

COMMONWEALTH COURT OF PENNSYLVANIA

2009

STATISTICAL REPORT



President Judge

HON. BONNIE BRIGANCE LEADBETTER

Judges

**HON. BERNARD L. MCGINLEY
HON. DORIS A. SMITH-RIBNER
HON. DANTE R. PELLEGRINI
HON. RENÉE L. COHN JUBELIRER
HON. ROBERT E. SIMPSON, JR.
HON. MARY HANNAH LEAVITT
HON. JOHNNY J. BUTLER**

**HON. ROCHELLE S. FRIEDMAN, Senior Judge
HON. JAMES R. KELLEY, Senior Judge
HON. JIM FLAHERTY, Senior Judge
HON. JOSEPH F. McCLOSKEY, Senior Judge**

**By: Michael F. Krimmel, Chief Clerk
Michelle S. Proper, Deputy Chief Clerk**

**Nicholas L. DiLorenzo, Executive Administrator
Kristen W. Brown, Prothonotary
John Moyer, Deputy Prothonotary**

TABLE OF CONTENTS

	PAGE
Summary	1
Cases Filed	3
Appeals from Courts of Common Pleas	6
Administrative Agency Appeals	8
Appeals from the Board of Finance & Revenue	10
Original Jurisdiction & Miscellaneous	11
Dispositions	12
Summary of Opinions	16
Inventory	17
Supreme Court Filings and Dispositions	19
Common Pleas Appeals filed by County	20
Argument Court Statistics	22
Appellate Case Time to Disposition Report	23
Mediation Program Statistics	25



Commonwealth Court of Pennsylvania

2009

STATISTICAL REPORT

SUMMARY

We are pleased to present this 2009 annual statistical report of the Commonwealth Court of Pennsylvania, one of two statewide intermediate appellate courts in Pennsylvania. The Court, which was created in 1970 as a result of the Constitutional Convention of 1967-68, primarily deals with “public” or administrative law matters, and hears appeals from county courts of common pleas and state administrative agencies. From county courts, the Commonwealth Court hears appeals in matters involving zoning, taxation, civil service, negligence cases involving state and local government, and eminent domain, among others. From state administrative agencies, the Court hears appeals in matters involving workers’ and unemployment compensation, environmental issues, welfare claims, public utility rate disputes, and taxation, among others. In addition, the Court acts as a trial court in certain types of cases where the Commonwealth is a party, including actions in equity, mandamus, and declaratory judgment. The Court also hears cases arising under the Election Code in both its original and appellate jurisdiction.

In 2009, a total of 4,113 new cases were filed in Commonwealth Court, a 2% increase over new cases filed in 2008.

In the Court’s appellate jurisdiction, unemployment compensation cases led agency appeals, far outpacing any other case category and reflecting the impact of the economic downturn on the Court’s caseload. Of the 1,666 agency appeals filed in 2009, nearly half – 806 – were unemployment compensation appeals, a 51% increase over 2008. Appeals from the courts of common pleas increased by 6% in 2009.

There were 632 new original jurisdiction cases filed in 2009, an increase of 9% over 2008. Of these, 465 were filed by prison inmates, representing 74% of the entire original jurisdiction caseload.

In 2009 the Court handled – in an expedited manner – 91 appeals and 39 original jurisdiction cases arising under the Election Code. Of note, in the 91 election appeals, the average time from the receipt of the notice of appeal to the Commonwealth Court’s decision was only 11 days.

The Court actively supervised twelve insolvent insurance company estates in 2009, with two new insolvency matters having been opened in early 2009. These matters, in which the Court supervises the estates of insolvent insurance companies in various stages of rehabilitation or liquidation, are akin to bankruptcy proceedings. They involve complex, protracted litigation, and often result in the filing of numerous related “sub-cases” in the Court’s original jurisdiction, presenting unique case management challenges and requiring significant judicial and staff resources.

The Court’s mediation program continued to be successful in 2009. A total of 147 cases were referred to mediation, and 79 cases were settled, eliminating the need for further litigation.

The Court continued its high level of productivity in 2009, disposing of 4,052 cases, 1,151 of which were decided by majority opinion. The Court averaged 63 days from assignment of a case to final disposition. This is significantly better than the American Bar Association’s 90 day standard for time from assignment to disposition. In addition, the Court handled 7,491 ancillary motions, applications, and petitions in 2009, an increase of 13% over 2008.

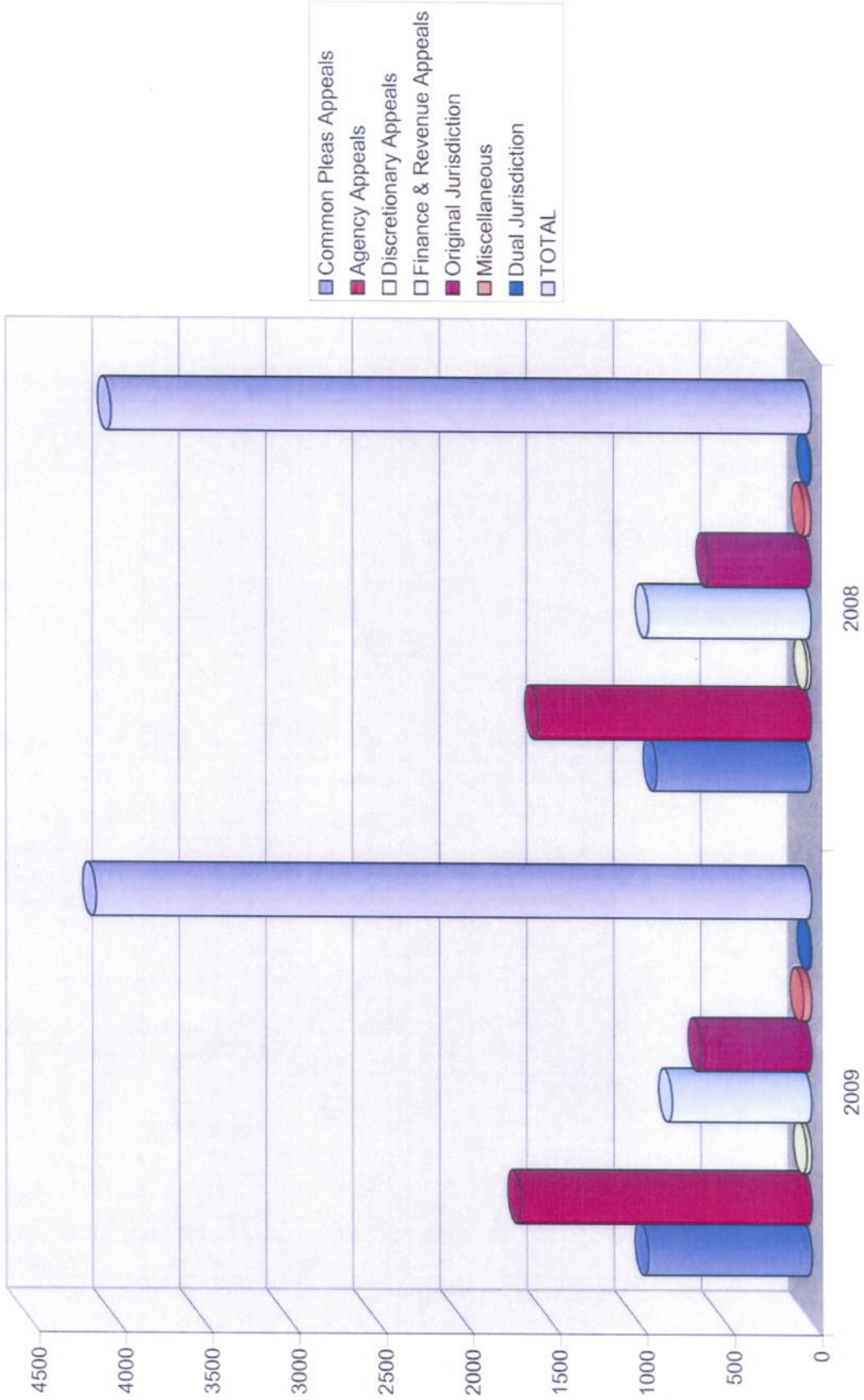
Finally, this high level of productivity has again resulted in a low inventory of open cases pending at year’s end, with 1,229 appeals pending at the end of 2009.

Michael F. Krimmel
Chief Clerk
Commonwealth Court of Pennsylvania

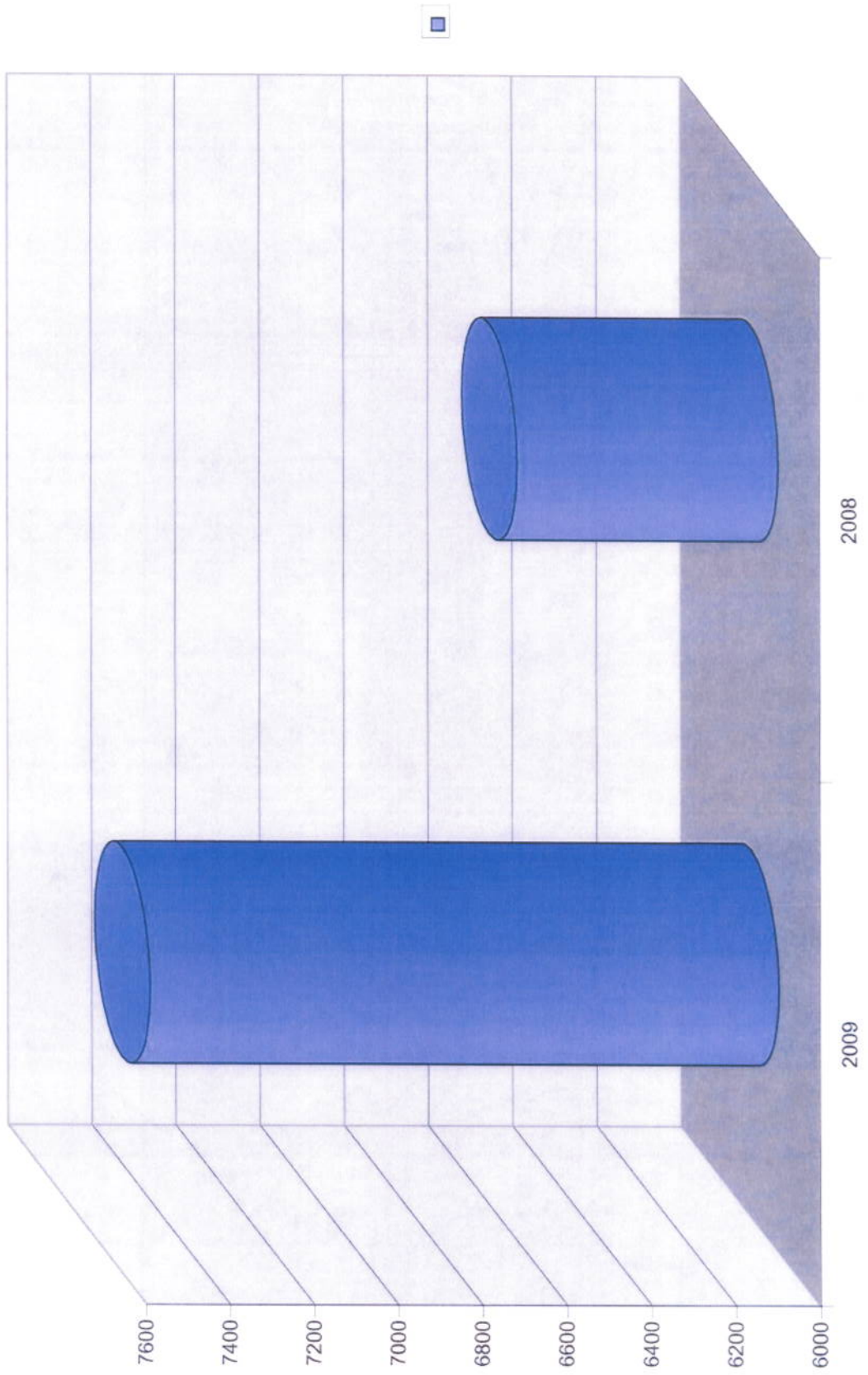
Cases Filed

	2007	2008	2009
Appeals from Courts of Common Pleas	876	885	938
Appeals from Administrative Agencies	1494	1566	1666
Discretionary Appeals	24	22	28
Original Jurisdiction	587	582	632
Appeals from Board of Finance & Revenue	896	932	799
Original & Appellate (Combined)	7	4	5
Miscellaneous	38	36	45
Total Actions Filed	3922	4027	4113
Motions Filed	6470	6617	7491

COMMONWEALTH COURT NEW ACTIONS FILED



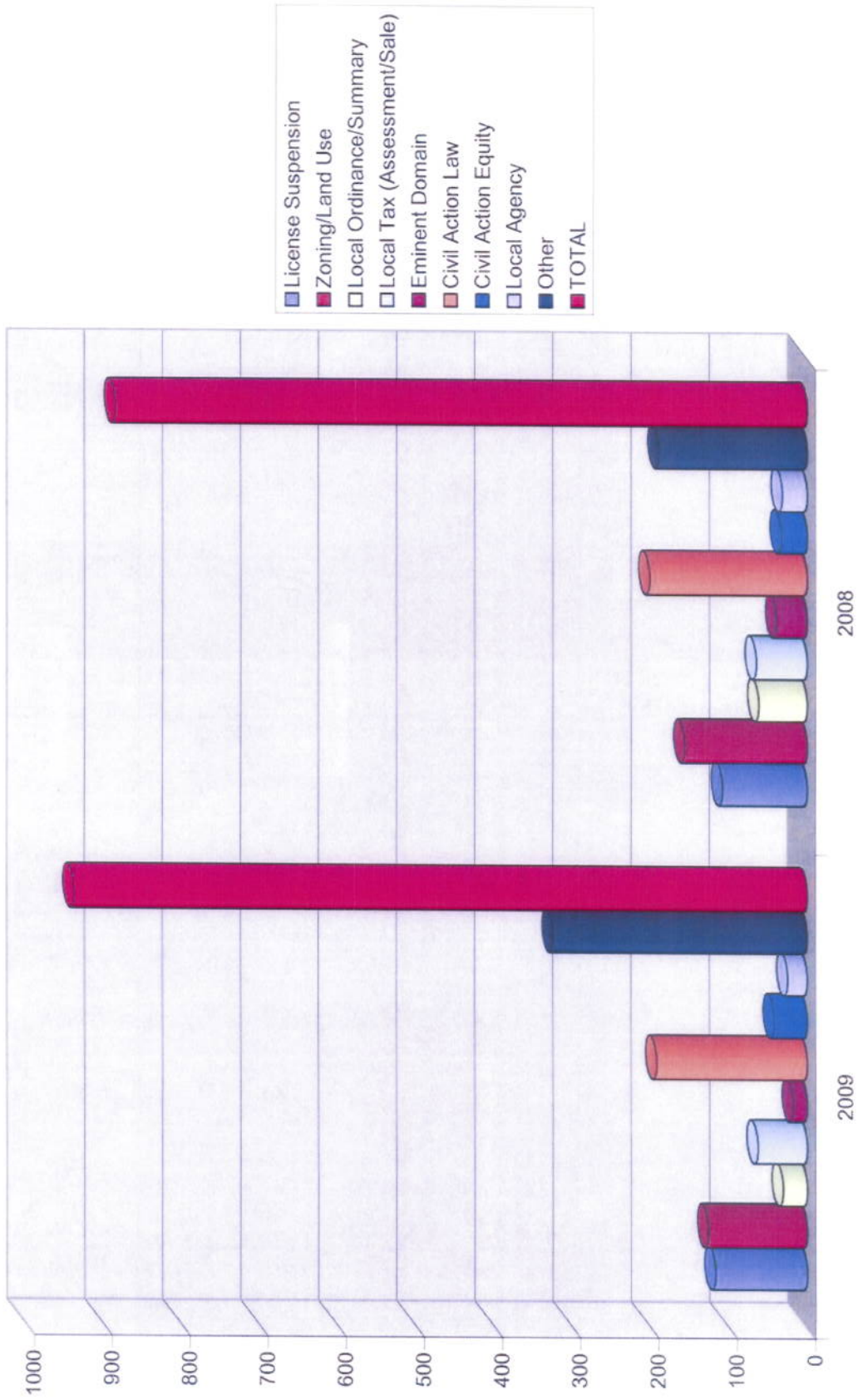
COMMONWEALTH COURT MOTIONS FILED



Appeals from Courts of Common Pleas

	2007	2008	2009
Motor Vehicle License Suspension	105	108	117
Zoning/Subdivision	154	156	126
Local Tax Appeals	46	65	63
Liquor Control Board	8	25	32
Eminent Domain	42	39	18
Civil Action Law	176	201	192
Civil Action Equity	42	33	42
Local Agency Law	59	32	25
Declaratory Judgment	18	4	3
Forfeiture Actions	15	12	12
Mandamus	6	3	8
Summary Conviction (Local Ordinance)	28	62	31
Right To Know	8	11	8
Election	67	4	91
Other	102	130	143
Total	876	885	911

COMMONWEALTH COURT COMMON PLEAS APPEALS 2009 vs. 2008

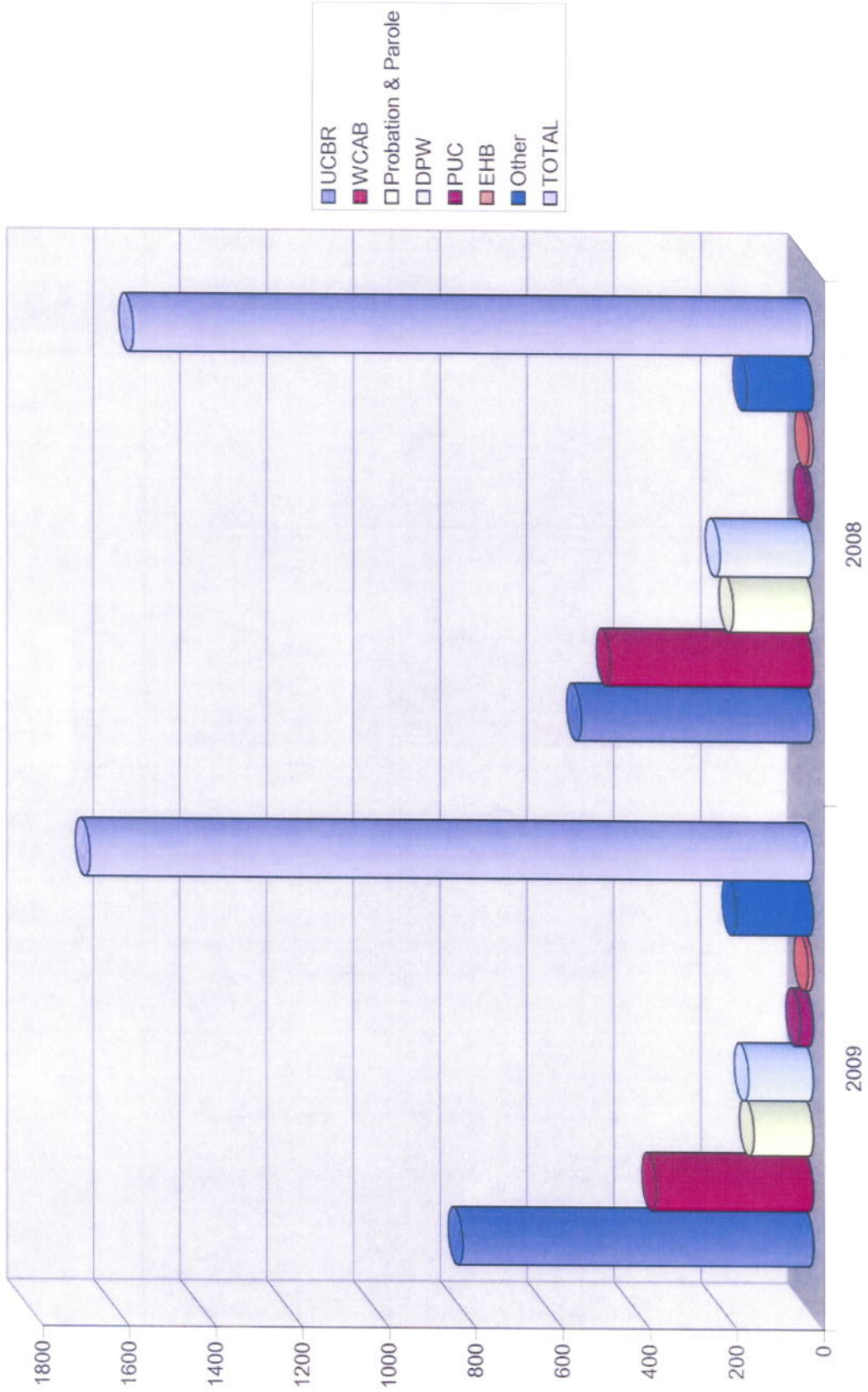


Administrative Agency Appeals

	2007	2008	2009
Unemployment Compensation Board of Review	474	533	806
Workers' Compensation Appeal Board	529	465	360
Board of Probation & Parole	159	183	136
Department of Public Welfare	128	214	148
Public Utility Commission	20	11	29
Civil Service Commission	31	16	23
Environmental Hearing Board	25	9	11
Bureau of Professional and Occupational Affairs	21	21	21
Education Department	6	6	11
Insurance Department	8	7	2
Arbitration	5	5	7
Right to Know	0	0	27
Special Education Due Process Board	6	5	4
Department of State	7	8	2
Department of Corrections	24	15	14
Department of Transportation	3	8	5
"Other"*	48	60	87
Total	1494	1566	1693

*"Other" - When fewer than five petitions for review are filed challenging decisions of a single Commonwealth Agency in the current year, the agency is included in this category.

COMMONWEALTH COURT AGENCY COURT APPEALS 2009 VS. 2008



Appeals from the Board of Finance & Revenue

	2007	2008	2009
Corporate Net Income Tax	150	130	86
Franchise Tax	217	203	153
Sales & Use Tax	324	329	352
Sales Tax	33	11	20
Use Tax	12	6	3
Capital Stock Tax	49	52	20
Personal Income Tax	17	45	42
Realty Transfer Tax	13	48	70
Motor Carrier Road Tax	10	17	15
Public Utility Realty Tax (PURTA)	15	17	19
Bank Shares	0	6	3
Gross Premium Tax	29	14	1
Gross Receipt Tax	5	42	6
Other*	22	12	9
Total	896	932	799

*Includes types of matters in which fewer than five Petitions for Review were filed within the last year.

Original Jurisdiction

	2007	2008	2009
Complaints			
Civil Action - Law	9	15	10
Civil Action - Equity	15	13	11
Petitions for Review			
Civil Action - Law	14	15	12
Declaratory Judgment	20	12	19
Mandamus	10	12	18
Equity	12	13	17
Inmate Petitions for Review	429	386	465
"Other"	5	2	6
Enforcement Proceedings	62	41	35
Election Petitions	11	73	39
Total	587	582	632

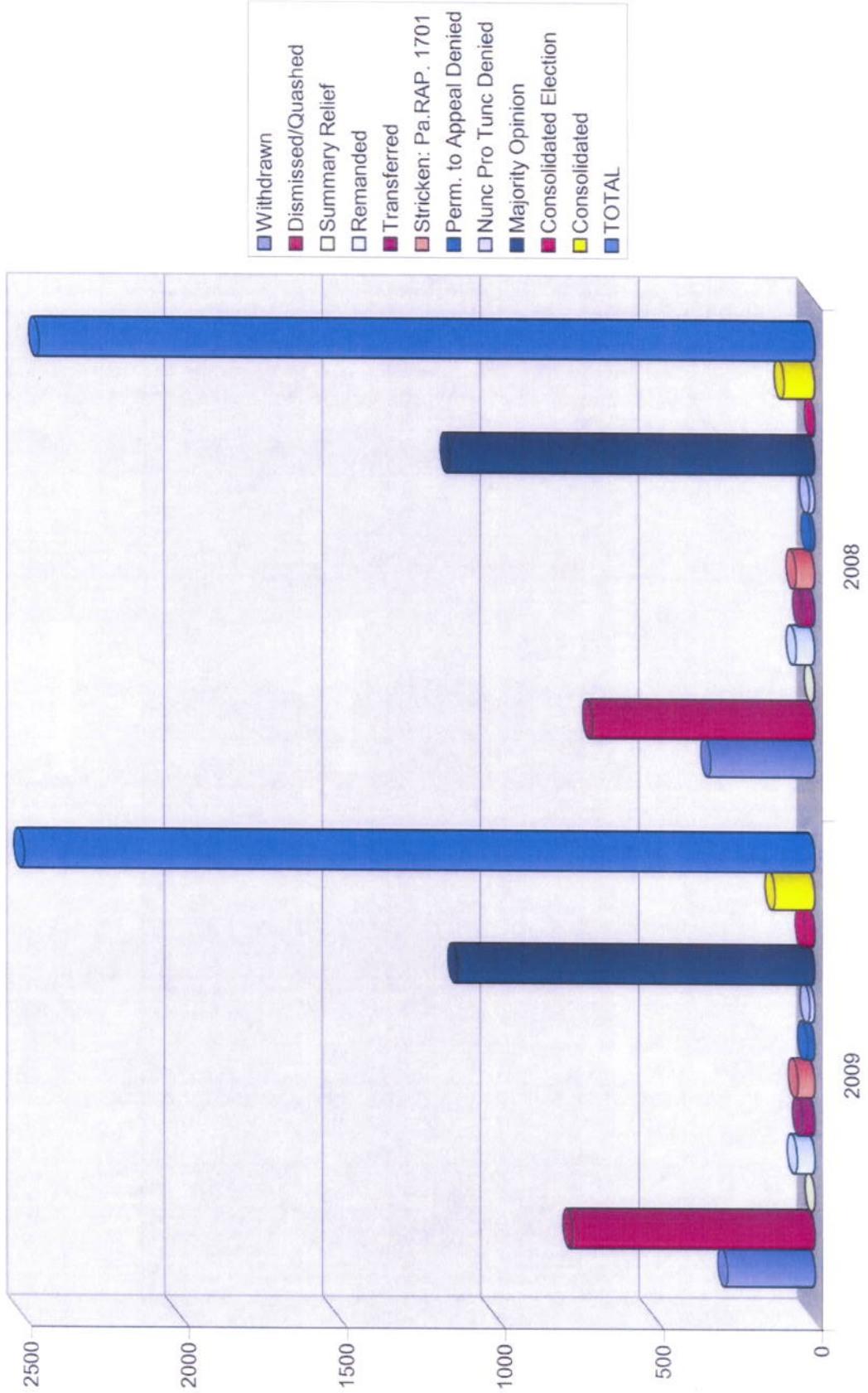
Miscellaneous

Assurance of Voluntary Compliance	14	13	15
Liquidation Petition (Ins. Dept.)	0	0	3
Other	24	23	27
Total	38	36	45

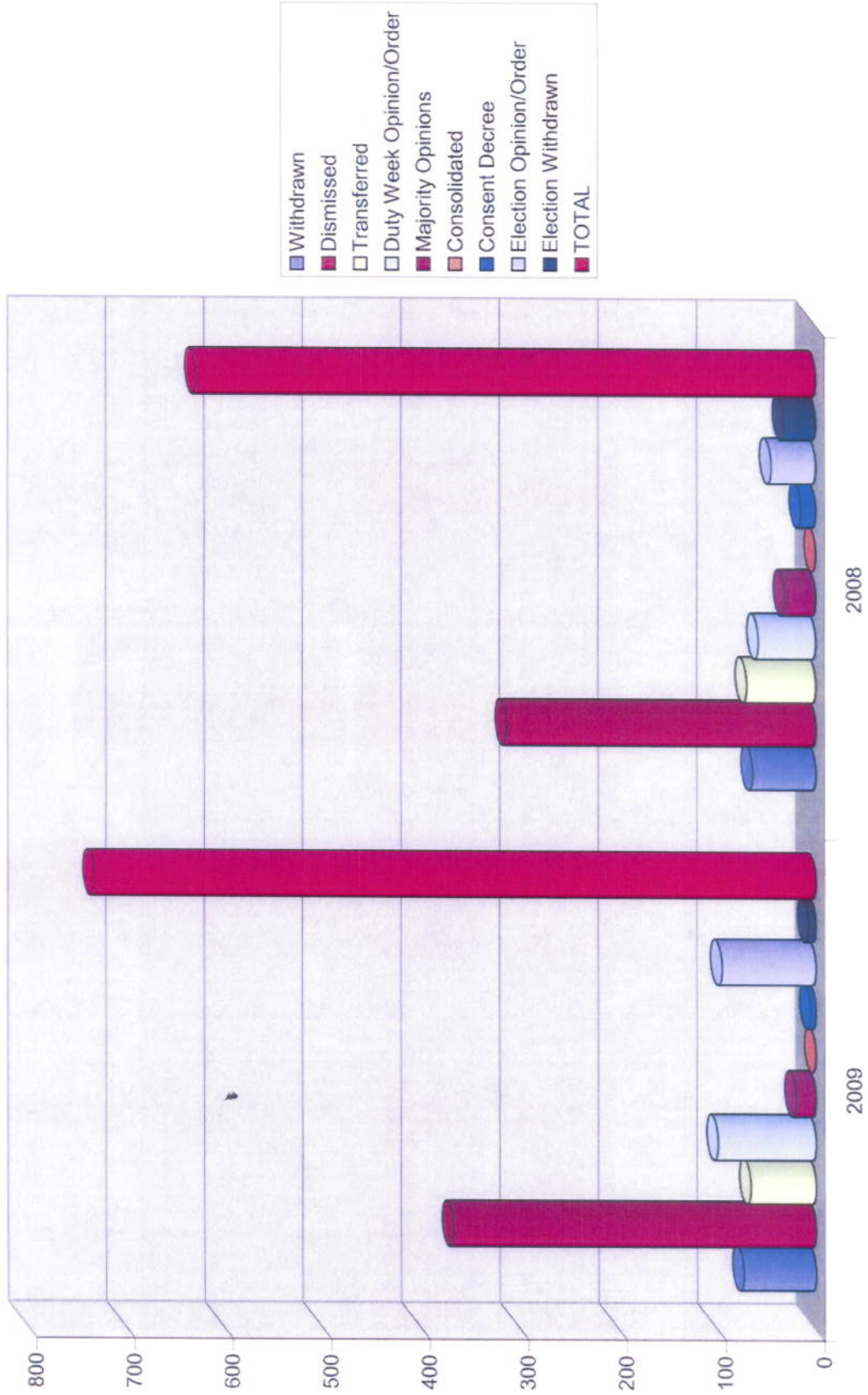
Dispositions

	2007	2008	2009
<u>Appellate</u>			
Majority Opinion	1206	1150	1125
Consolidated	99	96	155
Withdrawn	288	327	275
Dismissed	575	699	762
Remanded	107	58	55
Transferred	41	37	39
Stricken: Pa. R.A.P. 1701	37	58	52
Permission to Appeal Denied	12	11	22
Nunc Pro Tunc Denied	9	16	15
Summary Relief	0	1	0
Sub-Total	2374	2453	2500
<u>Original</u>			
Majority Opinion	43	31	20
Consolidated	1	0	0
Duty Week Opinions/Orders	51	58	99
Election Opinion/Order	62	45	95
Withdrawn (election)	1	32	7
Withdrawn	94	64	73
Dismissed	300	313	367
Transferred	100	70	66
Consent Decrees	11	15	5
Sub-Total	663	628	732
<u>Board of Finance & Revenue</u>			
Majority Opinion	5	5	6
Consolidated	0	0	0
Withdrawn	138	91	132
Stipulation for Judgment	621	650	667
Dismissed	34	29	15
Sub-Total	798	775	820
Total Dispositions	3835	3856	4052

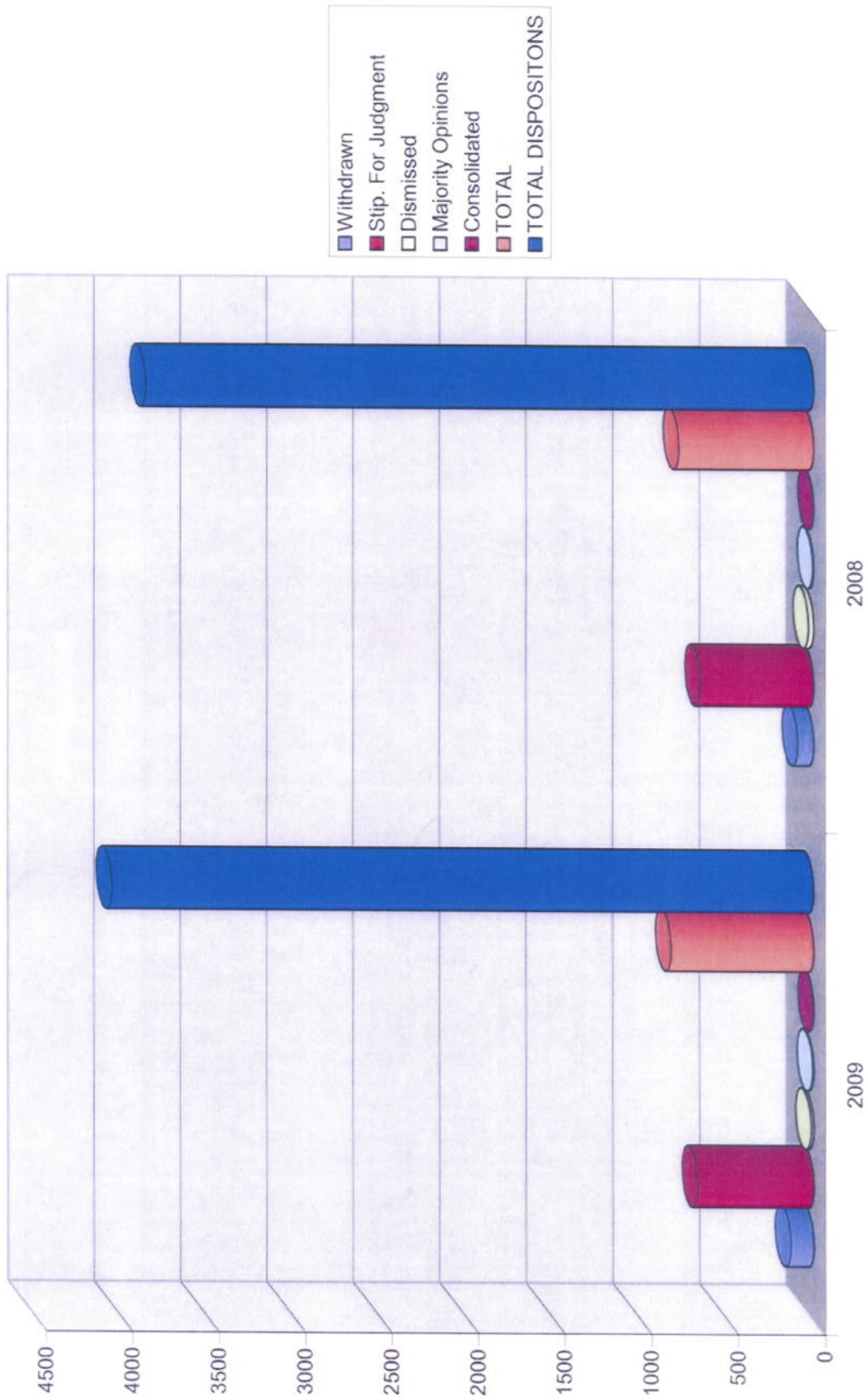
COMMONWEALTH COURT APPELLATE JURISDICTION DISPOSITIONS



COMMONWEALTH COURT ORIGINAL JURISDICTION DISPOSITIONS



COMMONWEALTH COURT FINANCE AND REVENUE DISPOSITIONS



Summary of Opinions

	2007	2008	2009
Majority Opinion	1271	1205	1183
Reported	394	311	309
Not Reported	877	894	874
Duty Week Opinions	86	73	82
Reported	5	13	10
Not Reported	81	60	72
Concurring Opinions	10	21	28
Dissenting Opinions	96	86	106
Concurring & Dissenting Opinions	9	8	10
Total Opinions Filed	1472	1393	1409
Dissents	86	51	44
Concurred in Result Only	32	29	38
Types of Cases in which opinions were filed:			
Administrative Agency Appeals			
Unemployment Compensation Board of Review	160	159	223
Workers' Compensation Appeal Board	326	341	252
Board of Probation & Parole	89	102	82
Other Agencies	147	138	125
Total	722	740	682
Common Pleas Appeals			
Zoning/Land use	114	89	100
Drivers License Suspension	69	40	69
Tort/Immunity	13	4	3
Other Common Pleas Appeals	285	285	283
Total	481	418	455
Board of Finance & Revenue	5	5	8
Original Jurisdiction	57	42	34
Election Cases	62	21	52
Submitted on Briefs	869	913	854
Argued before a panel	356	246	264
Argued before court en banc	46	46	65
Average time from argument or submission to decision (days)	66	64	63

Inventory*

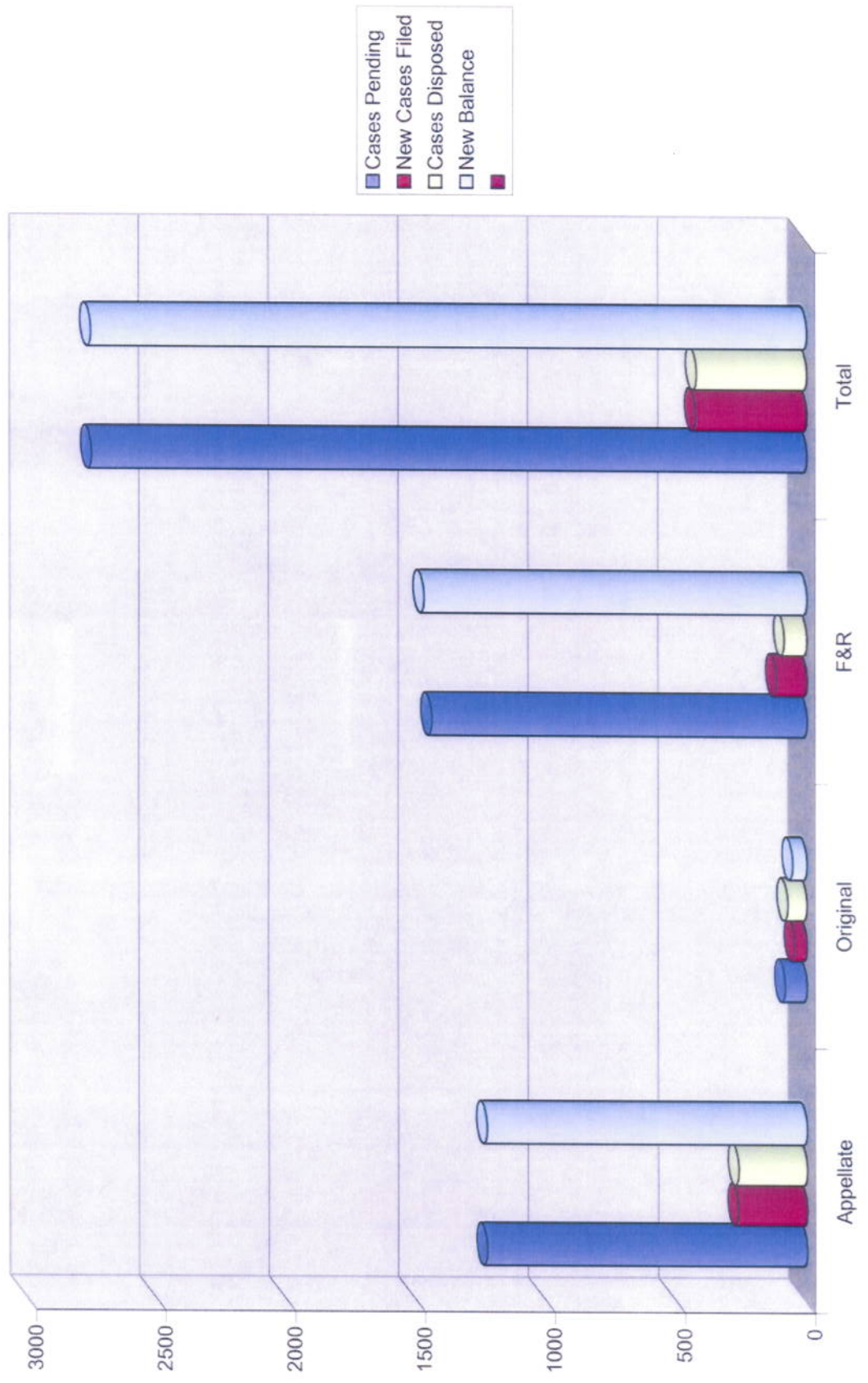
	Appellate	Original	Finance & Revenue	Total
Cases Pending Jan. 1, 1987	4140	450	2841	7431
Cases Filed 1987 through 2009	66,866	13,760	16,640	97,266
Cases Disposed 1987 through 2009	69,664	14,195	17,986	101,845
Cases Pending Dec. 31, 2009	1229	83	1443	2755
% Change	-70%	-82%	-49%	-63%

Inventory*

	Appellate	Original	Finance & Revenue	Total
Cases Pending Jan. 1, 2009	1172	121	1568	2861
Cases Filed 2009	2632	632	799	4063
Cases Disposed 2009	2500	732	820	4052
Cases Pending Dec. 31, 2009	1229	83	1443	2755
% Change	5%	-31%	-8%	-4%

* Does not include certain "miscellaneous" and dual jurisdiction cases.

DECEMBER 31, 2009 COMMONWEALTH COURT CASE INVENTORY



Appeals to Supreme Court from Commonwealth Court

Filings	2007	2008	2009
Petition for Allowance of Appeal	385	297	328
Notice of Appeal	61	71	25
Petition for Allowance of Appeal Granted	59	41	24
Other	12	61	37
TOTAL	517	470	414

Disposition of Appeals to Supreme Court

Dispositions

Petition for Allowance of Appeal Denied	391	332	308
Commonwealth Court Affirmed	55	66	50
Commonwealth Court Reversed	38	17	19
Withdrawn	10	26	19
Dismissed	10	18	13
TOTAL	504	459	409

**The following reflects the counties from which appeals
from courts of common pleas were filed:**

	2007	2008	2009
Adams	11	7	4
Allegheny	113	107	101
Armstrong	2	3	4
Beaver	2	8	7
Bedford	9	1	2
Berks	29	21	20
Blair	2	4	9
Bradford	1	3	1
Bucks	30	27	35
Butler	6	10	10
Cambria	8	6	3
Cameron	0	0	0
Carbon	11	1	11
Centre	2	10	8
Chester	41	23	41
Clarion	1	4	1
Clearfield	9	2	6
Clinton	1	3	1
Columbia	2	4	6
Crawford	3	2	2
Cumberland	11	7	7
Dauphin	20	18	11
Delaware	54	33	28
Elk	2	2	1
Erie	9	13	11
Fayette	19	8	12
Forest	4	3	1
Franklin	3	6	0
Fulton	0	1	0
Greene	7	6	7
Huntingdon	13	11	9
Indiana	4	3	4

	2007	2008	2009
Jefferson	0	0	2
Juniata	0	0	0
Lackawanna	34	34	25
Lancaster	12	17	9
Lawrence	8	8	10
Lebanon	6	12	8
Lehigh	23	30	25
Luzerne	28	28	21
Lycoming	8	8	10
McKean	0	1	4
Mercer	10	7	8
Mifflin	1	2	3
Monroe	16	18	17
Montgomery	32	51	45
Montour	0	0	0
Northampton	18	17	20
Northumberland	1	38	6
Perry	1	2	1
Philadelphia	119	112	179
Pike	3	4	7
Potter	0	1	1
Schuylkill	20	26	19
Snyder	0	3	1
Somerset	9	5	6
Sullivan	1	0	1
Susquehanna	4	4	1
Tioga	2	3	2
Union	2	0	1
Venango	3	3	2
Warren	1	1	1
Washington	17	21	13
Wayne	10	3	7
Westmoreland	14	21	11
Wyoming	2	1	1
York	30	33	27

Argument Court

	2007	2008	2009
Days of Argument Court	41	26	28
Cases Listed for Oral Argument before Court En Banc	65	82	69
Cases Listed for Oral Argument before a Panel	369	377	387
Cases Consolidated for Argument	64	96	38
Cases Continued	43	31	52
Cases Suibmitted on Briefs without Oral Argument	918	932	885

**APPELLATE CASES
TIME TO DISPOSITION
2009**

Cases Disposed	2273
Disposed prior to decision (dismissals, withdrawn, transfer, etc.)	3415
Ave. time to disposition	167 days
Cases Disposed on Merits	1131
% of cases disposed on merits	50 %
Argued orally	326
Submitted on briefs	805
Cases Disposed under 365 days	2139 (94%)
Cases Disposed under 290 days	1946 (86%)
Submitted Cases Disposed under 220 days	433 (54%)

Cases Decided on Merits

Cases Reviewed	1131
Ave. filing to record	45 days
Ave. filing to Appellant brief	103 days
Ave. filing to Appellee brief	143 days
Ave. filing to argument/submission	191 days
Ave. filing to decision	254 days
Record to Appellant brief	58 days
Appellant brief to Appellee brief	40 days
Briefs to argument/submission	48 days
Assignment to decision	63 days

Argued Cases

Cases reviewed	326
Ave. filing to record	56 days
Ave. filing to Appellant brief	112 days
Ave. filing to Appellee brief	150 days
Ave. filing to argument	254 days
Ave. filing to decision	319 days
Record to Appellant brief	56 days
Appellant brief to Appellee brief	38 days
Briefs to argument	104 days
Assignment to decision	65 days

Submitted Cases

Cases reviewed	805
Ave. filing to record	40 days
Ave. filing to Appellant brief	99 days
Ave. filing to Appellee brief	140 days
Ave. filing to submission	165 days
Ave. filing to decision	227 days
Record to Appellant brief	59 days
Appellant brief to Appellee brief	40 days
Briefs to submission	25 days
Assignment to decision	62 days

**COMMONWEALTH COURT MEDIATION PROGRAM
2009 STATISTICAL REPORT**

	<u>Referred in 2009</u>	<u>Carryover from 2008</u>	<u>Resolved in 2009</u>	<u>Not Resolved</u>	<u>Pending</u>
Arbitration	5	0	4	0	1
Board of Claims	1	0	0	0	1
DEP	3	0	0	1	2
DPW	14	3	13	0	4
Eminent Domain	3	1	0	1	3
HRC	0	0	0	0	0
Local Agency	12	0	2	3	7
Local Tax	3	3	1	4	1
Miscellaneous	11	2	6	4	3
Original Jurisdiction	1	4	4	0	1
PBPP	2	0	0	2	0
PUC	2	1	2	0	1
State Licensure Boards	6	0	3	1	2
State/Local Gov't Tort	5	0	4	0	1
Tax Sale	2	3	1	2	2
Workers' Compensation	65	13	34	32	12
Zoning	12	6	5	7	6
TOTAL	147	36	79	57	47

183
Total Cases

58%
Resolution Rate

COURT MEDIATION PROGRAM TOTALS SINCE INCEPTION
2000 - Present

Referred
2123

Resolved
969

46%
Resolution Rate