

JUDICIAL
WORKLOAD
STATISTICS

*UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT*

CLERK'S ANNUAL REPORT
JULY 2009 - JUNE 2010

P R E F A C E

This report provides information on the judicial business of the United States Court of Appeals for the Fifth Circuit for the period from July 1, 2009 through June 30, 2010.

Our statistics refer to both “appeals” and “cases.” The term “appeals” refers to all filings reported to the Administrative Office. This includes additional appeals, cross appeals, consolidated appeals, successive habeas corpus, paid and in forma pauperis mandamus applications, and petitions for review. The term “cases” refers to actual workload credit. An example would be a main appeal with a cross appeal. We count this as two “appeals,” but only one “case” because the court works on the main and the cross appeal together. Statistics counting “cases” provide a more accurate and realistic picture of the actual workload of our judges.

A summary of the report appears at page (i).

LYLE W. CAYCE
CLERK

INDEX

	<u>Narrative</u> <u>Page</u>	<u>Table</u> <u>Page</u>	<u>Enclosure</u> <u>Page</u>
SUMMARY OF ANNUAL REPORT.	i	--	--
A. NEW FILINGS	1	--	21
1. New Appeals Filed.	1	1	21
2. Source of New Appeals by Type.	1	2,3	21
3. Source of New Appeals by Districts.	3	4,5	--
B. CLOSED APPEALS.	5	--	--
1. Yearly Comparison.	5	5	--
2. Method of Disposition.	6	6	--
C. UNDISPOSED OF (PENDING) APPEALS.	6	6	--
1. Cases Under Submission.	7	7	--
2. Unassigned Carry-over.	7	7	--
(a) Already Briefed.	8	8	--
(b) Unbriefed Cases.	8	8	--
D. SUMMARY OF APPEALS COMMENCED, TERMINATED and PENDING.	9	9	--
E. OPINIONS.	9	--	--
1. Number of Opinions, Published and Unpublished.	9	9	--
2. Types of Opinions.	10	10	--
3. Breakdown of Types of Opinions by Summary, Oral Argument and Conference Calendars.	10	--	--
(a) Summary Calendar.	10	11	--
(b) Oral Argument Calendar.	11	11	--
(c) Conference Calendar.	11	--	--
4. Published and Unpublished Opinions.	12	--	--
(a) Number and Percentage-2010.	12	12	--
(b) Percentage Comparison-(Published) 2005-2010.	12	12	--
(c) Length of Published Opinions.	13	13	--
5. Reversal Rate.	13	14	--
F. WORKLOAD PER ACTIVE JUDGE.	14	--	22
1. Opinion Output - Per Active Judge.	14	--	--

2.	Opinion Output - (Overall)-2005-2010.....	14	15	--
3.	Overall Workload.	16	16	22
G.	SCREENING CLASSIFICATIONS.....	17	--	23
1.	Cases Screened by Judges.	17	17	--
(a)	Screening Classifications by Case Type.	18	18	23
H.	EN BANC PETITIONS.....	19	--	24
I.	PETITIONS FOR CERTIORARI.....	20	20	25
J.	ADMINISTRATIVE-INTERIM MOTIONS.....	20	--	26

SUMMARY OF ANNUAL REPORT

The following summarizes the court's judicial business in tabular form:

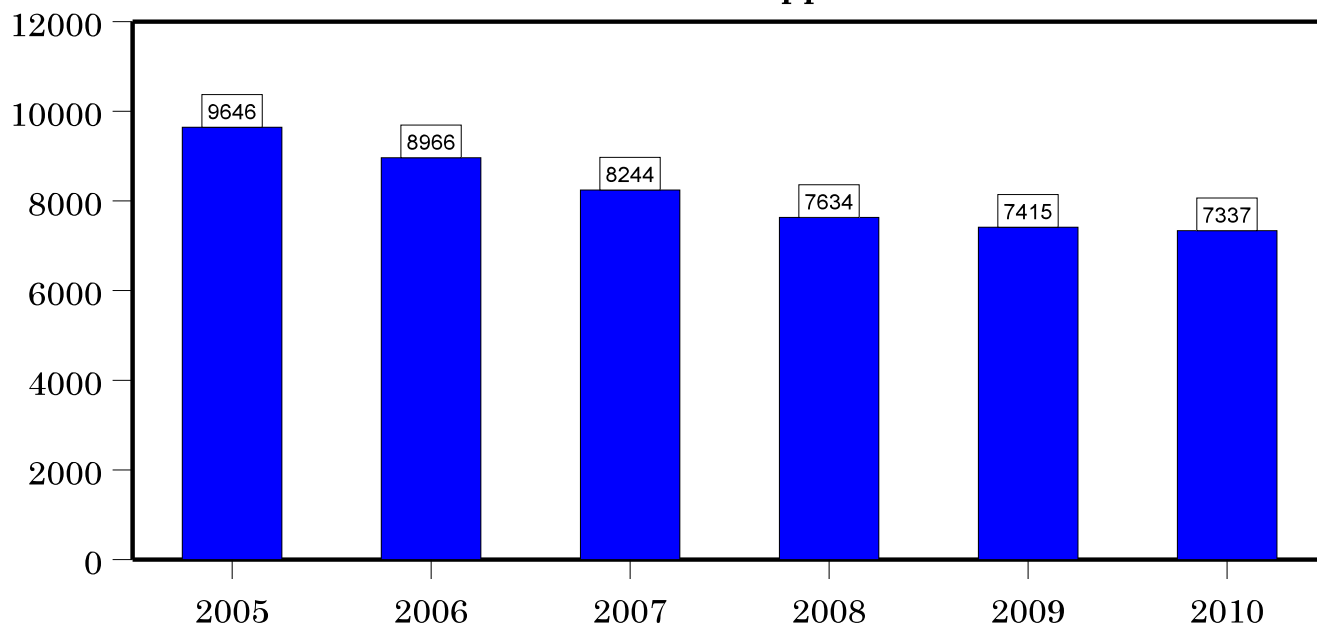
	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
New Appeals	9646	8966	8244	7634	7415	7337
Terminations	7772	8164	8797	7925	7266	7625
By Judges	4898	5539	6525	5827	4772	5045
By Clerk	2251	2048	2272	2098	1861	1869
By Consolidation	623	577	762	669	633	711
Pending Appeals	6361	7167	5845	4883	5031	4744
Total Cases Screened for Decision as to Oral Argument	2852	3328	4199	3548	2934	2999
Cases Sent to:						
Summary Calendar	1343	1572	1662	1627	1546	1681
Conference Calendar	762	1045	1569	1054	578	534
Oral Argument Calendar	749	711	968	867	810	784
Summary Calendar Rate	64.3%	68.9%	63.2%	65.2%	65.6%	68.2%
Conference & Summary Calendar Rate	73.8%	78.6%	77.0%	75.6%	72.4%	73.9%
Cases Ready for Argument	93	179	206	174	98	89
Cases Pending Under Submission	157	175	156	165	174	139
90-day Cases	46	73	53	76	78	55
Total Opinions	3032	3712	4288	3778	3149	3210
Published Opinions	445	468	483	481	421	400
Unpublished Opinions	2587	3244	3805	3297	2728	2810
Opinions per Active Judge	182	215	249	210	158	164
Publication Rate	14.7%	12.6%	11.3%	12.7%	13.4%	12.5%
Page Length of Published Opinions	8.2	7.3	7.4	8.1	8.8	8.6
Participations per Active Judge in Opinions	546	645	747	630	474	492
En Banc Cases	3	3	5	3	4	6
Motions per Active Judge	1194	1086	1265	1124	872	937

A. NEW FILINGS

1. New Appeals Filed

The chart below shows the “new appeals” filing trends. We experienced a 78 appeal decrease (1.1%), to 7337 appeals. Criminal appeals dropped significantly by 289, (10.9%). Prisoner appeals increased by 78 (3.5%), and successive habeas petitions rose by 50 (15.9%).

TABLE 1 - New Appeals Filed



2. Source of New Appeals by Type

The source of appeals by type is found in the following tables, the first shows the six year trend; the second graphically displays the 2010 data. (See also column (d) of the monthly cumulative report of new appeals by type at **Enclosure A**, page 22.)

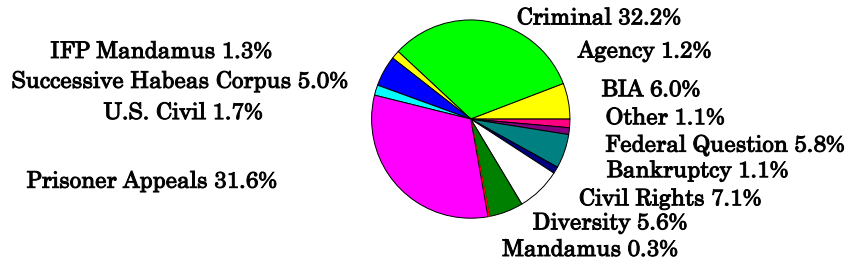
TABLE 2

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>Change from '09</u>	
							<u>No.</u>	<u>%</u>
Criminal	3634	3121	2698	2419	2651	2362	-289	-10.9
Prisoner Appeals	2805	2741	2538	2411	2244	2322	+78	+3.5
Successive Habeas Corpus	560	562	429	367	314	364	+50	+15.9
IFP Mandamus	143	87	46	67	73	95	+22	+30.1
Federal Question	429	406	455	426	384	422	+38	+9.9
Diversity	396	387	466	402	380	408	+28	+7.4
U.S. Civil	101	140	155	130	116	127	+11	+9.5
Tax	16	9	23	30	49	22	-27	-55.1
Tax Court	27	17	22	28	21	24	+3	+14.3
Civil Rights	711	583	624	564	497	519	+22	+4.4
Bankruptcy	118	103	130	122	104	82	-22	-21.2
Social Security	74	53	64	66	43	36	-7	-16.3
NLRB*	7	11	11	9	--	--	--	--
BIA*	--	--	--	--	460	443	-17	-3.7
Mandamus	39	38	34	23	26	25	-1	-3.8
Agency*	<u>586</u>	<u>708</u>	<u>549</u>	<u>570</u>	<u>53</u>	<u>86</u>	<u>+33</u>	<u>+62.3</u>
	9646	8966	8244	7634	7415	7337	-78	-1.1

* Previously, National Labor Relations Board (NLRB) cases were reported separately from Agency cases. Since we now have a small number of NLRB cases and a significant number of immigration cases, we elected to report the NLRB cases in to the total of the Agency category. We are now reporting immigration cases separately under the BIA category.

Our biggest increases in filings were in prisoner appeals and successive habeas corpus petitions. Criminal appeals dropped significantly.

TABLE 3
2010 New Appeals by Case Type



3. Source of New Appeals by Districts

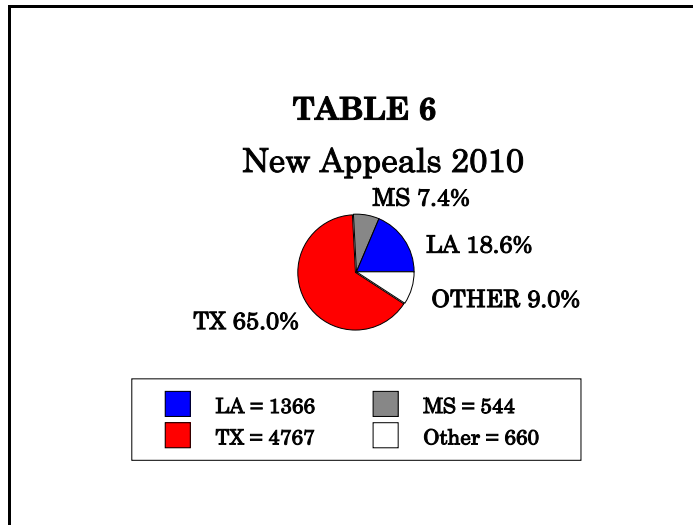
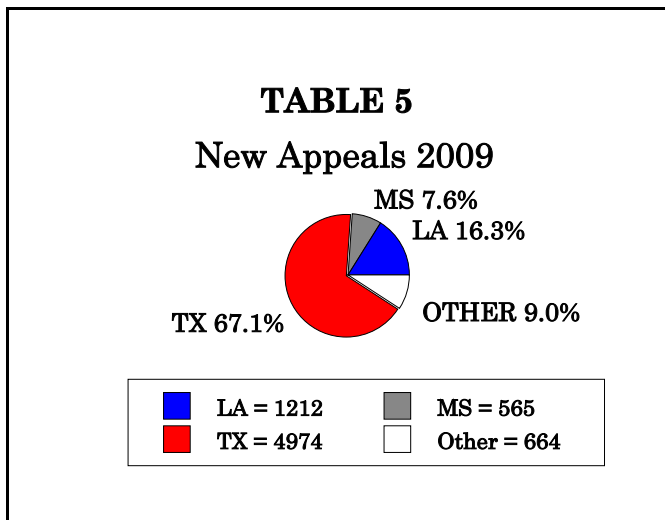
Four of the nine districts showed an increase in appeals filed. Eastern Louisiana and Southern Texas increased the most. Eastern Texas and Western Texas decreased the most.

TABLE 4New Appeals by Districts
(All Appeals)

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>Change from '09</u>
Louisiana Eastern	622	494	625	598	518	674	+156
Louisiana Middle	212	215	214	186	193	219	+26
Louisiana Western	<u>527</u>	<u>527</u>	<u>431</u>	<u>493</u>	<u>501</u>	<u>473</u>	<u>-28</u>
Subtotal	1361	1236	1270	1277	1212	1366	+154
Mississippi Northern	249	219	203	191	171	184	+ 13
Mississippi Southern	<u>405</u>	<u>280</u>	<u>361</u>	<u>370</u>	<u>394</u>	<u>360</u>	<u>- 34</u>
Subtotal	654	499	564	561	565	544	-21
Texas Northern	1716	1416	1486	1273	1339	1306	-33
Texas Southern	2474	2512	1904	1710	1675	1702	+27
Texas Eastern	724	754	534	630	649	497	-152
Texas Western	<u>1939</u>	<u>1672</u>	<u>1740</u>	<u>1431</u>	<u>1311</u>	<u>1262</u>	<u>-49</u>
Subtotal	6853	6354	5664	5044	4974	4767	-207
Agency*	586	708	549	570	53	86	+33
Bankruptcy	119	103	130	122	104	82	-22
U.S. Tax Court	27	17	22	28	21	24	+3
NLRB*	7	11	11	9	--	--	--
BIA*	--	--	--	--	460	443	-17
Mandamus	<u>39</u>	<u>38</u>	<u>34</u>	<u>23</u>	<u>26</u>	<u>25</u>	<u>-1</u>
Subtotal	778	877	746	752	664	660	-4
Total	9646	8966	8244	7634	7415	7337	-78

* Previously, National Labor Relations Board (NLRB) cases were reported separately from Agency cases. Since we now have a small number of NLRB cases and a significant number of immigration cases, we elected to report the NLRB cases in to the total of the Agency category. We are now reporting immigration cases separately under the BIA category.

A comparison of the percentage of appeals by states for 2009 and 2010 is shown on the following charts:



B. CLOSED APPEALS

1. Yearly Comparison

The court disposed of 359 more **appeals** this year, an increase of 4.9%. Likewise, there was a 4.2% increase in **case** disposals.

TABLE 7

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>Change from '09</u>	
All Appeals	7772	8164	9559	8594	7266	7625	+359	+4.9%
Cases	7149	7587	8797	7925	6633	6914	+281	+4.2%

2. Method of Disposition

Overall, the court disposed of 281 more cases than last year. There were 66 more opinions, and other judicial dispositions increased by 207. Clerk dispositions increased by 8.

TABLE 8

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>Change from '09</u>
By Opinion*	3004	3690	4270	3749	3121	3187	+66
Other Judicial Dispositions	<u>1894</u>	<u>1849</u>	<u>2255</u>	<u>2078</u>	<u>1651</u>	<u>1858</u>	<u>+207</u>
Total Judicial Disposition	4898	5539	6525	5827	4772	5045	+273
By Clerk	<u>2251</u>	<u>2048</u>	<u>2272</u>	<u>2098</u>	<u>1861</u>	<u>1869</u>	<u>+8</u>
Closed Cases	7149	7587	8797	7925	6633	6914	+281

* Does not include 23 opinions which were non-dispositive.

C. UNDISPOSED OF (PENDING) APPEALS

The court disposed of 7625 **appeals** compared to 7337 filed. There are 4093 cases pending this year compared with 4510 last year.

TABLE 9

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>	<u>% Change from '09</u>
All Appeals Pending	6361	7167	5845	4885	5031	4744	-5.7
Cases	5742	6467	5223	4351	4510	4093	-9.3

The 4093 pending cases are broken down into two sub-categories:

1. Cases Under Submission

Excluding cases consolidated for argument and decision (2), and held in abeyance by the judges (9), the pending cases argued and awaiting decision decreased from last year.

TABLE 10

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Active Judges	330	181	143	142	164	128
Senior & Visiting Judges	<u>11</u>	<u>11</u>	<u>26</u>	<u>27</u>	<u>19</u>	<u>17</u>
Total	341	192	169	169	183	145

2. Unassigned Carry-Over

All cases briefed but not yet argued or decided and all unbriefed cases are reported as “Unassigned Carry-Over” (see Table 12 for details). Unassigned cases decreased, 385 fewer than last year. This leaves 3939 cases which are the immediate future workload of the court. The following chart gives the six year trend:

TABLE 11

	<u>Unassigned Cases</u>	<u>New Appeals</u>	<u>% Unassigned Cases to New Appeals</u>
2005	5381	9646	55.8
2006	6259	8966	69.8
2007	5042	8244	61.2
2008	4171	7634	54.6

	<u>Unassigned Cases</u>	<u>New Appeals</u>	<u>% Unassigned Cases to New Appeals</u>
2009	4324	7415	58.3
2010	3939	7337	53.7

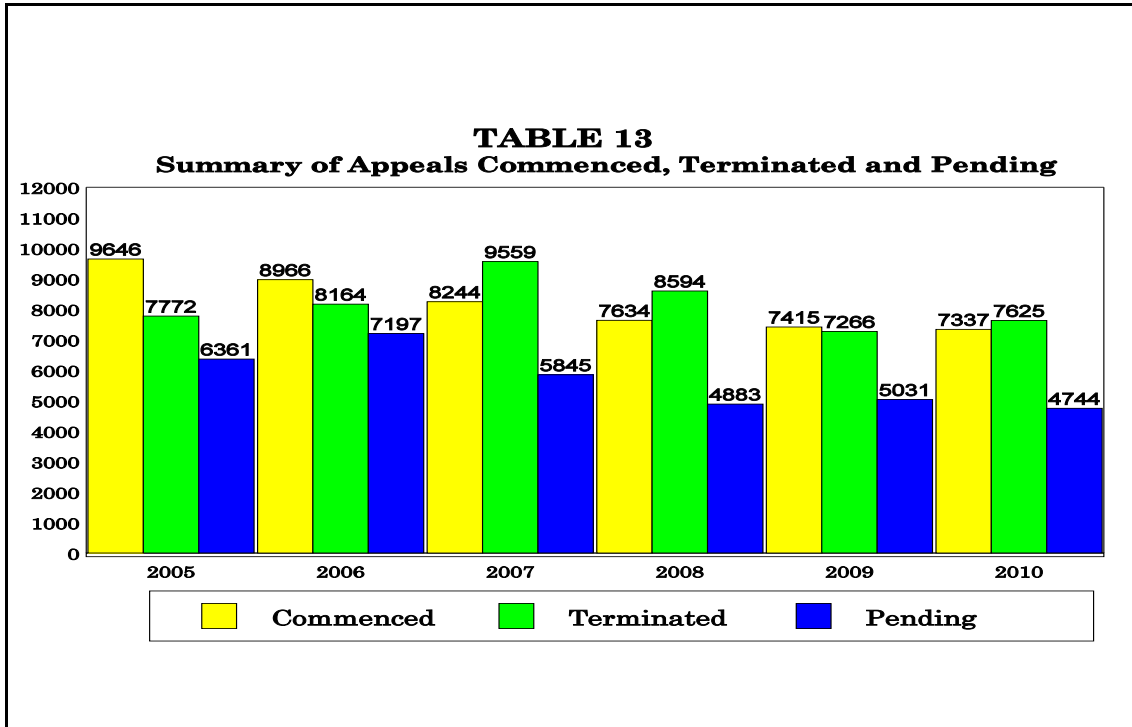
The 3939 unassigned cases fall into the following categories:

TABLE 12

	<u>2009</u>	<u>2010</u>
(a) <u>Already Briefed</u>		
Calendared for Oral Argument	108	101
Briefed but Held in Abeyance	180	11
Awaiting Assignment to Oral Argument Calender	98	89
Being Screened	800	649
Awaiting Assignment to Augean Conference	136	104
Awaiting Assignment to Conference Calendar	<u>63</u>	<u>36</u>
Sub Total	1385	990
(b) <u>Unbriefed Cases</u>		
Pre-Briefing	1238	1074
Records Due	183	156
Being Briefed	1268	1332
Stayed/Held in Abeyance	89	224
Awaiting DC Action*	161	163
Sub Total	<u>2939</u>	<u>2949</u>
Total	4324	3939

* Cases "Awaiting DC Action" capture those cases unable to proceed because of pending motions with the district courts.

D. SUMMARY OF APPEALS COMMENCED, TERMINATED AND PENDING



E. OPINIONS

1. Number of Opinions, Published and Unpublished

The total number of opinions increased by 61. The figures for the total opinions, including the numbers published and unpublished for the last six years are:

TABLE 14

<u>Year</u>	<u>Total Opinions</u>	<u>Published</u>	<u>Unpublished</u>
2005	3032	445	2587
2006	3712	468	3244
2007	4288	483	3805

<u>Year</u>	<u>Total Opinions</u>	<u>Published</u>	<u>Unpublished</u>
2008	3778	481	3297
2009	3149	421	2728
2010	3210	400	2810

2. Types of Opinions

The percentage of signed opinions decreased by 0.7% this year, while the percentage of per curiam opinions increased by 1.2%.

TABLE 15

<u>Year</u>	<u>Signed</u>	<u>Per Curiam</u>	<u>Rule 47.6</u>	<u>Total</u>
2005	15.9%	83.6%	.5%	100.0%
2006	12.6%	86.8%	.6%	100.0%
2007	11.7%	87.7%	.6%	100.0%
2008	12.2%	87.1%	.7%	100.0%
2009	13.5%	85.7%	.8%	100.0%
2010	12.8%	86.9%	.3%	100.0%

3. Breakdown of Types of Opinions by Summary, Oral Argument and Conference Calendars

The types of opinions on the summary, oral argument and conference calendars, are as follows:

(a) Summary Calendar

The number of summary calendar decisions increased by 152 from 1549 to 1701. The percentage of signed opinions on the summary calendar increased by .6% while per curiam opinions decreased by .4%.

TABLE 16

<u>Year</u>	<u>Signed</u>	<u>Per Curiam</u>	<u>Rule 47.6</u>	<u>Total</u>
2005	2.9%	96.9%	.2%	100.0%
2006	2.2%	97.4%	.4%	100.0%
2007	1.6%	98.2%	.2%	100.0%
2008	1.9%	97.7%	.4%	100.0%
2009	1.2%	98.5%	.3%	100.0%
2010	1.8%	98.1%	.1%	100.0%

(b) Oral Argument Calendar

The percentage of signed opinions on the oral argument calendar decreased this year by 1.3%. The percentage of per curiam opinions increased by 2.3%.

TABLE 17

<u>Year</u>	<u>Signed</u>	<u>Per Curiam</u>	<u>Rule 47.6</u>	<u>Total</u>
2005	51.2%	47.2%	1.6%	100.0%
2006	51.6%	46.5%	1.9%	100.0%
2007	48.0%	49.7%	2.3%	100.0%
2008	41.4%	56.8%	1.8%	100.0%
2009	40.5%	57.5%	2.0%	100.0%
2010	39.2%	59.8%	1.0%	100.0%

(c) Conference Calendar

There were 539 conference calendar opinions this year compared to 596 last year.

4. Published and Unpublished Opinions

Of the 3210 opinions, 400 (12.5%) were published. The number of published opinions decreased by 21 from the preceding year.

(a) Number and Percentage - 2010

TABLE 18

	<u>Published</u>		<u>Unpublished</u>		<u>Total</u>
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>	
Signed Opinions	350	85.2	61	14.8	411
Per Curiam Opinions	50	1.8	2738	98.2	2788
Rule 47.6 Opinions	--	--	<u>11</u>	<u>100.0</u>	<u>11</u>
Total	400	12.5	2810	87.5	3210

(b) Percentage Comparison (Published) - 2005 - 2010

TABLE 19

	<u>% Published</u>					
	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Signed Opinions	76.7	84.2	83.9	87.3	86.2	85.2
Per Curiam Opinions	3.3	2.3	1.6	2.3	2.0	1.8
All Opinions	14.7	12.6	11.3	12.7	13.4	12.5

(c) Length of Published Opinions

The average page length of opinions is down 2.3% from 2009.

TABLE 20

2005	8.2
2006	7.3
2007	7.4
2008	8.1
2009	8.8
2010	8.6

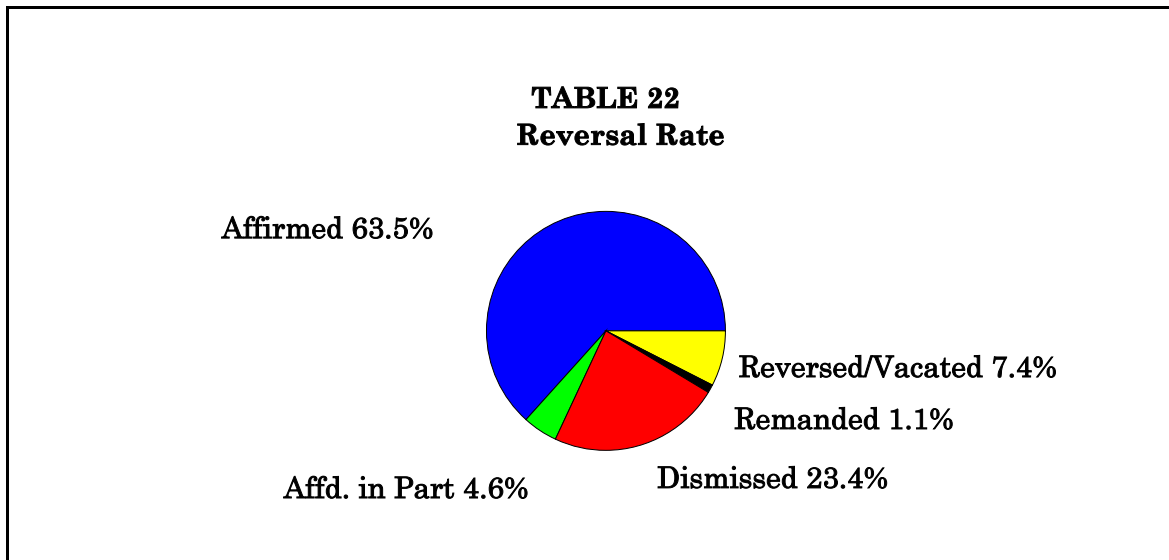
5. Reversal Rate

The 2010 reversed/vacated rate of 7.4% is lower than the 8.0% reversed/vacated rate in 2009.

TABLE 21

	<u>2010</u>								<u>2009</u>
	<u>Summary</u>		<u>Hearing</u>		<u>Conference Calendar</u>		<u>Overall</u>		<u>%</u>
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>	<u>%</u>
Affirmed	1282	75.4	585	60.3	170	31.5	2037	63.5	65.0
Affd. in Part	47	2.8	102	10.5	0	0	149	4.6	5.5
Dismissed	299	17.6	86	8.9	366	67.9	751	23.4	20.3
Remanded	11	0.6	23	2.4	1	.2	35	1.1	1.2
Transferred	0	0	0	0	0	0	0	0	0
Reversed/Vacated	<u>62</u>	<u>3.6</u>	<u>174</u>	<u>17.9</u>	<u>2</u>	<u>.4</u>	<u>238</u>	<u>7.4</u>	<u>8.0</u>
Total	1701	100.0	970	100.0	539	100.0	3210	100.0	100.0

* The reversed and vacated categories are being reported together to make our reporting more consistent with the Administrative Office scheme.



F. WORKLOAD PER ACTIVE JUDGE

1. Opinion Output - Per Active Judge

The average opinion output for each of the active judges who participated in disposing of cases on the merits on the summary, oral argument and conference calendars for the reporting year from July 1, 2009 through June 30, 2010 follows. The opinion output per active judge increased by 6 cases over last year.

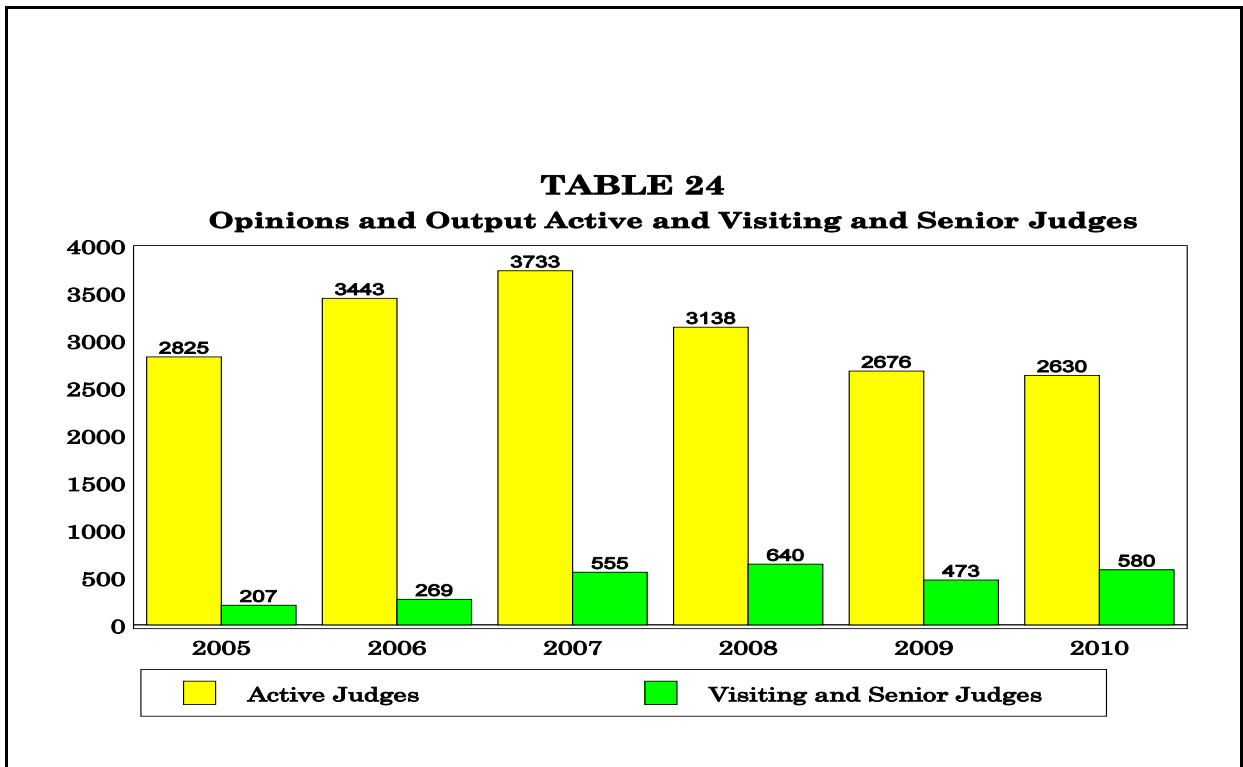
2. Opinion Output - Overall - 2005 - 2010

The opinion workload for the entire court as well as for the active judges alone is shown in the following table:

TABLE 23

<u>Year</u>	<u>(a)* Opinions by Active Judges</u>	<u>(b)* Opinions by Non-Active Judges</u>	<u>(c) Total Opinion Output</u>	<u>(d) Opinions per Active Judge</u>
2005	2825	207	3032	182
2006	3443	269	3712	215
2007	3733	555	4288	249
2008	3138	640	3778	210
2009	2676	473	3149	158
2010	2630	580	3210	164

* Includes Augean conference.



3. Overall Workload

The average number of opinions per active judge does not give a complete measure of the active judges' overall workload. Participation in other panel members' opinions in fully briefed cases, conference calendar panels, Augean conference panels, as well as consideration of petitions for rehearing en banc and administrative-interim motions are also other important work factors. Overall, the judges handled 98 more matters per judge than last year. **Enclosure B**, page 22, shows the total average annual workload per active judge, based on the court's summary calendar rate of approximately 68.2% of the caseload; seven sessions of court per active judge, and other workload figures as follows:

TABLE 25

	<u>Per Active Judge</u>					
	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Opinions and Participations in Opinions*	546	645	747	630	474	492
Suggestions for Rehearing En Banc	176	172	160	213	198	213
Administrative- Interim Motions	<u>1194</u>	<u>1086</u>	<u>1265</u>	<u>1124</u>	<u>872</u>	<u>937</u>
Total Workload	1916	1903	2172	1967	1544	1642

* Based on figures of judges who participated in summary, hearing and conference calendars for the full year.

G. SCREENING CLASSIFICATIONS

1. Cases Screened by Judges

The following table demonstrates the number and percentages of the cases disposed of by the oral argument calendar. There was a decrease in percentage of cases sent to the oral argument calendar, although the overall number fell by 26. Actual argument was held in about 64% of the 784 cases assigned to Class III and IV.

TABLE 26

<u>Statistical Year</u>	<u>Class</u>							
	<u>I and II</u>		<u>III</u>		<u>IV</u>		<u>Total</u>	
	<u>(No Argument No.</u>	<u>%</u>	<u>(Limited Argument) No.</u>	<u>%</u>	<u>(Full Argument) No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
2005	2105 ¹	73.8	745	26.1	2	0.1	2852 ¹	100.0
2006	2617 ²	78.6	710	21.3	1	0.1	3328 ²	100.0
2007	3235 ³	77.0	961	22.9	3	0.1	4199 ³	100.0
2008	2681 ⁴	75.6	863	24.3	4	0.1	3548 ⁴	100.0
2009	2124 ⁵	72.4	808	27.5	2	0.1	2934 ⁵	100.0
2010	2215 ⁶	73.9	781	26.0	3	0.1	2999 ⁶	100.0
Total	14,977⁷	75.4	4868	24.5	15	0.1	19,860⁷	100.0

¹Includes 762 conference calendar cases.

²Includes 1045 conference calendar cases.

³Includes 1569 conference calendar cases.

⁴Includes 1054 conference calendar cases.

⁵Includes 578 conference calendar cases.

⁶Includes 534 conference calendar cases.

⁷Includes 5542 conference calendar cases.

Several additional screening tables follow:

(a) Screening Classifications by Case Type

Enclosure C, page 23, shows the number of cases classified and the summary calendar percentage by case type. Extracting only the summary calendar percentages for comparison with prior years, we see:

TABLE 27

<u>Case Type</u>	<u>Summary Calendar Percentage (%)</u>					
	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
DIRECT CRIMINAL	87.7	89.5	87.1	87.9	85.0	83.9
CRIMINAL NON-DIRECT	81.0	90.7	64.6	72.1	89.3	90.8
PRISONER CASES						
W/cnsl.	44.2	46.9	65.4	44.1	37.5	35.3
W/O cnsl.	98.4	95.4	92.3	89.4	85.9	86.5
2255						
W/cnsl.	42.9	66.7	80.0	75.0	81.8	50.0
W/O cnsl.	66.7	86.7	44.4	68.4	75.0	94.1
CIVIL						
Diversity	30.5	28.8	34.1	33.6	32.6	29.4
Federal Question	29.6	27.8	31.8	36.2	31.1	35.4
U.S. Civil	36.8	59.3	48.6	41.8	47.9	52.8
Tax	57.1	54.5	75.0	41.7	52.0	12.5
Bankruptcy	30.6	25.5	43.5	33.8	27.1	25.6
Civil Rights	58.5	60.8	57.1	62.3	58.0	59.4
NLRB*	50.0	54.5	20.0	33.3	--	--

	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
BIA*	--	--	--	--	87.0	85.4
Tax Court	30.8	60.0	55.6	77.8	61.5	40.0
Other Agency*	79.5	78.7	79.6	81.5	54.5	41.2
Social Security	86.3	86.2	100.0	100.0	89.2	76.5
Mandamus	0	0	0	0	0	0
Non-paid Mandamus	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL	73.8	78.6	77.0	75.6	72.4	73.9

* Previously, National Labor Relations Board (NLRB) cases were reported separately from Agency cases. Since we now have a small number of NLRB cases and a significant number of immigration cases, we elected to report the NLRB cases in to the total of the Agency category. We are now reporting immigration cases separately under the BIA category.

H. EN BANC PETITIONS

The number of petitions for rehearing en banc increased by 4, (206 to 210). This amounts to en banc petitions being filed in 6.5% of the cases decided by opinion.

Of the 213 petitions acted upon, 9 were granted. This is an increase from 2009. Of the 200 petitions denied, 7 were denied after a poll. Four were disposed of by other means. See **Enclosure D**, page 24, for other details.

I. PETITIONS FOR CERTIORARI

The number of petitions filed is as follows:

TABLE 28

<u>Petitions Filed</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>	<u>2010</u>
Criminal	805	1340	1338	957	410	365
U.S. Civil	56	41	78	72	70	60
Private Civil	363	256	334	409	309	400
Administrative Appeals	<u>12</u>	<u>6</u>	<u>21</u>	<u>7</u>	<u>6</u>	<u>11</u>
TOTAL	1236	1643	1771	1445	795	836
<u>Opinions Rendered</u>	3032	3712	4288	3778	3149	3210
<u>% of Petitions Filed to Opinions</u>	40.8	44.3	41.3	38.2	25.2	26.0

There were 824 actions taken by the Supreme Court compared with 862 last year. Nineteen petitions were granted, 4 more than last year, or 2.3% granted of the total petitions acted upon. (For additional information, see **Enclosure E**, page 25.)

J. ADMINISTRATIVE-INTERIM MOTIONS

The administrative-interim motions increased to 3307 from 2969 last year, to an average of 207 initiating actions per active judge, up from 175 the prior year. When panel matters are considered, each judge acted on 937 such motions, an increase from 872 last year. See **Enclosure F**, page 26, for other details.

TABLE OF NEW APPEALS DOCKETED BY CASE TYPE AS OF 6/2010

Case Type	(a)	(b)		(c)	(d)	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
	Mo. % 2009-10	Cumulative % 08-09	Cumulative % 09-10	2008 2009	2009 2010												
CRIMINAL CASES	25.98%	35.72%	32.19%	2649	2362	144	197	222	212	175	223	182	191	209	217	185	205
<u>PRISONER CASES</u> w/counsel	1.27%	2.28%	1.94%	169	142	8	12	19	13	9	7	11	10	10	25	8	10
w/o counsel	33.46%	28.05%	29.71%	2080	2180	196	177	191	170	148	179	121	139	221	218	156	264
Succ Habeas	6.21%	4.23%	4.96%	314	364	24	16	30	41	20	34	34	20	34	32	30	49
Non-Pd Mandamus	1.52%	0.98%	1.29%	73	95	9	4	5	4	9	3	9	8	14	6	12	12
SUB-TOTAL	68.44%	71.26%	70.10%	5285	5143	381	406	467	440	361	446	357	368	488	498	391	540
<u>CIVIL</u> Private Civil	9.89%	10.32%	11.31%	765	830	64	92	76	78	56	61	61	47	81	83	53	78
Diversity	5.70%	5.12%	5.56%	380	408	29	29	42	35	30	32	29	28	43	39	27	45
Fed. Quest.	4.18%	5.19%	5.75%	385	422	35	63	34	43	26	29	32	19	38	44	26	33
U.S. Civil	2.15%	1.56%	1.73%	116	127	9	4	18	13	14	8	6	1	13	15	9	17
Tax	0.25%	0.66%	0.30%	49	22	2	2	0	2	0	6	1	0	1	1	5	2
Tax Court	0.51%	0.28%	0.33%	21	24	3	1	0	0	3	2	3	2	3	2	1	4
Bankruptcy	0.89%	1.40%	1.12%	104	82	5	5	5	13	7	8	6	5	9	6	6	7
BIA	4.94%	6.20%	6.04%	460	443	42	45	23	43	34	40	39	30	38	44	26	39
Other Agency	5.32%	0.71%	1.17%	53	86	4	2	4	1	3	7	5	3	7	1	7	42
Civil Rights	6.84%	6.66%	7.07%	494	519	39	43	52	51	24	44	45	32	48	54	33	54
Soc. Security	0.76%	0.58%	0.49%	43	36	2	1	4	2	5	2	1	3	3	5	2	6
Mandamus	0.00%	0.35%	0.34%	26	25	1	3	2	3	1	3	5	2	2	2	1	0
SUB-TOTAL	31.56%	28.74%	29.90%	2131	2194	171	198	184	206	147	181	172	125	205	213	143	249
TOTAL APPEALS	100.0%	100.0%	100.0%	7416	7337	552	604	651	646	508	627	529	493	693	711	534	789

Legend:

- Col: (a): Monthly Percentage Make-Up of the New Filings.
 (b): The Cumulative Percentage for the corresponding months in 08-09 compared with 09-10.
 (c): The Cumulative Total Filings for the corresponding number of months in 08-09.
 (d): The Cumulative Total for 09-10.

WORKLOAD PER ACTIVE JUDGE 2010*

I. <u>SUMMARY CALENDAR CASES</u>			
(a)	Opinions or dispositions as initiating judge	83	
(b)	Participations in opinions or dispositions of other panel members		166
(c)	Sub-total summary calendar cases		249
II. <u>CONFERENCE CALENDAR CASES</u>			
(a)	Opinions or dispositions as initiating judge	32	
(b)	Participations in opinions or dispositions of other panel members		64
(c)	Sub-total conference calendar cases		96
III. <u>HEARING CALENDAR AND OTHER CASES</u>			
(a)	Opinions or dispositions as writing judge	49	
(b)	Participations in opinions or dispositions of other panel members		98
(c)	Sub-total oral argument cases	—	<u>147</u>
IV.	<u>TOTAL OPINIONS (I(a), II(a) and III(a))*</u>	164	
V.	<u>TOTAL PANEL (NON-OPINION) PARTICIPATIONS (I(b), II(b) and III(b))</u>		328
VI.	<u>TOTAL OPINIONS AND PARTICIPATIONS (I(c), II(c) and III(c))</u>		492
VII.	<u>PETITIONS FOR REHEARING EN BANC</u>		213
VIII. <u>ADMINISTRATIVE-INTERIM MATTERS</u>			
(a)	Single judge matters	118	
(b)	Participation in panel matters as initiating judge	270	
(c)	Participation in panel matters of other panel members		540
(d)	Sub-total administrative-interim matters	—	<u>937</u>
IX.	<u>TOTAL MATTERS PARTICIPATED IN PER JUDGE</u>		1642

* Based on figures of judges who participated in summary, hearing and conference calendar for full year.

SUMMARY OF SCREENING CLASSIFICATION

BY CASE TYPE

PERIOD: JULY 1, 2009 - JUNE 30, 2010

<u>CASE TYPE</u>	<u>I</u>	<u>II</u>	<u>III</u>	<u>IV</u>	<u>TOTAL</u>	<u>% OF I and II'S TO TOTAL CASES</u>
CRIMINAL DIRECT	475	740	232	1	1448	83.9
CRIMINAL NON-DIRECT	53	154	21	0	228	90.8
PRISONER CASES						
HC-W	0	7	11	0	18	38.9
HC-W/O	6	82	23	0	111	79.3
1983-W	0	4	11	0	15	26.7
1983-W/O	49	107	14	0	170	91.8
O. Pris.-W	0	1	0	0	1	100.0
O. Pris.-W/O	7	17	5	0	29	82.8
2255-W	0	2	2	0	4	50.0
2255-W/O	0	16	1	0	17	94.1
<u>CIVIL</u>						
Diversity	0	59	142	0	201	29.4
Fed. Question	7	56	115	0	178	35.4
U.S. Civil	1	27	25	0	53	52.8
Tax	0	1	7	0	8	12.5
Bankruptcy	1	10	30	2	43	25.6
Civ. Rights	11	122	91	0	224	59.4
BIA*	0	176	30	0	206	85.4
Tax Court	0	4	6	0	10	40.0
Other Agency*	0	7	10	0	17	41.2
Social Security	0	13	4	0	17	76.5
Mandamus	0	0	1	0	1	0.0
Total**	610	1605	781	3	2999	73.9

* Previously, National Labor Relations Board (NLRB) cases were reported separately from Agency cases. Since we now have a small number of NLRB cases and a significant number of immigration cases, we elected to report the NLRB cases in to the total of the Agency category. We are now reporting immigration cases separately under the BIA category.

** Includes 534 Conference Calendar Cases.

**PETITIONS FOR
REHEARING EN BANC**

F.Y. 2010
07/01/09 - 06/30/10

TOTAL

Total Pending as of 06/30/09

24

FILED

Petitions for Rehearing
En Banc Filed

210

DENIED

w/poll vote
w/o poll vote

7
193

200

GRANTED

On Court's own motion with
oral argument
On Court's own motion without
oral argument
On motion of parties with
oral argument
On motion of parties without
oral argument

0
0
9
0

9

OTHER

4

Total Pending as of 06/30/10

21

LIST OF PETITIONS FOR CERTIORARI
FILED, ACTED ON AND PENDING

SUMMARY

PERIOD: July 1, 2009 to June 30, 2010

TYPE	PENDING <u>07/01/09</u>	NUMBER <u>FILED</u>	TYPE OF DISPOSITION			PENDING <u>6/30/10</u>
			<u>GRANTED</u>	<u>DENIED</u>	<u>DISMISSED</u>	
TOTAL	128	836	19	791	14	140
CRIM	45	365	10	360	1	39
USC	8	60	1	58	0	9
PRIV.CIV.	72	400	5	362	13	92
ADM*	3	11	3	11	0	0

* Administrative appeals include applications for enforcement or Petitions for Review of orders of an administrative board or agency.

MONTHLY REPORT OF ADMINISTRATIVE-MOTIONS SUBMITTED TO JUDGES (FY 2010)

Motions to or for:	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	TOTALS
Dismiss	17	15	19	22	27	20	16	16	33	17	19	25	246
Reinstate Appeal	3	0	1	1	0	0	0	1	1	2	0	3	12
Appointment of Counsel	3	8	14	8	10	8	5	9	8	6	10	9	98
Expedite Hearing, for Continuance, or Special Assignment	1	0	7	0	3	2	4	3	1	0	1	3	25
Stay or for Injunction and/or Supersedeas Pending Appeal	20	18	18	12	19	11	19	11	15	18	12	16	189
Supplement the Record	2	3	2	7	4	1	4	1	9	1	2	4	40
Strike Briefs, Designations for Printing, etc	2	0	4	2	3	5	0	3	0	4	1	2	26
Excess Pages in Brief	0	0	0	0	1	0	0	0	0	0	0	0	1
Bail Pending Appeal	2	4	0	3	2	3	0	2	6	4	1	1	28
Interlocutory Appeal (Sec. 1292(b))	2	4	4	5	1	2	5	2	4	1	5	0	35
Jurisdiction	63	62	54	48	45	36	37	41	52	52	47	51	588
Withdraw as Counsel	1	1	11	6	7	9	3	4	5	7	12	12	78
Extensions of Time	5	1	4	5	3	2	5	9	3	4	7	11	59
Certificate of Probable Cause/Certificate of Appealability	87	64	58	49	61	100	75	51	73	51	58	50	777
Leave to Appeal In Forma Pauperis	15	27	14	17	26	15	20	20	16	14	17	35	236
Issuance of CPC/COA and Leave to Appeal In Forma Pauperis	16	12	11	15	16	20	29	15	12	10	18	14	188
Mandamus or Prohibition	1	11	2	4	5	16	4	9	10	11	12	3	88
Successive Petitions	24	22	15	17	23	15	21	21	16	24	21	28	247
Miscellaneous Motions	24	31	30	29	19	32	25	24	26	29	32	45	346
<u>TOTALS</u>	288	283	268	250	275	297	272	242	290	255	275	312	3307