

STATE OF FLORIDA

Division of Administrative Hearings



2015-2016 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.

Table of Contents and Summary

Introduction		4
Overview of Florida Workers' Compensation		5
Data Collecting and Reporting		8
Electronic Filing Initiative		10
Daily eFiling rate	2,183 (weekdays)	
Total e-Filed documents	545,695 (increase of 4.5 % from 2014-15)	
Total user savings to date	\$2,647,923	
Number of Litigated Cases		10
Gross Petitions filed	67,265 (12.1% increase from 2014-15)	12
New Cases filed	31,165 (4% increase from 2014-15)	13
<i>Pro se</i> Cases	(9.46%, decrease from 10.22%, 2014-15)	16
Amount of Litigation Resolved		18
Petitions Closed	66,324 (9% increase from 2014-15)	
Cost of Litigation Resolved		20
OJCC Budget	\$17,225,910 (1% increase from 2014-15)	
Per Petition Closed	\$260.00 (twelve year avg. = \$231.00)	
Civil Court Comparison	\$300.00 to \$400.00 Filing Fees	
Number of Mediation Conferences Held		24
Mediations held	15,703 (2% increase from 2014-15)	
100% of Mediators averaged less than 130 days each year in 2008-09 to 2014-15.		
Disposition of Mediation Conferences		25
Some resolution	66.2% (increase from 64.09% in 2014-15)	
Settled case/All Issues Resolved	33.8% (decrease from 35.2% in 2014-15)	
Number of Continuances Granted for Mediations		27
Mediation Continuances	191 (increase from 172 in 2014-15)	
Number of Continuances Granted for Final Hearings		28
Trial Continuances	3,324 (increase from 3,204 in 2014-15)	
Outcome of Litigated Cases		28
Resolved at Mediation	7,893 (increase from 7,579 in 2014-15)	
Amount of Attorneys' Fees Paid		32
Claimant Fees Approved	\$136,461,404 (.21% increase from 2014-15)	
Defense Fees Reported	\$242,112,498 (3.21% increase from 2014-15)	
Amount of Attorneys' Fees Paid in Each Case According to Accident Year		34
Number of Final Orders Not Issued Within 30 Days after the Final Hearing		36
Not within 30 days 11.99% (increased from 6.33% in 2013-14)		
77.5% of Judges averaged less than 30 days in 2015-16.		

Recommended Changes or Improvements to the Dispute Resolution Process	37
Elements of the Workers' Compensation Law and Regulations	
Judges' Ability to Meet Statutory Requirements	38
Statutory Measures	40
Average days to mediation was 84 days (unchanged from 2014-15)	
Average days to trial was 234 days (increase from 121 in 2014-15)	
Average days from trial to order was 21 days (increase from 11 in 2014-15)	
Conclusion	44
Glossary of Terms	45
2015 Appendices Notes	46
Appendix "1" District DAY (JCC Anderson)	48
Appendix "2" District FTL (JCC Forte, JCC Hogan, JCC Lewis)	55
Appendix "3" District FTM (JCC Sturgis, JCC Weiss)	67
Appendix "4" District GNS (JCC Hill, R.)	83
Appendix "5" District JAX (JCC Holley, JCC Humphries)	90
Appendix "6" District LKL (JCC Sojourner)	104
Appendix "7" District MEL (JCC Dietz)	111
Appendix "8" District MIA (JCC Almeyda, JCC Castiello, JCC Hill, C., JCC Kerr, JCC Medina-Shore)	118
Appendix "9" District ORL (JCC Condry, JCC Pitts, JCC Sculco)	145
Appendix "10" District PMC (JCC Roesch)	159
Appendix "11" District PNS (JCC Winn)	166
Appendix "12" District PSL (JCC McAliley)	173
Appendix "13" District SAR (JCC Beck)	180
Appendix "14" District STP (JCC Rosen)	187
Appendix "15" District TLH (JCC Lazzara)	194
Appendix "16" District TPA (JCC Jenkins, JCC Lorenzen, JCC Massey)	201
Appendix "17" District WPB (JCC Basquill, JCC D'Ambrosio, JCC Punancy)	215
Endnotes	229

Introduction

This report of the Office of the Judges of Compensation Claims (“OJCC”) is published pursuant to section 440.45(5), Florida Statutes.¹ The OJCC continues to develop, innovate, and improve performance. The measures documented in this report for fiscal year 2015-16 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. This Office is today 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 “publications” and then “reports” tabs. These reports memorialize the struggles this agency experienced with data uniformity and reporting. This 2015-16 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 had resulted in uniformity and consistency. However, abuses by a minority of judges in 2016 necessitated revision of the “trial” definition. 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. With the more restrictive definition of “trial” adopted in 2016, trial orders were entered within the 30 day parameter 88.01% 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. SB170 rendered eFiling mandatory for represented parties in workers’ compensation proceedings. This legislative recognition validates the recommendations for change (electronic service and mandatory eFiling) in the 2008 and 2010 OJCC Annual Reports. Even prior to the legislative mandate, the OJCC had mandated electronic filing in the Rules of Procedure for Workers’ Compensation Adjudications. As a result, the volume of incoming U.S. Mail dwindled in 2010-11 and receipt of U.S. Mail is now uncommon.³

Electronic service of documents through the OJCC eFiling system became reality in 2012-13. The savings to our customers were immediate and profound. The combination of eService and eFiling consistently saves system participants, 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 2015-16. 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.⁴ 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 been less than stable in recent years. In fiscal 2012-13, the Florida First District Court of Appeal (DCA) rendered a panel⁵ decision in Westphal v. City of St. Petersburg⁶ on February 28, 2013. The panel held section 440.15(2)(a), Florida Statutes, unconstitutional in its limitation of temporary benefits to a period not exceeding 104 weeks. Later, in fiscal 2013-14, that panel decision, relying on "natural justice," was withdrawn⁷ and rehearing by the entire court (*en banc*) was granted. On September 23, 2013, the court issued an *en banc* decision,⁸ which abandoned the panel opinion references to constitutional infirmity and relied instead on statutory interpretation.⁹ The Florida Supreme Court issued its decision on June 9, 2016, Westphal v. City of St. Petersburg, 194 So.3d 311. This decision invalidates as unconstitutional the 104 week limitation on temporary total disability benefits.

The Supreme Court's decision is notable for what it addresses and for what it ignores. Finding that the 104 week limitation in section 440.15(2)(a), Florida Statutes (1994), unconstitutional, the Court revived the provisions of that section prior to the 1994 revisions. In essence, the decision invalidates a 22 year old statutory limitation that has been applied in the claims of thousands of injured workers. The limitation on temporary total benefits would seem to be the 260 week limitation on temporary total previously in section 440.15(2)(a). This is a limitation that the court notes it "previously held 'passes constitutional muster.'" Westphal, at 315. Despite this, there are those who question whether the 260 week limitation would survive review by the present court, and wonder if the prior restriction of 350 weeks may eventually be revived by a future constitutional challenge.

The Westphal Court did not address the issue of temporary partial disability benefits in 2016.¹⁰ Scholars will explain that this is because temporary partial ("TPD") benefits were not squarely before the Court. However, critics argue that because the 1994 amendments intertwined these two benefits, and that the 1994 limitation of 104 weeks applied to any combination of TTD and TPD, that any revival of the prior law's TTD provision must likewise address TPD. Despite this, the Court elected not to address TPD benefits and thus the Westphal decision leaves doubt and uncertainty in the Florida employment marketplace.

Some contend that an injured worker is entitled to a maximum of 250 weeks (almost five years) TTD benefits and an additional 104 weeks of TPD benefits. Some argue that the legislative intent of the 1994 combination of limitations should result in the overall entitlement to temporary benefits (TTD or TPD) should be 260 weeks under the Westphal analysis. With no consensus, and with the Court declining to delineate with more specificity, the result is doubt that will have to be resolved with additional litigation.

On October 23, 2013, the First DCA issued an opinion in Castellanos v. Next Door Company.¹¹ This claim challenged the amount of attorney's fees awarded pursuant to section 440.34, Florida Statutes. 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 DCA concluded that "the statute is constitutional, both on its face and as applied."¹² That was also certified to the Supreme Court as a question of "great public importance."

Castellanos was 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.¹³

The Florida Supreme Court delivered its decision on April 28, 2016, in Castellanos v. Next Door Company.¹⁴ The Court was unable to conclude that the statutory limitation on attorneys' fees was unconstitutional on its face. The Court elected not to declare the statute unconstitutional as applied to Castellanos. The Court instead concluded that any limitation in Florida law that does not afford judicial discretion is an irrebuttable presumption and unconstitutional. An academically honest interpretation of the implications of this decision may be broad and potentially impact a variety of Florida statutory parameters, both within workers' compensation and beyond. The effect of the Court's Castellanos decision is destruction of any objective limitation on claimant attorneys' fees

under section 440.34. The sole remaining limitation on fees is now a determination of “reasonable” by the Judge of Compensation Claims.

The limitation of “reasonable” is not new to attorneys’ fees in workers’ compensation. In the original Florida Workers’ Compensation Statute section 5966¹⁵ required approval of the commission for legal service fees, §5966(34), Fla. Stat. In 1955, the modifier “reasonable” was added to what was by then section 440.34, Florida Statutes, (“be awarded reasonable attorney fee, to be approved by the commission”). That modifier requiring reasonableness was present thereafter in section 440.34, but the measure of reasonableness was modified.

The Florida Supreme Court concluded that the Canons of Professional Ethics, governing the ethics of attorneys’ fees, was “a safeguard in fixing the amount of [E/C-paid] fees awarded to the claimant.”¹⁶ In 1966, the Florida Supreme Court rendered Lee Engineering & Constr. Co. v. Fellows.¹⁷ 209 So.2d 454 (Fla. 1966). There the Court concluded that a “schedule of fees ... was helpful but unreliable.” The Court therefore directed that “reasonable” fees be awarded instead, and delineated a series of considerations, or “factors,” to be analyzed in determining reasonableness. Those became commonly referred to as the “Lee Engineering Factors.” As the Court noted in Castellanos, the process became one in which “the JCC applied the formula and then increased or decreased the amount after consideration of the factors in order to determine a reasonable fee.” Castellanos, 440.

This process was codified in the 1977 legislature, which statutorily adopted “factors” to be considered in deviating from the statutory formula fee. Those factors were divided into paragraphs (a) through (h).¹⁸ This remained the same until 1994 when further revisions were made to section 440.34, Florida Statutes (1994). The formula was altered, and the factors were reduced, resulting in a similar but shorter list of (a) through (f).¹⁹ In 2003 judicial discretion for deviation from the formula was removed from the statute.²⁰ However, the word “reasonable” remained modifying “attorney fee.”

Following a series of challenges, the Florida Supreme Court in Murray v. Mariner Health²¹ elected to not address the constitutionality of section 440.34, Florida Statutes. Instead the Court 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”²² fees despite the seeming limitation of the statutory percentage calculation.²³

Following rendition of the Supreme Court’s Murray decision, in the spring of 2009, the Florida Legislature amended section 440.34, Florida Statutes (2003), to remove “reasonable,” and, thus, to again forbid hourly fees. It was this statute which faced review in Castellanos, and which has been declared invalid. Thus, from some perspectives the 1994 attorney fee statute would seemingly be revived.²⁴ The Court in Castellanos endorsed revival: “our holding that the conclusive fee schedule in section 440.34 is unconstitutional operates to revive the statute’s immediate predecessor.”²⁵ The Court did not articulate specifically what it perceived to be the “immediate predecessor.”

The Court then declared “Only where the claimant can demonstrate, based on the standard this Court articulated long ago in Lee Engineering, that the fee schedule results in an unreasonable fee—such as in a case like this—will the claimant’s attorney be entitled to a fee that deviates from the fee schedule.”²⁶ And, thus, without stating specifically, the Court clarified that the “immediate predecessor” is more likely the 2003 statute, not the 1994 statute.²⁷ This is logical as that statute, including “reasonable,” is the “immediate predecessor” of the 2009 statute (sans “reasonable”) that is stricken by Castellanos. Thus, the parameters of Lee Engineering (that is, (a) through (h)) are appropriate considerations based upon the Court’s pronouncement. The arguments for the more limited analysis, (section 440.34, considerations (a) through (f)) seem unsupported.

The Castellanos decision departs from the usual analysis of constitutional infirmity. The usual course would consider constitutionality whether “on its face” or “as applied.” Few considered a “facial” determination to be a likely outcome. Meanwhile, many saw a variety of procedural obstacles to future litigation if the court determined the statute unconstitutional “as applied.” The Judges of Compensation Claims lack authority to make any determination of constitutionality. Thus, any “as applied” analysis by the court was perceived as setting the stage for a parade of claims²⁸ to the First District Court of Appeal for case-by-case determinations of appropriate fees following any “as applied” decision.

The court instead adopted a very broad analysis of presumptions in Castellanos. Though section 440.34 does not include the word “presumptive” or “presumption,” the court engaged an analysis focusing upon its conclusion that any limitation or parameter, which is not subject to challenge, is an “irrebuttable presumption” and as such is facially unconstitutional. By this legal standard, implying “presumption,” a great many statutory parameters and limitations might likewise be unconstitutional. Caps and limitations including speed limits, statutes of limitations

and minimum sentence requirements are but a few that might similarly be misinterpreted as “irrebuttable presumptions.”

The impact of the Castellanos and Westphal decisions was immediate. In May 2016, the National Council on Compensation Insurance sought a 17.1% rate increase based upon the Castellanos decision and the legislative adjustments to the Florida medical fee schedule. Following the publication of Westphal, an amended filing was made requesting an increase of 19.6%.²⁹ The Florida Office of Insurance Regulation (OIR) denied that request September 27, 2016, finding it had “not been justified.” The OIR instead approved a 14.5% increase in rates effective December 1, 2016.³⁰ An attorney that represents injured workers filed a lawsuit against the Florida Office of Insurance Regulation and the National Council of Compensation Insurance. The allegations of this suit were broad and included claims that the process for determining proposed rates in Florida workers’ compensation violated the requirements of open government (Sunshine law), and that the rate-determination process should be both enjoined at that time and altered in future proceedings.³¹

On August 13, 2014, Circuit Judge Jorge Cueto, Miami/Dade County, issued an order in Florida Workers’ Advocates v. State of Florida.³² 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.³³

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. Florida v. Florida Workers’ Advocates, 167 So.3d 500 (Fla. 3rd DCA 2015). 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.³⁴ 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.³⁵

The FWA requested review of the Florida Supreme Court in a filing dated July 7, 2015. Review was denied by the Supreme Court December 22, 2015. Florida Workers’ Advocates v. State, 192 So.3d 36 (Fla. 2015).

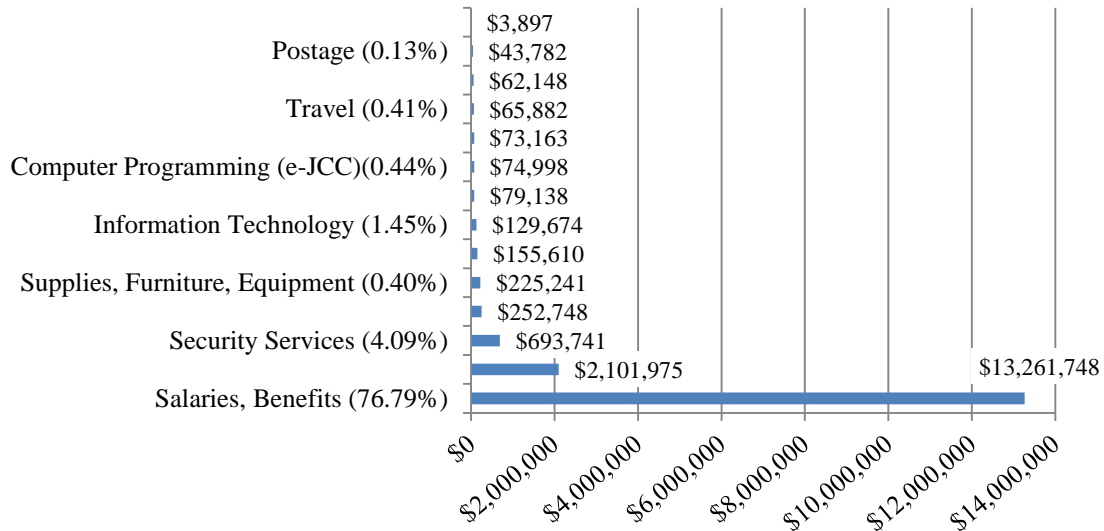
Florida has not been alone in high-profile workers’ compensation litigation in the last year. Oklahoma’s Workers’ Compensation Commission concluded that the state’s opt-out provision was unconstitutional. A later review by the Oklahoma Supreme Court reached the same conclusion.

Florida workers’ compensation is a self-executing system defined by chapter 440, Florida Statutes.³⁶ The purpose of workers’ compensation is to provide individuals injured at work with certain defined benefits for the treatment of the resulting medical condition(s) and for replacement of a portion of the wages lost as a result of an accident. Chapter 440 defines who participates in the workers’ compensation system, and delineates the participant’s rights and responsibilities. Commentators contend that Florida’s law will remain the subject of challenges and disputes regarding limitations on benefits. Some anticipate additional rulings from the Florida Supreme Court on such questions.

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 a “servicing agent.” 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.³⁷ The vast majority, over ninety-three percent (93.22%), of the OJCC budget is expended on payroll, rent for the seventeen OJCC District Offices and the OJCC Central Clerks office, and security for those offices for the protection of personnel and the public, as described in the following graph.



These percentages have not changed markedly in recent years. However, inflation continues to drive lease rates on premises and sporadically legislative approval of much needed cost-of-living salary adjustments have increased expenditures for salaries and benefits.

Data Collection and Reporting

This report is produced and published pursuant to statutory mandate. §440.45(5), Fla. Stat.³⁸ The accuracy of the data in this report is dependent 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 the publication of an illustrated database user manual, and both 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 Clerks 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.³⁹ 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.

This annual report marks a departure in the methodology of quantifying trials. In 2006, a committee of Judges of Compensation Claims addressed the historical issue that this agency has faced in this regard. Prior to the legislative transfer of the OJCC to the Division of Administrative Hearings (DOAH), there were efforts at gathering and representing data. However, definition and consistency were difficult. There was no definition of "trial" and each of the 31 judges made independent definitions of what event constituted a trial.

There were abuses under this paradigm. One judge was known to consider a "trial" to be any event which "raised his blood pressure." There were instances in which parties, despite having reached an amicable resolution of issues, were required by judges to present for the scheduled trial so that the terms could be recited on the record. Thus, there was manipulation and inconsistency.

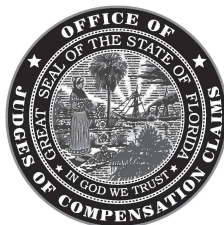
In 2006, the committee concluded that it would be appropriate to include the known trial events in the definition. Final Hearings regarding petitions for benefits, and hearings regarding contested attorney fees pursuant to a verified motion or verified petition required no real analysis. But, there was recognition that some other evidentiary matters were similar to such proceedings, in that evidence would be required to determine the matter and a substantive order would be required to adjudicate the issue. Thus, the OJCC adopted a definition of "trial" that included merits hearings, contested fee hearings, and evidentiary motion hearings.

The trial volumes, time to trial and time to order calculations have included the orders in this definition for ten years. That inclusion has not been without controversy. Each order entered by a Florida Judge of Compensation Claims is uploaded to the appropriate case docket. When that filing occurs, the filer characterized the order. Thus, how any order was initially characterized was dependent upon the judgement of the filer, be it judge or staff at the judge's direction.

Each year, the "trial orders" were reviewed and audited in the preparation of this report. Many were removed annually from the "trial order" list. These were orders that should not have been characterized in the filing process as "trial orders." They were non-substantive orders, orders entered without a hearing (no hearing, no "trial"), and orders entered when no evidence was either needed or introduced.

In the course of that process in 2016, a large volume of orders was identified that did not belong in the "trial order" categorization. Through the audit process critical to this report, various excuses and contrivances were enunciated to excuse the inclusion of these orders in the population of "trial orders." The most disturbing of the excuses/justifications was that this Office should strive to appear engaged and busy, and these contrived orders would support such a conclusion.

The clear conclusion is the antithesis of that justification. This Office has no obligation to "look" busy, but is instead obligated to effectively and efficiently process, mediate, and adjudicate workers' compensation claims. The efforts of this office should be measured as required by law. But, those measurements should be accurate and concise, not contrived or concocted. Therefore, the definition of "trial order" was changed in 2016 to include only Final Hearings regarding petitions for benefits, and hearings regarding contested attorney fees pursuant to a verified motion or verified petition. That change results in lower trial volumes, and longer periods "to trial" and "to order."



Electronic Filing Initiative:

Having led the way into the twenty-first century in 2005-06 with deployment of electronic filing (“eFiling,” or “eJCC”), 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 eFiling 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 neatly integrated electronic filing and service system that is exemplary.

In 2015-16, five hundred forty-five thousand six hundred ninety-five (545,695) 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,⁴⁰ the cumulative end-user savings to date generated by this eFiling system, by the end of fiscal 2015-16, were at least two million nine hundred sixty-nine thousand four hundred seventy-eight dollars (\$2,969,478). The total savings to the state is four million three hundred twenty-six thousand one hundred thirty-five dollars (\$4,326,135). The combination is over seven million dollars in savings, and the total OJCC investment to date is just over one million dollars. The eJCC return on investment from eFiling is about 700%.

Electronic service was added to the eJCC 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. The eService savings, combined with eFiling savings is thus about ten million dollars. This achievement is particularly gratifying in light of issues and complications experienced by other states’ systems that have expended large special fund allocations building and deploying electronic filing.⁴¹ The Office of Judges of Compensation Claims’ success with eFiling and eService has been achieved without any extraordinary budget allocations. The aggregate total programming cost to date barely exceeds one million dollars.

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%
2015-16	545,695	4.5%

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.

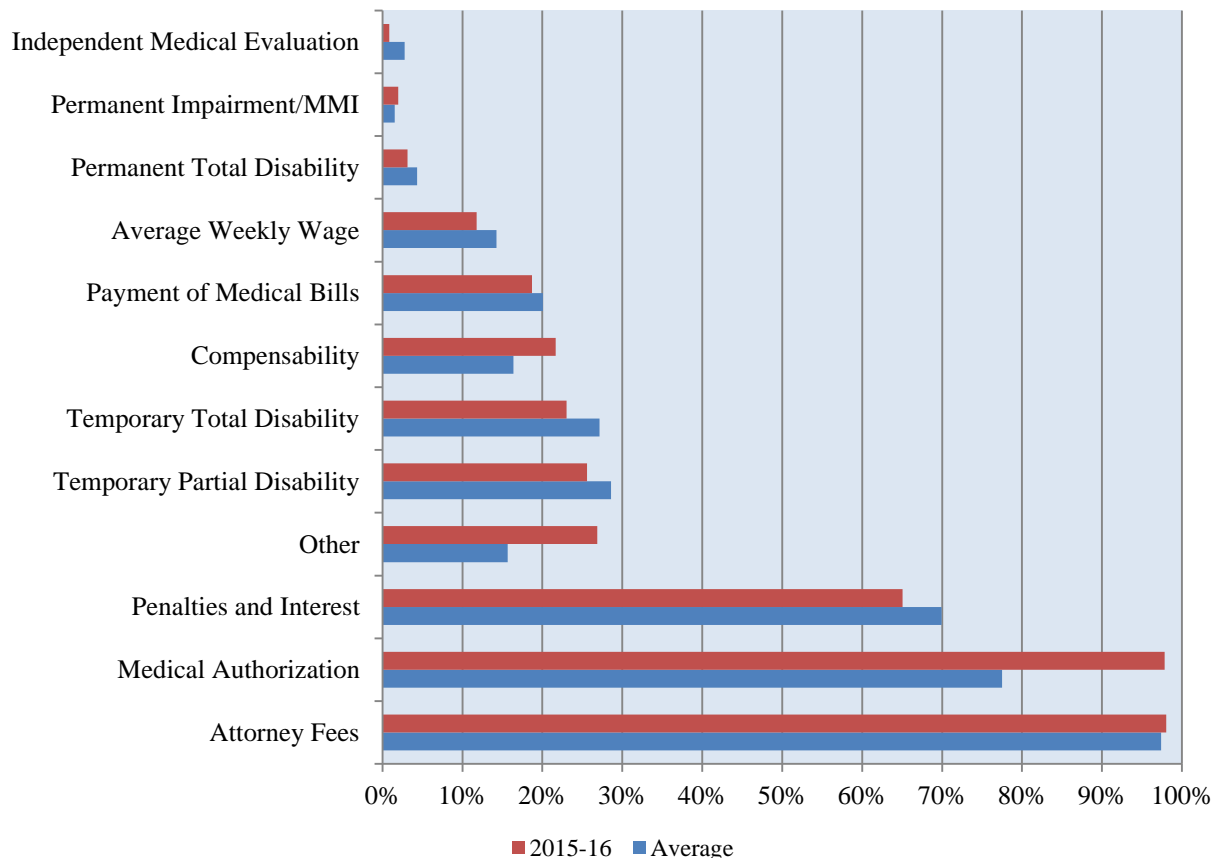
There remains one irreconcilable issue with the reporting of the “number of litigated cases.” In workers’ compensation, there simply is no clear definition for “cases.”⁴² Litigation in Florida workers’ compensation is usually instigated with a Petition for Benefits (“PFB”). Each PFB might seek a single benefit, or many benefits.⁴³ 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.⁴⁴ 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 2015-16 could seek resolution of an issue regarding an accident that occurred that year or perhaps many years prior.⁴⁵

Another measure of volume is the “new case” PFBs 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” volume 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 pled 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 motions⁴⁶ 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.⁴⁷

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 twelve-year period 2003-04 through 2014-15 (blue bars on the bottom of each category) and the rate of filing for those categories in the current fiscal year, 2015-16 (red bars). The rate of medical authorization claims has been noteworthy for the last five fiscal years (2011-12 through 2015-16). The volume of “compensability” and “other” disputes was also notably above average in each of the last four (2012-13 through 2015-16) fiscal years. However, as reported in the annual Settlement and Mediation Report, the volume of settlements on denied compensability cases has not fluctuated similarly. This is likely attributable to the very small data set represented by the *pro se* denied cases which are reported there.



Gross Petition for Benefit (“PFB”) Filing

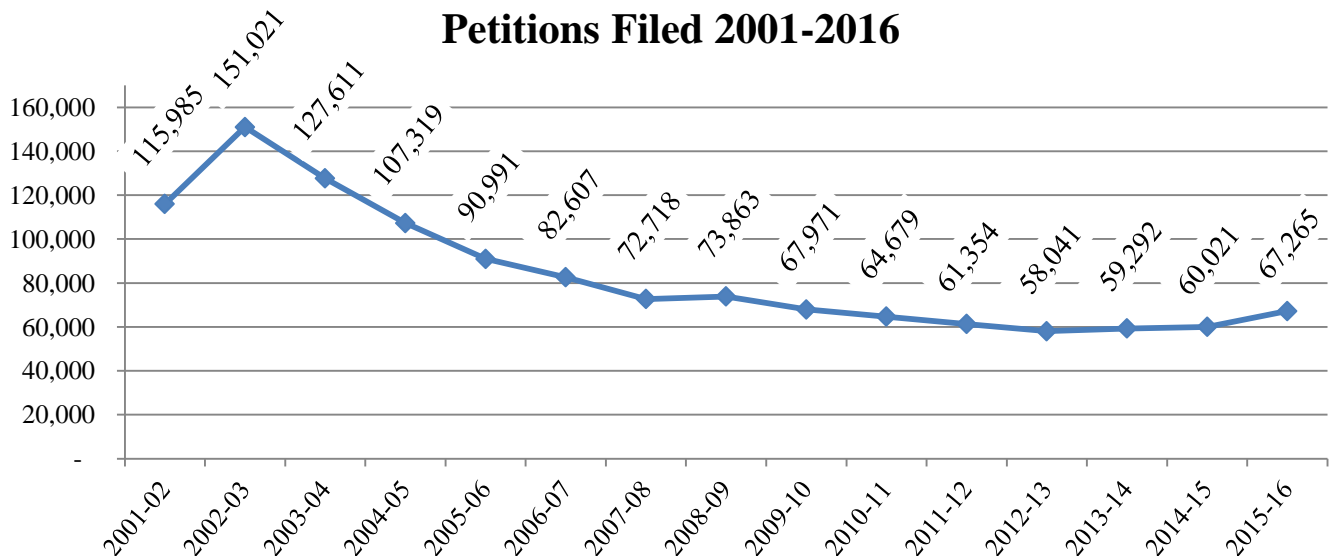
The Florida Legislature enacted significant amendments to the Florida Workers’ Compensation Law in 1994 and again in 2003. After the 1994 reforms, PFB filing volume consistently increased each year. Just prior to the 2003 reforms, annual PFB filings peaked at 151,021. The progressive increase in PFB filings between 1994 and 2003 belies 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 2015-16 was about 76% higher than the 38,254 filed in 1993 before that “sweeping reform” was passed.⁴⁸

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%
2015-16	67,265	12.1%

One component of the 2003 reforms was an amendment to section 440.34, Florida Statutes, which addresses the payment of attorneys’ fees in workers’ compensation cases.⁴⁹ The interpretation of that statutory change was litigated extensively, and multiple decisions of the Florida First District Court of Appeal (DCA) interpreted section 440.34, Florida Statutes (2003) as limiting fees to a “percentage of recovery” fee.⁵⁰ Under those DCA interpretations of section 440.34, hourly attorneys’ 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 section 440.34 differed from the DCA decisions, and effectively restored entitlement to hourly attorneys’ fees for cases with a date of accident after 2003. It is possible the marginal increase (1.6%) in 2008-09 was related to the Murray decision.⁵¹

In the spring of 2009, the Florida Legislature amended section 440.34 to again forbid hourly fees. Therefore, the Court’s Murray decision affects cases between October 1, 2003, and July 1, 2009.⁵² The mandatory fee schedule was thus in effect again beginning July 1, 2009. Castellanos v. Next Door Company, 192 So.3d 431 (Fla. 2016) was decided in 2016. This decision concluded several key points. First, those attorneys’ fees are the most important element of the Florida workers’ compensation law.⁵³ Second, that limitations on fees are unconstitutional. And, that access to counsel is a critical element of the workers’ compensation system.

It is, again, possible that perceptions of the outcome of a case, Castellanos in this instance, is affecting PFB filing volumes currently. Some suggest instead that the Florida economy is rebounding from the Great Recession⁵⁴ 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.



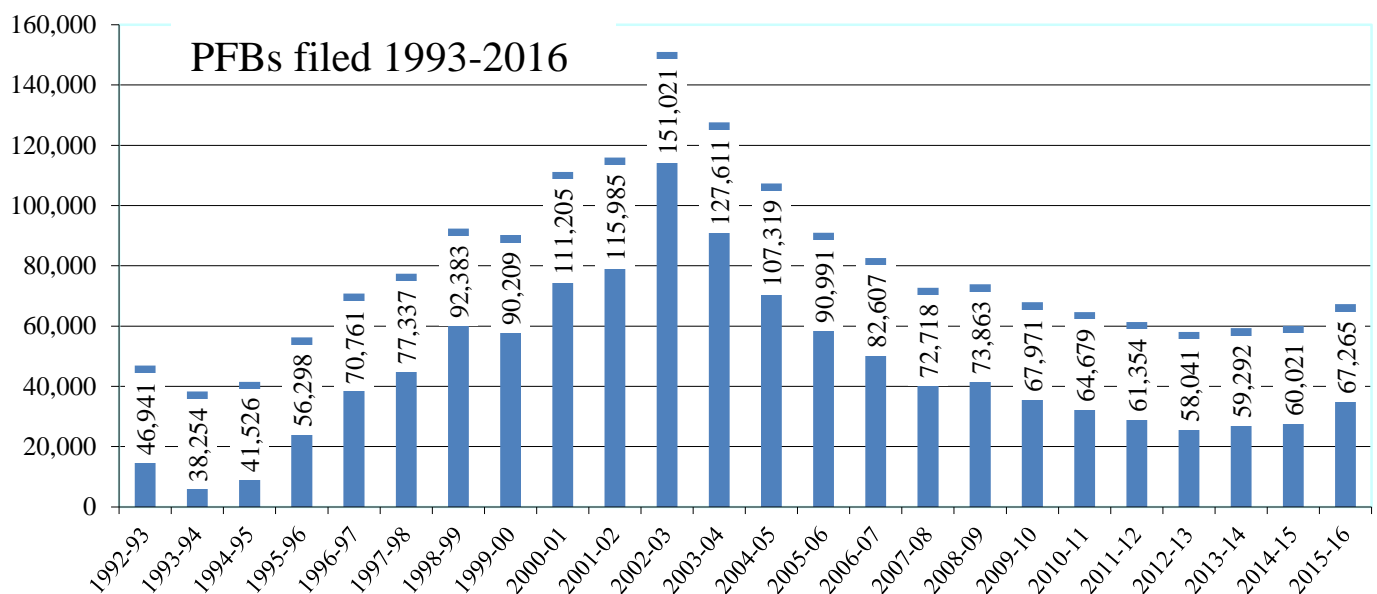
Florida workers' compensation premiums decreased significantly after the 2003 reforms. The cumulative premium decrease through fiscal year 2008-09 was approximately 58%. Interestingly, in that same time period, PFB filings had decreased approximately fifty-two percent (51.85%), which might be interpreted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

Fiscal Year	PFB change	Premium change
2009-10	-8.0%	
2010-11	-4.8%	7.80% ⁵⁵
2011-12	-5.1%	8.90% ⁵⁶
2012-13	-5.4%	6.10% ⁵⁷
2013-14	2.2%	0.7% ⁵⁸
2014-15	1.2%	-2.50% ⁵⁹
2015-16	12.1%	-5.10% ⁶⁰

Despite consistently decreasing PFB filing rates between 2009-10 and 2012-13, workers' compensation rates increased annually as depicted in this chart. Notably, the rates changes are approved in the fall of each year. The filing rates reported demonstrate PFB volumes prior to each described premium change. The effect, if any, of such PFBs might not become apparent for months or even years after filing. Thus, while the rate of filing is interesting, it is in fact the effect of filing, that is, whether injured workers prevail or not, that would actually affect premium.

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 2015-16 filings (67,265) remain about 76% higher than in 1993-94 (38,254). And, the filing trend is upward at this time. In coming months, that trend may moderate or become more profound, and should be monitored carefully.

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.⁶¹ Some question as to the validity of these figures is raised by the fact that the Petition for Benefits (PFB) process was not added to chapter 440, Florida Statutes, 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. And, since that time the trend has indicated increased filings. Preliminary data for fiscal 2017 indicates the potential of significantly increased petition filings, consistent with the demonstrated trend.



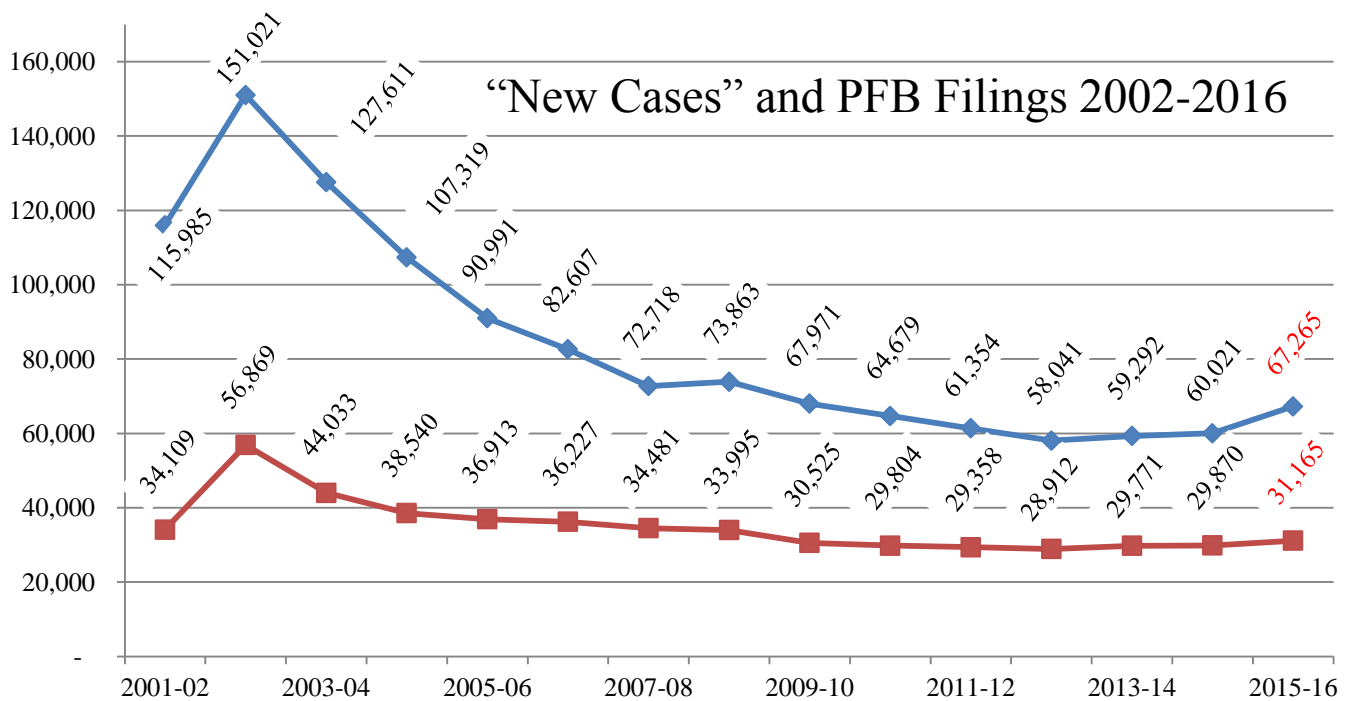
New Case Filing

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 cases are entering the OJCC litigation process, and is not affected by the serial nature inherent to workers’ compensation generally, and thus of PFB filing.

Generally speaking, this is the inverse of the volume of settlements approved in a year, which is similarly statistically indicative of the trend rate at which cases are leaving the OJCC litigation process. Although cases can be resolved without settlement, those that are not settled may have some potential to return to the litigation process regarding some future additional claims or issues. The “new case” measure may arguably be a more accurate indicator than PFB filing volume of the effect of legislative changes to the substantive benefits provided to Florida employees through chapter 440, Florida Statutes.

However, a “new case” filed in 2015-16 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.⁶² 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. That trend continued in 2015-16, and the rate of increase may be strengthening. 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 had not occurred since 2002-03. It was suggested in the 2014-15 Annual Report that the demonstrated second year of increased volume could be significant. It is now suggested that the third year of increase in 2015-16 substantiates an upward trend, of as yet unknown extent or cause.

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, peaking in 2014-15, and most recently trending down.

Fiscal Year	PFBs Filed	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%
2015-16	67,265	31,165	46.3%

In summary, the available data supports several conclusions. First, the overall PFB volume stabilized in 2008-09, and returned to a measured and consistent decline thereafter. In 2013-14 PFB volume began to increase, and that trend has continued over the last three years. 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%). The trend for “new cases” is

likewise now trending upward for the last three years. However, the PFB volume is still remarkably lower than historically experienced. The 2015-16 volume is similar to 2009-10, but remains much lower than in the years 2001 through 2008-09. Though the percentage of “new cases” has declined to 46.3% in 2015-16 (as the rate of increase in overall PFB volume has strengthened), and is similar to percentages in 2008-09 and 2010-11, it remains significantly higher than in the first years of the century. 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 attorneys’ fee payments, as amended in 2003. One might conclude that there is a perception that litigation early in a claim was more lucrative than subsequent litigation. Such a perception might be demonstrated by a willingness to file new cases,⁶³ but reluctance to litigate arguably minor issues thereafter due to fee compression. 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.⁶⁴ If this contention holds, Florida might expect to see continuing increases in PFB filing volume with the attorney fee changes.⁶⁵

In the past fee statute iterations, hourly fees were common. Thus, 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. The strict percentage fee calculation in place since 2009 may have influenced market behavior, and their elimination may likewise affect behavior and therefore volumes.

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 attorneys’ 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 attorneys’ fees and costs, or the claimant could file one PFB seeking both of these and the related attorneys’ 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.

Fiscal Year	PFB	<i>Pro Se</i> 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%
2015-16	67,265	2,947	4.38%

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 sub-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.

Fiscal Year	New Cases	<i>Pro Se</i> 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%
2015-16	31,165	2,947	9.46%

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

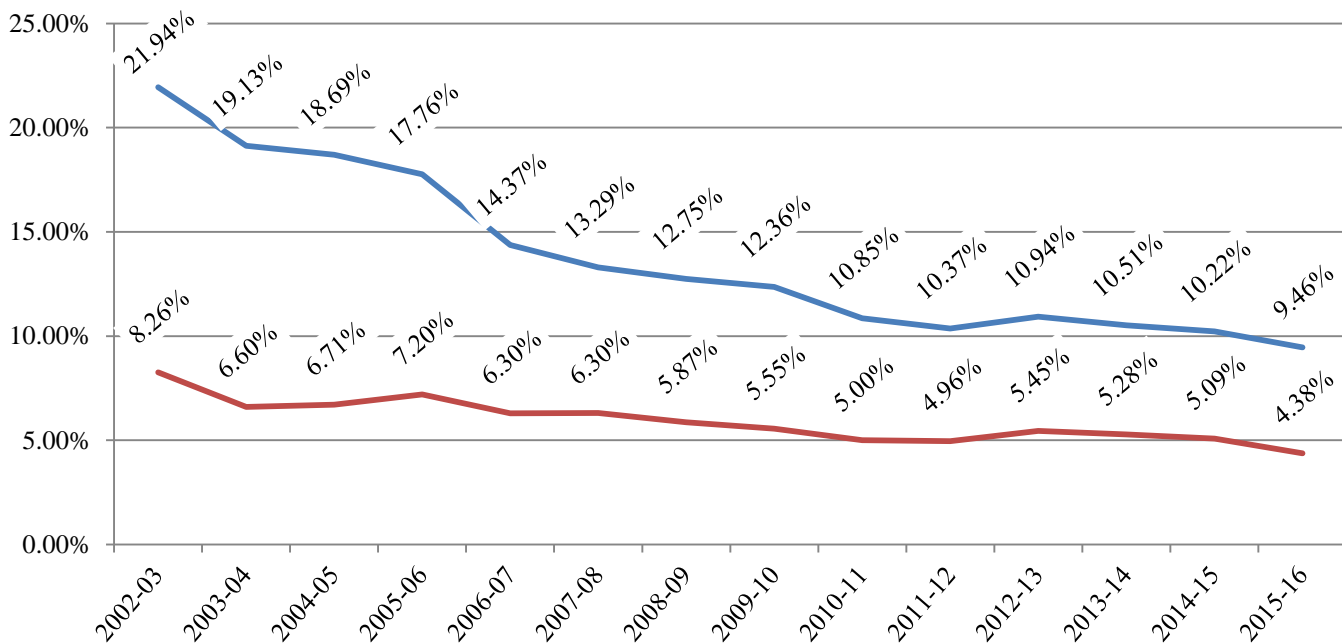
The Office of Judges of Compensation Claims (OJCC) has been asked whether there is evidence of changes in the volume of *pro se* claimants, or claimants who represent him or herself. Phrased otherwise, this question is fundamentally “are more claimants filing their own cases?” This is a difficult question, 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 (a “snapshot”⁶⁶) 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*.

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” or that are *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 necessarily a relevant 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.⁶⁷ 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 PFBs filed in the year.

The available data does not support the conclusion that the *pro se* claimant population is increasing.⁶⁸ 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, although the decrease in 2015-16 is noteworthy and supports continued monitoring. 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.



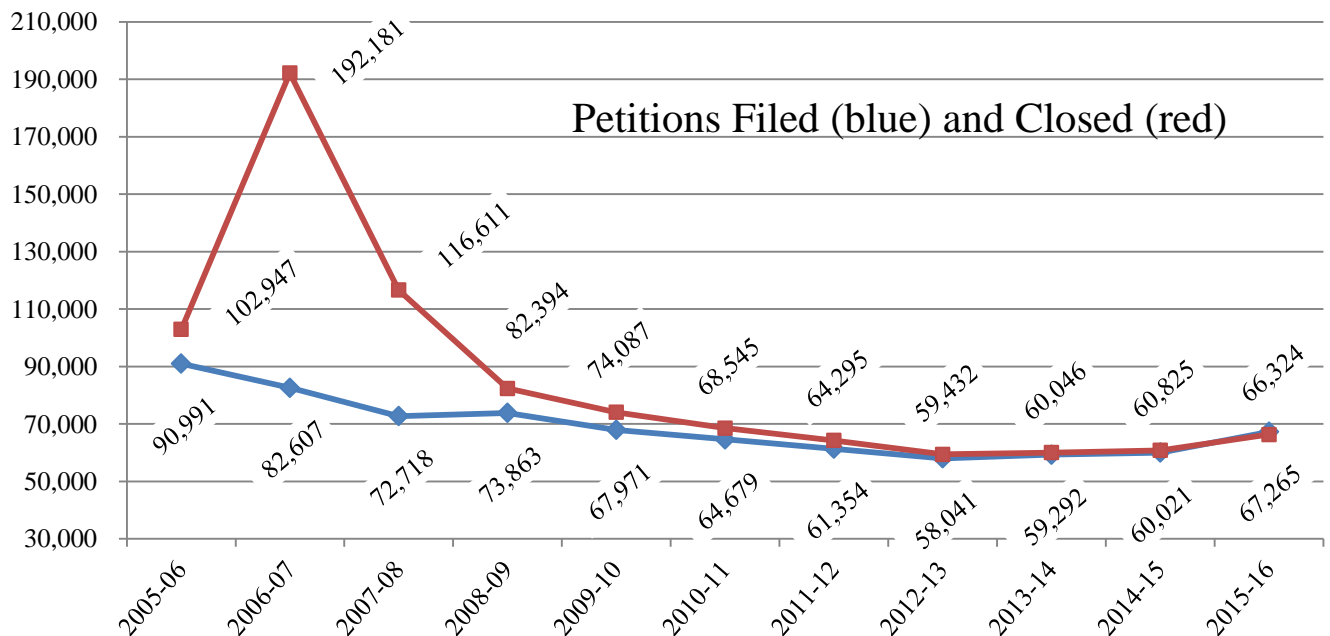
The graph above depicts the ratios of “new cases” (blue) and of the Petitions (red) to the population of *pro se* petitions pending on June 30 of each of the last fourteen (14) fiscal years. These comparisons demonstrate minor fluctuations in *pro se* participation over the last seven fiscal years. The overall trend over the fourteen year period extending back to 2002-03 was generally 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 three 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 section 440.25, Florida Statutes.⁶⁹ 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 section 440.19, Florida Statutes. 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.⁷⁰ 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 and therefore effectiveness 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.⁷¹ 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. Despite these decreases, the Office remains effective and efficient. However, as discussed further below, the extended absence of cost of living pay increases, increasing work volume, and the results on morale are threatening the efficiency and effectiveness of this agency.

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 year 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.⁷² 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.⁷³ When all of the substantive issues in a particular PFB are

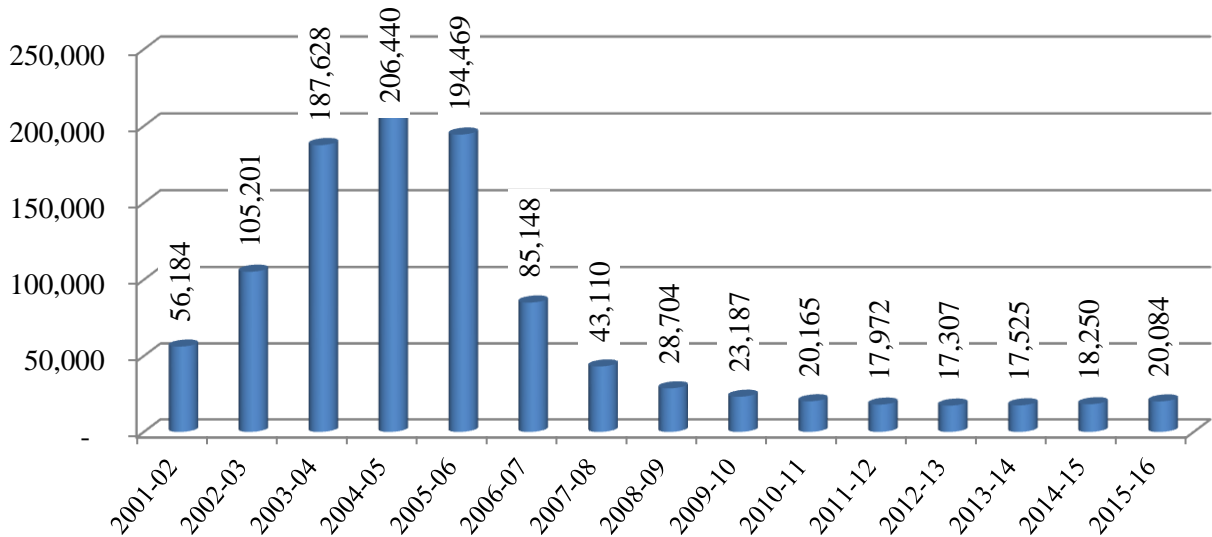
resolved, either by agreement of the parties or adjudication, that particular PFB is then “closed,” and the district staff is responsible for accurately entering this information into the JCC Application (database).

This closure is administrative. Therefore, the undetermined issues that remain are not foreclosed by the administrative closure. These remaining issues are often the attorneys’ fees and costs of the injured worker/claimant.⁷⁴ 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 “publications” and then “reports” tabs). 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 eight 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 20,084 at the end of fiscal year 2015-16. It is noted that year-end inventory is trending to increase over the last three years; this is a concern that bears monitoring and caution.

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 fourteen fiscal years, one million one-hundred forty-four thousand seven hundred fifty-three (1,144,753) PFBs have been filed, and one million one hundred eighty-two thousand five hundred sixteen (1,182,516) PFBs have been closed. This is an approximate overall closure rate of one hundred three percent (103.3%).

This further supports the conclusion that the OJCC successfully managed the significant 2002-03 PFB filing spike, as discussed above, and continues to progress to better and more consistently managed dockets. Significantly, the OJCC has simultaneously evaluated the volume of PFBs transferred as “open” from the DLES, and the JCC Application database now accurately represents the actual status of those PFBs.

This chart illustrates the marked increase in closure rates beginning in fiscal 2005-06, followed by more dramatic closure rates in 2006-07 (232.6%) and 2007-08 (160.4%), resulting from staff training. Obviously, when the volume of PFBs closed during a year equals the number of PFBs filed during the same period, the OJCC litigation process would be in equilibrium. For a number of years, until 2003, the steadily increasing PFB filing rates, coupled with the lack of closure documentation, generated a growing inventory (backlog) of PFBs in some divisions (one judge and staff is a “division”).

Fiscal Year	Petitions Filed	PFB Closed	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%
2015-16	67,265	66,324	98.6%
	1,144,753	1,182,516	103.3%

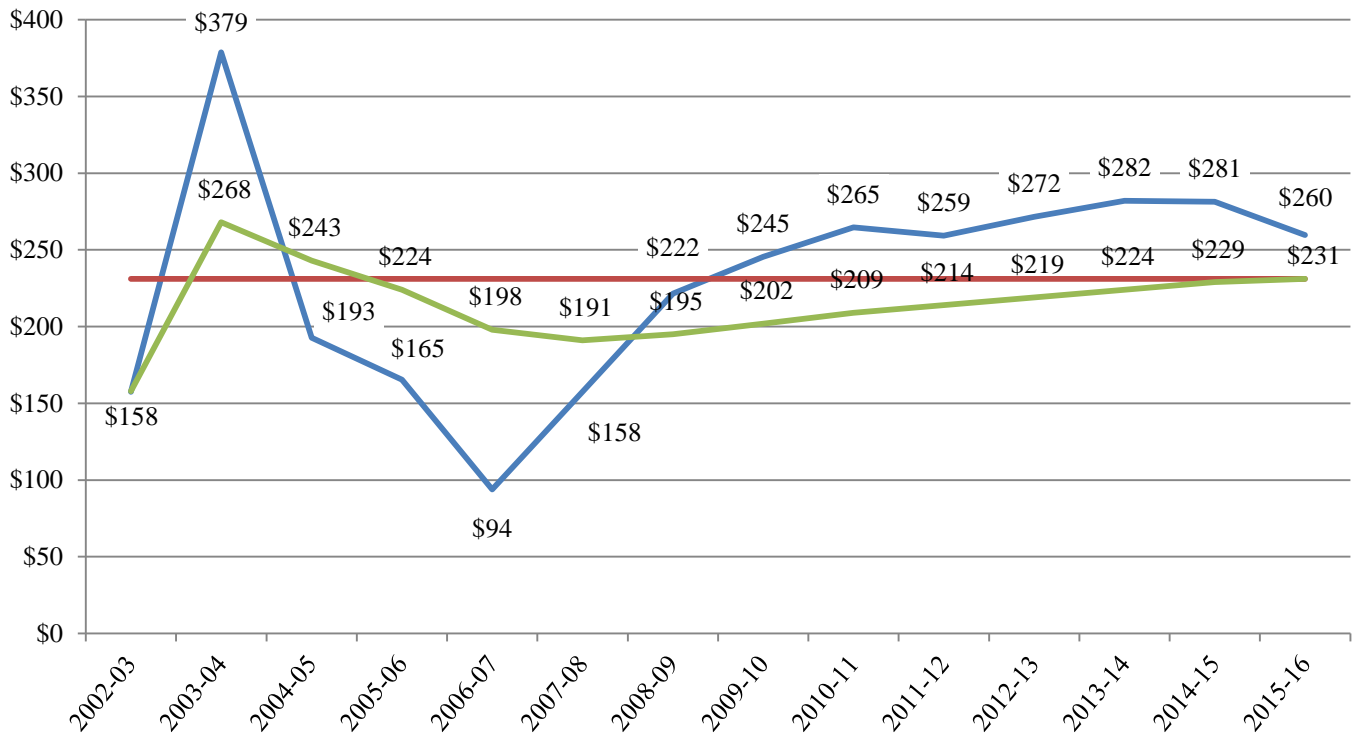
COST OF LITIGATION RESOLVED

The OJCC budget, divided by the number of petitions for benefits (PFB) closed, reflects that the overall cost per PFB closed fluctuated in recent years (see chart, right; graph, below), due in large part to the significant fluctuation in PFB closure rates. These figures demonstrate relevance when considered in comparison to filing fees in Florida’s Circuit Courts.⁷⁵ 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).⁷⁶ 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). Over the last fourteen fiscal years, the average cost per petition closed was \$231.00, just above half the comparable Circuit Court filing fee.

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. The OJCC today is operating on a budget similar to 2005-06. If the 2002-03 budget was adjusted for inflation alone, the 2016 budget of the OJCC would have been \$21,679,850 instead of \$17,225,245, a difference of \$4,454,605, or just over 26%.

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.

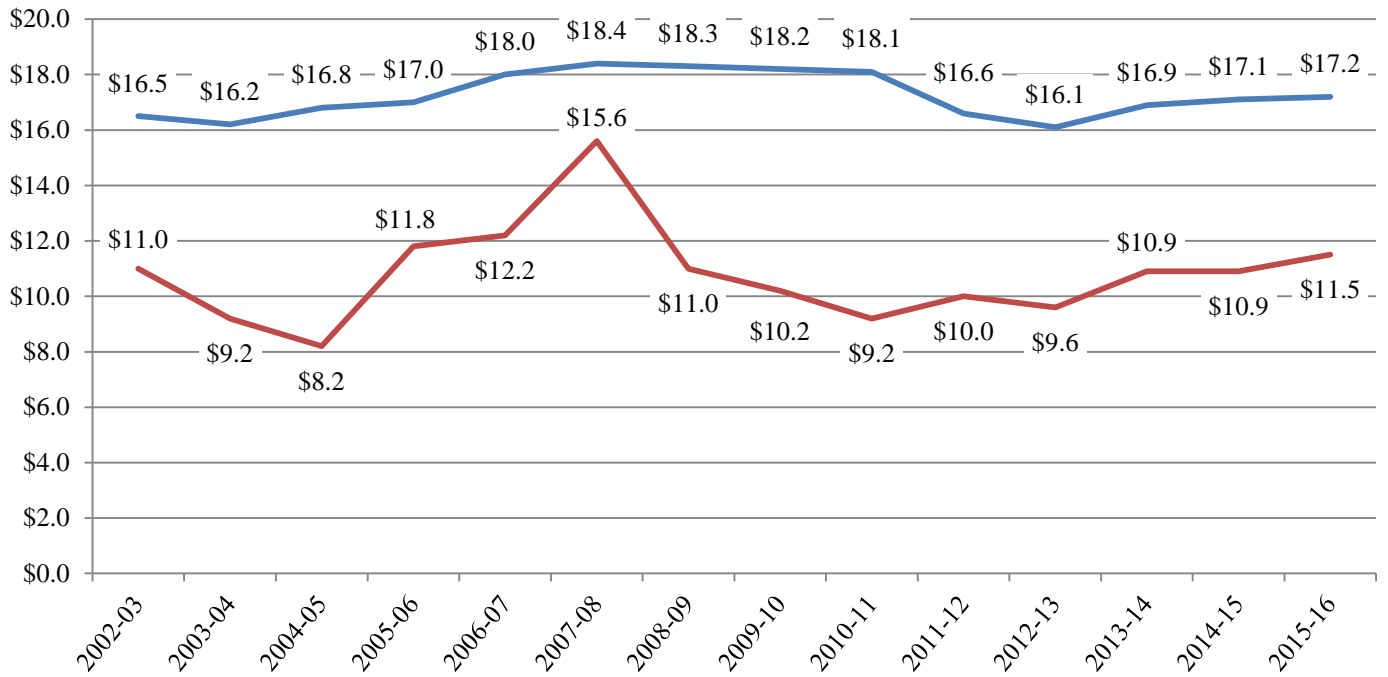
Fiscal Yr.	Annual Budget	Petitions Closed	Cost Each
2002-03	\$16,522,910	104,884	\$158
2003-04	\$16,225,513	42,843	\$379
2004-05	\$16,792,731	87,102	\$193
2005-06	\$17,022,942	102,947	\$165
2006-07	\$18,032,059	192,181	\$94
2007-08	\$18,367,869	116,611	\$158
2008-09	\$18,253,550	82,394	\$222
2009-10	\$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
2015-16	\$17,225,245	66,324	\$260



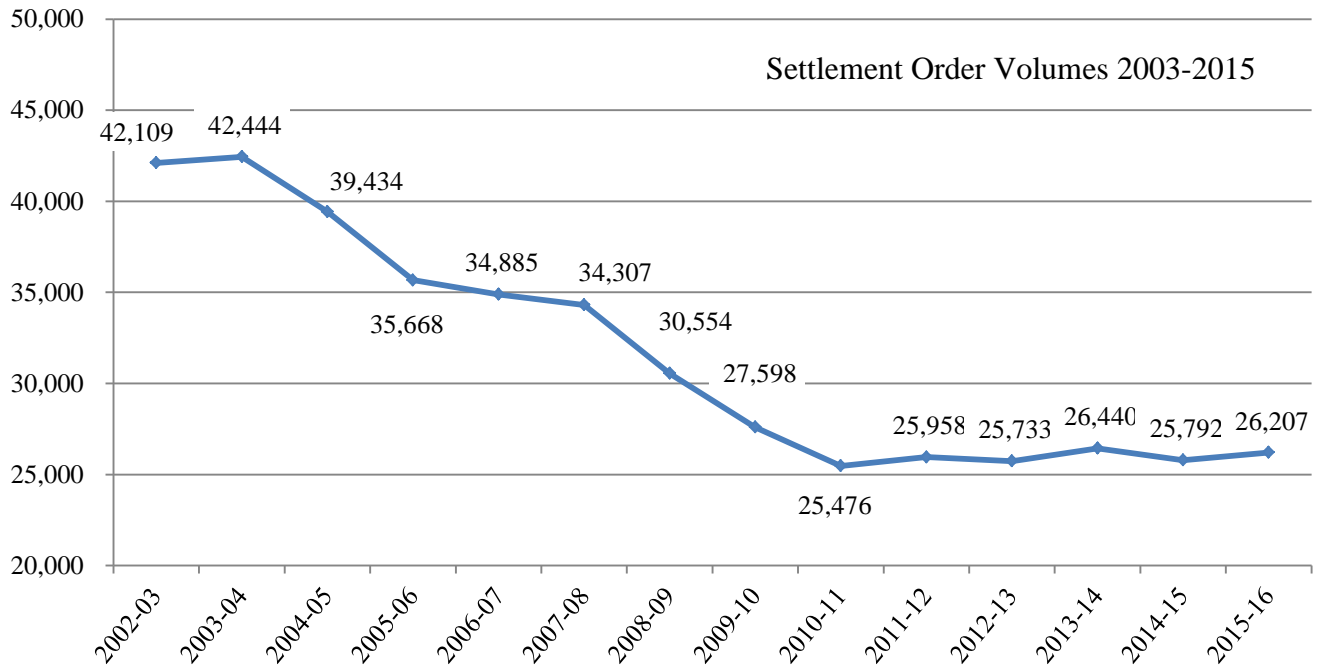
Petition for Benefit (PFB) closure rates have stabilized and closely follow the current filing rates. There is every reason to believe that trend will continue. A minimal volume of overdue PFB inventory may remain unaddressed in this litigation system, which appears from available data, to be in equilibrium. 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 fourteen (14) fiscal years are represented in this table, which total over \$150 million (\$151,305,553). 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 fourteen (14) fiscal years, the OJCC has collected an average of 63% 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 (DOR). In 2013-14 the OJCC integrated the process of reporting Circuit Clerks' arrearage information. This combination eliminated redundancy and waste across the process for all Florida workers' compensation litigants. 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. Because of the sensitive nature of this data, the burden of investigating these support inquiries has fallen primarily on the OJCC mediators and Commission Clerks. 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	\$16.5	\$11.0	67%
2003-04	\$16.2	\$9.2	57%
2004-05	\$16.8	\$8.2	49%
2005-06	\$17.0	\$11.8	69%
2006-07	\$18.0	\$12.2	68%
2007-08	\$18.4	\$15.6	85%
2008-09	\$18.3	\$11.0	60%
2009-10	\$18.2	\$10.2	56%
2010-11	\$18.1	\$9.2	51%
2011-12	\$16.6	\$10.0	60%
2012-13	\$16.1	\$9.6	60%
2013-14	\$16.9	\$10.9	64%
2014-15	\$17.1	\$10.9	64%
2015-16	\$17.2	\$11.5	67%



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 six 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 and the Circuit Clerks through data-sharing agreements. The resulting process, employing a centralized database of child support information in workers' compensation, was finalized in 2013-14 and has worked exceptionally since. 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 beginning early this century. The total expense associated with the development and deployment of these tools is just over one million dollars.⁷⁷ By comparison, other states have developed systems through special appropriations, deploying less robust processes, and spent far more.⁷⁸

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 eJCC 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 e-mail capabilities, as the agency was to be forced into effectively “leasing” e-mail services from a vendor. Deployment of eService 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 eService, leading to deployment of eService in 2012-13. Similar concerns exist as a result of recent discussions regarding consolidation of state data centers into a centralized structure.

Currently, the eJCC system provides electronic service on all insurance carriers and servicing agents, contemporaneously with filing. The next step in the eJCC evolution will be eService 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.⁷⁹

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.⁸⁰ 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 eFiling 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 JCC 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.⁸¹ 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 struggled to retain skilled paraprofessionals. Paraprofessional staff turnover in some portions of Florida has been forty percent (40%) in recent years. Each hour invested in advertising openings, interviewing, hiring, and training new staff represents a significant degradation in the delivery of services to the OJCC customer. OJCC efficiency suffers as a result of the

compensation disparity between the OJCC and other adjudicatory systems in Florida, such as the Article V. Courts. Significant increases in the salaries of these paraprofessional staff members will recognize the complexity of their customer service positions, encourage their retention in the Executive branch, and represent zero cost to the Florida taxpayer.

Similarly, the OJCC has made marked improvements in the delivery of timely services to Floridians. The transparency of performance measures documented in this report, and through the internet-based OJCC data access tools is unprecedented. No other judge in Florida is more accountable than a Judge of Compensation Claims. No other judge in Florida is subject to the array of performance measures, such as those imposed by chapter 440, Florida Statutes. The jurisdictional dollar value presented to Judges of Compensation Claims for adjudication is virtually limitless. In this regard, JCCs’ duties are more comparable to Circuit Judges than County Judges. However, the JCCs perform bench trials, which more often last for hours instead of days. In that regard, JCC duties are more comparable to County Court Judges. However 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 “Publications” and then “Reports” tabs.

The volume of mediations held each year steadily decreased since 2002-03. Three exceptions have now been noted, the first in 2008-09 (+3.95%), the second in 2013-14 (+2.13%), and most recently in 2015-16 (+1.83). The volume of 2015-16 mediations, however, remains roughly 46% lower than in 2002-03. The overall rate of decrease in mediations does not match the rate of decrease in PFB filings over that period, which was -55%. 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 fourteen years.

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%
2015-16	67,265	12.1%	15,703	1.83%

In 2015-16, approximately fifteen thousand (15,703) mediations were held by state mediators, at an average cost of approximately \$173.45, a minimal decrease from the 2013-14 figure of \$176.62.⁸² The cost savings in recent years is due to the legislative action reducing the number of state mediators. The cost will adjust upwards unless the volume of mediations increases or the mediator positions again decrease. It is projected that the current trend of increased petition filing will increase the probability of petitions being referred to private mediation.⁸³

Many private mediators charge *hourly* rates well in excess of these figures, commonly two hundred fifty dollars (\$250.00) per hour or more. Anecdotal evidence also supports that some private mediators charge minimum time commitment (such as a two-hour minimum) for all mediations convened. Therefore services comparable to those delivered by the OJCC mediators, 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-three dollars (\$173.45). 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. In fiscal 2017 the OJCC is undertaking efforts to increase the volume of mediations conducted by the state mediators, with the view towards increasing efficiency and productivity.

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. Most⁸⁴ 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.⁸⁵ 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 timeliness figures. However, that improvement has been coincident with the decrease of PFB filing described elsewhere in this report, and that decreased volume may have been a significant contributing factor. This will be a concern worthy of attention as PFB filings increase as illustrated in current trends.

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 eight fiscal years (2008-09 through 2015-16). This represents 100% statutory compliance by the OJCC state mediators in eight consecutive years. The mediation process has thus been both efficient and effective. For details, see the annual Settlement and Mediation Reports at www.fljcc.org (under the “publications” and then “reports” tabs).

The statutory requirement to send cases to private mediation may have assisted with facilitating more timely mediations in recent years. The action of sending a case to private mediation also represents a significant cost to the particular E/C ordered to private mediation. Likewise, private mediation when there is no pending PFB is a cost. In 2011-12, the OJCC began offering parties the services of the state mediators for voluntary mediation. This allows consensual mediation when there is no pending PFB, and mediation on subjects such as attorney fees that are not appropriate for mandatory mediation. Parties utilizing this service can discuss resolution of issues, facilitate communication, and do so at no cost, using the resources already provided by the OJCC. The voluntary mediation program was recognized by Florida Tax Watch with a Davis Productivity Award.

DISPOSITION OF MEDIATION CONFERENCES

A Petition for Benefits (“PFB”) may seek only one substantive benefit (i.e. authorization of an orthopedic surgeon), or could contain many issues (i.e. orthopedic authorization, neurological authorization, diagnostic testing authorization, correction of the average weekly wage, payment of temporary total, temporary partial, supplemental benefits, and/or permanent total disability benefits, etc.). Virtually all PFBs also include claims for related benefits, such as penalties and/or interest on late paid indemnity benefits, and attorneys’ 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.

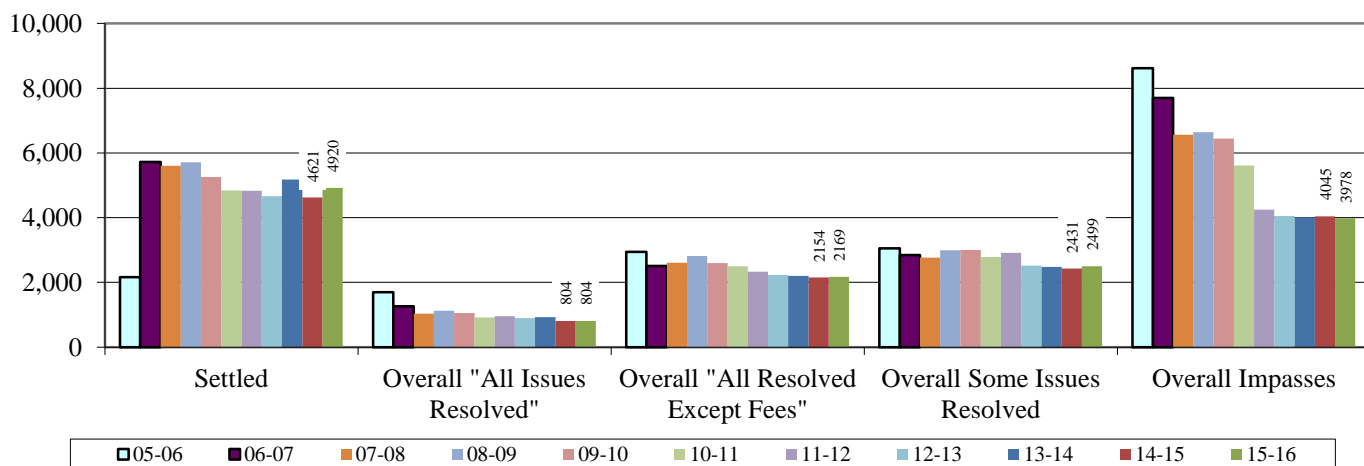
Fiscal Year	Petitions Filed	% Change	Mediations Held	% Change
2002-03	151,021		29,253	
2015-16	67,625	-55.2%	15,703	-46.3%

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.⁸⁶ Some also mischaracterized results achieved after a mediation conference, inappropriately taking credit for resolutions to which she/he may have contributed, but which nonetheless did not resolve at that mediation. 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.

For mediation outcomes, the term “some issues resolved,” reflects that some subset of the claimed substantive issues have been resolved. The term “all issues resolved, except attorneys’ 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 attorneys’ 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 eleven (11) 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 2015-16 remain reasonably consistent with recent years.

The following 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 (31.33%) in 2015-16. The “impasse” category was twenty-seven percent (27.02%) in 2002-03 compared to twenty-five percent (25.33%) in 2015-16. State mediations are obviously very effective in resolving issues. Over the last fourteen (14) years, the convened state mediations have resolved at least “some issues” approximately sixty-three percent (62.6%) of the time. In 2015-16, approximately sixty-six (66.2%) of convened mediations resulted in resolution of some issues.⁸⁷

Year	Mediation Held	Settled	All Iss. Res	All Iss. Res exc. Fees	Some Iss. Res	Impasse	R&R
2002-03	29,253	27.76%	11.17%	8.35%	17.10%	27.02%	8.59%
2003-04	28,072	26.04%	11.27%	9.38%	15.97%	27.63%	8.80%
2004-05	26,410	26.81%	8.28%	11.31%	13.35%	31.00%	8.81%
2005-06	25,522	28.96%	6.67%	11.52%	11.99%	33.81%	6.62%
2006-07	22,258	28.39%	5.79%	11.44%	12.77%	34.89%	6.60%
2007-08	20,021	28.07%	5.22%	13.04%	13.85%	33.00%	6.83%
2008-09	20,812	27.46%	5.41%	13.52%	14.39%	31.91%	7.27%
2009-10	19,864	26.45%	5.31%	13.09%	15.09%	32.44%	7.50%
2010-11	17,896	27.08%	5.14%	13.94%	15.58%	31.35%	6.92%
2011-12	16,881	28.60%	5.65%	13.78%	17.29%	25.19%	9.49%
2012-13	15,850	29.45%	5.62%	14.06%	15.87%	25.58%	9.42%
2013-14	16,188	31.99%	5.69%	13.58%	15.28%	24.78%	8.67%
2014-15	15,421	29.97%	5.21%	13.97%	15.76%	26.23%	8.86%
2015-16	15,703	31.33%	5.12%	13.81%	15.91%	25.33%	8.49%

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 2015-16.

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%
2015-16	67,265	191	0.28%

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 likely 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 (see table above). In 2015-16, one hundred ninety-one (191), an increase from the 172 in 2014-15, mediations were continued, just over one-quarter of one percent (.28%).⁸⁸ 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 decreased in the period 2011-2013, and the rate of PFB filing decline stabilized, the continuance rate as a percentage of PFBs filed remained reasonably stable. With the beginning of a trend of increased PFB volumes, without a notable increase in continuances, the percentage rates may demonstrate further decline in coming years.

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	1.0
2013-14	207	7	0.6
2014-15	172	6	0.5
2015-16	191	6	0.5

The implementation of the “auto-scheduling” of mediations by the OJCC Central Clerks 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 five fiscal years the average annual volume of continuances per judge has been close to 100.

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 five 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.⁸⁹

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
2015-16	3,324	107	8.9

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 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, the rate of continuance likely decreases in direct proportion to the amount of advance notice of trial the parties receive. 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 (8.9) per month in fiscal 2015-16. 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 2004.⁹⁰ 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 eFiling (eJCC), and the described clerk-upload process, has resulted in significant postage savings in the last four fiscal years.

The eJCC program (eFiling) informs each judge of new electronic PFB assignments as those documents are provided in the judge’s “daily filings.” Similarly, each eJCC 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.

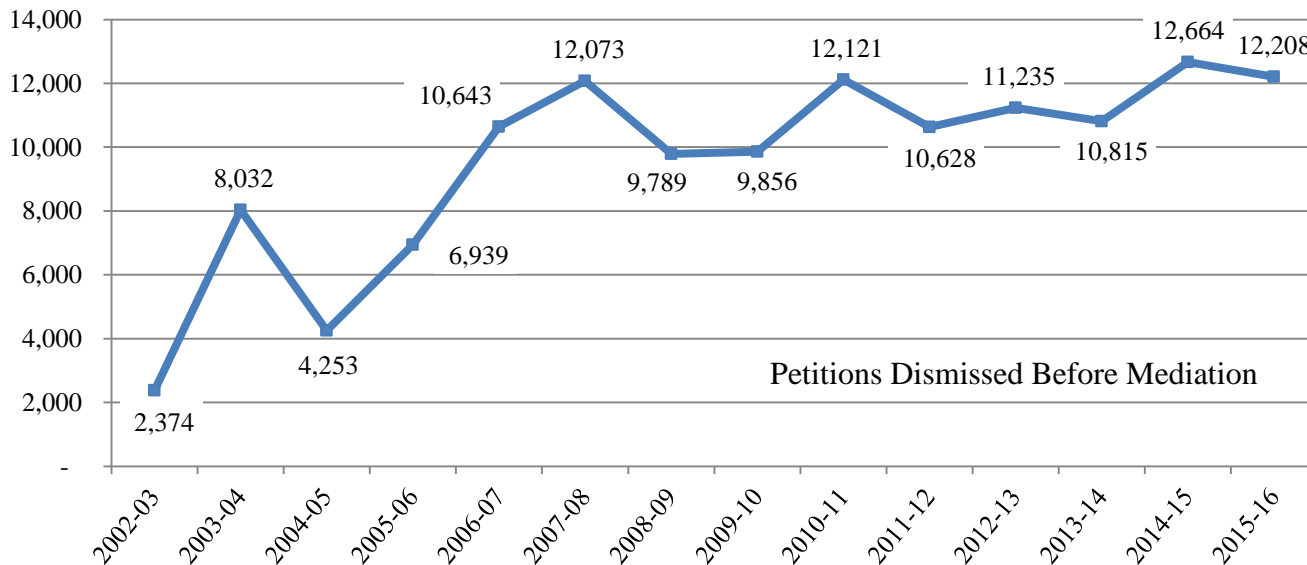
Thus, when the PFB assignment arrives in its assigned division, a mediation appointment has been automatically scheduled, but no notice has yet been sent to the parties. Statutorily, no notice of mediation is sent thereafter, until forty days following the PFB filing.⁹¹ Although an appointment is set 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 attorneys may be decreasing the need to seek continuance of mediation appointments. See above.

Some judges utilize section 440.25(4)(h), Florida Statutes, 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, but may be necessitated with increasing volumes. 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 Clerks Office prior to notification of assignment to the respective district office, placing a PFB in the expedited process requires cancellation of that mediation date. Docket management may face the choice between the expedited hearing process or a private mediation referral.

However, a reasonable volume of PFBs, already scheduled for mediation, will be dismissed prior to that event. The volume of PFBs dismissed, prior to mediation had historically fluctuated markedly, as illustrated in this graph, but has trended to reasonable consistency over the last few years.

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%
2015-16	67,265	12,208	18%

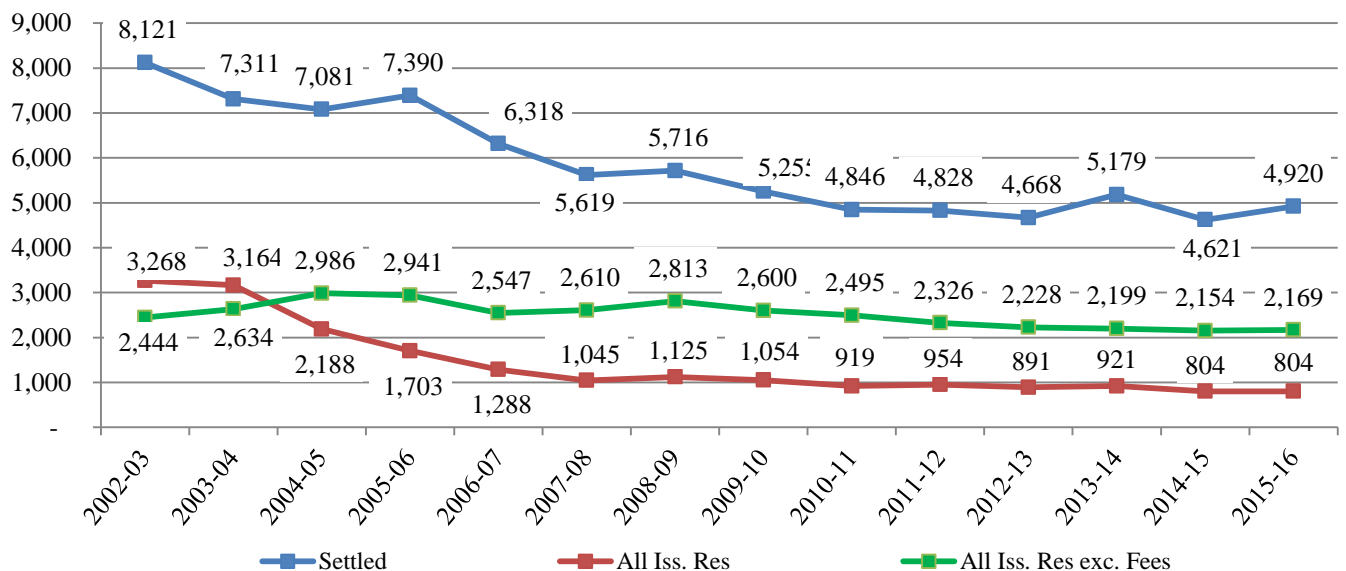


The increase in dismissals, illustrated in this graph, is significant in gross terms. Any petition might be dismissed in the same fiscal year during which it was filed. Similarly, however, a petition might be filed one fiscal year and dismissed in some year subsequent to the filing year. Despite the 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 could have been attributable to the attorney fee limitations imposed by the 2009 legislative reaction to Murray,⁹² 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.⁹³ With the Supreme Court’s Castellanos decision, and the return of hourly fees, the volume of pre-mediation dismissals should be monitored for significant changes.

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 eService in the OJCC eFiling program, use of postage and envelopes is now minimal, with only self-represented (*pro se*) litigants generally receiving paper copies by U.S. Mail.

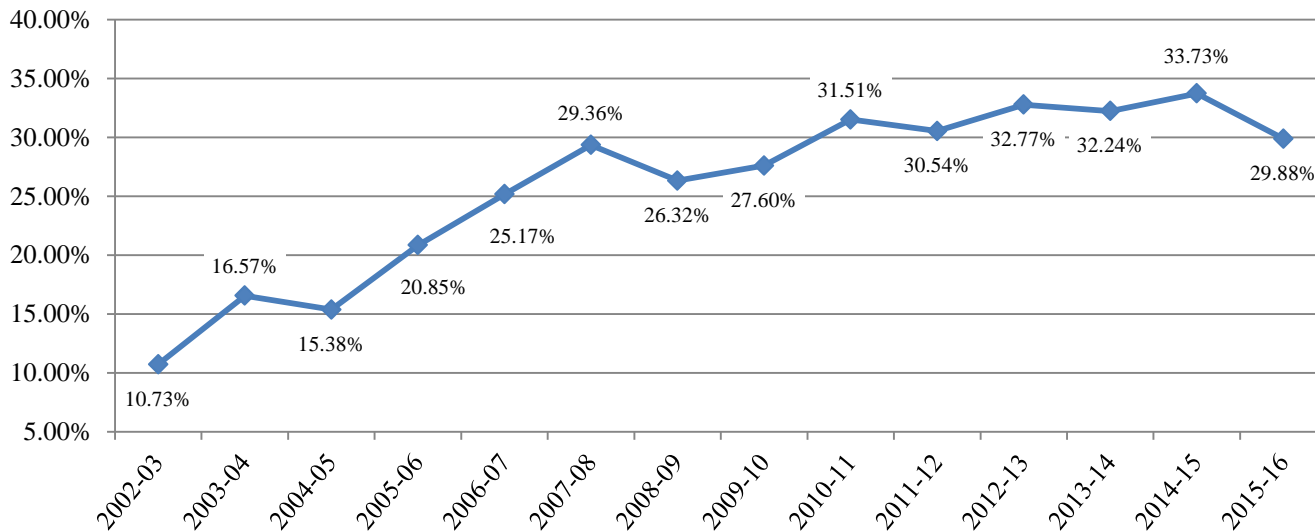
Some JCCs schedule and provide notice of the pretrial and final hearing concurrently with mediation notice. This process of a single notice for three hearings affords the parties significant opportunity to plan their litigation calendar months in advance, and minimizes the effort of OJCC district staff in monitoring case status. The simultaneous notice of all three events is the most efficient process for the OJCC.

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 fourteen (14) fiscal years.



Over the last fourteen fiscal years, these three characterizations have averaged a total of almost half of conducted mediations, forty eight percent (47.67%). 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 or permanent indemnity payments. As unresolved at mediation, the remaining PFB issues must then be scheduled (or remain so) 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 historically 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 over the last fourteen years.



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 2015-16 approximately seventy percent (70.12%) of PFBs filed include some issue or issues that remain unresolved at the conclusion of mediation. This approximate two-thirds rate has been reasonably consistent over the last six 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 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 ATTORNEYS' 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. §440.34, Fla. Stat.⁹⁴ There is no such specific requirement for the approval of fees paid by employer/carriers for their defense counsel representation.⁹⁵ Despite the absence of such specific requirement for defense fee approval, the broad language of section 440.105(3)(b), Florida Statutes⁹⁶ 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.⁹⁷ Since fiscal year 2011 the OJCC rules have required 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. The figures set forth herein for 2002-03 through 2013-14 have been amended.⁹⁸

Order Year 2015-16 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 attorneys' 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

Fiscal Year	Claimant Attorney Fees	Percent Change	Defense Attorney Fees ⁹⁹	Percent Change
2002-03	\$210,660,738		\$216,698,474 ¹⁰⁰	
2003-04	\$215,322,360	2.21%	\$226,585,434 ¹⁰¹	4.56%
2004-05	\$211,157,073	-1.93%	\$259,021,415 ¹⁰²	14.32%
2005-06	\$208,369,260	-1.32%	\$290,172,000 ¹⁰³	12.03%
2006-07	\$191,197,443	-8.24%	\$277,386,580 ¹⁰⁴	-4.41%
2007-08	\$188,701,256	-1.31%	\$260,160,946 ¹⁰⁵	-6.21%
2008-09	\$181,660,686	-3.73%	\$269,280,414 ¹⁰⁶	3.51%
2009-10	\$176,996,765	-2.57%	\$269,657,104 ¹⁰⁷	0.14%
2010-11	\$157,081,084	-11.25%	\$259,323,175 ¹⁰⁸	-3.83%
2011-12	\$152,848,003	-2.69%	\$242,446,703 ¹⁰⁹	-6.51%
2012-13	\$151,889,627	-0.63%	\$240,894,494 ¹¹⁰	-0.64%
2013-14	\$141,858,184	-6.60%	\$237,364,154 ¹¹¹	-1.47%
2014-15	\$136,180,202	-4.00%	\$234,592,581	-1.17%
2015-16	\$136,461,404	0.21%	\$242,112,498	3.21%

were input and uploaded after the data query for that particular fiscal year was initially run).¹¹² Those figures have therefore been corrected in more recent Annual Reports, as noted in the chart here.

During 2015-16, a total of three hundred seventy-eight million, five hundred seventy-three thousand nine hundred two dollars (\$378,573,902) was expended on combined claimant attorneys' fees and defense attorneys' fees¹¹³ (and perhaps defense "costs") in the Florida worker's compensation system. This represents a small increase, about 2%, from the 2014-15 aggregate fee total of three hundred seventy million, seven hundred seventy-two thousand seven hundred eighty-three dollars (\$370,772,783). The 2015-16 aggregate fee total is also very similar to the 2013-14 aggregate total 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. Both figures increased in 2015-16, more significantly on the defense side.

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. The 2015-16 figures could demonstrate an anomaly, but in light of Castellanos, it is more likely an indicator of a trend change.

The aggregate attorneys' fees in Florida workers' compensation are detailed in this chart. 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. Since 2009-10, the defense portion has exceeded 60%. In 2015-16 the defense share was 63.95%, the highest since the 2003 statutory reforms.

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,¹¹⁴ the 2002-03 aggregate (\$427,359,212), in 2015 dollars, adjusted for inflation, would have been \$560,741,738. This is \$182,167,836 more than the 2015-16 aggregate of \$378,573,902. Adjusted for inflation in 2016 dollars, aggregate attorneys' fees in Florida workers' compensation have decreased almost two hundred million dollars in the last fourteen years.

The claimant attorneys' fee aggregate for 2014-15 marked the 11th consecutive decrease in claimant fees. The 2015-16 figures demonstrate a minimal increase in claimant fees. The last fourteen fiscal years of claimant and defense attorneys' fees and the annual rates of change are set forth in this table. It is unclear whether any portion of the increased defense fees in this chart (in the period 2004-05

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	\$392,784,121	38.67%	61.33%
2013-14	\$379,222,338	37.41%	62.59%
2014-15	\$370,772,783	36.73%	63.27%
2015-16	\$378,573,902	36.05%	63.95%

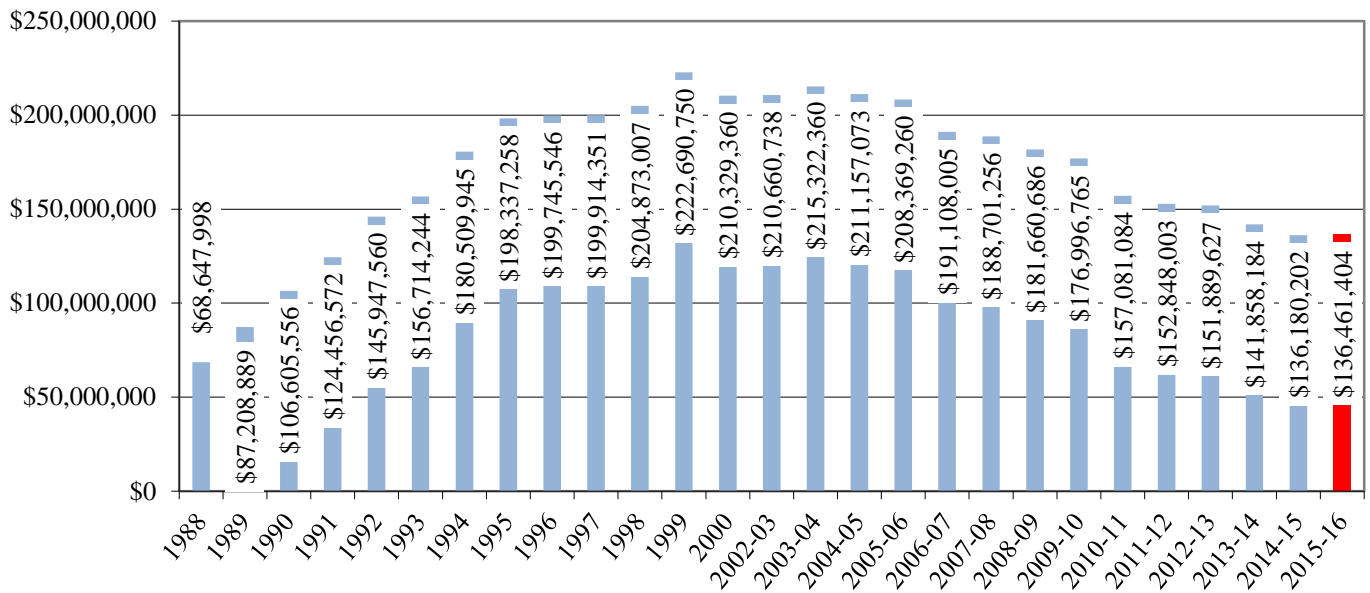
through 2009-10) are attributable solely to more effective data collection and carrier compliance following the implementation of the Internet-based defense fee reporting system/process in 2003. It is also notable that some portion of overall defense fees reported, may relate to cases in which no claimant 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 attorneys' fees decreased in each of the eleven years prior to 2015-16. 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 between 2002-03 and 2014-15, claimant fees decreased about thirty-five percent (35.36%). The aggregate

Fiscal Year	Claimant Attorney Fees	Percent Change	Defense Attorney Fees	Percent Change
2002-03	\$210,660,738		\$216,698,474	
2015-16	\$136,461,404	-35.22%	\$242,112,498	11.73%

defense fees in 2015-16 (\$242,112,498) are higher than the aggregate defense fees in 2003-04 (\$226,585,434). The aggregate defense fees of \$216,698,474 in 2002-03 adjusted for inflation would be equal to \$284,331,952 in 2016 dollars, compared to the actual figure of \$242,112,498, a difference of about \$42 million. The 2002-03 claimant fees of \$210,660,738 would be equivalent to \$276,409,786 in 2016 dollars, compared to the actual figure of \$136,461,404. Claimants' fees in 2015-16, in real dollars, are more than 50% lower than in 2002-03.

The Department of Labor and Employment Security ("DLES") compiled data regarding the attorneys' fees paid to claimants' 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 attorneys' fees paid for claimants' counsel likely include costs, as the ability to easily differentiate fees from costs did not exist until the OJCC database was deployed in 2002. The figures compiled and reported by the OJCC, since October 2001, do not include claimant costs. With those two caveats, the following graph represents the claimant fees (perhaps fees plus costs) paid from 1988 through 2000 and the claimant fees paid from fiscal 2002-03 through 2015-16. The level of aggregate claimants' attorneys' fees in 2015-16 remains close to 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.”¹¹⁵ In a 1994 legislative special session, there was a “retreat to an impairment-based system.”¹¹⁶ 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

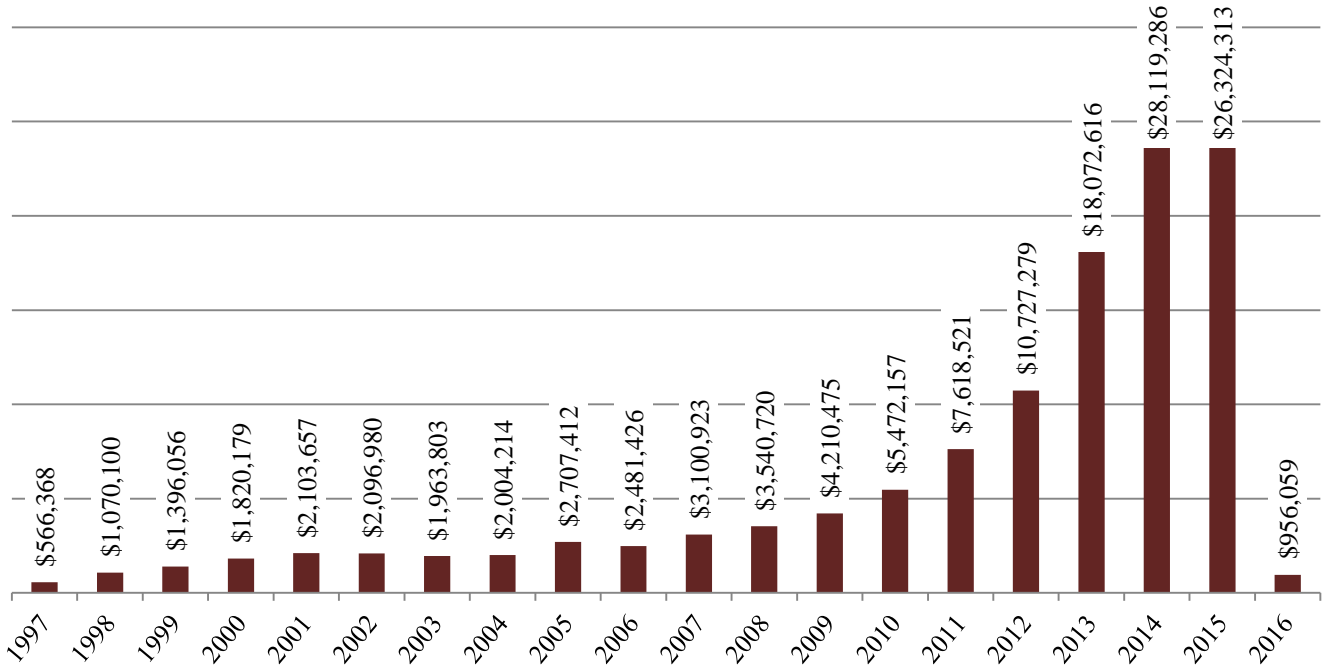
The figures above represent only the amount of fees “approved” during each respective fiscal year. During any particular fiscal year, fees might be approved on cases for which the date of accident was also during that particular fiscal year. More likely, the approved fee might be related to a date of accident prior to that fiscal year, perhaps many years prior. Last year, fees were approved regarding 46 distinct accident-date years. As reflected in this table, that is reasonably consistent with prior years.

In 2015-16 fees were approved on two 1952 dates of accident (64 year-old claims). These cases illustrate the manner in which claims can occur and not come within the OJCC jurisdiction for a significant period. One of those cases¹¹⁷ was opened in 2016 for the purpose of considering a settlement. The second was opened in 2015 with a petition for benefits, and settled in 2015-16.¹¹⁸

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.

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
2015-16	46

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 eighty percent (80%) of the fees approved in 2015-16 related to accident dates in the ten years between January 1, 2006 and December 31, 2015. For comparison, the 2014-15 Annual Report noted that 79% were attributable to the ten full years prior, 2013-14 noted seventy-eight percent (78%); 2012-13 noted 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 accident years appears to be increasing slowly and consistently. Generally, the highest single “accident date year” in this annual fee analysis is the year two years prior to any particular Annual Report. This is illustrated again above for 2015-16 in the chart above, and in the comparison table 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
2015-16	2014	\$28,119,286

This illustrates two points. First, the most recent accidents historically account for the vast majority of claimants’ 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.

Of the claimants’ attorneys’ fees approved in 2005-06, only two percent (2%)(illustrated in the table, right) were for dates of accidents more than 20 years prior to that fiscal year. In fiscal 2006-07, approximately four percent (4%) of the total fees approved were related to accident dates more than 20 years prior. This increased to 5% in 2007-08 and fluctuated between 5% and 6% through 2012-13. This increased to 8% in 2013-14, and remained above average at 7% the last two years. This illustrates that claims on dates of accident older that twenty years have also increased in terms of their proportion to the whole, but still do not represent a significant part of the fee awards and stipulations.

Fiscal Year	Fees on Accident dates > 20 years
2005-06	2%
2006-07	4%
2007-08	5%
2008-09	6%
2009-10	6%
2010-11	5%
2011-12	5%
2012-13	6%
2013-14	8%
2014-15	7%
2015-16	7%

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. The rate decreased in 2015-16, which is most likely due to the change in definition of “trial order,” discussed above. These measurements are markedly similar to those in 2012-13.

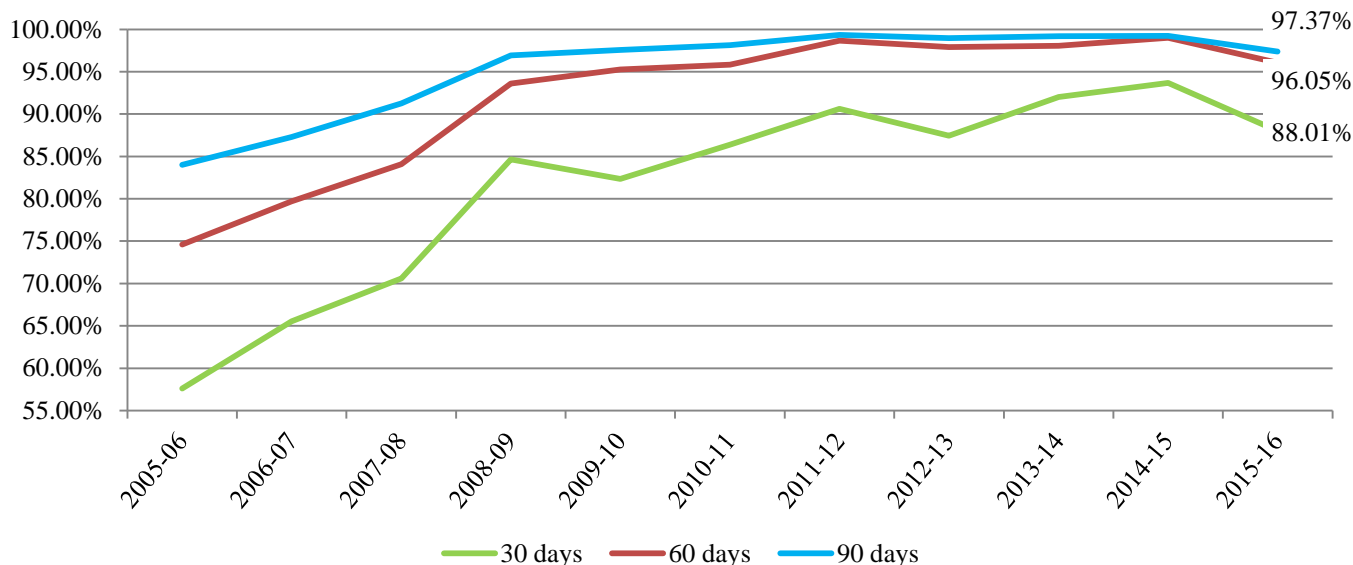
Days	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
30 days	57.60%	65.54%	70.61%	84.64%	82.33%	86.38%	90.60%	87.45%	92.03%	93.67%	88.01%
40	66.70%	71.23%	76.88%	89.20%	89.26%	91.86%	95.43%	93.44%	95.67%	96.55%	92.40%
50	71.90%	76.87%	81.02%	91.77%	93.16%	94.84%	97.66%	96.50%	97.15%	98.15%	94.59%
60 days	74.60%	79.72%	84.09%	93.59%	95.26%	95.83%	98.67%	97.90%	98.06%	99.02%	96.05%
70	78.60%	82.97%	86.93%	95.05%	96.32%	96.97%	98.94%	98.47%	98.80%	99.23%	96.64%
80	81.60%	85.14%	89.30%	95.83%	97.02%	97.50%	99.10%	98.85%	99.03%	99.23%	97.22%
90 days	84.00%	87.31%	91.25%	96.93%	97.58%	98.12%	99.36%	98.98%	99.20%	99.23%	97.37%
100	85.50%	88.60%	92.79%	97.45%	98.14%	98.49%	99.58%	99.17%	99.20%	99.23%	97.95%

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 ninety-eight percent (97.95%) of the cases in 2014-15.¹¹⁹ In 2005-06 orders were entered within the 30 day statutory parameter approximately fifty-eight percent (57.6%) of the time; in 2015-16 that parameter was met approximately eighty-eight percent (88.01%) of the time.¹²⁰ This clearly illustrates the professionalism and focus of the judges currently serving Florida in the OJCC.

In the 2014-15 Annual Report, it was noted that the mix of final hearings (on PFB issues) and final evidentiary hearings (on motions) might have influenced these statistics. Some observers expressed that this report should only document final merits orders (“FMO”), i.e. trials that result from a Petition for Benefits. As noted then, such a calculation would ignore the significant similarity of a variety of other final evidentiary motion proceedings, which result in final evidentiary orders (“FEO”). However, in light of the work required to audit those other orders, and the perception of imaginative manipulation of some judges for the sake of statistical measure, this Office elected to change the definition of “trial” in 2016 to include only the hearings on Petition issues and on contested attorney fees.

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 2015-16 the longest period was two hundred seventy-eight (278) 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 orders¹²¹ slowly decreased over the last four fiscal years, from 2,142 in 2009-10 to 1,570 in 2012-13; in 2013-14, 1,757 trial orders were entered, and in 2014-15 1,944.¹²²



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

The workers’ compensation adjudication team should be returned to full strength. In 2012, the Florida Legislature eliminated one judicial position and three mediators from the Office of Judges of Compensation Claims. Through effective management those remaining 28 mediators have been able to maintain efficient mediation of the petition volume. However, after years of decline, the petition volume in 2015-16 has demonstrated significant increase. The data for the initial months of 2016-17 support that such increase is likely to continue. As that volume increases, mediators will be challenged to find sufficient opportunities to mediate all incoming petitions. Delay is inevitable, and it is probable that some portion of petition volume may have to be referred to private mediation despite the costs entailed.

It is respectfully submitted that the best interests of the State, its workers, and their employers are all best served by the restoration of the previously eliminated three mediator positions.

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. This is further supported by the recent conclusions of the Florida First District Court of Appeal in Miles v. City of City of Edgewater Police.¹²³

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 EMAs on timely adjudications remains. 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.

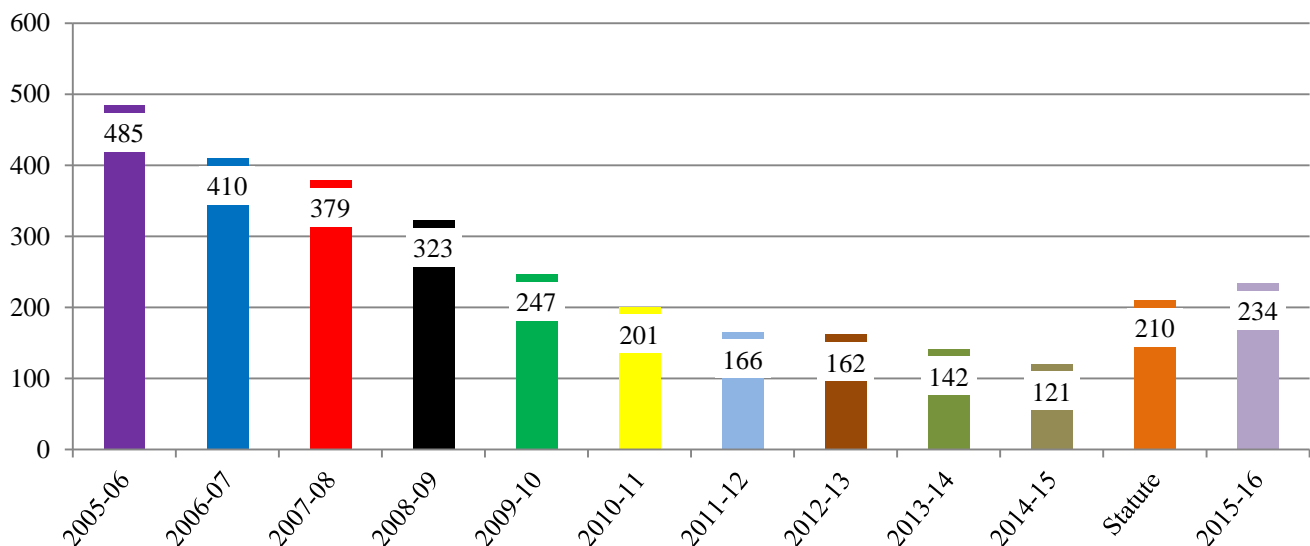
Use of EMA provisions should be discretionary rather than mandatory.

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

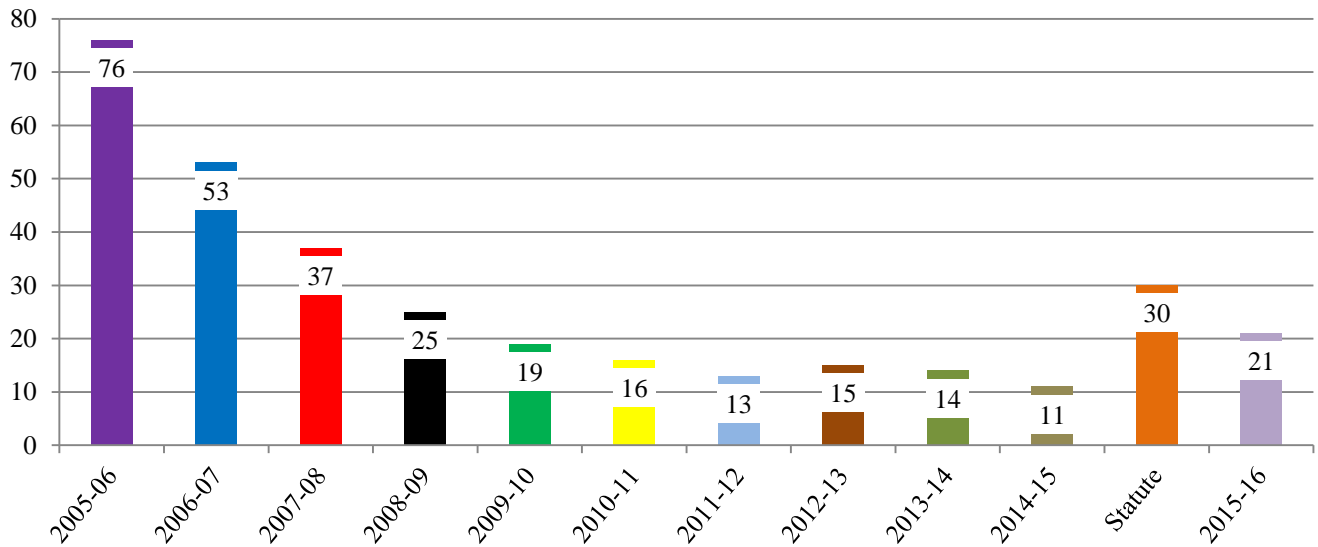
ARE JUDGES GENERALLY UNABLE TO MEET A PARTICULAR STATUTORY REQUIREMENT FOR REASONS BEYOND THEIR CONTROL?

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 eleven fiscal years (2005-06 through 2015-16) 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. With the change in definition of “trial,” the OJCC did not meet all of these standards in 2015-16. The overall OJCC average time, from operative pleading to commencement of trial, has decreased significantly. However, in 2015-16 this was 234 days, which exceeds the 210 day statutory parameter.¹²⁴

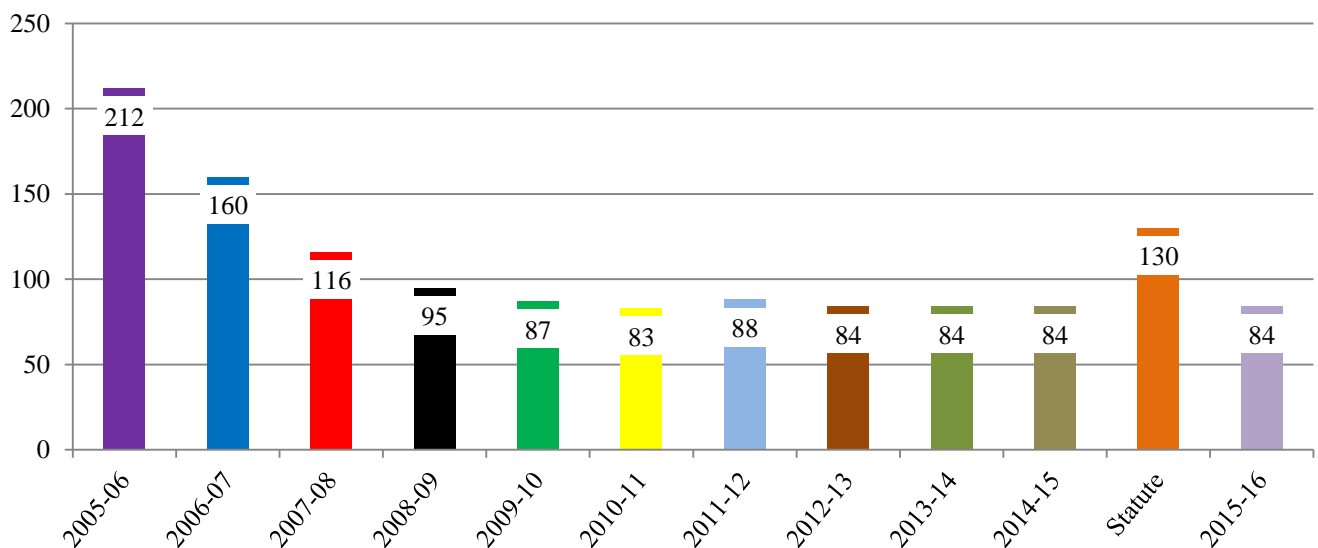


The Office of the Judges of Compensation Claims has also made significant improvement in the average time period between the commencement of the trial and the entry of the final order thereon.¹²⁵ The overall statewide average period, from trial to the entry of the trial order, has decreased approximately seventy-two percent (72.37%) 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 remained consistent at that level through 2014-15. With the change in the definition of “trial” in 2016, that figure dropped to seventy-eight percent (77.50%).

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 nine 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). Section 440.45(2)(c), Florida Statutes,¹²⁶ 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: section 440.25(1), Florida Statutes,¹²⁷(timely mediation), section 440.25(4)(a)¹²⁸(pretrial procedure), section 440.25(4)(b), Florida Statutes,¹²⁹(appropriate continuance grounds and orders), section 440.25(4)(c), Florida Statutes,¹³⁰(timely final hearing notice), section 440.25(4)(d), Florida Statutes,¹³¹(timely final hearings and final orders), section 440.25(4)(e), Florida Statutes,¹³²(final order filing), section 440.34(2), Florida Statutes, (appropriate fee order findings), section 440.442, Florida Statutes,¹³³(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 "Publications," and then "Reports" tabs.

For the purposes of this report, "final hearings" include only final merits hearings regarding claims and issues in petitions for benefits, contested attorney fee/cost hearings resulting in substantive final orders, and Fund Hearings.¹³⁴ This is a change from prior years. Previously, "trials" included: Evidentiary Motion Hearings, Expedited Final Hearings, Fee Amount Hearings, Fee Entitlement Hearings, Final Hearings, and Fund Hearings.¹³⁵ "Trial orders" no longer includes substantive orders issued after hearings on evidentiary matters, where inclusion of that order in the statistics was consistent with the time and effort involved in that order/hearing, but which standard was subject to misinterpretation and abuse.

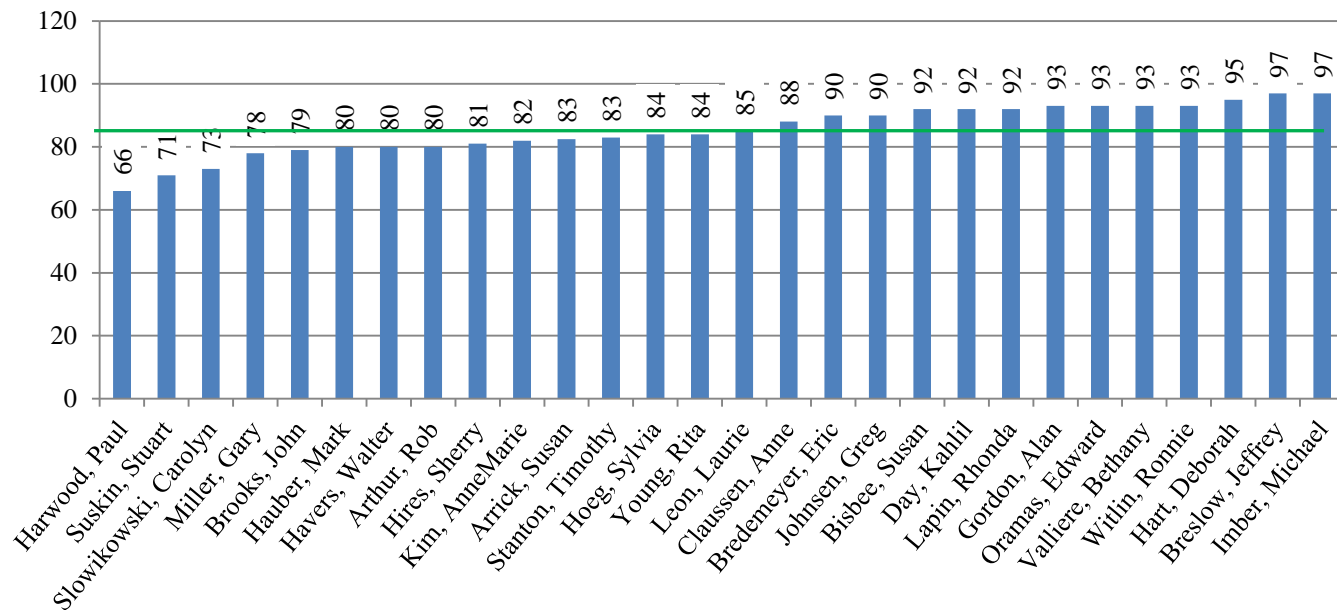
Pretrial Hearing

The timeliness of pretrial hearings is addressed in section 440.25(4)(a), Florida Statutes. 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 2015-16, 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 section 440.25(1), Florida Statutes. 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 2016 Settlement and Mediation Report,¹³⁶ available under the under the “publications” and then “reports” tabs 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 2007-08,¹³⁷ **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 section_440.25(4)(c), Florida Statutes. 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 section 440.25(4)(b), Florida Statutes. 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. 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.

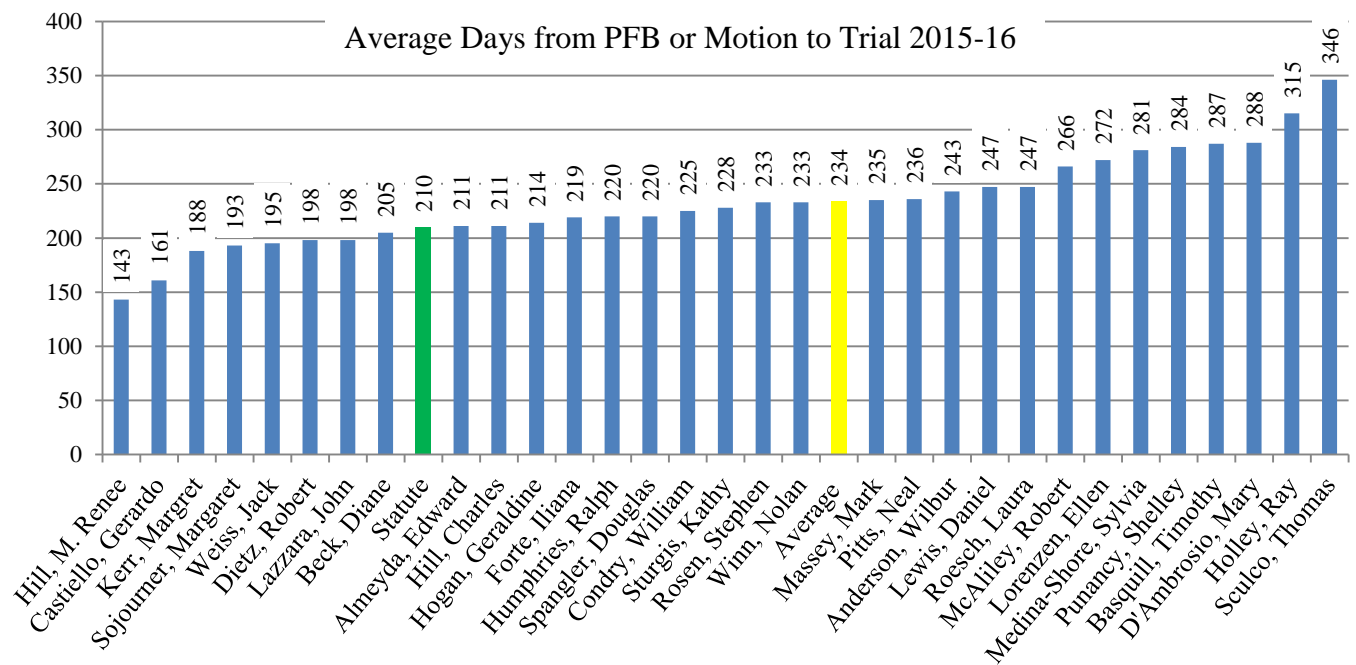
In 2015-16, the overall compliance with this statutory requirement was fair. The same sampling technique was employed and an overall non-compliance rate of 25% was calculated. Individual compliance rates were between 0% and 100%. In 2015-16, the following judges’ audits did not reveal any continuances for which no order could be located and also revealed no orders which failed to state the new trial date (100% compliance): Beck, D’Ambrosio, R. Hill, Hogan, and Medina-Shore. The following demonstrated no instances in which an order could not be located: Anderson, Rosen, and Winn. The following judge’s audited orders all contained the required new trial date: Almeyda, Basquill, Castiello, Forte, C. Hill, Holley, Humphries, Kerr, Lewis, Lorenzen, McAliley, Pitts, Punancy, Sculco, Sojourner, Spangler, Sturgis, and Weiss.

Final Order Filing

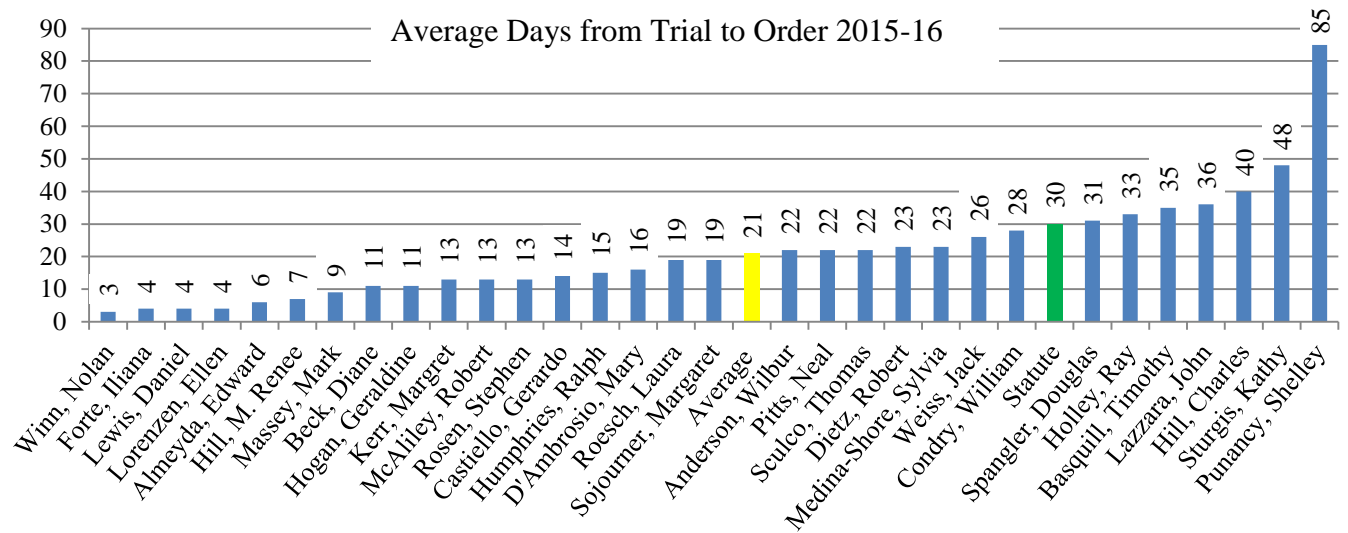
The filing of final orders in Tallahassee, Florida is mandated by section 440.25(4)(e), Florida Statutes. This statutory measure requires that the judge file all final orders with the Office of the Judges of Compensation Claims in Tallahassee, Florida. The data supports that all of the JCCs are in complete 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 section 440.25(4)(d), Florida Statutes. 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 2015-16 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 (blue bars), and the statewide average for all judges (yellow bar), which was two hundred thirty-four (234) days in 2015-16. This is a marked increase from 2014-15, and is likely primarily related to the new “trial” definition now being employed.



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 (blue bars) and the statewide average for all judges (yellow bar), which was 21 days in 2015-16, another marked increase compared to 2014-15. The green bar represents the 30 day parameter from the statute.



Attorney Fee Orders

Contents of attorney fee orders are addressed in section 440.34(2), Florida Statutes.¹³⁸ 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 orders awarding attorneys' fees. 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 chapter 440, Florida Statutes, in 1994. Then Chief Judge Walker interpreted the law as applying to only claimant attorneys' fees, and a notice of that interpretation was published.

The current OJCC leadership does not construe anything in chapter 440, Florida Statutes, 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 attorneys' 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 attorneys' 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 attorney 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 orders¹³⁹ 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 stipulations, 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 attorneys' fees for fiscal 2015-16. This audit revealed overall compliance with the statutory requirements for order content found in section 440.34(2), Florida Statutes. 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 section 440.442, Florida Statutes. 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 2015-16, 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.¹⁴⁰ The success of that process is patently clear again in the 2015-16 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.¹⁴¹

Legislation to require use of OJCC electronic filing was passed in 2011. The OJCC has adjusted processes to facilitate compliance with this 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.¹⁴² Answering the Legislature's call, the OJCC has done more with less again, in each of the last six fiscal years. However, petition filing rates are increasing. Mediation calendars are already congested in several districts, where the filings of three judges are handled by only two mediators. While that extra effort facilitated the staff decrease, the filings now justify the return of the three mediator positions. Without them, mediation services will certainly be affected, and some population of claims will likely be referred to private mediation at the expense of employer/carriers.

The effort and dedication of OJCC staff 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 2016-17.

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.
eJCC	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.
ePFB	A web-form available to users of the eJCC system. This form allows preparation and filing of an “electronic Petition for Benefits.”
eRACN	A web-form available to users of the eJCC system. This form allows preparation and filing of an “electronic request for assignment of case number,” and provides virtually instantaneous assignment.
eResponse	A web-form available to users of the eJCC system. This form allows adjusters to prepare and file an “electronic response to Petition for Benefits.”
eService	An electronic mail alternative to the U.S. Postal Service, which allows users of the eJCC 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.

iJCC	An electronic portal similar to the eJCC 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.

2015-16 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):

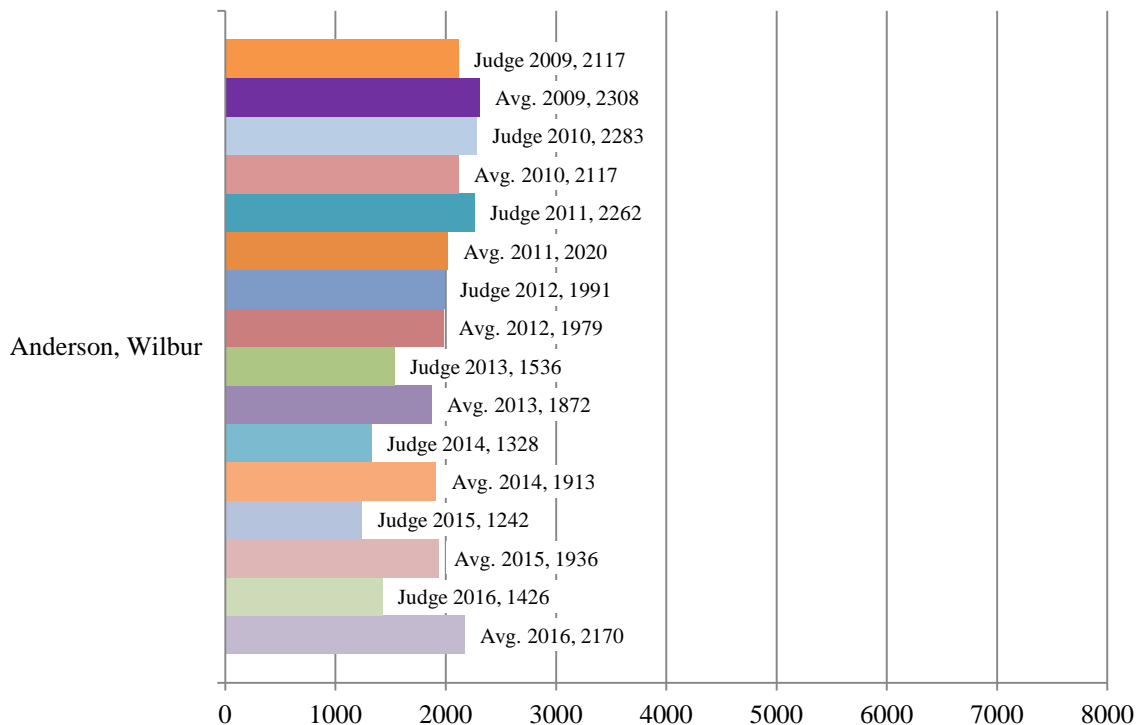
District DAY includes Flagler and Volusia counties. Seminole county was also included in DAY until it was transferred to District ORL in 2006-07. District DAY traditionally had above average PFB and new case filing volumes, until the effects of the Seminole county transfer moderated the volumes. The first below-average filing year was in 2008-09. Daytona trial volumes remain 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 three years, and such instances would likely be diminishing. Timelines for mediation and trial order issuance are within the statutory parameters. The time to trial increased significantly in District Daytona with the 2016 change in “trial order” definition.¹⁴³

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, and effective management of the Daytona docket. \

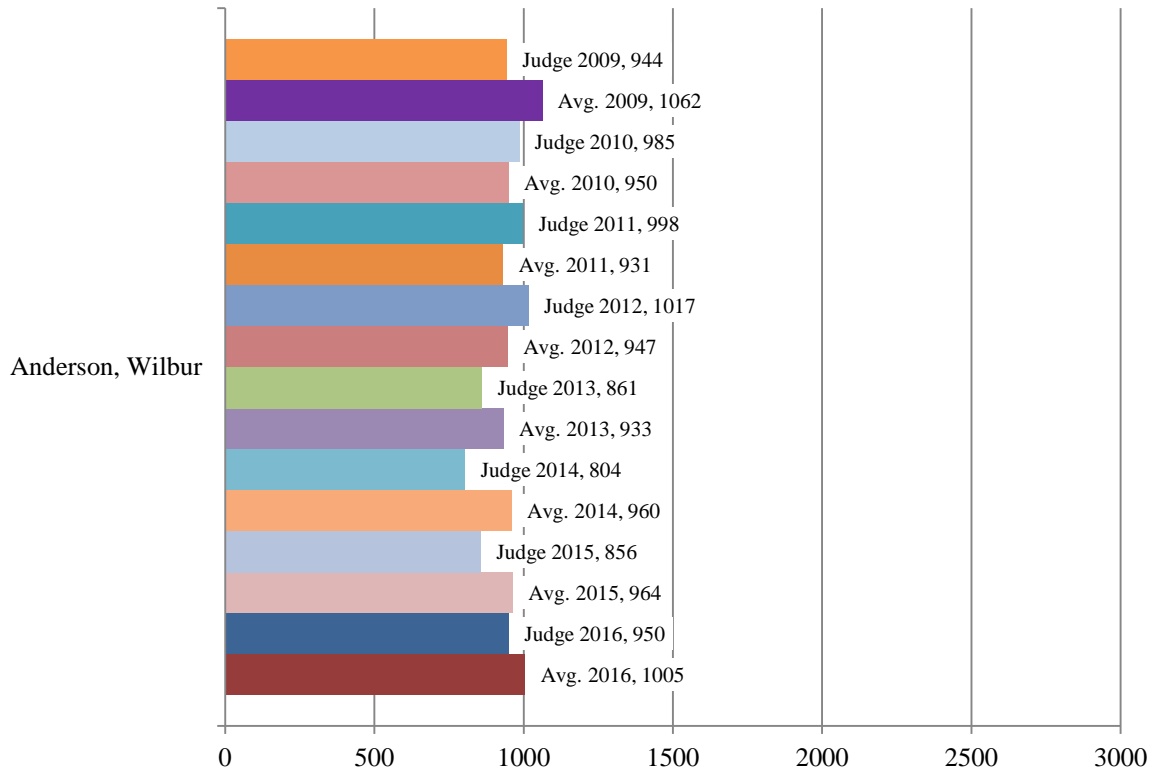
In fiscal year 2015-16, Judge Anderson served as a volunteer judge for the E. Earle Zehmer National Moot Court Competition at the annual Workers’ Compensation Educational Conference. He served on the program committee for the annual OJCC/WCI Spring Seminar at the First District Court of Appeal, where he moderated a panel discussion regarding workers’ compensation appeals. He was a panelist/speaker at the Workers’ Compensation Educational Forum, the Florida Workers’ Advocates annual educational conference, and the Orange County Bar Association workers’ compensation bench and bar seminar. He also participated in the 2015 committee conference of the Southern Association of Workers’ Compensation Administrators.

Due to JCC vacancies in other districts, Judge Anderson also conducted a number of evidentiary and final hearings via video teleconference. Beginning in May of 2016, he handled daily filings and motion hearings in all cases previously assigned to Judge Punancy in the West Palm Beach District while continuing to handle his own caseload in the Daytona Beach District.

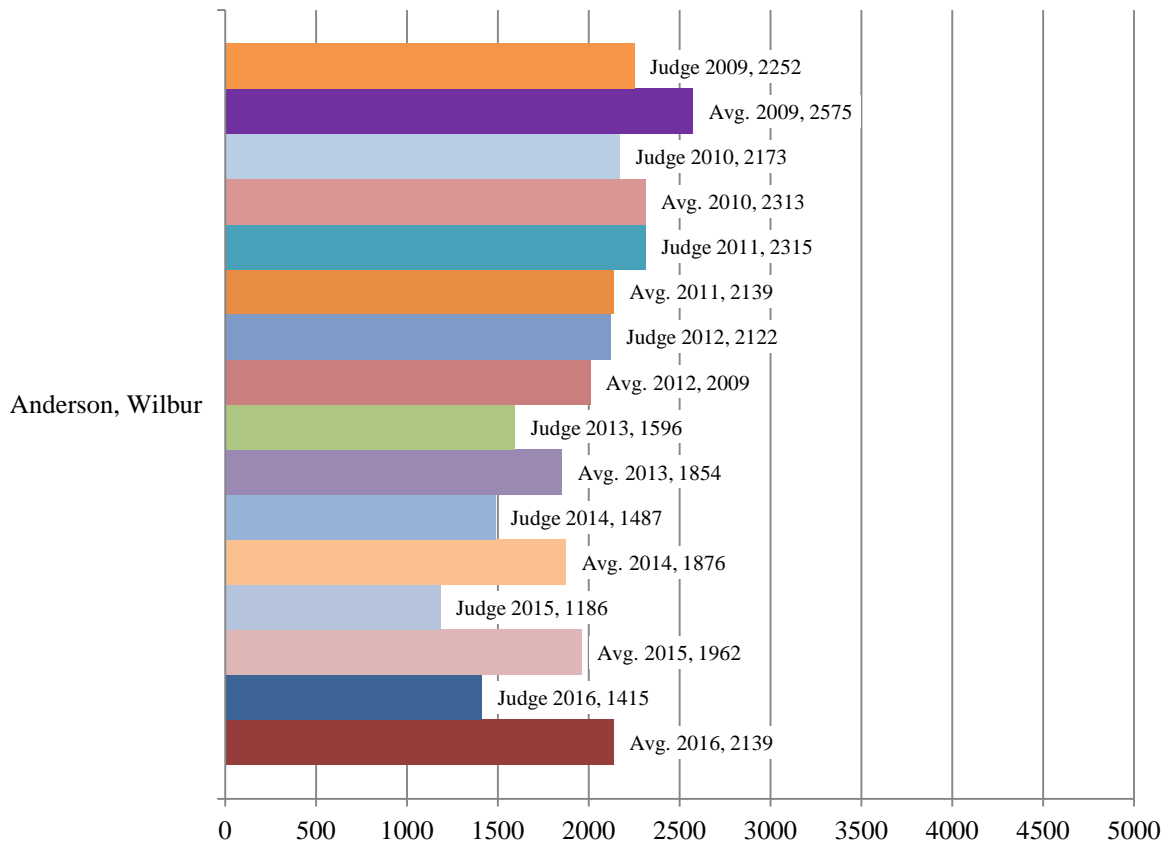
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



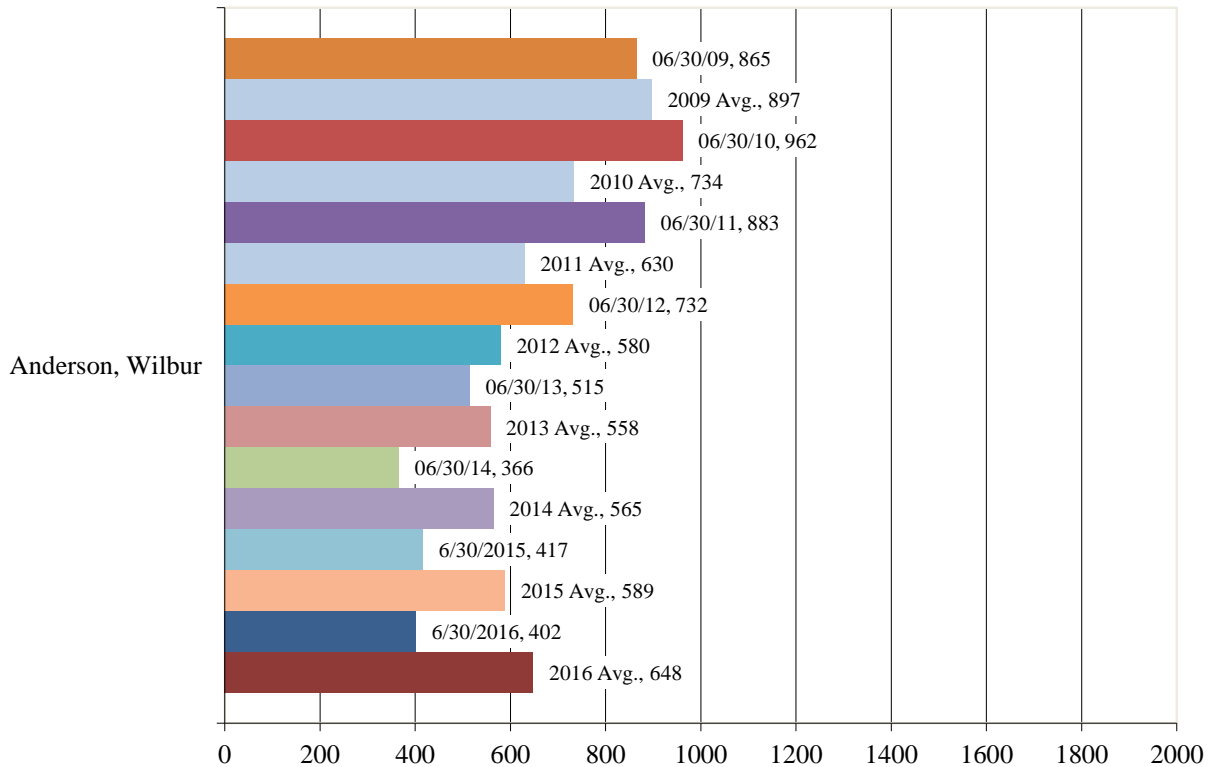
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



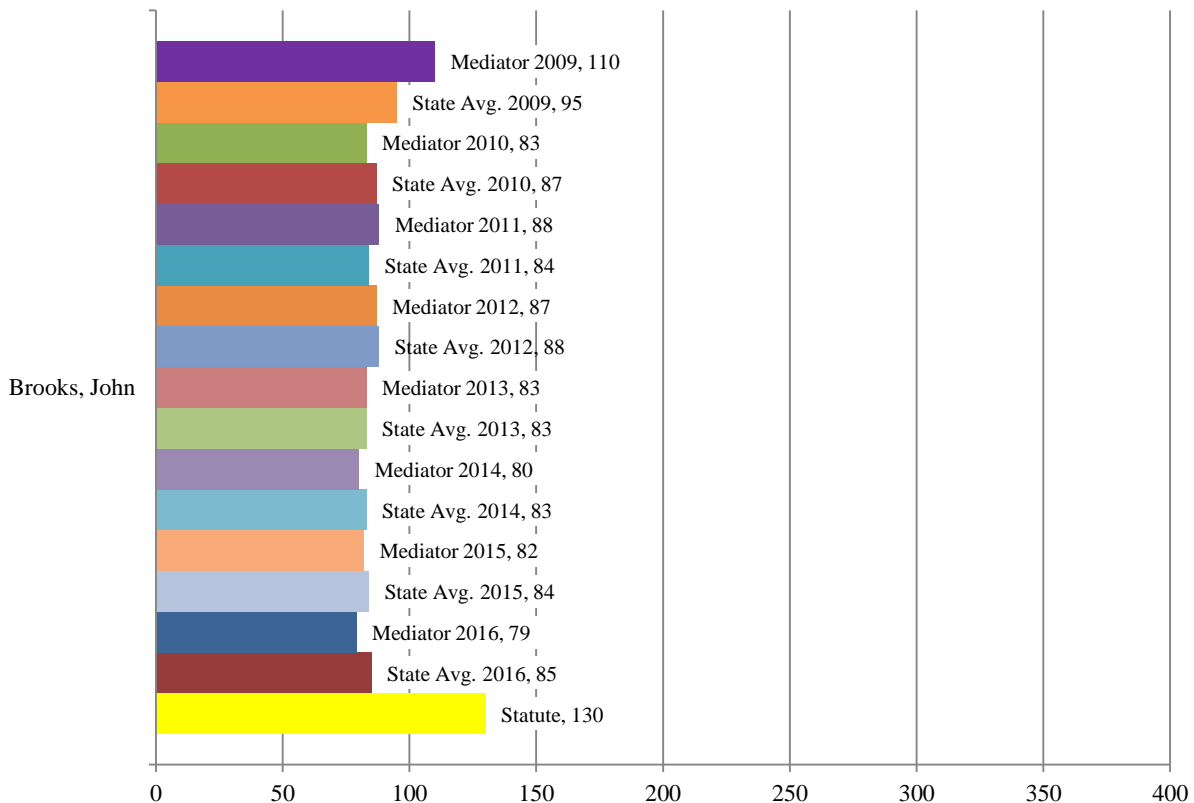
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



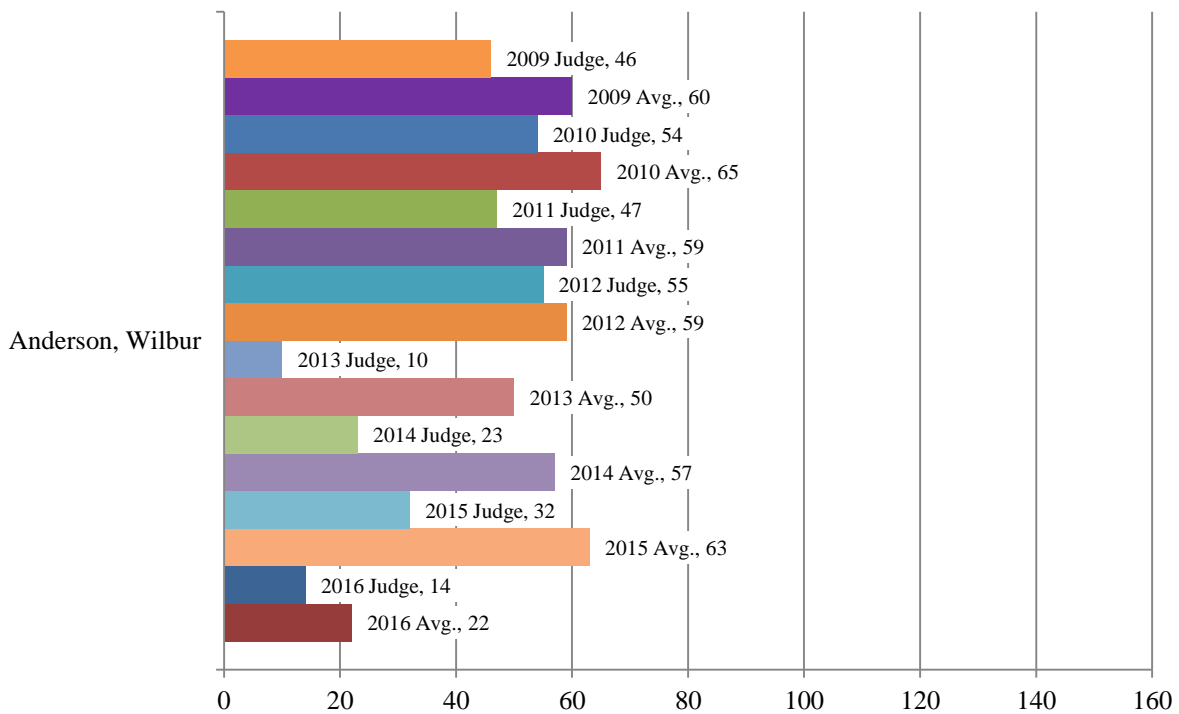
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



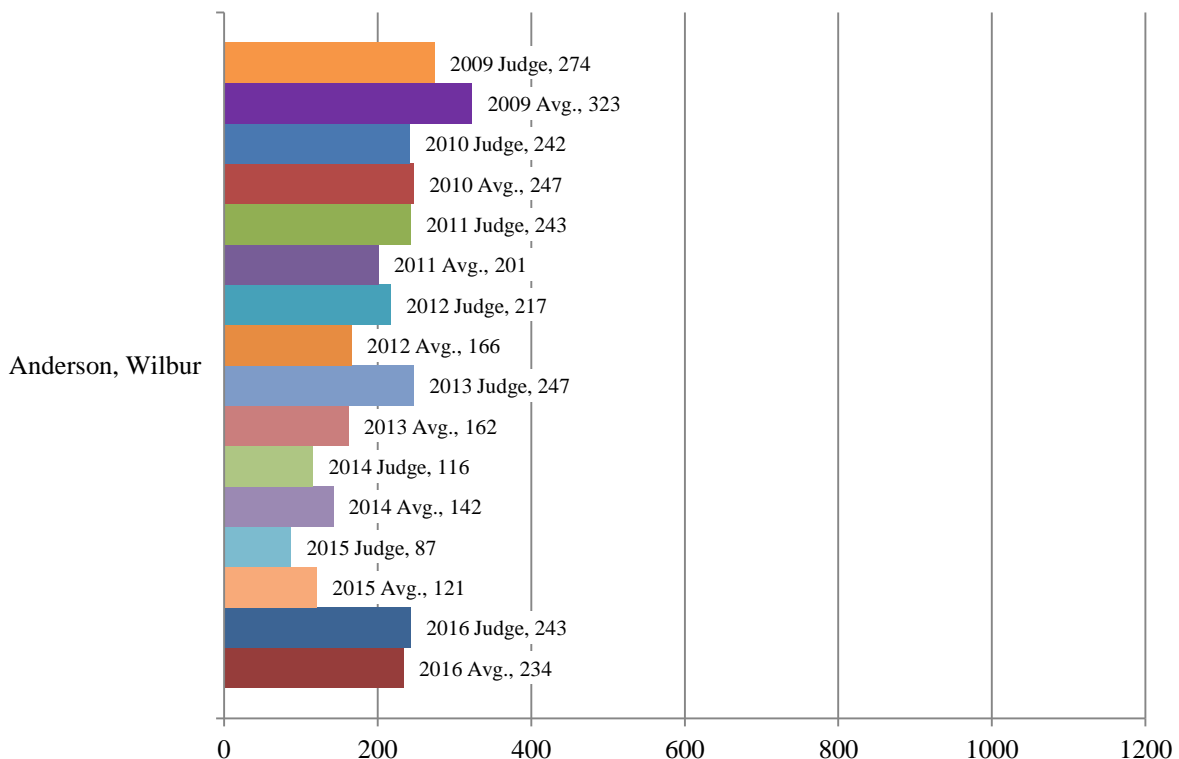
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



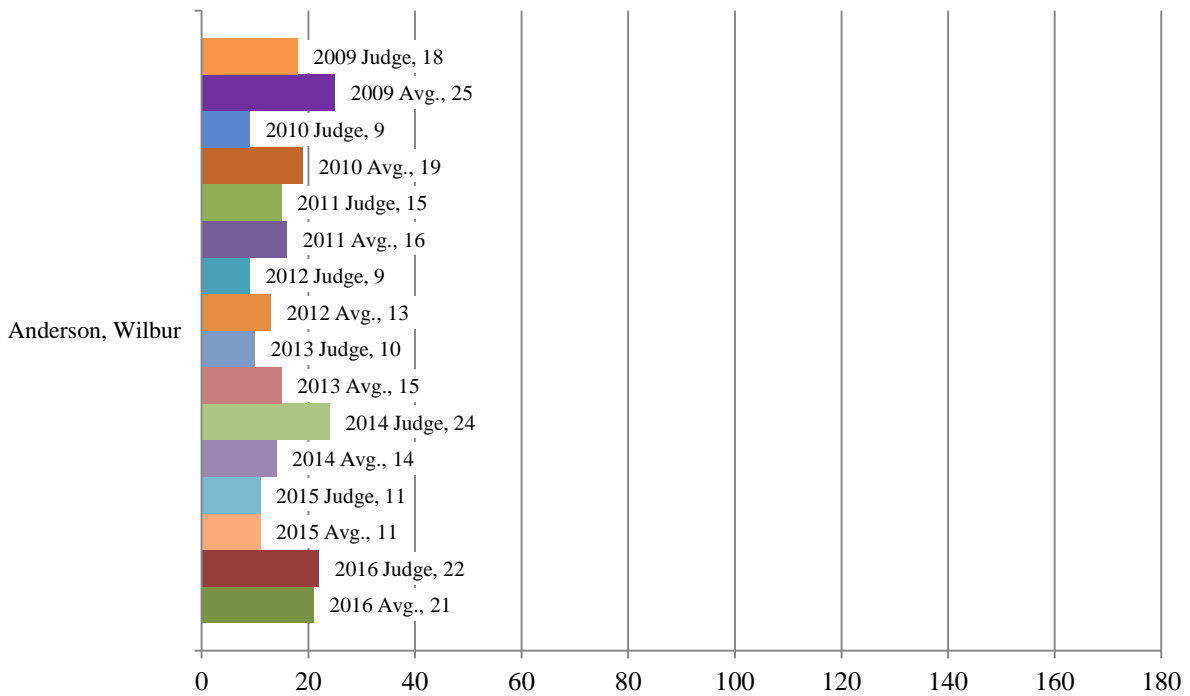
The following graph depicts the total volume of trial orders¹⁴⁴ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



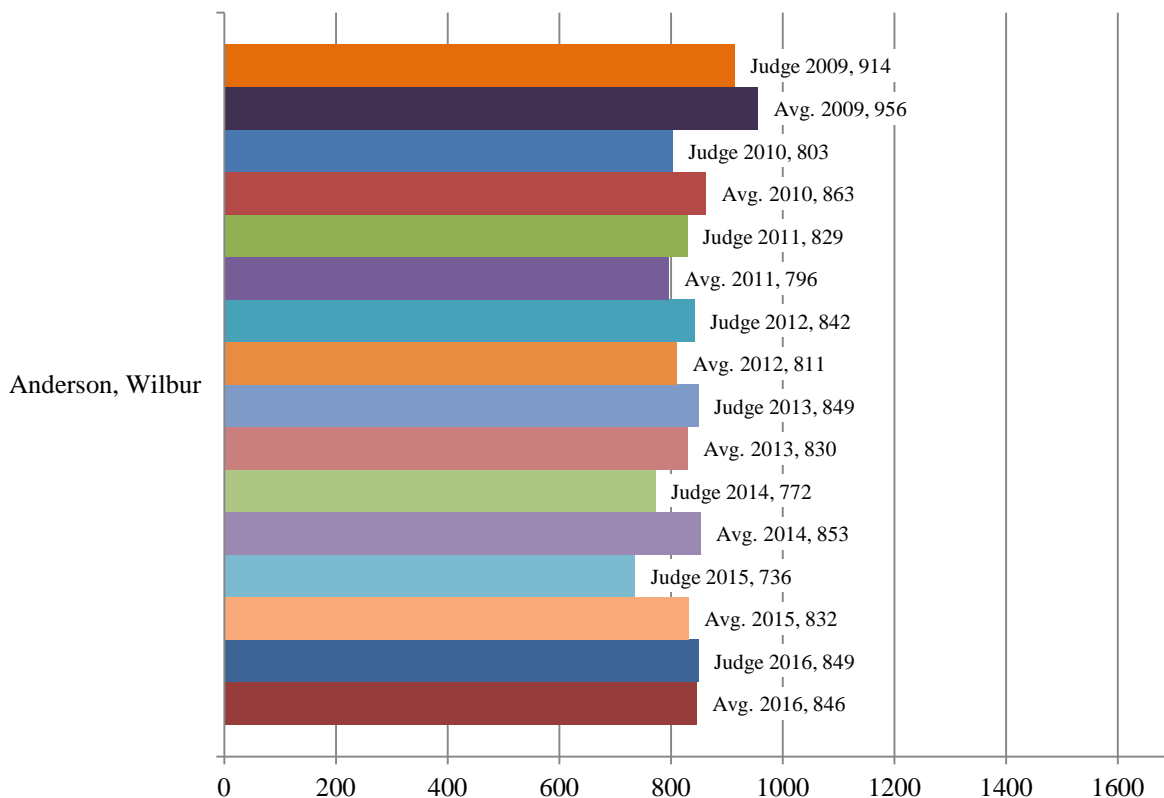
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



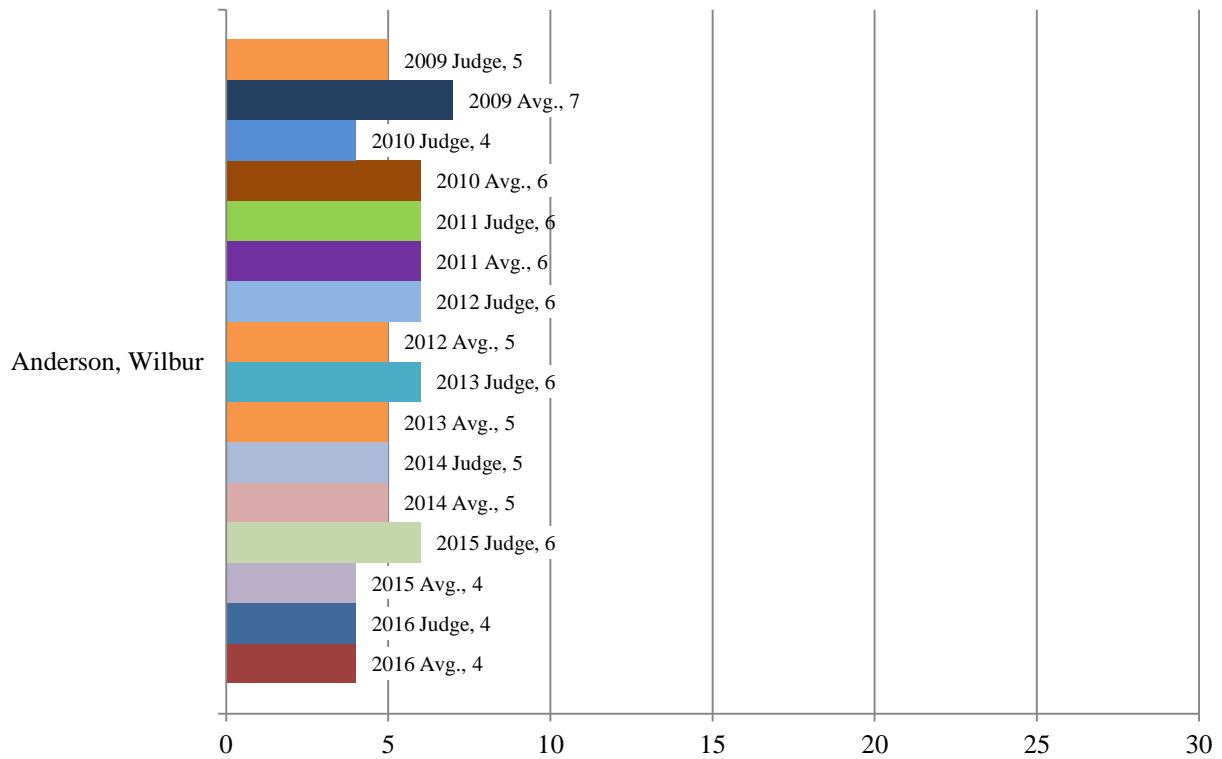
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



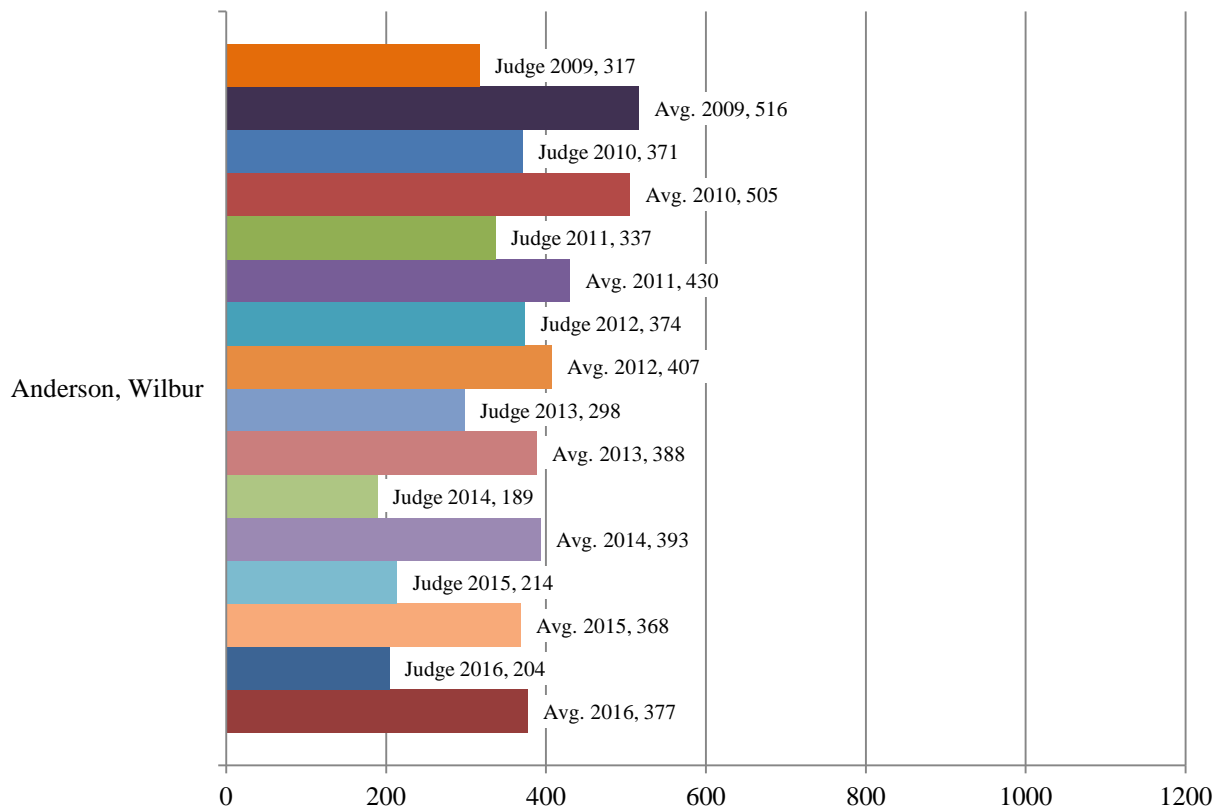
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



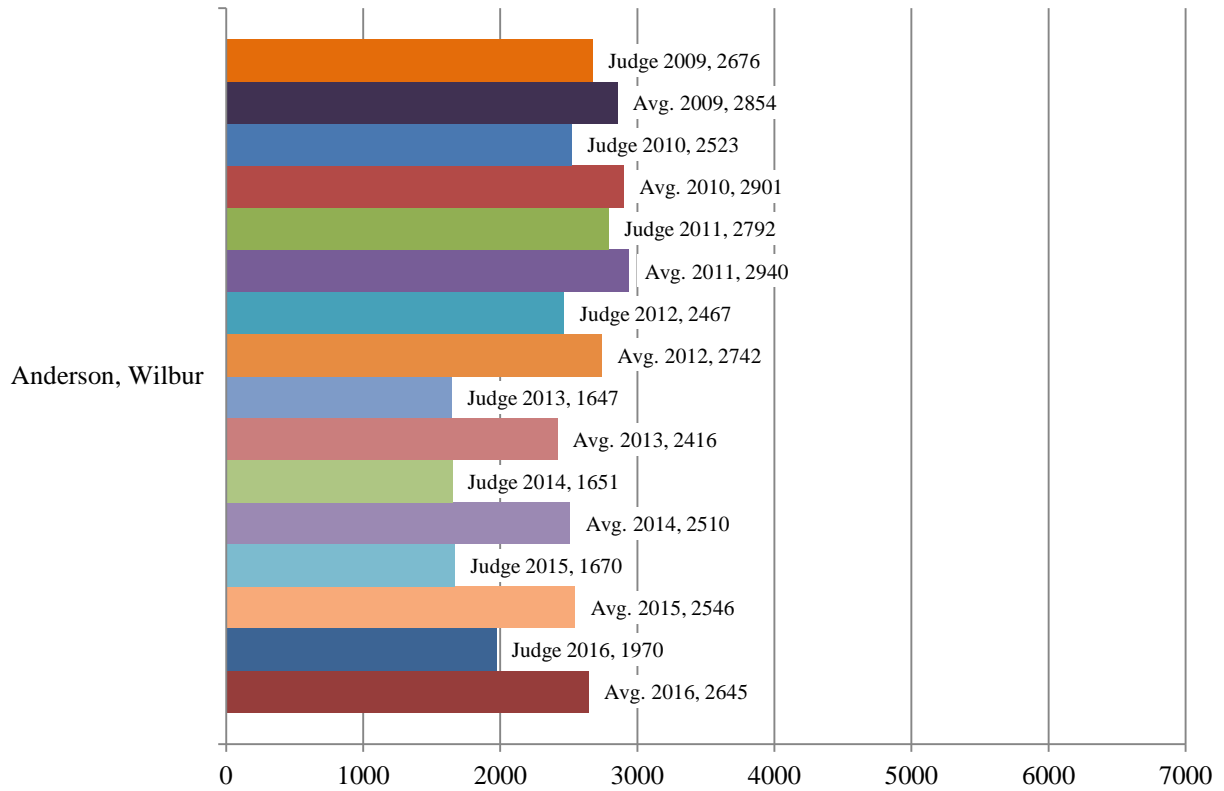
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



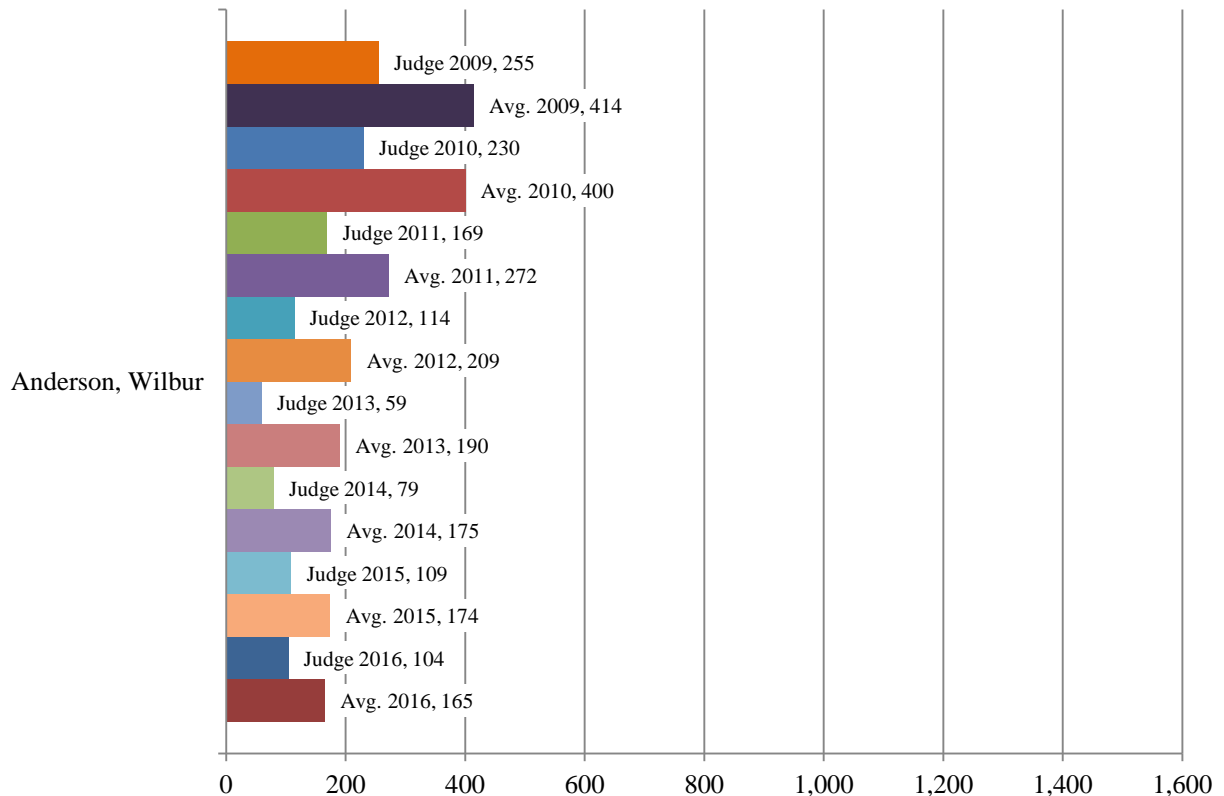
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



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

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. In 2015-16, the new case volumes remained below statewide average, but petition filing volumes exceeded the average in two Ft. Lauderdale divisions. This is pertinent because the FTL PFB volume had been close to, and even exceeded, the statewide averages prior to 2011-12. FTL was been assisted through 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. That process was discontinued in 2015-16. However, the cases previously assigned to “out-of-district” judges remained so assigned. Therefore, some portion of the litigation in that district remains assigned to other judges. District FTL is, overall, close to equilibrium, with each of its three divisions closing petitions at a rate commensurate with the petition filing rate for 2015-16.

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 remained consistent with statewide averages despite the fact that two mediators handle the caseload assigned to three judges.¹⁴⁵

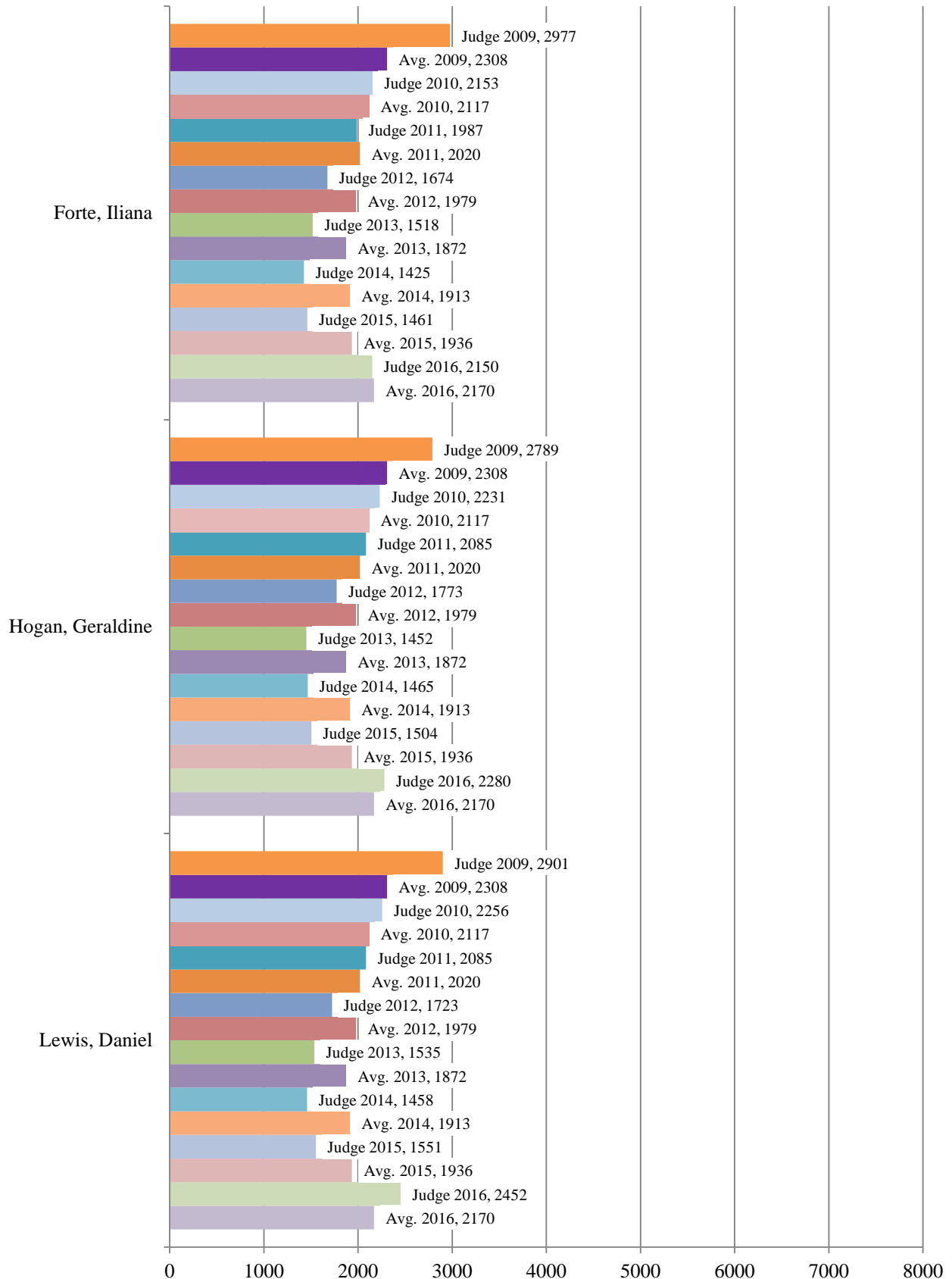
Trial volumes in FTL have demonstrated inconsistency. Judge Lewis issued 101 trial orders in 2014-15, well in excess of the statewide average. The other two divisions had trial volumes well below the average in 2013-14 and closer to the statewide average in 2014-15. With the new definition of “trial order,”¹⁴⁶ the divisions in District Ft. Lauderdale are much more consistent with each other. The judges in Ft. Lauderdale are relatively close to 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 four fiscal years.

In 2015-2016, Judge Lewis remained active in the Broward County Bar Association (BCBA). On February 26, 2016, he presented a "Question and Answer Session with the Broward JCCs" for the BCBA's Workers' Compensation Section Seminar, "Shaping the Future." On April 13, 2016, he presented a seminar titled, "From the JCC's Point of View" for The Florida Bar Continuing Legal Education Committee and the Workers' Compensation Section. In January, 2016, Judge Lewis lectured to middle school students at the Pembroke Pines Charter Middle School about the legal profession and his role as a Judge of Compensation Claims. On April 22, 2016, Judge Lewis participated in interviewing scholarship applicants for the Broward County Selection Committee of the Friends of 440 Scholarship Fund. Judge Lewis also served as a moot court judge for the annual 2016 E. Earle Zehmer Moot Court Competition held at the Workers' Compensation Educational Conference in Orlando, Florida on August 21, 2016. 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.

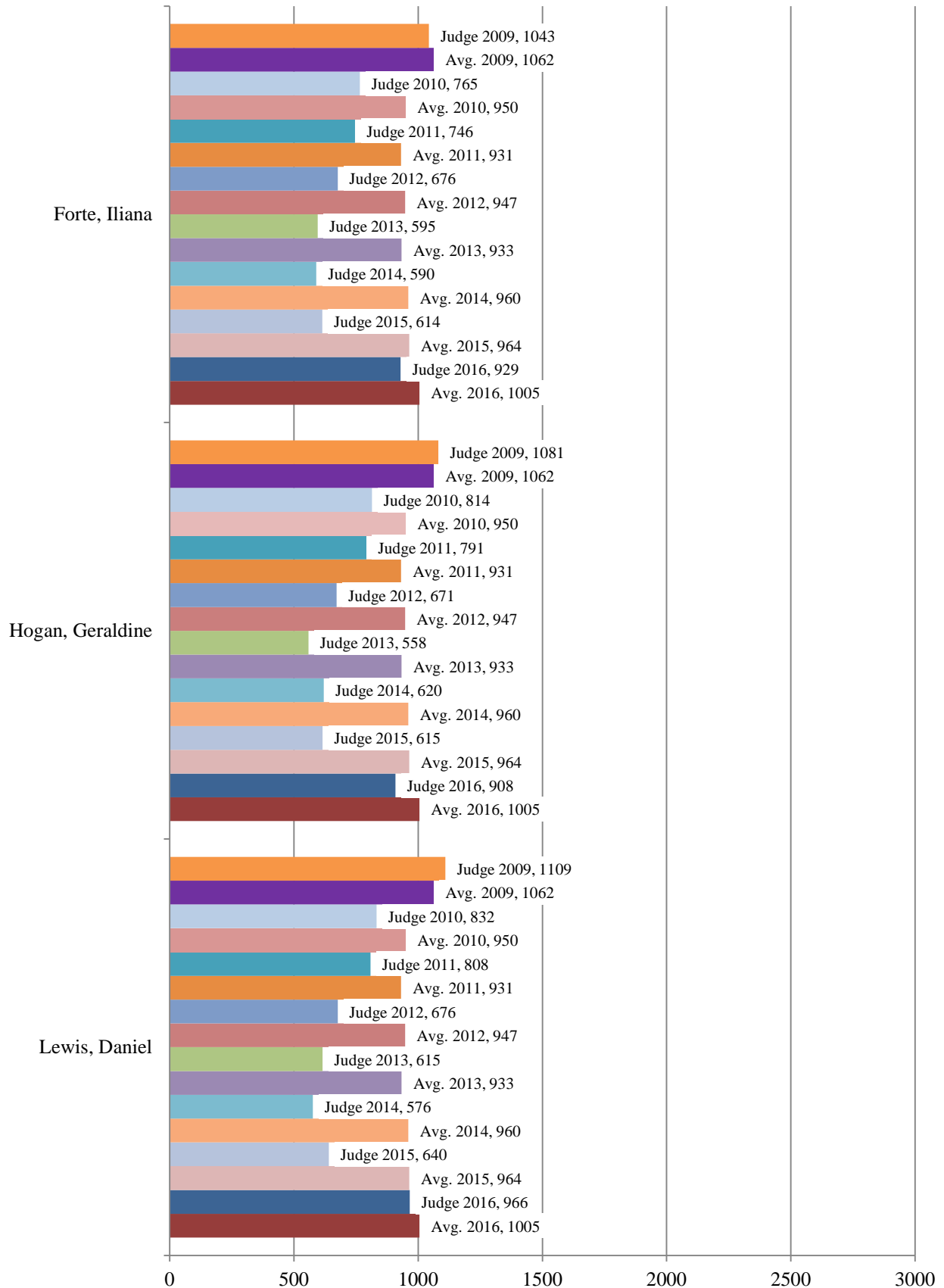
Judge Hogan served on the judicial panel for the annual “Question and Answer Session with the Broward JCCs,” presented by the Workers' Compensation Section of the Broward County Bar Association. She also served as a moot court judge for the 2016 E. Earle Zehmer National Moot Court Competition. Additionally, Judge Hogan served on the Broward County Selection Committee of the Friends of 440 Scholarship Fund.

Mediator Gregory Johnsen presented in 2015-16 at the Professional Mediation Institute in Orlando. His topic was mediator ethics.

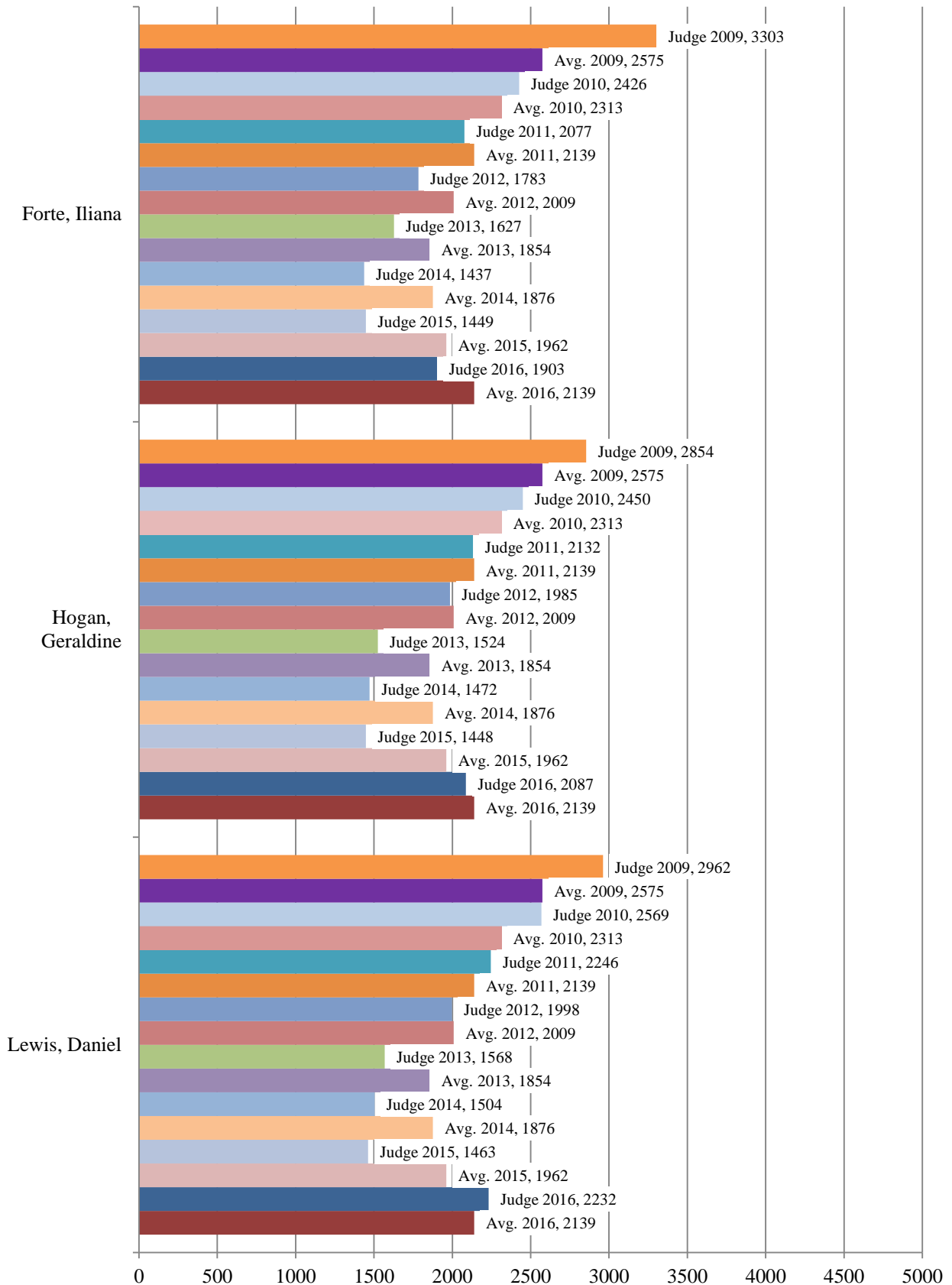
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



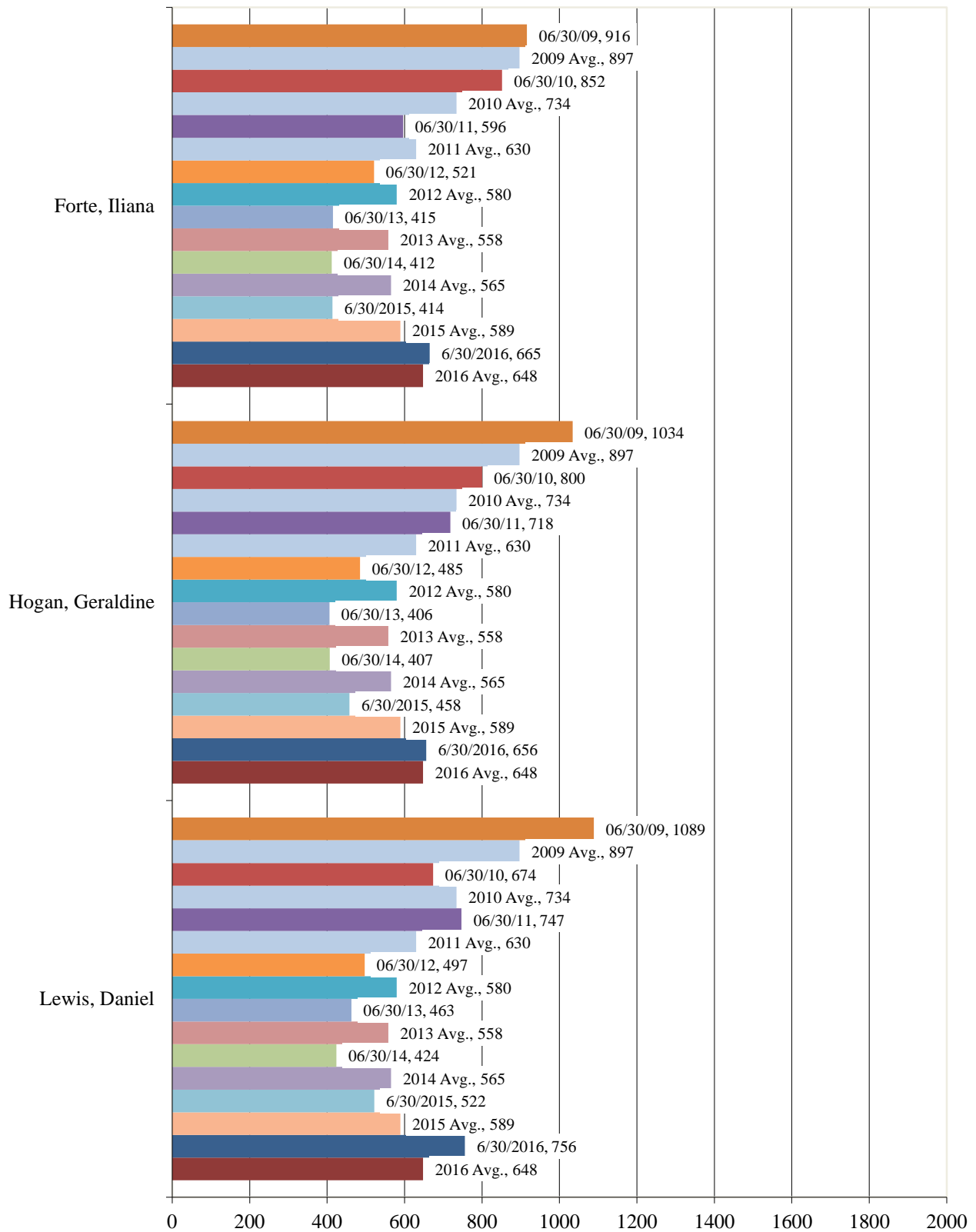
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



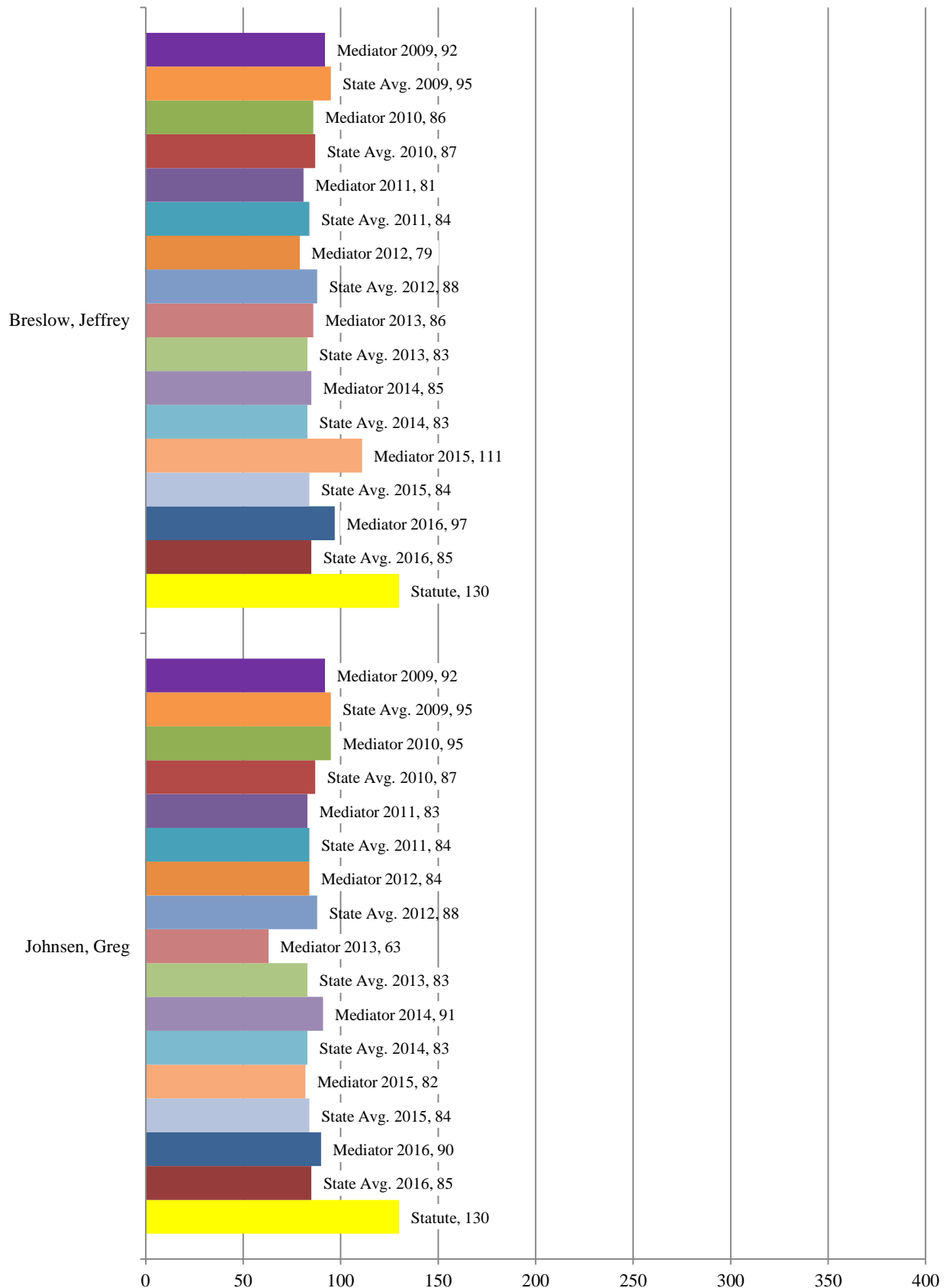
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



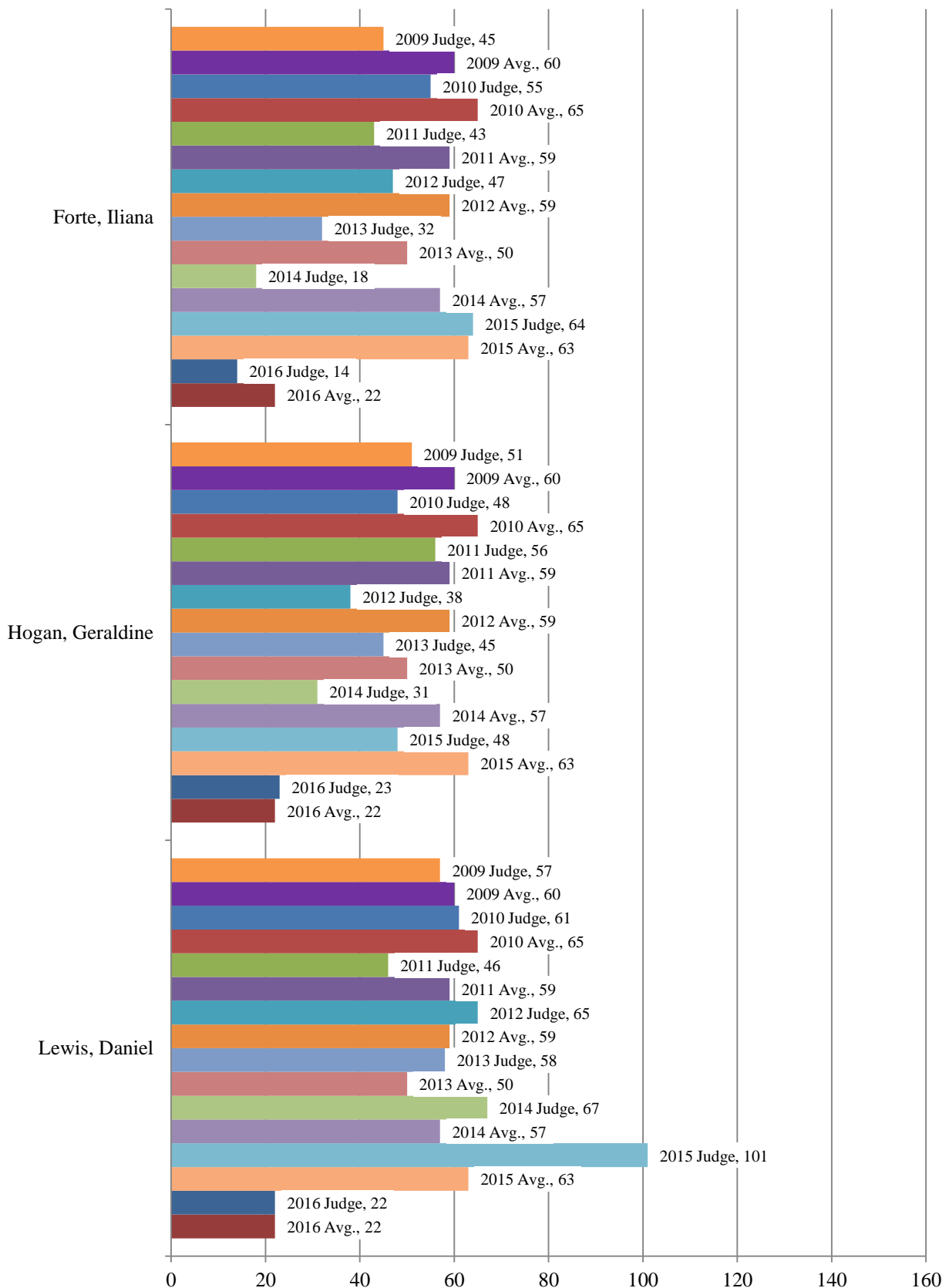
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



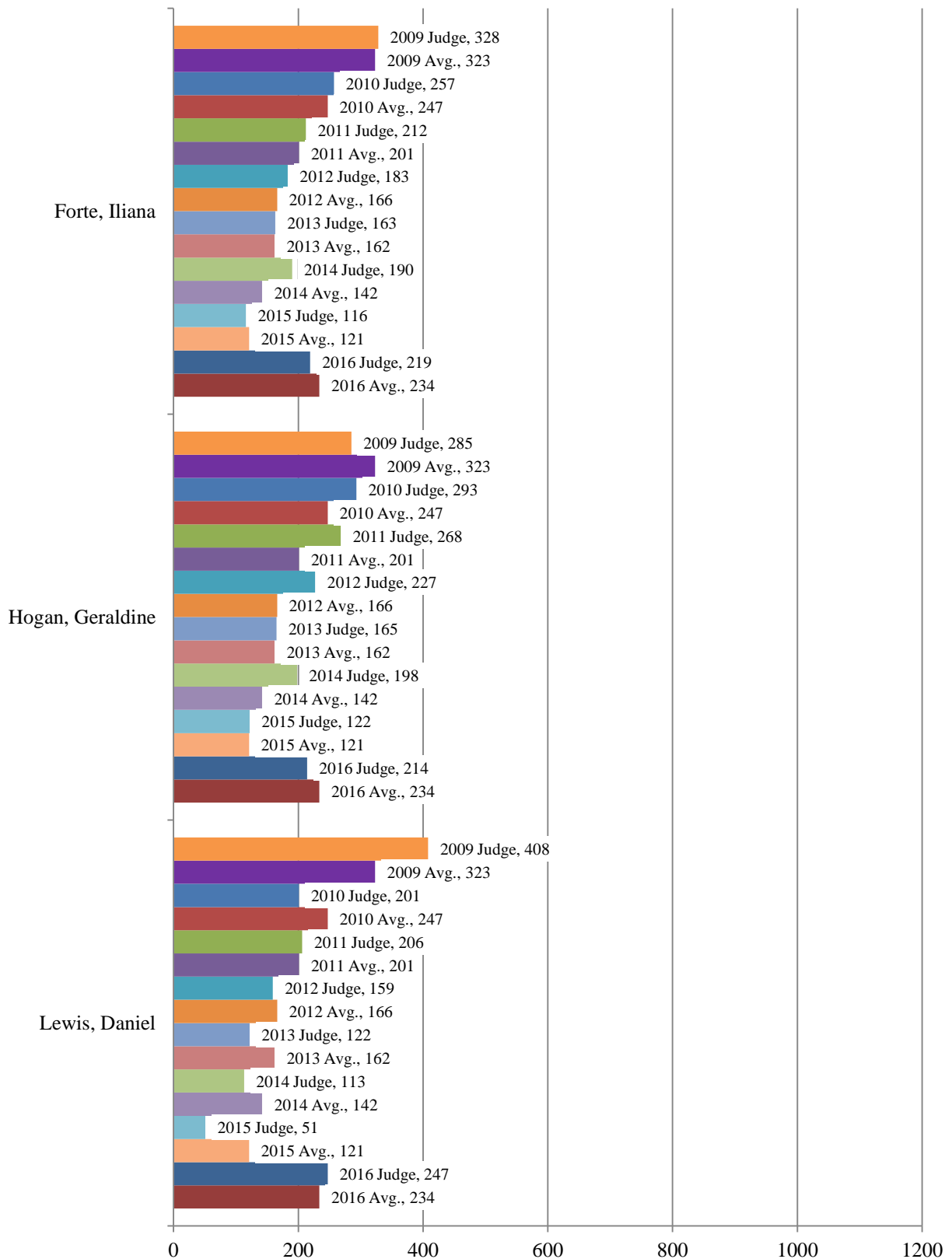
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



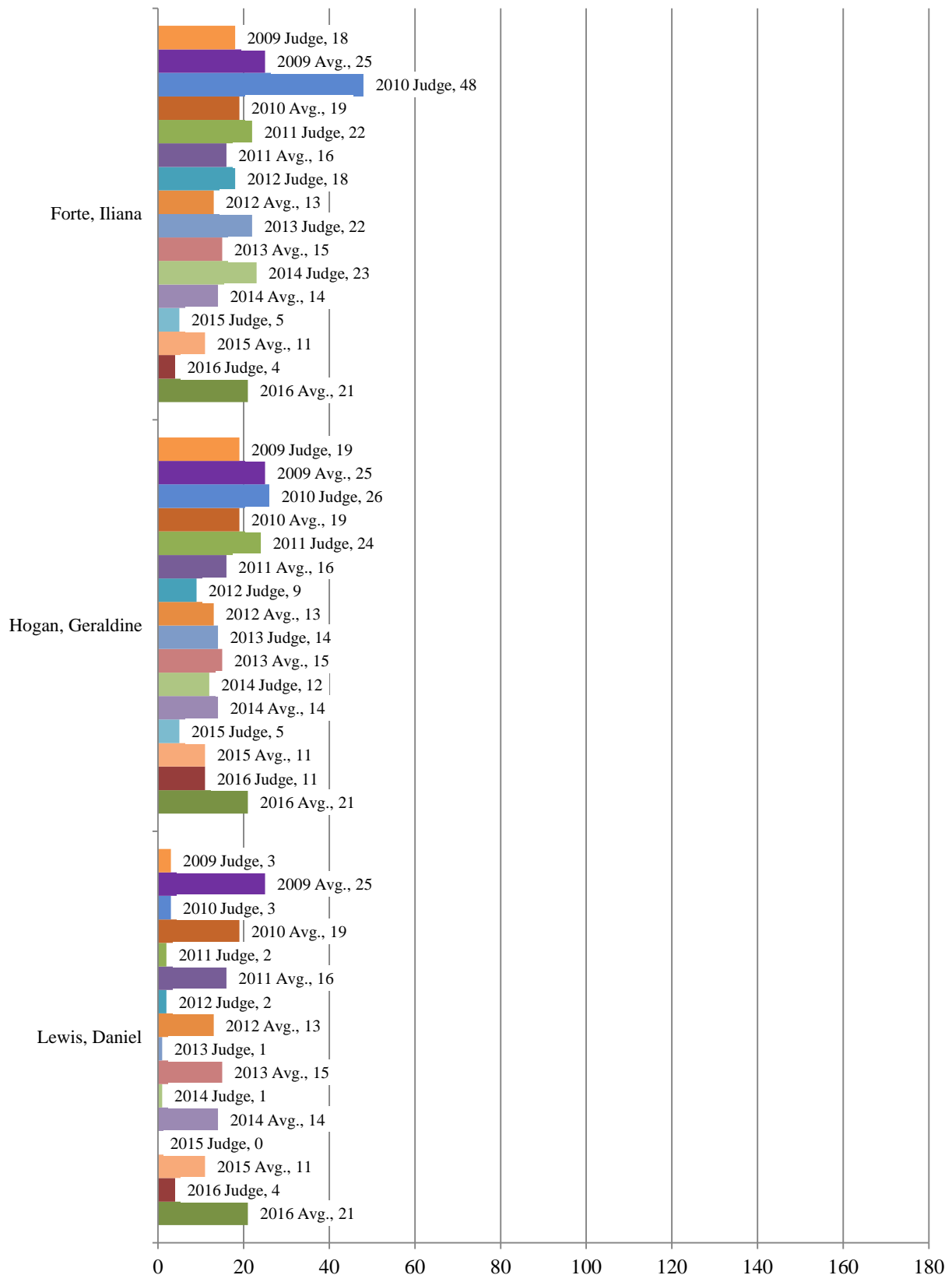
The following graph depicts the total volume of trial orders¹⁴⁷ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



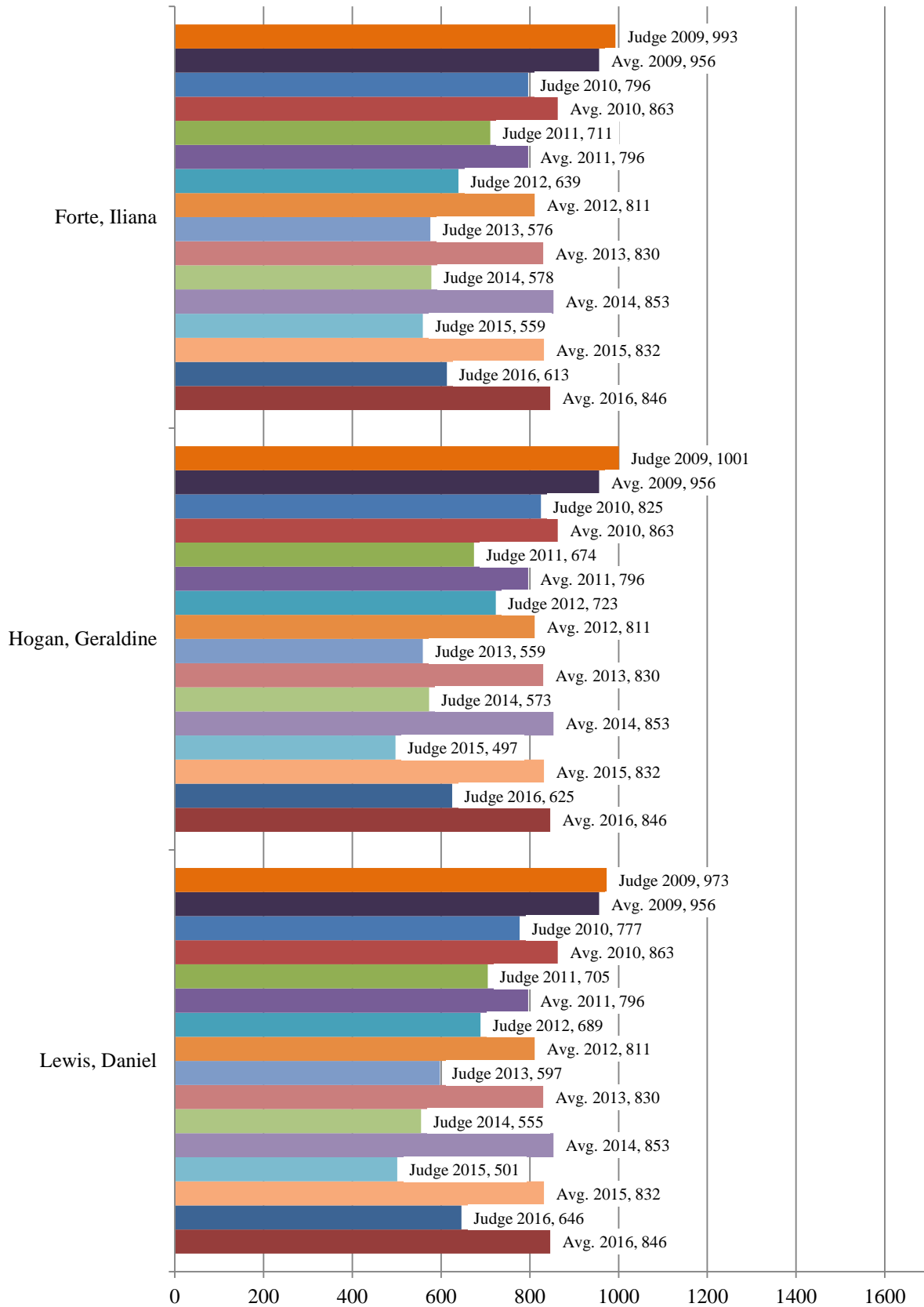
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



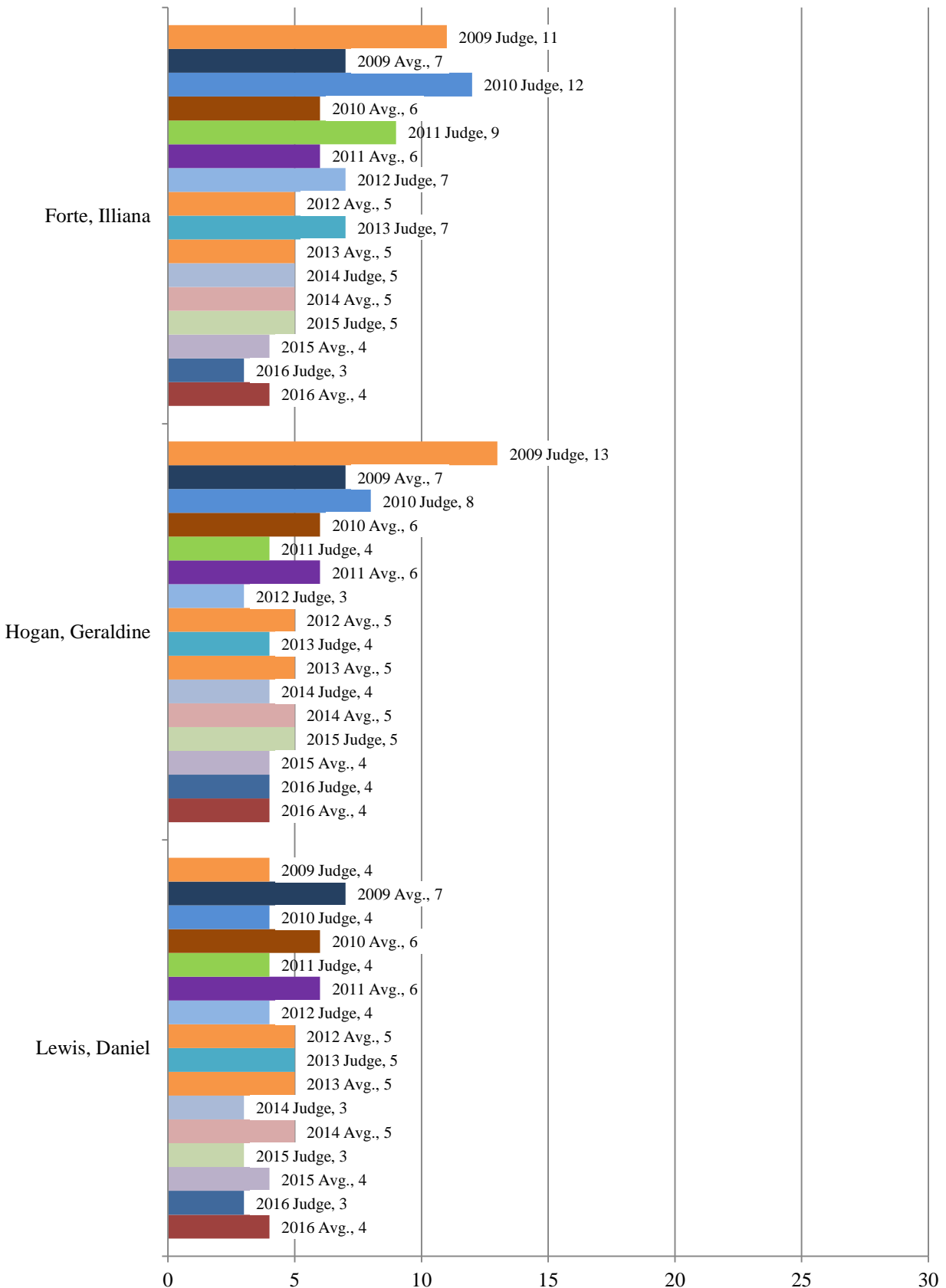
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



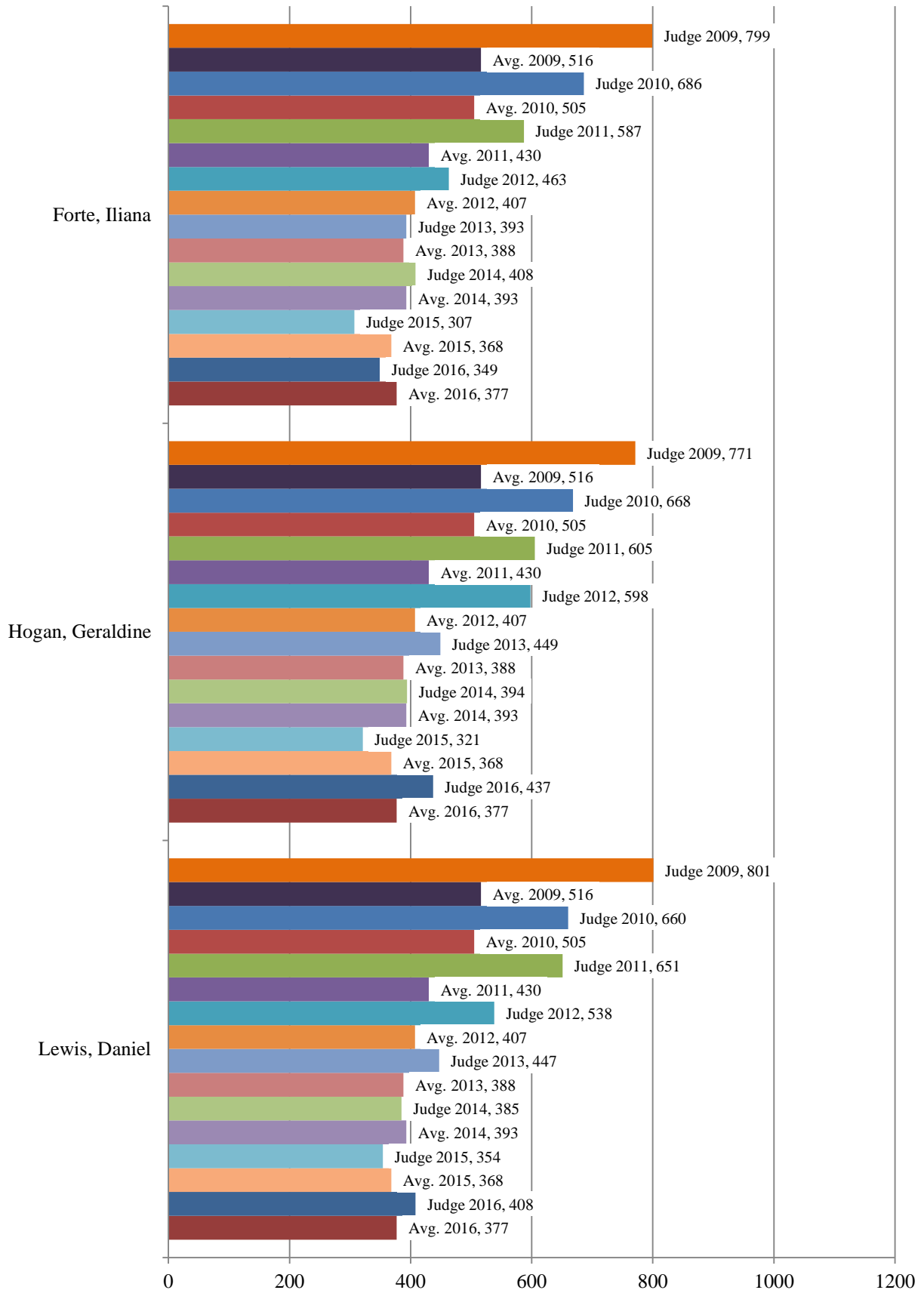
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



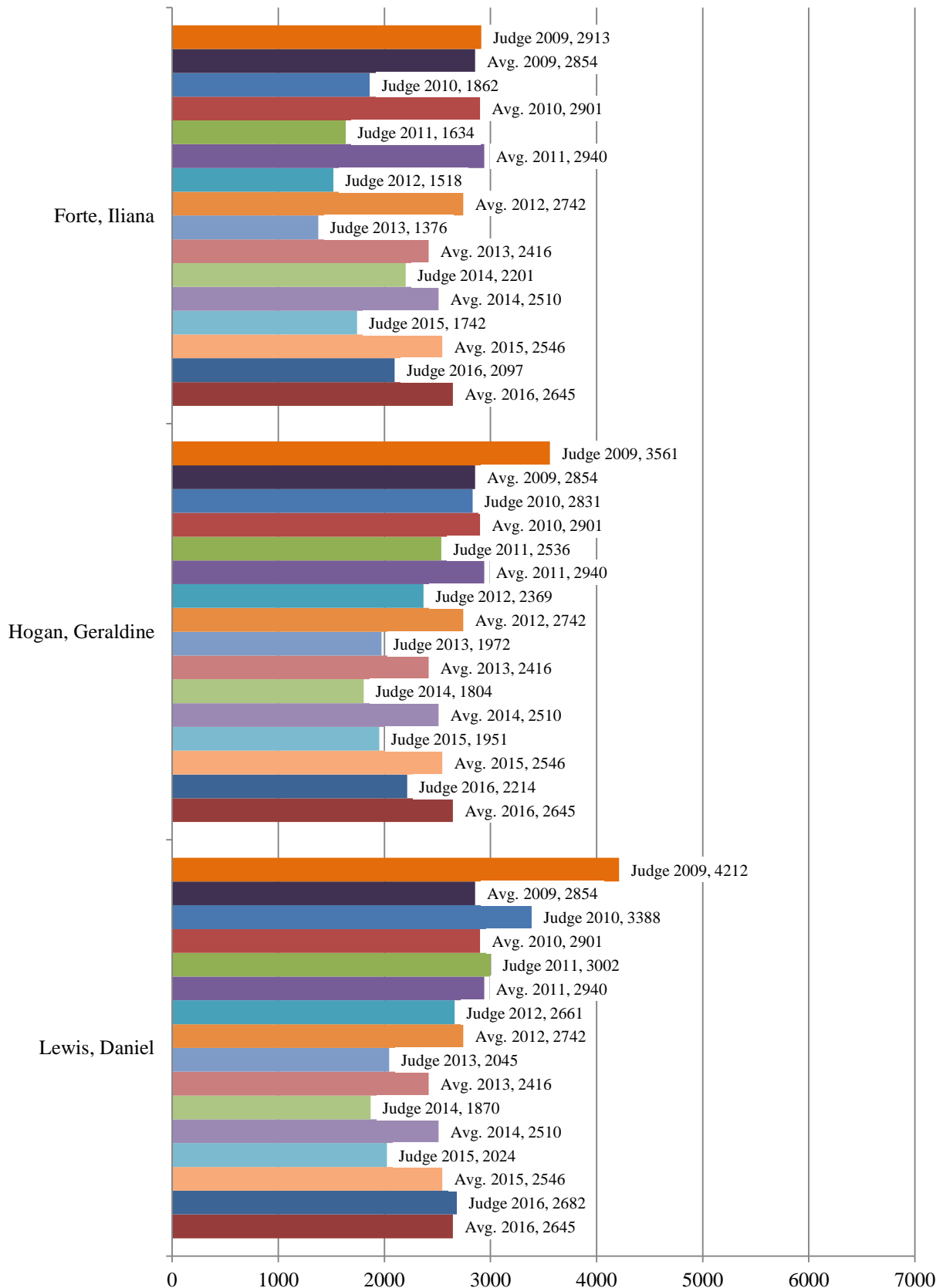
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



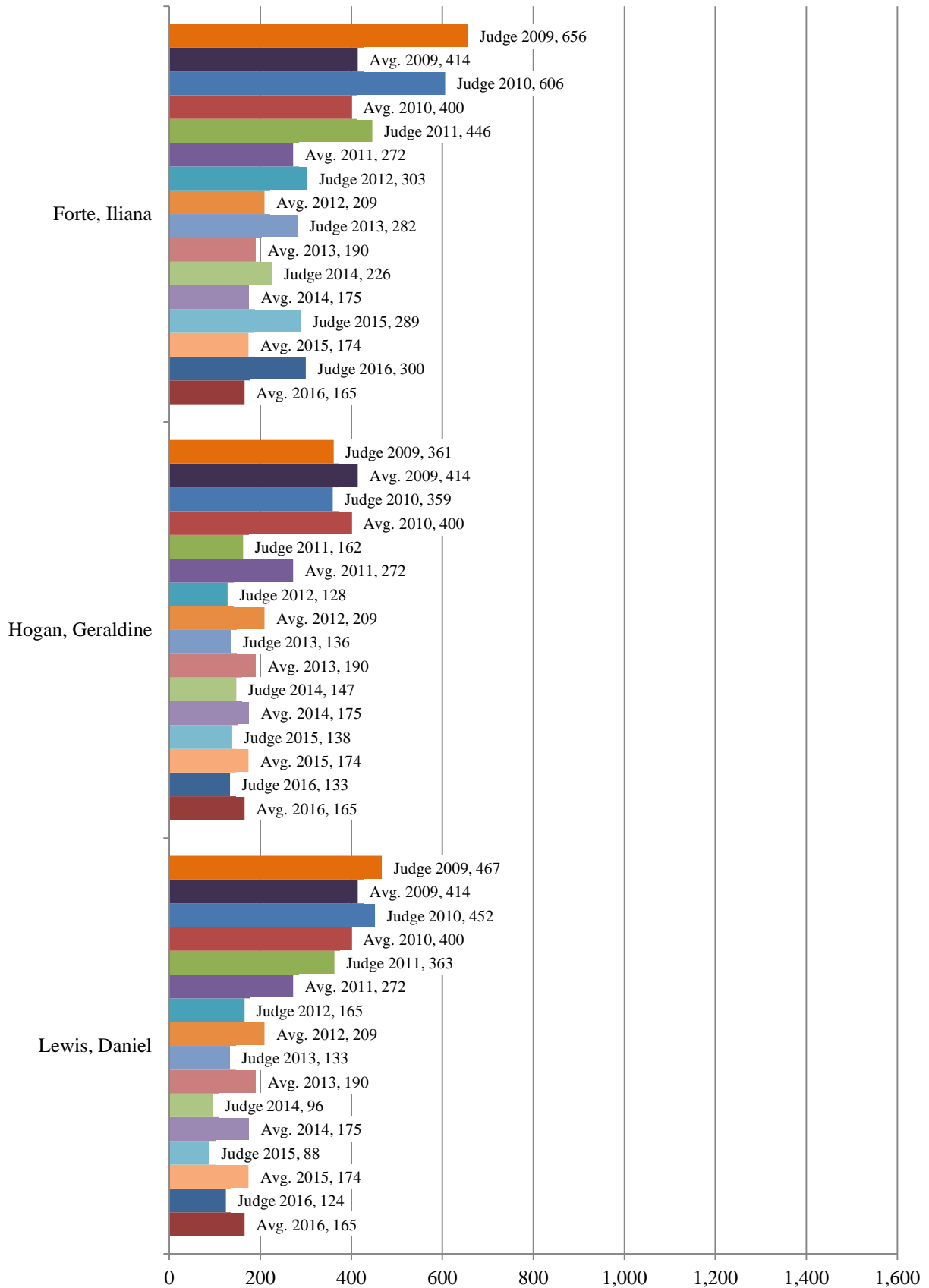
The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



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

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

The volume of PFB filings in District FTM has demonstrated some fluctuation, but remains very close to the statewide average in recent years. In 2015-16, the volumes decreased, which is inconsistent with filing growth seen elsewhere in the state. Both divisions demonstrated efforts at claim closure, with each division closing more petitions than were filed in 2015-16. Each ended 2015-16 with a pending petition inventory below the statewide average.

Each of the FTM judges has been assigned “new cases” from outside the District, since 2006-07. These have been from Districts Miami and Lakeland. In 2010-11, with LKL under new management, and in light of the marked decrease of filings there, District LKL reassignments ceased and both District Ft. Myers judges have received District Miami assignments thereafter until the out-of-district reassignment process was truncated in 2015-16. 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.

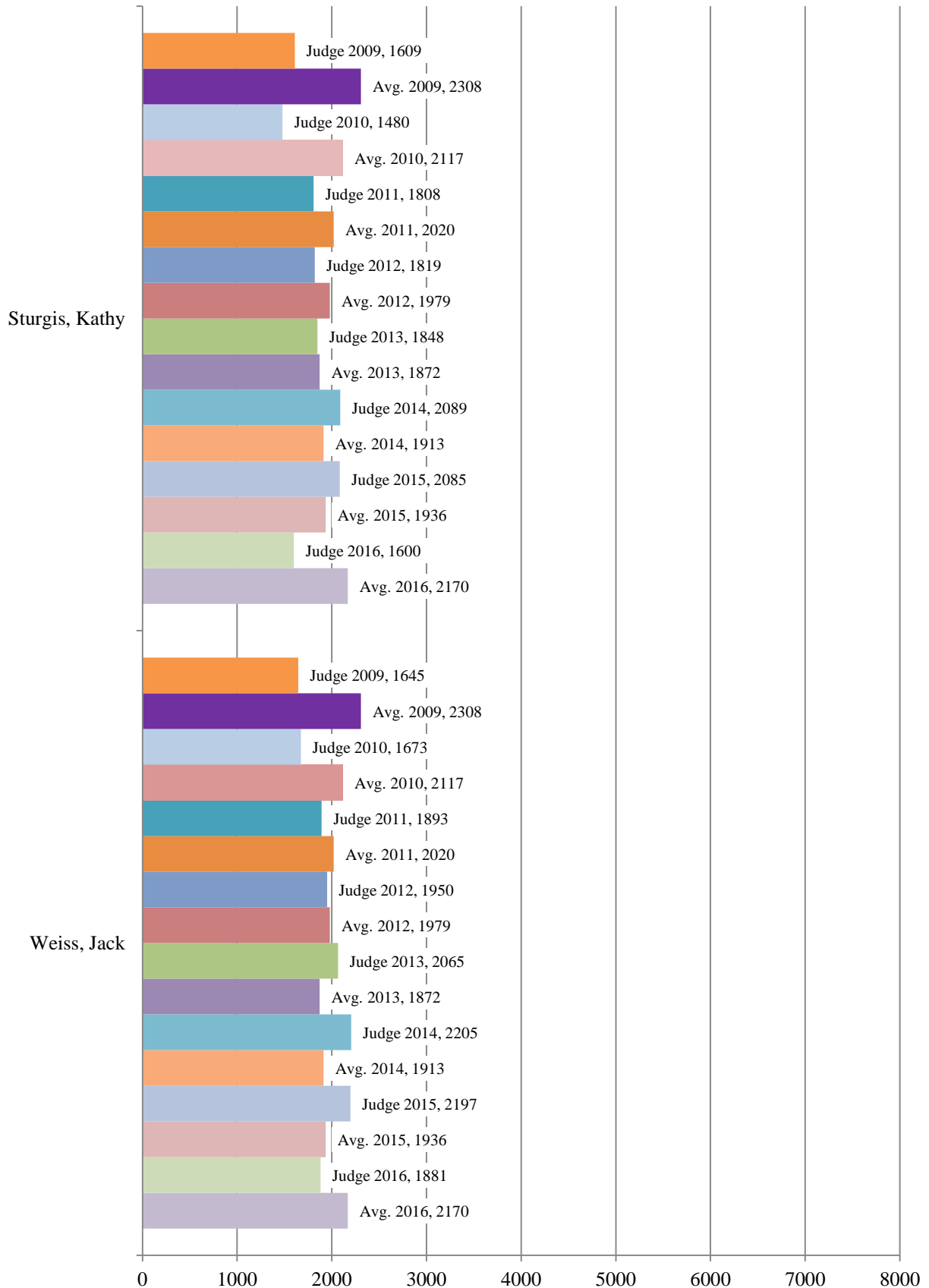
Despite the increased workload on Judge Weiss, resulting from Judge Sturgis’ retirement in the spring of 2016, the average time to trial and to order in his division remained within the statutory parameters.

Judge Weiss served as a judge in the preliminary rounds of the E. Earle Zehmer National Moot Court Competition at the annual Workers’ Compensation Educational Conference. He is also a Member-At-Large of the Executive Committee for The Florida Conference of Judges of Compensation Claims. Judge Weiss’ term began August 1, 2015.

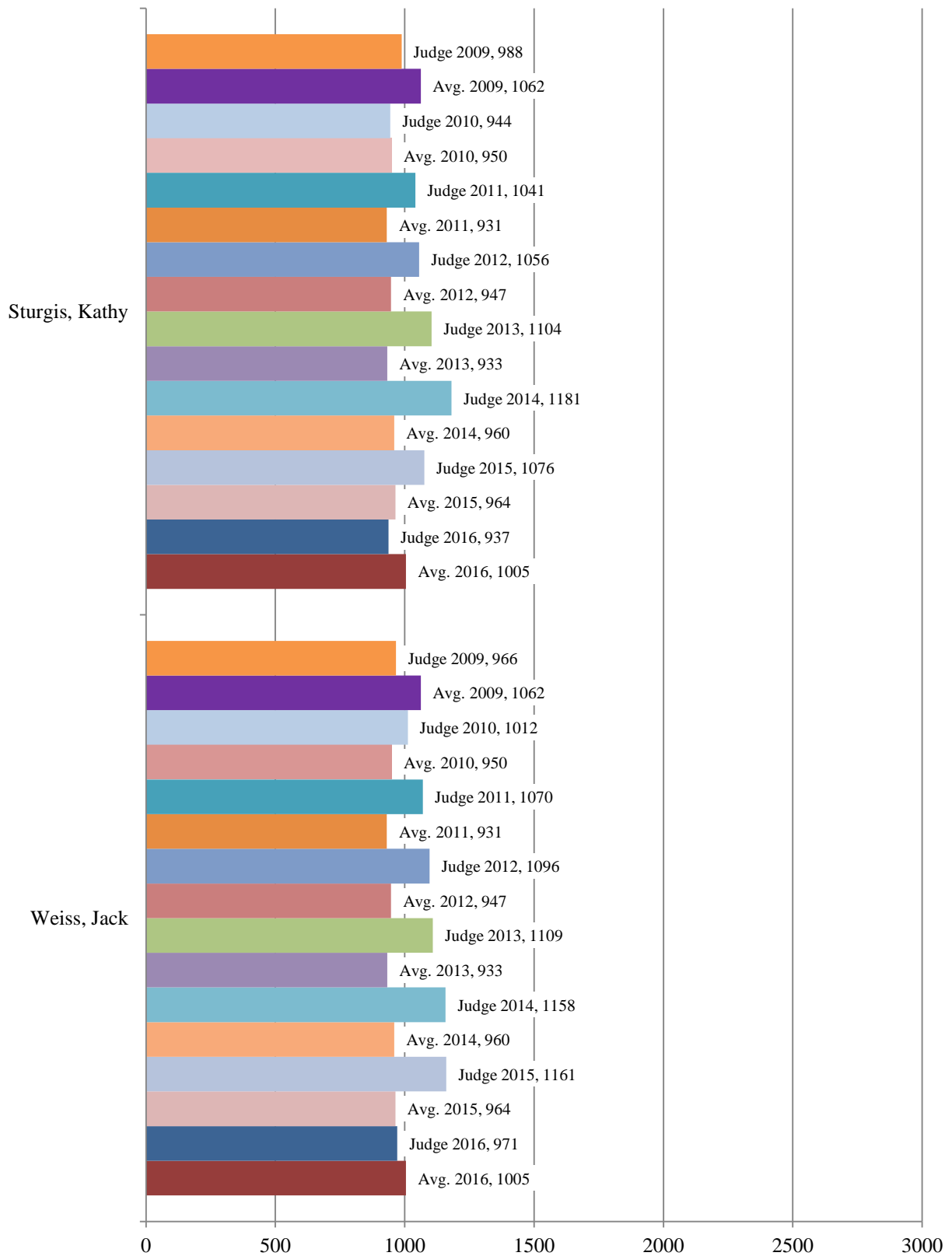


The Ft. Myers District Office on Colonial Boulevard.

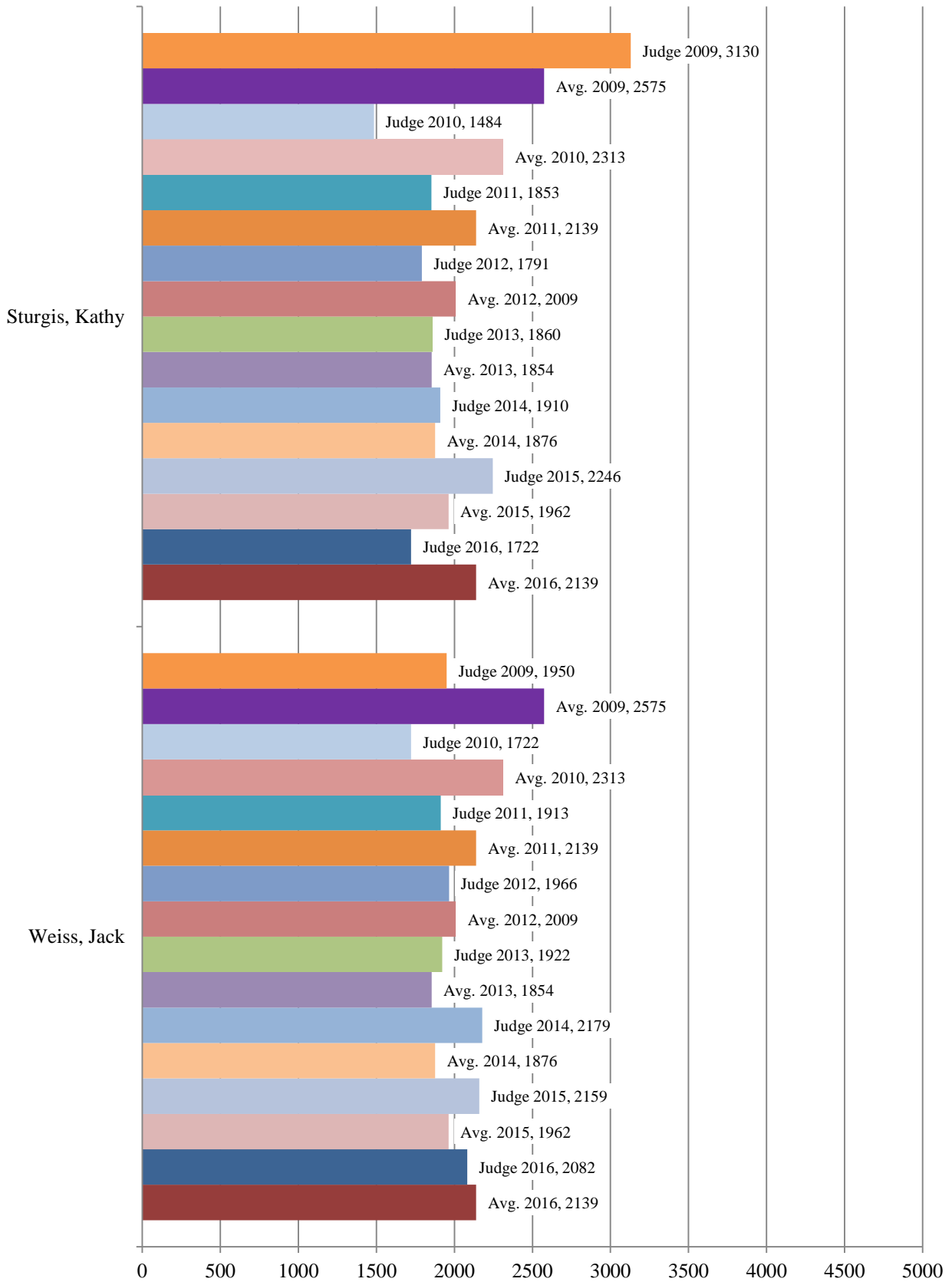
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



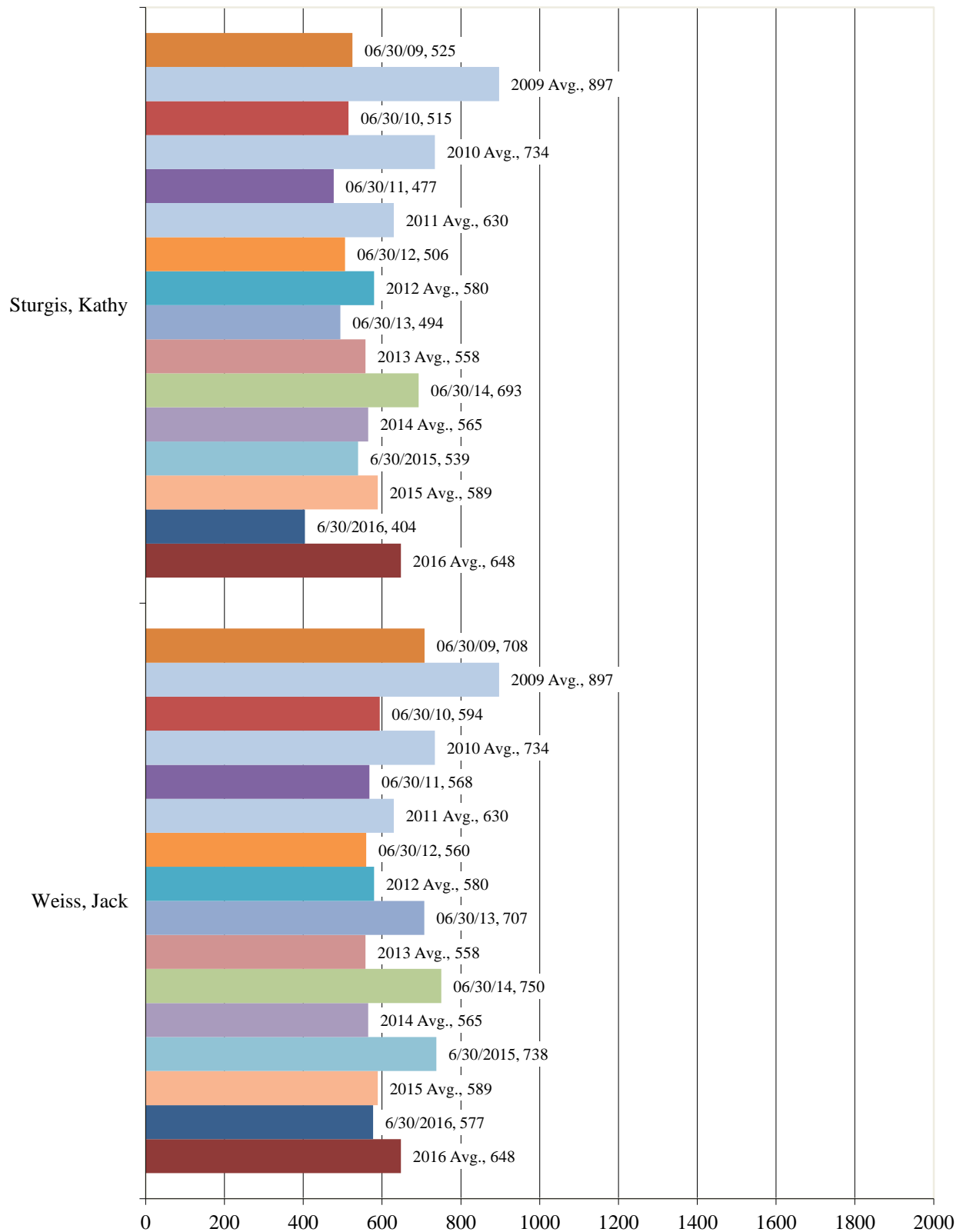
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



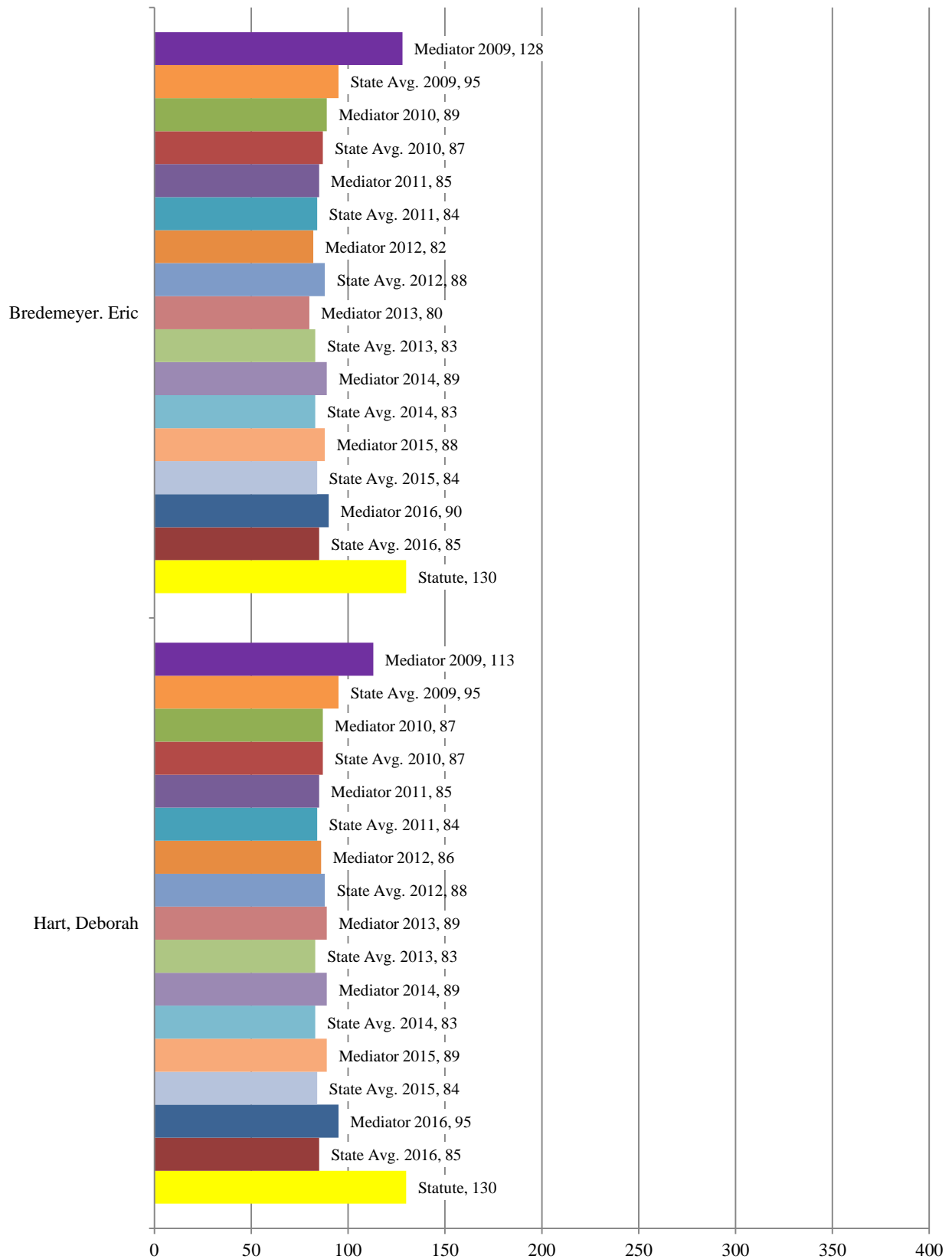
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



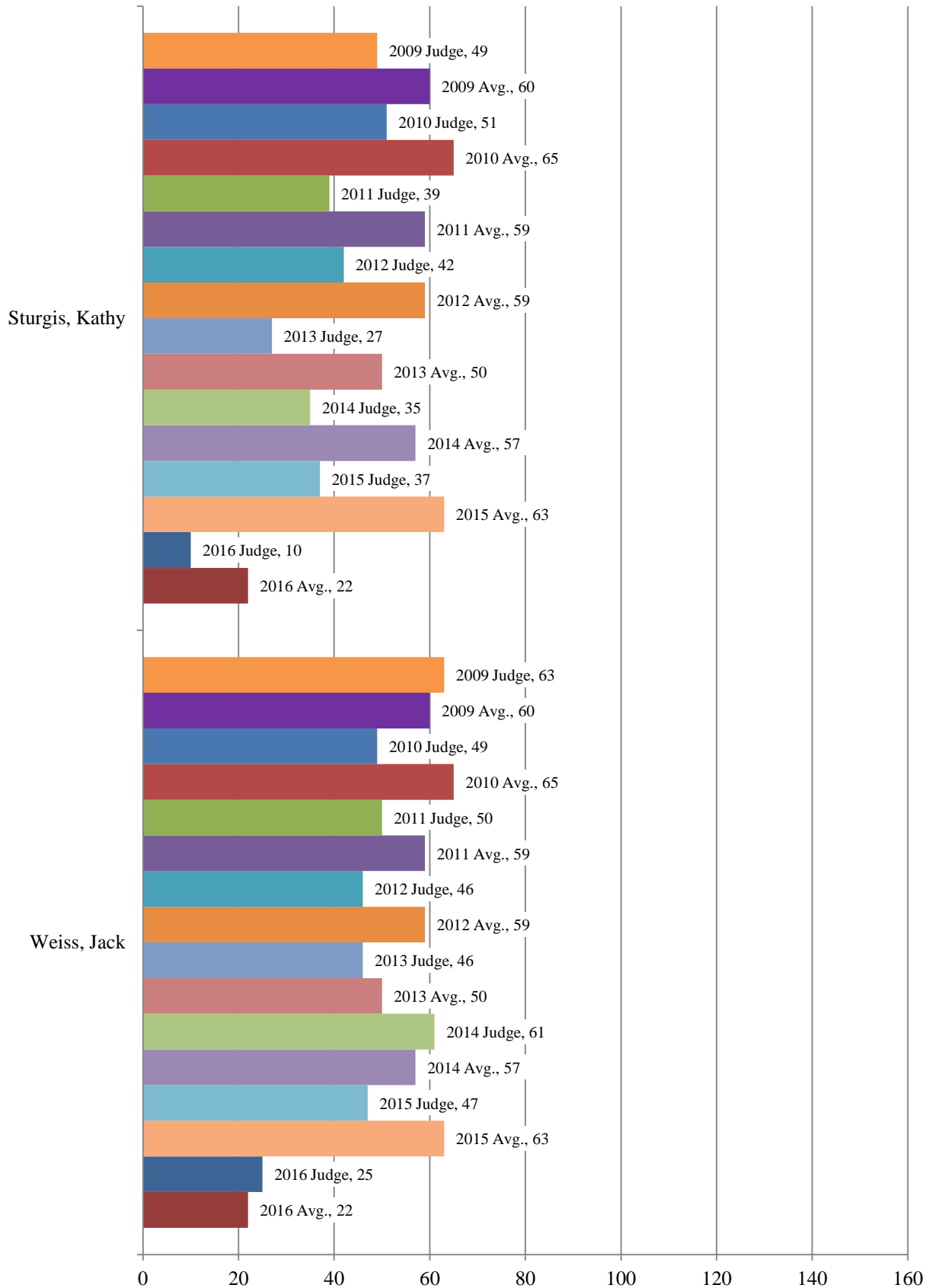
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



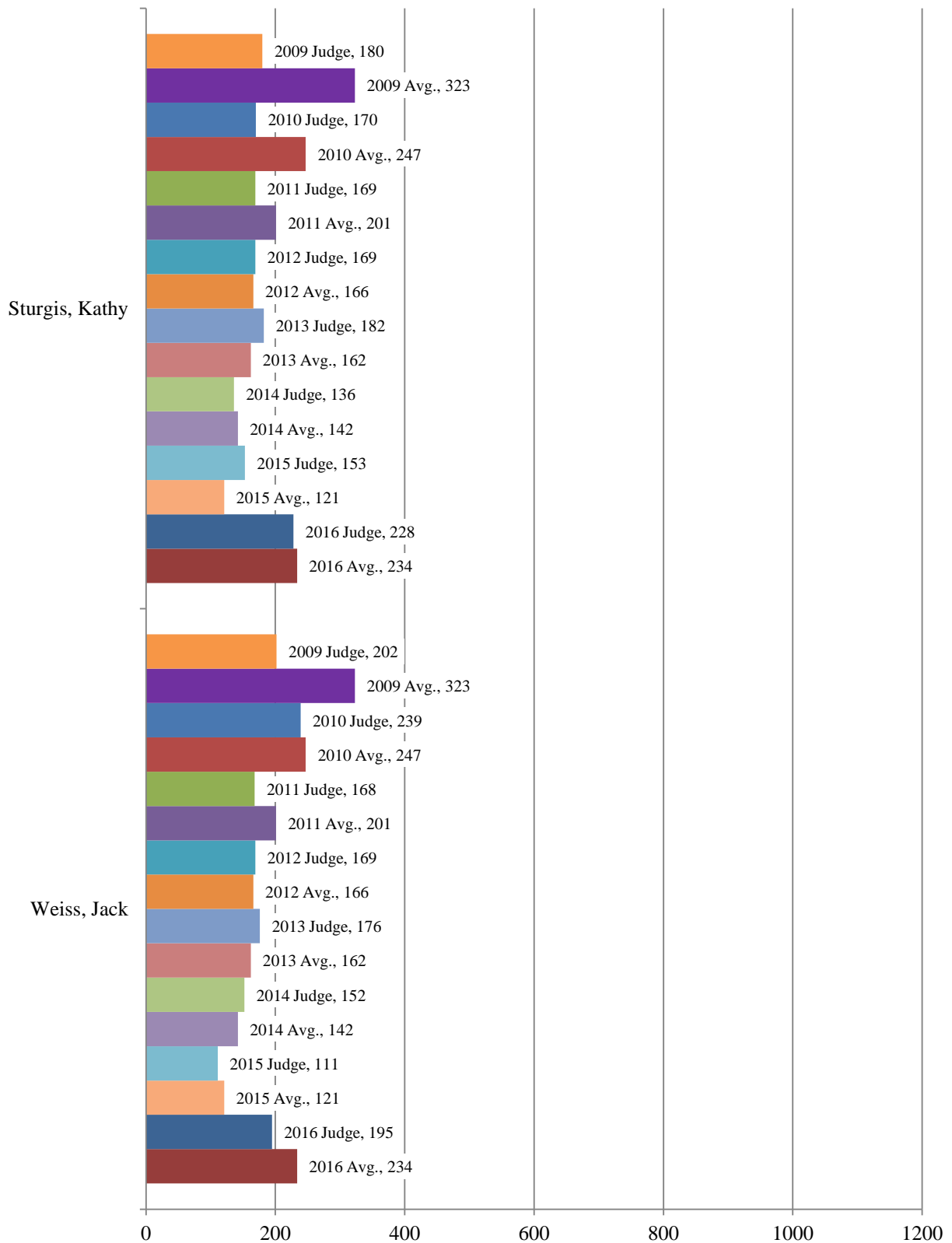
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



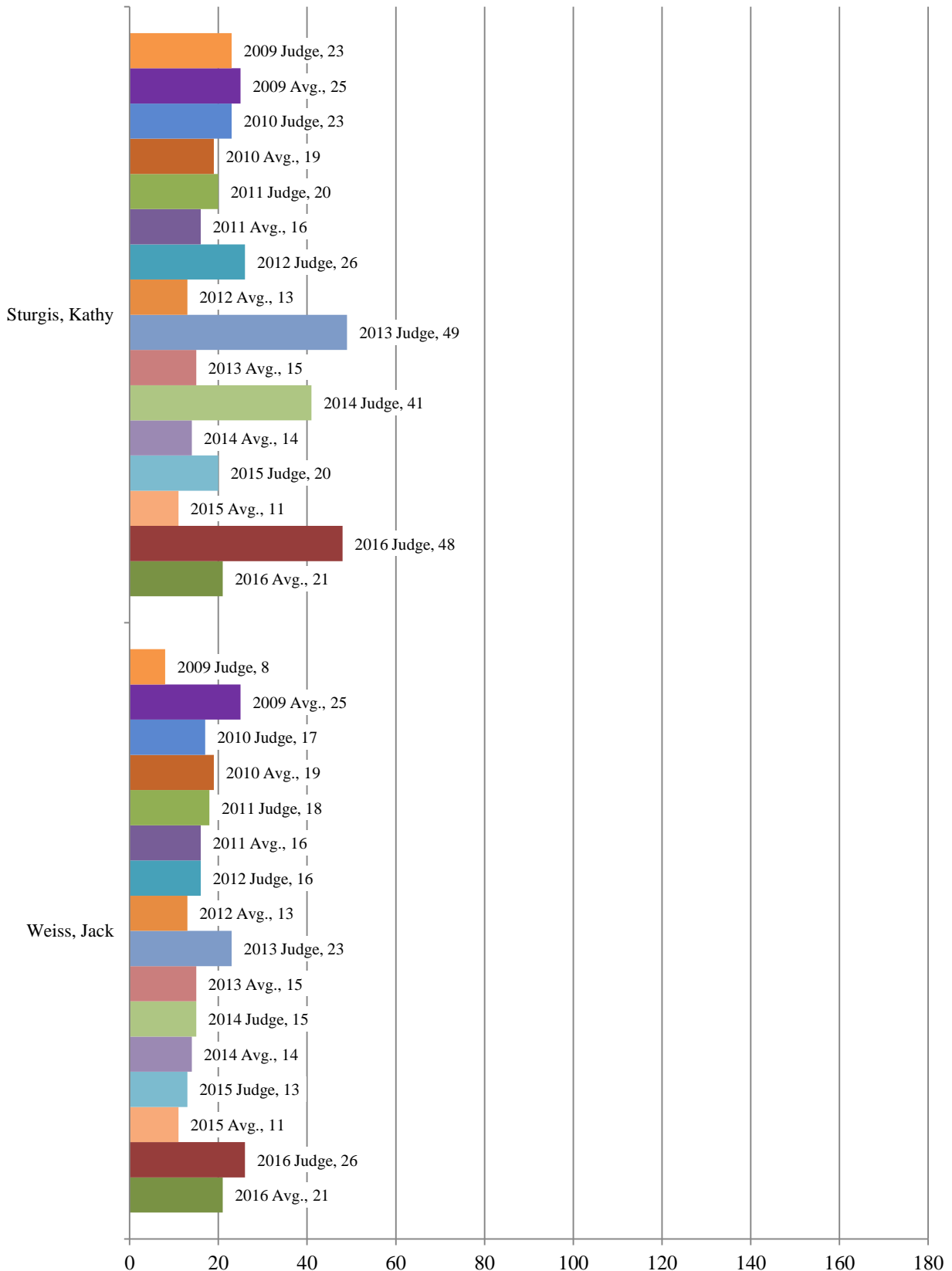
The following graph depicts the total volume of trial orders¹⁴⁸ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



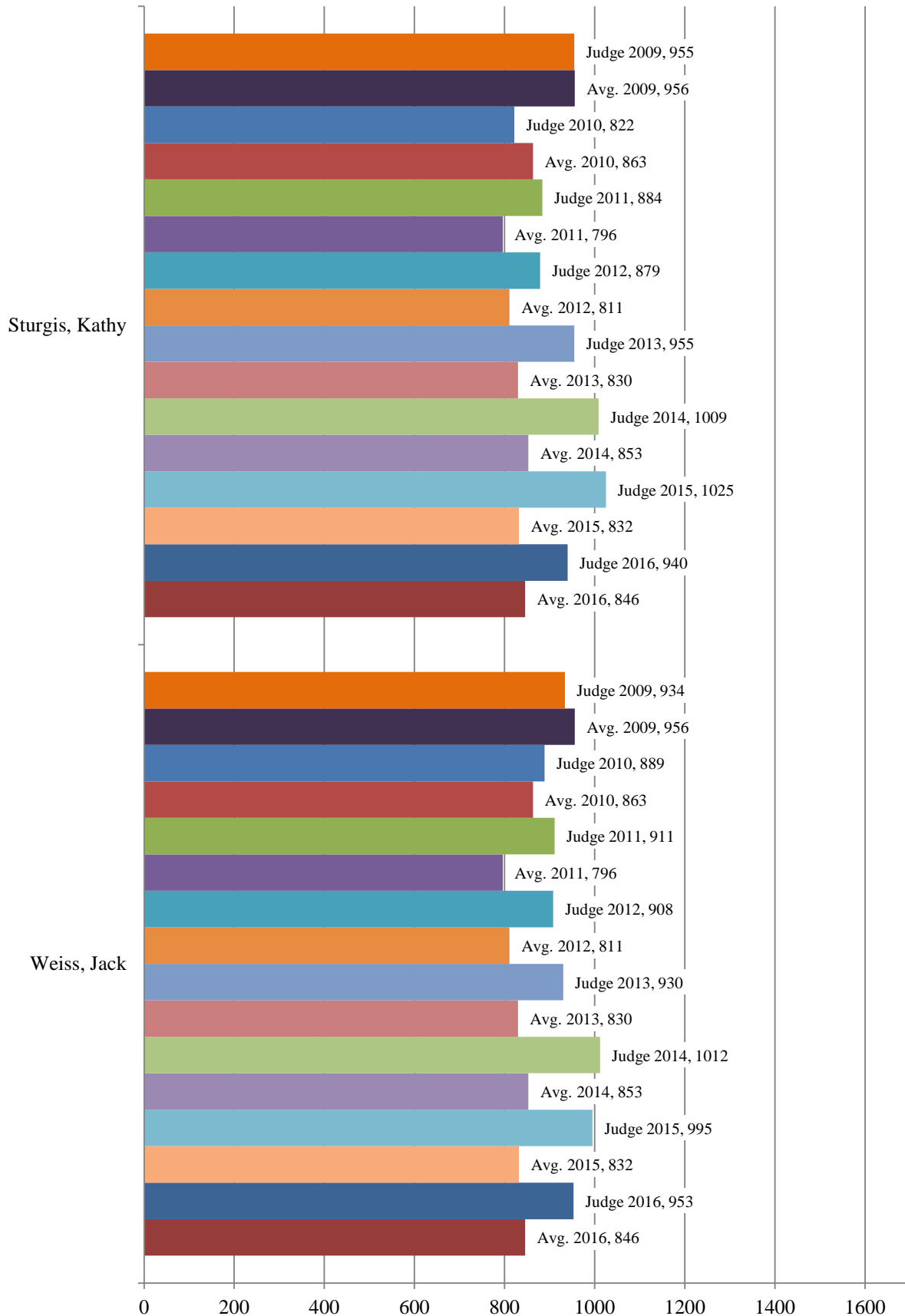
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



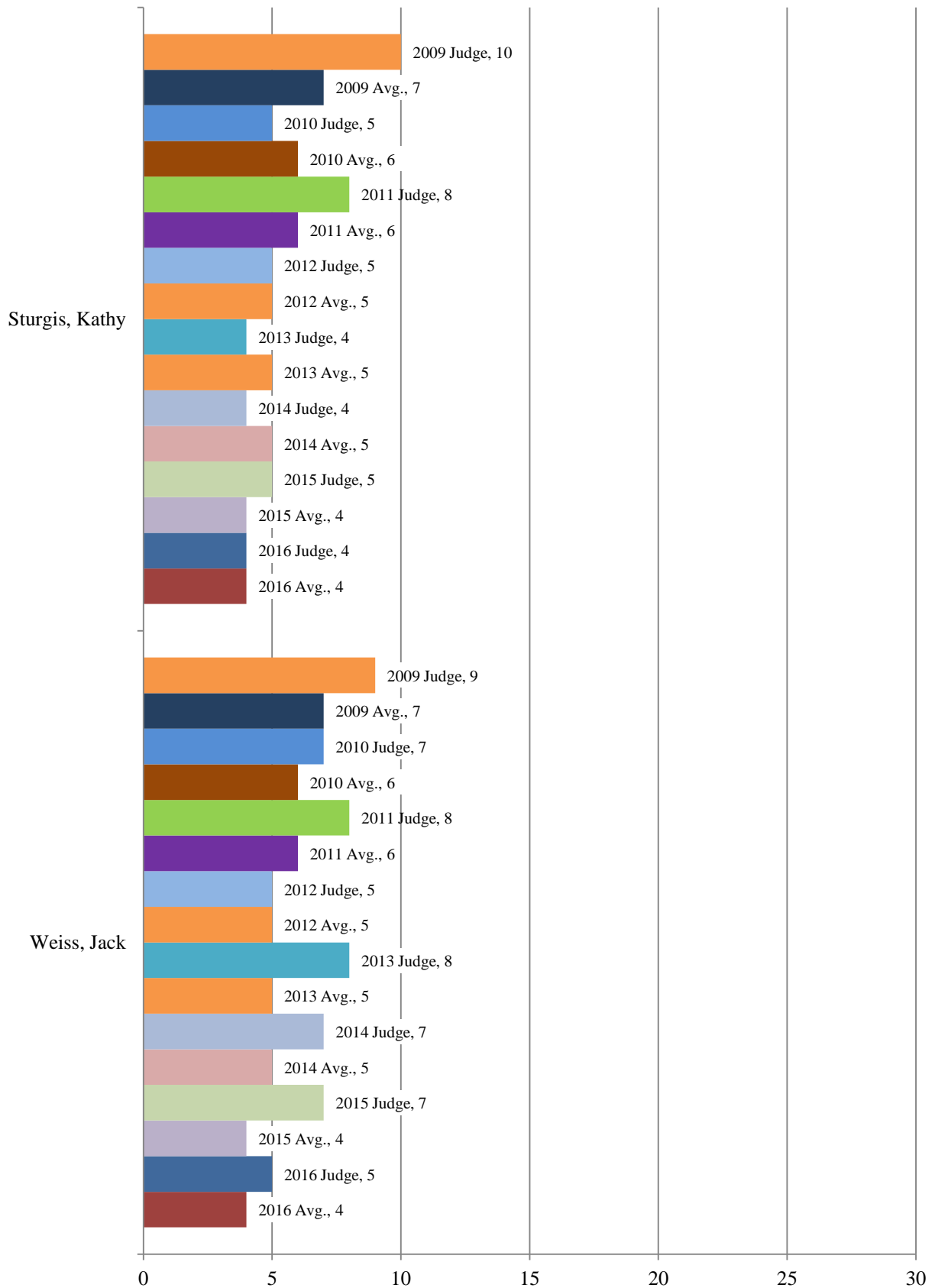
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



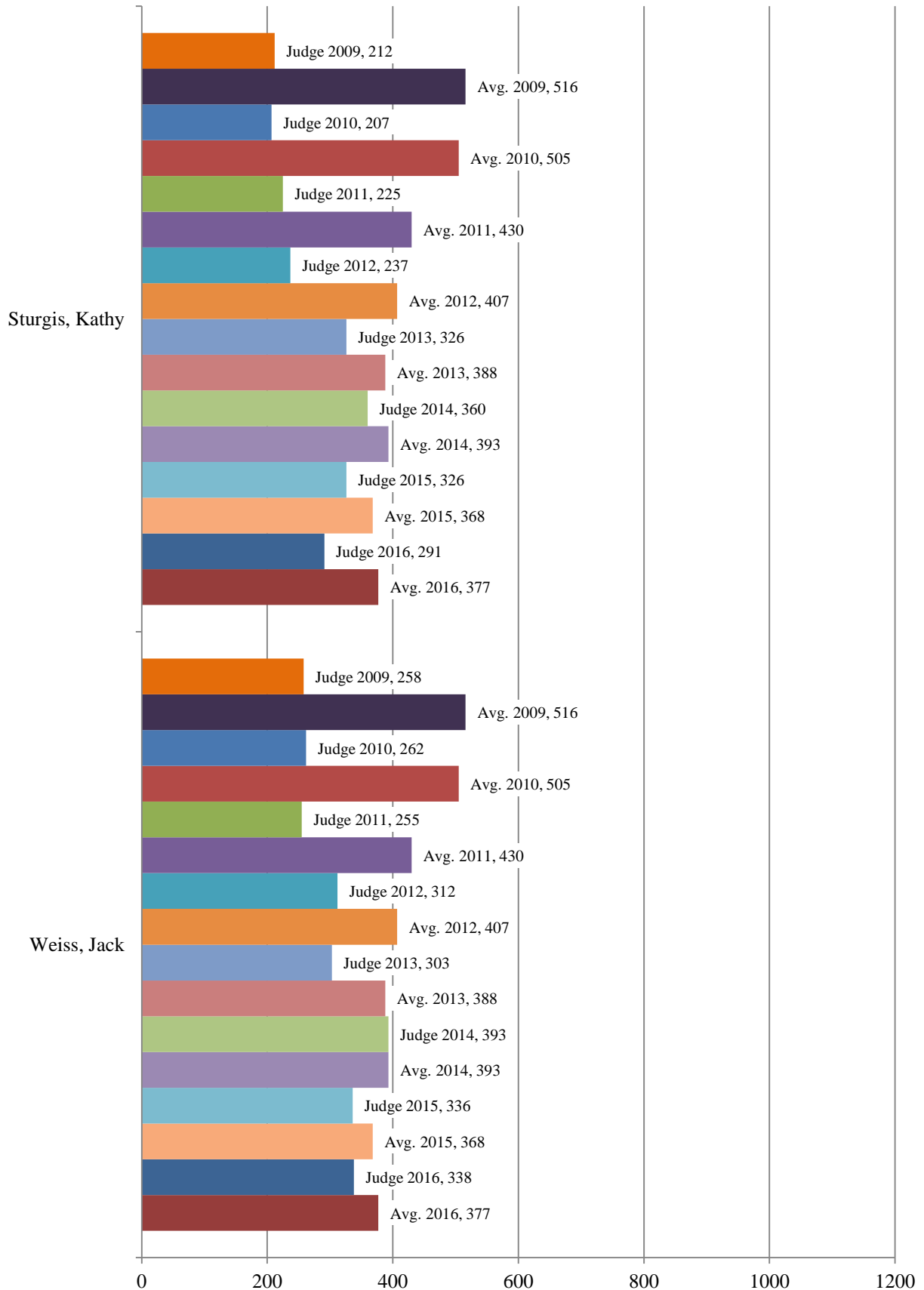
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



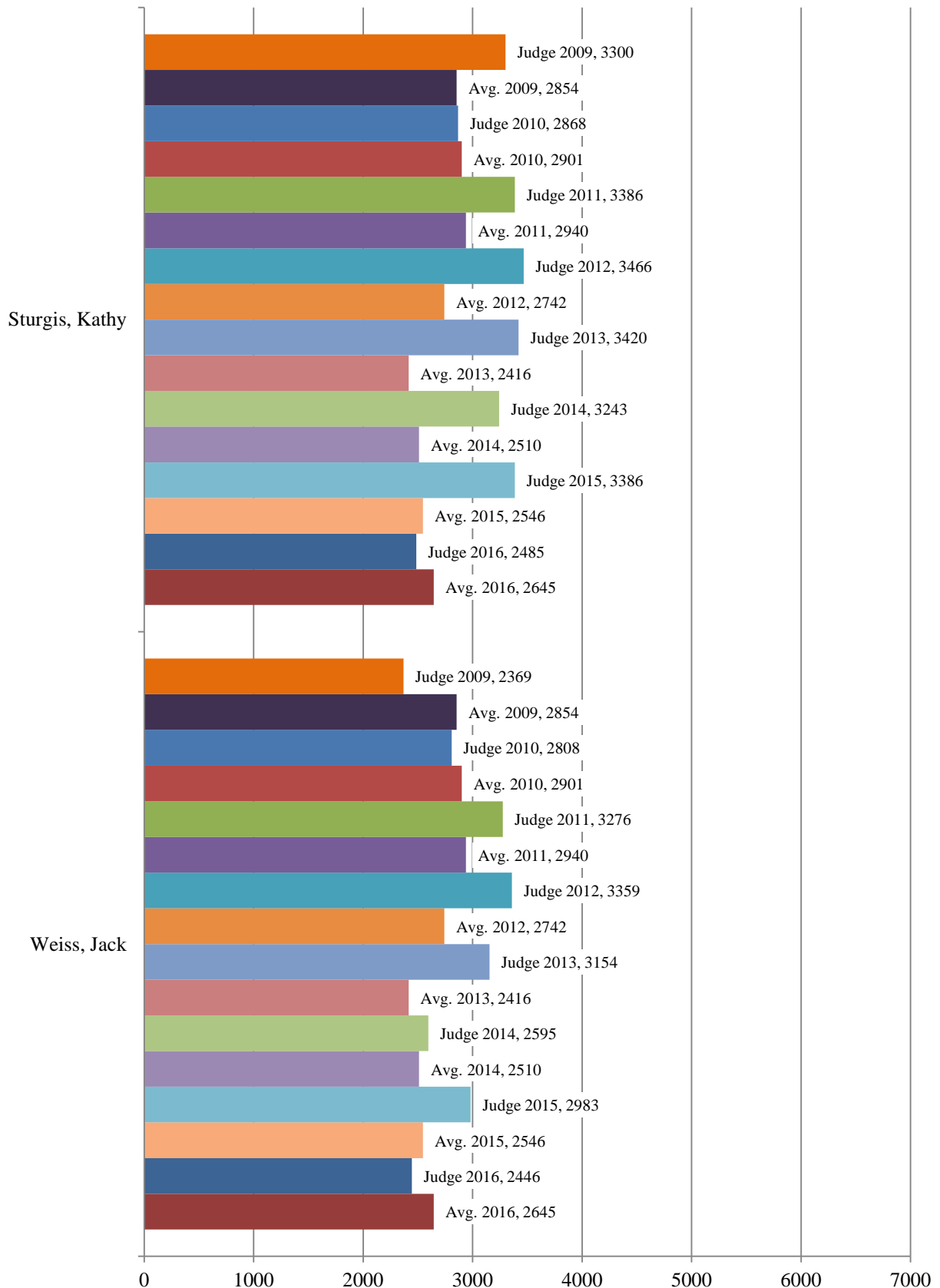
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



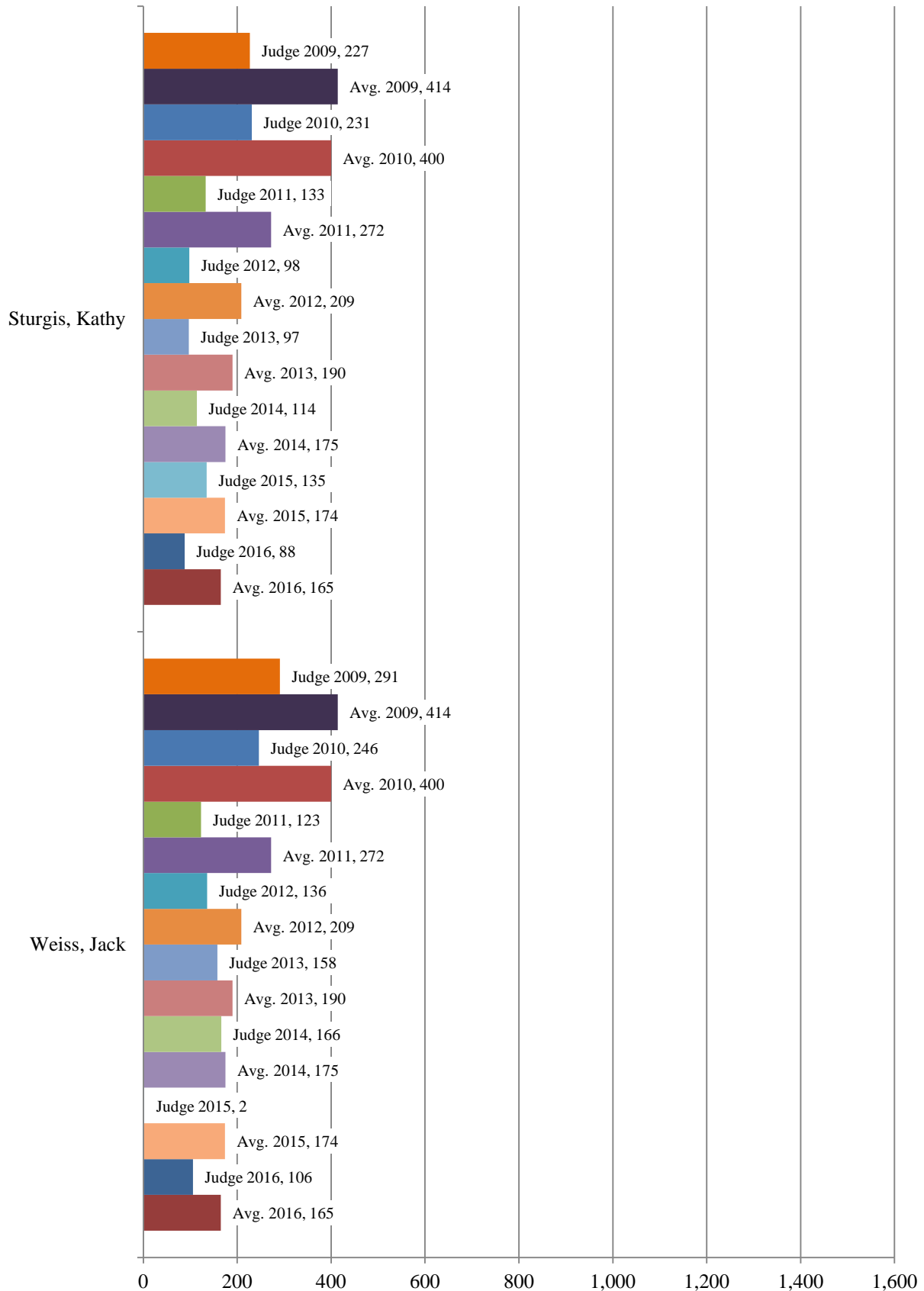
The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



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

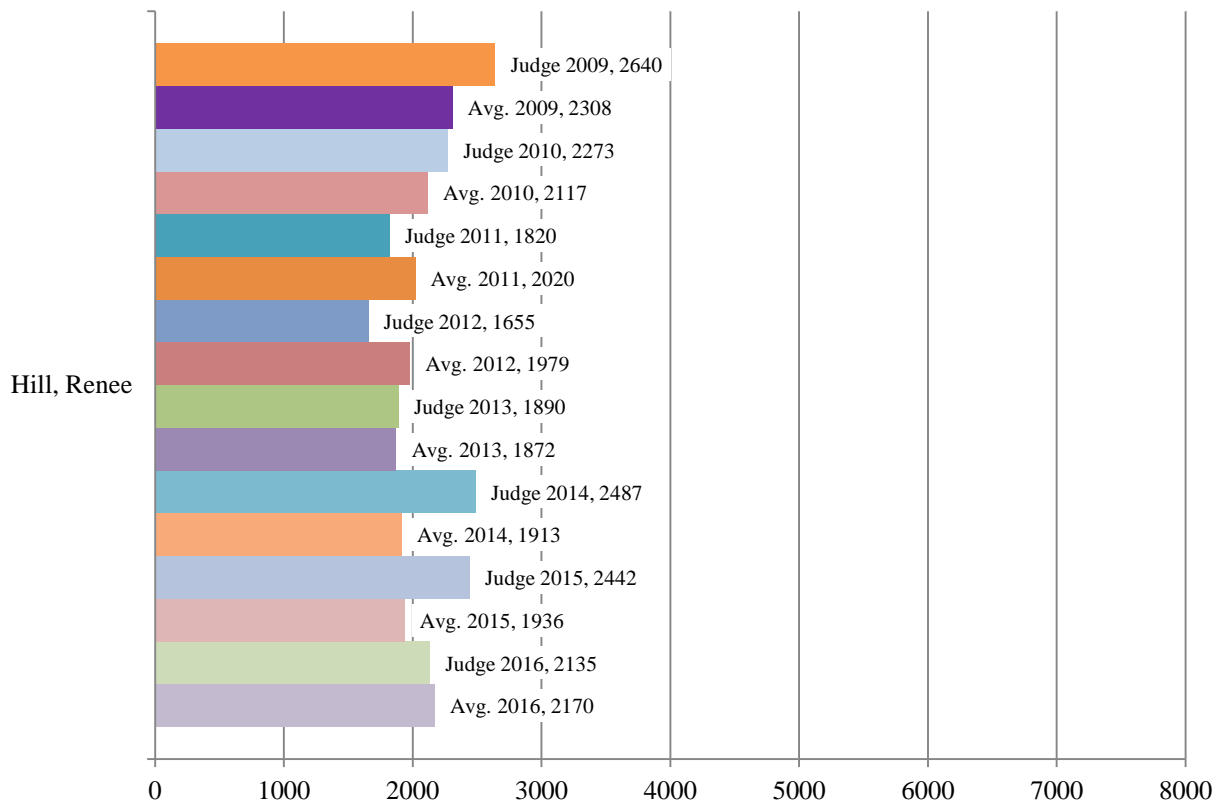
District GNS includes Alachua, Columbia, Dixie, Gilchrist, Levy, and Marion counties.

PFB filings have fluctuated in District GNS, but were notably above the statewide average in fiscal years 2013-14 and 2014-15; that moderated in 2015-16, with petitions decreasing in Gainesville some, while overall average petition filings throughout the state markedly increased. Thus, the Gainesville volumes were very close to the statewide average in 2015-16. New case volumes are also significantly above average in Gainesville 2012-13 through 2014-15, but also moderated in 2015-16, for the last three fiscal years. The trends demonstrate growth of litigation in this district. Some of that increase may have been attributable to the assignment of Miami cases to Judge Hill, which ceased in fiscal 2015-16. Despite the increase described 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.

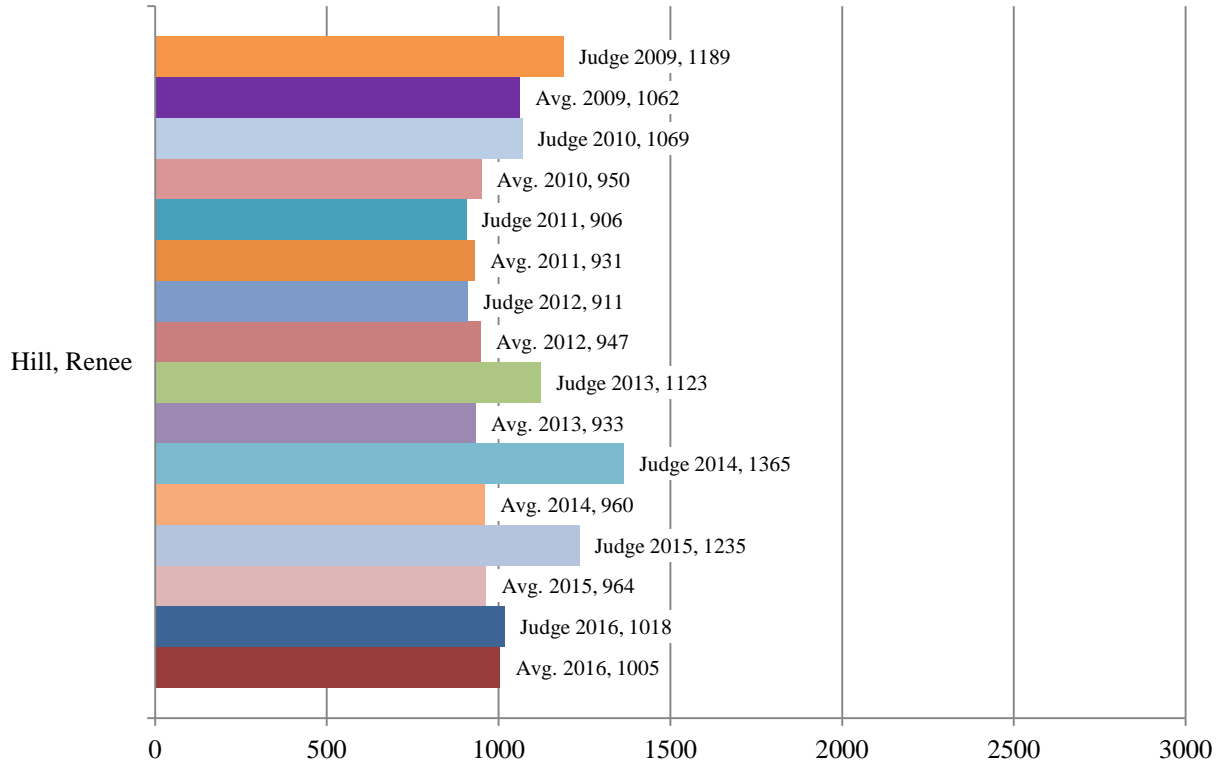
District GNS continued to significantly exceed the statewide average in trial volume in 2014-15. This has been consistent through the last seven fiscal years. A significant volume of trials are held in District GNS. Despite the volume, Judge Hill averaged well below the statutory 210 days from PFB/motion to trial in each of the last six fiscal years. Her average time from trial to entry of final order was under ten days in each of the last five 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. She served as a moderator for the judicial panel entitled “Most Frequently Adjudicated Discovery Issues, All my Trials,” and has been active as an ad hoc member of the Florida Bar Workers’ Compensation Section Rules Committee. By invitation from First District Court of Appeal Chief Judge Clayton Roberts, she served on the Committee formed by the First District Court of Appeal to select the Director of its Workers’ Compensation Unit. She also worked with another Judge of Compensation Claims and four attorneys selected by the Florida Bar Workers’ Compensation Section Chair to develop forms for use by the Workers’ Compensation Bar, and worked with the Judicial Survey Committee to re-format the OJCC Judicial Survey and Judicial Survey Report to provide a more comprehensive comparison of objective and subjective data for each Judge of Compensation Claims.

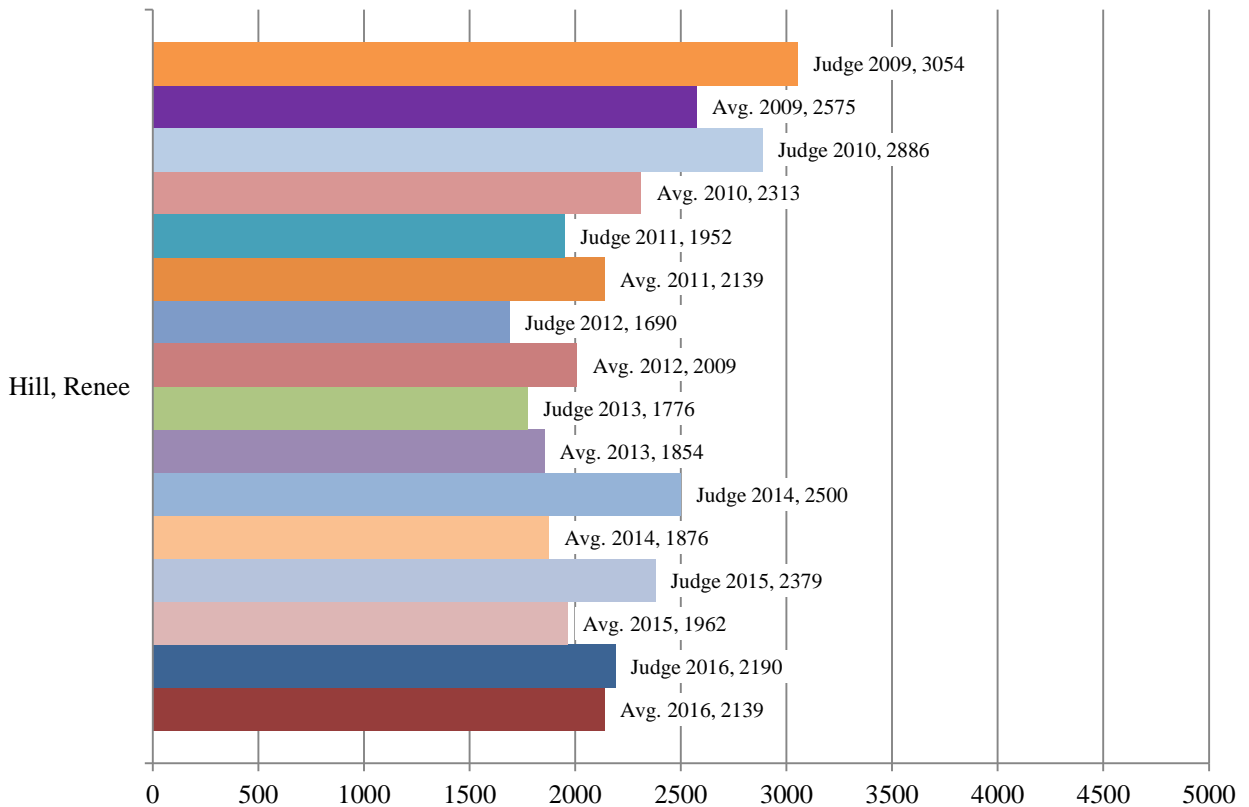
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



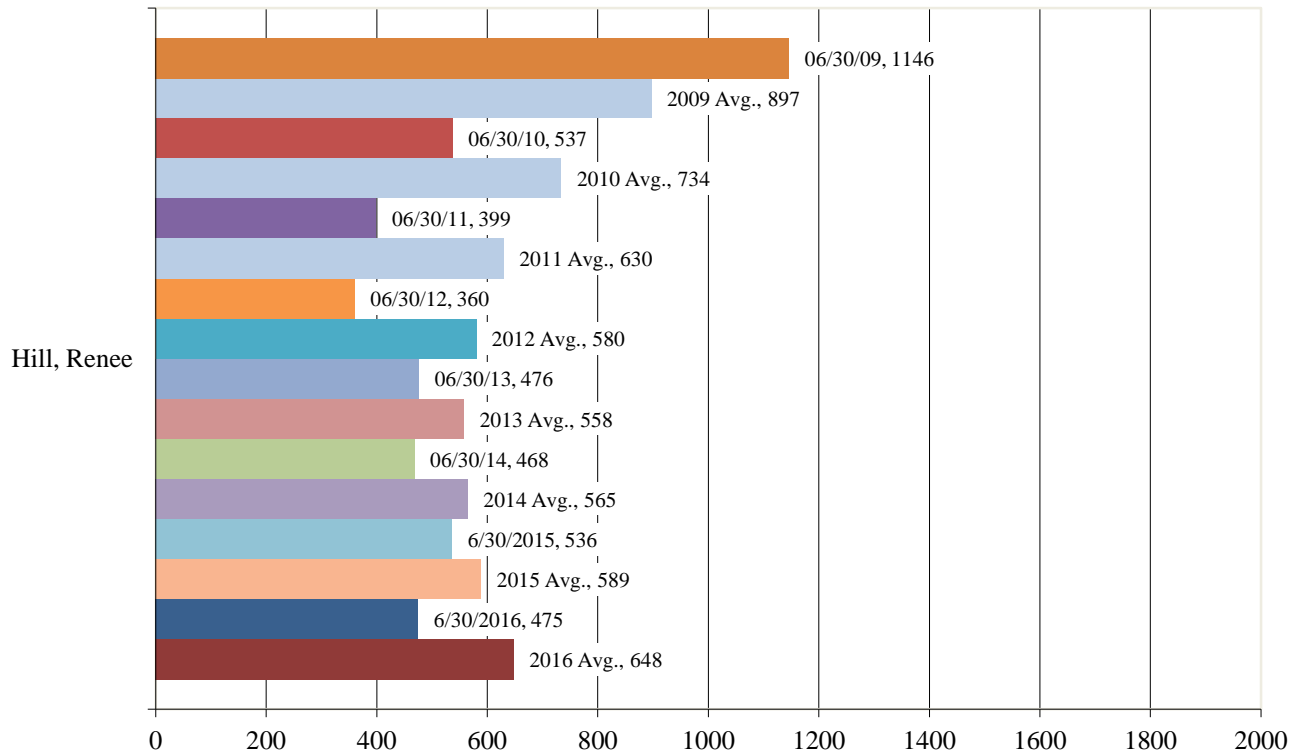
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



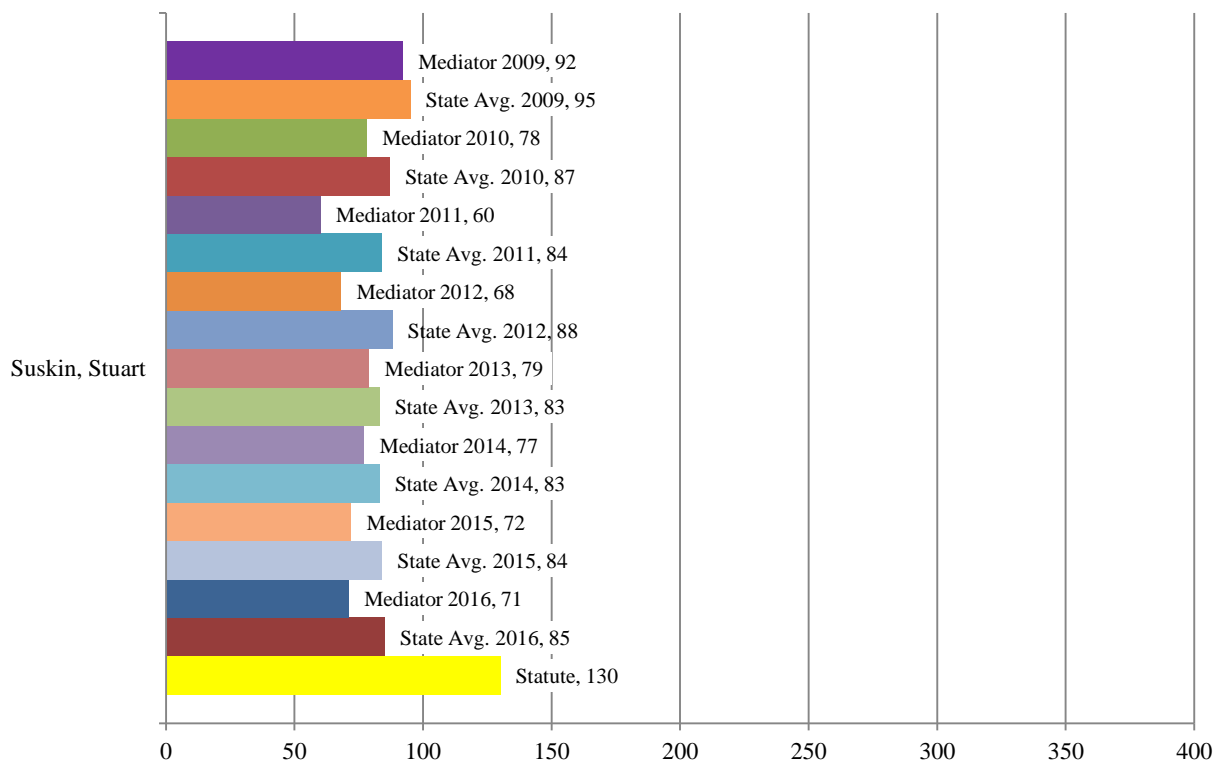
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



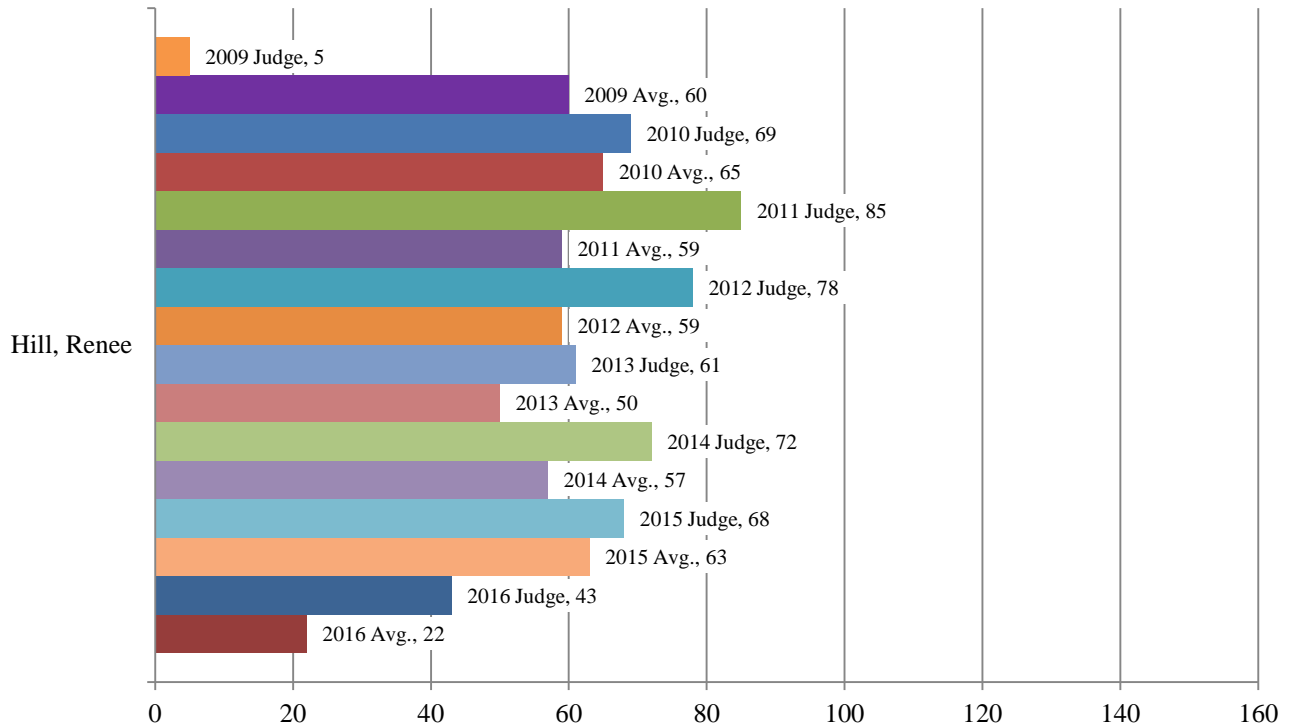
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



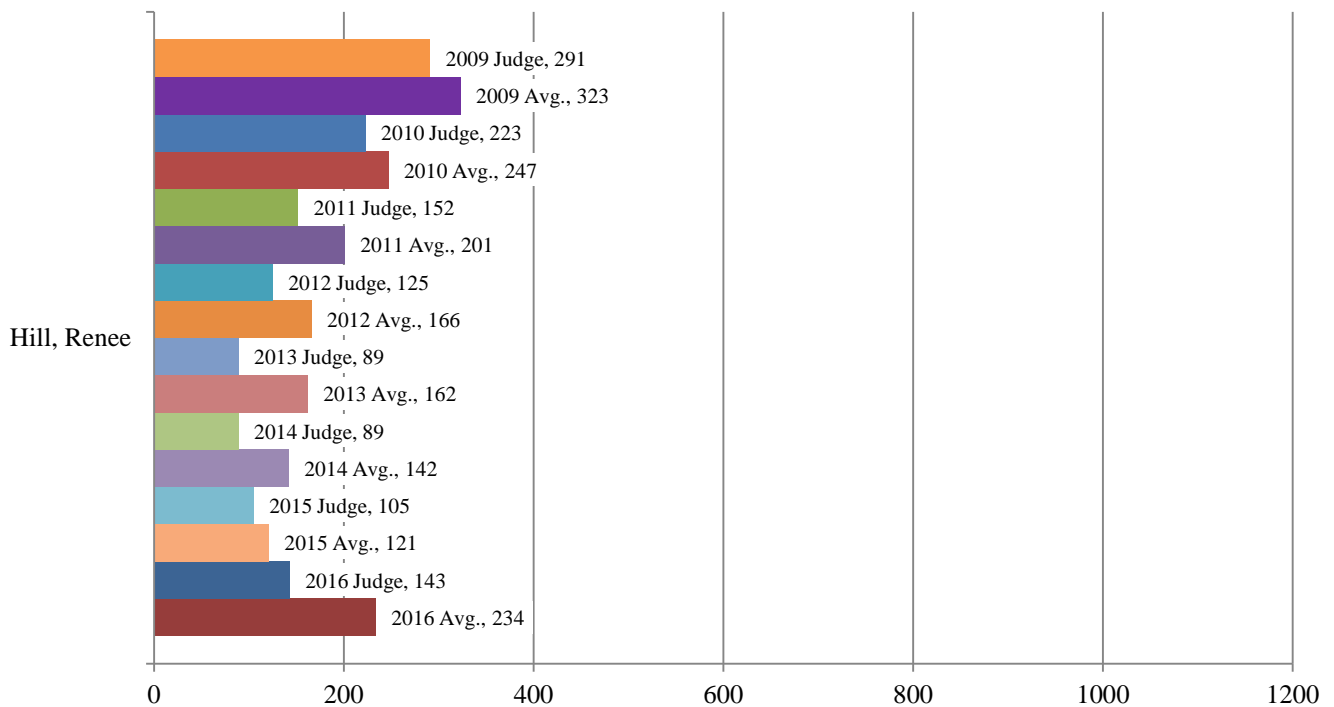
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



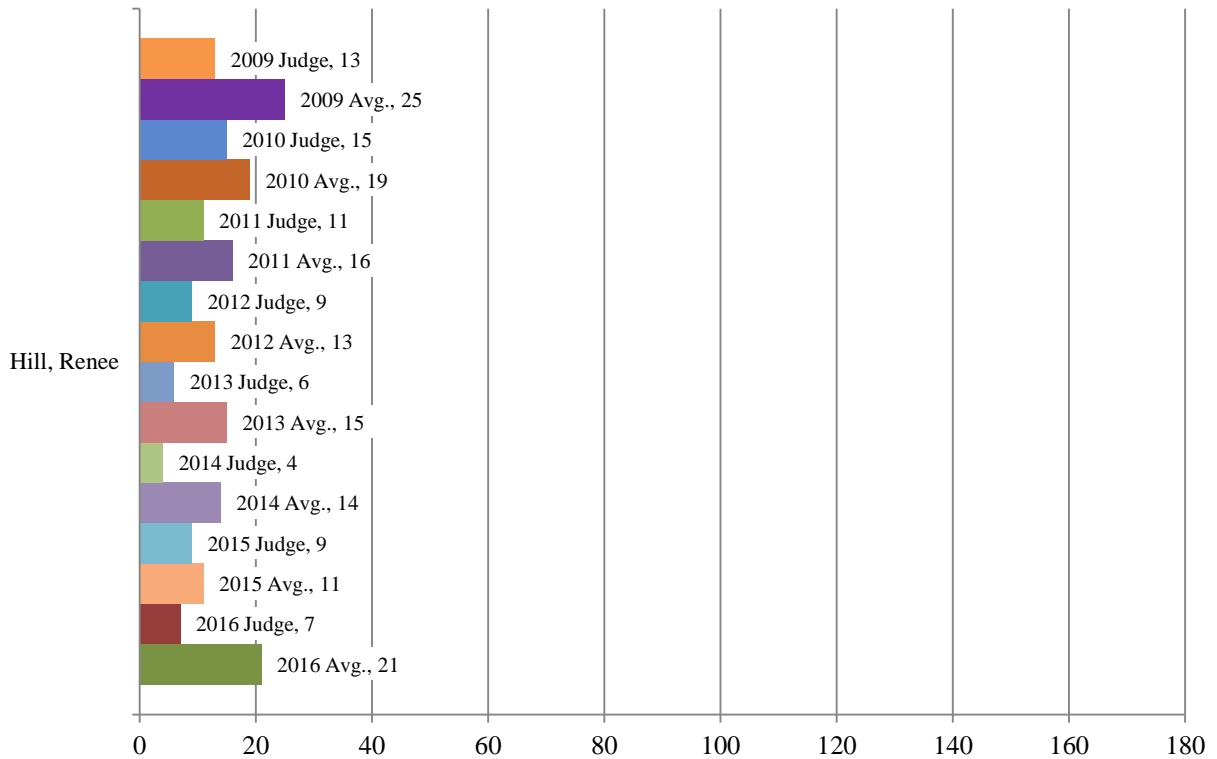
The following graph depicts the total volume of trial orders¹⁴⁹ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



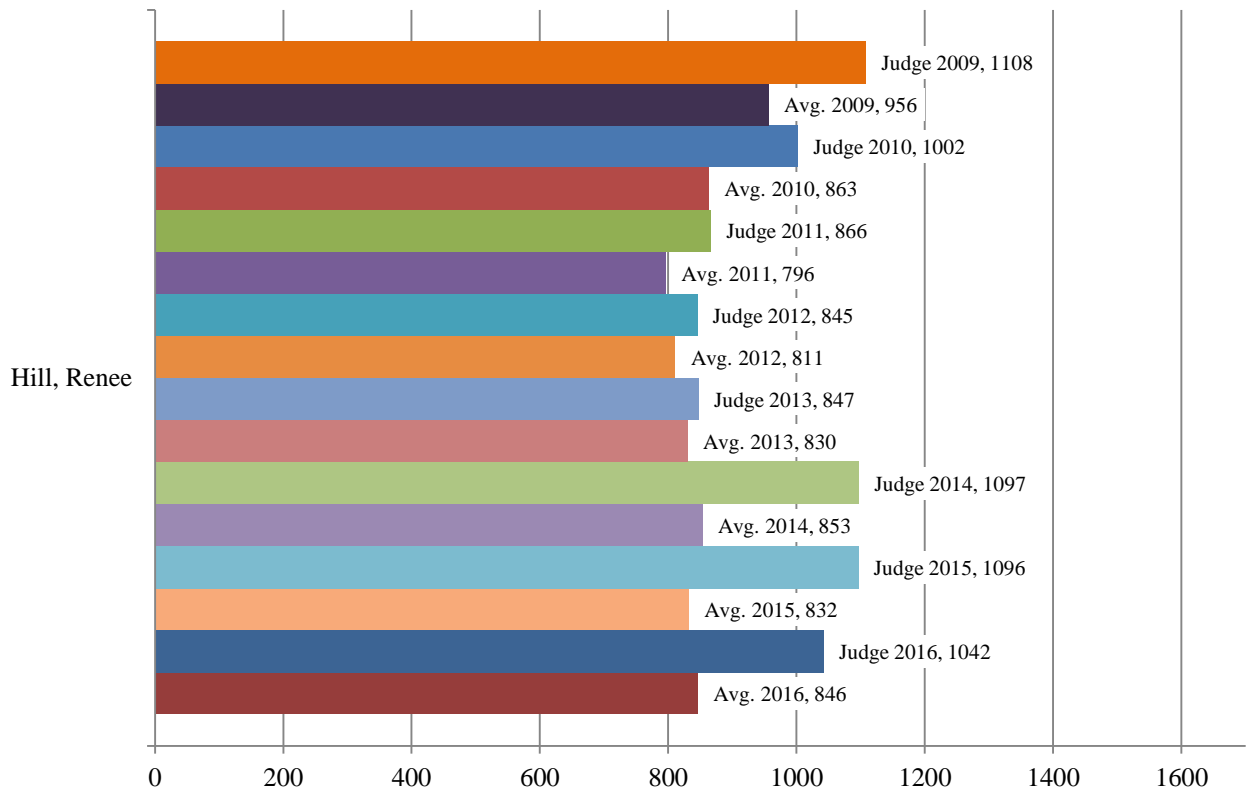
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



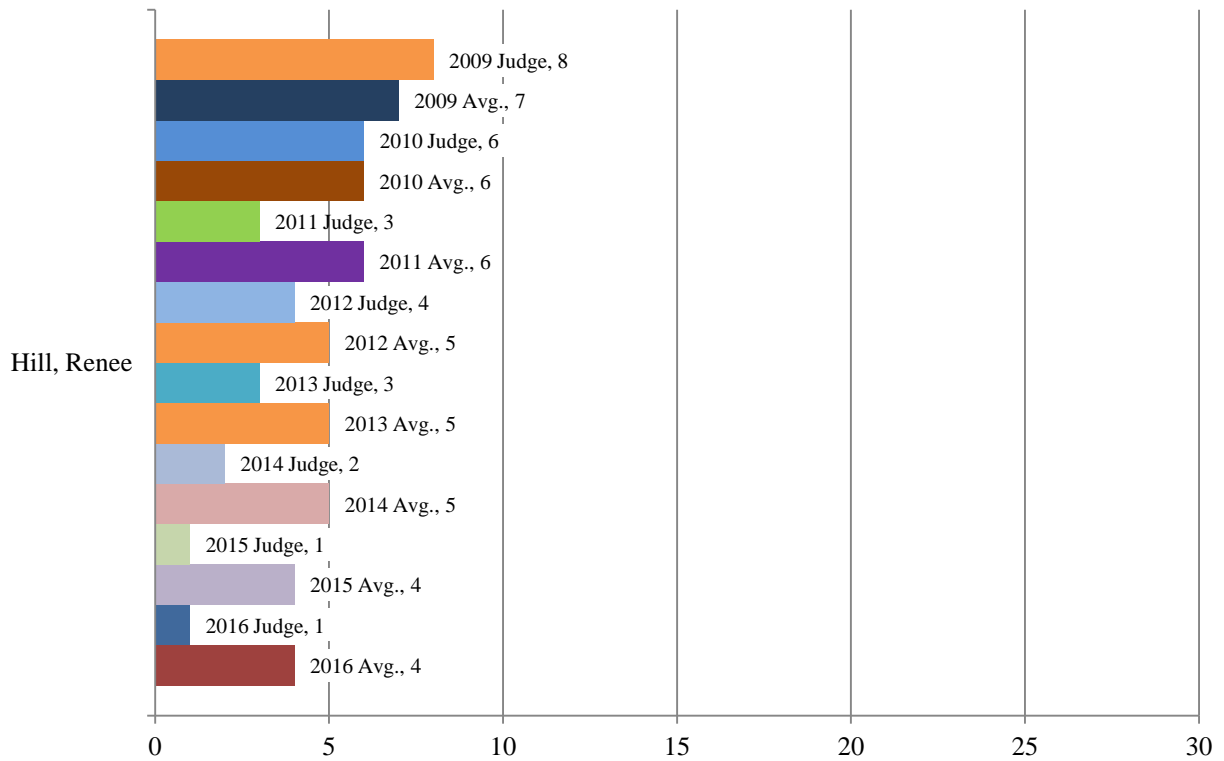
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



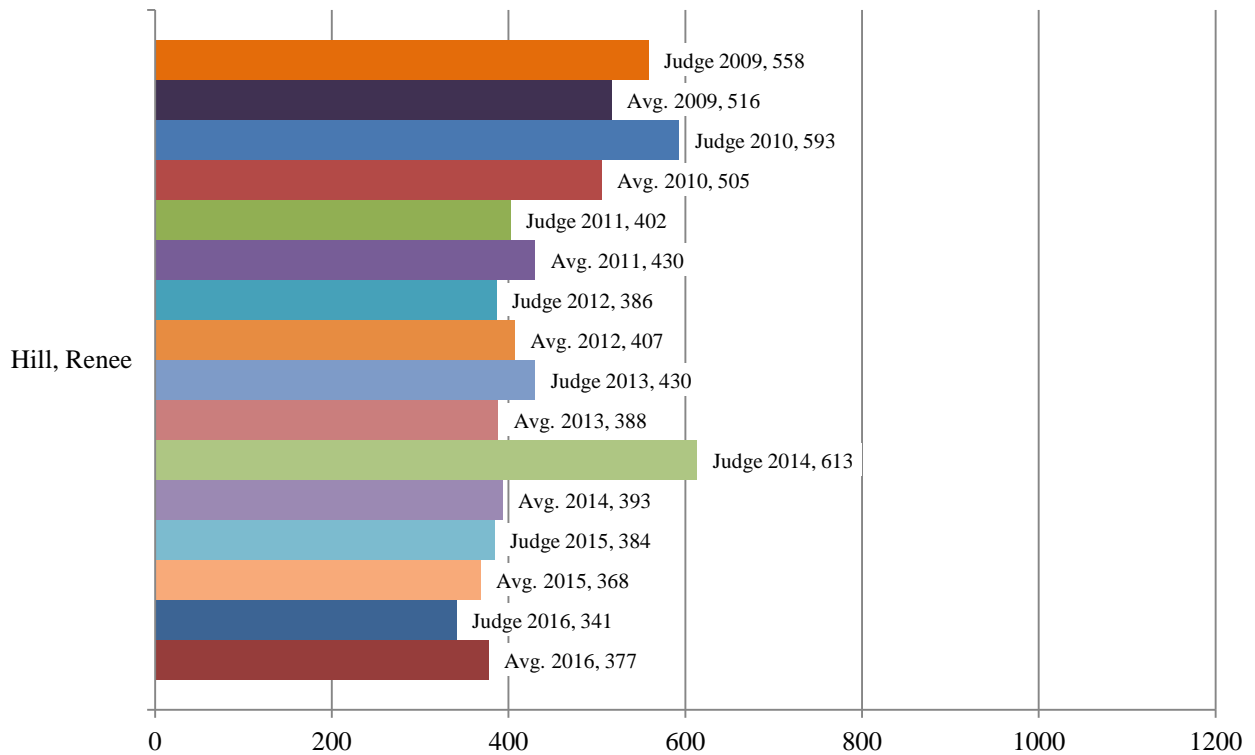
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



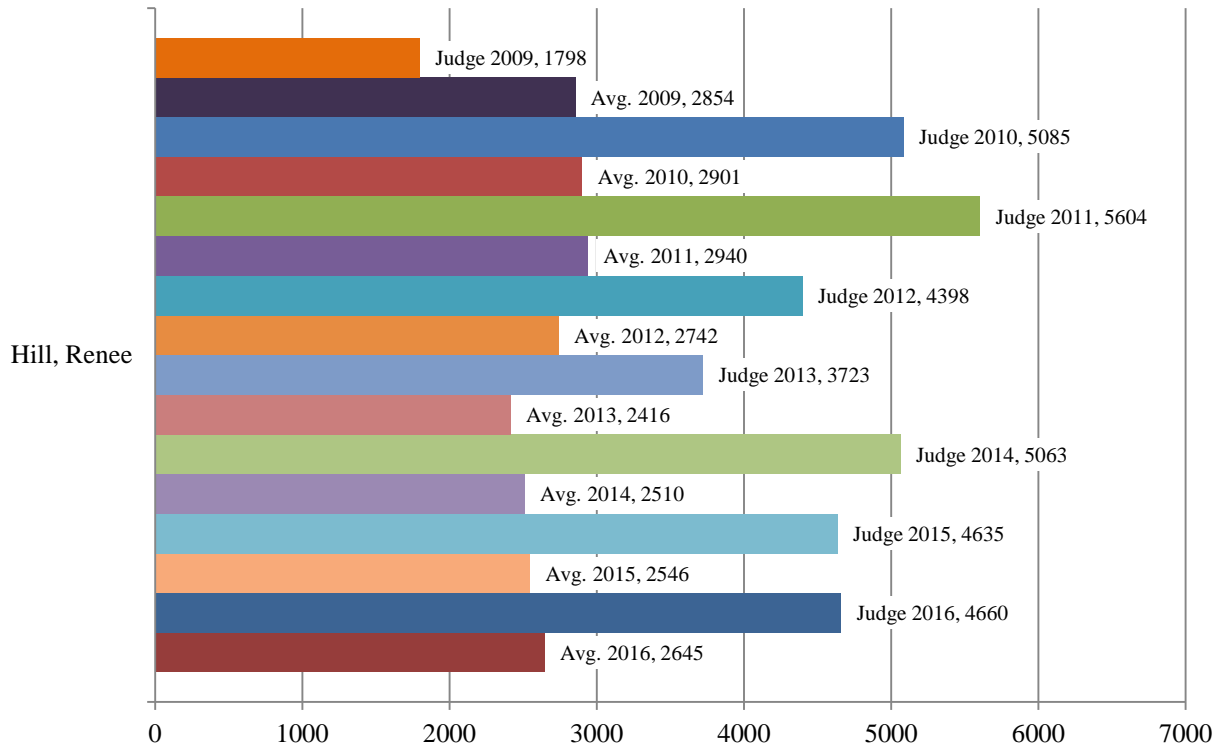
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



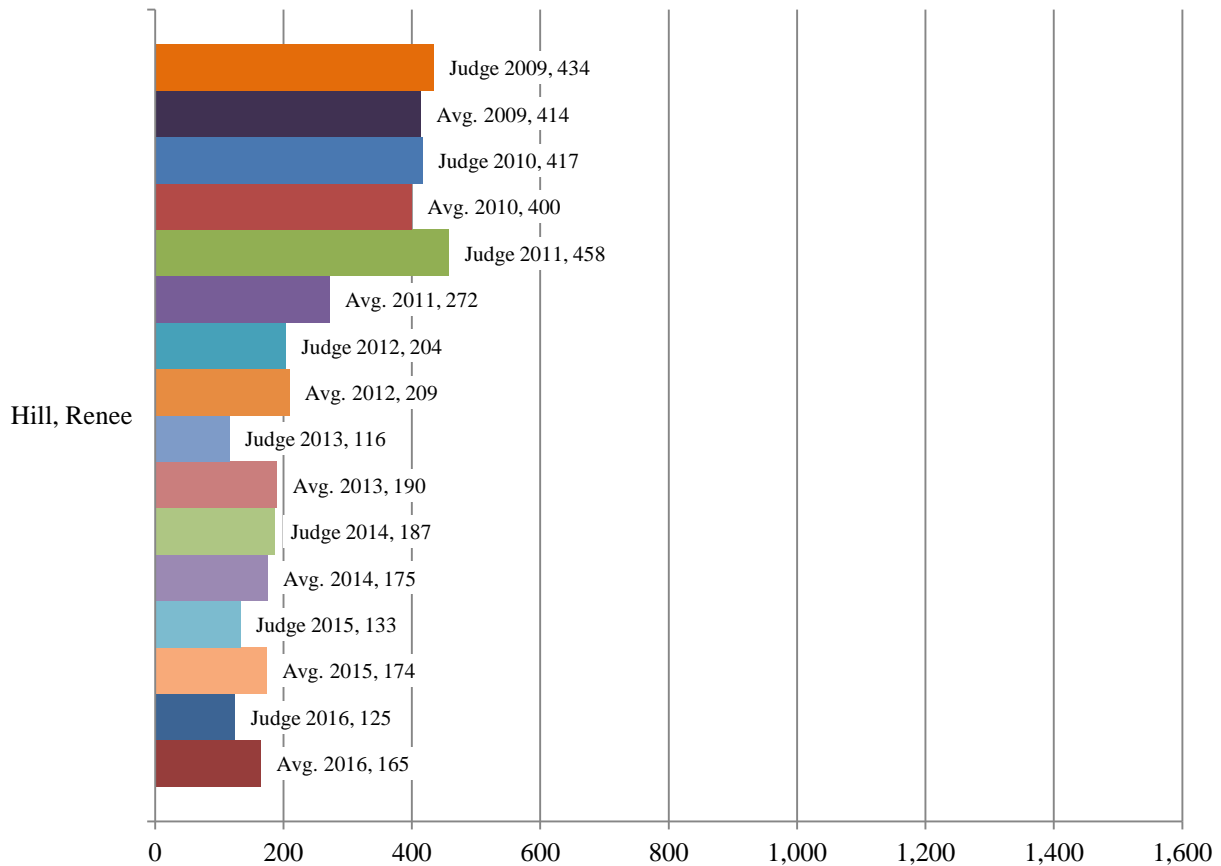
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



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

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

District JAX remains a stable environment in 2015-16. Overall, the volume of PFBs in District JAX has been reasonably consistent in recent years, fluctuating around the statewide average. The “new case” volume in Jacksonville, has consistently been notably above the statewide average, although the extent has moderated somewhat in the last two fiscal years. Petition closure rates in Jacksonville are reasonably consistent with the PFB closure rate, rendering the district in a reasonably consistent equilibrium.

Judge Humphries assisted Miami, accepting assignment of out-of-district cases, while Judge Holley likewise assisted Ft. Lauderdale. The assignment of out-of-district cases was paused in 2015-16. With the increase in petition volume statewide, it is likely that some form of out-of-district assignment process will be necessary in coming months or years.

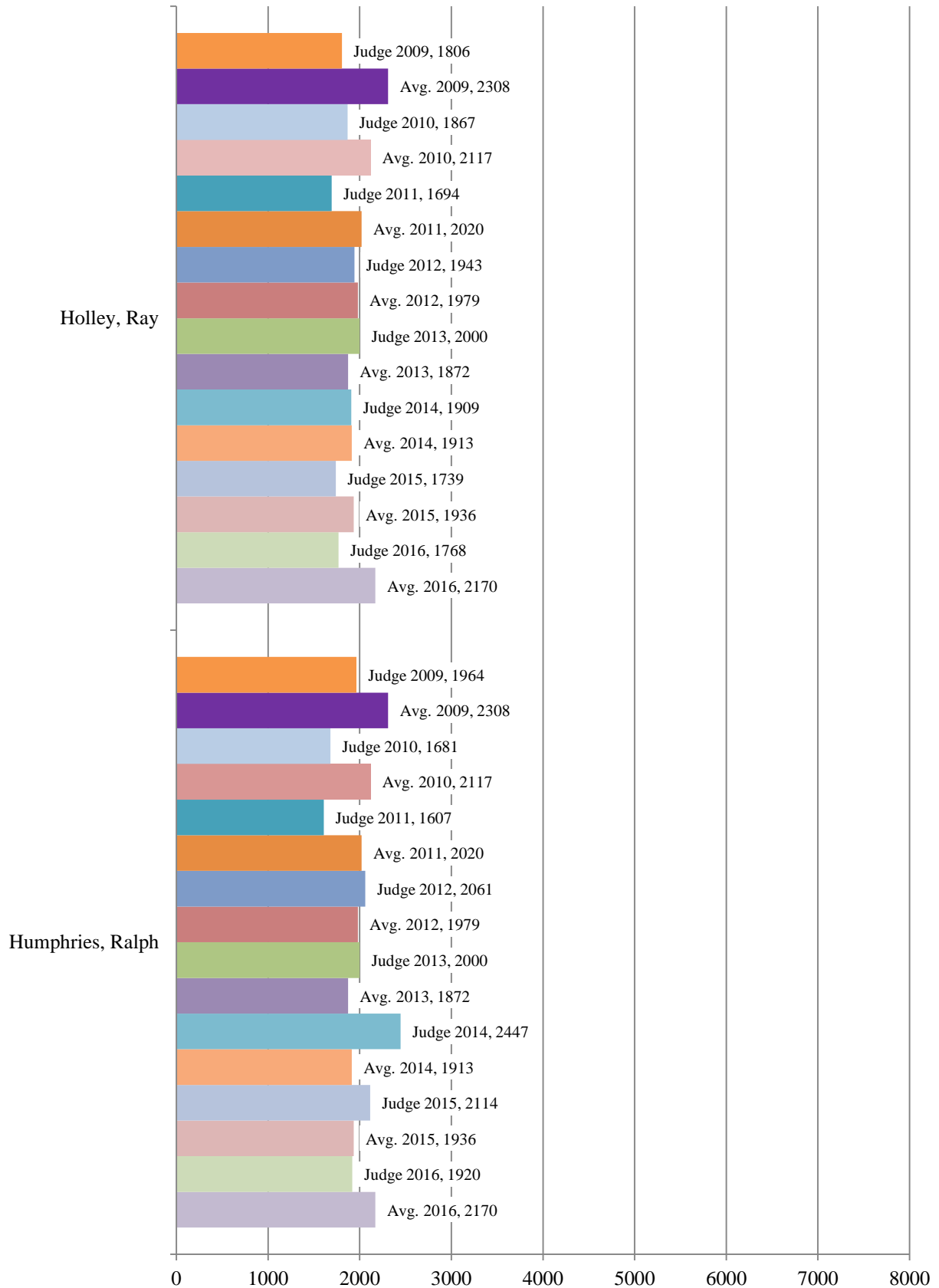
The JAX District had historically conducted fewer trials per judge than the statewide average. Recent years demonstrated much higher trial volumes in Jacksonville, attributable to the out-of-district assignments and to the growth in evidentiary hearings that were previously included in the definition of “trial order.”¹⁵⁰ Despite that change in definition, the divisions in Jacksonville were either at or significantly above the statewide average of trials.

Judge Holley is a Master of the Bench and Immediate Past President of the E. Robert Williams Inn of Court. Judge Holley continues to serve the legal profession through his involvement with the Inn of Court’s Executive Committee, Friends of 440 Scholarship Fund (State and local Board member and Scholarship Selection Committee), The Florida Bar Voluntary Bar Liaison Committee (Member), and Jacksonville Bar Association Appellate and Professionalism Committees (Member). He also is actively involved in community service efforts including serving as President of the Stetson University Alumni Association, Board Member of the Stetson University Board of Trustees and as a member and past president of the Rotary Club of Southpoint. During the past year, Judge Holley has served as a judicial panelist and/or speaker (including at the WCI Workers’ Compensation: Facing the Music Educational Conference in Tallahassee, and as a presenter at Leadership Stetson 2016. He also served again as a moot court judge for the Earle Zehmer Moot Court Competition.

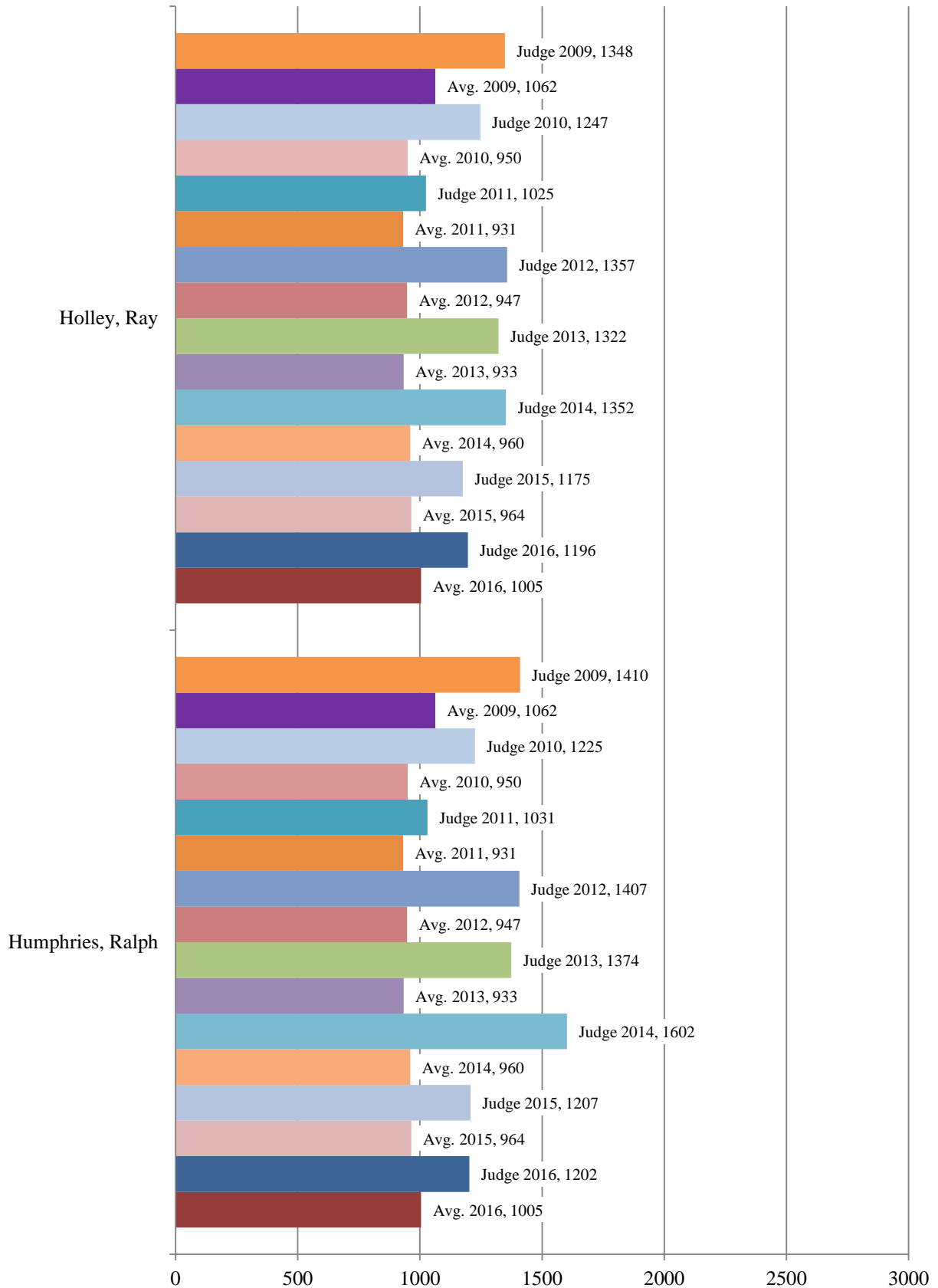
In 2015-16, Mediator Kahlil Day published *The Role of Empathy in Workers Compensation Mediation on WCI 360*. He also published, with Alan Gordon, *Consideration of Event Time and Clock Time in Workers Compensation Mediations on WCI 360* and *The Art of Peace* in the Professional Mediation Institute newsletter. Kahlil continued as an honorary member of the E. Robert Williams American Inn of Court, a Life Fellow of the American Bar Foundation, a Fellow of the Royal Society for the Arts, and an Active Life Member of Phi Delta Phi.

Mediator Alan M. Gordon was the guest speaker for the Florida State College of Jacksonville Legal Studies Association, where he spoke on Workers’ Compensation law. Alan published, with Kahlil Day, *Consideration of Event Time and Clock Time on WCI360* and *The Art of Peace* in the Professional Mediation Institute newsletter. He continued as an honorary member and former past President of the E. Robert Williams American Inn of Court and retained his A-V rating in Martindale-Hubbell.

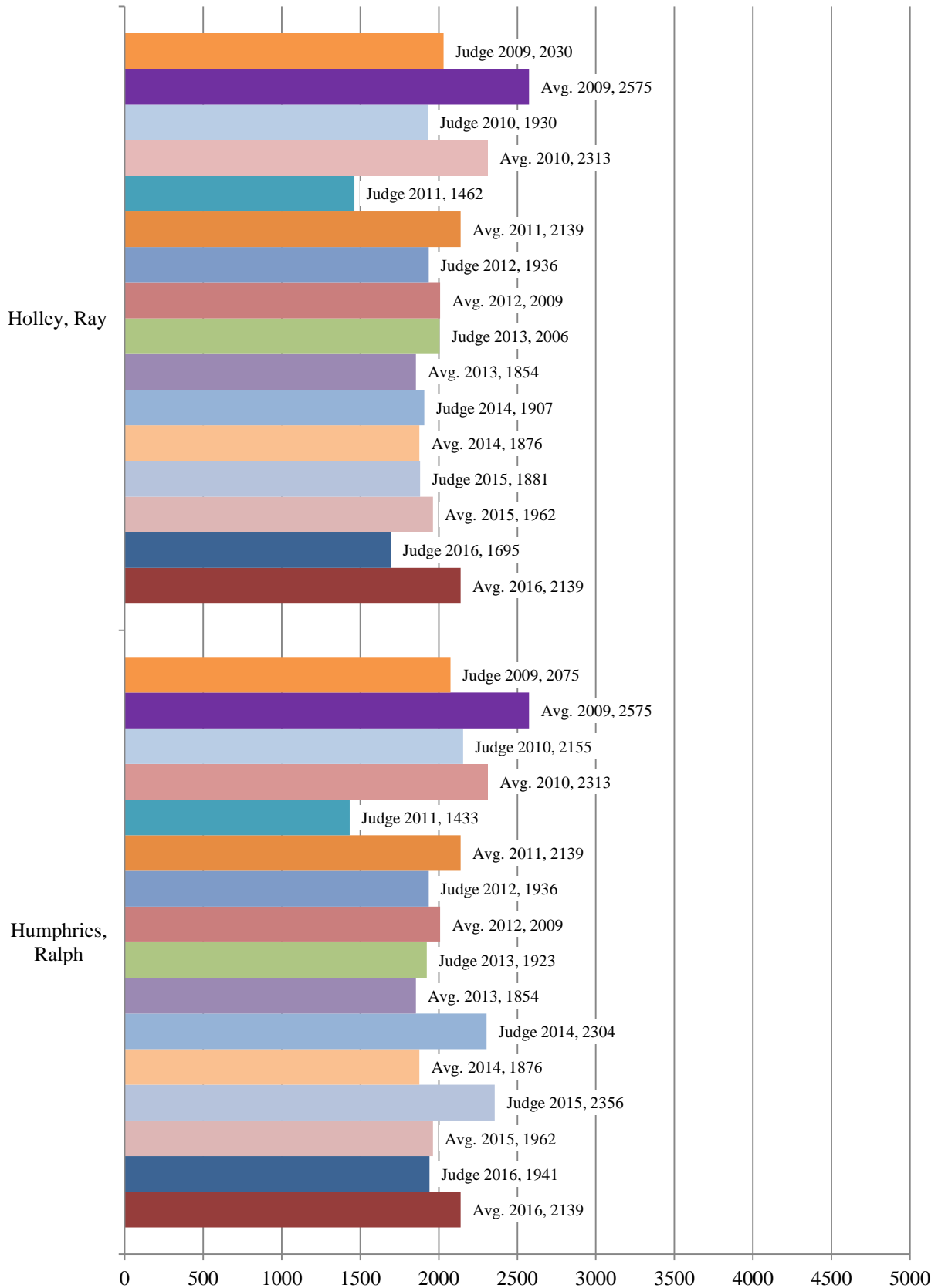
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



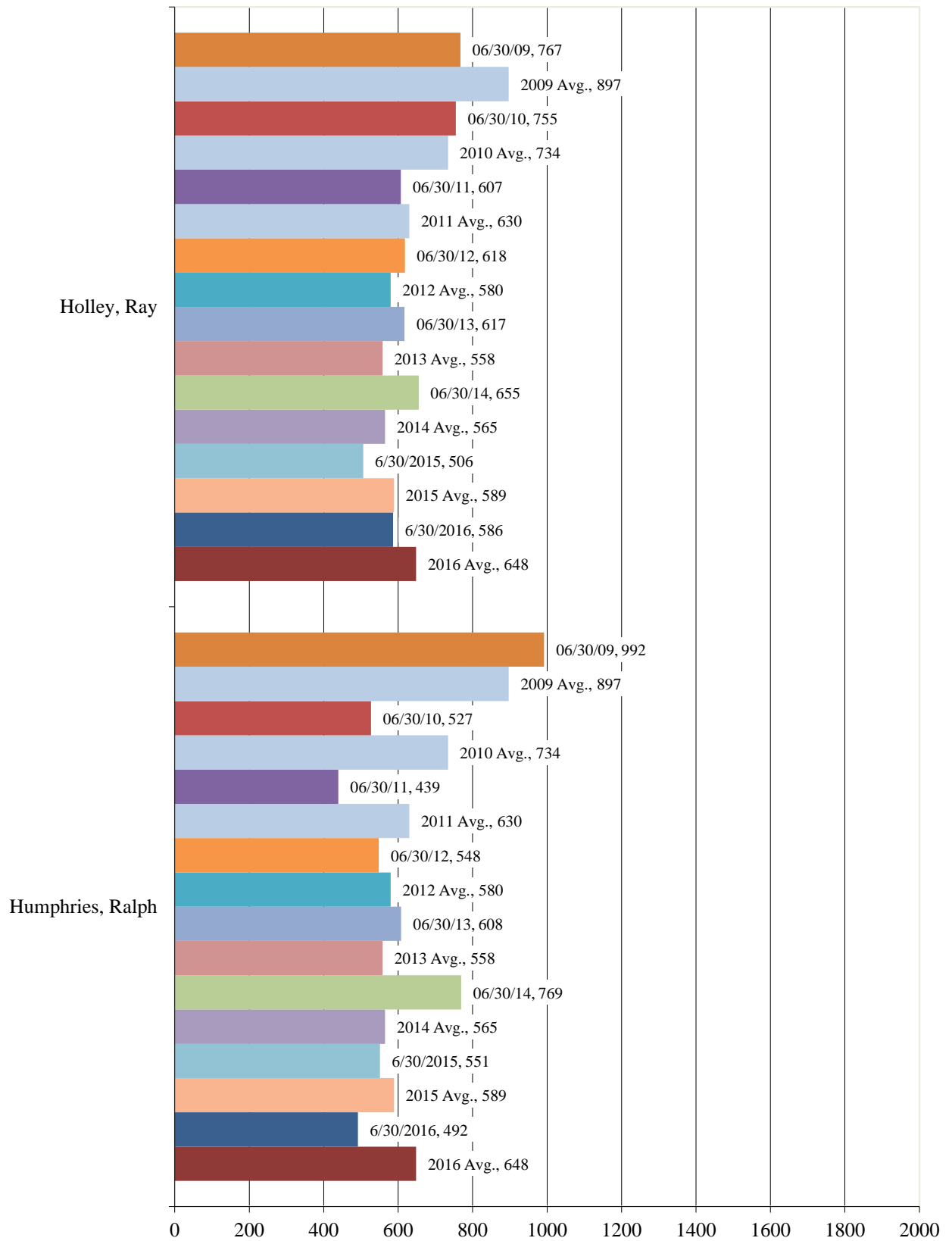
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



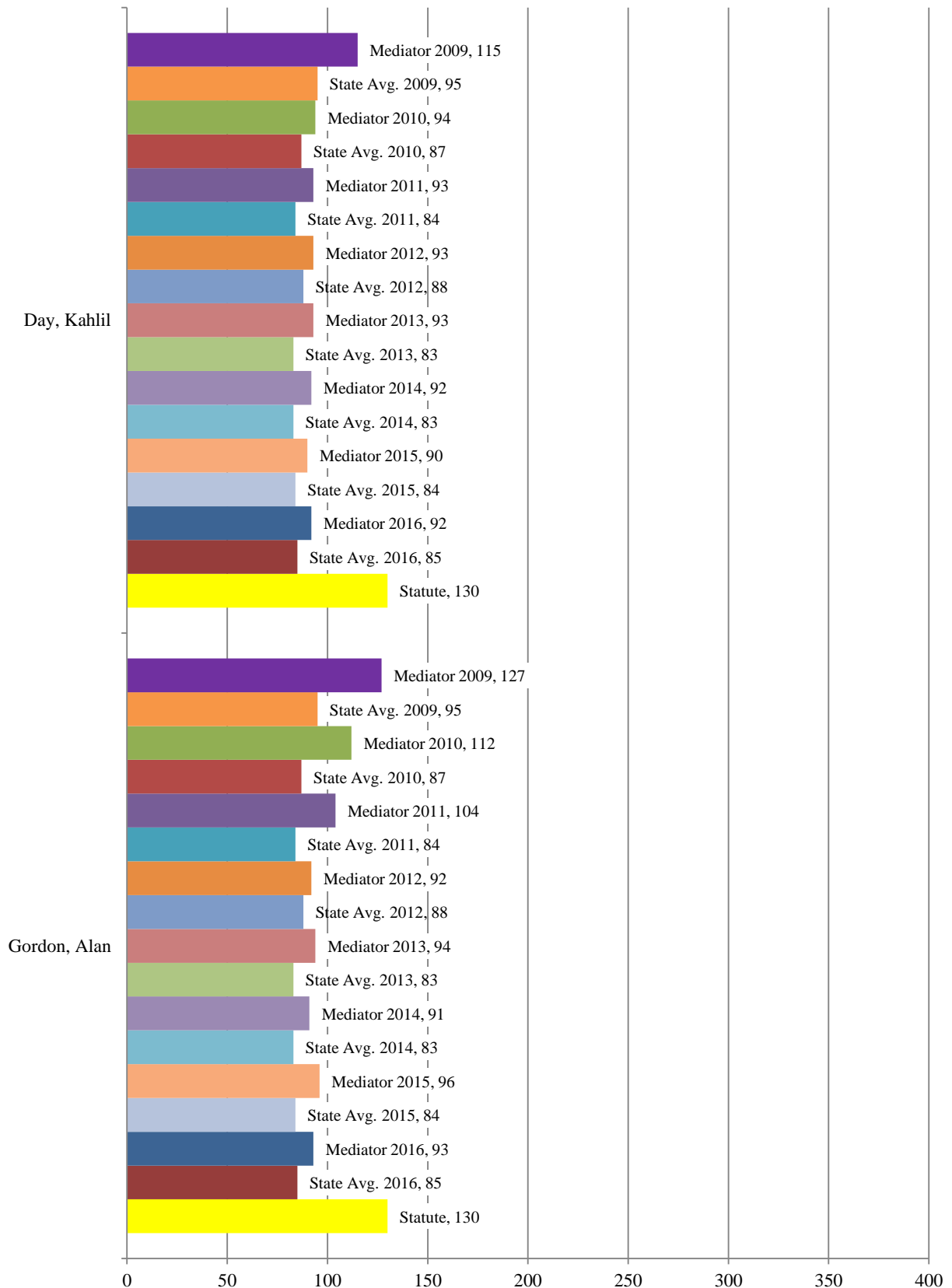
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



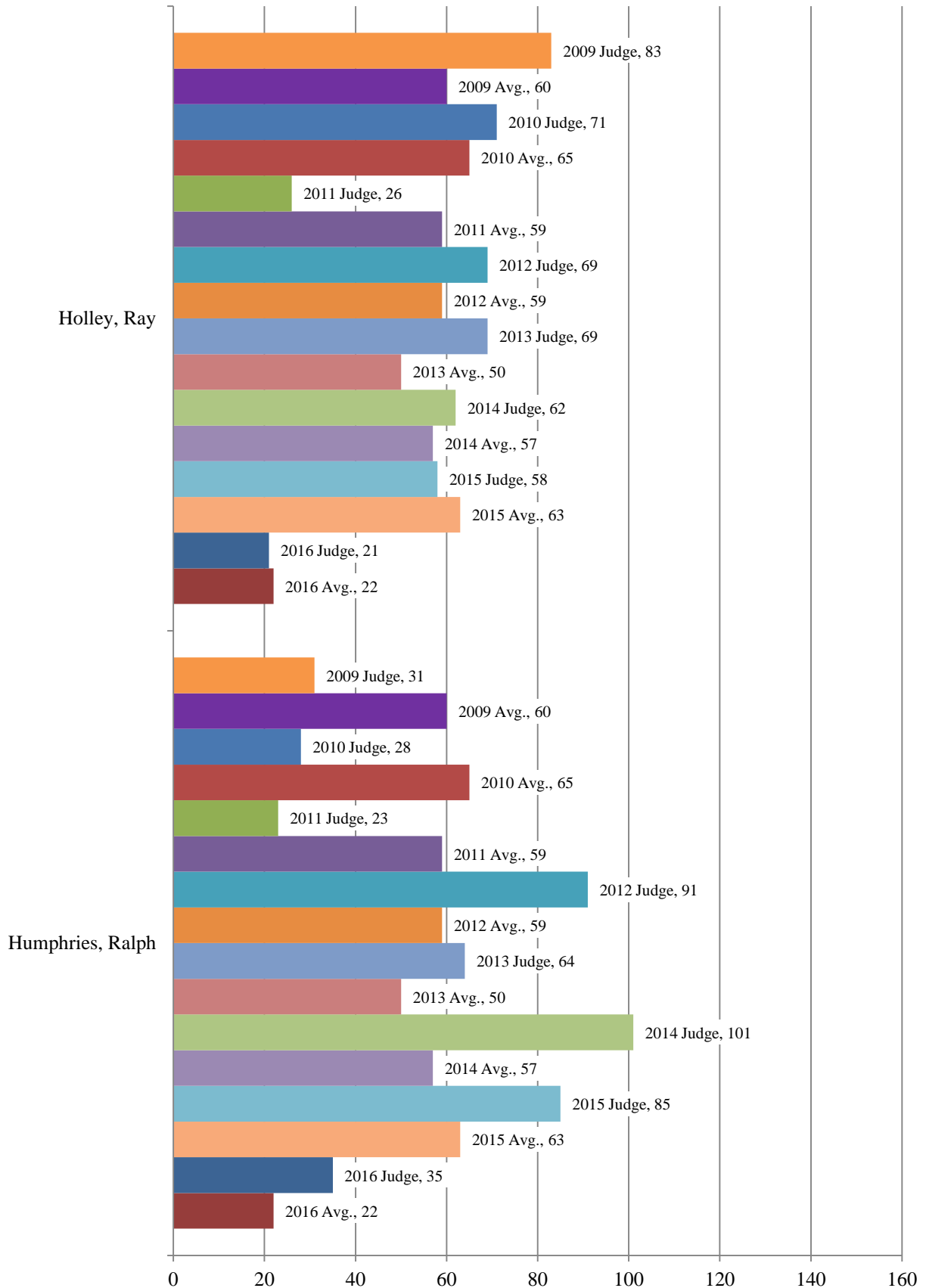
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



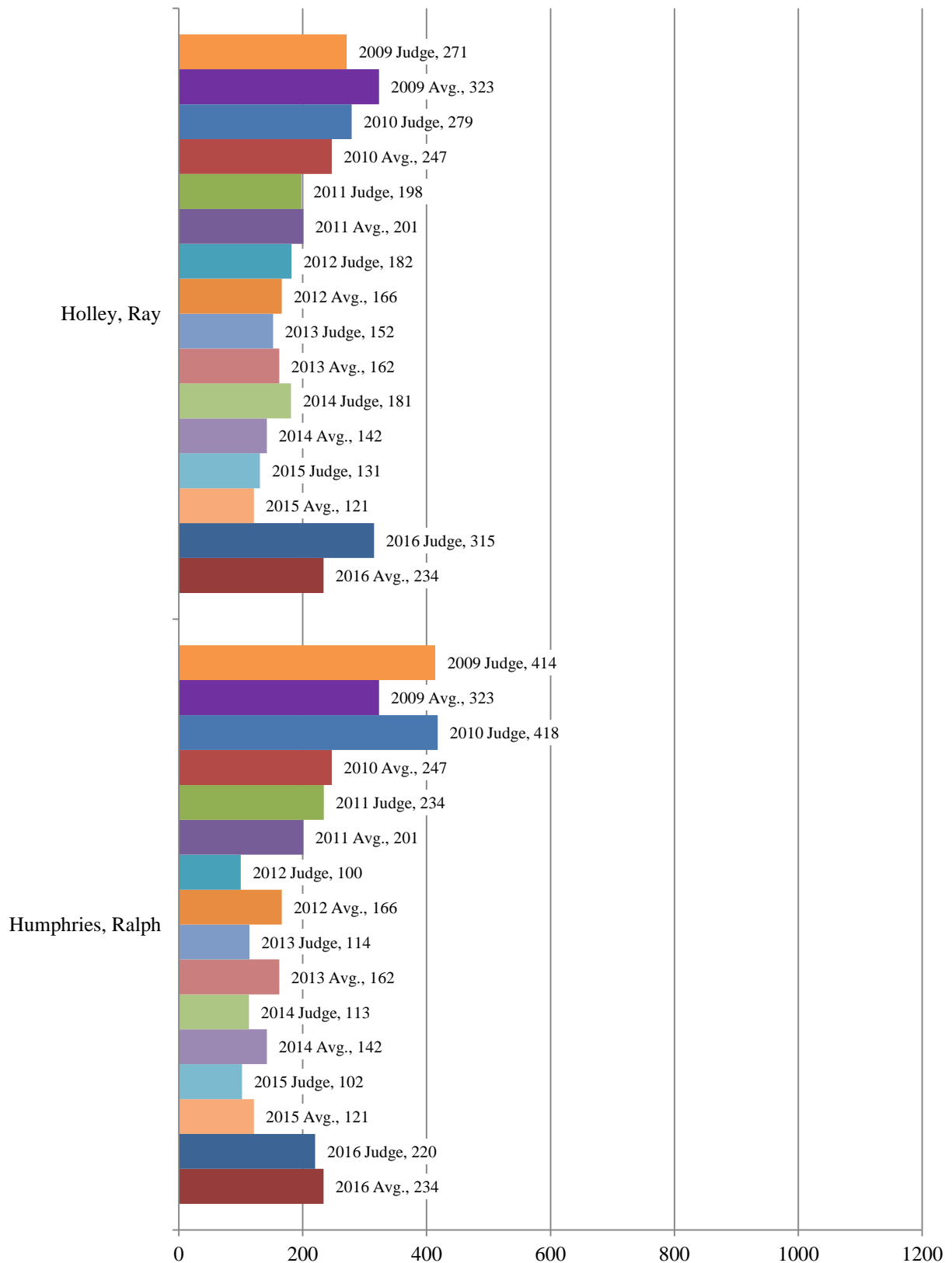
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



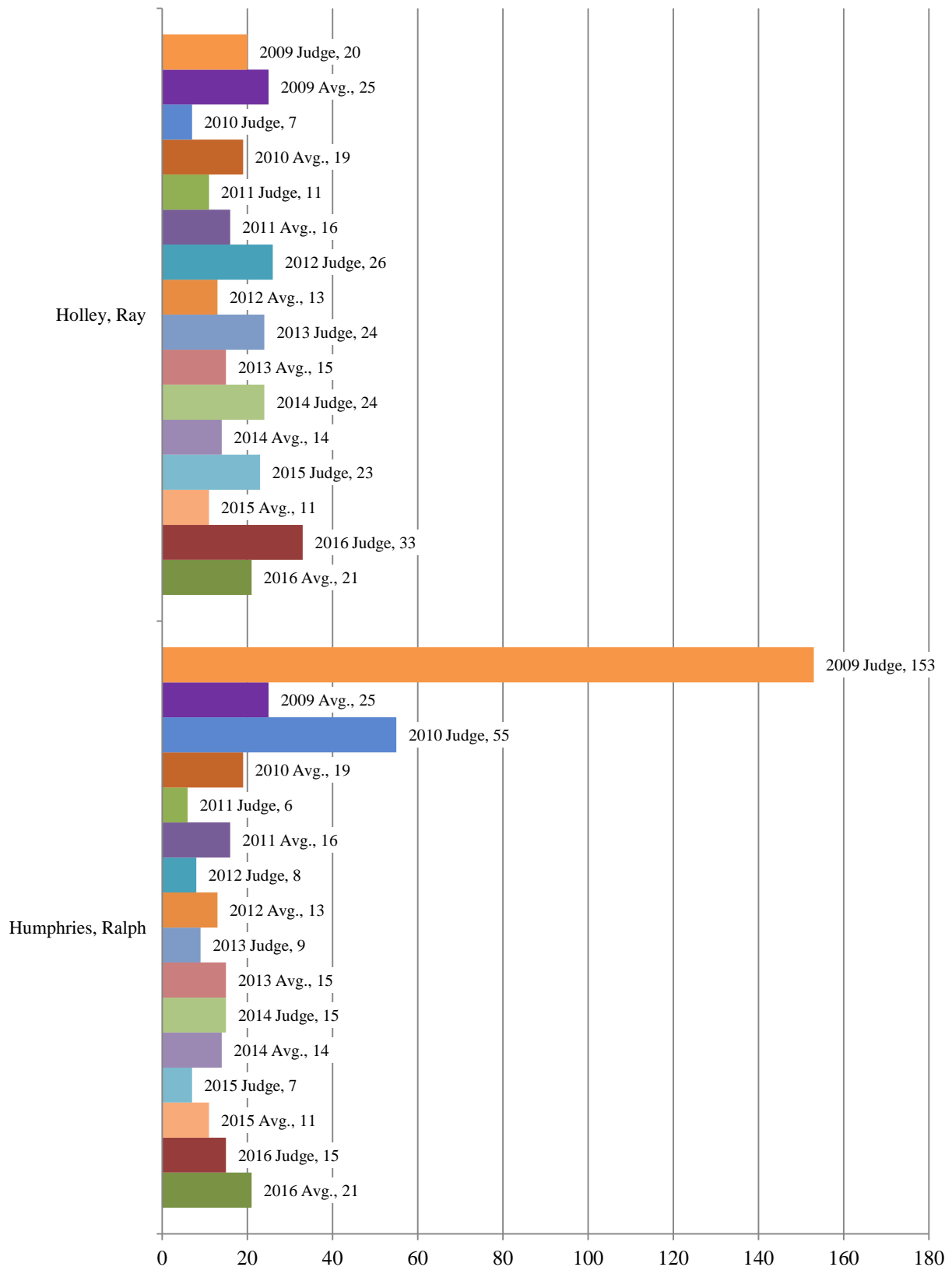
The following graph depicts the total volume of trial orders¹⁵¹ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



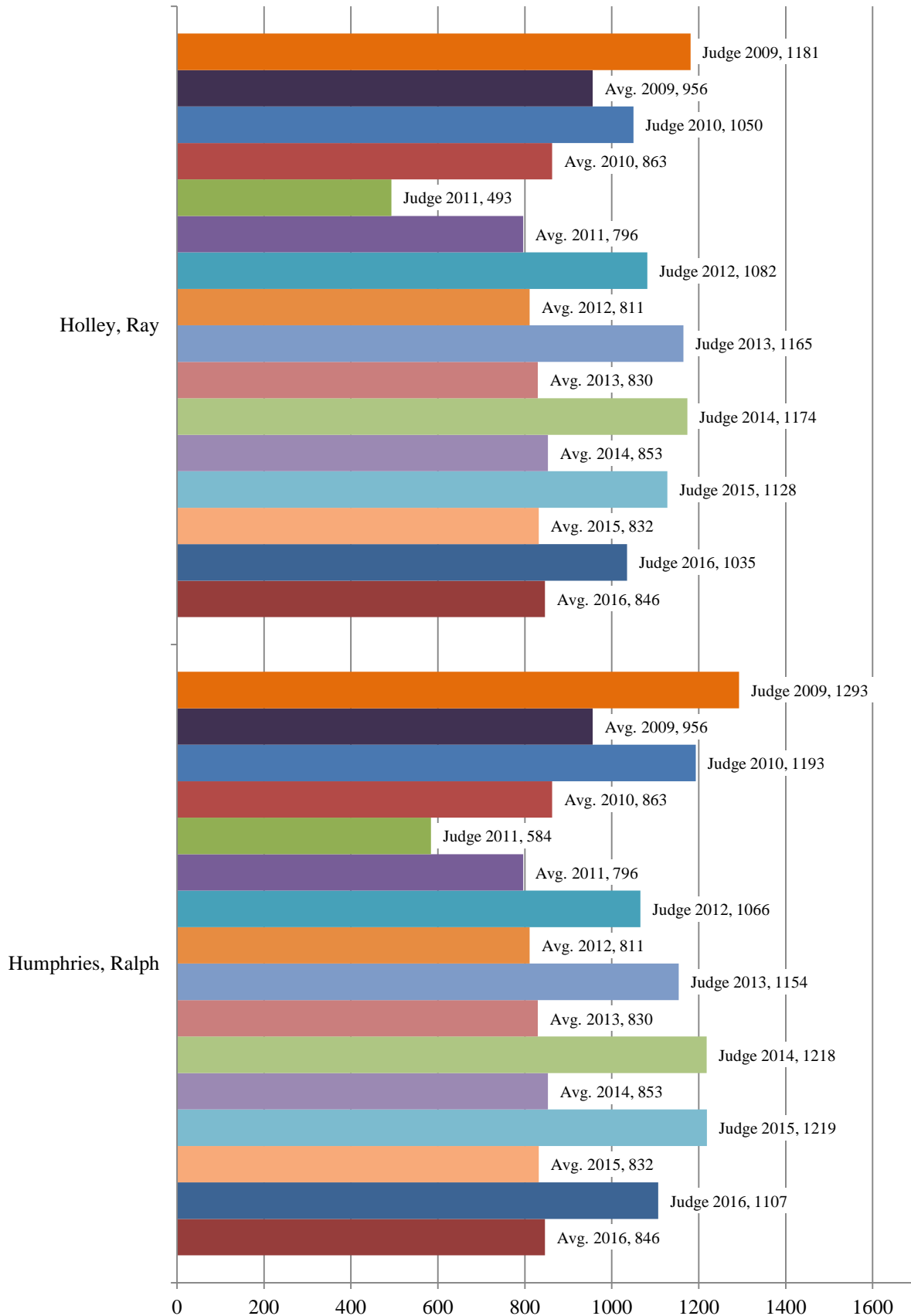
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



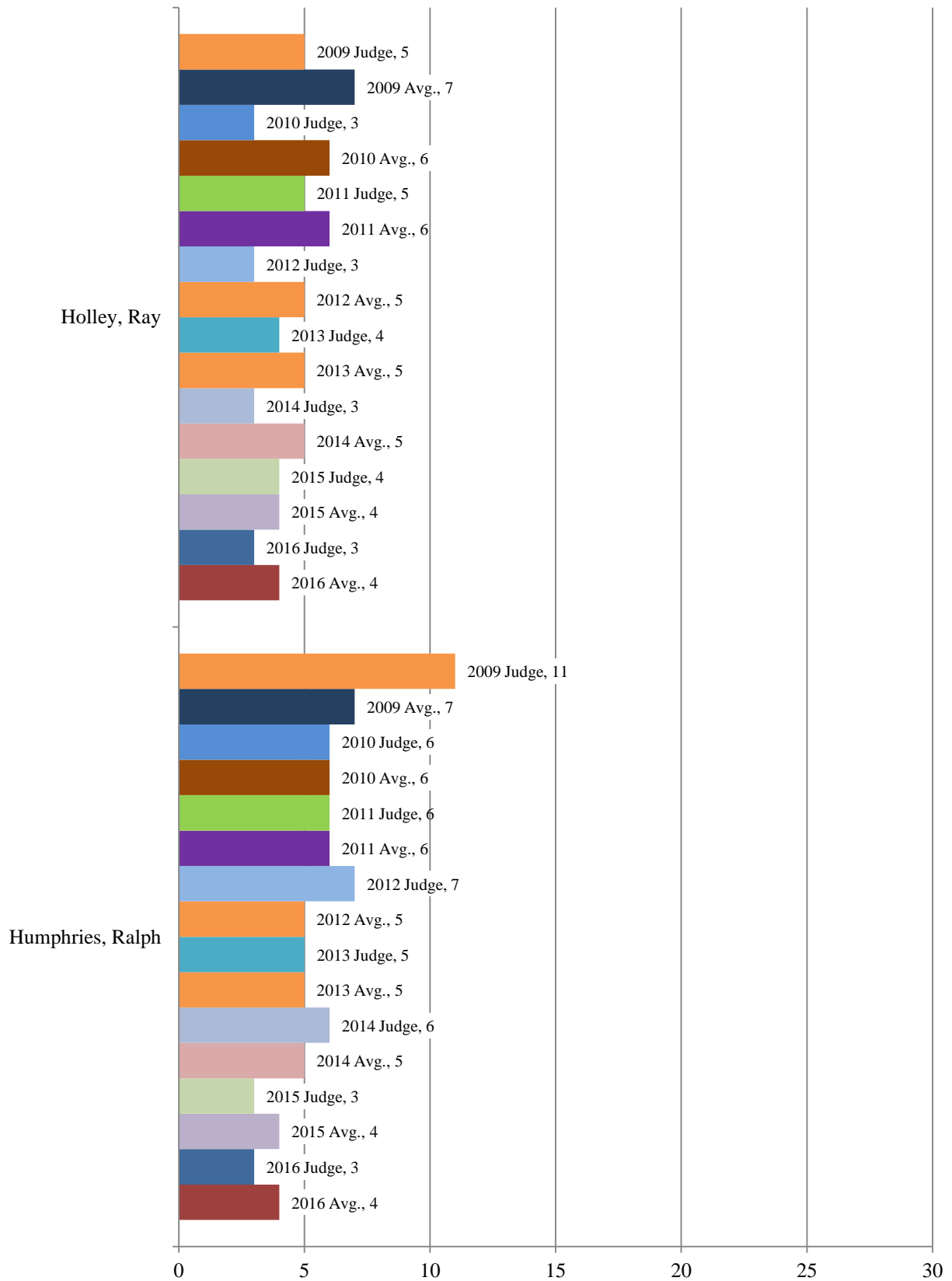
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



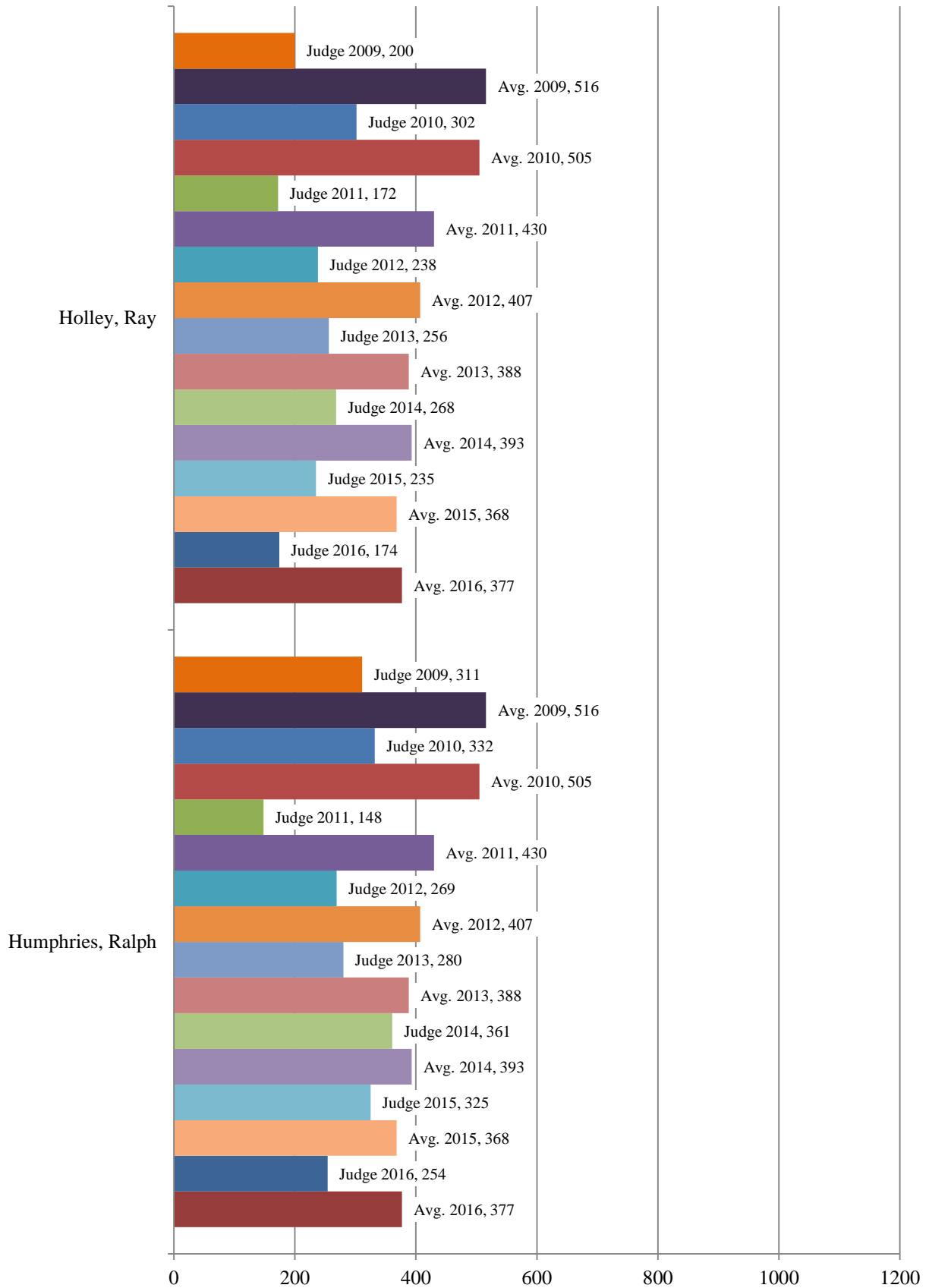
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



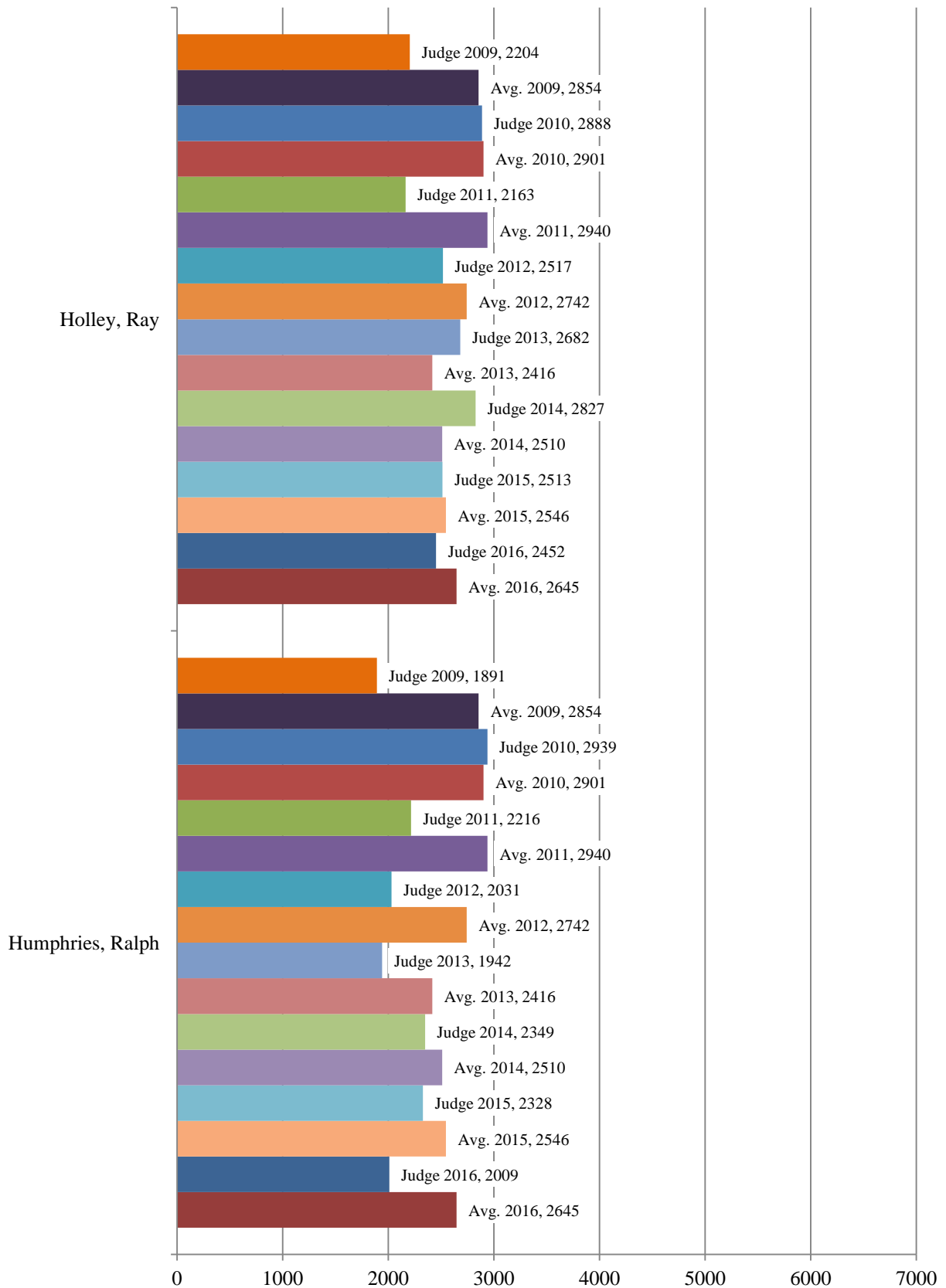
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



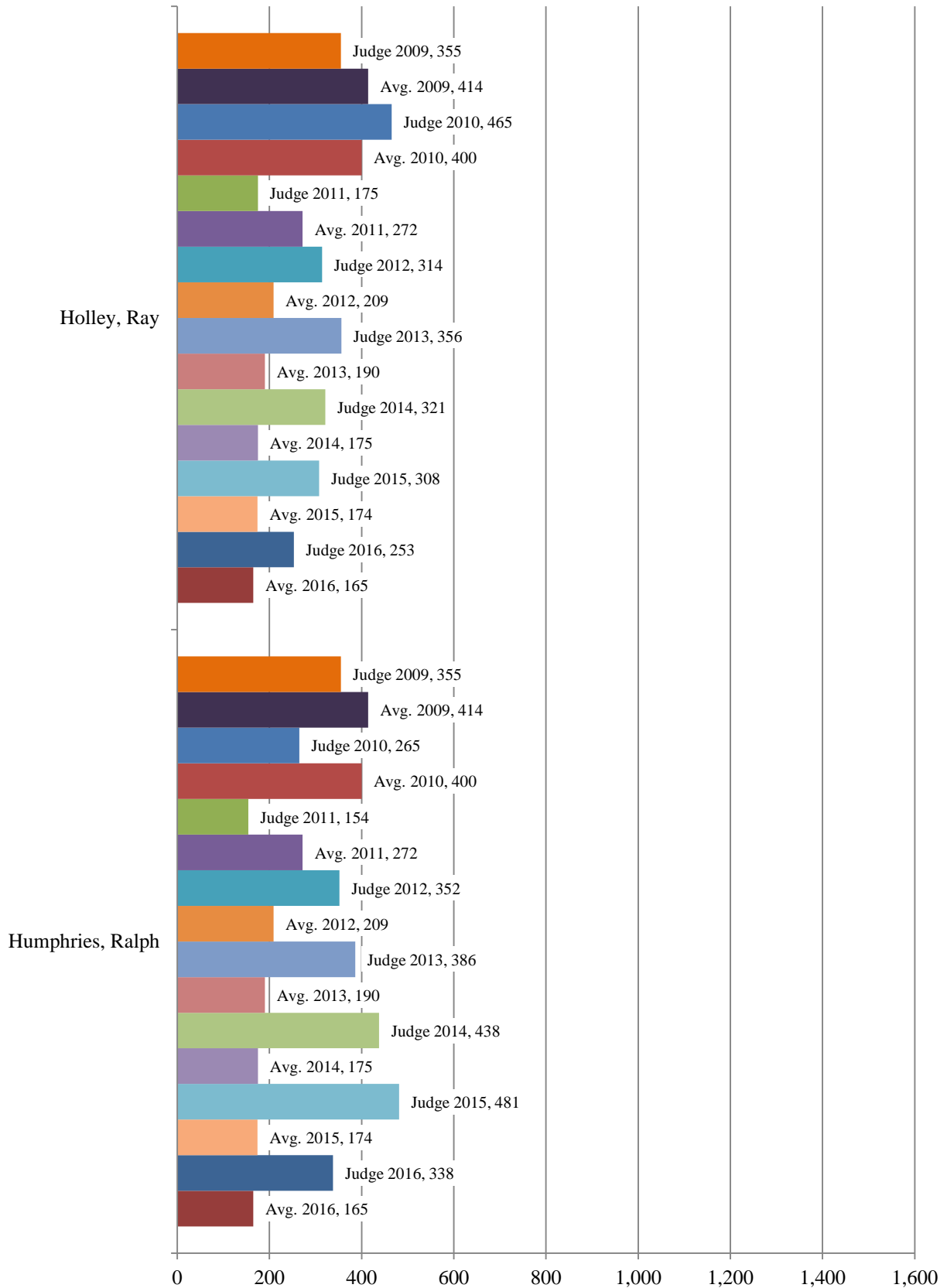
The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



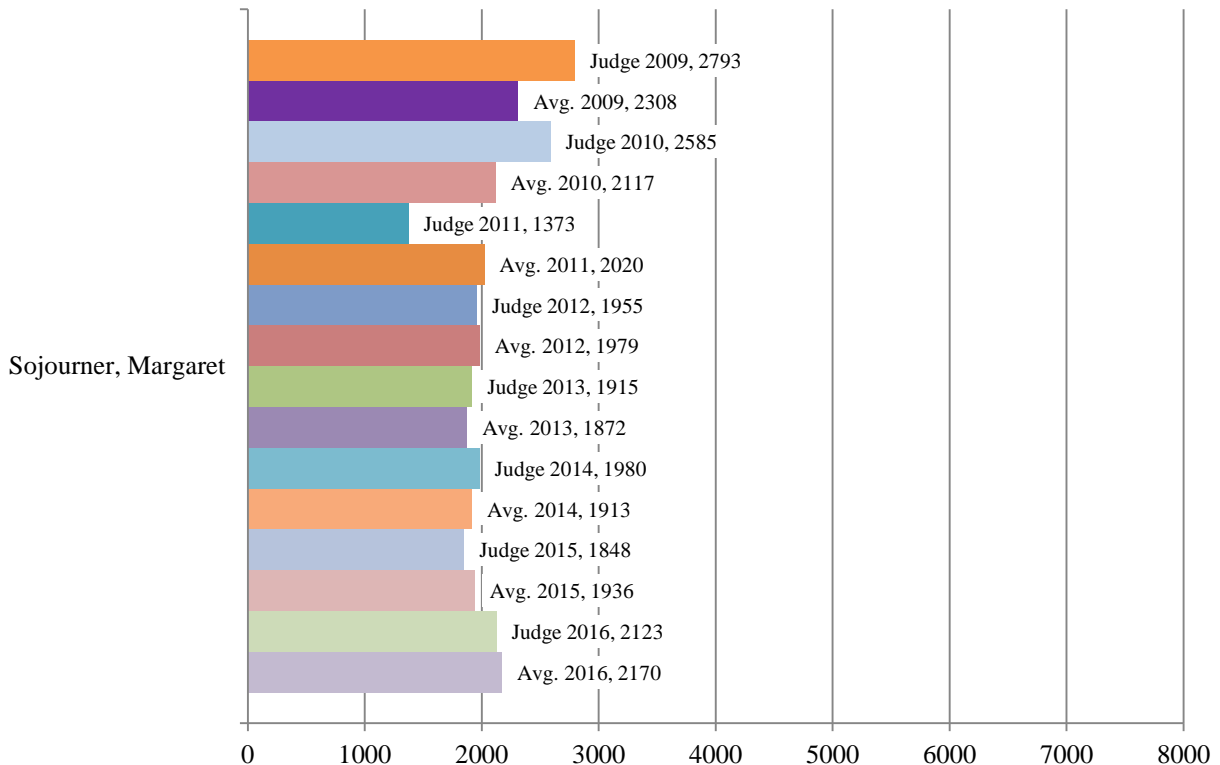
Appendix “6” District LKL (JCC Sojourner):

District LKL includes Hardee, Highlands, and Polk counties.

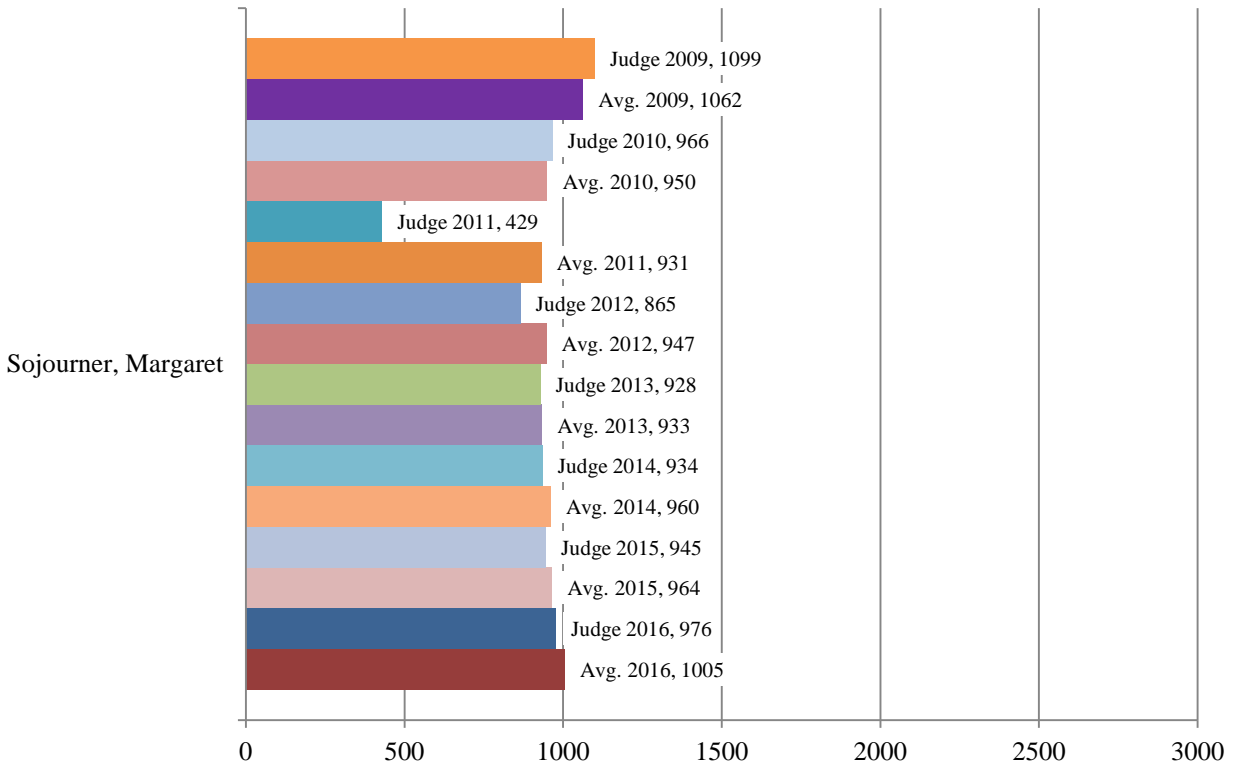
The PFB filing volumes in LKL have moderated in recent years, and maintained very close to the statewide averages for both Petitions and “new cases” again in 2015-16. The PFB closure volume is consistent with the petition filing volume, demonstrating equilibrium in Lakeland. That conclusion is reinforced by the year-end pending petition inventories, which have remained consistent with the statewide average for several years, within two petitions in 2015-16. Prior reports have noted the above-average volume of trials in Lakeland, using the previous definition of “trial order.” With the adoption of a new definition,¹⁵² trial volumes remain significantly in excess of the statewide average.

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 continued to bring stability and self-sufficiency to District LKL. The measures of time to trial, time to order and time to mediation all remain within the statutory parameters in Lakeland.

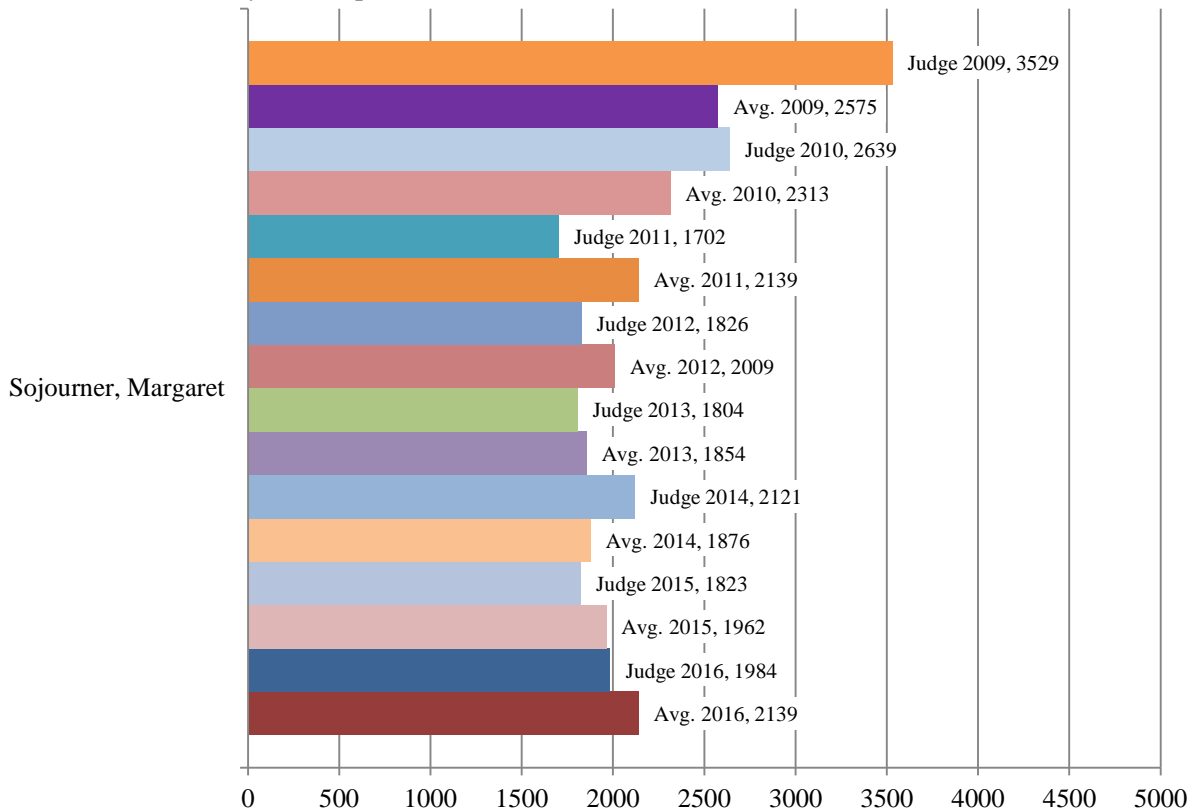
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



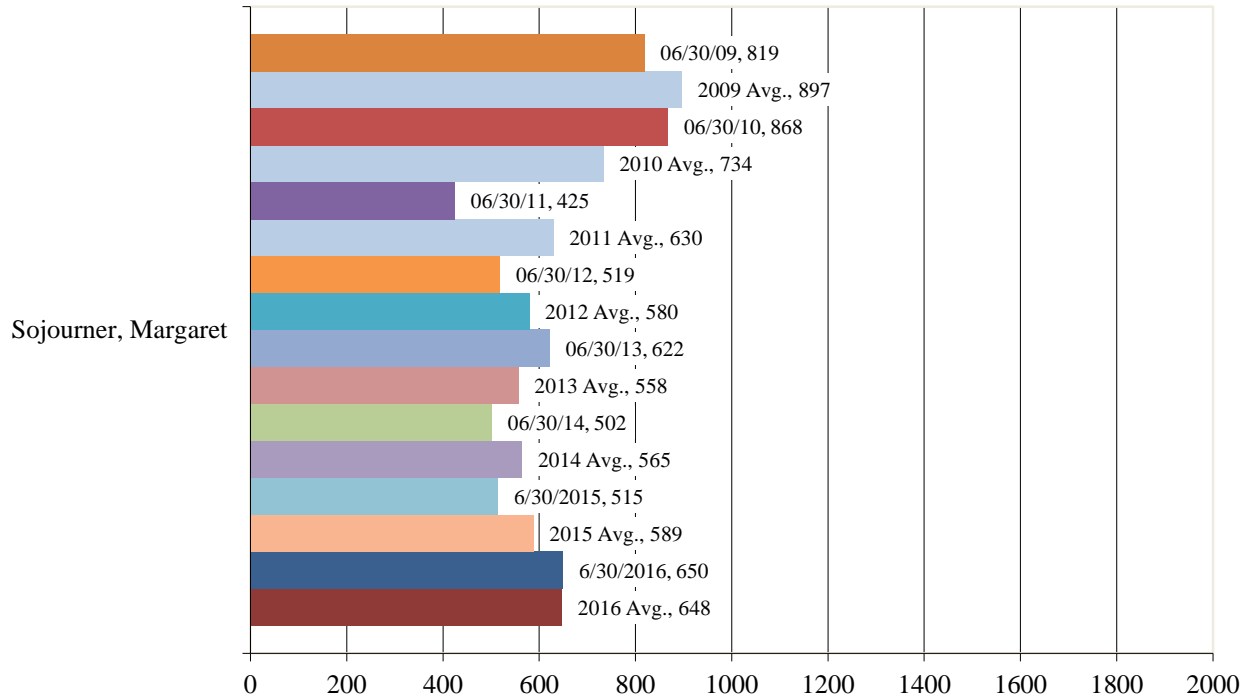
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



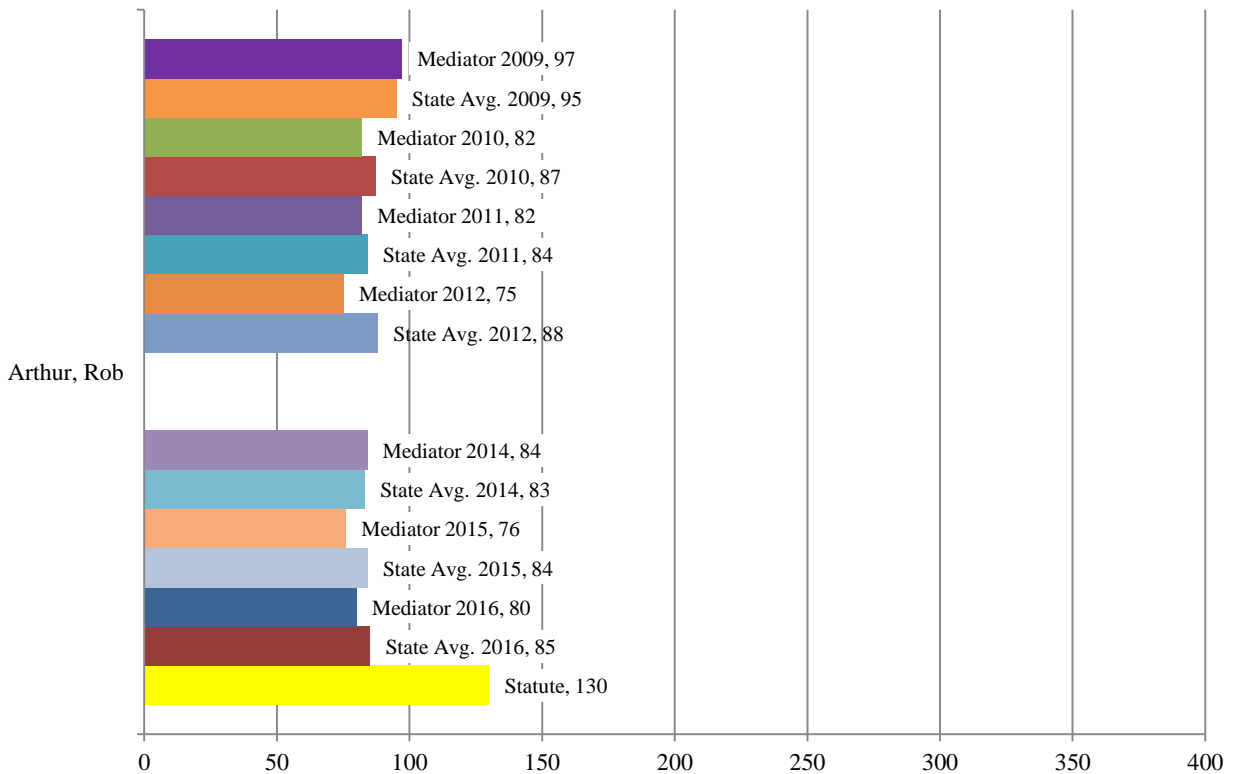
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



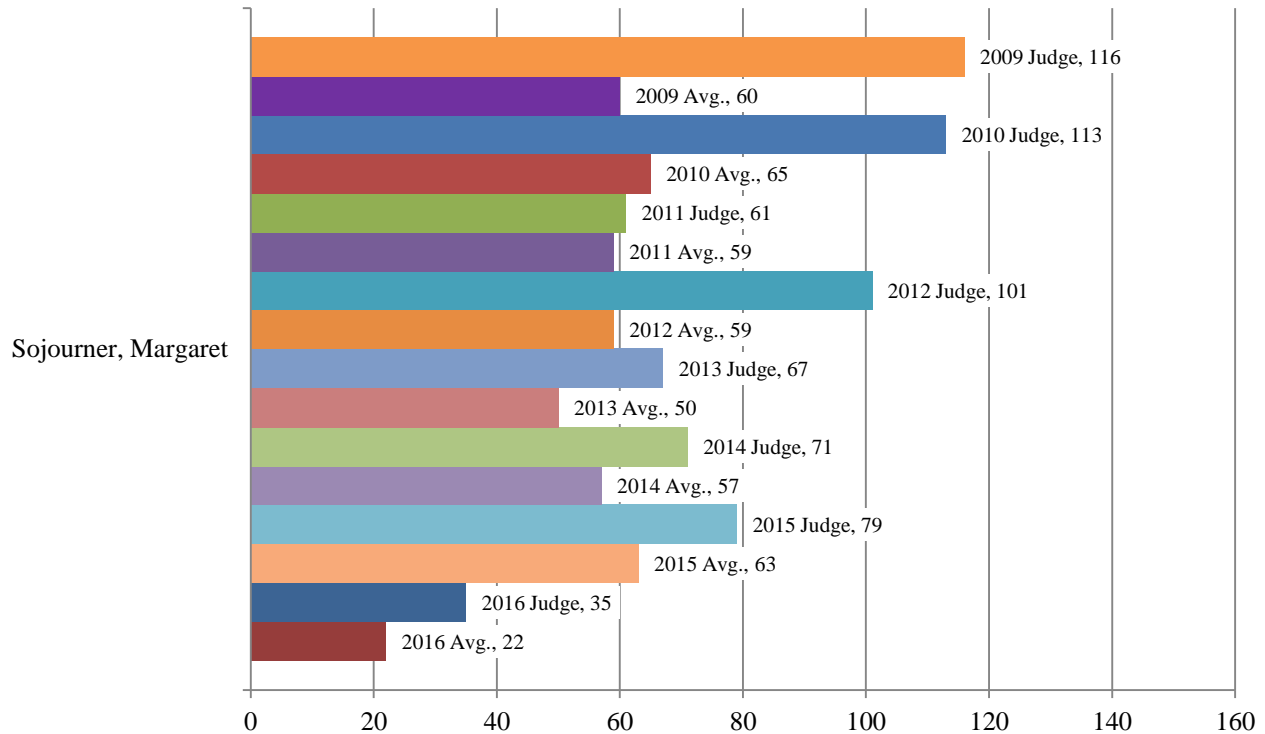
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



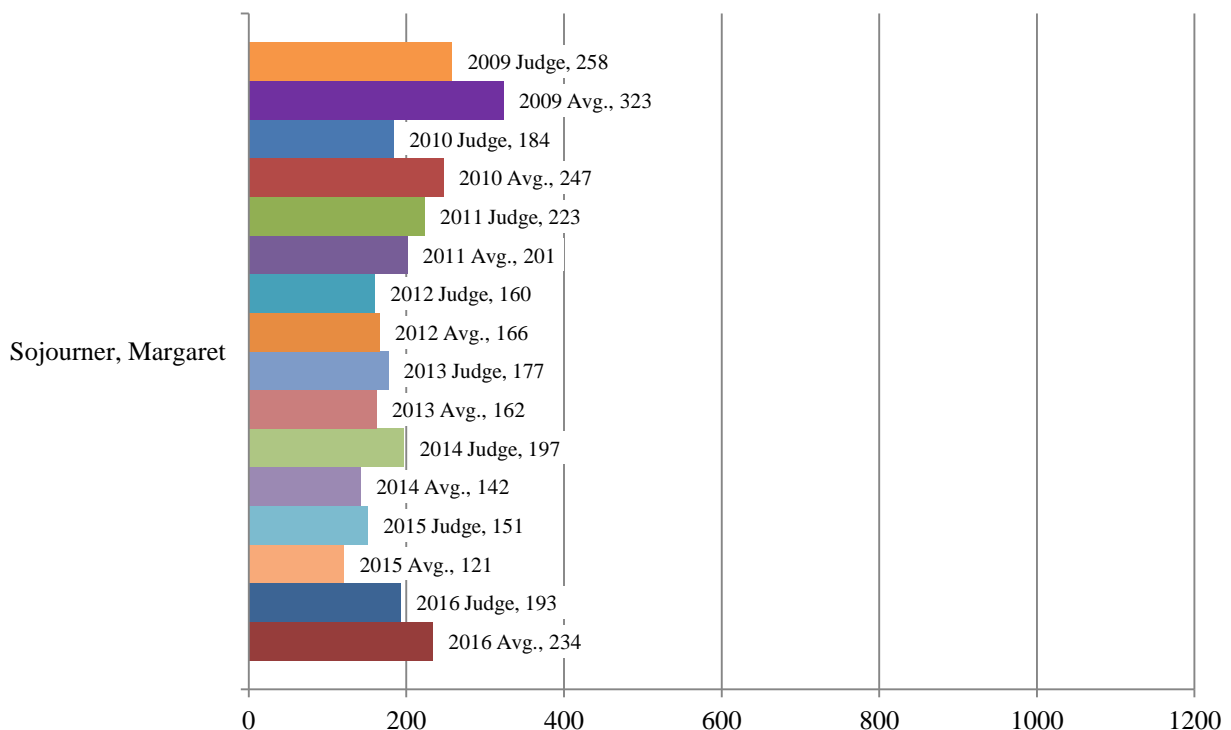
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.¹⁵³



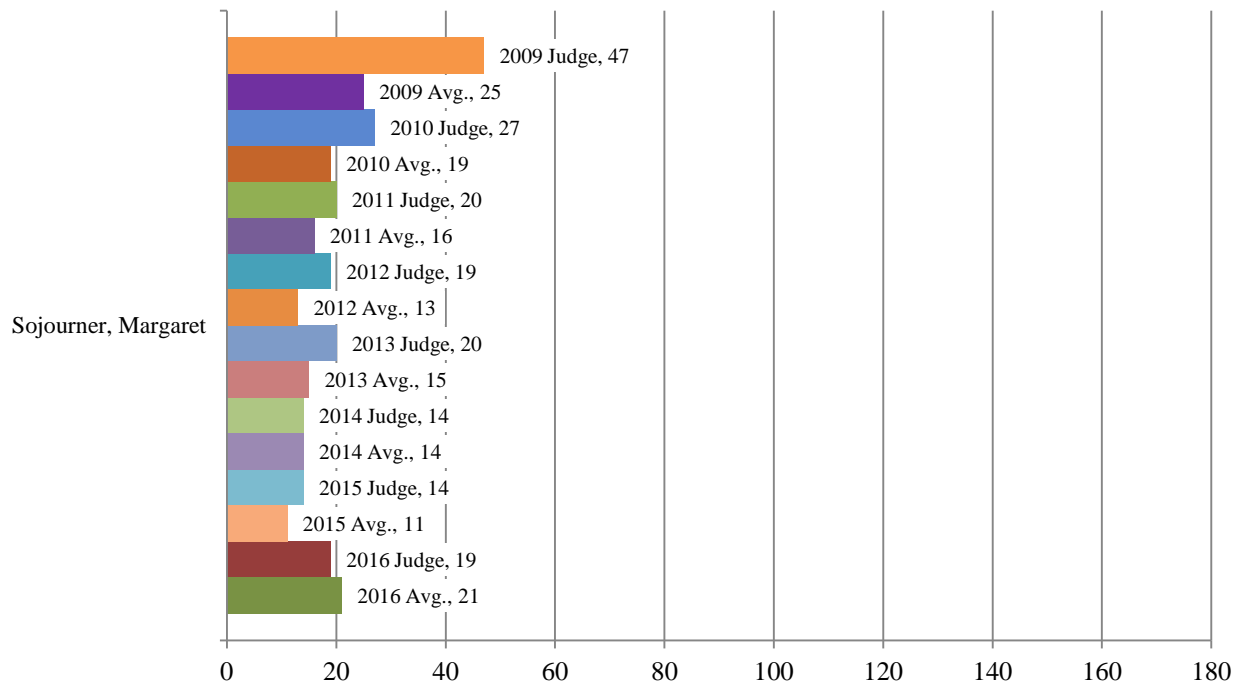
The following graph depicts the total volume of trial orders¹⁵⁴ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



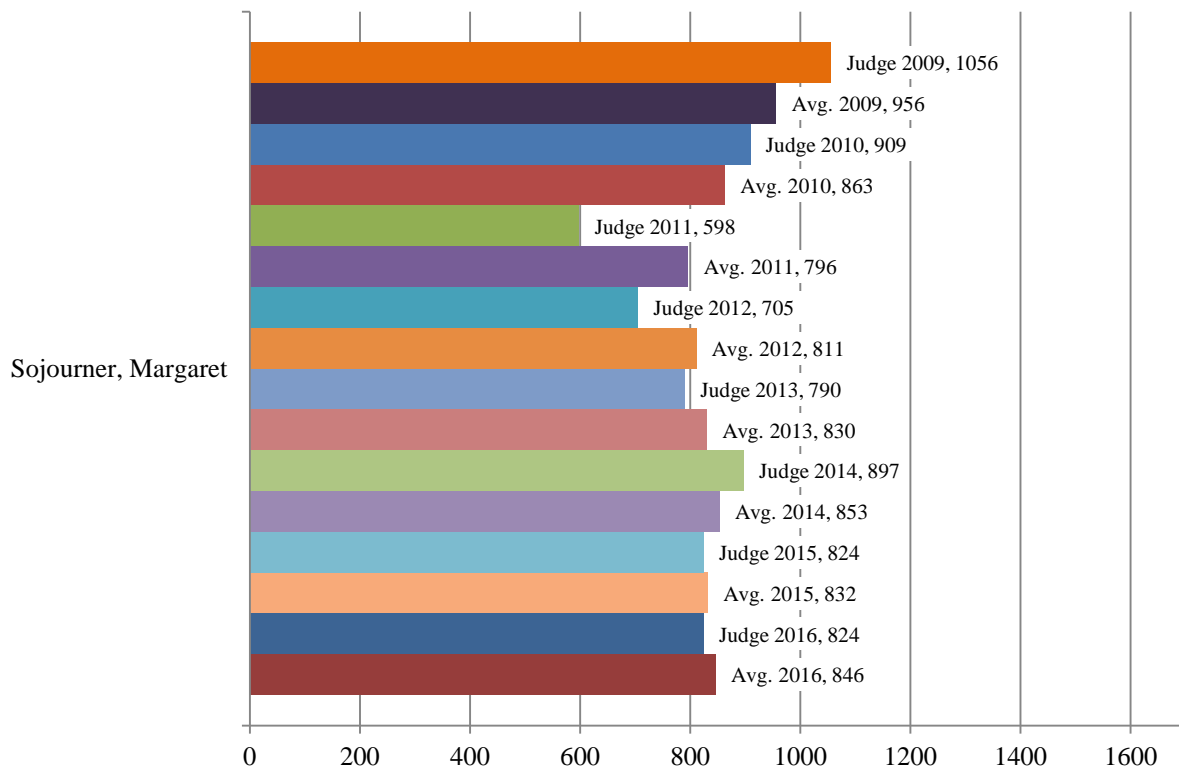
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



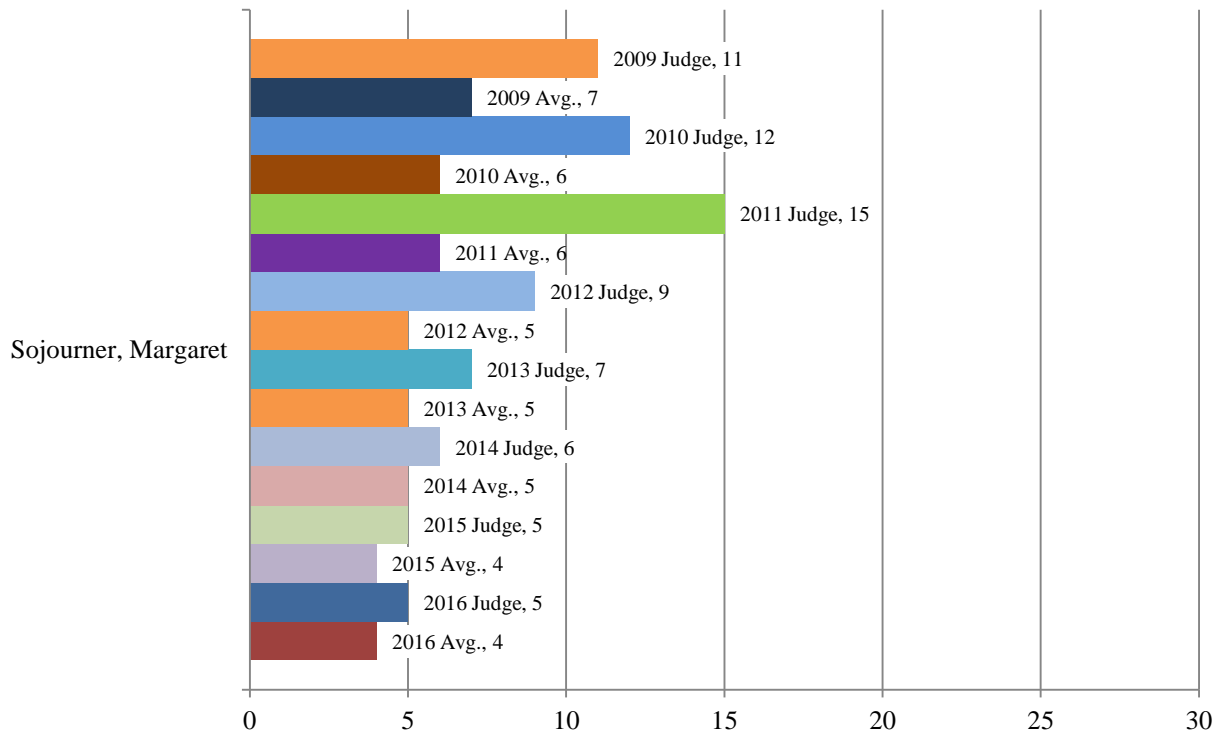
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



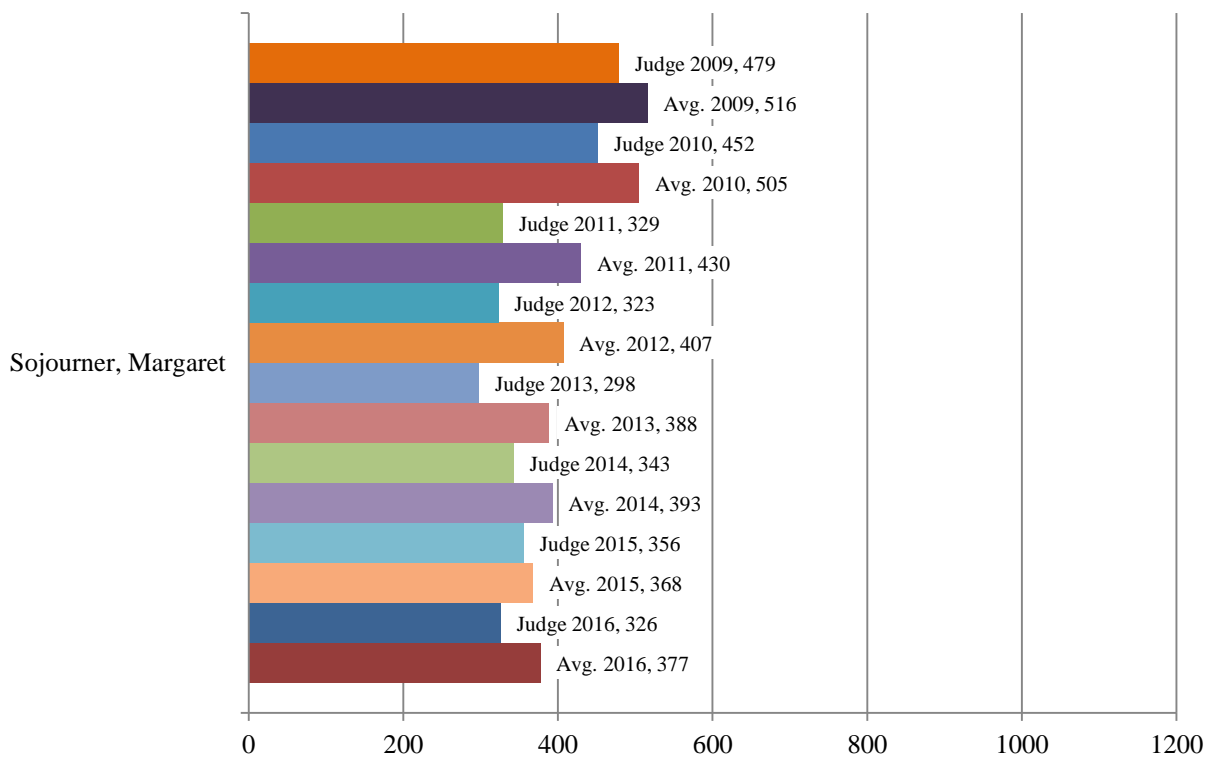
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



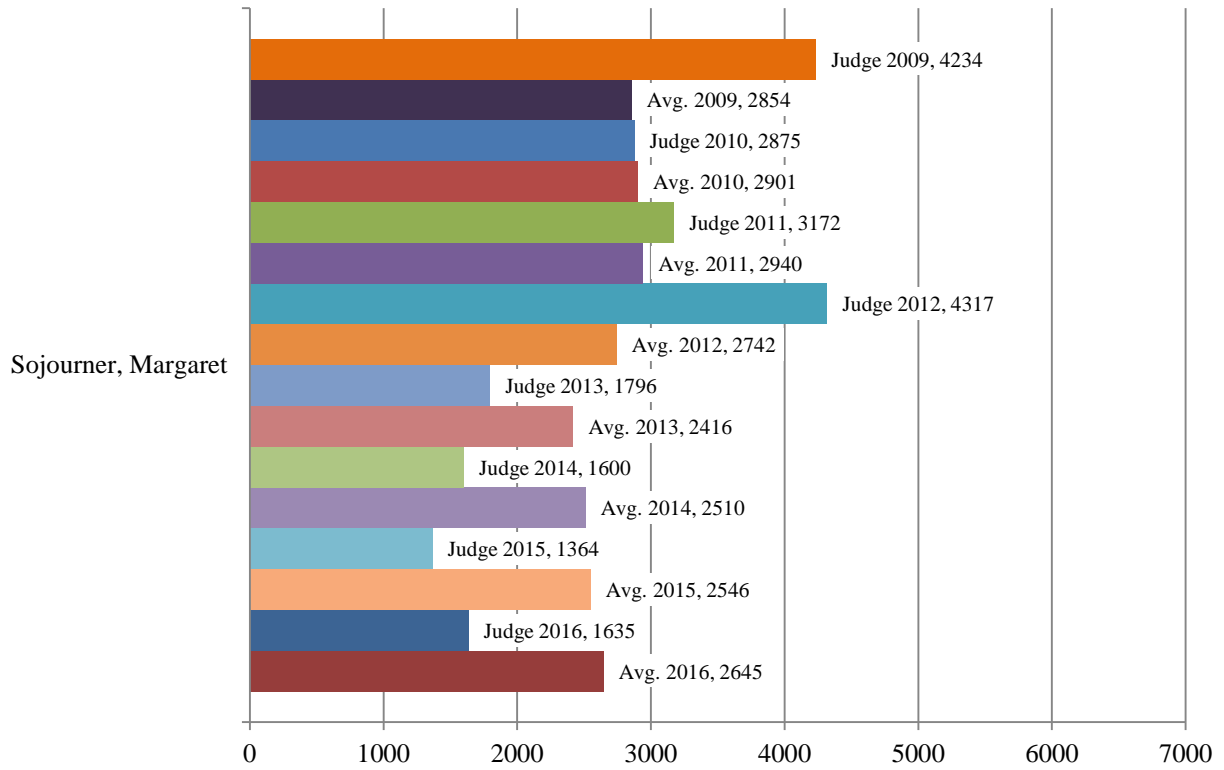
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



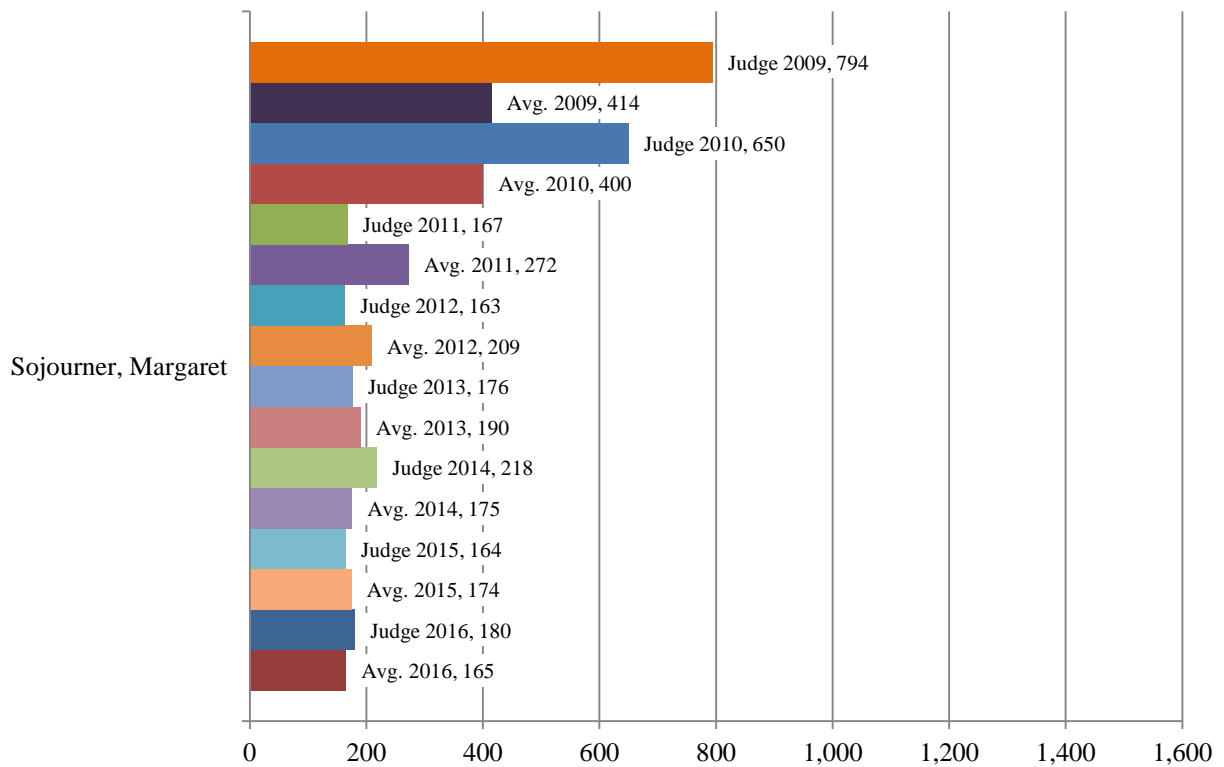
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



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. Judge Remsnyder relocated to District MEL in 2012, following the legislative decision to reduce the state’s judges. 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. Judge Dietz tenure has continued to demonstrate stability.

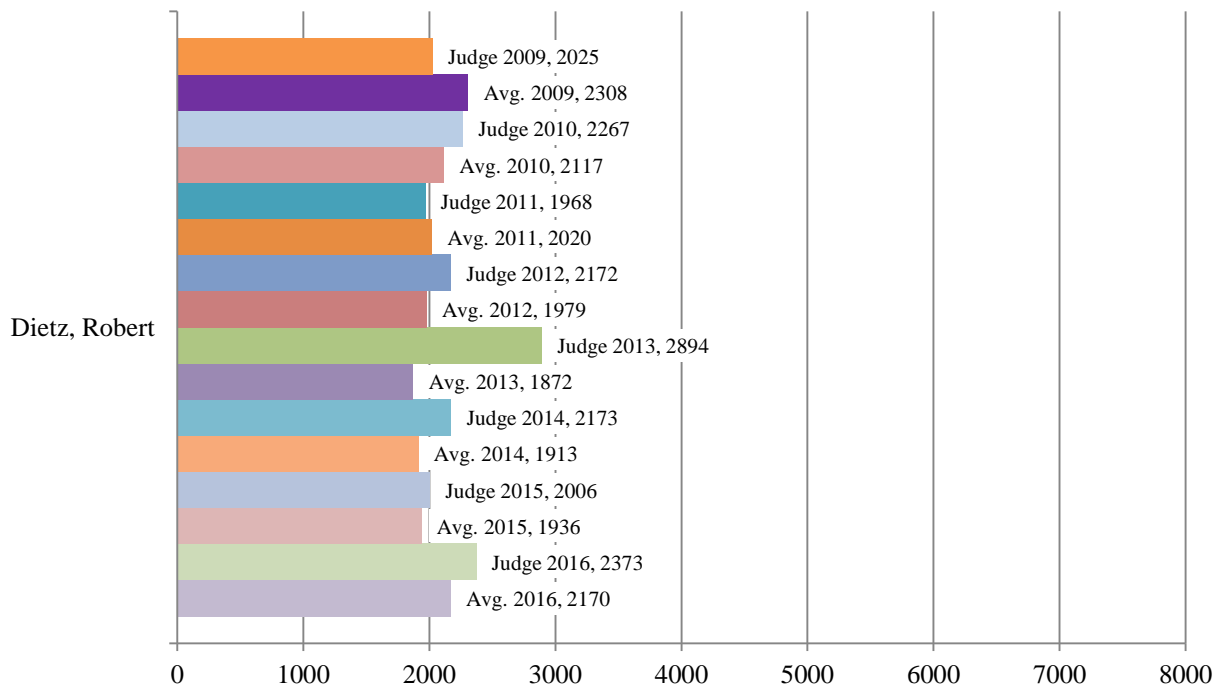
PFB filings and “new case” filings in District MEL remained above the statewide averages in 2014-15, “new cases” remarkably so. In 2015-16 there was a significant increase in “new cases.” Despite filing volumes, however, the year-end inventory of petitions in District MEL is consistent with the statewide average. The Melbourne trial volume has been consistently above the statewide average, but with the new definition of “trial order” in 2016, the volumes are consistent with the statewide average.

Judge Dietz is a member of the Brevard and Indian River County Bar Associations, the William M. Wieland Inns of Court in Orlando, the National Association of Workers’ Compensation Judiciary, the board of the Professional Mediation Institute, and a Fellow of the College of Workers’ Compensation Lawyers. In 2015-16 he spoke at the Florida Association of Self-Insureds in Naples, Florida, moderated a panel at the Professional Mediation Institute, lectured at the Florida A&M Law School Judicial Externship Program, and served as Adjunct Professor of Workers’ Compensation Law at Barry Law School. He also presented at the Office of Judges of Compensation Claims Second Friday program, served on a judicial panel at the OJCC/WCI Spring Seminar in Tallahassee, and spoke at the Brevard County Bar Association Community Law School. Judge Dietz also presented at the Florida Bar Workers’ Compensation Section Forum, the Florida Bar Workers’ Compensation Section Lunch and Learn Webinar, and at an Orlando Bench/Bar Meeting.

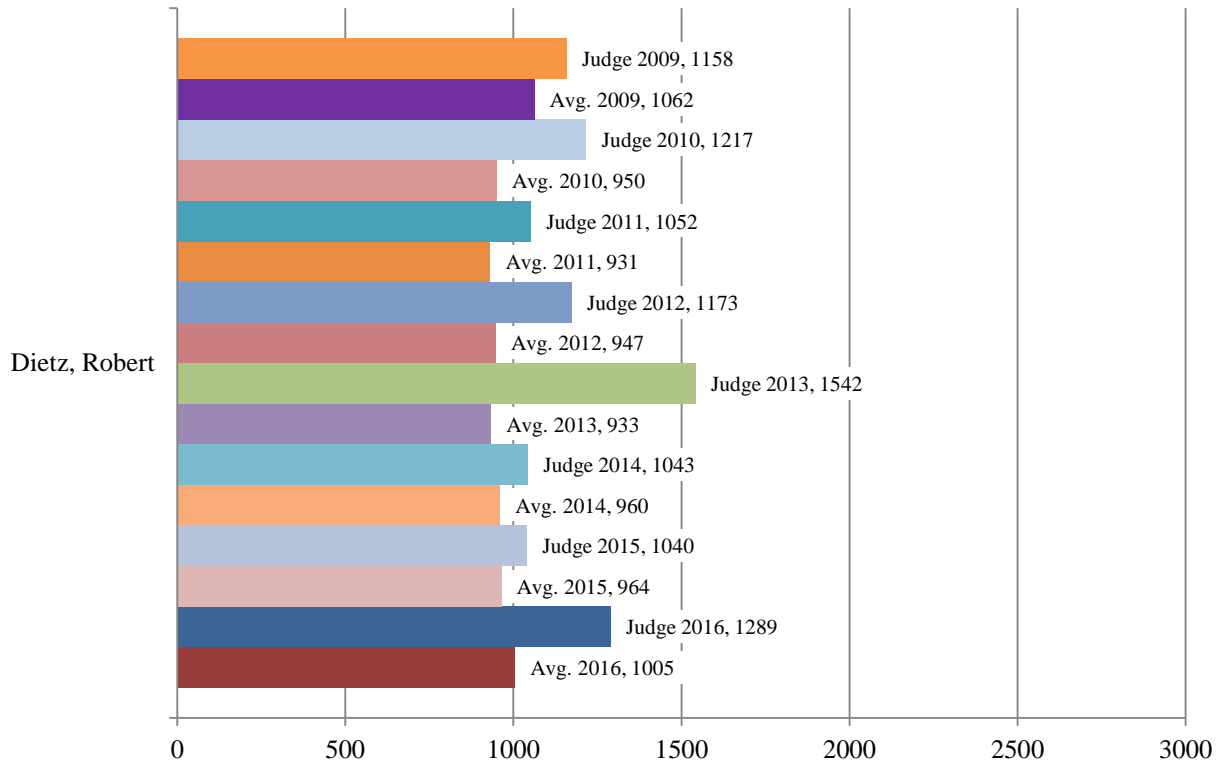
Judge Dietz published *It’s Time to Stop Playing “Hide the Ball,”* The Florida Bar Workers’ Compensation Section’s News & 440 Report, Winter 2016, and *Humor from the Mediator: When Does it Undermine the Process?* Professional Mediation Institute March 2016 Newsletter. He also produced a 25 Page Case Law Summary of Settlements provided to the Judges of Compensation Claims.

Judge Dietz is active in the community through Give Kids the World Work Day, The Earle Zehmer Moot Court Competition, Upward Basketball Referee, Operation Inasmuch, Friends of 440, and is instructor for a middle school chess club.

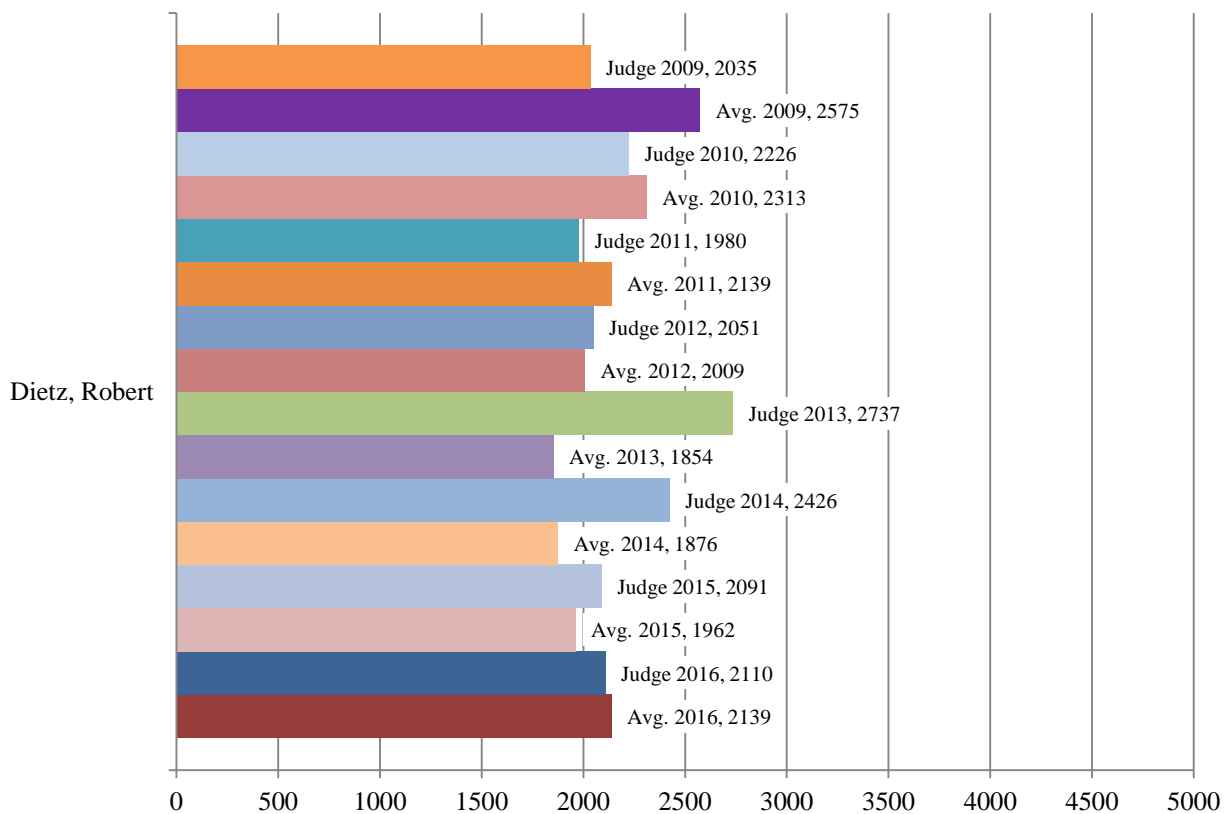
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



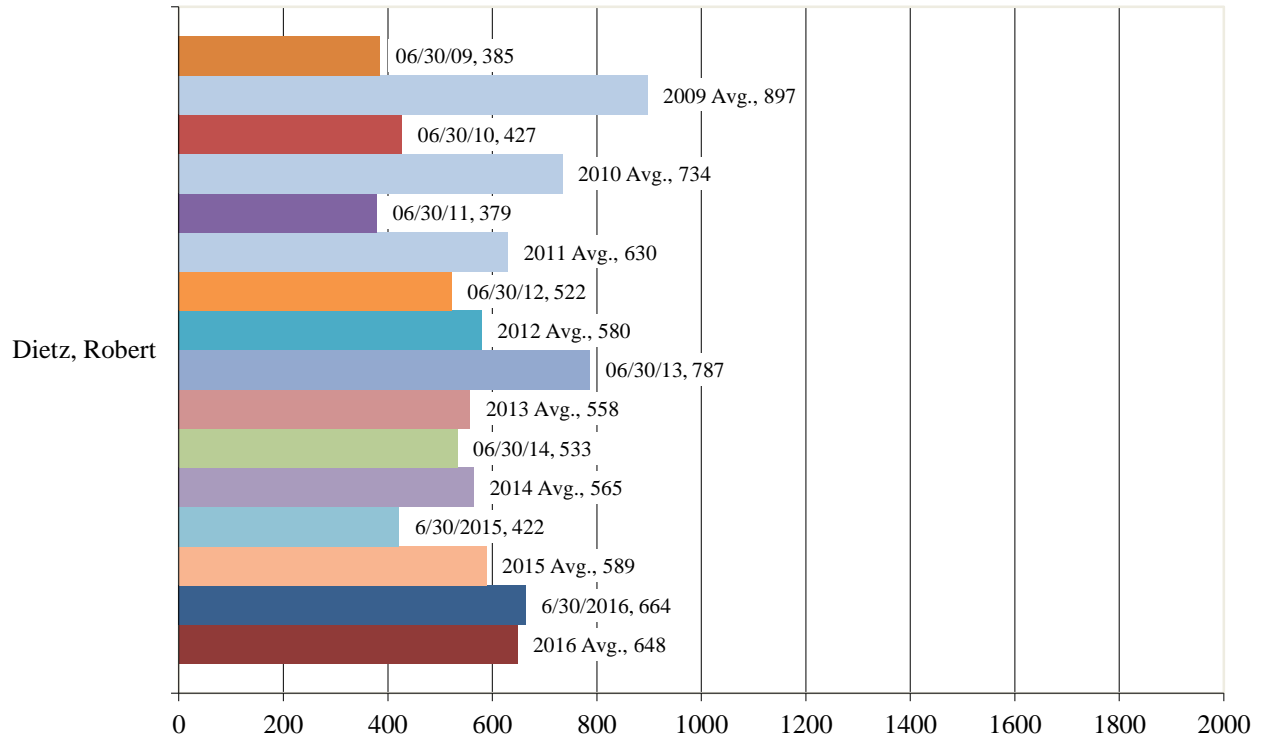
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



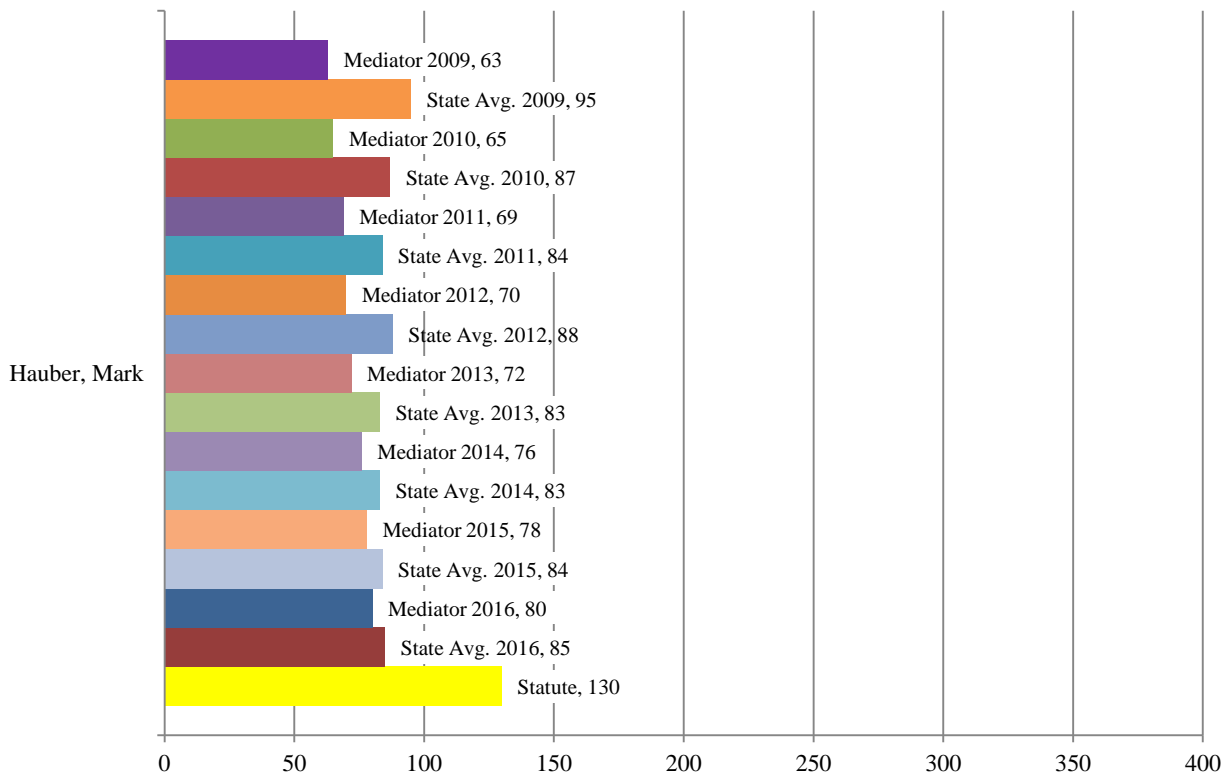
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



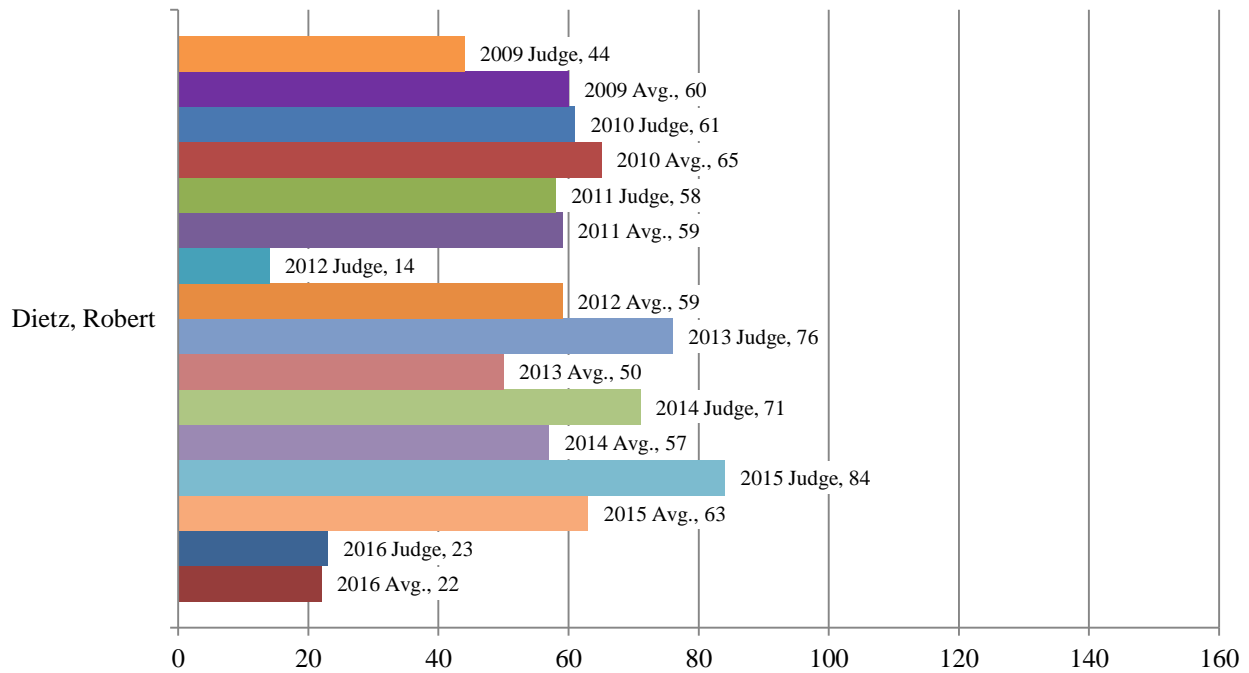
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



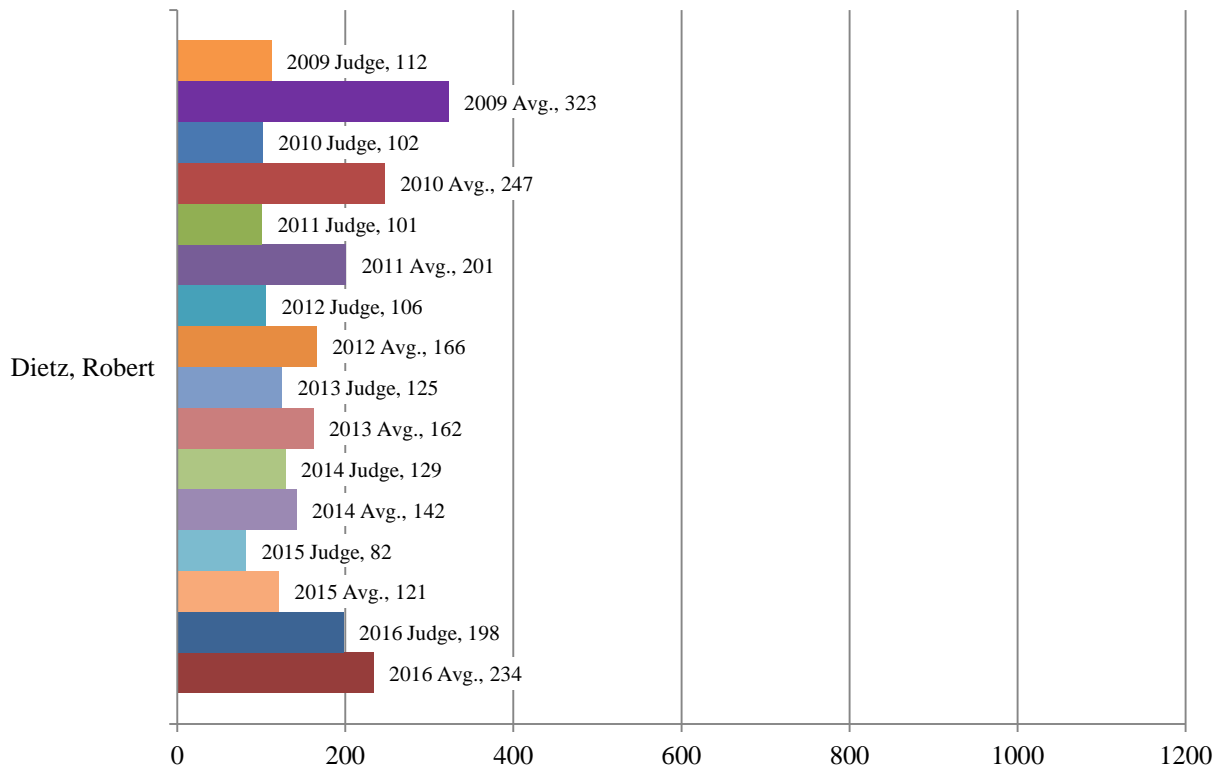
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



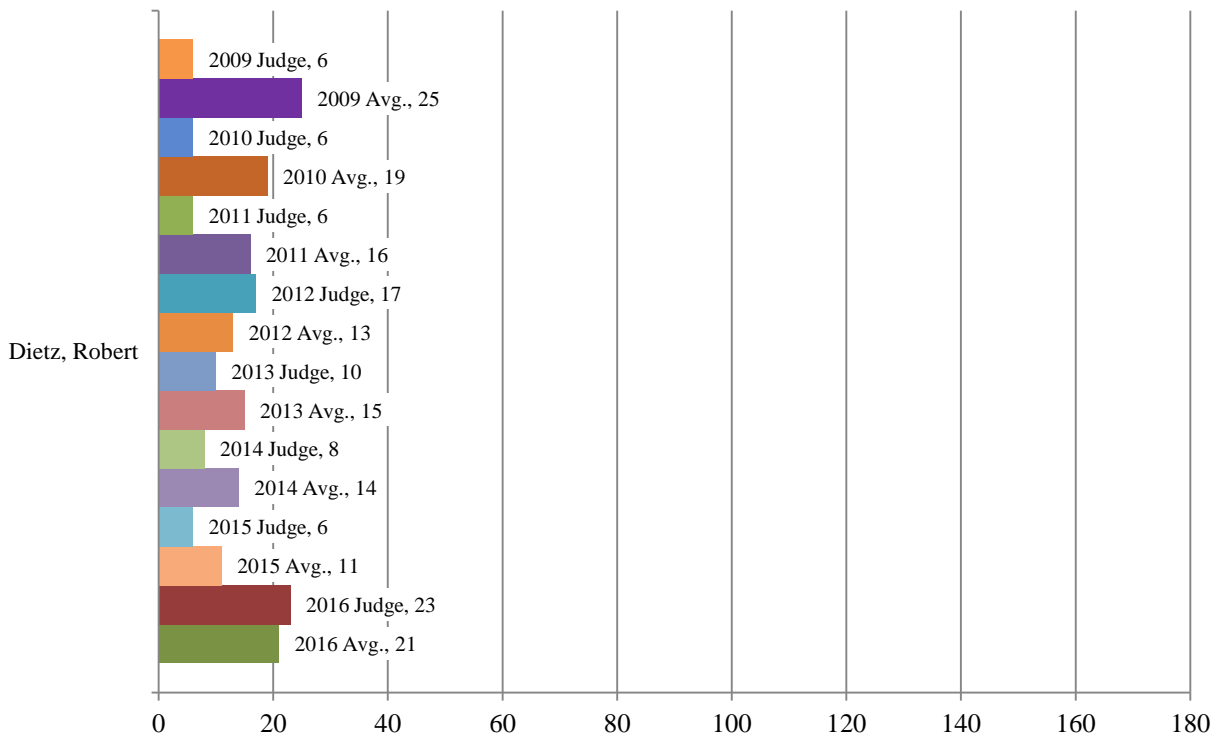
The following graph depicts the total volume of trial orders¹⁵⁵ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



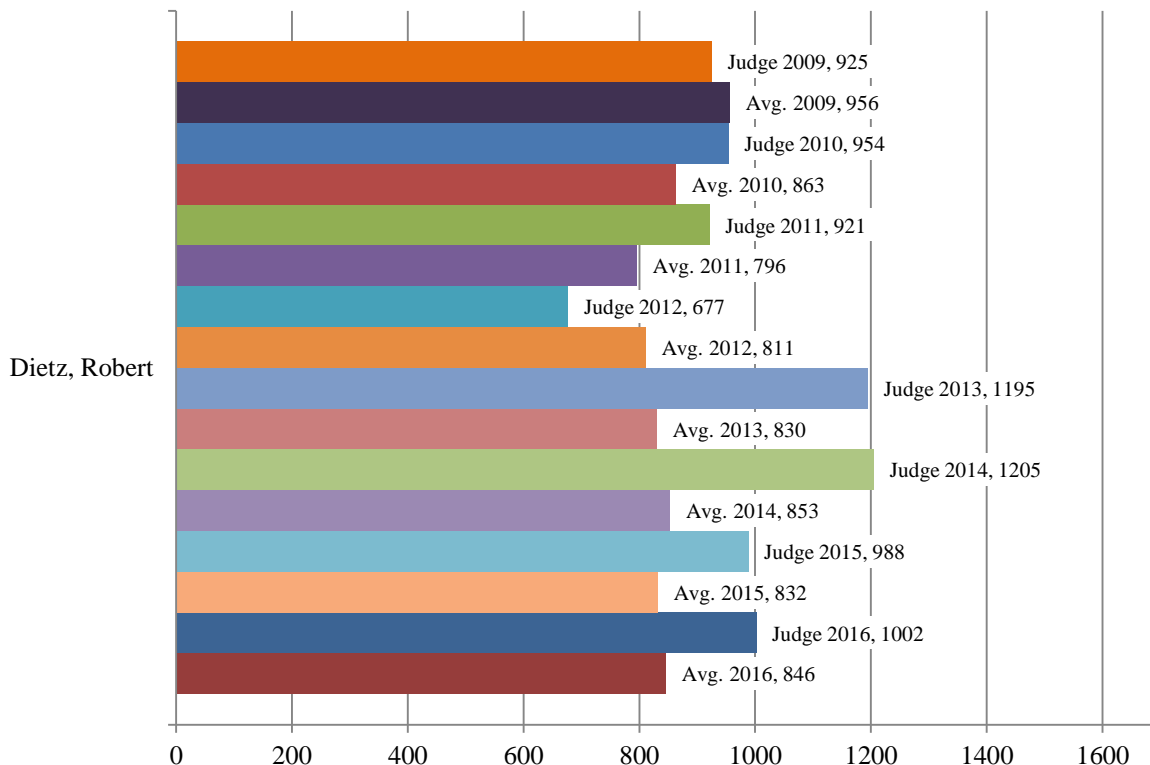
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



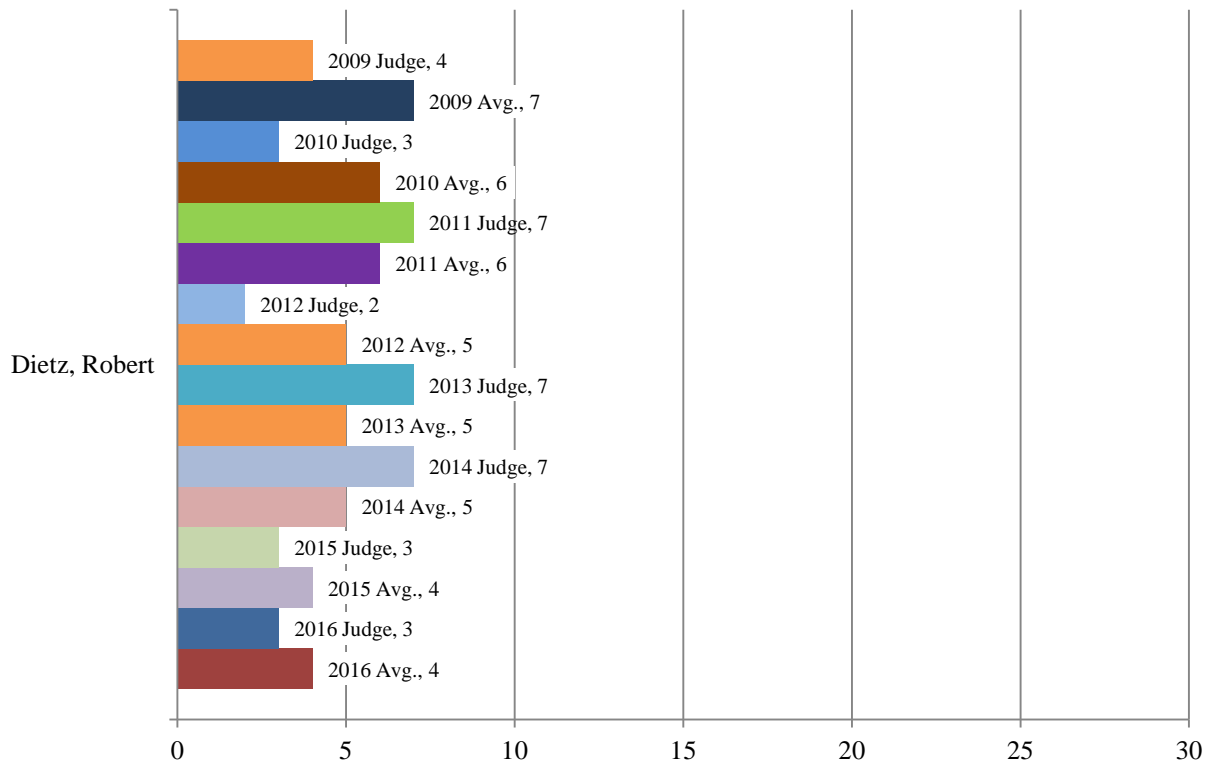
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



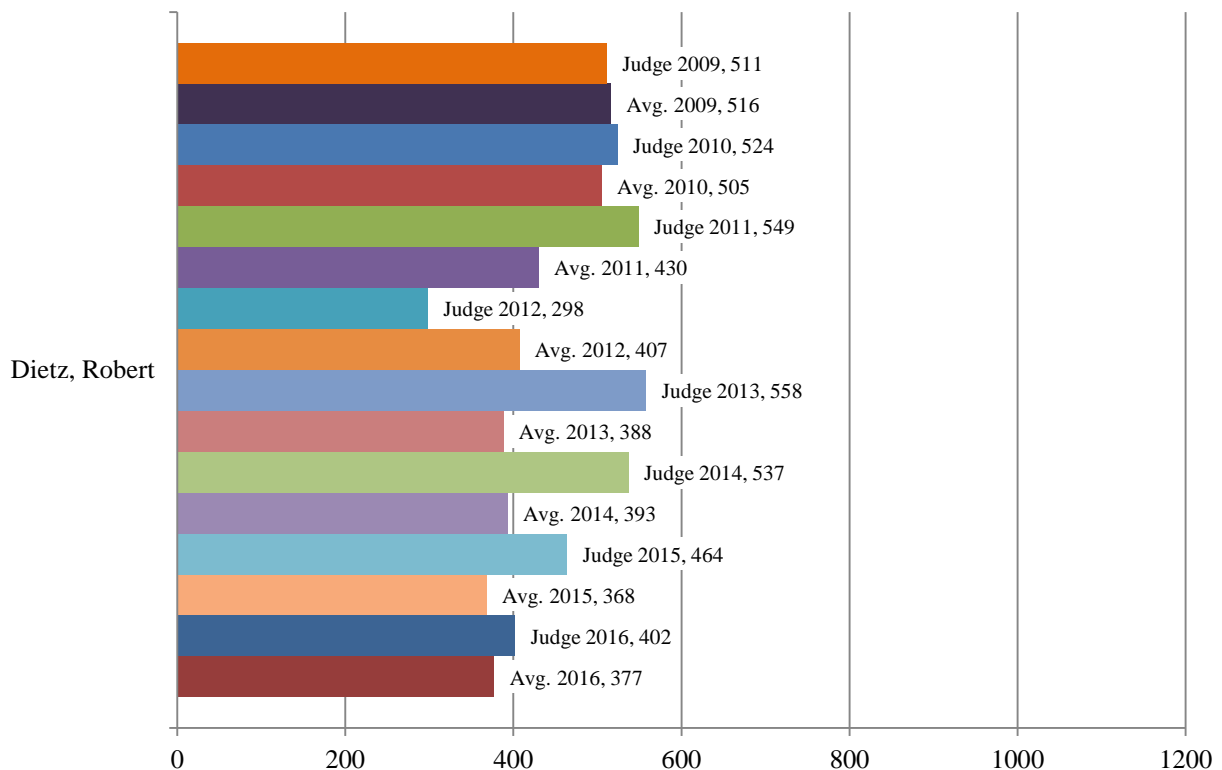
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



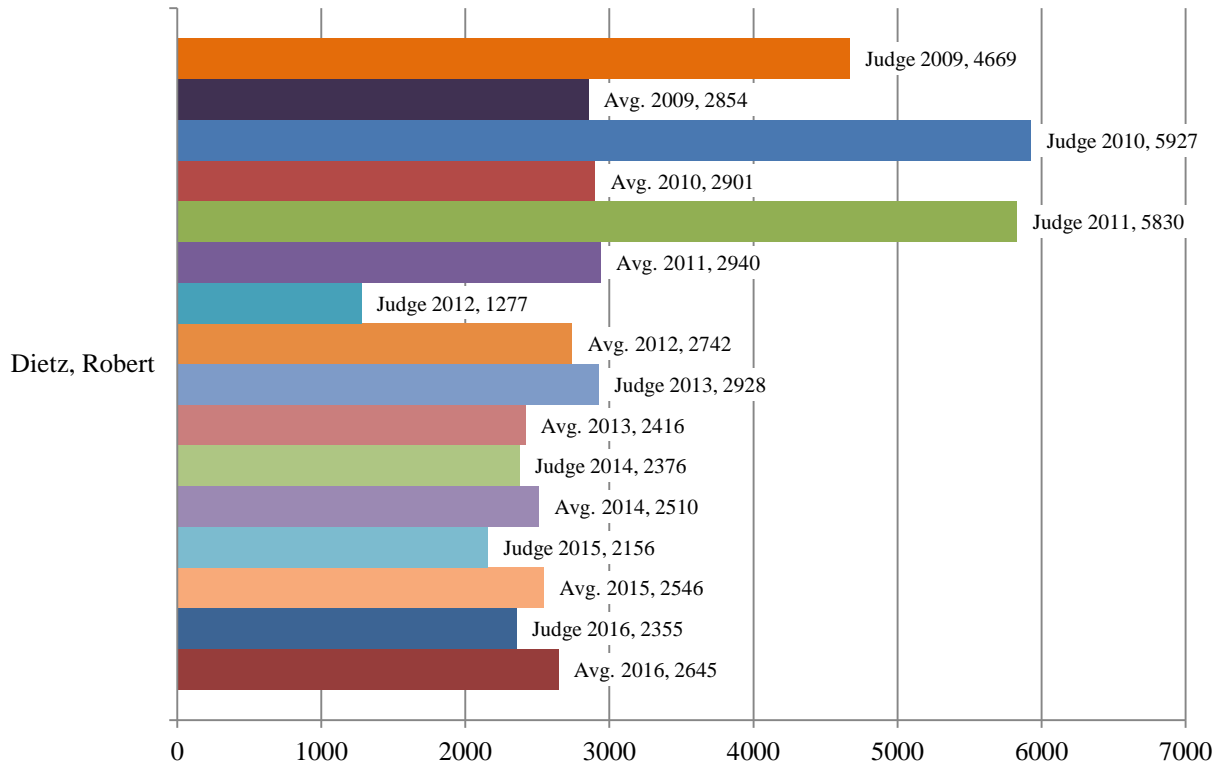
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



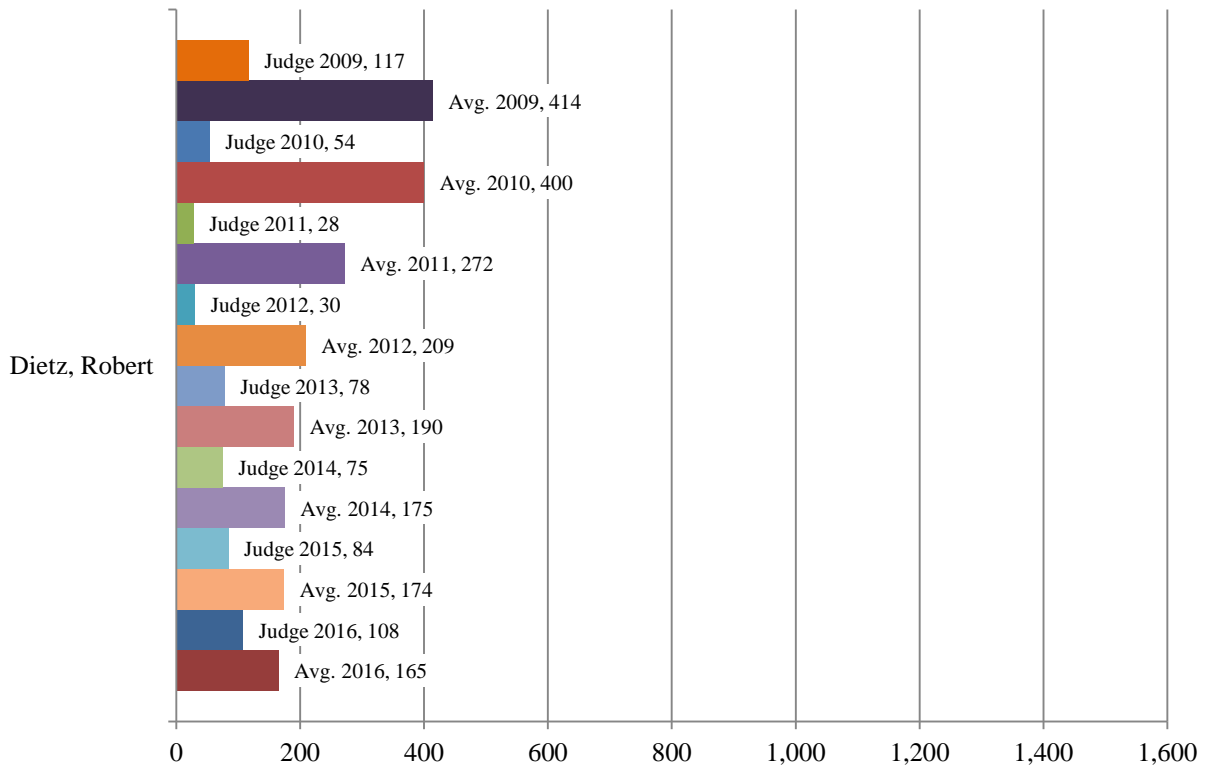
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



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 were assigned to Judge Robert McAliley until his retirement in 2016, and thereafter to the Port St. Lucie district pending appointment of a replacement judge.

In 2012-13 and 2013-14, Each MIA division received far fewer than the statewide average of both petitions and “new cases.” Petition volumes were notably higher in Judge Kerr’s and Judge Medina-Shore’s divisions in 2014-15. In 2015-16, there was a marked increase in Petitions in Judge Almeyda’s division, while Judges Medina-Shore and Kerr remained significantly above average. The year-end petition inventories in some of the Miami divisions are notably above the statewide average. This may be attributable in part to the increased filing rates and the recent cessation of the out-of-district judge assignments.

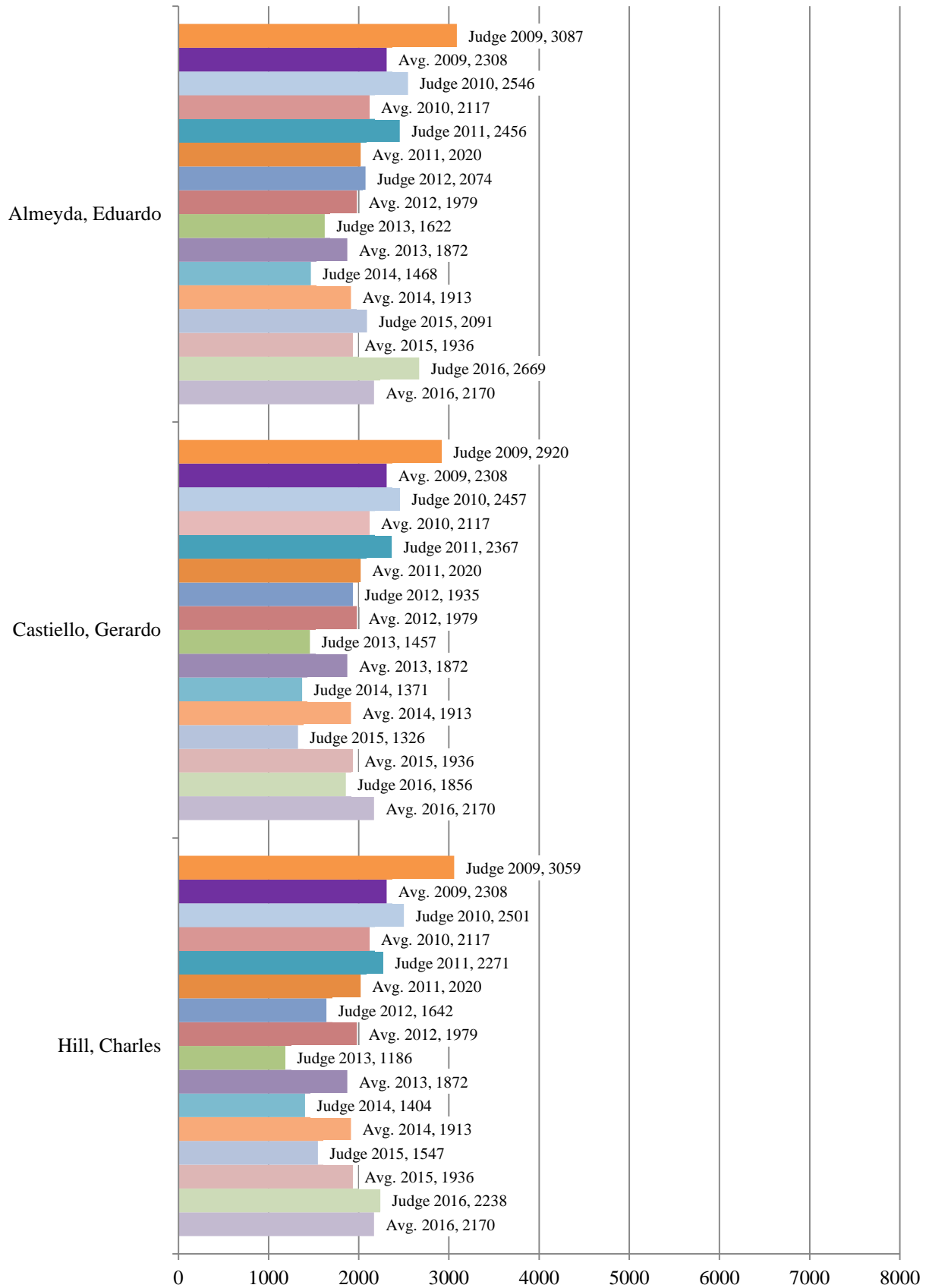
The MIA “new cases” volumes have been below average for many years, but are trending to increase in all divisions recently. Some portion of the below-average volumes may have been related to the assignment of petitions to out-of-district judges that occurred for about five years, ceasing in 2015-16. The volunteer judges that assisted Miami with the out-of-district process were Judges Humphries (JAX), Massey (TPA), Pitts (ORL), Spangler (TPA), and Sturgis (FTM). Carryover still occurs as issues arise in cases already assigned to out-of-district judges, which also included Judge Weiss (FTM).

Despite the change in filing volumes, the trial volume in Miami using the new “trial order” definition,¹⁵⁶ remains close to the statewide average, although Judges Almeyda and Medina-Shore heard a notably higher volume of trials in 2015-16 than the statewide average. 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.

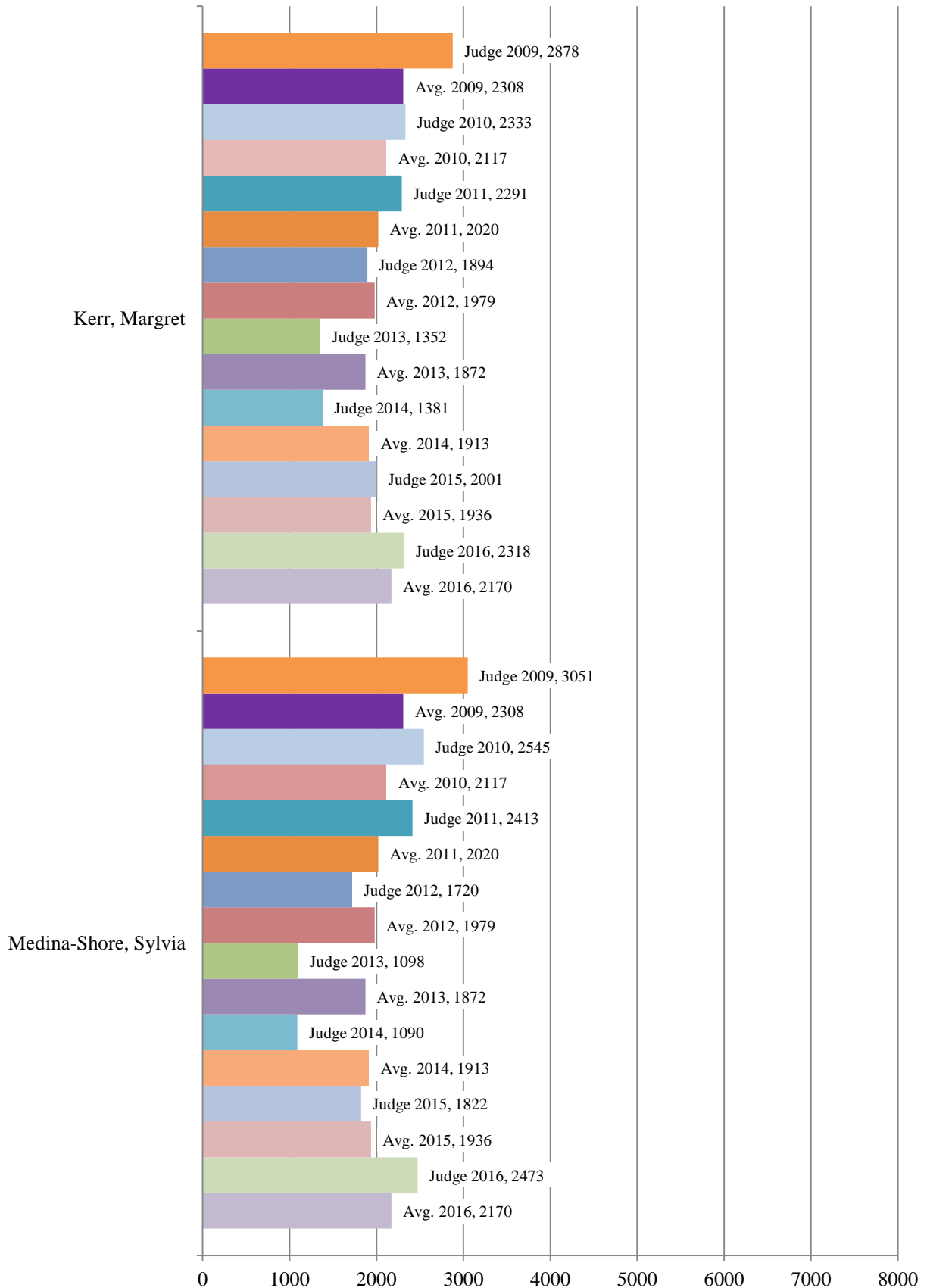
In 2015-16, Judge Kerr participated as a mock trial judge at the University of Miami Summer Scholar Program, served as a judge on the Florida High School Mock Trial Competition, participated in the Miami-Dade bench and Bar, “Chat with the Judges” quarterly Seminars, spoke on ethics and professionalism at the Friends of 440, presented at the Worker Compensation Institute Spring Forum on Ethics and Professionalism, and presented on a round table at the 2016 National Association of Workers’ Compensation Judiciary on “Ethics for the New Judge.” She served on the Head of School Search Committee for St. Thomas Episcopal Parish School, and is currently serving a three year term as the parish representative on the Trinity Cathedral Chapter, the Cathedral Church of the Episcopal Diocese of Southeast Florida.

In 2015-16, Judge Medina-Shore partook in judicial panels at the American Bar Association Mid-Year Conference regarding "Assessing Credibility" and at the Florida Bar Workers' Compensation Forum regarding "Ethics and Professionalism." She also lectured for the Workers' Compensation Section of the Florida Bar at their telephonic Learn at Lunch Program as well as the Second Friday Lunch and Learn Seminars for the OJCC on a multitude of workers' compensation and general ethical/professionalism subjects. Judge Medina-Shore has taught workers' compensation law to Higher Education college classes and continues to attend "Career Day" in Miami-Dade Middle and High Schools. She was a volunteer judge for the Miami-Dade County Silver Night Award- general scholarship as well as participated in the U.M. Summer Scholar Program. She has been the Administrative Judge for the Miami office for the last 10 years, holding Bench/Bar seminars on the Second Tuesdays of every month.

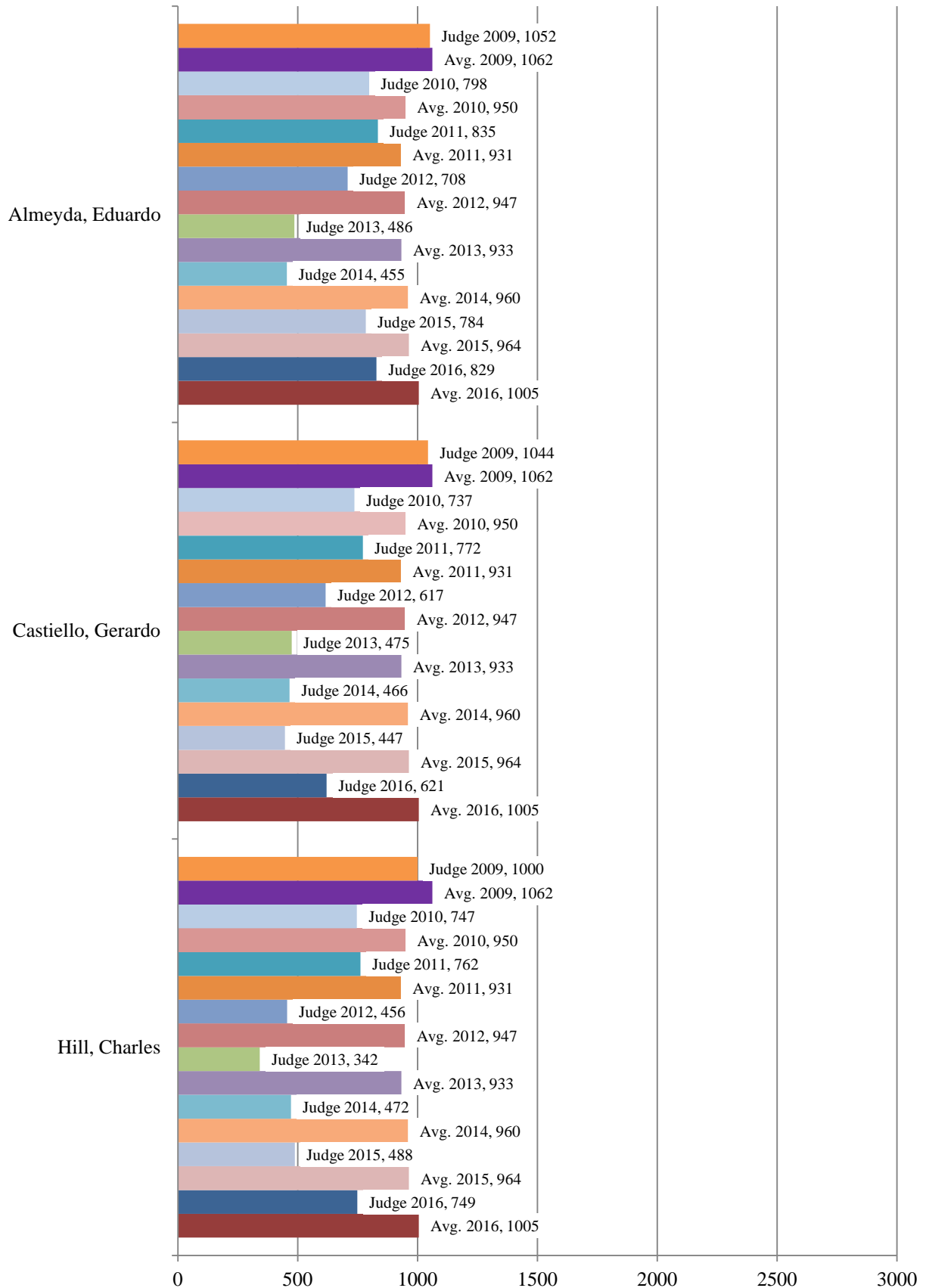
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



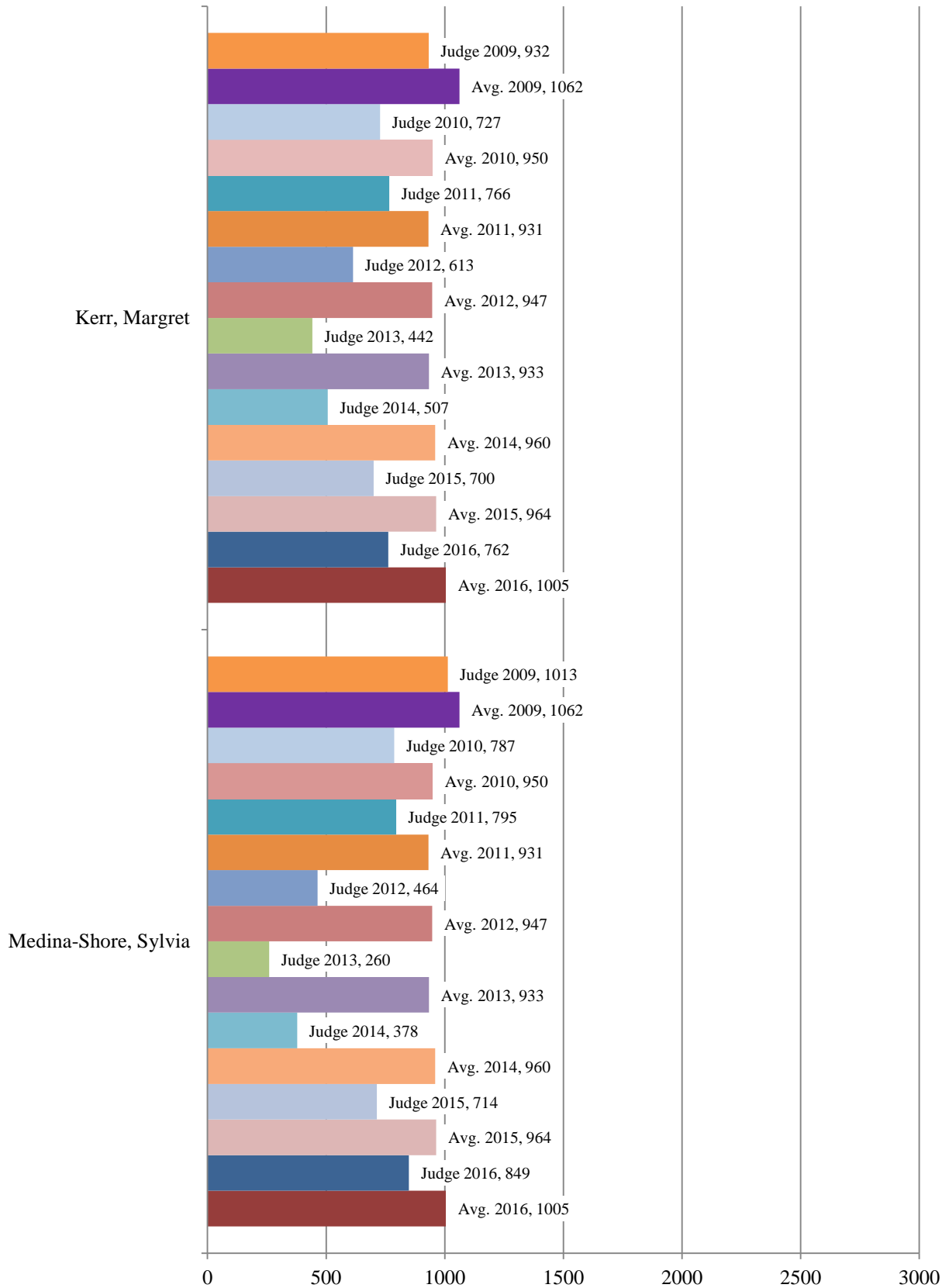
(Continued) The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



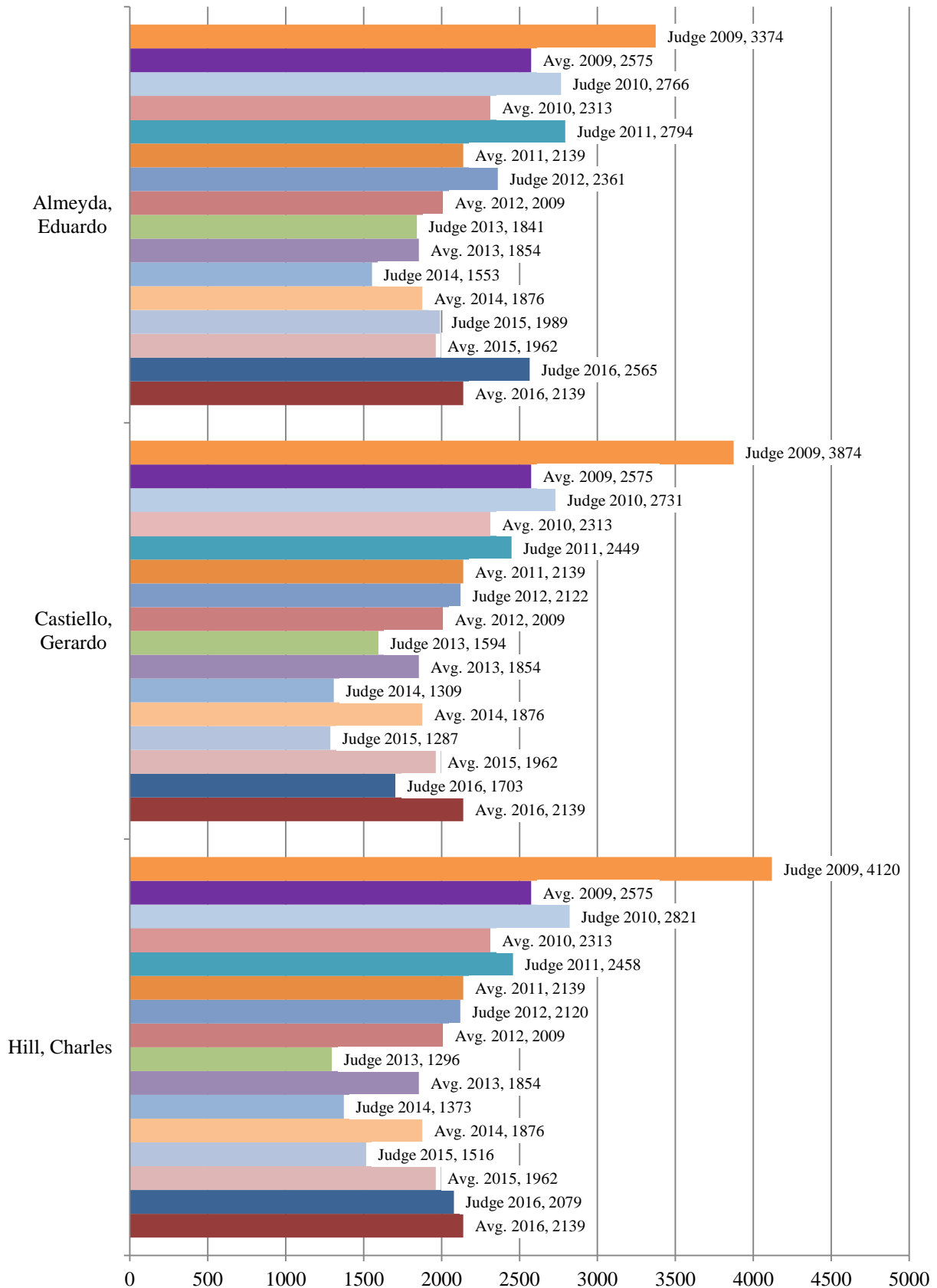
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



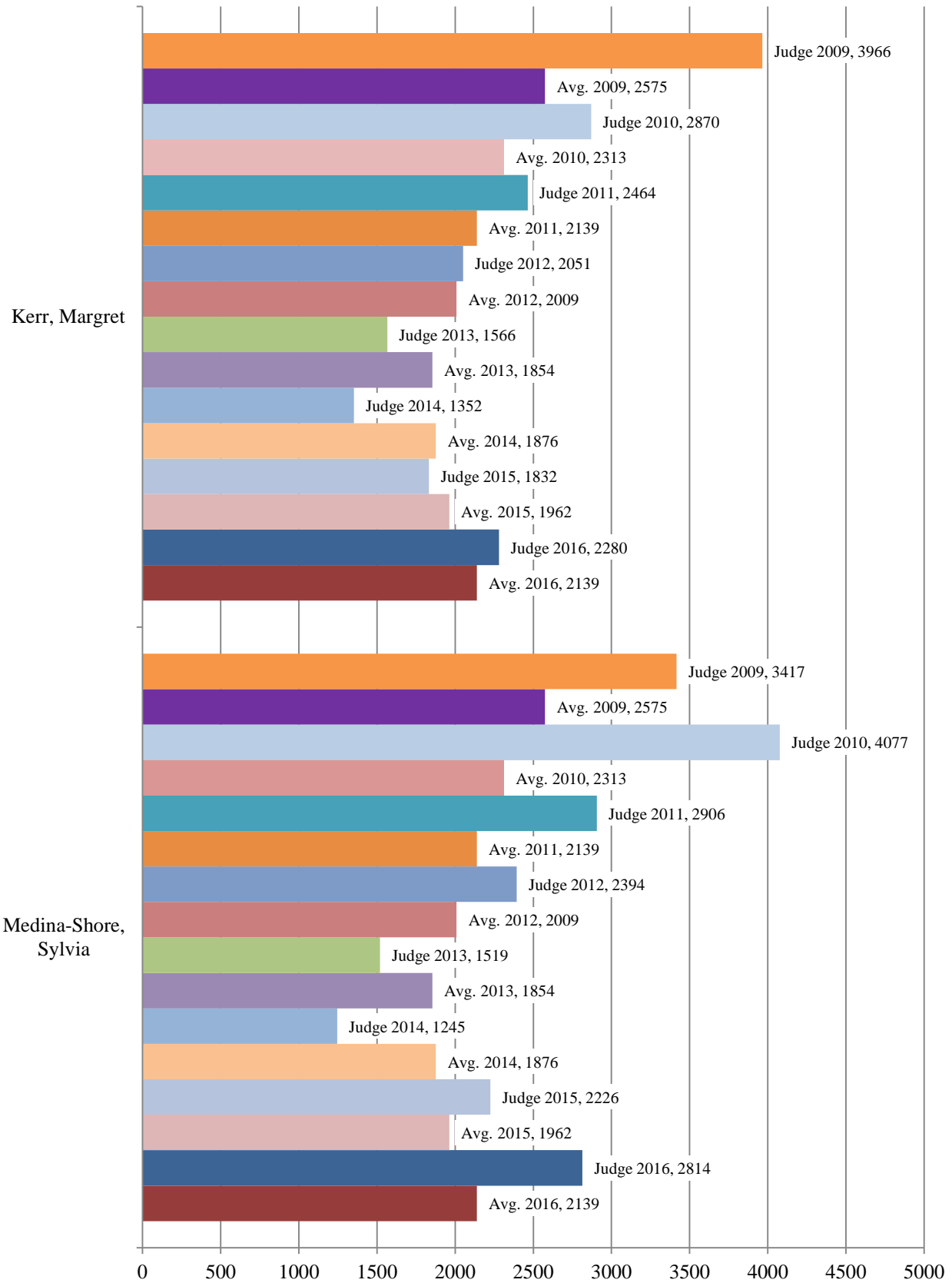
(Continued) The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



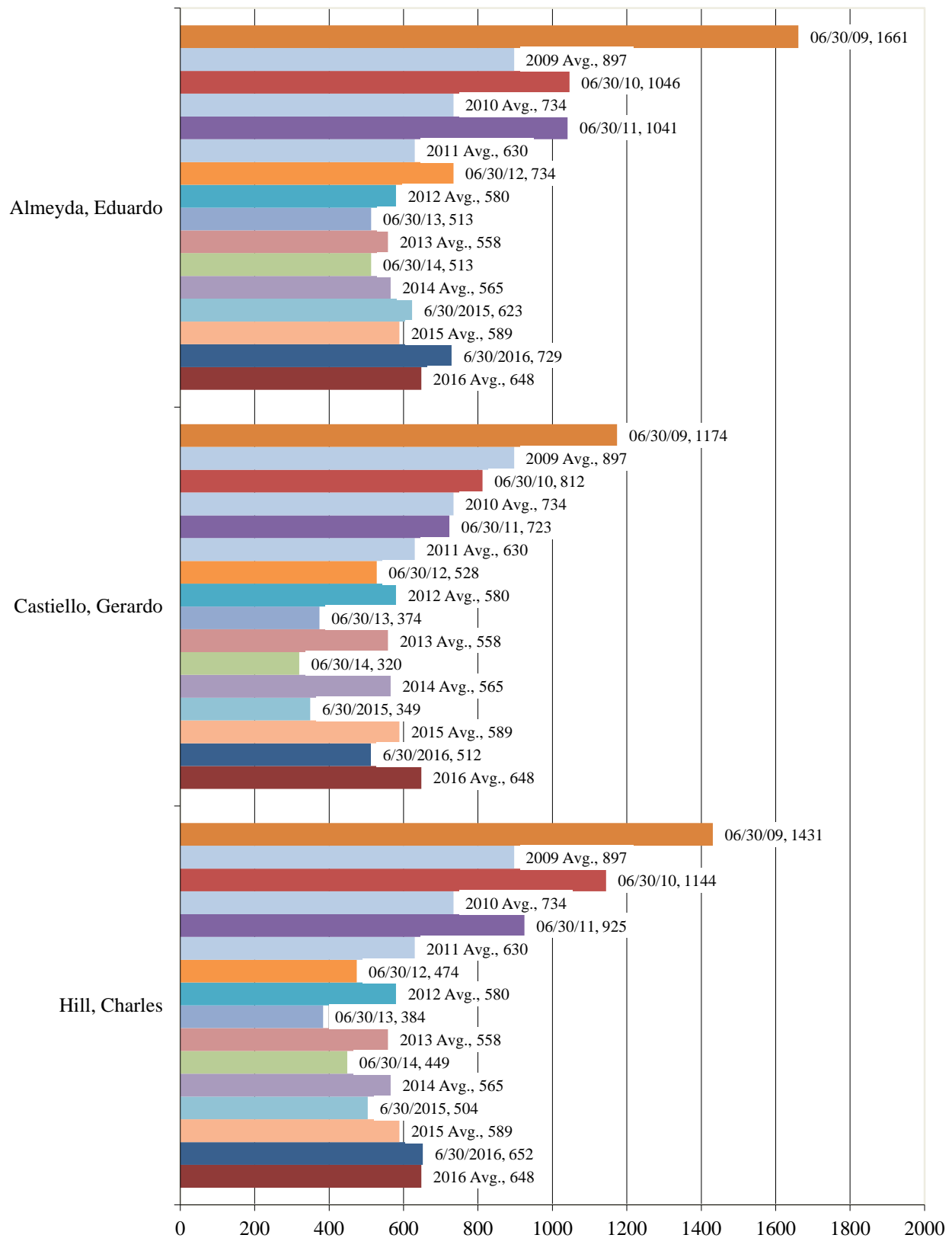
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



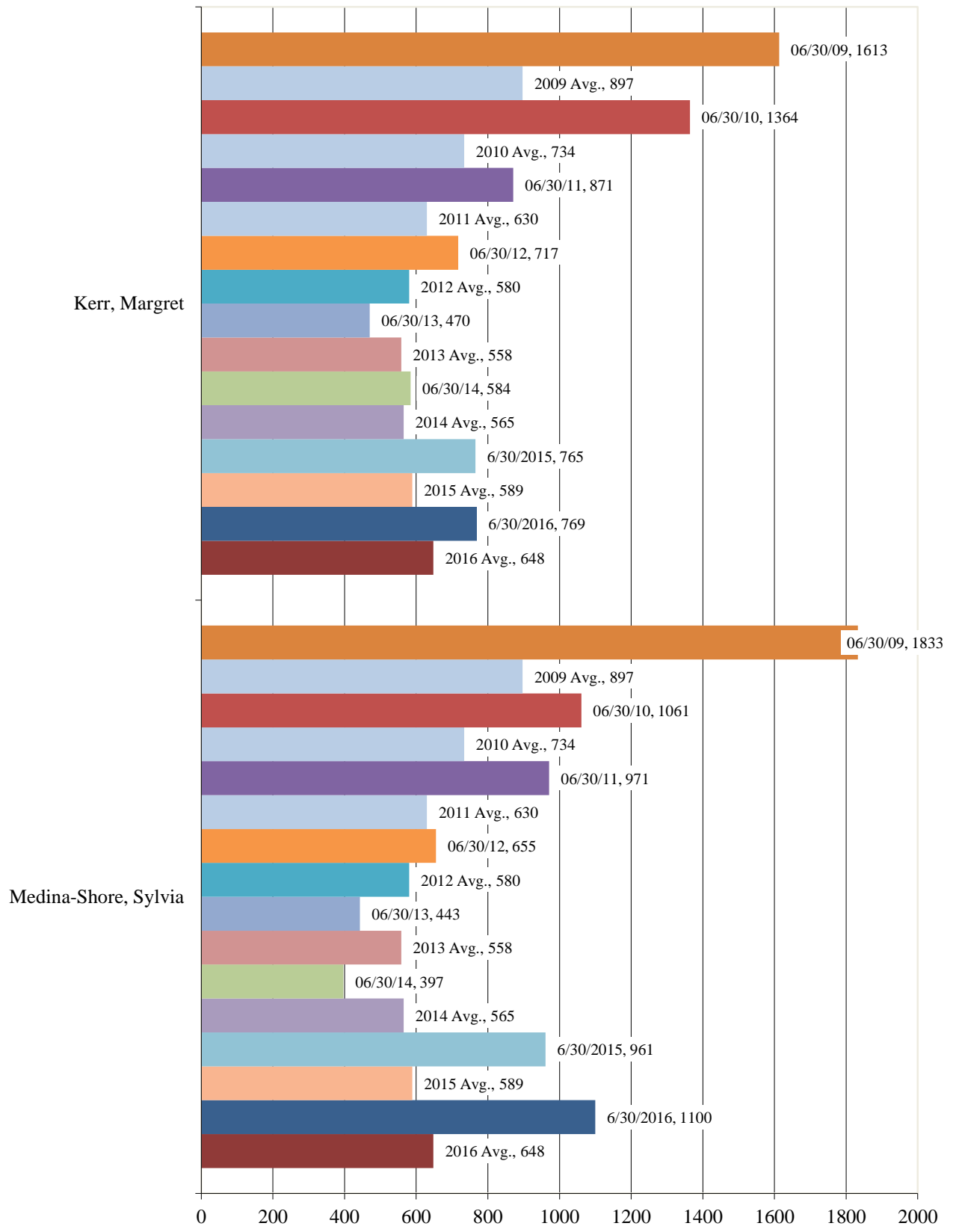
(Continued) The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



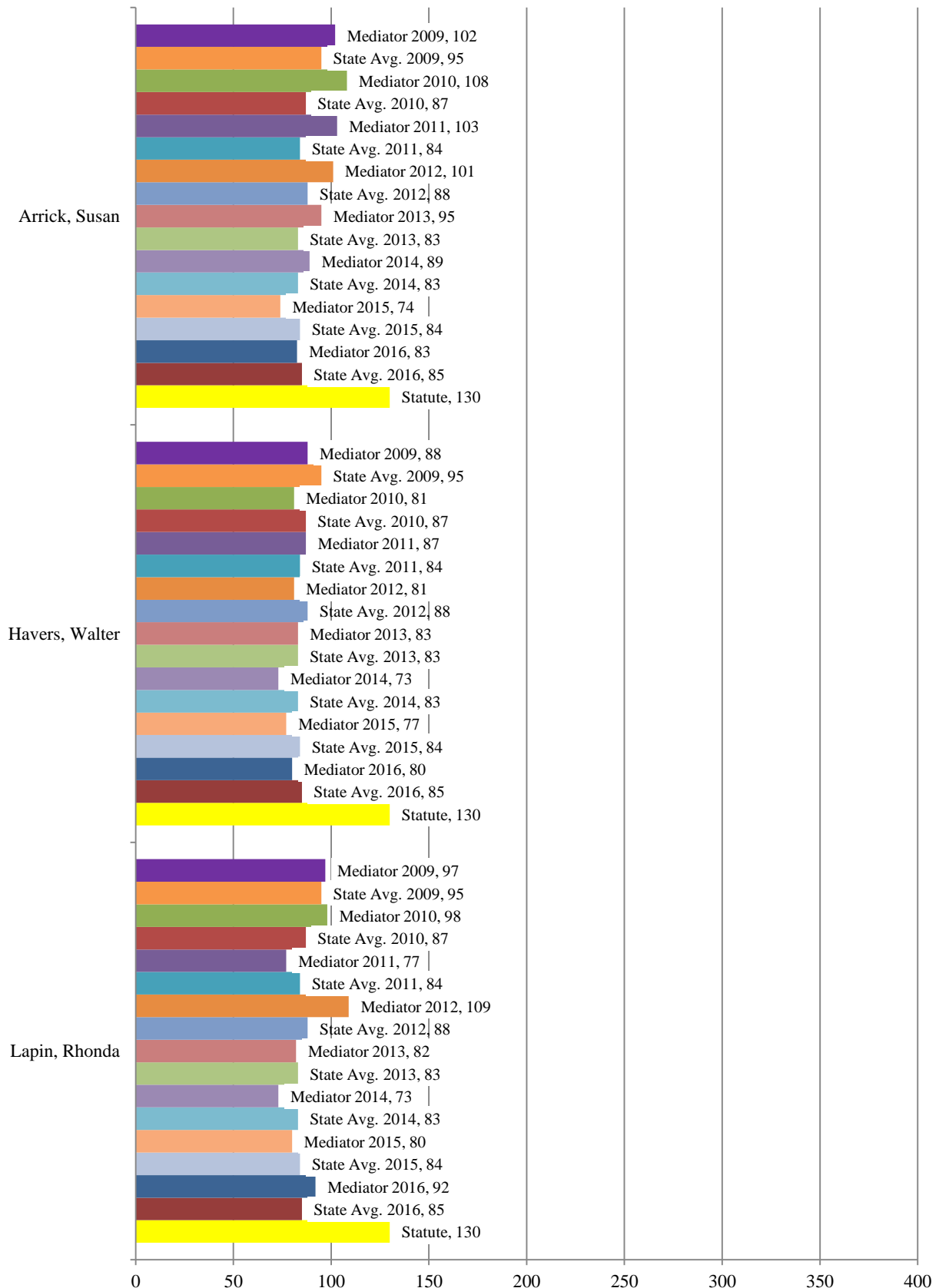
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



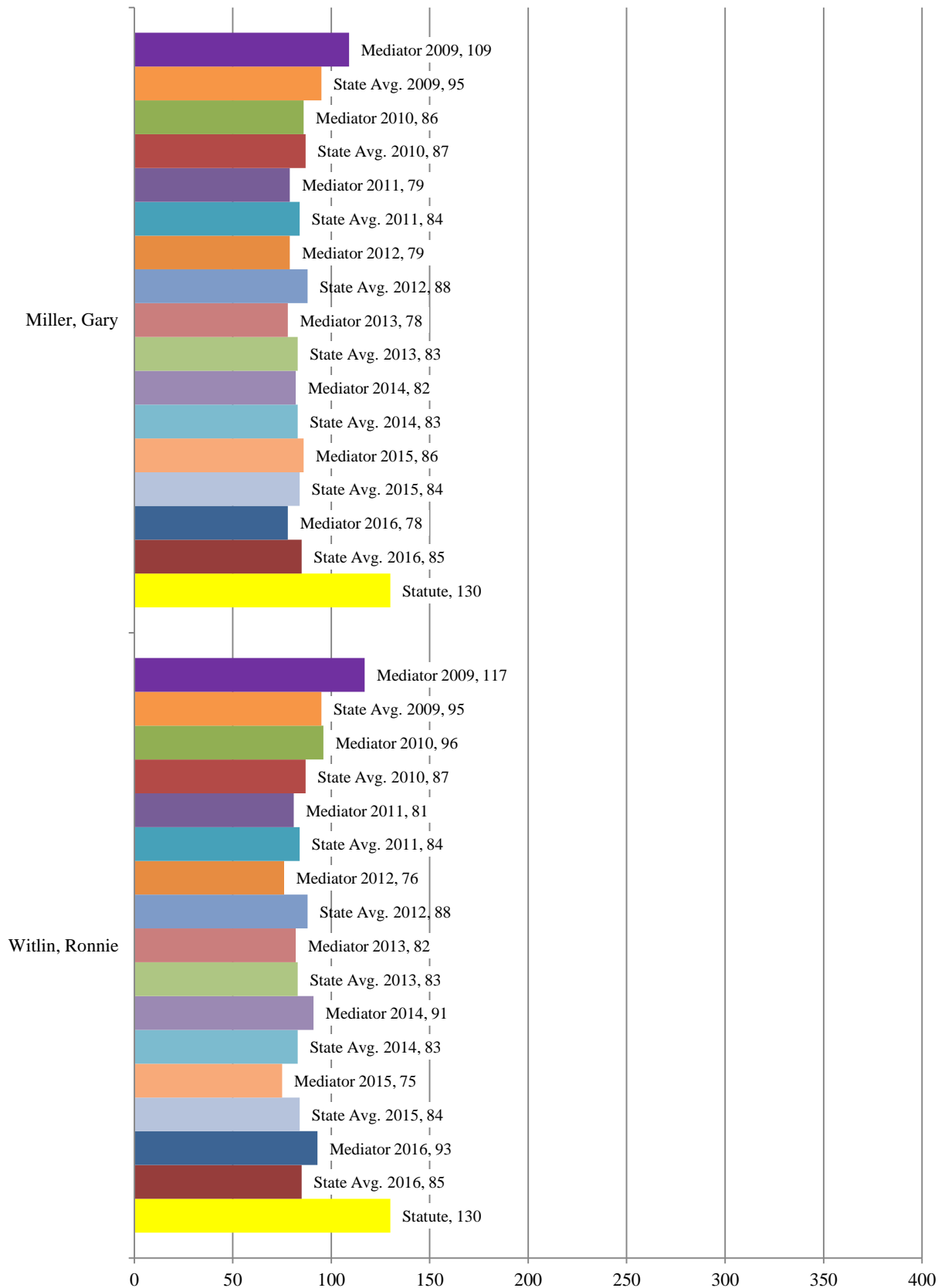
(Continued) The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



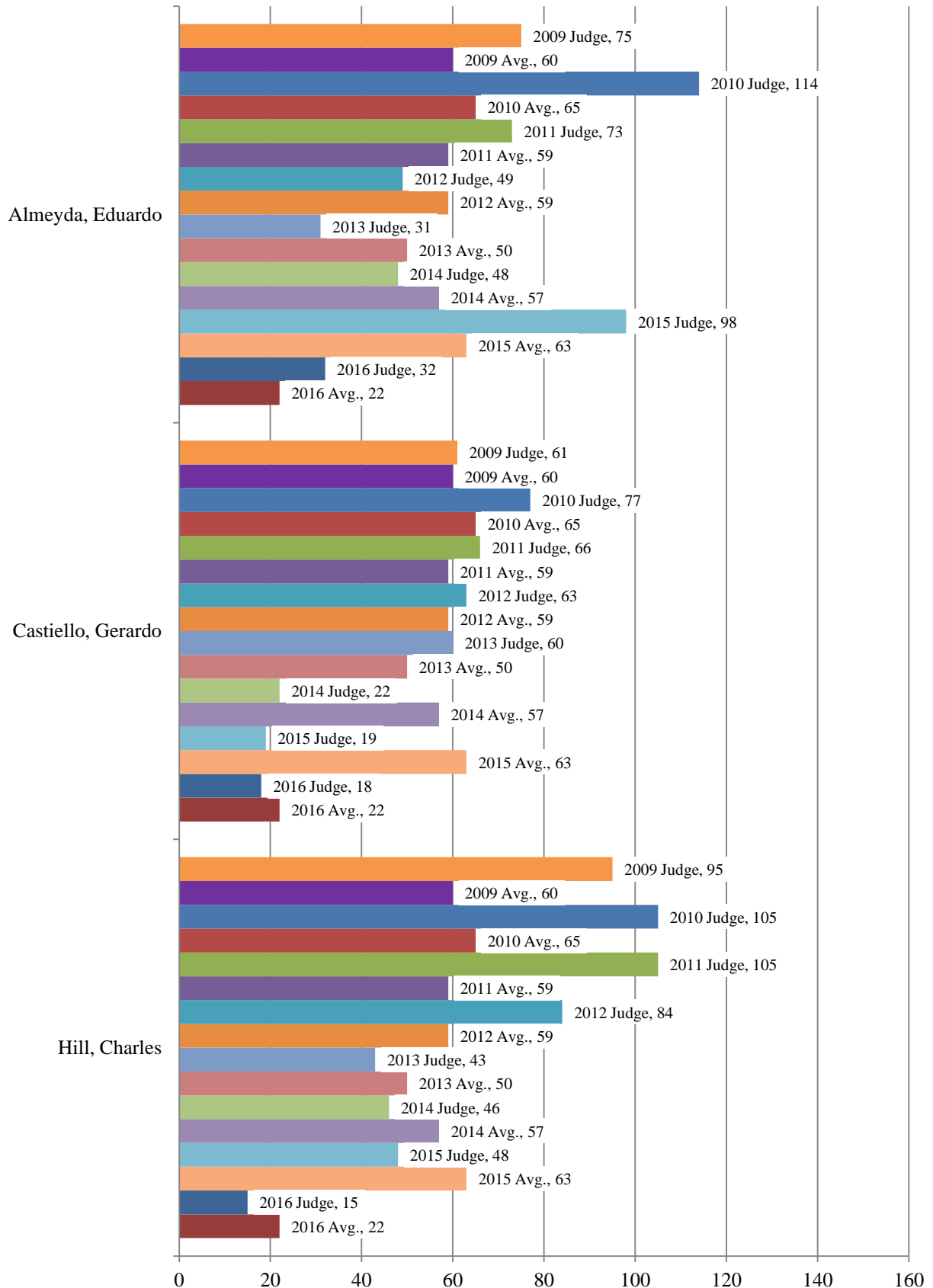
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



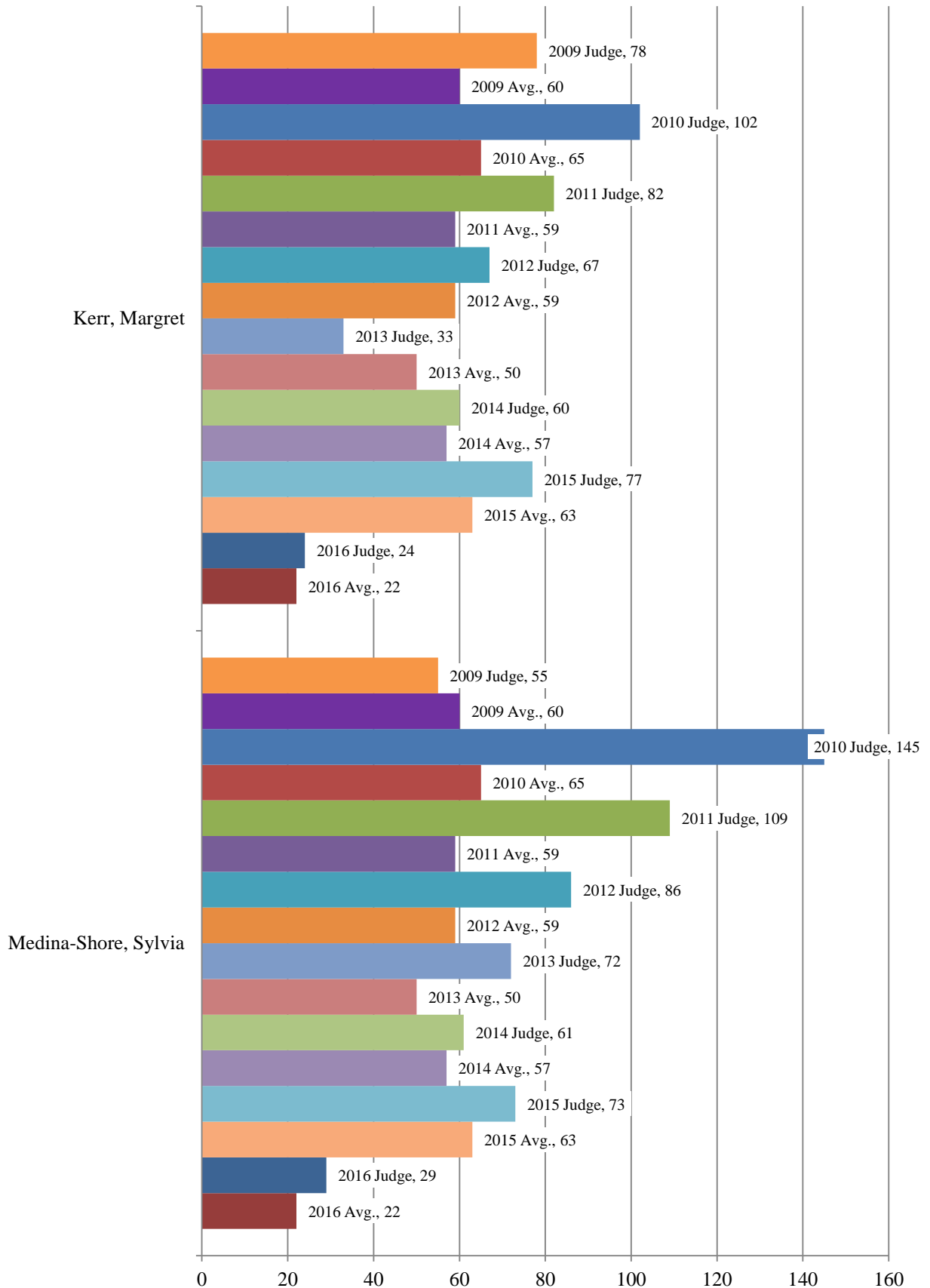
(Continued) The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



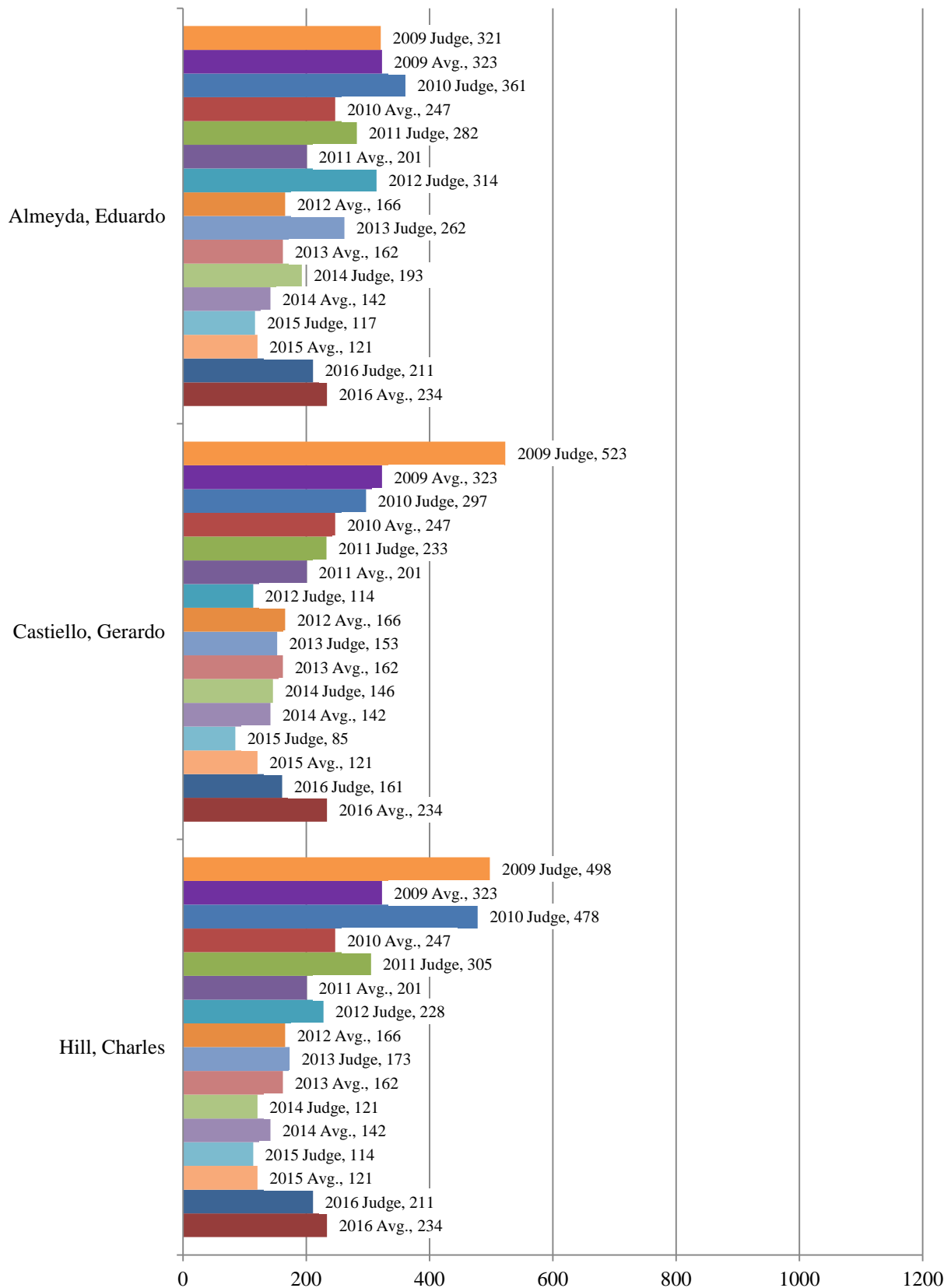
The following graph depicts the total volume of trial orders¹⁵⁷ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



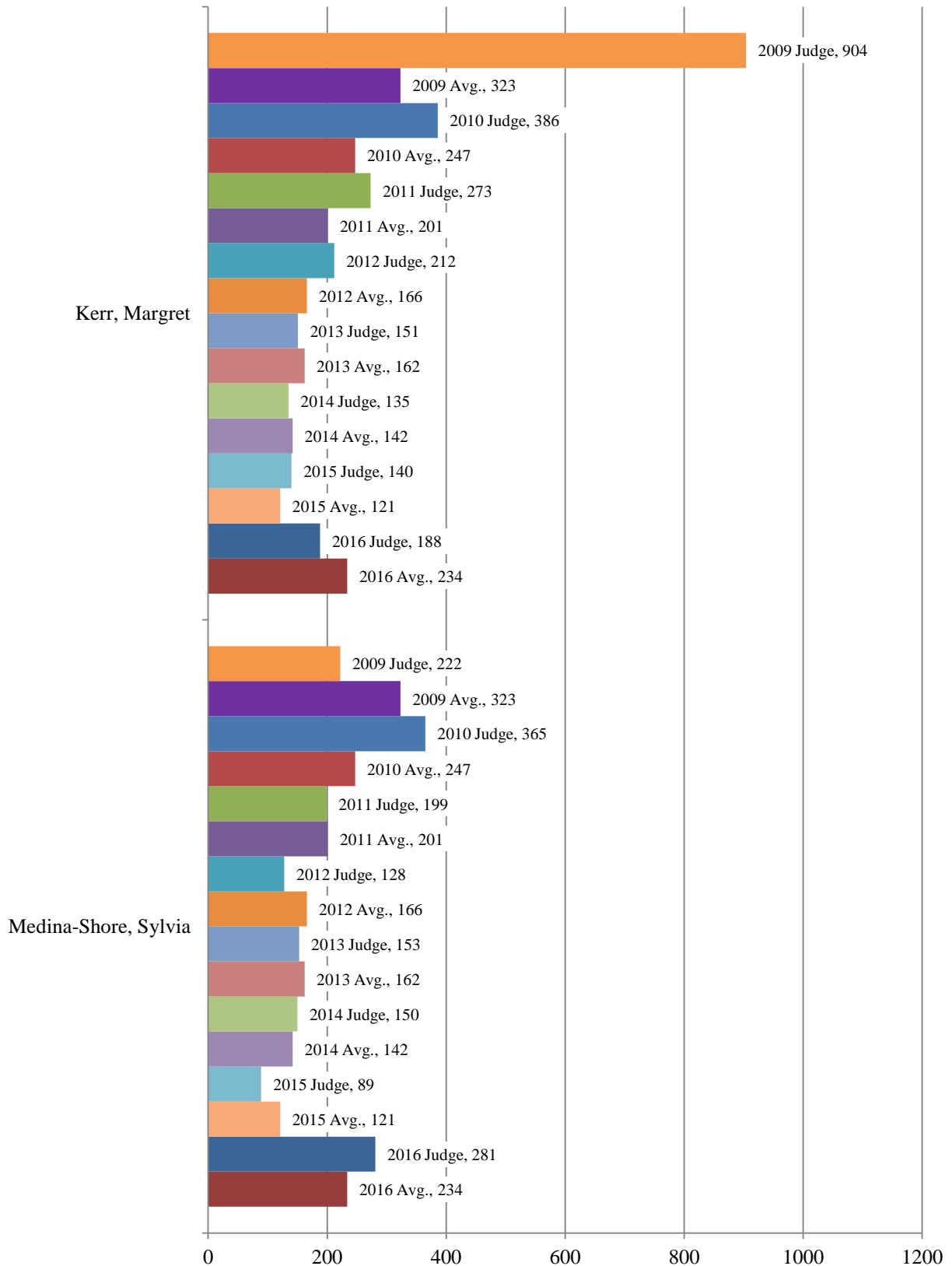
(Continued) The following graph depicts the total volume of trial orders¹⁵⁸ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



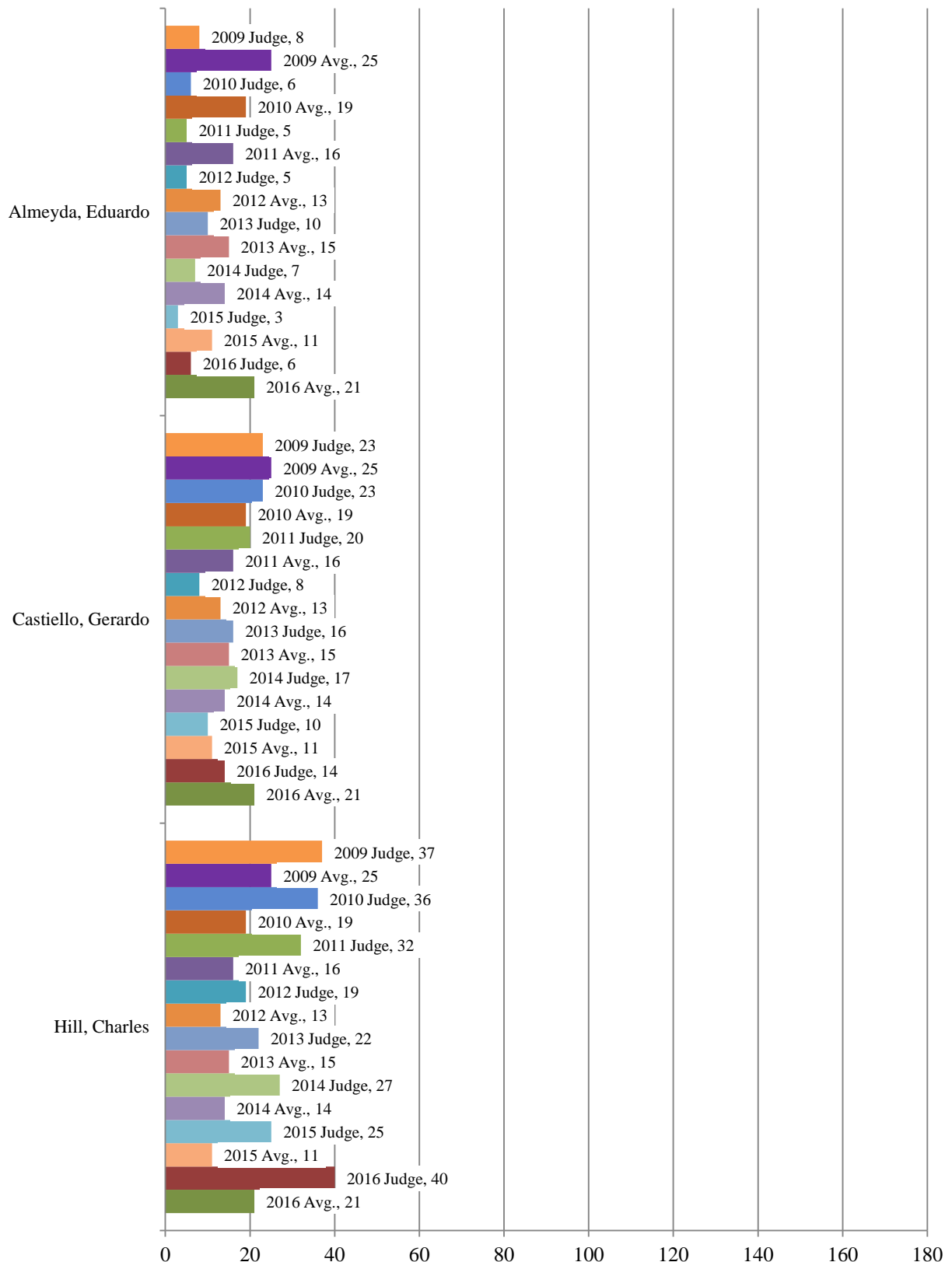
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



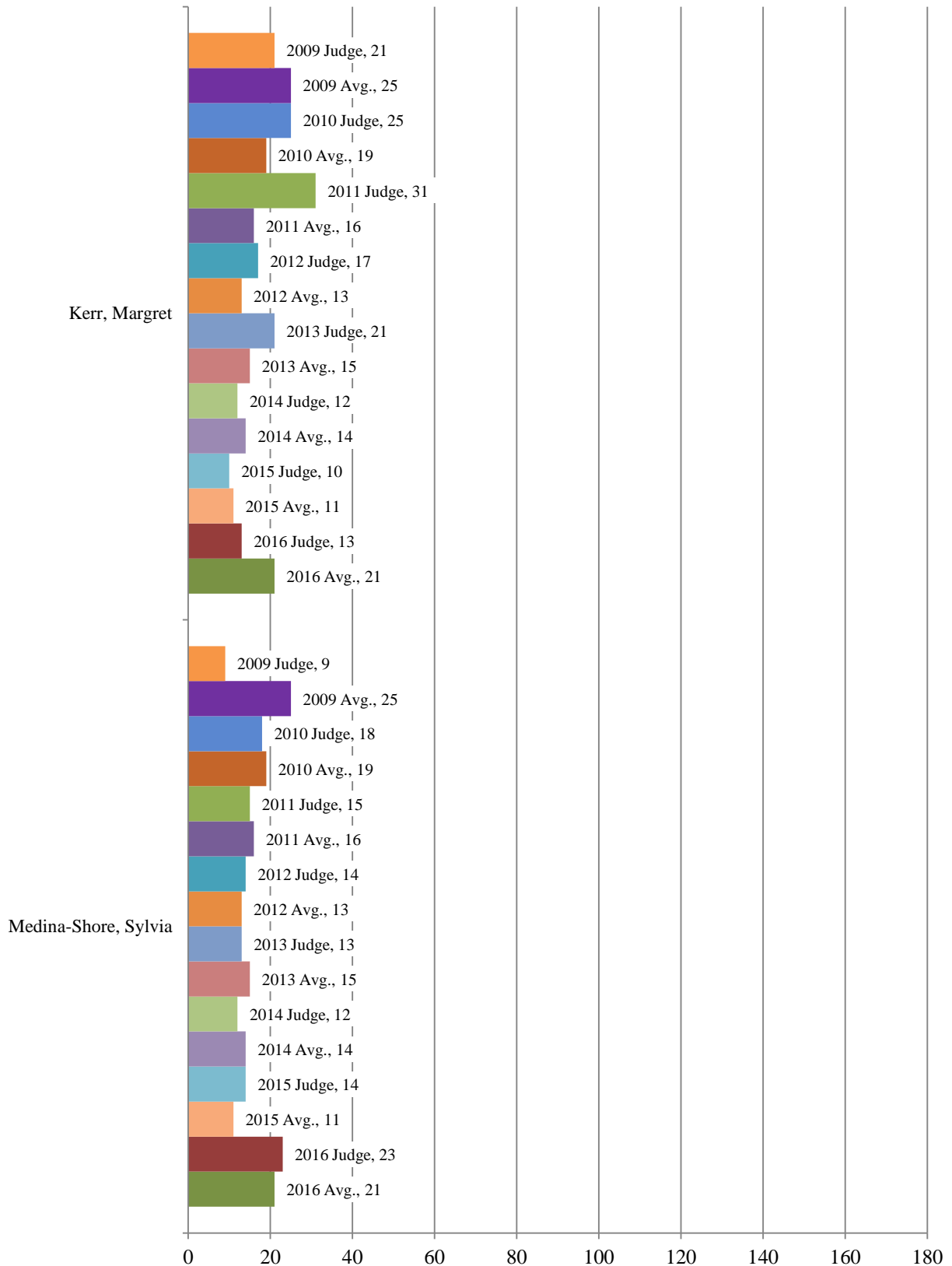
(Continued) The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



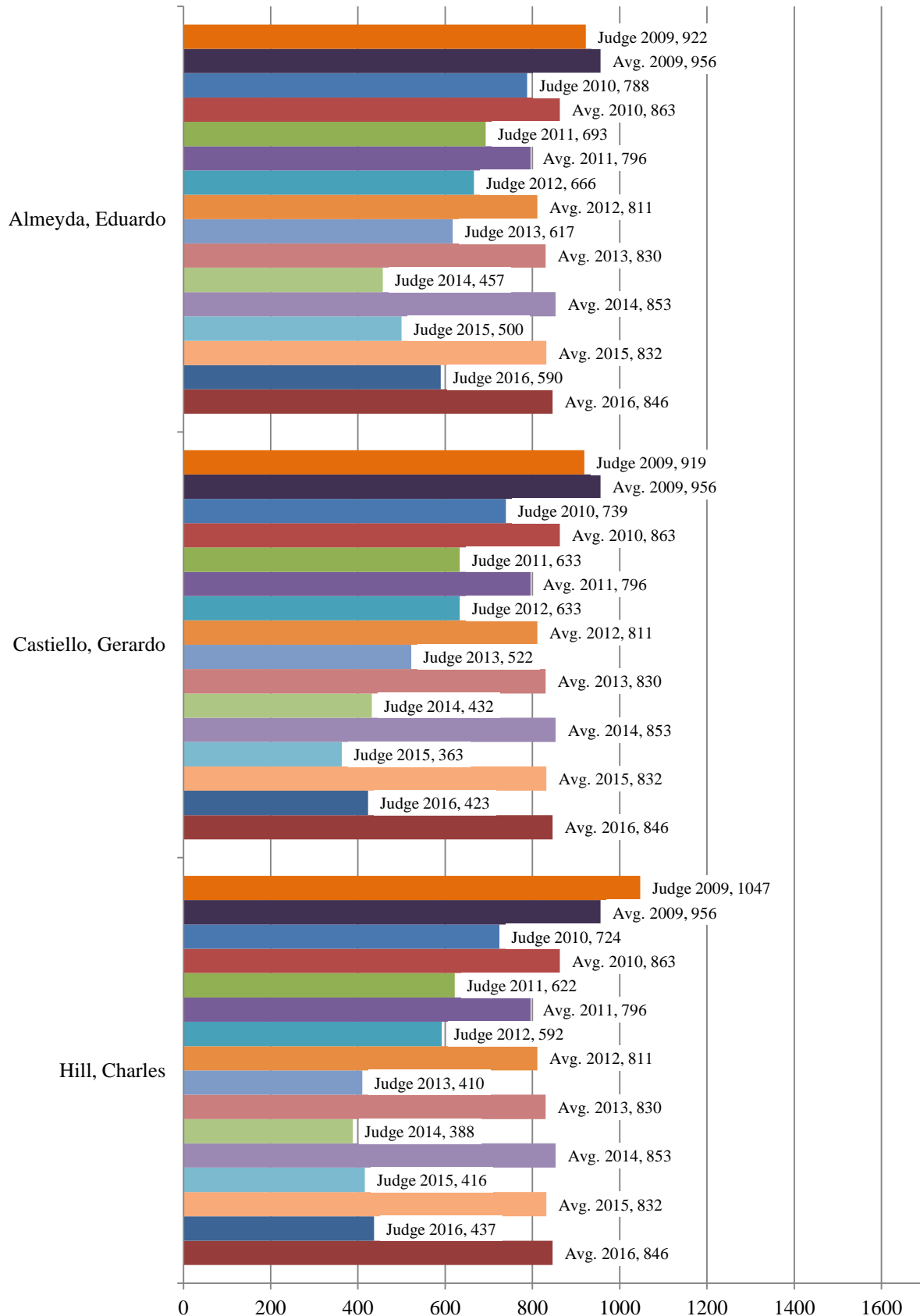
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



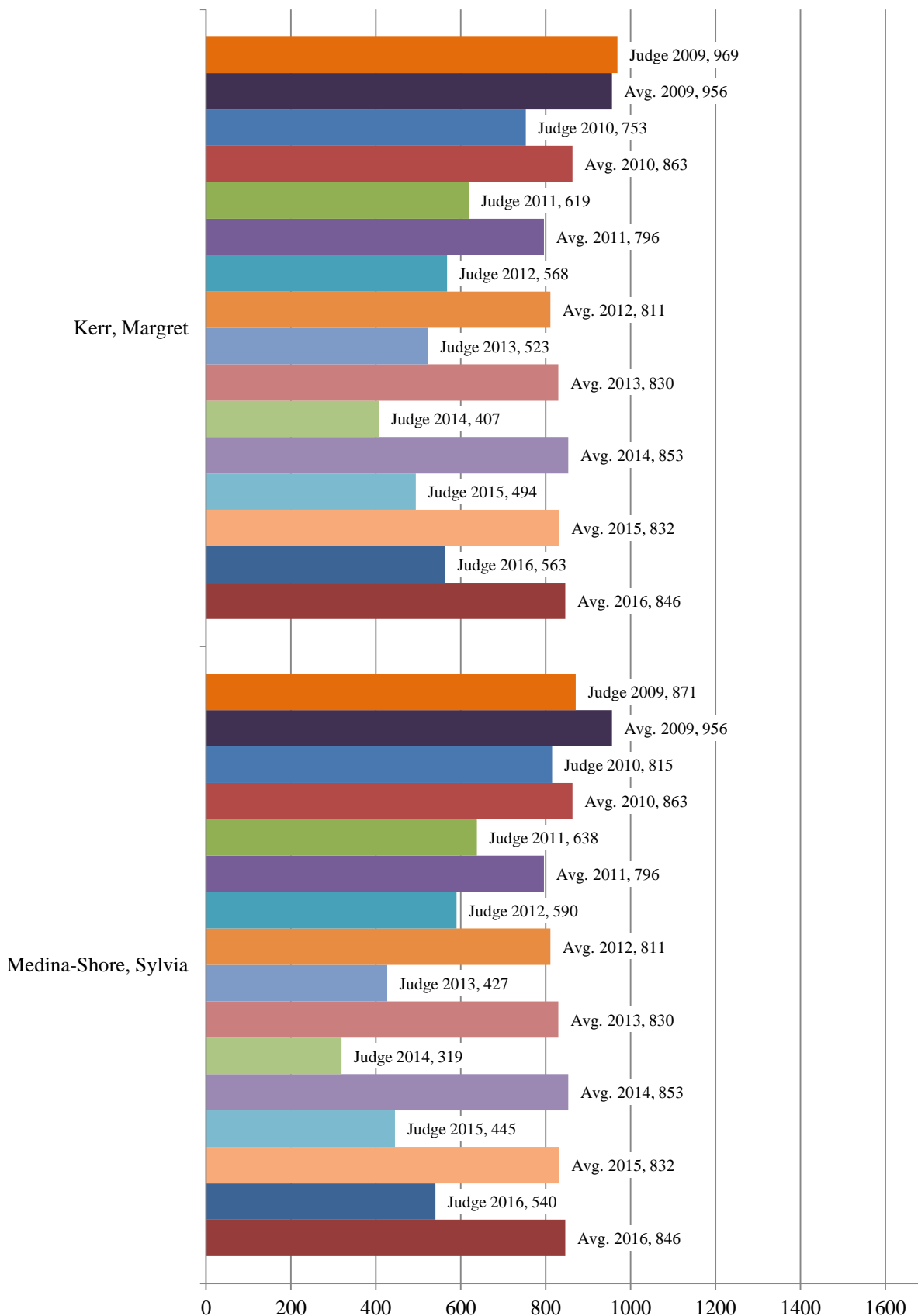
(Continued) The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



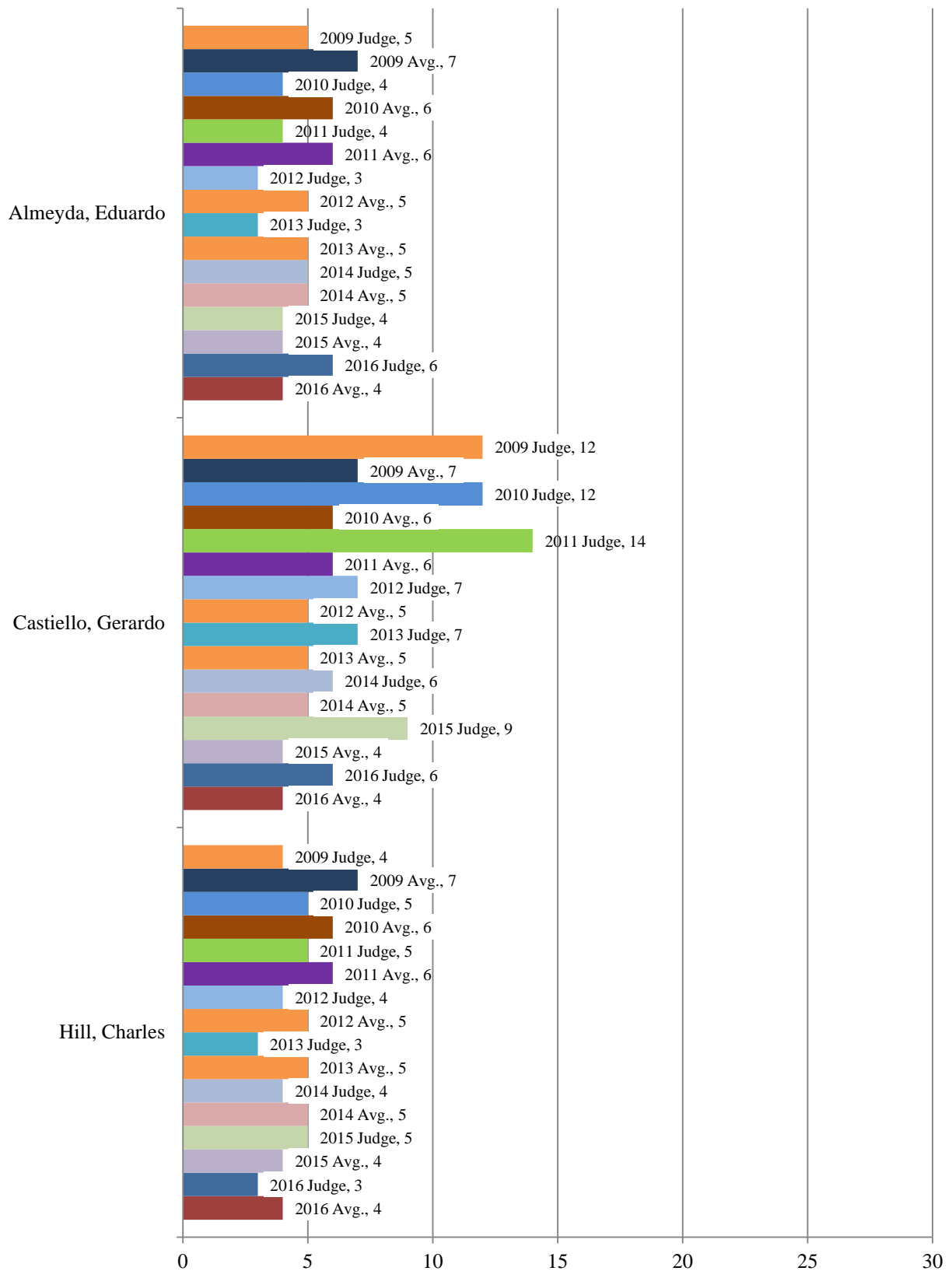
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



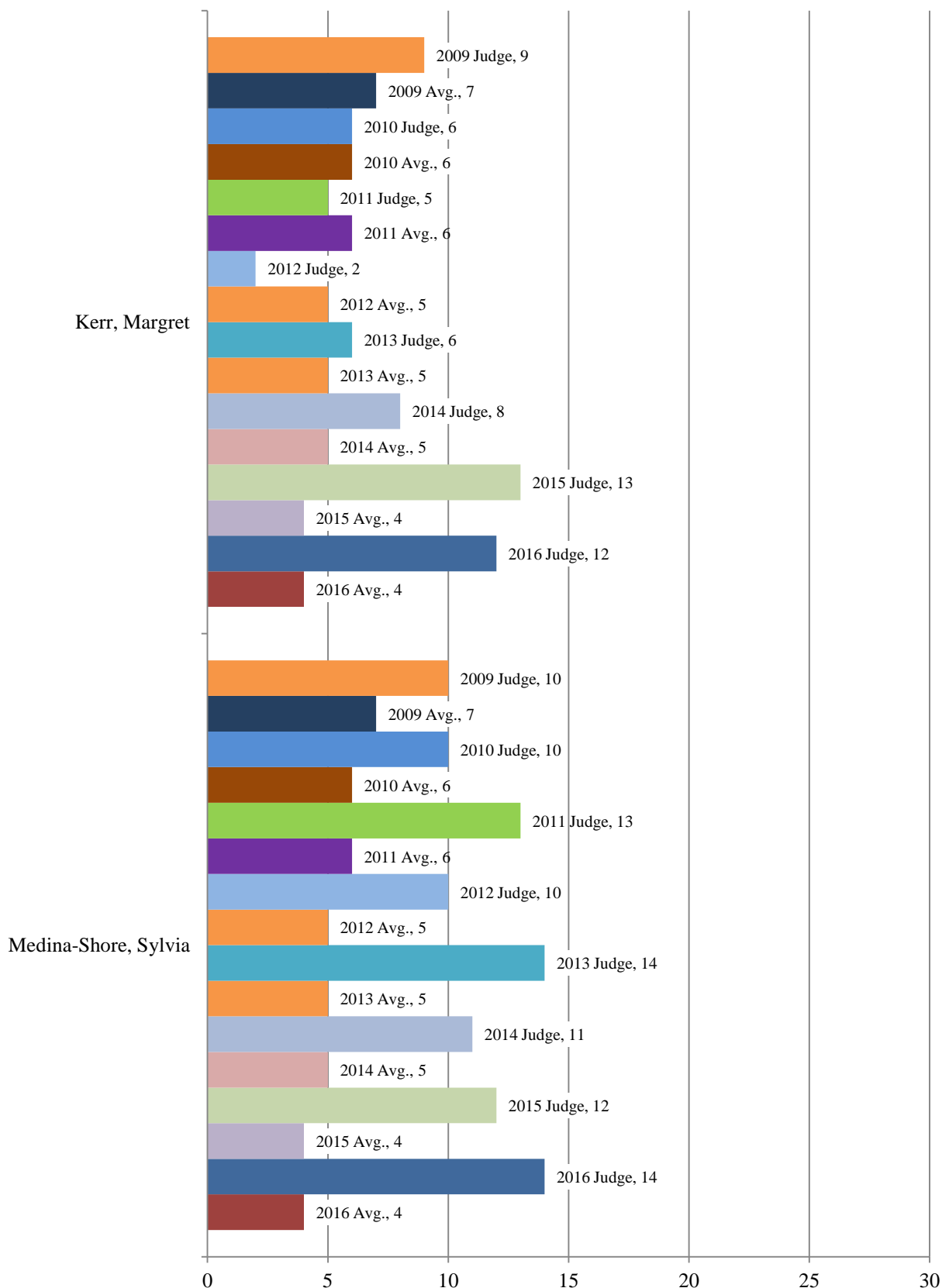
(Continued) The following depicts the volume of settlement orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



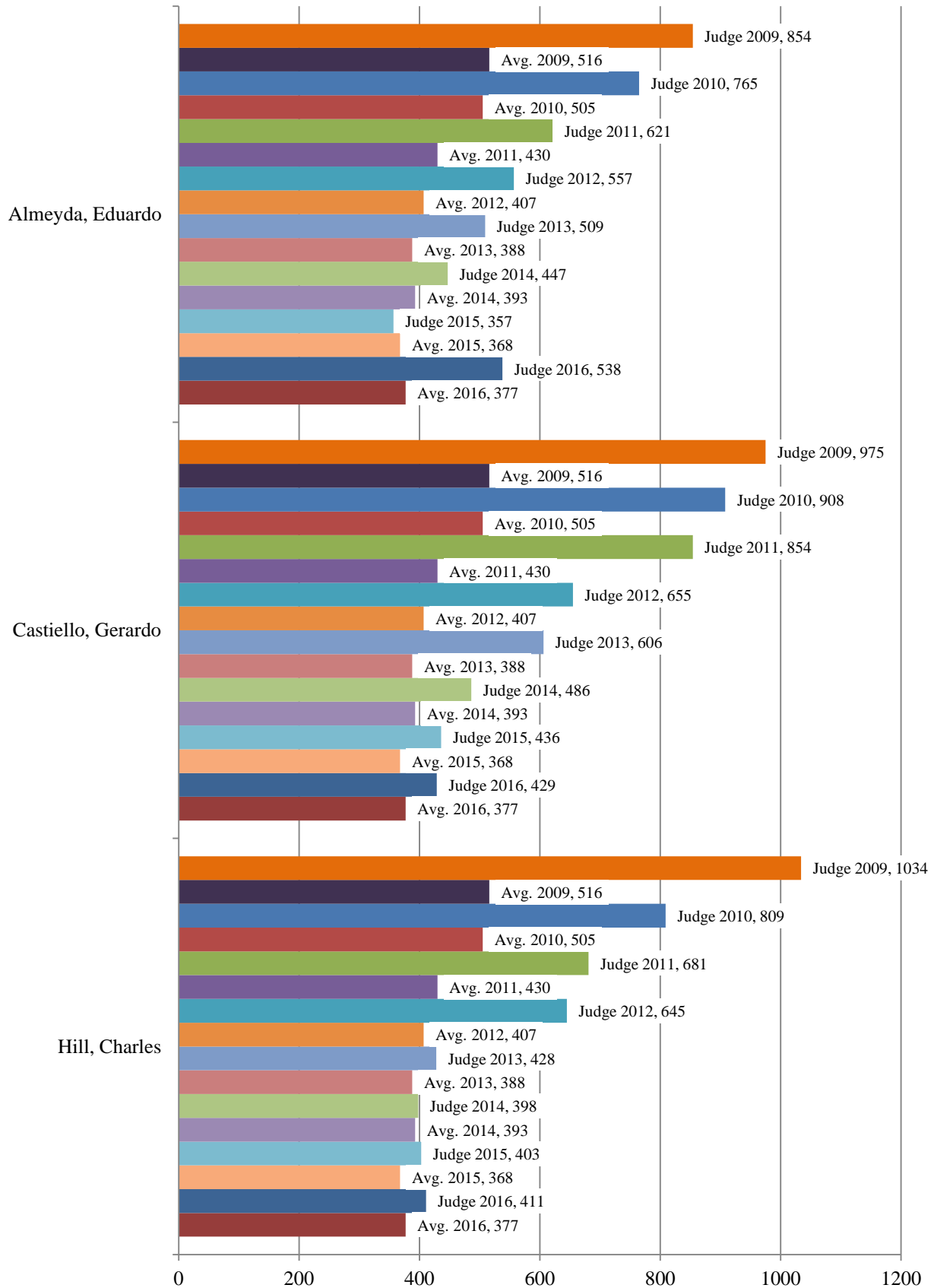
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



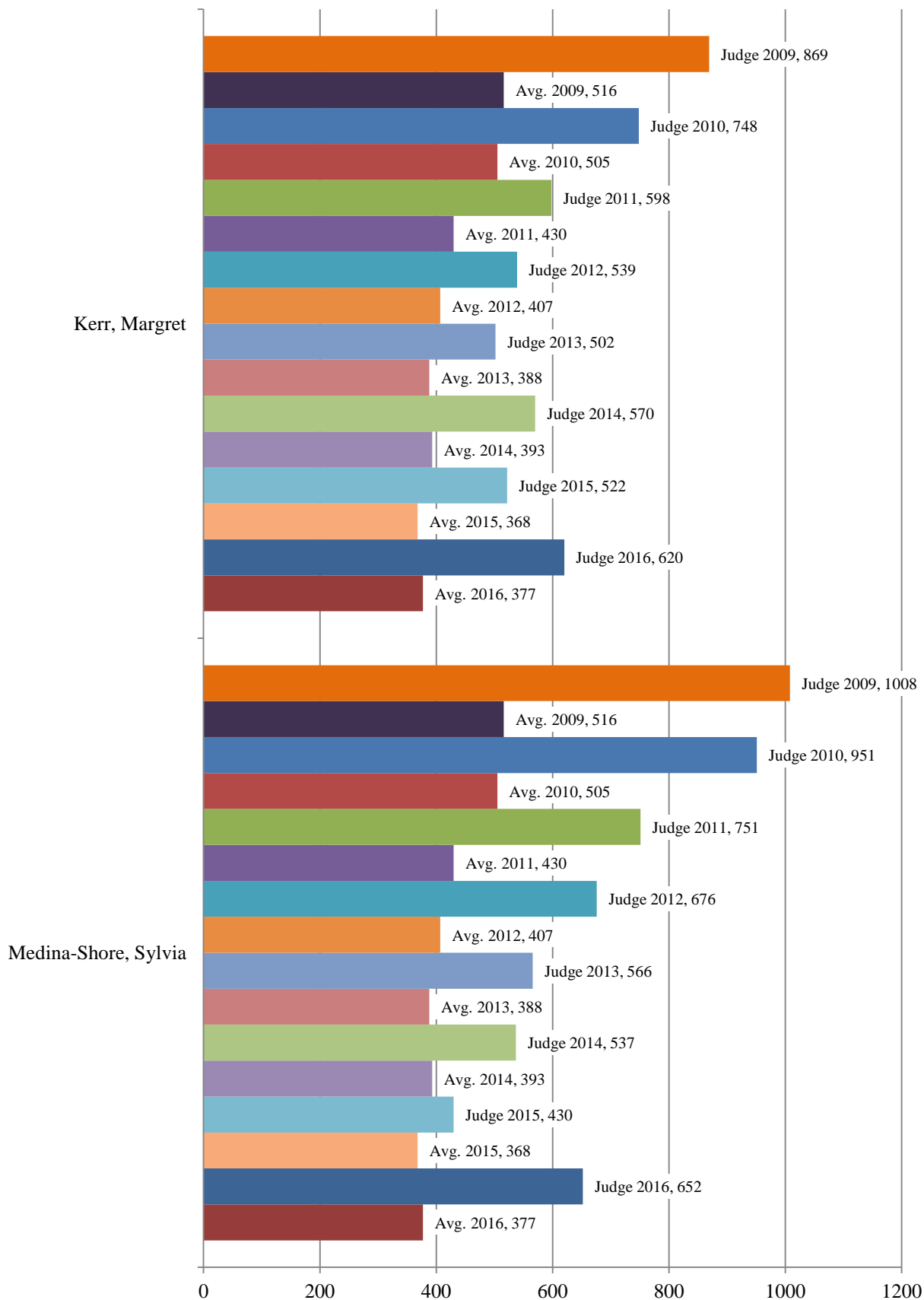
(Continued) The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



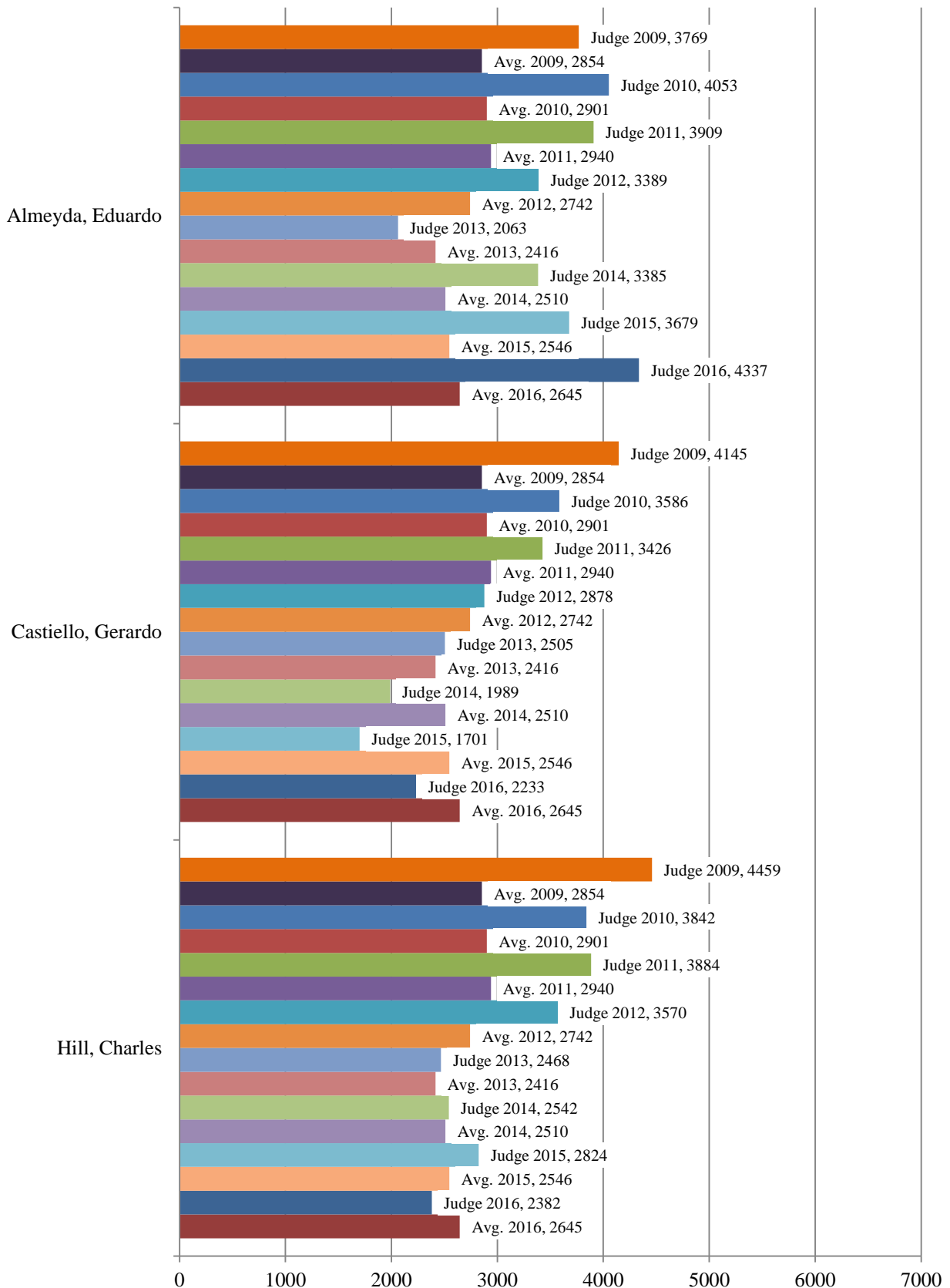
The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



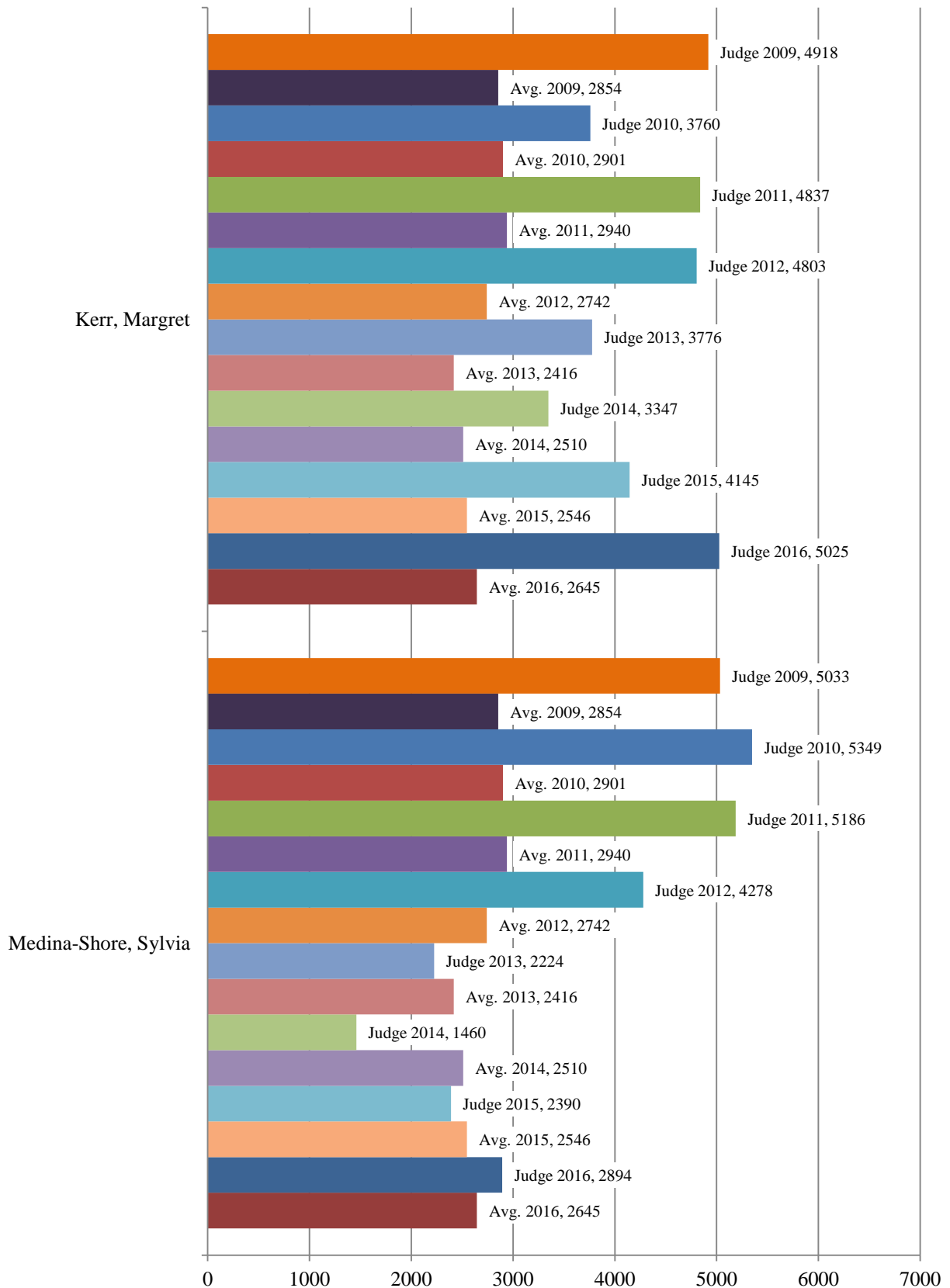
(Continued) The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



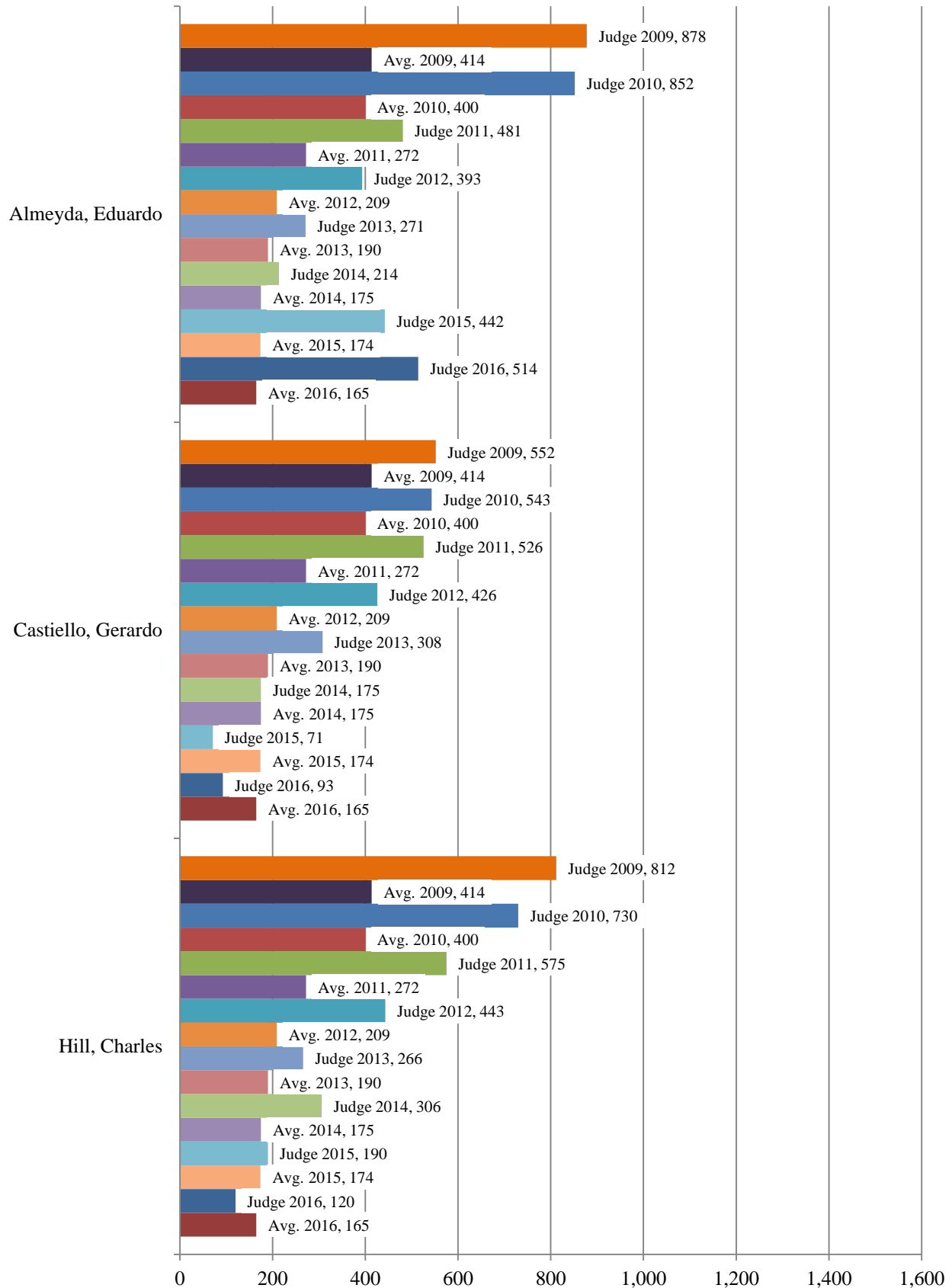
The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



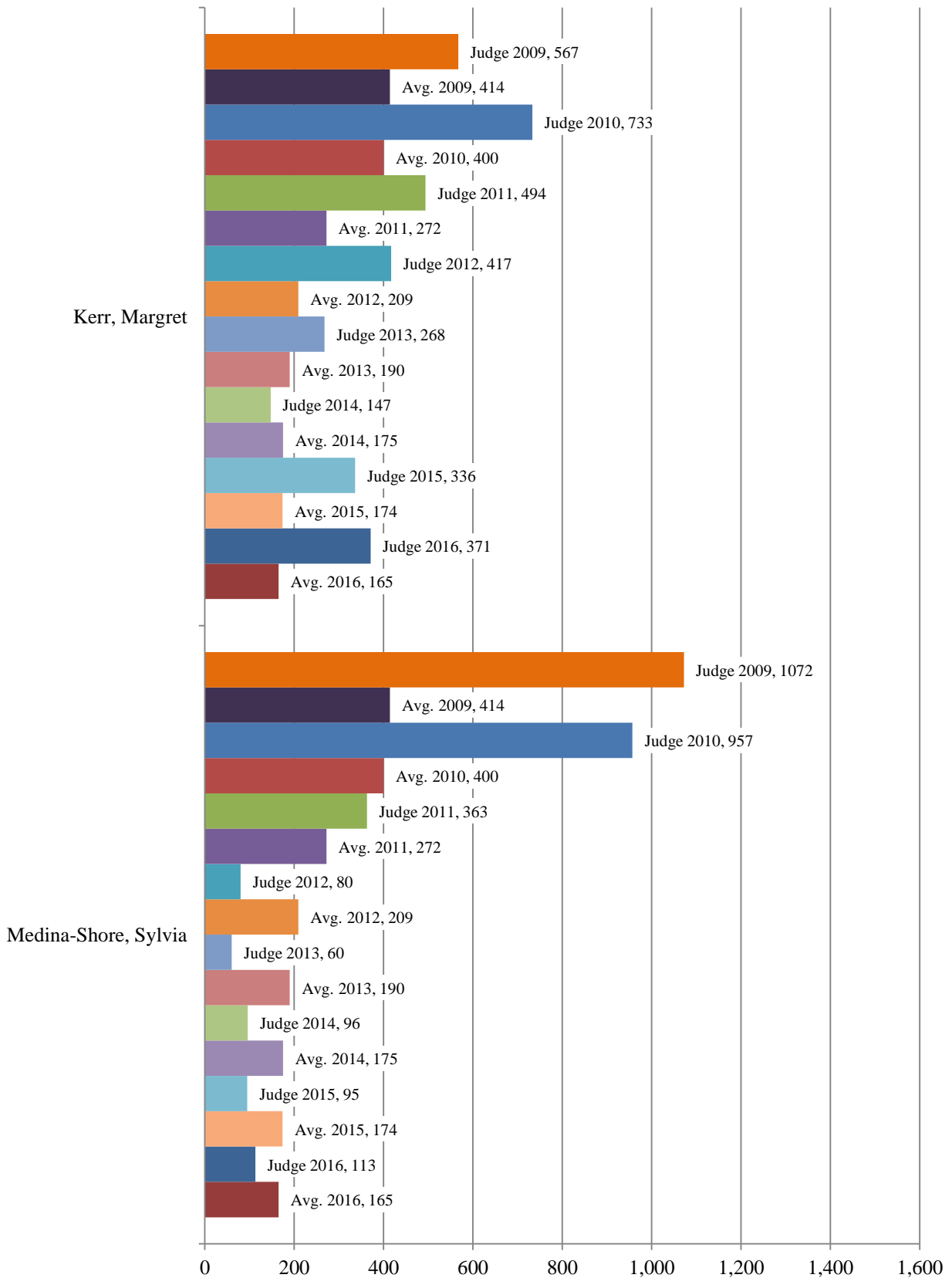
(Continued) The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. 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.

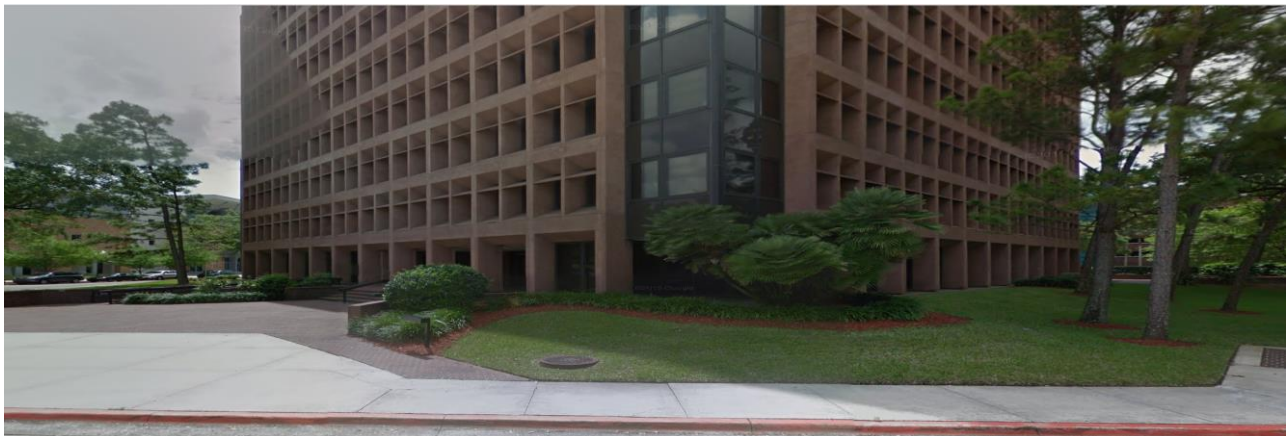
District ORL is a three-judge District that has enjoyed some greater stability in the last five years following Judge Pitts’ transfer there from Jacksonville in mid-2010-11. Prior to that time, a series of judicial personnel changes created challenges that were consistently managed by Judges Condry and 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 2015-16. This is a moderate elevation in Petitions, but the difference is much more pronounced in the “new case” volume. The comparison of PFB closure and filing volumes is remarkably consistent in District Orlando, demonstrating equilibrium and efficient management. The year-end pending petition inventory however, exceeds the statewide average demonstrating the existence of some volume of unaddressed petitions.

Trial order volumes in District ORL were above the statewide average in 2014-15, in some instances markedly so. With the new definition of “trial order,”¹⁵⁹ those volumes moderated to below the statewide average in each of the Orlando divisions. The “time to trial” in District Orlando averaged more than the statutory 210 days in 2015-16, but each judge was effective at entering orders on average within the statutory 30 day parameter.

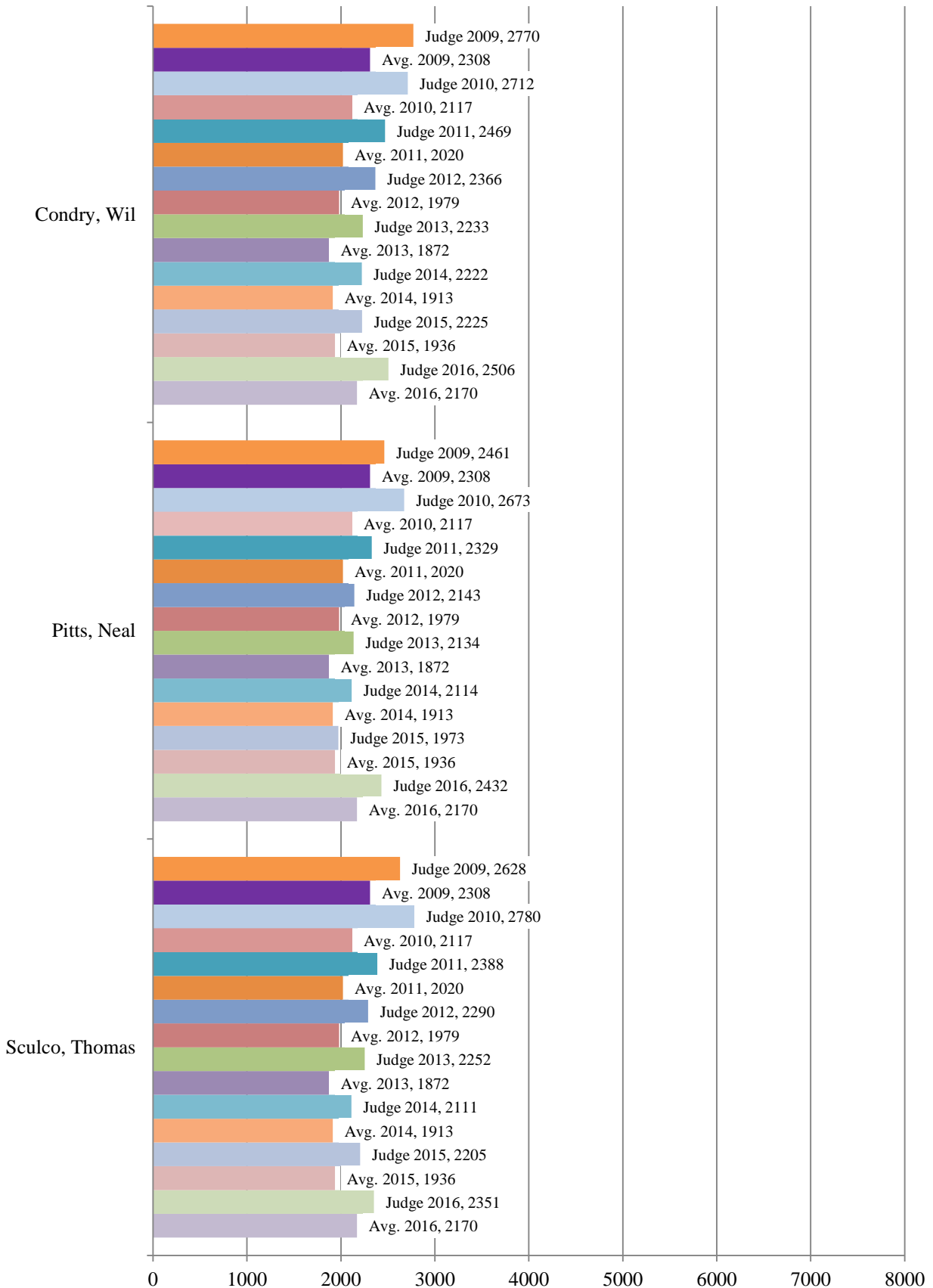
Judge Condry volunteers, and is on the Board of Friends of 440 Scholarship Fund, an educational scholarship organization. He is Vice President of Selections for the Scholarship Fund and the 2013 Richard Sadow Award winner. Judge Condry headed a panel on procedural rules for the Florida Bar’s Lunch and Learn Seminar, was a panel participant on the judicial perspectives presentation at the 71st Annual Workers Compensation Conference, and was a guest/speaker at both Barry and FAMU law schools.

Judge Sculco is an adjunct professor at the FAMU School of Law, teaching the “Judicial Externship” seminar. Judge Sculco presented at two panels at the 2015 Workers’ Compensation Institute annual conference, “Focus on Ethics and Professionalism” and “First Responder Heart and Hypertension Claims – The Current State of Law and Medicine.” He also presented a “Lunch and Learn” seminar on attorney’s fees in light of the recent Miles and Castellanos decisions. Judge Sculco is the current chair of the Appellate Practice Committee of the Orange County Bar Association, and is a member of the George C. Young and William Wieland Inns of Court.

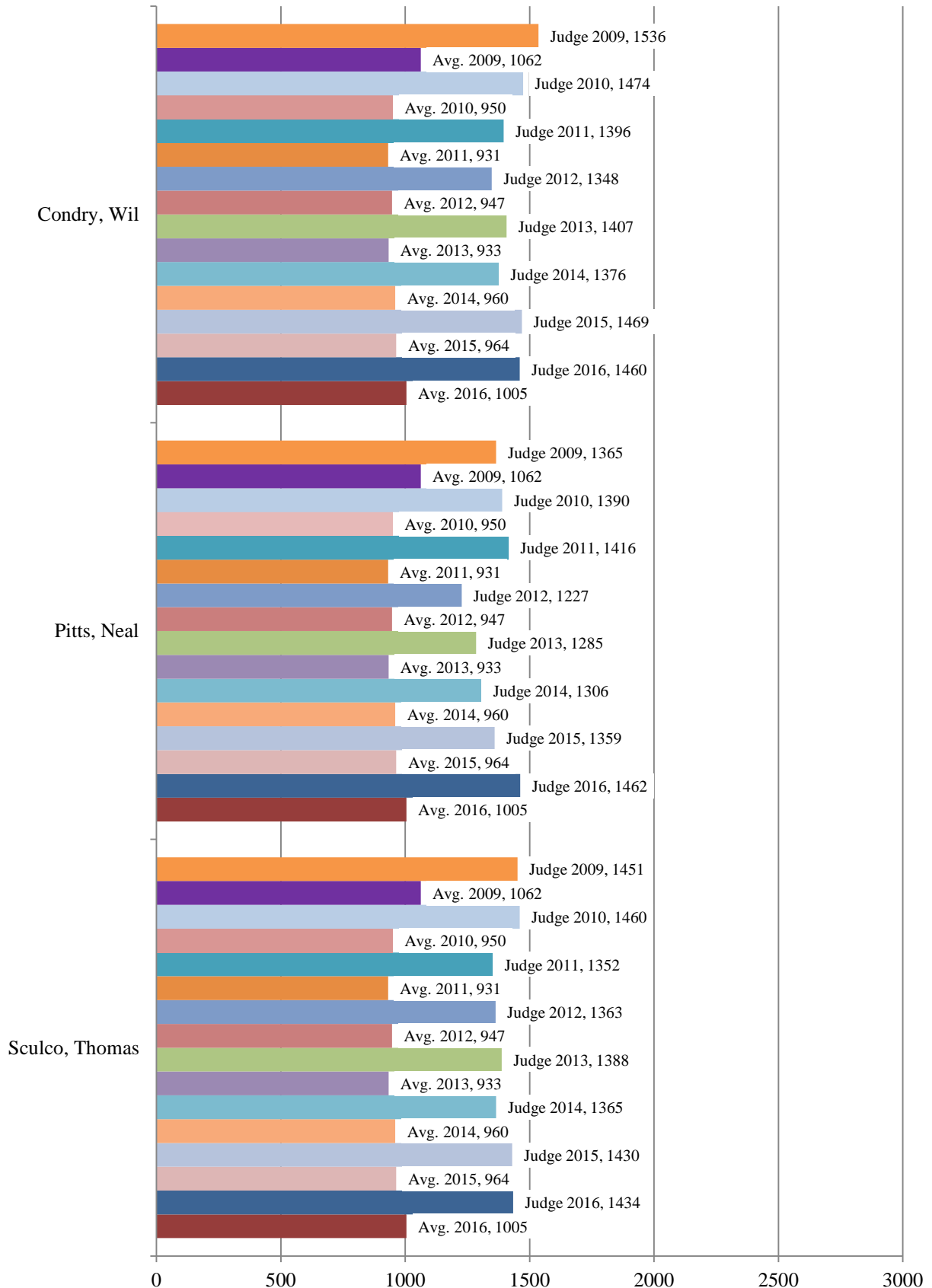


The Orlando District Office on West Robinson Street

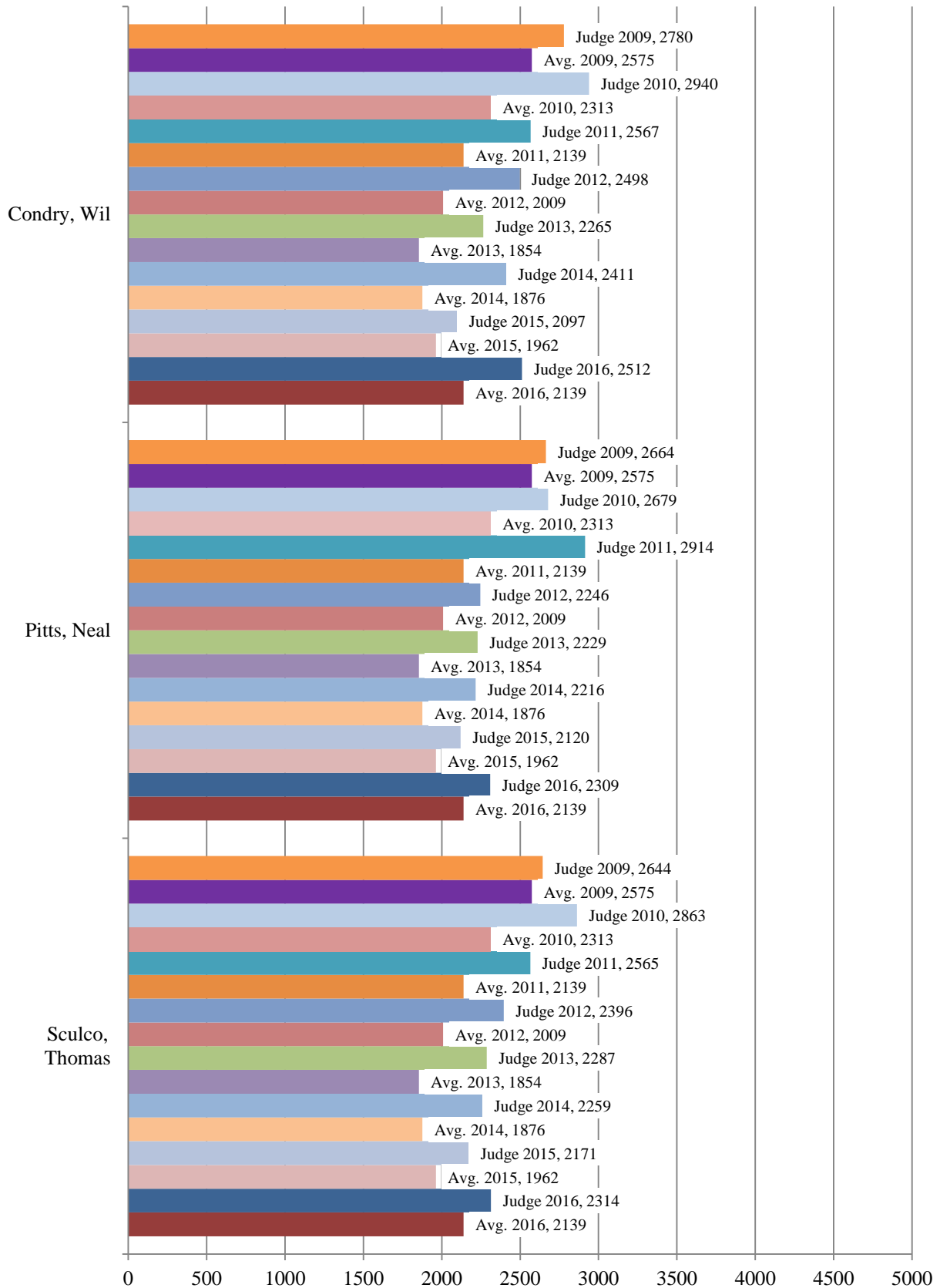
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



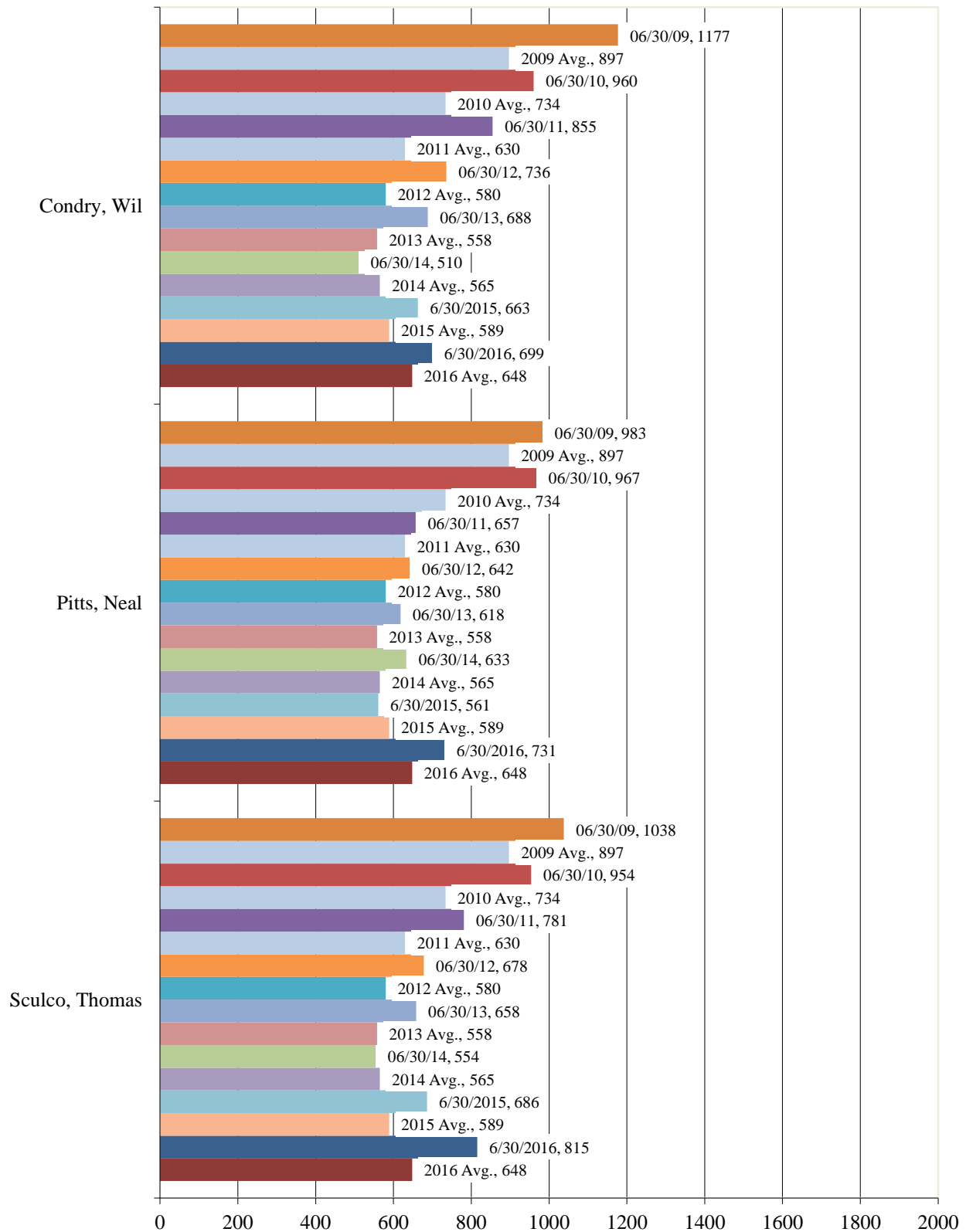
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



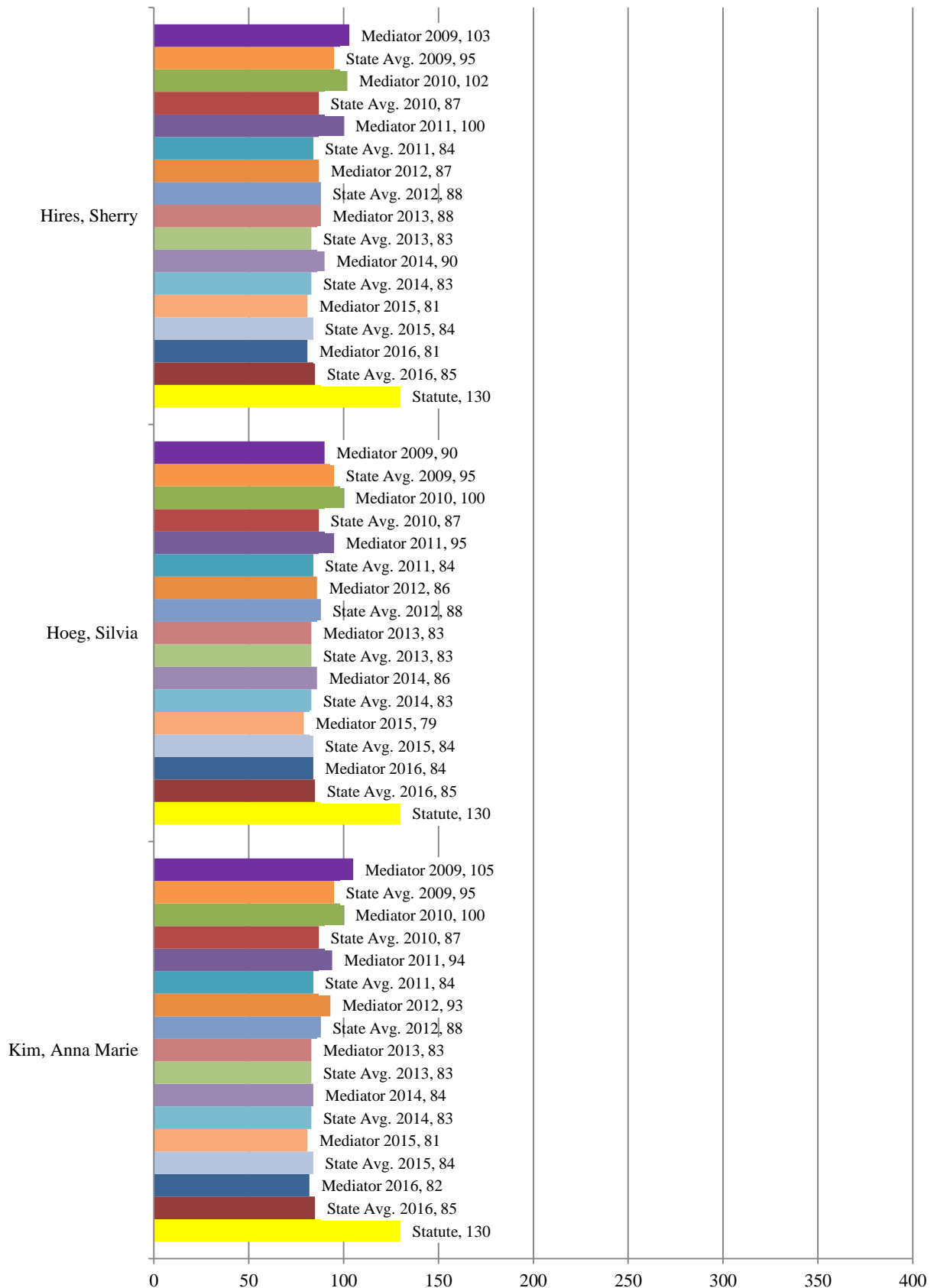
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



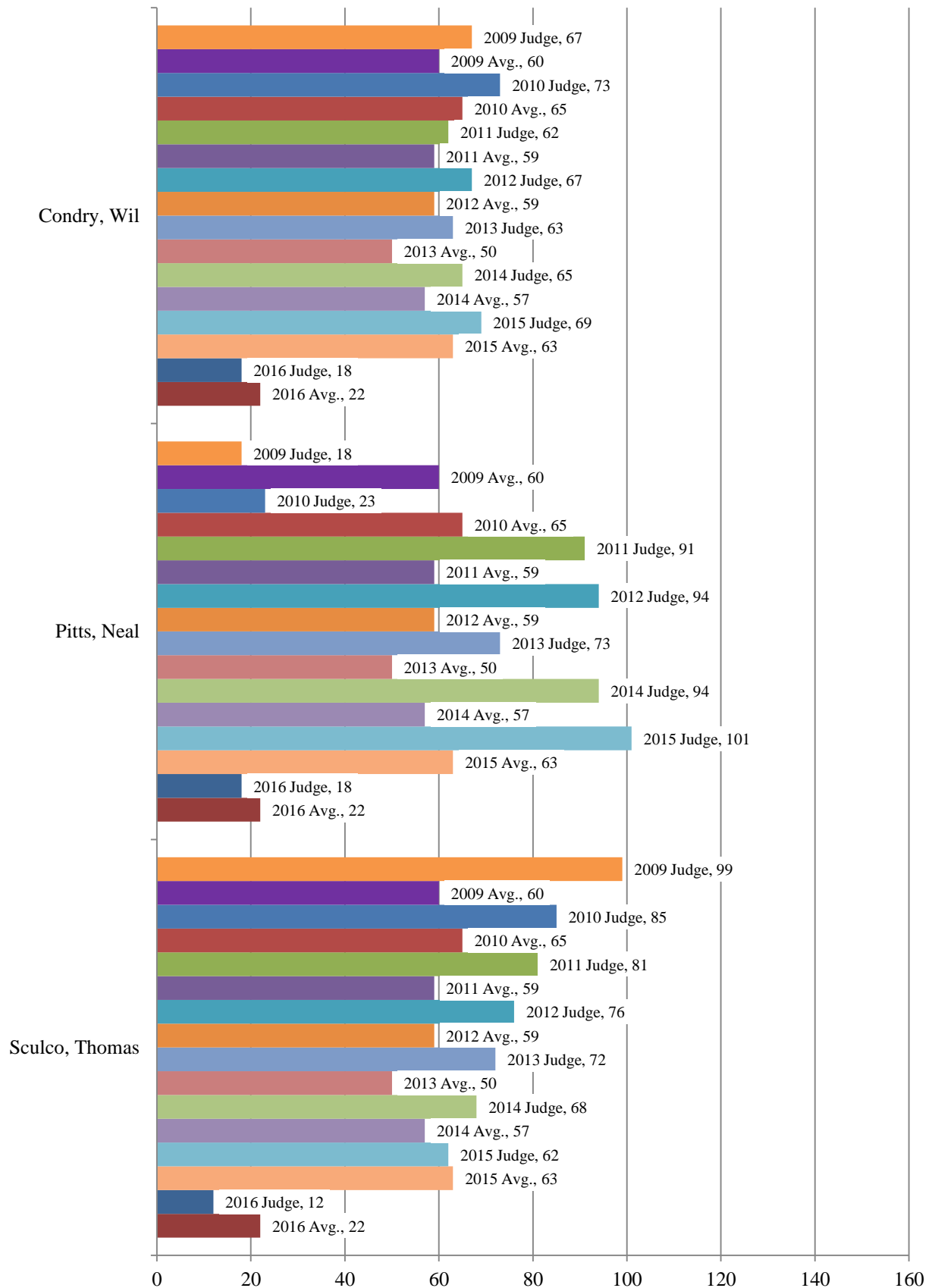
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



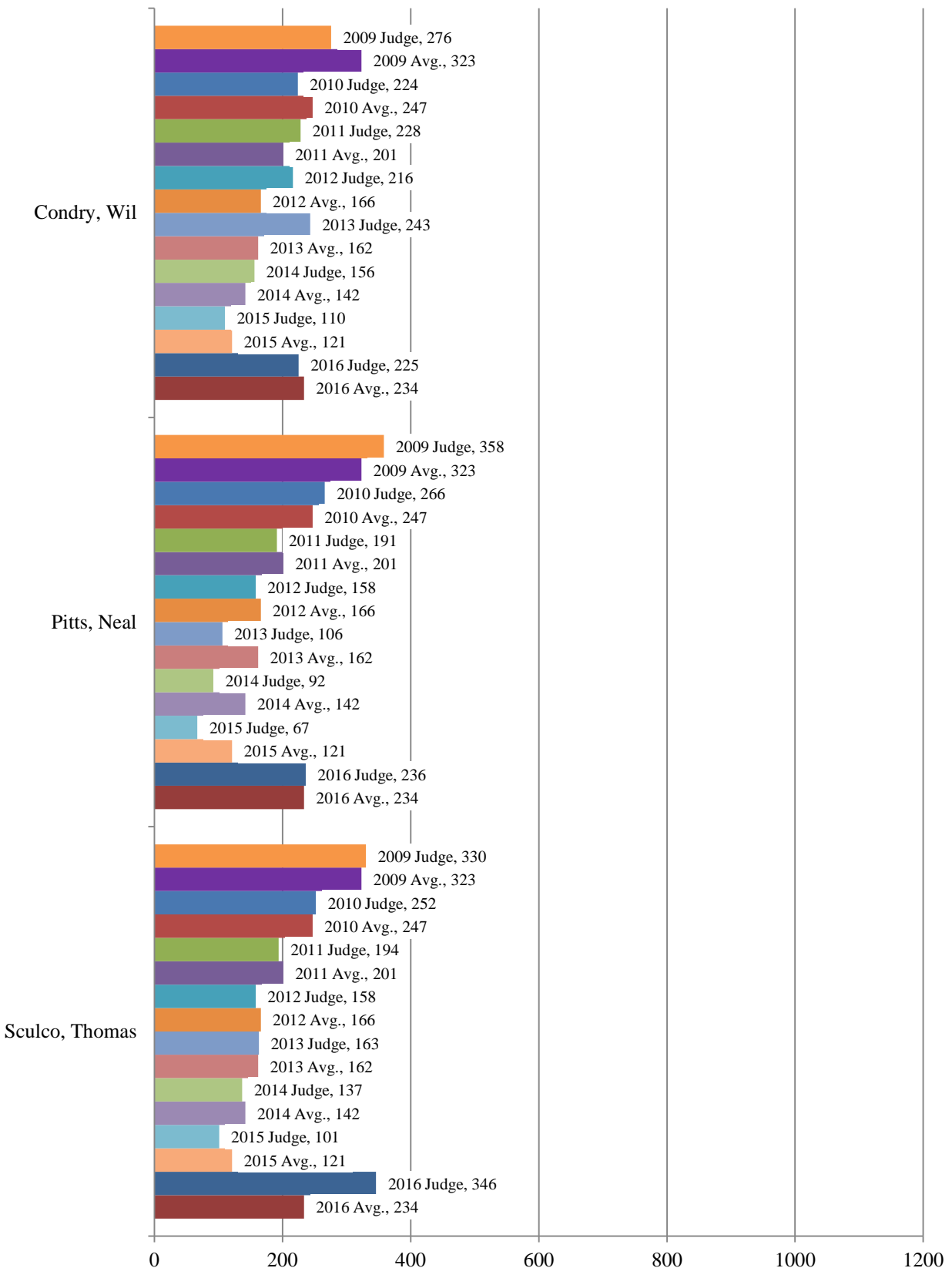
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



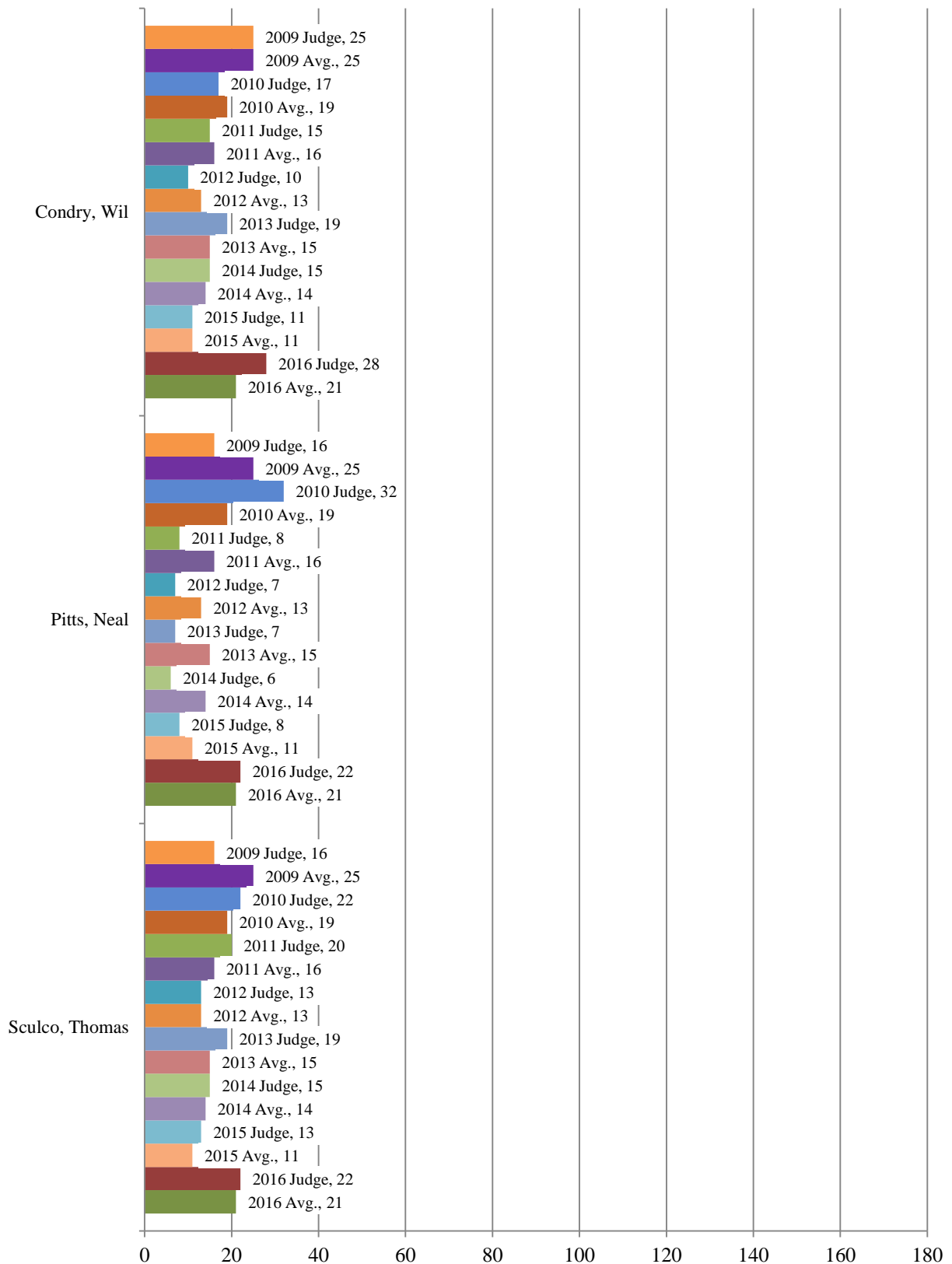
The following graph depicts the total volume of trial orders¹⁶⁰ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



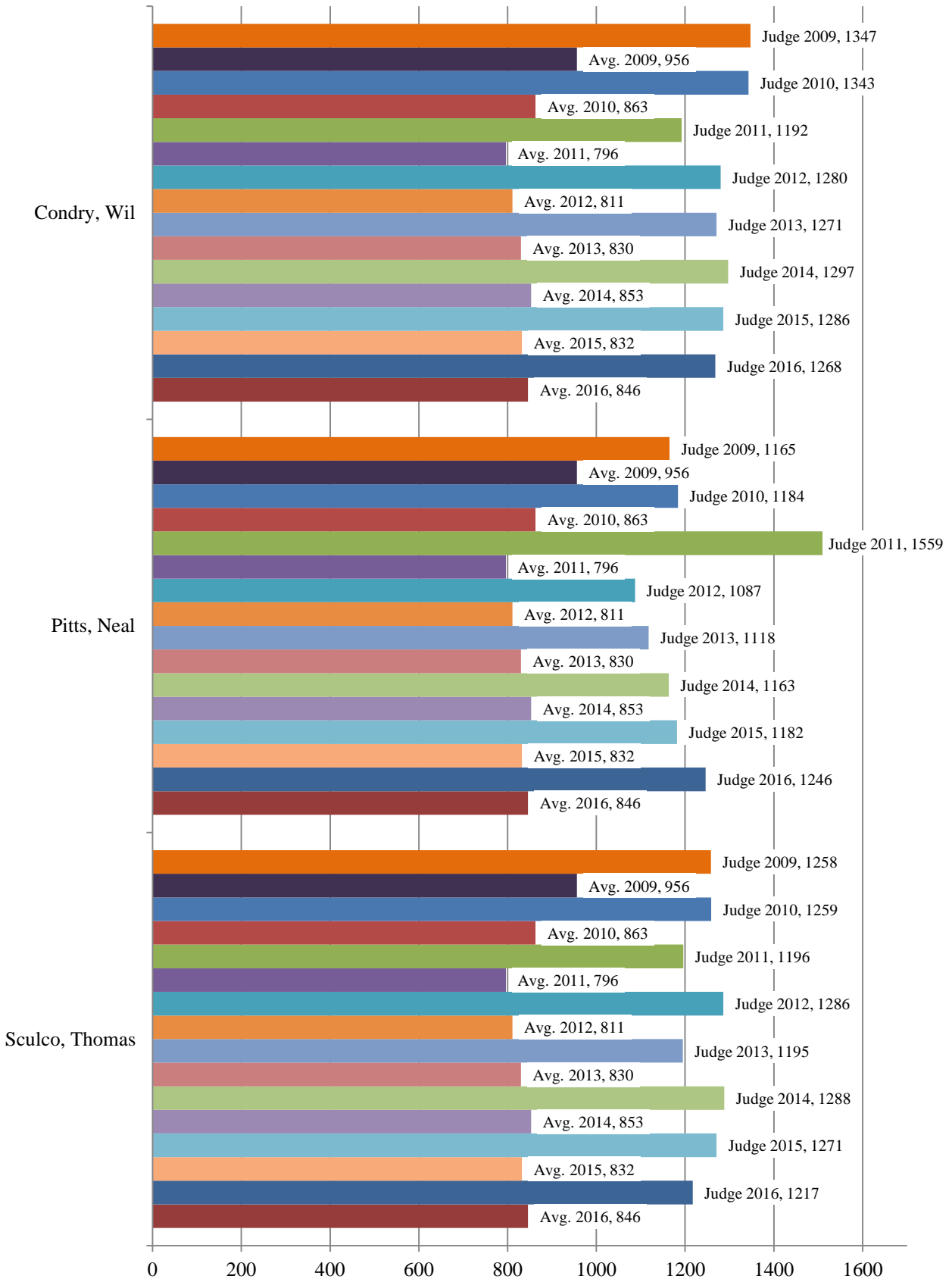
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



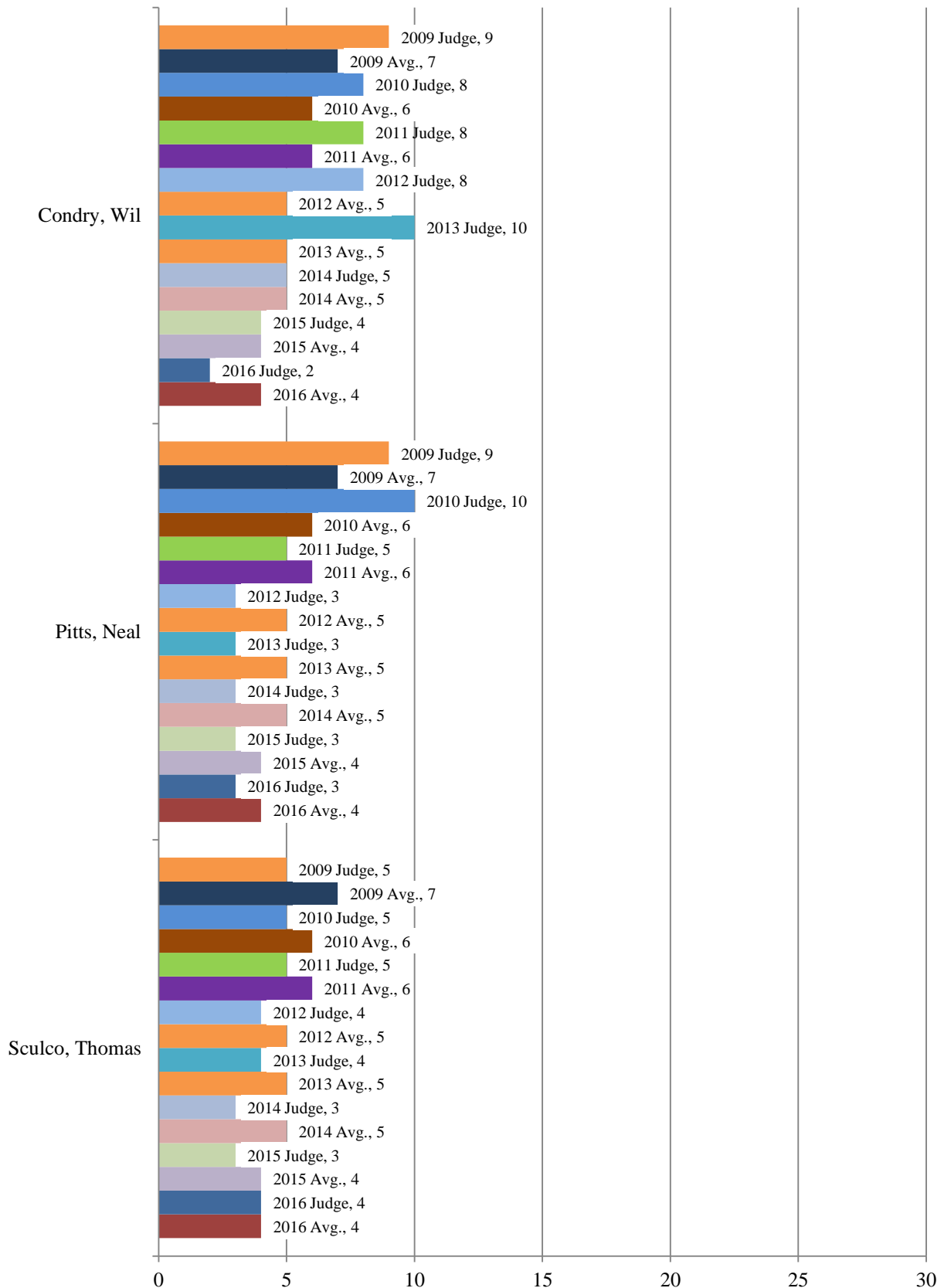
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



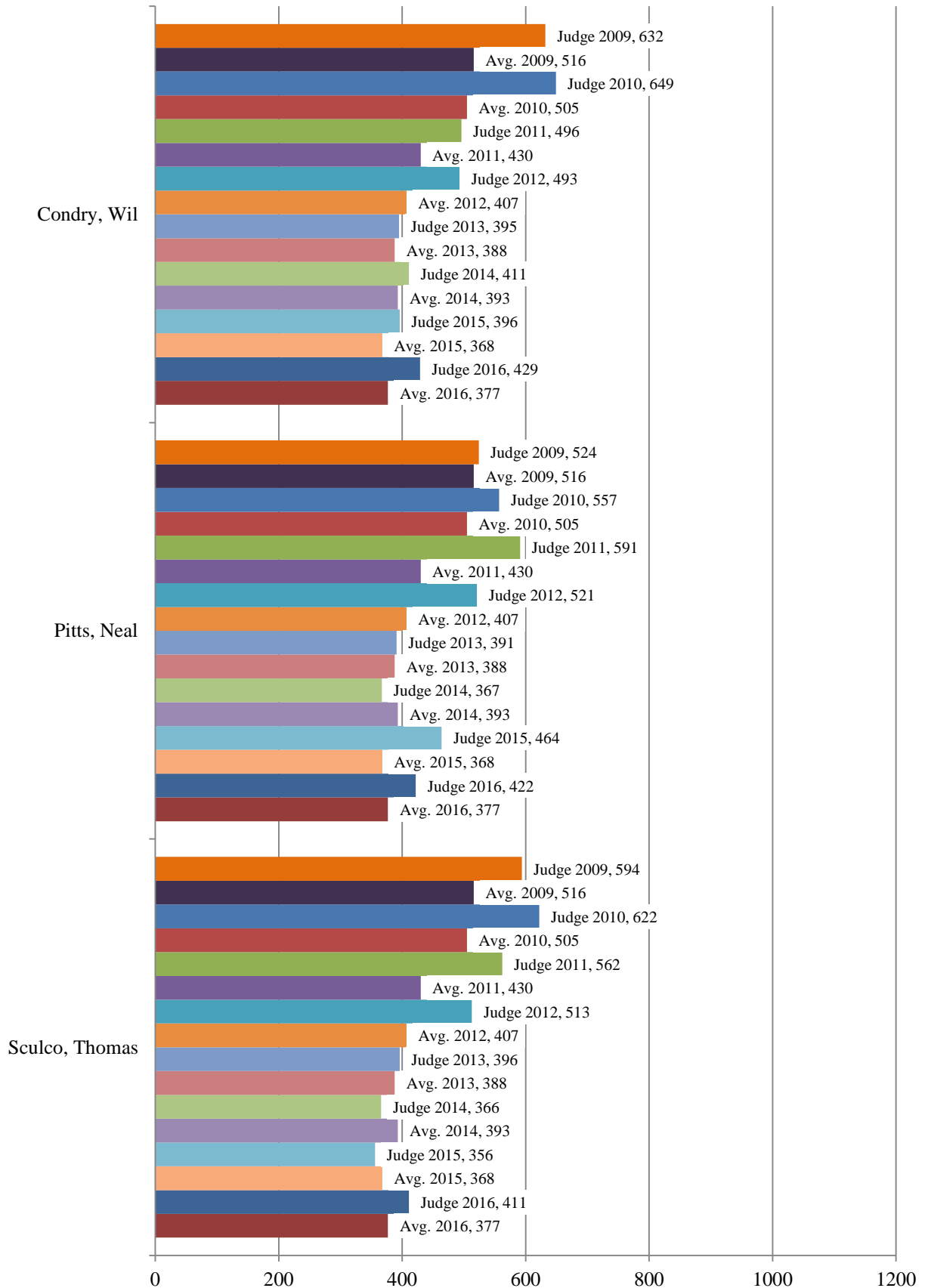
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



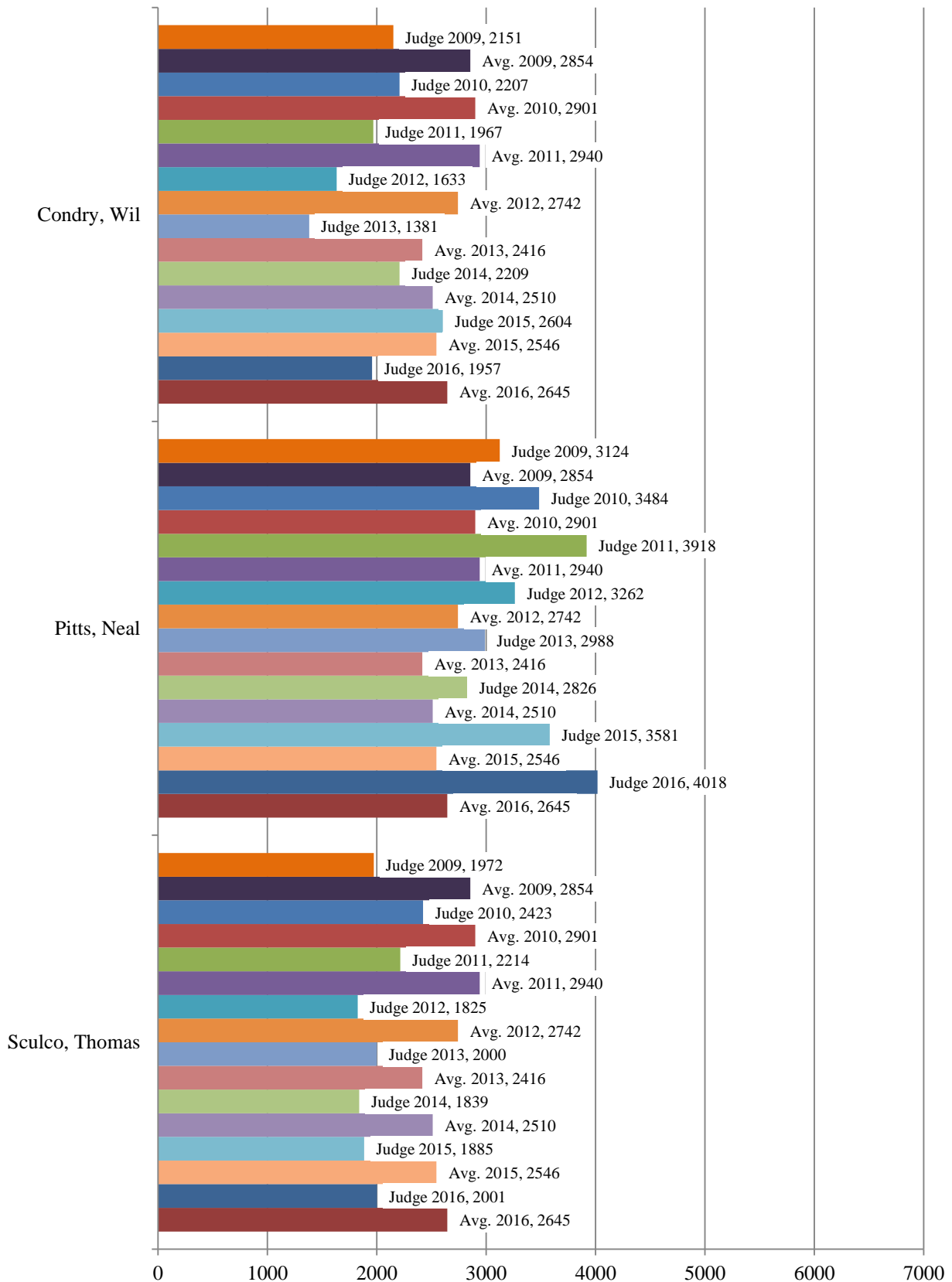
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



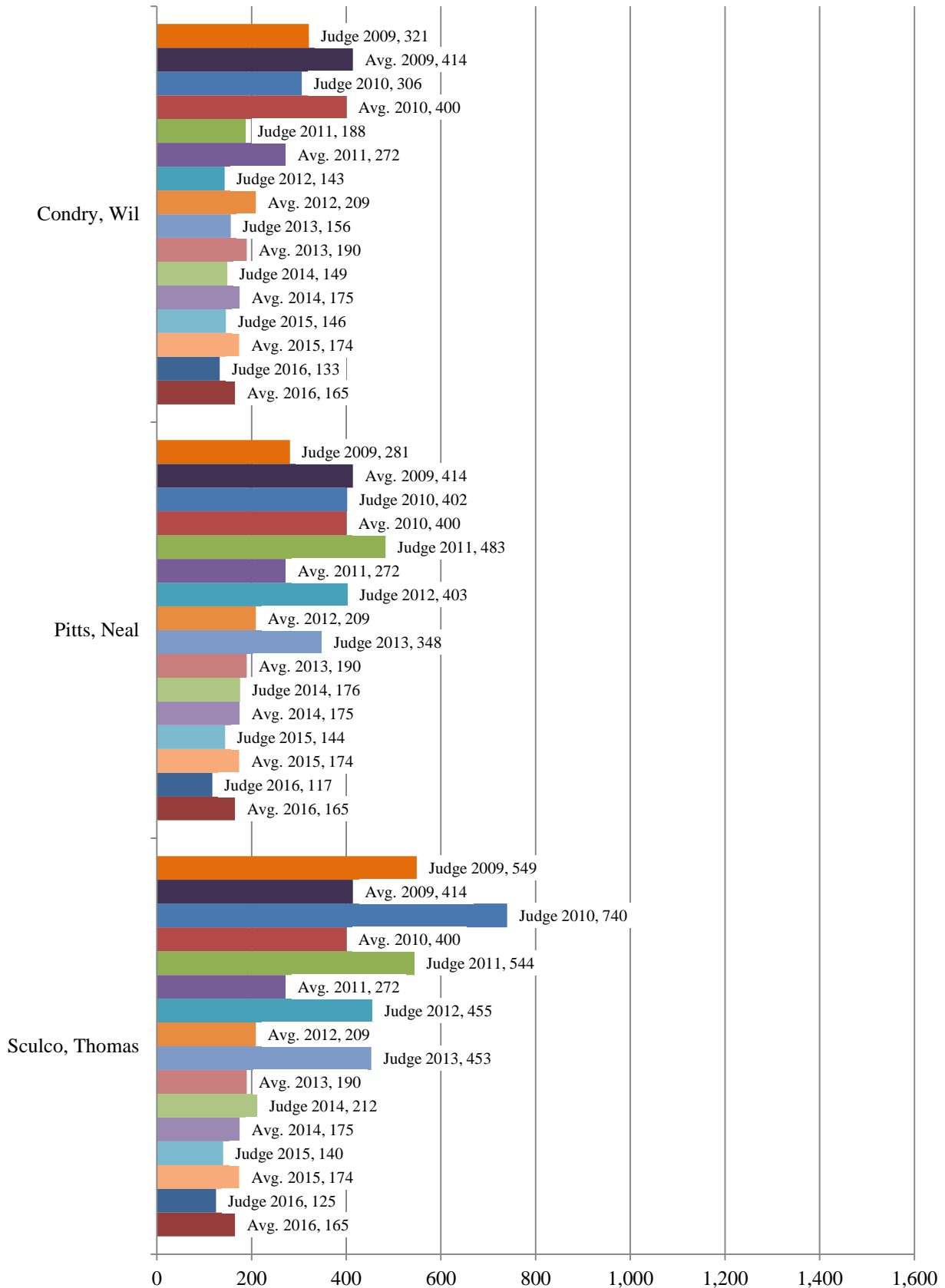
The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



Appendix “10” District PMC (JCC Roesch):

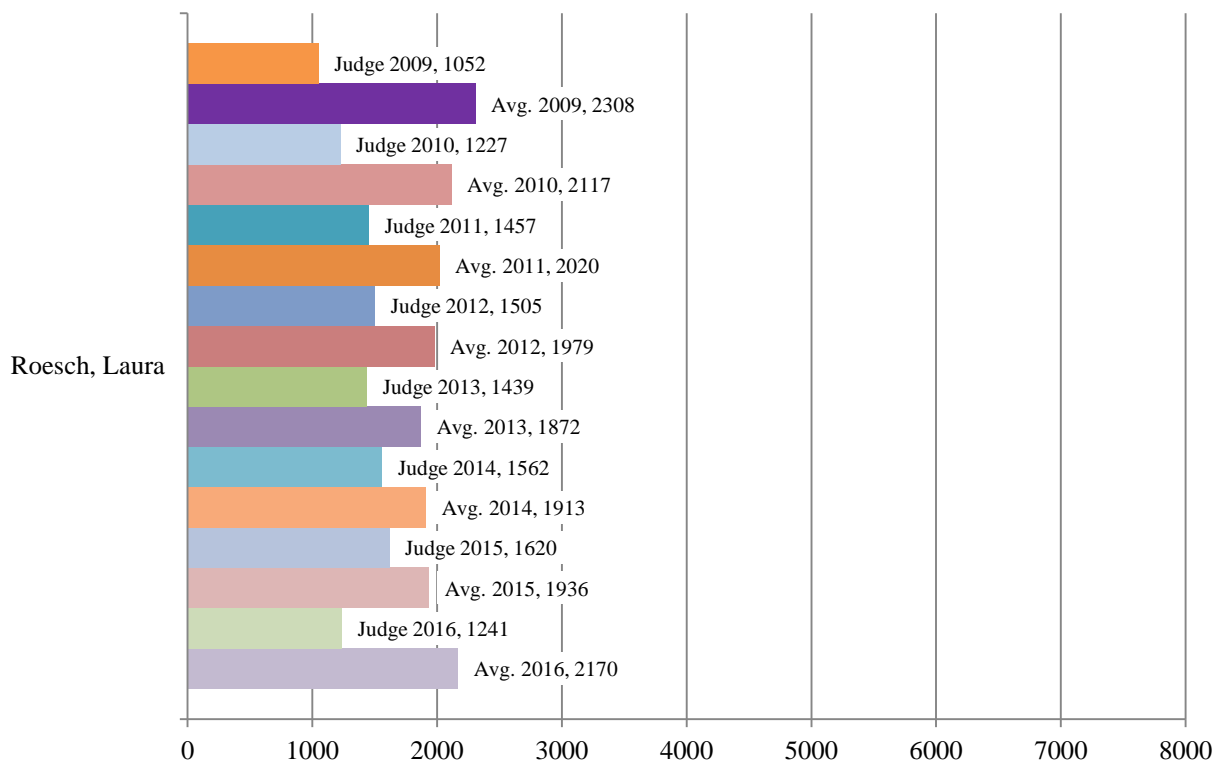
District PMC in Panama City includes Bay, Calhoun, Gulf, Holmes, Jackson, Liberty, Walton, and Washington counties.

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).

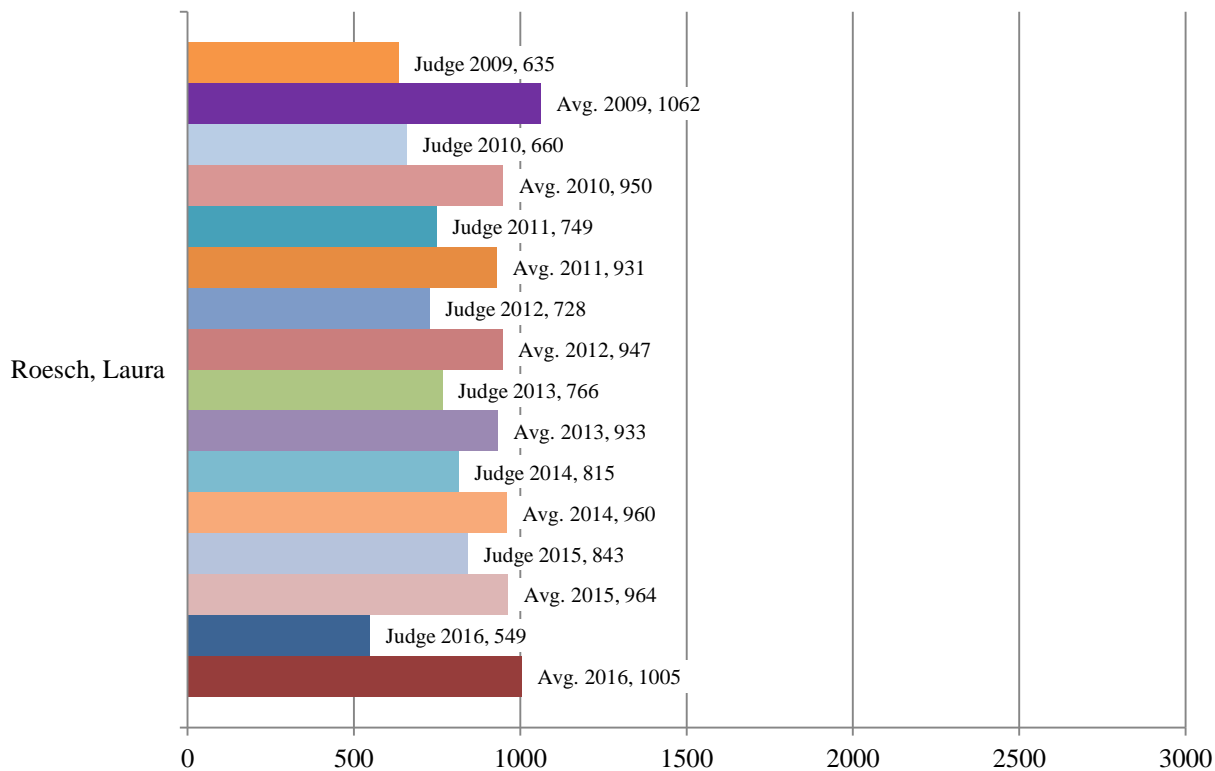
In PMC, the 2015-16 PFB and “new case” filing rates remained notably below the statewide averages, as did the trial volume (Judge Roesch retired about half-way through the fiscal year, so the volumes are partially decreased therefore). Judge Roesch volunteered for the last six fiscal years to hear cases 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 five years, Judge Roesch has been assigned “new cases” in District FTL as part of the OJCC “out-of-district” judge program that was suspended in 2015-16. 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 times to mediation and from trial to final order are within the statutory mandates in District PMC, and have been for some time. The time to trial was above the statutory 210 days in PMC following the adoption of a new “trial order” definition in 2015-16.

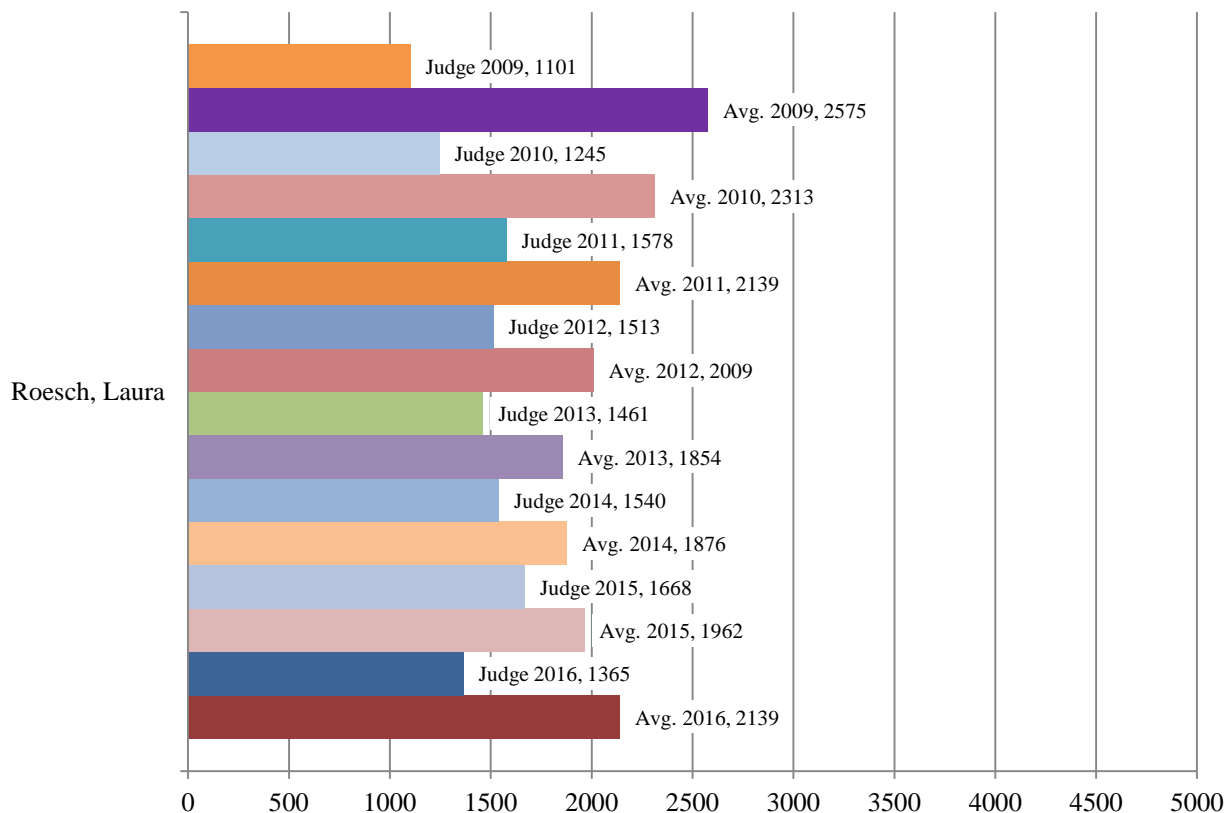
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



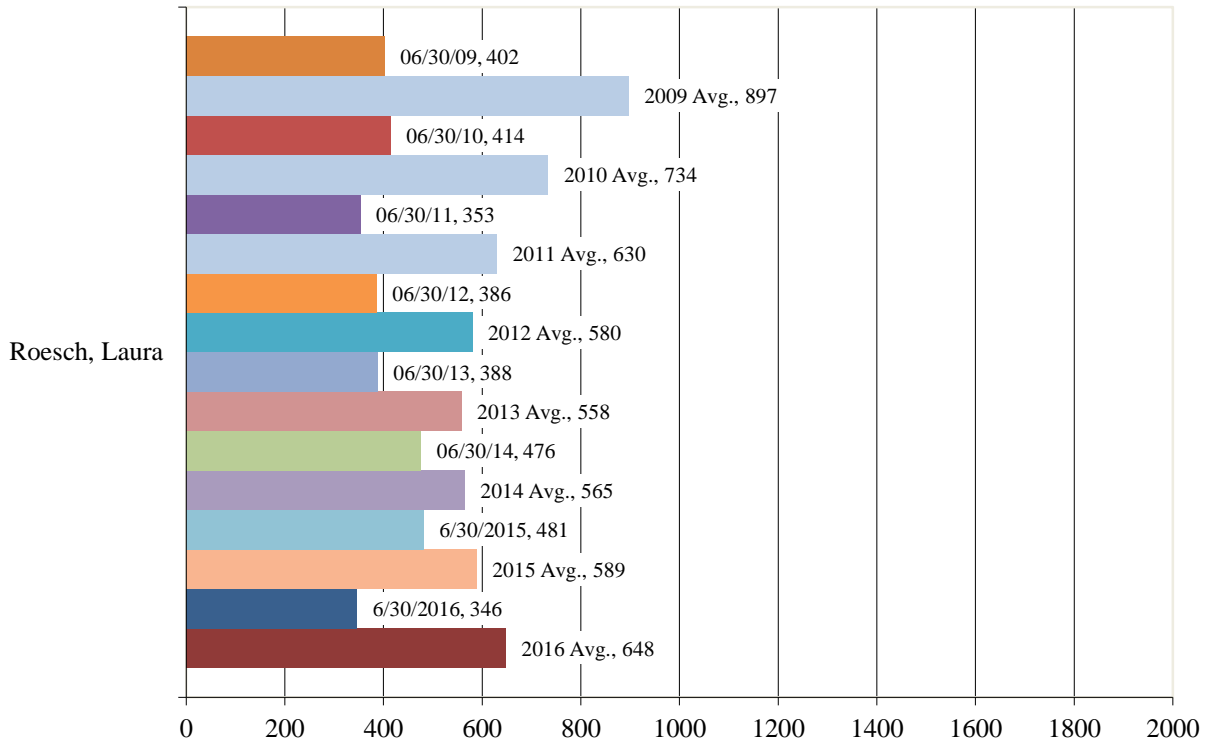
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



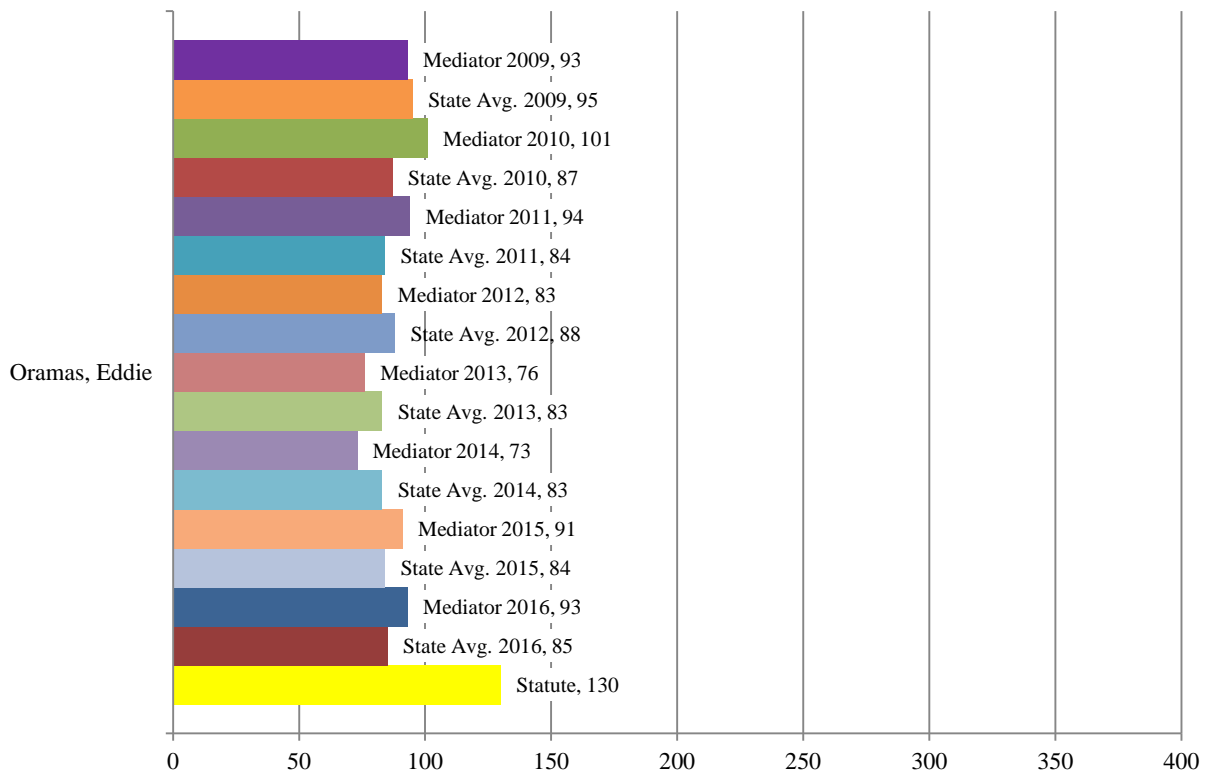
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



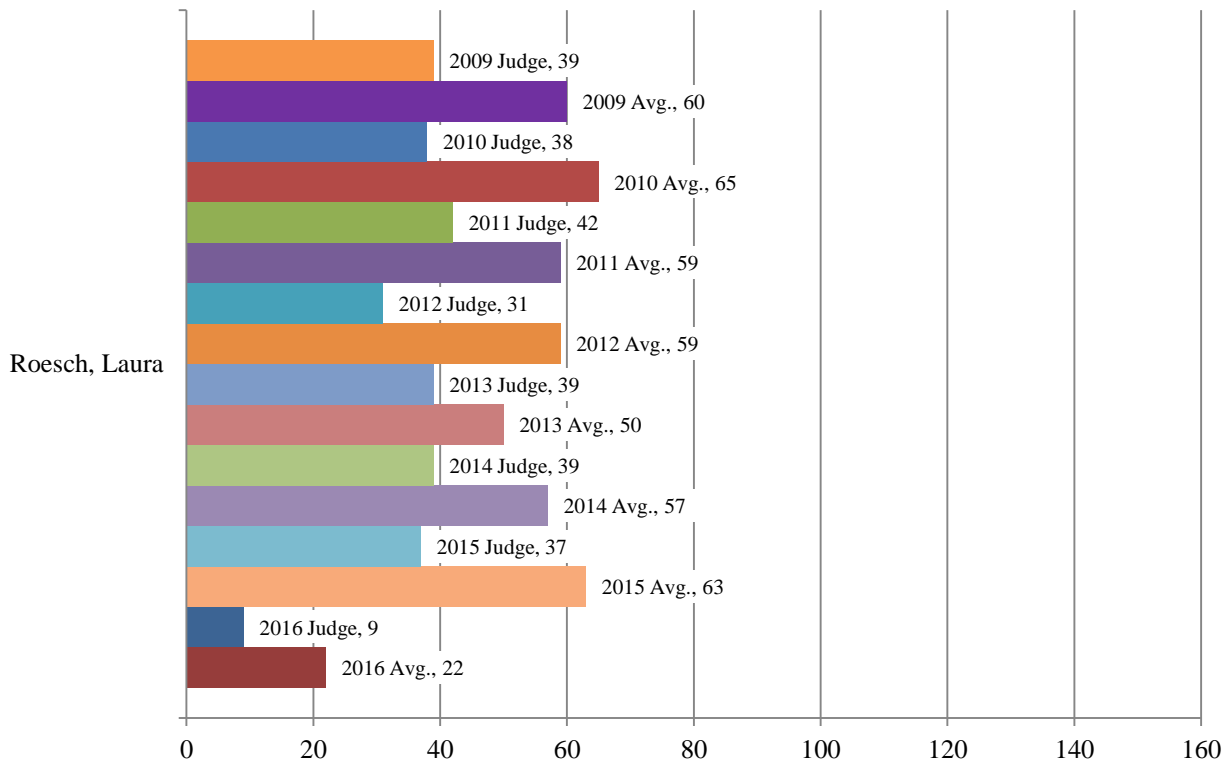
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



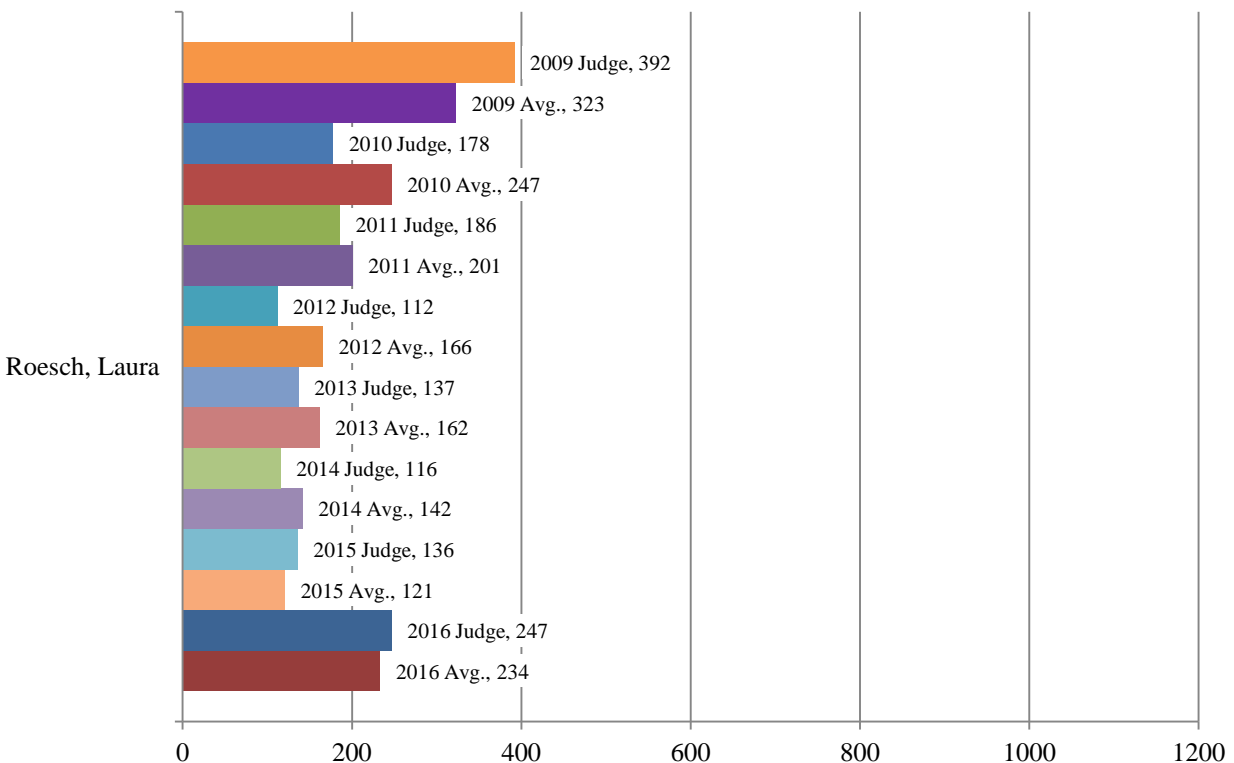
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



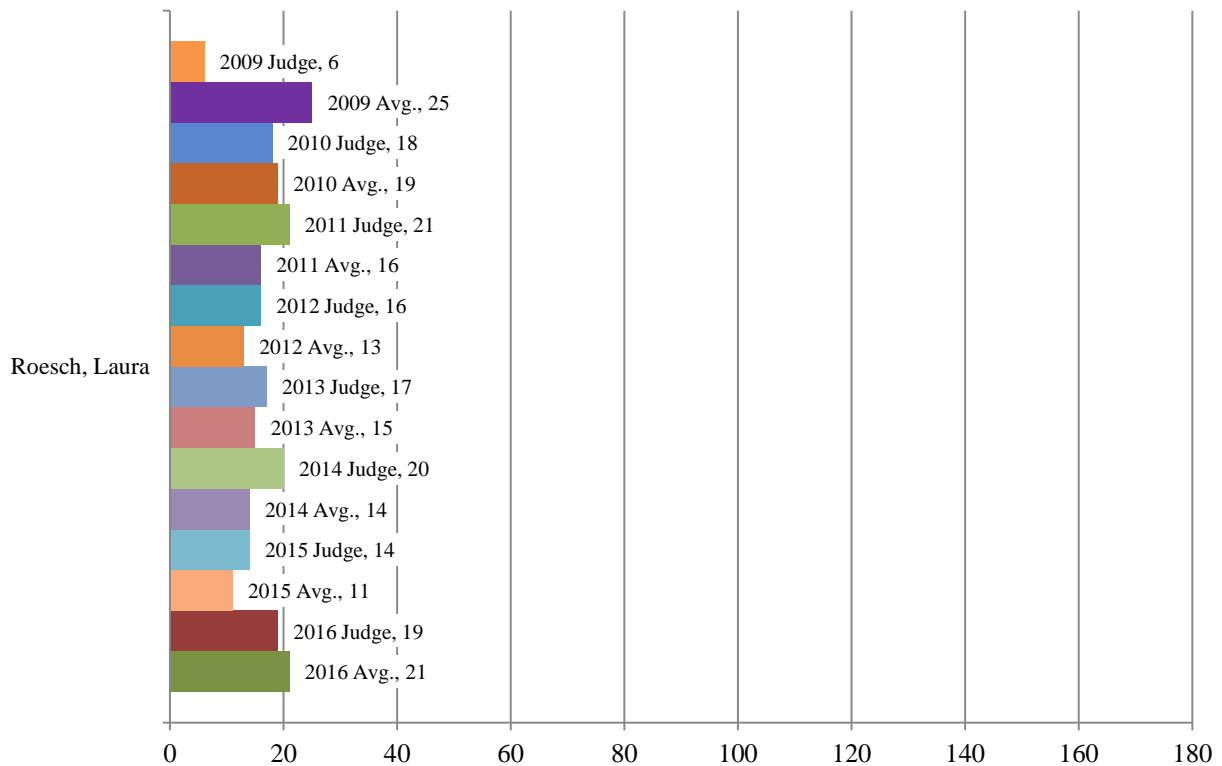
The following graph depicts the total volume of trial orders¹⁶¹ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



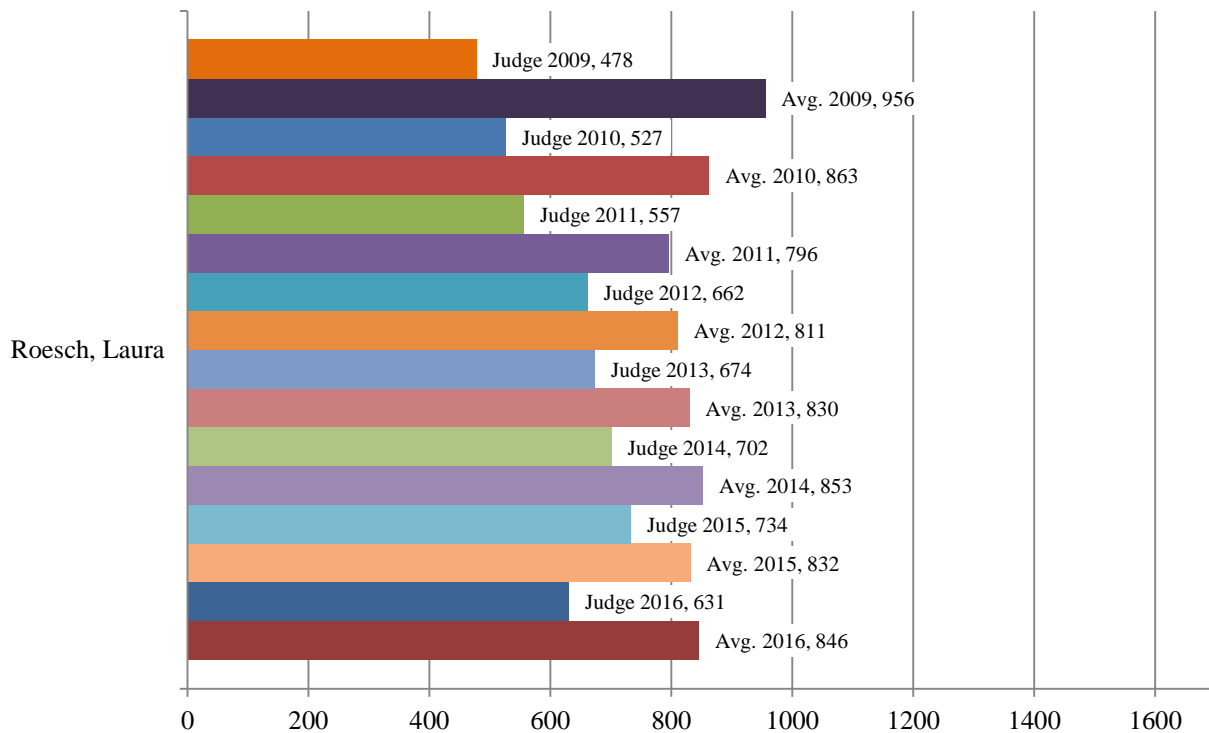
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



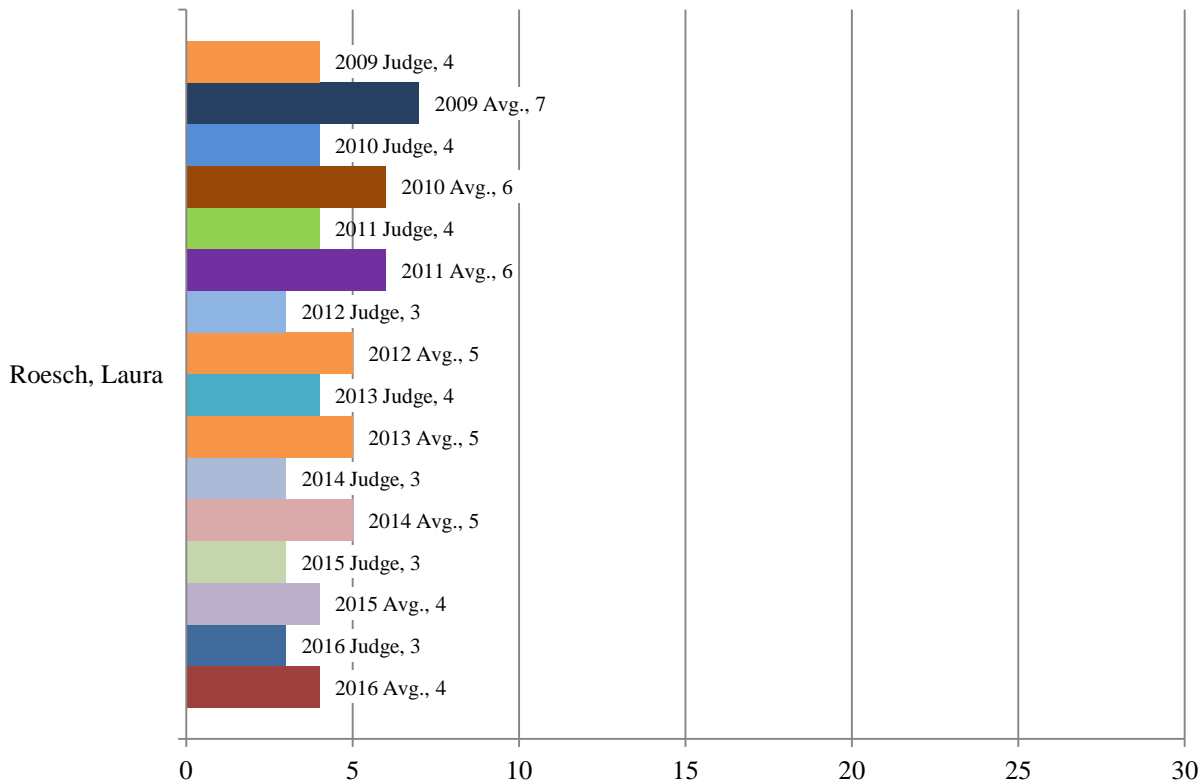
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



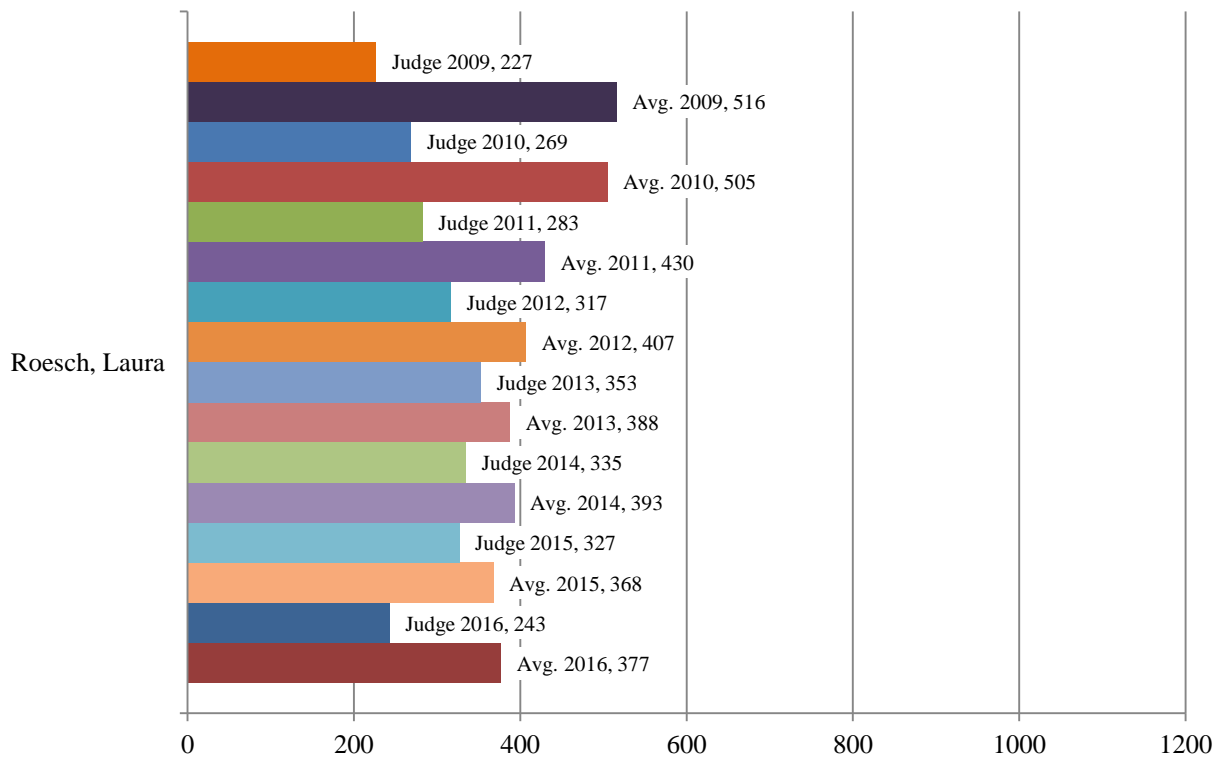
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



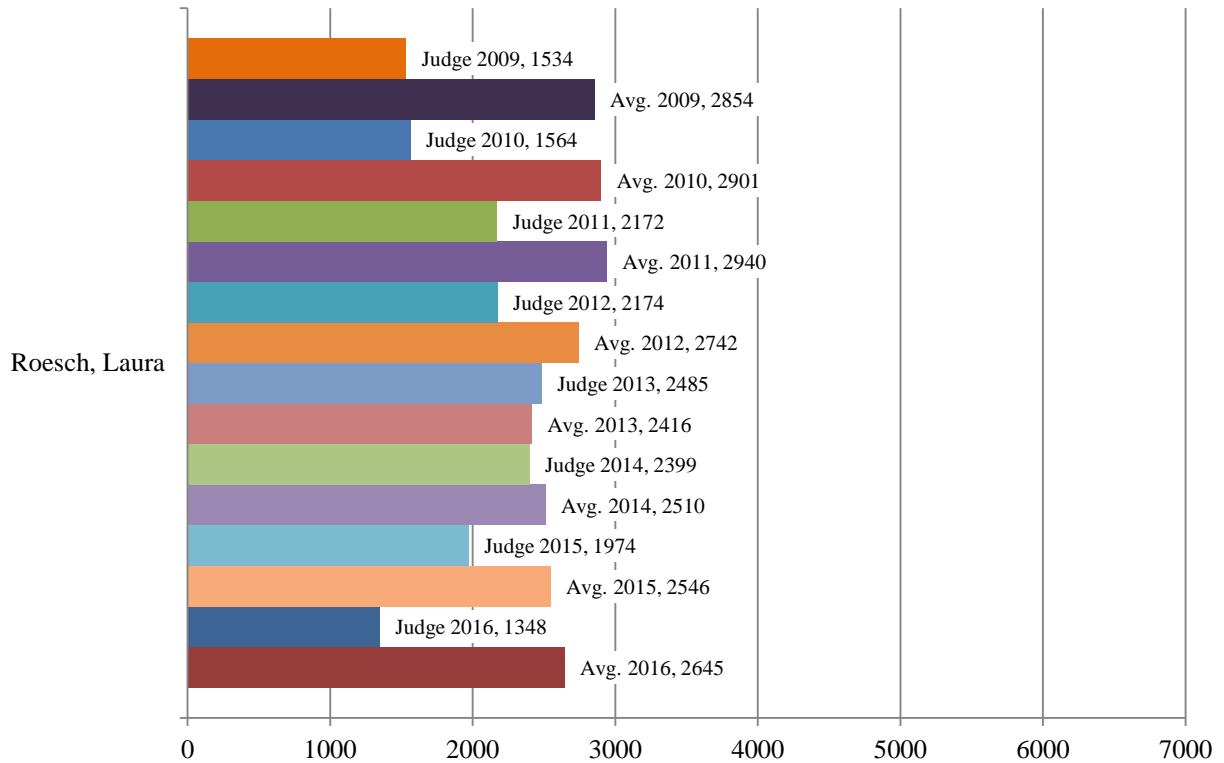
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



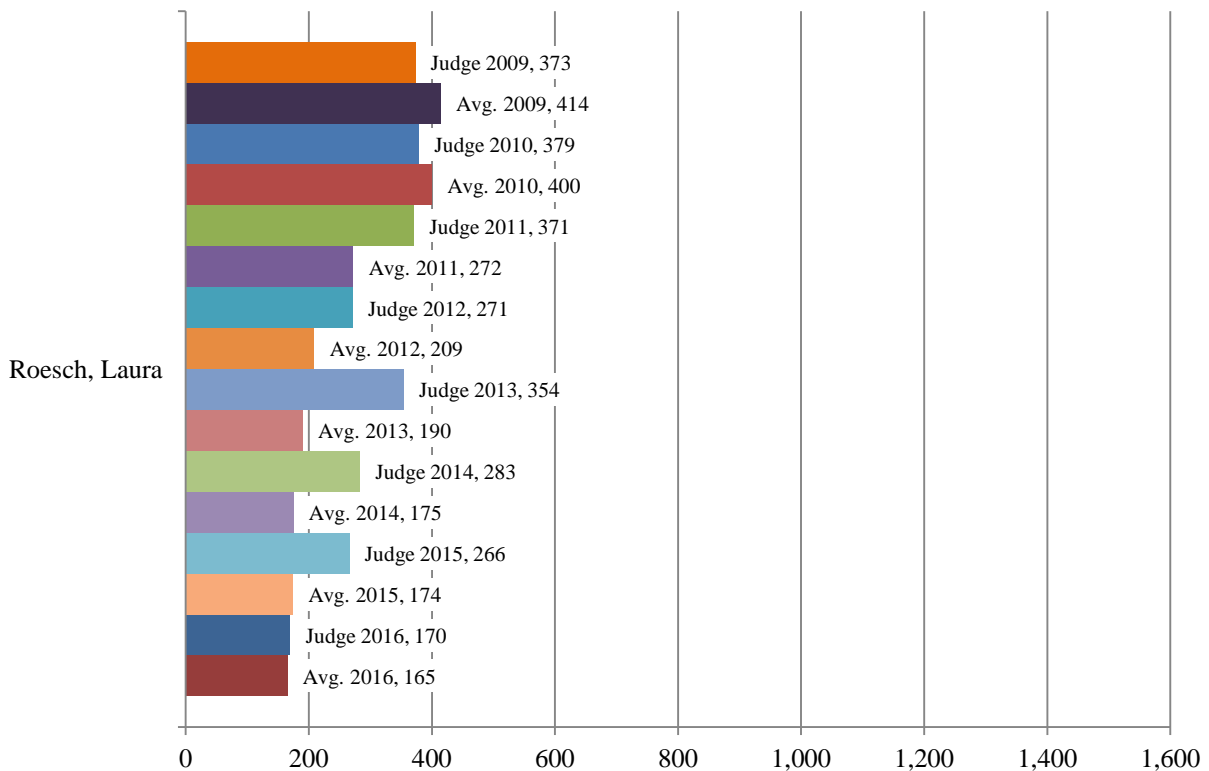
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



Appendix “11” District PNS (JCC Winn):

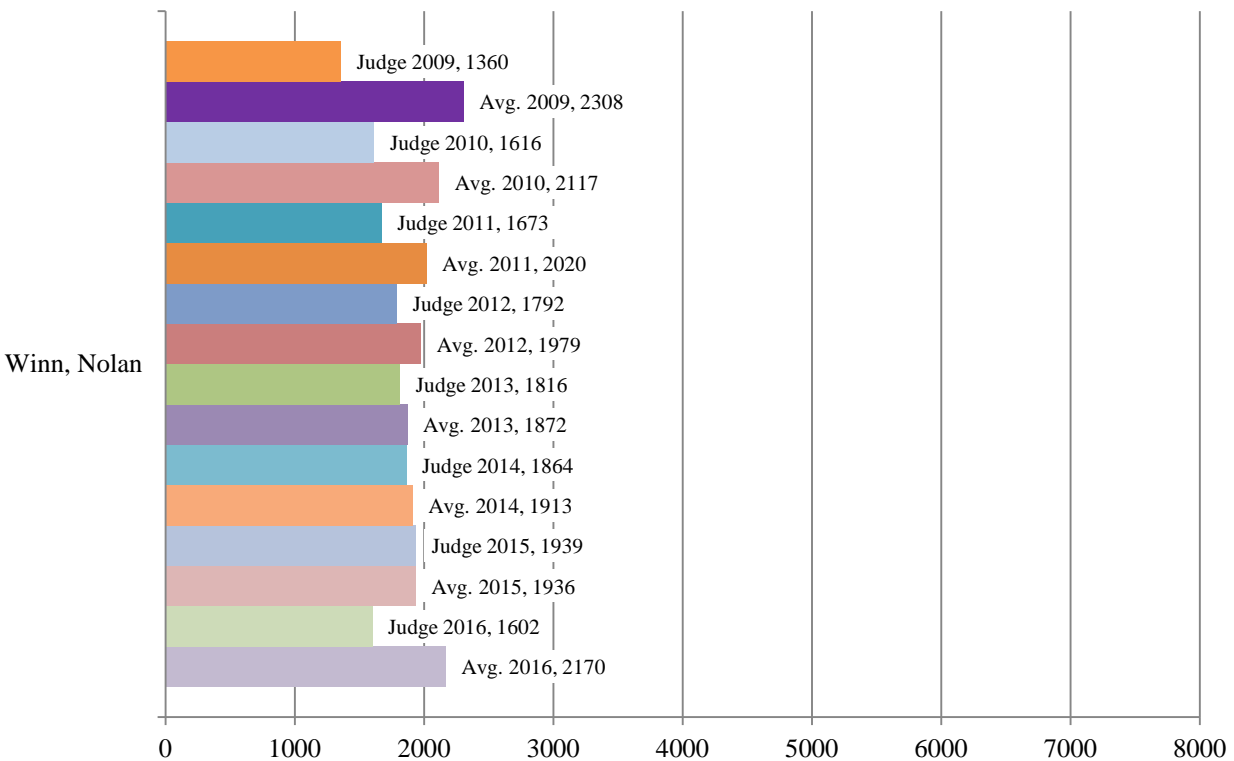
District PNS includes Escambia, Santa Rosa, and Okaloosa counties.

In 2015-16, the PFB volumes in District PNS were again close to the statewide average, which had been consistent for several years. In 2015-16, however, both “new case” and PFB filings in Pensacola decreased dramatically. Petition closure tracked petition filing consistently and the District concluded the year with a pending petition inventory likewise below the statewide average. Judge Winn and the Pensacola District team are always helpful with needs around the state, and volunteer to provide assistance. The suspension of the out-of-judge assignment program in 2015-16, a program through which Judge Winn was assigned Ft. Lauderdale cases for about five years, may be partially responsible for the decrease in filings.

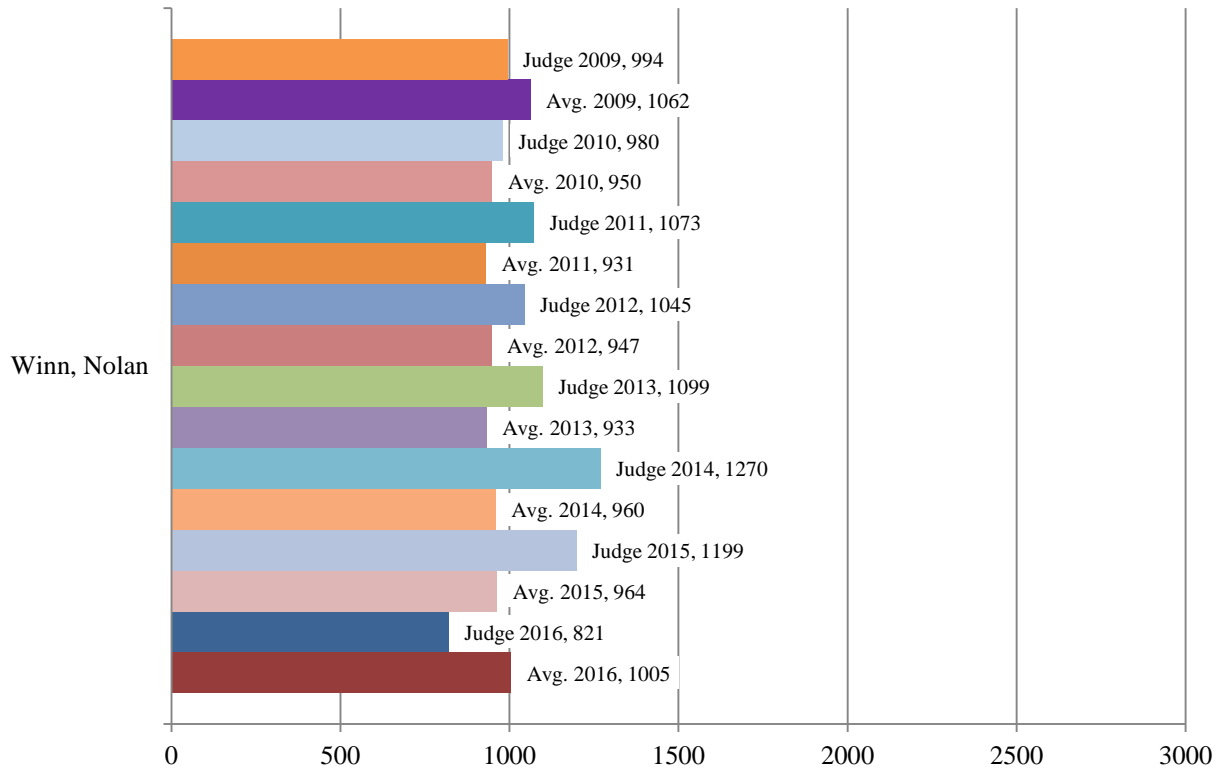
Using the new “trial order” definition adopted in 2015-16,¹⁶² District PNS had fewer trials than the statewide average. The “time to trial” was above the 210 day statutory period, but was nearly identical to the statewide average. The time to order in District PNS was well within the 30 day statutory requirement and was among the lowest for any division.

The volume of settlement and settlement orders in District Pensacola is above the statewide average. Some portion of that is undoubtedly due to the fact that Judge Winn and his staff handled the motions and stipulations for District PMC following Judge Roesch’s retirement in February 2016.

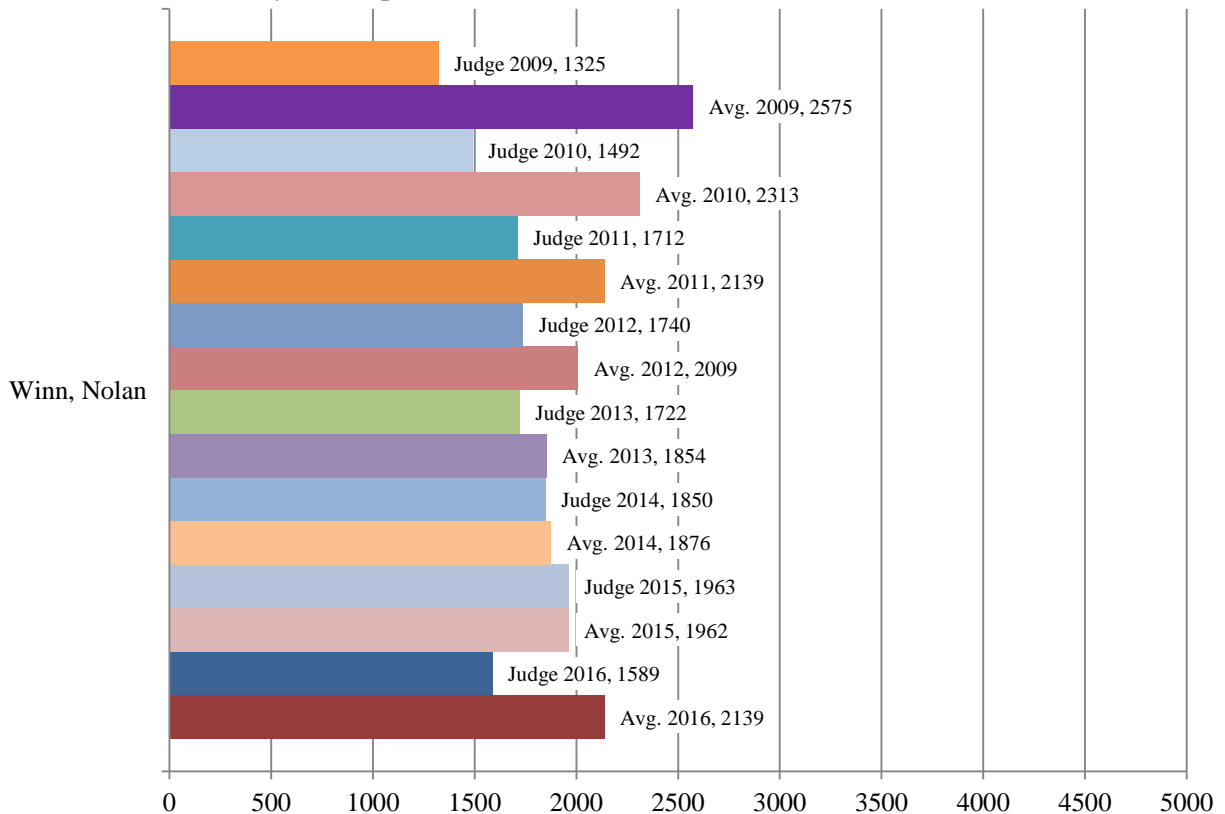
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



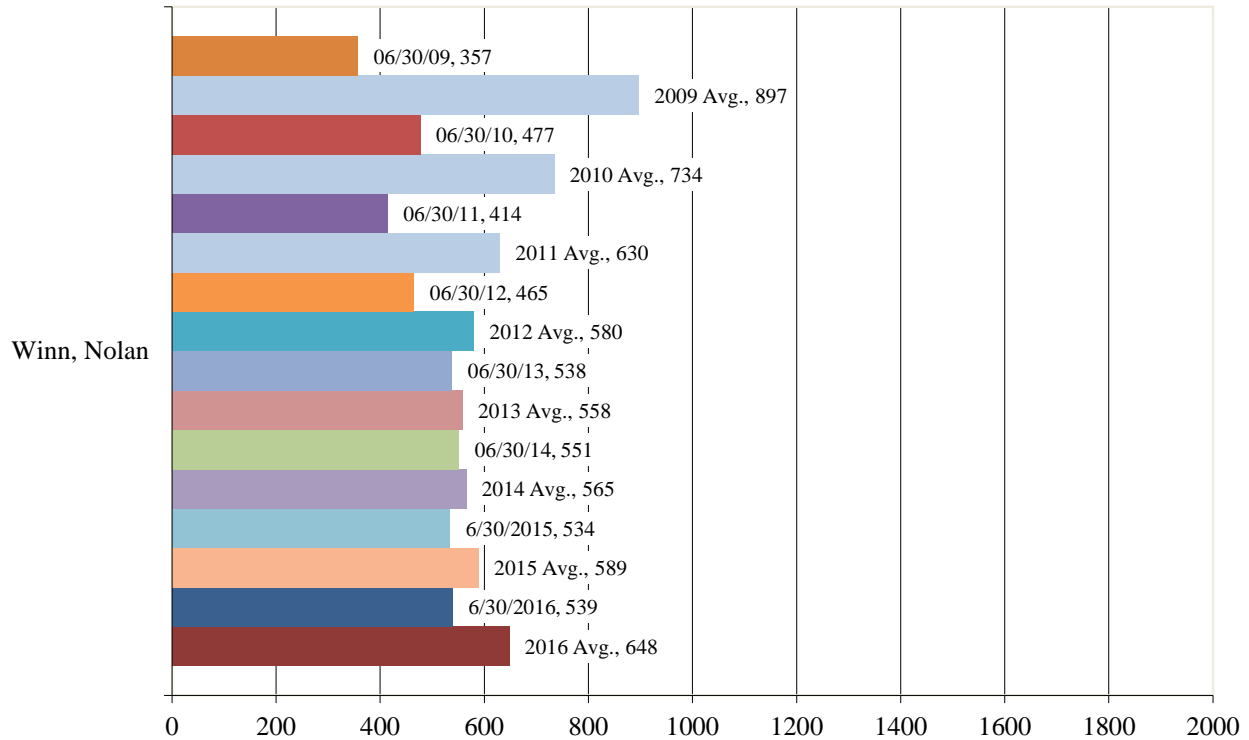
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



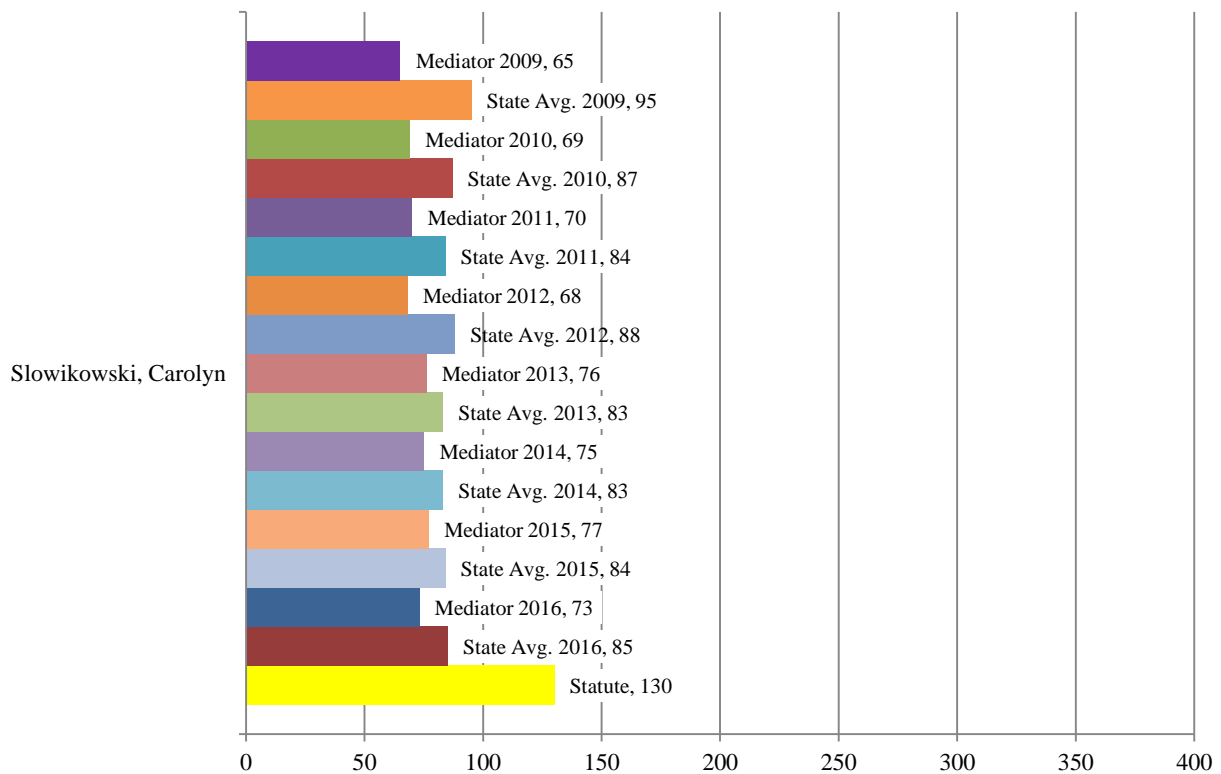
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



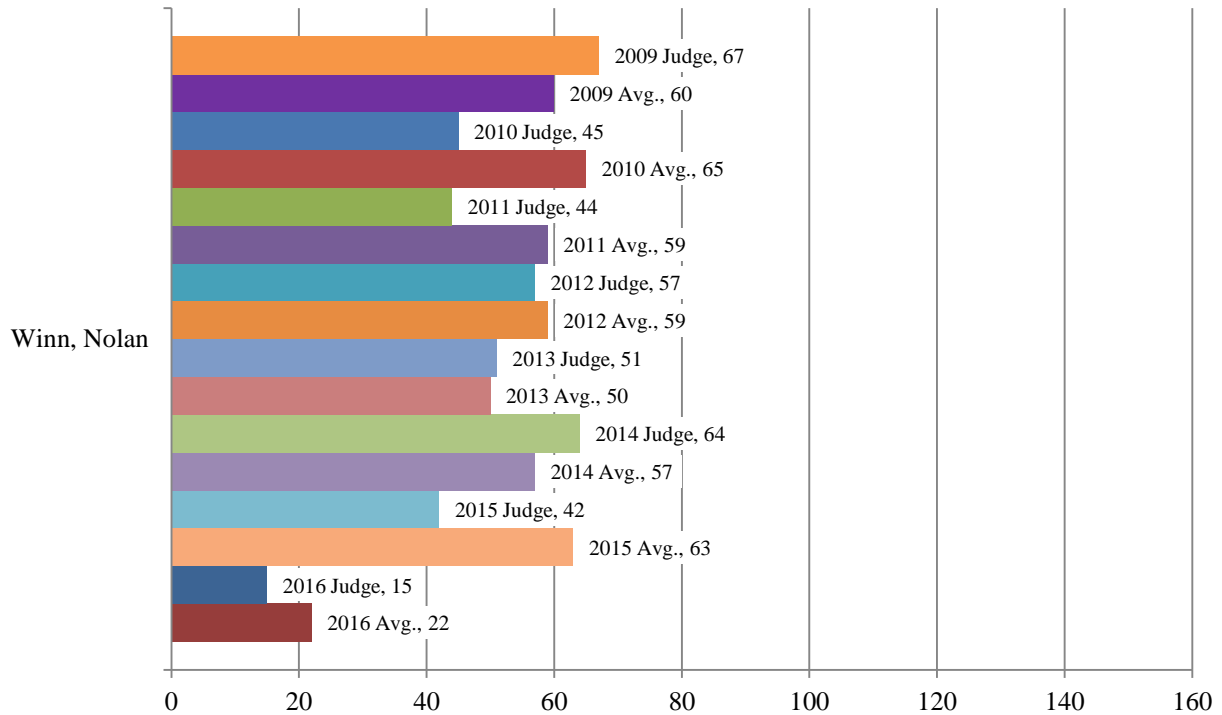
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



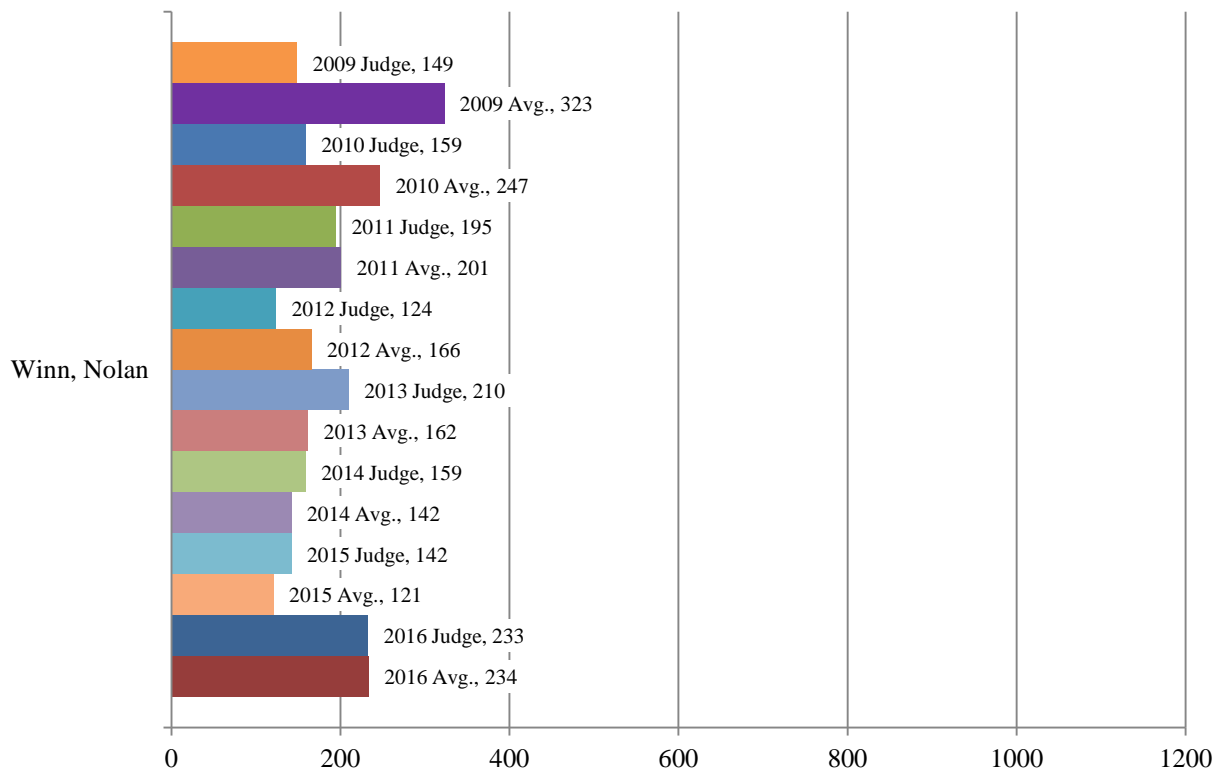
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



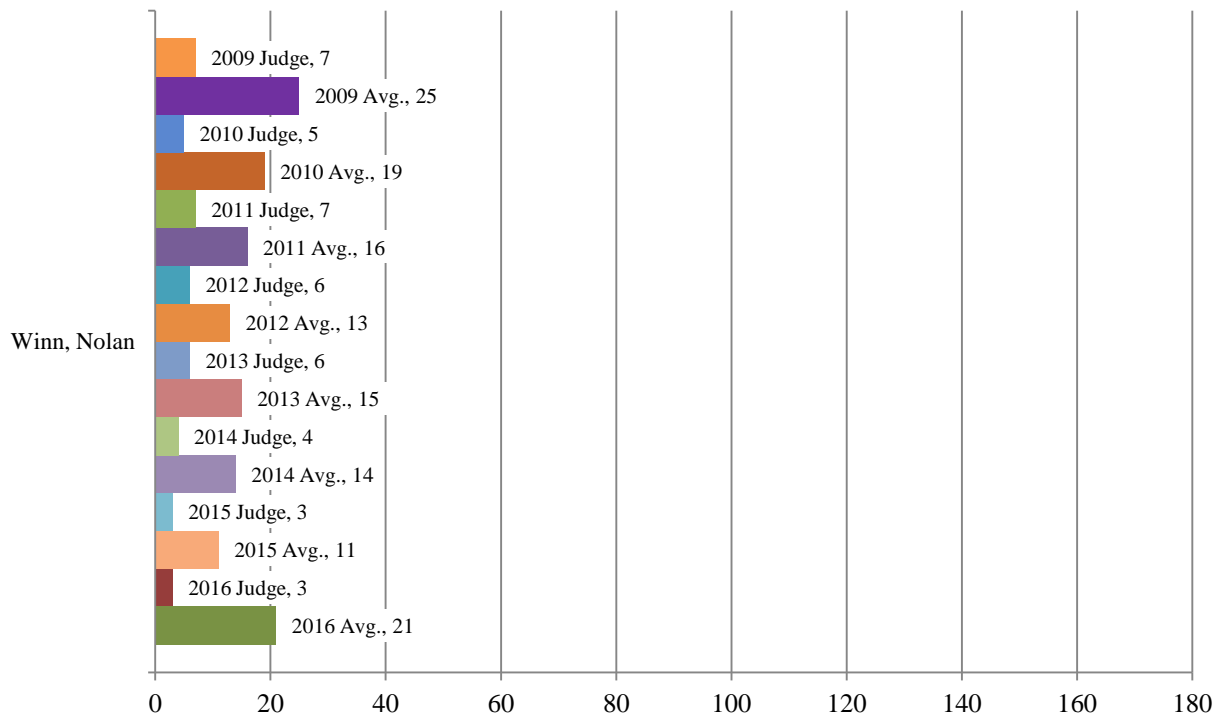
The following graph depicts the total volume of trial orders¹⁶³ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



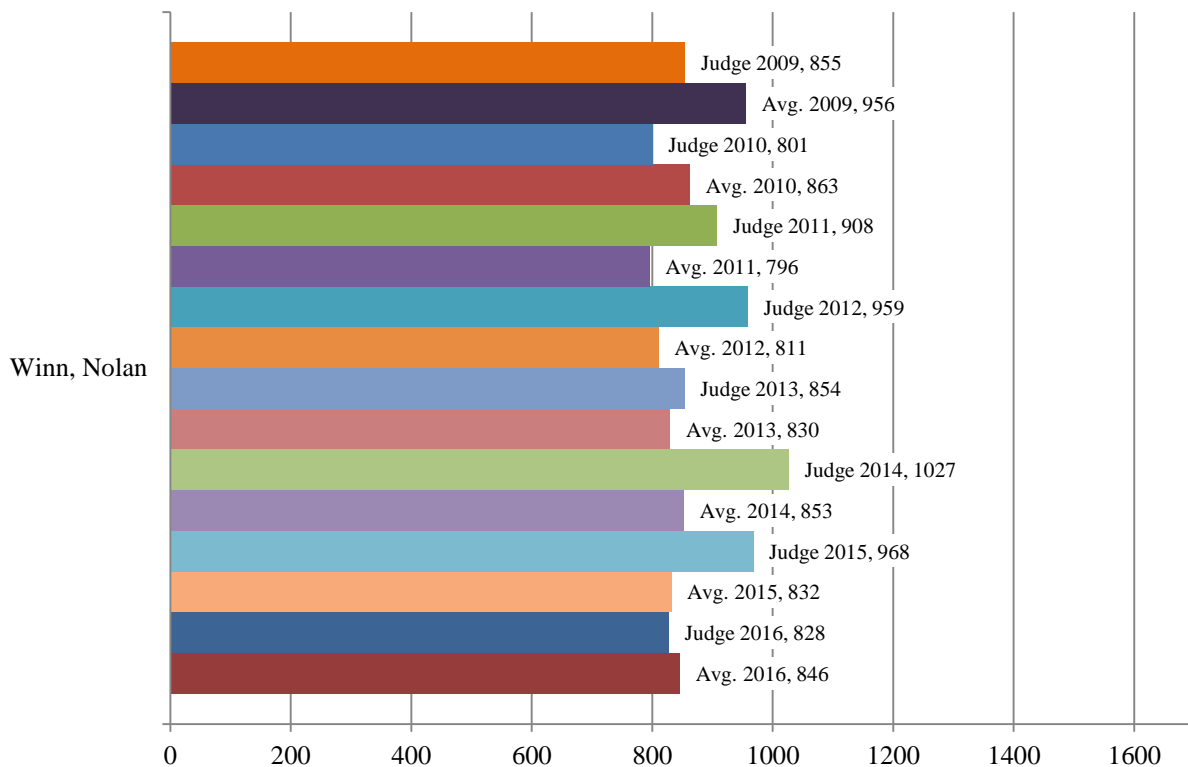
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



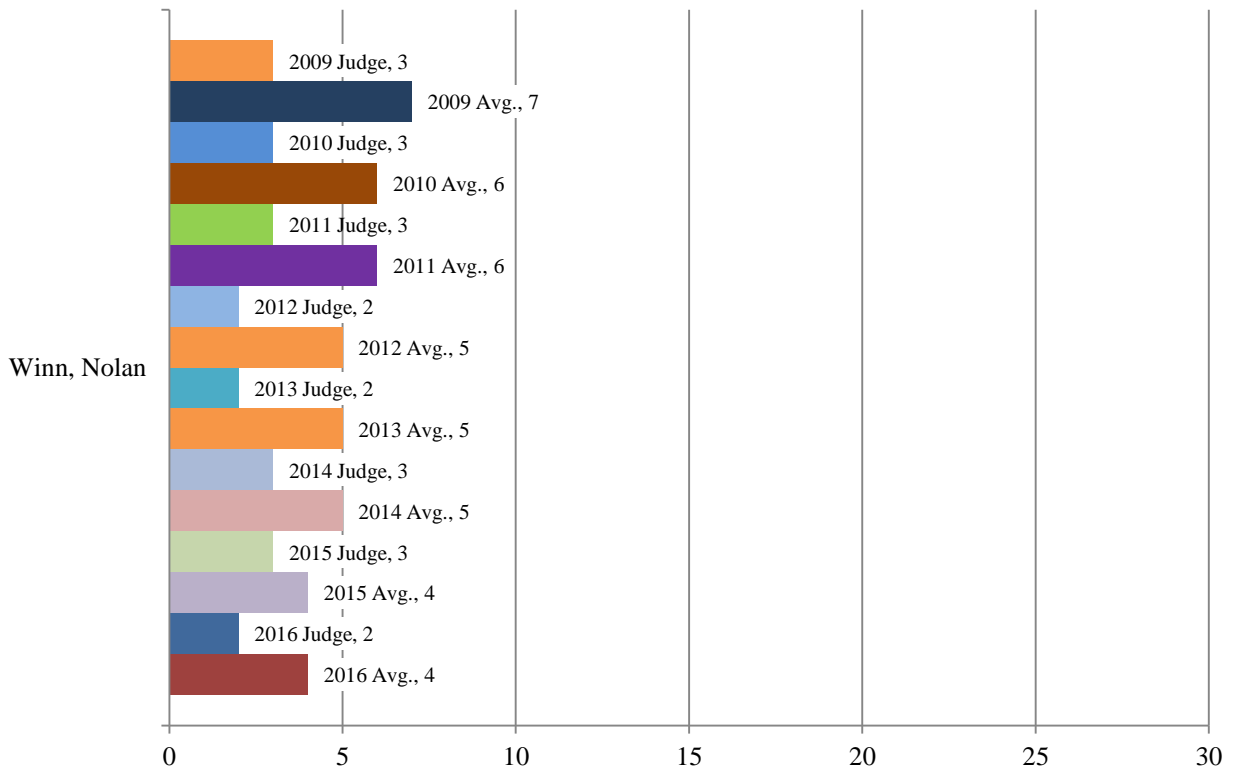
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



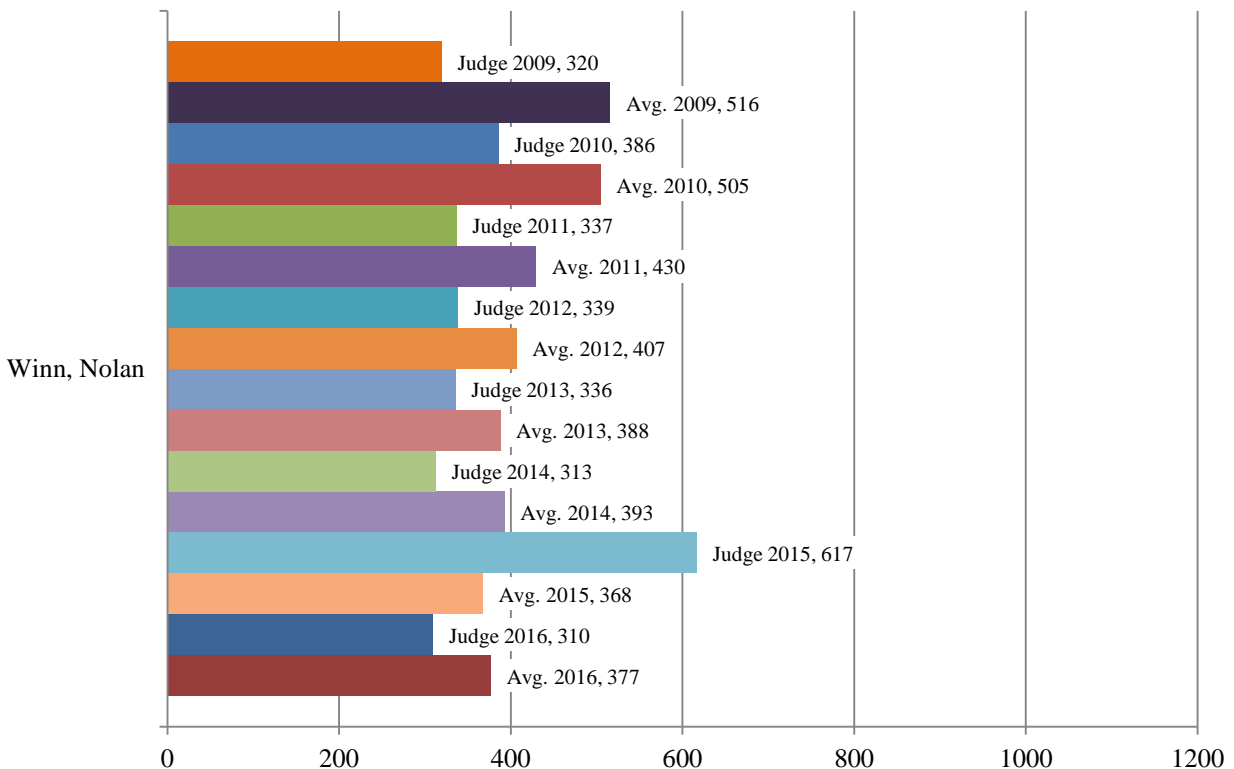
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



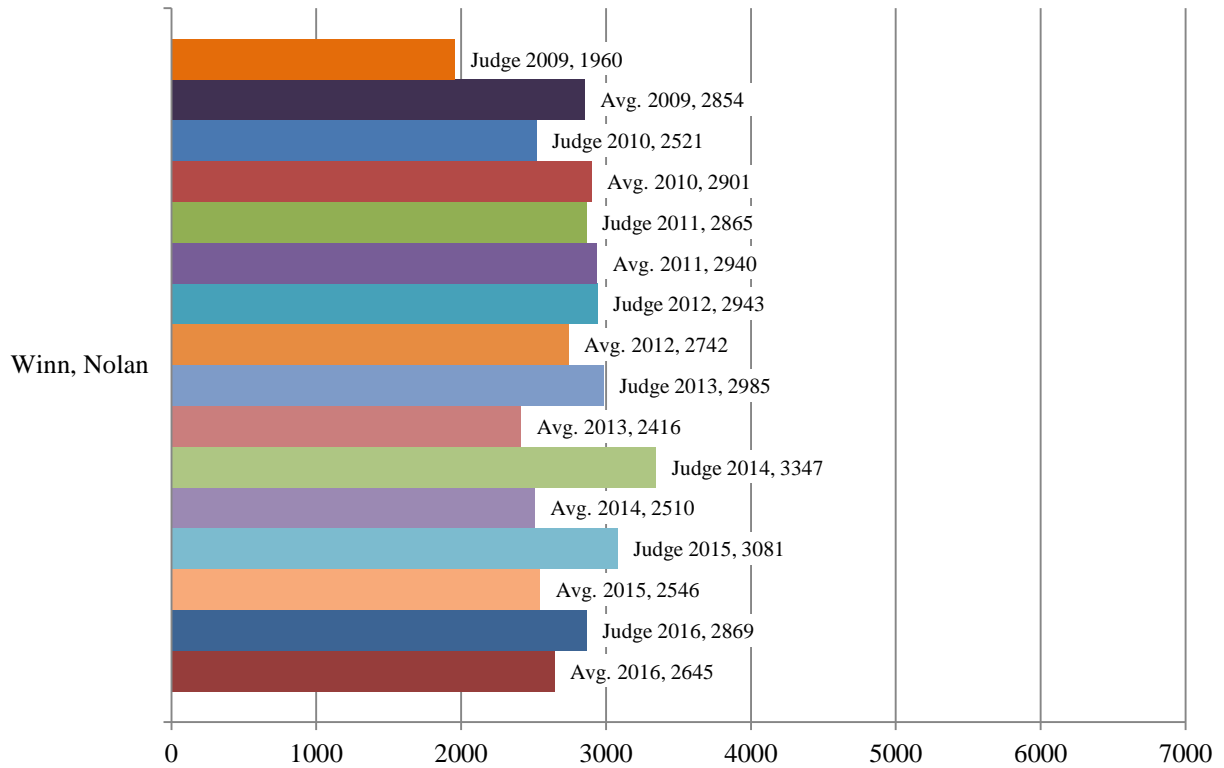
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



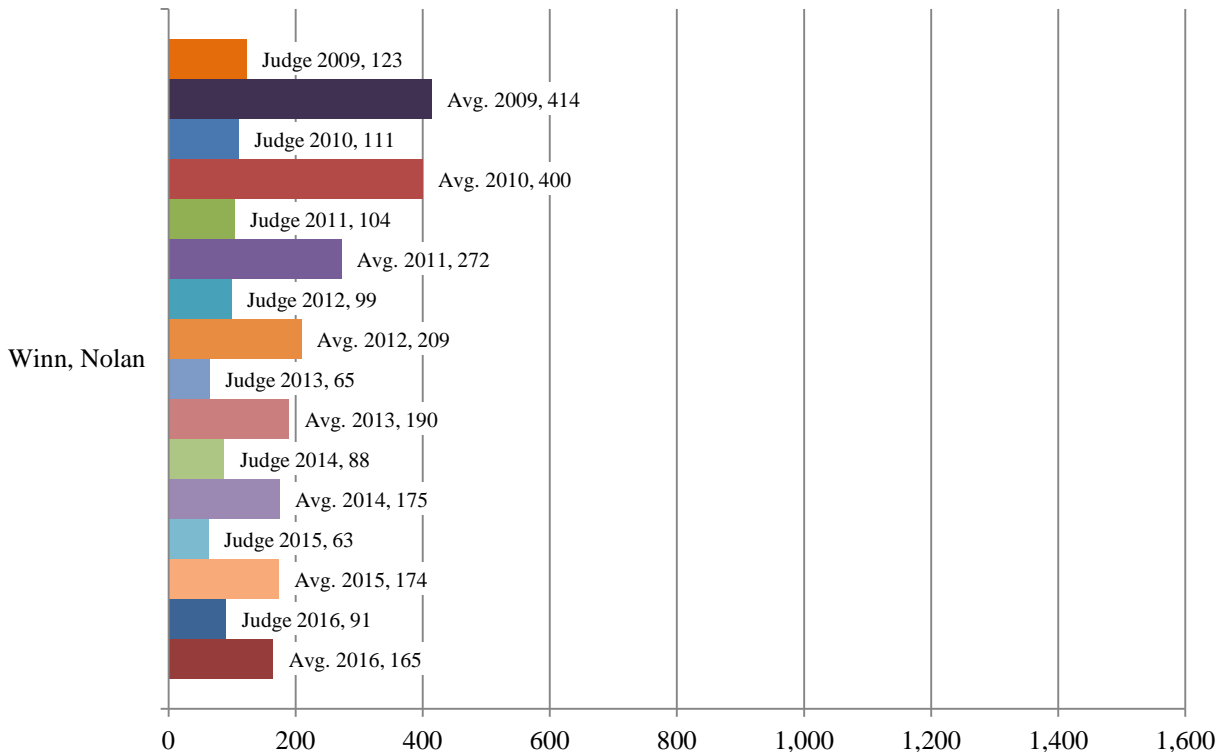
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



Appendix “12” District PSL (JCC McAliley):

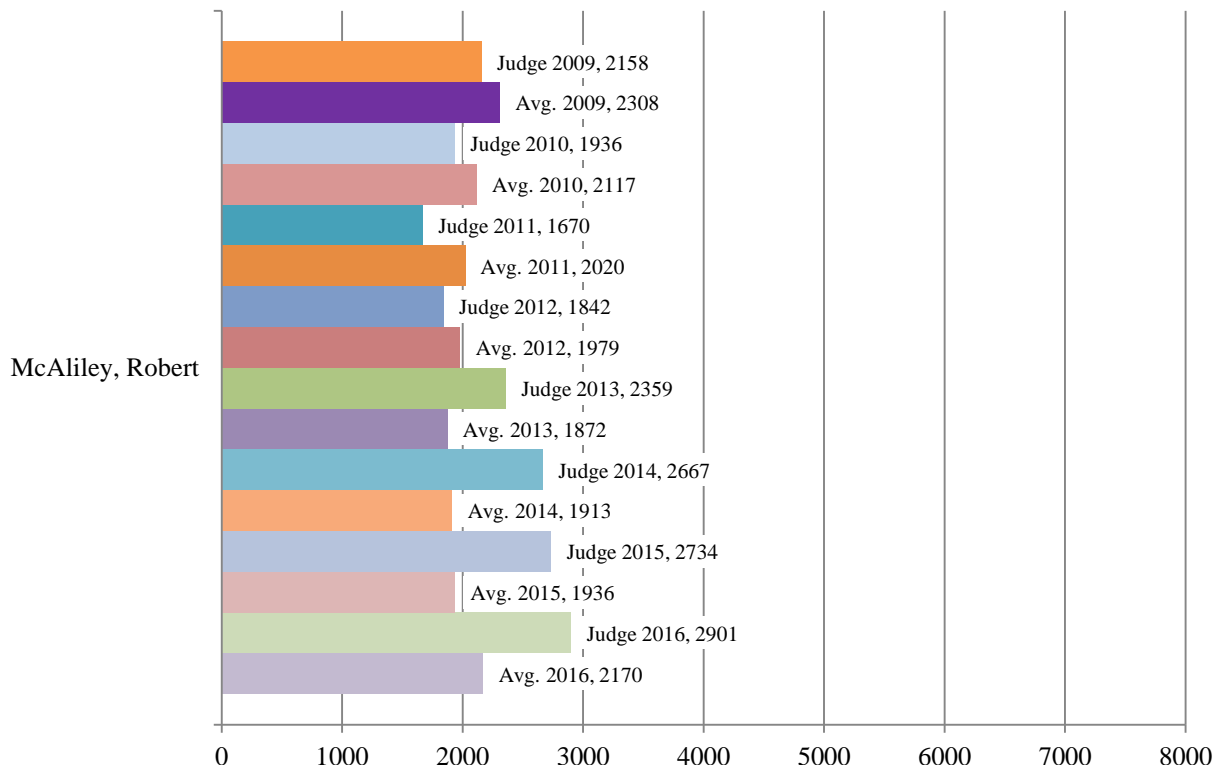
District PSL includes Martin, Monroe, and St. Lucie counties.

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.

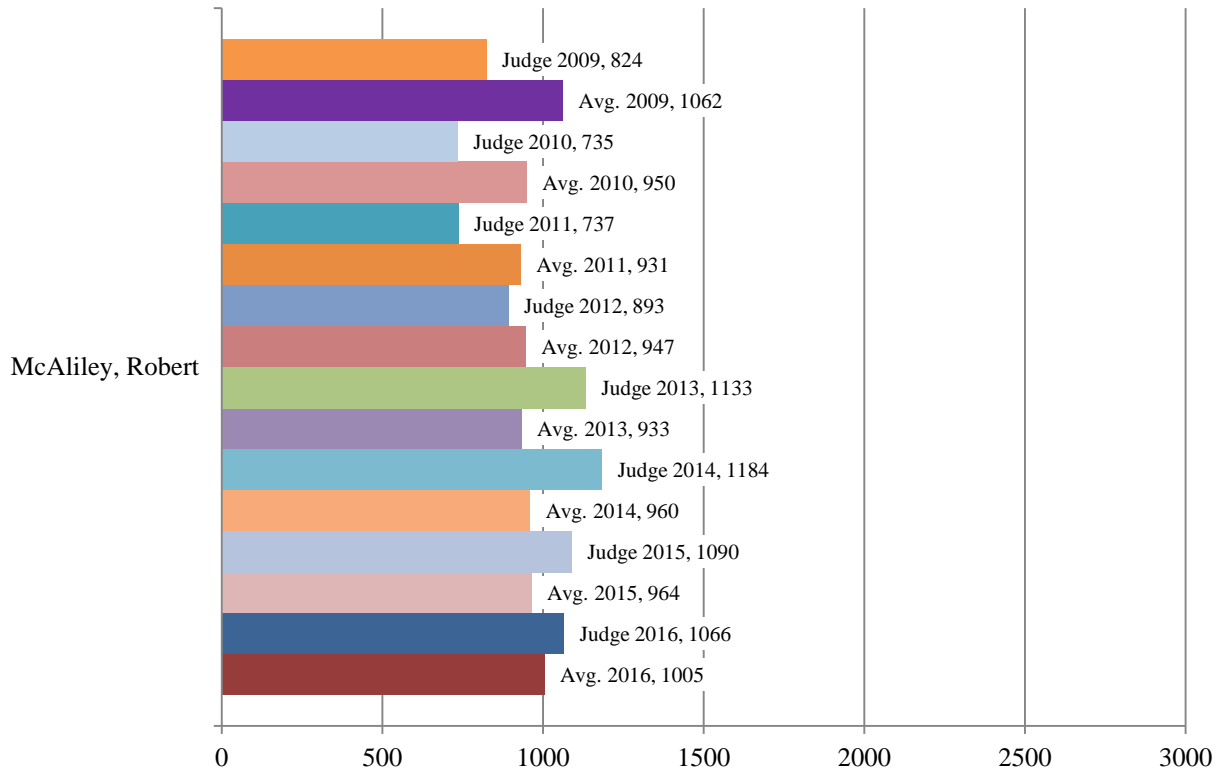
The volume of PFB and “new cases” in District PSL is notably above average for the last four years. This is due, in part, to the transfer of Monroe County from District MIA to District PSL in 2012. However, the Monroe County volume does not account for all of this increase. For example, in 2013-14 only 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 2013-14 through 2014-15. With the adoption of the new definition of “trial order” in 2016,¹⁶⁴ the trial volume dropped markedly, and was slightly below average for the year. The time to mediation and from trial to order remained within the statutory requirements for 2015-16. However, the time to trial measure was above the statutory 210 days. Judge McAliley retired from the bench in 2016.

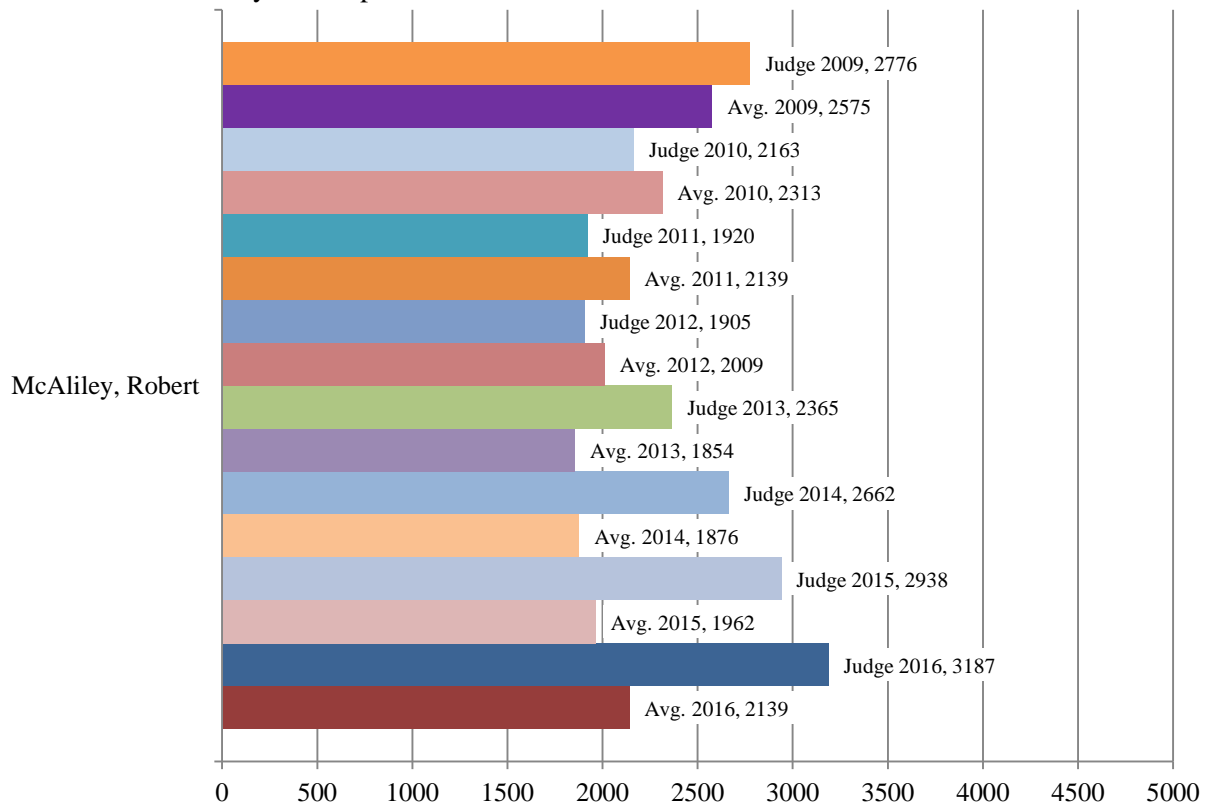
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



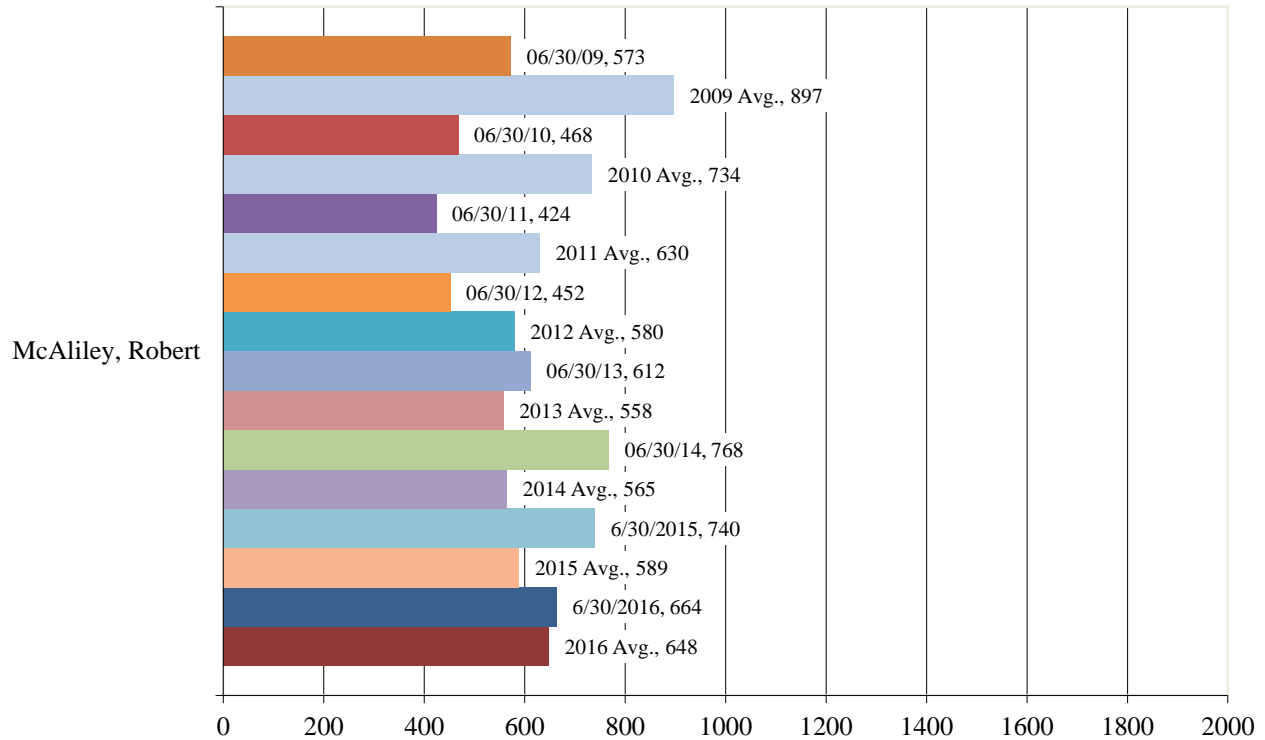
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



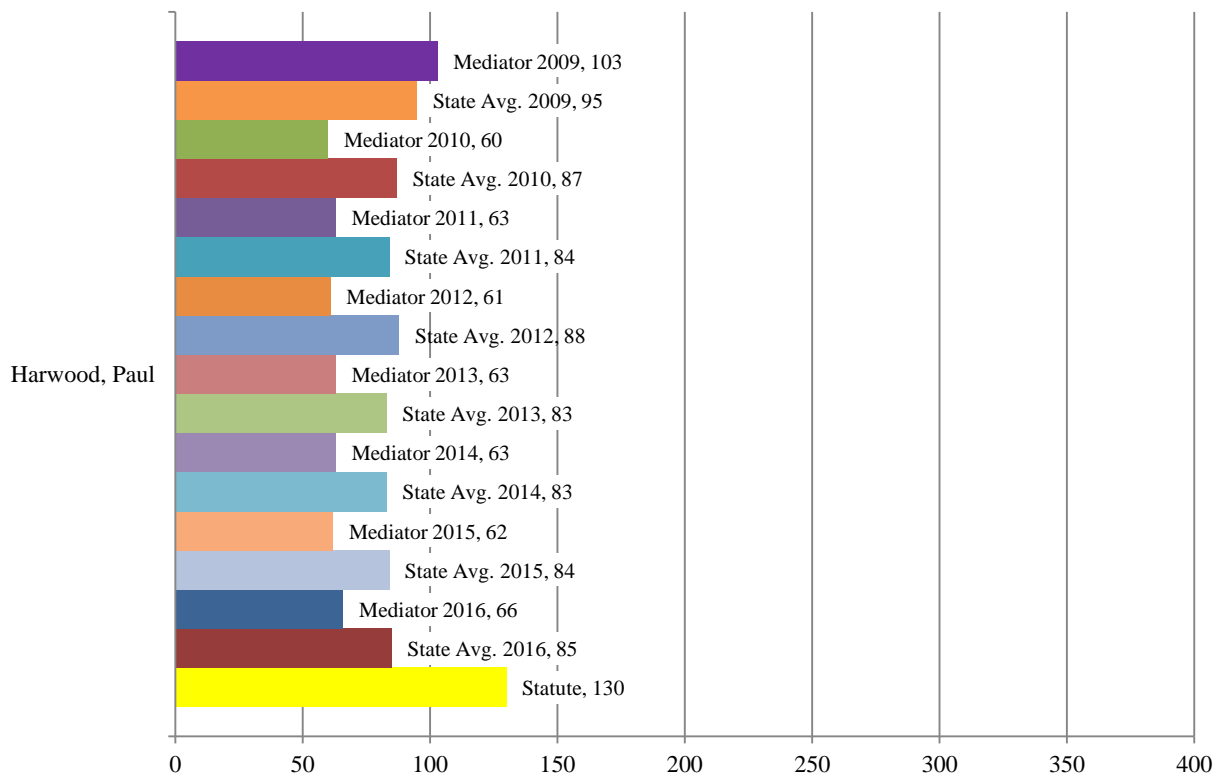
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



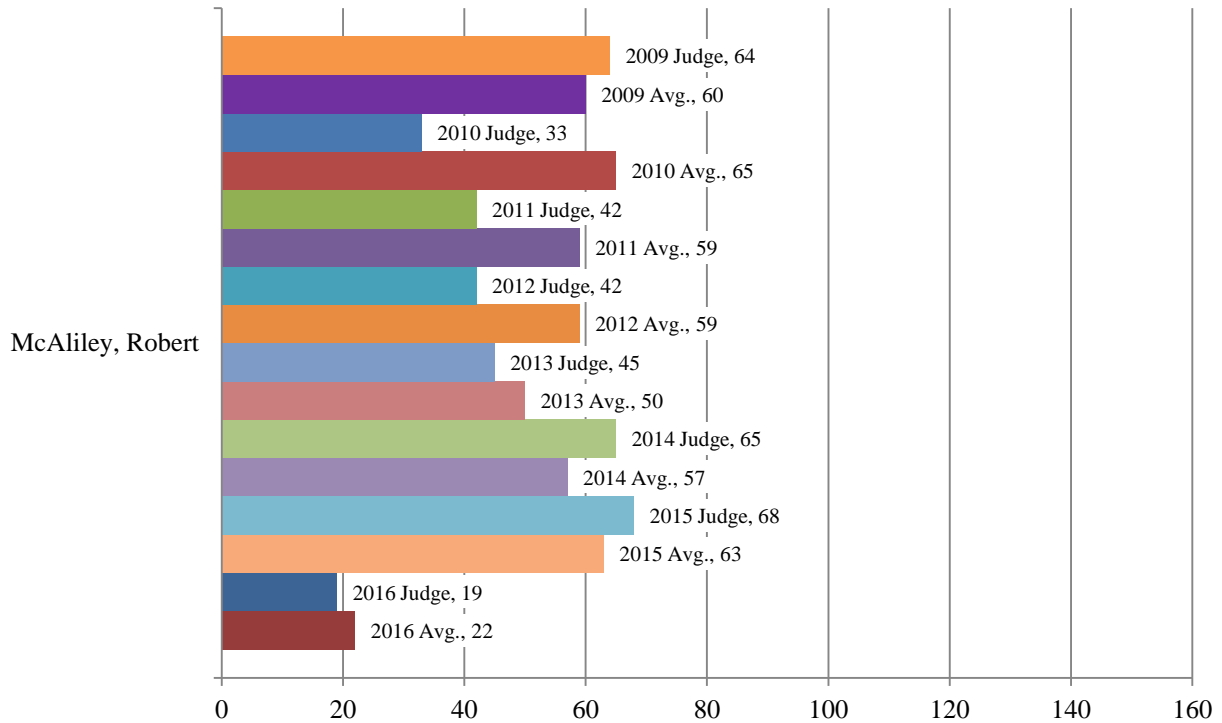
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



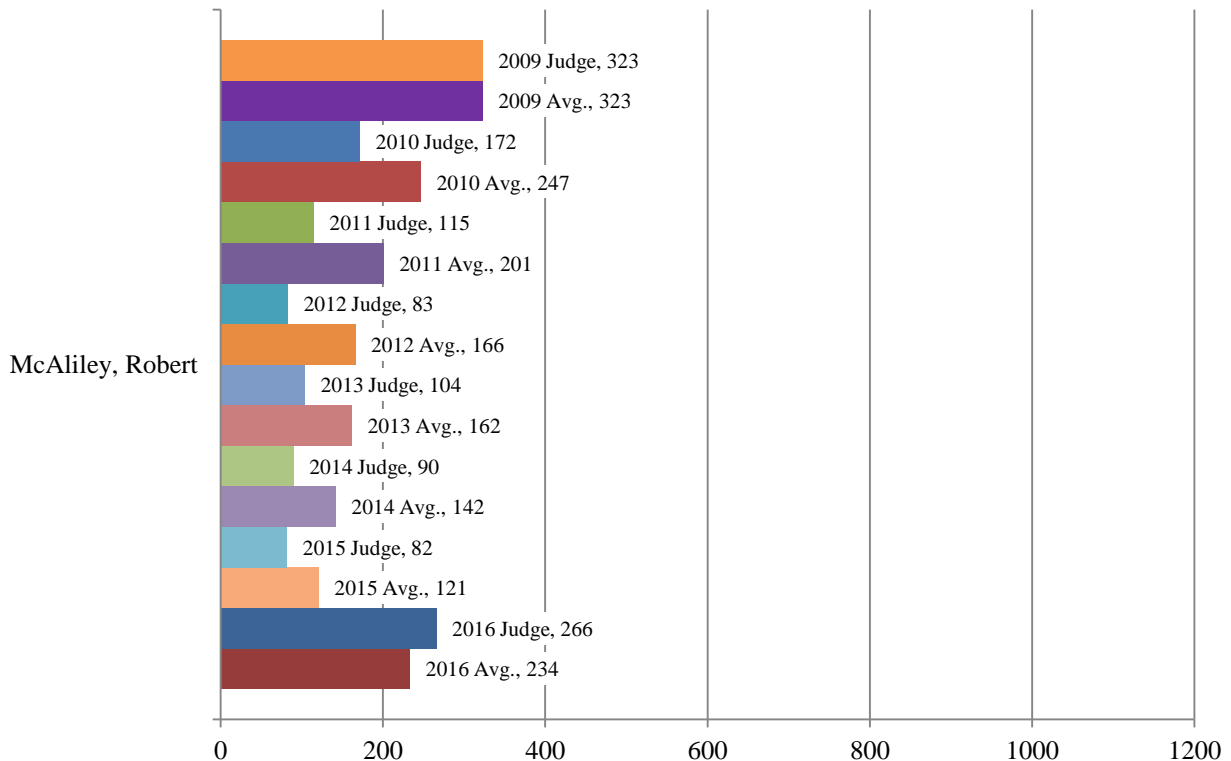
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



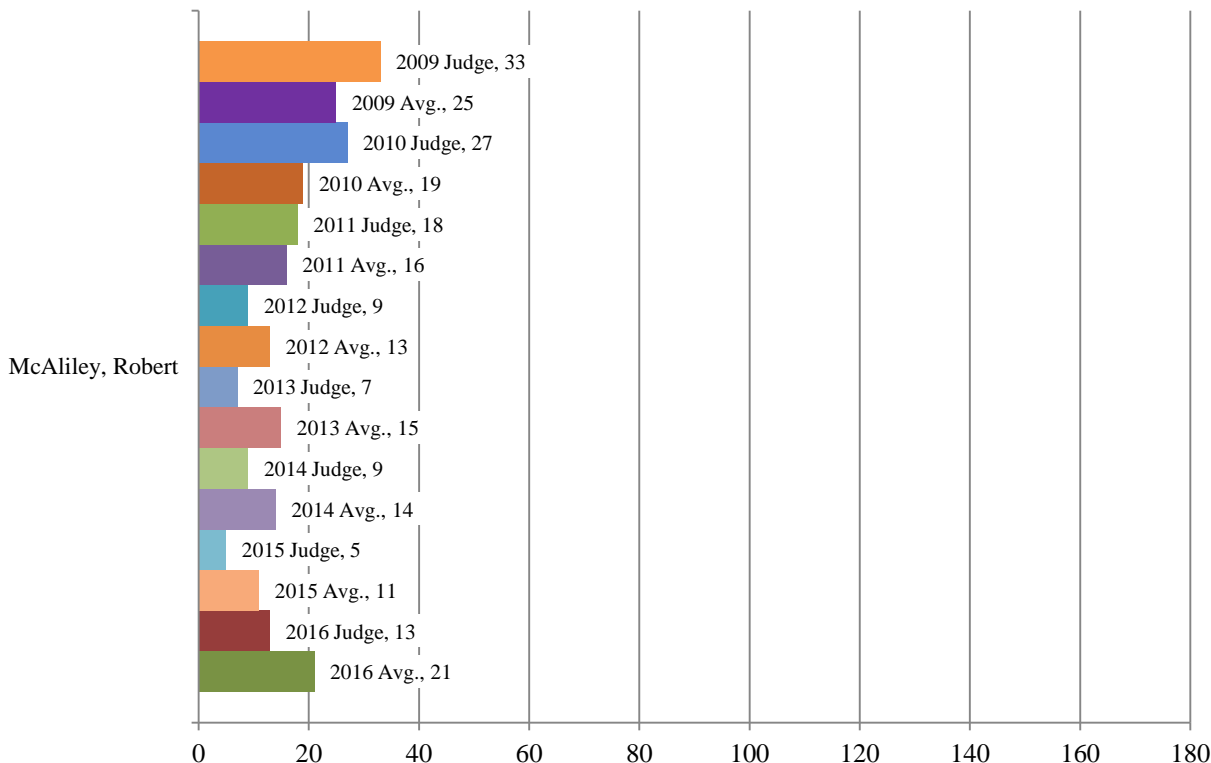
The following graph depicts the total volume of trial orders¹⁶⁵ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



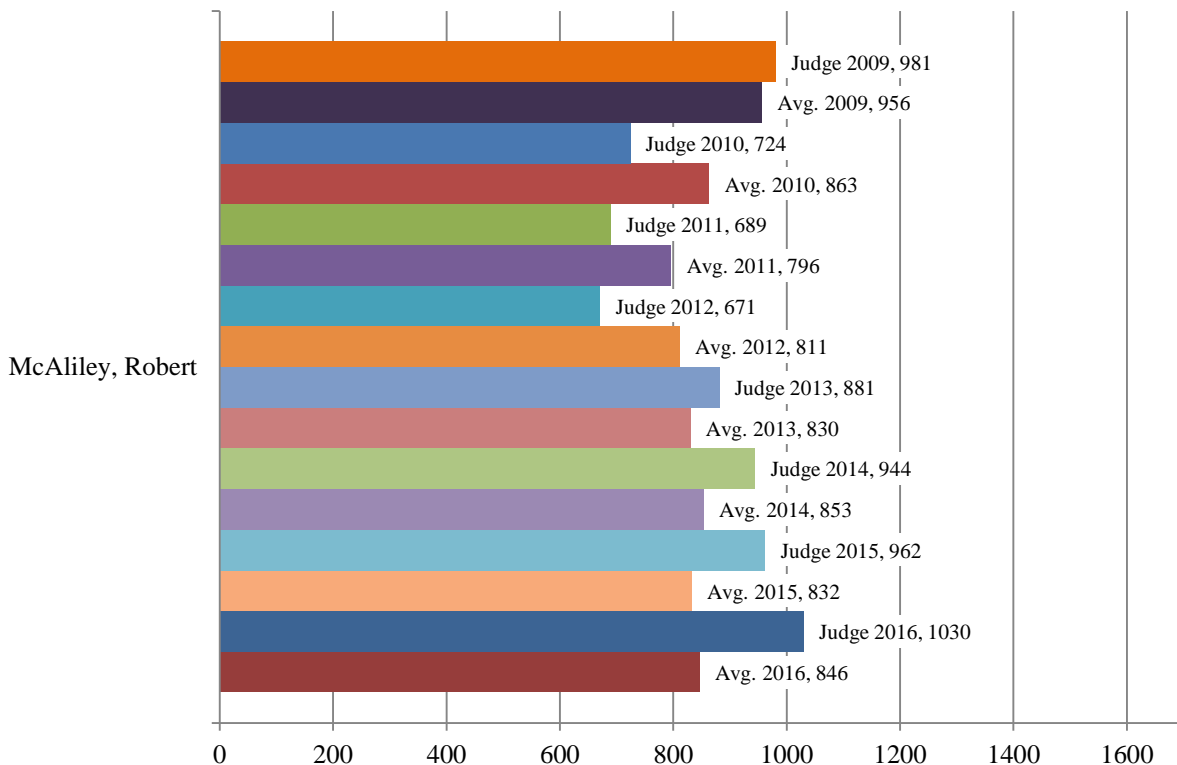
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



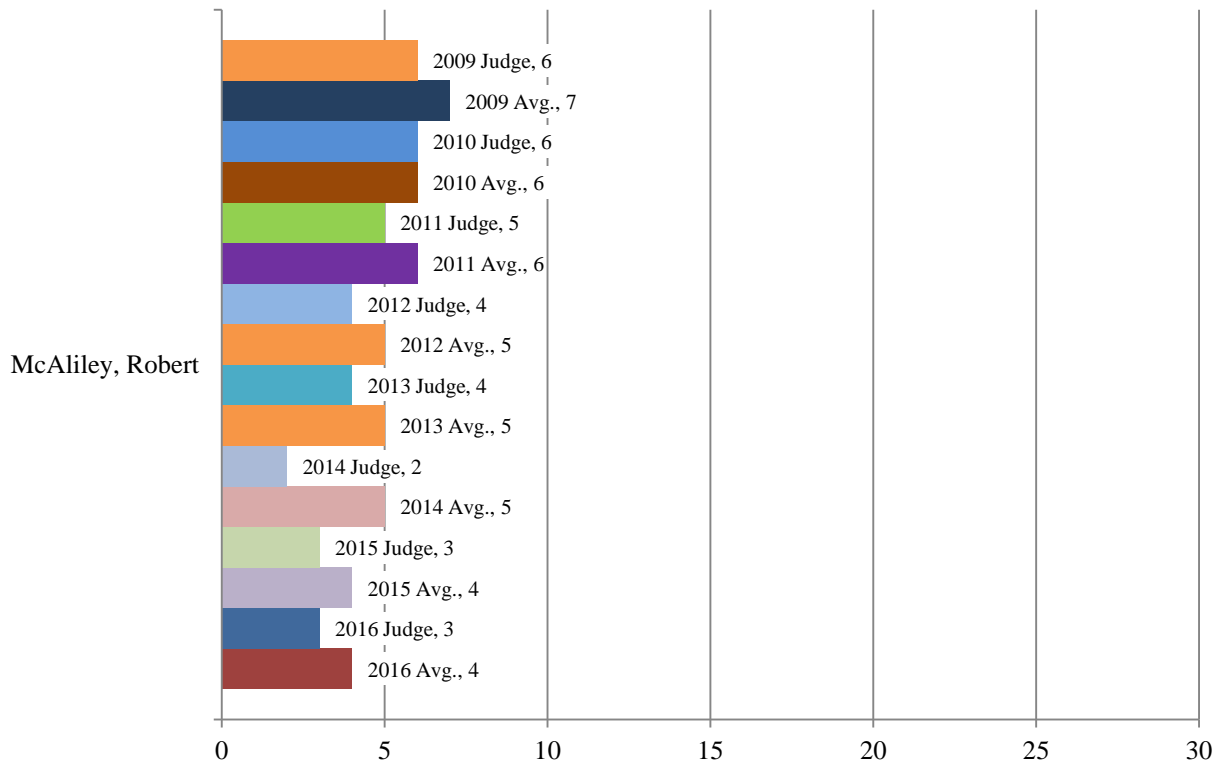
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



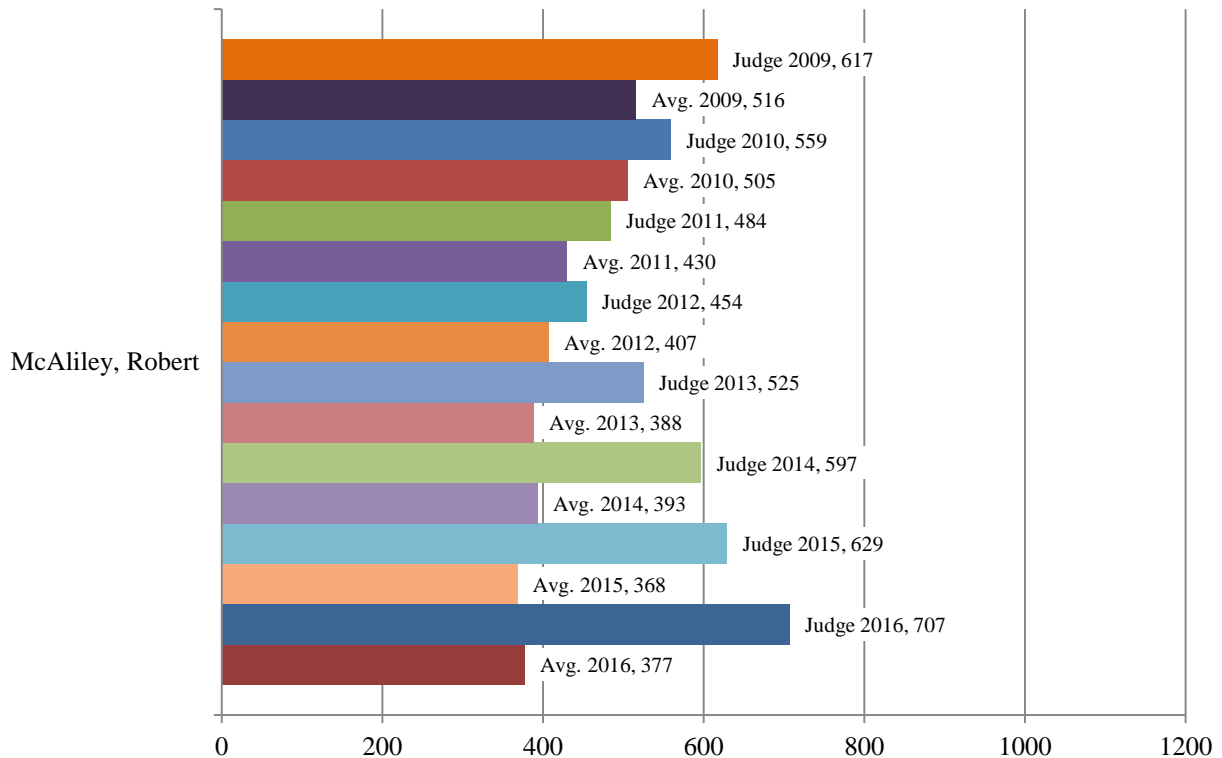
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



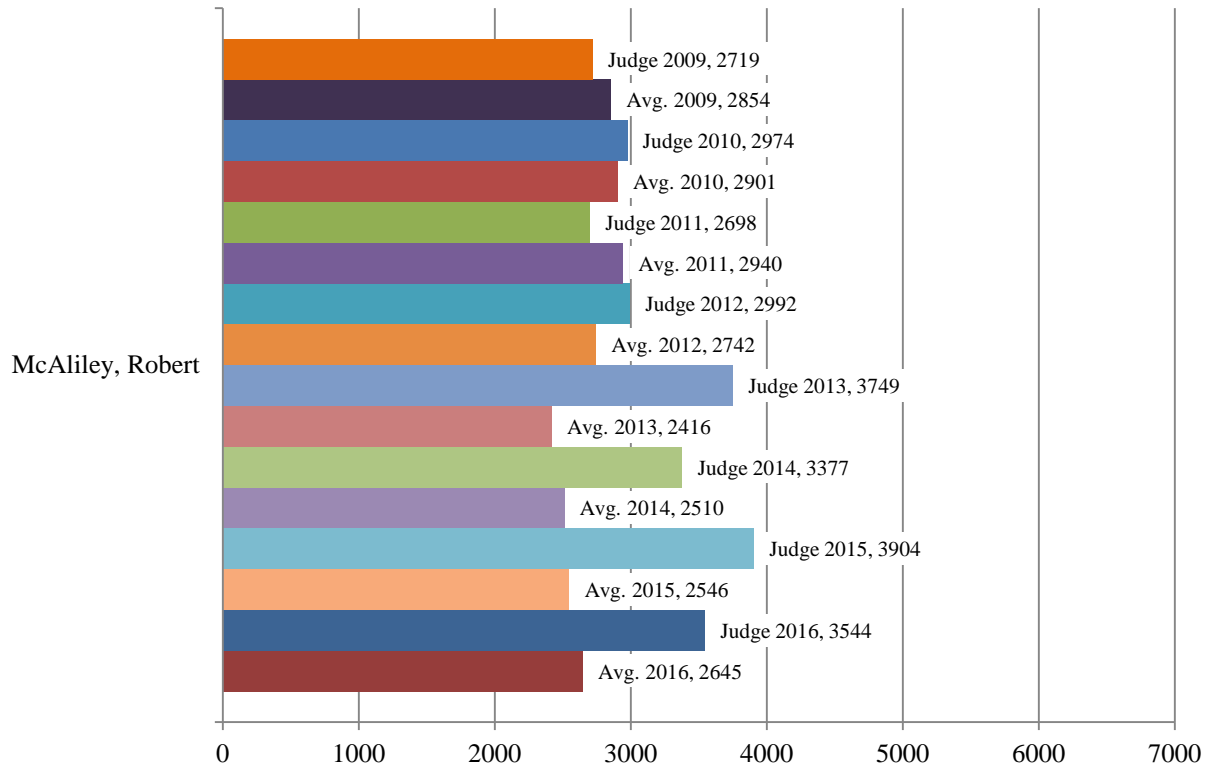
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



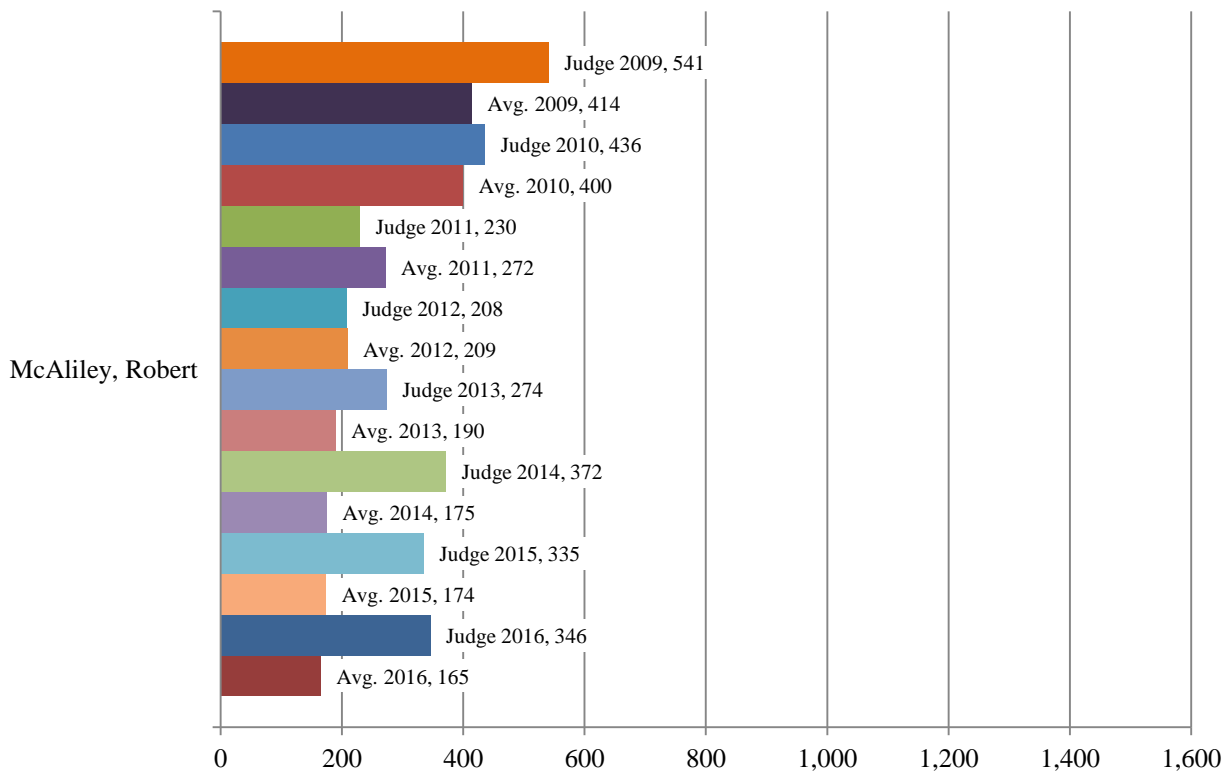
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



Appendix “13” District SAR (JCC Beck):

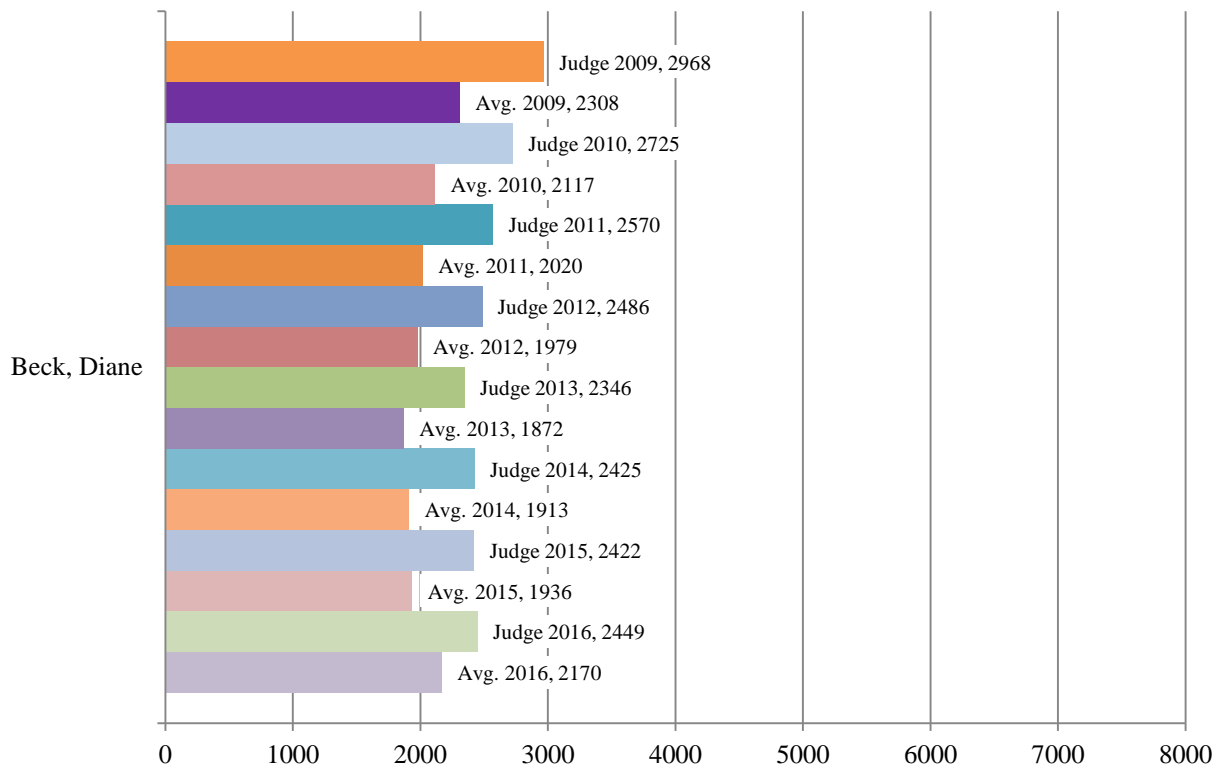
District SAR includes Manatee and Sarasota counties.

The PFB and “new case” filing volumes in District SAR both have been above the statewide averages for most of the last ten years. The PFB filing and closure rates are likewise reasonably consistent, suggesting that the docket there is in equilibrium, a state where incoming volumes are reasonably consistent with claim closures. The year-end pending petition inventory in SAR in 2015-16 is close to the statewide average. The management and consistency of Judge Beck is responsible for this equilibrium and for the efficient and effective operation of this office.

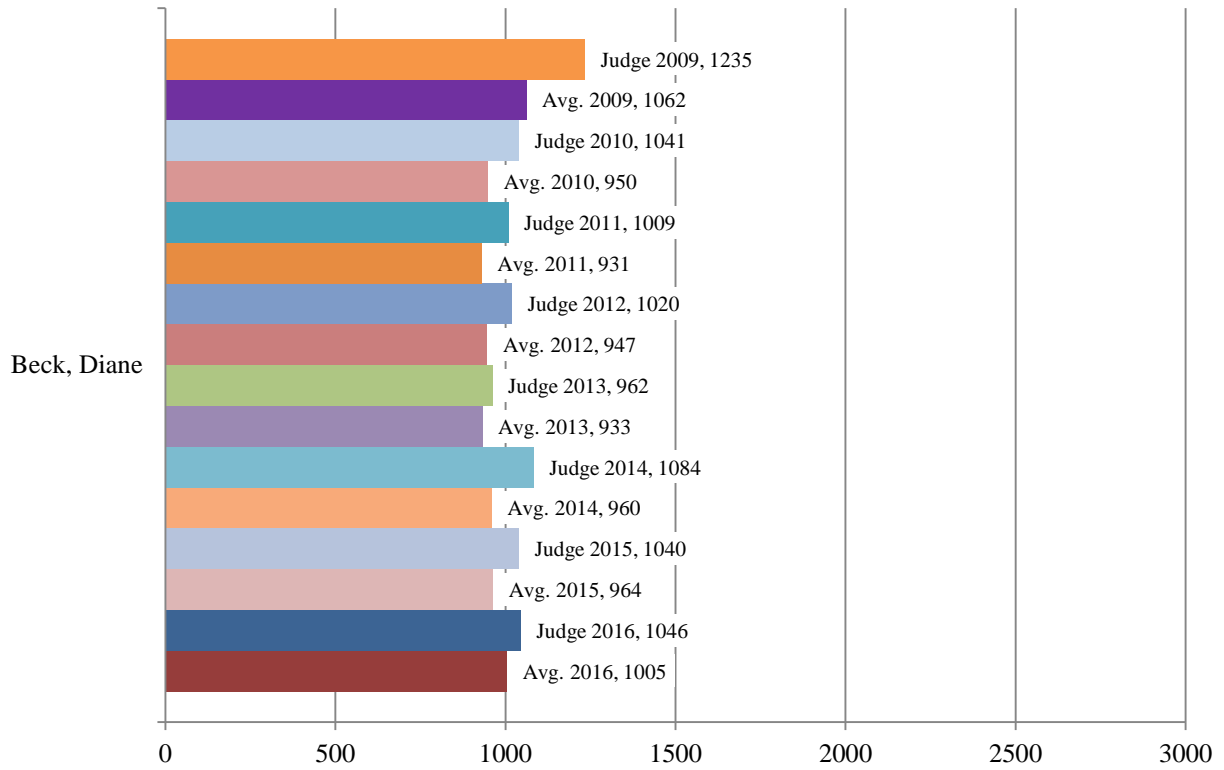
Trial volume has been above the statewide average in SAR since 2006-07. With the adoption of the new “trial order” definition in 2015-16,¹⁶⁶ the volume in Sarasota is slightly below average. The District is within the statutory time parameters for PFB to mediation, PFB/motion to trial and trial to order. This timeliness is notable in light of the significant volumes of filings. 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 2015. She lectured in 2015-16 as a panelist for the National Association of Workers’ Compensation Judiciary New Judge program: Dealing with the Difficult Litigant or Party. She also lectured on Judicial Perspectives at the 2015 Workers’ Compensation Educational Conference. With various retirements in the OJCC during 2016, Judge Beck handled a volume of trials in West Palm Beach and Port St. Lucie.

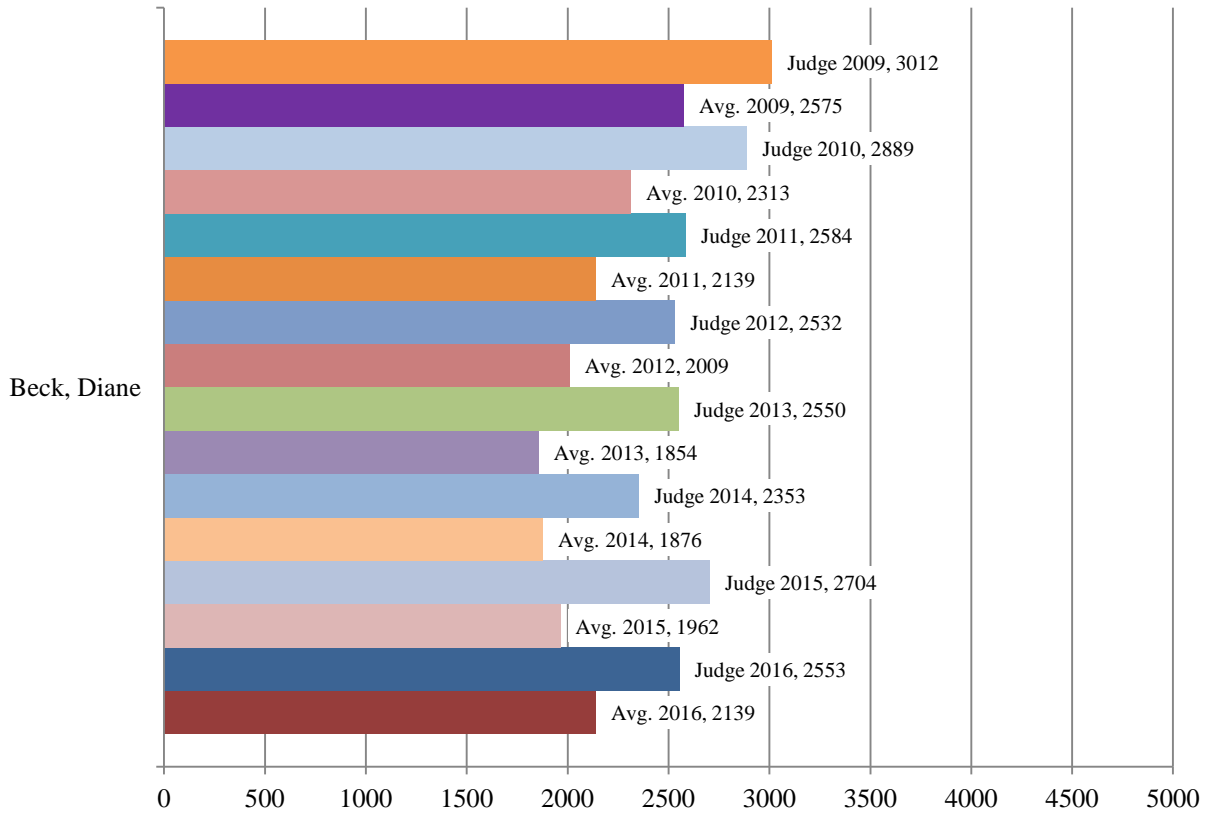
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



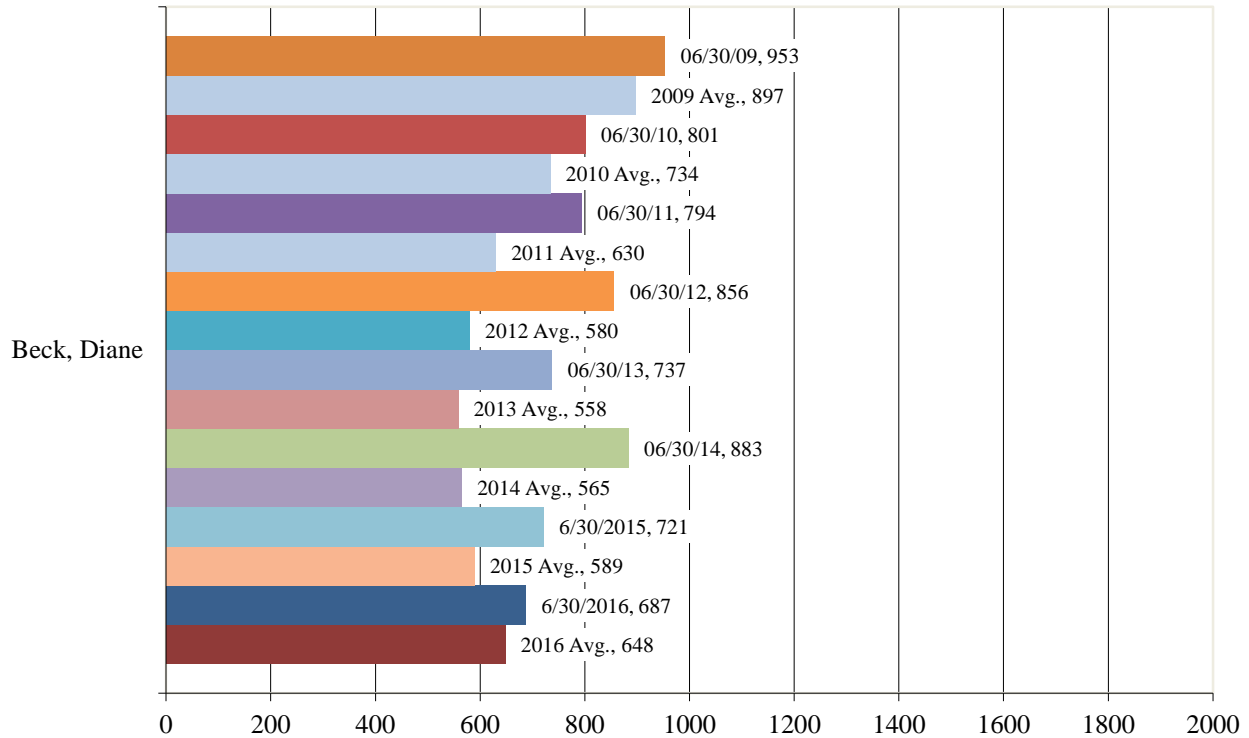
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



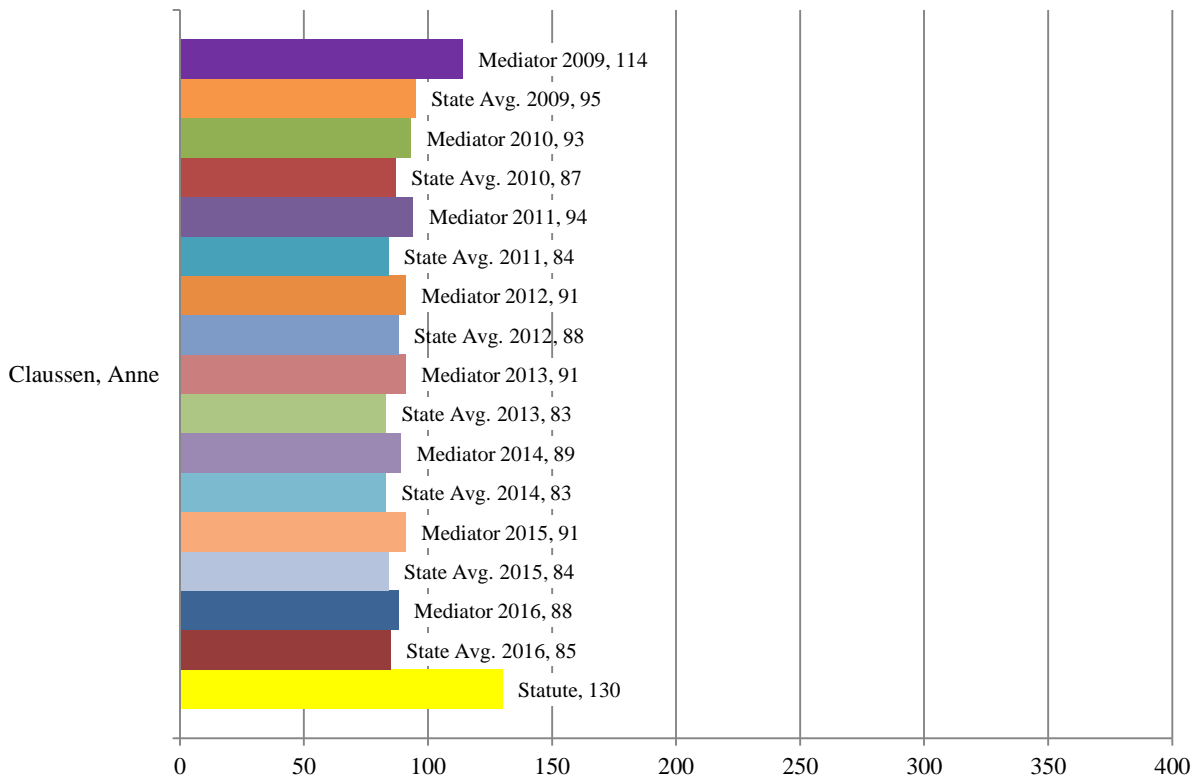
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



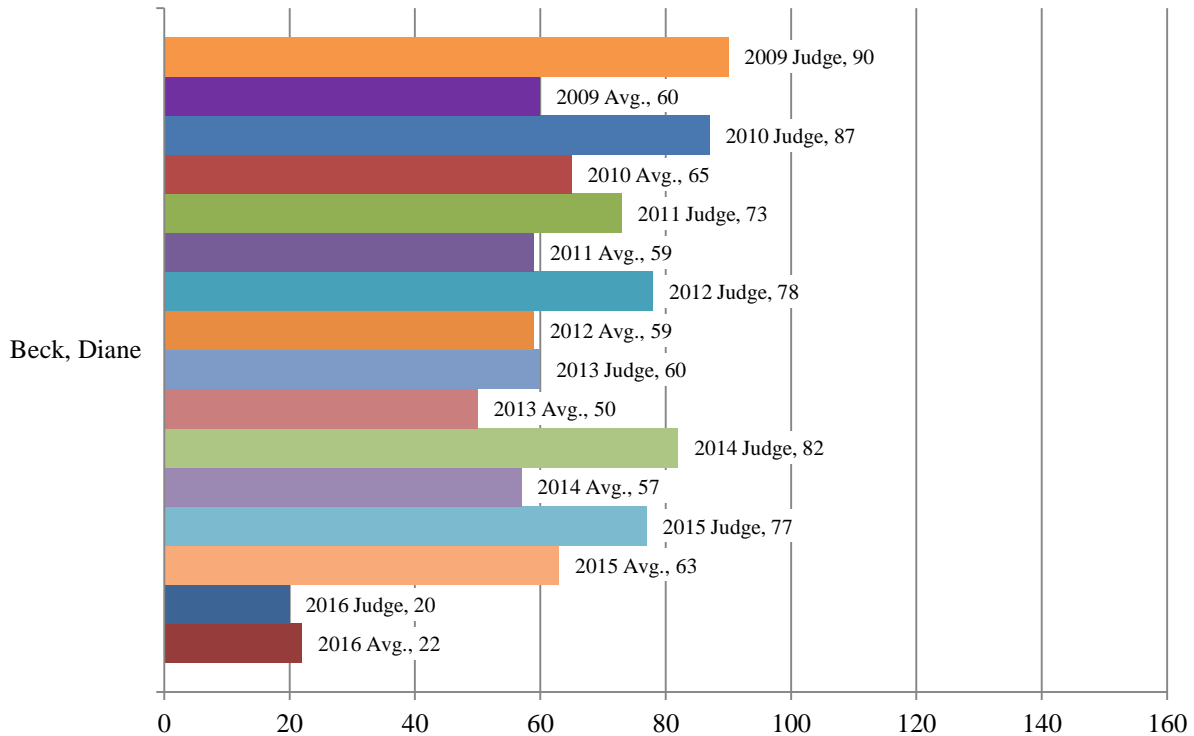
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



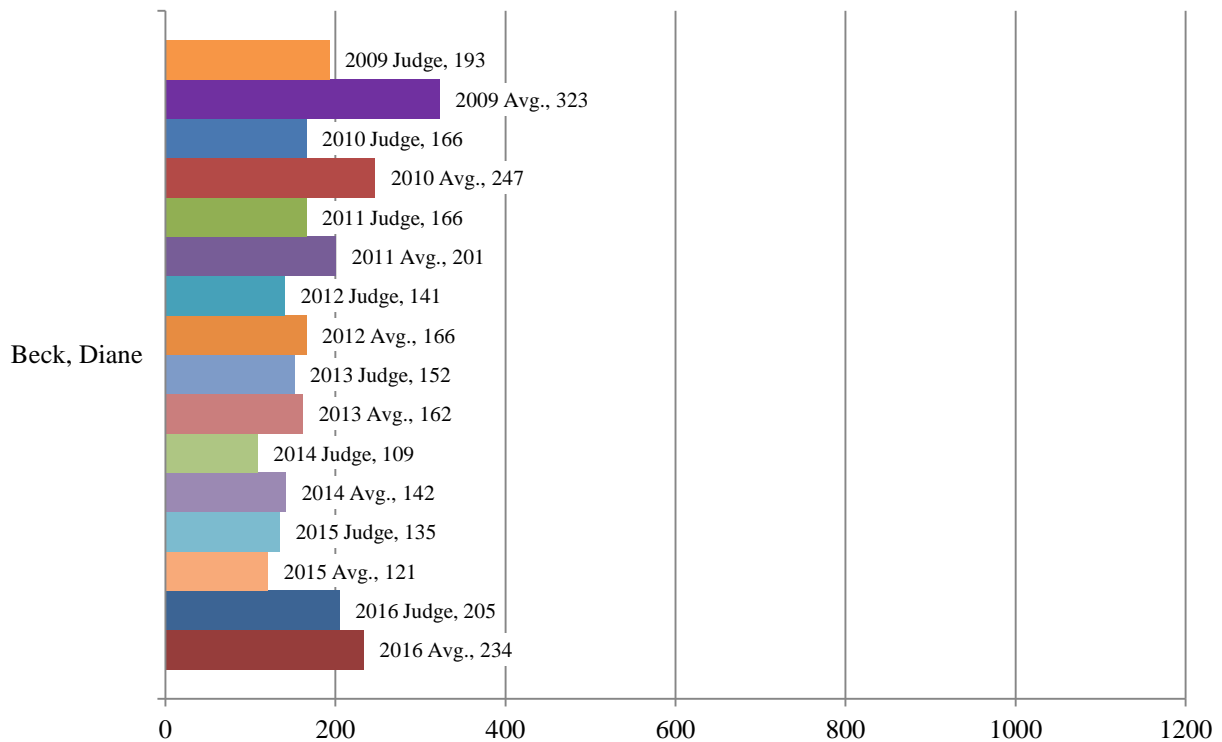
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



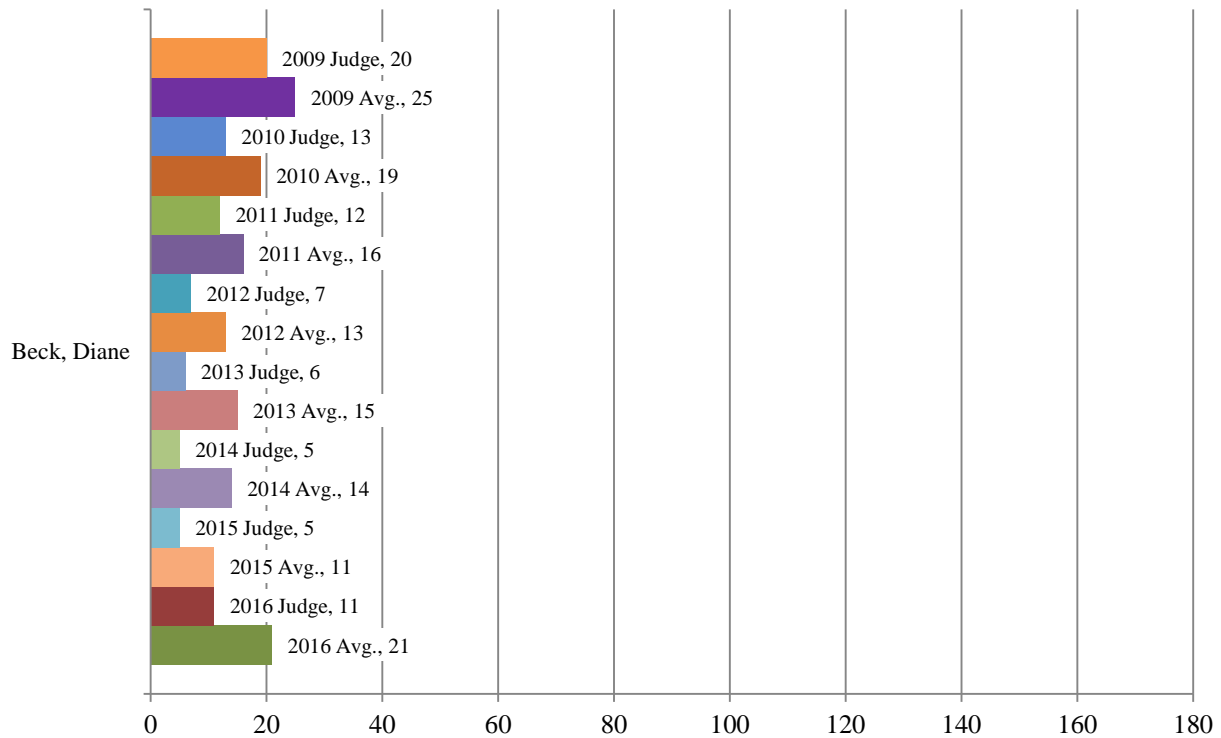
The following graph depicts the total volume of trial orders¹⁶⁷ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



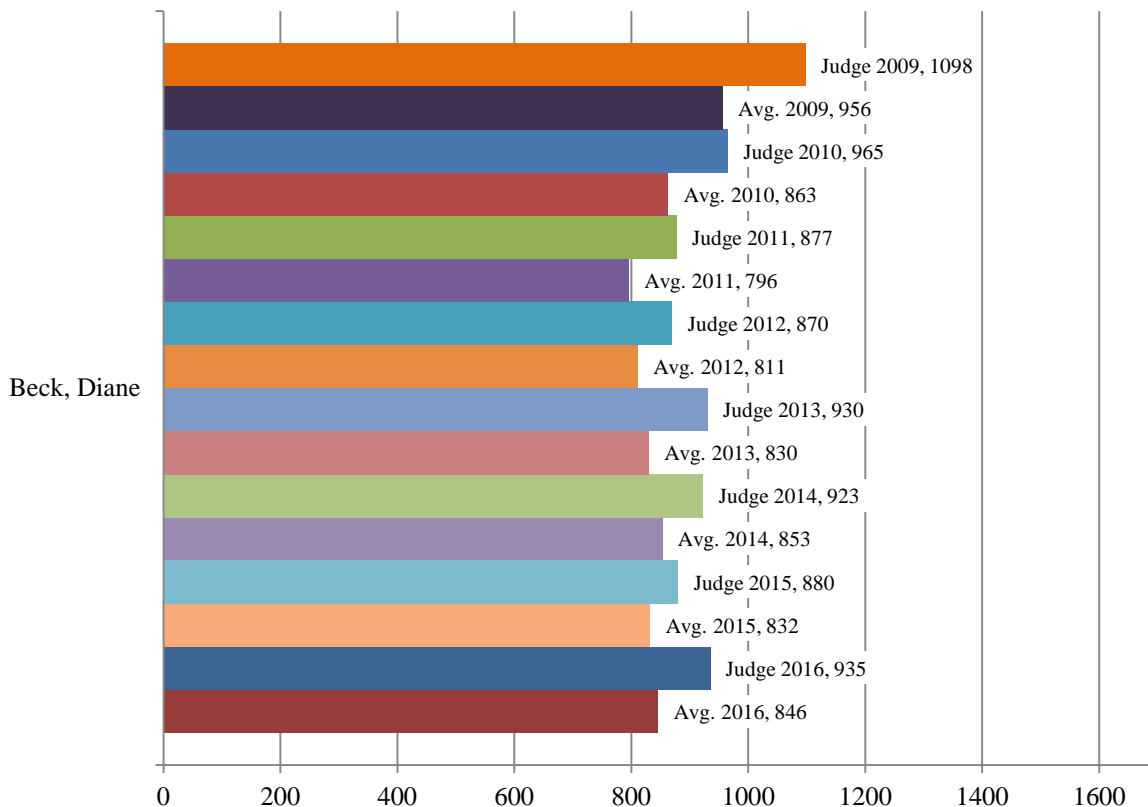
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



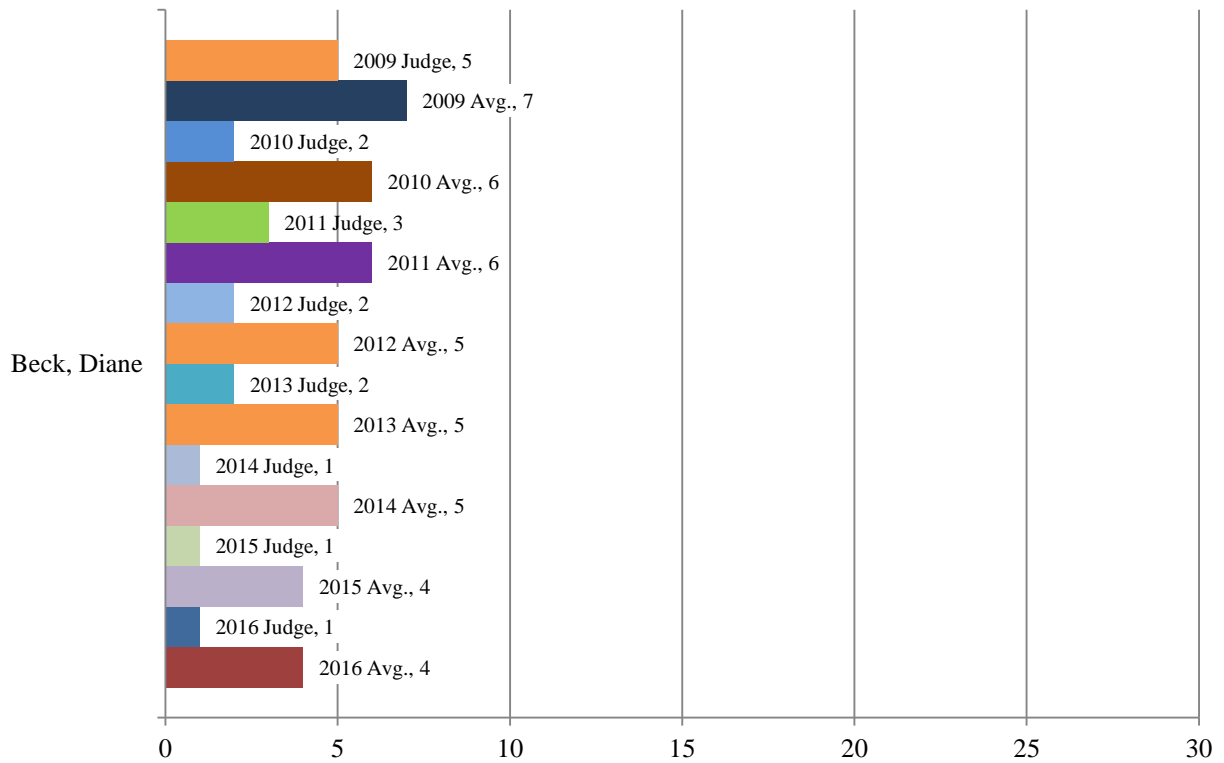
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



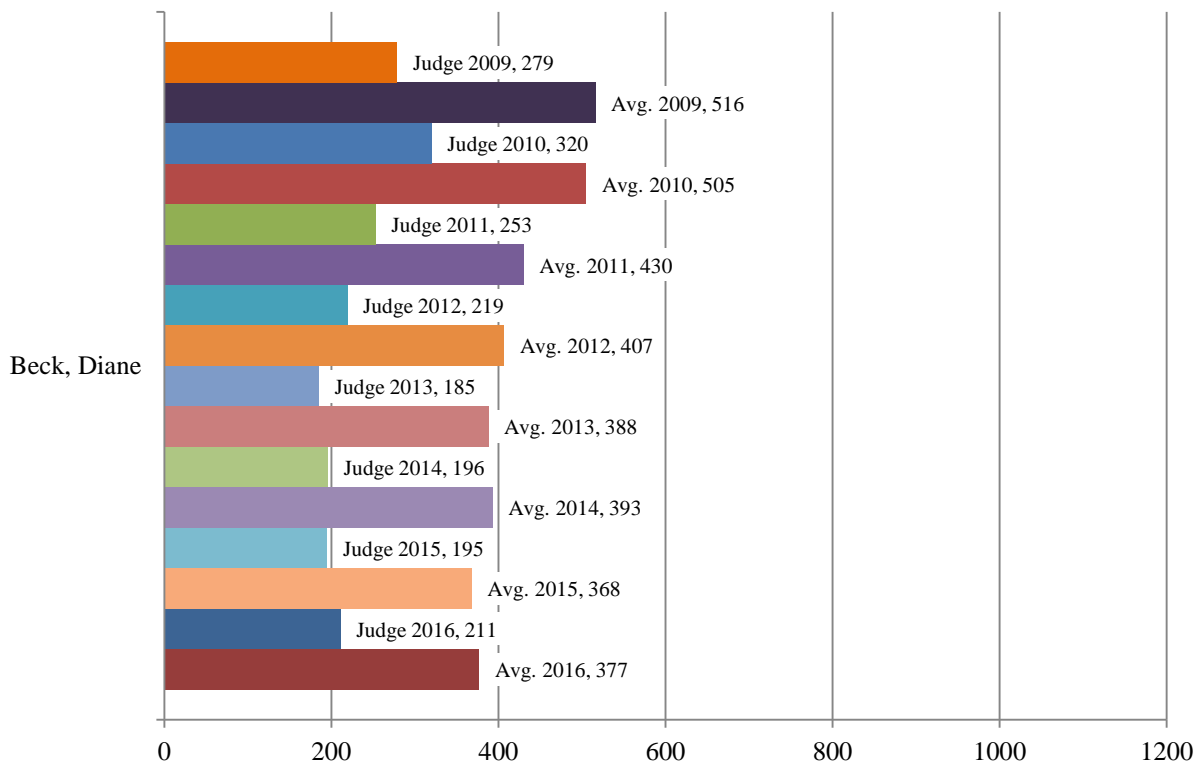
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



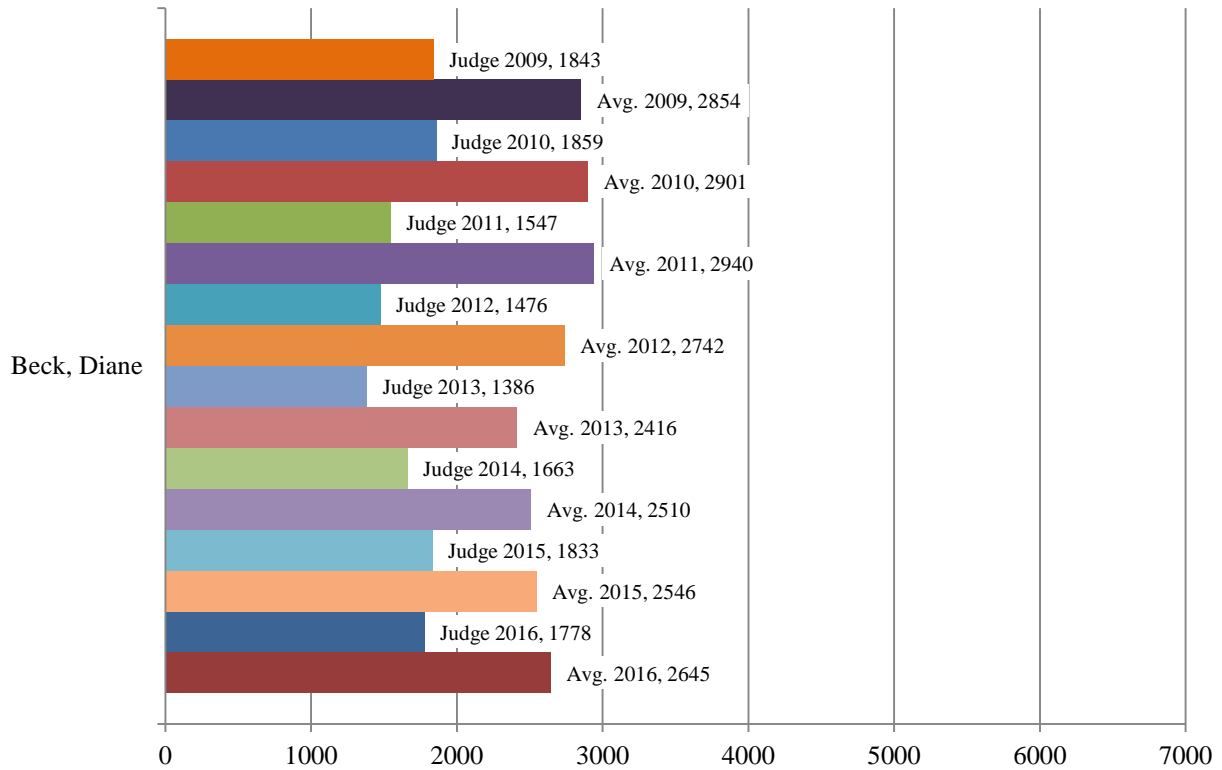
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



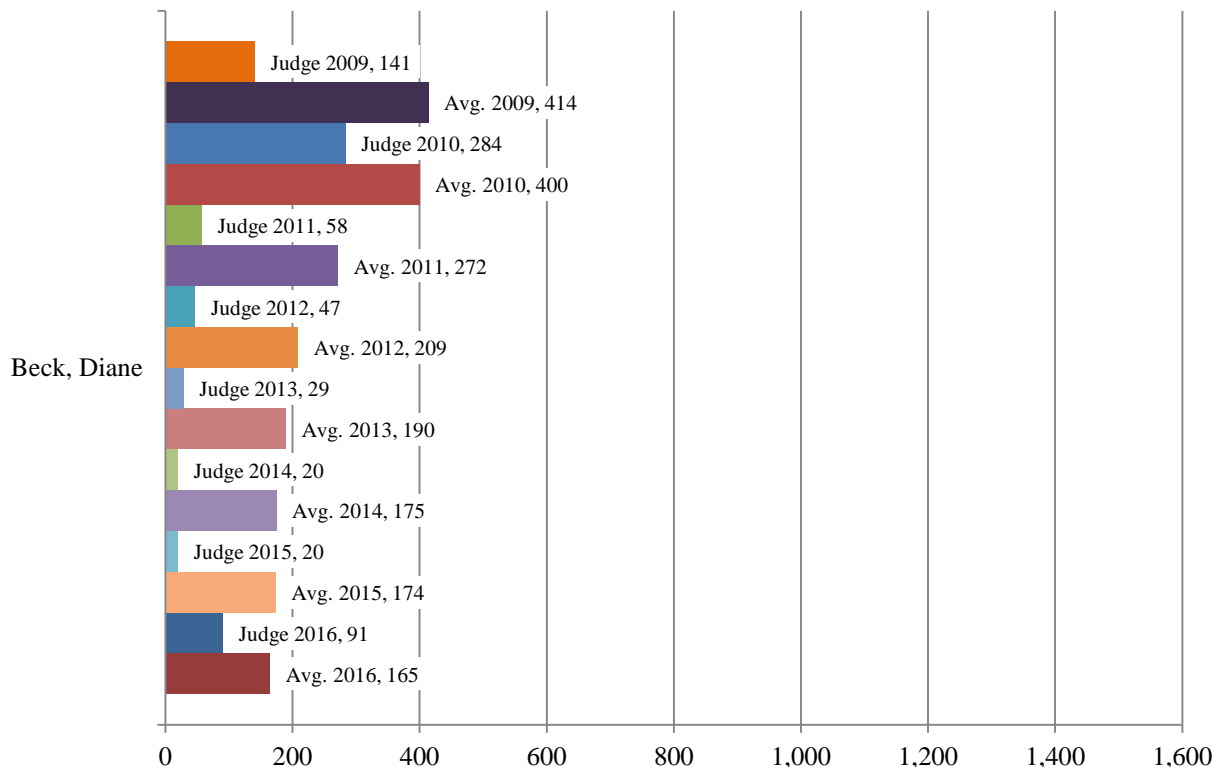
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



Appendix “14” District STP (JCC Rosen):

District STP includes Pasco and Pinellas counties.

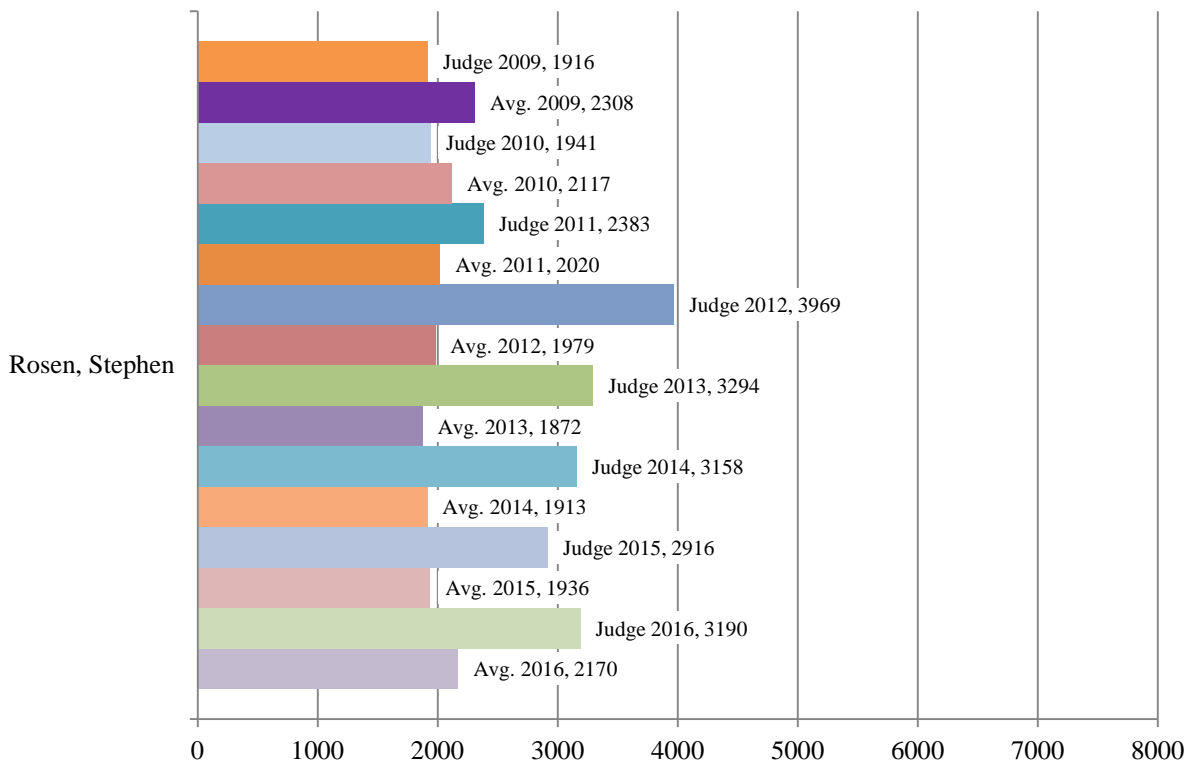
District STP underwent significant change in 2012, becoming a one-judge District for the first time since 1974. Mediator Rob Arthur began splitting his time between District STP and District Lakeland (LKL), late in fiscal 2012, and continued that role until transitioning to Lakeland full time in 2015-16. 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 dramatically above the statewide average in District STP. Each is 50% of more above the average. The “new case” volume increased in 2015-16, after several years of trending downward. The PFB closure rate is likewise above the statewide average in District STP, and close to the filing rate. District STP is in equilibrium in this regard.

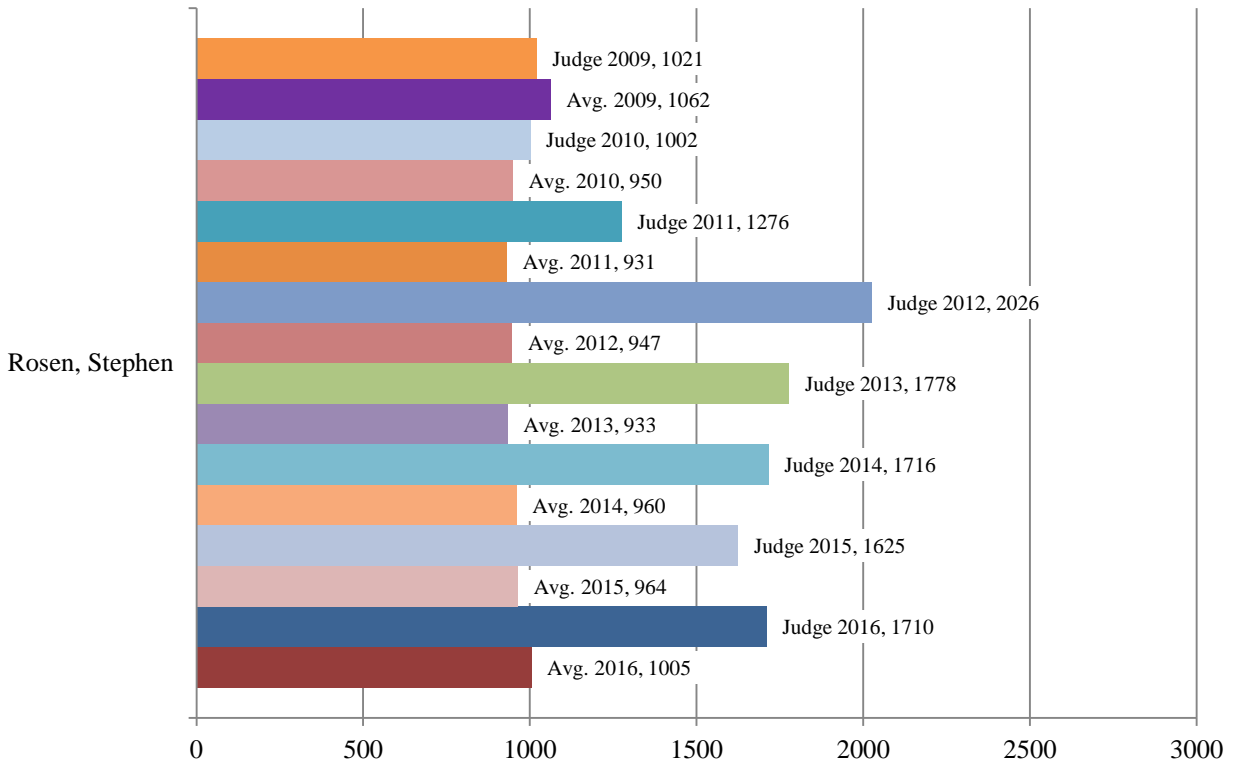
Despite the extraordinary volumes there, the docket evidences sound management. Mediation and time to order are both within the statutory parameters. The time to trial is only slightly above the 210 day statutory parameter. The volume of settlement is much higher than the statewide average. This is likely due in part to the volume of filings in District STP. In addition, Judge Rosen has handled all of the motion, settlement, and stipulation filings for one of the WPB districts following the retirement of two WPB judges in late fiscal 2015-16. 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 remains among the highest in the state, following the adoption of a new definition of “trial order” in 2015-16.¹⁶⁸

For fiscal year 2015-16, in addition to his full-time duties as the single JCC in St. Petersburg district, Judge Rosen served for several months in Fort Myers district and several months in West Palm Beach district filling in for judicial vacancies in those districts through video teleconferencing proceedings. He also handled final hearings when calendar conflicts arose with other JCCs around the state. Judge Rosen also participated as a speaker in seminars for the Florida Bar Worker’s Compensation Section, 2nd Fridays Seminars for Judges of Compensation Claims, and served as moderator for the Judicial Perspectives seminar at the Annual Worker’s Compensation Educational Conference. Additionally, Judge Rosen proctored the Florida Bar examination in July 2015.

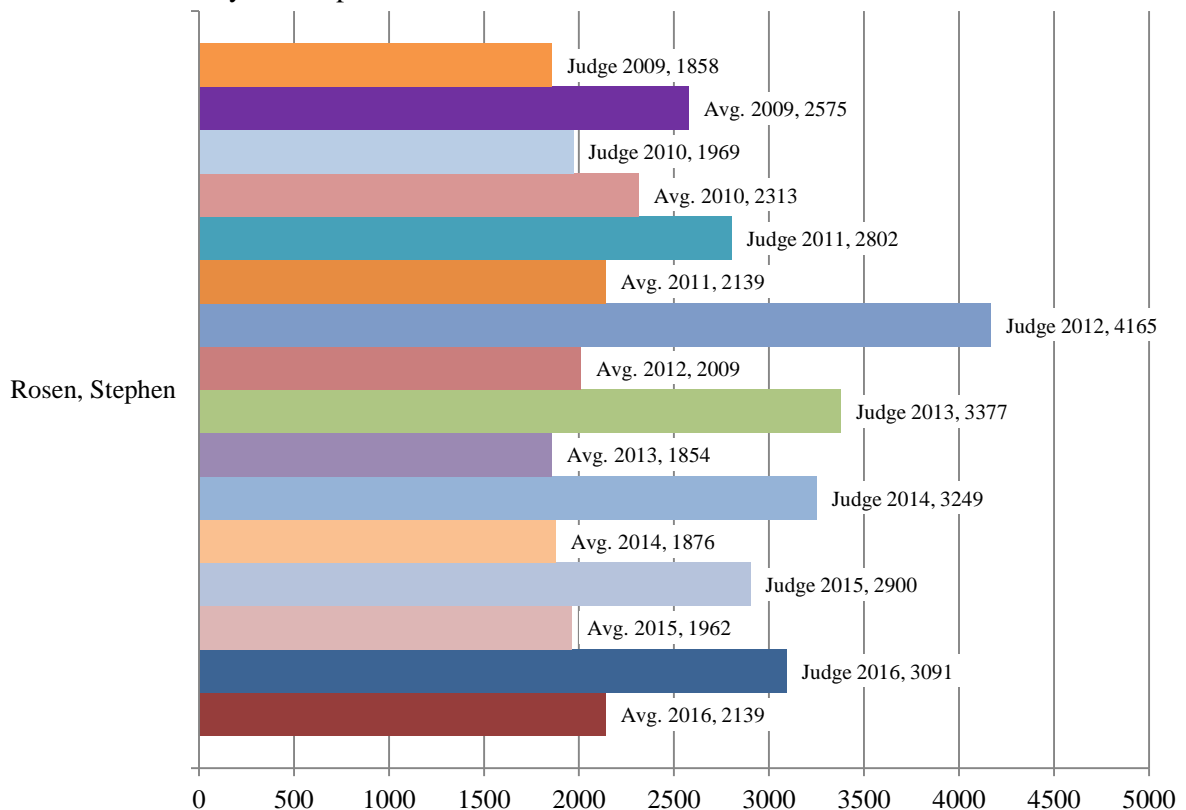
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



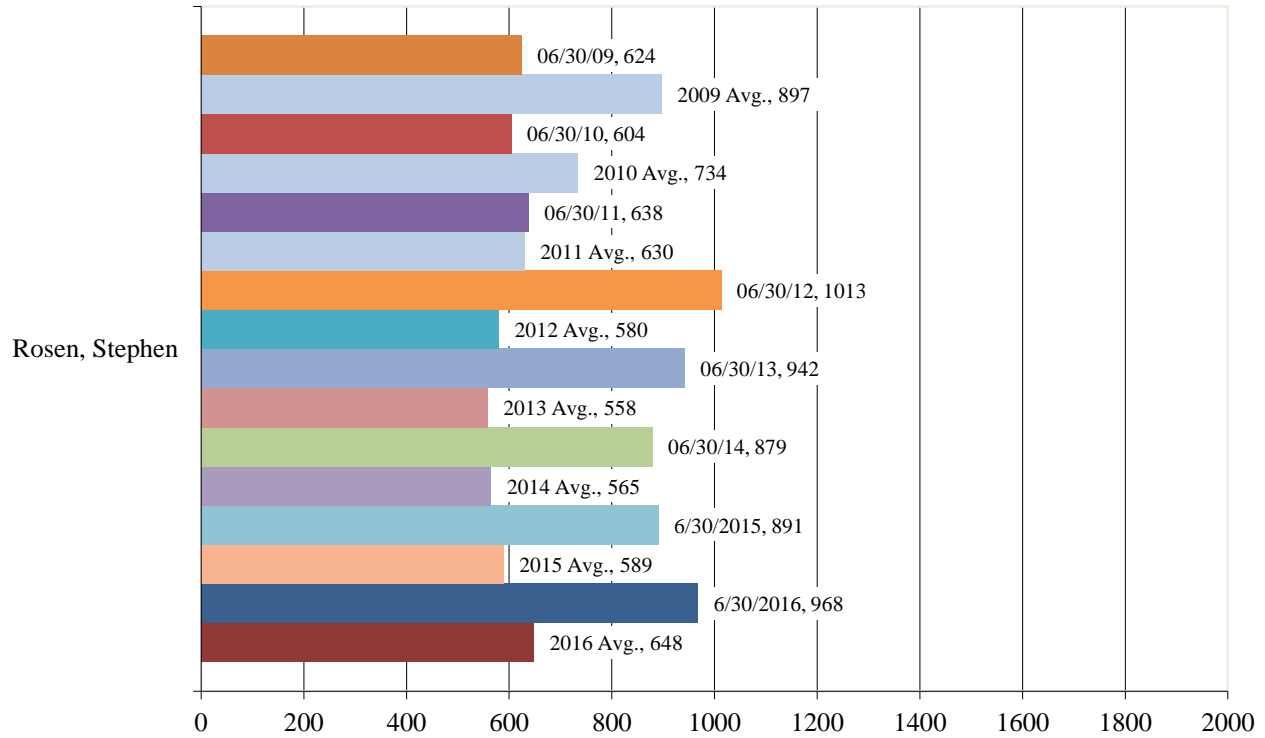
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



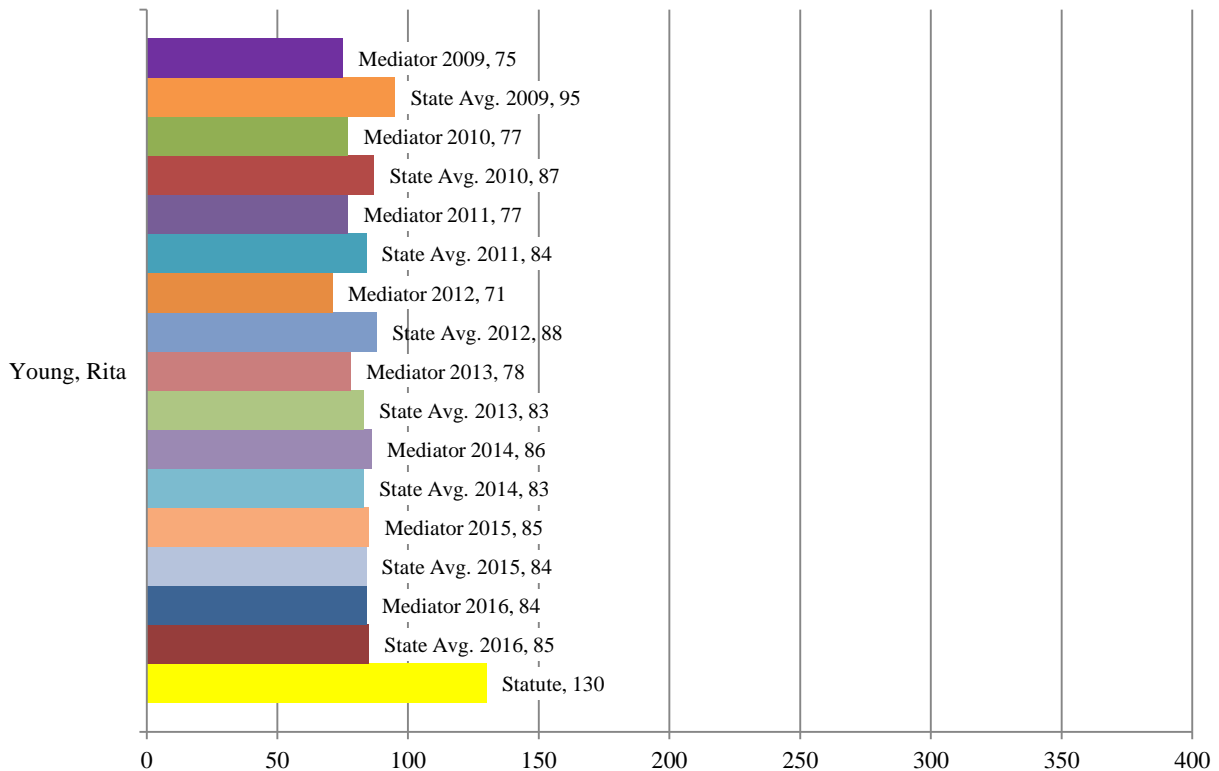
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



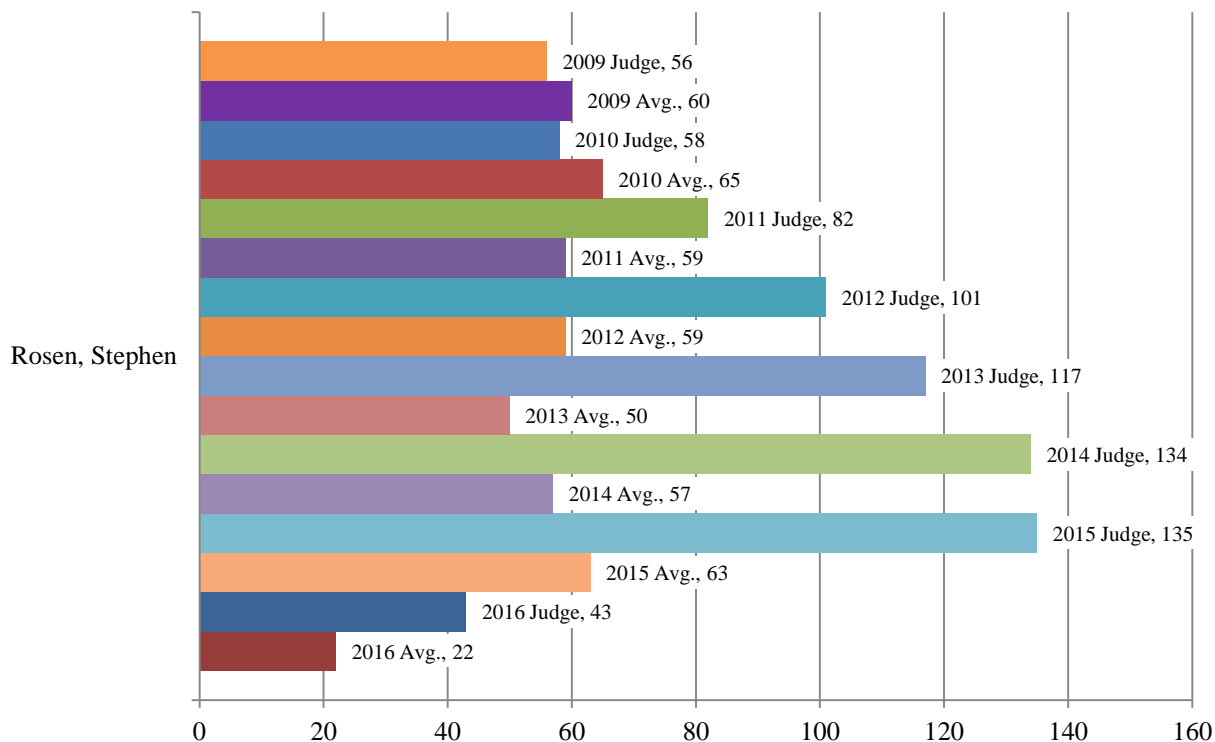
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



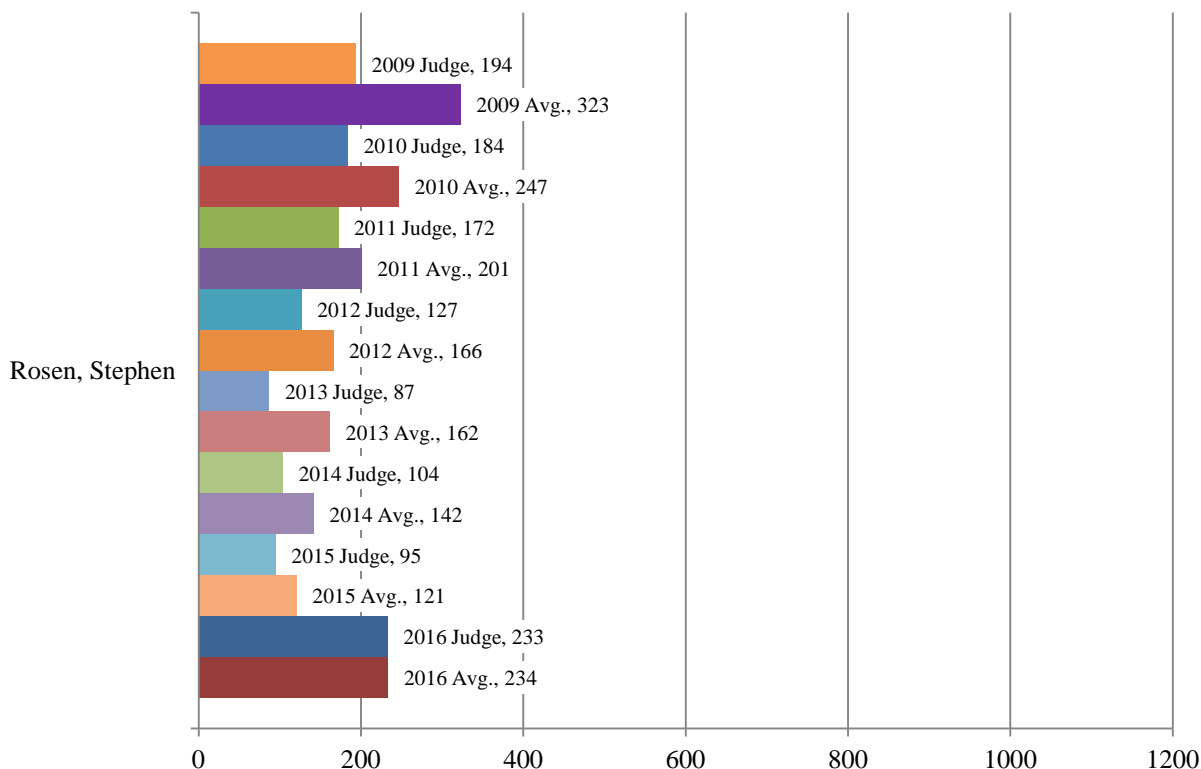
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



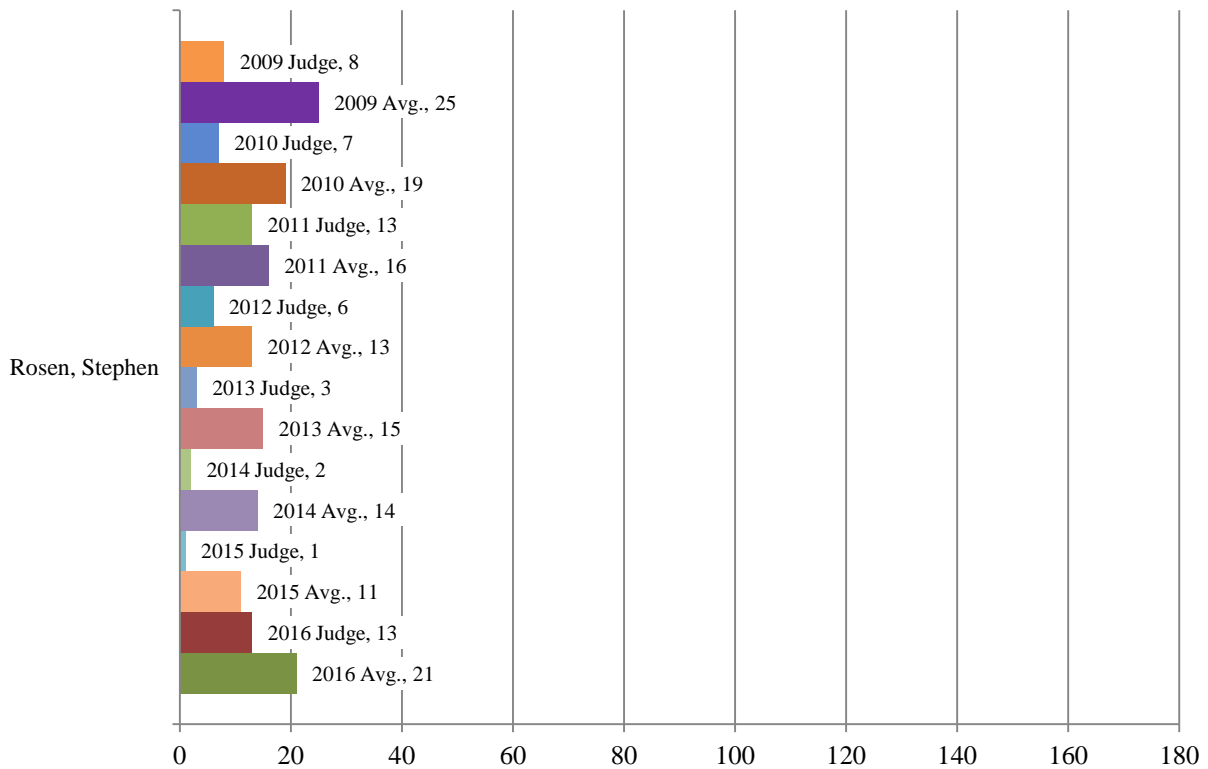
The following graph depicts the total volume of trial orders¹⁶⁹ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



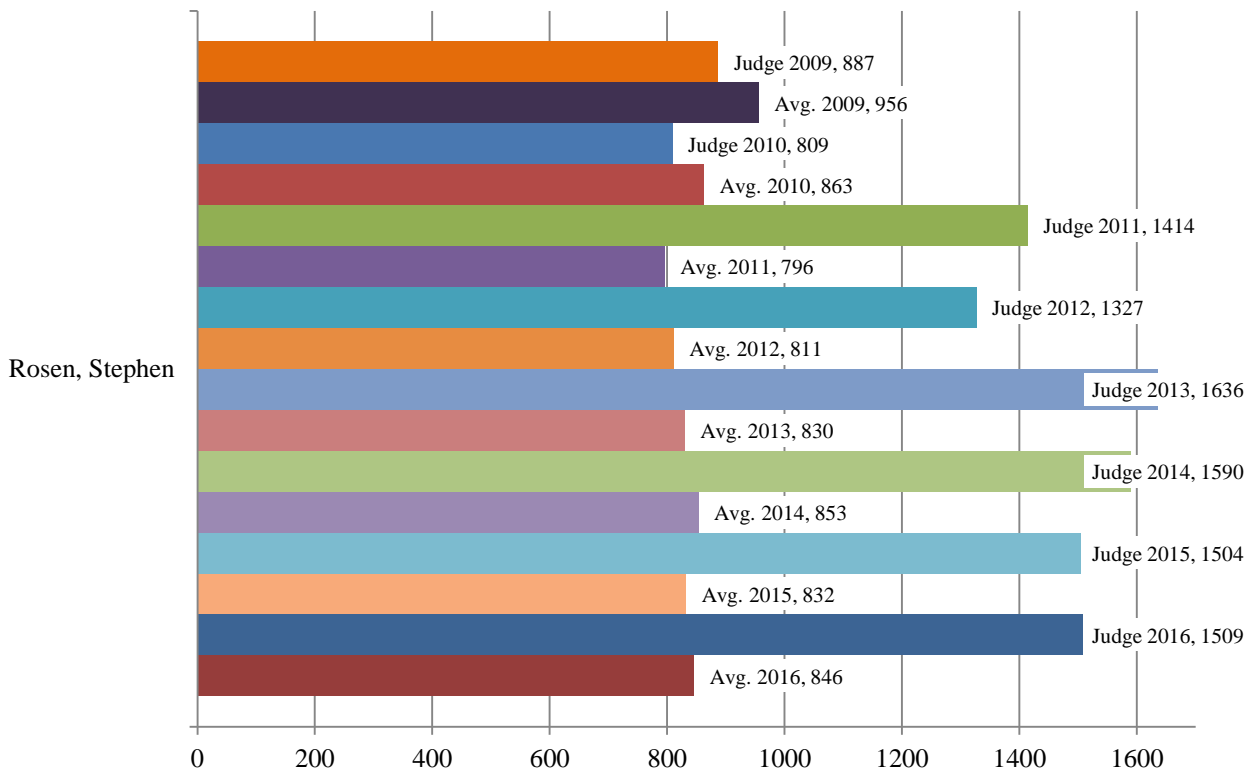
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



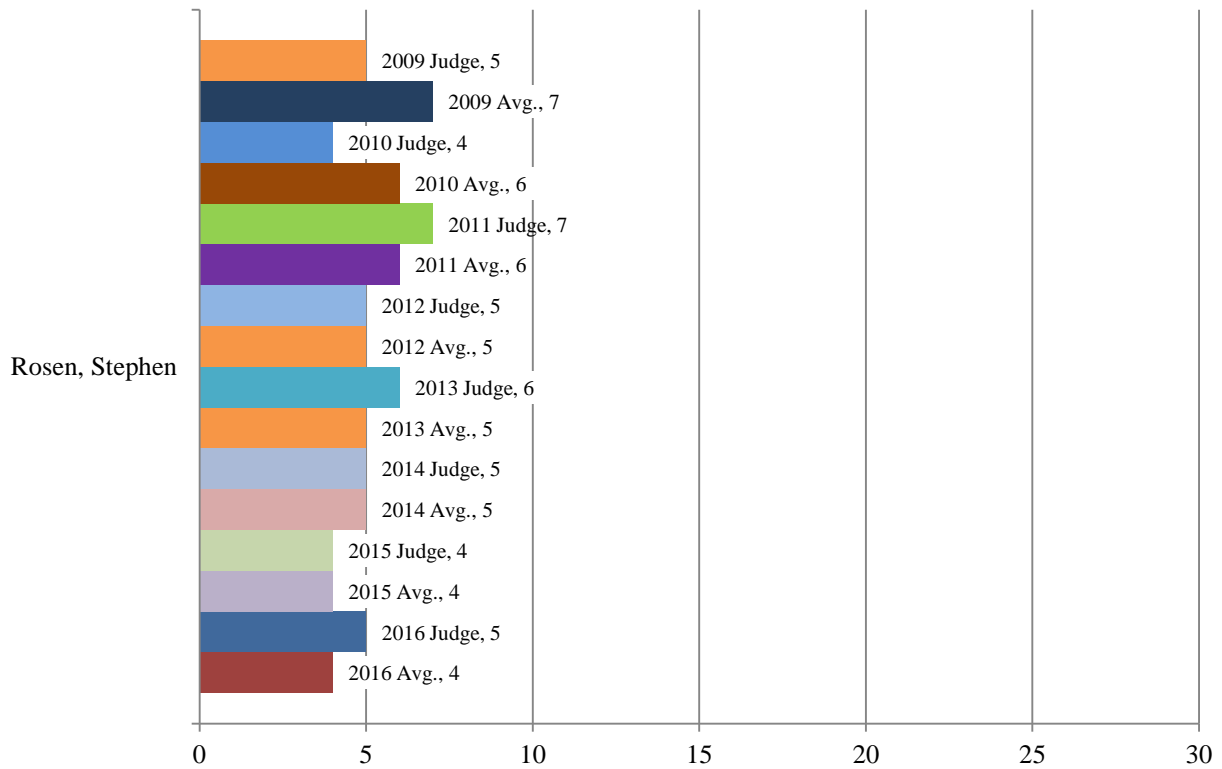
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



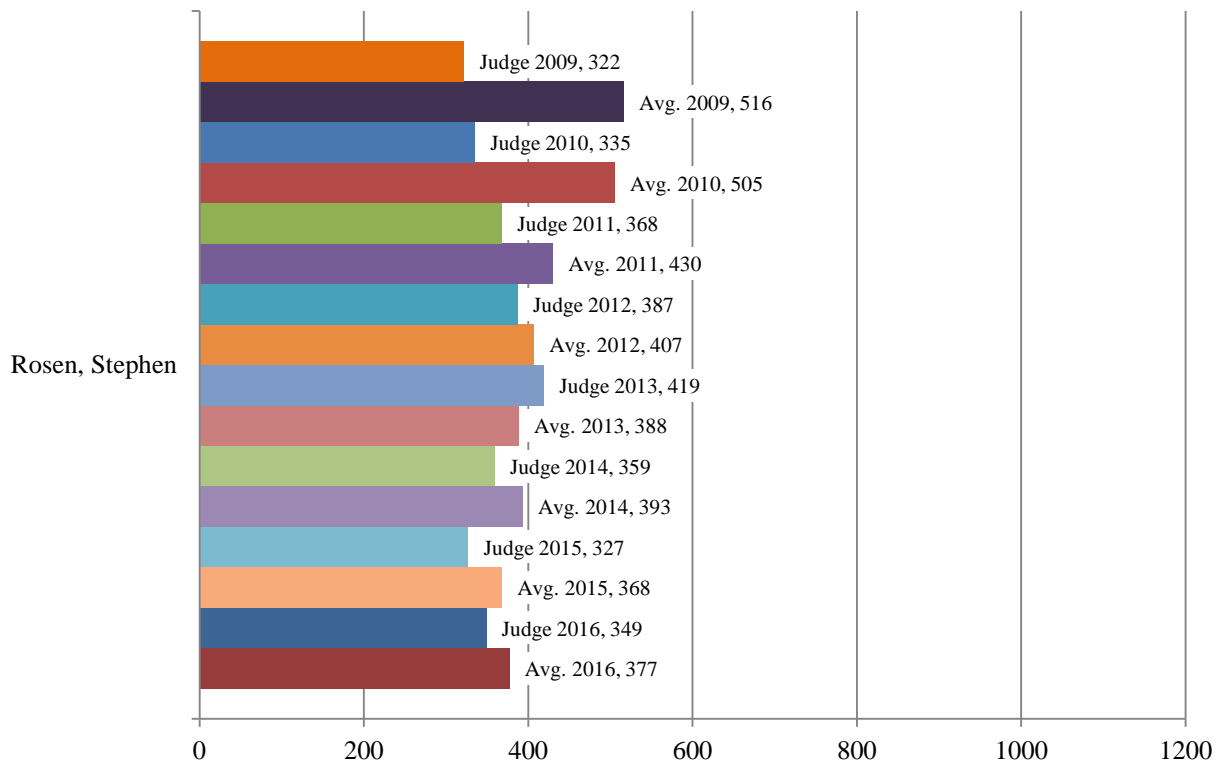
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



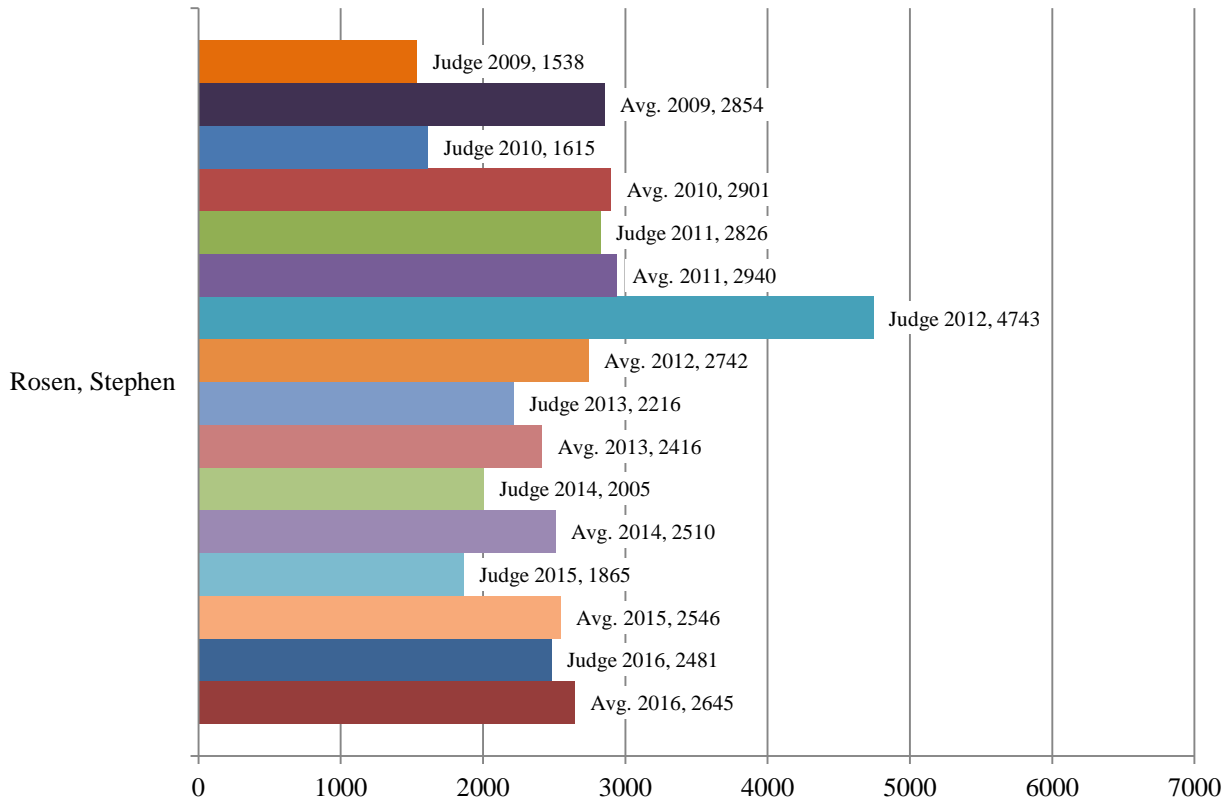
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



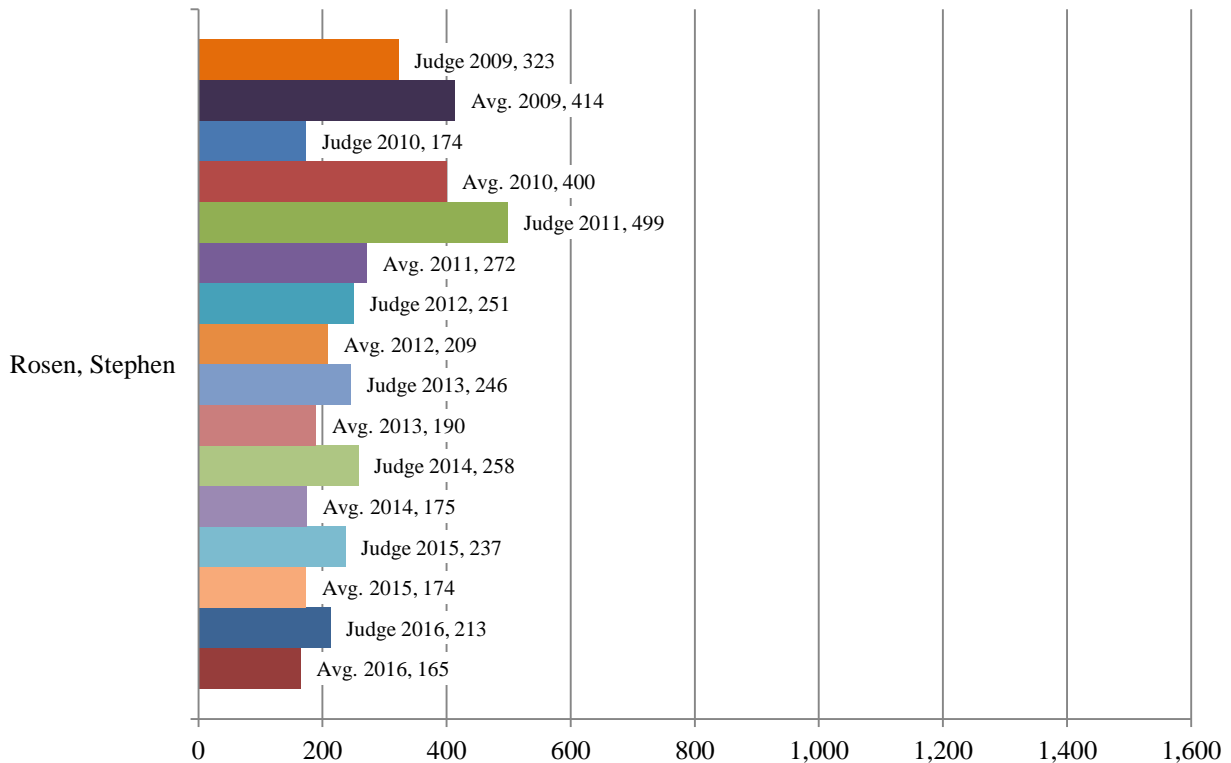
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



Appendix “15” District TLH (JCC Lazzara):

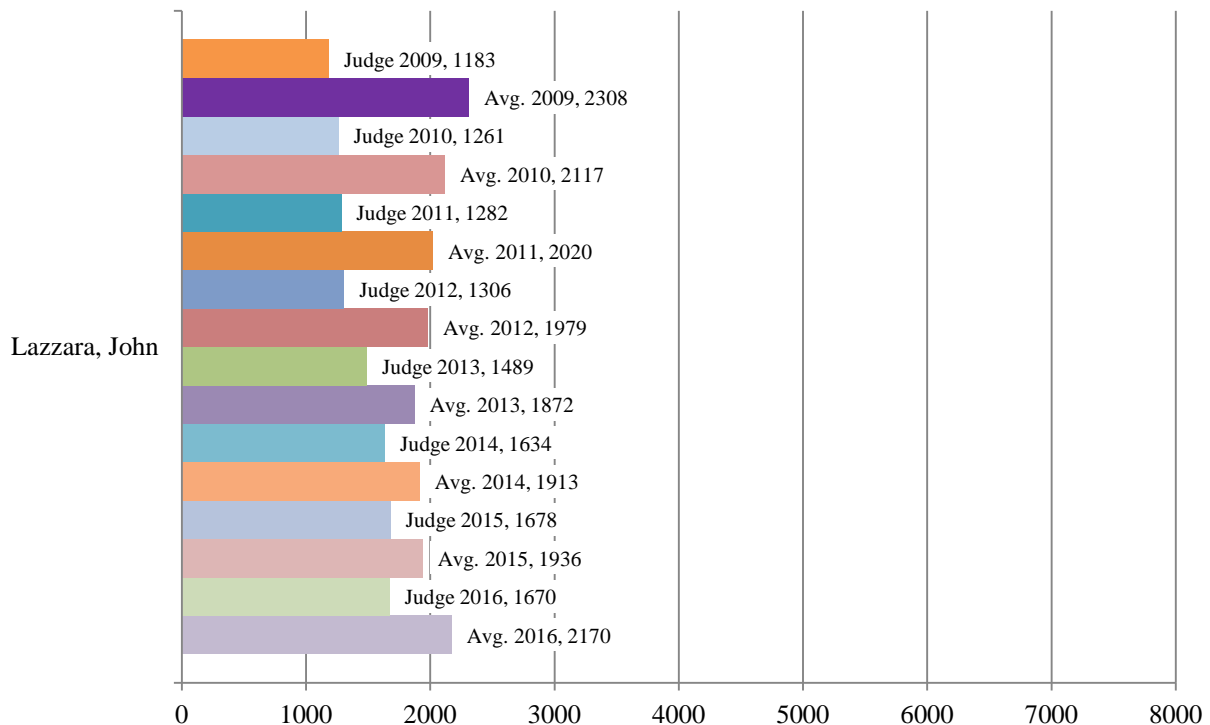
District TLH is one of the largest geographic Districts, and includes Franklin, Gadsden, Hamilton, Jefferson, Lafayette, Leon, Madison, Suwannee, Taylor and Wakulla counties.

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.

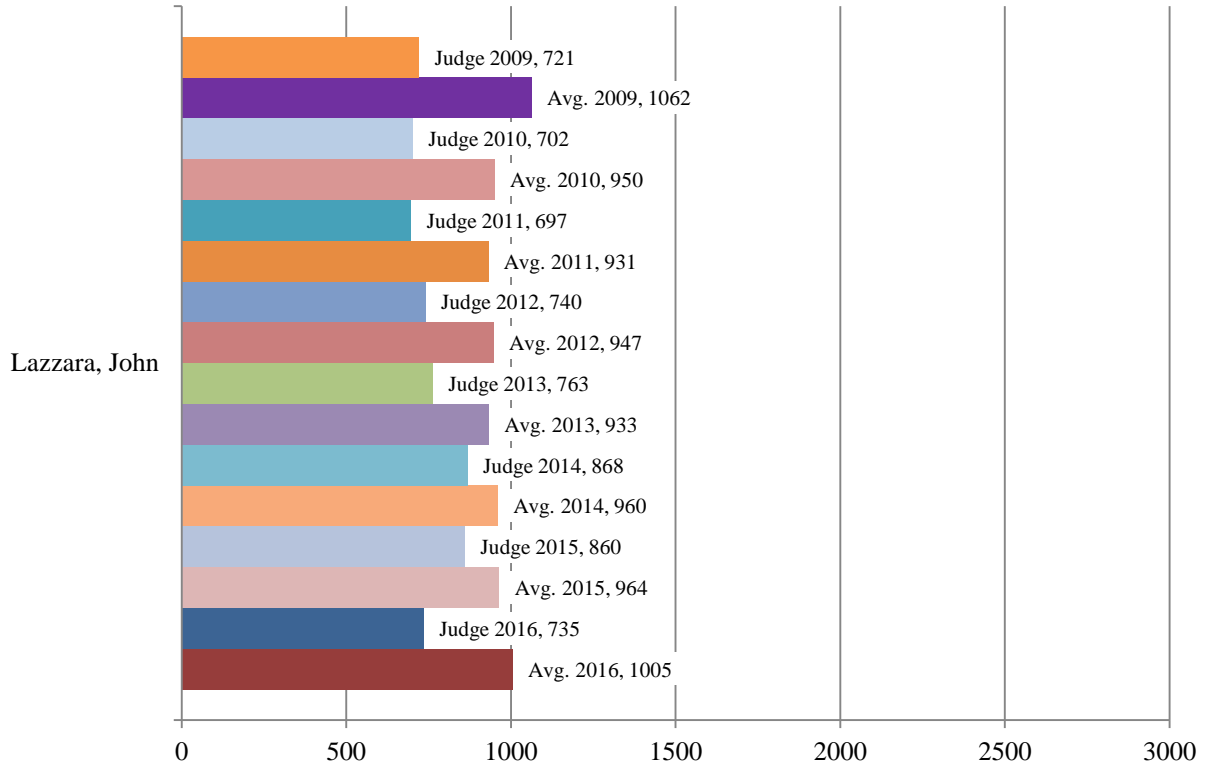
The volume of PFB and “new case” filings in TLH remain below the statewide average in 2015-16, though each increased somewhat between 2012-13 and 2014-15. In 2015-16, the growth in PFB filing flattened, and the “new case” volume actually decreased. Judge Lazzara’s docket management is apparent from the fact that petition filing and closure volumes are very similar and District Tallahassee is in equilibrium in this regard. The volume of trials in Tallahassee is close to the statewide average and the time to trial is within the statutory parameter of 210 days. The time to order is slightly higher than the 30 day statutory parameter.

Judge Lazzara served as a Board member of the National Association of Workers’ Compensation Judiciary (NAWCJ), and is a Past-President. In 2015-16, 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 2015-16, he presented Workers’ Compensation Mediation, at the International Association of Industrial Accident Boards and Commissions Convention in Chicago, Illinois. Judge Lazzara also chaired the 2015-16 OJCC/WCI Workers’ Compensation Seminar at Florida’s First District Court of Appeal. He also chaired the 2015-17, College of Workers’ Compensation Lawyers, Inaugural Symposium Committee, and served on the ABA LEL Workers’ Compensation Conference & Seminar, Program Planning Committee. At the Senior Lawyers Committee Seminar, of The Florida Bar, he presented *Taking the High Road: Professionalism Through the Eyes of the Judiciary, A Roadmap for Improved Interactions Between Bench and Bar*. Judge Lazzara also was inducted through an honorary tapping by the Florida Blue Key, University of Florida.

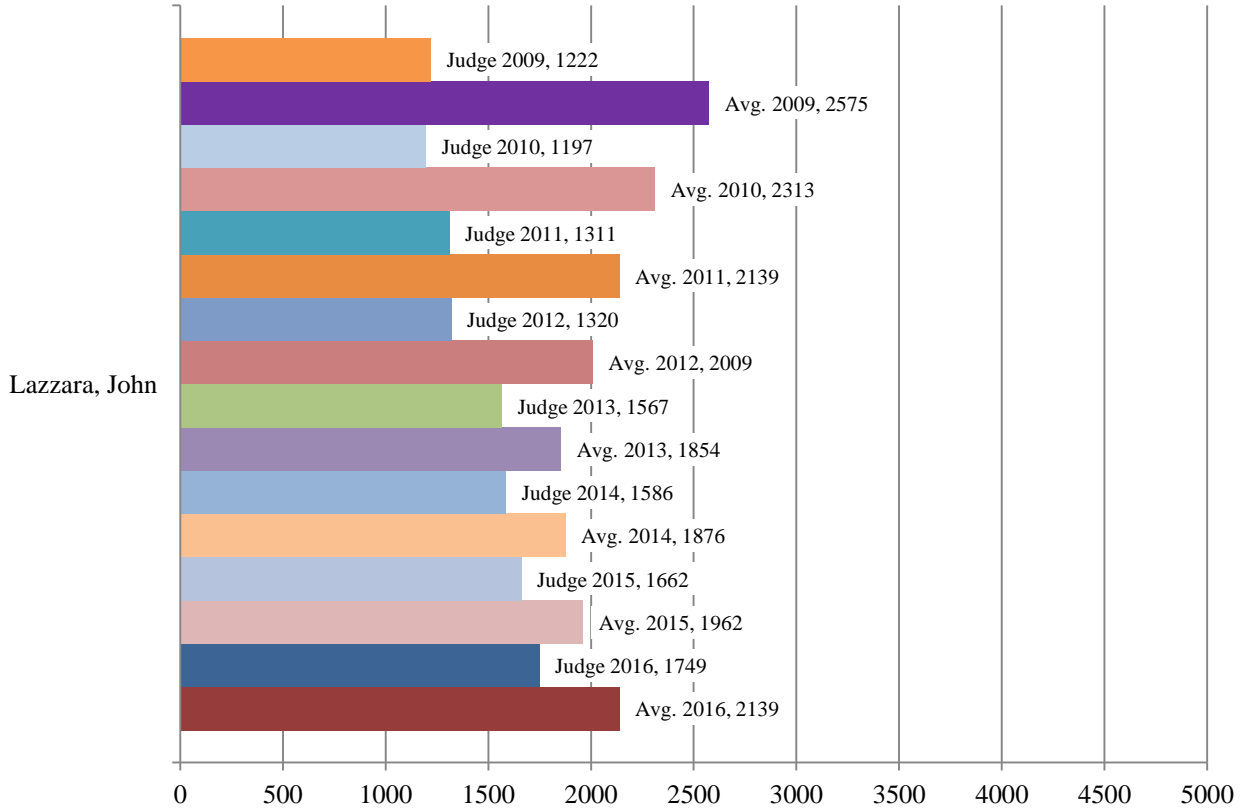
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



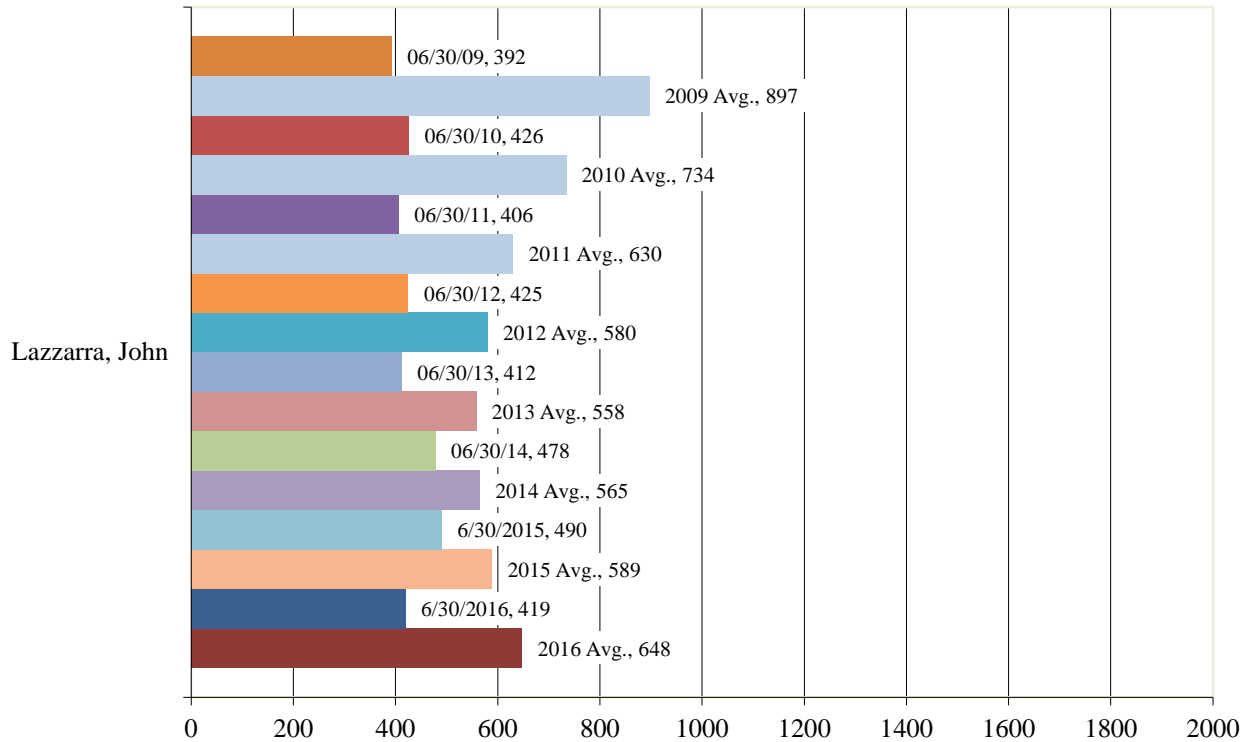
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



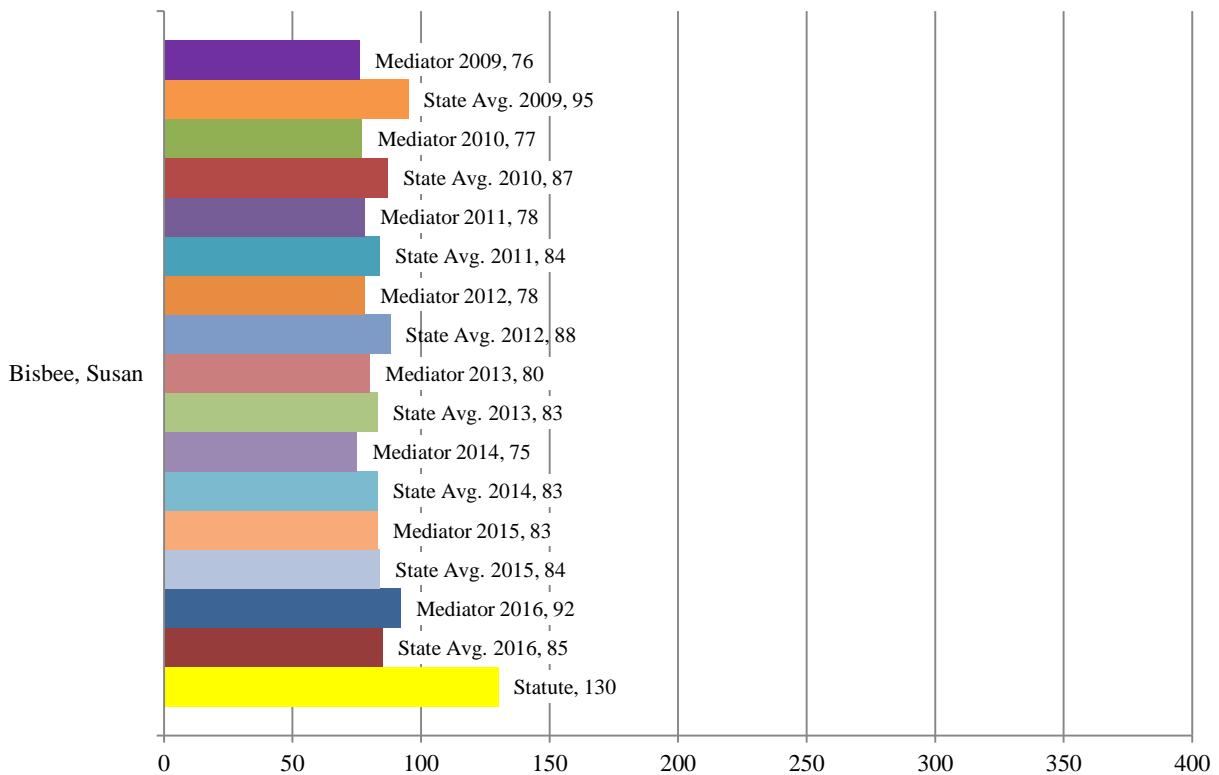
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



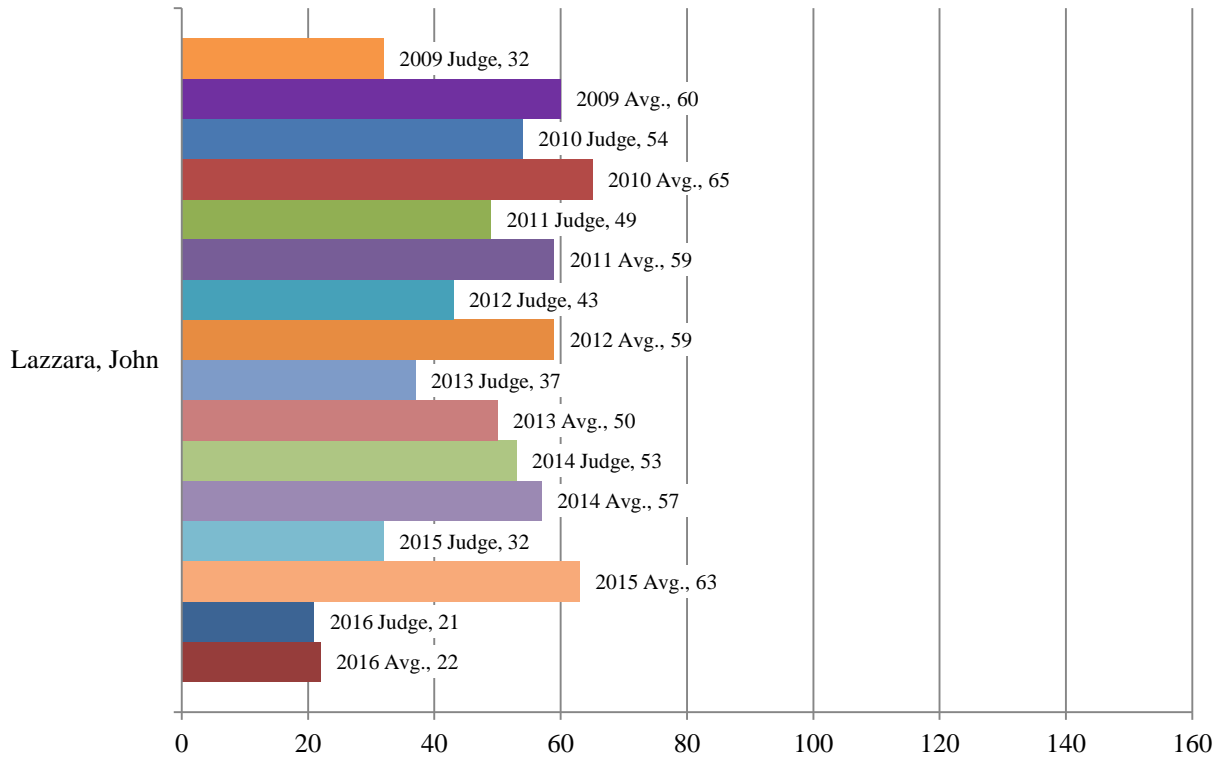
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



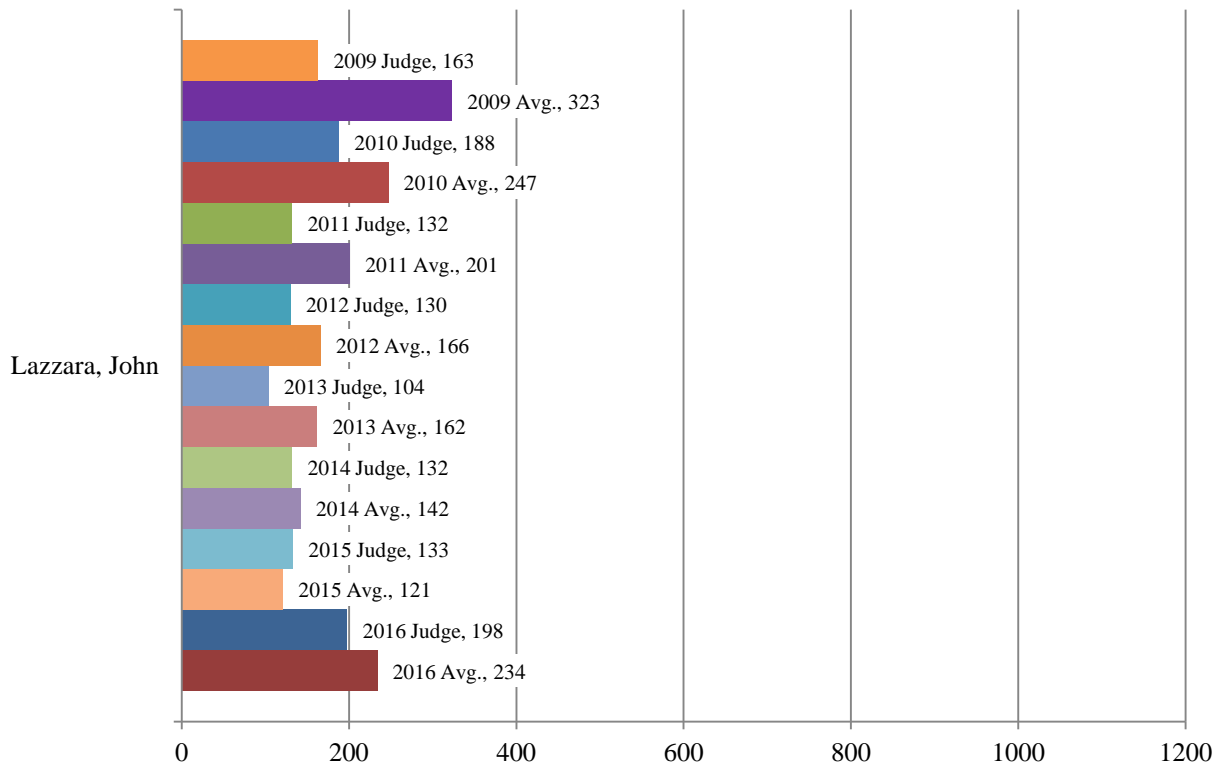
The following depicts the average days between PFB filing, and the first mediation held thereon, for the mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



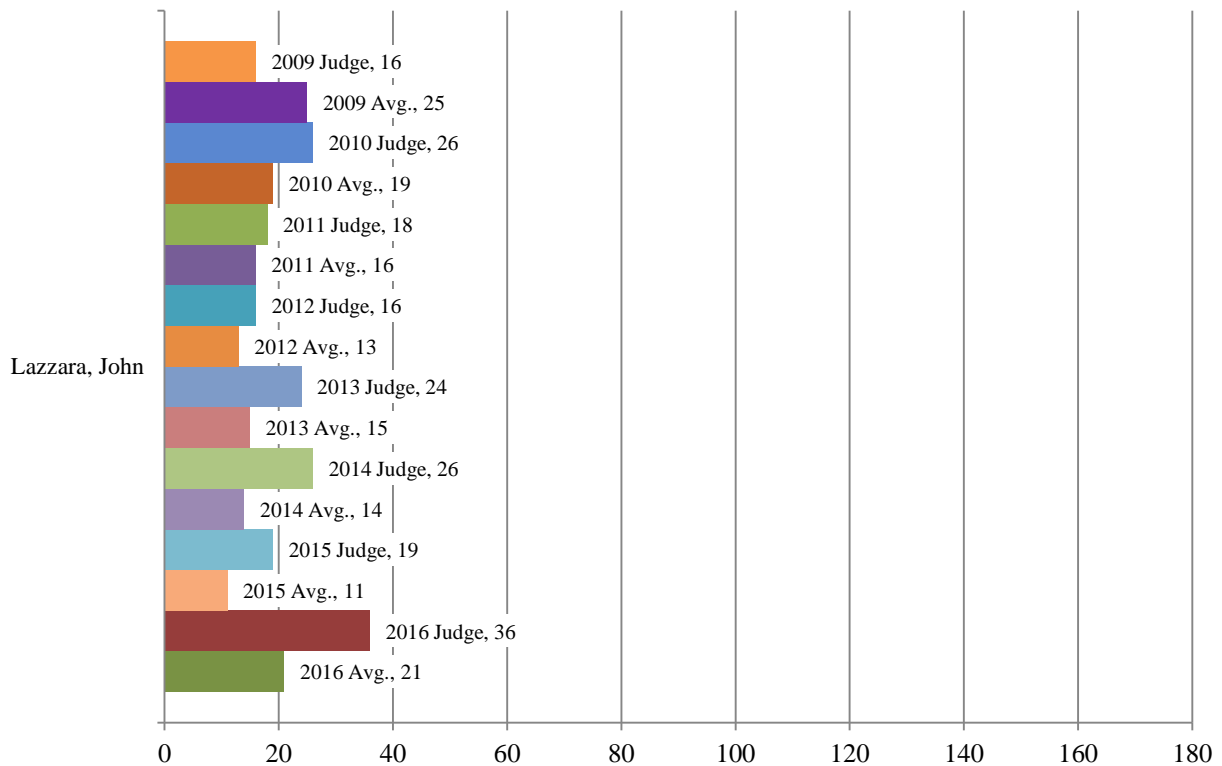
The following graph depicts the total volume of trial orders¹⁷⁰ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



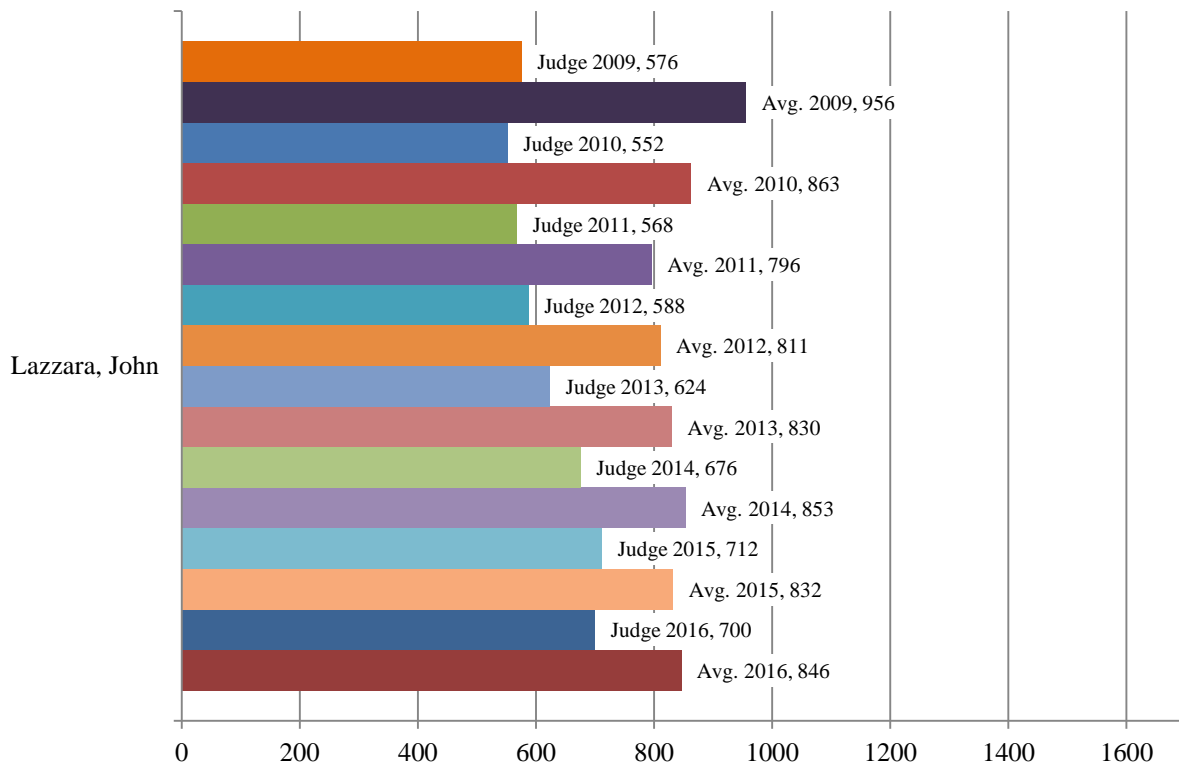
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



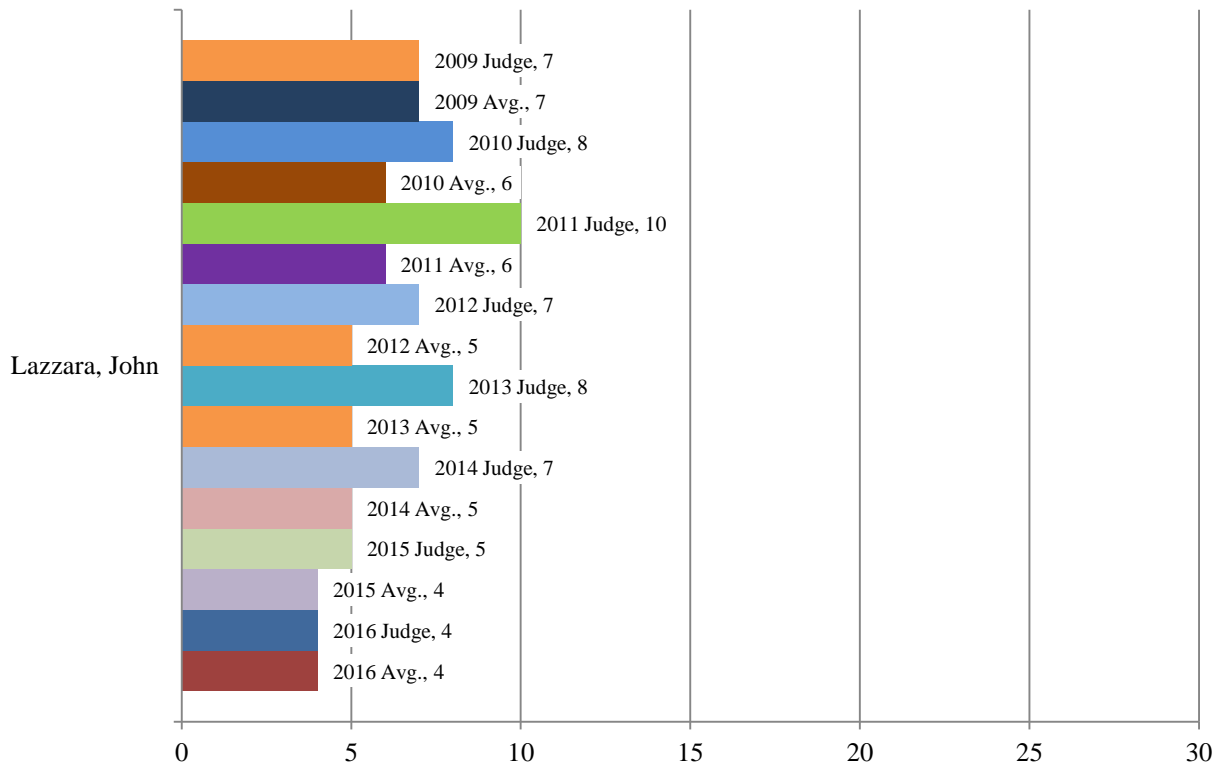
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



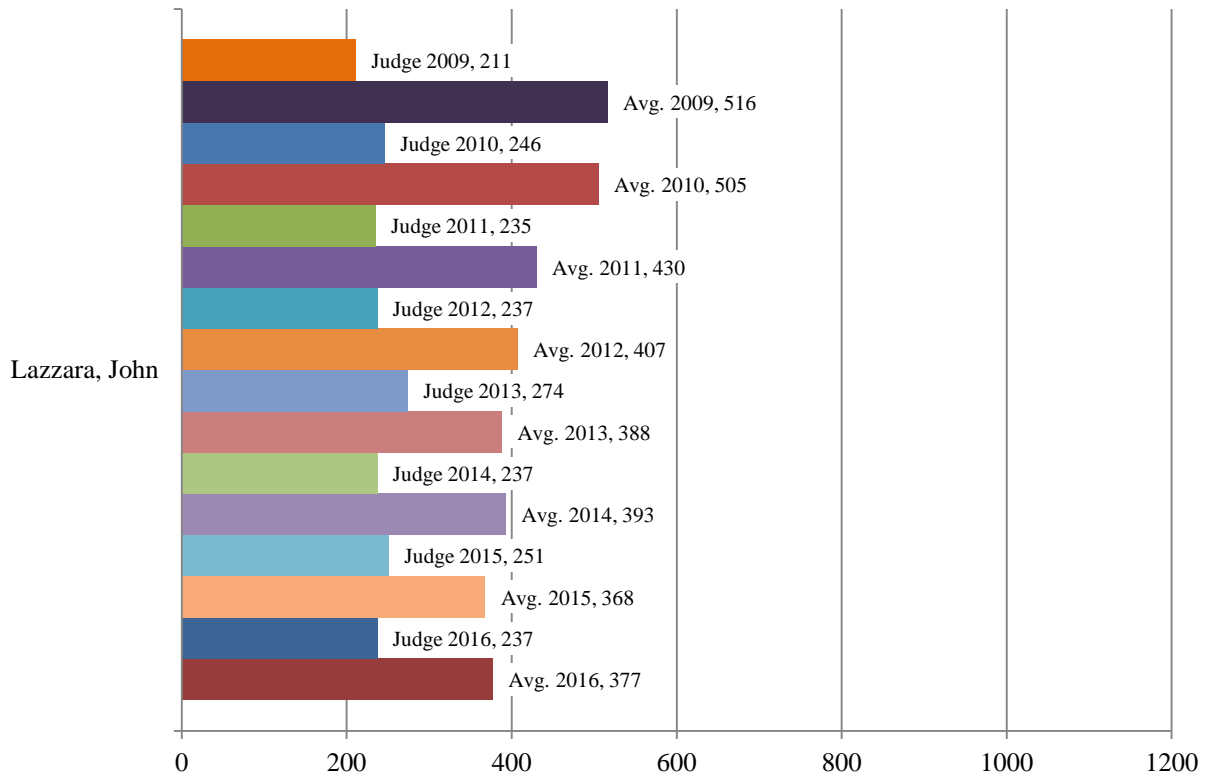
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



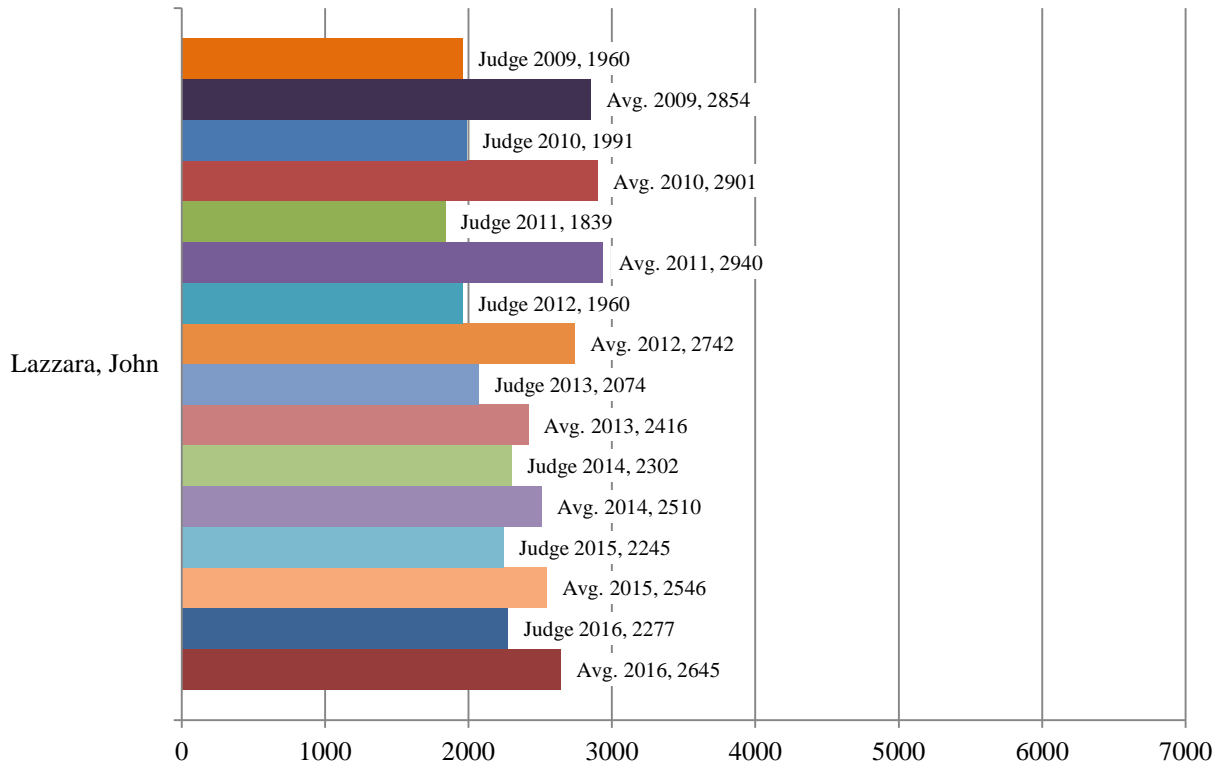
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



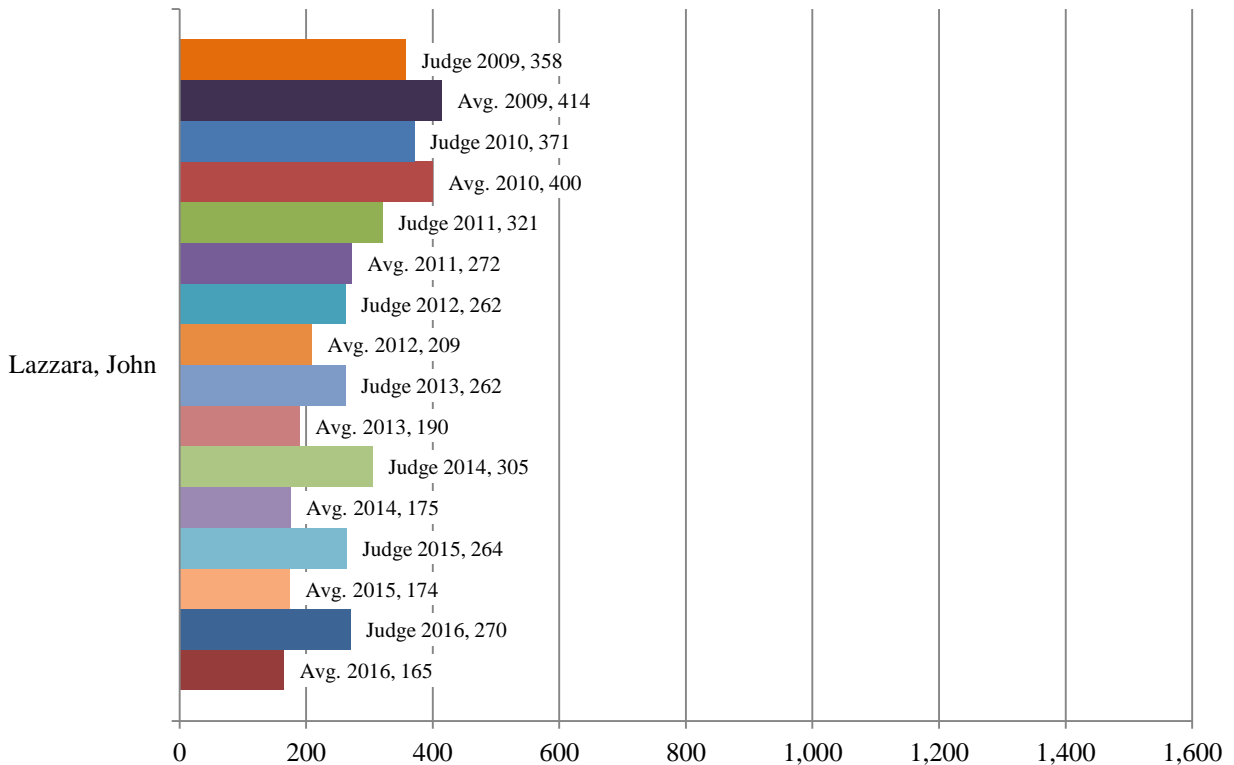
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



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

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 regularly handle both MIA and TPA cases.

Trial volume was above average in District TPA again in 2015-16, even with the adoption of the new definition of “trial order.”¹⁷¹ 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 2015-16. The time to trial in District TPA exceeded the statutory 210 period in 2015-16, following the adoption of a more constrained definition of “trial order.”¹⁷²

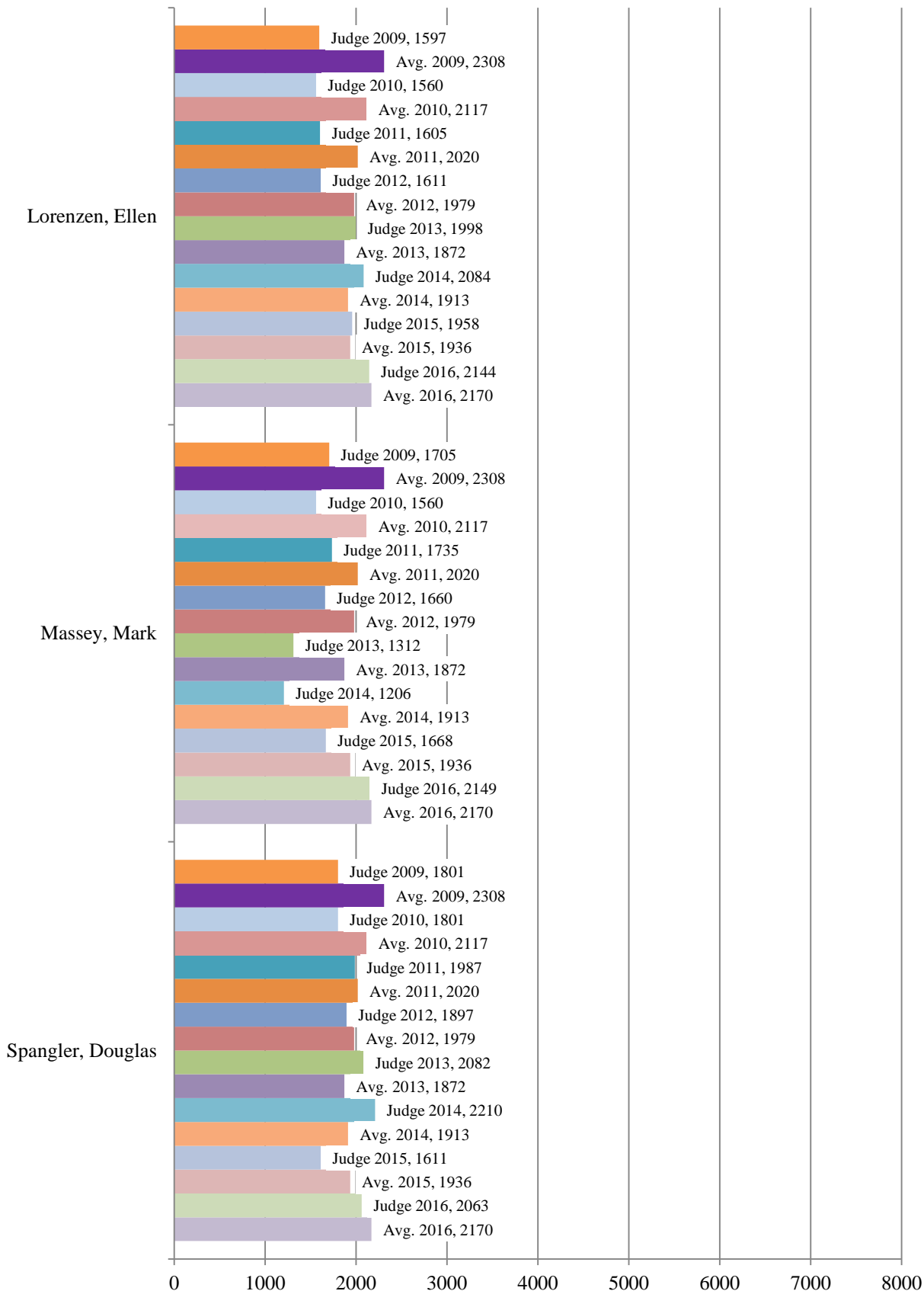
The 2015-16 volume of “other hearings” remains below the statewide average in all three Tampa divisions. The figures set forth below memorialize a significant volume off motion and stipulation practice in District TPA.

Judge Spangler judged preliminary rounds in the Earle Zehmer Moot Court Competition in August 2015; and throughout the fiscal year worked with the steering committee forming the new Tampa Bay Worker’s Compensation and Disability Inn of Court. The inaugural meeting of that Inn is expected in fiscal 2016-17. In July 2015, Judge Spangler participated in the Southern Association of Workers’ Compensation Administrators Annual Convention in Williamsburg, Virginia.

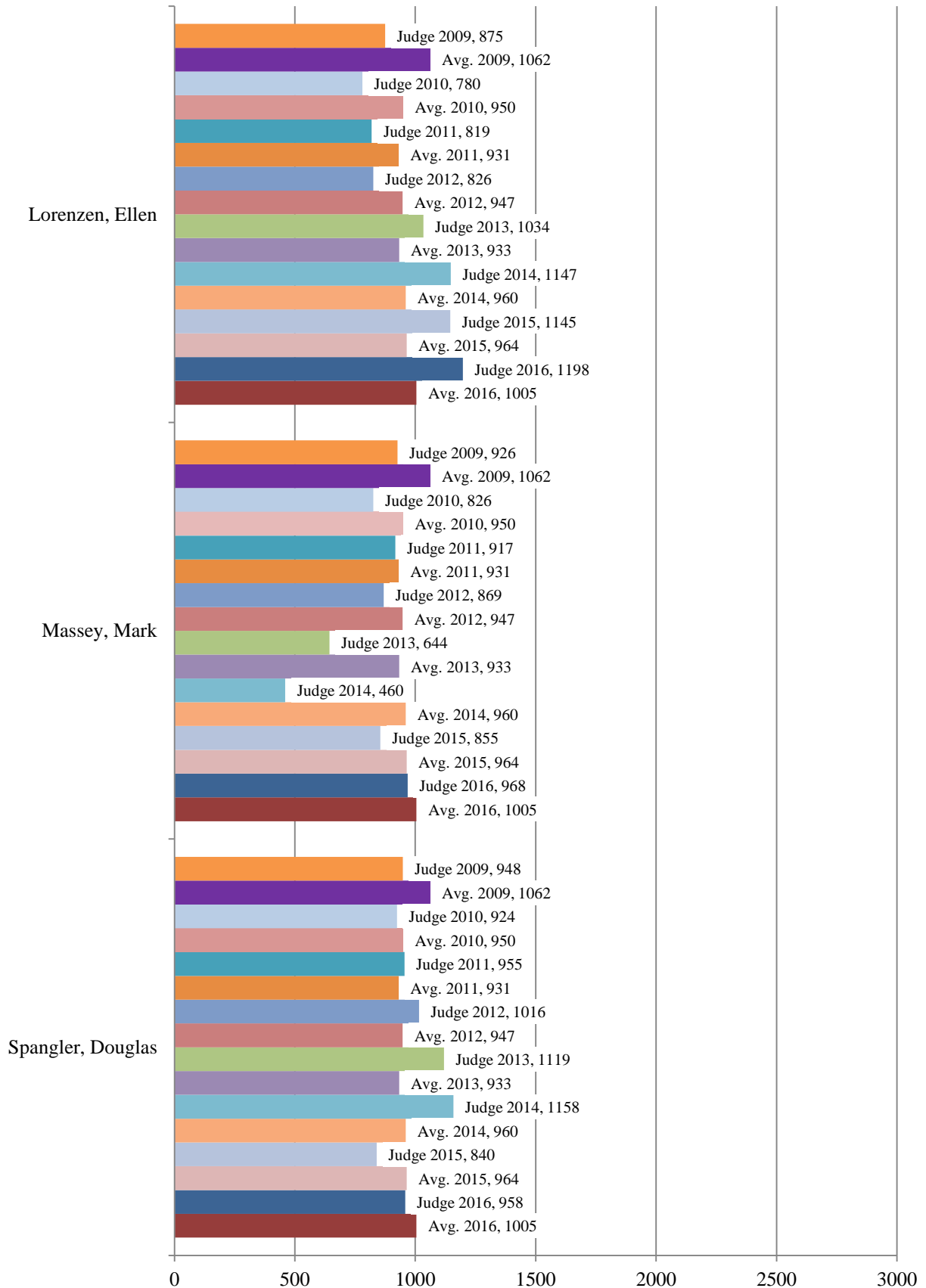


Tampa District Office on Martin Luther King Boulevard

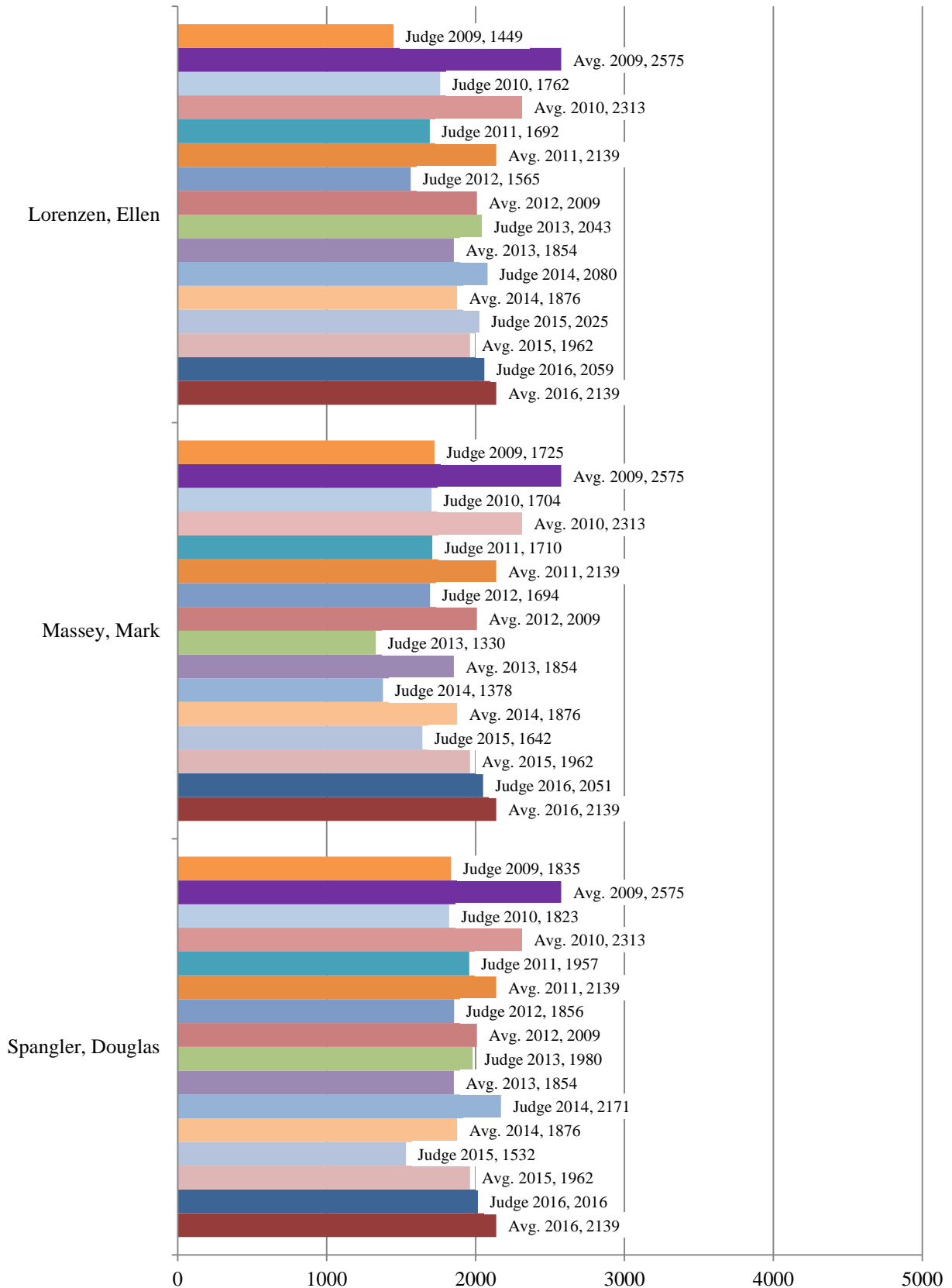
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



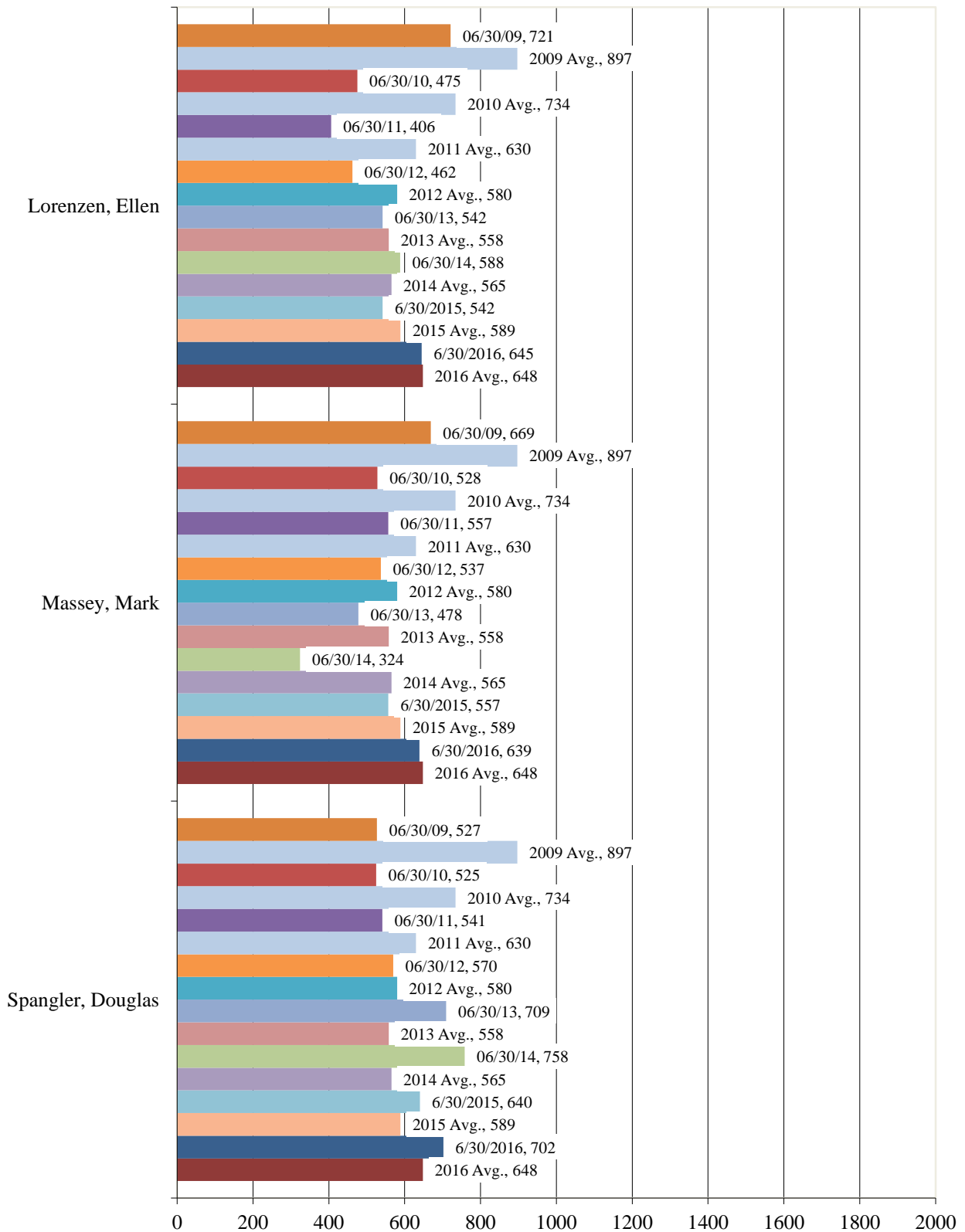
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



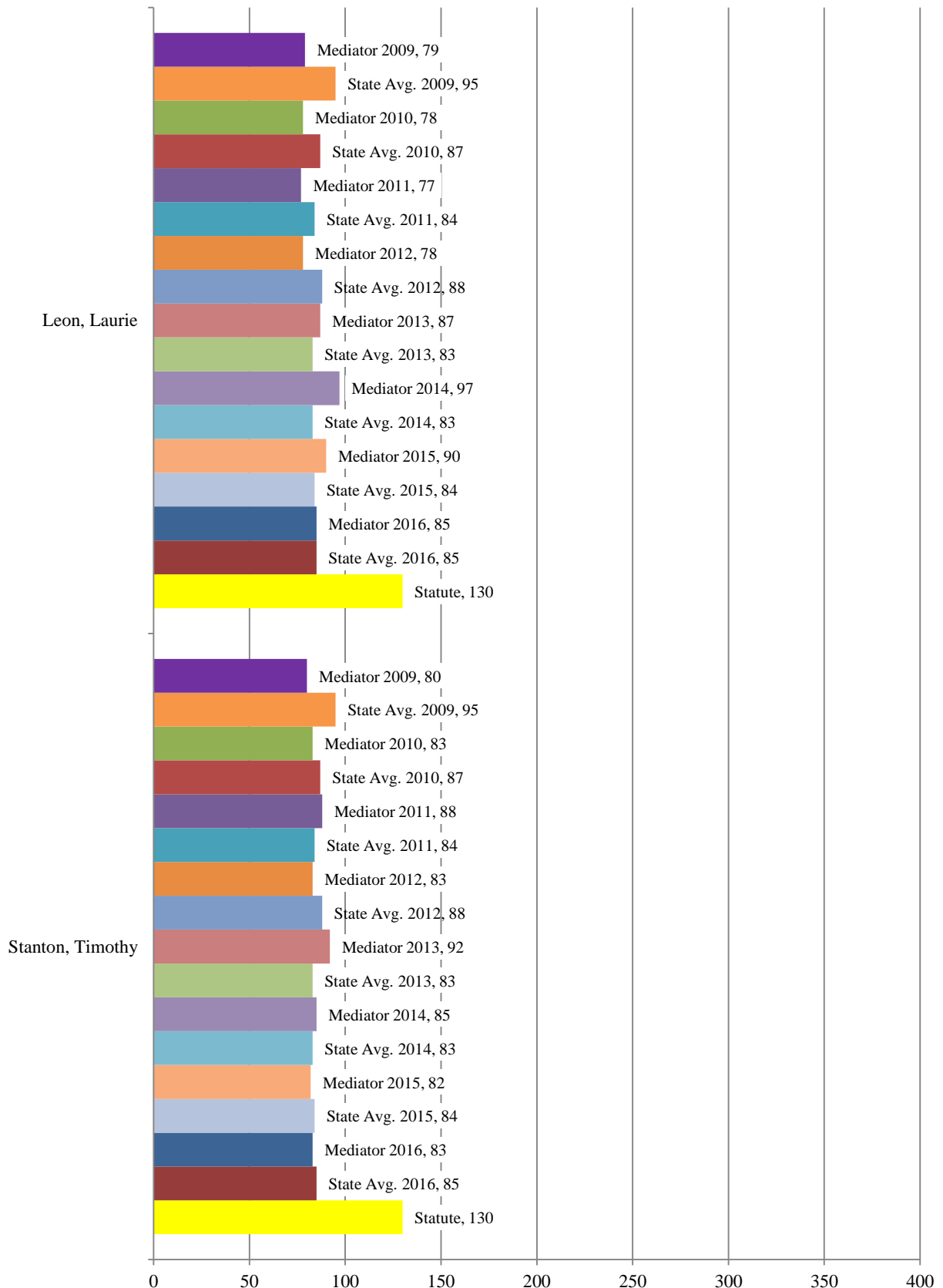
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



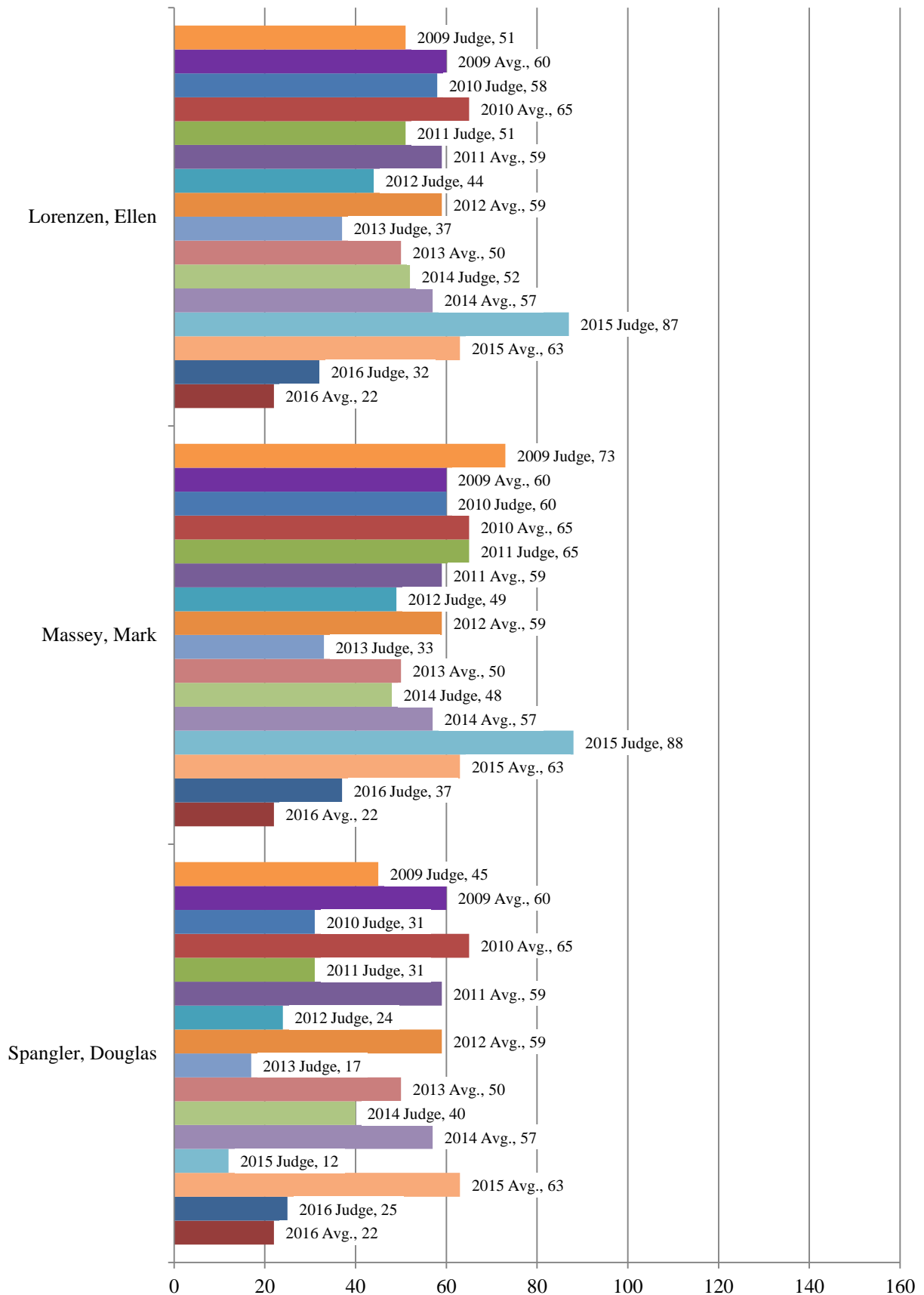
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



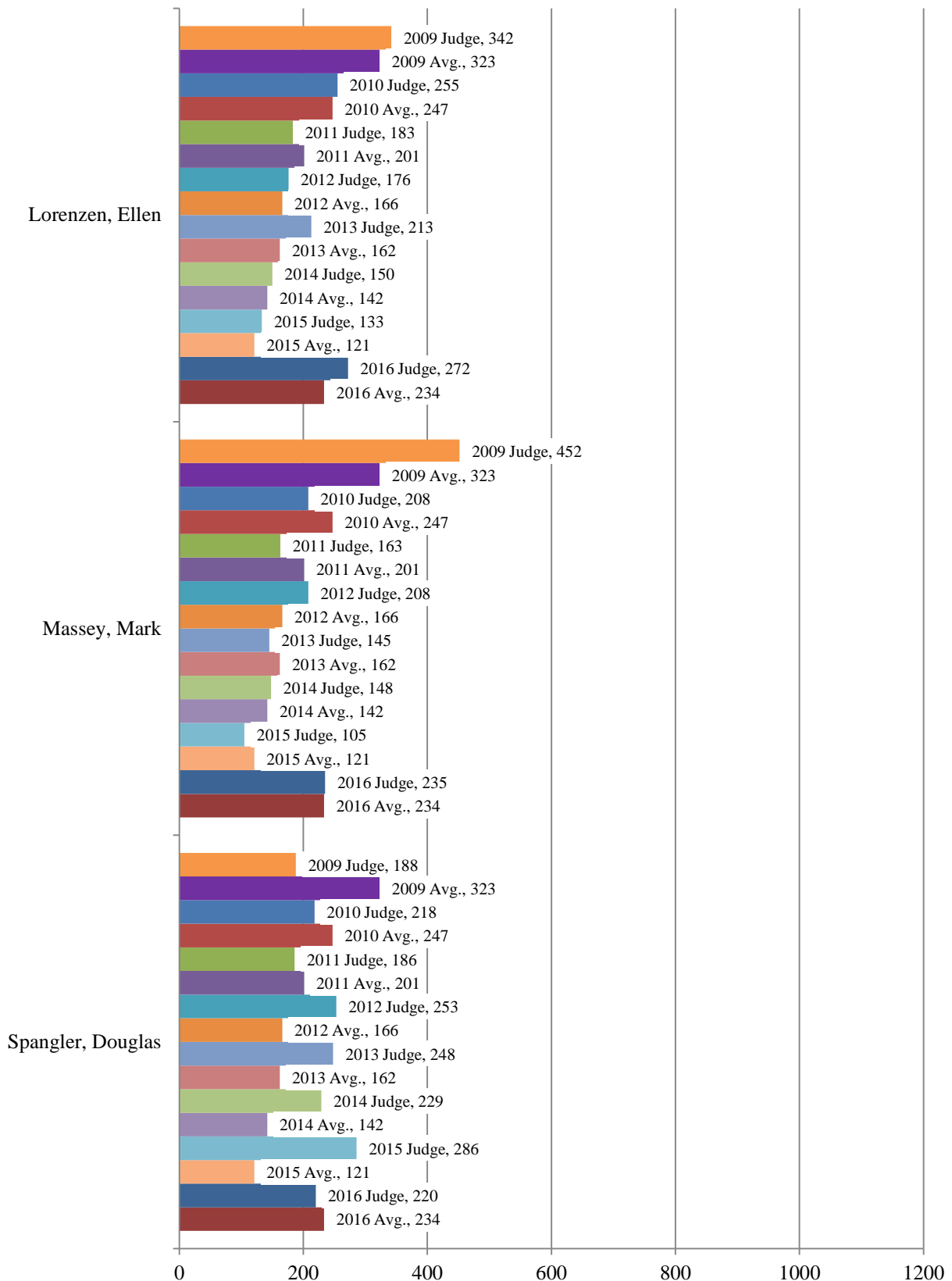
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



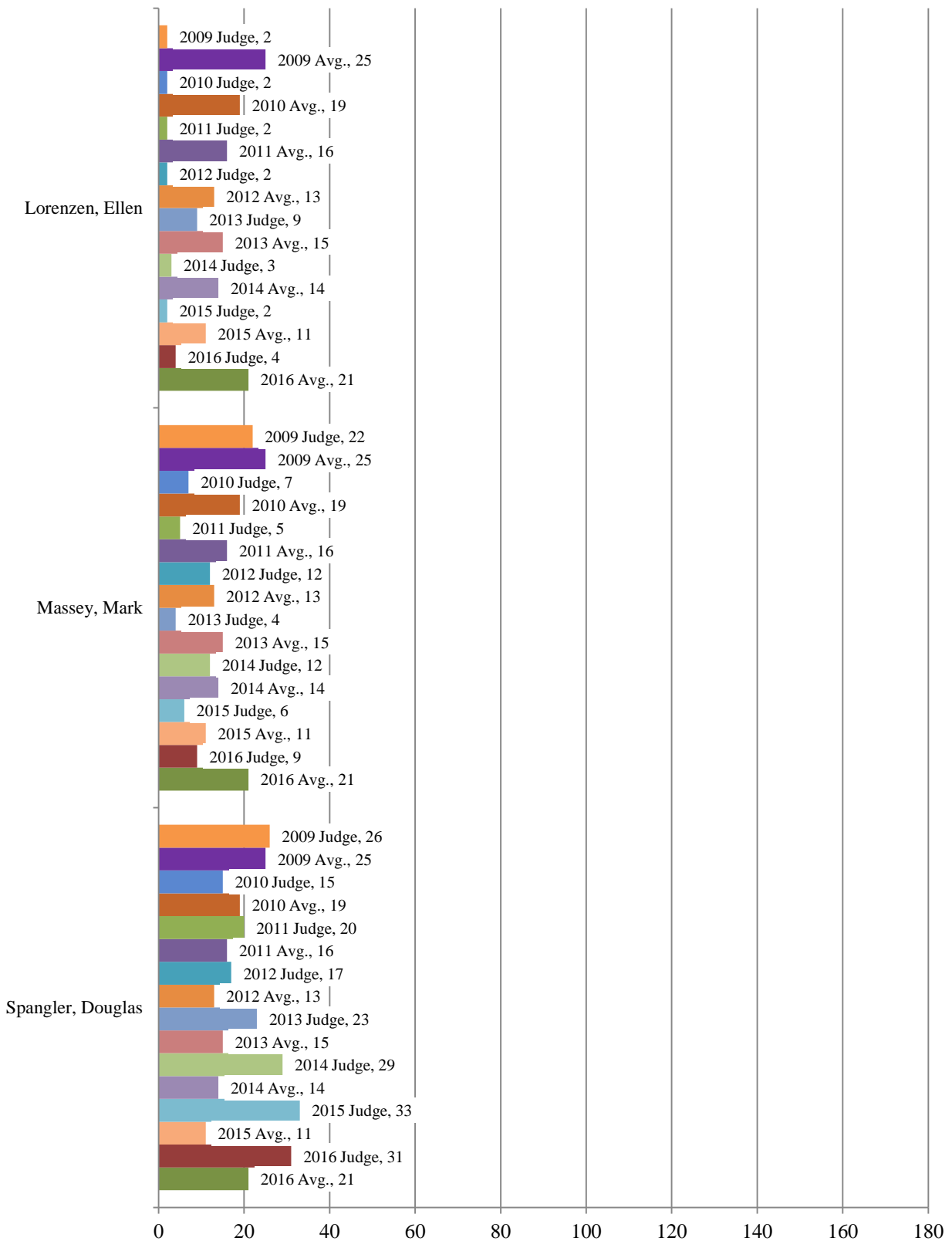
The following graph depicts the total volume of trial orders¹⁷³ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



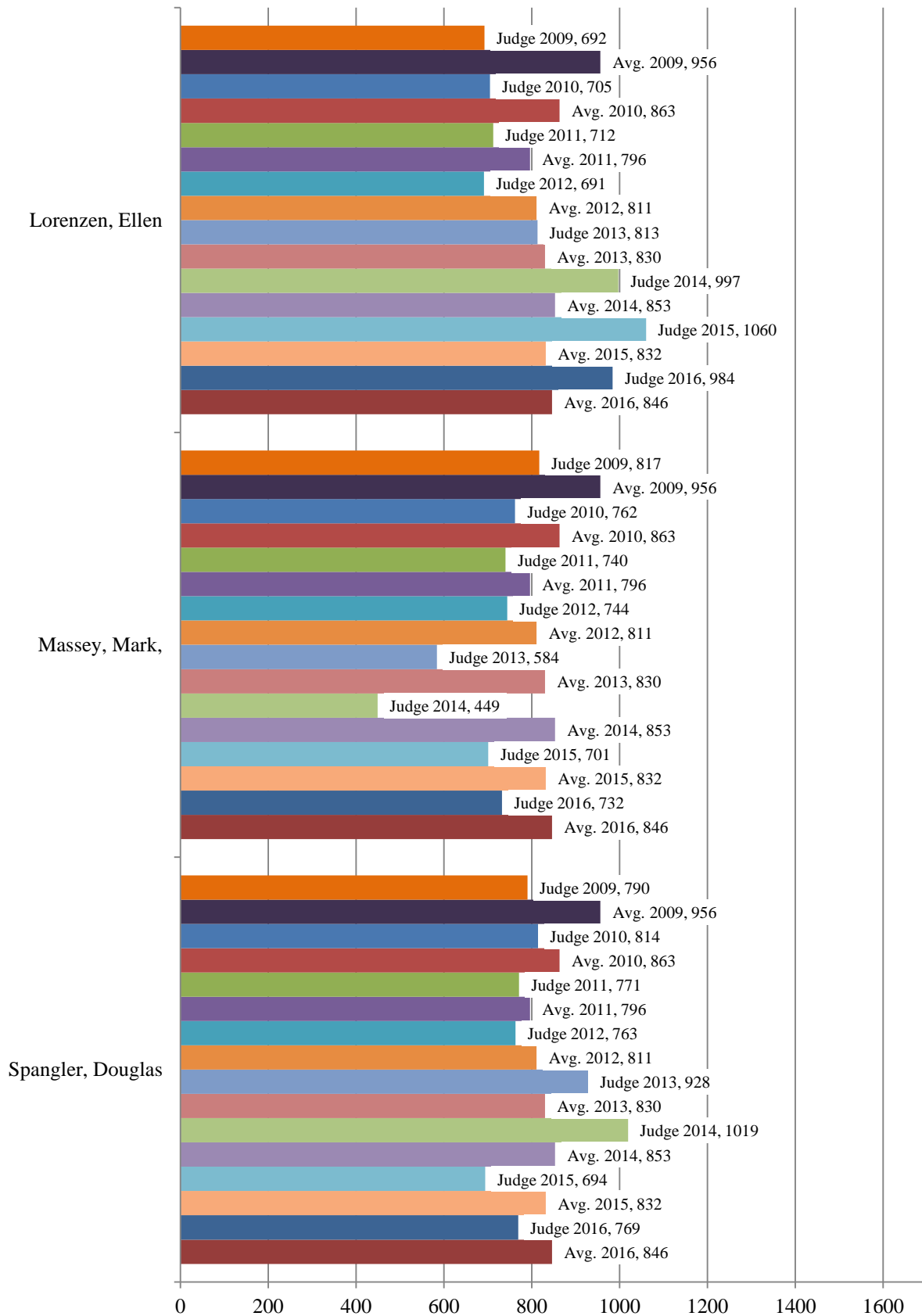
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



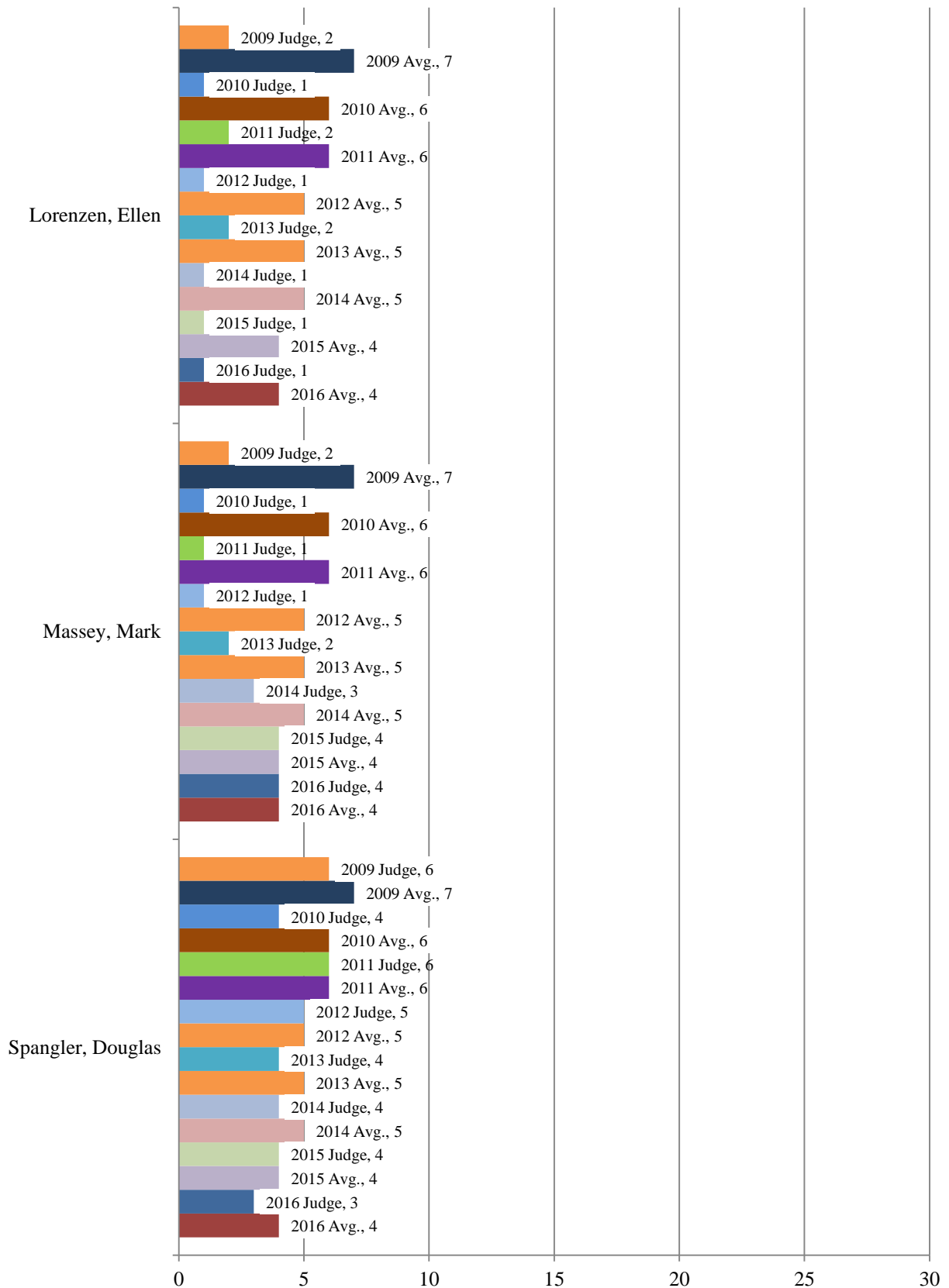
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



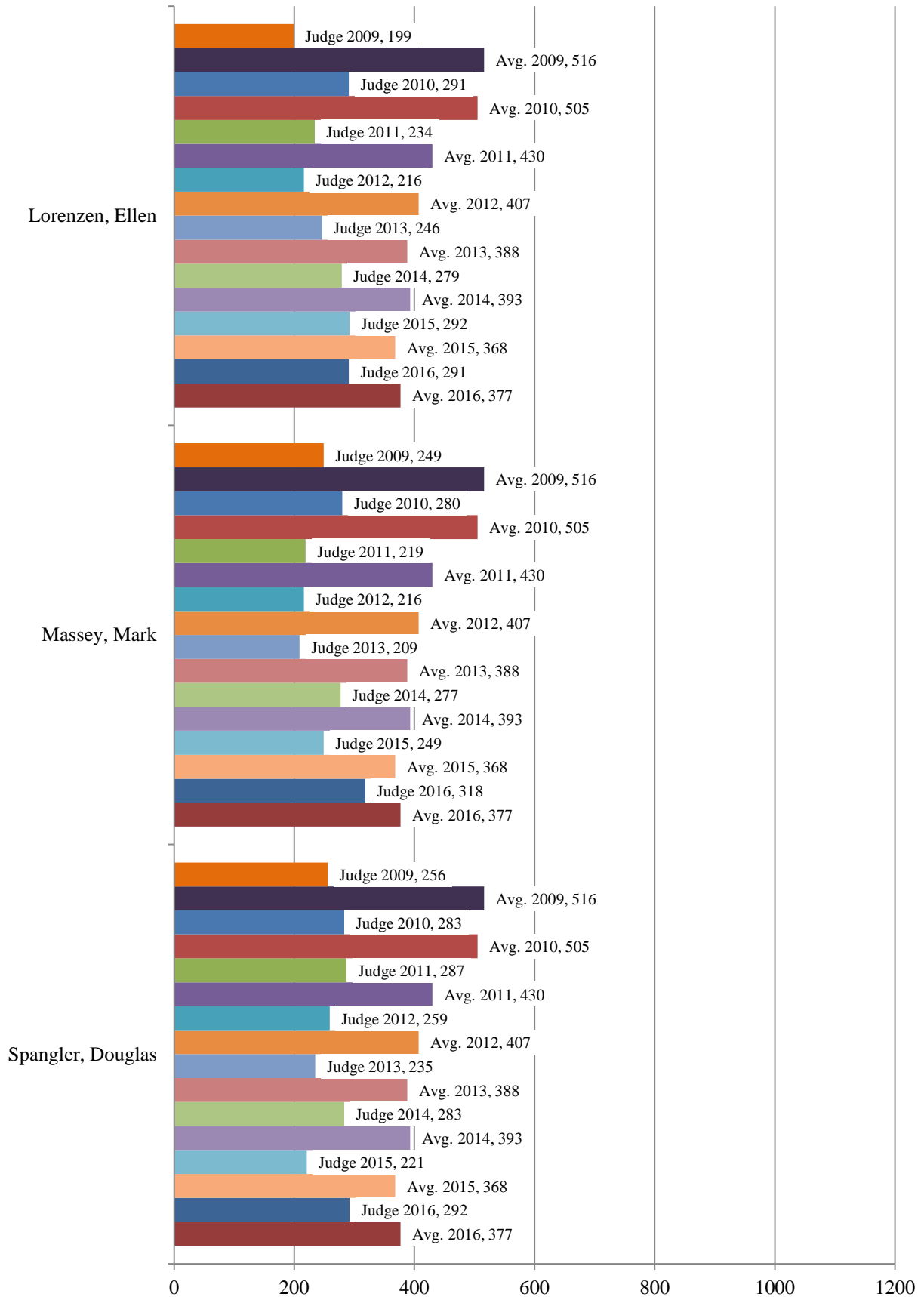
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



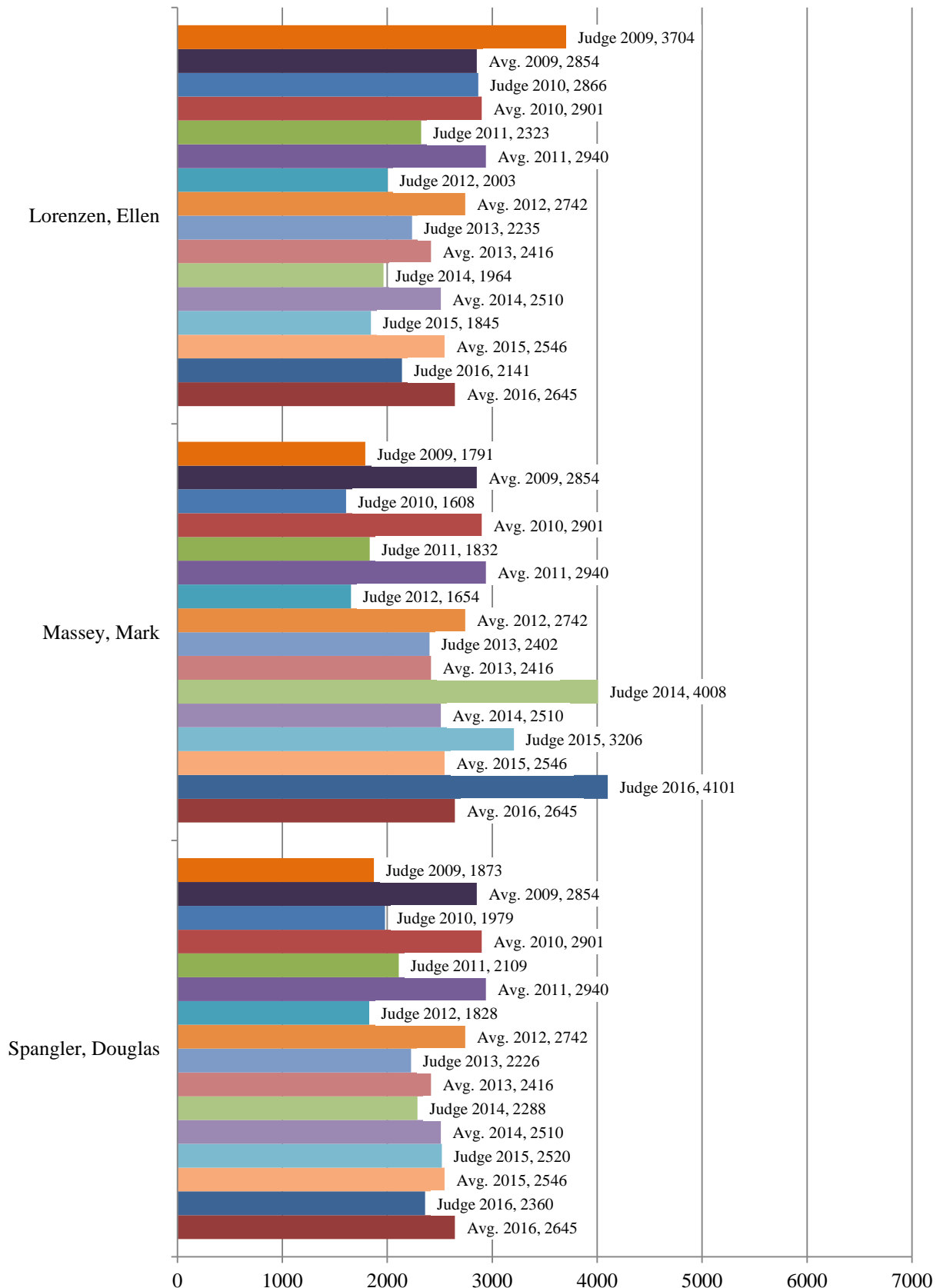
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



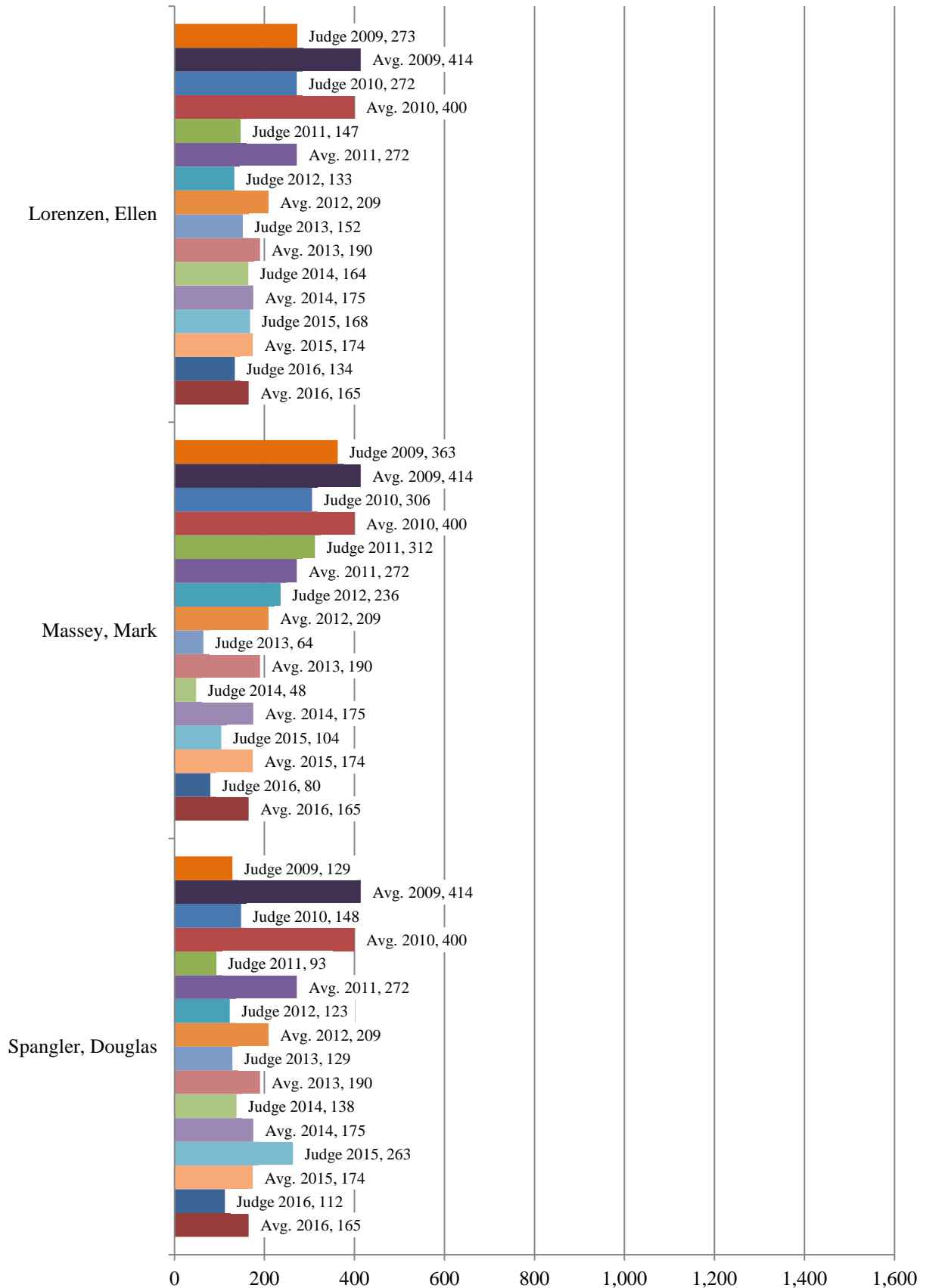
The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



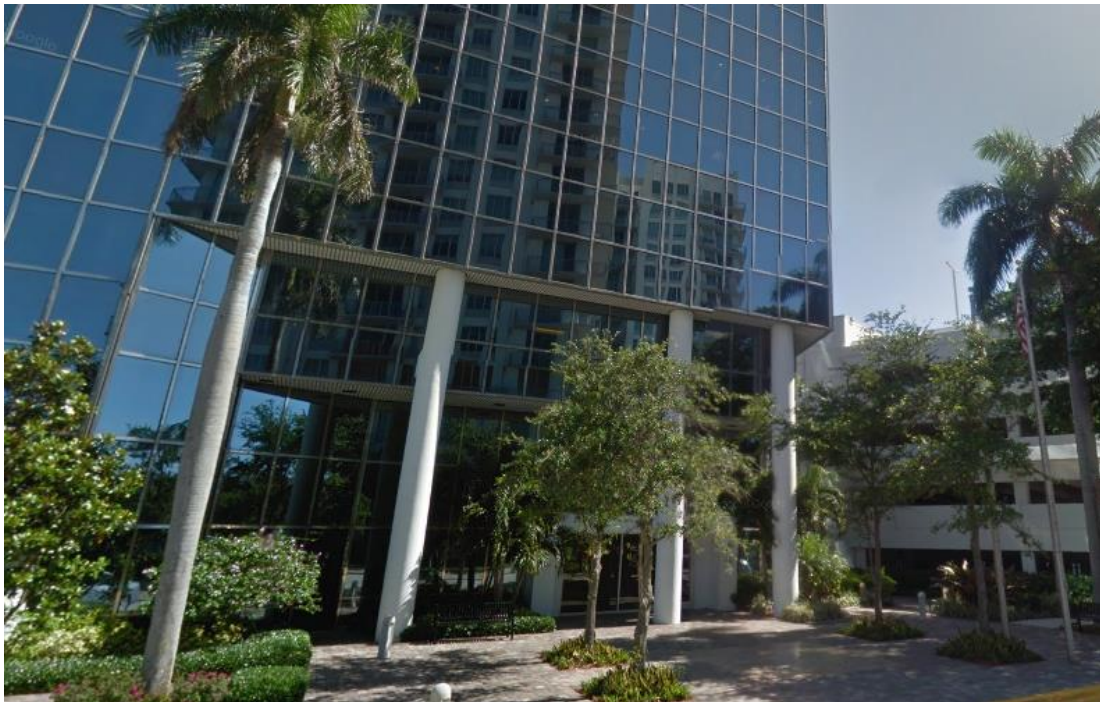
Appendix “17” District WPB (JCC Basquill, JCC D’Ambrosio, JCC Punancy):

District WPB includes Glades, Hendry, and Palm Beach Counties.

The filing volumes for PFBs in District WPB were slightly above average again in 2015-16. 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 2015-16, Susan Bisbee of Tallahassee. While the vast majority of WPB mediations have been handled by the two WPB mediators, the increasing volume of petitions filed will likely require re-tasking of resources. 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.

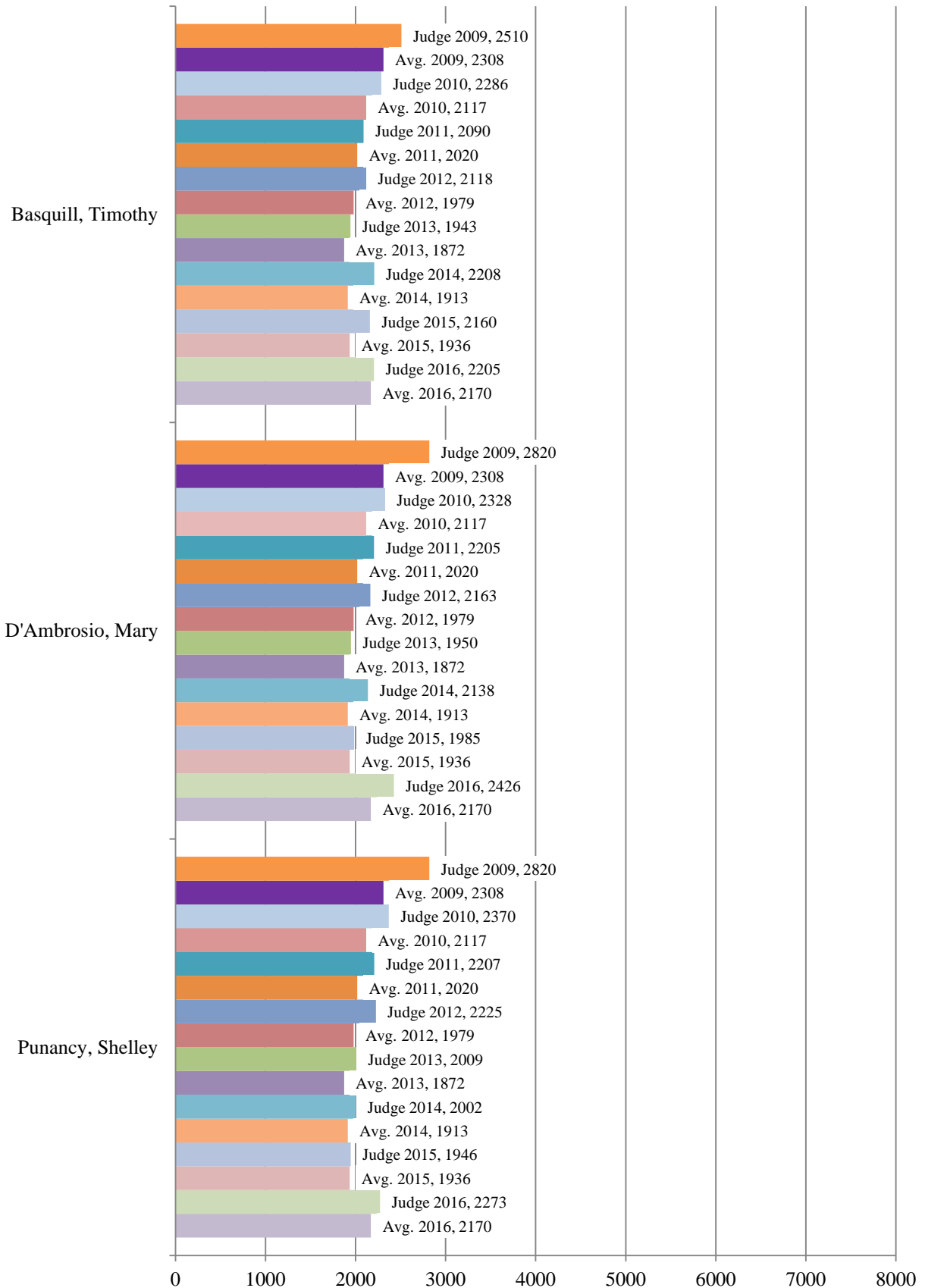
Trial volumes for all three WPB judges were notably below the statewide average for fiscal years 2013-14 and 2014-15. That trend continued in 2015-16, though that was likely due in some part to the change in the definition of “trial order”¹⁷⁴ and the retirement of Judges Basquill and Punancy, whose trials late in the fiscal year were handled by out-of-district judges.

In 2015-16, Judge D’Ambrosio served as the Treasurer of the Conference of Judges of Compensation Claims. She spoke at the West Palm Beach Bench/Bar Conference, and was a member of the Workers’ Compensation Practice Committee. After the retirement of Judges Punancy (03.16) and Basquill (05.16), Judge D’Ambrosio oversaw the operations of all three divisions in District WPB, including docket and personnel related responsibilities. Those efforts continued into fiscal 2016-17, until the appointment of new judges.

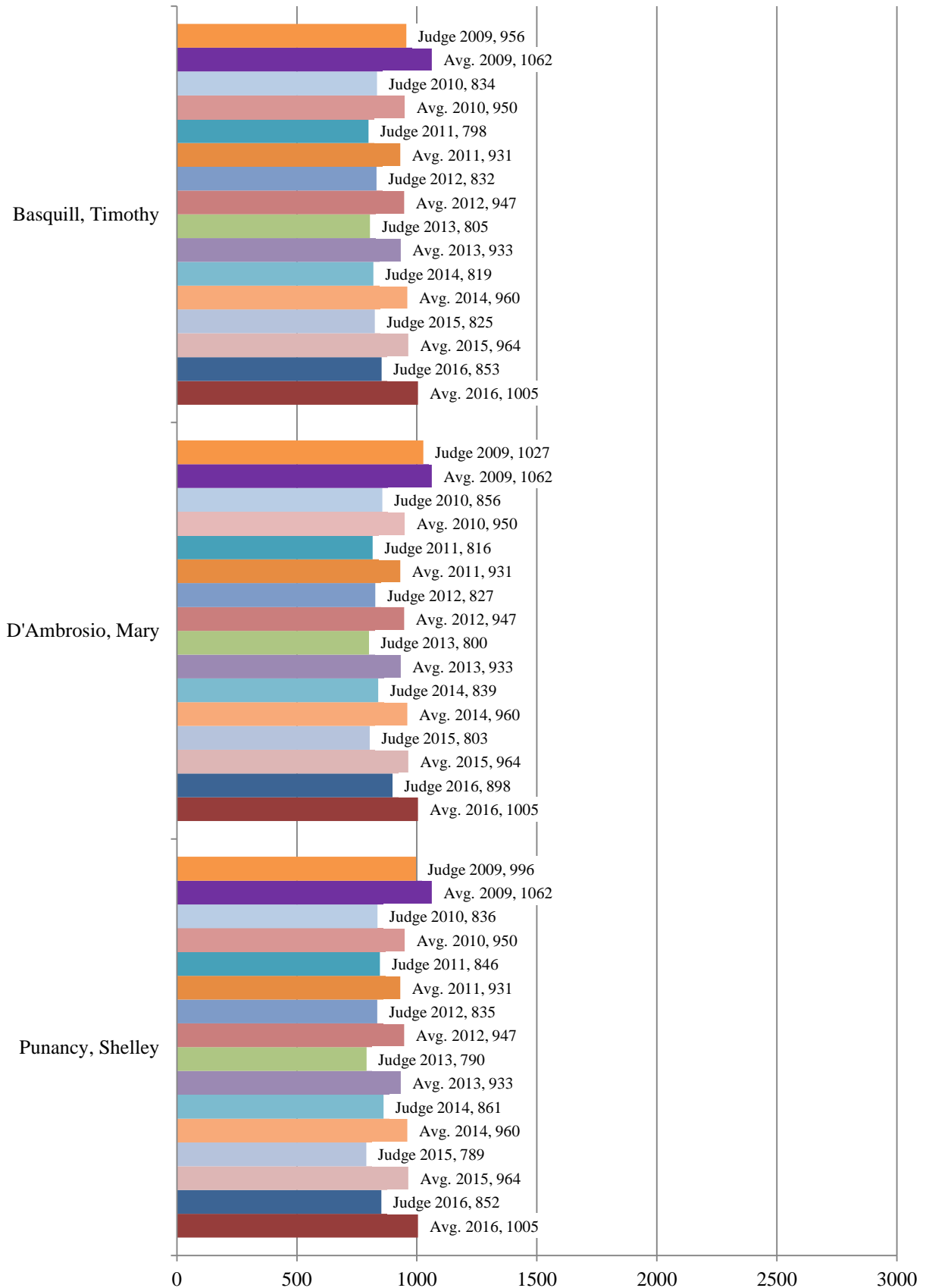


West Palm Beach District on South Australian Avenue.

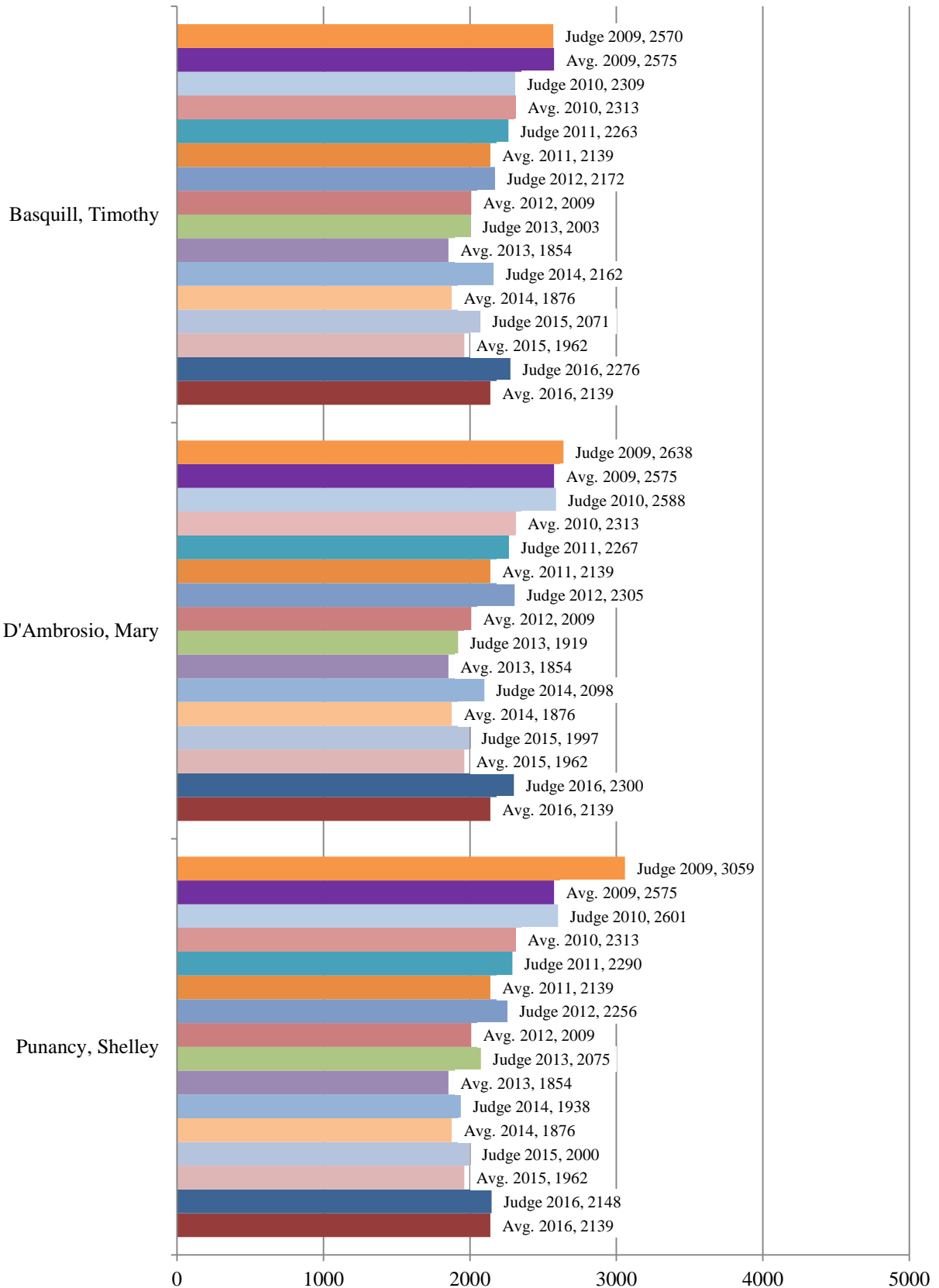
The following depicts the volume of PFBs filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



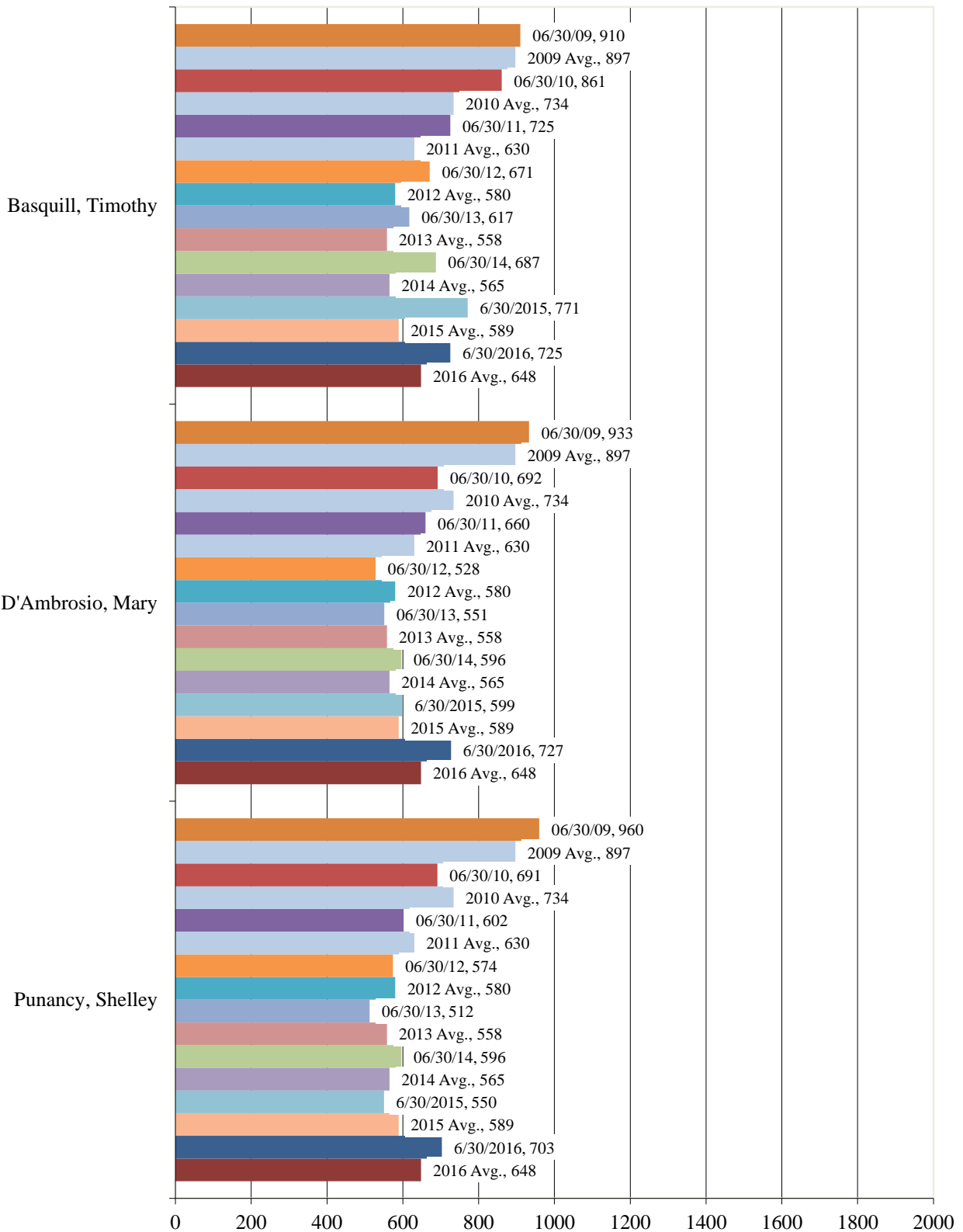
The following depicts the volume of new cases filed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



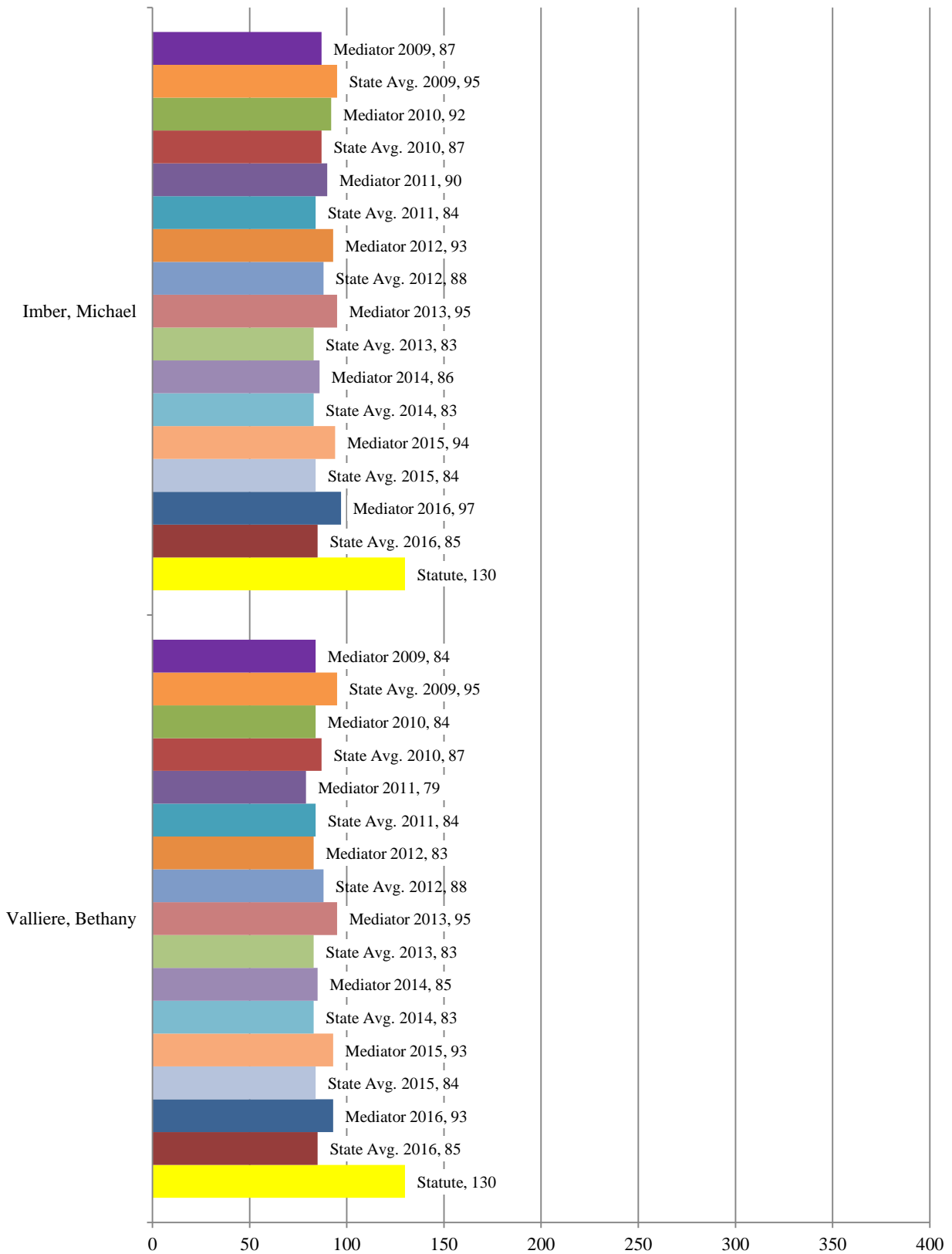
The following depicts the volume of PFBs closed in this District and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



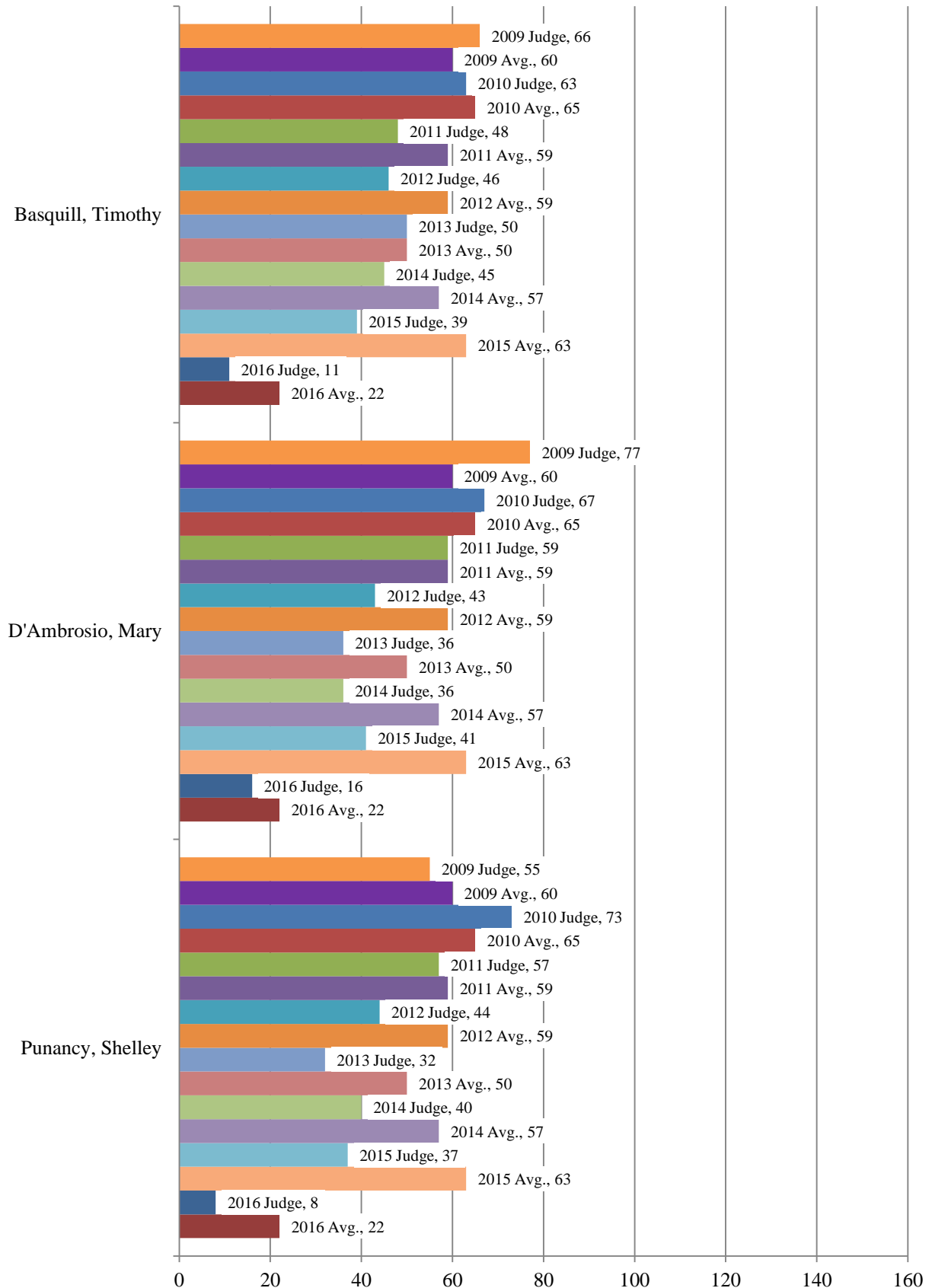
The following depicts the inventory of pending PFBs in this District and the statewide average between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



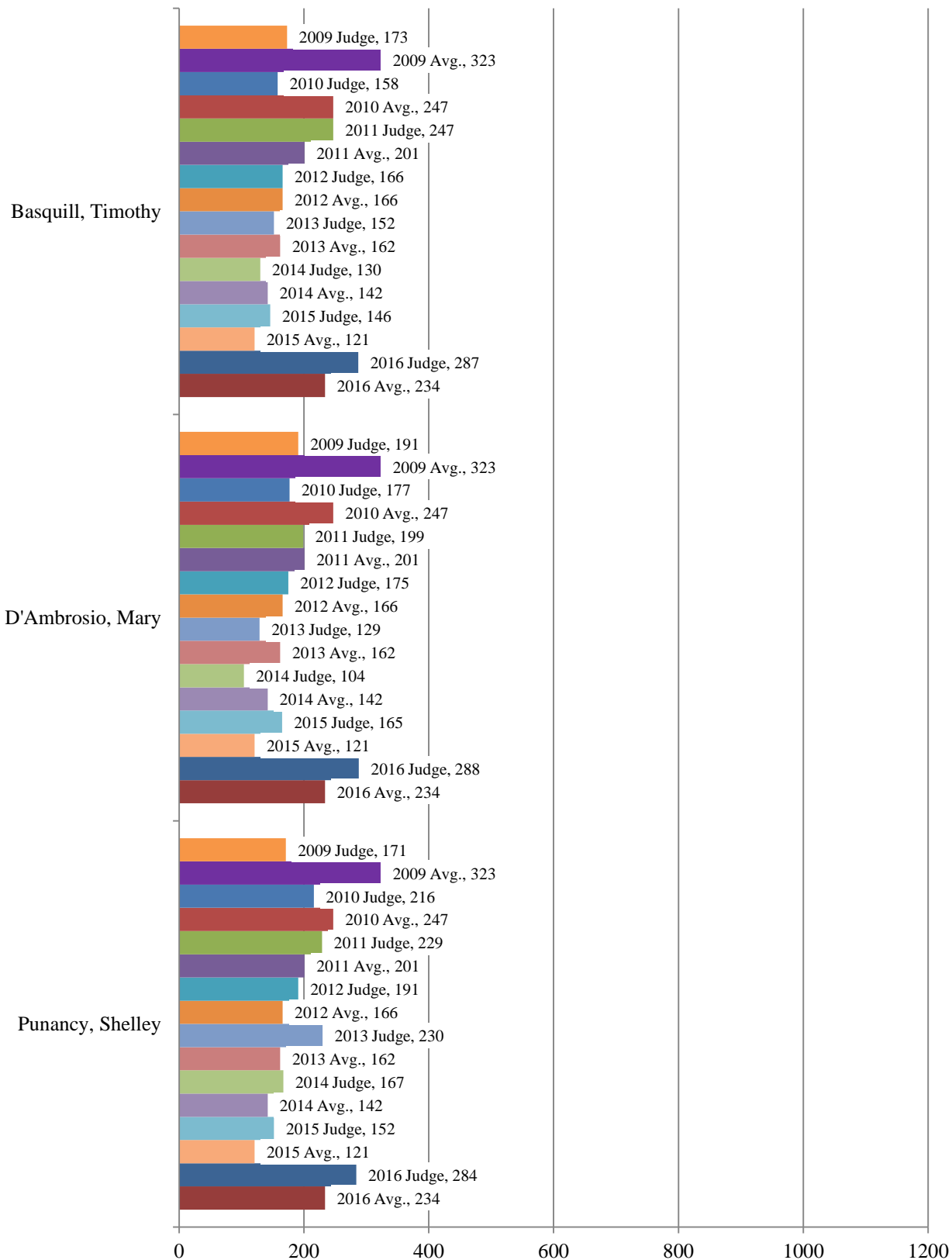
The following depicts the average days between PFB filing, and the first mediation held thereon, for each mediator in the District between 2008-09 and 2015-16. The identification and values for each year are in each bar label. The yellow bar represents the statutory 130 days.



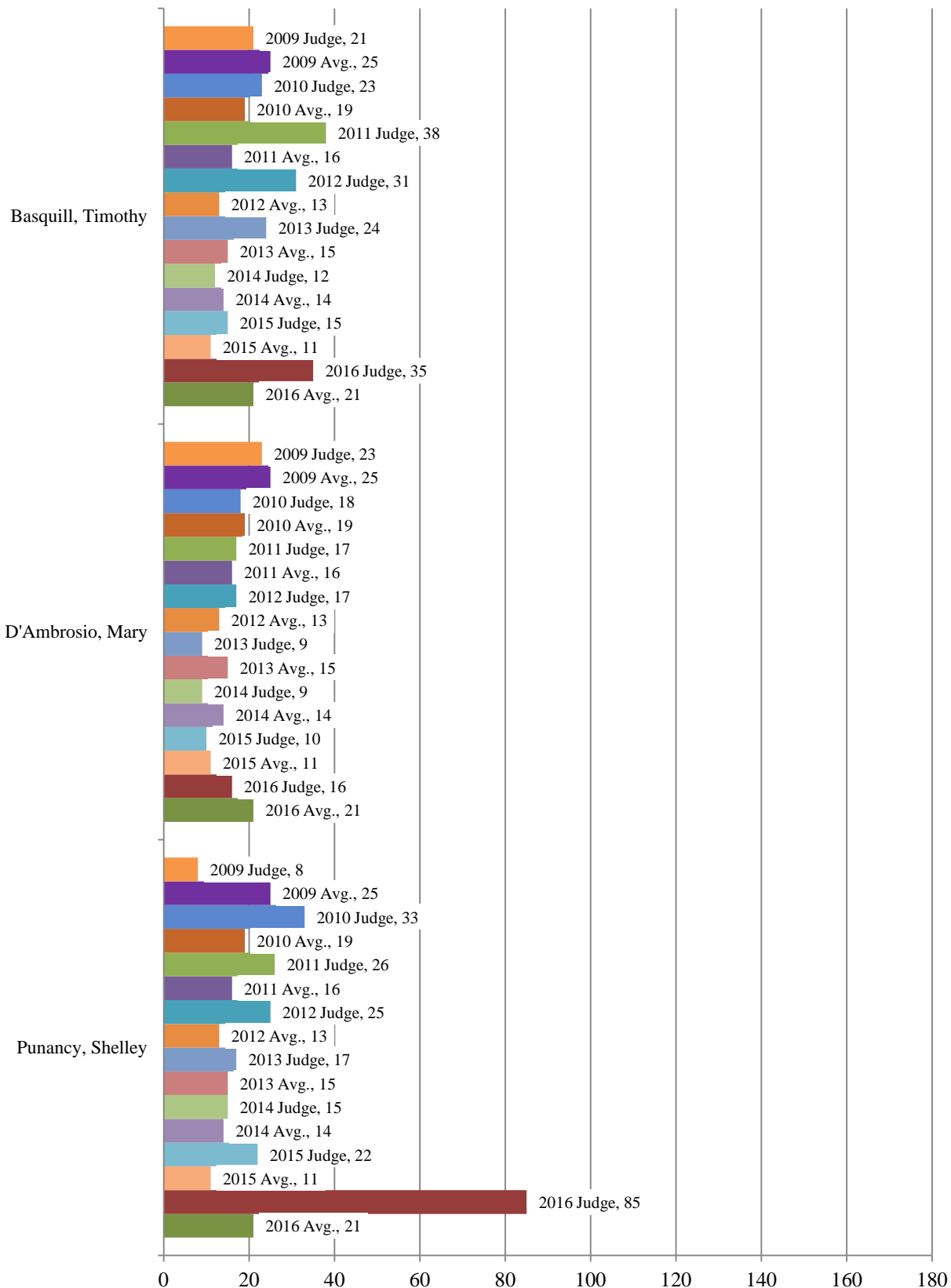
The following graph depicts the total volume of trial orders¹⁷⁵ uploaded in this District and statewide averages between 2008-09 and 2015-16. The identification and values for each year are in each bar label.



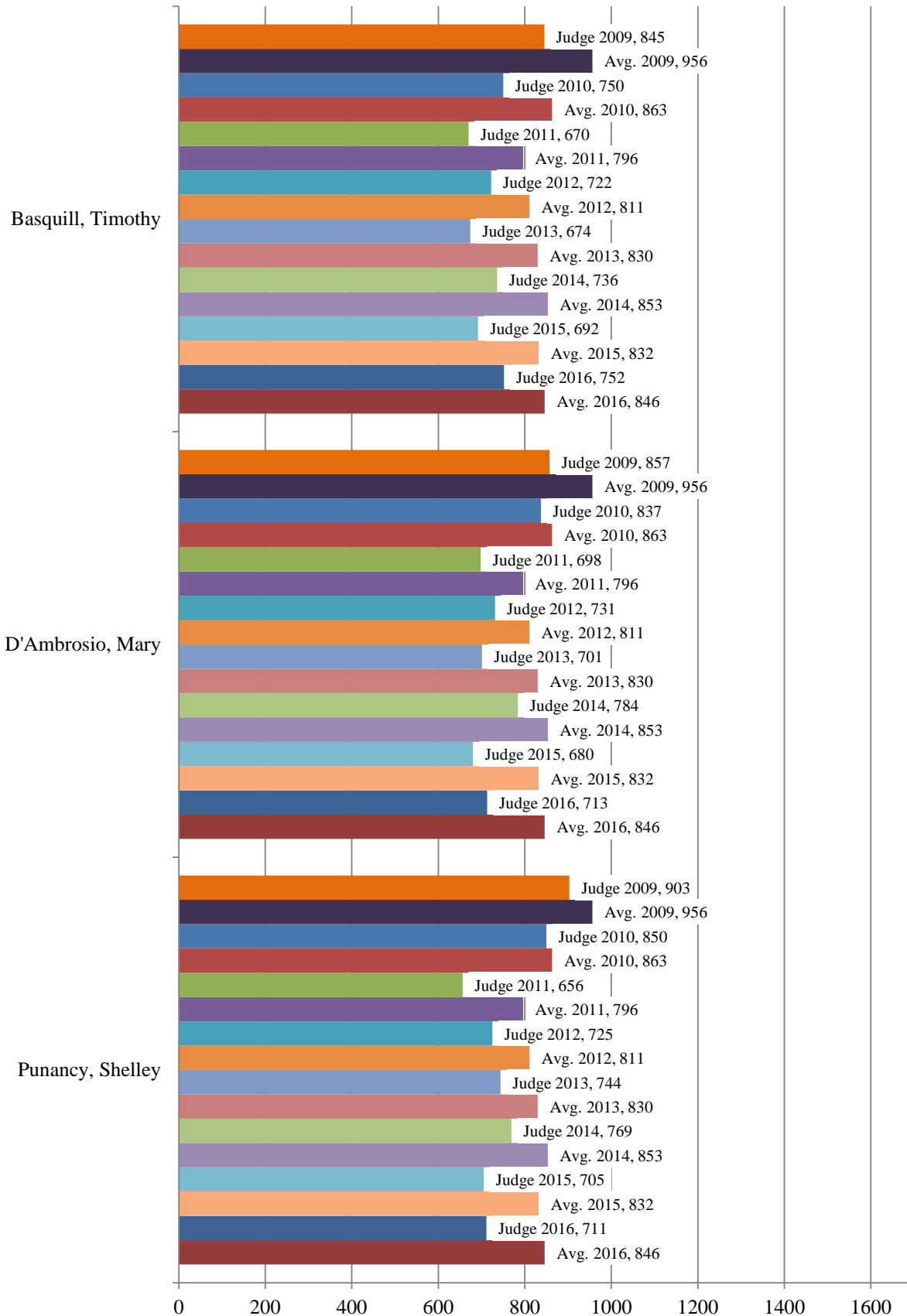
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2008-09 and 2015-16. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count.



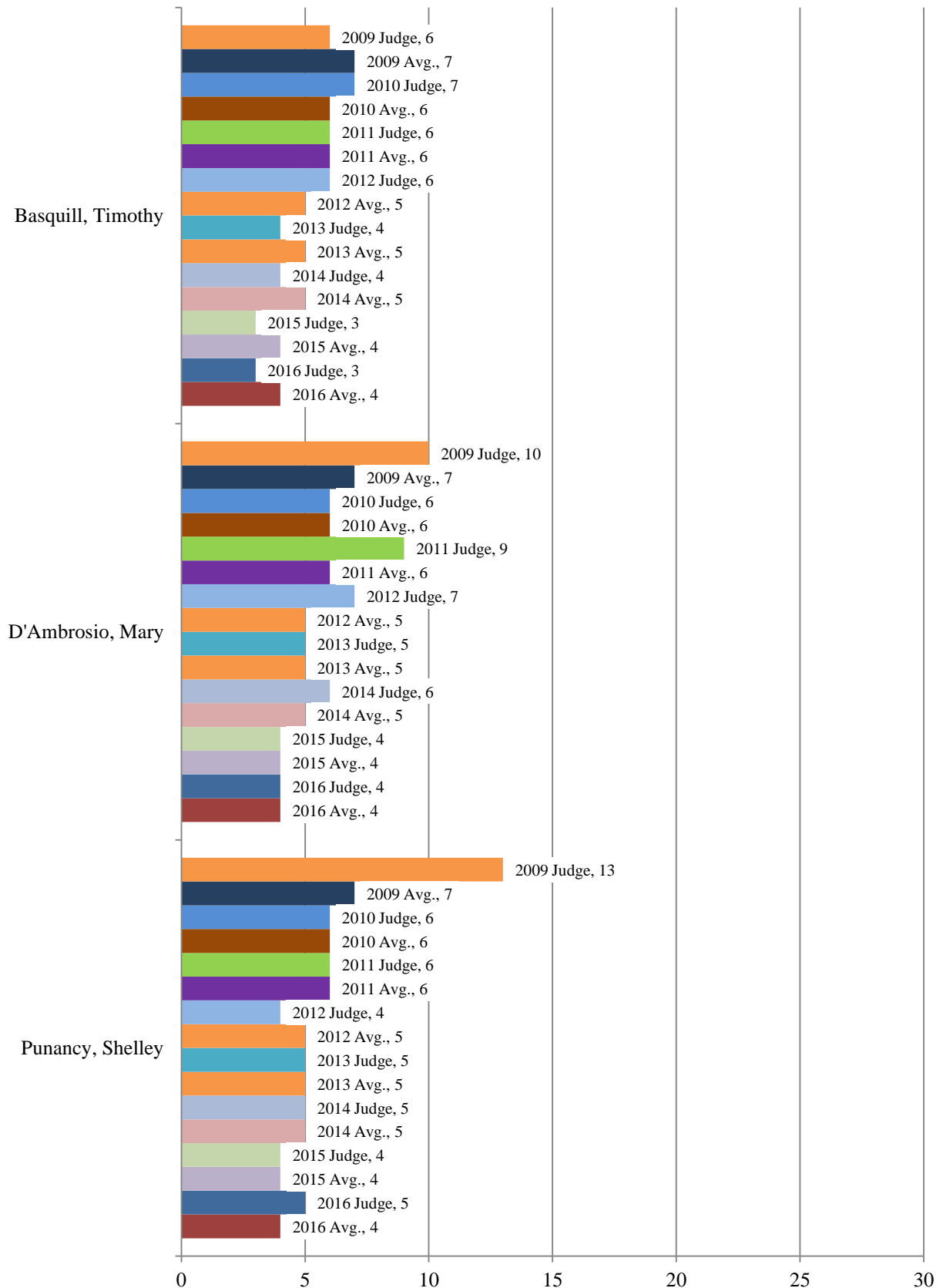
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2008-09 and 2015-16. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count.



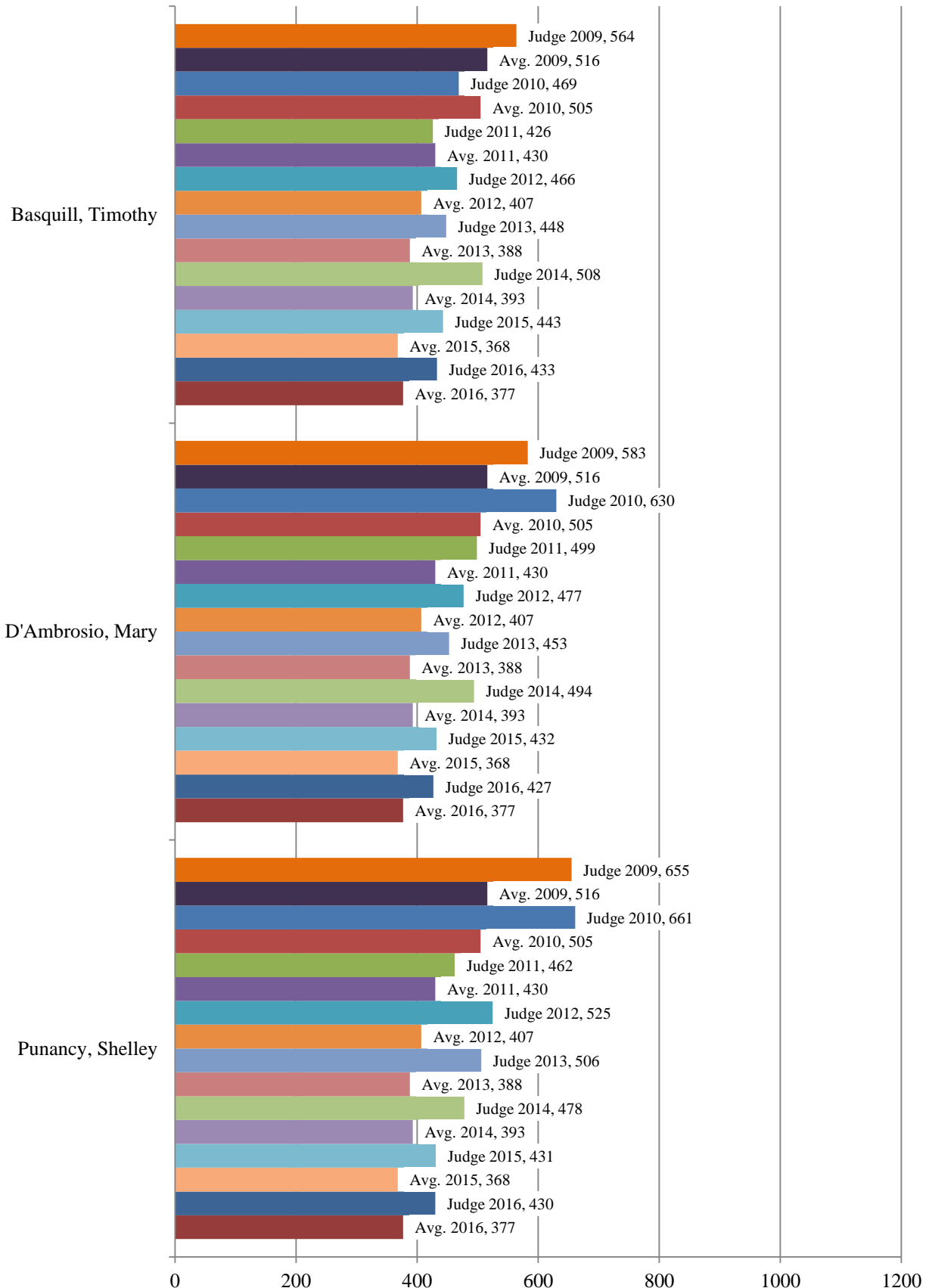
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



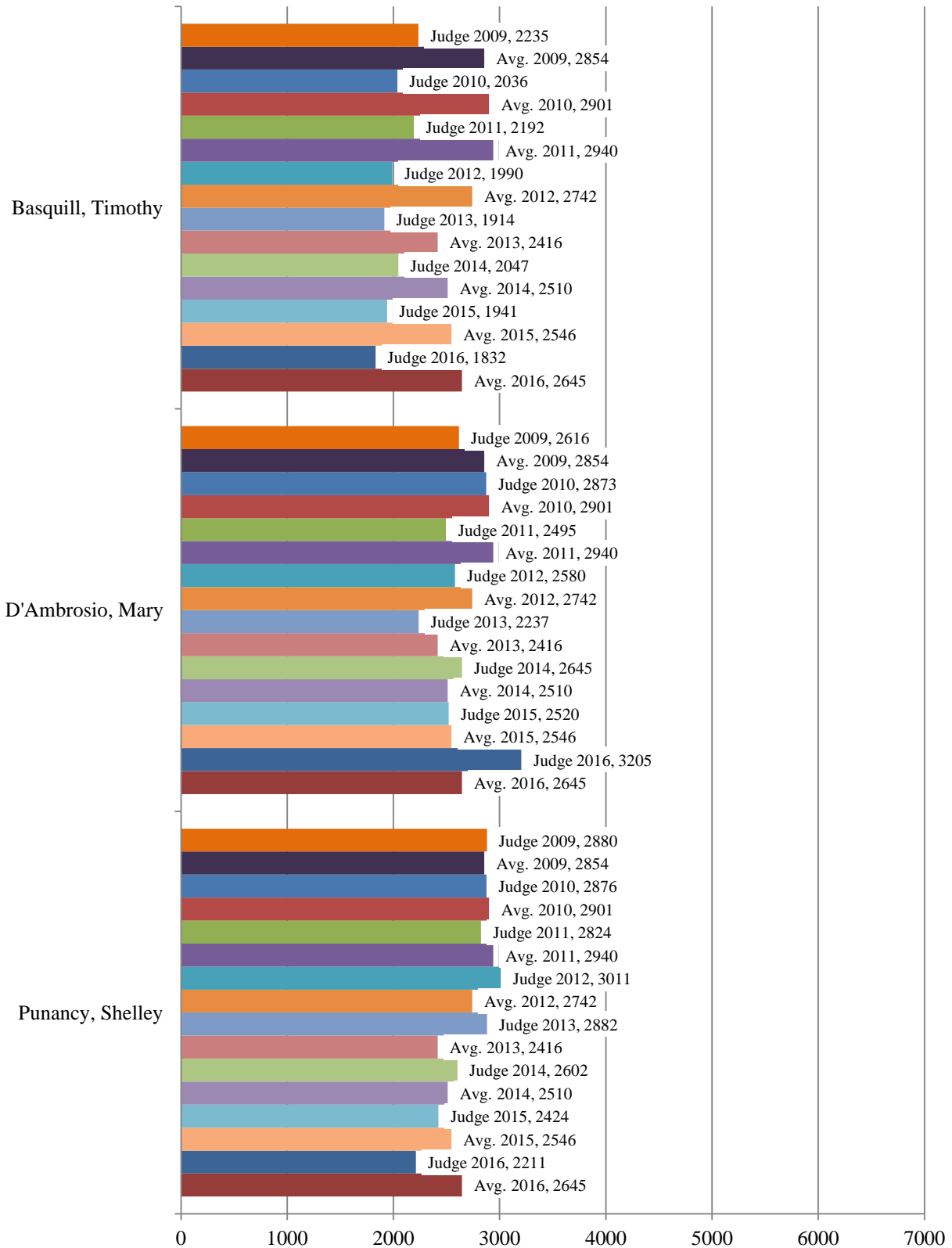
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



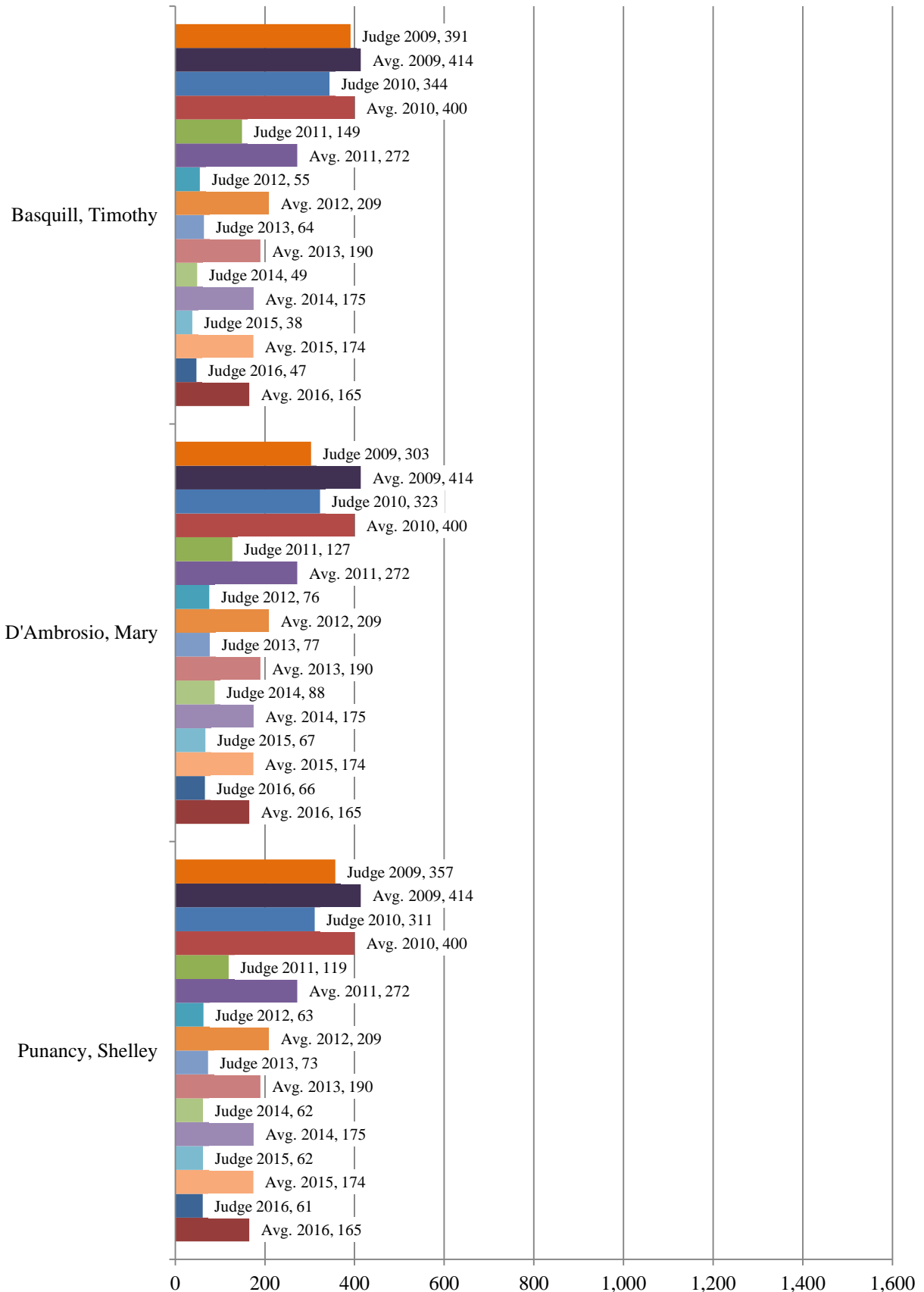
The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2008-09 and 2015-16. 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 2008-09 and 2015-16. Each bar label identifies the year and provides the numerical count.



Endnotes

¹ Section 440.45(5), Florida Statutes, states: “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 attorneys’ 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 definition for “trial” had to be amended in 2016, following questionable mischaracterization and misrepresentation regarding “trial orders.” The definition now includes only final merits orders following a hearing on petitions for benefits and attorney fee orders following hearing on a verified motion for attorneys’ fees/costs. In 2006, the OJCC defined “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 resulted in various orders being included in the definition of “trial order.” This also impacted time parameters in terms of reaching trial (“to trial”) and producing orders (“to order”). There were those who were critical of this approach, asserting that these definitions, by the inclusion of trials that are not the result of a PFB, artificially alter the volume and times 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 PFBs. In 2016, it became apparent that a minority of Judges of Compensation Claims were reporting multiple procedural and stipulated matters, resulting in minimalistic orders, as “trials.” Based upon their abuse of the process, and the dangers presented when misrepresentations are either endorsed or published, the definitional change was made. This change removes the characterization discretion and provides for an objective standard regarding trial orders.

³ An interesting consequence came to light in 2016. Discovering outgoing mail not retrieved at a District Office, inquiry ensued. The U.S. Postal carrier confirmed that he occasionally forgets to visit that District Office as it “never” receives any incoming mail.

⁴ 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.”

⁵ 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.

⁶ 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).

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

⁹ 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 v. Mariner Health, 994 So.2d 1051 (Fla. 2008)(“[w]herever possible, statutes should be construed in such a manner so as to avoid an unconstitutional result.”).

¹⁰ During the preparation of this report, during fiscal year 2016-17, the Florida First District Court rendered its opinion in Jones v. Food Lion, Case No. 1D15-3488. The court noted the Supreme Court’s analysis in Westphal and adopted a similar interpretation of limitations on temporary partial disability benefits. The Court created a 260 week entitlement to temporary partial disability benefits, but specifically did not address revival (see endnote 24) of section 440.15(4)(c), Florida Statutes. There will therefore necessarily be further issues to address regarding the overall aggregate entitlement of temporary total and temporary partial disability benefits.

¹¹ Castellanos v. Next Door Co., 124 So.3d 392 (Fla. 1st DCA 2013).

¹² Castellanos, at 394, citing, Kauffman v. Community 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).

¹³ Murray v. Mariner Health, 994 So.2d 1051 (Fla. 2008).

¹⁴ Castellanos v. Next Door Co., 192 So.3d 431 (Fla. 2016).

¹⁵ Florida Workmen’s Compensation Act, Title II, Ch. V, Art. 5.; (Ch. 17481, Acts 1935, §1).

¹⁶ Florida Silica Sand v. Parker, 118 So.2d 2, 4 (Fla. 1960); Castellanos v. Next Door Co., 192 So.3d 431, 439 (Fla. 2016).

¹⁷ Lee Engineering & Constr. Co. v. Fellows, 209 So.2d 454 (Fla. 1966).

¹⁸ §440.34(a)-(h), Fla. Stat. (1977).

¹⁹ Removed in 1994 were “(b) The likelihood, if apparent to the claimant, that the acceptance of the particular employment will preclude employment of the lawyer by others or cause antagonisms with other clients. And (f) The nature and length of the professional relationship with the claimant.

²⁰ §440.34.34, Fla. Stat. (2003).

²¹ Murray v. Mariner Health, 994 So.2d 1051 (Fla. 2008).

22 This statutory interpretation analysis is commonly preferred by appellate courts, see endnote 9. 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;
23 <http://law.justia.com/cases/pennsylvania/commonwealth-court/2015/1024-c-d-2014.html>.
Murray, at 1061. (“We find it to be unclear why in the 2003 revision to section 440.34 the Legislature deleted reference to the reasonable
24 fee factors which had been included in the earlier revisions of the statute. The Legislature did, however, continue to authorize a claimant's
entitlement to a reasonable attorney fee . . .”)
As noted by the Court in Westphal v. City of St. Petersburg, 194 So.2d 311, 327 (Fla. 1916): “Florida law has long held that, when the
legislature approves unconstitutional statutory language and simultaneously repeals its predecessor, then the judicial act of striking the
new statutory language automatically revives the predecessor unless it, too, would be unconstitutional.” B.H. v. State, 645 So.2d 987, 995
(Fla.1994).” See also Castellanos, at 448.
25 Castellanos, at 448.
26 Castellanos, at 449.
27 Thus, the absence of any statutory factors, as noted by the Court in Murray, and instead reliance on a “reasonable” statutory standard and
the factors originally delineated by the Court in Lee Engineering & Constr. Co. v. Fellows, 209 So.2d 454 (Fla. 1966). See Castellanos, at
448 (Only where the claimant can demonstrate, based on the standard this Court articulated long ago in Lee Engineering, that the fee
schedule results in an unreasonable fee - such as in a case like this - will the claimant's attorney be entitled to a fee that deviates from the
28 fee schedule.”).
The Court concluded that “the possibility of an as-applied challenge to the statute on a case-by-case basis would be both unworkable and
without any standards for determining when the fee schedule produces a constitutionally inadequate fee.” Castellanos, 434.
29 The 19.6% was broken down as follows: effects of Castellanos = 15.6%, effects of Westphal = 2.2%, effects of updates to the Workers’
Compensation Health Care Provider Reimbursement Manual = 1.8%.
30 September 27, 2016 Order of The Florida Office of Insurance Regulation is found at
<http://www.flair.com/siteDocuments/NCCI191880-16-OORF.pdf> (last visited October 11, 2016).
31 Fee v. The National Council on Compensation Insurance, Case no. 2016-020607-CA-01, in the Circuit Court of the Eleventh Judicial
Circuit. <https://www.scribd.com/document/321270418/Florida-worker-s-comp-lawsuit-Response>, last visited November 9, 2016.
Florida Workers’ Advocates, et. al. v. State of Florida, Case no. 11-13661 CA 25, in the Circuit Court of the 11th Judicial Circuit.
https://www.wci360.com/files/uploads/10323_FL-WC_Order.pdf, last visited November 9, 2016.
33 Florida Workers’ Advocates, at 19 (“As a matter of law, Chapter 440, effective October 1, 2003 is facially unconstitutional as long as it
contains §440. 11 as an exclusive replacement remedy.”); see also Florida v. Florida Workers’ Advocates, 167 So.3d 500, 504 (Fla. 3rd
DCA 2015).
34 Florida v. Florida Workers’ Advocates, 167 So.3d 500 (Fla. 3rd DCA 2015) (“the case law does not support some sort of “piggy-back”
standing by an intervenor based exclusively on a predecessor plaintiff's subsequently-dismissed claim.”).
35 Florida v. Florida Workers’ Advocates, at 504. (“when Velda Farms dismissed its affirmative defense of workers' compensation
immunity vis-à-vis Mr. Cortes, the declaratory judgment count became moot, and any further proceedings were an intervenors-only
exercise.”).
36 The Florida Statutes are available online at: <http://www.flsenate.gov/Statutes/>. Section 440.015, Florida Statutes, expresses the self-
executing nature, “an efficient and self-executing system must be created which is not an economic or administrative burden.”
37 This is defined by §440.50, Fla. Stat.
38 See endnote 1.
39 Rule 60Q-6.115 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.”
40 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.
41 According to Workcompcentral.com, these states have spent far more developing their case management and litigation platforms.
Notably, their systems are for all workers’ compensation claims in their respective states, while the OJCC system is for litigated claims
only. Pennsylvania is reported to have spent \$45.1 million initially, and contracted for three years of support and maintenance at \$5.1
million per year. California has reportedly spent \$61 million to deploy their case management and electronic filing platform.
<https://ww3.workcompcentral.com/news/story/id/a0a2e2759c516074e05f1d022d13c444m>. The OJCC has deployed its eFiling, eService,
42 and case management platforms using existing budget funds. The total expenditures to date are less than \$1 million.
In this same regard, there is no clear definition of many of the terms that are drawn upon for statistical analysis. See endnote 2 regarding
the definitions for “trial” and thus the foundation for calculations.
43 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
attorneys’ fees and costs, and penalties and interest are commonly claimed when any form of indemnity is sought.
44 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.
45 This is discussed more fully in the report section on attorney fees by accident years (page 34).
46 The appropriate method to seek determination of attorney fee entitlement or amount is usually by motion. Rule 60Q-6.124. 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.
47 Because of effort that is involved in determining many motion issues, the OJCC previously 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).

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.

In this context, see endnotes 23 through 27 regarding the determinations of Castellanos and the “companion cases.”

Lundy v. Four Seasons Ocean Grand Palm Beach, 932 So.2d 506 (Fla. 1st DCA 2006); Campbell v. Aramark, 933 So.2d 1255 (Fla. 1st DCA 2006); Wood v. Fla. Rock Indus., 929 So.2d 542 (Fla. 1st DCA 2006); Murray v. Mariners Health/ACE USA, 946 So.2d 38 (Fla. 1st DCA 2006).

The Murray decision affected many cases, see endnotes 12 and 52. With that effect, to a large population of potential cases, it is unclear why the petition filings would return to a declining trend in 2009-10. More logically, if the Murray decision was responsible for the increased filings prior to the legislative adjustment, that trend would have continued.

The Florida Legislature reacted to the Murray v. Mariner Health, 994 So.2d 1051 (Fla. 2008) decision in 2009, passing further amendment to section 440.34, Florida Statutes, 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 section 440.34, Florida Statutes (2003) in Murray. Thus, that decision in October 2008 effected a change applicable to a population of filed and potential cases for dates of accident in the past. The Legislature’s action amending the statute in 2009 applies only to cases in which the accident occurs after the effective date of that legislation. Thus, the legislative action in 2009 affects only a prospective change for accidents after June 30, 2009. Thus, the Murray analysis of the 2003 law will continue to control and hourly fees will remain payable for claims on dates of accident between October 1, 2003, and June 30, 2009.

The Florida Supreme Court in Castellanos noted “that the right of a claimant to obtain a reasonable attorneys’ fee has been a critical feature of the workers’ compensation law.” The Court went further, however, concluding that “a reasonable attorneys’ fee has always been the linchpin to the constitutionality of the workers’ compensation law.” Castellanos, at 435. Not “a” linchpin, but “the” linchpin. The common dictionary definition of “linchpin” is “the most important part of a complex situation or system.” Claimant attorney fees, according to the Florida Supreme Court, are the most important part of the Florida workers’ compensation system.

The “Great Recession” is the historical period from December 2007 through June 2009. During this time, the effects of poorly conceived lending policies of the Federal government resulted in a vast quantity of mortgage foreclosures, decreased market consumption, rampant job loss, and economic decline throughout the United States. The Florida economy suffered significantly as construction decreased. During this time period, discretionary spending also decreased, with a detrimental effect on the Florida tourism industry.

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

Cinicerros, Business Insurance, Florida Insurance Commissioner Approves 8.9% Workers Compensation Rate Hike,

<http://www.businessinsurance.com/article/20111024/NEWS08/111029952>, October 24, 2011.

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

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

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

<http://www.flair.com/PressReleases/viewmediarelease.aspx?id=2125>.

The conclusions reached by the DLES have previously been published. These conclusions are available for analysis. However, none of the raw source data used for those analyses was provided to the DOAH when the OJCC was transferred in 2001. The statistics published by the DLES are therefore expressed in this report for illustrative comparison only.

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

Some suggest that the availability of an alternative, hourly fee for medical only claims in section 440.34(7), Florida Statutes, 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.

See endnote 40.

See endnotes 40-43).

In the last century, this term commonly referred to “an informal photograph taken quickly, typically with a small handheld camera,” and was used in the business sense to reflect a representation of figures or facts in the current moment. A more apt term in the modern vernacular might be “selfie,” a term coined to reflect that the “snapshot” was being created by the person pictured, but a “snapshot” nonetheless.

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

It is notable that some portion of the “new cases” filed each year are not filed because there is a petition issue, or need for filing a petition. Some “new cases” filed each year are created for the purpose of filing a motion for determination of some motion or for the purpose of filing a Joint Petition to settle the case.

See endnotes 83, 127 through 132.

The Petition for Benefits which claims attorneys’ fees and costs is effective to toll the statute of limitations, despite the dismissal of the other substantive claims therein. Administrative closure of a petition by the OJCC does not obviate that fee or cost issue.

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

Mediation may be scheduled, on a previous PFB, at the time a subsequent PFB is filed. The OJCC Procedural Rules require that all pending PFBs are to be mediated at any mediation. Therefore, a distinct mediation does not necessarily occur for each PFB, and mediation of multiple PFBs at one mediation is common. Some PFBs are scheduled for expedited final hearing. These PFBs regard issues that are of a moderate financial value (\$5,000.00 or less), and mediation is not required for these PFBs.

73 There is anecdotal evidence that some divisions exhibited significant delays in the entry of final orders following trials. It is believed that this pattern has been described and publicized, and as a result is currently quite rare. 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.

74 The Court has concluded that the administrative closure of a PFB does not foreclose the entitlement to attorneys' 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).

75 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.

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

77 The aggregate reached \$1 million in 2014-15.

78 The credit due to the DOAH IT staff is substantial. Their efforts have deployed a comparatively inexpensive electronic process and presence. See endnote 41 regarding other states' expenditures. Special thanks are due to DOAH IT Director Susan Brown for her leadership on this process and the success of the eJCC platform.

79 It will likely be impractical to compile a complete database of e-mail 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 eService 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.

80 The Florida Office of Judges of Compensation Claims is not a "court" however. Jones v. Chiles, 638 So.2d 48 (Fla. 1994); See also, In Re Florida Rules of Workers' Compensation Procedure, 891 So.2d 474 (Fla. 2004).

81 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>; last visited November 9, 2016.

82 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; dividing by the 15,421 in 2014-15 yields \$176.62; and dividing by the 15,703 in 2015-16 yields \$173.45. These figures do not include the costs of staff support or facilities or equipment. Therefore, this is a conservative cost figure.

83 Section 440.25(3)(b), Florida Statutes, requires the employer/carrier to provide private mediation at its expense if "mediators are not available" at the OJCC. ("[I]f mediators are not available under paragraph (a), pursuant to notice from the judge of compensation claims, to conduct the required mediation within the period specified in this section, the parties shall hold a mediation conference at the carrier's expense within the 130-day period set for mediation.")

84 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 section 440.25, Florida Statutes. A very small percentage of mediations (three mediations in fiscal 2014-15) were waived by order of the Deputy Chief Judge of Compensation Claims.

85 Infra, endnote 83.

86 If 29,253 mediations were actually held in 2002-04, that means that the 31 state mediators employed that year each conducted 943 (29,253/31=) mediations. With approximately 220 working days (52 weeks x 5 days =260, minus ten holidays and 30 days leave = 220 days), this equates to 4.3 mediations daily.

87 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.

88 As a percentage of petitions filed, this 191 continuances was nonetheless a slight decrease.

89 Anecdotally, there is evidence that many attorneys do not understand the continuance restrictions in section 440.25. There is a persistent failure to plead or prove that circumstances requiring continuance are beyond the moving party's control. The actual cause of denied continuances may well be more attributable to this ineffective practice and pleading. There is, however, anecdotal evidence suggesting some judges are motivated more by statistical analysis and figures than by performing an exemplary job as adjudicator. That evidence is disheartening, but does not excuse this Office's statutory duty to report these various facts and figures.

90 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
91 extent on these unavoidable natural phenomena.

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.

92 Infra, endnote 52.

93 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).

94 Section 440.34(1), Florida Statutes, 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."

95 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 section 440.105(3)(b), Florida Statutes, 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.

96 Section 440.105(3)(b), Florida Statutes 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."

97 Until recently, Rule 60Q-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 attorneys' 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.

98 In the preparation of the 2013-14 Annual Report, a discrepancy was noted in the reporting by Sedgwick CMS. Investigation revealed that
this servicing agent had erroneously over-reported defense fees in each of the years 2003-04 through 2012-13. The Sedgwick CMS over-
reporting aggregate was \$120,082,482.28.

99 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.

100 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.

101 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.

102 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.

103 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.

104 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.

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

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

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

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

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

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

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

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

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

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

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

116 Id.

117 Case number 16-000577.

118 Case number 15-006570.

119 The decrease, compared to 2014-15 is again likely due to the change in definition of "trial" and thus the volume and type of orders included.

120 This decrease does not reflect a change in performance, but in definition, see endnote 2.

121 In addition to "trial orders," each Judge enters an extensive volume of substantive orders. These may result from discovery issues, motions for appointment of an expert medical advisor, attorney's fees, and other matters that require consideration of evidence and which may require significant time and effort to produce. There are some judges who delegate that responsibility to the attorneys involved in a particular case. However, the need for these orders and the effort required to produce and publish them bears noting.

122 Trial orders were a category of substantive orders entered by the Judges of Compensation Claims. This category includes orders entered following trials, which are defined as evidentiary motion hearing, expedited final hearing, fee amount hearing, fee entitlement hearing, final hearing, and fund hearing. Therefore "trials" includes far more than final hearings on petitions for benefits. Thus, the count of trial orders and trials was a more inclusive calculation. Under the definition adopted in 2016, "trial" now refers to a final merits hearing on substantive petition issues, or a contested attorney fee/cost hearing on petition issues or on a verified motion or petition for fees/costs.

123 In *Miles v. City of Edgewater Police*, 190 So.3d 171 (Fla. 1st DCA 2016), the Florida First District Court of Appeal concluded that "the right to hire and consult an attorney" is protected by the United States Constitution, Amendment I., a "guarantee of freedom of speech, association, and to petition for redress of grievances." The Court further recited horn book authority that "to survive strict scrutiny, a law '[a] must be necessary to promote a compelling governmental interest and [b] must be narrowly tailored to advance that interest,' and '[c] accomplishes its goal through the use of the least intrusive means.'" And concluded that the state has not demonstrated any such compelling interest as regards supervision of claimant's attorney fees.

124 The 210-day parameter applies by definition to the trial of PFB. Because the effort involved in trial of many other evidentiary matters are equally involved, the OJCC had defined "trial" to include hearings on PFBs, attorney fee motions/petitions, SDTF reimbursement and other significant evidentiary motion hearings. That definition was changed for 2015-16, see endnote 2. The OJCC measures "time to trial" from the filing of the operative pleading (PFB/Motion) to the first day of trial. The time periods between the filing of these significant motions/petitions and the trial thereon are included in the averages for OJCC aggregates and for the various Judges' 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 PFB hearings in the "trial" definition, the OJCC likewise includes the resulting orders in the definition of "trial orders." The time to order is measured from the first day of trial through the ultimate entry of a final order. An abbreviated order is counted as the final order unless it is subsequently vacated, in which case the ultimately entered final order is counted. The time periods between the hearing of these significant motions/petitions and order thereon are included in the averages for OJCC aggregates and for the various Judges' charts included herein.

126 §440.45(2)(c), Fla. Stat.: "Each Judge of Compensation Claims shall be appointed for a term of 4 years, but during the term of office may be removed by the Governor for cause. Prior to the expiration of a judge's term of office, the statewide nominating commission shall review the judge's conduct and determine whether the judge's performance is satisfactory. Effective July 1, 2002, in determining whether a judge's performance is satisfactory, the commission shall consider the extent to which the judge has met the requirements of this chapter, including, but not limited to, the requirements of sections 440.25(1) and (4)(a)-(e), 440.34(2), and 440.442. If the judge's performance is deemed satisfactory, the commission shall report its finding to the Governor no later than 6 months prior to the expiration of the judge's term of office." (Emphasis added).

127 §440.25(1), Fla. Stat.: "Forty days after a PFB is filed under s. 440.192, the judge of compensation claims shall notify the interested parties by order that a mediation conference concerning such PFB has been scheduled unless the parties have notified the judge of compensation claims that a private mediation has been held or is scheduled to be held. Mediation, whether private or public, shall be held within 130 days after the filing of the PFB. Such order must give the date the mediation conference is to be held. Such order may be served personally upon the interested parties or may be sent to the interested parties by mail. If multiple PFBs are pending, or if additional PFBs are filed after the scheduling of mediation, the judge of compensation claims shall consolidate all PFBs for one mediation. The claimant or the adjuster of the employer or carrier may, at the mediator's discretion, attend the mediation conference by telephone or, if agreed to by the parties, other electronic means. A continuance may be granted upon the agreement of the parties or if the requesting party demonstrates to the judge of compensation claims that the reason for requesting the continuance arises from circumstances beyond the party's control. Any order granting a continuance must set forth the date of the rescheduled mediation conference. A mediation conference may not be used solely for the purpose of mediating attorneys' fees."

128 §440.25(4)(a), Fla. Stat.: "If the parties fail to agree to written submission of pretrial stipulations, the Judge of Compensation Claims shall conduct a live pretrial hearing. The Judge of Compensation Claims shall give the interested parties at least 14 days advance notice of the pretrial hearing by mail."

129 §440.25(4)(b), Fla. Stat.: “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.”

130 440.25(4)(c), Fla. Stat.: “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.”

131 440.25(4)(d), Fla. Stat.: “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.”

132 §440.25(4)(e), Fla. Stat.: “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.”

133 §440.442, Fla. Stat.: “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.”

134 There is a small population of cases in which an employer/carrier may be entitled to reimbursement from the Special Disability Trust Fund, §440.49, Fla. Stat., in the event of dispute regarding the appropriateness of reimbursement, the Office of Judges of Compensation Claims holds a trial and determines the legal and factual sufficiency.

135 That inclusion had been consistent for almost a decade. 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.

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

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

138 §440.34(2), Fla. Stat.: “In awarding a claimant’s attorneys’ fee, the Judge of Compensation Claims shall consider only those benefits secured by the attorney. An attorney is not entitled to attorneys’ 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 attorneys’ 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 attorneys’ 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 attorneys’ 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.”

139 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 56, 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 120-129.

140 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.

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

142 This caused the OJCC to operate in 2011-12 (and since) 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
143 additional mediators clearly put the OJCC in violation of that law.

144 See endnotes 2 and 122.

145 In addition to “trial orders,” each Judge enters an extensive volume of substantive orders. These may result from discovery issues,
motions for appointment of an expert medical advisor, attorney’s fees, and other matters that require consideration of evidence and which
may require significant time and effort to produce. There are some judges who delegate that responsibility to the attorneys involved in a
particular case. However, the need for these orders and the effort required to produce and publish them bears noting.

146 In 2014-15, Mediator Hauber transferred to District MEL. Mediator Johnsen from Miami transferred to Ft. Lauderdale to replace him and
remained through fiscal 2015-16. Near the beginning of 2016-17, Mediator Johnsen was appointed Judge of Compensation Claims in
District WPB. It is hoped that the timelines and efficiency in Ft. Lauderdale can be maintained through the efforts of his replacement and
the continued efforts of Mr. Breslow.

147 See endnotes 2 and 122.

148 Infra, endnote 144.

149 Infra, endnote 144.

150 Infra, endnote 144.

151 See endnotes 2 and 122.

152 Infra, endnote 144.

153 See endnotes 2 and 122.

154 The gap represents the time period during which there was no mediator assigned to District Lakeland. During that time, the mediation
responsibilities for that District were divided among various mediators throughout the state.

155 Infra, endnote 144.

156 Infra, endnote 144.

157 See endnotes 2 and 122.

158 Infra, endnote 144.

159 Infra, endnote 144.

160 See endnotes 2 and 122.

161 Infra, endnote 144.

162 Infra, endnote 144.

163 See endnotes 2 and 122.

164 Infra, endnote 144.

165 See endnotes 2 and 122.

166 Infra, endnote 144.

167 See endnotes 2 and 122.

168 Infra, endnote 144.

169 See endnotes 2 and 122.

170 Infra, endnote 144.

171 See endnotes 2 and 122.

172 See endnotes 2 and 122.

173 Infra, endnote 144.

174 See endnotes 2 and 122.

175 Infra, endnote 144.