

Discretionary Denials: Has the WDTX Been Neutered?

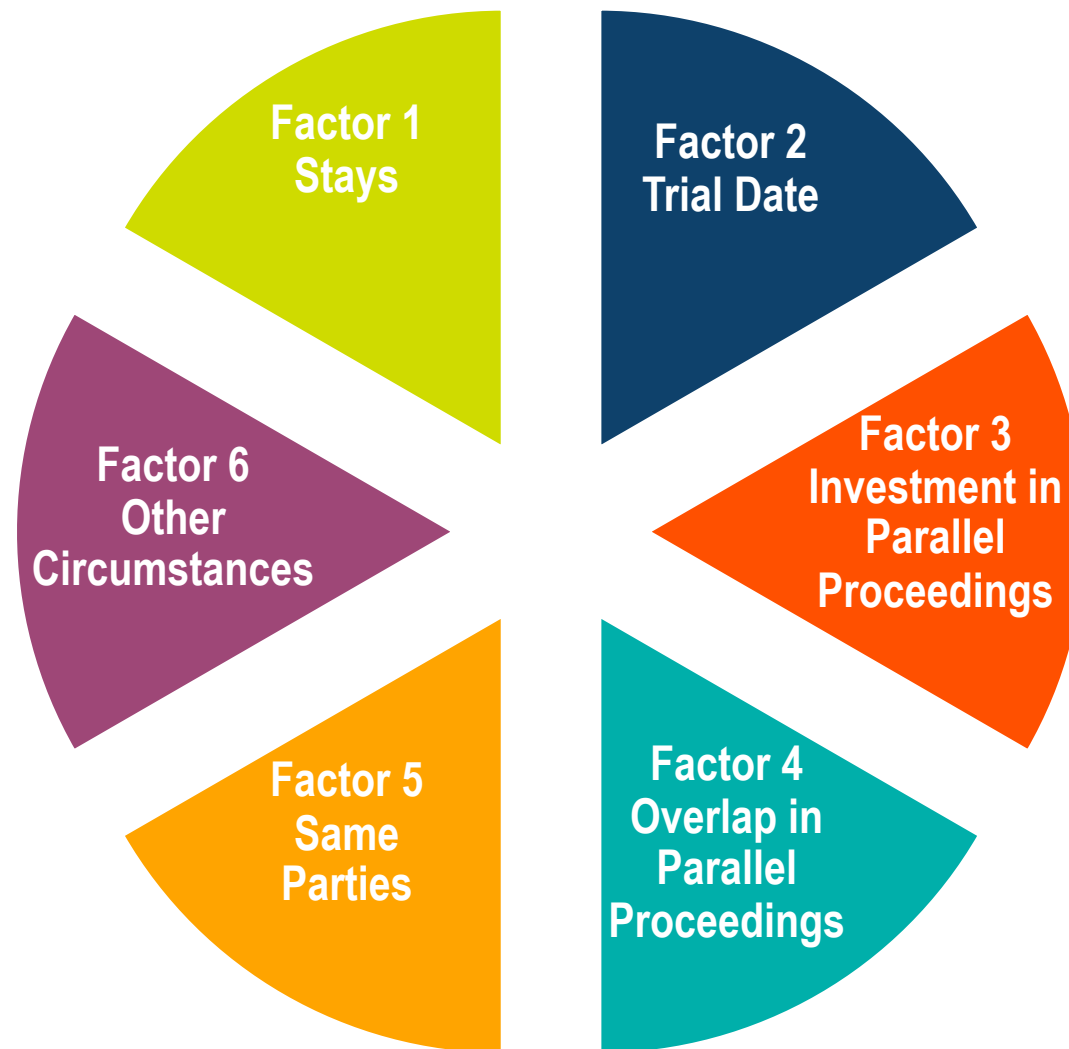
Wendy Verlander, Verlander LLP

Todd Walters, Buchanan Ingersoll & Rooney PC

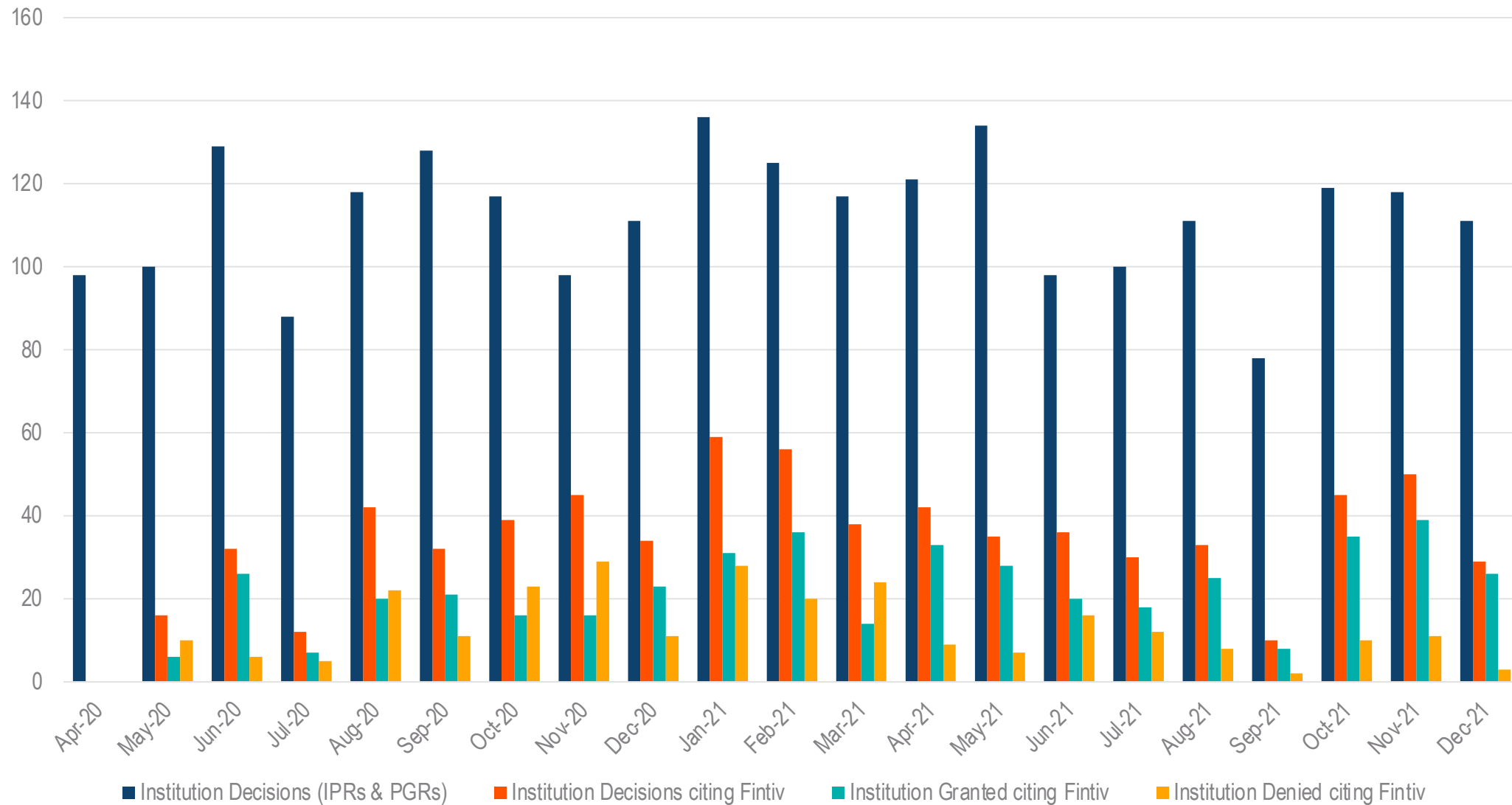
Alison Richards, Global IP Law Group

Kevin Greenleaf, Dentons

Fintiv Factors 1-6 on PTAB Discretion to Deny Institution

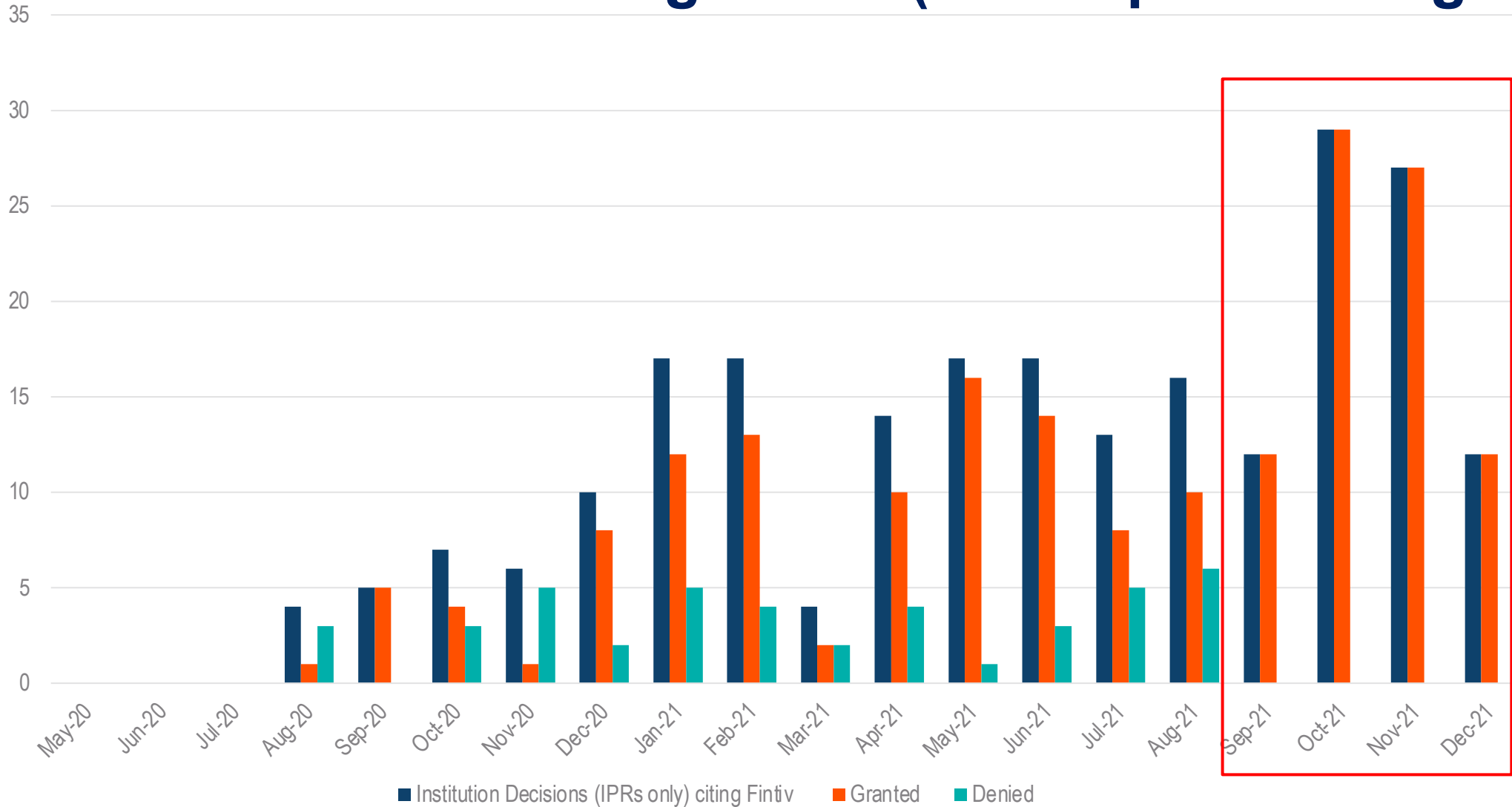


Historical Trend Through 2021 (All IPRs and PGRs)



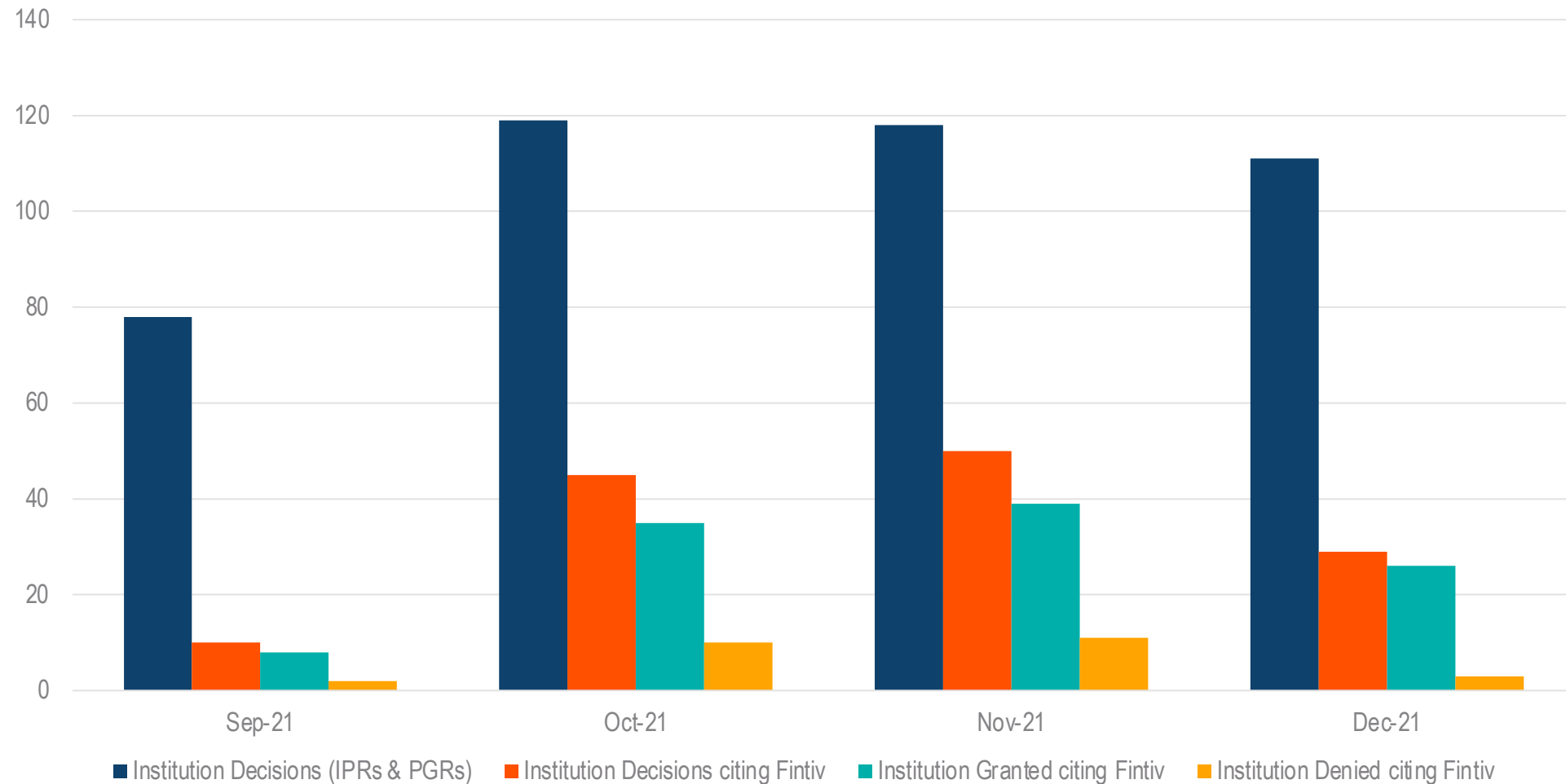
Source: Docket Navigator

Historical Trend Through 2021 (WDTX parallel litigation)



Recent Data (All IPRs and PGRs)

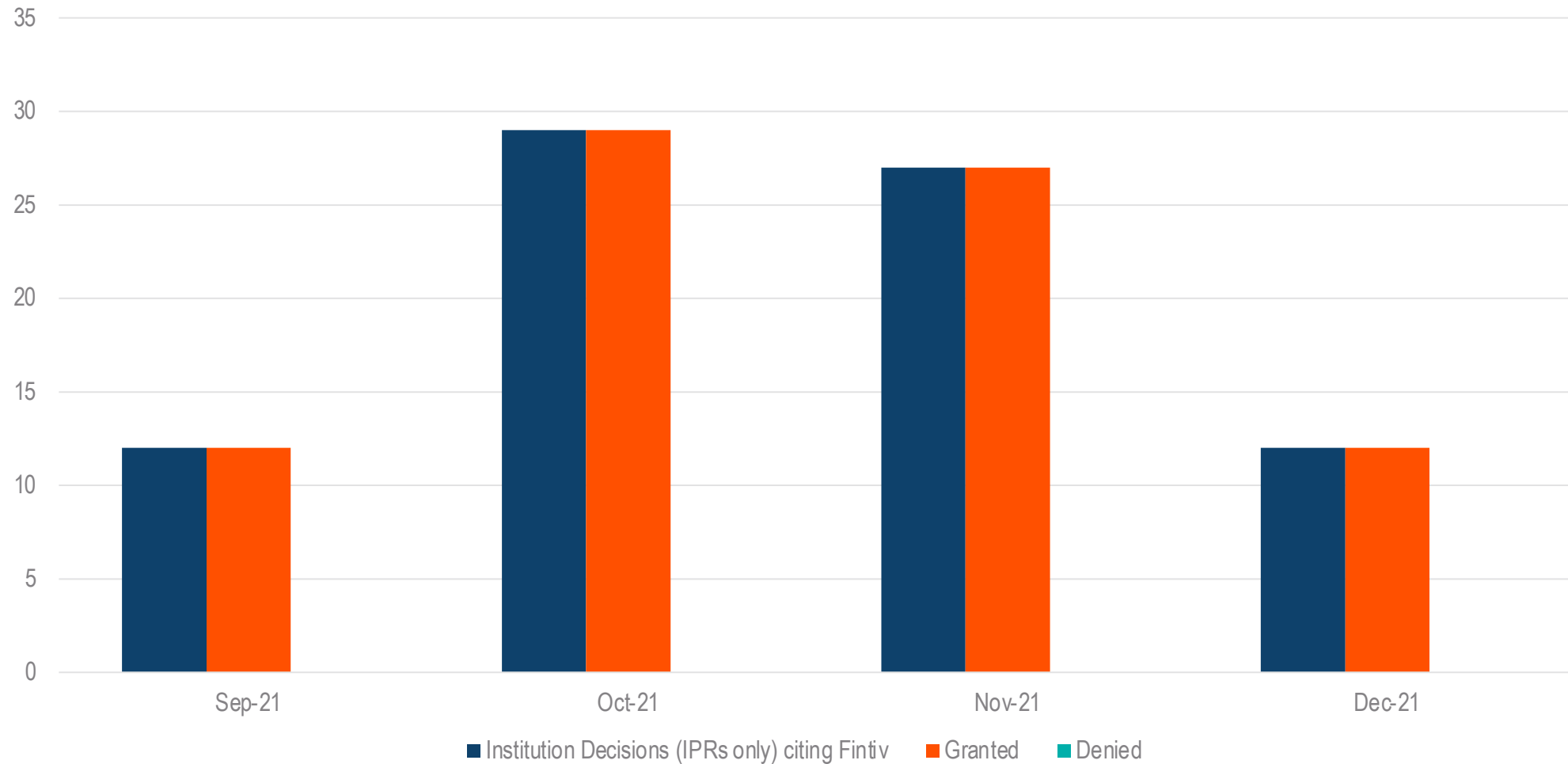
(September-December 2021)



Source: Docket Navigator

Recent Data (WDTX Parallel Litigation)

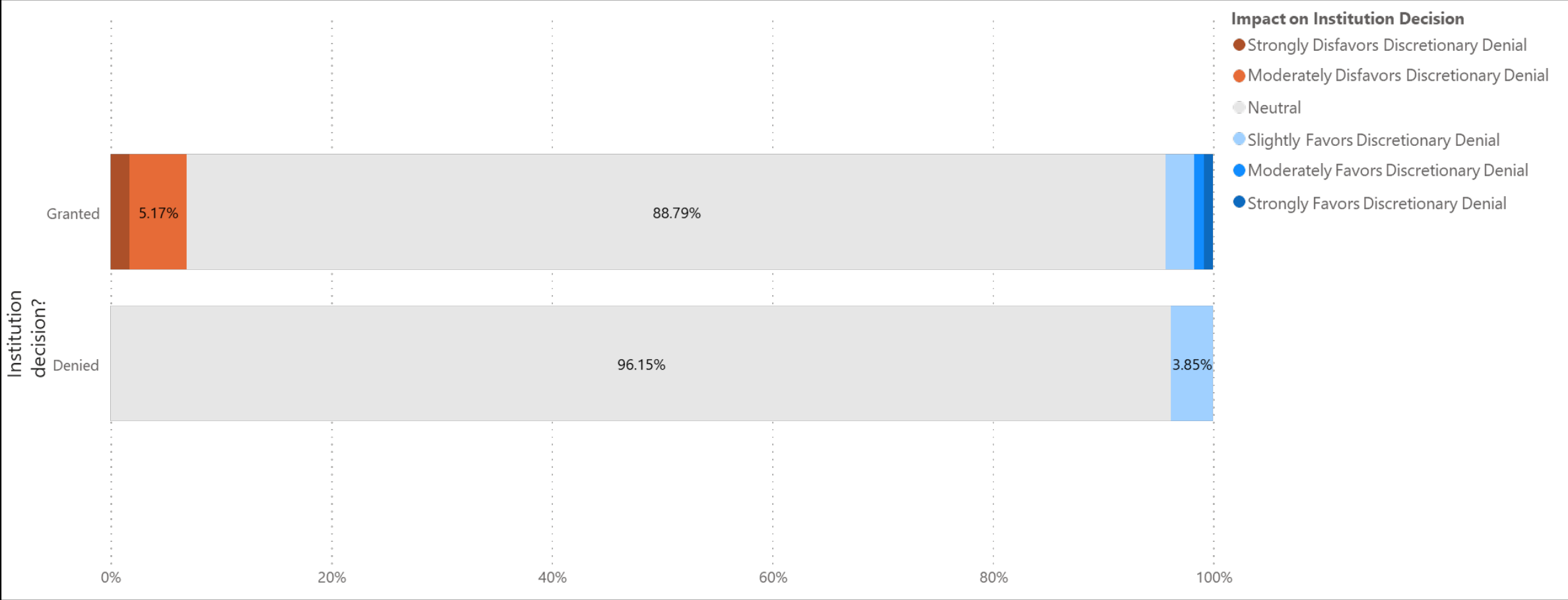
(September-December 2021)



Source: Docket Navigator

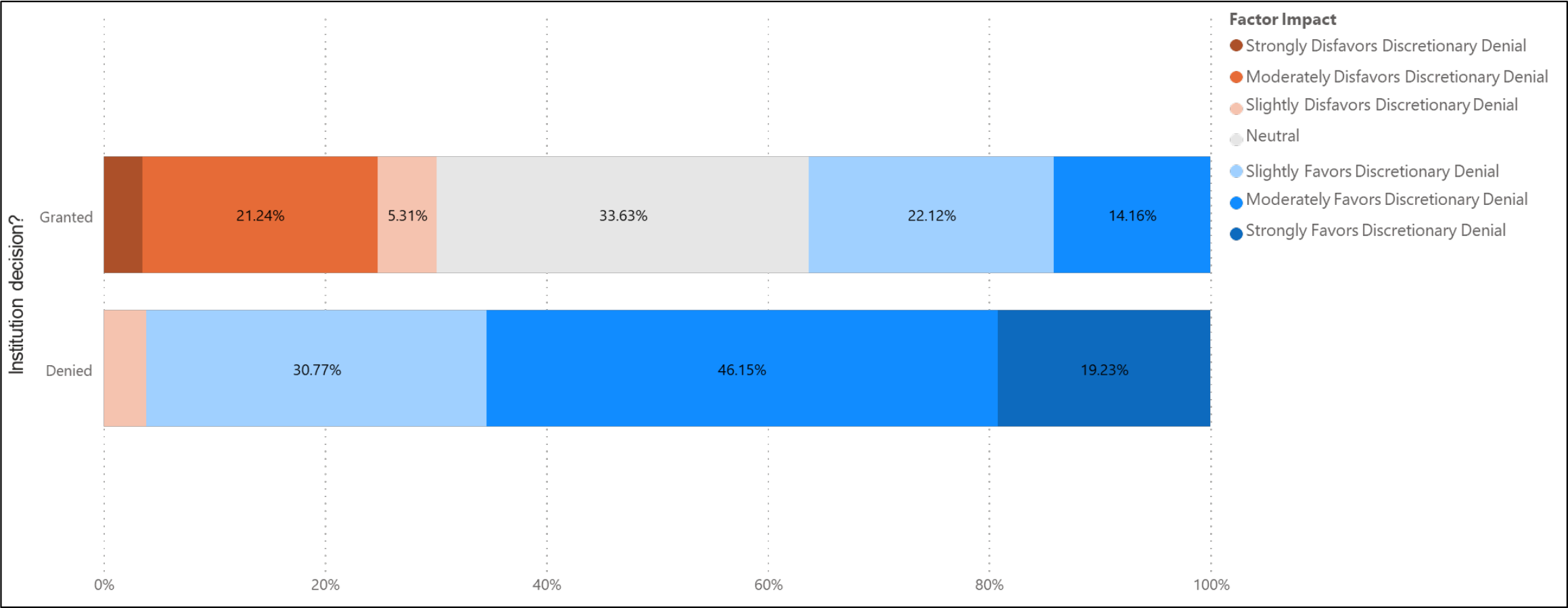
Impact of Factor One: Does a stay exist or is there evidence that a stay may be granted if a proceeding is instituted?

May 1, 2020-December 31, 2021 (parallel WDTX litigation)



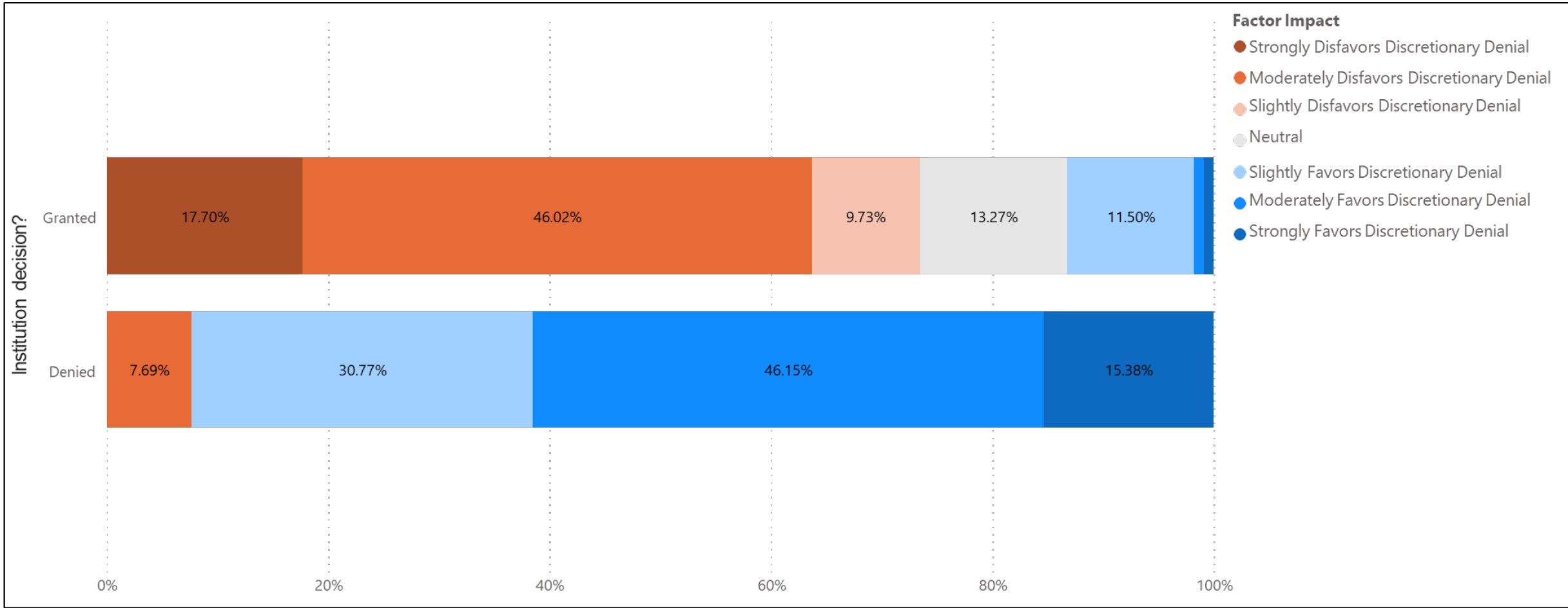
Impact of Factor Two: Proximity of the trial date to the Board's projected statutory deadline for a final written decision

May 1, 2020-December 31, 2021 (parallel WDTX litigation)



Impact of Factor Three: Investment in the parallel proceeding by the court and the parties

May 1, 2020-December 31, 2021 (parallel WDTX litigation)



Impact of Factor Four: Overlap between the issues raised in the petition and in the parallel proceeding

May 1, 2020-December 31, 2021 (parallel WDTX litigation)

