

**SUPREME COURT OF FLORIDA
TALLAHASSEE, FLORIDA**

MARVIN CASTELLANOS,

Petitioner,

CASE NO.: SC13-2082

vs.

**Lwr. Tribunal: 1D12-3639;
OJCC No. 09-027890GCC**

**NEXT DOOR COMPANY and
AMERISURE INSURANCE CO.,**

Respondents. /

**APPENDIX
TO
INITIAL BRIEF
OF
PETITIONER, MARVIN CASTELLANOS,
ON THE MERITS**

**RICHARD A. SICKING of
TOUBY, CHAIT & SICKING, P.L.
Co-Counsel for Petitioner, Castellanos
1313 Ponce De Leon Blvd., #300
Coral Gables, FL 33134
Telephone: (305) 446-3700
E-Mail: sickingpa@aol.com
Fax: (305) 446-4014
Florida Bar No. 073747**

INDEX TO APPENDIX

	Page
1. House of Representatives Staff Analysis for House Bill 903 (2009) Ch. 2009-94, Laws of Fla.1-5
2. 2007-2008 Annual Report of the Office of the Judges of Compensation Claims6-181
3. 2008 Workers' Compensation Annual Report182-229

Certificate of Service

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 903 Workers' Compensation Attorney's Fees
 SPONSOR(S): Flores and others
 TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Insurance, Business & Financial Affairs Policy Committee		Reilly	Cooper
2) General Government Policy Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

In 2003, Florida enacted workers' compensation reform legislation (ch. 2003-412, L.O.F.). At that time, Florida's workers' compensation insurance rates consistently ranked as the most expensive or second most expensive in the country. The legislation made various changes to the workers' compensation statute, including revising compensability standards, indemnity benefit levels, medical reimbursement levels, and amending the provision governing attorney's fees in workers' compensation, s. 440.34, F.S.

The 2003 legislation retained a contingency fee schedule for attorney's fees, but removed a listing of factors a judge of compensation claims (JCC) was required to consider and upon which the JCC could increase or decrease the amount of the award. The factors included the time and labor required, the difficulty of the case, customary charges, and the lawyer's experience, reputation, and ability.

Since enactment of this comprehensive reform legislation, the Office of Insurance Regulation (the OIR) has approved six consecutive decreases in workers' compensation rates, resulting in a cumulative decrease of the overall statewide average rate by more than 60 percent.

In October 2008, the Florida Supreme Court in *Murray v. Mariner Health and ACE USA* determined that the attorney's fee schedule as amended, when read together with a provision that entitles certain prevailing claimants to "a reasonable attorney's fee," creates an ambiguity as to whether the fee schedule is the sole basis for determining a reasonable attorney's fee. The Court concluded that it is not, and held that the factors set forth in a Florida Bar rule for determining attorney's fees (which includes the discretionary factors removed from the workers' compensation statute in 2003), were to be applied to determine a "reasonable attorney's fee" when the term is not otherwise defined.

Based on this decision, the OIR has approved a 6.4% increase in workers' compensation rates effective April 1, 2009.

House Bill 903 amends the attorney's fee schedule to permit fees on the first \$5,000 of benefits secured to be "less than or equal to" 20 percent of the first \$5,000 of benefits secured. Under current law, the fee must equal 20 percent of the first \$5,000 in benefits secured. The sponsor of the bill has informed staff that she will offer an amendment to eliminate this change. The bill also addresses the *Murray* decision by clarifying that awards of attorney's fees, except in certain medical only cases, are to be calculated based solely on the fee schedule.

This bill should have no more than a minimal fiscal impact on state and local governments.

The bill takes effect upon becoming a law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.
 STORAGE NAME: h0903.IBFA.doc
 DATE: 3/4/2009

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida's Workers' Compensation System

In the early part of the decade, Florida consistently had the most expensive or the second most expensive workers' compensation rates in the country.¹

In 2003, workers' compensation reform legislation (ch. 2003-412, L.O.F.) was enacted in an attempt to significantly reduce system costs. The legislation made changes to various aspects of the workers' compensation law (ch. 440, F.S.) including:

- Revising eligibility for permanent total disability benefits and eliminating the social security eligibility standard;
- Requiring the workplace accident to be the "major contributing cause" of the resulting injury;
- Strengthening anti-fraud provisions;
- Increasing medical reimbursements for physicians and for surgical procedures and revising other reimbursement provisions;
- Increasing permanent impairment benefits from 50 to 75 percent of the temporary total disability benefit;
- Increasing the maximum death benefit;
- Retaining an attorney's fee schedule, but deleting from the statute the following list of factors² a judge of compensation claims could consider to increase or decrease the amount of the fee:
 - The time and labor required the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly.
 - The fee customarily charged in the locality for similar legal services.
 - The amount involved in the controversy and the benefits resulting to the claimant.
 - The time limitation imposed by the claimant or the circumstances.

¹ In 2000, Florida had the highest workers' compensation premiums in the country, and the second highest in 2002. See Oregon *Workers' Compensation Premium Rate Rankings for 2000, 2002*.

² These factors were set forth in *Lee Eng'g. & Constr. Co. v. Fellows*, 209 So. 2d 454 (Fla. 1968) and subsequently incorporated into s. 440.34, F.S. *Lee Eng'g.* applied Canon 12 of the Canons of Professional Responsibility [the predecessor to rule 4-1.5(b) of the Rules Regulating the Florida Bar].

- o The experience, reputation, and ability of the lawyer or lawyers performing services.
- o The contingency or certainty of a fee.

Section 440.34, F.S., governs attorney's fees in workers' compensation. Pursuant to subsection (1), a fee may not be paid for a claimant unless approved as reasonable by a judge of compensation claims or a court having jurisdiction over the proceeding. Further, an attorney's fee approved for benefits secured on behalf of a claimant must equal 20 percent of the first \$5,000 of the amount of benefits secured, 15 percent of the next \$5,000 of the amount of benefits secured, 10 percent of the remaining amount of the benefits secured and to be provided during the first 10 years after the date the claim is filed, and 5 percent of the benefits secured after 10 years. The judge is prohibited from approving fees in excess of "the amount permitted by this section."

Generally, a workers' compensation claimant is responsible for paying his or her own attorney's fees. However, under s. 440.34(3), F.S., a claimant is entitled to recover a "reasonable attorney's fee" from the carrier or employer in the following circumstances: 1) claimant successfully asserts a claim for medical benefits only; 2) claimant's attorney successfully prosecutes a claim previously denied by the employer/carrier; 3) claimant prevails on the issue of compensability, which was previously denied by the employer/carrier; and 4) claimant successfully prevails in proceedings related to the enforcement of an order or modification of an order.

Since the 2003 legislation, the Office of Insurance Regulation has approved six consecutive decreases in workers' compensation insurance rates, resulting in a cumulative decrease of the overall statewide average rate by more than 60 percent.³ From 2002 to 2008, Florida's workers' compensation premium rate index decreased from \$4.47 per \$100 of payroll to \$2.20 per \$100 of payroll.⁴ In 2008, 26 states had higher workers' compensation premiums than Florida.⁵

The Florida Supreme Court's Decision In *Emma Murray v. Mariner Health and ACE, USA*⁶

In *Murray*, a nursing assistant injured while lifting a patient suffered a uterine prolapse and underwent a hysterectomy. In response to claimant's petition for workers' compensation benefits, the employer and its insurance carrier asserted that no benefits were owed, as the injury did not arise out of or in the course of employment. After a hearing, the judge of compensation claims (JCC) found for the claimant and awarded \$3,244.21 in benefits.

Pursuant to s. 440.34(3), F.S., the claimant was entitled to recover "a reasonable attorney's fee," as she had successfully prosecuted a claim that had been denied. In determining "a reasonable attorney's fee," the claimant's attorney asserted that the JCC should consider the *Lee Engineering* factors that had been removed from the statute in 2003 by ch. 2003-412, L.O.F. The employer and insurance carrier, however, asserted that s. 440.34(1), F.S. controlled the fee calculation. This subsection requires that any fee "paid for a claimant" must be approved as reasonable by the JCC, "must equal" the contingency fee schedule,⁷ and prohibits approval of an attorney's fee in excess of the "amount permitted by this section."

³ Office of Insurance Regulation Press Release dated October 29, 2008. Found at: <http://www.flor.com> (last accessed March 4, 2009).

⁴ Oregon Department of Consumer and Business Services, "Workers' Compensation Premium Rate Ranking Report" for 2002 and 2008 (biennial report). Found at: <http://egov.oregon.gov/DCBS/> (last accessed March 3, 2009).

⁵ *Id.* Subsequent to publication of the 2008 Oregon report, there have been two further rate decreases in Florida.

⁶ 994 So.2d 1051 (Fla. 2008).

⁷ Subsection (1) provides that any attorney's fee approved by a judge of compensation claims must equal 20 percent of the first \$5,000 of the amount of benefits secured, 15 percent of the next \$5,000 of the amount of the benefits secured, 10 percent of the

The JCC calculated the attorney's fee under both subsections, finding that the fee award would be \$684.84 (a rate of \$8.11 per hour) if calculated under the fee schedule of subsection (1), but \$16,000 (135 hours at \$125 an hour) if calculated under subsection (3). Finding that the fee award under subsection (3) was governed by the fee schedule of subsection (1), the JCC awarded an attorney's fee of \$684.84, which was subsequently affirmed by the First District Court of Appeal.

The Florida Supreme Court (the Court) reversed, finding that when subsections (1) and (3) of s. 440.34, F.S., are read together an ambiguity exists as to whether subsection (1) is the sole basis upon which to calculate a reasonable attorney's fee. As a review of the Legislative history of the attorney's fee provision, including the 2003 amendments, did not provide reasons for the changes made, the Court relied on two rules of statutory construction to clarify the ambiguity and determine legislative intent: (1) The specific provision controls the general and (2) a statute will not be construed in such a way that it renders meaningless or absurd any other statutory provision.

The Court determined that subsection (3), which specifically pertains to situations in which attorney's fees can be awarded, controls over subsection (1), which addresses the calculation of attorney's fees in general. Additionally, the Court stated that the "reasonable attorney's fee" language of subsection (3) would be rendered meaningless if it were construed as being controlled by the fee schedule of subsection (1), as application of the fee schedule would result in excessive fees in some cases and inadequate fees in others.

Thus, the Court concluded that reasonable attorney's fees for claimants, when not otherwise defined in the workers' compensation statute, are to be determined using rule 4-1.5(b) of the Rules Regulating the Florida Bar. This rule sets forth factors to be considered as guides in determining a reasonable fee, including the *Lee Engineering factors* that had been removed from the workers' compensation statute in 2003. Accordingly, the prevailing claimant was entitled to recover a reasonable attorney's fee of \$16,000.

Effect of the Bill

House Bill 903 amends the attorney's fee schedule to permit fees on the first \$5,000 of benefits secured to be less than or equal to 20 percent. Current law provides for attorney's fees of 20 percent of the first \$5,000 of benefits secured. Further, the bill removes statutory language providing for a "reasonable" attorney's fee and specifies that fee awards cannot exceed the amount authorized by the attorney's fee schedule. Thus, attorney's fees in workers' compensation will be calculated in the manner they had been from the effective date of the 2003 reform up to the decision in *Murray*.

B. SECTION DIRECTORY:

Section 1. Amends s. 434, F.S., relating to attorney's fees in workers' compensation.

Section 2. Provides for the bill to take effect upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

remaining amount of the benefits to be secured to be provided during the first 10 years after the date the claim is filed, and 5 percent of the benefits secured after 10 years.

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The Office of Insurance Regulation approved a 6.4% increase in workers' compensation rates based upon the Florida Supreme Court's decision in Murray. House Bill 903 will likely result in a workers' compensation rate filing seeking to unwind this increase.⁸

D. FISCAL COMMENTS:

To the extent that government employees injured at work are entitled to recover an attorney's fee award in workers' compensation proceedings, it appears that this bill will likely decrease the attorney's fees awards paid by state and local governments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill amends the attorney's fee schedule to permit the fee on the first \$5,000 of benefits secured to be "less than or equal to" 20 percent. Currently, s. 440.34(1), F.S., provides that the fee must be 20 percent of the first \$5,000 of benefits secured. As the bill does not provide guidance as to how a judge of compensation claims is to determine the percentage to be applied in calculating the fee payable on the first \$5,000 of benefits secured, it appears to introduce subjectivity into the calculation of attorney's fees and require consideration of external factors, such as those set forth in *Lee Engineering* and which were used to determine a "reasonable attorney's fee" in Murray. The sponsor of the bill has informed staff that she will offer an amendment to eliminate this change.

⁸ Correspondence from the National Council on Compensation Insurance (NCCI) on file with staff of the Insurance, Banking & Financial Affairs Policy Committee.

STATE OF FLORIDA

Division of Administrative Hearings



2007-2008 Annual Report of the Office of the Judges of Compensation Claims

Table of Contents and Summary

The OJCC Mission	3
Introduction	3
Overview of Florida Workers' Compensation	4
Data Collecting and Reporting	4
OJCC Achievements 2006-07	5
Electronic Filing Initiative	6
Daily e-filing rate	1,069 (200% increase from June 07)
Number of Litigated Cases	6
Gross Petitions filed	72,718 (12% decrease from last year)
New Cases filed	34,481 (4.8% decrease from last year)
Petition Replication and Duplication	11
Pro-Se Cases	12
Amount of Litigation Resolved	13
Petitions closed	116,611 (39% decrease from last year)
Cost of Litigation Resolved	16
OJCC Budget	\$18,367,869 (2% increase from last year)
Per Petition Closed	\$157.51 (equal to 2002-03)
Number of Mediation Conferences Held	19
Mediations held	20,021 (10% decrease from last year)
Disposition of Mediation Conferences	19
Some resolution	60.17% (increase from 58.39% last year)
Settled case	28.07% (decrease from 28.39% last year)
Number of Continuances Granted for Mediations	21
Continuances	1,328 (decrease from 2,336 last year)
Number of Continuances Granted for Final Hearings	22
Trial Continuances	4,617 (increase from 4,161 last year)
Outcome of Litigated Cases	23
Resolved at Mediation	9,274 (decrease from 10,153 last year)
Amount of Attorney's Fees Paid	27
Claimant Fees App.	\$188,692,107 (1.26% decrease from last year)
Defense Fees Reported	\$270,474,634 (5.90% decrease from last year)
Amount of Attorney's Fees Paid in Each Case According to Accident Year	30
Number of Final Orders Not Issued Within 30 Days After the Final Hearing	31
Not within 30 days	29.4% (decrease from 34.5 last year)
Recommended Changes or Improvements to the Dispute Resolution Elements of the Workers' Compensation Law and Regulations	32

Judge's Ability to Meet Statutory Requirements	35
Statutory Measures	37
Glossary of Terms	44
Appendix "1" Mediation Statistics Detail	46
Appendix "2" Trial Statistics Detail	51
Appendix "3" District DAY (Portuallo)	52
Appendix "4" District FTL (JCC Hogan, JCC Lewis, JCC Pecko)	59
Appendix "5" District FTM (JCC Spangler, JCC Sturgis, JCC)	66
Appendix "6" District GNS (JCC Thurman and JCC)	73
Appendix "7" District JAX (JCC Dane and JCC Harris)	80
Appendix "8" District LKL (JCC Hofstad)	87
Appendix "9" District MEL (JCC Terlizzese)	94
Appendix "10" District MIA (JCC Castiello, JCC Harnage, JCC Hill, JCC Kuker, JCC Medina-Shore)	101
Appendix "11" District ORL (JCC Condry, JCC Sculco, JCC ORL)	108
Appendix "12" District PMC (JCC Roesch)	117
Appendix "13" District PNS (JCC Winn)	124
Appendix "14" District PSL (JCC McAliley)	131
Appendix "15" District SAR (JCC Beck)	138
Appendix "16" District STP (JCC Hafner, JCC Remsnyder)	145
Appendix "17" District TLH (JCC Lazzara)	152
Appendix "18" District TPA (JCC Jenkins, JCC Lorenzen, JCC Murphy)	159
Appendix "19" District WPB (JCC Basquill, JCC D'Ambrosio, JCC Punancy)	166
Endnotes	173

The OJCC Mission:

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

Introduction:

This report of the Office of the Judges of Compensation Claims ("OJCC") is published pursuant to Fla. Stat. §440.45(5).¹ The OJCC continued to make unprecedented strides during fiscal 2007-08. The collective and individual achievements of this Office are described herein. The OJCC remains focused on training, teamwork, responsibility, and public service. The OJCC has provided significant continuing education opportunities for Judges, Mediators and staff in 2007-08. These included two cooperative efforts with The Florida Bar Workers' Compensation Section. The Section Executive Committee and Judges participated in a Joint educational seminar

on professionalism in August 2007. The Section presented multiple excellent “lunch and learn” seminars throughout the year, and offered those at no cost to the Judges. Teamwork between the OJCC and the Executive Council resulted in tuition-free opportunities being offered to the OJCC Mediators also. Teamwork remained a key component of OJCC success with volunteer Judges hearing cases as visiting Judge in Miami, Ft. Lauderdale and Lakeland, which are high-volume districts. This “visiting Judge” illustrates a dynamic team approach to varying caseloads. In 2007-08 the OJCC undertook the additional process of transferring settlement and fee stipulation issues from the Miami and Ft. Lauderdale Districts to maximize those Judges’ available time for the adjudication of disputes.

These processes have again produced significant gains in the OJCC’s ability to provide accurate and accessible information to Judges, Mediators, and the public. The OJCC has rededicated itself to consistently recognize that injured workers, their employers, and the counsel that represent them are the purpose of this Office. The 2006-07 OJCC rededication to the OJCC Mission, and service to the public, continued in 2008. The results of this effort are numerous, marked, and objectively verifiable. Notably, the OJCC achievements documented herein resulted from continued careful and diligent management of existing fiscal resources. The expertise and dedication of the Division of Administrative Hearings staff and leadership makes continuous and immeasurable contributions to the success of the OJCC.

Overview of Florida Workers’ Compensation:

The OJCC is part of the Division of Administrative Hearings, referred to throughout this Report as DOAH. The 2005-06 Annual Report of the Office of Judges of Compensation Claims² (OJCC) outlines the interrelationship between the OJCC, the Division of Workers’ Compensation³ (DWC), and the Department of Financial Services (DFS). The OJCC structure is also further discussed in that report, as is the historical background of this Office.

Florida Workers’ Compensation is a self-executing system defined by Chapter 440, F.S.⁴ The purpose of workers’ compensation is to provide individuals injured at work with certain defined benefits for the treatment of the resulting medical condition(s) and for replacement of a portion of the wages lost as a result of the accident. Chapter 440, F.S. defines who participates in the workers’ compensation system, and delineates the participant’s rights and responsibilities. The primary participants in this system are Florida’s employers and their employees. Some employers purchase workers’ compensation insurance from a “carrier.” These are therefore often collectively referred to 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 “servicing agents.” These are therefore often referred to collectively as “E/SA.” For the purposes of this report, references to E/C should be interpreted to refer to employers, carriers, and servicing agents collectively, unless some distinction between insured and self-insured is specifically stated. The OJCC mission is centered on the processing, mediating, and adjudicating of disputes regarding benefits allegedly due to such injured workers. The litigation process for most Florida workers’ compensation disputes begins with the filing of a pleading called the petition for benefits, or “PFB.” That term is used extensively in this report. This and other terms are defined in the Glossary, page 43.

Data Collection and Reporting:

This report is produced and published pursuant to statutory mandate. Fla. Stat. §440.45(5). The data in this report is dependent for accuracy upon the efforts of district staff working in seventeen counties throughout Florida. The 2005-06 OJCC Annual Report describes prior data flaws resulting from outdated hardware, outdated software and long neglect of staff training prior to the transfer of the OJCC to the DOAH in 2001. In fiscal year 2006-07, the OJCC devoted significant resources to staff training in order to enhance the accuracy of that data entry. Those efforts are described in detail in the 2006-07 OJCC Annual Report, and included publication of an illustrated user manual, central training and regional training. That report documents that the OJCC faced less than unanimous acceptance of the uniformity goals described. In fiscal 2007-08, additional resources were devoted to the goal of compliance with published standards and the uniformity of data entry. In Fiscal 2007-08 there were no discernable patterns of inappropriate data entry, and it is believed that the long-sought uniformity has been achieved.

The OJCC has successfully tuned and adjusted the data collection process through accurate data entry. The programming efforts directed towards accurate portrayal of that data are described in The 2006-07 OJCC Annual Report. It is believed that all non-conforming data interpretation and representation practices have been addressed both programmatically and in policy. The OJCC remains committed to minimizing errors and maximizing accuracy of the published data reflecting Florida's workers' compensation litigation system.

OJCC Achievements 2006-07:

During 2007-08, the OJCC:

District Office Enhancements:

- Renovated 13,000 square foot state-of-the-art premises for the Miami District Office.
- Renovated state-of-the-art premises for and relocated Tallahassee District Office.
- Renovated the OJCC Clerk's Office to decrease space and conserve funds.
- Renovated the West Palm Beach District for security and Video-teleconferencing.
- Renovated the Daytona District to accommodate Video-teleconferencing.
- Deployed Automated External Defibrillators (AED) in all Districts.

Video Teleconferencing Trial (VTC) Capabilities:

- Started the year with access available in Tallahassee, Tampa, Ft. Lauderdale and Orlando.
- Installed VTC equipment in:
 - Jacksonville
 - Daytona
 - West Palm Beach
- Further installs planned to occur in 2008-09

Electronic Filing:

- Presented e-filing seminars at two Florida Workers' Compensation Institute events.
- Presented e-filing seminars at multiple law firms.
- Presented e-filing seminars at carriers.
- Deployed a searchable database of trial orders powered by Google.

Visiting Judges:

- Provided visiting Judges to Lakeland District.
- Provided visiting Judges to Ft. Lauderdale District.
- Provided visiting Judges to Miami District.
- Provided visiting clerk assistance to Miami District.

Internal Education:

- Conducted a Joint Professionalism Seminar with The Florida Bar for Judges and Workers' Compensation Executive Committee members.
- Provided staff training in Cardiopulmonary Resuscitation.

Public Education:

- Provided real-time website translation from English to Spanish
- Continued positive dialogue with Florida Bar WC Section.

Management Tools:

- Re-districted, moving Okeechobee and Indian River Counties to Melbourne District.
- Published Judicial Performance Statistics to the JNC.
- Deployed a Judicial Survey with The Florida Bar.

Electronic Filing Initiative:

In fiscal 2005-06, the Office of the Judges of Compensation Claims (OJCC) began development of an electronic filing ("e-filing") program designed to facilitate inexpensive and efficient filing of pleadings in workers' compensation disputes. This program, called "e-JCC" is accessed on the Internet, through the OJCC website: www.fljcc.org. Between its inception in November 2005 and June 30, 2007 system use grew to 358 filings per day (business days). The OJCC aggressively marketed e-JCC at the 2007 Florida Workers' Compensation Institute, and thereafter at individual law firms and carriers. Through promoting the value of e-JCC and because of the innovative web-training developed in 2006-07, filing growth was exceptional in 2007-08. In June 2008, e-JCC filings had reached 1,069 daily (business days), an almost 200% increase.

In 2006-07, the OJCC developed "web-forms" to allow attorneys to create and e-file a petition for benefits (PFB) or Request for Assignment of Case Number, or "RACN" online. A similar form was designed and deployed to allow adjusters to e-file responses to petitions for benefits. The benefits of these forms include uniformity, cost savings for attorneys and carriers, and cost and time savings for the OJCC. These benefits are further described in the 2006-07 OJCC Annual Report.

The calculation methods used to quantify savings are also detailed in the 2006-07 OJCC Annual Report. Using the minimum filing costs associated with a pleading to quantify user-savings, and minimal payroll positions to quantify OJCC savings, the OJCC tracks an aggregate savings generated by use of e-JCC. Through the end of fiscal 2007-08, e-JCC had resulted in total savings of \$377,179.00. This includes direct savings of \$137,116.71 to attorneys and carriers and savings of \$240,062.90 to the OJCC.

The OJCC planned to deploy electronic service ("e-Service") of pleadings in fiscal 2007-08. The details of this program are described in the 2006-07 OJCC Annual Report. Unforeseen programming and system architecture issues delayed the deployment of this innovation. In short, this process will allow OJCC staff to serve orders on the attorneys via electronic mail. This will result in significant postage, paper and envelope savings to the OJCC. Despite the unexpected delay in deployment of the automated process, several Judges began the process manually in fiscal 2006-07, using existing resources. This adaptive use of email resulted in significant postage savings despite being deployed in a minority of Districts. Deployment of the automated process is anticipated to save the OJCC approximately \$300,000.00 per year. The deployment of e-service by the OJCC will be followed by a similar program to allow counsel to electronically serve pleadings upon each other. This innovation will result in further savings to practitioners, and ultimately to Florida's employers and employees. Postage rates will undoubtedly continue to increase; therefore, past e-JCC savings fail to fully illustrate the ultimate value provided by this innovation.

Thus, deployment of the e-JCC platform has already resulted in significant savings to the practitioners and parties in workers' compensation disputes. The addition of e-service in 2008-09 is expected to significantly increase those paper, postage and envelope savings. The resulting time savings for attorneys, attorney staff, adjusters, and OJCC district office personnel are likely even more significant, yet harder to quantify. Therefore, although the foregoing calculated savings are significant and impressive, they represent only a fraction of the overall benefits to the Florida workers' compensation system of the current e-JCC platform and planned improvements.

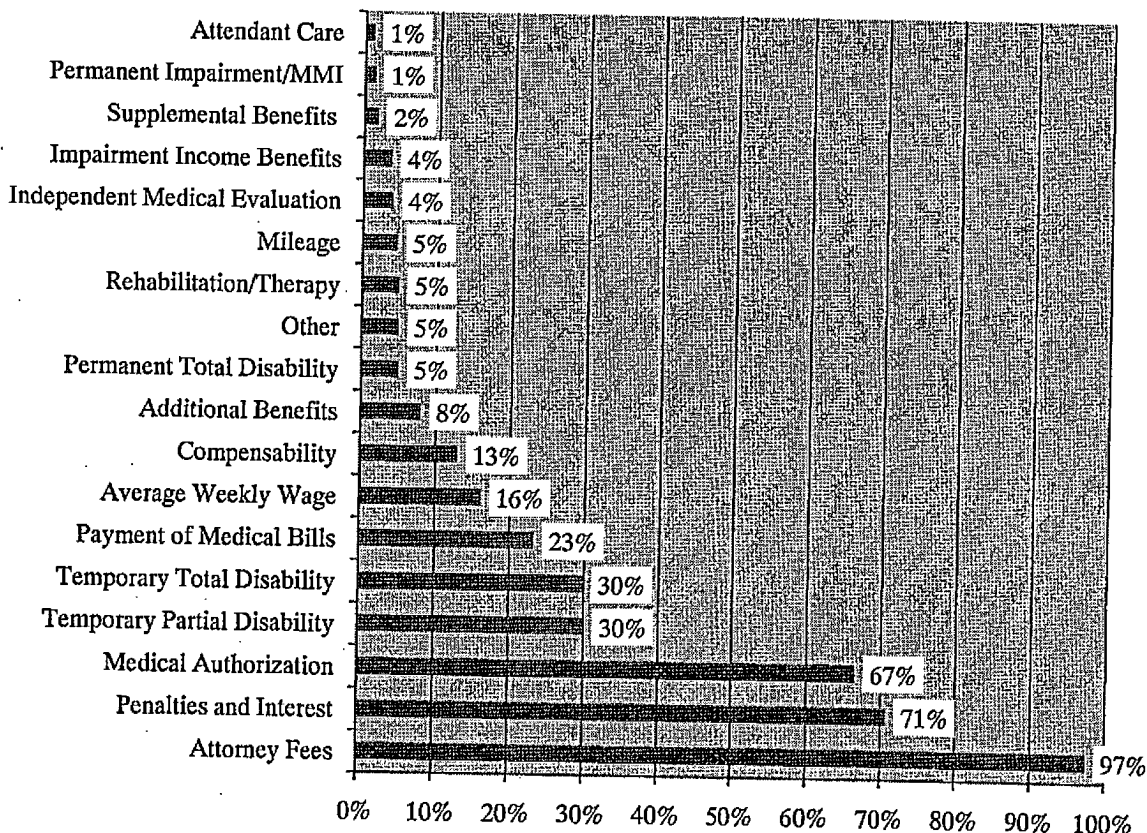
NUMBER OF LITIGATED CASES:

It is difficult to ascertain with absolute certainty how many "cases" are in litigation at a given moment in time. The difficulty results in part from the data entry compliance issues discussed in prior annual reports (www.fljcc.org). Extensive training and compliance efforts have resulted in an unprecedented level of confidence in the figures expressed herein. An ongoing issue complicating precise calculation of litigated "cases" is the lack of definition for "cases." The overall number of PFBs filed annually or the number of "new case" PFBs filed annually are each arguably valid methods by which the volume of litigated cases may be measured. Because there are merits

regarding the efficacy of each of these measures, the OJCC calculates both. The number of litigated cases filed has decreased in recent years whether measured in PFB volume or "new case" volume.

In measuring the number of "litigated cases," the OJCC has elected to utilize the most common pleading that instigates litigation, the PFB. A particular PFB may contain a single "claim," e.g. for a specific singular benefit, or may contain multiple claims for several benefits.⁵ OJCC jurisdiction can also be invoked for determination of issues through certain motions. Although these motions⁶ also represent "litigated" cases, it is believed that cases instigated by PFB filing effectively represent litigation volume trends statistically, despite the exclusion from this total of the significant volume of work presented by attorney fee issues.

The gross, or "overall," number of PFBs filed during a given period is one valid volume measure. In considering the significance of this measurement, the serial nature of Florida Workers' Compensation ("WC") litigation must be considered. Once an accident occurs, an injured worker may immediately begin filing PFBs and could theoretically file a PFB for each and every benefit that is ultimately received by that injured worker. In such a case, a particular accident might generate tens of PFBs filed over many years before the claim is ultimately resolved and closed. Conversely, an injured worker may receive benefits administratively from the employer or carrier for many years and then ultimately file a solitary PFB seeking a singular benefit. The potential volume of PFBs in any particular case may fall anywhere on the spectrum between these two potential extremes. A PFB may seek a single benefit, such as authorization of a physician; such a PFB usually will also include a claim for attorney fees and costs associated with obtaining the benefit. A PFB might claim indemnity (income) benefits, either with or without a simultaneous claim for medical care. When PFBs are received by the OJCC clerk, the categories of benefits are coded into the JCCA database. Over the last five years, this chart depicts the average frequency of claims for these issues within PFBs filed.



Additionally, the OJCC has identified a practice, employed by a minority of attorneys, in which multiple PFBs are filed in the same case on the same date, or sequential days.⁷ This practice, referred to herein as "replicate petitions," may artificially inflate the volume of PFBs. For example one Judge may receive three single-issue PFBs in one case, while another Judge simultaneously receives one three-issue PFB in another case. Each JCC has had

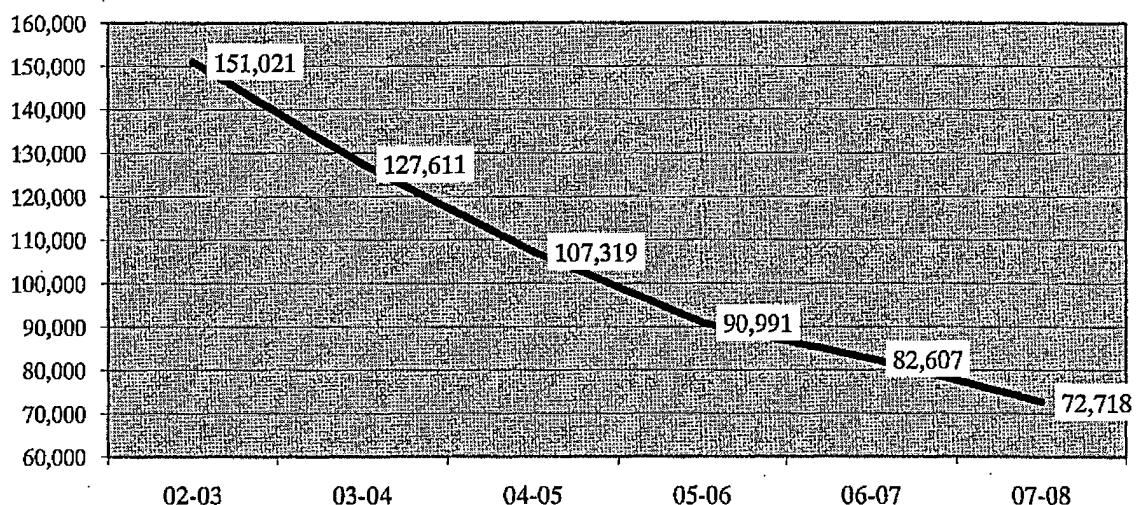
three issues added to her or his workload; in this example there is no distinction between the one PFB and the three. In this example the volume of work for each of the two JCCs is similar or identical, but reliance upon only gross PFB volume could lead one to the erroneous conclusion that one JCC has received three times the work and responsibility. Some such filings are necessary, for example the situation of an injury in which the responsible employer may not be clear. In those instances, the Claimant may have to file an identical petition against multiple potential employers, such as the nominal employer, a contractor and a general contractor. However, other instances defy logic, and the rationale for filing multiple petitions on the same date is inexplicable. Thus, measuring the total volume of PFBs necessarily includes instances in which more than one PFB is filed in one particular claim. The total volume of PFBs filed during any particular year measures PFBs that relate to dates of accident during that fiscal year, including PFBs related to dates of accident occurring years or even decades in the past. Therefore, PFB volume alone may not accurately portray the volume of litigation in the WC system (see endnote 6). For 2007-08 the OJCC reports the overall petition filing volume, the "adjusted" petition volume which excludes these redundant petitions, and the new case volume as described below.

Equally valid for defining "litigated cases" is the measure of "new case" PFBs. This measure considers only the PFBs filed in cases in which no PFB had previously been filed. This measure isolates the volume of "new" litigation being filed during any particular year. This measure may be a more accurate indicator of the effects of statutory changes on litigation volume. However, this measure may not fairly represent the volume of new work being assigned to a particular JCC because each PFB must be processed and potentially mediated and heard, regardless of whether it is filed in a new case or an existing case. Therefore, the OJCC reports both of these volume measures.

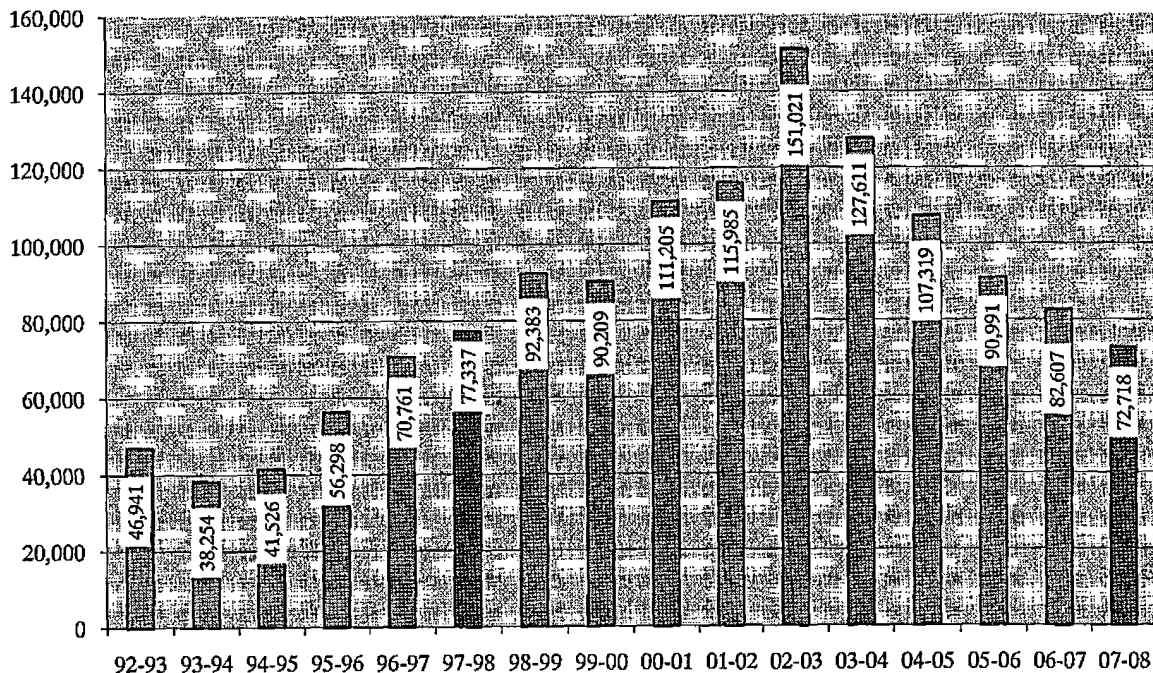
Gross PFB Filing:

The Florida Legislature enacted significant amendments to the Florida Workers' Compensation Law in 1994 and again in 2003. Following the 2003 reforms, the volume of PFBs filed with the OJCC decreased at a reasonably consistent annual rate of approximately fifteen percent (15.21% to 15.9%) over each of the next three years. PFB filing volume continued to decline in 2006-07; however, the rate of decrease slowed to approximately nine percent (9.21%). In 2007-08, the rate of decrease (12%) was more significant than the year before, but less than the decrease rates from 2003-04 through 2005-06. The cumulative decrease in overall PFB filings between fiscal 2003 and fiscal 2008 has been approximately fifty-two percent (51.85%).

Fiscal Year	PFBs Filed	% Change
2001-02	115,985	
2003-03	151,021	30.2%
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%



Interestingly, workers' compensation premiums have decreased significantly since the passage of reforms in 2003. The cumulative decrease is approximately 58%.⁸ In that same time period, PFB filings have decreased approximately fifty-two percent (51.85%). The steady decrease in overall PFB filing since the passage of Bill 50A in 2003 is further illustrated in the following graph. The decreases since 2003 must be considered in conjunction with the marked increase of approximately thirty percent between 2001-02 and 2002-03. The available data supports that PFB filing rates increased less dramatically in the years prior to 2002-03, and that the volume of PFB filed that year represented a marked upward and singular deviation from the PFB filing trend overall.

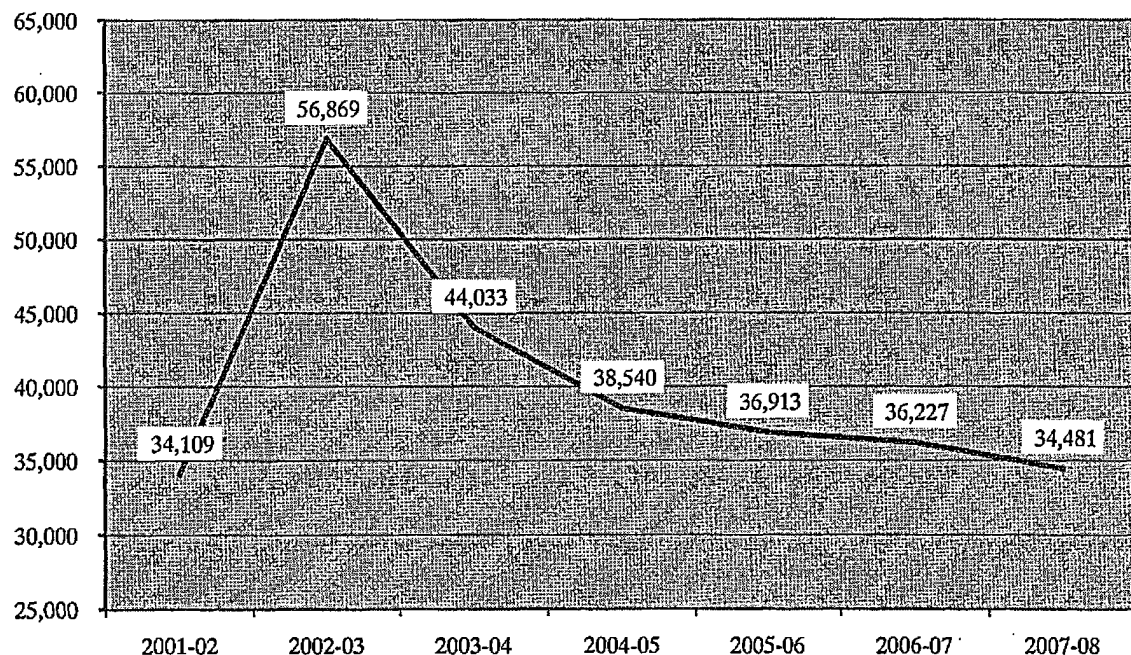


Prior to the transfer of the OJCC from the DLES to the DOAH, data was compiled by the DLES regarding PFB filing. The reliability of these statistics can no longer be independently verified.⁹ Some question of the validity of these figures is raised by the fact that the PFB process was not added to Chapter 440, F.S. until the 1994 statutory amendments, and that 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 an "Application for Hearing" was filed. The 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" filing to PFB filing. As reported by the DLES through 2001, and thereafter by the DOAH, this graph illustrates the volume of PFB filing since 1992. Presuming the accuracy of these FDLES numbers, the 2007-08 PFB filing rate (72,718) is the lowest volume since 1997-98. The decrease rate of PFB filing slowed in fiscal 2006-07 following three consecutive years of approximately fifteen percent annual decreases. Despite slowing in 2006-07, that decrease of approximately nine percent (9.21%) was significant in itself. The more robust decrease rate of twelve percent in fiscal 2007-08 must be considered in context. While it is 3% greater than the decrease rate for the previous fiscal year (2005-06) it is likewise 3% less than the approximate 15% decrease rates in the three fiscal years immediately following the 2003 statutory reforms (2003-04, 2004-05 and 2005-06).

New Case Filing:

The volume of "new cases filed" has been monitored only since the OJCC became part of the DOAH in October 2001. The term "new cases filed" refers to the volume of PFBs filed, which represent the first time a PFB is filed in the history of that particular accident. Workers' Compensation cases often involve the litigation of multiple, serial PFBs over the course of years. The rate at which "new cases" are filed is indicative of the rate at which discrete cases are entering the OJCC litigation process, and is not affected by the serial nature of PFB filing. This is the inverse of the volume of settlements approved in a year, which is similarly somewhat statistically indicative of the rate at which cases are leaving the OJCC litigation process. The "new case" measure may arguably be a more accurate indicator of the effect of legislative changes to the substantive benefits provided to Florida employees through Chapter 440, F.S. However, a "new case" filed in 2007-08 could involve an accident that year, or could involve an accident that occurred years prior, even prior to the 2003 statutory amendments. It is possible that an injured worker might receive all benefits due, without any need for litigation, for many years following a work accident. The OJCC has not attempted to delineate the age of accidents that enter the OJCC system as "new cases" each year. The volume of "new cases" filed has also declined since the 2003 statutory amendments, but at a generally slower and less consistent rate than the decrease in PFB filings generally. The following graph depicts the declining rate of "new case" filings with the OJCC.

Fiscal Year	New Cases Filed	Percentage Change
2001-02	34,109	
2002-03	56,869	66.73%
2003-04	44,033	-22.57%
2004-05	38,540	-12.47%
2005-06	36,913	-4.22%
2006-07	36,227	-1.86%
2007-08	34,481	-4.82%



These figures support that "new cases" increased significantly between 2001-02 and 2002-03, as did the overall PFB filings discussed above. Notably, the gross volume of PFB filed in 2007-08 has decreased well below the overall PFB rate filed in 2001-02, while the "new case" volume has not yet returned to the level filed prior to 2002-03. This comparison supports that overall petition filing volume has demonstrated more elasticity than the "new case" volume.

The volume of "new cases" filed could also be expressed as a percentage of the gross volume of PFBs filed during the same time period. That is a different measure in that it compares the relationship of the volume of "new cases" filed to the overall volume of PFBs filed, which has demonstrated greater elasticity, as discussed above. This comparison demonstrates that the percentage of all PFBs that were "new cases filed" remained fairly consistent in fiscal 2003-04 (34.5%) and 2004-05 (35.9%), but notably increased in 2005-06 (40.6%) and 2006-07 (43.9%). That trend continued in 2008, with "new cases" approaching half of total petition volume. If "replicate" petitions are not considered, as discussed further below, then "new cases" exceed half of the total petition volume. These comparative percentage increases in "new cases," in light of the relatively slow rate of decrease in the raw volume of "new cases," result primarily from the slow decrease in "new cases" compared to the more significant decrease in PFB overall. In fiscal year 2001-02, new cases were approximately thirty percent (29.4%) of the overall PFB volume. In fiscal 2007-08 that percentage had increased to approximately forty-seven percent (47.4%), as represented in this table. Thus, in the overall analysis, OJCC resources are devoted increasingly to cases that are new to the litigation process. It is possible that greater attention to these "new cases" will result in earlier resolution of issues therein, and eventually facilitate greater self-execution of the system in those cases and further decreases in litigation generally.

Fiscal Year	PFBs Filed	Cases Filed	New/total
2001-02	115,985	34,109	29.4%
2003-03	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%

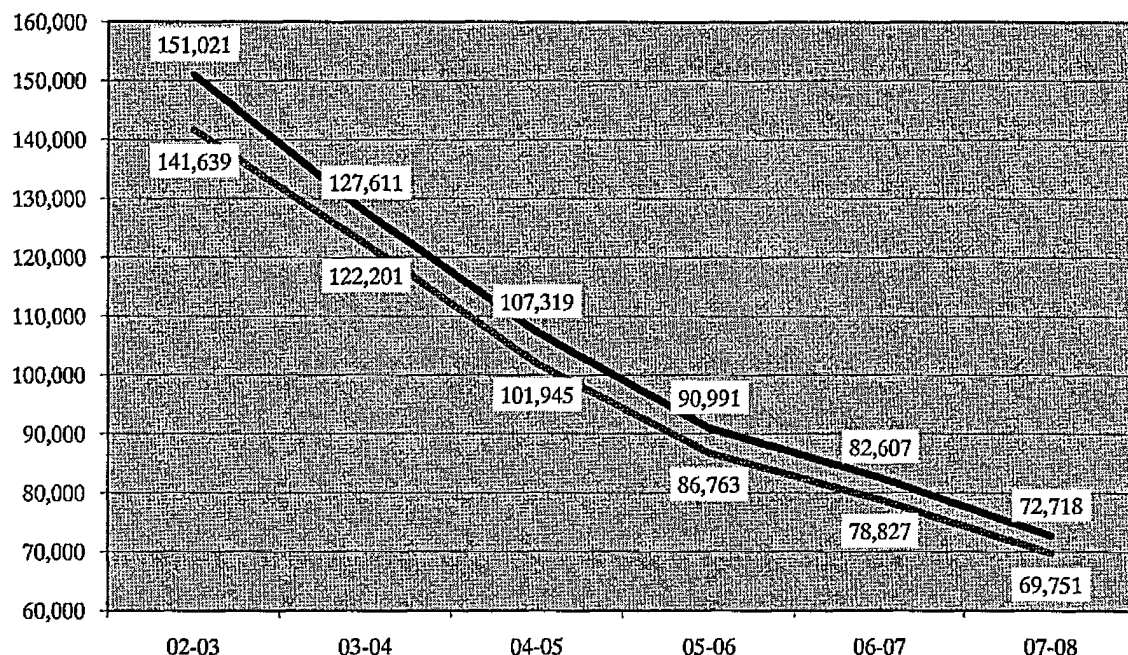
In summary, the available data supports several conclusions. First, the overall PFB volume continues to decrease at a reasonably steady rate, which slowed somewhat in 2006-07, but has accelerated again in 2007-08. The volume of "new cases filed" has also decreased since 2003, but at a much slower rate. The 2007-08 filing rate for "new cases" has decreased more slowly. As a result, currently a greater proportion of current PFB filings are "new cases."

Petition Replication and Duplication:

As discussed briefly above, there has been some tendency of attorneys to file multiple "single issue" PFBs in a particular case on a particular date. A PFB for benefits may include as many discreet issues as a Claimant elects to plead. Some issues, that are ancillary to other benefits, are likely to be included in a single PFB. For example, claims for costs or attorneys fees for obtaining a change of physician are normally plead in the same PFB that asserts that change of physician claim. Similarly, permanent total disability supplemental benefits are normally plead in the same PFB that seeks the underlying permanent total disability benefits determination. Other issues are more easily separated for multiple filings. For example, a Claimant that is seeking both a change in physicians and permanent total disability could file a PFB for each of these, with each PFB also seeking attorney's fees and costs, or the Claimant could file one PFB seeking both of these and the attendant fees and costs. The situation involving multiple "one issue" PFBs cannot be described as "duplicate" PFBs because they are not identical, or in some cases even similar. Therefore, an accurate appellation for the second single PFB is a "replicate" PFB in that it replicates the act of filing, albeit for a separate discreet claimed benefit.

There is also a similar practice of filing essentially "duplicate" PFBs. This occurs in instances that present uncertainty regarding responsibility for a given accident or illness. These situations often arise in the construction industry. The Florida workers' compensation law places ultimate responsibility for coverage on construction's "general contractor." Because of this legal doctrine, the employee of an uninsured plumber or electrician or framer or roofer may be legally deemed to be the employee of the insured general contractor. In much of the construction industry, multiple contractor/subcontractor/sub-subcontractor relationships may exist. A general contractor might hire a carpentry subcontractor that in turn hires a cabinetry subcontractor. Likewise, a general contractor might hire an air-conditioning subcontractor that in turn hires a duct-work subcontractor. In those situations, an injured employee of the cabinetry company or the ductwork company might need to file a PFB against their nominal employer, and a second against the carpenter/air conditioner subcontractor, and yet a third against the general

contractor. These PFBs are often identical in every regard except for the name/address/phone number of the “employer” and “carrier.” The duplication of PFBs for such instances of uncertain responsibility is a natural consequence of the circumstances of such cases.



For a period of time, attorneys voiced concern that some flaw in a portion of a given PFB could result in dismissal of their entire PFB. Attorneys expressed uncertainty regarding whether a given Judge would conclude that such a particular issue, or “claim” within the PFB could be dismissed while leaving the remainder of issues pending. Some attorneys solved this uncertainty by adopting the practice of filing replicate PFBs. The 2003 statutory reforms altered carrier paid attorney fee entitlement. That statutory construction was misinterpreted by some attorneys to yield enhanced fee opportunities if a medical issue was isolated in a singular PFB filed simultaneously with a second PFB that addressed pending non-medical issues. Despite the flawed logic of this perception, it may also contribute to replicate PFB volumes.

Some speculation has existed as to the pervasiveness of the replicate PFB practice. Until 2007-08, the analysis of this practice has been restricted to anecdotal evidence, often from particular judicial divisions. Anecdotal evidence is often instructive and informative, but its persuasiveness is limited by the very nature of its chronological and geographical isolation. In 2007-08 the OJCC developed a methodology for identifying replicate PFBs. The removal of duplicates and replicates from the PFB population yields the “net” PFB volumes illustrated in the graph above. The annual percentage of “duplicate” and “replicate” PFB is also summarized in this chart. This data supports that the practice is slowly decreasing.

Fiscal Year	Total PFB	Net PFB	R/D %
2001-02	115,985	107,815	7.0%
2003-03	151,021	141,639	6.2%
2003-04	127,611	122,201	4.2%
2004-05	107,319	101,945	5.0%
2005-06	90,991	86,763	4.6%
2006-07	82,607	78,827	4.6%
2007-08	72,718	69,751	4.1%

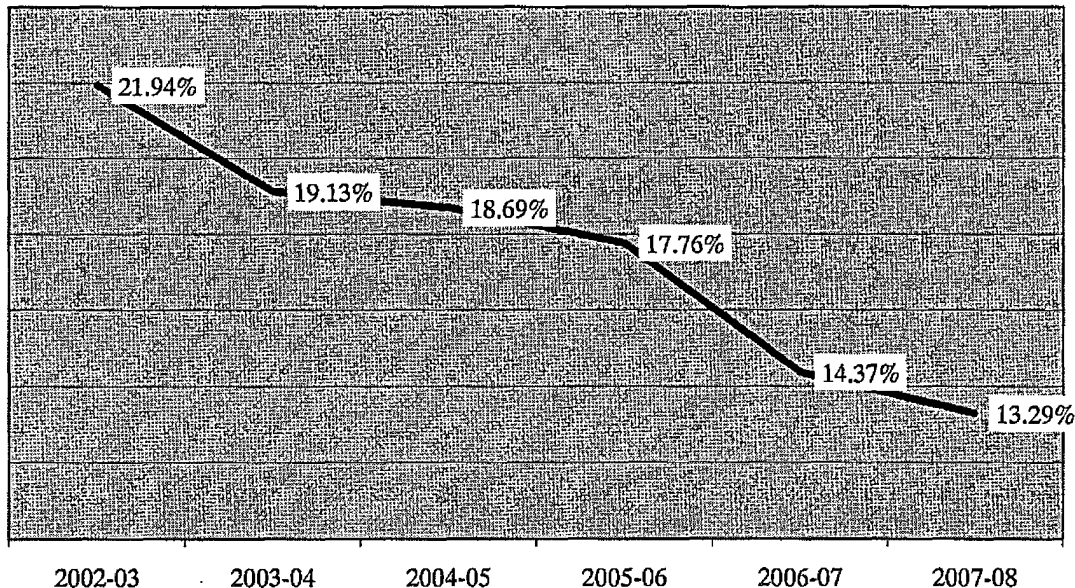
Pro-Se Cases:

The OJCC is frequently asked whether there is evidence of changes in the volume of claimants representing themselves, called “pro-se” claimants. Phrased otherwise, this question is fundamentally “are more 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 adapted to do so. Whether a particular claimant is represented or not at a given moment in time can be determined with accuracy. However, this does not answer whether that 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 database would then reflect three "open" PFB attributable to a "represented" claimant.

If the claimant thereafter ceased to be represented, and filed one pro-se PFB, the database would then reflect four "open" PFBs attributable to a "pro-se" claimant, despite the fact that three of those were in fact filed by (former) counsel. If that same claimant then hired a new attorney, who then filed a fifth PFB, the JCC Application database would then reflect five "open" PFB attributable to a "represented" claimant, despite the fact that one of those five was in fact filed pro-se. The JCC Application can report the total volume of "new cases" opened in a given fiscal year and the percentage on a given day that represents the "represented" and "pro se" cases in that "new case" population. Therefore, the best answer the OJCC can currently provide to the question of pro se litigant volume is a comparison between the volume of new cases filed in a given fiscal year (above) and the volume of those cases that did not reflect the presence of a Claimant's attorney as of the end of that fiscal year (June 30). This chart depicts the percentage of all "new cases" filed each year to the pending PFB population attributable to "pro se" claimants at the end of that same fiscal year. Notably, if the raw number of "new cases" attributable to "pro-se" claimants remained static each June 30, the percentage would nonetheless increase due to the decrease in overall "new case" filings discussed above. Therefore, the available data does not support the conclusion that the "pro-se" claimant population is increasing. It is notable that some portion of the "new cases" filed each year are not filed because there is a petition issue or need for filing a petition. Some "new cases" filed each year are created for the purpose of filing some motion for determination or for the purpose of filing a Joint Petition to settle the case. Because the percentage has decreased in the midst of significant PFB filing decreases generally, the available data supports that less injured workers are representing themselves in the OJCC system, as illustrated in the following graph. There are multiple perspectives regarding what this data indicates.

Fiscal Year	New Cases	Pro Se June 30	
2002-03	56,869	12,477	21.94%
2003-04	44,033	8,423	19.13%
2004-05	38,540	7,205	18.69%
2005-06	36,913	6,555	17.76%
2006-07	36,227	5,205	14.37%
2007-08	34,481	4,583	13.29%



AMOUNT OF LITIGATION RESOLVED:

As of the end of fiscal 2005-06 (06.30.06), the JCC Application database reflected that one hundred eighty-six thousand seven hundred sixty-five (186,765) PFBs were "open." As discussed in the 2006-07 Annual Report, that figure was artificially reduced by the database by ignoring some volume of PFBs that were older than some selected age in conjunction with the transfer of data from the DLES to the DOAH/OJCC. After correcting the data to include all PFBs, even those previously excluded as too "old," the actual volume of pending PFBs at the close of

fiscal 2005-06 was one hundred ninety-four thousand four hundred sixty-nine (194,469). Thus, in the initial calculation seven thousand seven hundred four (7,704) PFBs were excluded as "too old." During fiscal 2006-07, the OJCC worked to identify "active" PFBs whose status should have previously been changed to reflect a "resolved" or "closed" status. Many Judges made dramatic improvements in the volume of pending PFBs in their respective divisions, as set forth in the 2006-07 OJCC Annual Report. At the end of fiscal 2007 (06.30.07), the OJCC inventory of "open" PFBs was eighty-five thousand one hundred forty-eight (85,148), which was an approximate fifty-six percent (56.22%) decrease from fiscal year 2005-06. The total decreased significantly again (-49%) in 2007-08 to 43,110 open petitions at year-end.

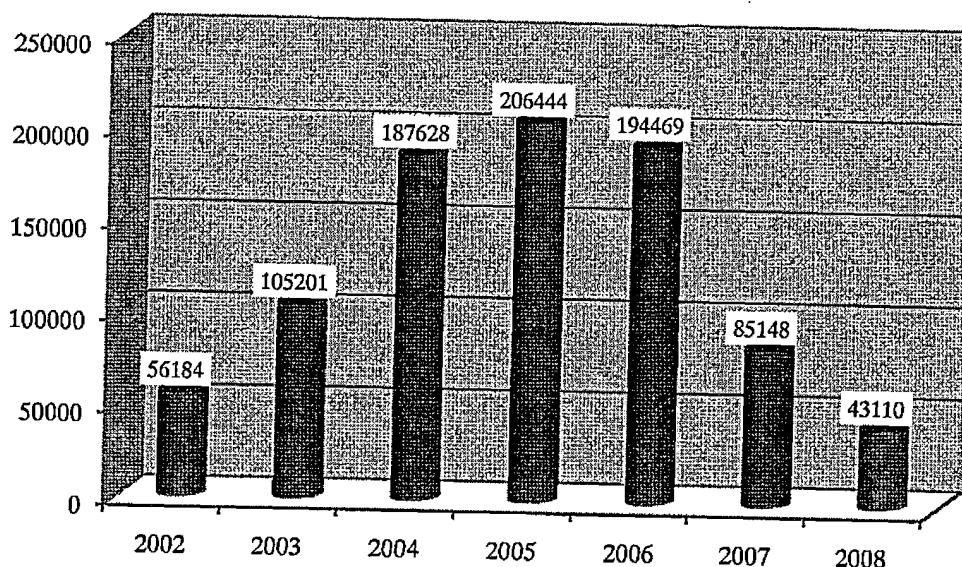
Most PFBs filed must be mediated.¹⁰ After a PFB is filed, issues claimed therein may be resolved among the parties before mediation, at mediation, or thereafter any time until a final order is issued. There are instances in which the parties conduct a trial on the PFB issue(s), but then nonetheless resolve those PFB issues before the assigned Judge enters an order adjudicating the issues.¹¹ When all of the 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 into the JCC Application (database).

The available information supports that staff in some districts have historically been more diligent than others in documenting the closure of PFBs, as noted in previous OJCC Annual Reports. Several divisions began 2006-07 with accurate PFB inventories, meaning their pending PFBs included only PFBs that appropriately should be represented as "open." Other divisions began the 2005-06 year with their inventories overstated with PFBs that should have been closed in prior years. PFB closures increased dramatically in 2006-07 (see chart). That trend and effort continued in many divisions through 2007-08, with particular progress noted in the MIA and FTL Districts. Certainly the high percentage decrease is evidence of significant effort by those Judges. Conversely, however, smaller percentage changes may indicate only that a particular JCC closed less during 2006-07 or 2007-08 precisely because they had appropriately closed PFBs previously, and thus had no

"inventory" that required attention and closure. Over the last five fiscal years, four-hundred eighty thousand, nine hundred ninety-nine (480,999) PFBs have been filed and five-hundred forty-one thousand, six hundred eighty-four (541,684) PFBs have been closed. This equates to an approximate overall closure rate of one hundred thirteen percent (112.6%). This supports that the OJCC has successfully managed the significant spike in PFB and new case filings that occurred in 2002-03, as discussed above. It is significant that the OJCC has simultaneously

Judge	PFB Pending 06/30/06	PFB Pending 06/30/07	PFB Pending 06/30/08	% Change 06 to 07	% Change 06 to 08
Thurman	16172	1253	1542	-92.25%	-90.47%
D'Ambrosio	7146	995	736	-86.08%	-89.70%
Hogan	17077	6546	1996	-61.67%	-88.31%
Basquill	8039	1264	972	-84.28%	-87.91%
Medina-Shore	13942	6357	1753	-54.40%	-87.43%
Punancy	9169	4728	1231	-48.43%	-86.57%
Lewis	7954	2276	1098	-71.39%	-86.20%
Winn	2197	1522	344	-30.72%	-84.34%
Kuker	13374	7213	2201	-46.07%	-83.54%
Harnage	14867	6549	2653	-55.95%	-82.16%
Spangler	5344	3257	1011	-39.05%	-81.08%
Hill	12131	6847	2446	-43.56%	-79.84%
Castiello	13365	8440	3315	-36.85%	-75.20%
McAliley	3657	1907	1102	-47.85%	-69.87%
Dane	3457	1191	1065	-65.55%	-69.19%
Pecko	11366	5448	3600	-52.07%	-68.33%
Portuallo	5180	2133	1647	-58.82%	-68.20%
Hofstad	6194	2321	2040	-62.53%	-67.06%
Murphy	1955	601	659	-69.26%	-66.29%
Remsnyder	1237	574	480	-53.60%	-61.20%
Hafner	1313	722	553	-45.01%	-57.88%
Harris	3799	1925	1643	-49.33%	-56.75%
Roesch	767	305	337	-60.23%	-56.06%
Jenkins	1548	921	701	-40.50%	-54.72%
Terlizzese	740	267	347	-63.92%	-53.11%
Sturgis	4360	3501	2071	-19.70%	-52.50%
Lazzara	799	435	387	-45.56%	-51.56%
Sculco	1822	1246	1039	-31.61%	-42.97%
Condry	1874	1337	1223	-28.66%	-34.74%
ORL	1805	1379	1355	-23.60%	-24.93%
Lorenzen	771	816	599	5.84%	-22.31%
Beck	1045	869	958	-16.84%	-8.33%

evaluated the volume of PFBs transferred as "open" from the DLES and the JCC Application database now accurately represents the actual status of those pending PFBs. The statewide year-end "open" PFB inventory for the last seven years is illustrated in this graph.



This comparison illustrates the significant increase (113.2%) in the volume of PFBs closed in fiscal 2005-06, followed by a dramatic closure increase (232.6%) effected in 2006-07 with staff training. The evidence from 2007-08 supports that the closure effort continues to produce results in several south Florida Districts/divisions. Obviously, 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 a number of years, until 2003, the steadily increasing PFB filing rates coupled with the lack of closure documentation in some Districts/divisions generated a growing inventory (backlog) of PFBs. The OJCC database/case management software was deployed in 2002. Significant staff training in the uniform use of this tool did not occur until 2006-07, and the results of that training are apparent in this chart, and the graph above. It is predicted that a few divisions will continue to close significant volumes of PFBs in fiscal 2008-09. Many of these divisions reflected the highest PFB inventories when the OJCC database system was implemented, and continued to display above-average inventories at the end of fiscal 2006-07. Despite the significant progress made by these divisions, it is possible that significant numbers of PFBs currently characterized as "active" in those divisions may more appropriately be characterized as "inactive."

Fiscal Year	Petitions Filed	Petitions Closed	% Closed
03-04	127,458	42,843	33.6%
04-05	107,268	87,102	81.2%
05-06	90,948	102,947	113.2%
06-07	82,607	192,181	232.6%
07-08	72,718	116,611	160.4%
5 yr. total	480,999	541,684	112.6%

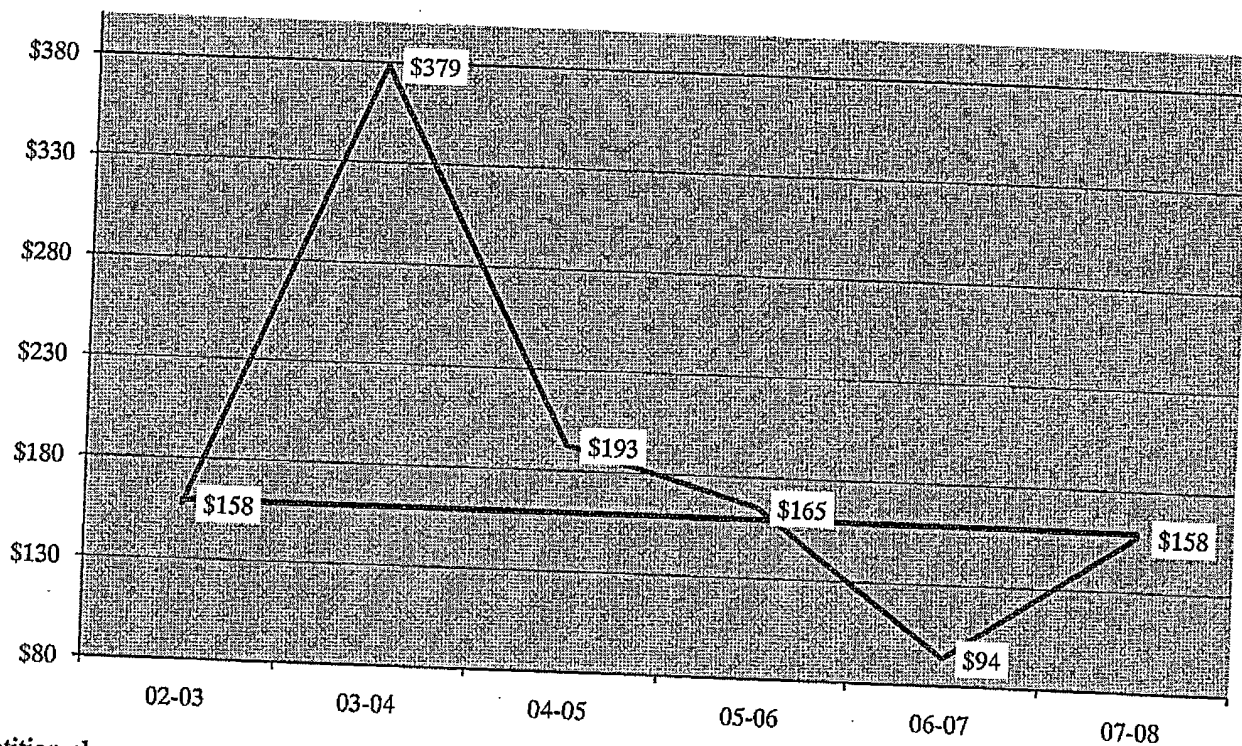
The Judges continue to adapt to management tools provided by the JCC Database Application in 2006-07. These tools allow for docket management and review of pending PFBs at any time. Judges or their staff may generate lists of cases that satisfy certain criteria. These include a report that generates a list of any "active" PFBs that are older than 210 days. There are many reasons why a PFB might appropriately remain "active" beyond this statutory parameter: bankruptcy stay(s), EMA appointment, and continuance, to name a few. However, docket management requires that the Judge be able to identify cases that are aging, so that decisions can be made as to whether there are or are not appropriate reasons for exceeding the expected time parameters. This case-management report, to monitor the progress of these older PFBs is therefore a helpful tool for Judges to manage their dockets. Another reporting tool provided during fiscal 2006-07 was a report listing every "active" case pending, upon which the system reflected no pleadings filed or hearings scheduled in the previous two years, which

allowed identification of dormant files. Review of those dormant files facilitated much of the petition closure that occurred in fiscal 2006-07. In fiscal 2007-08 this report was adjusted to identify the cases without activity in the twelve months prior to the report. This constriction of the report parameters allowed focus on cases remaining in the active category after the extraordinary efforts in 2006-07. This report remains available to each JCC for use at her or his discretion. These management tools illustrate the benefits of the JCC Database Application.

COST OF LITIGATION RESOLVED:

The OJCC budget, divided by the number of PFBs closed, reflects that the overall cost per PFB closed fluctuated in recent years (see graph below). This results in part from the minimal growth in the OJCC annual budget and in part from the marked increase in the closure of PFBs during the last three fiscal years. Thus, the decrease in cost per closed PFB for fiscal 2005-06 and 2006-07 and 2007-08 is each overstated due to the extraordinary PFB closure rate during these years. The OJCC budget has not increased significantly over recent years. In some years, inflation has outpaced OJCC budget increases. The OJCC today is spending less per full-time employee ("FTE"), adjusted for inflation, than in 1992-93. During the significant increase in case filings, and resulting hearings and adjudications between 1994 and 2003, the OJCC budget effectively decreased, when adjusted for inflation and the expanding OJCC workforce added in 1994 with the mandatory mediation process. Florida's population has also grown markedly in the last twenty years. However, the volume of Judges of Compensation Claims has remained virtually static over the same period. These facts illustrate that the OJCC has been very effective at wisely managing the resources provided.

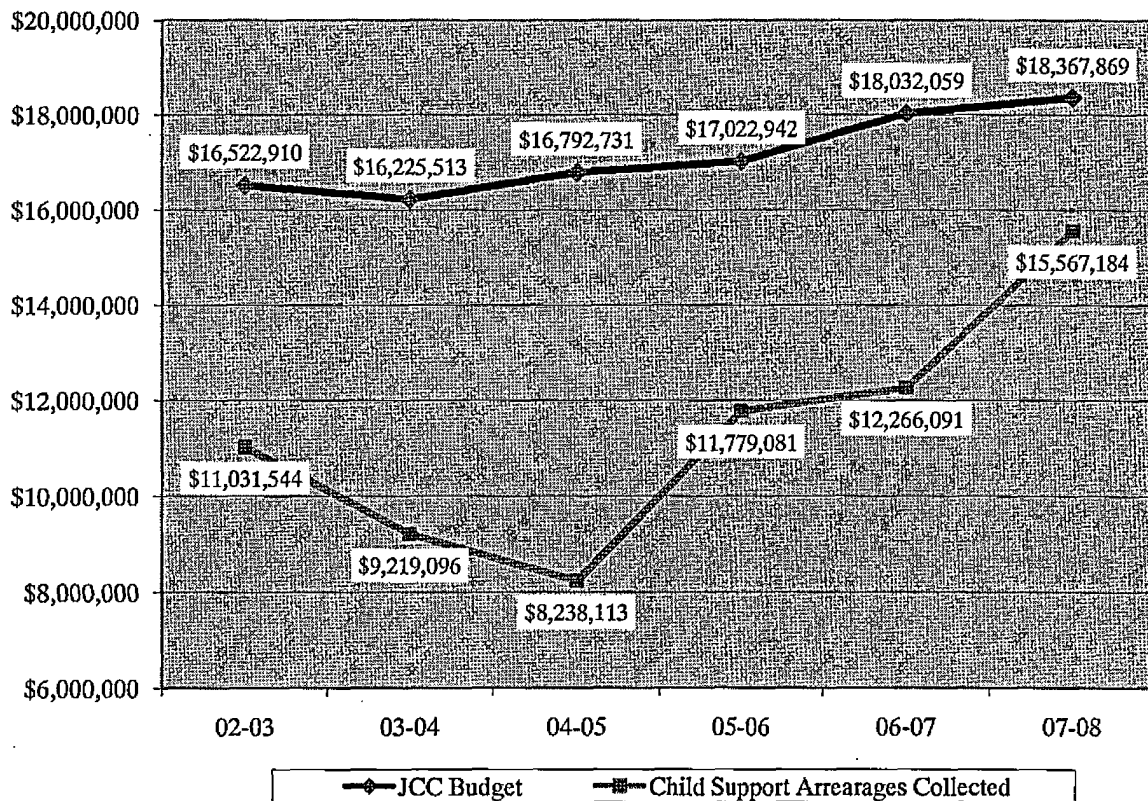
Fiscal Yr.	Annual Budget	PFBs Closed	Cost Each
02-03	\$16,522,910	104,884	\$157.54
03-04	\$16,225,513	42,843	\$378.72
04-05	\$16,792,731	87,102	\$192.79
05-06	\$17,022,942	102,947	\$165.36
06-07	\$18,032,059	192,181	\$93.83
07-08	\$18,367,869 ¹²	116,611	\$157.51



Petition closure rates are expected to decrease in fiscal 2008-09. Very little PFB inventory remain unaddressed in this litigation system. Therefore, it is expected that the volume of closure in 2008-09 will be far lower than in previous years, and that the resulting cost per PFB closed will increase markedly in 2008-09.

Another illustration of the cost-effectiveness of the OJCC is the volume of child support arrearages collected through the Judges' efforts. The Judges of Compensation Claims are statutorily required to ensure that the rights of child support recipients are considered when support payors reach settlement of their workers' compensation case. Each of the JCCs devotes considerable time and effort to the investigation and verification of child support arrearages. The significant amounts of child support collected through these efforts for the last six (6) fiscal years are represented in this table. The volume of child support arrearages collected is particularly interesting when considered in light of the overall OJCC budget discussed above. In fiscal 2006-07, the OJCC collected child support arrearages in an amount equal to approximately sixty-eight percent (68%) of the entire OJCC budget. That figure increased in fiscal 2007-08 to eighty-five percent (85%) of the total OJCC budget in outstanding child support arrearages. The comparison of child support recovery and the OJCC overall budget is clarified in this graph.

Fiscal Year	Annual Budget	Support Recovered	% of Budget
02-03	\$16,522,910	\$11,031,544	67%
03-04	\$16,225,513	\$9,219,096	57%
04-05	\$16,792,731	\$8,238,113	49%
05-06	\$17,022,942	\$11,779,081	69%
06-07	\$18,032,059	\$12,266,091	68%
07-08	\$18,367,869 ¹³	\$15,567,184	85%



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. In fiscal 2005-06 the OJCC initiated the internet-based e-filing system for use by attorneys, discussed above. The OJCC is currently developing additional web-based services including expanded opportunities for the e-filing of PFBs, electronic settlement motions, electronic fee stipulations, and electronic pre-trial compliance questionnaires. In fiscal 2007-08, the OJCC long-range plan included the implementation of e-service, which will allow the OJCC to serve orders on counsel and some parties via e-mail. The deployment of e-service was delayed by unforeseen hardware and software integration issues.

The Division of Administrative Hearings' developed the OJCC electronic filing system with existing resources over a period of years. The total expense associated with the development and deployment of these tools is less than one million dollars. By comparison, other states have developed systems through special appropriations and have spent far more deploying less robust processes. However the rapid serial development and deployment effort by DOAH resulted in the need for a deployment pause in 2007-08 for the MIS team to adjust hardware configurations, and reorganize data storage and data access software. These efforts in 2007-08 enhanced the speed and reliability of existing OJCC electronic filing services to the end-user attorneys and adjusters. As important, however, these basic system architecture changes will provide the foundation for deployment of the electronic service function in fiscal 2008-09. The development and implementation of these initiatives, as well as the recruitment and retention of valuable personnel, would be enhanced by additional budget dollars for salary and benefit enhancement. Critical examples, previously included in the DOAH Long Range Program Plans, of the need for additional budget dollars include:

Until 1993, the JCC salaries were tied to Article V. Judges' salaries. Since 1994, the JCC salary has decreased proportionally compared to Article V. Judges. Restoring some association between JCC salaries and Article V. judicial salaries would enhance OJCC retention of experienced Judges.¹⁴ Retention of these individuals would likewise promote the efficiency of OJCC operations.

The salary rate and budget dollars to increase the salary of each Deputy District Clerk, Executive Secretary, and Administrative Secretary in the various District Offices.

The Office of the Judges of Compensation Claims (OJCC) is an adjudicatory system, a "court system" that exists and now thrives within the Executive branch. In that regard, the OJCC is unique. Also unique is that 100% of the OJCC budget is derived from the Workers' Compensation Trust Fund supported by surcharges on workers' compensation insurance premiums. The OJCC utilizes precisely \$0.00 in general revenue dollars. These two circumstances support the logic of reexamining the salary and benefit issues that face the OJCC.

The duties of OJCC Deputy District Clerks, Executive Secretaries, and Administrative Secretaries are far more similar to duties of para-professionals employed in the Florida Courts than they are to similarly titled employees in other Executive Branch departments and agencies. The skills necessary for administering an adversarial litigation adjudication process are not similar to 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 paraprofessional functions for the OJCC. In short, the OJCC staff positions continue to demand ever-increasing technical skills in a litigation driven environment. The OJCC Database Application 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. 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 litigation adjudication system earn starting annual salaries up to \$7,291.56 more than comparably titled OJCC paraprofessionals. Thus, less technically proficient clerical staff in Florida's court system earn significantly more than the OJCC staff. As a result, the OJCC has continually been unable to retain skilled paraprofessionals. Paraprofessional staff turnover in some portions of Florida has been 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. Significant increases in the salaries of 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.

Similarly, the OJCC has made palpable improvements in the delivery of timely services to Floridians. The transparency of performance measure achievement 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. No other Judge in Florida is subject to the array of performance measures, such as those imposed by Chapter 440, Florida Statutes. The jurisdictional dollar value confronted by Judges of Compensation Claims is virtually limitless. In this regard JCCs' duties are more comparable to Circuit Judges. However, the JCCs perform bench

trials which more often last for hours instead of days. In that regard, JCC duties are more comparable to County Court Judges. Regardless of these subtleties, however, the duties of a Judge of Compensation are significant and the salary should be commensurate with these.

NUMBER OF MEDIATION CONFERENCES HELD:

The volume of mediations held each year has decreased in each of the last five (5) fiscal years. However, the rate of decrease in mediations that are conducted has not matched the rate of decrease in PFB filings, as represented in this chart. This suggests that as PFB volume falls, OJCC mediators are capable of acting upon a greater percentage of that remaining volume. Over the six (6) year cumulative period ending last fiscal year, PFB filings have decreased approximately fifty-two percent (51.78%), while mediations conducted by State mediators have decreased approximately thirty-two percent (31.56%). In 2007-08, 20,021 mediations were held by state mediators, at a cost of \$155.47 each.¹⁵ Many private mediators charge *hourly* rates in excess of this figure. Anecdotal evidence supports that some private mediators charge minimum time commitment (such as a two-hour minimum) for all mediations scheduled. Therefore, the cost efficiency of State mediation is obvious. Furthermore, as the volume of mediation increases, the cost for each mediation decreases because the aggregate cost remains constant.

Fiscal Year	Petitions Filed	% Change	Mediations Held	% Change
2002-03	151,801		29,253	
2003-04	127,611	-15.94%	28,072	-4.04%
2004-05	107,319	-15.90%	26,410	-5.92%
2005-06	90,991	-15.21%	25,522	-3.36%
2006-07	82,607	-9.21%	22,258	-12.79%
2007-08	72,718	-11.97%	20,021	-10.05%

There are multiple possible explanations for the marked difference in the rates of decrease. The most likely explanation for this difference is the probability that private mediations are decreasing at greater rates. Anecdotal evidence supports this hypothesis, but anecdotal evidence is rarely as trustworthy as broader indicators. Most PFBs must be mediated before they may proceed to final hearing,¹⁶ and mediation must be held within one-hundred thirty (130) days after the filing of the particular PFB. If no state mediation appointment is available, the assigned JCC must order the E/C to pay for private mediation for that particular PFB. Some Judges do not enforce this provision and instead grant parties motions to waive this statutory requirement. The statutory requirement and the OJCC process should assure the timely mediation of all PFBs, but also represents a significant cost to the particular E/C ordered to private mediation. It is likely this cost that is motivating parties to seek Judicial relief from the law. Because of the cost associated with private mediation, it is to be expected that as PFB volume falls, the rate of ordered private mediations should decrease, as employers have more opportunity to use the less costly OJCC provided service, as opposed to using private mediator services. Notably, there remains some variation in the timeliness of state mediations in the various divisions. These differences are illustrated in the mediation detail graphs in appendices to this report. The division variations illustrated are improved markedly in 2007-08. Mediations are required to occur within 130 days of the PFB filing. If no appointment is available within that time period, then the PFB should be ordered to private mediation. When this statutory process is followed consistently, then the average days to mediation for each state mediator should approach the 130 day statutory parameter. In districts not documenting such a timeline, corrections to the scheduling process must be considered.

Fiscal Year	PFBs Filed	% Change	Mediations Held	% Change
2002-03	150,801		29,253	
2007-08	72,718	-51.78%	20,021	-31.56%

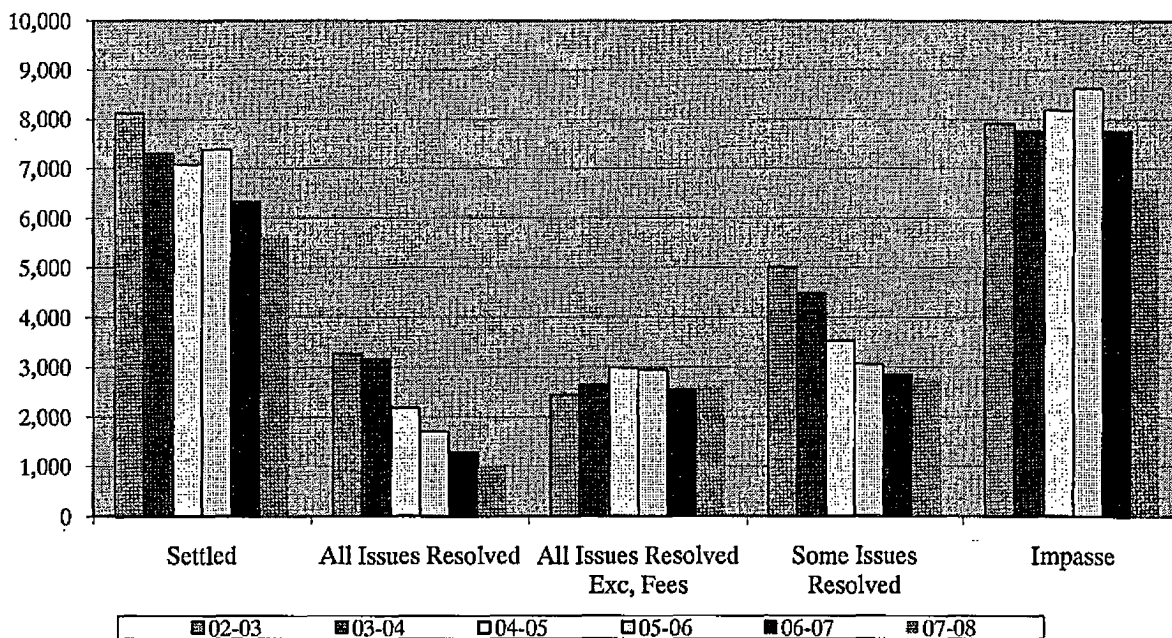
DISPOSITION OF MEDIATION CONFERENCES:

A PFB may contain only one substantive benefit (i.e. authorization of an orthopedic surgeon), or could contain many issues (i.e. orthopedic authorization, neurological authorization, diagnostic testing authorization, correction of the average weekly wage, payment of temporary total, temporary partial, supplemental benefits, and/or permanent total disability benefits, etc.). Virtually all PFBs also include claims for ancillary benefits related

to one or more of these substantive benefits, such as penalties and/or interest on late paid indemnity benefits, and attorney's fees and costs for the prosecution of all claimed benefits in the PFB.

Therefore, the outcome of mediations is expressed in terms of what was resolved at that particular mediation. The characterization "impasse" is used to reflect that no issues were resolved at mediation. The characterization "settled" reflects that the entire case, including the pending issues in the PFB and all future benefits as 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. As discussed above, some mediators previously mislabeled resolutions that occurred prior to state mediations, characterizing those outcomes as if those cancelled mediations had occurred. That action has undoubtedly resulted in misinterpretation of outcomes in prior OJCC reports. Those erroneously characterized outcomes dictate that comparisons with future data may also be suspect.

The term "some issues resolved" reflects that some subset of the claimed substantive issues has been resolved. The term "all issues resolved except attorney's 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's fees and costs, were resolved. These potential outcomes can be expressed in a continuum ranging from the least resolution ("impasse") to the most resolution ("settled"). The overall 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 six (6) fiscal years for each of these outcome characterizations.



Notably, the steady increase in volume of mediations that result in resolution of no issues, "impasse," slowed in 2006-07. That rate slowed even more notably in 2007-08. The table below summarizes the percentage of cases in each category as compared to the mediations held during that year. For example, in 2002-03 approximately twenty-eight percent (27.76%) of cases mediated resulted in a settlement. In 2007-08, approximately twenty-eight percent (28.07%) of the mediated cases resulting in settlement. The decrease in the category "all issues resolved" has been significant since 2002-03. There was a similar decrease in "some issues resolved," but that category has demonstrated minimal increases in the last two fiscal years. The respective rates of the potential outcomes are set forth in this chart, illustrating the success rates of state mediation.

State mediations are obviously very effective in resolving issues. In 2007-08, as an example, approximately 61% (60.17% = 28.07% + 5.22% + 13.04% + 13.85%) of convened state mediations resolved at least "some issues." This is slightly higher than the total of the same categories in 2006-07 (58.39%).

It was noted that in 2006-07, a very small percentage of mediation outcomes were not recorded in the OJCC database, 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 in 2007-08 only two (2) mediations were characterized as "held." This demonstrates the success attributable to the extensive training which has been provided for District staff since 2006. The volume of mediations that resulted in either "settlement," or "all issues resolved," or "all issues resolved except fees," the outcomes that negated the need for a trial on any claimed substantive issues,¹⁷ was 9,274 in 2007-08. This was a decrease of 8% from 10,153 in 2006-07.¹⁸ The trend demonstrated in 2007-08 is consistent with a similar decrease in the volume of "resolution" between 2005-06 and 2006-07.

Year	Mediation Conducted	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%

NUMBER OF CONTINUANCES GRANTED FOR MEDIATIONS:

Mediation continuances increased markedly in fiscal years 2004-05 and 2005-06. The cause of that trend remains unknown. The data for 2004-05 may very well have been affected by the volume of weather related office closures that year, as Florida endured serial cyclone landfalls, which affected virtually every county. Those situations effected significant impact by closing carrier offices in central Florida (frustrating mediations in unaffected districts elsewhere) and by closing district offices at which the mediations would otherwise have been held. Those situations were far fewer in 2005-06 and 2006-07, which suggests that causes other than weather played some significant role in the volume of continuances during fiscal 2004-05, see below. The mediation continuance trend reversed in 2006-07, with continuance rates dropping markedly (50%) that year and by another 50% in 2007-08, as illustrated in this chart.

Fiscal Year	Total Number	Annual Per JCC	Monthly Per JCC
2002-03	2,755	89	7.4
2003-04	2,036	66	5.5
2004-05	3,333	108	9.0
2005-06	4,756	153	12.8
2006-07	2,336	73	6.1
2007-08	1,328	42	3.5

In 2002-03 only two thousand seven hundred fifty-five (2,755) mediations were continued. The relational (percentage) frequency of mediation continuance increased markedly in 2004-05 and 2005-06 due in large part to the marked decreases in PFB filings for those years. In 2006-07 two thousand, three-hundred thirty-six (2,336) mediations were continued. Therefore, the total volume of mediation continuances in 2006-07 was lower than the total in 2002-03. However, comparing the percentage of mediations continued to the volume of PFBs filed in the same year reveals that the percentage of mediations continued in 2006-07 remained somewhat higher than 2002-03, relatively speaking. In 2007-08, the percentage relationship between filed petitions and mediation continuances returned to the 2002-03 rate.

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%

The implementation of the "auto-scheduling" of mediations by the Central OJCC Clerk likewise coincides generally with the beginning of the upward trend in mediation continuances in fiscal 2003-04. Prior to the

implementation of that "auto-scheduling" process, some districts did not schedule mediation when a PFB was received. Instead, those divisions left the litigants responsible to coordinate and schedule a mediation appointment. This resulted in significant delay in the mediation of a significant volume of PFBs. The implementation of "auto-scheduling" by the OJCC Central Clerk was intended to assure that all PFBs are set for timely state mediation or appropriately ordered to private mediation. That process may also be influencing the volume of continuances, as PFB are more promptly scheduled for mediation, and unprepared or overcommitted parties move for continuance to alleviate pressure on their respective caseload. Despite auto-scheduling and this statutory requirement, the average days to first mediation is now within the 130 day period on average, statewide.

Some portion of the 2003 through 2006 increase in mediation "continuances" may also have been unrelated to any issue beyond the lack of consistency in the district office data-entry prior to the training and definition efforts in 2006-07. Until fiscal 2006-07, with the publication of the JCCA User Manual, the terms "continued" and "rescheduled" were both available choices for district staff to use when any scheduled event, like a mediation conference, did not occur. However, these two terms were not defined. Therefore, how a delay in a mediation was characterized by district staff, and as a result how that delay was reflected in the overall OJCC year-end statistics, was an amalgamation of thirty-one (31) Deputy District Clerks and/or mediators making individual and subjective decisions about how to characterize any particular delay. It is noteworthy that the number of mediations "rescheduled" dramatically decreased in 2005-06 at the same time the number of mediations "continued" conversely increased, as illustrated in this chart. This anecdotally supports that the current statistics may be related more to the characterization of the delay by district staff than to any real increase in mediation continuances. The marked increase also followed shortly after the largest PFB filing increase since the PFB process was enacted in 1994. Therefore, a variety of issues may contribute to the demonstrated increase in mediation continuances in 2004-05 through 2005-06. It is as clear, however, that the definitional consistency and moderating PFB filing volumes are contributing to more consistent timely mediations.

Fiscal Year	Mediations Rescheduled	Mediations Continued	Med. Cont. v. Med. Resched.
02-03	15,972	2,755	17.25%
03-04	15,876	2,036	12.82%
04-05	16,150	3,333	20.64%
05-06	12,172	4,756	39.07%

NUMBER OF CONTINUANCES GRANTED FOR FINAL HEARINGS:

The volume of trial continuances system-wide has decreased markedly between fiscal 2003-04 and 2006-07. Continuances per Judge increased slightly in 2007-08. Because accurate data¹⁹ is only known to exist since the OJCC was transferred to the DOAH, it is impractical to accurately determine whether the continuance data for fiscal 2003-04 represented any marked increase compared to prior years. Prior OJCC Annual Reports have concluded that the 2003-04 data regarding continuances reflected an increase related, at least in part, to the very active tropical cyclone season Florida suffered in 2004.²⁰

The available data supports that trial continuances per JCC have declined from seventeen and one-half (17.5) per month in fiscal 2002-03 to twelve (12) per month in fiscal 2007-08, as set forth in this table. This illustrates the system-wide trial continuance figures and demonstrates the marked decrease in trial continuances in recent fiscal years. This downward trend is likely attributable to better OJCC case management software, and some relaxation of individual JCC dockets resulting from decreased PFB filing rates. Staff training and OJCC definition of the terms "rescheduled" and "continued," discussed above, 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 continue to eschew from the standardized definitions in the OJCC User Manual, and instead utilize their own definition of "continuance." These contribute to some volume of "rescheduled" hearings being reflected erroneously in the database as "continuances." These characterizations are known therefore to be responsible in

Fiscal Year	Total Number	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	11
2007-08	4,617	144	12.0

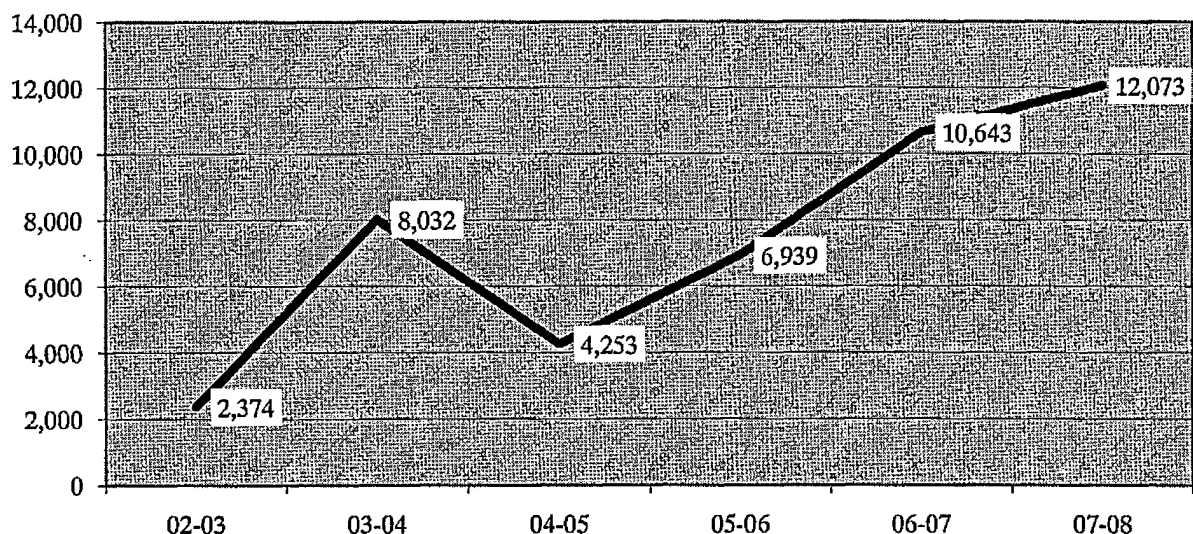
part for the figures reported above. It is hoped that some portion of the recent decrease may also be attributable to the significant teamwork exhibited by the Judges²¹ that voluntarily visited other districts to hear cases in 2006-07 and 2007-08. That effort should have effected some relief to the dockets in those districts.

OUTCOME OF LITIGATED CASES:

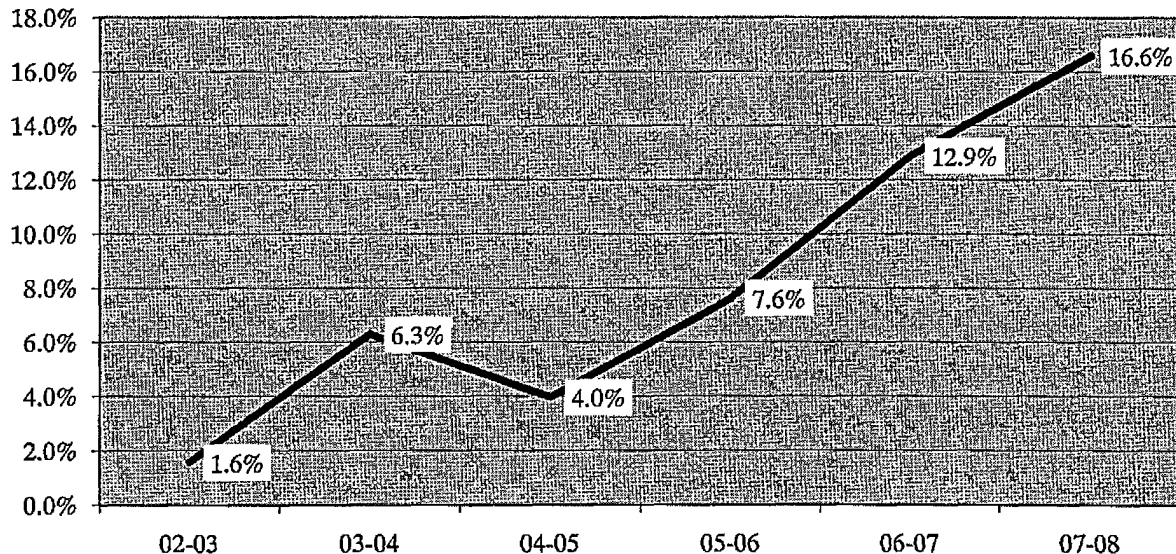
PFB are filed with the OJCC Central Clerk in Tallahassee. The demographic information (i.e. names, addresses, counsel) are entered into the OJCC case management computer Application (JCCA), or database, as are the various issues plead in the PFB.²² Until 2006-07, all PFBs were assigned to a specific Judge of Compensation Claims based upon the first letter of the claimant's last name. The alphabetical process was rational and produced a reasonably equitable division of labor among Judges in multi-division OJCC Districts. However, the process did produce some work-load incongruity in some Districts. Further, there were anecdotal reports of preemptory representation decisions based upon preconception of which Judge would be assigned to a particular case. In 2007-08, the process was changed to a random Judge assignment. This should result in more uniform and equitable workload distribution, which is an important concern. The anecdotal pre-conception issue, should it actually exist, is also remedied by the programming alteration.

Once a case is assigned to a Judge, the JCC Database Application "auto-schedules" a State mediation appointment. The Central Clerk forwards each PFB to the assigned Judge. Thus, when the PFB arrives in its assigned division, a mediation appointment has been automatically scheduled, but no notice has been sent to the parties. Statutorily, no notice of mediation is sent until forty days following a PFB filing. Therefore, although an appointment is set when the PFB arrives, attorneys have a window of opportunity to call and select a date that is convenient to them, prior to any notice being mailed. Few attorneys consistently avail themselves of the benefit of this opportunity to select their own, convenient, mediation dates. However, the use of this process may also be positively affecting the need to seek continuance of mediation appointments, see above.

A growing number of Judges utilize the provisions of Fla. Stat. §440.25(4)(h) and schedule "expedited" final hearings on some portion of the PFBs assigned to them. The expedited process likely leads to faster resolution of some issues, which involve relatively minor expense. Mediation is not required on claims that are suitable for expedited final hearing. However, all PFBs have already been "auto-scheduled" for mediation by the OJCC Central Clerk prior to arrival in the respective district office. The process in the various districts, upon receipt of the PFB, may be to reschedule mediation, to notice the "auto-scheduled" mediation, or to cancel the mediation process completely if expedited final hearing is to be noticed instead. This decision is entirely within the discretion of the assigned JCC.



If a particular PFB is not set for expedited hearing, then the assigned JCC will either accept the auto-scheduled mediation appointment or select an alternative date. On the fortieth day after the PFB is filed, the notice of mediation is mailed to the parties and attorneys associated with that case. Some JCCs schedule and provide notice of the pretrial and final hearing at that same time. This process of a single notice for three hearings affords the parties significant opportunity to plan their litigation calendar months in advance. Many PFBs are thereafter resolved prior to the mediation occurring. The diagram above depicts the number of mediations (which may have been scheduled on one or more discrete PFBs) that resolved prior to the scheduled mediation appointment time in each of the last five (5) fiscal years. The raw volume of dismissals is increasing in recent years. Concurrently, the volume of PFB filings continues to decrease at a reasonably steady rate. Thus, resolution of PFB prior to mediation is increasing generally, but more acutely as a percentage of filed PFBs as represented in the following graph.

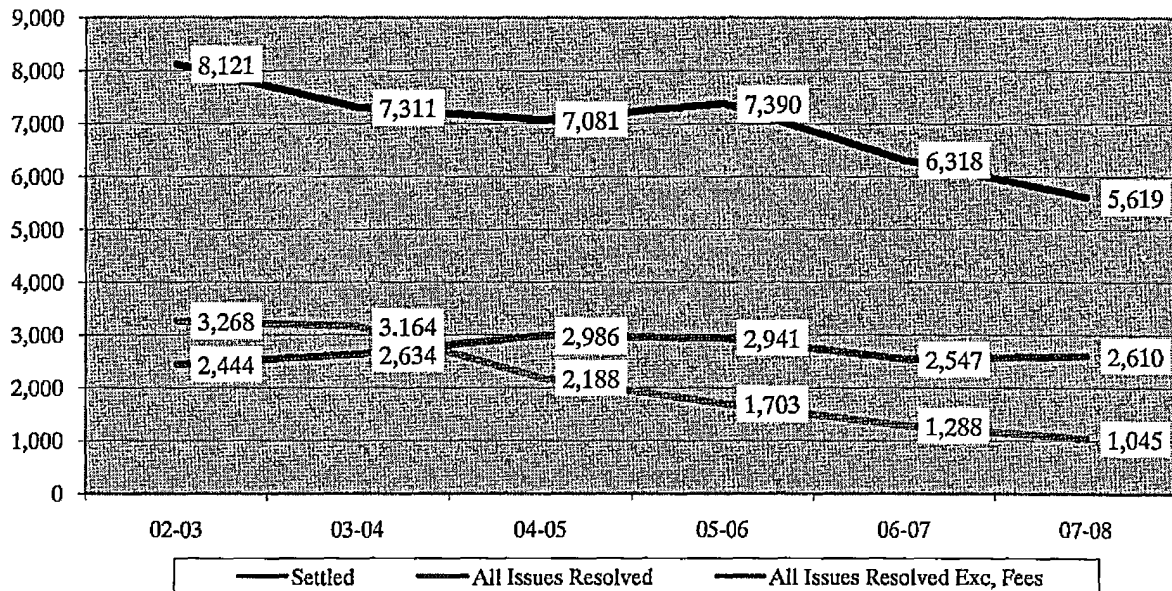


As discussed above, it has recently been discovered that significantly more PFBs resolve “prior to” mediation than the OJCC previously reported. The figures in this graph for prior fiscal years are therefore likely understated, as a result of some state mediators misstating that issues “resolved prior to” the mediation were resolved “at mediation,” when mediation did not in fact occur. Those mediators concluded that many PFBs resolve on the eve of mediation because parties or counsel are motivated to resolution by the inconvenience associated with travel to and from, and attendance at, mediation. Some mediators therefore ignored the parameters for mediation outcome characterization published in the OJCC User Manual in October 2006. They instead characterized some portion of PFBs that resolved on the eve of mediation as if the mediation had in fact occurred (“all issues resolved”), rather than as “resolved prior.” This practice was described and published in the 2006-07 OJCC Annual Report. Since that time, it appears that this practice has decreased markedly since the 2006-07 report.

Despite that issue, the volume of PFBs dismissed prior to mediation continued to increase in 2007-08 as reflected in the graphs above. The raw number of PFBs dismissed prior to mediation increased to twelve thousand seventy-three (12,073) in 2007-08 from six thousand, nine-hundred thirty-nine (6,939) in 2005-06. This represents a marked increase in PFB dismissals prior to mediation. When the decreasing volume of PFB filings is considered, the percentage of PFBs that are resolved prior to mediation more effectively illustrates the frequency of such resolutions, as illustrated in this graph. Thus, approximately seventeen percent (16.6%) of all filed PFBs were dismissed before mediation last year. A significant number of additional PFBs that were instead scheduled for expedited hearings were also dismissed prior to any hearing or event at the District office, but were not captured for this statistic because they were not dismissed “prior to” mediation since that event was not scheduled.

Once a mediation conference is convened, any of the following mediation outcome characterizations would reflect that the pending PFB(s) has been resolved, and no final hearing would be required (although an attorney fee

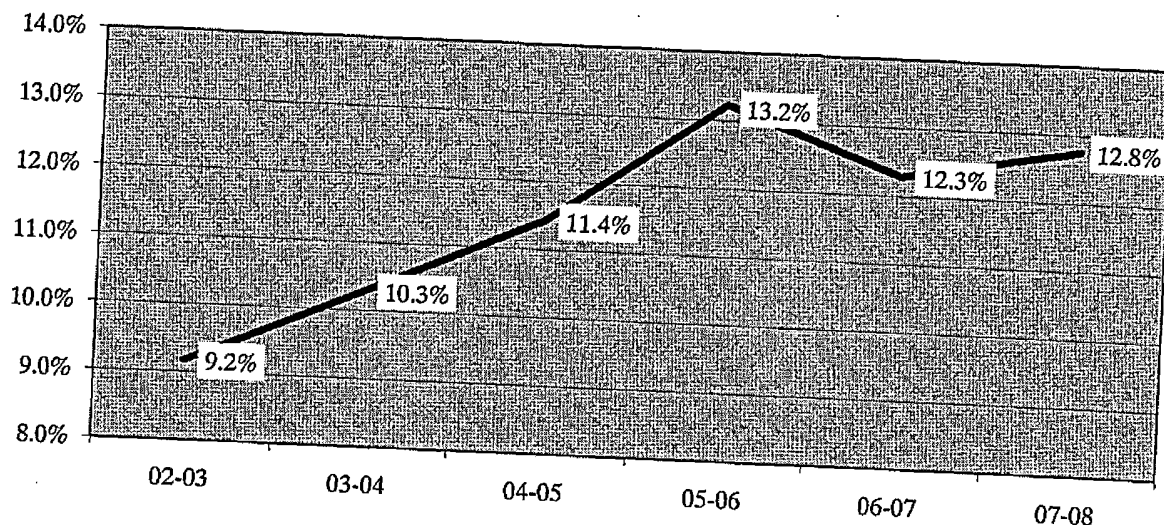
entitlement and/or amount hearing may be necessary): “Settled,” “All Issues Resolved,” and “All Issues Resolved Except for Fees.” When these three (3) mediation outcomes are combined, the total reflects the frequency at which the pending PFB(s) is resolved at mediation. The JCC Application does not, 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 five (5) fiscal years.



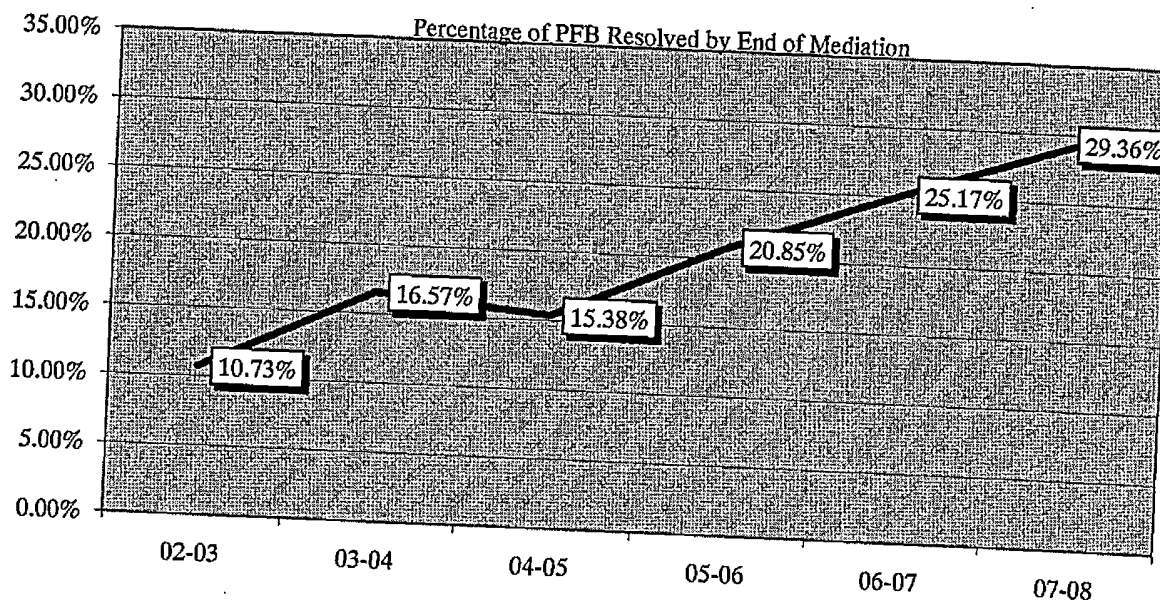
The total number of such PFB resolutions at mediation is decreasing each year, as is the total volume of PFBs filed. It is significant that this measure reflects only the resolution of all substantive issues in that PFB (“settled,” “all issues resolved,” and “all issues resolved except fees”). Therefore, while this statistic represents the number of PFBs resolved at mediation, it does not reflect the effectiveness of mediation in partially resolving pending PFB issues. Often, it is the resolution of small issues that helps to 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 additional PFB issues left unresolved at mediation. The remaining PFB issues must still be scheduled for pretrial and final hearing in that instance. However, if that medical evaluation then results in trusted information regarding impairment or disability, then 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 eventual effects of small issue resolution. It must also be remembered that these figures have likely been artificially increased by the decision by some mediators to mischaracterize some volume of PFBs as resolving at mediations that did not in fact occur; see above. When the total reported volume of PFBs resolved at mediation is expressed as a percentage of the PFB “filed” during the same fiscal year, the graph below illustrates the overall percentage frequency of resolution at mediation.

This demonstrates that the raw volume of PFBs resolving at mediation is decreasing. However, the percentage of filed PFBs that are resolving at mediation increased significantly over recent years, due in part to the significant decreases in PFB filing rates. This may support that there is some finite volume of mediations that can be successfully managed by any one mediator, and this figure is not relative to overall filings. This figure likely varies from mediator to mediator and is likely difficult to characterize in micro-analysis of a day, week, or month. However, over the course of a macro period like a year, it is likely that there is a rational “range” of mediation volume that can be successfully accommodated. Therefore, as filings increase, and the volume of successful mediations remains within that rational range, the percentage outcome will likewise decrease as a proportion. There was a slight decrease in PFB resolution at mediation in 2006-07, reflected in this graph, followed by an increase in 2007-08. The decreased overall PFB volume likewise decreases demand for mediation appointments. The growing use of expedited hearings likewise decreases overall demand. With fewer PFBs in the mediation process, State

mediator calendars are more flexible and mediators can be more flexible to accommodate the time requirements of more complex and multiple PFB mediations.



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 calendar. Simply stated, the greater the volume resolved by the conclusion of mediation, the less the volume that must be pre-tried and heard. If the volume of PFBs dismissed prior to mediation is combined with the volume of PFBs that were resolved at mediation, the graph below illustrates the percentage of PFBs filed that were resolved either before or at mediation during the last six (6) fiscal years. This illustrates that in 2007-08, approximately seventy-one percent (70.64%) of filed PFBs include some issue or issues that remain unresolved at the conclusion of mediation. This is a decrease from seventy-five percent (74.83%) in 2006-07. These macro figures also ignore that many issues in discrete PFB issues may be resolved through the course of a mediation conference, and yet the PFB itself remains "unresolved" due to 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.



In some districts/divisions PFBs received from the Central Clerk are scheduled only for mediation. In those districts/divisions a final hearing will only be scheduled in the event that mediation is not successful. This practice has resulted in some instances of PFBs failing to proceed to timely final hearing. In some divisions, the staff has been relatively passive regarding final hearing scheduling and as such a final hearing would only be scheduled when and if the parties take the initiative to contact the Judge's office to schedule a trial. In other divisions, PFBs are immediately scheduled for mediation, pretrial and final hearing or expedited final hearing upon receipt.

Whether a particular Judge will be proactive (initiating scheduling) or reactive (waiting for the parties to initiate scheduling) is completely within the discretion of that particular JCC. If a final hearing, a pretrial and a mediation are all scheduled initially, and the issues then resolve before mediation, each of these "events" (mediation, pretrial and final hearing) will be labeled in the JCC Application with the "status" of "resolved issues prior." Because there is therefore a population of cases in the database in which both a mediation and a final hearing are designated as "issues resolved prior" by one resolution (e.g. before mediation), it is therefore not possible to accurately measure how many PFBs resolve after mediation and yet prior to trial. Some portion of the final hearings that do not ultimately proceed to trial are caused by resolution between mediation and final hearing, but some other portion does not proceed because the issues were resolved prior to mediation in a case in which the pretrial and final hearing were already on the calendar before mediation ever occurred. This same potential exists for various "status" characterizations, and this complicates this calculation.

Additionally, the JCC Application contains a "status" characterization choice of "cancelled." The available statistics for the four (4) fiscal years prior to 2006-07 support the conclusion that this "status" was used frequently, when other more specific descriptions were more appropriate. This generalized characterization, "cancelled," does not provide any edification or explanation as to why a particular event did not occur. With the publication of the JCC Application User Manual in 2006, it is hoped that district staff will better understand the importance of using the most accurate and descriptive "status" whenever a final hearing or other event is changed from the status of "set" (meaning it is scheduled to occur). It is hoped that with this understanding and with published definitions for the various characterizations in the Application, that consistency among the Districts and divisions will increase markedly. The publication of the OJCC Application User Manual and the ongoing staff training are expected to provide far greater consistency in the entry of data into the OJCC Application database. Likewise, diligent supervision of mediator and district staff clerical efforts by the Deputy Chief Judge is expected to result in more accurate and consistent statistics in future annual reports.

AMOUNT OF ATTORNEY'S FEES PAID IN EACH CASE 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. Fla. Stat. §440.34²³ There is no such specific requirement for the approval of fees paid by employer/carriers for their defense counsel representation. Despite the absence of such specific requirement for defense fee approval, the broad language of Fla. Stat. §440.105(3)(b)²⁴ arguably could require OJCC approval of defense attorney's fees. However, this statutory authority has historically not been interpreted to require approval of defense attorney fees. Therefore, the OJCC has required insurance carriers to report their respective total annual expenditures for aggregate defense fees.²⁵ Because these figures are reported in the aggregate, it is impossible to discern whether cost reimbursement to attorneys has been included in the figures reported by the various carriers. Furthermore, this information regarding defense fees expended during the fiscal year does not provide any edification regarding the respective dates of accident involved in the cases in which those fees were paid during that fiscal year.

Order Year 2006-07 Attorney Fees:

Previous OJCC annual reports detailed payment of claimant attorney fees based upon the best information available, when those reports were prepared. The OJCC gathers claimant attorney fee data through a computer program (part of the system that includes the JCC Application database, electronic filing, and internet publication of data) that simultaneously uploads fee approval orders to the Internet case docket and captures the data regarding claimant fee and cost amounts. The district staff is responsible for the input of the fee and cost amount data for each individual fee approval order entered. Because the database currently produces different total annual figures for claimant attorney's fees figures, approved in prior fiscal years, than was reported in prior OJCC Annual Reports, it is believed that subsequent to the initial calculation of those figures, and issuance of those prior OJCC Annual Reports, additional information was entered by district staff (additional approved orders for a particular fiscal year were input and uploaded after the query for that particular fiscal year was initially run).²⁶ This table represents the most current (corrected February 2007) information for the amount of claimant's attorney fees approved fiscal years 2002-03 through 2006-07. Since discovery of these issues, the OJCC has undertaken an annual confirmation process regarding fee order uploads by District Staff. Each July the Judges are polled regarding the currency of their division uploads and data input. The statistics herein were computed only following the affirmation of fiscal year completion by each Judge.

Fiscal Year	Claimant Attorney Fees
02-03	\$210,660,738
03-04	\$215,322,360
04-05	\$211,157,073
05-06	\$208,369,260
06-07	\$191,197,443
07-08	\$188,692,107

During 2007-08, a total of four hundred fifty-nine million two hundred two thousand, six-hundred twenty-nine dollars (\$459,202,629 = \$188,701,256 + \$270,501,374), was expended on combined claimant fees and defense attorney's fees²⁷ (and perhaps defense "costs") in the Florida worker's compensation system. This marks the second consecutive year that defense fees have decreased since the OJCC began (in 2002) collecting and reporting data on defense fees. The last five fiscal years of claimant and defense attorney's fees and the annual rates of change are set forth in this table.

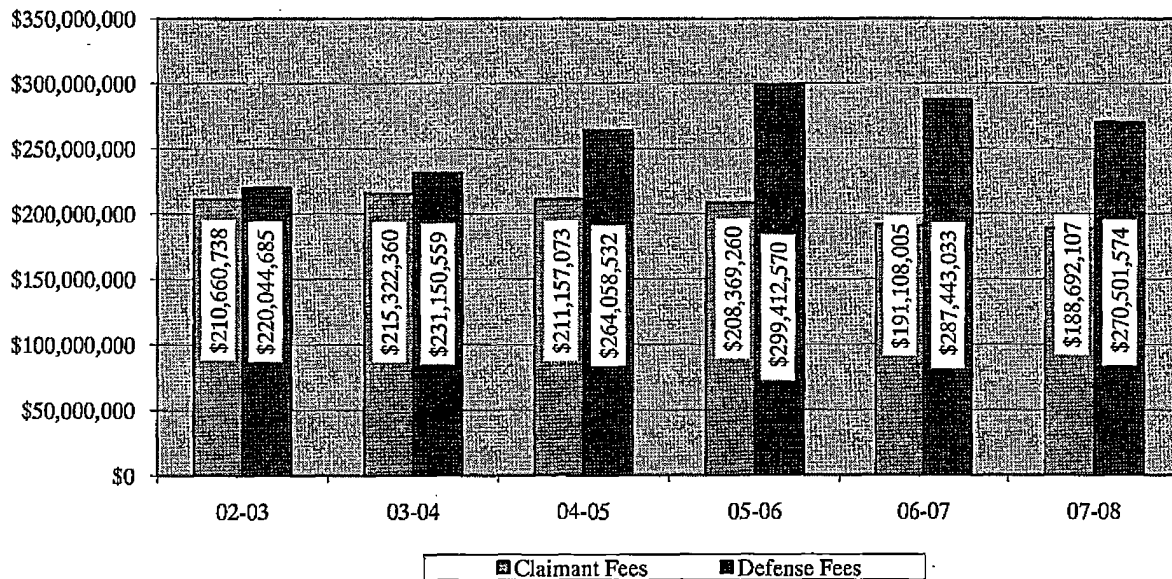
These figures may demonstrate significant increases in defense fees following the 2003 reforms, or may simply evidence an increasingly effective OJCC effort in collecting this data. It is impossible to state with certainty whether defense fees increased or whether reporting compliance increased. However, the list of carriers reporting in 2006-07 has been compared to the list of those reporting in 2005-06 and is very similar; the same similarities are present in the 2007-08 list. Therefore, this second year of decline considered, confidence is growing that the aggregate defense fee decrease is verifiable, rather than being related to change in the reporting population. It is also notable that some portion of overall defense fees reported may relate to cases in which no claimant fees were paid, such as charges for preparation and approval of pro-se settlement documents or instances in which the E/C sought and paid for legal advice that ultimately did not result in the filing of any workers' compensation dispute.

Fiscal Year	Claimant Atty. Fees	% Change	Defense Atty. Fees	% Change
02-03	\$210,660,738		\$220,044,685	
03-04	\$215,322,360	2.21%	\$231,150,559	5.05%
04-05	\$211,157,073	-1.93%	\$264,058,532	14.24%
05-06	\$208,369,260	-1.32%	\$299,412,570	13.39%
06-07	\$191,108,005	-8.28%	\$287,443,033	-4.00%
07-08	\$188,701,256	-1.26%	\$270,501,374 ²⁸	-5.89%

Reported defense attorney fees progressively increased after the 2003 statutory amendments, at a significant rate, as illustrated in the previous table. Conversely, claimant attorney's fees decreased slowly (approximately 1% - 2%) annually between 2003 and 2005. Because data on claimant fees is collected as they are approved, rather than in the aggregate method used for defense fees, those figures are believed to be the more accurate of those reported. A comparison of the 2007-08 attorney's fees and the 2002-03 attorney's fees for both claimant and defense is set forth in this table to illustrate the cumulative change over six (6) years. The decrease in claimant fees in 2007-08 compared to 2002-03 is certainly significant, over 10%. Some argument could be made that the aggregate of fees would be expected to decrease in some relation to the decrease in PFBs filed. While this comparison may be

Fiscal Year	Claimant Atty. Fees	% Change	Defense Atty. Fees	% Change
02-03	\$210,660,738		\$220,044,685	
07-08	\$188,701,256	-10.4%	\$270,501,574	22.9%

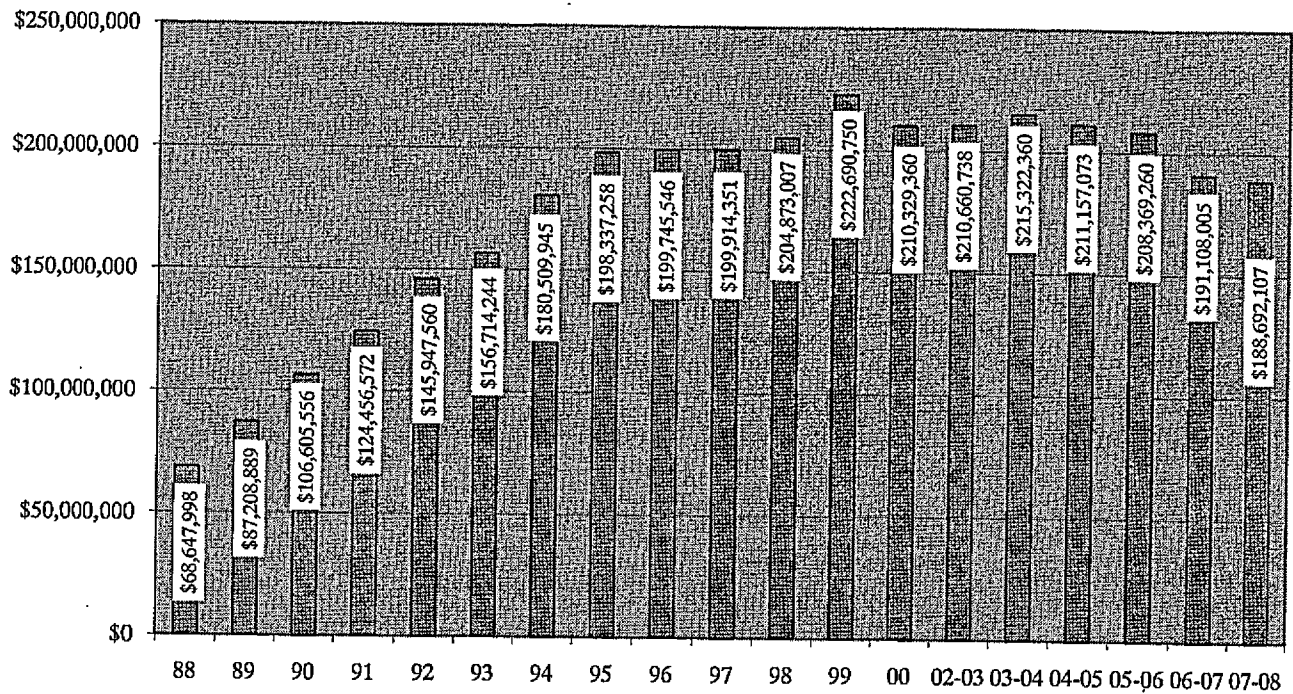
validly made, it is complicated by the time lag between PFB filing and closure. Because that period might be years in some instances, fees paid last fiscal year might have related to PFBs filed in the prior year, or even many years earlier. Furthermore, significant fees were paid last year on settlement of cases in which no PFB may have been pending. Therefore, the decrease of fees related to a decrease in PFB filing could be reasonably expected to occur significantly after the PFB filing decrease. Therefore, multiple years of data would likely be required to support a conclusion regarding any interrelationship between the two. The aggregate claimant and defense fees for the last six years in reflected in this graph.



The decline in aggregate fees paid to claimant's attorneys, compared to fees paid to defense attorneys, has significantly altered the comparative percentage of claimant's fees compared to all fees. Thus, the figures support that aggregate fees increased over the four fiscal years after the 2003 statutory amendments. The extent to which this evidence has been influenced by greater compliance with carrier and servicing agent reporting is unknown. However, the data for fiscal year 2006-07 demonstrated a significant decrease in both defense (-4%) and claimant fees (-8.28%). The data collected for 2007-08 supports continuing decline in both defense (-6%) and minimal continued decrease in claimant (-1%) fees. It must be remembered that these figures demonstrate only the gross amount of attorney's fees paid during the respective years. That analysis does not consider, nor delineate, the age of the cases in which these fees were paid.

The DLES compiled data regarding the attorneys fees paid to claimant's counsels for a number of 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. However, it is important to note that the DLES figures may be for calendar years, not fiscal years. It is further instructive to note that the DLES figures for attorneys' fees paid for claimant's counsel likely include costs, as the ability to differentiate fees from costs easily did not exist until the OJCC database was deployed in 2002. The figures compiled and reported by the OJCC, since October 2001, do not include claimant costs. With those two caveats, this graph represents the claimant fees (fees plus costs) paid from 1988 through 2000 and the claimant fees paid from fiscal 2002-03 through 2006-07.

Claimant's Attorney Fees

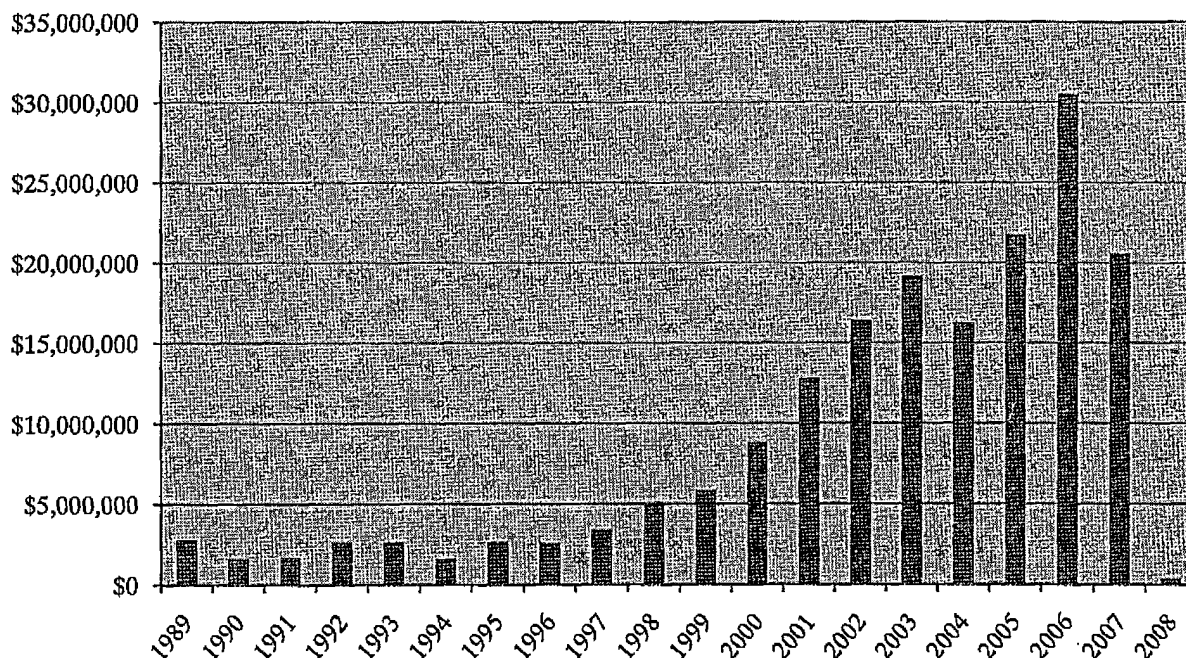


Attorney Fees by Accident Year:

The figures above each represent only the amount of fees "approved" during each respective fiscal year. During any particular fiscal year, fees might be approved on cases for which the date of accident was also during that particular fiscal year. Likewise, the approved fee might be related to a date of accident prior to that fiscal year, perhaps many years prior. Most fees approved during any particular fiscal year will be associated with accidents that occurred prior to that particular fiscal year. This is because most cases in the OJCC system are not related to accidents in the current fiscal year and because many cases in the workers' compensation system remain active, with periodic litigation issues, for many years. Logically, therefore, most litigated cases within the responsibility of the OJCC involve dates of accident prior to any current fiscal year. In 2006-07, fees were paid in cases that involved forty-six different accident years. In 2007-08 fees were paid in forty-seven accident years, as depicted in this table.

Accident Year	Fees App. 2007-08	Accident Year	Fees App. 2007-08	Accident Year	Fees App. 2007-08	Accident Year	Fees App. 2007-08
1956	\$29,777	1974	\$51,861	1986	\$1,473,363	1998	\$5,103,478
1960	\$4,610	1975	\$122,053	1987	\$1,389,182	1999	\$5,853,133
1962	\$2,560	1976	\$33,315	1988	\$1,746,278	2000	\$8,816,042
1963	\$39,300	1977	\$214,000	1989	\$2,805,244	2001	\$12,800,087
1966	\$16,530	1978	\$101,398	1990	\$1,653,595	2002	\$16,403,069
1967	\$500	1979	\$234,903	1991	\$1,724,455	2003	\$19,179,123
1968	\$5,250	1980	\$392,479	1992	\$2,622,619	2004	\$16,252,364
1969	\$55,645	1981	\$576,876	1993	\$2,644,662	2005	\$21,737,416
1970	\$15,750	1982	\$545,411	1994	\$1,609,130	2006	\$30,494,383
1971	\$5,000	1983	\$522,849	1995	\$2,671,613	2007	\$20,618,087
1972	\$105,400	1984	\$777,395	1996	\$2,608,639	2008	\$374,337
1973	\$2,050	1985	\$854,600	1997	\$3,402,298	Total	\$188,692,107

Of the claimant's attorneys fees approved in 2005-06, only two percent (2%) were for dates of accidents more than 20 years prior. Of the claimant attorney's fees approved during fiscal 2006-07, approximately seven million seven hundred eleven thousand two hundred fifty-five dollars (\$7,711,255) was paid for accident dates in 1987 and before (more than 20 years prior). This is four percent (4%) of the claimant fees approved in 2006-07. In 2007-08, the percentage of all attorney's fees approved that involved accident dates more than 20 years prior was five percent (5%) of all fees, totaling \$9,318,334. Older claims are contributing a larger percentage of the fees approved.



The vast majority, approximately seventy-three percent (72.86%), of the fees approved in 2007-08 related to accident dates in the seven years between January 1, 2001 and December 31, 2007. This is a decrease from the seventy-seven percent approved in fiscal 2006-07 for a corresponding seven-year period.²⁹ The claimant fees approved in fiscal 2007-08 for the last 20 years are illustrated in the above graph. As with other issues identified herein, the significance of this distinction is difficult to discern based upon this report alone. It is also noteworthy that many settlements in the course of a given fiscal year will settle multiple accident dates. Because of this, the fees associated with such "multi-accident" settlements are divided equally between those accidents for the purpose of reporting. Because of the parties' election to settle multiple accidents in a single comprehensive settlement, there is no more rational or definitive method for determining the portion of fees attributable to each accident in such situations.

NUMBER OF FINAL ORDERS NOT ISSUED WITHIN 30 DAYS AFTER THE FINAL HEARING OR CLOSURE OF THE HEARING RECORD:

Many legitimate reasons may require a trial to be reconvened on a second or even third day after the initial trial date. However, anecdotal evidence supports that such a process has been historically employed to delay record closure and artificially extend statutory deadlines. Determination of the legitimacy of such subsequent proceedings in any given 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 minority of cases, the OJCC reports the number of cases in which the final order is entered within thirty days of the final hearing convening. This calculation undoubtedly slightly understates the number of final orders entered within thirty days of legitimate "hearing record closure."

However, this calculation also permits no overstatement of achievement by inappropriate employment of the "reconvene," and presents an illustration of performance that is consistent across the various districts and divisions. In this regard, the OJCC elects to report conservative figures that cannot overstate performance. Review of all of the final merits orders entered during fiscal 2005-06, fiscal 2006-07, and fiscal 2007-08 indicates that many final orders were entered on the same day of the final hearing. Overall, the JCCs entered timely final orders approximately fifty-eight percent (57.6%) of the time in fiscal 2005-06. This increased significantly in 2006-07 to almost sixty-six percent (65.54%) of the time, and increased in 2007-08 to almost seventy-one percent (70.61%). As represented in this table, final orders were entered in under one hundred (100) days in approximately eighty-six (85.5%) of all cases in 2005-06 and in almost ninety-three percent (92.79%) of the cases in fiscal 2007-08. For final orders entered during fiscal 2006-07, the shortest period between final hearing and final order was zero (0) days and the longest period was two thousand, nine hundred eleven (2,911) days, or approximately eight years. In 2007-08 the shortest period between trial and order remained zero (0) days, and the longest period was one thousand, two hundred twenty-four (1,224) days, or approximately three and one-third years. As long as the current statutory mandates remain regarding appointment of expert medical advisors, there will likely be some volume of orders that are entered after what would otherwise appear to be an inordinate period of time. However, the OJCC continues to make significant improvement in this measure. It is pertinent that the increases in volume of orders in each of the categories in this chart are attributable to the marked increase (5%) in the volume of orders entered within the statutory thirty days.

Days	Percentage Entered 05-06	Percentage Entered 06-07	Percentage Entered 07-08
30	57.60%	65.54%	70.61%
40	66.70%	71.23%	76.88%
50	71.90%	76.87%	81.02%
60	74.60%	79.72%	84.09%
70	78.60%	82.97%	86.93%
80	81.60%	85.14%	89.30%
90	84.00%	87.31%	91.25%
100	85.50%	88.60%	92.79%

RECOMMENDED CHANGES OR IMPROVEMENTS TO THE DISPUTE RESOLUTION ELEMENTS OF THE WORKERS' COMPENSATION LAW AND REGULATIONS:

The history of judicial consideration of "costs" is discussed at length in the 2006-07 OJCC Annual Report. The suggestions and recommendations therein remain important and are mentioned here to reiterate.

The procedural and practical inefficiencies of the Expert Medical Advisor (EMA) process are described in detail in the 2005-06 OJCC Annual Report. This process remains problematic for the Judges of Compensation Claims' efforts at efficient and timely adjudication of disputes.

The OJCC recommends further consideration of these two concerns.

Statutorily, the OJCC notes several points that bear consideration, including electronic filing, docket management and budget. Electronic document filing is an area in which the OJCC has excelled. It is respectfully believed and submitted that there is currently no more effective document filing and electronic docketing program. This is not by accident. The success of this system lies in the DOAH team effort that envisioned, developed, tested and deployed this process. The OJCC electronic filing initiative has resulted in an unprecedentedly robust and effective litigation management tool. A significant cost of litigation is the certified mail expense required in Fla. Stat. §440.192(1). This requires an injured worker to file her or his petition, and to serve it on employer and carrier through certified mail "or by electronic means approved by the Deputy Chief Judge . . ." The "electronic means" alternative was added to the law in 2001. Thus a single petition generates significant out-of-pocket expense, which can be minimized by utilization of the OJCC electronic filing system (e-JCC). The legislative deference to an effective electronic process is obvious. The insurance carrier or servicing agent is required to either provide the benefit or file a "response to petition." When such a response is filed, the "carrier shall provide copies of the response to the filing party, employer, and claimant by certified mail." Fla. Stat. §440.192(8). The Legislative

logic is simple in this regard, certified mail provides the ability to confirm receipt of these two documents, which are crucial to understanding what is sought (PFB) and why that is not provided (Response). The provisions of Fla. Stat. §440.192(8) do not contain the same caveat for service of the Response through an electronic media. There is no reason to suspect that this evidences any intention to trust electronic transmission for the service of a PFB, but not for the Response. It appears that this caveat was simply not included in Fla. Stat. §440.192(8). It is important to recall that no process existed for this electronic transmission at the time this statute was last amended. A very minor statutory amendment would alleviate this disparate treatment, and would further encourage use of the e-JCC system.

All attorneys representing litigants in the Federal Courts are required to utilize that tribunal's electronic filing system (PACER). That system is less robust than e-JCC in that it provides no web-forms such as the e-PFB, e-Response and e-RACN. That system is also more cumbersome in that it provides limited access to electronically filed documents for verification purposes, but imposes fees for re-accessing those filings after a set time period. The e-JCC system provides the registered attorneys unlimited free access to all the data in their case(s). The e-JCC cost savings to the State are dramatic. During fiscal year 2007-08, Florida saved \$213,119.50 in labor through attorney's use of e-JCC. It is very difficult to calculate the exact volume of annual OJCC filings (paper). However, based upon those that are currently monitored such as PFB and Responses, it is believed that less than half of all OJCC filings are electronic. It can be conservatively supposed that a legislative mandate for e-JCC would at least double this monetary savings to Florida on an annual and ongoing basis. The OJCC submits that mandating use of e-JCC for all attorney filed pleadings would benefit everyone except the United States Postal Service.

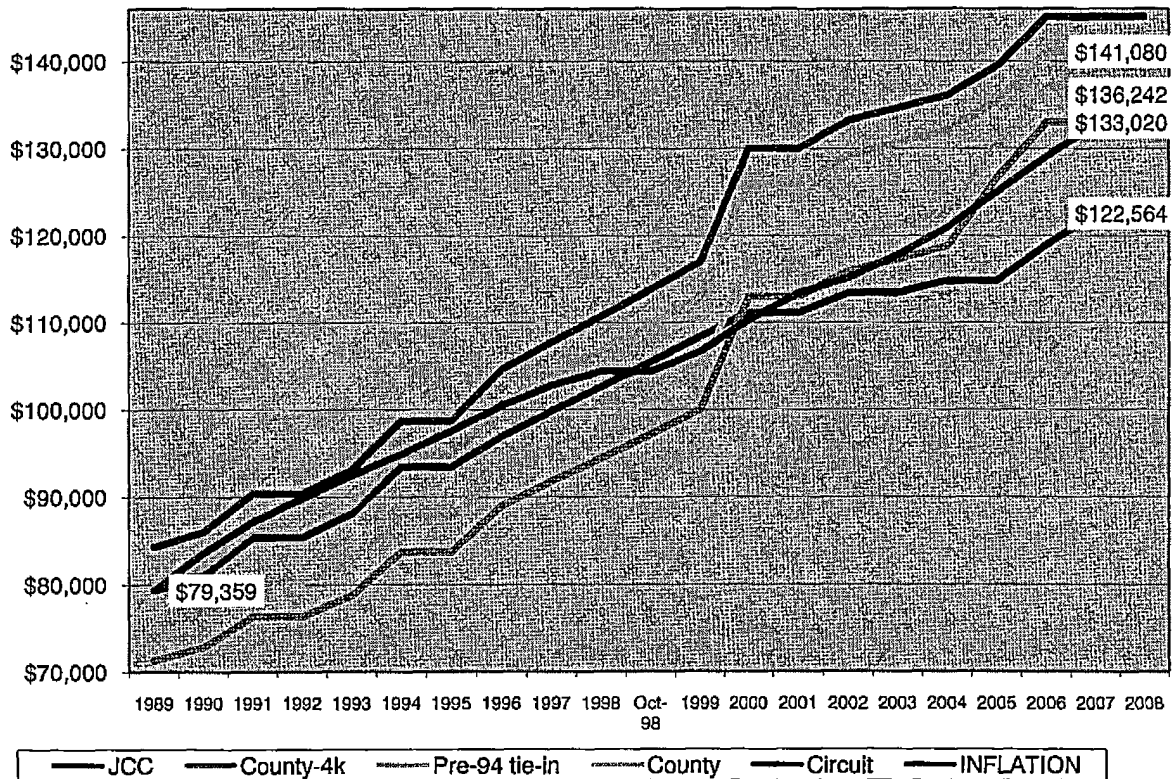
The OJCC continues to rely heavily on the benefits of digital technology, as discussed above in regards to e-JCC. Another significant application of digital technology has previously been deployed through joint efforts of the Division of Administrative Hearings (DOAH) and the Department of Management Services (DMS). Those entities collaborated to deploy a video teleconferencing (VTC) network in Florida, and for several years the Administrative Law Judges (ALJ) of the DOAH have used that technology to conduct remote trials without the attendant expense of travel (for the Judge and often for at least some of the parties). In 2006 the DOAH deployed such a VTC unit in each of the OJCC District Offices in Ft. Lauderdale, Orlando and Tampa. These were deployed for the benefit of the DOAH ALJs. In fiscal 2007-08, the OJCC and the DOAH jointly deployed such VTC units in Jacksonville, Daytona Beach, Lakeland, and West Palm Beach. Since Fiscal year 2008-09 began, this capability has been added to Pensacola, Panama City, and Miami (x2). Thus, the OJCC currently has access to VTC capabilities in eleven (including the Tallahassee District office that is in the same building that houses the DOAH) of seventeen District offices. In 2008-09 the OJCC hopes to deploy this technology in Ft. Myers and potentially one other OJCC facility. At the present time, the VTC capability is accessible in the offices of 23 of the 32 Judges. Several other Judges are based in District Offices that are a reasonably short drive from one of these VTC offices, such as Melbourne (1 Judge), St. Petersburg (2 Judges), and Port St. Lucie (1 Judge). This process will inure to the benefit of Florida in providing greater flexibility for redistribution of workload around the state. While maintenance, procurement, and operation of this network represent a financial commitment, it is far less than the expense associated with Judicial travel. Further, the disruption of the "visiting Judge's" regular workload is also diminished as is the time spent in actual transit. The OJCC Mission would be enhanced by provision of financial resources sufficient to deploy and maintain this technology in the remaining five Districts, St. Petersburg, Sarasota, Port St. Lucie, Melbourne, and Gainesville. Additional funding would allow deployment of this tool to the remaining Districts and the statewide process would be comprehensive.

The structure of the OJCC is statutorily defined. The legislature has defined the number of District offices that the OJCC "shall" maintain (17) and the number of Judges that the OJCC shall maintain (31) Fla. Stat. §440.44(5). In 2006, the legislature provided full-time staff positions for an additional Judge, Mediator, and three staff positions. This staff increase was the first significant change since state Mediators were added to the OJCC in 1994. In the process of adding these positions and providing the budgetary support for them, the provisions of Fla. Stat. §440.44(5) were not altered to recognize that there are currently thirty-two (32) Judges of Compensation Claims. This provision should be amended to reflect the current state of the Office.

Judges of Compensation Claims are appointed for terms of four years. Fla. Stat. §440.45(1)(a),(c). Judges are eligible for reappointment to successive terms. The process for such reappointment involves a review of judicial performance by the Statewide Judicial Nominating Commission (SJNC) six months prior to the expiration of the Judge's term. Following a favorable recommendation, the Judge's name is submitted to the Governor for consideration. In accepting an appointment as Judge of Compensation Claims, many Judges are leaving successful private practices, with a resulting significant decrease in earnings, as discussed above. State employees are provided with significant benefits including health insurance and retirement. In order to vest in the State retirement system, however, six years of employment is required. It is respectfully suggested that appointments of six years would significantly reduce the workload of the all-volunteer SJNC by decreasing the frequency of the recurrent reappointment interviews. Coincidentally, this proposed statutory modification would allow a Judicial applicant the reassurance that an initial appointment would be of sufficient duration to allow the Judge to vest in the retirement program. Such a reassurance, particularly in conjunction with the salary recommendations set forth herein, would incentivize accomplished and qualified applicants to seek Judicial appointments. Service by the most accomplished workers' compensation lawyers would enhance the performance of the OJCC.

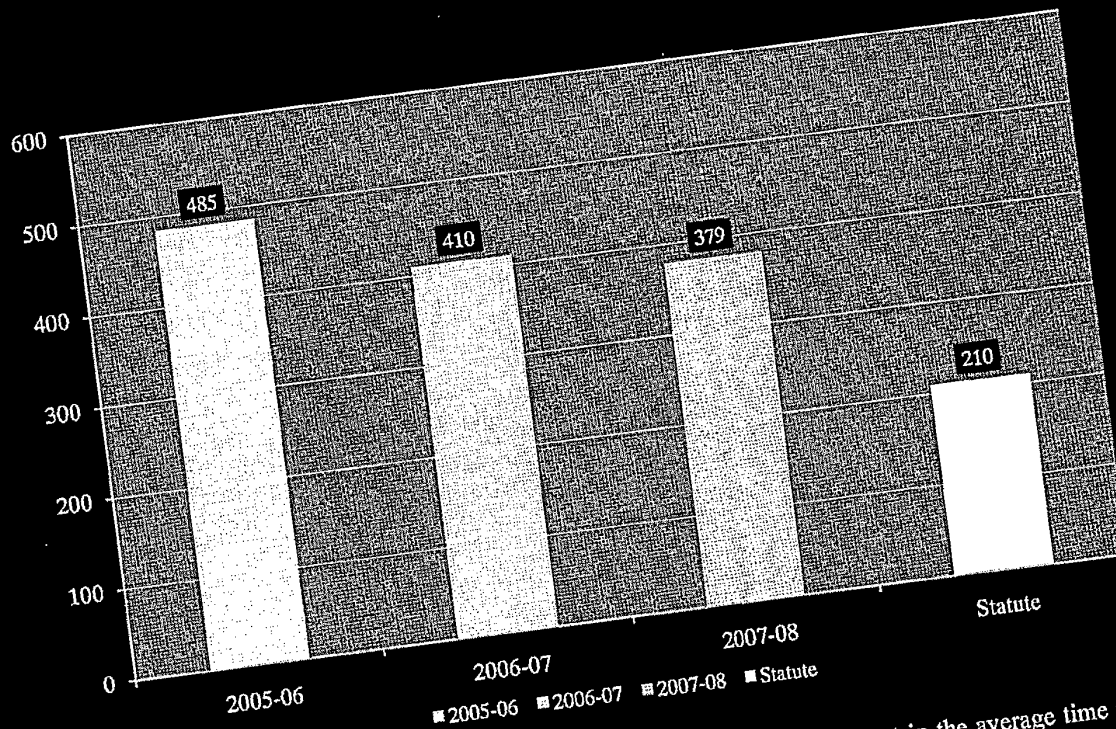
The entire OJCC budget is paid from the workers' compensation administrative trust fund. We expend no general revenue funds in our mission. Our Judges of Compensation Claims (JCCs) each handles a significant workload, on par with the workload and responsibility of Florida's Circuit Court Judges, in terms of trials held per Judge and filings per Judge. The salary for a JCC was statutorily tied to Circuit Judges until 1994. Prior to that time, our Judges earned \$4,000.00 less than a Circuit Judge. Since the time this statutory "tie-in" was removed, our Judge's salaries have failed to keep pace with inflation and are currently (\$122,564) well below where they would be had the tie-in remained in place (\$141,080). Under the pre-1994 tie-in, in 1993, JCC salaries were about 5% less than Circuit Judge's. During Fiscal 2008, JCC salaries were 16% below Circuit Judge's. This salary disparity is widened further by significant differences in the retirement contribution rates for Article V. Judges and the JCCs. Clerical positions in the OJCC face similar disparity with similar positions in Florida's Court system. Starting executive secretaries in the OJCC's Miami office earn about 18% less than the same employees in the Court system. Pay rates are determined in part by regional cost of living differentials (called CADs). Therefore, starting executive secretaries in the OJCC's North Florida offices earn about 13% less than similar Court system employees.

An additional budget amount of \$644,730 would correct these two significant inequities. This funding would be used to increase the JCC salary to \$133,020 (which is the salary of a County Court Judge minus \$4,000). This figure is well below the \$141,080 which the pre-1994 tie-in would have provided. This figure is also below the figure (\$136,242) which is the inflation adjusted 1989 JCC salary. These comparisons are illustrated in a chart below (JCC Salary). The OJCC budget has grown in the last 15 years. However, the budget growth has not matched inflation, as illustrated in the chart (OJCC Budget per FTE) below. The 2009 LBR request for \$644,730 represents an increase of only 3.3% (\$644,730/\$19,522,783) of the OJCC budget, which will nonetheless remain below the inflation adjusted budget. This increase represents recurring obligation, but is funded entirely from the trust fund established to pay the costs of administering this very system.

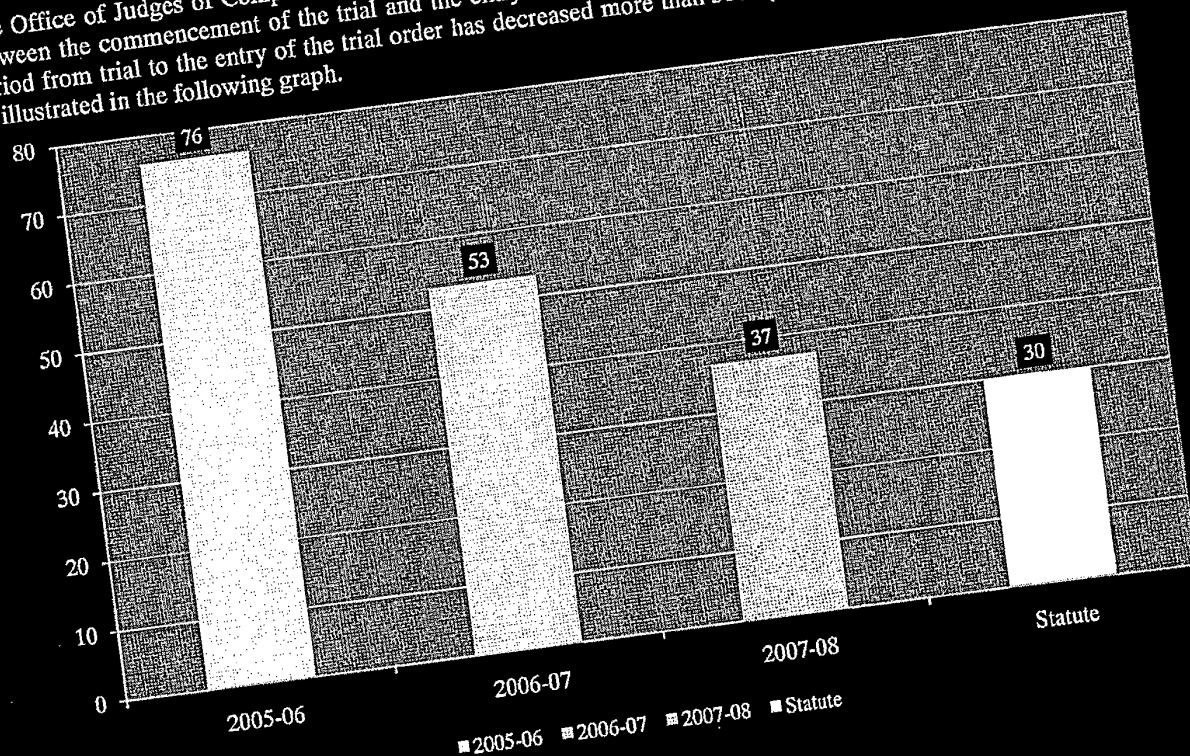


JUDGES GENERALLY ARE UNABLE TO MEET A PARTICULAR STATUTORY REQUIREMENT FOR REASONS BEYOND THEIR CONTROL. THE DEPUTY CHIEF JUDGE SHALL SUBMIT SUCH FINDINGS AND ANY RECOMMENDATIONS TO THE LEGISLATURE:

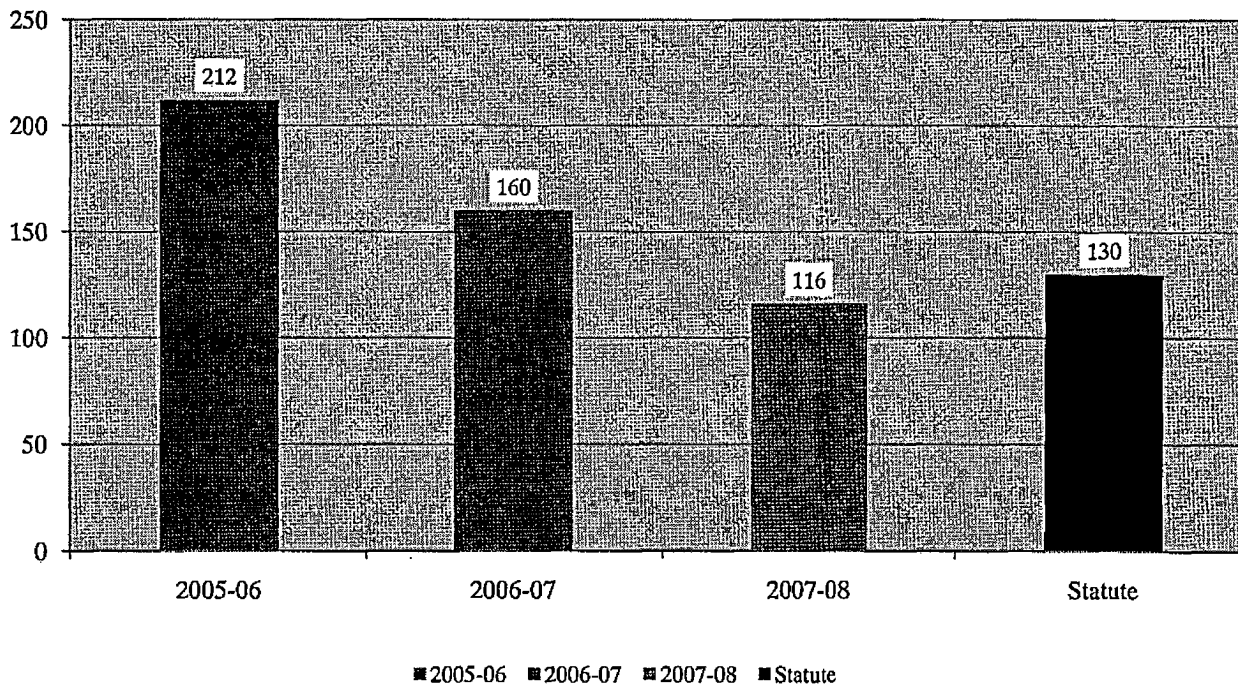
Each statutory requirement can clearly be accomplished in the vast majority of cases. This fact is indisputable and has been proven on more than one occasion and in various districts throughout Florida. It is therefore disingenuous to claim that cases "cannot" be tried within two hundred ten (210) days of PFB filing or that final orders "cannot" be timely issued within 30 days of trial. In a particular exceptional case, however, this standard may be unreasonable, due to the facts of that particular case. 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 fiscal years 2005-06, 2006-07 and 2007-08 one hundred percent (100%) compliance with these requirements was achieved by some individual Judges, although overall the OJCC did not meet this measure. The overall OJCC average time from operative pleading to commencement of trial has decreased 21% (379/485) over the last two fiscal years. As illustrated in the following graph, the OJCC overall average is decreasing steadily towards the statutory parameter of 210 days.³⁰



The Office of Judges of Compensation Claims has also made significant improvement in the average time period between the commencement of the trial and the entry of the final order thereon.³¹ The overall statewide average period from trial to the entry of the trial order has decreased more than 50% (37/76) over the last two fiscal years, as illustrated in the following graph.



A frequent reason that these statutory parameters are not met is the mandatory expert medical examiner ("EMA") provisions. The impact of the EMA process is explained in the 2005-06 Annual Report of the Office of Judges of Compensation Claims. Perhaps the most impressive improvement, however, is the marked decrease (-28% = 44/160) in the overall statewide average period between the filing of a petition and the first mediation conference held thereon. Though the OJCC is approaching compliance with the statutory time parameters in other areas, the 2007-08 average of 116 days is within the statutory parameter for mediation (130 days).



Statutory Measures:

Judges of Compensation Claims (JCC) are appointed by the Governor for a term of four (4) years. A JCC may thereafter be re-appointed by the Governor for successive four year terms. The re-appointment process is to be initiated approximately six (6) months prior to the expiration of the JCC's term with review of the Judge's performance by the Statewide Nominating Commission (SNC). Fla. Stat. §440.45(2)(c),³² mandates that the SNC consider "the extent to which the judge has met the requirements of this chapter, including, but not limited to" the following eight specific statutory provisions: Fla. Stat. §440.25(1)³³(timely mediation), Fla. Stat. §440.25(4)(a)³⁴(pretrial procedure), Fla. Stat. §440.25(4)(b)³⁵(appropriate continuance grounds and orders), Fla. Stat. §440.25(4)(c)³⁶(timely final hearing notice), Fla. Stat. §440.25(4)(d)³⁷(timely final hearings and final orders), Fla. Stat. §440.25(4)(e)³⁸(final order filing), Fla. Stat. §440.34(2)(appropriate fee order findings), Fla. Stat. §440.442³⁹(Compliance with Code of Judicial Conduct). Despite the clear statutory mandate for such reporting, these statutory measures have not previously been reported by the OJCC. This annual report marks the second 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 and final orders, final order filing, compliance with Code of Judicial Conduct). This Report provides data regarding 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 work-load between and among Judges and districts. Furthermore, these statutory measures and workload volumes document certain activities, but do not necessarily reflect judicial performance. Any consideration of judicial performance must also include subjective factors such as judicial demeanor, courtesy to litigants and counsel, and respect of the Office and the responsibilities it embodies. In an effort to evaluate these factors, the OJCC worked

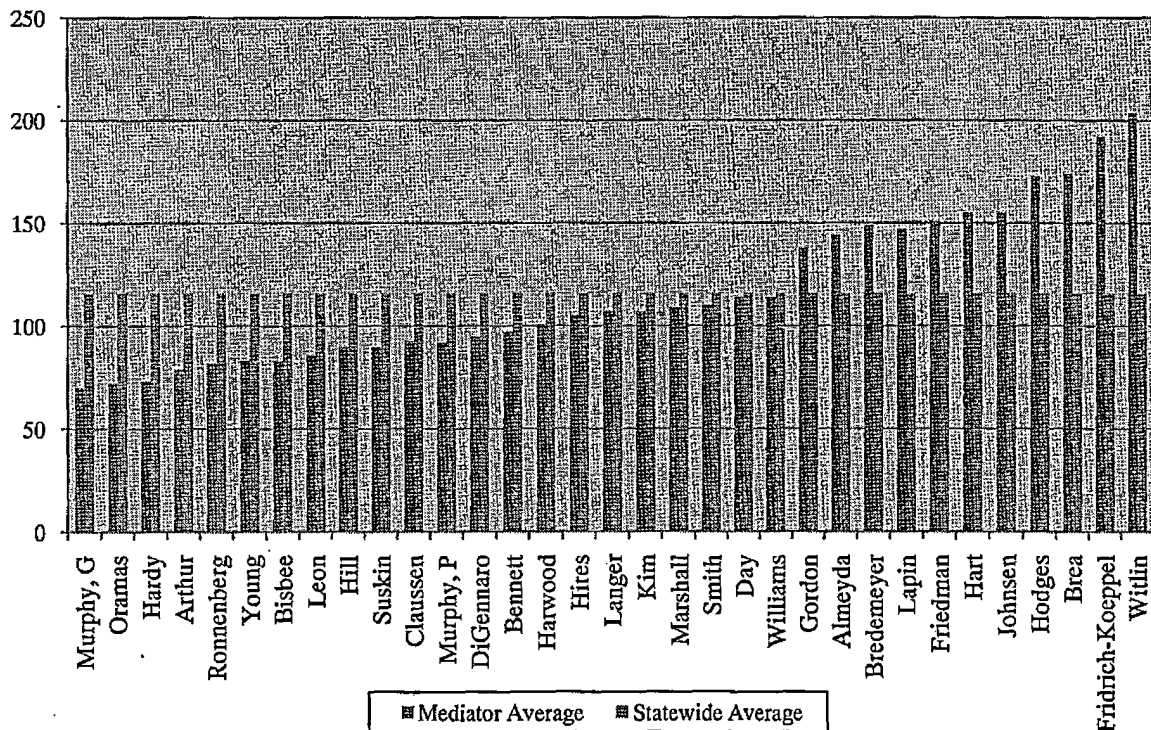
with the Workers' Compensation Section of The Florida Bar in 2007-08 to deploy the first Judicial Survey of the JCCs on a statewide basis. The results of that effort were deployed on the OJCC website (www.fljcc.org).

For the purposes of this report, "final hearings" include: Evidentiary Motion Hearing, Expedited Final Hearing, Fee Amount Hearing, Fee Entitlement Hearing, Final Hearing, and Fund Hearings. Therefore the information herein regarding the timely conduct of hearings and entry of "final orders" includes analysis of all instances of these types of "trials," and the orders that result.

Mediation:

Timeliness of is addressed in Fla. Stat. §440.25(1). This Legislative measure requires that mediation on each PFB must 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 in the state (red bars). The statewide average is also depicted (green bars). The average days between PFB filing and the first mediation is also provided for the mediators within each district in the district appendices at the end of this report.

The data for this measure indicates significant improvement in the frequency of timely mediation. In fiscal year 2006-07, the statewide average for all state mediators was 160 days. In 2007-08, the statewide average decreased twenty-three percent (23%) to 116 days. The frequency of mediation held within 130 days of PFB filing in fiscal year 2007-08 was eighty-eight percent (88%). In 2007-08 twenty-two of the state mediators had an average of less than 130 (the statutory period) from PFB filing to the first mediation. The frequencies for each division are described in the various appendices of this report, along with the statewide average of timely mediations.



Pretrial Hearing:

The timeliness of pretrial hearings is addressed in Fla. Stat. §440.25(4)(a). This statutory measure requires that the JCC conduct a pretrial hearing prior to trial and that the JCC provide the parties with fourteen days notice of such hearing. The available data do not support any conclusion regarding this statutory measure. The JCC Application is capable of generating notices of any of the events common to the processing of a Petition, 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 2007-08 supported that appropriate notice is being provided for pretrial proceedings. The anecdotal evidence, an absence of any complaints or allegations of insufficient pretrial notice, also supports that the OJCC complies with this statutory measure.

The absence of pretrial notice "comments" in some case dockets suggests that a number of the divisions do not utilize this automatic notice function. In those divisions, it would be impossible to independently verify the issuance of timely notices without an on-site audit of a paper file maintained in that individual district office.

It is therefore believed that each OJCC division is in compliance with the requirement of timely pretrial notice. During 2008-09, the OJCC will undertake additional efforts to document compliance and report further regarding these efforts and compliance with this statutory requirement in the next OJCC Annual Report.

Final Hearing Notice:

Timely notice of final hearings is mandated by Fla. Stat. §440.25(4)(c). This statutory measure requires that the Judge provide the parties with fourteen (14) days' notice of final hearings. 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 that in the electronic case docket. The 2007-08 audit of case dockets supports that timely notice is being provided for all final hearings. Although some case dockets do not contain these docket remarks, this is likely because that particular division is not utilizing the automatic notice generation function. The absence of any complaints of untimely final hearing notice also anecdotally supports that appropriate statutory notice is being provided. Despite this belief, the OJCC will undertake additional efforts in 2008-09 to assure that the electronic case dockets are either automatically documenting this action, or that the docket is manually annotated in those divisions that do not utilize the automated function. In 2008-09 ten final hearings in each division will be randomly selected for audit for this measure. The docket annotation of notice provision or uploaded notice will be utilized to determine the timing of notice and thereby the compliance with this measure. The OJCC will report further on the progress of this documentation effort in the 2008-09 OJCC Annual Report.

Final Hearing Continuance:

In this regard, the meaning of "continuance" is worthy of reiteration. Many cases cannot be mediated or tried on the date upon which they are scheduled. This is often known fairly soon after the hearing or mediation is noticed. If the parties seek to change that 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." This characterization is a logical differentiation that recognizes both the statutory parameters and that many times the new hearing or mediation date is prior to the originally scheduled event. Any hearing that is characterized as "continued" in the database should have a corresponding continuance order in the case docket. The order should document the circumstances. The order should also set forth the new event (trial or mediation) date.

Continuance of final hearings is addressed in Fla. Stat. §440.25(4)(b). This statutory measure requires that the Judge generally only grant a continuance in defined circumstances. In the 2006-07 OJCC Annual Report, the statutory requirements were described. The timing of each OJCC Annual Report provides context for the efforts to move the OJCC toward effective reporting of all of the statutory measures. The OJCC fiscal year concludes on June 30 each year. However, the Annual Report cannot be compiled and published until all data is available. Because the deadline for reporting defense attorney's fees is October 1 each year, publication of the report is necessarily after that date. The publication deadline is December 1. Therefore at least 3, and as many as 5 months of the current fiscal year, will have passed when the prior year's Annual Report is published.

Arguably, the requirement of reciting continuance circumstances and including a new trial date in all continuance orders is something of which any practitioner and Judge would be aware. However, this has been a standard that has not been previously studied by the OJCC. As described above, much of 2007-08 had already passed before the statutory requirements were described in the 2006-07 Annual Report. In order to transition to

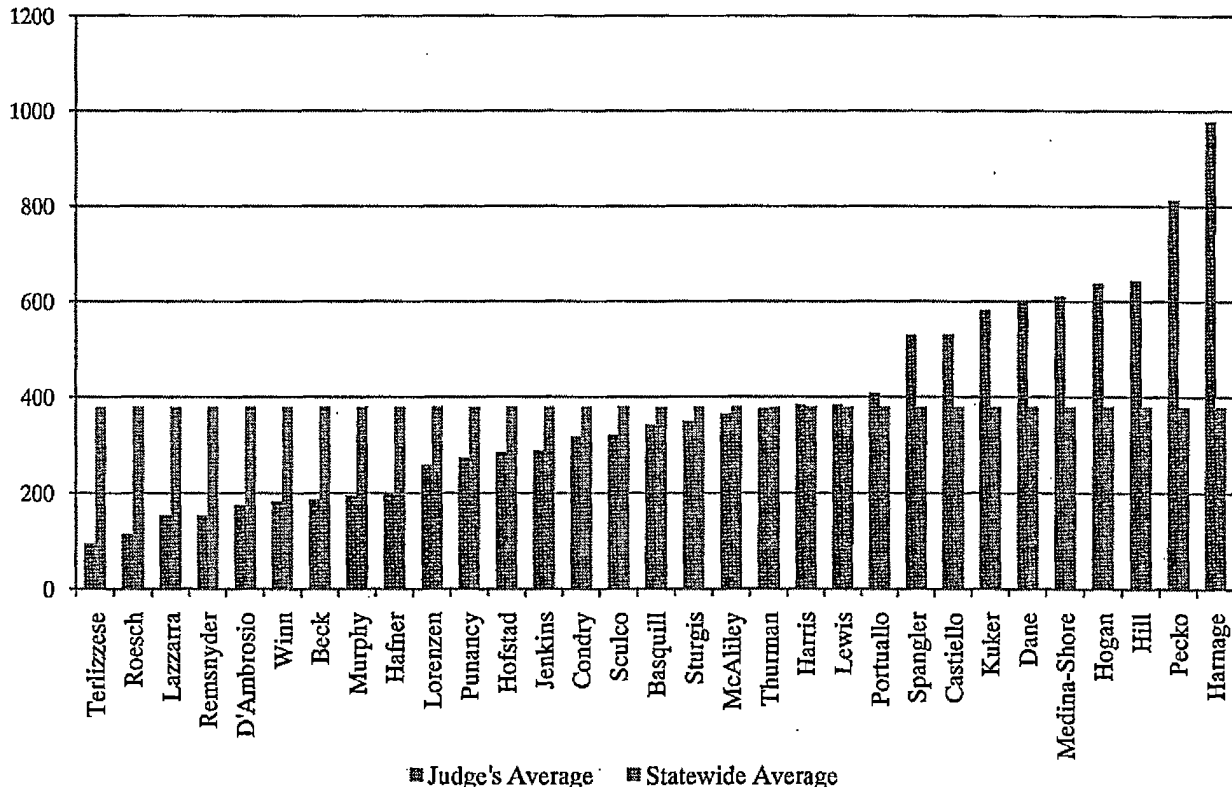
accurately measuring the compliance with this statutory measure, the OJCC undertook an audit of continuances last year and reports the aggregate results this year. This begins the process of better and detailed reporting on this statutory measure.

Ten continued final hearings were randomly selected for each Judge during 2007-08. Some Judges' cases did not include ten instances of final hearing continuance. Each of those case dockets was searched for a corresponding order "continuing" that hearing. Of the "continued" hearings, orders were located for 96%. The continuance circumstances were described in only 20% of those orders. Additionally, however the approved motion was scanned and uploaded with the continuance order (providing the description of the circumstances albeit in a separate document) in another 49% of those continuance orders. Thus, the circumstances are effectively described in 69% of the continuance orders entered. The new trial date was set forth in 89% of the continuance orders entered.

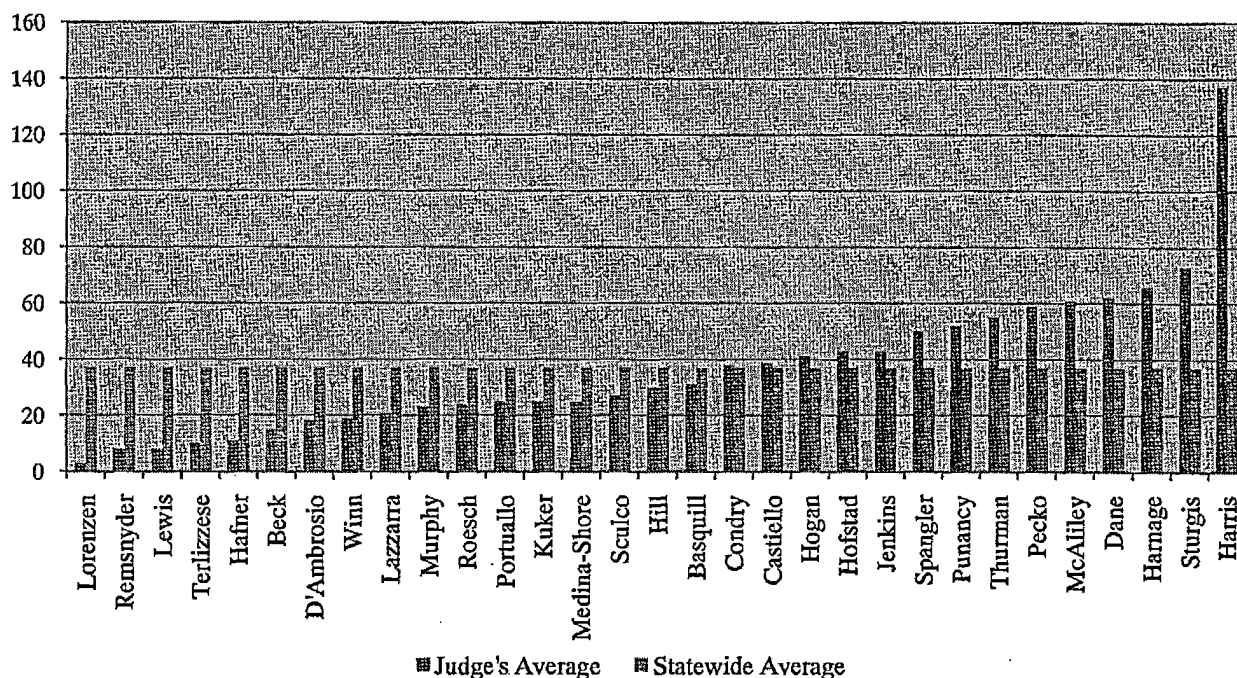
These aggregate statistics support that most Judges are entering continuance orders and the vast majority of those orders set forth a new hearing date. Compliance is markedly less with reciting the circumstances or appending the order to the subject motion to provide that information. In 2008-09, the OJCC will again audit a sampling of "continued" final hearings. The volume of those that have orders entered, in which the circumstances are described, and in which a new trial date is stated, will all be measured and reported for each Judge.

Timely Final Hearings and Final Orders:

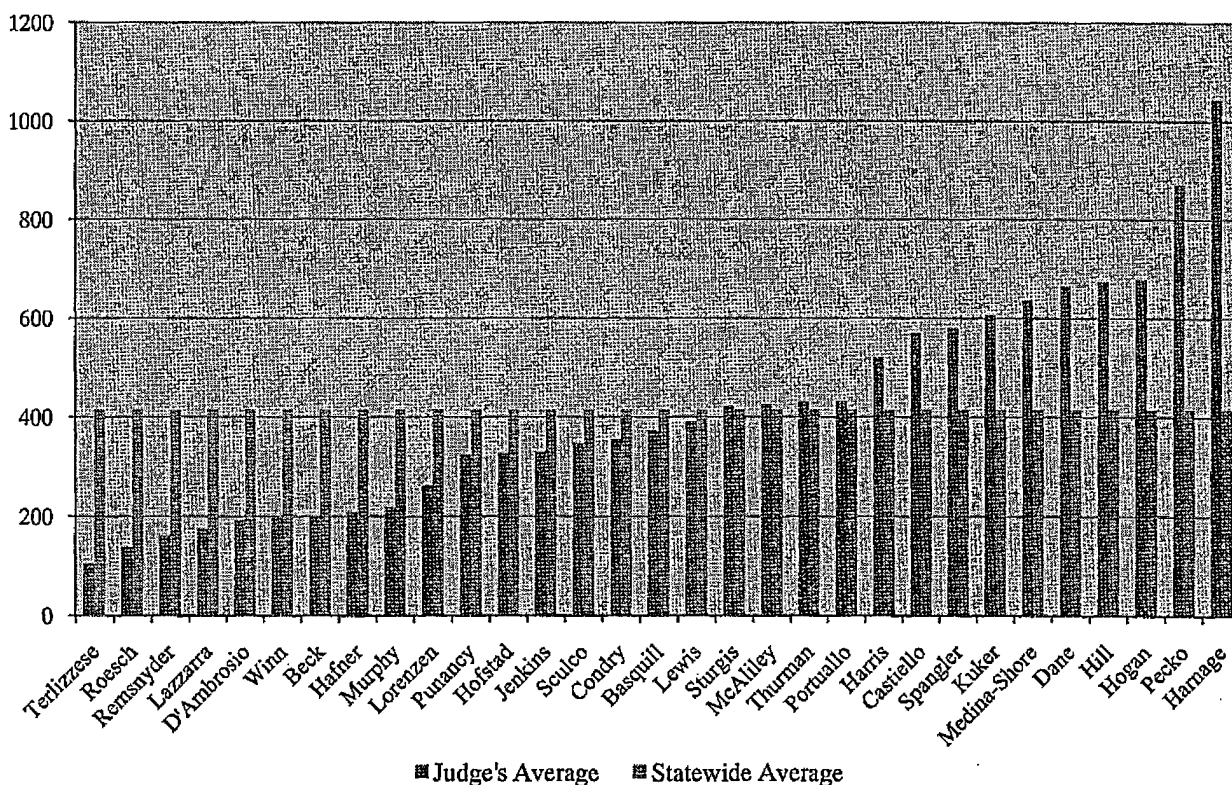
Timely final hearing proceedings are defined by Fla. Stat. §440.25(4)(d). This Legislatively mandated measure requires that the Judge conduct a final hearing within two hundred ten (210) days of PFB filing. This statute also mandates that the resulting final order be published and served within thirty (30) days of the final hearing. Each trial order entered by each JCC during the 2007-08 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 and final order. The following graph depicts each JCC's average number of days between PFB filing and the first day of trial.



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.



The following graph depicts each JCC's average number of days between PFB filing and entry of the final order (red bars), the statewide average (green bars) and the combined statutory standard of 240 (201 PFB to trial plus 30 trial to order) days.



Final Order Filing:

The filing of final orders in Tallahassee, Florida is mandated by Fla. Stat. §440.25(4)(c). This statutory measure requires that the Judge file all final orders with the Office of the Judges of Compensation Claims in Tallahassee, Florida. The data support that all of the JCCs are in complete compliance with this statutory requirement.

Attorney's Fee Orders:

Contents of attorney's fee orders is addressed in Fla. Stat. §440.34(2).⁴⁰ This statutory measure requires the JCC to identify the amount, statutory basis, and type of benefits obtained through legal representation which shall be listed on all attorney's fees awarded by the judge of compensation claims. Claimant attorney's 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 in 1994. Then Chief Judge Walker interpreted the law as applying to only claimant attorney's fees, and a notice of that interpretation was published. The current OJCC leadership does not construe anything in Chapter 440 as sufficient authority for the Deputy Chief Judge to issue such legal interpretations purportedly to control or influence the independent decision making of the 32 various Judges of Compensation Claims.

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's fees and/or costs is generally plead in the petition for benefits that seeks a statutory benefit for the injured claimant, such as a change in physician, 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's fees and/or costs that flow from previously obtaining that benefit. 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.

Thus, after a claimant has received a benefit through agreement, entitlement and/or amount of fees and costs may remain pending. After 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 re-plead for adjudication in a Motion or Petition for attorneys fees and/or costs. The subject Motion or Petition is sometimes filed years after the underlying benefit is provided or awarded. The OJCC regularly holds hearings on attorney fee issues that are divided into two main categories, fee entitlement hearings and fee amount hearings. The trial orders 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 in conjunction with a settlement of the claimant's entire case. Those instances are commonly referred to as a "side stipulation" resolving some 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, four kinds of OJCC orders address claimant's attorney fee agreements, case settlement fees, side stipulations and ex-parte fee orders. A fifth category of orders, the trial order on a Motion or Petition for fees, also addresses the fee issue.

The OJCC audited JCC orders awarding contested attorney's fees for fiscal 2007-08. This audit revealed full compliance with the statutory requirements for order content found in Fla. Stat. §440.34(2). 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.

Compliance with the Code of Judicial Conduct:

JCC judicial conduct is controlled by Fla. Stat. §440.442. This Legislatively mandated measure requires that the Judge of Compensation Claims complies with the Code of Judicial Conduct. Complaints regarding failure to comply with this Code are investigated by the Director of the Division of administrative Hearings (DOAH). No JCC was found to have violated the Code in fiscal 2006-07. Therefore, each JCC fulfilled this measure for fiscal year 2006-07. The OJCC has instigated significant efforts to assure future compliance with this Code. These efforts include ongoing continuing education and individual efforts at reinforcing appropriate judicial action.

Conclusion:

The OJCC made great strides in 2006-07 to bring uniformity and consistency to performance. The efforts directed toward defining terms and consistent data entry throughout the Districts resulted in better overall data for analysis in 2006-07. The success of that process is more clear in the 2007-08 data output which demonstrates the same consistency and marked improvement in the OJCC overall performance. The OJCC recognizes the integral role that technology will play in the future of all litigation, and has embraced the benefits of electronic filing and web-based dissemination of information. In 2007-08 the OJCC committed to the deployment of video teleconference (VTC) technology and the benefits of workload sharing that this offers. These technological advances facilitate the efficient practice of law, and their employment by the OJCC will work to the advantage of all constituents of the OJCC litigation process. As these enhancements facilitate more efficient legal practice and as trends continue to litigation on a statewide basis, the OJCC will continue to strive for ever greater consistency in District and division operations and processes.