



LegalMetric District Judge Report

Sample District

Copyright 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.....	5
What are the Odds—Terminations on the Merits.....	7
Plaintiff Win Rate by Judge.....	9
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.....	16
How Long?—Time to Termination.....	17
Average Pendency for All Terminations on the Merits—By Active Judge.....	21
Average Pendency for Bench Trials—By Active Judge	22
Average Pendency for Jury Trials—By Active Judge.....	22
Average Pendency for Cases Terminated by Summary Judgment—By Active Judge.....	22
Average Pendency for Cases Terminated by Transfer—By Active Judge.....	23
Appeals.....	23
Jury Demands.....	24
Experience	25
Total Number of Copyright Cases—By Judge.....	25
Cases with Summary Judgment Activity—By Active Judge.....	26
Cases with Transfer Activity—By Active Judge.....	30
Cases with Preliminary Injunction Activity—By Active Judge	34

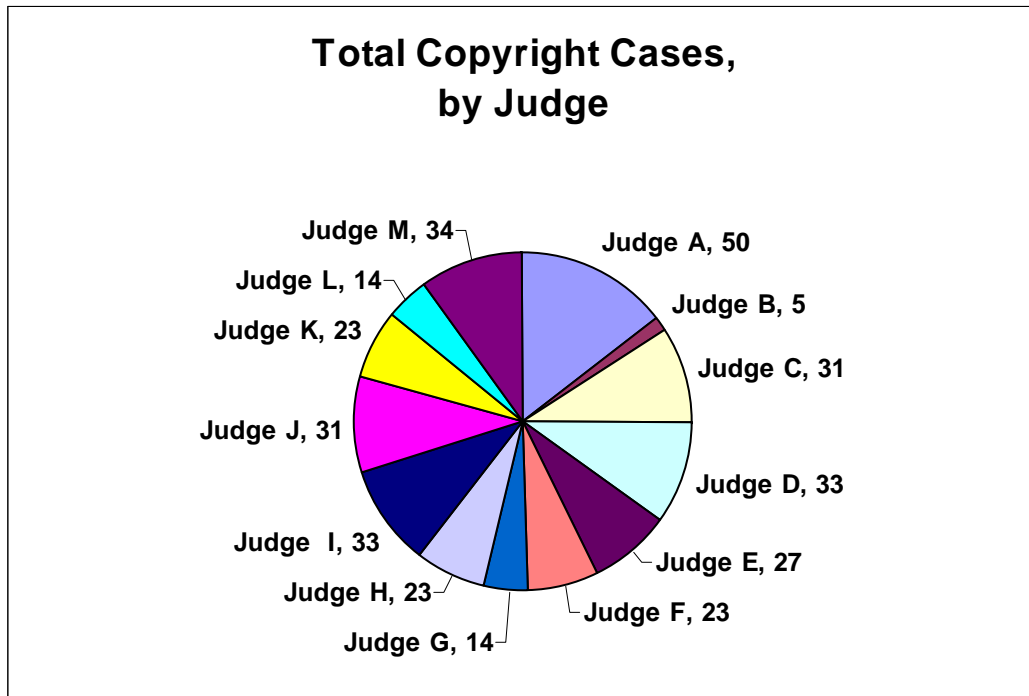
Overview

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

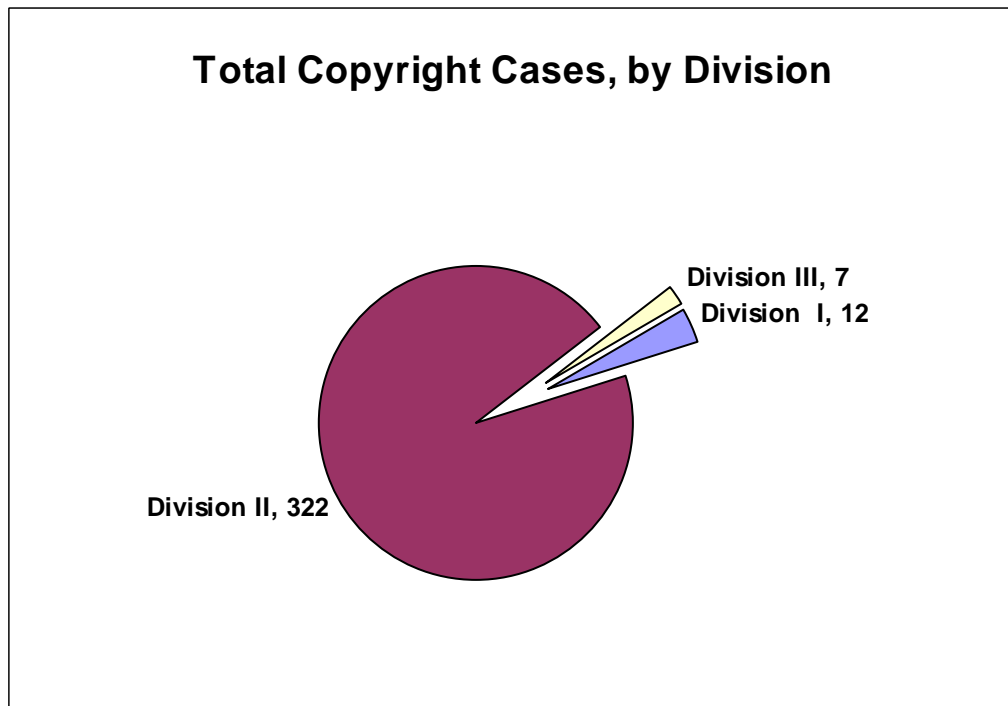
<p>Total Copyright Cases: 341 Total/303 Closed Number of Cases, each Judge: 5 to 50 (Average 26 per Judge)</p>	<p>Total Judgments on the Merits: 130 Each Judge: 0 to 22</p>
<p>Average Plaintiff Win Rate: 93%</p> <p>Contested Win Rate: 60.0% (6 of 10) (does not include consent and default judgments)</p> <p>Number of Trials: None</p>	<div style="text-align: center;"> <p style="font-size: small;">(Larger Version in Body of Report)</p> </div>
<p>Average Time to Termination—All Cases: 11.1 months Average by Judge from 7.7 to 28.8 months</p> <p>Average Time to Termination—On the Merits: 12.0 months Average by Judge from 6.7 to 32.9 months</p> <p>Summary Judgment Activity: 19 summary judgment motions Activity by Judge: 0 Motions to 5 Motions</p>	<div style="text-align: center;"> <p style="font-size: small;">(Larger Version in Body of Report)</p> </div>
	<p>Total Appeals: 3</p> <p>Complete Affirmance Rate: 100.0% (1 of 1)</p>

Breakdown by Judge and Division

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

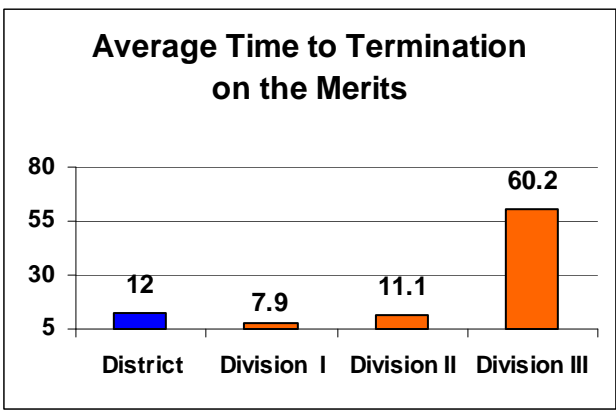


The breakdown of copyright cases by division is illustrated in the following chart:



Divisional Comparisons

<div style="text-align: center; font-weight: bold; margin-bottom: 10px;">Overall Win Rate</div> <table border="1" style="margin: 0 auto; border-collapse: collapse; text-align: center;"> <thead> <tr> <th>Entity</th> <th>Win Rate (%)</th> </tr> </thead> <tbody> <tr> <td>District</td> <td>93</td> </tr> <tr> <td>Division I</td> <td>100</td> </tr> <tr> <td>Division II</td> <td>93.2</td> </tr> <tr> <td>Division III</td> <td>66.7</td> </tr> </tbody> </table>	Entity	Win Rate (%)	District	93	Division I	100	Division II	93.2	Division III	66.7	<p>Overall Win Rates: The win rate for the District was 93%. The variation by division is shown in the chart to the left. Overall win rate includes consent and default judgments.</p>
Entity	Win Rate (%)										
District	93										
Division I	100										
Division II	93.2										
Division III	66.7										
<div style="text-align: center; font-weight: bold; margin-bottom: 10px;">Contested Win Rate</div> <table border="1" style="margin: 0 auto; border-collapse: collapse; text-align: center;"> <thead> <tr> <th>Entity</th> <th>Win Rate (%)</th> </tr> </thead> <tbody> <tr> <td>District</td> <td>60</td> </tr> <tr> <td>Division II</td> <td>60</td> </tr> </tbody> </table>	Entity	Win Rate (%)	District	60	Division II	60	<p>Contested Win Rates: The contested win rate (excludes consent and default judgments) for the District was 60.0%. The variation by division can be seen in the chart to the left.</p>				
Entity	Win Rate (%)										
District	60										
Division II	60										
<div style="text-align: center; font-weight: bold; margin-bottom: 10px;">Complete Affirmance Rate</div> <table border="1" style="margin: 0 auto; border-collapse: collapse; text-align: center;"> <thead> <tr> <th>Entity</th> <th>Rate (%)</th> </tr> </thead> <tbody> <tr> <td>District</td> <td>100</td> </tr> <tr> <td>Division II</td> <td>100</td> </tr> </tbody> </table>	Entity	Rate (%)	District	100	Division II	100	<p>Win Rate at Trial: There were no trials in the District during the period of this report.</p> <p>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 100.0%. The variation by division can be seen in the chart to the left.</p>				
Entity	Rate (%)										
District	100										
Division II	100										

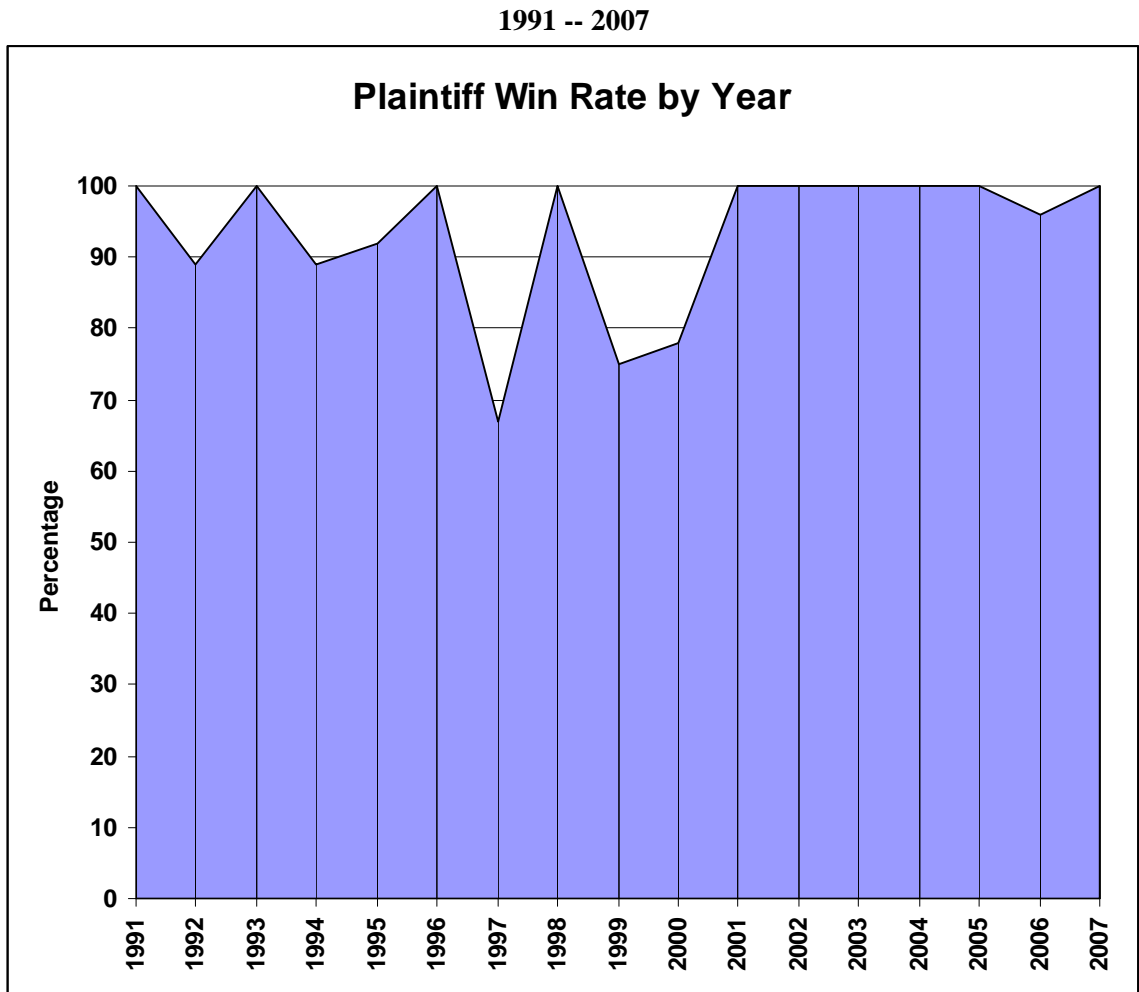


Time to Termination on the Merits: The average time from case filing to termination on the merits (includes consent and default judgments) was 12.0 months. The variation by division can be seen in the chart to the left.

What are the Odds¹—Terminations on the Merits

Of the 303 closed copyright cases in the Sample District in the period covered by this report, 42.9% were terminated on the merits, i.e., by trial, pre-trial motion, default or consent judgment. Plaintiffs won 93% 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 84%.

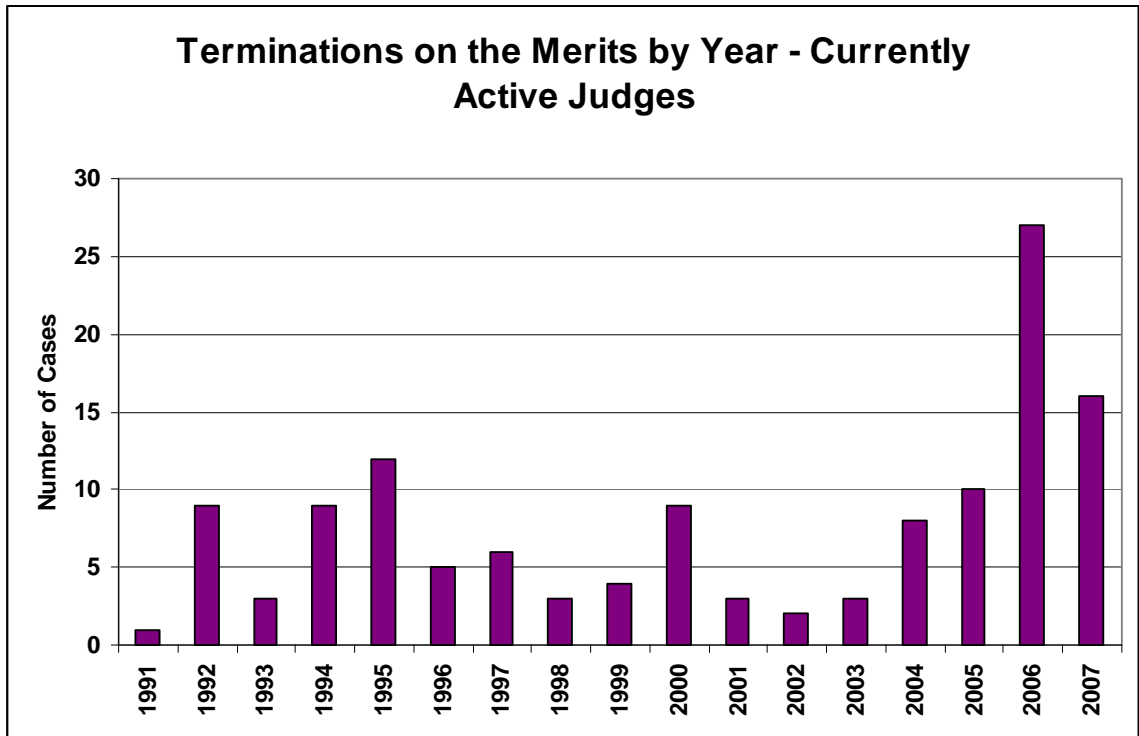


¹ If there were any cases in which both parties prevailed (for example, the plaintiff prevailed on its complaint and the defendant prevailed on an unrelated counterclaim), such a case is counted as one-half of a “win” for plaintiff and one-half of a “win” for defendant. Fractional numbers of “wins”,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

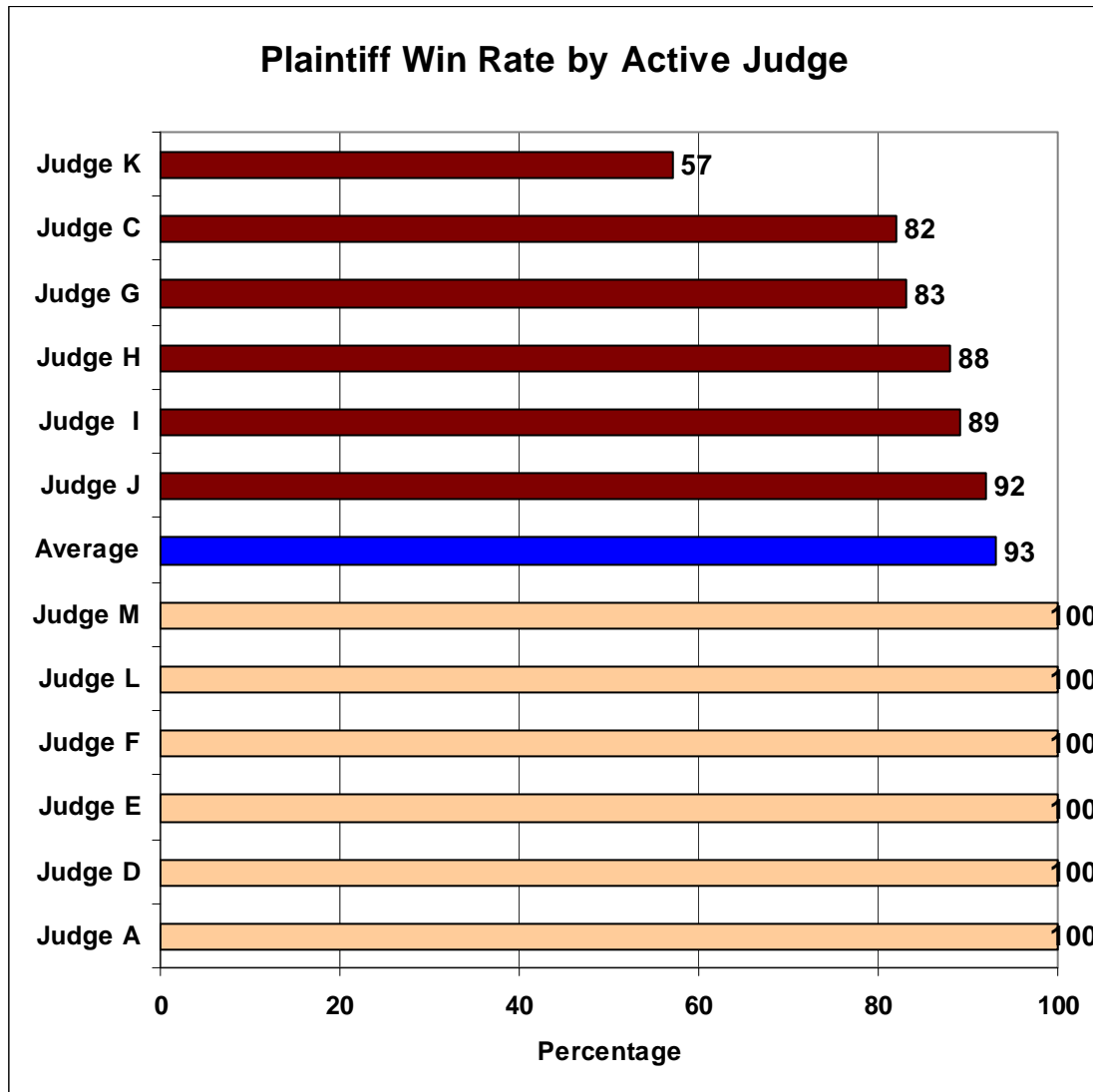
Year	Plaintiff Wins	Total Decisions	Plaintiff Win Rate
1991	1	1	100
1992	8	9	89
1993	3	3	100
1994	8	9	89
1995	11	12	92
1996	5	5	100
1997	4	6	67
1998	3	3	100
1999	3	4	75
2000	7	9	78
2001	3	3	100
2002	2	2	100
2003	3	3	100
2004	8	8	100
2005	10	10	100
2006	26	27	96
2007	16	16	100

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 93%. The plaintiff win rate varies significantly from judge to judge over the period covered by this report—from 57% to 100%. For judges with at least ten terminations on the merits, the range is from 82% 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 copyright cases during this period.

Judge	Number of Terminations on Merits	Plaintiff Win Rate
Average for the Court	10	93
A	22	100
C	11	82
D	14	100
E	14	100
F	8	100
G	6	83
H	8	88
I	9	89
J	13	92
K	7	57
L	4	100
M	14	100

Breakout of Plaintiff & Defendant Win Rate Statistics

At Trial

Of the 303 closed copyright cases of the active judges in the Sample District during the period covered by this report, none were decided at trial.

Plaintiff—Other Than Trial

There were 121 judgments on the merits in favor of the plaintiff other than by trial. Plaintiff prevailed in 63 cases by consent judgment, 52 cases by default judgment, 1 case by other settlement, 3 cases by summary judgment and 2 cases by voluntary dismissal.

Defendant—Other Than Trial

There were 9 judgments on the merits in favor of the defendant other than by trial. The defendant prevailed in 2 cases by confirmation of arbitration award, 4 cases by consent judgment, 1 case by default judgment, 1 case by involuntary dismissal and 1 case 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	
At Trial	n/a	(0 / 0)	n/a	(0 / 0)
Bench Trial	n/a	(0 / 0)	n/a	(0 / 0)
Jury Verdict	n/a	(0 / 0)	n/a	(0 / 0)
Confirmation of Arbitration Award	0%	(0 / 2)	100%	(2 / 2)
Consent Judgment ²	94%	(63 / 67)	6%	(4 / 67)
Default Judgment	98%	(52 / 53)	2%	(1 / 53)
Involuntary Dismissal	0%	(0 / 1)	100%	(1 / 1)
Other Settlement	100%	(1 / 1)	0%	(0 / 1)
Summary Judgment	75%	(3 / 4)	25%	(1 / 4)
Voluntary Dismissal	100%	(2 / 2)	0%	(0 / 2)
Overall (on the Merits)	93%	(121 / 130)	7%	(9 / 130)

Plaintiffs prevailed above the overall average (93%) in cases terminated by consent judgment (94%), default judgment (98%), other settlement (100%), and voluntary dismissal (100%). Defendants prevailed above the overall average (7%) in cases terminated by confirmation of arbitration award (100%), involuntary dismissal (100%), and summary judgment (25%).

Nationwide, plaintiffs prevail in 84% of these cases overall, and in 74% of these cases at trial. (When trial was to a jury, plaintiff prevailed in 72% of these cases nationwide.) Conversely, defendants nationwide prevail in 16% of these cases overall, and in 26% of these cases at trial. (When trial was to a jury, defendant prevailed in 28% 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 single involuntary dismissal for the defendant was 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
K	7	1

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

Dispositions by Summary Judgment

The 4 summary judgment dispositions were decided as indicated in the table below.

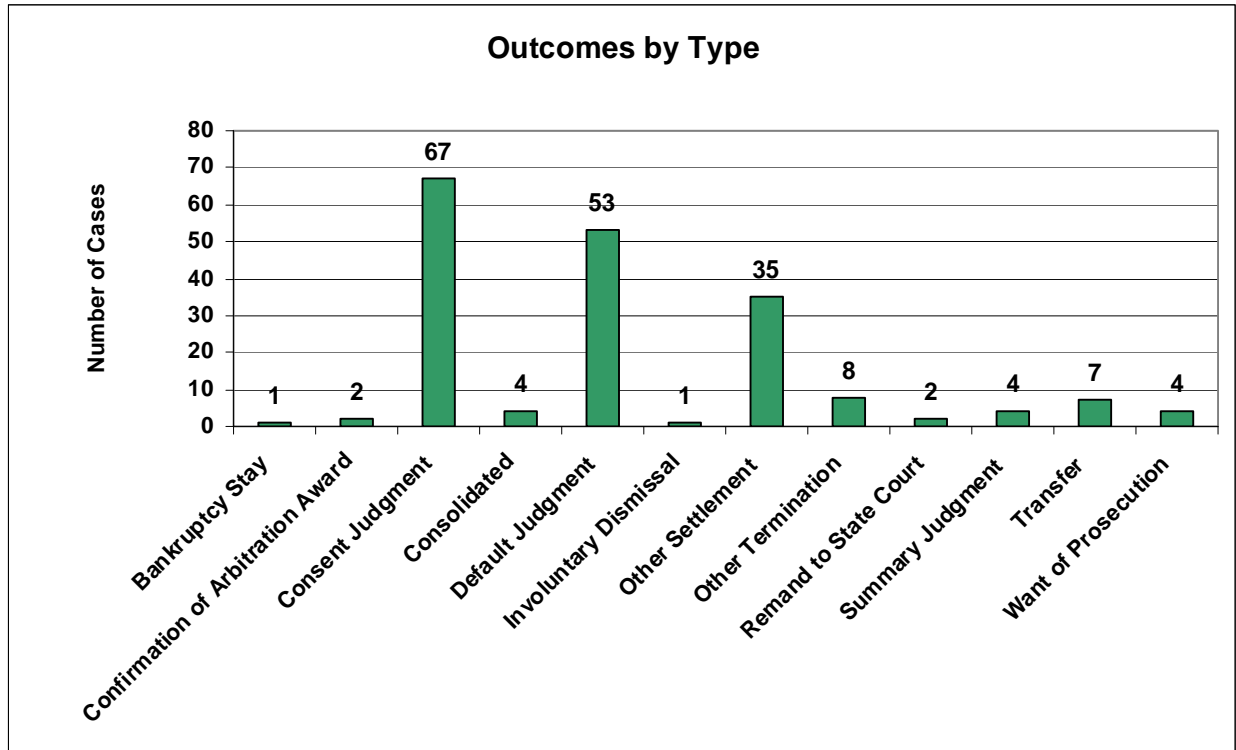
Judge	Summary Judgment for Plaintiff	Summary Judgment for Defendant
A	1	0
D	1	0
H	1	0
K	0	1

Case Outcomes

Of the 303 terminated cases,

- 1 (0.3%) was terminated by bankruptcy stay, with a pendency of 38.9 months
- 2 (0.7%) were terminated by confirmation of arbitration award, with an average pendency of 35.4 months
- 67 (22.1%) were terminated by consent judgment, with an average pendency of 11.3 months
- 4 (1.3%) were terminated by consolidation, with an average pendency of 5.6 months
- 53 (17.5%) were terminated by default judgment, with an average pendency of 12.1 months
- 1 (0.3%) was terminated by involuntary dismissal, with a pendency of 3.4 months
- 35 (11.6%) were terminated by miscellaneous settlement, with an average pendency of 14.8 months
- 8 (2.6%) were terminated by other miscellaneous termination, with an average pendency of 17.3 months
- 2 (0.7%) were terminated by remand to state court, with an average pendency of 7.0 months
- 4 (1.3%) were terminated by summary judgment, with an average pendency of 19.2 months
- 7 (2.3%) were terminated by transfer, with an average pendency of 8.6 months
- 0 (0.0%) were terminated by bench trial
- 0 (0.0%) were terminated by jury trial
- 115 (38.0%) were terminated by voluntary dismissal, with an average pendency of 8.4 months
- 4 (1.3%) were terminated for want of prosecution, with an average pendency of 15.9 months

The chart below illustrates the case outcomes for the Sample District in copyright cases: The 115 voluntary dismissals are not included in the chart.



Bench Trials—Number By Judge

There were no bench trials in copyright cases in the Sample District as a whole during the period covered by this report.

Jury Trials—Number By Judge

There were no jury trials in these cases.

Terminations by Transfer—Number By Judge

There were 7 cases terminated by transfer in copyright 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
A	1
C	1
E	1
K	1
M	3

Note that this table does not include MDL Transfers.

Trials—District-Wide by Prevailing Party and Trial Type

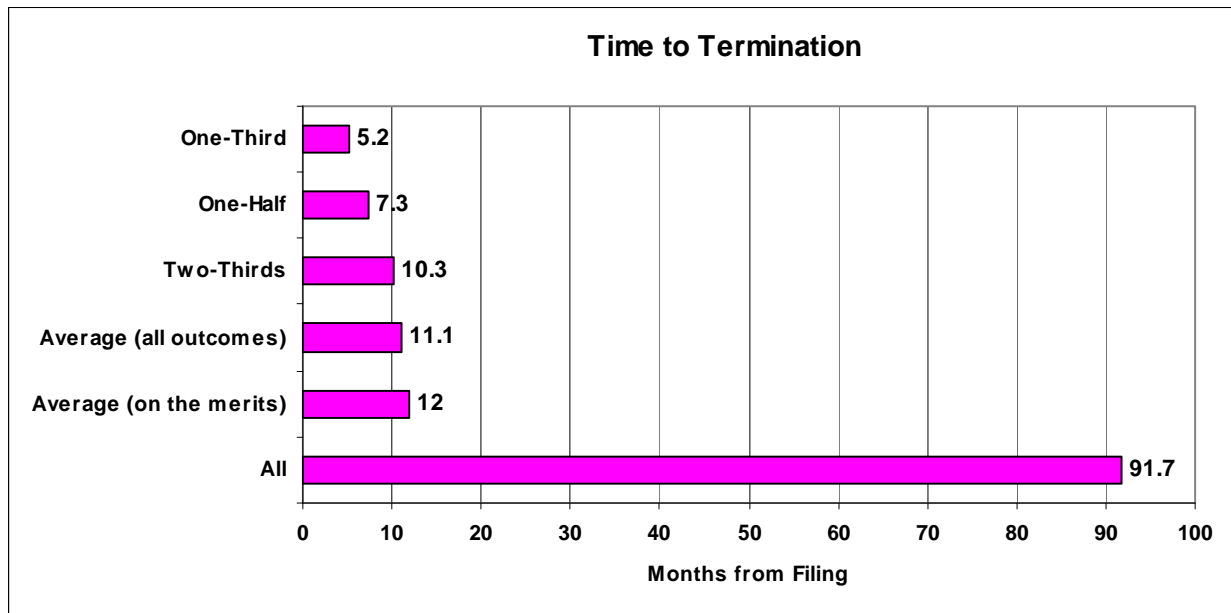
Of the 130 cases with an identifiable winner, none went to trial.

How Long?—Time to Termination

Time to Termination³ for Closed Cases:

Average:	11.1 months
One-Third ⁴ :	5.2 months
One-Half ⁵ :	7.3 months
Two-Thirds ⁶ :	10.3 months
All ⁷ :	91.7 months
Average (on the merits):	12.0 months
Jury Demand by Plaintiff Only-Average ⁸ :	11.6 months
Jury Demand by Defendant Only-Average ⁹ :	13.9 months
Jury Demand by Both Parties-Average ¹⁰ :	14.9 months
No Jury Demand-Average ¹¹ :	10.7 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.

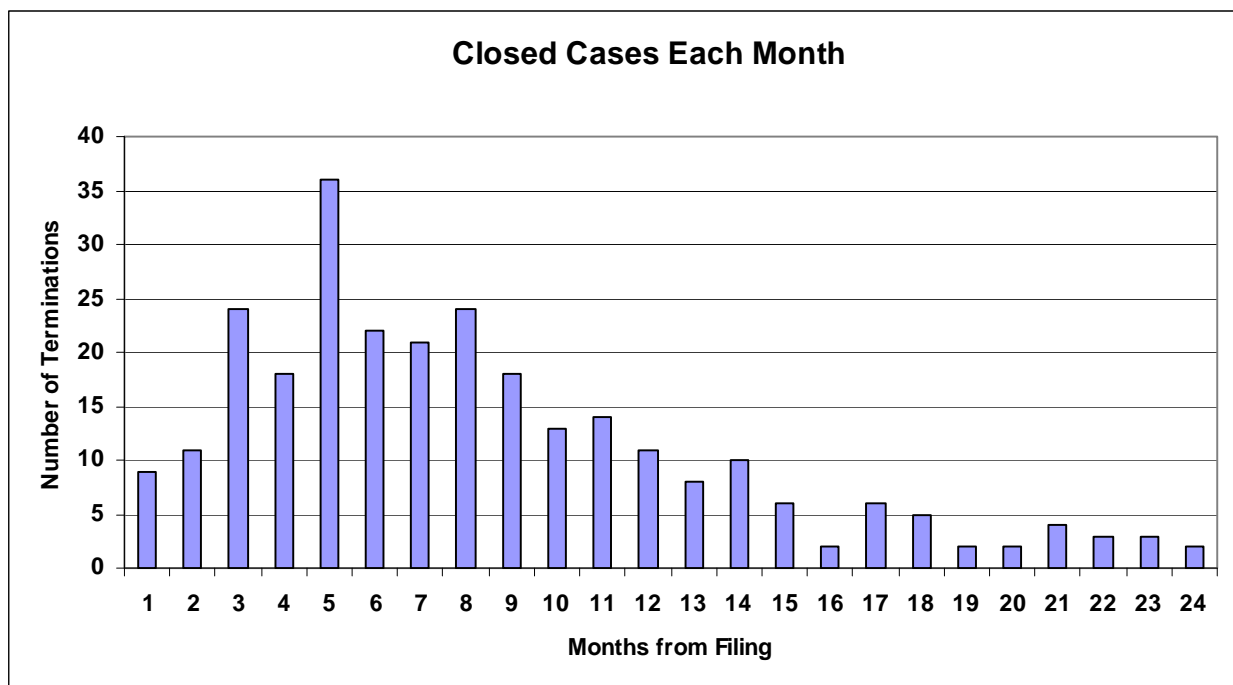
¹⁰ The time it took, on average, for cases of this type to terminate where both parties demanded a jury.

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 copyright cases were terminated within 5.2 months of commencement of the case; one-half were terminated within 7.3 months of the commencement; two-thirds were terminated within 10.3 months of commencement; and all were terminated within 91.7 months of commencement. The average of all terminations was 11.1 months. The average time for a termination on the merits in these cases was 12.0 months.

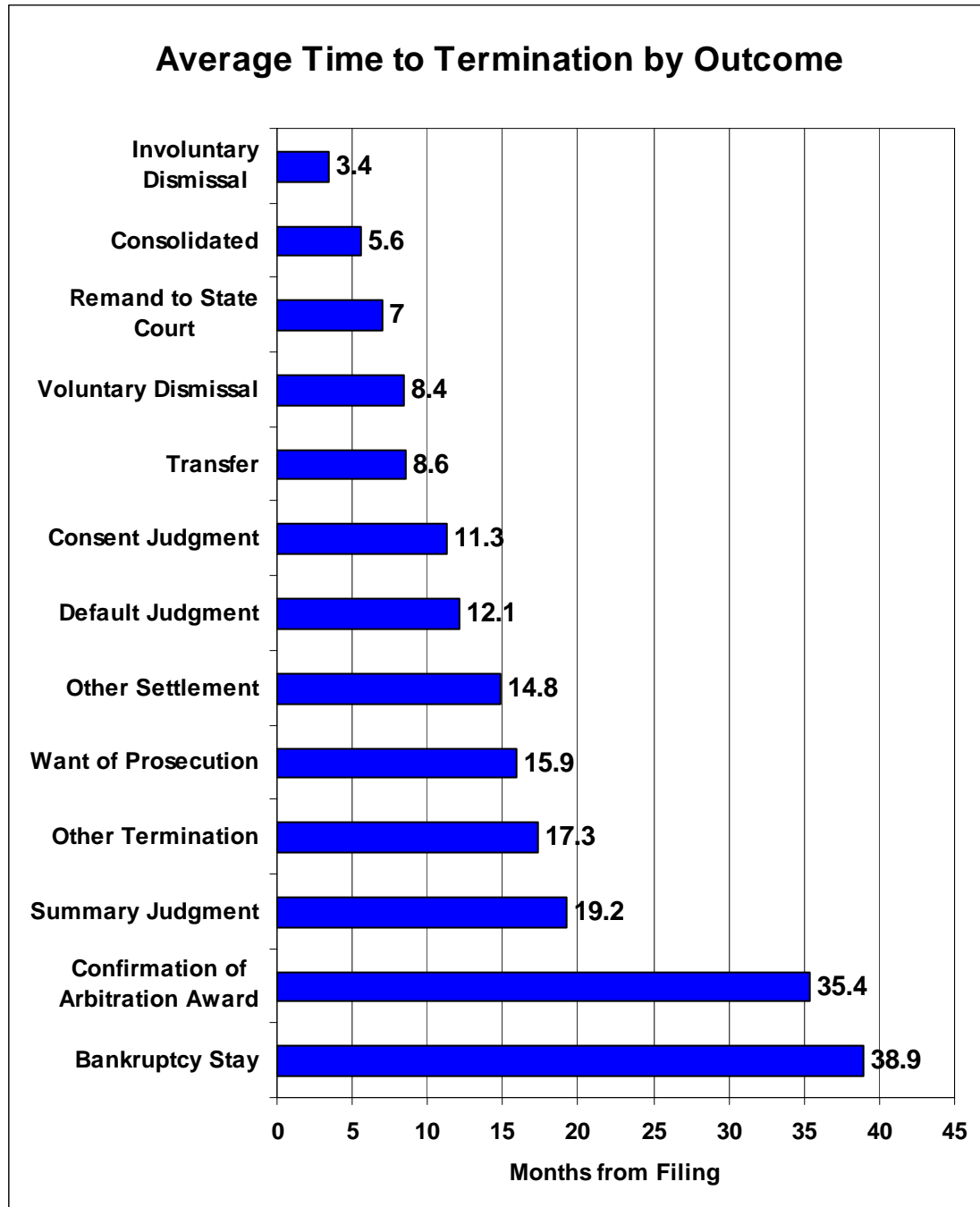
a. Terminations by Month

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



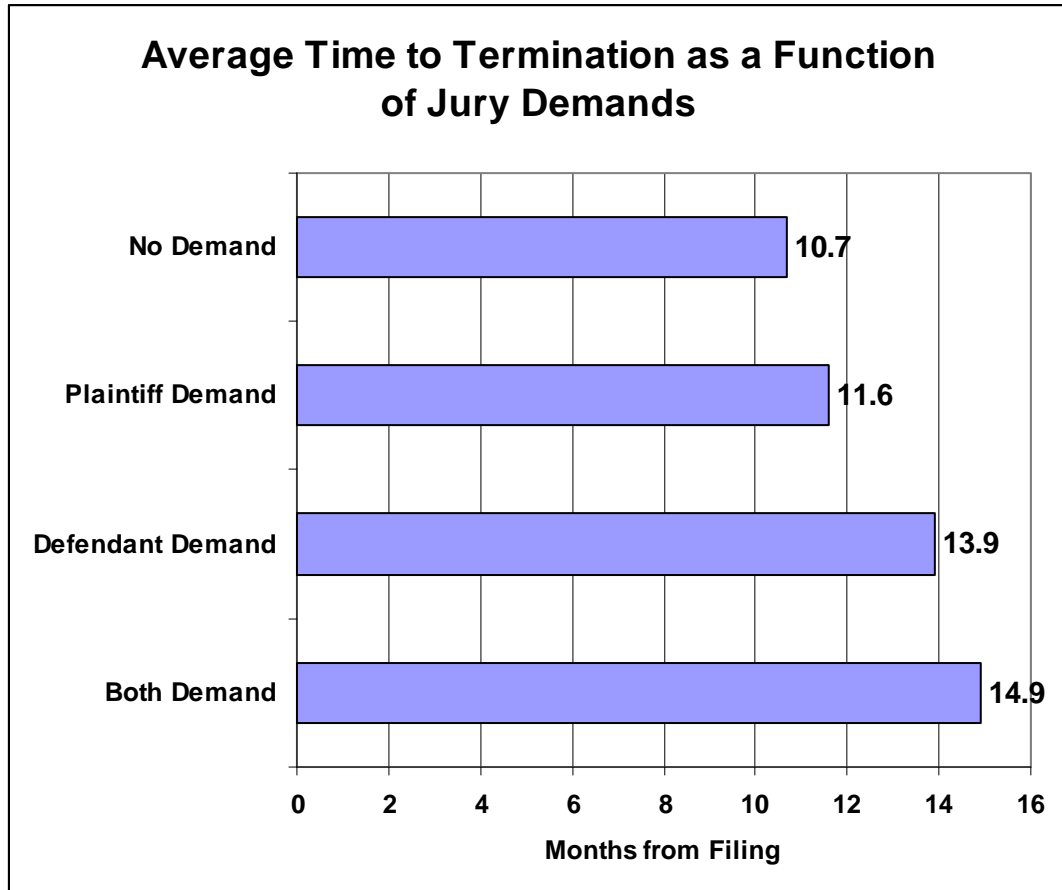
b. Terminations by Outcome

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 copyright cases in the Sample District is shown below.



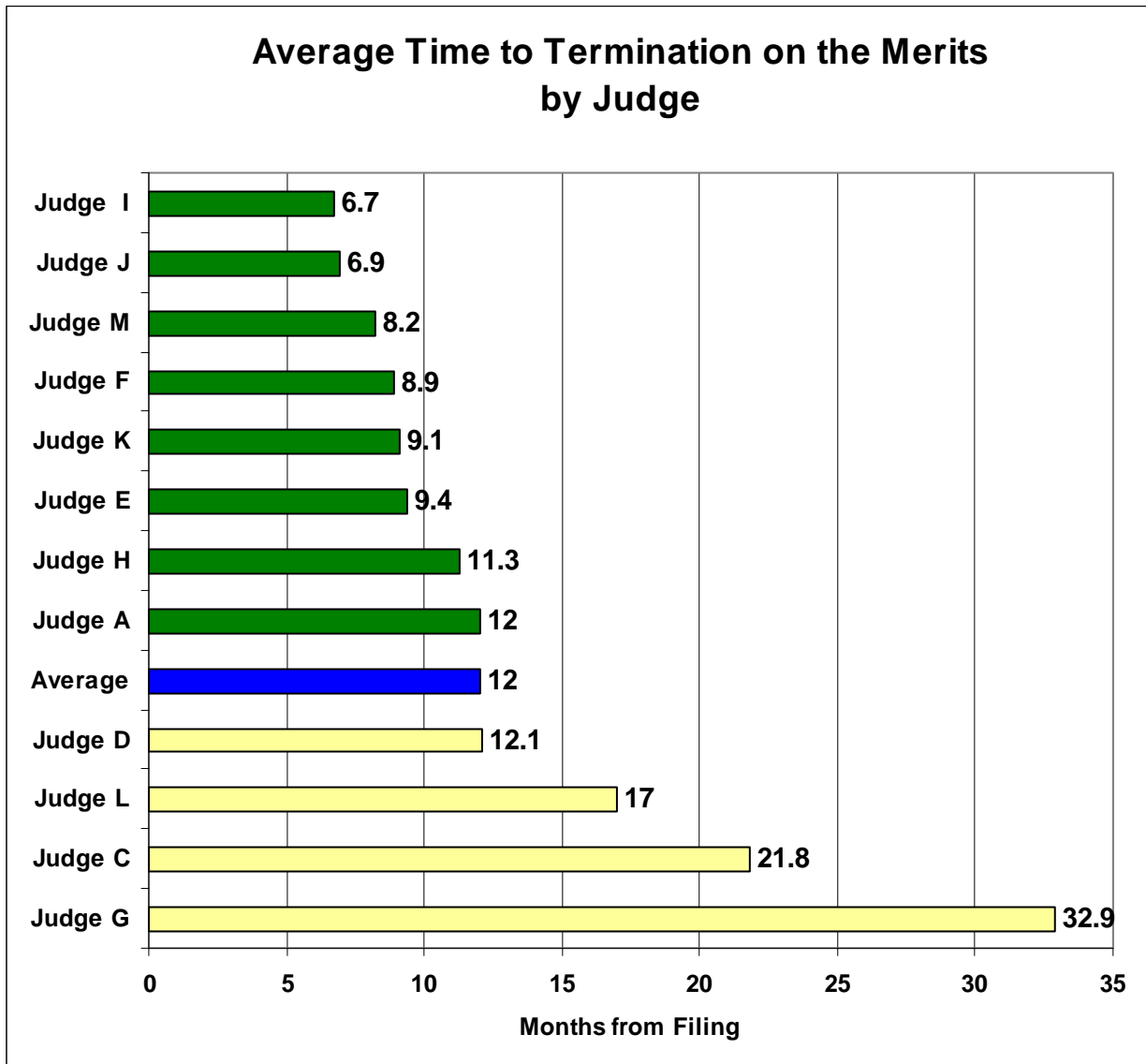
c. Terminations as a Function of Jury Demands

Many times pendency can be a function of which party or parties demand a jury. For example, in copyright cases in the Sample District where only the plaintiff demands a jury, termination occurs on average in 11.6 months. Where only the defendant demands a jury, termination occurs on average in 13.9 months. Where both parties demand a jury, termination occurs on average in 14.9 months. And where neither party demands a jury, termination occurs on average in 10.7 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 12.0 months. There is considerable variation of average pendency by judge, ranging from 6.7 months for Judge I to 32.9 months for Judge G. 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 in the Sample District during the period covered by this report.

Average Pendency for Jury Trials—By Active Judge

There were no terminations of copyright cases by jury verdict in the Sample District during the period covered by this report.

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

The average time from filing to termination by summary judgment in copyright cases in the Sample District was 19.2 months. By judge, average time to termination for summary judgments ranged from 13.1 months for Judge A to 30.9 months for Judge K. 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	0.3	19.2
A	1	13.1
D	1	17.1
H	1	15.5
K	1	30.9

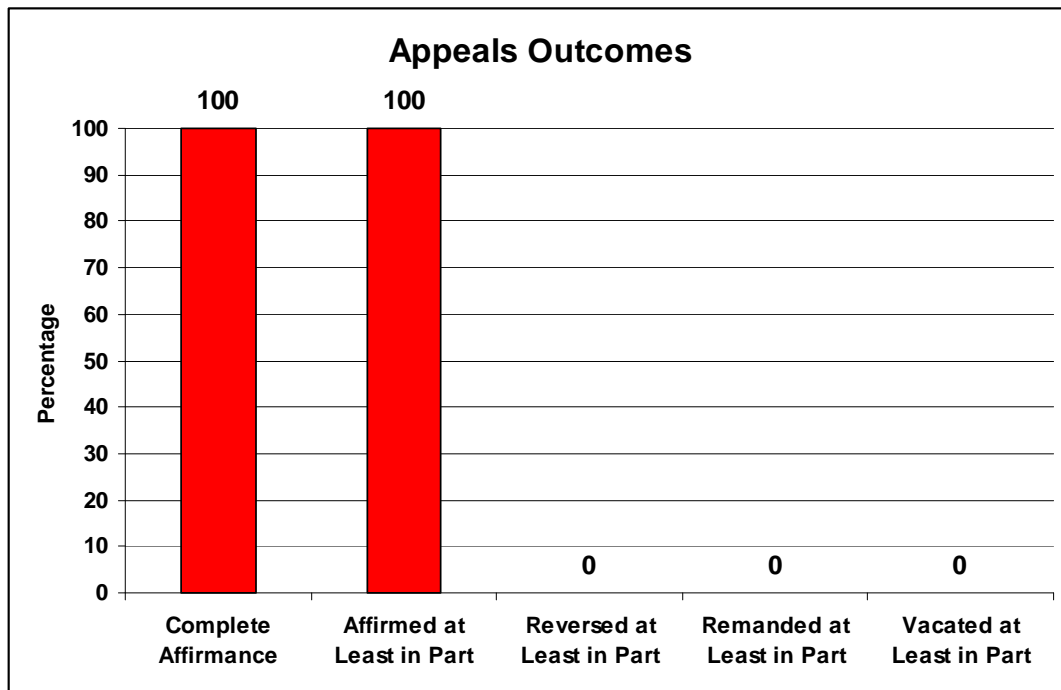
Average Pendency for Cases Terminated by Transfer—By Active Judge

The average time from filing to termination by transfer in copyright cases in the Sample District was 8.6 months. By judge, average time to termination for transfers ranged from 1.1 months for Judge A to 26.0 months for Judge K. The table below illustrates the variation among judges.

Judge	Cases Transferred	Average Time from Filing to Transfer (Months)
Average for the Court	0.5	8.6
A	1	1.1
C	1	13.4
E	1	9.3
K	1	26.0
M	3	3.5

Appeals

Of the 303 closed copyright cases of the active judges in the Sample District, 3 were appealed. There was a ruling on 1 appeal. The Complete Affirmance Rate¹² for these appeals was 100.0% (1 of 1). The percentage affirmed at least in part was 100.0% (1 of 1). The percentage reversed at least in part was 0.0% (0 of 1). The percentage remanded at least in part was 0.0% (0 of 1). The percentage vacated at least in part was 0.0% (0 of 1).



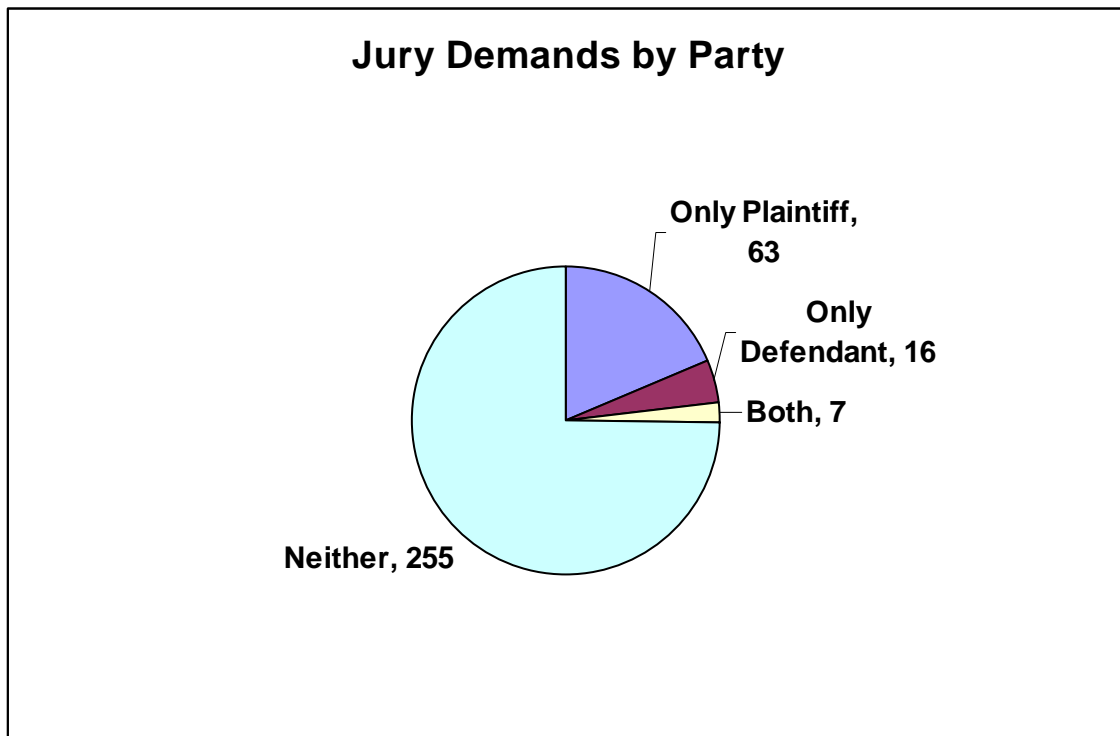
¹² All percentages in this paragraph do not include dismissed or pending appeals. The Complete Affirmance Rate is the number of appeals which were affirmed with no other ruling, divided by the total number of appeals expressed as a percentage.

Of the 3 total appeals, 1 was affirmed; and 2 were dismissed. The results of those appeals are shown in the following table:

Case Name	Case Number	Judge	Result of Appeal
A v. B	0:00cv00000	A	Affirmed
A v. B	0:00cv00000	K	Dismissed
A v. B	0:00cv00000	H	Dismissed

Jury Demands

Of the 341 copyright cases (both open and closed) of the active judges in the Sample District, at least one of the parties demanded a jury in 25.2% of the cases (86 of 341 cases). Both sides demanded a jury in 2.1% of the cases (7 of 341). The plaintiff, but not the defendant, demanded a jury in 18.5% of the cases (63 of 341). The defendant, but not the plaintiff, demanded a jury in 4.7% of the cases (16 of 341). Neither party demanded a jury in 74.8% of the cases (255 of 341). The chart below illustrates the jury demands in the Sample District for copyright cases over this period.



Experience

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

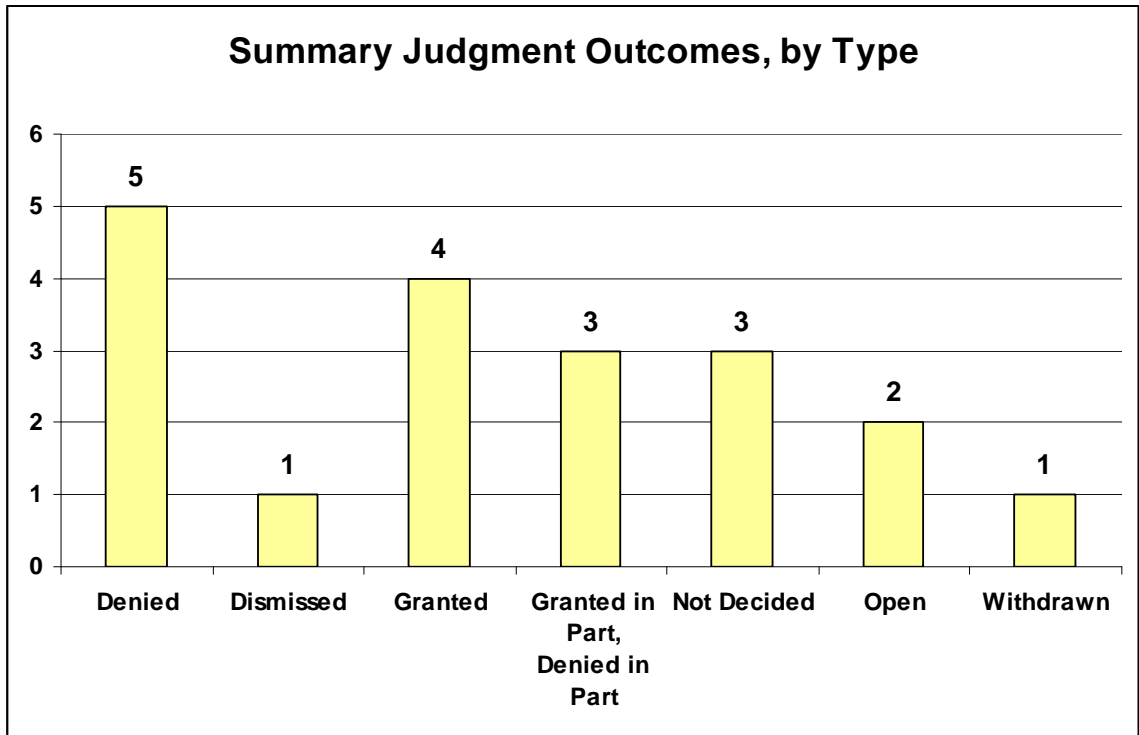
Total Number of Copyright Cases—By Judge

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

Judge	Number of Copyright Cases	Number of Closed Copyright Cases
Average for the Court	26	23
A	50	43
B	5	0
C	31	27
D	33	31
E	27	26
F	23	17
G	14	14
H	23	20
I	33	29
J	31	30
K	23	23
L	14	13
M	34	30

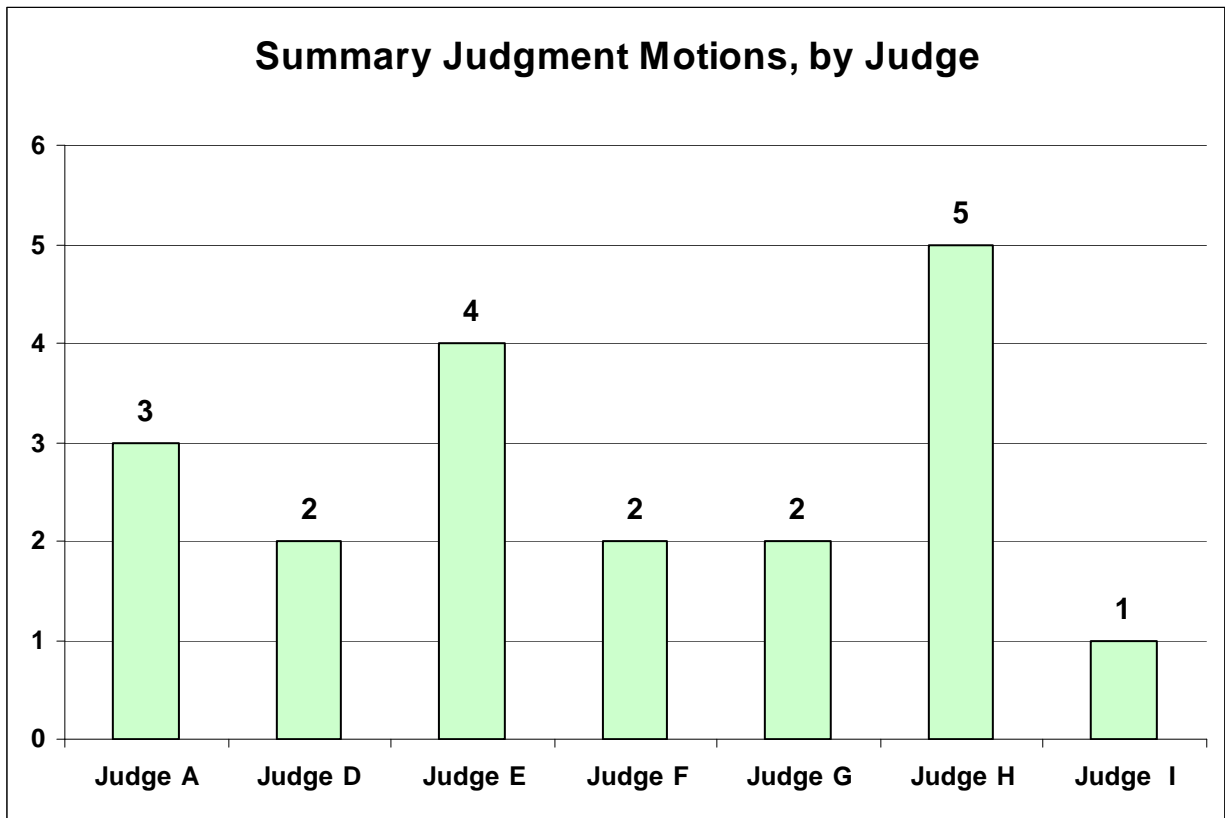
Cases with Summary Judgment Activity—By Active Judge

There were 19 summary judgment motions filed in these cases. Of the 19 summary judgment motions, 5 were denied, 1 was dismissed, 4 were granted, 3 were granted in part, denied in part,¹³ 3 were not decided, 2 are open, and 1 was withdrawn. The summary judgment figures are illustrated in the chart below.

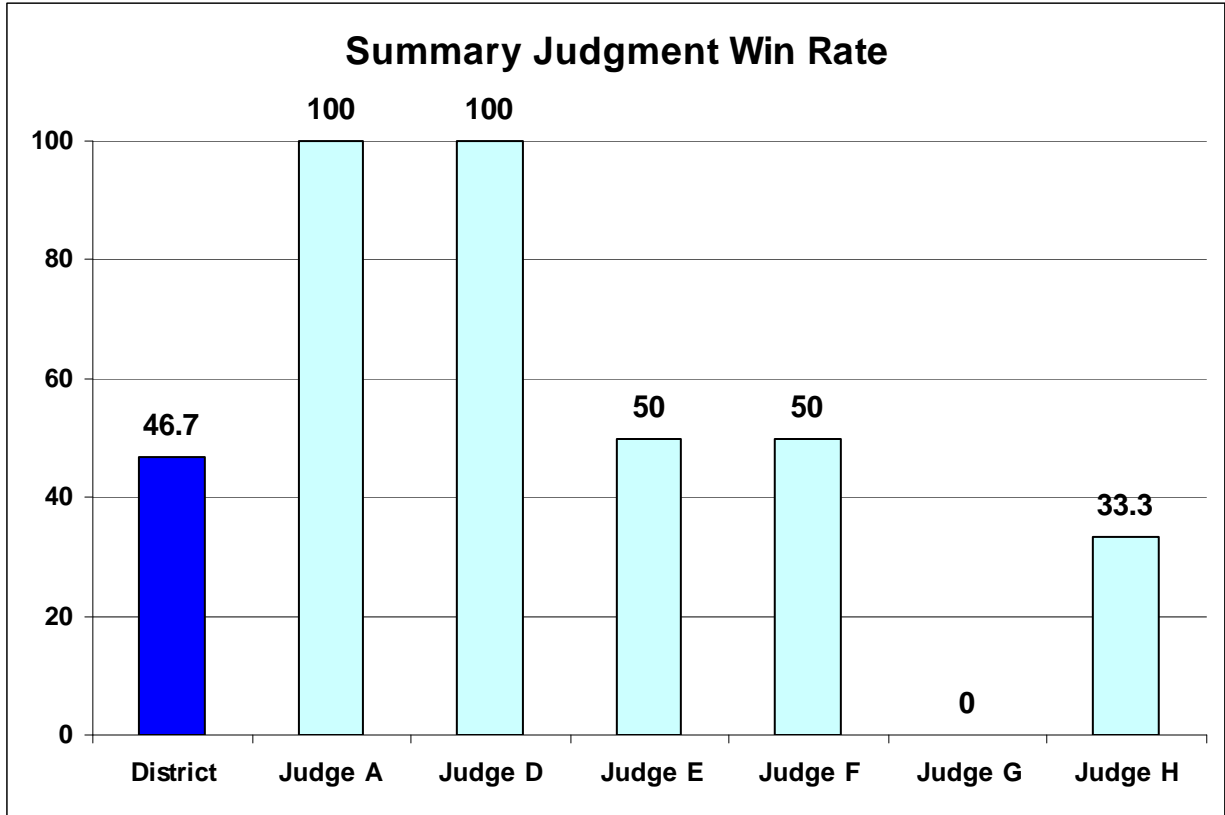


¹³ A ruling granting a motion in part and denying it in part is treated as two rulings—one granting a motion and one denying a motion.

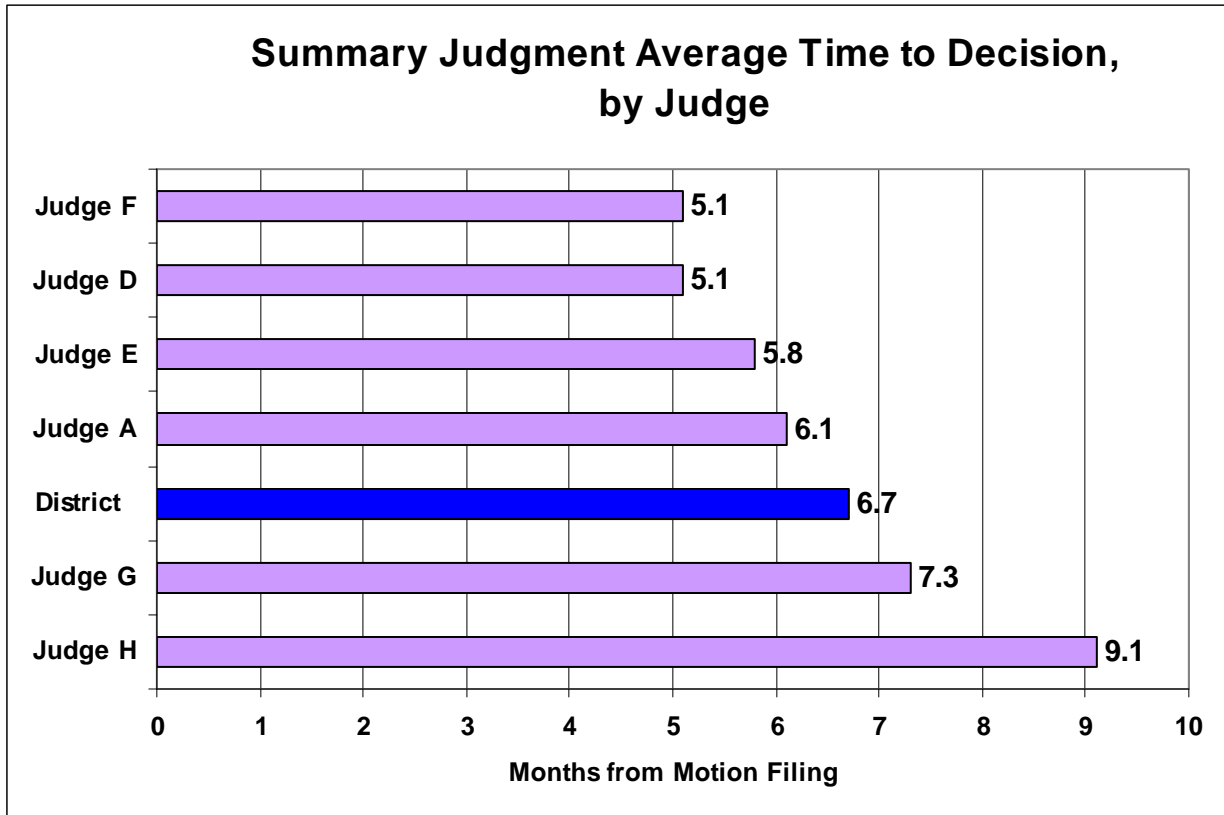
The number of summary judgment motions, by judge, is illustrated below:



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

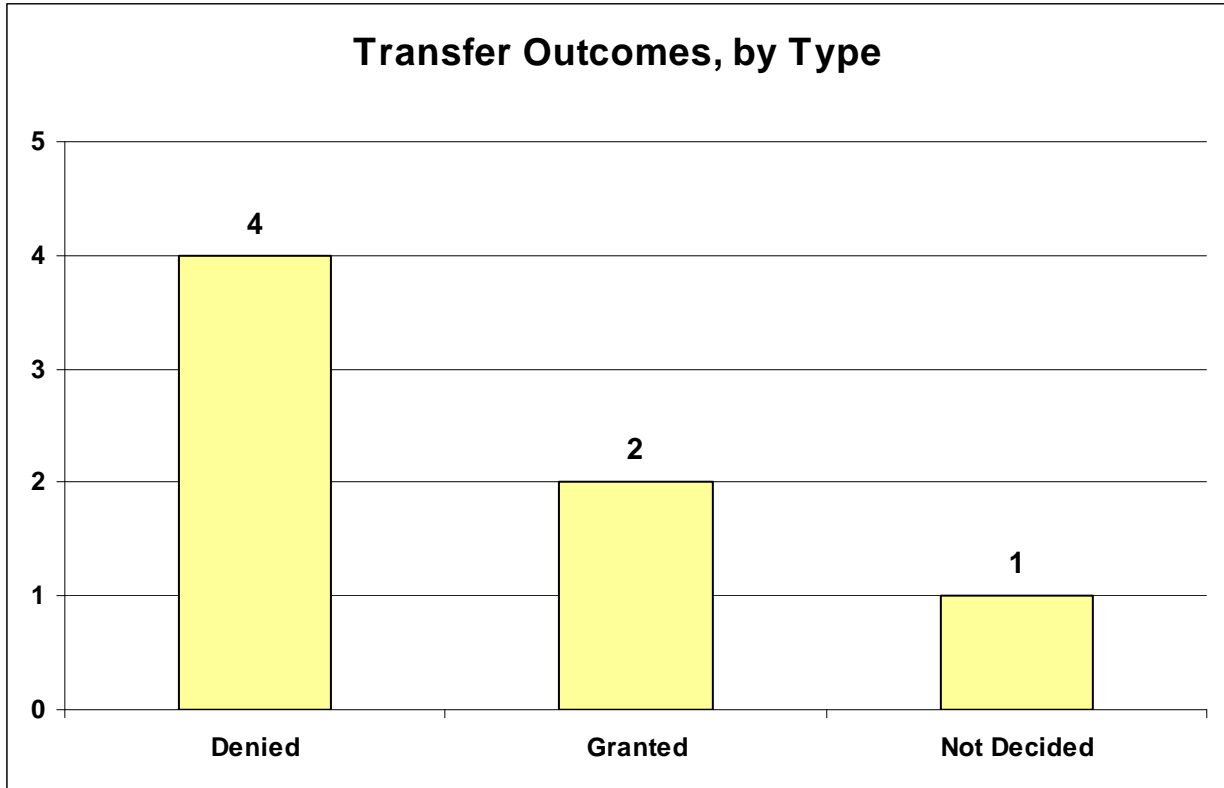


The average time from motion filing to decision for these summary judgment motions is illustrated below:

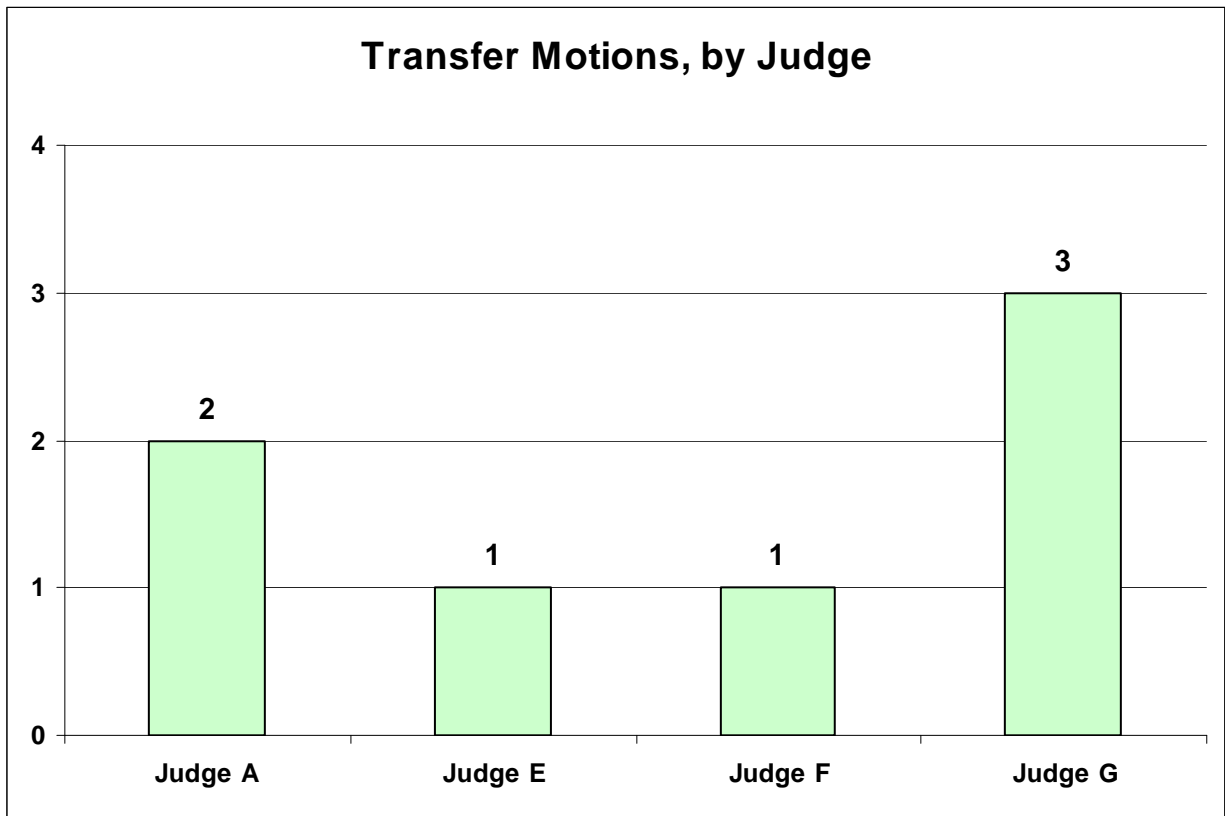


Cases with Transfer Activity—By Active Judge

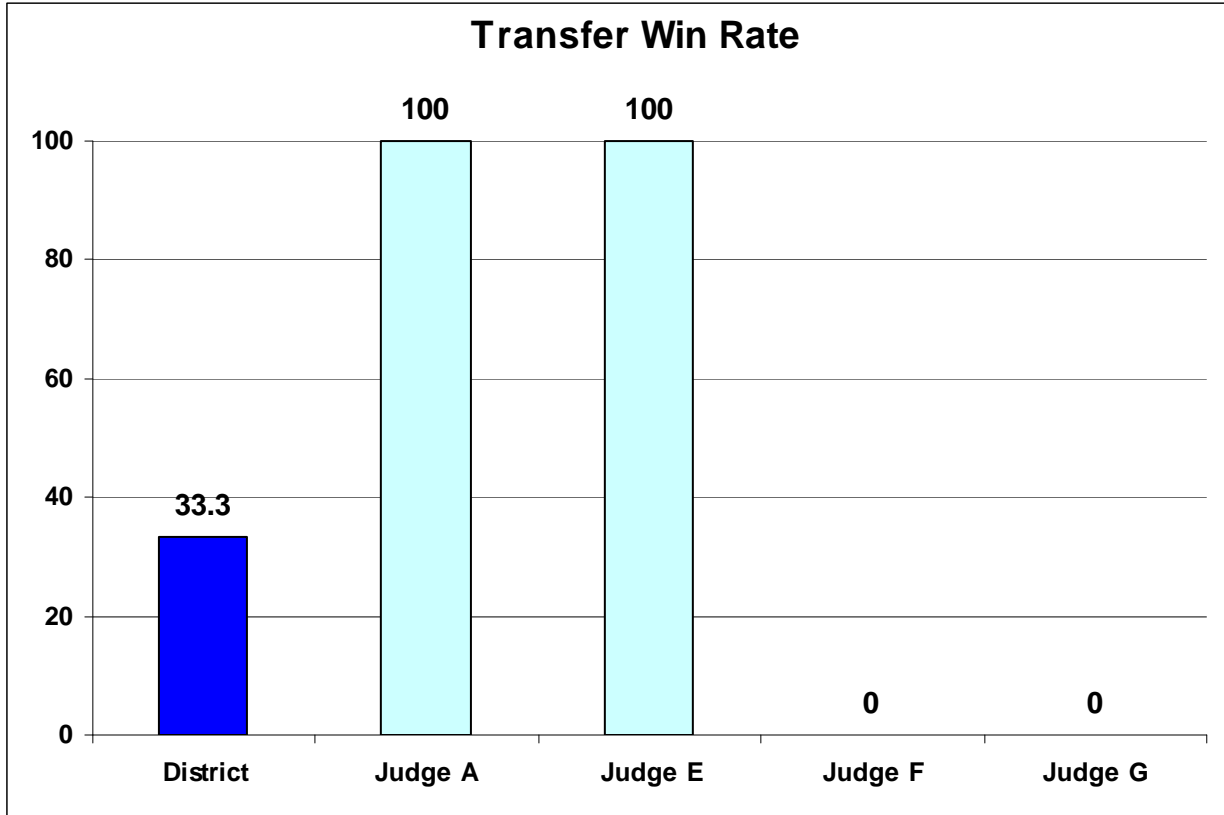
There were 7 motions to transfer filed in these cases. Of the 7 motions to transfer, 4 were denied, 2 were granted, and 1 was not decided. The transfer motion figures are illustrated in the chart below.



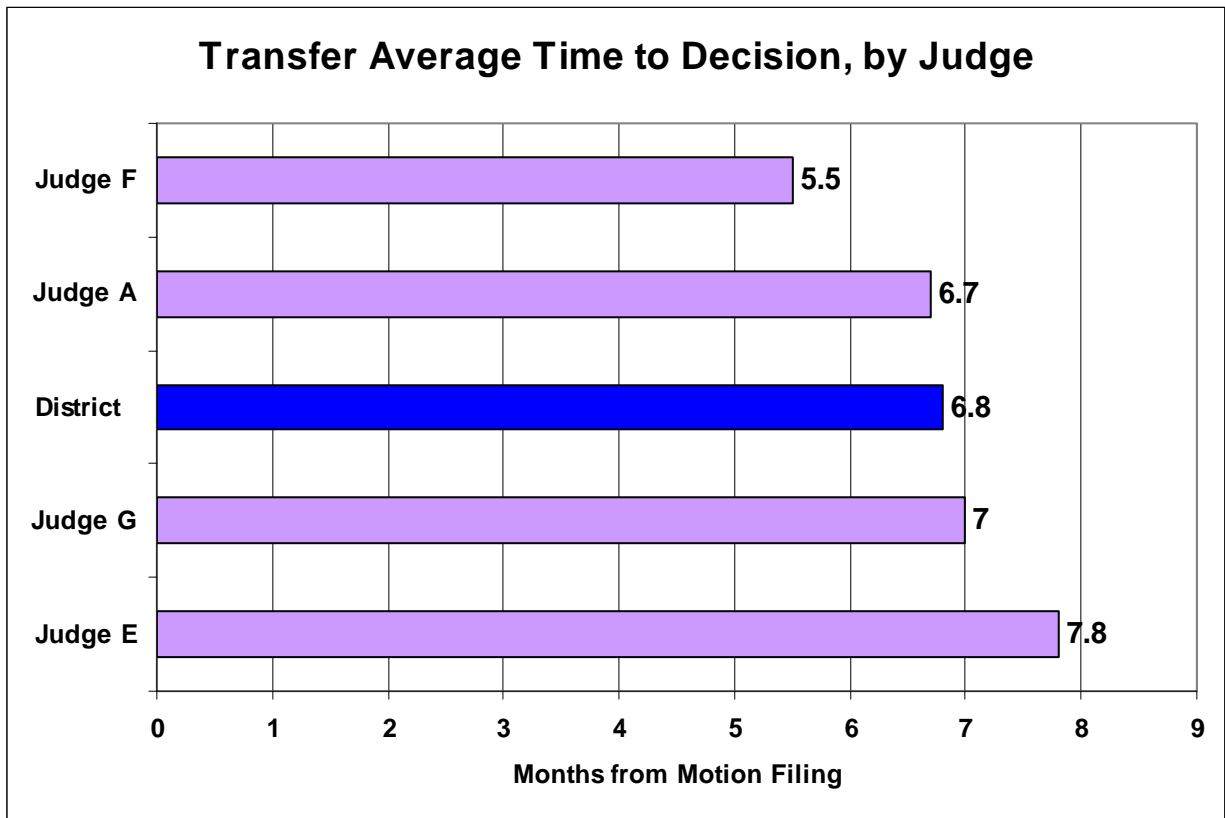
The number of motions for transfer, by judge, is illustrated below:



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

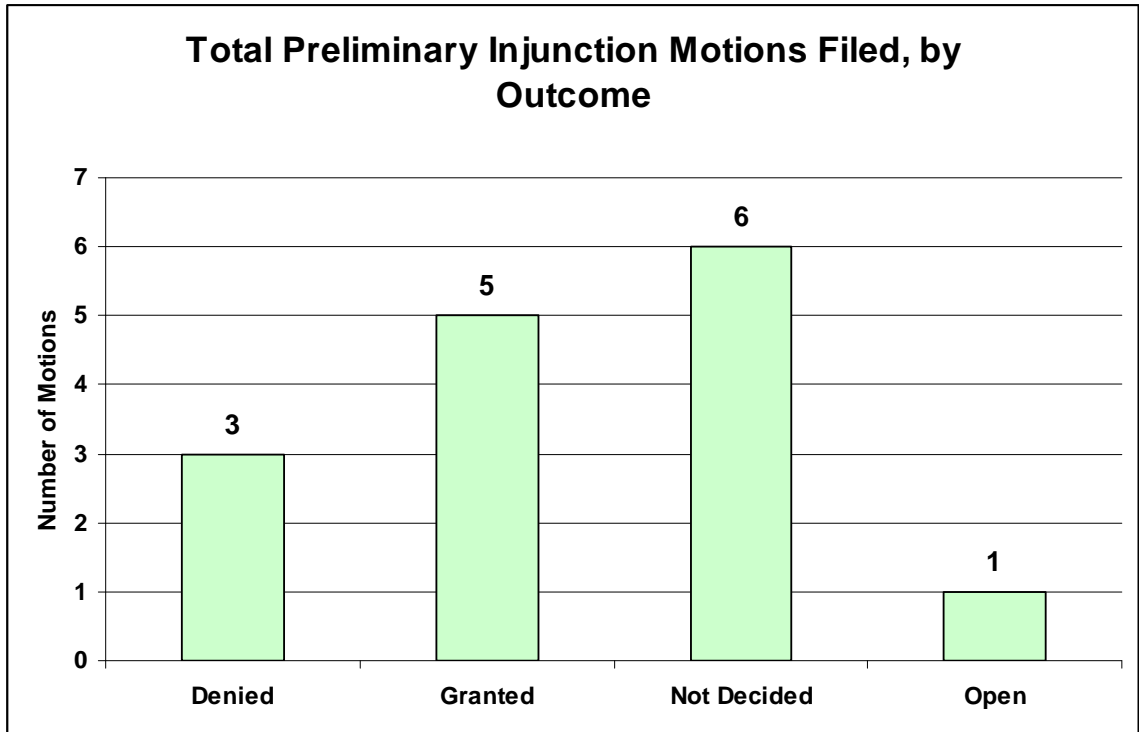


The average time from motion filing to decision for these motions to transfer is illustrated below:

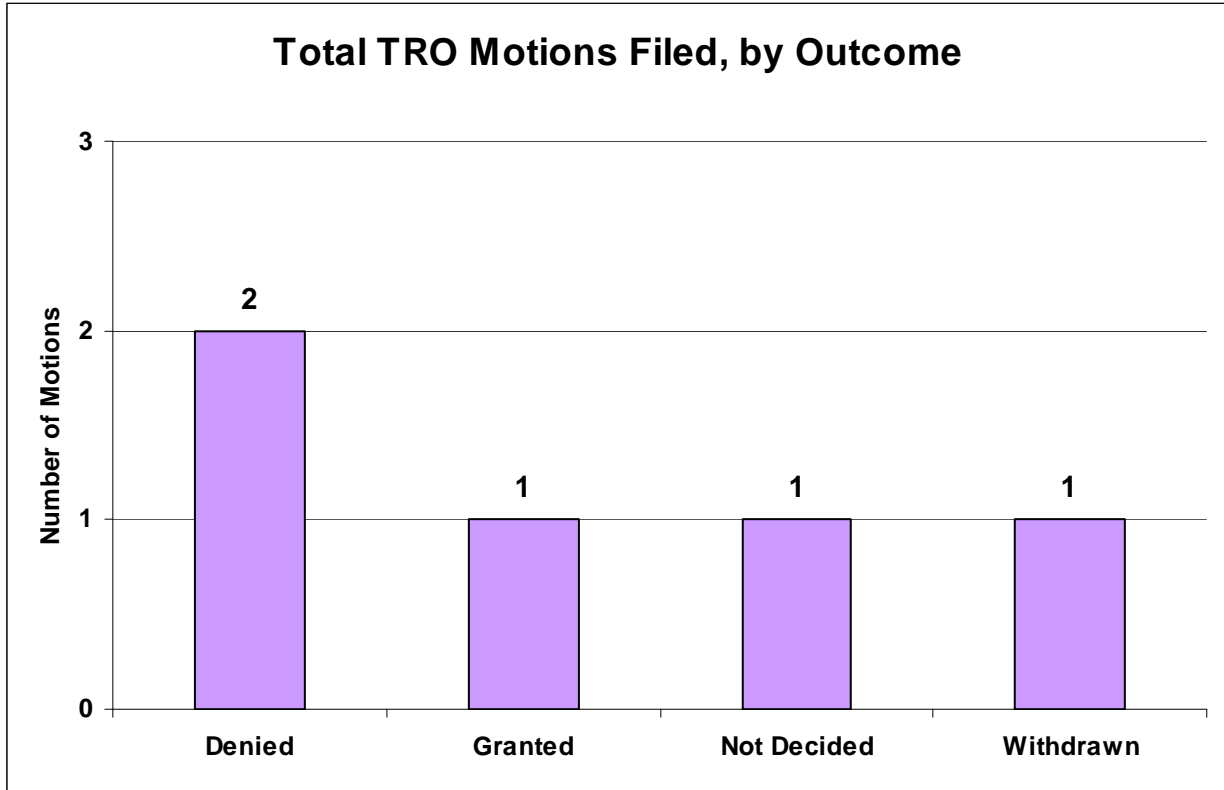


Cases with Preliminary Injunction Activity—By Active Judge

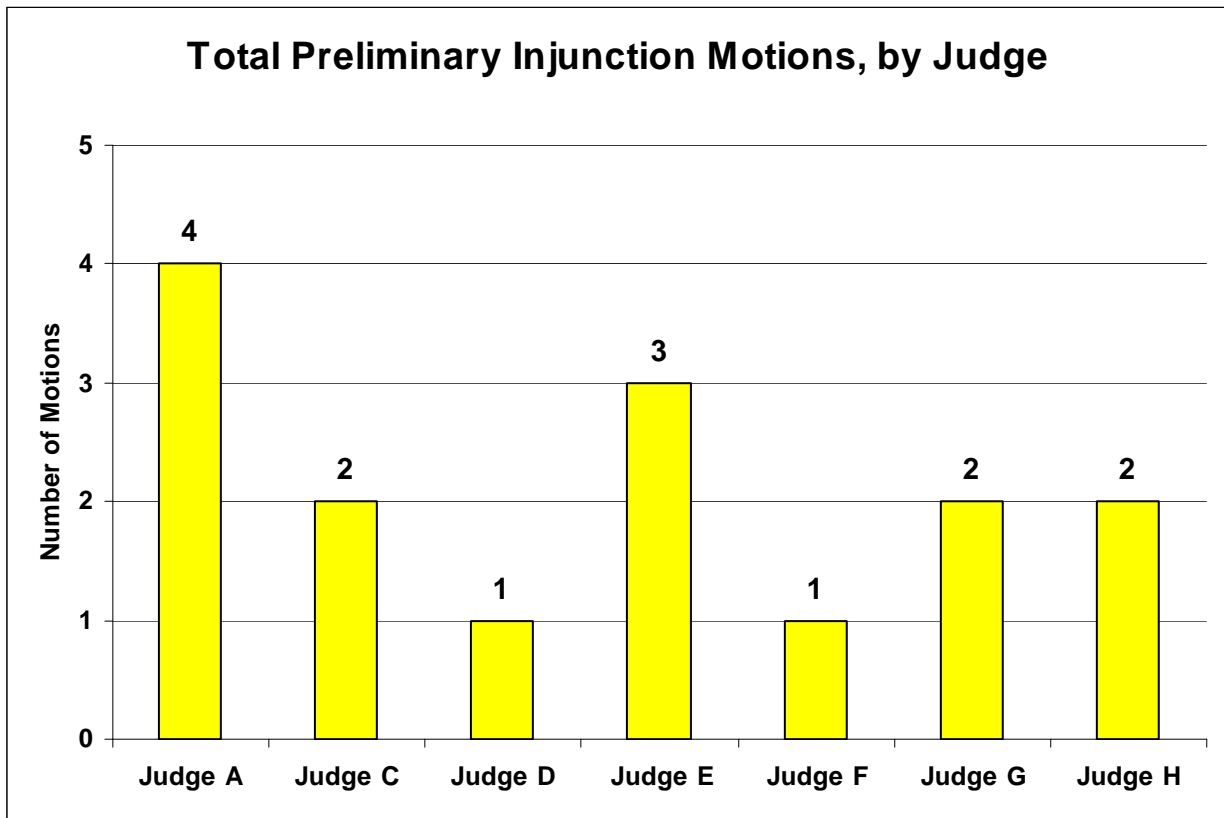
There were 15 preliminary injunction motions and 5 temporary restraining order motions filed in these cases. Of the 15 preliminary injunction motions, 3 were denied, 5 were granted, 6 were not decided, and 1 is open. The preliminary injunction figures are illustrated in the chart below.



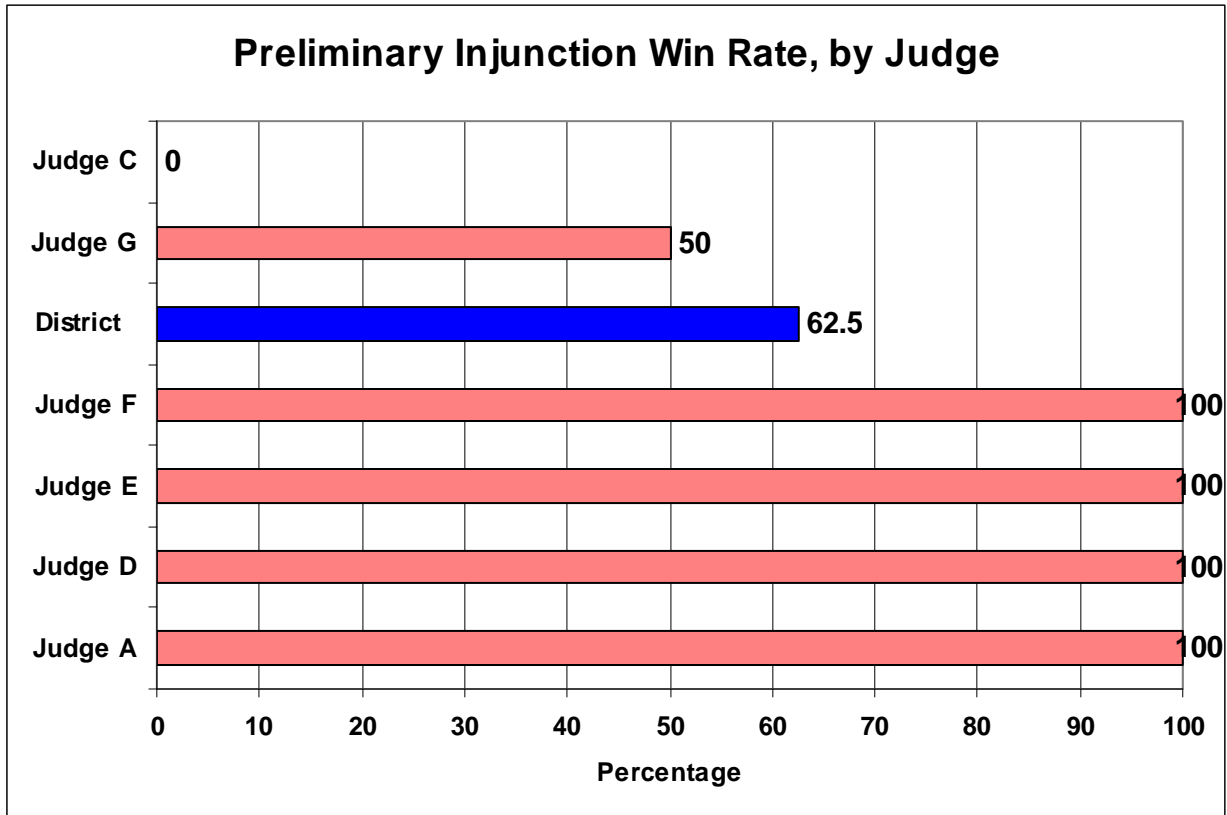
Of the 5 motions for temporary restraining orders, 2 were denied, 1 was granted, 1 was not decided, and 1 was withdrawn. The temporary restraining order outcomes are illustrated below:



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:

