

# UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

SUSAN GELMIS - CHIEF DEPUTY CLERK, OPERATIONS

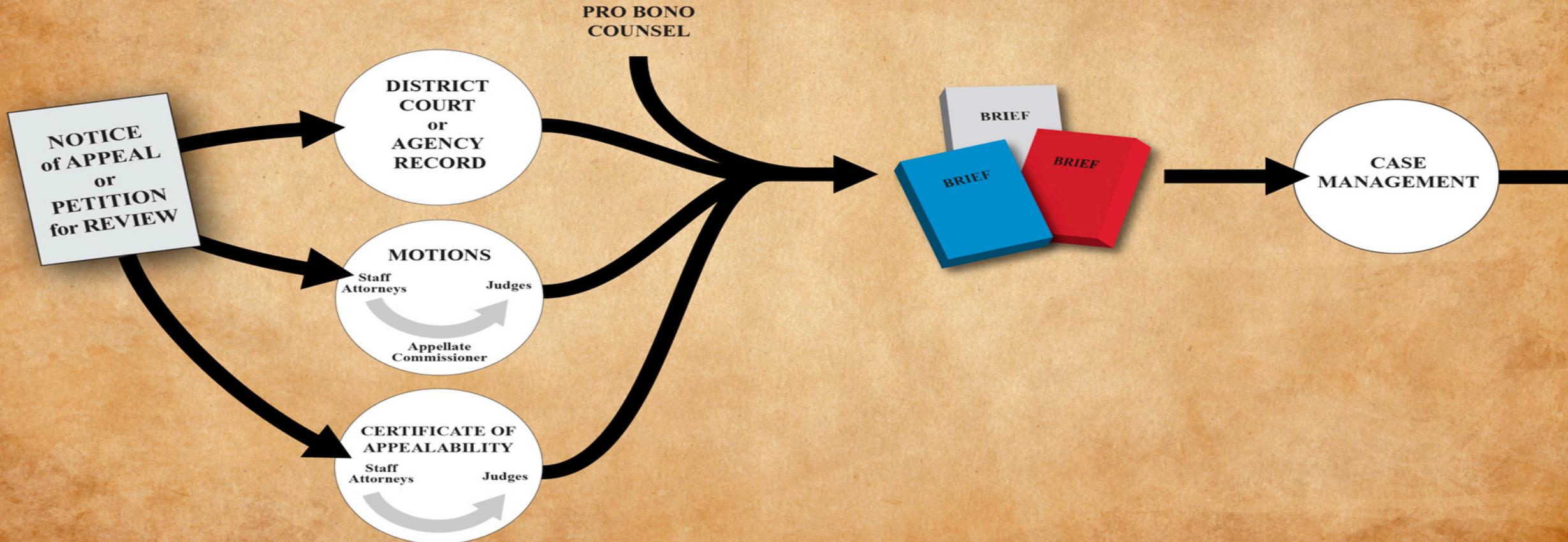




# THE APPELLATE PROCESS

## PRE-BRIEFING

MEDIATION - - - - -

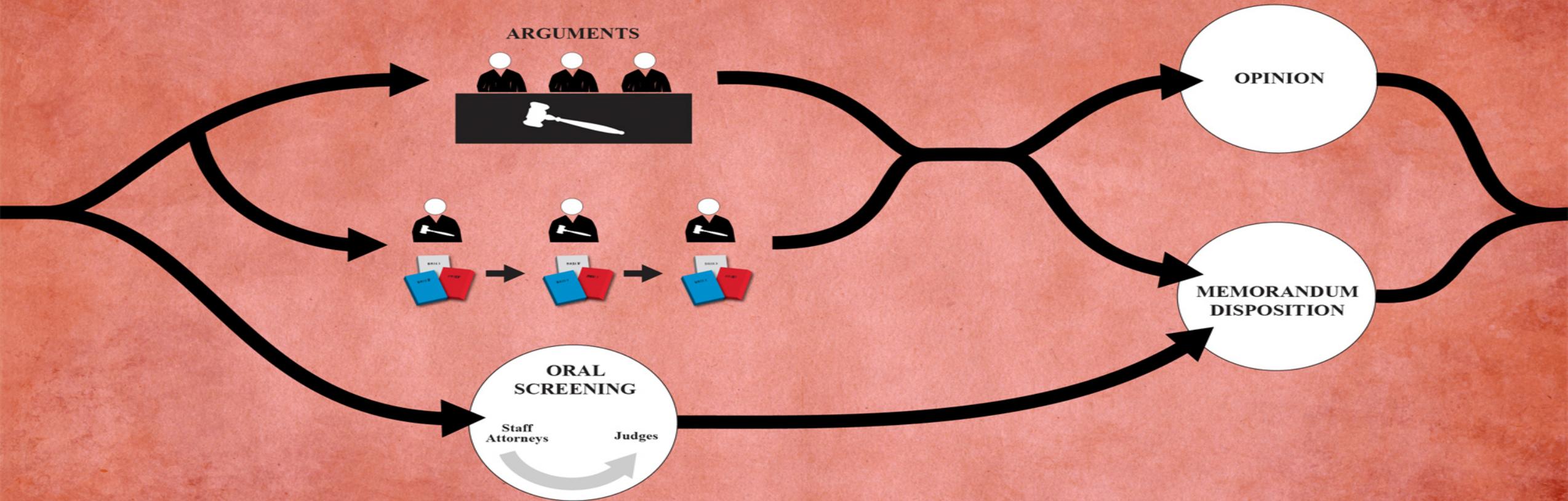


# THE APPELLATE PROCESS

**SUBMISSION**

**DECISION**

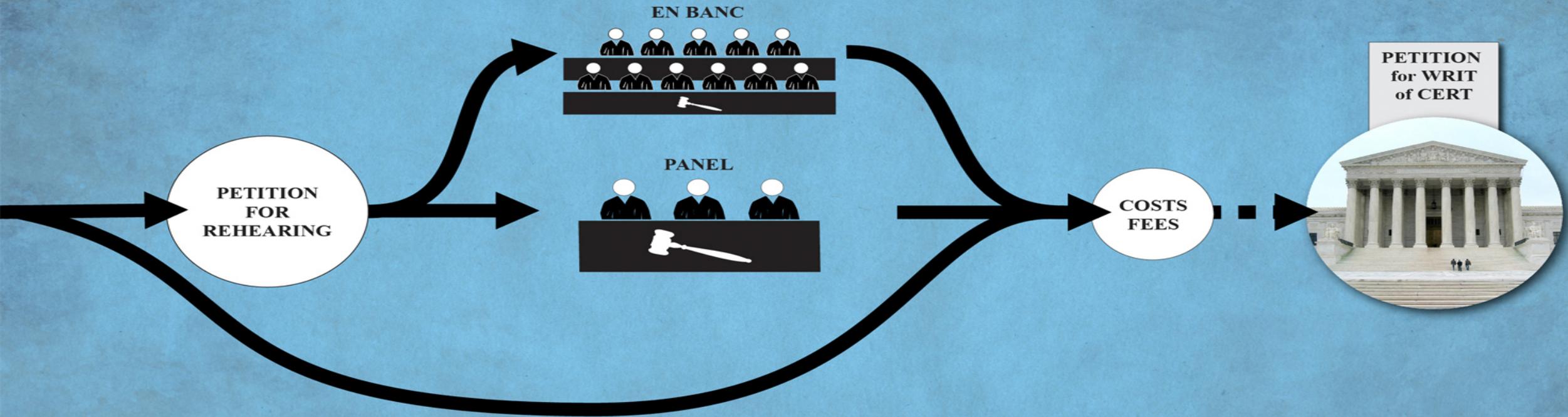
**MEDIATION** - - - - -



# THE APPELLATE PROCESS

## POST JUDGMENT

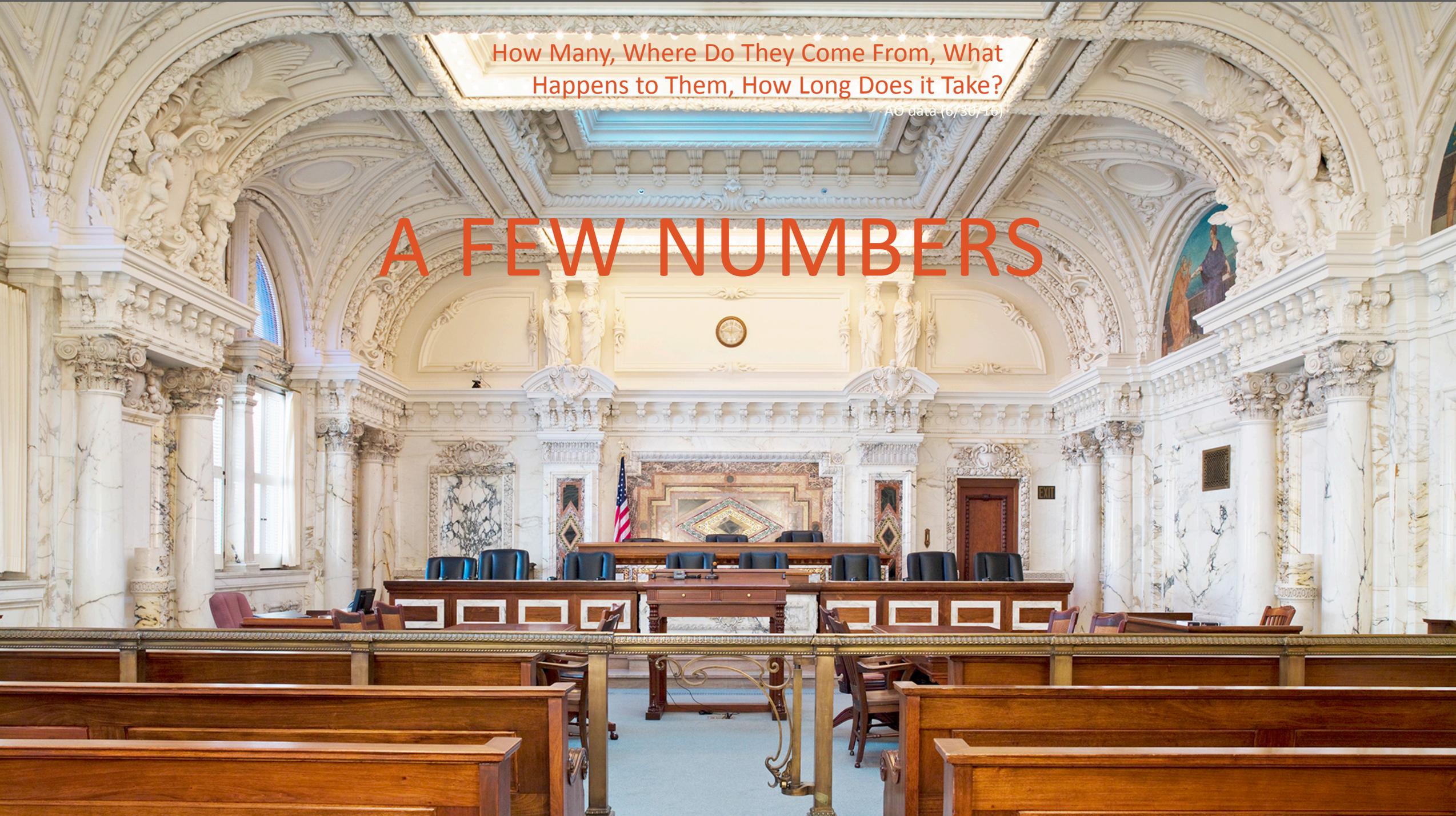
MEDIATION



How Many, Where Do They Come From, What  
Happens to Them, How Long Does it Take?

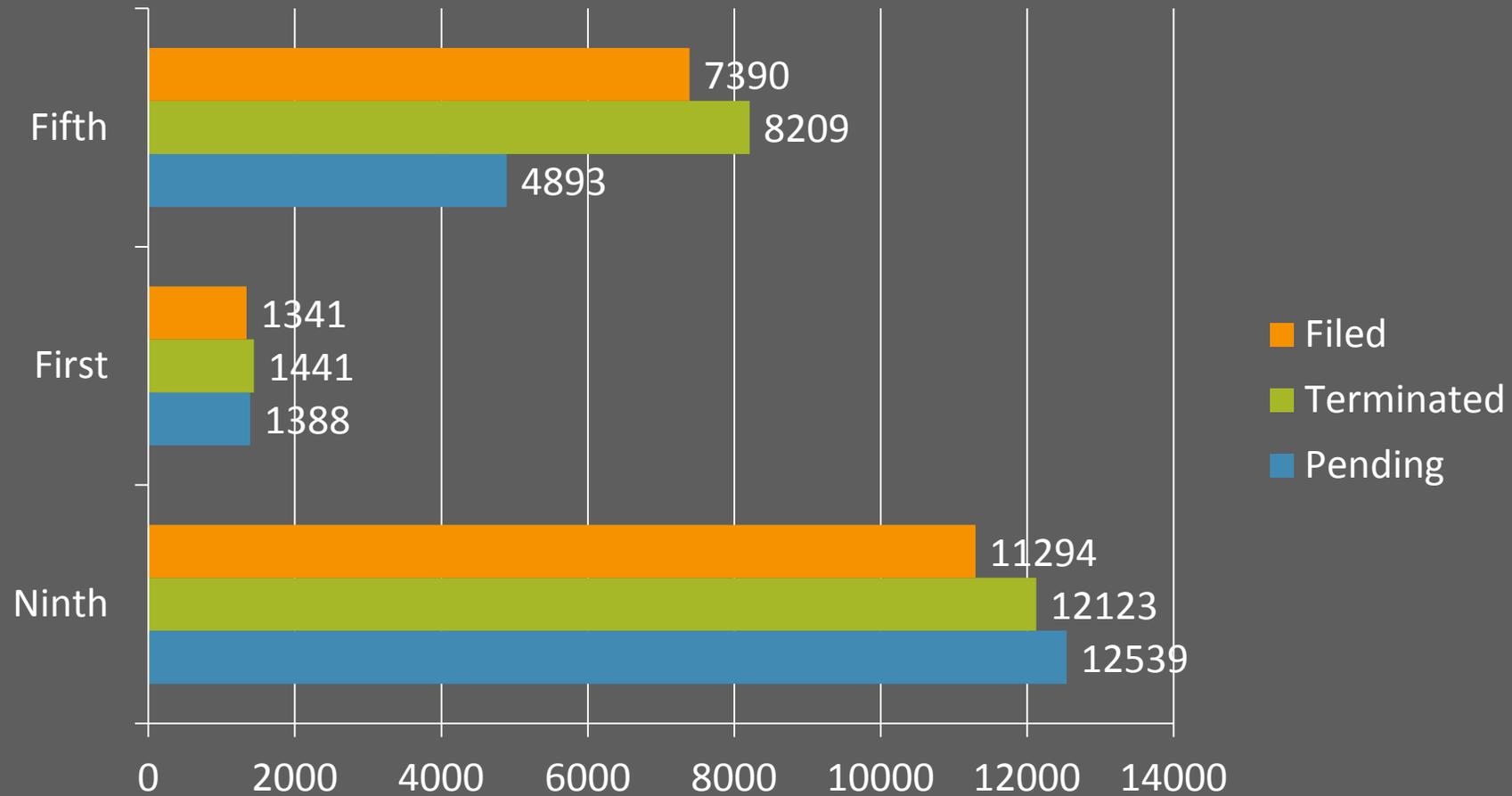
AO data (6/30/16)

# A FEW NUMBERS



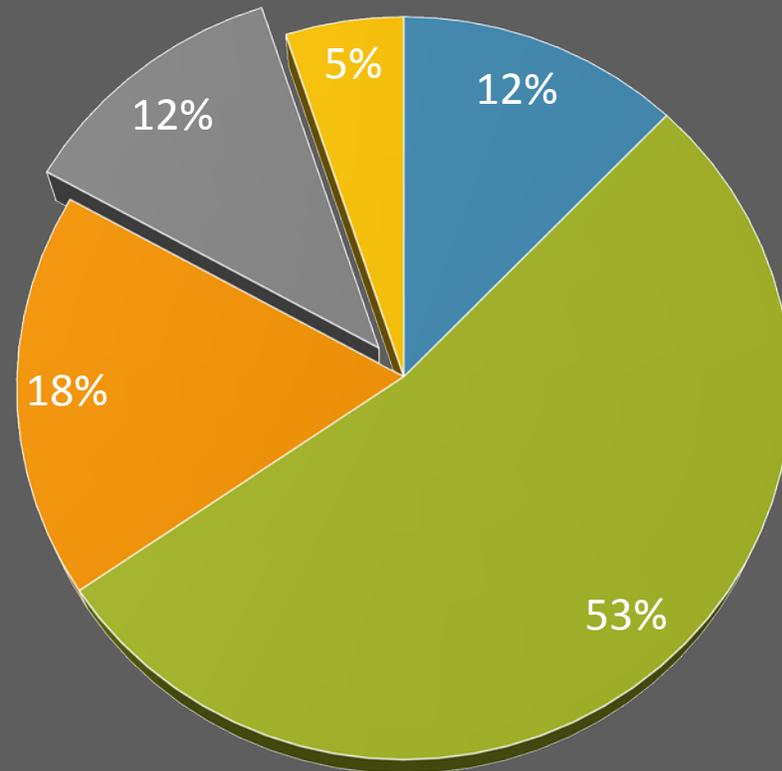
# CASELOAD

AS OF JUNE 30, 2017



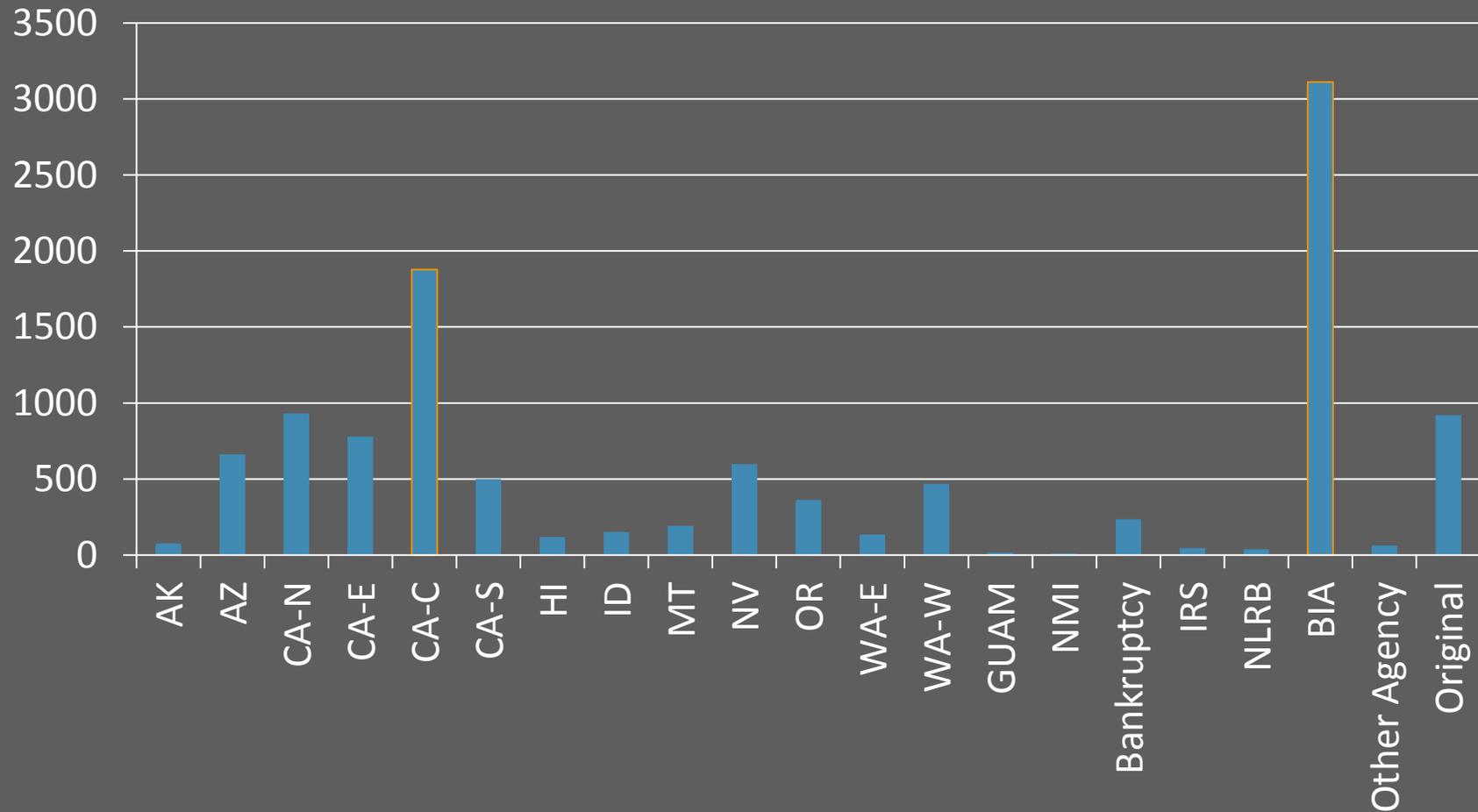
# WHERE THE PENDING CASES ARE

AS OF SEPTEMBER 6, 2017



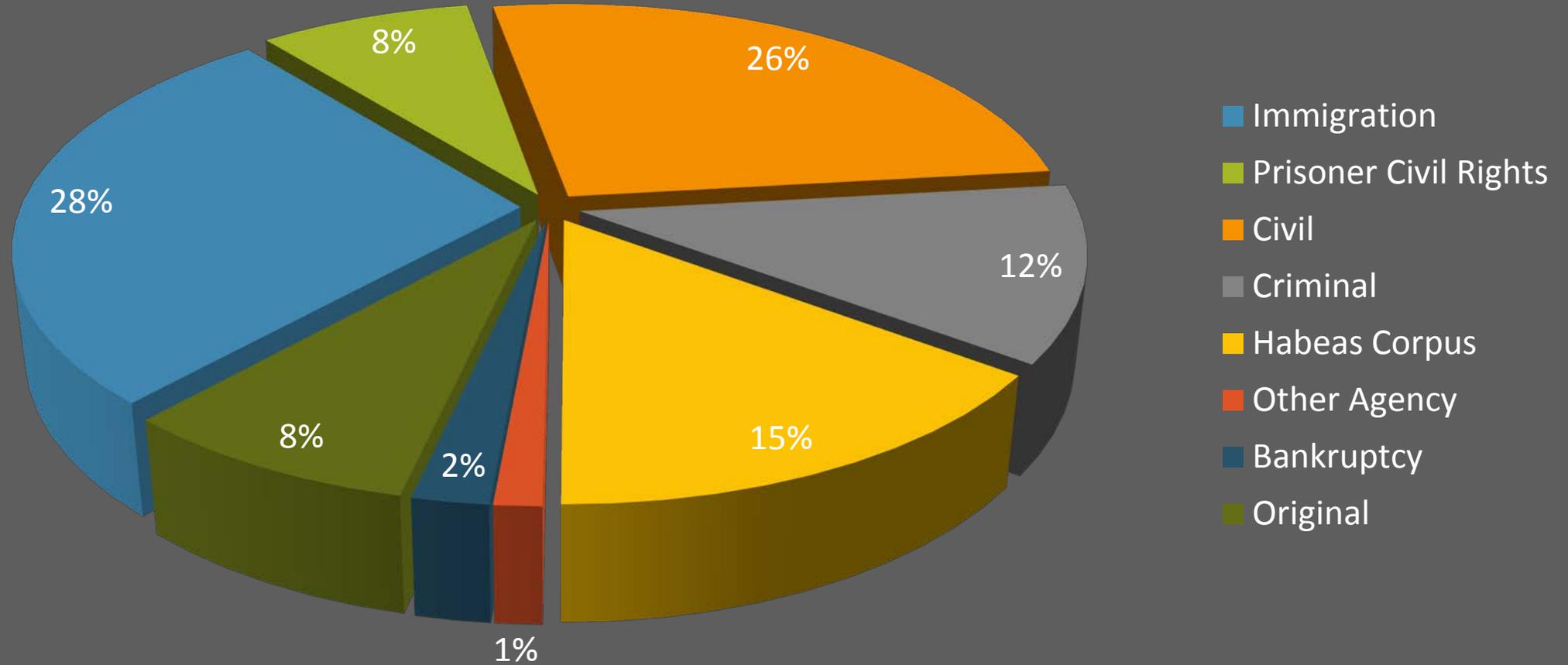
- Assigned to merits
- Not fully Briefed
- Awaiting Screening
- Awaiting Calendar
- COA pending

# WHERE DO OUR APPEALS COME FROM?

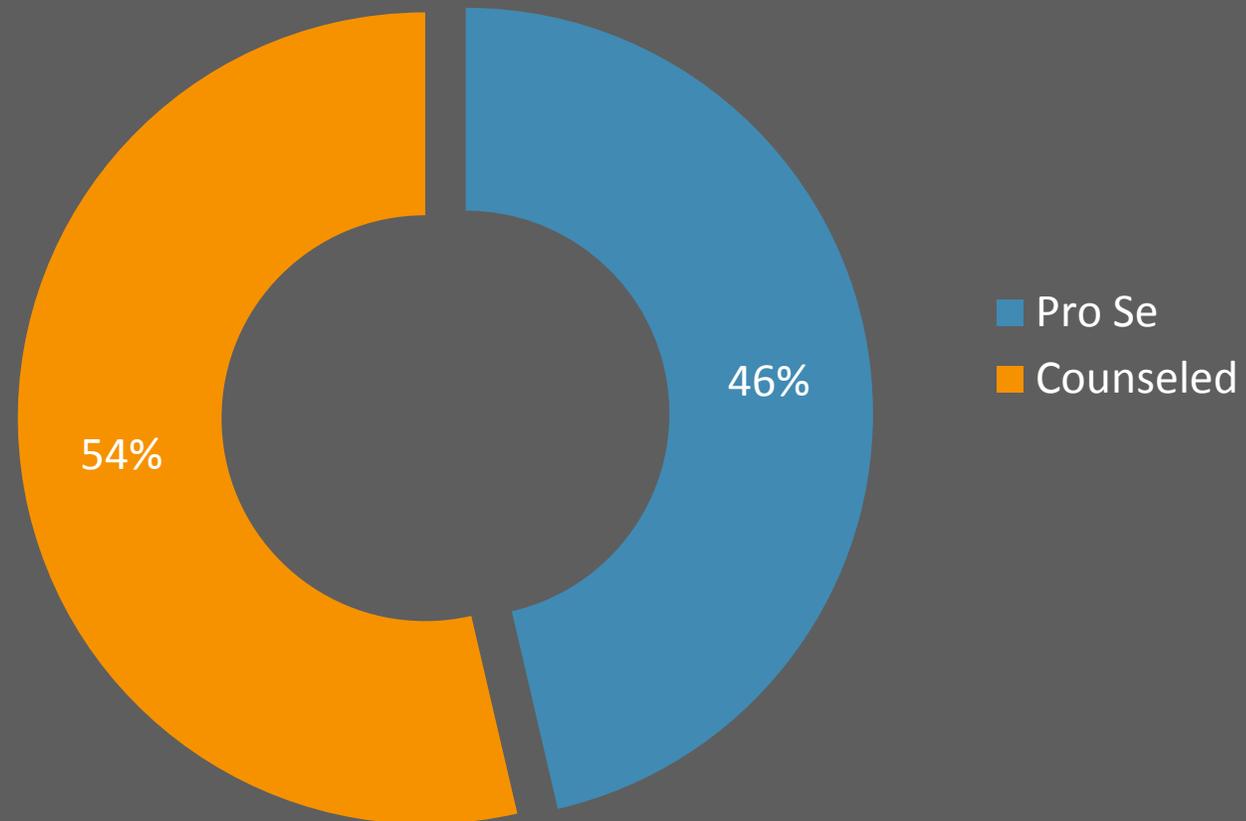


# CASE TYPES

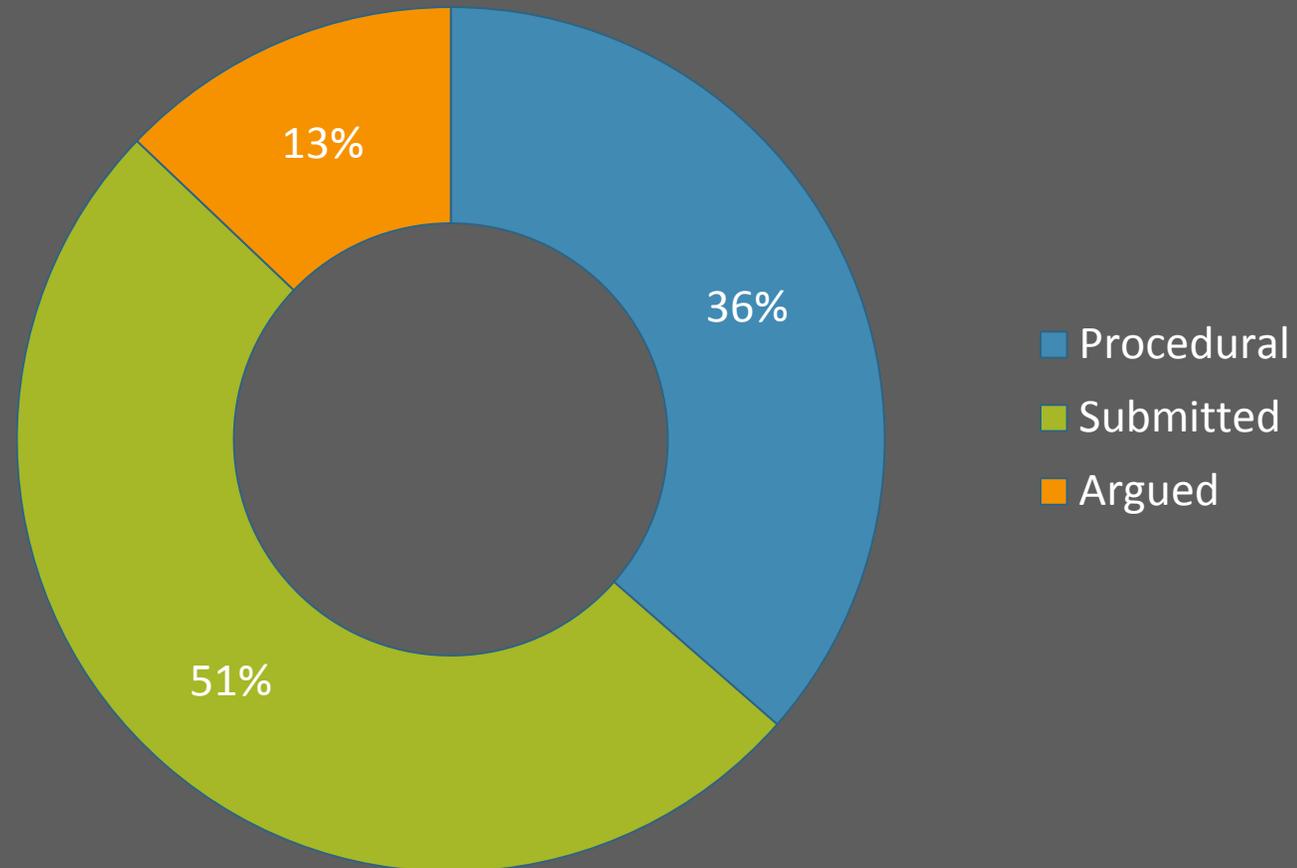
FOR THE 12 MONTHS ENDING 6/30/17



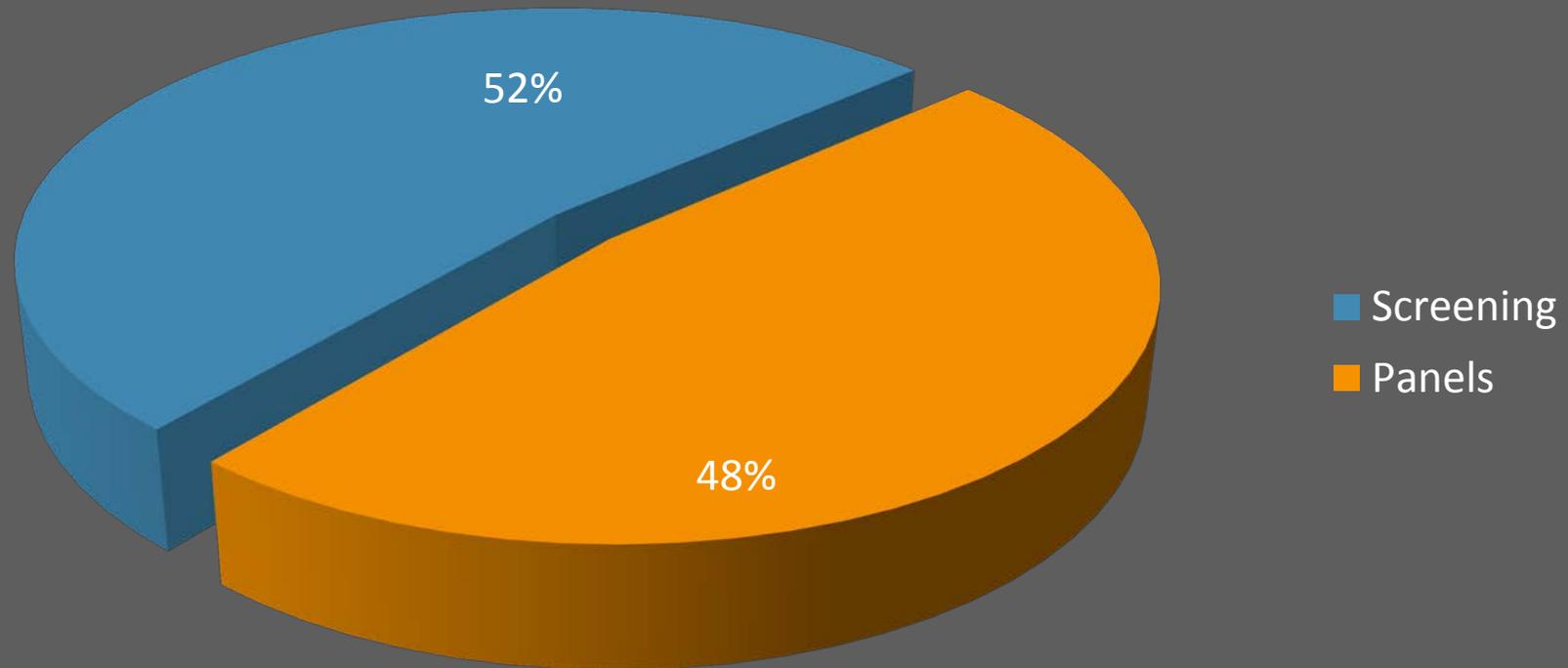
# PRO SE CASES



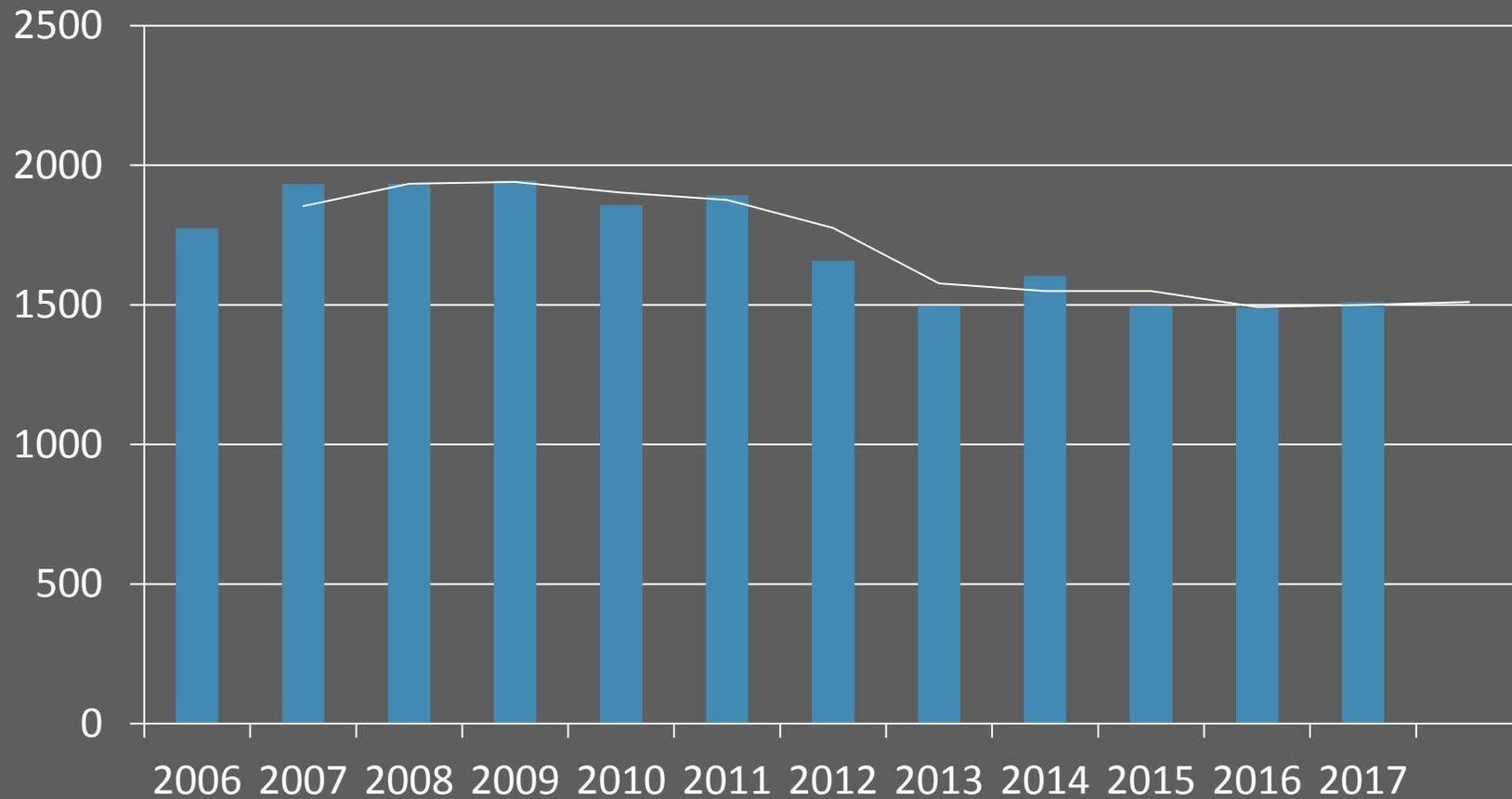
# TYPES OF TERMINATIONS



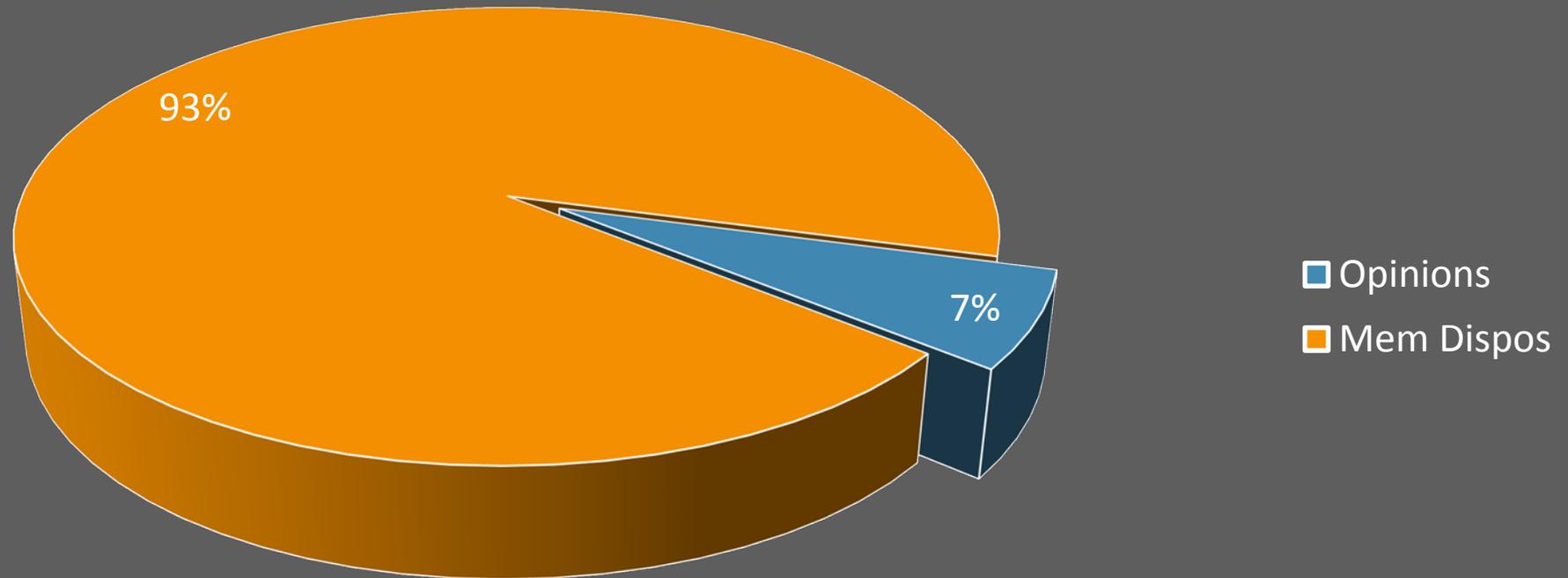
# SUBMISSION ON THE BRIEFS



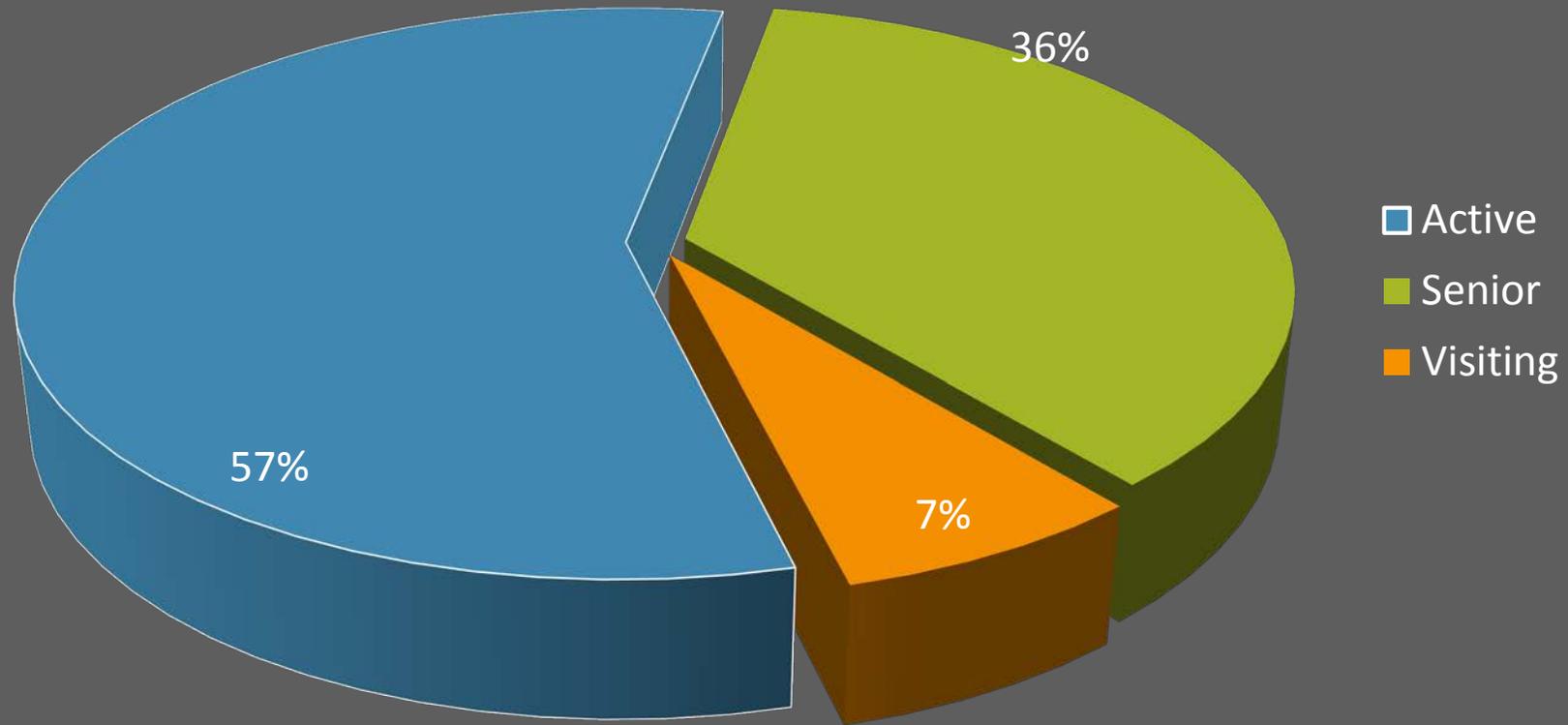
# NINTH CIRCUIT ARGUMENTS



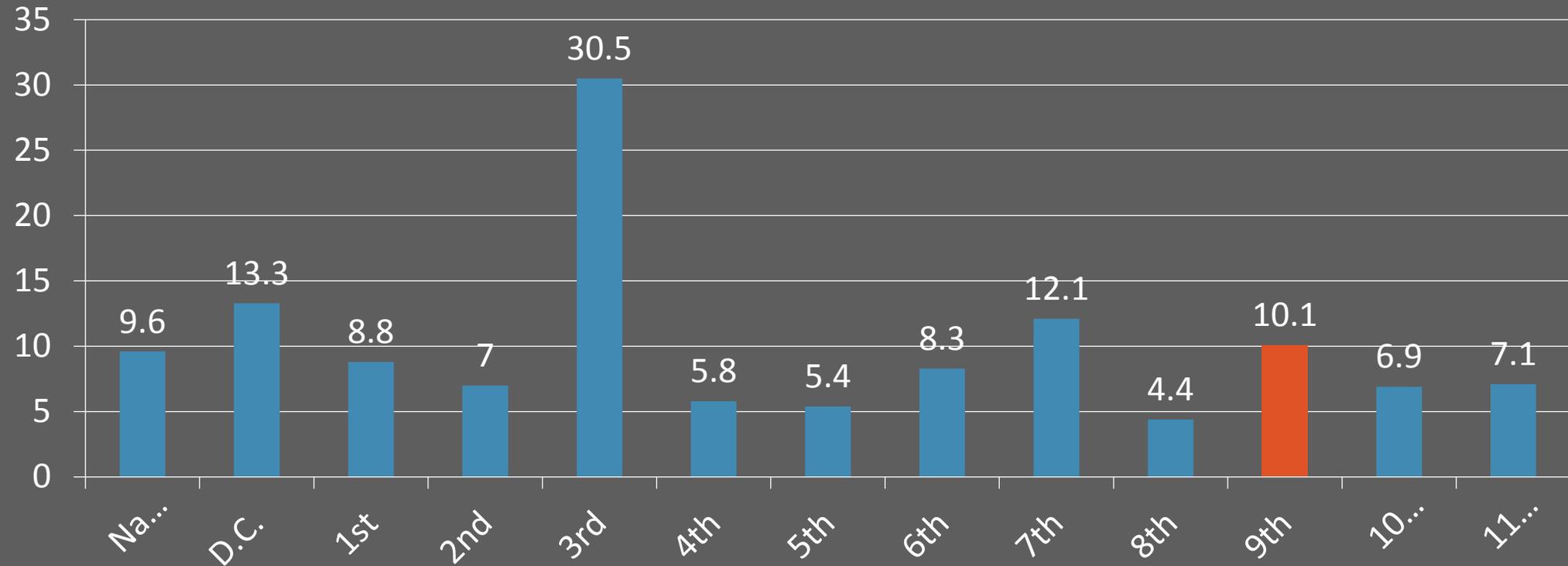
# DECISIONS



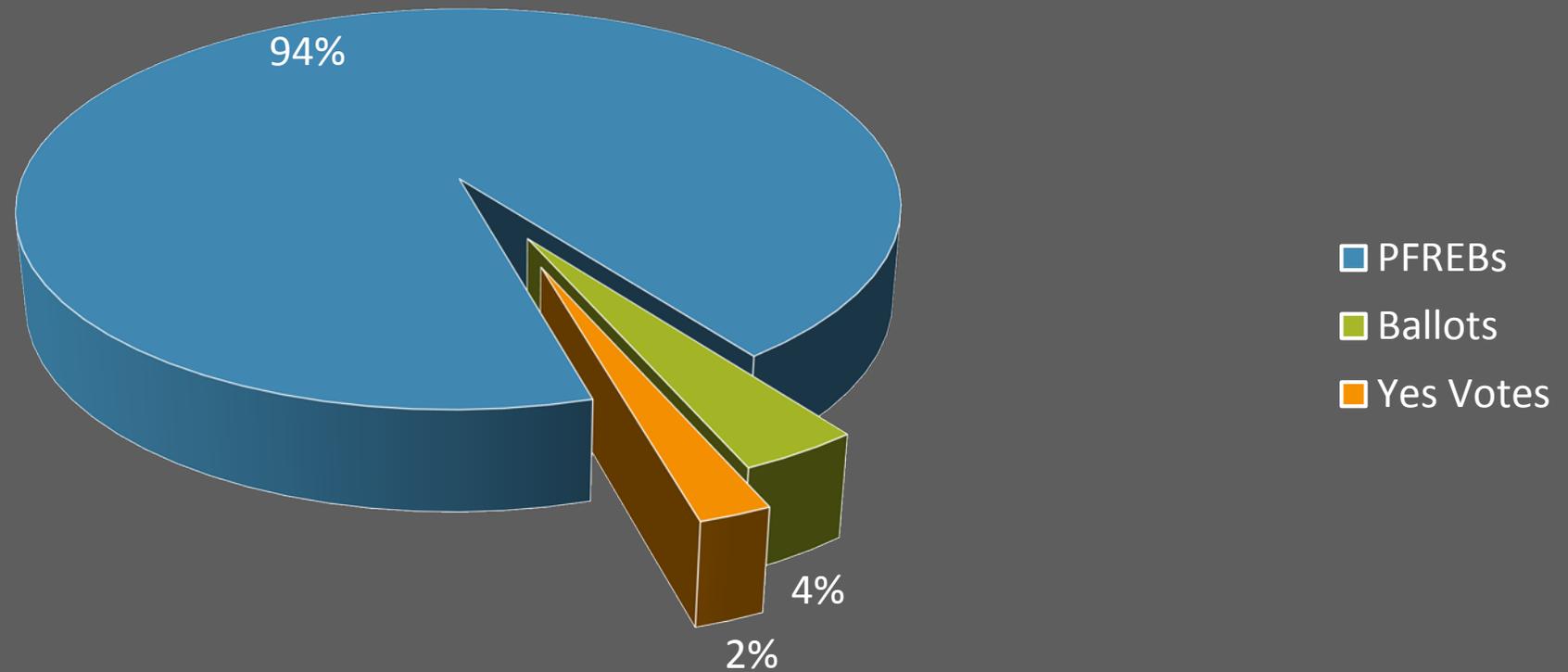
# SENIOR & VISITING JUDGES



# % REVERSALS



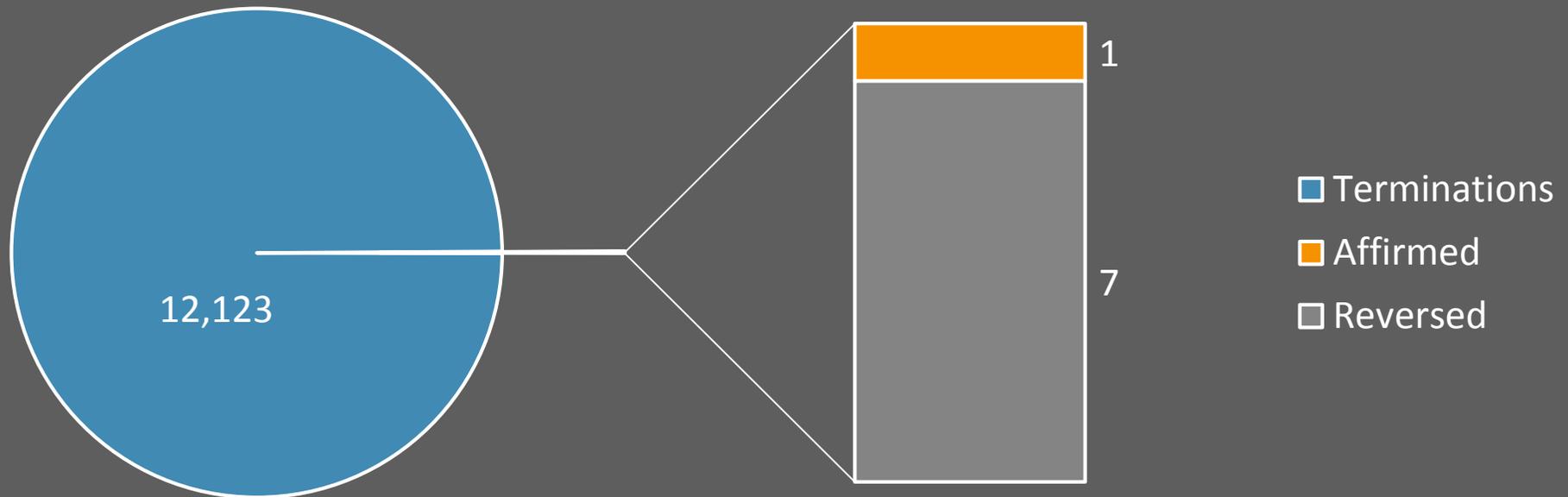
# EN BANCS 2016



(calendar year 2016)

# REVERSALS BY SUPREME COURT

2016-2017 TERM





# MOTIONS PRACTICE

What, When, How, and Why

# INITIAL REVIEW OF NEW CASES

- All new appeals and petitions for review are referred to staff attorneys' office
- Jurisdictional review
- Case management issues – fees, attorneys
- Certificates of Appealability
- Original proceedings (mandamus, SOS)
- Permissive Appeals
- Orders to show cause

# MOTIONS - TYPES AND DELEGATION

- Substantive vs Procedural Motions (and Streamlined Extensions)
- Dispositive vs Non-Dispositive
- Original Proceedings and Urgent Appeals
- Certificates of Appealability
- Delegation of Authority to act – Clerk, Commissioner, 2 or 3 Judges
- Referral to merits panel
- Process, assignment, turn around time
- Motions Panels
- Motions for reconsideration

# MEDIATION AND SCREENING

- Mediation program generally gets involved very early on, all civil counseled appeals plus referrals
- Case management and inventory process
- Oral and written screening process
- Calendaring process

A long, grand hallway with multiple arches and columns, likely a courthouse interior. The ceiling is high and features intricate carvings and a series of small lights. The walls are made of light-colored stone or marble, with decorative panels and columns. The floor is polished and reflects the light. The hallway leads to a distant archway at the end.

# RULES AND RESOURCES

<http://www.ca9.uscourts.gov/>

# SEALED FILINGS

- Interim Rule 27-13 – presumption has changed and all must now be electronically filed
- Difference between Sealed documents and Sealed cases
- Sealed vs Ex Parte vs Classified vs Restricted
- Access to Sealed and Ex Parte documents on CM and PACER
- Motions and notices of sealing/unsealing per Interim Rule
- Certificate of service
- Use of pseudonyms
- Physical exhibits

# OTHER CIRCUIT AND FRAP RULE CHANGES IN 2016 AND 2017

- Archived rule changes (and pending when any) are available in redline version at [http://www.ca9.uscourts.gov/content/view.php?pk\\_id=0000000682](http://www.ca9.uscourts.gov/content/view.php?pk_id=0000000682)
- July 2016 amendments – Oversized briefs, SOS petitions, reconsideration motions
- December 2016 amendments – previous word limits for briefs are now in circuit rules, opting out of new FRAP shorter limits, also keeping page option for motions and petitions (with conversion formula), change of effective dates
- June 2017 – elimination of 3 day service rule, expansion of reply brief deadlines
- Coming Up – new excerpts process and rules, revisions to 22 habeas rules, permanent sealing rule. FRAP Dec 2018 rules re mandates. Nothing for Dec 2017.

# CM/ECF TIPS AND COMMON ERRORS

- Filing original proceedings and petitions for review electronically
- Filing briefs and motions – use generic events
- Descriptions of briefs and excerpts and related documents
- Filing sealed documents – service and timing and basis
- Help Guide is very useful and informative
- Updating Pacer account and email
- Physical and documentary trial exhibits – submit by separate motion

# GETTING HELP RESOURCES ON OUR WEBSITE

- Appellate Practice Guide and Shell Brief  
<http://cdn.ca9.uscourts.gov/datastore/uploads/guides/AppellatePracticeGuide.pdf>
- Other guides and legal outlines
- Court sponsored CLE program materials and video
- Mentor Program  
[http://cdn.ca9.uscourts.gov/datastore/general/2013/03/22/ninth\\_circuit\\_applt\\_la\\_wyer\\_rep\\_mentoring\\_project.pdf](http://cdn.ca9.uscourts.gov/datastore/general/2013/03/22/ninth_circuit_applt_la_wyer_rep_mentoring_project.pdf)
- CM/ECF questions – Help Desk
- Feel free to call me if you are not sure who to ask