

NORTH CAROLINA BUSINESS COURT

CIVIL JUSTICE COMMITTEE OF THE NORTH CAROLINA
COMMISSION ON THE ADMINISTRATION OF LAW AND JUSTICE

OCTOBER 22, 2015


James L. Gale

Chief Special Superior Court Judge for
Complex Business Cases

SELECTED HISTORY

- **1994:** NC Commission on Business Laws and the Economy
 - **1995-96:** General Assembly provides funding for Business Court & Judge Tennille is designated first Business Court Judge
 - **2003-04:** Chief Justice's Commission on the Future of the North Carolina Business Court (Martin Commission)
 - **2006:** Court expands to 3 judges
 - **2015:** Business Court Modernization Act
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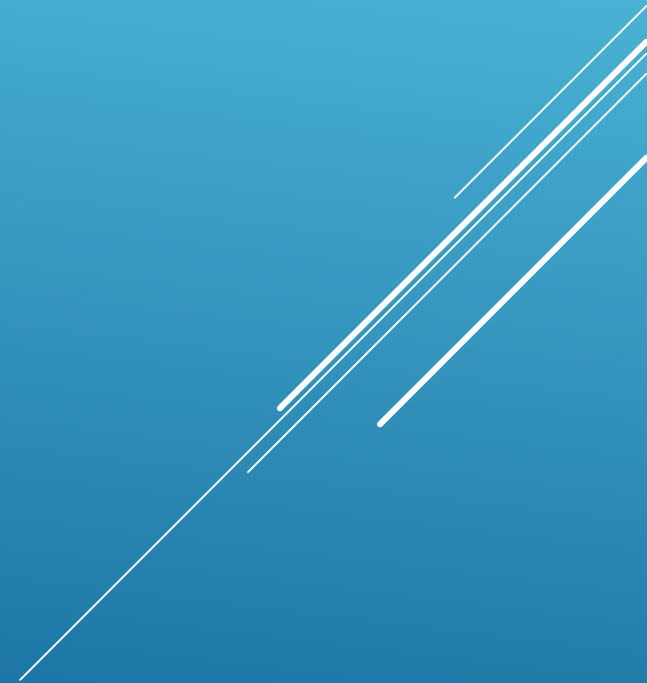
GENERAL SUPERIOR COURT STRUCTURE

- Rotating Resident Judges (elected)
 - Special (appointed) Judges
 - Rule 2.1
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EARLY CONCEPTS FOR A SPECIALTY BUSINESS COURT

- Delaware Court of Chancery
 - New York Commercial Division
 - Cook County
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N.C. COMMISSION ON BUSINESS LAWS AND THE ECONOMY (1994)



INITIAL DETERMINATIONS FOR THE BUSINESS COURT

- Mixed incentives of business development and law
 - Created by rule rather than statute
 - An administrative division of the General Court of Justice
 - Rules 2.1 and 2.2
 - Discretionary case assignment
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KEY FOUNDATIONAL CONCEPTS


- Statewide reach
 - Combines law and equity
 - No minimum amount in controversy
 - No change in venue
 - Jury trial preserved
 - Judge with expertise
 - Create body of precedent
 - Case management
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EARLY INITIATIVES AND RECOGNITION


- Judge Tennille
 - Technology initiative
 - Local rules
 - *First Union Corp. v. Suntrust Banks, Inc.*
 - National recognition
 - American College of Business Court Judges
 - NCBC touted as “gold standard”
 - ABA Initiative
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THE MARTIN COMMISSION

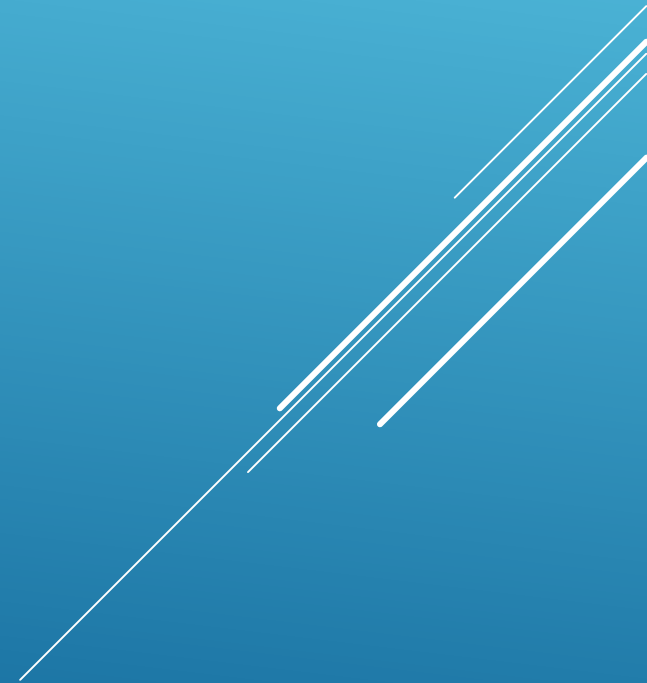
Chief Justice's Commission on the Future of the Business Court

- Comprehensive review
 - Business Court deemed a success
 - Key recommendations adopted
 - Expansion of court
 - § 7A-45.4 creates "mandatory" designation
 - Some recommendations not adopted (e.g., judicial terms)
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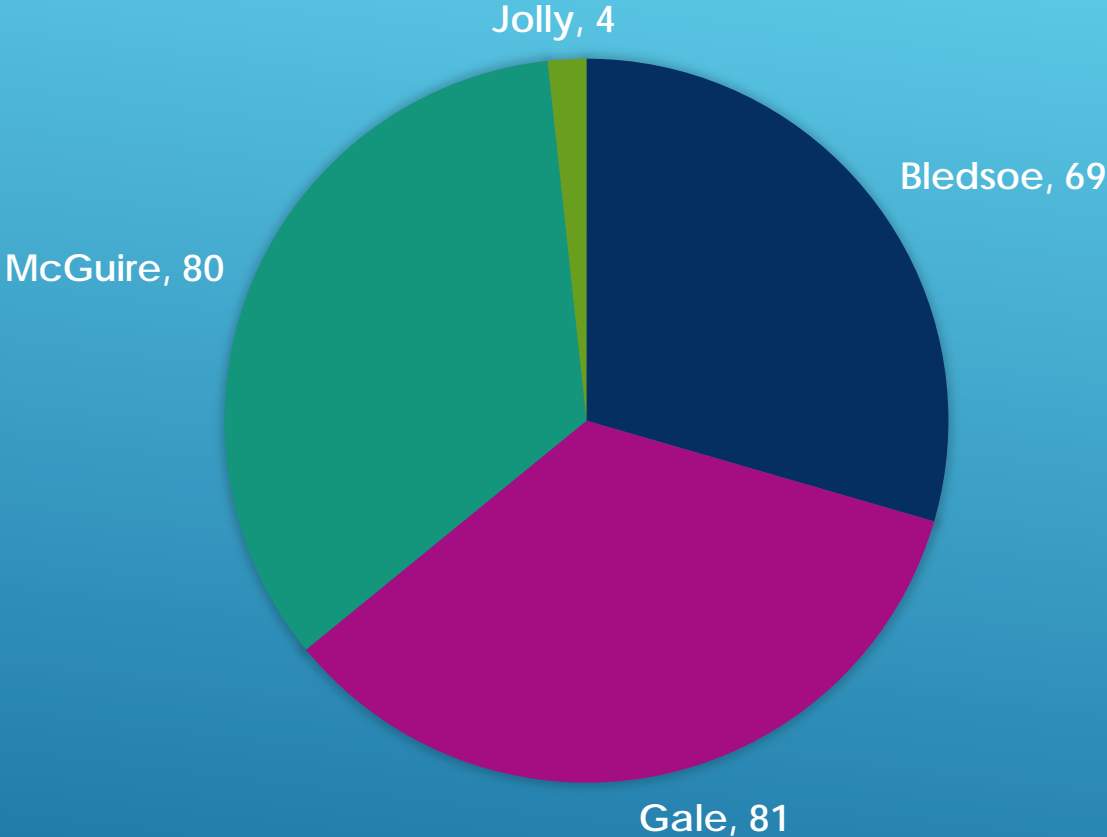
BUSINESS COURT MODERNIZATION ACT

- Modification of case designation
 - Updated categories of “mandatory” cases
 - Created new category of “mandatory mandatory” cases
 - Provided for designation of select cases by consent
 - Court expansion
 - Procedure for selection of judges
 - Appeals
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SELECTED STATISTICS



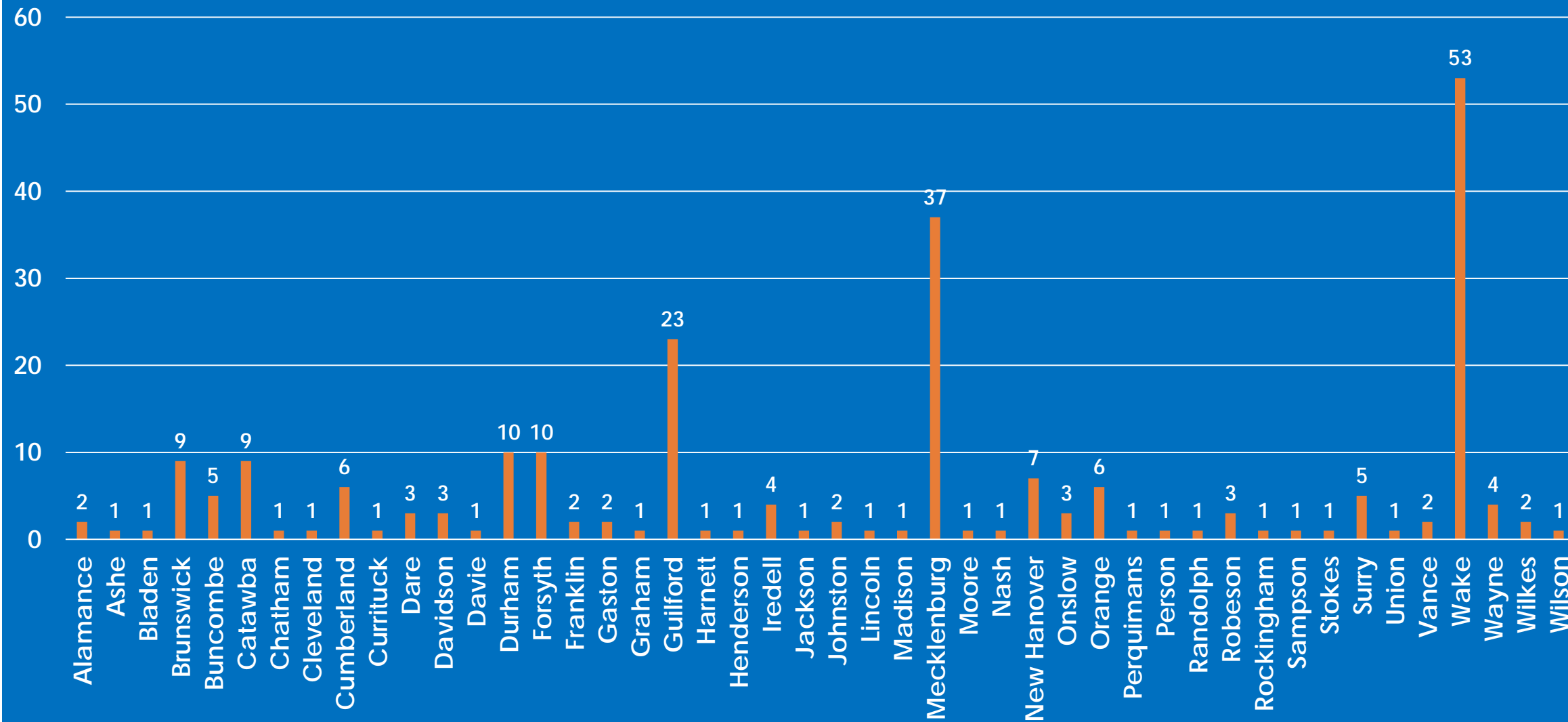
CASELOAD BY JUDGE



BUSINESS COURT TODAY

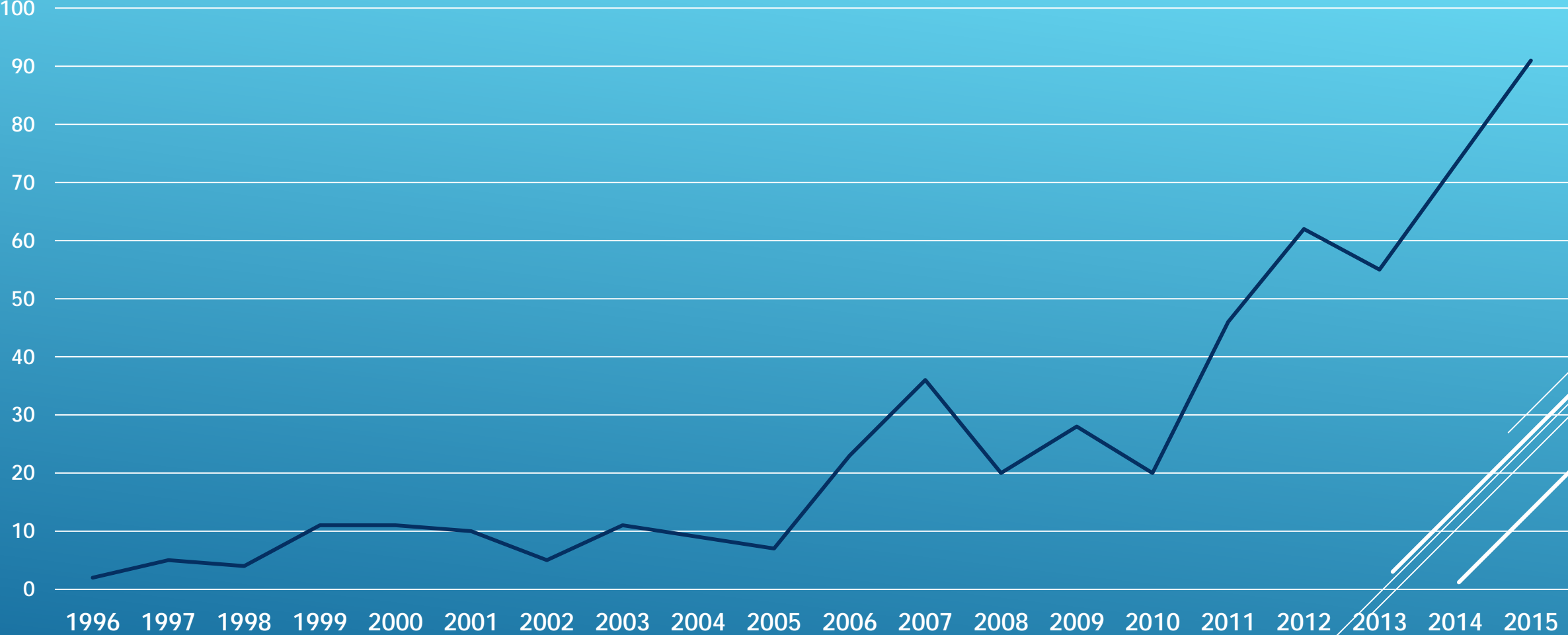


Caseload by County



BUSINESS COURT TODAY

Opinions by Year



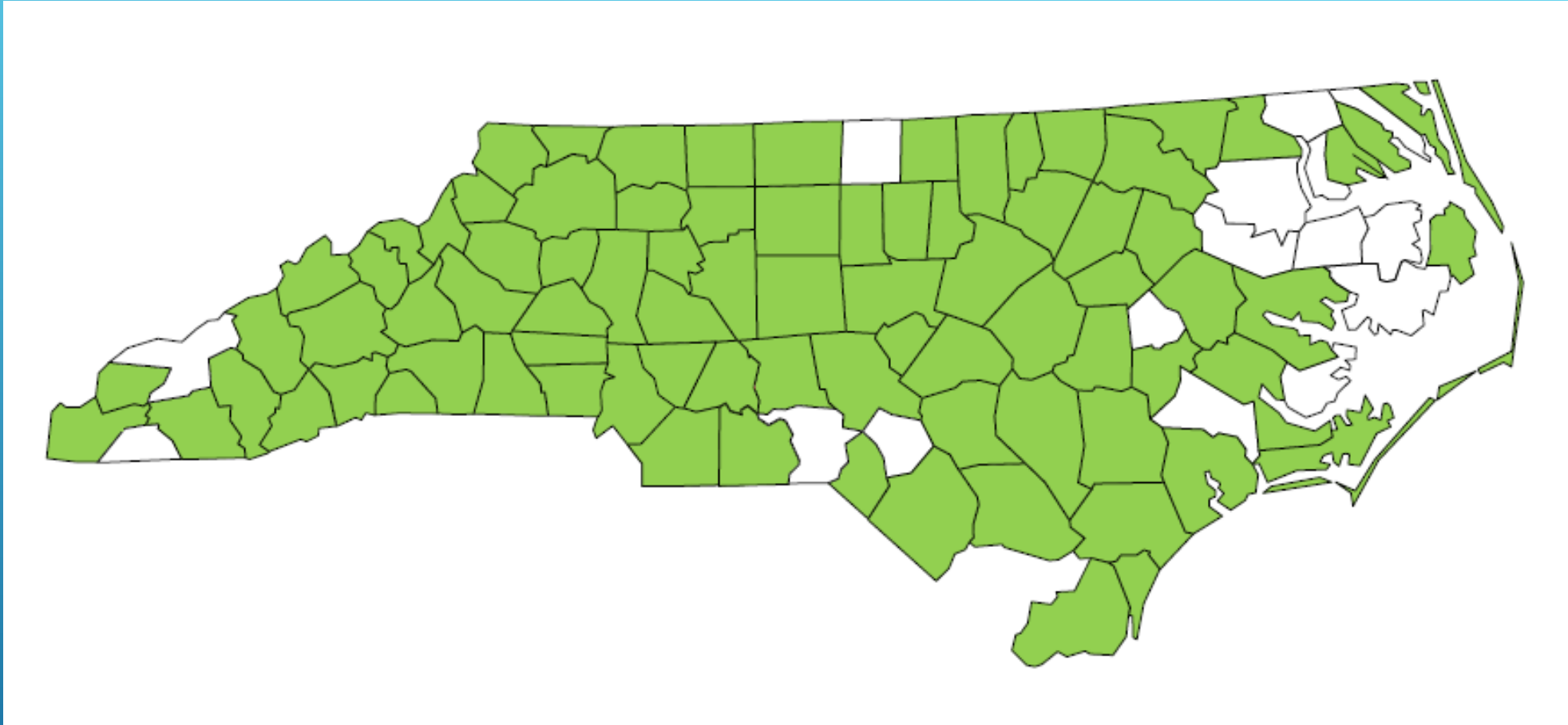
BUSINESS COURT TODAY

Median age of active cases: 352 Days

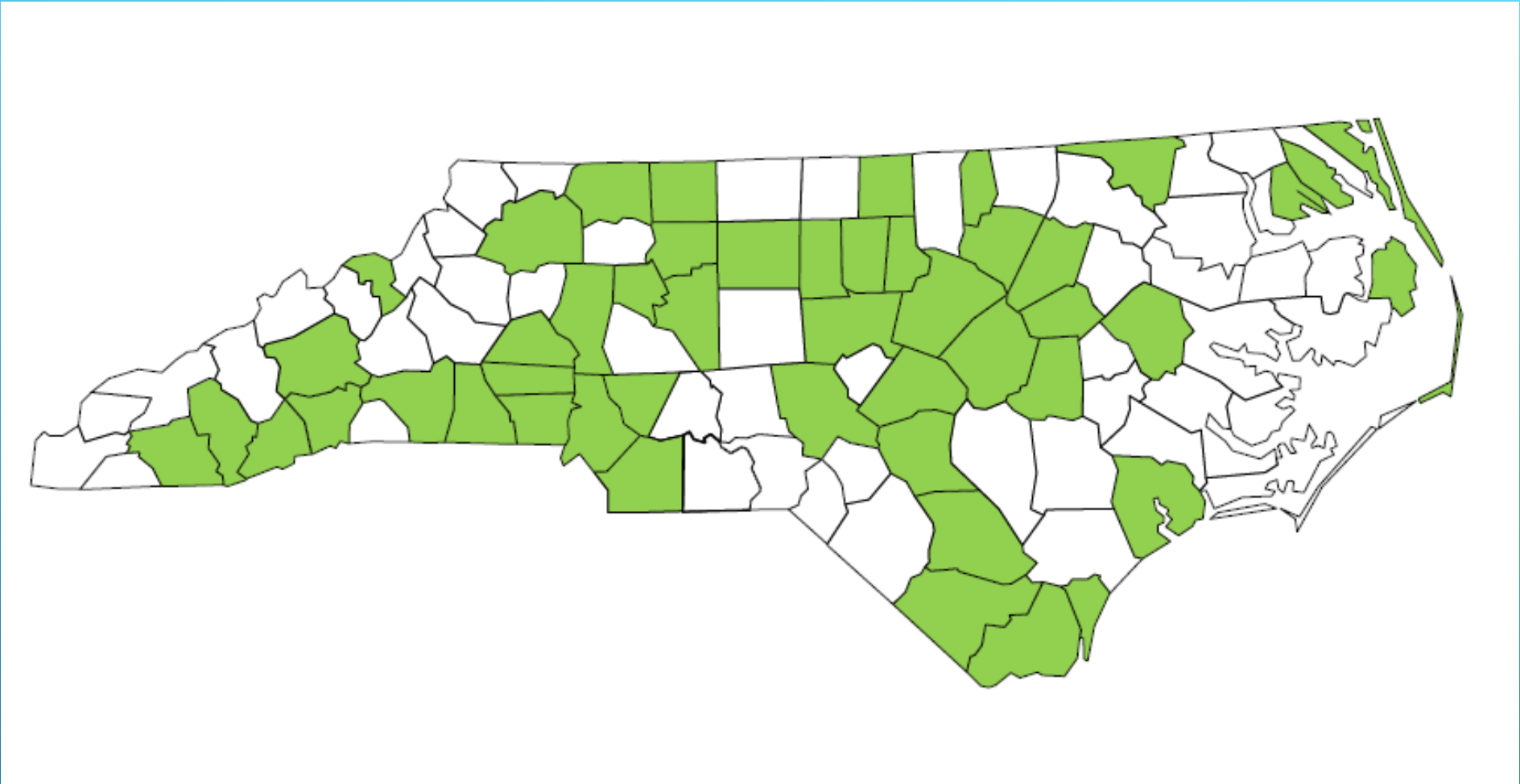
Median age of all cases: 414 Days

BUSINESS COURT TODAY



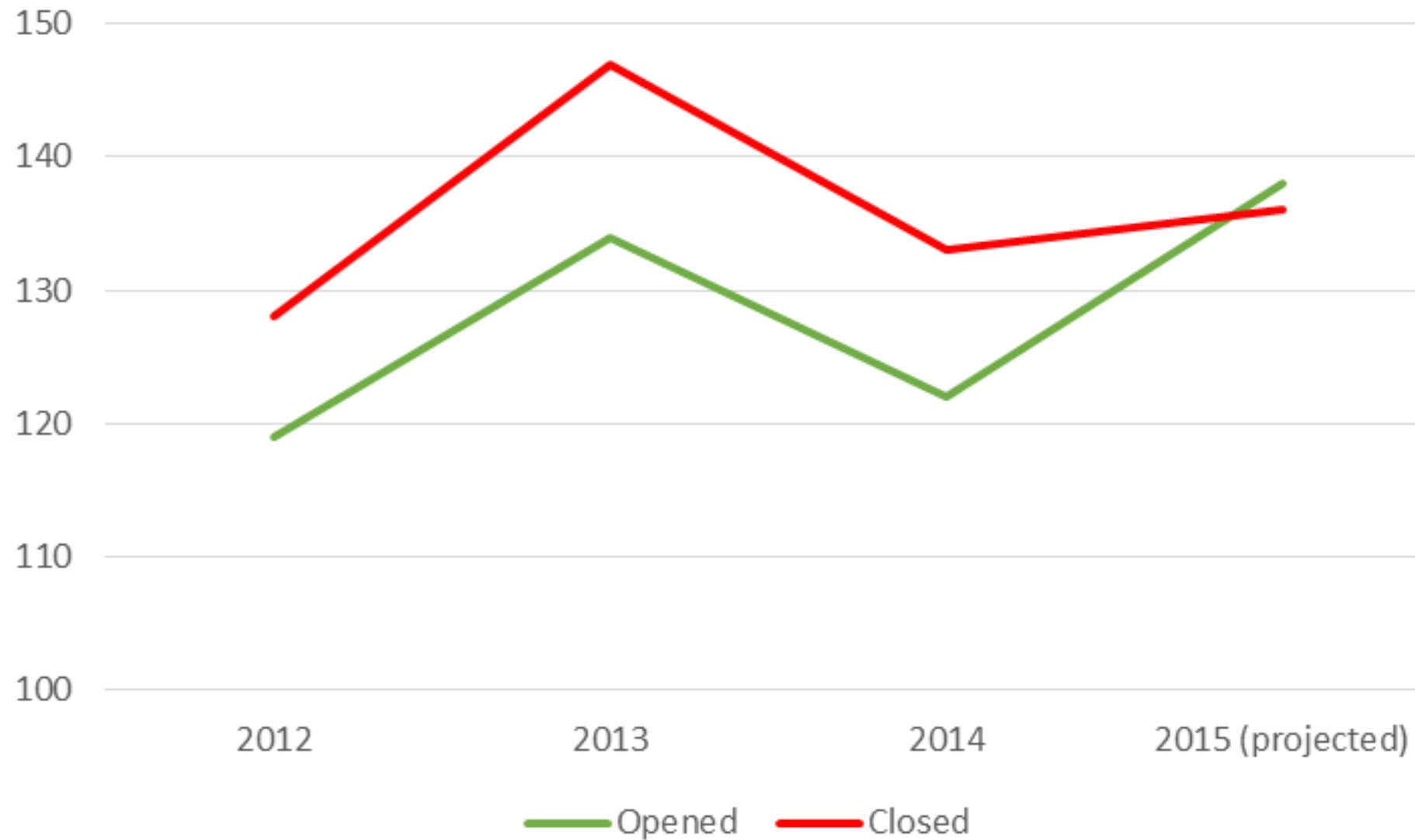


N.C. COUNTIES WITH BUSINESS COURT CASES (SINCE INCEPTION)




N.C. COUNTIES WITH BUSINESS COURT CASES DESIGNATED 2014-2015

CASES OPENED & CLOSED



SUCCESSSES

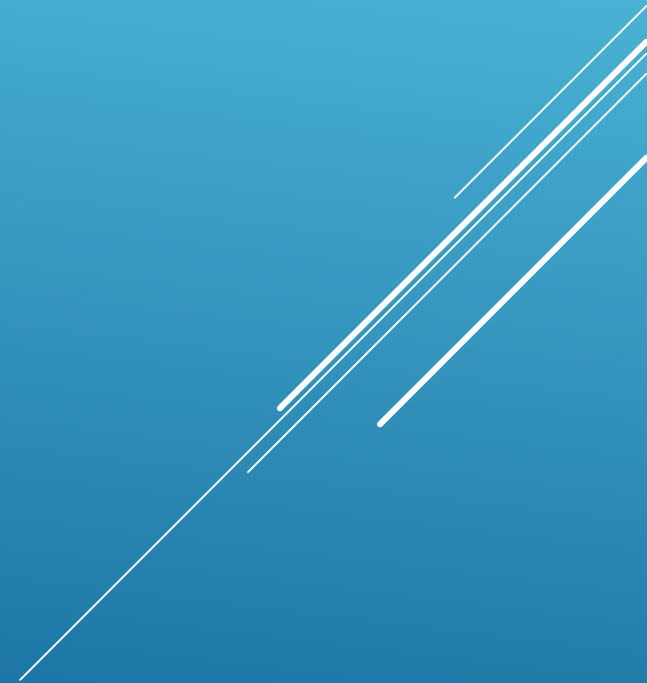
- Continued acceptance reflected by increasing case load
 - Well integrated within Superior Court Division
 - Growing body of published opinions
 - Pioneer in local rules and technology
 - Case management
 - National recognition
 - Increased recognition by business community
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SUCCESSSES


Key Technology Initiatives

- State-of-the-art presentation technology in courtrooms
 - Video conferencing
 - E-filing
 - Public website
 - Potential to serve as a “pilot court”
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- A decorative graphic consisting of several parallel white lines of varying lengths, slanted upwards from left to right, located in the bottom right corner of the slide.


CHALLENGES & OPPORTUNITIES



CHALLENGES

- Judicial selection
 - Process
 - Term
 - Diversity
 - Experience
 - Effect of reducing number of special judges
 - Implementing expansion
 - Staying current with technology
 - Modernizing local rules and integrating with appellate rules
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POTENTIAL OPPORTUNITIES

- True e-filing
 - Subject matters to be assigned
 - Evaluation metrics
 - Promote and maintain the court's reputation
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SELECTED RESOURCES

- I. Beverly Lake, Jr., *Memorandum Regarding Guidelines for Assignment of Cases to the North Carolina Business Court* (Mar. 7, 2001).
- Chief Justice's Commission on the Future of the North Carolina Business Court, *Final Report and Recommendation* (Oct. 28, 2004).
- Benjamin F. Tennille, Lee Applebaum & Anne Tucker Nees, *Getting to Yes in Specialized Courts: The Unique Role of ADR in Business Court Cases*, 11 PEPP. DISP. RESOL. L.J. 35 (2010).
- John Buford & Ben Norman, *Business Court: What North Carolina Companies Need to Know*, *Business North Carolina* (Oct. 2015).
- Adam Doerr, *Original Jurisdiction: How NC's Business Court Became a Model of Its Own*, *Business North Carolina* (Oct. 2015).