

STATE OF FLORIDA

Division of Administrative Hearings



2023-24 Annual Report of the Office of the Judges of Compensation Claims

The OJCC Mission:

To maintain a statewide mediation and adjudication system for the impartial, efficient, and timely resolution of disputed workers' compensation claims.

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Daily eFiling rate	2,338 (increase from 2,284 in 2022-23 ¹)	
Total eFiled documents	586,850 (2.35% increase from 573,394 in 2022-23)	
Total savings to date	Over \$27 million	
Number of Litigated Cases		16
Gross Petitions (PFB) filed	81,145 (5.9% increase from 2022-23)	17
New cases filed	31,769 (.9% decrease from 2022-23)	21
<i>Pro se</i> cases	7.28% (lowest since 2003 reforms)	24
Amount of Litigation Resolved		25
Petitions (PFB) closed	81,781 (7.8% increase from 2022-23)	
Cost of Litigation Resolved		29
OJCC budget	\$19,911,256 (11% increase from 2022-23)	
Per Petition (PFB) closed	\$243.00 (twenty-year avg. = \$236.00)	
Civil court comparison	\$300.00 to \$400.00 Filing Fee	
Child support collected	\$14.0 million in 2022-23, total to date 258.2 million	
Number of Mediation Conferences Held		32
Mediations held	20,484 (2.8% increase from 2022-23)	
100% of mediators averaged less than 130 days to mediation each year 2008-09 to 2023-24		
Disposition of Mediation Conferences		35
At least some resolution	69.41% (increase from 67.92% in 2022-23)	
Settled case/all issues resolved	35.78% (decrease from 36.06% in 2022-23)	
Number of Continuances Granted for Mediations		37
Mediation continuances	134 (16% decrease from 159 ² in 2022-23)	
Number of Continuances Granted for Final Hearings		38
Trial continuances	982 ³ (23.5% decrease from 1,284 in 2022-23)	
Outcome of Litigated Cases		40
Amount of Attorney Fees Paid		44
Claimant fees approved	\$251,750,922 (10.34% increase from 2022-23)	
Defense fees reported	\$273,450,529 (2.82% increase from 2022-23)	

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Executive Summary

The Office of Judges of Compensation Claims (OJCC) is efficient and effective in delivering this critical service to Florida's economy at a 2023-24 cost under \$20 million. The office continues to monitor the systemic impact of *Miles v. City of Edgewater*,¹² which has driven claimant attorney fees higher while the aggregate value of settlements has not increased commensurately. Evolving after the SARS-CoV-2 virus impacts, the OJCC has persisted through reductions in budget, personnel, and facilities. Critical performance data for 2023-24 are as follows:

Case Filings

New cases filed – **31,771**

A decrease of .9% from 2022-23

Gross Petitions (PFB) filed – **81,145**

An increase of 5.9% from 2022-23

Timeliness of Mediation

Average days to mediation -- **87 days**

A decrease of 1% from 88 in 2022-23

Statutory requirement: 130 days

100% of mediators averaged less than 130 days to mediation 2008-09 to 2023-24

Timeliness of Trials

Average days to trial -- **185 days**

A decrease of 6% from 197 in 2022-23

Statutory requirement: 210 days

Timeliness of Orders

Average days from trial to order -- **17 days**

A decrease of 10% from 19 days in 2022-23

Statutory requirement: 30 days

87% of Judges averaged less than 30 days

Child Support Arrearages Collected

\$14.0 million in 2023-24, total to date \$258.2 million

Electronic Filing Cost Savings to Date

Total eFiled documents in 2023-24 – 586,850

An increase of 2.53% from 2022-23

Total user savings to date -- \$7,230,823

Attorney Fees Paid

Claimant fees approved -- **\$251,740,777** (47.9% of total)

An increase of 10.33% from 2022-23

Defense fees reported -- **\$273,450,529** (52.1% of total)

An increase of 2.82% from 2022-23

Introduction

This report of the Office of the Judges of Compensation Claims (OJCC) is published pursuant to section 440.45(5), Florida Statutes.¹³ It documents that the OJCC continues to develop, innovate, and deliver consistent performance. This agency has persistently leveraged technology. In the wake of the pandemic of 2020, the OJCC has downsized staff, closed offices, and continued technological innovation. The 17 district offices that persisted for over 30 years has diminished to 10, and consolidation of operations continues. Consolidation has been criticized and many have noted their affinity for some particular discontinued facility. Nonetheless, the exceptional service of the OJCC has not been markedly diminished. This is practical only because technology and outstanding OJCC staff are persistently striving to deliver the efficacy and efficiency that has been an OJCC hallmark throughout the 21st century. Further facility closure is expected in coming years, with high probability in St. Petersburg. It appears likely that the new paradigm will be eight district offices with the closure of St. Petersburg (consolidated into Tampa) and the integration of Tallahassee operations in the overall Division of Administrative Hearings (DOAH) Administrative Law Judge (ALJ) process.

The OJCC Annual Reports issued since 2002 are maintained for review on the agency website.¹⁴ These reports memorialize the struggles this agency experienced with data uniformity and reporting in the 20th and early 21st century. There is evidence of persistent and incremental improvement in data collection and maintenance processes. Technology remains a significant investment for this Office, and the public that interacts with it. Despite budget reductions, personnel turnover, and legislative change, this agency has persevered over the last 20 years, including pioneering electronic filing and service, video hearings, and more. The OJCC adjudicatory functions are as forward-thinking and transparent as any known, and more so than many.

Leadership is critical to exemplary performance. The OJCC of the 20th century historically operated as a loose confederation of independent judges deployed throughout the state. In 2001, the OJCC moved from the Department of Labor and Employment Security (DLES) to the DOAH. There are a great variety of cases which the DOAH is charged with processing and adjudicating. By contrast, the OJCC focus 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 21st century digital platform, are all areas in which the core missions of the DOAH and the OJCC have significantly coincided.

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 15 fiscal years (2008-09 through 2023-24), 100% of the OJCC mediators achieved an average time to mediation within that 130-day statutory parameter, though some individual cases required more time. These averages prove that this agency remains effective at processing incoming litigation, providing overall timely delivery of mediation services, and effectively documenting these efforts. The enterprise effort of the OJCC mediators has been exceptional. The reported performance is a clear indication of their team-first attitude and focus on serving Florida's employees and employers. Preserving the success of this process has been a prime concern among the challenges of the ongoing consolidation of offices in 2023-24.

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 first defined key terms in 2006, including "trial,"¹⁵ though requirements for reporting results and volumes long preceded that effort. These definitions and standardizations in the collection and reporting of data enabled uniformity and consistency. That said, abuses by a minority of judges demanded revision in 2016 of the "trial" definition.¹⁶ The OJCC data collection process is not perfect, and errors are accepted because of human involvement. All the same, significant improvement has occurred and continues. In 2006-07, about 58% of trial orders were entered in less than the 30-day statutory period. In 2023-24, trial orders were entered within the 30-day parameter 88.56% of the time, 86% of the judges averaged less than 30 days between trial commencing and final order and 29% of the judges entered all of their trial orders within 30 days. There has been an unfortunate pattern discerned regarding order timeliness among some judges. Unfortunately, in 2022-23 and 2023-24, several judges have averaged over 30 days to final order.

The economy and budget continue to challenge this agency. Consistently, the Legislature calls on this agency to "do more with less," and the OJCC has consistently heeded that call. Despite budget and staff reductions,¹⁷ 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. Senate Bill 170 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 2007-08 and 2009-10 OJCC annual reports.¹⁸ Even before the legislative mandate, the OJCC had mandated electronic filing in the Rules of Procedure for Workers' Compensation Adjudications.¹⁹ As a result, the volume of incoming U.S. Mail dwindled in 2010-11, and the OJCC receipt of U.S. Mail now remains uncommon.

Electronic service²⁰ of documents through the OJCC eFiling system became common practice 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 more than \$1,000,000 annually. In fiscal 2019-20, the "registered employer" process was added to the database. This began with three employers²¹ and has expanded since.

DOAH pioneered the use of video teleconference systems (VTS) for trials throughout Florida early in the 21st century. In the pandemic, the OJCC shifted to an Internet-based video teleconference paradigm, Zoom. This was consistent with the need to provide ongoing due process and uninterrupted trial and hearing services. While other state systems pause or closed, the Florida OJCC adapted and remained engaged and effective. The early adoption of the legacy VTS likely eased the transition to this Internet platform. Throughout, however, the discretion for live, remote, or hybrid hearings remained in the discretion of each JCC. That discretion remains at the close of 2023-24 and facilitates judge's individual case-by-case determination of the appropriate trial method. This has raised some consternation in the community and some advocacy for forced, or at least presumptive, process selection. The OJCC has concluded that the path of discretion and party advocacy is the most viable process. Thus, expense, convenience, and necessity can be examined and determined by the assigned judge.

Overview of Florida Workers' Compensation

Florida workers' compensation is a self-executing system defined by chapter 440.²² The purpose of workers' compensation is to provide individuals injured at work with certain defined benefits for treatment of the resulting medical condition(s) and for replacement of a portion of the wages lost because of an accident or illness. Chapter 440 defines which workers and employers participate in the workers' compensation system and delineates the participant's rights and responsibilities. The participants depend on predictability and consistency in the interpretation of the law.

In the beginning of Florida workers' compensation, hearings and first-level appellate review were administrative, within the Florida Industrial Commission (FIC) and later the Industrial Relations Commission (IRC); further appellate review was by the Florida Supreme Court. With the abolition of the IRC in 1979, initial appellate review was vested in the Florida First District Court of Appeal, where it has remained. Some contend that the court's history in workers' compensation reveals a periodically unpredictable appellate atmosphere.²³ Florida's appellate courts must be consistent and correct. Distinctions between decisions must be explained clearly. Too many Floridians rely on workers' compensation for there to be perceptions of vacillation and uncertainty.

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 often collectively referred to in the community 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 often referred to collectively as "E/SA." For this report, references to E/C should be interpreted to refer to all three: employers, carriers, and servicing agents collectively, unless some distinction between insured and self-insured is specifically stated.

The OJCC mission centers on the impartial processing, mediating, and adjudicating of disputes over 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 67-68.

The OJCC is an adjudicatory system, a "tribunal," situated within the Executive branch.²⁴ The OJCC is funded entirely by assessments on the workers' compensation industry, through the Workers' Compensation Administrative Trust Fund²⁵ (surcharges on workers' compensation insurance premiums). Thus, every expense of operating this unique system is borne by the industry which requires it. The OJCC utilizes precisely \$0.00 in general

revenue funds. The vast majority, about ninety-four percent (93.87%), of the OJCC budget is expended on payroll, rent for the nine²⁶ OJCC District Offices,²⁷ the OJCC Central Clerks office, various other work facilities, and security for those offices to protect personnel and the public.

The 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 foundation for these is an interactive database with integrated case management, electronic filing/service, and a robust website presence. The OJCC developed the database and electronic filing system with existing resources over two decades. The cumulative expense associated with the development and deployment of these tools, including staff contribution in the testing and development has not exceeded \$5 million.²⁸ By comparison, other states have developed systems through special appropriations, deploying less robust processes, at a far greater cost.²⁹ There is no more capable litigation management tool in any jurisdiction, or any developed and deployed more economically. The Florida OJCC electronic system is unique, unparalleled, and efficient.

The eJCC system provides electronic service (eService) of filed documents³⁰ to all insurance carriers and servicing agents at the same time as filing. Such eService is also available for employers that register, also affording such employers full access to litigation details and filed documents. The use of eService for employers also eliminates a significant postage expense for attorneys representing injured workers. The law requires that PFBs are sent to employers and carriers by certified mail or approved electronic means (eService is the only such approved process). As employers register and enjoy the benefits of eService, the last remaining mandatory certified mail expense in Florida workers' compensation can be minimized.³¹ The OJCC's ability to innovate and the resulting monetary savings to the system and customers has been possible because of the flexibility of a small agency. Minimization of bureaucracy, localized control of tools and resources, and pragmatism have been hallmarks of the enthusiastic embracing and leveraging of technology and change.

Court Decisions and Precedent

The 2020-21 OJCC ANNUAL REPORT noted the community discussion regarding one of two compensability tests, the "arising out of" element. The District Court, in 2019, rendered *Valcourt-Williams v. Sedgwick*,³² and provided new insight into the "arising out of" test for compensability. This *en banc* decision had some effect on litigation as compensability questions were tried in various other cases. That trend has seemingly calmed in 2023-24.

An interpretation of section 440.19(2) was published in *Ortiz v. Winn-Dixie, Inc.*, 361 So. 3d 889 (Fla. 1st DCA 2023). This panel decision interpreted the statute differently than earlier appellate decisions. The analysis focused on the statutory language of this bar to compensation, but it neither mentions nor distinguishes earlier interpretations.³³ The opinion was issued in case number 1D21-0885 on May 31, 2023, and was of significant academic interest to the workers' compensation community. This was an appeal of a final workers' compensation order. The injured worker had also filed for appellate review of a non-final order, which the Court assigned case number 1D21-3577. After the Court decided the final appeal in 21-0885, a motion for rehearing was filed in the non-final case, 21-3577. That was later transferred to the final appeal, and the mandate issued June 13, 2023, in 21-0885 was recalled on September 1, 2023.

This left the workers' compensation community with questions. Should section 440.19(2) be interpreted according to prior appellate decisions (*stare decisis*, see Glossary, Page 67), or should it be interpreted according to the now withdrawn decision in *Ortiz*? Yet, no mandate has been issued in 21-0885 to provide clarity and direction about this imperative workers' compensation issue. Trial judges have been historically criticized for not following precedent (*stare decisis*), but in this instance there is confusion and ambiguity.

Traditionally, the Court has reached appellate outcomes that are somewhat binary. Generally speaking, trial orders have been "affirmed" or "reversed," with some mixture occurring in the form of "affirmed in part/reversed in part." Additionally, there have always been instances in which an appeal was not decided on its merits, but was merely "dismissed," or in the instance of an extraordinary writ, "denied." Those terms persisted in 2023-24, but new terms were introduced with little explanation.

For example, in May 2023, the Court decided *Churchill v. DBI Services, LLC*, 361 So. 3d 896 (Fla. 1st DCA 2023). Concluding that the trial judge was in error, the Court "Reversed and remanded."

In August 2023, the Court decided *Normandy Insurance. Co. v. Bouayad*, 372 So. 3d 671 (Fla. 1st DCA 2023). It concluded that the trial judge was in error, but neither “reversed” nor “remanded” the case. Instead, the Court “vacated” the trial decision. The effect of such vacating returned the parties to their positions prior to trial. In essence, there was no longer a trial order adjudicating the pending petition(s) and thus the trial judge had jurisdiction to proceed with adjudicating those issues and entering a new final order. Despite the similar outcome, the change in wording was confusing to many.

In September 2023, the Court decided *North Collier Fire Control & Rescue District. v. Harlem*, 371 So. 3d 368 (Fla. 1st DCA 2023), *reh'g denied* (Sept. 26, 2023), *rev. denied*, No. SC2023-1486, 2023 WL 9016526 (Fla. 2023). In this instance, it again “vacated” the order of the trial judge.

In October 2023, the Court decided *East Coast Waffles, Inc. v. Haselden*, 373 So. 3d 916 (Fla. 1st DCA 2023), *reh'g denied* (Nov. 14, 2023). There, the Court similarly disagreed with the trial judge. It did not either “reverse” or “vacate,” but instead “set aside” the trial decision. In October, the Court similarly “vacated” the trial judge’s decision in *Siena v. Orange County Fire Rescue/CCMSI*, 373 So. 3d 6 (Fla. 1st DCA 2023).

In January 2024, the court returned to “reversed and remanded” in *Rudolph v. Smith*, 377 So. 3d 1186 (Fla. 1st DCA 2024).

In May 2024, it used “set aside,” concluding “Affirmed in part and set aside in part” in *Girardin v. AN Fort Myers Imports, LLC*, No. 1D2022-1485, 2024 WL 2042451 (Fla. 1st DCA 2024). However, later that month the “reversed” returned with the “remanded” in *Palm Beach County School Dist. v. Smith*, No. 1D2022-3784, 2024 WL 2306611 (Fla. 1st DCA 2024), *reh'g denied* (July 2, 2024)(“Affirmed in part, reversed in part, and remanded.”). The same day (May 22, 2024), the Court “vacated,” instead in *American Airlines Group v. Lopez*, No. 1D2023-0379, 2024 WL 2306999 (Fla. 1st DCA 2024).

In June 2024, the Court returned to “Reversed and remanded” in *Detroit Tigers, Inc. v. Soddors*, No. 1D2023-0827, 2024 WL 2947723 (Fla. 1st DCA 2024).

The use of various terms presents the workers’ compensation community with various questions. Practitioners have expressed opinions as to meaning and potential distinction. There are those who see “reversed,” “vacated,” and “set aside” as each essentially nullifying the trial judge’s appealed order and leaving the case to be re-tried or re-decided. However, others express curiosity. If the three mean the same, they ask, then why would the Court use different words?

In this, some have noted that the use of different words signals intent, in the Court’s explanation in *City of Bartow v. Flores*, 301 So. 3d 1091, 1100 (Fla. 1st DCA 2020):

“[t]he Legislature’s use of different terms in different sections of the same statute is strong evidence that different meanings were intended.’ This maxim of statutory interpretation is generally known as the presumption of consistent usage.”

Thus, there remains some community trepidation regarding these wording issues. Questions persist as to the appropriate interpretation of the statute of limitations, and less frequently as to the “arising out of” analysis. Those whose interests are impacted by workers’ compensation seek consistency and clarity. There are periodic references to the Court outcomes and whether they signal similar or identical outcomes or whether some other intent should be perceived. The implications are critical, as noted by Judge Mills in *Singletary v. Mangham Construction Co.*, 418 So. 2d 1138, 1140 (Fla. 1st DCA 1982):

Workers' compensation is a very important field of the law, if not the most important. It touches more lives than any other field of the law. It involves the payments of huge sums of money. The welfare of human beings, the success of businesses, and the pocketbooks of consumers are affected daily by it.

In that, the importance of community comprehension and appreciation for appellate decisions is obvious. Those who make decisions about providing benefits, filing petitions, and advising clients both seek and need clarity and predictability.

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Litigation Trends

The 2020 pandemic profoundly impacted the challenges for litigants, attorneys, claims professionals, physicians, and more. The 2020-21 OJCC ANNUAL REPORT focused upon the perceptions of PFB filing rates in the months following the pandemic onset in March 2020. Florida was indeed fortunate to have stable accessibility to the OJCC adjudication process throughout. No doubt the dedication of the judges, mediators, and staff was exemplary and enviable. The 2020-21 report noted that various weather and health events have been perceived as impacting PFB filing in this litigation system in recent years. The effect of the pandemic can be readily perceived in review of the filing rates discussed in the 2020-21 report, and reiterated here on page 16.

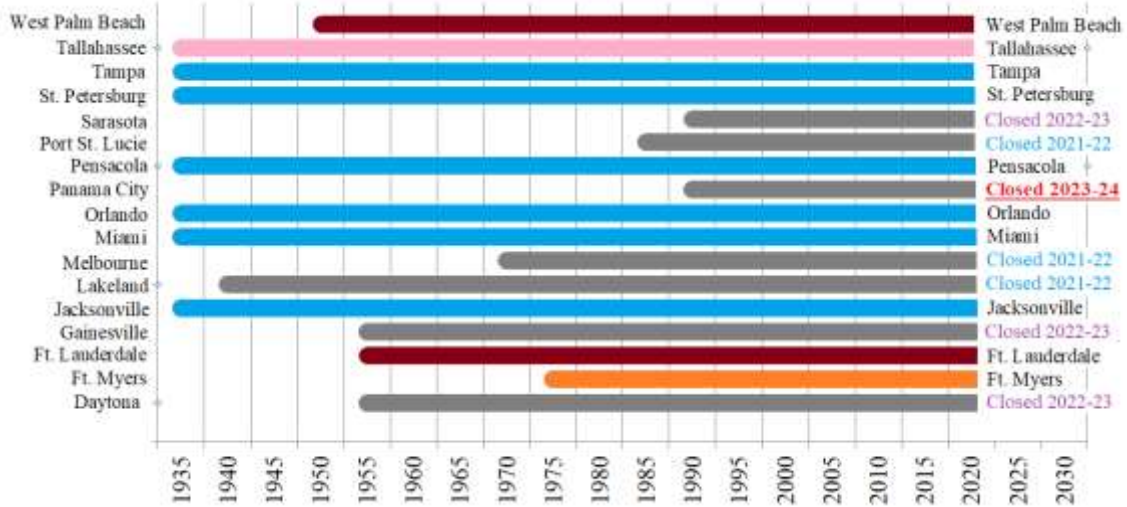
The pandemic brought change, office consolidation, office closure, presumptively virtual mediation process, and a persistent desire for virtual hearings from some perspectives. The Florida OJCC supports discretion regarding trials and hearings. Whether matters proceed (1) live in one of the nine district offices (*see* page 10), (2) live in some other government facility, or (3) virtually through a video platform is for the assigned judge to decide. The judge, or the parties may raise the issue in order that the best decision can be made on a case-by-case basis. There is no right or wrong outcome in this regard, though it remains to the parties to seek the process they desire.

The effect of the pandemic has coincided with the ascension of a new generation largely comfortable with digital communication and social media. This has coincided with acceptance that Generation Z is as different from the Millennials as they both are from the Baby Boomers and Generation X. There has been a history of American generations exhibiting differing perspectives, attitudes, and priorities. That has been a consistency. Still, with the constriction of claimant attorney fees in the 2003 statute amendments, there was a period during which firms involved in workers' compensation did prevalently not hire and train young lawyers. As the Boomers aged, and as perceptions of Millennials and, then, Gen Z festered, firms were perceived as focusing on lateral hires and eschewing the "next generation." Many have voiced biases and perceptions about the young.

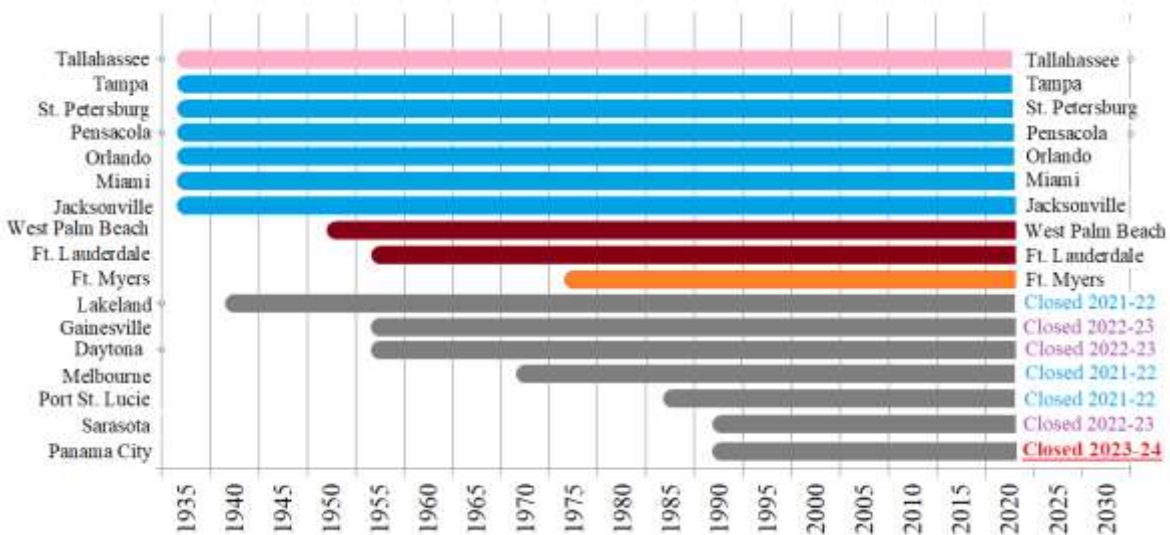
With the pandemic's end, there was a perception that law firms were hiring and retaining younger lawyers. With that came criticism of the professionalism in workers' compensation practice. Common refrains included inconsistent or nonexistent mentoring, insufficient training, missing knowledge and skills, and deficient professionalism writ large. Many efforts were directed at those perceptions, as described in the 2022-23 OJCC ANNUAL REPORT. In 2023-24, the OJCC produced its second OJCC Academy focused on the younger practitioners. In all, close to 100 attorneys have participated in that program, which will be presented again in 2024-25. The OJCC has produced a nine-month Scholars program to provide deep-dive instruction to small groups with an eye toward their future leadership in this community. It will be produced for the first time in 2024-25. Through community involvement, programming, and communication, there has been significant effort to support and educate the workers' compensation practitioners and public.

The OJCC footprint and community commitment continued to diminish in 2023-24. In 2021-22, the DOAH leadership began legislative efforts to allow flexibility to close various OJCC Districts perceived as inefficient. The local structure of the OJCC had been considered critical in the integration of the OJCC into DOAH in 2001. In that transition, much of Chapter 440 required revision, and the Legislature constrained the DOAH somewhat regarding OJCC operations. Section 440.44(5)³⁴ mandated the continued operations of the "17 district offices" as well as the structure of judges and mediators. In 2021-22, the DOAH leadership sought repeal of those constraints, which passed despite community concerns and objections.

The removal of this statutory constraint had immediate impact. Immediately following *sine die*³⁵ of the 2022 legislative session, plans began to close district offices in Gainesville, Lakeland, Melbourne, and Port St. Lucie (*see infra*). The announcements of these closures were met with community questions and some criticisms. There were generations of workers' compensation professionals with no recollection of Florida without these offices. While it had been longstanding, the construct of "17 offices" persisted only around three decades. This chart illustrates the establishment of the OJCC's various district offices, beginning shortly after the enactment of the original Florida workers' compensation statute in 1935, Title II, Ch. V, Article 5, section 5966, *et seq.*



In the earliest times, beginning around 1936-37 (86 years ago), offices existed only in seven population centers: Jacksonville, Miami, Orlando, Pensacola (with some periodic variation), St. Petersburg, Tampa (blue), and Tallahassee (pink). The next decade brought the addition of only Lakeland.³⁶ In the 1950s, expansion came to Daytona, Ft. Lauderdale, Gainesville, and West Palm Beach. The 1970s brought offices to Ft. Myers (orange) and Melbourne. The additions of Sarasota, Port St. Lucie, and Panama City were more recent, in the 1980s and 1990s. Florida has indeed witnessed much evolution and progress in the 88 years since workers' compensation came to Florida. The following perhaps expresses the current status and recent history more clearly than an alphabetical listing.

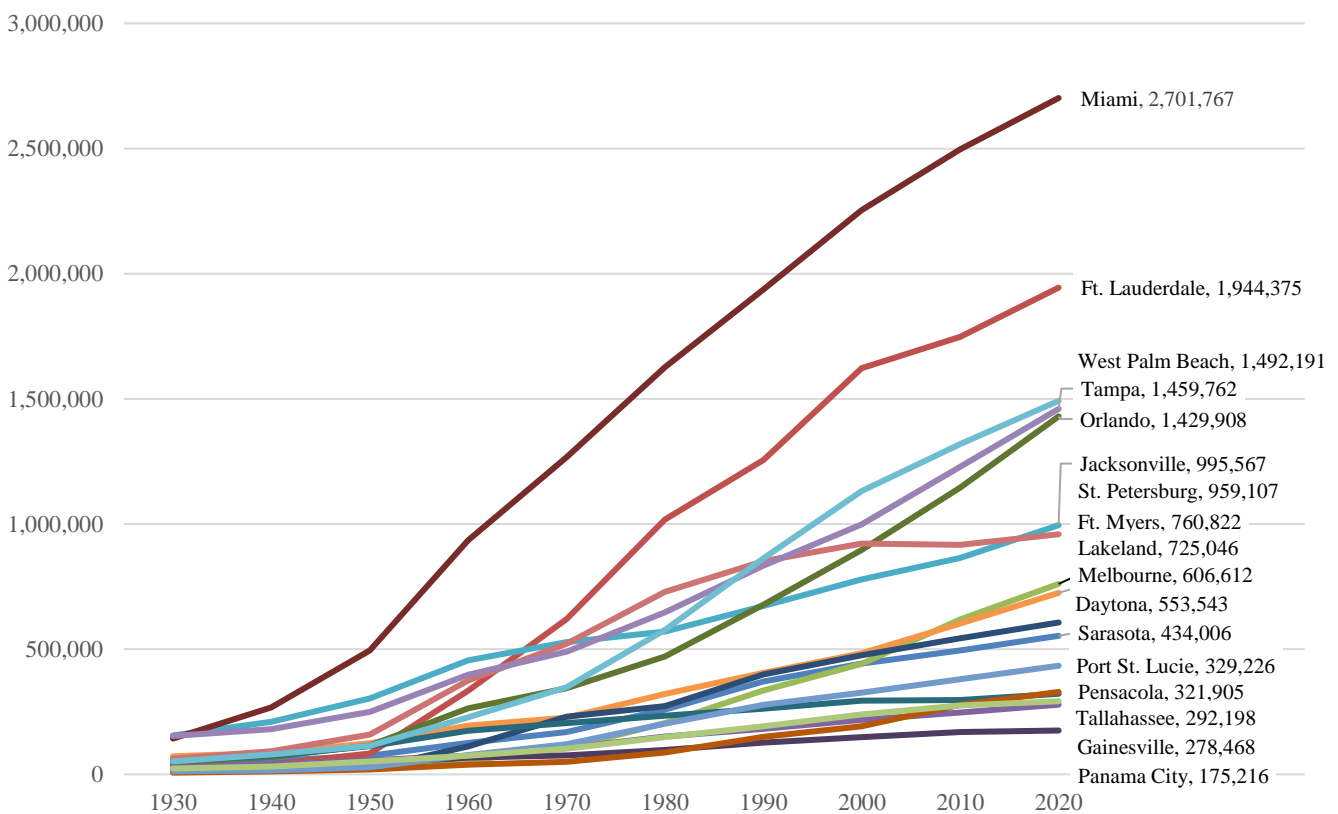


The closure of offices has been of notable impact on the practice of workers' compensation. There is a significant chance for trial to require travel by the parties or judge. However, the evolution of both technology and public sentiment has found many opportunities for the engagement of video trials in many settings. Certainly, the transition to a Zoom video paradigm default for mediations has met with significant community praise and acceptance. That has also worked some challenges to safety and professionalism. Too often parties and attorneys are entering the Zoom process while distracted by other tasks. With the remote capability, there has been some tendency to multitask, which is potentially disrespectful to the client and the process. More important, there is a safety concern when mediation attendees are multitasking by driving while attending mediation. This presents both distraction and potentially more serious concerns.

In 2023-24, operations in Panama City were consolidated. The counties assigned to that district were redistributed to Tallahassee and Pensacola. It is anticipated that 2024-25 will be relatively quiet in regards to physical premises change. However, the Tallahassee district is expected to be integrated into the DOAH premises. In 2025-26, it is also anticipated that the Tampa office will relocate and that St. Petersburg will be consolidated with it.

It is notable that the consolidations have been largely accomplished without diminishment of efficiency and customer convenience. Despite the inconvenience perceived by some, there is a general consensus that the resulting efficiencies from predominantly remote mediation and some hearings remain an acceptable counter-balance.

Over these decades, Florida has changed. Population has grown markedly,³⁷ but not necessarily proportionally. In 1935, when workers' compensation came to Florida, 1,613,000 people lived here. By 1986, that had grown to about 12 million. Presently, about 23 million live here.³⁸ While the population was distributed with reasonable consistency in the 1930s, the growth has since ranged from moderate to exponential. The interrelationship of populations, convenience, and system efficiency have been balanced. The OJCC will likely remain both efficient and effective with management, judicial discretion, and persistence of the distributed judicial population.



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Budget and Training Issues

The duties of the OJCC staff have evolved. Formerly “secretaries” of various descriptions, office staff are now predominantly clerks. Their duties are far more like those of paraprofessionals employed in the Florida Courts than to secretarial staff employed in other Executive branch departments and agencies. The skills necessary for administering an adversarial litigation adjudication process are not like skills needed for general clerical or secretarial work.

In addition, the advent of the digital age and deployment of end-user attorney and adjuster electronic data-access and e-filing have increased the sophistication and skills necessary to effectively perform clerk 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 therefore invariably requires extensive training in the optimal use of this software.

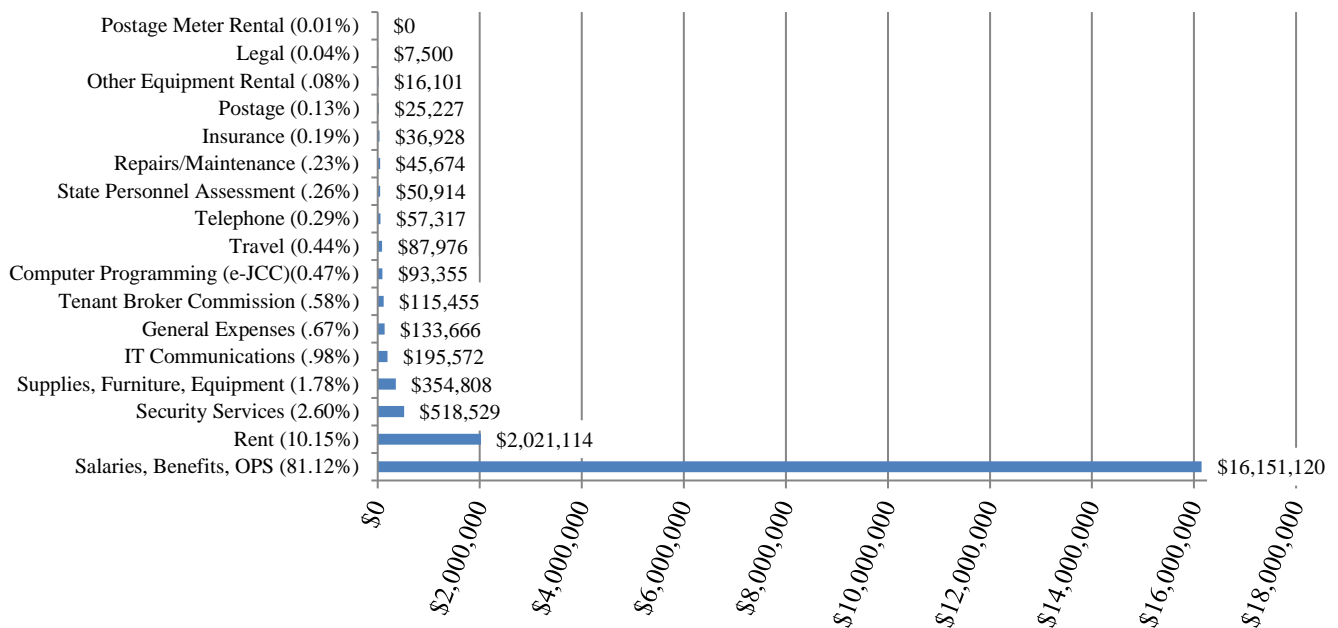
The Florida court system defined in Article V. is subject to different budgetary constraints and pay rates than the Executive branch. Article V. court employees, performing less technical or specialized, and more clerical services in that adjudication system, earn starting annual salaries significantly higher than the OJCC budget allows. In prior reports, it has been noted that court personnel were paid more than comparably titled OJCC paraprofessionals.³⁹ Periodic research has supported that the difference is becoming greater. In 2024, the salaries of ten randomly selected court judicial assistants was compared to ten randomly selected OJCC Clerk II around the state. The difference between the two averages was \$12,570 or about 29% of the Clerk II salary. The OJCC cannot compete with the Article V. courts in this regard and can expect continued staff turnover as a result.

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 struggles to retain skilled paraprofessionals. Staff turnover in some portions of Florida has been as high as 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 because of the compensation disparity between the OJCC and other adjudicatory systems in Florida, such as the Article V. courts. Significant salary increases for 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.⁴⁰

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 (JCC). No other judge in Florida is subject to an array of performance measures, such as those imposed by chapter 440, Florida Statutes, and reported here.

The jurisdictional dollar value presented to JCCs for adjudication is almost limitless. In this regard, JCC duties are more comparable to Circuit Court Judges than County Court Judges. That said, the JCCs preside over bench trials, which more often last for hours instead of days. In that regard, JCC duties are perhaps more comparable to County Court Judges. Even so, each trial requires preparation and publication of a substantive final order. Virtually all these orders are time-consuming and involved, usually requiring more time than is necessary for the trial itself. The issues require resolution of factual disagreements, legal research, drafting, and careful revision. Regardless of the subtle distinctions in responsibility compared to Article V. judges, the duties of a JCC are significant and the salary should match these duties (*see* Appendix “12”).

In conclusion, the OJCC has been efficient and effective in managing litigation of workers’ compensation claims for two decades. The turn of the century brought new leadership, vibrancy, and focus. The cost per-PFB closed has remained reasonable, and is well below even the filing fee charged by the Article V. courts. The transition to digital processes and systems, 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. The use of the OJCC budget is illustrated in this chart.



These percentages (in vertical axis) have not traditionally varied markedly. Nonetheless the effects of inflation continue to impact lease rates on premises. Additionally, legislative approval of much needed cost-of-living salary adjustments in the last three fiscal years have increased expenditures for salaries and benefits. Salaries and benefits in 2023-24 (\$16,151,120) increased 11% from 2022-23. Despite the inflation impact on leased premises, the closure and realignment of various offices (*see* page 10) has resulted in reasonably stable rent expenditures. Travel expenses have increased; the 2023-24 total (\$87,976) increased 29.5%. Despite inflation, expenses such as postage (-45.5%) and security services (-21.9%) have decreased.

In 2023-24, about ninety-four percent (93.87%)⁴¹ of the OJCC budget was devoted to salaries/benefits, rent, and security services. In 2022-23, this was about ninety-six percent (96.26%),⁴² and, in 2021-22, the three totaled about ninety-four percent (94.37%).⁴³ Anytime the Legislature considers the budget of this Office, it is critical that the clear majority of this agency’s budget is critical to the effective management of significant and consistent volumes of litigation, as discussed fully below. Workload remains significant. This Office today is staffed by fewer judges, mediators, and clerks than in 1994. Over that 30 years, the population of Florida has expanded dramatically (*see* page 11). Though the statutory mandate regarding structure⁴⁴ has been eliminated, and despite the convenience afforded by virtual proceedings, there will remain purpose and need for the OJCC physical premises, personnel, and facilities in a geographical distribution that affords the public access and service.

Data Collection and Reporting

This report is produced and published pursuant to statutory mandate. *See* §440.45(5), Florida Statutes.⁴⁵ The accuracy of the data in this report depends on the efforts of district staff working in three Divisions in nine District Offices throughout Florida. The 2005-06 OJCC ANNUAL REPORT⁴⁶ described prior data flaws resulting from antiquated hardware, outdated software, and long neglect of staff training before the transfer of the OJCC to the DOAH in 2001. Since fiscal year 2006-07, the OJCC has devoted significant resources to staff training to enhance the accuracy of that data. Those efforts are explained in the 2006-07 OJCC ANNUAL REPORT,⁴⁷ and included the publication of an illustrated database user manual, as well as central and regional staff training. That database user manual was revised periodically⁴⁸ and is now in a biennial review and update cycle under the guidance of the OJCC Central Clerk’s Office. The annual reports since 2006-07 have documented improvements in effectiveness and efficiency 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. In the production of each annual report, particular attention is afforded to

all data sets to try to identify any potential basis for such errors or omissions. Corrections are sometimes necessary.⁴⁹ All empirical data used in preparation of this report is public record and is available for review, and there is confidence in the accuracy of the figures reported.

Compliance with Procedural Rules

Consistent compliance with procedural rules and statutes has been noted as a potential issue in prior reports. Those issues primarily regarded conducting hearings on procedural motions.⁵⁰ A second area of concern was the election by some judges to ignore the terms of section 440.25, Florida Statutes, *see* page 55, Statutory Measures, “Final Hearing Continuance.” Anecdotally, some judges note that compliance, including a new trial date in each continuance order, is difficult or unwieldy, particularly when a trial is continued for an Expert Medical Advisor (EMA), and the end-point of that process is difficult or impossible to predict with any certainty. In one exceptional example documented in the 2020-21 OJCC ANNUAL REPORT, a case was continued ten times over a two-year period, often without written motions or orders complying with the statute.⁵¹ In 2022-23, an instance was identified in which a case remained pending 790 days after the petition was filed; there were at least six continuances, three without any motion, long delays regarding motions, and transparency challenges. This also involved the EMA appointment process.

Judicial independence dictates interpretation of statutes and rules must be the responsibility of the individual adjudicator presiding in a matter. Still, the purpose of statutory requirements and duly adopted rules is that there will be consistency throughout the state in the process of adjudication. That consistency is of value to the parties involved in litigation and to the attorneys that represent them. The Florida OJCC continues to strive for greater consistency in the application of statutory and rule requirements.

Electronic Filing Initiative

Relevant filing volumes have been readily observable since 2013-14. Since that time, electronic filing accessibility and largely mandatory use have allowed ready assessment of volume, change, and trend. It is suspected that litigation volume slowed in the pandemic that began in the last quarter of 2019-20. Anecdotally, there were coincident perceptions of decreased system friction and more ready settlement or resolution. Over the last four years, filing volume has demonstrated one significant decrease and two moderate increases. Nonetheless, the volume in 2023-24 (586,850) remains about 3% below the 2019-20 peak.

Having led the way into the 21st century in 2005-06 with the first Florida deployment of electronic filing⁵² (eFiling or eJCC), the OJCC has continued to revise and leverage this process. In 2011-12, the OJCC began to enforce the mandatory⁵³ use of electronic filing by represented parties. This meant documents sent to the OJCC by attorneys could no longer be in paper form. In 2011-12, programming was added to afford eFiling access to all users, represented or not. The filing volumes have increased since the mandate, but the significant 2011-12 filing volume of almost one-half million documents demonstrates significant community engagement even before the legislative mandate.

In 2012-13, programming was completed to allow electronic service⁵⁴ (eService) of pleadings among and between lawyers and insurance carriers. The result is a neatly integrated electronic filing and service system that is exemplary.⁵⁵ In 2019, the programming was completed to allow electronic service upon Registered Employers also. This added function is likely the final enterprise-deployment of eService.⁵⁶

Fiscal Year	Filing Volume	% 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	2.3%
2012-13	502,448	8.8%
2013-14	521,205	3.7%
2014-15	522,321	0.2%
2015-16	545,695	4.5%
2016-17	583,485	6.9%
2017-18	582,762	-0.1%
2018-19	601,378	3.2%
2019-20	603,499	0.4%
2020-21	559,481	-7.3%
2021-22	574,169	2.6%
2022-23	573,394	-0.1%
2023-24	586,850	2.35%

It is tempting to expect that overall filing volume might be somewhat related to the more specific measures of litigation. Any such correlation could not be expected before the statutory mandate just over a decade ago (2011-12). Before that mandate, filing volume could fluctuate through discretion. Examining the 12 years since 2011-12 there is no consistent relationship demonstrated between “new case,” PFB, and overall filing rates. In one instance, overall rates surged (9%) compared to marked decreases in PFB (-5%) and “new cases (-2%) in 2012-13. In another example, modest overall filings (4.5%) increase has coincided with marked increases in PFB (12%) in 2015-16. And, overall filing parity (decrease of -.1%) has coincided with notable increase in PFB (7%) and “new cases” (4%) in 2022-23. But there are years in which some significant similarity is observed, such as 2021-22: overall 2.6%; PFB 3%, and “new case” 4%. Thus, the only true consistency observed is the inconsistency.

Fiscal Year	Filing Volume	% Change	Petitions Filed	% Change	Cases Filed	% Change
2011-12	461,820	2.3%	61,354	-5%	29,358	
2012-13	502,448	8.8%	58,041	-5%	28,912	-2%
2013-14	521,205	3.7%	59,292	2%	29,771	3%
2014-15	522,321	0.2%	60,021	1%	29,870	0%
2015-16	545,695	4.5%	67,265	12%	31,165	4%
2016-17	583,485	6.9%	70,365	5%	31,334	1%
2017-18	582,762	-0.1%	70,295	0%	30,470	-3%
2018-19	601,378	3.2%	73,146	4%	31,751	4%
2019-20	603,499	0.4%	72,086	-1%	31,224	-2%
2020-21	559,481	-7.3%	69,676	-3%	29,752	-5%
2021-22	574,169	2.6%	71,733	3%	30,865	4%
2022-23	573,394	-0.1%	76,633	7%	32,045	4%
2023-24	586,850	2.35%	81,145	6%	31,771	-1%

The cumulative volume of electronically filed documents exceeds eight and one-half million. Using the parameters described in the 2006-07 OJCC ANNUAL REPORT,⁵⁷ the cumulative end-user savings generated by this eFiling system, by the end of fiscal year 2023-24, were at least seven million two hundred thirty thousand eight hundred twenty-three dollars (\$7,230,823). The other savings to the OJCC is at least nine million four hundred fifty-four thousand one hundred forty-four dollars (\$9,454,144). The combination of savings from eFiling alone is therefore almost seventeen million dollars (\$16,684,967).

The OJCC added electronic service to the eJCC platform in January 2013. This feature allows significant volumes of documents to be served electronically upon opposing counsel, insurance carriers, and a growing population of employers alongside eFiling. This process change has enabled another annual savings to practitioners and carriers of more than one million dollars, and more likely over one and one-half million,⁵⁸ because of the ability to serve each other documents electronically. The eFiling savings (\$16,684,967), combined with eService savings (\$10.5 million = 10.5 years at \$1 million each), is at least over twenty-seven million dollars. The JCC return on investment from eFiling/eService has been admirable and shows great innovation and efficacy. This achievement is particularly gratifying in light of issues and complications experienced by other states’ systems that have expended large special allocations to build and deploy electronic filing.⁵⁹ The OJCC’s success with eFiling and eService has been achieved with no need for extraordinary budget allocations.

The effect of Registered Employer eService continues to further enhance those system savings, provide more persistent and regular communication with employers, and better service to the Florida marketplace. As the confidence in the Registered Employer program grows, it is hoped more employers will partake. The potential for mandating registration for some categories or types of employers remains a possibility. It is also possible that more injured workers will register for the electronic case access and an increased volume of pleadings and orders may be filed by and served on them without the associated expense of postage, paper, and labor.

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Number of Litigated Cases

It is hard to ascertain with absolute certainty how many “cases” are in litigation at a given moment. The OJCC developed and uses a proprietary and dynamic database. This includes a powerful case management program, the JCC Application, or “JCCA,” and is also the foundation of all the electronic filing and service 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 OJCC ANNUAL REPORT noted an unprecedented level of confidence in the figures expressed there; it is believed that the statistics in the annual reports since that time warrant that same confidence.

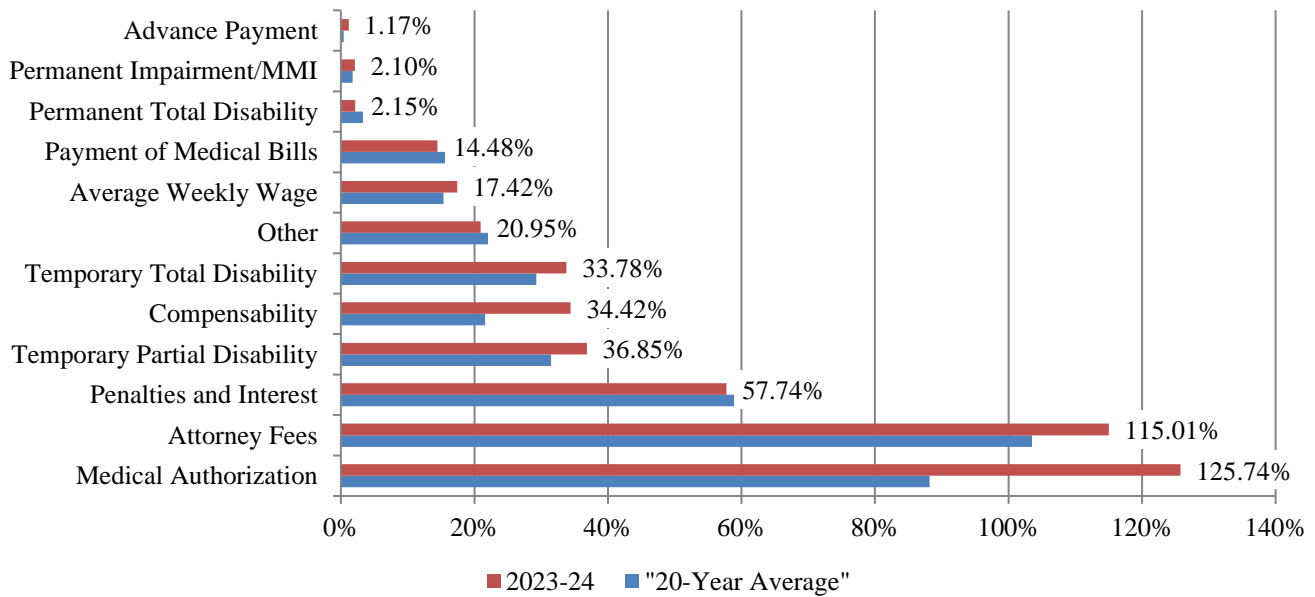
There remains one irreconcilable issue with the reporting of the “number of cases.”⁶⁰ In workers’ compensation, there simply is no clear definition for “cases.”⁶¹ Litigation in Florida workers’ compensation is usually instigated with a PFB. Each PFB might seek a single benefit or many benefits.⁶² A single PFB could theoretically seek 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 singular benefit. Usually, 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 any substantive benefits. A given workers’ compensation trial might decide the issues in one PFB or several PFBs serially filed before trial. The overall number of PFBs filed is therefore only one measure of system volume.⁶³ The reality 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 2023-24 could seek resolution of an issue about an accident that occurred that year or perhaps many years earlier.⁶⁴

A second viable measure of volume is the “new cases” filed annually. “New cases” may begin with a motion or PFB, which likewise reference a date of accident that is either recent or remote. That said, each “new case” PFB represents an accident for that particular injured worker that is new to litigation: “new” to the OJCC.⁶⁵ This metric measures “new” litigation, but ignores the intensity of litigation. On the other hand, the overall PFB volume may more accurately reflect litigation intensity.

Therefore, the raw PFB volume and the “new case PFB” volume are each arguably valid methods for measurement of the “number of cases.” Because definition of “cases” presents these inherent complications, and because there are merits regarding the efficacy of both the “gross PFB” measure and the “new cases” measure, the OJCC calculates and reports each.

Issues may likewise be brought before a Judge of Compensation Claims by a motion⁶⁶; frequent examples include motions for attorney fees, prevailing party costs, enforcing agreements, and similar evidentiary motions.⁶⁷ Such motions occur in both existing litigation and as “new cases.” Each of the available metrics, PFB and “new cases,” largely ignores the volume of litigated cases that are instigated by such motions instead of PFB. Although these motions⁶⁸ also represent “litigated” cases, it is believed that cases instigated by PFB filing effectively represent litigation volume trends statistically.

The OJCC database documents the categories of benefits sought in each PFB. The following chart depicts the average frequency of claims for these various distinct categories within PFBs filed over the 20-year period, 2003-04 through 2022-23 (blue bars on the bottom of each category), and the rate of filing for those categories in the current fiscal year, 2023-24 (red bars). The rate of medical authorization claims has been noteworthy for the last 13 fiscal years (2011-12 through 2023-24). For the last nine years, the rate of medical authorization claims was particularly noteworthy, approaching or exceeding 100% aggregate. The exceeding of 100% stems from the potential for a single PFB to plead multiple discreet claims for medical authorization. The volume of “compensability” and “other” disputes was also notably above average in each of the last 11 fiscal years, 2012-13 through 2023-24, but “other” dropped below average in 2023-24. Though compensability is a notable issue, the volume of settlements on denied compensability cases has not fluctuated similarly.⁶⁹ This is chiefly attributable to the very small data set represented by the denied cases reported in the annual OJCC SETTLEMENT AND MEDIATION REPORT.⁷⁰ This is also influenced by the over-pleading of compensability when it is not necessarily denied, but is perceived so in the instance of missing or unclear communication regarding medical care.⁷¹



Comparison to the chart published in 2022-23 demonstrates significant similarity with 2023-24. However, the frequency of attorney fee claims was notably increased in 2023-24 from 109% to 115%. The frequency of medical authorization claims similarly increased in 2023-24 from 117% to 126%.

Gross Petition for Benefits 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 (*see* page 21). Just before 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 over 15 percent (15.2% to 15.9%) in each of the next three years, and then continued to decline with reasonable consistency through fiscal year 2012-13, save for a slight increase in 2008-09.⁷²

Modest PFB filing increases in 2013-14 and 2014-15 were followed by a marked increase of 12% in 2015-16. Questions were raised in 2015-16 regarding the trend potentially suggested by that significant increase in the wake of the appellate decisions in *Castellanos*⁷³ and *Miles*⁷⁴ (each was rendered in April, the fourth quarter of fiscal 2015-16). The five percent (4.6%) PFB filing increase in 2016-17 could have perhaps suggested a continued trend of increased filings following *Castellanos*.

However, the notable increase in 2015-16 did not become a trend of rapidly increasing litigation. The 2016-17 increase was more modest (4.6%). Intriguingly, that was followed by a small decrease (-0.1%), a similar modest increase (4.1%), and another small decrease in 2019-20 (notably, the pandemic and commerce constraints began in March, the end of the third quarter of 2019-20; filings dropped dramatically in the fourth quarter). In the midst of the pandemic, filings again declined in 2020-21. With a modest increase in 2021-22, the overall increase between 2016-17 (70,365) and 2021-22 (71,733), five years, was about 2%. The implications of the pandemic cannot be ignored or minimized, as

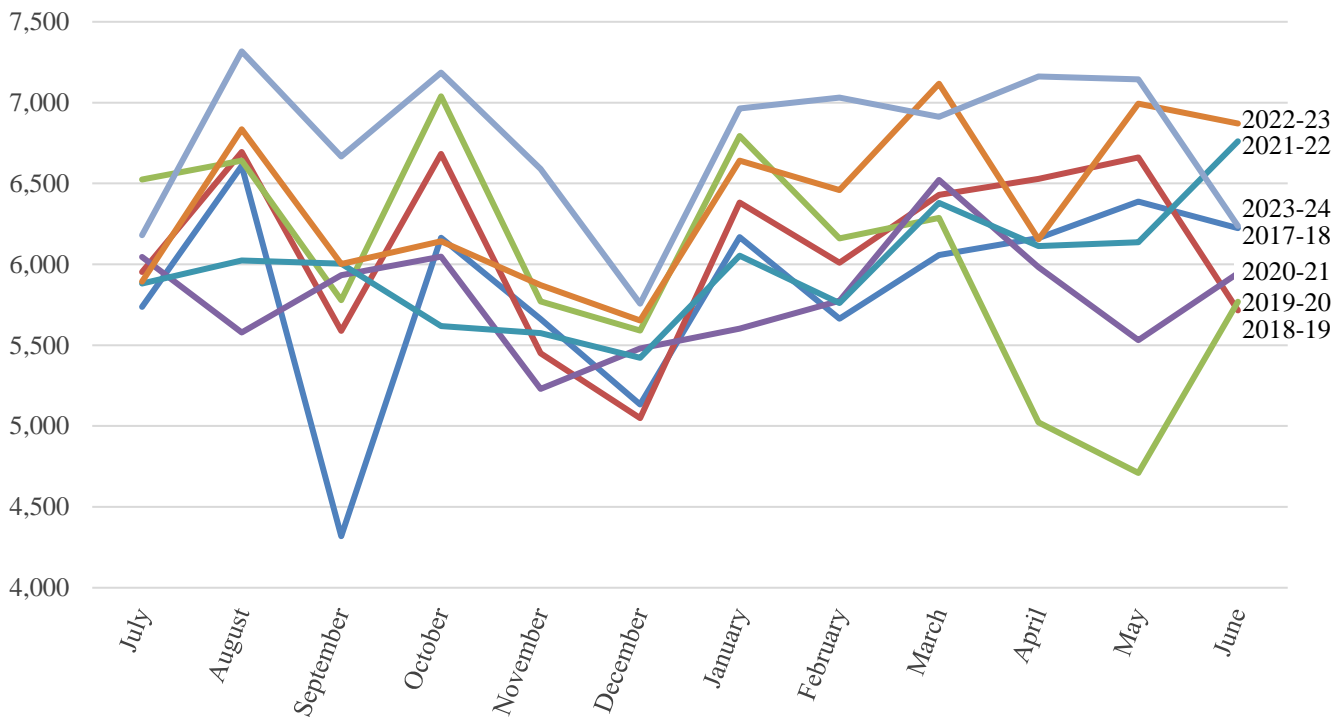
Fiscal Year	Petitions Filed	% Change
2002-03	151,021	
2003-04	127,611	-15.5%
2004-05	107,319	-15.9%
2005-06	90,991	-15.2%
2006-07	82,607	-9.2%
2007-08	72,718	-12.0%
2008-09	73,863	1.6%
2009-10	67,971	-8.0%
2010-11	64,679	-4.8%
2011-12	61,354	-5.1%
2012-13	58,041	-5.4%
2013-14	59,292	2.2%
2014-15	60,021	1.2%
2015-16	67,265	12.1%
2016-17	70,365	4.6%
2017-18	70,295	-0.1%
2018-19	73,146	4.1%
2019-20	72,086	-1.4%
2020-21	69,676	-3.3%
2021-22	71,733	3.0%
2022-23	76,633	6.8%
2023-24	81,145	5.9%

detailed in the 2022-23 OJCC ANNUAL REPORT,⁷⁵ and impacted workflow and filings. There were social and societal constraints through “phase one” of the pandemic reaction between March and early May 2020, and diminished constraints and complications for months after.

The figures in the last three fiscal years, however, are more indicative of a persistent upward trend in PFB volume. Comparing the 2023-24 volume (81,145) to the 2021-22 volume (71,733) evidences two consecutive years of 6-7% increase. The two-year cumulative is a 13% increase (almost 10,000 PFB). The capacity for petitions, mediations, and the associated pleadings, orders, and hearings is noteworthy.

It is also noteworthy that the trend in volume of workplace accidents, the “frequency,” continues to decrease. Nationally, “frequency declined by 8% in the past year, which is more than two times the size of the long-term average decline.”⁷⁶ Thus, not only is frequency decreasing in the long-term, but it has decreased markedly in the last year. Nonetheless, litigation in Florida is trending upward significantly based upon the PFB volumes.

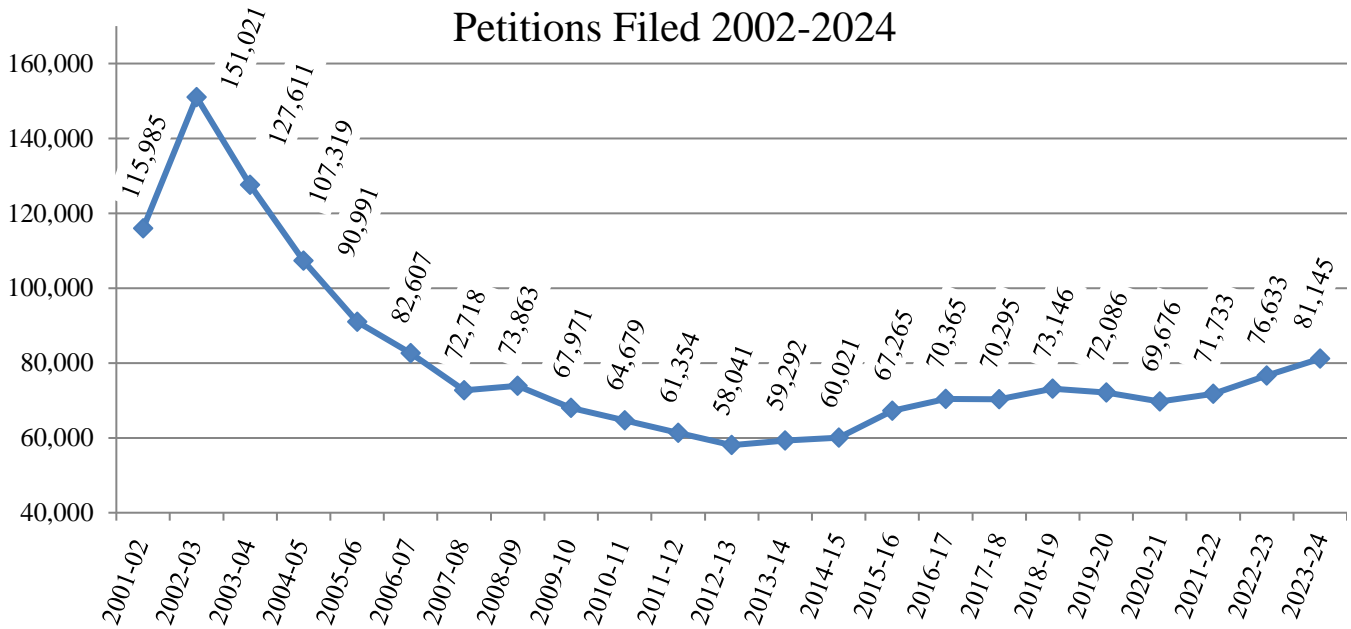
The following illustrates PFB filing monthly for the last seven years. The probable Hurricane Irma impact in September (blue, 2017-18) is apparent as is the marked pandemic decreases late in 2019-20 (green). The relative consistency of lower filings in 2020-21 is also apparent (purple); rarely were 2020-21 filings on par with prior years (September and March were notable exceptions). As clearly, monthly figures were consistently higher in 2023-24 (light blue) with the exceptions of July 2023, March 2024, and June 2024. That notable consistency may also support the conclusion of an overall increase trend developing.



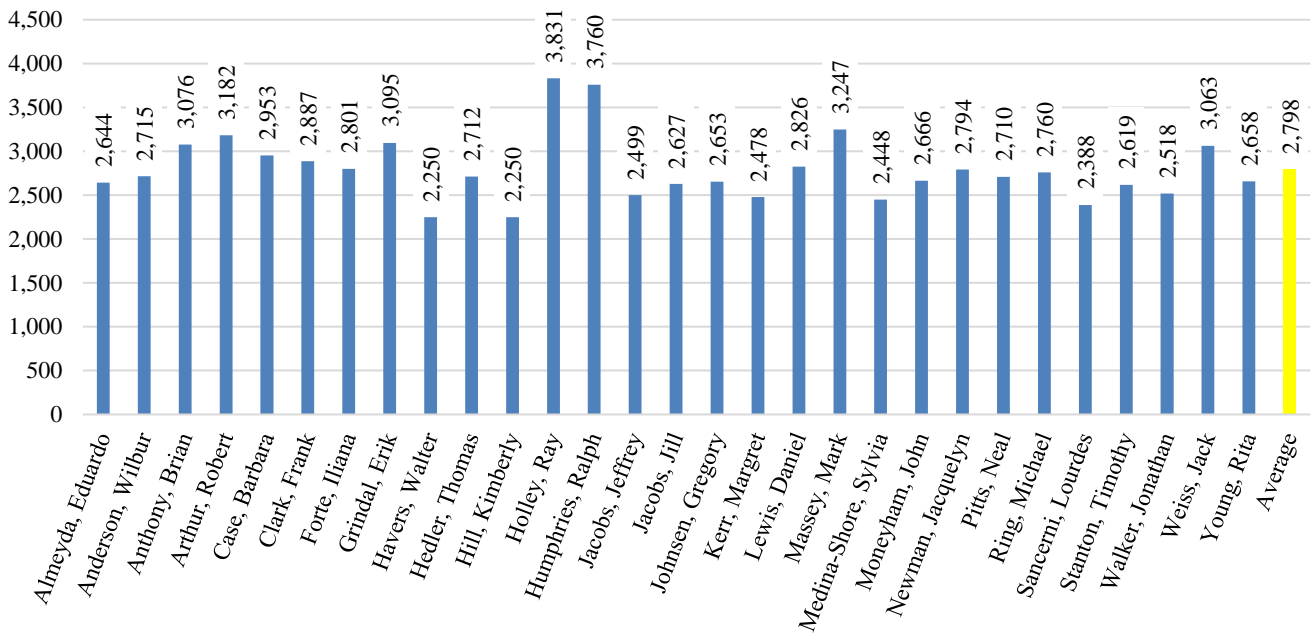
The 2021-22 OJCC ANNUAL REPORT suggested that volumes reflect a “new normal” since 2016-17, and the potential that 2021-22 volumes were influenced by court decisions. That references the 2016-17 OJCC ANNUAL REPORT⁷⁷ and analysis of potential impacts of the 2003 statutory amendments and various court decisions. It is fair to say the perceptions regarding Florida’s statute and decisional law remain varied and at times unpredictable, though previous reports have concluded that predictions of increased litigation were largely unfounded in the wake of the 2016 decisions.⁷⁸ Despite that, the most recent evidence supports that litigation intensity and PFB filing is increasing significantly over the last two years. This might be seen in the frank increase - both 2022-23 and 2023-24 were the highest volume since 2006-07 or the rate (16-17 years). That the 2023-24 figures mark a three-year trend of increase could also be significant.

Perhaps perceptions of the outcome of cases, *Castellanos* or *Miles* for instance, continue to impact PFB filing volumes currently. But the OJCC has no foundation to determine what, if any, particular cause drove the post-2016

trend to increase, or the plateau in 2017-18.⁷⁹ While the effect of COVID-19 in 2019-20 and 2020-21 is seemingly more apparent, there is less foundation for any broad conclusions about the increasing volumes over the last three fiscal years.



PFBs filed per JCC 2023-24



Florida workers' compensation premiums decreased significantly after the 2003 statutory reforms. The cumulative premium decrease through fiscal year 2008-09 was around 58%. Interestingly, in that same period, PFB filings had decreased around fifty-two percent (51.85%), which some may have interpreted as correlation. But any perceived correlation between litigation filing rates and insurance rates is difficult to defend empirically. Filing volumes and rates are summarized in this chart.

Despite consistently decreasing PFB filing rates between 2009-10 and 2012-13, workers' compensation rates increased annually. The rate changes are approved in the fall of each year. Those rate changes are reactive to past experience and thus logically relate, if at all, to activity or PFB volumes before each described premium change. (*See Fee by Accident Year* discussion, page 54). The apparent lack of congruity between PFB filing and premium rates is logical. First, the effect, if any, of PFBs filed might not become apparent for months or even years after filing. Second, the premium rate is calculated by reference to the losses from work accidents. Most workers' compensation injuries are administratively managed and paid. Thus, most accidents never enter the OJCC's system for mediation or trial. Thus, the PFB filing volume represents only a percentage of all work accidents. Premiums instead relate to losses on the entire population of work accidents. Most recently, despite the upward trend in PFB filing, the rates have demonstrated persistent decrease.

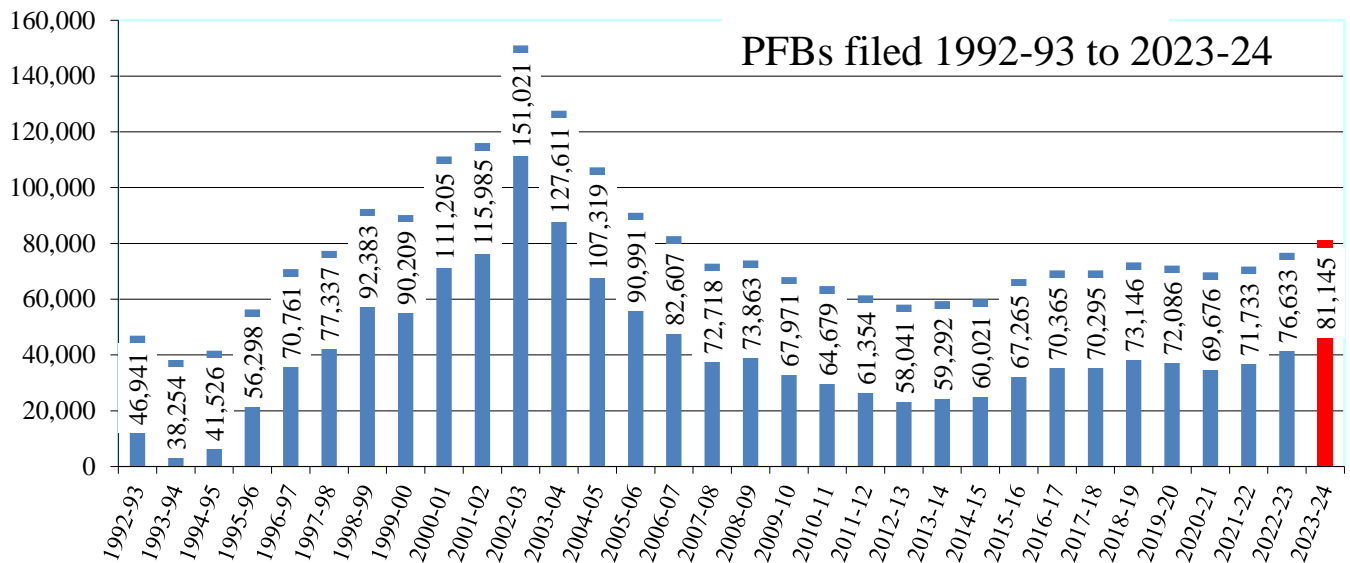
That trend is likely not sustainable. Some note that orthopedic injury was notably decreased during the pandemic years, and thus potentially suppressing losses. Others have reminded that medical inflation has historically outpaced inflation in the general economy. Medical price increases have therefore progressively consumed an ever-greater portion of the workers' compensation benefit payments, though, in recent years, there have been periods in which general inflation has outpaced medical inflation. Because insurance premiums are calculated on employer payrolls, there is the potential that premium growth through payroll inflation may or may not keep pace with expense growth tied to medical inflation. In addition, the Workers' Compensation Research Institute has noted that "Cost per Claim" has increased. In 2022-23, the cost increased about 7% in Florida. Nonetheless, rates have decreased in each of the last seven years.

The following graph represents PFB filing since 1992-93.⁹⁶ This belies the 1994 reform's intention to curtail litigation. Instead, the PFB filings increased markedly and reasonably consistently afterward. The OJCC was staffed by 31 judges in 1993. Following the 2012 budget/position reductions, the OJCC is again staffed by 29 judges (31 positions, one of which is under consideration in Miami as this report was prepared). While the judicial workload has decreased from the demands of the exceptional filings (151,021) in recent years, it has never returned to the baseline of 1994, and is again trending upward. The 2023-24 PFB filings (81,145) remain about 112% higher than in 1993-94 (38,254).

Presuming the accuracy of the Department of Labor and Employment Security (DLES) volumes below,⁹⁷ the PFB filing rate in 2012-13 was the lowest in 18 years, since 1995-96. The trend recently changed, and PFB filing increased. It appeared a trend to increase was interrupted by the effect of COVID-19/SARS-CoV-2 in 2019-20⁹⁸ and 2020-21. But the last three fiscal years' increases are likely a sign of ongoing litigation growth.

Fiscal Year	PFB change	Premium change
2009-10	-8.0%	-6.80% ⁸⁰
2010-11	-4.8%	7.80% ⁸¹
2011-12	-5.1%	8.90% ⁸²
2012-13	-5.4%	6.10% ⁸³
2013-14	2.2%	0.7% ⁸⁴
2014-15	1.2%	-2.50% ⁸⁵
2015-16	12.1%	-5.10% ⁸⁶
2016-17	4.61%	14.50% ⁸⁷
2017-18	-0.10%	-9.60% ⁸⁸
2018-19	4.10%	-13.80% ⁸⁹
2019-20	-1.40%	-5.40% ⁹⁰
2020-21	-3.30%	-6.60% ⁹¹
2021-22	3.00%	-4.90% ⁹²
2022-23	6.80%	-8.40% ⁹³
2023-24	5.90%	-15.10% ⁹⁴
2024-25	Unk.	-1.0% ⁹⁵

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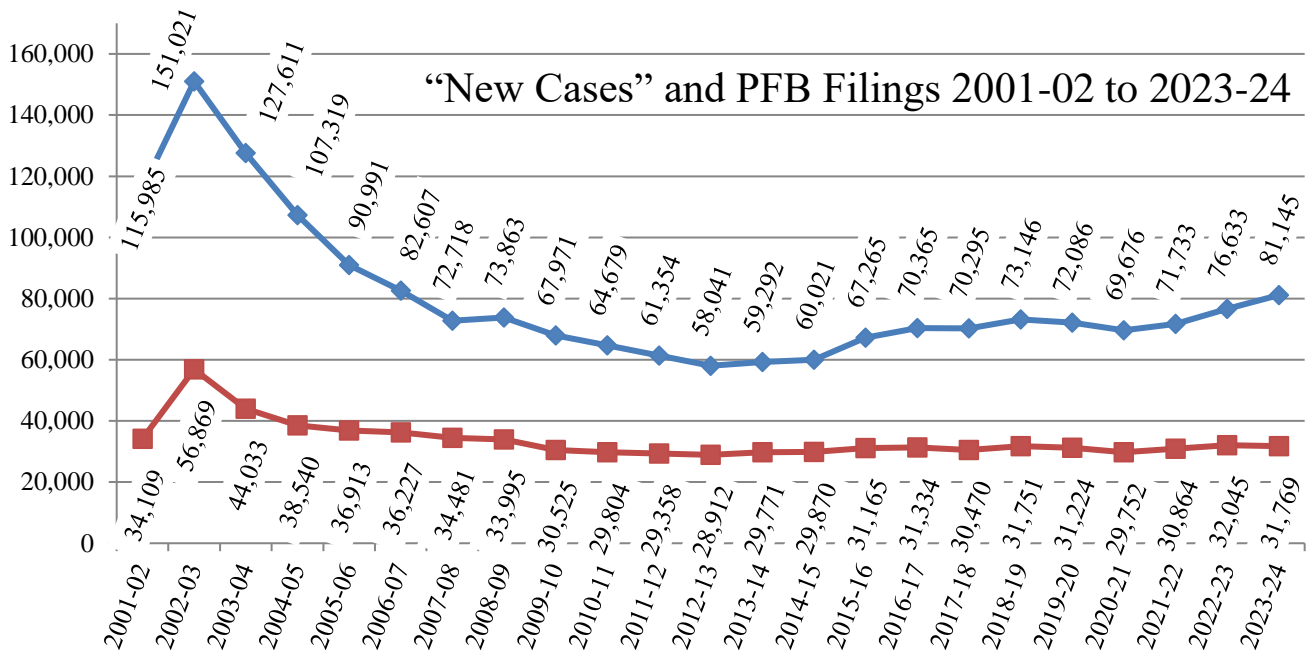
New Case Filed

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,⁹⁹ which represent the first PFB or substantive motion in the history of that particular accident by that 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 suggests the rate at which cases, rather than issues, are entering the OJCC litigation process; this is not affected by the serial nature inherent to workers’ compensation generally, and thus of overall PFB filing/issues. Generally, “new case” measure is the inverse of the volume of settlements approved in a year, which shows the measurable rate at which cases are permanently leaving the OJCC litigation process (some cases become dormant and expire of their own accord, which is not as easily quantified). Although individual claims can be resolved without settlement, cases that are not settled can return to the litigation process for some future claims or issues. The “new case” measure may also 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.

That said, a “new case” filed in 2023-24 could involve an accident that year, or could involve an accident that occurred years prior, even before the 1993 or 2003 statutory amendments. It is possible, following an accident, that an injured worker might receive all benefits due for many years, without any need for litigation.¹⁰⁰ The OJCC has not attempted to delineate the age of accidents that enter the OJCC system as “new cases” each year, though that is a practical potential.

The volume of “new cases” filed steadily declined after the 2003 statutory amendments. The rate of decline in “new case” filing was less than the rate of PFB decline in almost every fiscal year since 2003. The volume of “new cases” in 2023-24 (31,771) was a .86% decrease from the prior fiscal year, following two years of stable increase (3.74% and 3.83%). Despite an increase in PFBs filed, beginning in 2015-16,¹⁰¹ the “new case” filings remained relatively stable over the same period. The 2022-23 volume was the highest volume in the last 14 years (since 2008-09). Despite markedly increased PFB volume in the last three fiscal years (3.0%, 6.8%, and 5.9%), the new case filings have demonstrated less significant change, and most recently a converse decrease (3.7%, 3.8%, -.9%). The decrease in 2023-24 is notable because the 2022-23 increase of 3.8% marked the first instance of notable back-to-back new case increases (3.74% and 3.83%) since 2003, and might have signaled a trend to consistent increase.

The following graph depicts the historical OJCC “new case” filings (red), and the PFB filings (blue) since 2001-02. The persistent consistency of “new cases,” as PFB volume trended upward beginning in 2015-16, and as PFB filing has resumed a more consistent upturn recently, seems to support that injury frequency and new litigation has remained reasonably stable, but litigation intensity has recently increased with some consistency.



This comparison has consistently shown that “new case” filings have not been as elastic as PFB filings. Following the 2002-03 peak, the PFB filings returned to similarity with the figures for 2001-02 much more rapidly (2003-04) than “new case” filings (2008-09). While there has been some parallel in the trend each demonstrates, the PFB filings have usually changed more dramatically. In the 2014-15 OJCC ANNUAL REPORT,¹⁰² the suggestion was made that the downward PFB trend might be ending. The data afterward substantiated that prediction, until the pandemic began in 2020. Contemporary conventional wisdom in 2020-21 held that filings would return to that upward trend when COVID-19 impacts were past. The 2021-22 increases (+3.0% PFB and +3.7% “new case” volume) supported those predictions, as did the more notable and consistent 2022-23 increases (+6.8% PFB and +3.8% “new case” volume). In 2023-24, these two have diverged with “new cases” down .86% and PFB up 5.9%. A divergence in which PFB have increased and “new cases” decreased has occurred only one other time in the last 15 years, in 2008-09 (+1.6% PFB and -1.41% “new case” volume). Furthermore, the difference in 2023-24 is 6.7%, which is the widest difference since the marked increase in PFB in 2015-16, which itself was then the widest difference since 2007-08, the last year of the double-digit PFB filing decreases following the 2003 statutory amendments. None of these is a definitive indicator or predictor. However, the difference is notable and worthy of consideration as litigation appears to increase in intensity (PFB) more markedly than in volume (“new cases”).

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%
2016-17	70,365	31,334	44.5%
2017-18	70,295	30,470	43.3%
2018-19	73,146	31,751	43.4%
2019-20	72,086	31,224	43.3%
2020-21	69,676	29,752	42.7%
2021-22	71,733	30,865	43.0%
2022-23	76,633	32,045	41.8%
2023-24	81,145	31,769	39.2%

News reporting in 2024 suggests that inflation continues to be significant (2021 = 4.7%; 2022 = 8%; 2023 = 4.1%).¹⁰³ Unemployment in Florida remains near record lows (3.3%) and below the U.S. unemployment rate.¹⁰⁴ Economic growth in Florida was demonstrated in 2023-24 in labor force and private sector employment. Construction growth was notable.¹⁰⁵ Thus, indicators signal a vibrant and growing economic and employment

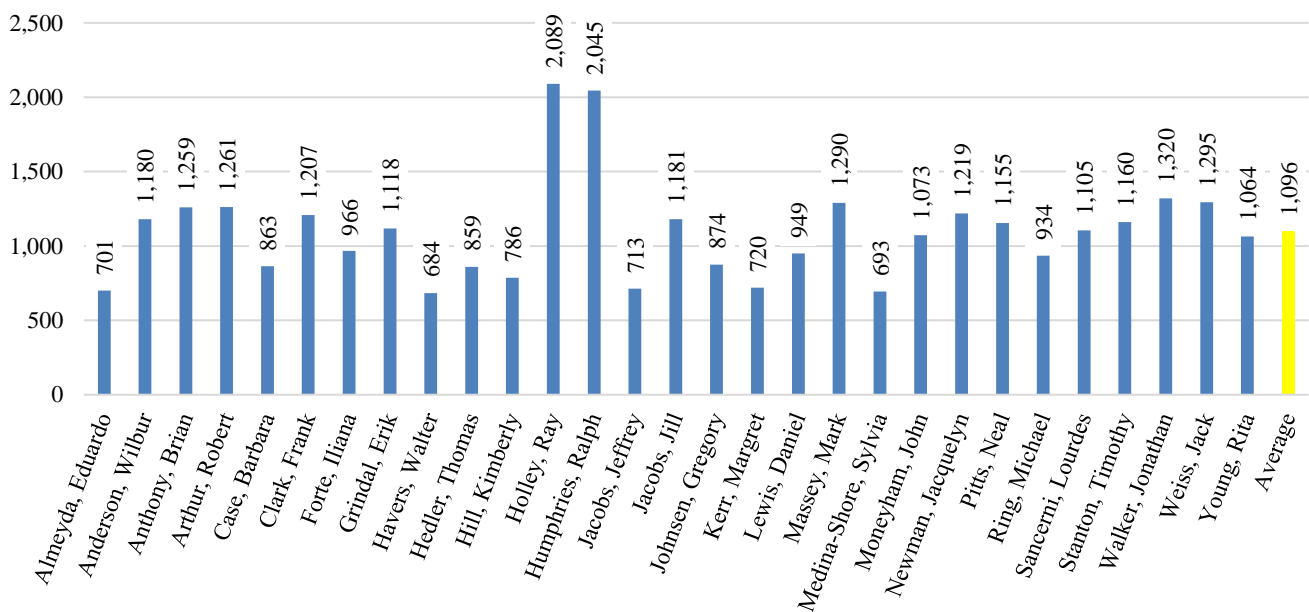
outlook. Despite the persistent decreases in work injury frequency, those making occupation changes,¹⁰⁶ returning to the workforce,¹⁰⁷ and engaging in heavy labor may present significant injury risks. There are also potentials for safety and wellness improvements from the engagement of various technology such as artificial intelligence, robotics, and more. The workplace will continue to present change, innovation, opportunity, and challenge. Workplace safety and workers' compensation will therefore necessarily remain dynamic.

The volume of "new cases" filed may also be expressed as a percentage of the gross volume of PFBs filed during the same time (chart *above*). This compares the relationship of each annual "new cases" volume to the corresponding annual overall PFB-filing volume. This illustrates that the percentage of all PFBs that were "new cases filed" initially remained consistent immediately after the 2003 reforms, in fiscal years 2003-04 (34.5%) and 2004-05 (35.9%). As overall PFB volumes decreased significantly and "new case" volumes decreased more moderately, the percentage of "new cases" increased as a portion of the overall filing rate. The comparison exceeded 50% in 2013-14. The ratio remained notably consistent from 2017-18 through 2021-22, in the range of 43%, but dropped in 2022-23 to the lowest since 2005-06 (40.6%), and further in 2023-24 (39.2). The ratio supports that overall litigation "new cases," or "frequency" is decreasing as intensity, PFB volume, is increasing.¹⁰⁸

The intuitive conclusion from this analysis might focus on attorneys' fee payments, as amended in 2003. One might postulate that there was a perception that litigation early in a claim was then more lucrative than subsequent litigation. Such a perception might be shown in a willingness to file "new cases,"¹⁰⁹ but reluctance to later litigate arguably minor issues, due to fee compression.¹¹⁰ Perhaps the potential volume, thus value, of future benefits was sufficient early in a claim to accommodate litigation, even in a reasonably strict percentage-fee paradigm. This might be even more supported in claims that are completely denied, or in which there are vast disparities in perceptions of the degree of future medical care probabilities or potentialities, leading to denial of benefits with significant monetary value and thus significant associated potential fee issues under the statutory formula reiterated in the 2009 legislative session.¹¹¹

Nonetheless, there is no conclusive consensus as to why PFB and "new cases" filings have been persistently incongruent. The conclusive point is that the disparity continues and the trend is increasing towards disparity not perceived since the early 21st century.

"New Cases" filed per JCC 2023-24



Pro se Cases

The Office of Judges of Compensation Claims (OJCC or Office) has been asked whether there is evidence of changes in the volume of *pro se* claimants, or claimants who represent him or herself. This question is fundamentally: “are more or less 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 claimant is represented or not at a given moment in time (a “snapshot”¹¹²) can be determined with reasonable accuracy. This does not answer whether a claimant in fact *filed* any *pro se* 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 this claimant later ceased to be represented, and filed another *pro se* PFB, the database would then reflect four “open” PFBs attributable to a *pro se* claimant, even though three of those were in fact filed by former counsel. If this claimant then hired a new attorney, who filed a fifth PFB, the database would then reflect five “open” PFBs attributable to a “represented” claimant, even though one of those five was in fact filed *pro se*. Thus, the comparison in the charts is accurate in a particular moment (a “snapshot”).

The JCC Application database can report the total volume of “new cases” opened in a given fiscal year and the percentage of them that are “represented” or that are *pro se* cases on a given day. The chart above depicts the comparison of *pro se* cases at the end of the year compared with the volume of “new cases” filed in the year. This comparison is of potential interest because the “new case” rates have shown less elasticity than PFBs.

Likewise, the OJCC can calculate the percentage of *pro se* PFBs, compared to the total volume of PFBs filed during the year before (chart on the right). The chart (right) depicts the percentage of all PFBs filed each year, and the pending PFB population attributable to *pro se* claimants at the end of that same fiscal year (each ends on June 30). These figures are impacted by both the volume that are *pro se* and the overall filing volumes. It is notable that both ratios in 2023-24 represent the lowest rate of *pro se* representation since these statistics were first analyzed in 2002-03. Beyond the percentage comparison, it is notable that the raw number of *pro se* decreased in 2023-24 to the lowest volume since this reporting method was instigated in 2002-03. That is of particular interest because PFB volume is markedly up in 2023-24, while “new case” volume decreased.

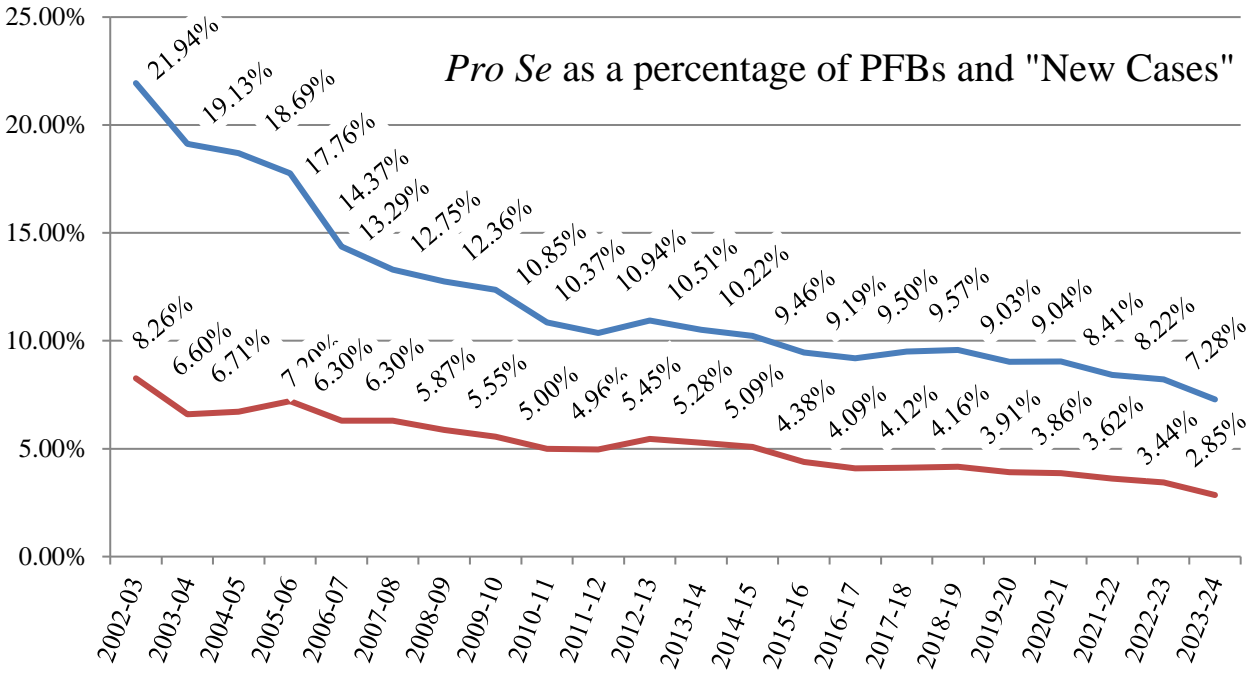
Neither of these is necessarily a relevant reflection of the actual population of PFBs that have been filed by injured workers on their own behalf. In any event, these two calculations are the best answer the OJCC can currently provide to the question of *pro se* litigant volume.¹¹³

The available data does not prove that the *pro se* claimant population is increasing,¹¹⁴ or markedly changing, except for the overall steady decrease. The data supports that there has been minimal fluctuation in the *pro se* volume and percentages. That said, the trend has been consistently lower *pro se* participation overall, with reasonable consistency in both comparisons of PFB and “new cases” over the last 11 years. This is emphasized further in the graph below.

Fiscal Year	New Cases	Pro Se June 30	
2013-14	29,771	3,130	10.51%
2014-15	29,870	3,053	10.22%
2015-16	31,165	2,947	9.46%
2016-17	31,334	2,881	9.19%
2017-18	30,470	2,894	9.50%
2018-19	31,751	3,040	9.57%
2019-20	31,224	2,818	9.03%
2020-21	29,752	2,689	9.04%
2021-22	30,864	2,597	8.41%
2022-23	32,045	2,633	8.22%
2023-24	31,769	2,314	7.28%

Fiscal Year	PFB	Pro Se June 30	
2013-14	59,292	3,130	5.28%
2014-15	60,021	3,053	5.09%
2015-16	67,265	2,947	4.38%
2016-17	70,365	2,881	4.09%
2017-18	70,295	2,894	4.12%
2018-19	73,146	3,040	4.16%
2019-20	72,086	2,818	3.91%
2020-21	69,676	2,689	3.86%
2021-22	71,733	2,597	3.62%
2022-23	76,633	2,633	3.44%
2023-24	81,145	2,314	2.85%

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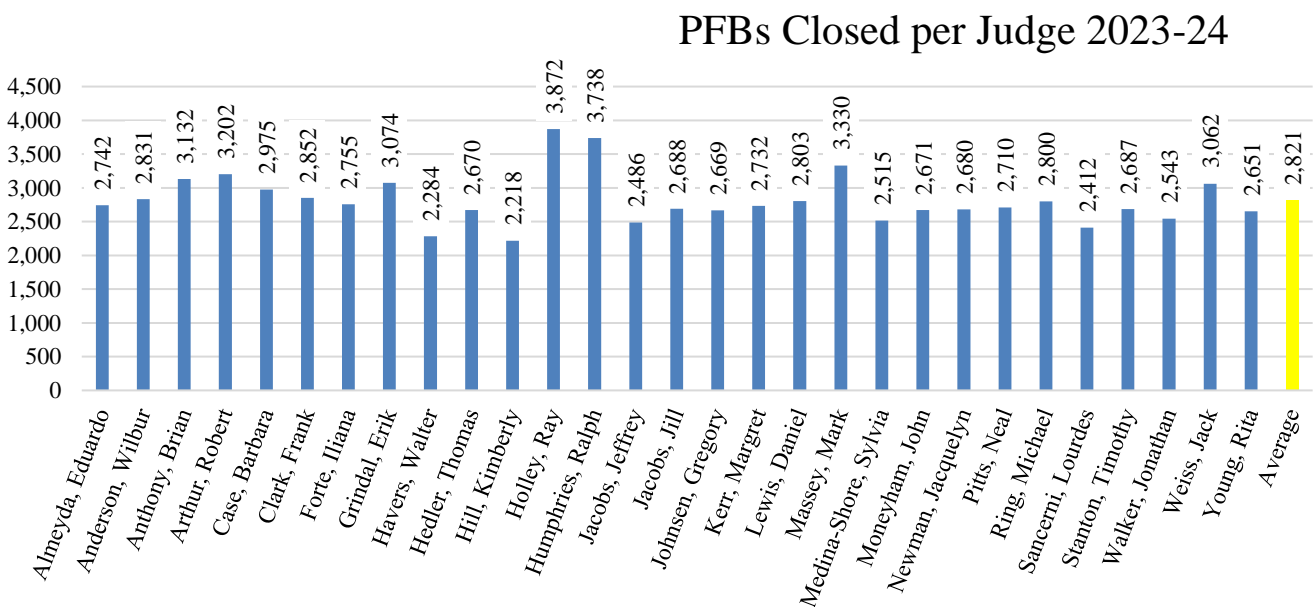
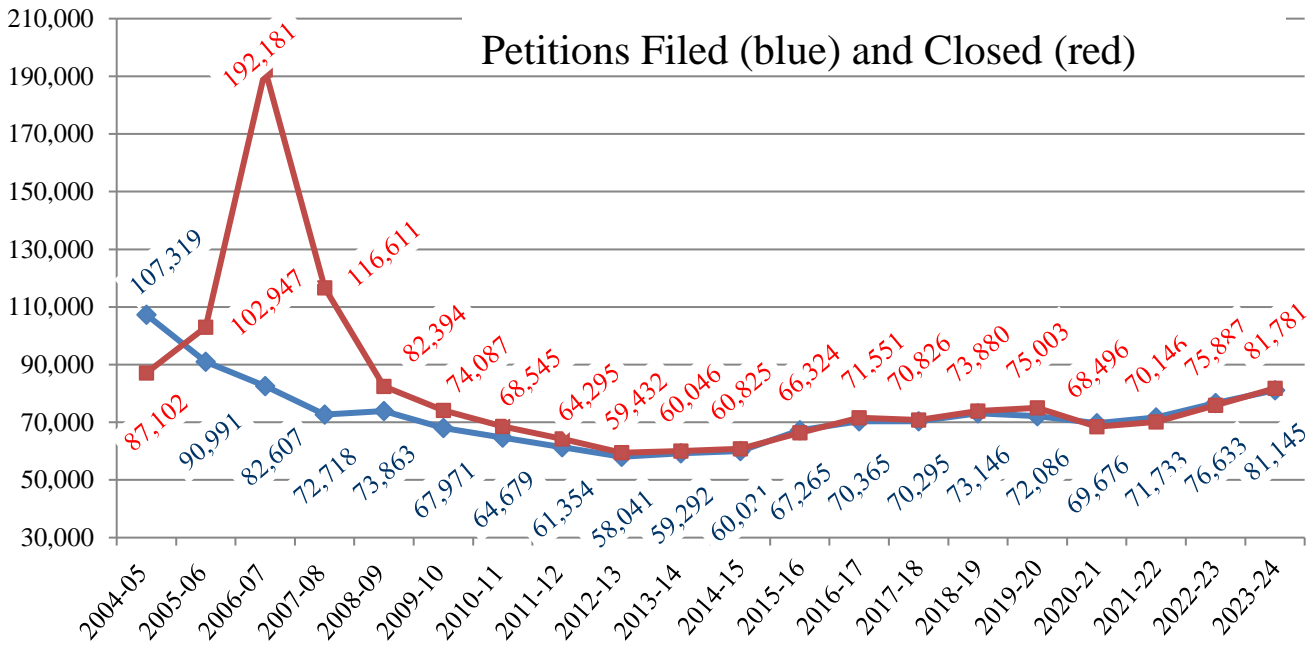
This depicts the ratios of “new cases” (blue) and of the PFBs (red) to the population of *pro se* PFBs pending on June 30 of each of the last twenty-two (22) fiscal years. The overall trend is consistently to decrease. These comparisons show minor fluctuations in *pro se* participation over the last ten fiscal years, but do not support that there has been any broad challenge to attorney representation at any time. Overall, *pro se* continues to trend down. Furthermore, there is no basis on which to determine that any portion of this *pro se* population desires attorney representation.

Amount of Litigation Resolved

The OJCC struggled early in the 21st century with the closure of PFBs. This was likely influenced by a persistent timeliness ambivalence in the late 20th century. The Legislature has defined statutory time parameters for the mediation and trial of PFBs in section 440.25, Florida Statutes.¹¹⁵ This legislative mandate for timely adjudications is inconsistent with the prior marketplace practice of utilizing a PFB (and before 1994 a “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,” the statute of limitations will not run,¹¹⁶ but once dismissed that PFB has no import on the statute of limitations. More recently, there have been questions as to how and when the statute of limitations functions, and resulting uncertainty and doubt.¹¹⁷ Anecdotally, there is support for the existence of a historical 20th century practice of filing PFBs, not necessarily to obtain a particular benefit, but to remain pending indefinitely and act as a “tolling” of the statute of limitations.¹¹⁸ Additionally, PFB closure was a difficult issue for the OJCC following the massive influx of PFBs in 2002-03 (151,021).¹¹⁹ The sheer volume of PFBs in 2003 markedly affected workload and therefore effectiveness in most Districts.

In the context of litigation volumes, Florida has grown significantly, *see* page 11. Since 1994, Florida’s population grew over 64%, from fourteen million to over twenty-two million people.¹²⁰ The OJCC has operated without significant increases in either judges or staff since the addition of the mandatory mediation process in 1994. In fact, in 2021-22, the staff was reduced more than 10%. Between 2006 and 2021-22, the OJCC has fully integrated the child support information provision process alleviating workload at both the Department of Revenue and Clerks of Courts, with attendant savings for the workers’ compensation litigants and counsel. The OJCC has further automated and integrated the process for preparation of appellate records. No additional staff or funding was requested for any of these innovations. Despite the significant workload and marked increase in population, the

OJCC staff has been reduced in the 21st century, including one judge, four mediators, and multiple staff positions in 2012-13.¹²¹ In 2020-21, the DOAH elected not to fill approximately 21 OJCC administrative staff positions as vacancies occurred, and most of those positions were removed from the OJCC workforce permanently.¹²² In 2021-22, that DOAH process resulted in more staff reductions, which have become permanent. Despite these decreases, the Office remains effective and efficient. Even so, as discussed below, various extended periods without significant cost-of-living pay increases, increasing work volume and complexity, and the results on morale continue to challenge and threaten the efficiency and efficacy of this agency (*see also* Budget and Training, page 12). Discussion of litigation resolution begins with reiteration of the PFB filings compared to the PFB closures, demonstrated in this graph.



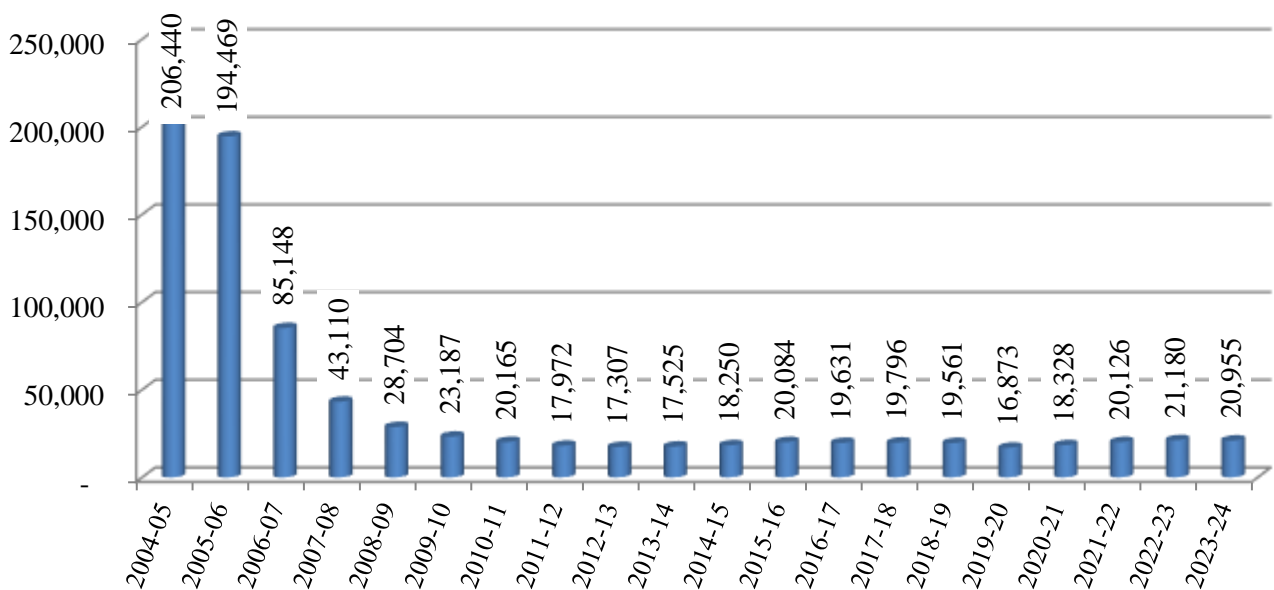
Most PFBs filed must be mediated.¹²³ After a PFB is filed, issues claimed in it may be resolved among the parties before mediation, at mediation, or later any time until a final order is issued. There are even exceptional instances in which the parties conduct a trial on the PFB issue(s), but then nonetheless resolve them before the assigned judge enters an order adjudicating them.¹²⁴ 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/status into the JCC Application (database).

Such closure is administrative. Any undetermined issues that remain are not foreclosed by the administrative closure.¹²⁵ Remaining issues, such as an injured worker’s attorney fees and costs, may yet be tried upon the later filing of a verified motion.¹²⁶ 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 primarily emphasize 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 on one or more parties having differing perceptions, and thus the closure order stimulates review by the parties, and engages the parties in promoting accuracy and assuring efficiency. An example when such review might have been beneficial occurred in 2018-19. That year, a final order was entered in a case 5,900 days (16 years) after the initial PFB was filed.¹²⁷ Though PFBs in that case were reflected in the database as “closed,” they were never dismissed after the last payments were made in 2005.¹²⁸ A closure order could have clarified perceptions of status, prompted review and further discussion, perhaps leading to a timelier trial and decision.

Some Divisions (each judge and her/his 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 accurately documented PFB inventories, meaning their inventory included only PFBs that appropriately should have been reflected in the database as “open.” Other Divisions began the 2006-07 year with their open inventories overstated, including PFBs that should have been previously administratively closed. PFB closures therefore spiked in 2006-07 and 2007-08. The volume moderated in 2008-09 and has remained reasonably consistent the last 14 fiscal years. The ten-year average, 2014-15 through 2023-24, was around 100.3%, illustrating a system in balance and the effective management of incoming litigation.

The result is illustrated in the graph above showing a smooth progression in the last 14 fiscal years to equilibrium in the OJCC system, meaning that in a given year, the OJCC will close around the same volume of PFBs as are filed that year. The extensive efforts of various judges and staff throughout Florida have dramatically improved the management of pending PFBs.

The year-end systemwide OJCC inventory of “pending” PFBs for the last 20 fiscal years is represented in the following graph.



This depicts that from a peak of 206,440 pending PFBs in the system at the end of fiscal year 2004-05, the OJCC had decreased inventory of pending PFBs to 20,165 at the end of fiscal year 2010-11. Later, the year-end open inventory held between 17,000 and 20,000 with reasonable consistency, though the volume has shown a small upward trend in the last three years. Nonetheless, the inventory remains very consistent despite recent increases in PFB filing volume (*see* page 27). It is likely that the inventories at the end of 2019-20 and 2020-21 were influenced by the PFB filing rate and the pandemic. In 2022-23, it was suggested that this metric merits attention, particularly due to the increase that year. However, it appears that inventory is reasonably consistent. As PFB volume increases, this may change.

These two analyses, PFB closure versus PFB filing, and the aggregate year-end inventory support that the OJCC currently continues to effectively process each year’s incoming claims. Anecdotally, there are still instances of stale PFBs remaining pending, but these are isolated instances for which judges remain vigilant.

With the docket management tools now in place, it is believed that those stale cases generally remain pending only with the knowledge of the assigned judge, and therefore for appropriately documented reasons, such as carrier bankruptcy stays, expert medical advisor issues, and similar. Still, there may be instances like that described above in which all PFBs appear to be concluded and a file is administratively closed. Periodically, such a case may be brought back to the fore by an injured worker seeking adjudication. While the potential for those is diminished by regular use of the closure order process that engages all parties in status verification, the possibility remains.

Over the last 20 fiscal years (2004-05 forward), one million four-hundred fifty-one thousand two hundred (1,451,200) PFBs have been filed, and one million six-hundred twenty-two thousand three hundred ninety-six (1,622,396) PFBs have been closed. This is an approximate overall closure rate of one hundred twelve percent (112%). This further suggests that the OJCC continues to demonstrate consistently managed dockets.

This chart illustrates the marked increase in closure rates beginning in fiscal year 2005-06 (113.1%), followed by significant closure rates in 2006-07 (232.6%) and 2007-08 (160.4%), resulting from definitions, standard implementation, and staff training. 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 several years, until 2003, the steadily increasing PFB filing rates, coupled with the lack of closure documentation, generated a growing apparent inventory (backlog) of PFBs in some Divisions. Staff training and focus since 2006 have overcome that challenge. But it is notable that equilibrium was more challenging in the pandemic era, dropping to levels consistently below 100%, but returning to 99% in 2022-23 and to 100.8% in 2023-24. The three years below 100%, coupled with recent progress, suggest there is some current inventory of PFB that warrant closure consideration. Over the last four fiscal years, aggregate PFB filing has been two hundred ninety-nine thousand one hundred eighty-seven (299,187) and closures have totaled two hundred ninety-six thousand three hundred forty-seven (296,347), a closure rate of 99.1%.

Fiscal Year	Petitions Filed	Petitions Closed	Closed %
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%
2016-17	70,365	71,551	101.7%
2017-18	70,295	70,826	100.8%
2018-19	73,146	73,880	101.0%
2019-20	72,086	75,003	104.0%
2020-21	69,676	68,496	98.3%
2021-22	71,733	70,146	97.8%
2022-23	76,633	75,887	99.0%
2023-24	81,145	87,781	100.8%
Aggregate	1,451,200	1,622,396	111.8

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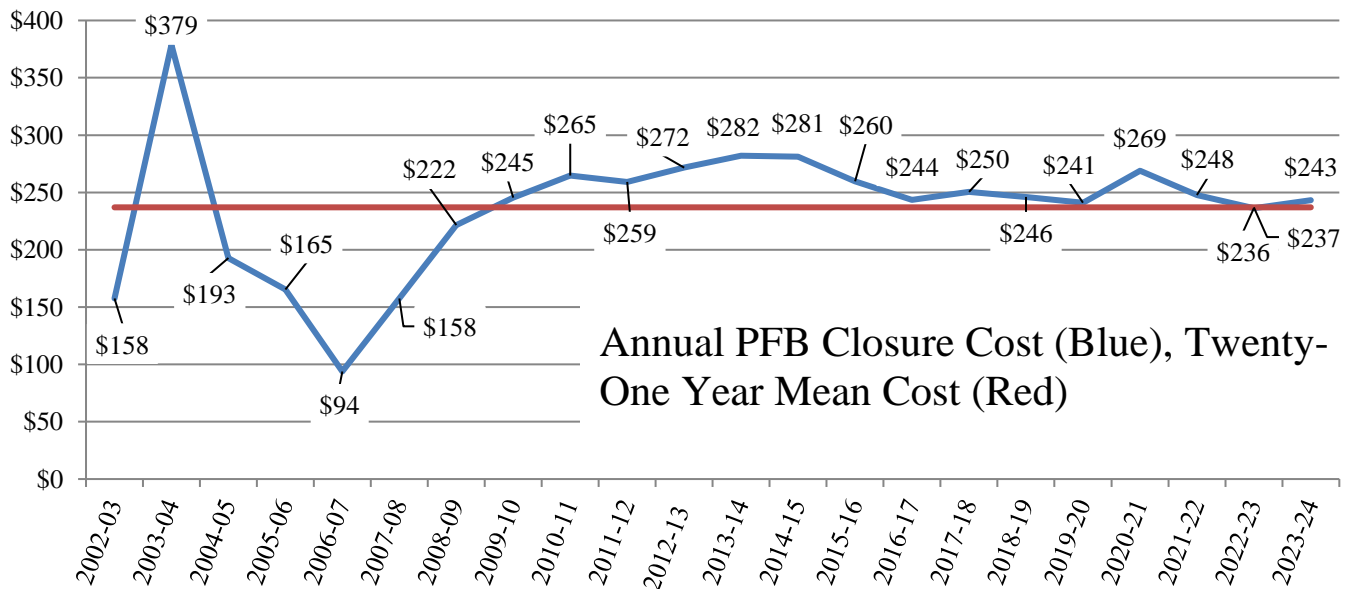
Cost of Litigation Resolved

The OJCC budget (actual expenditure), divided by the number of PFBs closed, reflects the overall cost per PFB closed. This historically fluctuated (*see* chart, right; graph, below), largely because of the significant fluctuation in PFB closure rates. Of note was 2006-07, following efforts to correct data mischaracterizations, leading to an exceptional volume of PFBs closed that year.

These figures reveal relevance when considered in comparison to filing fees in Florida’s Circuit Courts.¹²⁹ For “small claims” filings, the Circuit Court filing fees may be as low as fifty-five dollars (\$55.00), but for civil claims the filing fee is three hundred dollars (\$300.00) if the case is valued “up to \$15,000”; for larger claims the Circuit Court filing fee may be as high as four hundred dollars (\$400.00).¹³⁰ The OJCC is more financially efficient, with a per-PFB cost well below the Circuit Court filing fees. Furthermore, those fees do not fully account for the court’s cost of operations, as the cost per PFB does. Additionally, usually, the OJCC cost is inclusive of mediation services, which generally are an additional cost to the parties in other civil litigation.¹³¹ Admittedly, a given dispute in the OJCC might include multiple PFBs, and so this comparison is not definitive. It is illustrative however. Over the last 22 fiscal years, the average cost per PFB closed was \$236.00, around 61% of the current Circuit Court case filing fee.

The fluctuations of “per PFB” costs are also due in part to the minimal OJCC annual budget growth through 2008, followed by five consecutive budget reductions from 2009 to 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 of almost \$20 million. The 2002-03 budget (\$16,522,910) adjusted for inflation, would have equaled a 2023-24 budget of \$28,212,420 instead of \$19,911,256, a difference of \$8,301,164, or around 42% of the actual budget.¹³² The OJCC has been effective, efficient, and budgetarily responsible through population growth, technological upheaval, and societal change.

Fiscal Yr.	Annual Budget	Petitions Closed	Cost Each
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
2016-17	\$17,430,852	71,551	\$244
2017-18	\$17,738,182	70,826	\$250
2018-19	\$18,179,208	73,880	\$246
2019-20	\$18,078,053	75,003	\$241
2020-21	\$18,413,933	68,496	\$269
2021-22	\$17,376,901	70,146	\$248
2022-23	\$17,926,835	75,887	\$236
2023-24	\$19,911,256	81,781	\$243



Florida’s population has also grown markedly in the last 20 years.¹³³ At the same time, the number of judges and staff has remained almost static over the same period. In fact, as fiscal year 2020-21 concluded, the staff was reduced significantly, and staff reductions continued in 2021-22.¹³⁴ These facts illustrate that the OJCC has been exceptional at wisely managing the resources afforded and providing services to Floridians. The graph above depicts the varying cost of PFB closure (blue) and twenty-year average cost (red). The decrease in cost per closed PFB for fiscal years 2005-06 through 2007-08 is each overstated because of the extraordinary PFB closure rate during these years.

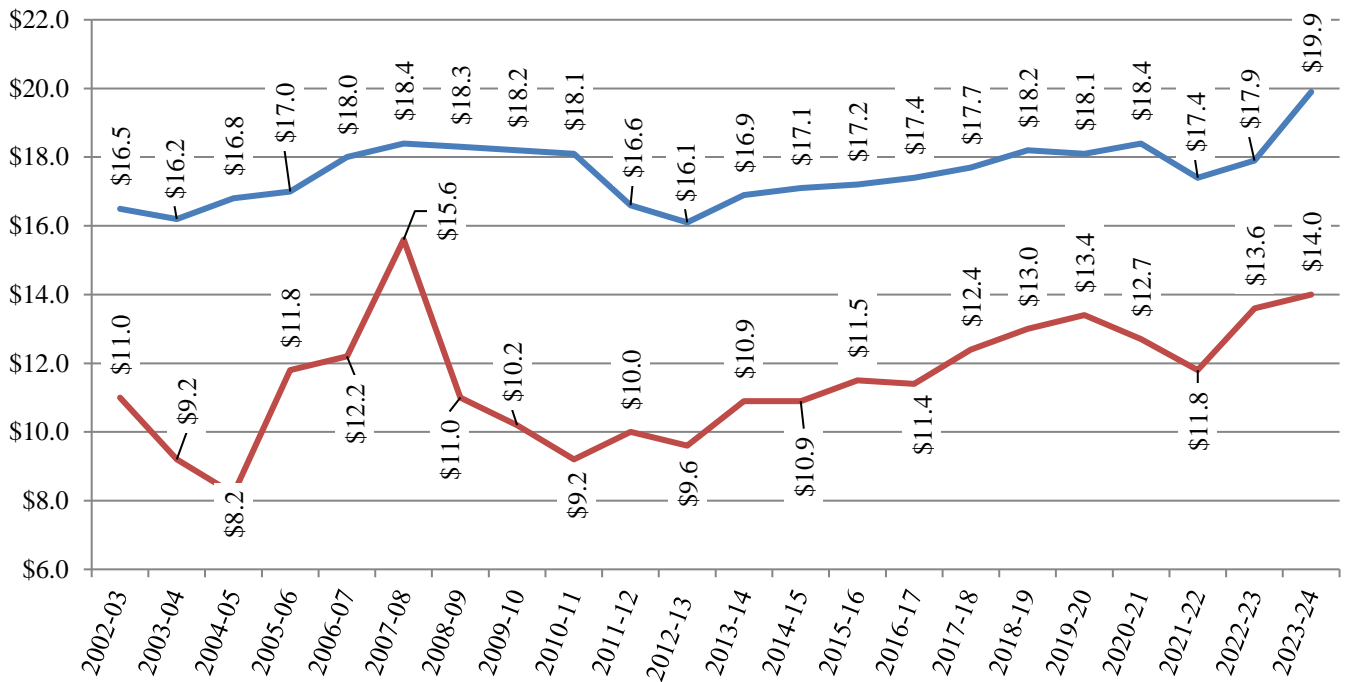
PFB closure rates have stabilized and closely follow the current filing rates. There is every reason to believe that trend will continue.¹³⁵ A minimal volume of overdue PFB inventory may remain unaddressed in this litigation system, but the system currently appears to be substantially in equilibrium. This report has previously suggested that the cost per PFB closed is likely to increase if PFB closure volumes decrease, and to decrease if volumes increase. This is illustrated with the 2022-23 increase in PFB closure balanced against a reasonably static budget expenditure total in the graph above.

Another illustration of the cost-effectiveness of the OJCC is the volume of child support arrearages collected through the judges’ efforts since statutory authority was enacted in 2001. The JCCs are statutorily required to ensure that the rights of child support recipients are considered when support payers settle their workers’ compensation case.¹³⁶ Each judge devotes considerable time and effort to the investigation and verification of child support arrearages when cases are settled. Staff and mediators perform child support searches upon request by parties, a notable workload involving even cases that do not settle. The extensive child support collected through these efforts for the last twenty-three (23) fiscal years is represented in this table, which total \$258,150,188. The volume of child support arrearages collected is particularly interesting given the overall OJCC budget discussed above. Over the last twenty-three (23) fiscal years, the OJCC has collected an average of 64% of its overall budget in past due child support to the benefit and advantage of support recipients throughout Florida.

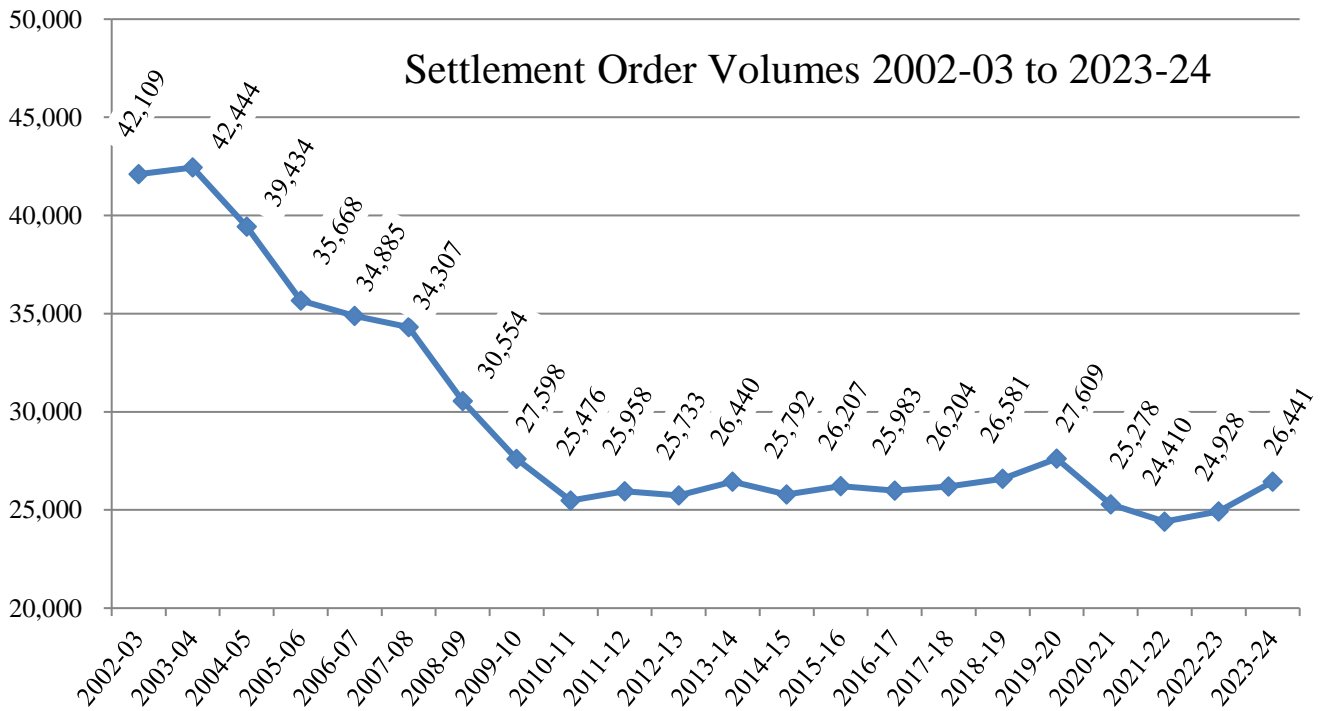
The path toward integration and innovation regarding child support reporting began in 2012-13 when the OJCC undertook the duties associated with reporting arrearage information on behalf of the Department of Revenue (DOR). In 2013-14, the OJCC integrated the process of similarly reporting Circuit Court 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 their required child support arrearage information from the OJCC, instead of the DOR and the Circuit Clerks. These tremendous services on behalf of child support recipients have been delivered without any new staff or funding for the OJCC operations.¹³⁷ The comparison of child support recovery (red) and the OJCC overall budget (blue) is illustrated in the chart (*above*) and graph *below* (in millions). That internalized process within the OJCC has saved both the parties¹³⁸ and public¹³⁹ significant money while supporting the recovery of an average of about \$11 million per year.

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%
2016-17	\$17.4	\$11.4	66%
2017-18	\$17.7	\$12.4	70%
2018-19	\$18.2	\$13.0	71%
2019-20	\$18.1	\$13.4	74%
2020-21	\$18.4	\$12.7	69%
2021-22	\$17.4	\$11.8	68%
2022-23	\$17.9	\$13.6	76%
2023-24	\$19.9	\$14.0	70%

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The child support collected in 2023-24 was significant. Previously, the threshold of \$14 million had only been exceeded once, in 2007-08. Overall, the volume of collected support has remained reasonably consistent, but has increased the last two years. This increase must be viewed in conjunction with the volume of settlement orders (*below*), which supports some probability that the 2023-24 support increase is related to the increase in settlements generally. The increase in settlement orders entered was 6.1% and the increase in child support collected was 2.9%. Thus, there is not support for a direct corollary, but the likelihood is notable.



Number of Mediation Conferences Held

In Florida workers' compensation, most¹⁴⁰ PFBs must be mediated before they may proceed to final hearing. To provide greater detail about mediation efforts of the OJCC, a *Settlement and Mediation Statistics Report* was first published in August 2010.¹⁴¹ The OJCC has published that report annually since. All are available at www.fljcc.org under the "Publications" and then "Reports" tabs.¹⁴² The 2023-24 report is appended here, *see* page 269.

The purpose of mediation is consistent in any dispute: resolution of differences in a participant-driven environment of discussion and compromise. It is in the best interest of every employee and employer that there is such opportunity for discussion regarding claims and defenses. Such participant-driven processes empower the very individuals for whom workers' compensation was created.

The volume of mediations held each year steadily decreased in 2002-03 through 2012-13, except for 2008-09 (+3.95%). The overall rate of decrease in mediations does not match the rate of decrease in PFB filings since 2002-03. Though the mediation volume has fluctuated some since 2013-14, the volume remained notably consistent in 2013-14 through 2017-18. Since 2018-19, the volume has trended upward. In 2023-24, the volume reached its highest since 2008-09.

It has been suggested that some degree of increase related to the pandemic directly, including challenges with medical treatment, personal finances, and more. However, it is more likely that the related transition to telephonic mediation,¹⁴³ evolution to video mediation, and closure of district offices has encouraged increased participation. Notably, there was an additional mediator position added to the compliment in 2022-23. That additional capacity undoubtedly influences the increase somewhat. Nonetheless, the current compliment of 30 mediators is fewer than the 31 between 2006-07 and 2009-10.¹⁴⁴

Cost is relative. Many private mediators charge *hourly* rates well above the OJCC average cost, 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.¹⁴⁵ Therefore, services comparable to those delivered by the OJCC mediators, from private mediators, would likely cost an average of around five hundred dollars (\$500.00) or more, compared to the OJCC cost in 2023-24 of around one hundred ninety-six dollars (\$196.17). The cost efficiency of State mediation remains clear, averaging about eighty percent (78.5%) of the cost of one hour of private mediation.

This cost is included in the overall OJCC budget discussed above (*see* pages 12 and 29), thus, part of the cost per PFB closed rather than another cost. The overall cost per PFB for the OJCC, including the mediation process, is far below the Circuit Court filing fees for other civil matters.¹⁴⁶ Furthermore, if the volume of mediation increases, the cost of each mediation decreases, because the aggregate cost of the state mediation program remains reasonably constant regardless of volume, within reason. On the other hand, if the volume of mediations decreases, the unit cost will rise unless the number or state mediators is reduced. Since fiscal year 2017-18, the OJCC has striven to increase the volume of mediations conducted by the state mediators, with the view toward further increasing efficiency and productivity. The addition of mediators was part of that effort, as well as publishing all state mediator calendars online to carry out parties' scheduling efforts.

There are multiple issues that influence state mediation efficiency. The OJCC is compelled to mediate cases within 130 days of PFB filing.¹⁴⁷ But there is also a statutory prohibition on noticing mediations until 40 days after the PFB is filed.¹⁴⁸ In giving notice of mediation, the OJCC must be conscious of the constraints of due process,

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%
2016-17	70,365	4.6%	16,079	2.39%
2017-18	70,295	-0.1%	16,167	0.55%
2018-19	73,146	4.1%	17,056	5.50%
2019-20	72,086	-1.4%	18,211	6.77%
2020-21	69,676	-3.3%	19,442	6.76%
2021-22	71,733	3.0%	20,109	3.43%
2022-23	76,633	6.8%	19,917	-0.95%
2023-24	81,145	5.89%	20,484	2.85%

that is, reasonable notice for mediation participants. It has become a practice to strive to provide parties with 30-days' notice of mediation, though some shorter notice could likely fulfill constitutional requirements.¹⁴⁹ That said, attorneys, adjusters, and workers have schedules; providing less notice could be calamitous to the ability to plan for, and effectively engage in, productive mediation. There is thus essentially a 70-day period (40 days in statute, plus 30 days' notice) excised from the 130-day statutory mediation requirement. Effectively, the mediation process must occur within a 60-day (days 70 through 130) window of availability.

Discovery is a process engaged in by all parties to workers' compensation litigation. After a PFB is filed, the employer/carrier should be engaged in investigation into the claimed issues.¹⁵⁰ It is purportedly in hopes that such discovery will lead to rapid resolution that supported the statutorily mandated 40-day period. Unfortunately, the historical performance supports that many mediation appointments are cancelled by the parties after they are noticed (after the 40 days). This suggests that the discovery, or even investigation, is not being completed in that 40-day period before notice is provided, but is in the 30-day (or more) period between notice and the mediation. Cancellation may be because the claimed issues are resolved in some compromise, the benefits are outright provided as claimed, or that the claims are simply dismissed. In any event, resolution is likely positive.

But, when such resolution/cancellation occurs within 30 days of the scheduled mediation, it is difficult for a state mediator to schedule some other case for that resulting calendar vacancy, because of the ever present due process issues (notice¹⁵¹). Such cancellation may allow the mediator to assist with another mediator's calendar, but not to adjust her or his own. The shorter the notice of such cancellation, the harder it is to repurpose that time effectively. Thus, the inefficiency of the marketplace impairs the efficiency of the OJCC.

The Florida OJCC is not a court.¹⁵² And as such, the Florida OJCC is not governed by the rules set forth by the Florida Courts pursuant to their constitutional authority.¹⁵³ Furthermore, the authority for determining mediator qualifications in regards to workers' compensation is within the discretion of the Deputy Chief Judge of Compensation Claims, pursuant to section 440.25(3)(a), Florida Statutes.¹⁵⁴ The statutory OJCC mediator qualifications are distinct. There is no longer any general requirement that Florida Certified Mediators must be attorneys, yet OJCC mediators are statutorily required to be attorneys with "at least 5 years" experience, and undergo an approved training.¹⁵⁵ Thus, as the qualifications for Florida mediators generally have evolved, the workers' compensation statute has not. Whether that is intent or artifact is not known, but the "attorney requirement" limits the population of potential State mediators, and can impact both recruitment and retention.

All OJCC mediators are certified by the State of Florida.¹⁵⁶ The certification standards have been established by The Florida Supreme Court through the Dispute Resolution Center,¹⁵⁷ and essentially adopted by the OJCC in selecting that standard for state mediators.¹⁵⁸ Certified mediators are governed by Rules for Certified and Court-Appointed Mediators.¹⁵⁹ Those rules can be interpreted by the Supreme Court in disciplinary matters, similar to the Court's authority to both promulgate and interpret Rules Governing The Florida Bar. In aid of mediator interpretation, there is also a Mediation Ethics Advisory Committee (MEAC), which provides guidance on ethical issues and concerns. The rules constrain each mediator's activity, and the MEAC advisory opinions assist with interpretation. While those opinions are not binding, they are widely referenced and relied on. Because the "training program approved" for OJCC state mediators has historically been the Supreme Court Mediator Certification program, the OJCC state mediators are governed by the Supreme Court's ethics rules, and at least somewhat constrained by the advisory opinions of the MEAC. If the OJCC adopted some other "approved training," the constraints of both Court rules and the MEAC would be diminished.

The specifics of workers' compensation mediation are addressed in MEAC Opinion 2004-002.¹⁶⁰ That opinion states that a "certified mediator must allow sufficient and appropriate time for completing mediation and should not double or triple book mediations." The mediator who sought this opinion expressed a belief that OJCC mediators engaged in "double booking" and placed "arbitrary time limits" on mediation. The allegation was that this was an effort to "mediate as many as possible each day." The mediator seeking this opinion alleged that such process led to descriptions of the process of "farcical, circus-like, a complete waste of time, etc."¹⁶¹ For clarity, there has never been any OJCC policy limiting the duration of OJCC mediation. That said, the appearances of scheduling (a review of a mediator's calendar reflecting mediations set every hour), could have led some observers to conclude such a duration was being used by a particular mediator and appeared to be a limit. Mediations nonetheless proceed as long as necessary, often for several hours, as long as the parties wish to continue to seek resolution; attendance at mediation is mandated, but the process and duration is voluntary. All the same, this may result in a mediator conducting multiple mediations simultaneously. As the OJCC has evolved in 2021-22 into a presumptively virtual

mediation pattern using Zoom, the potential for a mediator simultaneously working on multiple mediations has likely increased.

Thus, currently, OJCC mediators are constrained from “double booking.” Since 2007, there has been an absolute policy of not limiting the duration of mediations conducted by OJCC mediators. These are both pertinent points because this effectively limits the number of potential mediation appointments that can be offered by the OJCC to Florida’s employers and employees. The annual maximum is likely around 123,660 appointments.¹⁶² Such a volume would be untenable and unworkable. But a more practical volume is likely around 82,440,¹⁶³ which notably remains close to the current PFB filing volume.¹⁶⁴ With the implementation of the new mediation paradigm, which defaults to virtual mediation by Zoom, each mediator currently schedules seven mediations per day, equating to an overall annual appointment availability of 48,090.¹⁶⁵ It is projected that the increased PFB filing will at some point enhance the probability of PFBs being referred to private mediation.¹⁶⁶ During the 2021-22 fiscal year, multiple cases were ordered to private mediation because of staff resignations and delays in replacement. That was not necessary in 2022-23 or 2023-24 due to the addition of mediators and the change in mediation assignment to mediators throughout the state.

The MEAC issued Opinion 2023-004 in November 2023, upon the request of a state mediator. The text of this opinion highlights misunderstanding of the OJCC, addressing “a court-ordered workers’ compensation mediation.” The Florida OJCC is not a court.¹⁶⁷ Furthermore, the mediation of petitions is a statutory obligation that would persist with or without an order. The MEAC opinion nonetheless concludes that a mediator who “believes a party is unable or unwilling to participate meaningfully,” should “adjourn or terminate the mediation and report with no other descriptors or modifiers.” In the interest of affording state mediators with a database characterization to reflect simply that a mediation was “terminated,” without further exposition as to circumstances or cause.

The volume of state mediations conducted has not changed proportionately with the changes in PFB filing volume. Overall, since 2002-03, PFB volume is 46.27% lower and State mediation volume is down only 29.9% overall, as shown by this chart. There are multiple possible explanations for the marked difference in the rates of change in PFB and mediation in recent years. The most likely explanation for this difference is the probability that private mediations have decreased at greater rates, because of the expense associated with them. Anecdotal evidence supports this hypothesis, but admittedly anecdotal evidence is rarely as trustworthy as broader indicators.

Fiscal Year	Petitions Filed	% Change	Mediations Held	% Change
2002-03	151,021		29,253	
2023-24	81,145	-46.27%	20,484	-29.98%

As a result of efforts to comply with the 130-day statutory parameter, all of the State mediators have averaged below 130 days between PFB filing and initial mediation in each of the last 16 fiscal years (2008-09 through 2023-24). This represents 100% average statutory compliance by the OJCC state mediators for well over a decade. The mediation process has thus been proven both efficient and effective. For details, see *OJCC SETTLEMENT AND MEDIATION REPORTS* at www.fljcc.org (under the “Publications” and then “Reports” tabs).

The statutory requirement to send cases to private mediation¹⁶⁸ may also have helped facilitate more timely mediations in recent years. The action of sending a case to private mediation represents a significant cost to the employer/carrier ordered to private mediation. Thus, if that becomes a regular occurrence, parties may be more motivated to proactively work on mediation scheduling, or non-mediation claim resolution, when a PFB is filed.

In 2011-12, the OJCC began offering parties the services of the state mediators for voluntary mediation.¹⁶⁹ This allows consensual mediation when there is no pending PFB and facilitates voluntary mediation on subjects such as attorney fees that are not appropriate for mandatory mediation.¹⁷⁰ Parties utilizing this service can discuss resolution of issues, facilitate communication, and do so at no cost, effectively using the resources already provided by the OJCC. This voluntary mediation program was recognized by Florida Tax Watch with a Prudential Productivity Award. As the OJCC has transitioned to the new “statewide” mediator assignment process and the chiefly virtual (Zoom Internet conferencing) mediation practice, mediation appointment availability has been strained. The volume of PFB mediations renders voluntary mediation appointments increasingly scarce.

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Disposition of Mediation Conferences

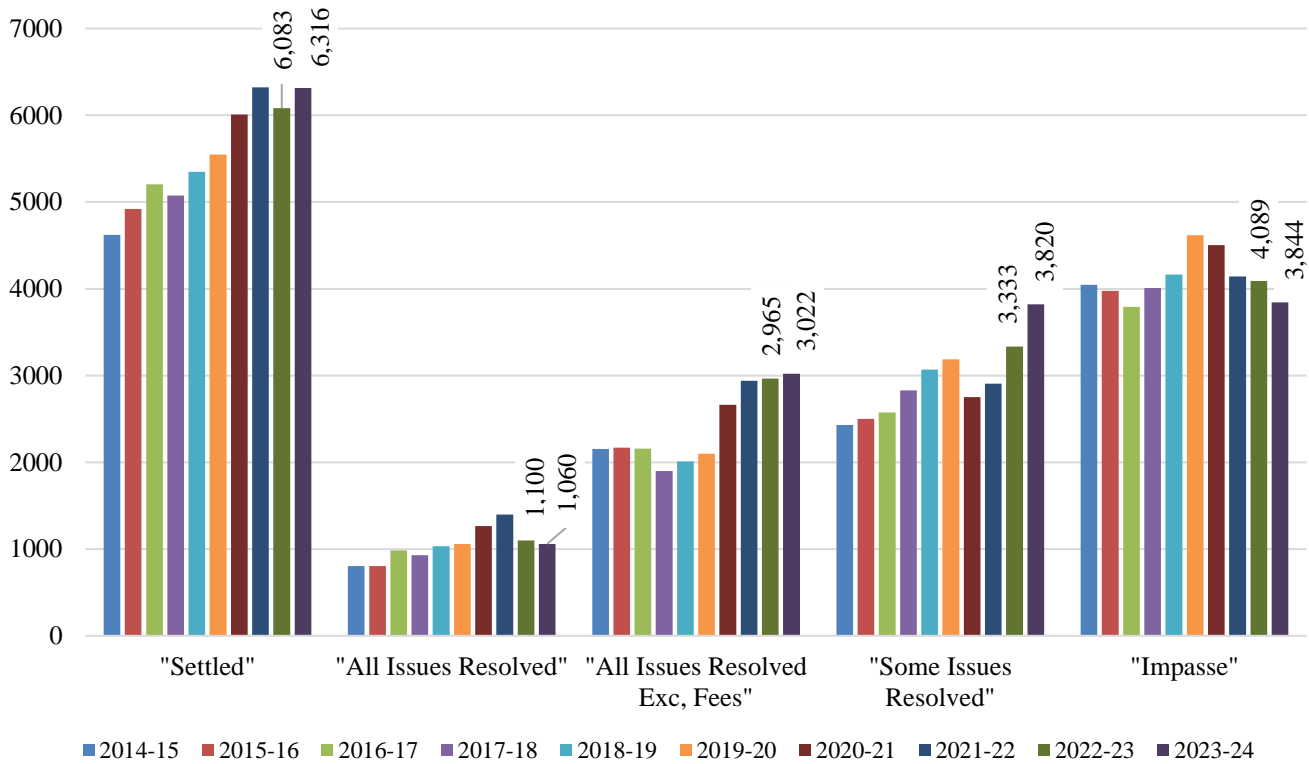
A PFB might seek only one substantive benefit (e.g., authorization of an orthopedic surgeon), or could contain many issues (e.g., orthopedic authorization, neurological authorization, diagnostic testing authorization, correction of the average weekly wage, payment of temporary total benefits, temporary partial benefits, supplemental benefits, and/or permanent total disability benefits, and so on). Virtually all PFBs also include claims for related benefits, such as penalties and/or interest on late-paid indemnity benefits, and attorney 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, are discussed more fully on page 15 of this report.

The outcome of mediation is expressed in terms of what was resolved at that particular mediation. The characterization “impasse” is used to reflect that no issues were resolved. The characterization “settled” reflects that the entire case, including the pending issues in the PFB(s) and all future benefits 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.

The term “some issues resolved” reflects that some subset of the claimed substantive issues have been resolved. The term “all issues resolved except attorney 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 fees and costs, were resolved, but leaving open future benefits. These potential outcomes can be expressed in a continuum, ranging from the least resolution (“impasse”) to the most resolution (“settled”). The results of mediation are reflected in this graph, illustrating this continuum from “all” or “settled” on the left side, to the least “none” or “impasse” on the right side of the graph. The graph below reflects the last ten (10) fiscal years for each of these outcome characterizations.

Previously, some mediators mislabeled resolutions that occurred before 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.¹⁷¹ Discontinuation of this practice may be responsible in some part for the decreased mediation volumes since 2006-07. Some mediators also mischaracterized results achieved after a mediation conference, inappropriately taking credit for resolutions to which she/he may have contributed, but which still did not resolve at that mediation. Those actions no doubt resulted in misinterpretation of outcomes in prior OJCC reports. During preparation of the 2017-18 OJCC ANNUAL REPORT, an anecdotal example surfaced in which a mediator was responsible for three case numbers assigned to a particular claimant, but all three had been consolidated into one case. This mediator had elected to schedule three mediations, rather than a single mediation for the consolidated cases/issues.¹⁷² 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. This graph illustrates the changes in various outcomes over the last decade.

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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 (not pictured). In 2019-20, there was a notable increase in the volume of “impasse” outcomes, but any concern about that should be weighed against the increases in all of the substantive outcomes that year and the 6.8% increase in mediations held in 2019-20. That the volume of “impasse” has not consistently increased is important as regards the presumptively virtual mediation process adopted in 2021-22. It is noteworthy that the volume of mediation conferences has not decreased over the last four fiscal years, but has increased overall. Despite that increasing volume, the frequency of “impasse” has decreased persistently. The corresponding increased outcomes have been in the settled and “some issues resolved” outcomes. The combination of these findings supports that the virtual mediation process has maintained and facilitated the success of mediation and the resolution of disputes.

While there was a decrease in settlement outcomes in 2022-23, the volume has rebounded in 2023-24. The volume of “settled” outcomes is significantly higher over the last four fiscal years. The same can be said for “all issues resolved except fees,” while the trend in “some issues resolved” has been less consistent but notably increasing. In all, the most compelling measure is the decreasing frequency of “impasse” and the persistent resolution of claims.

The mediation outcomes are more thoroughly reflected in the chart below. This includes the additional outcome of “recessed and reconvened.” This reflects an instance in which mediation was held and discussions occurred. However, the outcome was essentially agreement that the time was not right for resolution and yet there was sentiment that meeting again would be beneficial. This often occurs when a medical appointment is pending that may provide edification as to diagnosis, causation, restrictions, or impairment. Resolution of claims may be hindered or enhanced by perceptions as to the quality and quantity of information at hand. Additionally, this chart provides comparison of year-to-year outcomes as a percentage of total mediations, which provides comparison that is less susceptible to fluctuations in overall volume.

Year	Med. 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%
2016-17	16,079	32.37%	6.11%	13.42%	16.02%	23.59%	8.50%
2017-18	16,167	31.40%	5.75%	11.75%	17.49%	24.80%	8.80%
2018-19	17,056	31.37%	6.05%	11.78%	18.00%	24.41%	8.38%
2019-20	18,211	30.46%	5.80%	11.53%	17.49%	25.35%	9.36%
2020-21	19,442	30.91%	6.50%	13.70%	14.15%	23.16%	11.68%
2021-22	20,109	31.44%	6.95%	14.62%	14.46%	20.60%	11.93%
2022-23	19,917	30.54%	5.52%	14.89%	16.73%	20.53%	11.79%
2023-24	20,484	30.83%	5.17%	14.75%	18.65%	18.77%	11.81%
Average	19,892	29.44%	6.34%	12.78%	15.60%	26.88%	8.87%

Over the last twenty (20) years, the convened state mediations have resolved an average of at least “some issues” approximately sixty-four percent (64.16%) of the time (the sum of averages for outcomes excluding “impasse” and “recess and reconvene”). In 2023-24, approximately sixty-nine percent (69.41%) of convened mediations resulted in resolution of at least some issues,¹⁷³ which is very consistent with the resolution success in recent years. This demonstrated improvement in resolution remains notable as mediation volumes increase, the challenges of the pandemic were overcome, and the mediation process shifted to a new virtual/video paradigm. The marked increase in recess and reconvene since the shift from in-person mediations is notable, averaging close to 12% for the last four years. The “impasse” rate for 2023-24 was a record low, and the success of mediation is reflected in the fact that in each of the last three fiscal years’ mediation impasse has been a record low.

Number of Continuances Granted for Mediations

The mediation continuance trend reversed in 2006-07, remained reasonably stable for two years, and then decreased significantly in 2009-10. The volume reached its lowest recorded level (.16%) in 2020-21. In 2023-24 the volume of continuances decreased to 134, which was very close to the lowest recorded in 2020-21 (114). With the increase in PFB volume, the rate of continuance was .17%. The notably low percentage of mediation continuances is because of the recognition that an appointment might change without that being labeled “continued.” The term was not defined, and the OJCC therefore defined it by rule in 2010.¹⁷⁴ Rescheduling an appointment for a different date within the 130-day statutory parameter is considered a “rescheduling,” rather than a “continuance.” While the continuance volume has fluctuated, the overall rate is reasonably consistent and remains low despite increasing PFB volume. This is likely facilitated by the OJCC shift to predominantly video (Zoom)

mediations in 2021-22. There are some mediations that are continued, but not statistically captured as such in instances of parties failing to appear as noticed. Those outliers are being addressed more consistently.

For historical context, it is important to note the marked continuance increase in fiscal years 2004-05 and 2005-06. The cause of that trend remains unknown. All the same, it coincided roughly with a high volume of weather-related office closures, as Florida endured serial cyclone landfalls, which affected virtually every Florida county. The implementation of the “auto-scheduling” of mediations by the OJCC Central Clerk’s Office also coincides generally with the beginning of the upward trend in mediation continuances in fiscal year 2004-05 (*see right*). Before implementing 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 marked an avoidance of the statutory parameters, and some perceived it as a somewhat contemptuous reaction to the legislative imposition of those time frames. In any event, without mediation being scheduled, there was a natural avoidance of continuance.

This lack of active docket management resulted in significant delay in the mediation of a significant volume of PFBs. When that process changed and mediations were auto-scheduled, the initial reaction seems to have been a higher need for continuance as litigants adapted to the new paradigm and habits changed. The effects of not immediately scheduling 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 (trial 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, better resolutions, and less need for continuances.

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%) had that year averaged less than the statutory 130 days between PFB filing and initial mediation.

That achievement has been repeated each year since; 15 consecutive fiscal years.

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%
2020-21	69,676	114	0.16%
2021-22	71,733	137	0.19%
2022-23	76,633	159	0.21%
2023-24	81,145	134	0.17%

Number of Continuances Granted for Final Hearings

Since the pandemic, continuance volume has declined despite increased PFB volume. The continuance rate in 2023-24 is the lowest on record. This likely has some relation to the ongoing availability of video trials in some circumstances and the convenience that may offer. Still, that alternative has been available for some time. The second potential explanation is an increasing tendency to settle rather than proceeding to trial. That trend may be alleviating calendar congestion and affording parties ready trial date alternatives when rescheduling is required. When a hearing is changed to a different date, but within the 210-day statutory parameter, it is labelled “rescheduled” rather than “continued.”

Anecdotally, attorneys have historically complained that continuance occurs too infrequently. A perception has been periodically voiced that the reporting of data in this report inappropriately influences judicial performance, with judges perceived as denying continuances for the sole motivation of posting more appealing numbers in this report. This generalized criticism may refer either to the volume of continuances, the measure of days between

PFB filing and trial, or otherwise.¹⁷⁵ Though one must concede the potential for such influence, it is doubtful any of the current JCCs would be so inclined.¹⁷⁶ Despite that confidence, there are periodic times when a judge has repeatedly continued a final hearing. The record in those instances can be difficult to track and decipher based on insufficient and sometimes inaccurate data collected and recorded by the assigned judge. Though it is unfortunate, some adjudicators struggle with the responsibility of enforcing the statute as written and actively managing a docket. 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.¹⁷⁷

Understanding of process is of benefit in this regard. Some judges schedule trial on each PFB as soon as that PFB arrives in the particular Division. This results in scheduling trial on some quantity of PFBs that will be resolved or otherwise dismissed by the time mediation is concluded. The benefit of this method is maximized notice of trial, the detriment is congested judicial calendars and significant staff effort. Other judges do not schedule trial until after the outcome of the mediation process is known. This results in fewer total trials being scheduled by that particular judge and less calendar congestion, but shorter notice of trial. 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 support greater efficacy of either alternative. That said, the rate of continuance likely decreases in 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 plan. Thus, the less likely parties are to need a continuance for reasons otherwise within their control. *See* § 440.25(4)(b), Fla. Stat.

The available data supports that trial continuances per JCC have declined from seventeen and one-half (17.5) per month in fiscal year 2002-03, to three (2.8) per month in fiscal 2023-24. This downward trend is likely attributable to better OJCC case management software, some relaxation of individual JCC dockets resulting from decreased overall PFB filing rates since the early twenty-first century, and the availability of video hearings, flexibility, and convenience. The confluence of available technology, coupled with increasing technology acceptance by judges and lawyers, is likely a major contributor to the marked decrease in trial continuances.

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 then continued to avoid the standardized definitions in the OJCC Operations Manual,¹⁸⁰ and instead utilized their own definition of “continuance.” These mischaracterizations historically contributed to some volume of “rescheduled” hearings being reflected erroneously in the database as “continuances.” Therefore, these mischaracterizations are known to be responsible in part for the figures reported above, for fiscal years prior to 2008-09 and less so after that. As with any change, there has likely been some challenge with familiarizing technology and definitional changes throughout the many process changes during the last 20 years.

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
2016-17	3,069	99	8.3
2017-18	2,969	96	8.0
2018-19	2,419	78	6.5
2019-20	2,369	76	6.4
2020-21	1,659	54	4.5
2021-22	1,447	48 ¹⁷⁸	4.0
2022-23	1,284	43 ¹⁷⁹	3.6
2023-24	982	34	2.8

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Outcome of Litigated Cases

When a PFB is filed, it is usually filed electronically.¹⁸¹ Self-represented parties may file paper PFBs, which are then scanned and uploaded to the database.

This database affords anyone with Internet access the opportunity to view the PFB, a great modern convenience. The ease of information access is empowering and democratizing. Even so, in the pandemic, there was anecdotal evidence that some still lack stable Internet access; a subtle reminder that the workers' compensation community is diverse, and the OJCC must remain flexible and responsive to various abilities and needs as to process, access, and function.

Once the PFB is in the database, it is assigned to a judge and the OJCC Database Application (JCCA) auto-schedules an appointment for State mediation (*see* page 38). The combination of attorneys using eFiling (eJCC) and the described clerk-upload process has resulted in significant postage savings, particularly in the last decade since electronic filing was mandated and eService was introduced.¹⁸²

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."¹⁸³ This allows judges and attorneys to easily monitor activity in their assigned cases. Similar tools allow viewing of all upcoming calendar events in all cases, for verification and confirmation with a lawyer's calendar or case management system. The portable document format (PDF) image of the PFB, whether e-filed or scanned by the clerk (when filed by an unrepresented party), becomes the OJCC "original," and is viewable by any judge in the state, and by registered attorneys and parties associated with each case, as are all subsequently filed documents. The flexibility and dynamism of this process facilitates great responsiveness, which was notable during the pandemic perseverance of this Office and the workers' compensation community.

Thus, when the PFB assignment arrives in its assigned Division (each judge and assigned staff is a Division), a mediation appointment has been automatically scheduled (auto-set), but no notice has yet been sent to the parties. Statutorily, no notice of mediation is sent, until 40 days following the PFB filing.¹⁸⁴ Although an appointment is "set" when the PFB arrives, attorneys have an ample window of opportunity to call the assigned mediator or staff and select a different convenient date, before any notice being emailed by the OJCC database. Few attorneys consistently avail themselves of the benefit of this opportunity to select their own, convenient, mediation date. That said, the use of this process by some savvy attorneys may be decreasing the need to seek continuance of mediation appointments (*supra*, page 39).

In 2021-22, DOAH leadership elected to begin closing OJCC District Offices; that persisted in 2022-23.¹⁸⁵ The closure of offices impacts communities, and potentially results in extensive distances between injured workers, employers, and remaining District offices. This deterioration of OJCC community presence concerned OJCC leadership. DOAH leadership accommodated in a major alteration of mediation services, adoption of virtual mediation as the presumptive paradigm. By 2022-23, all mediators transitioned to consistent presumptive use of virtual mediation using the Zoom Internet video platform. By the end of the fiscal year, this had markedly equalized the volume of work assigned to the various mediators. The increased efficiency in mediator scheduling has been immediate. Potentials remain for further economy through limited security services at the remaining offices.

This affords greater consistency in calendar availability, and random mediator assignment was implemented late in fiscal 2021-22. As part of that adjustment, all state mediator calendars were standardized, and time zone distinctions were eliminated. Before this realignment, various mediators each had complete schedule autonomy.

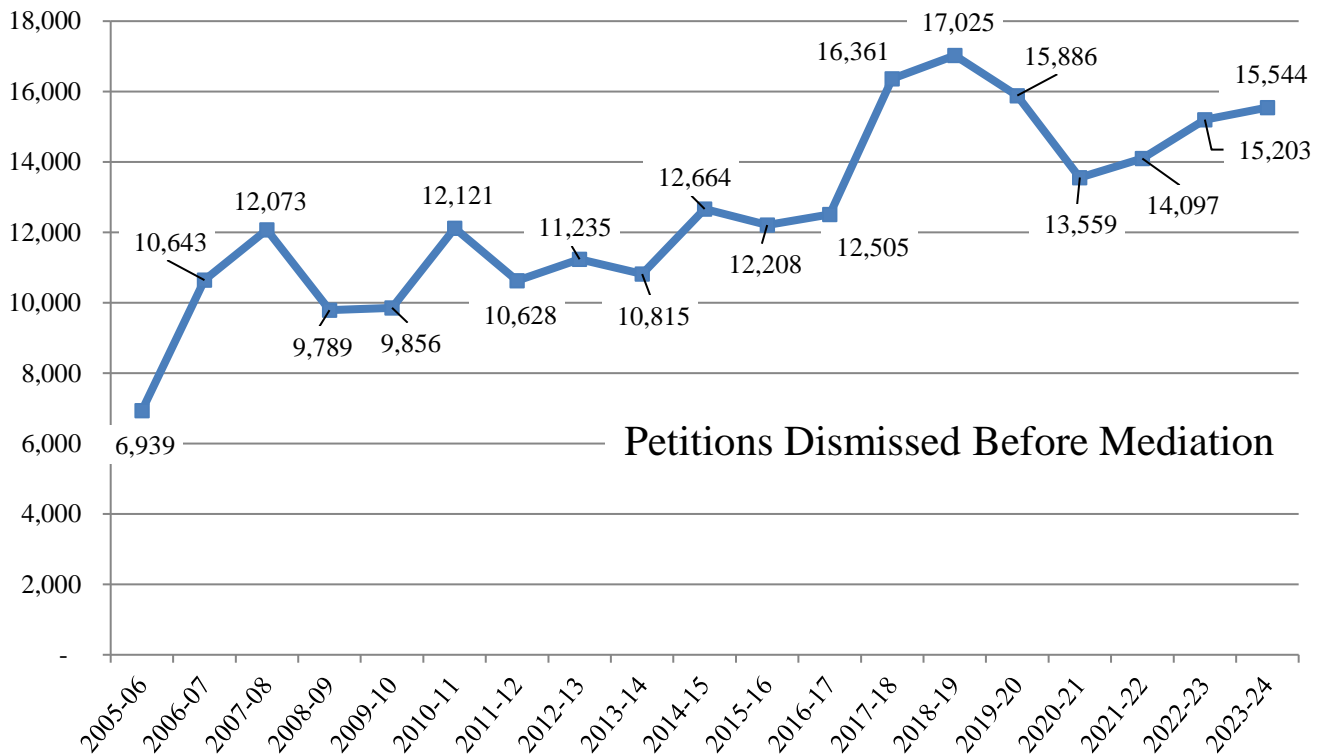
Fiscal Year	PFB Filed	PFB Dismissed Before Mediation	% Dismissed Before Mediation
2002-03	151,021	2,374	2%
2003-04	127,458	8,032	6%
2004-05	107,268	4,253	4%
2005-06	90,948	6,939	8%
2006-07	82,607	10,643	13%
2007-08	72,718	12,073	17%
2008-09	73,863	9,789	13%
2009-10	67,971	9,856	15%
2010-11	64,679	12,121	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%
2016-17	70,365	12,505	18%
2017-18	70,295	16,361	23%
2018-19	73,146	17,025	23%
2019-20	72,086	15,886	22%
2020-21	69,676	13,559	19%
2021-22	71,733	14,097	20%
2022-23	76,633	15,203	20%
2023-24	81,145	15,544	19%

This meant that one mediator might start at 08:00, another at 08:30, and yet another at 08:45. The scheduling intervals might be for 30, 45, or 60 minutes. Thus, there was significant variety and inconsistency from one mediator to the next. This frustrated professionals with the potential for multiple calendar commitments and increased the potential for calendar conflicts. The new standardized scheduling has all state mediators scheduling one-hour appointments at 09:00, 10:00, 11:00, 12:30, 13:30, 14:30, and 15:30 Eastern Time. There is thus increased consistency, which should facilitate calendar management and minimize mediation conflicts. The elimination of Central Time avoids the potential for confusion or error both in scheduling and calendar coverage.

The workers' compensation community, including attorneys, adjusters, risk professionals, and others has raised questions and even criticisms of the change in presumptive mediation process. The previous process afforded those with localized practices or businesses significant predictability through familiarity with a likewise local mediator(s). The new paradigm exposes all litigants and professionals to the full spectrum of 30 state mediators, styles, backgrounds, and strengths. As predicted, however, the complaints and criticism have decreased markedly since early 2022-23; familiarity and comfort with the new process has increased.

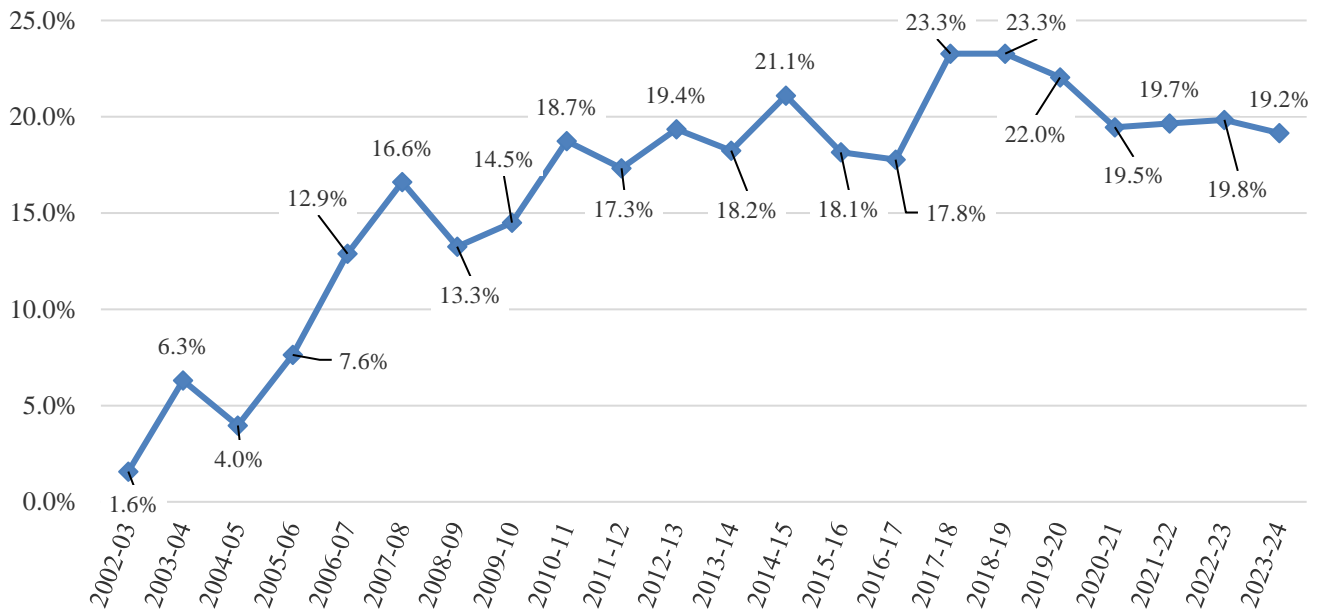
Most PFBs require mediation.¹⁸⁶ Alternatively, some judges utilize section 440.25(4)(h), Florida Statutes, and schedule "expedited" final hearings on some portion of the PFBs assigned to them. The expedited process leads to faster resolution of some issues, which involve minor expense¹⁸⁷ as mediation is not required on claims suitable for expedited final hearing. That said, this practice has declined with the decreasing volume of PFB filings in the second decade of the 21st century. With increasing PFB volumes, coupled with decreased mediator staffing (30 currently), it is likely that the expedited process will bear further scrutiny in coming years. PFB filing increases may influence judicial decision-making regarding the choice between the expedited hearing process and a private mediation referral.¹⁸⁸

A reasonable volume of PFBs, already scheduled for mediation, will be dismissed before that event. The volume of PFBs dismissed before mediation had historically fluctuated markedly, as shown by the graph below. The dismissal volume increased notably beginning in 2017-18, which persisted until 2020-21 when there was a notable decrease. Since then, the volume of PFBs dismissed has been increasing annually, but not approaching the peak in 2018-19.



The increase in dismissals, illustrated in this graph, was significant in gross terms since the turn of the century. Any PFB might be dismissed in the same fiscal year during which it was filed. Similarly, however, a PFB might be filed one fiscal year and dismissed in some year after the filing year. Despite the potential of such temporal differences, the comparison between PFB filed and PFB dismissed before mediation, admittedly not a perfect comparison, depicts a notable trend of a seemingly increasing propensity to resolve issues and dismiss PFBs, which moderated since the pandemic. Changes in the mediation process also likely influenced this change, including telephonic and other virtual mediation attendance. It therefore bears monitoring the frequency of dismissal. The 2022-23 OJCC ANNUAL REPORT noted that recent consistency might reflect a “new normal.” The consistency of 2023-24 supports that conclusion.

PFB Dismissed Before Mediation as % of PFB Filed



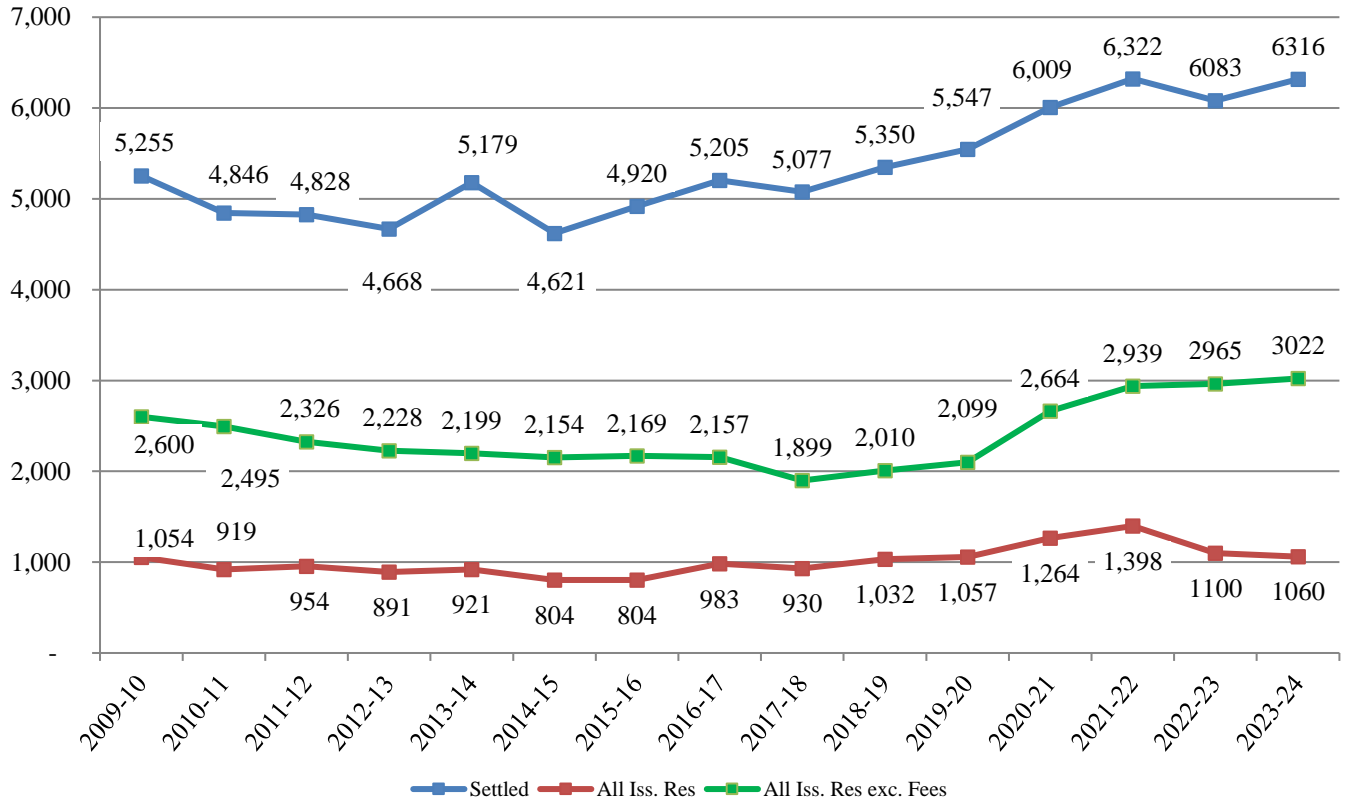
As for the increase beginning in 2017-18, attorneys may have been more inclined to file PFBs following the judicial interpretations of section 440.34, Florida Statutes, in *Castellanos*;¹⁸⁹ though there are no indicia¹⁹⁰ of any significant similar increase following the *Murray*¹⁹¹ decision in 2008. It is also possible that the imposition of “prevailing party” costs awardable to the employer/carrier by the 2003 legislative amendments play a role in the decisions to dismiss PFBs more readily. Though that 2003 amendment is 20 years past, 2010 and 2011 appellate decisions brought the issues into clearer focus.¹⁹² Still, there is no indicia of changed dismissal frequency at that time; this should be monitored for potential influence of hourly fee availability following the Supreme Court’s *Castellanos*¹⁹³ decision.

If a particular PFB is not set for expedited hearing, then the assigned mediator will either accept the auto-scheduled mediation appointment or select an alternative date. On about¹⁹⁴ the fortieth (40th) day after the PFB is filed, the JCC Application database (the case management program that is the foundation of internal operations, eFiling, and eService) transmits a notice of mediation to the parties and attorneys associated with that case. Some JCCs schedule and provide notice of the pretrial and final hearing concurrently with mediation notice. This single notice for three hearings affords significant opportunity to plan litigation calendars 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 and likely reduces continuances by maximizing notice (*see* page 39).

Sending notices was a manual process for many years, with each notice requiring word processing, an envelope, and First-Class postage. In 2004, the innovated automated postcard notices, eliminating significant supply, postage, and labor expense. But some judges mail manual notices earlier (before the 40th day statute),¹⁹⁵ to afford parties more notice of the hearing dates and in further attempts to forestall the need for continuances. With the

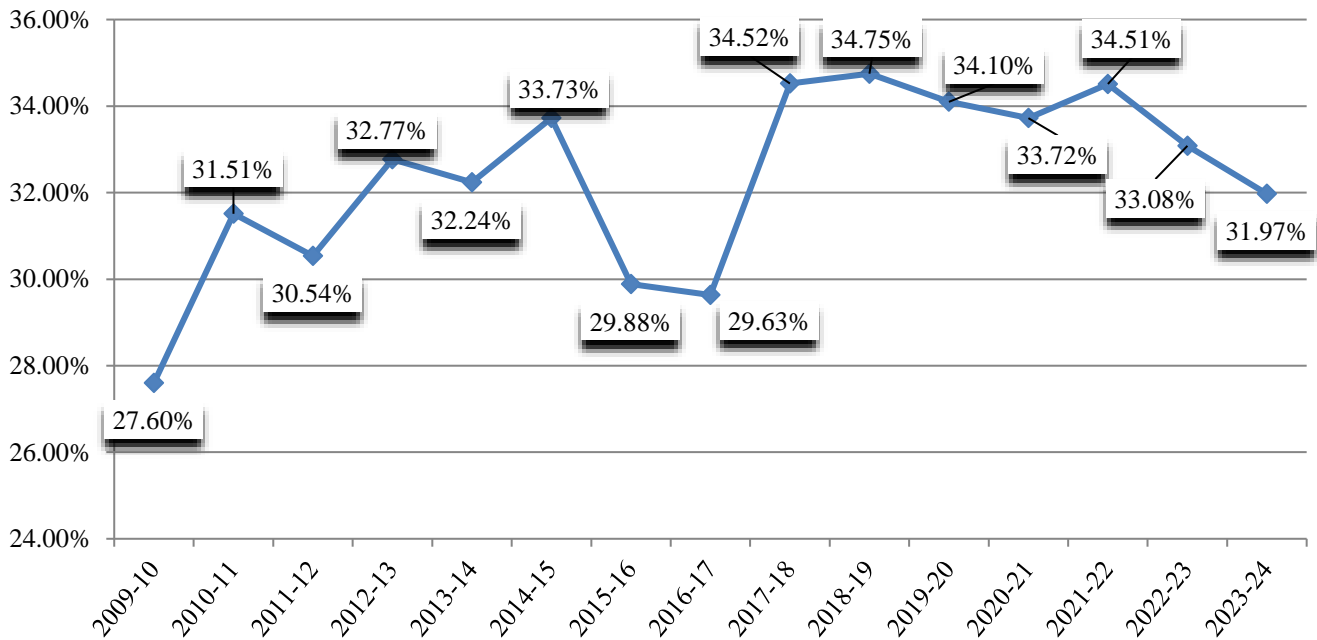
implementation of eService in the OJCC eFiling program, use of postage and envelopes is now minimal, with only self-represented (*pro se*) litigants generally receiving paper copies by U.S. Mail.¹⁹⁶

Once a mediation conference is convened, any of the following mediation outcome characterizations would reflect that the pending PFBs have 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.” The full spectrum of potential mediation outcomes is discussed more fully on pages 35-36. When these three (3) mediation “resolution” outcomes are combined, the total reflects the frequency at which the pending PFB(s) are 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 fifteen (15) fiscal years. All three are positive mediation outcomes, and each is generally trended upward in recent years, with the “all issues resolved” being an exception more recently.



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 somewhat 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. Partial resolutions also suggest progress through mediation, *see* pages 35-36.

Often, it is the resolution of small issues that helps 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 other PFB issues left unresolved at mediation, such as entitlement to temporary or permanent indemnity payments. If issues remain unresolved at mediation, the remaining PFB issues must then be scheduled (or remain so) for pretrial and final hearing. But if that medical evaluation then results in information on 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 of 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 15 years. This metric has been remarkably consistent for five of the last six 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). These remaining PFBs are also very likely to contribute to the assigned JCC’s motion volume.¹⁹⁷ 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 before mediation is combined with the volume of PFBs that resolved at mediation (conservatively presuming one mediation equals one PFB), the graph above illustrates the percentage of PFBs filed that were resolved, either before or at mediation, during the last fifteen (15) fiscal years. This illustrates that in 2023-24, approximately sixty-eight percent (68.03%) of PFBs include some issue or issues that remain unresolved at the end of mediation. The year-end total of trial order volume supports that almost all of those with remaining issues after mediation still resolve before trial as evidence and arguments become increasingly clear to the parties.

An approximate volume of PFB unresolved at the conclusion of mediation has consistently been between 65% and 70% over the last 13 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 (“some issues resolved,” *see* page 35-36), and yet the PFB itself remains “unresolved,” because of other pending issues therein. The success of mediation, as a process for narrowing issues and focusing disputes, cannot be adequately measured by the volume of “total” resolutions achieved, but this metric is a significant measure of the trial and motion calendar workload of the OJCC overall.

Amount of Attorney Fees Paid 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.¹⁹⁸ *See* §440.34, Fla. Stat.¹⁹⁹ There is no such specific requirement for the approval of fees paid by employer/carriers for their defense counsel representation.²⁰⁰ Despite the absence of such a specific requirement for defense fee approval, the broad language of section 440.105(3)(b), Florida Statutes²⁰¹ might require OJCC approval of defense attorney fees. That said, this statutory authority has historically not been interpreted to require approval of defense attorney fees, although some claimants’ attorneys and groups have questioned this interpretation.

The OJCC has required employers and insurance carriers to report their individual total annual expenditures for aggregate defense fees.²⁰² Since fiscal year 2010-11, the OJCC rules have required that reporting by September 1 of each year (it is reasonably common for stragglers to still file during September). The final reporting in 2021-22

was in mid-October. In 2022-23 and 2023-24, it was in late September. This timing can present challenges. The potential for error, redundancy, and omission also remain a persistent concern with these aggregate reports.

Because these defense fee figures are reported in the aggregate, it is impossible to consider whether cost reimbursement to E/C attorneys has been included in the figures reported by the various carriers.²⁰³ Furthermore, this information about defense fees expended during the fiscal year does not provide any edification regarding the respective dates of accident involved with those fees were paid during that fiscal year.

In 2021-22, another flaw was discovered and investigated. In case number 17-023664, the assigned judge entered a March 28, 2022, order approving²⁰⁴ a fee stipulation regarding Claimant fees. That approved a sum certain through the date of the order and prospectively approved the Claimant’s attorney recouping future fees of a fixed percentage (15%) of future payments Claimant received. Those future payments will likely never be reported to this Office. It is therefore very likely that some level of underreporting of Claimant fees has occurred and will continue. It is impractical to quantify the extent of the impact of this odd process.

Using the defense fees reported pursuant to rule²⁰⁵ and the actual claimant fees approved, the aggregate fees in the Florida workers’ compensation system first exceeded \$500 million twice recently, in 2019-20 and 2021-22. Following a second regression below that threshold in 2022-23, in fiscal year 2023-24, the aggregate was \$525,201,451, *see* page 46. While this is noteworthy, the value of aggregate attorney fees has exceeded the half-billion-dollar mark in multiple prior years, if the actual figures in those years is instead expressed in present dollars (adjusted for inflation for comparison, *see* page 47); that illustrates that aggregate fees in 2002-03 through 2006-07 each exceeded \$700 million in 2024 dollars.

Order Year 2023-24 Attorney Fees

Previous OJCC annual reports detailed payment of claimant attorney fees based on the best information available when those reports were prepared. The OJCC gathers claimant attorney fee data through the JCC Application database. As fee orders are uploaded, fee amount data is captured. The District staff is responsible for the input of the fee and cost amount data for each individual fee approval order entered, and their efforts are monitored and audited. The database currently produces, for fees approved in prior fiscal years, annual totals for claimant attorney fees different from what was reported in OJCC annual reports for those years. It is believed that after the initial calculation of those figures and issuance of those prior OJCC annual reports, additional information was entered by District staff.²⁰⁶ Those figures have therefore been corrected in more recent annual reports, as noted in the chart on the following page.

During 2023-24, \$525,201,451 was paid in combined claimant attorney fees and defense attorney fees²⁰⁷ (and perhaps defense “costs,” *see* endnote 203) in the Florida workers’ compensation system.

Fiscal Year	Claimant Attorney Fees	Percent Change	Defense Attorney Fees	Percent Change
2002-03	\$210,660,738		\$216,698,474	
2003-04	\$215,322,360	2.21%	\$226,585,434	4.56%
2004-05	\$211,157,073	-1.93%	\$259,021,415	14.32%
2005-06	\$208,369,260	-1.32%	\$290,172,000	12.03%
2006-07	\$191,197,443	-8.24%	\$277,386,580	-4.41%
2007-08	\$188,701,256	-1.31%	\$260,160,946	-6.21%
2008-09	\$181,660,686	-3.73%	\$269,280,414	3.51%
2009-10	\$176,996,765	-2.57%	\$269,657,104	0.14%
2010-11	\$157,081,084	-11.25%	\$259,323,175	-3.83%
2011-12	\$152,848,003	-2.69%	\$242,446,703	-6.51%
2012-13	\$151,889,627	-0.63%	\$240,894,494	-0.64%
2013-14	\$141,858,184	-6.60%	\$237,364,154	-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%
2016-17	\$185,676,766	36.07%	\$253,932,265	4.88%
2017-18	\$198,653,393	6.99%	\$254,525,798	0.23%
2018-19	\$216,905,845	9.19%	\$257,031,186	0.98%
2019-20	\$240,867,847	11.05%	\$266,787,990	3.80%
2020-21	\$241,105,336	0.10%	\$253,400,379	-5.02%
2021-22	\$236,691,235	-1.85%	\$267,552,528	5.58%
2022-23	\$228,162,186	-3.60%	\$265,959,585	-0.60%
2023-24	\$251,750,922	10.34%	\$273,450,529	2.82%

This represents a 6.3% increase from the 2022-23 aggregate fee total of four hundred ninety-four million one hundred twenty-one thousand seven hundred seventy-one dollars (\$494,121,771). Recent years have demonstrated fluctuation in this aggregate following a more consistent increase trend for five fiscal years between 2015-16 and 2020-21.

Perhaps the recent fluctuations reflect challenges related to the pandemic and the return to economic and employment trends more consistent with the pre-pandemic era. But the actual cause of the fluctuations is difficult to discern in light of the incongruity between claimant and defense. Defense fees have varied notably in the last five fiscal years. Claimant fees highlighted a notable trend to increase in 2018-19 and 2019-20, but then stalled (2020-21) and trended down for two years (2021-22 and 2022-23), *see* page 45. With rampant inflation, and in light of the two recent prior years of decrease, despite inflation, the 2023-24 significant increase was perhaps not unanticipated.

The aggregate attorney fees in Florida workers' compensation are detailed in this chart. This illustrates the total fees for both claimant and defense and then provides the percentage that each make of the whole. The distribution of the fee aggregate demonstrates significant change in the 21st century. Early, the aggregate was relatively even, 49.3% Claimant and 50.7% defense in 2002-03. That near parity eroded with significant consistency through 2015-16, which was near the Claimant fee nadir of 2014-15, \$136,180,202. Though there has been recent progress, and near parity in 2020-21, the predominance of defense fees has nonetheless persisted, though the marked increase in Claimant fees moderated that balance in 2023-24.

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%
2016-17	\$439,609,031	42.24%	57.76%
2017-18	\$453,179,191	43.84%	56.16%
2018-19	\$473,937,031	45.77%	54.23%
2019-20	\$507,655,837	47.45%	52.55%
2020-21	\$494,505,716	48.76%	51.24%
2021-22	\$504,243,763	46.94%	53.06%
2022-23	\$494,121,771	46.18%	53.82%
2023-24	\$525,201,451	47.93%	52.07%

Beginning with the marked increase in Claimant fees in 2016-17, 36.07%, Claimant fees demonstrated notable increases for four years, through 2019-20. Those increases did not bring parity between Claimant and defense. Still, the defense fees decrease in 2020-21 (-5.02%) brought the two the closest to parity since 2003-04. The notable 2020-21 defense fee decrease might have marked a trend, but in retrospect, appears to have been an anomaly. It has been noted that defense fees appeared more elastic in the pandemic as travel and in-person appearances waned. Defense fees are predominantly paid on a per-hour basis, and this is therefore more subject to impact from time-saving or time-wasting factors.²⁰⁸ It is likely that technology similarly benefited the claimant's practice during the pandemic, but was less evident in fees because of their predominately contingent (percentage of recovery) nature.

There is some tendency to focus on the aggregate of attorney fees exceeding one-half billion dollars, as it did in 2019-20 for the first time, in 2021-22 and 2023-24. That said, if the last 22 years are considered in light of inflation,²⁰⁹ the significance of those three years pales. Adjusted for inflation, in 2024 dollars, the aggregate of attorney fees has exceeded that threshold in 20 of those years (91%). In fact, ranked by the inflation-adjusted values, the aggregate in 2023-24 is the fifth lowest total in the twenty-two-year history (noted in the chart in red text, page 47). The years with an inflation-adjusted total below \$500 million are 2014-15 and 2015-16.

The Claimant fee increases in 2016-17, following *Castellanos*²¹⁰ and *Miles*²¹¹ was significant and was seen then as supporting probability of ongoing fee increases. The trend after supported that hypothesis. The 2019-20 increase of 11% resulted in the highest claimant attorneys' fee total ever reported by the OJCC²¹² (\$240,867,847, *see* endnote 238). The 2023-24 increase in Claimant fees was significant (10.34%); that total (\$251,750,922) is now the highest claimant total ever reported (subject to the discussion *above* about inflation). The highest annual total considering inflation was 2005-06, \$778,466,242, which is significantly higher than the 2023-24 fees.

Defense fees remain the greater portion of the overall aggregate fees paid, at 52.07%. The defense-fee portion had trended consistently down beginning in 2016-17 (following *Castellanos*²¹³ and *Miles*²¹⁴) for five years, until 2021-22. After two years of defense percentage rising, the significant 2023-24 increase in Claimant fees has returned the current balance (47.93%/52.07%) close to that at the beginning of the 2020 pandemic.

As explained on pages 54-55, there is a tendency for notable delay between date of accident and settlement of a workers' compensation case. It is likely that a significant portion of Claimant fees each year are related to work done in prior years, and most Defense fees paid in a year were more likely attributable to work that year. Thus, in any event, the comparison of these annual figures requires some consideration of that difference.

This report first noted the inflation effect about fees in the 2011-12 OJCC ANNUAL REPORT. Since then, each present-year Claimant and Defense fees have been compared to the 2002-03 figures for context. The analysis above is more detailed and provides historical overview, but only as to aggregate figures. The comparison of the 2002-03 figures for each component, however, provides a broad comparison illustrative of change without the various intervening fluctuations and trends. According to the U.S. Inflation Calculator,²¹⁵ the 2002-03 aggregate (\$427,359,212), in 2024 inflation-adjusted dollars, would have been \$731,146,579.²¹⁶ This is \$218,978,518 more than the actual 2022-23 aggregate of \$494,121,771. Adjusted for inflation in 2023 dollars, aggregate attorney fees in Florida workers' compensation have *decreased* about \$219 million in the last twenty years, despite some notable recent increases in fees. Frankly stated, aggregate attorney fees have not kept pace with inflation for either Claimant or defense.

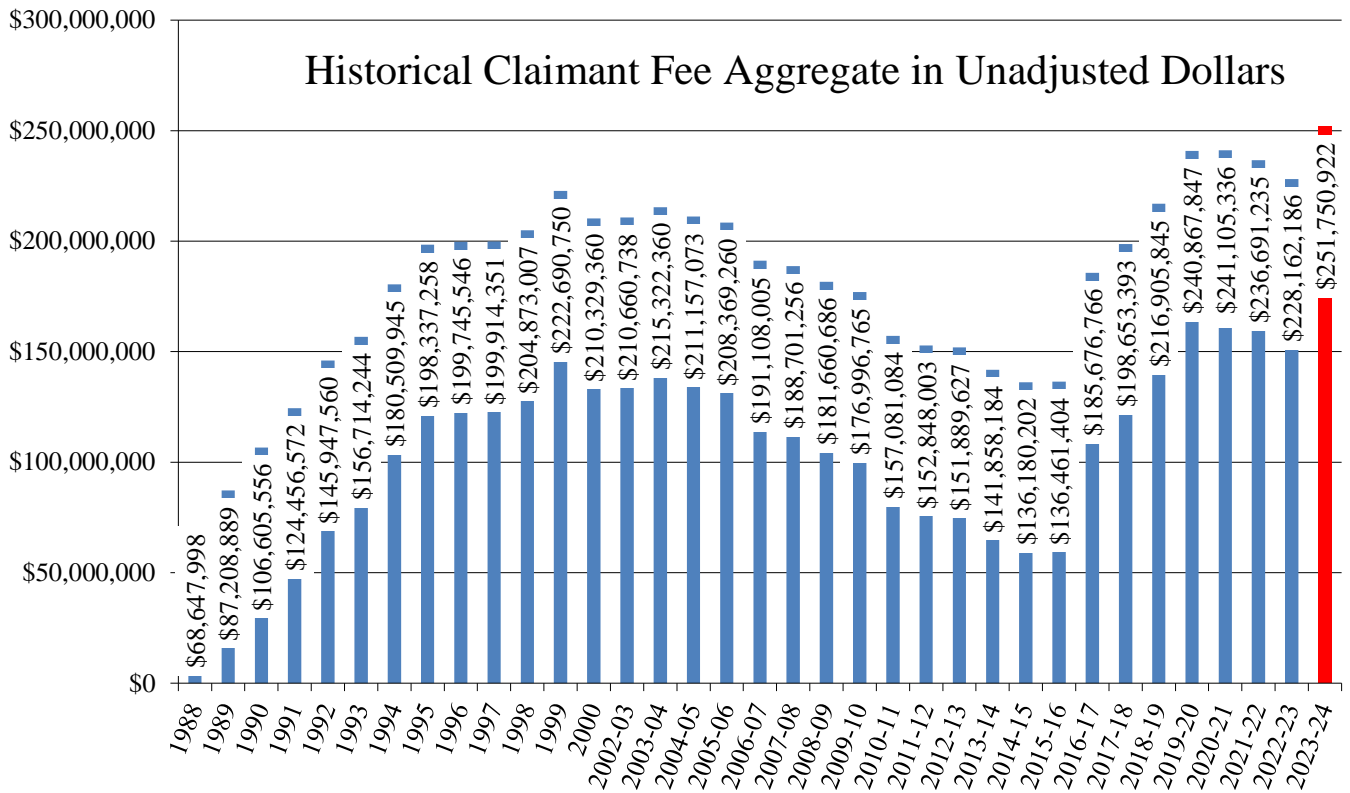
Over the 19 years since the 2003 legislative reforms, claimant fees are up about 19.5% (up from 8.31% in 2022-23) and defense fees are up about 26.19% (up from 22.73% in 2021-22). Each remains notably less than they would have been had the 2002-03 figures increased linearly consistently with inflation (-43.16% Claimant and -35.58% Defense).

The DLES compiled data regarding the attorney fees paid to claimants' counsel for several 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. But the DLES figures may be for calendar years,²¹⁷ not fiscal years. It is further instructive to note that the DLES figures for attorney fees paid for claimants' counsel likely include costs, as the ability to easily differentiate fees from costs did not exist until the OJCC database was deployed in 2002. On the other hand, 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 (as mentioned, perhaps fees combined with costs) paid from 1988 through 2000 and the claimant fees paid from fiscal years 2002-03 through 2023-24.

Fiscal Year	Aggregate Fees	Adjusted for inflation in 2024 dollars
2002-03	\$427,359,212	\$731,146,579
2003-04	\$441,907,794	\$736,425,653
2004-05	\$470,178,488	\$757,861,277
2005-06	\$498,541,260	\$778,466,242
2006-07	\$468,584,023	\$711,425,452
2007-08	\$448,862,202	\$656,284,519
2008-09	\$450,941,100	\$661,678,193
2009-10	\$446,653,869	\$644,810,743
2010-11	\$416,404,259	\$582,746,412
2011-12	\$395,294,706	\$541,987,997
2012-13	\$392,784,121	\$530,771,216
2013-14	\$379,222,338	\$504,264,983
2014-15	\$370,772,783	\$492,444,799
2015-16	\$378,573,902	\$496,541,976
2016-17	\$439,609,031	\$564,569,046
2017-18	\$453,179,191	\$568,120,350
2018-19	\$473,937,031	\$583,568,929
2019-20	\$507,655,837	\$617,469,995
2020-21	\$494,505,716	\$574,485,815
2021-22	\$504,243,763	\$542,392,645
2022-23	\$494,121,771	\$510,490,764
2023-24	\$525,201,451	\$525,201,451

Fiscal Year	Claimant Attorney Fees	Percent Change	Defense Attorney Fees	Percent Change
2002-03	\$210,660,738		\$216,698,474	
2023-24	\$251,750,922	19.51%	\$273,450,529	26.19%
2002-03 Inflation adjusted	\$360,408,466	-43.16%	\$370,738,113	-35.58%

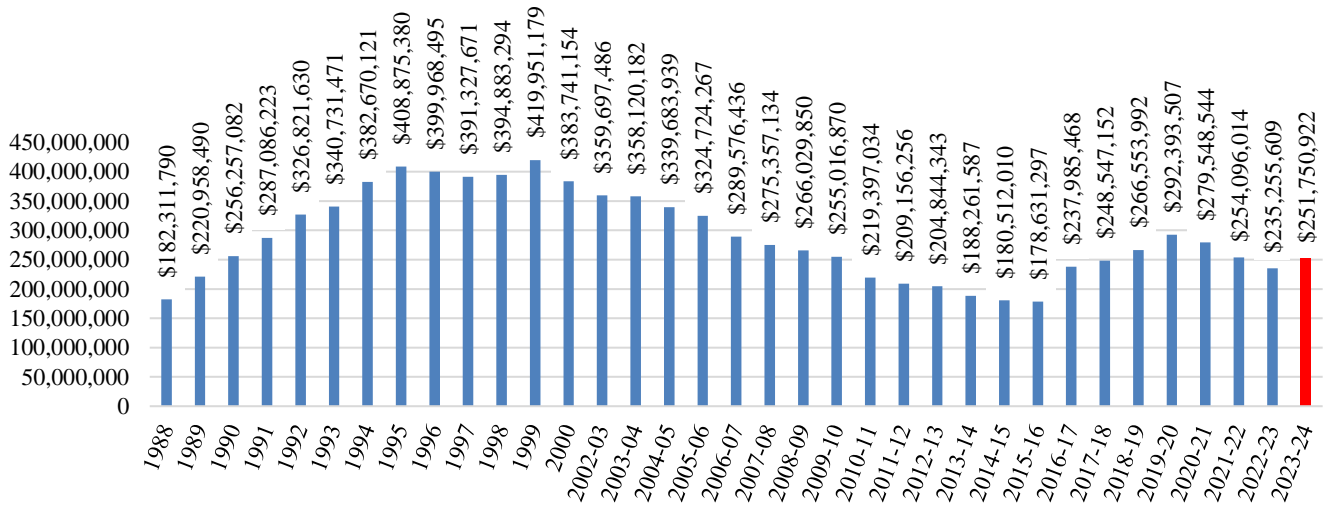


The 2023-24 claimant fees are the highest in this illustration period (1988 to 2023-24). Over the four fiscal years following 2015-16, claimant fee annual totals increased notably and persistently (36.07%, 6.99%, 9.19%, and 11.05%). The three years that followed were statistically even (.10%) and decreases (-1.83% and -3.60%). Nonetheless, the 10.34% increase in 2023-24 is notable. Claimant attorney fees in 2023-24 were \$115,289,518 above the fees in 2015-16, an increase of 84% over eight years. But if the previous high in 1999 (\$222,690,750) is adjusted for inflation, it would equal \$419,951,179 in 2023-24 dollars,²¹⁸ significantly more than the actual 2023-24 figure of \$251,750,922. Thus, reinforcing again that while fees are increasing, the figures have not kept pace with inflation (*see* page 47). Some of that is undoubtedly related to the decreasing “frequency” of workplace injury, as well as markedly diminished litigation volumes overall (*see* pages 16-17).

The overall claimant fees in workers’ compensation are illustrated in the following graph from 1988 to present (although data for 2001 has been difficult to determine), adjusted for inflation in 2024 dollars. These figures show fluctuation in fees, but notably a reasonably steady decrease in annual aggregate following the 2003 statutory reforms. The trend changed in 2016-17, as discussed above, coincident with the decisions in *Castellanos*²¹⁹ and *Miles*.²²⁰ The following provides clearer context regarding the trends and volumes of Claimant’s fees over a longer period.²²¹ Viewed in this inflation-adjusted perspective, aggregate claimant fees are currently close to the 2009-10 and 1990 totals.

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Historical Claimant Fee Aggregate in 2024-Adjusted Dollars



The *Castellanos* effect

The effects of the *Castellanos*²²² decision were apparent in the 2016-17 attorney fee figures (non-settlement, hourly fees in green, graph below). Claimant’s fees increased 36.07% overall that year. Most of that increase was in the category “non-settlement hourly” fees. That category (likely E/C-paid) increased from \$25,866,295 in 2015-16 to \$75,743,917 in 2016-17, an increase of almost \$50 million (+193%), which has since somewhat moderated. By comparison, there was a much less significant increase in the settlement fees (at least nominally Claimant-paid²²³) from \$94,428,009 in 2015-16 to \$99,066,123 in 2016-17, an increase of about \$4.6 million (+5%)(below in “*Miles*” effect). Since 2016-17, the hourly fees have slowly moderated over a seven-year period, trending slowly downward, but remaining well above the 2015-16 baseline. The hourly fees rebounded somewhat in 2023-24, but remain more than double the 2015-16 total. If inflation is considered, the impact is moderated somewhat, but the cumulative increase still exceeds 95%:

	Non-Settle, Hourly	Actual		Non-Settle, Hourly	Inflation Adjusted
2015-16	\$25,866,295		2015-16	\$33,859,609	
2023-24	\$66,086,090	155.49%	2023-24	\$66,086,090	95.18%

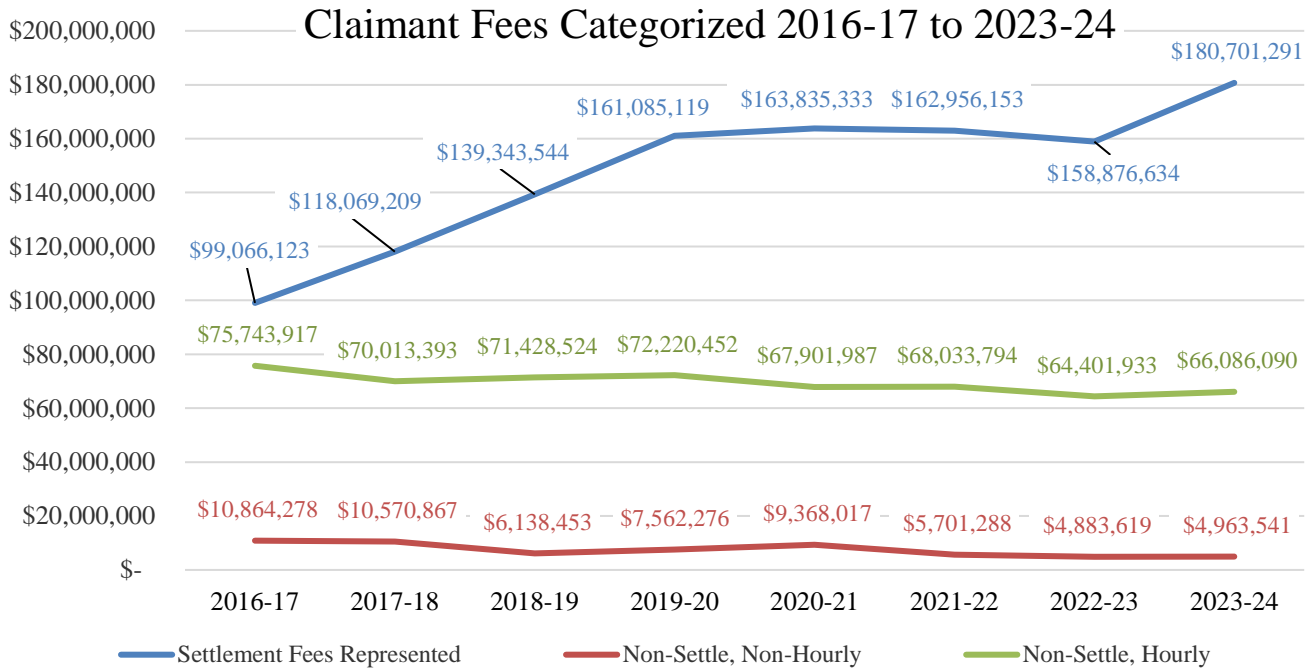
The *Miles* effect

The effects of *Miles*²²⁴ (settlement fees in blue, graph below) were comparatively less apparent in 2015-16, but increasingly predominant afterward. The settlement fees (*Miles*) increased from \$94,428,009 in 2015-16 to \$99,066,123 (+19%) in 2016-17; the increase thereafter continued at a more significant pace. The aggregate settlement fee volume remained remarkably stable for four years (2019-20 to 2022-23) and trended slightly down in 2022-23. However, the increase in 2023-24 was notable, 14%.

Fiscal Year	Claimant Attorney Fees	Percent Change	Defense Attorney Fees	Percent Change
2002-03	\$210,660,738		\$216,698,474	
2023-24	\$251,750,922	19.51%	\$273,450,529	26.19%
2002-03 Inflation-adjusted	\$360,408,466	-43.16%	\$370,738,113	-35.58%

	Settlement Fees Represented	Actual
2015-16	\$94,428,009	
2023-24	\$180,701,291	91.36%

	Settlement Fees Represented	Inflation Adjusted
2015-16	\$123,608,560	
2023-24	\$180,701,291	46.19%

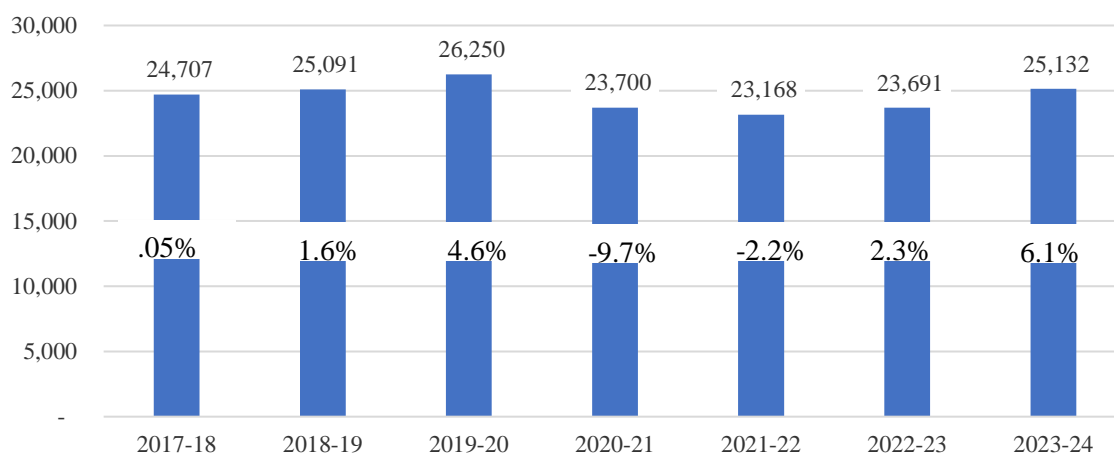


Some portion of the increased or decreased fees year-over-year might be explained by a change in the volume of represented settlements, a higher or lower value of those settlements, or a different portion of those settlements being paid in fees.²²⁵ Similarly, the aggregate value of settlements, and the average represented settlement might be impacted by inflation. The settlement fees in 2019-20 were significantly increased (+16%), but the volume of settlements was notably higher as well (+4.6%).²²⁶ But that caveat is not seen in some other years since *Miles*. Despite a 9.7% decrease in the volume of settlements in 2020-21, the settlement fees increased (+1.7%) rather than decreased. Despite a 2.2% decrease in settlement volume in 2021-22, settlement fees decreased less than 1%. In 2022-23, settlement volume increased 7.6% but fees decreased 2.5%. The fluctuations are thus not strictly mathematical.

The volume of represented settlements has been reasonably consistent between 2014-15 (not pictured) and 2018-19 (graph *below*). In 2019-20, there was a notable increase (4.6%),²²⁷ followed later by an ebb in 2020-21 to the lowest volume of settlements in seven years. The trend to decrease continued in 2021-22. It has been suggested that the pandemic may have contributed to the diminished volume of settlements in that period.²²⁸ Congruent with that hypothesis, PFB volume was trending up through three-quarters of 2019-20, until the arrival of the SAR-CoV-2 virus and various government reactions. The moderating volume of litigation generally (PFBs) and “new cases” may explain the decreasing settlement volume in part. The trend reversed in 2022-23, with an increase (2.3%), followed by a more significant increase in 2023-24 (6.1%).

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Volume of Represented Settlements

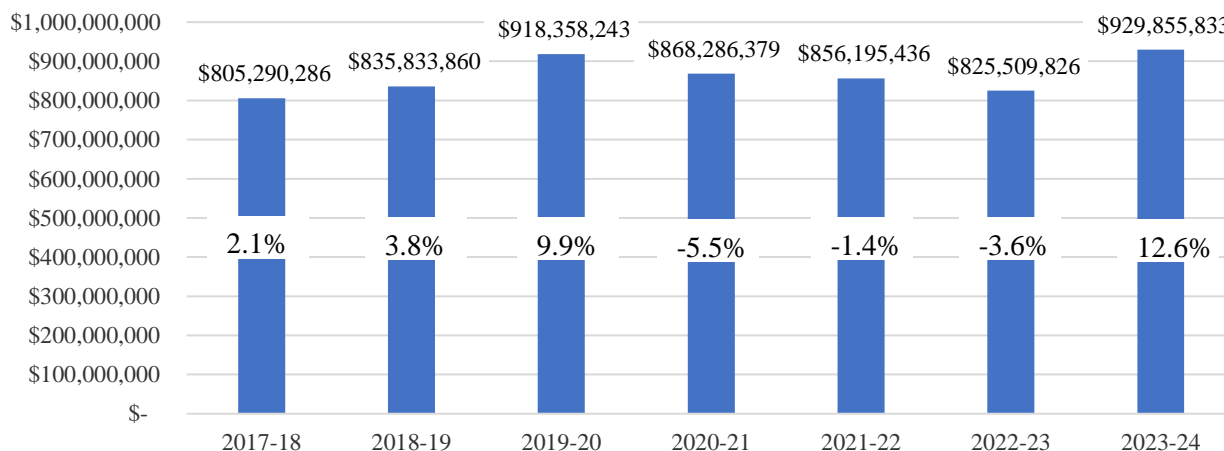


The data does not support that the aggregate value of settlements increased significantly in 2017-18 (+2.1%), though the increase in 2018-19 (3.8%)(graph below) is somewhat more significant, as is the 9.9% increase in 2019-20. Thus, the increase in settlement fees in those years, 2017-18 (19%) and 2018-19 (18%), is consistent with the increasing settlement volume, but perhaps not wholly explained by increasing volume.

In 2020-21, the trend reversed. The volume decreased (-9.7%), the aggregate dollar value decreased (-5.5%), around \$50 million, but settlement attorney fees increased almost three million dollars (+1.7%). In 2021-22, the volume decreased further (-2.2%), as did the aggregate dollar value (-1.4%), but settlement attorney fees decreased slightly less noticeably (-.5%). In 2022-23, volume increased (2.3%), but the aggregate value decreased (-3.6%), and settlement fees decreased reasonably consistently (-2.5%). In 2023-24, the volume increased (6.1%), the aggregate dollar value increased significantly (12.6%), but the settlement fees increased more significantly (13.7%).

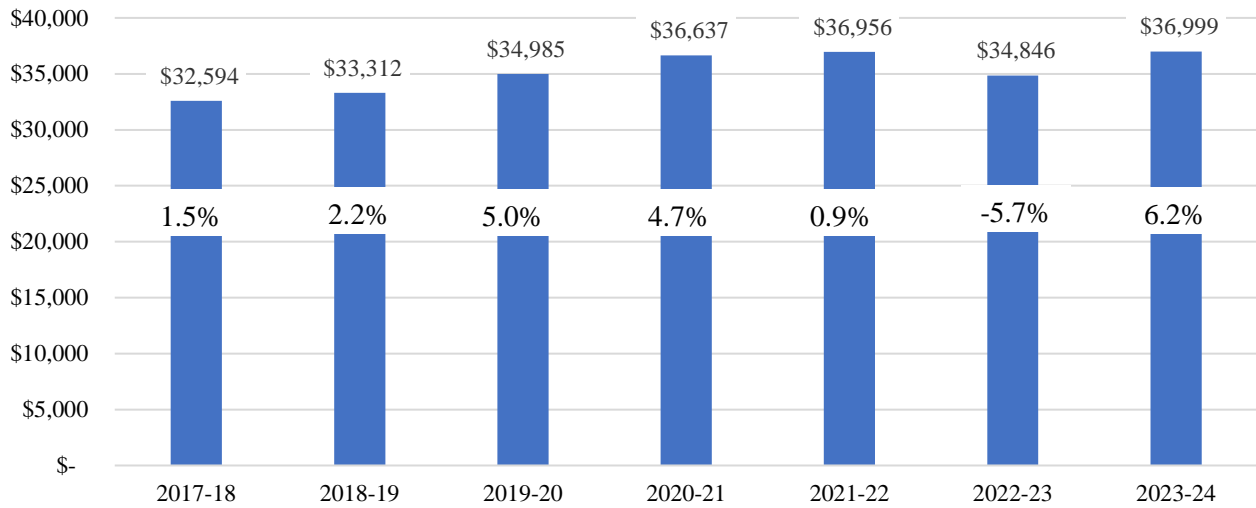
Thus, the increase in settlement fees since 2016 seems appropriately attributed largely to *Miles* interpretations through 2018-19. One *Miles* interpretation held by some essentially equates to more extensive attorney fees in all cases and outright abandonment of the statutory formula in section 440.34(1), Florida Statutes.²²⁹ Anecdotally at least, it appears some judges approve fees without substantive consideration of the time invested by counsel or the effective hourly rate.²³⁰ In this regard, some see support for such conclusions in *Rudolph v. Smith*, 377 So. 3d 1186 (Fla. 1st DCA 2024). Others perceive that decision as distinct because of the accident date and application there of the presumptive statutory fee formula in effect when that accident occurred.

Aggregate Represented Settlement Dollars



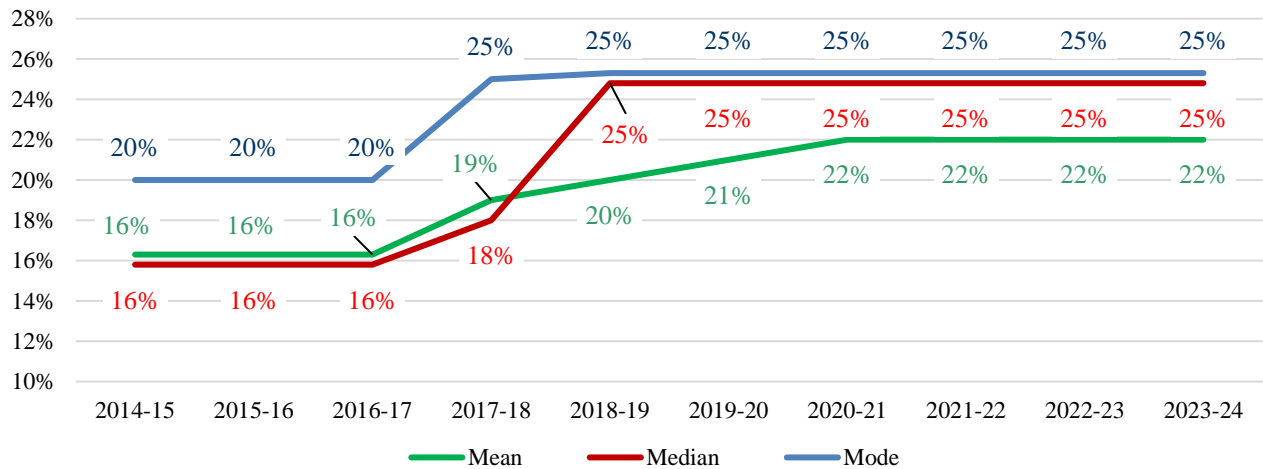
At the same time, in addition to the aggregate value of represented settlements, which once approached one billion dollars annually, the average (mean) settlement amount demonstrated notable increase in 2019-20, followed by three years of persistent decrease. However, in 2023-24, the aggregate was the highest on record and is again approaching one billion dollars annually.

Average (Mean) Value of Represented Settlement



The “average” attorney fee on settlements has increased following the appellate decisions in 2016. By any measure, however, one must acknowledge significant stability in the last four fiscal years. There are three methods of determining “average,” the “mean,” “median,” and “mode.” The mean is determined by adding all data elements and dividing by the volume of data elements. The median is determined by listing the data elements in value order (ascending or descending) and identifying the value element that is in the middle of that range. The mode is defined as the discrete value that appears most often in that data distribution. Each warrants consideration, and are set forth below. The upward shifts following the 2016 appellate decisions are each notable and apparent in the following graph. That said, so also is the consistency in these measures in the last four fiscal years, and the reasonable consistency over the last five or six years, with minimal change in the mean in 2018-19 and 2019-20.

Settlement Attorney Fees



*Miles v. City of Edgewater*²³¹ is open to multiple characterizations and interpretations. The Court discussed there the interplay or relationship between constitutionally recognized individual rights²³² and the “governmental interests advanced there as the basis for” sections 440.34 and 440.105, Florida Statutes. The analysis was influenced by the factual conclusions in *Miles*, and the Court’s prior similar ruling in *Jacobson v. Southeast Personnel. Leasing, Inc.*²³³ The Court concluded essentially that the government’s “interest in protecting the amount of benefits secured by an injured worker under chapter 440 from depletion to pay a lawyer’s bills” was not of persuasive gravity, because both of these Court decisions involved times that injured workers’ entitlement to benefits had been completely denied. Thus, the Court reasoned that “there can be no depletion of benefits where there are no benefits.”²³⁴ Whether that analysis would remain consistent in consideration of fees in other disputes is unclear.

Similarly, the Court addressed the more general state “interest in lowering the cost of workers’ compensation premiums,” concluding it was likewise not persuasive to justify impairing the noted constitutional rights. The *Miles* Court reasoned, “it is Claimant, not the E/C, who would pay the fee implicated by the legal work at issue.” Thus, there is perhaps a perspective or conclusion that settlement values would remain reasonably static and that the higher fees will come only from what an injured worker would otherwise have received. Potentially, as injured workers strive for recovery of some net settlement figure, settlement values will be increased to cover the increasing fees, perhaps suggested by the average value of settlements, *see* page 52, though that analysis must also consider inflation. Finally, the Court expounded upon the ability of an injured worker to waive constitutionally recognized rights, and concluded that it perceived no preclusion to a person waiving “statutory rights such as those in section 440.34, Fla. Stat.”

Whether the *Miles* analysis is “as applied” or more general (“facial”) may remain a matter of discussion and opinion. That said, the statistics support that the case is being applied by trial judges on the premise that the Court’s decision was facial and that the fee constraints of section 440.34 are immaterial. Attorney fees and the application of section 440.34 has not returned to the Court since the 2016 decisions.²³⁵ The holding of the case, as distinct from *dicta*, is somewhat subtle, leading to multiple interpretations. Until further decisions are rendered by the appellate court, the interpretations applied to settlement fees may challenge the workers’ compensation community. If the decision is facial, and section 440.34 is in fact unconstitutional in any instance or application, then there is no requirement in the statute that mandates judges approve fees in any regard.²³⁶

Another challenge may be the appropriate interpretation of “reasonable,” as well as the application of that term to “statutory” fees. The most significant settlement attorney fee ordered in 2021-22 was \$1.33 million. *Rudolph v. Smith*, 377 So. 3d 1186 (Fla. 1st DCA 2024). For reference, the second most significant was \$525,000 (25%).²³⁷ The \$1.33 million fee involved a settlement for \$13.5 million regarding a 1993 accident resulting in quadriplegia (9.85%).²³⁸ The \$1.33M was to be divided among multiple attorneys for services rendered, alleged to be “past” and “present.”²³⁹ Following the approval of the overall fee by order of April 6, 2022, further proceedings addressed and approved the fee claims of three former counsel,²⁴⁰ totaling \$525,000. Thus, reducing the overall remaining approved amount to \$805,000 (\$1.33 million - \$525,000). Another order addressed the fee claim of present counsel, who had represented Claimant since July 2021 (around nine months) and who alleged investment of 205 hours of time in the matter, including prosecution of PFBs filed in October 2021, November 2021, and January 2022 (which had not apparently resulted in the award of fees or the provision of any additional benefits). The judge acknowledged the “statutory fee,”²⁴¹ based on the accident date in 1993, noted the appearance of “a question of law for which appellate clarification is invited,” and concluded that despite that statutory calculation, the “reasonableness of a fee” remained for determination. Ultimately, the judge determined that the resulting hourly rate of \$3,926.83 “shocks the undersigned’s conscience” and awarded to present counsel (at that time, counsel has since withdrawn) a fee of \$123,000,²⁴² instead of the full remaining \$805,000. The First District Court reversed the trial order, concluding essentially that the judge placed undue credence in the resulting hourly rate. Some perceive that conclusion in a broad context as regards the resulting rate analysis, deeming it irrelevant in all cases, and others perceive the Court’s logic as tied to the statutory presumption of reasonableness that was tethered to that case because of the date of accident.²⁴³

Attorney Fees by Accident Year

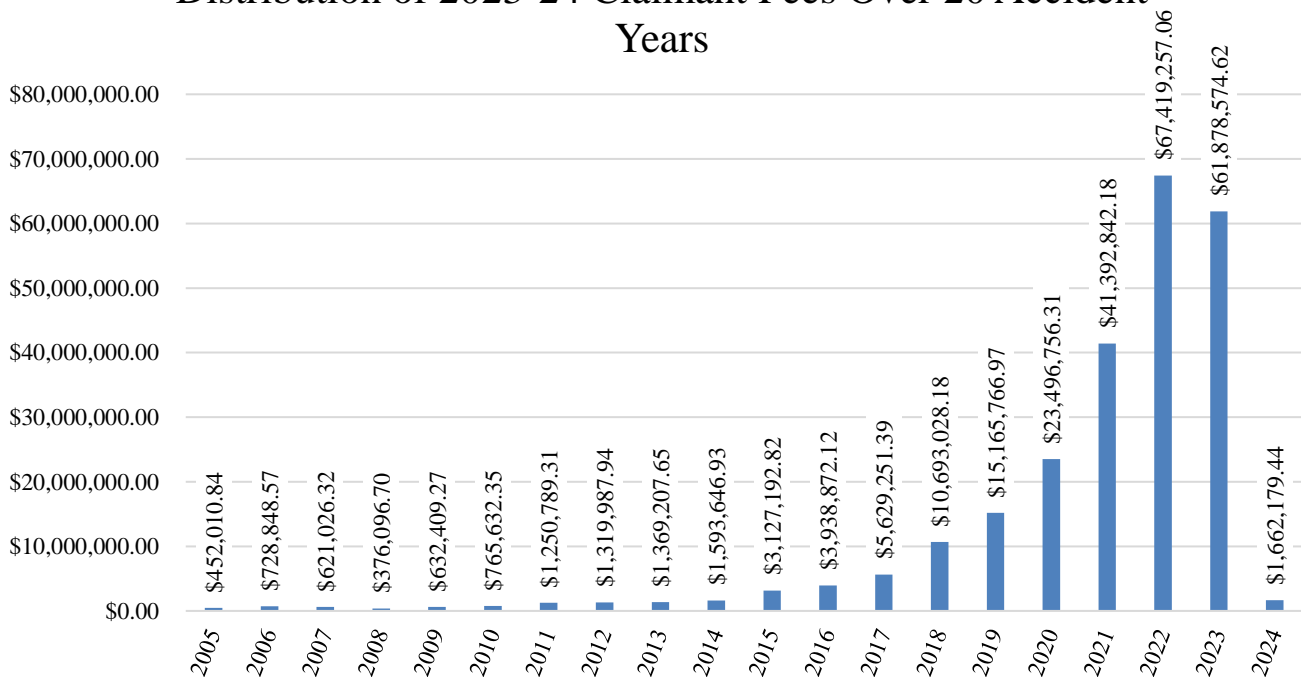
The figures above represent only the amount of fees “approved” during each fiscal year. During any fiscal year, fees might be approved in cases for which the date of accident was also during that particular fiscal year, or even the calendar year in which a fiscal year ends. More likely, the approved fee relates to a date of accident before the year in which a particular fiscal year ends, perhaps many years before. In 2023-24, fees were approved regarding 49 distinct accident-date years. This is reasonably consistent with prior years, in which fees have been documented around 44 to 53 different calendar years. There have also been instances documented in which the date of accident was misstated in a PFB or request for assignment of case number (*see* Glossary, page 67). It is believed that these instances generally involve the entry of a workers' date of birth instead of accident date, and a failure of all involved to note and correct that error as litigation progresses; these errors are sporadic and rare.²⁴⁴ Therefore, the possibility for misstatement of the accident year could impact the population, e.g., fewer distinct accident-date years in 2023-24, for a particular fiscal year.

That said, in 2017-18, attorney fees were approved on a verified 1952 date of accident.²⁴⁵ This example illustrates how claims can occur, and yet not come within the OJCC jurisdiction for a long time. There may have been previous litigation on this case before the OJCC becoming part of DOAH.²⁴⁶ Even so, the first record that this agency has regarding this case occurred in 2017-18, 66 years post-accident.

Most fees approved during any fiscal year will be linked to accidents that occurred before the calendar year in which the fiscal year ends; most fees approved in 2022-23 involved accidents before calendar year 2023. This is because most cases in the OJCC system are unrelated to accidents in the current year, and because many cases in the workers' compensation system remain active, with periodic litigation issues, for many years. Furthermore, it usually requires more than six months (accident dates are attributable to calendar years, January 1 through December 31, but the OJCC data is defined by fiscal years July 1 through June 30) to file a claim, resolve a benefit entitlement, file for attorney's fees, and resolve or litigate that issue. Logically, most litigated cases within the responsibility of the OJCC at a particular time involve dates of accident before any current fiscal year.

The claimant fees approved in fiscal year 2023-24 for accident dates in the last 20 years are illustrated in this graph. The volume of fees has increased, as noted above, but the distribution illustrated here has marked similarities to prior year's data.

Distribution of 2023-24 Claimant Fees Over 20 Accident Years



The vast majority, around ninety-three percent (93.08%), of the claimant fees approved in 2023-24 related to accident dates in the ten years between January 1, 2014, and December 31, 2023. For comparison, the similar ten-year periods reported in fiscal years 2016-17, 2017-18, 2018-19, 2019-20, and 2020-21, were each between 88% and 91%, but the 2022-23 figure was higher (92.5%). Thus, there has been significant consistency, but the last two years is demonstrating an upward trend.

While this data suggests reasonable consistency in the contribution of the most recent accident years, there is a notable curiosity in the graph above and the data in the table (right). Fiscal year 2022-23 is the only year in which the most predominant contributing accident year is not two years before the fiscal year conclusion. In 2023, the most predominant accident year was 2022. As the outcome in 2023-24 is consistent with the broad history, it appears likely that the 2022-23 anomaly was of no significance.

Report Year	Claimant Fee Total	Most Preponderant Accident Year	Fee Amount most Preponderant Year	Percent of Total
2007-08	\$188,701,256	2006	\$31,929,514	16.92%
2008-09	\$181,660,686	2007	\$32,890,123	18.11%
2009-10	\$176,996,765	2008	\$40,364,949	22.81%
2010-11	\$157,081,084	2009	\$30,636,291	19.50%
2011-12	\$152,848,003	2010	\$27,632,737	18.08%
2012-13	\$151,889,627	2011	\$25,875,607	17.04%
2013-14	\$141,858,184	2012	\$27,095,077	19.10%
2014-15	\$136,180,202	2013	\$25,675,747	18.85%
2015-16	\$136,461,404	2014	\$28,119,286	20.61%
2016-17	\$185,676,766	2015	\$42,953,079	23.13%
2017-18	\$198,653,393	2016	\$50,536,898	25.44%
2018-19	\$216,905,845	2017	\$56,754,841	26.17%
2019-20	\$240,867,847	2018	\$63,006,425	26.16%
2020-21	\$241,105,336	2019	\$67,840,351	28.14%
2021-22	\$236,691,235	2020	\$59,189,149	25.01%
2022-23	\$228,162,186	2022	\$61,513,493	26.96%
2023-24	\$251,750,922	2022	\$67,419,257	26.78%

Overall, the breadth of this data supports two points. First, the most recent accidents historically account for most claimant attorney fees approved, or awarded each fiscal year; second, the most significant accident year for claimant attorney fees has been consistently two years before the reporting year. It bears reiteration that despite the notably short statutory time frames for mediation (130 days) and trial (210 days), most cases will probably not reach the point of fee awards or approvals in the first six months²⁴⁷ after the accident date. Thus, the minimal “same year” fee total is most likely related to resolutions and stipulations, and perhaps a small volume of settlements, occurring reasonably rapidly after an accident.

Of the claimant attorney fees approved in 2005-06, only two percent (2%) were for dates of accidents more than 20 years before that fiscal year. That percentage rose and then stabilized for much of recent history, until increasing notably for 2013-14 through 2015-16. Later, the volume in that category declined notably in 2016-17 and more so in 2018-19 through 2019-20. It was suggested that the return to 5% in 2021-22 could mark a return to earlier levels, but the return to 3% over the last two fiscal years is more consistent with the period just before the pandemic.

Fiscal Year	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Fees on Accident dates > 20 years	5%	6%	8%	7%	7%	5%	5%	3%	3%	4%	5%	3%	3%

Number of Final Orders Not Issued Within 30 Days After the Final Hearing or Closure of the Hearing Record

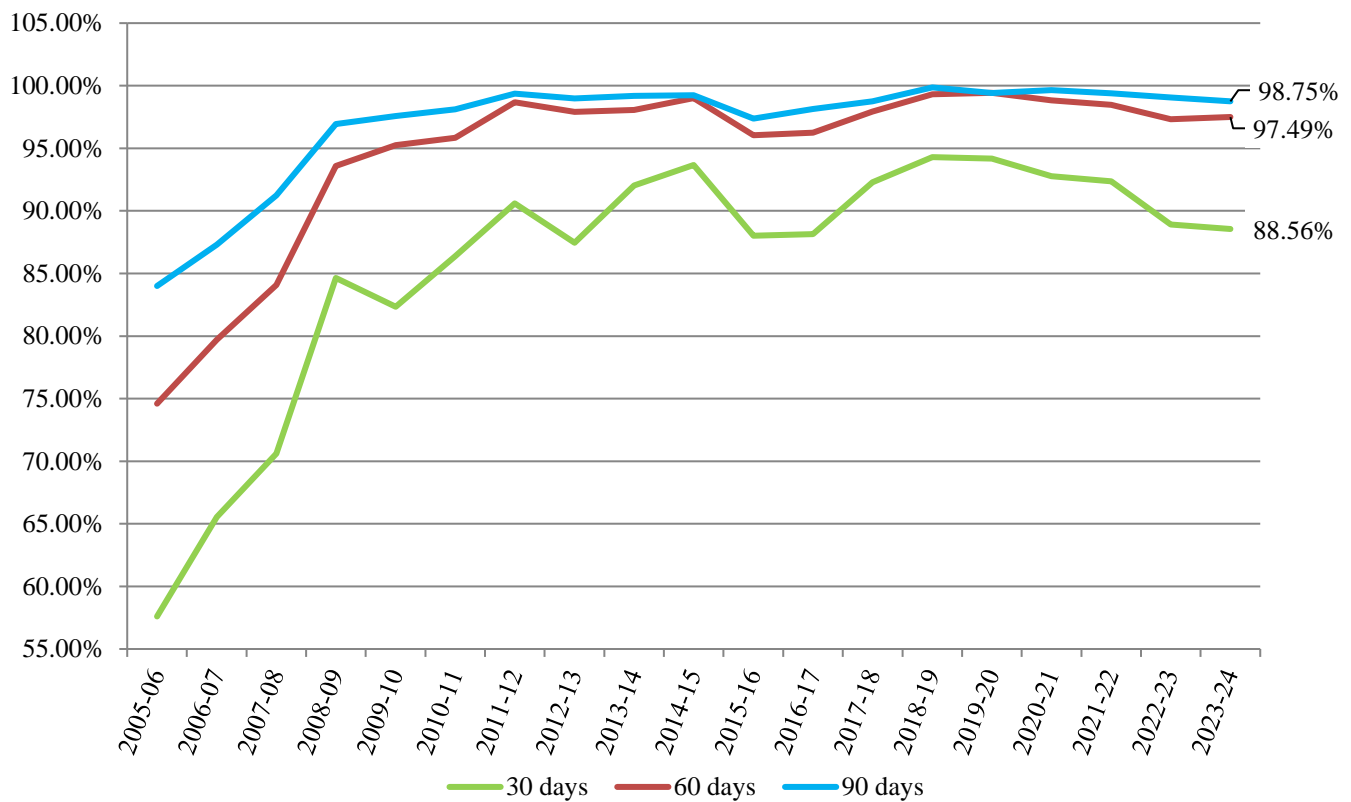
Most PFBs reach trial within the 210-day statutory parameter.²⁴⁸ Many legitimate reasons may require a trial to be reconvened on a second or even third day after the initial trial date. That said, anecdotal evidence supports that such a reconvene process was historically employed by a minority of judges to delay record closure and artificially extend statutory deadlines for entry of a final order.²⁴⁹ Determination of the legitimacy of such subsequent proceedings in any 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 30 days of the final hearing first convening. This calculation no doubt slightly understates the number of final orders entered within 30 days of legitimate “closure of the hearing record.”²⁵⁰ At the same time, this calculation also permits no overstatement of performance by inappropriate employment of the “reconvene,” and presents an illustration of performance consistent across the various Districts and Divisions. It is believed that the contrived “reconvene” practice has decreased markedly or perhaps ceased 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 trial orders during fiscal 2023-24, supports that several final orders were entered within a day of the final hearing (9%). Overall, the JCCs entered timely (within the 30 days required by statute²⁵¹) final orders approximately fifty-eight percent (57.6%) of the time in fiscal 2005-06. This increased steadily later, and was in excess of 92% for five years until decreasing to approximately eighty-nine percent (88.91%) in 2022-23, which was virtually unchanged in 2023-24. While the decreases in 2020-21 and 2021-22 might be attributed in part to the pandemic, that has concluded and the timely order volume continues to languish. There remains a notable consistent recent performance in compliance with the statutory requirement,²⁵² but also indications that timeliness bears monitoring.

Days	2019-20	2020-21	2021-22	2022-23	2023-24	Days
30 days	94.18%	92.78%	92.35%	88.91%	88.56%	30 days
40	97.30%	97.23%	96.64%	93.50%	94.04%	40
50	99.01%	98.80%	98.47%	96.20%	97.34%	50
60 days	99.43%	98.82%	98.47%	97.31%	97.49%	60 days
70	99.43%	99.28%	99.08%	98.42%	98.28%	70
80	99.43%	99.40%	99.08%	98.89%	98.59%	80
90 days	99.43%	99.64%	99.39%	99.05%	98.75%	90 days
100	99.57%	99.64%	99.69%	99.52%	98.90%	100

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-nine percent (98.90%) of the cases in 2023-24. The percentage within 100 days was consistently over 99% from 2011-12 through 2014-15. That percentage similarly decreased slightly later, most likely because of the change in definition of “trial order,”²⁵³ and returned to over ninety-nine percent for four of the last five fiscal years. Despite the recent decrease, the improvements in order timeliness since 2005-06 is a tribute to the professionalism and focus of the judges, abandonment of the “ruling letter” delegation of our history,²⁵⁴ and judges drafting their own orders. This is illustrated in the graph below.

For final orders entered during fiscal 2006-07 through 2022-23, the shortest period between final hearing and final order has consistently been zero days. During fiscal 2006-07, the longest period between trial and final order was two thousand, nine hundred eleven (2,911) days, or around eight years. In 2023-24, the longest period was two hundred seventy-six (276) days.²⁵⁵ The overall figures evidence reasonably consistent achievement of the statutory parameter²⁵⁶ in recent years and a greater focus upon timely order issuance. Order delays have persisted since the mandate of expert medical advisors (EMA) in 1994. It is likely that the 2023 statutory transition²⁵⁷ from mandate (“shall”) to permission (“may”) will decrease the potential for that law to delay final orders. Nonetheless, there is room for improvement with timely orders. The evolution of timely orders is reflected in the graph below.



The following Judges entered 100% of their final orders within 30 days in 2023-24:

- Clark, Frank
- Forte, Iliana
- Jacobs, Jeffrey
- Johnsen, Gregory
- Lewis, Daniel
- Ring, Michael
- Weiss, Jack
- Young, Rita

Recommended Changes or Improvements to the Dispute Resolution Elements of the Workers’ Compensation Law and Regulations

The disparate salary and benefit issues for Judges of Compensation Claims, OJCC mediators, and staff were detailed in the 2008-09 OJCC ANNUAL REPORT. These disparities have improved some, but continue to frustrate the efficient operation of this agency and are wasteful of resources. Those disparities invariably lead 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 pay should be increased and tied to County Court salaries (*see* Appendix “12”).
- State mediator pay should be increased and tied to the JCC salary.
- Resources should be provided to establish pay equity for all OJCC staff.²⁵⁸

The history of judicial consideration of “costs” is explored in the 2006-07 OJCC ANNUAL REPORT. The suggestions and recommendations in it remain important and are mentioned here to reiterate.

Judicial approval of stipulated/agreed attorney fees and cost reimbursements should be eliminated when all parties are represented by counsel. This is further supported by the conclusions of the Florida First District Court of Appeal in *Miles v. City of Edgewater Police*,²⁵⁹ and the distinct potential that judicial oversight of such fees has become languid.²⁶⁰

The procedural and practical inefficiencies of the Expert Medical Advisor (EMA) process are detailed in the 2005-06 OJCC ANNUAL REPORT. In 2023, the Legislature rendered the EMA process discretionary, removing the “shall” that the appellate court had interpreted as mandatory. The interpretation of this provision has not yet been presented to the court, but we expect that the mandate no longer persists and this recommendation is moot.

The 2018-19 OJCC ANNUAL REPORT detailed the challenges with waste and fraud. Significant fraud or abuse exists in the general delivery of medical care.²⁶¹ There are federal statutory provisions to empower whistleblowing regarding allegations of inappropriate behavior. Multiple instances are publicized annually of federal whistleblower lawsuits. Prior reports have detailed some of these. A whistleblower provision in Chapter 440, to empower and compensate the reporting of such activity related to the care and treatment of Florida’s injured workers, could aid efforts to control costs and assure delivery of appropriate medical care. A statutory process for whistleblowing should be added to Chapter 440.

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?

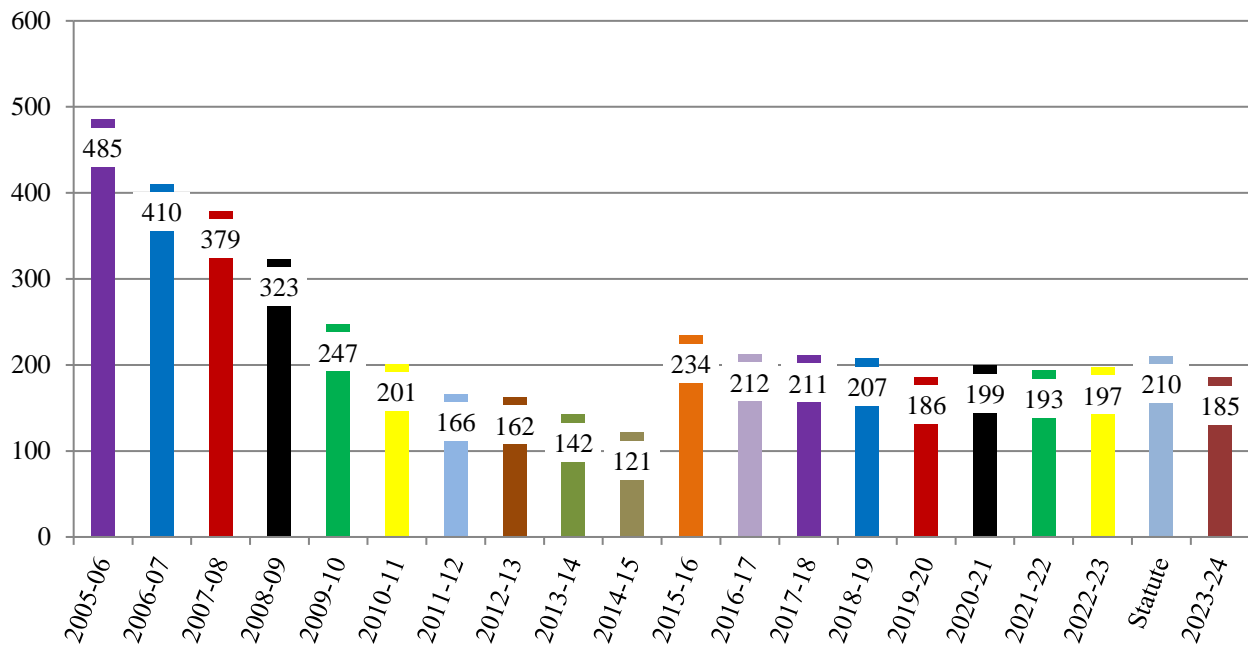
There are three main statutory requirements for the Judges of Compensation Claims. Judges are expected to have their assigned cases proceed to mediation within 130 days²⁶² and to trial within 210 days.²⁶³ These two are somewhat within the control of the presiding judge, although many circumstances can 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.²⁶⁴ This parameter is more consistently within the control of the assigned judge, though the EMA issue can influence it also. Despite the recent statutory change, the discretionary appointment of an EMA will still tend to increase time required for final adjudication.²⁶⁵

Each statutory requirement can be accomplished in nearly all 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, because of the facts of that particular case.²⁶⁶ 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 19 fiscal years (2005-06 through 2023-24), one hundred percent (100%) compliance with these requirements was achieved by some individual judges and their staff. Overall, the OJCC did not meet all these measures on overall statewide average until 2010-11, which continued through 2014-15.

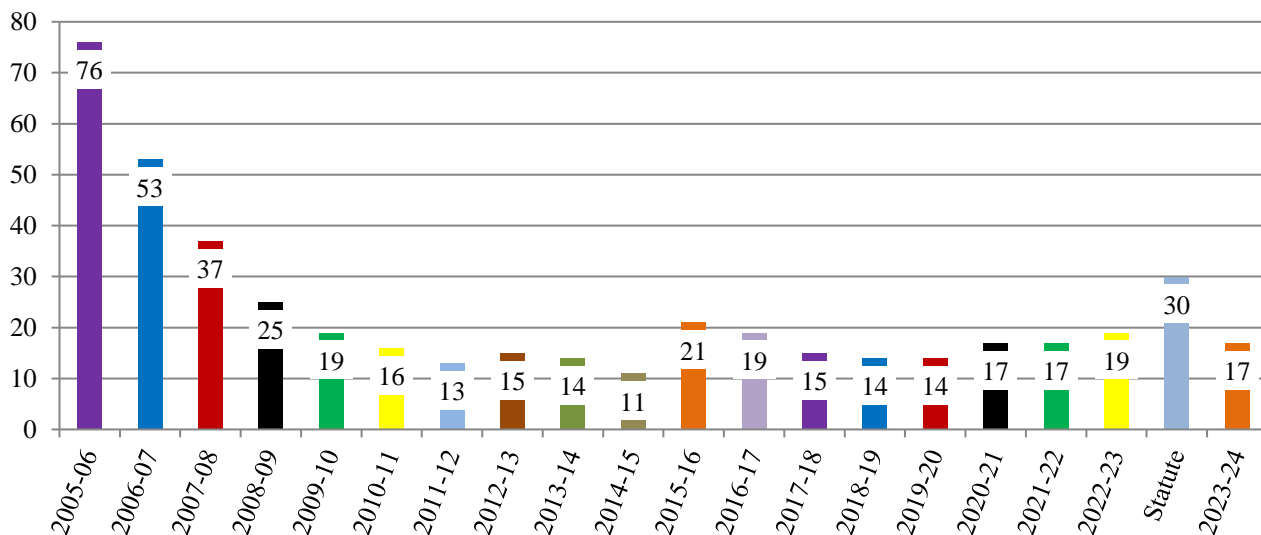
For this report, “final hearings” include only final merits hearings regarding claims and issues in PFBs, contested attorney fee/cost hearings resulting in substantive final orders, and Fund Hearings.²⁶⁷ This is a change from prior years. Until 2015-16, “trials” included: Evidentiary Motion Hearings, Expedited Final Hearings, Fee Amount Hearings, Fee Entitlement Hearings, Final Hearings, and Fund Hearings.²⁶⁸ “Trial orders,” for the purpose of statistical reporting, no longer include substantive orders issued after hearings on evidentiary matters. Though inclusion of those orders in the statistics was consistent with the time and effort involved in such orders/hearings generally, that definition was subject to misinterpretation and abuse, described elsewhere in this report.²⁶⁹

With the 2016 change in definition of “trial,”²⁷⁰ the OJCC did not collectively meet all three of these standards again until 2018-19. The time to mediation and time to final order aggregates for the entire OJCC remained within

the statutory parameters despite that definitional change. That said, following the change in the definition of “trial,” the overall average time barely (234, 212, 211) exceeded the statutory 210²⁷¹ days for three fiscal years, but compliance overall has improved in the most recent six fiscal years, despite the pandemic and other challenges.



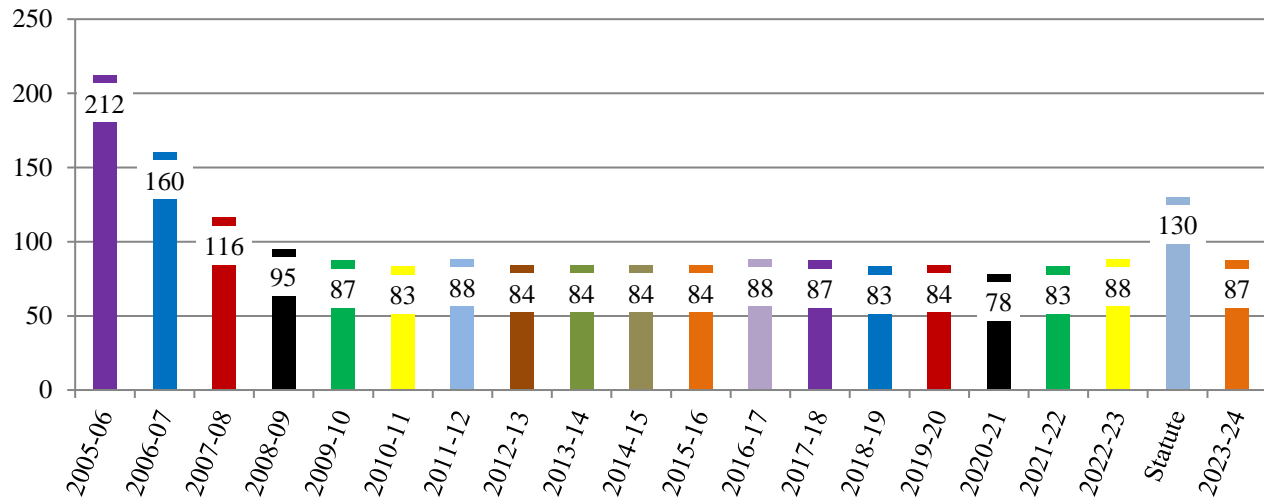
The Office of the Judges of Compensation Claims has also made significant improvement in the average time between the start of the trial and the entry of the final order thereon.²⁷² The overall statewide average period, from trial to the entry of the trial order, has decreased markedly since 2005-06 and remains well within the statutorily defined 30 days, as shown by the following graph. Most judges demonstrate marked dedication to timely decisions.



For 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. After the 2016 change in the definition of “trial,” that figure dropped to seventy-eight percent (77.50%), in some part due to the diminished volume of orders included in the definition and in part due to the nature of the

orders that remained in the definition, being more uniformly PFB determinations. Compliance with that measure improved in 2016-17 (90%) and 2017-18 (97%). In 2018-19, for the first time since the OJCC was moved to the DOAH, 100% of the judges averaged less than 30 days between first day of trial and entry of the final order. In 2019-20, that feat was repeated. In 2020-21 and 2021-22, that dropped again to 97%, and, in 2022-23, it dropped to 90%. In 2023-24, the OJCC regressed further with only 86% of the judges averaging less than 30 days.

An impressive improvement is the marked reduction, in the overall statewide average time, between PFB filing and the first mediation conference held thereon. This improvement and more recent consistency are illustrated in the following graph. This achievement is compelling evidence of better recordkeeping, 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 16 fiscal years. The OJCC efforts are improving the value that the OJCC brings to the lives of Floridians.



Statutory Measures

Judges of Compensation Claims (JCCs) are appointed by the Governor for a term of four years. A JCC may then be re-appointed by the Governor for successive four-year terms. The re-appointment process is to be initiated about six months before the expiration of the JCC’s terms with review of the judge’s performance by the Statewide Judicial Nominating Commission (SNC). Section 440.45(2)(c), Florida Statutes,²⁷³ mandates that the SNC consider “the extent to which the judge has met the requirements of this chapter, including, but not limited to” these eight specific statutory provisions: section 440.25(1), Florida Statutes,²⁷⁴ (timely mediation); section 440.25(4)(a), Florida Statutes²⁷⁵ (pretrial procedure); section 440.25(4)(b), Florida Statutes,²⁷⁶ (appropriate continuance grounds and orders); section 440.25(4)(c), Florida Statutes²⁷⁷ (timely final hearing notice); section 440.25(4)(d), Florida Statutes²⁷⁸ (timely final hearings and final orders); section 440.25(4)(e), Florida Statutes²⁷⁹ (final order filing); section 440.34(2), Florida Statutes, (appropriate fee order findings); and section 440.442, Florida Statutes²⁸⁰ (compliance with Code of Judicial Conduct). Despite the clear statutory mandate for such reporting, these statutory measures were not previously specifically reported by the OJCC until 2006. This annual report marks the sixteenth 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, final orders, final order filing, and compliance with Code of Judicial Conduct). Since 2007-08, the OJCC annual report has detailed 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 workload between and among judges and Districts. Furthermore, these statutory measures and workload volumes document certain activities, but do not necessarily reflect overall judicial performance. Any consideration of judicial

performance must also include subjective factors, such as judicial demeanor, courtesy to litigants and counsel, and respect for 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.

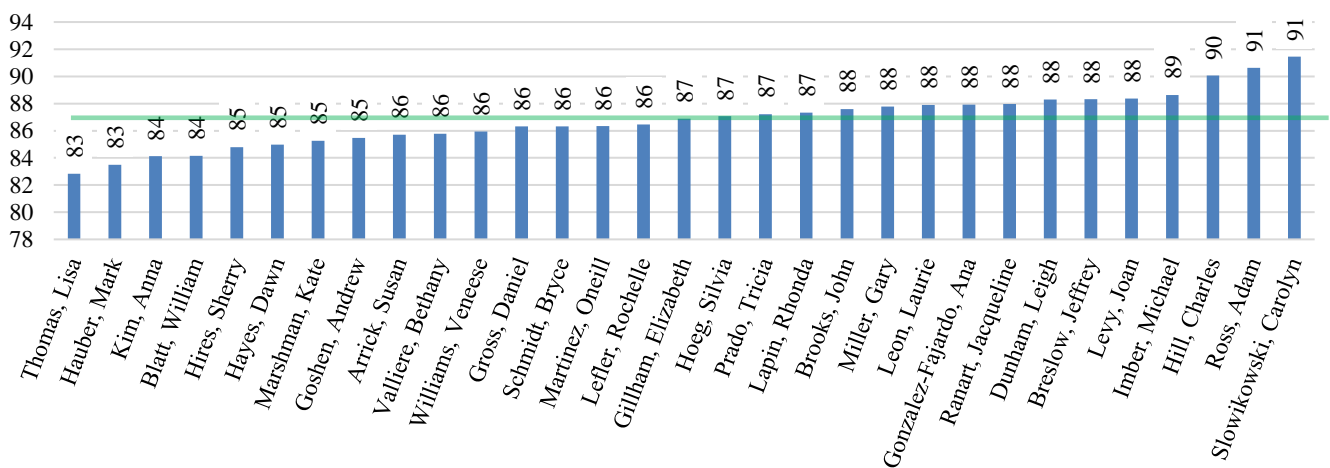
Pretrial Hearing

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 14 days' notice of such hearing.²⁸¹ The JCC Application can generate notices of any of the events common to the processing of a PFB, 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 2023-24 supported that appropriate notice is being provided for pretrial proceedings. Furthermore, the anecdotal evidence and 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 (87 days) 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 individual mediators in the 2023-24 Settlement and Mediation Report,²⁸² available under the "Publications" and then "Reports" tabs on the OJCC website, www.fljcc.org, and below. While the mediation timing has traditionally been viewed as the responsibility of the assigned judge, and somewhat dependent on the various volumes in different districts, the 2021-22 shift to presumptively virtual mediation and random mediator assignments has significantly altered the mediation process.

Days PFB to First Mediation 2023-24



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 87 days. In 2007-08, 22 (or sixty-nine percent, 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 2007-08,²⁸³ *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.²⁸⁴ 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. 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. That said, the available data supports that timely notice is being provided for all final hearings. As mentioned above, the absence of any complaints of untimely final hearing notices 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

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. The volume of continuances in 2023-24 was 982, the lowest ever reported, and an average of 34 per judge for the year.

In this context, the meaning of "continuance" warrants reiteration. Many cases cannot be mediated or tried on the date on 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."²⁸⁵ Any hearing characterized as "continued" in the database should have a corresponding continuance order in the case docket.²⁸⁶ The order should document the circumstances. The order shall also set forth the new event (trial or mediation) date.²⁸⁷

Ten continued final hearings were randomly selected for each judge during 2022-23 (except those judges whose assignments demonstrated fewer than 10 continuances overall). Each selected case docket was searched for a corresponding order "continuing" that hearing. Previous such audits have been documented.²⁸⁸

Each order that grants a continuance is required by section 440.25(4)(b)²⁸⁹ to include the new hearing date. The judges for whom each examined continuance was reflected in a corresponding order that contained such a date in 2023-24 were Judges Anderson, Clark, Forte, Grindal, Havers, Hedler, Humphries, Jill Jacobs, Johnsen, Kerr, Medina-Shore, Moneyham, Ring, Sancerni, and Stanton (52%). This signals ongoing disregard for this simple requirement.

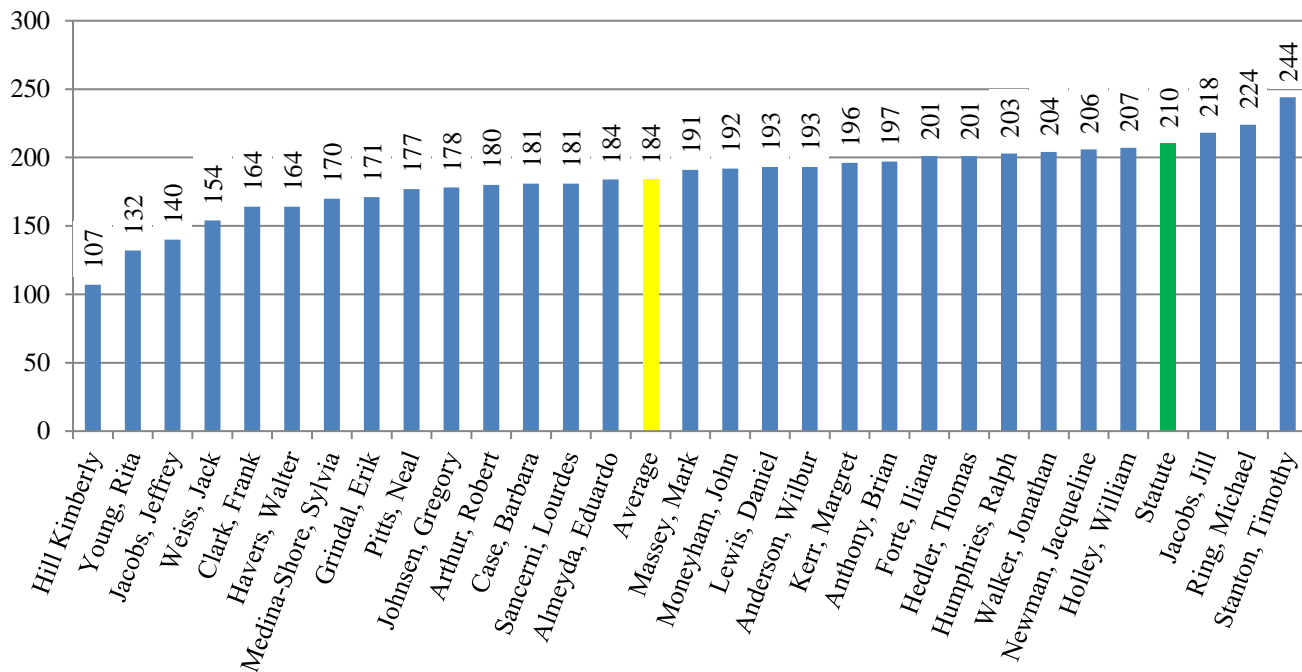
Final Order Filing

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 OJCC in Tallahassee, Florida. The data supports that all of the JCCs have complied with this statutory requirement. As an aid to the public, the OJCC began a program in 2009-10 which lists "recent trial orders" for 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.

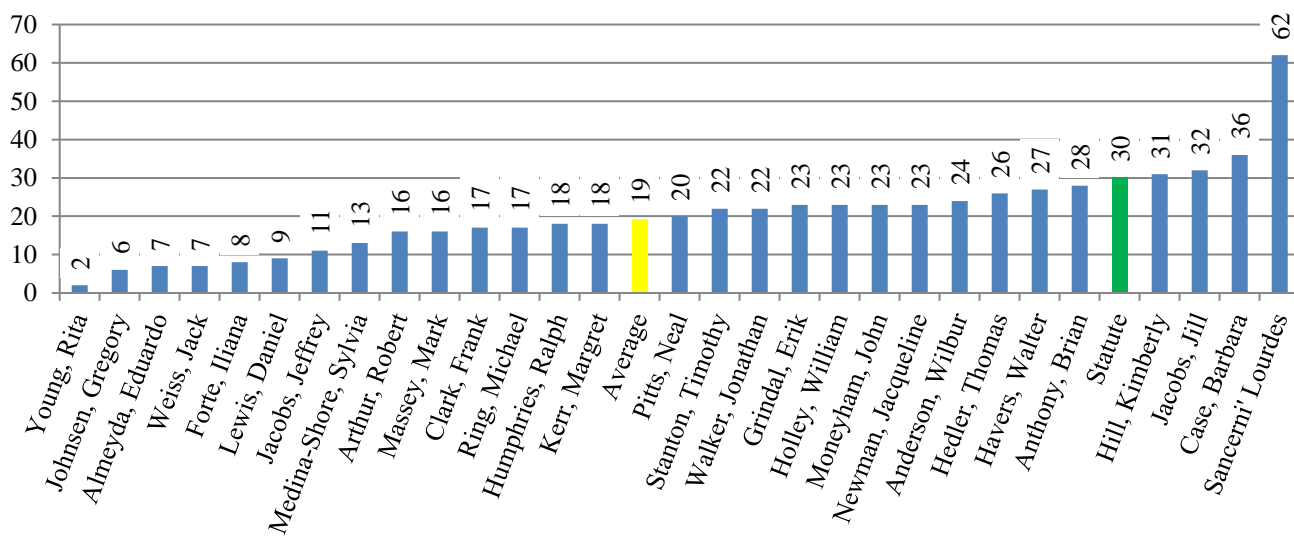
Timely Final Hearings and Final Orders

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 2020-21 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 commencing 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 one hundred eighty-four (184) days in 2023-24. Eighty-six percent (86%) of judges averaged less than 210 days in 2023-24.



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 19 days in 2023-24. The green bar represents the 30-day statutory parameter. Eighty-six percent (86.1%) of judges averaged less than 30 days in 2022-23, compared to 90% in 2022-23, *see above* page 56.



Attorney Fee Orders

Contents of attorney fee orders are addressed in section 440.34(2), Florida Statutes.²⁹⁰ This statutory measure requires the JCC to identify the amount, statutory basis, and type of benefits obtained through legal representation which must be listed on all orders awarding attorney fees. Claimant attorney 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 attorney fees, and a notice of that interpretation was published.²⁹¹ The current OJCC leadership construes nothing 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 29 various JCCs.

Within the current process of claimant fee determinations, fee issues can be contested in terms of entitlement to fees and/or the amount of fees. Entitlement to attorney fees and/or costs is generally pled in the PFB that seeks a statutory benefit for the injured claimant, such as a change in physician or a period of indemnity. In a general sense, it is common that fee or cost entitlement is not litigated simultaneously with the litigation of entitlement to the underlying claimed benefit. It is, therefore, common that parties will agree or stipulate to the provision/acceptance of some benefit, such as a new physician authorization, and will “reserve jurisdiction” for later determination of attorney fees and/or costs that flow from previously obtaining that benefit. Without such a stipulation, 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. Determinations of fee amount are virtually always reserved for determination later. A bifurcated process is the norm.

Thus, after a claimant has received a benefit through agreement, entitlement and/or amount of fees and costs may remain pending. In 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 pled later for adjudication in a motion or PFB for attorney fees and/or costs. The subject motion or PFB is sometimes filed years after the underlying benefit is provided or awarded. This is one reason that fees awarded or approved in each fiscal year often include fees for dates of accident in the reasonably remote past.²⁹² The OJCC regularly holds hearings on attorney fee issues divided into two main categories, fee entitlement hearings and fee amount hearings. The trial orders²⁹³ 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 along with a settlement of the claimant’s entire case. Those instances are known as a “side stipulation” resolving the 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, five kinds of OJCC orders address claimant attorney fees: case settlement fees, side stipulations, appellate fees, *ex-parte* fees, and adjudicated (awarded) fees. Any of these might each be also categorized as “statutory,” contingent contract, or hourly.

The OJCC audited JCC orders awarding contested attorney fees for fiscal 2023-24. These audits 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 seven 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.

While auditing fee orders in the last four fiscal years, there were multiple instances located in which a particular fee order was not self-sufficient (instead referencing other information in stipulation or motion without restating it). There were also multiple examples found in which attorney fees were approved without complete attorney fee data sheets, representations of the value of benefits obtained, or representations of the hours invested in the matter for which a fee was approved. There are various examples in which a judge concluded a fee was “reasonable,” but for which there was no factual justification stated in either the value of benefits obtained or the number of hours invested in obtaining the benefit.²⁹⁴ It is not known what factual justification might support a determination of “reasonable” without any examination of such foundational facts.²⁹⁵

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 JCCs comply with the Code of Judicial Conduct. Complaints about failure to comply with this Code are investigated by the Director of the Division of Administrative Hearings (DOAH). In 2023-24, no violations of the Code were found.

Conclusion

Since 2006-07, the OJCC has made great strides in consistency, uniformity, transparency, and efficiency. The results are shown throughout the metrics reported here. The role of technology cannot be overstated. Florida's workers' compensation litigation process has an enviable, practical, and effective electronic management and filing platform. The system saves well over a million dollars annually for the customers of this agency. The adaptation of technology for the success of the OJCC mission is attributable to the DOAH IT department.

The legislative reductions in staff have been a persistent challenge for the OJCC. The pay disparities between this agency and competing employment elsewhere in state and local government have made recruitment and retention difficult. This agency has nonetheless been efficient for decades as Florida's population has grown, responsibilities have increased, and budgets have not kept pace with inflation. The downsizing and consolidation effected by DOAH management beginning in 2021-22 has reduced resources and strained efficiency and effectiveness. The OJCC has striven to fulfill its mission despite these challenges. As PFB filing rates increase and litigation intensity is exacerbated further, the diminished resources of this Office will only be further taxed. It is suggested that budget increase should be considered to correct the historical and significant pay equity issues previously identified and discussed. The retention of qualified staff has never been of a similarly critical nature and will likely continue to challenge the workers' compensation adjudication process.

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Glossary of Terms:

COVID-19	Refers to a disease caused by a virus. The World Health Organization designated this disease as “19” as it was first identified in 2019. ²⁹⁶
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 nine 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, (usually) 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 Administration Commission.
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 whom disputed workers’ compensation benefits are sought, and 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. Commonly referred to as “e-filing.”
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 29 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. Sometimes called JCCA.
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, 29 Judges of Compensation Claims (JCC), 30 mediators, and approximately 140 support personnel responsible to the Governor. In 2001, it was transferred from the Department of Labor and Employment Security (DLES) to the Division of Administrative Hearings (DOAH).
SARS-CoV-2	This is the name given by the World Health Organization to “severe acute respiratory syndrome coronavirus 2,” the virus which causes the disease known as COVID-19. ²⁹⁷
Stare Decisis	A legal maxim that says courts will follow prior court decision, precedent, in rendering a present dispute.
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 a final hearing or evidentiary hearing regarding attorney fees/costs. ²⁹⁸
VTS	Video teleconference system, an electronic two-way video communication medium used by the DOAH for judges to conduct trials in remote locations without associated travel expense.
ZOOM	An Internet video teleconference system used to conduct and record hearings.

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Appendix “1” District FTL (JCC Forte, JCC Lewis, JCC Ring):

District FTL includes only Broward County.

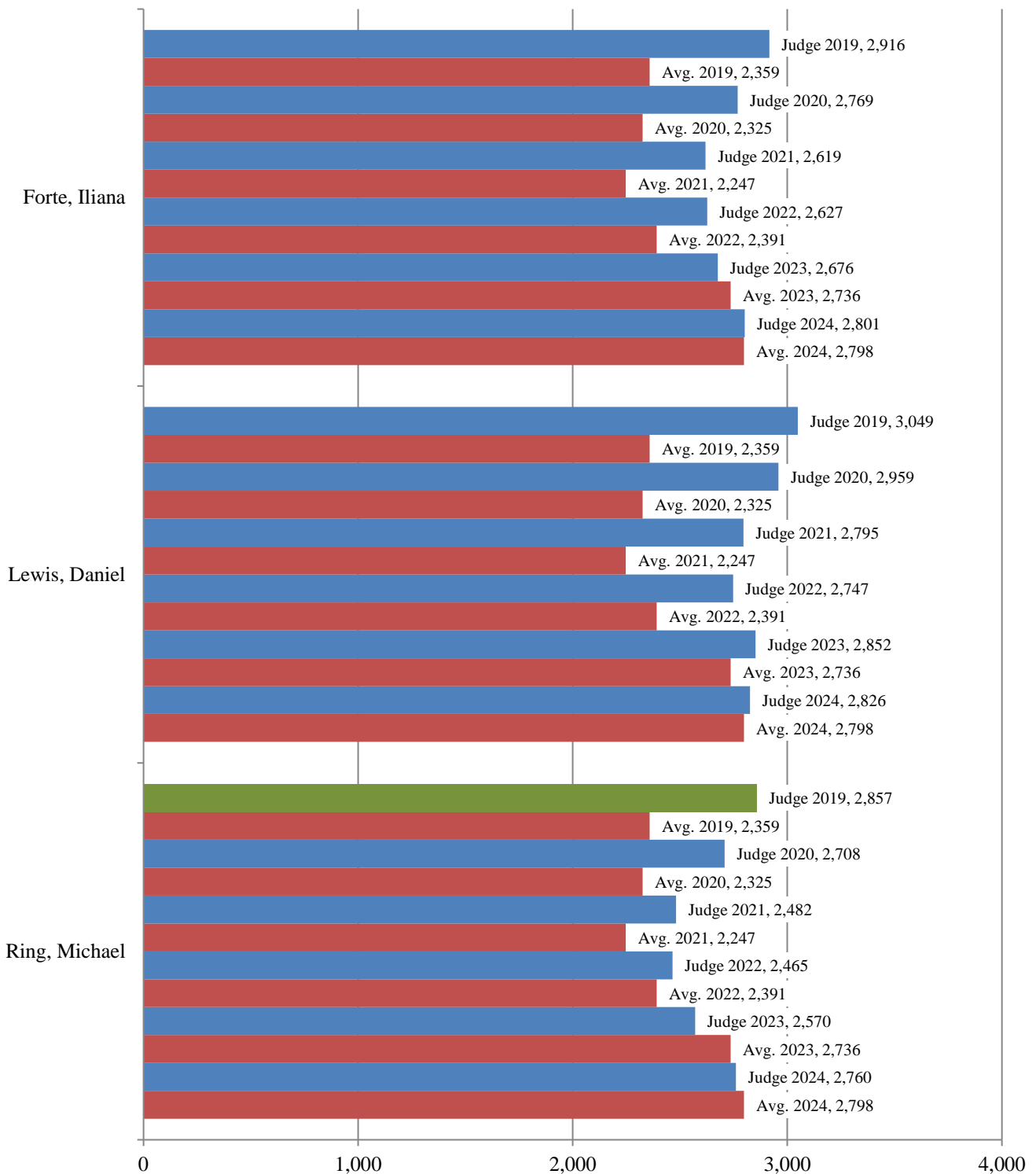
District Ft. Lauderdale was one of the few districts that experienced no direct impact from the consolidation efforts in 2022 or 2023. PFB volumes have been consistently above the statewide averages in recent years, but as filings have increased across the state, increasing that average, the filings in Ft. Lauderdale have not risen in parallel, leading to near average PFB filing volumes there for the last two years. The “new case” volume has remained in slightly below average with reasonable consistency, but has become more notably below average with increased filings elsewhere. This indicates that the volume of incoming cases is reasonably typical and predictable, but the intensity of that litigation has been above average and is moderating. PFB closure pace is consistent with the filings, and evidences near equilibrium.

In September 2023, Judge Forte served as a volunteer Judge at the annual DOAH Trial Academy, a week-long intensive program that teaches less experienced lawyers how to try cases before Administrative Law Judges. In February 2024, Judge Forte participated in a Judicial question-and-answer panel at the yearly Broward Bar Association 2024 Workers’ Compensation Conference. Judge Forte is a member of the Richard A. Sicking American Inn of Court.

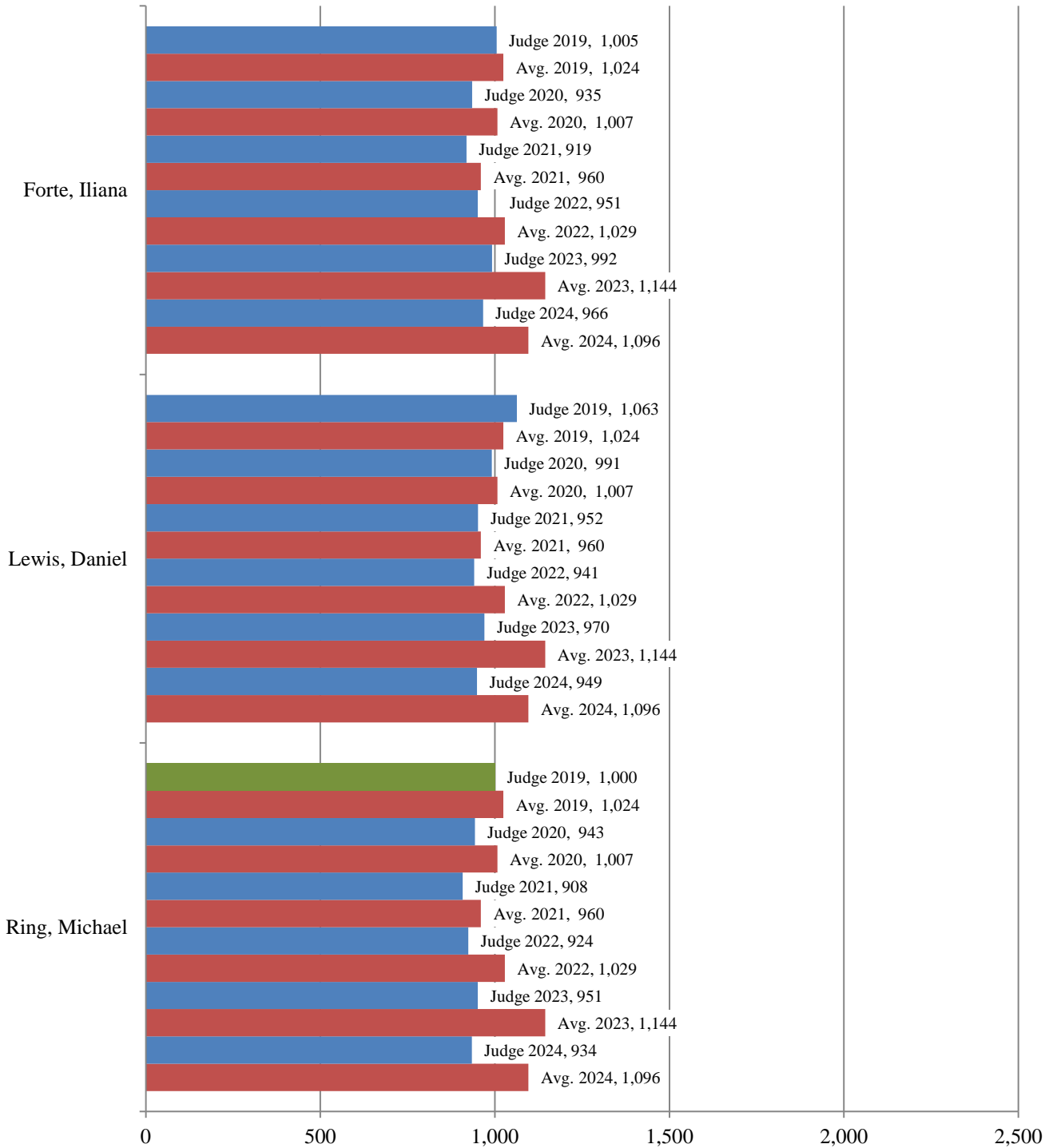
In fiscal year 2023-24 (July 1, 2023 - June 30, 2024), Judge Lewis remained active in the Broward County Bar Association. In February 2024, he presented a "Question and Answer Session with the Broward JCCs" for the Broward County Bar Association 2024 Workers’ Compensation Section Conference. In July 2023, Judge Lewis served as a Judge Participant for the annual E. Earle Zehmer National Moot Court Competition. In October 2023, Judge Lewis participated in a "Meet and Greet" hosted by the Workers’ Compensation Section of The Florida Bar. In March 2024, Judge Lewis was inducted as a Fellow into the College of Workers’ Compensation Lawyers. In May 2024, Judge Lewis presented an "Introduction to Workers’ Compensation" to undergraduate students at Keiser University in Fort Lauderdale, Florida. In June 2024, Judge Lewis became a Member of the Richard A. Sicking American Inn of Court. Judge Lewis is also a member of the National Association of Workers’ Compensation Judiciary and the Conference of Judges of Compensation Claims. 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.

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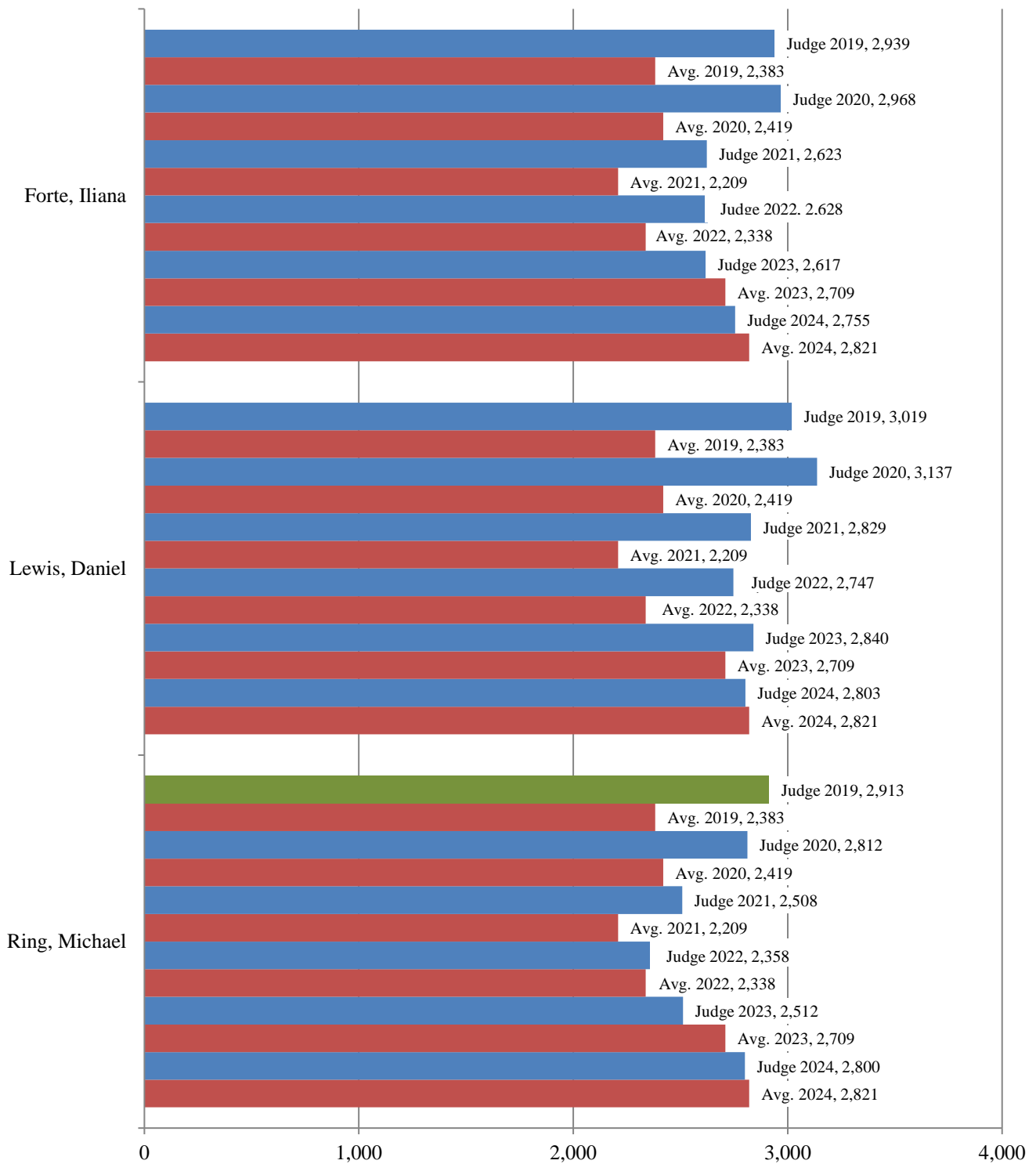
The following depicts the volume of PFBs filed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



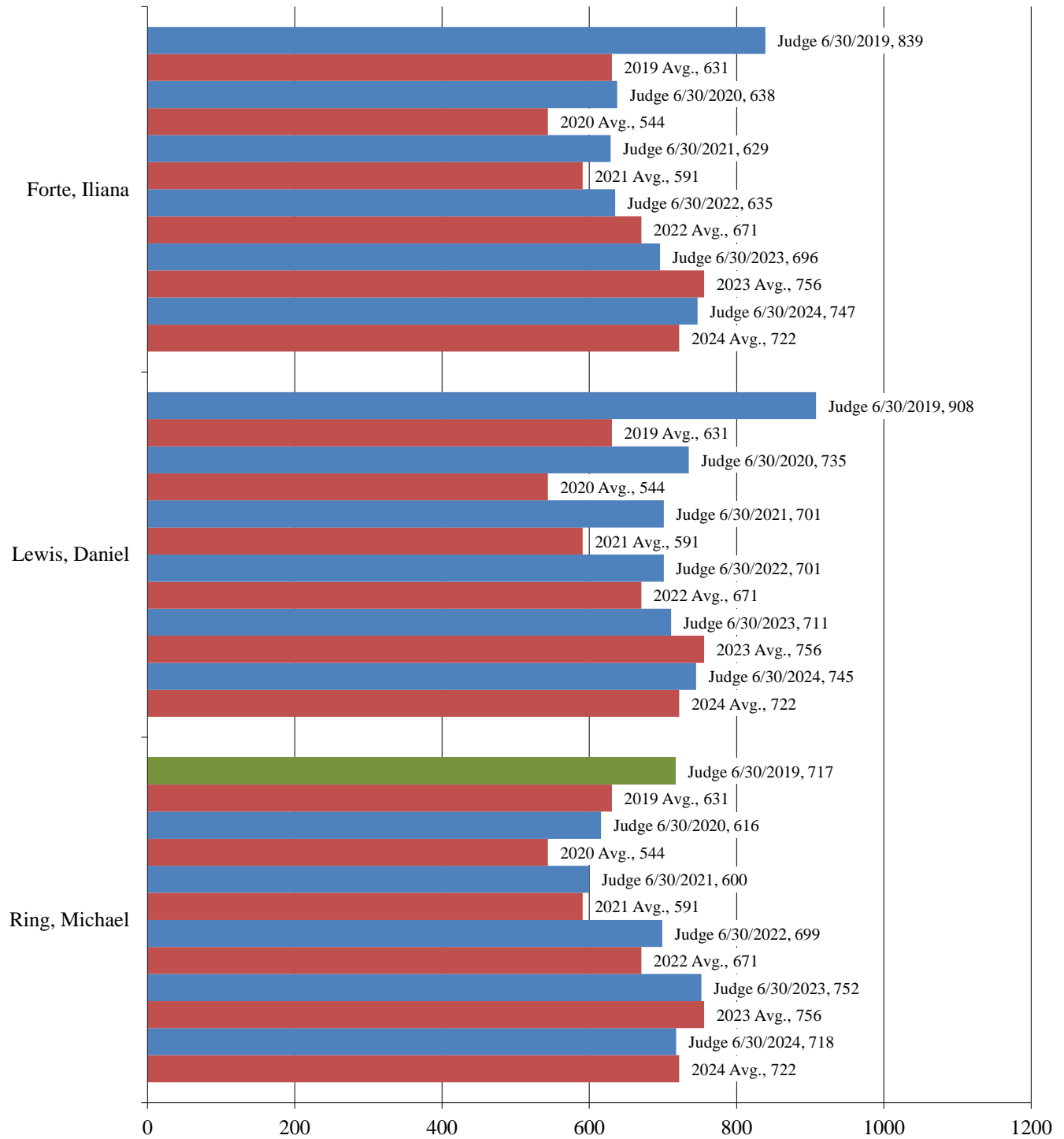
The following depicts the volume of “new cases” filed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of PFBs closed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).

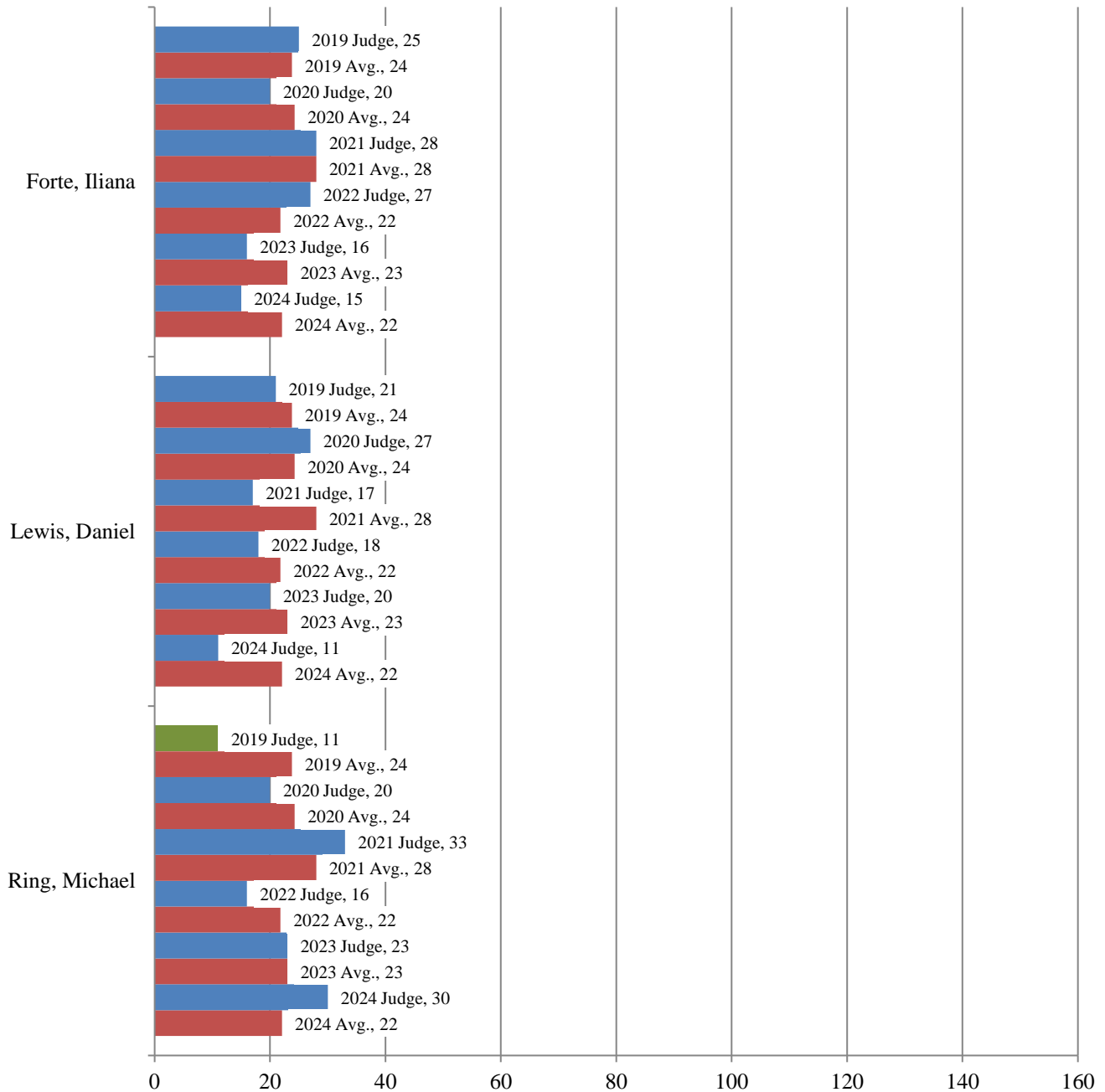


The following depicts the inventory of pending PFBs in this District and the statewide average at year end (06.30) between 2018-19 and 2023-24. The identification and values for each year are in each bar label (green bars denote statistics before the named judge’s appointment).

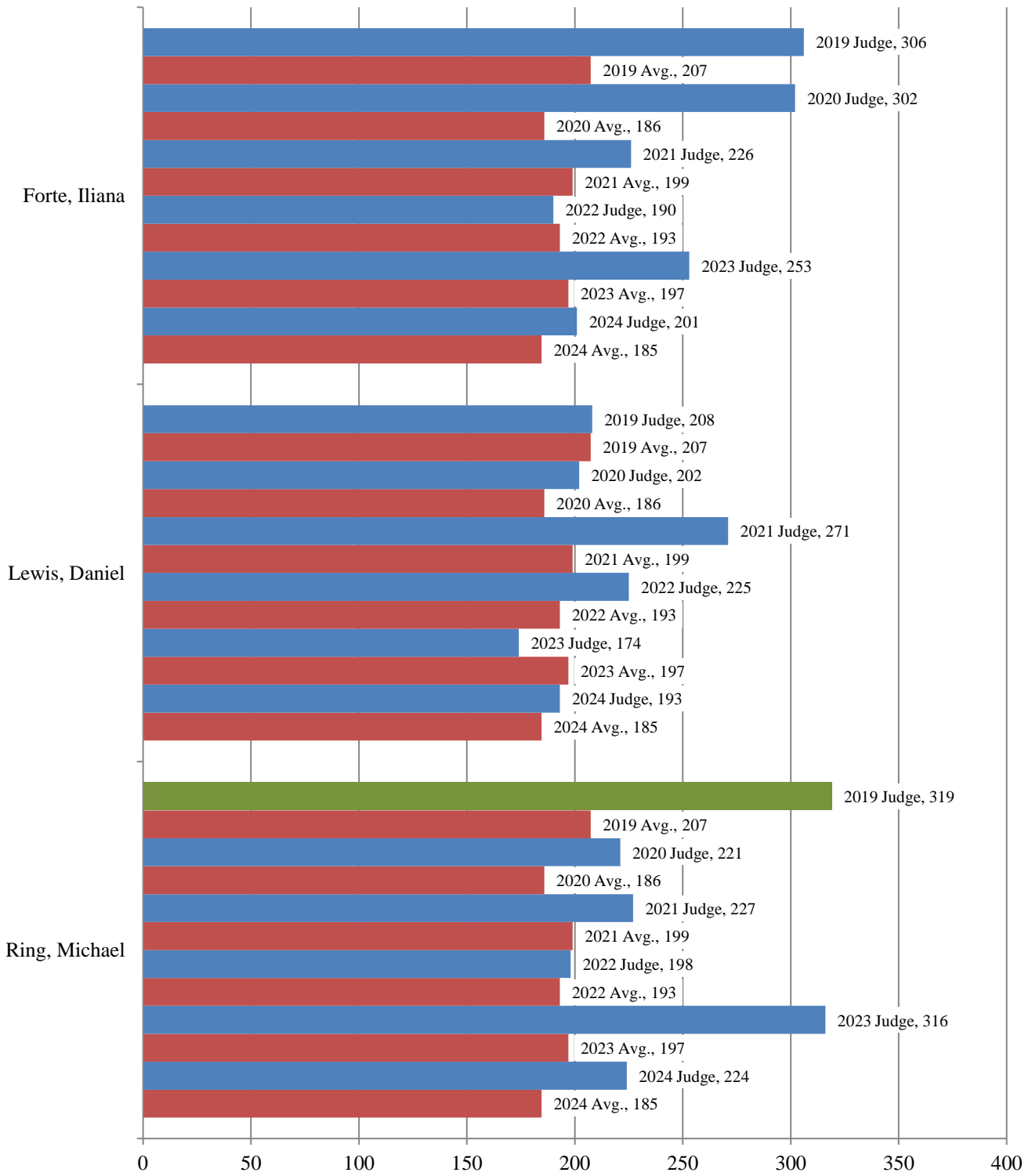


Until 2022-23, mediators were each assigned to a specific judge. Days to mediation statistics were then reported in each Appendix. In 2022-23, the mediators were disconnected and statewide random assignments began. Therefore, that graph is not included here, but in Appendix 11.

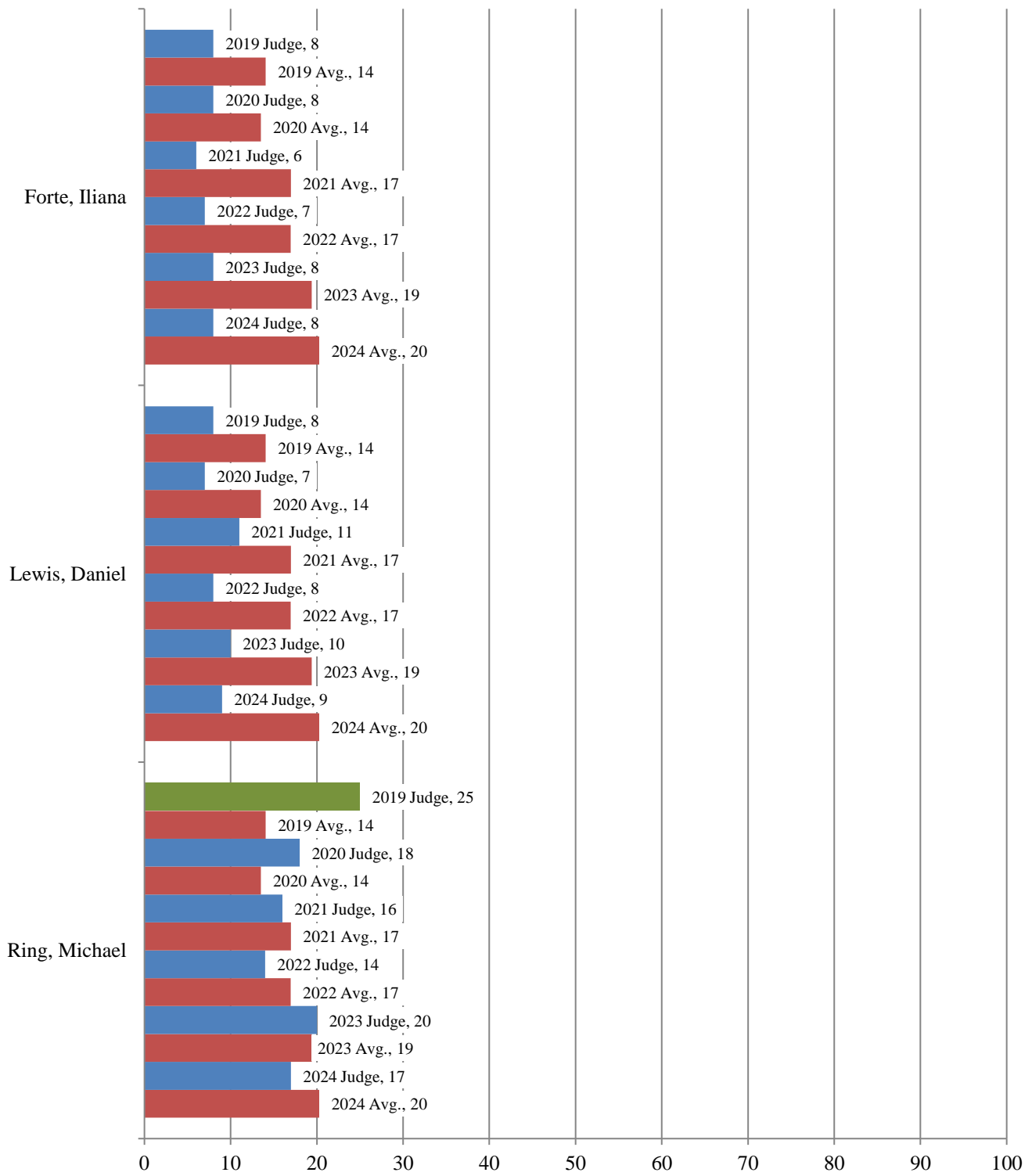
The following graph depicts the total volume of trial orders²⁹⁹ uploaded in this District and statewide averages between 2018-19 and 2023-24. The identification and values for each year are in each bar label (green bars denote statistics before the named judge’s appointment).



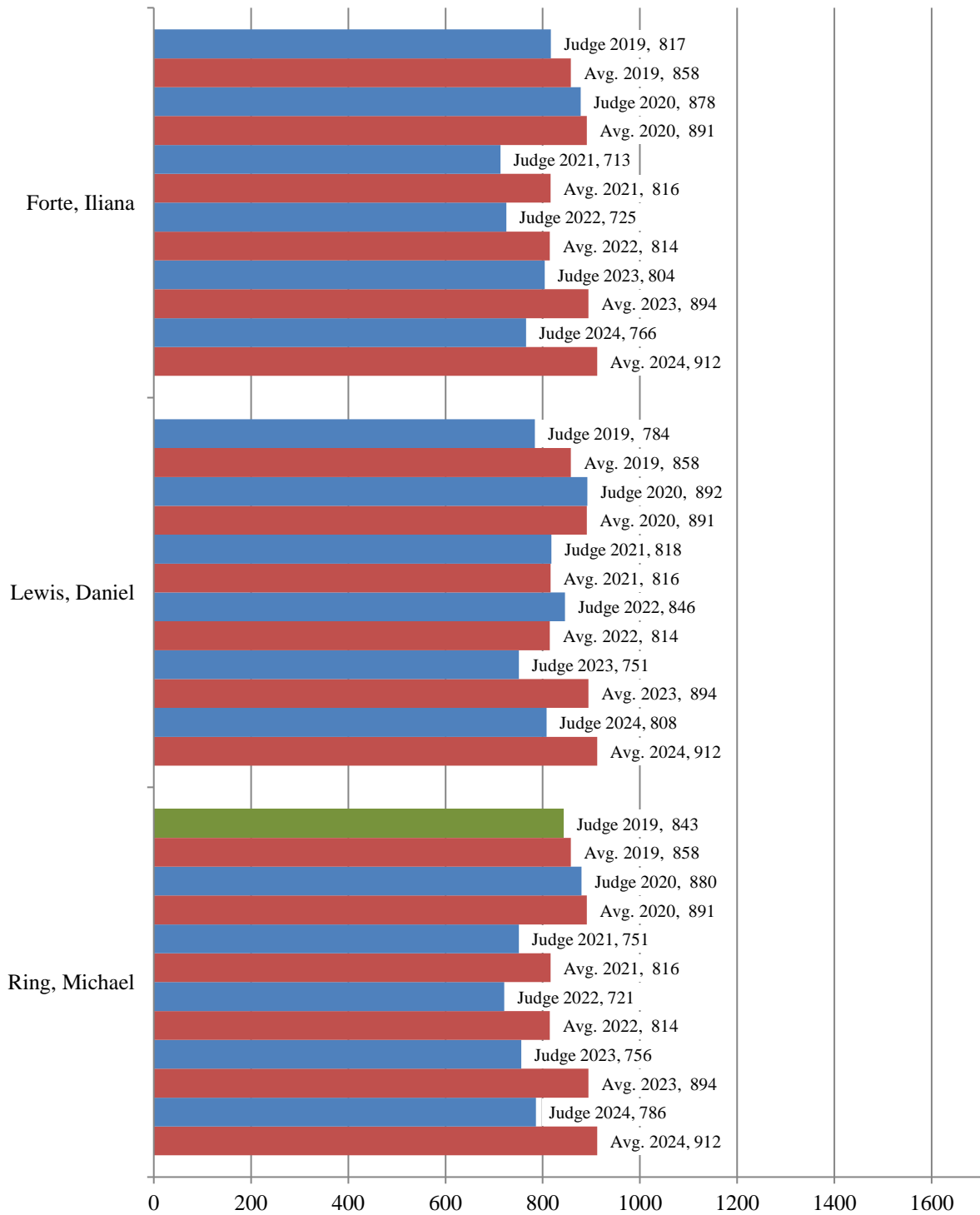
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2018-19 and 2023-24. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



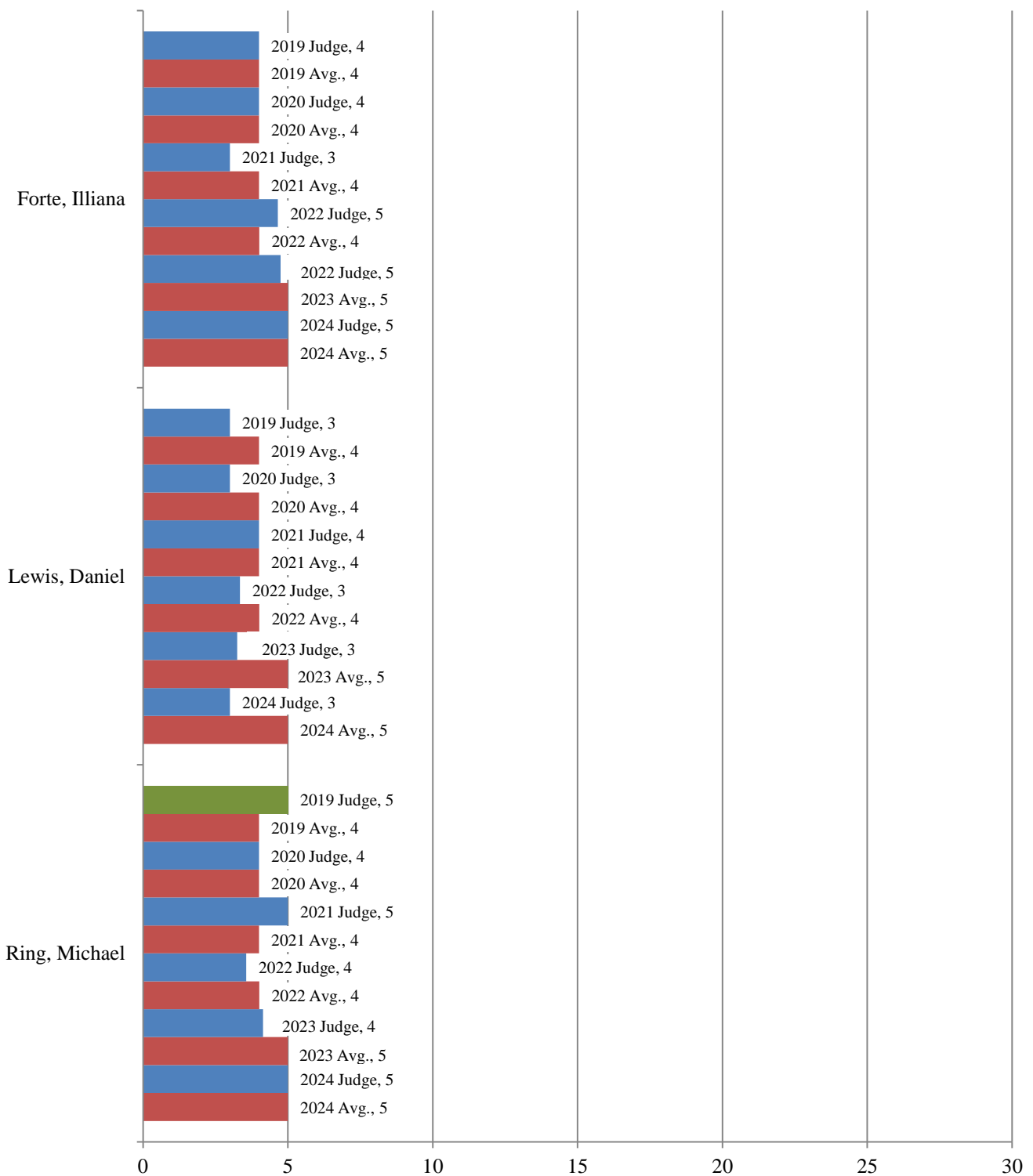
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2018-19 and 2023-24. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



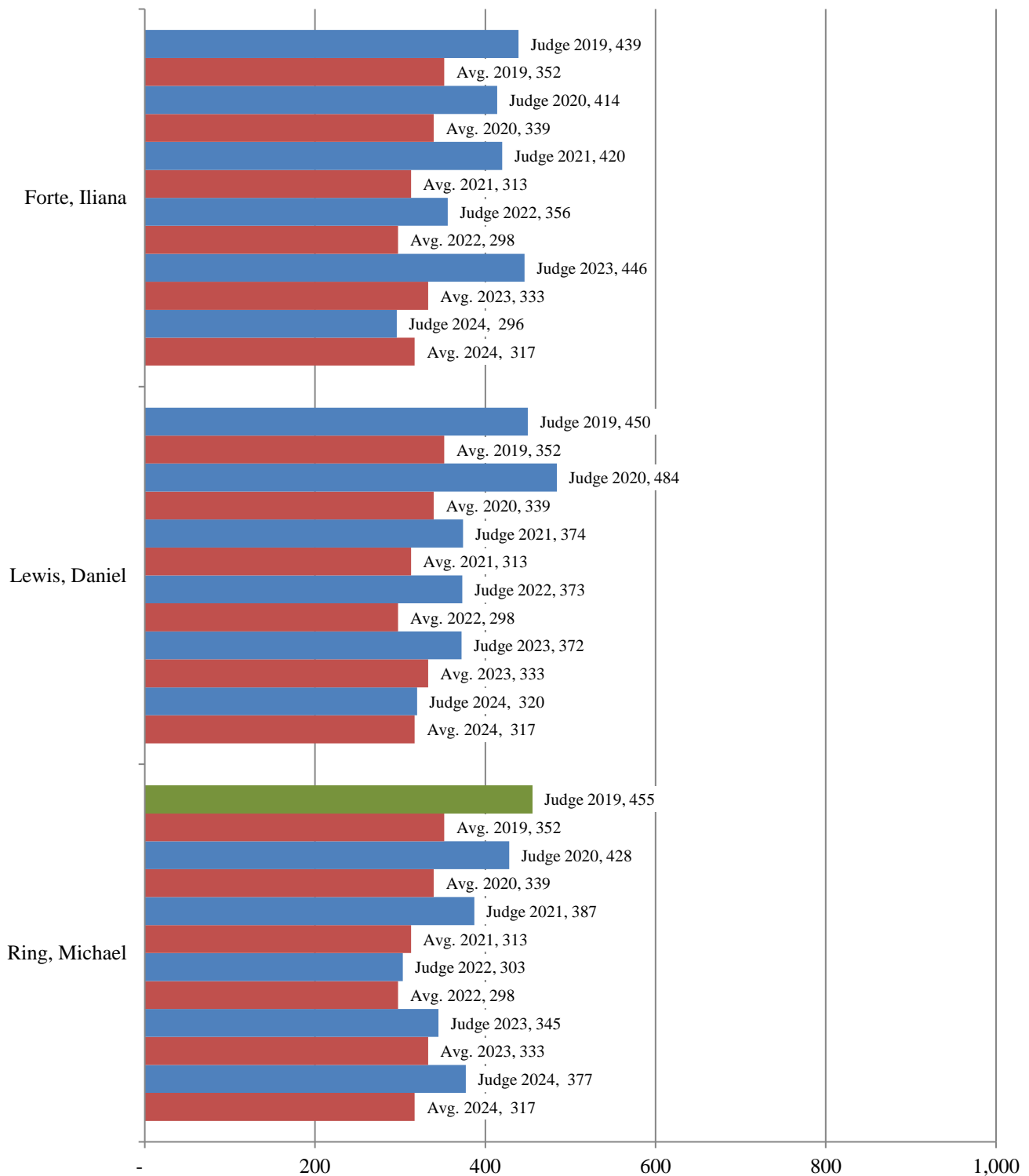
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



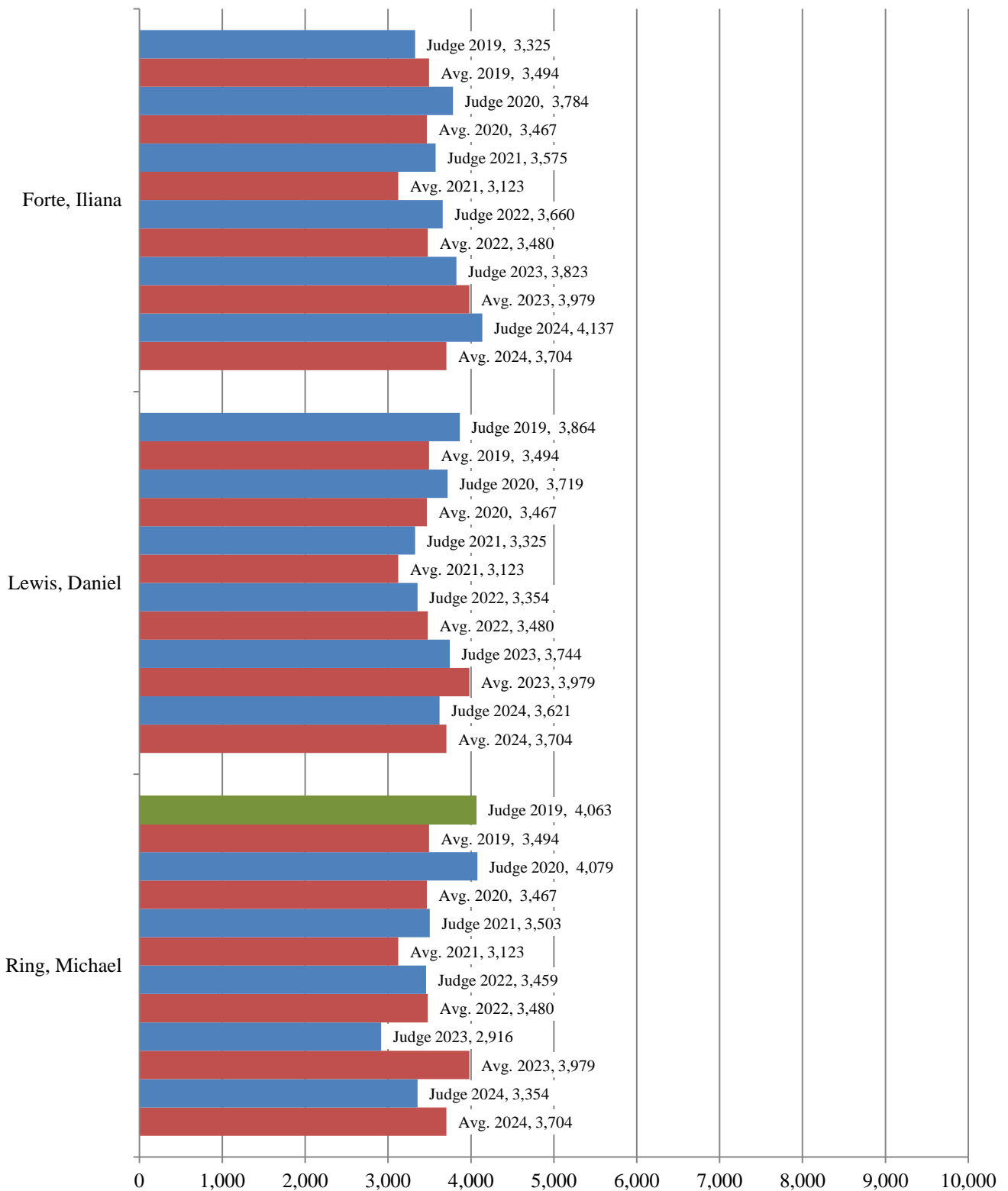
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



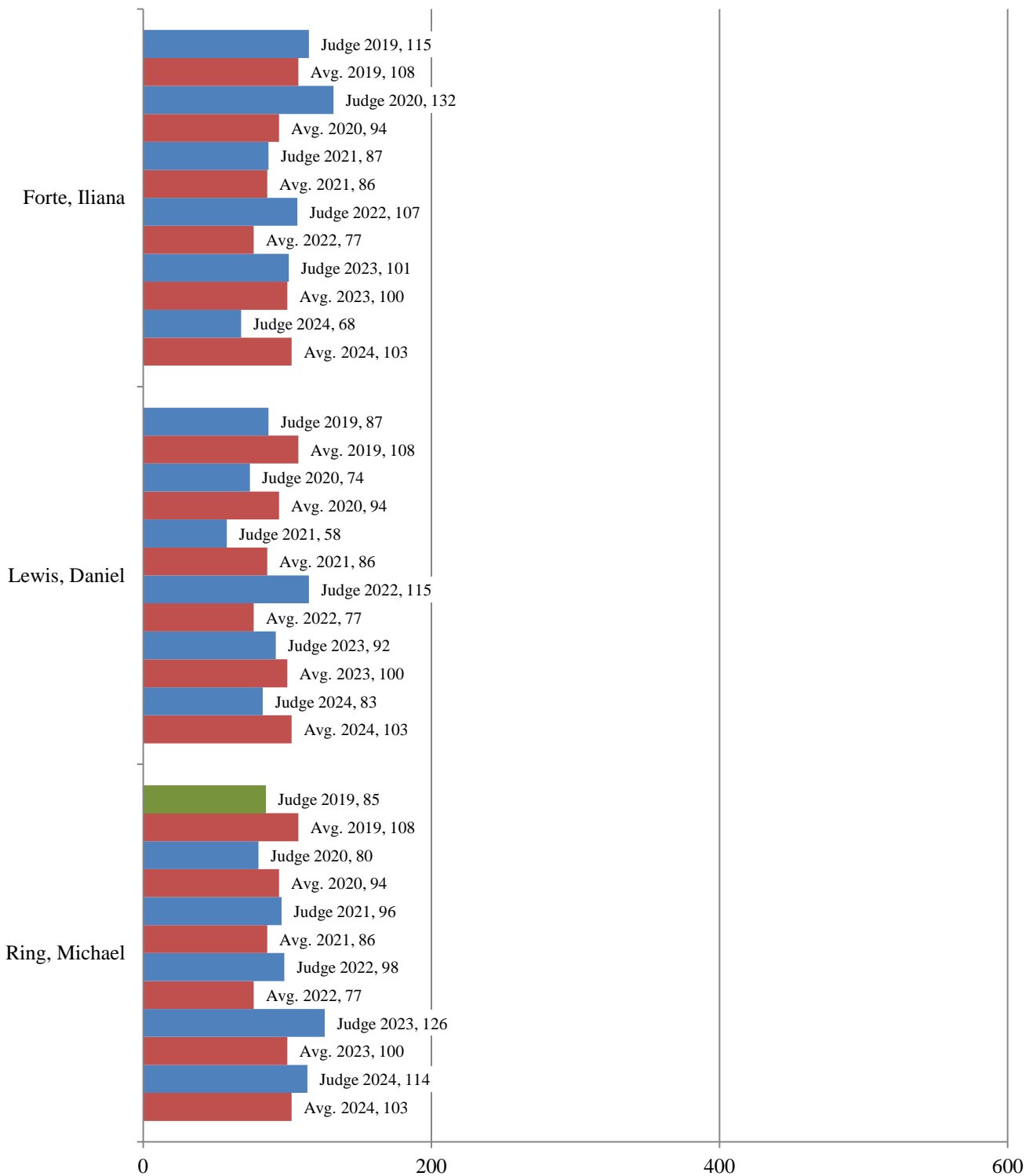
The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



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Appendix “2” District FTM (JCC Clark, JCC Weiss):

District FTM included Charlotte, Collier, DeSoto, and Lee counties. Late in 2021-22, as part of the consolidation and office closure process, Glades and Hendry counties were transferred to District Fort Myers³⁰⁰ in accommodation of the significant work volume transferred into District West Palm Beach as a result of closure of both Melbourne and Port St. Lucie Districts. The cases in DeSoto County were transferred to District Sarasota.³⁰¹ District Sarasota was later consolidated into District St. Petersburg, which is expected to consolidate into District Tampa in 2024-25.

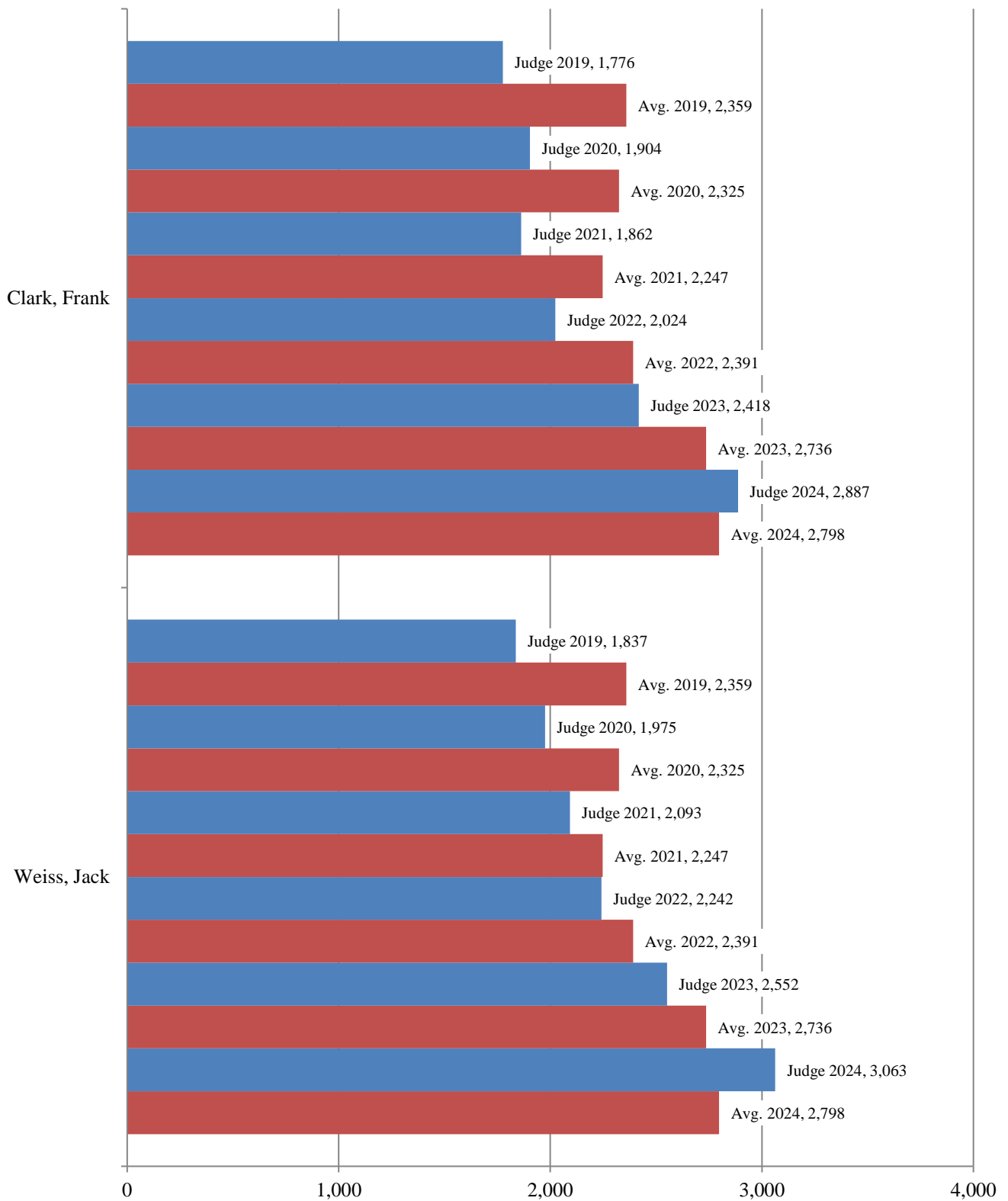
“New case” volume in District FTM has generally paralleled the statewide average, and PFB volume was below average. With the consolidations, the new case volume has now exceeded the average, as has PFB volume, in 2023-24. PFB filing and closure rates in District FTM are notably coincident, indicating active and diligent docket management.

Judge Clark annually participates in the E. Earle Zehmer National Moot Court Competition and the R. Fred Lewis Florida High School Mock Trial Competition. He is a proud Rotarian, and supportive of various Southwest Florida and statewide charities and non-profit organizations, including: Boys & Girls Clubs, Habitat for Humanity, Virginia B. Andes Volunteer Community Clinic, Fred Lang Foundation/Charlotte Behavioral Health Care, Crossroads Hope Academy, Charlotte County Animal Welfare League, Charlotte High School Project Graduation, and Friends of 440 Scholarship Fund.

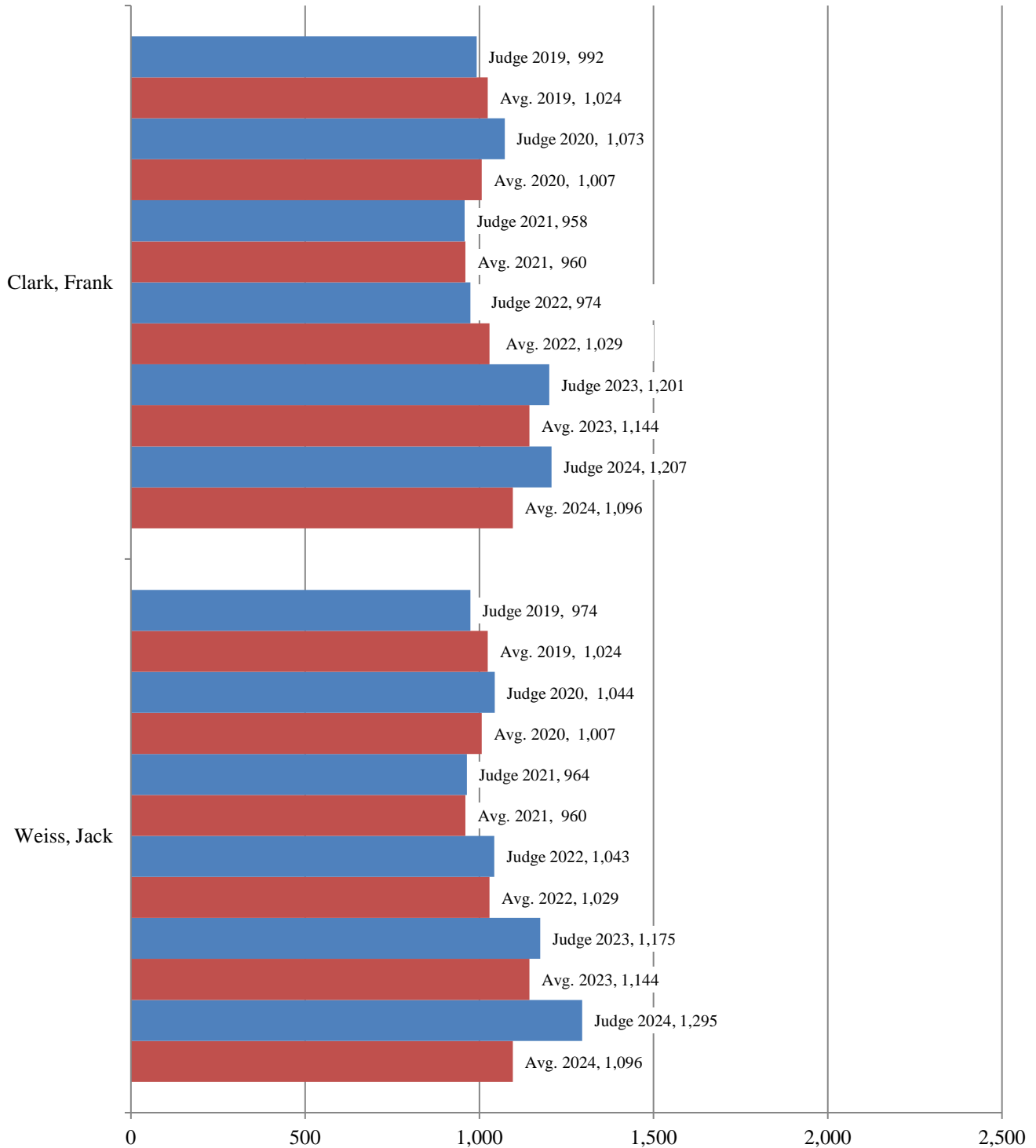
In 2023-24, Judge Weiss spoke at the Calusa American Inn of Court in September on *Social Media – How Do You Obtain It, How Do You Get It Admitted; and How Do You Keep It Out*. Judge Weiss continues to serve the legal community through his involvement with the Florida Conference of Judges of Compensation Claims (Treasurer), The Florida Bar (Standing Committee on Professionalism), E. Earle Zehmer National Moot Court Competition (Judge), and the National Association of Workers’ Compensation Judiciary (Conference Committee). He also remains an active member of the Calusa American Inn of Court and the Lee County Bar Association.

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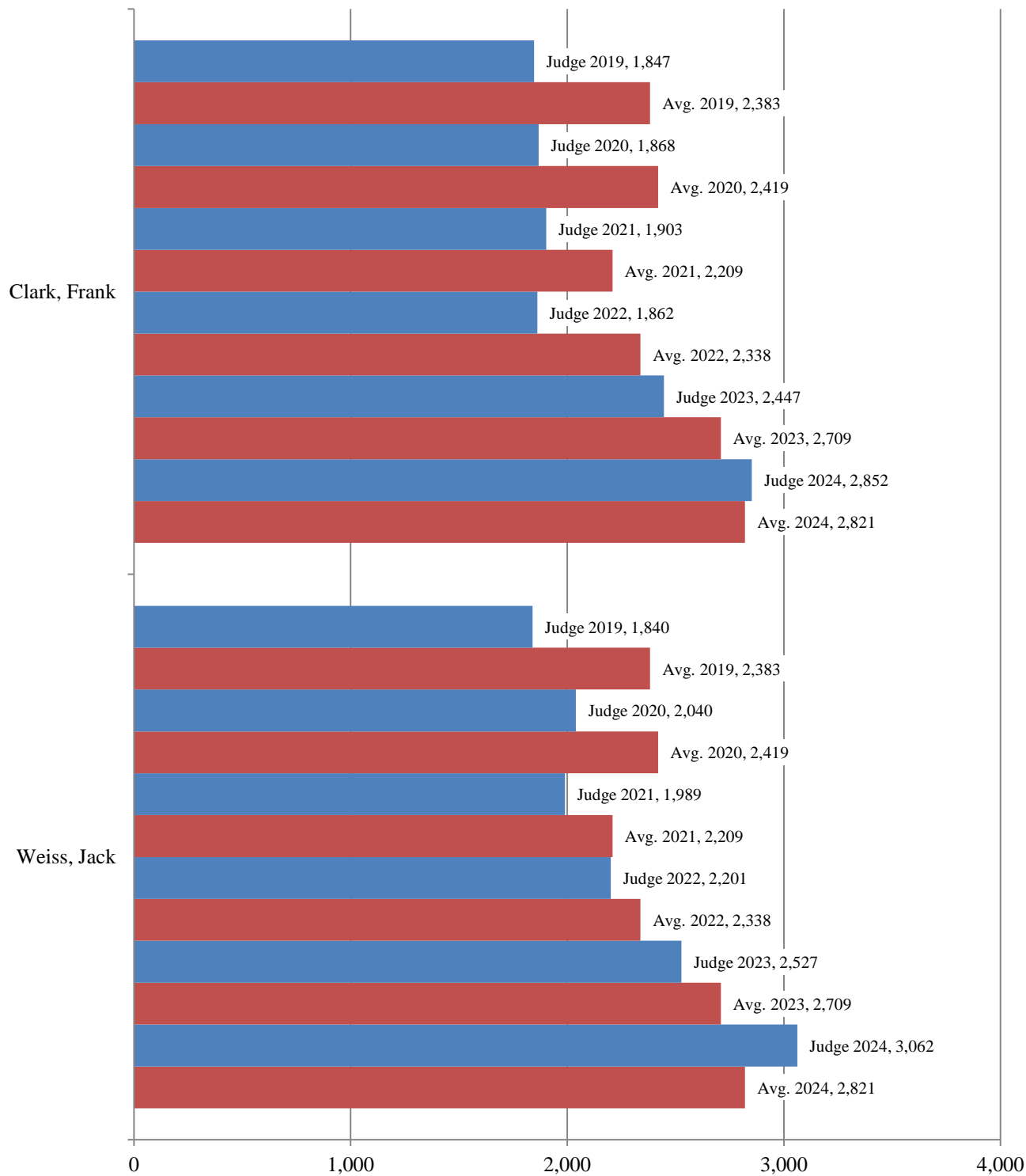
The following depicts the volume of PFBs filed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



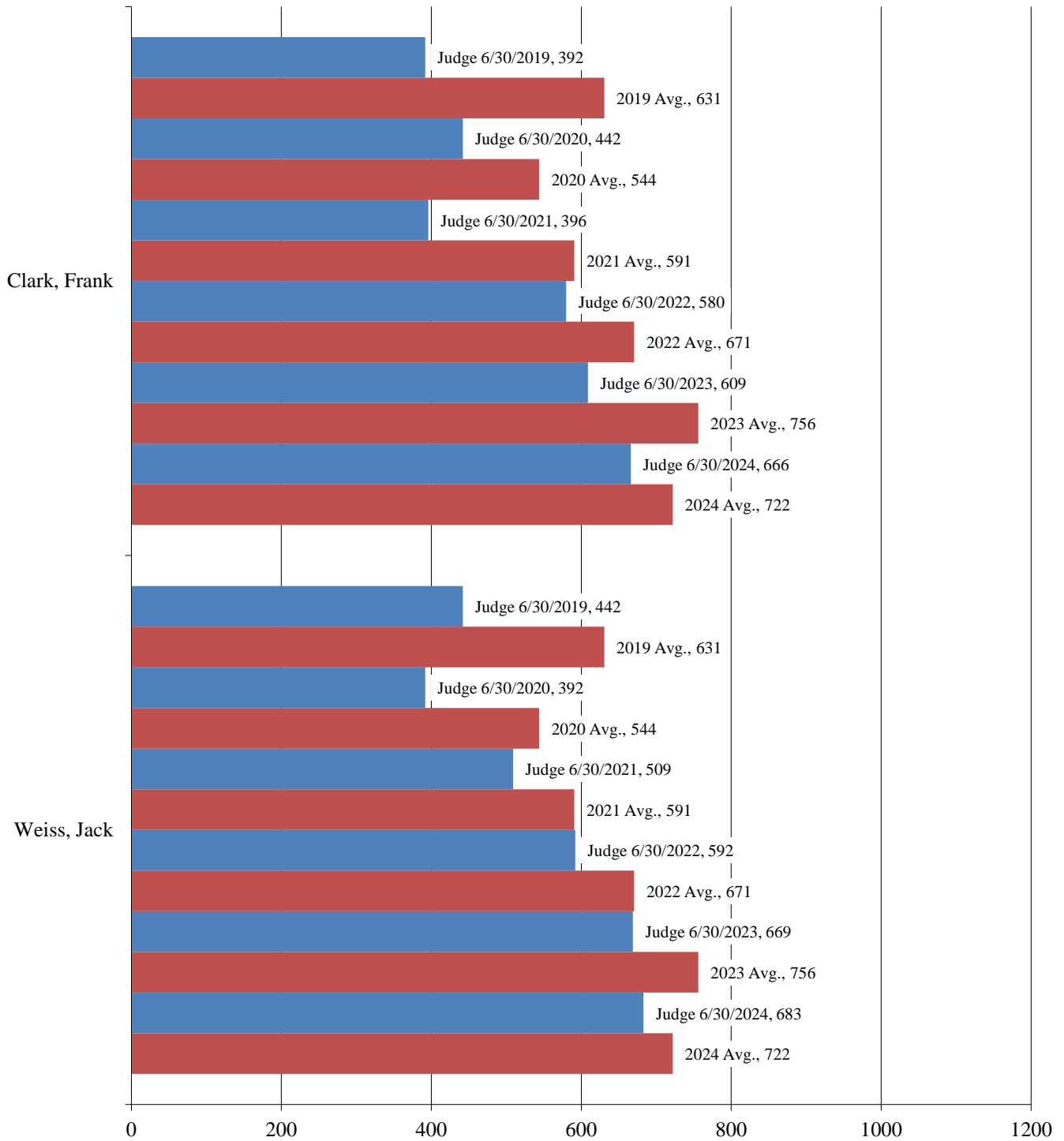
The following depicts the volume of “new cases” filed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of PFBs closed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).

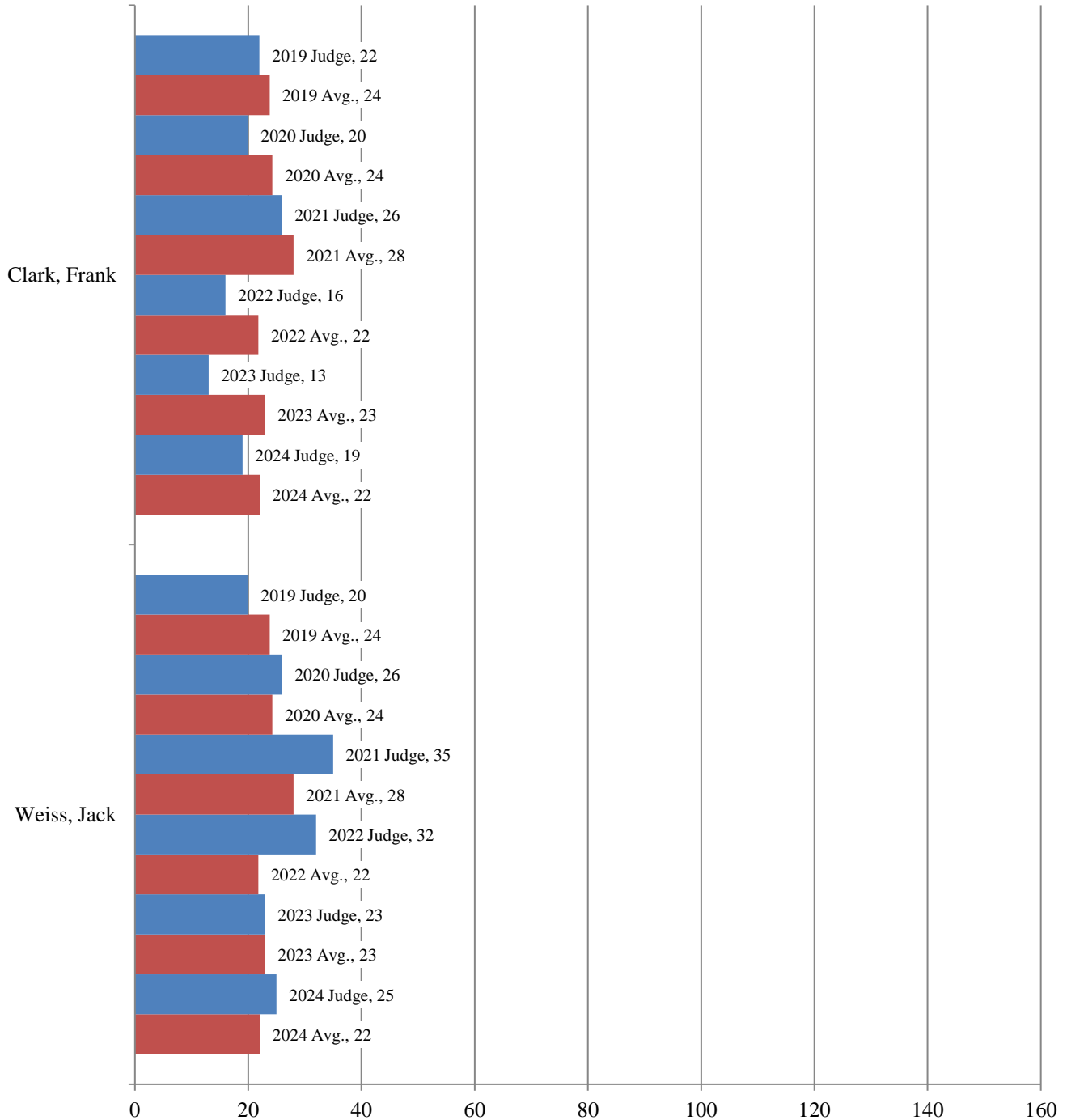


The following depicts the inventory of pending PFBs in this District and the statewide average at year end (06.30) between 2018-19 and 2023-24. The identification and values for each year are in each bar label (green bars denote statistics before the named judge’s appointment).

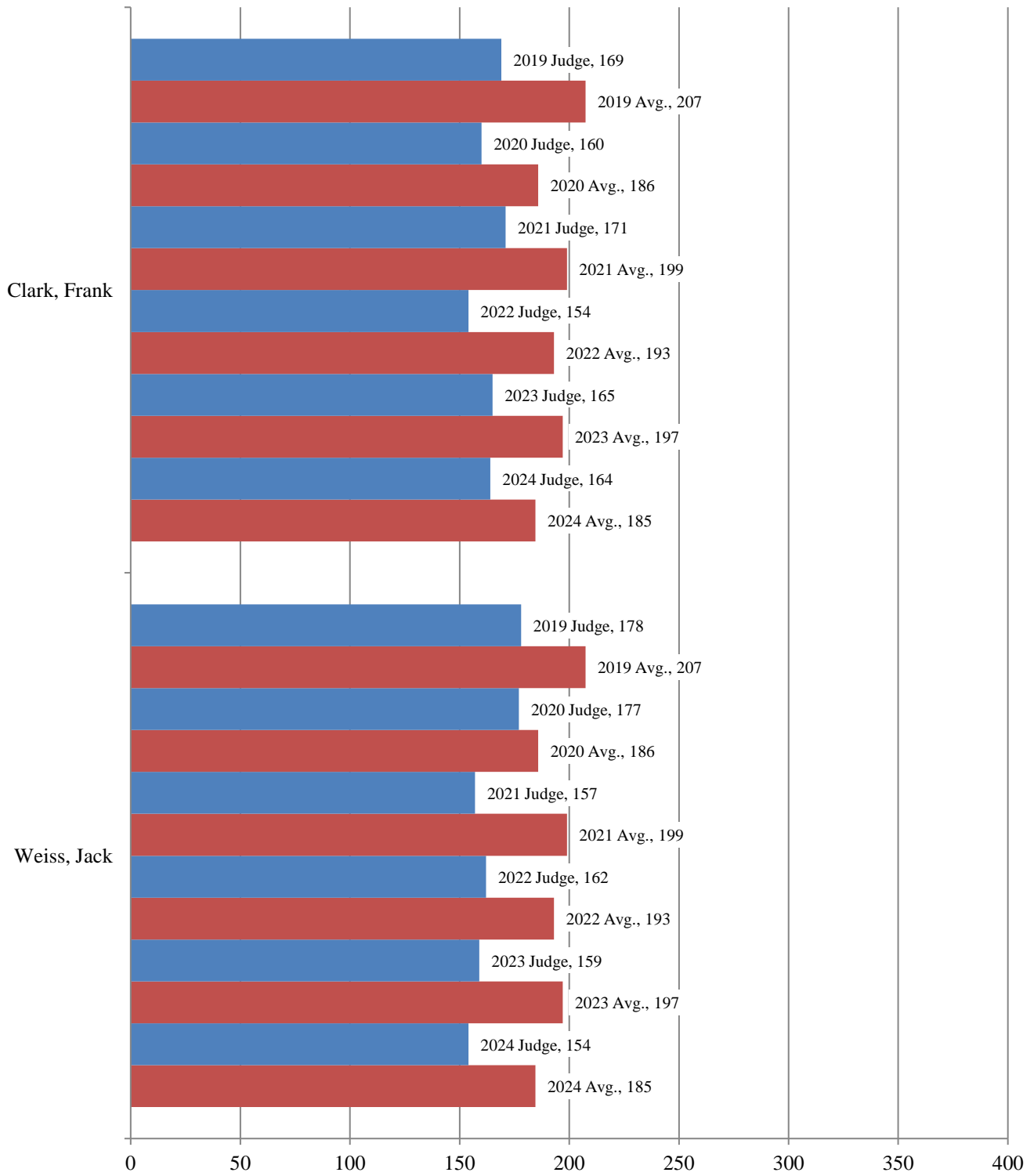


Until 2022-23, mediators were each assigned to a specific judge. Days to mediation statistics were then reported in each Appendix. In 2022-23, the mediators were disconnected and statewide random assignments began. Therefore, that graph is not included here, but in Appendix 11.

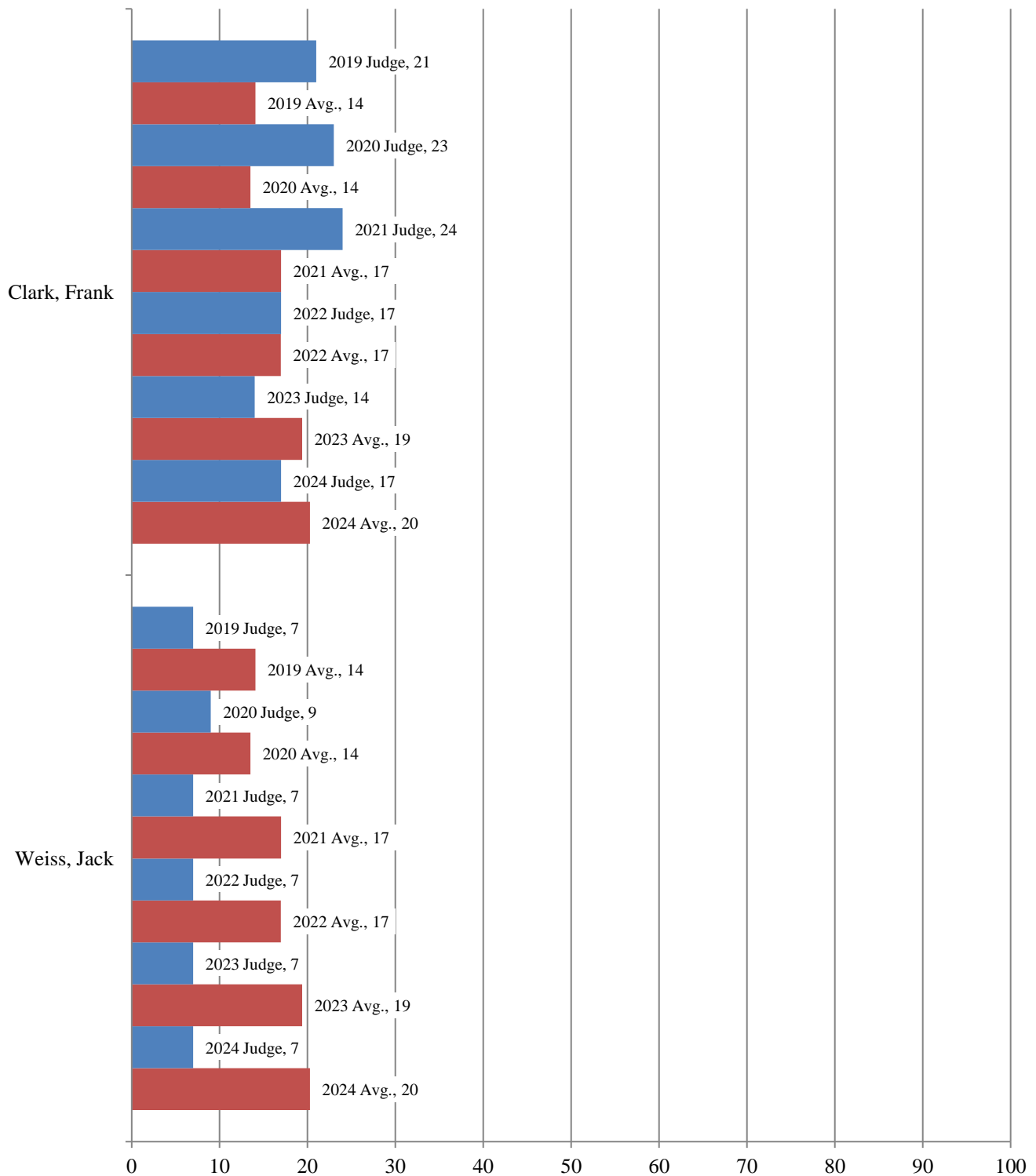
The following graph depicts the total volume of trial orders³⁰² uploaded in this District and statewide averages between 2018-19 and 2023-24. The identification and values for each year are in each bar label (green bars denote statistics before the named judge’s appointment).



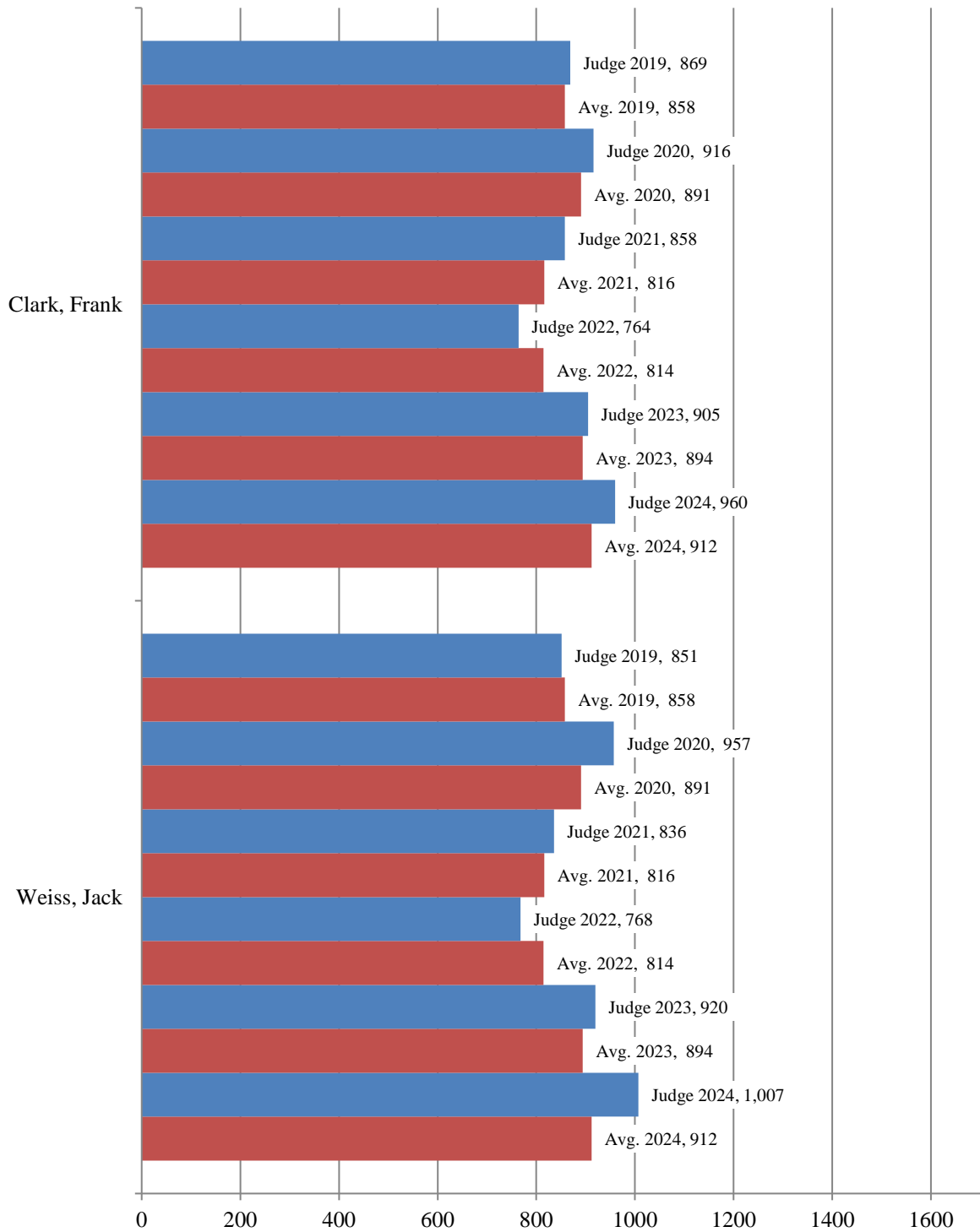
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2018-19 and 2023-24. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count (green bars denote statistics prior to the named judge’s appointment).



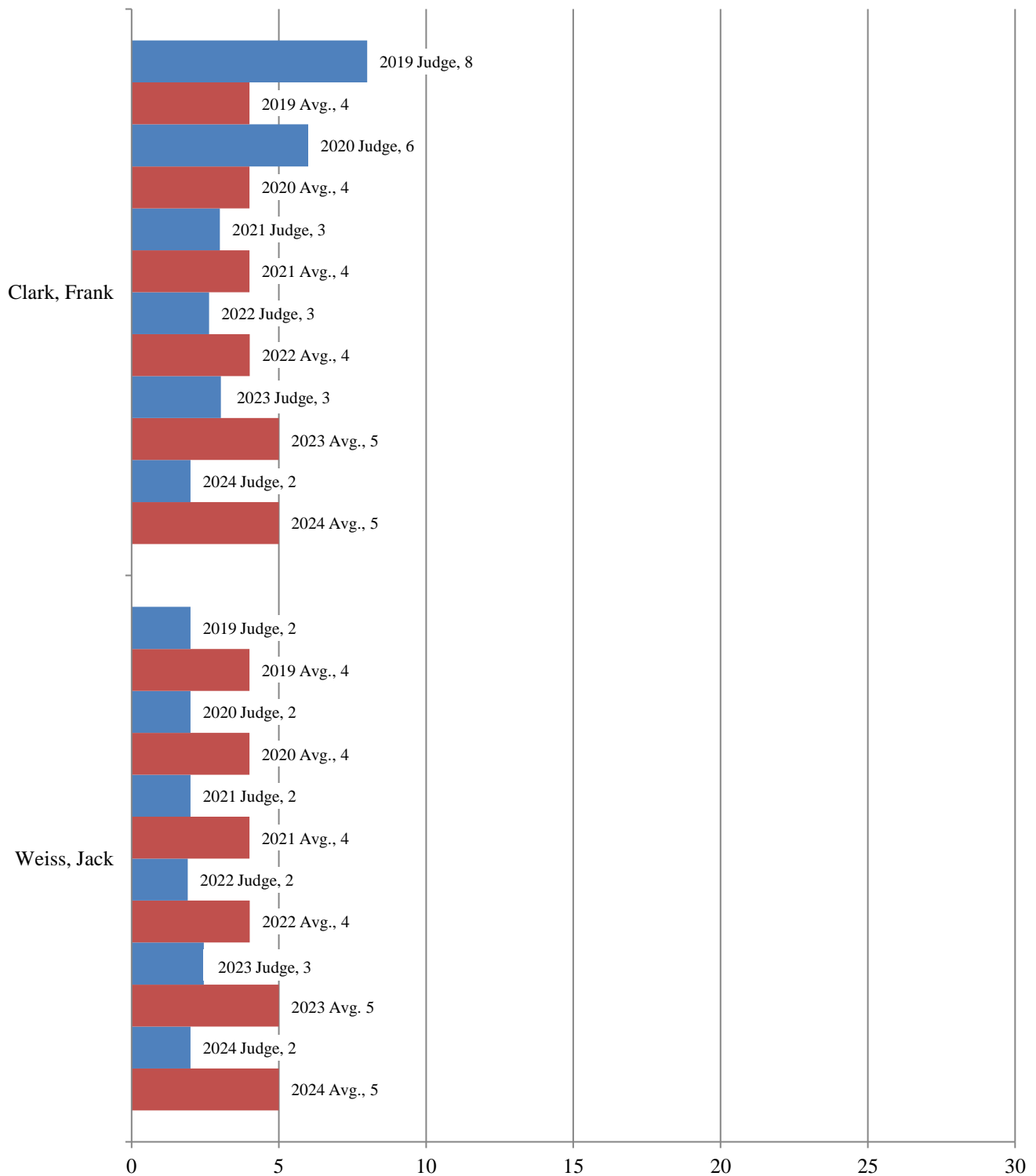
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2018-19 and 2023-24. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



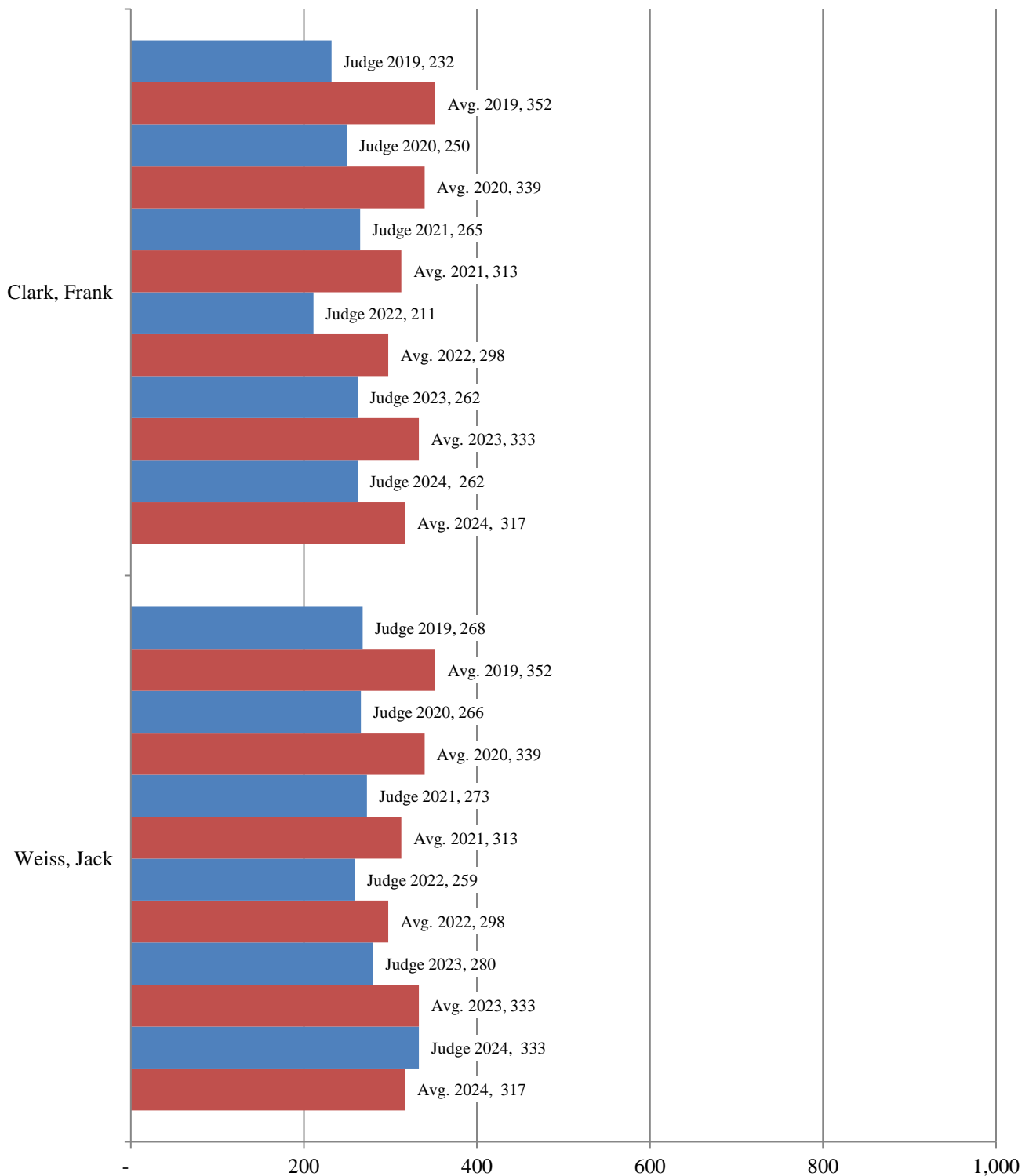
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



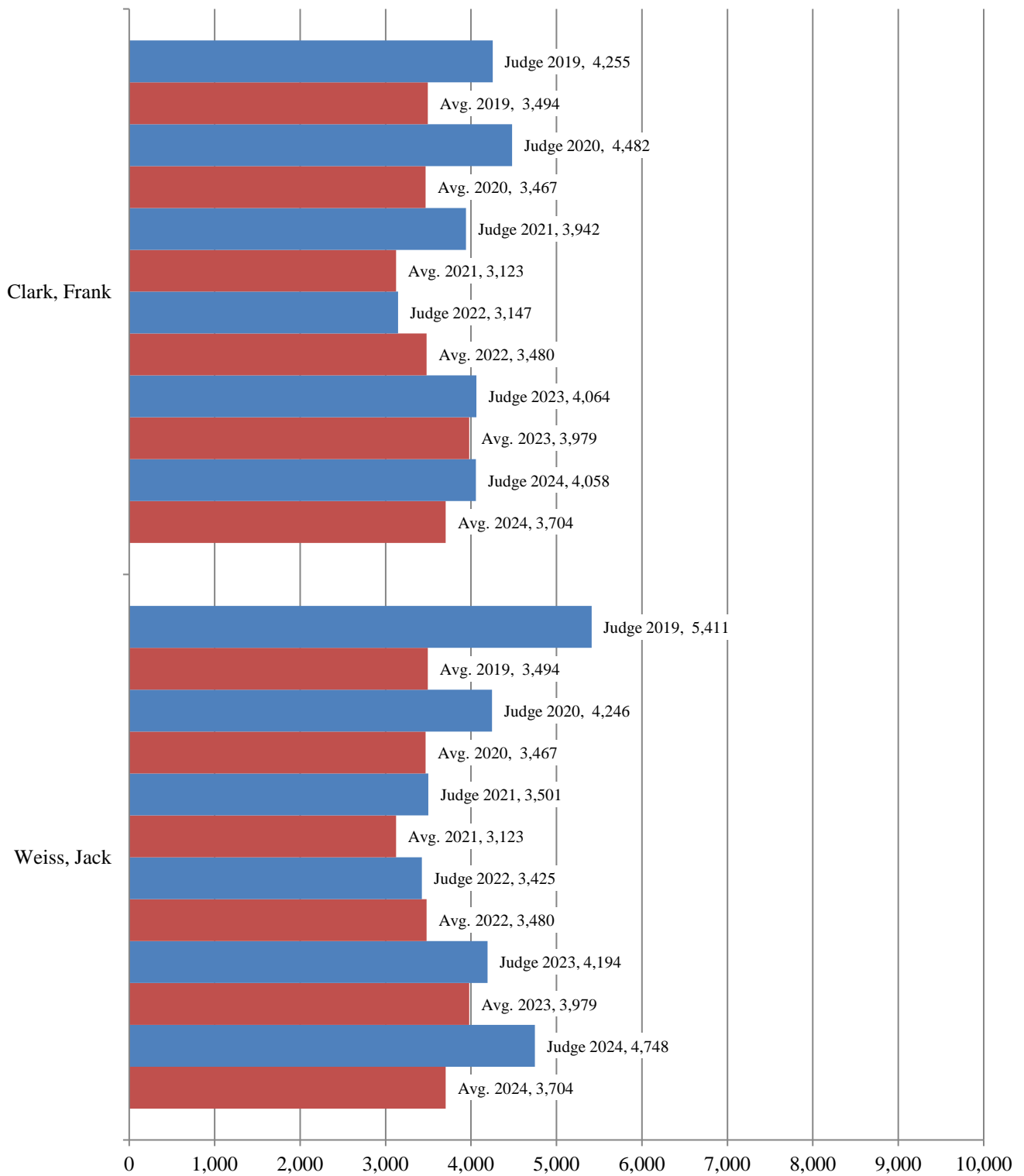
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



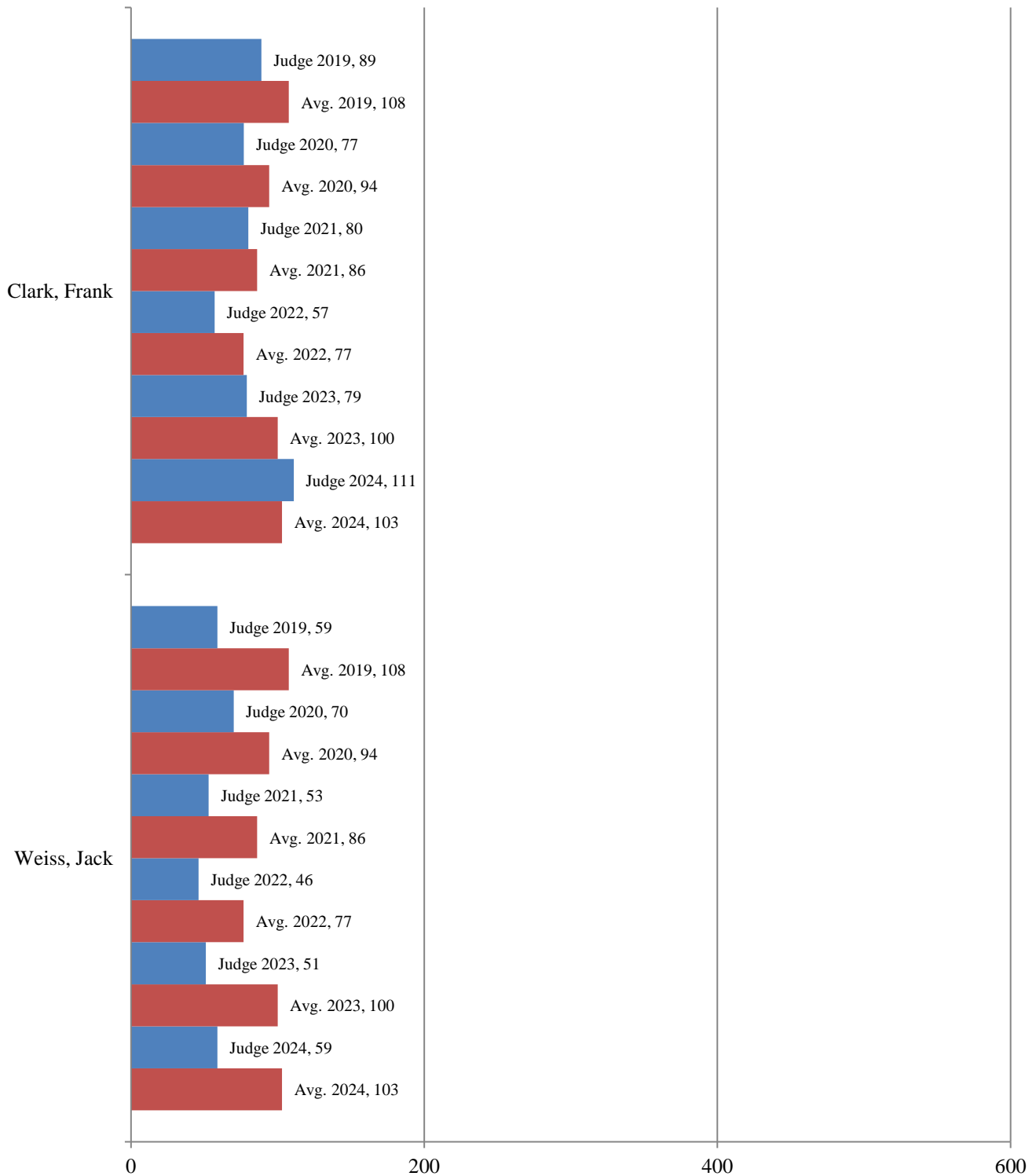
The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



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Appendix “3” District JAX (JCC Holley, JCC Humphries, JCC Stanton³⁰³):

District JAX includes Alachua,³⁰⁴ Baker, Bradford, Clay, Columbia,³⁰⁵ Duval, Flagler,³⁰⁶ Marion,³⁰⁷ Nassau, Putnam, St. Johns, and Union counties. In 2022-23, District Gainesville was closed and counties were consolidated into District Jacksonville, along with Judge Stanton.³⁰⁸ This represents a significant expansion in the geography and scope of this district. In 2023-24, needs were reassessed and Judge Stanton took on an alternate Orlando docket, but remains assigned to District Jacksonville.

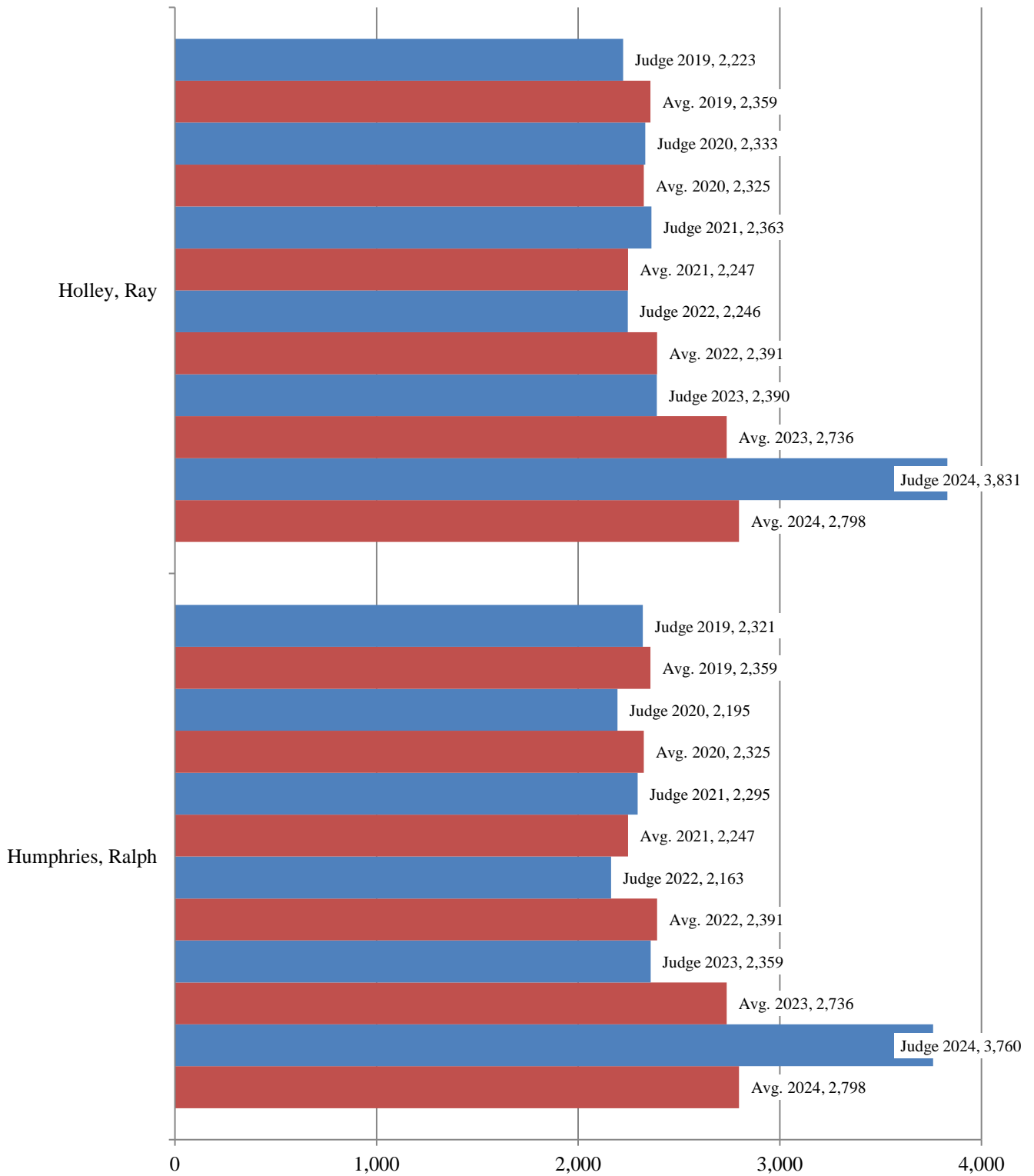
District Jacksonville has consistently experienced a notable volume of “new cases,” historically about thirty percent above the statewide average. That said, the overall volume of PFBs in District Jacksonville usually remained below the statewide average. The workload in District Orlando exceeded capacity in 2023-24 and Judge Stanton took on an Orlando docket. The District Jacksonville workload was then divided among Judges Holley and Humphries. As a result, both “New Case” and PFB volumes are notably increased in 2023-24. Nonetheless, PFB closure closely paralleled filing, leading to equilibrium despite the significant workload.

Judge Holley is a Past President of the E. Robert Williams American Inn of Court. Judge Holley continues to serve the legal profession through his involvement with the Florida Conference of the Judges of Compensation Claims (President), E. Robert Williams American Inn of Court (Executive and Program Committees), Friends of 440 Scholarship Fund (Vice President of Scholarship Selection, and State and local Board member), and the Jacksonville Bar Association. He is actively involved in his community, including such organizations as the Rotary Club of Jacksonville (member), the University of North Florida Alumni Board (Governance Committee Chair and board member), the National Society of the Sons of the American Revolution (member), and the Stetson University College of Arts and Sciences Board (board member). Judge Holley has presented as a speaker and/or panelist on several occasions in the past year.

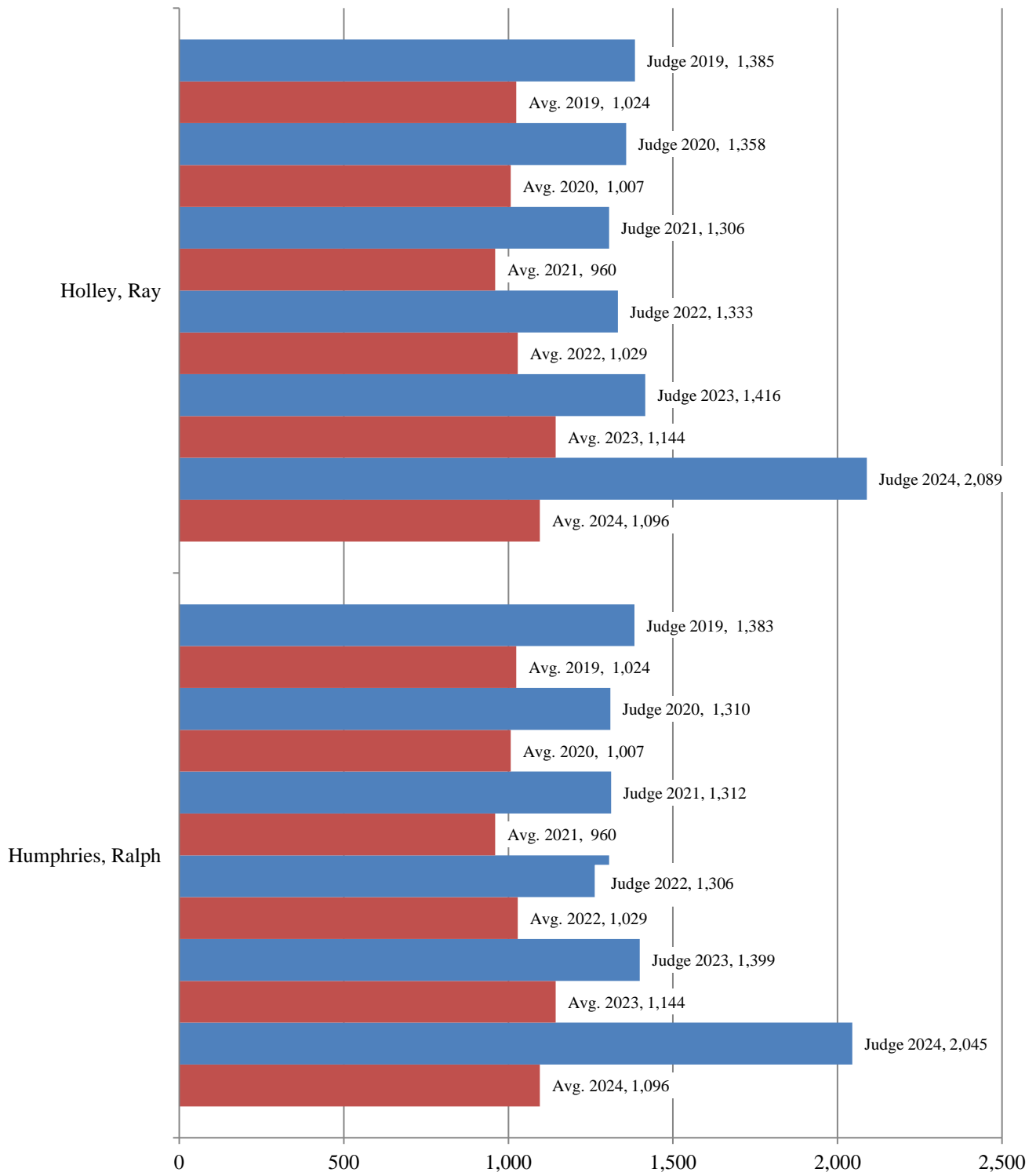
Judge Humphries participated in the OJCC Academy in 2023-24. He served as one of the inaugural deans of the OJCC Scholars Program that was prepared in 2023-24 and for launch in 2024-25. Judge Humphries serves as the administrative judge in the Jacksonville district.

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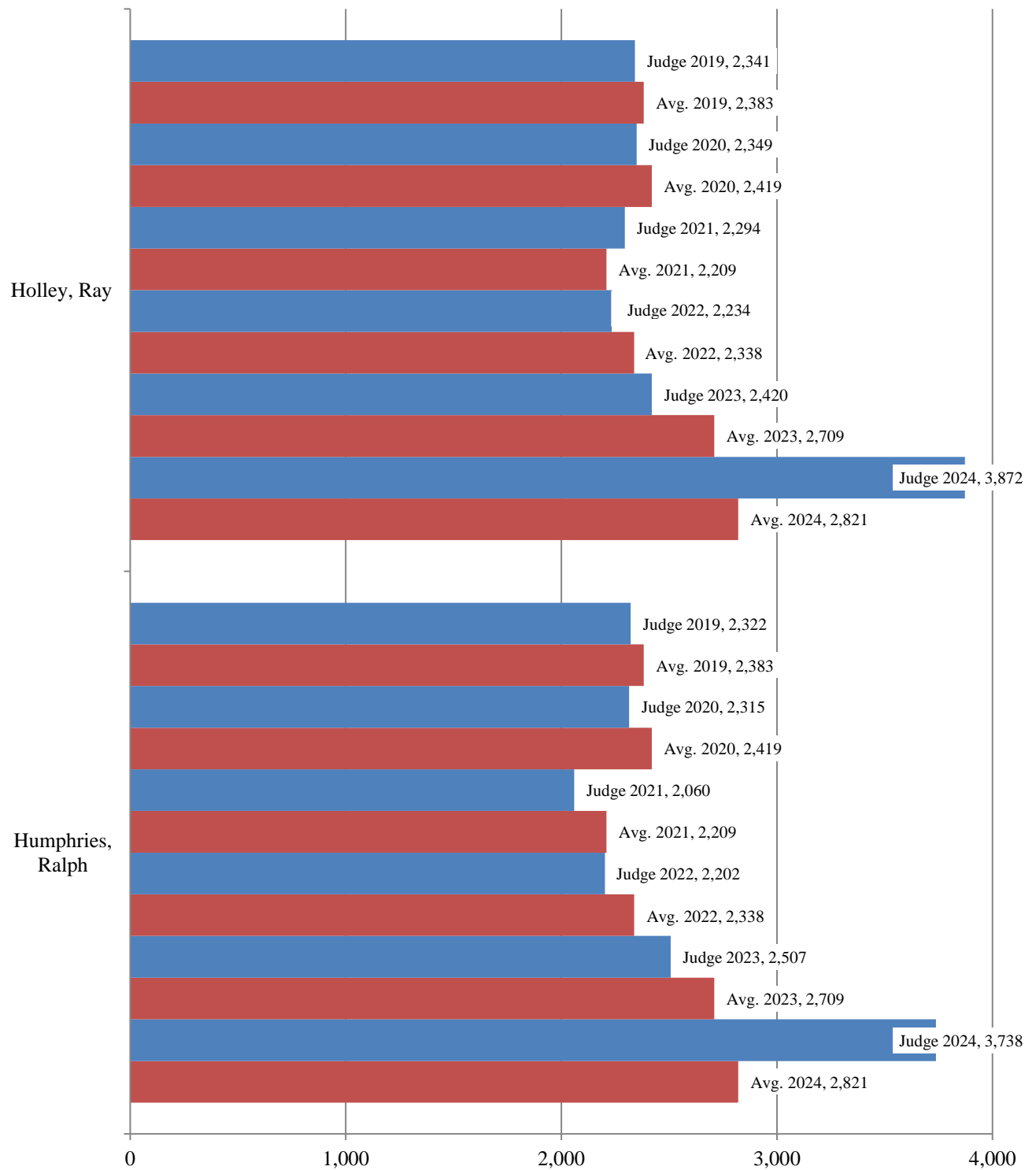
The following depicts the volume of PFBs filed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



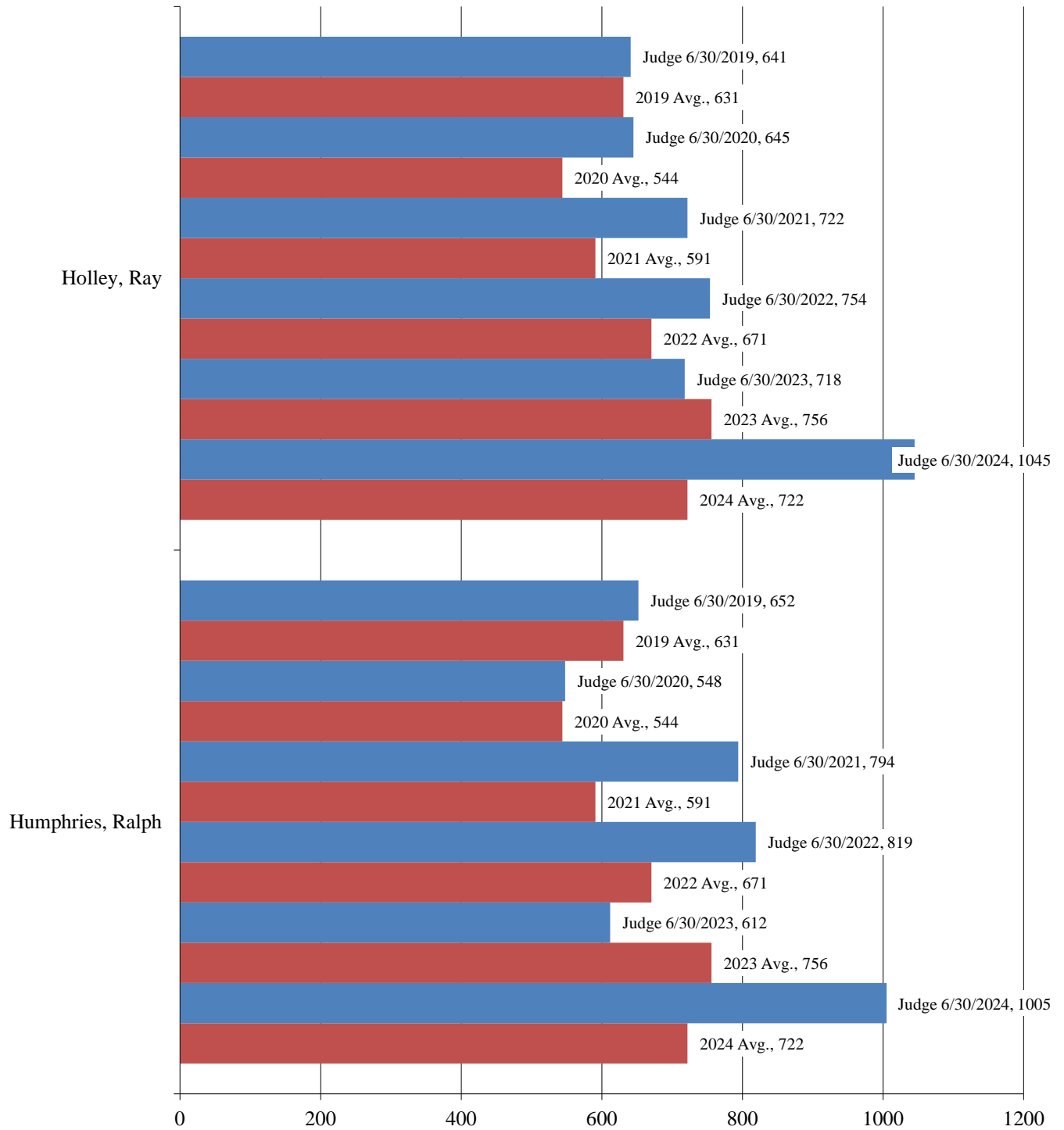
The following depicts the volume of “new cases” filed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of PFBs closed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).

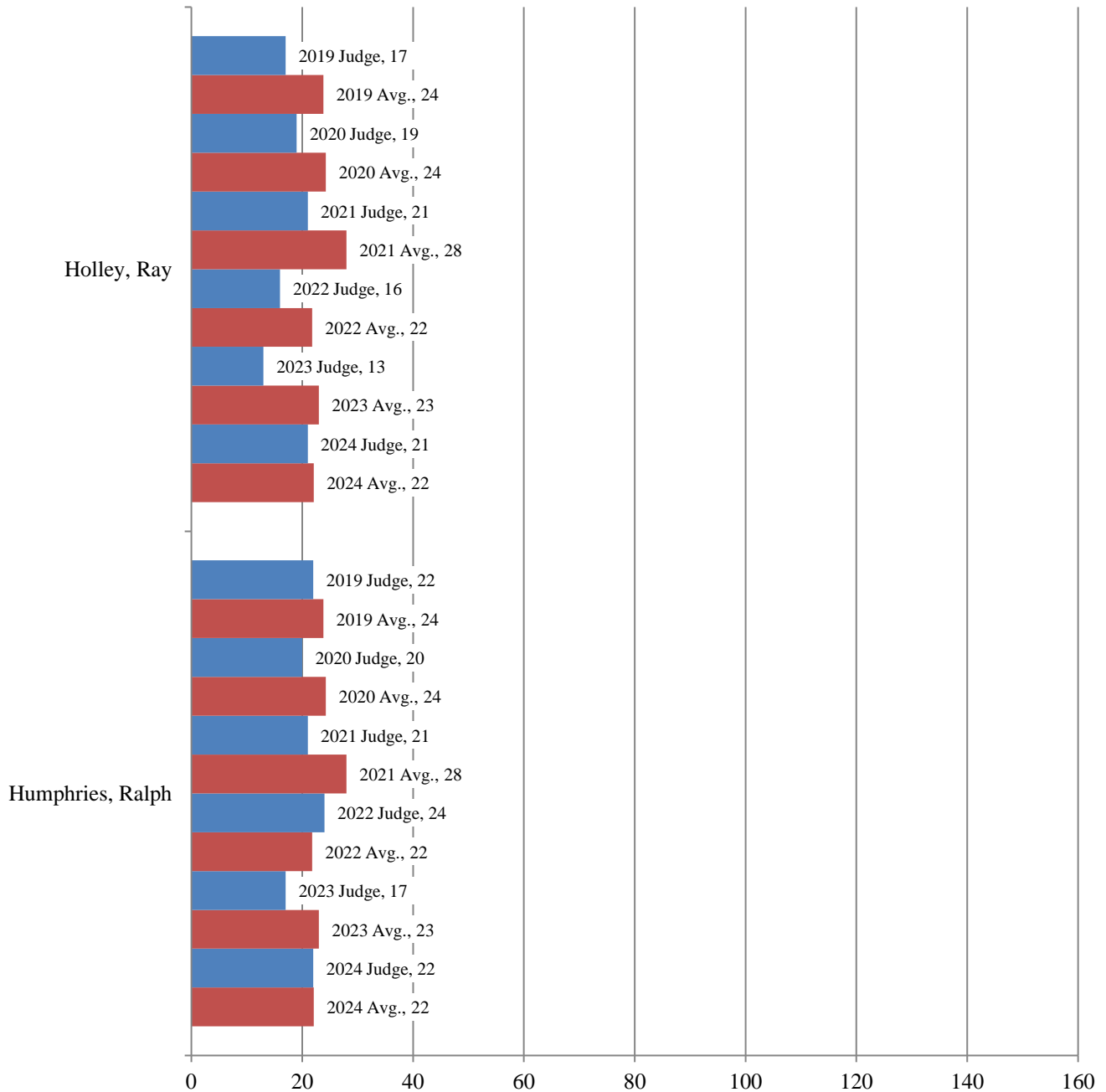


The following depicts the inventory of pending PFBs in this District and the statewide average at year end (06.30) between 2018-19 and 2023-24. The identification and values for each year are in each bar label (green bars denote statistics before the named judge’s appointment).

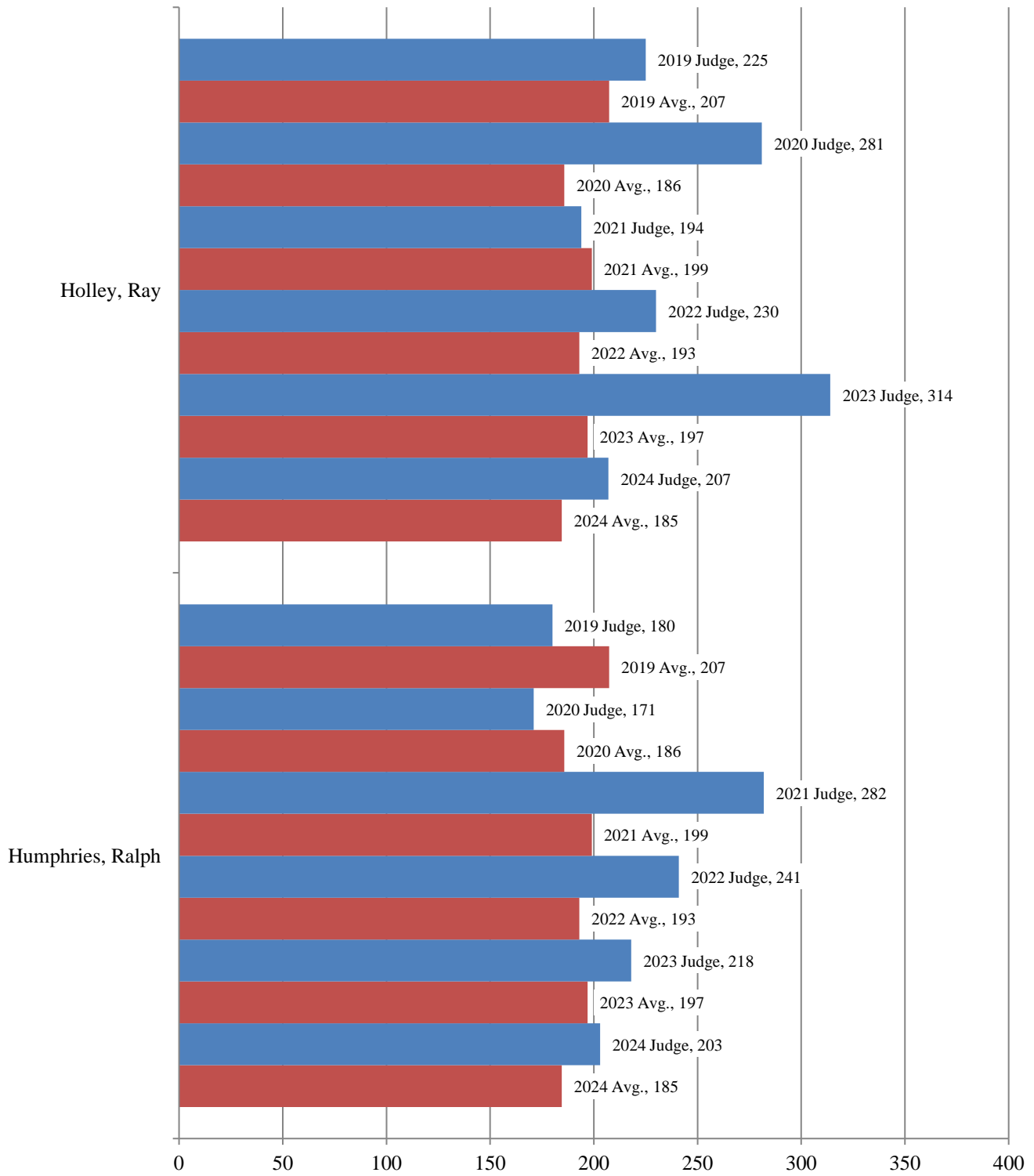


Until 2022-23, mediators were each assigned to a specific judge. Days to mediation statistics were then reported in each Appendix. In 2022-23, the mediators were disconnected and statewide random assignments began. Therefore, that graph is not included here, but in Appendix 11.

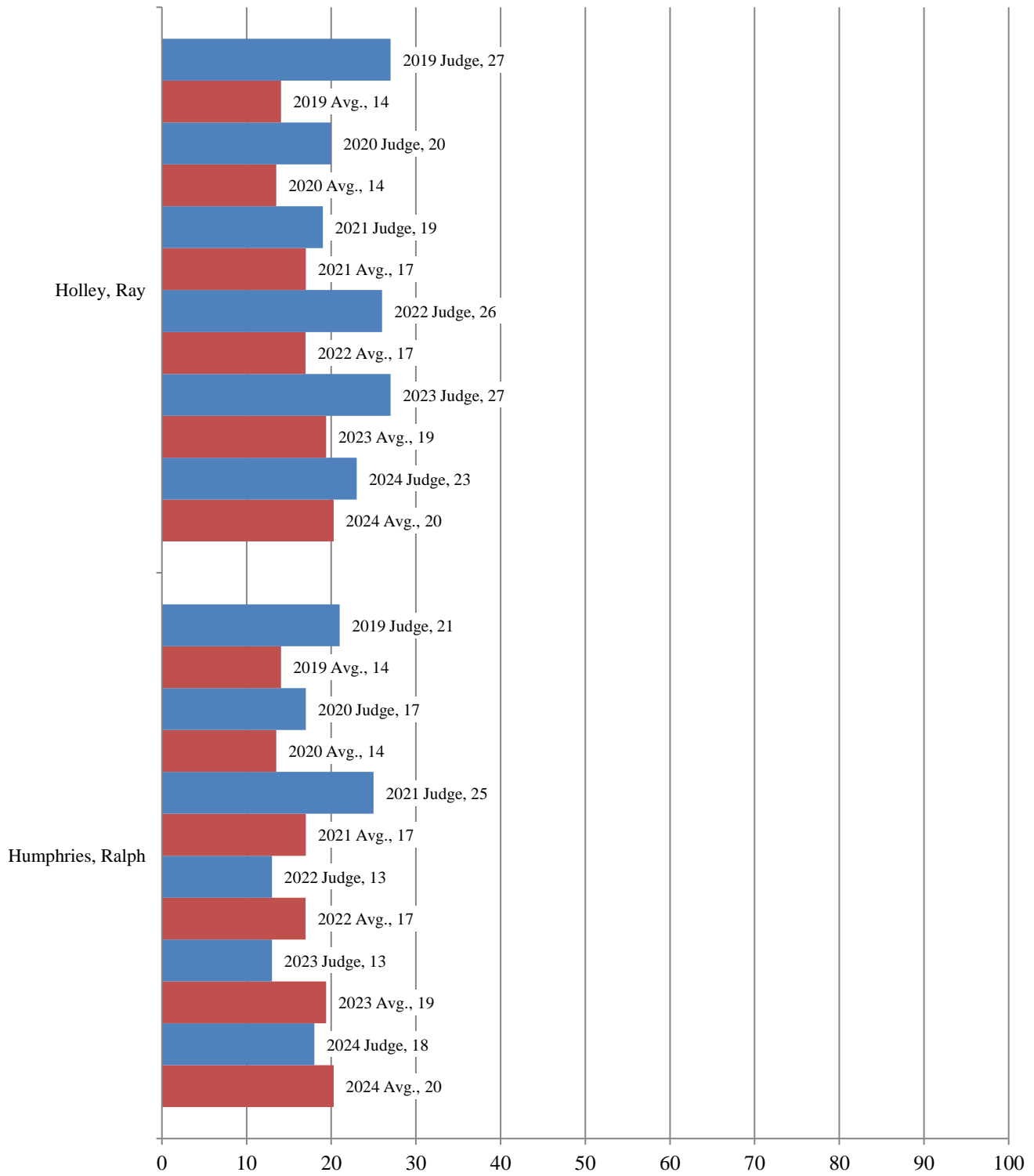
The following graph depicts the total volume of trial orders³⁰⁹ uploaded in this District and statewide averages between 2018-19 and 2023-24. The identification and values for each year are in each bar label (green bars denote statistics before the named judge's appointment).



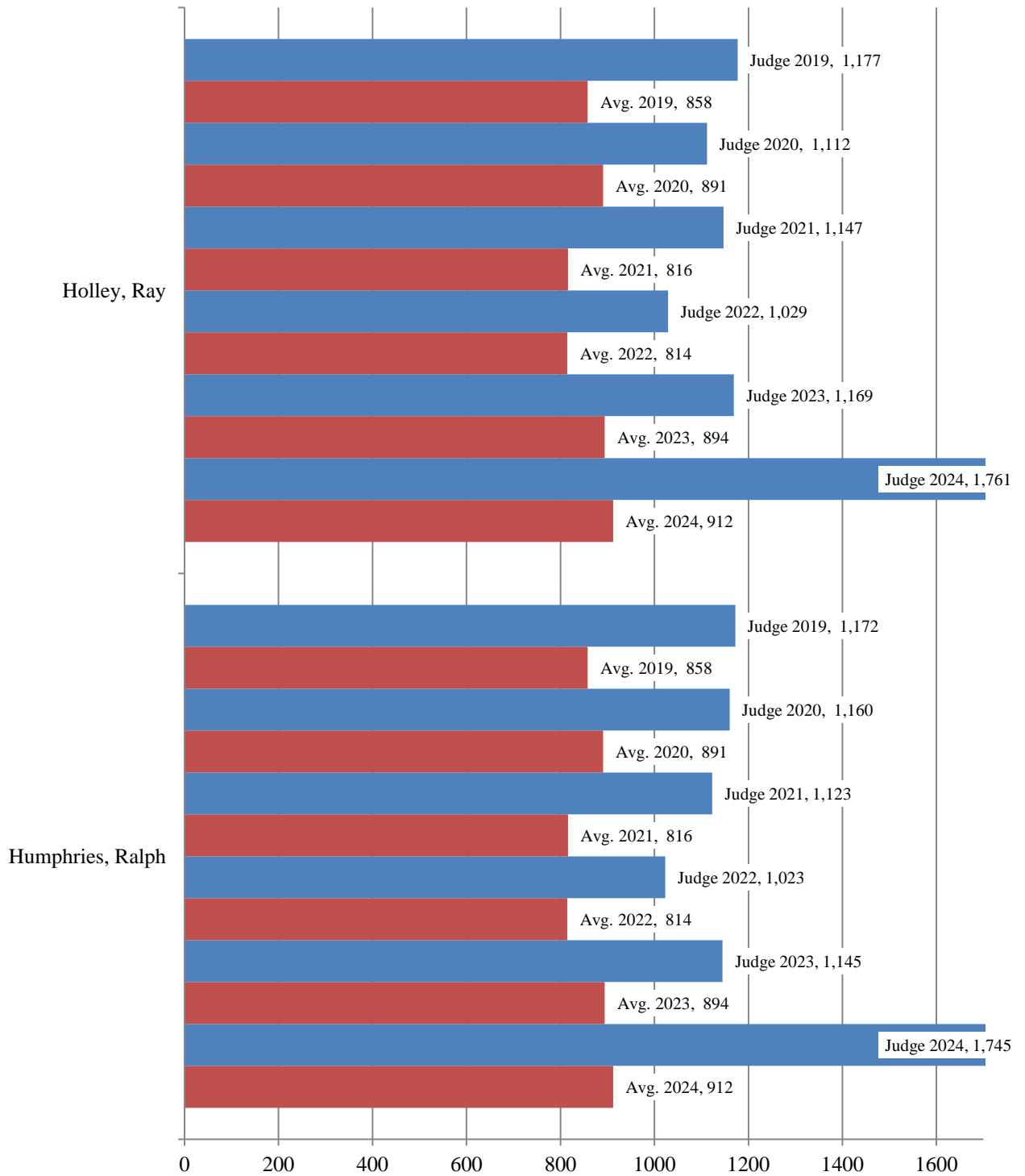
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2018-19 and 2023-24.³¹⁰ For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



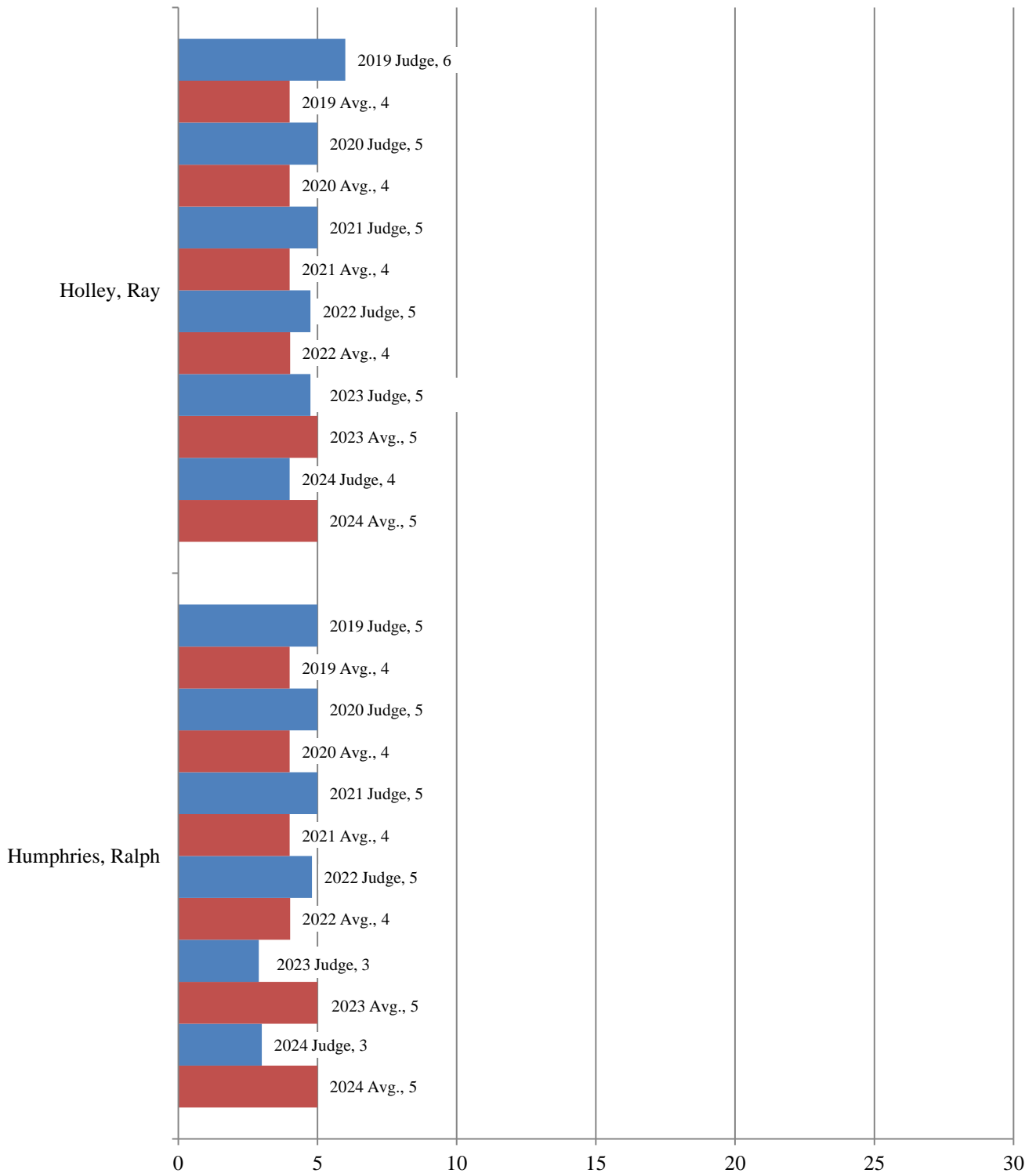
The following depicts the average days between trial commencing³¹¹ and entry of the trial order for each judge and the statewide average between 2018-19 and 2023-24. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



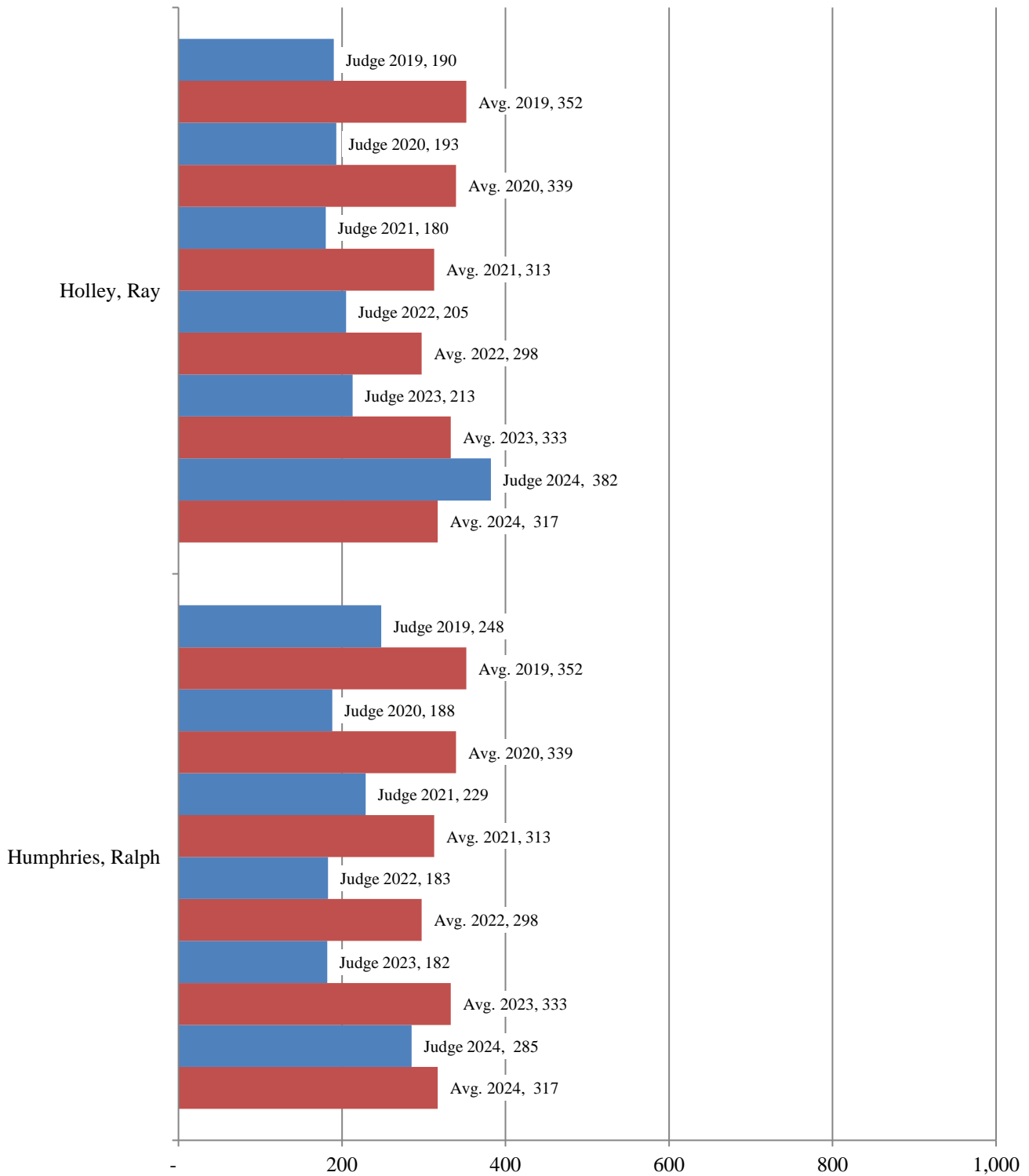
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



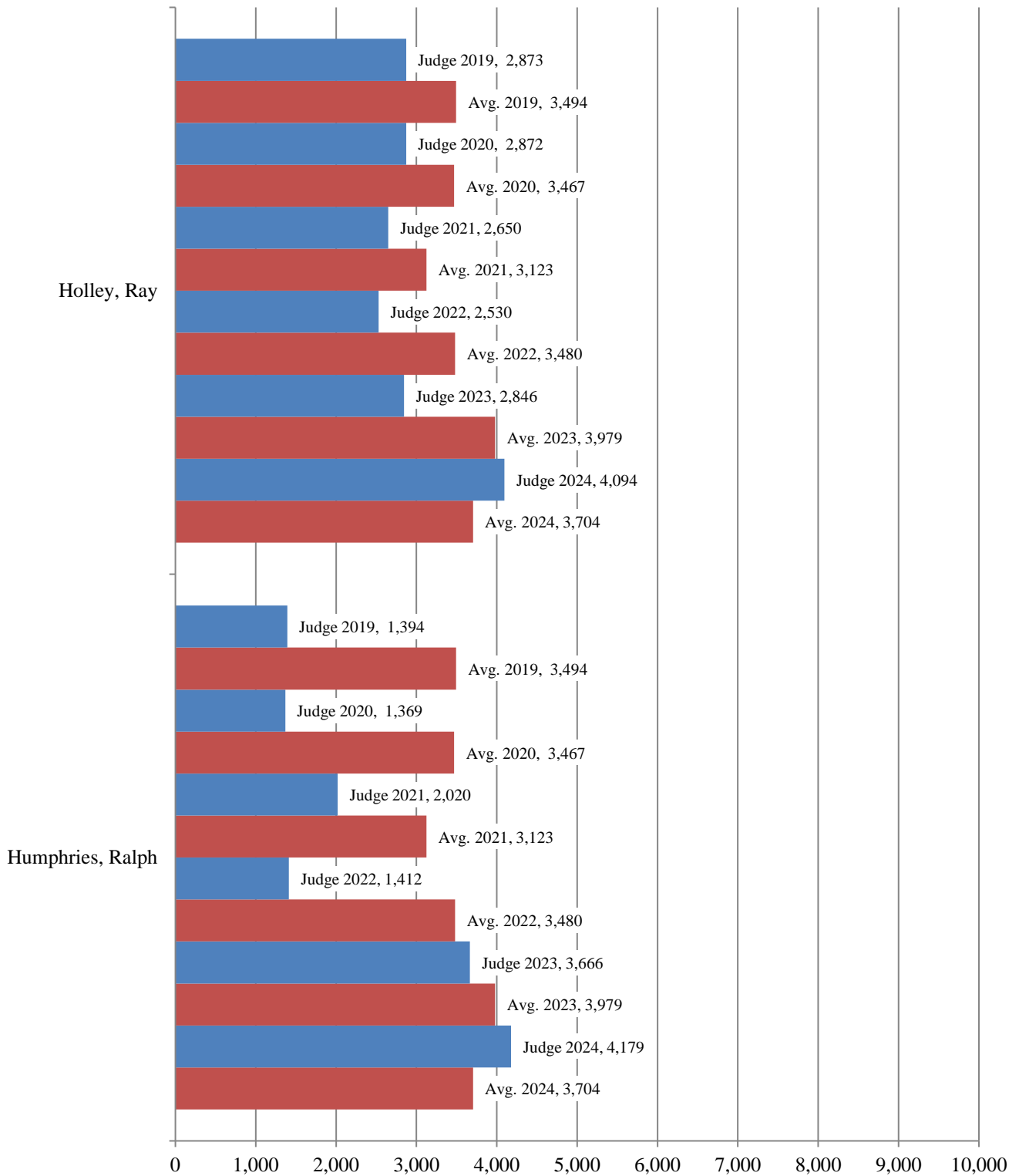
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



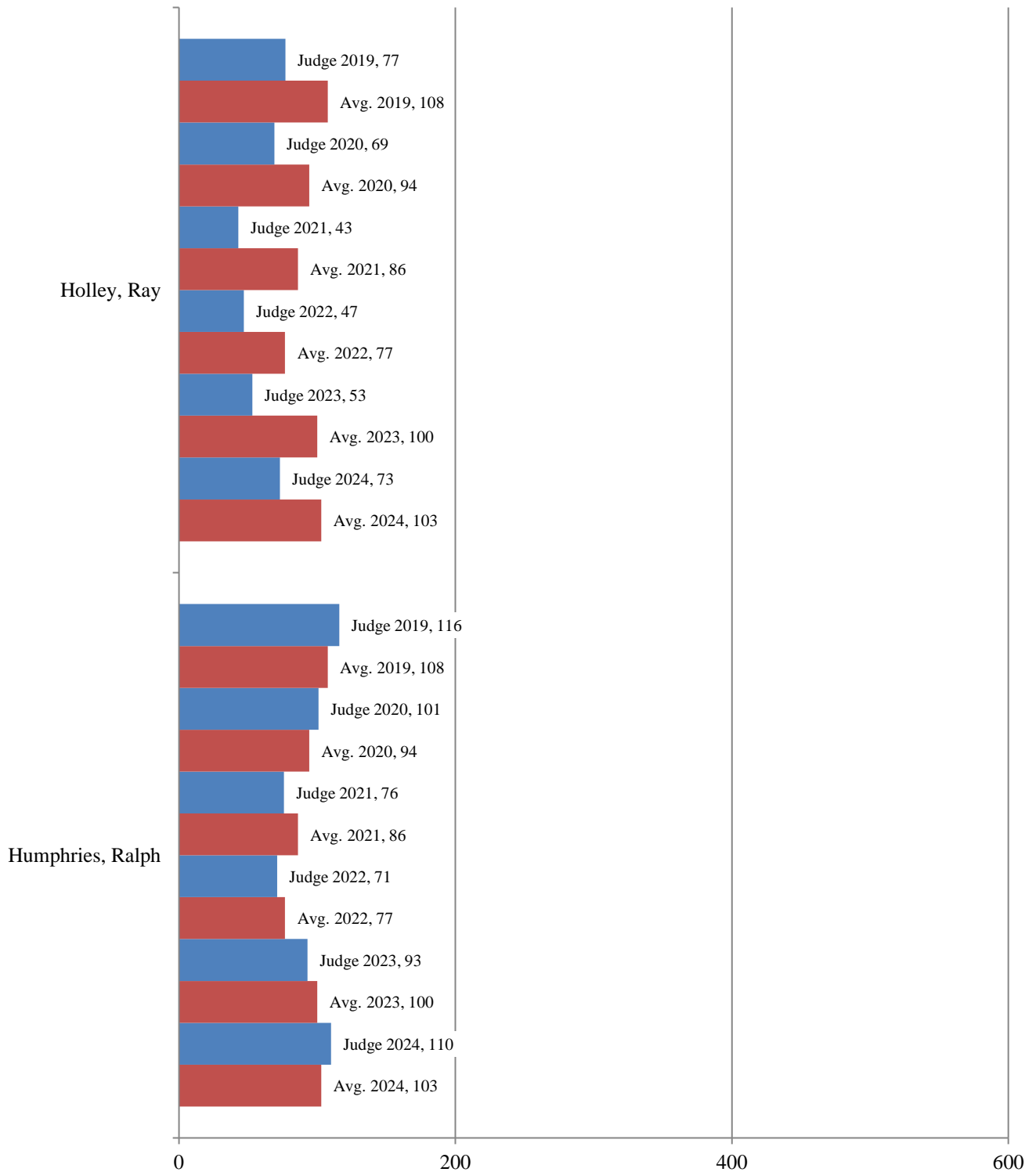
The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



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Appendix “4” District MIA (JCC Almeyda, JCC Havers, JCC Jeffrey Jacobs, JCC Kerr and 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. With the closure of District Port St. Lucie at the end of 2021-22, Monroe County was transferred back to District MIA.

“New case” volumes remain consistently below the statewide average in District Miami for the last ten years. On the other hand, the PFB volume had been consistently above the statewide average since the out-of-district judge reassignment process was amended in 2015-16. In 2022-23, that trend ended and all five Judges had petition volume well below the statewide average, which persisted in 2023-24. This is perhaps a developing trend.

Prior to 2015-16, a volume of “new cases” had been assigned to Judges Humphries (JAX), Massey (TPA), Pitts (ORL), Spangler (TPA), and Sturgis (FTM). In 2015-16, the process was reformed with new MIA cases being assigned outside of Miami only to Judges Massey (TPA) and Spangler (TPA). This reduced the number of judges to which Miami practitioners were regularly exposed. With the consolidation in 2021-22, that reassignment process to Tampa ceased, and Judge Moneyham (PMC) took over a volume of District MIA workload. In 2022-23, District Panama City closed and Judge Moneyham was assigned a St. Petersburg docket. This resulted in fewer MIA cases being covered from other districts, and some formerly reassigned cases have been sporadically returned to Miami.

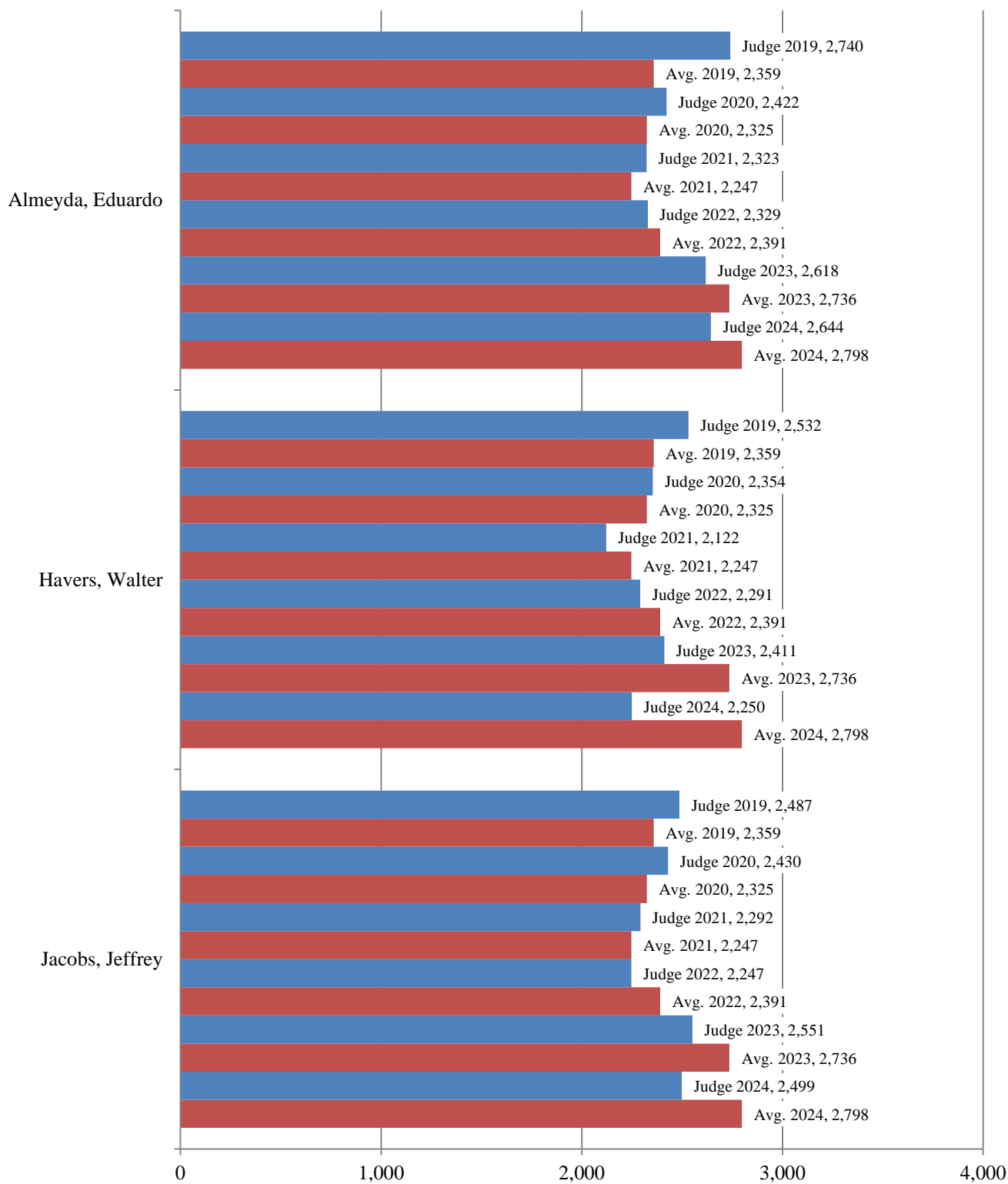
Judge Havers is a member of the Richard A. Sicking American Inn of Court and the National Association of Workers’ Compensation Judiciary. In October 2023, he served as a panelist for a Miami-Dade Bar presentation *Round Table with Miami Judges of Workers’ Compensation*.

In the past year, Judge Jeffrey I. Jacobs served as a judge for The Florida Bar Trial Advocacy Workshop and the E. Earle Zehmer National Moot Court Competition. He also participated in a roundtable discussion with the Miami judges of compensation claims for the Miami-Dade County Bar Association. Judge Jacobs remained an active member of the Richard A. Sicking American Inn of Court. He also served on the executive committee of the Conference of Judges of Compensation Claims. In April 2024, The Florida Bar Workers’ Compensation Sections presented Judge Jacobs with the Albert M. Frierson/Stewart Colling Professionalism Award as recognition of his promotion and practice of professionalism.

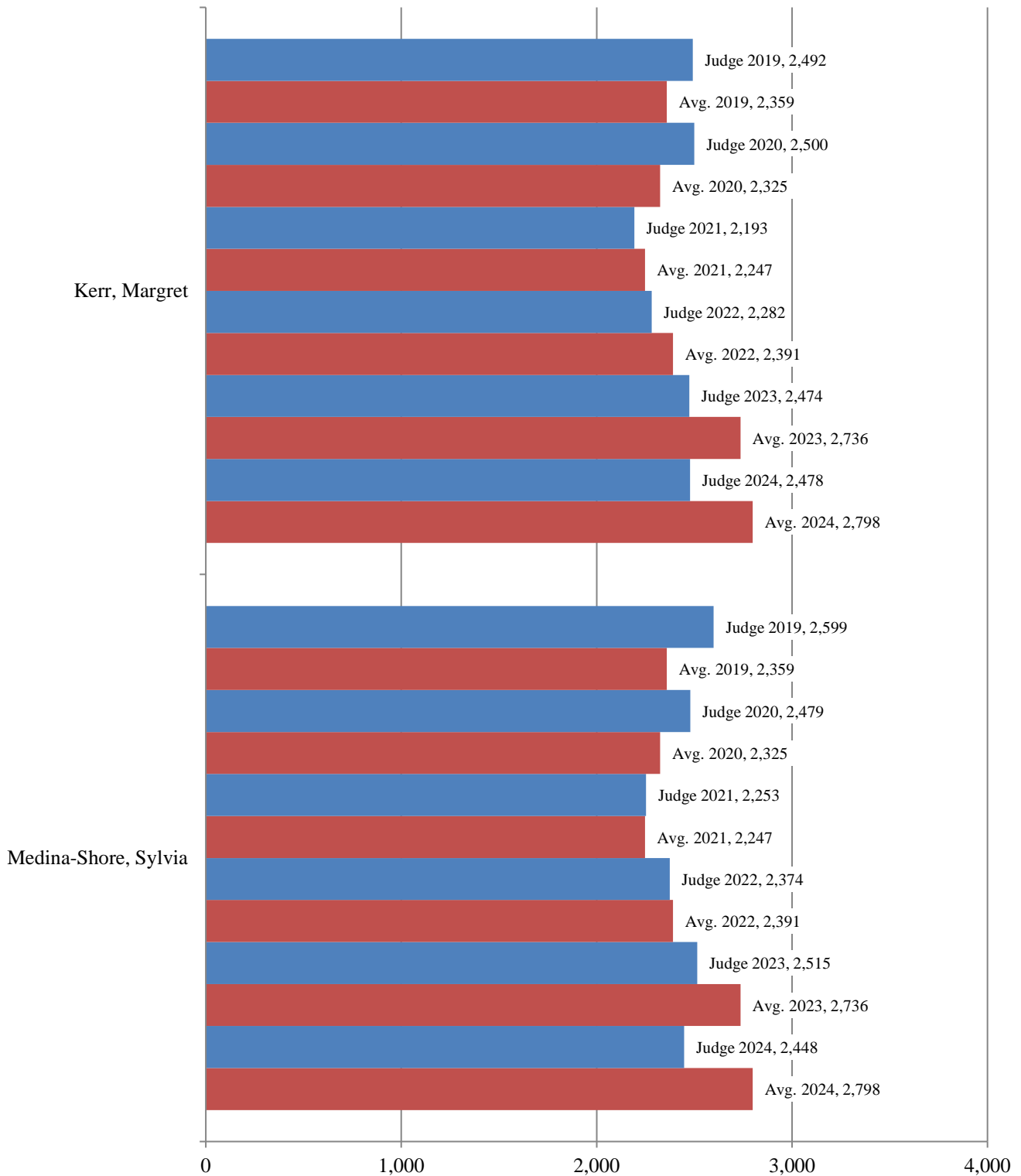
In 2023-24, Judge Kerr served as a judge at the 2023 E. Earle Zimmer Moot Court Competition and was a presenter at the 14th Annual National Workers’ Compensation Judiciary College on “Professionalism and Ethics in a Social Media World.” Judge Kerr served as a team coach at the DOAH Trial Academy. She participated in the Miami-Dade County Bar Association “Round Table with the Miami Judges.” She served on the faculty of the October 2023 OJCC Workers Compensation Academy in Tampa. She was a panelist at the Florida Bar Workers’ Compensation Forum on “Practicing with Professionalism in a Remote Environment.” She served on the faculty of the Florida Bar Workers’ Compensation Section Trial Academy.

JCC Sylvia Medina-Shore has adjudicated workers’ compensation cases since 2000 and has been Administrative Judge of the Miami Office of Judges of Compensation Claims (OJCC) since 2006. In 2023-24, Judge Medina-Shore participated in legal seminars given by the Dade County Bar, OJCC and Workers’ Compensation Institute (WCI), and Workers’ Compensation Academy. Judge Medina-Shore participated on a judicial panel regarding professionalism and ethics at the WCI Convention and was a Moot Court Judge for the E. Earle Zehmer National Moot Court Competition. Judge Medina-Shore continues to educate college students on workers’ compensation law.

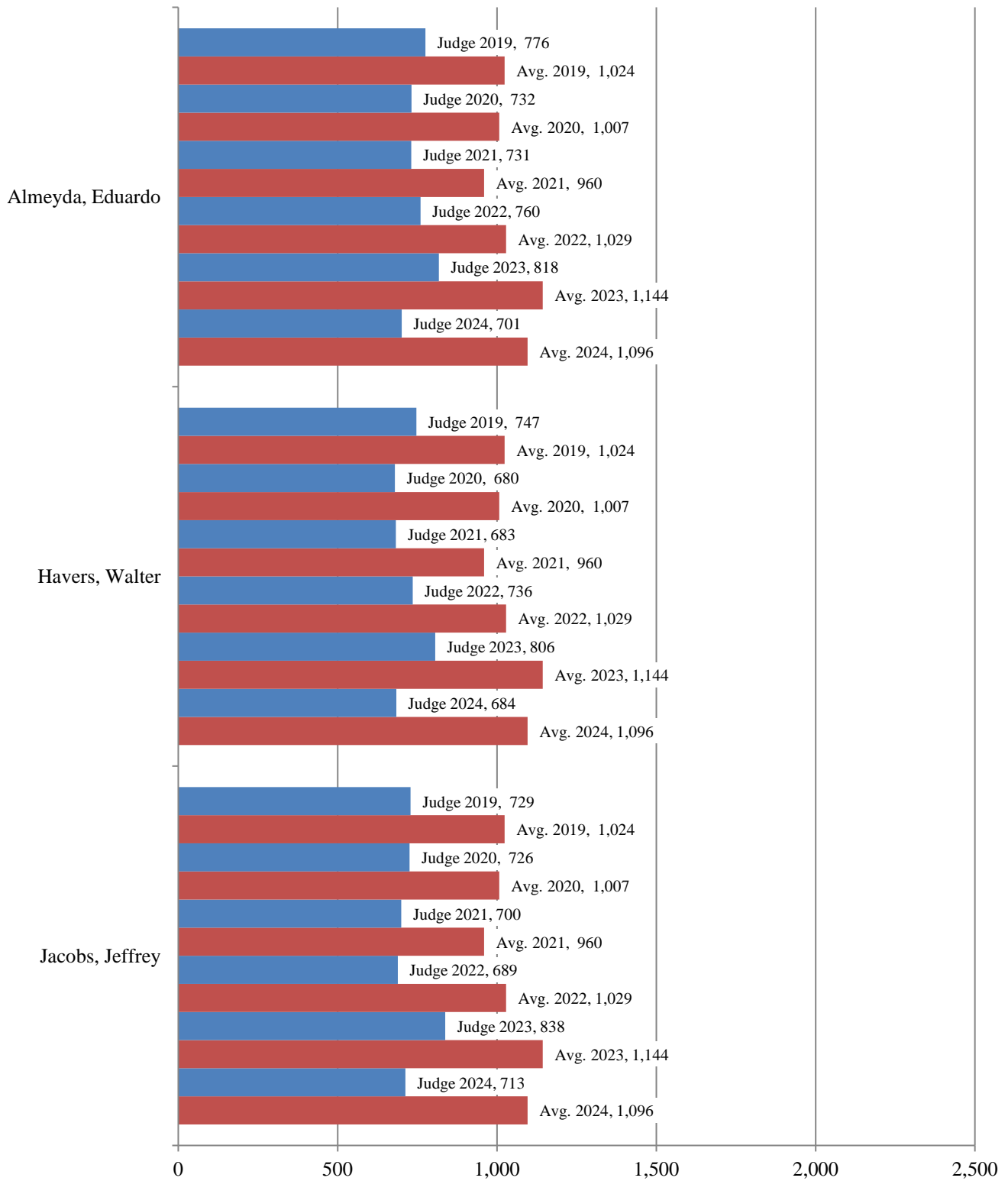
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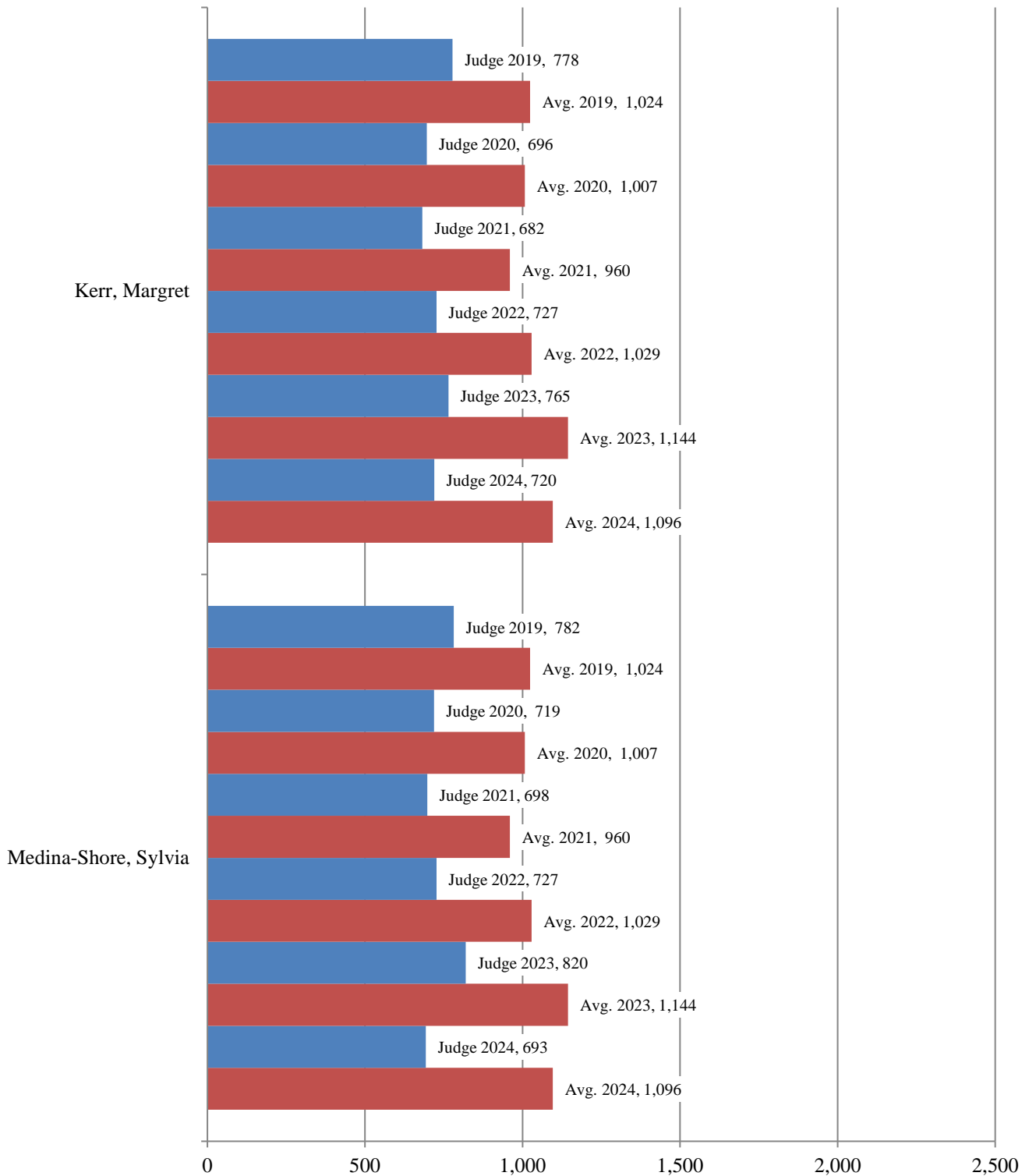
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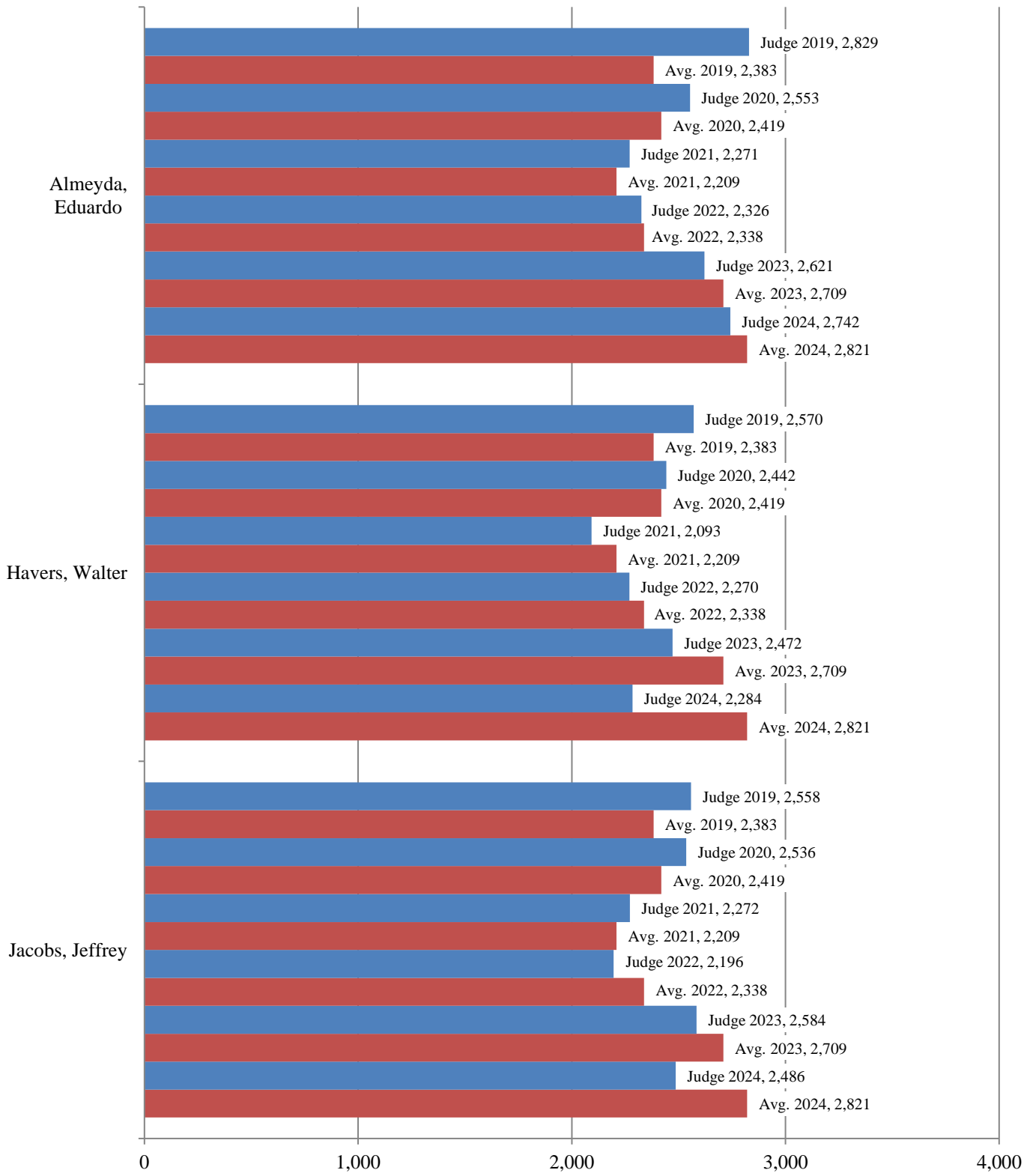
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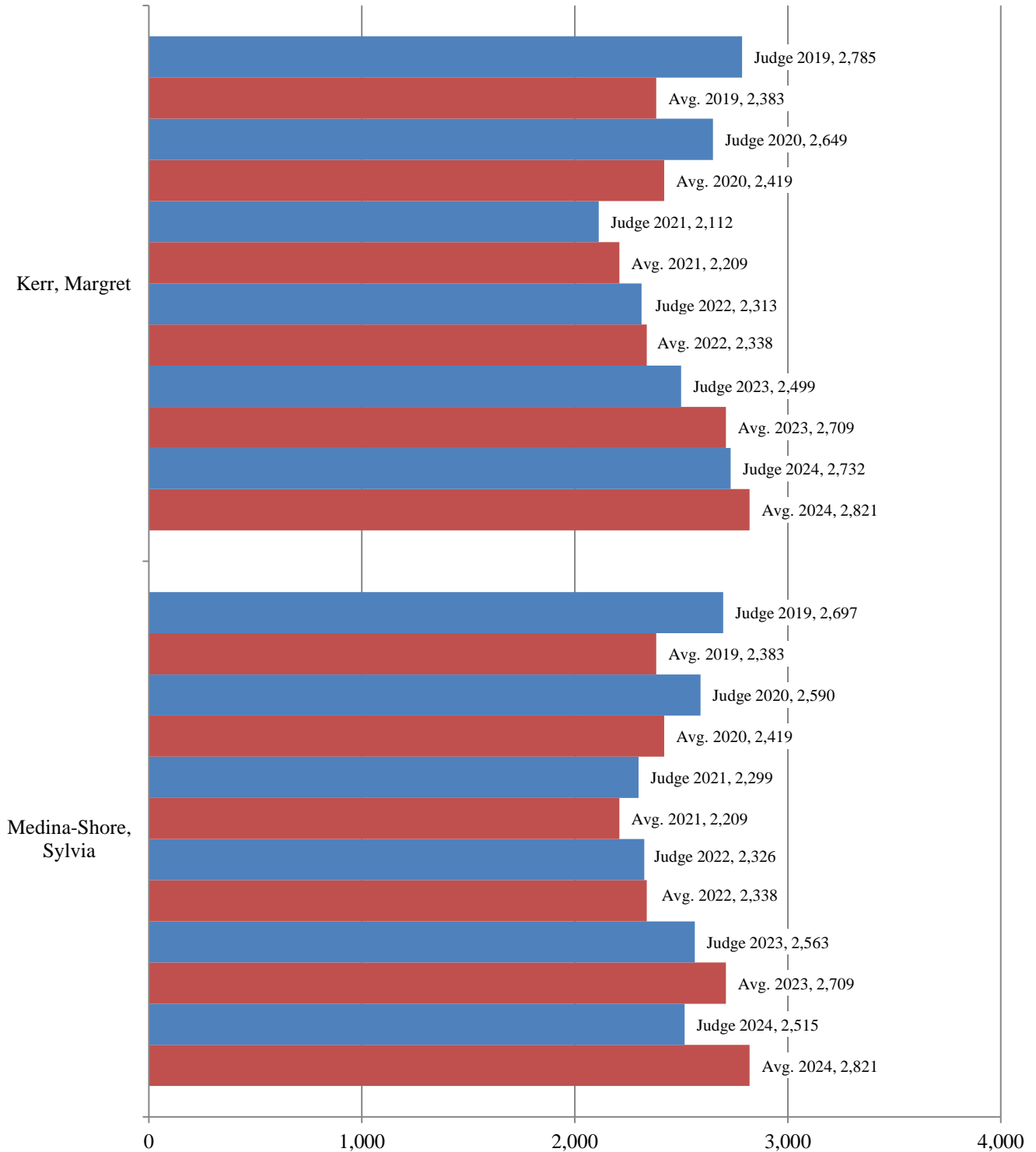
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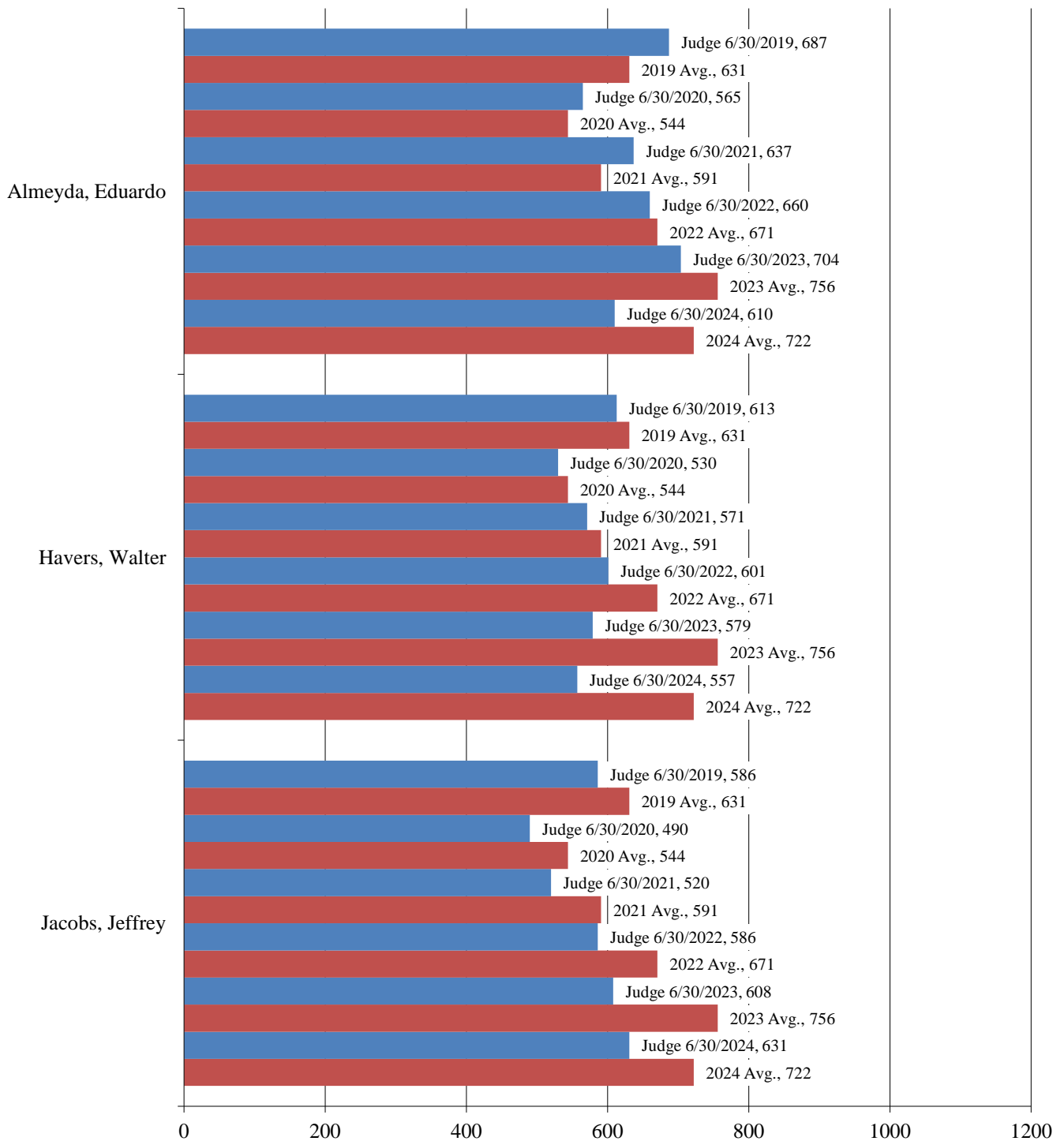
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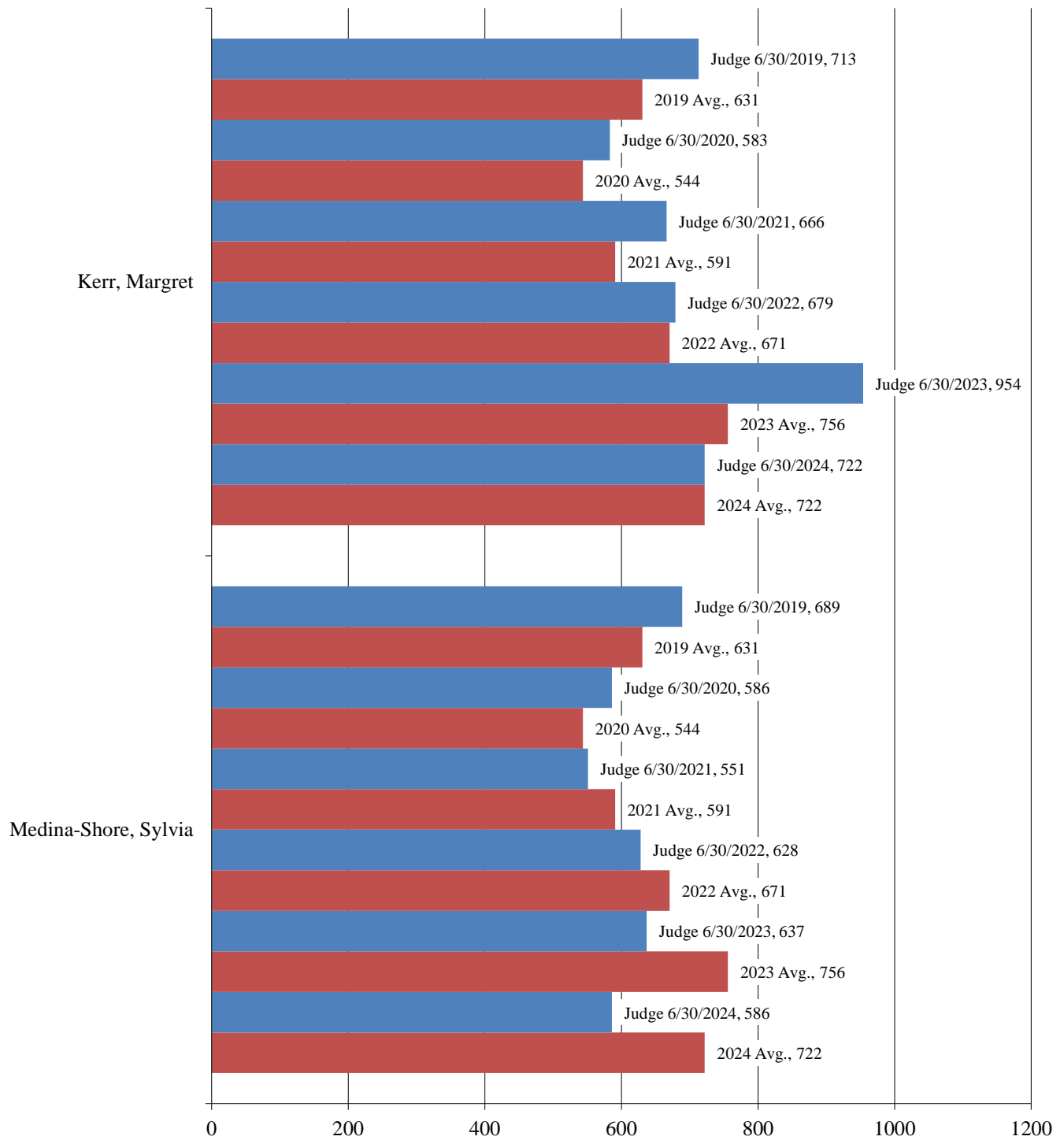
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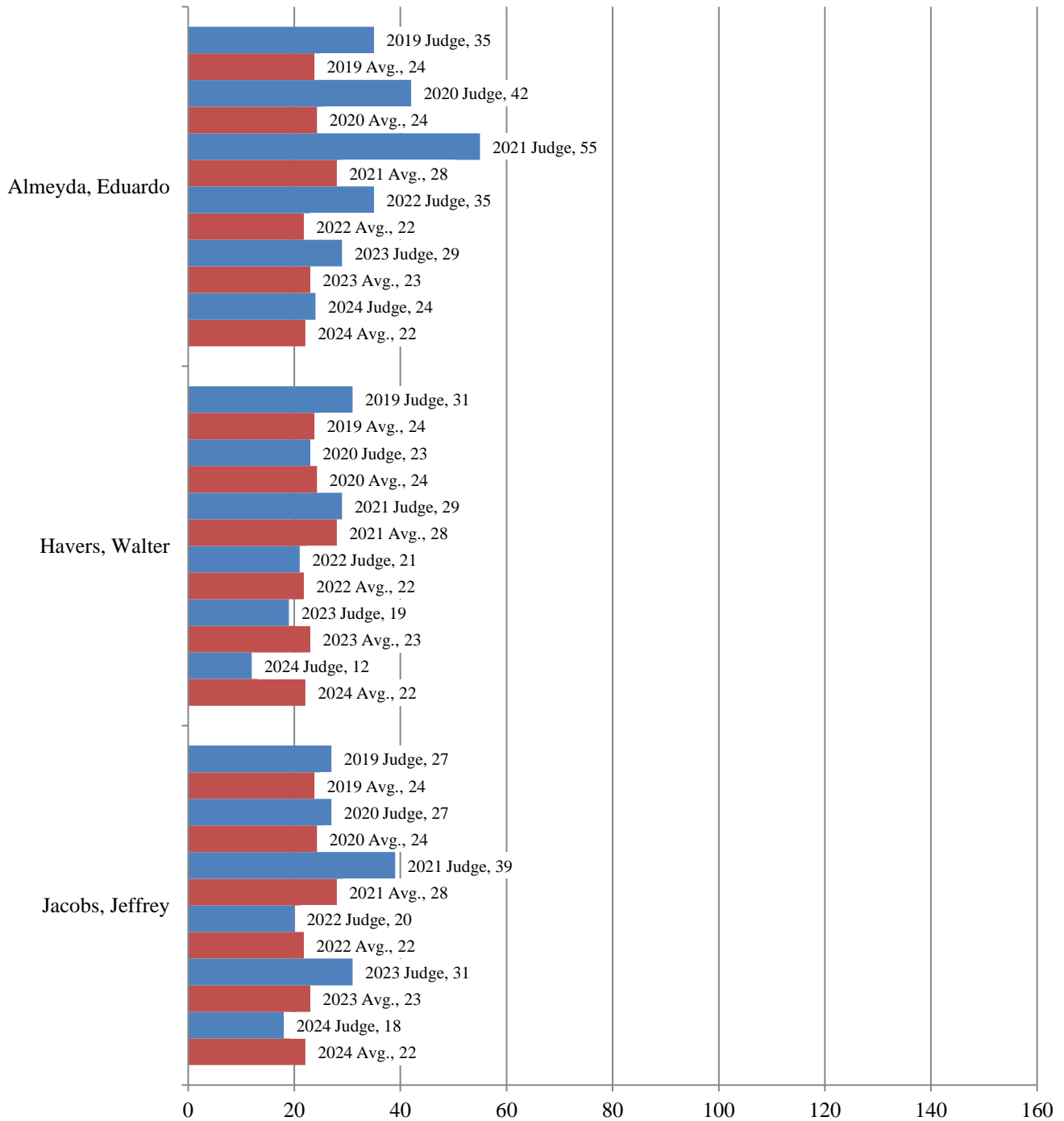


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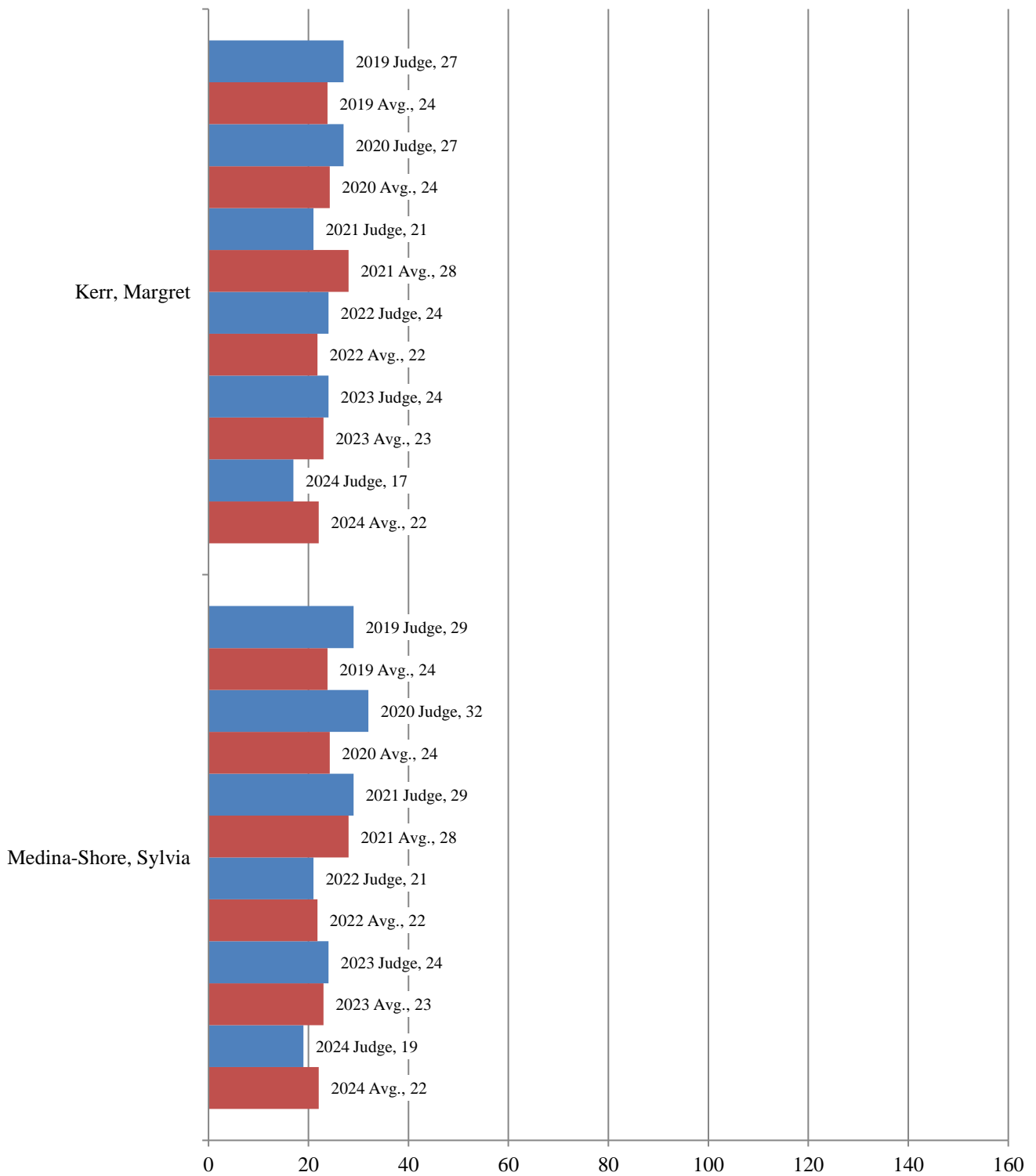


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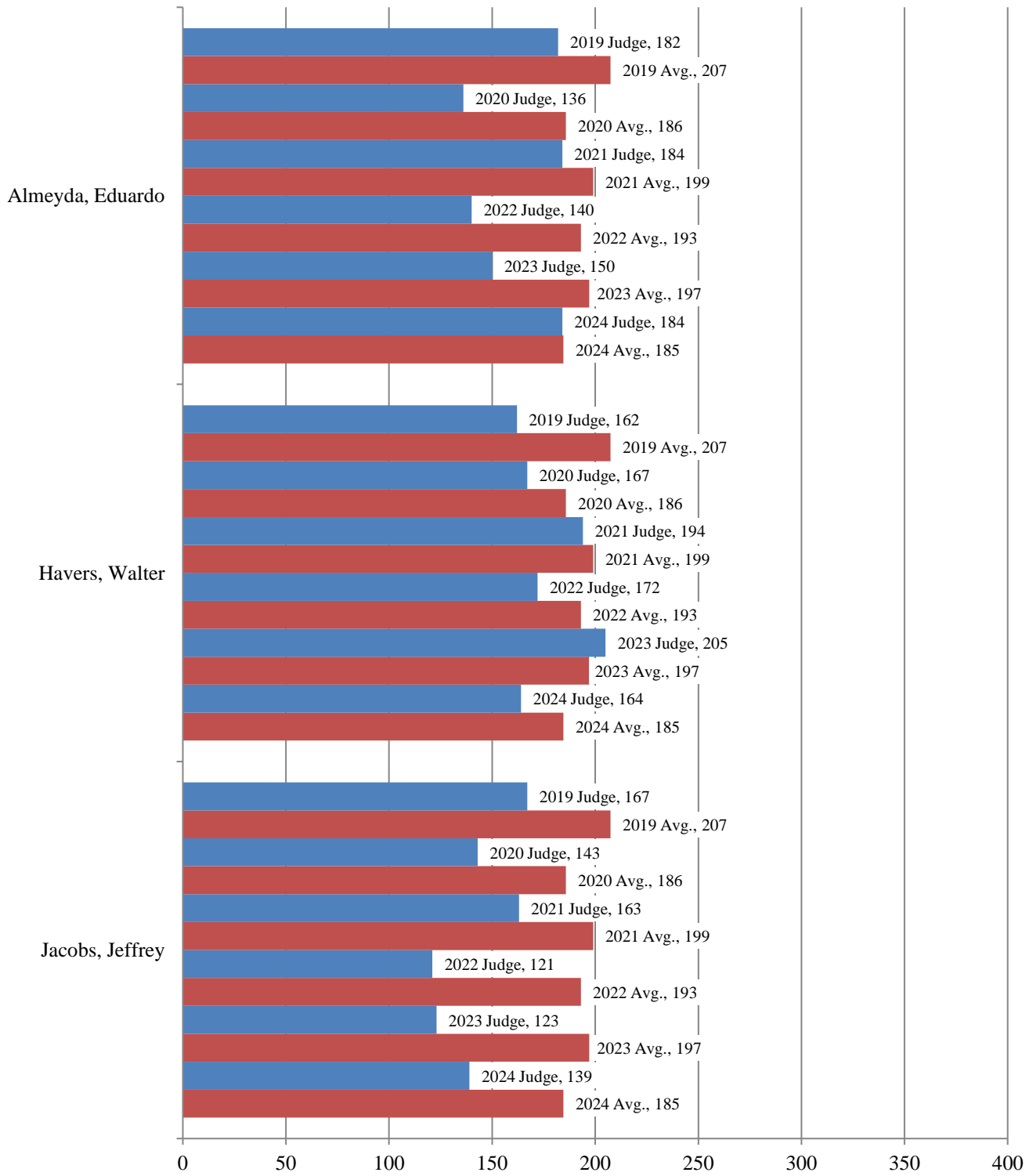
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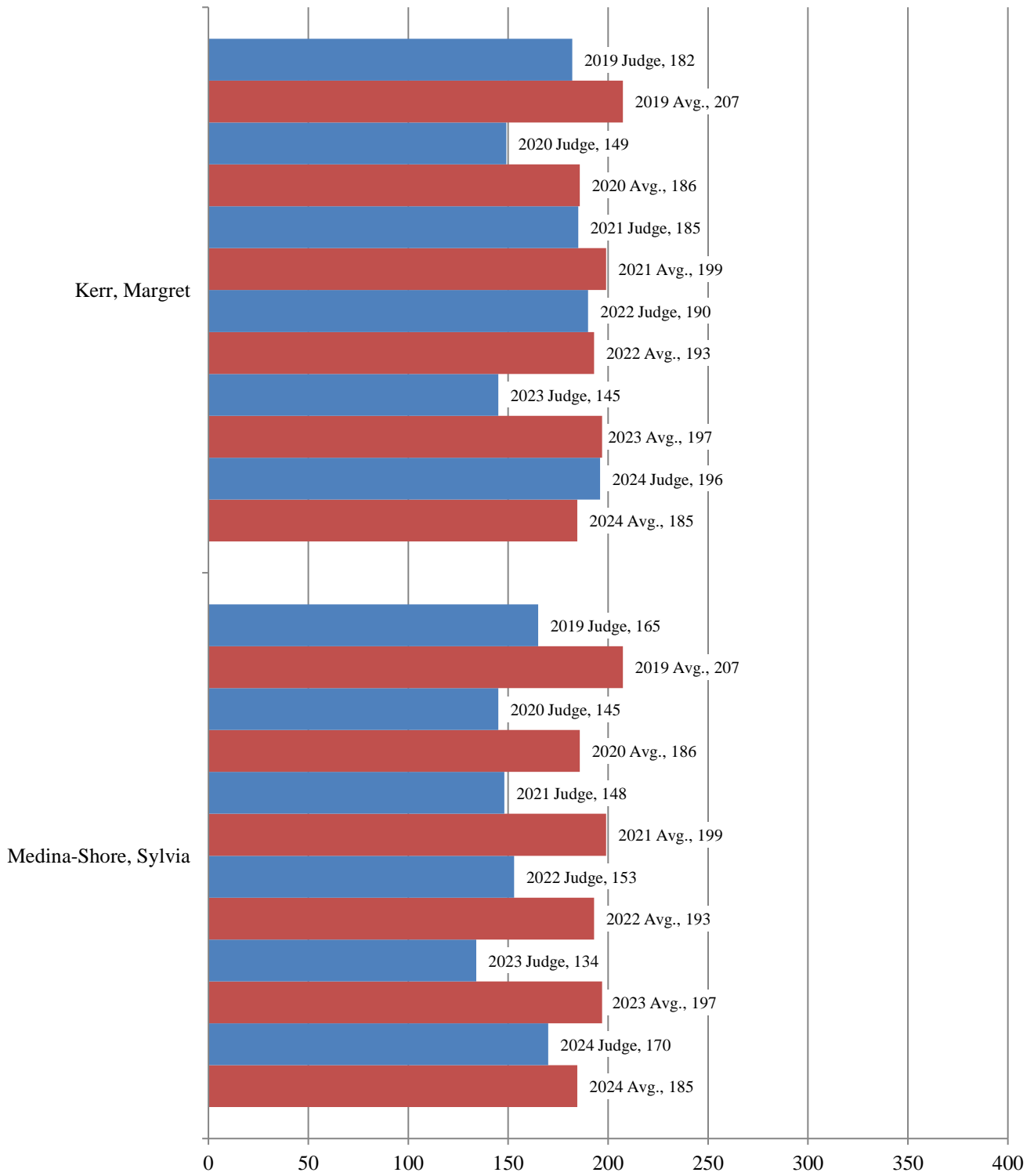
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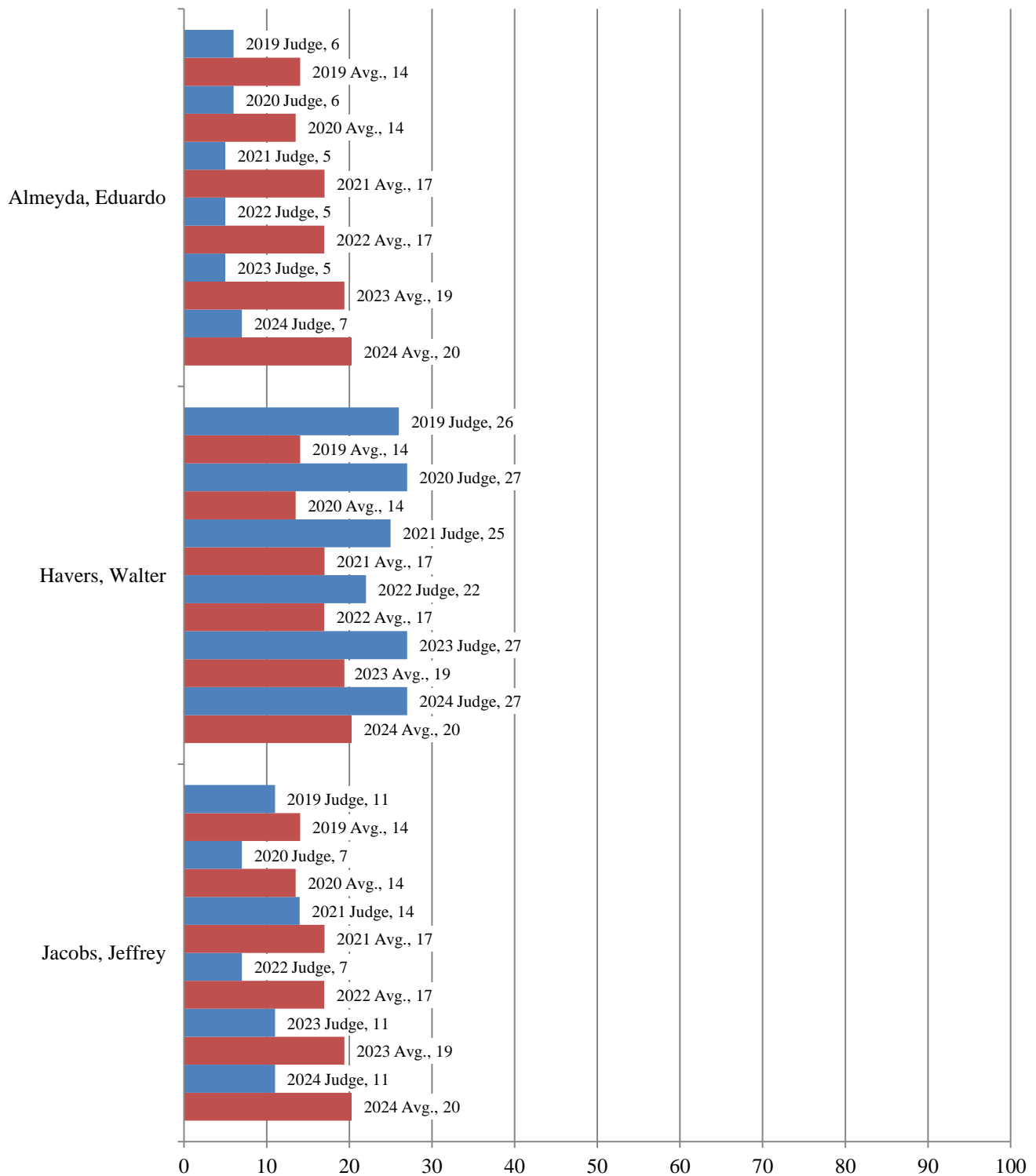
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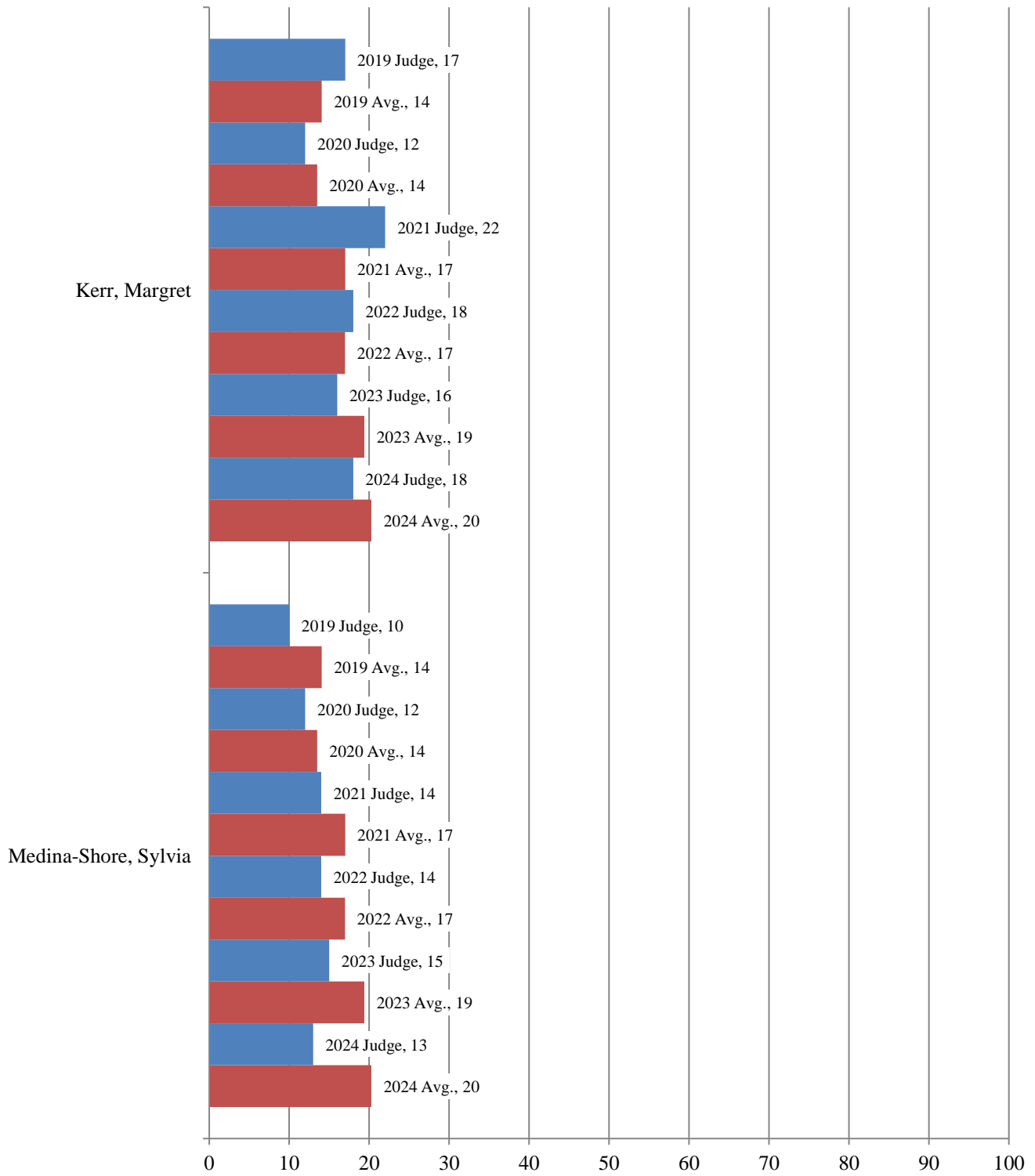
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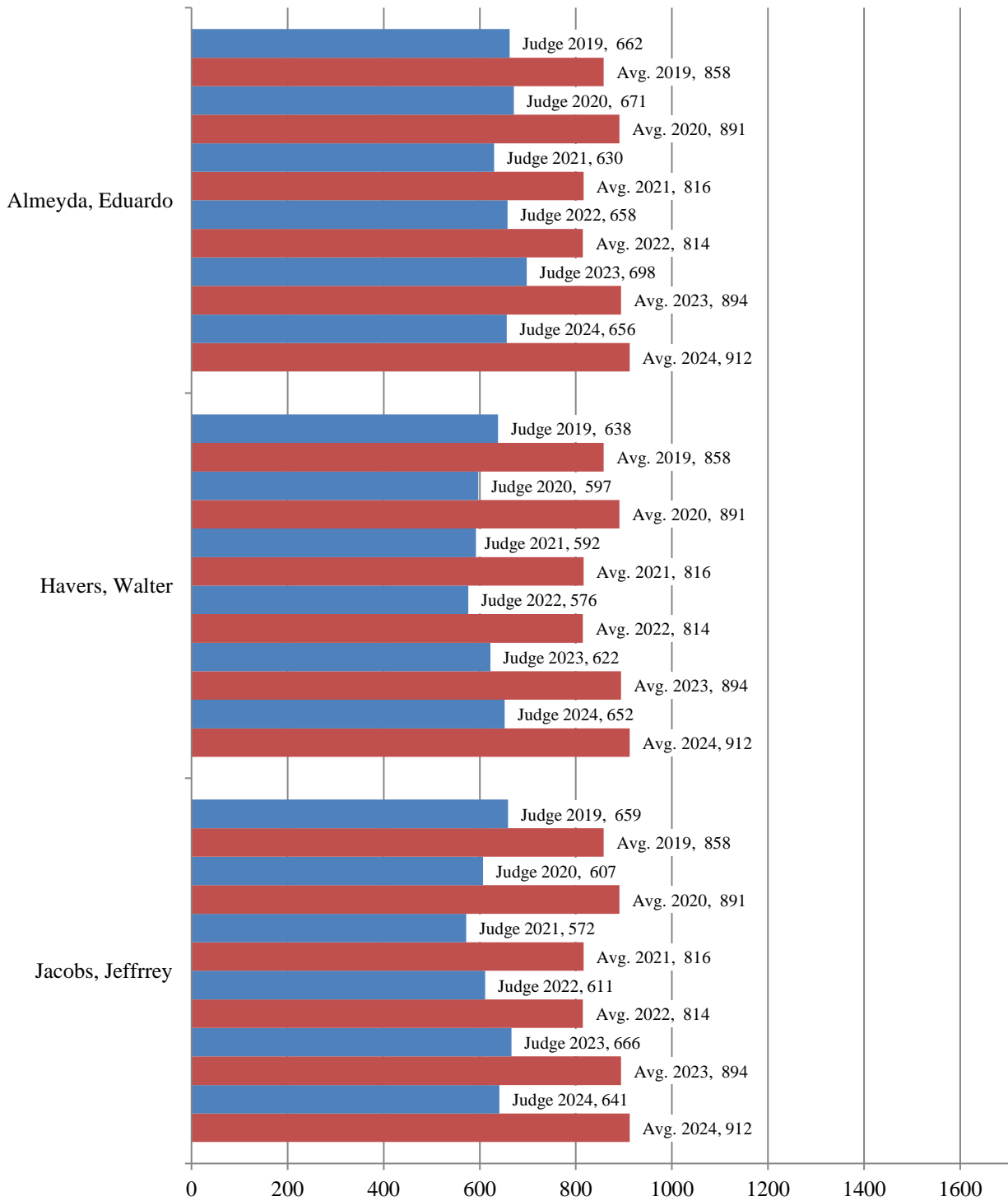
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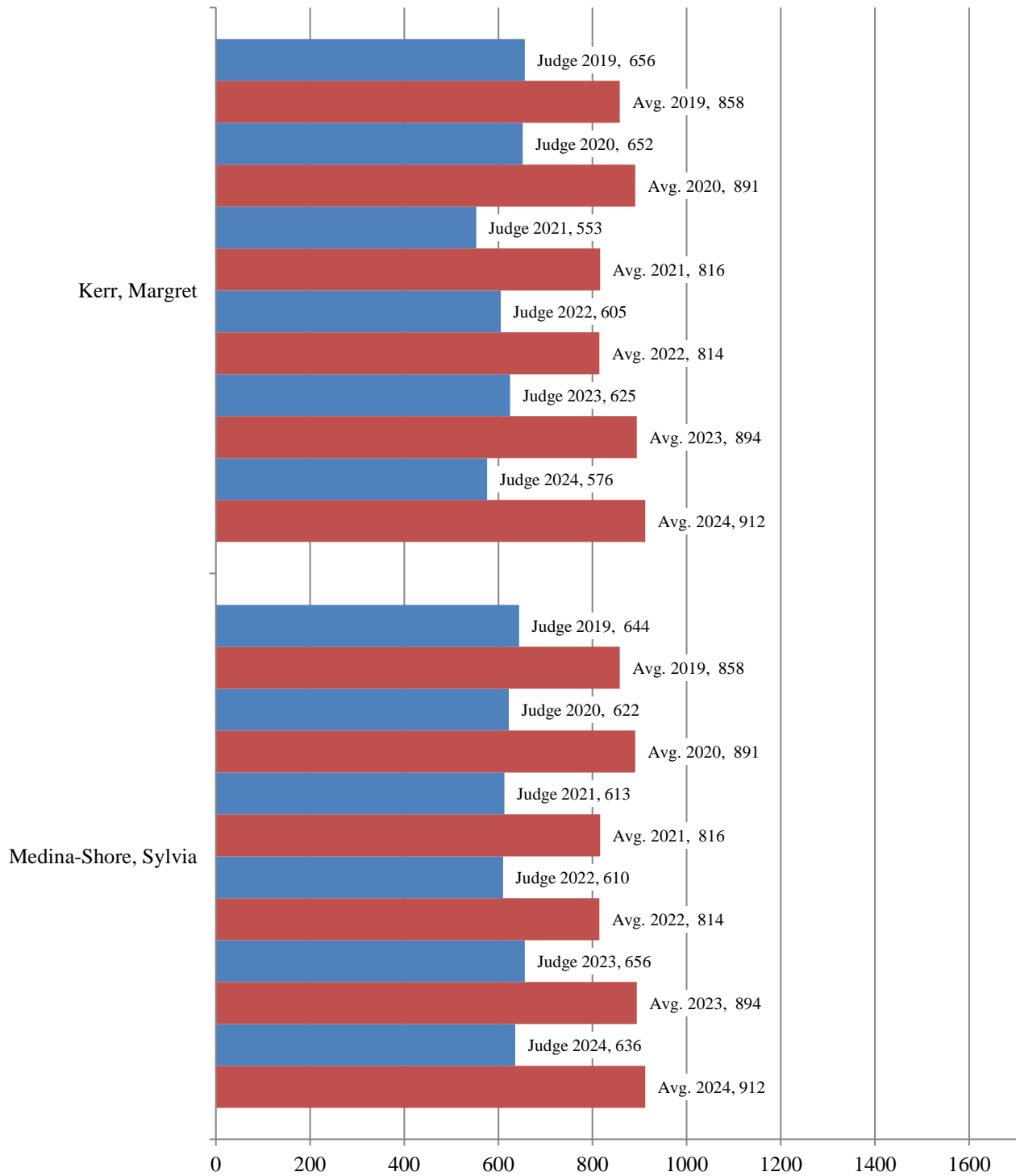
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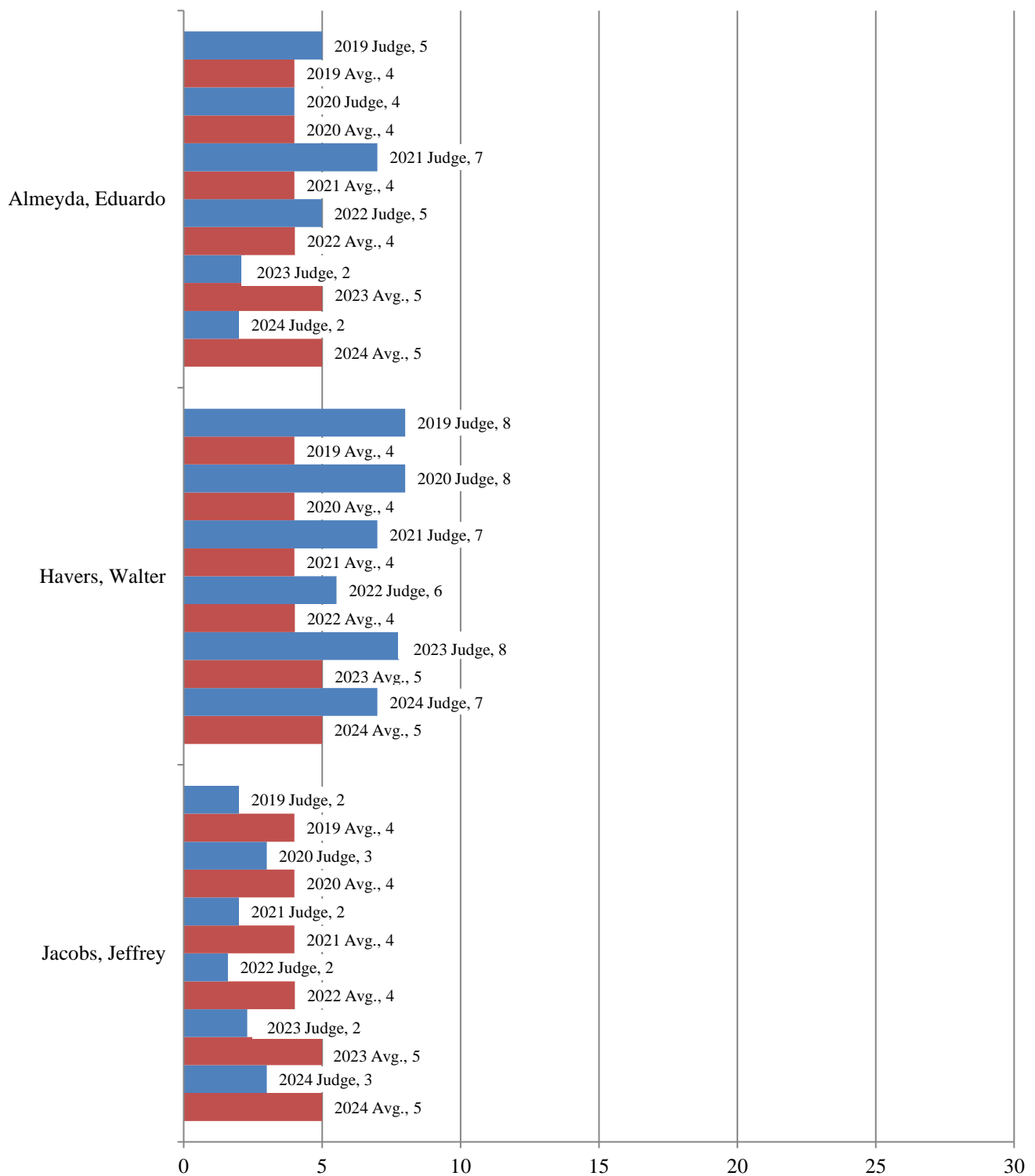
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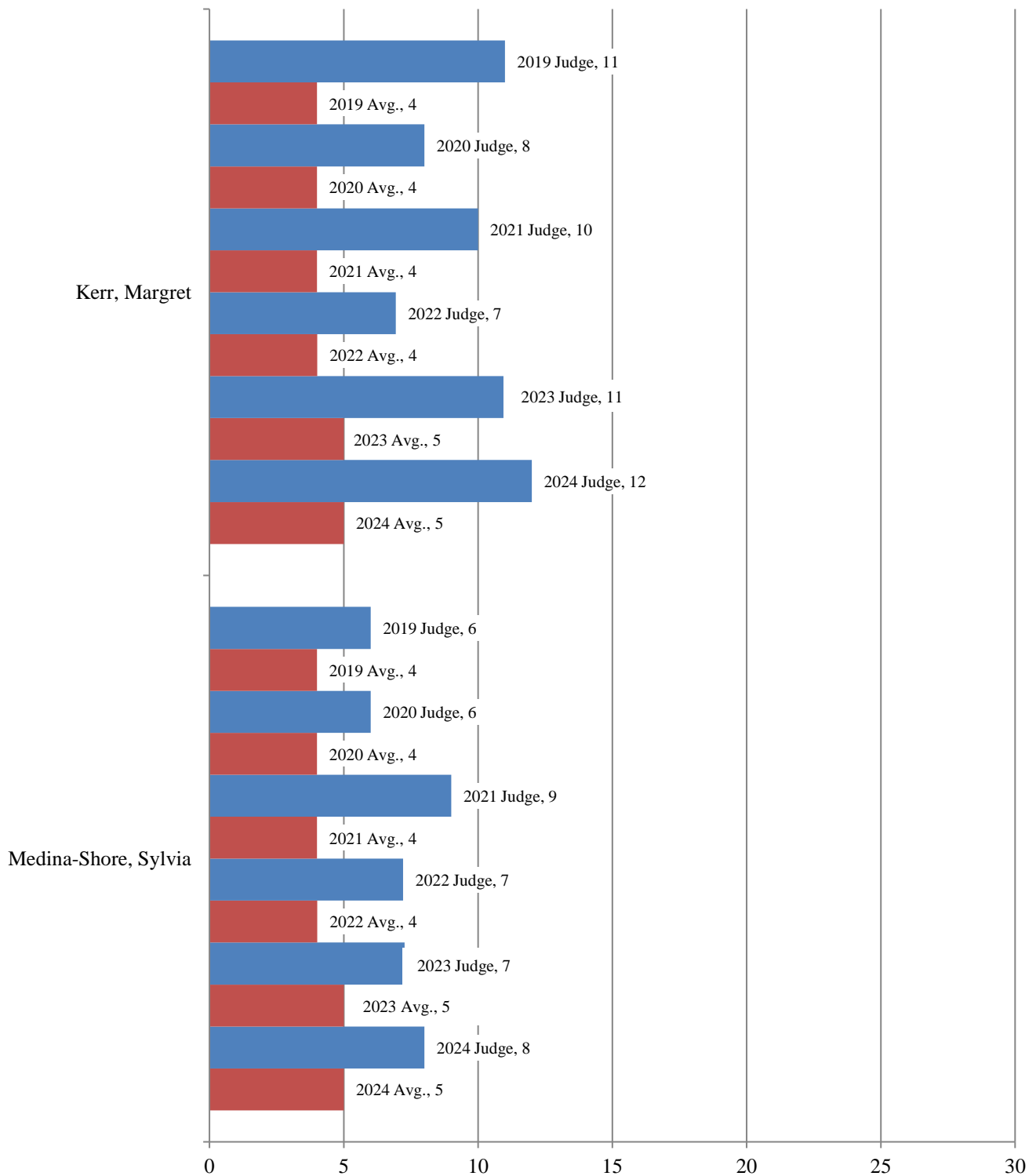
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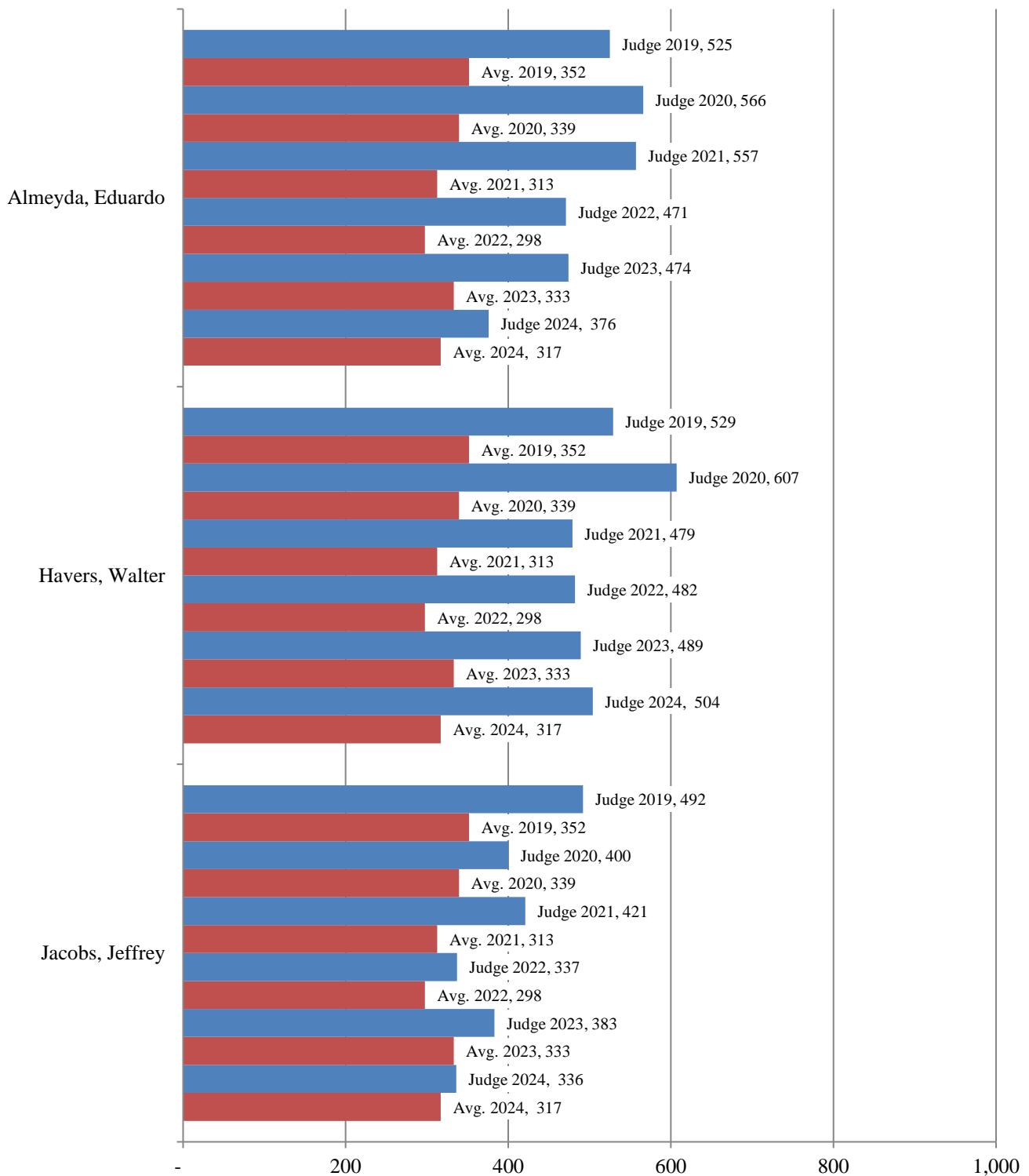
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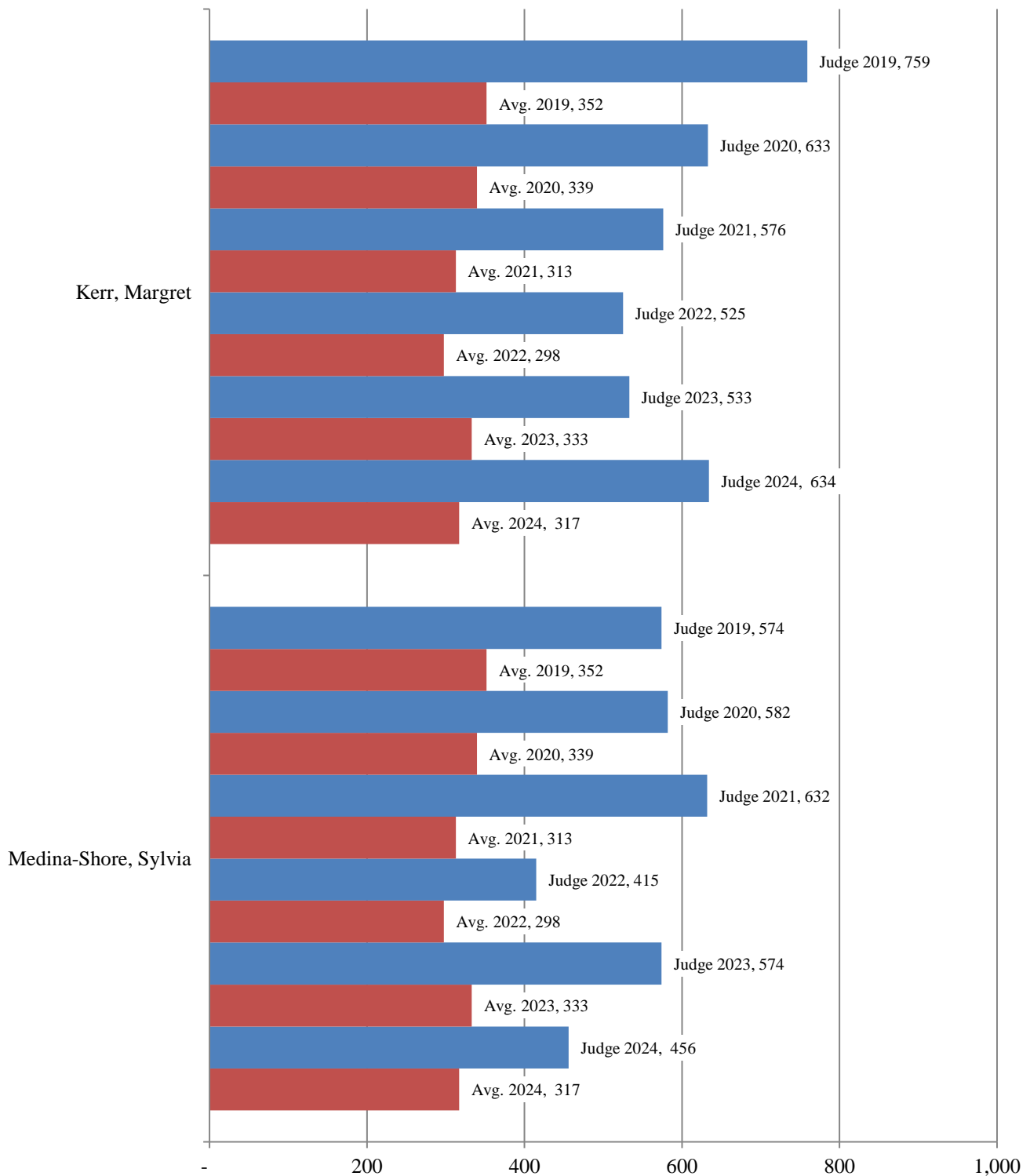
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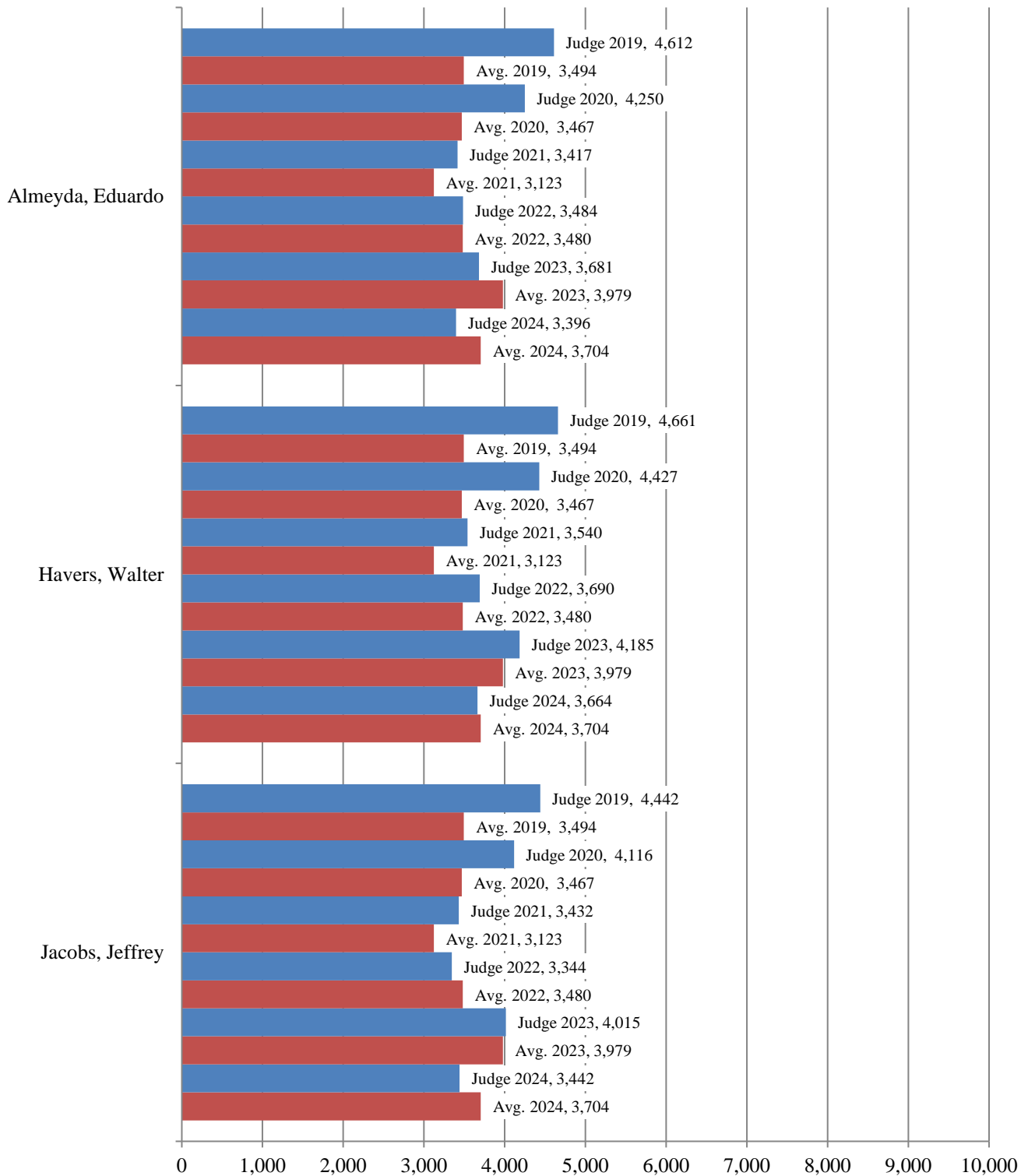
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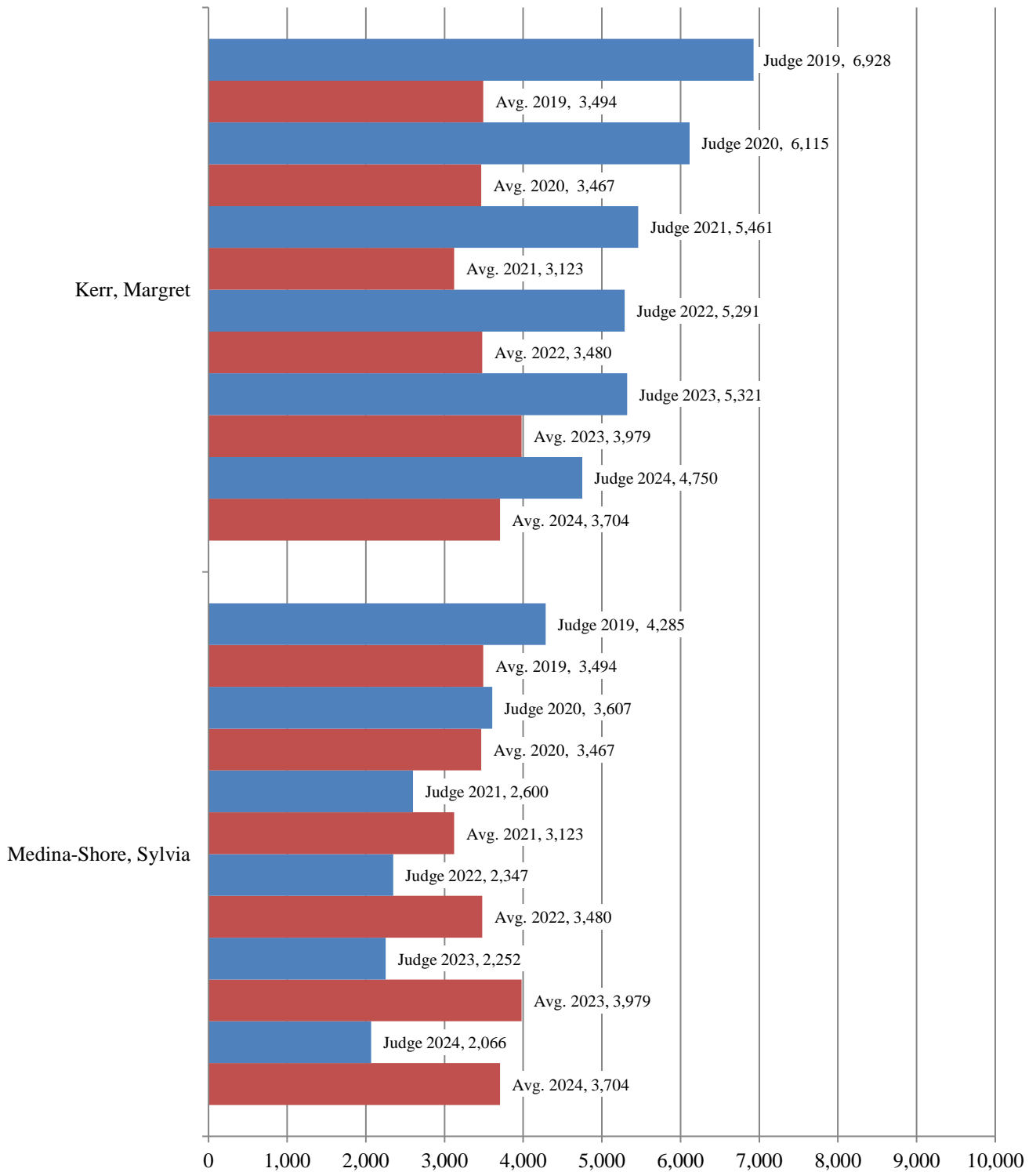
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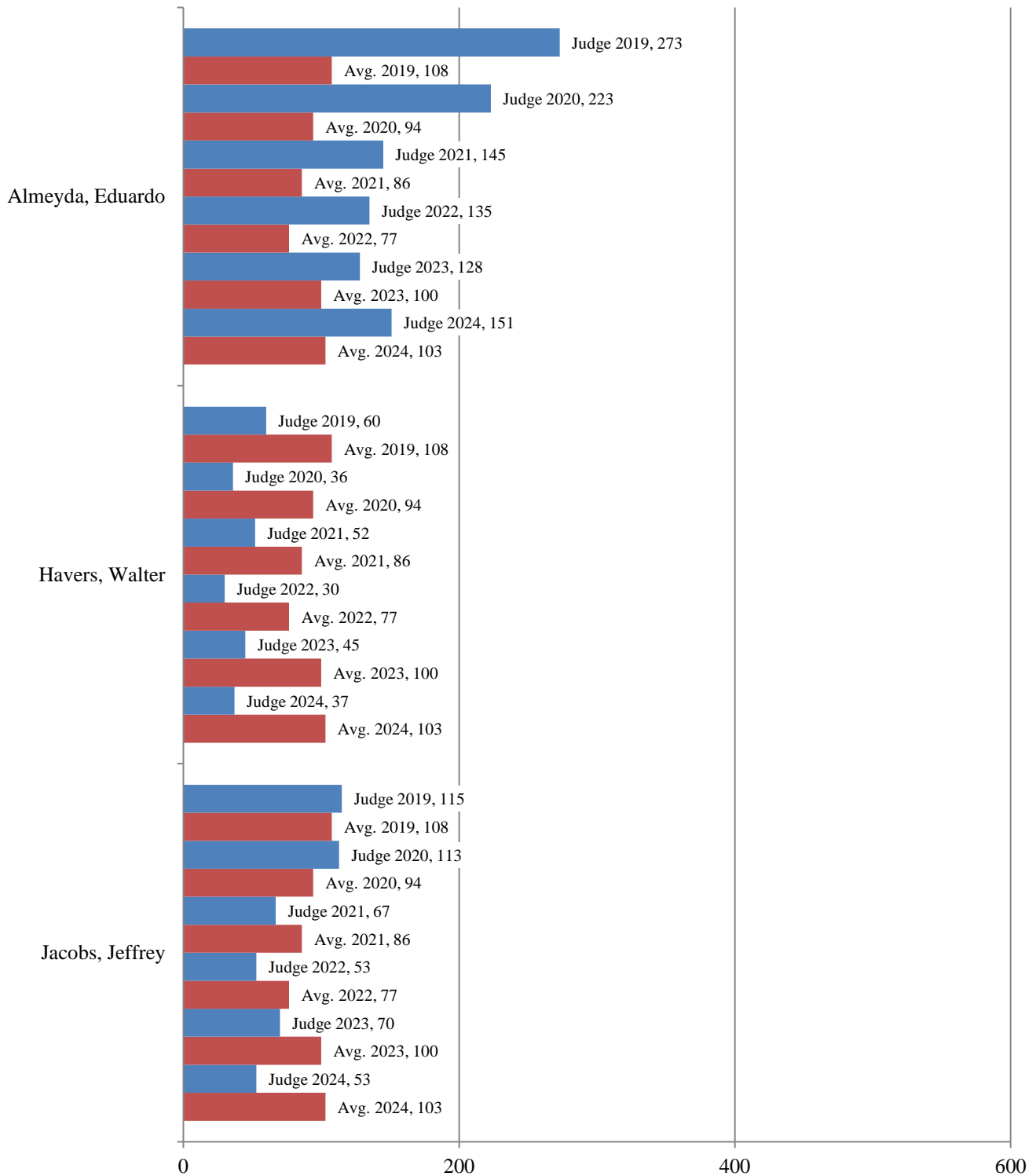
The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



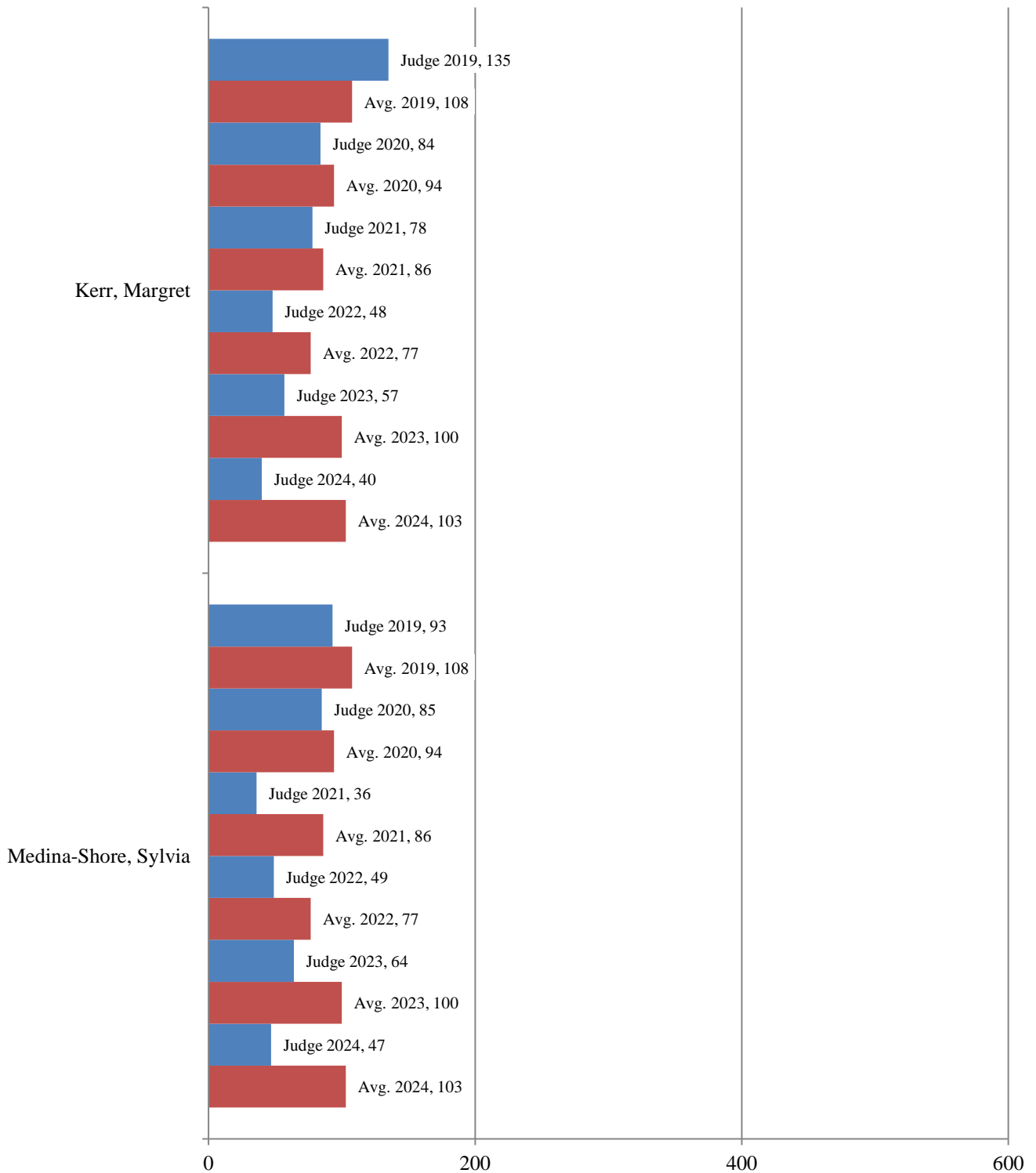
(Continued) The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



(Continued) The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



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Appendix “5” District ORL (JCC Anderson,³¹⁴ JCC Jill Jacobs, JCC Pitts, JCC Sancerni,³¹⁵ JCC Stanton³¹⁶):

District ORL includes Brevard,³¹⁷ Lake, Orange, Osceola, Seminole, and Volusia³¹⁸ counties.

District Daytona was closed and those cases were consolidated into District Orlando, along with Judge Anderson in 2022-23. Initially, that involved no reassignment of Judge Anderson’s cases. However, as time progresses, new cases from the former Daytona counties are being distributed equally to all Orlando judges. Both “new cases” and PFB filings were markedly above average in District Orlando in 2021-22 and 2022-23. Judge Stanton undertook an Orlando docket in 2023-24 to relieve this inequity, leading to a significantly similar inequity in District Jacksonville.

In 2023-24, Judge Anderson served as vice-president and president-elect, as well as a pupilage group chair of the Judge William Wieland American Inn of Court. He was a featured speaker at the 2024 Florida Bar Workers’ Compensation Forum, a 2024 OJCC Bench and Bar event in Orlando, and a Bench and Bar event sponsored by the Volusia County Bar Association. Judge Anderson continued as an active member of the National Association of Workers’ Compensation Judiciary and the Volusia County Bar Association.

During 2023-24, Judge Jill E. Jacobs was honored by The Florida Bar with a Certificate of Meritorious Service, for her six years on the Workers’ Compensation Board Certification Committee (2017-23), and for serving as Chair from 2021-22. Judge Jacobs remains active as a mentor and pupilage group leader as a Judge member of the Judge William Wieland American Inn of Court. She and her team recently presented on notarial issues including Remote Online Notary matters in workers’ compensation. She serves on the board of the local Friends of 440 Scholarship Fund.

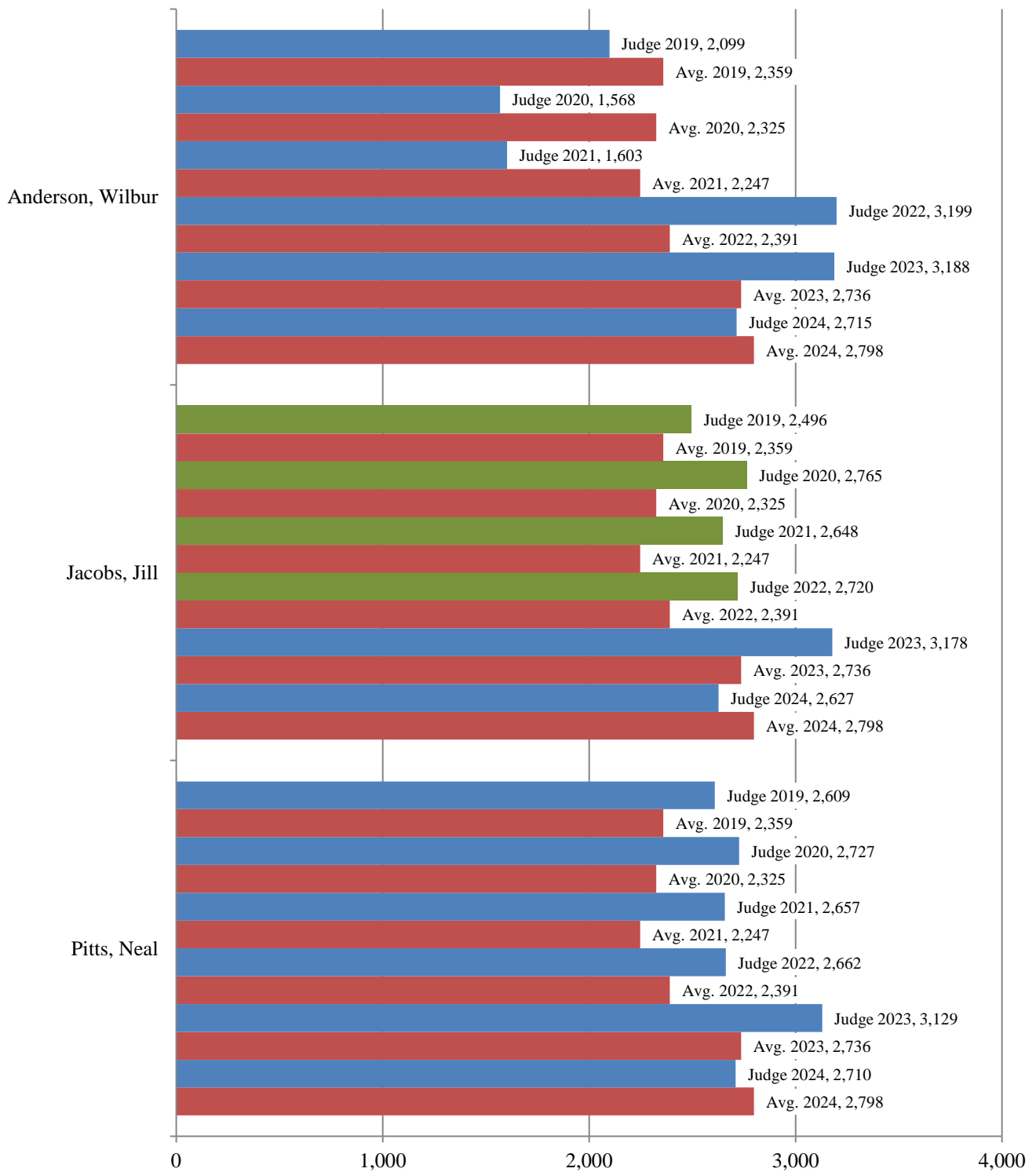
During 2023-24, Judge Pitts served as the Administrative Judge in District Orlando. He also served on the Bench/Bar Professionalism Committee tasked with improving the professionalism in the practice of workers’ compensation law. This committee conceived of the idea to create the OJCC Academy; an educational seminar focused on the training and mentoring of younger lawyers. Judge Pitts then served on the steering committee for the Academy. The inaugural Academy, titled “The Next Generation,” was presented in May 2023, in Orlando and a second time in October 2023, in Tampa. He served on the faculty for both of these sessions. Judge Pitts served as a speaker on a panel at the WCI Annual Conference on August 22, 2023. Judge Pitts served as a mentor with the Florida Bar Counsel to Counsel Mentoring Program which involved meeting on a monthly basis over a nine month period. Judge Pitts served as a speaker at the Workers’ Compensation Section seminar on February 17, 2024. Judge Pitts served as a speaker on a panel on Trial Practice and Procedures, Motions and Sanctions at the 2024 Florida Bar Workers’ Compensation Forum on April 21, 2024. Judge Pitts served on the faculty for the Workers’ Compensation Trial Advocacy Workshop in Miami on May 17 and 18 of 2024. During the year, Judge Pitts served on the Executive Committee, a pupilage group chair, and as an active member of the Judge William Wieland American Inn of Court. In July 2023, Judge Pitts attended the Gala of the National American Inns of Court at the U.S. Supreme Court in Washington D.C. to celebrate the Judge William Wieland American Inn of Court having achieved Platinum status. Judge Pitts continued to be an active member of the National Association of Workers’ Compensation Judiciary. Judge Pitts served as an advisory board member for the College of Public Health and Health Related Sciences at the University of Florida.

In 2023-24, Judge Sancerni participated as a Judge in the preliminary and advance rounds in the Annual E. Earle Zehmer National Moot Court Competition held in conjunction with the Annual Workers’ Compensation Convention in Orlando, Florida. In October of 2023, Judge Sancerni presented on the *Code of Judicial Conduct* at the 2023 NAALJ Annual Conference in Tampa, Florida. In 2024, Judge Sancerni participated in a Panel providing an *Introduction to Workers’ Compensation* to Law Students at the Levin College of Law at the University of Florida in Gainesville, Florida. In the Spring of 2024, Judge Sancerni moderated a Panel of Attorneys representing Injured Workers at the *Perspectives from the Practice* held at the First District Court of Appeals in Tallahassee, Florida. She also participated in Discussion Panels at the *2024 Florida Bar Workers’ Compensation Forum* and the *2024 Florida Workers’ Advocates Annual Educational Conference*, both held in Orlando, Florida. Judge Sancerni is a member of the Judge William Wieland American Inns of Court, the National Association of Workers’ Compensation Judiciary (NAWCJ), and the Conference of the JCCs.

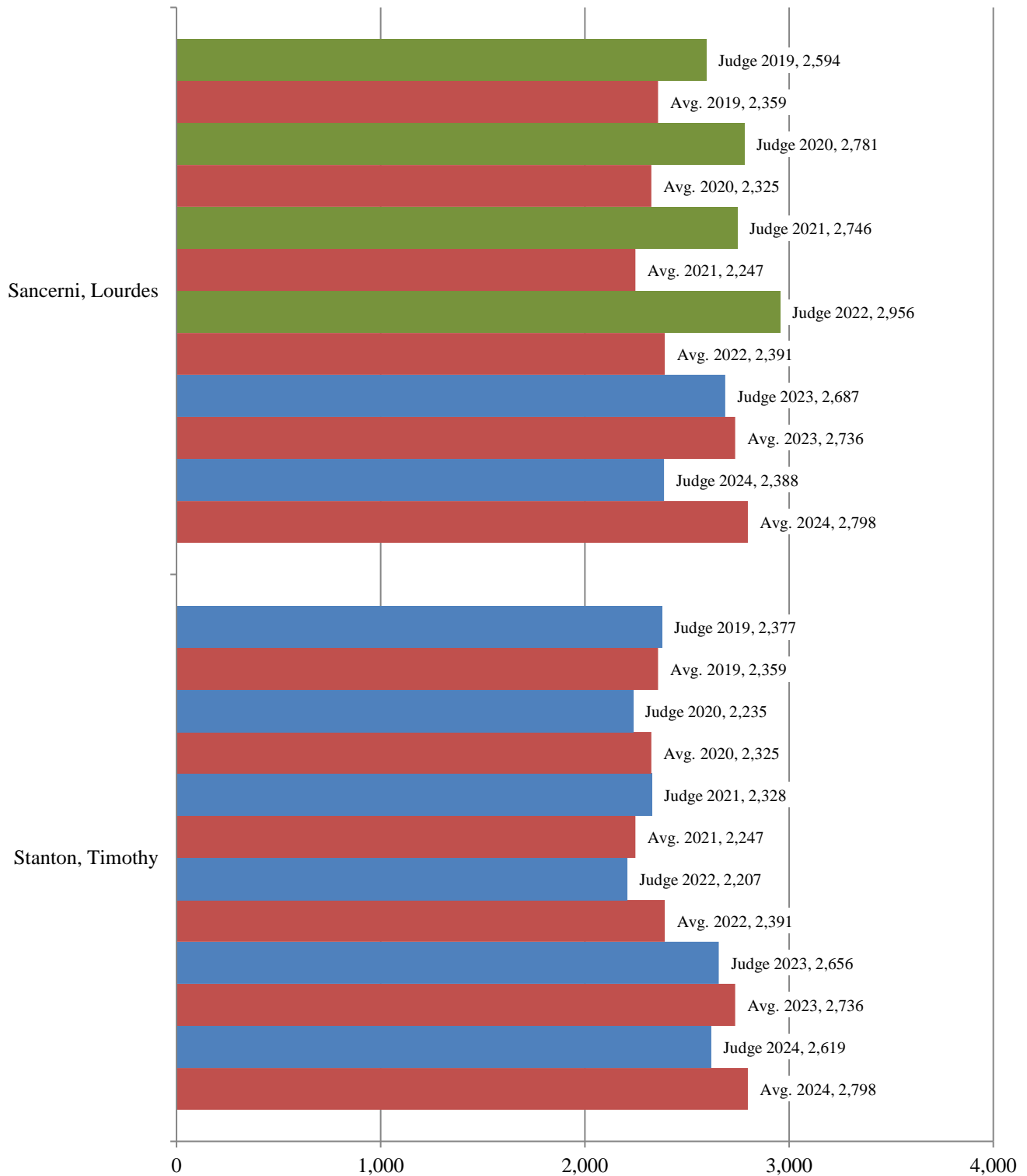
In 2023-24, Judge Stanton was honored to serve as a judge in the E. Earle Zehmer National Moot Court Competition. Judge Stanton also served as a judge in the University of Florida College of Law oral arguments for first year law students. Judge Stanton is a member of the National Association of Workers' Compensation Judiciary, the Conference of Judges of Compensation Claims, and an honorary member in the E. Roberts Inn of Court in Jacksonville, Florida. (Judge Stanton is assigned to District JAX, but has handled a District ORL docket in 2023-24).

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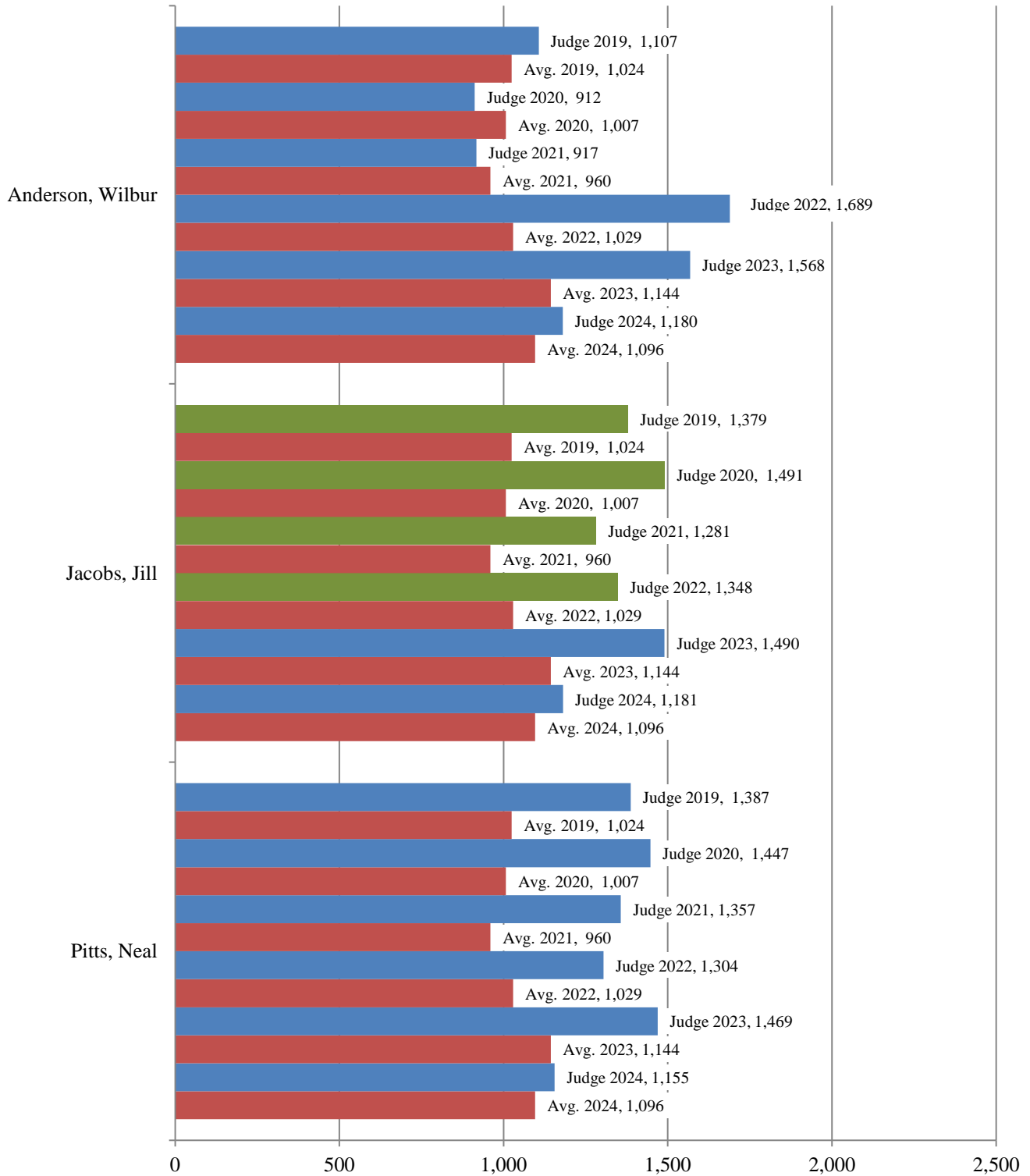
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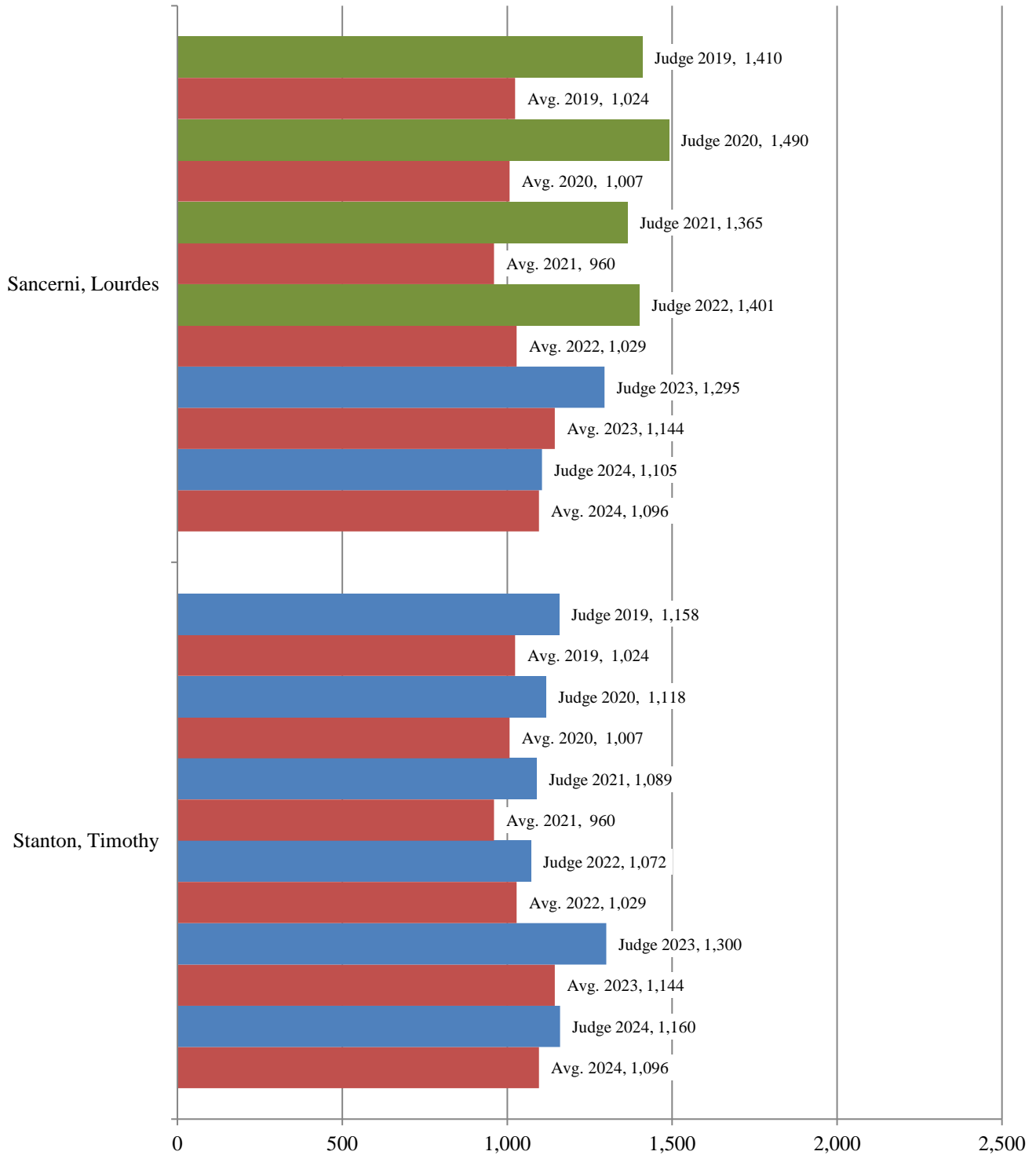
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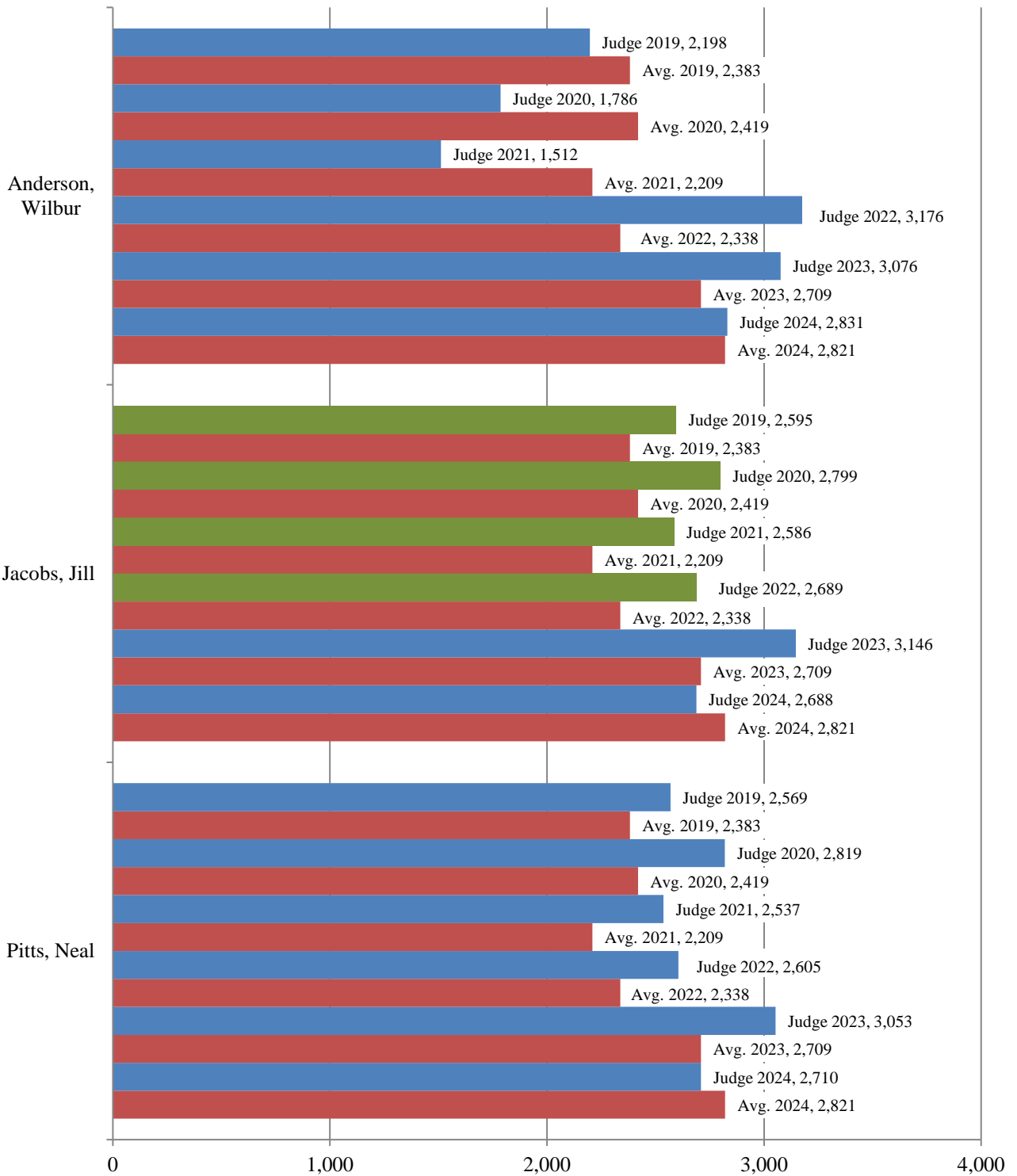
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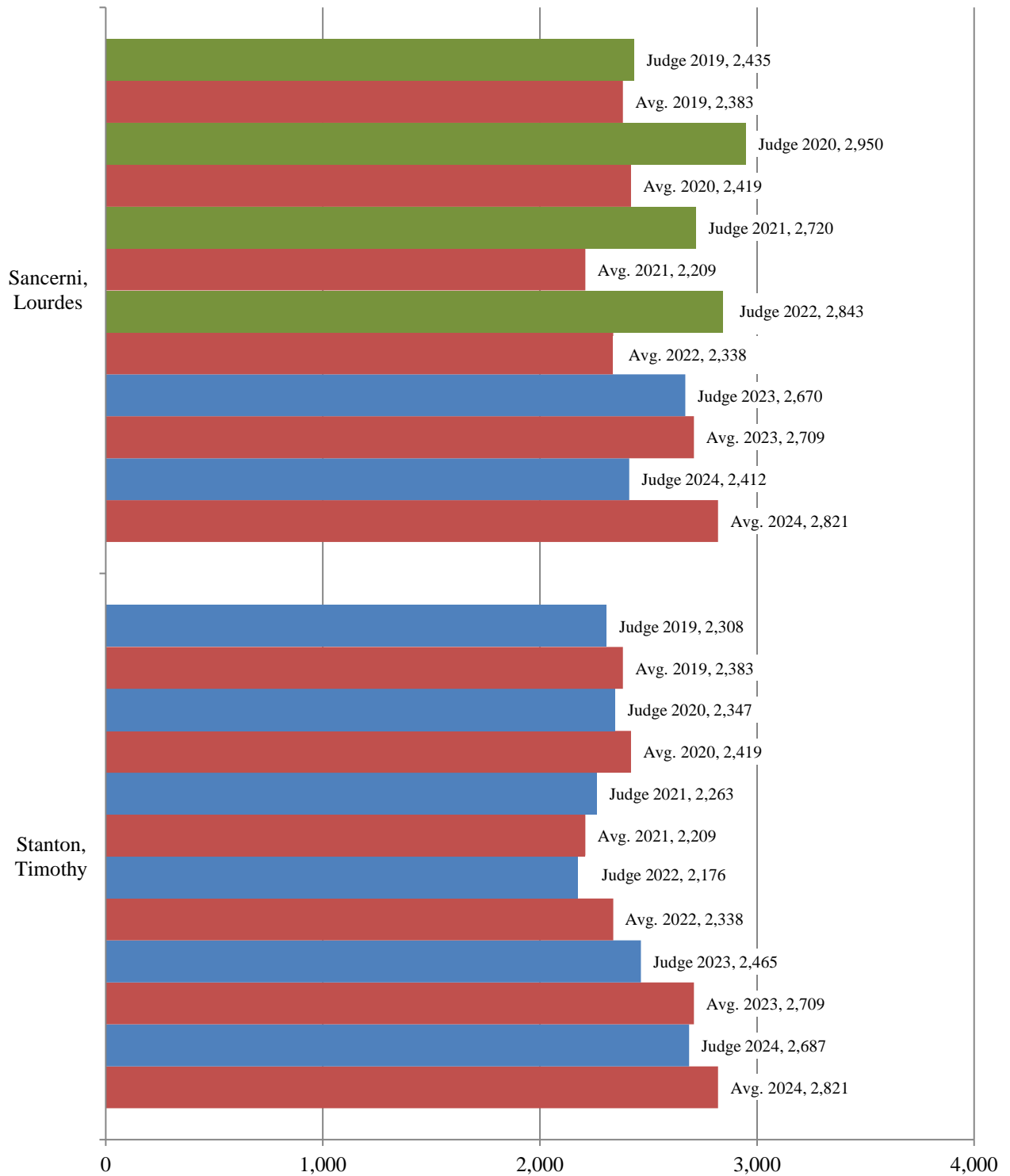
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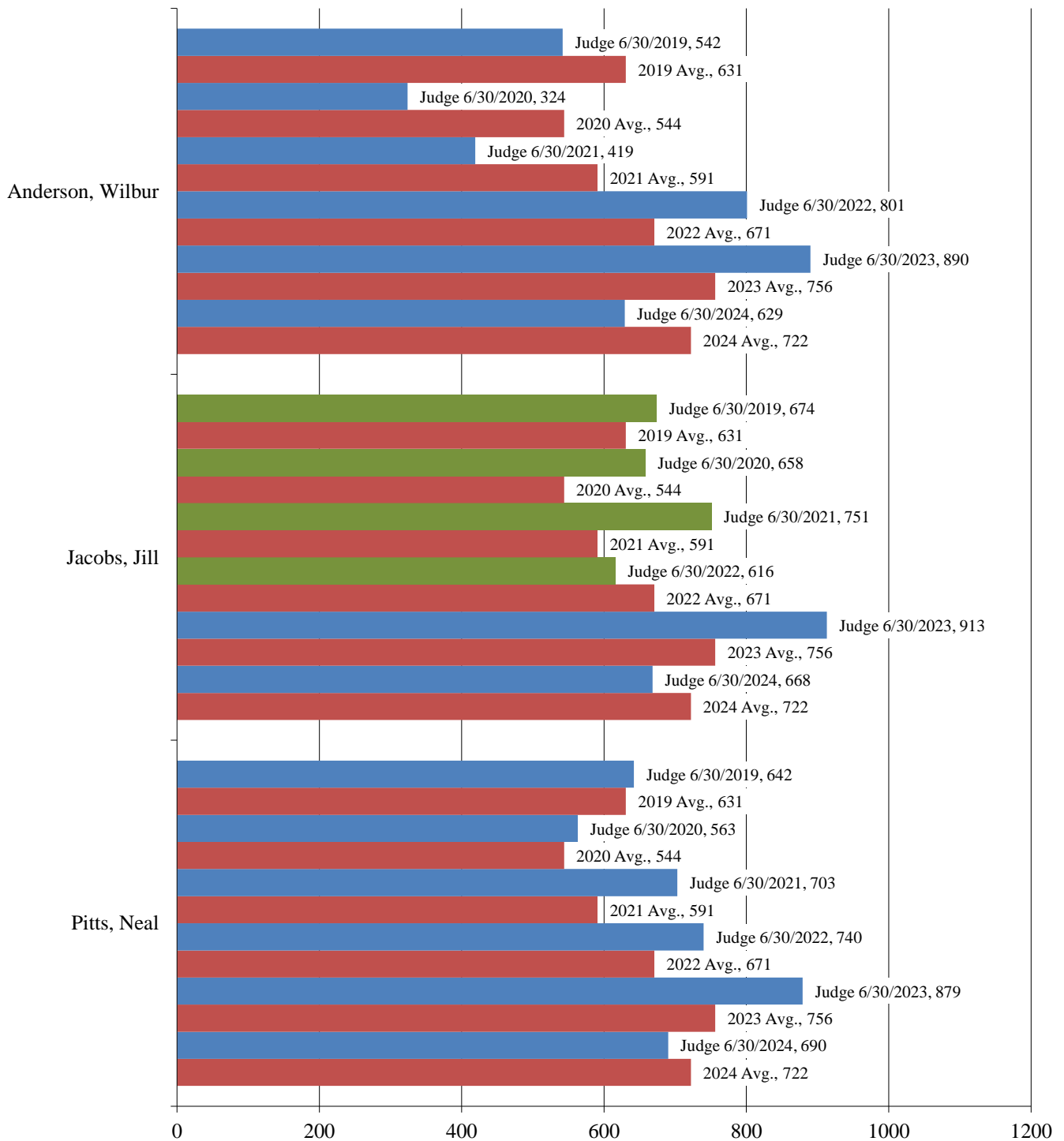
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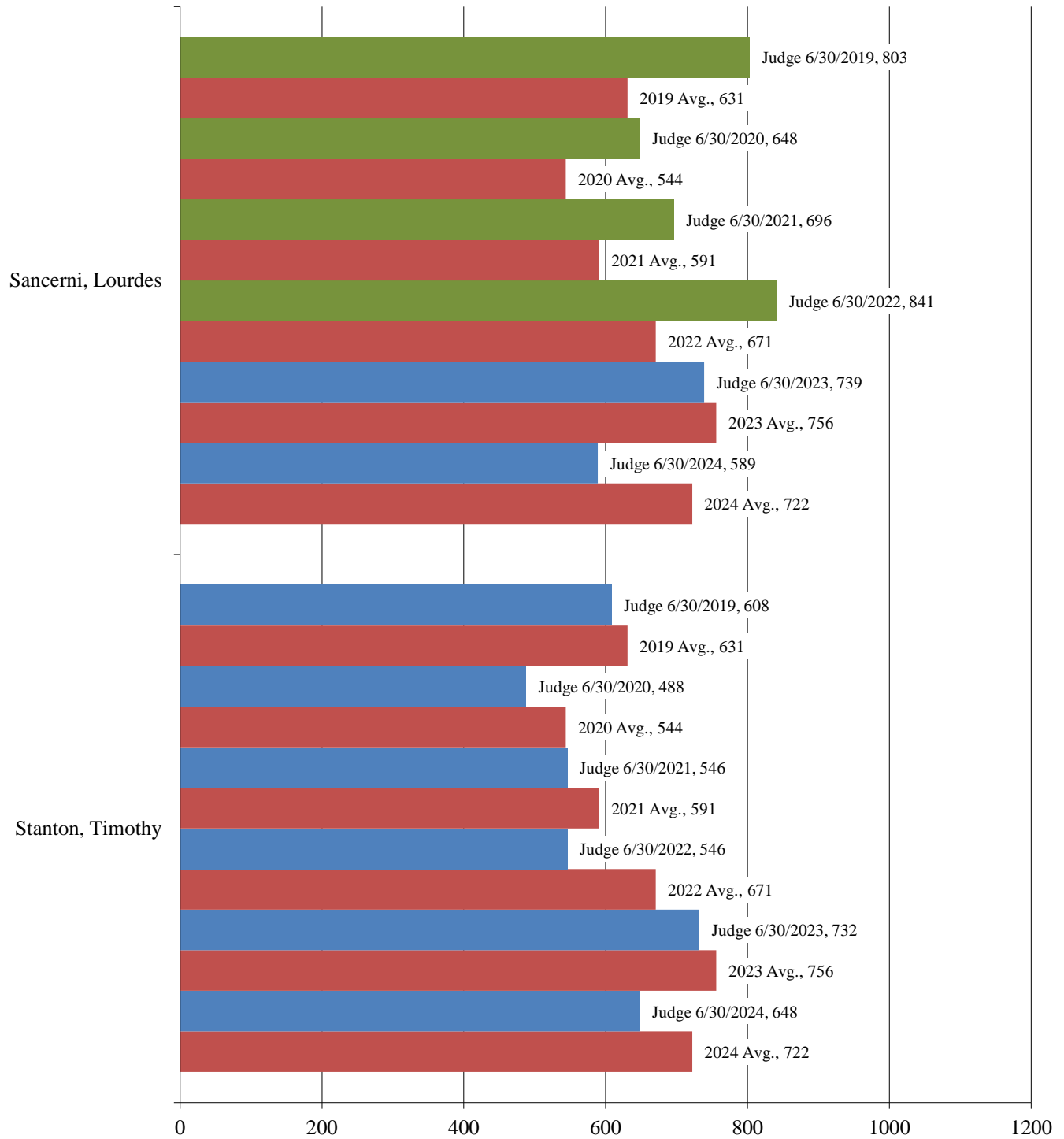
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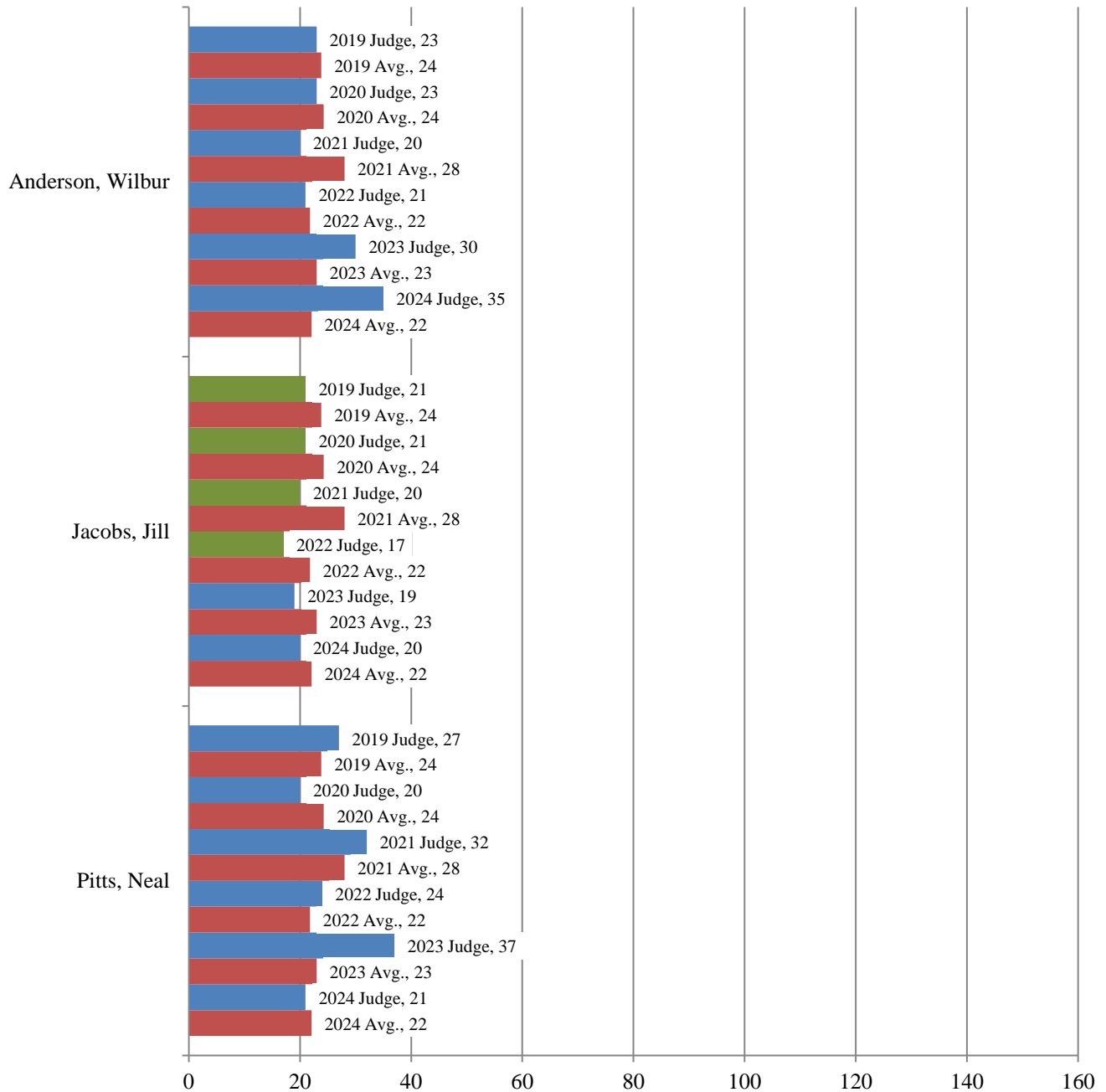


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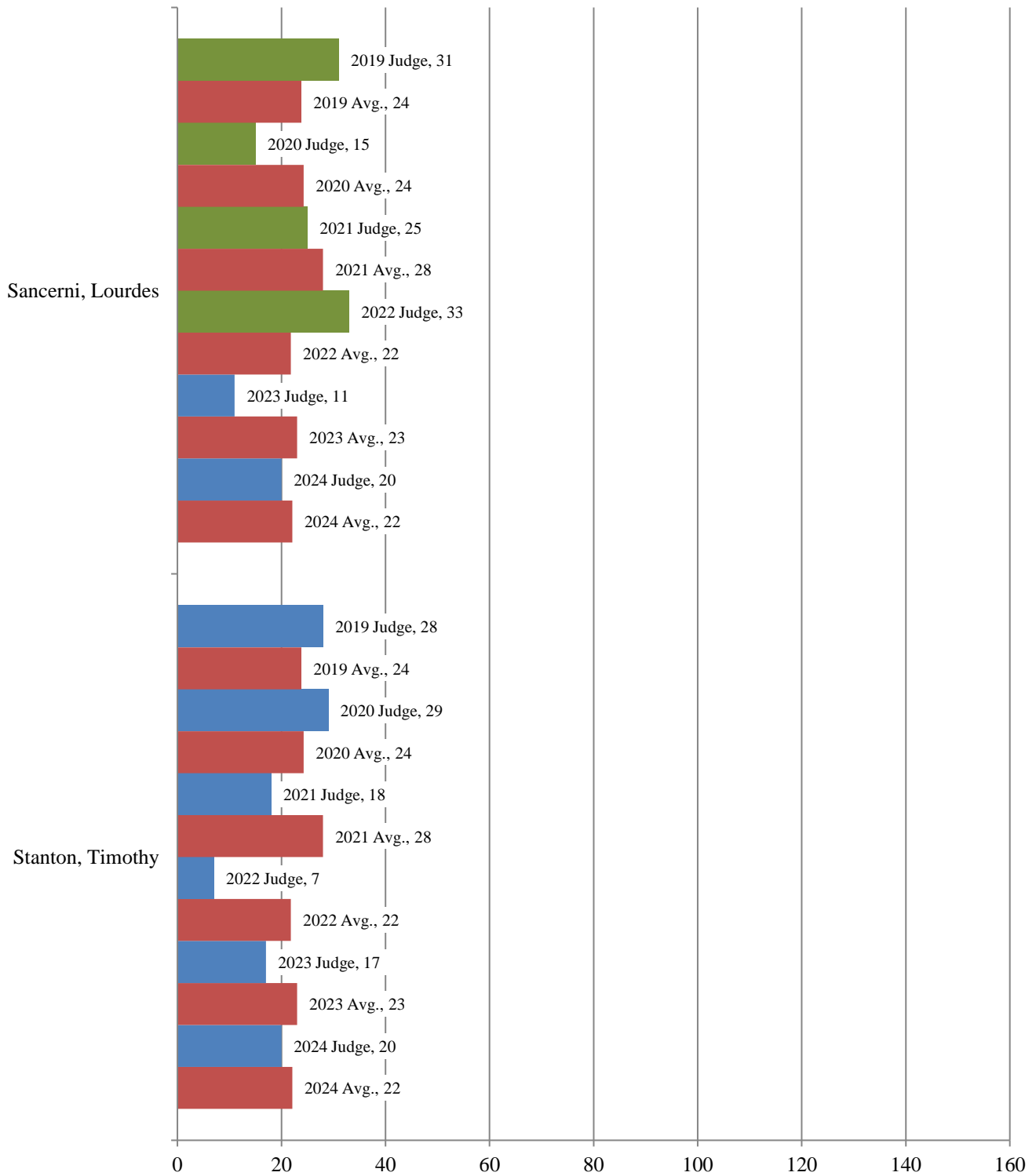


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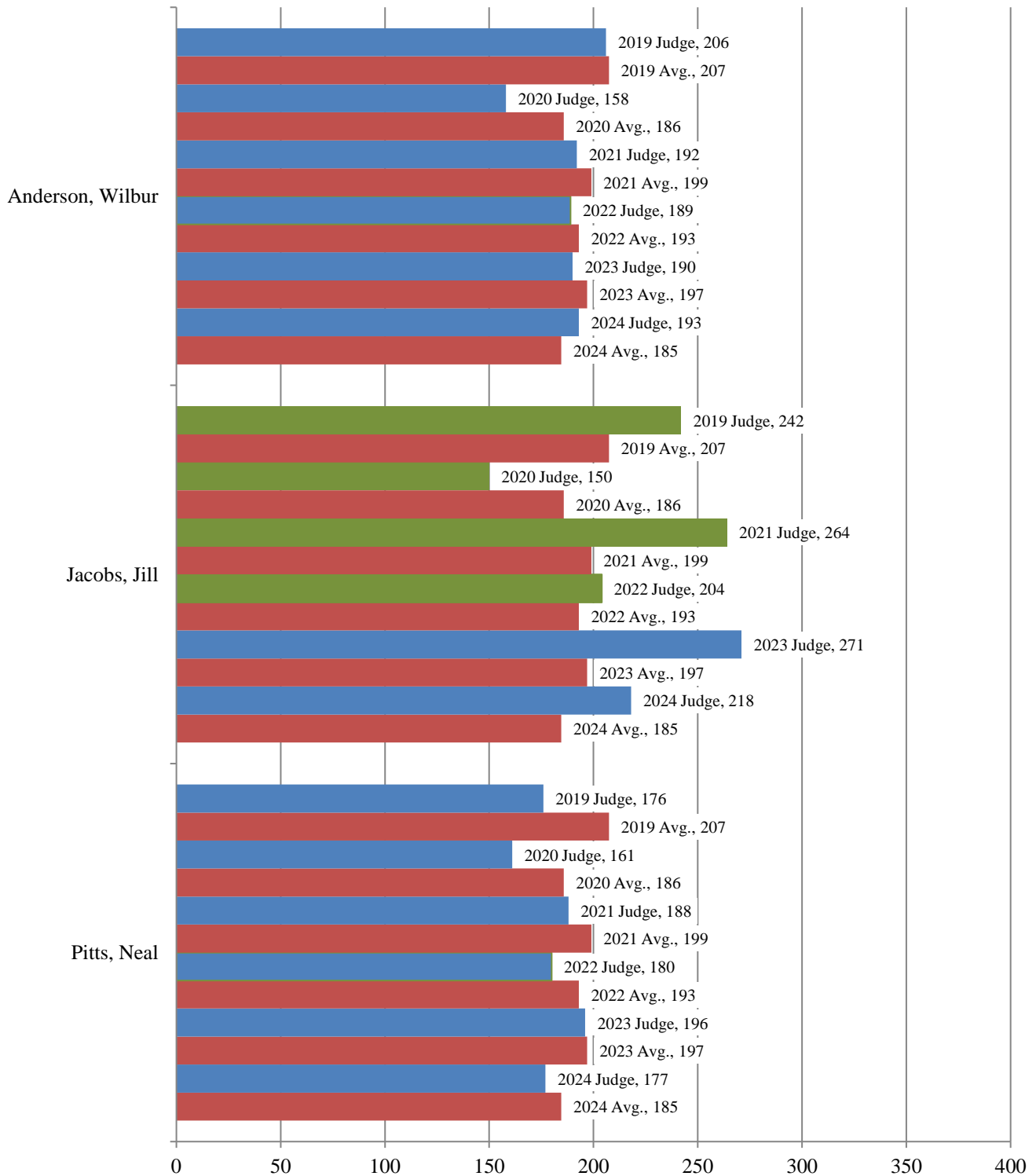
The following graph depicts the total volume of trial orders³¹⁹ uploaded in this District and statewide averages between 2018-19 and 2023-24. The identification and values for each year are in each bar label (green bars denote statistics before the named judge's appointment).



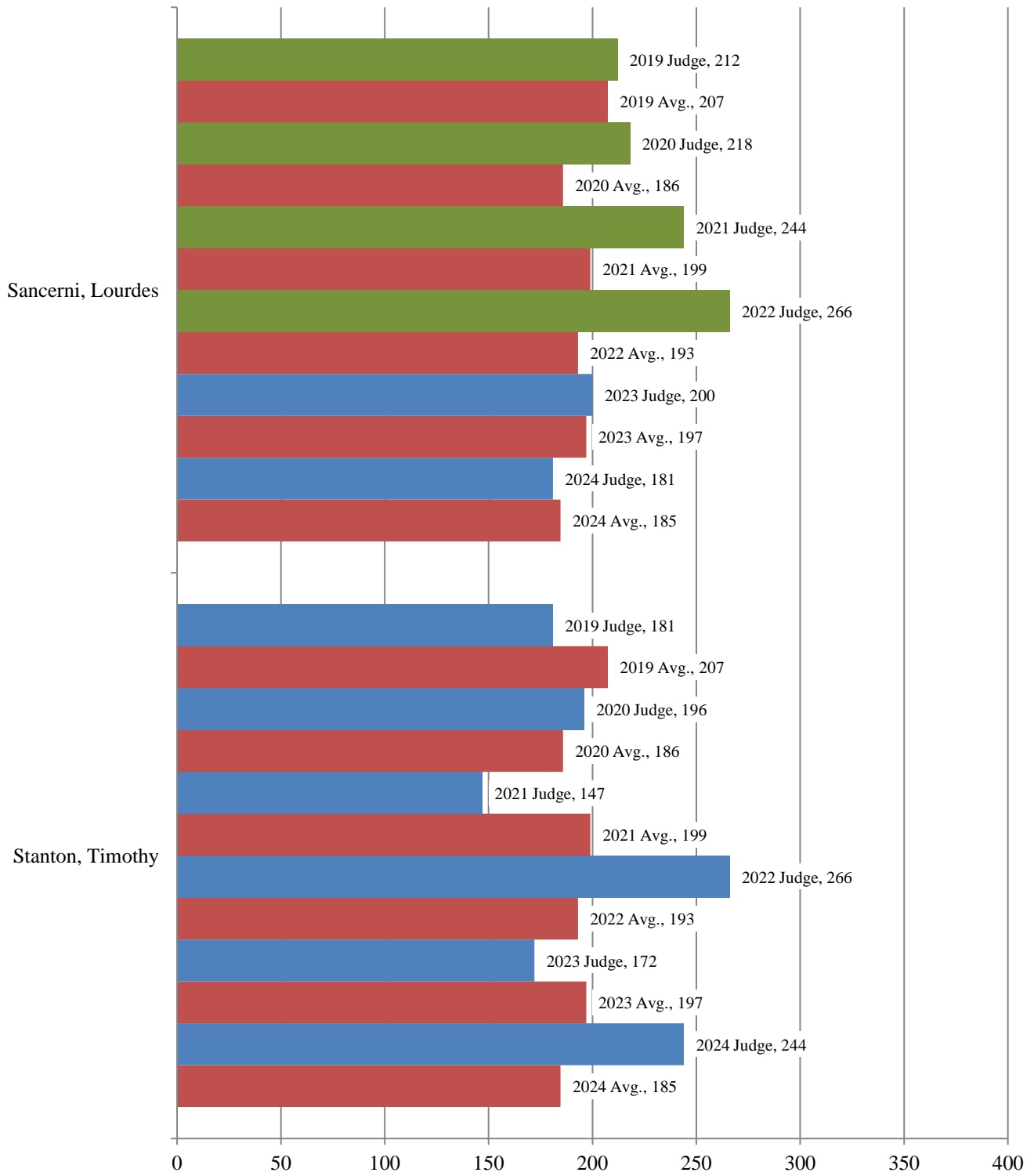
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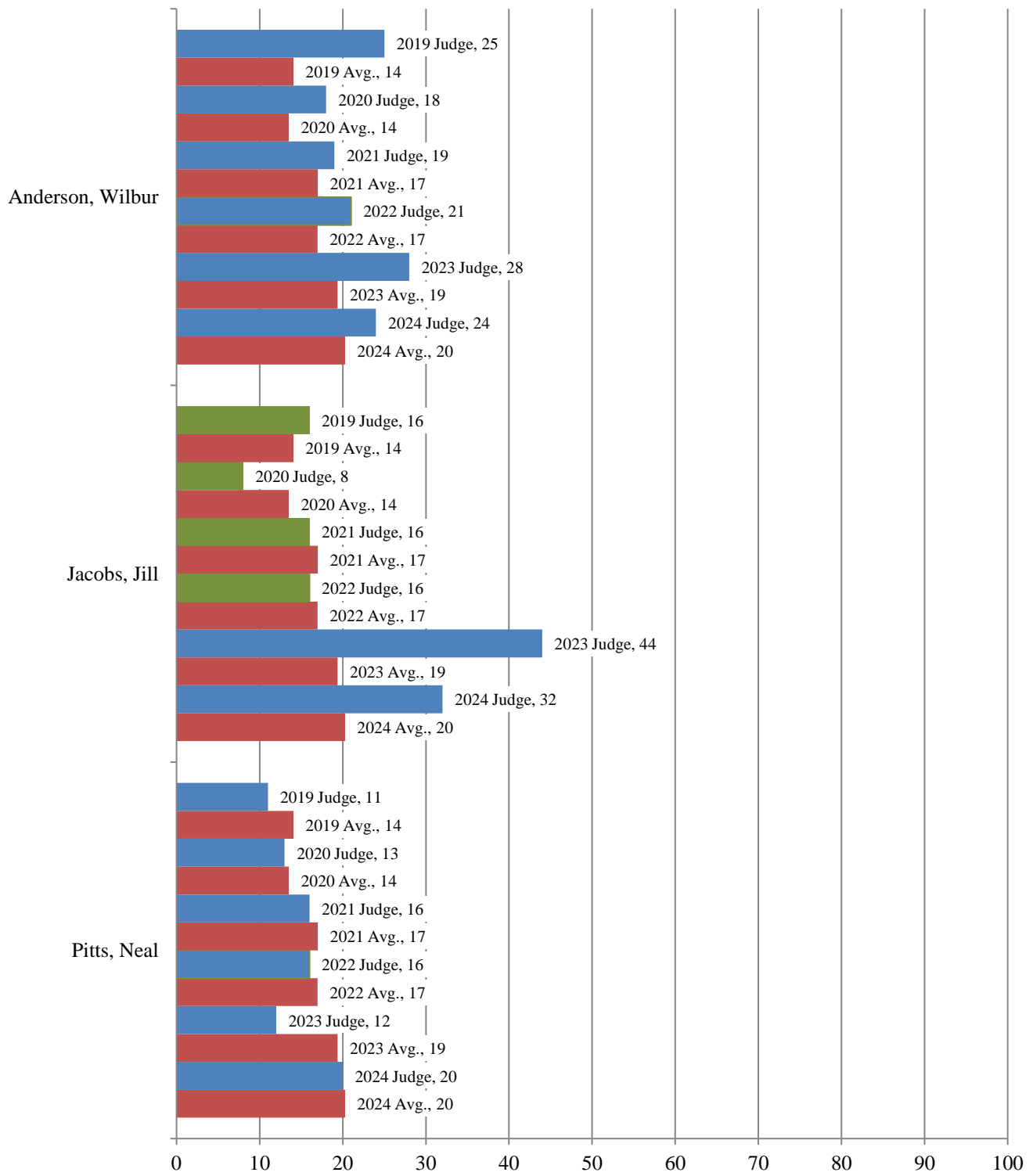
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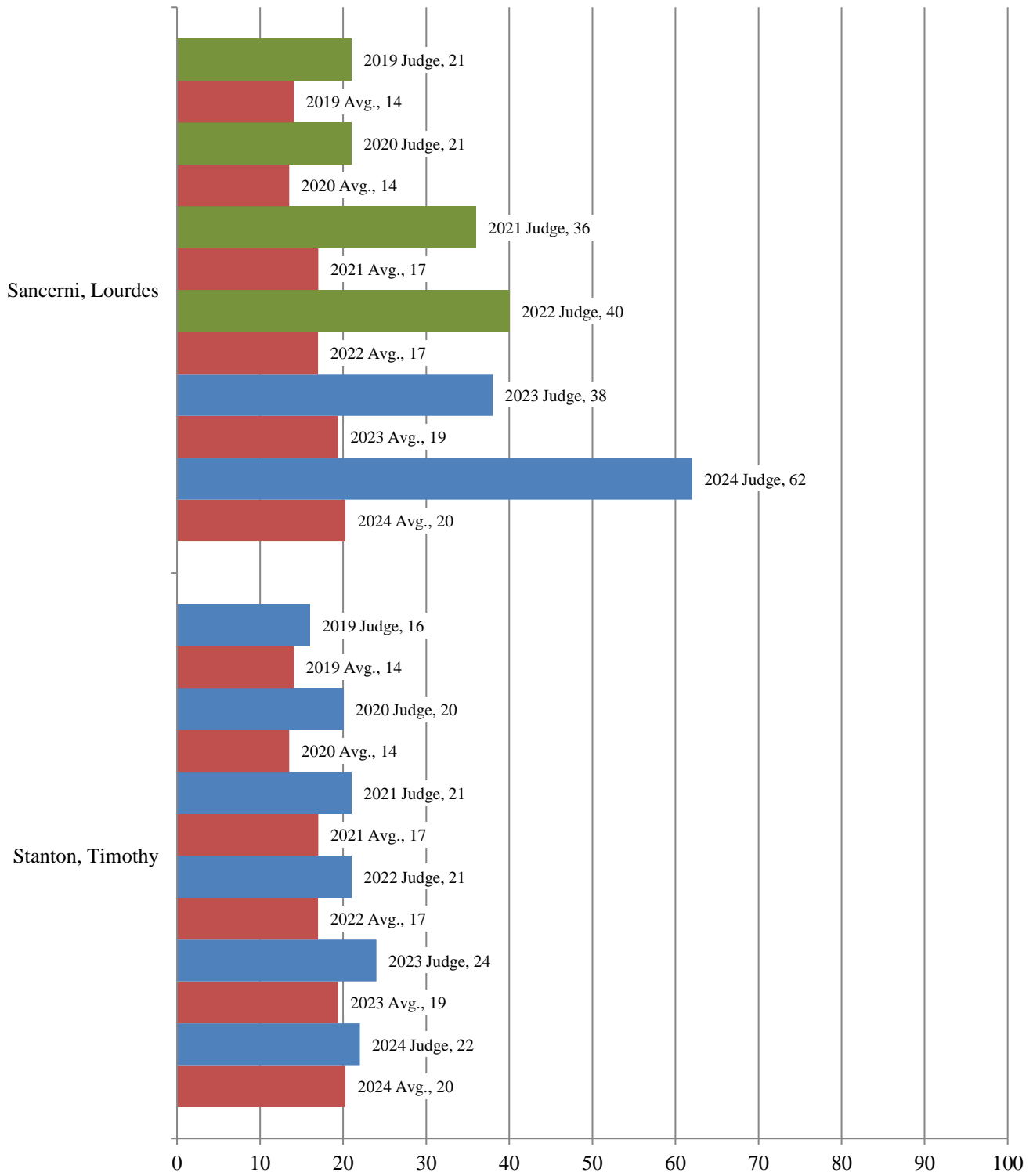
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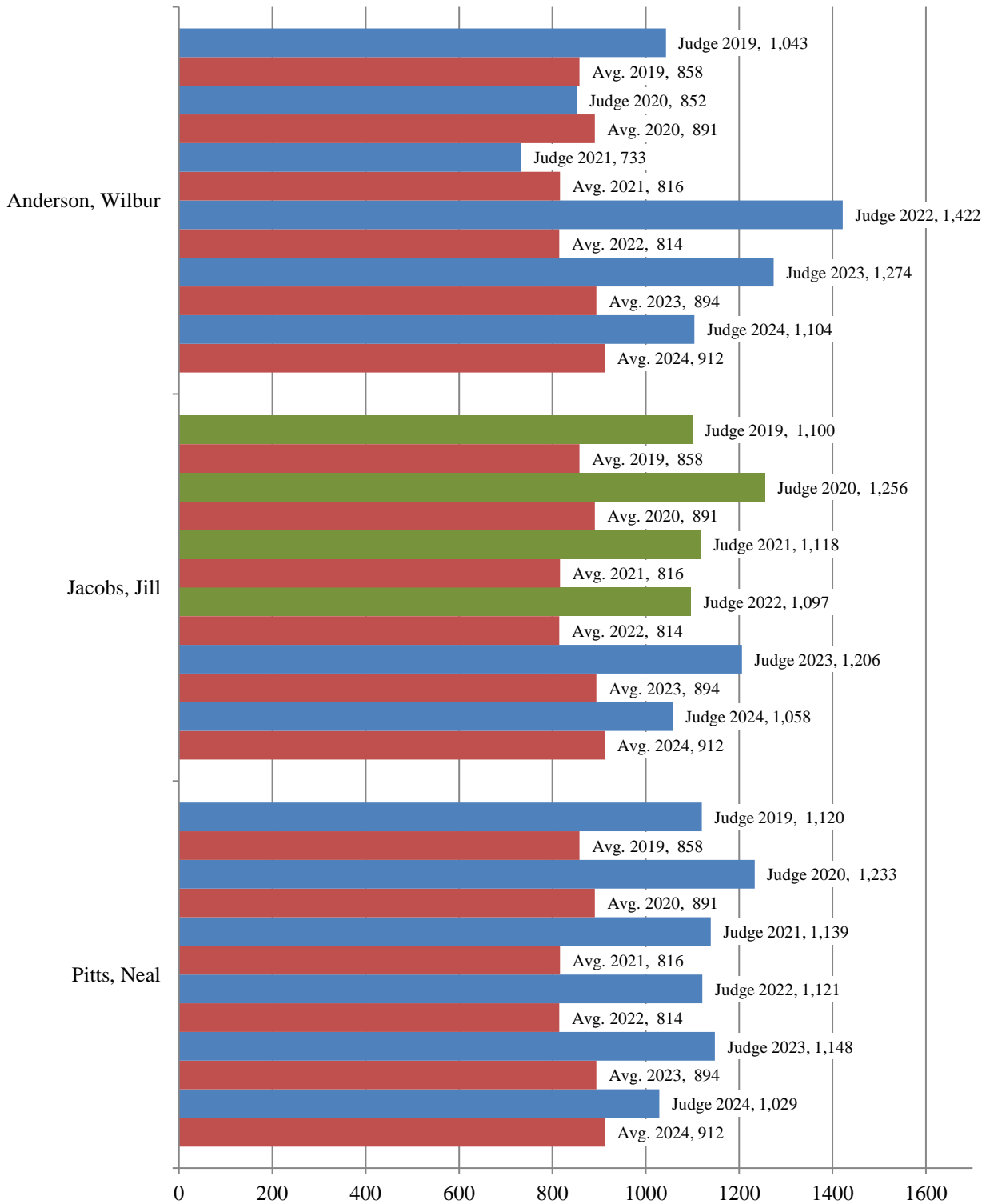
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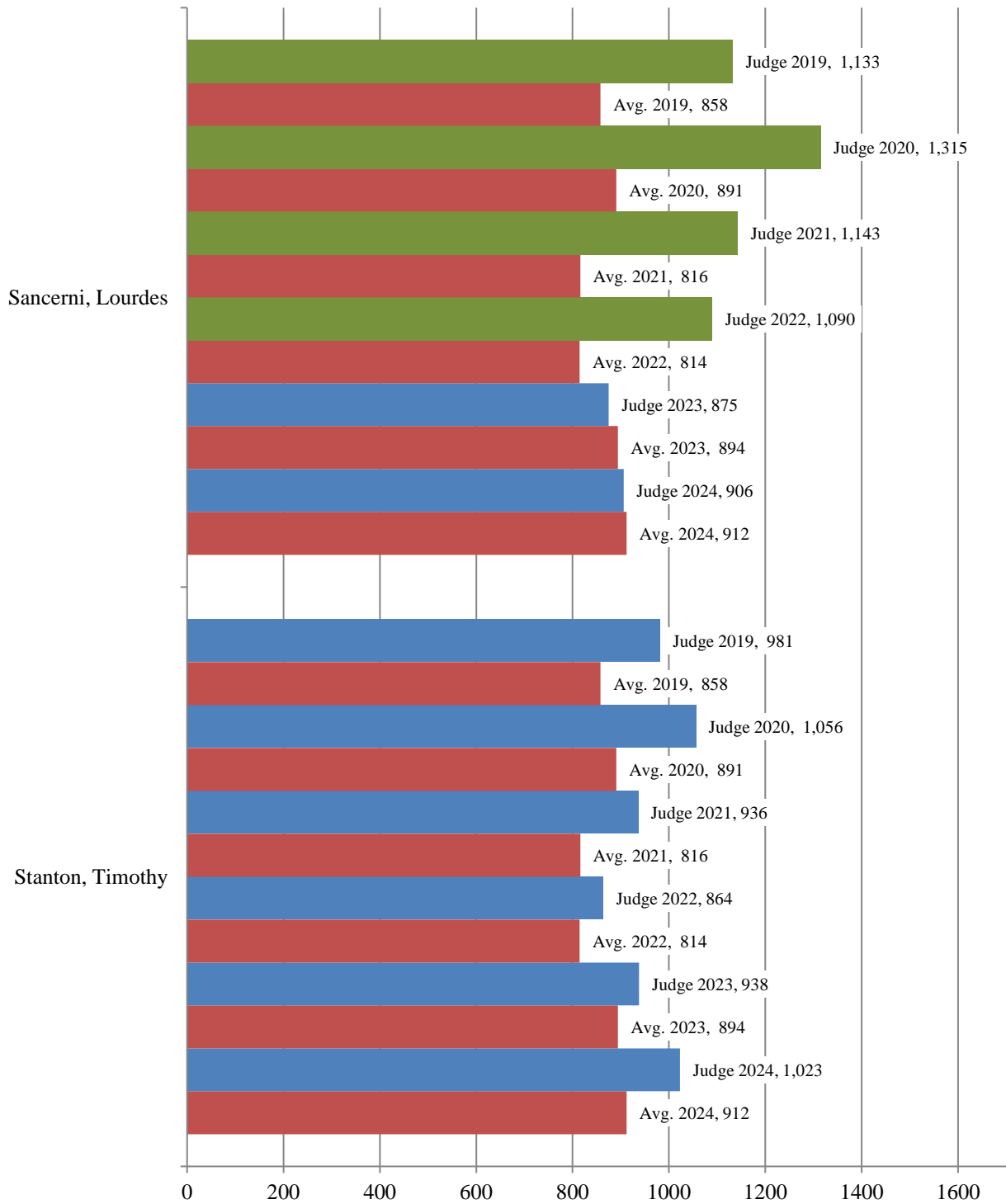
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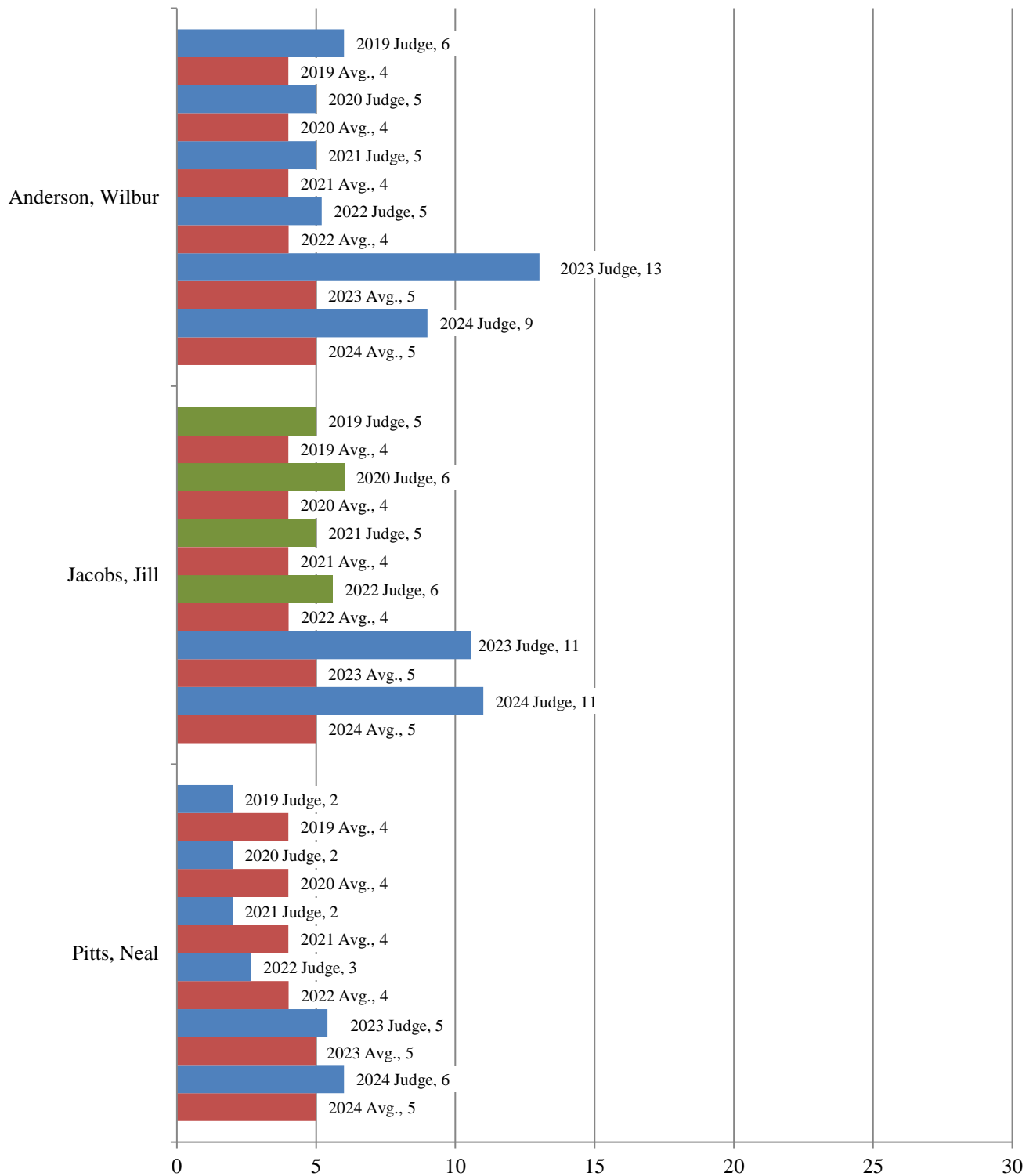
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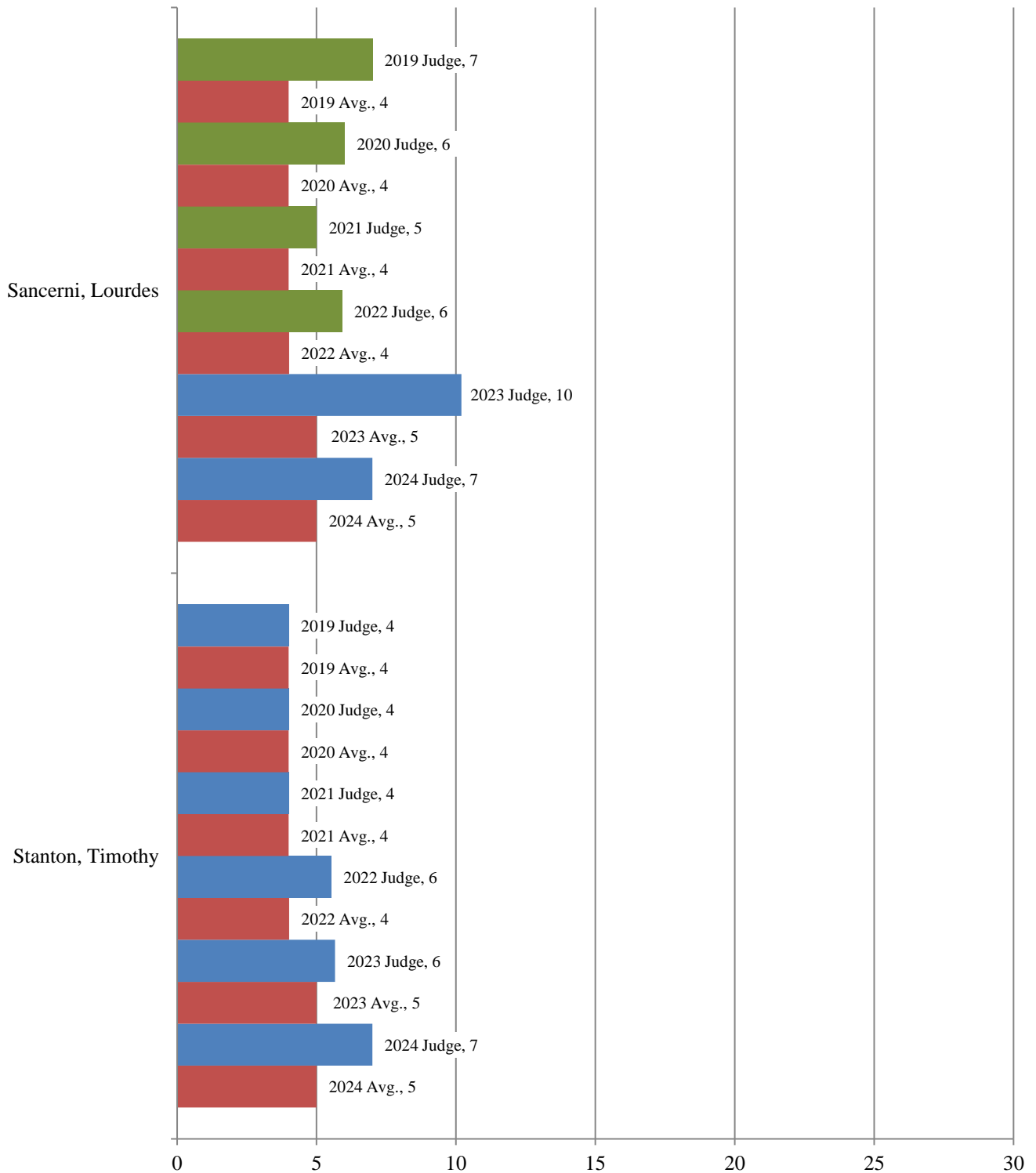
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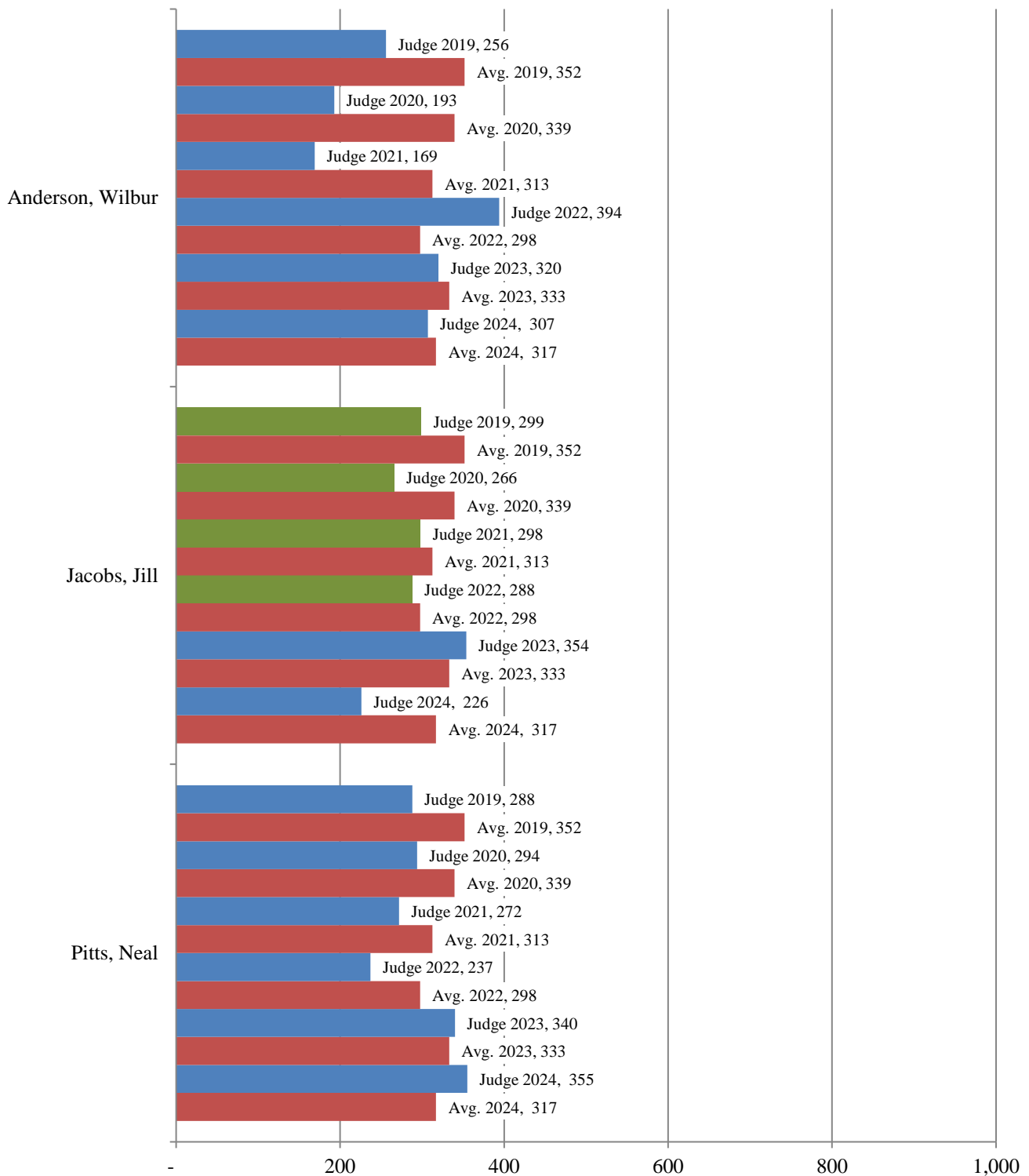
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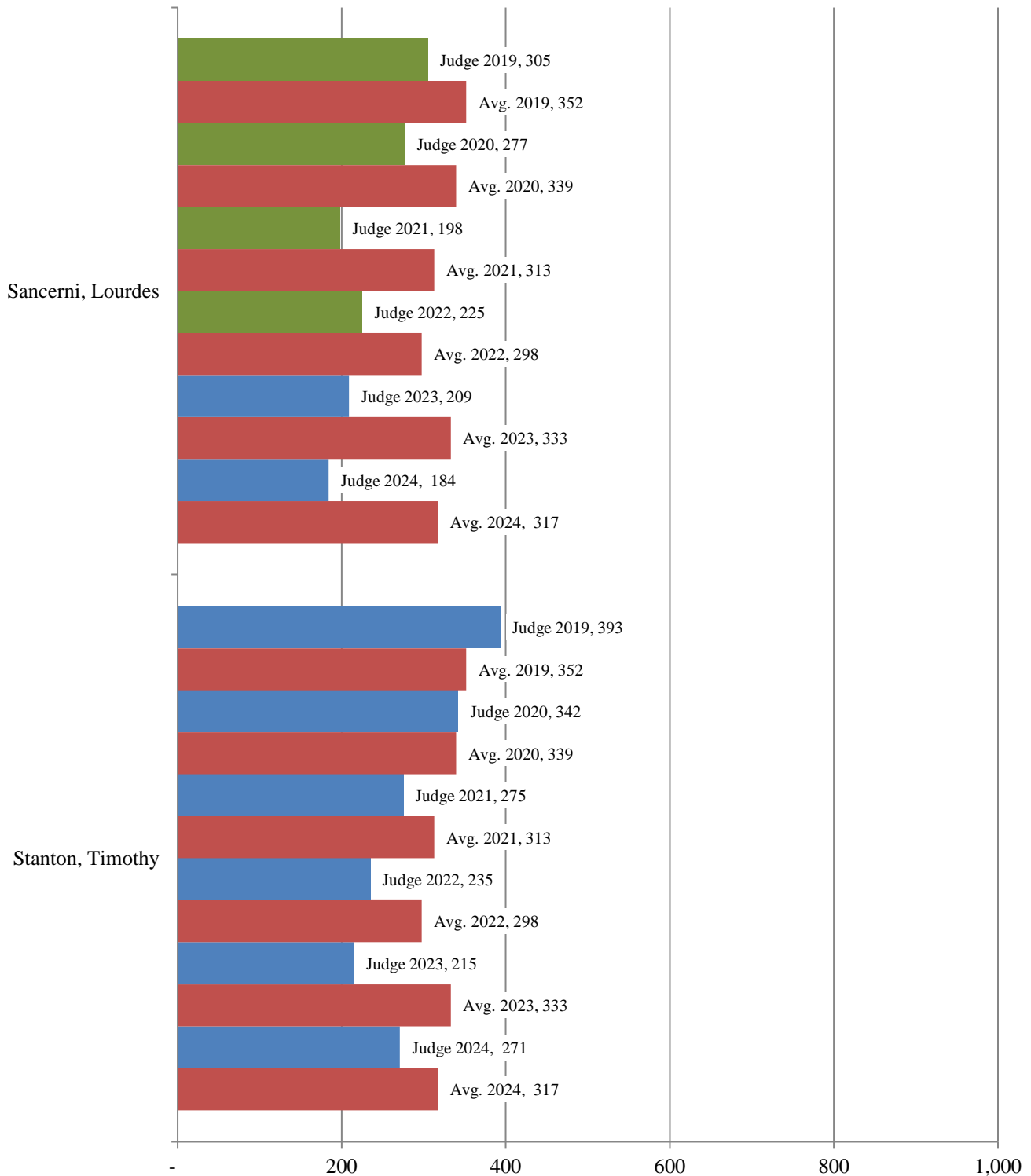
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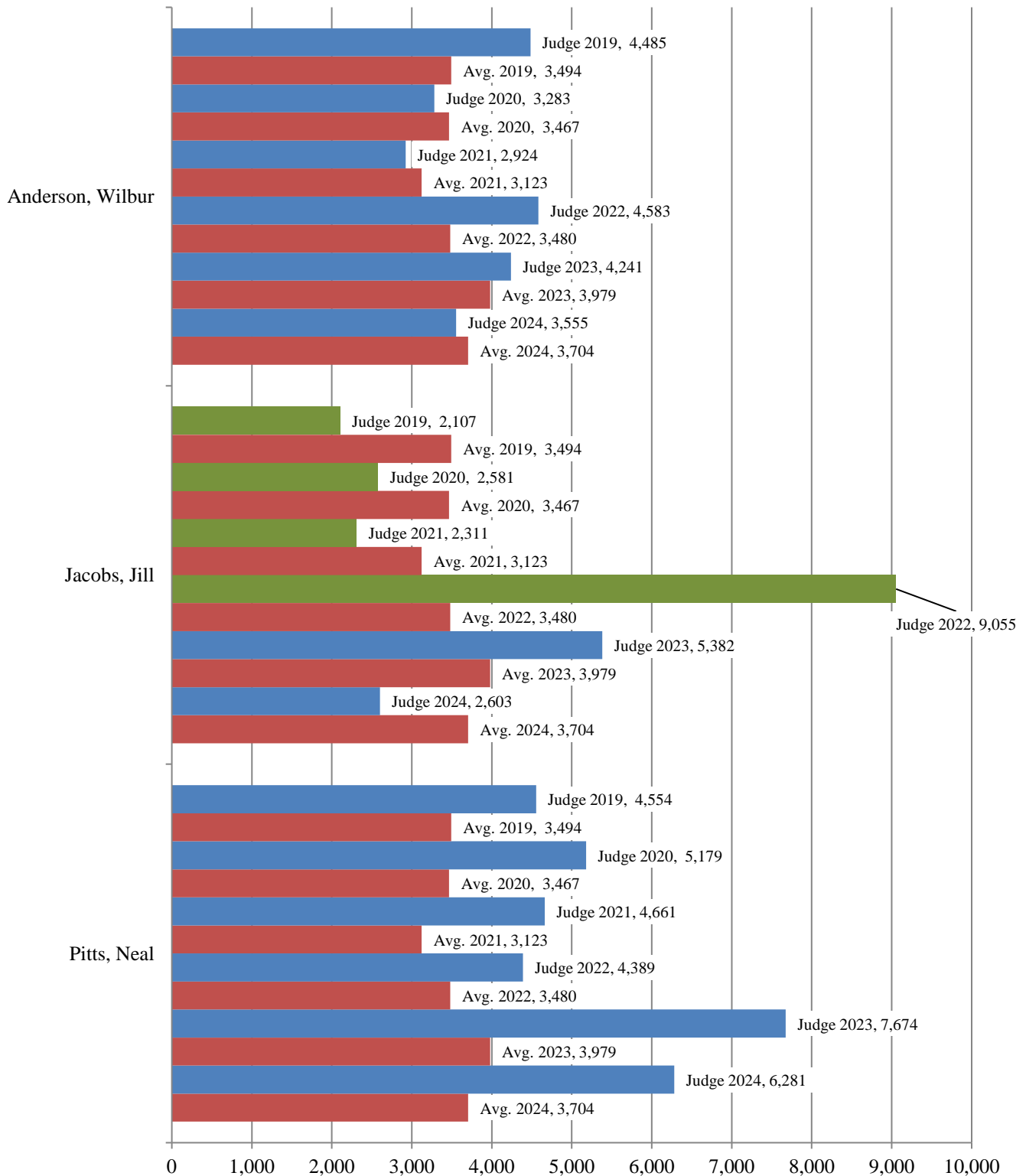
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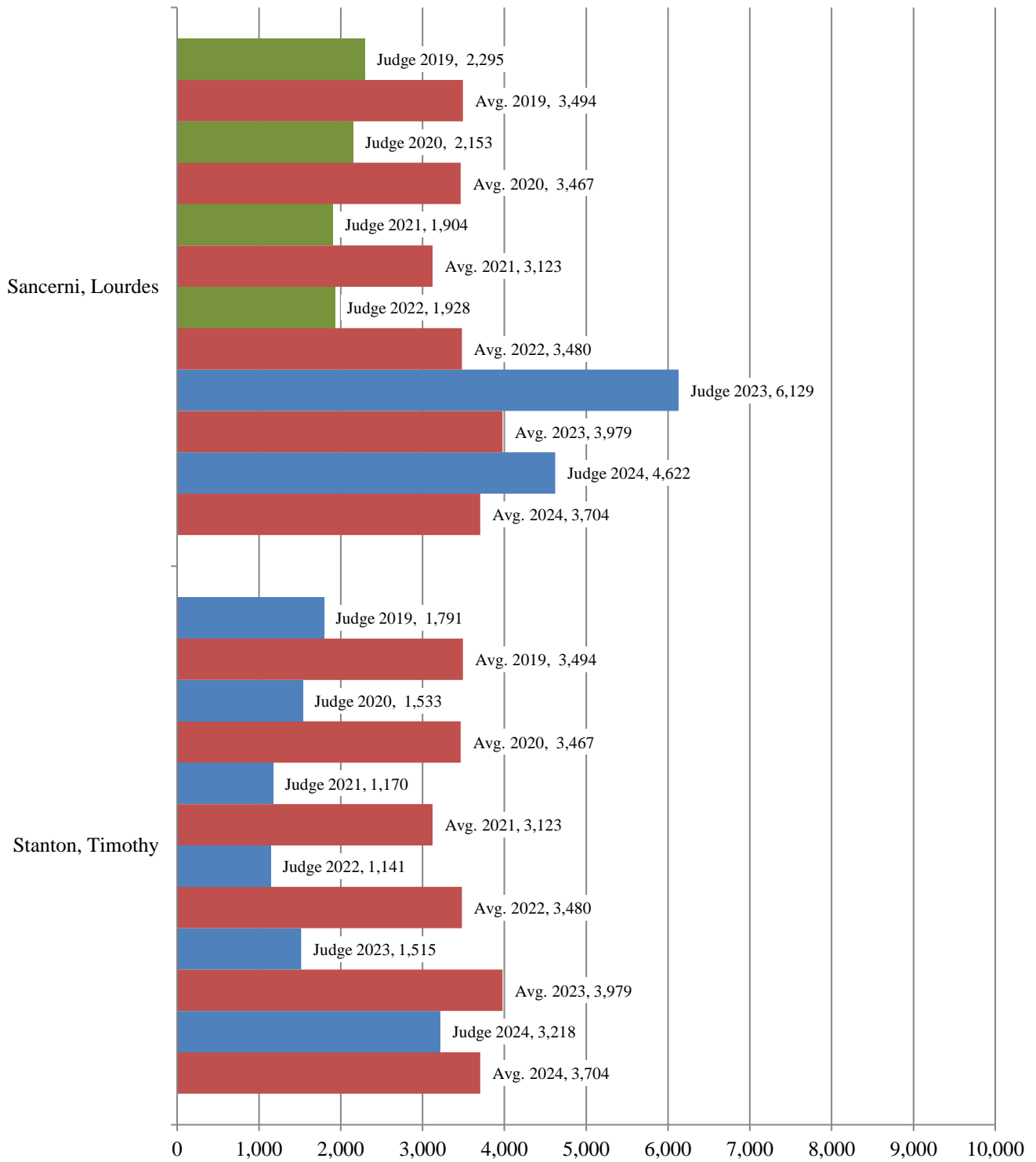
(Continued) The following depicts the volume of stipulation orders entered by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



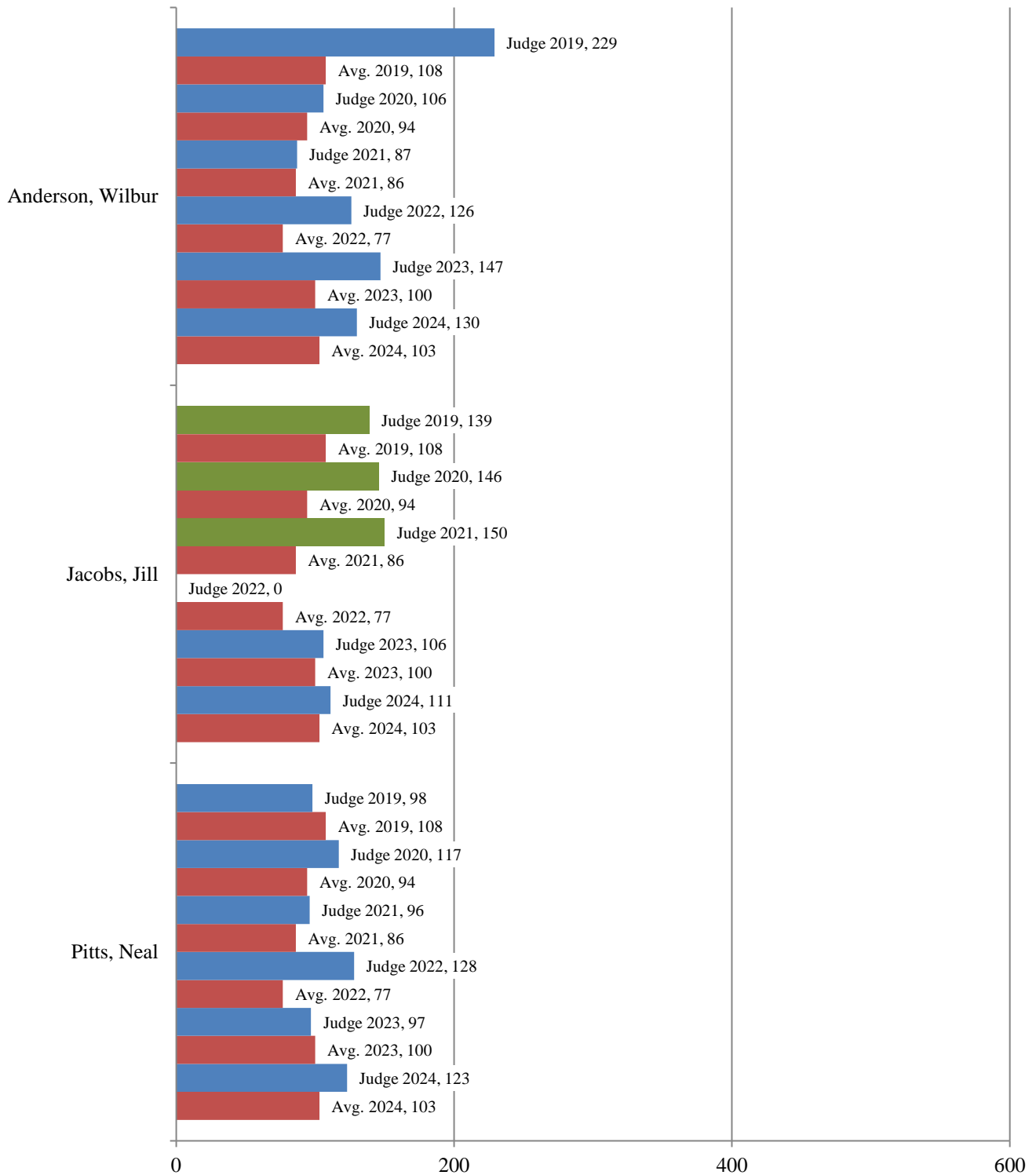
The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



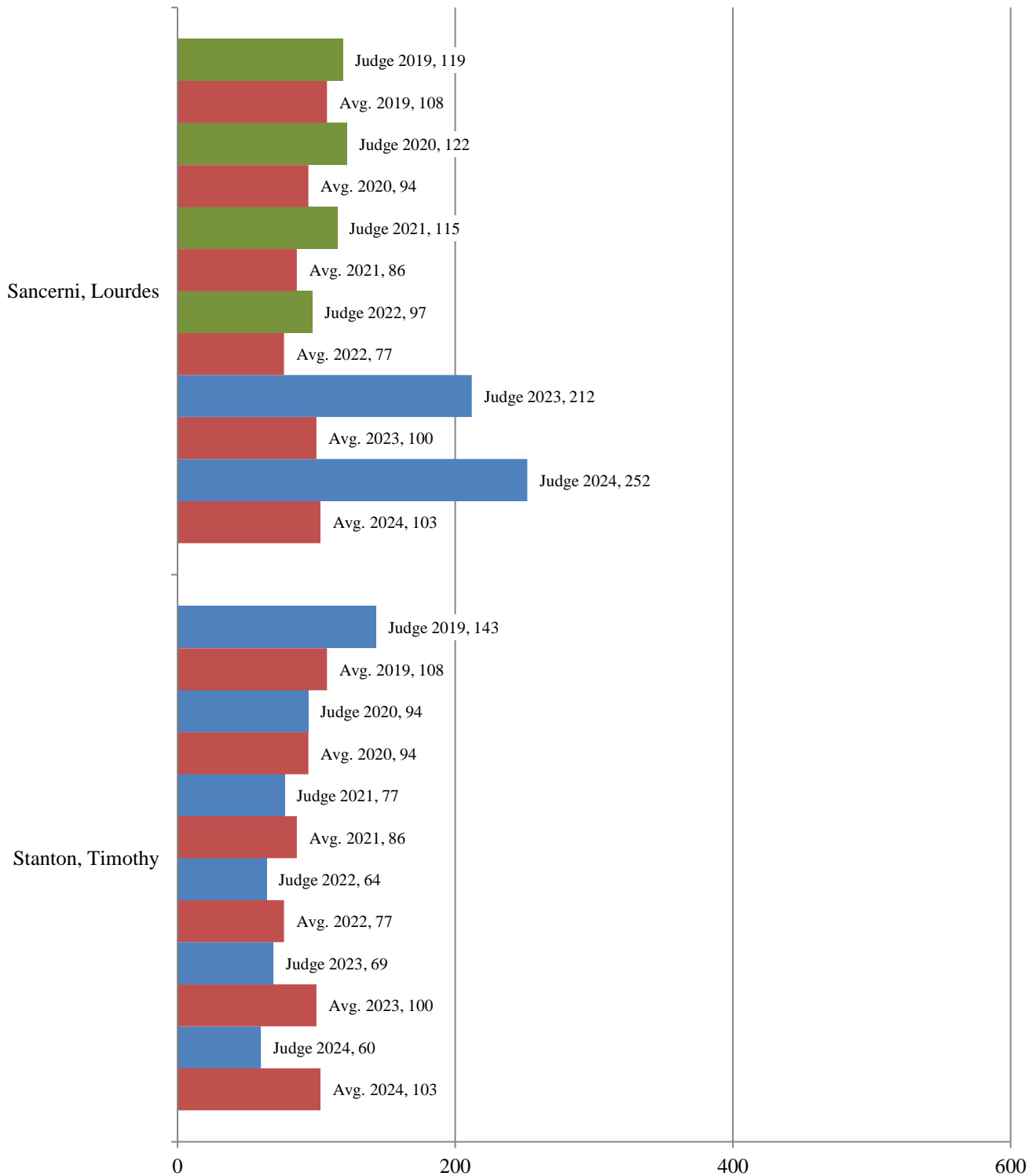
(Continued) The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



(Continued) The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



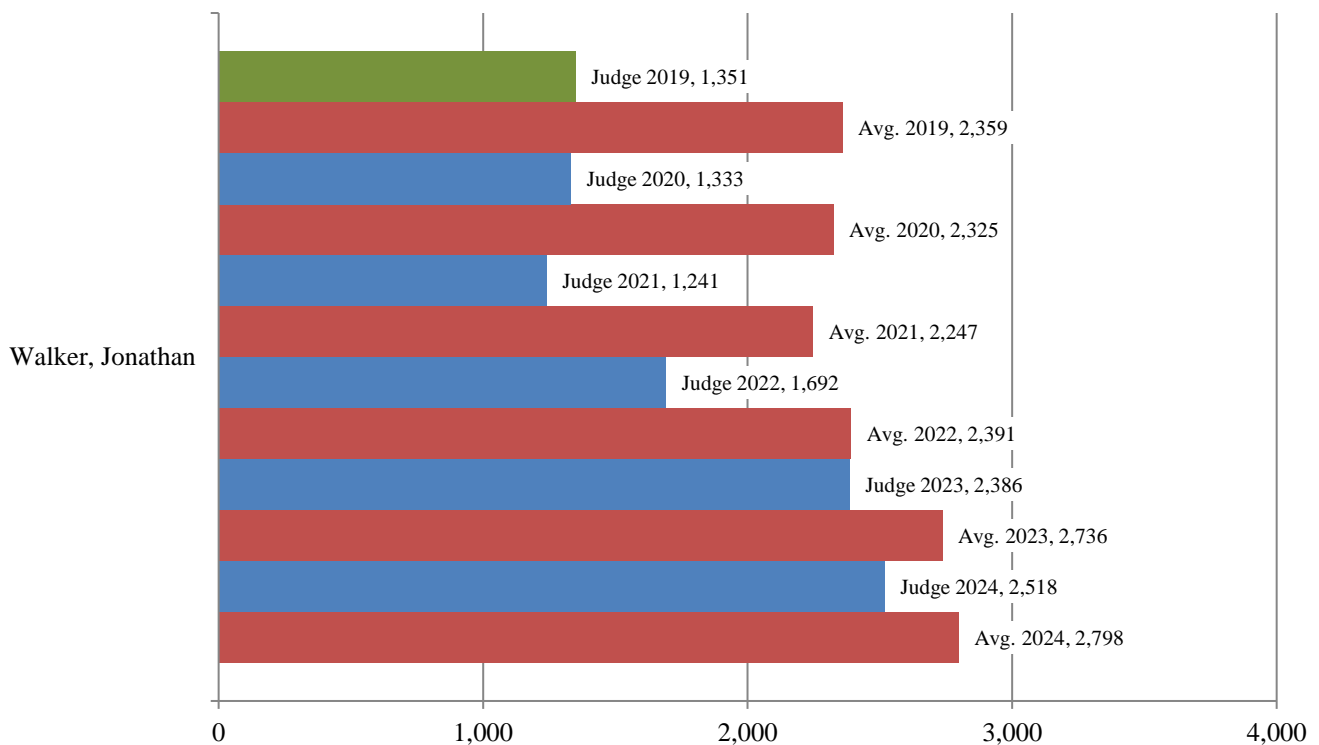
Appendix “6” District PNS (JCC Walker³²¹):

District PNS includes Bay,³²² Escambia, Okaloosa, Santa Rosa, and Walton³²³ counties.

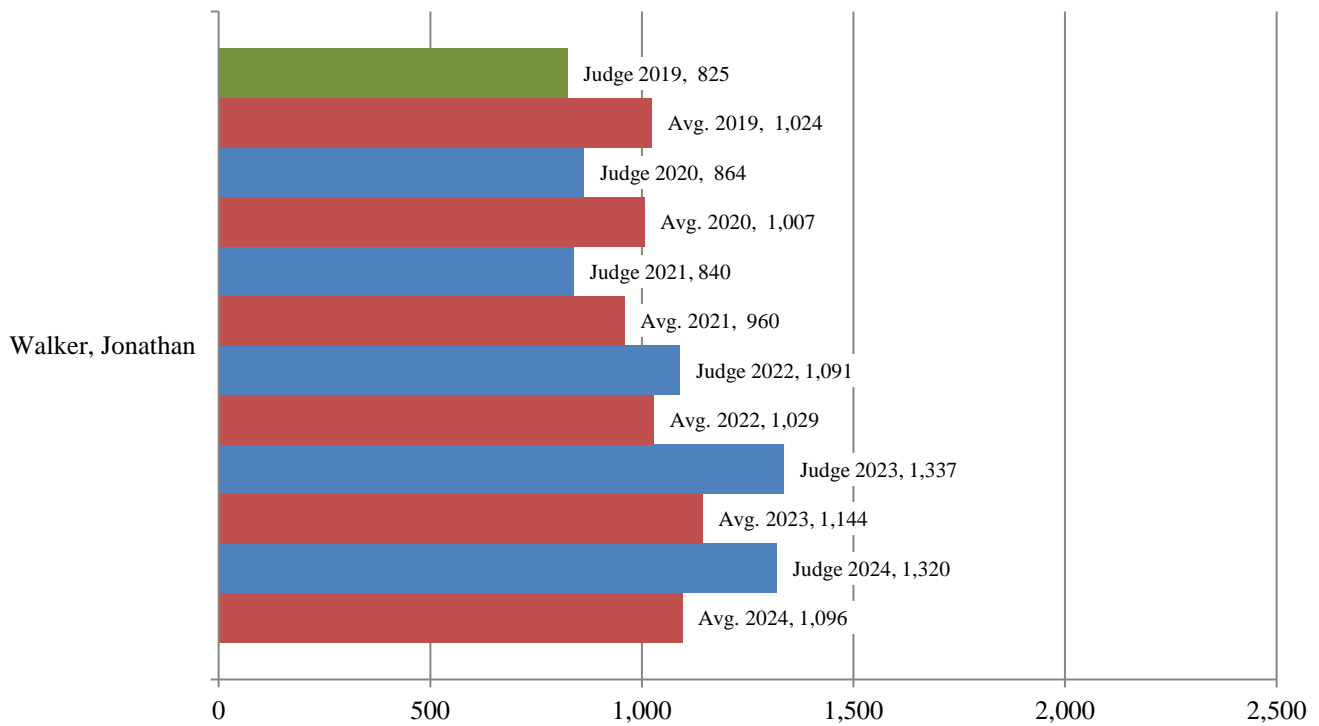
Despite the closure of Panama City and the reassignment of Bay County, the “new case” and PFB volumes in Pensacola remained below the statewide averages in 2022-23 and 2023-24. In the event it becomes necessary to transfer cases from some busier districts, Pensacola remains an apparent destination for those cases.

In 2023-24, Judge Walker worked on the planning committee for the OJCC/WCI Spring Seminar in Tallahassee and later served as a panel moderator at the program in March 2024. He also continued to serve as the Secretary for the Conference of the Judges of Compensation Claims. Judge Walker volunteered as a local trial judge at the Florida High School Mock Trial Competition, in addition to serving as an appellate judge at the August 2023 E. Earle Zehmer National Moot Court Competition for law schools held in Orlando. In September 2023, Judge Walker was a team coach at the Division of Administrative Hearings (DOAH) Trial Academy in Tallahassee. Beginning in January 2024, Judge Walker became a member of the OJCC Certified Scholar 2025 Program Organizing Committee. Locally, Judge Walker served as a team leader in the C. Roger Vinson American Inns of Court (Pensacola chapter).

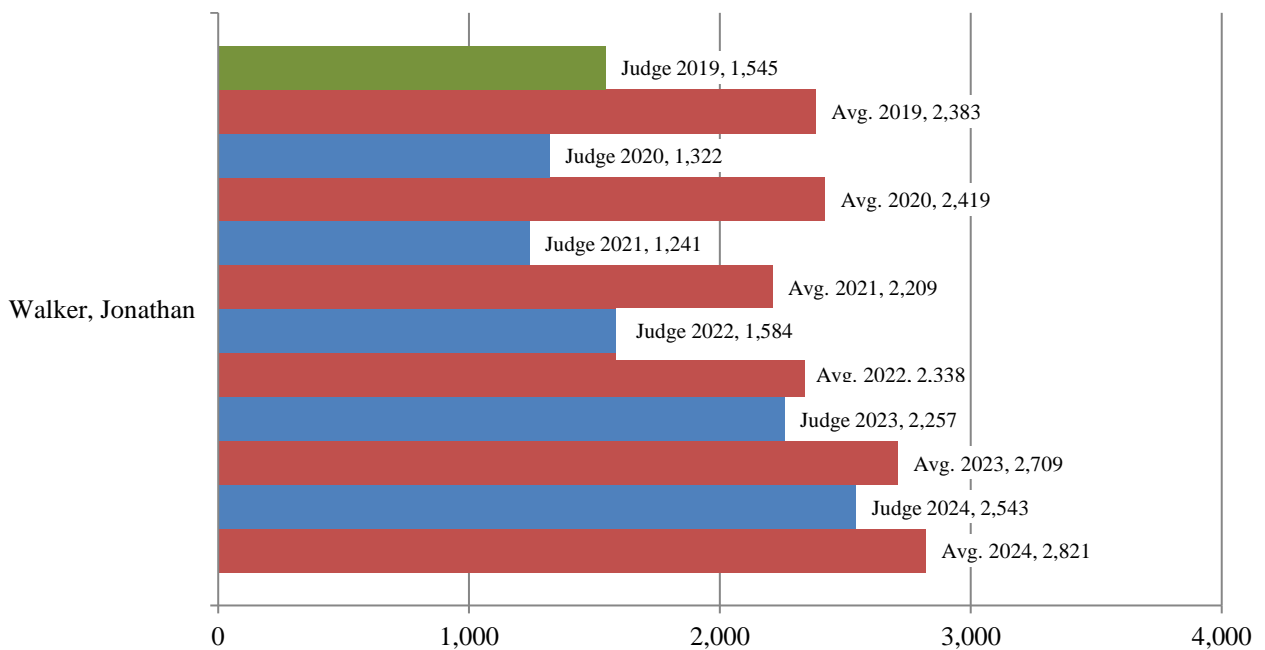
The following depicts the volume of PFBs filed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



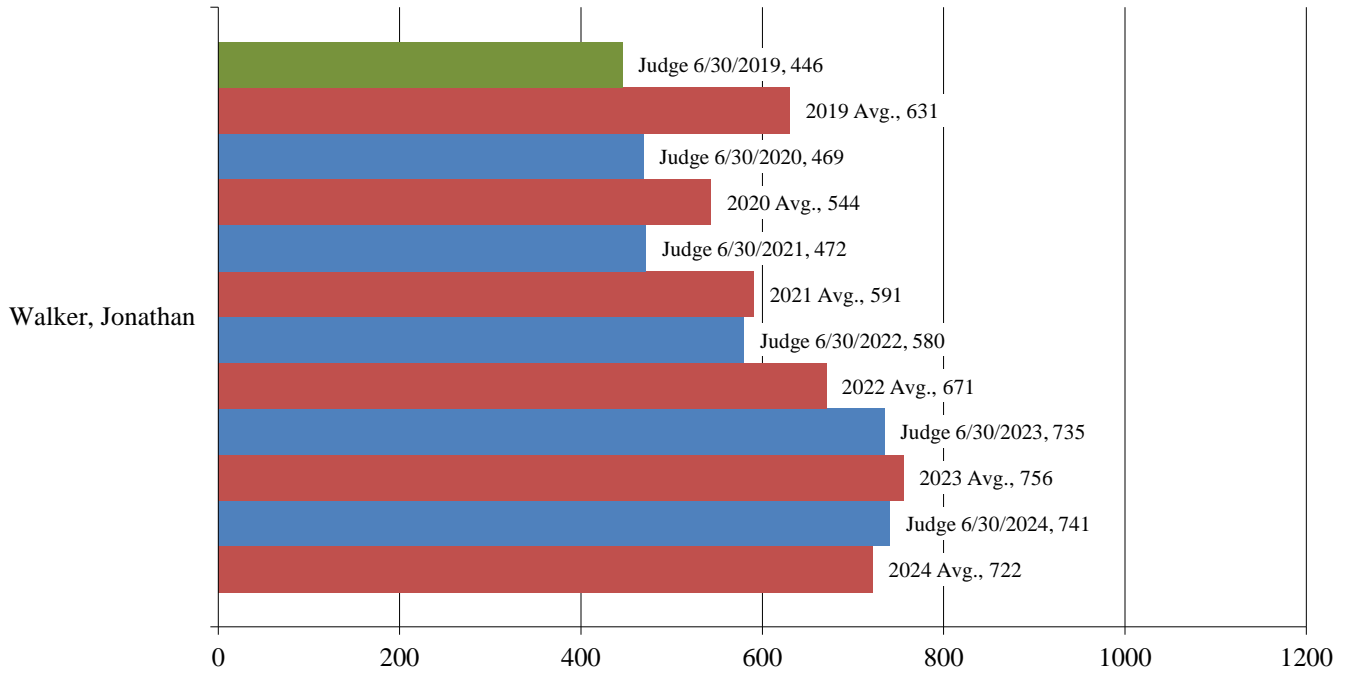
The following depicts the volume of “new cases” filed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of PFBs closed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).

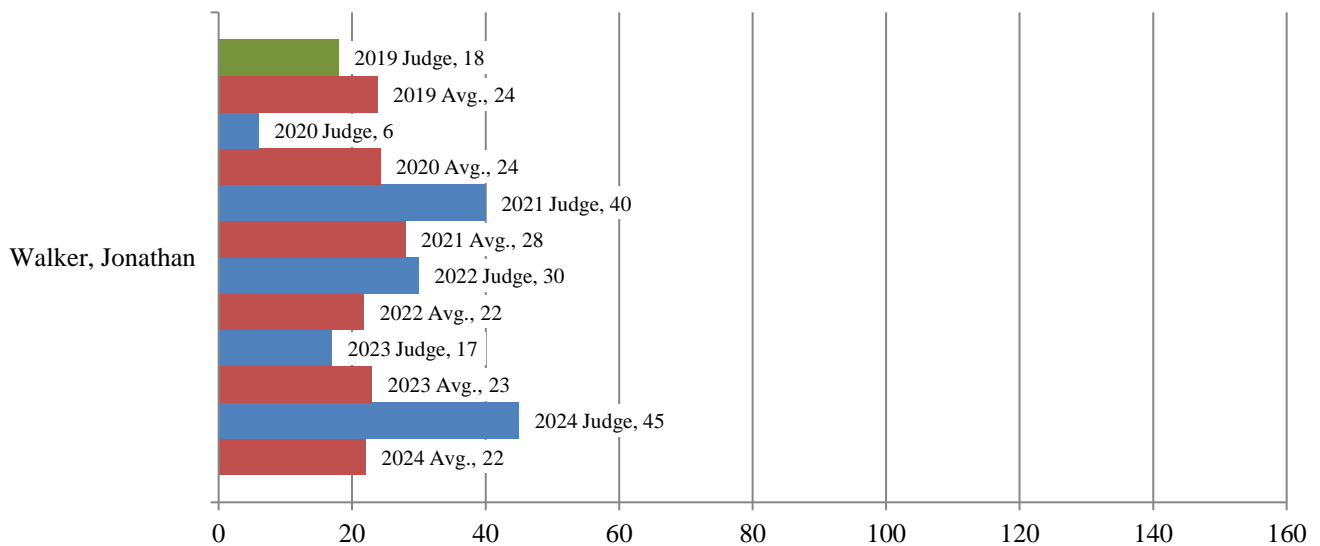


The following depicts the inventory of pending PFBs in this District and the statewide average at year end (06.30) between 2018-19 and 2023-24. The identification and values for each year are in each bar label (green bars denote statistics before the named judge’s appointment).

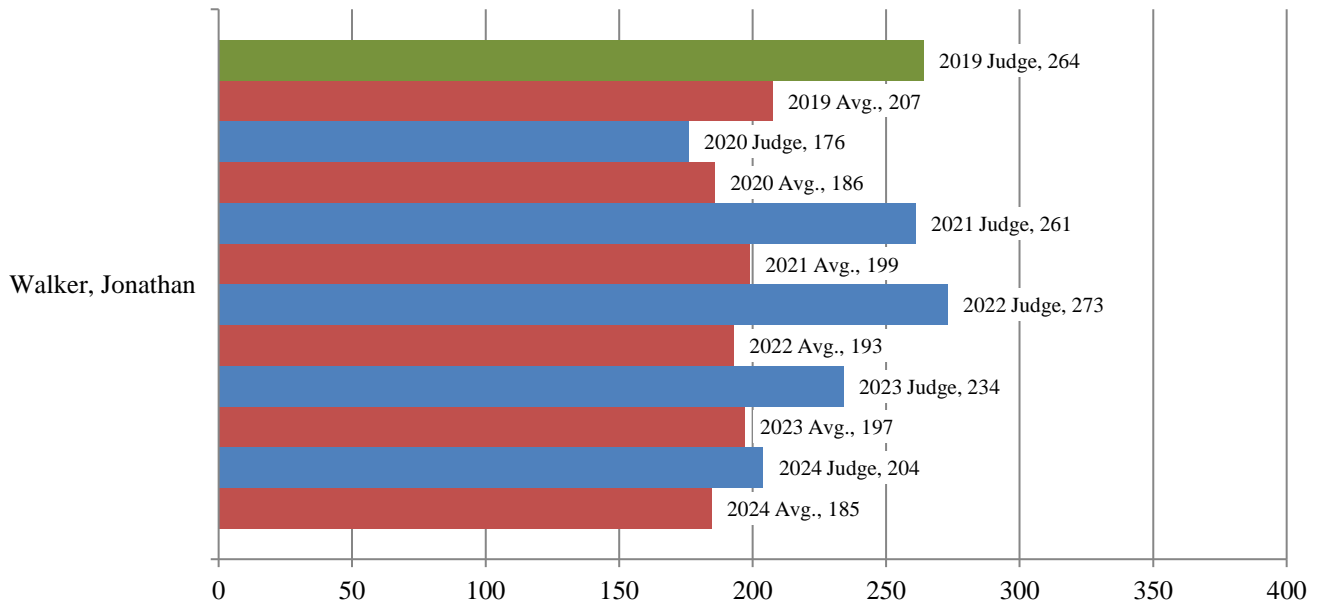


Until 2022-23, mediators were each assigned to a specific judge. Days to mediation statistics were then reported in each Appendix. In 2022-23, the mediators were disconnected and statewide random assignments began. Therefore, that graph is not here, but appears in Appendix 11.

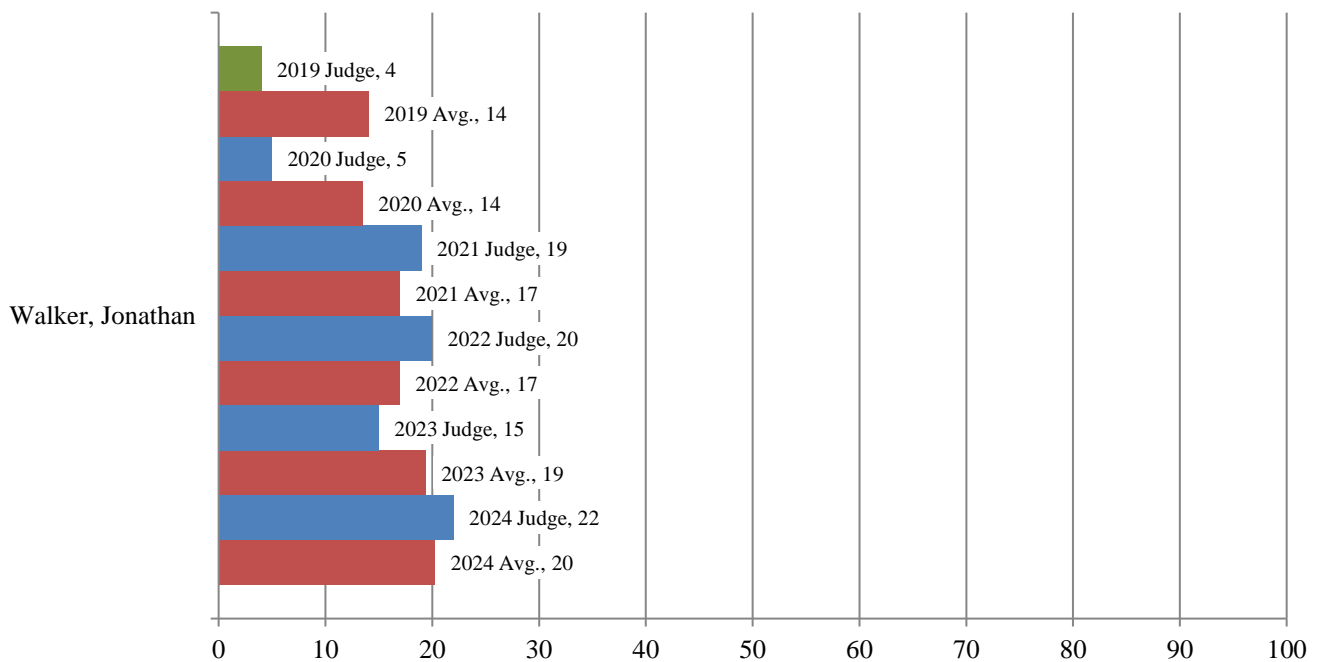
The following graph depicts the total volume of trial orders³²⁴ uploaded in this District and statewide averages between 2018-19 and 2023-24. The identification and values for each year are in each bar label (green bars denote statistics before the named judge’s appointment).



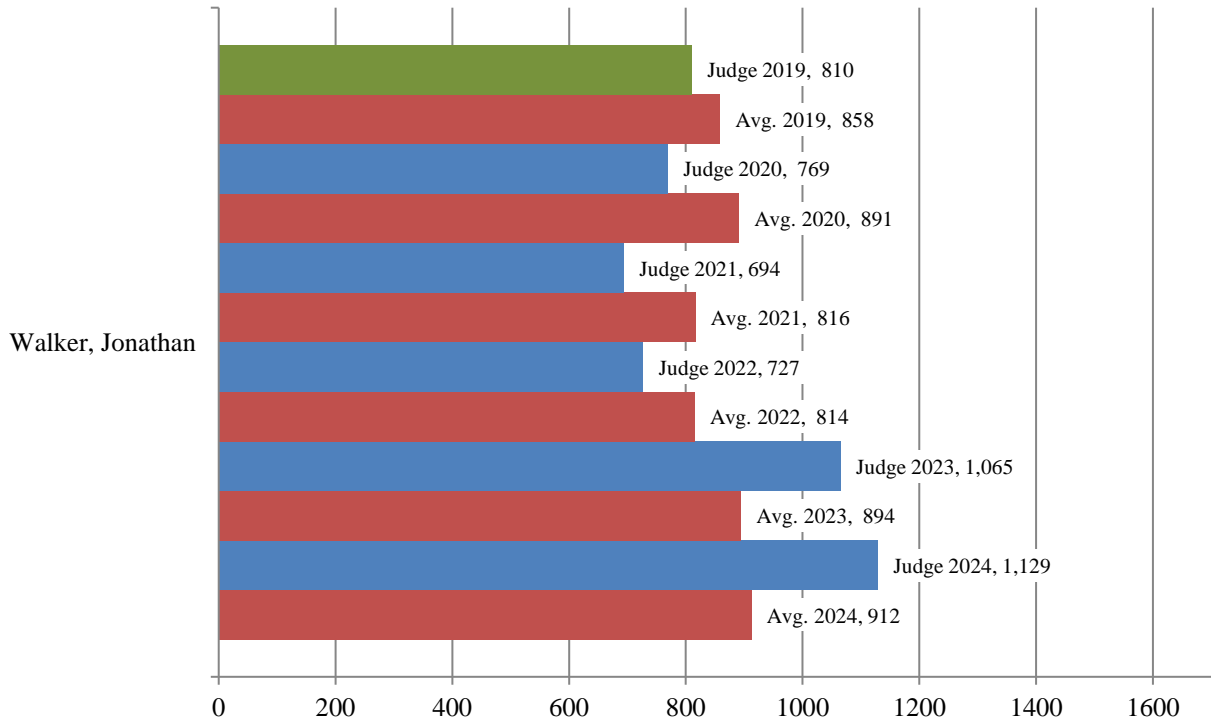
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2018-19 and 2023-24. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



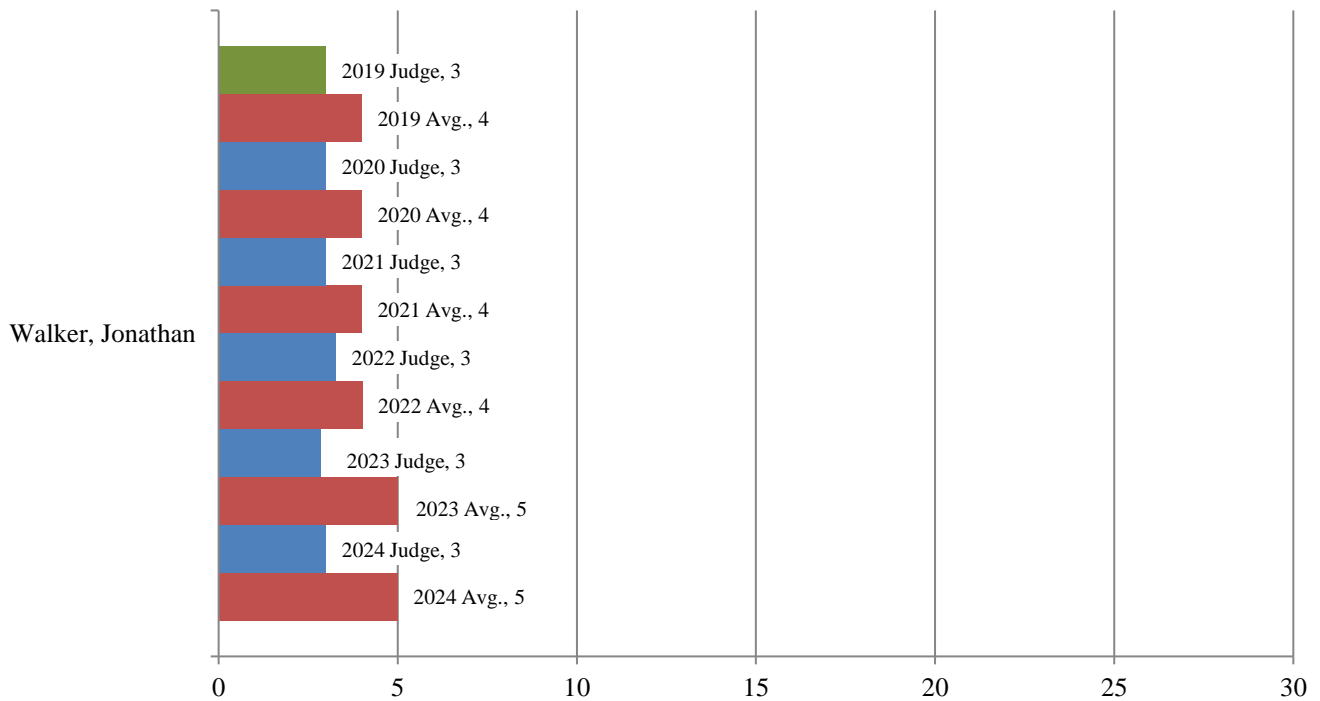
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2018-19 and 2023-24. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



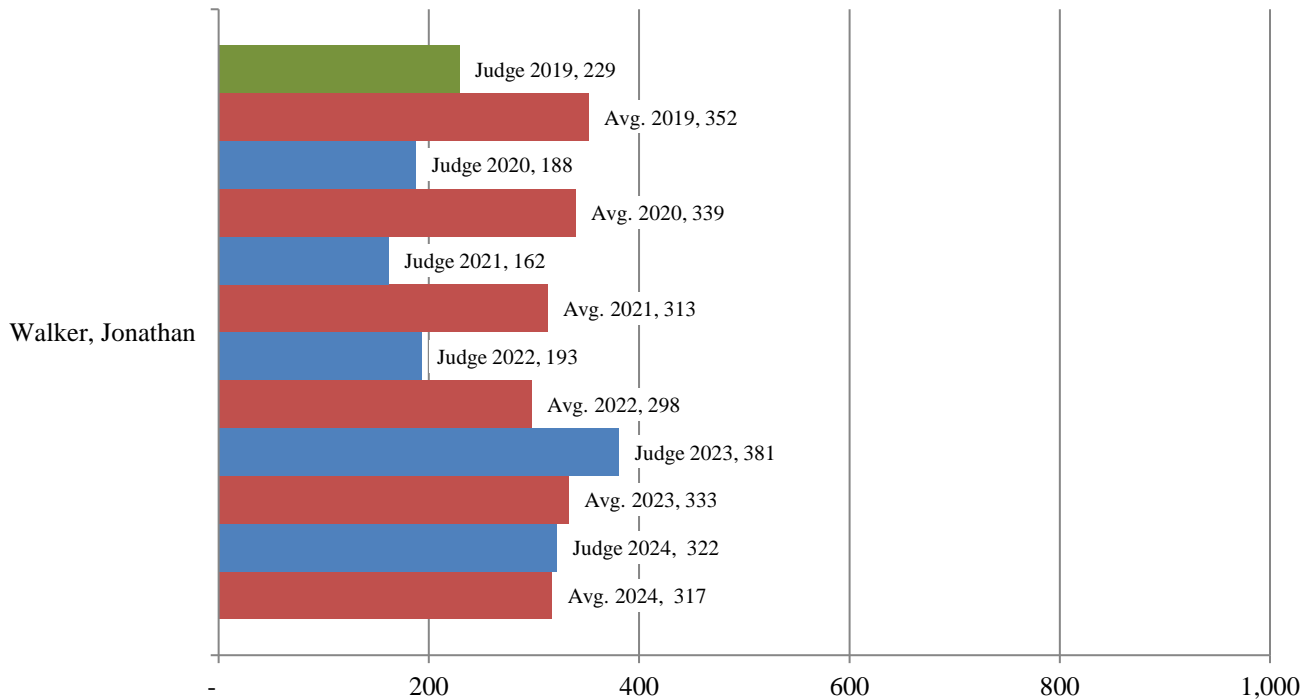
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



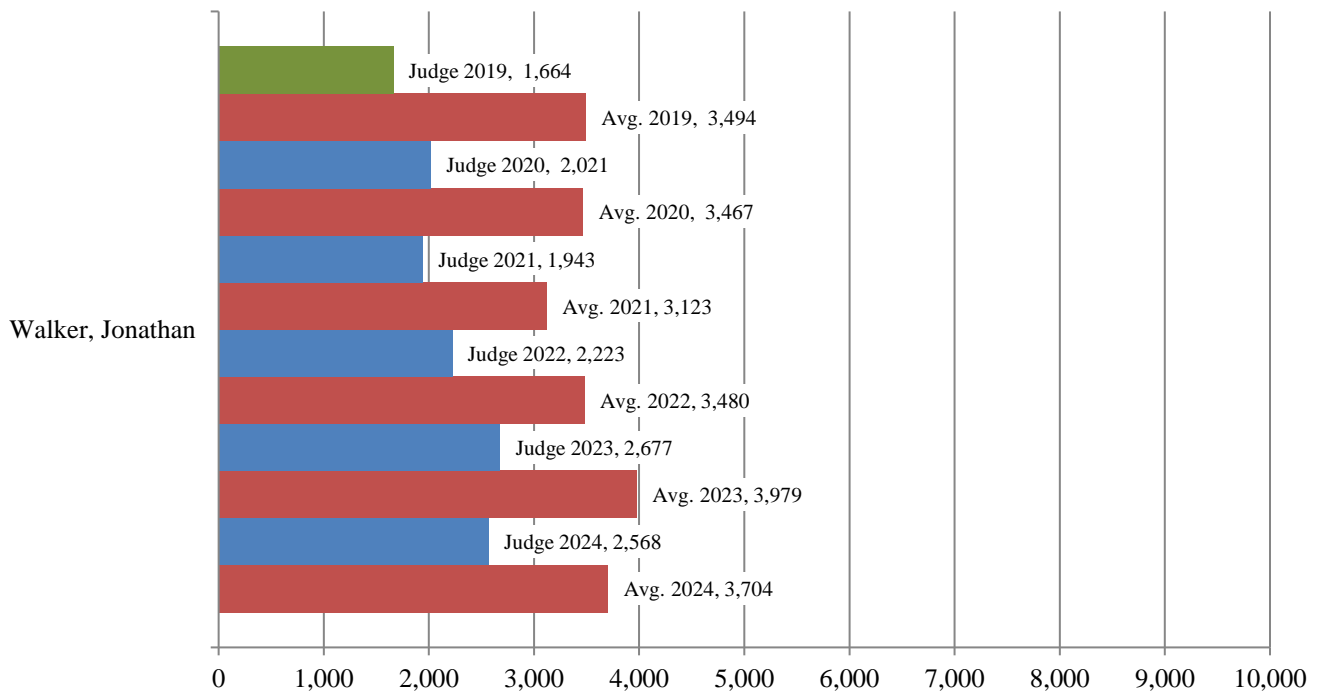
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



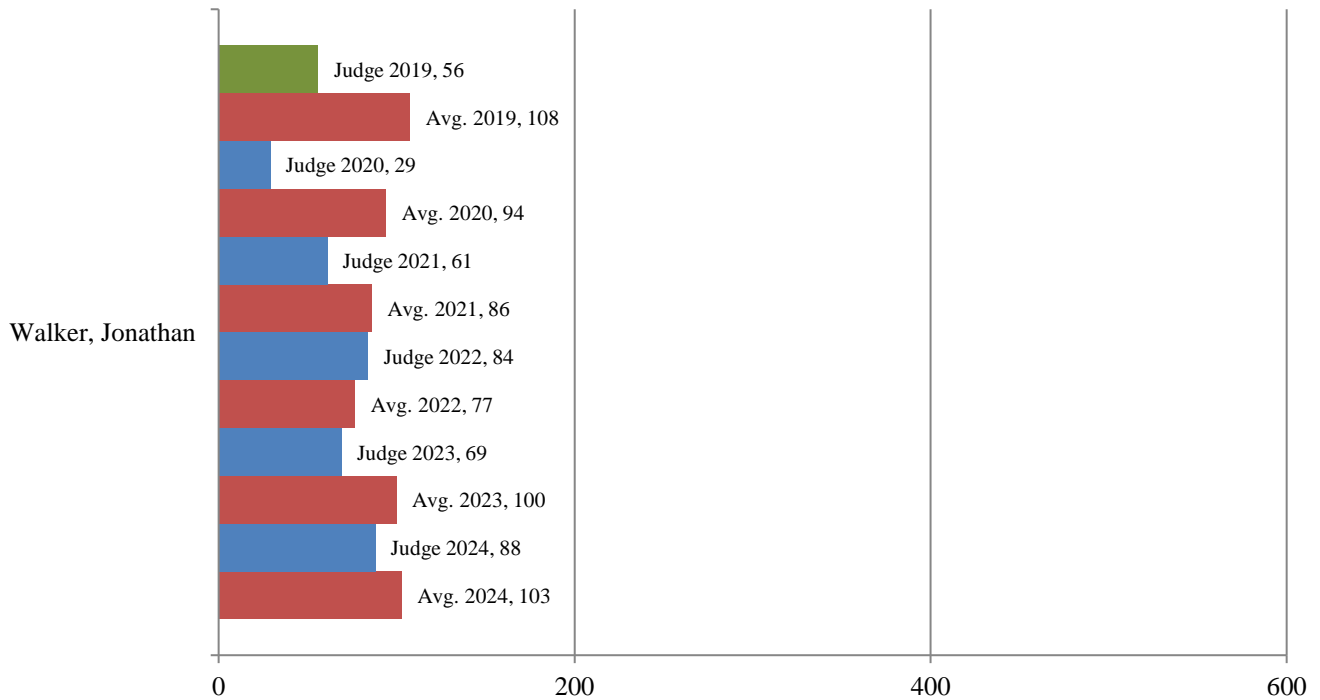
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by the judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



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Appendix “7” District STP (JCC Grindal,³²⁵ JCC Moneyham,³²⁶ JCC Young³²⁷):

District STP includes Desoto,³²⁸ Hardee,³²⁹ Highlands,³³⁰ Manatee,³³¹ Pasco, Pinellas, and Sarasota³³² counties.

District St. Petersburg underwent significant change in 2012, becoming a one-judge District for the first time since 1974. The Legislature eliminated a judicial position, and the vacant position in Melbourne was the logical selection to discontinue. A St. Petersburg judge voluntarily transferred from STP to MEL to fill that void. Since then, STP has remained essentially a two-judge District in terms of volumes, but with one judge. Judge Young’s efforts there are patently apparent in the efficiency with which the district still persistently operates. In 2022-23, Districts Panama City and Sarasota were closed. Sarasota was consolidated into District St. Petersburg (Desoto, Hardee, Highlands, Manatee, and Sarasota Counties). Judge Moneyham was reassigned from District Panama City to District St. Petersburg.

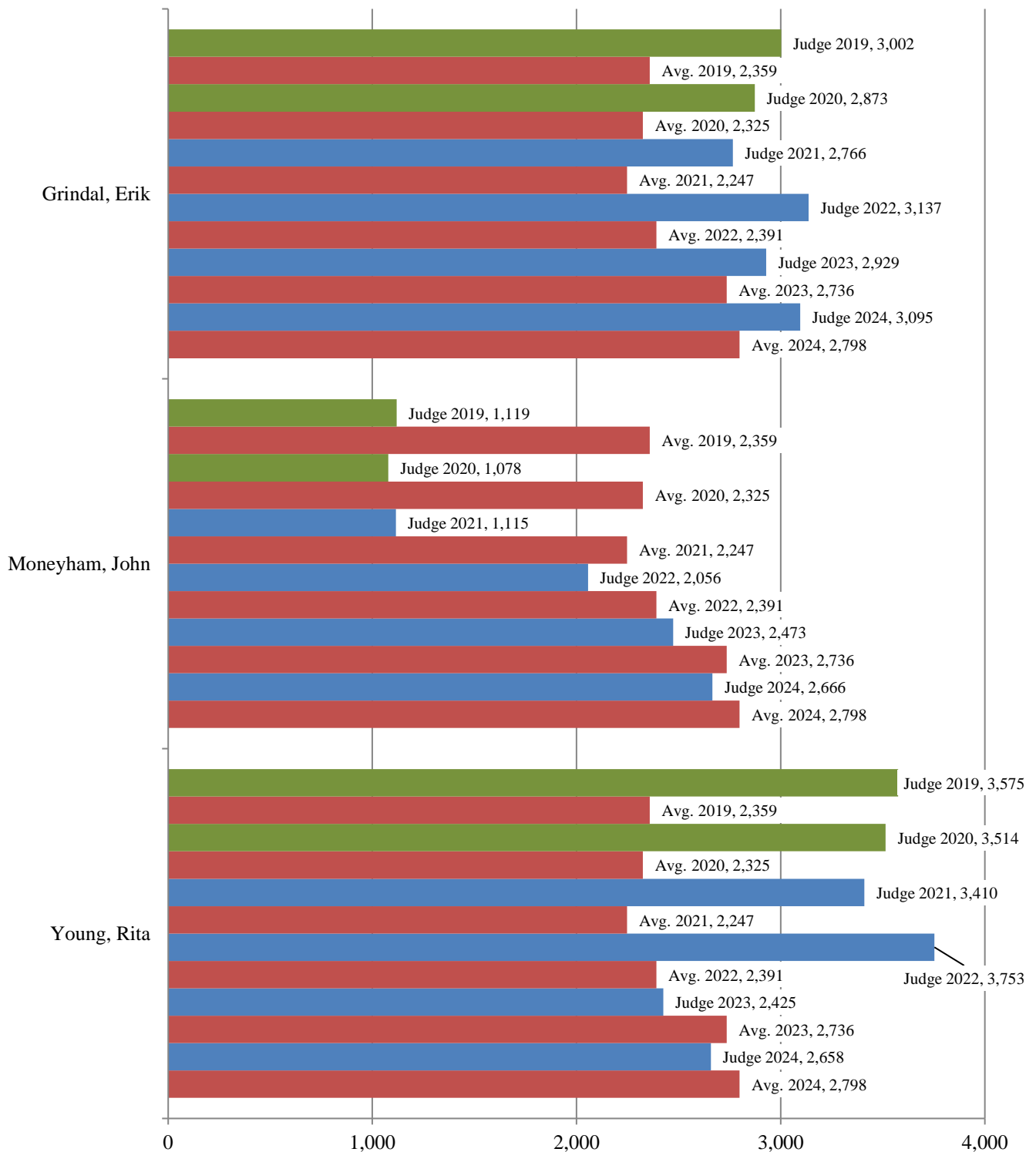
The impacts of these reorganizations is evident in both the PFB and “new case” volumes. The “new case” volumes were significantly similar to the statewide average for all three judges in 2023-24. The PFB volumes were likewise similar for Judges Moneyham and Young, with Judge Grindal’s PFB filings remaining above average. These differences will likely moderate further with the ongoing random case assignment. In 2025-26, St. Petersburg is expected to consolidate into District Tampa, and cases in the resulting conglomeration will likewise be distributed randomly among the six judges in the Tampa District.

Judge Grindal is an active member of the Tampa Bay Workers’ Compensation Disability Inns of Court. He serves on the Executive Council of the Florida Conference of Judges of Compensation Claims. Judge Grindal was elected as the treasurer for the Florida Conference of Judges of Compensation Claims. Judge Grindal presented lectures on evidence at The Forum and legal research for the Sarasota Bradenton Claims Association. Judge Grindal served as a team coach for the DOAH Trial Academy, a Judge for the E. Earle Zehmer National Moot Court Competition, and a Judge for the Florida High School Motion Court Competition. Judge Grindal is Board Certified in Workers’ Compensation Law. Judge Grindal was initiated as Fellow in the College of Workers’ Compensation Lawyers.

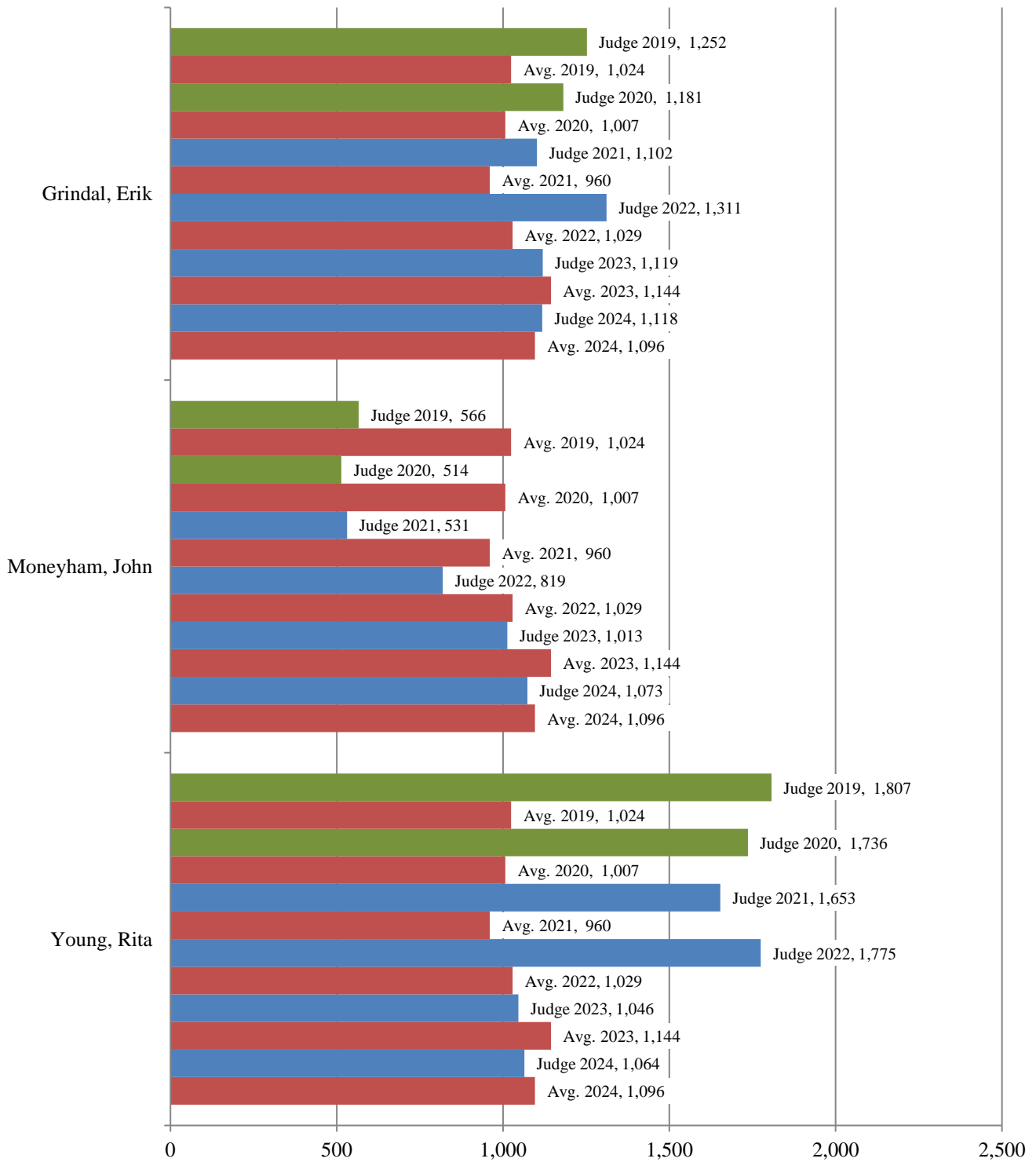
In 2023-24, Judge Moneyham was a moot court judge in the E. Earle Zehmer National Moot Court Competition. He also was a coach at the DOAH Trial Academy. He wrote an article, *Consider the Benefits of Attending the Division of Administrative Hearings Trial Academy*, that was published in the News & 440 Report. He was a panelist for discussions on trial memoranda and pretrial stipulations and was part of a judicial question and answer session at the Workers’ Compensation Academy. He was a panelist for bench-bar meetings in Tampa and Tallahassee. He was also a panelist for a discussion on workers’ compensation law with law students at the Florida State University College of Law. He was a panelist for a discussion on practice and professionalism. He was the moderator for an Employer/Carrier Attorneys’ panel presentation at the First District Court of Appeal. He was a panelist for a discussion of evidence at the Workers’ Compensation Forum. He served as a member of the Workers’ Compensation Academy Leadership Committee. He also served as the legal advisor for the Florida State University Pre-Law Club. In that role, Judge Moneyham helped organize a trip for the club to the Florida State University College of Law, the First District Court of Appeal, and the Florida Supreme Court. Also, Judge Moneyham had the privilege of asking Florida Supreme Court Chief Justice Muñoz questions, in a fireside chat interview format, at the Panama City Campus of Florida State University.

In 2023-24, Rita Young has served as a member of the Executive Board of Directors of the National Association of Workers’ Compensation Judiciary. She has been the leader of a pupilage group in the Tampa Bay Workers’ Compensation Disability Inns of Court where she actively participates in quarterly meetings and panel presentation. She participated in the Classification Modernization Project for the State of Florida as a Subject Matter Expert in January 2024. She was a Panel Presenter and co-host for the Hillsborough Bar Association Professional and Ethics Seminar in February 2024. Judge Young was a Panel Presenter in an educational seminar on “Perspectives from the Practice” in Tallahassee, Florida, in March 2024 sponsored by the Office of Judges of Compensation Claims and Workers’ Compensation Institute. Additionally, Judge Young served as a judge in the E. Earle Zehmer National Moot Court Competition in 2024.

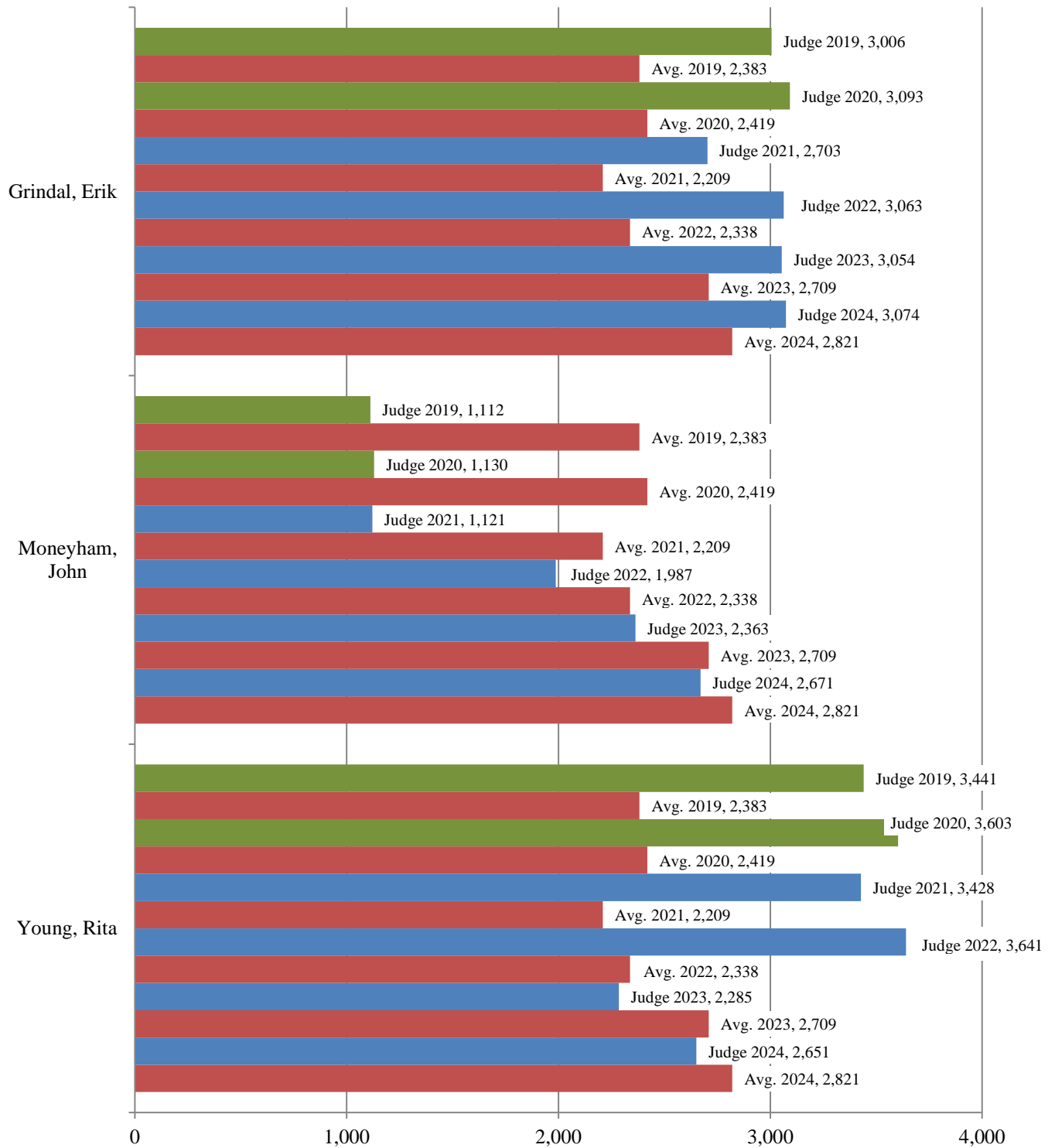
The following depicts the volume of PFBs filed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



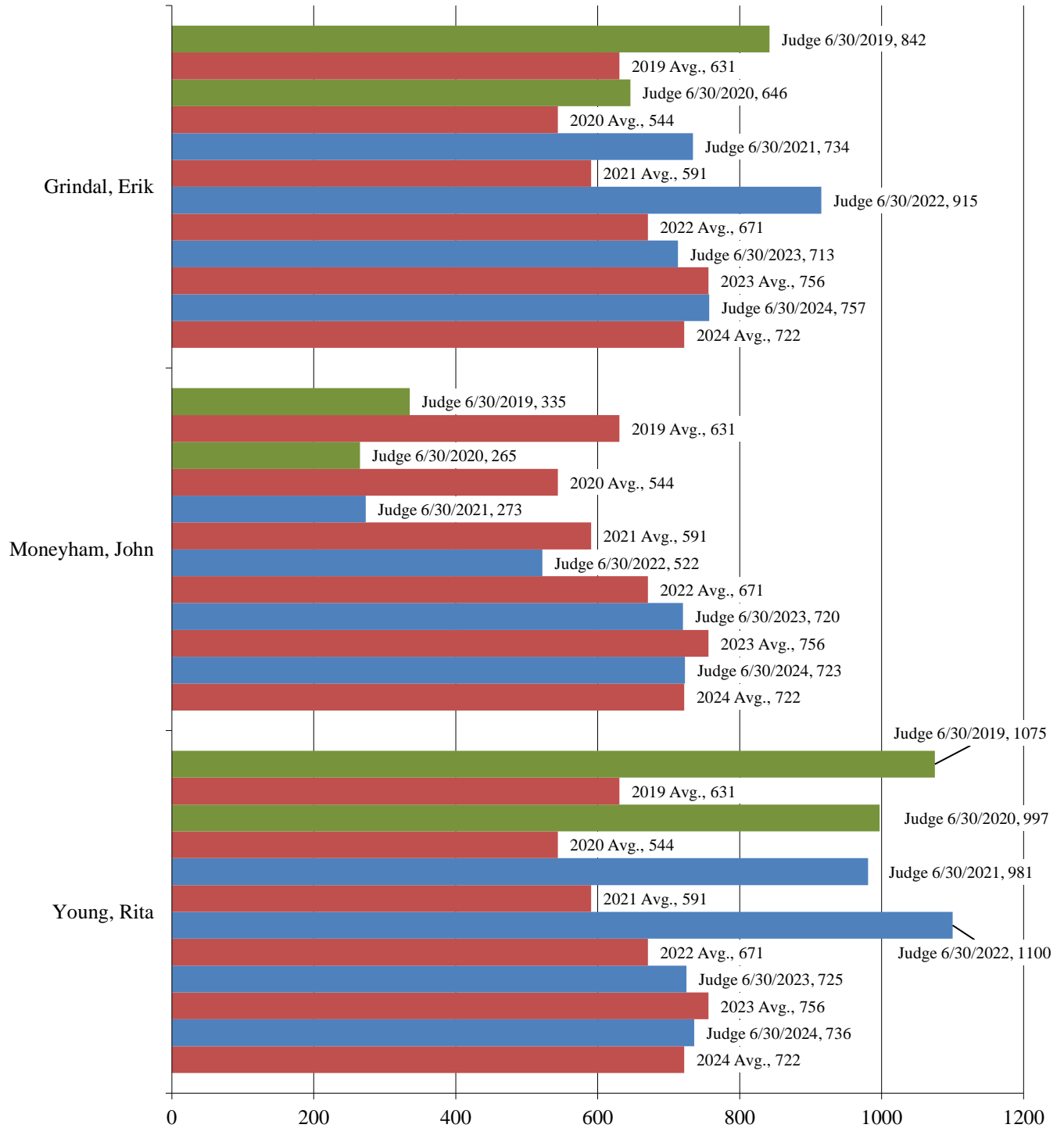
The following depicts the volume of “new cases” filed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of PFBs closed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).

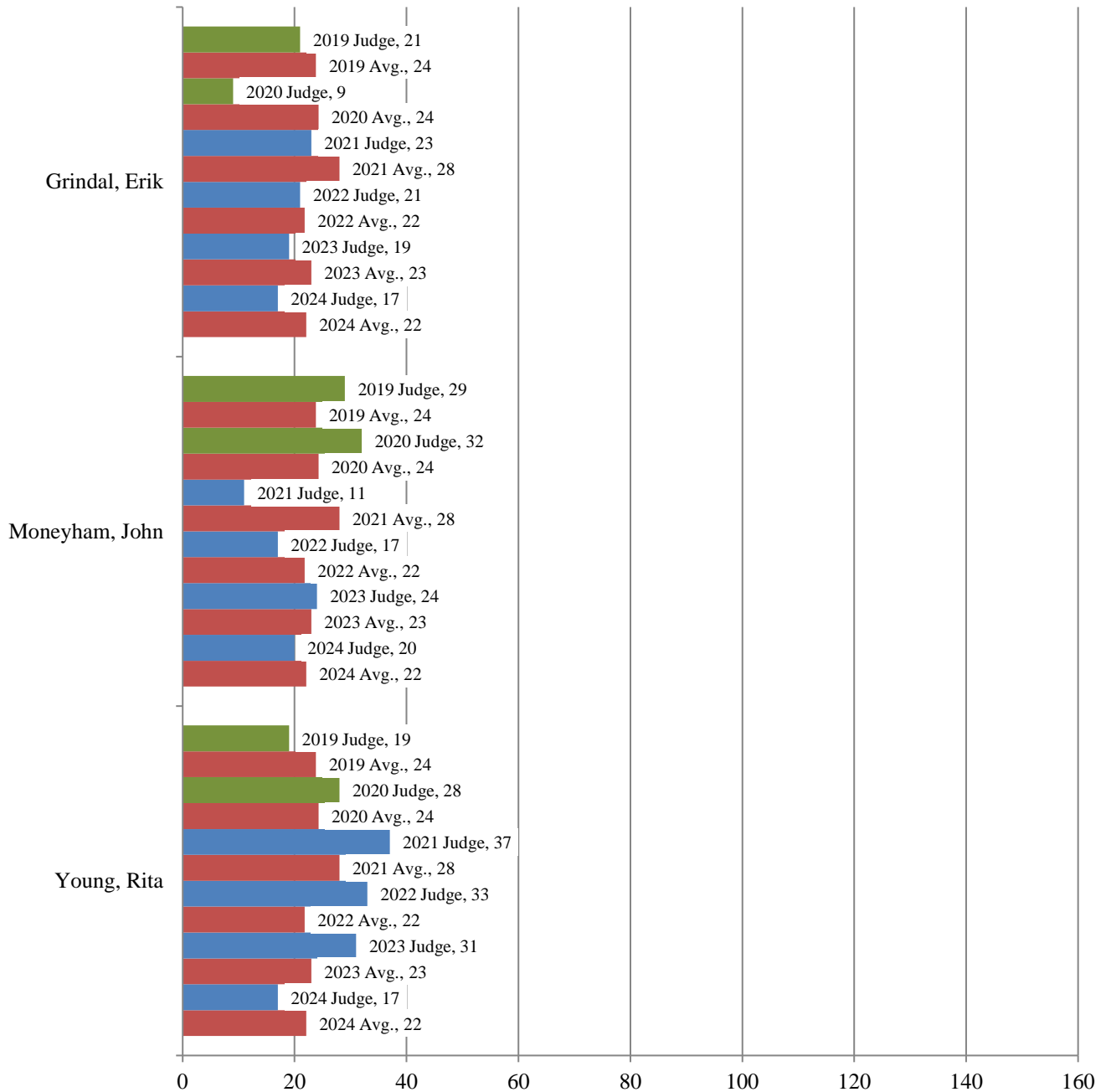


The following depicts the inventory of pending PFBs in this District and the statewide average at year end (06.30) between 2018-19 and 2023-24. The identification and values for each year are in each bar label (green bars denote statistics before the named judge’s appointment).

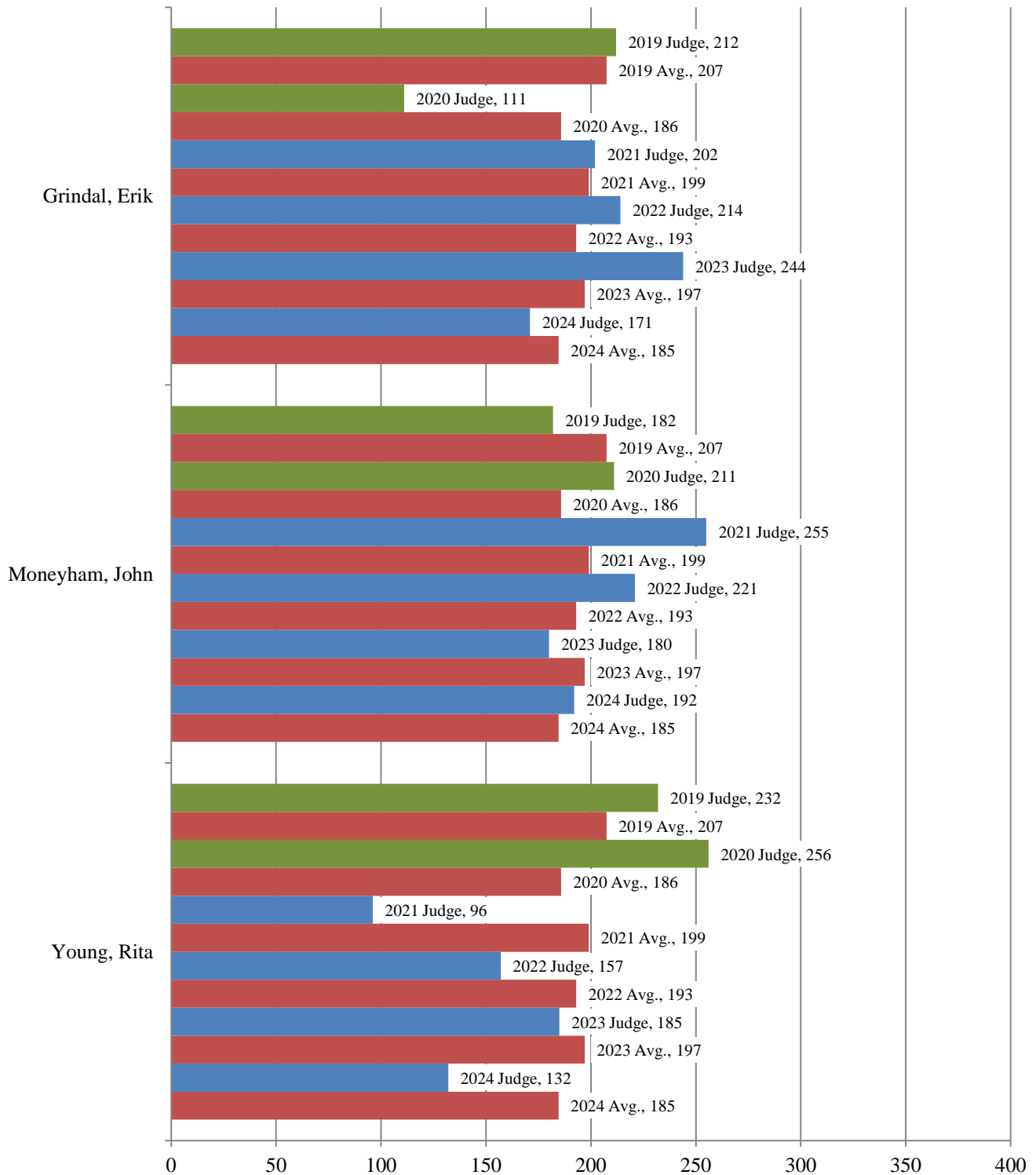


Until 2022-23, mediators were each assigned to a specific judge. Days to mediation statistics were then reported in each Appendix. In 2022-23, the mediators were disconnected and statewide random assignments began. Therefore, that graph is not included here, but in Appendix 11.

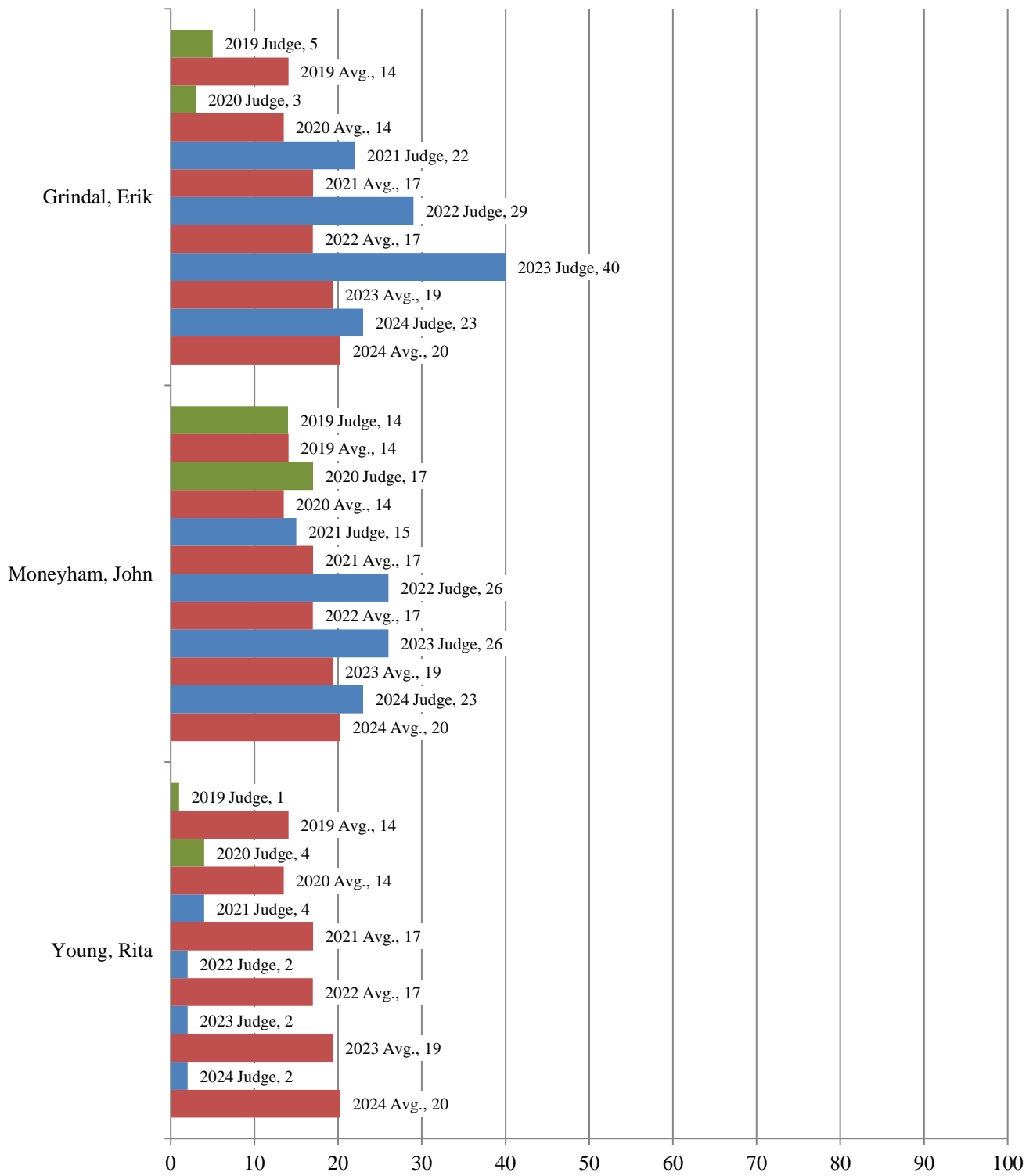
The following graph depicts the total volume of trial orders³³³ uploaded in this District and statewide averages between 2018-19 and 2023-24. The identification and values for each year are in each bar label (green bars denote statistics before the named judge's appointment).



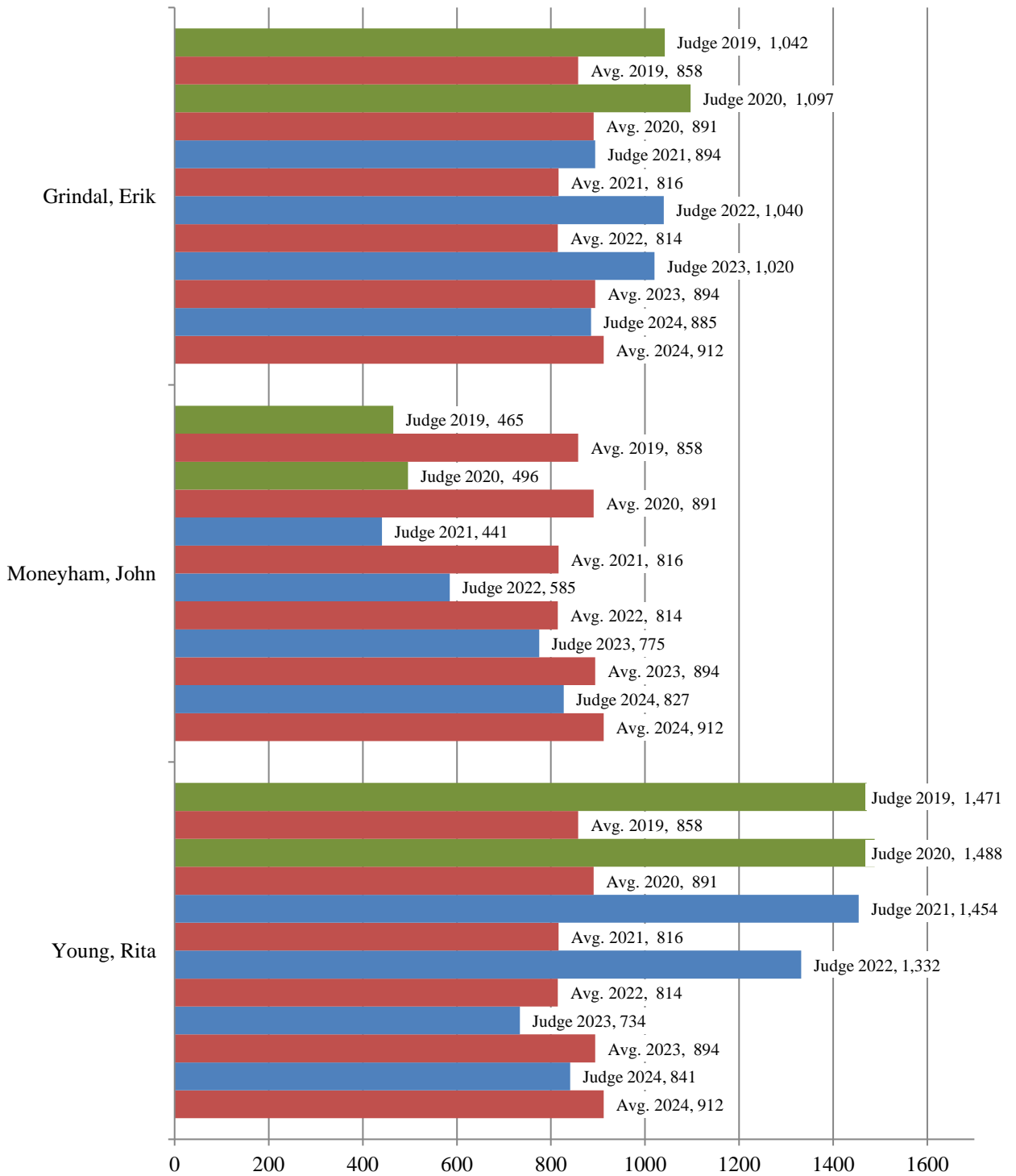
The following depicts the average days between PFB filing and trial commencing for the judge and the statewide average between 2018-19 and 2023-24. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



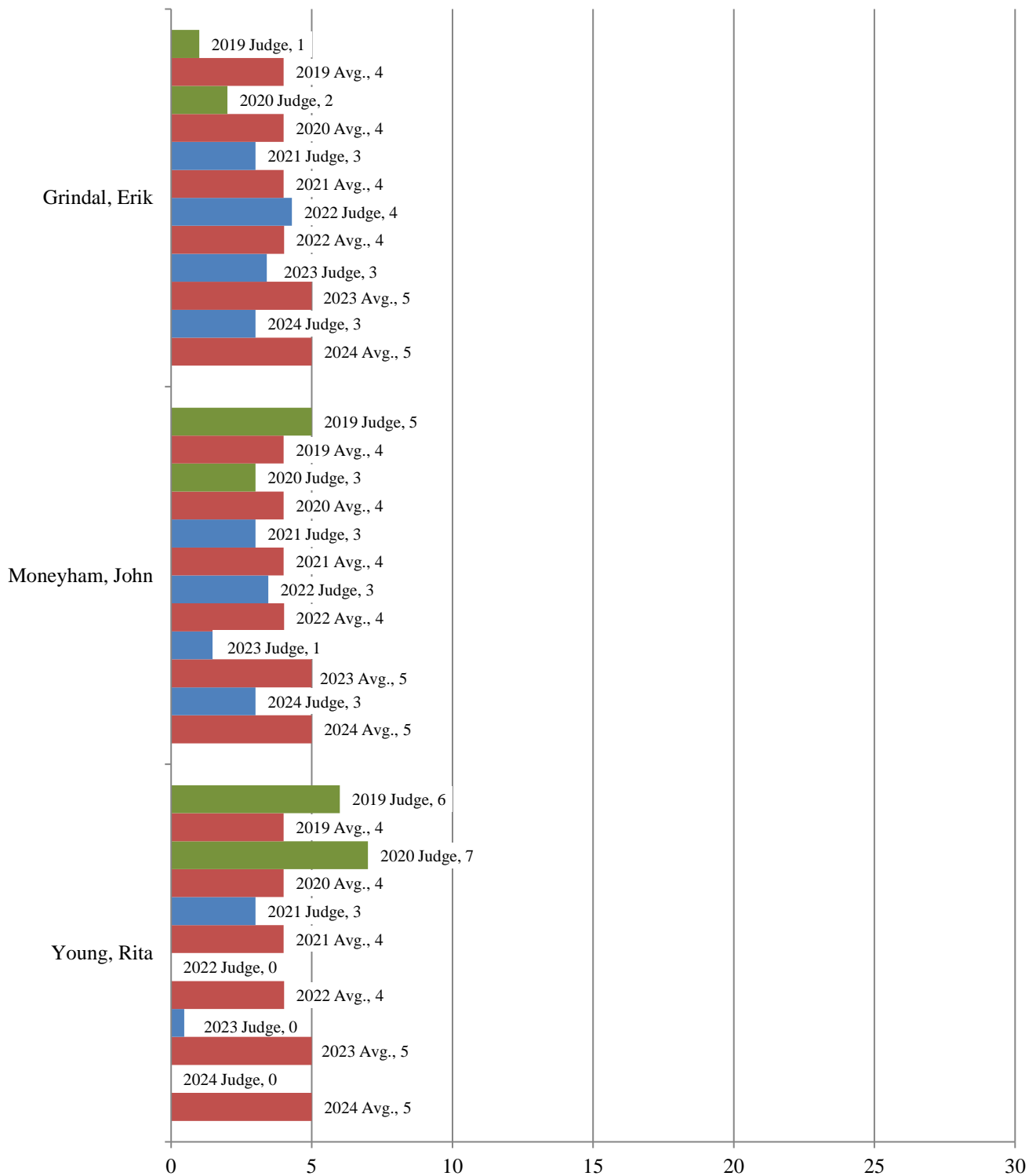
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2018-19 and 2023-24. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



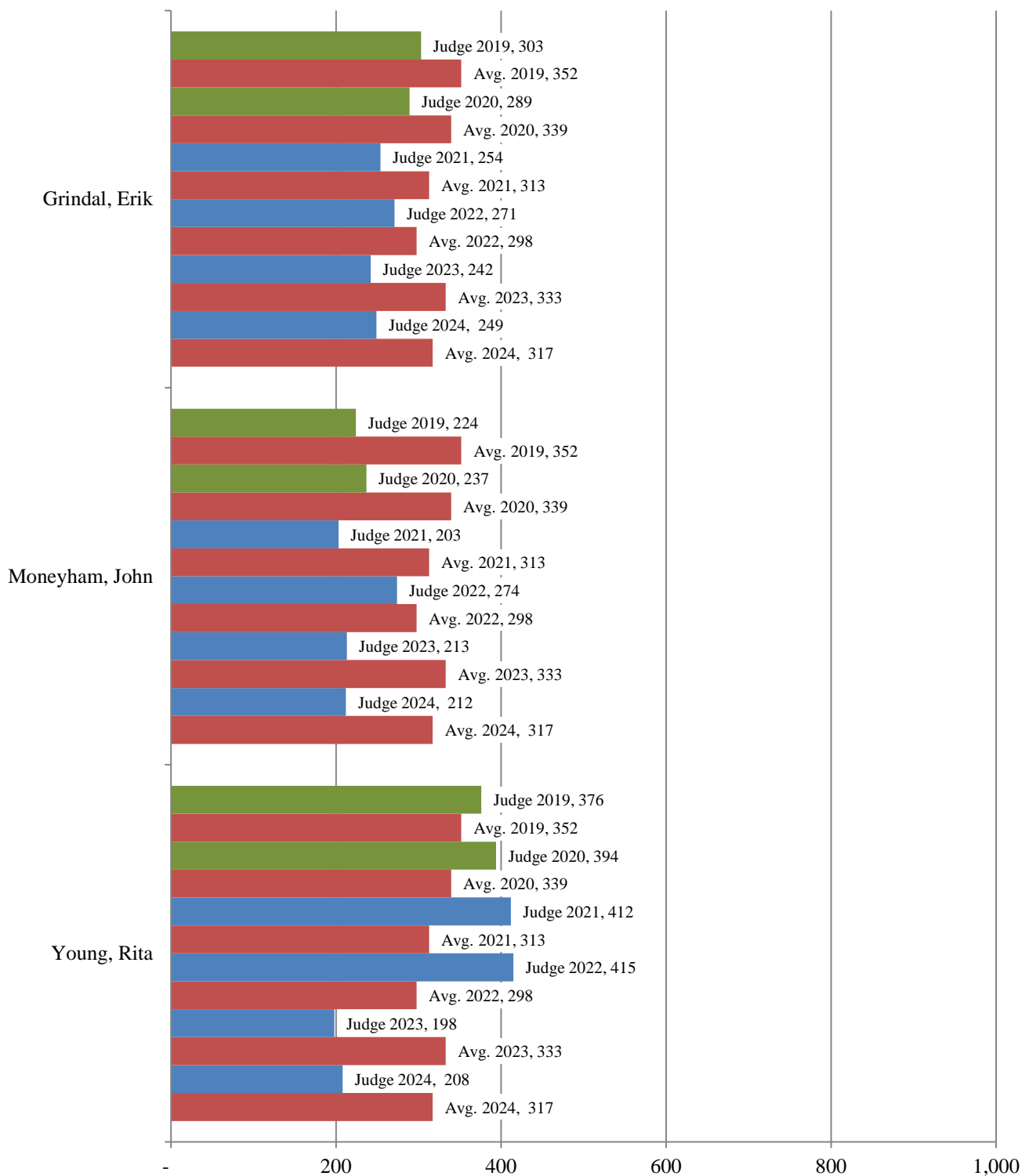
The following depicts the volume of settlement orders entered by the judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



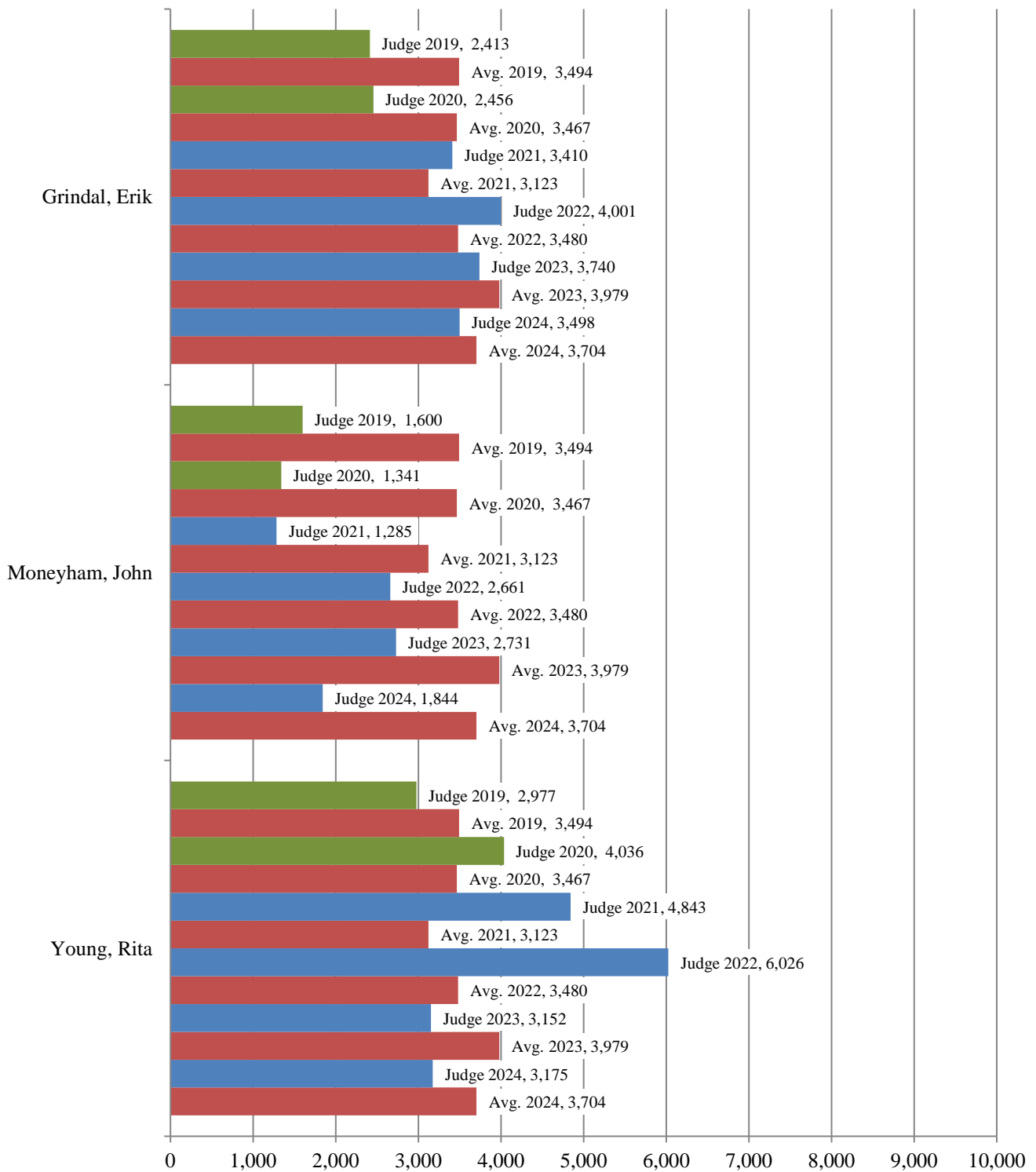
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



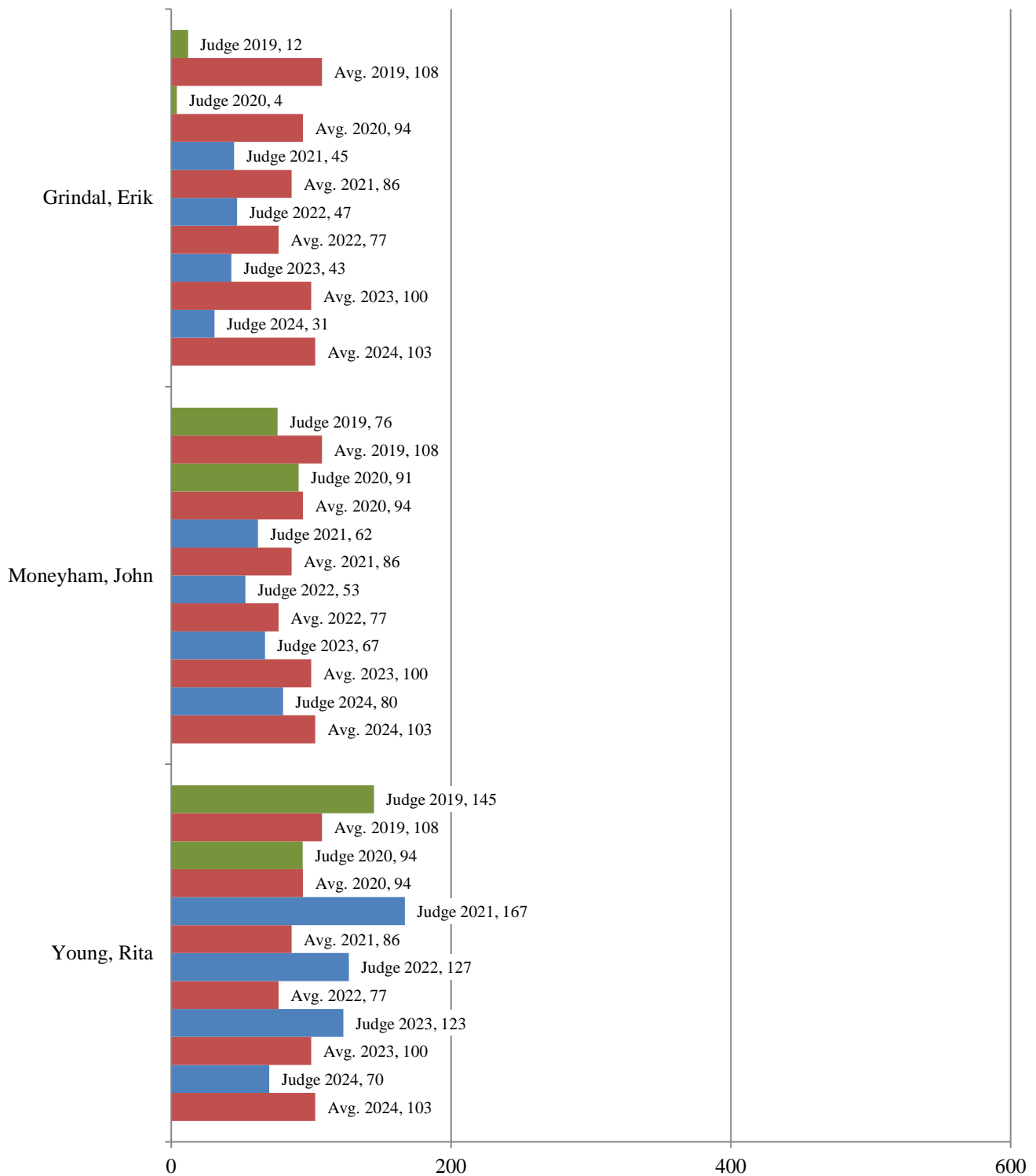
The following depicts the volume of stipulation orders entered by the judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by the judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by the judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



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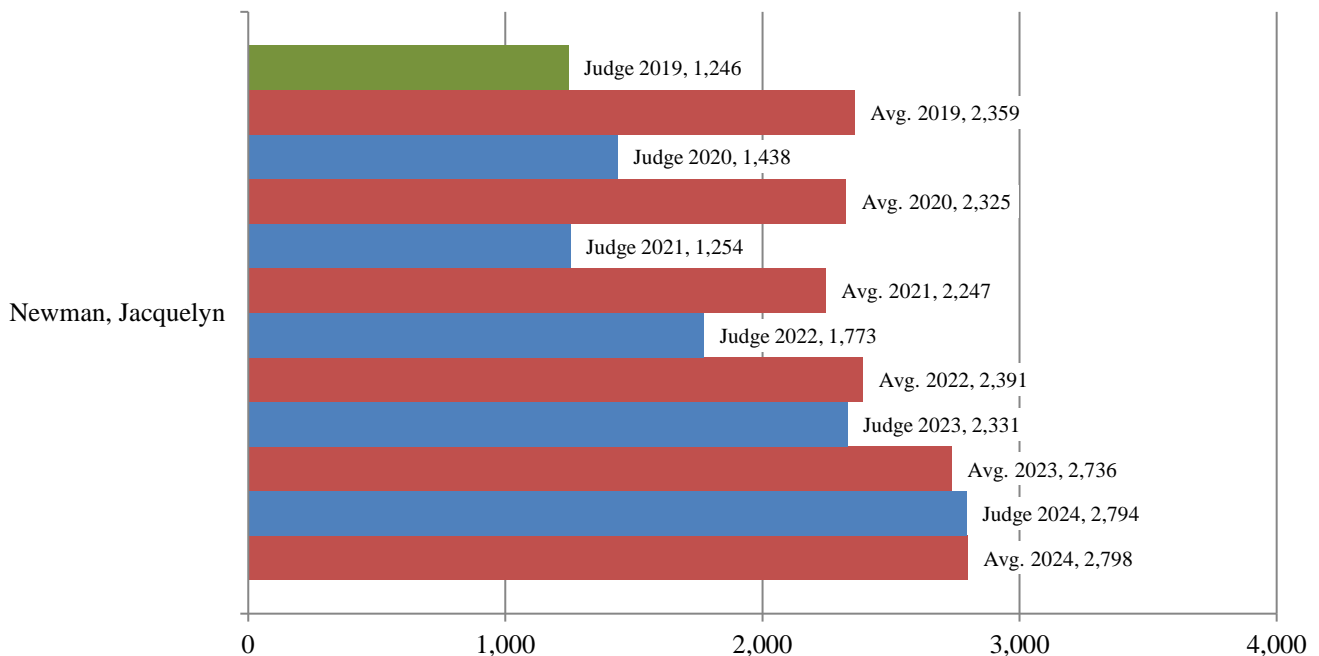
Appendix “8” District TLH (JCC Newman³³⁴):

District TLH is the largest geographic District and includes Calhoun,³³⁵ Franklin, Gadsden, Gulf,³³⁶ Hamilton, Holmes,³³⁷ Jackson,³³⁸ Jefferson, Lafayette, Leon, Liberty,³³⁹ Madison, Suwannee, Taylor, Wakulla, and Washington³⁴⁰ counties. Late in 2021-22, Calhoun county was transferred to District Tallahassee from District Panama City, and Dixie, Gilchrist, and Levy counties were transferred to District Tallahassee from District Gainesville. In 2022-23, Calhoun, Gulf, Holmes, Jackson, and Washington counties were consolidated into Tallahassee. Though District Tallahassee remains below average in terms of PFB and “new case” volume, despite the transfer of the Panama City workload, the figures for 2022-23 are markedly more consistent with average workload.

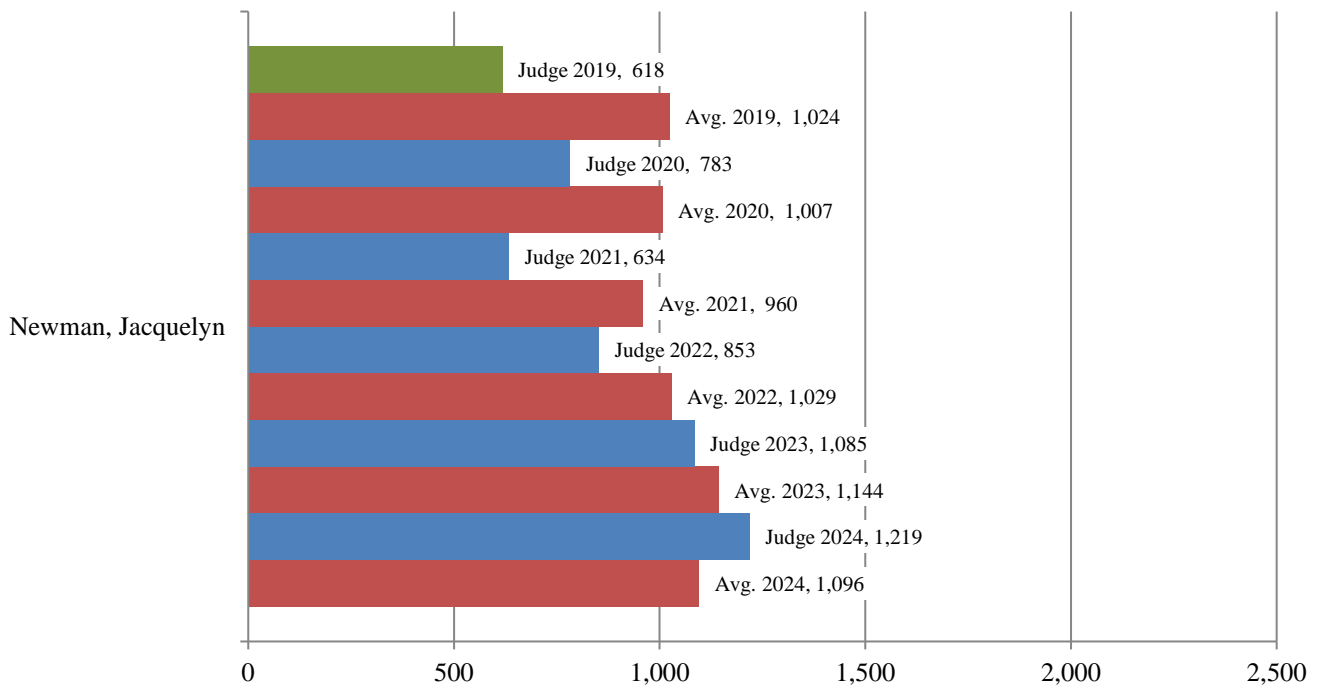
Although some of the District TLH counties have low population density, there was historically an exceptional level of effort required in this District because of the statutory obligation for the hearings to periodically occur in the county in which the accident occurred, if requested by the parties. The use of Internet-based video teleconference platforms during the COVID pandemic has likely permanently changed the practice and process in this regard.

During fiscal year 2023-24, Judge Newman participated in several continuing education events involving the workers’ compensation community. She participated as an instructor at the Workers’ Compensation Academy hosted by the Office of the Judges of Compensation Claims (“OJCC”) in Tampa, Florida, in October 2023. She also sat on the judges’ panel at the seminar “Perspectives from the Practice,” held at the First District Court of Appeal in Tallahassee, Florida, on March 1, 2024, hosted by the OJCC and WCI. At the Workers’ Compensation Forum, held by the Workers’ Compensation Claims Professionals on April 18, 2024, in Orlando, Florida, Judge Newman served as a panelist for the presentation “Current Trends in Workers’ Compensation.” Judge Newman also served as a judge for the mock hearings held at the DOAH Trial Academy in Tallahassee, Florida, in September 2023 and the Workers’ Compensation Trial Advocacy Workshop held in Miami, Florida, on May 18, 2024. She also volunteered as a judge for the annual E. Earle Zehmer National Moot Court Competition held in July 2023.

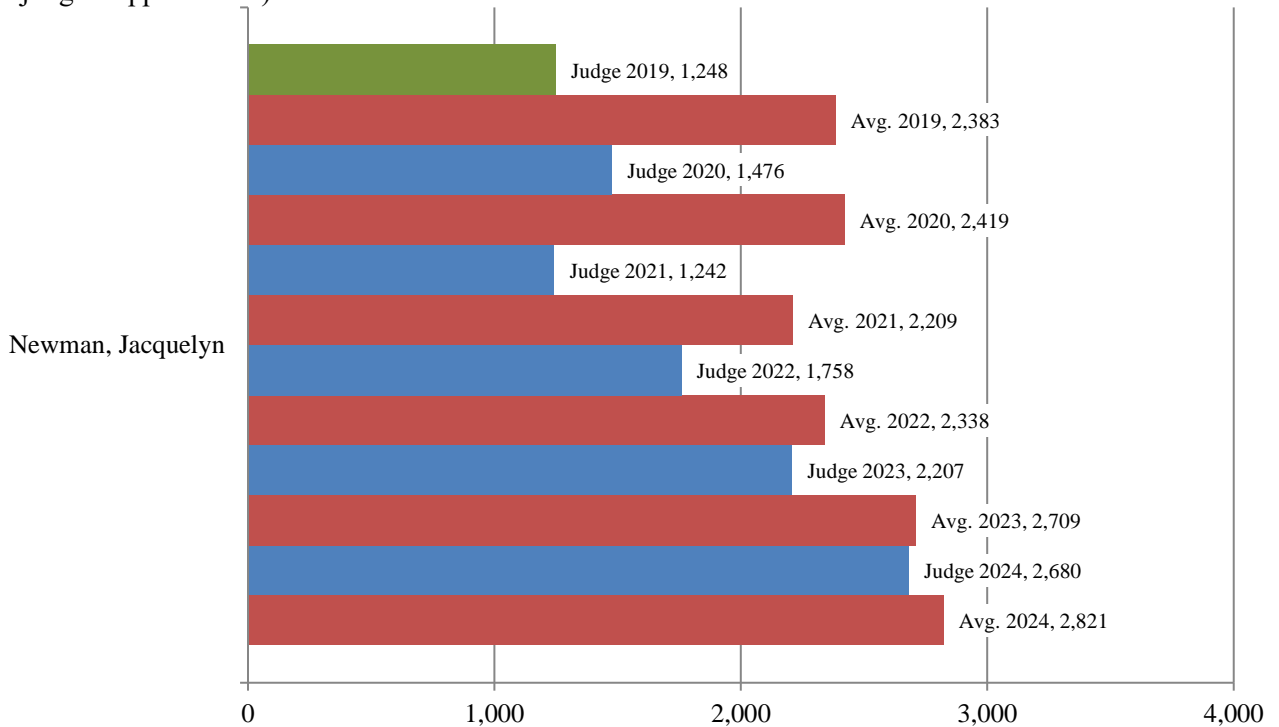
The following depicts the volume of PFBs filed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



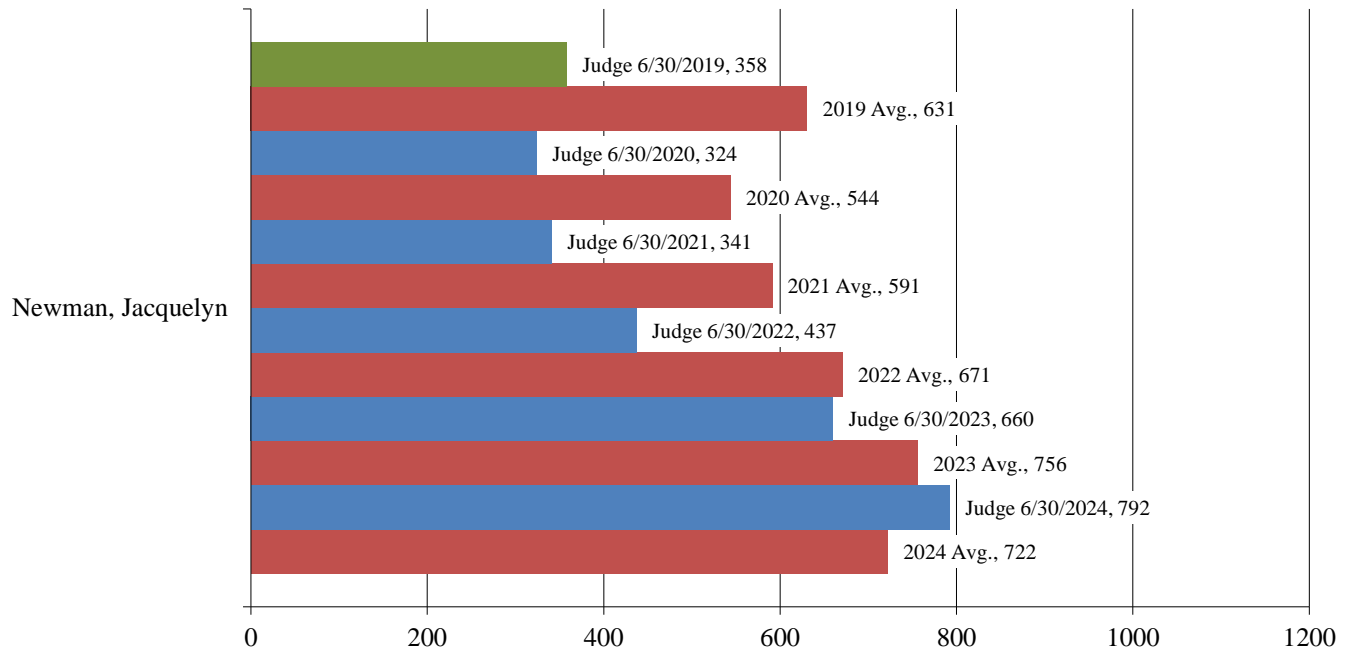
The following depicts the volume of “new cases” filed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of PFBs closed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).

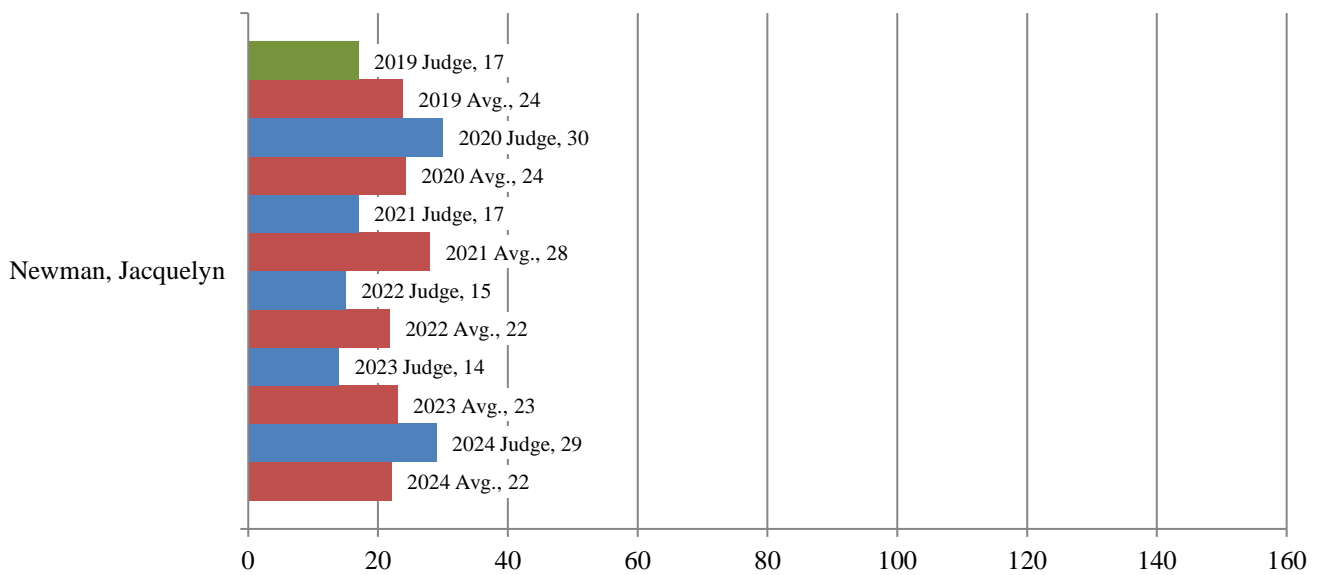


The following depicts the inventory of pending PFBs in this District and the statewide average at year end (06.30) between 2018-19 and 2023-24. The identification and values for each year are in each bar label (green bars denote statistics before the named judge’s appointment).

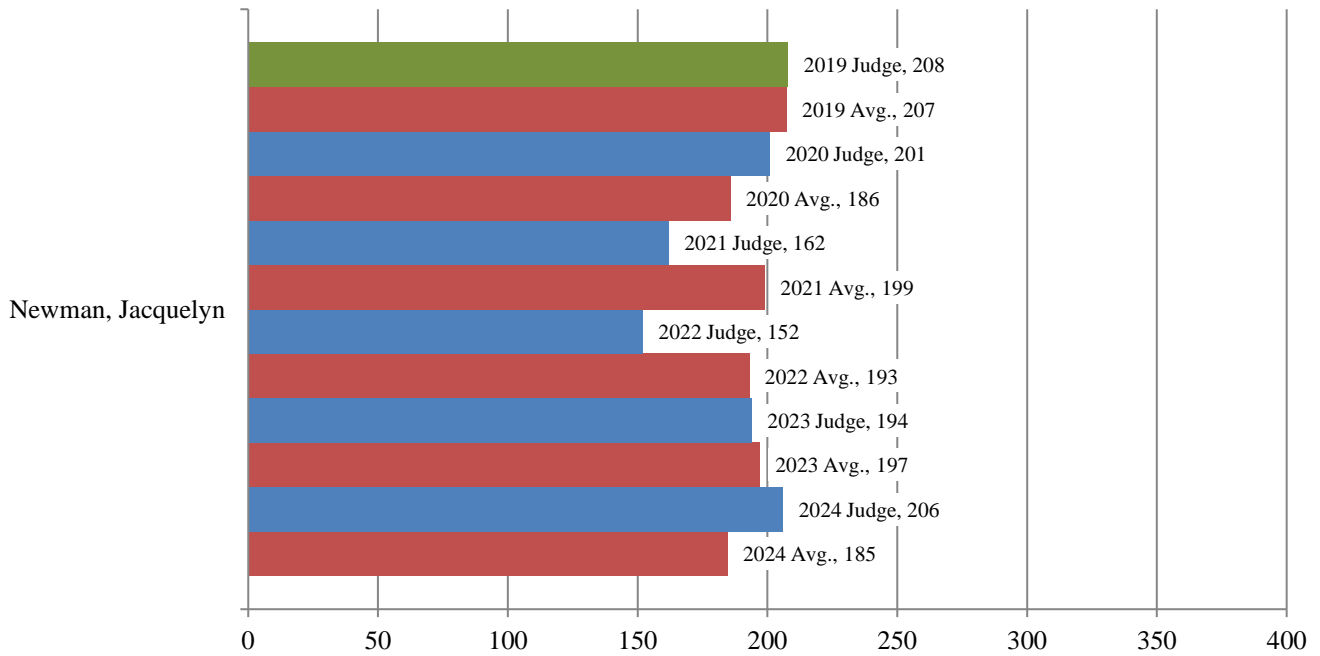


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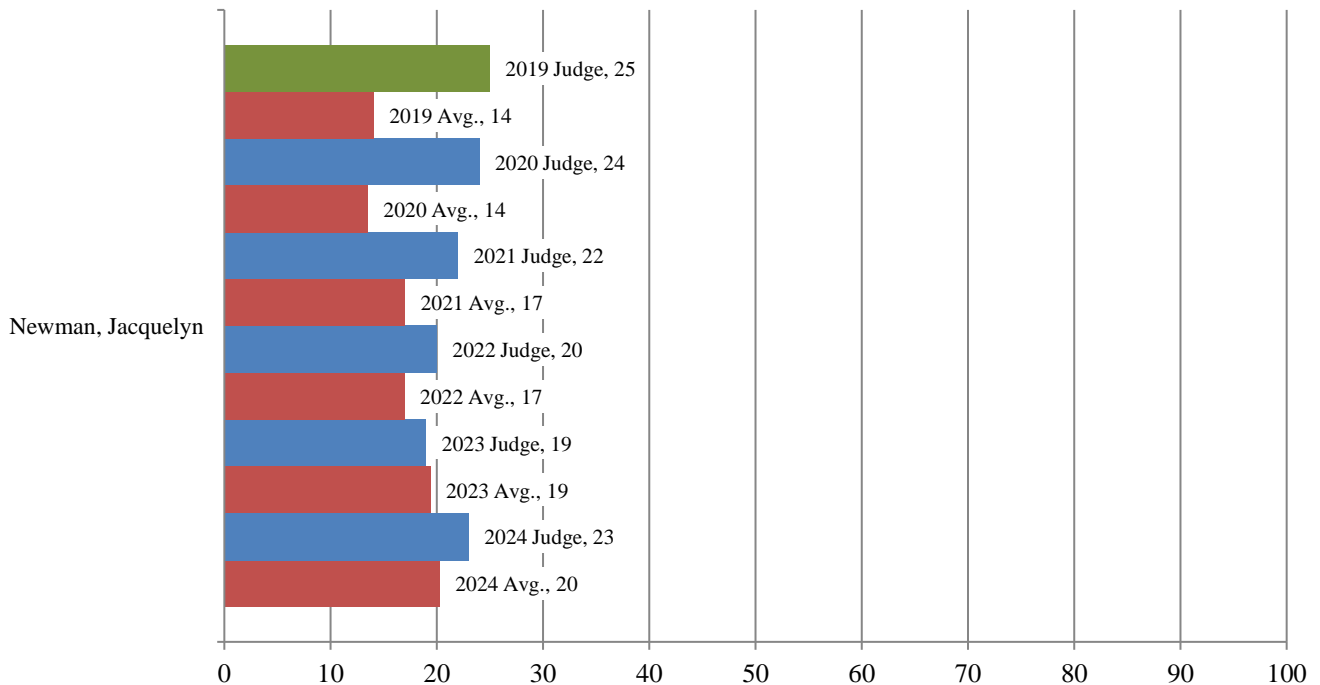
The following graph depicts the total volume of trial orders³⁴¹ uploaded in this District and statewide averages between 2018-19 and 2023-24. The identification and values for each year are in each bar label (green bars denote statistics before the named judge’s appointment).



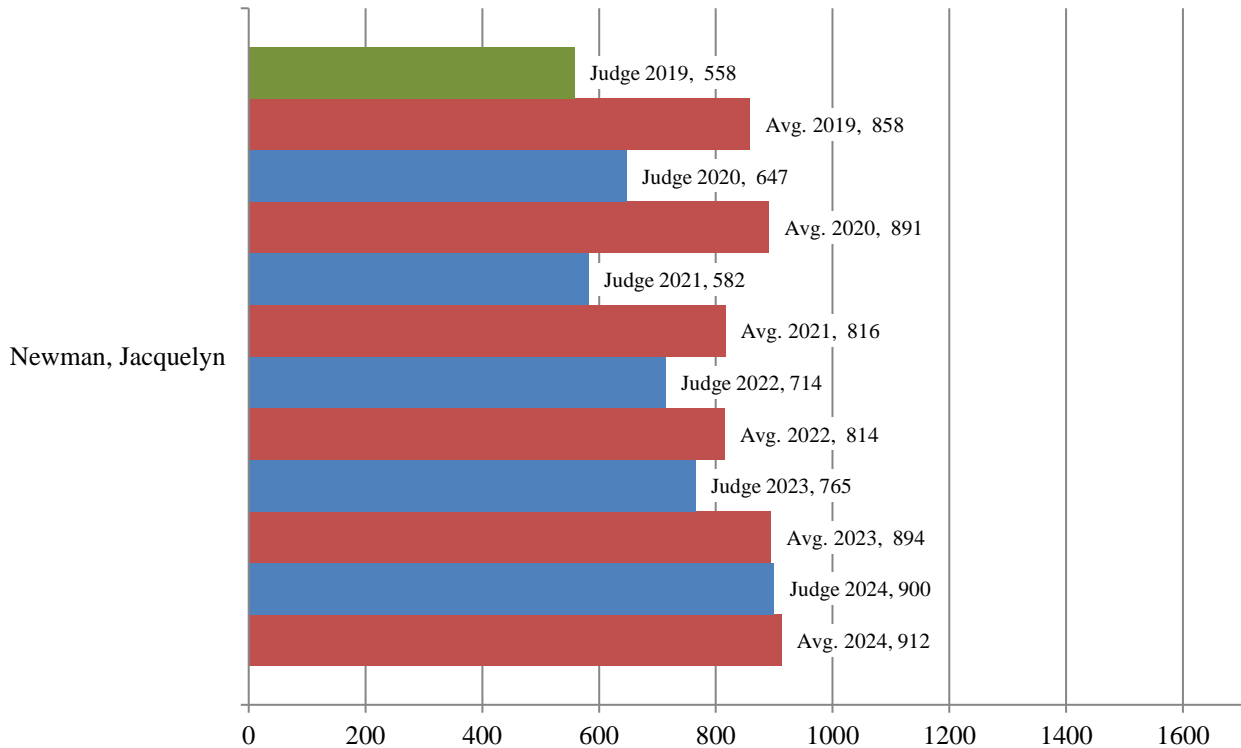
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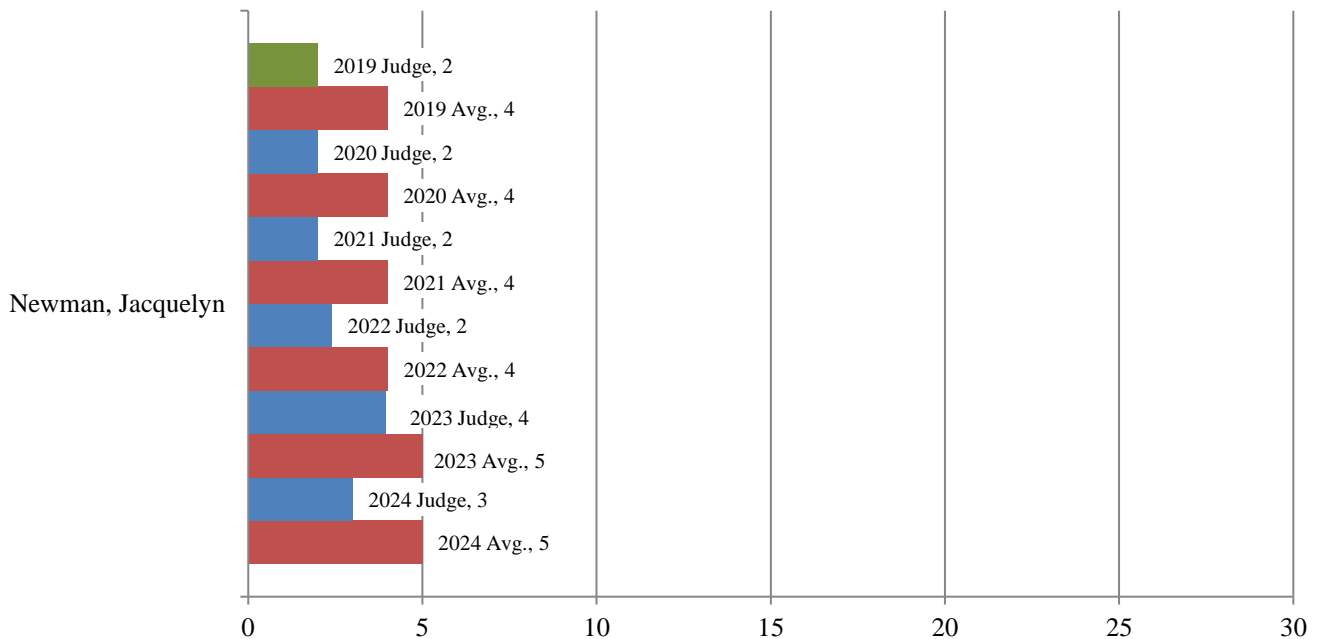
The following depicts the average days between trial commencing and entry of the trial order for the judge and the statewide average between 2018-19 and 2023-24. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



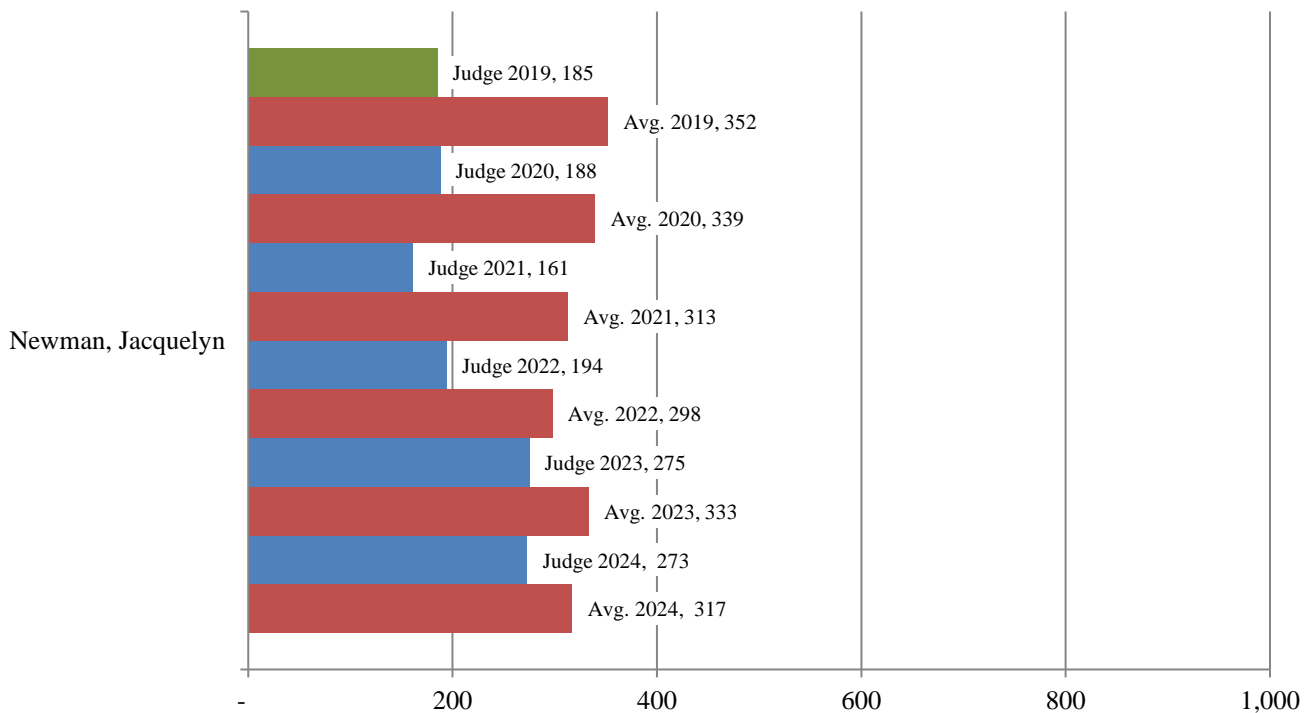
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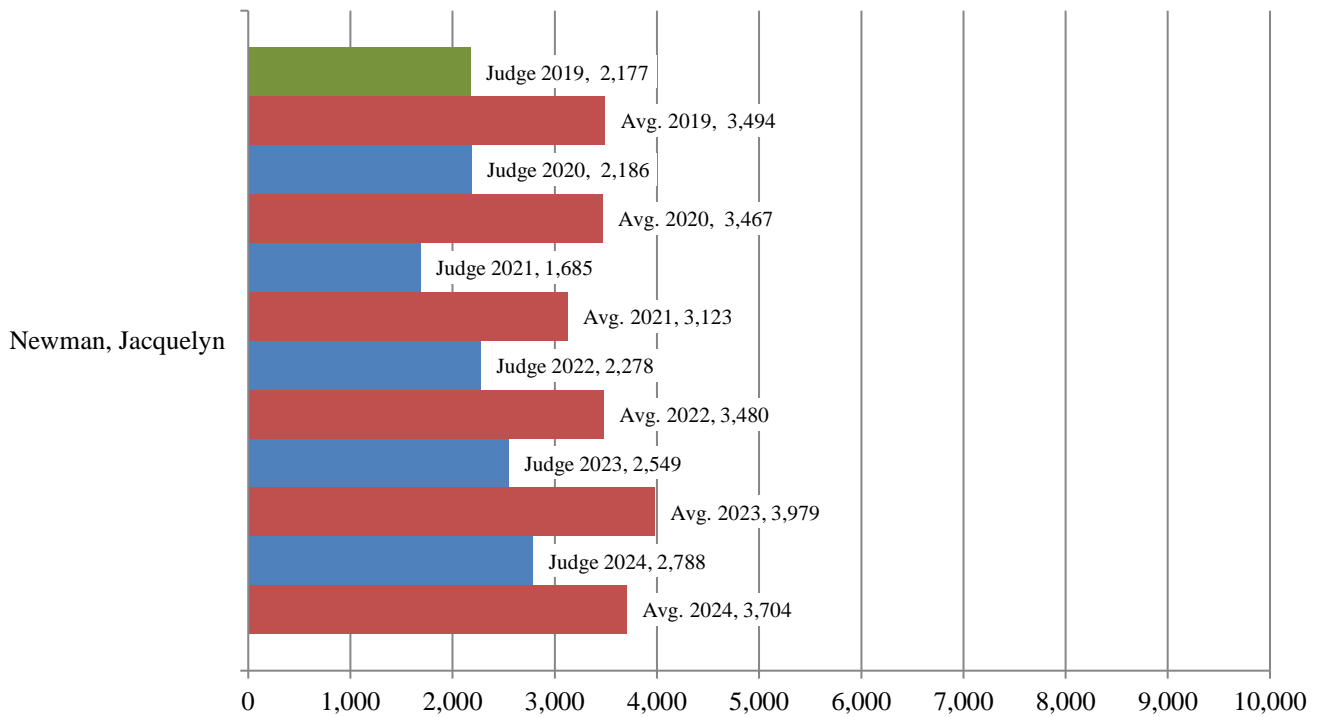
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by the judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



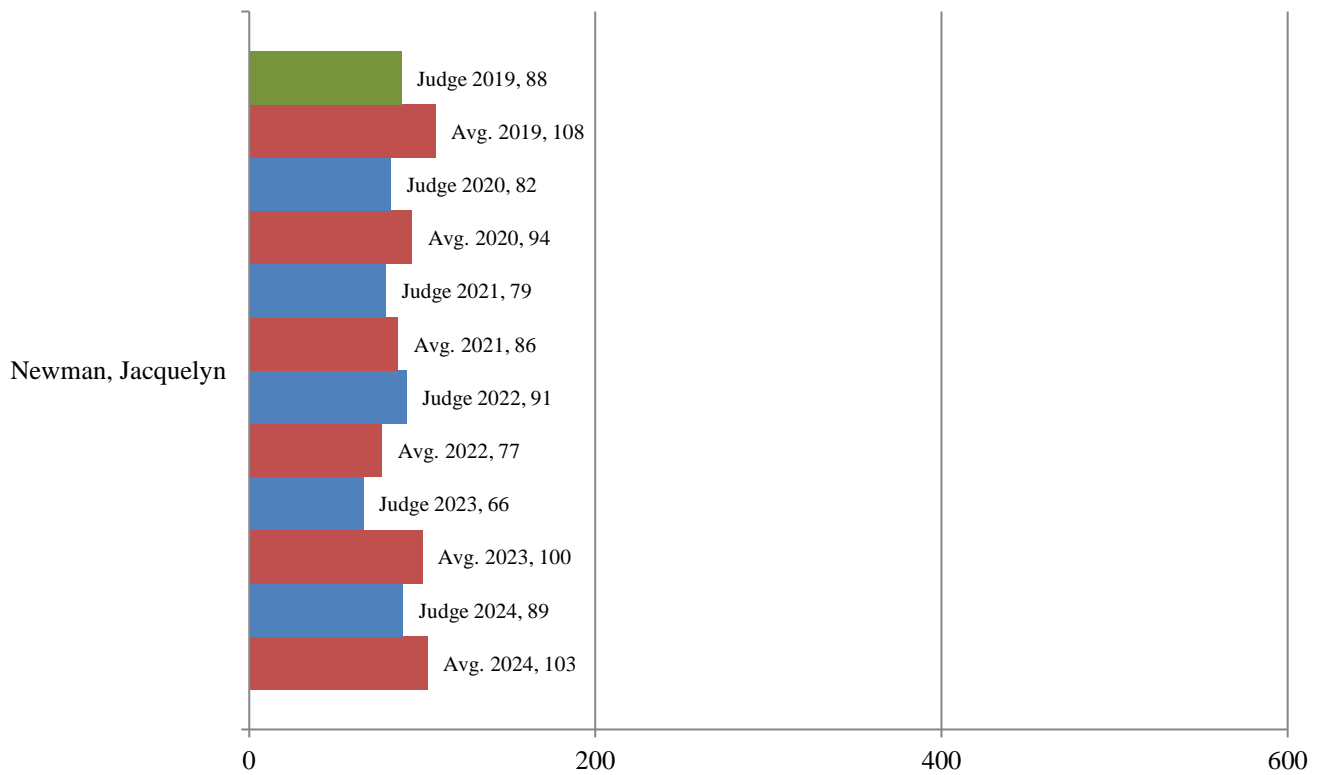
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The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by the judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



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Appendix “9” District TPA (JCC Anthony,³⁴² JCC Arthur,³⁴³ JCC Massey):

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

District Tampa has historically been a remarkably stable District. That historically facilitated Judges Massey and Spangler managing a significant volume of Miami cases remotely. District TPA has been challenged with a judicial vacancy as described in the 2021-22 OJCC ANNUAL REPORT. With the consolidation of District Lakeland, the workload has remained significant, with both “new case” and PFB volume exceeding the statewide average for all three judges there. As cases assigned there from Miami are reopened, those are being shifted to less busy districts in an effort to moderate the workload. In 2025-26, the St. Petersburg District is expected to be consolidated into District Tampa. The result should be more equitable distribution of workload, though some assignment to out-of-district judges may be considered for further parity.

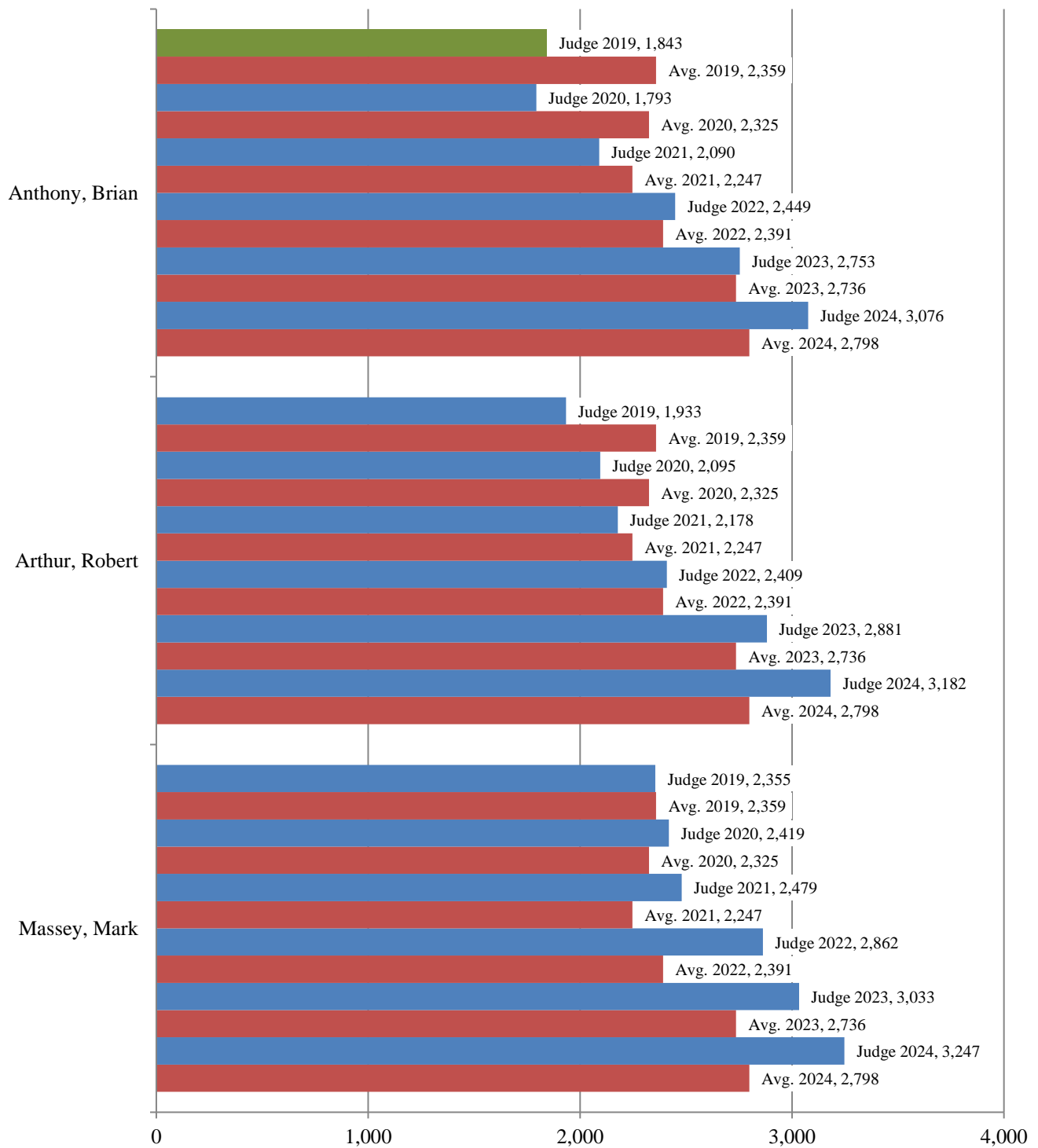
In fiscal year 2023-24, Judge Arthur continued his work with the Tampa Bay Workers’ Compensation Disability Inn of Court, serving on both the executive and membership committees. He also participated in a practice tips presentation, with the other JCCs in the Tampa and St. Petersburg District offices, at the Inn’s final meeting of the fiscal year in June. Judge Arthur also spoke at a luncheon seminar presented by the Hillsborough County Bar Association’s Workers’ Compensation Section and served as a faculty member at the Workers’ Compensation Academy in the Tampa District Office in October.

Judge Anthony participated in several engagements over the last year. In August of 2023, he participated in the E. Earle Zehmer Moot Court Competition where he was Competition Judge. In October of 2023, he was part of the faculty at the Workers’ Compensation Academy in Tampa, where he gave a discussion on Trial Memorandums and the use of Pretrial Stipulations. In January 2024, he, along with the other Tampa and St. Petersburg Judges of Compensation Claims, presented a discussion of Issues of Interest in Workers’ Compensation Practice to the Hillsborough County Bar Association. He also lectured on the topic of docket management, motions, attorney’s fees, evidentiary hearing, trials, and professionalism in Tallahassee at the First District Court of Appeal in March of 2024. Also in March of 2024, he was a guest Judge for the Hillsborough County Bar Association Law Week Mock Trial Demonstration where he presided over Fourth and Fifth Grade Students in their conducting of a criminal trial. In April of 2024, Judge Anthony gave a panel presentation at the Workers’ Compensation Forum on the topic of Practicing Professionalism in a Remote Environment. Finally, in May of 2024, he served as a Judge at the Florida Bar Workers’ Compensation Section for their Advocacy Workshop.

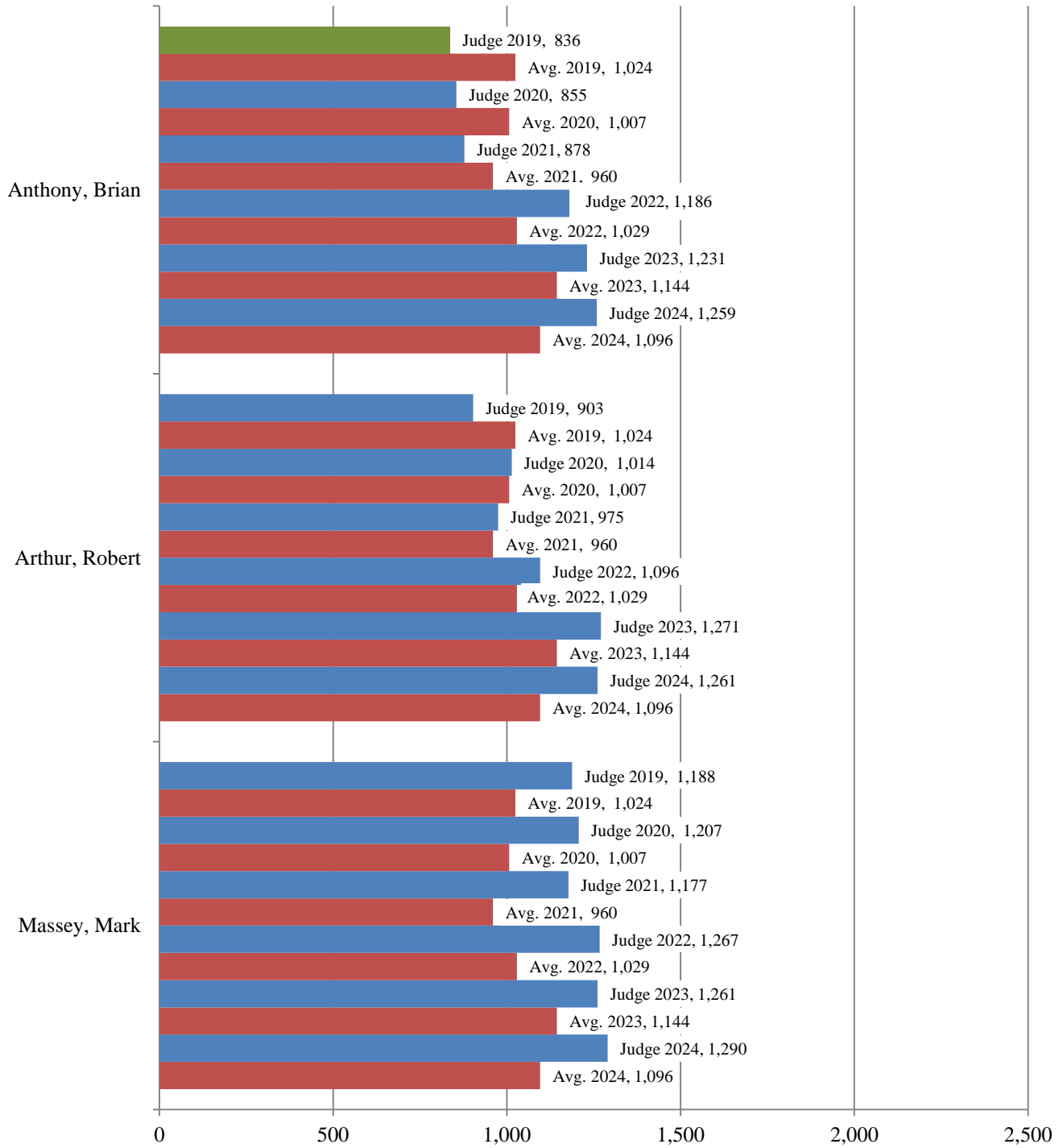
In October 2023, Judge Massey served as a faculty member for the Workers’ Compensation Academy program, and made a presentation to the National Association of Administrative Law Judges on the topic of occupational diseases. In January 2024, Judge Massey spoke as a panel member for a presentation to the Hillsborough County Bar Association on practice and professionalism. In April 2024, he organized and moderated a pupilage group presentation to the local Inns of Court on everyday issues in the practice of law, and in May 2024, served as a panel member for another Inns of Court presentation on judicial perspectives. Judge Massey continues to serve as the administrative managing judge of the Tampa District Office. He is a member of the National Association of Workers’ Compensation Judiciary, the Tampa Bay Disability and Workers’ Compensation Inns of Court, and a member (and past president) of the Florida Conference of JCCs.

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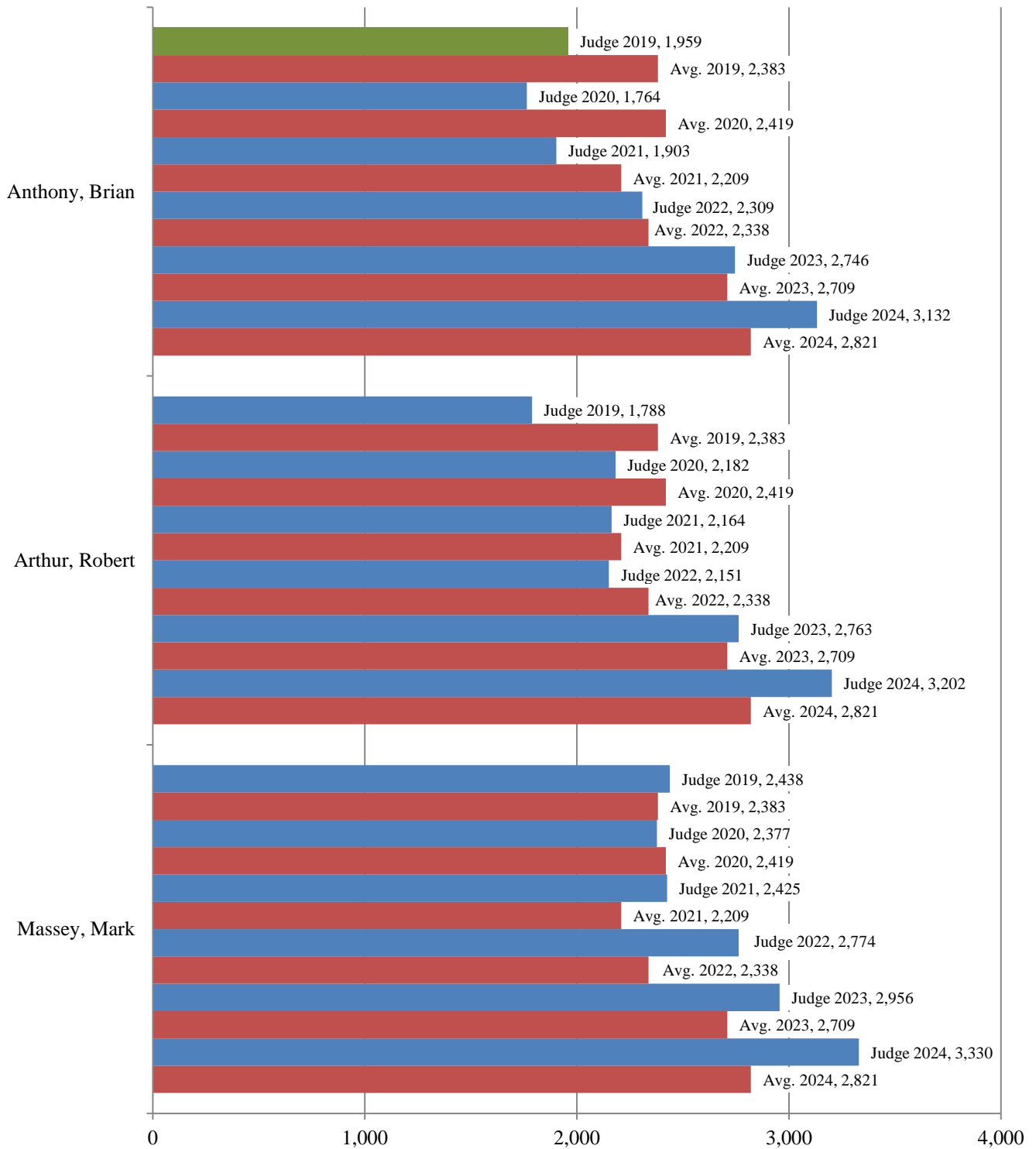
The following depicts the volume of PFBs filed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



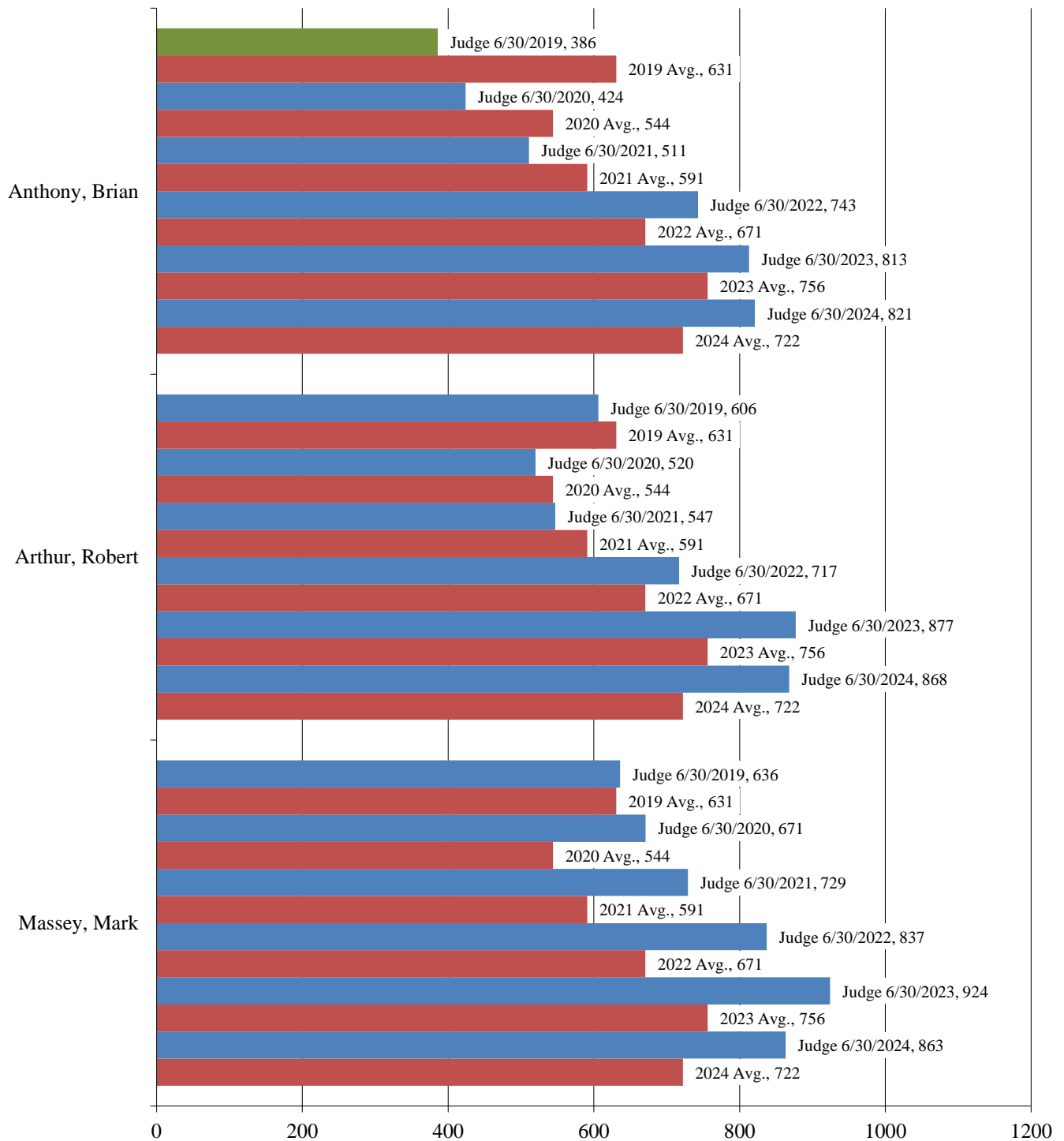
The following depicts the volume of “new cases” filed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of PFBs closed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).

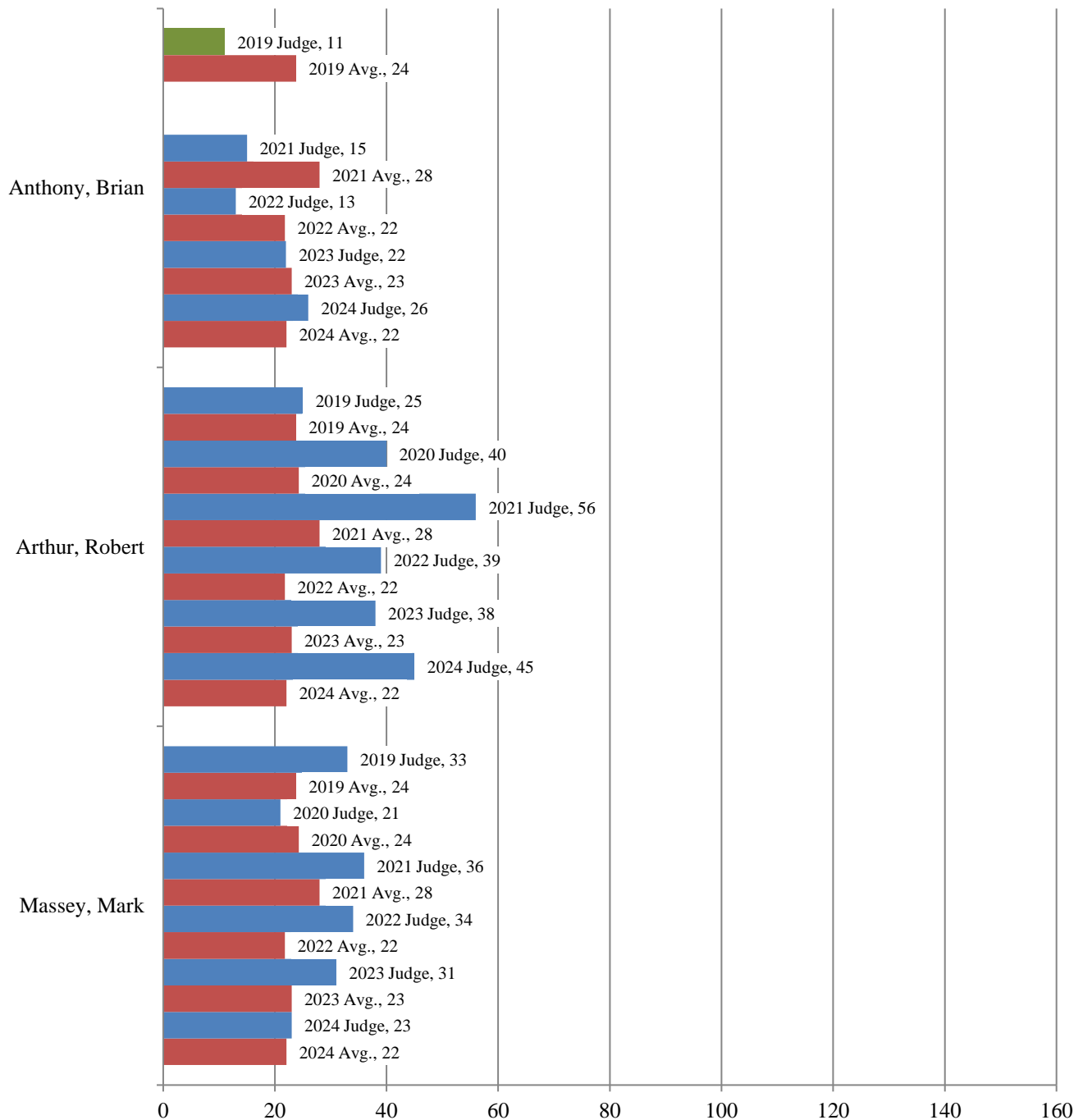


The following depicts the inventory of pending PFBs in this District and the statewide average at year end (06.30) between 2018-19 and 2023-24. The identification and values for each year are in each bar label (green bars denote statistics before the named judge's appointment).

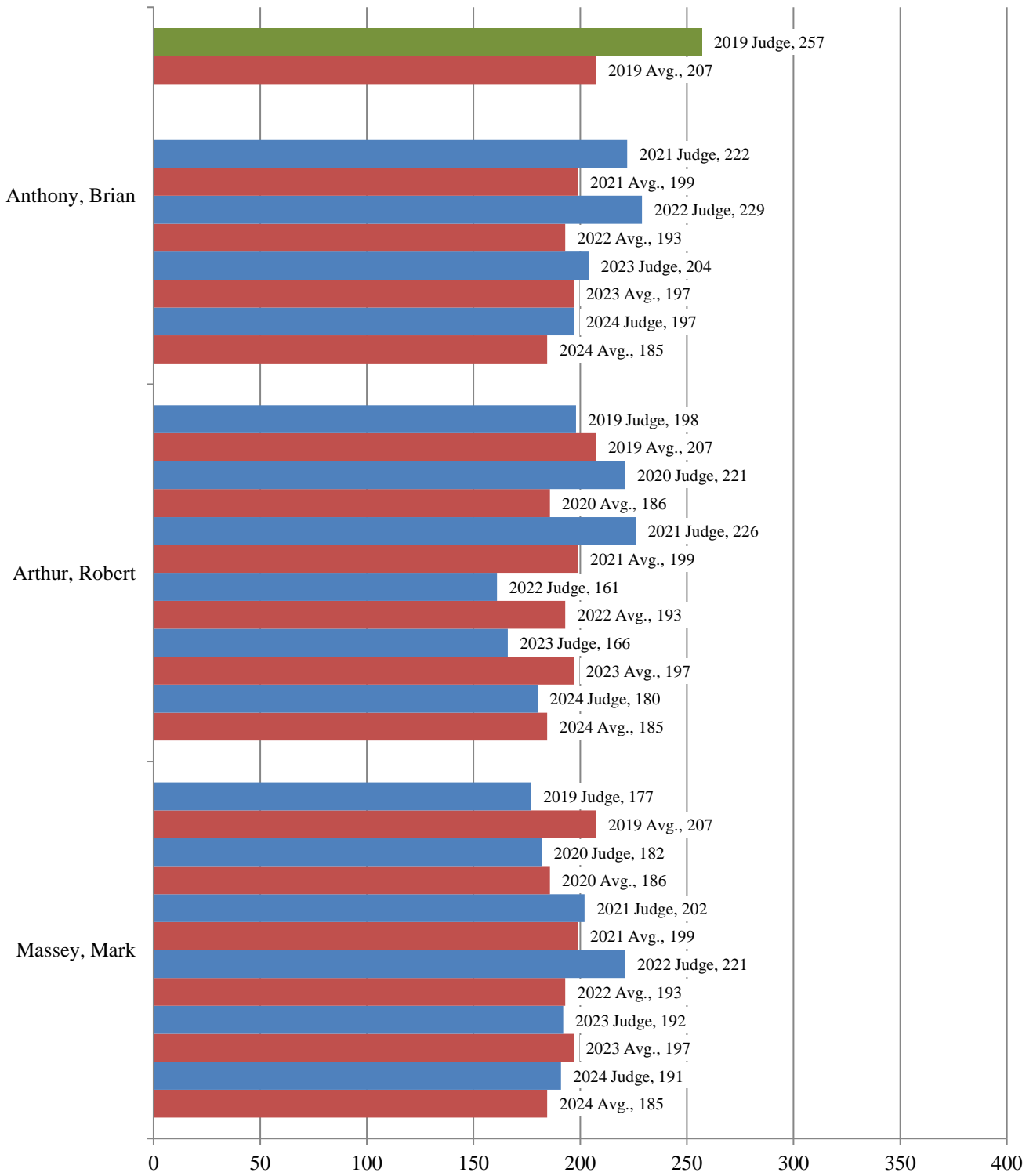


Until 2022-23, mediators were each assigned to a specific judge. Days to mediation statistics were then reported in each Appendix. In 2022-23, the mediators were disconnected and statewide random assignments began. Therefore, that graph is not included here, but in Appendix 11.

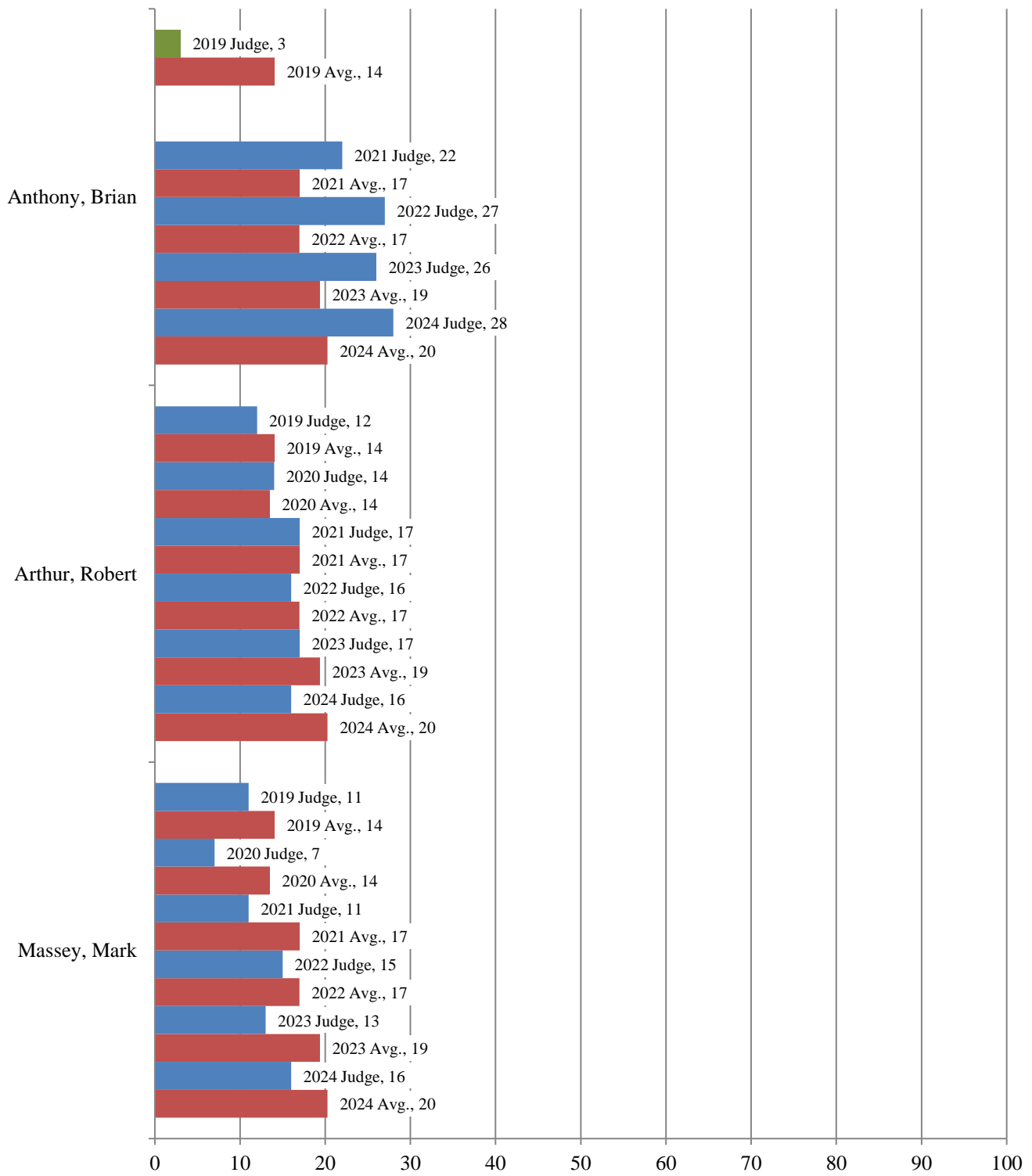
The following graph depicts the total volume of trial orders³⁴⁴ uploaded in this District and statewide averages between 2018-19 and 2023-24. The identification and values for each year are in each bar label (green bars denote statistics before the named judge's appointment).



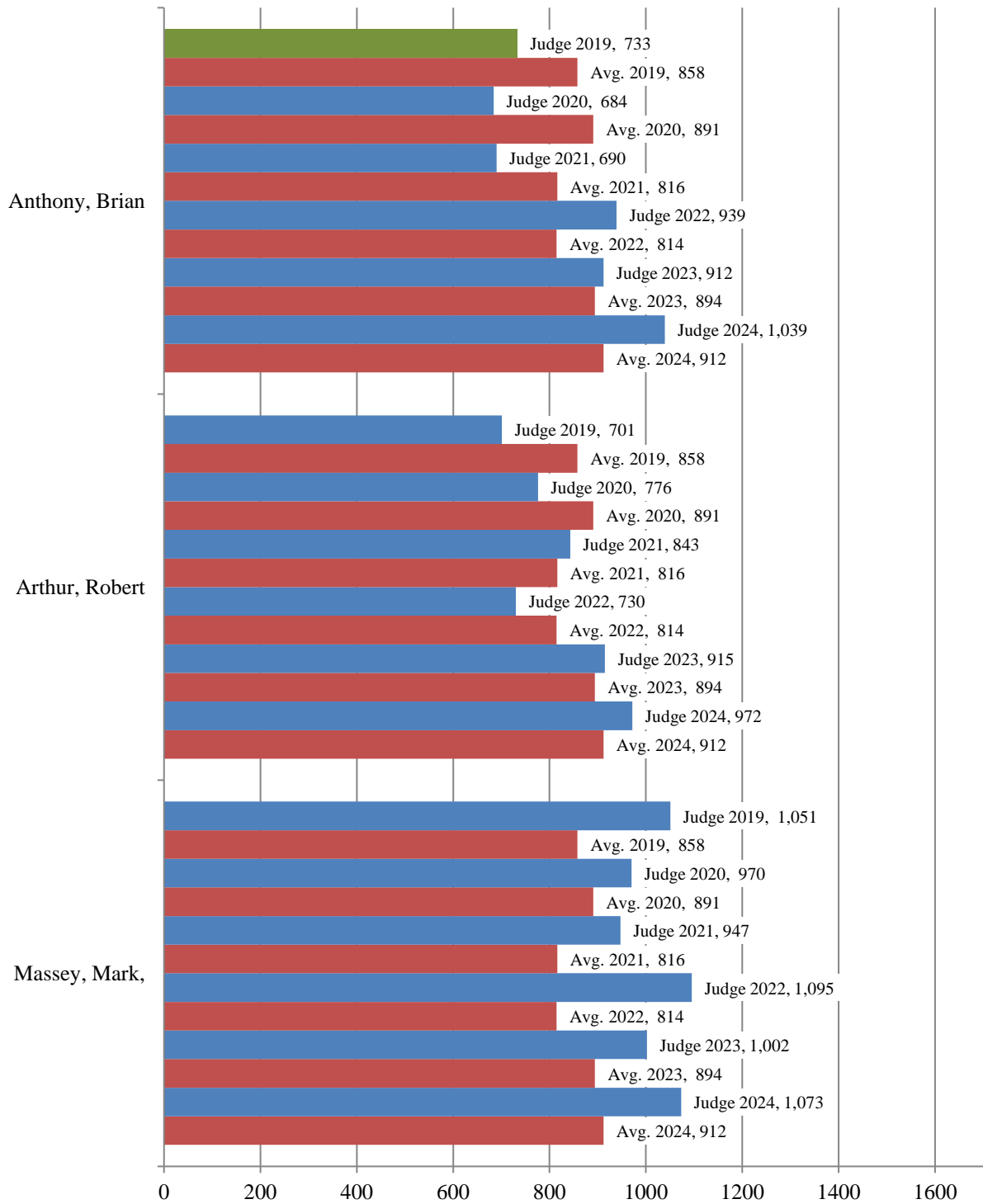
The following depicts the average days between PFB filing and trial commencing for each judge and the statewide average between 2018-19 and 2023-24. For these calculations, only the first day of trial is considered, and days after the first trial day are included in the days between trial and final order. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



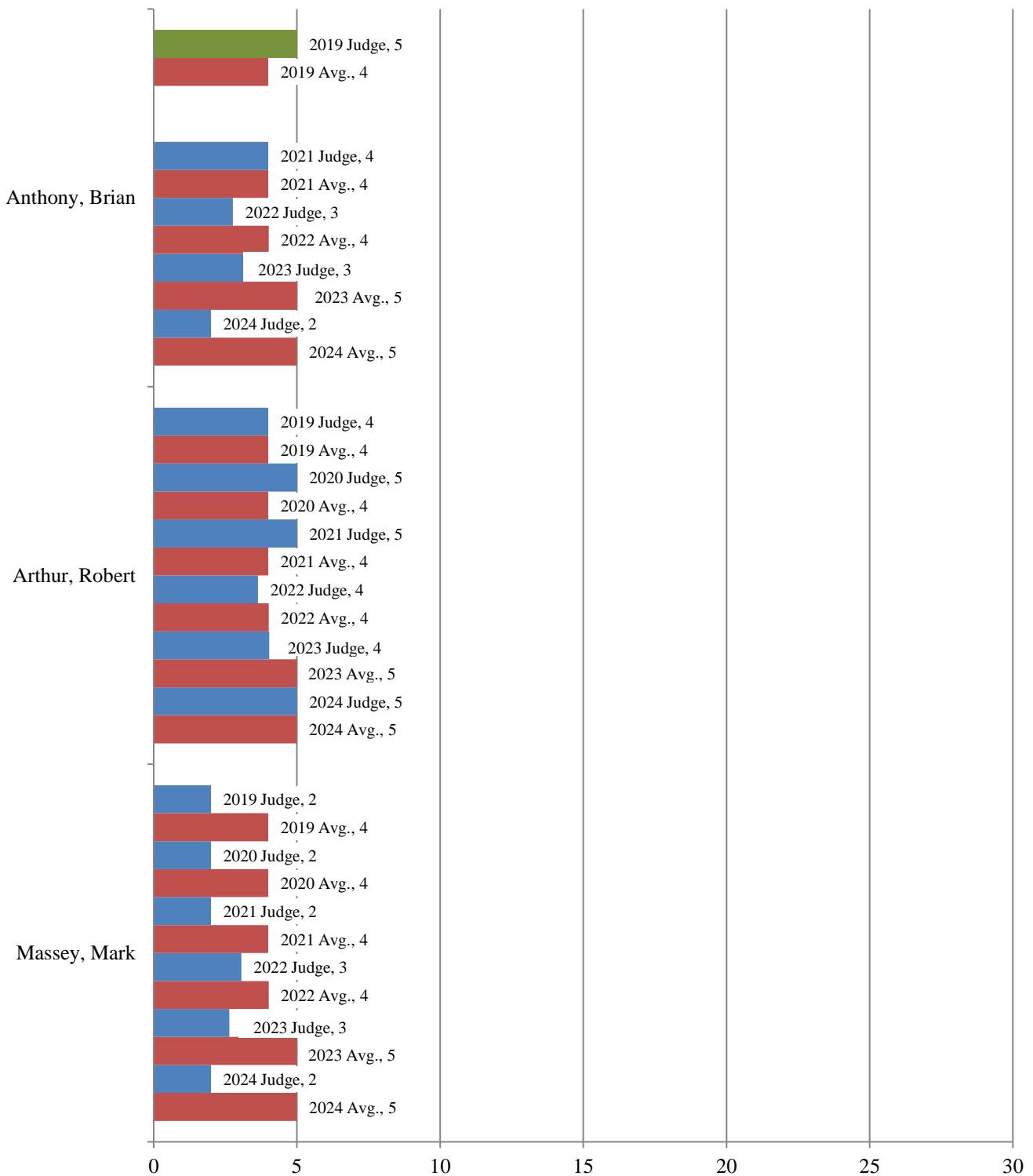
The following depicts the average days between trial commencing and entry of the trial order for each judge and the statewide average between 2018-19 and 2023-24. All days between the first day of trial and last day of trial are included in the calculation of days between trial and final order. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



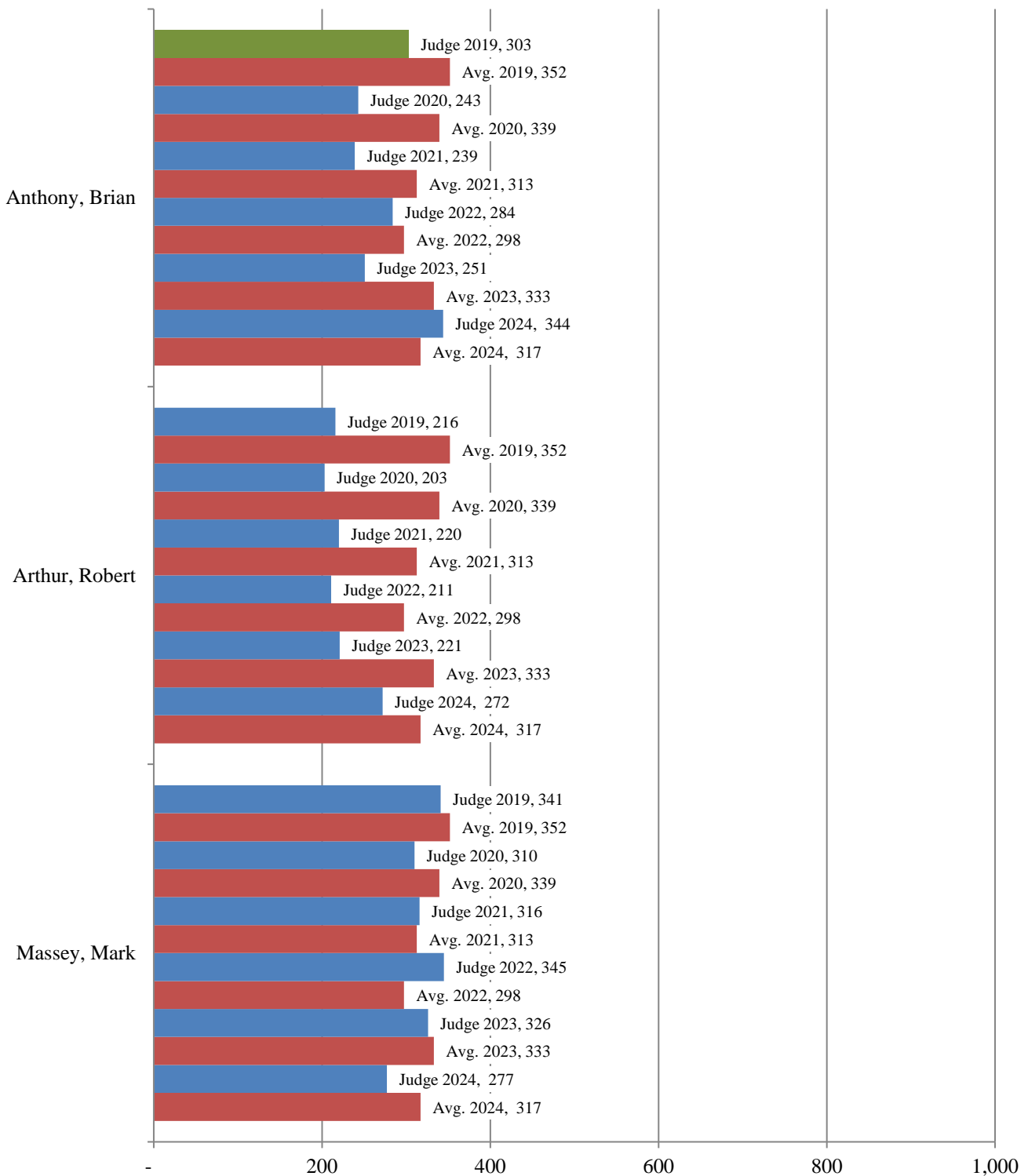
The following depicts the volume of settlement orders entered by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



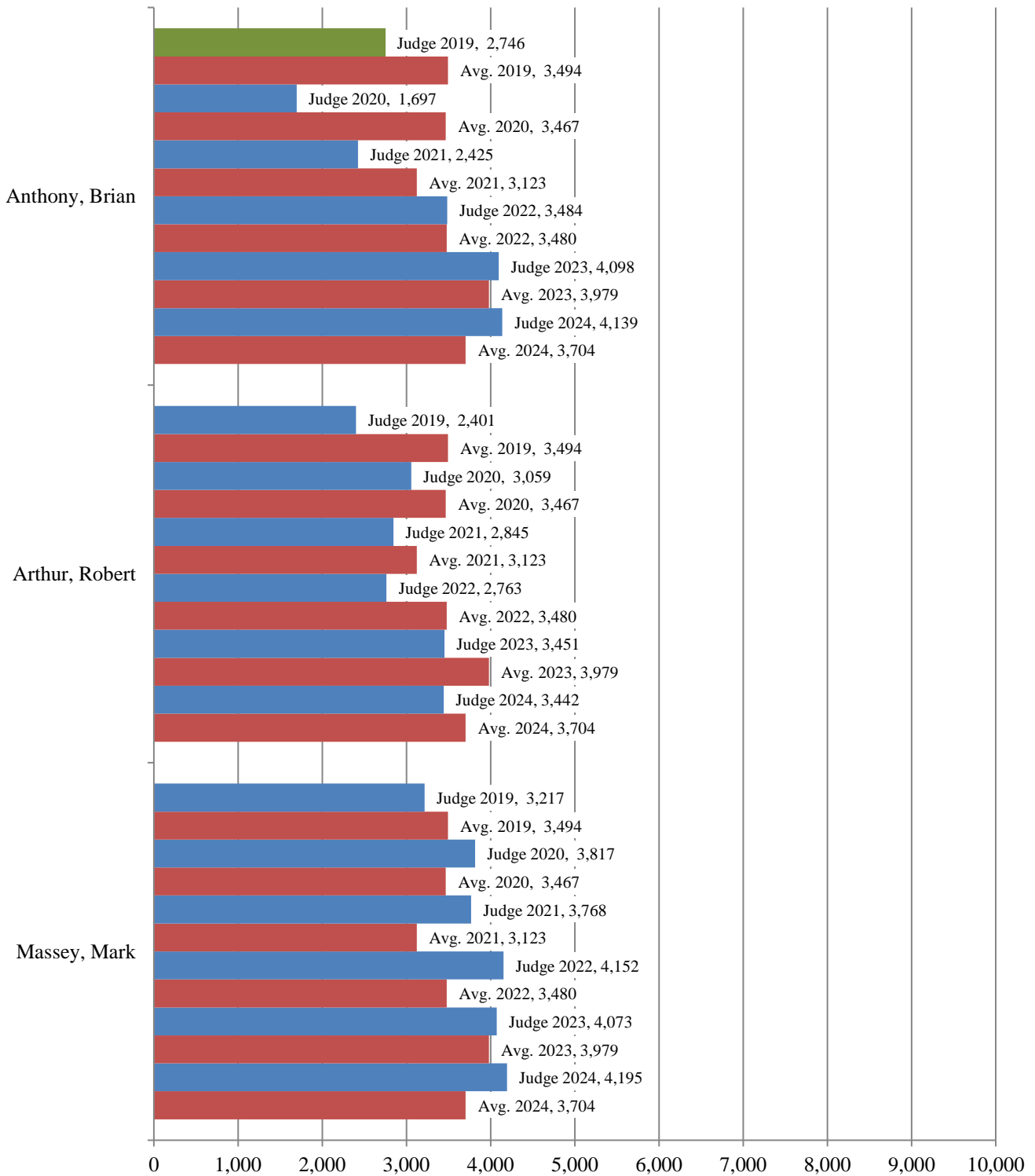
The following depicts the average number of days between filing of a settlement motion and entry of a settlement order by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



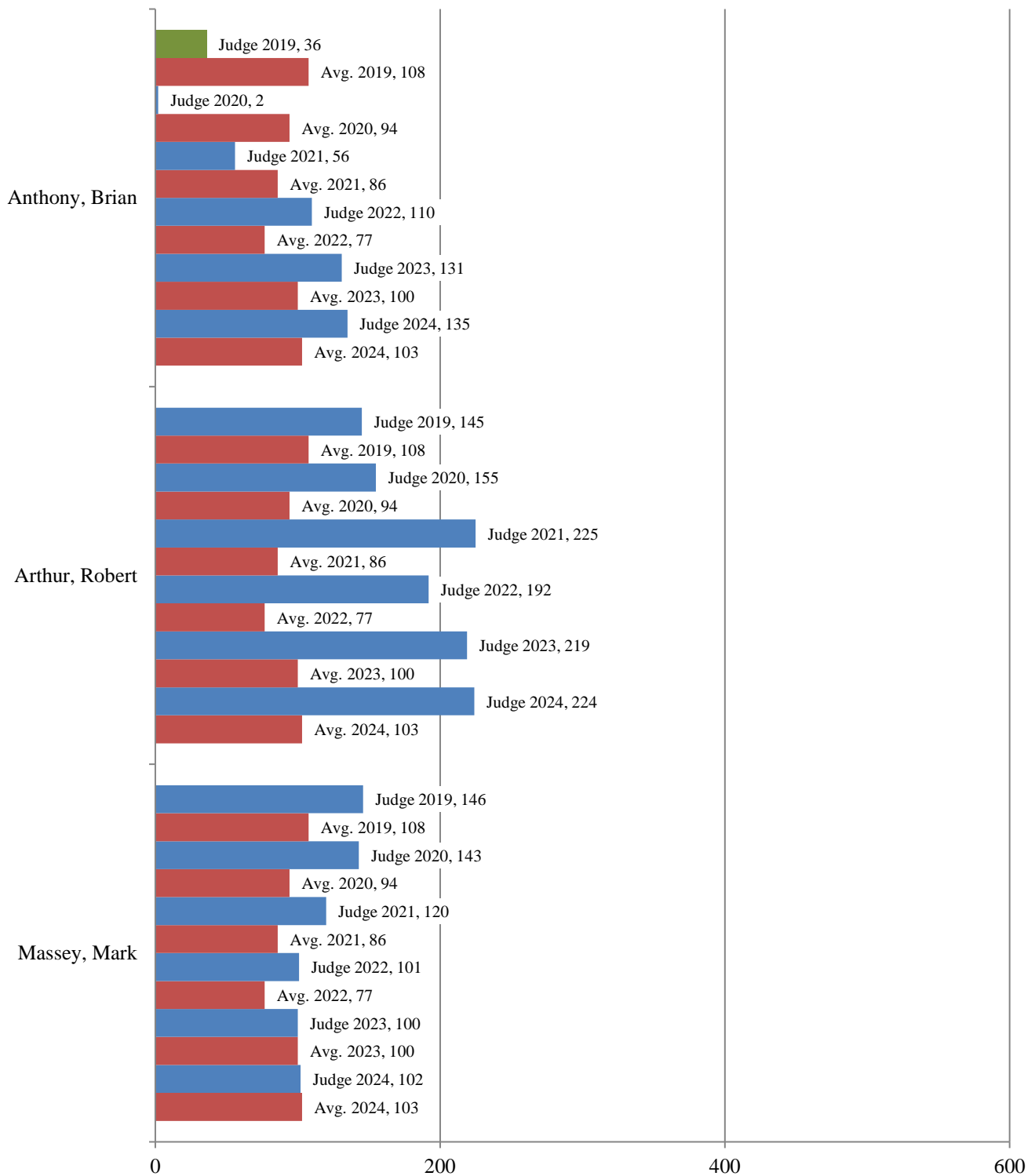
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The following depicts the volume of “other” (meaning not settlement or stipulation) orders entered by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



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Appendix “10” District WPB (JCC Case,³⁴⁵ JCC Hedler, JCC Hill, JCC Johnsen,):

District WPB includes Glades, Hendry, Martin, Okeechobee, and Palm Beach Counties. Near the end of 2021-22, all of District Port St Lucie was consolidated into District West Palm Beach. This added St. Lucie and Martin counties. Some of District Melbourne was also consolidated into District WPB, which added Martin, and Okeechobee counties. In some amelioration of those impacts, Glades and Hendry counties were transferred from District WPB to District Ft. Myers. In 2023-24, a fourth judicial position was filled in West Palm Beach, Judge Kimberly Hill. This ameliorated the impact of the additional counties.

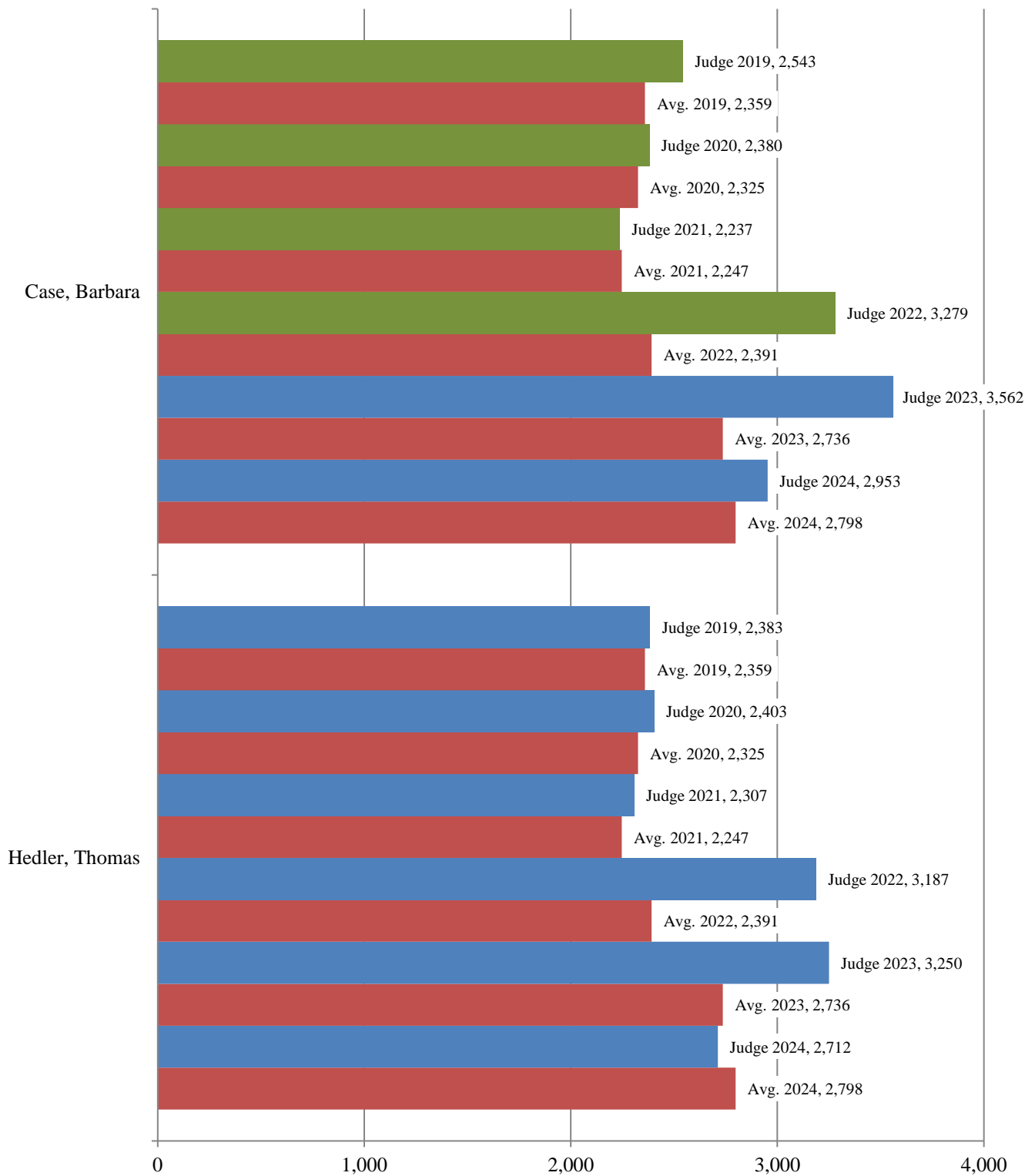
The consolidation led to markedly increased PFB and “new case” filing volumes that exceeded the historical levels in West Palm Beach. Despite the addition of a fourth judge, the volumes there remain above the statewide average. The workload in West Palm is significant and will bear close monitoring.

In July of 2023, Judge Case published her first article in the 440 Report titled *Path to Becoming a Judge*. Then, at the Annual WCI Conference in August of 2023, she served alongside Judge Kemmerly Thomas (First DCA) and Justice Jamie Grosshans as a panelist on *Professionalism and Ethics, Critical Judgment In Conduct In and Out of the Courtroom While Serving the Public, Legal Community and The Justice System*. In September of 2023, Judge Case served as a coach for the 2023 DOAH Trial Academy and in October, she participated as a faculty member in the Workers’ Compensation Academy in Tampa. In March of 2024, Judge Case moderated a panel of 1st DCA Judges at the annual WCI/OJCC Seminar in Tallahassee. In May of 2024, she participated in the Judicial question-and-answer panel at the 2024 Annual Palm Beach County Bar Association, Workers’ Compensation Section Seminar. In June of 2024, Judge Case was invited to speak at the Annual FWA Conference in Orlando. Additionally, Judge Case is an active participant in the Robert D. McAliley Inns of Court and the National Association of Workers’ Compensation Judiciary.

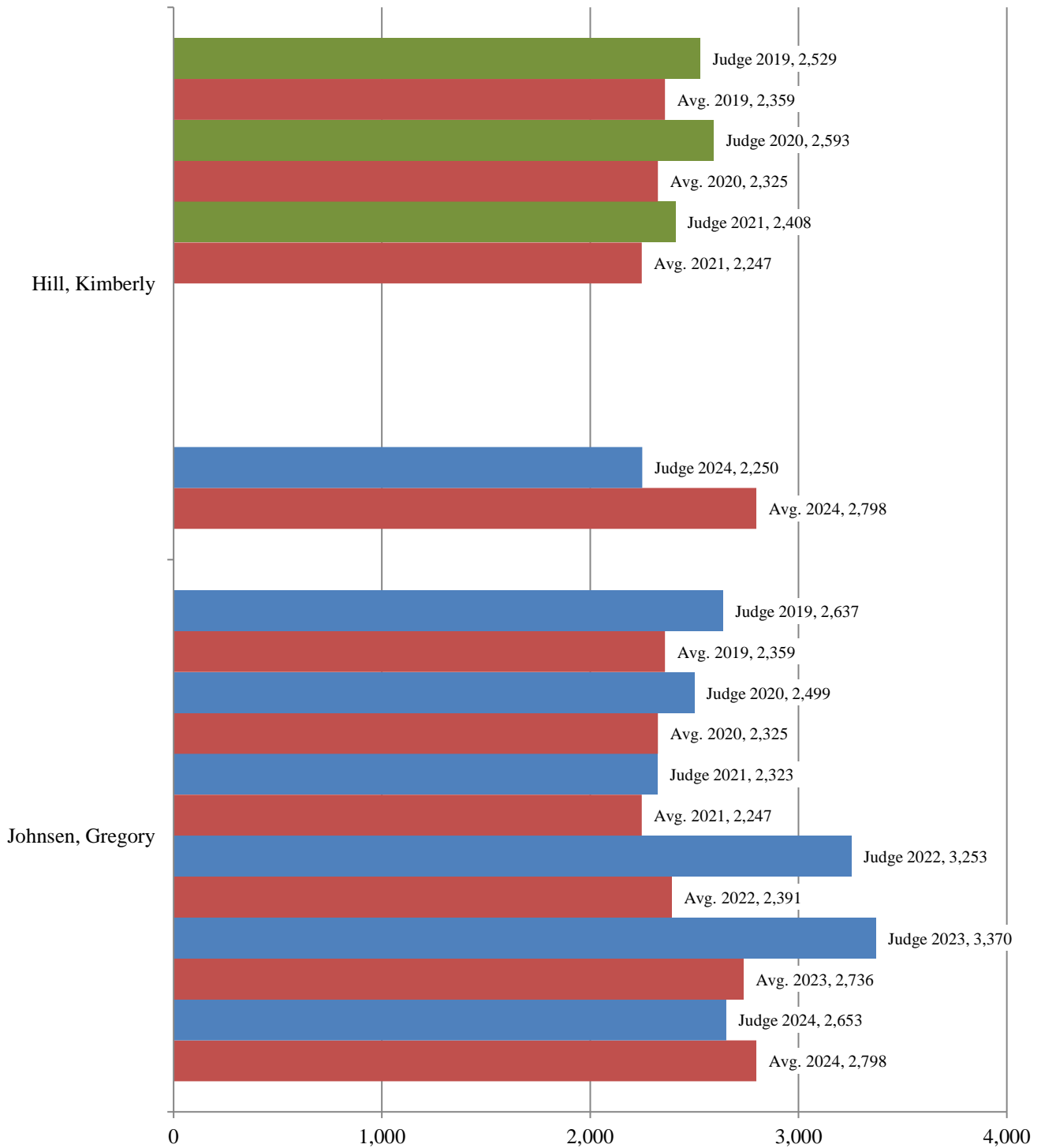
In 2023-24, Judge Hedler remained active in community organizations, including the Palm Beach County Bar Association Workers’ Compensation Executive Committee, the Robert D. McAliley Inns of Court, the National Association of Workers’ Compensation Judiciary, and the Conference of the JCCs. In January 2024, he participated in the Palm Beach County Bar Association Workers’ Compensation section’s *Coffee Talk with the JCCs*. In March 2024, he chaired the WCI/OJCC seminar at the First DCA, and moderated a JCC panel. Also, in March 2024, the WPB District hosted a Town Hall, promoted by the Florida Bar Workers’ Compensation section. In April 2024, he moderated a judicial panel on Evidence at the Florida Bar Forum. In May 2024, he participated on a JCC panel at the Palm Beach County Bar Association Workers’ Compensation section annual seminar. In June 2024, he participated on a JCC panel on *Legal Ethics & Professionalism* at the FWA Conference. In addition to managing the adjudication of his assigned cases, Judge Hedler serves as the Administrative Judge in the West Palm Beach District, handling premises, equipment, security, and personnel issues.

In February of 2024, Judge Johnsen served as a panelist with other judges at the First DCA seminar in Tallahassee for a presentation entitled Perspectives from the Practice. Judge Johnsen was published in the Winter 2024 News & 440 Report where he co-authored an article with Judge Rita Young, entitled *The Rewarding Experience of Serving as a Judge of Compensation Claims*. In May 2024, Judge Johnsen moderated a panel entitled *Captain Mediator – Civil War* and participated in a Judicial question-and-answer panel at the Palm Beach County Bar Association Workers’ Compensation seminar. Judge Johnsen is a member of the Robert D. McAliley Inns of Court, National Association of Workers’ Compensation Judiciary (NAWCJ), and the Conference of the JCCs. Judge Johnsen is a member of the Friends of 440 and interviews applicants for the Friends of 440 Scholarship Fund, Inc.

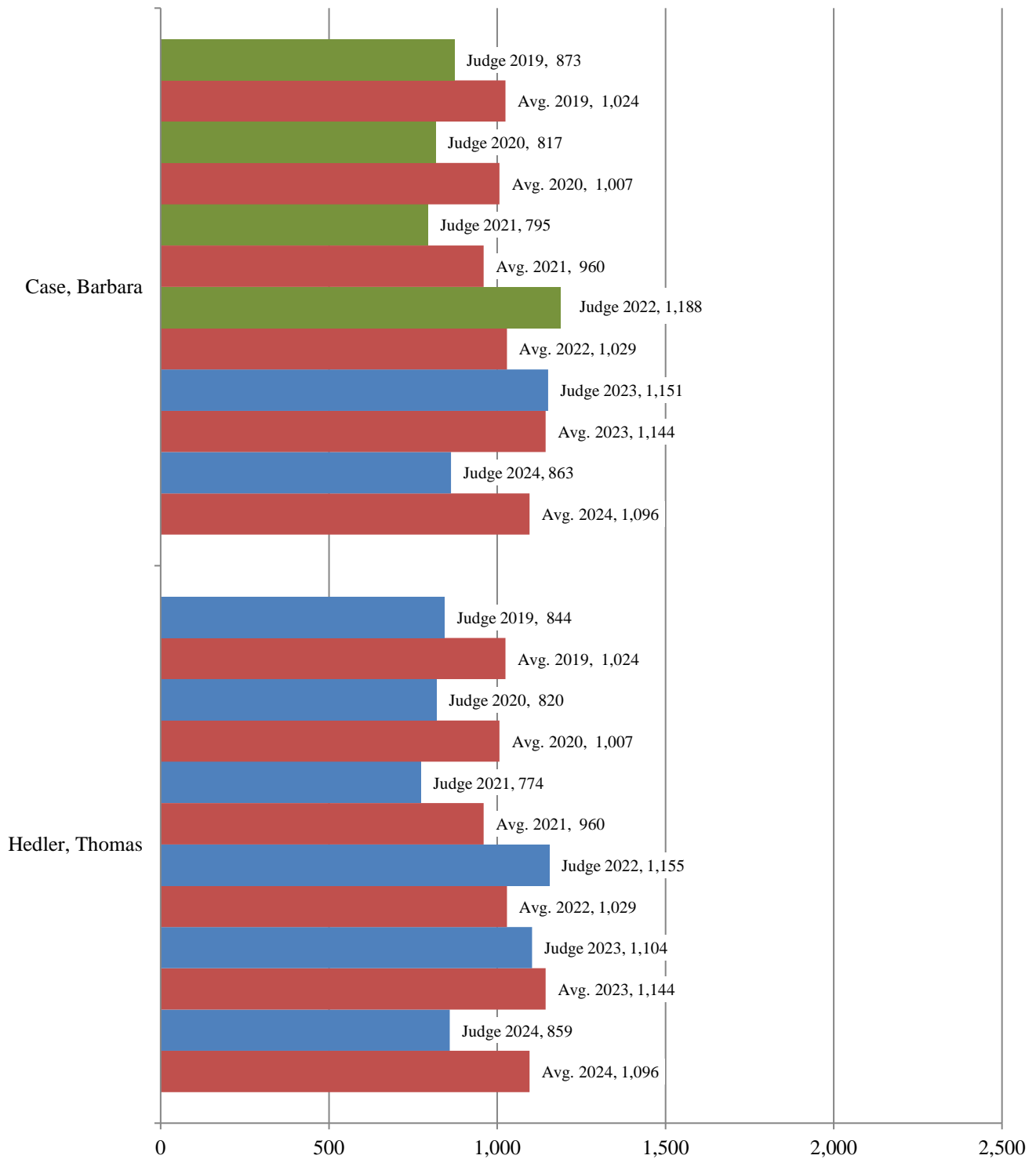
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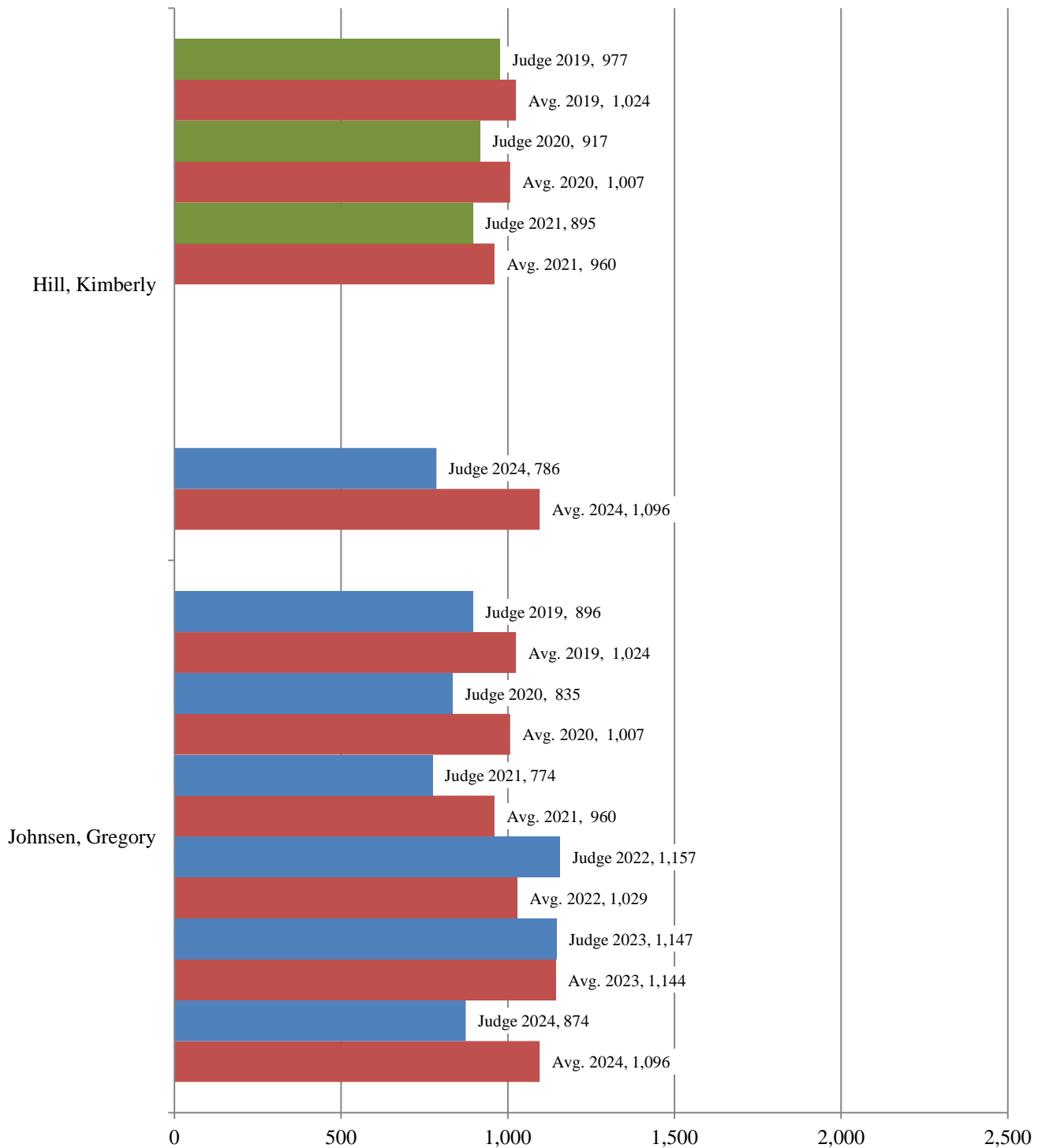
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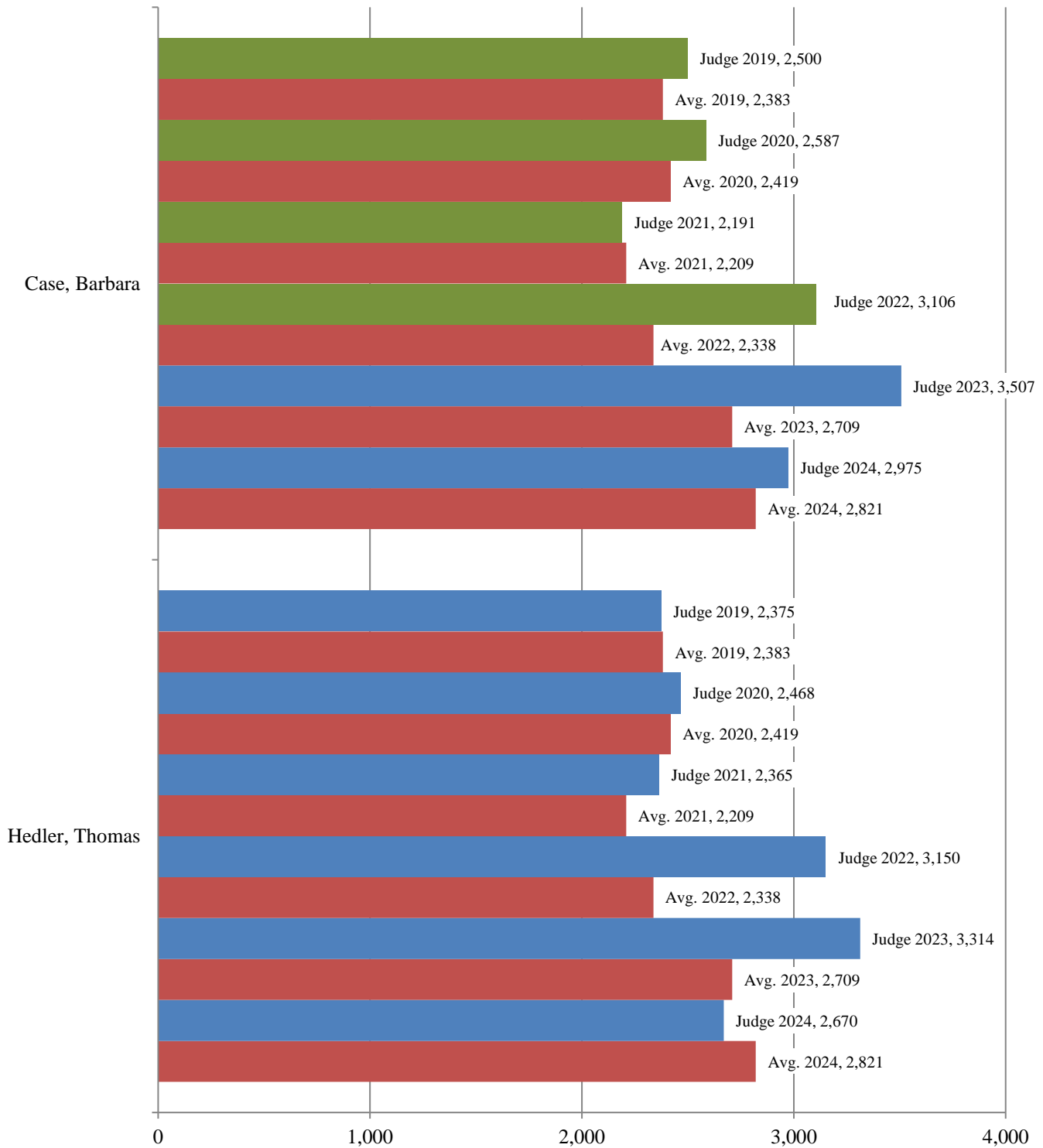
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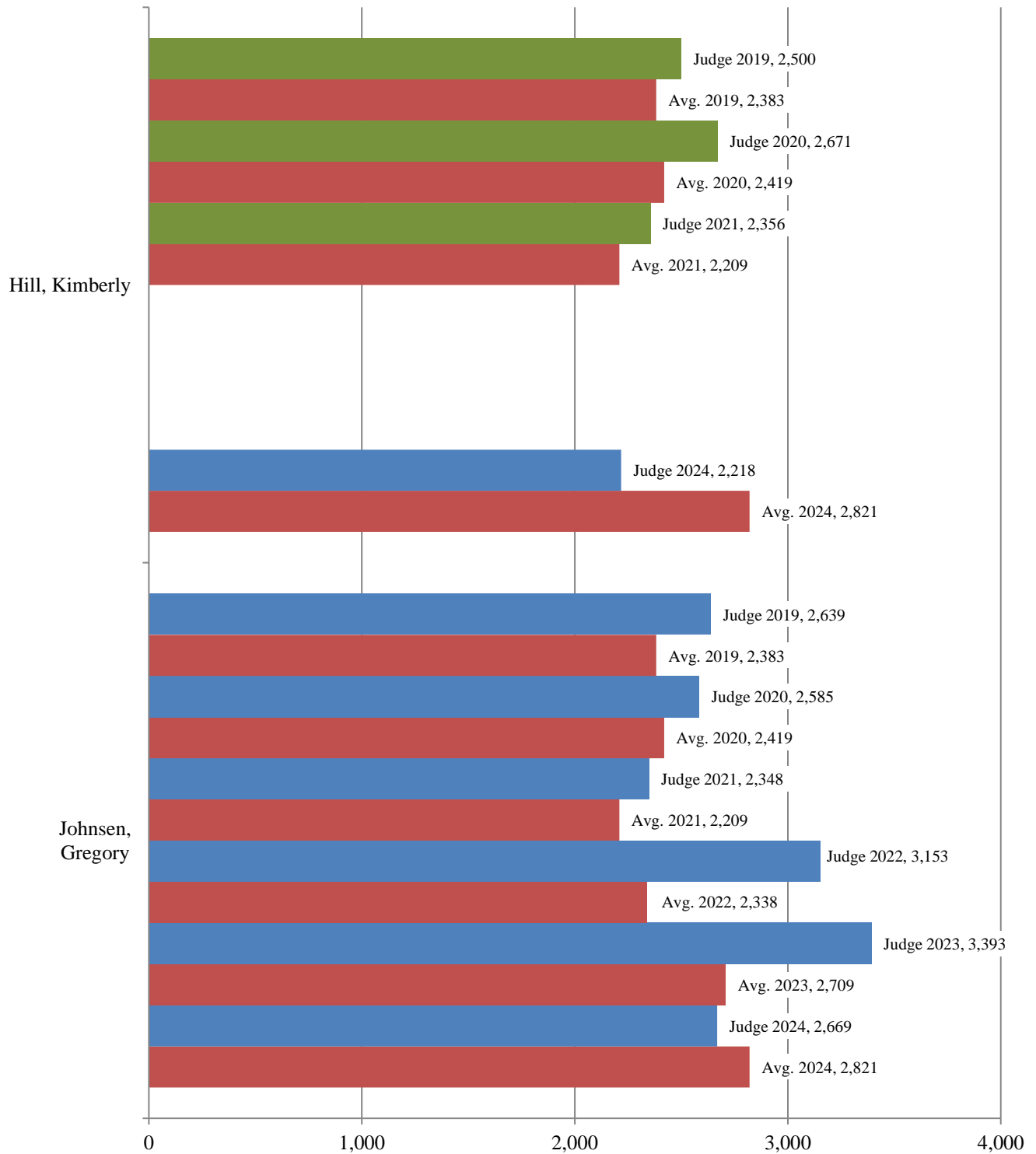
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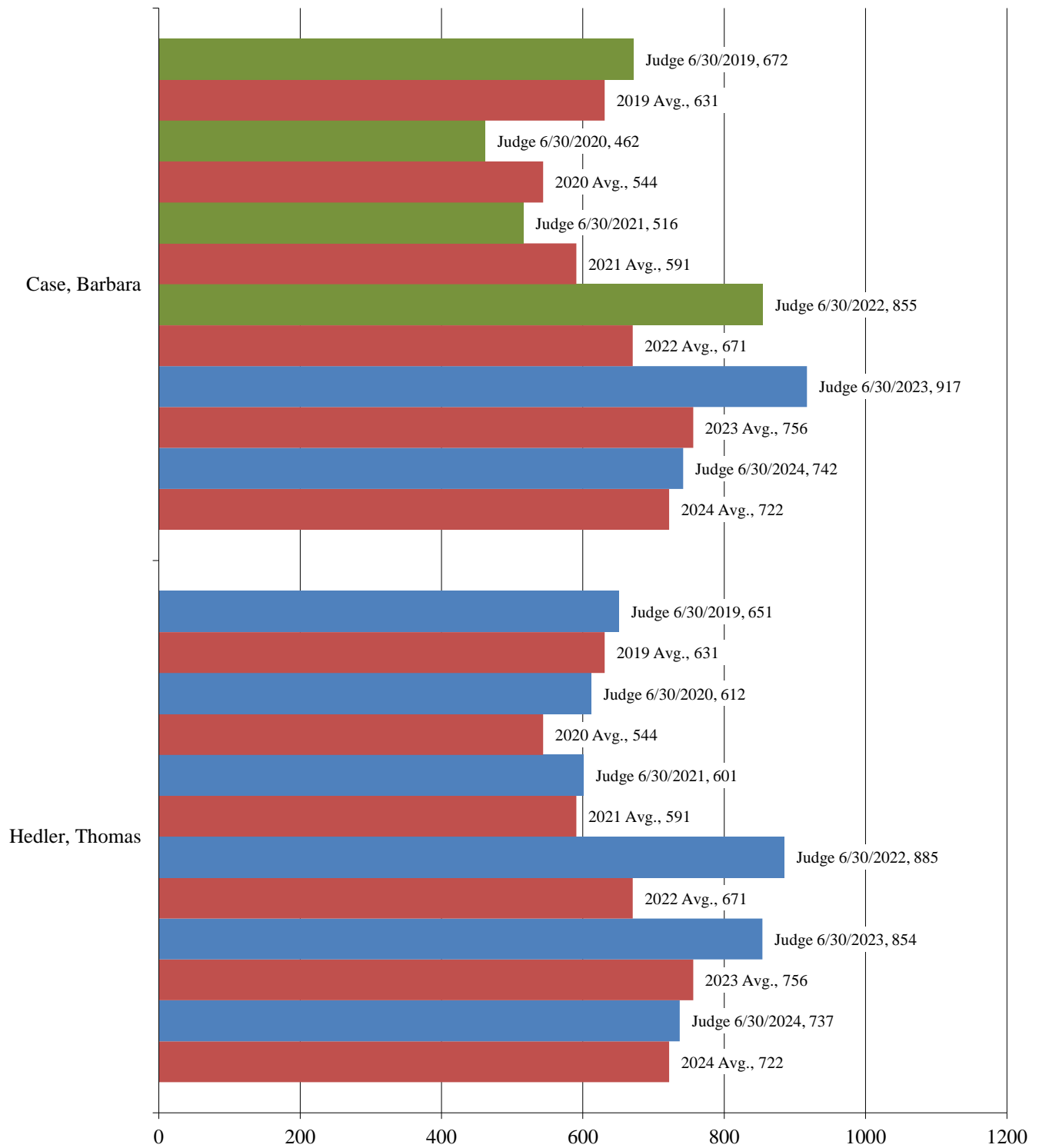
The following depicts the volume of PFBs closed in this District and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge's appointment).



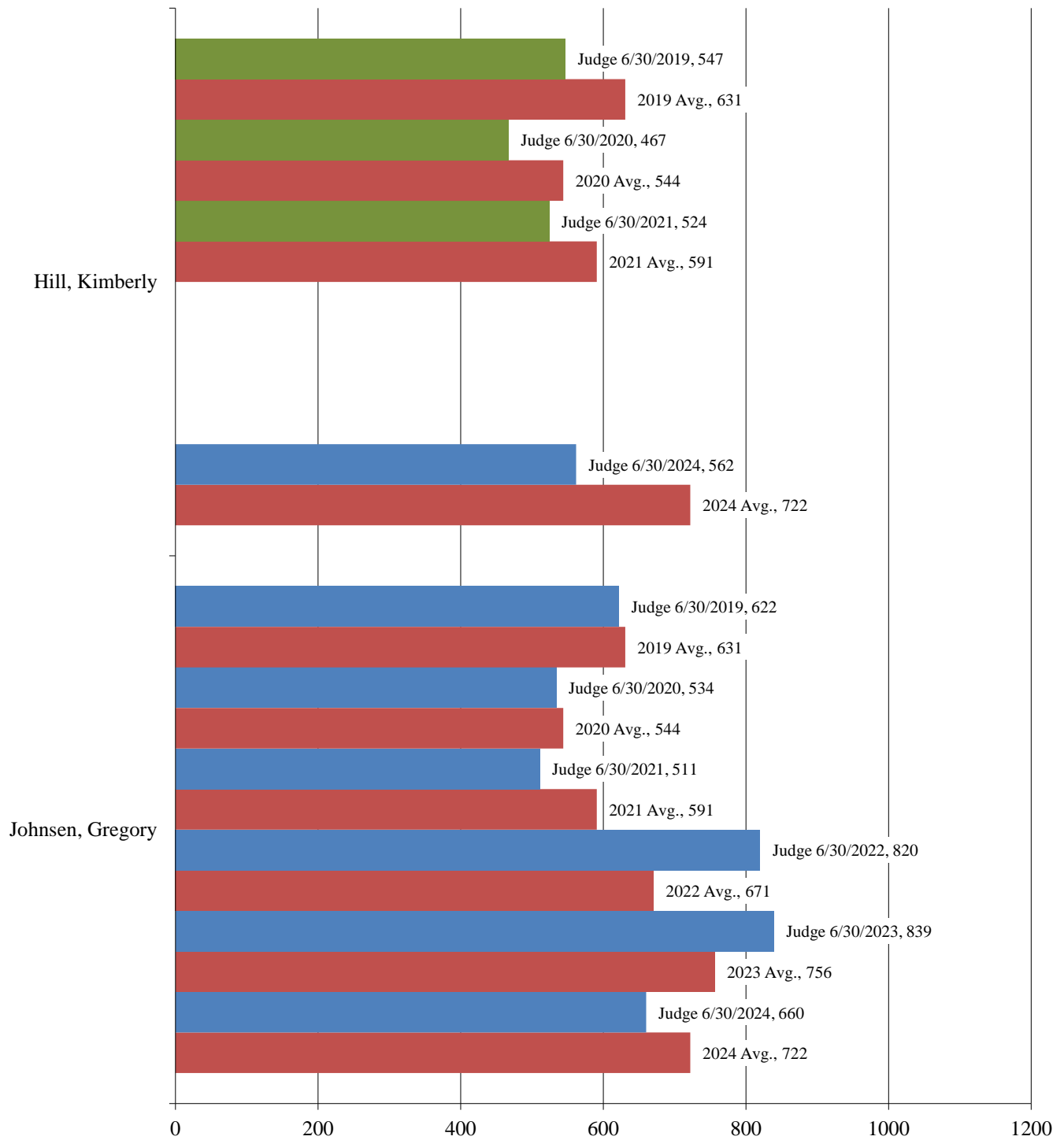
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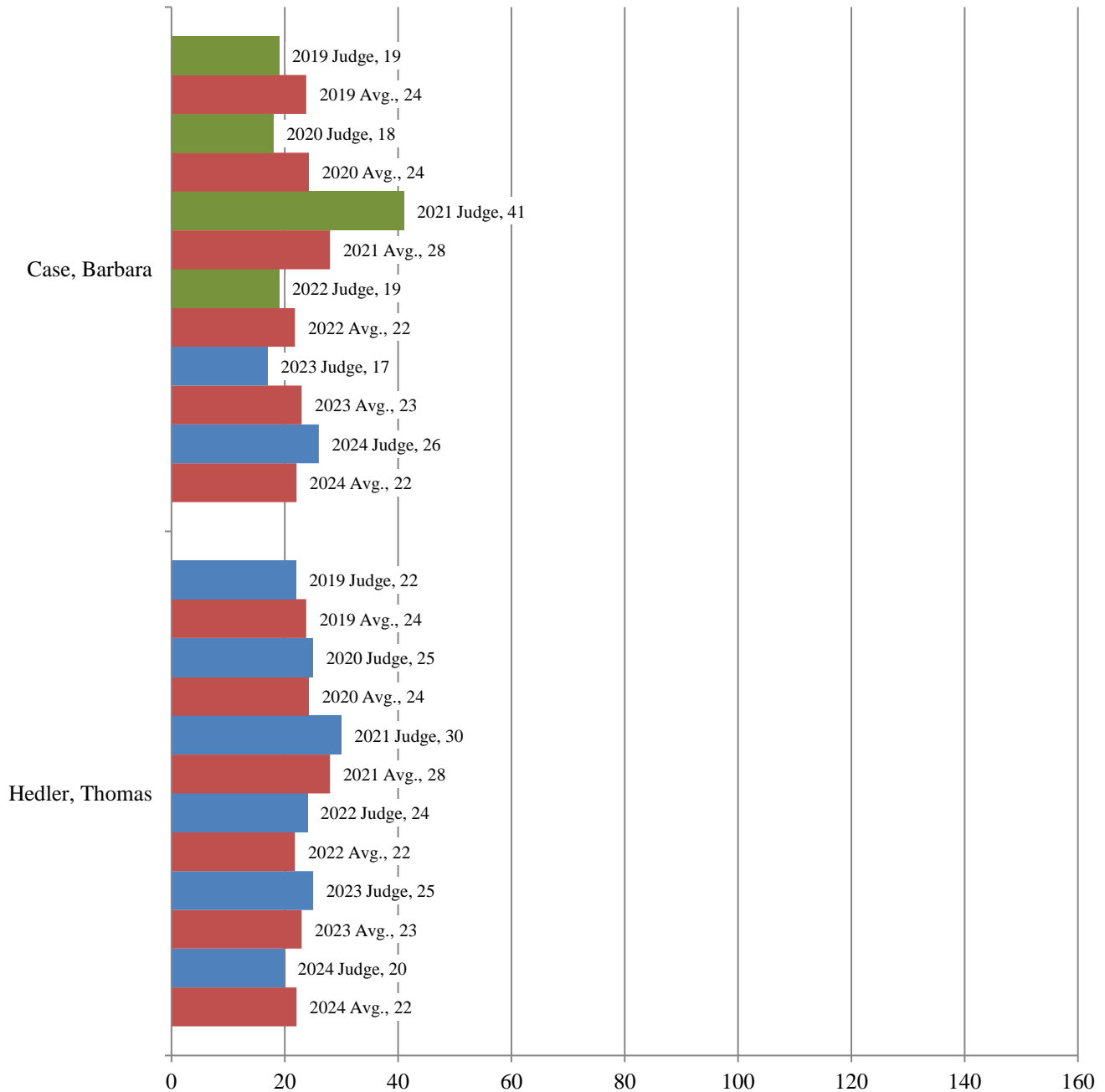


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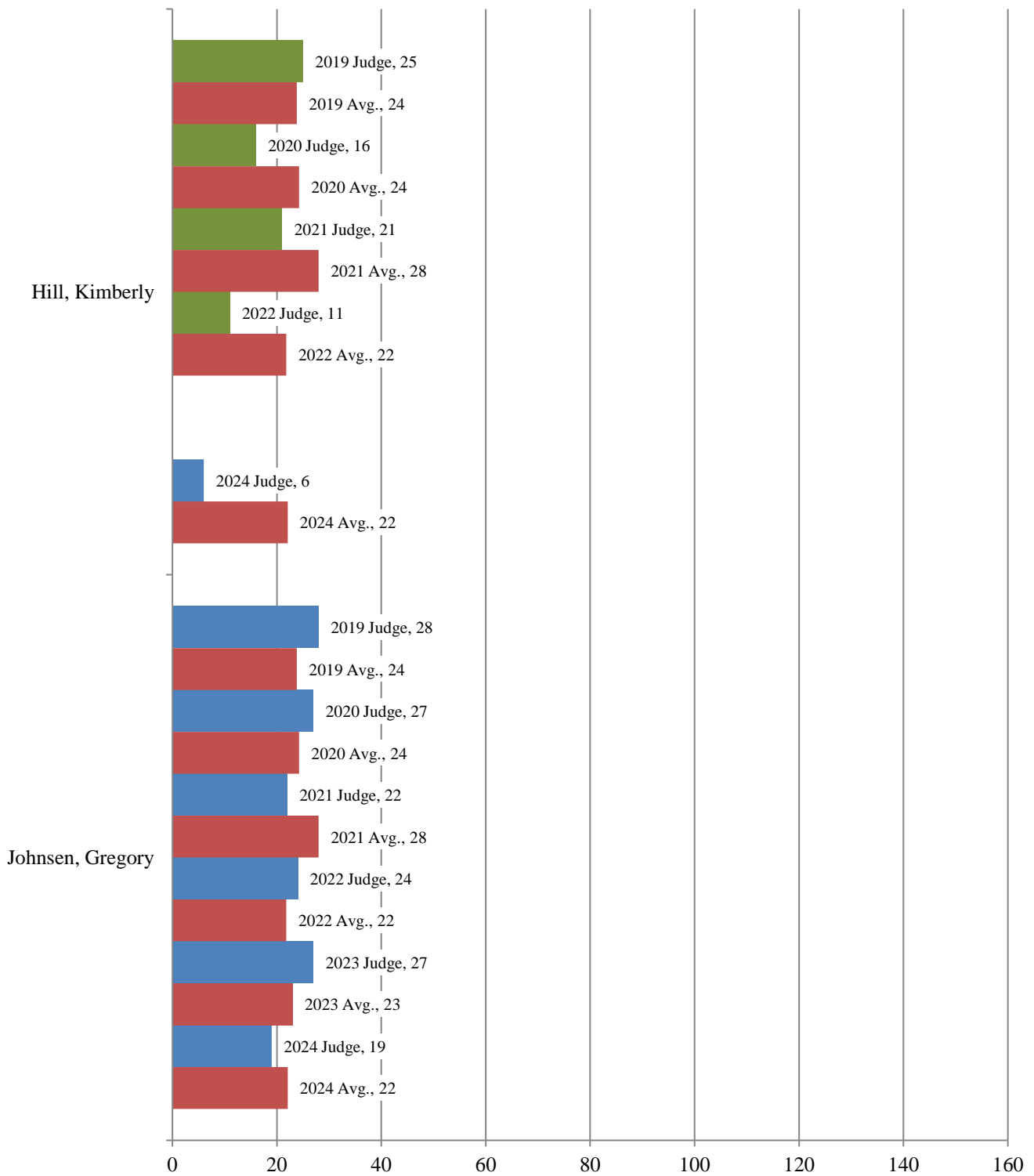


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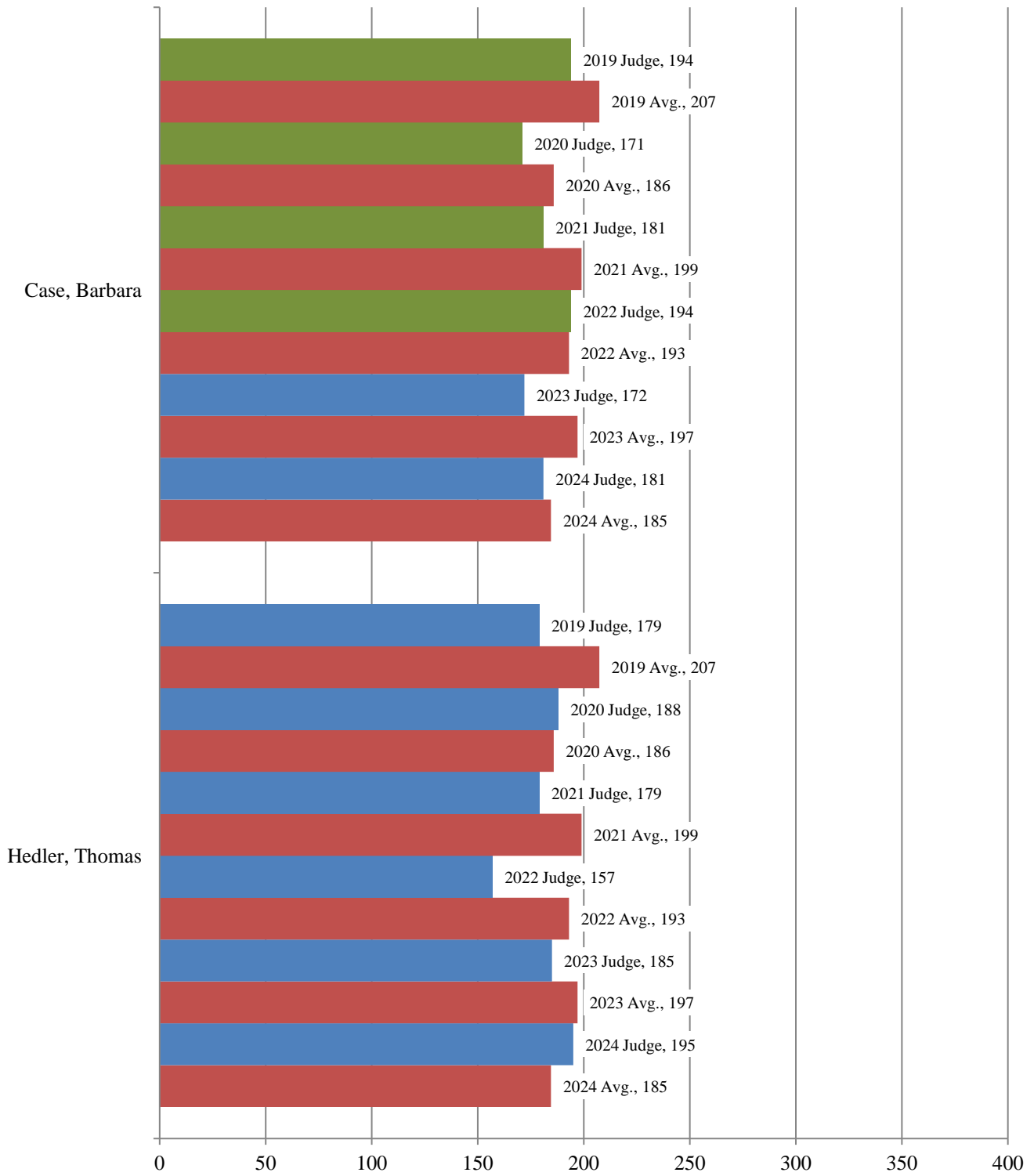
The following graph depicts the total volume of trial orders³⁴⁶ uploaded in this District and statewide averages between 2018-19 and 2023-24. The identification and values for each year are in each bar label (green bars denote statistics before the named judge's appointment).



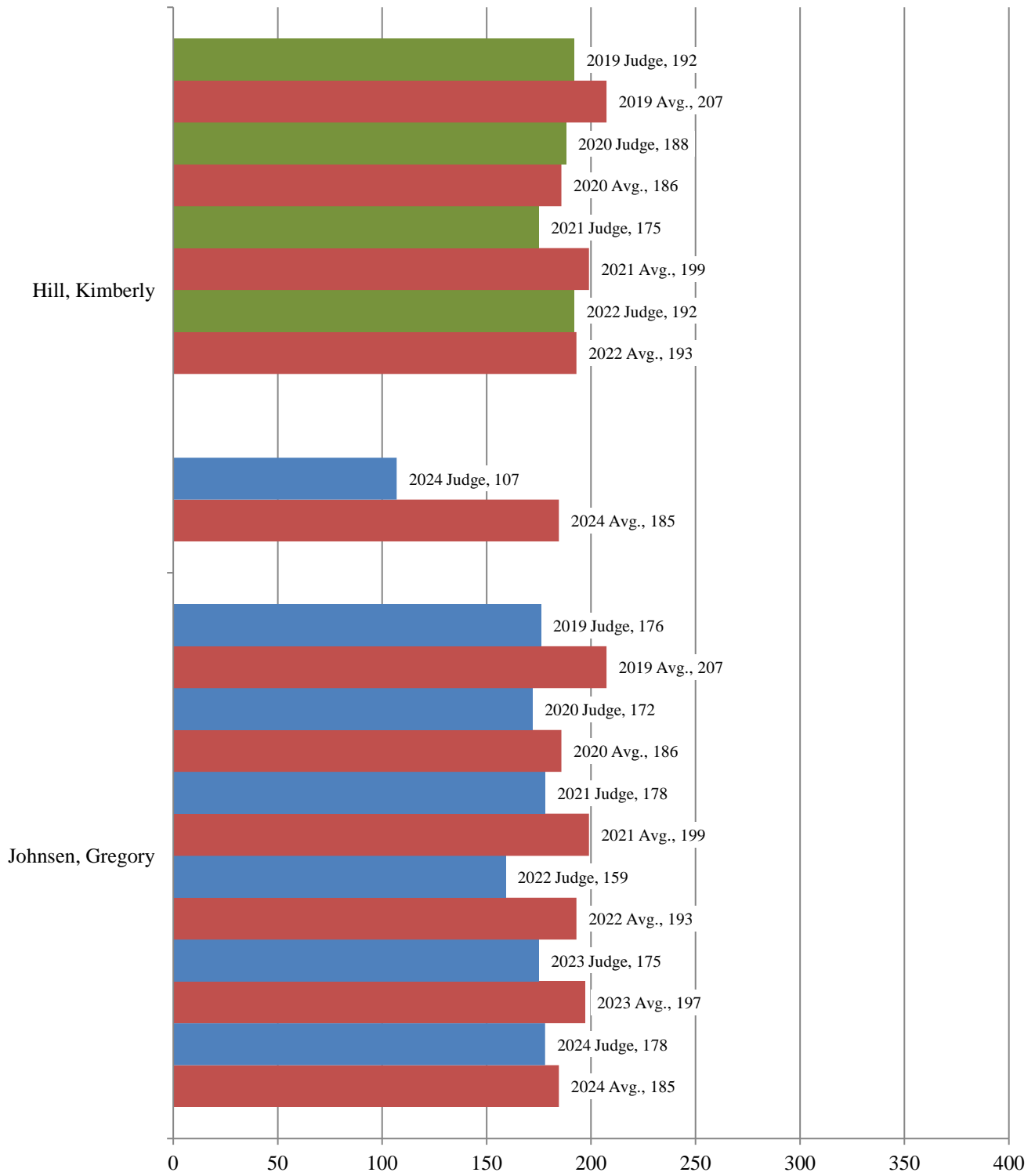
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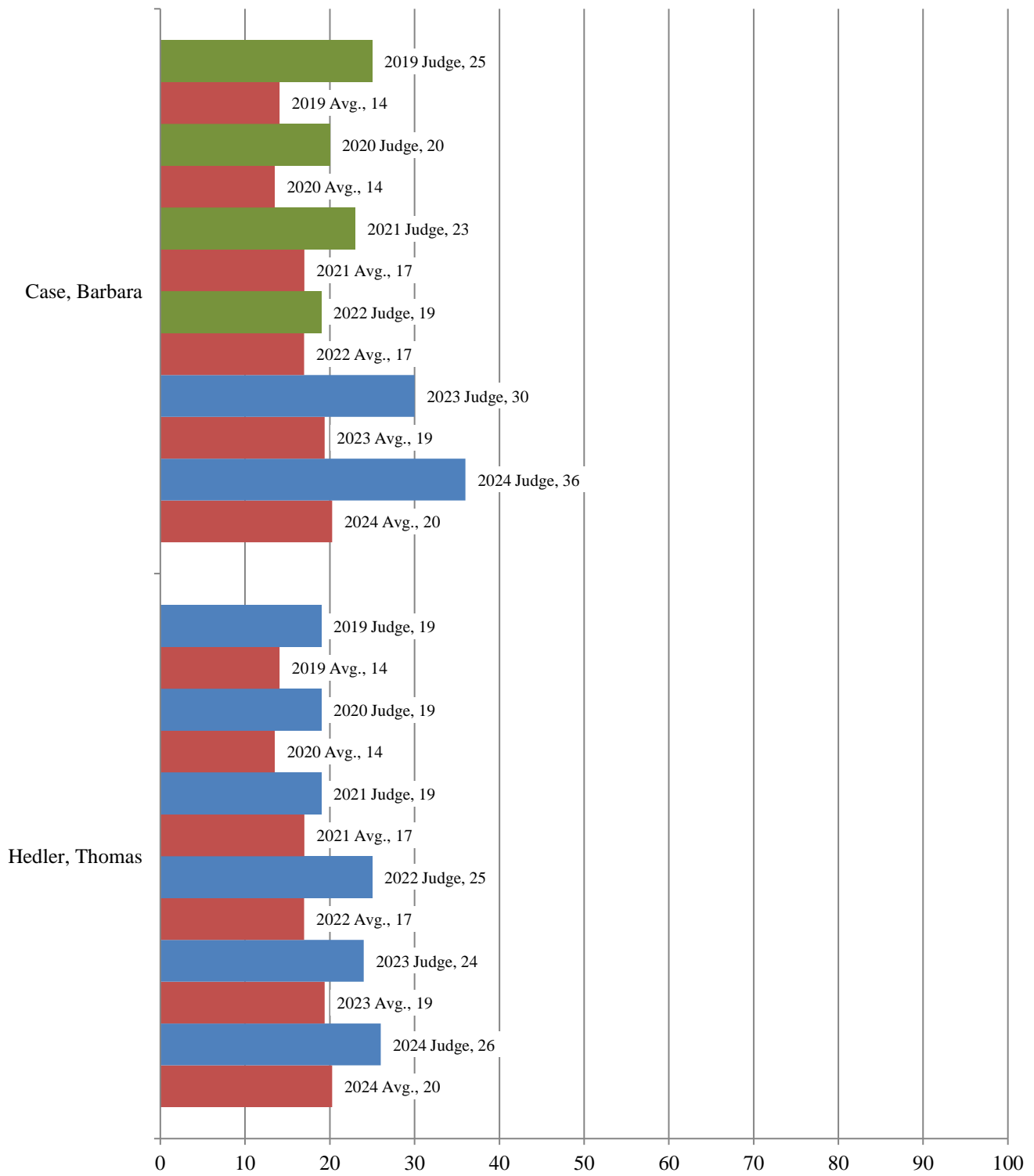
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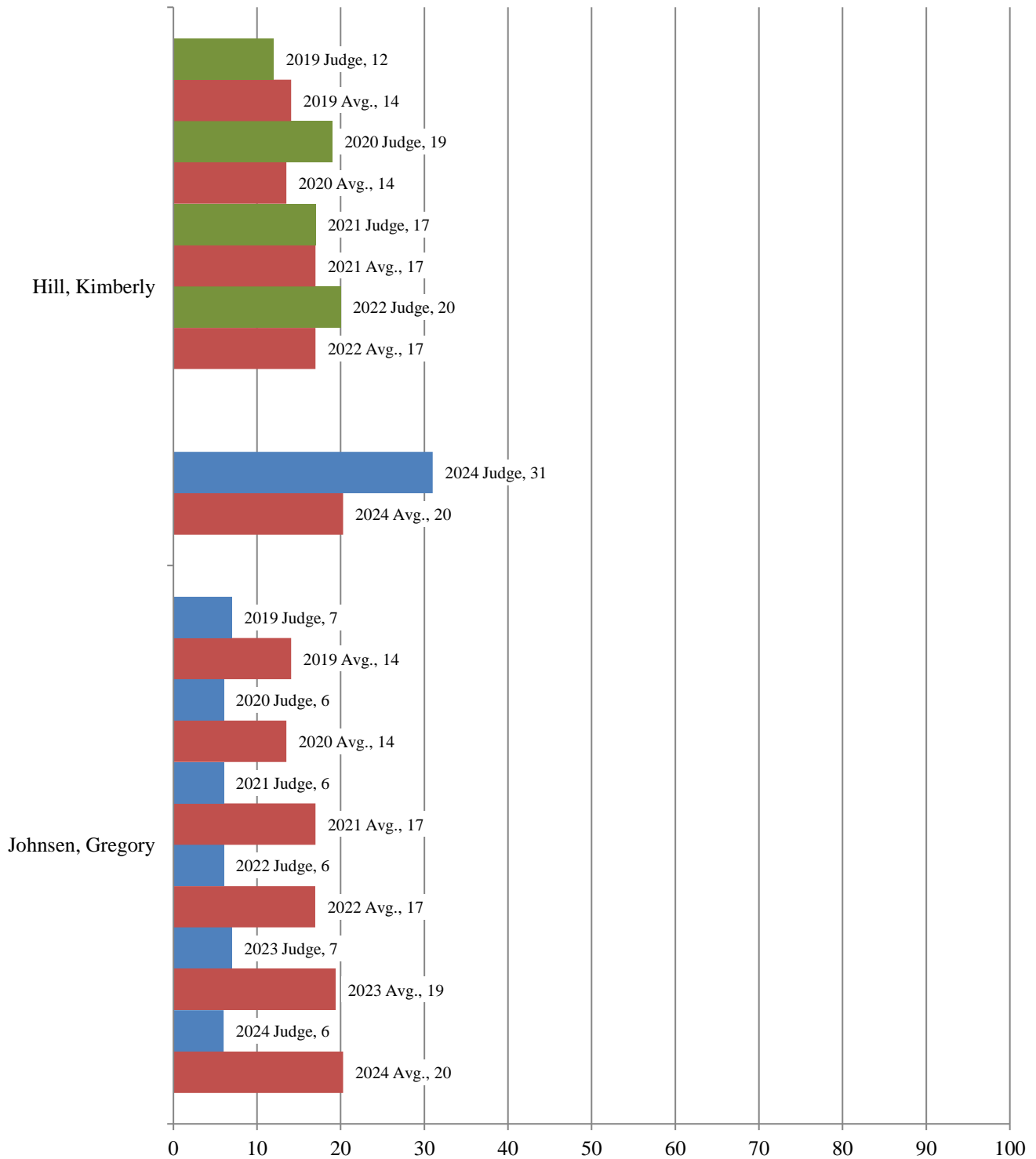
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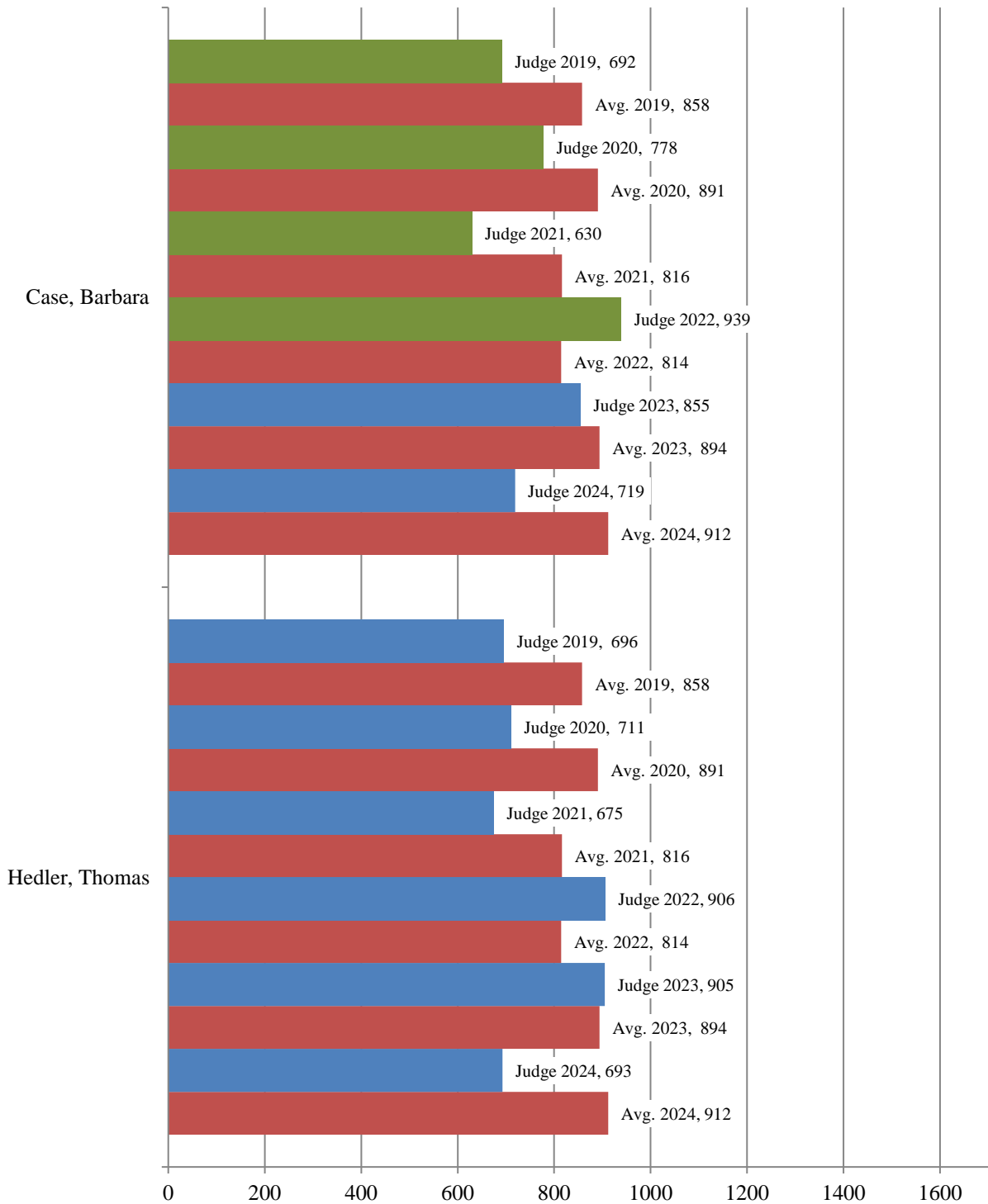
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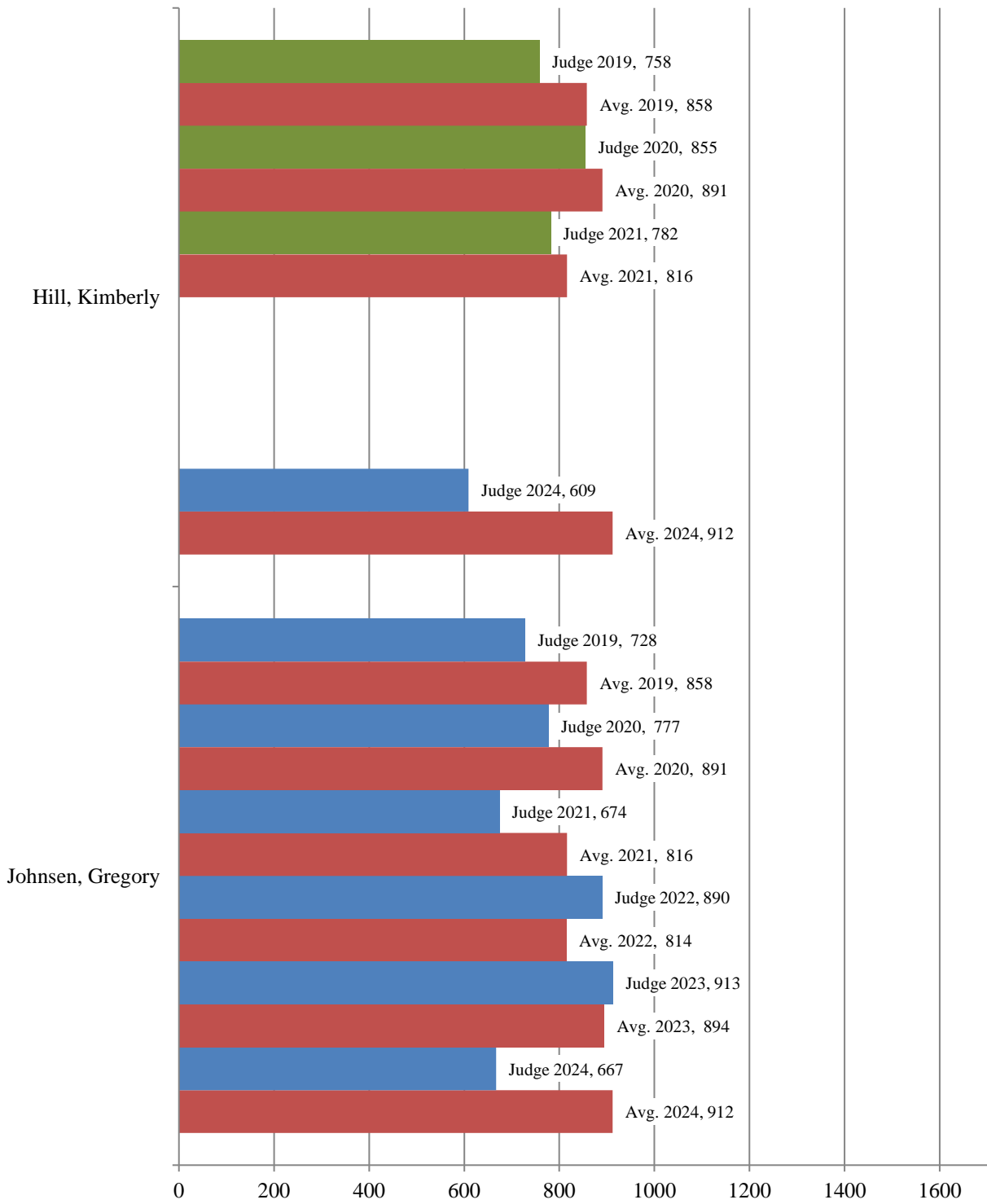
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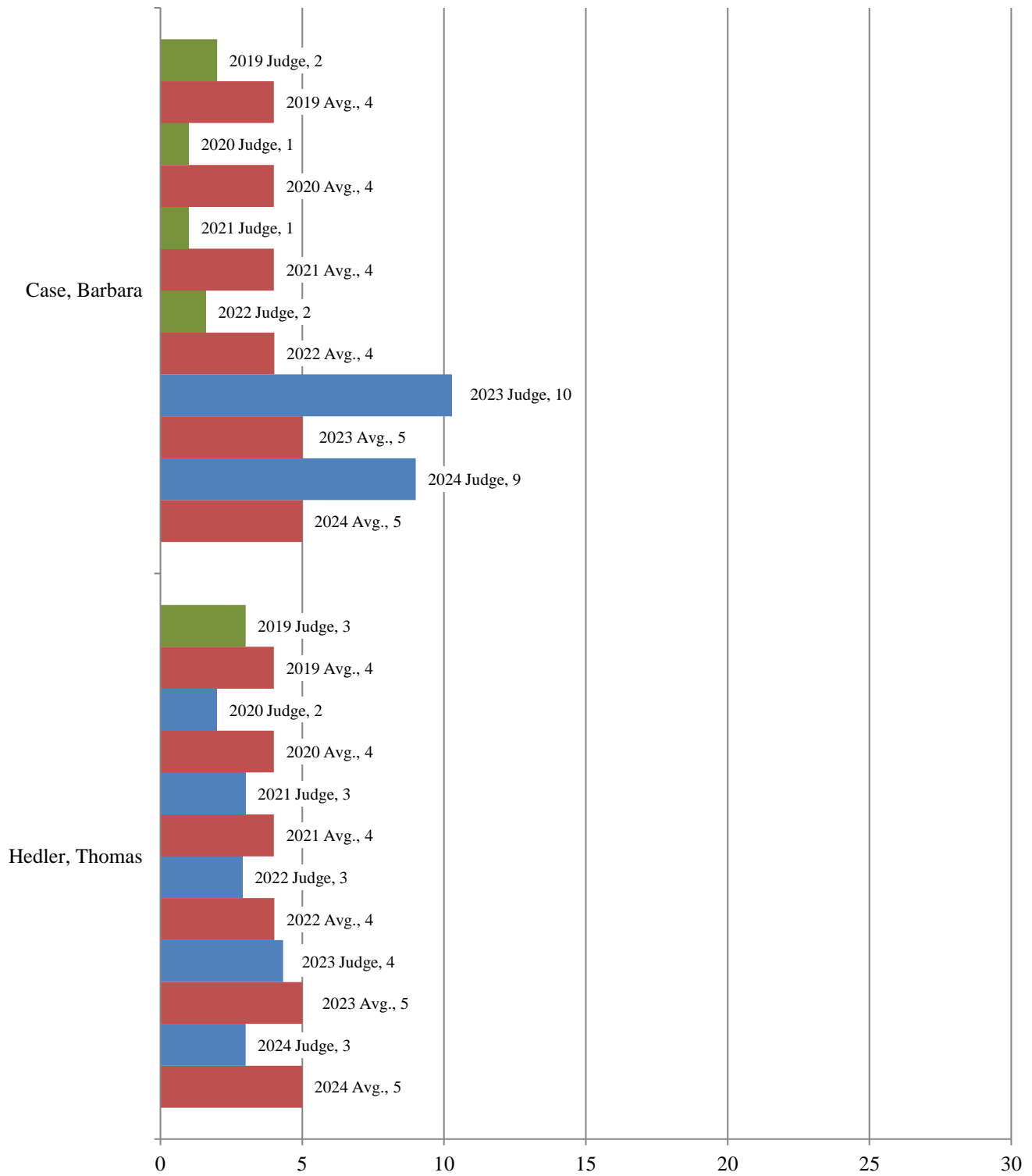
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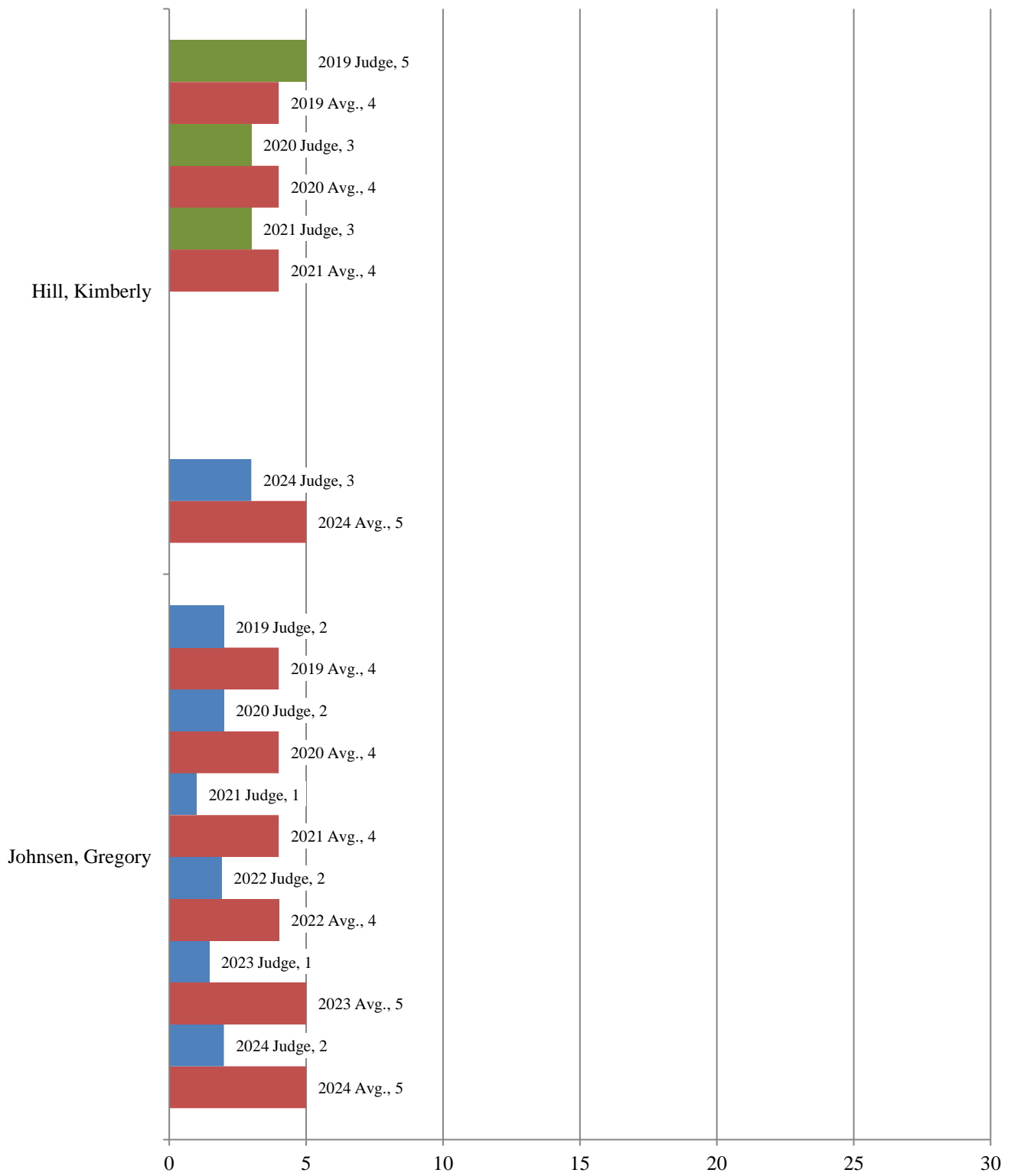
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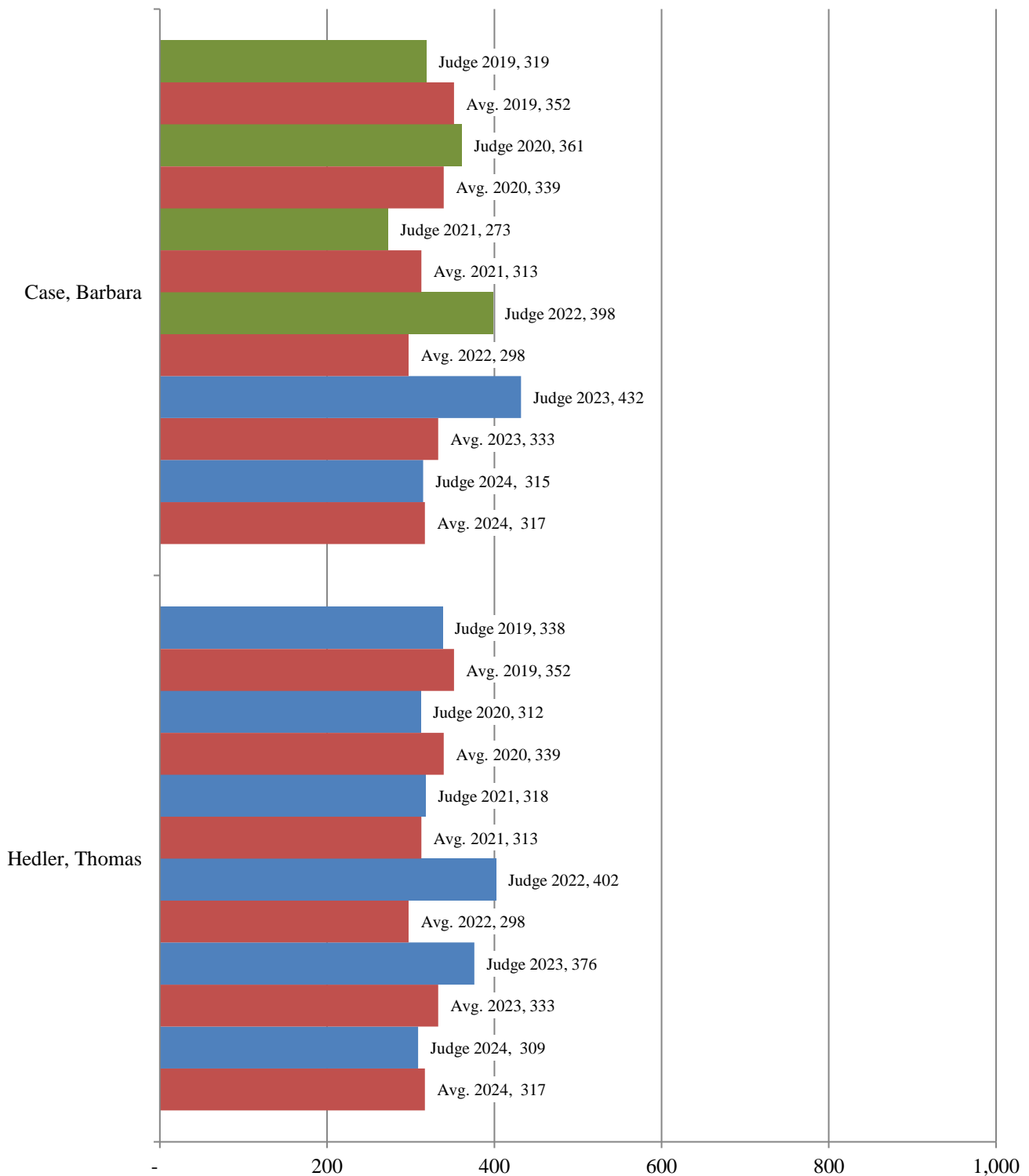
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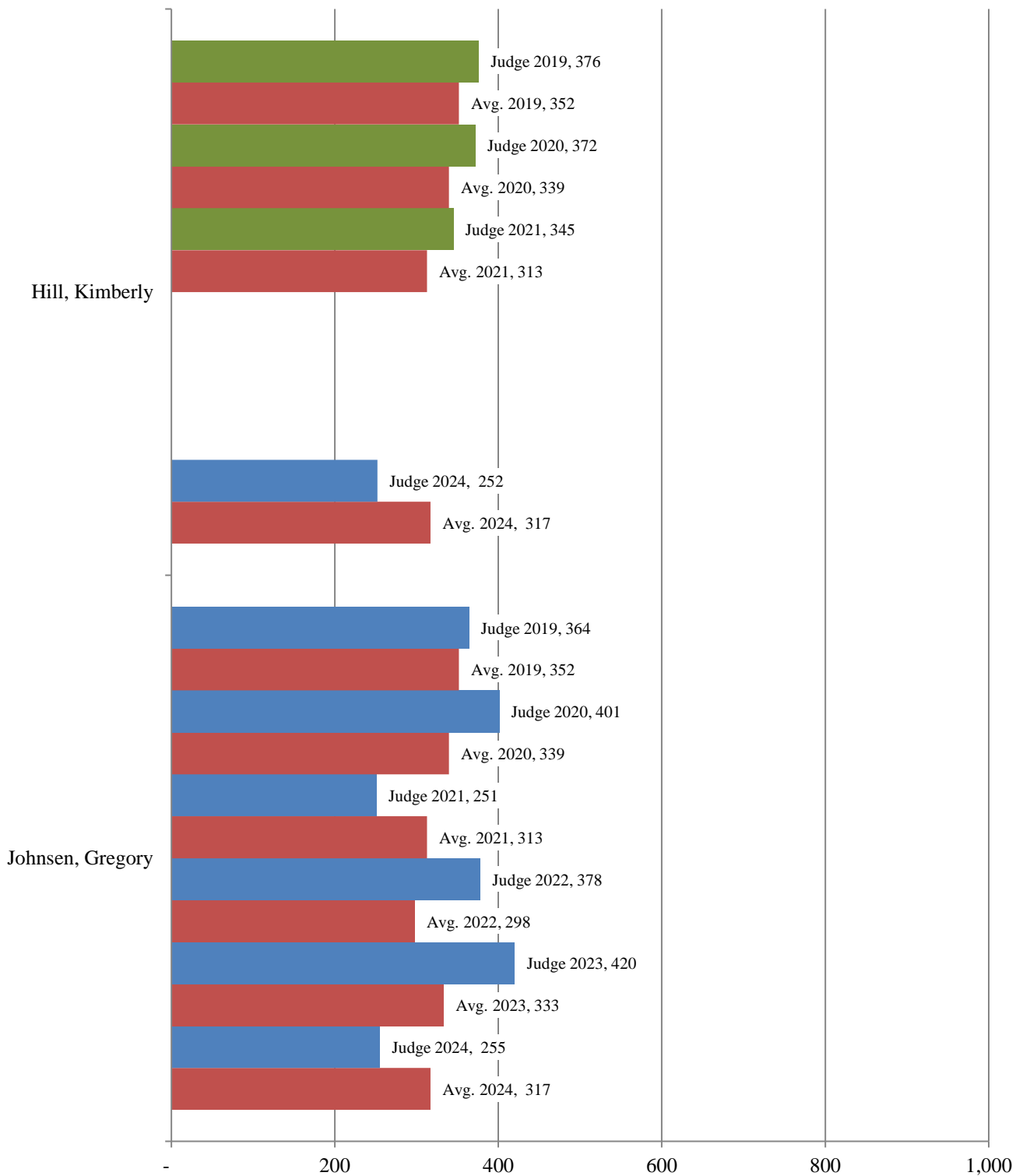
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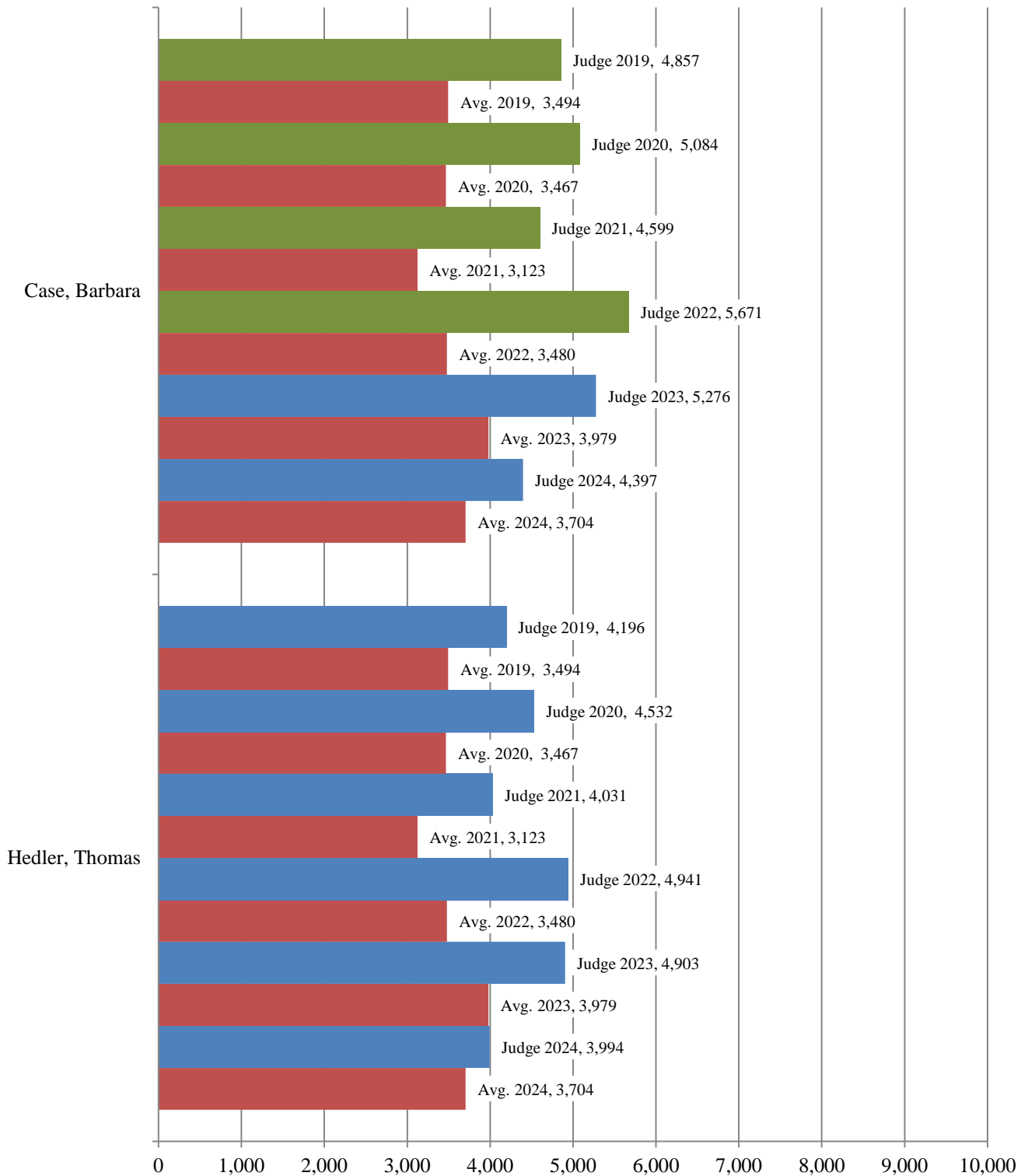
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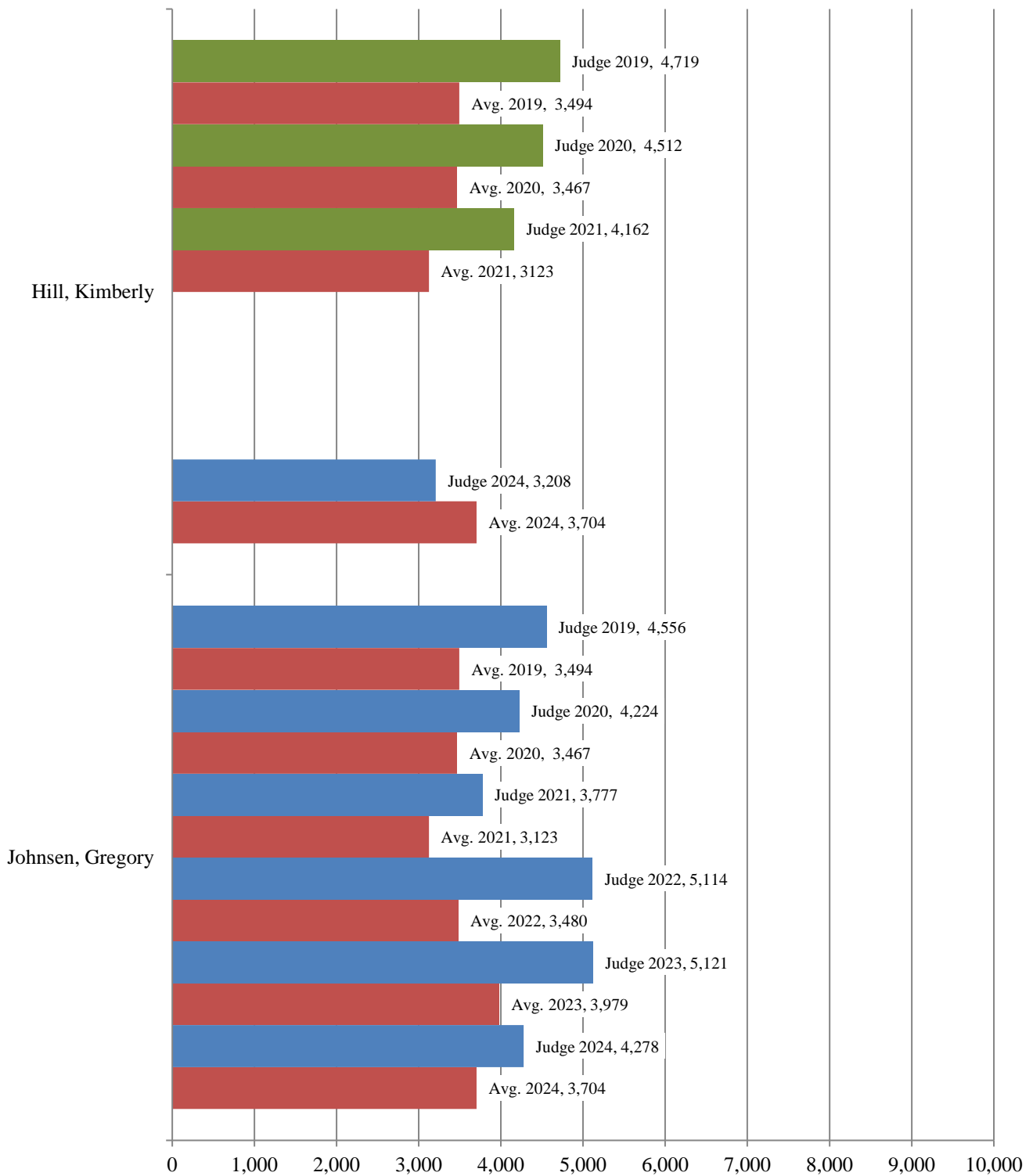
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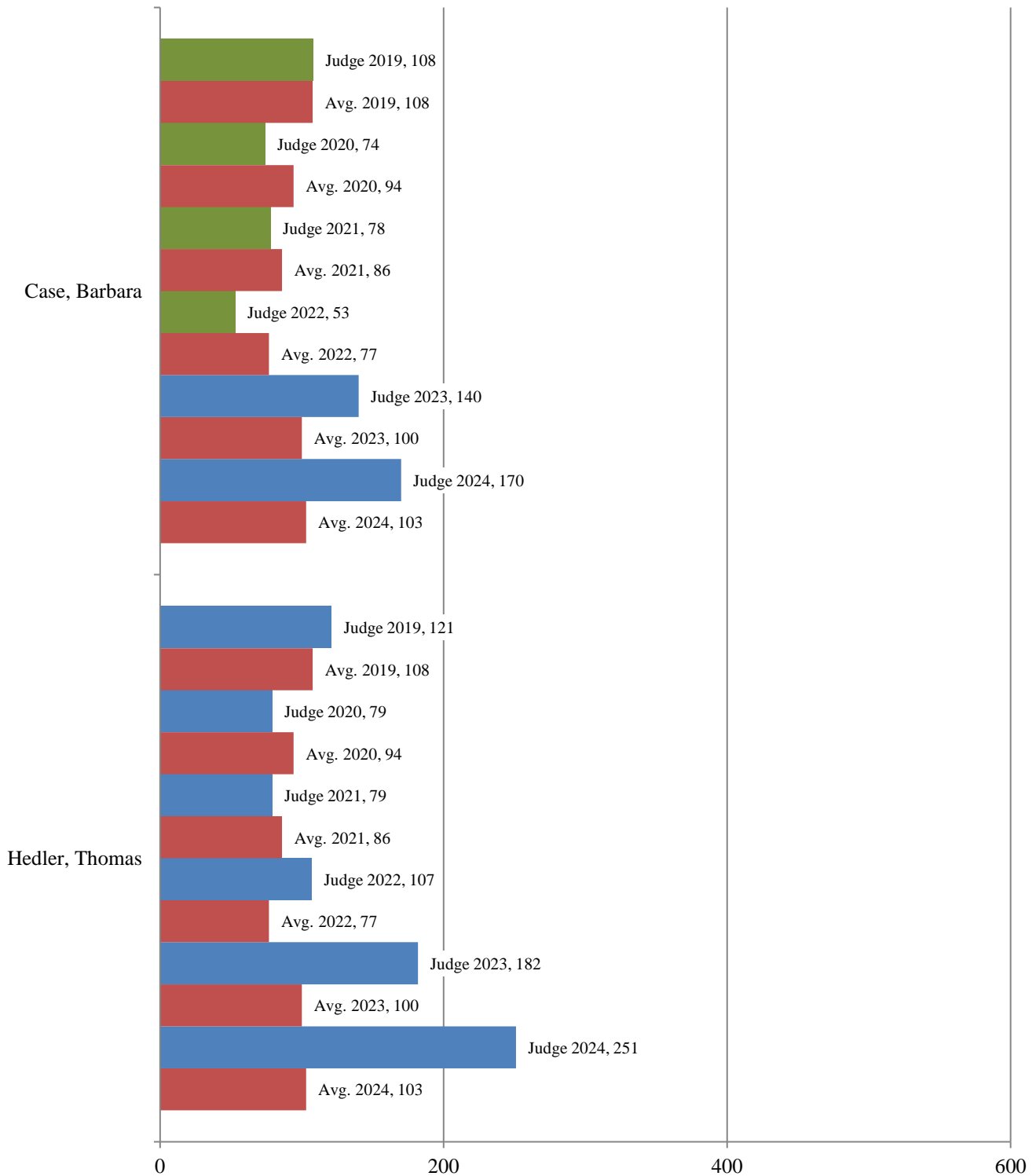
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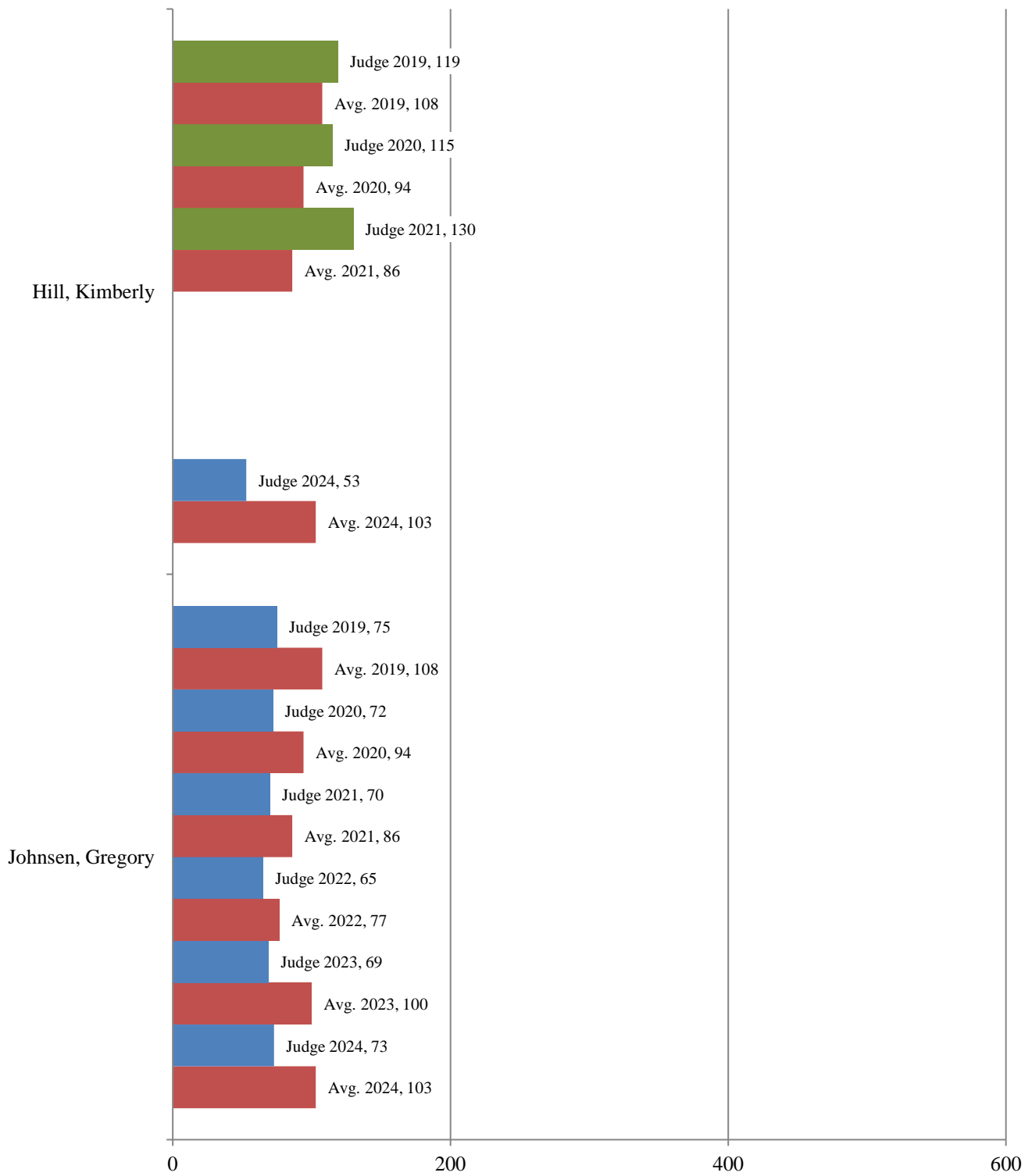
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(Continued) The following depicts the volume of “other” (meaning not trials) hearings recorded as “held” by each Judge and the statewide average between 2018-19 and 2023-24. Each bar label identifies the year and provides the numerical count (green bars denote statistics before the named judge’s appointment).



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Appendix “11” Florida OJCC Mediator Achievements and Timeliness Charts

Jeffrey Breslow submitted a request to the Mediator Ethics Advisory Committee (MEAC) for issuance of an opinion. This resulted in one of only four such opinions published in 2023. The opinion provides guidance regarding what a certified mediator may, or may not report, and options concerning how to proceed when an incapacitated participant is involved in a mediation. Mr. Breslow is set to moderate a panel, entitled "Reporting Self-Determination Constraints Considering MEAC Opinion 2023-004: Competency/Sobriety/Death/Authority/Control" in August 2024 at the PMI Conference, to share insight about this important MEAC opinion.

Andrew Goshen is the incoming President of the E. Robert Williams American Inn of Court for 2024-2025, Florida's first workers' compensation Inn of Court which continues to annually receive the Platinum Award for Achieving Excellence. In March 2024, he served as Co-chairman of a conference of over 300 Lawyers and Judges attended by DOAH Interim Director and Chief Judge Darren Schwartz, a law school dean, a university president and a First DCA Judge among other luminaries, which explored the fascinating topic of Artificial Intelligence and the Law.

Michael Imber is on the Board of Directors of the Professional Mediation Institute (PMI). He is involved in the planning of the program to be presented at the Annual Workers' Compensation Educational Conference. In the past, Mr. Imber has served as both a Moderator and Panelist. This year he will be participating in two panel discussions: Reporting Self-Determination Constraints and Bullet Proofing the Agreement.

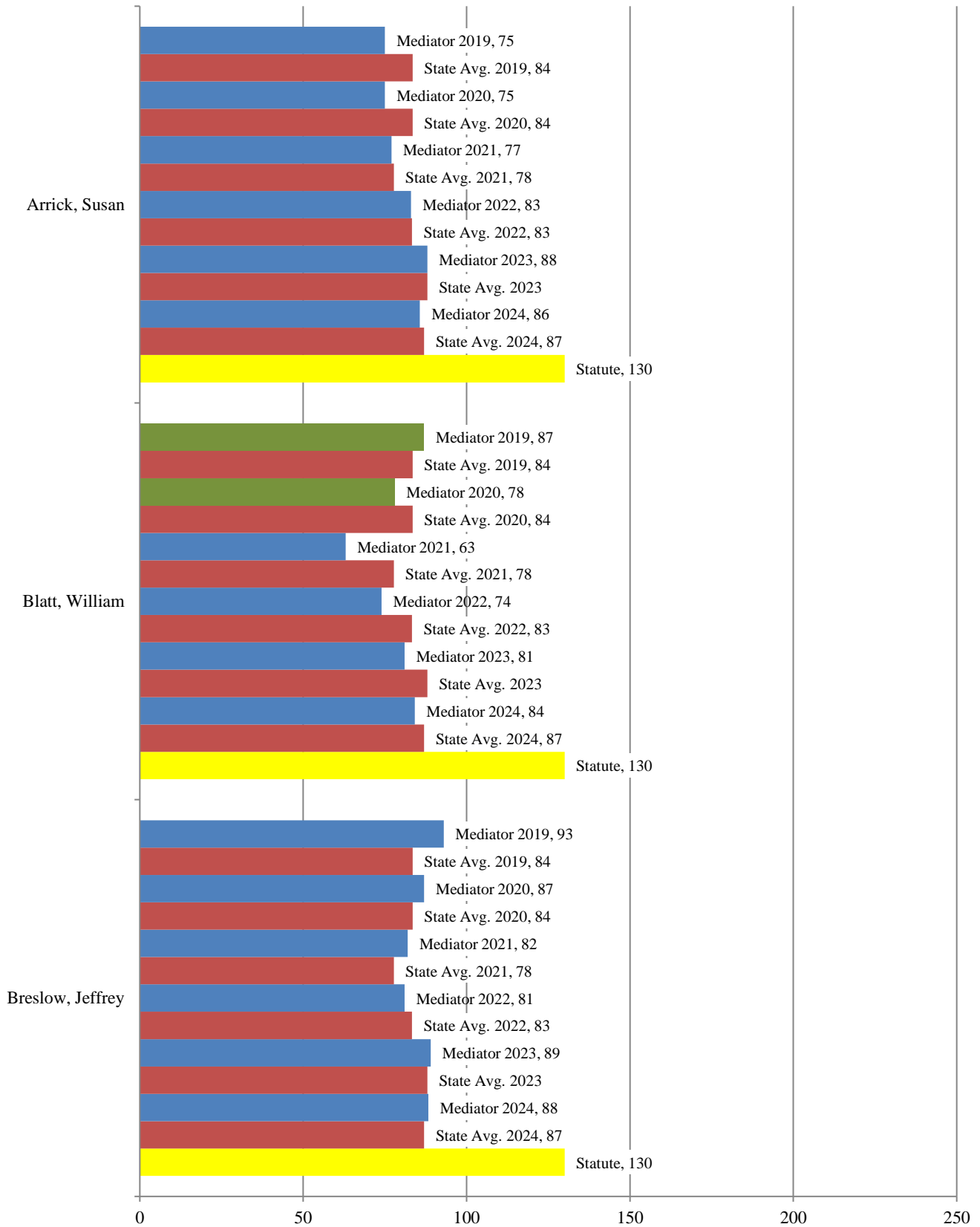
In August 2023, Mediator AnnaMarie Kim, at the Seventh Annual Judicial Luncheon at WCI was presented with the Honorable Robert Dietz Servant Award. She is the first recipient. Mediator AnnaMarie Kim is a member of The Judge William Wieland American Inn of Court, committee member of the WCI Give Kids The World Spirit To Serve committee, committee member of the OJCC Certified Scholarship Program and is Statewide board Secretary of the Friends of 440 Scholarship Fund.

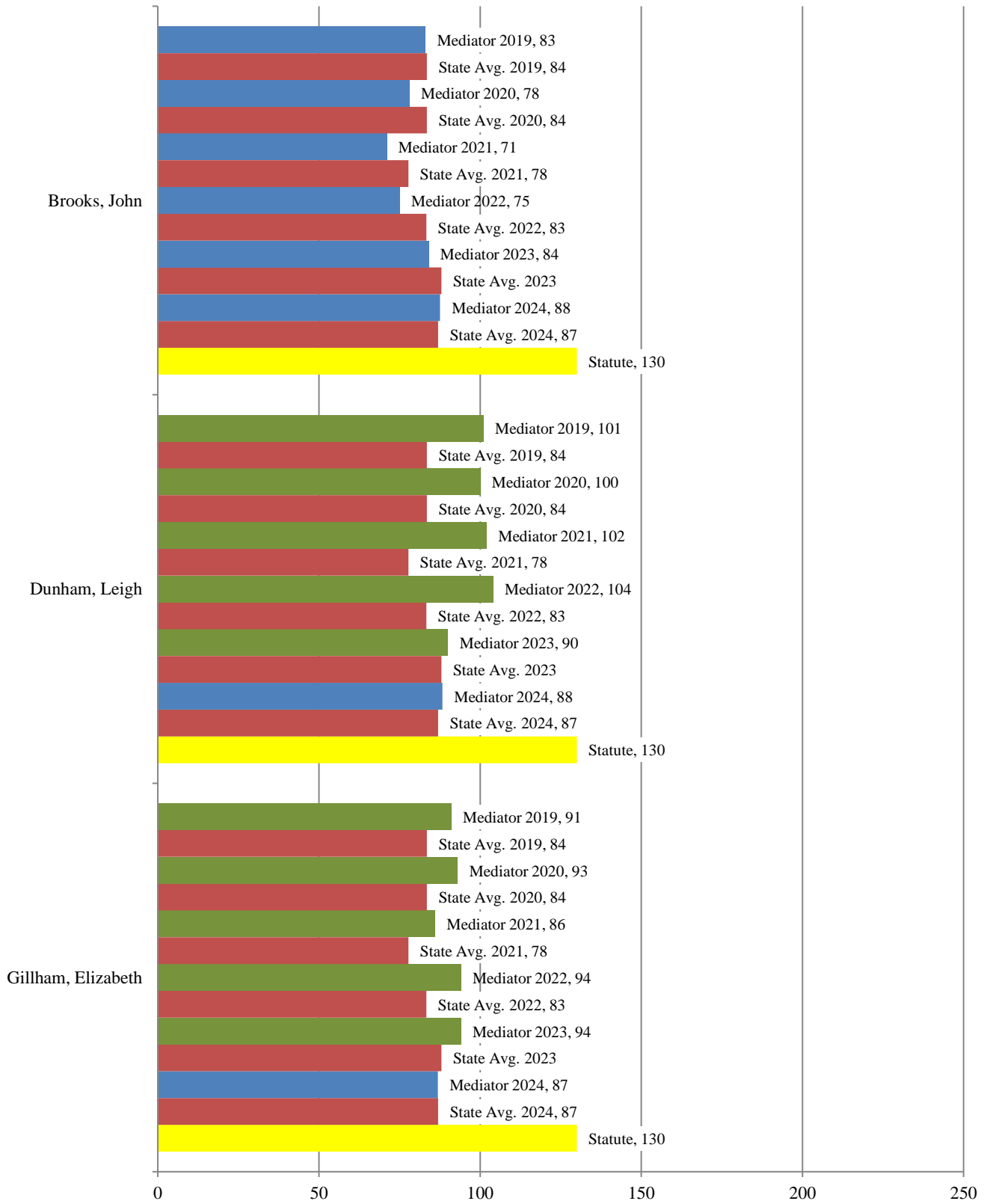
Oneill C. Martinez is a member of The Judge William Wieland American Inns of Court, and a member of a panel/group within the Inns of Court that consults/advises young attorneys practicing in the area of workers' compensation.

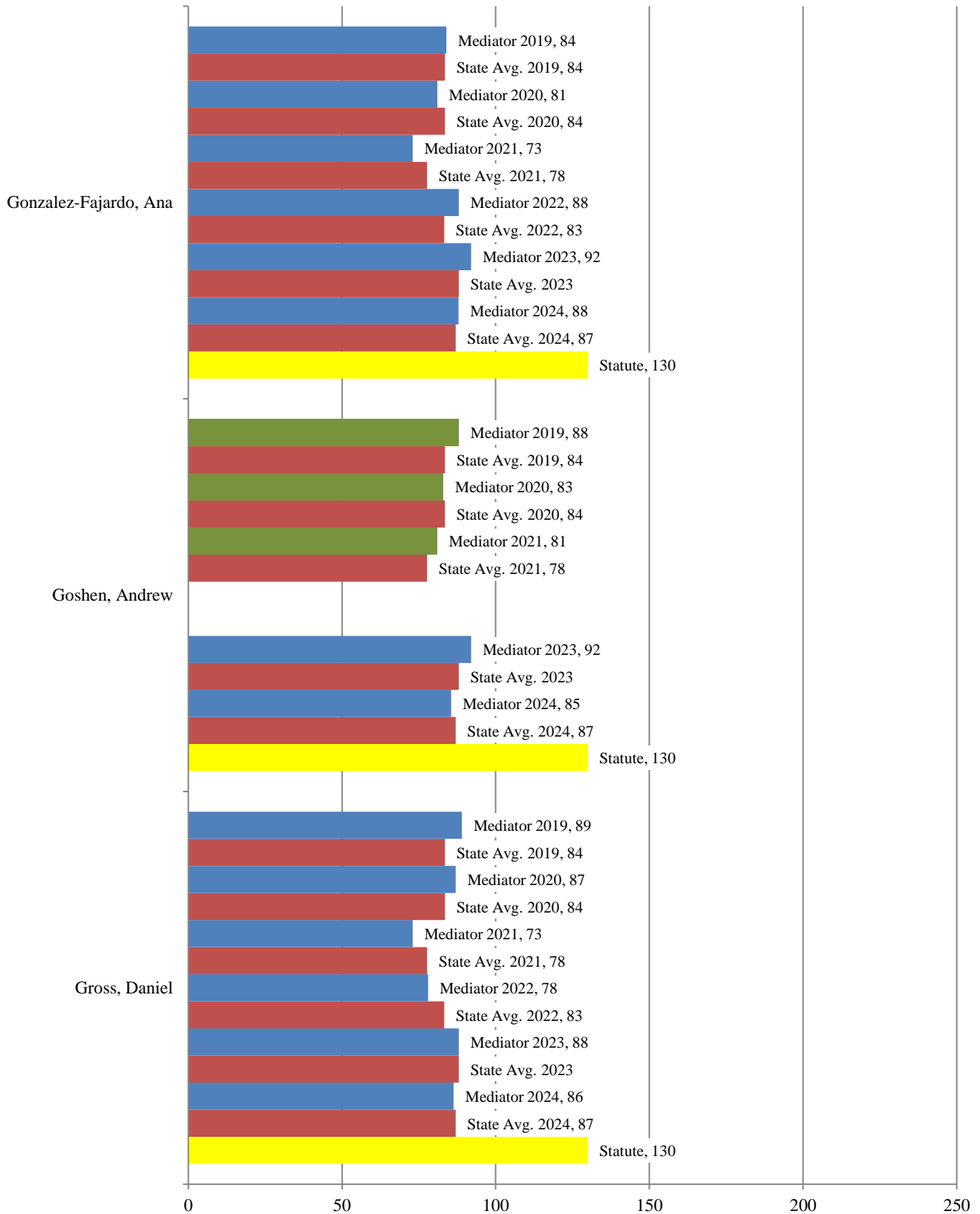
Adam Ross is on the Board of Directors of PMI and was a moderator and panelist at the WCI 2023 Conference.

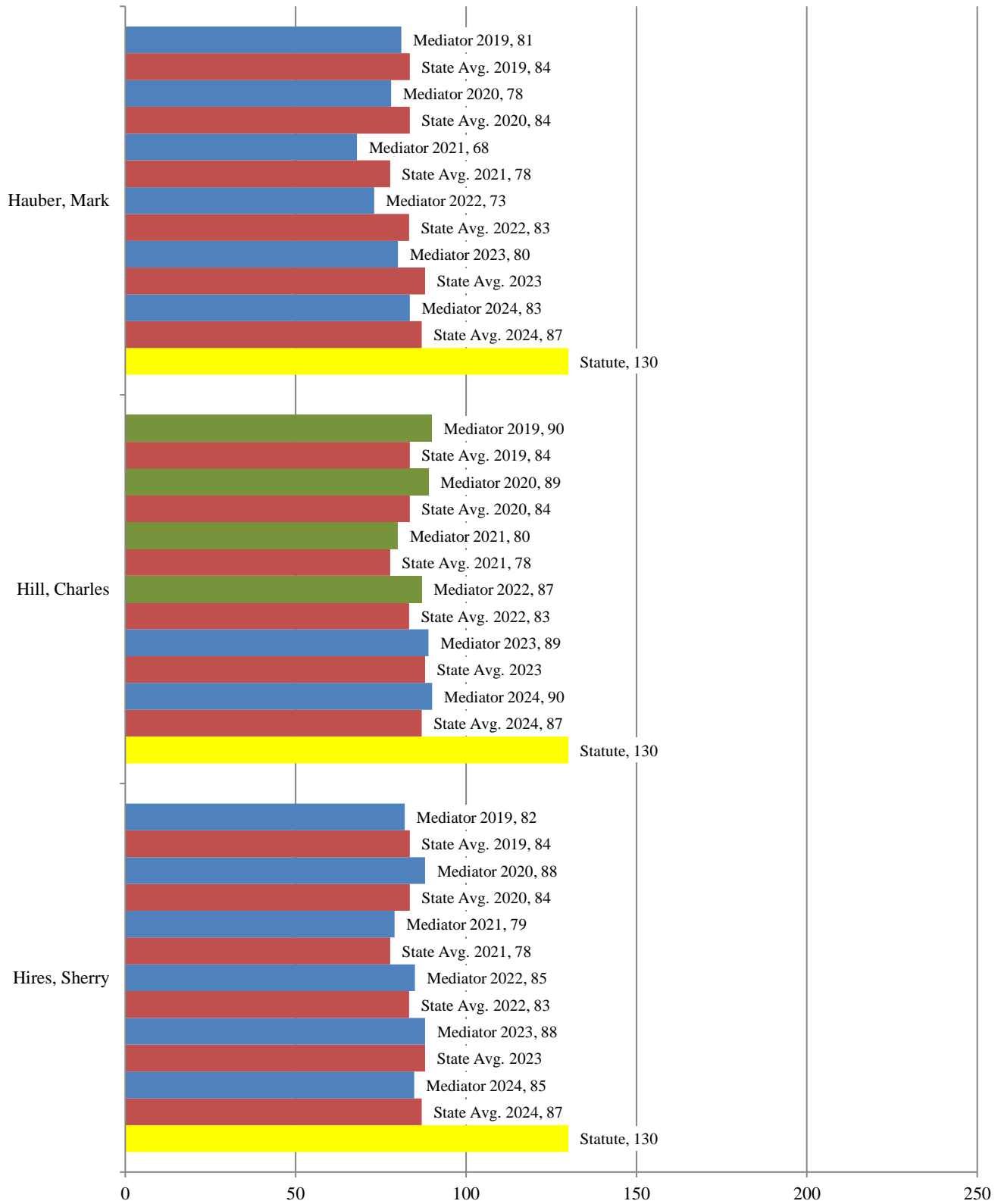
In August 2023, Mediator Lynn Slowikowski served as a panelist with other mediators at the Professional Mediation Conference. They presented the session, *Virtual Mediations in a Post-COVID World*.

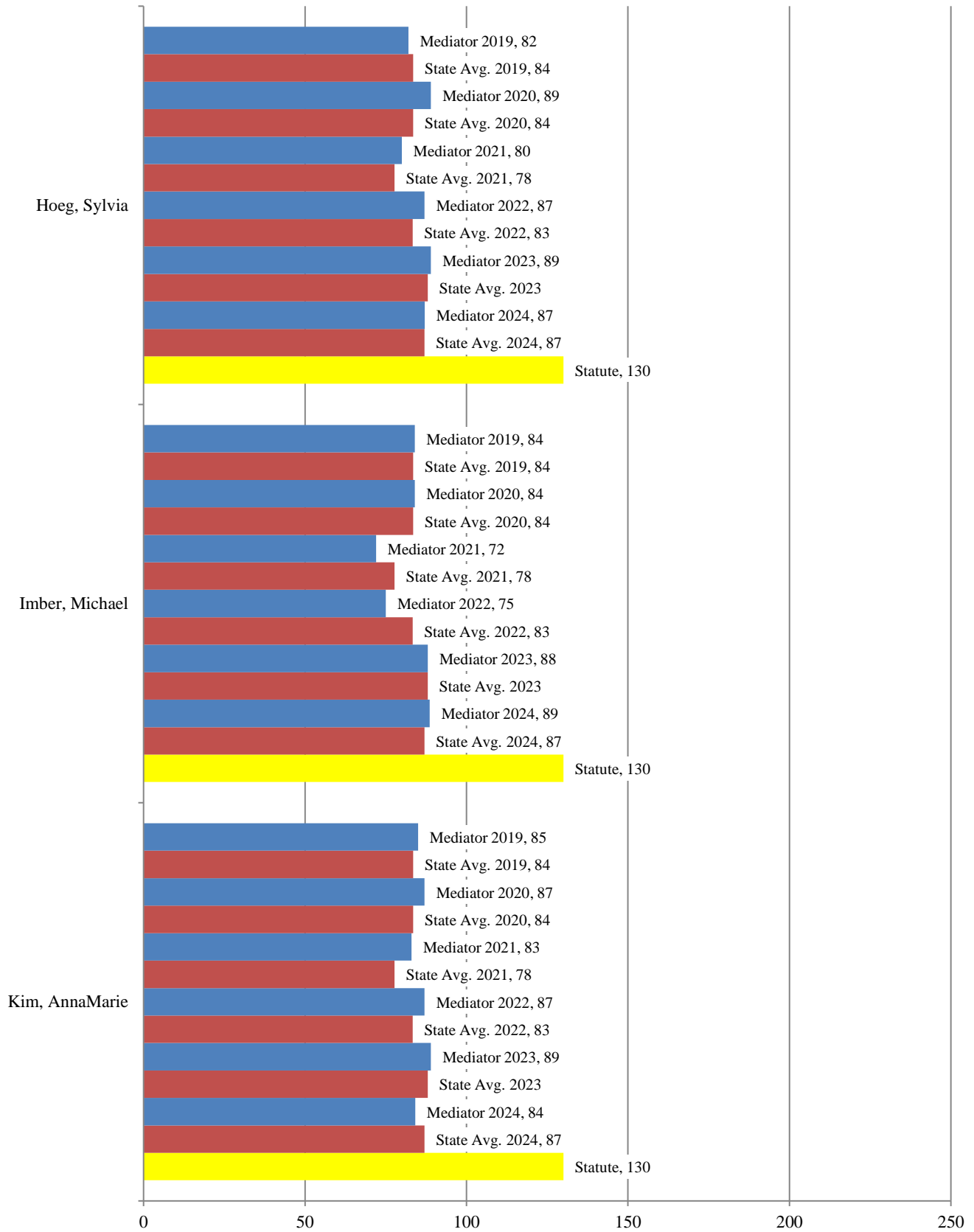
The charts that follow were formerly included for each mediator in the district appendices above. However, in 2022-23, the mediators were shifted to a centralized assignment process that is not related to districts. Each mediator now mediates cases assigned randomly throughout the state (green bars denote statistics before the named judge's appointment).

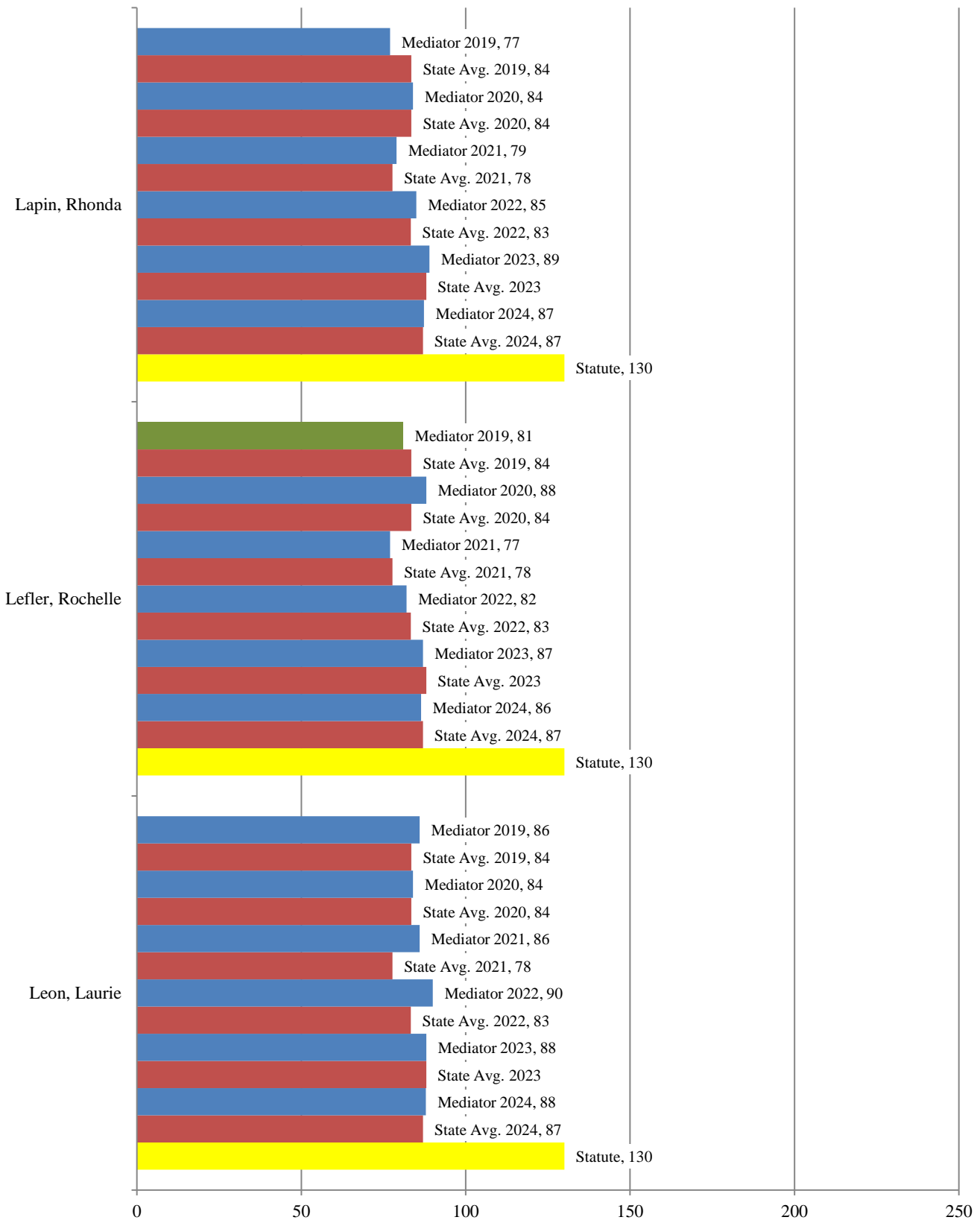


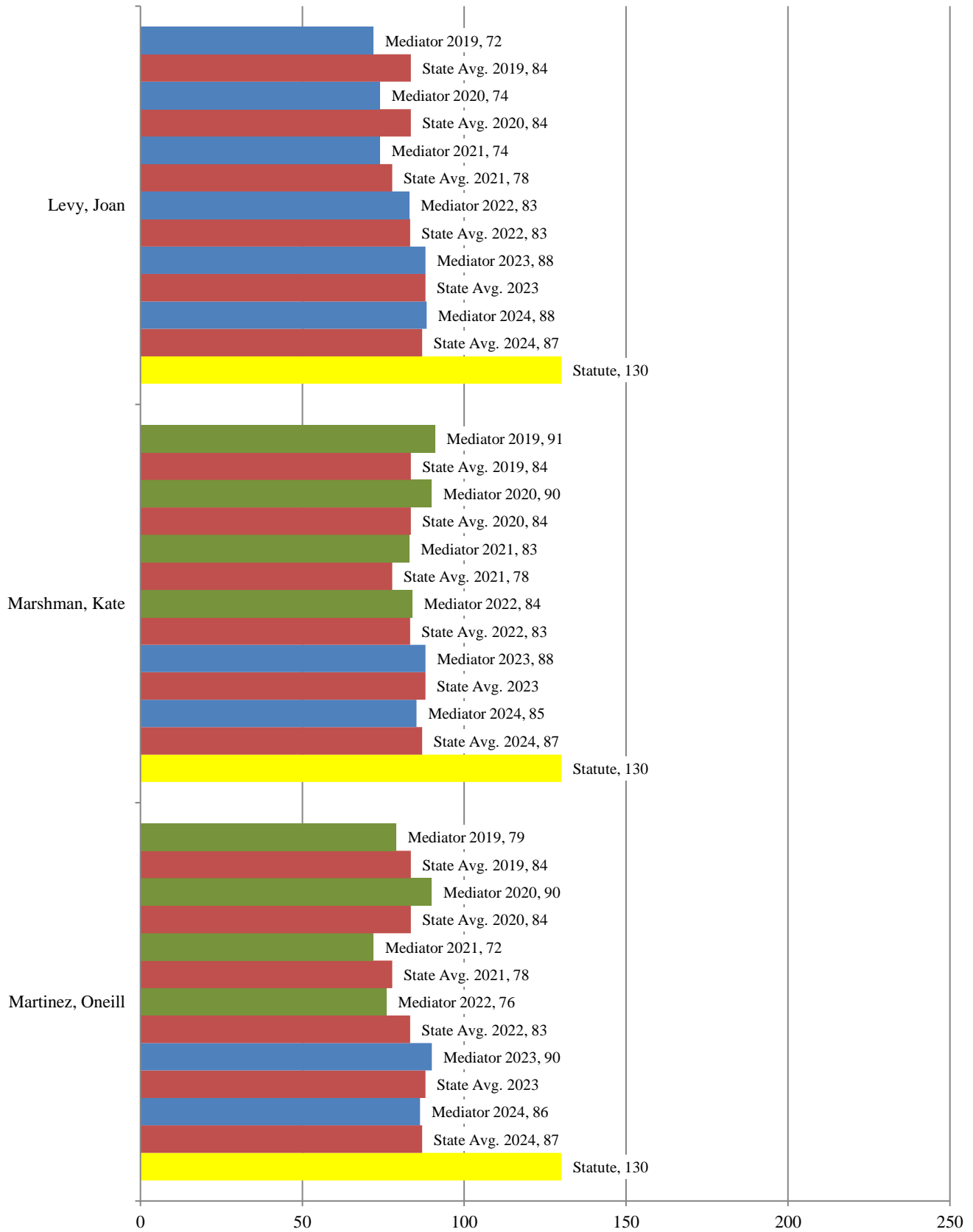


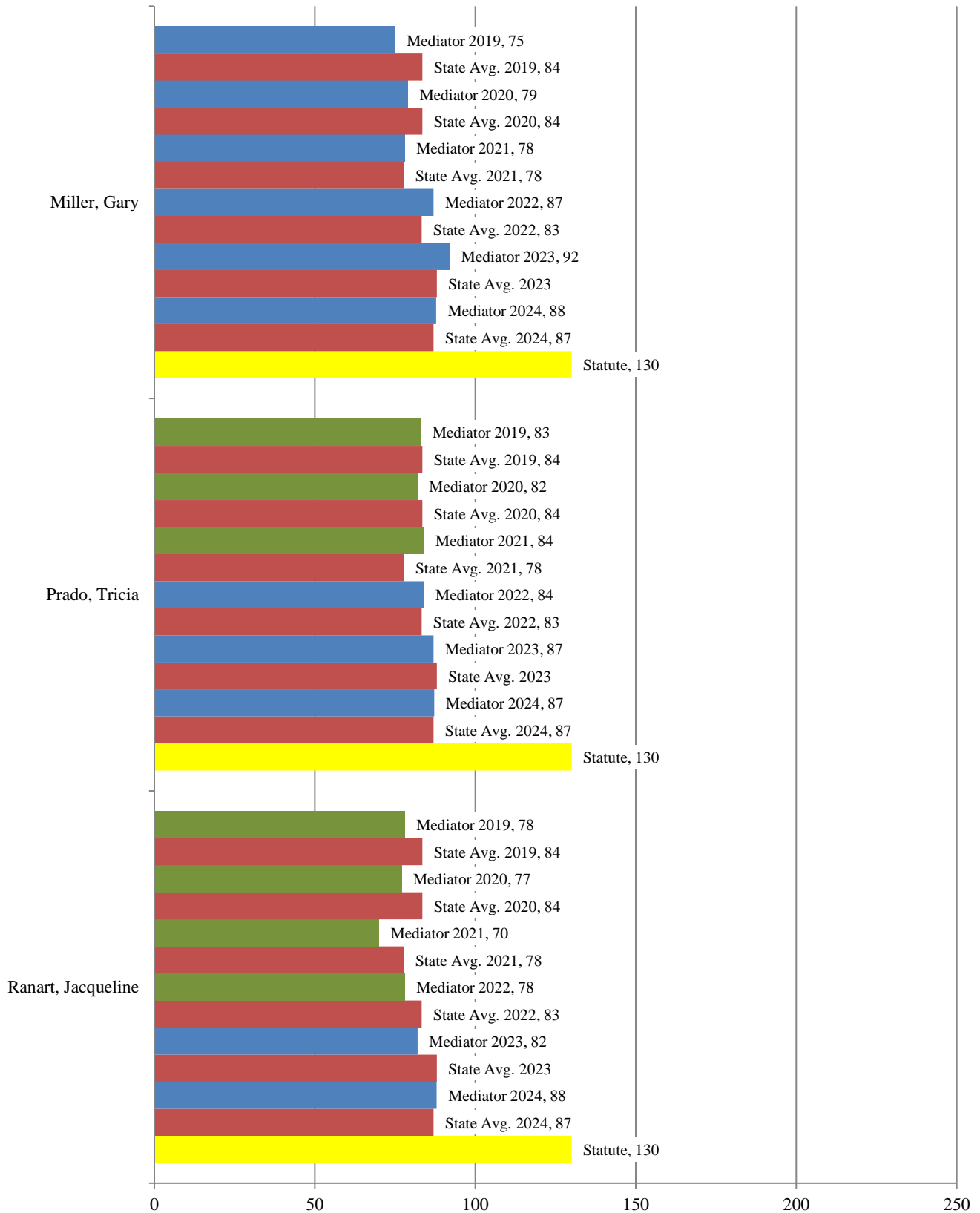


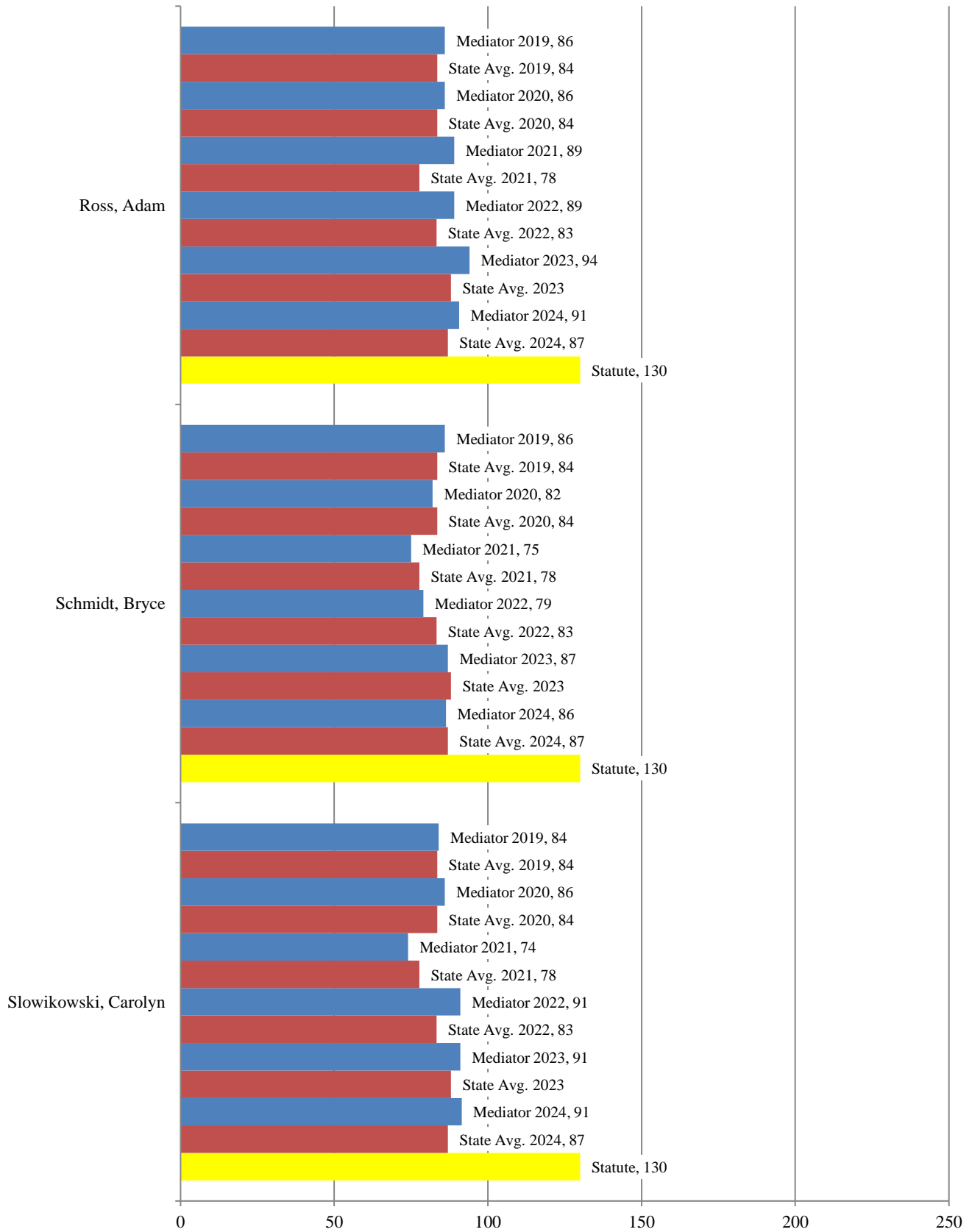


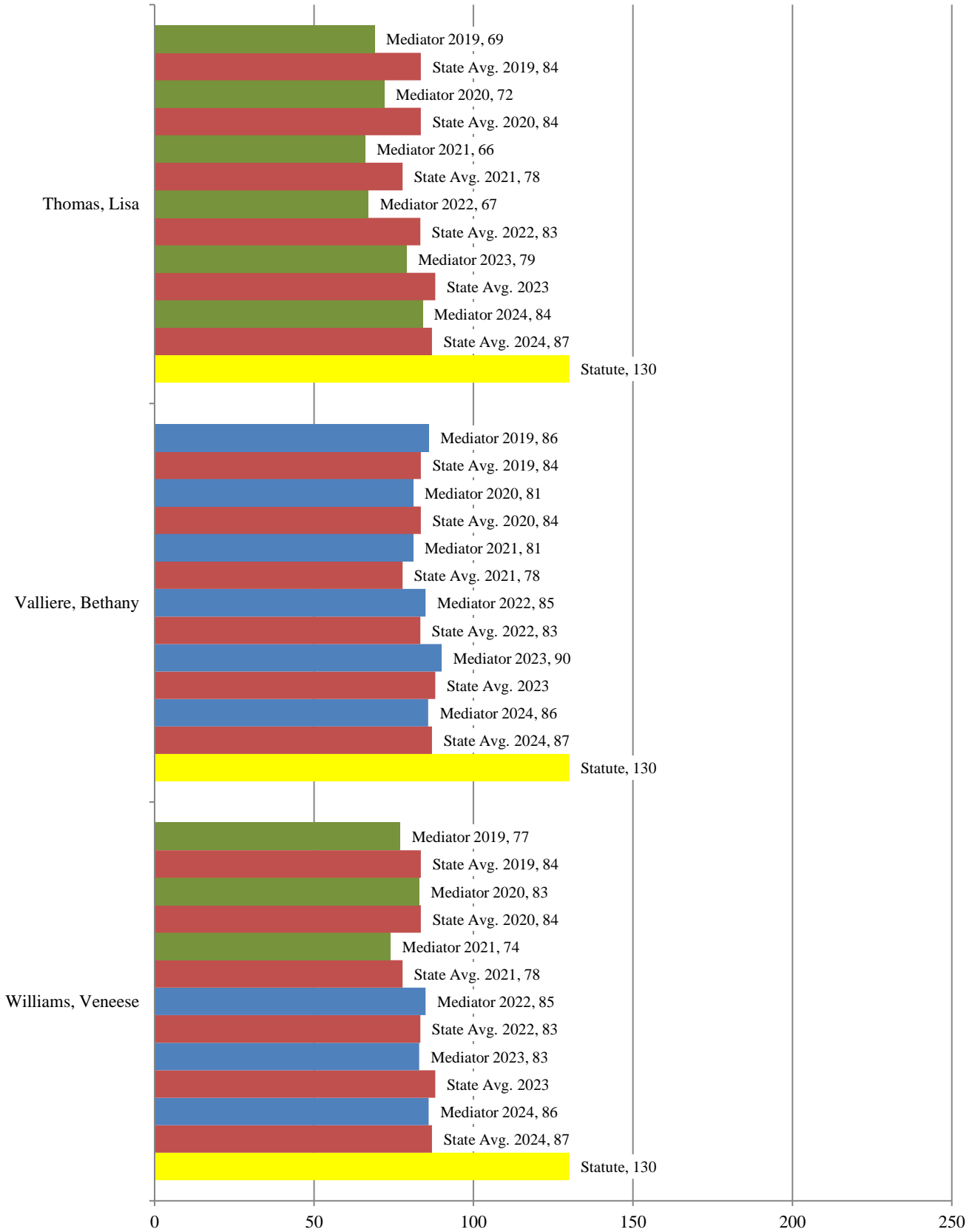












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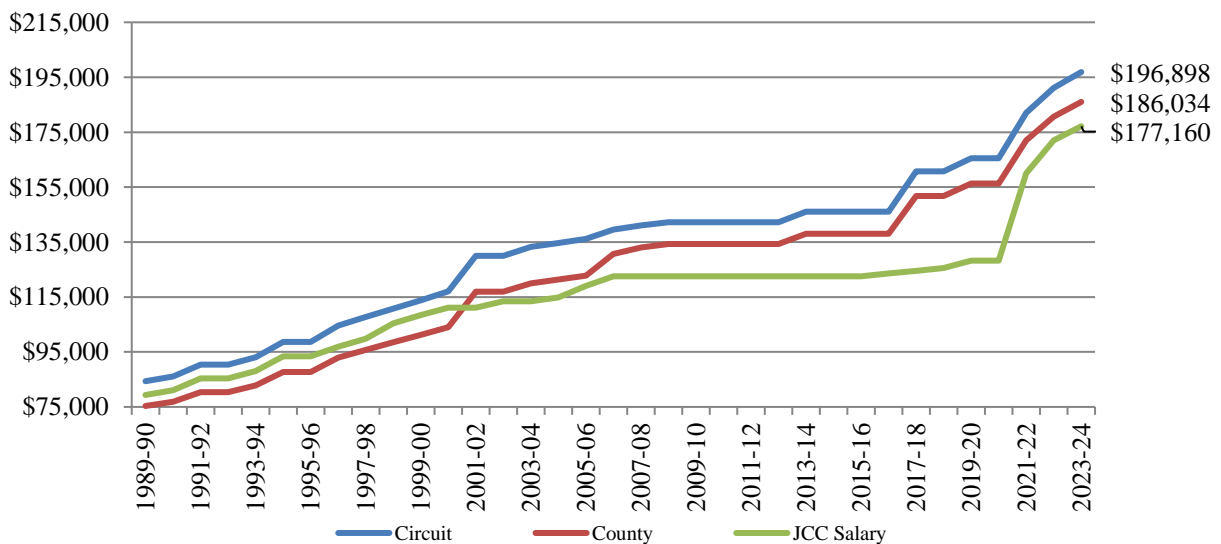
Appendix “12” Judge of Compensation Claims Salary Analysis

There has been a wide disparity in compensation for Florida’s Judges of Compensation Claims. Compensation has not persistently kept pace with inflation. Recruiting and retaining the best and brightest has been challenging in the last decade. The Legislature, in 2022, provided significant remediation. That increase ameliorated the stark difference in OJCC judicial salary, but there remains room for improvement. Despite the significant salary increase, there remain challenges with attracting qualified candidates for judicial vacancies. This was demonstrated most recently in Miami, where only four applicants sought a newly-created judgeship there. Three were nominated, and one later withdrew. The future of that appointment and position remain unknown.

The State of Florida has grown dramatically in the last 30 years. In 1989, the population was 12.64 million,³⁴⁸ the Florida OJCC consisted of 31 judges, and operated 17 offices throughout the state; each judge was responsible for around 407,742 Floridians.³⁴⁹ In 1993, the population had increased to 13.93 million, mediation was gaining acceptance, and the legislature added 31 state mediators and 31 staff to the OJCC team. In 2001, the JCCs became responsible for monitoring and collecting child support,³⁵⁰ though no staff or other resources were provided for this added workload. The OJCC collects an average of about \$11 million in child support annually (about 65% of the overall OJCC budget over the last 22 years).³⁵¹ This amounts to \$244.1 million since 2001-02.

In 2013, the OJCC budget was decreased by eliminating three state mediator positions (and a judicial position that had been added in 2006). Over time, those mediator positions were restored by the OJCC. In 2023-24, the state population was just over 23 million,³⁵² and the OJCC was staffed by 30 judges and 29 state mediators in 14 offices.³⁵³ Each JCC is now responsible for around 766,667 Floridians.³⁵⁴ Despite increased responsibility, the OJCC today is staffed with far fewer personnel than in 2001. The nature of responsibility remains regarding oversight of litigation, agreements, and settlements of prospective benefits.

Judges of Compensation Claims³⁵⁵ were originally part-time positions. In 1989, long after the positions were changed to full time (1961), the pay of JCCs was codified in section 440.45(4).³⁵⁶ That section requires all OJCC salaries to be paid from the Workers’ Compensation Administrative Trust Fund (WCATF). When workers’ compensation mediation became mandatory in 1993, the state mediator salary was similarly set statutorily in section 440.25(3)(b).³⁵⁷ These provisions set professional salary by reference to other payroll (JCCs tied to Circuit Court and mediators tied to the JCCs). These were called “tie-in” statutes, and both tie-ins were removed from chapter 440 in 1994. Although there is conjecture about the reason for removal, no official justification for removing the tie-ins has been found.

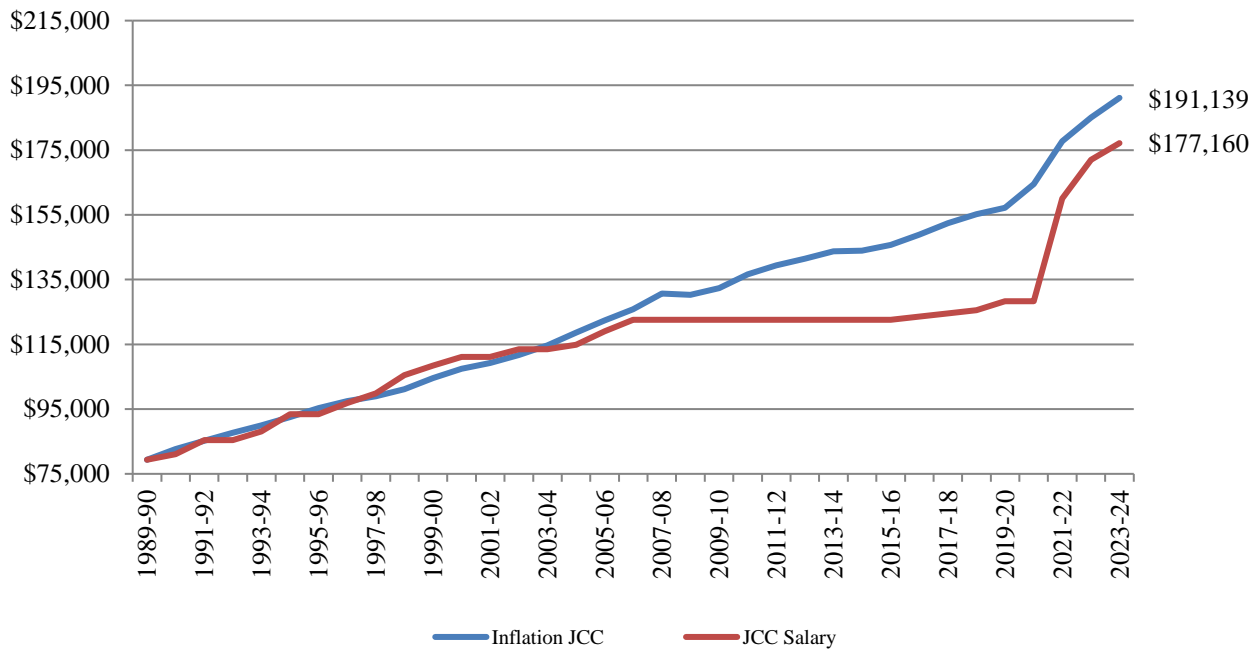


The WCATF is funded 100% by assessments on workers’ compensation premiums and contributions by self-insured employers. No general revenue is contributed to the WCATF. All of the expenses of the OJCC, including

all salaries, are paid from the assessments in the WCATF.³⁵⁸ Any salary increase in the OJCC would have no impact on general revenue expenditures,³⁵⁹ nor would any savings gleaned through the closure of District offices or reduction in staff.

According to the Florida Supreme Court, Florida’s Circuit Courts have “606 judges,” the County Courts “335 judges,”³⁶⁰ the District Courts of Appeal “71 judges,”³⁶¹ and the Supreme Court “seven justices.” Thus, there are around 1,019 judges, of which 941 are trial court judges in 20 circuits.³⁶² The Circuit Judges have an incorporated Conference to represent their interests.³⁶³ The County Judges likewise have a Conference.³⁶⁴ The Florida appeals court judges³⁶⁵ have a conference.³⁶⁶ The Florida Bar perceives the importance of sufficient compensation for these judges. It funds lobby efforts on behalf of those judges,³⁶⁷ but not on behalf of the Judges of Compensation Claims.³⁶⁸ The Article V. judges in Florida are a significant number, which has a collective voice and established organizations to assure attention to their needs. There is no such incorporated body to similarly represent the interests of the JCCs, a body of only 30 judges (3% of the population of Article V. Judges).

In 1989-90, the salary of a Florida JCC was \$79,359. That salary was increased thereafter periodically, even after the “tie in” was removed from chapter 440 in 1994. But that salary has not consistently kept pace with inflation, as shown by the chart below. The difference between the current salary (\$177,160) and the inflation-adjusted 1989-90 figure, as of 2024 (\$191,139), remains \$13,979, despite the extraordinary and appropriate efforts in 2022.



This illustrates the trend of JCC salary remaining reasonably consistent with inflation until the early part of this century. But the salary has markedly failed to keep pace with inflation³⁶⁹ since the early 2000s. Until the notable salary increase in 2021-22, the JCC salary, in actual purchasing power, had since diminished markedly compared to the Consumer Price Index (CPI). This illustration of the effects of inflation was perhaps persuasive regarding the 2022 increase. The salary nonetheless lags about \$15,000 below the level that inflation would suggest, adapting the 1989-90 figure.

Additionally, the wage inflation in Florida, as shown by the statewide average weekly wage, has been more pervasive than the CPI. Workers’ compensation benefits in Florida are subject to a maximum allowable amount, commonly referred to as the “maximum compensation rate.”³⁷⁰ The maximum compensation rate is calculated annually from wages reported by employers across the state and published by the Division of Workers’ Compensation.³⁷¹ In 1990, the statewide average weekly wages of Floridians resulted in a maximum compensation rate of \$362.00, calculated from the average wage paid by Florida business the prior year. As of 2024, that rate had increased to \$1,260.00, an increase of \$898.00 per week.³⁷² That is an increase of 248%. If the 1989-90 JCC salary

(\$79,359) had been increased using the same process statutorily adopted for determination of statewide average weekly wage, the 2023-24 JCC salary would have been \$276,222. That is \$99,061 more than the actual 2023-24 JCC salary (\$177,160). The recent increase was welcome and appropriate, but nonetheless the JCC salary has not kept pace.

The effect of eliminating the statutory tie-in for JCCs was profound. That stark difference was significantly amplified by the 2017 ten percent pay raise for Article V. judges,³⁷³ and has been notably ameliorated by the recent JCC increase. In 1989, Judges of Compensation Claims were paid about 94% of the Circuit Judge salary, and about 105% of the County Judge salary. In 2023-24, the JCCs were paid about 90% of the Circuit Judge salary and about 95% of the County Judge salary. Additionally, the JCC's retirement is less than 50% of the Circuit Judge.

The Florida Bar advocated for a salary increase for Article V. judges in 2017-18. Despite that successful effort and the notable increases in salary for all Article V. judges, Florida judicial salaries in 2019 were viewed as modest.³⁷⁴ In October 2021, Law360 noted a “growing gap between private practice and the bench.” This suggests that applications are down, and in some states, “vacancy rates have increased in recent years.” An official of the National Center for State Courts questioned, “Do you want anybody who has a bar license? Or do you want to retain judges of superior ability?”³⁷⁵

The situation regarding JCCs was as severe or more so. The recent increase has been of great benefit, but because of the retirement disparity, additional effort is urged. All Article V. Florida judges enjoy a retirement benefit based upon more than 3% of salary.³⁷⁶ But the JCCs' retirement benefit is based on a calculation using 2% of salary. Circuit Judge retirement benefits are more than double the retirement of a JCC.

To illustrate this retirement point, compare two judges, each appointed at the end of 2017, and each serving eight years with no further pay increases. The Circuit Judge retirement would be at least \$38,565.12 (\$160,688 x .03 = \$4,820.64 x 8 years of service = \$38,565). The Judge of Compensation Claims retirement based on those dates would be \$19,930.24 (\$124,564 x .02 = 2,491.28 x 8 years of service = \$19,930.24). The Circuit Judge retirement is around double the JCCs.

The Judges of Compensation Claims are gubernatorial appointees, selected from a list submitted by the Statewide Judicial Nominating Commission for Judges of Compensation Claims (SWJNCJCC). To apply, an attorney must have been practicing law for five years and have significant experience in workers' compensation.³⁷⁷ Applicants seek this job out of academic interest and a sense of public service. To vest in the state retirement pension, eight years of service is required.³⁷⁸ An attorney with exceptional experience and an established practice may be unwilling to assume the risks of appointment as a JCC,³⁷⁹ based on the historical potential for salary stagnation, notable pension calculation differential, and comparison of compensation overall to private practice. The demonstrated tepid applicant interest has been illustrated in other application cycles, as shown by this chart.

City (OJCC District Office)	JNC Meeting Date	Applicants
Reappointments only	08/19/2024	
Reappointments only	04/19/2024	
Miami (additional)	10/23/23	4 ³⁸⁰
West Palm Beach (additional)	10/04/22 ³⁸¹	5 ³⁸²
Orlando (Sojourner)	10/04/22	3 ³⁸³
West Palm Beach	5/22/22	4 ³⁸⁴
Orlando (additional)	5/22/22	3 (6) ³⁸⁵
Orlando (Sculco)	5/22/22	3 (6) ³⁸⁶
Tampa (Spangler/Young)	12/13/2021	Unknown
Reappointments only	2/21/2021	
Tampa (Spangler/Young)	8/17/2020	3 ³⁸⁷
Panama City	2/10/2020	3 ³⁸⁸
Tampa (Lorenzen)	2/10/2020	5 ³⁸⁹
Sarasota	11/15/2019	3 ³⁹⁰

Sarasota	8/12/2019	2 ³⁹¹
Tampa (Spangler)	8/20/2018	3 (6) ³⁹²
Tampa (Lorenzen)	8/20/2018	3 (6) ³⁹³
Ft. Lauderdale	8/20/2018	4 ³⁹⁴
Tallahassee	2/26/2018	4 ³⁹⁵
Gainesville	8/7/2017	4 ³⁹⁶
Tallahassee	8/7/2017	1 ³⁹⁷
Miami (Castiello)	2/17/2017	2.5 ³⁹⁸
Miami (Hill)	2/17/2017	2.5 ³⁹⁹
Lakeland	11/1/2016	4 ⁴⁰⁰
West Palm Beach (D'Ambrosio)	11/1/2016	6 ⁴⁰¹
Miami (Castiello)	2/17/2017	1
Miami (Hill)	2/17/2017	2 ⁴⁰²
Reappointments only	8/22/2016	
West Palm Beach (Punancy)	3/21/2016	9 ⁴⁰³
Panama City	3/21/2016	4 ⁴⁰⁴
Ft. Myers (Sturgis)	9/28/2015	4 ⁴⁰⁵
Pt. St. Lucie	9/28/2015	8 ⁴⁰⁶
West Palm Beach (Basquill)	9/28/2015	4 ⁴⁰⁷
Ft. Myers (Spangler)	2/16/2015	8 ⁴⁰⁸
Ft. Lauderdale (Pecko)	2/24/2014	6 ⁴⁰⁹
Melbourne	2/24/2014	9 ⁴¹⁰
Miami (Kuker)	8/19/2013	4 ⁴¹¹
Daytona	2/11/2013	9 ⁴¹²
Miami (Harnage)	8/20/2012	4 ⁴¹³
Tampa (Murphy)	8/20/2012	5 ⁴¹⁴
Melbourne	1/23/2012	Cancelled ⁴¹⁵
Reappointments only	9/27/2011	
Reappointments only	2/7/2011	
Jacksonville (Rosen)	8/16/2010	8.5 (17) ⁴¹⁶
Jacksonville (Pitts)	8/16/2010	8.5 (17) ⁴¹⁷
Lakeland (Hofstad)	8/16/2010	11 ⁴¹⁸
Reappointments only	4/5/2010	
Gainesville (Thurman)	2/2/2009	13 ⁴¹⁹
Reappointments only	4/20/2009	
Jacksonville (Dane)	8/18/2008	10 ⁴²⁰
Gainesville (Thurman)	8/18/2008	
Reappointments only	4/25/2008	
Reappointments only	8/14/2007	
Orlando (Thurman)	6/22/2007	14 ⁴²¹
Reappointments only	4/2/2007	

This data supports that there have been more vacancies to fill in recent years, which may illustrate a retention issue.⁴²² The data also supports that the applicant pools are recently more consistently small. When vacancies had historically attracted up to ten applicants, recent history has been markedly lower, with three recent efforts (Miami 2016, Tallahassee 2017, and Sarasota 2019) not even attracting three applicants. This data does not illustrate retention of incumbents and attraction of the best available attorneys. The mediator salary level also poses similar problems, with experienced State Mediators leaving to return to private practice for financial reasons (in 2021-22, the OJCC lost Ms. Carrier (SAR), Ms. Ogden (FTM), and Mr. Stillson (FTL)), and there is diminished interest in an application for vacancies (a mediator posting in 2019 attracted only four applicants; another attracted less and had to be re-advertised; a posting in 2021 attracted only two applicants).

These compensation disparities are serious. The nature of this system depends on the service of judges who are timely, dedicated, and efficient. There was no justification for the serious pay gap between Florida JCCs and the rest of Florida's judges. Though much progress has been made, it is suggested that consistency and predictability would be best accomplished with a statutory tie-in similar to that previously removed in 1994. The OJCC notably faces an experience challenge. In the next 5-10 years, it is possible that 13-15 JCCs may elect retirement. The time for recruiting and retaining judges of various ages is here. The very future of this system would be enhanced by the necessary funding to attract and retain the next generation of JCCs.

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Annual Report Endnotes

- ¹ This calculation is based upon 251 days: 52 weeks with five business days each, 260 days, less the nine weekdays that are “observed” state holidays for the executive branch. *See* https://www.dms.myflorida.com/workforce_operations/human_resource_management/for_state_personnel_system_hr_practitioners/state_holidays, last visited October 28, 2022. The “statutory holidays” are more extensive, *see* § 683.01, Fla. Stat., Legal Holidays; http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&URL=0600-0699/0683/Sections/0683.01.html, last visited October 15, 2023.
- ² The 114 in 2020-21 was the lowest rate on record and was coincident with the mandated telephonic mediation forced by SARS-CoV-2 and resulting COVID-19 lockdowns and other responses. The continuance volume for 2023-24 is the second lowest figure on record.
- ³ Lowest volume on record.
- ⁴ As part of the consolidation process, Glades and Hendry Counties were transferred to District Ft. Myers, alleviating some workload in District West Palm Beach as it absorbed all of former District Port St. Lucie and part of Melbourne. Along with the assumption of those two counties, District Ft. Myers was relieved of Desoto County, which was consolidated into District Sarasota.
- ⁵ Monroe County, essentially the Florida Keys, had been assigned for over a decade to District Port St. Lucie to equalize case assignments. With the closure of District Port St. Lucie, Monroe County was transferred back to District Miami.
- ⁶ In the 2021-22 consolidation, Brevard County, formerly in District Melbourne, was transferred to District Daytona. Flagler County, formerly in District Daytona, was transferred to District Jacksonville. In 2022-23, Judge Anderson was reassigned to District Orlando; Flagler and Volusia Counties were transferred there.
- ⁷ District Gainesville closed effective November 1, 2022, as part of DOAH’s consolidation efforts. Dixie, Gilchrist, and Levy Counties transferred to District Tallahassee during May 2022 in preparation. Alachua, Columbia, and Marion counties transferred to District Jacksonville in 2022-23. Judge Stanton remains assigned to District Jacksonville, but has taken on a District Orlando Docket.
- ⁸ In the consolidation, Judge Grindal and the Sarasota District counties were consolidated into District St. Petersburg.
- ⁹ In the consolidation, Judge Moneyham was reassigned to District St. Petersburg.
- ¹⁰ In the consolidation process, Panama City was closed and the counties redistributed between Pensacola and Tallahassee. Judge Moneyham was reassigned to District St. Petersburg. In 2022-23, Daytona was consolidated into Orlando, Sarasota was consolidated into St. Petersburg, and Panama City was divided into both Pensacola and Tallahassee.
- ¹¹ In the consolidation, Polk County and Judge Arthur were consolidated into District Tampa.
- ¹² *Miles v. City of Edgewater*, 190 So. 3d 171 (Fla. 1st DCA 2016).
- ¹³ § 440.45(5), Fla. Stat. (“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.”).
- ¹⁴ The website is www.fljcc.org. Reports are under the “Publications” and then “Reports” tabs.
- ¹⁵ The definition for “trial” was amended in 2016, following questionable mischaracterization and misrepresentation regarding “trial orders.” The definition now includes only final merits orders following a hearing on PFBs and attorney fee (or cost) orders following a 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 hearings (motion), final hearings (petition), and fund hearings (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.

¹⁶ *Id.*, See also Glossary, Page 67.

¹⁷ The OJCC staff was reduced by one judge and three mediators beginning with the budget for 2012-13. Between that time and 2016-17, there were 28 full-time state mediators. In late 2017-18, the OJCC reclassified a clerical position to increase the mediator cohort to 29. Throughout 2018-19, a mediator resident in District FTL provided half-time mediation in each of Districts FTL and WPB. In 2020-21, a similar reclassification of position effort increased the mediator cohort to 30, bringing Districts FTL and WPB to full strength. The staff reductions created conflict with section 440.44(5) (“The Office of the Judges of Compensation Claims shall maintain the 17 District offices, 31 judges of compensation claims, and 31 mediators as they exist on June 30, 2001.”)(See endnote 48).

¹⁸ § 440.192, Fla. Stat. (2011); ch. 2011-208.

¹⁹ Fla. Admin. Code R. 60Q-6.108(1)(a)(2010); Fla. R. Pro. Work. Comp. R. 60Q-6.108(1)(a); https://fljcc.org/JCC/rules/History/CH60Q-6Rules_Eff20101031.pdf, last visited October 28, 2022.

²⁰ When a litigation document is filed with this office, and often even when such a document is sent to others involved in litigation, those documents must be provided by the drafting party to all other parties. This is referred to as “service” and is controlled by Fla. Admin. Code R. 60Q-6.108 (2014); Fla.R.Pro.Work.Comp. Rule 60Q-6.108, <https://www.fljcc.org/JCC/rules/#60Q-6.108>, last visited November 2, 2022.

²¹ The OJCC is grateful for the participation of the City of Tallahassee, Publix, and Walmart. These were the initial participants. Since the program rolled out, the registered employers have expanded to include Alachua Cnty. Bd. of Cnty. Comm’rs.; Atlantic Coast Enterprises LLC; Buena Vista Trading Company; Chipotle Mexican Grill; City Furniture, Inc.; City of Coconut Creek; City of Fort Myers; City of Gulf Breeze; City of Palm Bay; City of Seminole; City of Tallahassee; Cnty. of Volusia; Disney Destinations; Disney Vacation Club Mgt.; FedEx; FedEx Express; FedEx Ground Package System; Florida Dep’t. of Business and Professional Regulation; Florida Fine Wine and Spirits; Florida School Bds. Assoc.; Hope Healthcare; Lee Memorial Health System; Leon Cnty. School Bd.; Magical Cruise Co.; Martin Cnty. School Dist.; McClure Properties; Memorial Healthcare System; Miami Water Heater; Miami-Dade Cnty.; O-I Glass, Inc.; Polk Cty. Bd. of Cty. Comm’rs.; Publix Super Markets; School Dist. of Indian River Cty.; Seaboard Warehouse Terminals; St. Johns Cnty. School Dist.; Stetson Univ.; The School Bd. of Miami-Dade Cty.; Univ. of North Florida; USAA; Volusia Sheriff’s Office; W.S. Badcock Corporation; Walmart Inc.; Walt Disney Parks & Resorts U. S.; and Walton Cnty. Further efforts at expansion are planned for 2023-24.

²² 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.”

²³ Illustrated by the District Court’s analysis of temporary indemnity in *Matrix Employee Leasing v. Hadley*, 78 So. 3d 621 (Fla. 1st DCA 2011)(*en banc*), followed by the same court’s declaration of constitutional infirmity regarding the temporary benefits statute, construing “natural law” in the *Westphal* panel decision, followed by the District Court’s decision in *Westphal, en banc* (2013), followed by the Florida Supreme Court’s striking of the temporary indemnity statute on constitutional grounds unrelated to “natural law” in 2016. Currently, some perceive the reasonably recent 2019 analysis in *Sedgwick CMS v. Valcourt-Williams*, 271 So. 3d 1133 (Fla. 1st DCA 2019), *reh’g denied* (May 30, 2019), *rev. denied* No. SC19-1044, 2019 WL 5546111 (Fla. Oct. 28, 2019) as a similar issue of consistency; there is therefore attention to the volume of cases currently under appellate review upon analyses of “arising out of.” See page 7.

²⁴ The Florida Office of Judges of Compensation Claims however is not a “court.” *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).

²⁵ This is defined by section 440.50, Florida Statutes. The Workers’ Compensation Administrative Trust Fund (WCATF) balance is currently \$170,308,992 (as of October 14, 2024).

²⁶ The OJCC was largely reorganized in 2021-22, discussed more fully in the 2022-23 OJCC ANNUAL REPORT, pages 8-9. The Office began the fiscal year with the same 17 District offices that had existed since 1989, and which were mandated by statute, § 440.44, Fla. Stat. Repeal of that statutory mandate afforded DOAH leadership with the flexibility to strip smaller communities of such offices and consolidate operations in larger metropolitan areas. By the end of fiscal 2021-22, three offices had been closed (Lakeland, Melbourne, and Port St. Lucie), and closure of a fourth was imminent (Gainesville). The history of these is discussed on page 9. In 2022-23, public access was similarly eliminated with the consolidation of districts Daytona, Sarasota, and Panama City. Security services for the Tallahassee district office were suspended in 2022-23 to afford DOAH the use of that security guard for patrol of its parking lot and extending the overall coverage for the DOAH headquarters. This effectively consolidated the Tallahassee office into the DOAH operations and discontinuing that independent district.

²⁷ The cost of real estate has been a documented challenge for the OJCC. Despite the closure of various offices around the state, this continues. The OJCC has begun subsidizing broader operations of the DOAH. Since 2001, there have been occasions on which DOAH ALJs used OJCC hearing facilities on a space available basis. However, in 2022, DOAH began housing ALJs in OJCC district offices as permanent residents.

²⁸ There is challenge in the valuation of the system because various portions of the programming are shared with the DOAH ALJ system and the overall platforms have been jointly developed and tested over 23 years since 2001.

²⁹ The credit due to the DOAH IT staff is substantial. Their efforts have deployed a comparatively inexpensive electronic process and presence. See endnotes 57 and 59 regarding other states’ expenditures. Special credit for the most recent successes in programming and technology leverage is due to the OJCC Central Clerk Office and Clerk Julie Hunsaker.

30 The Rules of Procedure for Workers' Compensation Adjudications requires that all documents filed with the OJCC must also be
"served," meaning sent to all other parties or their attorney. Fla. Admin. Code R. 60Q-6.108(1)(b)(2014); Rule 60Q-6.108,
Fla.R.Pro.Work.Comp., <https://www.fljcc.org/JCC/rules/#60Q-6.108>, last visited October 9, 2021. This is a fundamental element
of litigation necessitated by the Due Process Clause and Equal Protection Clause. U.S. Const., amend. V. and amend XIV.

31 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.

32 *Valcourt-Williams v. Sedgwick*, 271 So. 3d 1134 (Fla. 1st DCA 2019).

33 *Medpartners/Diagnostic Clinic Med. Grp., P.A. v. Zenith Ins. Co.*, 23 So. 3d 202, 205 (Fla. 1st DCA 2009); *Orange County Sch.*
Bd. v. Best, 728 So. 2d 1186, 1188 (Fla. 1st DCA 1999); *Bell v. Commercial Carriers*, 603 So. 2d 683 (Fla. 1st DCA 1992);
and *Ellis v. Galloway's, Inc.*, 794 So. 2d 710 (Fla. 1st DCA 2001). See also David W. Langham, *Fla. Work. Comp.; History,*
Evolution, and Function, 2023, Chapter 36.

34 § 440.44(5), Fla. Stat., ("OFFICE. - The department, the agency, and the Deputy Chief Judge shall maintain and keep open during
reasonable business hours an office, which shall be provided in the Capitol or some other suitable building in the City of
Tallahassee, for the transaction of business under this chapter, at which office the official records and papers shall be kept. The
office shall be furnished and equipped. The department, the agency, any judge of compensation claims, or the Deputy Chief Judge
may hold sessions and conduct hearings at any place within the state. The Office of the Judges of Compensation Claims shall
maintain the 17 district offices, 31 judges of compensation claims, and 31 mediators as they exist on June 30, 2001.")

35 This is defined as "with no appointed date for resumption." The Florida Constitution uses this term to denote final adjournment of
the legislative session. See FLA. CONST. art. III, § 3(f), 7, 8(a), and 9.

36 In 2021-22, District Lakeland was closed and consolidated into Sarasota and Tampa. District Melbourne was closed and
consolidated into Districts Daytona and West Palm Beach. District Port St. Lucie was closed and consolidated into District West
Palm Beach. District Gainesville was designated for closure and consolidation into District Jacksonville. In 2022-23, District
Gainesville was transitioned as planned. District Daytona was consolidated into District Orlando. District Panama City was closed
and the case load divided between Districts Pensacola and Tallahassee. District Sarasota was consolidated into District St.
Petersburg.

37 The populations in the following graph are from *Florida Population 1840-2000 by County*, College of Education, University of
South Florida, https://fcit.usf.edu/florida/docs/c/census/Florida_counties.htm, last visited October 31, 2023; and *Florida*
Population: Census Summary 2020, University of Florida, Bureau of Economic and Business Research,
https://www.bebr.ufl.edu/wp-content/uploads/2022/01/census_summary_2020.pdf, last visited October 31, 2023.

38 *Florida Population is Estimated at 22.6 Million*, WMNF.org, [https://www.wmnf.org/floridas-population-is-estimated-at-22-6-](https://www.wmnf.org/floridas-population-is-estimated-at-22-6-million/)
million/, last visited July 1, 2024.

39 The disparity between OJCC payroll and court payroll has been mentioned in previous annual reports of this Office. It is axiomatic
that inflation is detrimentally affecting all employees of this agency, impairing recruitment, and frustrating retention. There have
been extraordinary efforts through position elimination, legislative funding increases, and the results are admirable. Nonetheless,
pay increases for OJCC staff are not matching inflation generally, and it is a particular challenge in the urban centers such as
southeast Florida.

40 See pages 6-7, 203 regarding general revenue. See also endnote 129.

41 Salaries = \$16,151,120; Rent = \$2,021,114; Security = \$518,529; total = \$18,690,763; \$18,690,763/\$19,911,256 = 93.87%.

42 Salaries = \$14,507,363; Rent = \$2,085,188; Security = \$664,044; total = \$17,256,595; \$17,256,595/\$17,926,835 = 96.26%.

43 Salaries = \$13,394,264; Rent = \$2,316,367; Security = \$763,110; total = \$16,398,741; \$16,398,741/\$17,376,901 = 94.37%.

44 § 440.44(5), Fla. Stat. ("The Office of the Judges of Compensation Claims shall maintain the 17 District offices, 31 judges of
compensation claims, and 31 mediators as they exist on June 30, 2001.")

45 See endnote 13..

46 See *2005-06 OJCC Annual Report* <https://www.fljcc.org/JCC/publications/reports/2006AnnualReportAmended.pdf>, last visited
August 16, 2024.

47 See *2006-07 OJCC Annual Report* <https://www.fljcc.org/JCC/publications/reports/2007AnnualReport.pdf>, last visited August 16,
2024.

48 The OJCC OPERATIONS MANUAL was revised in 2013-14, 2017-18, and 2020-21.

49 2022-23 OJCC ANNUAL REPORT, endnote 62.

50 Fla. Admin. Code R. 60Q-6.115(2014); Rule 60Q-6.115, Fla.R.Pro.Work.Comp.,
<https://www.fljcc.org/JCC/rules/#60Q-6.115>, last visited August 16, 2024. 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."

51 *Brodsky v. Wintake Employment Svcs.*, 18-000558WRH; see correspondence to claimant, docket number 167.

52 E-filing in the Circuit Courts was legislatively supported in 2008 and standards adopted in 2009. That "portal went live" in January
2011, six years after eJCC. *History of Court Processes, Programs, and Initiatives*, [https://www.flcourts.org/Publications-](https://www.flcourts.org/Publications-Statistics/Publications/Short-History/Modernizing-Administration)
Statistics/Publications/Short-History/Modernizing-Administration, last visited August 16, 2024. Mandatory e-filing was
implemented by the Article V. Courts in April 2013; Gary Blankenship, *Mandatory E-Filing for Civil Cases Starts April 1*, *The*
Florida Bar News, April 1, 2013; <https://www.floridabar.org/the-florida-bar-news/e-filing-begins/>, last visited August 16, 2024.

53 See endnote 18.

54 "Service," the providing of copies of filed documents to others involved in the litigation. See endnote 23.

55 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. As of 2018, the First, Fourth, and Fifth District Courts had 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. In 2019, the state courts deployed a new e-filing platform and retired e-DCA.
56 See endnote 21.
57 See 2006-07 OJCC ANNUAL REPORT <https://www.fljcc.org/JCC/publications/reports/2007AnnualReport.pdf>, last visited September
18, 2023. 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 must open envelopes, remove and straighten documents, and then file the
paper documents for future use.
58 For example, if a pleading is filed, the filer saves postage on sending to the OJCC. That savings is captured in the eFiling calculation.
But, that document must also be mailed to opposing counsel (\$.68). If it is a PFB, then it must be served by certified mail (\$4.85
in addition to the first-class mail cost). Thus, in 2023-24, there were approximately 586,850 filings. At least \$.68 was saved through
e-service on each of these (\$399,058). Each of the PFBs (81,145) would have to be served by certified mail on the carrier (\$4.85 x
81,145 = \$393,553). The OJCC uploaded 508,884 documents in 2023-24 that would have been mailed to at least two parties each
(\$1.28), another \$651,372. Additionally, it is conservatively estimated that at least half of the non-PFB filings (505,705 x .64 =
\$323,651) would be served on at least one additional party (commonplace for documents to be served on both defense counsel and
the carrier; commonplace for responses to petitions to be served on both claimant and claimant's counsel, etc.). Without
consideration of the benefits in child support reporting and investigations, using the minimum U.S. postage, these figures total
\$1,767,634. An estimated million-dollar annual savings from eService is conservative and demonstrable.
59 According to Workcompcentral.com, these states have spent far more money 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. The OJCC has deployed its eFiling, eService, and case management platforms using existing budget funds. The
total expenditures to date are less than \$5 million.
<https://www3.workcompcentral.com/news/story/id/a0a2e2759c516074e05f1d022d13c444m>.
60 § 440.45(4), Fla. Stat.
61 In this same regard, there is no clear definition of many of the terms that are drawn upon for statistical analysis. See endnote 15
regarding the definitions for "trial" and thus the foundation for calculations. In the absence of specificity, the OJCC has published
definitions in these reports, and striven for consistency.
62 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, e.g. 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.
63 Some have suggested that the PFB volume measures "system intensity," rather than volume *per se*.
64 This is discussed more fully in the report section on attorney fees by accident years (see page 54).
65 This means "new" since the move of the OJCC to DOAH. It is perfectly possible that litigation may have occurred on a case prior
to 2001, and those records remain with the Florida Division of Workers' Compensation. When the OJCC transitioned to the DOAH,
all "active" cases then pending were migrated to the OJCC database system. Cases that had been litigated and closed prior to that
time were not migrated. Thus, a case might have been litigated in the 1990s or before, been closed and archived by the Department
of Labor prior to 2001, and therefore later appear as a "new case" if a PFB were filed, post 2001 with the OJCC. See endnote 245
.
66 Motions for attorneys' fees, advances, and appointment of an expert medical advisor are commonplace examples in Florida
workers' compensation. Motions for contribution or modification are also outside of the PFB process, though they are not as
common as other motions.
67 Because of the 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 OJCC, 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 15).
68 The appropriate method to seek determination of attorney fee entitlement or amount is usually by verified motion. Fla. Admin.
Code R. 60Q-6.124(2014); Rule 60Q-6.124, Fla.R.Pro.Work.Comp., <https://www.fljcc.org/JCC/rules/#60Q-6.124>, last visited July
2, 2024. 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 JCC's workload comprises these significant motions that require evidentiary
hearings. See endnotes 80 and 81.
69 The 2022-23 SETTLEMENT REPORT AND MEDIATION STATISTICS REPORT is incorporated in this report and is available at
<https://www.fljcc.org/JCC/publications/reports/2023SR-MSR.pdf>, last visited July 2, 2024.
70 Because of that small data set, the OJCC has long advocated the abolishment of the special and separate "denied claim" settlement
report. See 2022-23 SETTLEMENT REPORT AND MEDIATION STATISTICS REPORT of the Office of the Judges of Compensation Claims,
page 7. "It is suggested that an in-depth study of these settlements in a separate report each September serves a minimal purpose
and that this analysis could be easily merged with the FLORIDA OJCC ANNUAL REPORT each November." <https://www.fljcc.org/JCC/publications/reports/2023SR-MSR.pdf>, last visited July 2, 2024.

71 There is some tendency to interpret any denial of a benefit to a denial of compensability. Because failure to plead a claim may
result in waiver, it has become commonplace to allege compensability as a matter of course. *See Betancourt v. Sears Roebuck &*
Co., 693 So. 2d 680, 682 (Fla. 1st DCA 1997).

72 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.

73 *Castellanos v. Next Door Company*, 192 So. 3d 431 (Fla. 2016).

74 See endnote 12.

75 2022-23 OJCC ANNUAL REPORT, Page 16;
https://www.fljcc.org/JCC/publications/reports/2023AnnualReport/OJCC_AnnualReport2022-23.pdf, last visited July 2, 2024.

76 2024 *State of the Line*, NCCI, May 14, 2024, <https://www.ncci.com/Articles/Pages/Insights-AIS2024-SOTL.aspx>, last visited July
2, 2024.

77 See <https://www.fljcc.org/JCC/publications/reports/2017OJCCAnnRpt/OJCC%202017%20Annual%20Report/>, last visited July 2,
2024.

78 See endnotes 12 and 73.

79 It has been suggested that the office closures in the wake of Hurricane Irma might have played a role. The storm made landfall on
September 10, 2017. At one point, 11 of 17 District Offices were closed by the storm. The last two to return to function were Miami
and Ft. Lauderdale on September 25, 2017. It is notable that the return to normal operations is a struggle for the State. It is likely
more so for attorneys in those affected regions. Some suggest that the PFB filing rates in 2017-18 plateaued in part due to the
impact of that storm. It is difficult to quantify or assess that supposition, but it bears mention.

80 Florida Office of Insurance Regulation Annual Report 2023, Page 14, [https://www.florir.com/docs-sf/default-source/property-and-
casualty/workers'-compensation-annual-report/oir-2023-workers-comp-annual-report.pdf?sfvrsn=1611d953_4](https://www.florir.com/docs-sf/default-source/property-and-casualty/workers'-compensation-annual-report/oir-2023-workers-comp-annual-report.pdf?sfvrsn=1611d953_4), last visited
September 27, 2024.

81 Florida Approves 7.8% Workers' Compensation Rate Increase, *Insurance Journal*, October 15, 2010,
<https://amp.insurancejournal.com/news/southeast/2010/10/15/114084.htm>, last visited September 27, 2024.

82 Ciniceros, *Business Insurance*, *Florida Insurance Commissioner Approves 8.9% Workers Compensation Rate Hike*,
<http://www.businessinsurance.com/article/20111024/NEWS08/111029952>, October 24, 2011, last visited September 27, 2024;
Florida Office of Insurance Regulation Annual Report 2011, Page 22,
https://www.florir.com/siteDocuments/WorkersCompReport_2011.pdf, last visited September 27, 2024 .

83 Florida Office of Insurance Regulation Annual Report 2013, Page 5,
<https://www.florir.com/siteDocuments/2013WorkersCompensationAnnual%20Report.pdf>, last visited September 27, 2024.

84 Florida Office of Insurance Regulation Annual Report 2020, Page 17, [https://florir.com/docs-sf/default-source/property-and-
casualty/workers'-compensation-annual-report/2020workerscompensationannualreport.pdf?sfvrsn=deb0728b_4](https://florir.com/docs-sf/default-source/property-and-casualty/workers'-compensation-annual-report/2020workerscompensationannualreport.pdf?sfvrsn=deb0728b_4), last visited
September 27, 2024.

85 Florida Office of Insurance Regulation Annual Report 2014, Page 11,
<https://www.florir.com/siteDocuments/2014WorkersCompensationAnnualReport.pdf>, last visited September 27, 2024.

86 Florida Office of Insurance Regulation Annual Report 2023, Page 14, [https://www.florir.com/docs-sf/default-source/property-and-
casualty/workers'-compensation-annual-report/oir-2023-workers-comp-annual-report.pdf?sfvrsn=1611d953_4](https://www.florir.com/docs-sf/default-source/property-and-casualty/workers'-compensation-annual-report/oir-2023-workers-comp-annual-report.pdf?sfvrsn=1611d953_4), last visited
September 27, 2024.

87 Florida Office of Insurance Regulation Annual Report 2020, Page 14, [https://florir.com/docs-sf/default-source/property-and-
casualty/workers'-compensation-annual-report/2020workerscompensationannualreport.pdf?sfvrsn=deb0728b_4](https://florir.com/docs-sf/default-source/property-and-casualty/workers'-compensation-annual-report/2020workerscompensationannualreport.pdf?sfvrsn=deb0728b_4), last visited
September 27, 2024.

88 Florida Office of Insurance Regulation Annual Report 2020, Page 14, [https://florir.com/docs-sf/default-source/property-and-
casualty/workers'-compensation-annual-report/2020workerscompensationannualreport.pdf?sfvrsn=deb0728b_4](https://florir.com/docs-sf/default-source/property-and-casualty/workers'-compensation-annual-report/2020workerscompensationannualreport.pdf?sfvrsn=deb0728b_4), last visited
September 27, 2024.

89 Florida Office of Insurance Regulation Annual Report 2022, Page 14, [https://www.florir.com/docs-sf/default-source/property-and-
casualty/workers'-compensation-annual-report/oir-2022-wc-annual-report.pdf?sfvrsn=84c163f5_4](https://www.florir.com/docs-sf/default-source/property-and-casualty/workers'-compensation-annual-report/oir-2022-wc-annual-report.pdf?sfvrsn=84c163f5_4), last visited September 27,
2024.

90 Florida Office of Insurance Regulation Annual Report 2020, Page 15, [https://florir.com/docs-sf/default-source/property-and-
casualty/workers'-compensation-annual-report/2020workerscompensationannualreport.pdf?sfvrsn=deb0728b_4](https://florir.com/docs-sf/default-source/property-and-casualty/workers'-compensation-annual-report/2020workerscompensationannualreport.pdf?sfvrsn=deb0728b_4), last visited
September 27, 2024.

91 Florida Office of Insurance Regulation Annual Report 2023, Page 14, [https://www.florir.com/docs-sf/default-source/property-and-
casualty/workers'-compensation-annual-report/oir-2023-workers-comp-annual-report.pdf?sfvrsn=1611d953_4](https://www.florir.com/docs-sf/default-source/property-and-casualty/workers'-compensation-annual-report/oir-2023-workers-comp-annual-report.pdf?sfvrsn=1611d953_4), last visited
September 27, 2024.

92 Florida Office of Insurance Regulation Annual Report 2023, Page 14, [https://www.florir.com/docs-sf/default-source/property-and-
casualty/workers'-compensation-annual-report/oir-2023-workers-comp-annual-report.pdf?sfvrsn=1611d953_4](https://www.florir.com/docs-sf/default-source/property-and-casualty/workers'-compensation-annual-report/oir-2023-workers-comp-annual-report.pdf?sfvrsn=1611d953_4), last visited
September 27, 2024.

93 Florida Office of Insurance Regulation Annual Report 2023, Page 15, [https://www.florir.com/docs-sf/default-source/property-and-
casualty/workers'-compensation-annual-report/oir-2023-workers-comp-annual-report.pdf?sfvrsn=1611d953_4](https://www.florir.com/docs-sf/default-source/property-and-casualty/workers'-compensation-annual-report/oir-2023-workers-comp-annual-report.pdf?sfvrsn=1611d953_4), last visited
September 27, 2024.

94 *OIR Approves an 15.1% Decrease in Workers' Compensation Insurance Rates for 2024*; <https://floir.com/newsroom/archives/item-details/2023/11/13/oir-approves-an-15.1-decrease-in-workers%27-compensation-insurance-rates-for-2024>, last visited July 2, 2024; *Proposed historic drop in Florida workers' comp rate draws concern*, Insurance NewsNet, October 10, 2023, <https://insurancenewsnet.com/innarticle/proposed-historic-drop-in-florida-workers-comp-rate-draws-concern>,
95 *Workers' Comp rates could dip*, The Capitolist, August 26, 2024, <https://thecapitolist.com/workers-comp-rates-could-dip/>, last visited September 27, 2024. In 2024, the Legislature passed SB362 and increased medical reimbursement, increasing system costs. The year prior, 2023, the Legislature passed HB487 and removed three-member panel supervision of medical fee schedules; that supervision and a statutory requirement of legislative endorsement for increases had long impeded inflationary adjustment of reimbursements. These two changes undoubtedly influenced cost and therefore premium prognostication and rate making. See David W. Langham, *Fla. Work. Comp.; History, Evolution, and Function*, 2023, Chapter 33.
96 The filing volume 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. The conclusions reached by the DLES have previously been published. 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. Some question as to the validity of these figures is raised by the fact that the PFB process was not added to chapter 440, Florida Statutes, until the 1994 statutory amendments, and 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 the PFB process.
97 *Id.*
98 Had the trends of the first three quarters of 2019-20 continued, the PFB filing rate was projected at 4% increase. It was the marked decreases in PFB filing in May and June of the fourth quarter that was sufficiently significant to equate instead a 1.4% decrease for the fiscal year.
99 Also included in this "new case" volume are cases that are opened initially with a Request for Assignment of Case Number or RACN. This tool is used to establish a case for reasons other than litigation of a petition or claim issue. Examples are judicial enforcement of discovery, consideration of settlement/resolution documents, or other pleadings. In those cases, it may be that an initial petition is later filed, or that the "new case" is resolved without any petition ever being filed.
100 In 2017-18, fees were approved on a 66-year-old claim, see endnote 245.
101 Coincident with court decisions regarding attorney fees in 2016, see endnotes 12 and 73
102 See <https://www.fljcc.org/JCC/publications/reports/2015AnnualReport/files/assets/basic-html/page-1.html>, last visited August 16, 2024.
103 U.S. Inflation Rate by Year: 1929 to 2024, Investopedia, <https://www.investopedia.com/inflation-rate-by-year-7253832>, last visited July 2, 2024.
104 Unemployment Rate Seasonally Adjusted January 1976 to May 2024, Florida Department of Economic Opportunity, https://lmsresources.labormarketinfo.com/charts/unemployment_rate.html, last visited July 2, 2024.
105 *Florida's Economy Continues to Grow While National Job Growth Rates Are in Decline*, Florida Executive Office of the Governor, <https://www.flgov.com/2023/11/17/floridas-economy-continues-to-grow-while-national-job-growth-rates-are-in-decline/>, last visited July 2, 2024.
106 Joanne Lipman, *The Pandemic Revealed How Much We Hate Our Jobs. Now We Have a Chance to Reinvent Work*, Time, June 1, 2021; <https://time.com/magazine/us/6051930/june-7th-2021-vol-197-no-21-u-s/>, last visited October 31, 2023. *The future of work after COVID-19*, McKinsey Global Institute, February 18, 2021; <https://www.mckinsey.com/featured-insights/future-of-work/the-future-of-work-after-covid-19>, last visited October 31, 2023.
107 Helen Dennis, *What to know about retirement and returning to the workforce*, Los Angeles Daily News, August 27, 2023, <https://www.dailynews.com/2023/08/27/what-to-know-about-retirement-and-returning-to-the-workforce/>, last visited September 19, 2023.
108 See pages 14-18.
109 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.
110 Possibly, that was influenced by the "one-time" only fee exception in section 440.34(7), Florida Statutes, in which a restricted hourly fee was allowed despite the statutory formula restrictions of section 440.34(1), Florida Statutes.
111 See endnote 72.
112 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.
113 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 admitted, explained, and the best possible answer is provided.

114 It is notable that some portion of the “new cases” filed each year are not filed because there is a PFB issue, or need for filing a PFB. Some “new cases” filed each year are created for the purpose of filing a motion for determination of some discovery or other pretrial dispute or for the purpose of filing a Joint Petition to settle the case, or Motion for Approval of Attorney Fees. There is also anecdotal allegation that some petitions are filed for no appropriate purpose but merely to force a mandatory mediation in hopes of facilitating a case settlement.

115 See endnotes 147, 148, 271, 272, 274, 276, 278.

116 *McBride v. Pratt & Whitney*, 909 So. 2d 386, 386 (Fla. 1st DCA 2005).

117 The District Court rendered a panel decision in *Ortiz v. Winn Dixie*, 361 So. 3d 889 (Fla. 1st DCA 2023), in May 2023. The mandate was recalled by the Court by order of September 1, 2023. The panel decision followed the literal language of the statute. Nonetheless, some see the interpretation departing from earlier decisions such as *Claims Mgmt., Inc. v. Philip*, 746 So. 2d 1180 (Fla. 1st DCA 1999), and *Orange Cnty. Sch. Bd. v. Best*, 728 So. 2d 1186, 1187 (Fla. 1st DCA 1999). When the decision is ultimately issued, it may or may not change these prior interpretations.

118 The PFB 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 PFB by the OJCC does not obviate that fee or cost issue. *Longley v. Miami-Dade Cnty. Sch. Bd.*, 82 So. 3d 1098 (Fla. 1st DCA 2012).

119 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 (June 30, 2006), the JCC Application database reflected one hundred eighty-six thousand seven hundred sixty-five (186,765) “open” PFBs. It was later discovered that this figure was understated by the database, and the actual volume was re-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.

120 The figures for 1994 are derived from Current Population Reports, National and State Population Estimates: 1990 to 1994, U.S. Department of Commerce, Bureau of the Census, Page 17; <https://www.census.gov/content/dam/Census/library/publications/1995/demo/p25-1127.pdf>, last visited July 8, 2024; The figure for present population, 22.9 million, came from Florida’s Population is Estimated at 22.6 Million, WMNF, <https://www.wmnf.org/floridas-population-is-estimated-at-22-6-million/>, last visited July 8, 2024. The 2024 figure, 22,900,000, less the 1994 figure (13,953,000) results in a difference of 8,947,000, which is 64% of the 14 million residents reported for 1994.

121 The reduction of staff was made effective for fiscal year 2013, which began July 1, 2012.

122 This reduction of 21 positions was 12% of the 175 positions in the OJCC.

123 Mediation may already 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 an 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.

124 There is anecdotal evidence that some Divisions historically 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 JCCs 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.

125 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 Cnty. Sch. Bd.*, 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).

126 Fla. Admin. Code R. 60Q-6.124(2014); Rule 60Q-6.124, Fla.R.Pro.Work.Comp., <https://www.fljcc.org/JCC/rules/#60Q-6.124>, last visited October 9, 2022.

127 *Marshall v. City of Miami*, OJCC Case No. 02-022055ERA; https://fljcc.org/jccdocs20/MIA/Dade/2002/022055/02022055_229_09242018_01041581_i.pdf, last visited October 9, 2022.

128 The employer/carrier alleged the statute had run and that an order closing the file at some point had dismissed all petitions. The employer/carrier, however, did not produce a copy of that order. The injured worker had requested the assigned judge in 2005 to set a trial, but that did not occur. Thus, when the injured worker sought an adjudication the assigned judge in 2019 heard the claims on their merits. This anecdotal example illustrates that in some instances, significant delay (16 years) can occur.

129 The \$243.00 cost of litigation per petition figure for 2023-24 is a valid comparison to Article V. courts’ filing fees. However, it is worthy of note that the judicial branch 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 its entire operations through non-general revenue 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 tens of millions of dollars in child support arrearages.

130 This example uses the county charges published at <https://www.mypalmbeachclerk.com/about-us/fees/court-services-fees/county-civil-court-fees>, last visited July 29, 2024.

131 *Id.* (“Court Mediation Program per person/per session: \$60.00”).

132 Calculated with <https://www.usinflationcalculator.com/>, last visited July 24, 2024. *See also* endnotes 209, 215, 218, 369.

133 *See* page 22 for historical evolution.

134 This reduction of 21 positions was 12% of the 175 positions in the OJCC.

135 Of course, that supposition presumes that OJCC staffing levels will remain unchanged, and that the Petition filing growth rate remains reasonable. The OJCC would not be able to provide mediation opportunities for all petitions at some volume. The statutory mandate precludes the OJCC from noticing mediations for forty days after filing, and the requisites of due process require a reasonable notice of mediation appointments. This has traditionally been defaulted at 30 days’ notice, but that is not to say that some shorter period would not be sufficient due process. Anything less than 30 days might nonetheless be generally impractical with the other calendar commitments of claims professionals and attorneys. Thus, the 70-day period after petition filing is generally unusable, leaving a 60-day “window” (130 days – 70 days) in which to mediate the petition. With the deconstruction of the OJCC District Office network in 2021-22, the 29 state mediators transitioned largely to virtual mediation on an Internet video platform (Zoom). The calendars were all synchronized to facilitate rescheduling and support. Each mediator is scheduled for a maximum of seven mediations daily. There are now 30 state mediators, scheduled for seven mediations per day, or 210 mediations daily systemwide. There are ten state holidays, and each mediator can be expected to take at least ten days’ vacation annually, leaving a probable maximum of 48 weeks worked, or about 50,400 potential mediations. A significant volume of petitions is dismissed or resolved prior to mediation. Some portion of petitions is voluntarily mediated privately. Thus, the system is capable of covering the mediation volume currently, at 81,145 PFBs annually. However, because many of the calendar vacancies occur on insufficient notice, a great many vacancies cannot be used. The 2023-24 Settlement Report and Mediation Report notes that the actual volume of mediations held this fiscal year was 20,484, or 682 per mediator (20,484/30). Dividing that figure by 48 weeks yields 14, and by five days, three mediations per day actually held (by overall average, particular mediators may be above or below that mean).

136 § 440.20(11)(d)1., Fla. Stat. (2001): “A judge of compensation claims must consider at the time of the settlement, whether the settlement allocation provides for the appropriate recovery of child support arrearages.”

137 For years, parties to a case had to submit by U.S. Mail to both the Department of Revenue and the Clerks of Courts to investigate child support balances. The replies from those inquiries went by mail to the requestor alone. Thus, each party was prone to make requests. The OJCC designed a more streamlined process when it gained access to the databases of these two agencies. Currently, anytime a party makes a request, it is e-filed with the OJCC. The search is performed and results are eServed on all parties, which decreases frequency and redundancy of requests. Postage is generally eliminated, but remains possible in some cases involving unrepresented or unregistered parties. This process was designed and implemented by the OJCC with no special funding or increase in staff.

138 The parties can utilize the OJCC electronic filing system for making requests for information regarding child support.

139 The OJCC undertook this task, streamlined the process, and has delivered this service to Floridians for nine years without any additional personnel or budget. This relieved both the Circuit Clerks and the Florida Department of Revenue of that reporting responsibility, freeing personnel in both agencies to perform other work.

140 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 (one mediation was waived in fiscal 2020-21, two in 2021-22) are waived each year by order of the Deputy Chief Judge of Compensation Claims. § 440.25(2), Fla. Stat.

141 2009-2010 Settlement Report and Mediation Statistics Report of the Office of Judges of Compensation Claims, <https://www.fljcc.org/JCC/publications/reports/2010SR-MSR.pdf>, last visited July 29, 2024.

142 Notices and Publications, <https://www.fljcc.org/JCC/publications/>, last visited July 29, 2024.

143 The Deputy Chief Judge mandated a telephonic process by order on March 14, 2020. That remained in effect until March 1, 2021, thus the majority of fiscal year 2020-21. Even thereafter, anecdotally, there were significant volumes of requests for telephonic appearance pursuant to Rule 60Q-6.110(5).

144 *See* note 136.

145 An attorney suggested that the value of state mediation would be aptly expressed by multiplying the state mediations (20,484 in 2023-24) by the \$500.00 that each would likely cost in private mediation (\$250 per hour times a two-hour minimum). That would total \$10,242,000. Accepting that math, it is important to also consider whether all of those mediations would justify an expenditure of \$500, in a classic cost-benefit analysis. It is probable that some volume of mediations conducted by the OJCC is for benefits whose monetary value might not justify that expense in a free market exchange. It is also possible that in the absence of a mandatory state mediation process, which is delivered to the parties at no per-use cost, some issues might instead resolve before trial without mediation.

146 *See* endnote 130.

147 § 440.25(1), Fla. Stat.: “A mediation, whether private or public, shall be held within 130 days after the filing of the petition.”

148 § 440.25(1), Fla. Stat.: “Forty days after a Petition for Benefits is filed under s. 440.192, the judge of compensation claims shall notify the interested parties by order that a mediation conference concerning such petition has been scheduled.”

149 *See* endnote 277.

150 This is, after all, a “self-executing” law that is intended to deliver appropriate benefits in a timely manner, without the need for litigation. § 440.015, Fla. Stat.

151 *See* endnote 277.

152 See *supra* note 24. The Florida OJCC is not a “court.” *Jones v. Chiles*, 638 So. 2d 48 (Fla. 1994); see also *In Re Florida Rules of*
Workers’ Compensation Procedure, 891 So. 2d 474, 477 (Fla. 2004)(“The Office of the Judges of Compensation Claims (OJCC)

153 is not a court of this State.”)

154 Art. V. § 15, Fla. Const.

155 § 440.25(3)(a), Fla. Stat.: “A mediator must be a member of The Florida Bar for at least 5 years and must complete a mediation

156 training program approved by the Deputy Chief Judge.”

Id.

Statutorily, the “mediator must be a member of The Florida Bar for at least 5 years and must complete a mediation training program

approved by the Deputy Chief Judge.” That terminology was not effectuated by OJCC policy until 2006. Since that time, completion

of the Florida Supreme Court sanctioned mediator training has been sufficient to qualify. When the Supreme Court training was

adopted, one OJCC mediator was already employed and had not completed that training. That individual continued to serve as a

state mediator until 2020. In 2006, the OJCC implemented policy that state mediators shall be certified by the Supreme Court to

perform mediations. The Supreme Court process has changed over the years also. When the certification process was instigated in

1987, the Court required all mediators to be a member of The Florida Bar, with five years of practice experience, similar to the

Chapter 440 requirement. That Court requirement was eliminated in 2003. See

<http://onlinedocketssc.flcourts.org/DocketResults/CaseDocket?Searchtype=Case+Number&CaseYear=2005&CaseNumber=998>,

last visited August 5, 2024. The statutory requirement in workers’ compensation is likely attributable to that Supreme Court

requirement that existed when mandatory workers’ compensation mediation was codified in 1994. However, the ongoing necessity

of that statutory language is certainly questionable at this time. This issue is raised for the legislature in this annual report.

157 How to Become a Florida Supreme Court Certified Mediator, Revised June 2019,

<http://www.flcourts.org/core/fileparse.php/549/urlt/HowtoBecomeaMediatorGuide.pdf>, last visited August 5, 2024.

158 § 440.25(3)(a), Fla. Stat.

159 Rules for Certified and Court-Appointed Mediators, [http://www.flcourts.org/core/fileparse.php/422/urlt/Mediator-Rules-Tab-](http://www.flcourts.org/core/fileparse.php/422/urlt/Mediator-Rules-Tab-3.pdf)

[3.pdf](http://www.flcourts.org/core/fileparse.php/422/urlt/Mediator-Rules-Tab-3.pdf), last visited August 5, 2024.

160 MEAC Opinion 2004-002, <https://www.flcourts.org/core/fileparse.php/283/urlt/MEAC-Opinion-2004-002.pdf>, last visited August

161 5, 2024.

Id.

162 There are 30 full-time OJCC mediators. At best, each might schedule appointments every thirty minutes, with the anticipation that

cancellations and prior resolutions would create sufficient additional time for the mediations that proceed. Without a programmed

lunch period, that would effectively create 18 potential appointments daily (8:00, 8:30, 9:00, 9:30, 10:00, 10:30, 11:00, 11:30,

12:00, 12:30, 1:00, 1:30, 2:00, 2:30, 3:00, 3:30, 4:00, 4:30) per mediator, or 540 opportunities total (18 x 30 mediators). Thus, as

petition volumes increase, the availability of state mediation may well decrease. There are approximately 229 available work days

for mediation (fifty-two weeks per year, including two weekend days, thus times five work days is 260 days). There are nine state

holidays, according to the Department of Management Services,

[http://www.dms.myflorida.com/workforce_operations/human_resource_management/for_state_personnel_system_hr_practitioners/](http://www.dms.myflorida.com/workforce_operations/human_resource_management/for_state_personnel_system_hr_practitioners/state_holidays)

[state_holidays](http://www.dms.myflorida.com/workforce_operations/human_resource_management/for_state_personnel_system_hr_practitioners/state_holidays), last visited August 5, 2024. Each mediator earns 176 hours of leave annually (divided by 8 hours is 22 days). If

a mediator took no time for illness or injury and exhausted the earned 22 days, this leaves 229 days (260-9-22). Thus, the projected

maximum volume of petitions that could be scheduled for mediation is approximately 123,660 (540 x 229). While the PFB volumes

are not even approaching this volume, the trend is toward increased volumes, and thus decreased opportunities for state mediation

generally. Furthermore, the “every thirty minutes” paradigm is patently unreasonable and frankly irrational. It does, however,

provide an absolute upper limit for the sake of discussion.

163 The 30 full-time OJCC mediators more likely could schedule no more than 12 potential appointments (8:00, 8:45, 9:30, 10:15,

11:00, 11:45, 12:30, 1:15, 2:00, 2:45, 3:30, 4:15). Multiplied by the 30 mediators equates to 360 per day statewide, multiplied by

229 working days, equals 82,440. The current petition volume, 76,633, is approaching this, and petition volume is increasing. Such

164 a scheduling paradigm, while not as irrational as that in endnote 162, would provide insufficient time for mediation to be effective.

Many mediation sessions involve more than one PFB, see § 440.25(1), Fla. Stat. (“if additional petitions are filed after the

scheduling of a mediation, the judge of compensation claims shall consolidate all petitions into one mediation.”). And, some volume

of PFBs is dismissed within the 40-day period, alleviating the need to schedule a mediation. Therefore, it is suggested that this

comparison of PFB filing volumes to mediation potentials does not represent impending crisis. However, it appears an apropos

time for consideration of the potential impacts of increased filing volumes.

165 The 30 full-time OJCC mediators multiplied by seven mediations per day, for the 229 days is 48,090.

166 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.”).

167 See endnote 152.

168 *Id.*

169 Fla. Admin. Code R. 60Q-6.110(2)(d); Rule 60Q-6.110, Fla.R.Pro.Work.Comp.

170 § 440.25(1), Fla. Stat.: “A mediation conference may not be used solely for the purpose of mediating attorney fees.”

171 If 29,253 mediations were actually held in 2002-03, that means that the 31 state mediators employed that year each conducted 943

(29,253/31) mediations. With approximately 229 working days (see endnotes 158 and 189), this equates to 4.1 mediations daily.

172 That anomaly has been noted and described to the state mediators and judges. It is believed to be either a singular error or to
represent a small volume of cases in which the volume of mediation may have been overstated.

173 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 recordkeeping improved.

174 Rule 60Q6.110(2)(a)(“ Any such change in date (within the 130-day statutory parameter) shall be considered a rescheduling and
not a continuance of the mediation.”).

175 A motion to disqualify filed in 2020-21 alleged such perception specifically.

176 Notably, this report referencing the failure to include new hearing dates in all continuance orders has not alleviated the practice of
not complying with section 440.25(4)(a). It is possible that the serial “reconvene” practice has ameliorated due to the definition
and publication regarding the calculation of timely trial orders. *See* page 51. Thus, there is both potential for poor practices and
evidence suggesting it has been constrained or eliminated.

177 Anecdotally, there is evidence that many attorneys do not understand the continuance restrictions in section 440.25, Florida
Statutes. 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 has
been, however, anecdotal evidence suggesting some judges have been 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.

178 The “per JCC” figures have been based on 31 judges. This figure is based instead on 30, as the delays filling the third TPA judgeship
have reached a confluence with the DOAH leadership consolidation efforts and relocation of former Lakeland resources to TPA.
While there has long been expectation of the return to 31 judges, that is hoped for in 2024-25.

179 *Id.*

180 David Langham and Stephanie Hayes, OJCC Operations Manual, 2020,
http://doahweb/Admin_docs/OJCC/OJCCOperationsManual.pdf, last visited November 9, 2022.

181 § 440.192(1), Fla. Stat.; Fla. Admin. Code R. 60Q-6.108(a)(2006); Rule 60Q-6. 108(a), Fla.R.Pro.Work.Comp.

182 *See* page 14, Electronic Filing Initiative, generally; *see* endnote 58..

183 Though there is “service” (*see supra* endnotes 30 and 54) when documents are filed, the “best practice” for all attorneys is to
diligently monitor their “daily filings” to assure that no documents are missed in the process of litigation. This is not dissimilar
from the widely accepted practice of maintaining multiple event calendars so as to avoid missed mediations and hearings.
Redundancy is a necessity for effective litigation management.

184 *See also* endnote 148. 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.

185 In 2021-22, District Lakeland was closed and consolidated into Sarasota and Tampa. District Melbourne was closed and
consolidated into Districts Daytona and West Palm Beach. District Port St. Lucie was closed and consolidated into District West
Palm Beach. District Gainesville was designated for closure and consolidation into District Jacksonville, to occur on the expiration
of that lease in early fiscal year 2022-23. *See* endnotes 4-13. In 2022-23, District Daytona was closed and consolidated into District
Orlando. District Sarasota was closed and consolidated into District St. Petersburg. District Panama City was closed and those
counties were distributed into Districts Pensacola and Tallahassee.

186 *See supra* endnote 123.

187 § 440.25(4)(h) Fla. Stat. (“those petitions filed in accordance with s. 440.192 that involve a claim for benefits of \$5,000 or less”).

188 *See supra* endnote 166.

189 *See* endnote 73.

190 Filings in 2008-09 increased from 72,718 to 73,863, a total of 1,145 petitions, or less than 2%. Notably, however, *Murray* was
decided in late October 2008, and the Legislature made amendments, effective July 1, 2009, that materially altered the *Murray*
analysis.

191 *Murray v. Mariners Health/ACE USA*, 994 So. 2d 1051 (Fla. 2008); *see also 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).

192 *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).

193 *See* endnote 12.

194 This is not an exact measure. The notice is not transmitted prior to the 40th day, but due to holidays or weekends, the actual
transmittal may be more than 40 days after PFB filing. *See also* endnote 148.

195 The statute, section 440.25(1) provides: “(1) Forty days after a petition for benefits is filed under s. 440.192, the judge of
compensation claims shall notify the interested parties by order that a mediation conference concerning such petition has been
scheduled.” This section does preclude an earlier notice, though one might argue an earlier notice is antithetical to the “forty days.”
However, one might as easily conclude that the 40th day is a deadline and that earlier performance is harmless.

196 With the advent of Employer service through eJCC, many of these directed at employers will be sent electronically. This is one
example of the technology deployment increasing cost savings. *See* endnote 58.

197 Procedural disputes in preparation of a case for trial often need to be resolved by the assigned judge. The appropriate mechanism for seeking that judicial intervention is a motion filed with the judge. Fla. Admin. Code R. 60Q-6.115(2014); Rule 60Q-6.115, Fla.R.Pro.Work.Comp., <https://www.fljcc.org/JCC/rules/#60Q-6.115>, last visited August 5, 2024.

198 That may not always occur however. If an injured worker is represented by an attorney, settlement of a third-party claim (against an employer for personal injury protection or other liability) may simultaneously extinguish the workers' compensation claim. The fee in such a situation would be, at least in part, for the consideration regarding workers' compensation liability but would not be approved by a Judge of Compensation Claims. See *Patco Transport, Inc. v. Estupian*, 917 So. 2d 922 (Fla. 1st DCA 2005). It is believed that this could not occur with an unrepresented workers' compensation claimant. See *Cabrera v. Outdoor Empire*, 108 So. 3d 691 (Fla. 1st DCA 2013).

199 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 proceeding arising under this chapter, unless approved as reasonable by the Judge of Compensation Claims or court having jurisdiction over such proceedings." There are those who contend that this section of the statute was declared facially unconstitutional by the court in *Miles*, see endnotes 12 and 73. Despite that contention, some of those same lawyers nonetheless submit motions seeking approval of such fees and some contend that the OJCC is obligated to approve those fees of whatever amount or description.

200 There has been discussion of the issue of defense fee approval in a variety of forums throughout the 21st century. 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.

201 Section 440.105(3)(c), 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." Those who would argue that this section requires judicial approval of defense fees might be asked to explain whether *Miles* is an "as applied" conclusion or a "facial" conclusion as to the constitutionality of section 440.105(3)(c), see endnote 199.

202 Rule 60Q-6.124(6) "No later than September 1 of each year, all self-insurers, third-party administrators, and carriers shall report by e-JCC to the OJCC the amount of all attorney's fees paid to their defense attorneys in connection with workers' compensation claims during the prior July 1 through June 30 fiscal year."

203 Anecdotal evidence has been presented that some carriers include payments for mediation services in the category "defense fees." It is impractical to determine how widespread that practice may be. In fact, it is possible that the anecdotal evidence provided may represent singular and erroneous payment worthy of no further consideration or thought. It is also impractical to determine if any other such costs might be included systemically or periodically.

204 An order entered March 28, 2022, in case number 17-023664 approved a fee "for the period November 23, 2021 through March 20, 2022," in the sum certain of \$2,503.72. The order in this regard was both quantifiable and appropriate. The order also approved, sight unseen, fees on "all future payments of permanent total disability and permanent total disability supplemental benefit payments." https://www.jcc.state.fl.us/JccDocs20/MIA/Dade/2017/023664/17023664_317_03282022_09215145_i.pdf, last visited October 11, 2022. It is believed that this injured worker is approximately 76 years of age; <https://www.floridaresidentsdirectory.com/person/110295789/williams-willie>, last visited October 11, 2022. If this is accurate, the published life expectancy is approximately 10 years. However, the Claimant might live less or more. Based upon the benefits cited in the March 28, 2022, order (\$11,691.51 for the period November 23, 2021, to March 30, 2022; 117 days), the benefit stream to the Claimant will be at least approximately \$99.93 per day, though supplemental benefits may increase that amount. Thus, if the Claimant passed on March 21, 2022, and only one day of benefits was due beyond the date of the order, then the unreported Claimant attorney fees would be \$14.99 (\$99.93 x .15). However, if the Claimant lives to life expectancy, the benefits may be \$364,735.14 (10 years x 365 days x \$99.93). In that event, the unreported Claimant attorney fees in the various reports issued between now and then will be \$54,710.27. If, perchance, the Claimant lives to 100 years of age, the amount of unreported Claimant's fees would be \$131,304.65. Investigation suggests that this prospective approval practice may be limited in scope, with only a small minority of judges engaging in the practice. However, there is no methodology short of individual manual audit of thousands of fee orders to factually discern the true extent of the understatement of Claimant fees in this report or any such compilation. What is certain is that there has been some level of underreporting.

205 Fla. Admin. Code R. 60Q-6.124(2006); Rule 60Q-6.124, Fla.R.Pro.Work.Comp., <https://www.fljcc.org/JCC/rules/#60Q-6.124>, last visited September 28, 2023: "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. Historically, there have been various instances of late reporting. Those have impacted the publication of some annual reports.

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

207 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.

208 See pages 54-55 regarding *Castellanos* effect and *Miles* effect.
209 Calculated with <https://www.usinflationcalculator.com/>, last visited September 26, 2024. See also endnotes 132, 215, 218, 369.
210 See endnote 73.
211 See endnote 12.
212 In real dollars. See *infra* pages 46-47 regarding historical figures adjusted for inflation and expressed in 2022 dollars.
213 See endnote 73.
214 See endnote 12.
215 *Supra* endnotes 132, 209, 218, 369. Calculated with <http://www.usinflationcalculator.com/>, last visited September 29, 2022. This
calculator is persistently updated regarding the present state of inflation. Therefore, all projections were calculated in a single
website session. While the exact figures may not be readily recalculated in a future effort, they are accepted as accurate at the time
of calculation.

216 These calculations are made using the ending year in any fiscal combination, thus this figure uses 2003 and 2023.
217 The manner in which the data is represented in the DLES report does not provide clarity as between fiscal or calendar year.
218 See also endnotes 132, 209, 215, 369.
219 See endnote 73.
220 See endnote 12.
221 Workers' Compensation has existed in Florida since 1935, a period of only 90 years. This 35-year period amounts to more than
one-third of that history, and a far more significant portion of the history since the system-changing reforms of 1979 (35 of the 44
years since 1979).

222 *Supra*, See endnote 12 and 73.
223 There are those who argue that "net to claimant," is the amount that an injured worker seeks to pocket through settlement, is a
figure contemplated and even stated by many injured workers. This school of thought holds that with such a known outcome, one
might mathematically "back-in" to a settlement amount that would cover fees, costs, and result in that pre-supposed "net to
claimant." In that regard, as the fee and cost component shifts, thus might the overall cost of a settlement, and therefore the system
cost that must be covered by premiums collected/invested.

224 See endnote 12.
225 If there is a fourth alternative explanation for the varied fee aggregate, it is not patent from the data.
226 This increase was erroneously reported as 10% in 2019-20, as the total volume of settlements (27,609) was included rather than
the "represented settlements." Some significant volume of cases is settled each year by pro se claimants; those were inadvertently
and inappropriately included in error.

227 *Id.*
228 Data supports that generally, there was "an unusual decrease in workers' compensation claim severity" during the pandemic. A
report issued by "the National Council on Compensation Insurance . . . said average claim severity for lost-time claims decreased
by about 6% in 2020." The volume of claims remained significantly similar to prior years, but "the pandemic increased the number
of small claims." NCCI: Work Comp Claim Frequency Dipped During Height of Pandemic, *THE CLAIMS JOURNAL*, December 2,
2021;
<https://www.claimsjournal.com/news/national/2021/12/02/307331.htm>, last visited October 24, 2022.

229 See *infra* page 40, see also endnotes 109-110. In 2022-23, percentage attorney fees were approved between 0% and 66%. The
effective hourly rates approved appear to range between \$0.00 and \$678.26. The upper parameter in 2021-22 was \$1,658.40 per
hour and in 2020-21 it was \$9,190.24 per hour," 2020-21 OJCC ANNUAL REPORT, page 261, endnote 237. There are various
interpretations of both statutory and decisional law as regards the role of judges in the consideration of attorney fees. Explanatory
fee data sheets are required by Rule 60Q-6.123(2)(a)5. and Rule 60Q-6.124(1), (2). However, there is anecdotal indicia that these
requirements are not always enforced. The Florida Supreme Court has concluded that a fee, specifically an effective hourly rate,
may be "patently unreasonable" in the context of "prevailing party" fees pursuant to section 440.34. *Castellanos v. Next Door Co.*,
192 So. 3d 431, 435 (Fla. 2016) ("\$1.53 hourly fee award"). The Court there noted that "Other factors, such as Rule Regulating The
Florida Bar 4-1.5 already prevent against excessive fees." (That may be contradicted by the 66% set forth above.) It concluded that
the statutory fee calculation was unconstitutional and remanded that case to the Judge "for entry of a reasonable attorney's fee." In
Miles v. City of Edgewater, 190 So. 3d 171, 184 (Fla. 1st DCA 2016), the Florida First District Court of Appeal concluded that a
claimant may be able to "agree to pay her attorney with her own (or someone else's) funds, subject to a JCC's finding that the fee
is reasonable." Thus, it is believed that all fees approved, and reported herein, have each been determined to be reasonable.

230 An order entered June 15, 2022, approved a fee of \$27,500 for appellate work. The assigned judge concluded that the fee was
"reasonable and in accordance with section 440.34, Florida Statutes, and *Lee Engineering and Construction Co. v Fellows*." There
was no representation in the parties' stipulation or any attorney fee data sheet as regards either the value of benefits obtained or the
quantum of hours that were compensated with this amount. *Caba v. Peoplease LLC*, 20-001208. The foundation of the finding of

“reasonable” may apparently be exclusively the parties’ stipulation to that effect. This was demonstrated in 2022-23 with fees awarded without demonstration of either benefit value or hours compensated in 22-028862, 15-009042, and 22-003592. These conclusions of “reasonable” may have foundation in fact or law, but that is not patent from the orders reviewed.

See endnote 12.

These include the First Amendment “freedom of speech, association, and to petition for redress of grievances.” *Miles*, 190 So. 3d at 178. These also include the “right to contract.” *Miles*, 190 So. 3d at 182.

Jacobson v. Se. Pers. Leasing, Inc., 113 So. 3d 1042, 1048 (Fla. 1st DCA 2013).

Miles, 190 So. 3d at 179.

Three cases were appealed in 2016: *Hood v. Delta Fire Sprinklers, Inc.*, Case 17-002745, DCA case 1D17-1915; *Shanks v. Rams RPG*, Case 16-026146, DCA case 1D17-1980; *Hill v. Fields Appliance Service*, Case 17-003894, DCA case 1D172095. All were consolidated, first “for purposes of travel only,” per order of August 7, 2017. They were later consolidated for oral argument. All three were voluntarily dismissed prior to the scheduled oral argument. Multiple appeals regarding fee orders were dismissed in 2023 also.

See *Mousadi v. The Learning Care Grp.*, OJCC Case 21-021654, March 8, 2023;

https://www.jcc.state.fl.us/Finals/21021654_364_04282023_11370570_i.pdf, last visited August 8, 2024. See also Florida First District Court of Appeal, 1D2023-1312, dismissed September 26, 2023; <https://acis.flcourts.gov/portal/court/b82b30d5-bd3c-46d7-9451-1cb05e470873/case/3ab253e8-78a7-4ff2-842e-ab1d435243af>, last visited August 8, 2024.

Sitzberger v. Workforce Business Services, Inc., Case No. 20-023233; the order entered September 10, 2021, noted a settlement amount of \$2.1 million and the fee of \$525,000 (25%). The net to the injured worker after costs and fees was \$1,562,056.80 (74.4%). Claimant’s counsel attested to the investment of 516 hours of attorney time yielding an effective hourly rate of \$1,017.44. Counsel’s affidavit sets forth that until settlement, the case was a “total denial,” thus, perhaps similar to *Miles* and *Jacobson*, see *infra* note 291.

Rudolph v. Smith, 377 So. 3d 1186 (Fla. 1st DCA 2024).

Smith v. The Home Depot, Case No. 93-010752; this order approved settlement of entitlement to future medical care and noted the indemnity entitlement had been previously settled. This order was entered April 6, 2022, and required the full fee to be held in trust pending further order.

Smith v. The Home Depot, Case No. 93-010752. An order was entered April 27, 2022, addressed fees payable to “three prior attorneys” from the \$1.33 million: Mr. Malca \$275,000 (450 hours over 2.5 years), Mr. Goldstone \$150,000 (390 hours over 18 years), and Mr. Hutchinson \$100,000 (284 hours over 7 years). The order notes the “statutory” fee calculation in effect in 1993 and the “*Lee Engineering* factors, as statutorily enumerated.” The fees claimed by the three attorneys were approved. This case was reviewed by the First District Court in 2023, with oral argument. As of release of this report, the last docket entry on the court’s record was March 16, 2023 and no decisions have been rendered. <https://acis.flcourts.gov/portal/court/b82b30d5-bd3c-46d7-9451-1cb05e470873/case/32fa256b-24df-49d6-974d-d50b7f89c845>, last visited October 13, 2023

§ 440.34(1), Fla. Stat. (1993) (“25% for the first \$5,000.00 in benefits, then 20% up to \$10,000.00, and finally 15% for the remainder.”). This would yield a fee of \$2,025,750 on the sum of \$13,500,000, which would leave for present counsel \$1,500,750 following the deduction of the \$525,000 approved for former counsel. That \$1,500,750 divided by the 205 hours spent negotiating the settlement of the matter would yield an effective hourly rate of \$7,320.73 per hour.

This equates to an effective hourly rate of \$600 per hour.

Rudolph v. Smith, 377 So. 3d 1186 (Fla. 1st DCA 2024).

In 2023-24, case number 23-017457 was settled by order entered February 6, 2024. The date of injury submitted in the request for assignment of case number, September 23, 1961, was identically stated as the worker’s date of birth on later filings. It is clear that this accident year was erroneous.

This case was a “new case” to the OJCC in 2018. The case number was assigned pursuant to a Request for Assignment of Case Number on February 22, 2018, almost 66 years after the accident. The purpose for requesting a case number was to submit a motion for approval of attorney fees in conjunction with a represented settlement.

When the OJCC was part of the Department of Labor, there were no “case numbers” assigned to disputes. The injured worker’s social security number was the identifier with both the Division of Workers’ Compensation and this Office. Therefore, prior to the transfer to DOAH, a case might be litigated without any case number assignment, nor anything else to clearly support a conclusion as to whether there had or had not been previous litigation therein.

This is six months, instead of twelve, because the date of accident is documented with the Julian calendar (January 1 through December 31), and the reporting of this Office is for the State of Florida Fiscal Year (July 1 through June 30). Thus, an accident might occur on January 1 of a calendar year, but any reported fee related to that accident would have to be approved by June 30 of that year to be reported as associated with that fiscal year.

Section 440.25(4)(d), Florida Statutes requires “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.” (Emphasis added).

Historically, until the 21st century, trial orders were very slow in workers’ compensation cases. Judges were inclined to delegate order preparation to attorneys (proposed orders), which contributed to the delays. However, the judge’s conclusions, delivered in “ruling letters,” often took many months to render, sometimes years. The system was unruly, undisciplined, and Floridians suffered as a result.

See endnote 15.

Id.

252 § 440.25(4)(d), Fla. Stat.
253 In the 2014-15 OJCC 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 PFB issues and on contested attorney fees.
254 See endnote 248.
255 This was a one-day trial. Although issues were raised of an expert medical advisor, the judge declined to appoint, concluding that the request or notice was untimely. It is not patent why the final order was not entered until 276 days later. *Caritene Antoine v. Island Lake Center*, OJCC Case No. 18-030077.
256 See endnote 248.
257 CS/CS/HB 487 (2023).
258 This would be recognition of the role of these critical staff and the increasingly technical nature of their contribution to the technologically leveraged litigation process of the twenty-first century. This was stressed in the 2020-21 OJCC ANNUAL REPORT, page 250, endnote 52.
259 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. While that language exists in that case, it remains to be seen whether such compelling interest does not in fact exist or whether it was merely not demonstrated in that litigation, as regards the facts presented there (“as applied”).
260 See endnote 29.
261 See Medicare Fraud & Abuse: Prevention, Detection, And Reporting, <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/Fraud-Abuse-MLN4649244-Print-Friendly.pdf>, last visited October 29, 2022.
262 § 440.25(1), Fla. Stat.
263 § 440.25(4)(d), Fla. Stat.
264 *Id.*
265 The District Court had concluded that a conflict in medical opinions may become ripe at trial, or thereafter (when order is issued). If this occurred, the judge was mandated, upon making a ruling that ripens the conflict, to appoint an EMA even after trial. Thus, a delay in entry of such an order would clearly be beyond the judge’s control. *ABM Indus., Inc. v. Valencia*, 327 So. 3d 469 (Fla. 1st DCA 2021).
266 *Id.*
267 There is a small and ever diminishing potential 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 a dispute regarding the appropriateness of reimbursement, the OJCC holds a trial and determines the legal and factual sufficiency.
268 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. See endnote 15.
269 See endnote 15.
270 *Id.*
271 The 210-day parameter applies by definition to the trial of PFBs. 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 17.). 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.
272 The 30-day parameter applies by definition to the entry of final orders on PFBs. For the same reason that the OJCC includes attorney fee/costs hearing as well as 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 attorney fees/cost motions/petitions and order thereon are included in the averages for OJCC aggregates and for the various Judges’ charts included herein.
273 § 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 § 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).

274 § 440.25(1), Fla. Stat.: “Forty days after a PFB is filed under § 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 attorney’s fees.”

275 § 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.”

276 § 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.”

277 § 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.”

278 § 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 § 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 § 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.”

279 § 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.”

280 § 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.”

281 This is a recognition that 14 days is sufficient notice in this context. Though the OJCC has striven to provide 30 days’ notice of mediations, this statutory section is suggestive that 14 days would be acceptable. However, in light of the busy schedules of attorneys and claims professionals, the 30-day process has been deemed more appropriate. *See* endnotes 274 and 276.

282 <https://www.fljcc.org/JCC/publications/reports/2023SR-MSR.pdf>, last visited October 15, 2023.

283 In 2008-09, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22, and 2022-23.

284 § 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 or by electronic means approved by the Deputy Chief Judge.”).

285 Fla. Admin. Code R. 60Q-6.110(2)(a). This characterization is a logical differentiation that recognizes both the statutory
286 parameters, and that many times the new hearing or mediation date is prior to the originally scheduled event.
287 Unless the continuance is granted on the record in the midst of another hearing, even then, the public record would be clearer with
288 documentation in a written order.
289 § 440.25(1), Fla. Stat. (“Any order granting a continuance must set forth the date of the rescheduled mediation conference”); §
290 440.25(4)(b), Fla. Stat. (“Any order granting a continuance must set forth the date and time of the rescheduled hearing.”).
291 In 2012-13, many (23 of 31) judges were not consistently complying with the statute in this regard. In 2013-14, six judges
292 periodically issued notice of a new hearing date instead of an appropriate continuance order. Seven judges continued cases that
293 year without an order or notice appearing in the docket. In 2016-17, orders failing to comply with the law were noted for nine
294 judges. In 2018-19, orders failing to comply were noted for 15 judges. In 2019-20, orders failing to comply were noted for nineteen
295 judges. In 2021-22, three judges were found to have granted continuances either without a continuance order or without designating
296 a new hearing date in such order.
297 *See* endnote 309.
298 § 440.34(2), Fla. Stat.: “In awarding a claimant’s attorney’s fee, the Judge of Compensation Claims shall consider only those
299 benefits secured by the attorney. An attorney is not entitled to attorneys’ fees for representation in any issue that was ripe, due, and
300 owing and that reasonably could have been addressed, but was not addressed, during the pendency of other issues for the same
301 injury. The amount, statutory basis, and type of benefits obtained through legal representation shall be listed on all attorneys’ fees
302 awarded by the judge of compensation claims. For purposes of this section, the term “benefits secured” does not include future
303 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
304 pending before a judge of compensation claims, including attorneys’ fees as provided for in this section, is communicated in writing
305 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
306 of attorneys’ fees to be taxed against the employer or carrier, the term “benefits secured” shall be deemed to include only that
307 amount awarded to the claimant above the amount specified in the offer to settle. If multiple issues are pending before the judge of
308 compensation claims, said offer of settlement shall address each issue pending and shall state explicitly whether or not the offer on
309 each issue is severable. The written offer shall also unequivocally state whether or not it includes medical witness fees and expenses
310 and all other costs associated with the claim.”
311 The statutory authority for entry of such an advisory opinion is not clear from the notice or from review of chapter 440.
312 *See* endnotes 100 and 245. The estimation of benefits “authorized” in 2020-21, *see* page 4, Executive Summary, was derived in
part by extrapolation of representations made in the process of obtaining attorney fee approval or adjudication that year. *See* endnote
15.
The term “trial order” now includes final orders regarding benefits sought through a PFB, attorney fee orders on either entitlement
or amount, and cost orders. *See* endnote 17 and the Glossary of Terms, pages 67-68. The term “trial order” necessarily means the
order resulted from a trial.
See endnotes 229 and 259.
Id.
Naming the coronavirus disease (COVID-19) and the virus that causes it, World Health Organization,
[https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-\(covid-2019\)-and-the-virus-that-causes-it](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-(covid-2019)-and-the-virus-that-causes-it), last visited October 28, 2022.
Id.
Until 2016, “trial” was defined as “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.” That broader definition included evidentiary proceedings
on a variety of substantive issues. However, some judges sought to enhance the appearance of their workload holding evidentiary
hearings on such procedural matters as motions for continuance, stipulations for appointment of expert medical advisor and more.
See also endnote 17.
See endnotes 17 and 206.
See endnote 4.
Id.
See endnotes 17 and 206.
Judge Stanton is assigned to District JAX, but has an ORL docket because of the volume of filings in central Florida. *See also*
endnote 280.
Transferred from District GNS upon its closure in 2022-23.
Id.
Transferred from District DAY as part of the consolidations in 2021-22 and the addition of Brevard County to District DAY.
Transferred from District GNS upon its closure in 2022-23.
See endnote 7.
See endnotes 17 and 206.
The 2021-22 report reflected Judge Humphries’ days to trial commencing as 307. This was later determined to be erroneous upon
further auditing of the data. The correct figure is 282 days.
The 2021-22 report reflected Judge Humphries’ days from trial commencing to order as 25. This was later determined to be
erroneous upon further auditing of the data. The correct figure is 25 days.
See endnotes 17 and 206.

313 *Id.*
314 District Daytona was closed and those cases were consolidated into District Orlando along with Judge Anderson.
315 Judge Lourdes Sancerni was appointed in 2021-22 and took office officially on August 1, 2022. Because of the timing of statistical reporting, a portion of some metrics for Petition, “new case,” PFB closure, and PFB year-end inventory were attributed to Judge Sancerni. Those figures were manually re-attributed equally to the other three judicial positions, which pre-existed the creation of the fourth Orlando docket and redistribution of cases to that docket.
316 Judge Stanton was appointed in 2018. Therefore, the statistics listed are attributable to the Division he managed, including those of his predecessor in District GNS, Hon. Marjoree Hill. Judge Stanton is assigned to District JAX, but has an ORL docket because of the volume of filings in central Florida; therefore, the statistics represented in the following charts reflect his former GNS or JAX docket, except for the 2023-24 figures. *See* endnote 267.
317 Transferred from District DAY upon its closure in 2022-23.
318 Transferred from District DAY upon its closure in 2022-23.
319 *See* endnotes 17 and 206.
320 *Id.*
321 Judge Walker transferred to District PNS in 2020. Therefore, the statistics listed are attributable to the Division he manages, including those of his predecessor Hon. Nolan Winn.
322 Transferred from District PMC upon its closure in 2022-23.
323 Transferred from District PMC upon its closure in 2022-23.
324 *See* endnotes 17 and 206.
325 Judge Grindal was transferred to District STP with the closure of District Sarasota in 2022-23. The figures represented for prior years were for District Sarasota and his predecessor Hon. Diane Beck.
326 Judge Moneyham was transferred to District STP with the closure of District Panama City in 2022-23. The figures represented for prior years were for District Panama City and his predecessor there, Jonathan Walker.
327 Judge Young transferred to District STP at the end of 2020. Therefore, the statistics listed are attributable to the Division she now manages, including those of her predecessor Hon. Stephen Rosen. All of the trials over which Judge Young presided, in District STP and TPA are combined here in District STP. The procedural orders, hearings, and settlements, are included in the information for her former TPA Division, *see* page 215.
328 Consolidated into District STP upon the closure of District SAR in 2022-23.
329 *Id.*
330 *Id.*
331 *Id.*
332 *Id.*
333 *See* endnotes 17 and 206.
334 Judge Newman was appointed in 2018. Therefore, the statistics listed are attributable to the Division she manages, including those of her predecessor Hon. John Lazzara.
335 Transferred from District Panama City in 2022-23 upon PMC closure.
336 *Id.*
337 *Id.*
338 *Id.*
339 *Id.*
340 *Id.*
341 *See* endnotes 17 and 206
342 Judge Anthony was appointed in 2020. Therefore, the statistics listed are attributable to the Division he manages, including those of his predecessor Hon. Ellen Lorenzen.
343 Judge Young was appointed in 2019 to a position in District TPA. The statistics listed are attributable to the Division she formerly managed (before transferred to District STP), including those of her predecessor, Hon. Douglas Spangler, and of Judge Arthur upon his move to District Tampa, *see* endnote 13.
344 *See* endnotes 17 and 206.
345 Judge Case was appointed in 2022. Therefore, the statistics listed are attributable to the Division she manages, including those of her predecessors, Hon. Carol Stephenson and Hon. Mary D’Ambrosio.
346 *See* endnotes 17 and 206.
347 *Id.*
348 Public Data, Google,
https://www.google.com/publicdata/explore?ds=kf7tgg1uo9ude_&met_y=population&idim=state:12000:06000&hl=en&dl=en,
last visited August 16, 2024.
349 435,862 Floridians = 12.64 million divided by 31 judges.
350 Section 440.20(11)(d), Florida Statutes, (2001), was added to the statute, stating “with respect to any lump-sum settlement under this subsection, a judge of compensation claims must consider at the time of the settlement, whether the settlement allocation provides for the appropriate recovery of child support arrearages.”
351 *See supra* page 31.

352 *Florida's Population Passes 23 Million for the First Time Due to Residents Moving From Other States*, US NEWS, July 23, 2024,
353 <https://www.usnews.com/news/us/articles/2024-07-23/floridas-population-passes-23-million-for-the-first-time-due-to-residents-moving-from-other-states>, last visited September 27, 2024.

354 Regarding office closures, *see* endnote 17. The mediator positions were legislatively returned. Over the years since the reduction,
355 staff positions have been adapted to create these new mediator positions. In the midst of DOAH's closure of various District Offices,
356 mediator turnover did not immediately lead to replacement, and the office concluded fiscal 2021-22 with 30 mediators. As the
mediation paradigm shifts to primarily Zoom/virtual and PFB volumes continue to rise, it is hoped that flexibility will remain to
increase mediator staffing as needed.

357 736,185 Floridians = 23 million divided by 30 judges.
358 Historically also referred to as "Deputy Commissioners" and "Judges of Industrial Claims."
359 "Effective July 1, 1989, each full-time judge of compensation claims shall receive a salary in an amount equal to \$4,000 less than
that paid to a circuit court judge. The Chief Judge shall receive a salary of \$1,000 more per year than the salary paid to a full-time
judge of Compensation Claims. These salaries shall be paid out of the fund established in s. 440.50." § 440.45(4) Fla. Stat. (1989).
360 "The general master shall be employed on a full-time basis by the office of the Chief Judge. The rate of compensation for a general
master shall be 60 percent of the salary of a judge of compensation claims." § 440.25(3)(b), Florida Statutes (1993).
361 *See* Florida Assessments, <https://www.myfloridacfo.com/division/wc/Insurer/Assessments/wcatf>, last visited September 27, 2024.
According to the Division of Workers' Compensation, the WCATF currently has a balance of \$172,396,856. Email from Brittany
O'Neil, October 31, 2023, retained by author. According to the Division of Workers' Compensation, over the last decade, the year-
end balance has increased from \$58,782,099 (2012) to \$73,261,056 (2013) to 97,142,337 (2014) to \$115,998,066 (2015) to
\$136,788,771 (2016) to \$160,332,179 (2017) to \$171,042,601 (2018) to \$195,070,196 (2019), and then decreased some to
\$182,674,345 (2020) to \$172,663,279 (2021), and then somewhat stabilizing with \$174,931,289 (2022) to \$172,396,856. The
WCATF is healthy and fully funded.

362 Overall Statistics, Florida Office of the State Court Administrator, <https://www.flcourts.gov/content/download/1334564/file/2022-23-srg-chapter-2-overall-statistics-20231219.pdf>, last visited September 27, 2024.

363 First District, 13, <https://1dca.flcourts.gov/Judges>; Second District, 15, <https://2dca.flcourts.gov/Judges>; Third, 10,
<https://3dca.flcourts.gov/Judges>; Fourth, 12, <https://4dca.flcourts.gov/Judges>; Fifth, 12, <https://5dca.flcourts.gov/Judges>; Sixth, 9,
<https://6dca.flcourts.gov/Judges>. All cites last visited September 27, 2024.

364 *Florida's Court Structure*,
<https://www.flcourts.gov/content/download/216616/file/Court-Structure.pdf>, last visited October 31, 2023.

365 The Conference of Circuit Judges of Florida, Inc., is a Florida Not for Profit Corporation at 215 South Monroe St, Tallahassee,
Florida 32301. *See*
<http://search.sunbiz.org/Inquiry/CorporationSearch/GetDocument?aggregateId=domnp-n05000010901-25716128-5af2-49ce-97df-20a328282900&transactionId=n05000010901-e37b2dd7-3553-469e-8b4a-8e2c14be13cb&formatType=PDF>, last visited
October 31, 2023.

366 *See* <http://floridacountyjudges.com/>, last visited October 31, 2023.

367 There are 72 appellate court judges in Florida. (Supreme Court, 7; First District, 15; Second District, 16; Third District, 11; Fourth
District, 12, and Fifth District, 11); <http://www.flcourts.org/florida-courts/district-court-appeal.stml>, last visited October 31, 2023.

368 *See* [Florida Judges Hire Lobbyist](https://www.miamiherald.com/news/politics-government/state-politics/article52344720.html), *Miami Herald*, December 30, 2015, <https://www.miamiherald.com/news/politics-government/state-politics/article52344720.html>, last visited October 31, 2023 (Pay site).

369 Steve Bousquet, [Florida judges hire lobbyist - a former judge - to fight proposed term limits](https://www.tampabay.com/news/politics/legislature/judges-hire-ex-colleague-hawkes-to-fight-term-limits-proposal/2259489), *Tampa Bay Times*, December 31,
2015; <https://www.tampabay.com/news/politics/legislature/judges-hire-ex-colleague-hawkes-to-fight-term-limits-proposal/2259489>, last visited October 31, 2023.

370 A request to The Florida Bar for consideration and support similar to that afforded to the Article V. judges was denied in 2021.
See also endnotes 132, 209, 215, 218.

371 *See* § 440.12(2), Fla. Stat. "compensation shall not exceed an amount per week which is: (a) Equal to 100 percent of the statewide
average weekly wage, determined as hereinafter provided for the year in which the injury occurred; however, the increase to 100
percent from 66 23percent of the statewide average weekly wage shall apply only to injuries occurring on or after August 1, 1979;
and (b) Adjusted to the nearest dollar." *See*, <https://www.myfloridacfo.com/division/wc/insurer/awwrate>, last visited August 16,
2024.

372 Bureau of Monitoring and Audit Statistics, Minimum/Maximum Compensation Rate Table,
http://www.myfloridacfo.com/division/wc/Insurer/bma_rates.htm, last visited August 16, 2024.

373 *Id.*

374 [Florida State Workers to see Pay Raise, Pension Changes](https://www.palmbeachpost.com/story/news/state/2017/05/01/florida-state-workers-to-see/7139392007/), *Palm Beach Post*, May 1, 2017;
<https://www.palmbeachpost.com/story/news/state/2017/05/01/florida-state-workers-to-see/7139392007/>, last visited August 16,
2024.

375 Florida's Judicial Pay Still Lags for District and Trial Court Judges, *The Florida Bar News*, September 13, 2019;
<https://www.floridabar.org/the-florida-bar-news/floridas-judicial-pay-still-lags-for-district-court-trial-court-judges/>, last visited
August 16, 2024.

376 Aebra Coe, [Lagging Judicial Pay Is Hurting Courts' Recruiting Efforts](https://www.law360.com/pulse/articles/1433450/lagging-judicial-pay-is-hurting-courts-recruiting-efforts), October 22, 2021,
<https://www.law360.com/pulse/articles/1433450/lagging-judicial-pay-is-hurting-courts-recruiting-efforts>, last visited August 16,
2024 (*Pay site*).

§ 121.091, Fla. Stat. (2017).

377 § 440.45(2)(a), Fla. Stat. (2017).
378 § 121.021(3), Fla. Stat. (2017).
379 There is the risk of government changes in appointment or eligibility through term limits or non-retention. There is the risk of not
vesting in the retirement system. There is often the risk of relocating residence to the geography of the appointment.
380 Jeffrey S. Breslow, Glenys Domingo, Rosalind Milian, and Gary Miller. The Commission nominated Jeffrey S. Breslow, Rosalind
Milian, and Gary Miller. Mr. Breslow later withdrew from consideration.
381 This meeting was canceled due to the imminent threat of Hurricane Ian. It was rescheduled and ultimately held on November 14,
2022.
382 Jeffrey S. Breslow, Glenys Domingo, Mindy Ann Ferrer, Kimberly A. Hill, and James Price.
383 Holly Nicole Akers, Jeffrey S. Breslow, Silvia Maria Hoeg, and James Crawford Price. Ms. Akers preemptively withdrew on
September 22, 2022, before the commission meeting was cancelled, *supra*, endnote 381. The advertisement was thereafter
withdrawn as regards a fourth judgeship in District ORL as the consolidation efforts of the OJCC became refocused under new
leadership.
384 Roseanna Bronhard, Barbara Case, Kimberly Hill, and James Price.
385 Roseanna Bronhard, John Paul Brooks, Sylvia M. Hoeg, Jill Jacobs, and Lourdes Maritza Sancerni, Daniel McKnight. The
commission nominated a total of five people for the two positions with one person nominated twice (once for each position).
386 The same six were eligible for the second position. *Id.*
387 Jessica Carrier, Todd Sanders, and Mathew Wheeley. Mr. Wheeley later withdrew from the process and the Governor's Office
asked that the position be re-advertised as the list was no longer three names.
388 John Brooks, John Moneyham, and Gus Soto.
389 Brian Anthony, Lawrence Anzalone, Mark Capron, Tonya Oliver, and Todd Sanders. Of these, only Mr. Sanders presented for
interview.
390 Jessica Carrier, Erik Grindal, and Jacqueline Steele.
391 Jessica Carrier and Jacqueline Steele.
392 Brian Anthony, Lawrence Anzalone, Mark Gregory Capron, Tonya Ann Oliver, Merette Leigh Oweis, and Rita Lawton Young.
Six applicants in total applied for the two positions, yielding essentially three each. The commission nominated a total of four
people for the two positions, with two of the four nominated twice, once for each position.
393 The same six were eligible for the second position. *Id.*
394 Jeffrey Breslow, David M. Goehl, Rosalind Rae Milian, and Michael James Ring.
395 Stephen Andrews, William Gwaltney, Jacquelyn Newman, Michael Peterson, and Todd Sanders.
396 Stephen Armstrong, Laura Buck, Lourdes Sancerni, and Timothy Stanton.
397 Robert Wells.
398 Two vacancies were simultaneously interviewed. Five total applications (after a sixth withdrew prior to interview) equaled 2.5 per
opening: David Goehl, Walter Havers, Jeffrey Jacobs, Michele Ready, and Robert Wells.
399 *Id.*
400 Lawrence Anzalone, Robert Arthur, Mark Capron, and Juliana Curtis.
401 Jeffrey Breslow, Jill Forman, Jeffrey Jacobs, Marydeneyse Ommert, Ken Schwartz, and Carol Stephenson.
402 This was on the first advertisement for the MIA vacancy and two applications were received: Walter Havers and Jeffrey Jacobs.
403 Lawrence Anzalone, Jeffrey Jacobs, Gregory Johnsen, Marydeneyse Ommert, Michael Peterson, Debra Pierce, Ken Schwartz,
Carol Stephenson, and Janet Tacoronte (withdrew prior to interview).
404 John Moneyham, Michael Peterson, Tara Said, and Jonathan Walker.
405 Lawrence Anzalone, John Paul Brooks, Frank Clark, and Timothy Stanton.
406 Lawrence Anzalone, John Paul Brooks, Thomas Hedler, Carrie McAliley, Keef Owens, Debra Pierce, Mary Spagnola, and Carol
Stephenson.
407 Lawrence Anzalone, Jill Forman, Debra Pierce, and Thomas Hedler.
408 George Boring, Eric Bredemeyer, Frank Clark, Kenneth Kugler, Tania Ogden, James Radloff (withdrew prior to interview),
Timothy Stanton, and Jack Weiss.
409 Iliana Forte, Gregory Johnsen, Roberto Mendez, Kenneth Schwarz, Carol Stephenson, and Wendy Sweeny.
410 Robert Dietz, Mark Hill, Keefe Owens, Kenneth Schwartz, Timothy Stanton, Wendy Sweeny, Larry Wang, and Michael Wilkes.
411 Eugene Flinn, Gregory Johnsen, Eduardo Almeyda, and Stephen Renick.
412 Jane Loewinger, Wilbur Anderson, Robert Dietz, Bruce Epple, Clay Meek, Keef Owens, Steven Pyle, Timothy Stanton, and
Michael Wilkes.
413 Gregory Johnsen, Margret Kerr, Steve Renick, and Arthur Sevak.
414 Deborah Hart, Mark Massey, Lawrence Anzalone, Ya'Sheaka Campbell, and Hillarey McCall.
415 Applications were submitted, but no appointment was made because of budget reductions, *see supra* note 19.
416 Effectively this was 8.5 applicants per vacancy, a total of 17 applicants: Mark Becker, John Darin, Alan Gordon, William Holley,
Ralph Humphries, Martin Liebowitz, Joy Lordahl, Edward Mallow, Colleen Ortiz, Keef Owens, Debra Pierce, Leesa Powell, Salisu
Richardson, Melanie Rodriguez, Timothy Stanton, Danielle Tharpe, Robert Trumbo, and Rita Young.
417 *Id.*
418 Don Allen, Robert Arthur, John Brooks, John Darrin, Dawn Hayes, Debra Pierce, Margaret Sojourner, Timothy Stanton, Jack
Weiss, Michael Wilkes, and James Spears.

419 Don Allen, John Brooks, Danielle French, Patrick Helm, Kenneth Hesser, Marjoree Hill, Mark Massey, Lyle Platt, Melanie
Rodriguez, Stephen Rosen, Stuart Suskin, Roland Tan, and William Wieland.

420 Wilbur Anderson, Douglas Daze, Alan Gordon, Clayton Harland, Marjorie Renee Hill, Lyle Platt, Melanie Rodriguez, Stephen
Rosen, Roland Tan, and William Wieland.

421 Don Allen, Eduardo Almeyda, Kenneth Conner, John Darrin, Joseph Farrell, Thomas Ferrara, James Hurt, Jeffrey Hussey,
AnneMarie Kim, Charles Leo, Patrick Malone, Valerie Marshall, Patrick McGinley, and Randall Porcher.

422 In fairness, some volume of vacancy has occurred periodically due to non-reappointment.