

STATE OF FLORIDA

Division of Administrative Hearings



2019-2020 Settlement Report and Mediation Statistics Report of the Office of the Judges of Compensation Claims

Table of Contents and Summary:

Overview of Florida Workers' Compensation	3
Data Collecting and Reporting	3
2012 Staff Reductions in OJCC Mediations	4
Reports of Settlements Pursuant to §440.20(11)(a)	4
Number of Mediation Conferences Held	6
Mediations held 18,211 (6.8% increase from last year)	
100% of State Mediators averaged less than 130 days to mediation in 2020.	
Petitions Resolved Before Mediation (“Dismissed” or “Resolved Prior”)	8
Disposition of Mediation Conferences	8
Timeliness of Mediation Conferences	16
Number of Continuances Granted for Mediations	17
Continuances 219 (decrease from 283 in 2018-19)	
Individual State Mediator Statistics	
Arrick, Susan (MIA)	19
Bisbee, Susan (TLH)	20
Blatt, William/Stillson, David (WPB)	21
Bredemeyer, Eric (FTM)	22
Breslow, Jeffrey (FTL)	23
Brooks, John (DAY)	24
Carrier, Jessica (SAR)	25
Day, Kahlil (JAX)	26
Gonzalez-Fajardo, Ana (MIA)	27
Gordon, Alan (JAX)	28
Gross, Daniel/Oramas, Eddie (PMC)	29
Hart, Deborah (TPA)	30
Harwood, Paul (LKL)	31
Hauber, Mark (MEL)	32
Hayes, Dawn (PSL)	33
Hires, Sherry (ORL)	34
Hoeg, Silvia (ORL)	35
Imber, Michael (WPB)	36
Kim, Anna (ORL)	37
Lapin, Rhonda (MIA)	38
Lefler, Rochelle (SPT)	39
Leon, Laurie (TPA)	40
Levy, Joan (MIA)	41
Miller, Gary (MIA)	42
Ogden, Tania (FTM)	43
Ross, Adam (FTL)	44
Schmidt, Bryce (GNS)	45
Slowikowski, Carolyn (PNS)	46
Stillson, David (FTL)	47
Valliere, Bethany (WPB)	48
Endnotes	49

Overview of Florida Workers' Compensation:

The Office of the Judges of Compensation Claims (“OJCC”) is part of the Division of Administrative Hearings, referred to throughout this Report as DOAH. Each year, the OJCC publishes an Annual Report, which provides the Florida Legislature and Governor with statistical measures of the volumes of litigation and the operations of this Office, section 440.45(5), Florida Statutes. Those reports are available on the OJCC website, www.fljcc.org, within the “Publications” section under the “Reports” tab.

Florida Workers’ Compensation is a self-executing system defined by Chapter 440, Florida Statutes. 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 a work accident or disease. Chapter 440, Florida Statutes defines who must participate in the workers’ compensation system, and delineates the participant’s rights and responsibilities. The primary participants in this system are Florida’s employers and their employees. Some employers purchase workers’ compensation insurance from a “carrier.” These are therefore often collectively referred to as the “employer/carrier” or the “E/C.” Other employers are “self-insured,” but have their claims administered or managed by an outside entity, commonly called “servicing agents.” These are therefore often referred to collectively as “E/SA.” For the purposes of this report, references to E/C should be interpreted to refer to employers, carriers, and servicing agents collectively, unless some distinction between insured and self-insured is specifically stated.

The OJCC mission is centered on the impartial processing, mediating, and adjudicating of disputes regarding benefits allegedly due to such injured workers. The litigation process for most Florida workers’ compensation disputes begins with the filing of a pleading called the petition for benefits, or “PFB.” A PFB may seek medical care benefits and/or lost income (“indemnity”) benefits.¹ Mediation is mandatory in most Florida workers’ compensation claims. § 440.25(1) Fla. Stat. There is a limited exception to this requirement in section 440.25(4)(h) for petitions that only “involve a claim for benefits of \$5,000 or less.” And, the mediation requirement can be waived.²

Organizationally, the OJCC is comprised of thirty-one Judges. Each is appointed by the Governor for a term of four years. The Judges serve in seventeen District Offices throughout Florida. Between 2012 and 2018, the OJCC employed twenty-eight full-time mediators. Each OJCC mediator was historically assigned to a particular Judge, and for each judge there was one full-time mediator. The 2012 budget cuts altered that paradigm; see below “2012 Staff Reduction.” However, in 2018, the OJCC reclassified a staff position to create a 29th mediator position. And in 2019 repeated the process to create a 30th.³

Mediation is statutorily mandated to occur within 130 days after the PFB is filed. If an OJCC mediator cannot accommodate that time restriction, then the PFB must be assigned to private mediation at the expense of the E/C. Additionally, parties may elect to participate in private mediation in lieu of mediation with the assigned OJCC mediator.

Data Collection and Reporting:

The data in this report is dependent for accuracy upon the efforts of district staff and mediators in the seventeen District Offices throughout Florida. Before 2001, the OJCC historically struggled with accurate data collection. Since fiscal year 2005-06 extensive effort has been expended to provide all OJCC personnel with training and resources in support of accurate collection of data regarding all OJCC operations, including mediation efforts and mediation outcomes. Furthermore, the OJCC Central Clerk’s office conducts extensive and ongoing auditing to both verify data and reinforce training. It is believed that the data represented herein is accurate as a result of that significant effort.

A petition for benefits (“PFB”) is effectively a combination of a “claim for benefits” and an “application for a hearing” on the claimed benefits. Each PFB might seek a single benefit, such as a claim for a change in physician or a medical test, or could seek multiple benefits. When an injured worker believes she or he is entitled to a benefit that is not provided by the employer or their insurance carrier, the worker files a PFB describing entitlement to that benefit(s). This filing will generally result in the scheduling of an OJCC mediation. Thereafter, as other additional benefits become due, an injured worker may file additional PFBs. All pending PFBs filed before the scheduled mediation will be mediated at one time, pursuant to section 440.25(1). Thus any OJCC mediation could address one benefit or many benefit issues.

Entitlement to various workers’ compensation benefits may be litigated before the OJCC over a period of years as those issues arise.⁴ Therefore, workers’ compensation is very different than other litigation that addresses civil damages, which are less serial in nature. Because of the serial nature of workers’ compensation benefits, and the resulting potential for serial litigation of the issues surrounding entitlement to those benefits, it is not uncommon for a particular case to be mediated, albeit on different benefits, by the same OJCC mediator on more than one occasion.

2012 Staff Reductions and Consolidations in OJCC Mediation

The Legislature altered the OJCC budget for Fiscal Year 2013, which began July 1, 2012. In all, five positions were eliminated from the OJCC budget (from 182 total positions to 177). Since that time, the OJCC has made various adjustments. Offices that previously were assigned three mediators and three judges were reduced to two mediators each.⁵ This has necessitated out-of-district mediation assistance periodically in District West Palm Beach. These efforts are documented more fully in the 2015-2016 Mediation Report.⁶ In 2018, the OJCC reclassified a staff position to restore a half-time mediator to each of District Ft. Lauderdale and District West Palm Beach.⁷ In 2019, a similar reclassification added a full time mediator to West Palm Beach, allowing the formerly hybrid position to focus entirely upon the Ft. Lauderdale docket. District Tampa remains staffed by only two state mediators.

Mediations have been regularly maintained on the OJCC calendar through the efforts of other state mediators and conducted by telephone or video teleconference. The effort illustrates the flexibility of the OJCC generally and of the exceptional people that are serving Florida in this role. The state mediators have demonstrated a spirit of teamwork and dedication that illustrates the core value of public service.

In 2017, the OJCC began providing public access to mediator calendars. This is an effort to empower parties to more efficiently reschedule mediations and reduce the need for continuance. That effort was undertaken with minimal programming, allowing parties to view the calendars and to perceive potential availability. Each mediator has traditionally been afforded significant autonomy in calendar management; however, the resulting variety of mediator calendar practices has proven difficult for the public.

Reports of Settlements Pursuant to § 440.20(11)(a):

Although settlements of litigated disputes are generally favored in the law, Florida workers' compensation cases were historically treated differently, with specific findings and often hearings required for settlement approval.⁸ It is currently statutorily permissible to settle all of a worker's rights under the workers' compensation statute. There are three distinct legal provisions that authorize settlements of workers' compensation cases, all contained in section 440.20(11), Florida Statutes.⁹

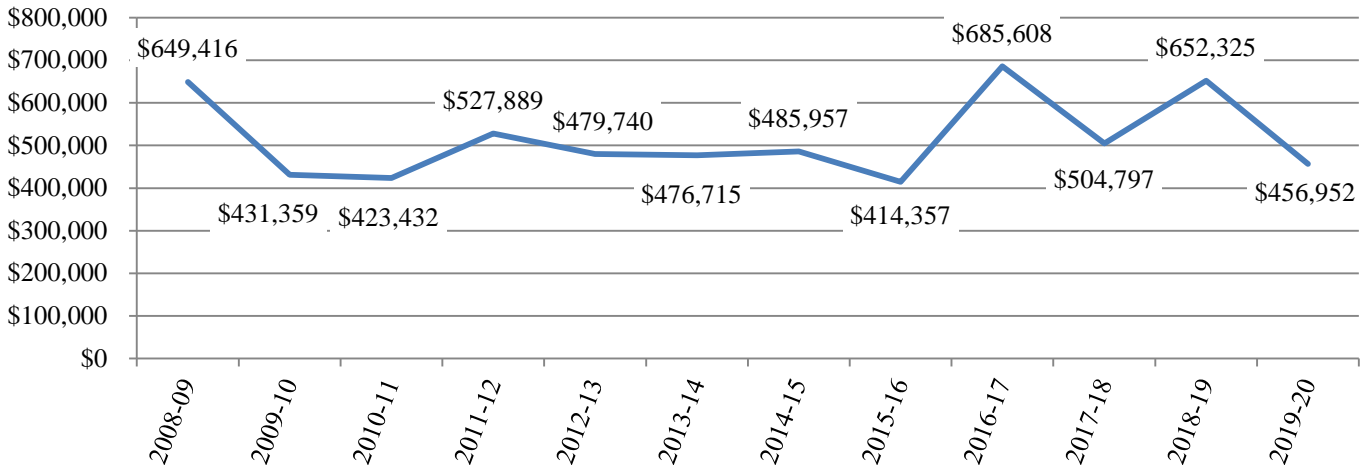
Injured workers represented by an attorney may settle their cases without the approval of a judge of compensation claims. However, unrepresented injured workers may settle their cases only if the judge approves, and that approval can only be granted if (a) the employer has denied compensability of the accident from the outset or (b) the claimant has reached the point where no further improvement of his or her medical condition can be reasonably anticipated (maximum medical improvement).¹⁰ Of these settlements by unrepresented claimants, only the former (a) are required by statute to be reported by judges of compensation claims and summarized in this special annual report to the legislature.

These cases, known as "11(a) washouts" because they are authorized by section 440.20(11)(a) and permanently extinguish or "washout" an employer's liability for a given accident, are the subject of this report. Other settlements are reported in the comprehensive Annual Report of the Office of Judges of Compensation Claims (OJCC), published in December of each year.¹¹ The "11(a) settlements" for 2019-20 decreased notably to \$456,952. In 2018-19, these settlements totaled \$652,325, a marked increase over 2017-18. The fluctuations apparent in the last five fiscal years are interesting, but not attributable to any patent causation.

The following chart illustrates both a notable period of consistency in the aggregate value of "11(a) washouts" and the more recent marked fluctuations.

Year	Aggregate Value 11(a) Settlements	Percent Change
2008-09	\$649,416	
2009-10	\$431,359	-34%
2010-11	\$423,432	-2%
2011-12	\$527,889	25%
2012-13	\$479,740	-9%
2013-14	\$476,715	-1%
2014-15	\$485,957	2%
2015-16	\$414,357	-15%
2016-17	\$685,608	65%
2017-18	\$504,797	-26%
2018-19	\$652,325	29%
2019-20	\$456,952	-30%

Aggregate Value 11(a) Settlements



In the fiscal year (“FY”) ending June 30, 2020, there were 70 reported 11(a) settlements, a decrease from the 78 reported in FY 2018-19 and equal to the 70 reported in FY 2017-18. Though there has been some fluctuation, the total volume of these settlements has been between 70 and 99 for the last ten fiscal years.

The settlements in fiscal year 2019-20 were classified by the reason stated for denying compensability of the claim. As shown in the chart (below), the largest categories of denial in 2019-20 was “causal connection lacking. The volume of “Positive Drug Test” denials (22% of the total in 2018-19) was only 11.43% in 2019-20. The top three categories in 2018-19 (“Positive Drug Test” 22%, “Causal Connection Lacking” 21%, and “No Accident Occurred” 21%) accounted for approximately 63% of the 11(a) settlements in 2018-19. The top three categories in 2019-20 account for 57%.

Reason for Denial	Volume	Percent	Total	Average	High	Low
Causal Connection Lacking	18	25.71%	\$139,740	\$7,763	\$40,000	\$700
No Accident Occurred	13	18.57%	\$95,700	\$7,362	\$25,000	\$350
Not in Course and Scope of Employment	9	12.86%	\$41,000	\$4,556	\$16,000	\$1,500
Positive Drug Test	8	11.43%	\$44,300	\$5,538	\$14,900	\$2,400
No injury occurred	8	11.43%	\$28,500	\$3,563	\$7,500	\$1,000
Injury Not Timely Reported	6	8.57%	\$21,000	\$3,500	\$5,000	\$500
Unspecified	3	4.29%	\$49,900	\$16,633	\$29,900	\$5,000
Not an employee	3	4.29%	\$30,312	\$10,104	\$22,500	\$2,000
Misrepresentation on Application for Employment	1	1.43%	\$5,000	\$5,000	\$5,000	\$5,000
Statute of Limitations	1	1.43%	\$1,500	\$1,500	\$1,500	\$1,500
	70		\$456,952			

The number of 11(a) washouts continues to be dwarfed by the other types of washout settlements authorized by section 440.20(11), Florida Statutes. In fiscal year 2019-20 there were 27,609 workers’ compensation settlement orders entered. That was an increase of 1,028 (4%) from the 26,581 orders in 2018-19. Accordingly, the number of 11(a) washouts in 2019-20 (70) was only 0.25% (70/27,609) of all settlements approved during the year. The percentage has been relatively similar for the last eight fiscal years. It is again respectfully submitted that a special report of the volume and descriptions of these settlements is not necessary and these statistics could be easily incorporated into the OJCC Annual Report, published each November. That conclusion has been noted in the statutorily required 11(a) settlement report for the past 15 years.

Number of Mediation Conferences Held:

The volume of mediations held each year has decreased markedly after 2002-03. The rates of decrease in mediations conducted did not mirror the rate of decrease in PFB filings. This suggests that as PFB volume fell, OJCC mediators were able to act upon a greater percentage of the remaining PFB volume. As the volume of state mediation increases, the “unit” cost of each additional mediation conference decreases because the aggregate cost of the state mediation program, primarily mediator salary, physical premises requirements, and computer hardware, remains constant regardless of mediation conference volume, within reasonable parameters. In recent years, the volume of mediations conducted has vacillated, but remained reasonably similar, around 16,000. The 18,211 mediations in 2019-20 is the highest volume since 2009-10.

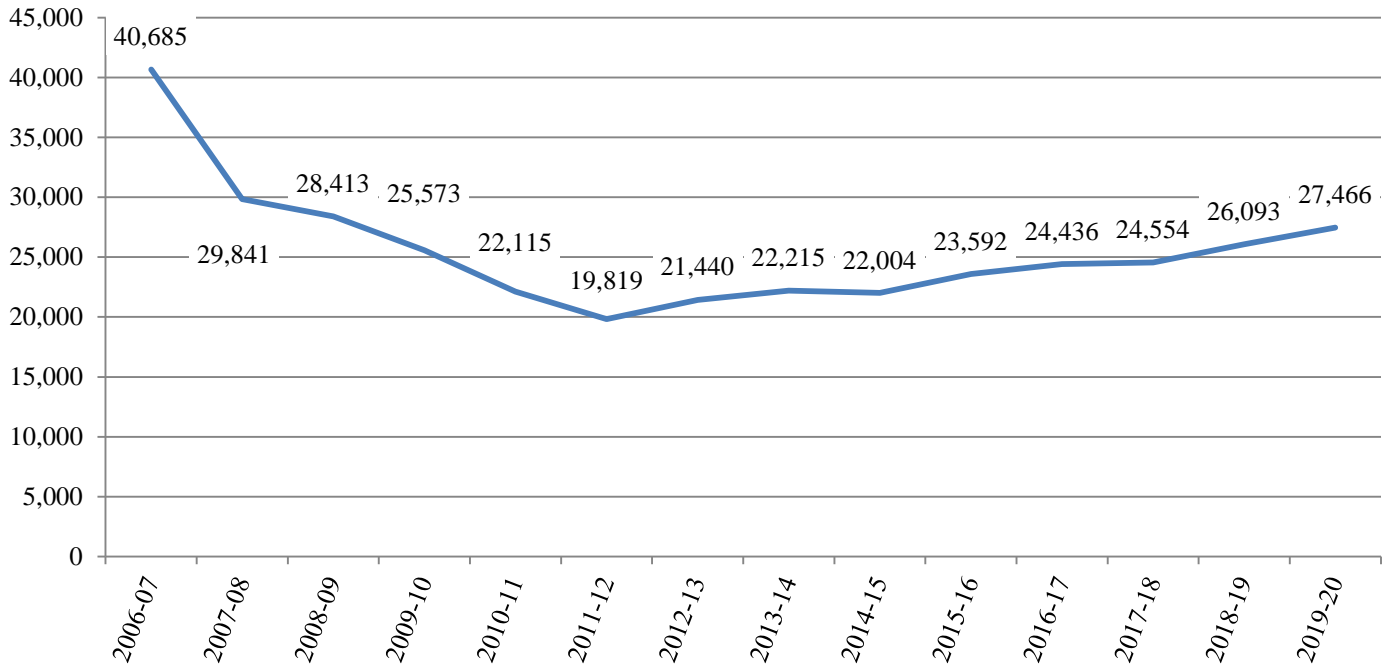
The Florida workers’ compensation law requires that PFBs are filed only when benefits are ripe, due, and owing.¹² After a PFB is filed, an OJCC mediation conference is scheduled with the assigned mediator. Thereafter, it is not uncommon for additional PFBs to be filed prior to that mediation. Therefore, the volume of PFBs mediated is somewhat higher than the number of mediation conferences actually held, as more than one PFB is often mediated simultaneously. The following reflects the PFB filing volumes and mediation volume over the last 17 years.¹³

Fiscal Year	Petitions Filed	% Change	Mediations Held	% Change
2002-03	151,021		29,253	
2003-04	127,611	-15.50%	28,072	-4.04%
2004-05	107,319	-15.90%	26,410	-5.92%
2005-06	90,991	-15.21%	25,522	-3.36%
2006-07	82,607	-9.21%	22,258	-12.79%
2007-08	72,718	-11.97%	20,021	-10.05%
2008-09	73,863	1.57%	20,812	3.95%
2009-10	67,971	-7.98%	19,864	-4.56%
2010-11	64,679	-4.84%	17,896	-9.91%
2011-12	61,354	-5.14%	16,881	-5.67%
2012-13	58,041	-5.40%	15,850	-6.11%
2013-14	59,292	2.16%	16,188	2.13%
2014-15	60,021	1.23%	15,421	-4.74%
2015-16	67,265	12.07%	15,703	1.83%
2016-17	70,365	4.61%	16,079	2.39%
2017-18	70,295	-0.10%	16,167	0.55%
2018-19	73,146	4.06%	17,056	5.50%
2019-20	72,086	-1.45%	18,211	6.77%

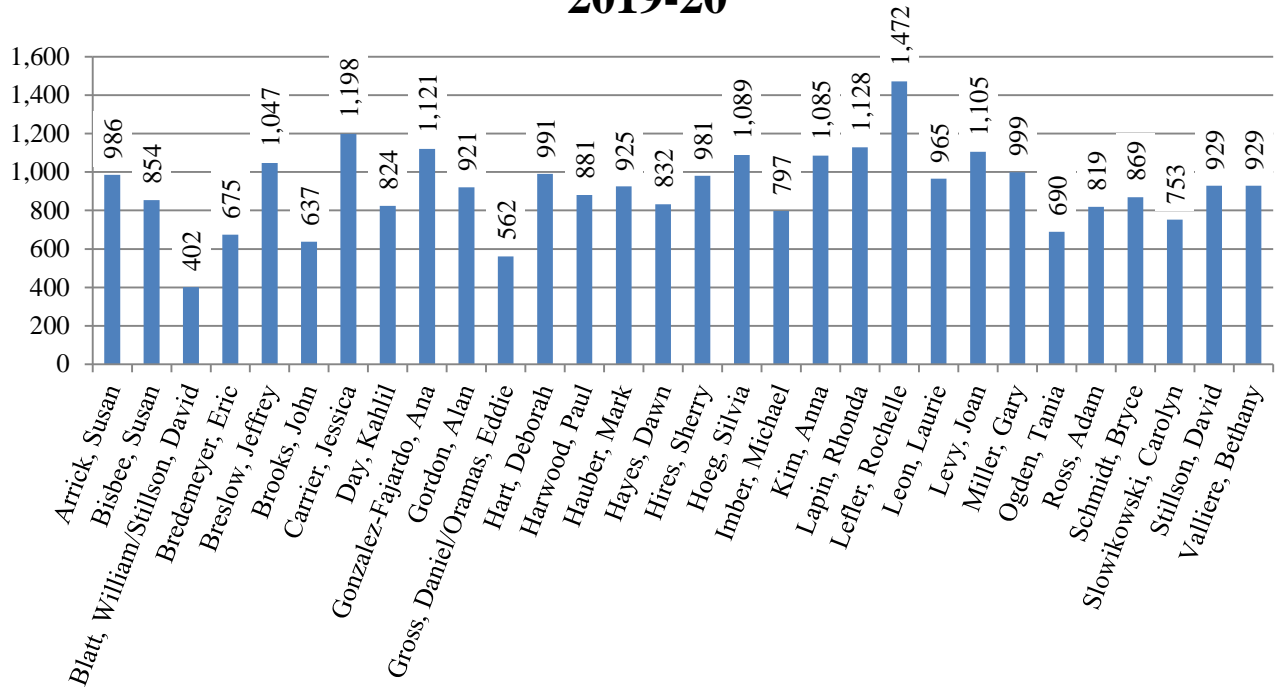
The overall volume of Petitions (PFBs) mediated by state mediators decreased markedly between 2006 and 2012. There followed a period of reasonable consistency, which has trended upward slowly since 2016-17. The total for 2018-19 was a notable increase (6%), followed by another notable increase (7%) in 2019-20. It has been recently discerned that some cases are not being consolidated¹⁴ and thus the outcome of a single mediation appointment being recorded redundantly.

This space intentionally blank

Overall Volume of PFB Mediated 2019-20



Volume of PFBs Mediated by Each Mediator 2019-20

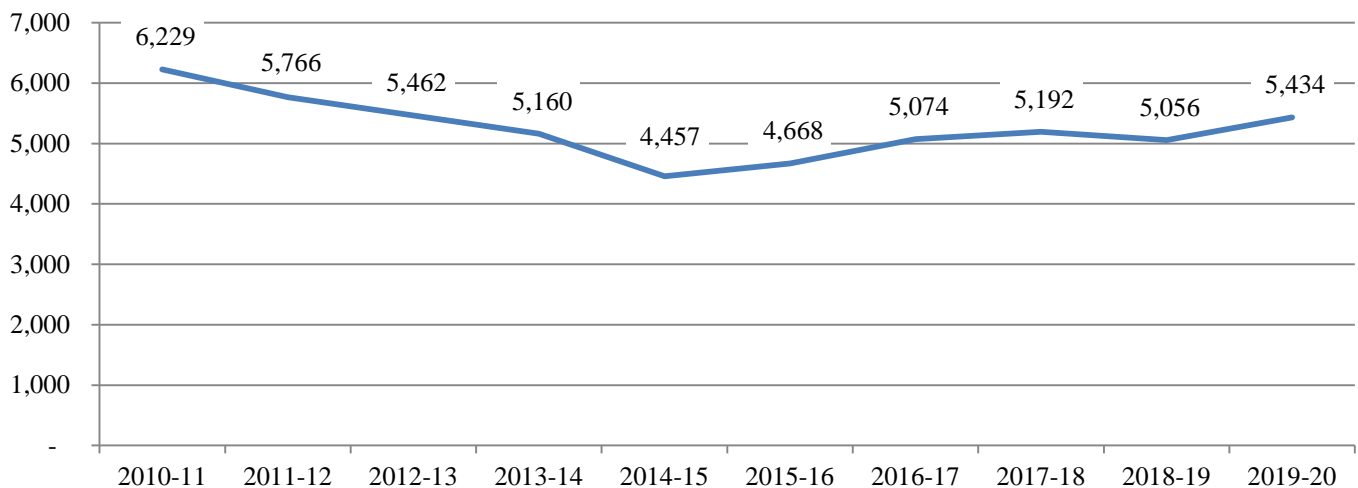


Dismissed and Resolved Prior

Some volume of petitions does not reach the mediation process. These may be dismissed before the mediation conference is scheduled, or the parties may later report that they have either settled the case or resolved the pending issues prior to the mediation. Still other cases are reset for private mediation. Through various paths, a significant volume of litigation is resolved among the parties after PFB filing, but without state mediation. (18,211 mediations conducted in 2019-20; 16,980, an almost equal volume [93% of 18,211], were “resolved or settled prior”).

Similarly to the decline in state mediations, the volume of petitions that have been reset for private mediation decreased consistently from 2009-10 through 2014-15. In 2012-13 the volume of petitions mediated by state mediators began to increase (illustrated in graph on preceding page). However, the volume of cases being set for private mediation continued thereafter to decrease through 2014-15, possibly due to the decreasing overall PFB volume. The volume being privately mediated increased each year 2014-15 through 2017-18; the 2018-19 figure suggested the trend was pausing. However, with the small decrease in PFB filing volume in 2019-20 (-1.45%) came an increase in private mediation volumes. It is possible that some of that increase could be attributable to the OJCC shift to mandatory telephonic mediation in March 2020 reacting to the COVID-19 pandemic.

Reset Private



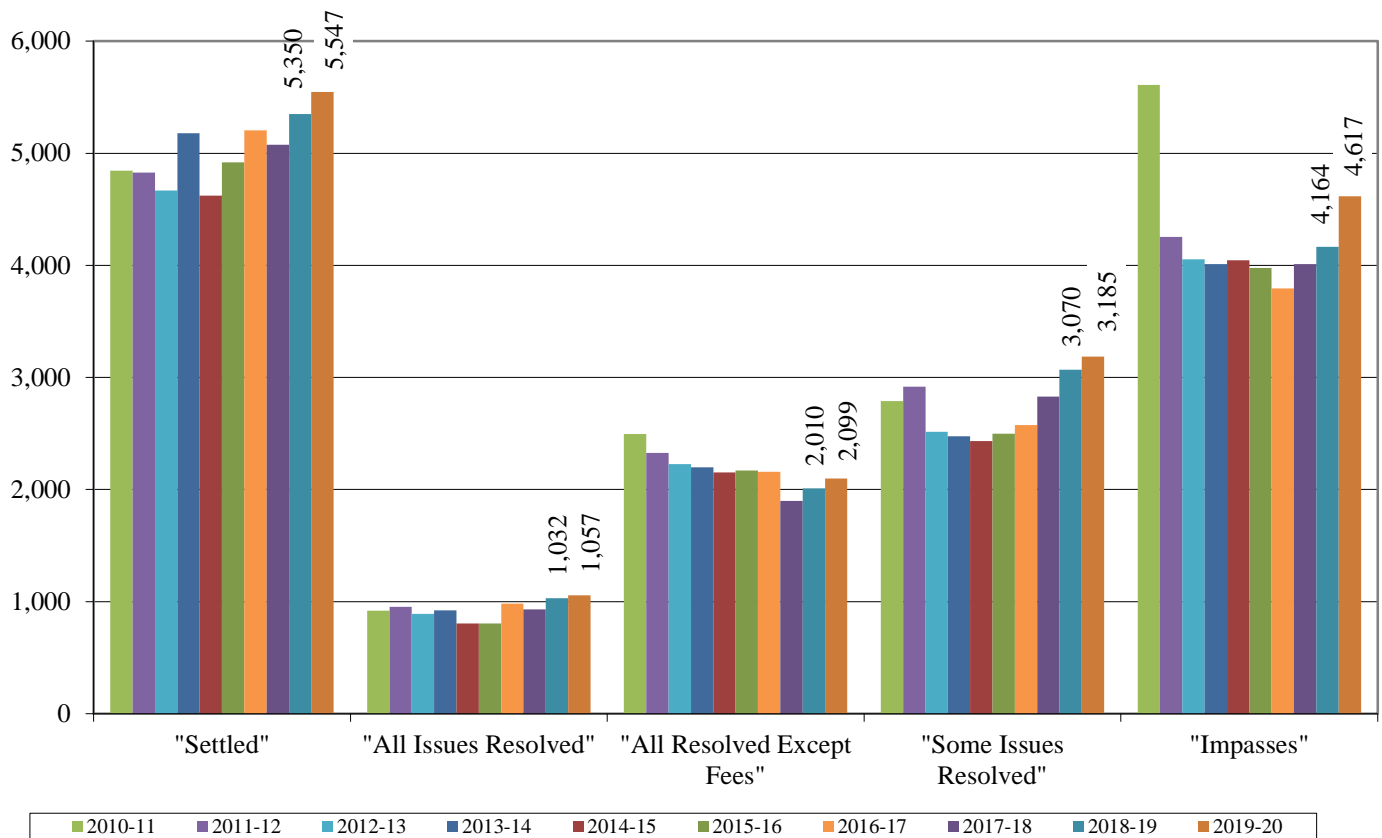
Disposition of Mediation Conferences:

A petition for benefits (“PFB”) may seek only one substantive benefit (i.e. authorization of an orthopedic surgeon), or could contain many issues (i.e. orthopedic authorization, neurological authorization, diagnostic testing authorization, correction of the average weekly wage, payment of temporary total, temporary partial, supplemental benefits, and/or permanent total disability benefits, etc.). Virtually all PFBs also include claims for ancillary benefits related to one or more of these substantive benefits, such as penalties and/or interest on late paid indemnity benefits,¹⁵ and attorney’s fees and costs for the prosecution of all claimed benefits in the PFB. Additionally, a mediation conference may include the issues from one PFB or several.

Therefore, the outcome of mediations is expressed in terms of what was resolved at that particular mediation. The characterization “impasse” is used to reflect that no issues were resolved at mediation. The characterization “settled” reflects that the entire case, including the pending PFB issues and all future benefits as yet undue and unclaimed, were resolved. Between these two extremes of “impasse” (nothing) and “settled” (all) are a number of “partial” resolution characterizations used by the OJCC. Previously, some mediators mislabeled resolutions that occurred prior to state mediations, characterizing those outcomes as if those cancelled mediations had occurred. That action has undoubtedly resulted in misinterpretation of outcomes in prior OJCC reports. Those erroneously characterized outcomes dictate that comparisons of that data with future data may also be suspect.

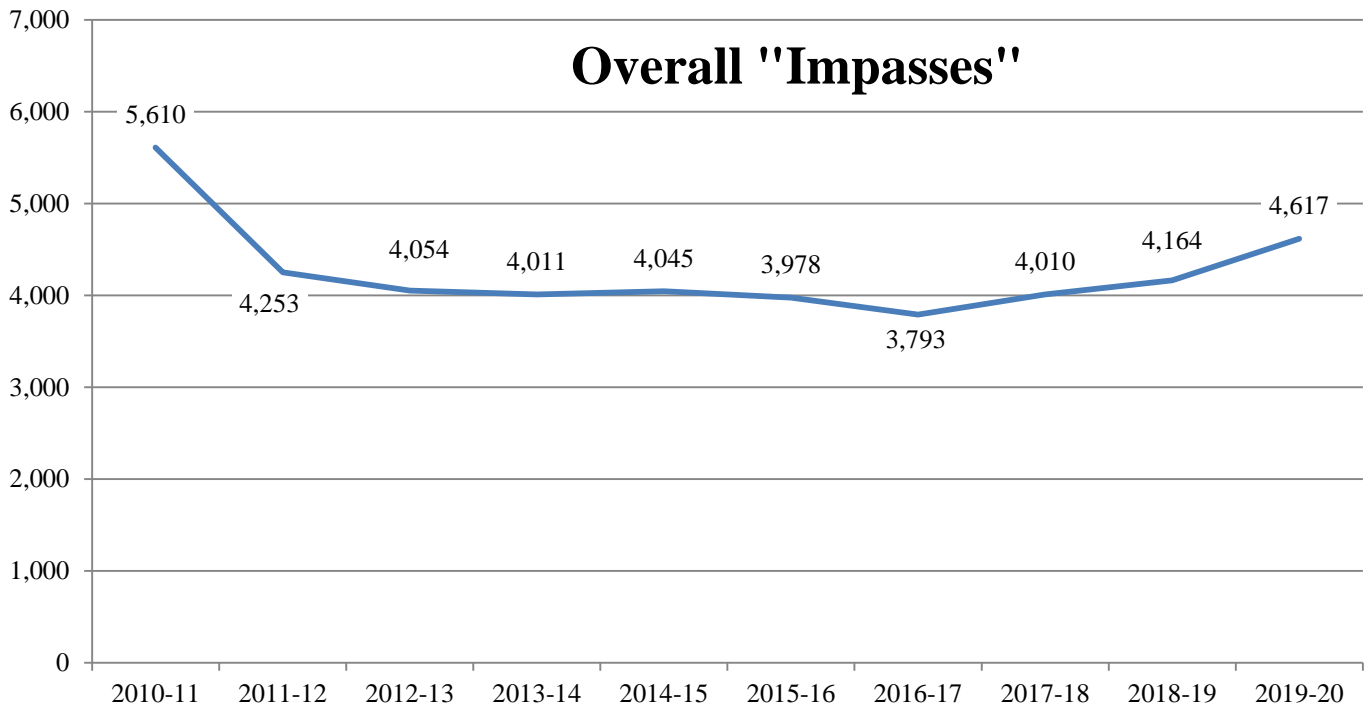
The term “some issues resolved” reflects that some subset of the currently claimed substantive issues has been resolved. The term “all issues resolved except attorney’s fees” reflects that all of the substantive issues and any ancillary

penalty and/or interest issues were resolved, but fee/cost entitlement and/or amount issues remained. The term “all issues resolved” reflects that all claimed PFB issues, including all ancillary issues such as attorney’s fees and costs, were resolved. These potential outcomes can be expressed in a continuum ranging from the least resolution (“impassé”) to the most resolution (“settled”). The overall results of mediation are reflected in this graph, illustrating this continuum from “all,” or “settled” on the left side to the least “none” or “impassé” on the right side of the graph. The graph below reflects the last ten (10) fiscal years for each of these outcome characterizations.



Some of these characterizations are likely unfamiliar to mediators and even litigators uninvolved in the Florida workers’ compensation claims process. Most attorneys, however, are familiar with “impassé” as that characterization reflects that the mediation has concluded without any agreement. The volume of OJCC mediations concluding with no agreement on any portion of the claims has decreased in recent years, remaining significantly consistent other than a single notable decrease in 2016-17. All outcome descriptions increased, a product of the increase in mediations conducted. However, the recent increase (11%) in “impassé” is notable in light of that general consistency, other than settlement, which increased 4%. The total increase in mediations was 7%, and the 11% increase in impassé may be notable in that context as well.

This space intentionally blank



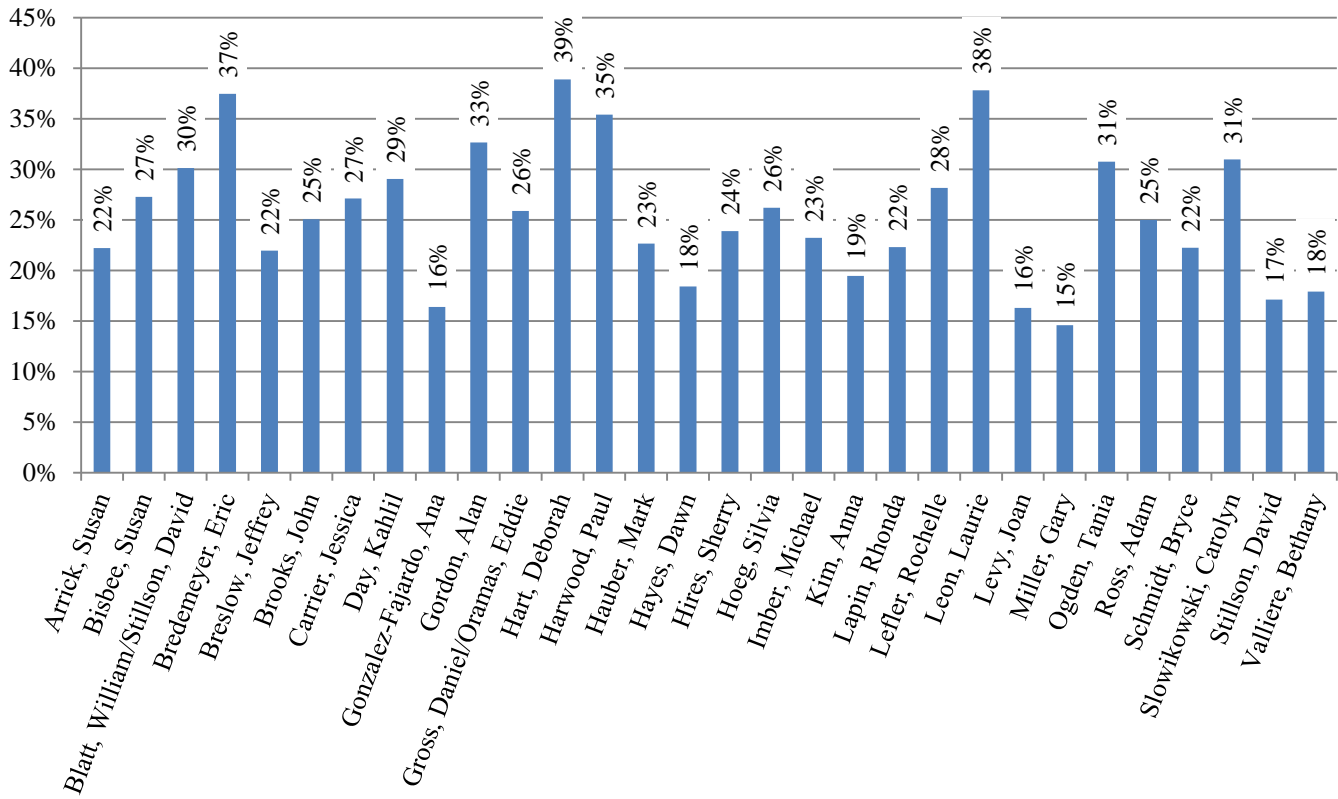
The marked decreases in “impasse” between 2009 and 2013 are illustrative of efforts by the OJCC mediators to resolve at least some aspect of the cases which are presented to them. Despite decreasing volumes of mediations overall, the percentages of convened mediations resulting in impasse were impressive and consistent. Expressed as a percentage of the mediations held by OJCC mediators, the volume of “impasse” outcomes for the last ten years are:

10-11	11-12	12-13	13-14	14-15	15-16	16-17	17-18	18-19	19-20
31.3%	25.2%	25.6%	24.8%	26.2%	25.3%	23.6%	24.8% ¹⁶	24.4%	25.4%

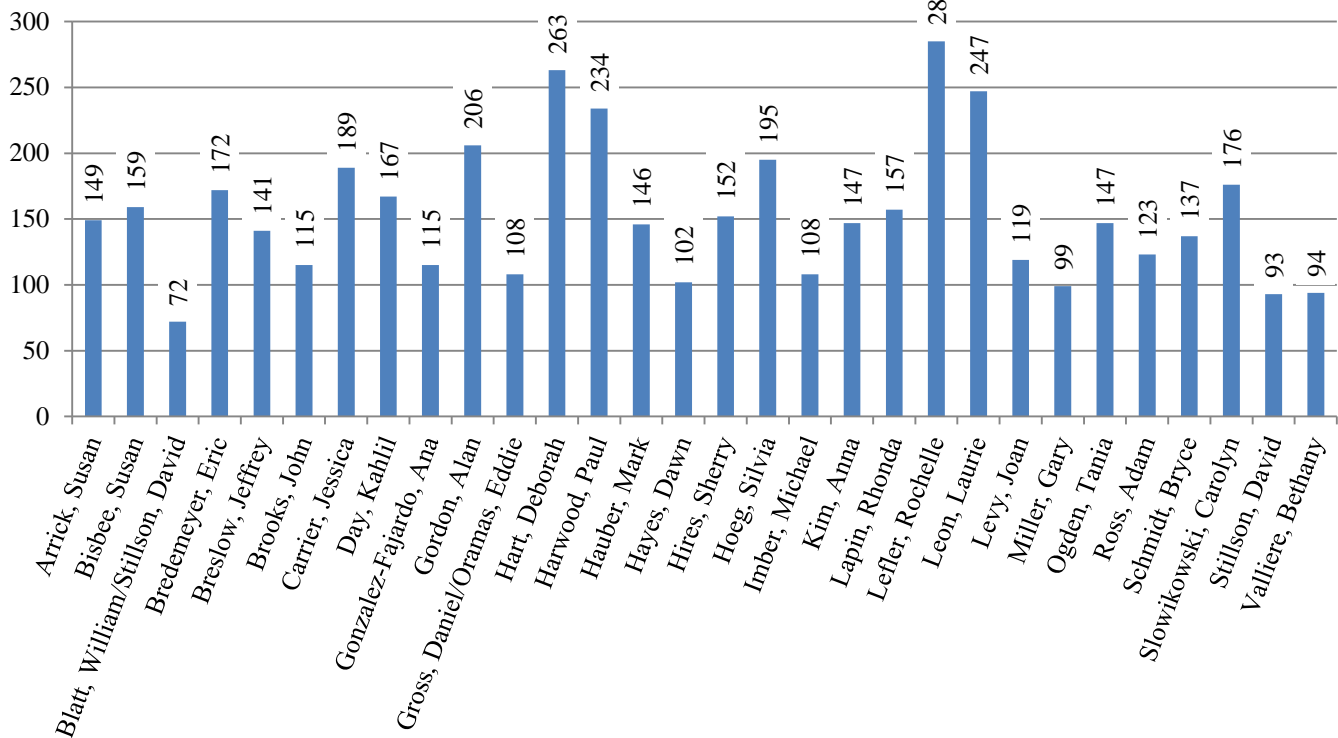
The corollaries of these figures represent the volume of OJCC mediations in which at least some volume of issues were resolved. In approximately seventy-five percent (74.6%) of 2019-20 OJCC mediations, at least some issues were resolved. This is an important fact, more so even than a measure of “settlements,” because the workers’ compensation statute creates an entitlement to a variety of benefits, many of which are interrelated and some of which are dependent upon the results of others. As an example, an injured worker may seek medical care and benefits to replace lost income. Those lost income benefits (“indemnity”) are generally payable when an injury precludes or limits performance of work. Whether an injury precludes or limits work is a medical opinion. Thus, a mediation conference on such a case that resolves only the claim for medical care could potentially lead to a medical opinion that affects or resolves the question of whether indemnity benefits are due. Thus, a “some issues resolved” represents an agreement that some disputed benefits will be provided to the injured worker, and represents potential other progress in the determination of remaining issues.

This space intentionally blank

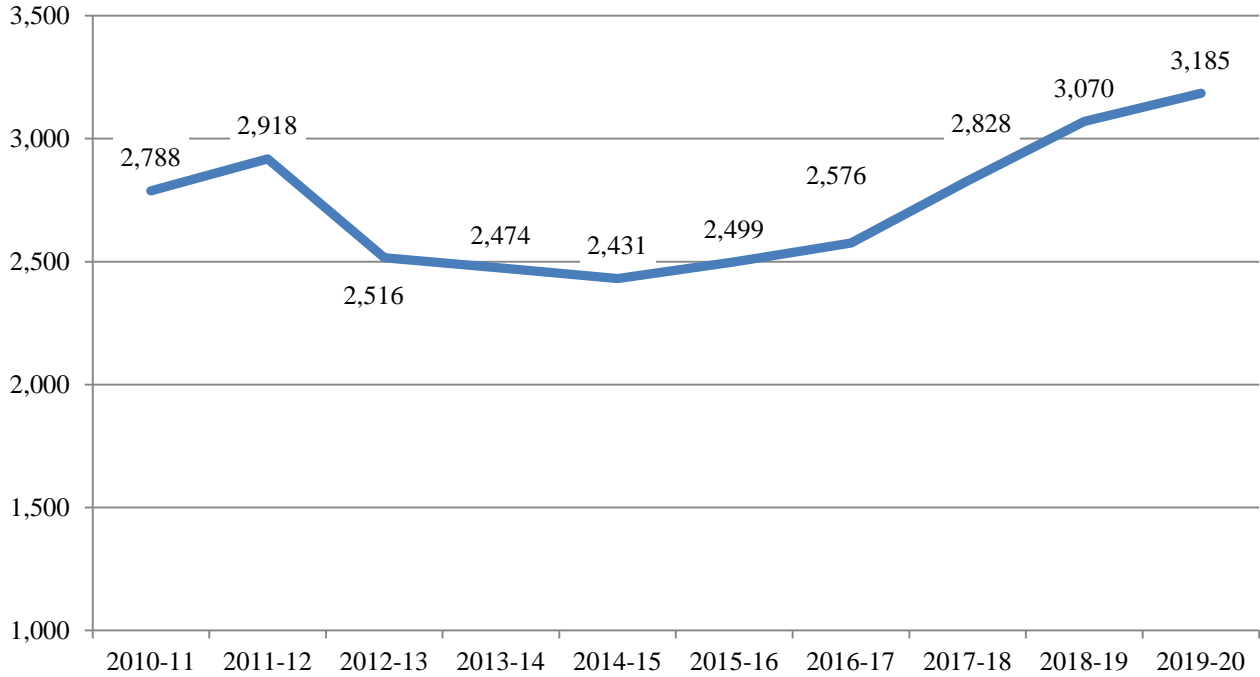
"Impasse" % by Each Mediator



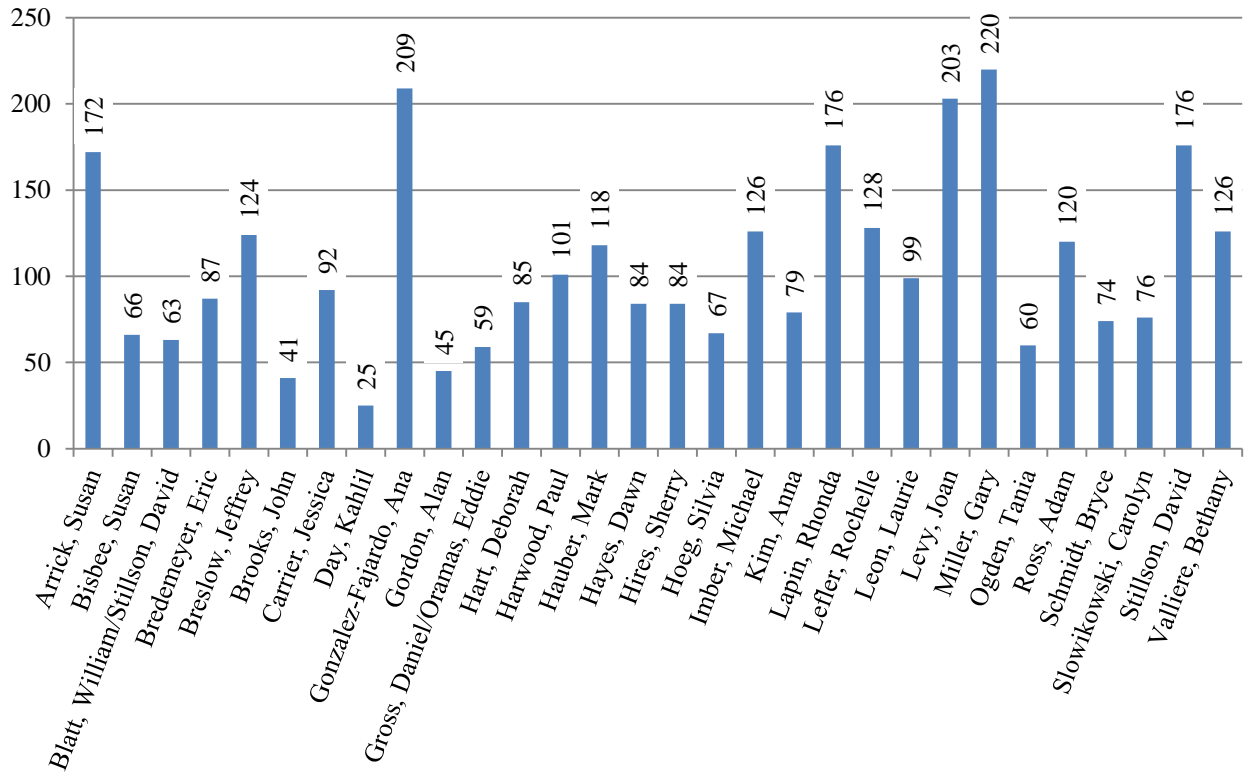
"Impasse" by Each Mediator



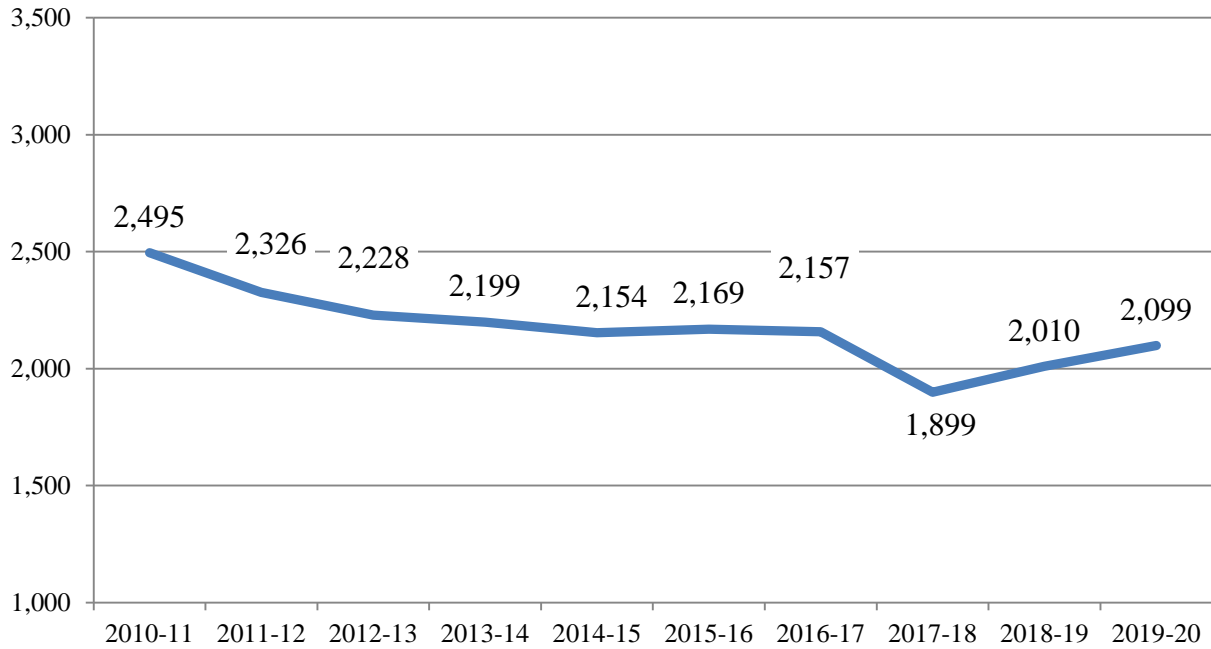
Overall "Some Issues Resolved"



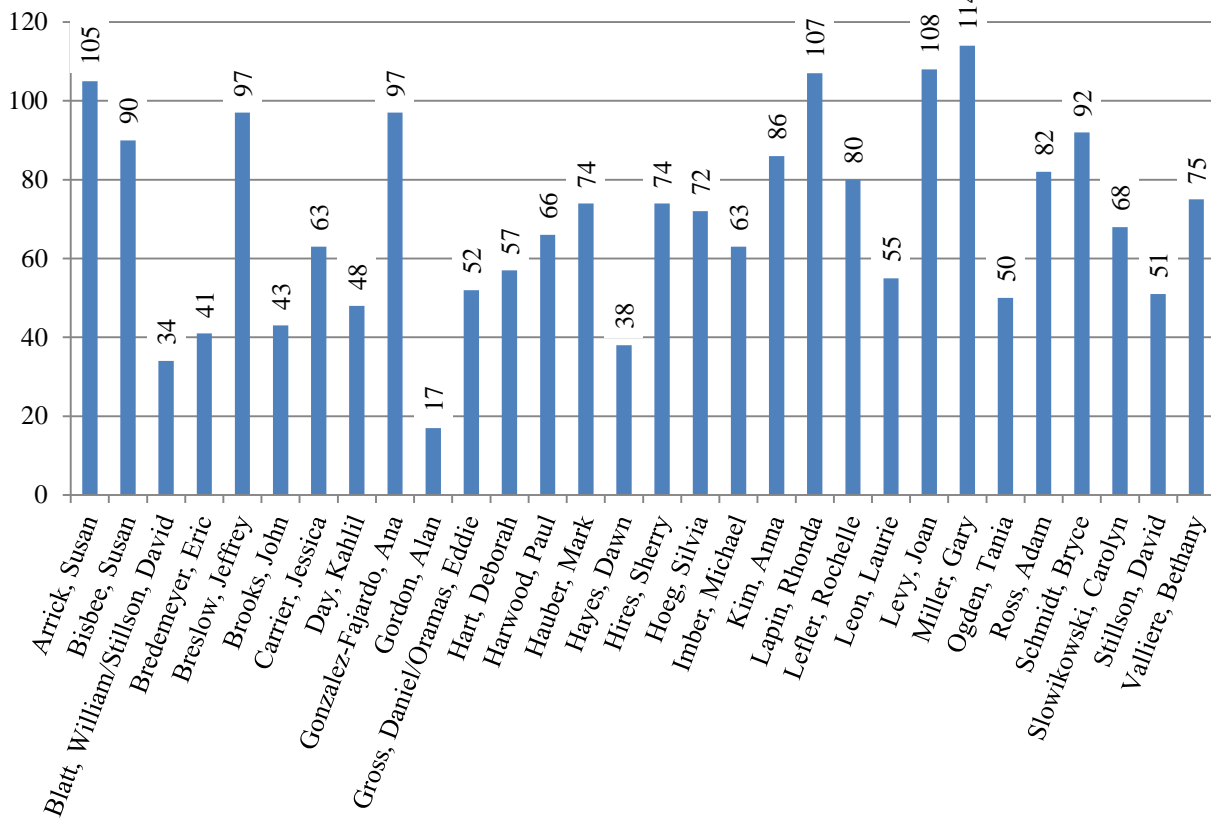
"Some Issues Resolved" for Each Mediator



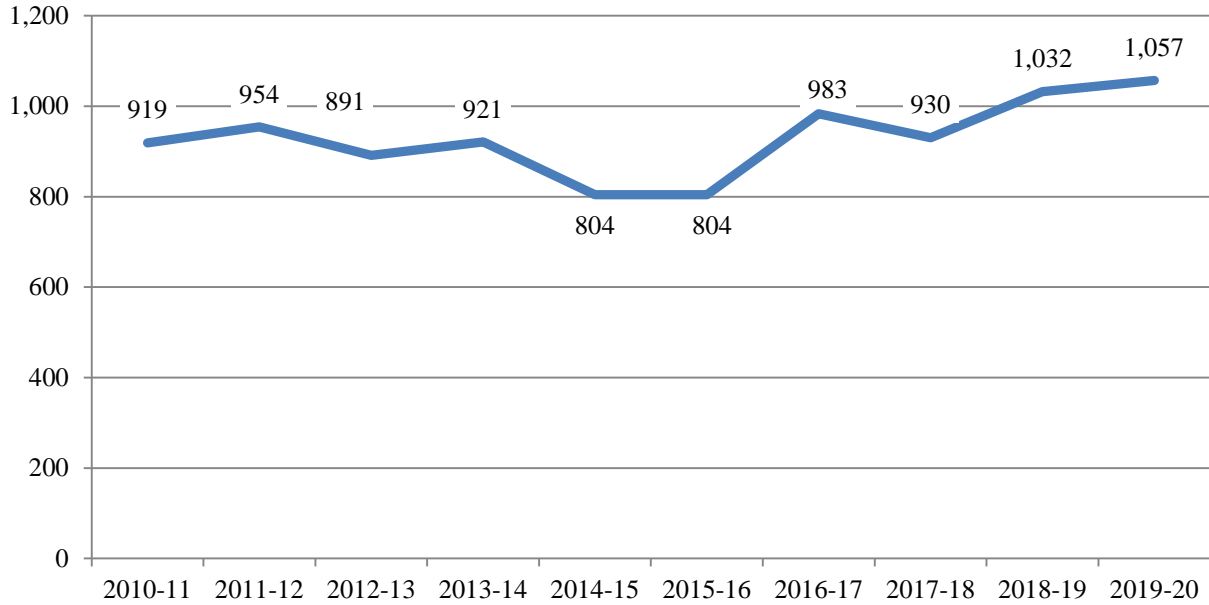
Overall "All Resolved Except Fees"



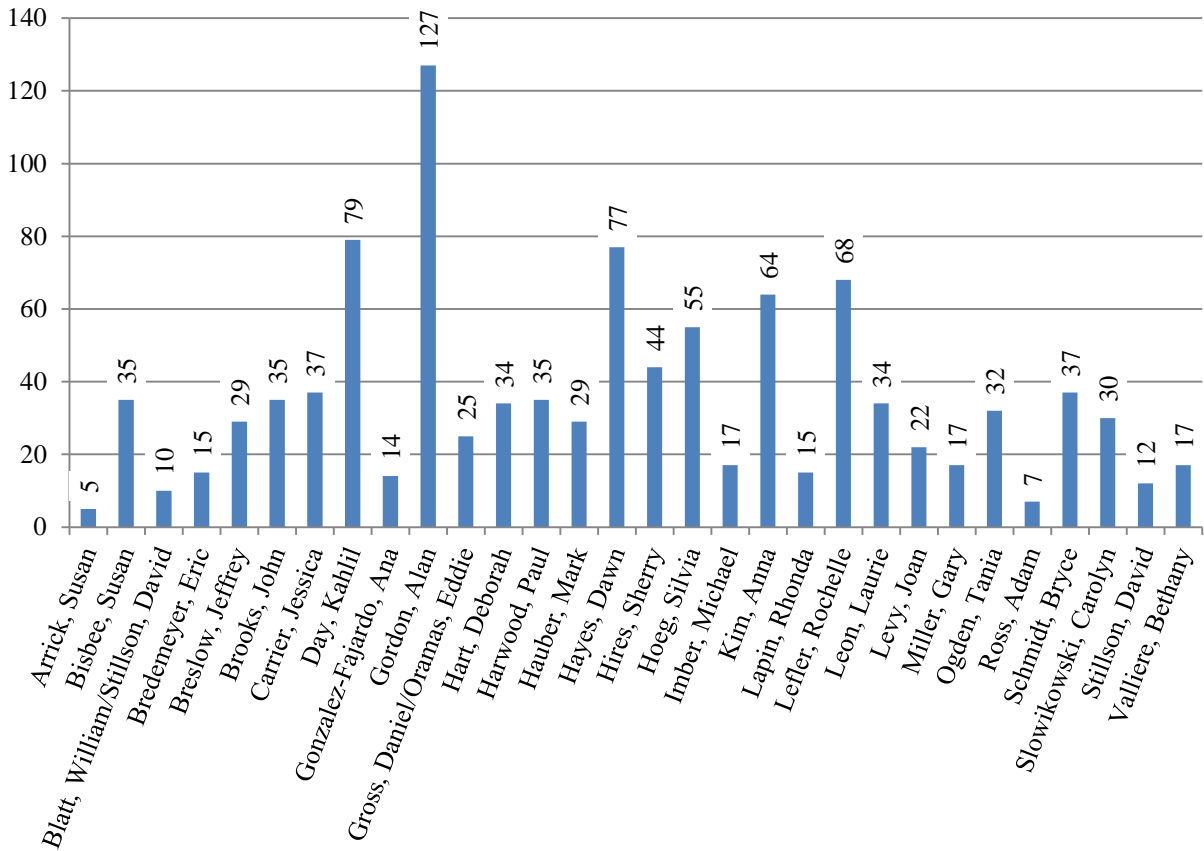
"All Resolved Except Fees" for Each Mediator



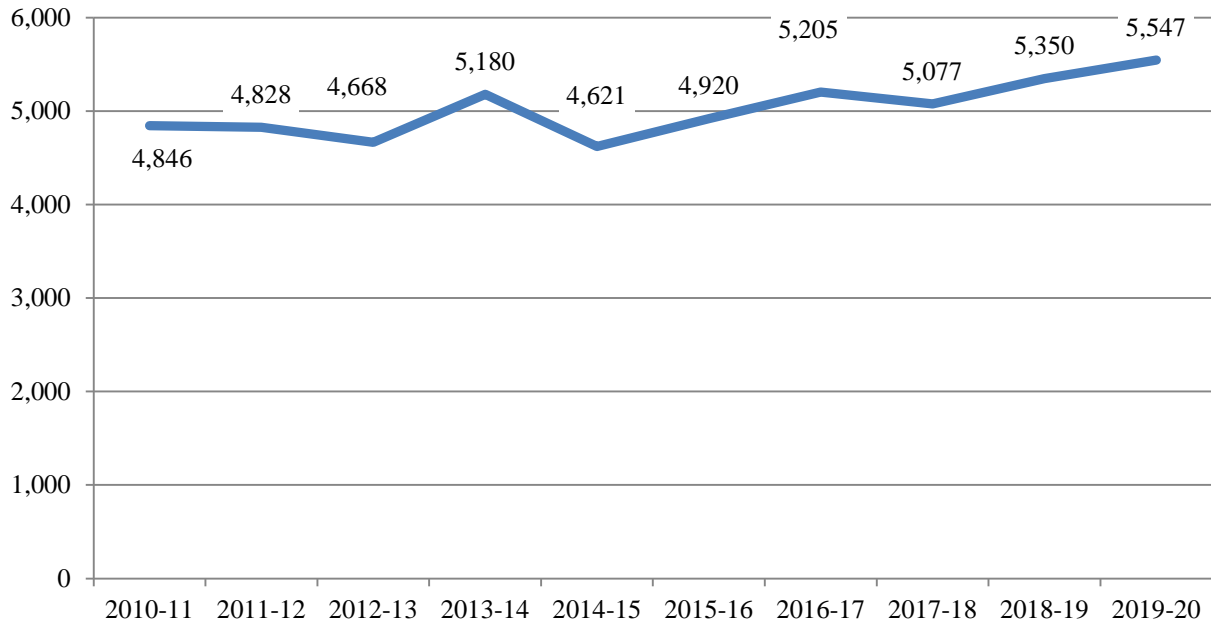
Overall "All Issues Resolved"



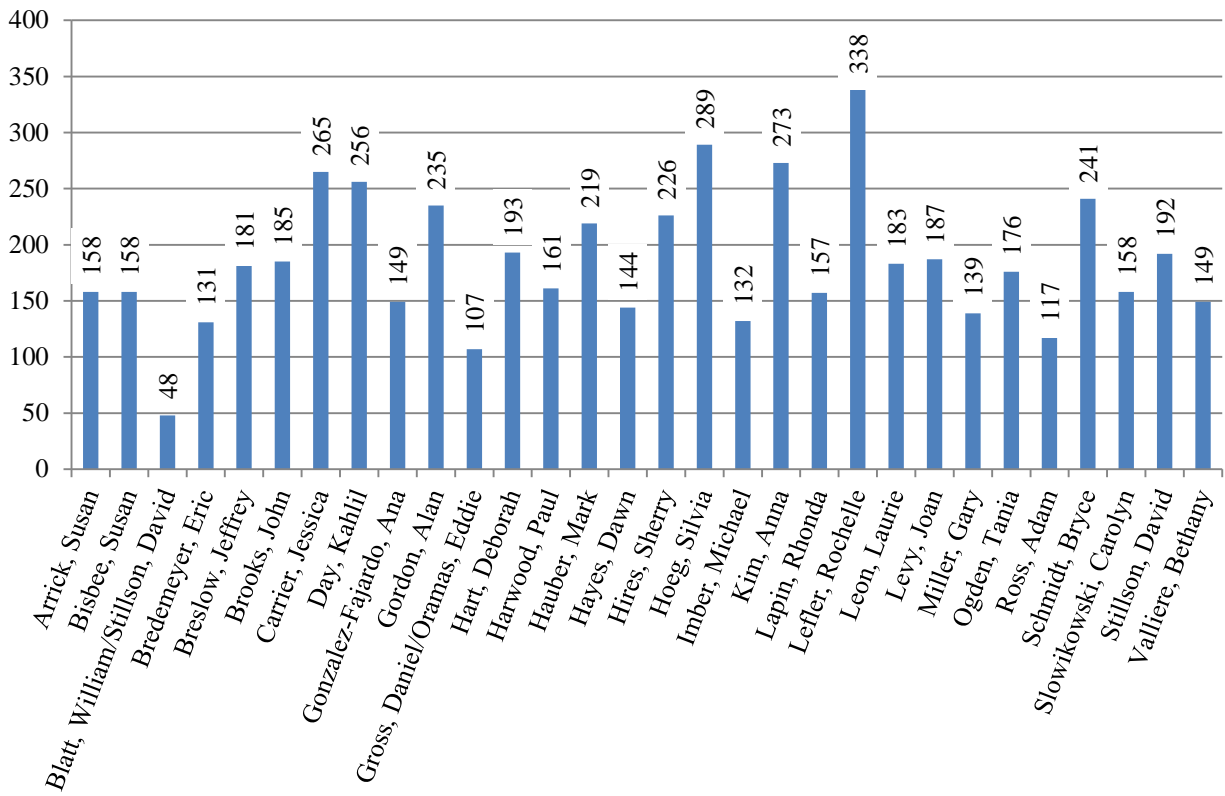
"All Issues Resolved" for Each Mediator



Overall "Settled"



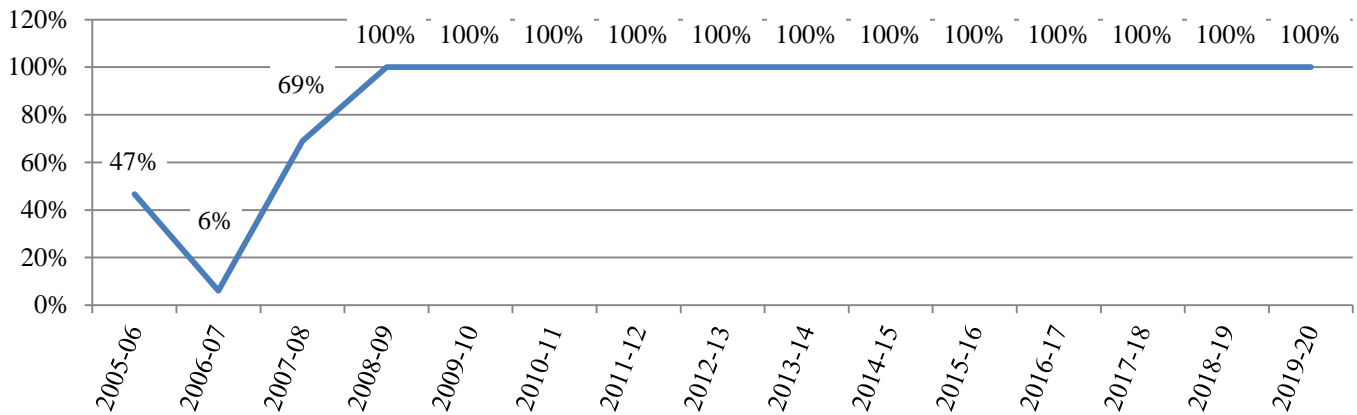
"Settled" for Each Mediator



Timeliness of Mediations:

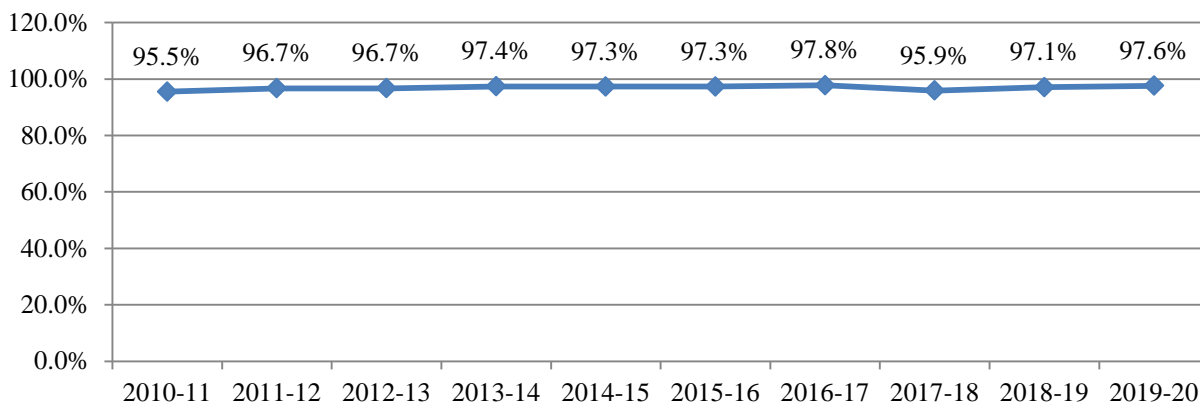
The Florida workers’ compensation law requires that mediation occur within 130 days of the PFB filing. There are nonetheless situations in which this parameter cannot be met. In personal injury actions, it is common that mediation is occurring after the rendition of medical modalities and the injured person has reached maximum medical improvement. Conversely, in workers’ compensation cases, it is common that mediation on some benefits is occurring while medical care is ongoing. Therefore rescheduling to accommodate medical appointments and other exigencies does occur. Of primary concern is whether the mediation process is fulfilling the 130 day requirement generally, and this is most easily measured by consideration of the average days between PFB filing and the first mediation for each mediator. Considering this 130 day parameter in this context, the OJCC mediators have performed with notable consistency in recent years. In each of the last twelve fiscal years, all of the OJCC mediators averaged less than 130 days between Petition filing and the initial mediation.

Percent of State Mediators Averaging Less than 130 Days to First Mediation

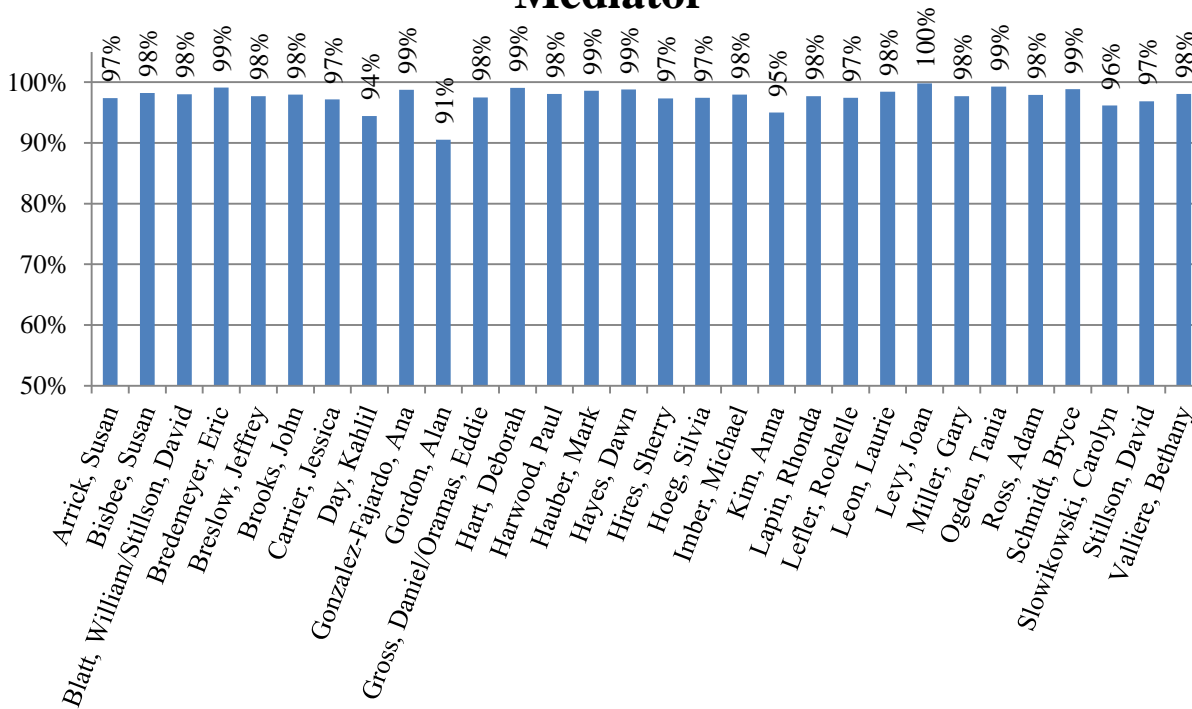


In fact, in 2018-19 the OJCC mediators mediated approximately 98% of the PFBs within the 130 day statutory parameter. That is an improvement over 2018-19, and is reasonably consistent with the overall average in recent years. The persistence of this average compliance is also noteworthy in light of the consistency of petition filing rates (see chart, page 18).

Percent Mediated within 130 Days



Percent Mediated within 130 days for Each Mediator



Mediations Continued:

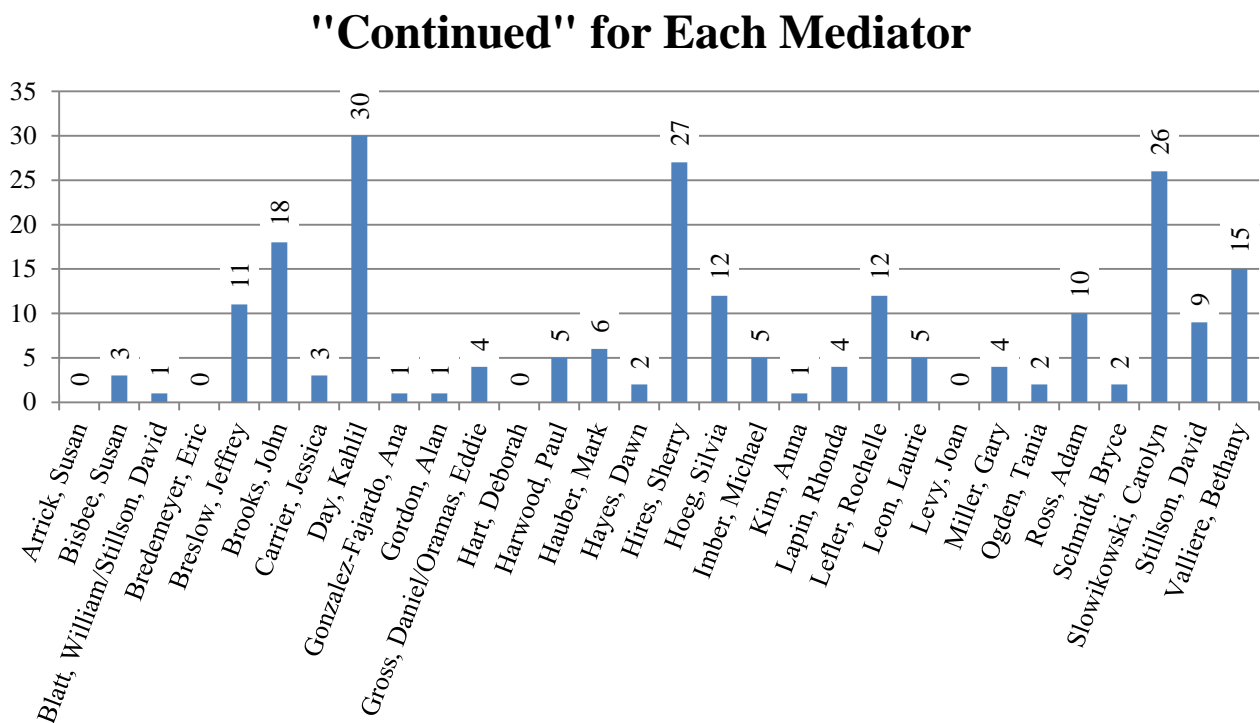
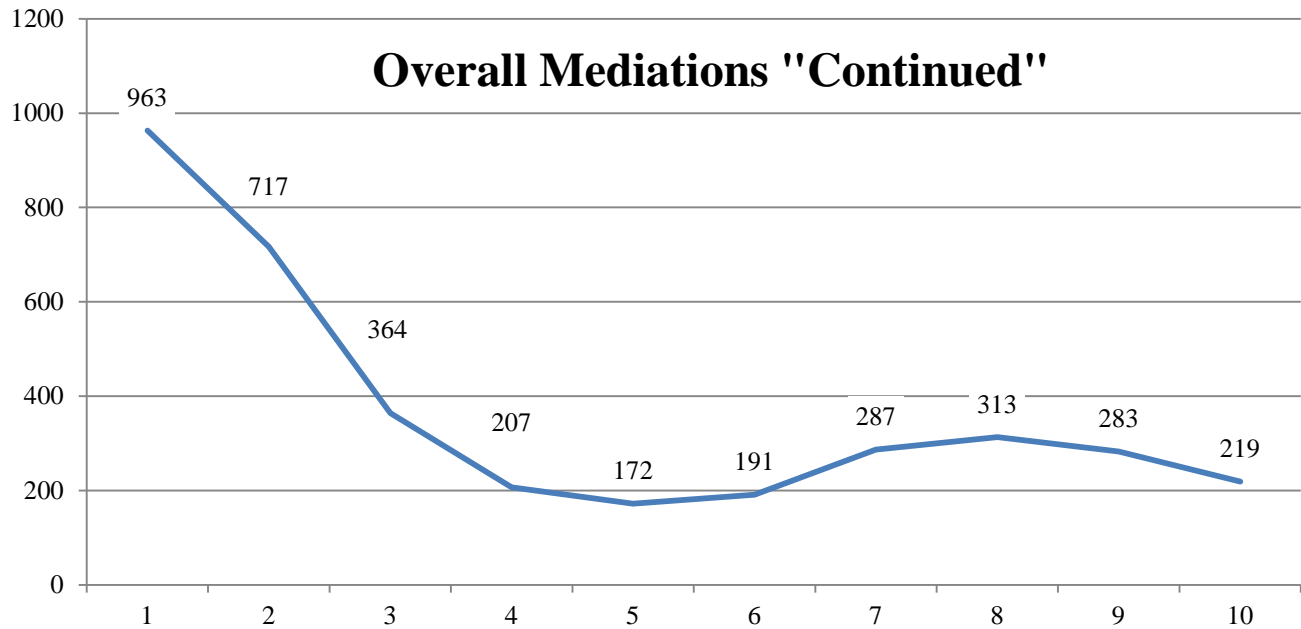
Mediation continuances increased markedly in fiscal years 2004-05 and 2005-06. The cause of that trend remains unknown. However, those volumes may have been increased by the volume of weather-related office closures that year, as Florida’s cyclone season affected virtually every Florida county. Those storms caused carriers to close offices in central Florida (frustrating mediations in unaffected districts elsewhere) and by closing district offices at which the mediations would otherwise have been held. The mediation continuance trend reversed in 2006-07, and has decreased steadily over eight years. After stabilizing at around 200 annually, the rate increased in 2016-17 and 2017-18. The figures for 2018-19 (283) and 2019-20 (219) are significant in their downward trend and the return to the prior rate of about 200 annually. Notably, the volume has been less than one-half of one percent of petition volume for each of the last 7 years.

Some portion of the stabilizing figures in recent years is due to the staff training provided by the OJCC since 2006 and the resulting uniformity in the use of the characterization “continued” within the OJCC database. Mediations whose calendar date is changed after initial scheduling, but for which the new date is within the 130 day statutory requirement are not “continued,” but “rescheduled.” Consistency with these characterizations has improved in recent years also.

Some portion of both the stabilizing of these figures and the marked decrease in the number of mediation conference

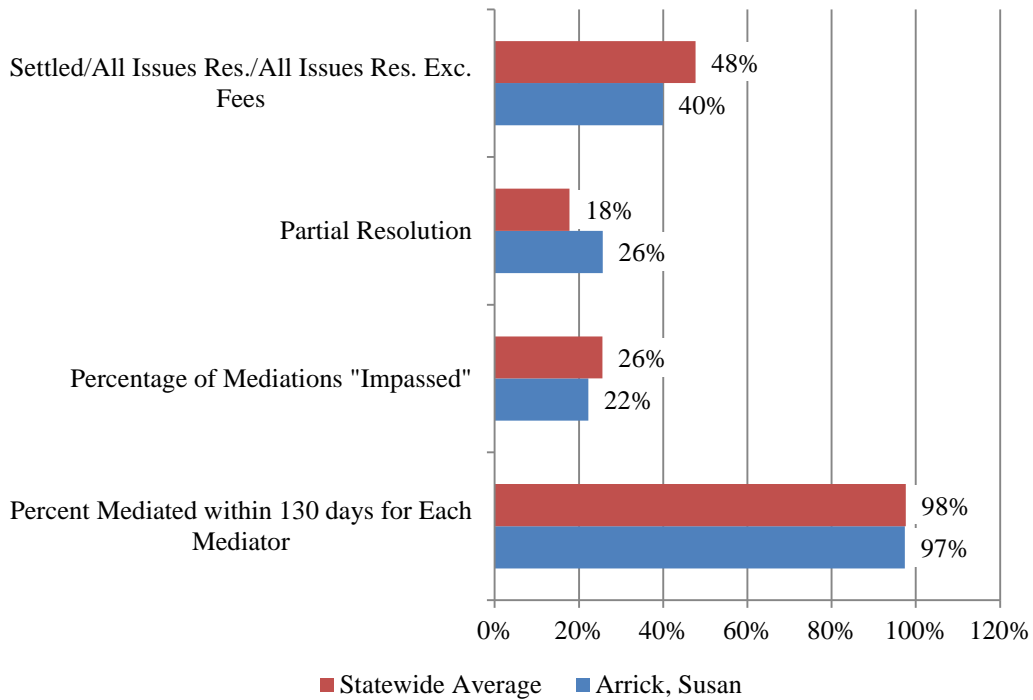
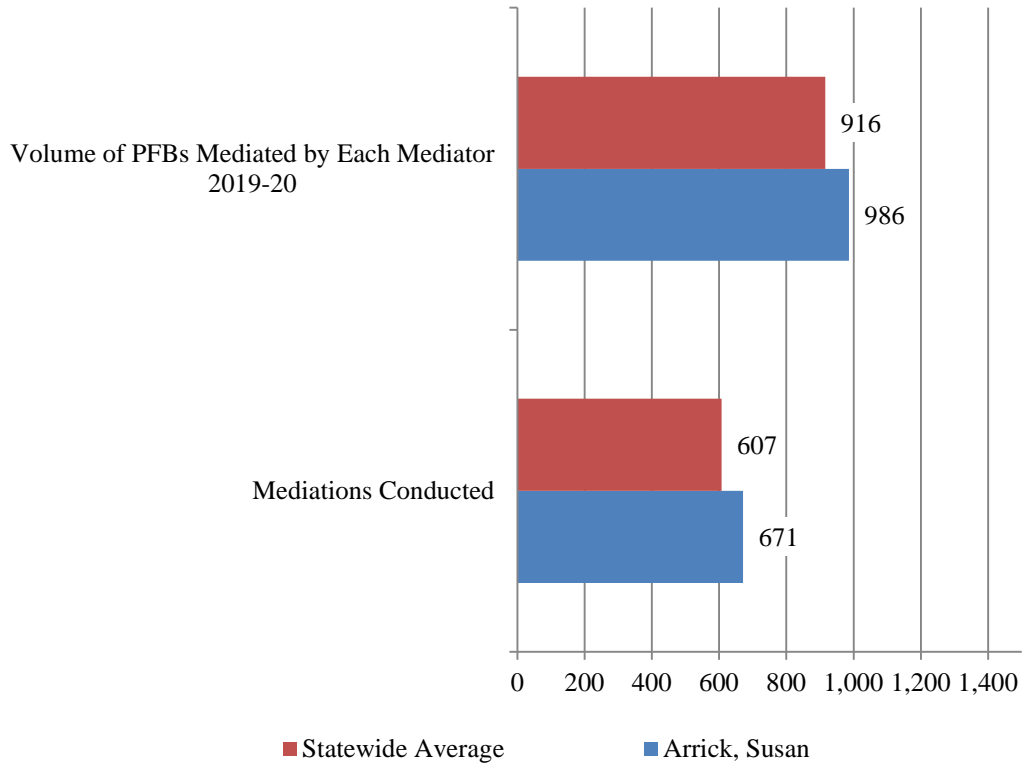
Fiscal Year	Petitions Filed	Mediations Continued	Med. Cont. v. PFB Filed
2002-03	151,021	2,755	1.82%
2003-04	127,458	2,036	1.60%
2004-05	107,268	3,333	3.11%
2005-06	90,948	4,756	5.23%
2006-07	82,607	2,336	2.83%
2007-08	72,718	1,328	1.83%
2008-09	73,863	1,302	1.76%
2009-10	67,971	940	1.38%
2010-11	64,679	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%
2016-17	70,365	287	0.41%
2017-18	70,295	313	0.45%
2018-19	73,146	283	0.39%
2019-20	72,086	219	0.30%

continuances had been previously deemed likely attributable to the annually decreasing volume of PFB filings. It is therefore encouraging to see the continuance rate remaining below one percent despite a significant increase in PFB filings since 2015-16.

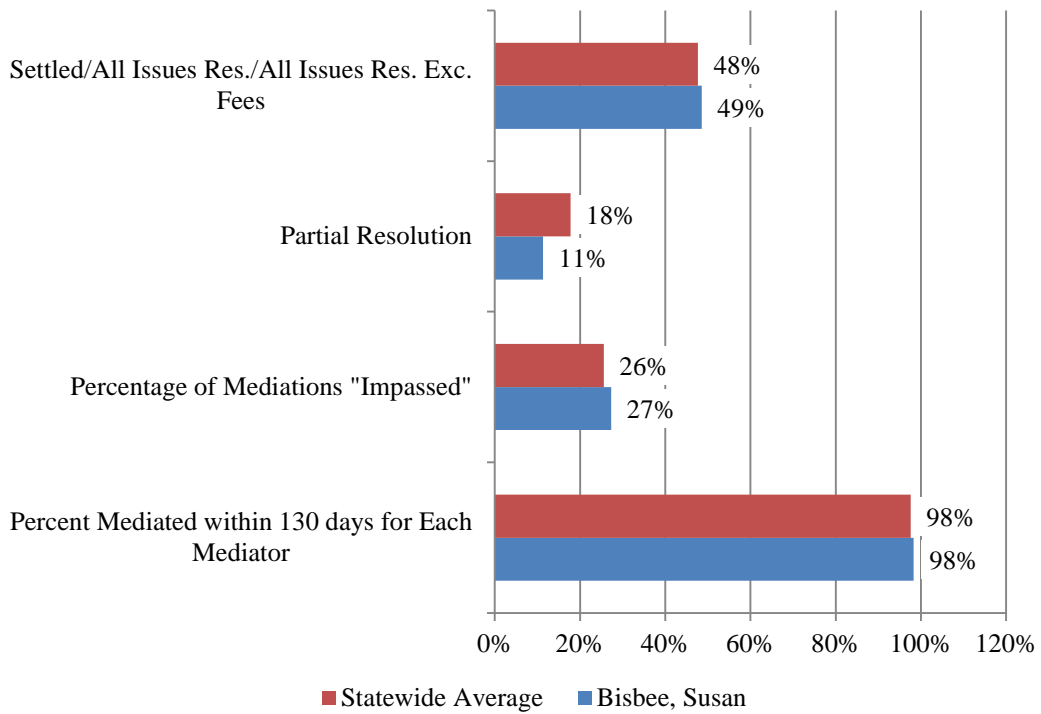
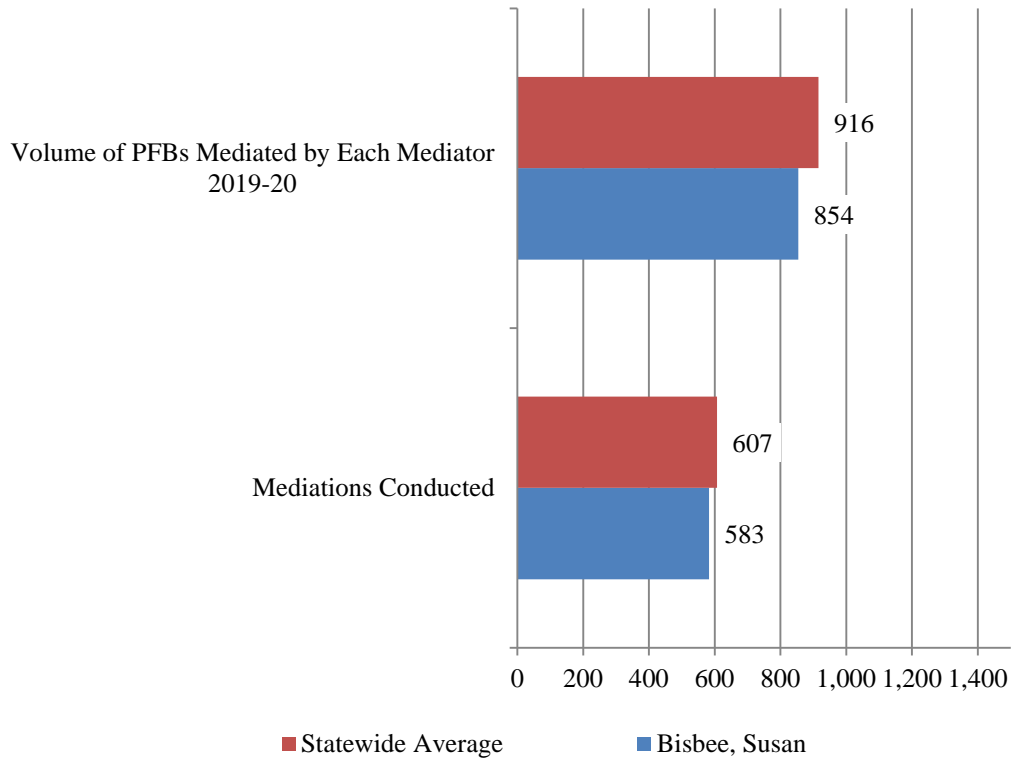


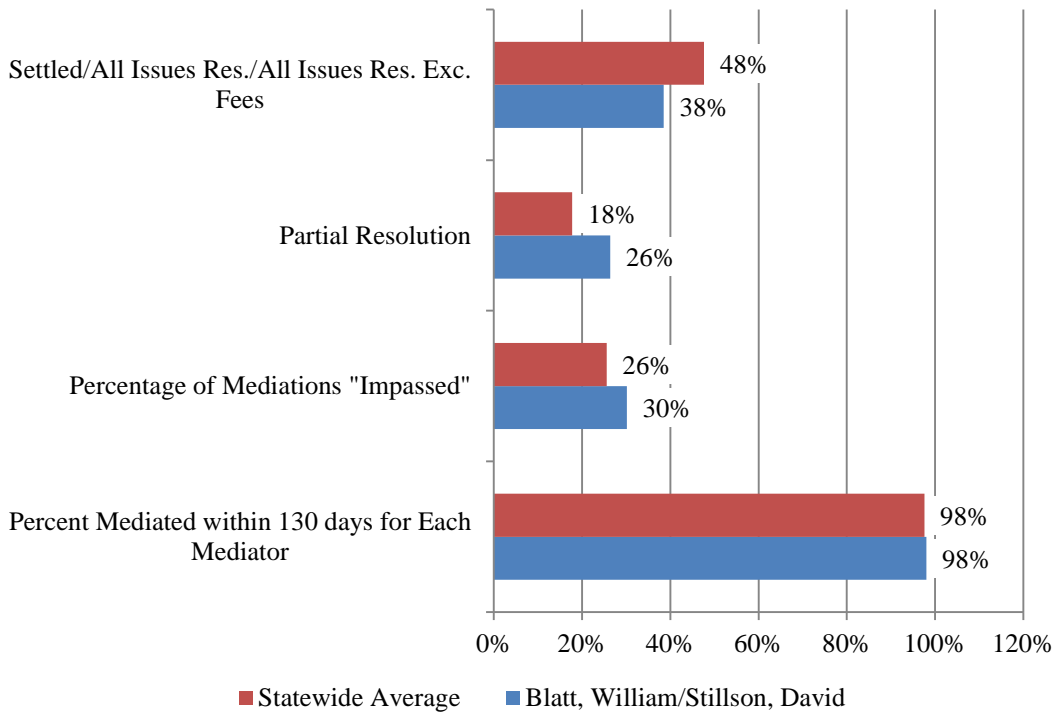
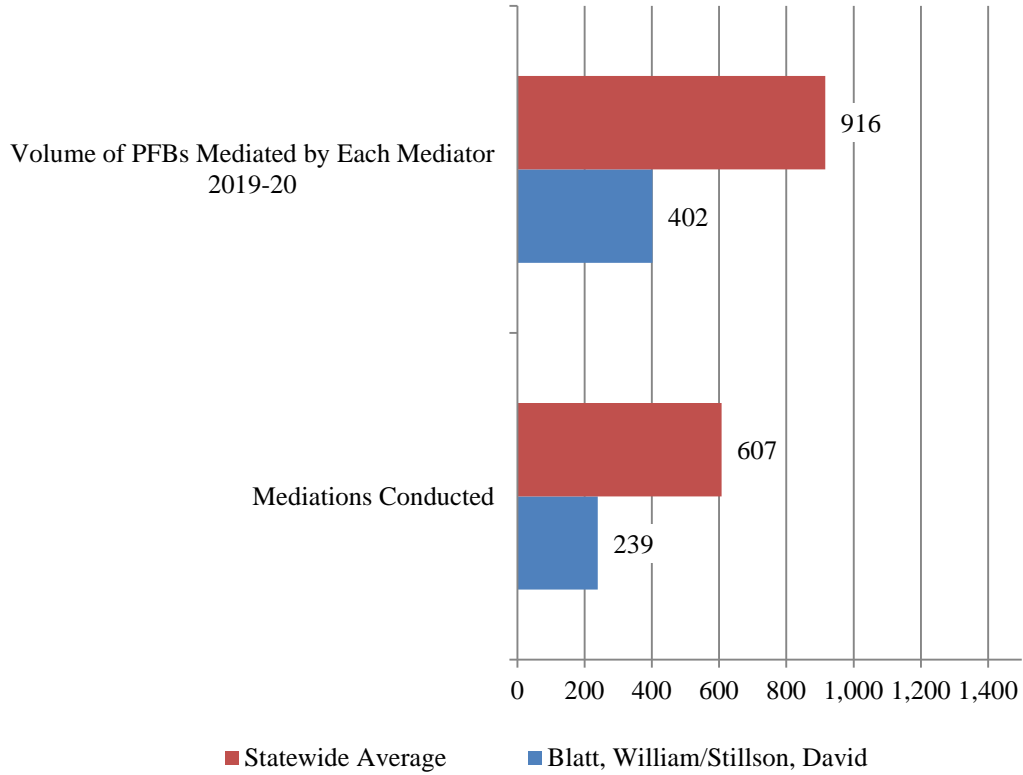
Individual Mediator Statistics:

Arrick, Susan (MIA)

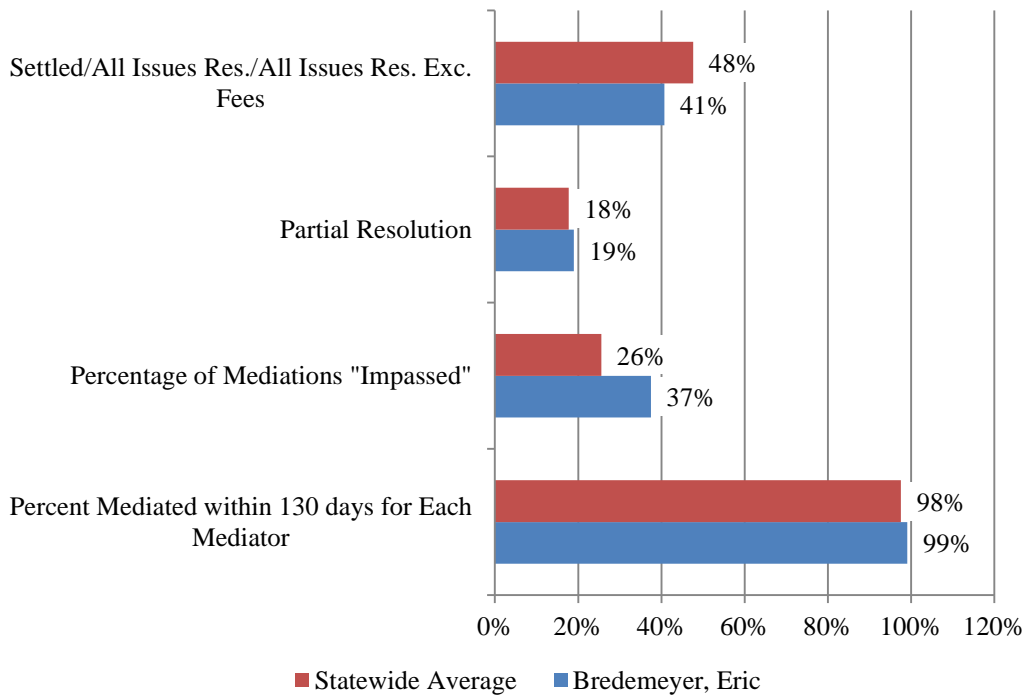
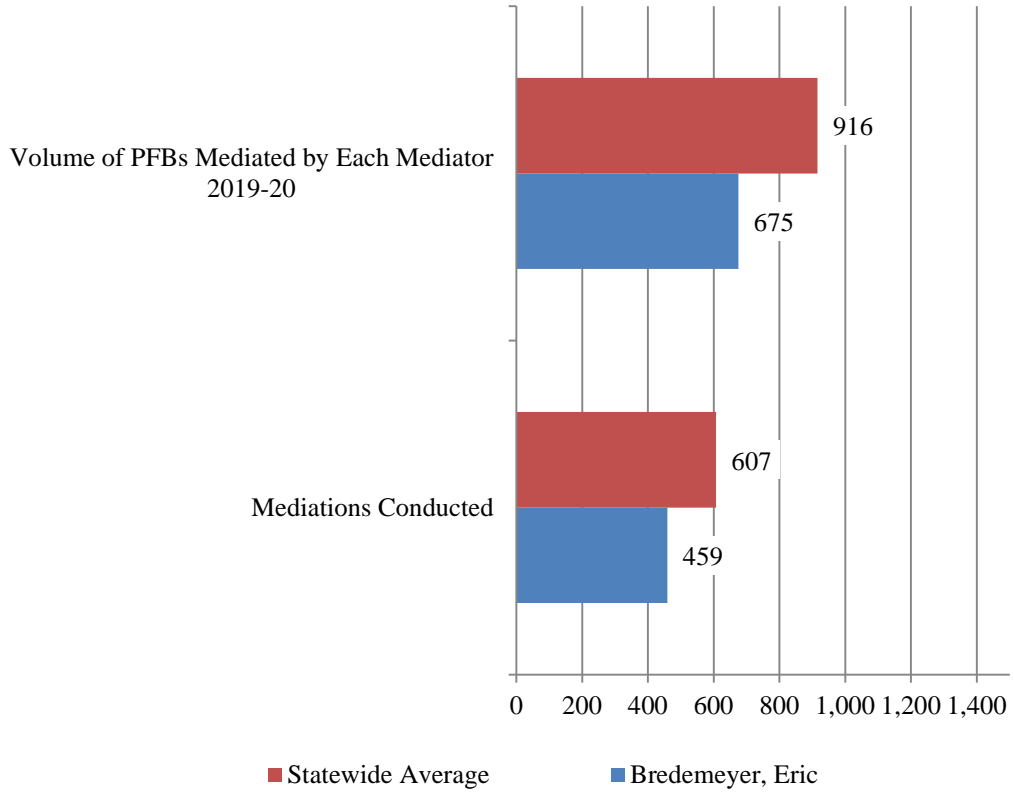


Bisbee, Susan (TLH)

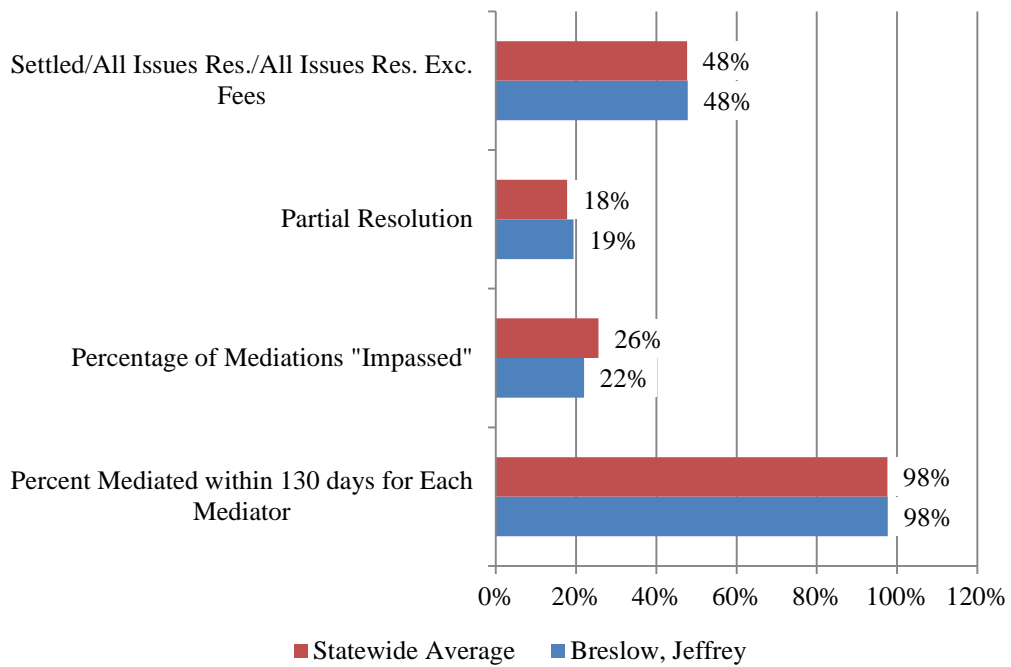
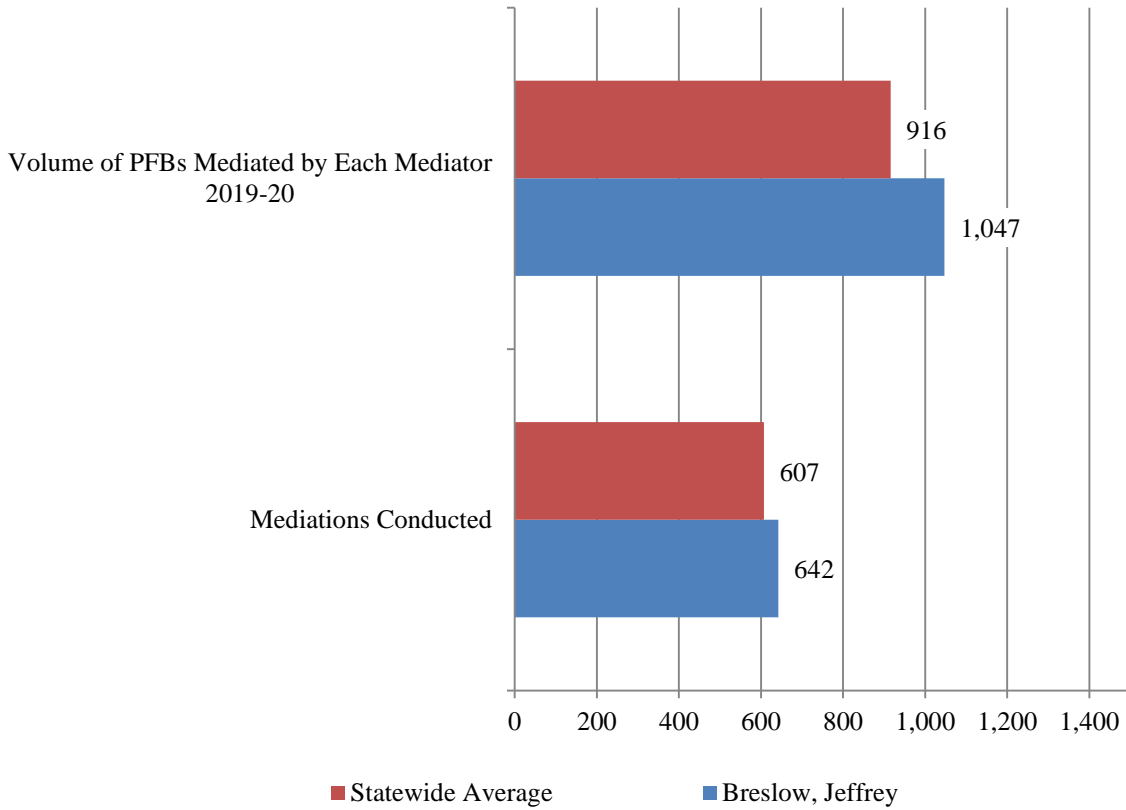




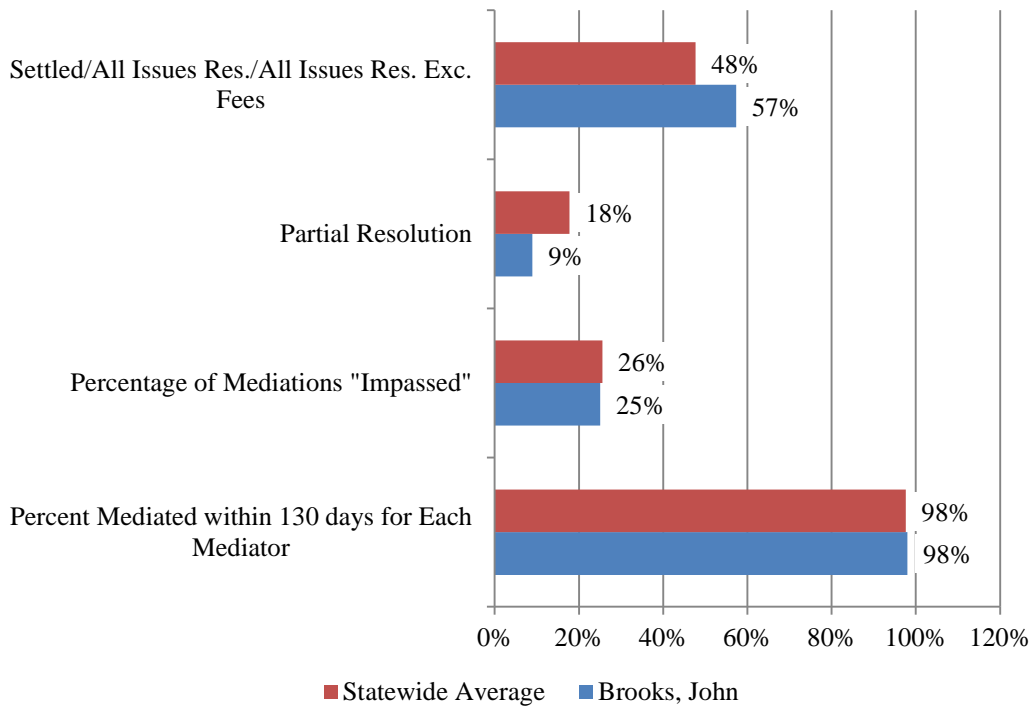
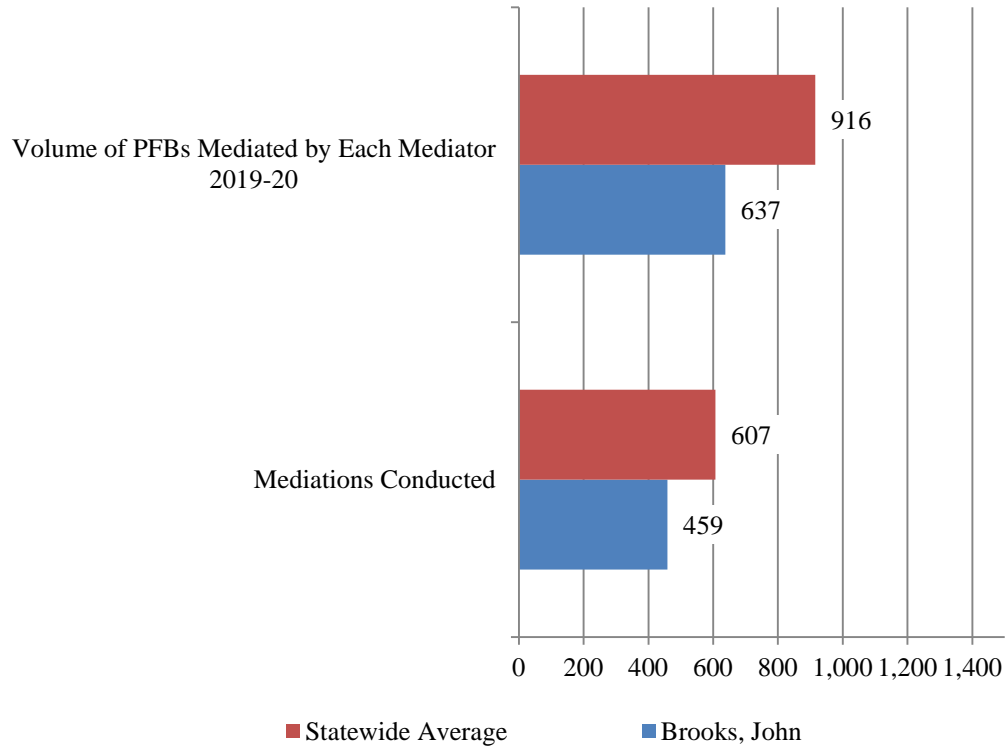
Bredemeyer, Eric (FTM)



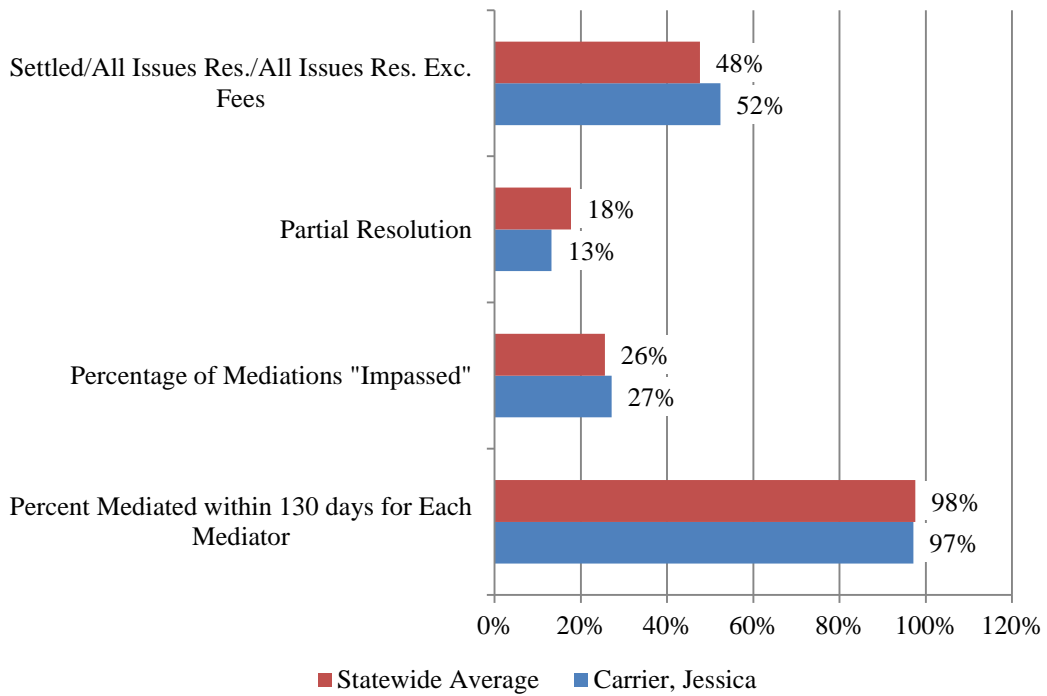
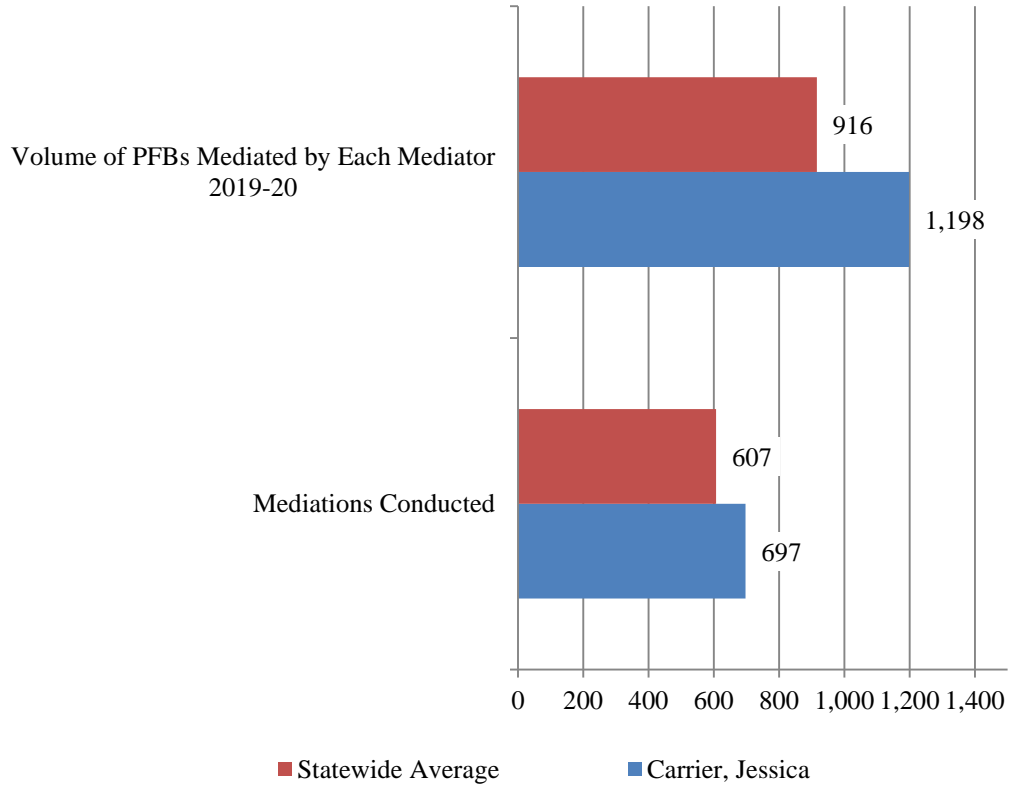
Breslow, Jeffrey (FTL)



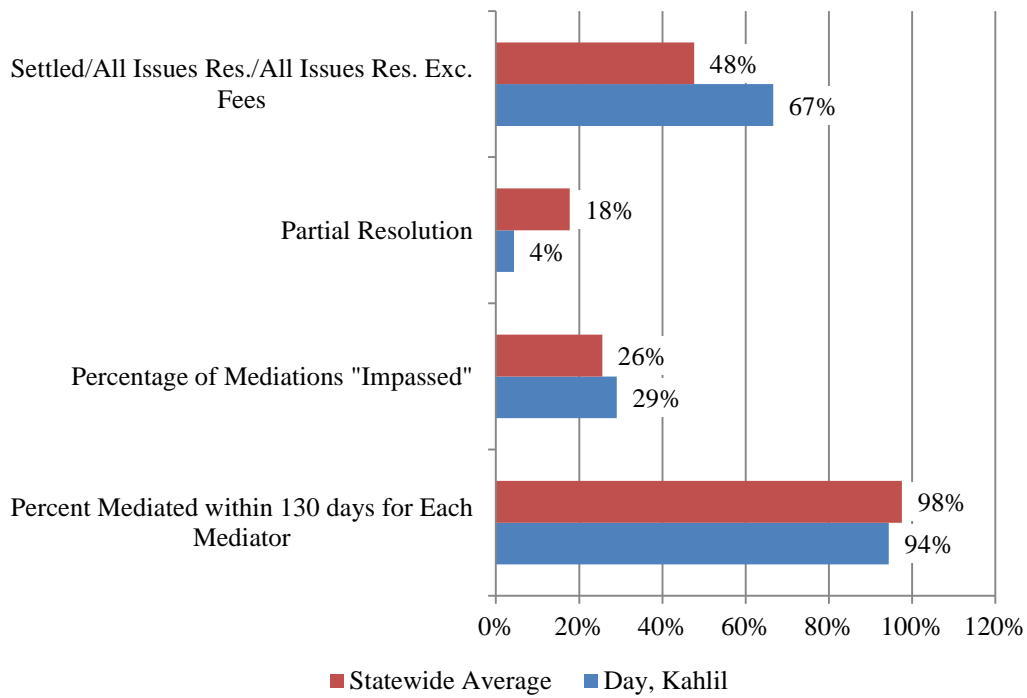
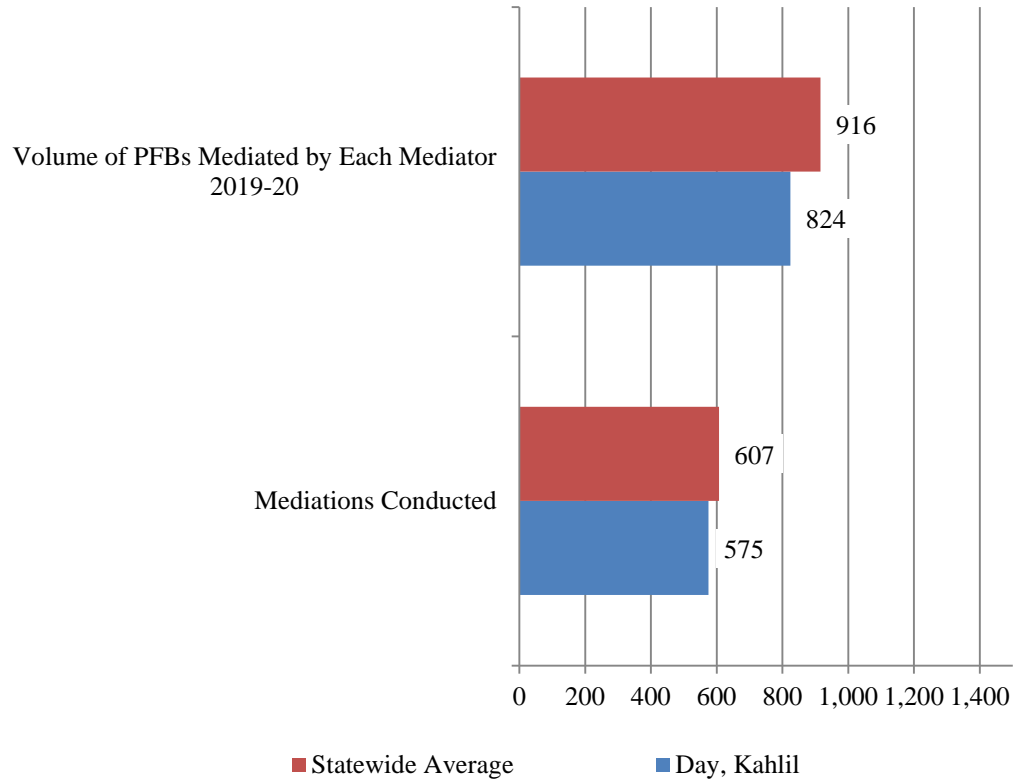
Brooks, John (DAY)



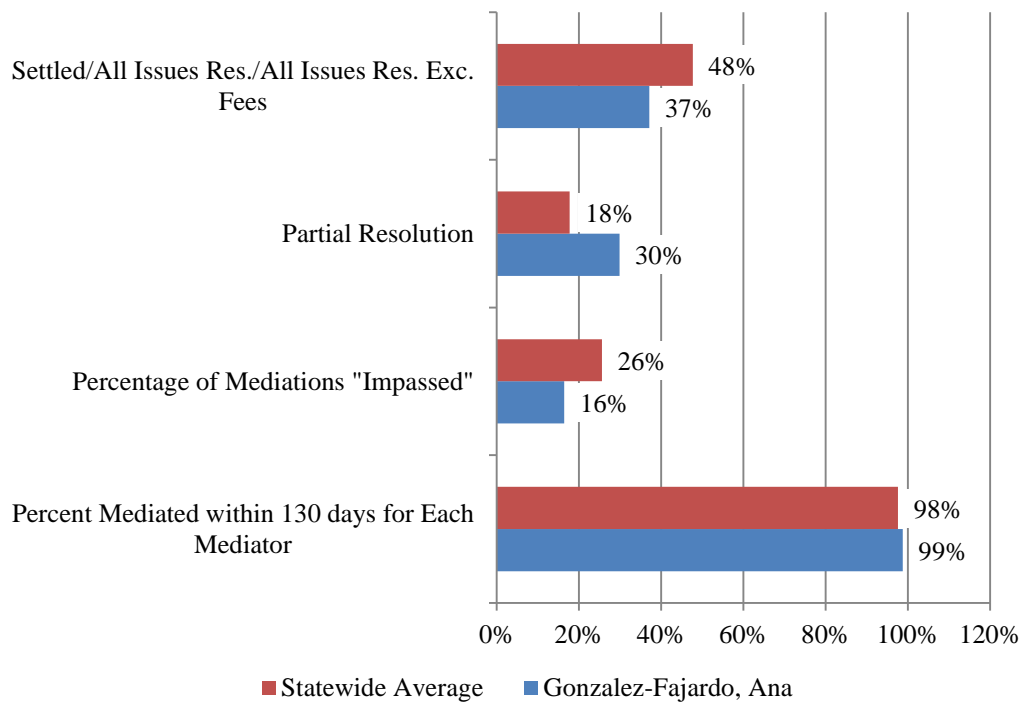
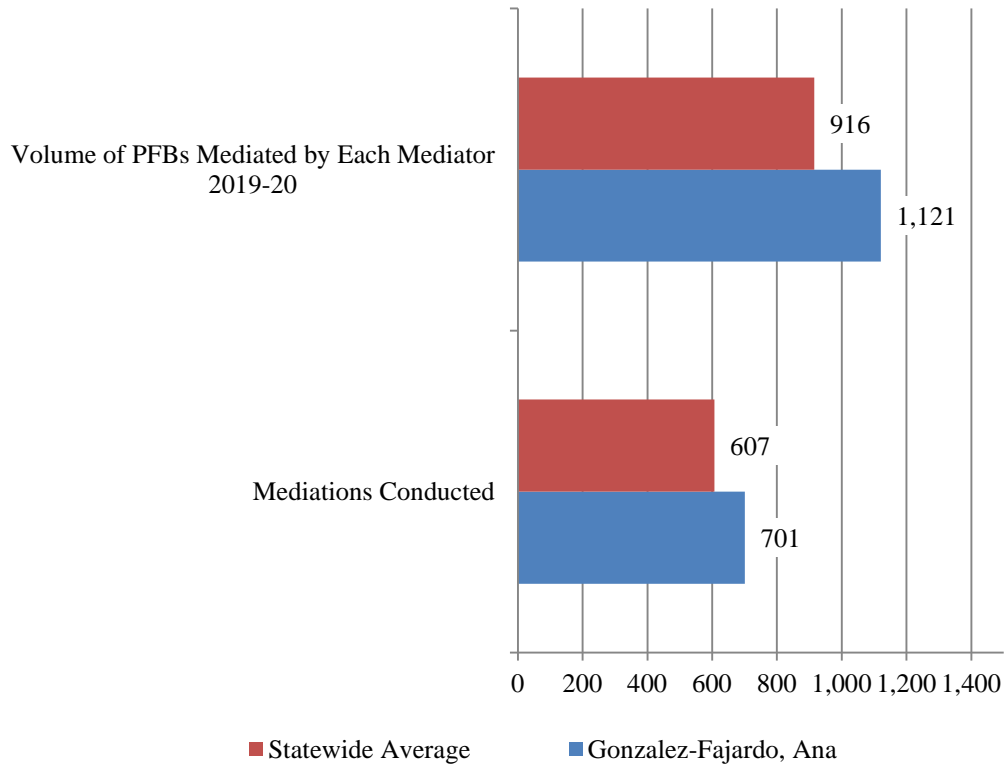
Carrier, Jessica (SAR)



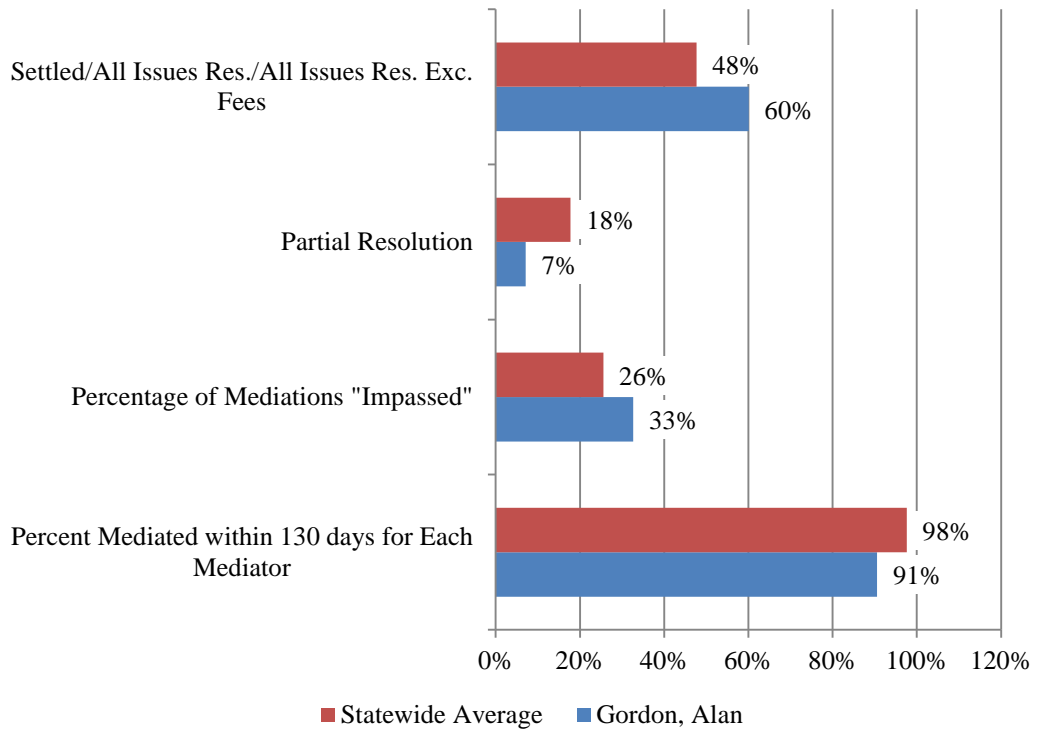
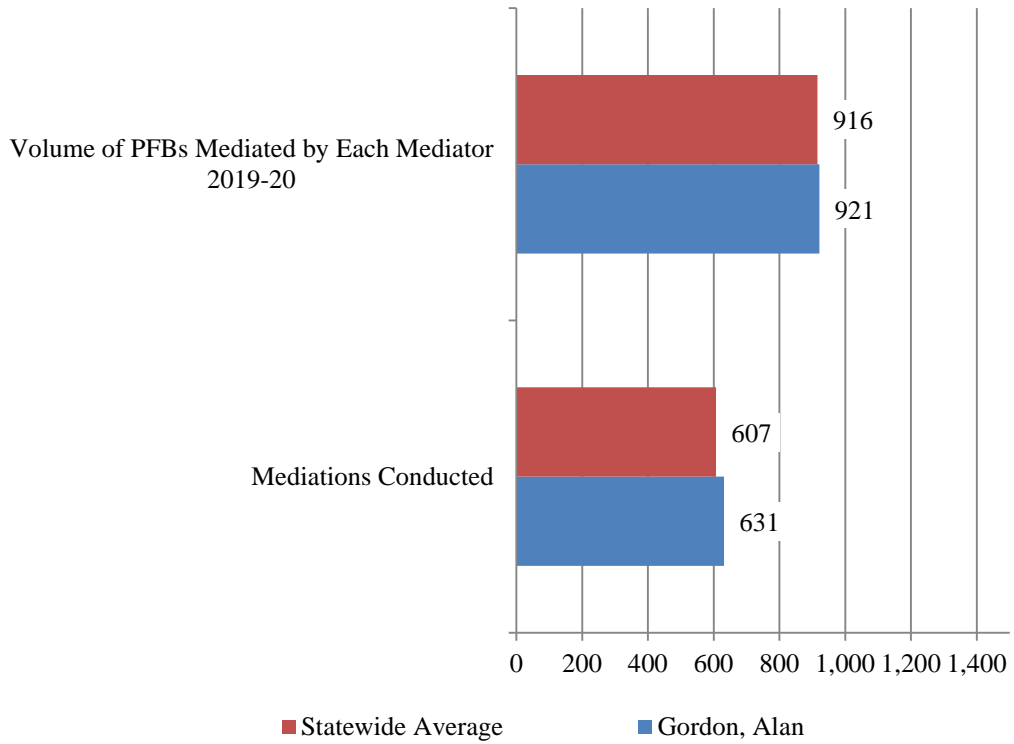
Day, Kahlil (JAX)

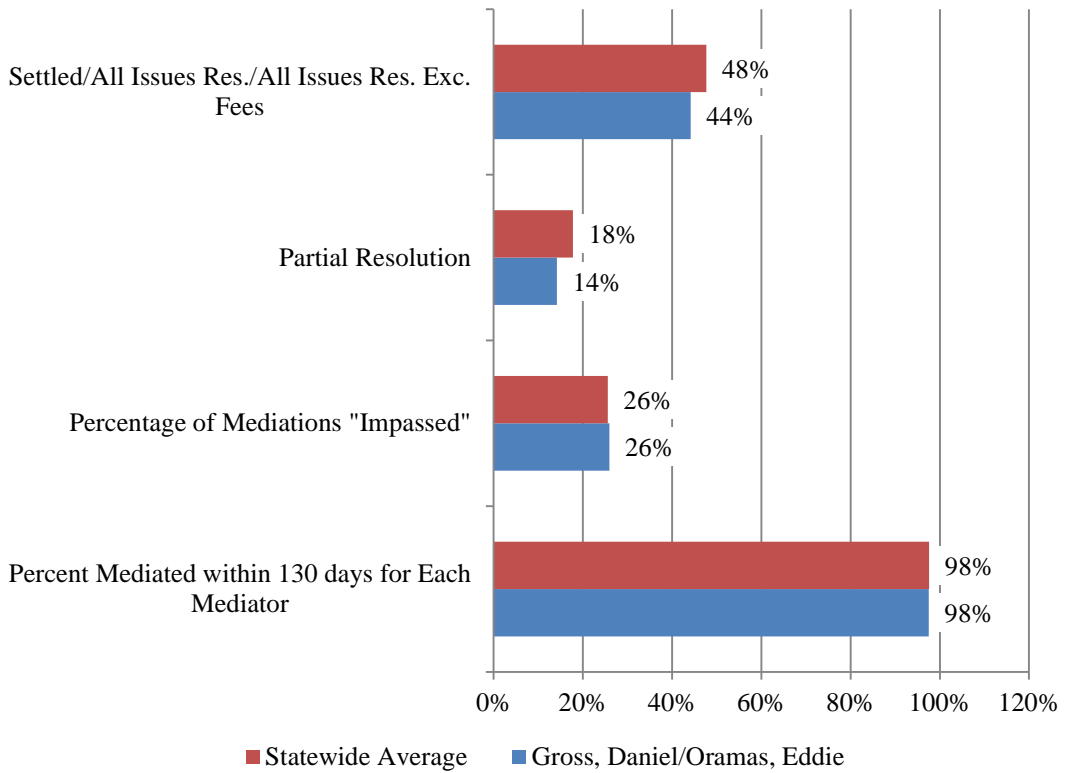
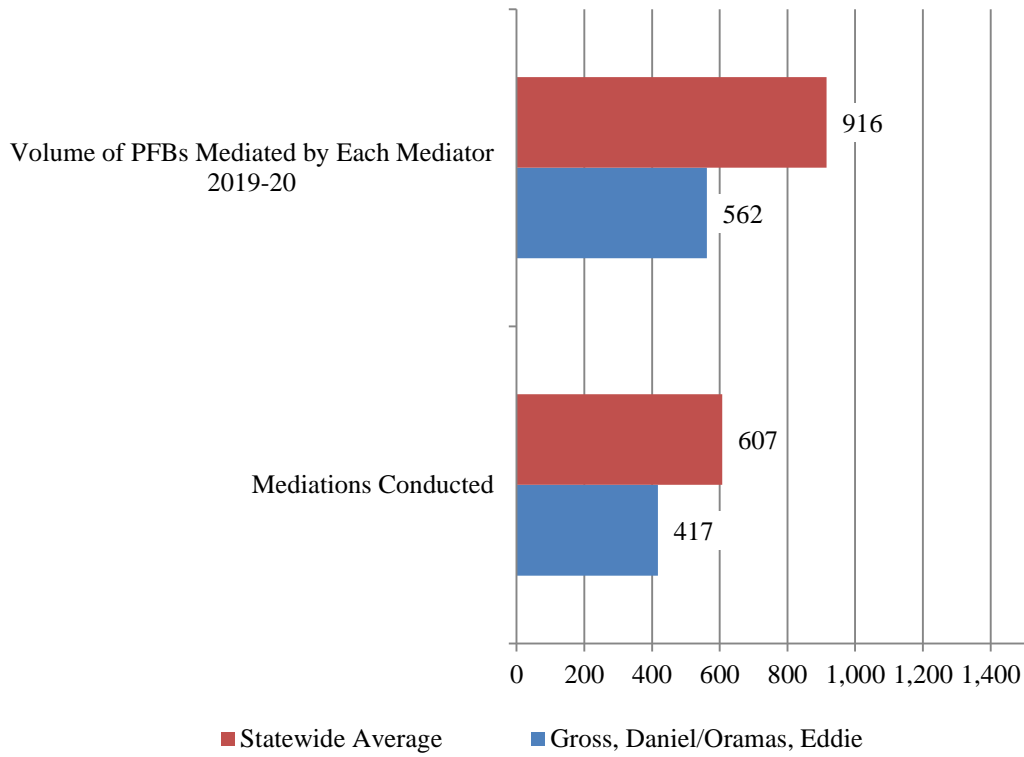


Gonzalez-Fajardo, Ana (MIA)

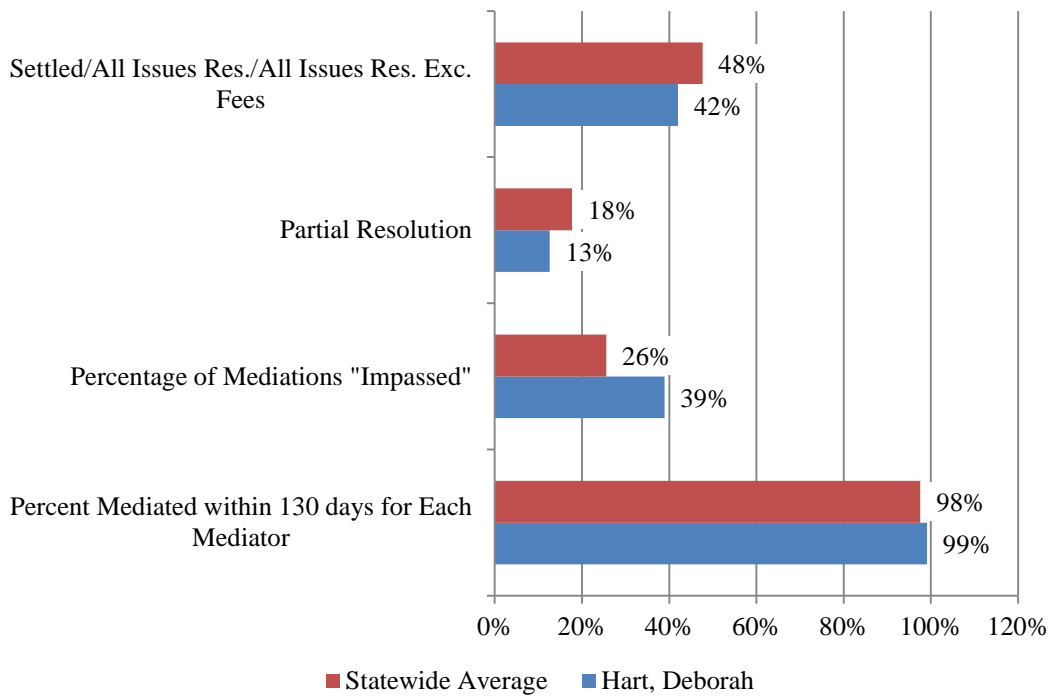
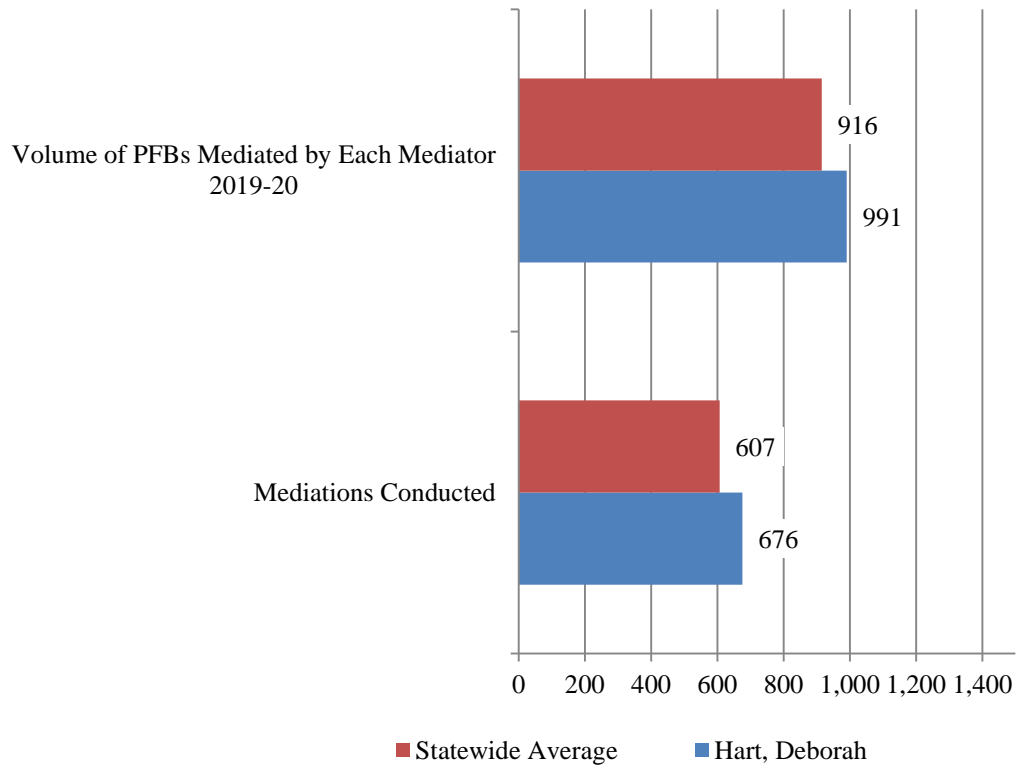


Gordon, Alan (JAX)

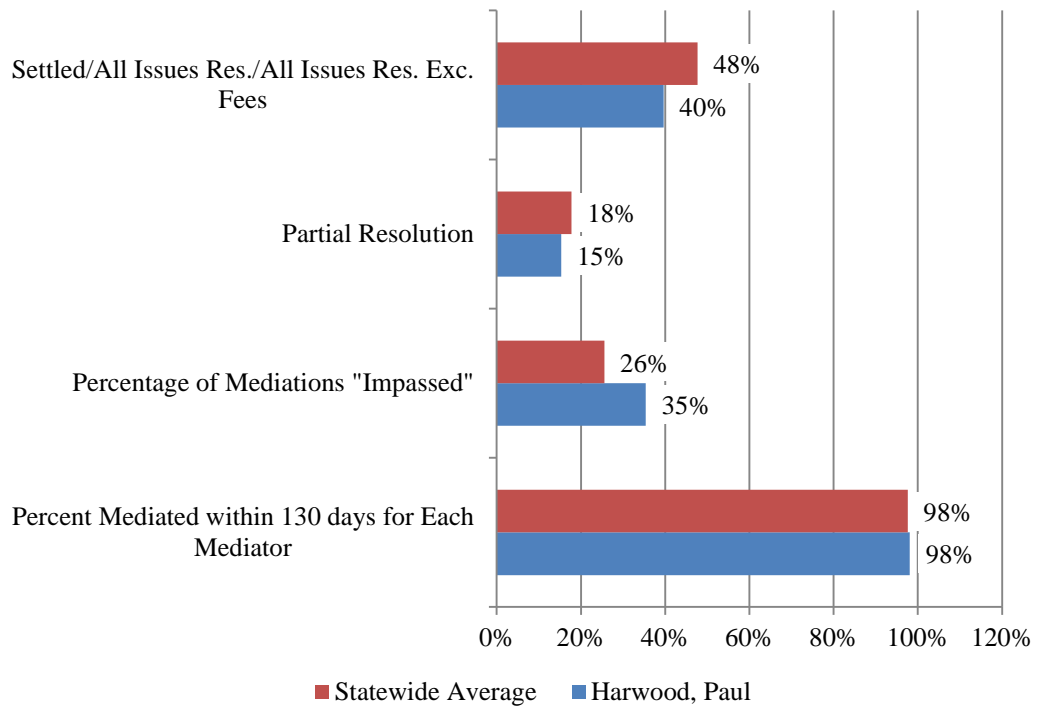
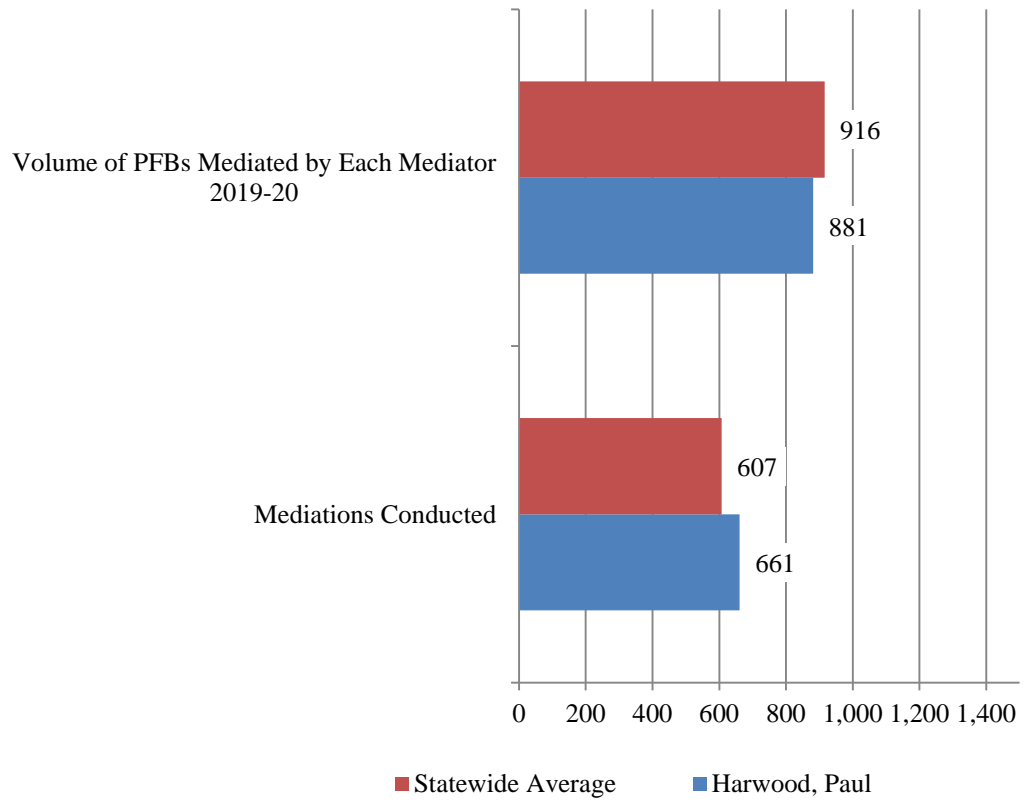




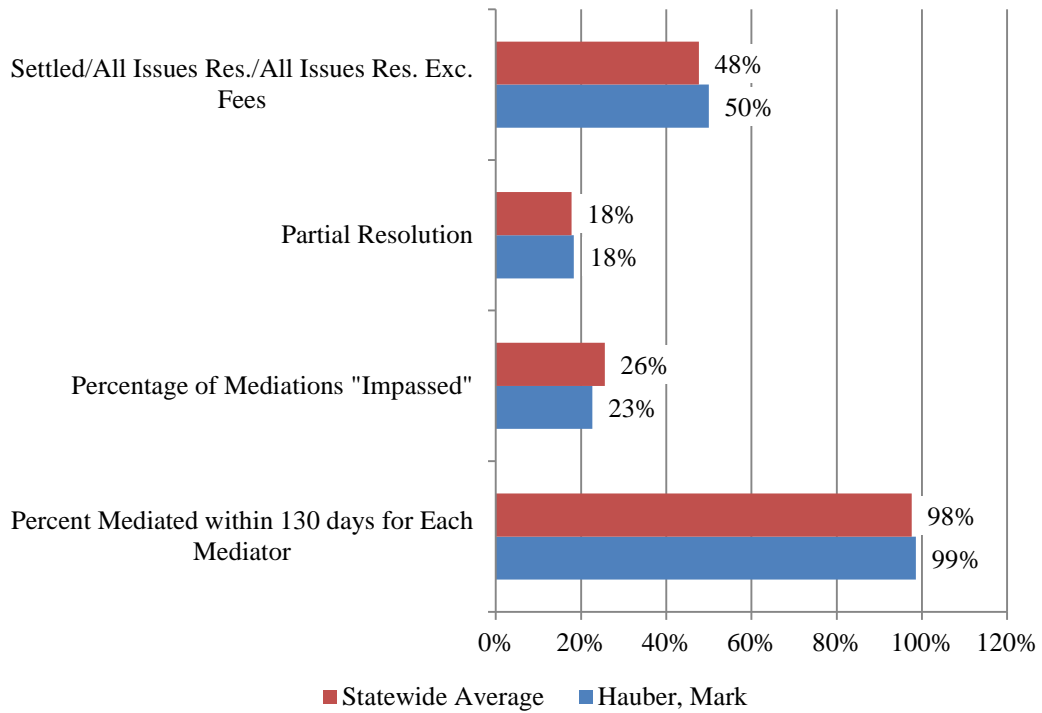
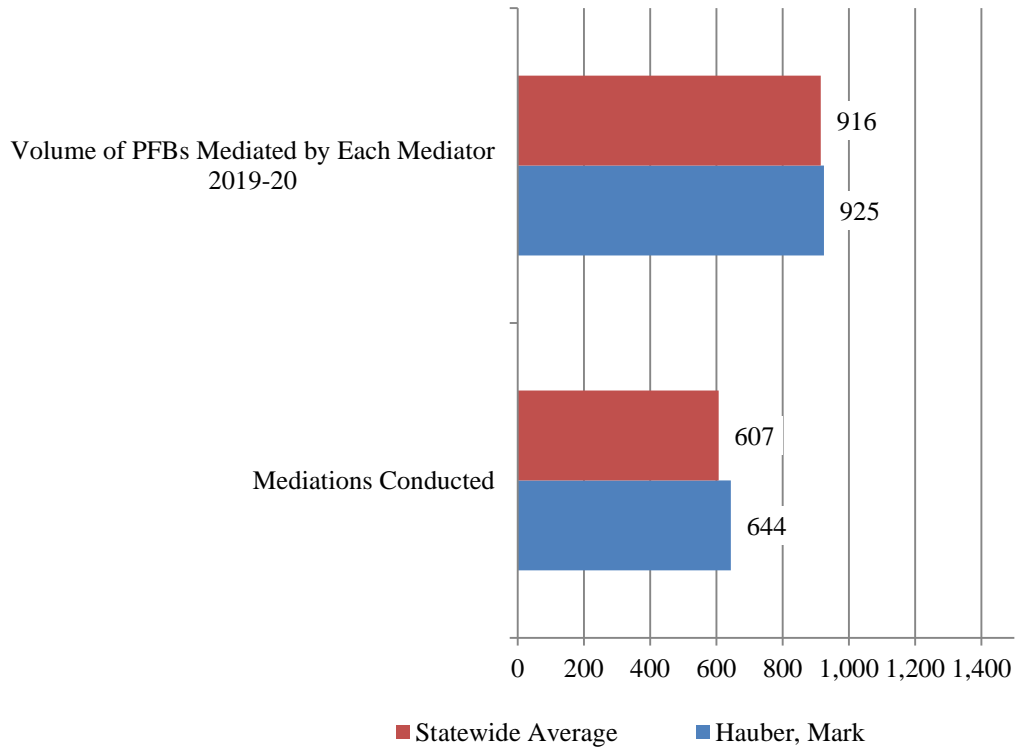
Hart, Deborah (TPA)



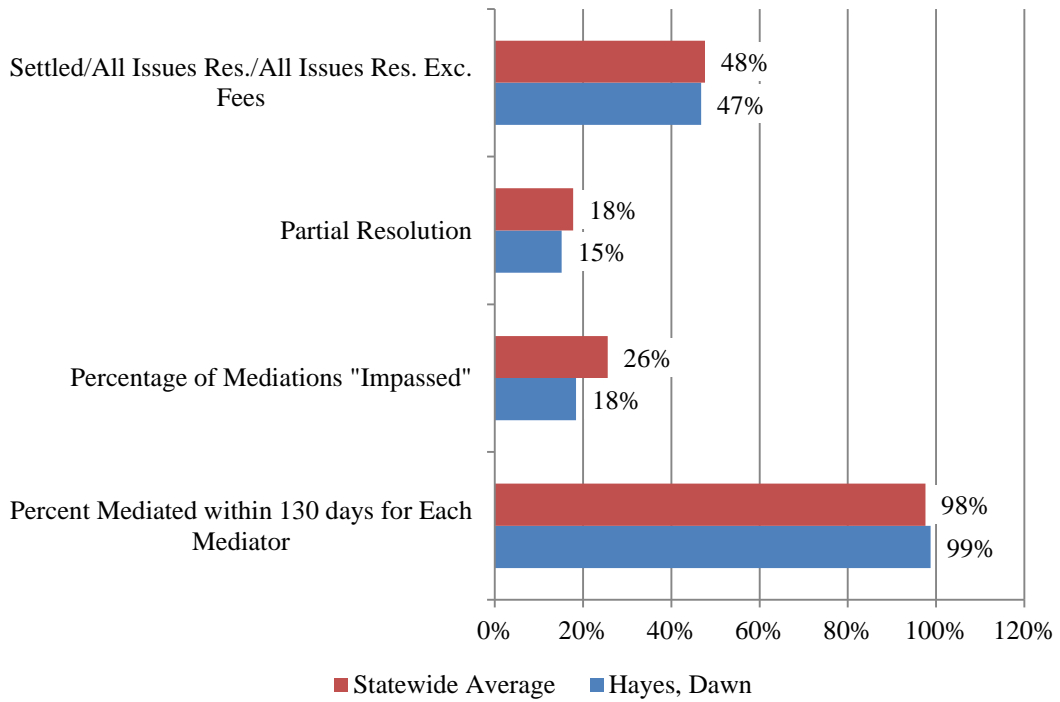
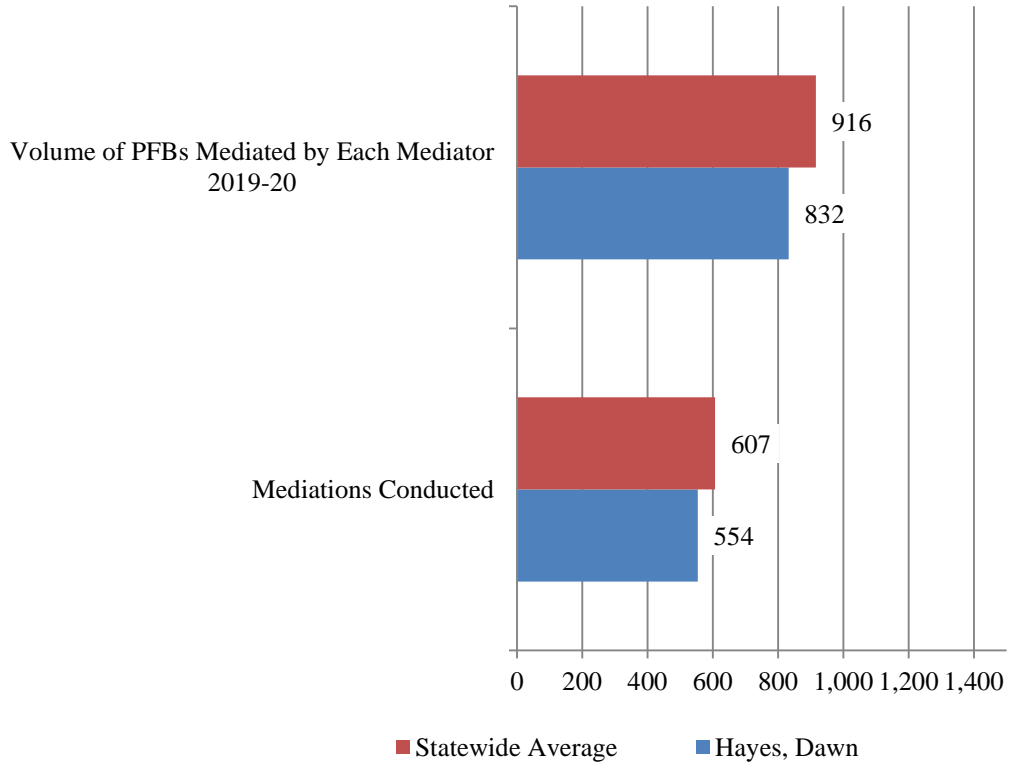
Harwood, Paul (LKL)



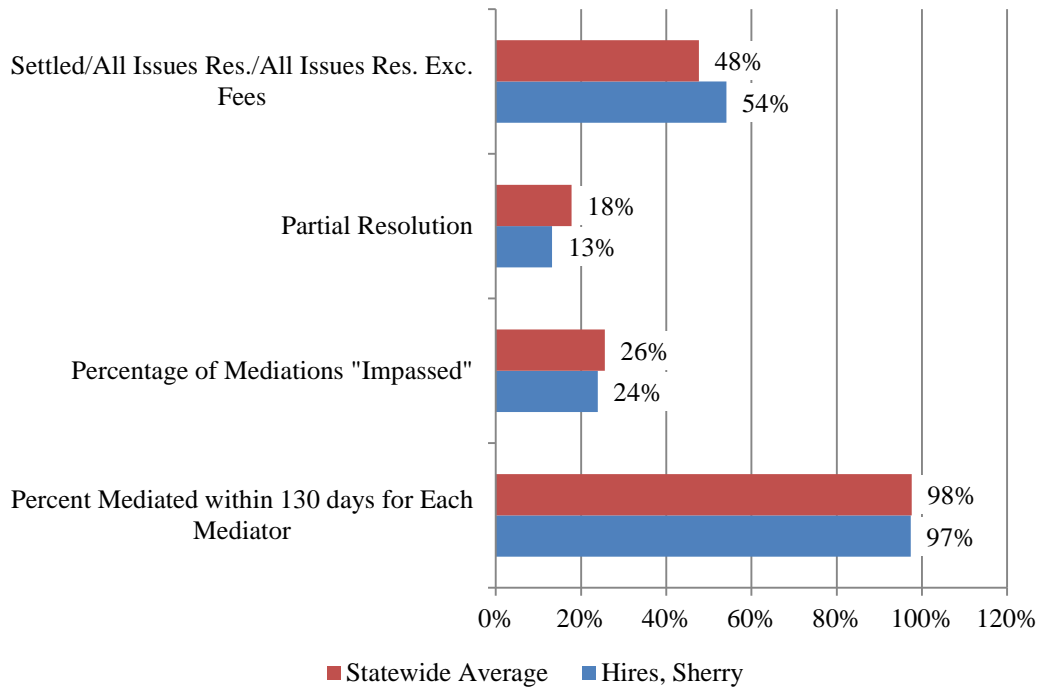
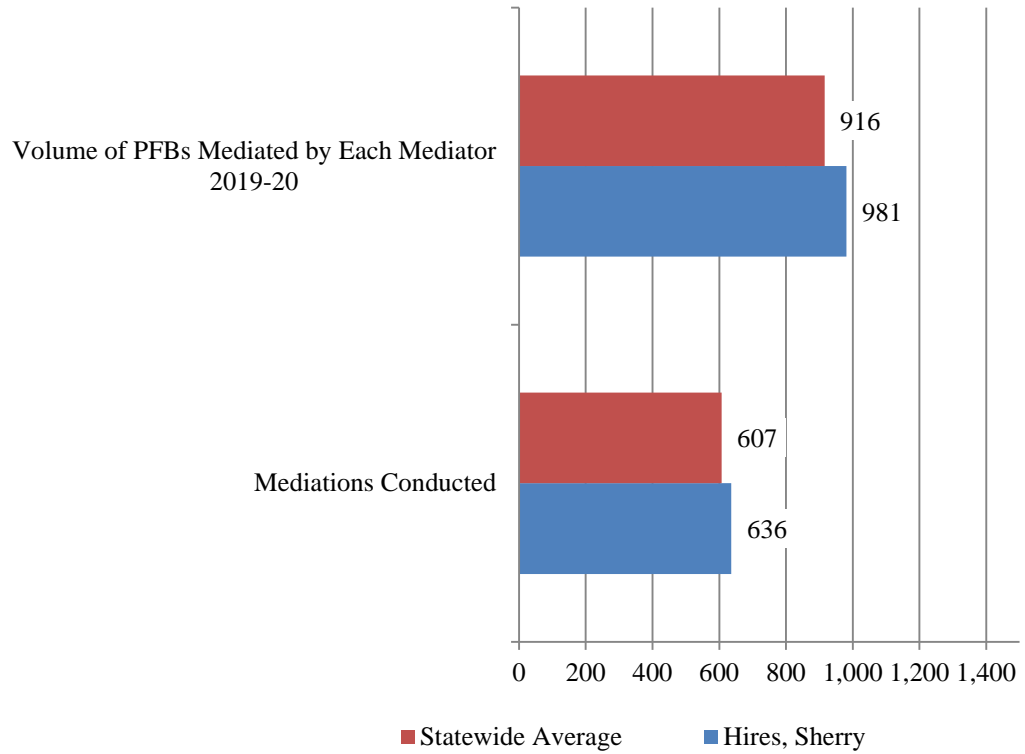
Hauber, Mark (MEL)



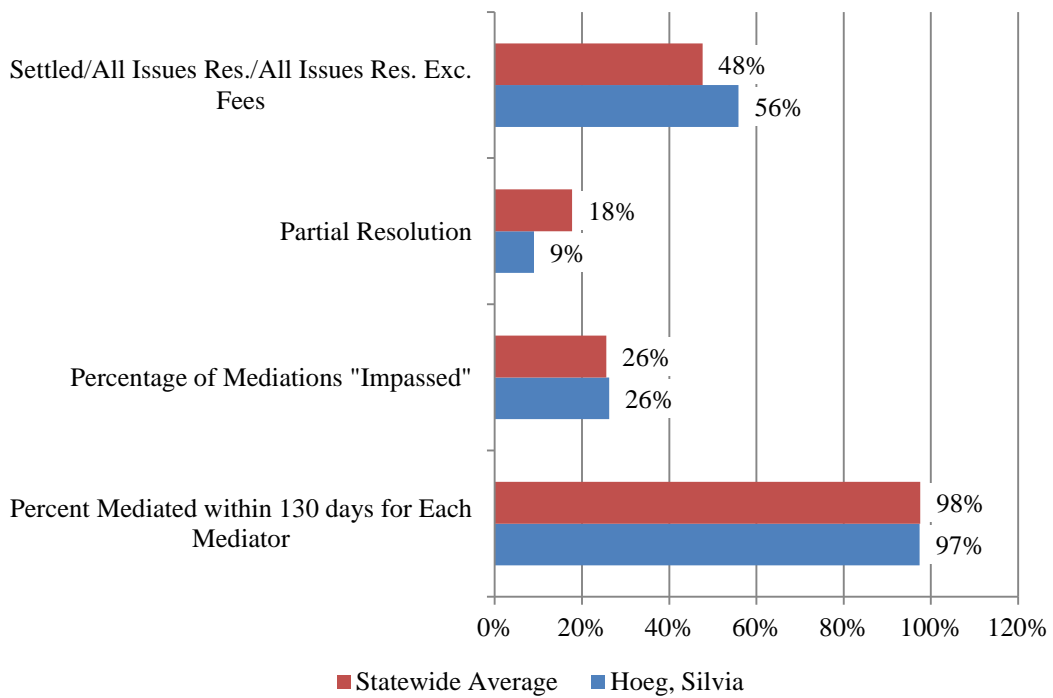
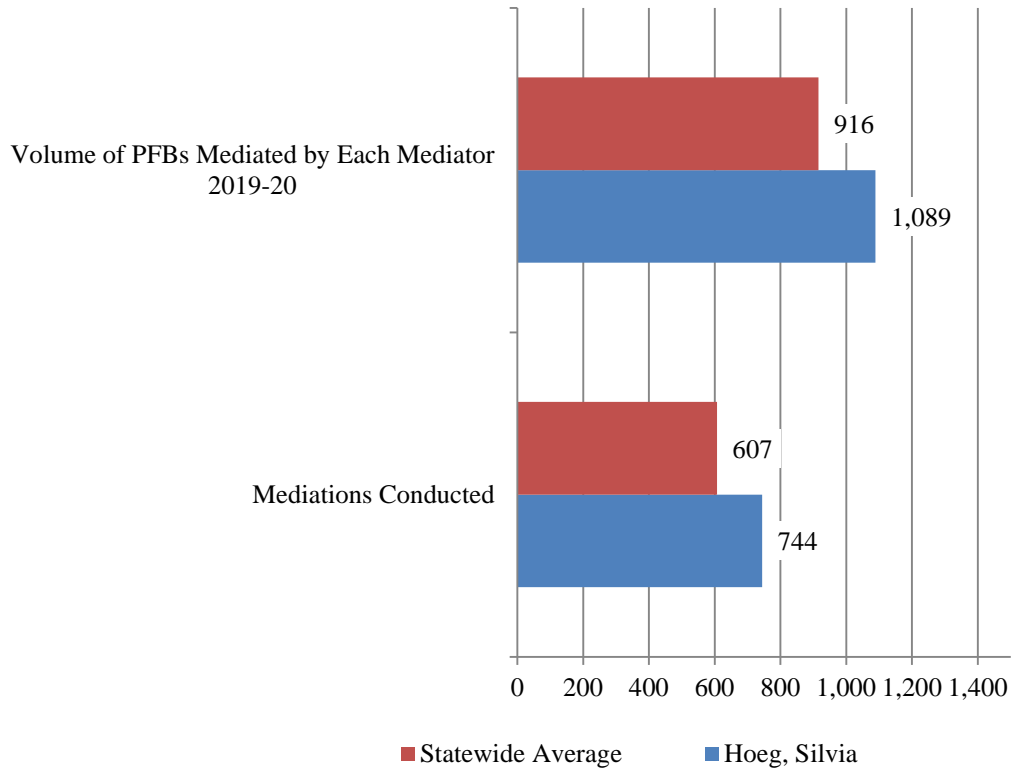
Hayes, Dawn (PSL)



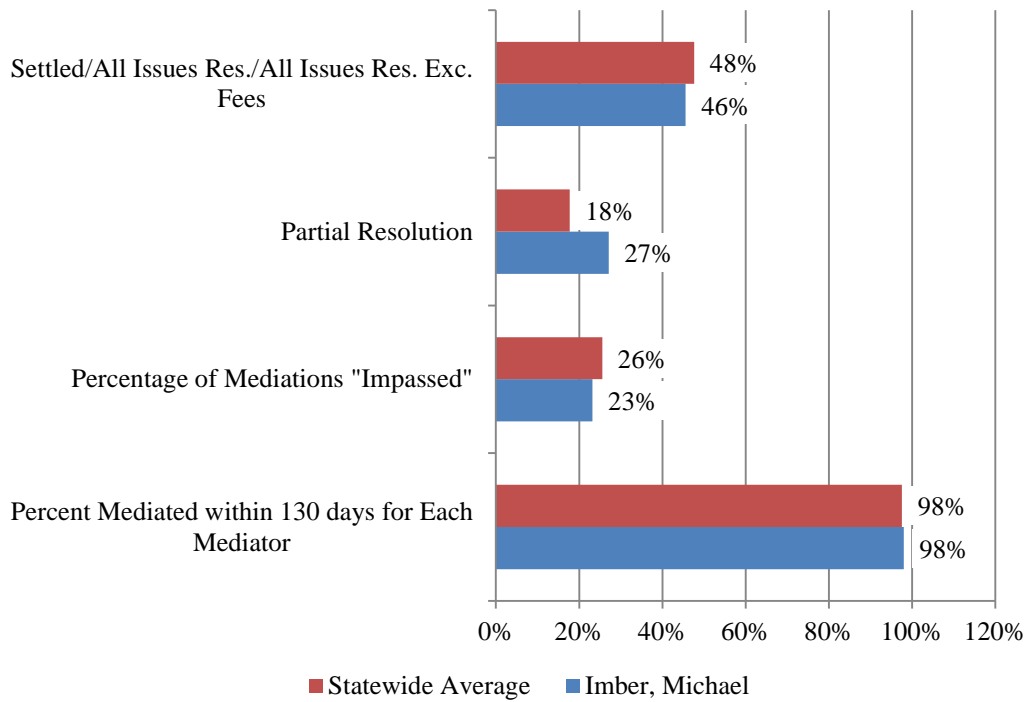
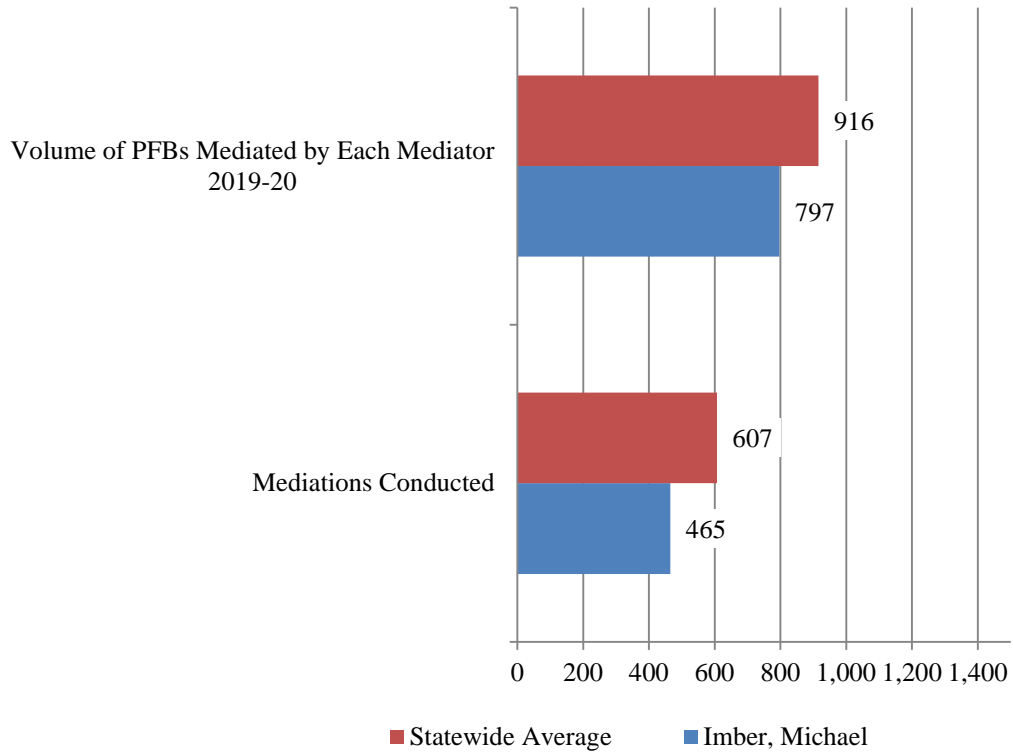
Hires, Sherry (ORL)

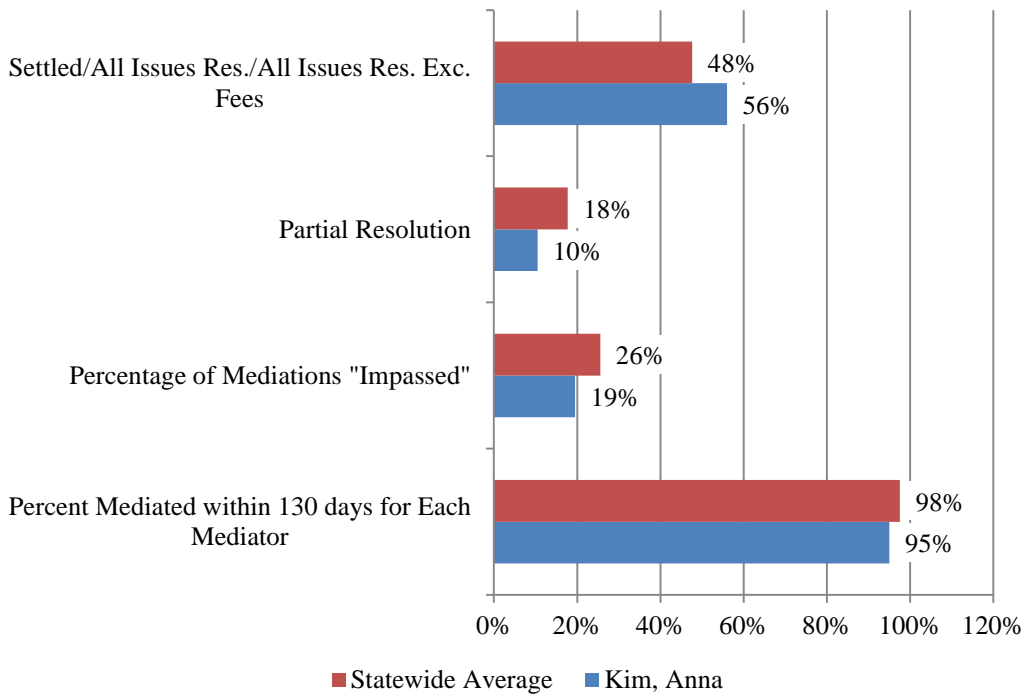
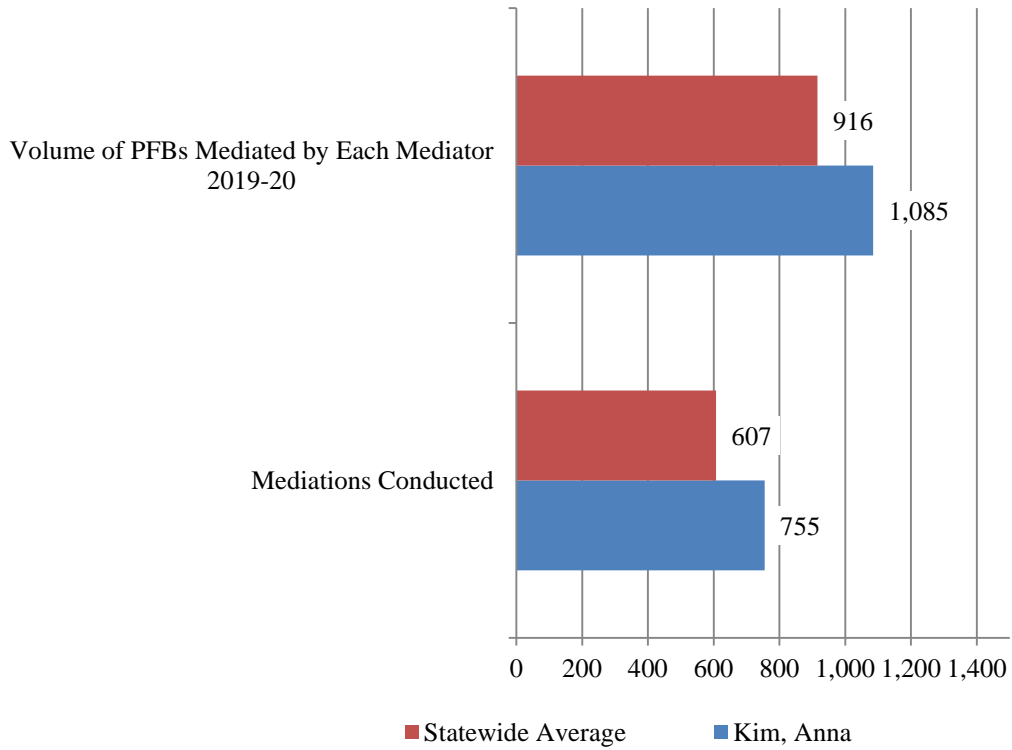


Hoeg, Silvia (ORL)

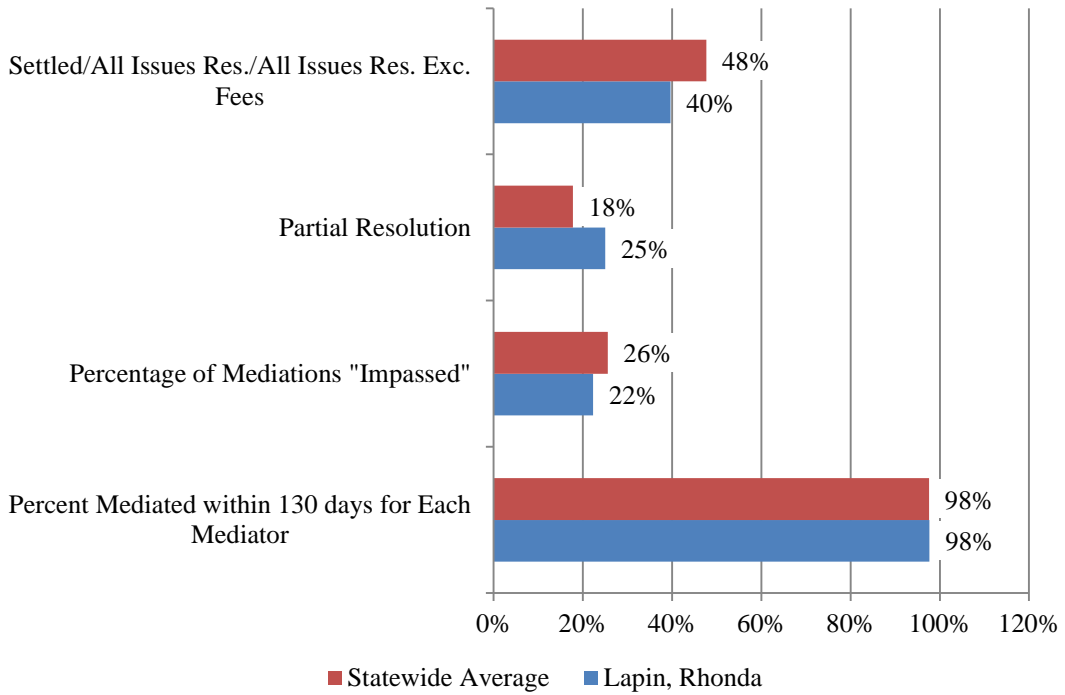
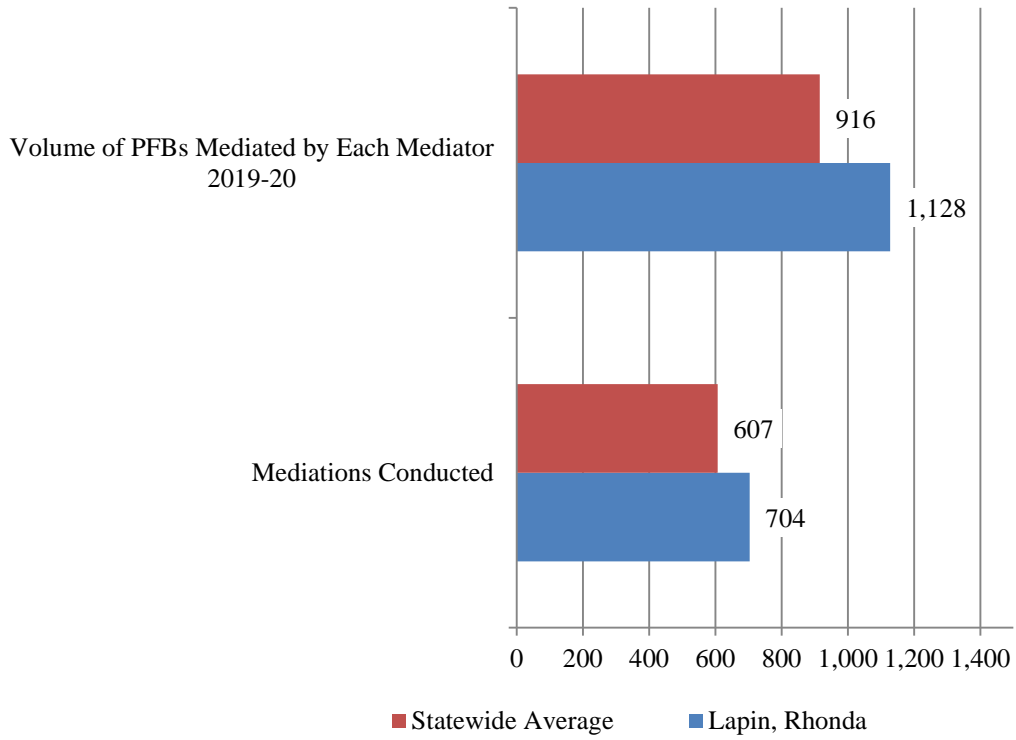


Imber, Michael (WPB)

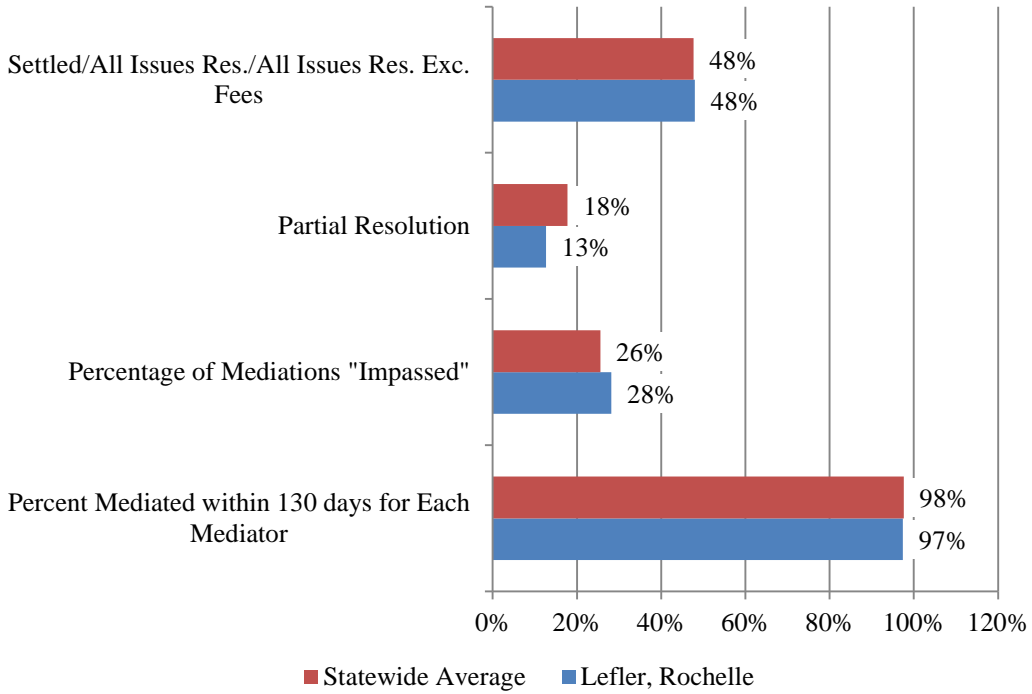
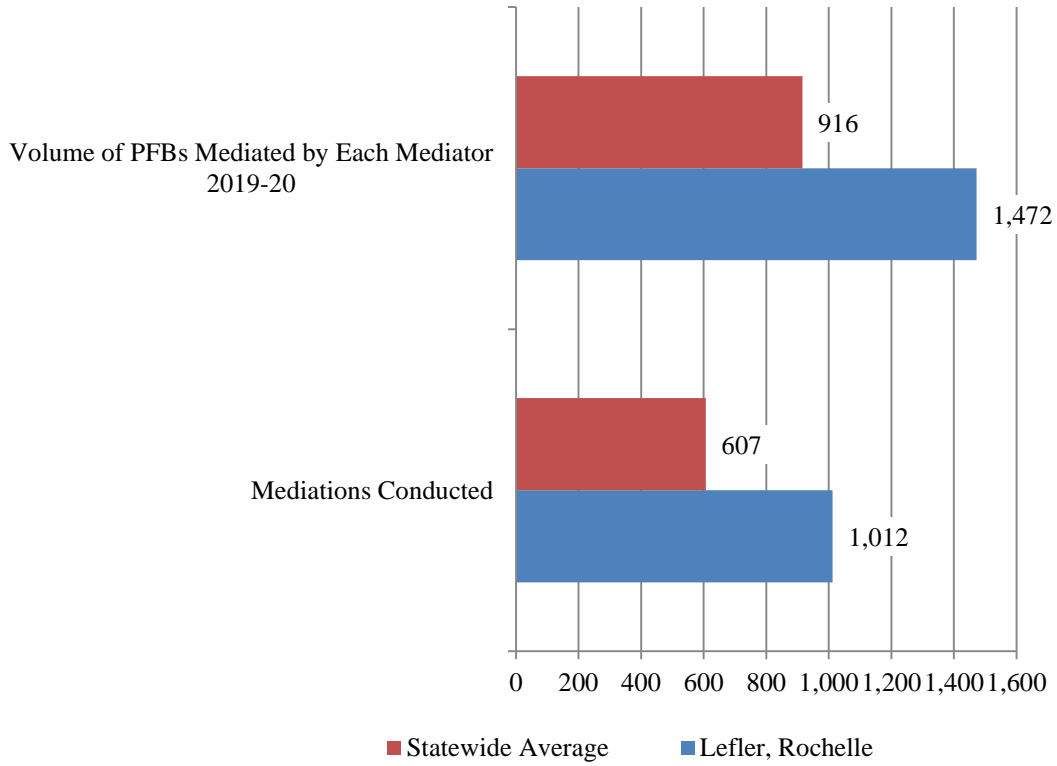




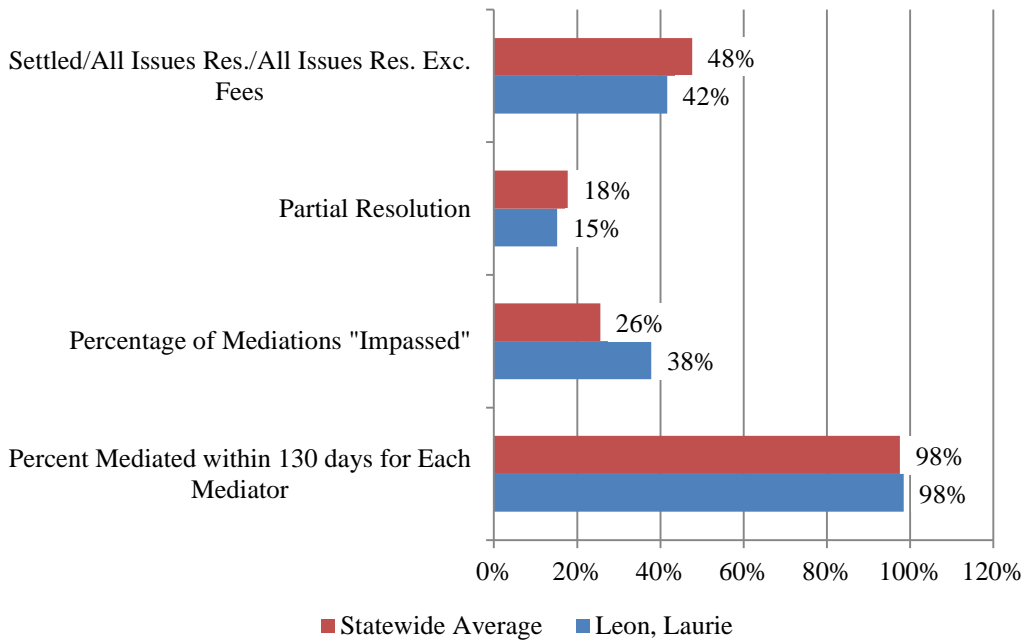
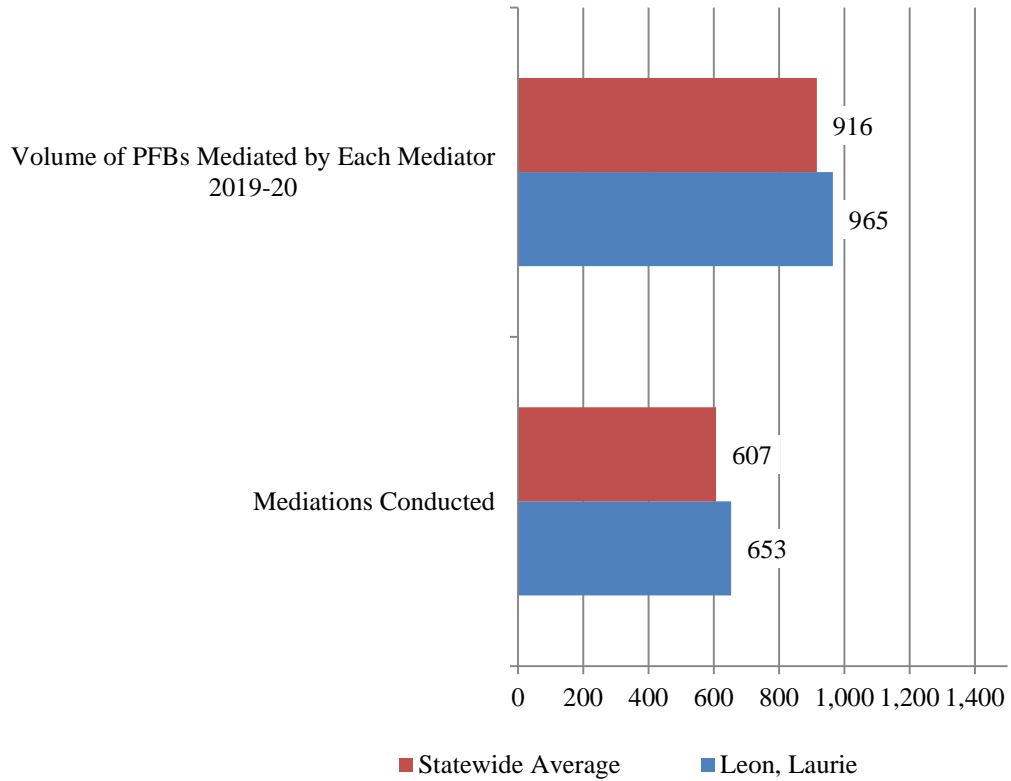
Lapin, Rhonda (MIA)



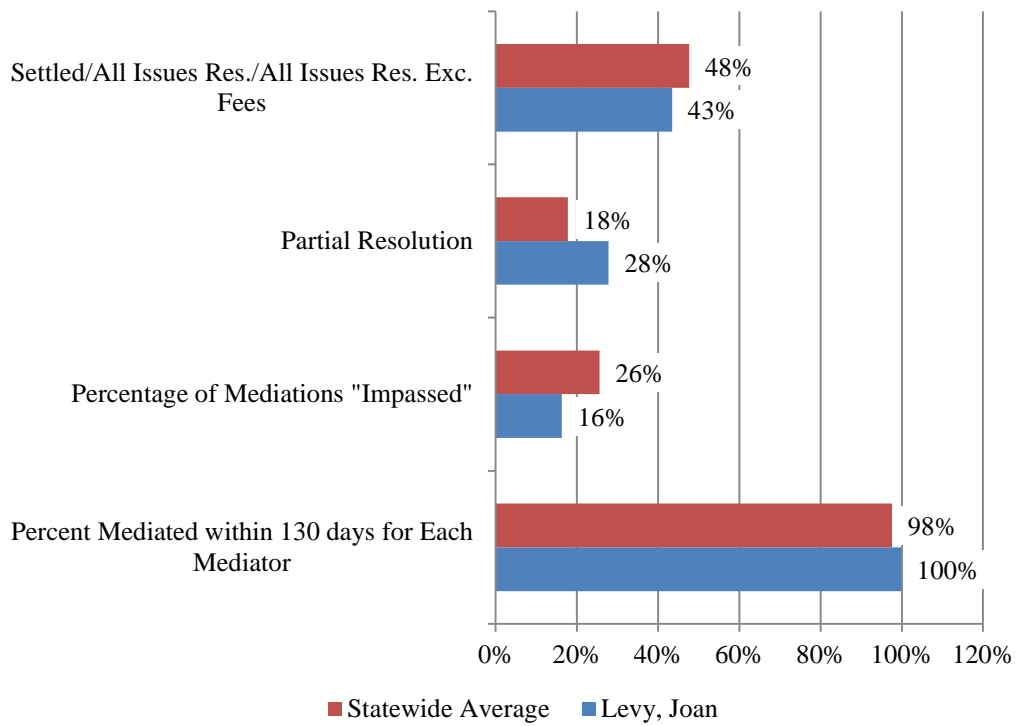
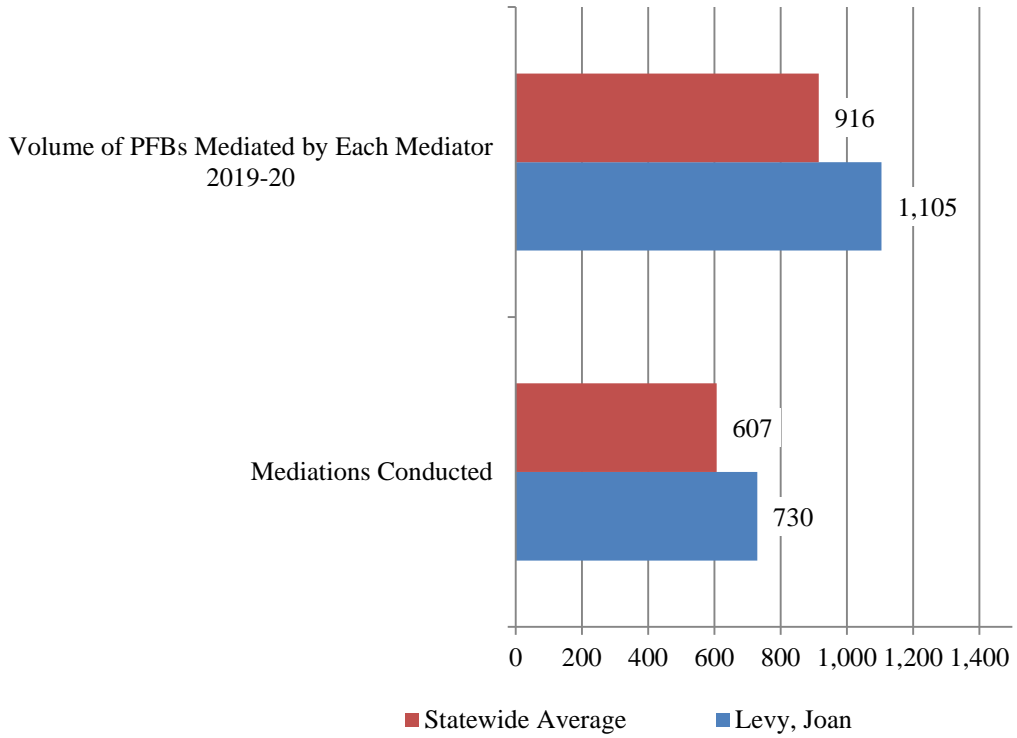
Lefler, Rochelle (SPT)



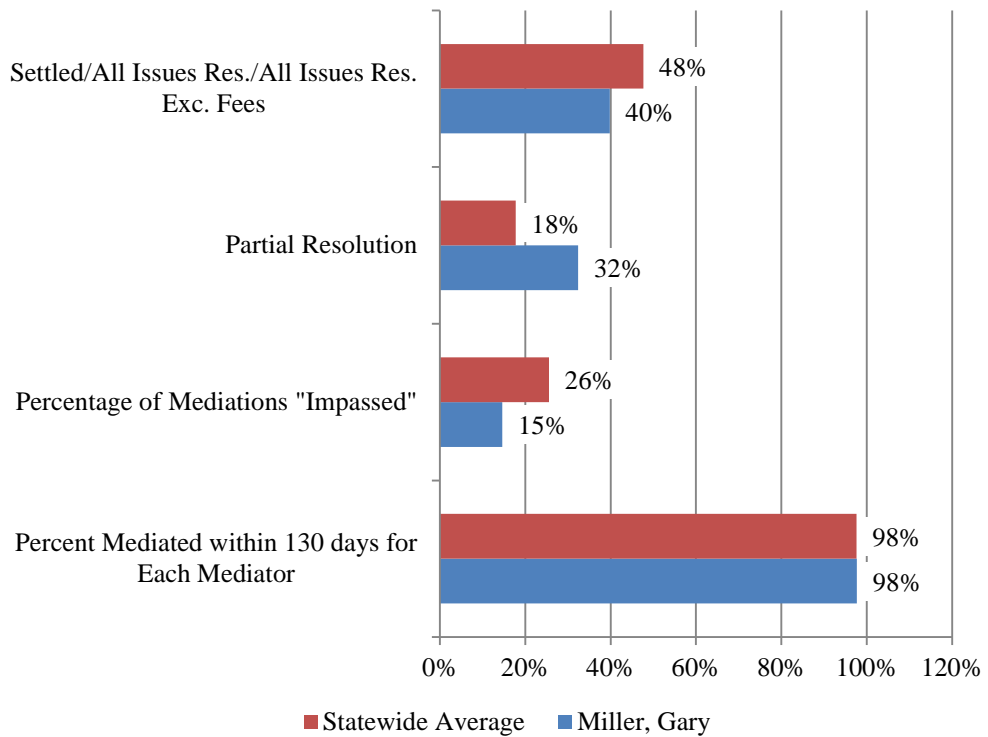
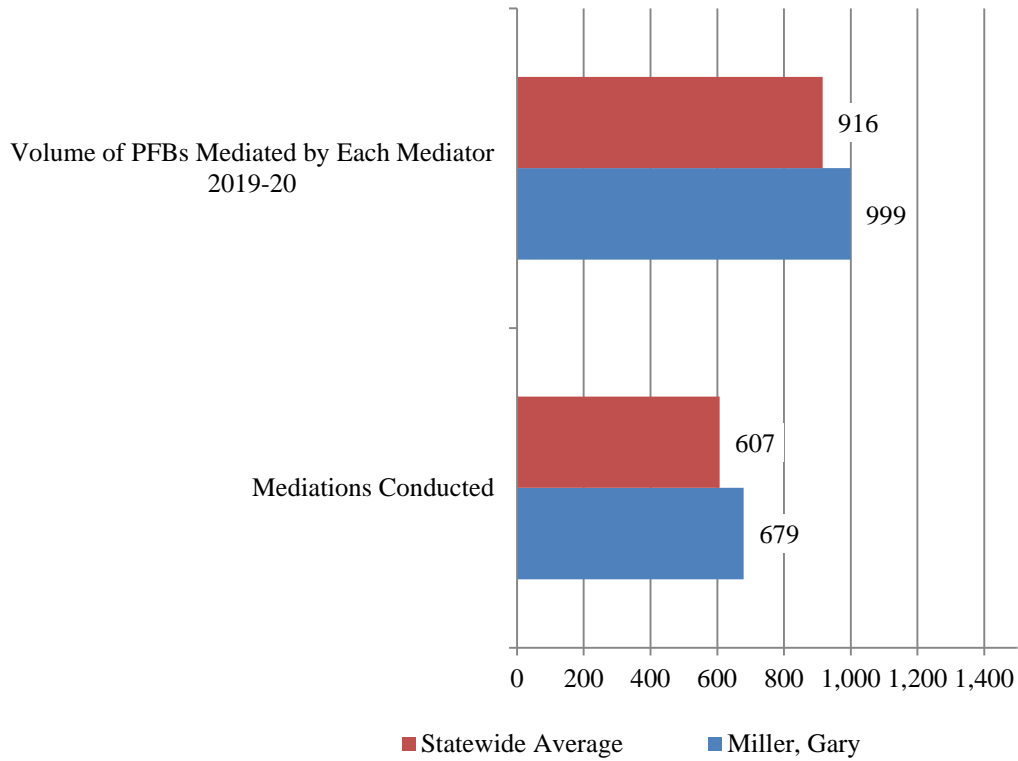
Leon, Laurie (TPA)



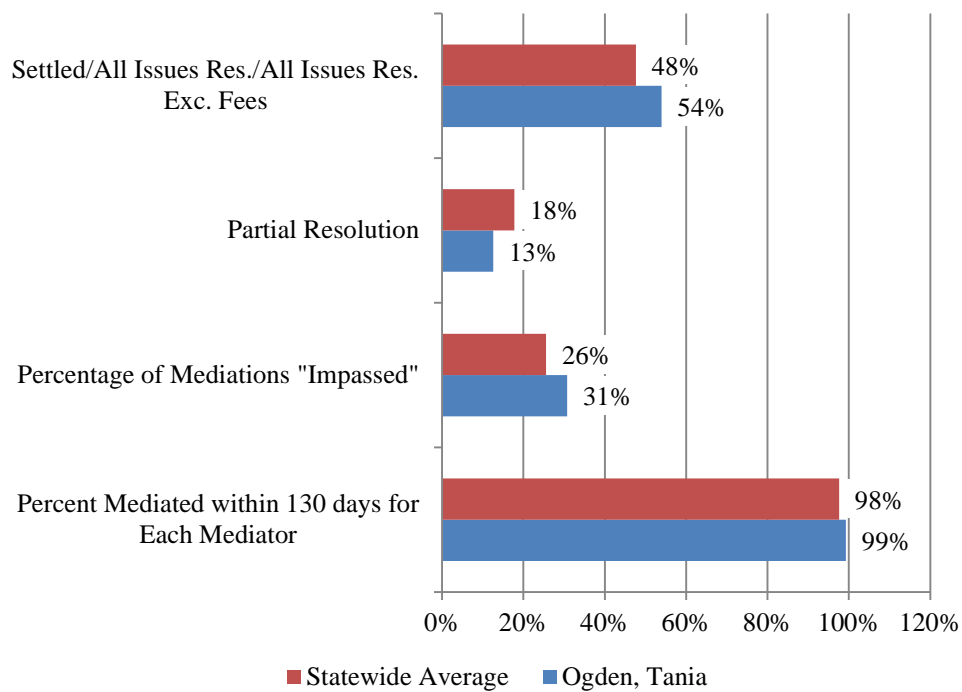
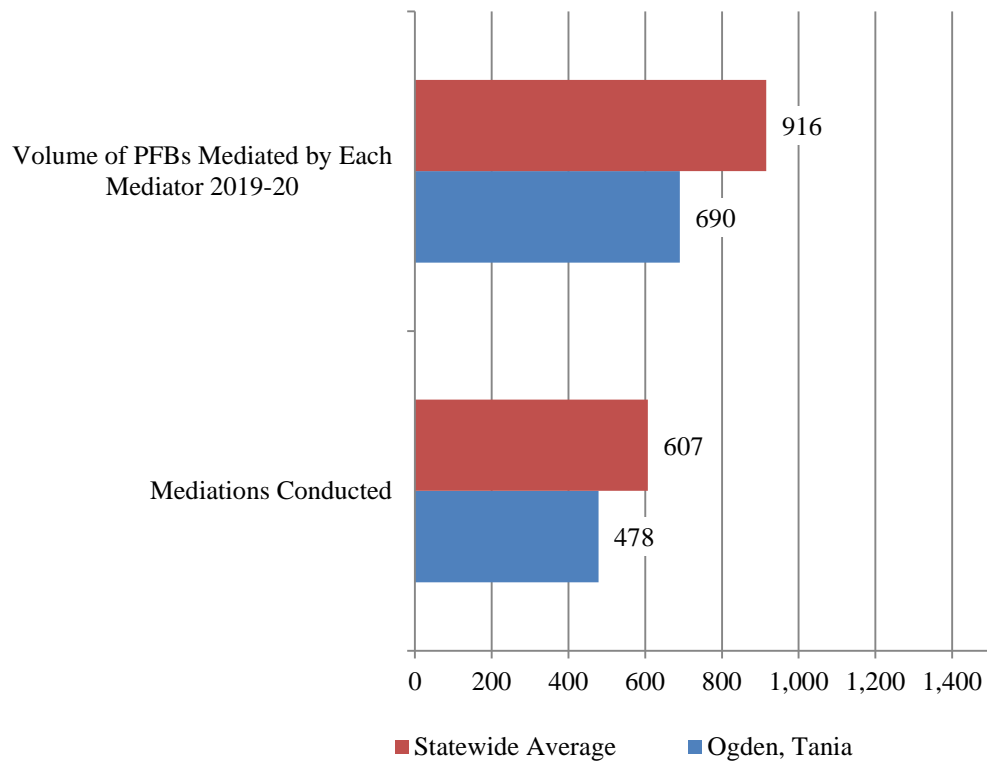
Levy, Joan (MIA)

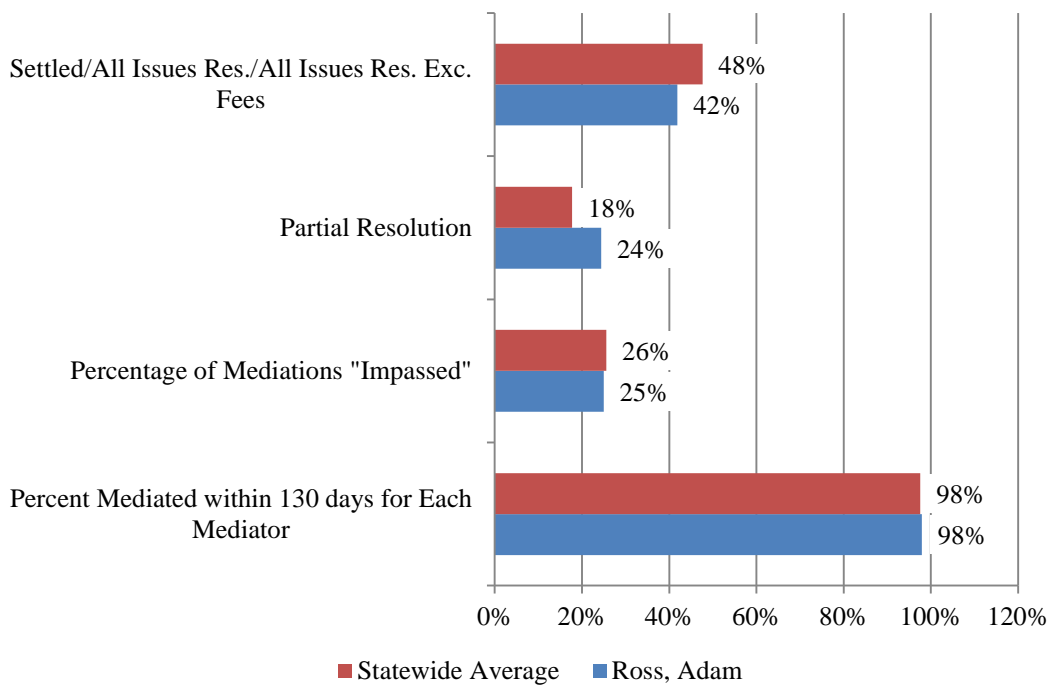
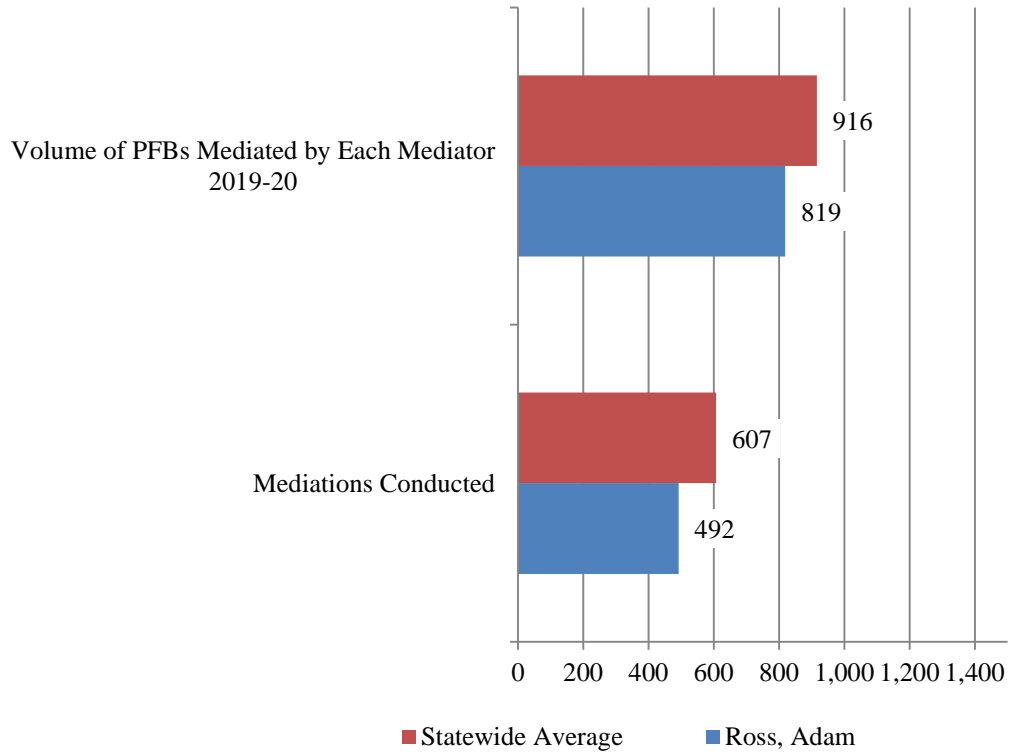


Miller, Gary (MIA)

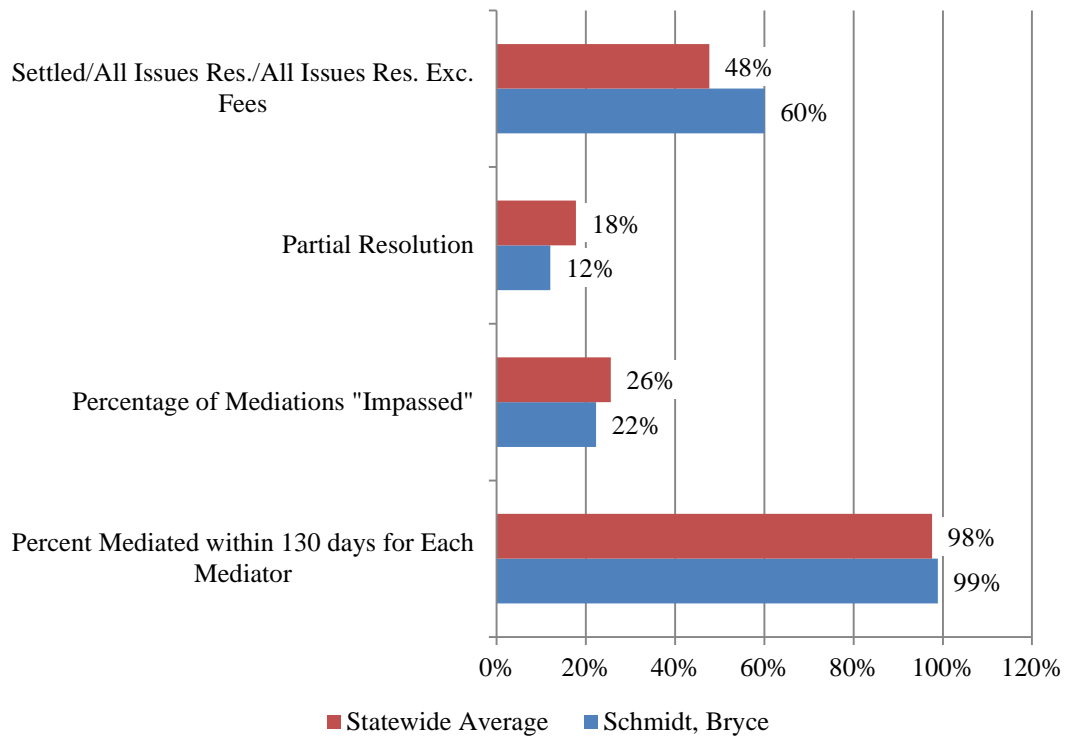
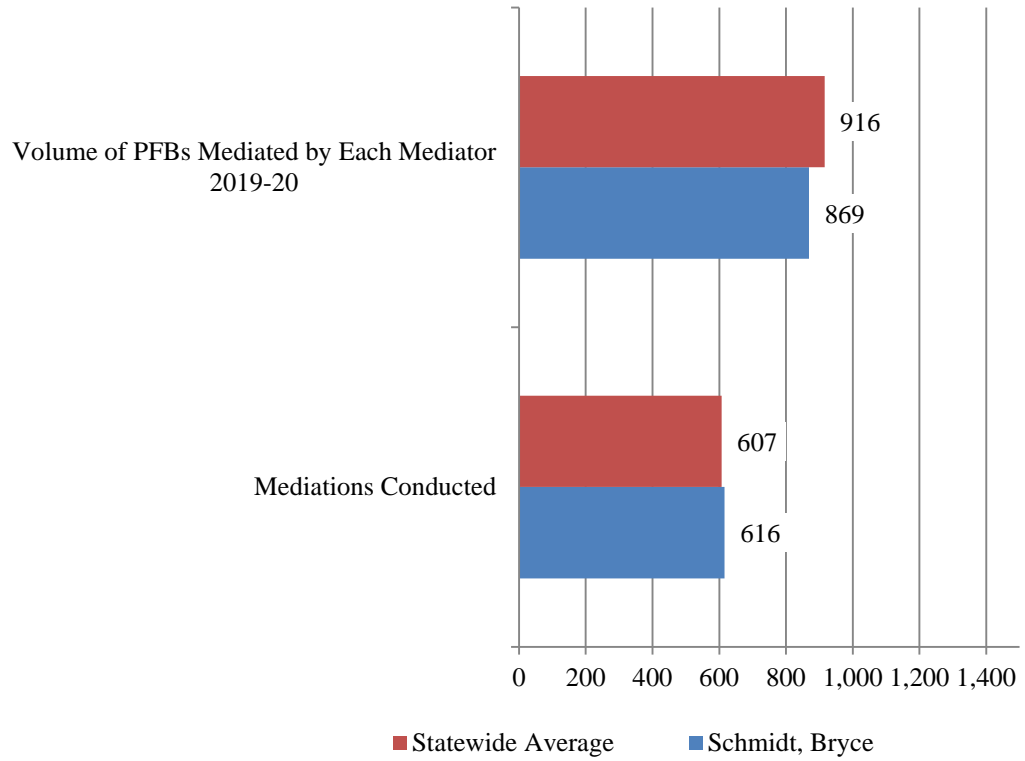


Ogden, Tania (FTM)

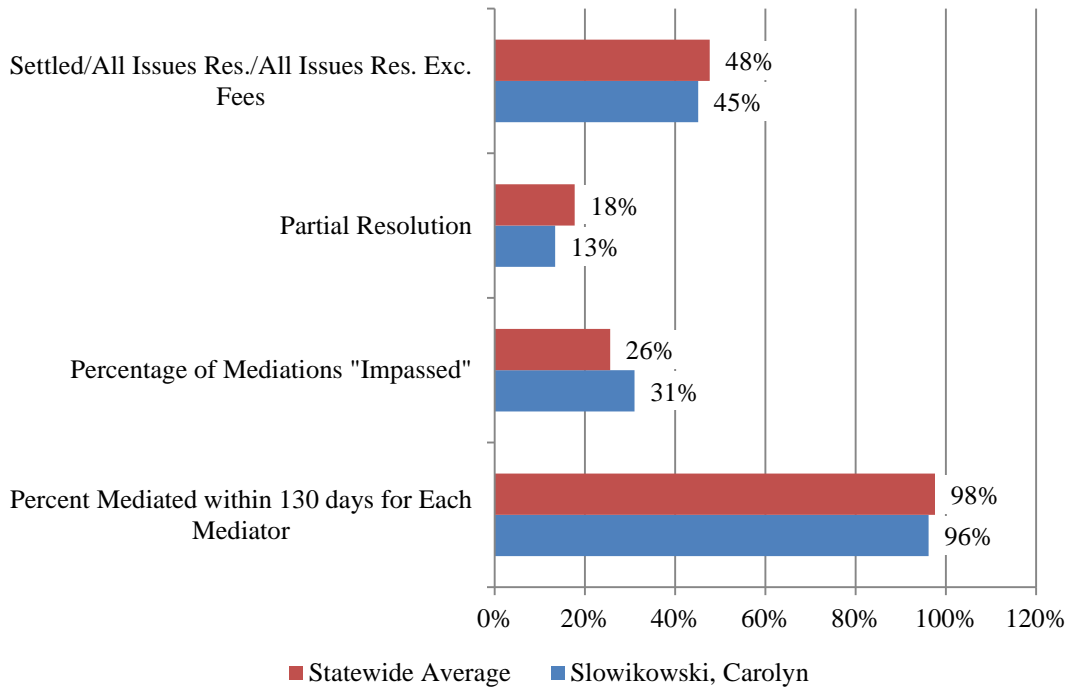
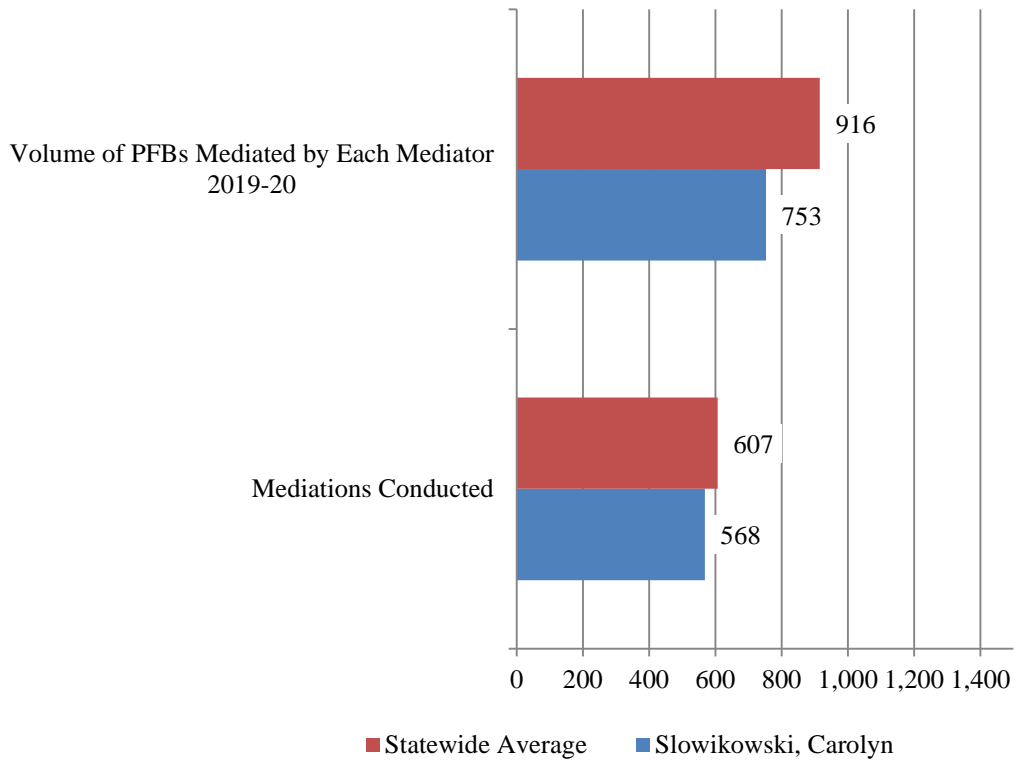




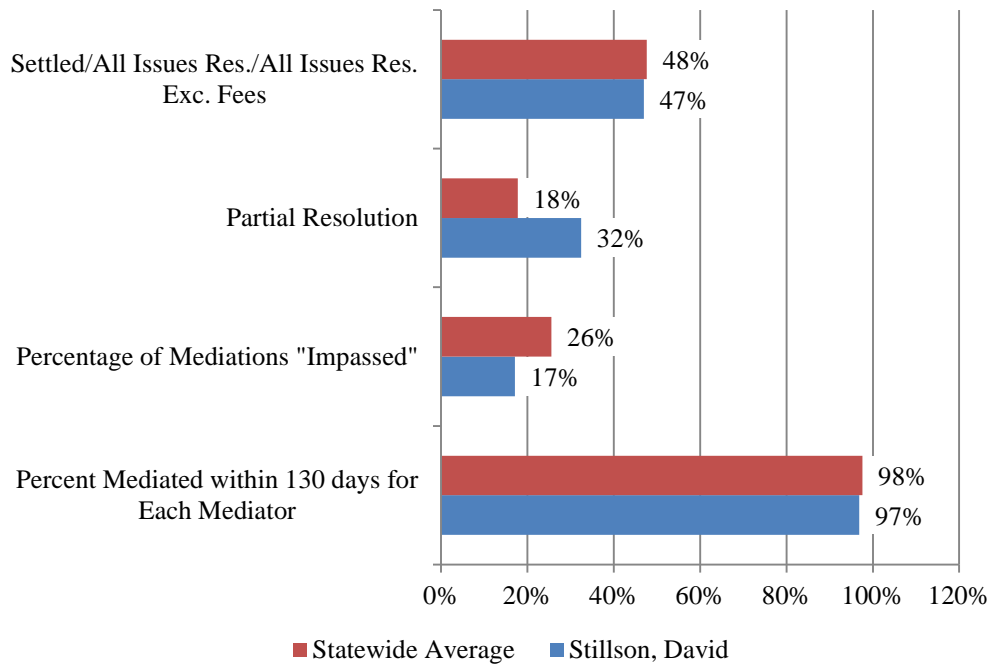
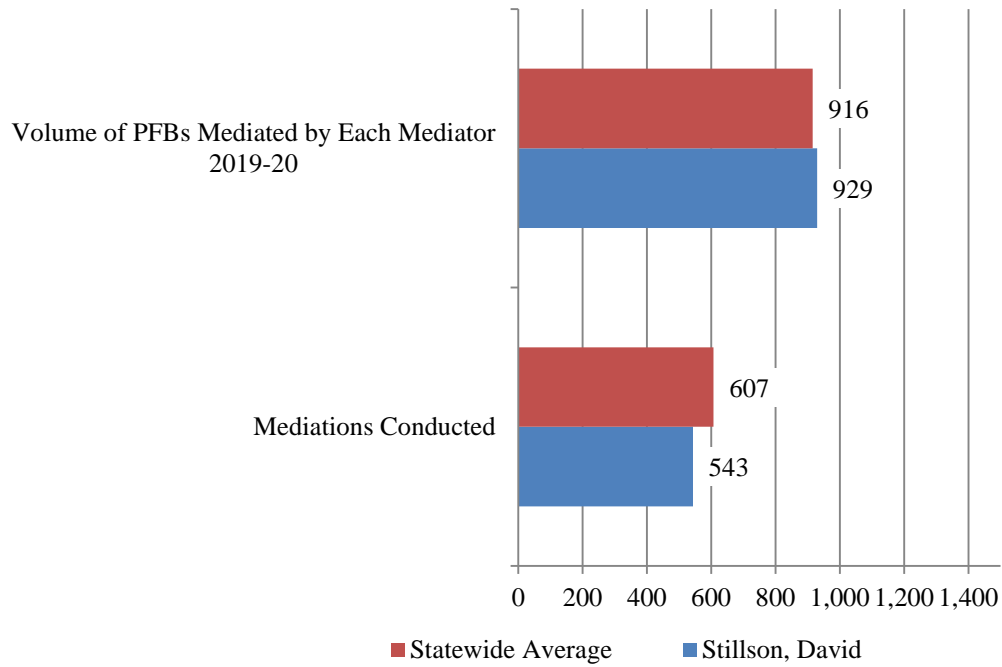
Schmidt, Bryce (GNS)



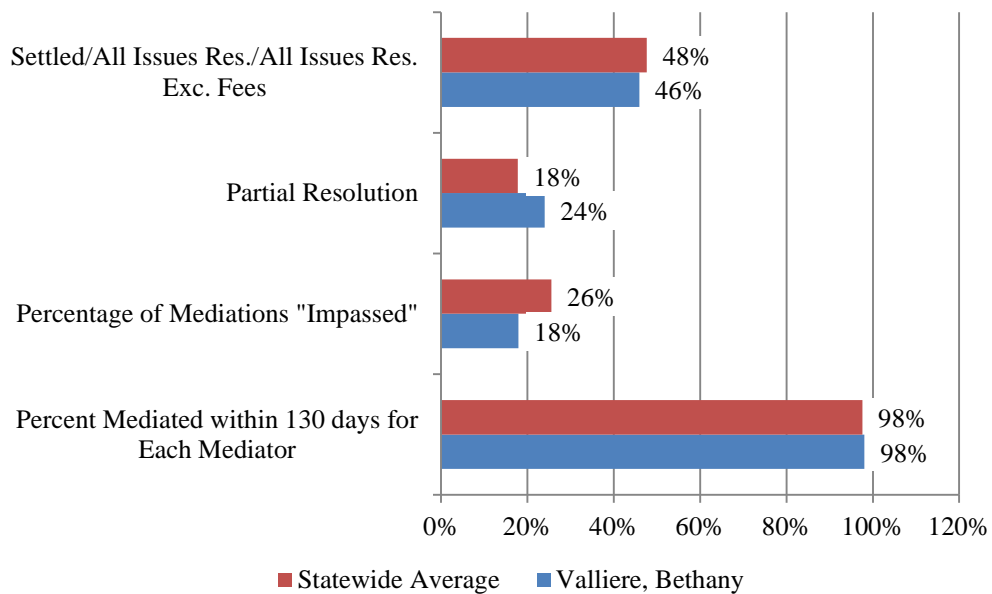
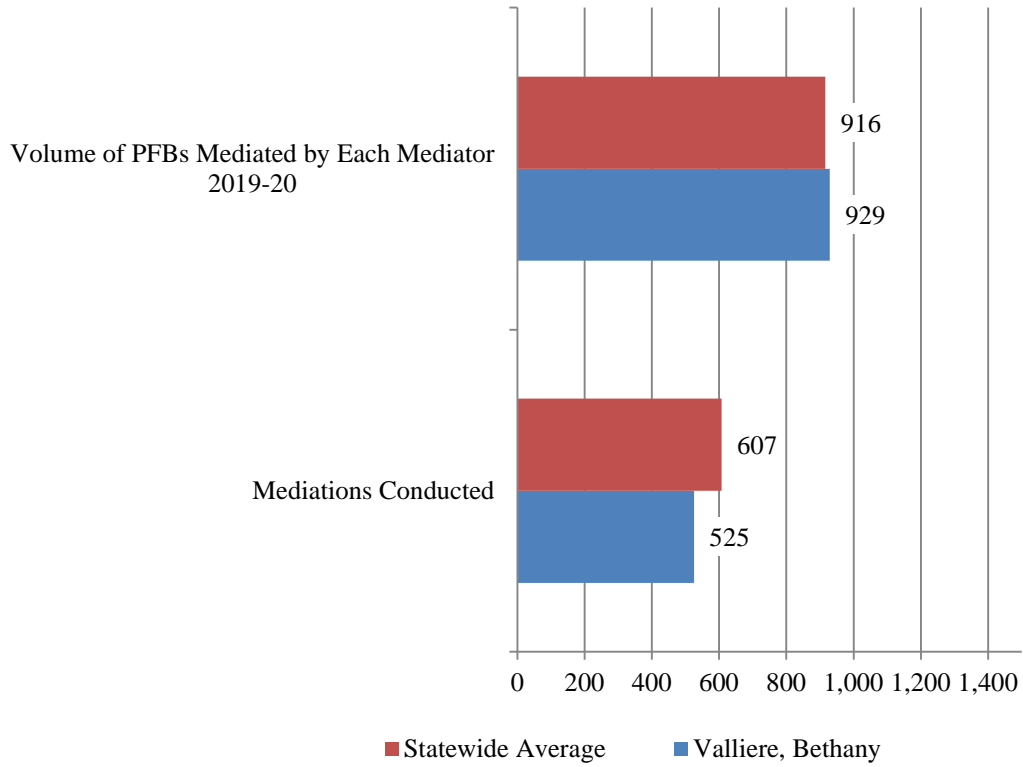
Slowikowski, Carolyn (PNS)



Stillson, David (FTL)¹⁹



Valliere, Bethany (WPB)



- ¹ There are a variety of other benefits that could also be claimed. It is common for indemnity claims to be accompanied by claims for penalties (§ 440.20(6)(a), (7), Fla. Stat.) and/or interest (§ 440.20(8)(a), Fla. Stat.). Most benefit claims are accompanied by a claim for attorney fees (§ 440.34, Fla. Stat.).
- ² Waiver is available through order of the Deputy Chief Judge, (§ 440.25(2), Fla. Stat.)
- ³ While this has alleviated some congestion on mediator calendars, the increasing PFB filing volumes will overtake that relief and calendars will soon reach capacity in some districts. It appeared likely PFB would be ordered to private mediation in 2019-20 (section 440.25(3)(b), Fla. Stat.). However, the OJCC was able to create a thirtieth mediator position in West Palm Beach in December 2019. That additional capacity and the flattening of PFB filing growth has temporarily forestalled the probability of significant volumes of PFB being ordered to private mediation. It remains probable that day will nonetheless come at some stage following the conclusion of the Novel Corona Virus pandemic (COVID-19).
- ⁴ *Hernandez v. Manatee County Government/Commercial Risk Management, Inc.*, 50 So. 3d 57 (Fla. 1st DCA 2010)(“Workers' compensation proceedings are, of necessity, often serial in nature. *See, e.g., Nelson & Co. v. Holtzclaw*, 566 So. 2d 307, 309 (Fla. 1st DCA 1990)”).
- ⁵ These districts were Ft. Lauderdale (FTL), Tampa (TPA), and West Palm Beach (WPB). The mediators in TPA were able to cover the additional workload, as were the mediators in FTL. District WPB required out-of-district assistance on a reasonably regular basis, though there were periods during which none was required.
- ⁶ *See*, <https://www.fljcc.org/JCC/publications/reports/2016SR-MSR.pdf>, last visited August 12, 2020.
- ⁷ Because this position was split, and because the potential exists that the position could theoretically be filled by two part-time incumbents, the data for Mr. Stillson is reported herein for each of the two districts separately.
- ⁸ *Smith v. Rose Auto Stores*, 596 So. 2d 809, 810 (Fla. 1st DCA 1992)(“This court's precedent prior to 2001 established that a workers' compensation settlement was not binding or enforceable until approved by a JCC”). *See also, Cabrera v. Outdoor Empire*, 108 So. 3d 691 (Fla. 1st DCA 2013).
- ⁹ Section 440.20(11)(a), Fla. Stat. (“not represented by counsel” and “filed a written notice of denial within 120 days”); § 440.20(11)(b), Fla. Stat. (“not represented by counsel” and “has attained maximum medical improvement”); § 440.20(11)(c), Fla. Stat. (“represented by counsel”).
- ¹⁰ *See*, Section 440.02(10), Fla. Stat.: “‘Date of maximum medical improvement’ means the date after which further recovery from, or lasting improvement to, an injury or disease can no longer reasonably be anticipated, based upon reasonable medical probability.”
- ¹¹ Even though § 440.20(11)(a), Fla. Stat., states that the “Chief Judge,” not the Deputy Chief Judge, shall submit this report to the legislature, this reference to the “Chief Judge” has been in the statute long before the OJCC was placed within the Division of Administrative Hearings, and actually refers to the head of the OJCC who is the Deputy Chief Judge under § 440.45(1)(a), Fla. Stat.
- ¹² Section 440.192(1), Fla. Stat.
- ¹³ There is some tendency on the part of attorneys, judges and mediators to fail to consolidate like-cases. Consolidation may be appropriate when all of the parties are identical in multiple cases. For example when an employee has suffered multiple injuries to a specific structure (e.g. the left knee), and there is dispute regarding which accident is responsible for the current need for treatment. In that instance, there might be two virtually identical PFB filed, albeit with different accident dates. The habit of some mediators to proceed with two or more mediation appointments in such instances, rather than consolidating those cases together (rendering multiple cases one case), may somewhat overstate the actual volume of mediations held.
- ¹⁴ When an injured worker has multiple pending claims against the same employer or a related entity, it is appropriate to consolidate the claims into one case. When this is not done, it has been discerned that multiple recordings of essentially the same mediation conference have occurred in some cases (one mediation appointment recorded as an outcome in more than one case number, thus a redundancy in the data).
- ¹⁵ *Supra*, endnote 1.
- ¹⁶ In the 2017-18 report, this figure was erroneously reported as 26.8%. The correct figure is 24.8%.
- ¹⁷ In budget reductions, the third mediator position was removed from District WPB in 2012, see *supra*, note 7. The OJCC created a mediator position from multiple staff positions, and David Stillson began work with the OJCC on January 16, 2018. For a time, he mediated half-time in both Ft. Lauderdale and West Palm Beach. Late in 2019, the OJCC created another mediator position in WPB. William Blatt began with the OJCC on February 3, 2020 in that new position. As such, the statistics here are an amalgam of the efforts of these two.
- ¹⁸ Mediator Eddie Oramas retired October 31, 2019. Daniel Gross began with the OJCC on January 6, 2020. As such, the statistics here are an amalgam of the efforts of these two.
- ¹⁹ David Stillson served as mediator in both Ft. Lauderdale (live) and West Palm Beach (telephonic or video) for part of fiscal 2019-20, before a new full time mediator position in WPB afforded the opportunity to focus Mr. Stillson’s efforts exclusively in Ft. Lauderdale. [see endnote 7]. As such, the statistics here reflect only his Ft. Lauderdale efforts. His efforts in WPB are reflected in the statistics of Mr. Blatt, page 21.