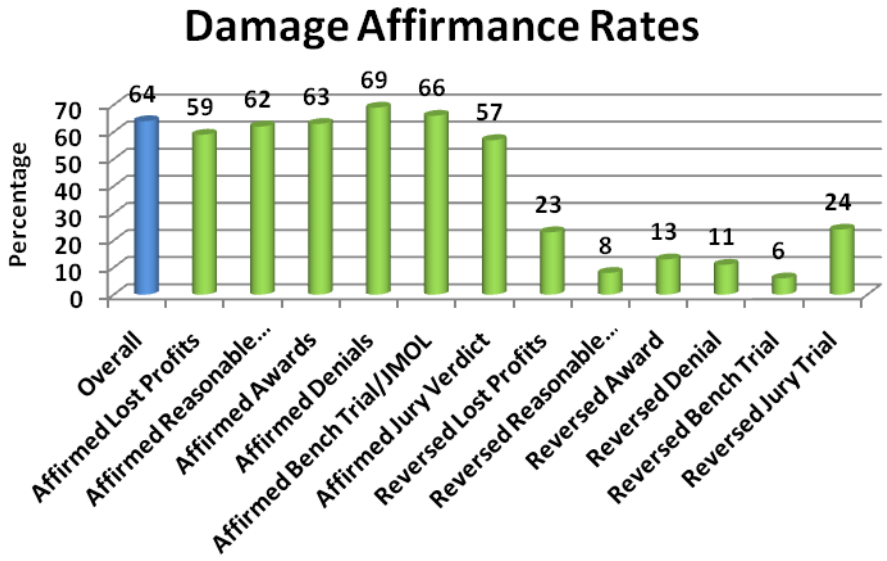
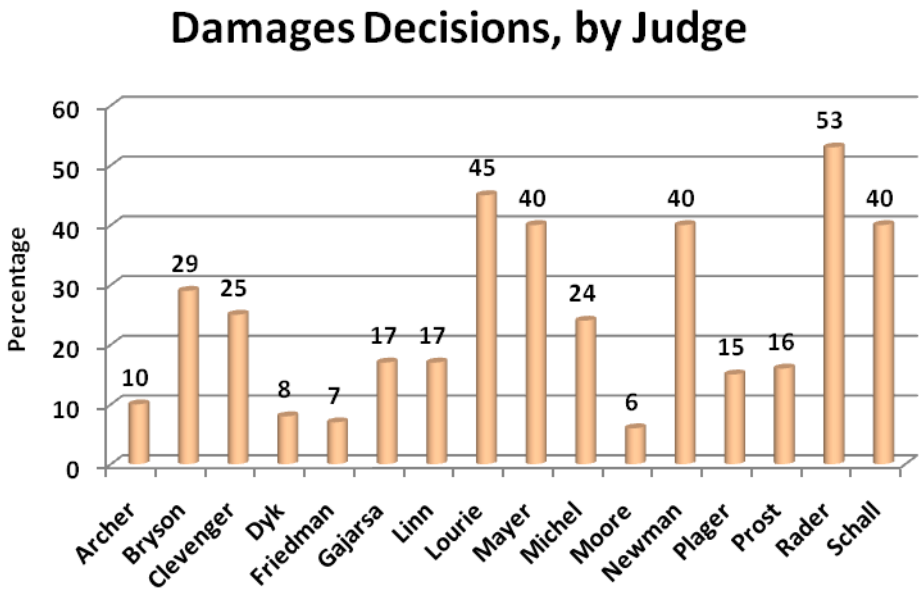
## *C. Damages*

### 1. By Decision Below

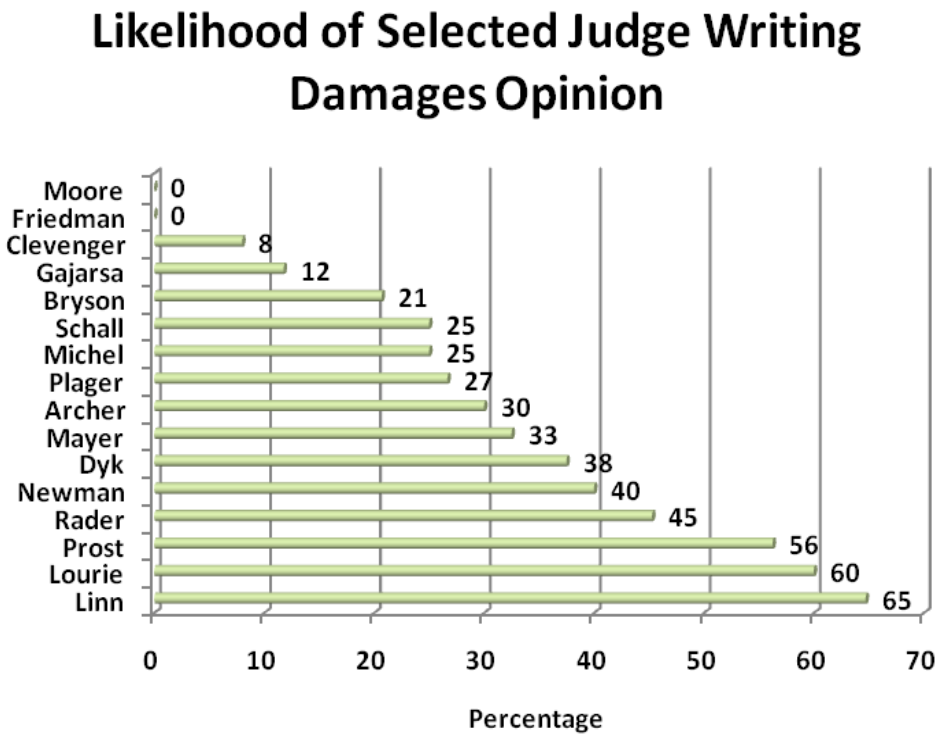
The affirmance rate for damage decisions is 64% (91 of 143). For lost profit decisions, the affirmance rate was 59% (23 of 39) and the reversal rate was 23% (9 of 39). For reasonable royalty decisions, the affirmance rate was 62% (24 of 39) and the reversal rate was 8% (3 of 39). The affirmance rate for decisions in which damages were awarded was 63% (65 of 104), while the reversal rate was 13% (14 of 104). The affirmance rate for decisions in which damages were not awarded was 69% (25 of 36), while the reversal rate was 11% (4 of 36). The affirmance rate for damages decisions arising from bench trials or JMOL was 66% (33 of 50), while the reversal rate was 6% (3 of 50). The affirmance rate for damages decisions arising from jury verdicts was 57% (26 of 46), while the reversal rate was 24% (11 of 46). The number of damages decisions for the past three years was not sufficient to give meaningful results.



The number of decisions, opinions and dissents on damages issues by the various judges are illustrated in the following charts:

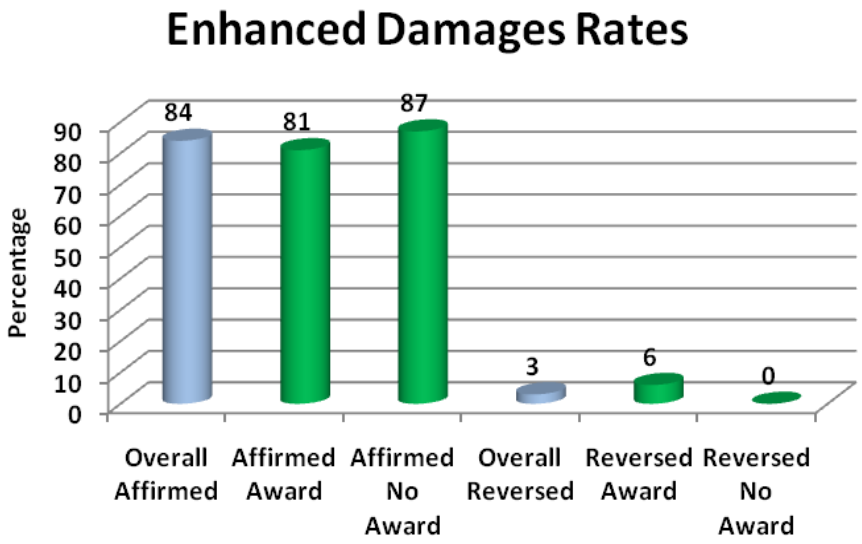



The likelihood of a particular judge writing the majority opinion on damages issues if he or she is on the panel is illustrated below:

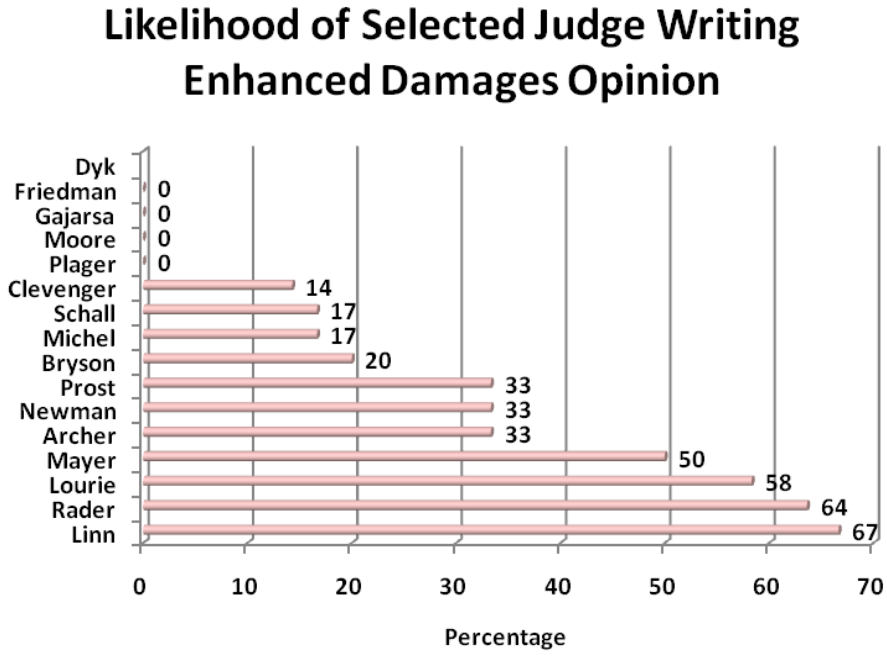


## 2. Enhanced Damages

The affirmance rate on rulings for enhanced damages was 84% (26 of 31), while the reversal rate was 3% (1 of 31). Where enhanced damages were awarded below, the affirmance rate was 81% (13 of 16), while the reversal rate was 6% (1 of 16). Where enhanced damages were denied below, the affirmance rate was 87% (13 of 15). None of the denials of enhanced damages were reversed. There were not enough enhanced damages decisions from 2006 to date to provide meaningful results.




The likelihood of a particular judge writing the majority opinion on enhanced damages issues if he or she is on the panel is illustrated below:



The number of decisions, opinions and dissents on enhanced damages are shown in the charts below: