



LegalMetric District Judge Report

Sample District

Antitrust Cases

January, 1991 to June, 2007

This report contains confidential and proprietary information of LegalMetric, LLC. Use of this information by anyone other than the purchaser, or disclosure of this information, without the consent of LegalMetric, LLC is prohibited.

The information contained in this report is obtained from the official docket records of the federal courts. No attempt has been made to correct that data. For example, cases may be misclassified in the official docket records. In addition, cases are classified only by the primary cause of action. Cases having multiple causes of action are analyzed only under the primary cause of action identified on the official court docket.

LegalMetric, LLC is not a law firm, does not provide legal advice, and is not engaged in the practice of law. No attorney-client relationship exists between LegalMetric, LLC and any user of its products. LegalMetric provides statistical and analytical information to anyone who desires to purchase that information. Any purchaser of LegalMetric products who wants legal advice should hire an attorney.

Table of Contents

Overview	3
Breakdown by Judge and Division.....	4
Divisional Comparisons.....	6
What are the Odds—Terminations on the Merits.....	8
Plaintiff Win Rate by Judge.....	10
Breakout of Plaintiff & Defendant Win Rate Statistics	11
All Parties—All Terminations on the Merits	12
Decisions on Involuntary Motions to Dismiss—By Judge	13
Dispositions by Summary Judgment.....	13
Case Outcomes	14
Bench Trials—Number By Judge	16
Jury Trials—Number By Judge	16
Terminations by Transfer—Number By Judge	16
Trials—District-Wide By Prevailing Party and Trial Type	17
How Long?—Time to Termination.....	18
Average Pendency for All Terminations on the Merits—By Active Judge.....	22
Average Pendency for Bench Trials—By Active Judge	23
Average Pendency for Jury Trials—By Active Judge.....	23
Average Pendency for Cases Terminated by Summary Judgment—By Active Judge.....	24
Average Pendency for Cases Terminated by Transfer—By Active Judge.....	24
Appeals.....	25
Jury Demands.....	27
Experience	28
Total Number of Antitrust Cases—By Judge	28
Cases with Summary Judgment Activity—By Active Judge.....	29
Cases with Transfer Activity—By Active Judge.....	33
Cases with Preliminary Injunction Activity—By Active Judge	37

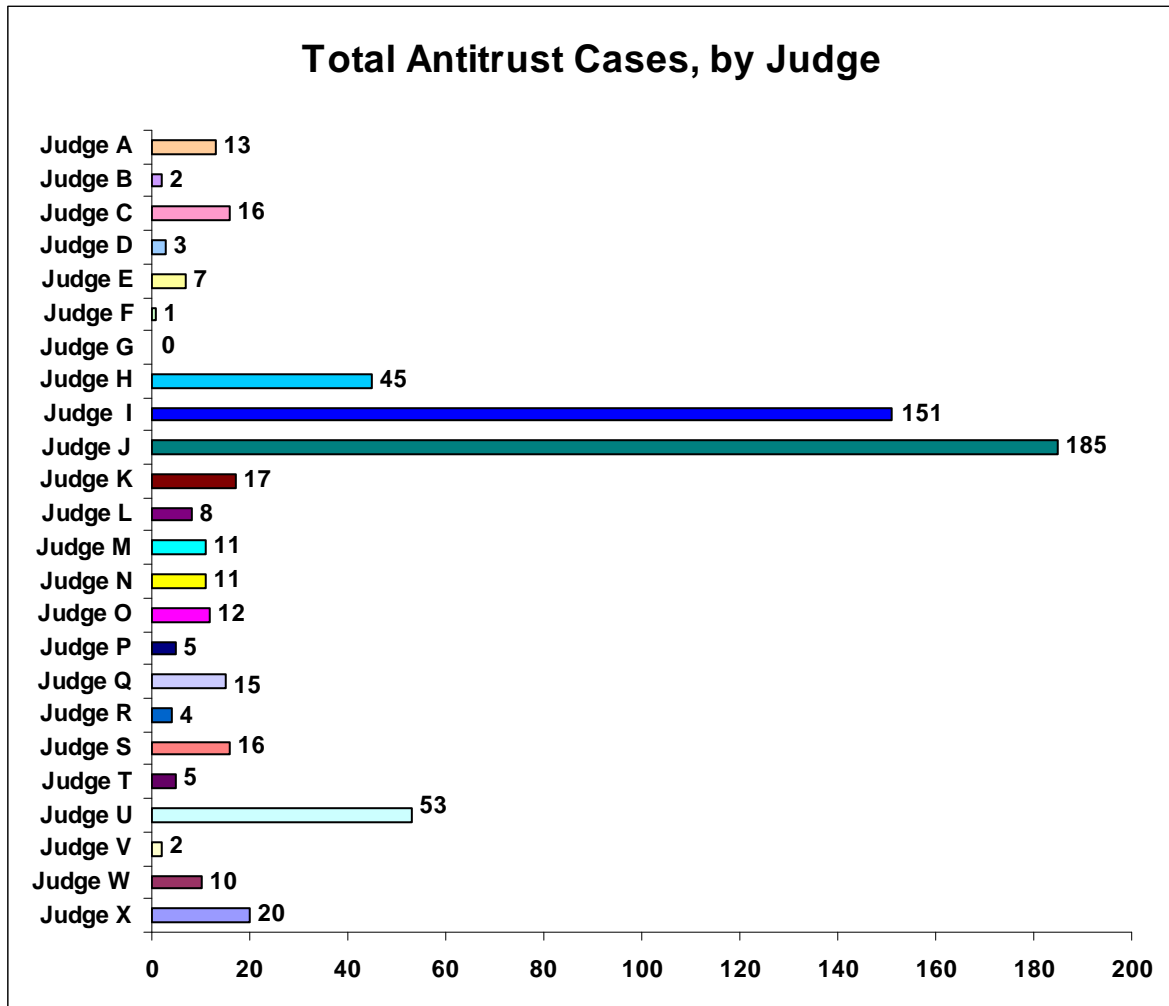
Overview

This report covers the antitrust cases of the active Judge in the Sample District from January, 1991 to June, 2007. Cases of inactive Judge are not included. For purposes of this report, senior judges who have not been assigned an antitrust case for the past two years are considered inactive.

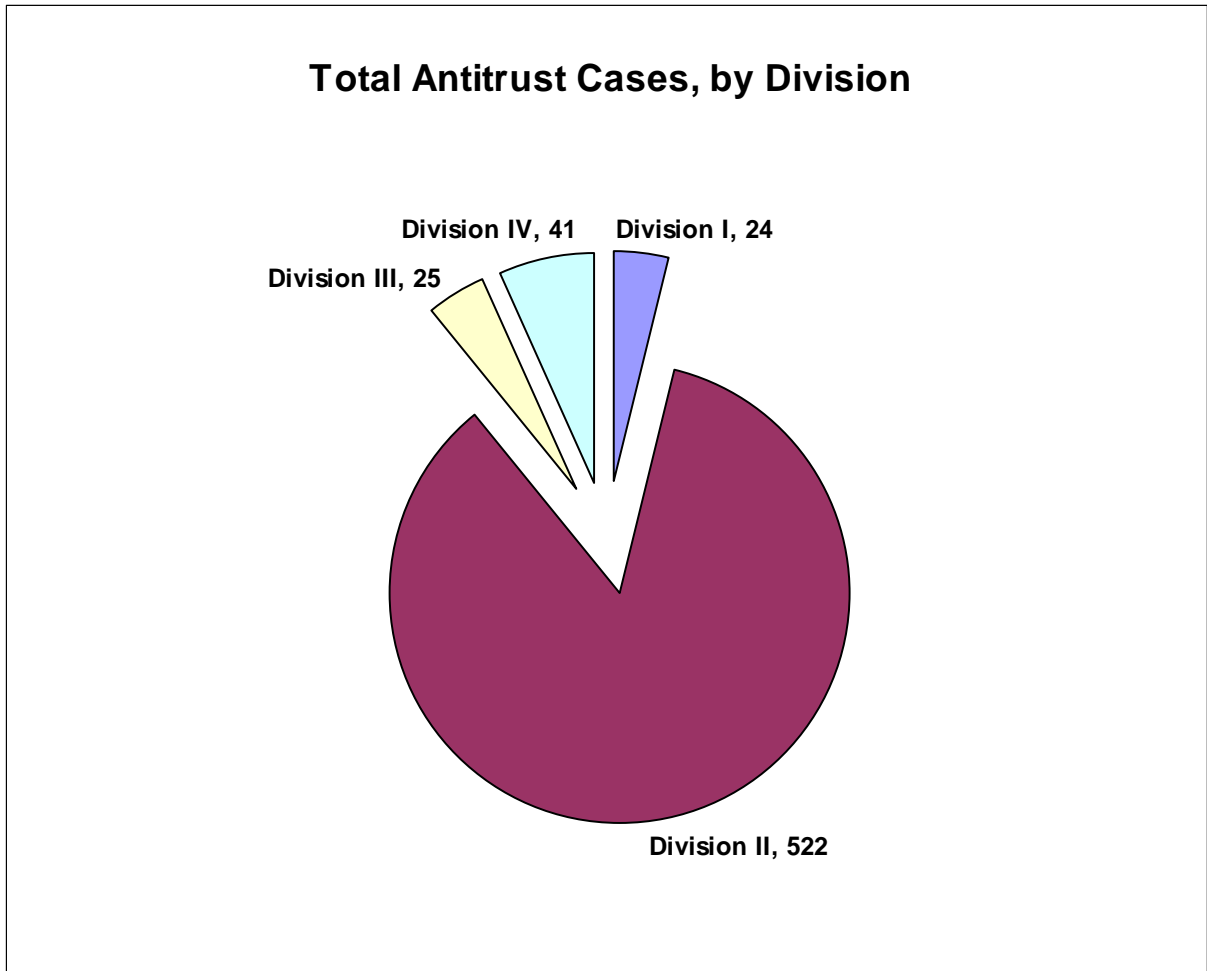
<p>Total Antitrust Cases: 612 Total/299 Closed Number of Cases, each Judge: 0 to 185 (Average 26 per Judge)</p>	<p>Total Judgments on the Merits: 59 Each Judge: 0 to 37</p>
<p>Average Plaintiff Win Rate: 12%</p> <p>Contested Win Rate: 3.7% (2 of 54) (does not include consent and default judgments)</p> <p>Number of Trials: 1 Number, each Judge: 0 to 1 Plaintiff Win Rate at Trial: 0%</p>	<div style="text-align: center;"> <p style="font-size: small;">Plaintiff Win Rate by Year</p> </div> <p style="text-align: center;">(Larger Version in Body of Report)</p>
<p>Average Time to Termination—All Cases: 17.0 months Average by Judge from 4.5 to 41.5 months</p> <p>Average Time to Termination—On the Merits: 40.8 months Average by Judge from 7.5 to 55.4 months</p> <p>Summary Judgment Activity: 54 summary judgment motions Activity by Judge: 0 Motions to 24 Motions</p>	<div style="text-align: center;"> <p style="font-size: small;">Average Time to Termination on the Merits by Judge</p> </div> <p style="text-align: center;">(Larger Version in Body of Report)</p>
<p>Total Appeals: 19</p> <p>Complete Affirmance Rate: 69.2% (9 of 13)</p>	

Breakdown by Judge and Division

The chart below illustrates the total number of antitrust cases by active judges in the District.

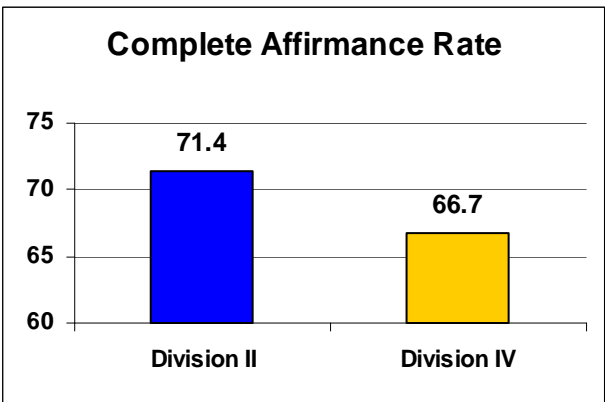


The breakdown of antitrust cases by division is illustrated in the following chart:

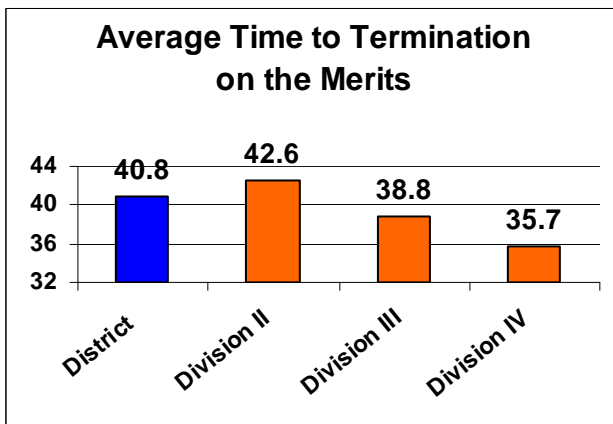


Divisional Comparisons

<div style="text-align: center;">Overall Win Rate</div> <table border="1" style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <thead> <tr> <th>Division</th> <th>Win Rate (%)</th> </tr> </thead> <tbody> <tr> <td>District</td> <td>12</td> </tr> <tr> <td>Division II</td> <td>7.1</td> </tr> <tr> <td>Division III</td> <td>0</td> </tr> <tr> <td>Division IV</td> <td>28.6</td> </tr> </tbody> </table>	Division	Win Rate (%)	District	12	Division II	7.1	Division III	0	Division IV	28.6	<p>Overall Win Rates: The win rate for the District was 12%. The variation by division is shown in the chart to the left. Overall win rate includes consent and default judgments.</p>
Division	Win Rate (%)										
District	12										
Division II	7.1										
Division III	0										
Division IV	28.6										
<div style="text-align: center;">Contested Win Rate</div> <table border="1" style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <thead> <tr> <th>Division</th> <th>Win Rate (%)</th> </tr> </thead> <tbody> <tr> <td>District</td> <td>3.7</td> </tr> <tr> <td>Division II</td> <td>2.5</td> </tr> <tr> <td>Division III</td> <td>0</td> </tr> <tr> <td>Division IV</td> <td>9.1</td> </tr> </tbody> </table>	Division	Win Rate (%)	District	3.7	Division II	2.5	Division III	0	Division IV	9.1	<p>Contested Win Rates: The contested win rate (excludes consent and default judgments) for the District was 3.7%. The variation by division can be seen in the chart to the left.</p>
Division	Win Rate (%)										
District	3.7										
Division II	2.5										
Division III	0										
Division IV	9.1										
<div style="text-align: center;">Trial Win Rate</div> <table border="1" style="margin-left: auto; margin-right: auto; border-collapse: collapse;"> <thead> <tr> <th>Division</th> <th>Win Rate (%)</th> </tr> </thead> <tbody> <tr> <td>District</td> <td>0</td> </tr> <tr> <td>Division IV</td> <td>0</td> </tr> </tbody> </table>	Division	Win Rate (%)	District	0	Division IV	0	<p>Win Rate at Trial: The win rate at trial for the District and Uniondale Division was 0%.</p>				
Division	Win Rate (%)										
District	0										
Division IV	0										



Complete Affirmance Rate: The Complete Affirmance Rate (appeals affirmed with no other action, divided by the total number of appeals except for dismissed and pending appeals) for the district was 69.2%. The variation by division can be seen in the chart to the left.

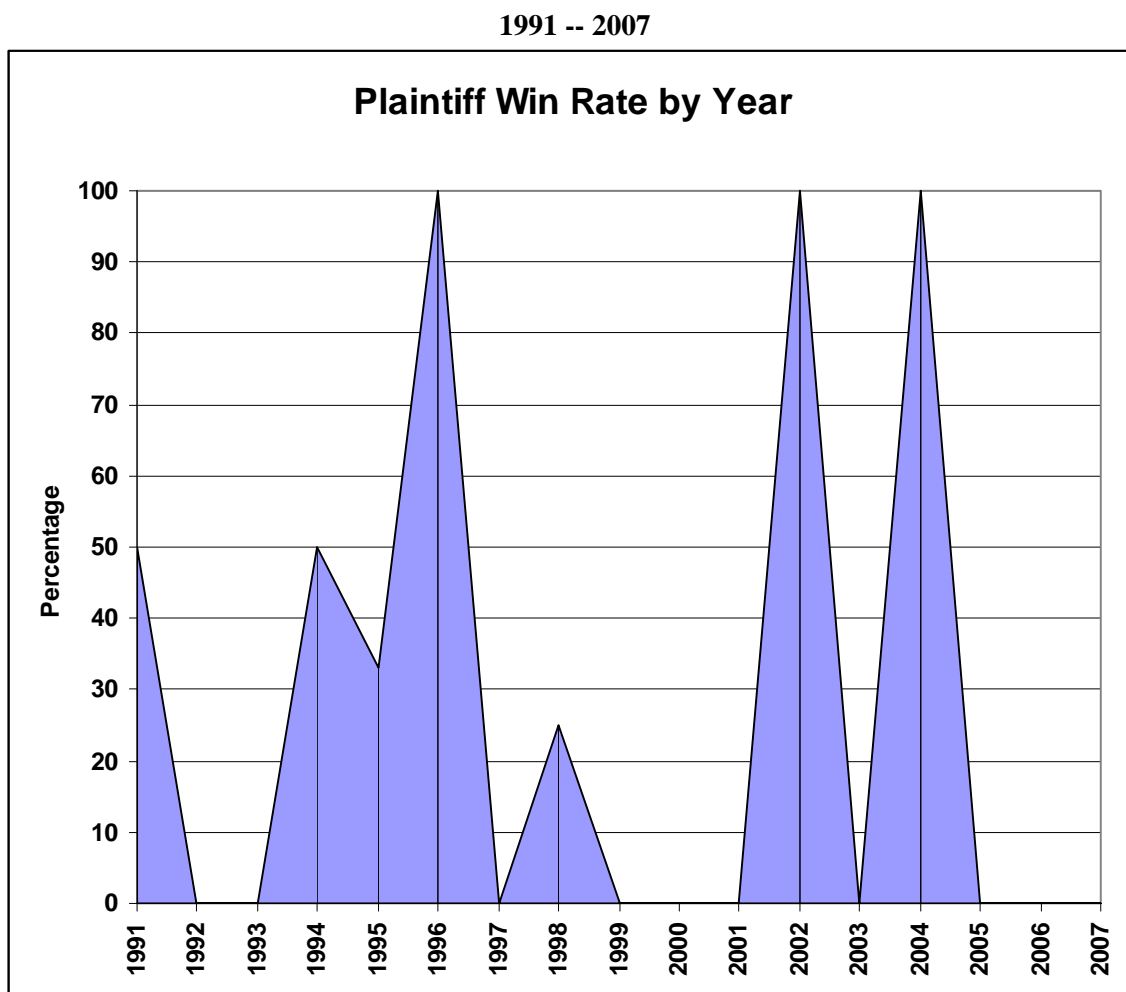


Time to Termination on the Merits: The average time from case filing to termination on the merits (includes consent and default judgments) was 40.8 months. The variation by division can be seen in the chart to the left.

What are the Odds¹—Terminations on the Merits

Of the 299 closed antitrust cases in the Sample District in the period covered by this report, 19.7% were terminated on the merits, i.e., by trial, pre-trial motion, default or consent judgment. Plaintiffs won 12% of those cases decided on the merits.

The following chart shows the plaintiff win rate for the active judges in the Sample District by year. The plaintiff win rate for the active judges should be compared with the historical nationwide win rate of 34%.

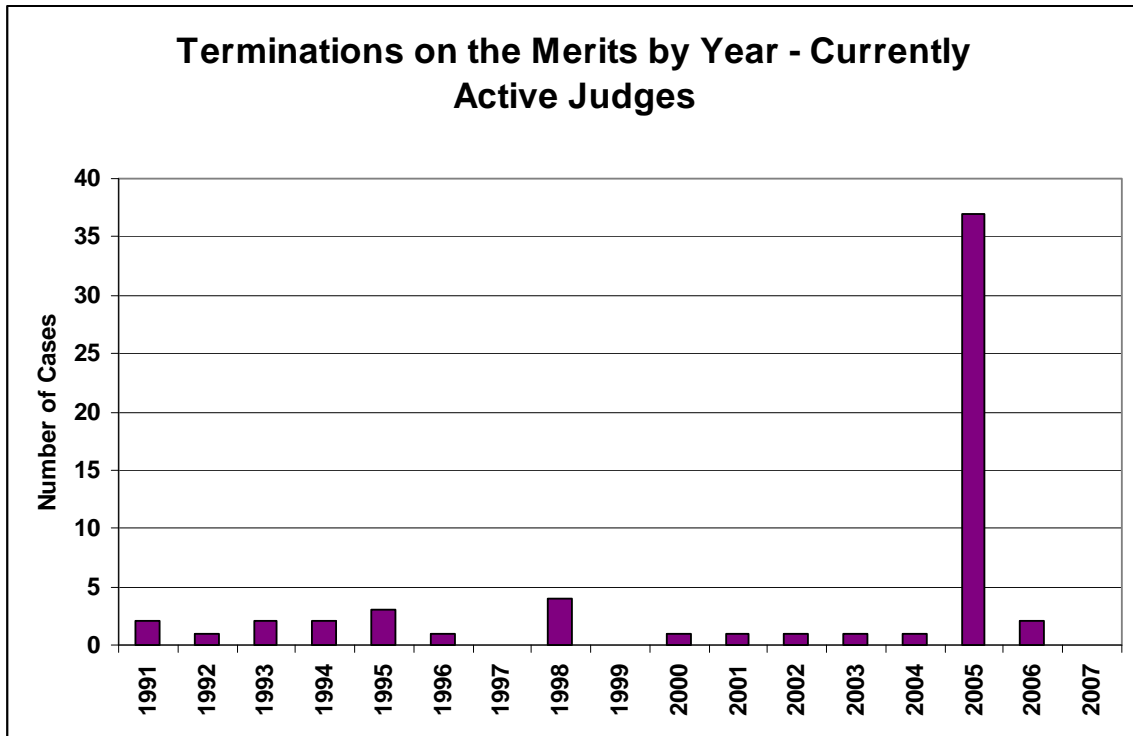


¹ If there were any cases in which both parties prevailed (for example, the plaintiff prevailed on its complaint and the defendant prevailed on an unrelated counterclaim), such a case is counted as one-half of a “win” for plaintiff and one-half of a “win” for defendant. Fractional numbers of “wins”, therefore, can occur.

The actual numbers of plaintiff “wins” versus total terminations on the merits from 1991 through 2007 by the currently active judges are as follows:

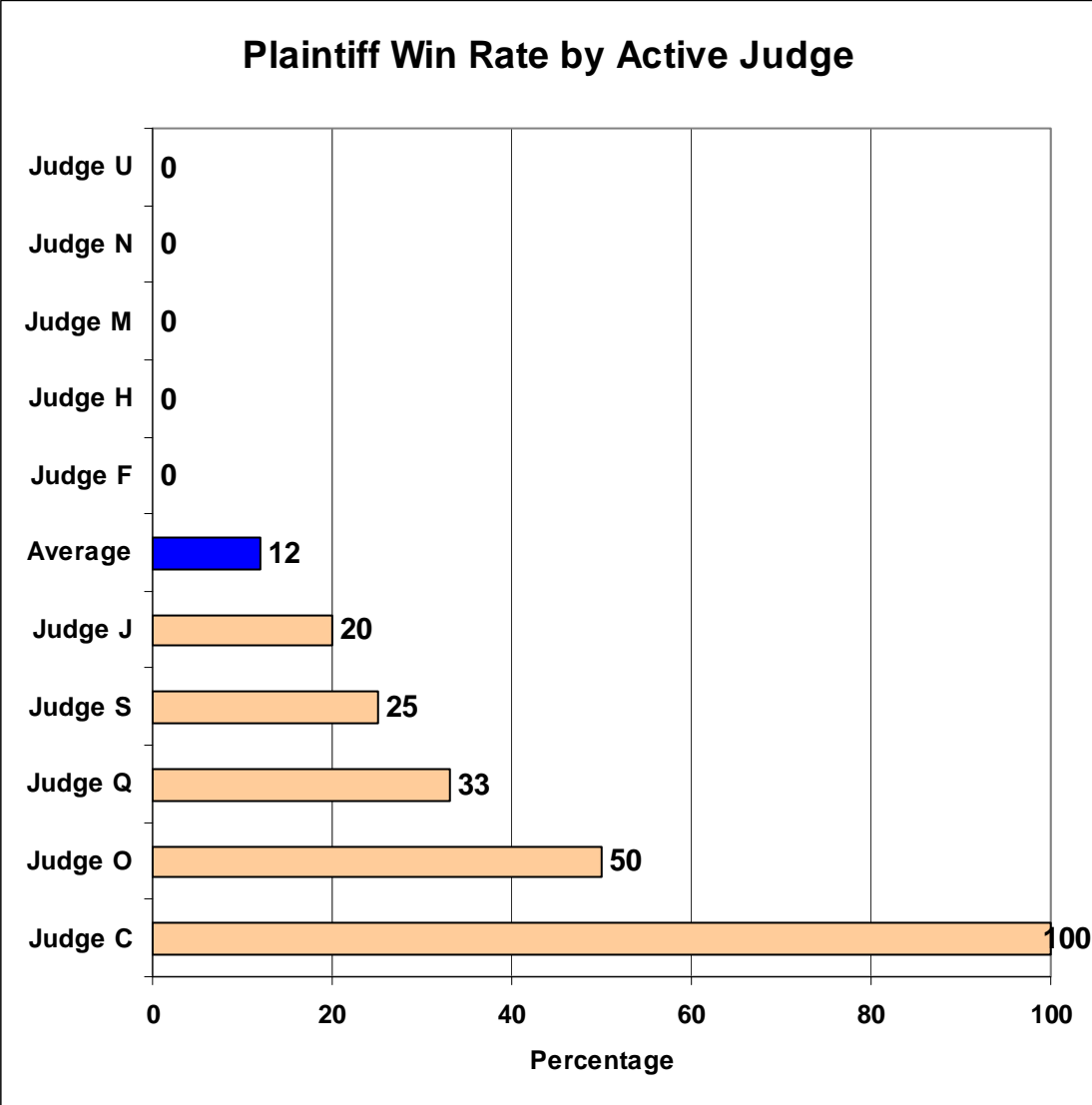
Year	Plaintiff Wins	Total Decisions	Plaintiff Win Rate
1991	1	2	50
1992	0	1	0
1993	0	2	0
1994	1	2	50
1995	1	3	33
1996	1	1	100
1997	0	0	n/a
1998	1	4	25
1999	0	0	n/a
2000	0	1	0
2001	0	1	0
2002	1	1	100
2003	0	1	0
2004	1	1	100
2005	0	37	0
2006	0	2	0
2007	0	0	n/a

The total number of terminations on the merits per year by the currently active judges during the same period in the Sample District is shown in the following chart:



Plaintiff Win Rate by Judge

For the district as a whole the plaintiff win rate for these active judges over this period was 12%. The plaintiff win rate varies significantly from judge to judge over the period covered by this report—from 0% to 100%. The chart below illustrates these win rates for those judges with at least 1 termination on the merits.



The following table provides the plaintiff win rate information for each active judge with at least 1 termination on the merits, along with the number of terminations on the merits by that judge in antitrust cases during this period.

Judge	Number of Terminations on Merits	Plaintiff Win Rate
Average for the Court	2	12
Judge C	2	100
Judge F	1	0
Judge H	1	0
Judge J	5	20
Judge M	1	0
Judge N	1	0
Judge O	4	50
Judge Q	3	33
Judge S	4	25
Judge U	37	0

Breakout of Plaintiff & Defendant Win Rate Statistics

At Trial

Of the 299 closed antitrust cases of the active judges in the Sample District during the period covered by this report, 1 was decided at trial. The defendant prevailed in that case; they were all jury trials.

The single defendant jury verdict was before Judge S.

Plaintiff—Other Than Trial

There were 7 judgments on the merits in favor of the plaintiff other than by trial. Plaintiff prevailed in 5 cases by consent judgment, 1 case by involuntary dismissal and 1 case by other termination.

Defendant—Other Than Trial

There were 51 judgments on the merits in favor of the defendant other than by trial. The defendant prevailed in 13 cases by involuntary dismissal, 1 case by other termination and 37 cases by summary judgment.

All Parties—All Terminations on the Merits

All the terminations on the merits by active judges for the Sample District during this period are shown in the following table:

District Terminations	Plaintiff		Defendant	
	0%	(0 / 1)	100%	(1 / 1)
At Trial	0%	(0 / 1)	100%	(1 / 1)
Bench Trial	n/a	(0 / 0)	n/a	(0 / 0)
Jury Verdict	0%	(0 / 1)	100%	(1 / 1)
Consent Judgment ²	100%	(5 / 5)	0%	(0 / 5)
Involuntary Dismissal	7%	(1 / 14)	93%	(13 / 14)
Other Termination	50%	(1 / 2)	50%	(1 / 2)
Summary Judgment	0%	(0 / 37)	100%	(37 / 37)
Overall (on the Merits)	12%	(7 / 59)	88%	(52 / 59)

Plaintiffs prevailed above the overall average (12%) in cases terminated by consent judgment (100%) and by other termination (50%). Defendants prevailed above the overall average (88%) in cases terminated by jury verdict (100%), involuntary dismissal (93%), and summary judgment (100%).

Nationwide, plaintiffs prevail in 34% of these cases overall, and in 47% of these cases at trial. (When trial was to a jury, plaintiff prevailed in 52% of these cases nationwide.) Conversely, defendants nationwide prevail in 66% of these cases overall, and in 53% of these cases at trial. (When trial was to a jury, defendant prevailed in 48% of these cases nationwide.)

² Consent judgments are presumed to be in favor of the plaintiff unless the docket indicates otherwise.

Decisions on Involuntary Motions to Dismiss—By Judge

The 13 involuntary dismissals for the defendants were decided by the active judges as shown in the following table. Judges omitted from this table had no decisions granting motions to dismiss during the period of time covered by this report.

Judge	Number of Terminations on Merits	Involuntary Dismissals
Judge C	2	1
Judge F	1	1
Judge J	5	2
Judge M	1	1
Judge N	1	1
Judge O	4	1
Judge Q	3	2
Judge S	4	2
Judge U	37	3

Terminations by summary judgment are not included in these figures. See Dispositions by Summary Judgment section for those results.

Dispositions by Summary Judgment

The 37 summary judgment dispositions were decided as indicated in the table below.

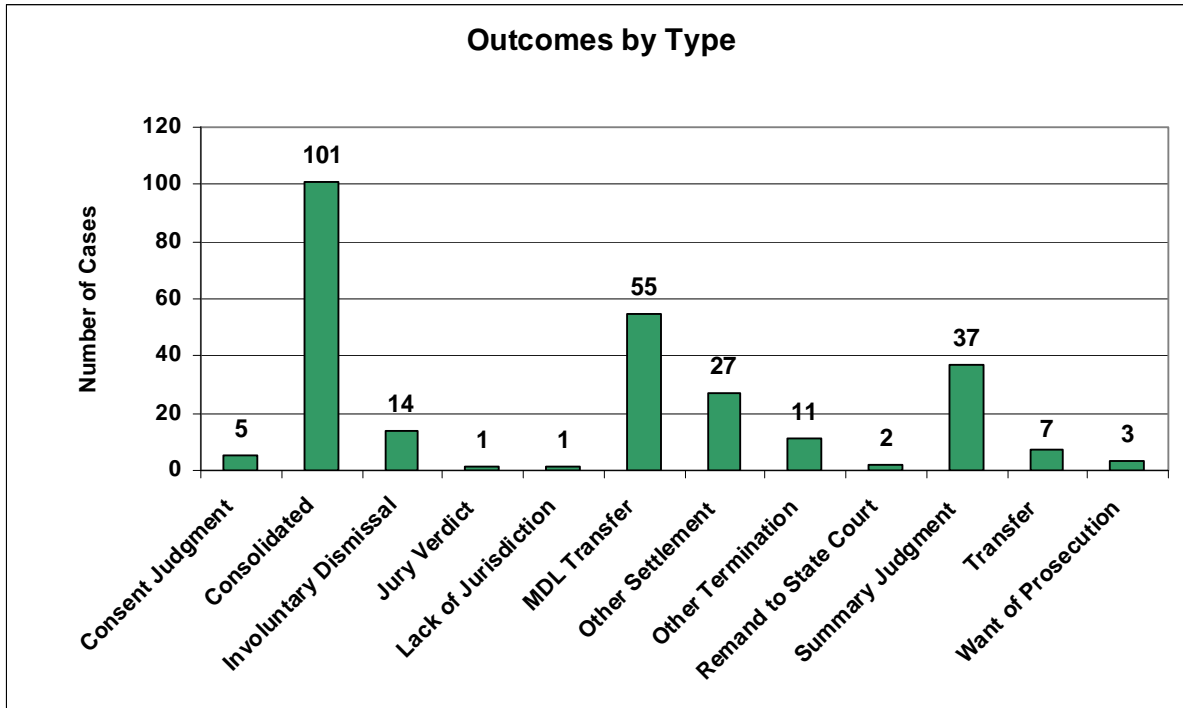
Judge	Summary Judgment for Plaintiff	Summary Judgment for Defendant
Judge H	0	1
Judge J	0	2
Judge U	0	34

Case Outcomes

Of the 299 terminated cases,

- 5 (1.7%) were terminated by consent judgment, with an average pendency of 34.5 months
- 101 (33.8%) were terminated by consolidation, with an average pendency of 6.3 months
- 14 (4.7%) were terminated by involuntary dismissal, with an average pendency of 17.5 months
- 1 (0.3%) was terminated for lack of jurisdiction, with a pendency of 13.1 months
- 27 (9.0%) were terminated by miscellaneous settlement, with an average pendency of 28.1 months
- 11 (3.7%) were terminated by other miscellaneous termination, with an average pendency of 21.1 months
- 2 (0.7%) were terminated by remand to state court, with an average pendency of 3.9 months
- 37 (12.4%) were terminated by summary judgment, with an average pendency of 49.1 months
- 62 (20.7%) were terminated by transfer, with an average pendency of 6.4 months
- 0 (0.0%) were terminated by bench trial
- 1 (0.3%) was terminated by jury trial, with a pendency of 45.4 months
- 35 (11.7%) were terminated by voluntary dismissal, with an average pendency of 18.6 months
- 3 (1.0%) were terminated for want of prosecution, with an average pendency of 39.6 months

The chart below illustrates the case outcomes for the Sample District in antitrust cases: The 35 voluntary dismissals are not included in the chart.



Bench Trials—Number By Judge

For the active judges in the Sample District as a whole during the period covered by this report, there were no bench trials in antitrust cases.

Jury Trials—Number By Judge

There was 1 jury trial in these cases. The active judge who presided over jury trials in antitrust cases and the number of jury trials are as follows:

Judge	Jury Trials for Plaintiff	Jury Trials for Defendant
Judge S	0	1

Terminations by Transfer—Number By Judge

There were 7 cases terminated by transfer in antitrust cases in the Sample District during the period covered by this report. The table below shows the number of terminations by transfer for each active judge that transferred at least 1 case.

Judge	Cases Transferred
Judge E	1
Judge I	1
Judge N	1
Judge O	1
Judge Q	2
Judge S	1

Note that this table does not include MDL Transfers.

Trials—District-Wide by Prevailing Party and Trial Type

Of the 59 cases with an identifiable winner, 1 went to trial. The defendant prevailed in that case.

The case where the defendant prevailed at trial was:

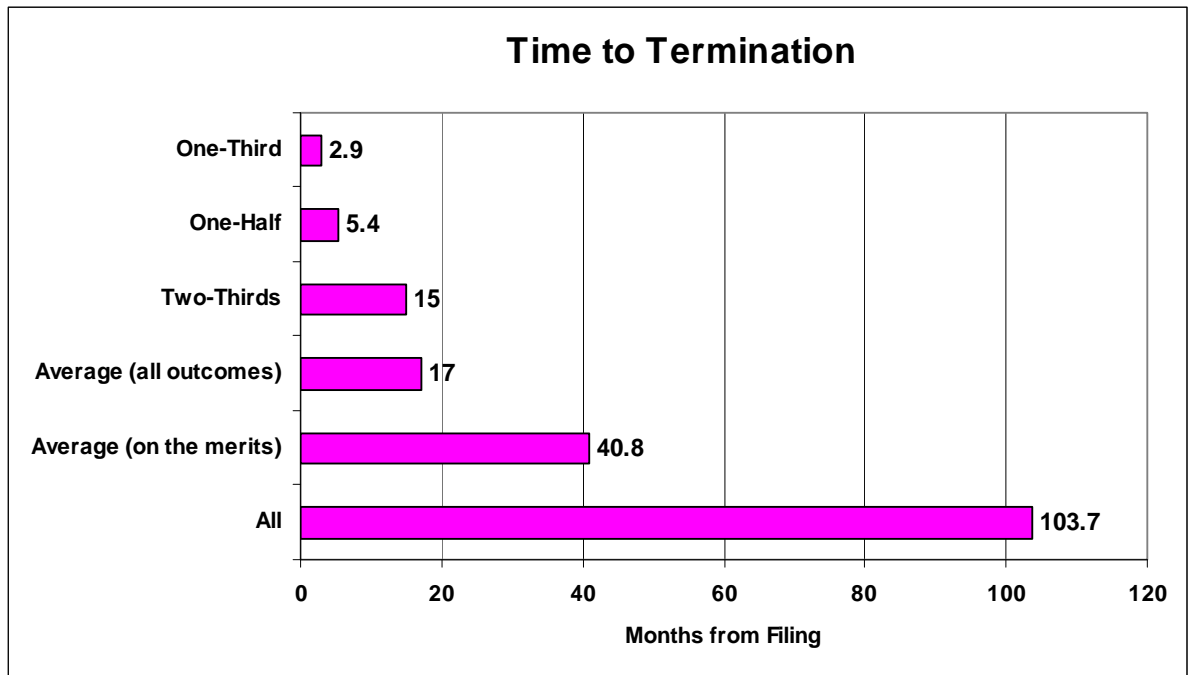
Case Number	Judge	Case Name	Resolution
0:00cv00000	Judge S	A v. B	Jury Verdict

How Long?—Time to Termination

Time to Termination³ for Closed Cases:

Average:	17.0 months
One-Third ⁴ :	2.9 months
One-Half ⁵ :	5.4 months
Two-Thirds ⁶ :	15.0 months
All ⁷ :	103.7 months
Average (on the merits):	40.8 months
Jury Demand by Plaintiff Only-Average ⁸ :	12.6 months
Jury Demand by Defendant Only-Average ⁹ :	25.1 months
Jury Demand by Both Parties-Average ¹⁰ :	30.9 months
No Jury Demand-Average ¹¹ :	21.4 months

Some of these figures are illustrated in the chart below.



³ Termination statistics in this report are measured from the filing of papers in federal court to the terminating event, usually voluntary dismissal or entry of judgment. This may vary from the date the file was closed due to post-trial and ministerial activity.

⁴ The time it took for one-third of the total cases of this type to terminate, measured from the filing date in federal court.

⁵ The time it took for one-half of the total cases of this type to terminate, measured from the filing date in federal court.

⁶ The time it took for two-thirds of the total cases of this type to terminate, measured from the filing date in federal court.

⁷ The time it took until all the closed cases of this type were terminated.

⁸ The time it took, on average, for cases of this type to terminate where only the plaintiff demanded a jury.

⁹ The time it took, on average, for cases of this type to terminate where only the defendant demanded a jury.

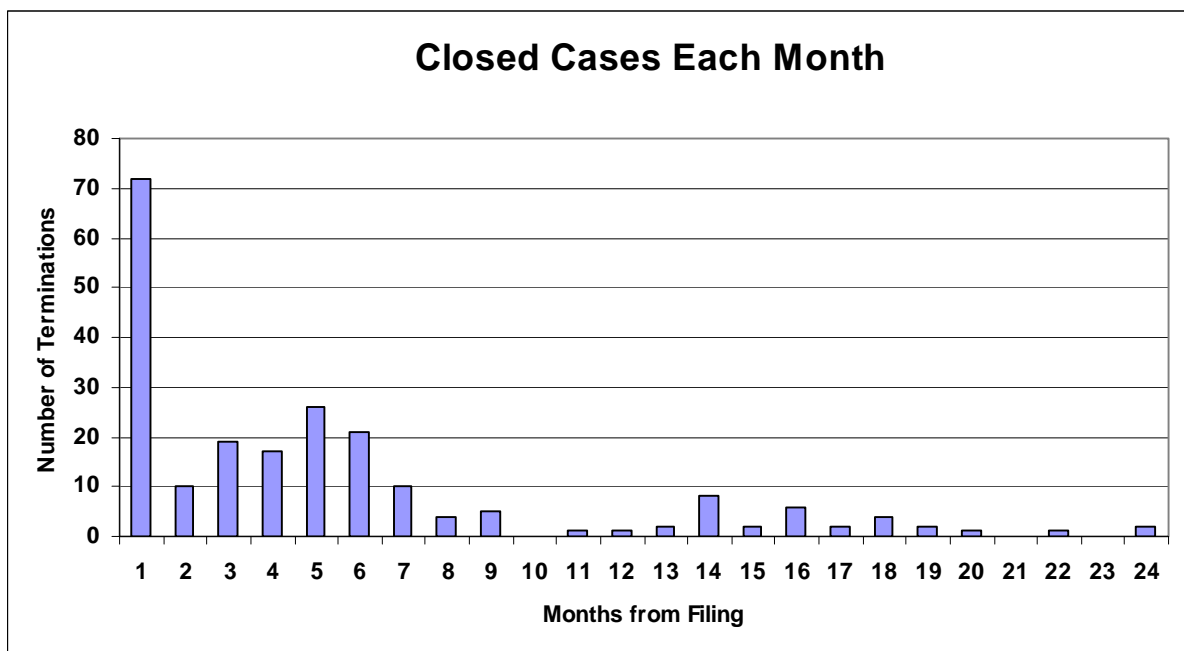
¹⁰ The time it took, on average, for cases of this type to terminate where both parties demanded a jury.

¹¹ The time it took, on average, for cases of this type to terminate where neither party demanded a jury.

That is, one-third of the antitrust cases were terminated within 2.9 months of commencement of the case; one-half were terminated within 5.4 months of the commencement; two-thirds were terminated within 15.0 months of commencement; and all were terminated within 103.7 months of commencement. The average of all terminations was 17.0 months. The average time for a termination on the merits in these cases was 40.8 months.

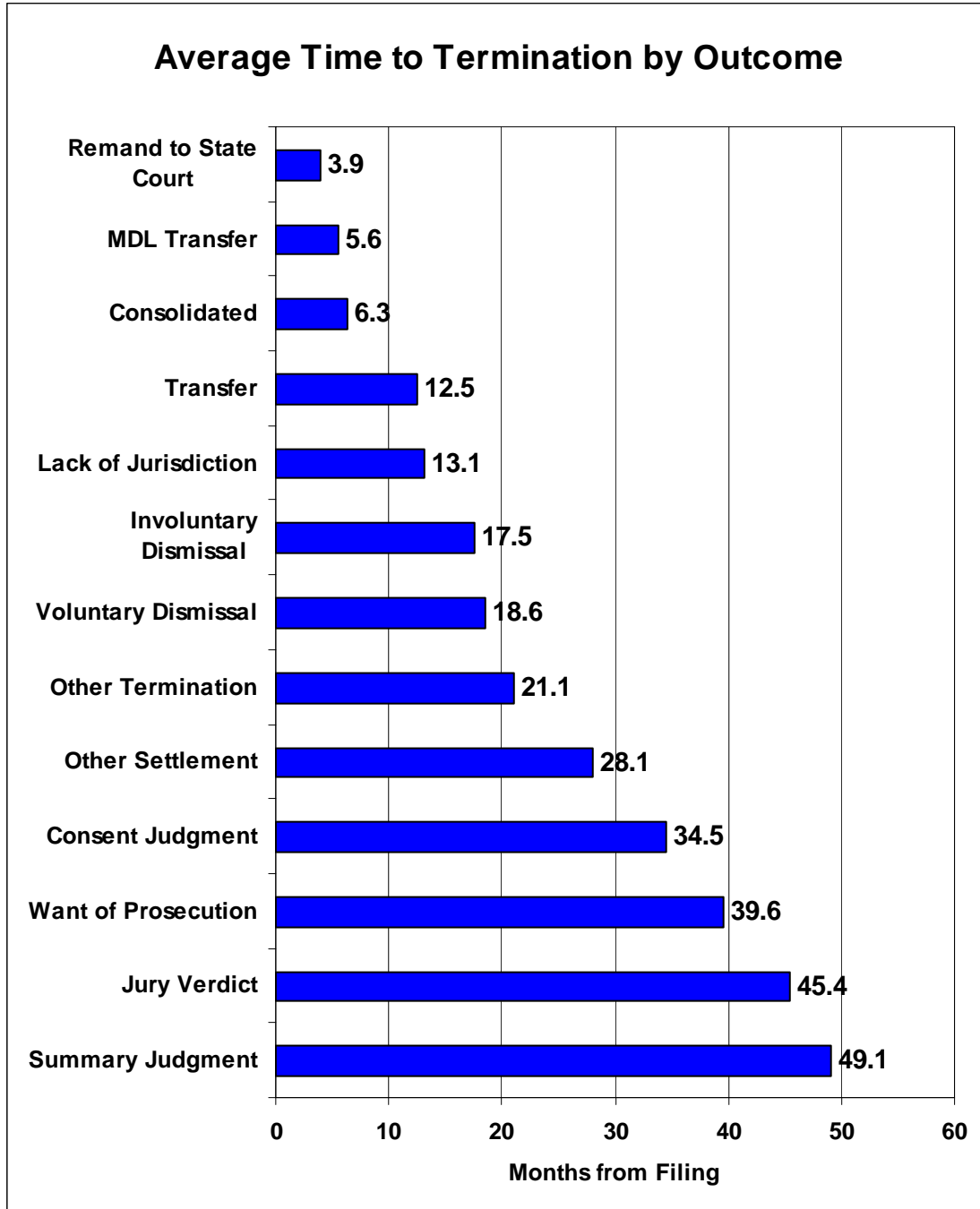
a. Terminations by Month

An overview of when terminations typically occur is found in the following chart, which shows the number of antitrust cases in the Sample District that were terminated per month, for the first two years after filing:



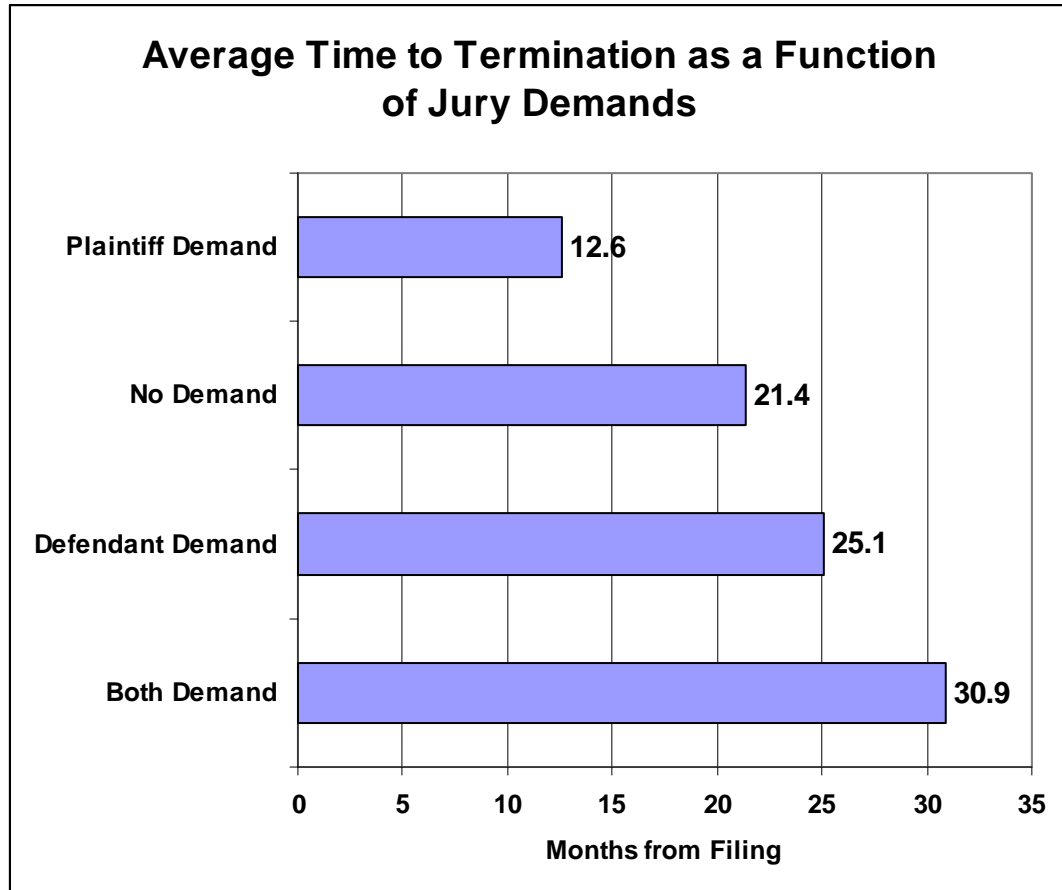
b. Terminations by Outcome

Pendency usually varies by type of termination. For example, transfers typically occur much earlier in litigation than summary judgments. The average case pendency for each type of outcome for antitrust cases in the Sample District is shown below.



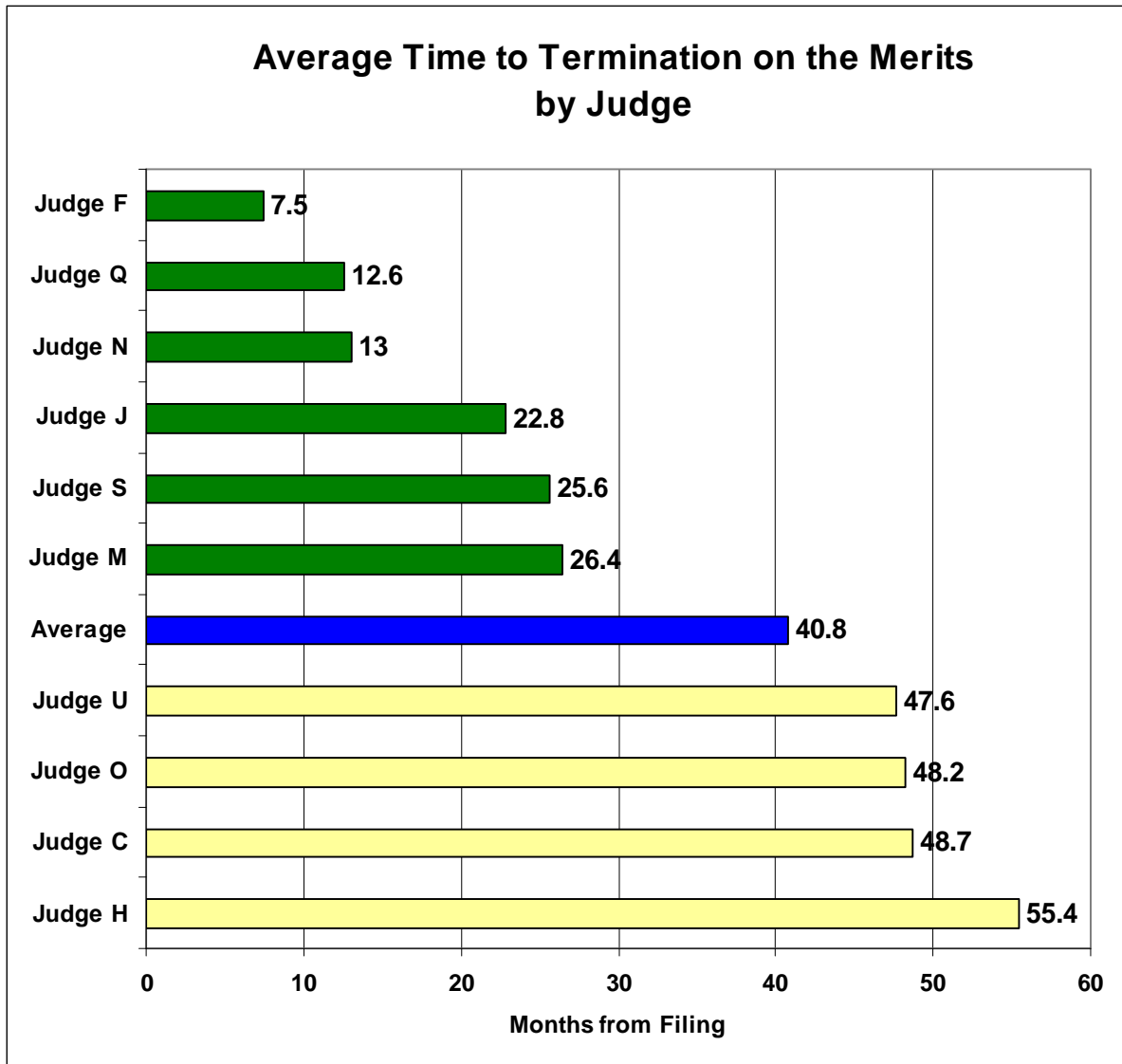
c. Terminations as a Function of Jury Demands

Many times pendency can be a function of which party or parties demand a jury. For example, in antitrust cases in the Sample District where only the plaintiff demands a jury, termination occurs on average in 12.6 months. Where only the defendant demands a jury, termination occurs on average in 25.1 months. Where both parties demand a jury, termination occurs on average in 30.9 months. And where neither party demands a jury, termination occurs on average in 21.4 months.



Average Pendency for All Terminations on the Merits—By Active Judge

The average time from filing to termination on the merits in these cases was 40.8 months. There is considerable variation of average pendency by judge, ranging from 7.5 months for Judge F to 55.4 months for Judge H. The chart below shows the variation for average time to termination on the merits by judge.



Average Pendency for Bench Trials—By Active Judge

There were no terminations by bench trial during the period covered by this report.

Average Pendency for Jury Trials—By Active Judge

The average time from filing to termination of antitrust cases by jury verdict in the Sample District was 45.4 months. The time to termination for the single jury verdict for Judge S was 45.4 months.

Judge	Number of Jury Trials	Average Time from Filing to Termination by Jury Trial (Months)
Average for the Court	0.0	45.4
Judge S	1	45.4

Average Pendency for Cases Terminated by Summary Judgment—By Active Judge

The average time from filing to termination by summary judgment in antitrust cases in the Sample District was 49.1 months. By judge, average time to termination for summary judgments ranged from 21.9 months for Judge J to 55.4 months for Judge H. The table below illustrates the variation among judges.

Judge	Number of Terminations by Summary Judgment	Average Time from Filing to Termination by Summary Judgment (Months)
Average for the Court	1.5	49.1
Judge H	1	55.4
Judge J	2	21.9
Judge U	34	50.5

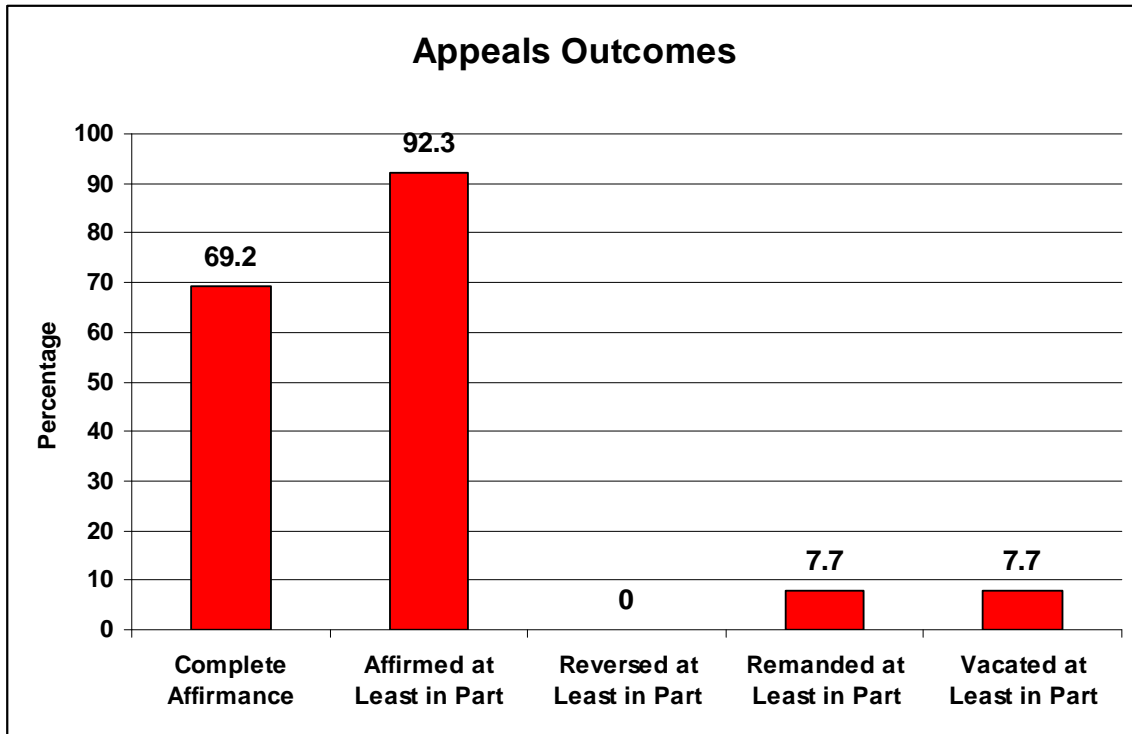
Average Pendency for Cases Terminated by Transfer—By Active Judge

The average time from filing to termination by transfer in antitrust cases in the Sample District was 12.5 months. By judge, average time to termination for transfers ranged from 1.2 months for Judge Q to 73.8 months for Judge E. The table below illustrates the variation among judges.

Judge	Cases Transferred	Average Time from Filing to Transfer (Months)
Average for the Court	0.3	12.5
Judge E	7	73.8
Judge I	1	7.1
Judge N	6	24.9
Judge O	1	6.3
Judge Q	2	1.2
Judge S	3	40.4

Appeals

Of the 299 closed antitrust cases of the active Judge in the Sample District, 19 were appealed. There were rulings on 13 of these appeals. The Complete Affirmance Rate¹² for these appeals was 69.2% (9 of 13). The percentage affirmed at least in part was 92.3% (12 of 13). The percentage reversed at least in part was 0.0% (0 of 13). The percentage remanded at least in part was 7.7% (1 of 13). The percentage vacated at least in part was 7.7% (1 of 13).



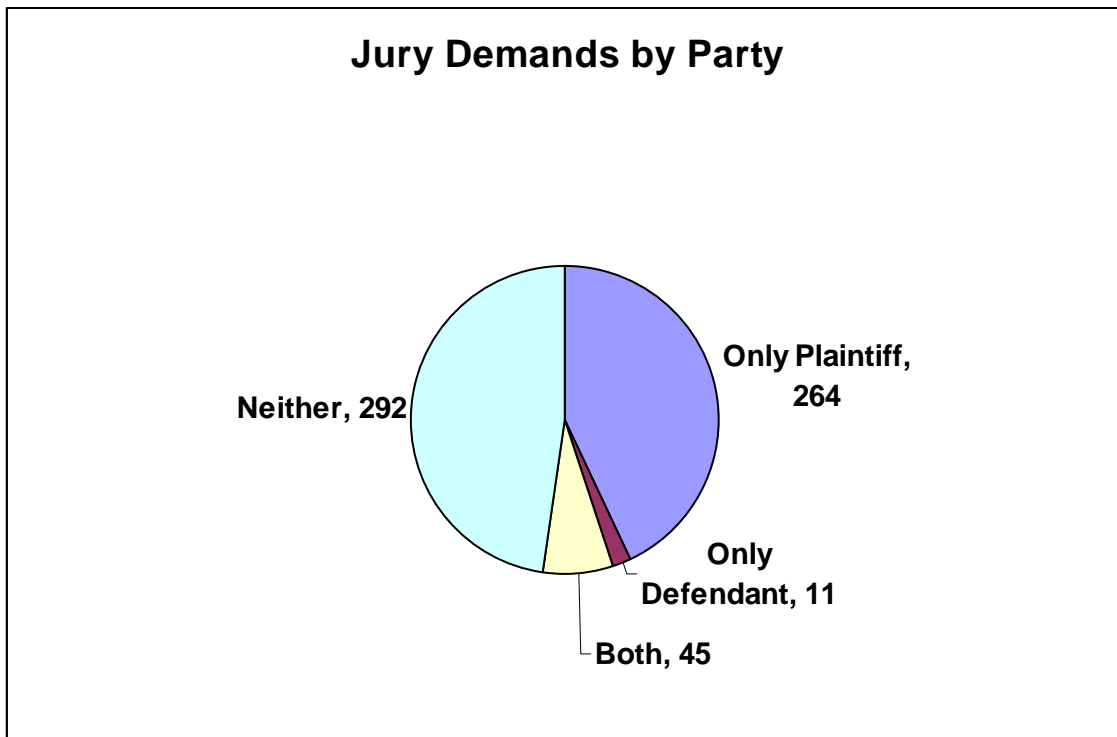
¹² All percentages in this paragraph do not include dismissed or pending appeals. The Complete Affirmance Rate is the number of appeals which were affirmed with no other ruling, divided by the total number of appeals expressed as a percentage.

Of the 19 total appeals, 9 were affirmed; 2 were affirmed in part, dismissed in part; 1 was affirmed in part, vacated in part and remanded; 4 were dismissed; 2 are pending; and 1 was unknown. The results of those appeals are shown in the following table:

Case Name	Case Number	Judge	Result of Appeal
A v. B	0:00cv00000	Judge U	Affirmed
A v. B	0:00cv00000	Judge U	Affirmed
A v. B	0:00cv00000	Judge U	Affirmed
A v. B	0:00cv00000	Judge C	Affirmed
A v. B	0:00cv00000	Judge J	Affirmed
A v. B	0:00cv00000	Judge O	Affirmed
A v. B	0:00cv00000	Judge O	Affirmed
A v. B	0:00cv00000	Judge H	Affirmed
A v. B	0:00cv00000	Judge S	Affirmed
A v. B	0:00cv00000	Judge J	Affirmed in part, Dismissed in part
A v. B	0:00cv00000	Judge O	Affirmed in part, Dismissed in part
A v. B	0:00cv00000	Judge S	Affirmed in part, Vacated in part and Remanded
A v. B	0:00cv00000	Judge R	Dismissed
A v. B	0:00cv00000	Judge I	Dismissed
A v. B	0:00cv00000	Judge Q	Dismissed
A v. B	0:00cv00000	Judge Q	Dismissed
A v. B	0:00cv00000	Judge U	Pending
A v. B	0:00cv00000	Juge J	Pending
A v. B	0:00cv00000	Judge J	Unknown

Jury Demands

Of the 612 antitrust cases (both open and closed) of the active judges in the Sample District, at least one of the parties demanded a jury in 52.3% of the cases (320 of 612 cases). Both sides demanded a jury in 7.4% of the cases (45 of 612). The plaintiff, but not the defendant, demanded a jury in 43.1% of the cases (264 of 612). The defendant, but not the plaintiff, demanded a jury in 1.8% of the cases (11 of 612). Neither party demanded a jury in 47.7% of the cases (292 of 612). The chart below illustrates the jury demands in the Sample District for antitrust cases over this period.



Experience

The active judges in the Sample District vary considerably in their exposure to antitrust cases in general and to significant motions in those cases.

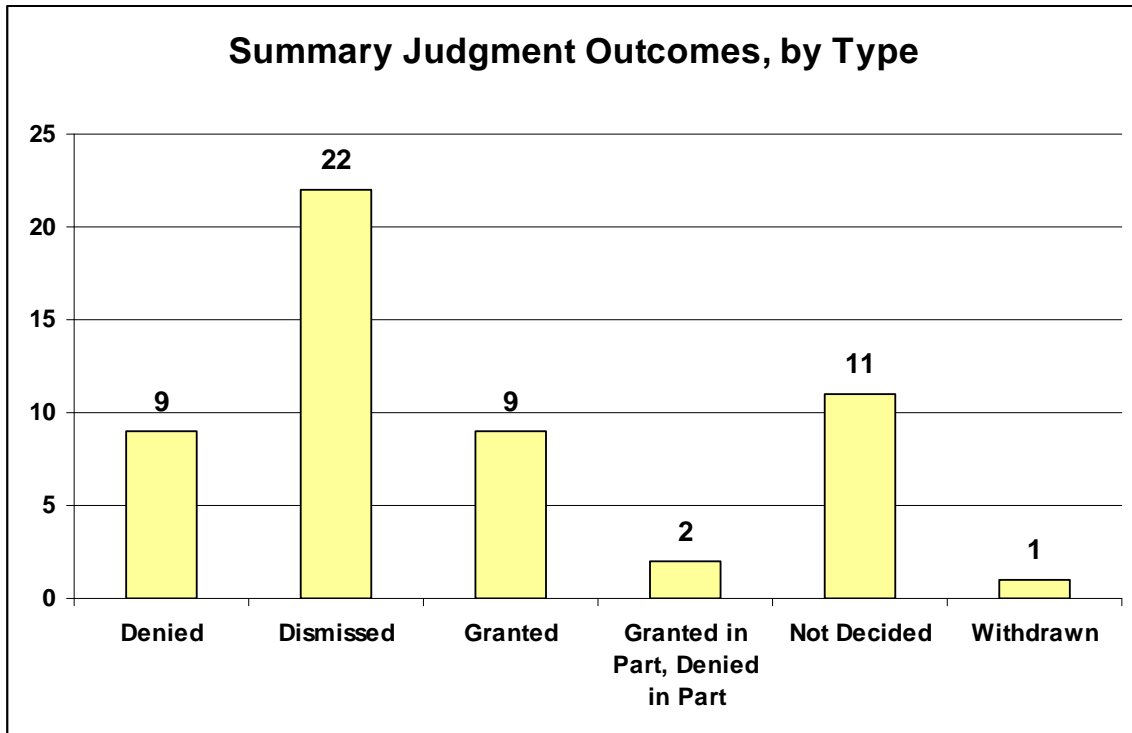
Total Number of Antitrust Cases—By Judge

There were 26 total antitrust cases for each active judge (on average). But the actual number of antitrust cases per judge varies significantly. The table below shows the total number of antitrust cases and total number of closed antitrust cases for each of these judges.

Judge	Number of Antitrust Cases	Number of Closed Antitrust Cases
Average for the Court	26	12
Judge A	13	5
Judge B	2	1
Judge C	16	16
Judge D	3	3
Judge E	7	7
Judge F	1	1
Judge H	45	45
Judge I	151	6
Judge J	185	87
Judge K	17	0
Judge L	8	7
Judge M	11	11
Judge N	11	11
Judge O	12	12
Judge P	5	4
Judge Q	15	14
Judge R	4	4
Judge S	16	16
Judge T	5	5
Judge U	53	43
Judge V	2	1
Judge W	10	0
Judge X	20	0

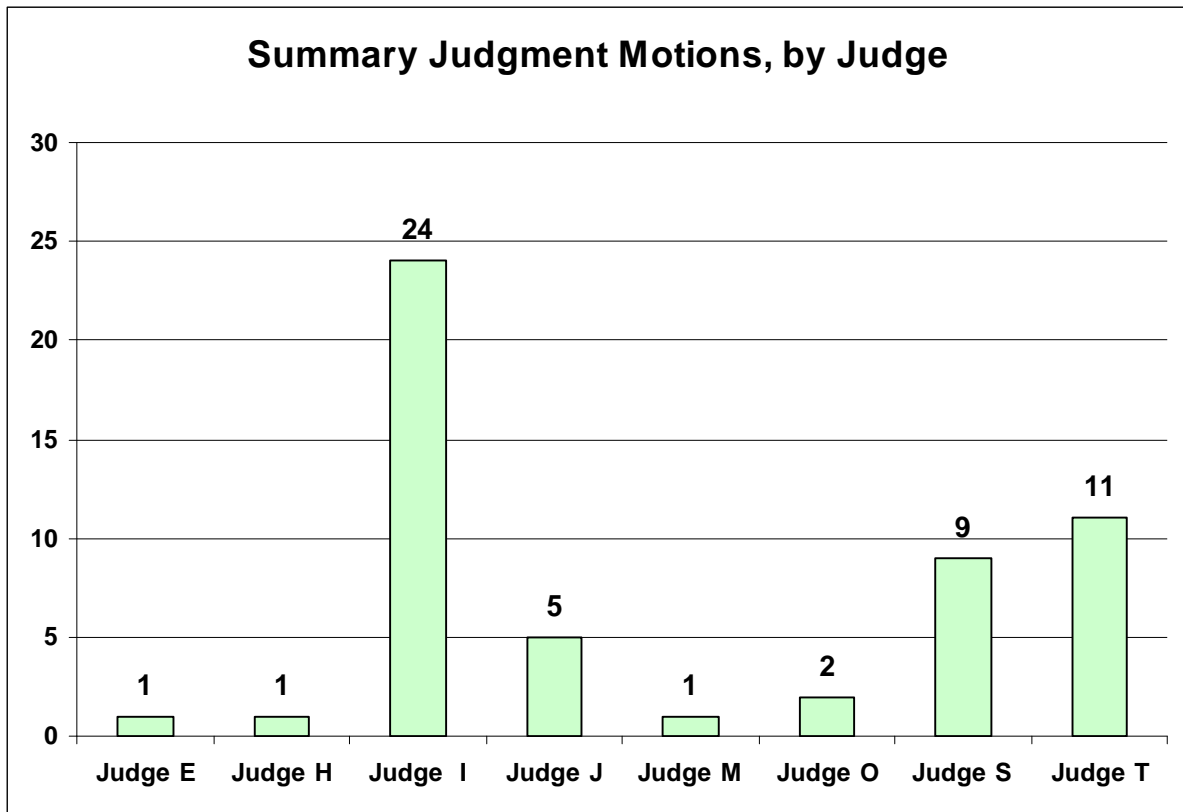
Cases with Summary Judgment Activity—By Active Judge

There were 54 summary judgment motions filed in these cases. Of the 54 summary judgment motions, 9 were denied, 22 were dismissed, 9 were granted, 2 were granted in part, denied in part,¹³ 11 were not decided, and 1 was withdrawn. The summary judgment figures are illustrated in the chart below.

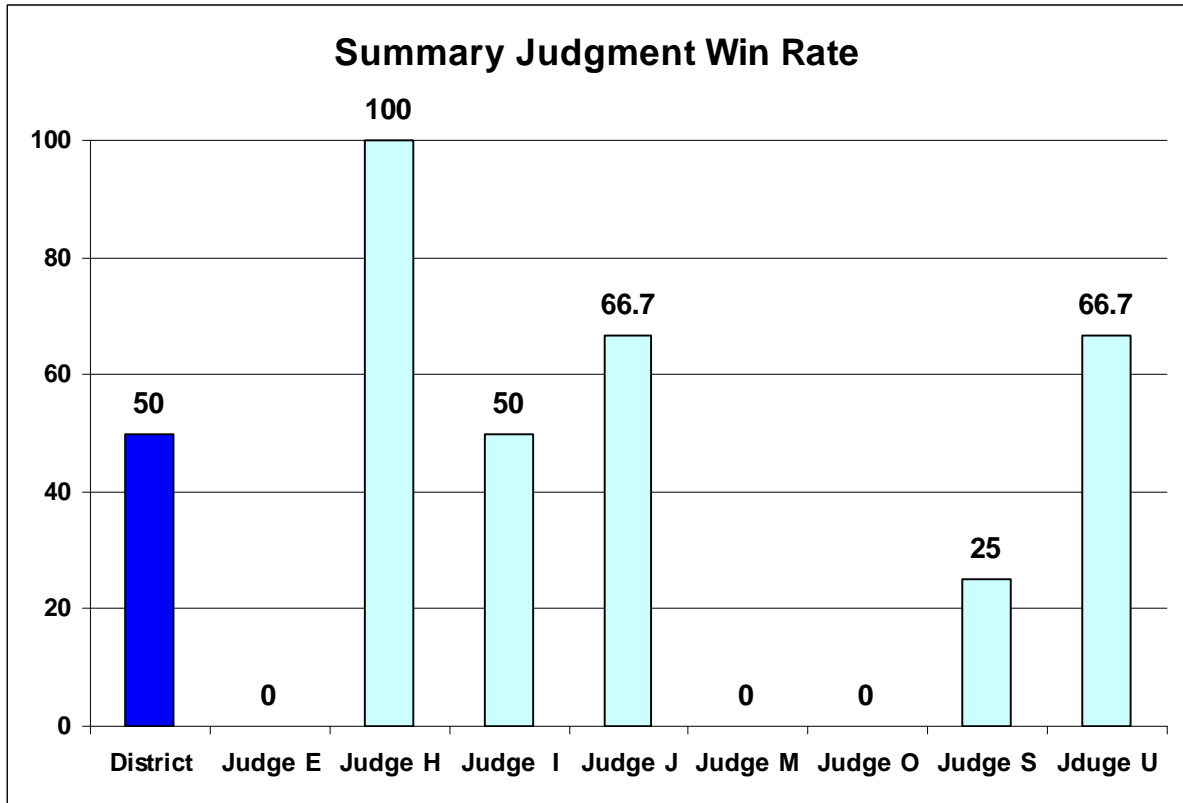


¹³ A ruling granting a motion in part and denying it in part is treated as two rulings—one granting a motion and one denying a motion.

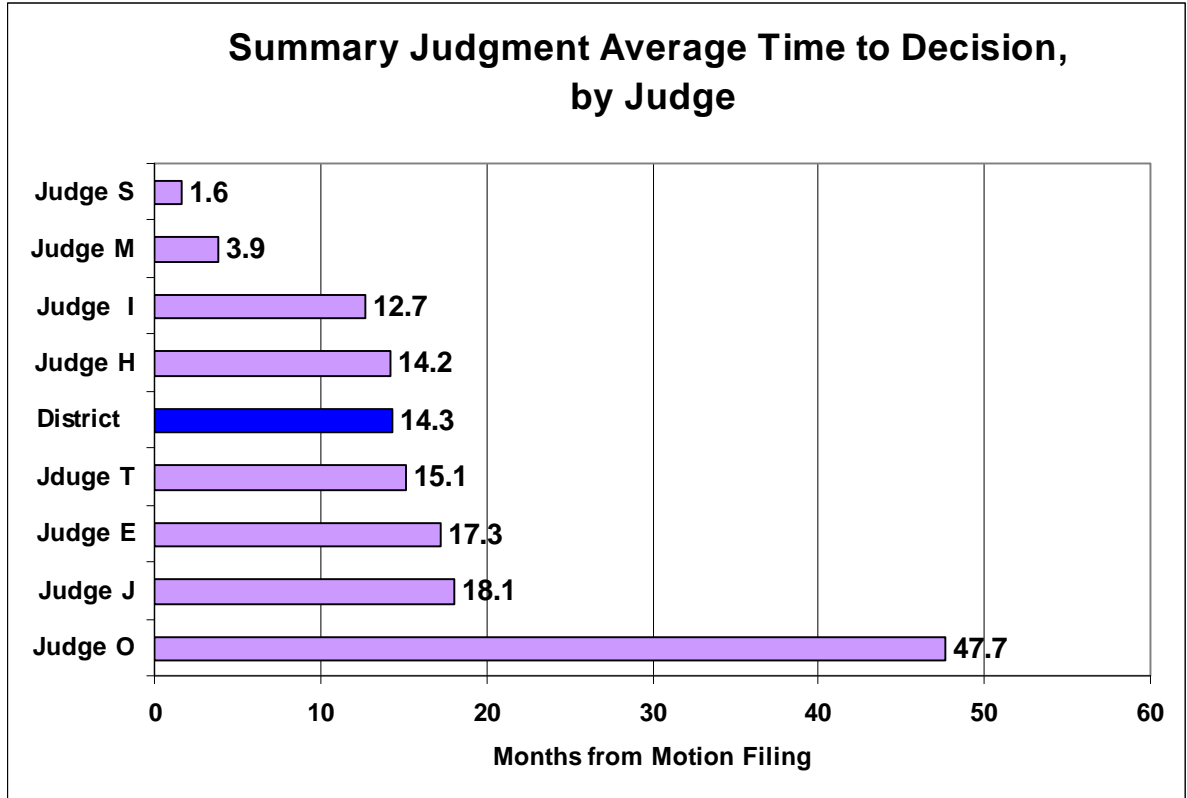
The number of summary judgment motions, by judge, is illustrated below:



The contested win rates (excluding consent rulings) for these summary judgment motions are illustrated in the following chart:

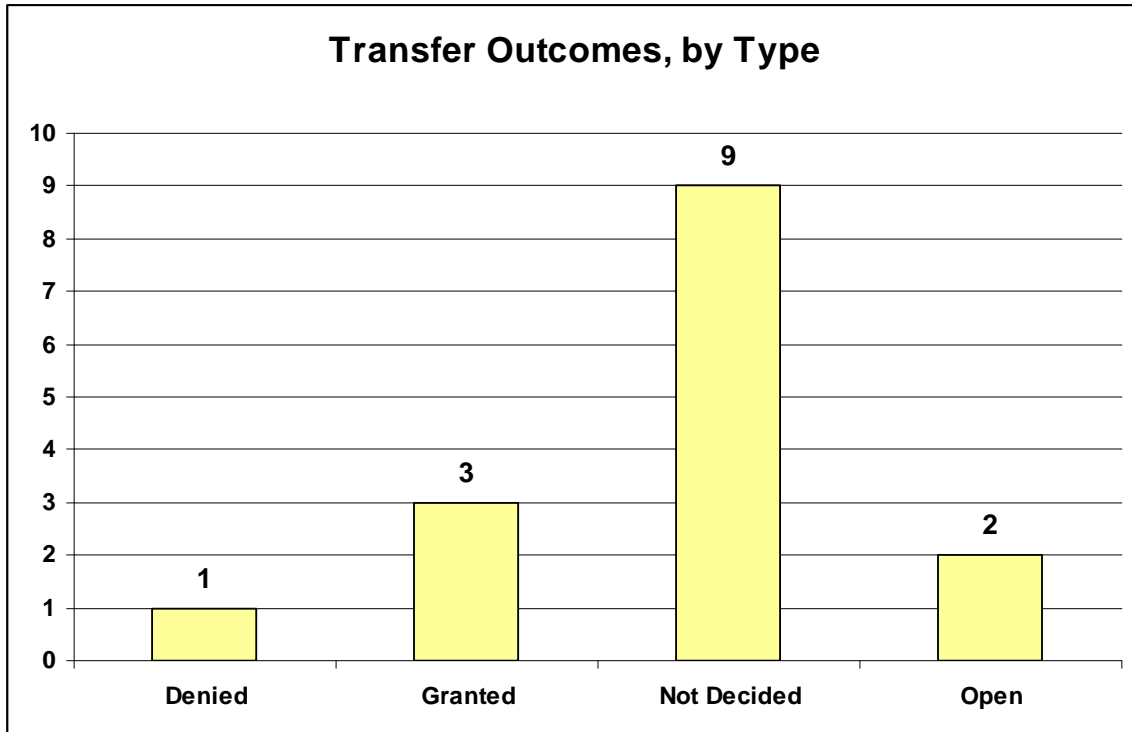


The average time from motion filing to decision for these summary judgment motions is illustrated below:

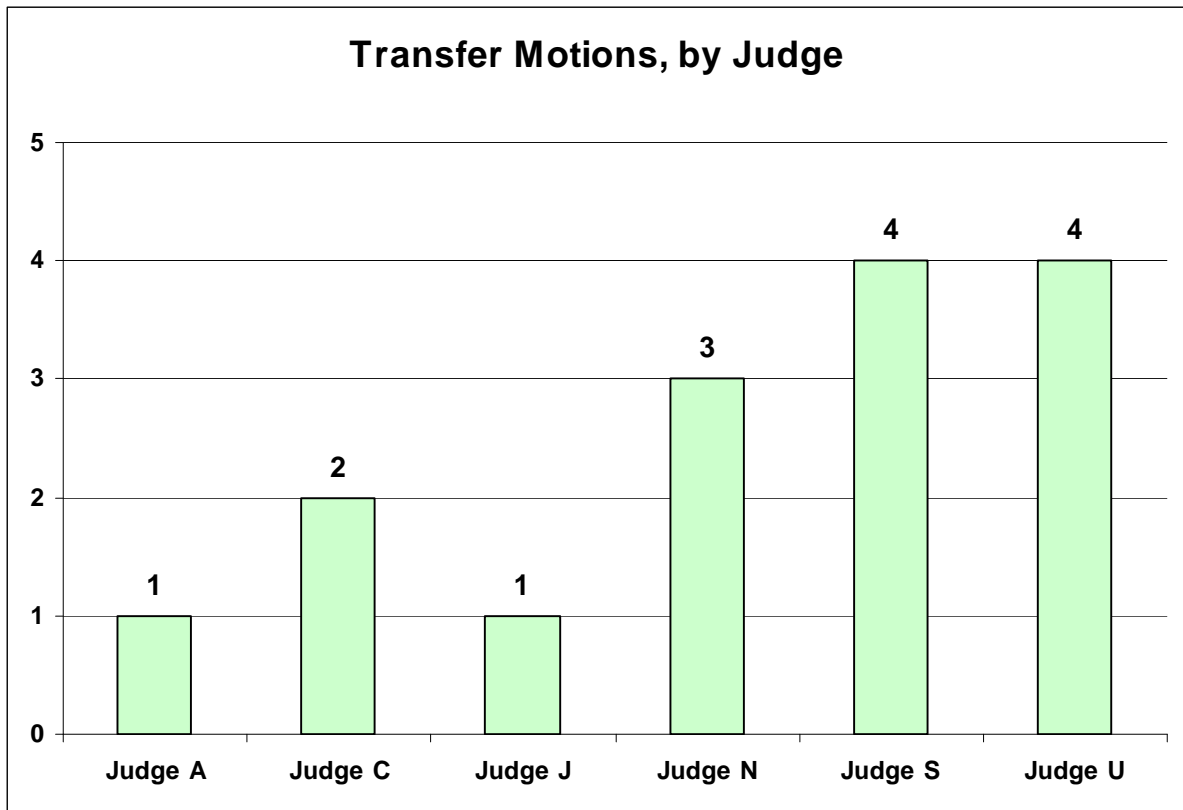


Cases with Transfer Activity—By Active Judge

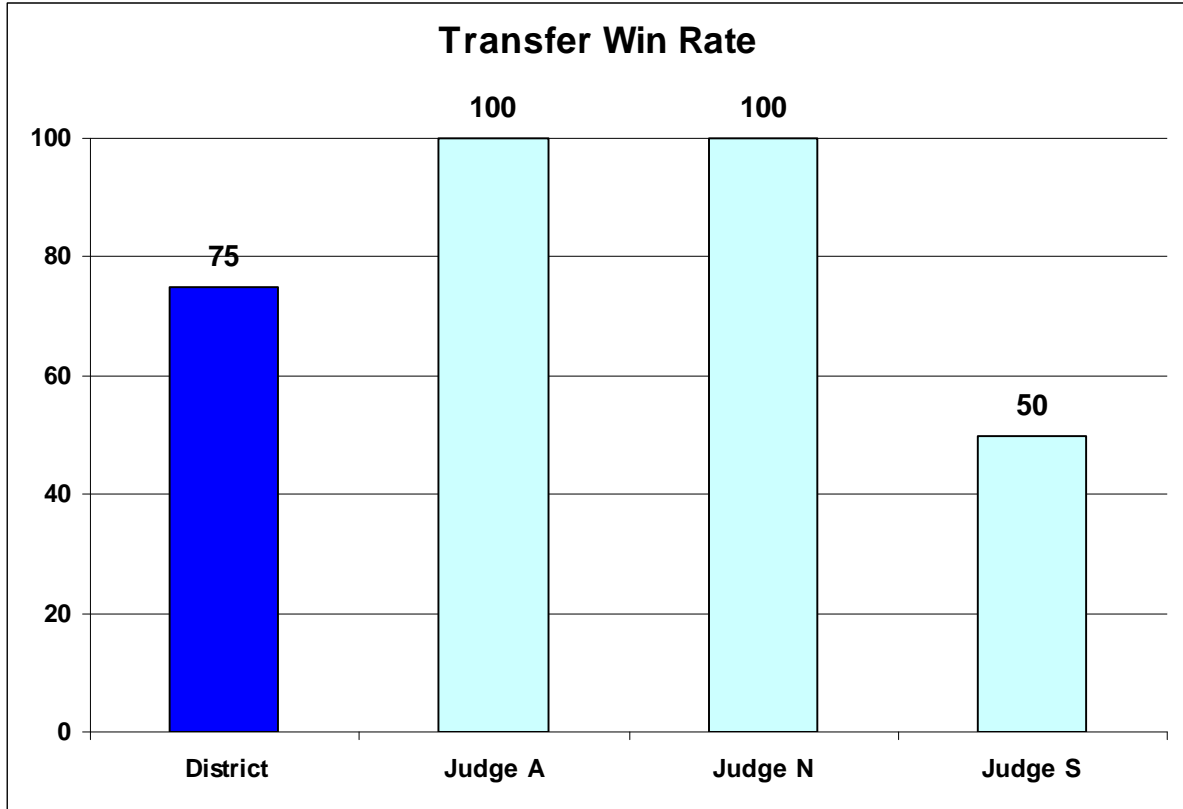
There were 15 motions to transfer filed in these cases. Of the 15 motions to transfer, 1 was denied, 3 were granted, 9 were not decided, and 2 are open. The transfer motion figures are illustrated in the chart below.



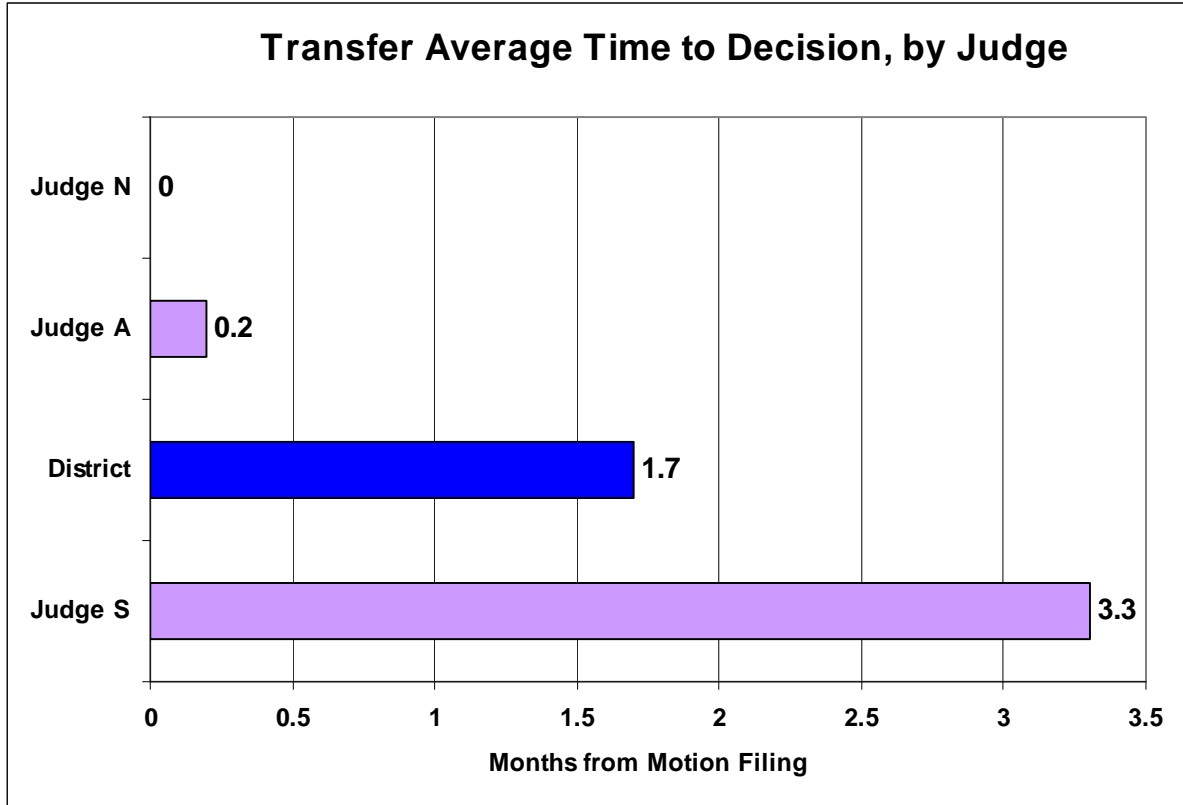
The number of motions for transfer, by judge, is illustrated below:



The contested win rates (excluding consent rulings) for these motions for transfer are illustrated in the following chart:

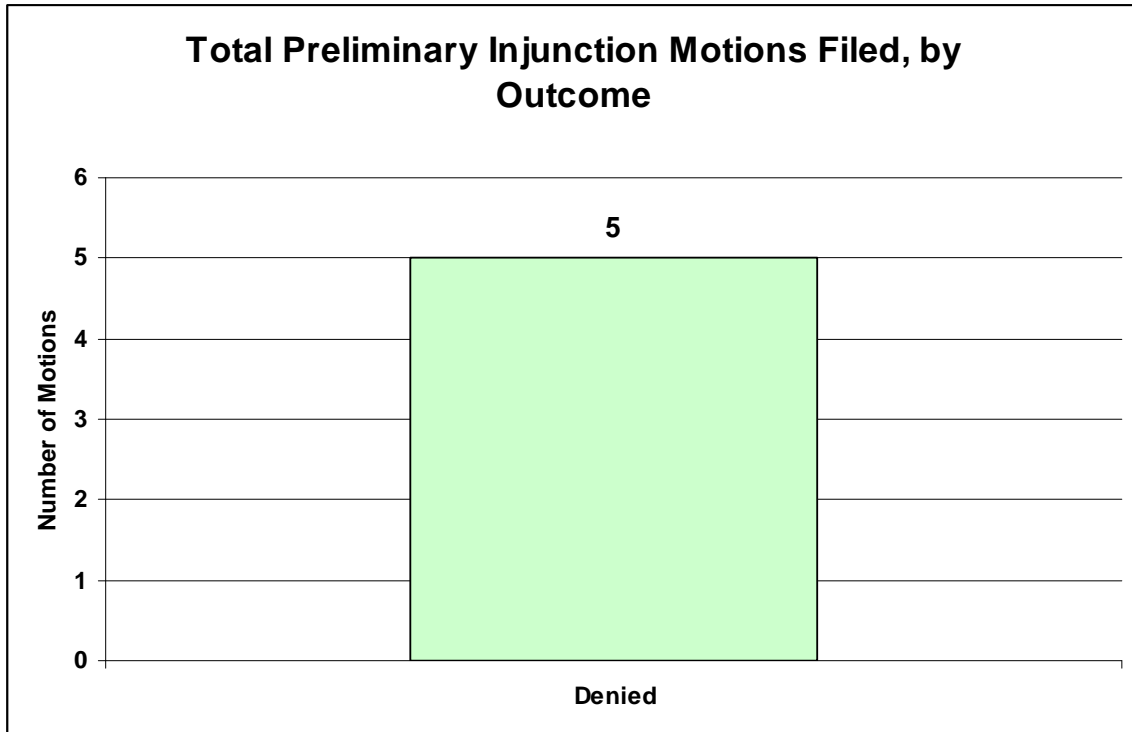


The average time from motion filing to decision for these motions to transfer is illustrated below:

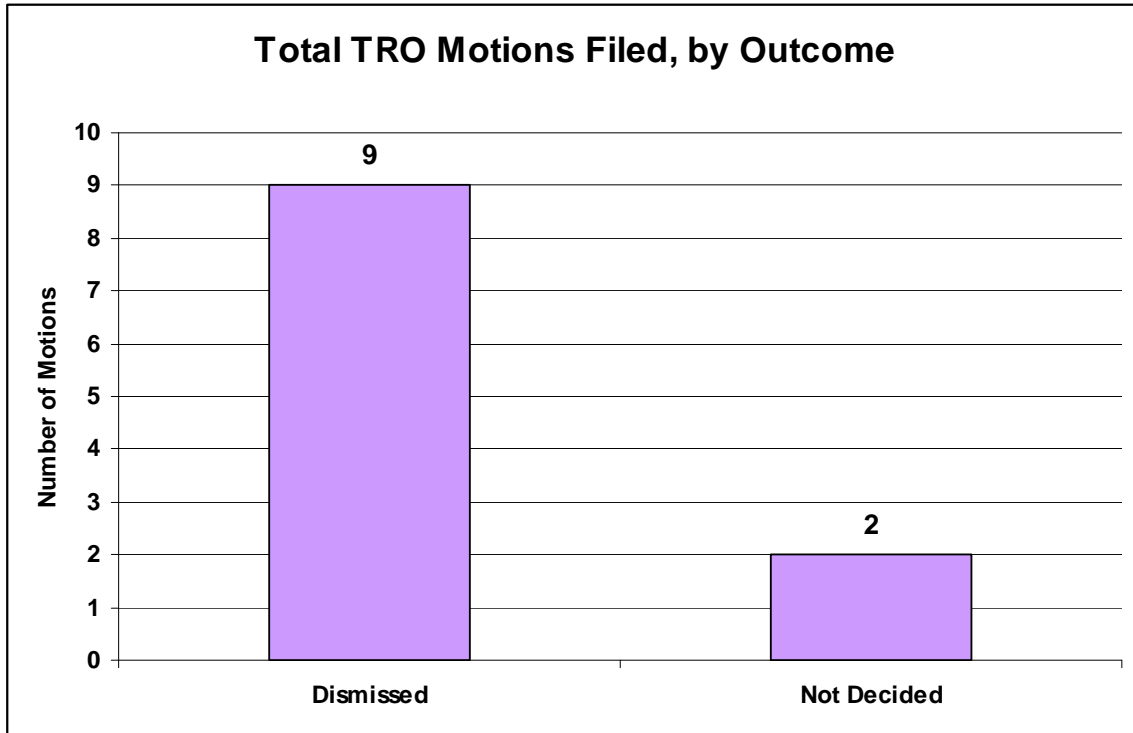


Cases with Preliminary Injunction Activity—By Active Judge

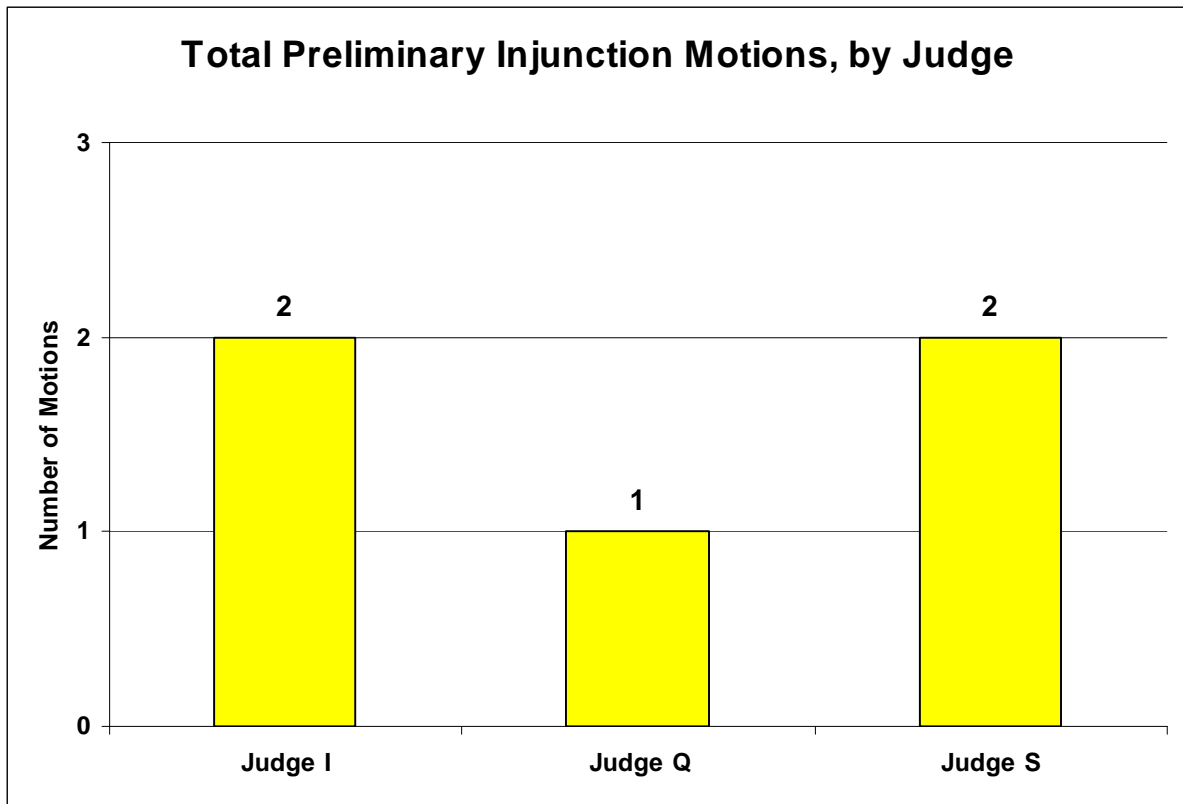
There were 5 preliminary injunction motions and 11 temporary restraining order motions filed in these cases. All preliminary injunction motions were denied. The preliminary injunction figures are illustrated in the chart below.



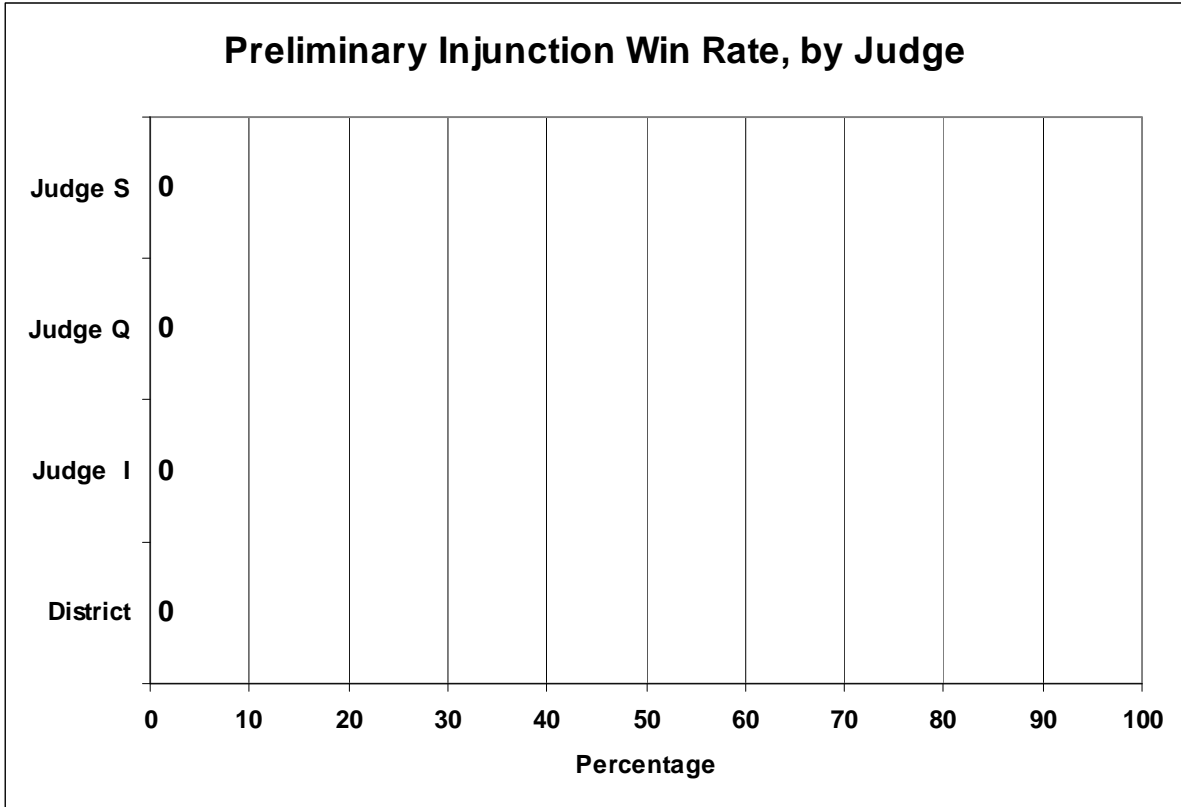
Of the 11 motions for temporary restraining orders, 9 were dismissed, and 2 were not decided. The temporary restraining order outcomes are illustrated below:



The number of preliminary injunction motions, by judge, is illustrated below:



The contested win rates (excluding consent rulings) for these preliminary injunction motions are illustrated in the following chart:



The average time from motion filing to decision for these preliminary injunction motions is illustrated below:

