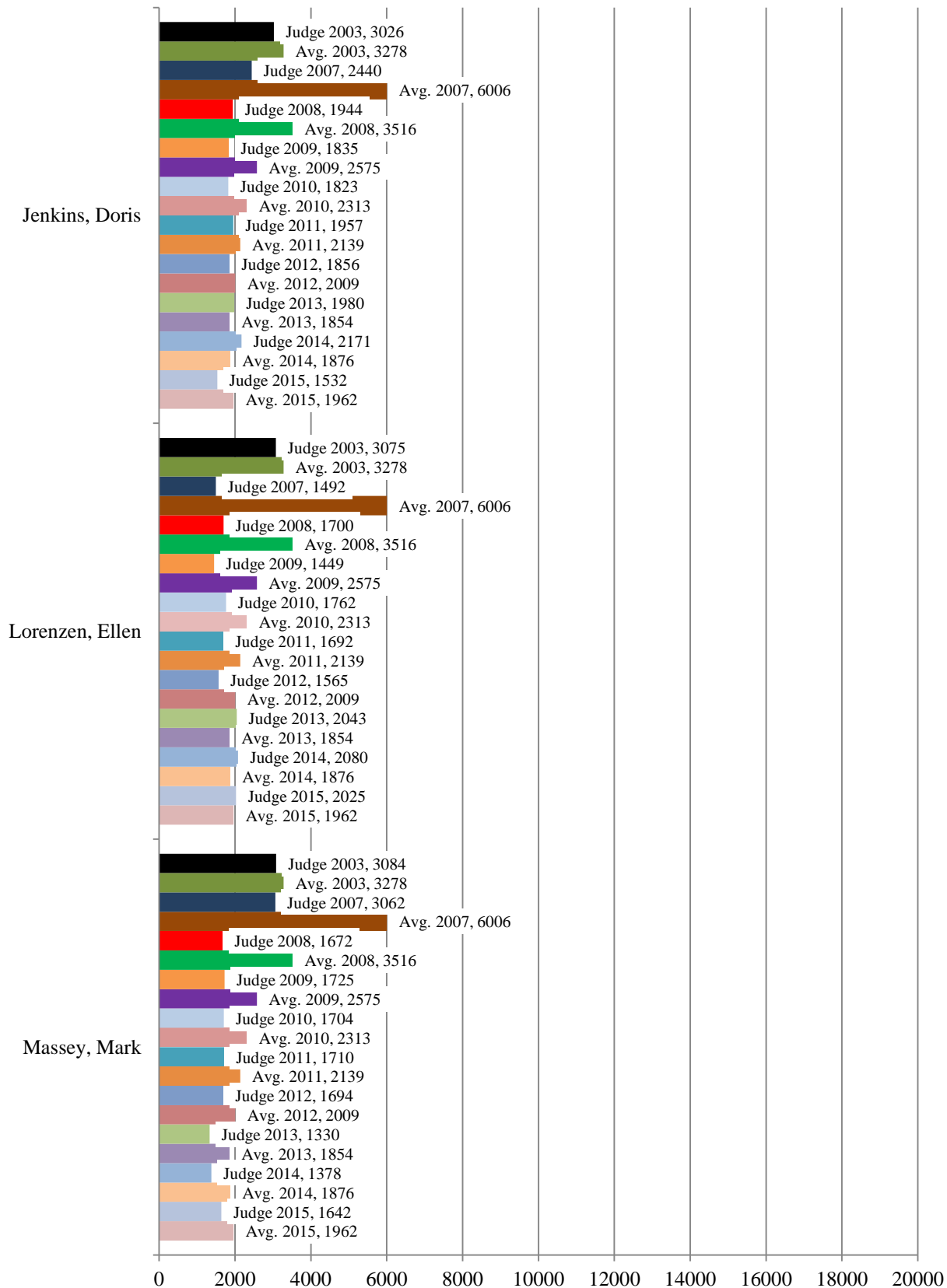
The following depicts the volume of PFBs filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



The following depicts the volume of new cases filed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



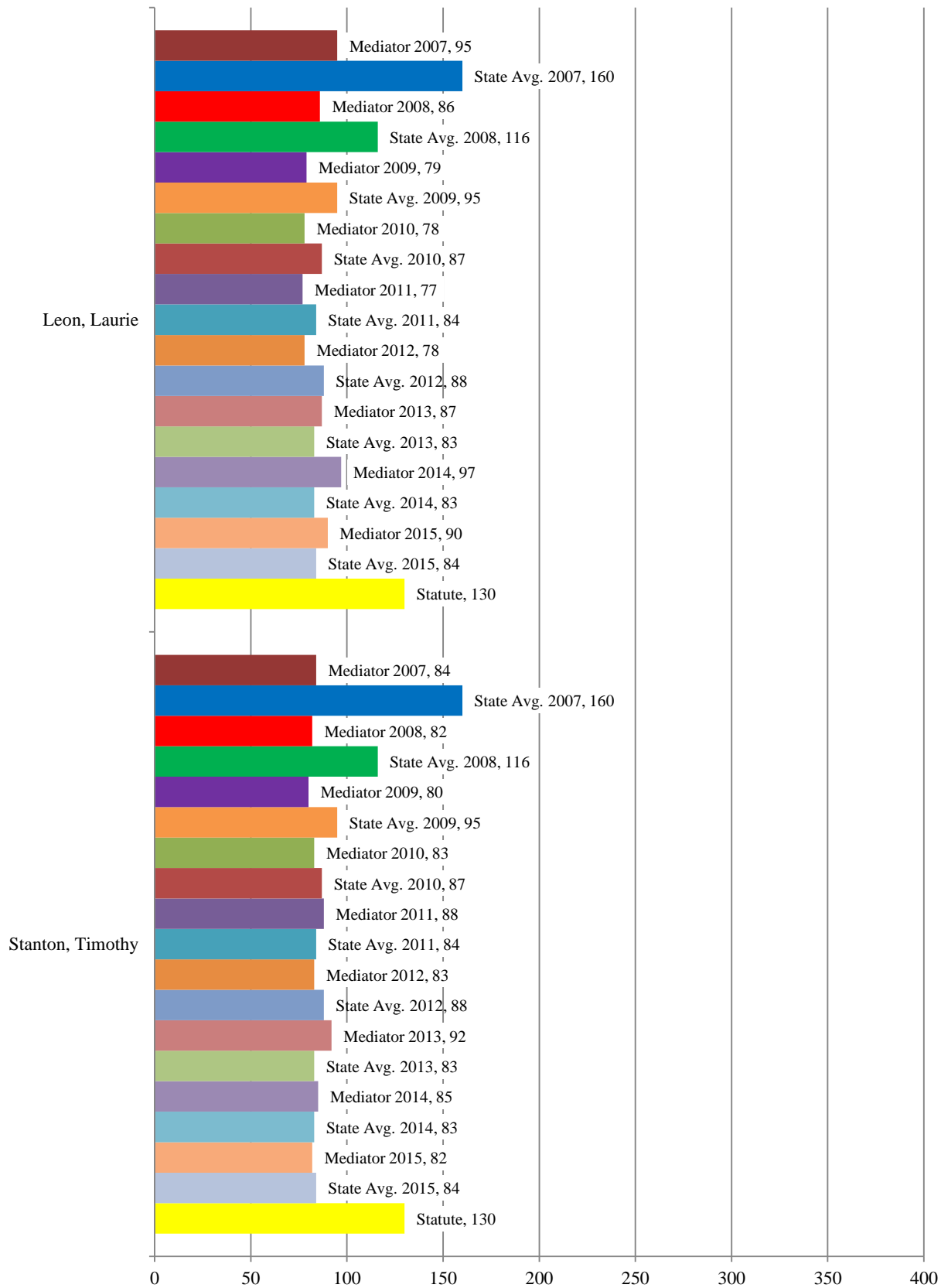
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



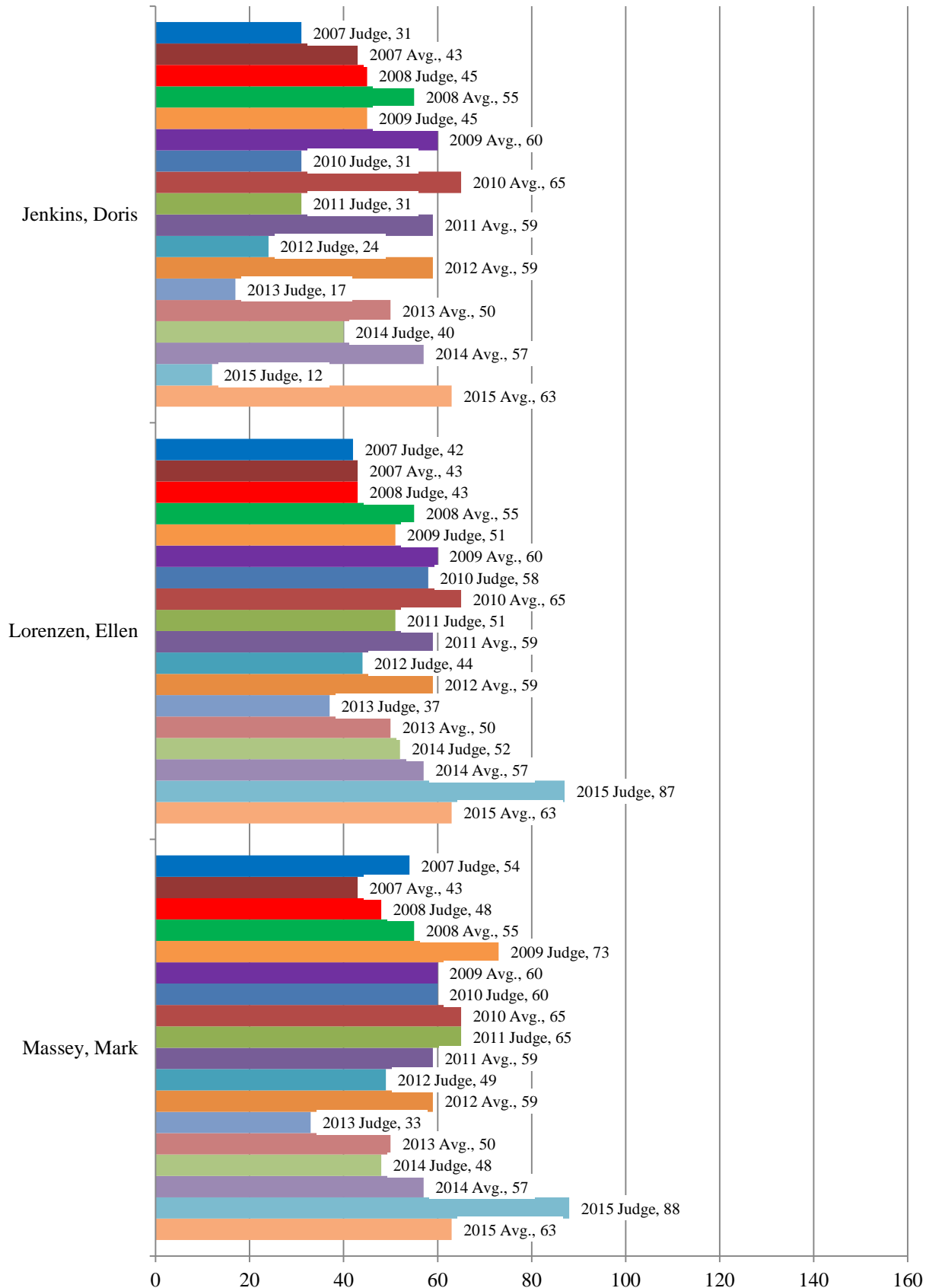
The following depicts the inventory of pending PFBs in this District and the statewide average between 2006-07 and 2014-15 (2003-04 is also provided for historical reference). The identification and values for each year are in each bar label.



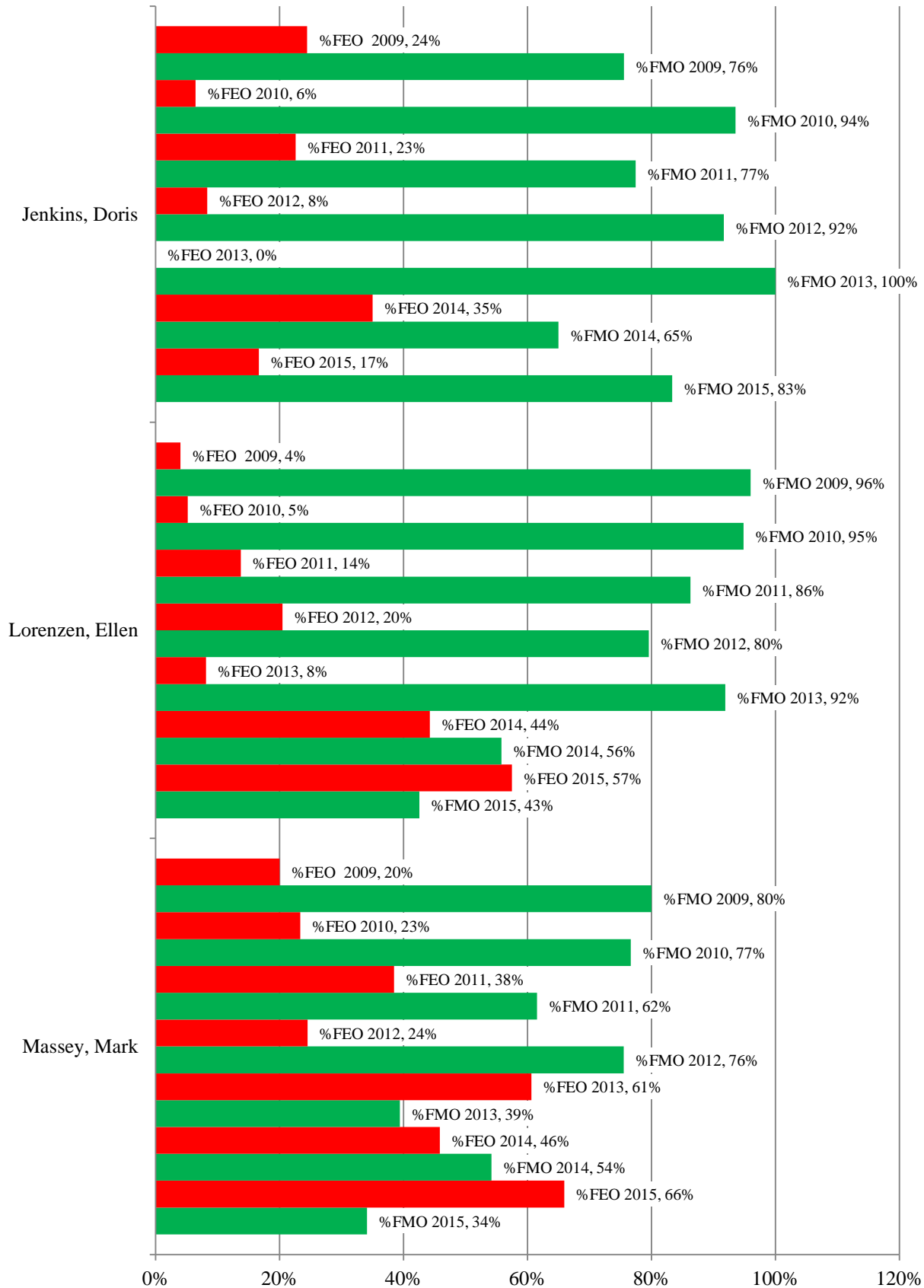
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2006-07 and 2014-15. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



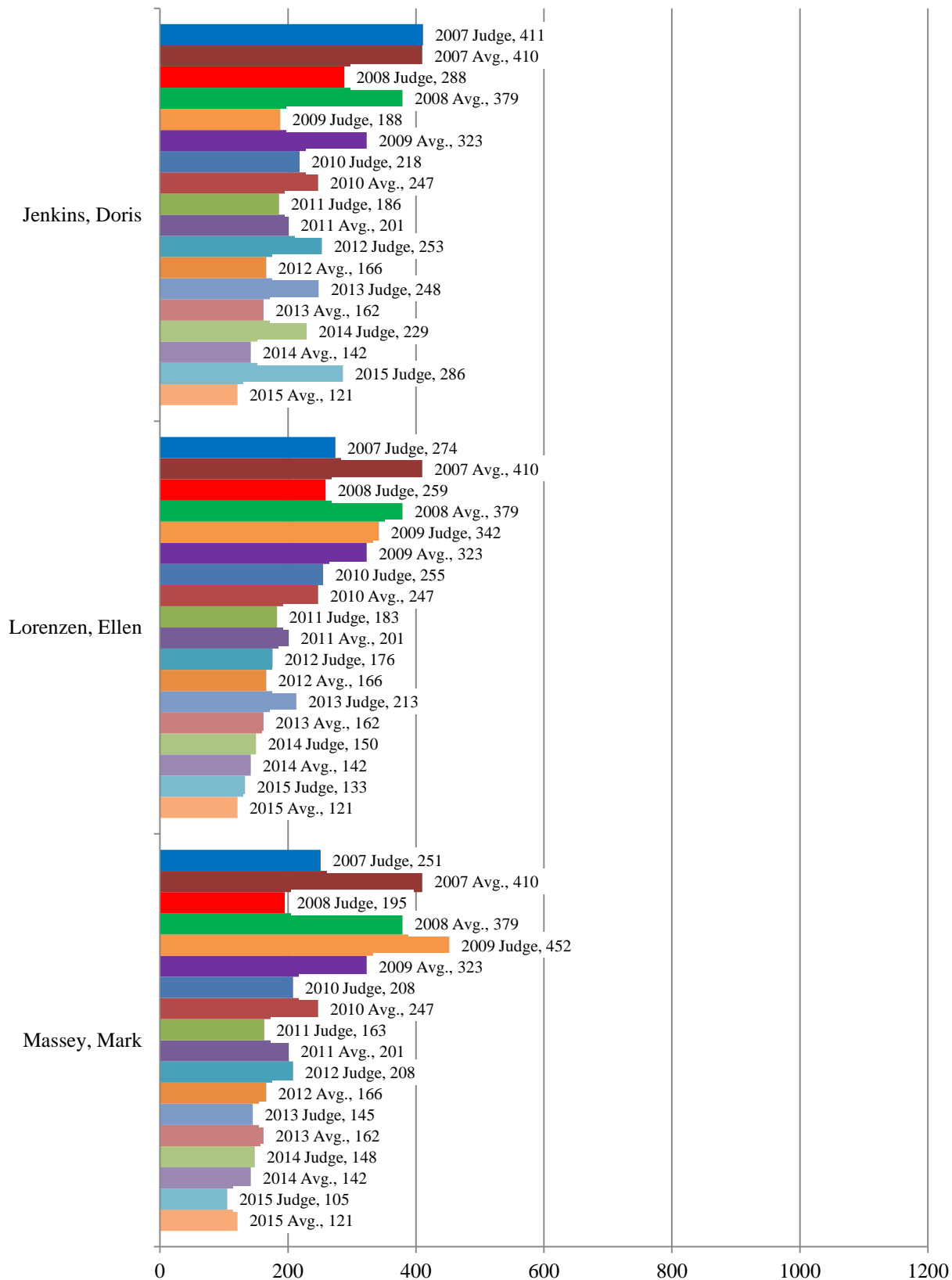
The following graph depicts the total volume of trial orders¹²⁷ uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



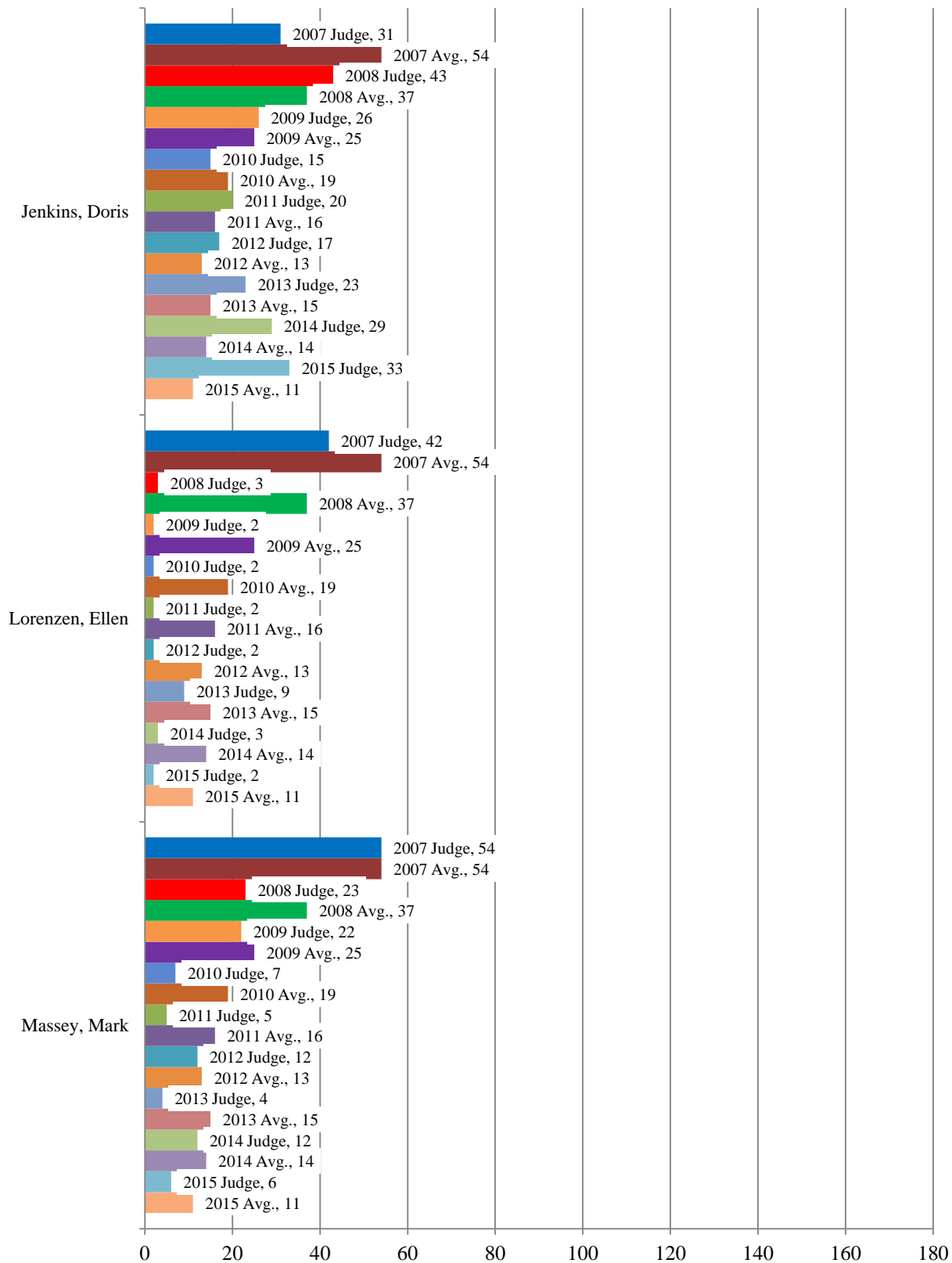
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



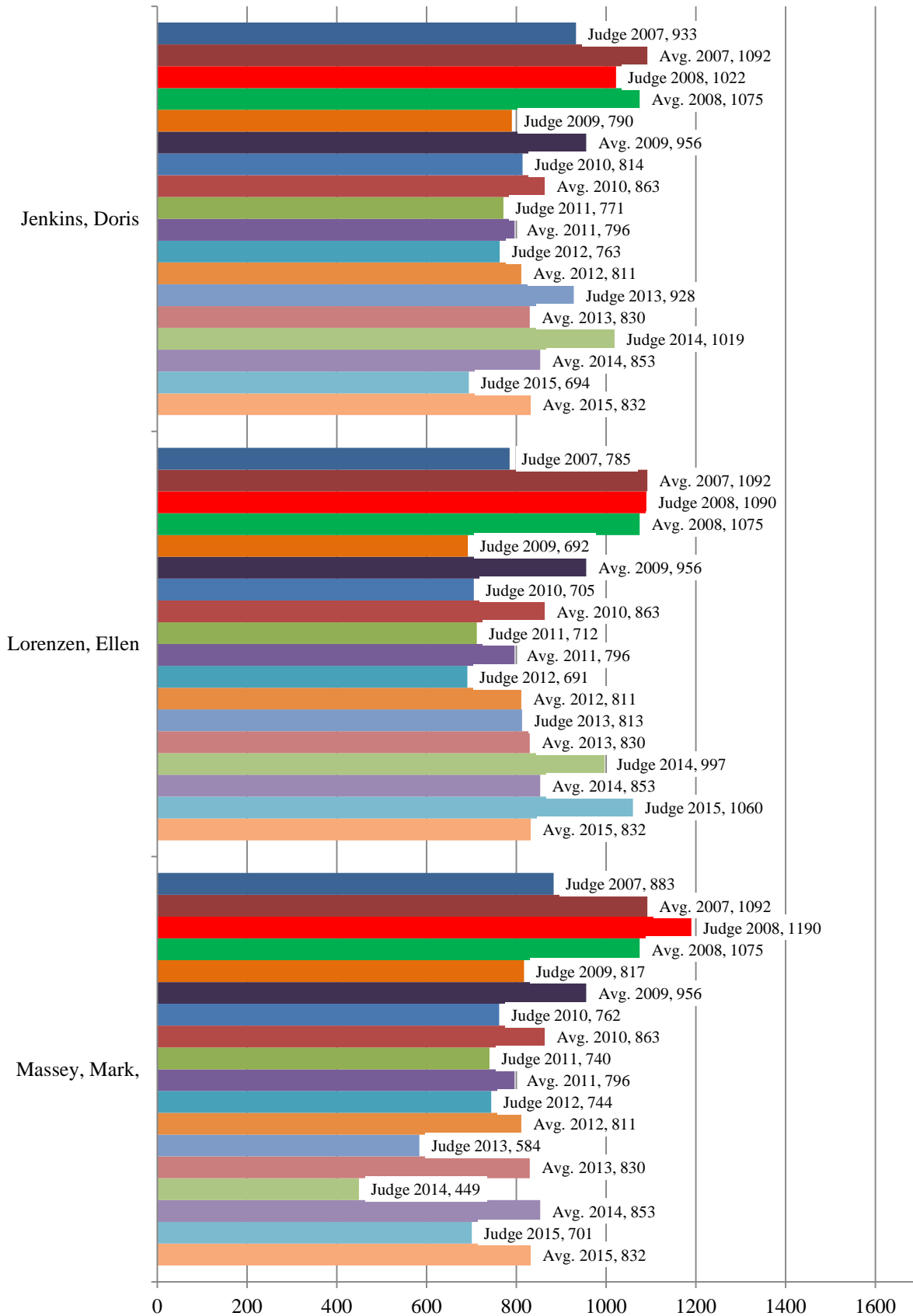
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



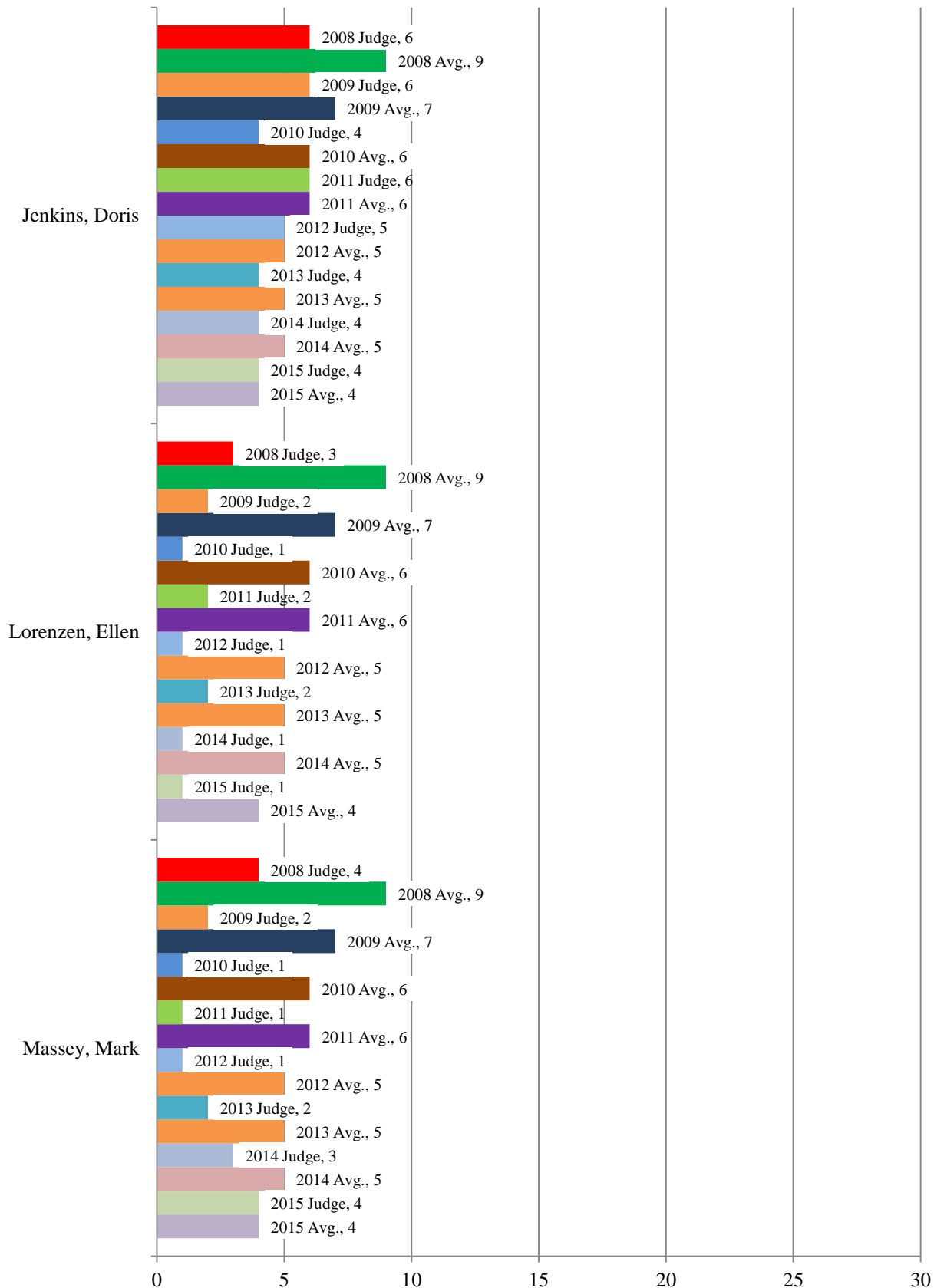
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



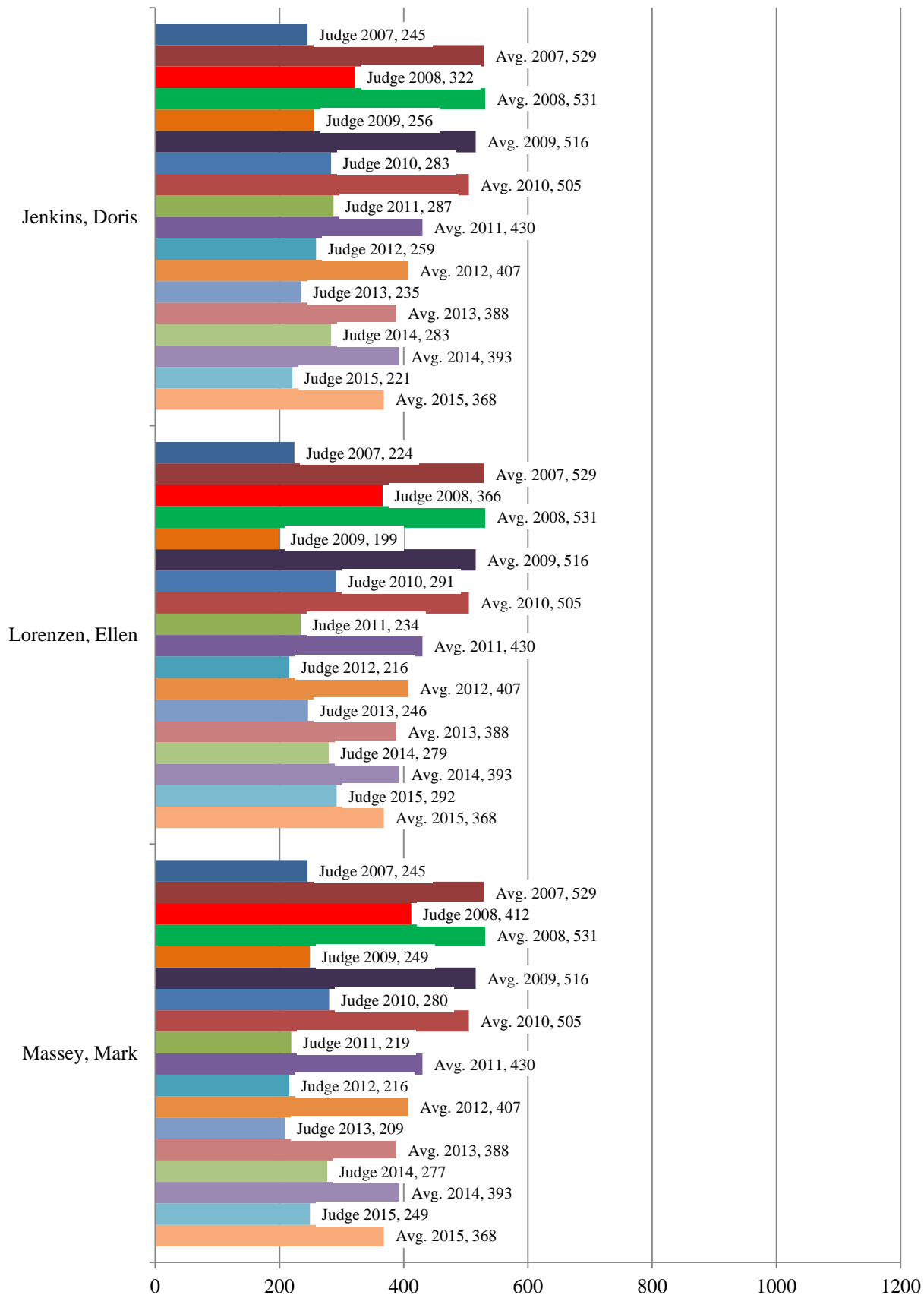
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



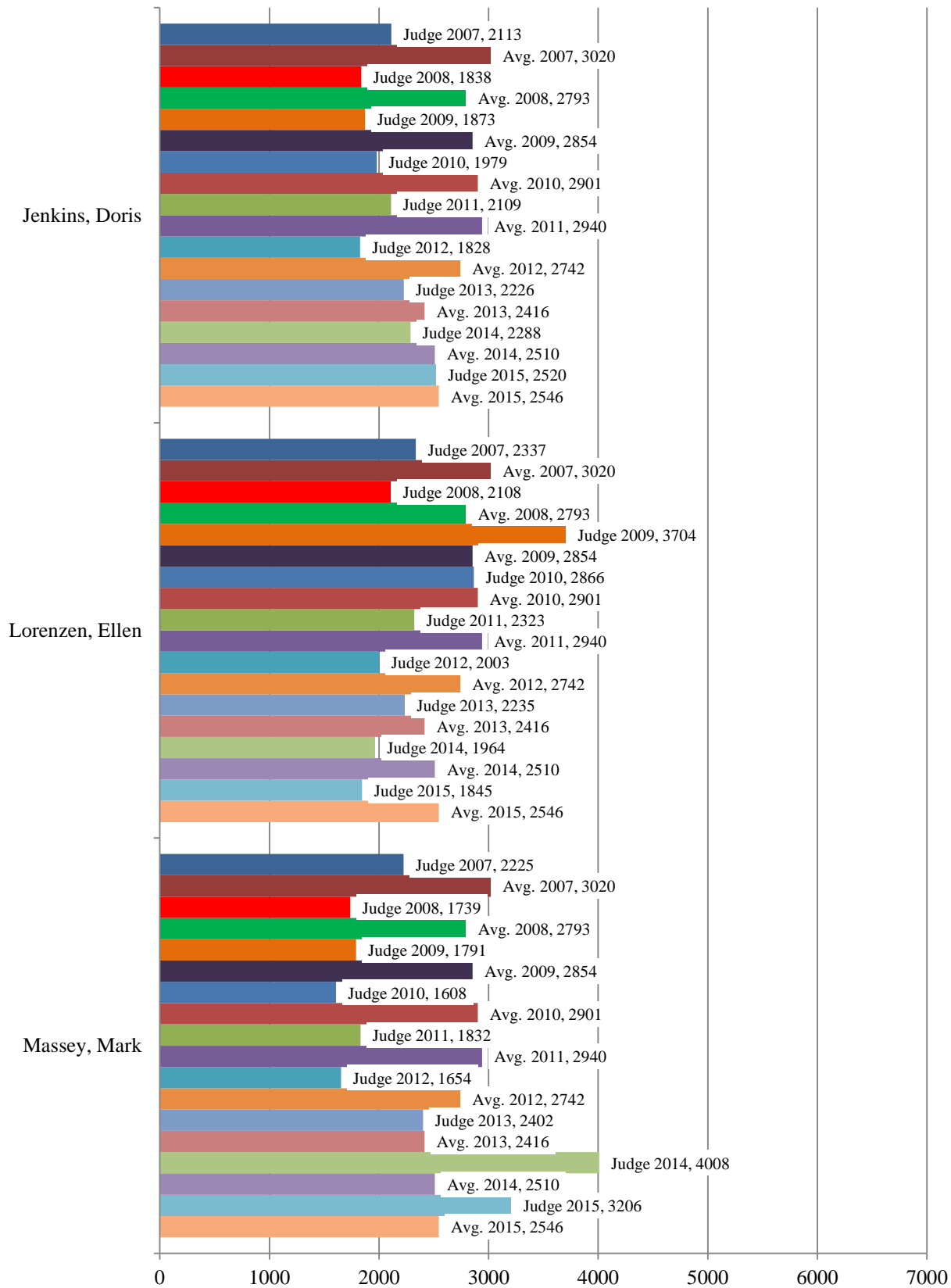
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



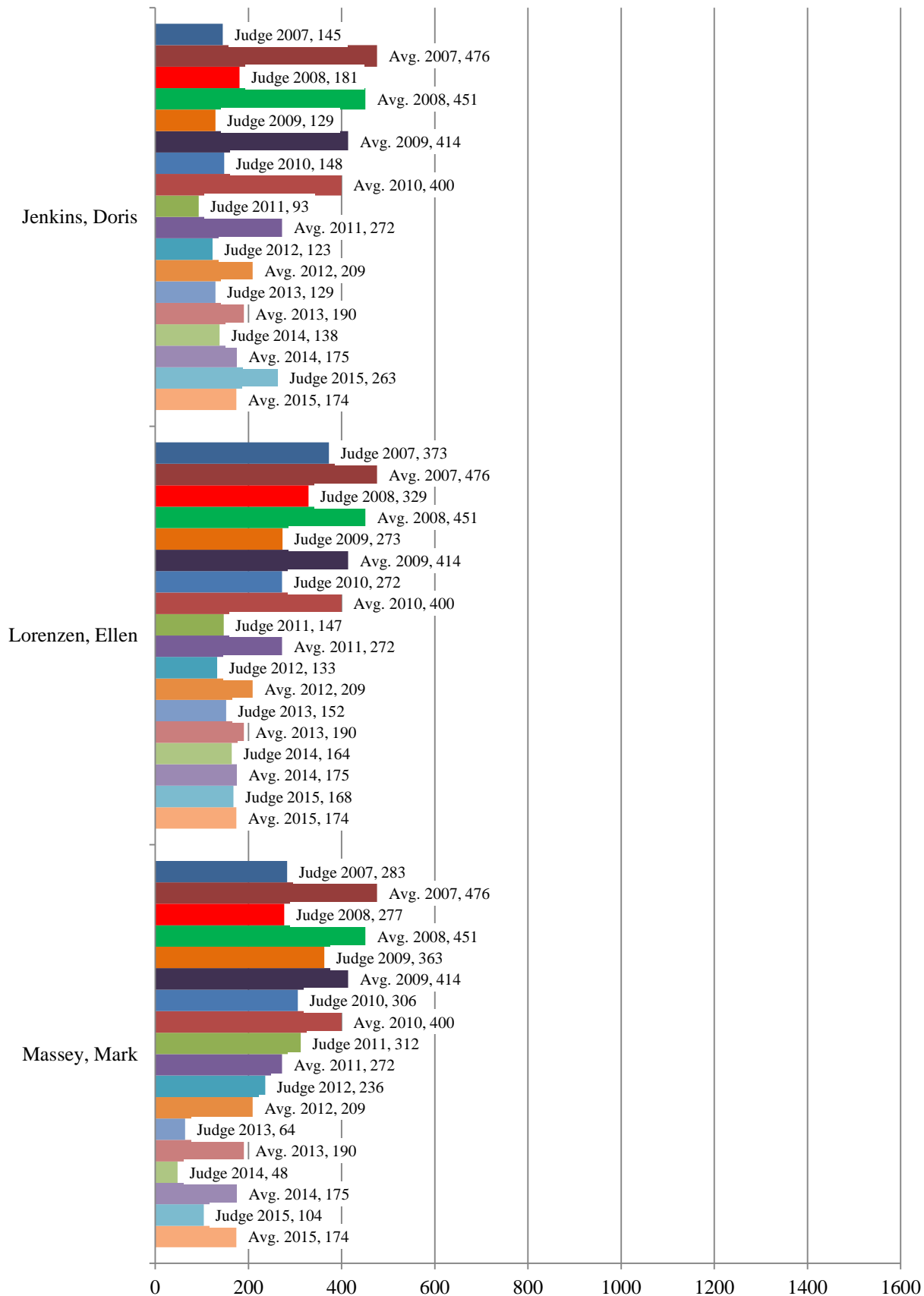
The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



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 2014-15. 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 2014-15. 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.

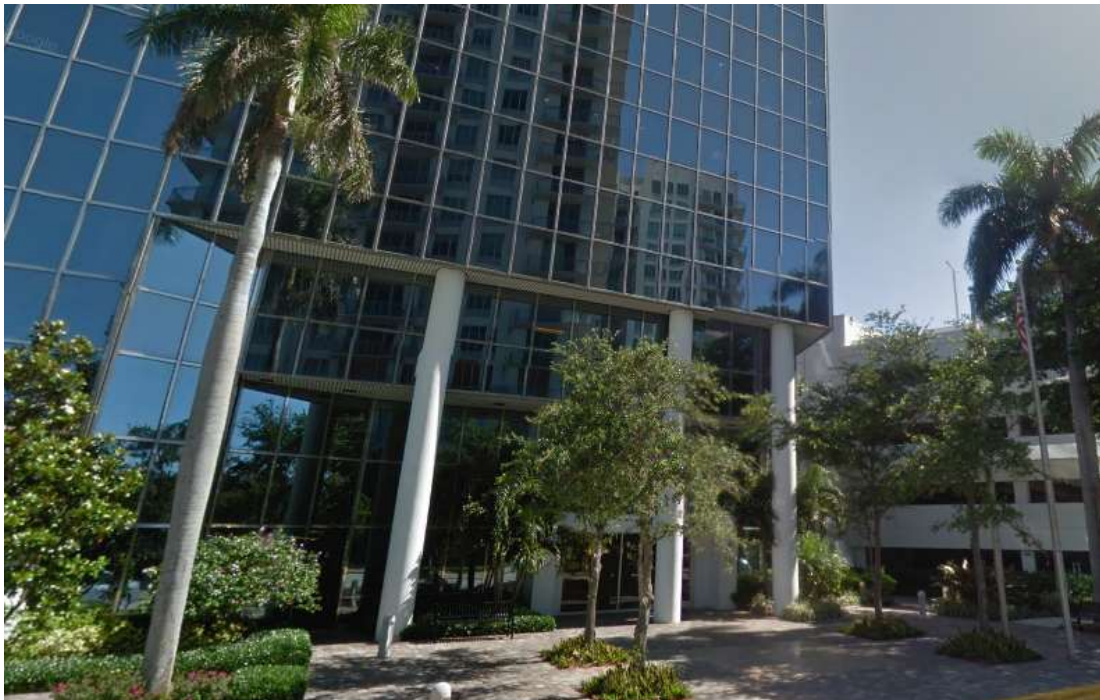
The filing volumes for PFBs in District WPB were slightly above average again in 2014-15. However, the “new case” volumes remained below average. These two trends have been reasonably consistent for the recent past. Comparison of PFB filing volume and PFB closure rate for the year reveals that District 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 consistent, despite the loss of a mediator position in 2012-13. Only one mediator from another District regularly provided assistance with telephonic mediation during 2014-15, Susan Bisbee of Tallahassee. The vast majority of WPB mediations are now handled by the two WPB mediators. 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 the last two fiscal years. This has 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 2014-15 that were within the statutory parameters and in most instances below or consistent with the statewide averages.

In 2014-15 Judge Basquill announced his retirement. A new WPB judge will be appointed in 2015-16.

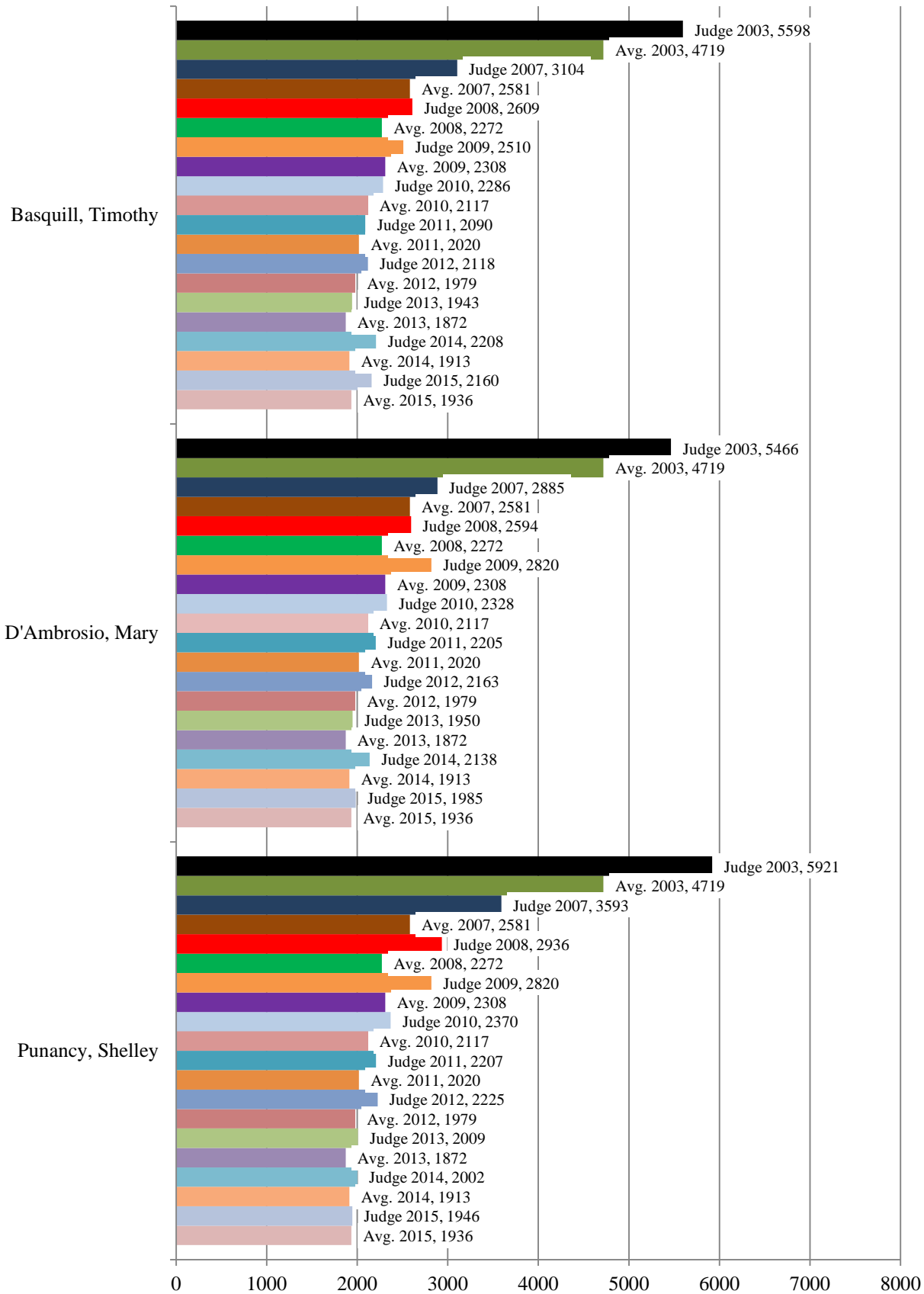
In 2014-15, Judge D’Ambrosio was reelected Treasurer of the Conference of Judges of Compensation Claims. She participated on a panel at the West Palm Beach Bench/Bar Conference and presented on “Ethical Practices” at the OJCC CLE seminar in Tallahassee. She is a member of the Workers’ Compensation Practice Committee, and participated with the Friends of 440 Scholarship Committee, interviewing scholarship candidates. She is the 2015 Recipient of the Kennie Edwards Professionalism Award, presented by the Workers’ Compensation Bar of Palm Beach County.

Mediator Michael Imber serves on the Palm Beach County Bar Association’s ADR Committee and was a speaker at its annual seminar covering various workers’ compensation rules.

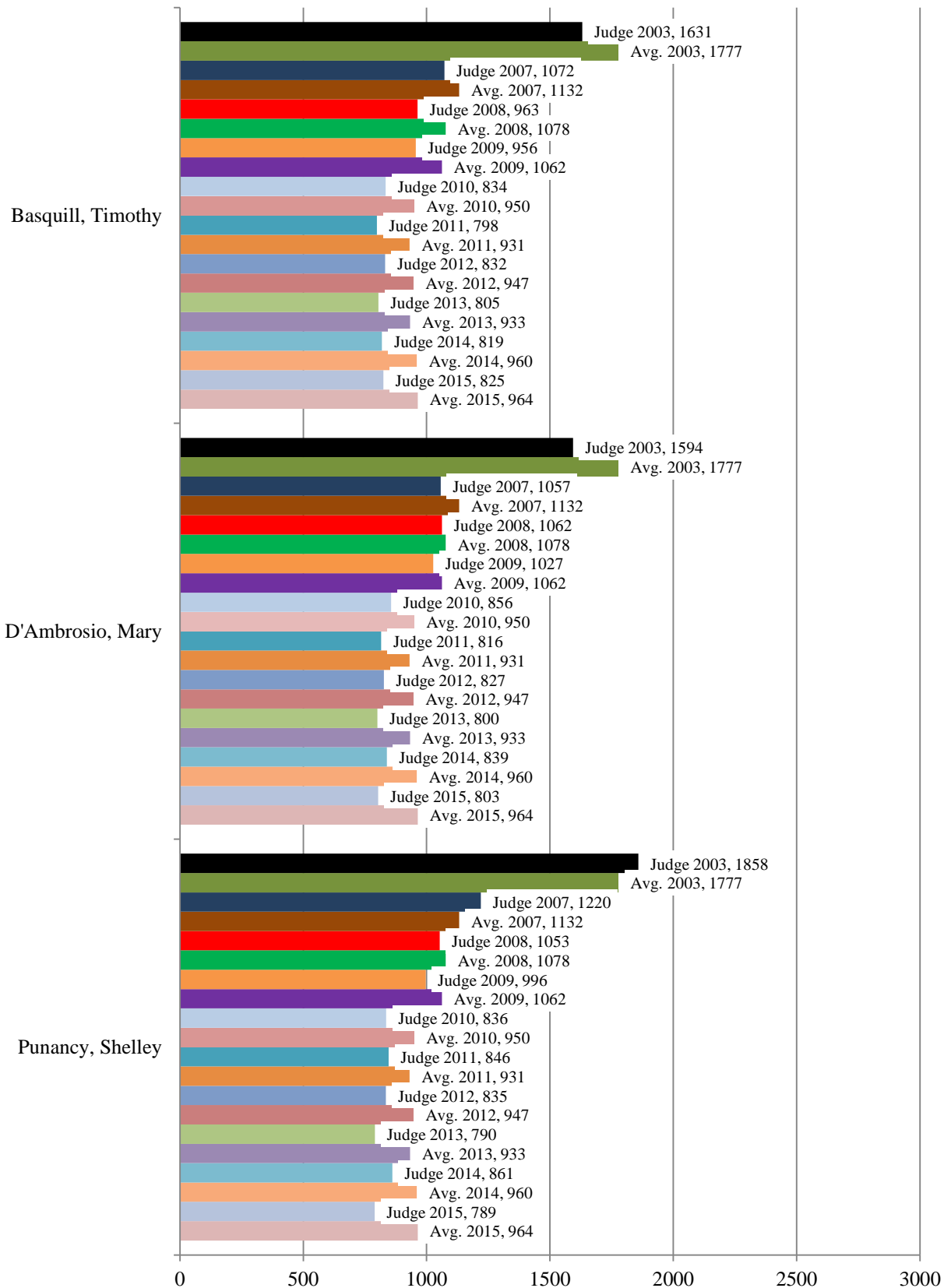


West Palm Beach District on South Australian Avenue.

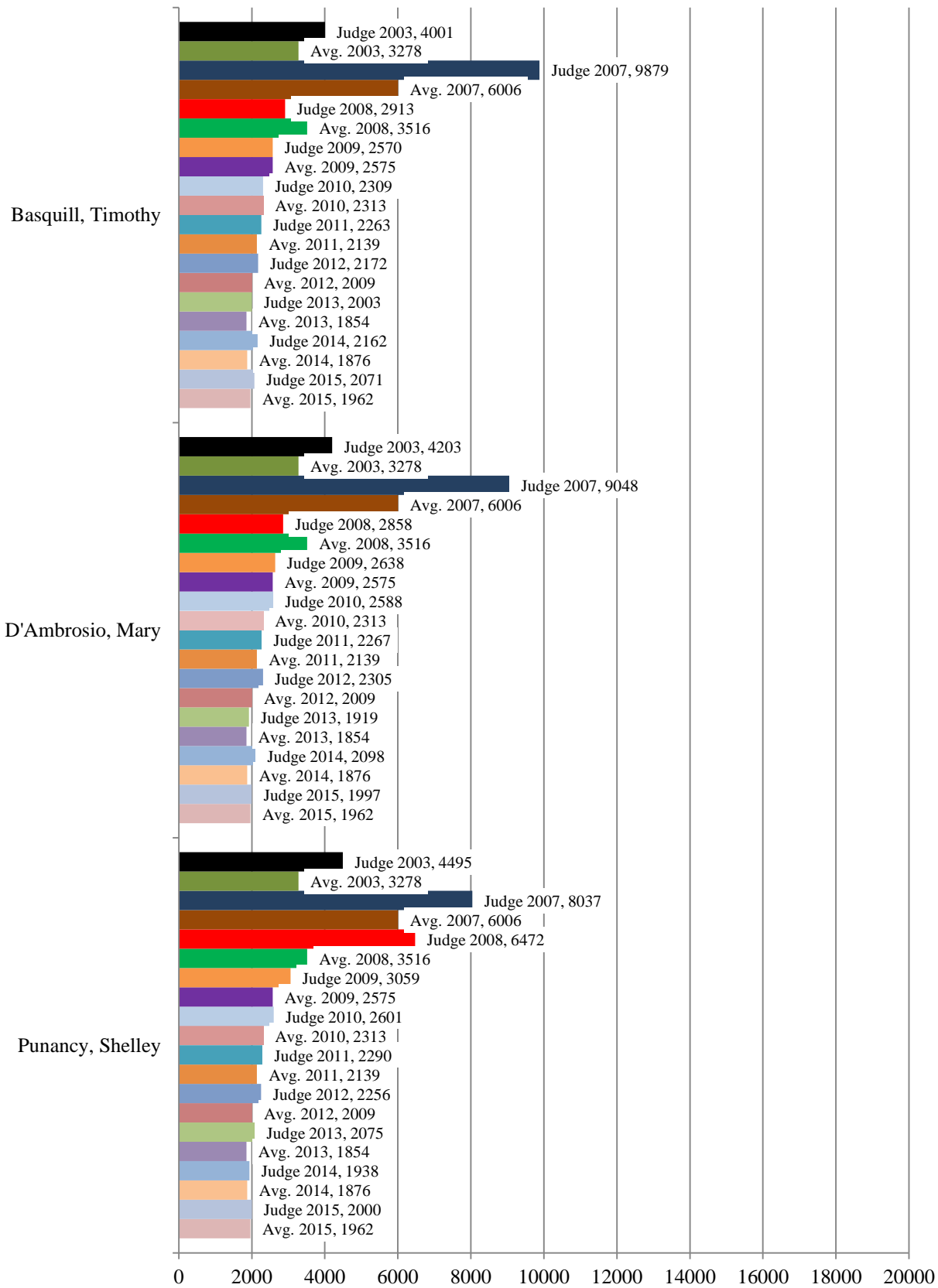
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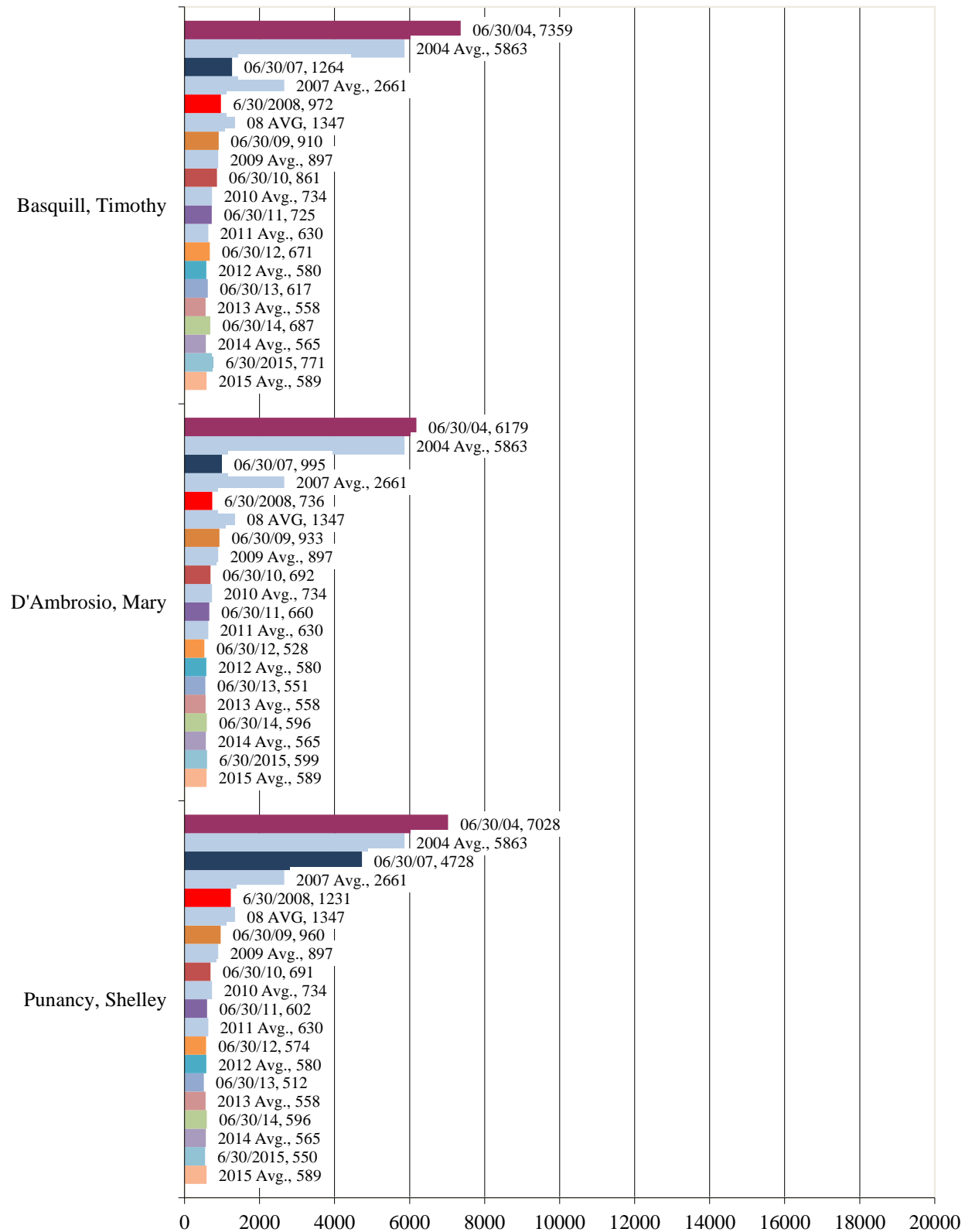
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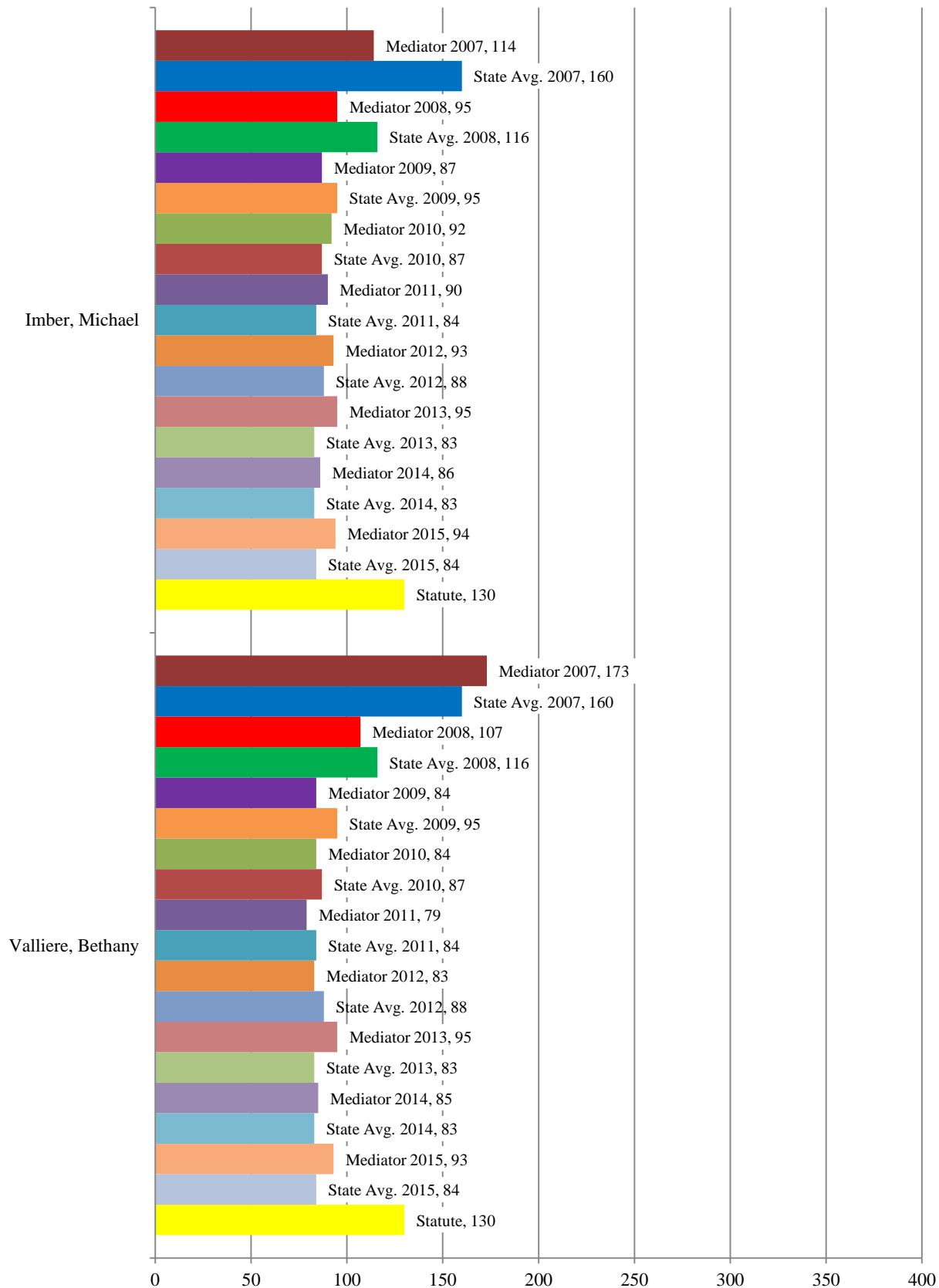
The following depicts the volume of PFBs closed in this District and the statewide average between 2006-07 and 2014-15 (2002-03 is also provided for historical reference). Each bar label identifies the year and provides the numerical count.



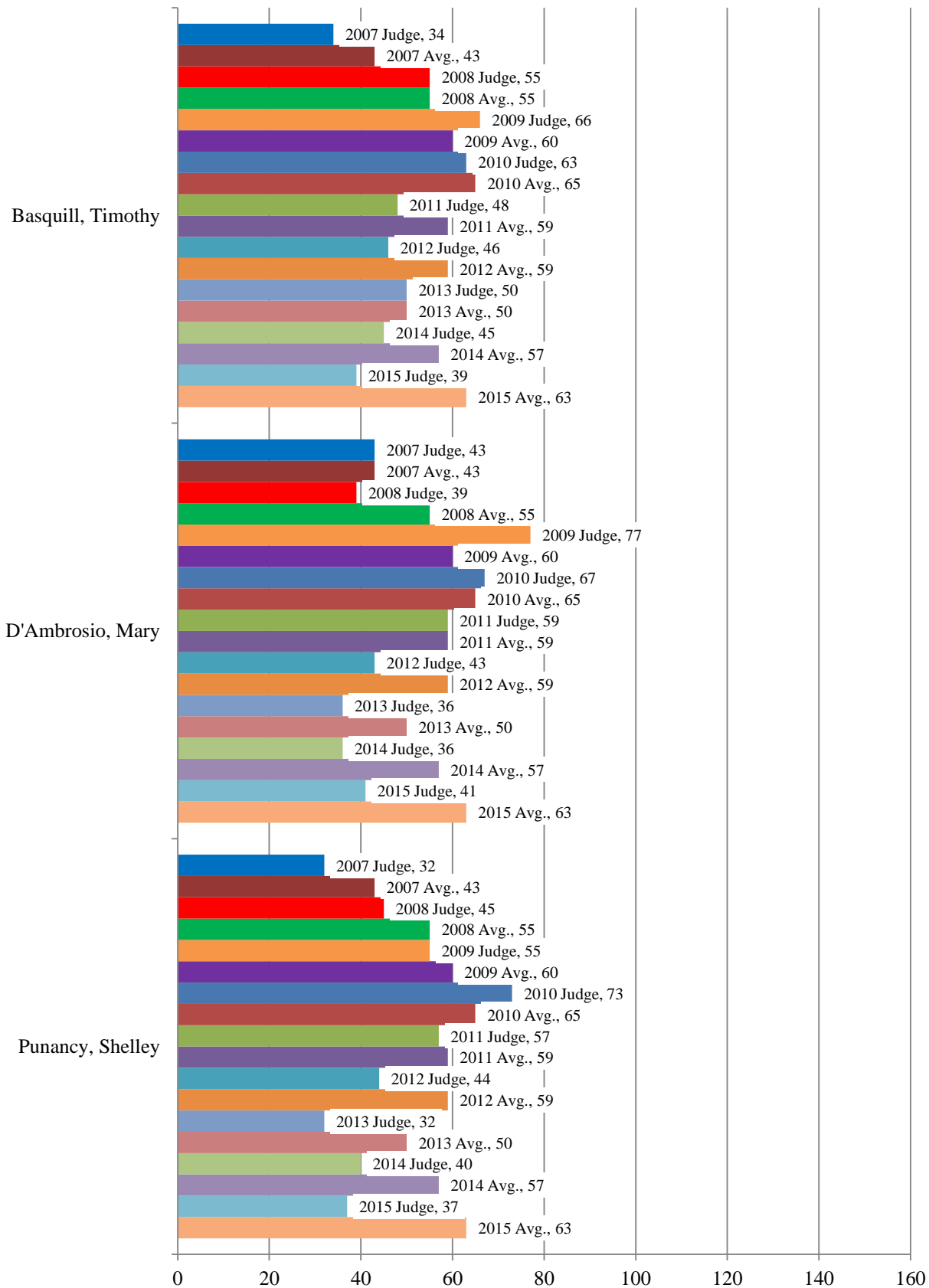
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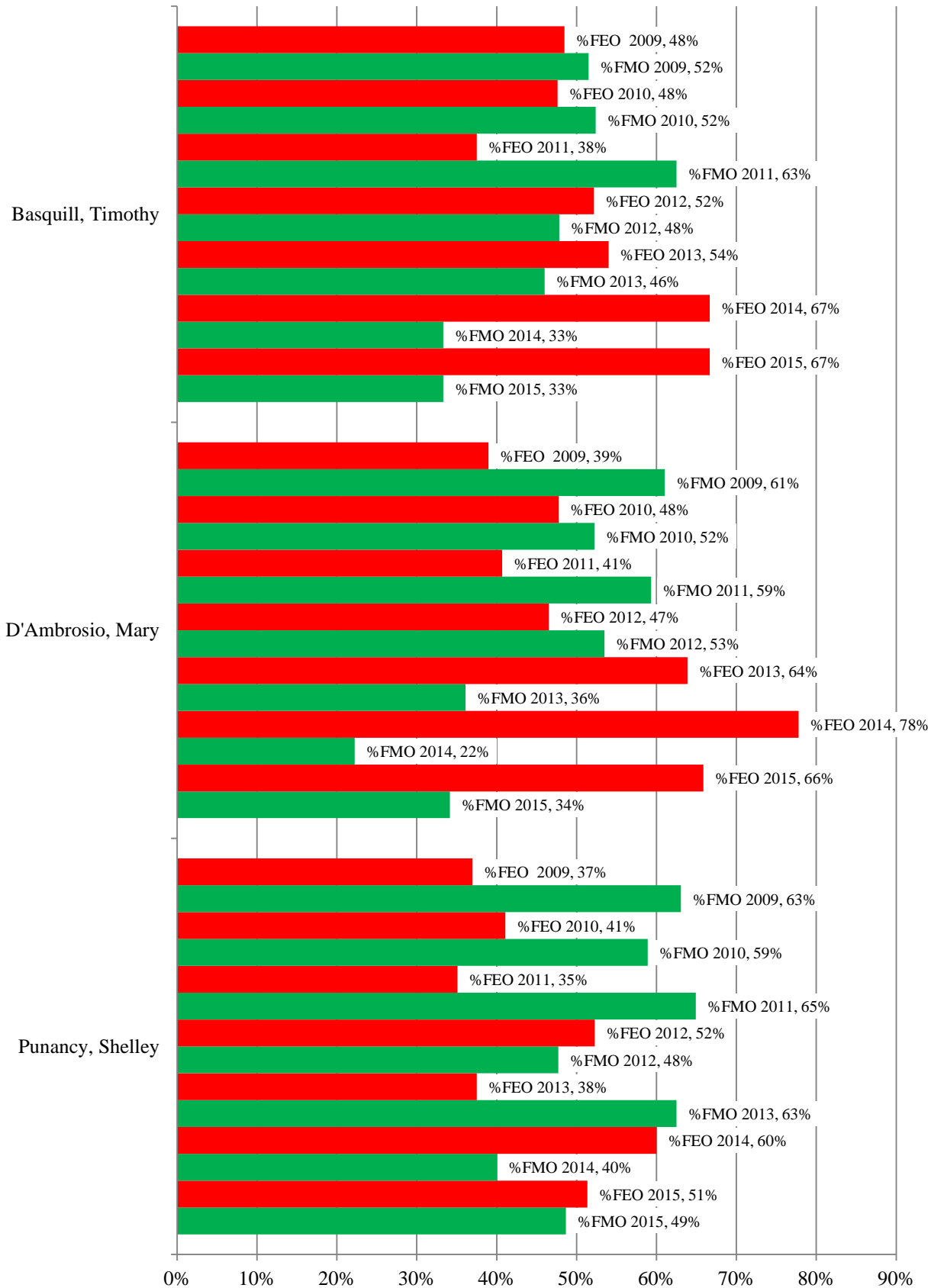
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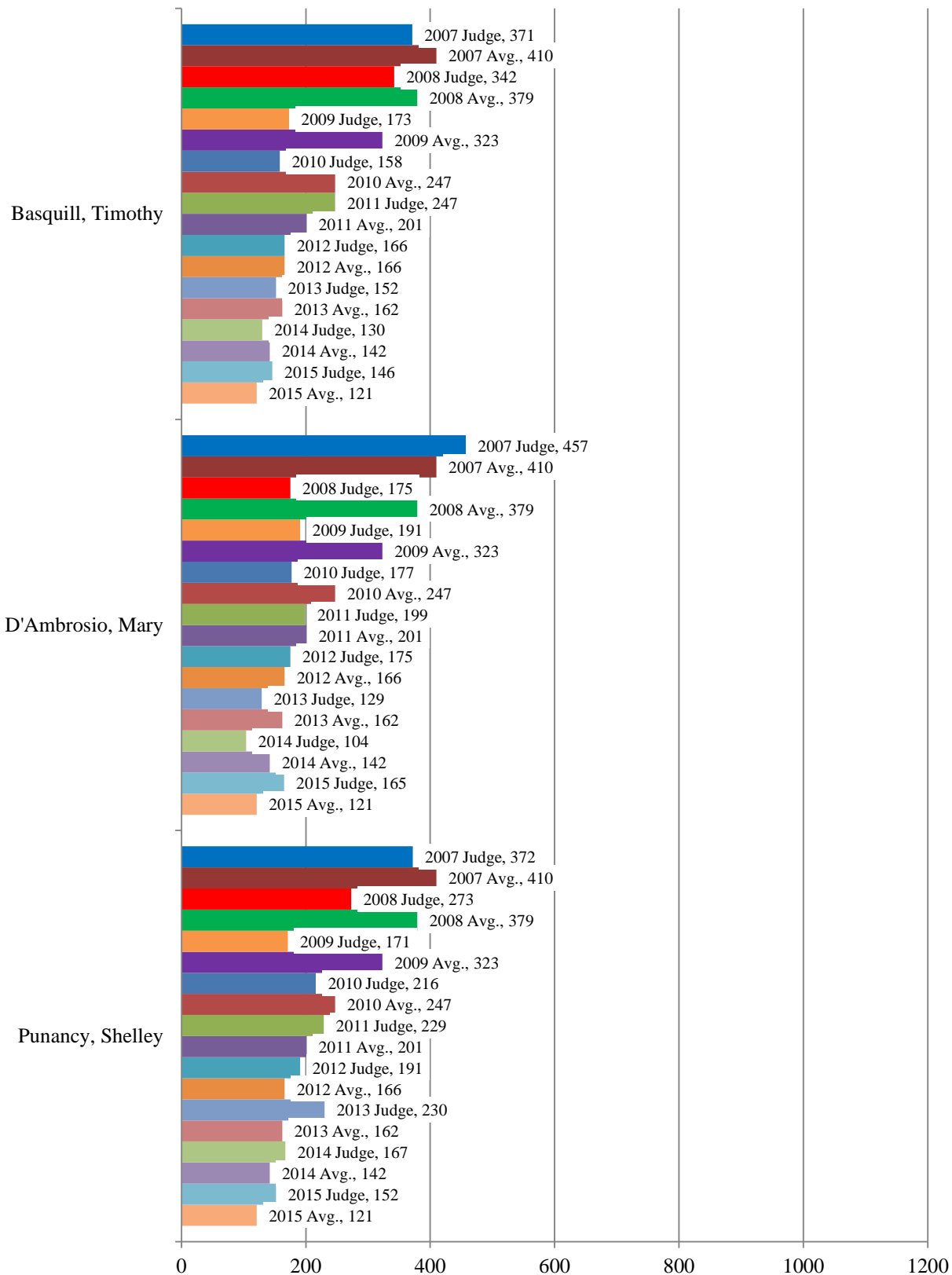
The following graph depicts the total volume of trial orders¹²⁸ uploaded in this District and statewide averages between 2006-07 and 2014-15. The identification and values for each year are in each bar label.



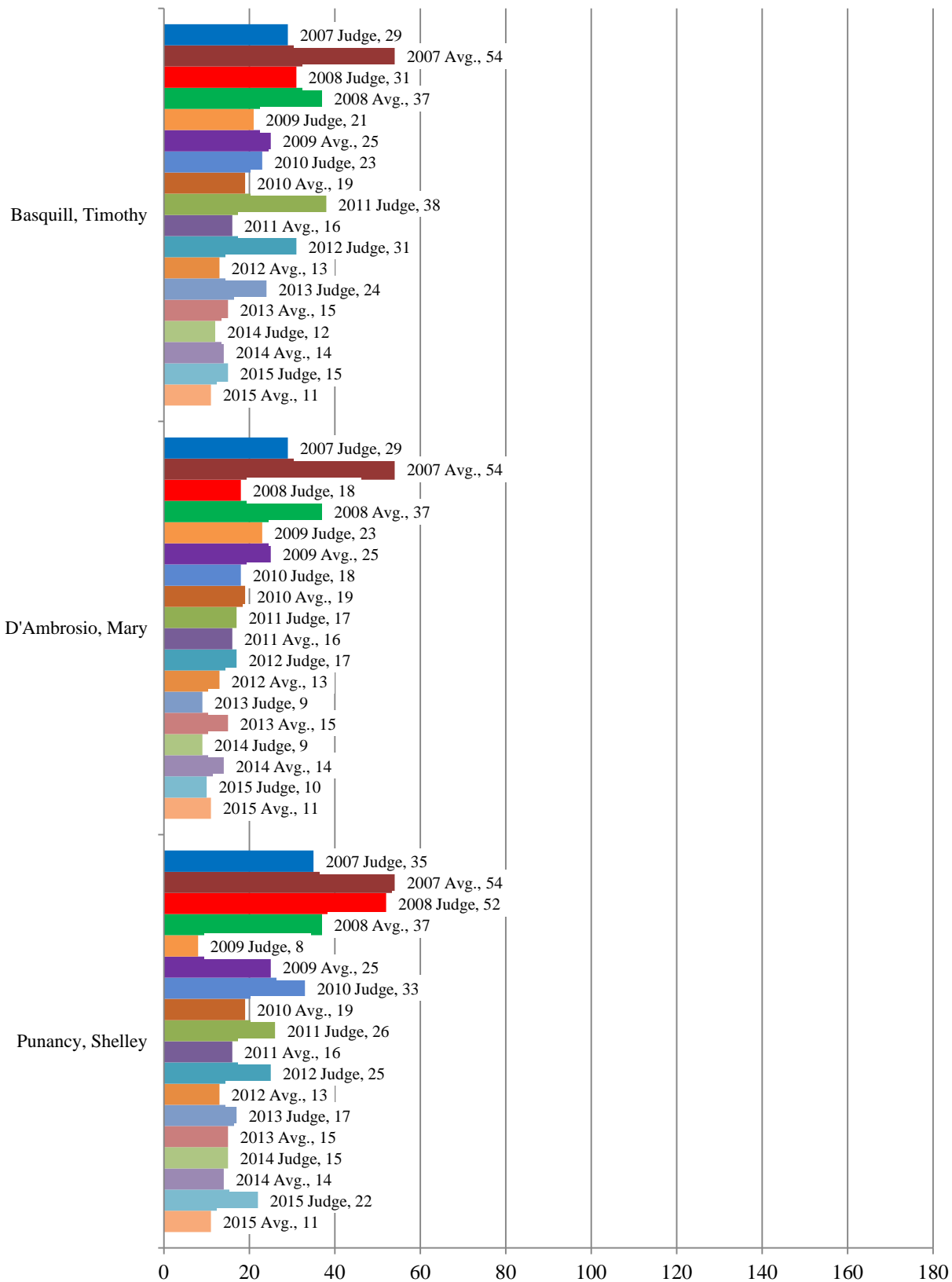
The following graph depicts the mix of trial orders entered between 2008-09 and 2014-15. Red bars represent final evidentiary orders (FEO) and green bars represent final merits orders (FMO) on Petitions for Benefits.



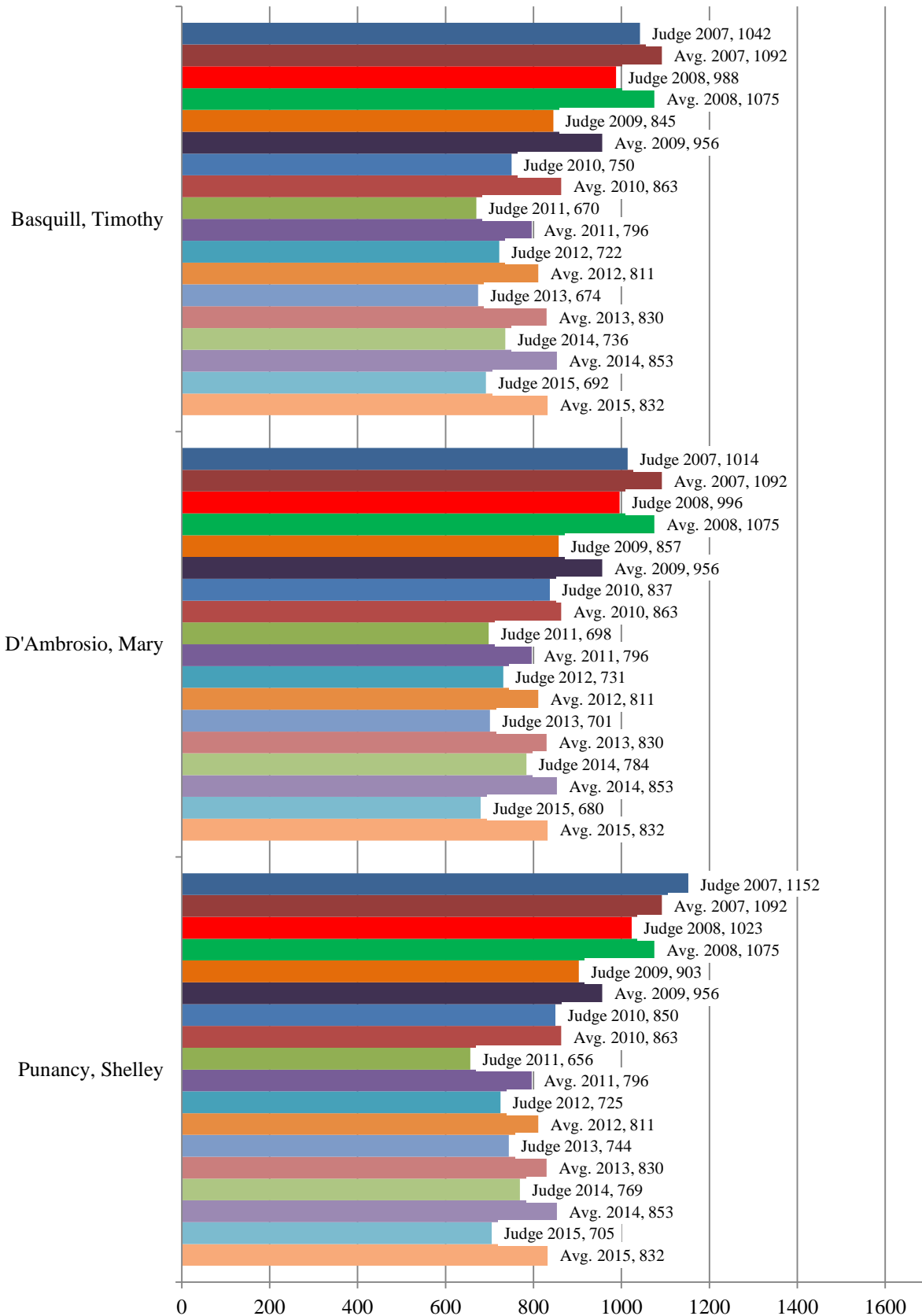
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2006-07 and 2014-15. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



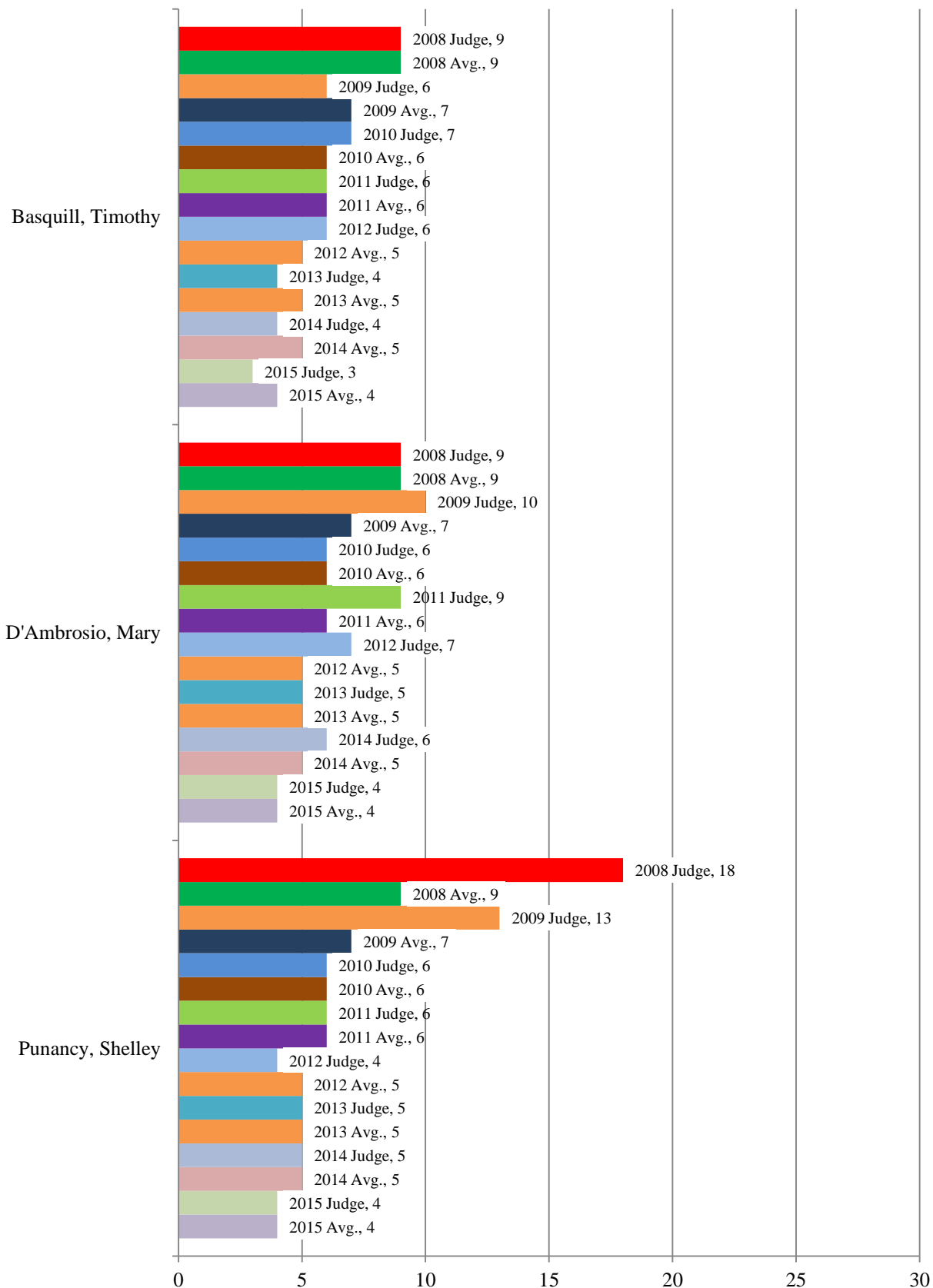
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2006-07 and 2014-15. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



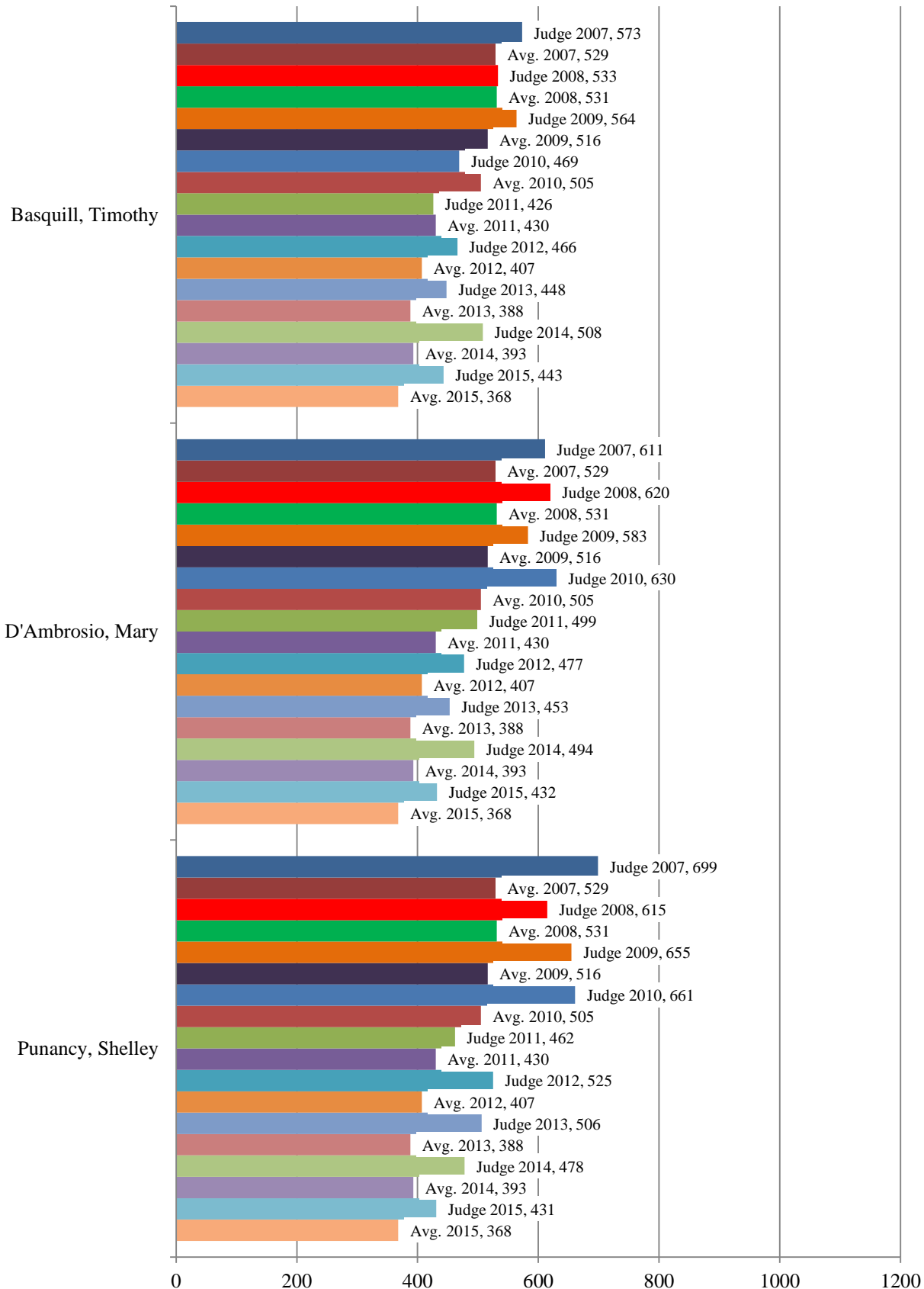
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



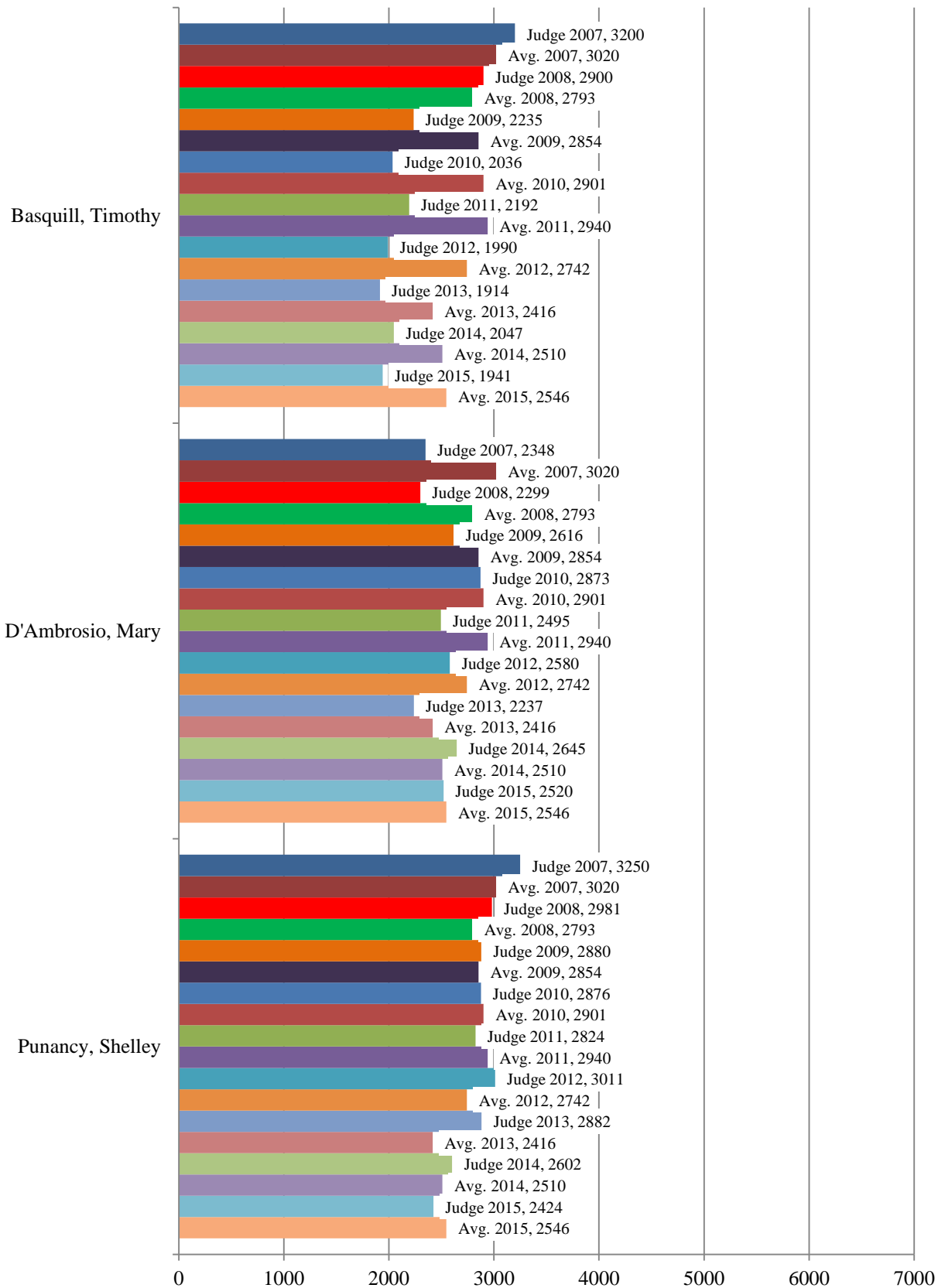
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2007-08 and 2014-15. Each bar label identifies the year and provides the numerical count.



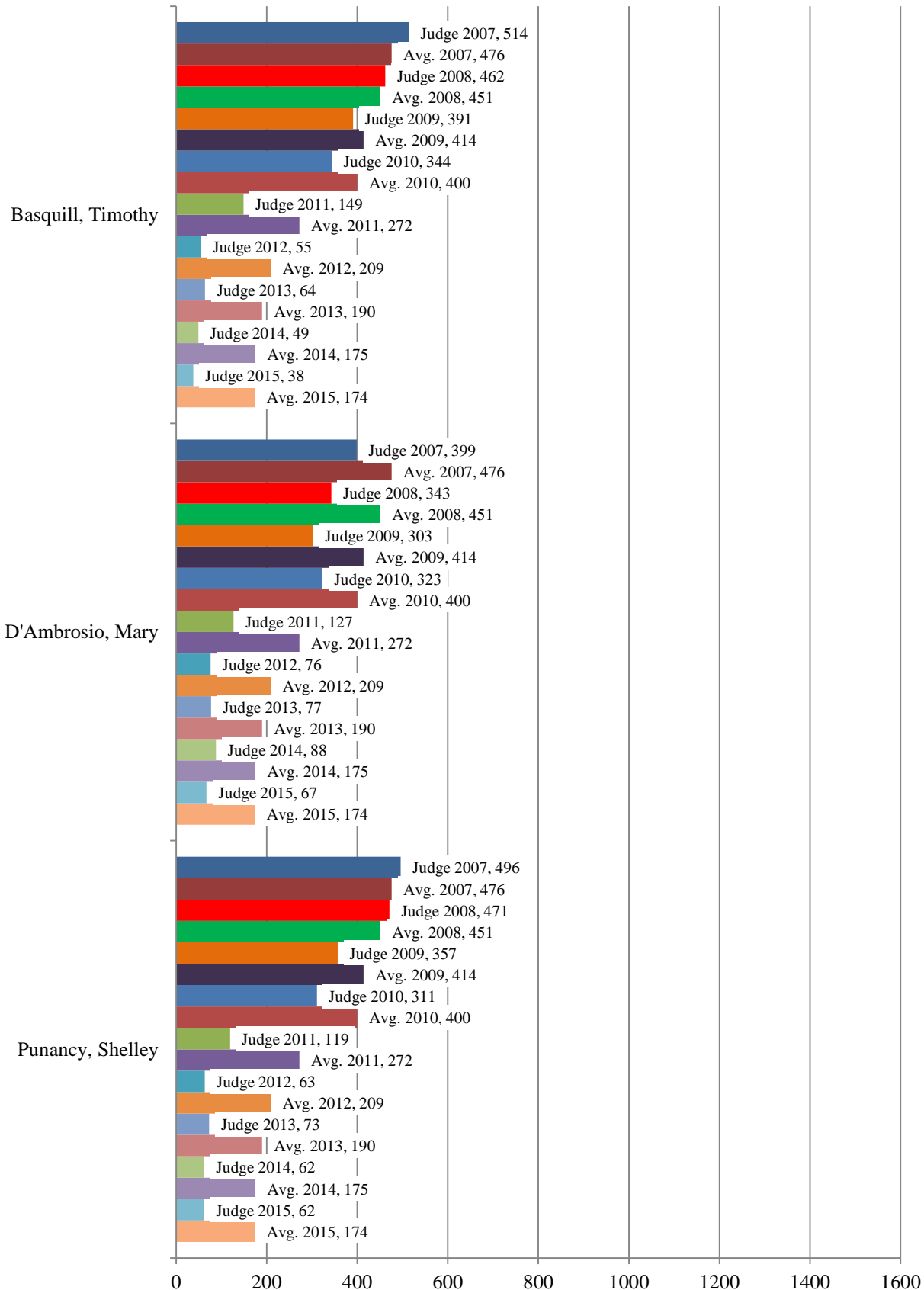
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The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2006-07 and 2014-15. Each bar label identifies the year and provides the numerical count.



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 2014-15. 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 (petition). 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 210 days and “to order” of 30 days are statutory benchmarks, those critical of the inclusion aver that the OJCC reporting of “to trial” should include 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 him or herself, 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.1dca.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 Court filings and orders in Westphal v. City of St. Petersburg, 122 So.3d 440 (Fla. 1st DCA 2013) are accessible on the court’s case docket, www.1dca.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 Generally courts prefer decisions that avoid constitutional issues. Statutory interpretation is a process by which legal provisions can be conformed without reaching the constitutional question. See, Murray, endnote 17.

¹¹ Matrix Employee Leasing v. Hadley, 78 So.3d 621 (Fla. 1st DCA 2011).

¹² Judges Padovano, Davis, Van Nortwick, Clark, and Marsteller.

¹³ 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.”

¹⁴ Westphal v. City of St. Petersburg, 122 So.3d 440 (Fla. 1st DCA 2013).

¹⁵ The Court actually assigned two case numbers to the review of Westphal v. City of St. Petersburg, 122 So.3d 440 (Fla. 1st DCA 2013), SC13-930 and SC13-1976 (upon a cross-notice filed by the City of St. Petersburg).

¹⁶ Castellanos v. Next Door Company, 124 So.3d 392 (Fla. 1st DCA 2013).

¹⁷ Castellanos v. Next Door Company, 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 Murray v. Mariner Health, 994 So.2d 1051, 1062 (Fla. 2008); Wood v. Fla. Rock Indus. & Crawford & Co., 929 So.2d 542, 545 (Fla. 1st DCA 2006), disapproved on other grounds Murray v. Mariner Health, 994 So.2d 1051, 1062 (Fla. 2008).

¹⁸ Murray v. Mariner Health, 994 So.2d 1051 (Fla. 2008).

¹⁹ Page 11.

²⁰ This statutory interpretation analysis is commonly preferred by appellate courts, see endnote 10. However, the Pennsylvania Commonwealth Court recently forsook this alternative and determined a portion of the Pennsylvania statute was unconstitutional. Protz v. Workers’ Compensation Appeal Board (Derry Area School District), Case No. 1024 C.D 2014; <http://law.justia.com/cases/pennsylvania/commonwealth-court/2015/1024-c-d-2014.html>.

²¹ To date (11.02.15) there have been at least ten other cases rendered by the Florida First District Court of Appeal affirming fee awards based on that Court’s holding in Castellanos v. Next Door Company, 124 So.3d 392 (Fla. 1st DCA 2013). They are Richard E. Zaldivar v. Prieto, --- So.3d --- (Fla. 1st DCA 2015); Gallagher Law Group v. Vic Renovations, --- So.3d --- (Fla. 1st DCA 2015); Zaldivar v. Dyke Industries Inc., 168 So.3d 336 (Fla. 1st DCA 2015); Flores v. Vanlex Clothing Corp., 160 So.3d 962 (Fla. 1st DCA 2015); Mayorga v. Sun Electronics, 159 So.3d 1032 (Fla. 1st DCA 2015); Leon v. Miami Dade Schools, 159 So.3d 422 (Fla. 1st DCA 2015); Gonzalez v. McDonalds, 156 So.3d 1127 (Fla. 1st DCA 2015); Diaz v. Palmetto General Hospital, 146 So.3d 1288 (Fla. 1st DCA 2014); Pfeffer v. Labor Ready Southeast, So.3d (Fla. 1st DCA 2014); and Richardson v. Aramark, 134 So.3d 1133 (Fla. 1st DCA 2014).

22 See, Castellanos v. Next Door Company, 124 So.3d 392 (Fla. 1st DCA 2013); See also, Barr v. Watts, 70 So.2d 347, 350–51 (Fla.1953); State ex rel. Atl. Coast Line Ry. Co. v. State Bd. of Equalizers, 84 Fla. 592, 94 So. 681, 683 (1922); Ariston v. Allied Bldg. Crafts, 825 So.2d 435, 438 (Fla. 1st DCA 2002); Hensley v. Punta Gorda, 686 So.2d 724, 725 (Fla. 1st DCA 1997).

23 The appellate filing fee will be \$300.00 unless that is waived based upon indigence (www.lzca.org/faq/generalfaq.pdf). The cost will also include preparation of a record on appeal. The most rudimentary appellate record would likely be \$350.00 dollars. As cost is based in part upon transcription of recorded testimony, the greater the duration of trial testimony, the greater the cost of the record. Fact-dependent determinations regarding the appropriateness of time invested in a litigation outcome would be likely to require significant testimony at trial for the purpose of providing an adequate appellate record for consideration. A total investment of \$1,000 per appeal would be a reasonable approximation of appellate expense. This does not contemplate the time required to prepare an appellate brief regarding the grounds for reversal by the Court of Appeal.

24 See, Fla. Stat. §440.015, “an efficient and self-executing system must be created which is not an economic or administrative burden.” If every contested fee award, those in which there is any perception that the statutory fee award is inadequate to the point of being unconstitutional, must be considered by the District Court of Appeal, this could represent a significant cost to the state system.
25 <http://media.miamiherald.com/smedia/2014/08/14/12/01/1wvUAW.S0.56.pdf>.

26 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.”

27 Rodriguez v. Brand West Dairy, 356 P.3d 546; 2015 WL 3879494 (NM Ct. App. 2015). Consolidated, case numbers 33,104 and 33,675 (Aguirre v. M.A. and Sons Chili Products, 356 P.3d 546; 2015 WL 3879494 (NM Ct. App. 2015).

28 Martinez v. Lawhon, Case number 13-1145-IV, <https://www.workcompcentral.com/fileupload/uploads/2015-04-01-03092220150401150447843.pdf>.

29 See, Arizona v. United States, --- U.S. ---, 132 S.Ct. 2492; 183 L.Ed.2d 351(2012).

30 Protz v. Workers’ Compensation Appeal Board (Derry Area School District), Case No. 1024 C.D 2015; <http://law.justia.com/cases/pennsylvania/commonwealth-court/2015/1024-c-d-2014.html>. See endnotes 10 and 20 regarding statutory interpretation.

31 This was the course elected in a similar challenge in North Dakota in 1997, McCabe v. North Dakota Workers’ Compensation Bureau, 567 N.W. 2d 201 (N.D. 1997).

32 The Florida Statutes are available online at: <http://www.flsenate.gov/Statutes/>. Fla. Stat. §440.015 expresses the self-executing nature, “an efficient and self-executing system must be created which is not an economic or administrative burden.”

33 This is defined by Fla. Stat. §440.50.

34 Rule 60Q6.115 Motion Practice, “(1) . . . The judge shall not hold hearings on motions except in exceptional circumstances and for good cause shown in the motion or response.”

35 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.

36 According to [Workcompcentral.com](http://www.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. <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.

37 In this same regard, there is no clear definition of many of the terms that are drawn upon for statistical analysis. See endnote 2 regarding the definitions for “trial” and thus the foundation for calculations.

38 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.

39 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.

40 This is discussed more fully in the report section on attorney fees by accident years (page 34).

41 The appropriate method to seek determination of attorney fee entitlement or amount is usually by motion. Rule 60Q6.124. 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.

42 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 OJCC Annual Report, page 44.

43 Notably, the OJCC is staffed today with the same volume of judges, 31, as it was in 1993. The addition of full-time mediators in 1994 has contributed to the effective management of litigation volume, but any conclusion that fewer judges are required for the current litigation volume must consider the filing volume decreases of the twenty-first century in the context of the prior volumes.

44 In this context, see endnotes 21 through 23 regarding the pending determinations of Castellanos and the “companion cases.”

45 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).

46 The Florida Legislature reacted to the Murray v. Mariner Health, 994 So.2d 1051 (Fla. 2008) 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 legislative action in 2009 affects only a prospective change for accidents after June 30, 2009. Thus, the Murray analysis of the 2003 law will continue to control and hourly fees will remain payable for claims on dates of accident between October 1, 2003 and June 30, 2009.

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

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

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

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

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

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

53 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.

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

55 Some suggest that the availability of an alternative, hourly fee for medical only claims in Fla. Stat. §440.34(7) might contribute to a perception that fees are more lucrative early in a claim. This fee, however, is limited to ten hours at a rate of up to \$150.00 per hour, a maximum of \$1,500.00. This fee is only available once during the life of a claim. Therefore exhaustion of this fee entitlement might affect the propensity for litigation over relatively minor medical issues later in a case.

56 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.

57 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.

58 See endnotes 104 through 108.

59 See endnote 63. 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.

60 These figures are from the estimate of the United States Census Bureau for 2014, <http://quickfacts.census.gov/qfd/states/12000.html>.

61 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.

62 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.

63 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).

64 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.

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

66 The credit due to the DOAH IT staff is substantial. Their efforts have deployed a comparatively inexpensive electronic process and presence. See endnote 36 regarding other state's expenditures. Special thanks are due to DOAH IT Director Susan Brown for her leadership on this process and the success of the e-JCC platform.

67 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.

68 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!OpenDocument>.

69 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 16,188 mediations in 2013-14 yields \$168.25, and dividing by the 15,421 in 2014-15 yields \$176.62. These figures do not include the costs of staff support or facilities or equipment. Therefore, this is a conservative cost figure.

70 Some percentage of PFBs may be excused from the mediation process by the assigned JCC if the issues are instead scheduled for expedited final hearing pursuant to Fla. Stat. § 440.25. A very small percentage of mediations (three mediations in fiscal 2014-15) were waived by order of the Deputy Chief Judge of Compensation Claims.

71 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.

72 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.

73 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.

74 Some Judges interpret the 40 day period differently, seeing that date as a deadline for transmission of a notice. While the JCCA database transmits notice on or shortly after the 40th day, these judges prepare manual notices and transmit them prior to that time.

75 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).

76 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.”

77 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.

78 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.”

79 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 thereafter 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.

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

81 In the process of preparing the 2014 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 investigation revealed 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.

82 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.

83 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.

84 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.

85 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.

86 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.

87 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
88 of \$270,501,374 was reduced \$10,340,428 to \$260,160,946.

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

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

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

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

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

99 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.
100 <http://flocjcc.blogspot.com/2014/11/the-data-is-corrected-florida-defense.html>. Subsequently, multiple entities reported defense fees. The
101 increase from \$237,082,331 to \$237,364,154 resulted from these late additions.

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

104 The OJCC requires reporting of defense fees pursuant to statute. In 2007-08, the OJCC received inquiries that identified a potential flaw
105 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
106 through the efforts of some member of the county attorney’s office. A carrier, similarly, inquired as to how services of in-house counsel
107 could be captured for reporting. In each of these instances, the attorneys providing services are involved in workers’ compensation and
108 other legal services for the particular carrier (such as general liability or automobile issues). Therefore, no rational basis may exist to
109 attribute the salary expenditures of carriers or counties or municipalities because of these complications. It is suspected that the defense
110 fees aggregate reported annually by the OJCC understates the actual volume of, or value of, defense fees.

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

112 See, *Workers’ Compensation in Florida 1935-1995, The History, People and Politics*. Creston Nelson-Morrill, Florida Workers’
113 Compensation Institute Press.

114 *Id.*

115 Case number 13-029834.

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

120 The 210-day parameter applies by definition to the trial of PFB. Because the effort involved in trial of many other evidentiary matters are
121 equally involved, the OJCC has defined “trial” to include hearings on PFB, attorney fee motions/petitions, SDTF reimbursement and
122 other significant evidentiary motion hearings. The OJCC measures “time to trial” from the filing of the operative pleading (PFB/Motion)
123 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
124 averages for OJCC aggregates and for the various Judge’s charts included herein.

125 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
126 PFB hearings in the “trial” definition, the OJCC likewise includes the resulting orders in the definition of “trial orders.” The time to order
127 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
128 it is subsequently vacated, in which case the ultimately entered final order is counted. The time periods between the hearing of these
129 significant motions/petitions and order thereon are included in the averages for OJCC aggregates and for the various Judge’s charts
130 included herein.

131 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
132 be removed by the Governor for cause. Prior to the expiration of a judge’s term of office, the statewide nominating commission shall
133 review the judge’s conduct and determine whether the judge’s performance is satisfactory. Effective July 1, 2002, in determining whether
134 a judge’s performance is satisfactory, the commission shall consider the extent to which the judge has met the requirements of this
135 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
136 is deemed satisfactory, the commission shall report its finding to the Governor no later than 6 months prior to the expiration of the
137 judge’s term of office.” (Emphasis added).

138 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
139 parties by order that a mediation conference concerning such PFB has been scheduled unless the parties have notified the judge of
140 compensation claims that a private mediation has been held or is scheduled to be held. Mediation, whether private or public, shall be held
141 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
142 served personally upon the interested parties or may be sent to the interested parties by mail. If multiple PFBs are pending, or if
143 additional PFB are filed after the scheduling of mediation, the judge of compensation claims shall consolidate all PFBs into one
144 mediation. The claimant or the adjuster of the employer or carrier may, at the mediator’s discretion, attend the mediation conference by
145 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
146 requesting party demonstrates to the judge of compensation claims that the reason for requesting the continuance arises from
147 circumstances beyond the party’s control. Any order granting a continuance must set forth the date of the rescheduled mediation
148 conference. A mediation conference may not be used solely for the purpose of mediating attorney’s fees.”

149 Fla. Stat. §440.25 (4)(a): “If the parties fail to agree to written submission of pretrial stipulations, the Judge of Compensation Claims
150 shall conduct a live pretrial hearing. The Judge of Compensation Claims shall give the interested parties at least 14 days’ advance notice
151 of the pretrial hearing by mail.”

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

107 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.”

108 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.”

109 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.”

110 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.”

111 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.

112 <http://fljcc.org/jcc/files/reports/2015SR-MSR.pdf>.

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

114 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.”

115 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 endnotes 9 and 55, and the Glossary of Terms, page 45-46. The term “trial order” necessarily means the order resulted from a trial. Evidentiary orders may be entered without a hearing. See endnotes 119-128.

116 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.

117 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.

118 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.

119 In addition, Judges Forte and Hogan each 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.”
120 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.
121 In addition, Judge Spangler entered one evidentiary order without a hearing. See endnote 119 for explanation.
122 In addition, Judge Hill entered fifty evidentiary orders without a hearing. See endnote 119 for explanation.
In addition, Judge Castiello entered five evidentiary orders without a hearing and Judge Hill entered one evidentiary order without a
hearing. See endnote 119 for explanation.
123 In addition, Judge Pitts entered three evidentiary orders without a hearing. See endnote 119 for explanation.
124 In addition, Judge Winn entered two evidentiary orders without a hearing. See endnote 119 for explanation.
125 In addition, Judge McAliley entered thirteen evidentiary orders without a hearing. See endnote 119 for explanation.
126 In addition, Judge Rosen entered six evidentiary orders without a hearing. See endnote 119 for explanation.
127 In addition, Judges Lorenzen and Massey each entered one evidentiary order without a hearing. See endnote 119 for explanation.
128 In addition, Judge D’Ambrosio entered five evidentiary orders without a hearing. See endnote 119 for explanation.



Judge May of the Fourth District Court of Appeals judged the Moot Court Semi-Finals with retired Judges of Compensation Claims Richard Thompson and Joseph Murphy in 2014.

