

U.S. Department of Justice
Office of Legal Policy



Office of Dispute Resolution
Fiscal Year 2016 Annual Report

The mission of the Office of Dispute Resolution (ODR) is to optimize the use of Alternative Dispute Resolution (ADR) in appropriate cases across the Department. ODR provides legal and practical advice relating to strategic case settlement and funds private neutrals in Department litigation. ODR also evaluates and analyses the benefits of ADR use and develops best practices and training for our civil litigators.

In fiscal year 2016, ODR approved approximately \$2.7 million dollars of funding in 630 active cases to optimize case settlements. Attorneys estimate that they avoided litigation expenses of more than \$70 million dollars, in addition to saving thousands of workdays in preparation and trial of their cases. Attorneys also reported that the settlements were better than the expected value at trial in 72% of all settled cases and that ADR was a significant factor for resolving some or all of the issues in 70% of all cases. Furthermore, attorneys reported additional benefits – such as resolution of discovery disputes – even in cases that did not ultimately settle.

The following report includes more details about the benefits of using ADR in appropriate cases and the ways in which each of the litigating components have utilized ADR over the past fiscal year.

Fiscal Year 2016 Overview

Funding: \$2,677,811

Active cases: 630
New cases: 519
Closed cases: 500

Impetus for Mediation:
Voluntary: 200 (75% settled)
Court-ordered: 296 (52% settled)

Reported benefits in cases that were resolved through ADR:

Cost Savings: \$70,610,263

This figure includes actual costs avoided due to settlement through ADR, including, for example: costs associated with further discovery and depositions; expert witness costs for depositions, exams, reports and trial testimony; trial exhibits; witness costs for trial attendance, etc.

Work Days Saved: 26,388 (72 years)

This figure includes full work days of attorneys and staff which were saved because of successful ADR and includes, for example: further discovery required for trial; preparing witnesses and exhibits for trial; trial motions, etc.

Months of litigation saved: 2733 (227 years)

This figure includes the amount of time the cases would have remained active on the court's docket if the cases had not been resolved through ADR.

Trial days saved: 2460 (7 years)

This figure includes the estimated length of a trial if the cases were not resolved through ADR.

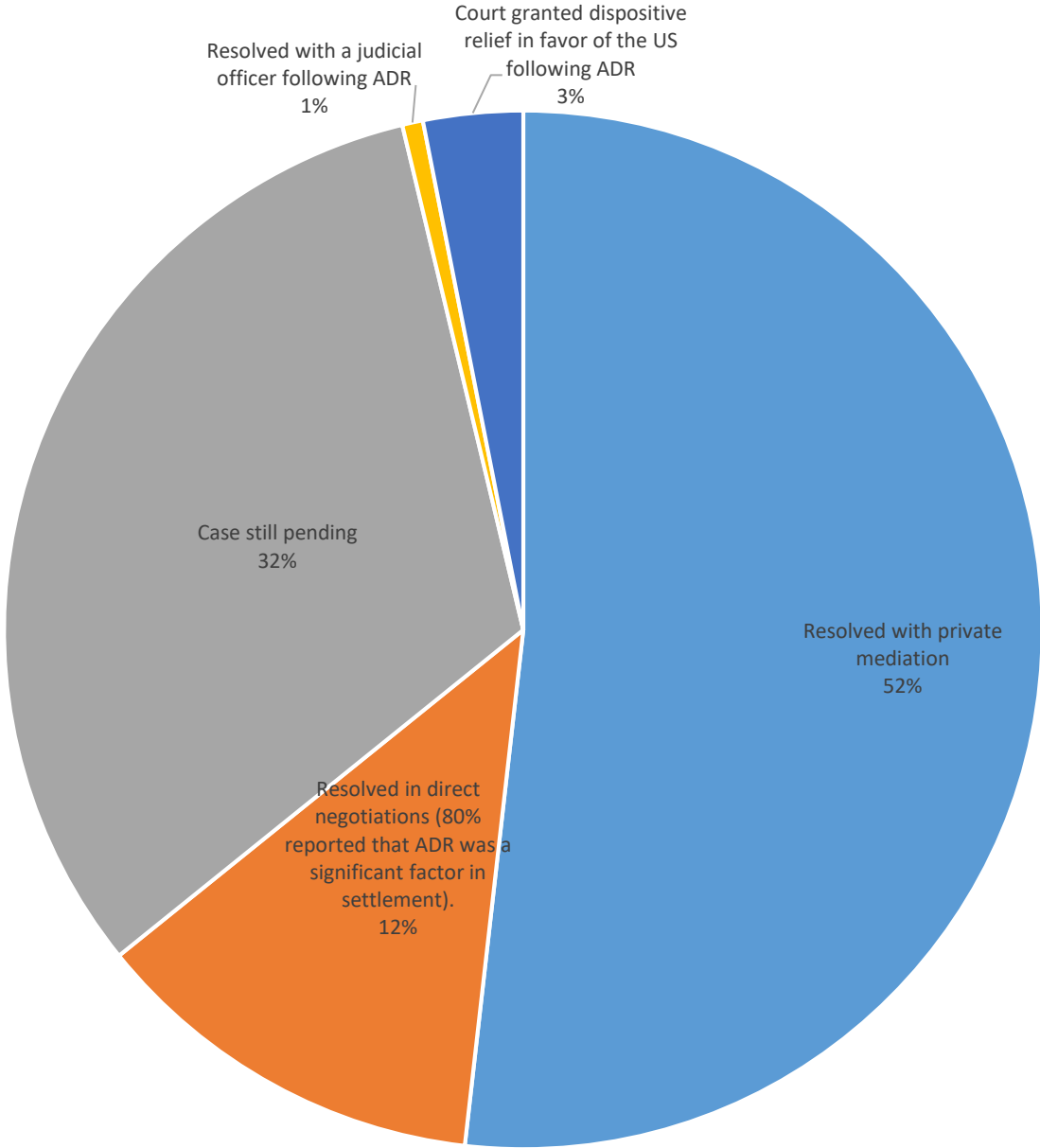
Settlement was better than expected value at trial: 72% of settled cases

Reduced chances of an adverse precedent: 44% of settled cases

Reported benefits in cases that were not resolved through ADR (% of unsettled cases):

- Improved understanding of issues: 44%
- Made progress toward settlement: 29%
- Progress toward policy objectives: 29%
- Improved communication: 28%
- Narrowed issues for trial: 13%
- Narrowed discovery issues: 8%

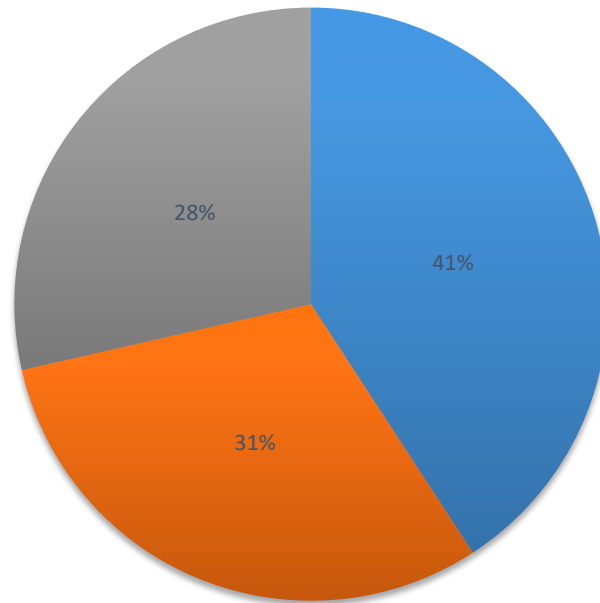
Disposition of Cases Closed in FY2016



- Resolved with private mediation
- Resolved in direct negotiations (80% reported that ADR was a significant factor in settlement).
- Case still pending
- Resolved with a judicial officer following ADR
- Court granted dispositive relief in favor of the US following ADR

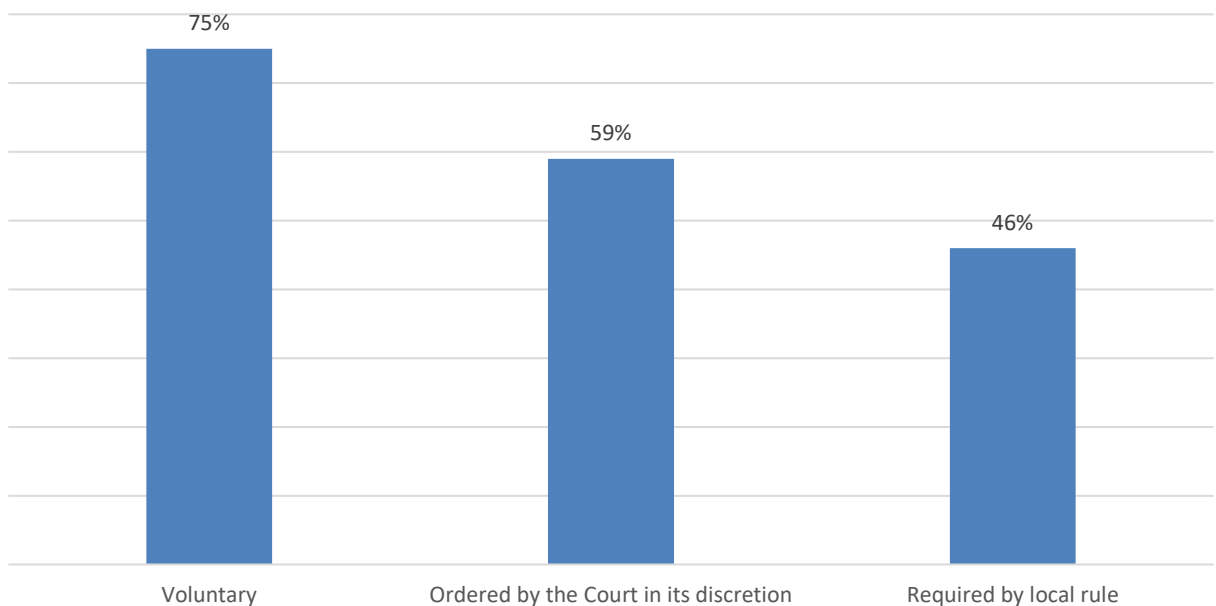
Attorneys reported in 70% of all cases that ADR was a significant factor for resolution of some or all issues in the dispute.

Impetus for Mediation

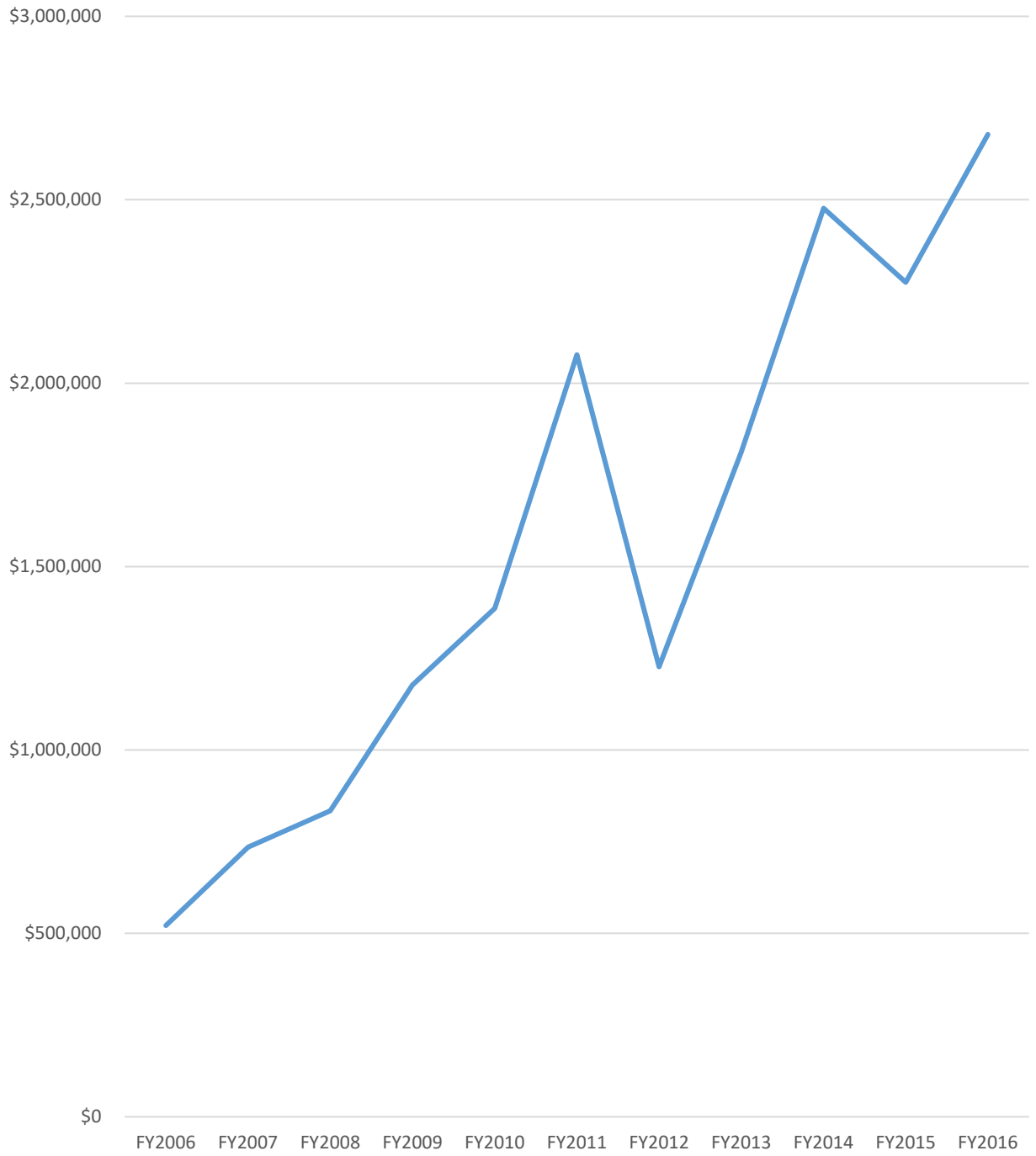


■ Voluntary ■ Ordered by the Court in its discretion ■ Required by Local Rule

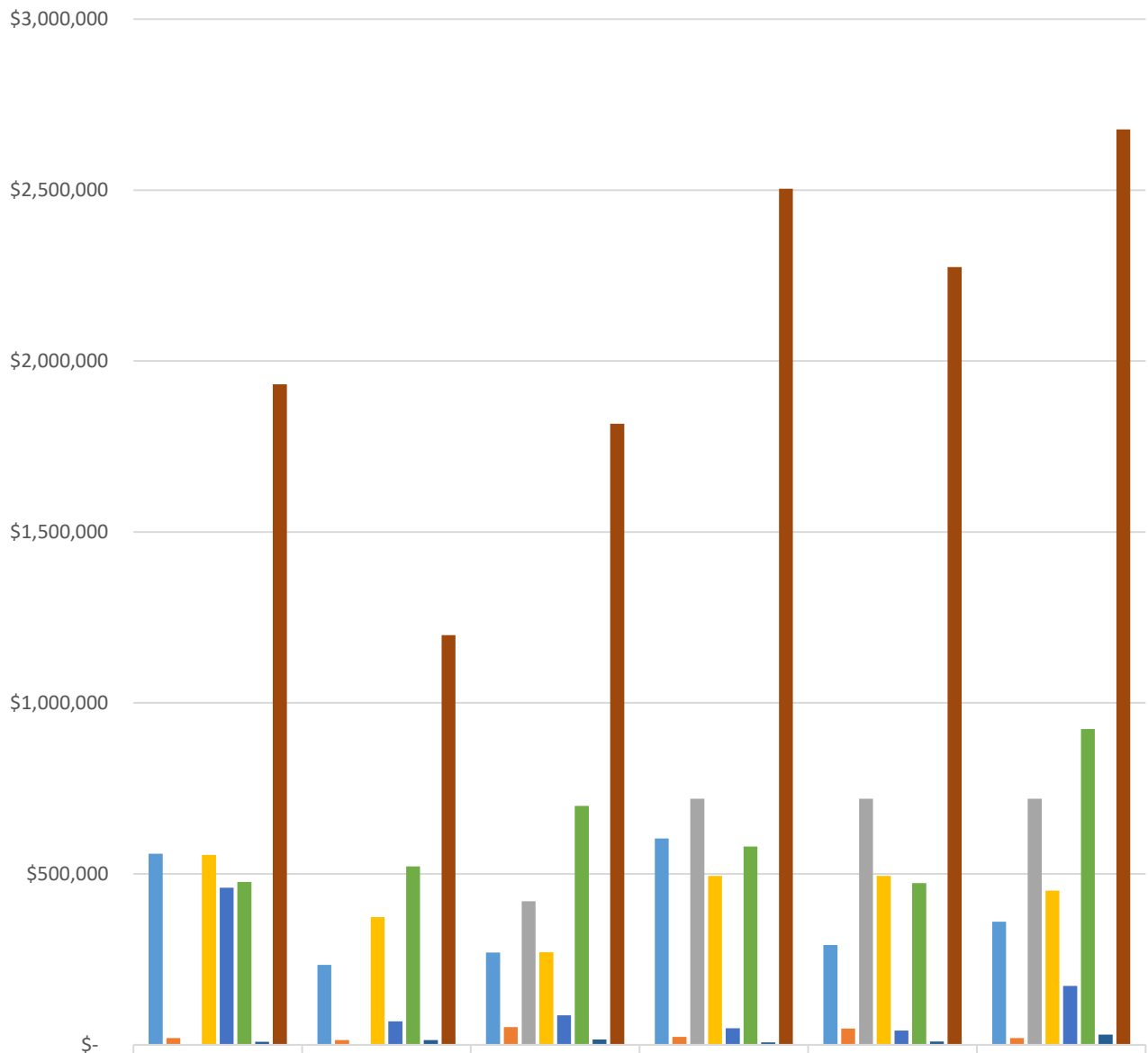
Percent of Resolutions: By Impetus for Mediation



Total ADR Funding by Fiscal Year



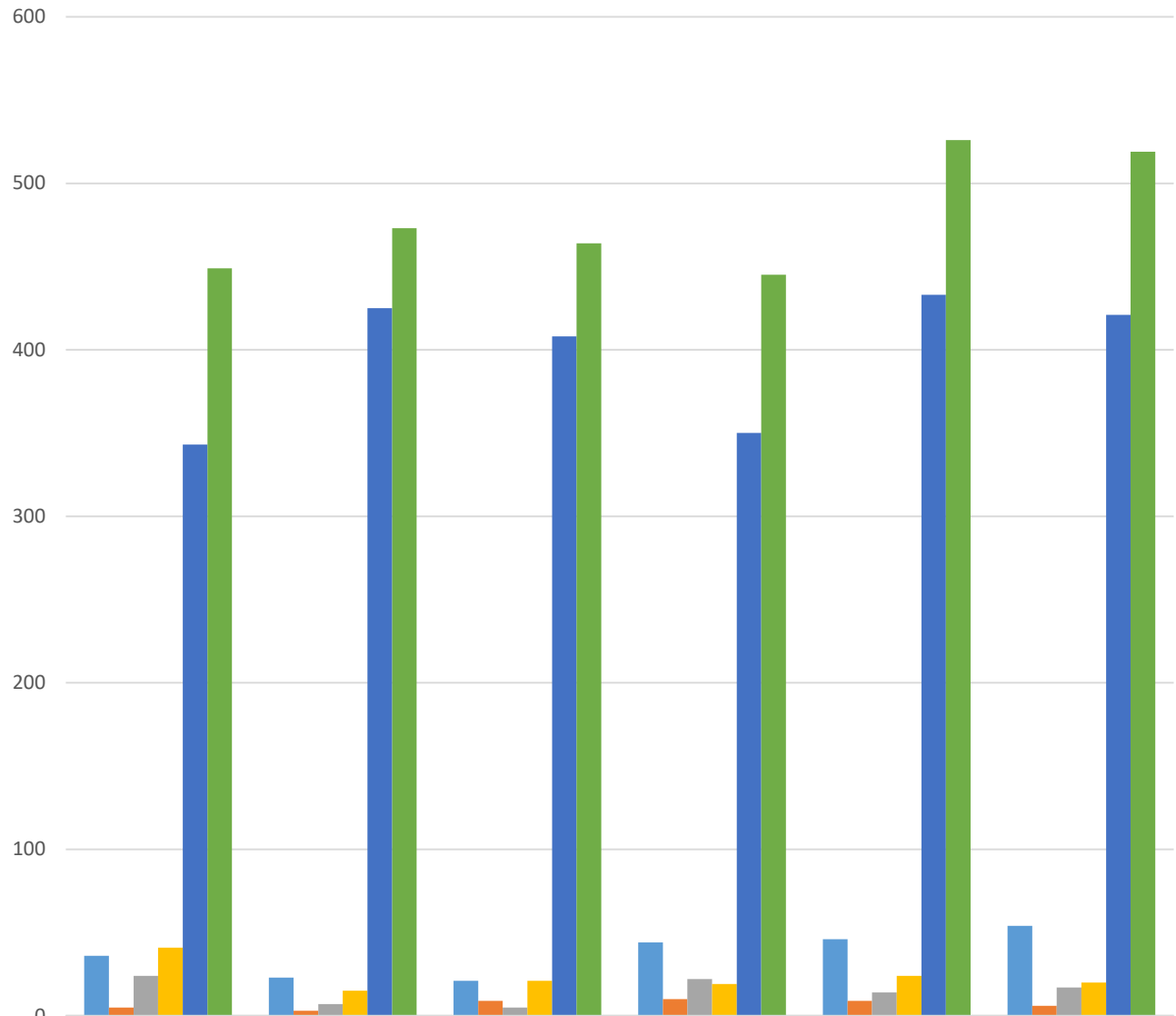
ADR Funding By Component FY2011-FY2016



	FY2011	FY2012	FY2013	FY2014	FY2015	FY2016
Civil	\$558,952	\$233,980	\$270,310	\$603,983	\$292,121	\$360,349
Civil Rights	\$19,580	\$13,875	\$51,698	\$22,944	\$47,944	\$20,271
CRT-Disability			\$420,000	\$720,000	\$719,934	\$720,000
ENRD	\$555,659	\$373,965	\$270,938	\$494,011	\$494,009	\$450,923
Tax	\$459,844	\$68,446	\$86,515	\$48,203	\$42,011	\$172,690
USAO	\$476,519	\$522,171	\$699,153	\$579,715	\$473,008	\$923,576
USAO-CMMP	\$9,000	\$14,250	\$15,750	\$7,500	\$9,750	\$30,000
Total Funding	\$1,931,900	\$1,198,128	\$1,816,177	\$2,504,010	\$2,274,607	\$2,677,811

■ Civil
 ■ Civil Rights
 ■ CRT-Disability
 ■ ENRD
 ■ Tax
 ■ USAO
 ■ USAO-CMMP
 ■ Total Funding

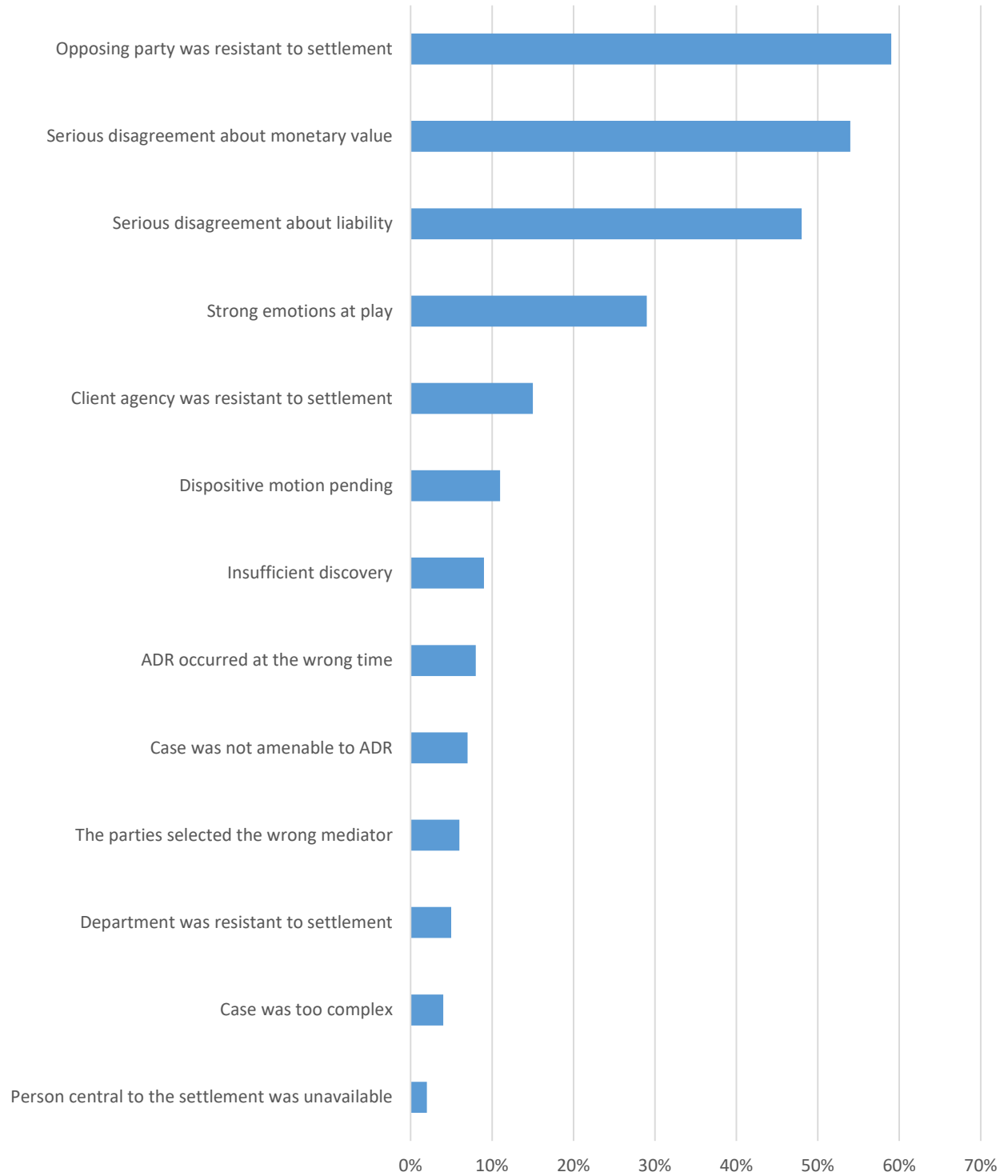
Number of New Cases By Component for FY2011-FY2016



	2011	2012	2013	2014	2015	2016
CIV	36	23	21	44	46	54
CRT	5	3	9	10	9	6
ENRD	24	7	5	22	14	17
TAX	41	15	21	19	24	20
USAO	343	425	408	350	433	421
Total	449	473	464	445	526	519

■ CIV
 ■ CRT
 ■ ENRD
 ■ TAX
 ■ USAO
 ■ Total

Reasons Cases Did Not Settle



Civil Division: Fiscal Year 2016 Overview

Funding: \$360,349

Active cases: 56

New cases: 54

Closed cases: 47

Civil Fraud: 8

Aviation & Admiralty: 11

Corporate & Financial: 1

Consumer Protection: 4

Constitutional Torts: 15

FTCA: 4

Impetus for Mediation:

Voluntary: 35

(63% settled)

Court-Ordered: 12

(75% settled)

Reported Benefits in cases that were resolved through ADR:

Cost savings: \$1,140,000

Work days saved: 771 days

Months of litigation saved: 357 months (30 years)

Trial days saved: 225 days

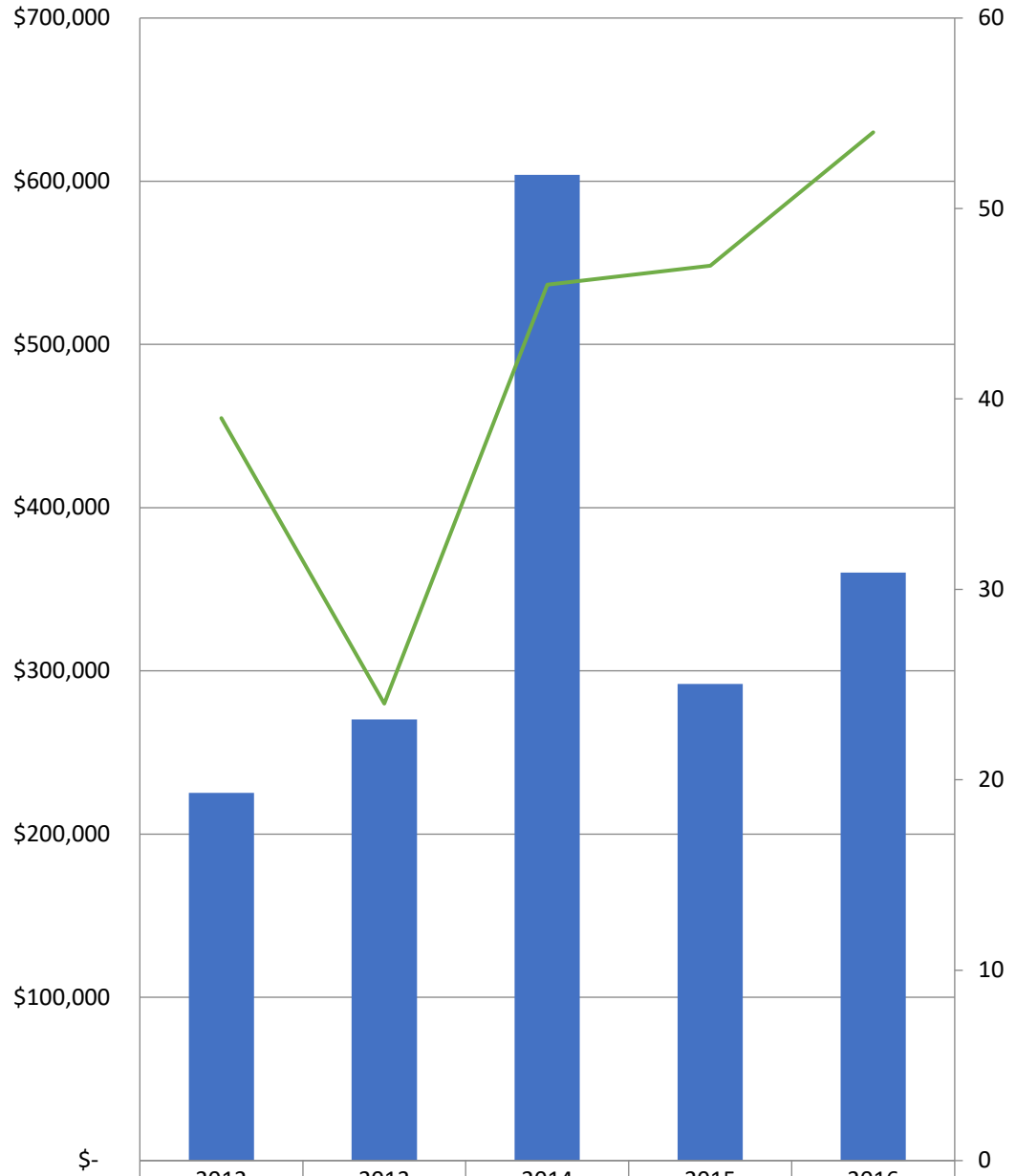
Reduced chances of an adverse precedent: 71% of settled cases

Settlement was better than expected value at trial: 72% of settled cases

Reported benefits in cases that were not resolved through ADR (% of unsettled cases):

- Improved understanding of issues: 41%
- Made progress toward settlement: 40%
- Improved communication: 20%
- Narrowed issues for trial: 13%
- Progress toward policy objectives: 7%
- Narrowed discovery issues: 7%

Civil Division Funding History FY2011 to FY2016



Amount of Funding	2012	2013	2014	2015	2016
	\$225,335	\$270,310	\$603,983	\$292,121	\$360,349
# of New Cases	39	24	46	47	54

Civil Rights Division: Fiscal Year 2016 Overview

Funding: \$740,271

DR Program: \$720,000

Active cases: 9

New cases: 6

Closed cases: 11

Education: 1

Employment: 1

Housing: 6

Disability Rights: 1

Special Litigation: 1

Immigration-related: 2

Impetus for Mediation:

Voluntary: 7

(100% settled)

Court-Ordered: 4

(25% settled)

Reported Benefits in cases that were resolved through ADR:

Cost savings: \$3,962,000

Work days saved: 2515 days (about 7 years)

Months of litigation saved: 176 months (about 15 years)

Trial days saved: 131 days

Settlement was better than expected value at trial: 38% of settled cases

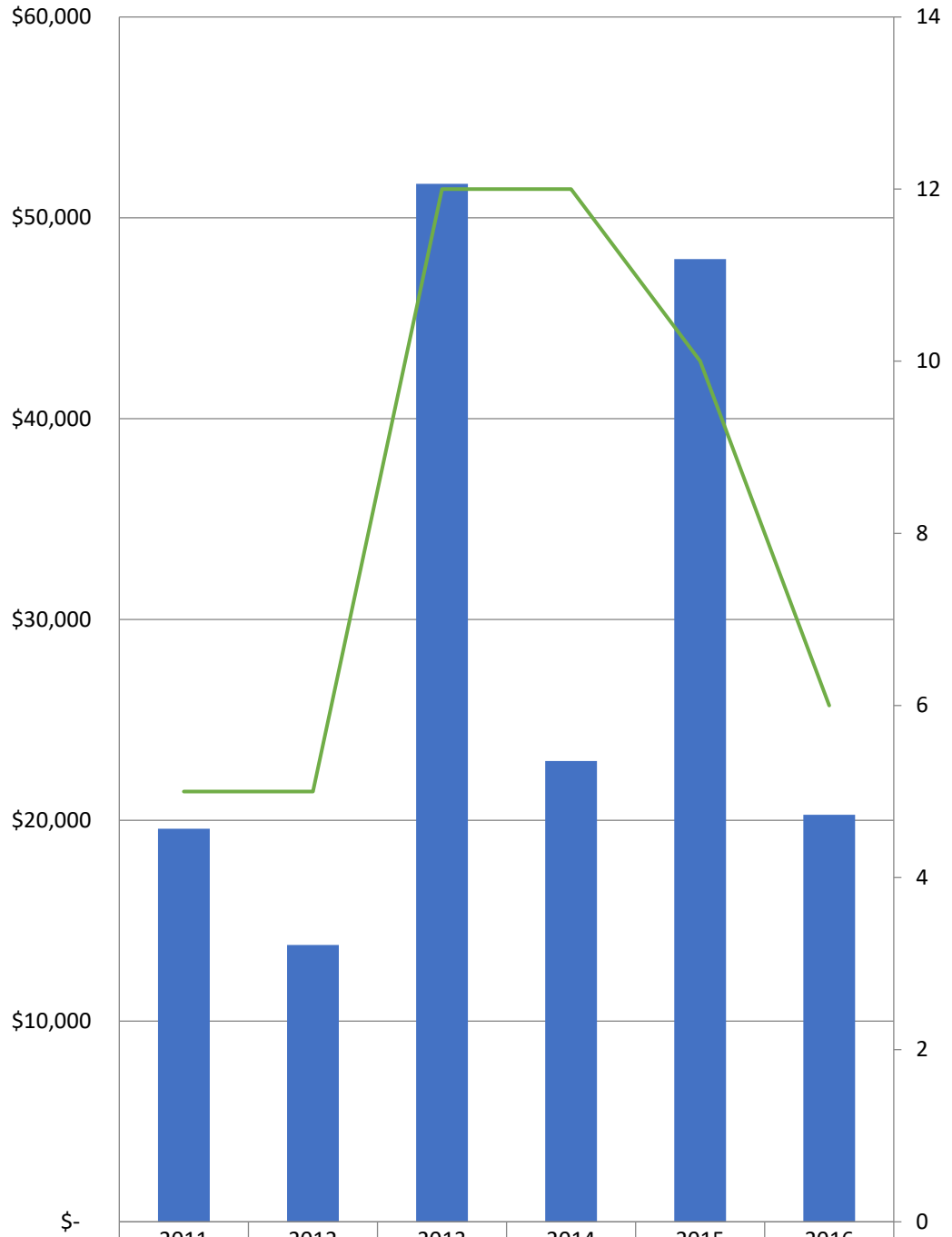
Reduced chances of an adverse precedent: 25% of settled cases

Reported benefits in cases that were not resolved through ADR (% of unsettled cases):

- Made progress toward settlement: 67%
- Progress toward policy objectives: 33%
- Improved communication: 33%
- Narrowed issues for trial: 33%

Civil Rights Division Funding History FY2011- 2016

(figures do not include DR funding)



Amount of Funding	\$19,580	\$13,785	\$51,698	\$22,944	\$47,944	\$20,271
# of New Cases	5	5	12	12	10	6

Environment and Natural Resources Division: **Fiscal Year 2016 Overview**

Funding: \$450,923

Active cases: 20

New cases: 17

Closed cases: 18

EDS: 6

EES: 3

IRS: 1

LAS: 3

NRS: 3

Impetus for Mediation:

Voluntary: 8

(50% settled)

Court-Ordered: 8

(25% settled)

Reported Benefits in cases that were resolved through ADR:

Cost savings: \$48,125,000

Work days saved: 10538 days (about 29 years)

Months of litigation saved: 158 months (about 13 years)

Trial days saved: 281 days

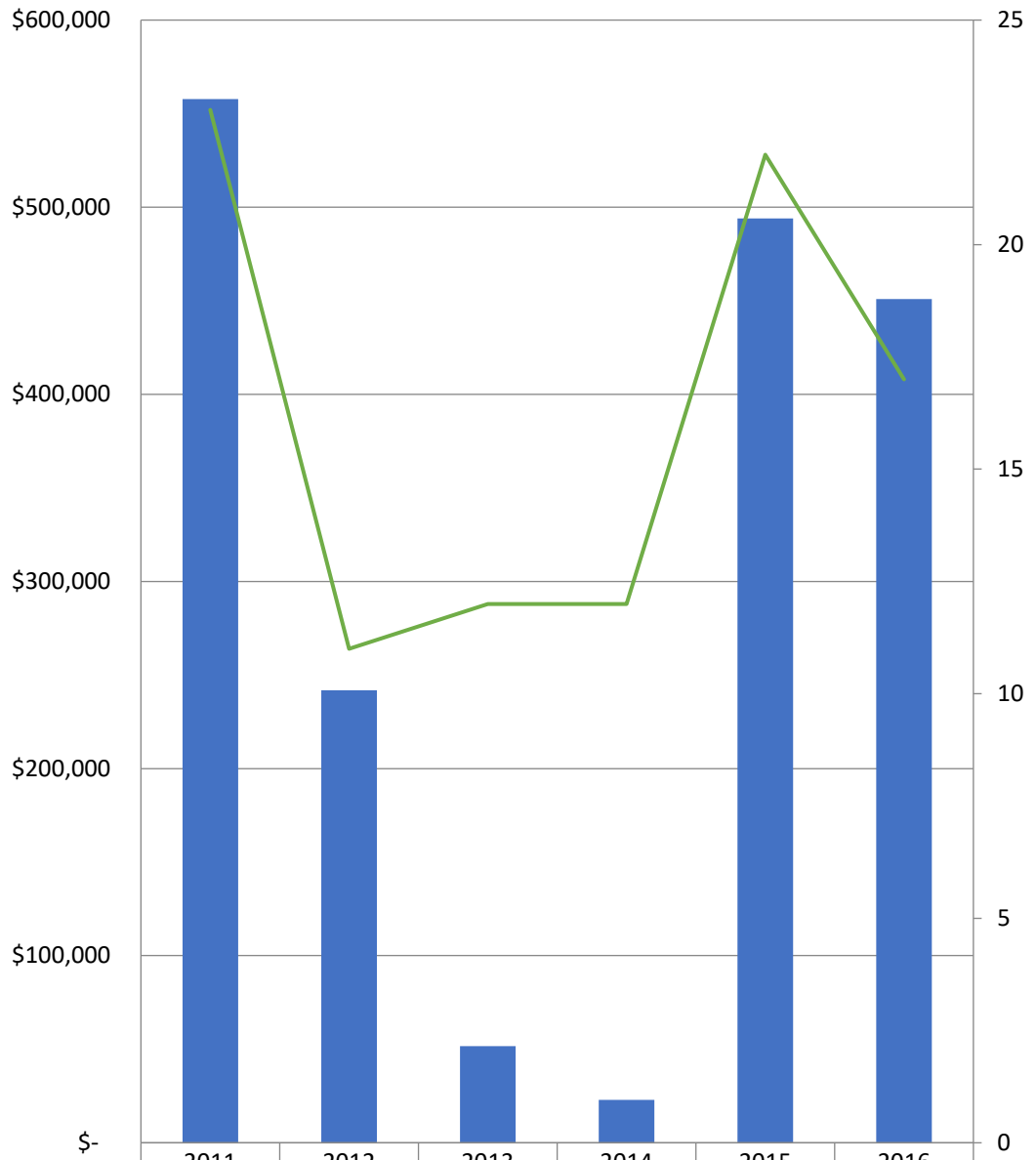
Reduced chances of an adverse precedent: 86% of settled cases

Settlement was better than expected value at trial: 86% of settled cases

Reported benefits in cases that were not resolved through ADR (% of unsettled cases):

- Improved understanding of issues: 70%
- Improved communication: 30%
- Made progress toward settlement: 20%
- Narrowed issues for trial: 10%

Environment and Natural Resources Division Funding History FY2011-2016



■ Amount of Funding	\$557,821	\$241,845	\$51,698	\$22,944	\$494,009	\$450,923
— # New of Cases	23	11	12	12	22	17

Tax Division: Fiscal Year 2016 Overview

<u>Funding:</u> \$172,690	<u>Closed cases:</u> 24	<u>Impetus for Mediation:</u>
Active cases: 23	CD: 8	Voluntary: 3 (66% settled)
New cases: 20	ED: 4	Court-Ordered: 21 (19% settled)
	SD: 8	
	SWD: 2	
	WD: 1	

Reported benefits in cases resolved through ADR:

Cost Savings: \$2,524,000

Work days saved: 888 days (over 2 years)

Months of litigation saved: 63months (about 5 years)

Trial days saved: 157 days

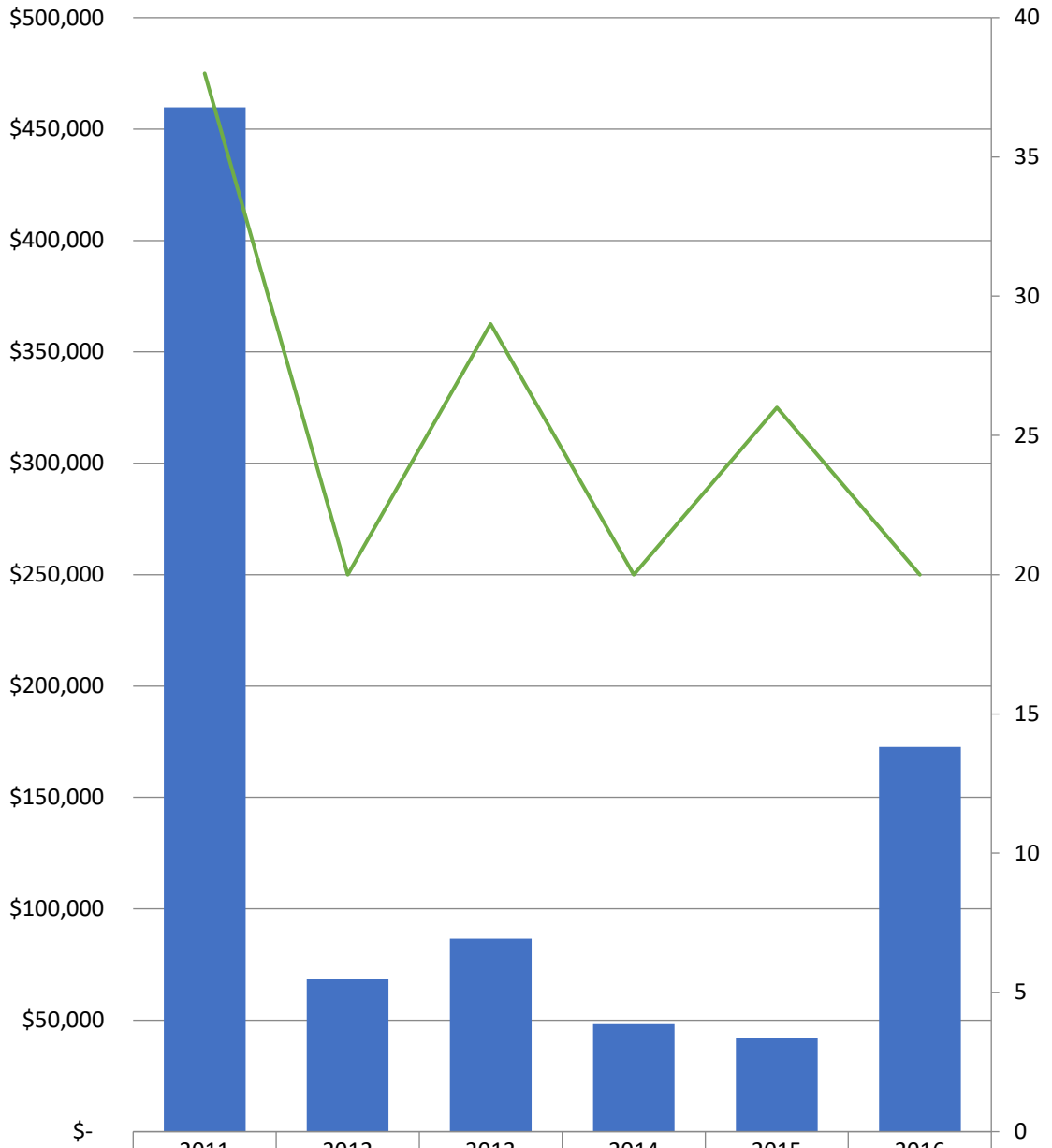
Reduced chances of an adverse precedent: 43% of settled cases

Settlement was better than expected value at trial: 43% of settled cases

Reported benefits in cases that were not resolved through ADR:

- Improved understanding of issues: 31%
- Improved communication: 25%
- Made progress toward settlement: 25%
- Narrowed discovery issues: 6%

Tax Division Funding History FY2011-FY2016



	2011	2012	2013	2014	2015	2016
Amount of Funding	\$459,843	\$68,446	\$86,514	\$48,202	\$42,011	\$172,690
# of New Cases	38	20	29	20	26	20

U.S. Attorney's Offices: Fiscal Year 2016 Overview

Funding: \$953,576 **Impetus for Mediation:**

Active cases: 500	Voluntary: 147
New cases: 421	(78% settled)
Closed cases: 400	Court-Ordered: 251
	(55% settled)

Reported benefits in cases resolved through ADR:

Cost Savings: \$14,859,263

Work days saved: 11676 days (32 years)

Months of litigation saved: 1979 months (165 years)

Trial days saved: 1661 days (5 years)

Settlement was better than expected value at trial: 72% of settled cases

Reduced chances of an adverse precedent: 40% of settled cases

Reported benefits in cases that were not resolved through ADR (% unsettled cases):

- Improved understanding of issues: 44%
- Improved communication: 29%
- Made progress toward settlement: 29%
- Narrowed issues for trial: 14%
- Narrowed discovery issues: 10%
- Progress toward policy objectives: 5%

ADR in the U.S. Attorney's Offices
Current as of February 16, 2017

		<i>FY 2006-Current</i>		<i>FY2016</i>
District		Number of Funded Cases		Number of Funded Cases
AK	Alaska	4		0
ALM	Alabama Middle	0		0
ALN	Alabama Northern	16		3
ALS	Alabama Southern	4		0
ARE	Arkansas Eastern	6		2
ARW	Arkansas Western	1		0
AZ	Arizona	99		11
CAC	California Central	164		29
CAE	California Eastern	52		5
CAN	California Northern	117		17
CAS	California Southern	25		5
CO	Colorado	27		5
CT	Connecticut	2		0
DC	District of Columbia*	66		3
DE	Delaware	1		0
FLM	Florida Middle	468		43
FLN	Florida Northern	153		18
FLS	Florida Southern	281		27
GAM	Georgia Middle	19		7
GAN	Georgia Northern	26		3
GAS	Georgia Southern	6		2
GU	Guam	0		0
HI	Hawaii	27		0
IAN	Iowa Northern	2		0
IAS	Iowa Southern	11		2
ID	Idaho	13		1
ILC	Illinois Central	0		0
ILN	Illinois Northern	4		0
ILS	Illinois Southern	0		0

		<i>FY 2006-Current</i>	<i>FY2016</i>
INN	Indiana Northern	8	1
INS	Indiana Southern	1	0
KS	Kansas	43	5
KYE	Kentucky Eastern	7	3
KYW	Kentucky Western	2	0
LAE	Louisiana Eastern	3	0
LAM	Louisiana Middle	5	2
LAW	Louisiana Western	45	4
MA	Massachusetts	6	2
MD	Maryland	1	1
ME	Maine	2	0
MIE	Michigan Eastern	37	4
MIW	Michigan Western	36	6
MN	Minnesota	8	0
MOE	Missouri Eastern	76	9
MOW	Missouri Western	69	9
MSN	Mississippi Northern	0	0
MSS	Mississippi Southern	7	1
MT	Montana	31	10
NCE	North Carolina Eastern	30	4
NCM	North Carolina Middle	13	3
NCW	North Carolina Western	31	3
ND	North Dakota	0	0
NE	Nebraska	18	0
NH	New Hampshire	5	0
NJ	New Jersey	32	8
NM	New Mexico	14	0
NV	Nevada	4	1
NYE	New York Eastern	66	5
NYN	New York Northern	29	10
NYS	New York Southern	4	1
NYW	New York Western	168	17
OHN	Ohio Northern	16	2

		<i>FY 2006-Current</i>	<i>FY2016</i>
OHS	Ohio Southern	3	0
OKE	Oklahoma Eastern	1	0
OKN	Oklahoma Northern	0	0
OKW	Oklahoma Western	5	0
OR	Oregon	18	9
PAE	Pennsylvania Eastern	4	
PAM	Pennsylvania Middle	0	0
PAW	Pennsylvania Western	162	12
PR	Puerto Rico	1	0
RI	Rhode Island	1	0
SC	South Carolina	146	12
SD	South Dakota	1	0
TNE	Tennessee Eastern	18	2
TNM	Tennessee Middle	6	0
TNW	Tennessee Western	54	10
TXE	Texas Eastern	14	0
TXN	Texas Northern	104	17
TXS	Texas Southern	101	10
TXW	Texas Western	185	20
UT	Utah	12	4
VAE	Virginia Eastern	1	0
VAW	Virginia Western	0	0
VI	Virgin Islands	17	0
VT	Vermont	19	5
WAE	Washington Eastern	28	5
WAW	Washington Western	163	17
WIE	Wisconsin Eastern	4	1
WIW	Wisconsin Western	2	0
WVN	West Virginia Northern	25	3
WVS	West Virginia Southern	11	1
WY	Wyoming	4	0

**Note: The figures above for the District for the District of Columbia are increased due to the existence of the CMMP program.*