

MOTIONS TO DISMISS INFORMATION ON COLLECTION OF DATA

The following tables and graphs on motions to dismiss before and after *Twombly* and *Iqbal* are based on data collected electronically from the 94 district courts' docket entries. This information is not routinely included in the Administrative Office statistical reports for the courts. Though the data was reviewed for accuracy, some quality control steps that are part of the Administrative Office's reports were not applied. The electronically collected information is from the courts' docket entries, and the underlying docketed motions and orders were not read. As a result, if there are errors in the docket entry, those errors are in the data. The Federal Judicial Center is engaged in a study that will include reviewing underlying motions to dismiss and orders in a large number of randomly sampled cases, providing more information and an additional check on accuracy.

Certain information could not be collected electronically from the docket entries and is not reflected in the data. The data does not distinguish among the different types of motions to dismiss under Rule 12 of the Federal Rules of Civil Procedure. Though most motions to dismiss are filed under Rule 12(b)(6) for failure to state a claim on which relief can be granted, motions to dismiss filed under Rule 12(b)(1-5) and (7) are included in the data. The assumption is that the rate of motions to dismiss under Rule 12(b)(1-5) and (7) has remained stable during the period. The Federal Judicial Center study will include this information.

The data does not reveal whether motions to dismiss were granted with or without leave to amend, and, if with leave to amend, whether the case continued with an amended complaint. The Federal Judicial Center study will also include this information.

The courts do not rule on a significant number of motions to dismiss, often because the case settles without court intervention. Although the data includes the filing of these motions, the data does not include the disposition of these motions.

Finally, the data excludes Multi-District Litigation (MDL) cases.

Cases and Motions to Dismiss Filed From January 2007 through December 2009

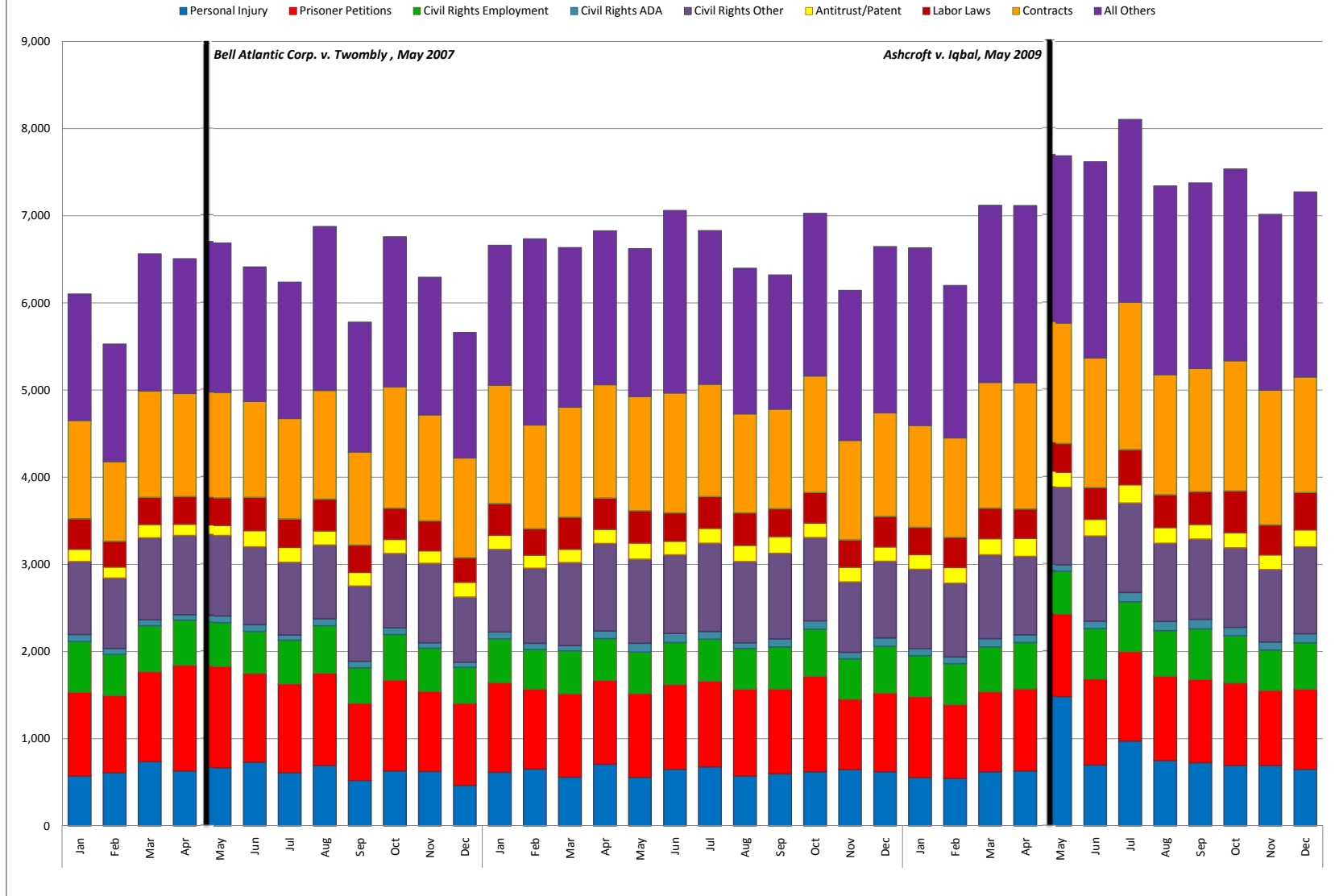
	2007												2008												2009											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
CASES FILED	18,103	16,385	19,171	18,240	19,441	18,592	18,297	20,721	17,666	21,100	19,073	16,098	19,084	21,945	17,829	19,900	18,752	19,935	19,010	17,470	18,246	18,960	15,774	18,733	19,727	17,101	19,883	19,480	18,169	20,983	22,546	20,490	20,496	20,525	18,356	18,898
category	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Personal Injury	1,936	1,931	2,089	1,669	2,672	1,732	1,786	2,465	1,675	2,177	2,295	1,539	2,005	6,096	1,636	1,715	2,237	3,765	2,139	1,706	2,003	1,663	1,515	2,348	1,482	1,599	2,218	1,984	1,843	3,053	4,163	3,145	3,418	3,310	3,186	2,565
Prisoner Petitions	4,665	3,928	4,734	4,576	4,593	4,787	4,877	4,746	4,191	5,020	4,293	3,969	5,188	4,531	4,796	4,964	4,308	4,430	4,664	4,230	4,185	4,470	3,599	4,421	4,298	4,072	4,602	4,603	4,172	4,461	4,695	4,283	4,216	4,212	3,693	4,192
Civil Rights Employment	1,114	967	1,049	974	1,132	1,177	1,098	1,181	1,146	1,185	1,047	1,083	1,041	999	957	1,088	1,108	1,183	1,196	1,107	1,245	1,250	1,014	1,220	966	1,014	1,135	1,243	1,094	1,299	1,261	1,224	1,312	1,201	1,101	1,263
Civil Rights Other	1,211	1,187	1,456	1,309	1,483	1,337	1,318	1,483	1,274	1,517	1,240	1,275	1,403	1,334	1,303	1,342	1,339	1,320	1,384	1,378	1,399	1,488	1,217	1,385	1,177	1,349	1,433	1,364	1,269	1,459	1,595	1,311	1,439	1,419	1,275	1,321
Civil Rights ADA	148	164	205	183	188	214	184	214	228	209	202	180	220	219	232	197	202	250	294	222	252	295	203	308	245	251	293	232	246	275	323	281	295	275	259	283
Antitrust	38	63	82	40	28	39	26	31	57	42	29	34	58	76	115	70	126	43	48	48	53	37	52	30	36	59	75	49	41	60	63	48	47	58	50	29
Patent	212	192	266	218	274	285	214	230	221	302	247	201	225	250	236	265	237	244	233	213	196	237	174	246	217	214	285	267	234	213	249	221	233	222	213	228
Labor Laws	1,374	1,284	1,490	1,295	1,397	1,390	1,403	1,449	1,174	1,475	1,250	1,235	1,425	1,400	1,406	1,505	1,370	1,426	1,517	1,274	1,397	1,473	1,236	1,323	1,549	1,338	1,687	1,530	1,346	1,458	1,566	1,695	1,476	1,585	1,354	1,430
Contracts	2,538	2,143	2,654	3,338	2,602	2,614	2,541	3,366	2,738	3,654	2,470		2,751	2,360	2,368	3,725	2,683	2,524	2,506	2,594	2,786	2,962	2,374	2,802	5,182	2,679	2,939	2,846	2,674	2,852	2,878	2,728	2,677	2,811	2,339	2,474
All Others	4,867	4,526	5,146	4,638	5,072	5,017	4,850	5,556	4,972	5,501	4,816	4,112	4,768	4,680	4,780	5,029	5,142	4,750	5,029	4,698	4,730	5,085	4,390	4,650	4,575	4,526	5,217	5,362	5,250	5,653	5,753	5,554	5,383	5,432	4,886	5,113
MOT. DISMISS	6,103	5,529	6,564	6,508	6,688	6,413	6,240	6,879	5,781	6,759	6,295	5,663	6,663	6,736	6,636	6,827	6,623	7,062	6,831	6,399	6,322	7,029	6,144	6,648	6,631	6,200	7,121	7,118	7,689	7,620	8,105	7,344	7,378	7,539	7,016	7,274
category	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Personal Injury	571	610	738	630	667	731	609	694	523	631	625	466	615	653	560	707	557	648	678	571	598	621	647	623	554	545	621	631	1,484	699	973	749	727	694	693	650
Prisoner Petitions	963	884	1,032	1,214	1,163	1,018	1,021	1,058	883	1,043	918	939	1,028	916	956	963	961	974	984	997	971	1,097	808	902	929	846	919	940	945	985	1,027	968	955	945	862	920
Civil Rights Employment	582	474	528	517	503	482	500	544	410	521	496	415	502	455	493	479	478	483	482	468	484	541	462	535	470	471	515	534	493	581	573	524	579	542	465	532
Civil Rights Other	839	809	941	909	925	895	834	845	866	854	911	745	946	862	954	1,002	964	904	1,011	932	984	956	809	879	909	845	962	901	892	976	1,028	897	921	910	831	1,000
Civil Rights ADA	79	69	67	64	76	77	62	82	72	78	63	60	81	71	59	89	101	102	89	66	92	95	74	98	82	78	93	88	72	85	105	106	109	99	92	102
Antitrust/Patent	141	126	154	128	114	187	170	162	155	160	146	173	164	150	153	164	185	158	172	187	193	164	168	167	169	181	186	206	173	192	210	182	168	175	169	195
Labor Laws	351	297	311	319	317	380	326	364	315	360	343	281	363	302	367	358	372	325	363	372	320	352	314	349	315	345	351	337	329	365	402	374	378	479	342	429
Contracts	1,128	912	1,222	1,183	1,210	1,101	1,153	1,249	1,069	1,394	1,217	1,146	1,358	1,194	1,265	1,303	1,309	1,374	1,291	1,138	1,140	1,338	1,144	1,188	1,167	1,144	1,443	1,452	1,383	1,489	1,692	1,379	1,412	1,494	1,549	1,326
All Others	1,449	1,348	1,571	1,544	1,713	1,542	1,565	1,881	1,488	1,718	1,576	1,438	1,606	2,133	1,829	1,762	1,696	2,094	1,761	1,668	1,540	1,865	1,718	1,907	2,036	1,745	2,031	2,029	1,918	2,248	2,095	2,165	2,129	2,201	2,013	2,120
GRANTED	2,316	2,132	2,871	2,122	2,341	2,301	2,295	2,405	2,394	2,392	2,224	1,891	2,496	2,415	3,049	2,530	2,315	2,461	2,732	2,531	2,535	2,380	1,976	2,265	2,422	2,290	3,309	2,520	2,363	2,871	2,926	2,824	3,054	2,788	2,444	2,585
category	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Personal Injury	330	281	334	267	284	309	282	269	257	293	256	219	274	259	258	307	249	276	290	249	266	327	233	250	287	253	327	298	225	333	282	257	298	277	313	314
Prisoner Petitions	299	367	475	271	325	258	329	354	411	297	265	243	319	355	259	273	289	289	344	364	406	287	242	248	345	346	499	265	275	287	322	379	497	267	256	300
Civil Rights Employment	207	167	251	208	200	155	183	184	161	180	154	129	160	164	189	160	162	187	183	164	177	161	144	177	161	160	195	166	163	230	199	198	195	204	153	151
Civil Rights Other	294	303	426	308	354	358	274	310	332	265	293	202	331	282	420	289	300	347	332	342	402	296	281	307	318	335	443	287	301	336	358	382	373	316	323	281
Civil Rights ADA	30	20	33	30	36	26	24	26	28	36	16	16	29	28	22	28	37	39	30	26	27	35	23	29	29	24	39	39	35	38	51	29	30	37	38	43
Antitrust	8	9	7	14	11	8	18	17	14	3	5		5	6	3	5	9	7	15	5	4	9	2	9	8	2	21	6	6	5	13	16	9	15	6	7
Patent	45	55	28	52	39	46	72	52	42	61	44	46	61	44	44	58	43	57	57	141	61	49	59	64	63	70	87	96	78	74	79	67	77	69	70	
Labor Laws	118	89	120	107	112	104	91	97	114	122	105	88	128	113	139	139	101	124	126	121	121	113	87	124	118	123	137	101	102	112	119	99	118	126	125	183
Contracts	394	330	545	385	452	414	436	478	401	483	457	401	549	523	581	534	518	530	671	504	438	497	426	497	502	413	668	528	481	605	673	587	524	632	428	501
All Others	591	511	652	480	528	623	586	618	631	641	631	542	640	641	864	737	607	605	684	615	633	606	479	560	591	564	893	734	697	851	835	798	943	837	733	735
DENIED	853	819	1,229	746	914	800	844	952	1,071	784	753	701	952	888	1,680	844	807	811	959	919	1,148	821	653	823	890	920	1,276	889	856	1,011	1,033	1,019	1,310	882	914	927
category	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Personal Injury	64	71	107	85	79	75	56	76	70	43	58	58	79	81	116	77	68	73	84	73	103	79	46	61	70	79	94	85	88	73						

Cases and Motions to Dismiss Filed From January 2007 through December 2009

	2007												2008												2009											
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
MOOT	252	236	349	249	266	218	260	333	259	260	214	204	314	285	298	368	315	267	293	257	334	268	213	278	275	306	390	333	322	357	410	356	467	347	309	328
category	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Personal Injury	25	17	24	21	21	37	33	28	15	19	27	12	38	23	19	33	29	32	31	21	27	27	13	24	32	29	36	32	39	38	21	27	19	15	33	17
Prisoner Petitions	24	36	29	22	16	15	23	35	33	35	23	14	36	35	41	26	32	37	32	28	35	26	18	21	27	19	32	32	38	28	40	28	49	37	24	29
Civil Rights Employment	27	28	38	27	33	21	21	20	22	23	21	20	39	23	27	35	14	21	25	17	23	23	17	26	32	35	39	23	36	26	32	37	43	29	30	31
Civil Rights Other	43	33	62	41	44	35	47	46	47	43	36	43	56	47	64	51	61	48	49	53	67	58	33	57	50	51	72	55	64	71	67	53	81	56	38	68
Civil Rights ADA	3	3	10	2	2	2	7	6	4	2	3	1	1	3	4	2	7	4	1	6	3	3	3	2	7	4	1	8	1	2	3	2	6	9	8	5
Antitrust	2	-	-	-	-	-	8	8	3	2	1	-	1	-	-	-	-	-	-	1	20	2	3	2	-	-	-	2	2	2	-	-	6	10	4	6
Patent	13	6	2	1	4	-	5	14	4	3	3	4	2	2	4	7	1	2	7	1	11	5	5	6	6	11	4	3	2	3	14	16	3	8	8	1
Labor Laws	12	11	23	17	21	13	9	17	18	11	9	12	9	21	16	18	17	11	14	18	13	22	27	16	23	20	17	31	14	20	25	29	29	20	11	23
Contracts	47	45	62	48	40	50	39	68	34	53	36	45	60	55	48	121	66	42	63	39	47	42	33	52	48	45	84	62	59	72	81	52	95	69	60	55
All Others	56	57	99	70	85	45	68	91	79	69	55	53	72	76	75	75	88	70	71	73	88	60	61	72	50	92	105	94	67	95	127	112	136	94	93	93
GRANTED IN PART AND DENIED IN PART	371	263	586	250	319	295	299	356	390	285	286	226	299	335	545	296	325	315	342	390	470	330	271	358	303	371	586	287	377	428	435	438	563	405	400	346
category	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
Personal Injury	22	26	30	17	18	9	19	23	15	21	11	22	16	21	28	20	16	29	19	32	30	25	10	19	16	20	28	9	13	18	22	20	22	24	24	21
Prisoner Petitions	42	32	65	14	21	27	27	31	64	20	22	17	42	32	73	20	45	29	33	64	58	17	28	17	27	50	81	24	34	36	51	39	103	36	35	21
Civil Rights Employment	58	46	71	49	40	43	39	44	38	48	26	28	45	52	69	44	43	44	49	48	50	35	29	40	43	44	63	46	32	56	40	56	51	36	44	40
Civil Rights Other	73	50	153	55	97	74	65	72	77	60	74	52	54	69	122	58	52	65	58	63	91	72	55	59	70	77	152	58	62	100	84	77	91	89	64	67
Civil Rights ADA	6	6	6	1	2	5	2	8	5	3	3	4	9	3	12	7	5	3	6	2	7	9	5	5	9	3	20	9	7	3	8	5	8	4	7	4
Antitrust	3	3	3	2	3	3	-	5	3	1	3	-	-	1	3	-	1	1	2	11	2	2	3	-	5	3	4	3	2	3	-	3	1	1	5	-
Patent	5	3	2	5	-	3	3	4	6	5	6	1	3	5	5	3	5	4	6	20	7	9	5	11	5	6	5	6	3	5	3	8	10	5	4	10
Labor Laws	25	11	26	15	21	7	19	15	21	20	19	12	14	19	20	12	17	19	19	13	18	14	17	17	17	16	30	16	11	15	31	25	32	16	22	16
Contracts	69	45	103	37	51	53	54	66	60	49	51	47	44	67	74	54	50	57	80	52	74	76	44	49	45	52	87	58	103	86	79	73	88	83	64	68
All Others	68	41	127	55	66	71	71	88	101	58	71	43	72	66	139	78	91	64	70	85	133	71	75	141	66	100	116	58	110	106	117	132	157	111	131	99

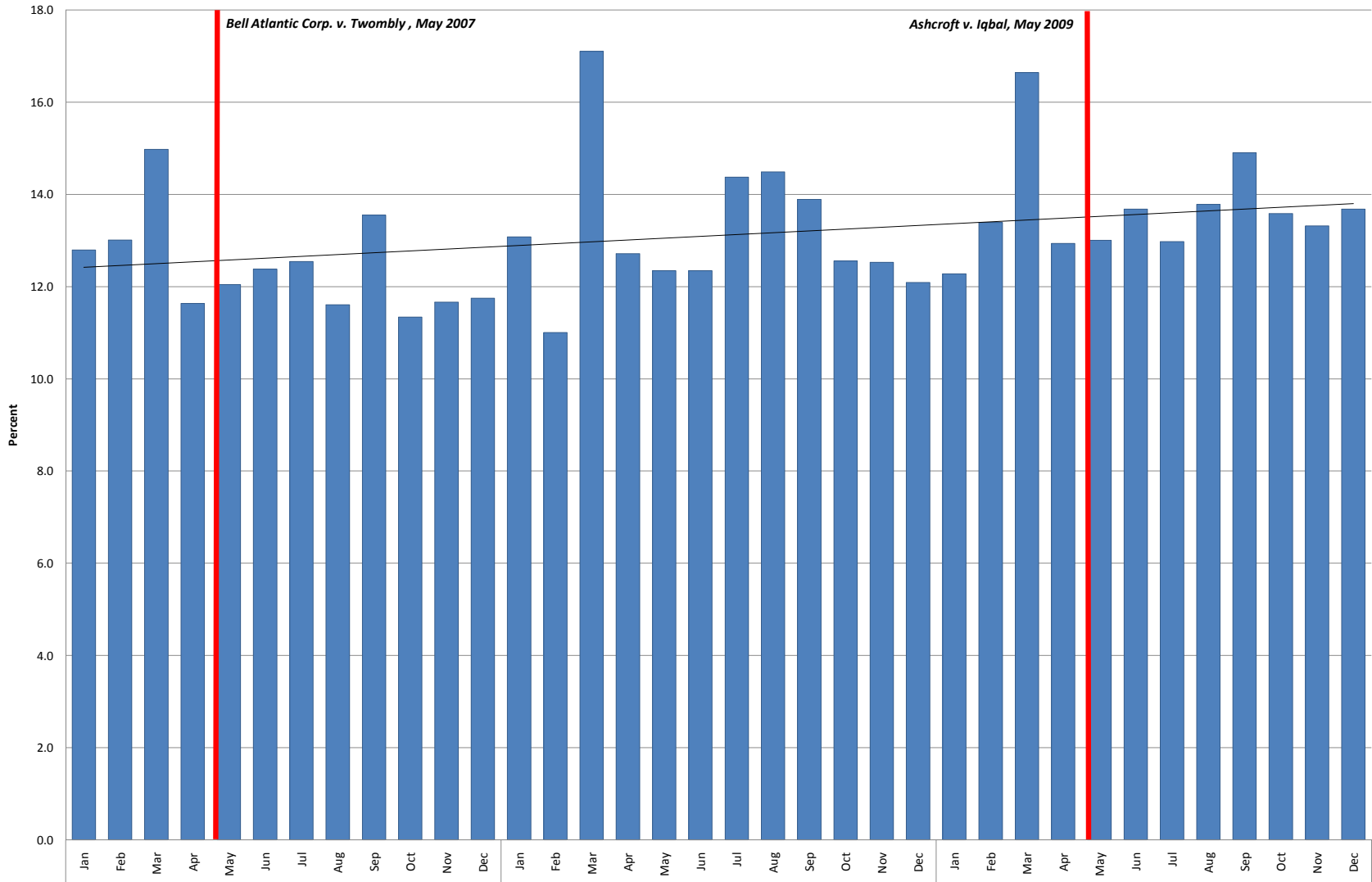
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3. Data does not include MDL cases in either the total number of cases filed or the motions to dismiss.
4. The data were extracted directly from the text of 94 district court docket entries, rather than the official statistics system, and they did not pass through all the quality controls of the statistics system.

Motions to Dismiss by Nature of Suit



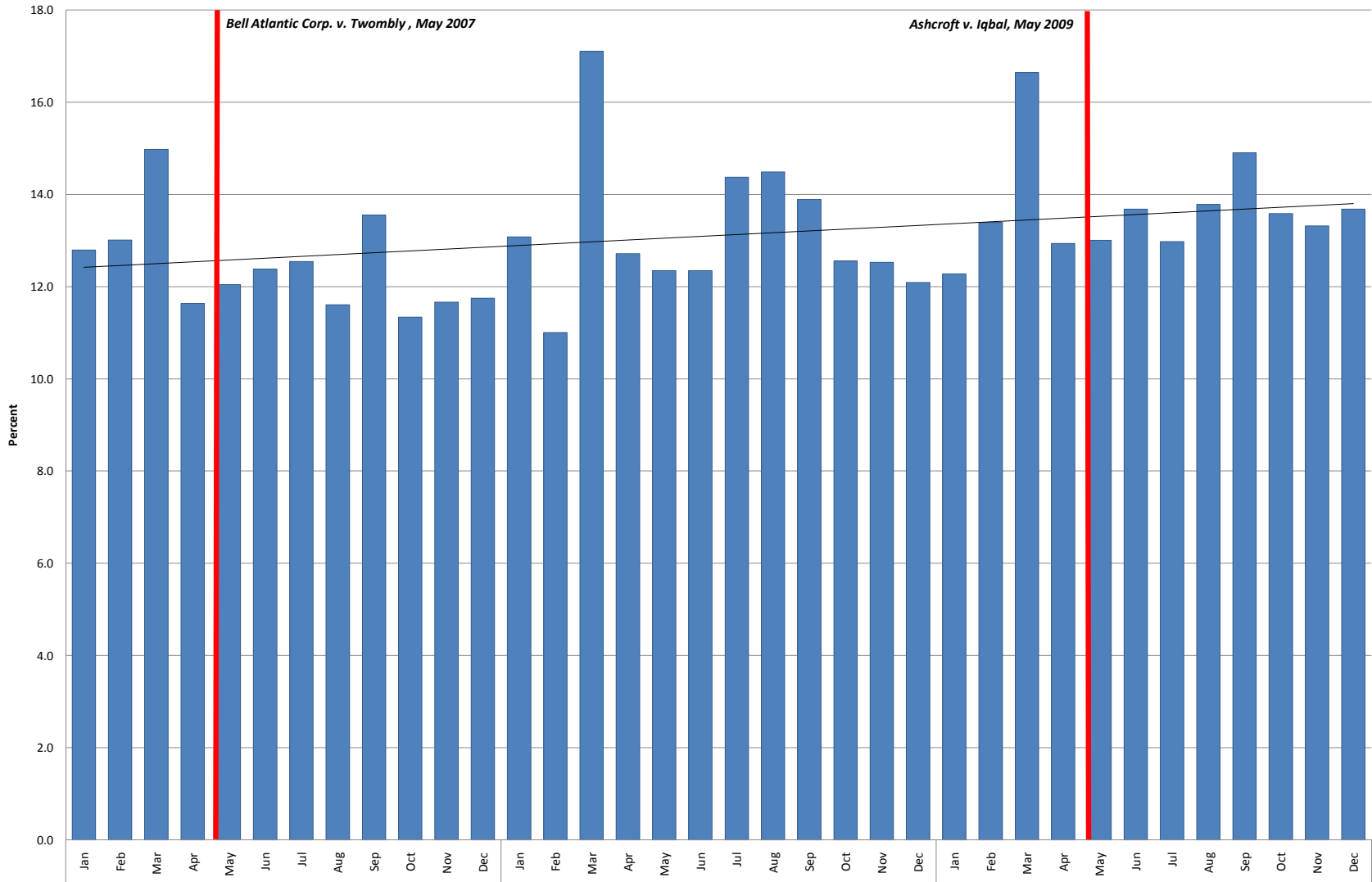
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Rate of Motions to Dismiss Granted as Percentage of Total Cases Filed



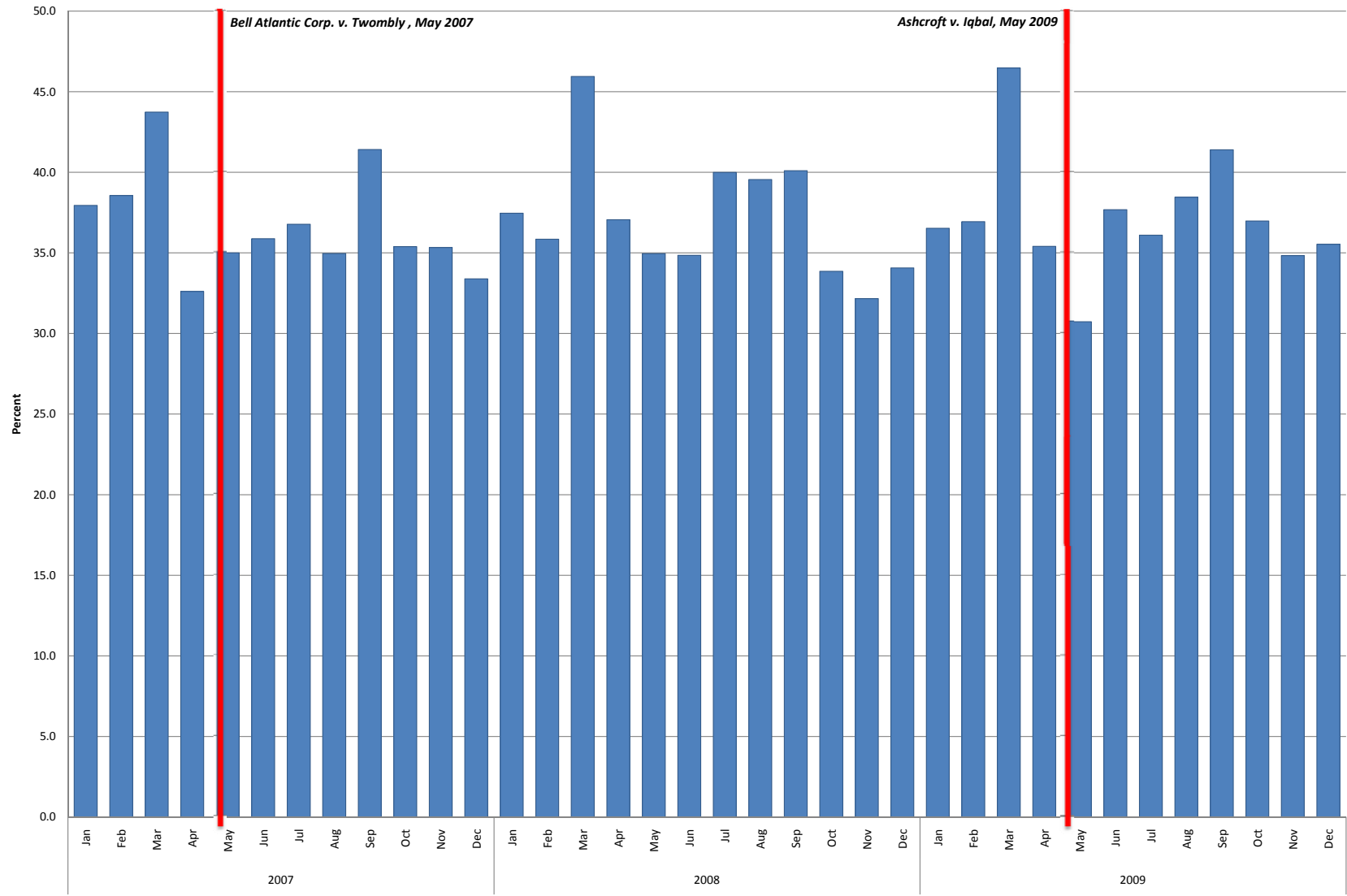
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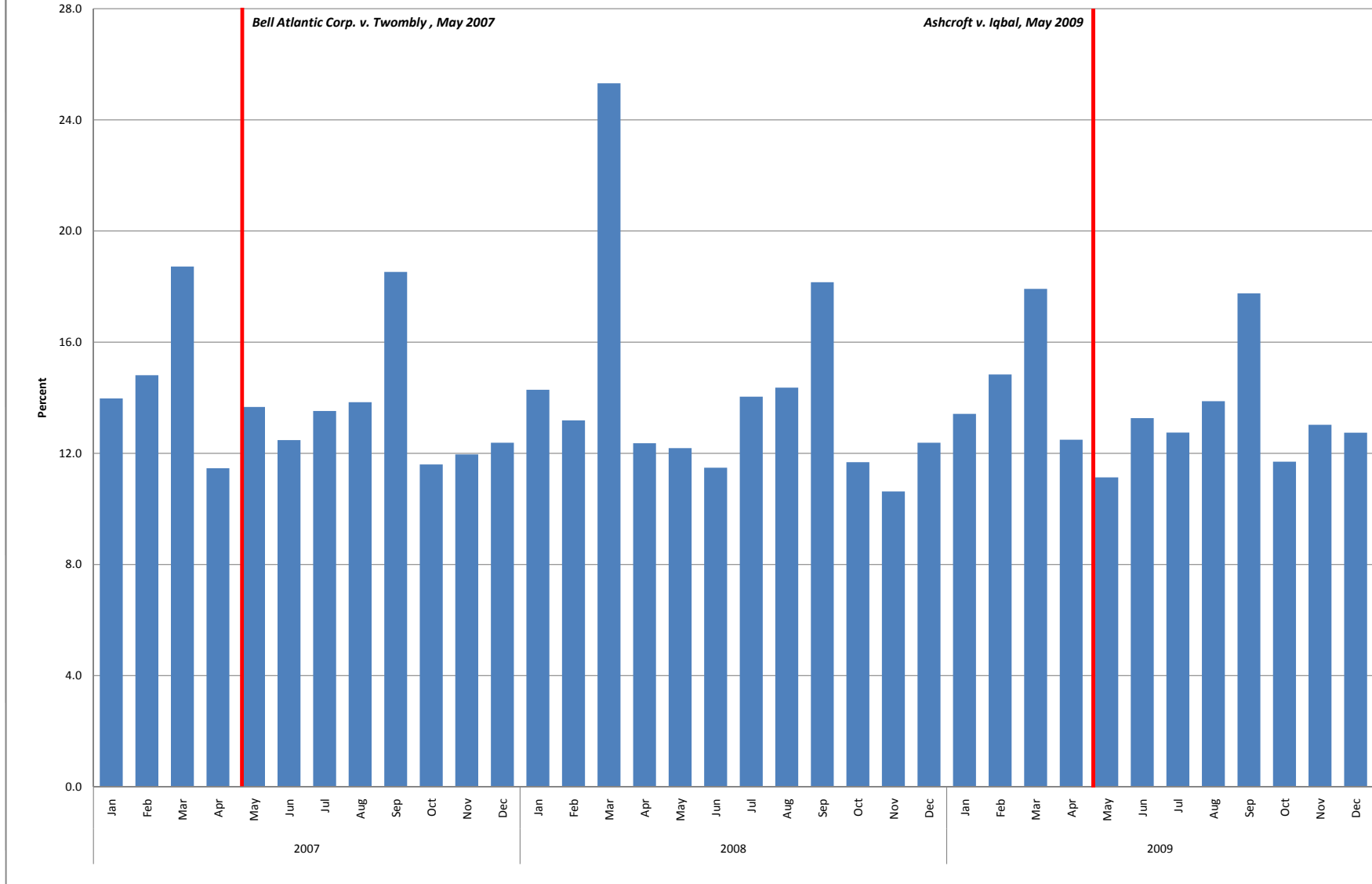
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Motions to Dismiss Granted as Percentage of Total Motions to Dismiss



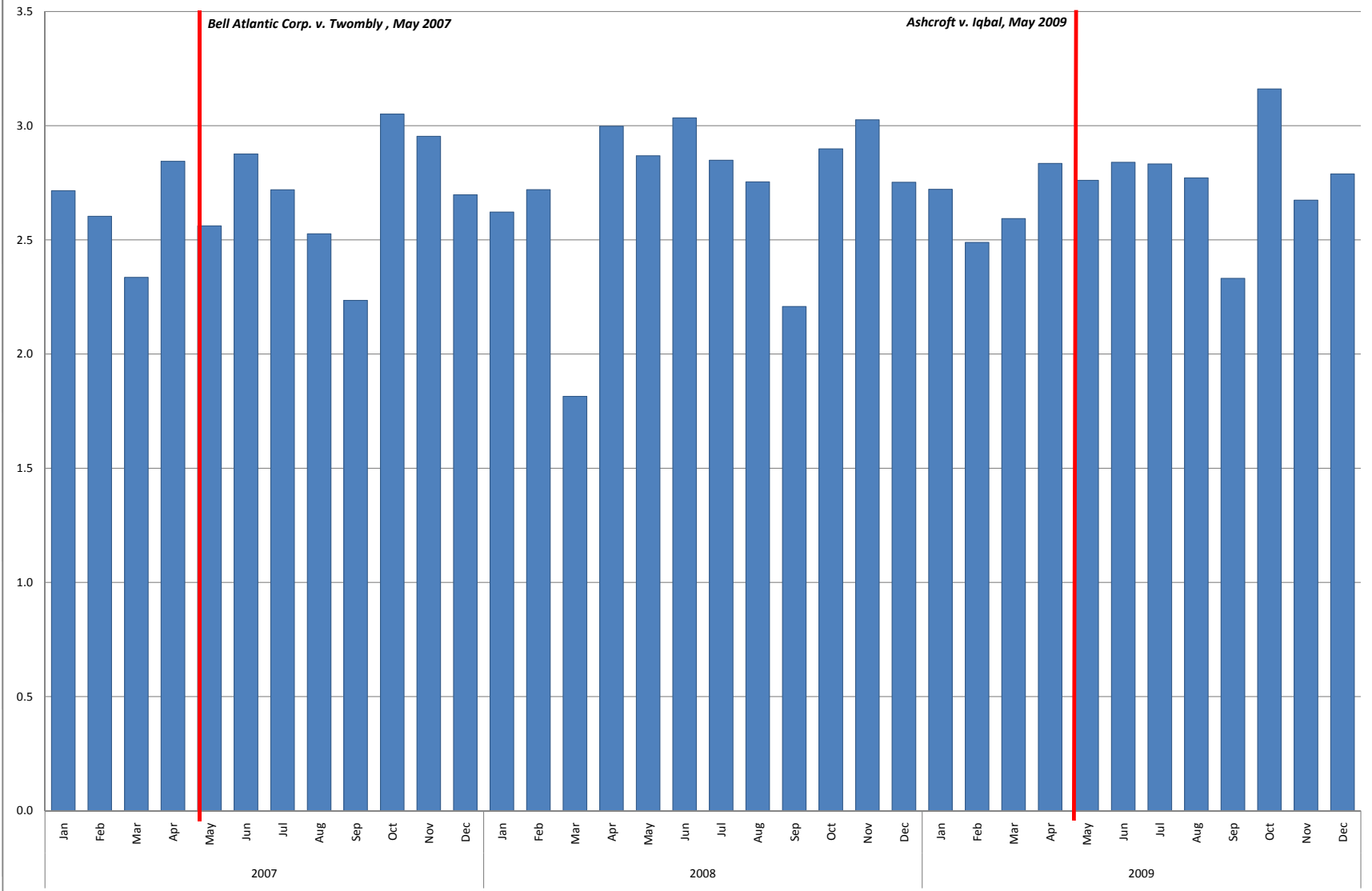
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Motions to Dismiss Denied as Percentage of Total Motions to Dismiss



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3. Does not include data on whether motions to dismiss were granted with or without leave to amend.
4. Data does not include MDL cases in the number of motions to dismiss.
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Ratio of Motions to Dismiss Granted in Relation to Motions to Dismiss Denied



1. Data includes motions to dismiss filed under Rule 12(b)(1)-(7) in cases filed from January 2007 through December 2009. Rule 12(b)(6) motions to dismiss cannot be broken out in this data.
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MOTIONS TO DISMISS IN “CIVIL RIGHTS EMPLOYMENT CASES” AND “CIVIL RIGHTS OTHER CASES”
PRE-*Twombly* (OCTOBER 2006 - APRIL 2007) AND POST-*Iqbal* (JUNE - DECEMBER 2009)*

Civil Rights Employment Cases

Monthly Average for Seven Months before *Twombly*

1,101 cases
523 motions to dismiss (48% of cases)
190 motions granted (17% of cases)
77 motions denied (7% of cases)

Monthly Average for Seven Months after *Iqbal*

1,237 cases
542 motions to dismiss (44% of cases)
190 motions granted (15% of cases)
83 motions denied (7% of cases)

Civil Rights Other Cases

Monthly Average for Seven Months before *Twombly*

1,314 cases
878 motions to dismiss (67% of cases)
304 motions granted (23% of cases)
131 motions denied (10% of cases)

Monthly Average for Seven Months after *Iqbal*

1,403 cases
938 motions to dismiss (67% of cases)
338 motions granted (24% of cases)
112 motions denied (8% of cases)

* 1. Data includes motions to dismiss filed under Rule 12(b)(1)-(7) in cases filed seven months before *Twombly* and seven months after *Iqbal*.

2. Does not include data on whether motions to dismiss were granted with or without leave to amend.

3. Data does not include motions to dismiss that were granted in part and denied in part.

4. Data does not include MDL cases in the number of motions to dismiss.

5. The data were extracted directly from the text of 94 district court docket entries, rather than the official statistical system, and they did not pass through all the quality controls of the statistics system.