

Update On The Credit Crisis Litigation: A Turn Towards Structured Products And Asset Management Firms



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Vice President

NERA Economic Consulting

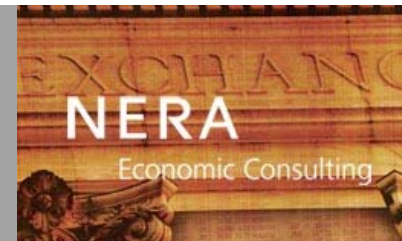
Investment Advisory Risk Management Conference

State Street Corporation

Boston, MA

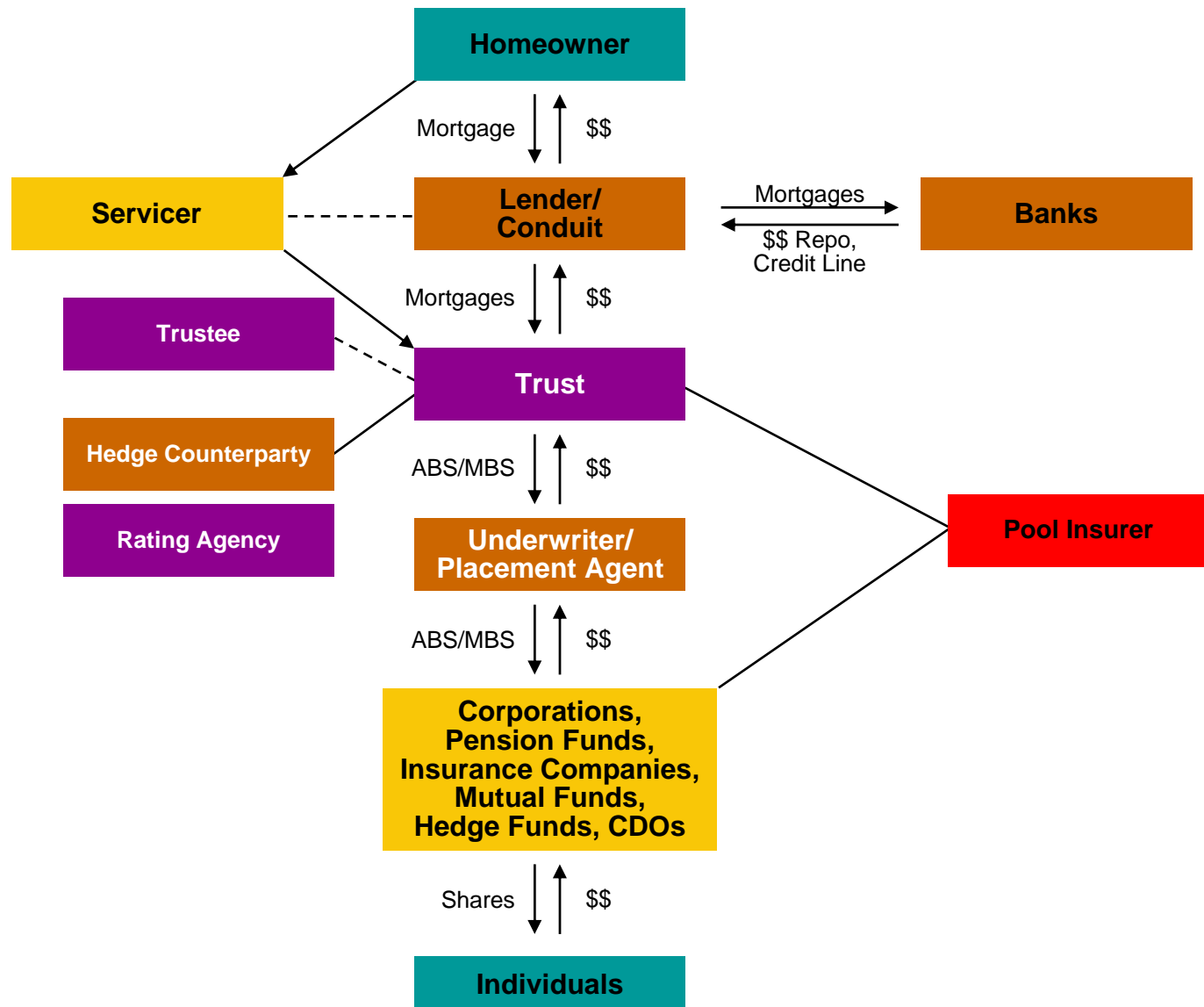
November 4, 2009

Credit Crisis-Related Securities Lawsuits

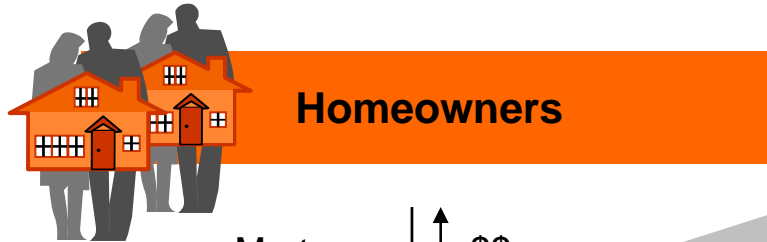


- Definition: Lawsuits in which the allegations stem from issues arising from the credit crisis and relate to the purchase, ownership, or sale of securities.
- The lawsuits include, among others, shareholder class actions (10b-5, Section 11, Section 12), ERISA claims, shareholder derivative actions, international cases, state cases, and individual cases.

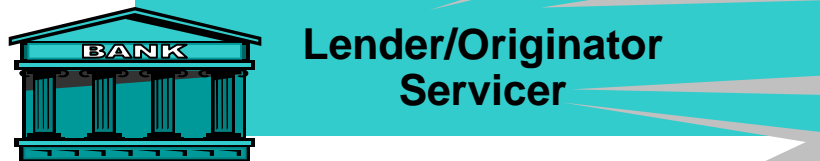
Defendants and Plaintiffs in Credit Crisis-Related Securities Lawsuits



Current Litigation



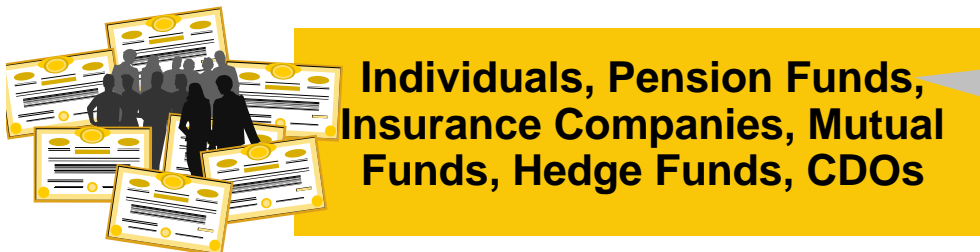
Mortgage ↓ ↑ \$\$



Mortgages ↓ ↑ \$\$



ABS/MBS ↓ ↑ \$\$



🔥 **Predatory Lending**

🔥 **10b-5 Class Action**
🔥 **Valuation of Residuals, Servicing Rights, and Loan Loss Reserves**

🔥 **Breach of Contract**

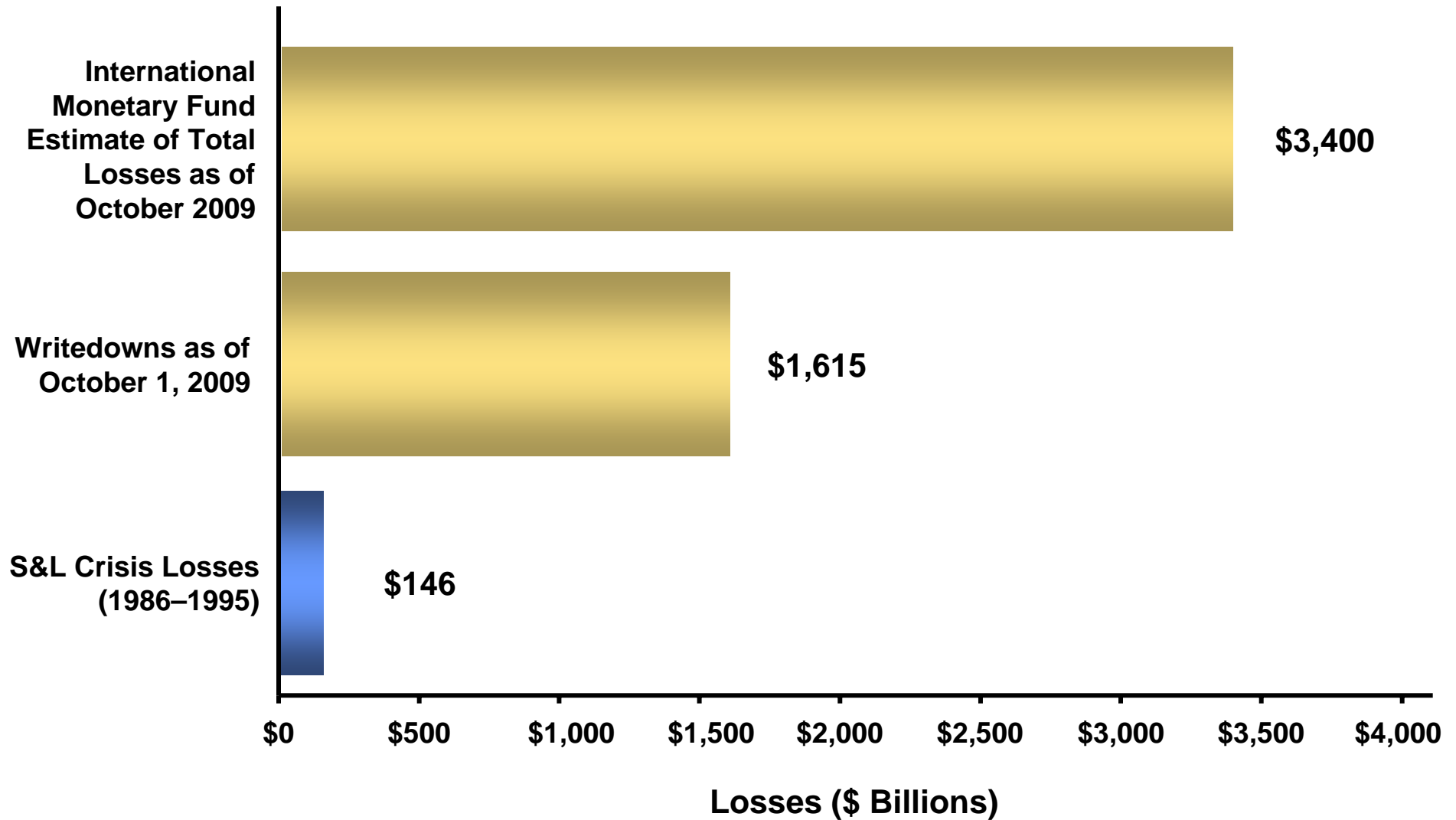
🔥 **Fraudulent Conveyance**

🔥 **Breach of Fiduciary Duty**

🔥 **Class Certification**
🔥 **Suitability/Prudence**
🔥 **Misrepresentation/Omission**

🔥 **Suitability**
🔥 **Misrepresentation/Omission**
🔥 **Pricing/Markups**
🔥 **Investment Guidelines/Risk Management**

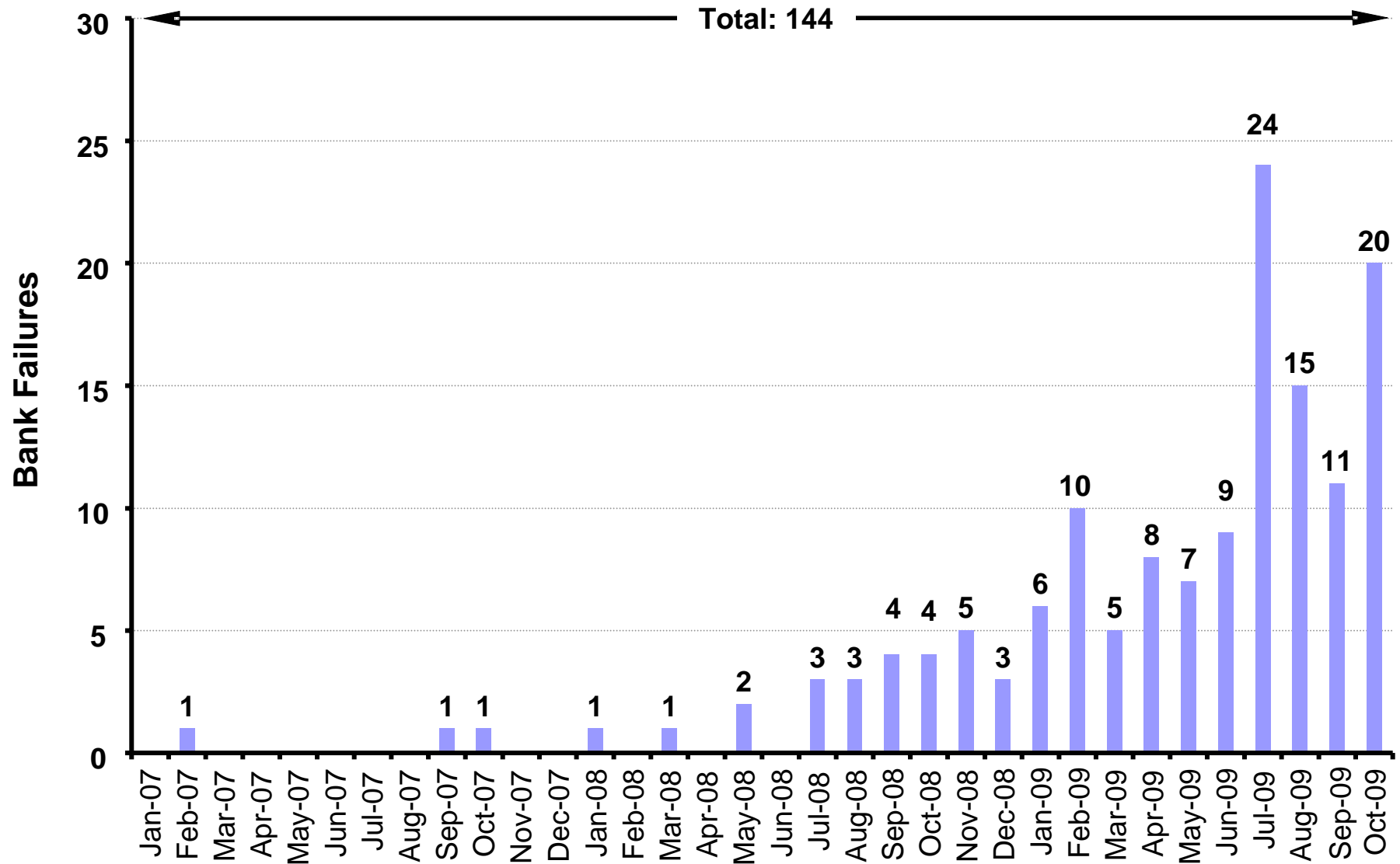
Credit Crisis-Related Losses Have Exceeded the Losses from the S&L Crisis



Bank Failures Started to Increase in Mid-2008



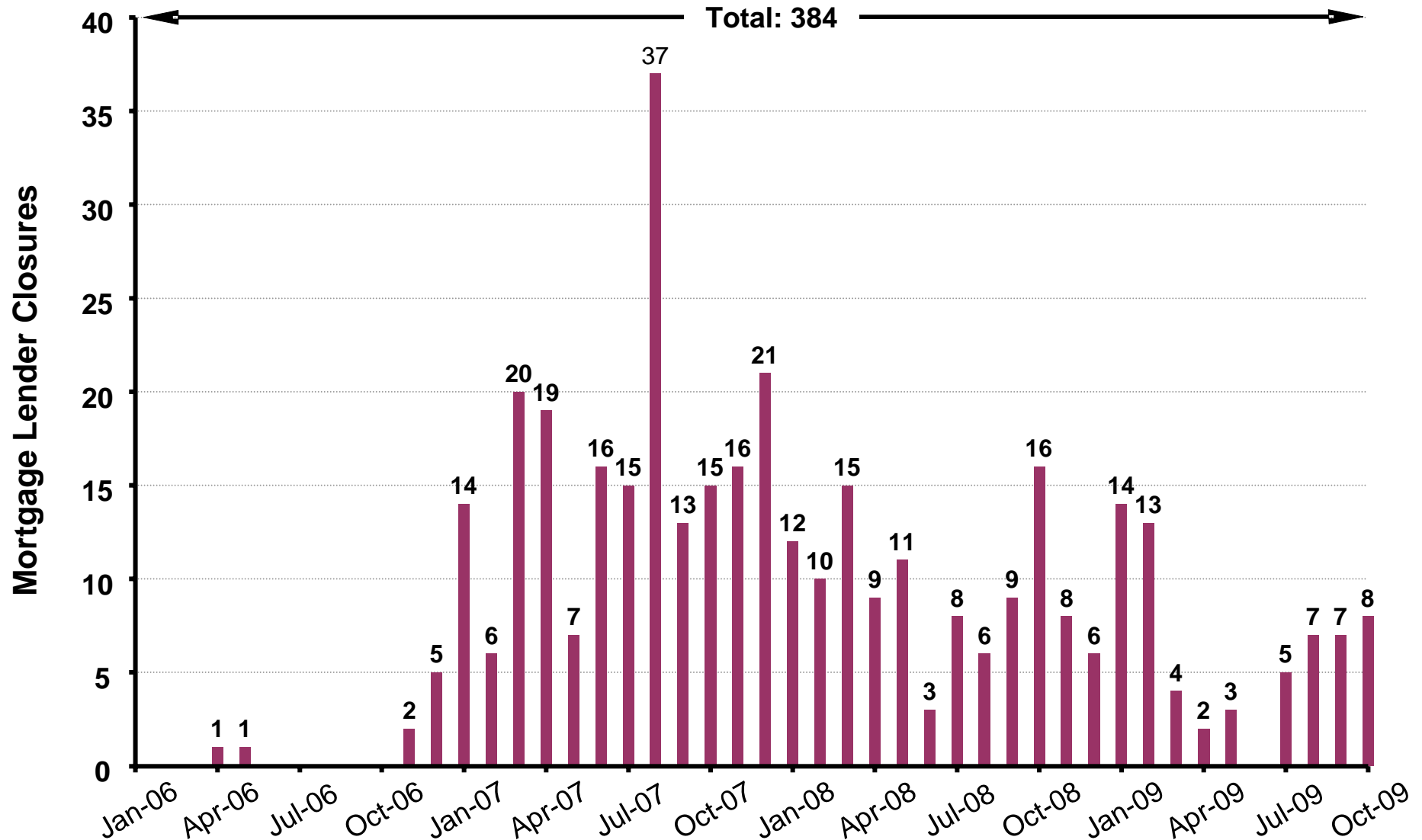
January 2007 - October 2009



Mortgage Lender Closures Spiked in 2007



January 2006 - October 2009



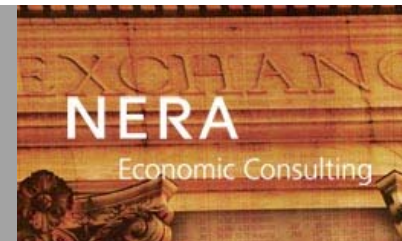
Subprime Crisis Appears to Be Contained



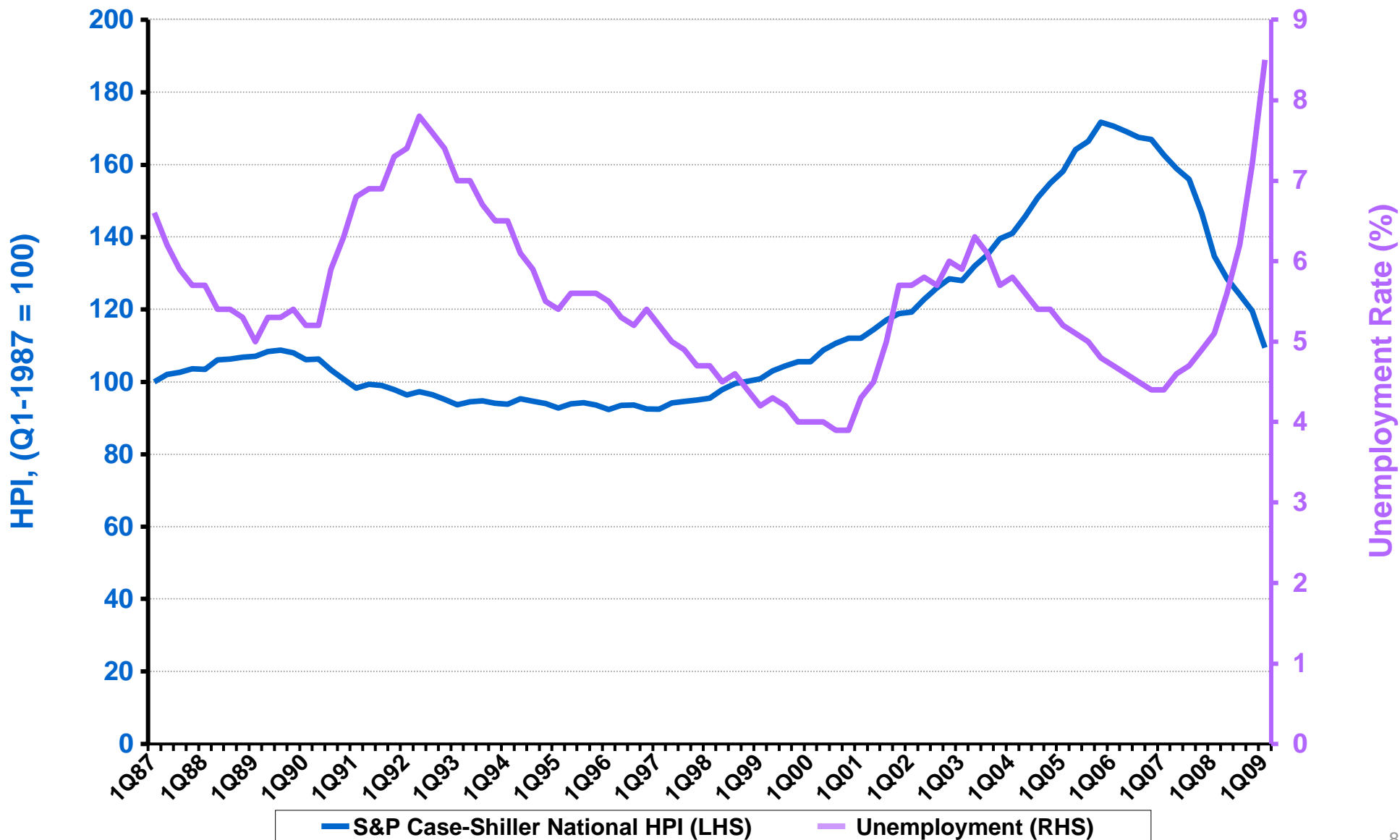
“We will follow developments in the subprime market closely. However, fundamental factors—including solid growth in incomes and relatively low mortgage rates—should ultimately support the demand for housing, and at this point, the troubles in the subprime sector seem unlikely to seriously spill over to the broader economy or the financial system.”

—Ben Bernanke (June 5, 2007)

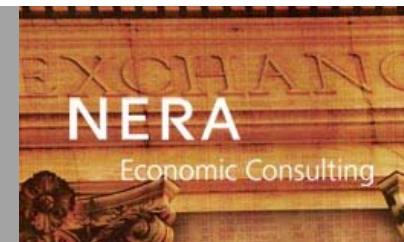
Unemployment & Home Price Index



1Q1987-1Q2009



Downgrades of RMBS and CDOs by Moody's



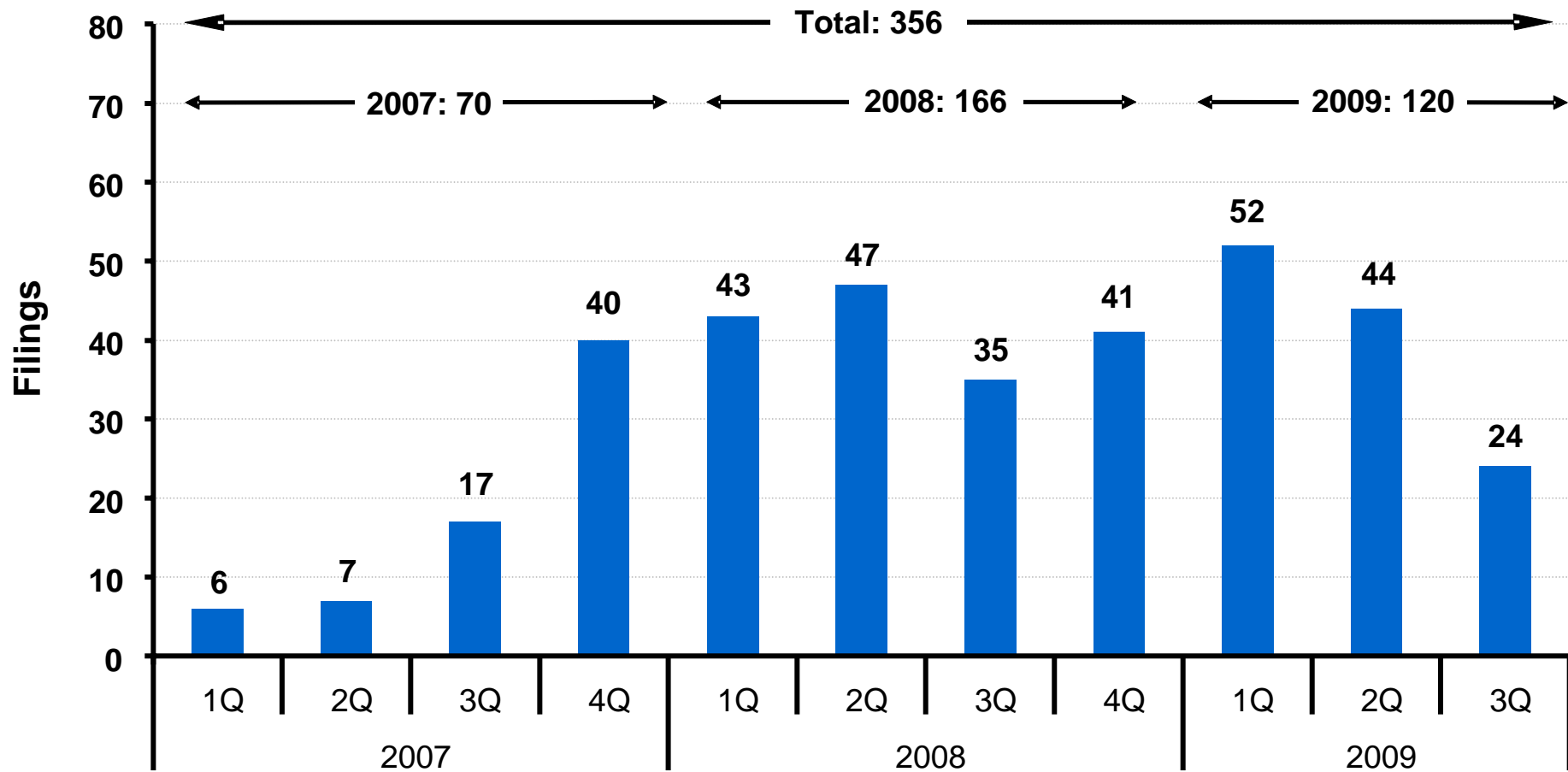
June 2007 - October 2007

Month	Moody's	
	Count	Dollars
Jun-07	131	\$ n/a
Jul-07	451	5,593,000,000
Aug-07	811	20,900,000,000
Sep-07	47	1,741,050,000
Oct-07	282	42,151,075,000
Total	1,722	\$ 70,385,125,000

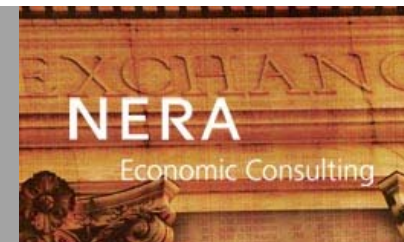
Credit Crisis-Related Securities Filings by Quarter



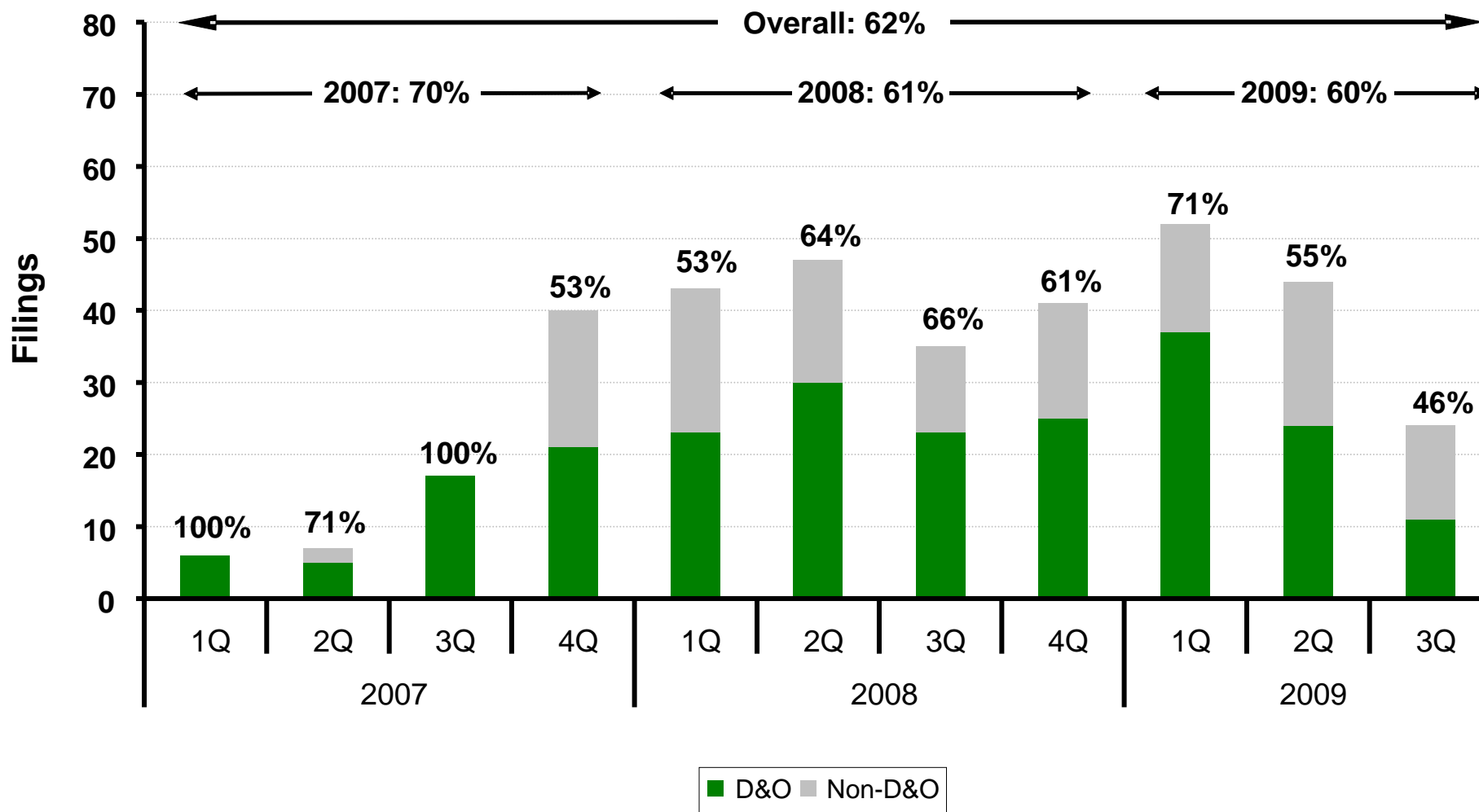
January 2007 - September 2009



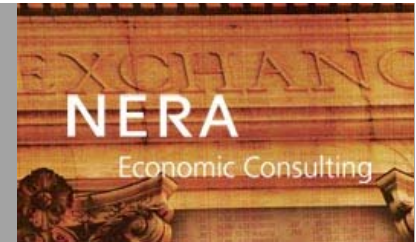
Directors & Officers Exposure



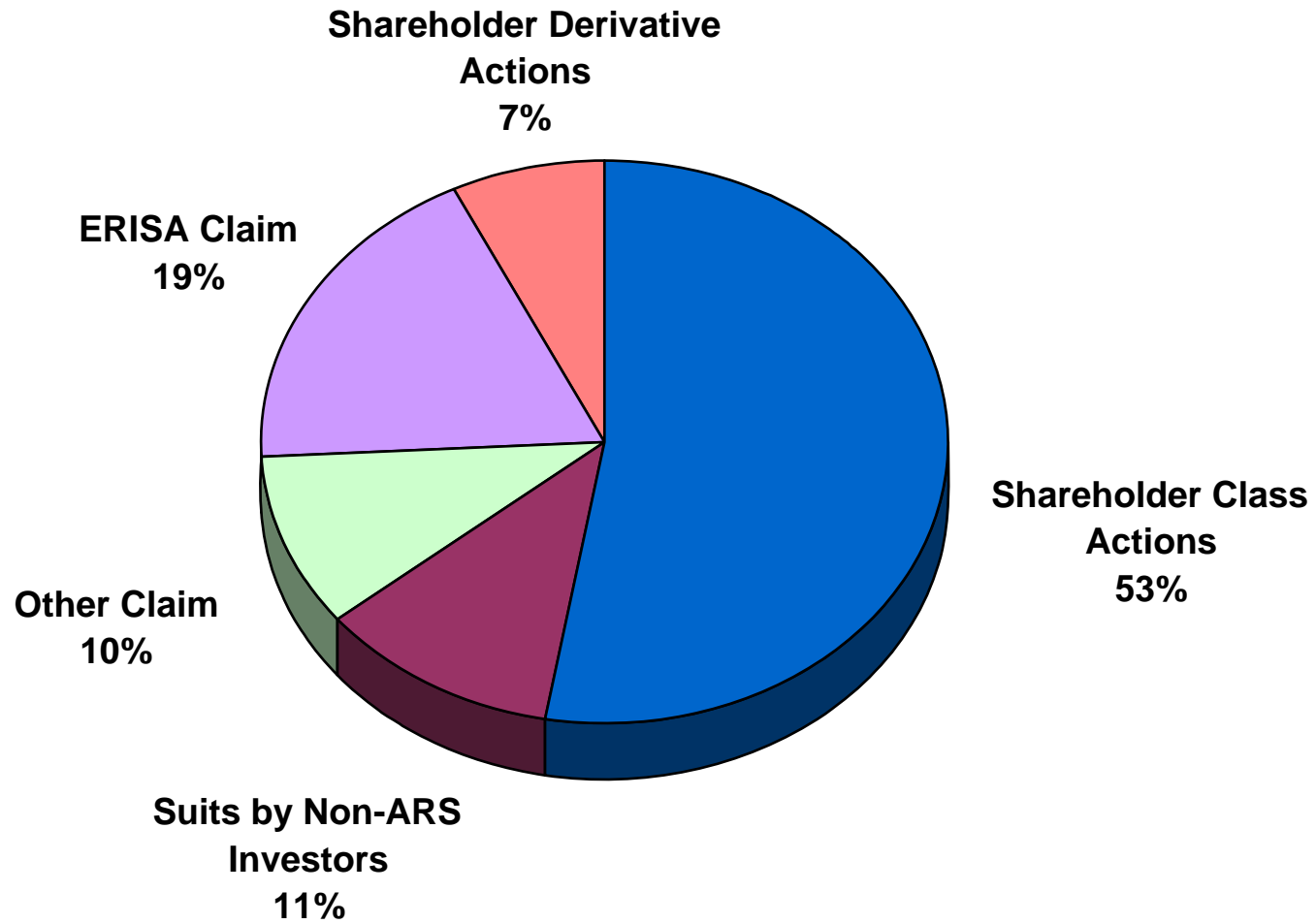
January 2007 - September 2009



Filings By Type of Case



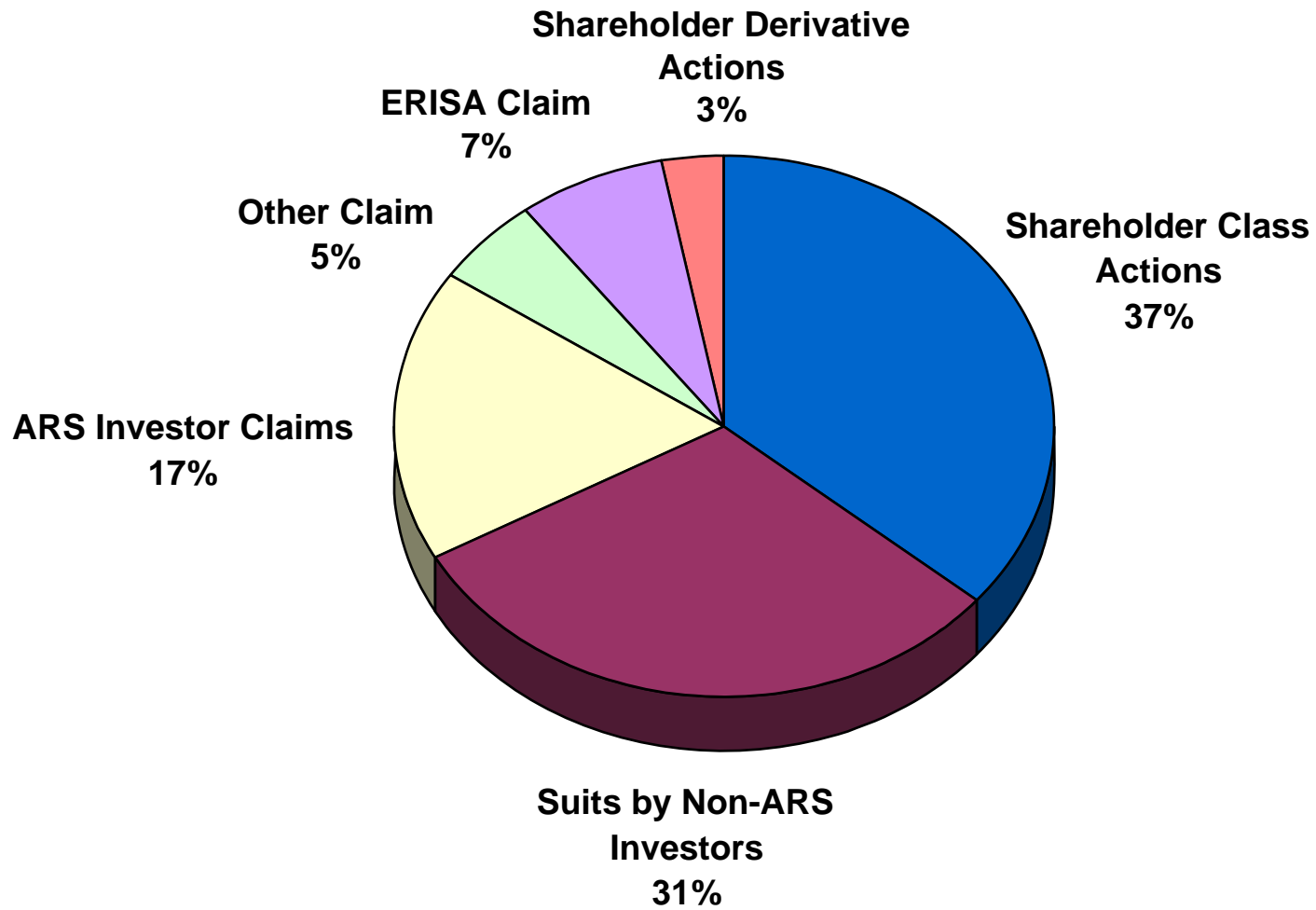
2007



Filings By Type of Case



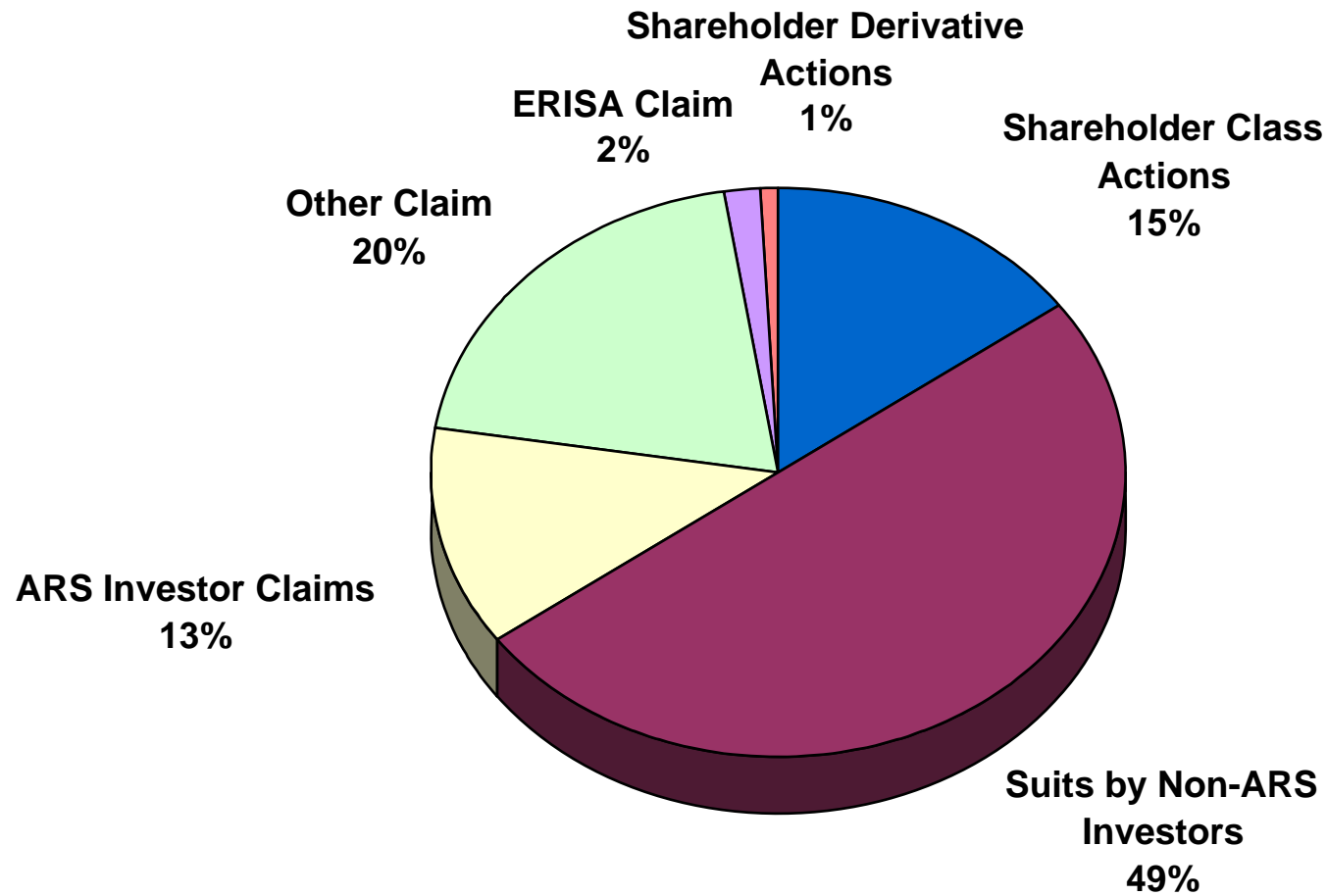
2008



Filings By Type of Case



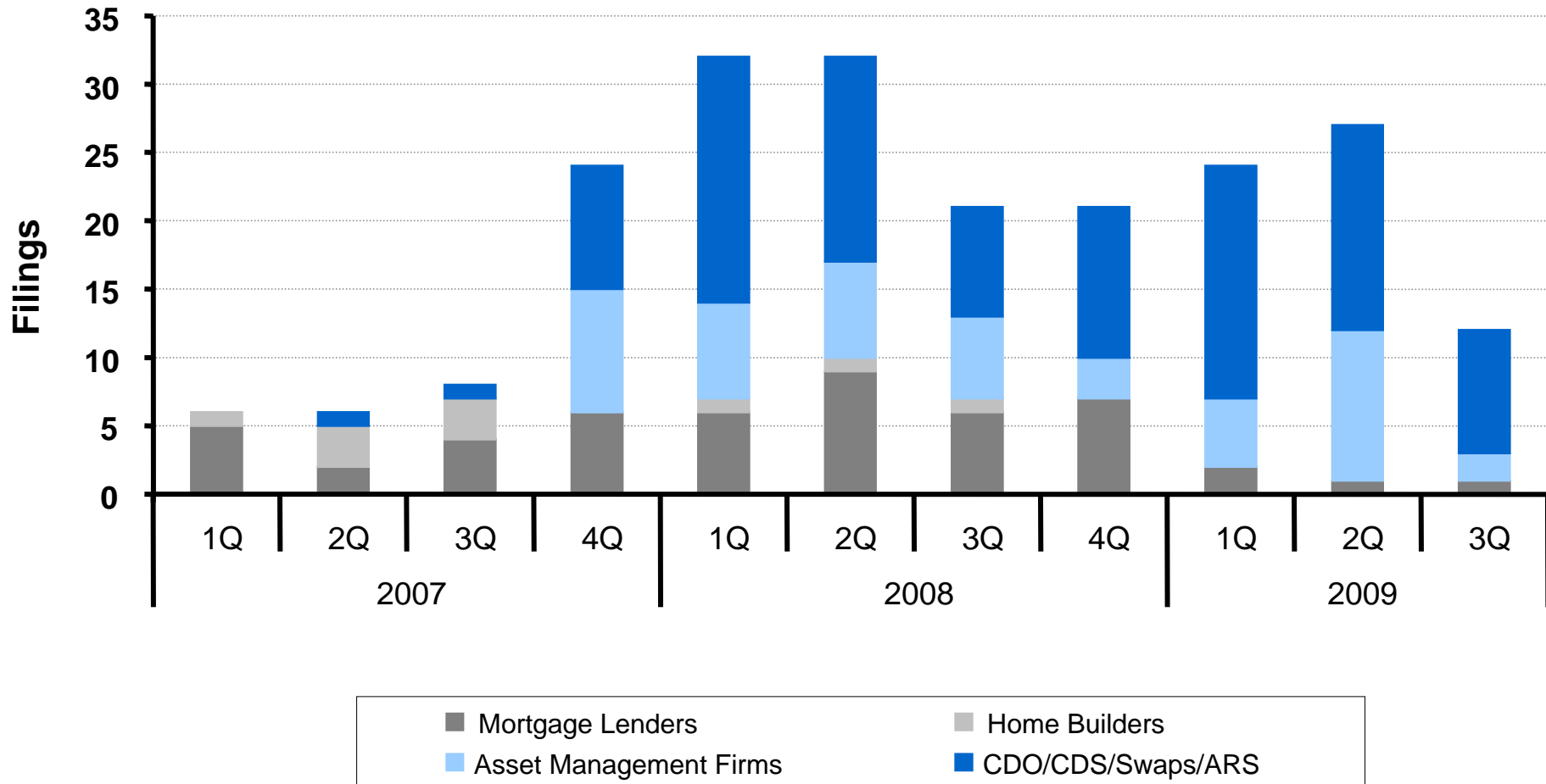
2009



Credit Crisis-Related Securities Filings by Type of Market Participant



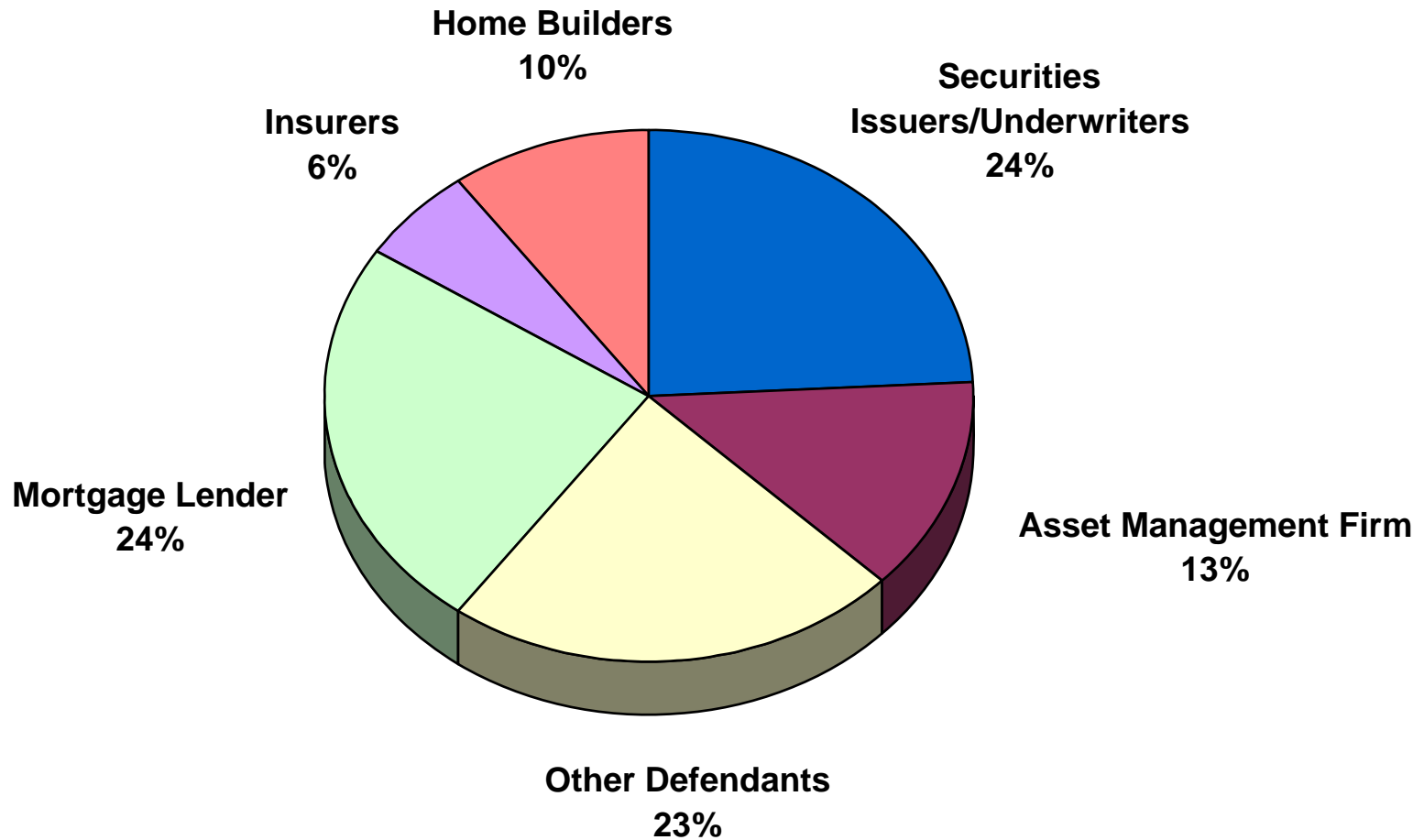
January 2007 - September 2009



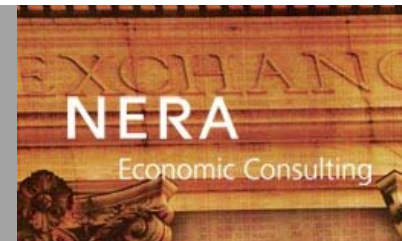
Filings By Type of Defendant



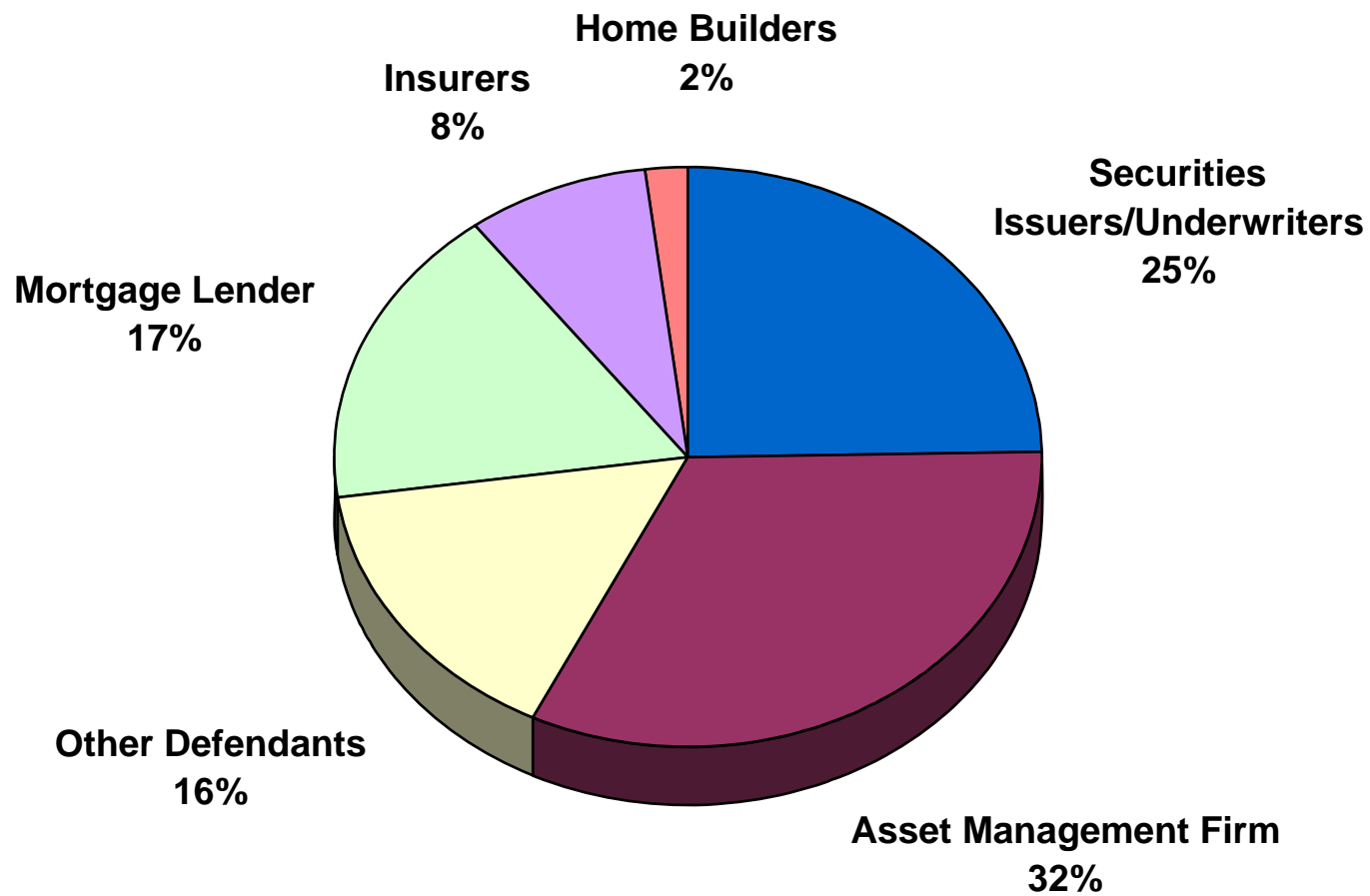
2007



Filings By Type of Defendant



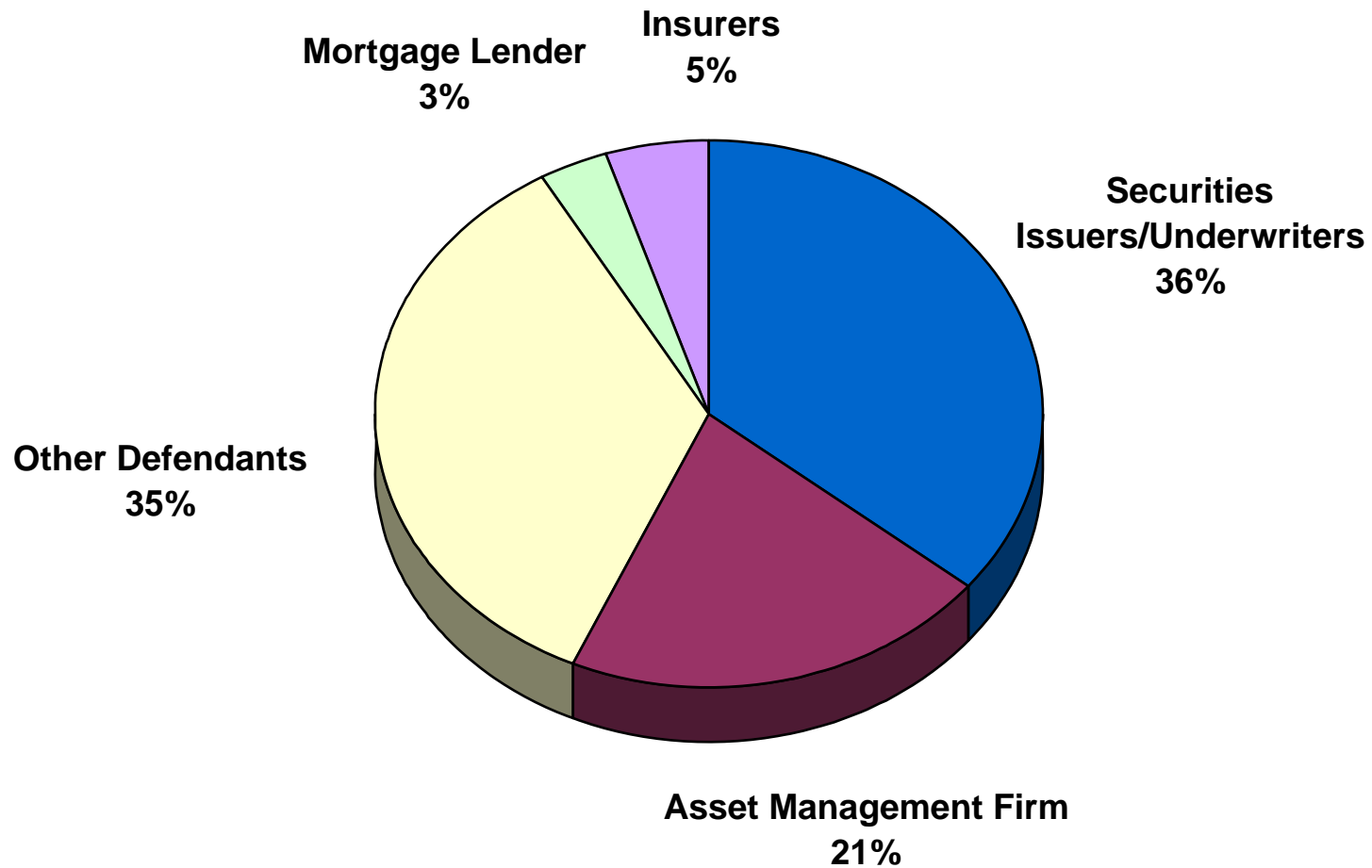
2008



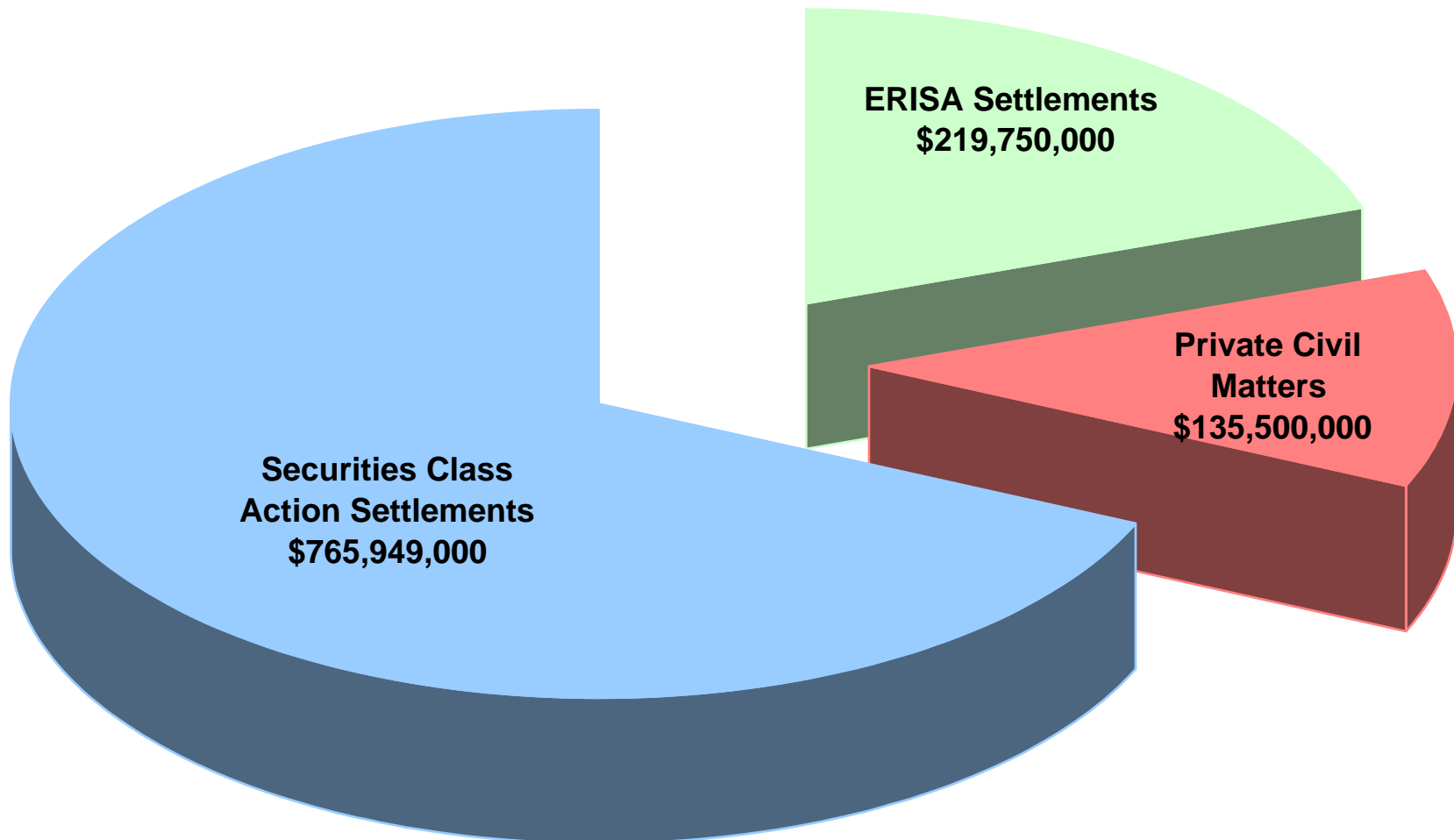
Filings By Type of Defendant



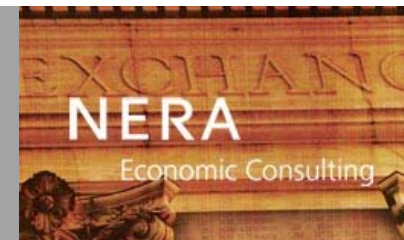
2009



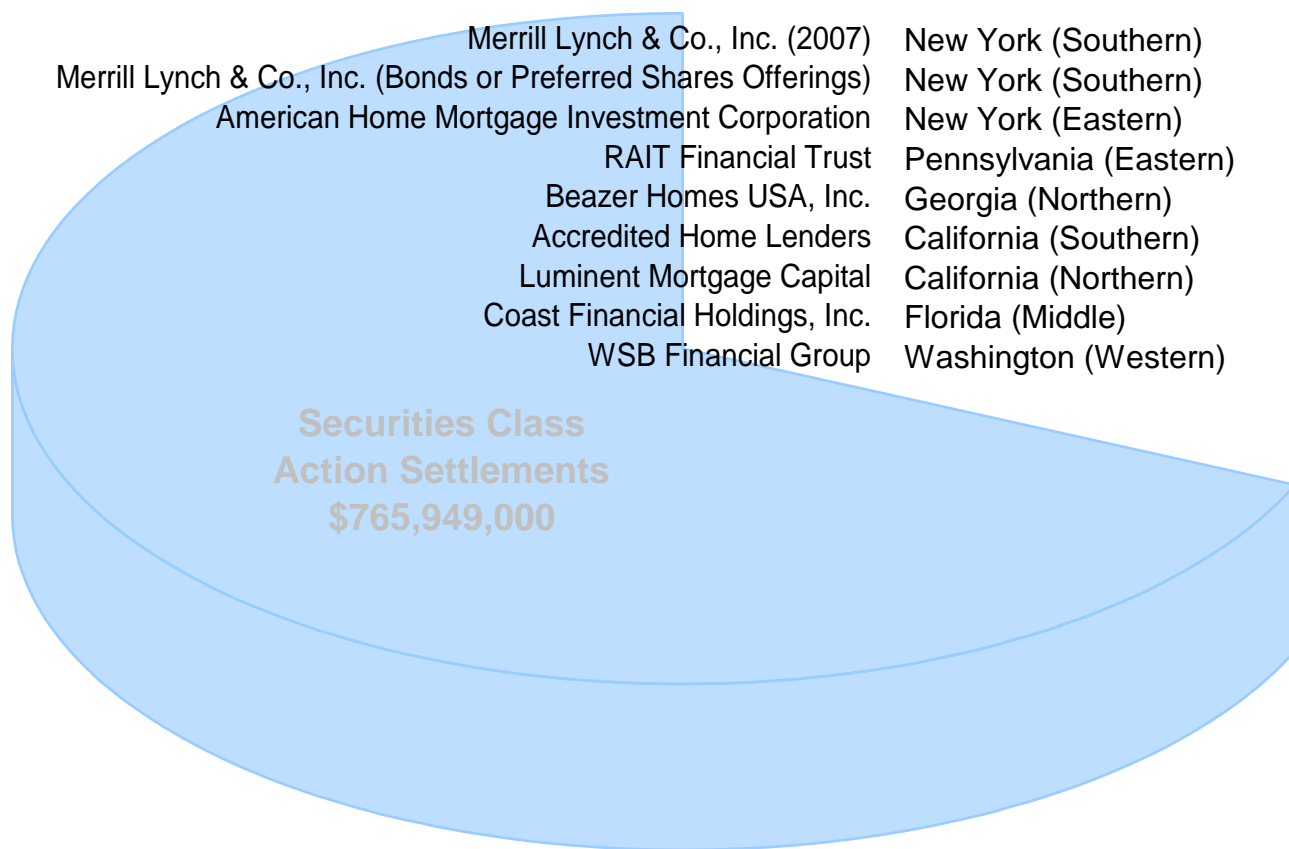
Over \$1.1 Billion in Settlements to Date



Securities Class Action Settlements

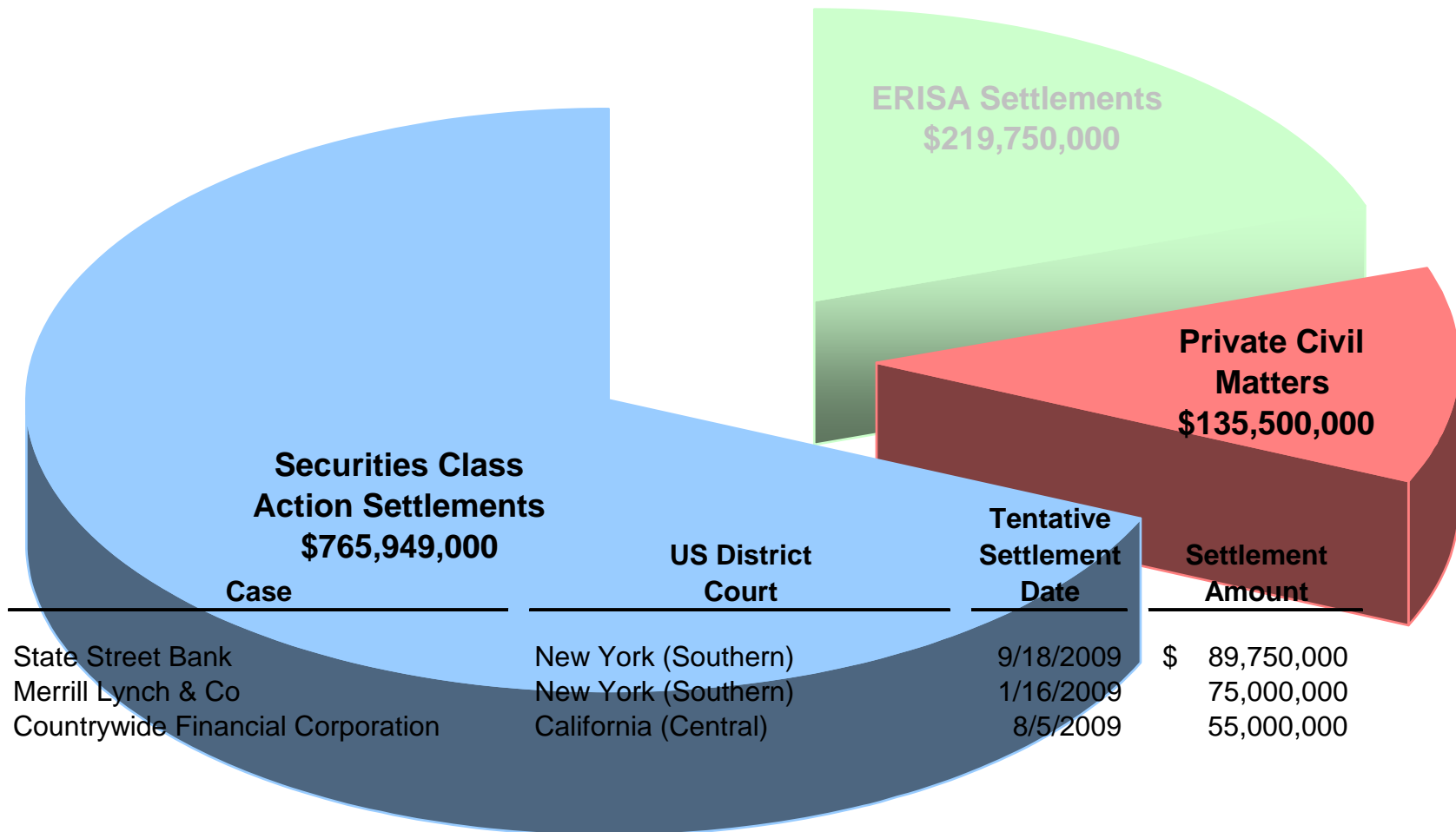
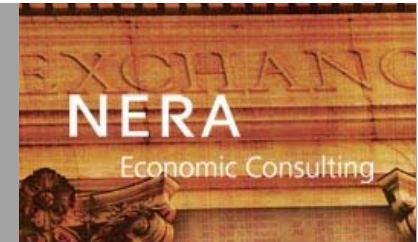


Case	US District Court	Tentative Settlement Date	Settlement Amount
Merrill Lynch & Co., Inc. (2007)	New York (Southern)	1/7/2009	\$ 475,000,000
Merrill Lynch & Co., Inc. (Bonds or Preferred Shares Offerings)	New York (Southern)	8/24/2009	150,000,000
American Home Mortgage Investment Corporation	New York (Eastern)	1/16/2009	37,250,000
RAIT Financial Trust	Pennsylvania (Eastern)	5/26/2009	32,000,000
Beazer Homes USA, Inc.	Georgia (Northern)	5/5/2009	30,500,000
Accredited Home Lenders	California (Southern)	7/15/2009	22,000,000
Luminant Mortgage Capital	California (Northern)	12/10/2008	8,000,000
Coast Financial Holdings, Inc.	Florida (Middle)	9/26/2008	6,349,000
WSB Financial Group	Washington (Western)	10/14/2008	4,850,000

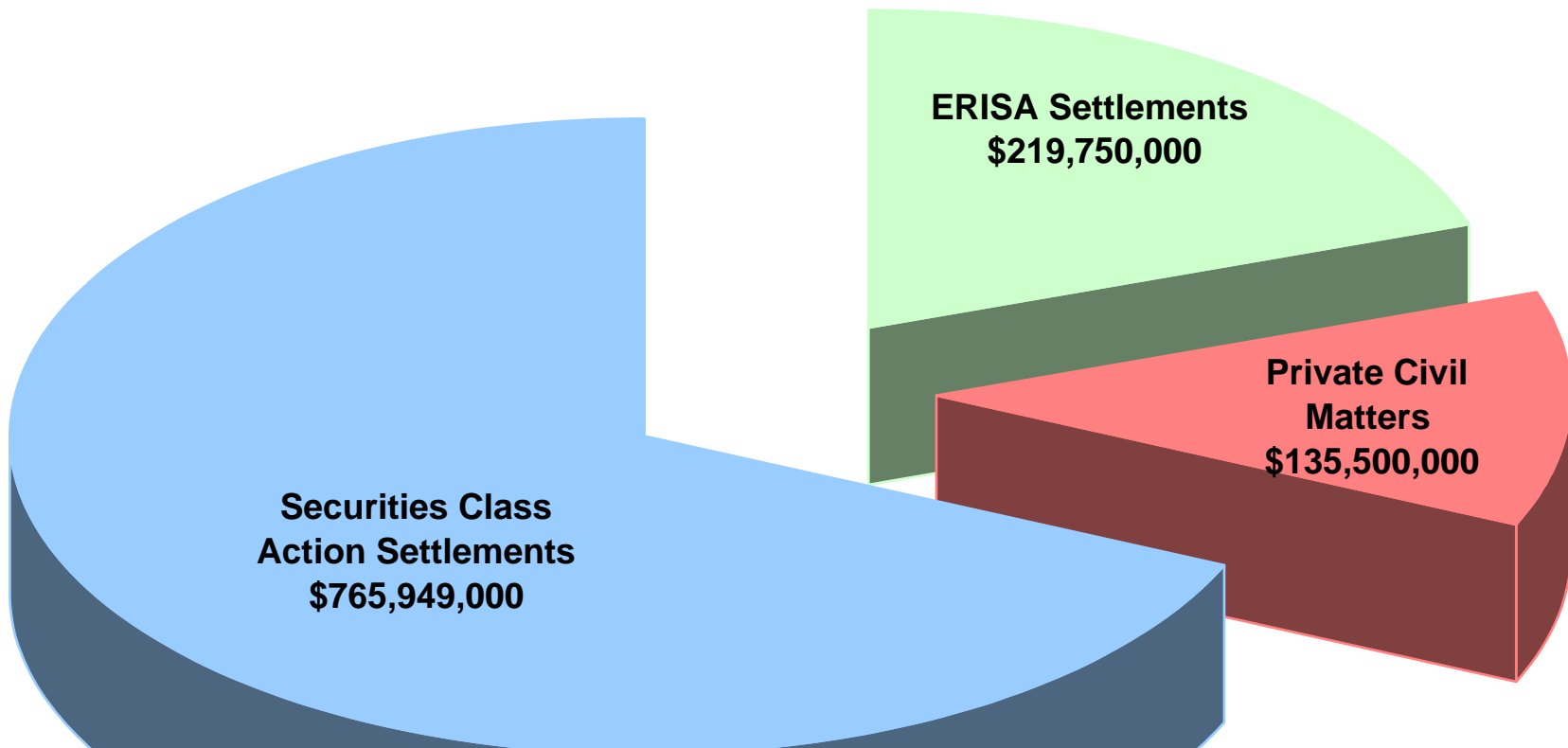
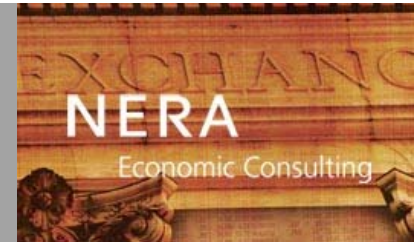


**Securities Class
Action Settlements
\$765,949,000**

ERISA Settlements

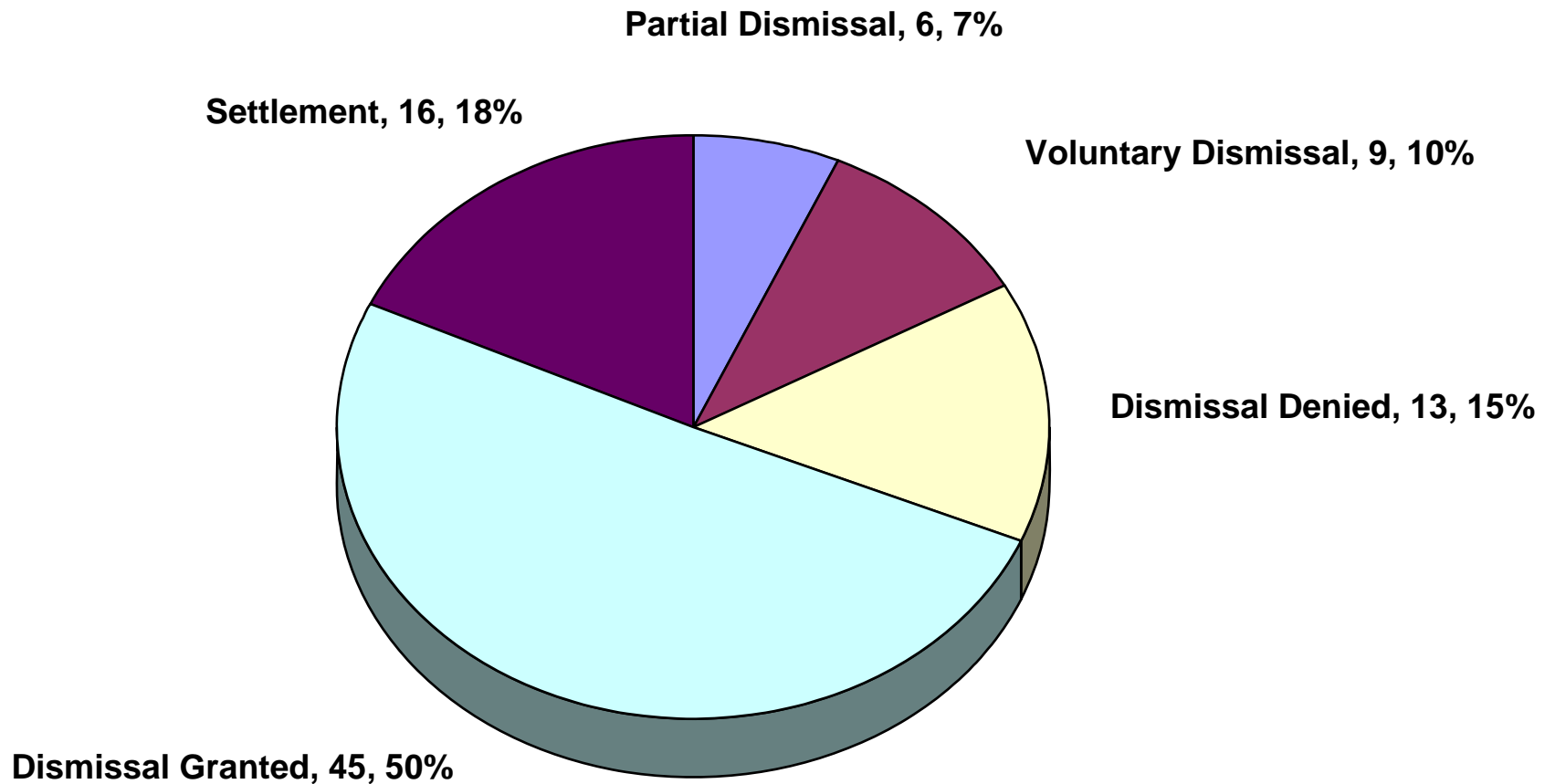


Private Civil Matter Settlements

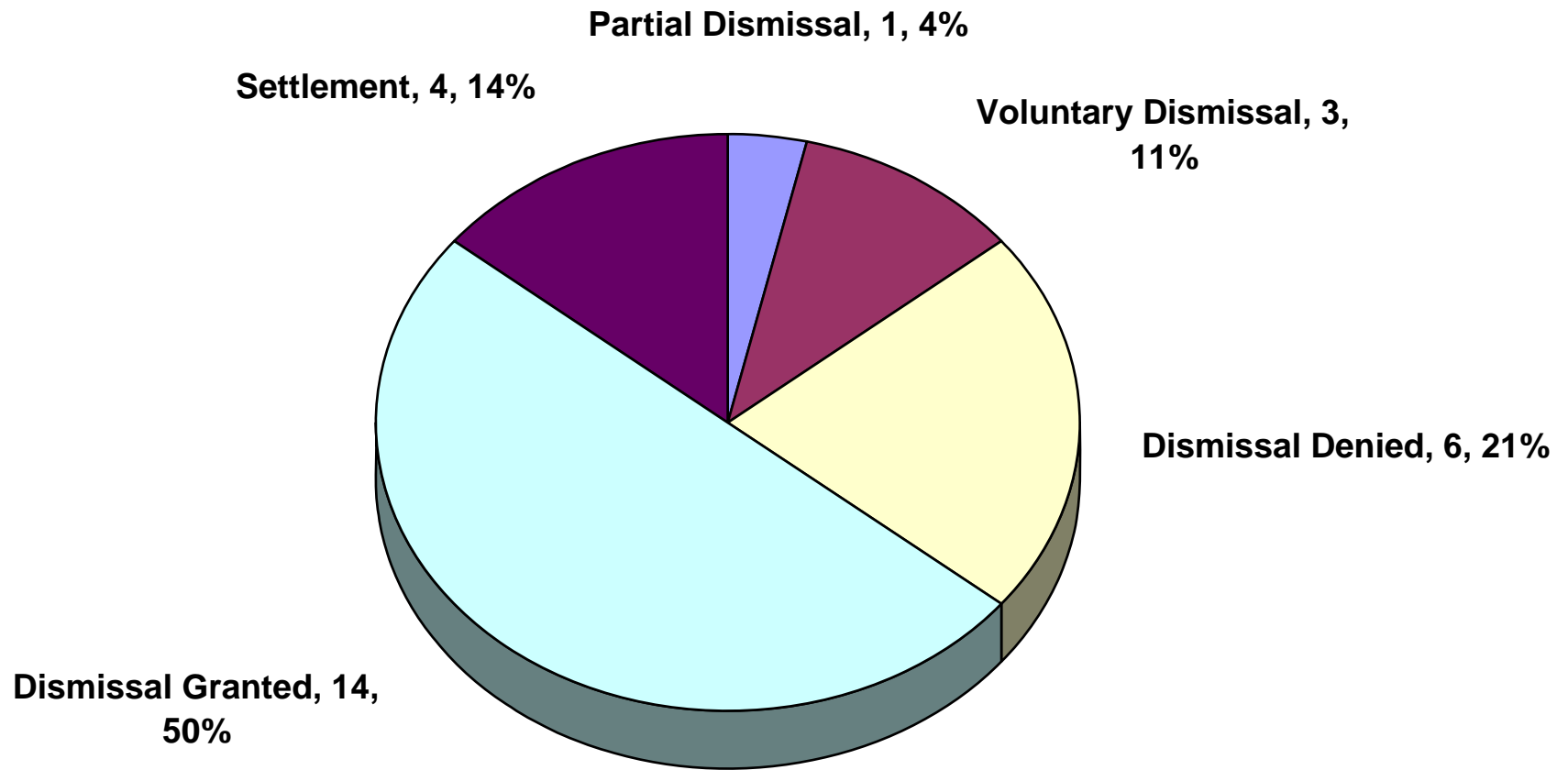


Case	Court	Tentative Settlement Date	Settlement Amount
American Business Financial Services	USDC - Pennsylvania (Eastern)	10/8/2009	\$ 100,000,000
UBS AG	State Court of Connecticut	9/10/2009	35,500,000
Paramax Capital	State Court of New York	10/27/2008	Undisclosed
New Century Financial	Court of Common Pleas, Ohio	11/21/2008	Undisclosed
HSBC	USBC - Maryland	9/4/2009	Undisclosed

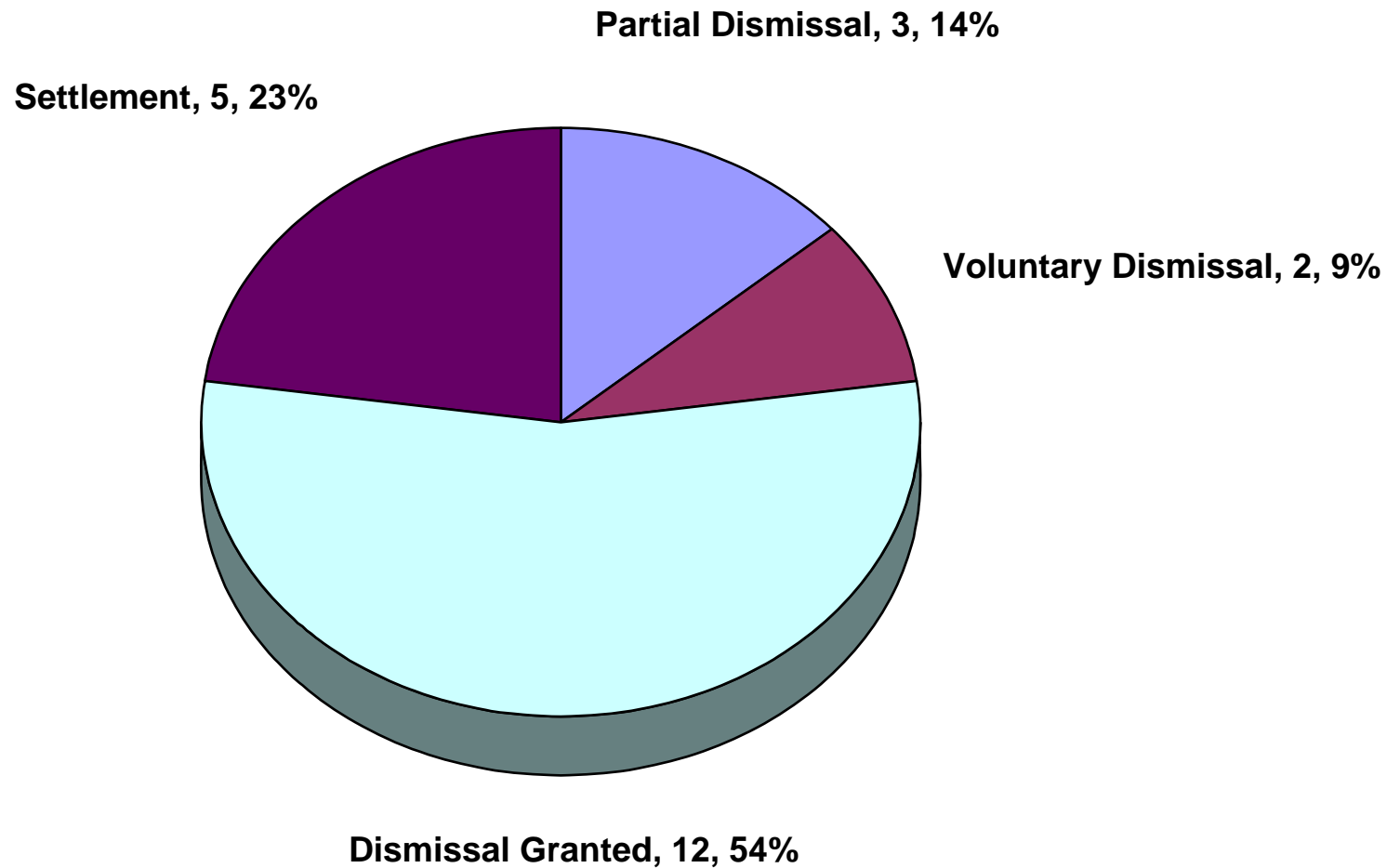
Decisions in Credit Crisis-Related Securities Filings



Decisions in Credit Crisis-Related Securities Filings Against Lenders



Decisions in Credit Crisis-Related Securities Filings Against Issuers



Second-Largest Commercial Real Estate Company Files For Chapter 11



- On April 16th, 2009, General Growth Properties, Inc. (GGP) filed for Chapter 11.
- Most of General Growth's property-specific Special Purpose Entities (SPEs) also filed for bankruptcy.
- GGP Group's capital structure included approximately \$18.27 billion in debt.
- Much of the secured debt was securitized in the Commercial Mortgaged-Backed Securities (CMBS) market.

Can The Financial Difficulties of GGP Result in the Bankruptcy Filing of a Solvent, Bankruptcy-Remote SPE?



- On May 14th, Judge Gropper ruled on the motion to allow collection of cash flows from the SPEs:
 - “Entry of this Order is necessary to prevent substantial harm to the Debtors’ estates that would otherwise result if the Debtors fail to obtain the financing contemplated herein to preserve the Debtors’ assets and continue their operations...”
- On August 11th, the U.S. Bankruptcy Court for Southern District of New York denied the dismissal motion of the SPE Debtors.

Contact Us



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How Markets WorkSM