

Dispute Resolution under the LHWCA

Signal/LCA Maritime Conference

Improving Dispute Resolution Timeliness

May 22, 2012

The Honorable Adele H. Odegard, District Chief Judge, Office of Administrative Law
Judges, Cherry Hill, New Jersey

Miranda Chiu, Director, Division of Longshore & Harbor Workers' Compensation,
Office of Workers' Compensation Programs, Washington, DC

1. Dispute Resolution, What Is It?

- Dispute = one side takes a position, the other side opposes.
- Resolution = one side withdraws the demand, or the other side withdraws opposition, or both sides agree to compromise.
- Appeals are not included in this process.

2. Why it matters?

- Dispute usually means benefits are withheld. Resolution usually means benefits are resumed, or the denial is formalized in a binding order with appeal rights. The sooner a dispute is resolved, the quicker the benefits are paid, and the sooner the claimant gets on with his life.
- Minor disputes that are resolved informally speeds benefit delivery to claimants, save the employer/carrier litigation time and expense, and reduce the overall cost of the claim.

3. Recent trends: increasing OALJ workload, longer time to resolve disputes at the OALJ

- Increase in the Number of New Disputes
- Increase in ALJ Workload
- Increase in Average Time to Resolve Disputes
- Most prevalent issues in dispute: Medical Treatment and Nature and Extent

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4. OWCP's role

- Claim assistance to injured workers to navigate the claims process
- Compliance assistance to employers and claims administrators/adjusters
- Assist parties to communicate and exchange evidence early in the dispute
- Informal Conference:
 - 1) Opportunity for both sides to explain and/or support their positions
 - 2) OWCP claims examiner encourages discussion among the parties, leading to agreement and/or compromise
 - 3) OWCP claims examiner makes written recommendations based on review of the evidence and application of case law
- Referral to OALJ for formal hearing if informal dispute resolution is not likely or possible

5. OALJ's role

- Formal discovery
- Settlement opportunities before trial
- Full APA hearing – affords claimant his “day in court”
- Binding Decision and Order

6. Strategies to speed up Dispute Resolution – We need your ideas!

- Change the Culture of the claims community – more cooperation, less litigation
- What the OWCP can do
- What the OALJ can do
- What the Claims Community can do

Signal / LCA Maritime Conference
Hyatt Regency Penn's Landing
Philadelphia, PA
May 21 – 23, 2012



Dispute Resolution Under the LHWCA

A Joint Presentation by the OALJ and the OWCP

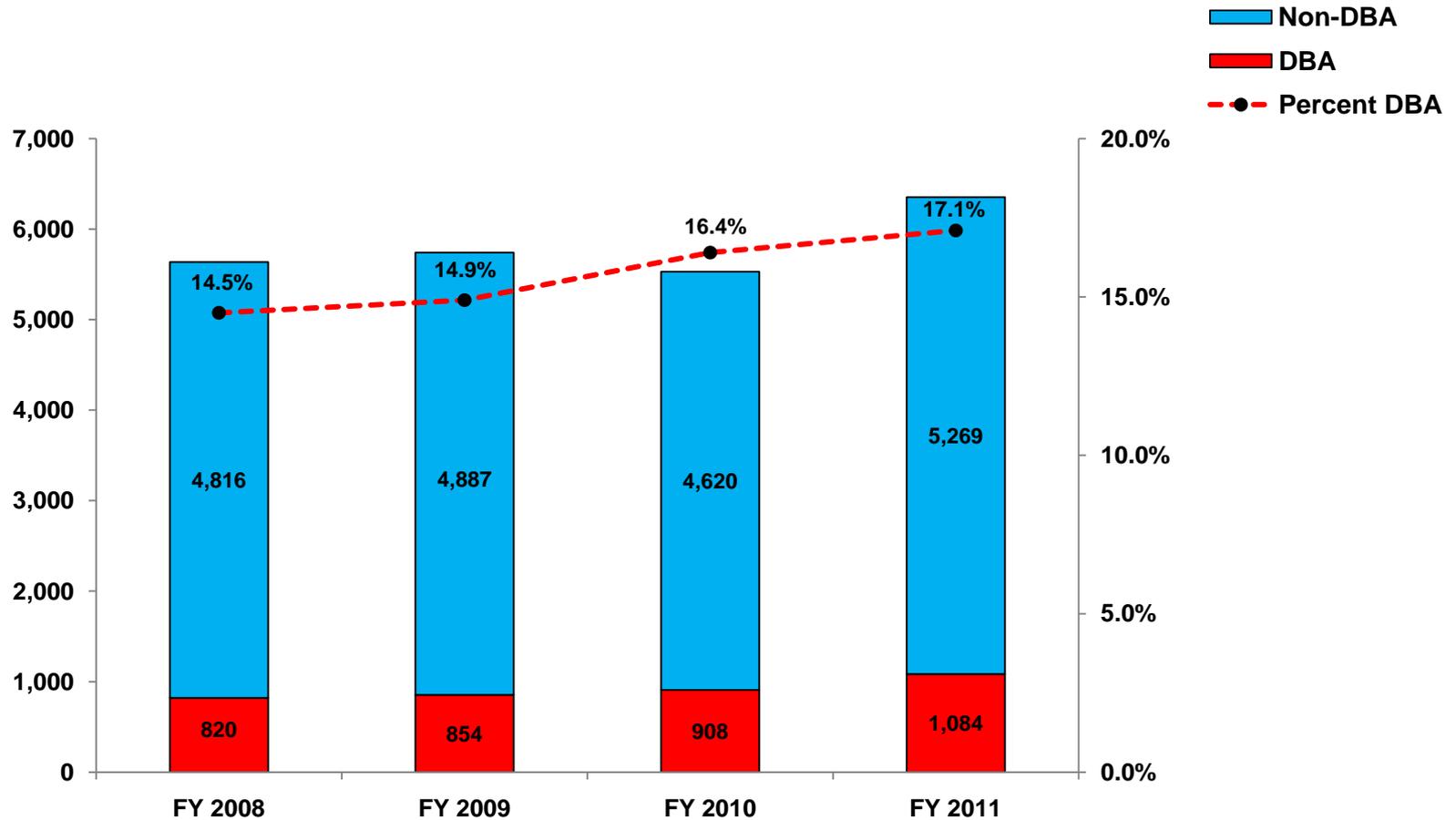
Office of Workers' Compensation Programs



Dispute Resolution Data Fiscal Year 2011



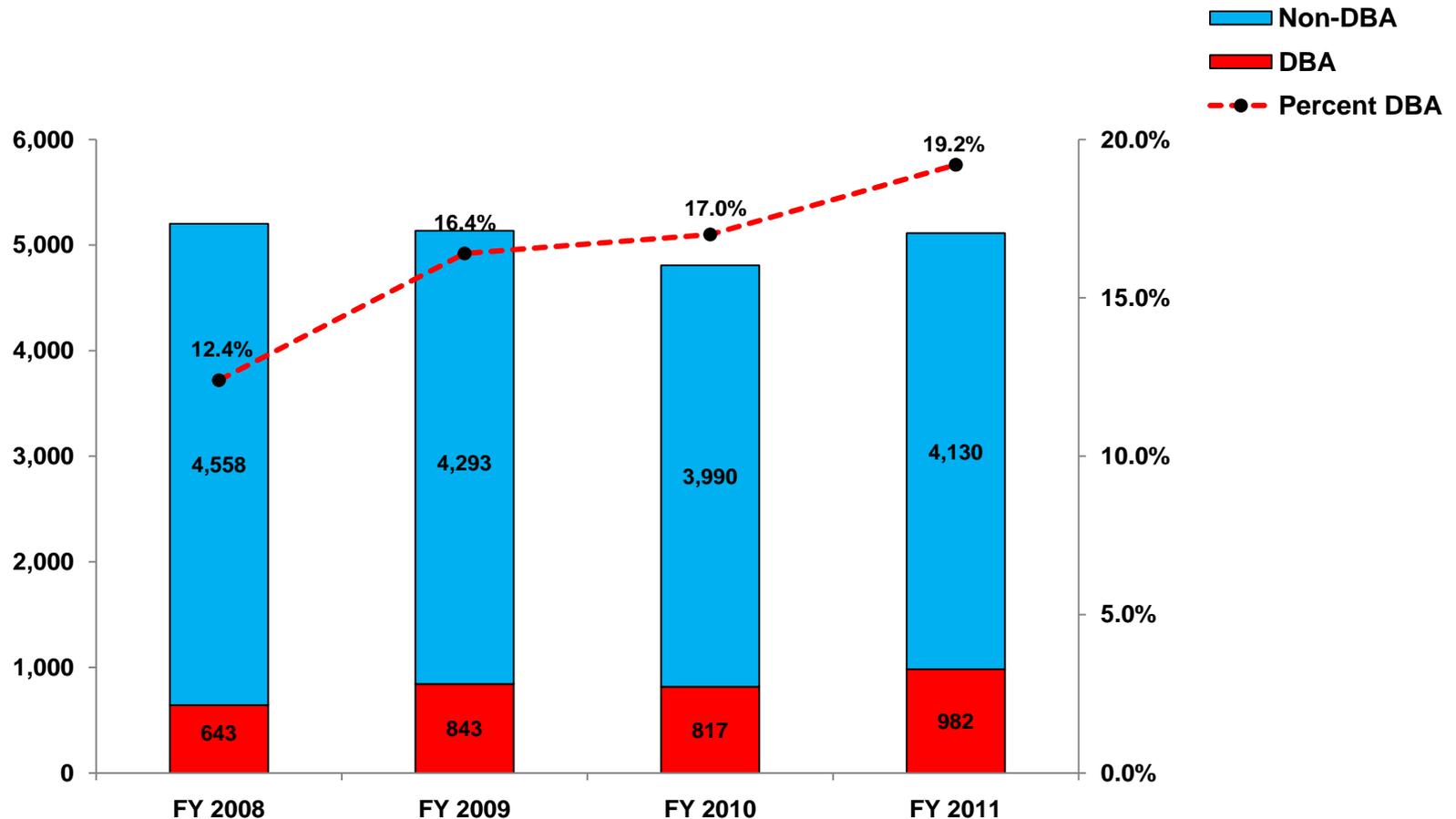
New Disputes Initiated



DBA Cases Are Increasing as a Proportion of New Disputes Initiated



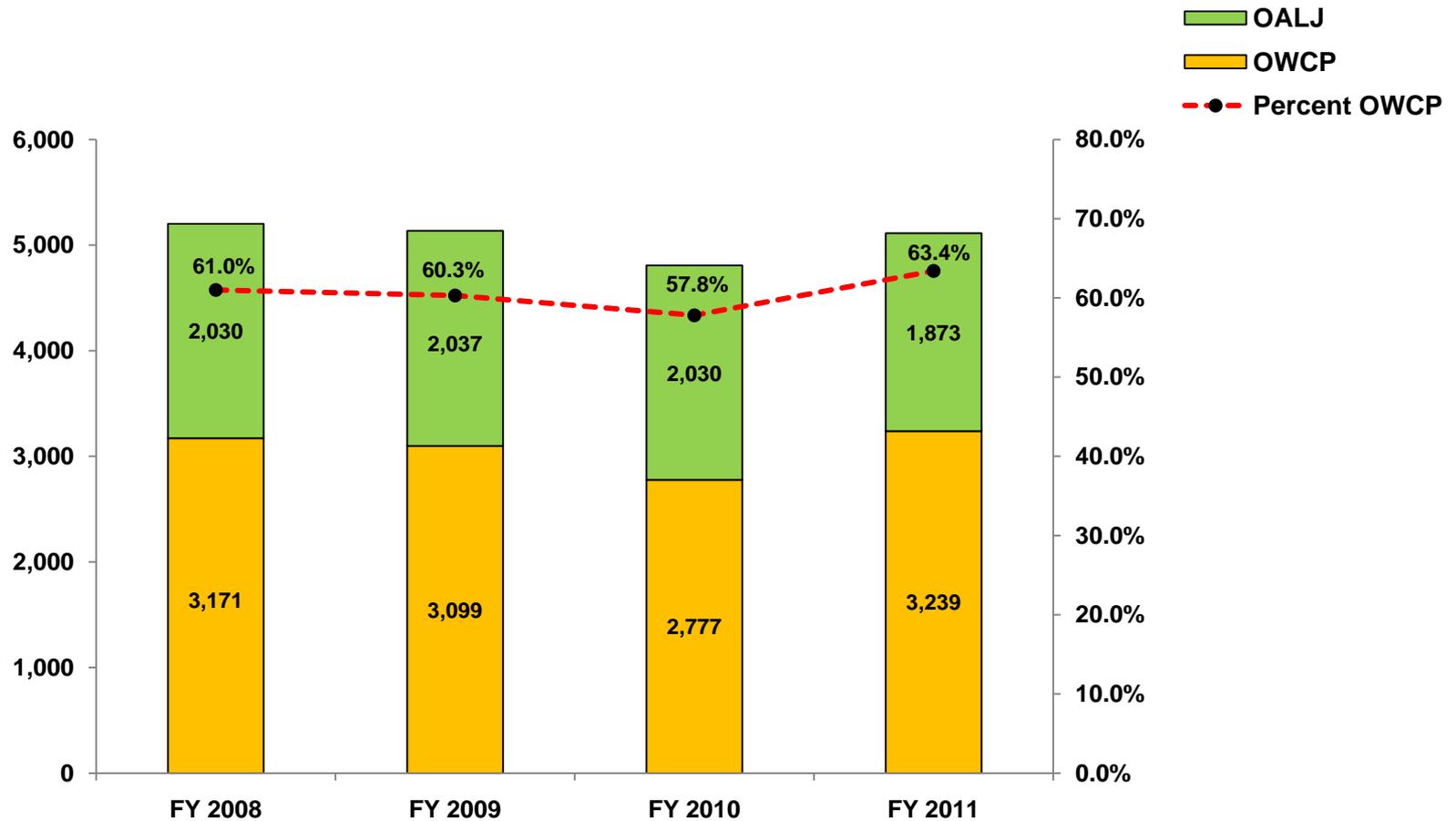
Disputes Resolved



However, DBA Cases Are Being Resolved as a Higher Percentage of All Cases



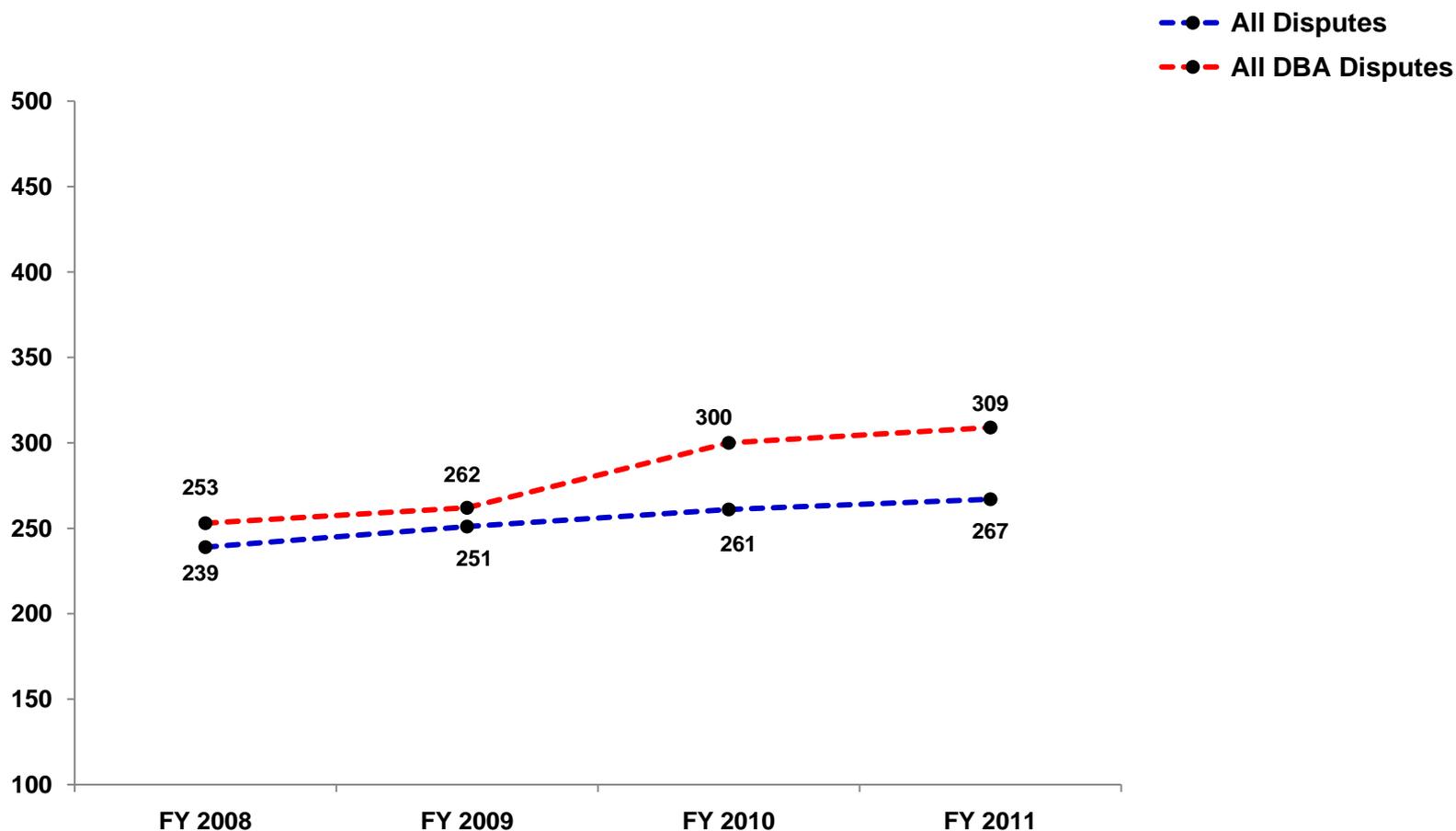
Disputes Resolved



Percent of Disputes Resolved at the OWCP Have Shown an Uptick Recently



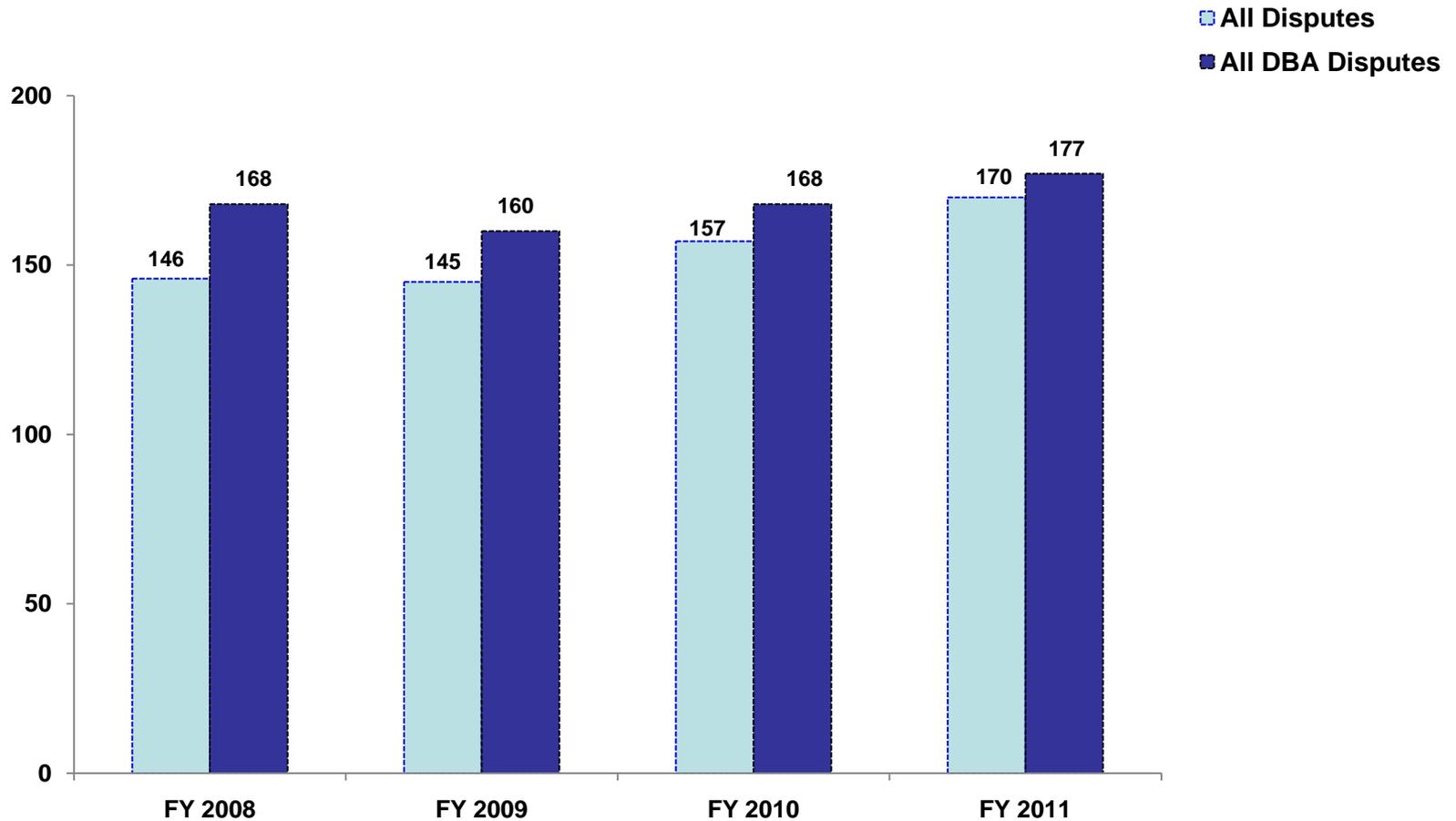
Average Dispute Resolution Days



DBA Cases Are Taking Longer to Resolve Over Time Overall



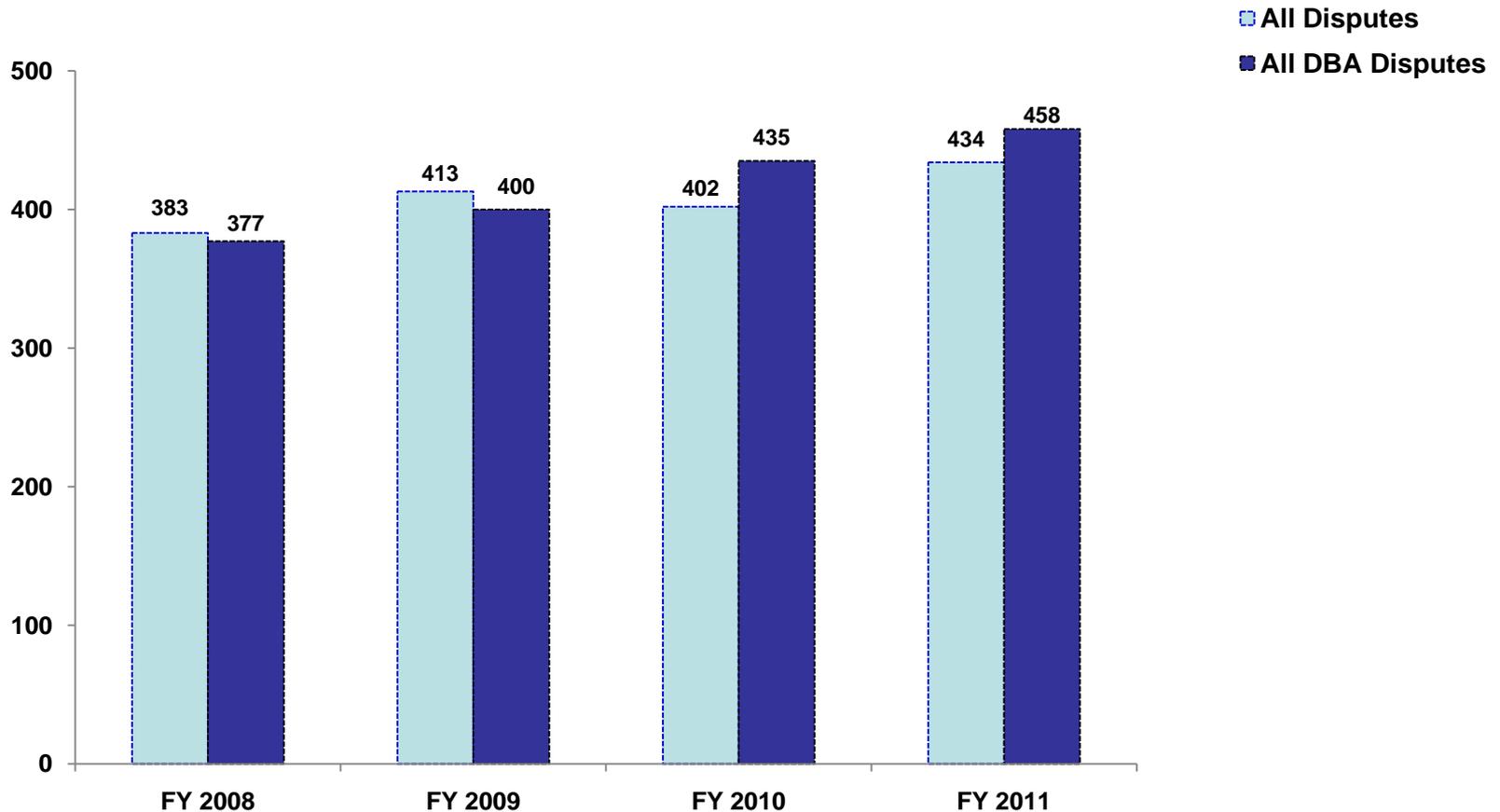
Average Dispute Resolution Days (OWCP)



DBA Cases Can Take Up To Six Months to Resolve at the OWCP



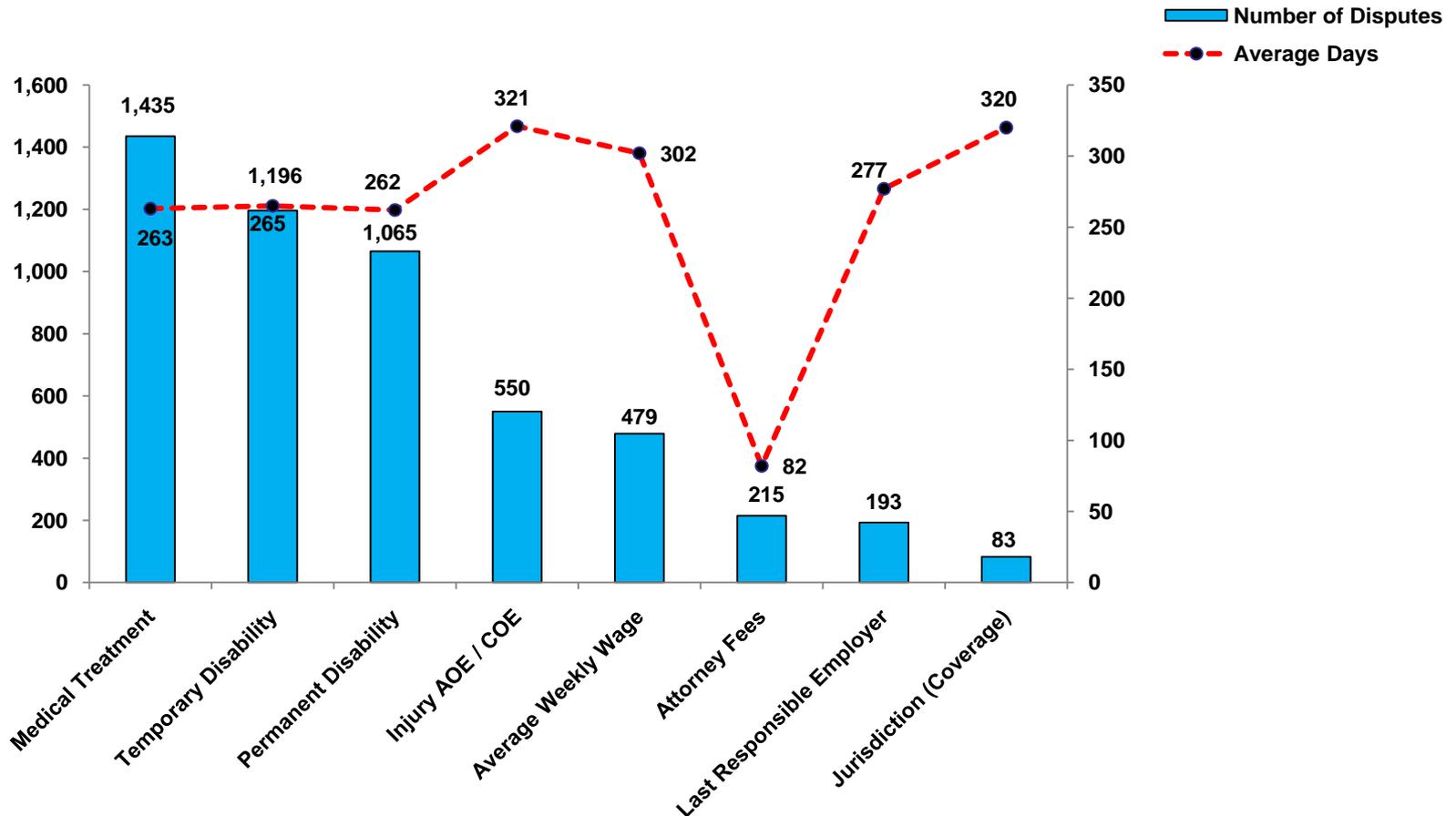
Average Dispute Resolution Days (OALJ)



DBA Cases Can Take Up To 15 Months on Average to Resolve at the OALJ



Average Resolution Days by Dispute



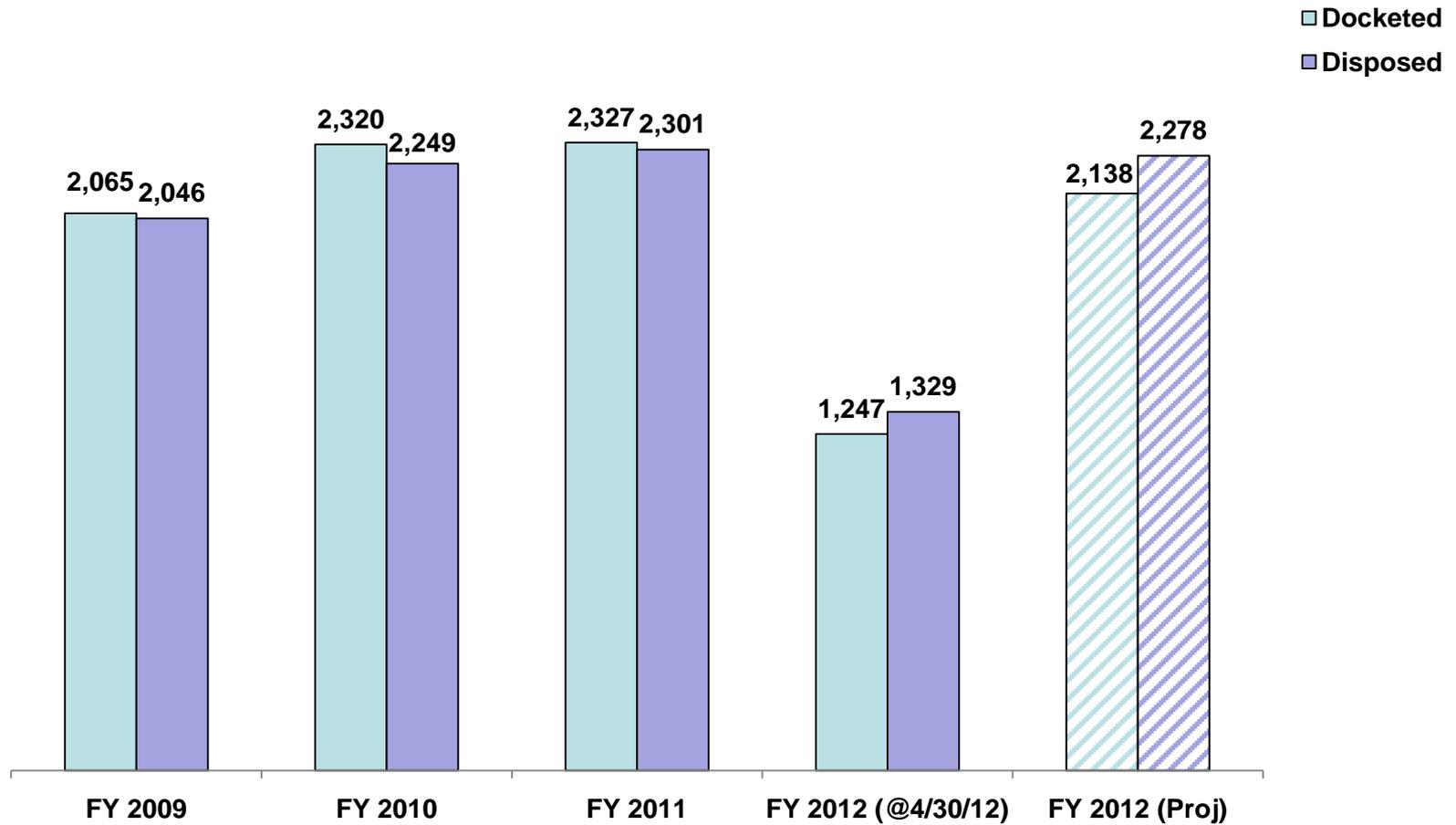
On Average, Attorney Fee Disputes Take the Least Amount of Time While Injury and Jurisdiction Cases Take the Longest Time to Resolve

Office of Administrative Law Judges



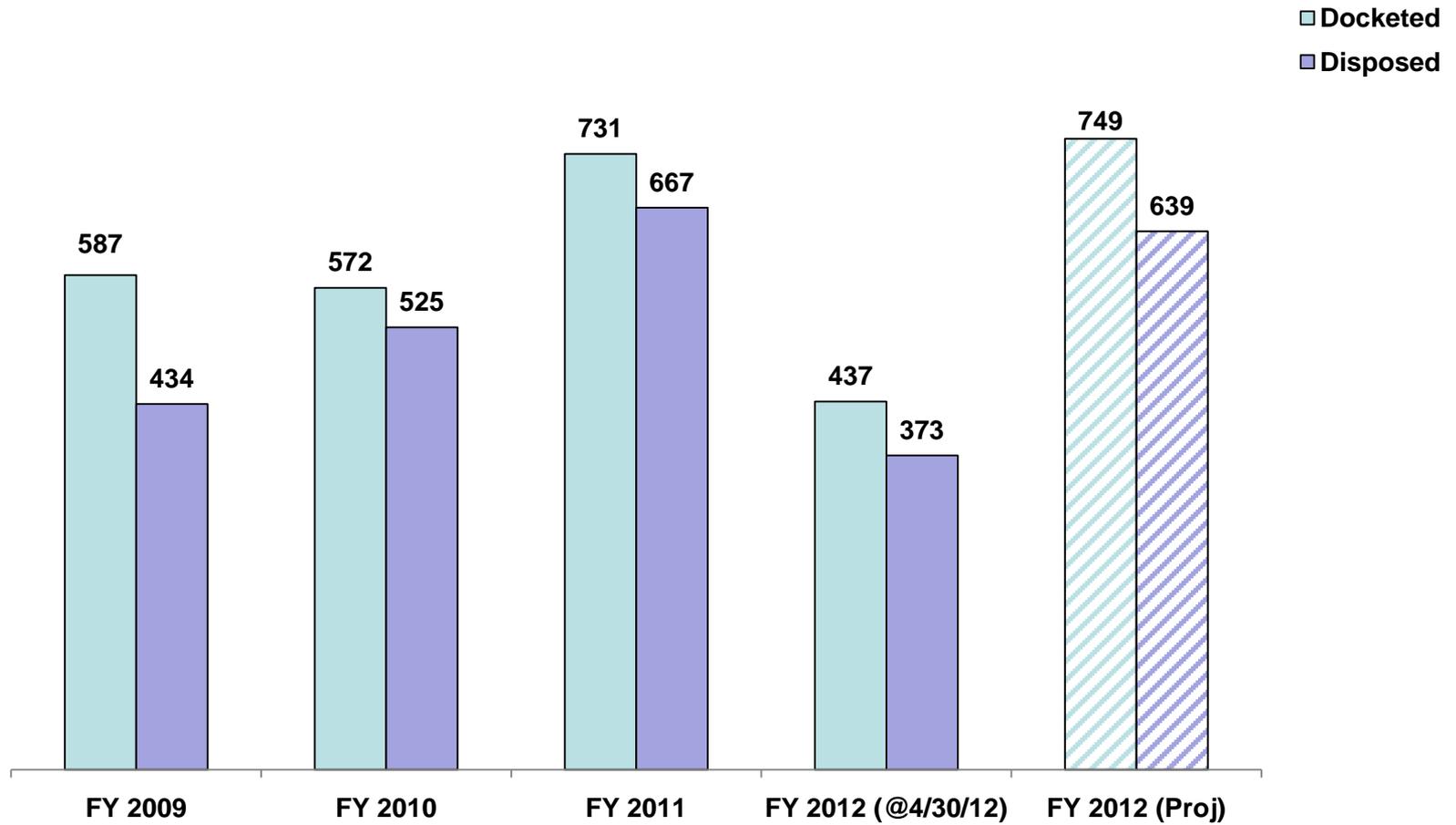


Longshore Cases



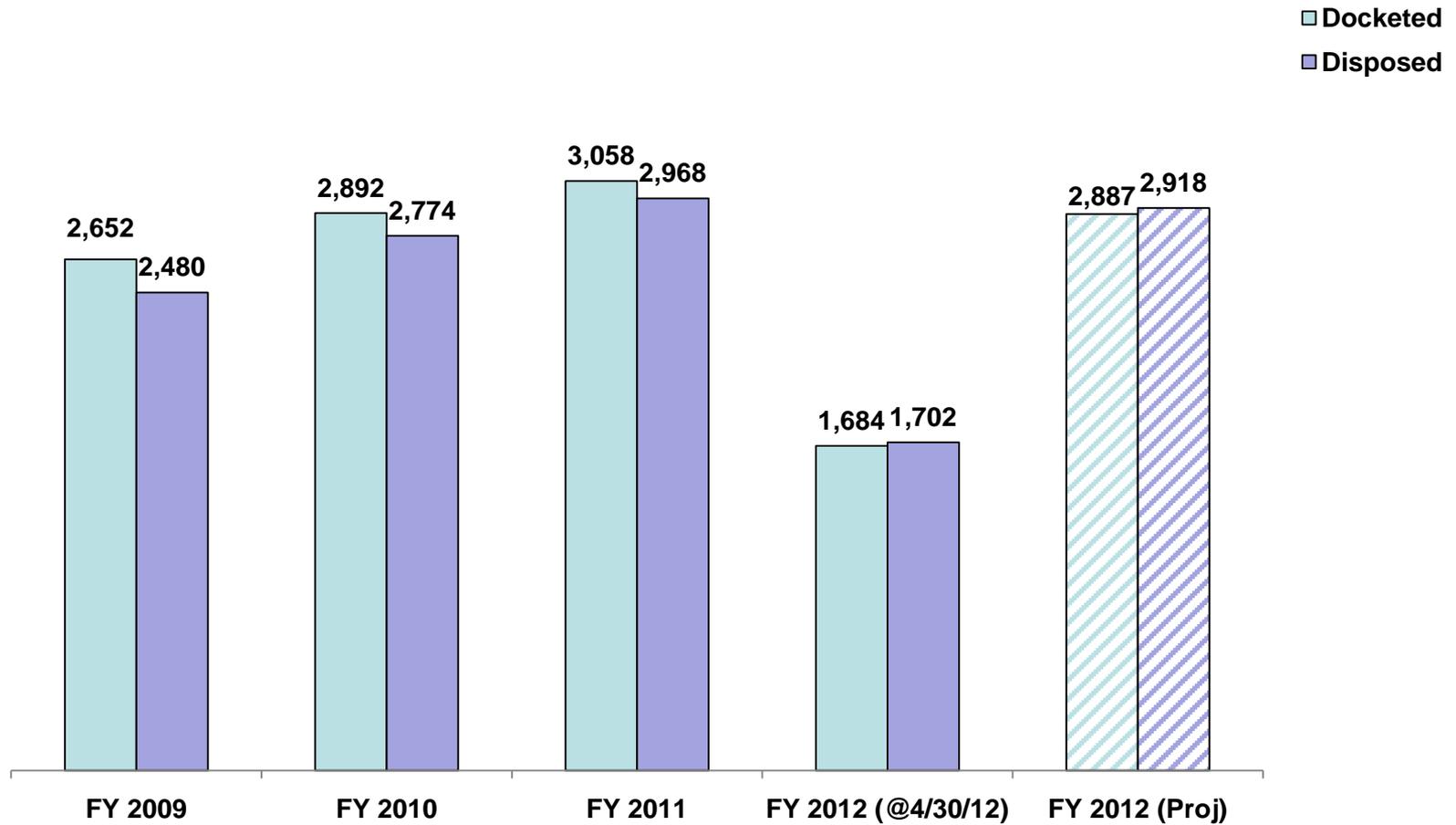


DBA Cases



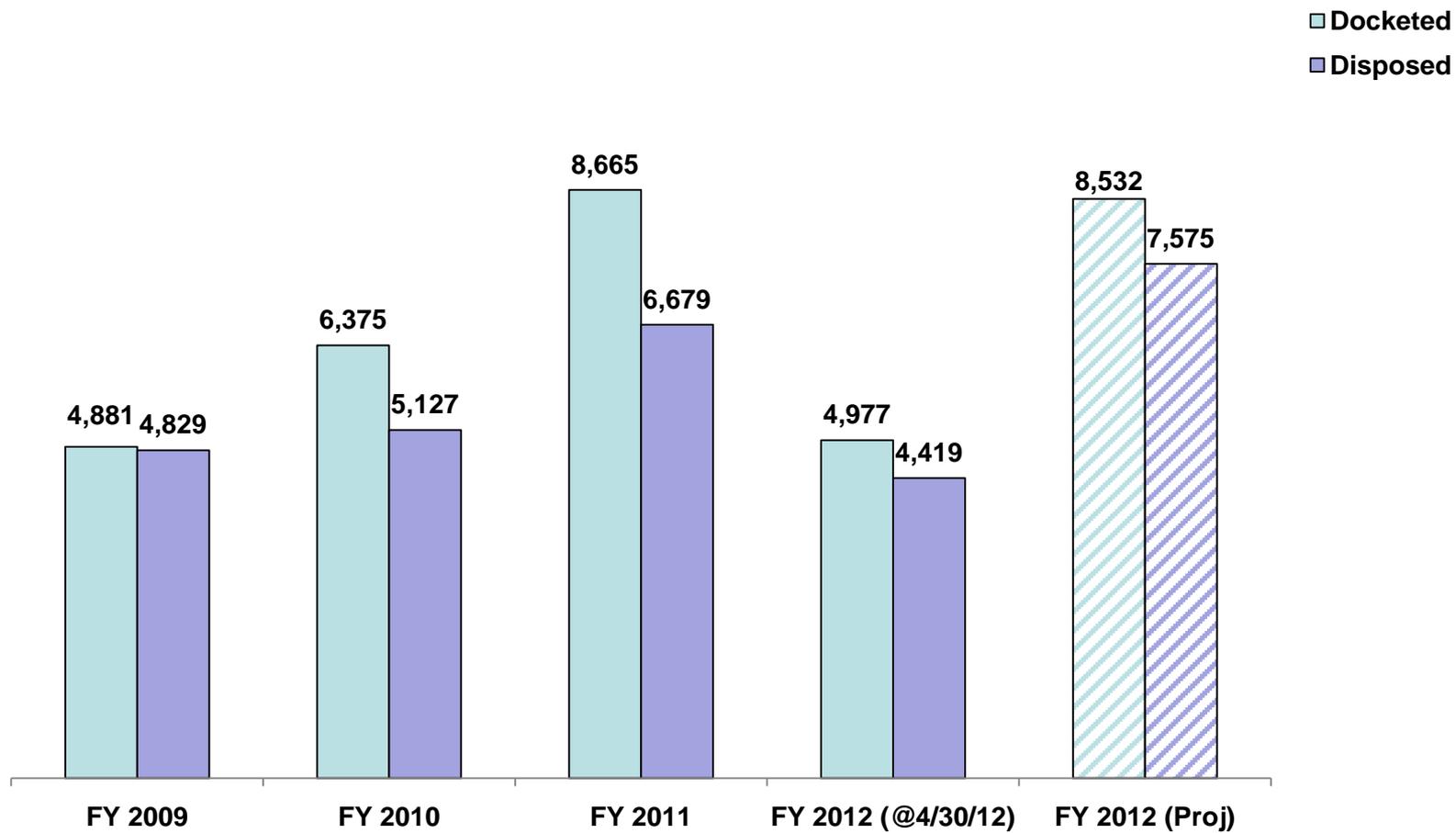


Longshore and DBA Cases



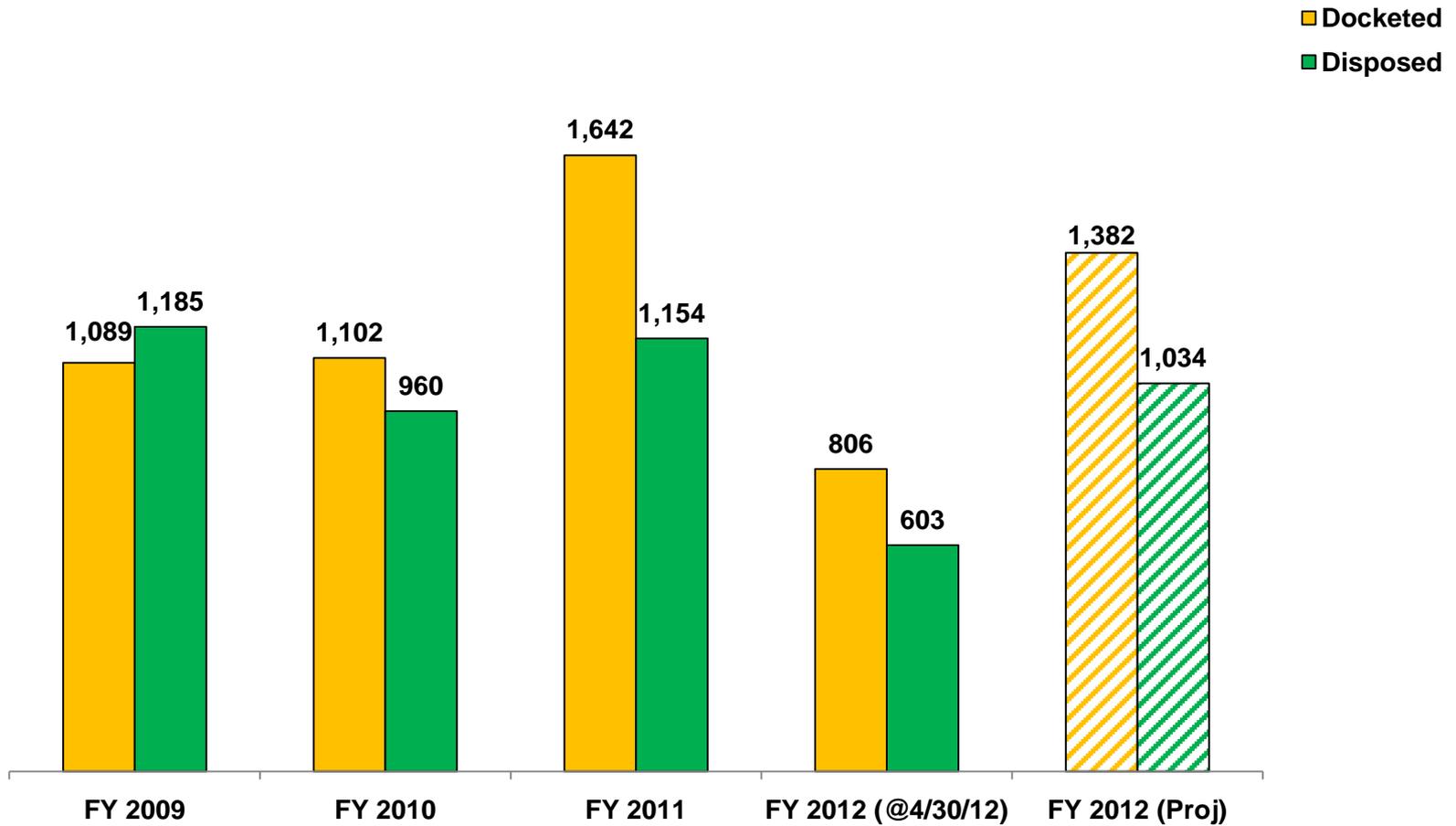


All Case Types



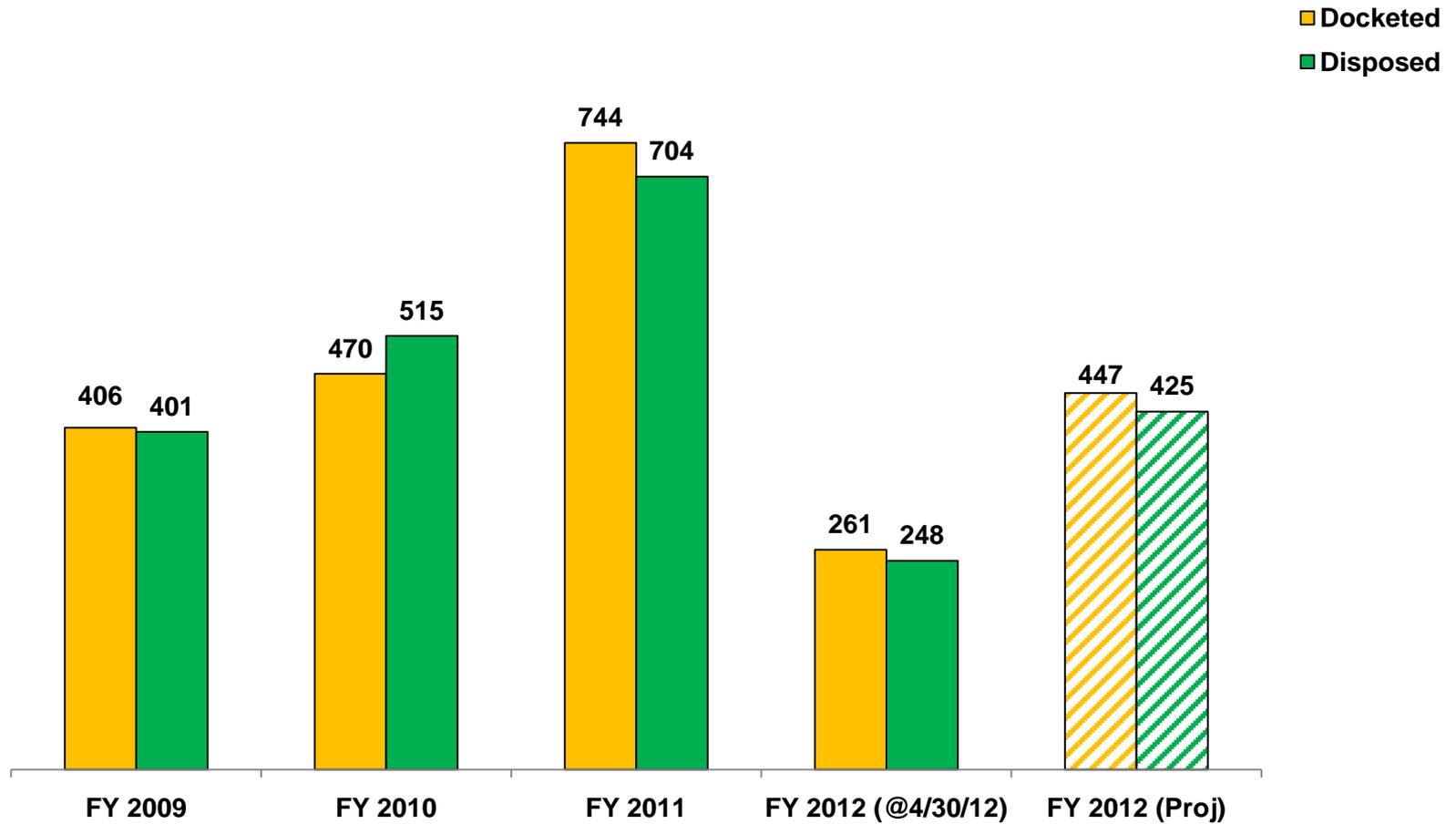


Black Lung Cases



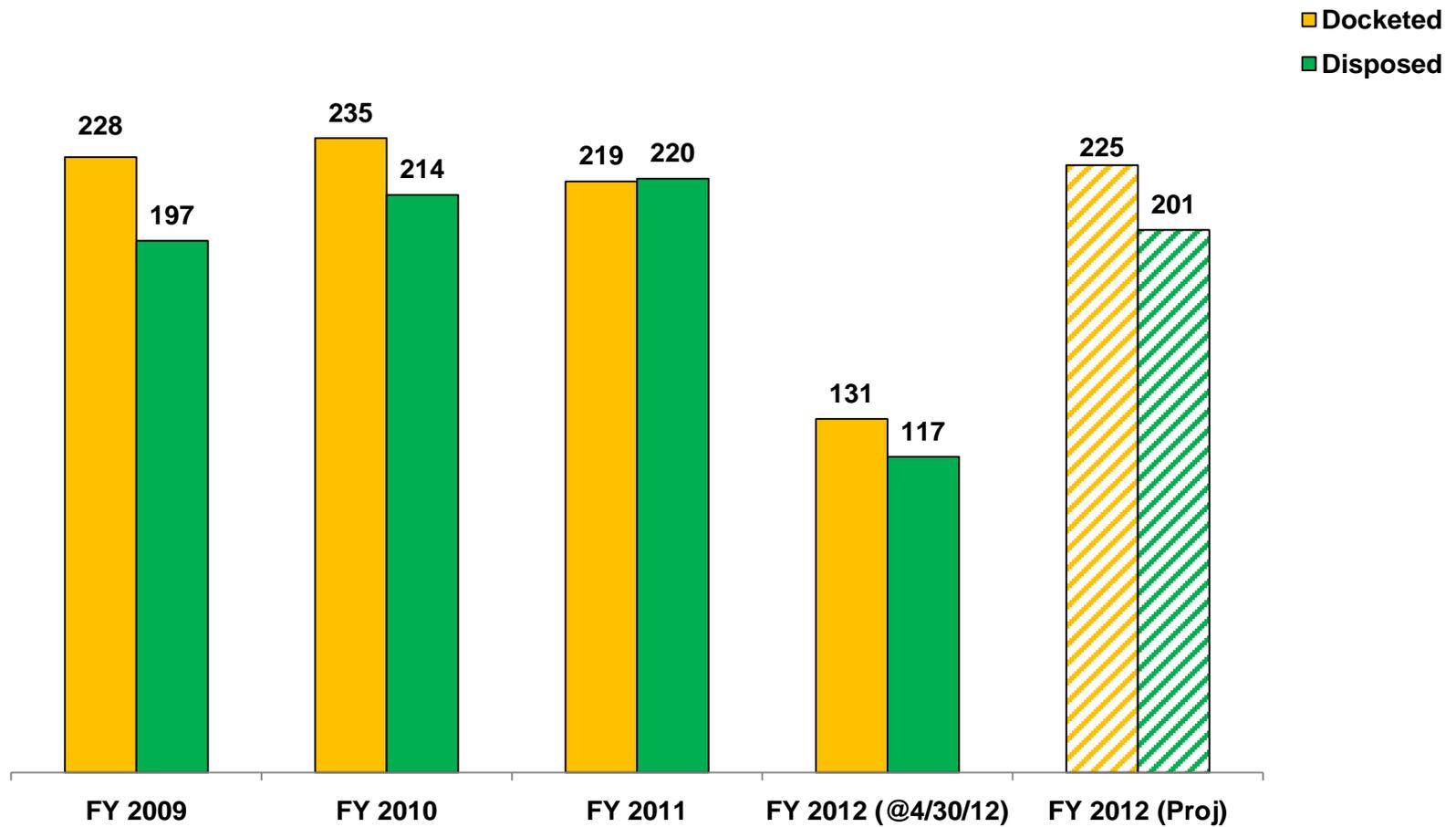


Traditional Cases





Whistleblower Cases





Immigration Cases

