

LegalMetric[®]

Changing Win Rates in Patent Litigation

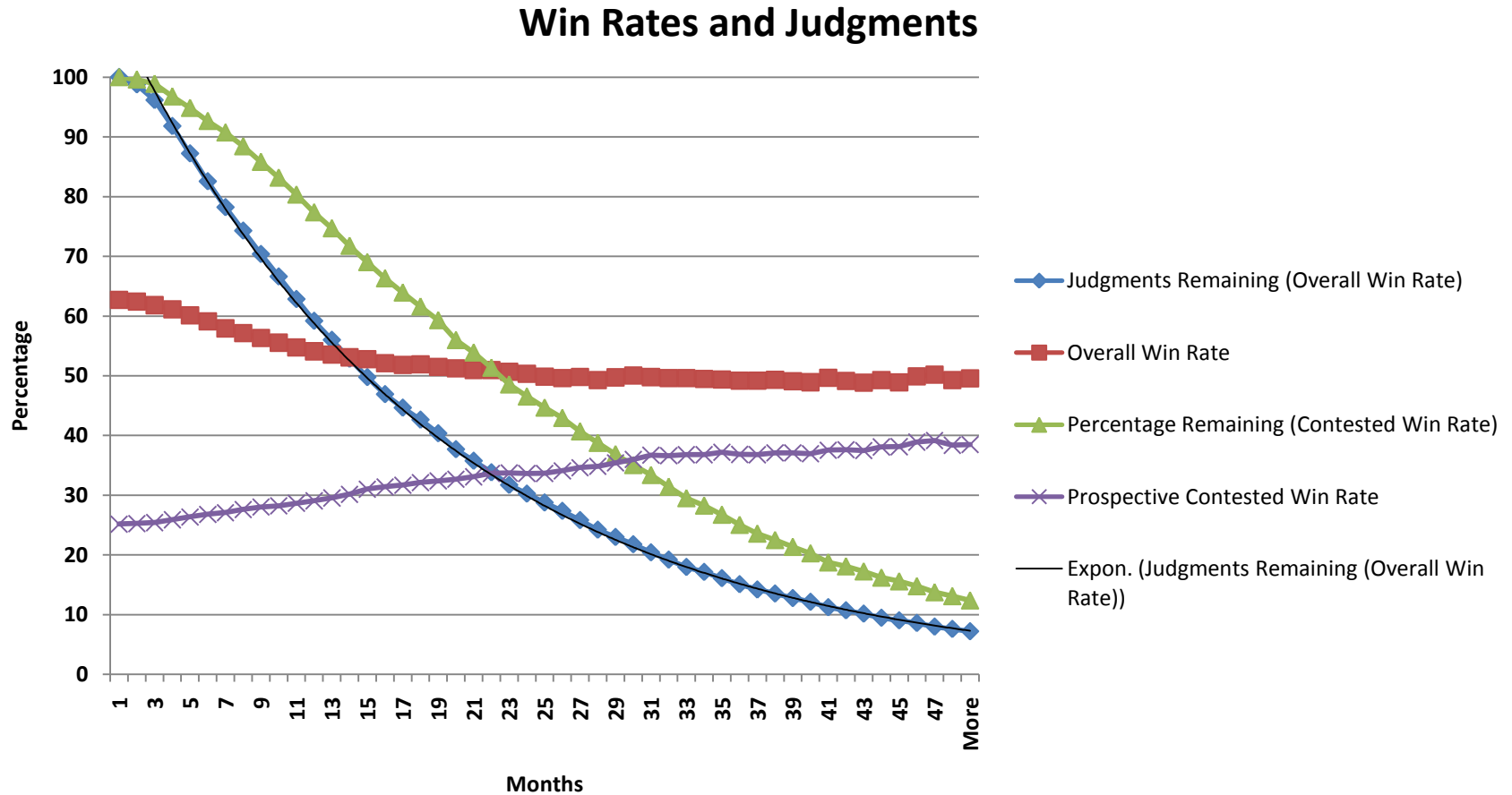
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Prospective Overall and Contested Win Rates: Nationwide



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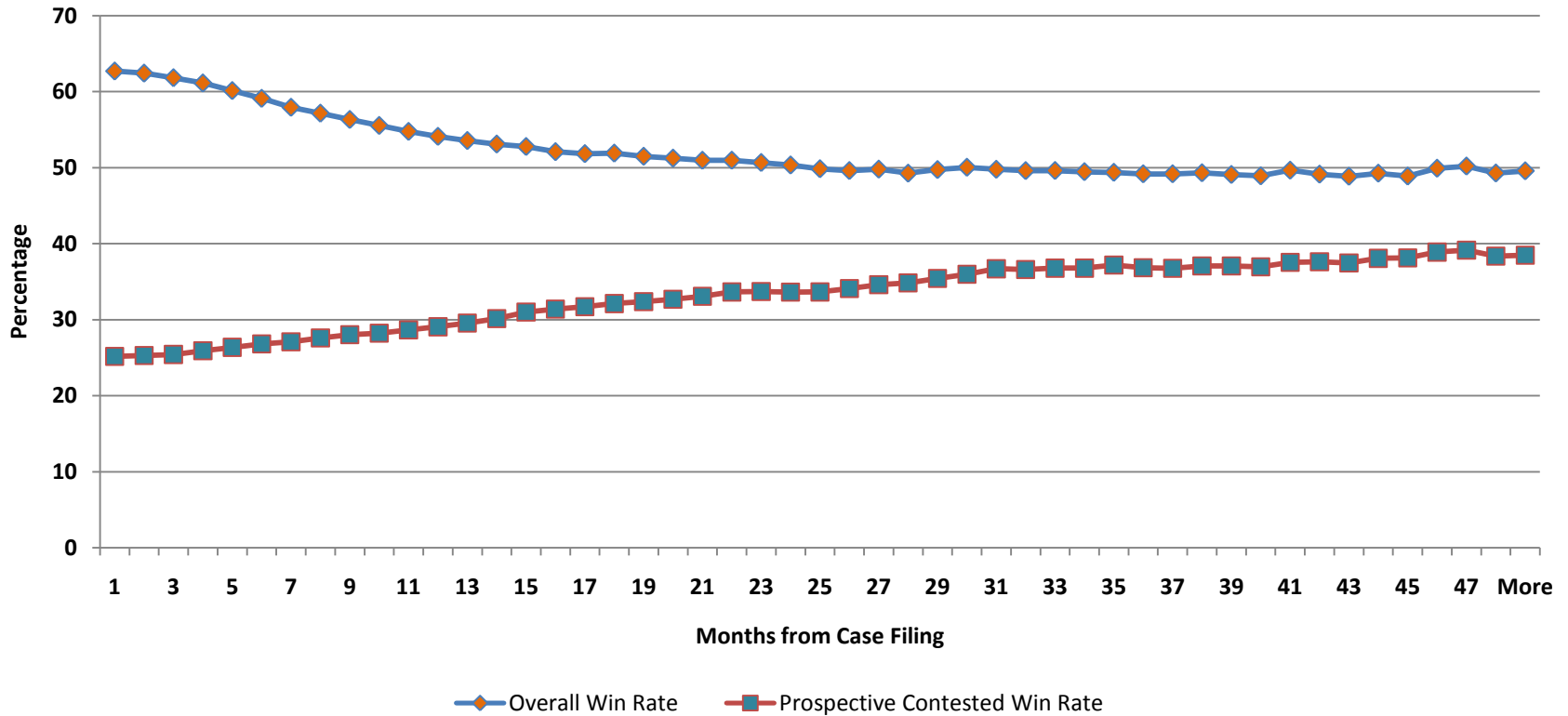
- Prospective Win Rates (PWR): Probability of patentee winning, measured at each month of litigation for all the remaining months
- Prospective Win Rate for the first month is the average win rate since it includes all judgments from case filing to termination of the last case
- PWR for the second month excludes all judgments entered in first month of litigation, PWR for the third month excludes all judgments entered in the first and second months, and so on

Prospective Overall and Contested Win Rates: Nationwide

- Overall Win Rates are the percentage of judgments in favor of the patentee, divided by the total number of judgments in favor of any party (including consent and default judgments)
- Contested Win Rates are calculated the same way as Overall Win Rates, but exclude consent and default judgments

Prospective Overall and Contested Win Rates: Nationwide

Nationwide Comparison of Prospective Overall and Contested Win Rates

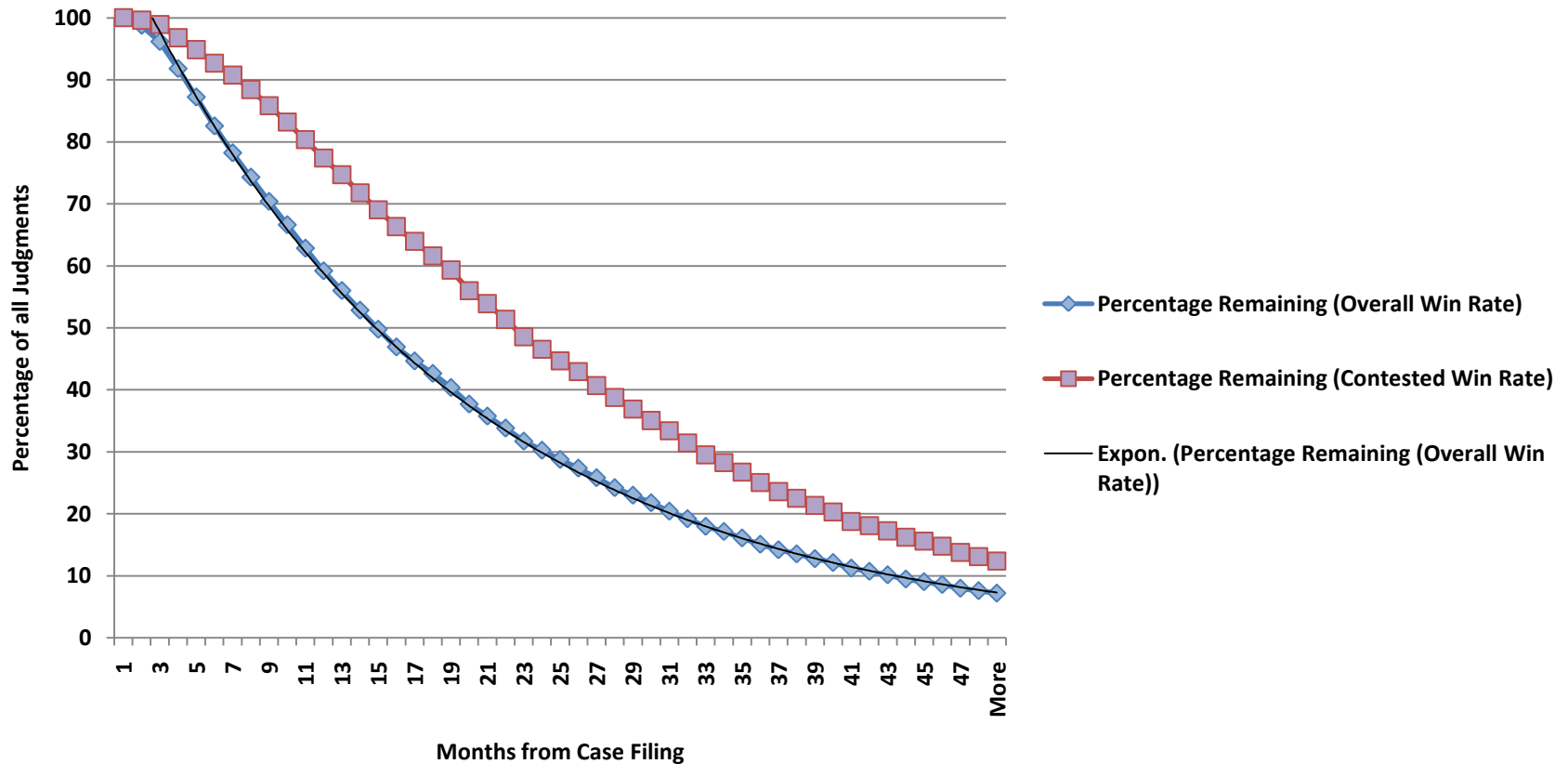


Prospective Overall and Contested Win Rates: Nationwide

- Nationwide Overall Patentee Win Rate at start of litigation is just over 60%, but this falls within 1.5 years to around 50% and remains there.
- Nationwide Contested Patentee Win Rate at start of litigation is approximately 25%, but steadily climbs as litigation progresses to the vicinity of 40%.

Prospective Overall and Contested Win Rates: Nationwide

Remaining Judgments after Each Month

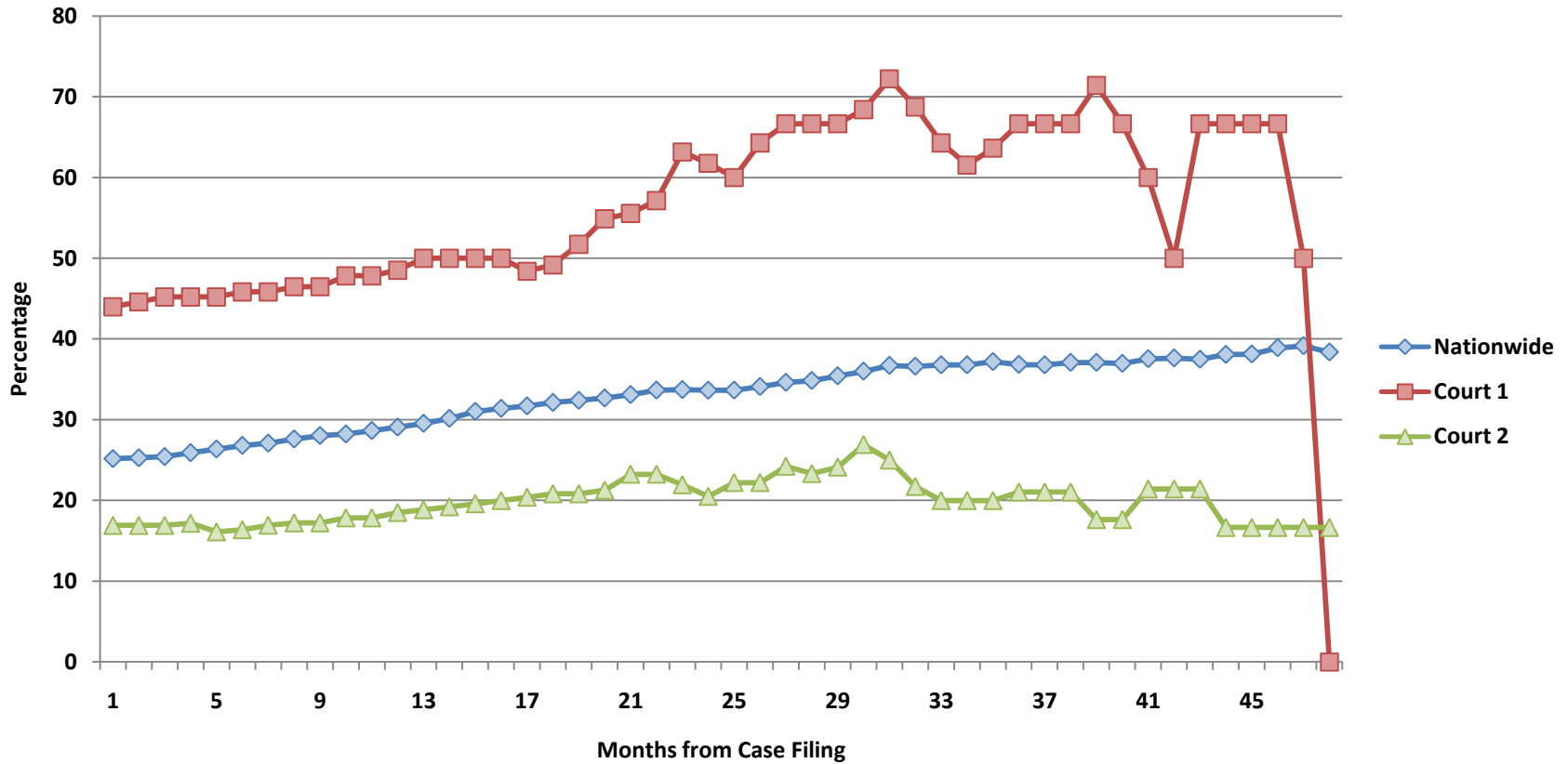


Prospective Overall and Contested Win Rates: Nationwide

- The percentage of contested judgments yet to be decided at each stage of the litigation (at the end of each month) is consistently higher than the percentage of all judgments yet to be decided, reflecting the delay inherent in obtaining a contested judgment.
- The “yet to be decided” curve for the overall win rate is an almost perfect exponential, showing that the “half-life” of patent litigation nationwide is 14-15 months.

Using Prospective Win Rates in Evaluating Courts

Prospective Contested Win Rates



Using Prospective Win Rates in Evaluating Courts

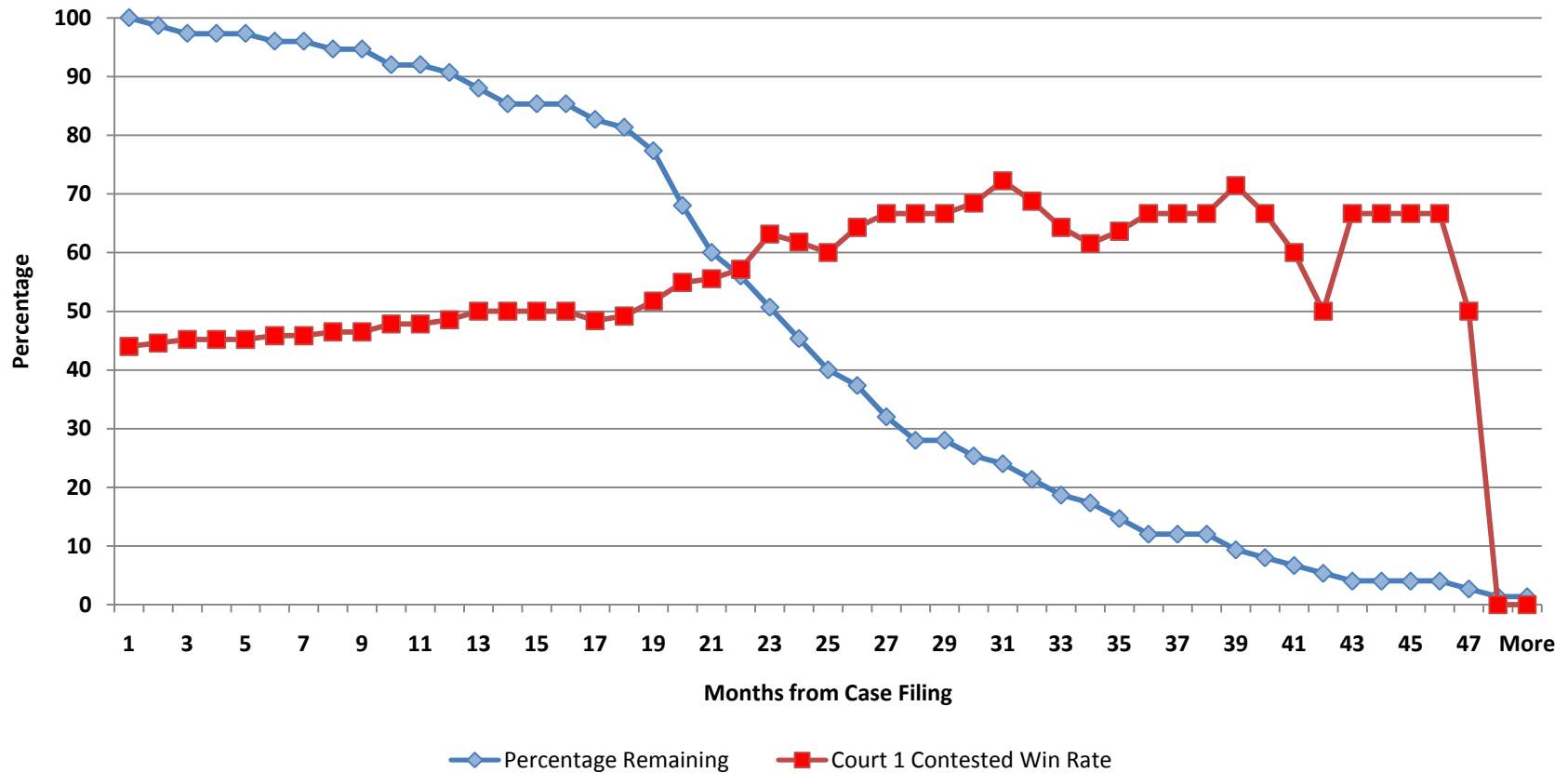
- The previous chart compares the prospective overall patentee win rates of two actual districts with the national numbers
- Both Court 1 and Court 2 start off with overall win rates which are less than the national average
- Court 2 remains consistently below the nationwide average throughout the litigation

Using Prospective Win Rates in Evaluating Courts

- Court 1 has an overall win rate which rises to the nationwide level in approximately a year, and then climbs to substantially higher levels for the next three years or so.
- The fall-off in the Court 1 curve at the end represents a relatively small number of accused infringer judgments at the very end of the litigation life cycle. (See next slide.)

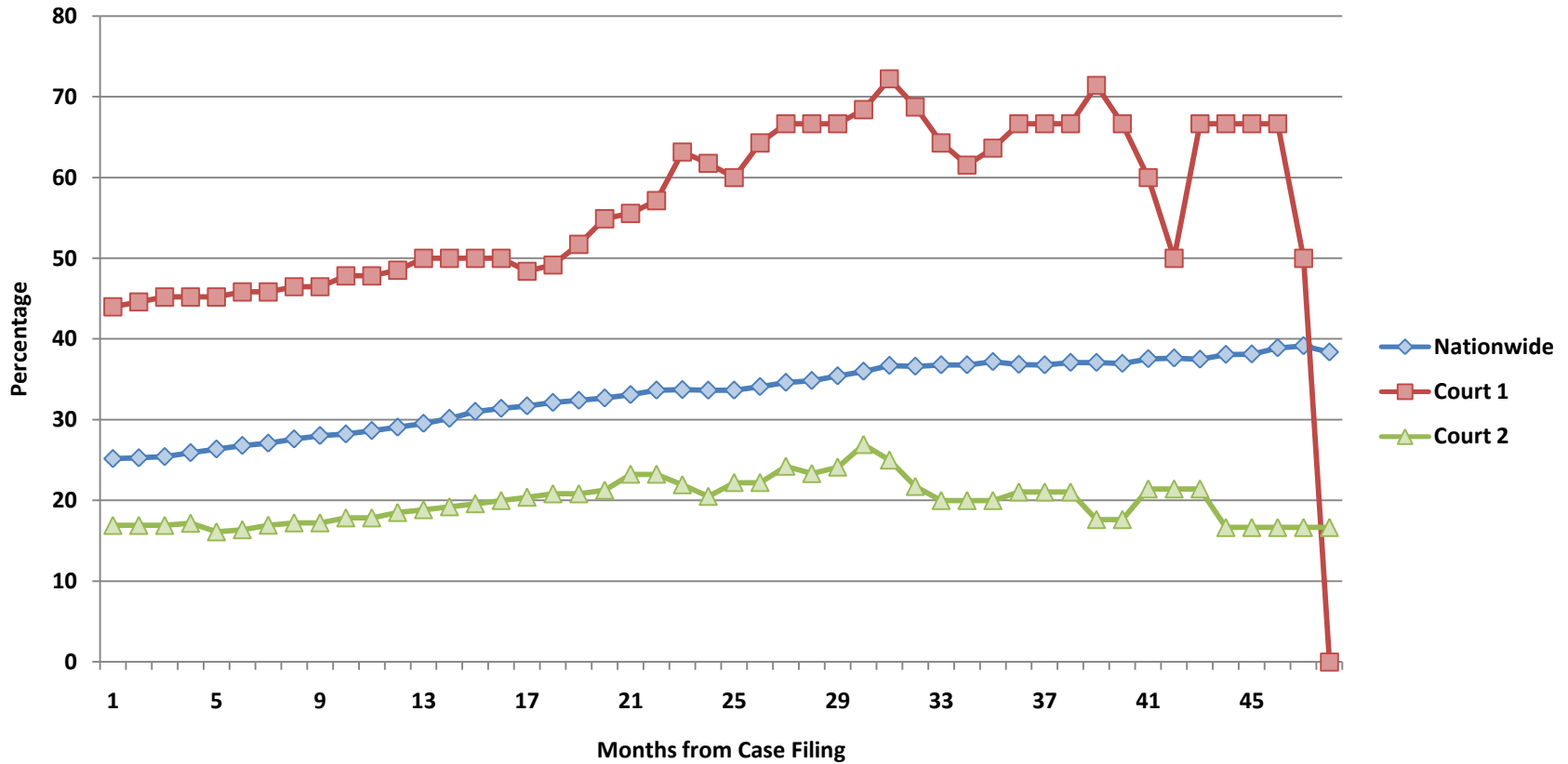
Using Prospective Win Rates in Evaluating Courts

Prospective Overall Win Rates and Percentage Remaining: Court 1



Using Prospective Win Rates in Evaluating Courts

Prospective Contested Win Rates



Using Prospective Win Rates in Evaluating Courts

- The contested win rate for Court 1 is substantially higher than the nationwide numbers until the very end of the litigation life cycle.
- Court 2 has a contested win rate which remains well below the nationwide numbers for the entire litigation life cycle.

Time Frame and Source

- Figures are from LegalMetric's District Reports Supplements
- The underlying data was extracted from federal dockets from 1991 to April, 2009