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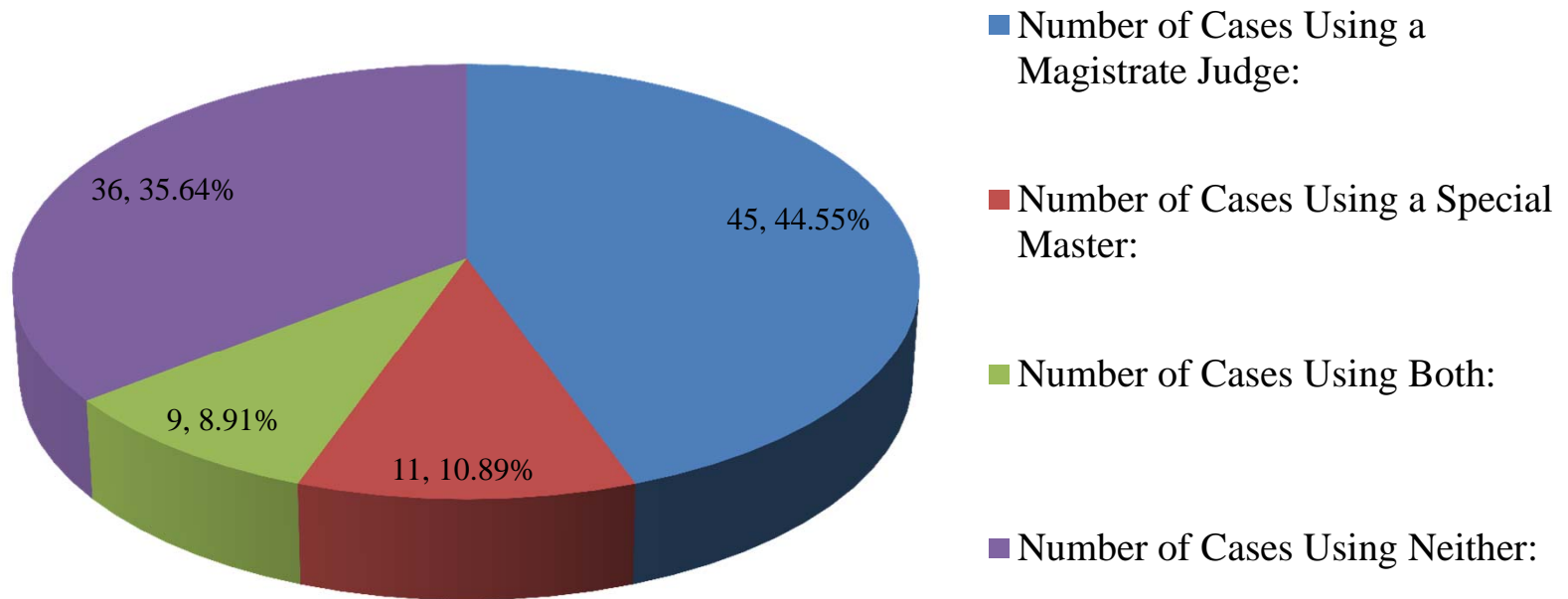
Appendix A-1

General Data for 2011-2012 Closed MDLs

MDLs with Docket Information Available:	101
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Number of Cases Using a Magistrate Judge:	45	44.55%
Number of Cases Using a Special Master:	11	10.89%
Number of Cases Using Both:	9	8.91%
Number of Cases Using Neither:	36	35.64%

Breakdown of MDLs

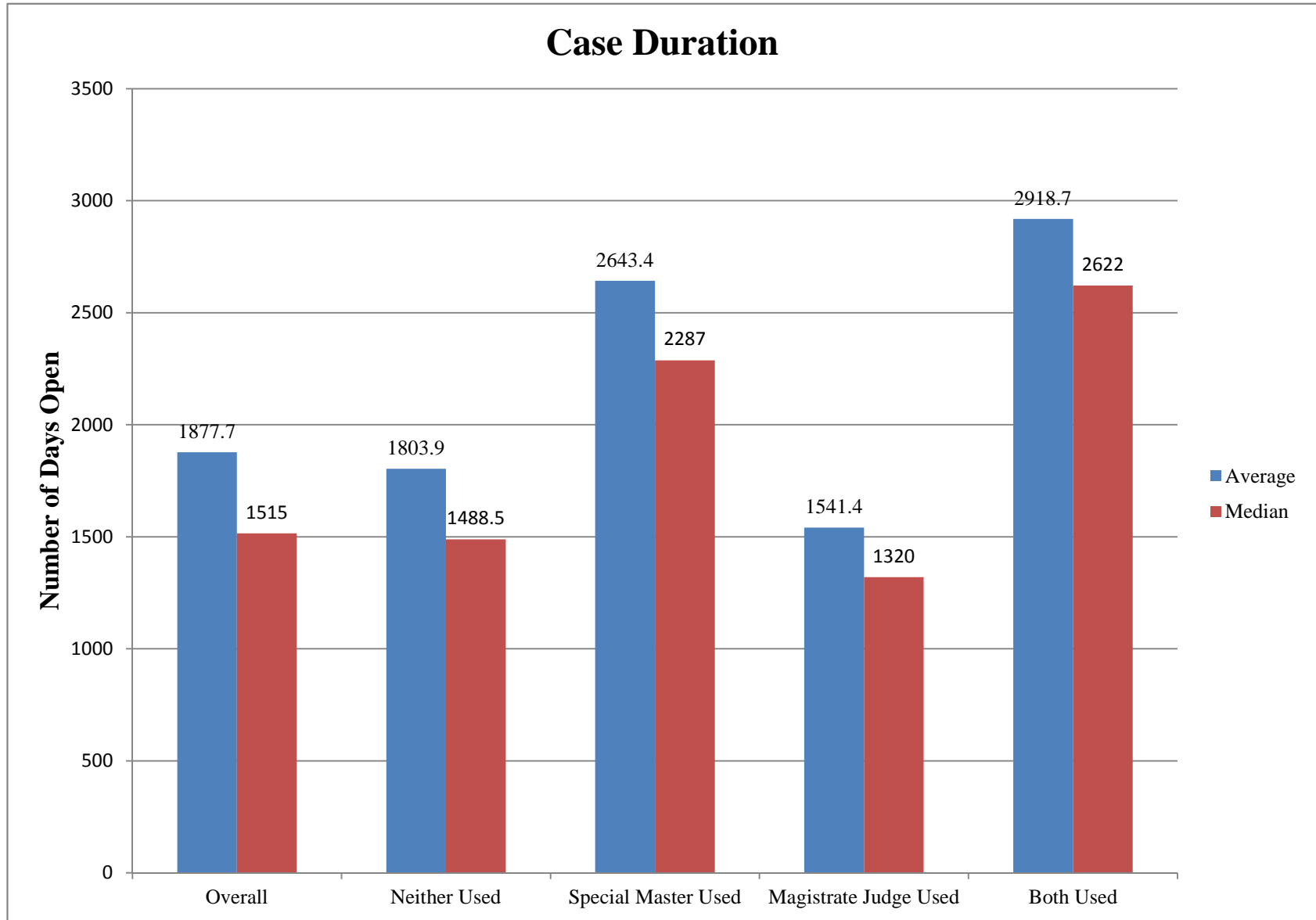


Appendix A-2

MDL Case Duration

	Average Number of Days	Median Number of Days
Overall	1877.7	1515
Neither Used	1803.9	1488.5
Special Master Used	2643.4	2287
Magistrate Judge Used	1541.4	1320
Both Used	2918.7	2622

Case Duration



Appendix A-3

Number of Cases Originally Consolidated into the MDL

Total Average # of Cases Consolidated:	9.95
Average # of Cases Consolidated when NEITHER are used:	7.97
Average # of Cases Consolidated when a Magistrate Judge is used:	12.2
Average # of Cases Consolidated when a Special Master is used:	5.81
Average # of Cases Consolidated when BOTH are used:	6.33

Appendix A-4

Breakdown of Magistrate Judge and Special Master Use by MDL Type

	Total	Info Available In	Cases with SM	% of MDL Type with a SM	Cases with MJ	% of MDL Type with a MJ	Cases with Both	% of MDL Type with Both	Cases with Neither	% of MDL Type with Neither
Air Disaster	4	3	0	0%	1	33.33%	0	0%	2	66.67%
Antitrust	16	13	1	8%	8	62%	1	8%	3	23.08%
Common Disaster	1	1	0	0%	1	100%	0	0%	0	0.00%
Contract	3	3	0	0%	2	67%	0	0%	1	33.33%
Employment Practices	11	11	0	0.00%	4	36.36%	1	9.09%	6	54.55%
Miscellaneous	19	17	4	23.53%	6	35%	2	12%	5	29.41%
Products Liability	19	19	6	32%	4	21%	5	26%	4	21.05%
Sales Practices	23	23	0	0%	11	47.83%	0	0%	12	52.17%
Securities	12	11	0	0%	0	73%	0	0%	3	27.27%
Total	108	101	11		37		9		36	

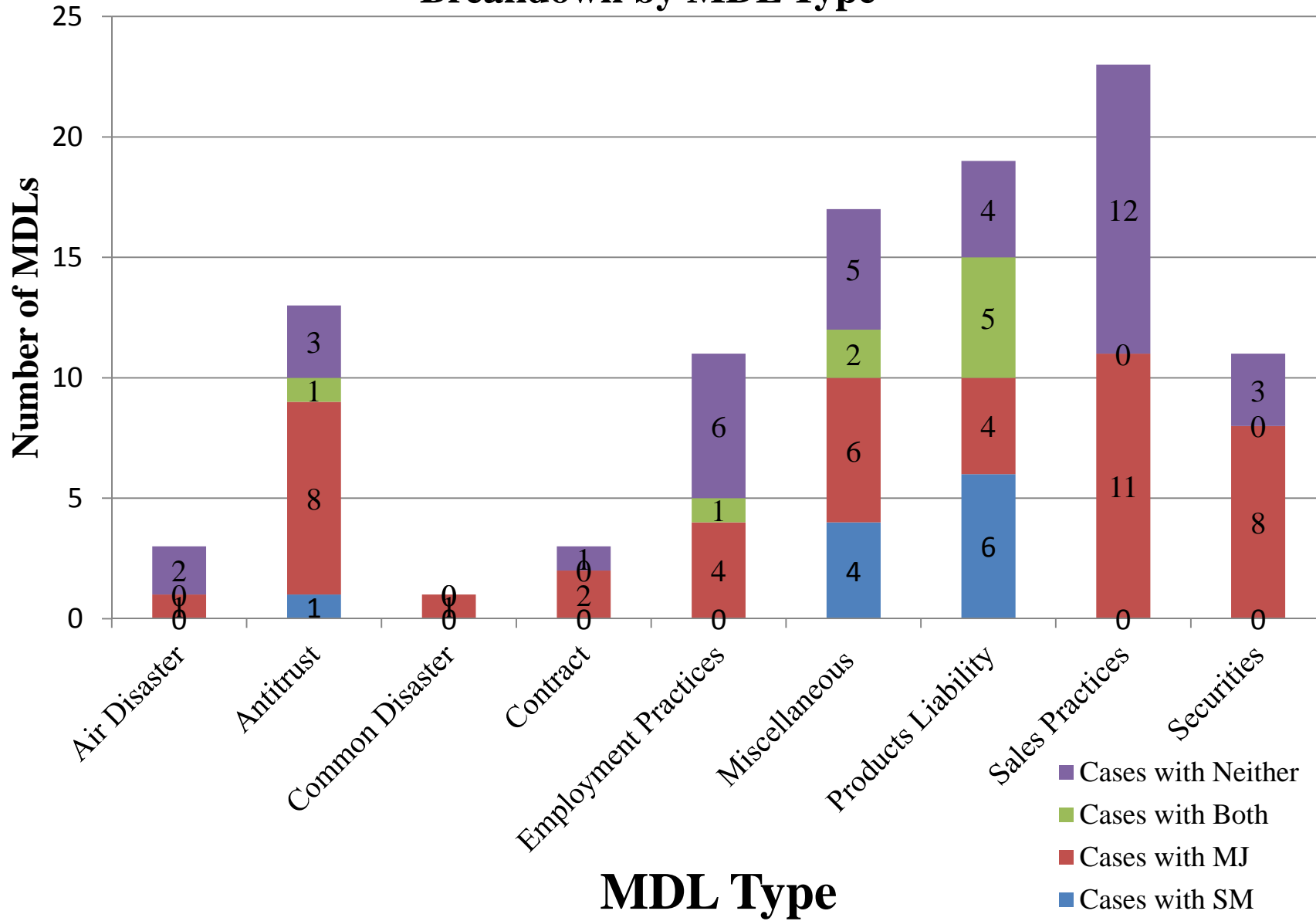
Out of the 108 MDLs that closed in 2011 and 2012, full docket information was available in only 101 MDLs. The far left chart shows the number of each MDL type and the proportion of the sample size they represent.

The second chart shows the number of each MDL type that used a Special Master, followed by the percentage of that MDL type that used a Special Master.

The third chart shows the number of each MDL type that used a Magistrate Judge, followed by the percentage of that MDL type that used a Magistrate Judge.

Finally, the fourth and fifth charts show the number of each MDL type that used both or a Special Master and Magistrate Judge, followed by the percentage of that type of MDL.

Breakdown by MDL Type



Appendix A-5

Magistrate Judge and Special Master Functions and Appeals

Magistrate Functions - Overall 2011-12

<u>MJ Function Info Available for:</u>	<u>52 of 54</u>	
General Pre-Trial	27	51.92%
Specifically Discovery	17	32.69%
Mediation	11	21.15%
Special Master	1	1.92%
Other	2	3.85%

Although 54 out of the 101 MDLs cases showed magistrate judge activity in the dockets, information on the magistrate's function was available in only 52 of these cases. Keeping in mind that magistrates sometimes performed more than one function, this is the breakdown of their duties. Ex: 51.92% of the 52 magistrates performed general pre-trial duties.

		<u>% of MJ</u> <u>cases</u>	<u>% of</u> <u>Overall</u> <u>MDLs</u>
<u>Cases Appealed:</u>	18	34.62%	17.82%
Number of Remands:	3	5.77%	2.97%
Remands Involving MJ's Decisions:	0	0	0

Out of the 54 cases with magistrate judges, 18 were appealed. However, only 3 of these 18 cases were reversed and remanded, and none of them were reversed based on decisions made by the magistrate judge.

Special Master Functions - Overall 2011-12

<u>SM Function Info Available for:</u>	<u>18 of 20</u>	
Calculate Attorneys' Fees	2	11.11%
Summary Jury Trial	1	5.56%
Mediation	3	16.67%
Settlement Administration	3	16.67%
Discovery	9	50.00%
Broad Judicial	3	16.67%
<u>Orders Available for:</u>		
	<u>14 of 20</u>	
Rule 53 Cited in:	10	71.43%
Consented Cited in:	9	64.29%
Exceptional Circumstances Cited:	0	0.00%
Judicial Resources Cited in:	4	28.57%
Inherent Powers cited in:	2	14.29%
Claimed to Consult with MJ in:	2	14.29%

Data about what each special master did was available in only 18 of 20 cases where a special master was used. Note that a special master was sometimes used to perform multiple duties.

Downloadable orders were available in only 14 of 20 cases. These were the justifications given by the district level judges who appointed special masters. Note that judges often cited more than one reason for appointing a special master.

<u>Cases Appealed:</u>	<u>6 of 20</u>	<u>% of SM cases</u>	<u>% of Overall MDLs</u>
Number of Remands:	2	10.00%	1.98%
Remands Involving SM's Decisions:	1	5.00%	0.99%

Out of the 20 MDLs with special masters, 6 of them were appealed. However, only 2 of those appeals resulted in remands, and only 1 of those 2 was remanded due to a special master's decisions.

Appendix A-6

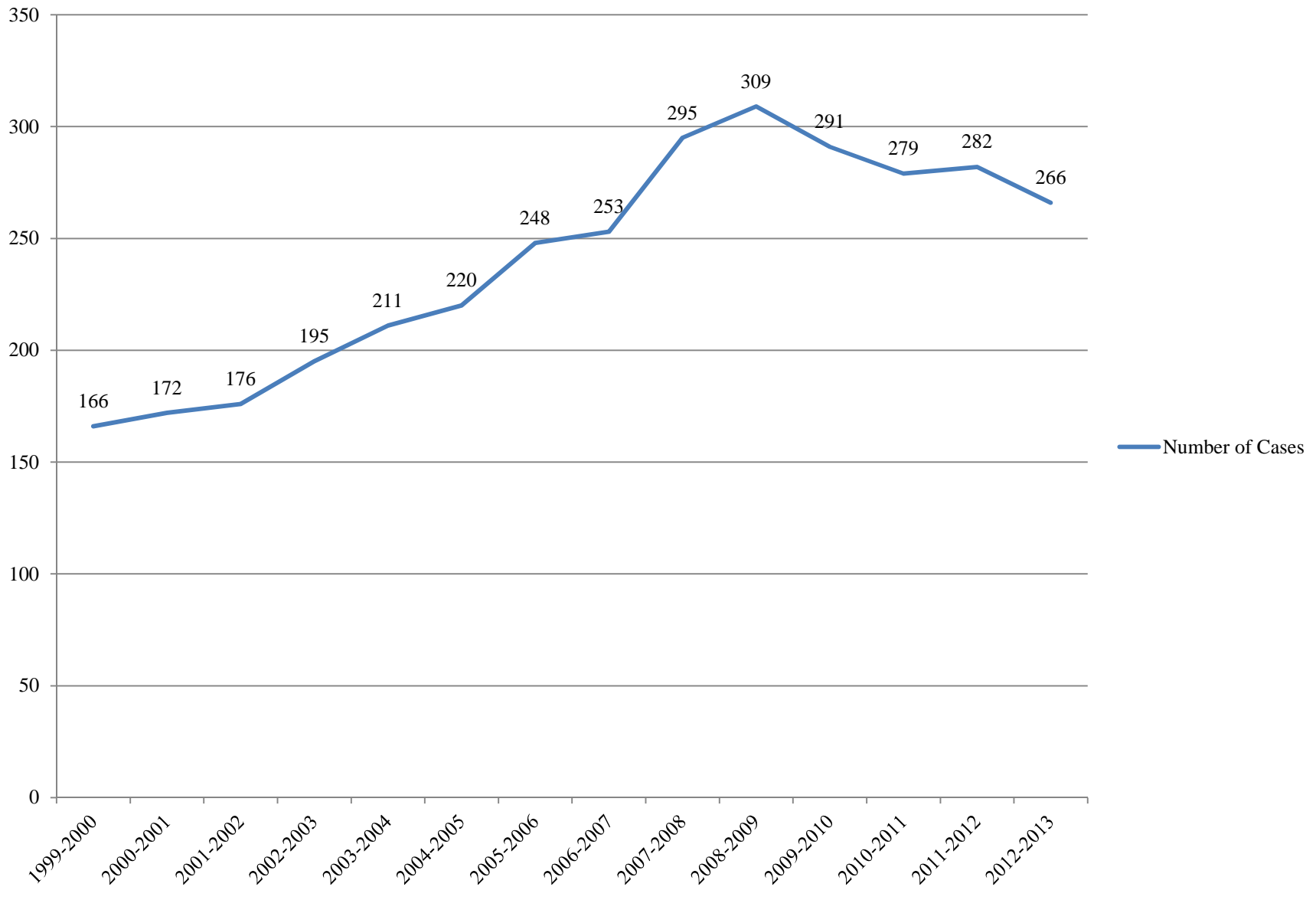
Magistrate Judge and Special Master Functions When Both Are Used

<u>MDL</u>	<u>Special Master</u>	<u>SM Function</u>	<u>Magistrate</u>	<u>MJ Function</u>
1888 IN RE: Marine Hose Antitrust Litigation (No. II)	Brian Spector	Mediation	Ted Bandstra	Pre-trial Discovery
969 IN RE: Unisys Corp. Retiree Medical Benefit "ERISA" Litigation	Harvey Bechtel	Trial	Jacob Hart	Mediation
1373 IN RE: Bridgestone/Firestone, Inc., Tires Products Liability Litigation	Debra McVicker Lynch*	Discovery	Sue Shields Barbara Major Bert Milling	N/A
1817 IN RE: CertainTeed Corp. Roofing Shingle Products Liability Litigation	Louis Bechtel	Settlement Administration	M. Faith Angell	Pre-trial
1490 IN RE: Commercial Money Center, Inc., Equipment Lease Litigation	Shannan C. Krasnokutski	Broad "judicial" powers	Nancy Vecchiarelli	Discovery
1930 IN RE: Wells Fargo Mortgage Lending Practices Litigation	Ronald Sabraw	Discovery	Nathanael Cousins	Discovery
1596 IN RE: Zyprexa Products Liability Litigation	Peter Woodin	Discovery	Roanne Mann	Pre-trial Discovery
1708 IN RE: Guidant Corp. Implantable Defibrillators Products Liability Litigation	Mag. Judge Arthur Boylan Patrick Juneau (Assistant SM)	Mediation	Arthur Boylan	Special Master
1968 IN RE: Digitek Products Liability Litigation	Chuck Smith	Settlement Administration	N/A	N/A

* Debra McVicker Lynch was later appointed as a magistrate judge in the Southern District of Indiana.

Appendix A-7

MDL Cases Pending Each Year



Appendix A-8

Number of Actions Consolidated and Case Duration

No Fill = Neither Magistrate nor Special Master Used

Purple Fill = Magistrate Judge Used

Blue Fill = Special Master Used

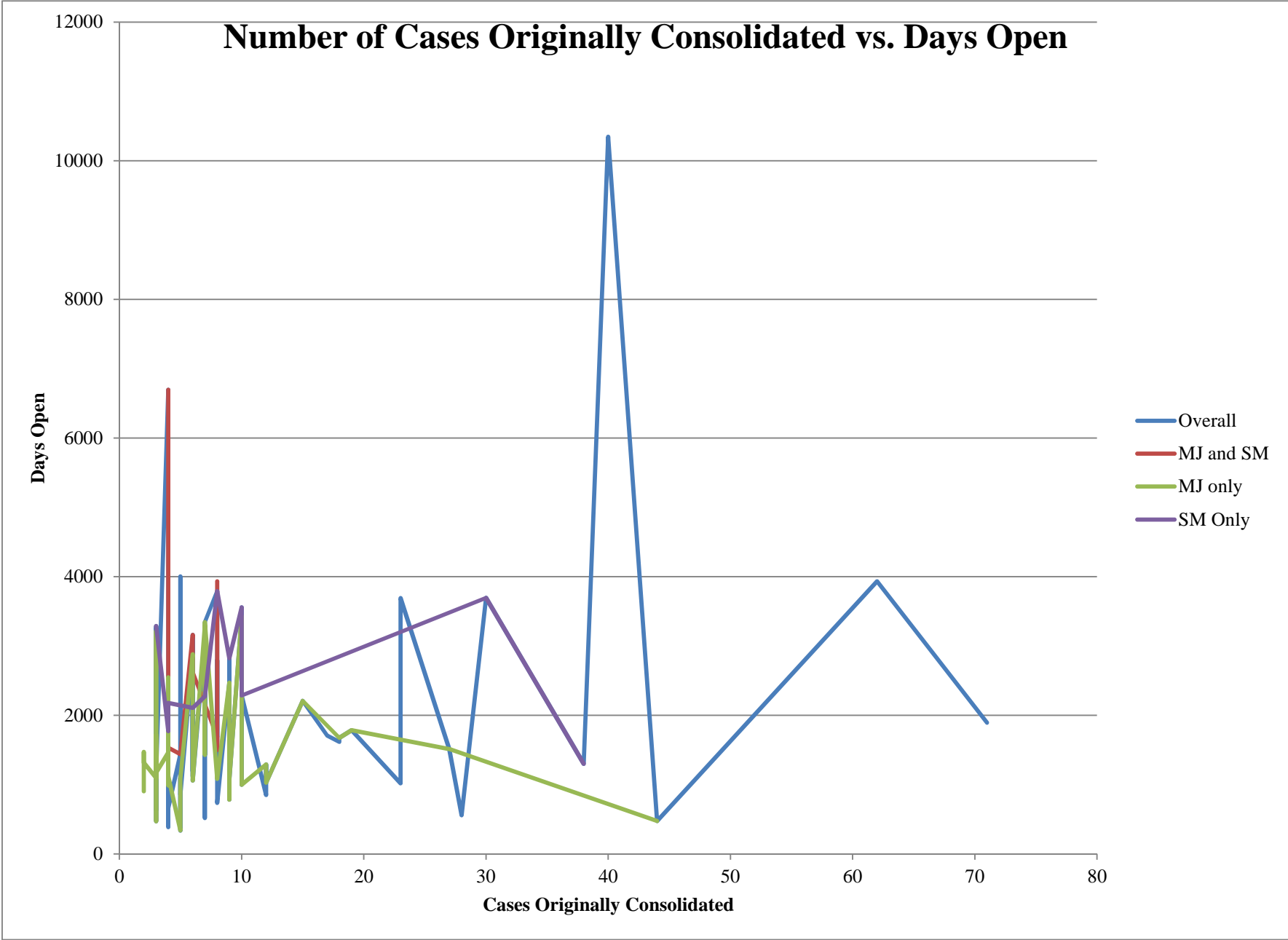
Yellow Fill = Both Used

<u>MDL</u>	<u># Consolidated</u>	<u>Days Open</u>
1841 IN RE: Wells Fargo Loan Processor Overtime Pay Litigation	2	1676
2022 IN RE: Payless ShoeSource, Inc., California Song-Beverly Credit Card Act Litigation	2	907
1825 IN RE: Midland National Life Insurance Co. Annuity Sales Practices Litigation	2	1672
1989 IN RE: SemGroup Energy Partners, L.P., Securities Litigation	2	1209
1981 IN RE: AON Corp. Wage & Hour Employment Practices Litigation	2	1472
2028 IN RE: Edward H. Okun Internal Revenue Service § 1031 Tax Deferred Exchange Litigation	2	1320
2037 IN RE: Air Crash Over Makassar Strait, Sulawesi, Indonesia, on January 1, 2007	3	875
2144 IN RE: Air Crash Over the Mid-Atlantic on June 1, 2009	3	638
1770 IN RE: Wells Fargo Home Mortgage Overtime Pay Litigation	3	2115
1984 IN RE: DirecTech Southwest, Inc., Fair Labor Standards Act (FLSA) Litigation	3	1096
1748 IN RE: Profiler Products Liability Litigation	3	2110
1704 IN RE: M3Power Razor System Marketing & Sales Practices Litigation	3	2129
2076 IN RE: Park West Galleries, Inc., Marketing and Sales Practices Litigation	3	803
1609 IN RE: Service Corporation International Securities Litigation	3	2700
1987 IN RE: Webkinz Antitrust Litigation	3	1512
1914 IN RE: Mercedes-Benz Tele Aid Contract Litigation	3	1718
1564 IN RE: Farmers Insurance Co., Inc., FCRA Litigation	3	3288
2057 IN RE: Kaplan Higher Education Corp. Qui Tam Litigation	3	1236
2141 IN RE: Verizon Wireless Data Charges Litigation	3	803
2202 IN RE: Regions Bank ATM Fee Notice Litigation	3	472
1537 IN RE: Nortel Networks Corp. "ERISA" Litigation	3	3220
1584 IN RE: Federal Home Loan Mortgage Corp. Securities & Derivative Litigation (No. II)	3	3253
2014 IN RE: Bank of America Corp. Auction Rate Securities (ARS) Marketing Litigation	3	1176

969 IN RE: Unisys Corp. Retiree Medical Benefit "ERISA" Litigation	4	6697
1875 IN RE: RadioShack Corp. "ERISA" Litigation	4	1421
1790 IN RE: Volkswagen and Audi Warranty Extension Litigation	4	1772
1721 IN RE: Cessna 208 Series Aircraft Products Liability Litigation	4	2179
1862 IN RE: Vonage Marketing and Sales Practices Litigation	4	1463
2015 IN RE: Wachovia Corp. "Pick-A-Payment" Mortgage Marketing and Sales Practices Litigation	4	988
2210 IN RE: Listerine Total Care Mouthwash Marketing and Sales Practices Litigation	4	387
1653 IN RE: Parmalat Securities Litigation	4	2548
1931 IN RE: Virgin Mobile Initial Public Offering (IPO) Securities Litigation	4	1146
1745 IN RE: Live Concert Antitrust Litigation	4	2455
1824 IN RE: Tri-State Water Rights Litigation	4	2085
1930 IN RE: Wells Fargo Mortgage Lending Practices Litigation	4	1535
2103 IN RE: Kentucky Grilled Chicken Coupon Marketing and Sales Practices Litigation	4	1122
2153 IN RE: United Parcel Service "Air-in-Ground" Marketing and Sales Practices Litigation	4	973
2217 IN RE: Discover Card Payment Protection Plan Marketing and Sales Practices Litigation	4	668
1888 IN RE: Marine Hose Antitrust Litigation (No. II)	5	1441
1960 IN RE: Puerto Rican Cabotage Antitrust Litigation	5	1333
1354 IN RE: Citigroup, Inc., Capital Accumulation Plan Litigation	5	4003
2222 IN RE: Enfamil LIPIL Marketing and Sales Practices Litigation	5	341
2231 IN RE: Lead Contaminated Fruit Juice Products Marketing and Sales Practices Litigation	5	338
1921 IN RE: Nissan North America, Inc., Odometer Litigation (No. II)	5	1501
2247 IN RE: Uponor, Inc., F1807 Plumbing Fittings Products Liability Litigation	5	503
2086 IN RE: Pre-Filled Propane Tank Marketing and Sales Practices Litigation	5	1093
2137 IN RE: SIGG Switzerland (USA), Inc., Aluminum Bottles Marketing and Sales Practices Litigation	5	858
1575 IN RE: Visa/MasterCard Antitrust Litigation	6	2883
1992 IN RE: Comcast Corp. Peer-to-Peer (P2P) Transmission Contract Litigation	6	1119
1784 IN RE: McDonald's French Fries Litigation	6	1847
1819 IN RE: Static Random Access Memory (SRAM) Antitrust Litigation	6	2107
2025 IN RE: Staples, Inc., Wage & Hour Employment Practices Litigation	6	1195
1596 IN RE: Zyprexa Products Liability Litigation	6	3159
1708 IN RE: Guidant Corp. Implantable Defibrillators Products Liability Litigation	6	2622
1703 IN RE: Sears, Roebuck & Co. Tools Marketing and Sales Practices Litigation	6	2701

2107 IN RE: Budeprion XL Marketing and Sales Practices Litigation	6	1060
1515 IN RE: Nifedipine Antitrust Litigation	7	3096
1724 IN RE: Viagra Products Liability Litigation	7	2272
2102 IN RE: Sony Corp. SXRDRear Projection Television Marketing, Sales Practices and Products Liability Litigation	7	519
1712 IN RE: American Investors Life Insurance Co. Annuity Marketing and Sales Practices Litigation	7	2237
1919 IN RE: Washington Mutual, Inc., Securities, Derivative & "ERISA" Litigation	7	1476
1566 IN RE: Western States Wholesale Natural Gas Antitrust Litigation	7	3292
1940 IN RE: Aqua Dots Products Liability Litigation	7	1687
1988 IN RE: Countrywide Financial Corp. Mortgage Marketing and Sales Practices Litigation	7	1429
1565 IN RE: National Century Financial Enterprises, Inc., Investment Litigation	7	3346
1396 IN RE: St. Jude Medical, Inc., Silzone Heart Valves Products Liability Litigation	8	3793
1817 IN RE: CertainTeed Corp. Roofing Shingle Products Liability Litigation	8	1688
1684 IN RE: Plastics Additives Antitrust Litigation (No. II)	8	2793
1968 IN RE: Digitek Products Liability Litigation	8	1502
2068 IN RE: Light Cigarettes Marketing and Sales Practices Litigation	8	1085
2190 IN RE: McNeil Consumer Healthcare, et al., Marketing and Sales Practices Litigation	8	736
1631 IN RE: Publication Paper Antitrust Litigation	9	2471
1936 IN RE: Train Derailment Near Tyrone, Oklahoma, on April 21, 2005	9	1331
1578 IN RE: UICI "Association-Group" Insurance Litigation	9	2824
1861 IN RE: Wellnx Marketing and Sales Practices Litigation	9	1673
2096 IN RE: Zicam Cold Remedy Marketing, Sales Practices and Products Liability Litigation	9	784
1959 IN RE: Panacryl Sutures Products Liability Litigation	9	1577
2120 IN RE: Pamidronate Products Liability Litigation	9	1066
1532 IN RE: New Motor Vehicles Canadian Export Antitrust Litigation	10	3434
2122 IN RE: National Arbitration Forum Trade Practices Litigation	10	999
1508 IN RE: Medco Health Solutions, Inc., Pharmacy Benefits Management Litigation	10	3556
1785 IN RE: Bausch & Lomb Inc. Contact Lens Solution Products Liability Litigation	10	2287
2098 IN RE: Kitec Plumbing System Products Liability Litigation	12	853
2029 IN RE: Online DVD Rental Antitrust Litigation	12	1291
2040 IN RE: ConocoPhillips Co. Service Station Rent Contract Litigation	12	1146
2116 IN RE: Apple iPhone 3G and 3GS "MMS" Marketing and Sales Practices Litigation	12	1031
1700 IN RE: FedEx Ground Package System, Inc., Employment Practices Litigation (No. II)	15	2209

1791 IN RE: National Security Agency Telecommunications Records Litigation	17	1708
1854 IN RE: Tyson Foods, Inc., Fair Labor Standards Act Litigation	18	1617
1933 IN RE: Merrill Lynch & Co., Inc., Securities, Derivative & "ERISA" Litigation	18	1675
1898 IN RE: American Home Mortgage Securities Litigation	19	1787
1999 IN RE: Lawnmower Engine Horsepower Marketing and Sales Practices Litigation (No. II)	23	1020
1490 IN RE: Commercial Money Center, Inc., Equipment Lease Litigation	23	3690
1905 IN RE: Medtronic, Inc., Sprint Fidelis Leads Products Liability Litigation	27	1515
2147 IN RE: AT&T Mobility Wireless Data Services Sales Tax Litigation	28	559
1401 IN RE: Sulzer Orthopedics Inc. Hip Prosthesis and Knee Prosthesis Products Liability Litigation	30	3696
2066 IN RE: Oral Sodium Phosphate Solution-Based Products Liability Litigation	38	1303
581 IN RE: Baldwin-United Corporation Litigation	40	10346
2135 IN RE: Air Crash at Madrid, Spain, on August 20, 2008	44	476
1373 IN RE: Bridgestone/Firestone, Inc., Tires Products Liability Litigation	62	3934
1781 IN RE: Cintas Corp. Overtime Pay Arbitration Litigation	71	1894



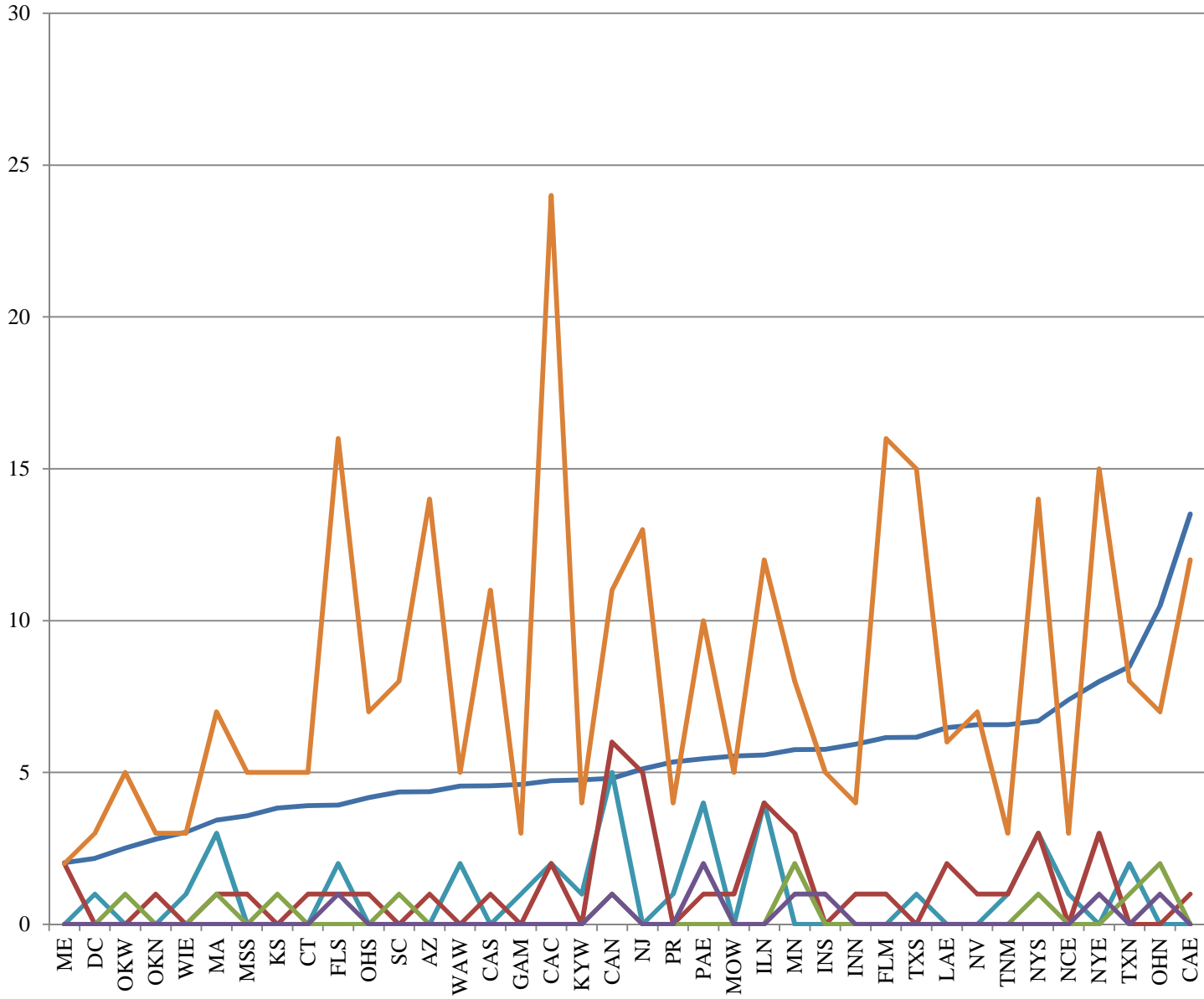
Appendix A-9

MDL Breakdown by District

<u>District</u>	<u>MDLS</u> <u>using</u> <u>MJs</u> <u>ONLY</u>	<u>MDLS</u> <u>using</u> <u>SMs</u> <u>ONLY</u>	<u>MDL</u> <u>using</u> <u>BOTH</u>	<u>MDLs</u> <u>with</u> <u>Neither</u>	<u>Total</u> <u>MDLs</u>	<u>Pending Action Per</u> <u>District Judgeship as</u> <u>of September 30,</u> <u>2013</u>	<u>Magistrate</u> <u>Judgeships</u>
DC	0	0	0	1	1	217	3
OKW	0	1	0	0	1	251	5
WIE	0	0	0	1	1	304	3
KS	0	1	0	0	1	383	5
SC	0	1	0	0	1	436	8
GAM	0	0	0	1	1	461	3
KYW	0	0	0	1	1	476	4
PR	0	0	0	1	1	535	4
INS	0	0	1	0	1	576	5
TXS	0	0	0	1	1	616	15
NCE	0	0	0	1	1	739	3
ILS	0	0	0	1	1	3327	3
WVS	0	0	1	0	1	6924	3
OKN	1	0	0	0	1	281	3
MSS	1	0	0	0	1	357	5
CT	1	0	0	0	1	391	5
OHS	1	0	0	0	1	417	7
AZ	1	0	0	0	1	437	14
CAS	1	0	0	0	1	456	11
MOW	1	0	0	0	1	554	5
INN	1	0	0	0	1	593	4
FLM	1	0	0	0	1	615	16
NV	1	0	0	0	1	657	7
CAE	1	0	0	0	1	1351	12
WAW	0	0	0	2	2	455	5
TNM	1	0	0	1	2	657	3
ME	2	0	0	0	2	203	2
LAE	2	0	0	0	2	648	6
TXN	0	1	0	2	3	849	8
OHN	0	2	1	0	3	1048	7
FLS	1	0	1	2	4	393	16
CAC	2	0	0	2	4	473	24
NYE	3	0	1	0	4	799	15
MA	1	1	0	3	5	343	7
NJ	5	0	0	0	5	512	13
MN	3	2	1	0	6	575	8
PAE	1	0	2	4	7	545	10
NYS	3	1	0	3	7	670	14
ILN	4	0	0	4	8	558	12
CAN	6	1	1	5	13	481	11
Total	45	11	9	36	101	Average: 764 Actions/Judgeship	

District Workload and Magistrate Judgeships

- Pending Actions (in hundreds) Per District Judgeship as of September 30, 2013
- MDLs with Neither
- MDLS using MJs ONLY
- MDLS using SMs ONLY
- MDL using BOTH
- Magistrate Judgeships



Appendix B-1

District Judge Interview Protocol

In the above-captioned case, you appointed a special master and/or utilized a magistrate judge. A copy of your order was enclosed in the letter we sent to set up this appointment. I wish to address the following questions in the context of that case. If, however, your recollection of that case is not clear, I would like to get responses to such questions according to your general experience or your usual practice in such matters.

Background Information

1. What motivated you to appoint a special master or utilize a magistrate judge? (E.g. a parties motion or suggestion, the demands of the case in the Court's time, the complexity of the case, the factual uncertainties, the desire to facilitate acts that do not fit the judicial role, such as investigating, negotiating, or enforcing)?

2. What did you expect to accomplish with the appointment?

3. What, if anything, about this case distinguished it from any other multi-district litigation in which you have not utilized a special master/magistrate judge?

Decision on Appointment/Utilization

1. If you utilized a magistrate judge, why did you choose a magistrate judge over a special master when the magistrate's involvement might reduce the court resources?

2. If you appointed a special master, why did you choose a special master over a magistrate judge when involvement could be expensive to the parties?

3. Were the parties or other judges involved in your decision-making? If so, how?

4. Did the parties object to the use of a special master/magistrate judge? If so, why?

5. What factors did you consider in making the decision? Which, if any, factor was the most important? Was it any of the following?

- a) The requirements of Federal Rule of Civil Procedure 53
- b) The flexibility of magistrate judge duties under 28 U.S.C. § 636
- c) Past experience with special master appointment/magistrate utilization
- d) Need for neutrality
- e) Type of duties to be performed
- f) Qualifications necessary for the assigned duties to be performed (judge-like, mediator/facilitator-like, administrator-like)
- g) Trust in the magistrate's abilities and qualifications
- h) Trust in the abilities and qualifications of the individual the Court might consider appointing or that the court expected the parties to suggest as a special master
- i) Potential conflicts of interest
- j) Effect on judicial resources (e.g. magistrate and district judge caseload, district workload and the potential for delay because of available resources)
- k) Need for ex parte communications in carrying out assigned duties
- l) Types of hearings required to carry out assigned duties
- m) Cost of the parties and the parties' ability to pay for special master

- n) Potential delay and inertia from special master investment in the case
 - o) Need for decisions of special master or magistrate not to be constantly challenged/overruled (i.e. better proxy for the district judge)
 - p) Due process (right of parties to have case decided by a judicial officer and concern about the appearance of providing “justice for a price”)
 - q) Need for precedent in rulings
 - r) Parties’ consent to appointment
 - s) Flexibility in the performance of assigned duties
 - t) Expected duration of the case
 - u) The likelihood that the case would be settled sooner/later (expectations of settlement discussions)
 - v) Ethical constraints on special masters/magistrate judges
 - w) Impairment of court supervision (i.e. distancing the district judge from the case before trial)
6. Did you consider appointing both a special master and a magistrate judge on this case? Why? If you utilized both, how did you divide responsibility between the special master and the magistrate judge? How well did that division of responsibility work?

7. What, if any other, adjuncts (such as a special law clerk or court consultant) did you appoint or consider appointing in this case? If you considered but did not appoint other adjuncts, why did you decide not to make such an appointment?

Authority

1. What legal authority did you consider when making the appointment of special master or utilizing magistrate judge (rule, statute, inherent authority, none)?

2. What authority did you use ultimately use?

3. Did you make any findings on the record or in an order regarding the authority utilized (i.e., finding the existence of exceptional circumstances or the unavailability of adequate judicial resources in the district)?

4. Did you discuss these findings with other district judges or magistrate judges before these findings were made?

5. Did you consider appointing a magistrate judge as a special master under Rule 53? Why or why not?

6. Do you perceive any differences in a magistrate judge's role or authority when assisting in the management of a case under Rule 53, rather than under 28 U.S.C. § 636?

7. If you contemplated appointment of a special master under Rule 53, did the restrictiveness of that rule's reference to "exceptional circumstances" dissuade you from making appointment, limit the scope of any appointment you made, or cause you have concerns about deciding to proceed with the appointment? What were the exceptional circumstances in this case (if not all covered in discussing the reason for the appointment)?

8. If you contemplated the appointment of a special master under Rule 53, did the rule's reference to a finding that the matter cannot be "effectively and timely" handled by a magistrate judge or district judge dissuade you from making appointment, limit the scope of any appointment you make, or cause you have concerns about deciding to proceed with the appointment?

Selection

1. How did you identify and select the special master you appointed or the magistrate judge you utilized? Was s/he selected from professional acquaintances, persons whose professional skills and reputation as a special master are well known and whose integrity the judge can trust, or from candidates proposed by the parties?

2. Were the parties or other judges involved in your decision? If so, how?

3. Did the parties object to the selection? If so, why?

4. What factors did you consider in making the decision? Which factor was the most important? Was it any of the following?

- a. Parties' consent/recommendation
- b. Past experience with special master/magistrate judge
- c. Candidate's reputation
- d. Personality and reputation of the attorneys/litigants
- e. Type of duties to be performed

- f. Qualifications necessary for the assigned duties to be performed (judge-like, mediator/facilitator-like, administrator-like)
 - g. Desire and availability of the individual to serve
 - h. Trust in the magistrate's abilities and qualifications
 - i. Trust in the abilities and qualifications of the candidate
 - j. Potential conflicts of interest
 - k. Effect on judicial resources (e.g. magistrate judge's caseload and the potential for delay)
 - l. Types of hearings required to carry out assigned duties
 - m. Expected duration of the case
 - n. Likelihood that the case would be settled sooner/later (expectations of settlement discussions)
5. Did you discuss your selection with other district judges or magistrate judges? Why or why not?

6. Have you ever used a magistrate judge or special master before in a case?

7. Did you have any experience with special masters or magistrate judges in private practice?

Effectiveness

1. How effective was special master/magistrate judge in meeting the goals and expectations described in response to my first question?

2. What difference did the appointment make in the litigation? Was litigation faster and cheaper because of the special master/magistrate judge?

3. How did the special master's/magistrate judge's activity compare to what you might be able to do without a special master/magistrate judge?

4. What, if any, drawbacks or limitations did the appointment/utilization present?

5. Were there any disputes over the amount of special masters fees charged to the parties?

6. With the benefit of hindsight, what would you have done differently regarding this appointment/utilization?

7. On the whole, did the benefits of appointment/utilization outweigh any drawbacks, or vice versa?

Appendix B-2

Magistrate Judge Interview Protocol

In the above-captioned case, you are assisting in the management of a multi-district litigation (“MDL”) case. I wish to address the following questions in the context of that case. If, however, your recollection of the case is not clear, I would like to get responses to such questions according to your general experience or your usual practice in such matters.

Background

1. What percentage of your caseload pertains to your work on the MDL?

2. How long had you known the attorneys in this case prior to your assignment? In what capacity have you known the attorneys? (Have you ever presided over any case with any of the attorneys representing the parties in the MDL? How often have they appeared before you?)

3. How often have you worked with the district judge before your work on the MDL?

4. Did you know the district judge before you were appointed as a magistrate judge? How long and in what capacity?

5. Before this MDL, had you ever been assigned to assist this district judge and/or other district judges on complex matters or in MDL? Have you assisted in any other MDLs after being appointed in this case?

6. How long had you been a magistrate judge prior to your involvement in this case?

7. Have you attended continuing judicial educational programs in complex litigation or case settlement prior to your work on the MDL?

8. Did you ever serve as a special master in private practice?

Appointment

1. What is your understanding of why the judge decided to utilize a magistrate judge in this case? (e.g. parties' motion for special master, the restrictions of Rule 53)

2. What is your understanding of why the judge decided not to appoint a special master in this case? (e.g. parties' motion for magistrate judge, the restrictions of Rule 53)

3. What were the drawbacks or limitations of appointing a special master/magistrate judge in this litigation?

4. Were any findings made on the record or in an order regarding these decisions?

5. Do you know the process that the district judge used to select you for this assignment?

6. Do you know whether or if the parties were involved in this process?

7. Do you believe the duties that you performed in this case could have been performed by a special master? Why or why not?

8. What factors do you believe that the judge used in making his decision to utilize you in this case? Any factor the most important? Why do you believe that you were selected?

- o. Parties' consent/recommendation
- p. District judge's past experience with you
- q. Your reputation
- r. Personality and reputation of the attorneys/litigants
- s. Type of duties to be performed
- t. Qualifications necessary for the assigned duties to be performed (judge-like, mediator/facilitator-like, administrator-like)
- u. Your desire and availability to serve
- v. Trust in the magistrate's abilities and qualifications
- w. Potential conflicts of interest

- x. Effect on judicial resources (e.g. magistrate judge's caseload and the potential for delay)
- y. Expected duration of the case
- z. Likelihood that the case would be settled sooner/later (expectations of settlement discussions)

9. Even though not necessary, did the parties consent to your assignment?

10. Did any of the parties challenge your assignment?

11. Have you ever served as a magistrate judge in a case where a special master was also involved? How were the responsibilities divided between yourself and the special master?

12. What challenges, if any, did you face in the performance of the duties assigned to you by the district judge?

13. Were you appointed as a special master in this litigation under Federal Rule of Civil Procedure 53 or utilized under 28 U.S.C. § 636 (standard of review, scope of responsibility)?

14. As a magistrate judge, have you ever served as a special master under Rule 53?

15. Do you perceive any differences in a magistrate judge's role or authority when assisting in the management of the case under Rule 53, rather than under § 636?

16. Did the district judge discuss the appointment of a special master with you prior to deciding to utilize your assistance?

17. Were you able to maintain your other judicial responsibilities while assisting in the management of the MDL?

18. Did you find the duties in the MDL time-consuming to the exclusion of your other cases? Unmanageable? Do you believe that the district has sufficient resources to allow magistrate judges to continue to assist in MDL management in the future?

19. Would you be willing to volunteer to serve in managing an MDL in the future?

20. Would you be willing to volunteer to assist in the management of MDLs outside of your district?

21. Would you be willing to train other magistrate judges in best practices for management of MDLs?

22. What difference did your appointment make in the litigation (if you can tell)? Was it faster and cheaper than similar cases?

23. Was there any cost to the parties for your services?

24. With the benefit of hindsight, what suggestions would you make regarding whether an appointment should been made in this case or whether the terms of the assignment should have been different?

25. On the whole, did the benefits of the appointment in this case outweigh any drawbacks, or vice versa?
