

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 February 2010

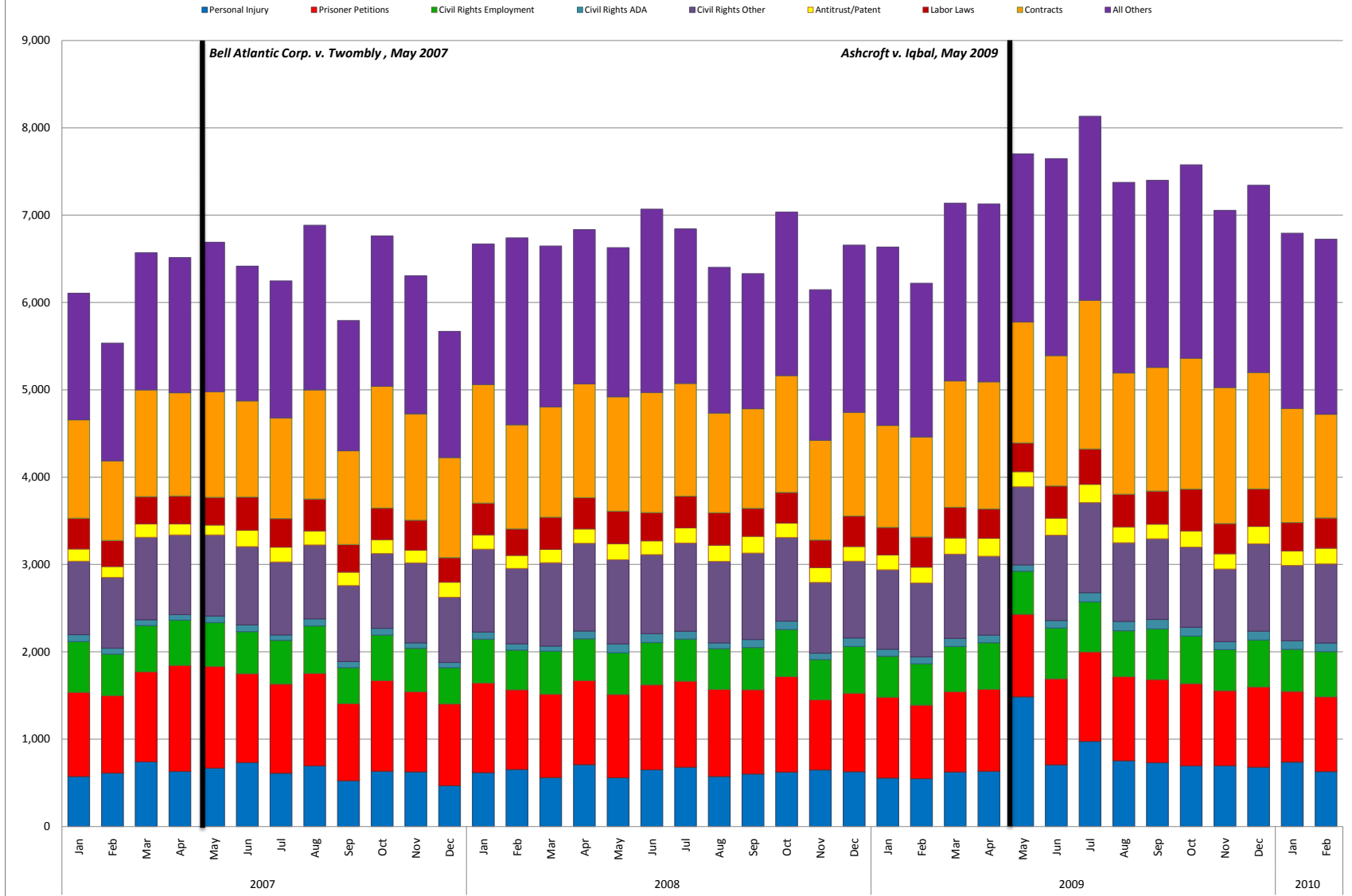
Category	2007												2008												2009												2010		
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	
CASES FILED	18,108	16,391	19,176	18,241	19,442	18,594	18,301	20,726	17,674	21,102	19,092	16,105	19,084	21,949	17,832	19,904	18,753	19,940	19,013	17,473	18,249	18,967	15,781	18,742	19,748	17,132	20,689	19,995	19,087	20,999	22,569	20,515	20,517	20,553	18,385	19,833	16,885	17,609	
Personal Injury	1,937	1,933	2,092	1,669	2,673	1,733	1,787	2,465	1,678	2,177	2,313	1,544	2,005	6,097	1,638	1,716	2,237	3,766	2,139	1,707	2,003	1,664	1,517	2,351	1,489	1,614	3,012	2,481	2,750	3,055	4,164	3,146	3,419	3,314	3,187	3,423	2,000	2,361	
Prisoner Petitions	4,667	3,930	4,735	4,576	4,593	4,788	4,878	4,746	4,190	5,020	4,293	3,971	5,188	4,532	4,796	4,966	4,308	4,432	4,665	4,230	4,185	4,471	3,601	4,426	4,305	4,078	4,606	4,610	4,176	4,668	4,713	4,294	4,227	4,229	3,698	4,208	3,950	3,856	
Civil Rights Employment	1,114	967	1,049	974	1,132	1,177	1,098	1,182	1,146	1,185	1,047	1,083	1,041	999	957	1,089	1,108	1,184	1,196	1,108	1,245	1,250	1,014	1,218	967	1,016	1,137	1,243	1,094	1,299	1,263	1,225	1,315	1,203	1,103	1,274	987	1,015	
Civil Rights Other	1,211	1,187	1,456	1,309	1,483	1,337	1,318	1,483	1,274	1,518	1,240	1,275	1,403	1,334	1,303	1,342	1,339	1,319	1,384	1,377	1,400	1,488	1,218	1,386	1,177	1,350	2,432	1,364	1,270	1,460	1,593	1,312	1,354	1,412	1,270	1,329	1,181	1,262	
Civil Rights ADA	148	164	205	183	188	214	184	215	228	209	202	180	220	219	232	197	202	250	294	222	252	295	203	308	245	251	292	231	246	275	323	281	294	276	258	286	210	281	
Antitrust	38	63	62	40	28	39	26	31	57	43	38	34	58	76	115	70	126	30	43	48	48	53	37	52	36	59	75	49	41	60	63	48	47	58	48	29	25	46	
Patent	212	192	266	218	274	285	214	230	221	302	247	201	225	250	237	265	237	244	233	213	195	237	174	246	217	214	285	267	235	212	249	221	232	224	213	229	191	287	
Labor Laws	1,374	1,285	1,490	1,296	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	1,550	1,338	1,687	1,530	1,345	1,458	1,565	1,698	1,477	1,587	1,356	1,436	1,318	1,419	
Contracts	2,538	2,144	2,654	3,338	2,602	2,614	2,541	3,366	2,729	3,672	3,654	2,470	2,751	2,361	2,368	3,725	2,683	2,526	2,507	2,598	2,786	2,363	2,375	2,803	5,184	2,679	2,940	2,849	2,674	2,853	2,878	2,728	2,681	2,812	2,343	2,481	2,304	2,449	
All Others	4,869	4,526	5,147	4,638	5,072	5,012	4,615	5,559	4,977	5,672	4,817	4,112	4,768	4,681	4,780	5,029	5,143	4,750	5,030	4,696	4,733	2,969	4,391	4,651	4,578	4,533	5,243	5,371	5,256	5,658	5,578	5,562	5,390	5,438	4,949	5,138	4,719	4,633	
MOT. DISMISS	6,105	5,535	6,569	6,514	6,689	6,415	6,247	6,884	5,793	6,762	6,306	5,668	6,669	6,739	6,646	6,833	6,628	7,068	6,842	6,402	6,330	7,035	6,146	6,656	6,634	6,219	7,137	7,128	7,701	7,647	8,131	7,374	7,399	7,575	7,055	7,341	6,792	6,724	
Personal Injury	571	611	740	630	668	731	609	694	523	631	625	466	616	653	569	707	558	649	679	572	600	621	647	626	555	547	623	631	1,484	706	974	752	729	694	695	678	737	629	
Prisoner Petitions	964	887	1,032	1,214	1,163	1,018	1,021	1,058	884	1,038	918	927	1,026	912	954	962	953	972	983	997	965	1,093	803	899	923	842	919	939	944	984	1,024	962	952	942	860	919	809	855	
Civil Rights Employment	582	474	528	518	503	482	501	544	104	522	496	415	502	455	493	479	478	484	483	467	484	541	461	535	470	474	519	534	495	582	574	528	580	543	469	537	481	518	
Civil Rights Other	840	810	944	911	927	896	835	845	868	856	915	745	948	863	954	1,005	963	905	1,011	932	987	958	809	879	909	846	963	901	893	977	1,031	901	923	918	831	1,001	862	905	
Civil Rights ADA	79	69	67	64	76	77	62	82	85	72	78	63	60	82	71	59	89	101	102	89	66	93	96	74	89	82	78	93	88	72	86	105	106	109	101	92	102	99	98
Antitrust/Patent	141	126	154	128	114	188	171	162	155	160	147	174	166	150	153	165	185	158	174	187	194	164	171	168	170	182	186	206	174	196	209	181	169	186	175	198	167	182	
Labor Laws	351	297	311	319	317	380	326	364	315	360	343	281	363	302	367	358	372	325	363	372	319	352	314	349	315	345	351	337	329	368	405	375	378	479	346	430	325	345	
Contracts	1,128	912	1,222	1,183	1,210	1,101	1,153	1,249	1,075	1,395	1,218	1,146	1,358	1,194	1,265	1,303	1,309	1,374	1,291	1,140	1,141	1,338	1,144	1,188	1,168	1,146	1,448	1,455	1,386	1,492	1,703	1,388	1,417	1,499	1,559	1,334	1,307	1,188	
All Others	1,449	1,349	1,571	1,547	1,711	1,542	1,569	1,886	1,491	1,722	1,581	1,444	1,608	2,139	1,841	1,765	1,709	2,099	1,769	1,669	1,547	1,872	1,723	1,914	2,042	1,759	2,035	2,037	1,924	2,256	2,106	2,181	2,142	2,213	2,028	2,142	2,005	2,004	
GRANTED	2,316	2,135	2,871	2,122	2,342	2,303	2,295	2,406	2,395	2,394	2,225	1,891	2,497	2,416	3,050	2,533	2,315	2,463	2,732	2,531	2,539	2,382	1,980	2,266	2,425	2,293	3,320	2,523	2,367	2,880	2,929	2,829	3,069	2,796	2,449	2,590	2,622	2,689	
Personal Injury	330	282	334	267	285	309	282	269	257	294	256	219	274	260	258	307	249	276	290	249	267	327	233	250	289	253	328	298	225	334	282	259	300	277	314	316	284	243	
Prisoner Petitions	299	367	475	271	325	258	329	354	411	297	266	243	319	355	530	273	289	289	344	364	406	287	243	248	345	346	499	265	277	290	323	379	499	266	256	299	357	403	
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	196	166	164	230	199	198	195	204	153	152	168	167	
Civil Rights Other	294	303	426	308	354	359	274	310	332	265	293	202	332	282	420	290	300	347	332	342	403	298	281	307	318	335	444	287	301	336	358	384	379	321	323	281	288	346	
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	26	36	
Antitrust	8	9	7	14	11	8	18	17	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	6	8	
Patent	45	55	28	52	39	47	72	53	42	61	44	46	61	44	44	59	43	57	141	62	49	61	64	64	70	88	96	79	75	74	80	67	77	70	68	109	73		
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	113	119	99	118	126	124	183	128	115	
Contracts	394	331	545	385	452	414	436	478	401	483	457	401	549	523	581	534	518	530	671	504	439	497	426	497	502	414	669	529	481	605	674	587	526	632	429	501	490	477	
All Others	591	512	652	480	528	623	586	618	632	642	631	542	640	641	864	738	607	607	684	615	633	606	480	561	591	566	899	736	687	854	836	798	946	841	736	740	766	821	
DENIED	856	819	1,233	746	915	801	844	952	1,073	785	753	701	954	889	1,683	846	809	811	959	921	1,152	821	653	824	890	923	1,279	892	860	1,011	1,035	1,020	1,314	884	920	933	940	991	
Personal Injury	64	71	107	85	80	75	56	76	70	44	58	58	79	78	116	77	68	73	84	73	103	79	46	61	70	79	94	85	88	73	81	74	97	86	65	65	76	79	
Prisoner Petitions	108	128	177	83	105	101	118	120	171	94	76	79	131	115	188	81	62	95	144	132	161	92	80	96	111	107	183	99	116</										

Cases and Motions to Dismiss Filed From January 2007 through February 2010

	2007												2008												2009												2010	
	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	Jan	Feb
MOOT	252	236	348	249	266	218	260	333	262	260	214	204	315	286	298	368	316	268	293	258	334	268	213	278	275	308	390	333	323	358	410	356	468	348	309	328	335	416
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	Jan	Feb
Personal Injury	25	17	24	21	21	37	33	28	15	19	27	12	38	23	19	33	30	32	31	22	27	27	13	24	32	30	36	23	39	38	21	27	19	15	33	17	24	28
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	20	27	19	32	32	38	29	40	28	49	37	24	29	33	25
Civil Rights Employment	27	28	38	27	33	21	21	20	22	23	21	20	39	24	27	35	14	21	25	17	23	23	17	26	32	36	39	23	36	26	32	37	43	29	30	31	31	35
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	41	51
Civil Rights ADA	3	3	10	2	2	2	7	6	4	2	3	1	1	3	4	2	7	5	1	6	3	3	2	7	4	1	8	1	2	3	2	6	9	8	5	1	4	
Antitrust	2	-	-	-	-	-	8	8	3	2	1	-	1	-	-	-	-	-	-	1	20	2	3	2	-	-	-	2	2	2	-	-	6	10	4	6	1	1
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	5	8
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	25	20
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	60	72	81	52	96	69	60	55	76	101
All Others	56	57	98	70	85	45	68	91	82	69	55	53	73	76	75	75	88	70	71	73	88	60	61	73	50	92	105	94	67	95	127	112	136	95	93	93	98	143
GRANTED IN PART AND DENIED IN PART	371	263	587	250	319	298	299	356	390	289	286	226	302	336	545	296	325	315	342	392	472	332	271	360	303	371	586	287	377	428	435	438	563	405	401	347	354	409
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	Jan	Feb
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	21	16	20	28	9	13	18	22	20	22	24	24	21	18	20
Prisoner Petitions	42	32	65	14	21	28	27	31	64	20	22	17	44	32	73	20	45	29	33	64	58	17	28	17	27	50	81	24	34	36	51	39	103	36	35	21	37	58
Civil Rights Employment	58	46	71	49	40	43	39	44	38	48	26	28	45	52	69	44	43	45	49	48	50	35	29	40	43	44	63	46	32	56	40	56	51	36	44	40	44	41
Civil Rights Other	73	50	153	55	97	76	65	72	77	64	74	52	55	69	122	58	52	65	58	64	91	72	55	59	70	77	152	58	62	100	84	77	91	89	64	67	56	83
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	3	5
Antitrust	3	3	3	2	3	3	-	5	3	1	3	-	-	1	3	-	1	2	11	2	4	3	-	5	3	4	3	2	3	-	3	1	1	5	-	-	8	
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	8	10	5	5	5	10	5	4	4
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	18	14
Contracts	69	45	104	37	51	53	54	66	60	49	51	47	44	68	74	54	50	57	80	52	76	76	44	49	45	52	87	58	103	86	79	73	88	83	64	68	63	64
All Others	68	41	127	55	66	71	71	88	101	58	71	43	72	66	139	78	91	63	70	86	133	71	75	141	66	100	116	58	110	106	117	132	157	111	131	100	110	112

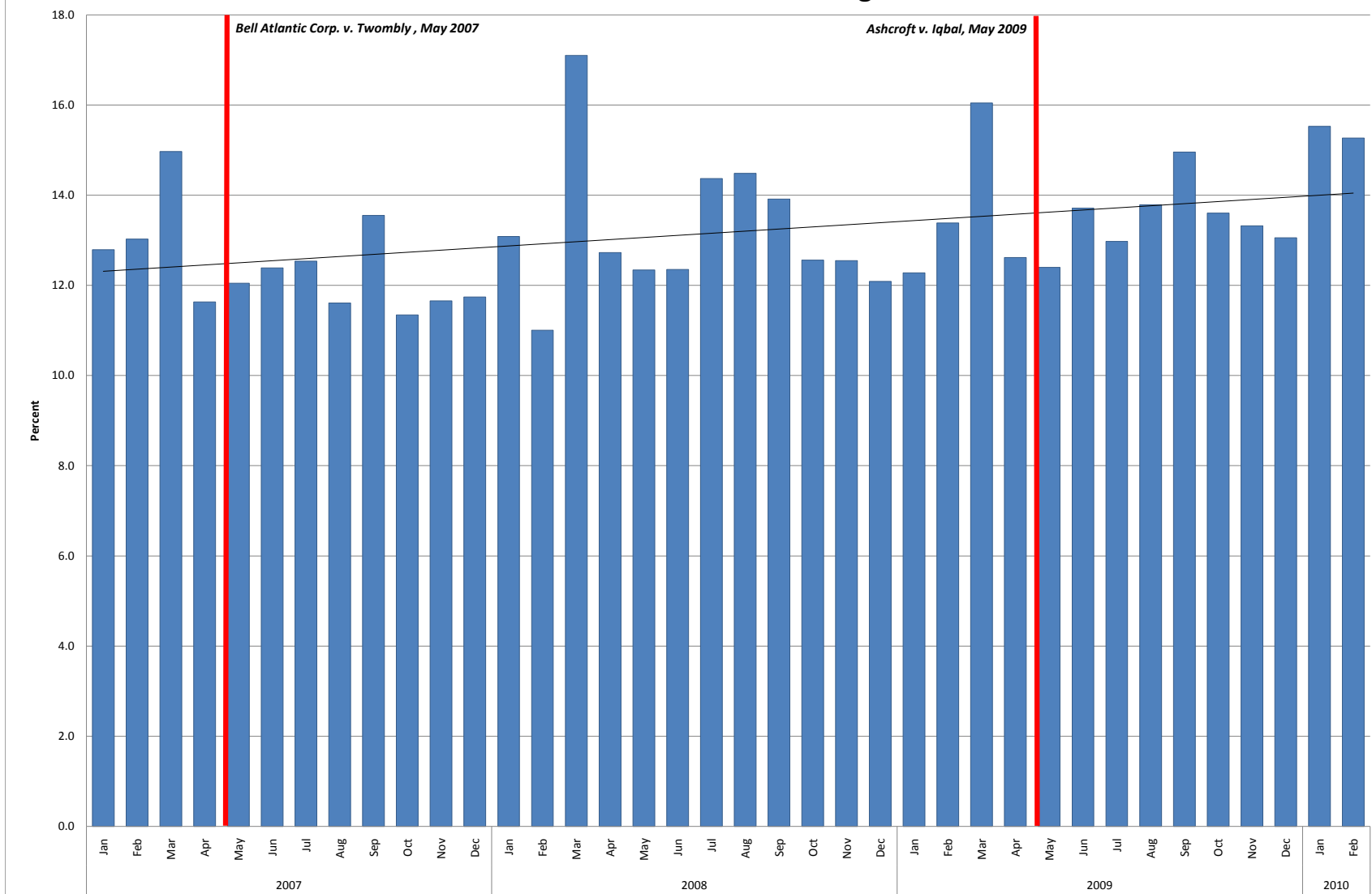
1. Data includes motions to dismiss filed under Rule 12(b)(1)-(7) in cases filed from January 2007 through February 2010. Rule 12(b)(6) motions to dismiss cannot be broken out in this data.
 2. Does not include data on whether motions to dismiss were granted with or without leave to amend.
 3. Data does 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



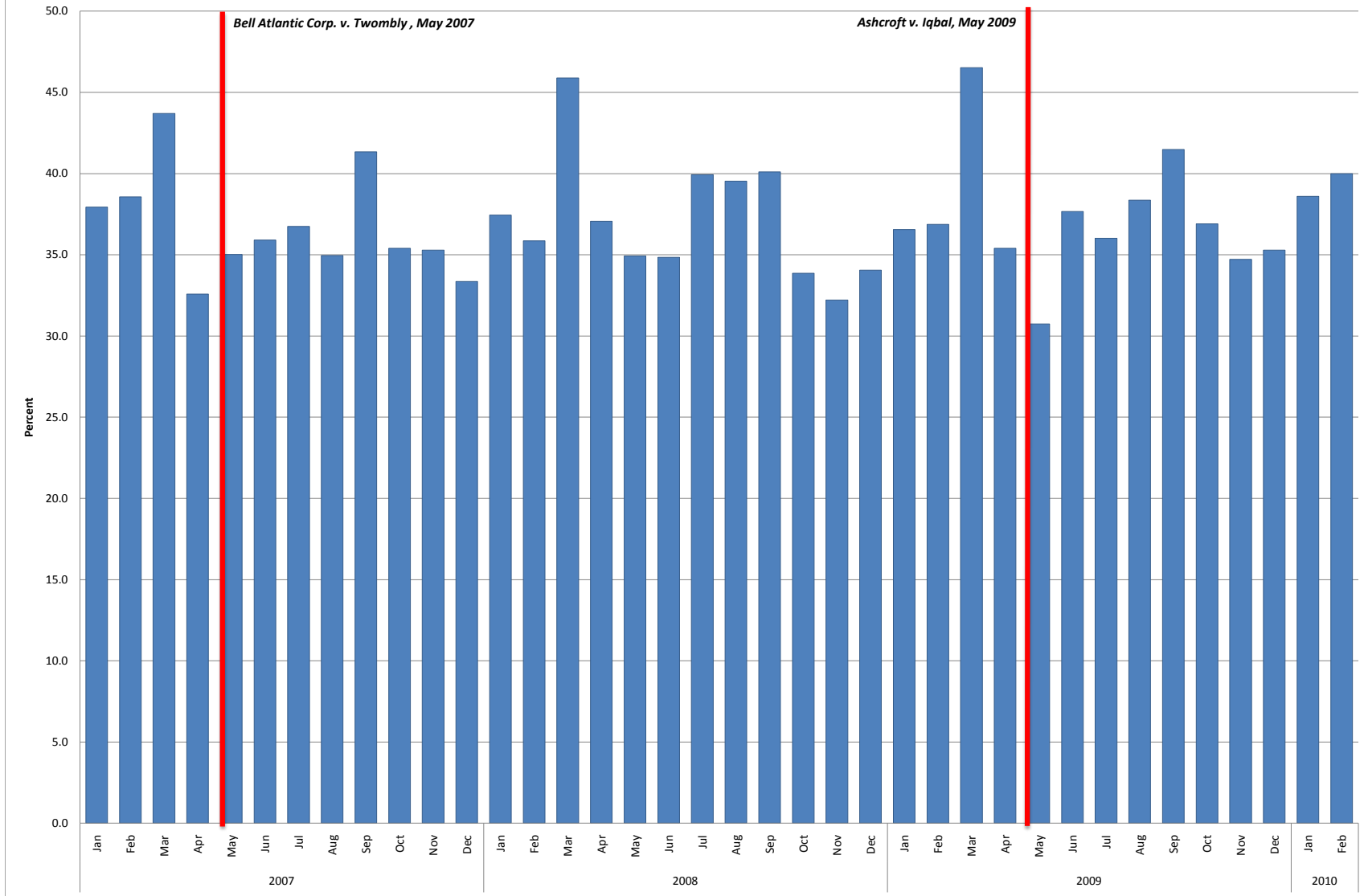
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Rate of Motions to Dismiss Granted as Percentage of Total Cases Filed



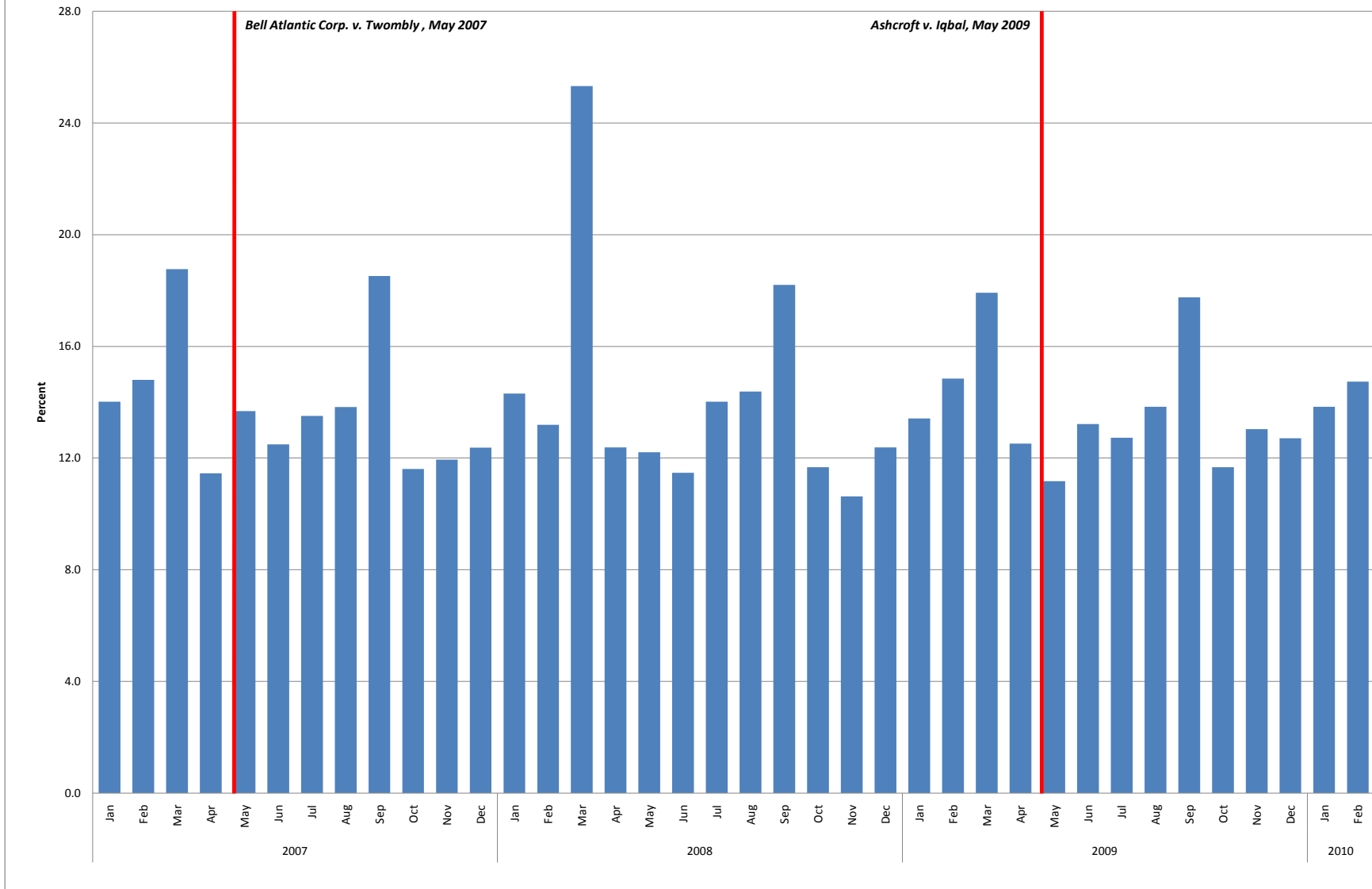
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Motions to Dismiss Granted as Percentage of Total Motions to Dismiss



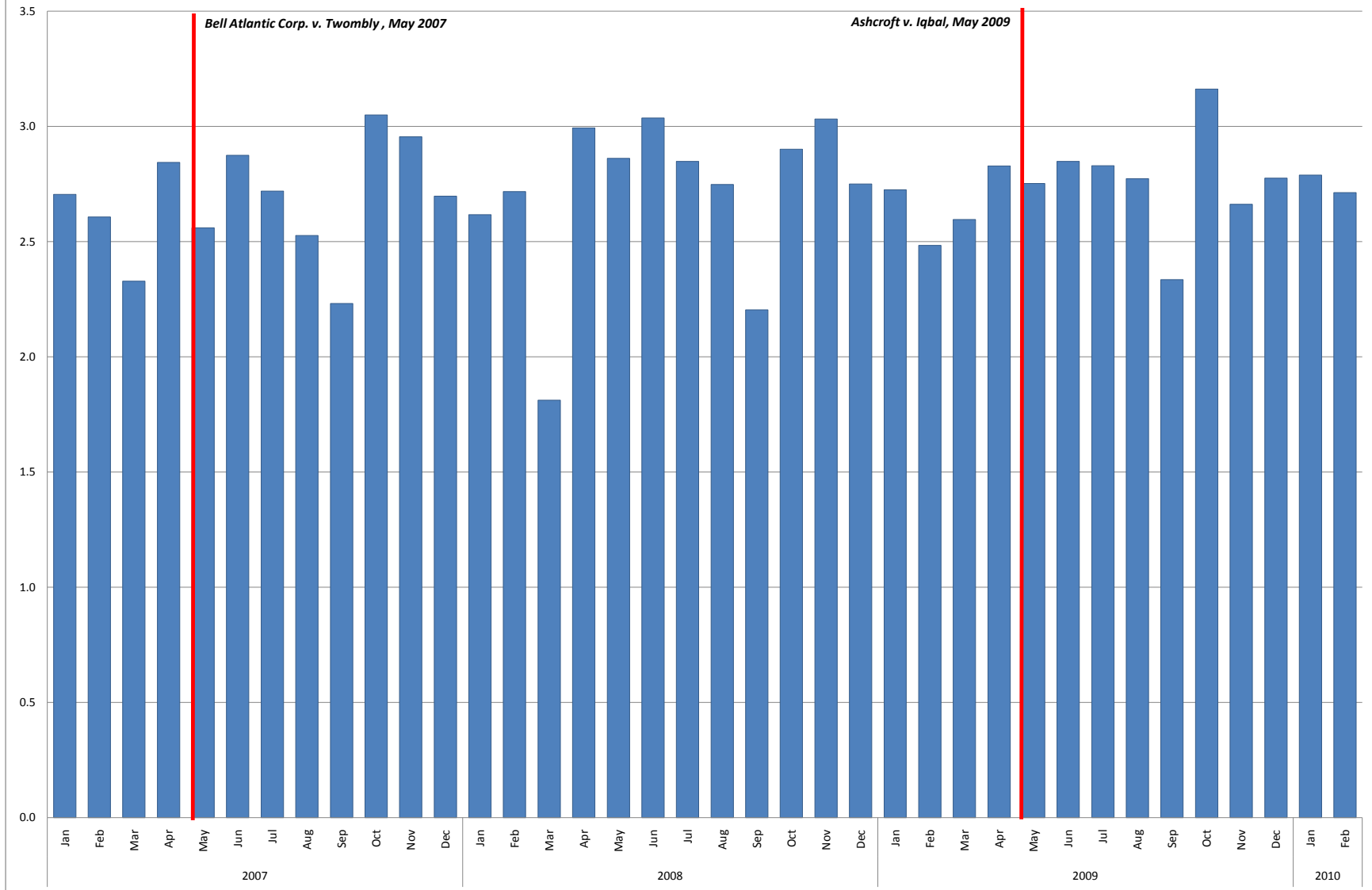
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Motions to Dismiss Denied as Percentage of Total Motions to Dismiss



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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 February 2010. 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* (AUGUST 2006 - APRIL 2007) AND POST-*IQBAL* (JUNE - FEBRUARY 2010)*

Civil Rights Employment Cases

Monthly Average for Nine Months before *Twombly*

1,147 cases
527 motions to dismiss (46% of cases)
169 motions granted (15% of cases)
108 motions denied (9% of cases)

Monthly Average for Nine Months after *Iqbal*

1,185 cases
533 motions to dismiss (45% of cases)
185 motions granted (16% of cases)
80 motions denied (7% of cases)

Civil Rights Other Cases

Monthly Average for Nine Months before *Twombly*

1,334 cases
903 motions to dismiss (68% of cases)
264 motions granted (20% of cases)
158 motions denied (12% of cases)

Monthly Average for Nine Months after *Iqbal*

1,362 cases
926 motions to dismiss (68% of cases)
334 motions granted (25% of cases)
114 motions denied (8% of cases)

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