

*First Judicial District of Pennsylvania
Court of Common Pleas of Philadelphia County*



*Trial Division - Civil
2011 Year In Review*

Honorable John W. Herron
Chair, Administrative Governing Board
Administrative Judge, Trial Division

Honorable Allan L. Tereshko
Supervising Judge, Trial Division - Civil

March 1, 2012

TRIAL DIVISION - CIVIL 2011 YEAR IN REVIEW

OVERVIEW

During calendar year 2011, the Trial Division – Civil continued to administer justice in Philadelphia in an efficient and productive manner. The Civil Section continues to provide access to justice by the implementation of innovative and progressive case flow management systems, continuous education for support staff, creation of appropriate pre-trial forums and technologic advancements. We are pleased to report that ninety percent (90%) of *all* civil cases were disposed or otherwise resolved within the case processing time standards established by the American Bar Association (ABA).

CIVIL CASE MANAGEMENT PROGRAMS

The key to the success of the Trial Division – Civil is the intense management of cases. Civil cases are categorized and placed into case management programs specifically organized for effective handling and prompt, precise disposition. Significant court events are scheduled and deadlines are enforced. These programs include Complex Litigation, Day Forward Major Jury, Commerce Case Management, Compulsory Arbitration, Residential Mortgage Foreclosure Diversion Program, Motions, Class Actions, Governmental and Administrative Agency Appeals, Forfeiture, Code Enforcement, Landlord/Tenant Appellate Mediation and Discovery, as well as the Civil Case Management and Dispute Resolution Centers.

CIVIL ADMINISTRATION/MOTIONS PROGRAM

The Office of Civil Administration/Motions Program is primarily responsible for processing non-discovery motions, petitions, preliminary injunctions and temporary restraining orders filed in all civil actions within the Trial Division. In 2011, the Motions Program accepted 60,683 filings representing 14% of accepted e-filings for the year. These filings included motions, answers to motions, answers to preliminary objections, stipulations requiring court approval, replies and briefs. As a result, 40,352 motions were assigned to the judges.

In addition to the Motions Program, other programs administered by this unit include the Motion Argument List, Civil Tax Petitions, Real Estate Tax Liens, Tax Complaint Trials, Statutory Appeals, Municipal Court Appeals, City of Philadelphia Lead Contamination and Code Enforcement Injunctions and the Forfeiture and Return of Property Program.

COMPULSORY ARBITRATION PROGRAM

All civil actions filed in the Court of Common Pleas of Philadelphia County with an amount in controversy of \$50,000 or less must first proceed to a Compulsory Arbitration hearing before a panel of three attorneys who have been certified by the Court to serve as arbitrators. For several decades, the Compulsory Arbitration Program has been widely recognized as one of the best in the country; delegations from other states and even several foreign countries, such as Korea and Egypt have visited the Arbitration Center and emulated it in their own jurisdictions. With 15,338 cases concluded at the Arbitration level in 2011, as well as an Arbitration hearing appeal rate of 33%, the Compulsory Arbitration Program continues to be an effective forum for resolving civil disputes with limited use of judicial resources.

COMPLEX LITIGATION CENTER

In 2011, the Complex Litigation Center was responsible for managing 23% of the Civil inventory, including the following programs: Mass Tort (including Asbestos); Major Non-Jury; Expedited Non-Jury (Equity); and Arbitration Appeal.

During 2011, over 44% of the cases in the Hormone Replacement Therapy Program, the largest mass tort program, were “settled” and removed from the active case inventory. There were also significant decreases in the case inventory for the following programs: Gadolinium Based Contrast Agents (91%); Avandia (95%); Trasyol (89%); and Paxil—Pregnancy (62%). The following programs were concluded: Anticonvulsant Drugs; Beryllium; Digitek; and Firefighter Hearing Loss. There were notable increases in several programs. Reglan increased from 913 to 2,277 cases and Yaz/Yasmin/Ocella increased from 1,221 to 1,817 cases. The Asbestos case inventory increased from 661 to 762 cases. Four new programs were established: Accutane; Artelon Spacer Implant; Mylan Fentanyl Patch; and Topamax.

With respect to the Major Non-Jury Program, there was a notable decrease of 198 cases. There was an increase of just over 200 cases in the Arbitration Appeal Program. The arbitration appeal rate increased from 31% to 33%. There was no notable change in the Expedited Non-Jury Program.

The Complex Litigation Center's Mass Tort Information page, which appears on the Court's Website, was enhanced; in addition to providing general information and important updates on upcoming Court events, users were able to view real-time active case and trial lists.

DISPUTE RESOLUTION CENTER

Mandatory settlement conferences are held in all major jury and non-jury cases. These conferences occur after discovery, motion, and expert deadlines so that the parties have a thorough understanding of the strengths and weaknesses of their cases and can approach settlement negotiations in a fully informed and meaningful manner. Depending upon the case type and case management track (expedited, standard or complex), settlement conferences take place 6 to 12 months after the initial case management conference and 2 to 3 months before trial. In 2011, over 3,300 settlement conferences were conducted within the Dispute Resolution Center. Thirty-seven percent (37%) of the cases scheduled for a settlement conference were resolved.

DISCOVERY COURT PROGRAM

The Discovery Court Program operates in accordance with the alternative motion procedures set forth in Philadelphia Civil Rule *208.3. The Discovery Unit encompasses all Day Forward Programs, Commerce, Non-Commerce Class Actions, Arbitration, Arbitration Appeals and Major Non-Jury Programs. During Calendar year 2011, the Discovery Unit was responsible for processing and assigning over 23,000 motions, petitions and stipulations requiring court approval. During calendar year 2011, the Discovery Unit also processed over 250 Name Change Petitions.

COMMERCE CASE MANAGEMENT PROGRAM

In 2011, the Commerce Case Management Program began its second decade handling complex litigation brought by local, national and international business entities. As in previous years, the Commerce Program resolved disputes involving diverse parties and issues: corporate shareholders, company members and partners, construction contracts, professional malpractice,

unfair competition, malicious prosecution, commercial insurance policies, and negotiable instruments. In the last year, the Commerce Program saw an increase in the number of shareholder derivative actions concerning sales and mergers of Pennsylvania businesses, which transactions may reflect some improvement in general economic conditions.

The Commerce Program continued to fulfill its mandate to provide guidance on issues of Pennsylvania commercial law. During calendar year 2011, Commerce Program judges disposed of 704 commercial cases. Eighty-Seven percent (87%) of these cases were disposed or otherwise resolved within the case processing time standards established by the ABA. As of January 5, 2012, there were 552 pending cases assigned to the Commerce Program. Since its inception, Commerce Program judges have published more than 900 opinions on the Commerce Program's website, including more than 40 new ones in 2011.

DAY FORWARD MAJOR JURY PROGRAM

The nationally-recognized Day Forward Major Jury Program encompasses all major civil jury cases except Commerce and Mass Tort cases. Day Forward Case Management is a system that has been created to coordinate and schedule major jury cases for trial. It provides for early intervention and continuous control of the major jury cases.

To manage these cases more effectively, judges assigned to this program are divided into teams. To maintain consistent oversight of each case, each team is led by a Judicial Team Leader. The Judicial Team Leader and the assigned team of judges rule upon all motions (including discovery motions), conduct status conferences, settlement conferences, pretrial conferences and trials.

To assure effective case management, every case in the Day Forward Program is scheduled for a case management conference before a Civil Case Manager approximately 90 days after commencement. The main objective of the Case Management Conference is to obtain early disclosure of basic information so that each case can be managed more effectively. Based on this information, the Civil Case Manager prepares a Case Management Order that establishes a schedule for each case. The Case Management Order sets deadlines for discovery, the exchange of expert reports, and the filing of motions. Also, a presumptive month is scheduled for a settlement conference, pretrial conference, and trial.

During calendar year 2011, the Day Forward Major Jury Program judges disposed of 5,637 major jury cases. Ninety-one percent (91%) of these cases were disposed or otherwise resolved within the case processing time standards established by the ABA. As of January 5, 2012, there were 6,856 active cases pending within the program.

MORTGAGE FORECLOSURE DIVERSION PROGRAM

As of December of 2011, the FJD scheduled an excess of 18,000 cases for conciliation conference. Of that number approximately 75% of homeowners have come through the conference program with varied resolutions. According to an independent study conducted by The Reinvestment Fund, 35% percent of participating homeowners reach sustainable resolutions. Of the 25% that do not appear, data suggests that the properties at issue are ineligible for the program because they are vacant or not owner-occupied. The court is in the process of developing the means to examine current data to most efficiently track results to date. Overall, resolutions are reached in less than three conciliation conferences and of those that do reach a permanent agreement, allowing the homeowner to keep their home, 85% of those individuals remain in their homes one year later.

In 2011, the federal government established the Emergency Homeowners Loan Program, and the Commonwealth allocated \$105 million to assist homeowners facing foreclosure. Pennsylvania was one of three states to use the entire allotted amount. The state also received additional funds due to the success of the program.

During calendar year 2011, the Mortgage Foreclosure Program disposed of 6,031 cases. Sixty-seven percent (67%) of these cases were disposed or otherwise resolved within the case processing time standards established by the ABA. As of January 5, 2012, there were 7,204 active cases pending within the program.

CIVIL ELECTRONIC FILING SYSTEM

The First Judicial District's Civil Electronic Filing System (EFS), mandatory since January 5, 2009, continues to flourish and evolve. Unique system features embody the kind of forward-thinking approach that has separated Philadelphia from its counterparts across the state. The *My Cases* link which allows a user access to their case inventory and all available electronic documents in the court's record has been a major highlight of the system since its inception. So,

too, has the electronic notification of court filings to all members of the subject case who are EFS users.

Modifications to the display of electronic documents to help fortify an already extremely user-friendly system were a major system update. The court's case management system and on-line docket displays now maintain document naming conventions assigned by the filing party to the electronic documents. This feature provides for a more meaningful search and document retrieval.

The process of electronic notification of judicial orders and other documents requiring notice pursuant to Pa.R.C.P. 236 was implemented in November 2009. The process continues to be extremely effective. Since implementation, over 1.1 million notices have been mailed electronically to all interested parties; with over 500,000 delivered in 2011. Postage savings realized by the court exceeds \$480,000 (more than \$230,000 in 2011). In March 2010, a process for electronically mailing notices of court events, normally printed and sent via regular mail, was implemented. More than 350,000 notices of court events produced, about 250,000, roughly 70%, of the notices have been sent electronically, exceeding expectations. Again, accounting for postage only, electronic notification translates to over \$110,000 in savings. In 2011, more than 150,000 scheduling notices were emailed saving approximately \$67,000. In addition to cost savings, this electronic notification process is a more efficient and reliable way to notify the parties of important court events.

TRIAL DIVISION - CIVIL
2011 STATISTICS

2011 CIVIL INVENTORY

New Filings: Including arbitration matters, the Trial Division – Civil received a total of 35,801 new filings during calendar year 2011.

Dispositions: Total civil dispositions for 2011 equaled 35,789. Excluding arbitration matters, the Court disposed of 20,451 civil records.

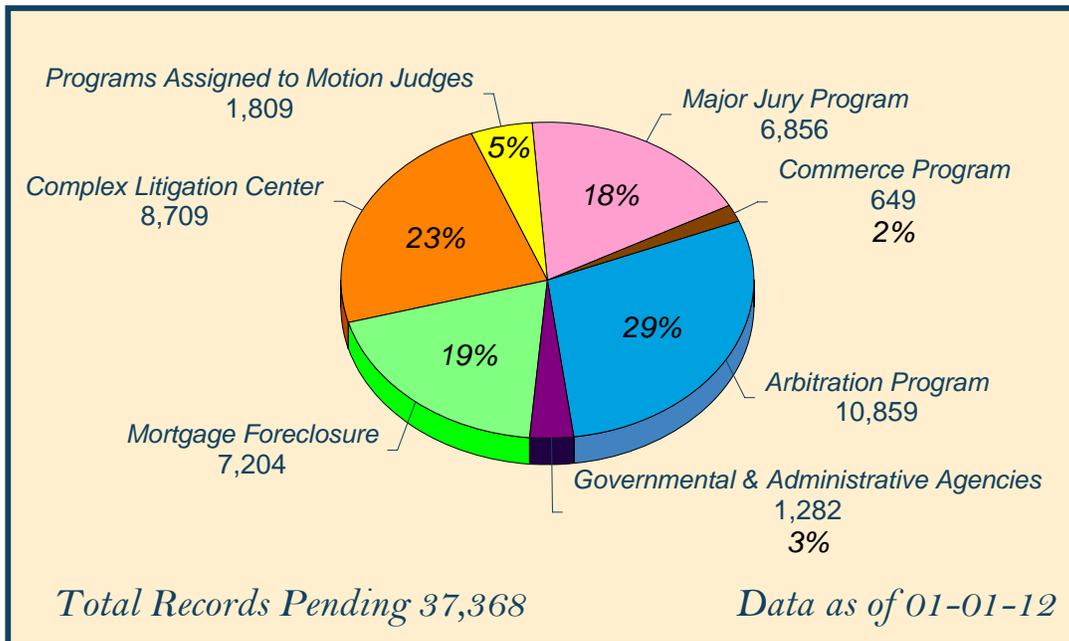
Trials: There were 258 Jury Trials and 278 Non-Jury Trials conducted in the Civil Section of the Trial Division during calendar year 2011.

Records Pending: Civil records pending as of December 31, 2011 totaled 37,368.

Trial Division - Civil Program	Civil Records Pending	Percent of Inventory
<i>Arbitration</i>	10,859	29%
<i>Complex Litigation</i>	8,709	23%
<i>Mortgage Foreclosure</i>	7,204	19%
<i>Major Jury Program</i>	6,856	18%
<i>Programs Assigned to Motions Judges</i>	1,809	5%
<i>Governmental and Administrative Agencies</i>	1,282	3%
Commerce	649	2%
Total	37,368	100%

First Judicial District of PA: Trial Division - Civil

TOTAL CIVIL INVENTORY
RECORDS PENDING BREAKDOWN 2011



<i>Program:</i>	<i>Records Pending</i>	<i>% of Inventory</i>
<i>Arbitration Program:</i>	10,859	29%
<i>Complex Litigation Center :</i>	8,709	23%
<i>Mortgage Foreclosure:</i>	7,204	19%
<i>Major Jury Program:</i>	6,856	18%
<i>Programs Assigned To Motion Judges:</i>	1,809	5%
<i>Governmental & Administrative Agencies:</i>	1,282	3%
<i>Commerce Program:</i>	649	2%
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TOTAL:	37,368	100%

First Judicial District of Pennsylvania: Trial Division - Civil

CIVIL STATISTICAL SUMMARY

2011

	RECORDS PENDING 01/03/11	RECORDS ENTERED	RE-OPEN RECORDS 1	TOTAL RECORDS DISPOSED	NET DEFERRED 2	NET TRANSFER	RECORDS PENDING 01/01/12	DEFERRED RECORDS	INCREASE (DECREASE)
COMPLEX LITIGATION CENTER									
Asbestos	661	308	13	229	2	7	762	21	101
³ Mass Tort Program	4,583	2,382	72	1,653	(39)	67	5,412	104	829
⁴ Arbitration Appeals	818	0	202	1,731	(11)	1,742	1,020	101	202
Major Non-Jury	1,411	2,911	97	1,499	(61)	(1,646)	1,213	249	(198)
Expedited Non-Jury	<u>300</u>	<u>437</u>	<u>20</u>	<u>450</u>	<u>3</u>	<u>(8)</u>	<u>302</u>	<u>14</u>	<u>2</u>
SUBTOTAL	7,773	6,038	404	5,562	(106)	162	8,709	489	936
MAJOR JURY PROGRAMS									
DB	1	0	0	8	7	0	0	0	(1)
DF 1995 - 2005	24	0	10	68	52	(5)	13	28	(11)
DF '06	19	0	4	15	7	1	16	10	(3)
DF '07	39	0	6	54	27	(1)	17	38	(22)
DF '08	191	0	16	223	46	(2)	28	38	(163)
DF '09	1,583	0	38	1,377	32	44	320	126	(1,263)
DF '10	4,258	0	90	2,848	(63)	97	1,534	151	(2,724)
DF '11	<u>0</u>	<u>4,683</u>	<u>42</u>	<u>1,044</u>	<u>(70)</u>	<u>1,317</u>	<u>4,928</u>	<u>70</u>	<u>4,928</u>
SUBTOTAL	6,115	4,683	206	5,637	38	1,451	6,856	461	741
PROGRAMS ASSIGNED TO MOTION JUDGES					5,561				
Agency Appeals	431	461	14	571	(2)	1	334	35	(97)
Tax Program	115	117	4	161	0	(1)	74	12	(41)
Civil Tax Petition	139	891	2	294	1	(29)	710	30	571
Denial to Open Judgments	<u>640</u>	<u>71</u>	<u>0</u>	<u>18</u>	<u>(1)</u>	<u>(1)</u>	<u>691</u>	<u>3</u>	<u>51</u>
SUBTOTAL	1,325	1,540	20	1,044	(2)	(30)	1,809	80	484
GOVERNMENTAL & ADMINISTRATIVE AGENCIES									
Code Enforcement	57	3	0	2	0	(2)	56	0	(1)
Equity-City of Philadelphia	428	729	1	409	1	(1)	749	0	321
Landlord/Tenant	48	265	15	234	(3)	3	94	4	46
Lead Contamination	122	131	0	162	0	(1)	90	0	(32)
Money Judgments	1	0	0	0	0	0	1	22	0
Penn-Dot Appeals	184	570	8	654	0	101	209	0	25
Others	<u>36</u>	<u>59</u>	<u>0</u>	<u>12</u>	<u>0</u>	<u>0</u>	<u>83</u>	<u>1</u>	<u>47</u>
SUBTOTAL	876	1,757	24	1,473	(2)	100	1,282	27	406

CIVIL STATISTICAL SUMMARY
2011

	RECORDS PENDING 01/03/11	RECORDS ENTERED	RE-OPEN RECORDS 1	TOTAL RECORDS DISPOSED	NET DEFERRED 5	NET TRANSFER	RECORDS PENDING 01/01/12	DEFERRED RECORDS	INCREASE (DECREASE)
<u>COMMERCE PROGRAM 2011</u>									
⁶ Class Action	50	36	6	27	1	(1)	65	14	15
Jury	0	118	2	47	(4)	52	121	4	121
Non-Jury	0	372	8	160	(11)	(3)	206	11	206
Untracked	<u>0</u>	<u>45</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>(42)</u>	<u>2</u>	<u>0</u>	<u>2</u>
SUBTOTAL	50	571	16	235	(14)	6	394	29	344
<u>TOTAL COMMERCE PROGRAM INVENTORY</u>									
Class Action	50	36	6	27	1	(1)	65	14	15
Jury	235	118	9	208	11	91	256	21	21
Non-Jury	388	372	36	462	15	(24)	325	67	(63)
Untracked	8	<u>45</u>	<u>2</u>	<u>7</u>	<u>0</u>	<u>(45)</u>	<u>3</u>	<u>0</u>	<u>(5)</u>
SUBTOTAL	681	571	53	704	27	21	649	102	(32)
⁷ TOTAL	16,770	14,589	707	14,420	(45)	1,704	19,305	1,159	2,535
Arbitration	10,750	16,574	400	15,338	(102)	(1,425)	10,859	3,072	109
Mortgage Foreclosure	8,312	4,638	369	6,031	(61)	(23)	7,204	258	(1,108)
TOTAL CIVIL INVENTORY	35,832	35,801	1,476	35,789	(208)	256	37,368	4,489	1,536

DEFERRED INVENTORY

2011

	BEGINNING BALANCE <u>01/03/11</u>	DEFERRED DURING <u>TERM</u>	REMOVED DURING <u>TERM</u>	ENDING BALANCE <u>01/01/12</u>	NET DEFERRED INCREASE (DECREASE)
<u>COMPLEX LITIGATION CENTER</u>					
Asbestos	23	2	4	21	(2)
³ Mass Tort Program	65	104	65	104	39
⁴ Arbitration Appeals	90	35	24	101	11
Major Non-Jury	188	128	67	249	61
Expedited Non-Jury	17	<u>10</u>	<u>13</u>	<u>14</u>	<u>(3)</u>
SUBTOTAL	383	279	173	489	106
<u>MAJOR JURY PROGRAMS</u>					
DB	7	0	7	0	(7)
DF 1995 - 2005	80	4	56	28	(52)
DF '06	17	3	10	10	(7)
DF '07	65	3	30	38	(27)
DF '08	84	20	66	38	(46)
DF '09	158	65	97	126	(32)
DF '10	88	176	113	151	63
DF '11	0	<u>94</u>	<u>24</u>	<u>70</u>	<u>70</u>
SUBTOTAL	499	365	403	461	(38)
<u>PROGRAMS ASSIGNED TO MOTION JUDGES</u>					
Agency Appeals	33	3	1	35	2
Tax Program	12	0	0	12	0
Civil Tax Petition	31	1	2	30	(1)
Denial to Open Judgments	<u>2</u>	<u>1</u>	<u>0</u>	<u>3</u>	<u>1</u>
SUBTOTAL	78	5	3	80	2
<u>GOVERNMENTAL & ADMINISTRATIVE AGENCIES</u>					
Code Enforcement	0	0	0	0	0
Equity-City of Philadelphia	1	0	1	0	(1)
Landlord/Tenant	1	3	0	4	3
Lead Contamination	0	0	0	0	0
Money Judgments	22	1	1	22	0
Penn-Dot Appeals	0	0	0	0	0
Others	<u>1</u>	<u>0</u>	<u>0</u>	<u>1</u>	<u>0</u>
SUBTOTAL	25	4	2	27	2

DEFERRED INVENTORY

2011

	BEGINNING BALANCE <u>01/03/11</u>	DEFERRED DURING TERM	REMOVED DURING TERM	ENDING BALANCE <u>01/01/12</u>	NET DEFERRED INCREASE (DECREASE)
<u>COMMERCE PROGRAM 2011</u>					
Class Action	15	10	11	14	(1)
Jury	0	5	1	4	4
Non-Jury	0	15	4	11	11
Untracked	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
SUBTOTAL	15	30	16	29	14
<u>TOTAL COMMERCE PROGRAM DEFERRED INVENTORY</u>					
Class Action	15	10	11	14	(1)
Jury	32	18	29	21	(11)
Non-Jury	82	42	57	67	(15)
Untracked	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
SUBTOTAL	129	70	97	102	(27)
⁸ TOTAL	1,114	723	678	1,159	45
Arbitration	2,970	610	508	3,072	102
Mortgage Foreclosure	197	91	30	258	61
TOTAL DEFERRED INVENTORY	4,281	1,424	1,216	4,489	208

Civil Statistical Summary
2011

Footnotes:

¹ *“Re-Open Records” reflects disposed cases which have been returned to active status to allow processing of subsequent activities (e.g., revived on appeal, non-pros vacated, reconsideration granted, or opened to permit entry of worksheet for accountability purposes).*

² *See page 3.*

³ *Mass Tort Program includes Hormone Therapy, Paxil, Paxil-Birth Defect, Firefighter Hearing Loss, Phen-Fen, Trasylol Litigation, Avandia, Nursing Home Litigation, DIGITEK, YAZ/Yazmin/Ocella Litigation, Risperdal, Beryllium Litigation, Hydroxicut Litigation, Anticonvulsant Drug Litigation, Denture Adhesive Cream, Gadolinium Based Contrast, Reglan Litigation, Mylan Fentanyl Patch, Accutane Litigation, Topomax Litigation and Arleton Spacer Implant Litigation.*

⁴ *Arbitration Appeals having been originally counted as an Arbitration record, are not considered new records when the Reports & Awards of the arbitrators are appealed.*

⁵ *See page 4.*

⁶ *Class Actions formerly in Programs Assigned to Motion Judges are included in Commerce Program 2011-Class Actions.*

⁷ *Total includes subtotals from pages 1 and 2.*

⁸ *Total includes subtotals from pages 3 and 4.*

First Judicial District of PA: Trial Division - Civil

TRIALS: JURY AND NON-JURY

2000 - 2011

YEAR	Jury Trial	% of Jury Trials	Non-Jury Trial	% of Non-Jury Trials	Total Trials
2000	554	64%	317	36%	871
2001	475	66%	250	34%	725
2002	466	65%	247	35%	713
2003	556	61%	354	39%	910
2004	391	54%	330	46%	721
2005	389	55%	318	45%	707
2006	358	53%	320	47%	678
2007	335	57%	252	43%	587
2008	338	59%	235	41%	573
2009	320	62%	197	38%	517
2010	391	56%	312	44%	703
2011	258	48%	278	52%	536

