

## I. THE COURTS OF APPEALS

There were 1,321,506 docket entries made in the courts of appeals in 2018. Most were made between 8:00 a.m. and 5:00 p.m. (89%); 8.9% were made after 5:00 p.m., 4.9% after 6:00 p.m. The number of docket entries made after 6:00 p.m. ranged from 2.3% in the Eighth Circuit to 11% in the District of Columbia Circuit.

*Rules.* Federal Rule of Appellate Procedure 25(a)(B)(ii) states, “A person not represented by an attorney may file electronically only if allowed by court order or by local rule . . . .” Only the Sixth Circuit’s court of appeals forbids electronic filing by pro se litigants.

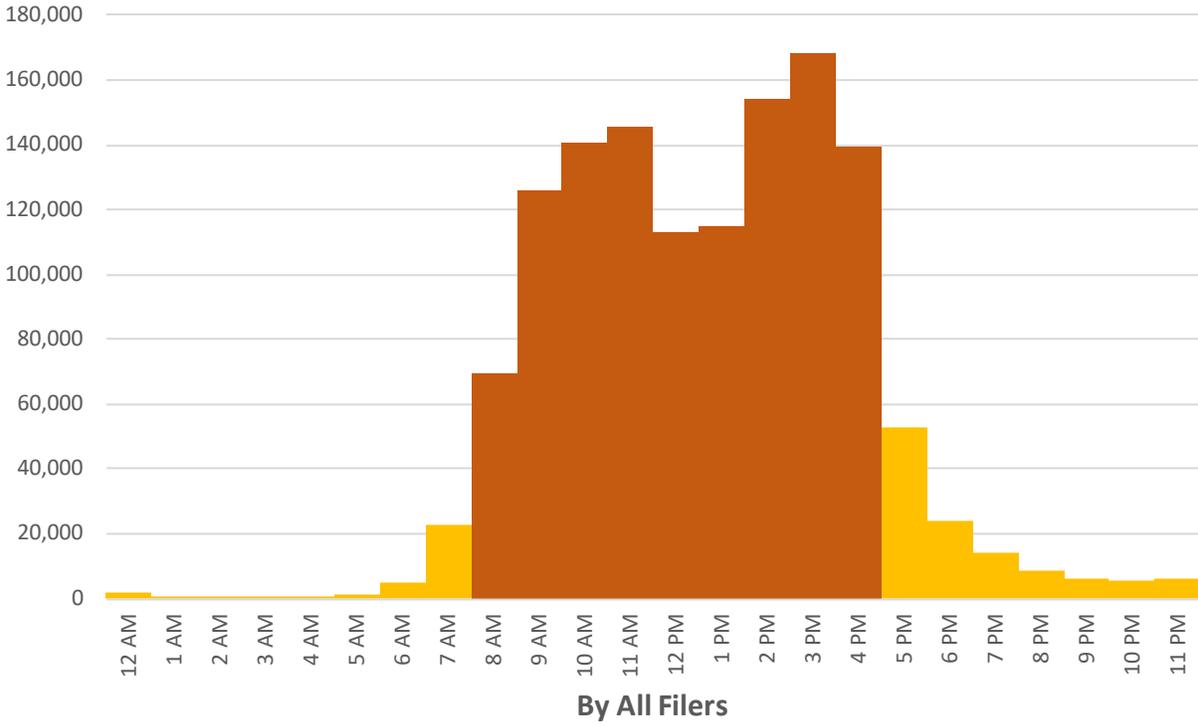
An appellant brief is due within forty days of the filing of the record. Fed. R. App. P. 31. An appellee brief is due thirty days after the filing of an appellant brief, and an optional reply brief is due three weeks after the filing of an appellee brief, but generally at least one week before argument. *Id.* No court of appeals requires that filings be made before midnight to be timely.

*Briefs.* Attorneys filed 135,561 briefs, 15% of them after 5:00 p.m. and 10% after 6:00 p.m. The number of briefs filed after 6:00 p.m. ranged from 0.26% in the Seventh Circuit and 4.8% in the Eighth Circuit to 20% in the Second Circuit and 29% in the District of Columbia Circuit.

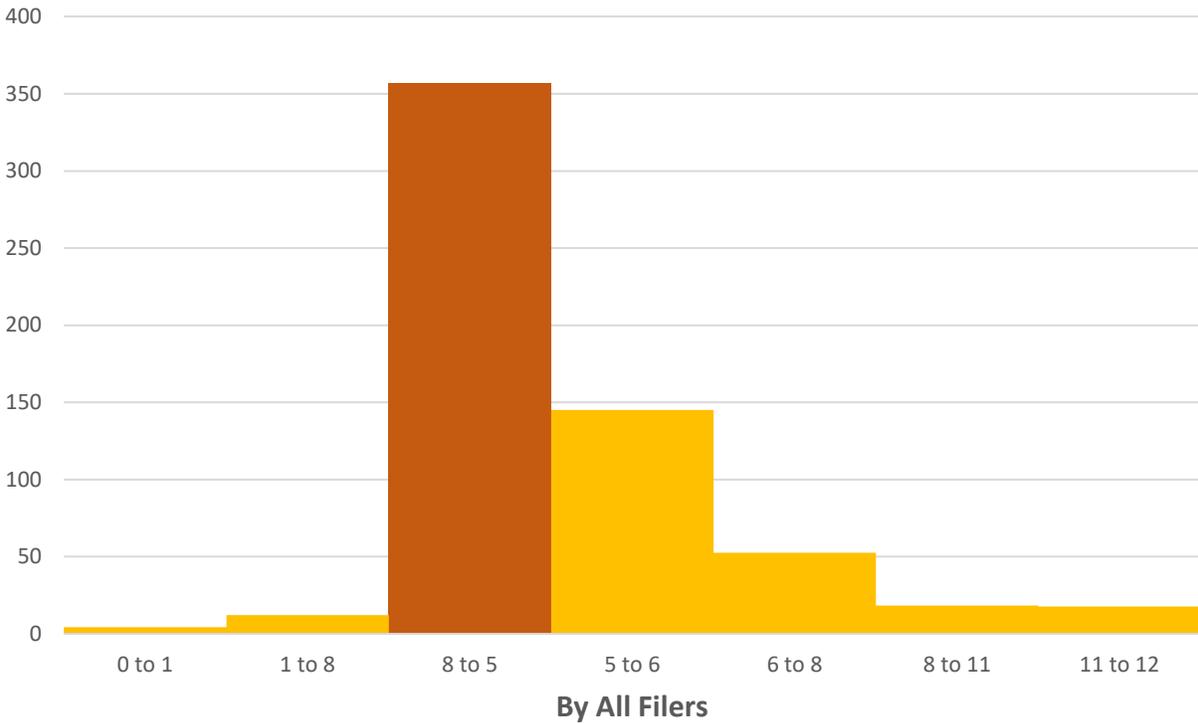
Data codes for the courts of appeals do not reliably distinguish filings by attorneys and filings by the court. Filing data codes for briefs do not reliably distinguish among opening briefs, response briefs, and reply briefs. Most circuits use unlikely values for case year in the case number for practice filings, and we disregarded those apparently practice data entries. We also disregarded service entries that were duplicative of entries that appear on public dockets and do not themselves appear separately on public dockets.

*Charts and Tables.* The following two charts show docket entries in the courts of appeals by time of day. The next chart shows brief filings by time of day. Two tables following the charts present docket entry data and brief filing data for individual circuits. Additional information about each circuit follows the tables.

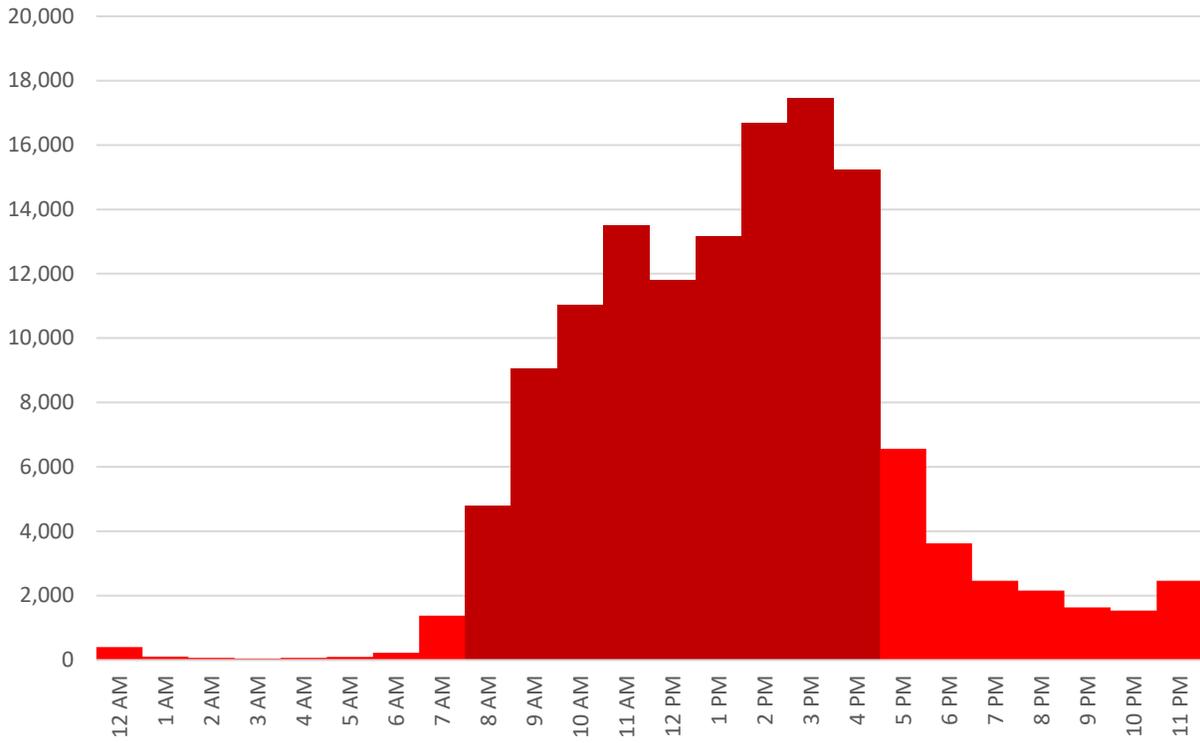
### Filings by Hour of Day in the Courts of Appeals



### Filings per Hour by Time Period in the Courts of Appeals



### Filings of Briefs by Hour of Day in the Courts of Appeals



**Docket Entries in the Courts of Appeals**

<i>Circuit</i>	<i>Docket Entries</i>	<i>Before 8:00</i>	<i>Between</i>		<i>After 6:00</i>
			<i>8:00 and 5:00</i>	<i>After 5:00</i>	
District of Columbia	42,264	0.91%	80%	20%	11%
First	45,064	0.97%	90%	8.8%	4.5%
Second	189,507	0.49%	87%	12%	6.5%
Third	74,557	2.0%	88%	10%	5.1%
Fourth	103,901	3.9%	90%	6.4%	3.4%
Fifth	154,710	3.5%	92%	4.7%	2.7%
Sixth	89,496	3.2%	90%	6.7%	3.6%
Seventh	63,490	0.75%	94%	4.8%	2.8%
Eighth	75,962	2.3%	93%	4.9%	2.3%
Ninth	259,036	3.9%	86%	10%	6.3%
Tenth	47,734	5.8%	90%	4.2%	2.4%
Eleventh	121,041	1.1%	91%	7.8%	3.2%
Federal	54,744	0.74%	81%	18%	11%
ALL CIRCUITS	1,321,506	2.5%	89%	8.9%	4.9%

**Briefs Filed in the Courts of Appeals**

<i>Circuit</i>	<i>Briefs</i>	<i>Before 8:00</i>	<i>Between</i>		<i>After 6:00</i>
			<i>8:00 and 5:00</i>	<i>After 5:00</i>	
District of Columbia	4,666	1.7%	57%	41%	29%
First	7,544	0.82%	88%	11%	7.0%
Second	9,877	1.3%	71%	28%	20%
Third	2,805	1.6%	75%	24%	16%
Fourth	10,830	2.4%	86%	12%	7.8%
Fifth	16,010	1.8%	87%	11%	7.7%
Sixth	6,681	2.0%	73%	25%	17%
Seventh	3,904	0%	99%	0.54%	0.26%
Eighth	10,553	1.0%	90%	8.8%	4.8%
Ninth	29,628	2.3%	84%	14%	9.2%
Tenth	3,338	2.9%	82%	15%	11%
Eleventh	17,981	1.7%	88%	10%	6.3%
Federal	11,744	1.6%	80%	19%	13%
ALL CIRCUITS	135,561	1.7%	83%	15%	10%

## **Data for Individual Courts of Appeals**

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## The Court of Appeals for the District of Columbia Circuit

The United States Court of Appeals for the District of Columbia Circuit has eleven judgeships.

In addition to its local rules, the court's Handbook of Practice and Internal Procedures [hereinafter Admin. Procs.] governs court procedures.

The clerk's office in Washington is open from 9:00 to 4:00. *See* D.C. Cir. Admin. Procs. ¶ I.A.3.

"At the discretion of the court, a party to a pending civil case who is not represented by an attorney may be permitted to register as an ECF filer." D.C. Cir. R. 25(b)(2).

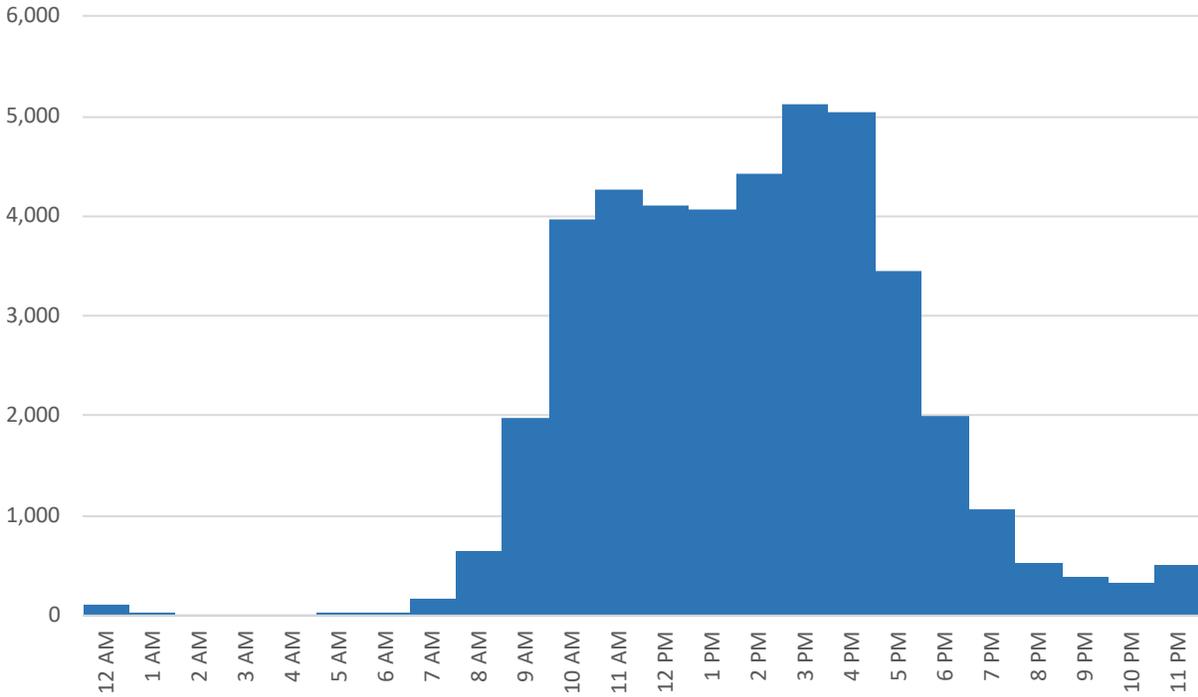
"Unless a time for filing is specified by court order, filing must be completed before midnight Eastern Time to be considered timely filed that day." *Id.* R. 26(a); *see also* D.C. Cir. Admin. Procs. ¶ II.C.2.

We disregarded docket entries in this court with 71 as the year part of the case number, because we determined that these were not valid docket entries.

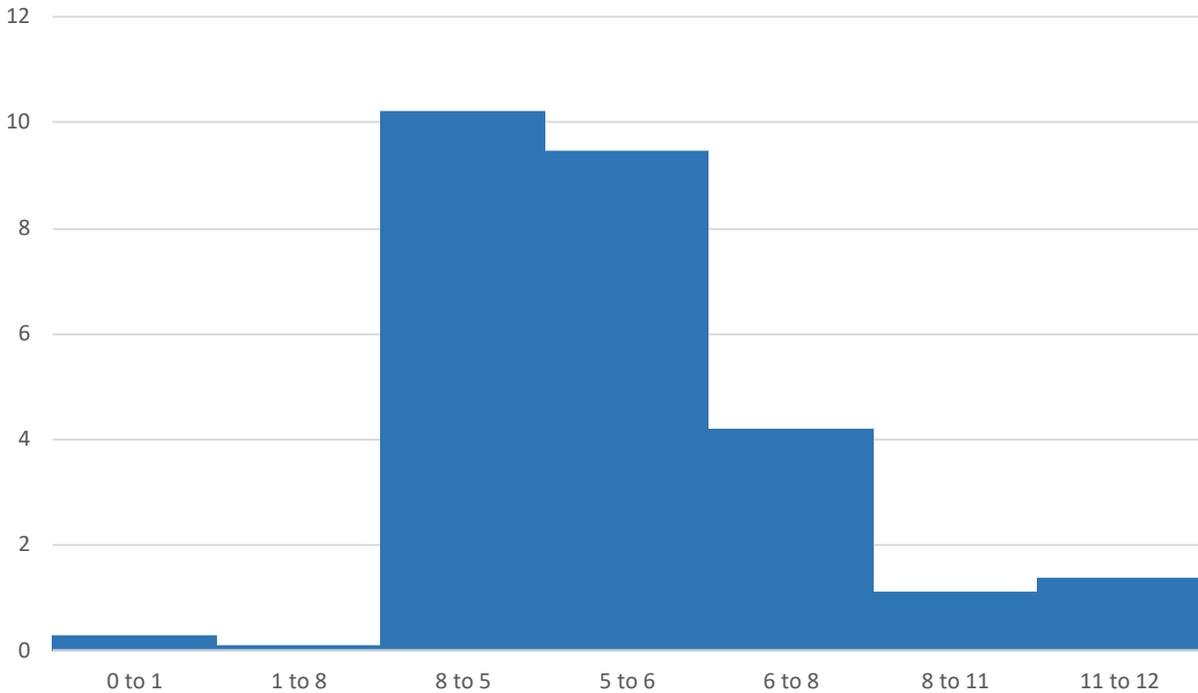
There were 42,264 docket entries made in this court in 2018. Attorneys filed 4,666 briefs (coded "br," "br-fnl," "br-fnlrply," or "br-rply"), 41% of them after 5:00 p.m. and 29% after 6:00 p.m.

The following two charts show docket entries in this court by time of day. The next chart shows brief filings by time of day.

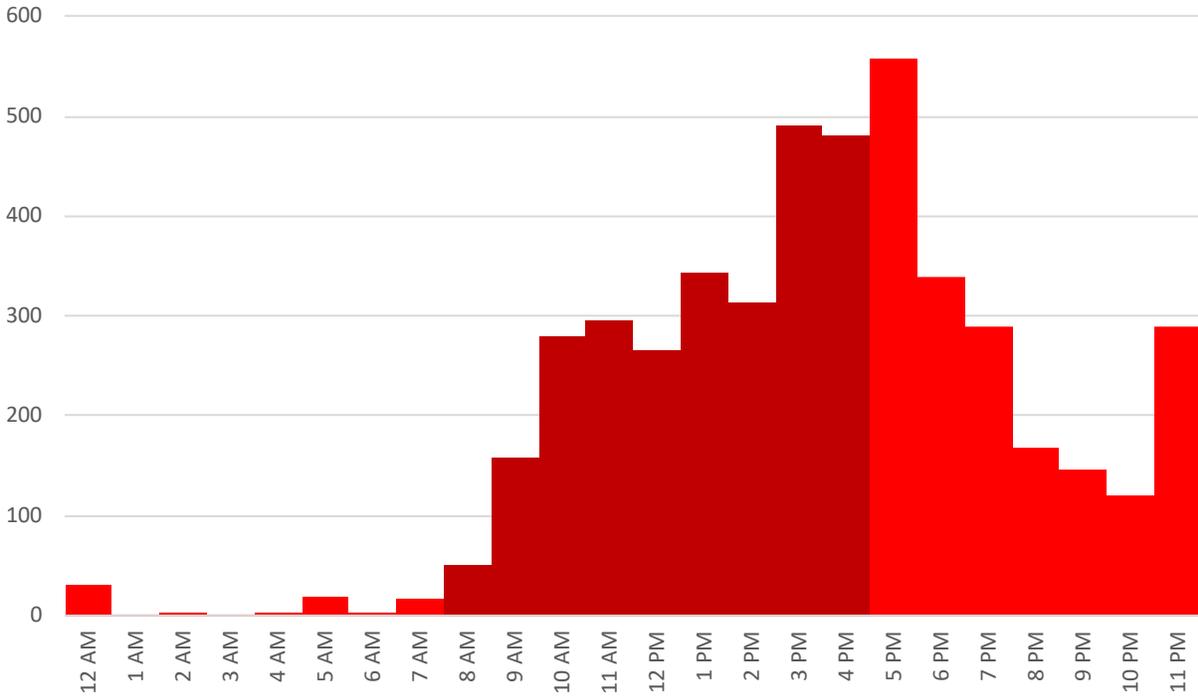
### Court of Appeals for the District of Columbia Circuit Filings in 2018 by Hour of Day



### Court of Appeals for the District of Columbia Circuit Filings per Hour in 2018 by Time Period



### Court of Appeals for the District of Columbia Circuit Filings of Briefs by Hour of Day



## The Court of Appeals for the First Circuit

The United States Court of Appeals for the First Circuit has six judgeships. The clerk's office in Boston is open from 8:30 to 5:00. 1st Cir. I.O.P. ¶ I.B.

The court combines into a United States Court of Appeals for the First Circuit Rule Book (1) Federal Rules of Appellate Procedure, (2) First Circuit Local Rules, (3) First Circuit Internal Operating Procedures, (4) Administrative Order Regarding Case Management/Electronic Case Files System ("CM/ECF"), (5) Rules of Attorney Disciplinary Enforcement for the Court of Appeals for the First Circuit, and (6) Rules for Judicial-Conduct and Judicial-Disability Proceedings.

Electronic filing is governed by the court's Rule 25.0. Pro se litigants are permitted to file electronically. *Id.* R. 25.0(c).

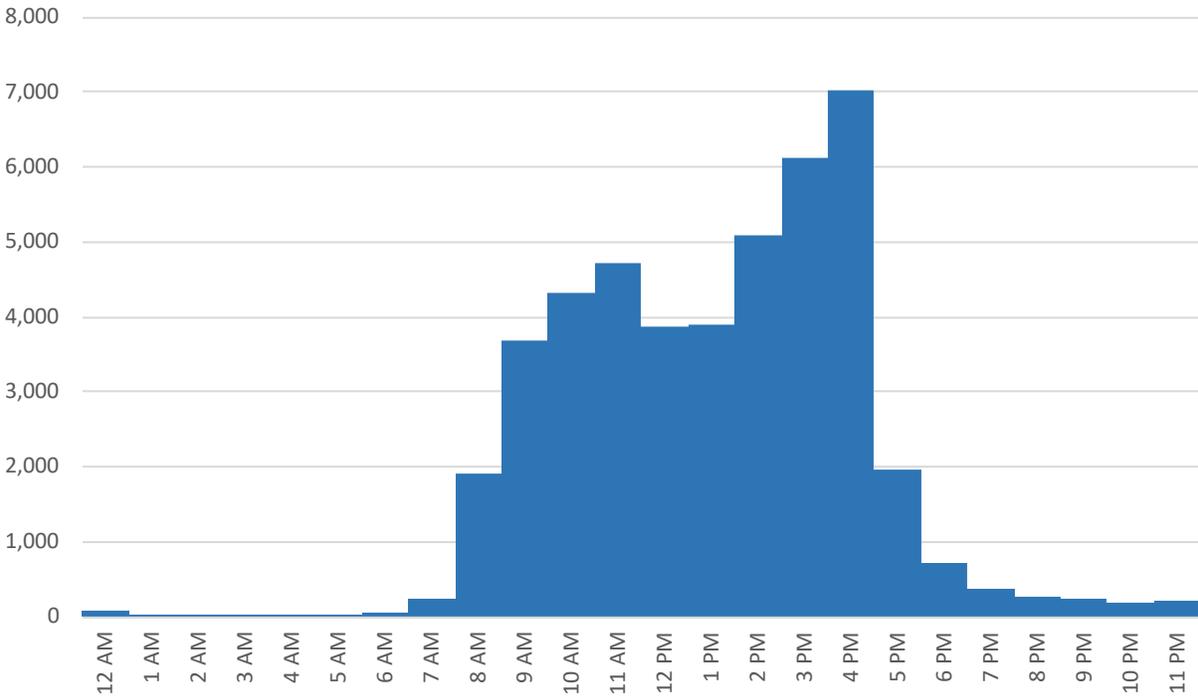
"Unless otherwise required by statute, rule, or court order, filing must be completed by midnight in the time zone of the circuit clerk's office in Boston to be considered timely filed that day." *Id.* R. 25.0(d)(3).

We disregarded docket entries in this court with 52 as the year part of the case number, because we determined that these were not valid docket entries.

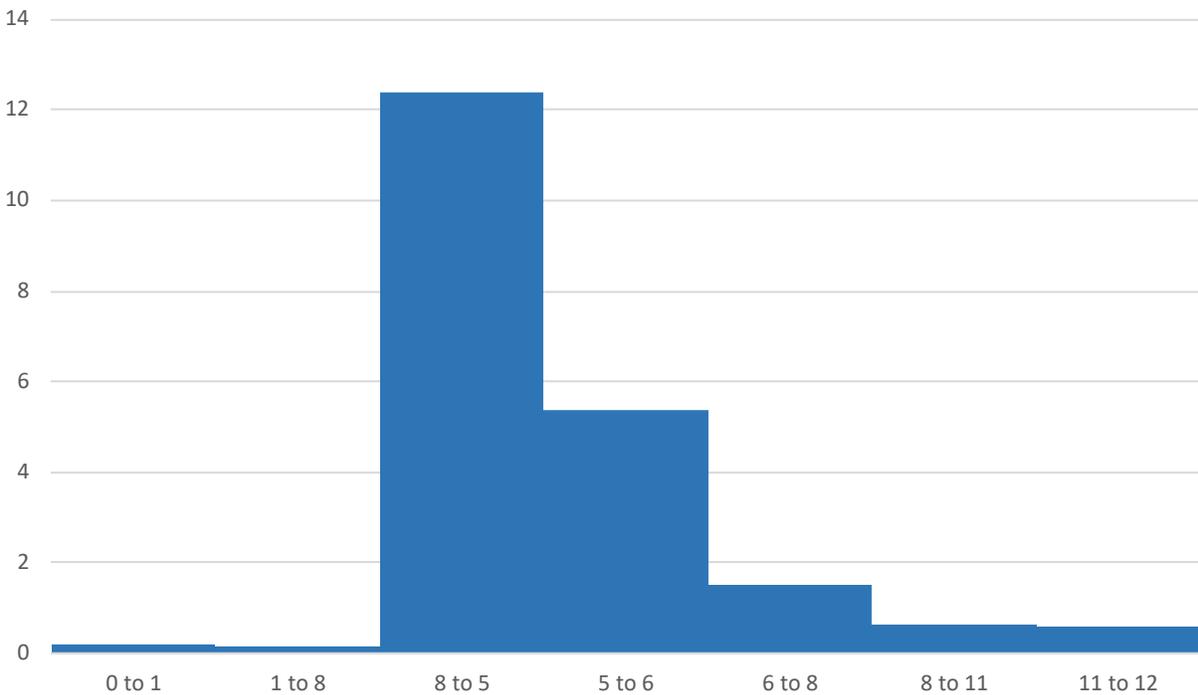
There were 45,064 docket entries made in this court in 2018. Attorneys filed 7,544 briefs (coded "brief," "copy," "tendered," "apx," "apetbr," "eresbrf," "rplbrf," "ambrf," "supbrf," "andersbrf," "surrplbr," "andersresp," "itvbrf," "correctbrf," or "abrf"), 11% of them after 5:00 p.m. and 7.0% after 6:00 p.m.

The following two charts show docket entries in this court by time of day. The next chart shows brief filings by time of day.

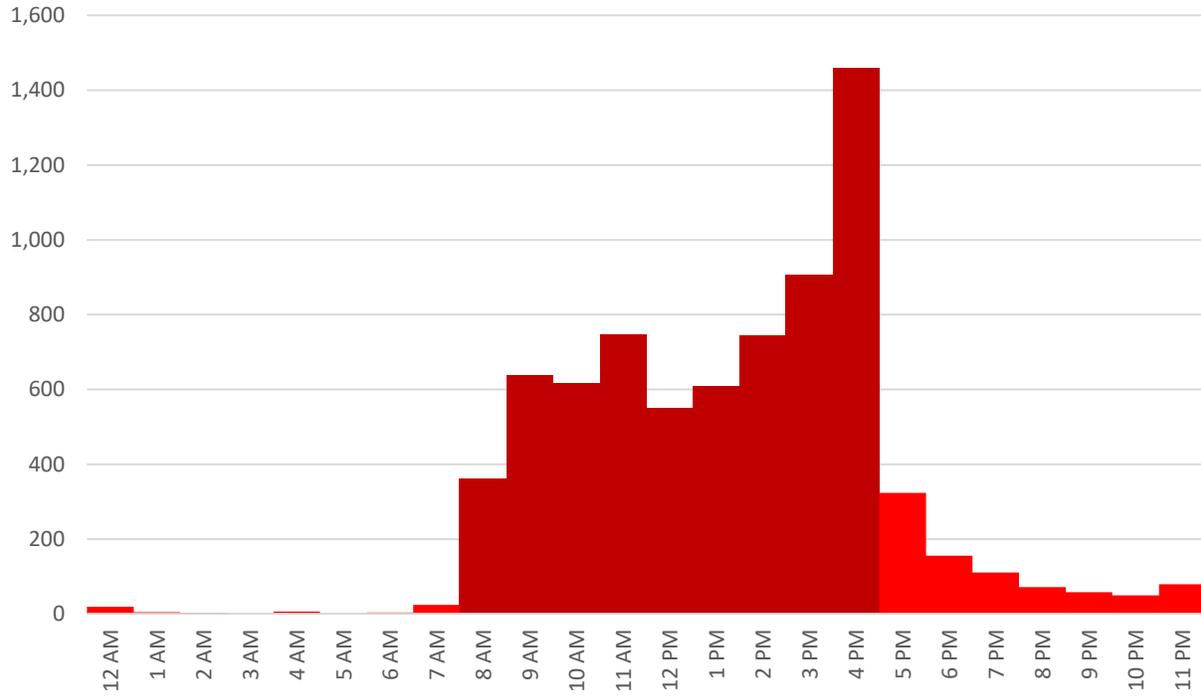
### Court of Appeals for the First Circuit Filings in 2018 by Hour of Day



### Court of Appeals for the First Circuit Filings per Hour in 2018 by Time Period



### Court of Appeals for the First Circuit Filings of Briefs by Hour of Day



## **The Court of Appeals for the Second Circuit**

The United States Court of Appeals for the Second Circuit has thirteen judgeships. The clerk's office in Manhattan is open from 9:00 to 5:00.

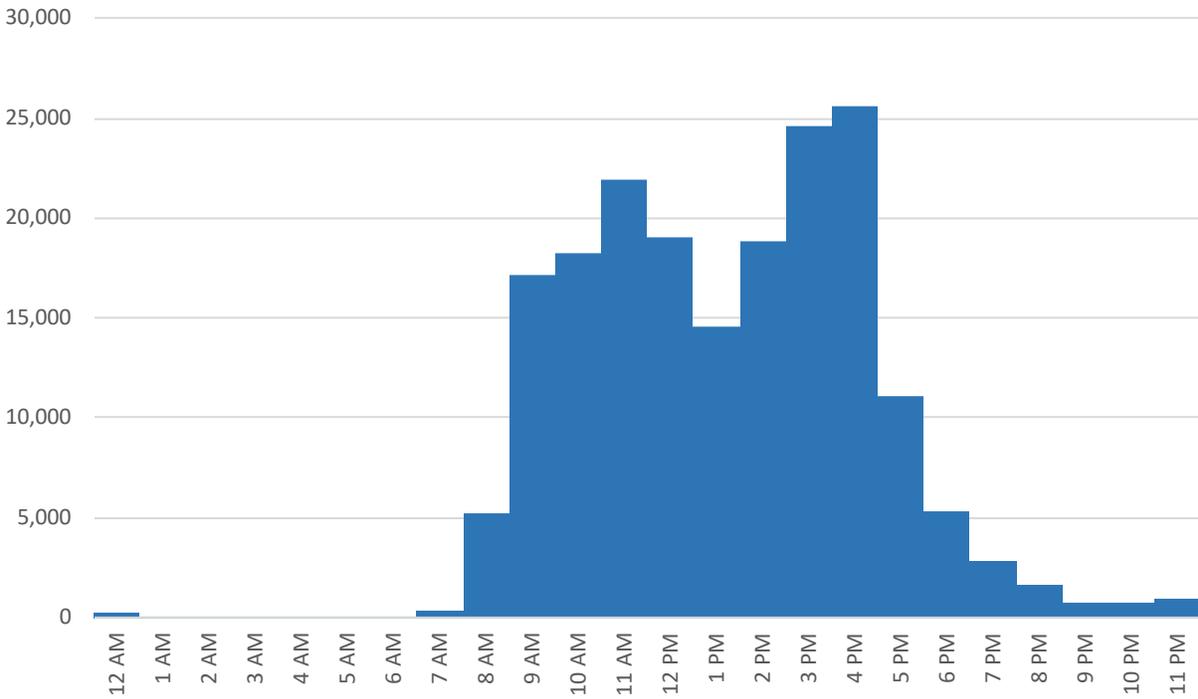
Electronic filing is governed by the court's Rule 25.1. "A pro se party who wishes to file electronically must seek permission from the court . . ." 2d Cir. R. 25.1(b)(3).

We disregarded docket entries in this court with 02 as the year part of the case number, because we determined that these were not valid docket entries.

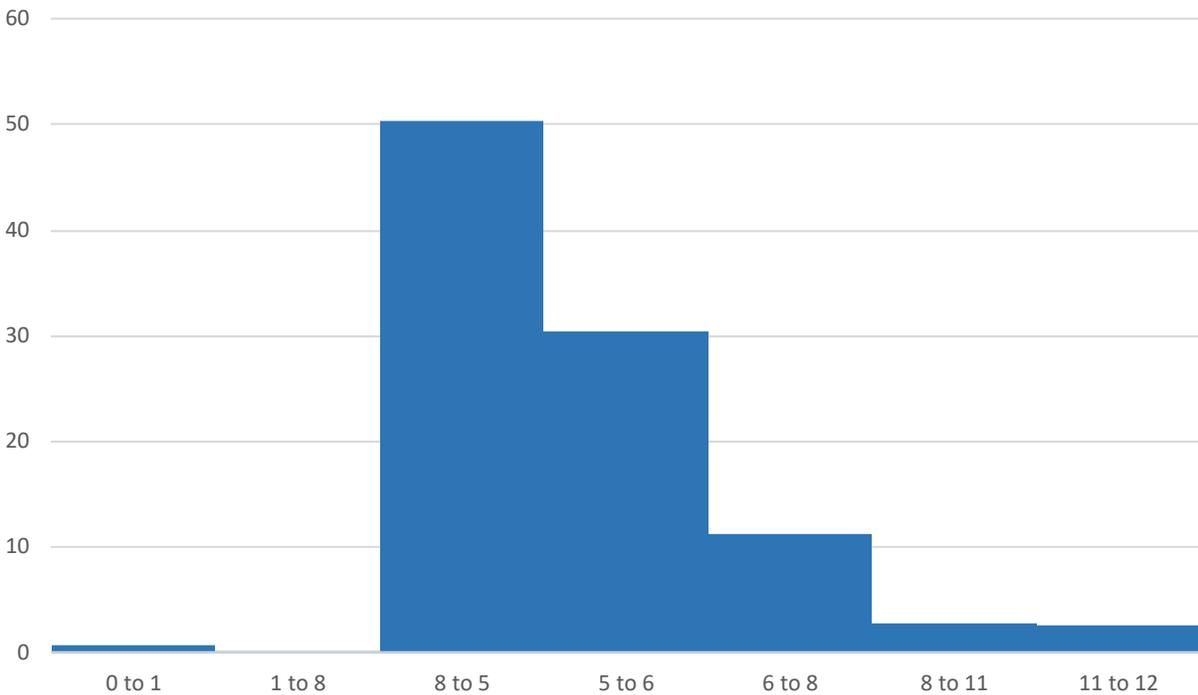
There were 189,507 docket entries made in this court in 2018. Attorneys filed 9,877 briefs (coded "br"), 28% of them after 5:00 p.m. and 20% after 6:00 p.m.

The following two charts show docket entries in this court by time of day. The next chart shows brief filings by time of day.

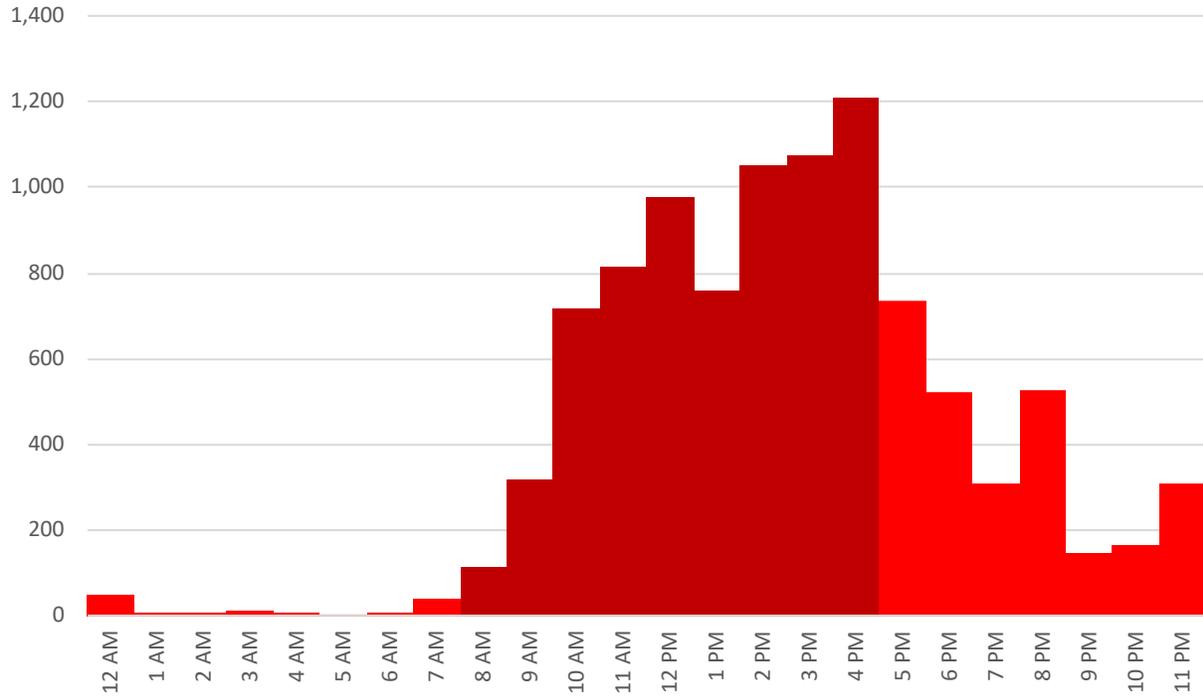
### Court of Appeals for the Second Circuit Filings in 2018 by Hour of Day



### Court of Appeals for the Second Circuit Filings per Hour in 2018 by Time Period



### Court of Appeals for the Second Circuit Filings of Briefs by Hour of Day



## **The Court of Appeals for the Third Circuit**

The United States Court of Appeals for the Third Circuit has fourteen judgeships. The clerk's office in Philadelphia is open from 8:30 to 5:00.

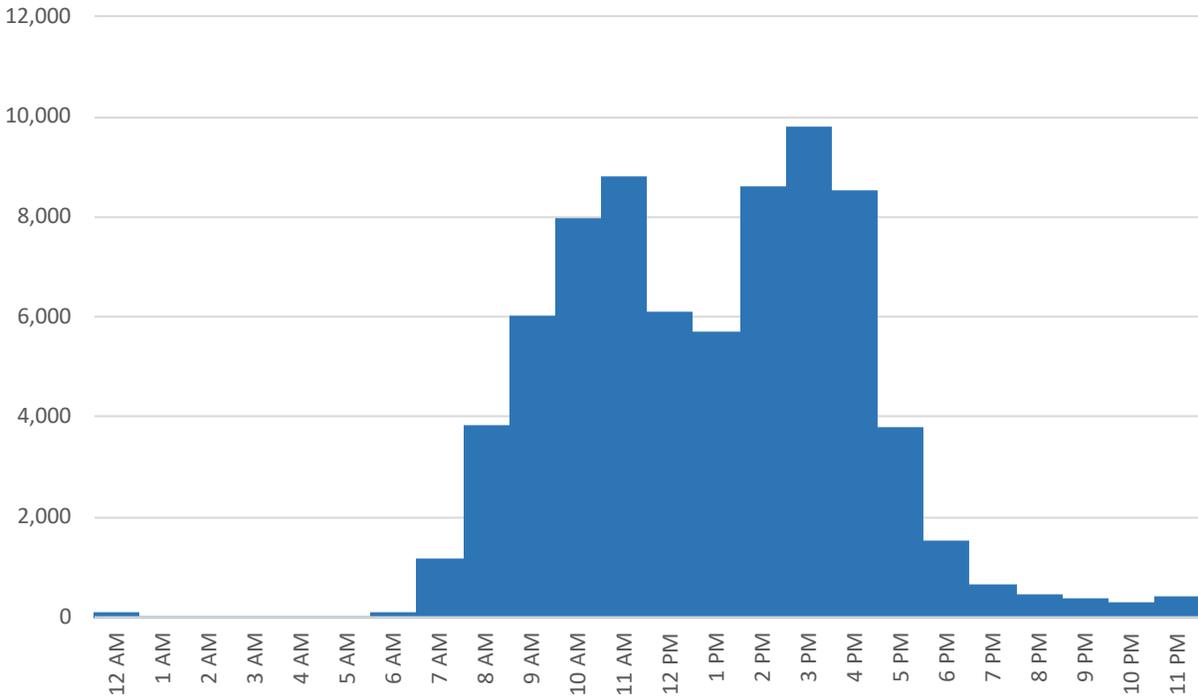
Electronic filing is governed by the court's Rules 25.1 and 113. Pro se litigants may, but are not required to, file electronically. 3d Cir. R. 25.1(c), 113.2(b).

We disregarded docket entries in this court with 50 or 77 as the year part of the case number, because we determined that these were not valid docket entries.

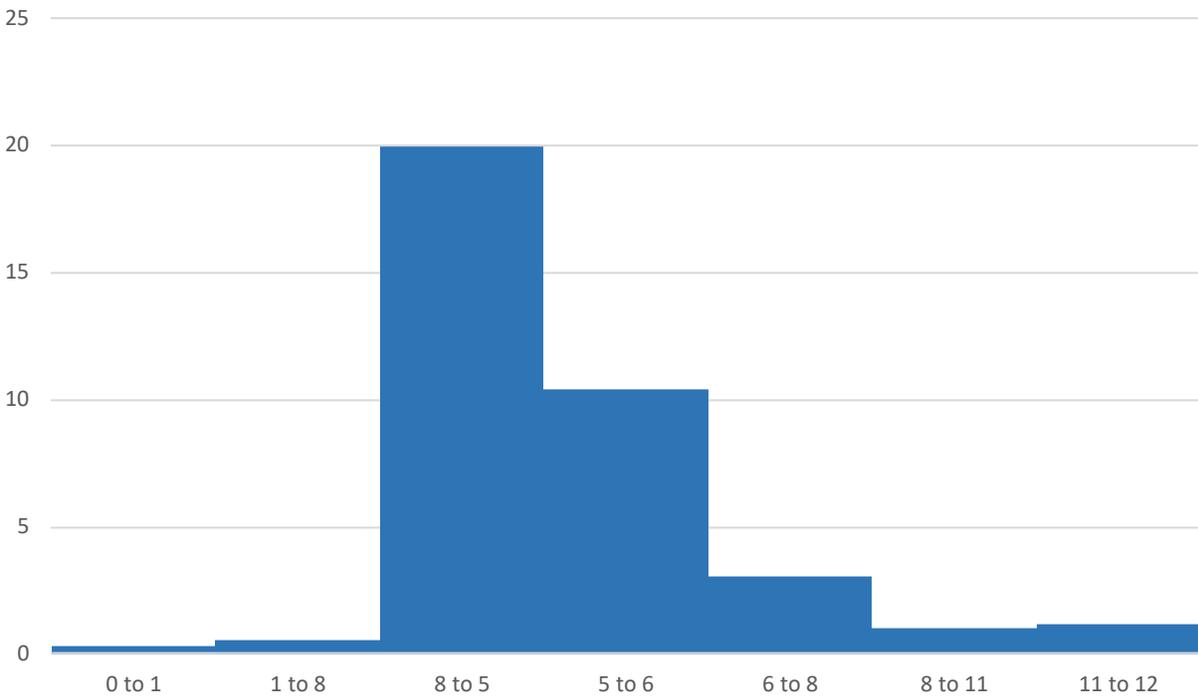
There were 74,557 docket entries made in this court in 2018. Attorneys filed 2,805 briefs (coded "br" or "br/apx"), 24% of them after 5:00 p.m. and 16% after 6:00 p.m.

The following two charts show docket entries in this court by time of day. The next chart shows brief filings by time of day.

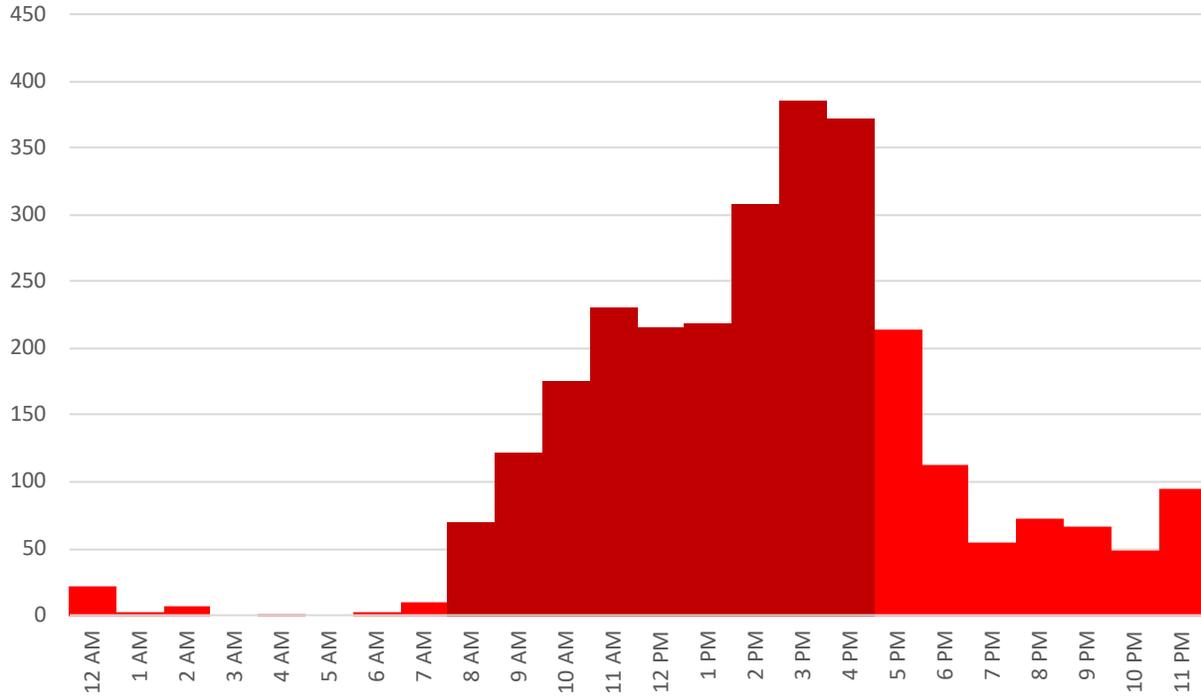
### Court of Appeals for the Third Circuit Filings in 2018 by Hour of Day



### Court of Appeals for the Third Circuit Filings per Hour in 2018 by Time Period



### Court of Appeals for the Third Circuit Filings of Briefs by Hour of Day



## The Court of Appeals for the Fourth Circuit

The United States Court of Appeals for the Fourth Circuit has fifteen judgeships. The clerk's office in Richmond is open from 8:30 to 5:00.

Electronic filing is governed by Rule 25(a). "Pro se litigants are not required to file documents electronically but may be authorized to file electronically in a pending case upon motion and compliance with the Court's CM/ECF registration requirements." *Id.* R. 25(a)(1).

Pursuant to the authority conferred by FRAP 31(a)(2), the time for serving and filing briefs in criminal appeals is shortened as follows: the appellant shall serve and file appellant's brief and appendix within thirty-five days after the date on which the briefing order is filed; the appellee shall serve and file appellee's brief within twenty-one days after service of the brief of the appellant; the appellant may serve and file a reply brief within ten days after service of the brief of the appellee.

*Id.* R. 31(a).

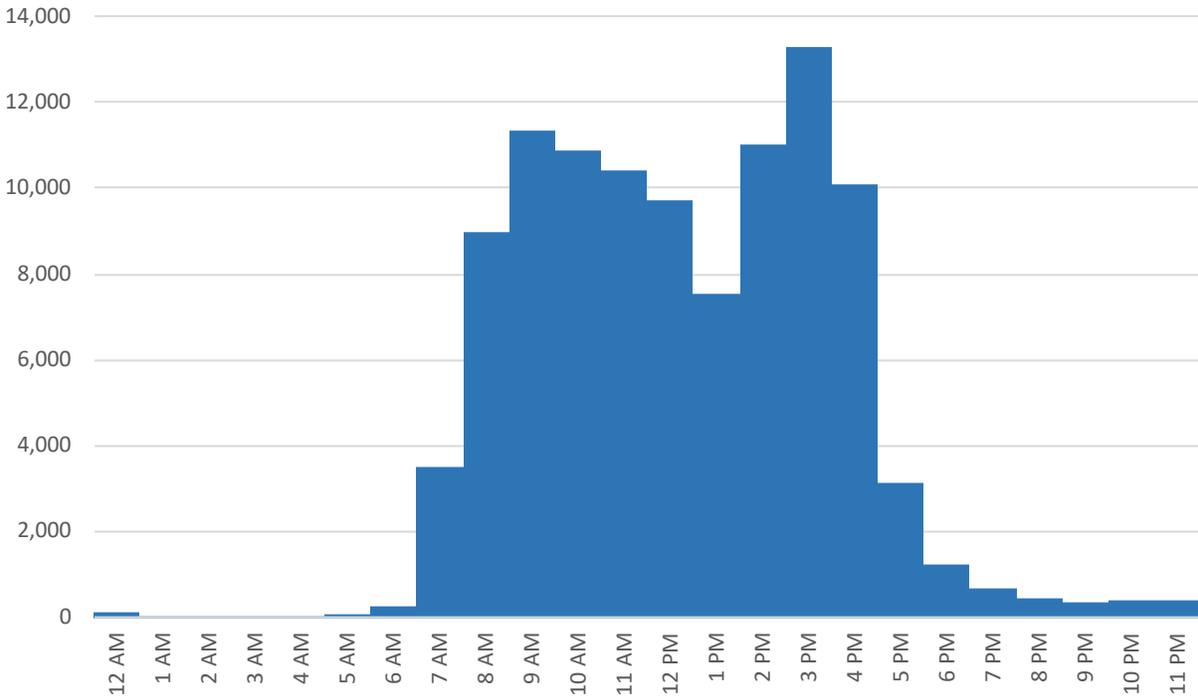
"Unless otherwise directed by the Court, filing must be completed before midnight Eastern Time, as shown on the notice of docket activity, to be considered timely filed that day." *Id.* R. 25(a)(3).

We disregarded docket entries in this court with 57 as the year part of the case number, because we determined that these were not valid docket entries.

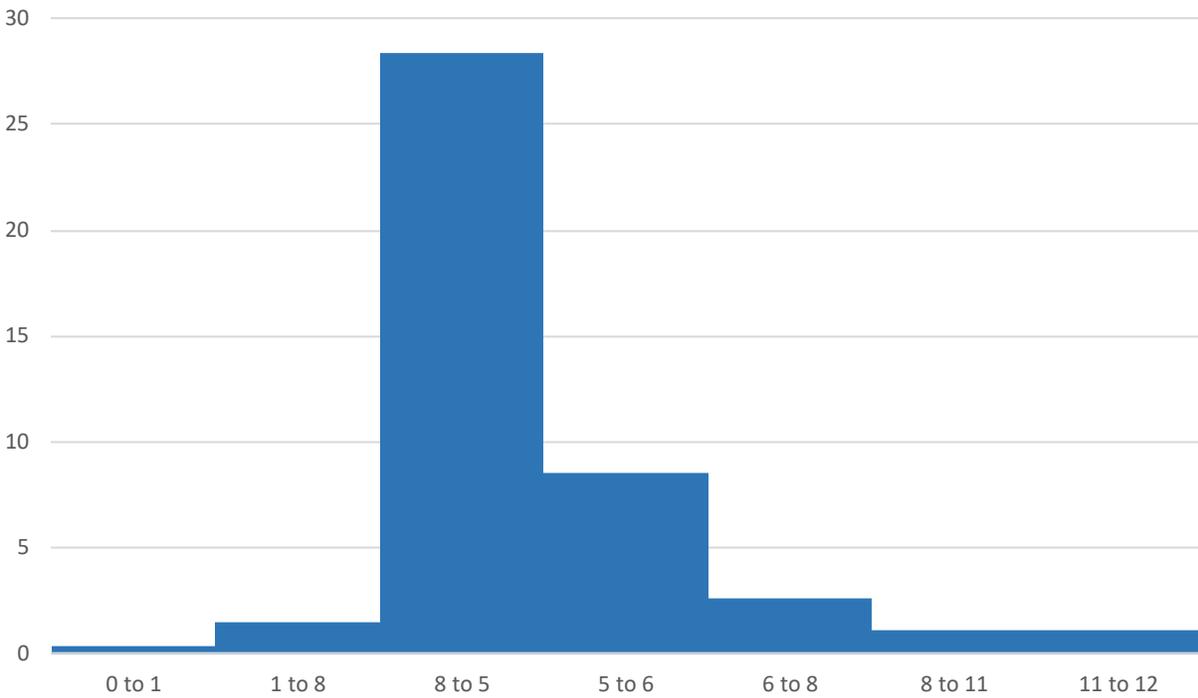
There were 103,901 docket entries made in this court in 2018. There was a marked reduction in filing activity during the lunchtime hour of 1:00 to 2:00. Attorneys filed 10,830 briefs (coded "br"), 12% of them after 5:00 p.m. and 7.8% after 6:00 p.m.

The following two charts show docket entries in this court by time of day. The next chart shows brief filings by time of day.

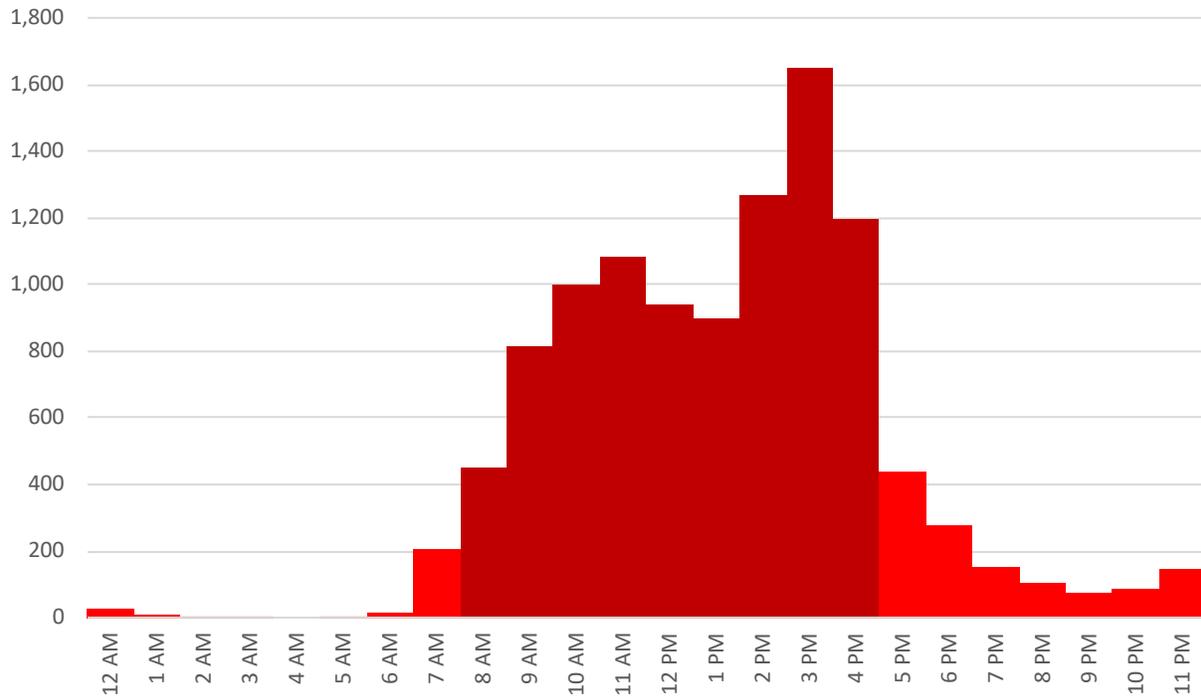
### Court of Appeals for the Fourth Circuit Filings in 2018 by Hour of Day



### Court of Appeals for the Fourth Circuit Filings per Hour in 2018 by Time Period



### Court of Appeals for the Fourth Circuit Filings of Briefs by Hour of Day



## The Court of Appeals for the Fifth Circuit

The United States Court of Appeals for the Fifth Circuit has seventeen judgeships. The clerk's office in New Orleans is open from 8:00 to 5:00. 5th Cir. R. 45.3.

Electronic filing is governed by the court's Rule 25.2. "Non-incarcerated pro se litigants may request the clerk's permission to register as a Filing User, in civil cases only, under such conditions as the clerk may authorize." *Id.* R. 25.2.1. According to the court's Practitioners' Guide, "Pro se litigants who wish to file using ECF must first file a motion." *Id.* at 9. Generally, electronic filing privileges for pro se litigants terminate at the end of the case. 5th Cir. R. 25.2.3.

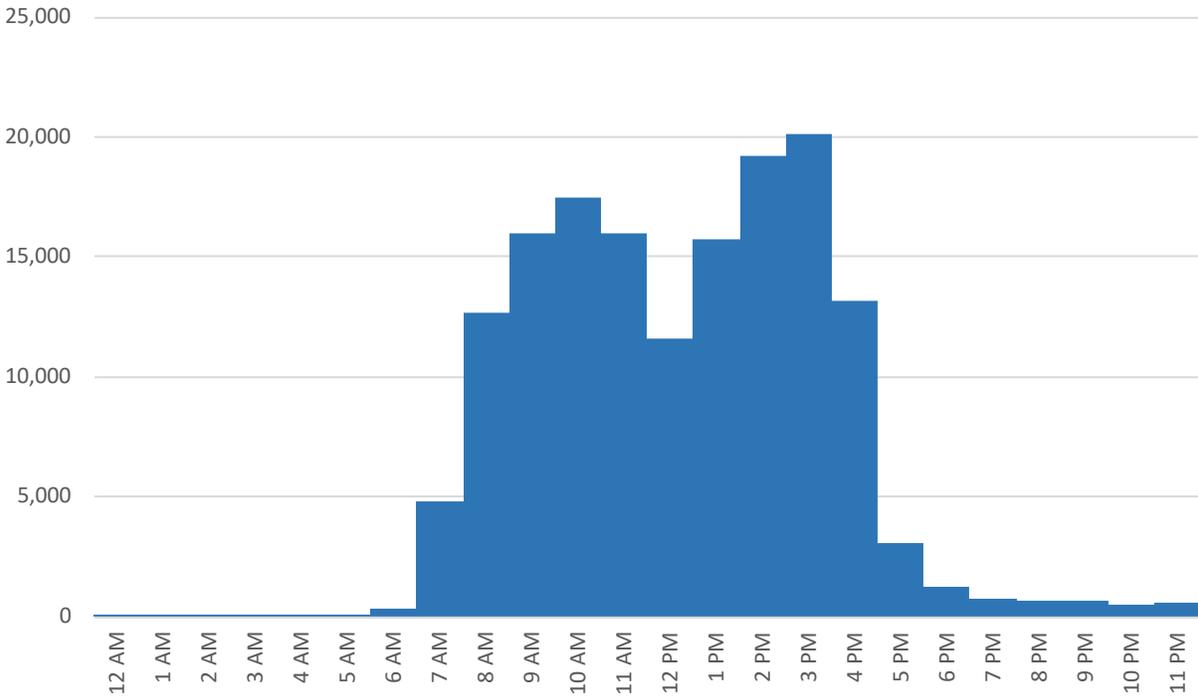
"Filing must be completed by 11:59 p.m. Central Time to be considered timely filed that day." 5th Cir. R. 25.2.4.

We disregarded docket entries in this court with 60 as the year part of the case number, because we determined that these were not valid docket entries.

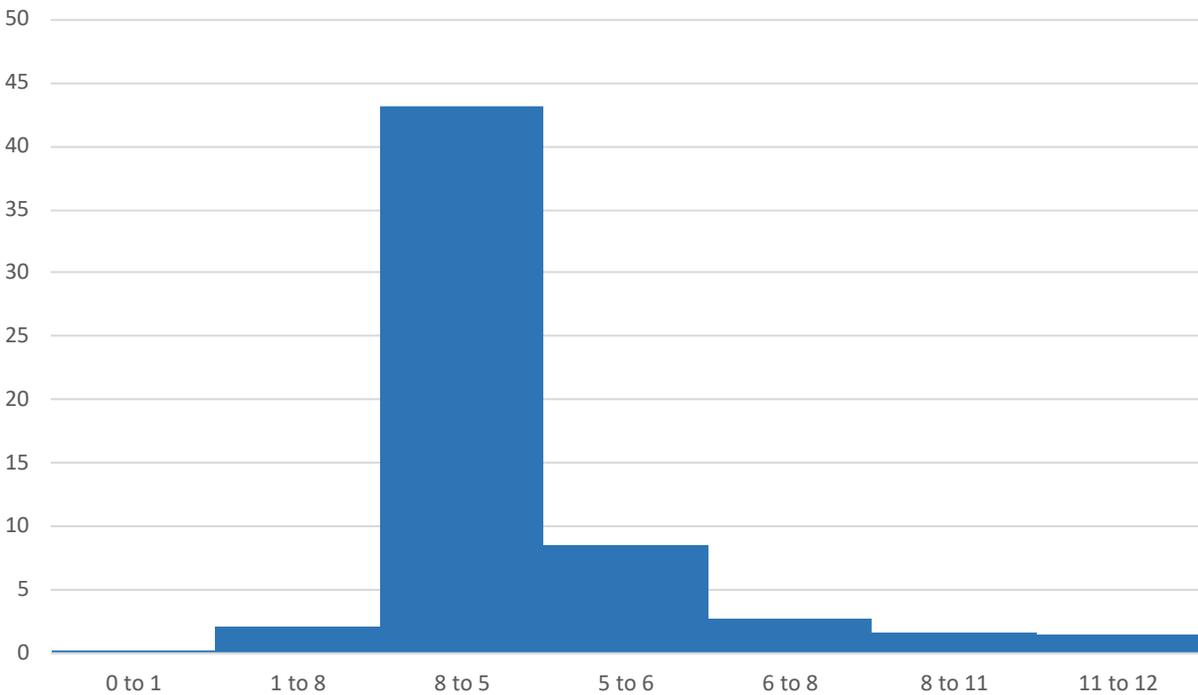
There were 154,710 docket entries made in this court in 2018. Attorneys filed 16,010 briefs (coded "br" but not "ntc" and docket text not beginning "BRIEFING COMPLETE"), 11% of them after 5:00 p.m. and 7.7% after 6:00 p.m. There were noticeably fewer briefs filed between noon and 1:00 p.m. than during the immediately preceding and following hours.

The following two charts show docket entries in this court by time of day. The next chart shows brief filings by time of day.

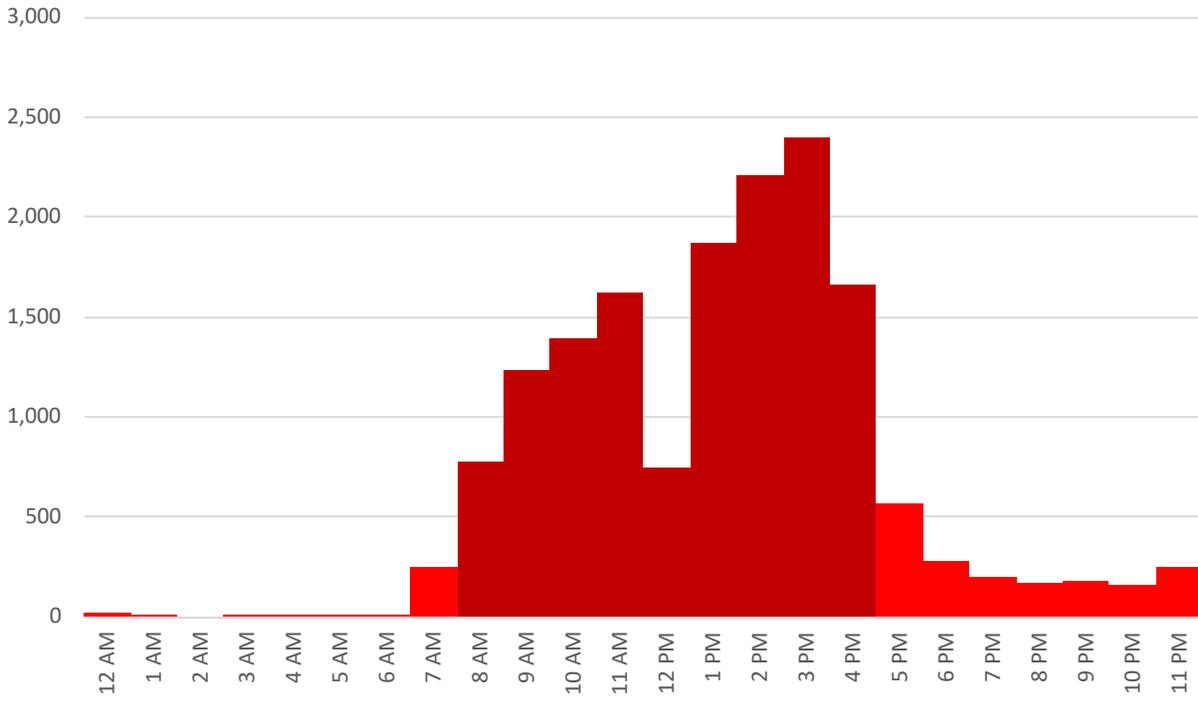
### Court of Appeals for the Fifth Circuit Filings in 2018 by Hour of Day



### Court of Appeals for the Fifth Circuit Filings per Hour in 2018 by Time Period



### Court of Appeals for the Fifth Circuit Filings of Briefs by Hour of Day



## **The Court of Appeals for the Sixth Circuit**

The United States Court of Appeals for the Sixth Circuit has sixteen judgeships. The clerk's office in Cincinnati is open from 8:00 to 5:00.

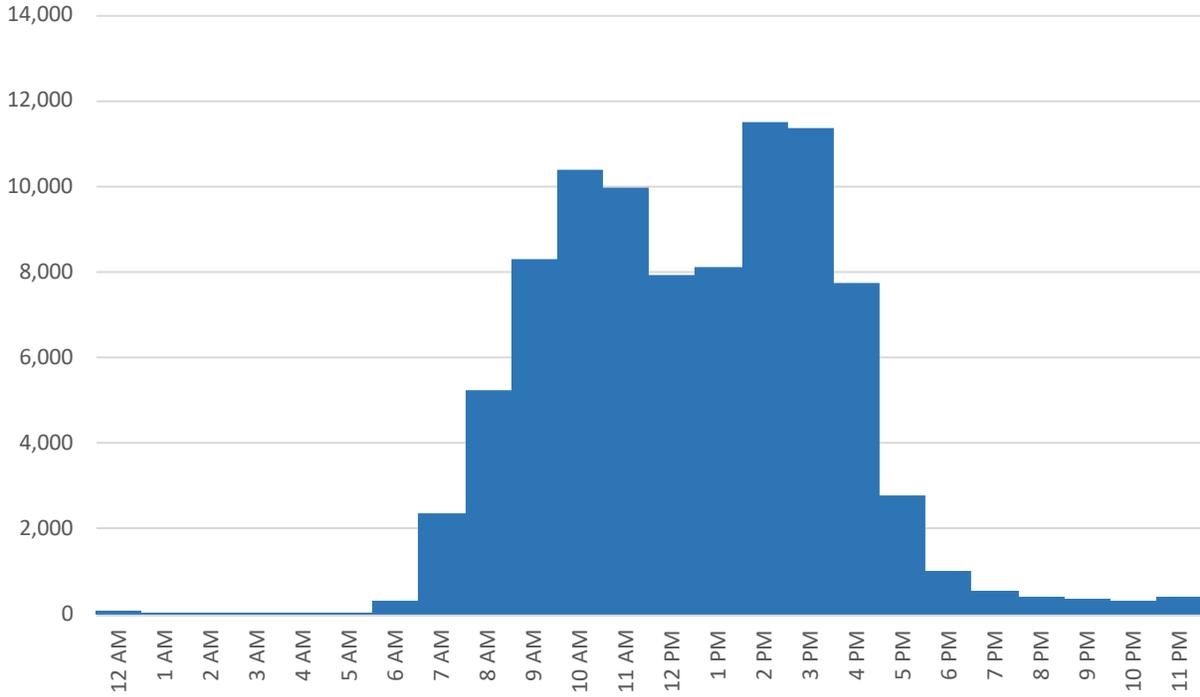
Electronic filing is governed by the court's Rule 25 and the court's Guide to Electronic Filing [hereinafter ECF Guide], *see* 6th Cir. R. 15. "No unrepresented party may file electronically; unrepresented parties must submit documents in paper format. The clerk will scan such documents into the ECF system, and the electronic version scanned in by the clerk will constitute the appeal record of the court as reflected on its docket." 6th Cir. ECF Guide ¶ 3.3.

We disregarded docket entries in this court with 80 as the year part of the case number, because we determined that these were not valid docket entries.

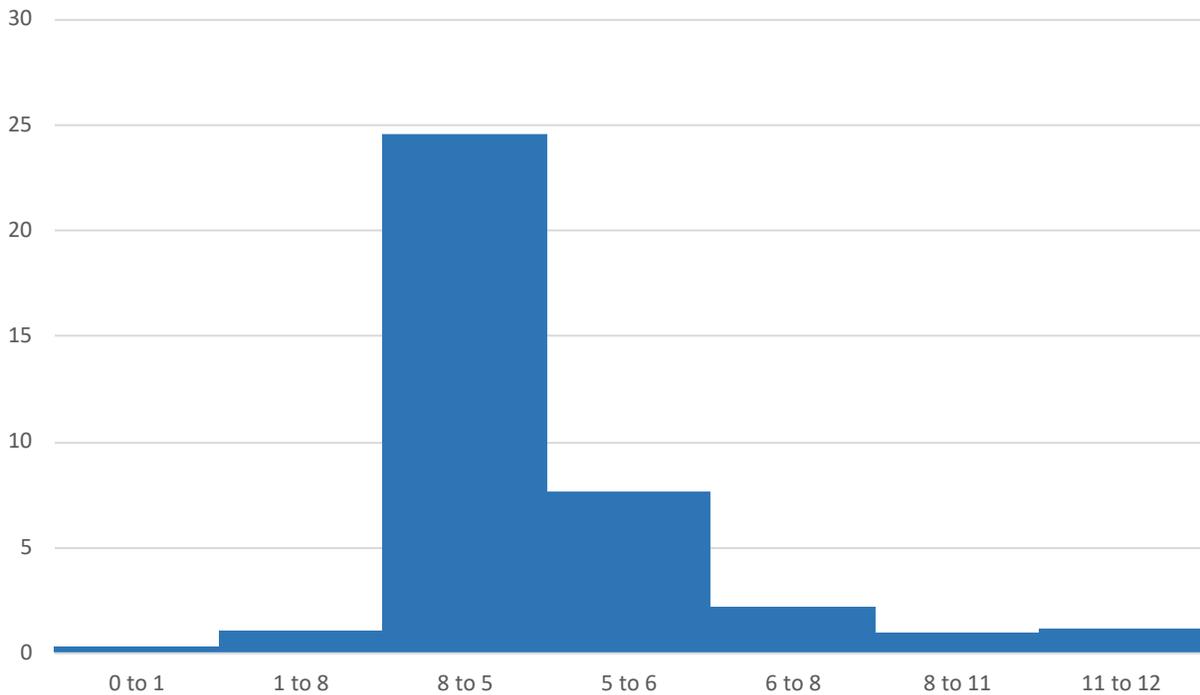
There were 89,496 docket entries made in this court in 2018. Attorneys filed 6,681 briefs (coded "br" or "anders"), 25% of them after 5:00 p.m. and 17% after 6:00 p.m.

The following two charts show docket entries in this court by time of day. The next chart shows brief filings by time of day.

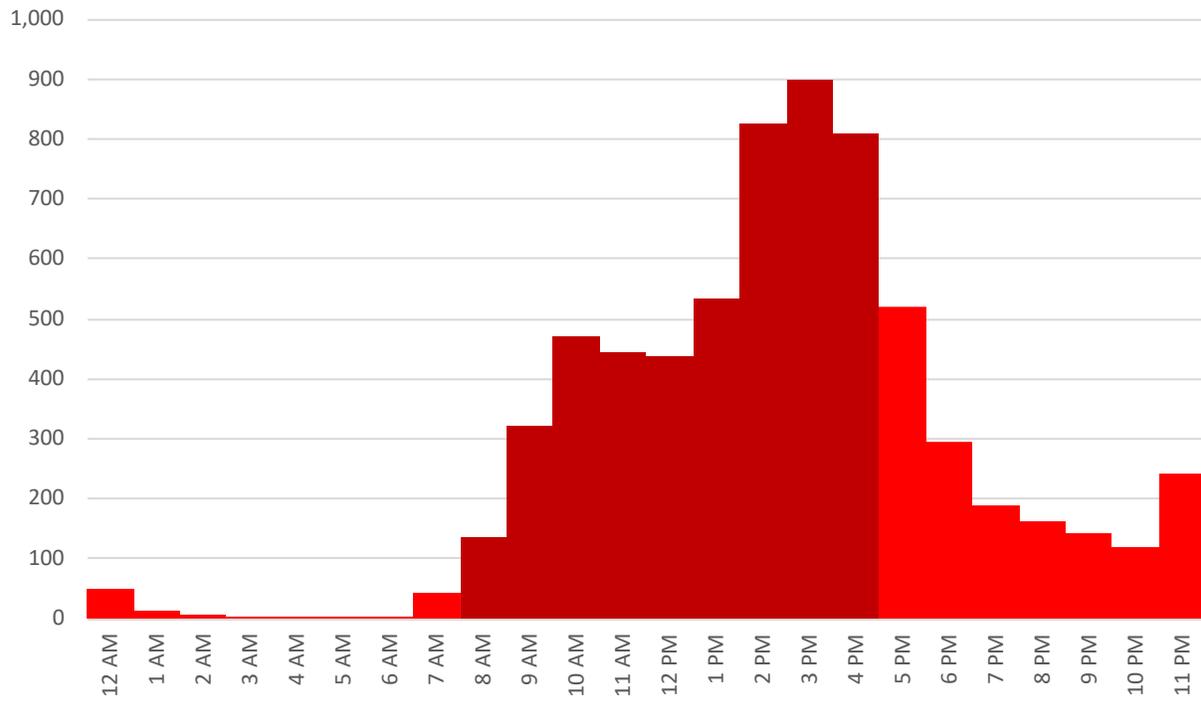
### Court of Appeals for the Sixth Circuit Filings in 2018 by Hour of Day



### Court of Appeals for the Sixth Circuit Filings per Hour in 2018 by Time Period



### Court of Appeals for the Sixth Circuit Filings of Briefs by Hour of Day



## The Court of Appeals for the Seventh Circuit

The United States Court of Appeals for the Seventh Circuit has eleven judgeships. The clerk's office in Chicago is open from 9:00 to 5:00.

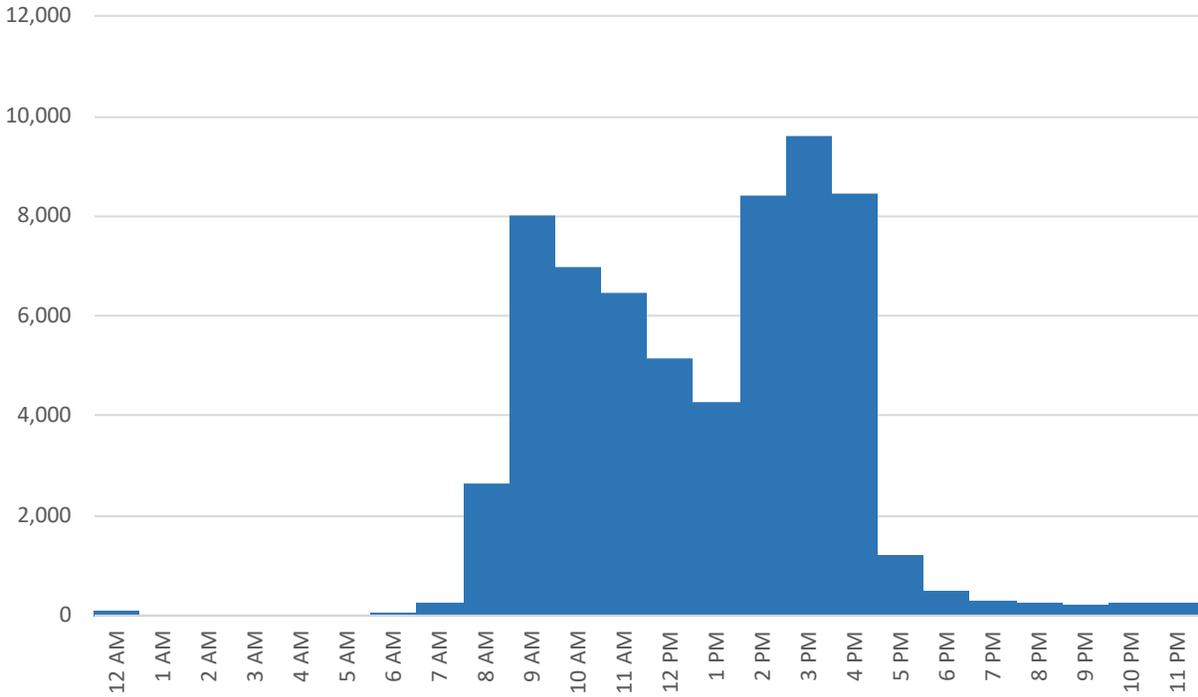
Electronic filing is governed by the court's Rule 25, which requires electronic filing by all litigants except pro se litigants who are not lawyers, and which says that they are not permitted to file electronically. The court's Electronic Case Filing User Manual, however, states that pro se litigants can receive permission to file electronically. *Id.* at 7. "Electronic filing must be completed on the due date before midnight, Central Time, to be considered timely filed, unless otherwise ordered by the court." *Id.* at 9.

We disregarded docket entries in this court with 50 as the year part of the case number, because we determined that these were not valid docket entries.

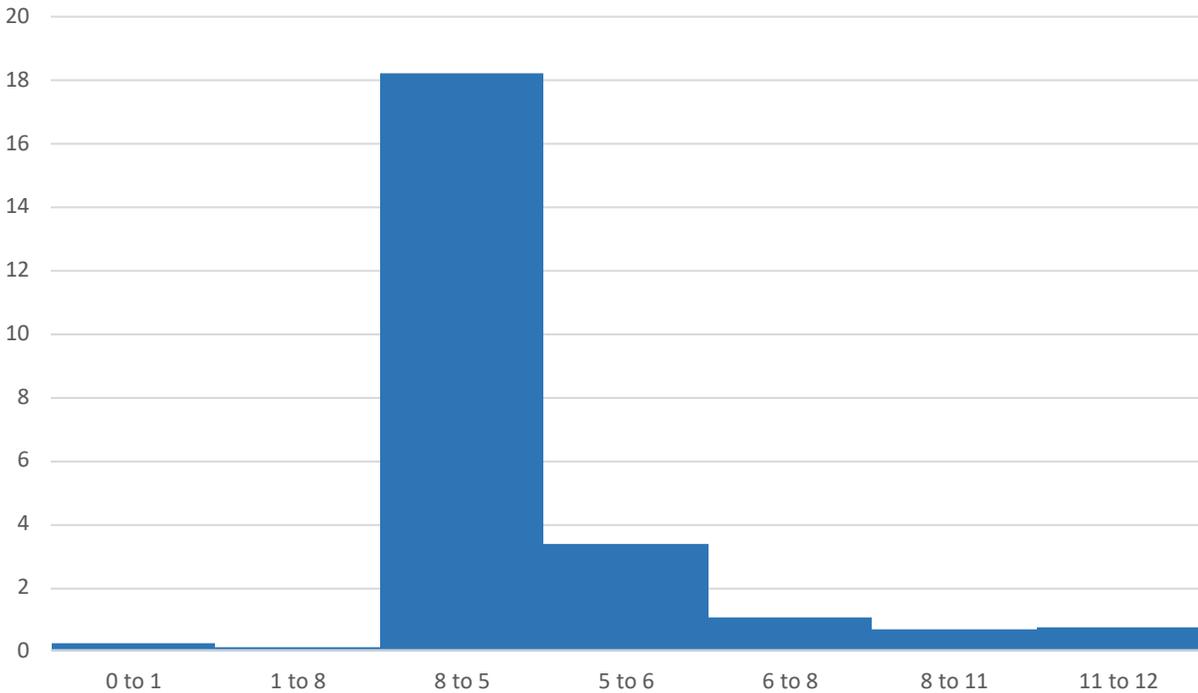
There were 63,490 docket entries made in this court in 2018. The rate of filings decreased every hour from 9:00 a.m. to 2:00 p.m., and filing was heavy between 2:00 and 5:00 p.m. Attorneys filed 3,904 briefs (coded "br"), 0.54% of them after 5:00 p.m. and 0.26% after 6:00 p.m. These include filings of jurisdictional and docketing statements. None was filed before 8:00 a.m., and none was filed after 11:00 p.m. The most popular time to file was between 9:00 a.m. and 10:00 a.m., and there was a noticeable drop in filing during lunch time.

The following two charts show docket entries in this court by time of day. The next chart shows brief filings by time of day.

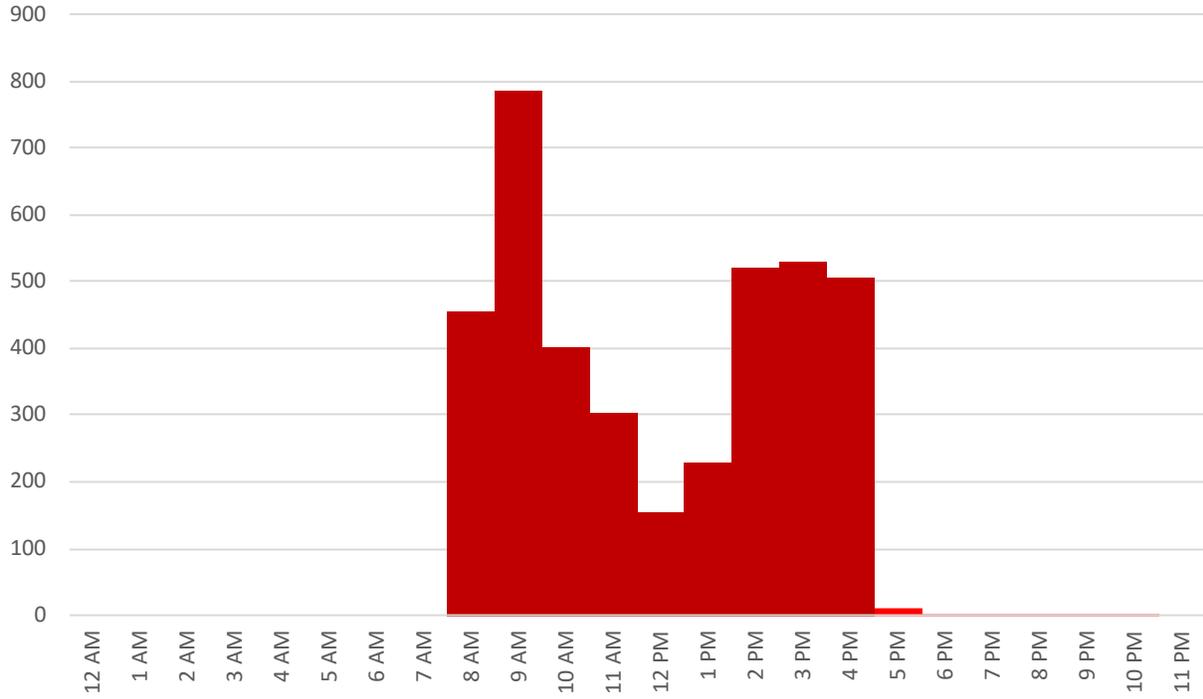
### Court of Appeals for the Seventh Circuit Filings in 2018 by Hour of Day



### Court of Appeals for the Seventh Circuit Filings per Hour in 2018 by Time Period



### Court of Appeals for the Seventh Circuit Filings of Briefs by Hour of Day



## The Court of Appeals for the Eighth Circuit

The United States Court of Appeals for the Eighth Circuit has eleven judgeships. The clerk's offices in St. Louis and St. Paul are open from 8:30 to 4:30.

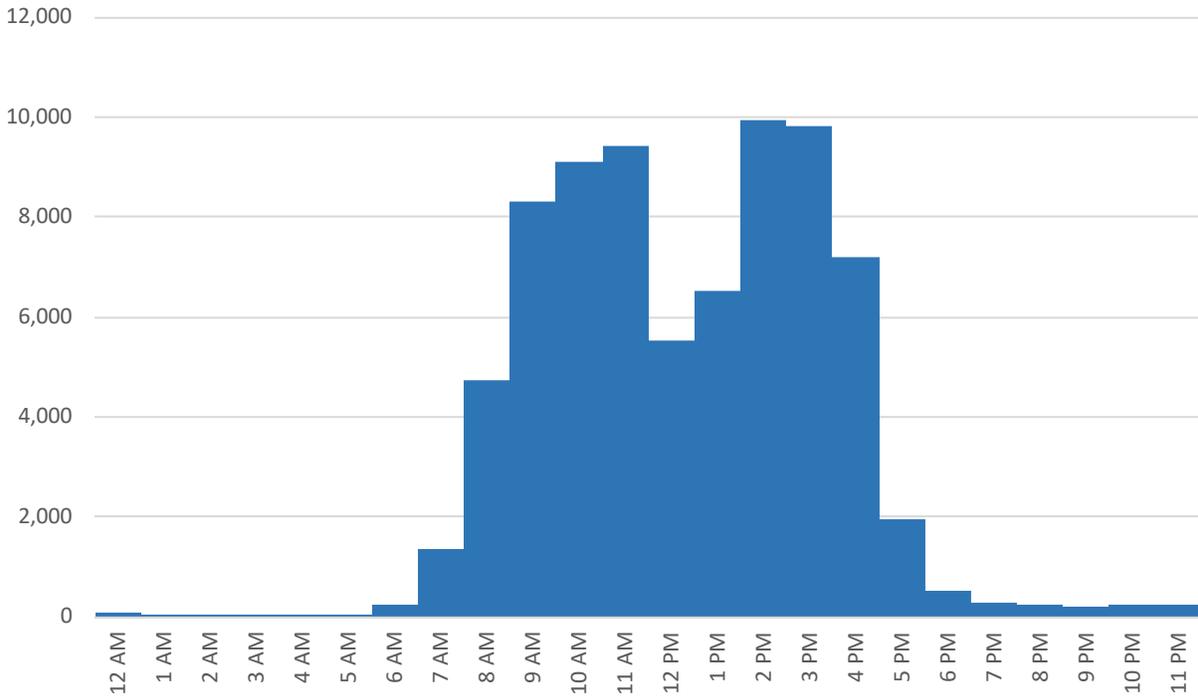
Electronic filing is governed by the court's Rule 25A. "Use of the CM/ECF system is mandatory for all attorneys, unless they are granted an exemption, and is voluntary for all pro se litigants proceeding without counsel." 8th Cir. R. 25A(a). "An electronic filing completed at any time before midnight Central Time will be entered on the docket as of that date." *Id.* R. 25A(g).

We disregarded docket entries in this court with 62 as the year part of the case number, because we determined that these were not valid docket entries.

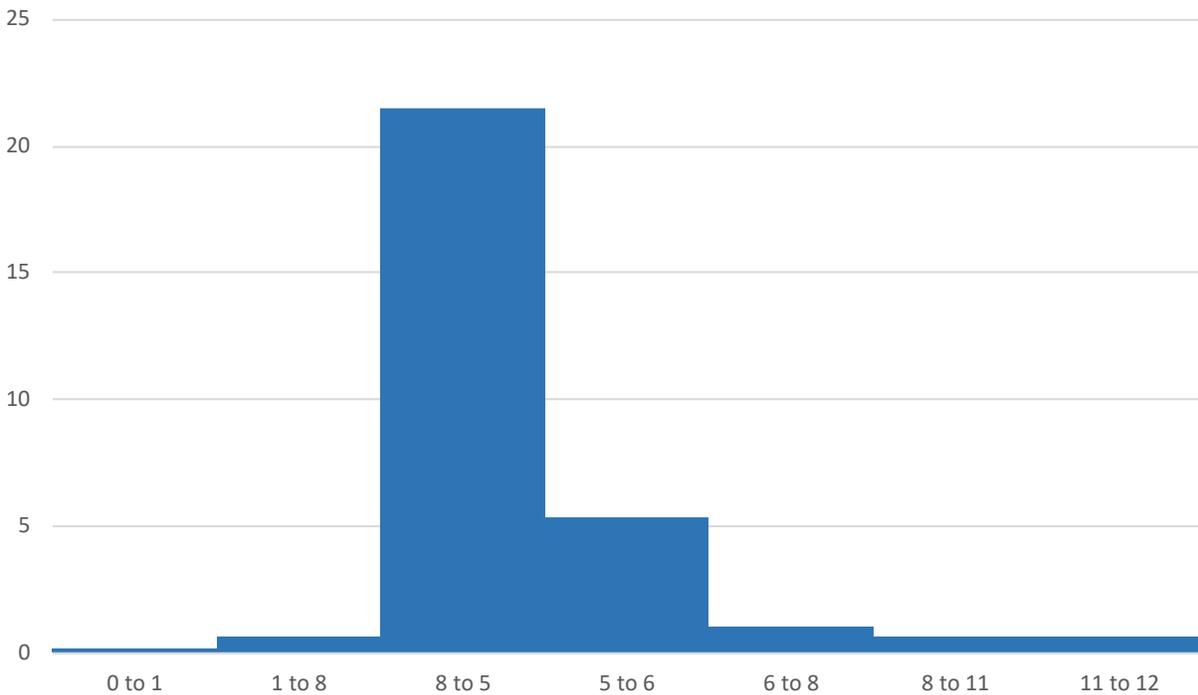
There were 75,962 docket entries made in this court in 2018. Attorneys filed 10,553 briefs (coded "br," "paperbr," or "subbr"), 8.8% of them after 5:00 p.m. and 4.8% after 6:00 p.m. There was a noticeable drop in filings of briefs between noon and 2:00 p.m.

The following two charts show docket entries in this court by time of day. The next chart shows brief filings by time of day.

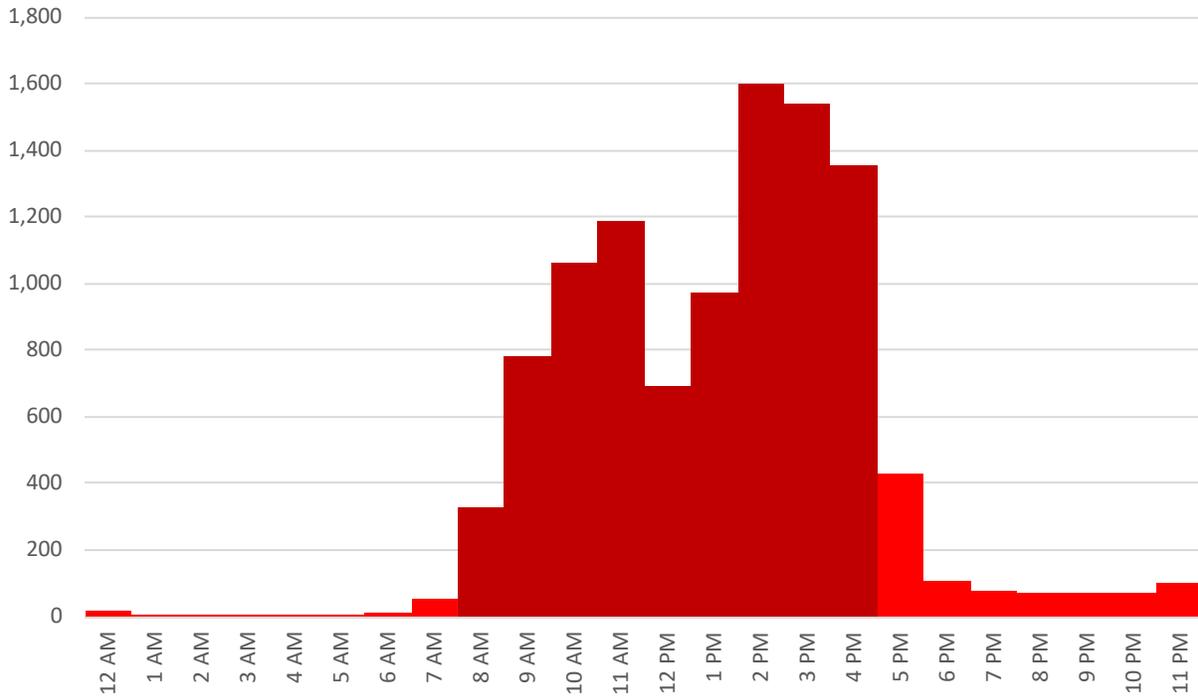
### Court of Appeals for the Eighth Circuit Filings in 2018 by Hour of Day



### Court of Appeals for the Eighth Circuit Filings per Hour in 2018 by Time Period



### Court of Appeals for the Eighth Circuit Filings of Briefs by Hour of Day



## **The Court of Appeals for the Ninth Circuit**

The United States Court of Appeals for the Ninth Circuit has twenty-nine judgeships. The clerk's offices in San Francisco, Pasadena, and Portland are open from 8:30 to 5:00; the office in Seattle is open from 8:30 to 4:30.

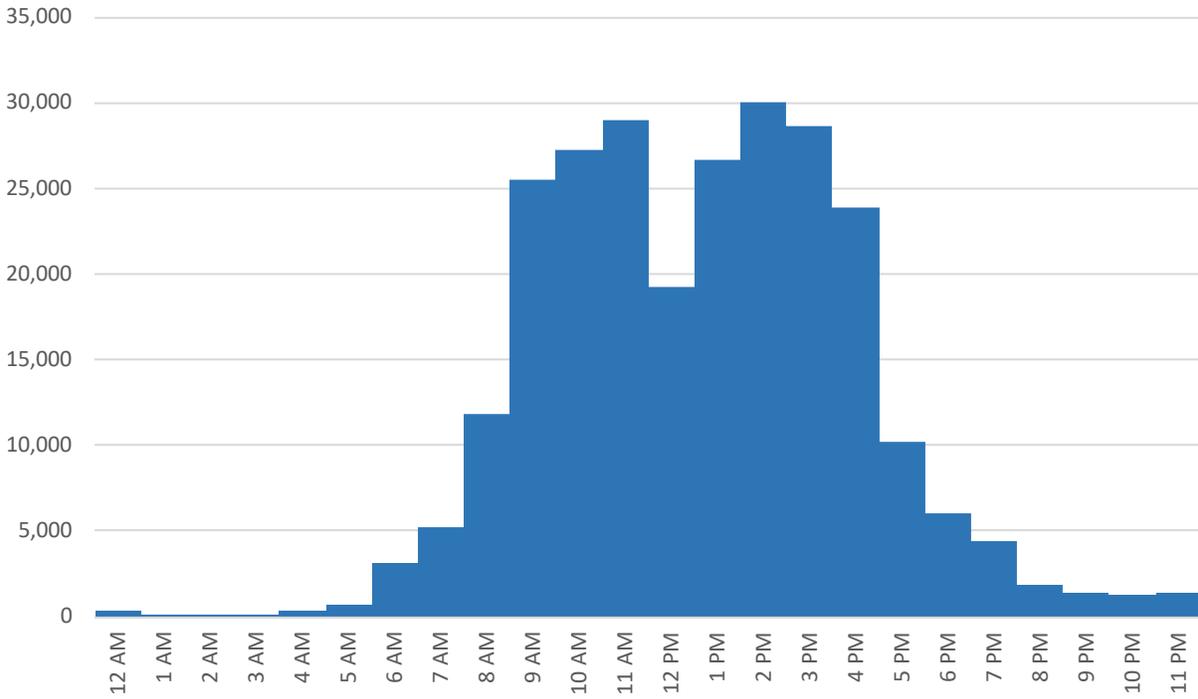
Electronic filing is governed by the court's Rule 25-5 and the court's CM/ECF User Guide. Instructions in the Guide directed to pro se filers imply opportunities for pro se litigants to file electronically. Electronic filings made by 11:59 p.m. are docketed as filed that day. 9th Cir. R. 25-5(c)(2).

We disregarded docket entries in this court with 66, 67, or 70 as the year part of the case number, because we determined that these were not valid docket entries.

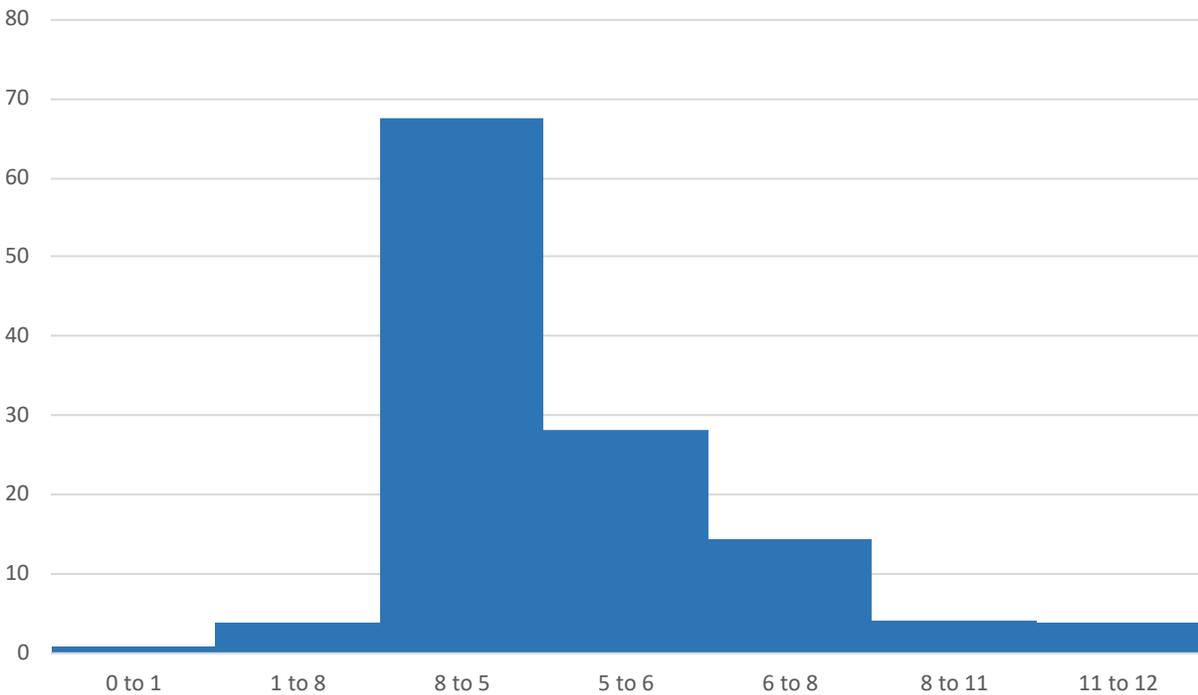
There were 259,036 docket entries made in this court in 2018. Attorneys filed 29,628 briefs (coded "br," "nvalbr," or "e-br"; including the words "received," "copies" and "brief"; or beginning with the phrase "Submitted (ECF)" and including the phrase "brief for review"), 14% of them after 5:00 p.m. and 9.2% after 6:00 p.m. These include excerpt-of-record filings.

The following two charts show docket entries in this court by time of day. The next chart shows brief filings by time of day.

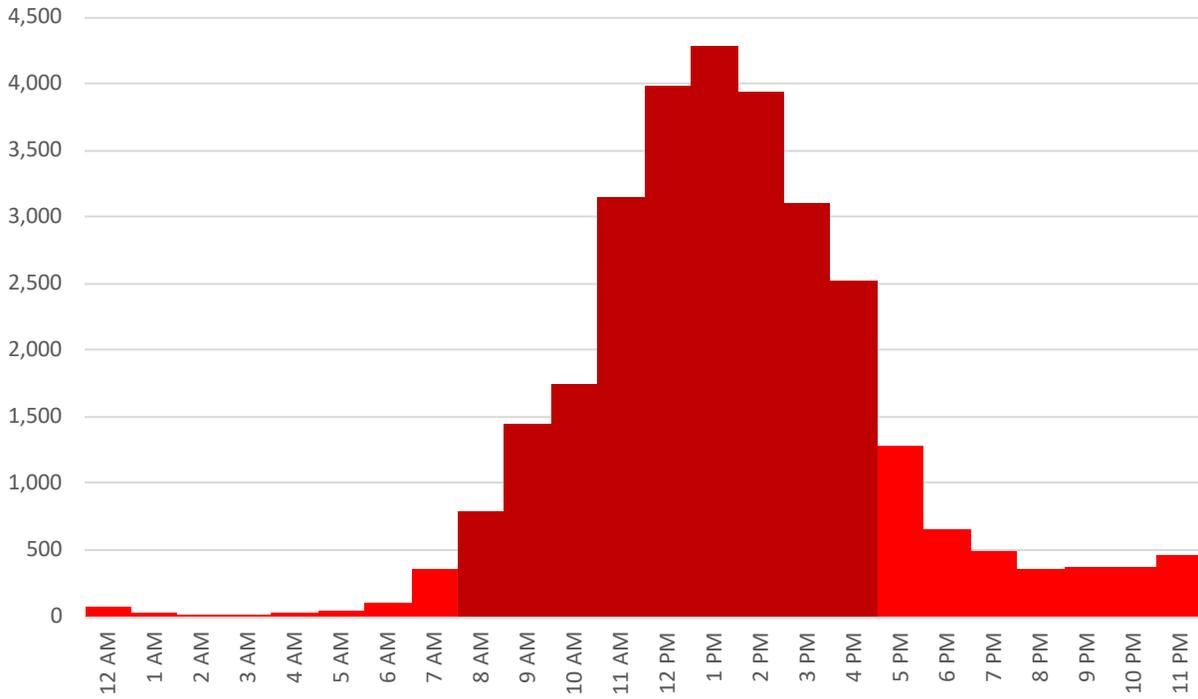
### Court of Appeals for the Ninth Circuit Filings in 2018 by Hour of Day



### Court of Appeals for the Ninth Circuit Filings per Hour in 2018 by Time Period



### Court of Appeals for the Ninth Circuit Filings of Briefs by Hour of Day



## The Court of Appeals for the Tenth Circuit

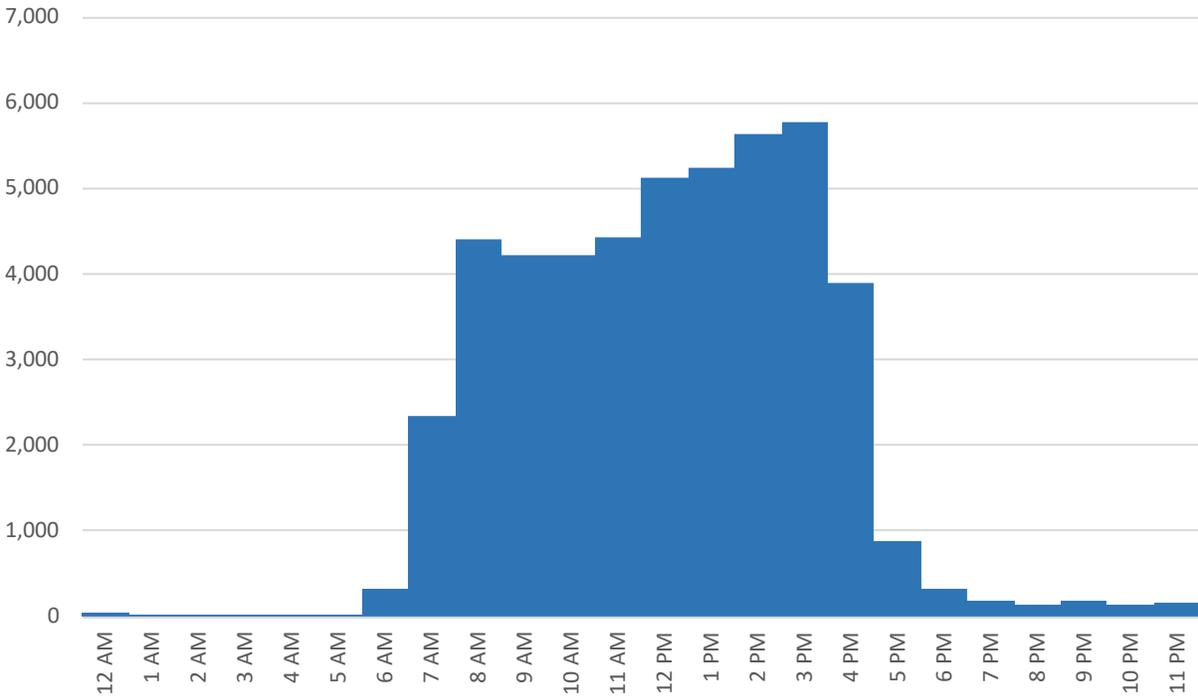
The United States Court of Appeals for the Tenth Circuit has twelve judgeships. The clerk's office in Denver is open from 8:00 to 5:00.

Electronic filing is governed by the court's Rule 25.3 and the court's CM/ECF User's Manual. A pro se litigant may seek permission to file electronically. 10th Cir. CM/ECF User's Man. ¶¶ II.A.2 and .C.2. "Electronic filing must be completed before midnight, Mountain Standard Time, as shown on the Notice of Docket Activity, to be considered timely filed on the day it is due." *Id.* ¶ II.D.1.

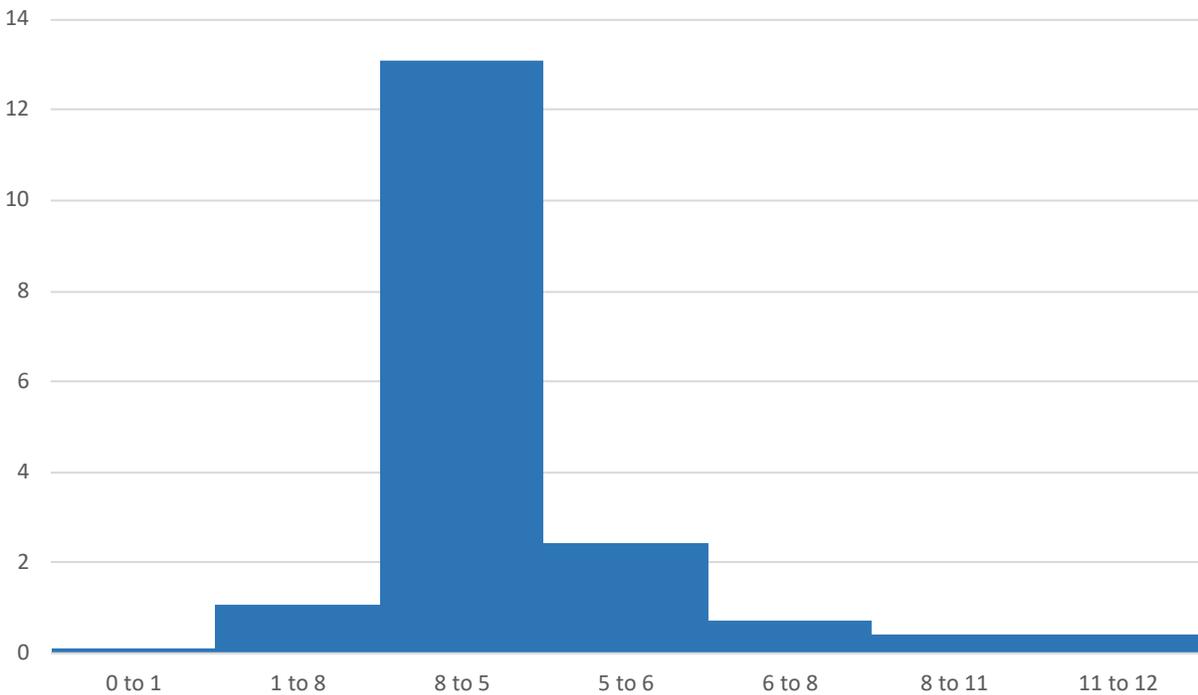
There were 47,734 docket entries made in this court in 2018. Attorneys filed 3,338 briefs (coded "br," "rpl.br," "m.br," "sup.br," or "sup.m.br"), 15% of them after 5:00 p.m. and 11% after 6:00 p.m.

The following two charts show docket entries in this court by time of day. The next chart shows brief filings by time of day.

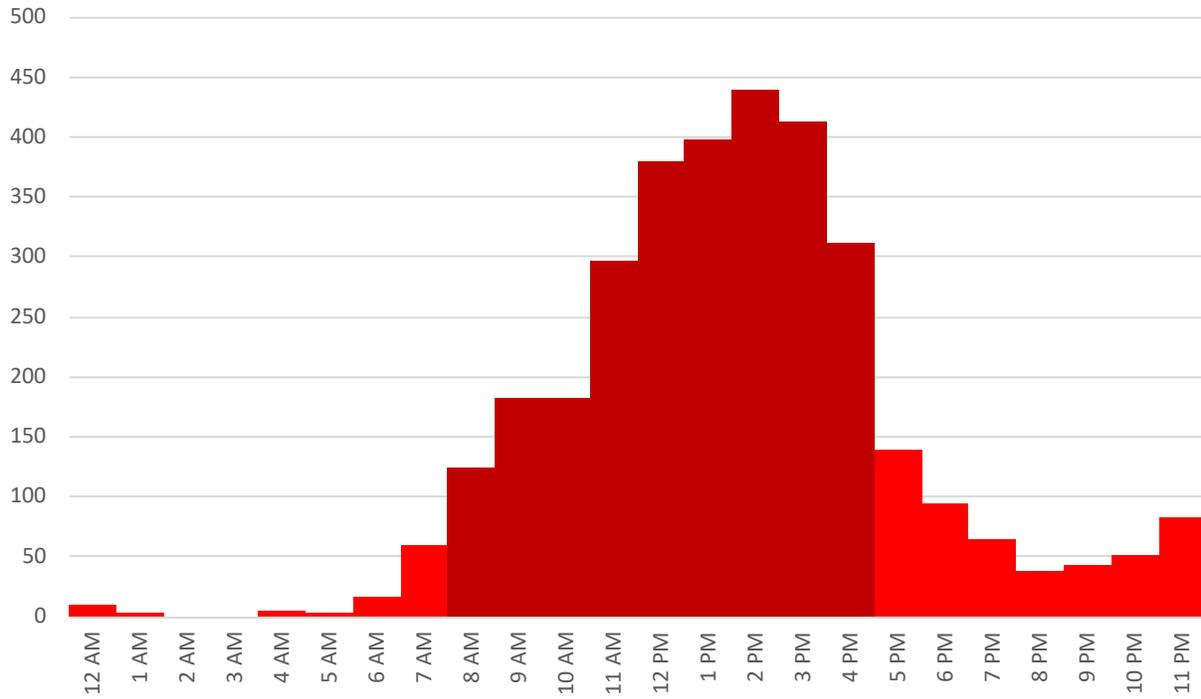
### Court of Appeals for the Tenth Circuit Filings in 2018 by Hour of Day



### Court of Appeals for the Tenth Circuit Filings per Hour in 2018 by Time Period



### Court of Appeals for the Tenth Circuit Filings of Briefs by Hour of Day



## The Court of Appeals for the Eleventh Circuit

The United States Court of Appeals for the Eleventh Circuit has twelve judgeships. The clerk's offices in Atlanta, Miami, and Montgomery are open from 8:30 to 5:00.

Electronic filing is governed by the court's Rule 25-3 and the court's Guide to Electronic Filing [hereinafter ECF Guide].

Non-incarcerated pro se parties are permitted to use the court's ECF system. However, once a non-incarcerated pro se party has elected to use the ECF system, such party is required to do so unless the court grants the party's request to not use the system or revokes the party's permission upon a finding that the party has abused the privilege of using the ECF system.

11th Cir. R. 25-3(a); *see* 11th Cir. ECF Guide ¶ 4.1.

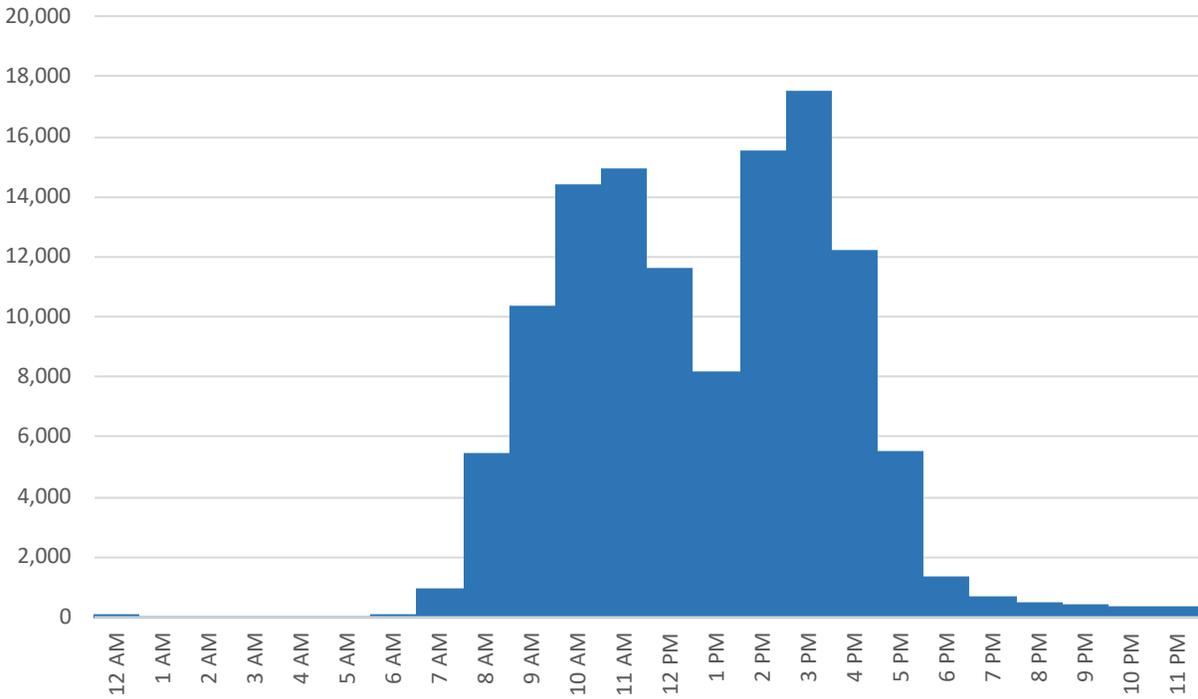
Unless otherwise provided, a filing by 11:59 p.m. is considered timely filed that day. 11th Cir. ECF Guide ¶ 6.1.

We disregarded docket entries in this court with 76 as the year part of the case number, because we determined that these were not valid docket entries.

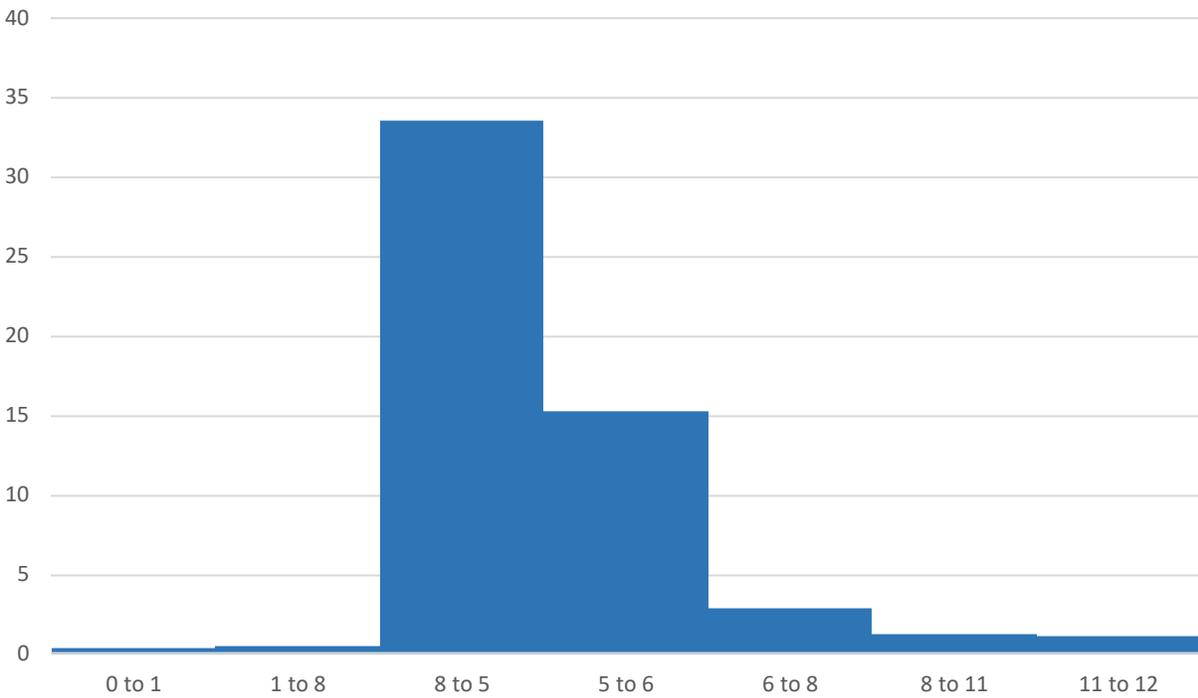
There were 121,041 docket entries made in this court in 2018. There was a noticeable drop in filing during lunch time. Attorneys filed 17,981 briefs (coded "br"), 10% of them after 5:00 p.m. and 6.3% after 6:00 p.m.

The following two charts show docket entries in this court by time of day. The next chart shows brief filings by time of day.

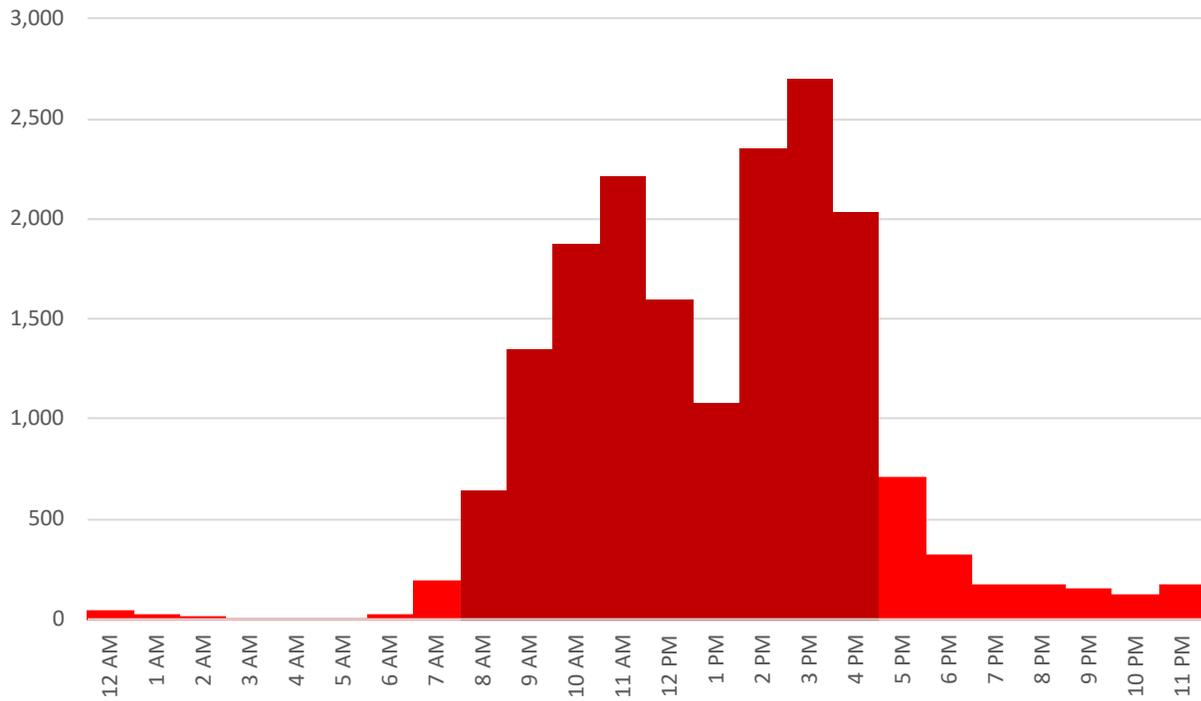
### Court of Appeals for the Eleventh Circuit Filings in 2018 by Hour of Day



### Court of Appeals for the Eleventh Circuit Filings per Hour in 2018 by Time Period



### Court of Appeals for the Eleventh Circuit Filings of Briefs by Hour of Day



## The Court of Appeals for the Federal Circuit

The United States Court of Appeals for the Federal Circuit has twelve judgeships. The clerk's office in Washington is open from 8:30 to 4:30.

Electronic filing is governed by the court's Rule 25 and the court's Electronic Filing Procedures [hereinafter ECF Procs.]. Unrepresented parties may register as electronic filers, "but new notices of appeal or petitions for review must be filed in paper or by email." Fed. Cir. ECF Procs. ¶ II.A; *see* Fed. Cir. R. 25(a)(1)(B) (permitting the clerk to allow pro se electronic filing); Fed. Cir. Guide for Unrepresented Parties ¶ I.C.

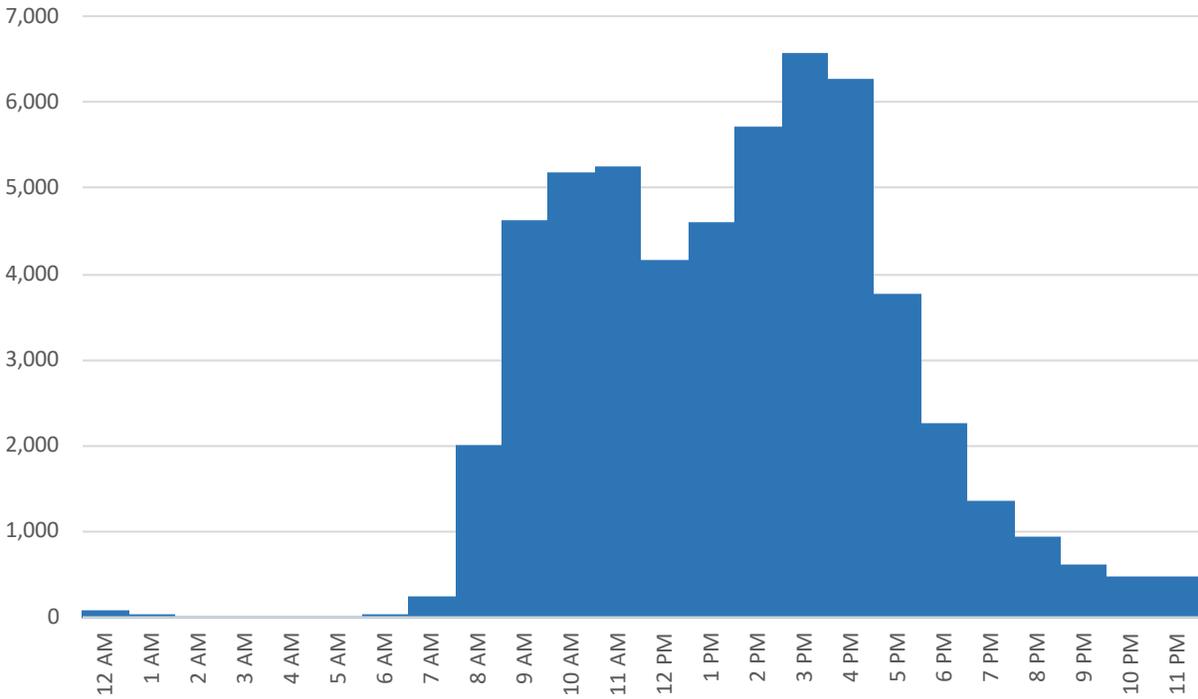
"Unless a time for filing is ordered by the court, filing must be completed before midnight Eastern Time on the due date to be considered timely." Fed. Cir. R. 26(a)(2); *see* Fed. Cir. ECF Procs. ¶ IV.A.16(a) ("Filers in other time zones must account for any time difference to ensure a filing is completed before midnight (Eastern) on the day the document is due.").

We disregarded docket entries in this court with 60 as the year part of the case number, because we determined that these were not valid docket entries.

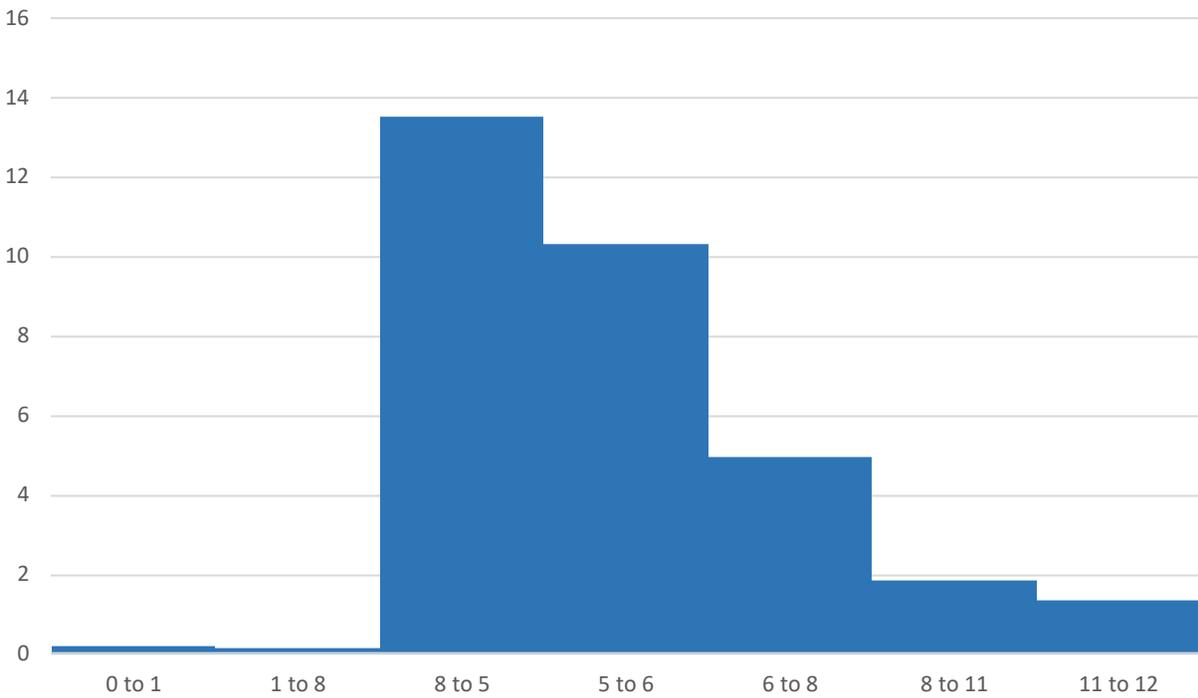
There were 54,744 docket entries made in this court in 2018. There was a marked reduction in filing activity between noon and 1:00 p.m. and a smaller reduction between 1:00 and 2:00 p.m. Attorneys filed 11,744 briefs (coded "br" and "filer"), 19% of them after 5:00 p.m. and 13% after 6:00 p.m.

The following two charts show docket entries in this court by time of day. The next chart shows brief filings by time of day.

### Court of Appeals for the Federal Circuit Filings in 2018 by Hour of Day



### Court of Appeals for the Federal Circuit Filings per Hour in 2018 by Time Period



### Court of Appeals for the Federal Circuit Filings of Briefs by Hour of Day

