

# Supreme Court of Victoria

2012–13 ANNUAL REPORT



## Letter to the Governor

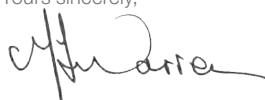
October 2013

To His Excellency Alex Chernov AO QC, Governor of the State of Victoria and its Dependencies in the Commonwealth of Australia.

Dear Governor,

We, the judges of the Supreme Court of Victoria, have the honour of presenting our Annual Report pursuant to the *Supreme Court Act 1986* with respect to the financial year of 1 July 2012 to 30 June 2013.

Yours sincerely,



Marilyn L Warren AC  
The Honourable Chief Justice  
Supreme Court of Victoria

C Maxwell, P	J H L Forrest, J
P Buchanan, JA	L Lasry, J
G A A Nettle, JA	J G Judd, J
M A Neave, AO JA	P N Vickery, J
R F Redlich, JA	E J Kyrou, J
M Weinberg, JA	D F R Beach, J
P M Tate, JA	J Davies, J
R S Osborn, JA	T M Forrest, J
S P Whelan, JA	K L Emerton, J
P G Priest, JA	C E Croft, J
P A Coghlan, JA	A Ferguson, J
K M Williams, J	M L Sifris, J
S W Kaye, J	P W Almond, J
E J Hollingworth, J	J R Dixon, J
K H Bell, J	C C Macaulay, J
K W S Hargrave, J	K McMillan, J
B J King, J	G H Garde, AO RFD J
A L Cavanough, J	G J Digby, J
E H Curtain, J	J D Elliott, J
R M Robson, J	T J Ginnane, J

### On the cover

Elements of entries to the 2012 Chief Justice Prize for excellence in design feature on the cover. Read more about the Court's collaboration with the Melbourne School of Design, Faculty of Architecture, Building and Planning, The University of Melbourne, on page 13.

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October 2013

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**Note:** Data contained in this report may differ in relation to 2011-12 data due to ongoing audits of files and cases being reinitiated during the year.

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# Remarks of the Chief Justice

The Council of Judges is pleased to present its report for the 2012-2013 year.



**The Hon. Marilyn L Warren AC**  
Chief Justice of Victoria

## Progressing Cases

It has been a period of continuing reform and innovation. A particular highlight has been the dramatic reduction in criminal appeal delays. The reduction is possibly unmatched in comparable courts. It has been achieved by the drive and application of the judges led by the President of the Court of Appeal and the Honourable Justice Ashley. The judges in turn were superbly supported by Judicial Registrar Pedley, the Court of Appeal Registry and Court Administration.

I also mention the high level of activity in the Commercial Court and the Common Law Division. The Victorian Supreme Court strives to be an excellent superior court. This goal is particularly pursued through the volume and nature of cases, especially class actions. Civil litigation is facilitated by a strong commitment to alternative dispute resolution, especially mediation. The associate judges play an invaluable role in acting as court mediators in appropriate cases at no cost.

The criminal jurisdiction also warrants special comment. The trial judges have dealt with a high volume of matters made up of criminal trials, mental impairment hearings, bails and surveillance applications.

The performance of the Court in these areas is elaborated upon in the divisional reports that follow. I strongly urge their reading.

## Adult Parole Board

A significant demand on judge time and availability arises from the requirements of the Adult Parole Board. The Supreme Court has a 60 year history of providing the Chair of the Board: Justices Barry, Starke, Vincent, Teague, Kellam and Whelan, and presently Justice Curtain. Mostly, this commitment has been unrecognised. The service provided by judges has been selfless and significant for decades. On behalf of the Court the Council of Judges thanks all past chairs and acknowledges the recent service of Justices Whelan and Curtain.

We note the burdens of the role. The Chair is on call 24 hours per day, every day and carries the burden of Board business on top of a full judicial load. No time, leave or salary provision is made for this service. The functions are administrative rather than judicial. Further, the decisions of the Board – whether directly involving the Chair or not – sometimes raise controversy. Given the introduction of the Corrections Amendment (Parole Reform) Bill 2013 the opportunity arises for the Court to discontinue its involvement in the Board. The legislation has been altered to enable the appointment of a retired judge as Chair of the Board. The Court welcomes the change in the appointment of a non-serving judge as Chair of the Board.

## Legal Aid

On a different note, the Supreme Court, along with other courts, has been vexed by the limitations on the provision of adequate legal aid in criminal trials. It was regrettable that in late 2012 Victoria Legal Aid (VLA) changed funding guidelines unilaterally without consultation. VLA announced it would not fund the attendance at court of instructing lawyers to support barristers in criminal trials for more than two half days of trials. Justice Lasry adjourned the *Chaouk* trial until an instructing lawyer was provided on a day-to-day basis. An application for leave to appeal (out of time) was dismissed. The Court of Appeal said:

*The power of the court to stay a criminal trial is the ineluctable concomitant of the court's duty to ensure that a criminal trial is as fair as we can reasonably make it. There is of course a significant public interest in the independent performance of that duty by the court. When it comes to legal representation, a decision to stay a trial reflects the court's assessment of what is necessary to ensure that justice is done.*

While matters settled down after the Court of Appeal decision, many court days were lost.

Aside from these problems, the Court observes a trend in legal aid representation in Supreme Court trials. There was a time when senior counsel almost always appeared for the defence. These days, with VLA, it being the dominant provider, the appearance of senior counsel for the defence is less frequent than it ought to be. Mostly, senior counsel appear for the prosecution. The net effect is that sometimes the quality and standard of defence representation is not suitable for the Supreme Court. Judges are left to manage the trial to avoid injustice to an accused person. Sometimes appeal points arise and retrials are ordered. Thus the cost saved in not retaining senior counsel is shifted to a cost elsewhere through judge-time, court costs, appeal and retrial costs. It is a false economy. Doubtlessly, VLA does the best it can. However, the level of experience and competence of barristers briefed for the defence in Supreme Court trials should be assessed very carefully to ensure appropriate standards are consistently met.

### Law Library of Victoria

The year also saw the launch of the Law Library of Victoria. It will be a consolidation of the libraries of all Victorian courts and, eventually, a collaboration with the Victorian Bar and the Law Institute of Victoria. The ultimate goal is the provision of desktop access for every Victorian judicial officer and lawyer to a full, state-of-the-art legal library and resource. On completion the Law Library of Victoria will be a magnificent asset of the State. To launch the project the Victorian Attorney-General provided almost \$800,000 in funding. An Advisory Board has been established involving all interest groups. The project is progressing. With appropriate ongoing funding the Law Library of Victoria should be operating by 2015-2016.

### Supreme Court Building Needs

Once again I mention the Supreme Court building needs. The State Government provided important funding for the mega trial courtroom in the William Cooper Justice Centre. It is excellent and has given rise to much efficiency through the application of technology. However, previous problems continue in other Supreme Court buildings: lack of secure facilities, inadequate arrangements for the public – especially safety, outmoded courtroom layout and insufficient courtrooms. The mega trial courtroom has eased the pressure in one case but resources remain stretched.

The Court anticipates that over time the roles of the Independent Broad-based Anti-corruption Commission and the Public Interest Monitor will impact on court hearings. These applications may be contested and require secure and private court facilities to protect the integrity of the processes. At present the Court has no suitable facilities but has alerted the Department of Justice to the need. The Court will monitor the development of these cases.

### Administrative Staff

Finally on behalf of the judges I thank the Chief Executive Officer David Ware and all Court and judicial staff for their devotion and commitment to serving the Supreme Court of Victoria. Without their support the Court would not have achieved the things described in this report.

The Court also thanks the Secretary and staff of the Department of Justice for their assistance through the year.

# Remarks of the Chief Executive Officer

The 2012-13 year has been a time of change and progress for the Support Delivery areas of the Court.



**David Ware**  
Chief Executive Officer

The construction of a mega courtroom equipped with state-of-the-art technology in the William Cooper Justice Centre, purpose-built for the Kilmore East-Kinglake bushfire proceedings, is a model for the management of large trials. The new courtroom and infrastructure enables the matter to be run digitally, providing major efficiencies in the conduct of the trial. Read more about this project on page 32.

Performance against a number of key benchmarks demonstrates the Court's achievement in the 2012-13 year. The Court continued to finalise more cases than initiated, with a clearance rate of 105%, while reducing the backlog of cases by seven per cent. For the fourth year in a row, the Court delivered a balanced budget with a modest surplus at the end of the financial year.

Funds in Court (FIC) continued to perform strongly. The interest rates fixed for Common Fund No. 2 were 65 basis points lower than those fixed last financial year, however this is an excellent outcome given the difficult financial environment. Funds under administration exceeded \$1.44 billion, an increase of 2.15 per cent since last financial year.

The Juries Commissioner's Office (JCO) summonsed 56,805 jurors, with 6,446 empanelled to serve as jurors on 584 Supreme and County Court trials. The Jury

Questionnaire Online System piloted during the year was well received by the public, who have displayed keen interest in engaging with the jury process online.

Ongoing improvements implemented by the Court of Appeal Registry included supporting the Ashley-Venne Reforms, which have reduced the backlog of criminal matters by 74 per cent in just three-and-a-half years. Following on from this success, the Court of Appeal Registry assisted changes in the Court of Appeal during Term 2 to expedite the hearing of civil appeals, which has reduced the number of civil matters pending from 218 in January 2013 to 149 as at the end of June 2013 (page 50).

Supporting the Trial Division of the Court, the Principal Registry received in excess of 230,000 Probate documents, while approximately 93,000 civil and criminal documents were filed. The Registry assisted 1,579 self-represented litigants, a significant increase of 21% from the previous year (page 54).

Building on the successful trial of the RedCrest electronic case management system, the Court was granted \$675,000 from the Minister of Technology to develop a fully-scaled pilot of RedCrest, to be initially delivered for the Commercial Court. The Court also rolled out practical improvements including WiFi in all courts and

the Library, as well as an iPad program for judicial officers.

The Court demonstrated its commitment to continual improvement through leading the project to establish the new Law Library of Victoria. Heads of jurisdiction, the Acting Secretary of the Department of Justice, the Chair of the Victorian Bar and the President of the Law Institute of Victoria signed a Memorandum of Understanding on 23 August 2012 to confirm their readiness to work together on the project.

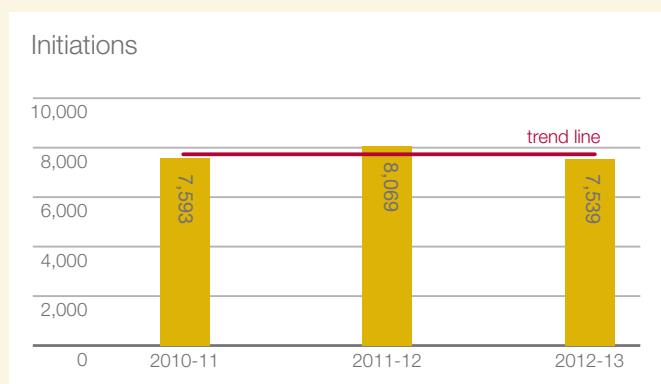
Community engagement continued to be a focus of the Court in 2012-13. The Court hosted over 5,500 students as part of the Court's Education Program. More than 2,200 people visited the Court during Open House Melbourne in July 2012, while over 700 people attended Courts Open Day in May 2013. The Court also participated in the bicentennial celebrations of the birth of Sir Redmond Barry, a founding judge of the Supreme Court, which provided another opportunity for the Court to engage with the public (page 59).

It has been an exciting year of innovation and improvement in the Court. We look ahead to the coming year with renewed commitment to supporting the Court in upholding the highest of standards in the administration of justice.

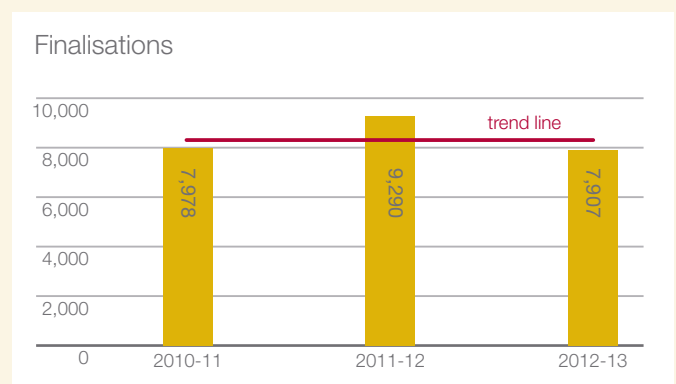
# 2012-13 at a Glance

## The Court continued to demonstrate excellent performance against a number of important benchmarks in 2012-13.

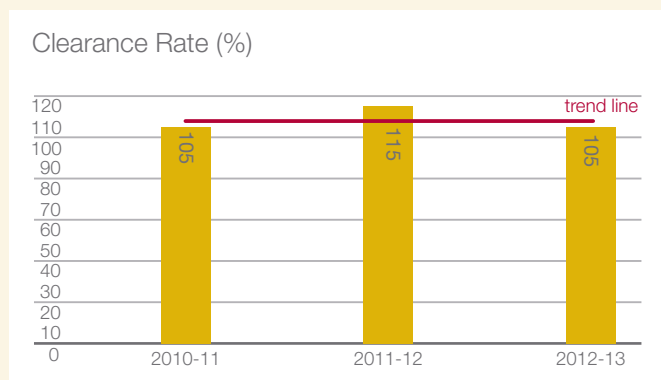
Timeliness and efficiency are core measures of Court performance, and as such, they reflect the Court's commitment to performing its functions efficiently. Indeed, the Court views efficiency and timeliness as direct indicators of its ability to deliver justice. In line with both national and international measures, the Court closely monitors efficiency and timeliness by tracking the number of cases initiated, the number of cases finalised, case clearance rates and the number of cases pending.



The Initiations graph shows the volume of new cases the Court received during the reporting year. Overall, the Court initiated 7,539 cases in 2012-13, which represents a seven per cent decrease compared with 2011-12. However, the flat three-year trend line clearly shows that, over the longer term, the Court's workload relating to new cases is consistent.

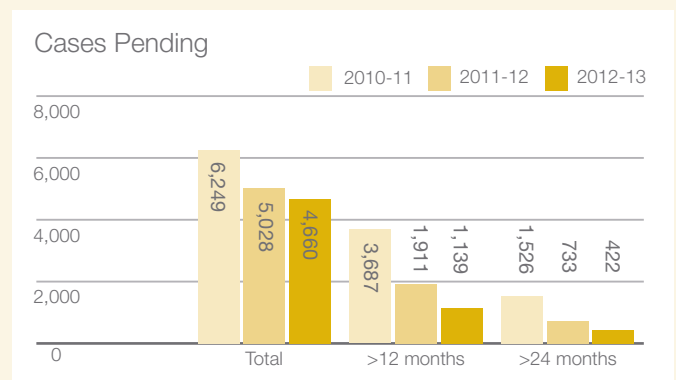


The Finalisations graph indicates the volume of cases the Court has cleared during the year. That is, the number of cases that were completed and are no longer active. Overall, the Court finalised 7,907 cases in 2012-13, which represents a 15 per cent decrease compared with 2011-12. The flat three-year trend line shows that, over the longer term, the Court continues to finalise more cases than are initiated each year.



Clearance rate data measures the Court's efficiency by recording the number of cases finalised as a percentage of the number of cases initiated. The usual target set for courts is 100 per cent, which aims to ensure the number of cases cleared at least equals the number of cases filed, thereby not creating a backlog of cases.

The Clearance Rate graph shows that the Court achieved an impressive clearance rate of 105 per cent for 2012-13. The Court's process reforms have enabled it to maintain a consistently high clearance rate over three years. 2012-13 has seen a return to a more sustainable clearance rate following an extraordinary year of effort that was applied in 2011-12.



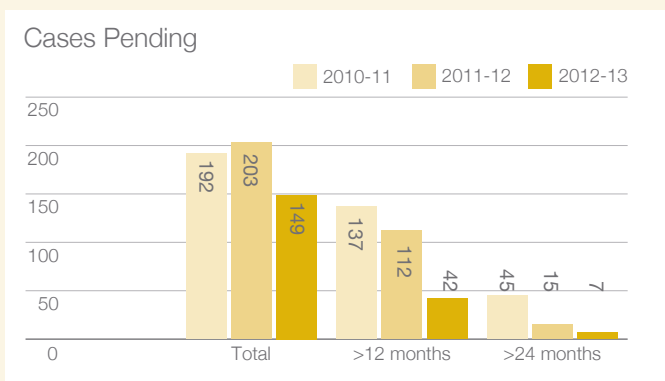
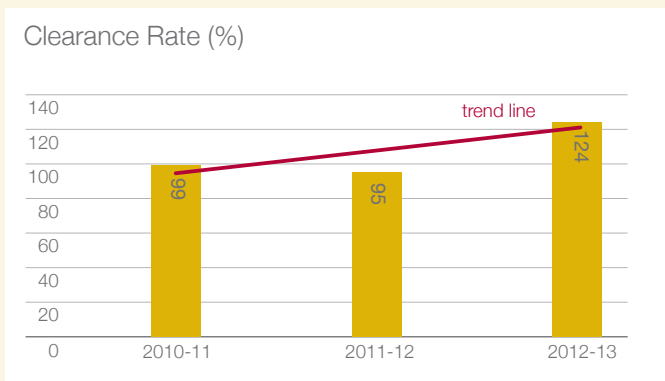
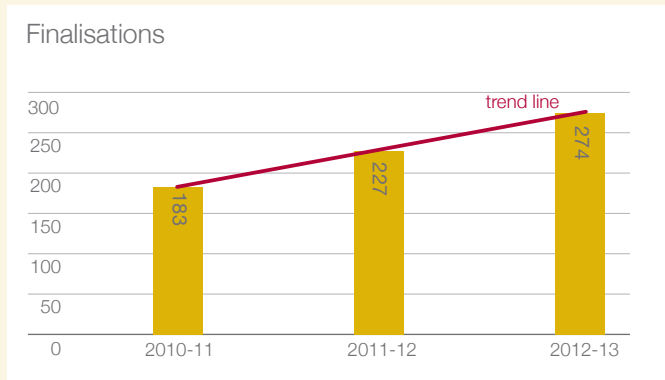
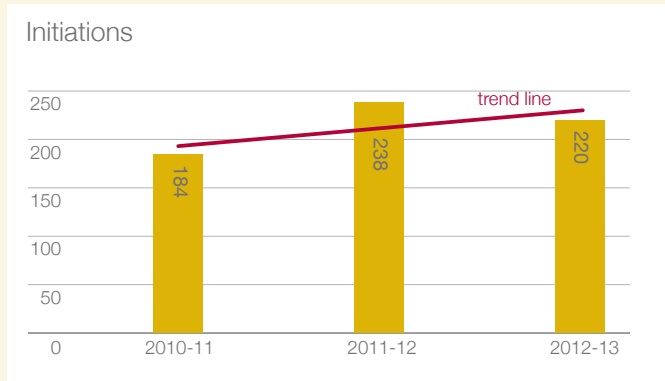
The Cases Pending graph (or case backlog) provides a quantitative assessment of the Court's timeliness in processing cases. Emphasis is placed on those cases that have been pending for more than 12 months, and an even stronger focus is applied to cases that have been pending for more than 24 months. Like the majority of courts in Australia a backlog is inevitable, however, the Court has continued to reduce the number of cases pending for the 2012-13 year.

The overall backlog of cases decreased by seven per cent in 2012-13. Of particular note is that the backlog of cases pending for more than 24 months decreased by a remarkable 42 per cent. A similar result can be seen with regard to cases pending for more than 12 months where the backlog was significantly reduced by 40 per cent in 2012-13.

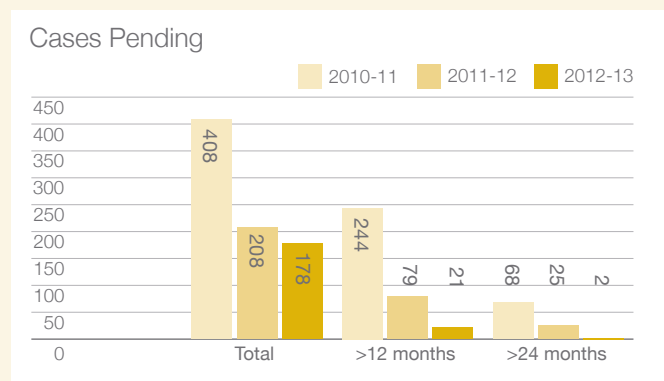
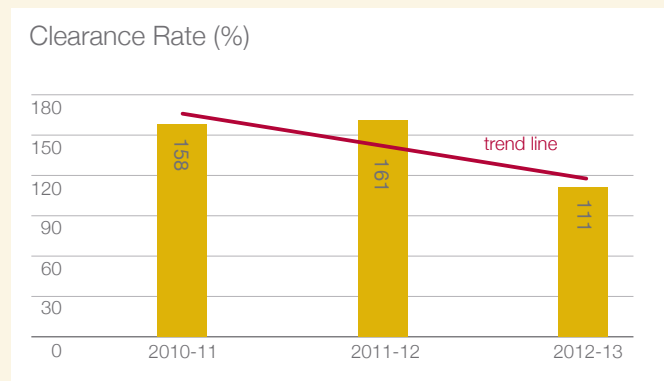
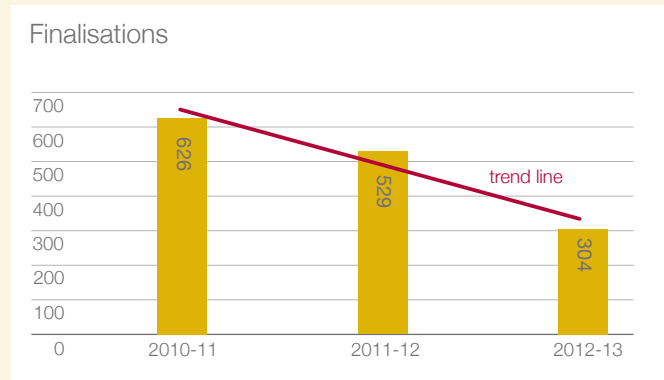
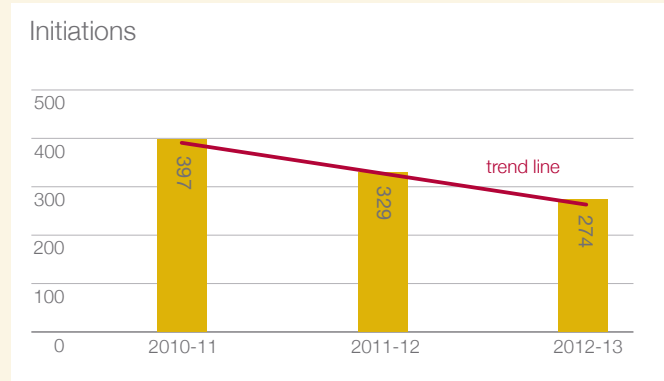
# The Court of Appeal

These graphs provide an overview of the initiations, finalisations, clearance rate and cases pending in civil and criminal matters before the Court of Appeal for the financial year. For further information about the Court of Appeal, turn to page 19.

## Civil



## Crime





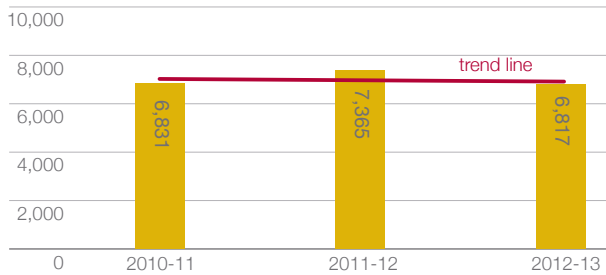
# The Trial Division

The graphs below provide an overview of the Trial Division workload in 2012-13.

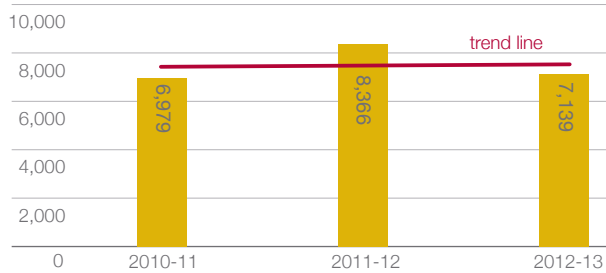
## Civil

Turn to page 22 for more information about the Commercial and Equity Division's workload during the year. For more information about the Common Law Division, turn to page 29.

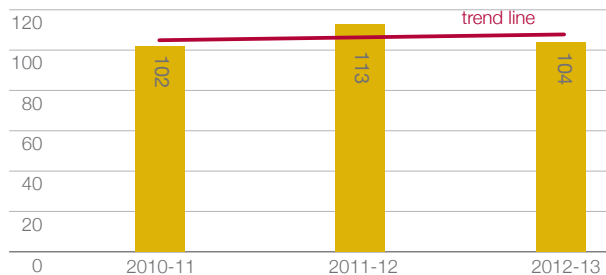
Initiations



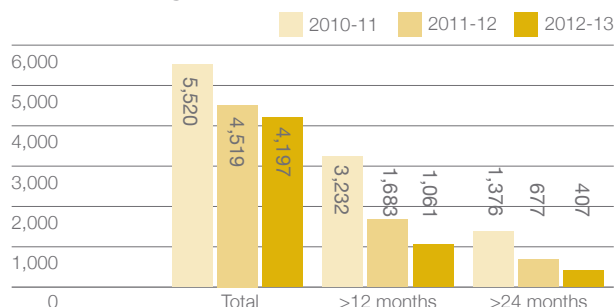
Finalisations



Clearance Rate (%)



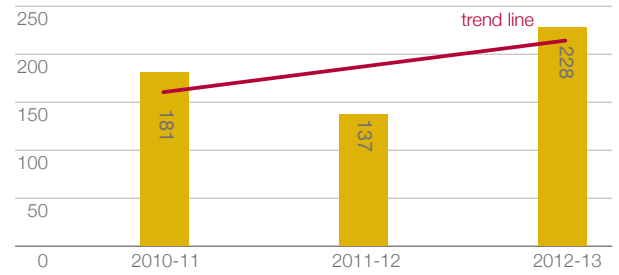
Cases Pending



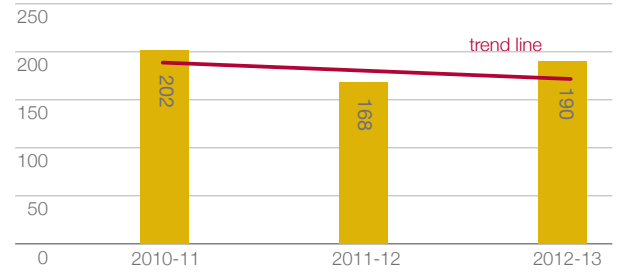
## Crime

Initiations, finalisations, clearance rate and cases pending in the Crime Division for the reporting period are shown below. Further information about this division starts on page 35.

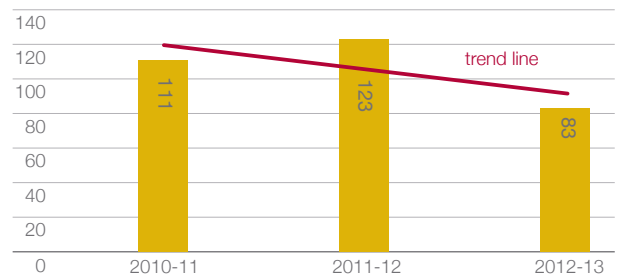
Initiations



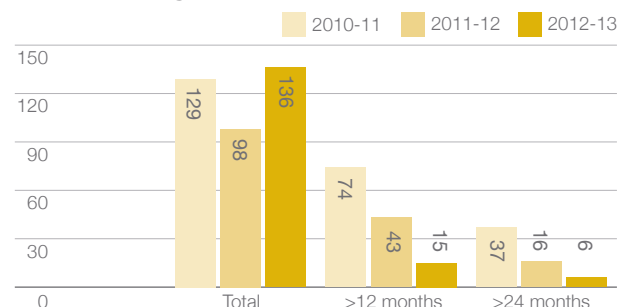
Finalisations



Clearance Rate (%)



Cases Pending

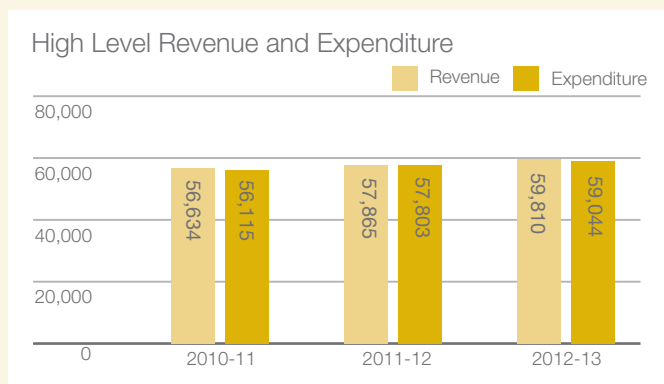


## Finance

The Court continued to demonstrate its sound financial planning and management practices through the effective use of revenue appropriations, and the management of expenditure within its allocated funds.

Once again the Court achieved an accounting surplus for the financial year. The Court's management of financial resources is addressed in detail in the Financial Report, from page 64.

The graph below depicts a high level, consolidated overview of the Court's financial performance in the past three years.



## Priorities and Initiatives for the Year Ahead

Looking forward, the Court will continue to progress an exciting program of priorities and initiatives to effect change and improvement.

In 2013-14, the Court will implement a suite of judiciary-led programs that will further develop 'court excellence' in accordance with international standards. These initiatives will further enhance and demonstrate the Court's ability to manage and plan for a sustainable future.

The primary strategic initiatives include:

### Developing the Commercial Court

The Commercial and Equity Division is restructured into an enlarged Commercial Court, including the better integration of associate judges, a dedicated registry, and piloting of the RedCrest electronic case management system.

### Civil Appeals in the Court of Appeal

Case files are audited and appeal processes revised to improve the efficiency of the Court of Appeal.

### Registry Organisation

Registry services better align with the needs of Court proceedings and complement the work practices of the Commercial Court and associate judges.

### Technology Strategy

Technology developments complement Court Delivery, and electronic file systems improve accessibility for Court users and facilitate more efficient work practices for staff.

### Transition to Global Measures of Court Performance

Key performance measures that are aligned with global measures of court performance are used for the purposes of transparency, accountability and improvement.

### A Healthy and Safe Court

A commitment to a healthy and safe environment for all those who work and attend the Court, and which provides for a productive, efficient, effective and accessible Court.

### Secure People, Premises and Information

A program for the provision of a secure and safe court precinct for all those that work and attend the Court, enhanced by the responsible management of information.

# Significant Events

The year saw the Court implement a number of initiatives that delivered innovation to the Court and its users, improved efficiencies and modernised processes. These initiatives demonstrate the Court's commitment to continuous improvement and excellence.

Court-driven projects for the 2012-13 year include:

- the construction of a \$4 million 'mega' courtroom in the William Cooper Justice Centre, purpose-built for the Kilmore East-Kinglake bushfire proceedings. See page 32 for the full case study.
- the use of a special referee and electronic discovery to expedite the largest proceedings yet commenced in the Commercial and Equity Division of the Court. Turn to page 25 to read more about the Great Southern proceedings.
- expert witness conclaves used in the bushfire proceedings. See page 41 for more about the Court's innovative approach to managing expert testimony.
- changes in the Court of Appeal to expedite the hearing of civil appeals. Read more about these reforms at page 50.

Read about other significant events during the year on the following pages.

## Enhancing the Court's ICT Capability

A critical challenge for the Court is to improve and modernise systems and processes in order to advance administrative efficiencies and deliver services in line with modern legal practices and expectations. Information communication technology (ICT) is key to this. Previously the Court has relied on the Department of Justice and the Courts Technology Group, in Court Services, to plan and provide our ICT needs (for example the Courtview database).

During the year, the Court began building its ICT planning capability, and initiated the development of an ICT strategic plan. The Court will use this process to better understand Court users' needs and expectations, to drive the modernisation of ageing hardware and software systems, to address major service gaps (particularly e-services) and improve work practices by maximising the benefits of using updated technologies.

The Court will look to finalise the strategic plan in the coming year, in parallel with delivering immediate improvements, for example new desktop computers, updated software and WiFi.

## Court Launches Blueprint to Simplify Jury Directions

A Court-driven initiative to simplify and reform directions to juries was presented to the Honourable Robert Clark MP, Attorney-General, at the Supreme Court of Victoria on 3 October 2012.

The *Simplification of Jury Directions Report* was developed by Justice Weinberg with assistance from the Department of Justice. The report built upon work carried out in Australia and overseas by the Victorian Law Reform Commission and other law reform bodies, which concluded that jury directions are, by and large, unduly complex and in need of reform. It addressed the issues identified by those bodies and provided recommendations to reduce the complexity and length of jury directions given in Victoria.

In December 2012 the government introduced legislation into Parliament. The *Jury Directions Act 2013* commenced on 1 July 2013 and contains four principal reforms and several other provisions of general application to simplify jury directions in criminal trials.



## New Law Library of Victoria

The planned Law Library of Victoria will be an integrated library serving, in its final form, the whole judiciary and legal profession in Victoria. It will increase existing library resources, improve online access, particularly for practitioners outside the Melbourne CBD, and offer the highest quality legal research and information services to underpin excellence in the practice of law in Victoria.

The commitment to work towards this new Library was embodied in a Memorandum of Understanding between all heads of jurisdiction, the Department of Justice, the Law Institute of Victoria and the Victorian Bar, signed on 23 August 2012.

During the year there has been excellent progress in the lead up to the Library's establishment, including the development of a proposed service model, digital strategy and organisational structure, integrated and cost-effective purchasing strategies for library materials, the building of a new website and planning for staff transition.

## RedCrest Case Management System

The RedCrest case management system is a secure and interactive resource for practitioners, and its implementation has enabled the fast and efficient filing and accessing of documents. The ‘proof of concept’ for RedCrest was successfully developed and trialled by Justice Vickery in the Technology, Engineering and Construction List, and has also been used with the bushfire class action cases and elsewhere in the Court. Building on this success, the Court was granted \$675,000 from the Minister for Technology to develop a fully-scaled pilot of RedCrest, to be initially delivered for the Commercial Court.

Delivery of the pilot in 2013-14 will be a significant step for the Court in providing e-filing and e-enablement for the Court and its users.

## Collaborating on Community Engagement

Sir Redmond Barry is most often remembered for sentencing outlaw Ned Kelly, but the foundation judge of the Supreme Court of Victoria was influential in the establishment of many of Victoria’s cultural institutions. To commemorate the 200th anniversary of Barry’s birth, the Court collaborated with a number of organisations to celebrate Barry’s legacy to the legal profession and the State of Victoria. Read more about the celebrations and how the Court connected with a wide cross-section of the community at page 59.

On 5 October 2012, Funds in Court held a very special event for beneficiaries – people under a legal disability who have their money administered by Funds in Court. The event entitled Embrace sought to celebrate beneficiaries’ talents in art, craft, singing and music. The Senior Master, Associate Justice Efthim, opened the evening and over 40 beneficiaries participated in the well-attended exhibition and concert. Feedback from beneficiaries and their families indicated that the event was an overwhelming success. Read more about the various ways in which Funds in Court connects with beneficiaries on page 47.



## Attorney-General Presents at Talking Heads

The Honourable Robert Clark MP, Attorney-General, was the guest speaker at the Court’s Talking Heads series in May 2013.

The series provides the Court’s judicial officers and staff with opportunities to hear from judges, management and special guests about Court business, news and projects that are under way.

The Court has implemented a range of projects that have significantly improved efficiencies and services across the organisation, and is committed to ongoing innovation and reform. Within this context, the Attorney-General spoke about some of the broader challenges and priorities of the courts portfolio, and responded to questions raised by the large contingent of judges and staff in attendance.

## Juries Eligibility Questionnaire Goes Online

The Juries Commissioner's Office (JCO) processes over 150,000 Jury Eligibility Questionnaires each year. The Jury Questionnaire Online System (JQOS) is a JCO initiative that offers the public an easier and more efficient way of responding to the Jury Eligibility Questionnaire. The JCO recently completed an initial pilot period for JQOS in Melbourne, and it is expected that regional jury districts will begin using JQOS in the next 12 months.

The online survey has improved efficiencies in a number of ways: manual workloads for staff have been reduced, the ability to gather and analyse data has been enhanced, and stationery requirements and postal costs have been reduced.

The initial pilot of the online survey demonstrated the public's willingness to engage with the jury process online. Since its introduction in Melbourne, the number of online responses to the Jury Eligibility Questionnaire has risen from 17 per cent to 30 per cent. This is expected to grow as the JCO looks at ways to promote it and increase the uptake of this online option.

For further information about the JCO's operations turn to page 62 .

## International Judicial Studies and Exchanges

### New Zealand: Implementing the IFCE

On 7-9 March 2013 the Australasian Institute of Judicial Administration held a conference in Auckland, New Zealand: The Pursuit of Excellence and Innovation in Courts and Tribunals. The Court presented on its implementation of the International Framework for Court Excellence (IFCE) as a holistic means for achieving excellence, and circulated a paper on its achievements to date in implementing the Framework. The paper was later included in a select collection of reference material made available on the International Consortium for Court Excellence website.

### Spain: Evaluating Judicial Performance

From 8-10 May 2013 the Chief Justice attended a workshop, Evaluating Judicial Performance, in Onati, Spain. The workshop was sponsored by the International Institute for the Sociology of Law, the Academy of the Social Sciences in Australia, and the US National Center for State Courts. Workshop participants included judicial officers from the US, Europe and South America, together with international academics. Papers were presented over a number of panel sessions on international programmes to improve the performance of courts and judges in case conduct and case management. The Chief Justice presented a paper on the Supreme Court's judicial education and training programmes run through the Judicial College of Victoria, and the Supreme Court's implementation of the IFCE.

### Canada and USA: Court Architecture

Justice Osborn attended a Court Architecture Conference in Montreal and New York City from 26 May to 31 May 2013. As part of the conference, Justice Osborn toured old and new court buildings that had been redesigned and equipped with the technology, facilities and spatial planning required for the effective functioning of a modern court. The insights gained by Justice Osborn will be extremely useful going forward as the Supreme Court of Victoria continues to adapt its building and facilities to meet the requirements of modern trials and appeals.

### Singapore: Attachment Programme

An Attachment Programme between the Court and the Supreme Court of Singapore was established to provide a reciprocal learning experience for judicial officers.

Three judicial officers from Singapore attended the Supreme Court in May 2012 to gain an understanding of how the Court operates and functions within an adversarial legal system. In 2013, Associate Justice Derham and Associate Justice Mukhtar visited the Supreme Court of Singapore. The judges were received personally and given generous hospitality by Chief Justice Sundaresh Menon, judges of the Court of Appeal, judges of the High Court, the Registrar, Assistant Registrars and the Chief Executive Officer.

The purpose of the visit was to gain an understanding of the administrative operations of the Court, to see the amenities of the modern and well-equipped Singapore Supreme Court building, to experience the conduct of judicial proceedings, and to exchange and compare ideas on the conduct of modern litigation. Of particular interest were the Court's electronic facilities. Yeong Zee Kin, a Senior Assistant Registrar, demonstrated the Court's new e-filing system, which enables the direct filing of documents by solicitors over the internet.

The judges had the privilege of sitting in chambers with Registrar Mr Foo Chi Hock and Assistant Registrar Louis Ng to observe the conduct of directions hearings and interlocutory applications. They also had the privilege of sitting as observers on the Bench with Justice Judith Prakash for the conduct of a civil trial.

Associate Justices Derham and Mukhtar also visited the Singapore Academy of Law, which is the umbrella membership body of the legal profession in Singapore, predominantly concerned with legal education, law reform, and legal publishing. They were also received by the convenors of the Singapore International Arbitration Centre at Maxwell Chambers – Asia's largest integrated dispute resolution complex with state-of-the-art hearing facilities and chambers for practitioners from around the world. On the last two days of the Attachment Programme, they attended the fourth Judicial Seminar on Commercial Litigation.

Across the judicial and administrative level, there is great pride in the workings of the Singapore Supreme Court and the pursuit of high standards. Associate Justices Derham and Mukhtar were made to feel most welcome and were readily provided with information about the Court.

## Representing Justice: Space, Place and Presence

*The Melbourne School of Design at The University of Melbourne, at the Chief Justice's invitation, set the design of a new Supreme Court building on the Old Mint site as a design thesis topic for final year Master of Architecture students.*

*The design brief required 27 courtrooms, accommodation for up to 56 judges, and generous public and professional support spaces, all within a secure and sustainable building that is user-friendly and adaptable. Led by Professor Emeritus Graham Brawn, the detailed accommodation schedule to which the students worked was developed using Professor Brawn's extensive experience in courthouse planning and design.*

*"The expectation was not to find a design, but to have the fertile and unfettered minds of young designers explore the opportunities and possible issues that may present themselves should a new courthouse be built on the site," said Chief Justice Warren. "The design is expected to be authoritative while not intimidating; welcoming and open while not casual and informal; calming, respectful and dignified."*

*The students were required to locate themselves in the current debates of the building type and to find ways in which design can better articulate the visions, values and questions posed by a modern, transparent and accessible justice system. As part of the design process, students toured local and interstate courthouses. Students also met with the Chief Justice and judges of the Supreme Court, judicial officers of other State and Commonwealth Courts, as well as architects.*

*Since 2011 the Court has awarded the Chief Justice Prize for excellence in design, concept and execution. In 2012 there were two winners: Eamon Harrington and Michael Germano. Elements of the 2012 entries feature on the cover of this year's Annual Report.*



# Supreme Court of Victoria: About the Court

The Court's vision espouses the attributes that are at the heart of our important work.

## Goal:

To be an outstanding superior court

## Purpose:

To safeguard and maintain the rule of law, and to ensure:

- equal access to justice
- fairness, impartiality and independence in decision-making
- processes that are transparent, timely and certain
- accountability for the Court's use of public resources
- the highest standards of competence and personal integrity.



## A Court for all Victorians

While the majority of Supreme Court cases are heard in Melbourne, the Court endeavours to hear matters in the region of origin wherever possible.

The Court's commitment in this regard reflects its status as a court for all Victorians and the importance of circuit sittings to regional communities. The Court regularly travels on circuit and sits at the local courthouses in Ballarat, Bendigo, Geelong, Hamilton, Horsham, Latrobe Valley (Morwell), Mildura, Sale, Shepparton, Wangaratta, Warrnambool and Wodonga.

## Constitution and Jurisdiction

The Supreme Court of Victoria is the highest court in Victoria. Established under s 75 of the *Constitution Act 1975*, it is divided into the Trial Division and the Court of Appeal.

### Court of Appeal

The Court of Appeal was established under the *Constitution (Court of Appeal) Act 1994* and commenced operations on 7 June 1995. The Court of Appeal hears appeals from criminal and civil trials heard in the Trial Division of the Supreme Court, and in the County Court. It also hears some appeals from proceedings that have come before the Victorian Civil and Administrative Tribunal (VCAT) and other tribunals.

Procedure before the Court is governed by Acts of Parliament, Rules of Court and Practice Notes issued by the Court. For more information about the Court of Appeal, turn to page 19.

### Trial Division

The Trial Division hears among the most serious criminal and civil cases in Victoria, including:

- cases of treason, murder, attempted murder and other major criminal matters
- civil cases unlimited in the amount of money that may be claimed
- civil cases involving complex legal issues
- some appeals and reviews of decisions made in lower courts and tribunals
- procedural matters, including applications for bail, winding up of companies, probate business and urgent applications for injunctions.

Proceedings before the Court are heard in one of the following divisions:

- the Commercial and Equity Division
- the Common Law Division
- the Criminal Division.

Each division has a principal judge who oversees the work of the division in addition to their judicial duties. Within the Commercial and Equity and Common Law Divisions, there are a number of 'specialist lists'. Each of these lists is assigned to a judge who is responsible for the work of that list.

Civil proceedings outside judge-managed lists are case-managed by associate judges. Associate judges do not have jurisdiction in respect of criminal matters.

Associate judges conduct some trials, primarily in the Commercial and Equity Division. They also conduct mediations and adjudicate and resolve disputes between parties regarding matters such as discovery, subpoenas, pleadings and the enforcement of judgments.

Read more about the divisions from page 22, and the work of the associate judges from page 38.

## Court Delivery

### The Judiciary

The Supreme Court judiciary comprises the Chief Justice, the President of the Court of Appeal, judges, associate judges and judicial registrars. Judges of the Supreme Court are appointed by the Attorney-General after a consultative process.

### Judges of the Court During 2012-13

#### Chief Justice

The Honourable Justice Marilyn Louise Warren AC: (1998\*)  
25 November 2003 – present

#### President of the Court of Appeal

The Honourable Justice Chris Maxwell:  
18 July 2005 – present

#### Judges of the Court of Appeal

The Honourable Justice Peter Buchanan:  
28 October 1997 – present

The Honourable Justice Geoffrey Arthur Akeroyd Nettle: (2002\*) 7 June 2004 – present

The Honourable Justice Marcia Ann Neave AO:  
22 February 2006 – present

The Honourable Justice Robert Frank Redlich:  
8 May 2006 – present

The Honourable Justice Mark Weinberg:  
22 July 2008 – present

The Honourable Justice Philip Mandie: (1994\*)  
11 August 2009 – 31 August 2012

The Honourable Justice Bernard Daniel Bongiorno AO: (2000\*)  
11 August 2009 – 31 December 2012

The Honourable Justice David Lindsey Harper AM: (1992\*)  
4 November 2009 – 28 June 2013

The Honourable Justice Hartley Roland Hansen: (1994\*)  
19 July 2010 – 31 July 2012

The Honourable Justice Pamela Tate:  
14 September 2010 – present

The Honourable Justice Robert Stanley Osborn: (2002\*)  
7 February 2012 – present

The Honourable Justice Simon Paul Whelan: (2004\*) 16 October 2012 – present

The Honourable Justice Phillip Geoffrey Priest:  
23 October 2012 – present

The Honourable Justice Paul Anthony Coghlan: (2007\*) 1 January 2013 – present

#### Judges of the Trial Division

The Honourable Justice David John Habersberger: 3 July 2001 – 28 March 2013

The Honourable Justice Katharine Mary Williams: 28 October 2002 – present  
• *Principal Judge: Common Law Division*

The Honourable Justice Stephen William Kaye: 16 December 2003 – present

The Honourable Justice Elizabeth Jane Hollingworth: 7 June 2004 – present

The Honourable Justice Kevin Harcourt Bell:  
10 February 2005 – present

The Honourable Justice Kim William Spencer Hargrave: 16 March 2005 – present  
• *Principal Judge: Commercial and Equity Division*

The Honourable Justice Betty June King:  
21 June 2005 – present

The Honourable Justice Anthony Lewis Cavanaugh: 8 May 2006 – present

The Honourable Justice Elizabeth Helen Curtain:  
3 October 2006 – present  
• *Principal Judge: Criminal Division*

The Honourable Justice Gaetano Pagone:  
17 May 2007 – 20 June 2013

The Honourable Justice Ross McKenzie Robson: 7 August 2007 – present

The Honourable Justice John Herbert Lytton Forrest: 7 August 2007 – present

The Honourable Justice Lex Lasry:  
25 October 2007 – present

The Honourable Justice James Gregory Judd:  
4 March 2008 – present

The Honourable Justice Peter Norman Vickery: 6 May 2008 – present

The Honourable Justice Emilios John Kyrou:  
13 May 2008 – present

The Honourable Justice David Francis Rashleigh Beach: 3 September 2008 – present

The Honourable Justice Jennifer Davies:  
6 April 2009 – present

The Honourable Justice Terrence Michael Forrest: 13 October 2009 – present

The Honourable Justice Karin Leigh Emerton: 13 October 2009 – present

The Honourable Justice Clyde Elliott Croft:  
4 November 2009 – present

The Honourable Justice Anne Ferguson:  
3 May 2010 – present

The Honourable Justice Michael Leon Sifris:  
13 July 2010 – present

The Honourable Justice Peter Waddington Almond: 28 July 2010 – present

The Honourable Justice John Russell Dixon:  
13 September 2010 – present

The Honourable Justice Cameron Clyde Macaulay: 13 September 2010 – present

The Honourable Justice Kate McMillan:  
6 March 2012 – present

The Honourable Justice Gregory Howard Garde AO RFD:  
29 May 2012 – present

The Honourable Justice Geoffrey John Digby:  
19 November 2012 – present

The Honourable Justice James Dudley Elliott:  
25 March 2013 – present

The Honourable Justice Timothy James Ginnane: 4 June 2013 – present

#### Reserve Judges

The Honourable Justice David John Ashley: (2012\*\*) 9 April 2013 – present

#### Associate Judges

The Honourable Associate Justice Kevin John Mahony:  
15 April 1983 – 7 September 2012

The Honourable Associate Justice John Efthim: 18 July 2005 – present

The Honourable Associate Justice Alexander Jamie Wood: 23 January 2006 – present

The Honourable Associate Justice Robyn Gay Lansdowne: 18 September 2006 – present

The Honourable Associate Justice Melissa Lee Daly: 10 October 2006 – present

The Honourable Associate Justice Simon Peter Gardiner: 6 November 2008 – present

The Honourable Associate Justice Nemeer Mukhtar: 18 August 2009 – present

The Honourable Associate Justice Rita Zammit: 22 March 2010 – present

The Honourable Associate Justice Rod Randall: 19 May 2011 – present

The Honourable Associate Justice David Mark Brudenell Derham:  
11 December 2012 – present  
• *Principal Judge: Associate Judges*

#### Judicial Registrars

Judicial Registrar Meg Gourlay:  
28 January 2011 – present

Judicial Registrar Mark Pedley:  
31 January 2011 – present

Judicial Registrar Steven Wharton:  
11 December 2012 – present

\* Date appointed to the Trial Division

\*\*Date retired from the bench

## Continuing Professional Development

The Judicial College of Victoria (JCV) provides continuing education and training for Victorian judicial officers, contributing to a highly skilled judiciary that is able to respond to the challenges of the role in the 21st Century.

In 2012-13, Supreme Court judges attended a total of 573.5 hours of JCV programs.

The Supreme Court held a Judges' Conference in March 2013. The general theme of the conference was communication and the challenges posed in the digital era. Challenges considered included those with respect to social media, cultural issues, the process of delivering open justice and effective communication with juries. Further sessions focussed on *stare decisis* and appellate courts, and ethics and the law.

Many judges and associate judges are also active in the community, participating in functions and activities that support and promote an understanding of the law and the courts. A summary of external judicial activity for the reporting period is included in Appendix 1, page 68.

## Retirements and Appointments

In 2012-13, Justices Mandie, Bongiorno and Harper retired from the Court of Appeal. The Court of Appeal welcomed the appointment of Justice Priest in October 2012.

The Trial Division welcomed a number of new appointments, with Justice Digby, Justice Elliott and Justice Ginnane beginning their tenure at the Supreme Court. Justice Habersberger retired from the Trial Division in March 2013, and Justice Pagone was appointed to the Federal Court in June 2013.

Associate Justice Derham was appointed in 2012, and after a long term as Senior Master, Funds in Court, Associate Justice Mahony retired from the Court in September 2012.

In December 2012, the Governor in Council appointed Steven Wharton to the new role of Judicial Registrar (Funds in Court).

### Reserve Judges

Under the *Courts Legislation Amendment (Reserve Judicial Officers) Act 2013*, which commenced on 27 February, retired judges and interstate judges can be appointed as reserve judges of the Supreme Court. Appointments are made by the Governor in Council for a period of five years with engagements by the Attorney-General during that period.

In 2013, the Supreme Court welcomed the addition of Justice Ashley as a reserve judge. The likely appointment of additional reserve judges in the near future will allow the Court to increase its efficiency in case finalisation.



Justice Priest



Justice Digby



Justice Ginnane



Justice Elliott



Associate Justice Derham



Judicial Registrar Wharton

## Committees and External Positions

The effective operation of the Court not only relates to judicial cases, but also to the complete range of management issues associated with any organisation. Judicial involvement is maximised in the sound management of such issues through a number of committees that oversee and guide decision-making. The primary committees operating in the Court are:

*Executive Committee* – chaired by Chief Justice Warren

*Finance Committee* – chaired by Chief Justice Warren

*Governance Working Group* – chaired by Chief Justice Warren

*Court Business Group* – chaired by Chief Justice Warren

*Information Technology Committee* – chaired by Justice Tate

*Communications Committee* – chaired by Justice Whelan.

In accordance with legislation there are a number of positions external to the Court that must be held by a Supreme Court judge. In 2012-13, these positions were as follows:

### Victorian Civil and Administrative Tribunal

Justice Garde – President

### Judicial College of Victoria

Chief Justice Warren – Chair

### Council of Legal Education

Chief Justice Warren – Chair

Justice Kyrou – member

Justice Davies – member

### Adult Parole Board

Justice Whelan – Chair until 28 May 2013

Justice Curtain – member, Chair from 29 May 2013

### Forensic Leave Panel

Justice Williams – President

Justice Hollingworth – member

Justice Coghlan – member

Justice J Forrest – member

## Support Delivery

Support Delivery is the collective name given to those functions within the Court that do not directly relate to the judicial component of court cases, but, nonetheless are essential to high quality court delivery.

Support Delivery is made up of the following five areas that fall under the leadership of the Chief Executive Officer:

- Court of Appeal Registry
- Principal Registry
- Funds in Court
- Juries Commissioner's Office
- Court Administration.

It should be noted that while Funds in Court is recognised as a Support Delivery area of the Court, it operates as a discrete division under the direct control of the Senior Master.

## Accountability and Evaluation

In January 2013, the Court began publishing on its website key performance outcomes relating to the initiation and finalisation of cases, clearance rates and the backlog of cases pending on a quarterly basis. The published figures not only present the Court as a whole, but also show a segregation of data into the Court of Appeal and Trial Division as well as criminal and civil cases. This is an unprecedented level of public accountability in performance reporting for a Supreme Court in Australia.

In 2010 the Court began using the International Framework for Court Excellence (the Framework) as its foundation management model, with the view to using the Framework as a guide for continuously improving the public value it delivers. The International Consortium for Court Excellence released the 2nd edition of the Framework in February 2013. From an accountability perspective, the most significant change to the Framework is that it now incorporates the Global Measures of Court Performance – a suite of 11 focused, clear, and actionable core performance measures.

The Court has committed to adopting these internationally recognised global measures as its default key performance indicators. The Court already uses a number of the global measures to monitor its performance, but not always calculated as prescribed by the Framework, for example, the quarterly publication of the Court's caseload. The Court intends to have at least nine of the 11 global measures in place by the end of 2013.

## Report on Government Services

In January each year, specific aspects of performance in courts and tribunals around Australia are analysed as part of the *Report on Government Services* (RoGS), which is managed by the Australian Government Productivity Commission. The report is submitted to the Council of Australian Governments. The Court provides the Productivity Commission with data relating to the efficiency, effectiveness and equity of its performance.

In the 2012 RoGS report the Court recorded a strong performance in all trial and appeal areas. Case initiation and finalisation data reveals that the Court operates in a workload environment that is the second highest of all Supreme Courts in Australia. Regardless of the pressures that accompany such a large workload, the Court's performance relating to efficiency and timeliness of caseload management ranks it as a high performing Supreme Court.

# Our Year in Review

## Court Delivery:

### Court of Appeal

#### The President:

Justice Maxwell

#### Judges in the Court of Appeal:

Justice Buchanan

Justice Nettle

Justice Neave

Justice Redlich

Justice Weinberg

Justice Mandie

(until 31 August 2012)

Justice Bongiorno

(until 31 December 2012)

Justice Harper

(until 29 June 2013)

Justice Tate

Justice Osborn

Justice Whelan

(from 16 October 2012)

Justice Priest

(from 23 October 2012)

Justice Coghan

(from 1 January 2013)

#### Reserve Judges:

Justice Ashley

(from 9 April 2013)

Justices Mandie, Bongiorno and Harper retired on 31 August 2012, 31 December 2012 and 29 June 2013 respectively.

The Attorney-General appointed Justice Ashley to a term as the Court's first reserve judge on 9 April 2013, pursuant to the newly enacted *Courts Legislation Amendment (Reserve Judicial Officers) Act 2013*.

The Court of Appeal determines whether a trial was conducted fairly, and whether the law was correctly applied. The Court of Appeal received 494 applications for leave to appeal in 2012-13.

#### Caseload

##### Total Applications for Leave to Appeal and Appeals (Civil and Criminal)

	2011-12	2012-13	Difference	Variance
Filed	567	494	-73	-13%
Finalised	756	578	-178	-24%
Pending	411	327	-84	-20%

#### Criminal Appeals

The downward trend in the number of pending criminal appeals continues with 14 per cent fewer cases remaining than at this time last year. Similarly, in what appears to be an unexpected result of the criminal appeal reforms, initiations of new matters are also down 17 per cent over last year. This may be due to the closer scrutiny that the reforms have demanded that counsel and solicitors bring to bear in considering whether an appeal should be filed against conviction and/or sentence.

##### Criminal Applications for Leave to Appeal and Appeals

	2011-12	2012-13	Difference	Variance
Initiations	329	274	-55	-17%
Finalised	529	304	-225	-43%
Pending	208	178	-30	-14%

##### Median Time from Initiation to Finalisation in Months

	2011-12	2012-13
Appeals against conviction*	15.2	12.8
Appeals against sentence	10.0	6.0
Time to finalisation (all criminal)	10.7	7.3

\* Includes combined conviction and sentence appeals because they are treated as one appeal.

## Civil Appeals

As noted below, the number of pending civil matters has decreased significantly – by 27 per cent in the last year. The median time to finalise a civil appeal has increased to nine months from 8.5 months last year. This is a result of the Court disposing of a backlog of older civil appeals in the lead up to a new civil appeals regime. Self-represented litigants made up 23 per cent of total initiations last year. This is a high percentage of the Court’s caseload, but it is even more onerous when considered in the context of the additional management such matters require. Taken together these last two points illustrate the continued need for reform of civil processes, and to identify areas that will be a major focus in the coming year. Read about civil reforms planned for the Court of Appeal in the case study on page 50.

### Civil Applications for Leave to Appeal and Appeal

	2011-12	2012-13	Difference	Variance
Filed	238	220	-18	-8%
Finalised	227	274	47	21%
Pending	203	149	-54	-27%

### Median Time from Initiation to Finalisation in Months

	2011-12	2012-13
Civil appeals	8.5	9.0

## Circuit Court Sitings

The Court of Appeal undertook two circuits in 2012-13. The first was in Shepparton on 24-26 September 2012, and the second was in Ballarat on 30-31 May 2013. The Court of Appeal Registry has continued its practice of tracking the regional origins of criminal matters and listing hearings of those appeals, where possible and appropriate, on one of the Court’s sittings at the relevant regional centre. If necessitated by an increase in regional filings, the Court will increase the number of its yearly regional sittings. To date, however, this has not proved necessary.

## Significant Cases

In two cases, *Patient Review Panel v ABY & ABZ* [2012] VSCA 264, and *Victoria Police Toll Enforcement v Taha* [2013] VSCA 37, the Court found the decision-makers had failed in their evaluations and/or enquiries. But this should be contrasted with a third case, *Aitken v State of Victoria* [2013] VSCA 28, where the Court found that the findings were open on the evidence and the correctness of the reasons did not justify a grant of leave.

Other cases in the Court of Appeal in 2012-13 of particular significance:

### **ASIC v Ingleby [2013] VSCA 49**

In *ASIC v Ingleby* [2013] VSCA 49, the central issue was the proper role of the Court when ratifying agreed penalties in civil penalty proceedings.

It had become common practice for regulatory bodies (like the Australian Securities and Investments Commission – ASIC) and the defendant to approach the Court with an ‘agreed statement of facts’ and agreed penalty and ask the Court to ratify these into formal orders. Agreed penalties were commonly ratified by the Court provided they were in the permissible range for the regulatory provision, even if the Court may have been disposed to impose a different penalty.

This approach was endorsed by the Full Court of the Federal Court in *NW Frozen Foods Pty Ltd v Australian Competition and Consumer Commission* (1996) 71 FCR 285 (‘NW Frozen’). The Court of Appeal criticised the approach endorsed by NW Frozen as being ‘plainly wrong’. The Court considered the imposition of a civil penalty to be a judicial, as opposed to an executive, function, and it was the Court’s obligation to impose an appropriate sentence rather than acting as a rubber stamp in imposing penalties.

Furthermore, the Court noted that great care had to be applied when preparing an agreed summary of facts so it properly reflected the agreed penalty being sought (which was in issue in this proceeding). The Court also signalled it would prefer for parties to file an agreed penalty ‘range’. This would be non-binding and treated as a submission to the Court for determination of the appropriate penalty.

### **Priest v West [2012] VSCA 327**

In *Priest v West* [2012] VSCA 327, the Court of Appeal set aside rulings of the Coroner investigating the death of a child, Linda Stilwell.

The Coroner had been satisfied that Derek Percy had been in the vicinity when Linda Stilwell disappeared. In his rulings the Coroner excluded from evidence statements about the deaths of five other children (the first ruling). The Coroner did not compel Derek Percy to give evidence or invite him to give evidence or advise him that he would be given a certificate of immunity for his evidence were he to give evidence (the second ruling).

The Court of Appeal decided that the Coroner was obliged to take into account the statements (with the exception of one aspect of one statement which was unlikely to assist the Coroner) given that Derek Percy had been in the vicinity when Linda Stilwell disappeared and that he subsequently abducted and murdered another young girl. This was the case, irrespective of whether the statements satisfied any of the criteria for admissibility of evidence in a criminal trial, as the role of the Coroner was inquisitorial, and the Coroner, investigating a death, was required to investigate all reasonable lines of inquiry.

The Court of Appeal also decided that the second ruling was wrong as s 57(3) of the *Coroners Act 2008* required the Coroner to inform Percy that he could give evidence willingly, and if he did he would be given a certificate prohibiting use of any evidence he gave in accordance with the requirements of the Act. The failure to do so invalidated the second ruling. The Court of Appeal directed that the inquest be reconvened.

### **Pantazis v The Queen [2012] VSCA 160**

In *Pantazis v The Queen* [2012] VSCA 160, the Court of Appeal rejected appeals against the severity of sentences imposed for the state offence of attempting to pervert the course of justice, which consisted of acts of assistance given to fugitive, Tony Mokbel, who had been convicted and sentenced for a federal drug offence.

The Court also rejected appeals against state drug sentences. The appellants submitted that the sentencing judges were wrong not to take into account, as a factor in mitigation of their sentence, that there was a federal offence of attempting to pervert the course of justice, a federal drug offence which carried a lesser maximum penalty.

The Court of Appeal rejected that argument on the basis that an offender sentenced for a state offence is sentenced pursuant to the *Sentencing Act 1991* (Vic) and that Act did not permit a sentencing judge to have regard to some other maximum penalty prescribed for a federal offence when sentencing for a Victorian offence. Subsequently the High Court of Australia unanimously dismissed an appeal against the decision of the Court of Appeal — see [2013] HCA 31.

# Our Year in Review:

## Trial Division – Commercial and Equity

### Principal Judge:

Justice Habersberger  
(until Term 4, 2012)

Justice Hargrave  
(from Term 1, 2013)

### Judges in the Commercial and Equity Division:

Justice Habersberger  
(until 28 March 2013)

Justice Hargrave

Justice Pagone  
(until 20 June 2013)\*

Justice Robson

Justice Judd

Justice Vickery

Justice Davies

Justice Croft

Justice Ferguson

Justice Sifris

Justice Almond

Justice Digby

(from 19 October 2012)

Justice Elliott

(from 25 March 2013)

\* Justice Pagone was appointed  
to the Federal Court.

During the year, judges in the Commercial and Equity Division heard cases in the other divisions, while some cases initiated within the Commercial and Equity Division were heard by judges from other divisions. All associate judges deal with cases within the jurisdiction of the Commercial and Equity Division, some more so than others depending on whether they are allocated to the Commercial Court.

The Commercial and Equity Division deals with matters arising out of trade and commerce, as well as matters that predominantly involve equitable principles. The division incorporates the Commercial Court, as well as several specialist lists.

The judge-managed lists within the Commercial Court, and the specialist lists, provide litigants with fast access to specialist judges and associate judges who are skilled and experienced in the management of cases involving specific types of commercial matters. Cases in the specialist lists benefit from management by a single judge, usually for the duration of the proceeding. The Commercial Court provides a focal point for the development and innovative use of pre-trial and trial procedures. This results in further accumulation of judicial knowledge and expertise in the management of these types of matters over time. In this way, the managed lists support and facilitate efficient and just commercial activity in Victoria.

In addition, the Commercial Court includes three lists, specialising in matters arising under the *Corporations Act 2001* (Cth), matters arising out of arbitration proceedings and taxation appeals.

The Principal Judge of the division (Justice Habersberger and later Justice Hargrave) and the Judge in Charge of the Commercial Court (Justice Judd) maintained responsibility for ensuring the division's resources were deployed as efficiently and effectively as possible. Regular meetings of judicial staff were held to provide opportunity for the judges and associate judges to monitor workloads, raise concerns, discuss issues raised by practitioners, consider practices adopted in other jurisdictions, and discuss improvements that may be made to the functioning of the division.

The division places great importance on maintaining communication with the legal profession. This is necessary in order to fulfil the Court's obligation to remain responsive to the needs of litigants and practitioners. Regular Commercial Court Users Group meetings, Corporations List Users Group meetings and Probate Users Group meetings were held throughout the year. These meetings play a vital role in ensuring that both solicitors and barristers communicate their views to the judiciary on important practical issues affecting the efficiency and effectiveness of litigation in the Court.



## Caseload

Initiations, finalisations and pending cases were all down substantially from the previous year. This drop in initiations is consistent with the position in all courts exercising like jurisdiction throughout Australia.

### All Cases

	2011-12	2012-13	Difference	Variance
Initiations	5,674	5,130	-544	-10%
Finalisations	6,485	5,445	-1,040	-16%
Pending (in list 30 June)	2,905	2,590	-315	-11%

It is important to bear in mind that the division deals with cases that vary vastly in their levels of complexity. At one end of the spectrum is the undefended matter which may proceed administratively without judicial involvement. At the other, the disposition of a contested matter may entail many weeks, even months of hearings, multiple interlocutory judgments, and a lengthy final judgment. The figures do not differentiate between cases requiring these differing levels of resources.

Three additional factors contributed to an increase in workload, notwithstanding an overall decline in cases initiated. The average duration of a trial has significantly increased. Second, there have been some very long and complex cases, such as the Great Southern class action. Third, the increasing number of initiations in the Corporations List, many arising out of insolvency, which do not include a proportional share of cases resolved prior to a trial.

Finalisations have been greatly assisted by the work of associate judges in conducting mediations. On occasions, these mediations have been arranged at short notice during a lengthy trial. The successful outcome of many such mediations has meant a significant saving in judicial time.

At the conclusion of the reporting period, 35 per cent of the cases within the division were located in specialist lists.

### Cases in Specialist Lists

	2011-12	2012-13
Matters in the division at 30 June	2,905	2,590
Matters in the specialist lists at 30 June	921	908
Proportion of matters in specialist lists	32%	35%

## The Commercial Court

### Judge in Charge:

Justice Judd

In the Commercial Court, seven judges manage lists and allocated cases, and three associate justices assist with interlocutory and other proceedings. The judges in the Commercial Court during 2012-13 were Justices Robson, Judd, Davies, Croft, Ferguson, Sifris, Almond, and since the resignation of Justice Davies, Justice Elliott. The associate judges were Associate Justices Efthim, Daly and Gardiner.

The efficient management and disposition of cases in the Commercial Court 2012-13 has been a feature of the Court since its establishment in 2009. During the year 1,431 cases were commenced, and 1,364 cases were finalised. Of those, 1,303 were commenced in the Corporations List and 1,213 were finalised in that list. Statistically, this displays an increased trend in the initiations and finalisations in that division.

At the same time, 233 commercial disputes were commenced and judicially managed in the Commercial Court, and during the year 241 were finalised. Many finalisations were of matters initiated in the previous year. This displayed a significant decrease in initiations and finalisations. These figures, however, must be read with reference to much larger cases such as Great Southern, which has occupied a judge and his staff, and very considerable Court resources, since November 2012. As at August 2013, that case was not yet concluded.

### Commercial Court – All

	2011-12	2012-13	Difference	Variance
Initiations	1401	1431	30	2%
Finalisations	1345	1364	19	1%
In list 30 June	580	647	67	12%

### Corporations List

	2011-12	2012-13	Difference	Variance
Initiations	1165	1303	138	12%
Finalisations	1123	1213	90	8%
In list 30 June	336	426	90	27%

### Commercial Court – Judge-Managed Proceedings

	2011-12	2012-13	Difference	Variance
Initiations	254	233	-21	-8%
Finalisations	227	241	14	6%
In list 30 June	327	319	8	-2%

Each judge-managed list in the Commercial Court includes a mixture of cases initiated in the Corporations List, the Commercial Court and the Commercial and Equity Division.

As in previous reporting periods, Justice Ferguson continued to coordinate education sessions for associates in the Commercial Court to equip them with the necessary skills for their role, which includes dealing with senior and experienced practitioners and, at times, litigants representing themselves. As associates, they are charged with the responsibility for ensuring that judicial integrity and impartiality is maintained, while at the same time providing an administrative point of contact for Court users and practitioners that aids timely and efficient case management and disposal of Commercial Court matters.

The Commercial Court also conducts proceedings in regional centres as required. Directions hearings, as part of the case management process, are sometimes held in Geelong.

The Commercial Court website continues to be a significant means by which the Court provides timely information to practitioners via constant updates and frequent newsletters to subscribers.



## Court Supports the Modern Day e-Trial

*The Great Southern proceedings are the largest set of group proceedings yet commenced in the Commercial and Equity Division of the Supreme Court, comprising in excess of 22,000 group members and individual plaintiffs. There are currently 15 group proceedings and 12 individual proceedings, with respect to various agribusiness projects undertaken by Great Southern.*

*More than 70 individual proceedings which began in the County Court of Victoria have been uplifted into the Supreme Court. A large number of these proceedings have been stayed, pending the findings of the group proceedings.*

*Given the large number of parties involved in the Great Southern proceedings, the matter has given rise to a number of challenges in terms of case management and procedure.*

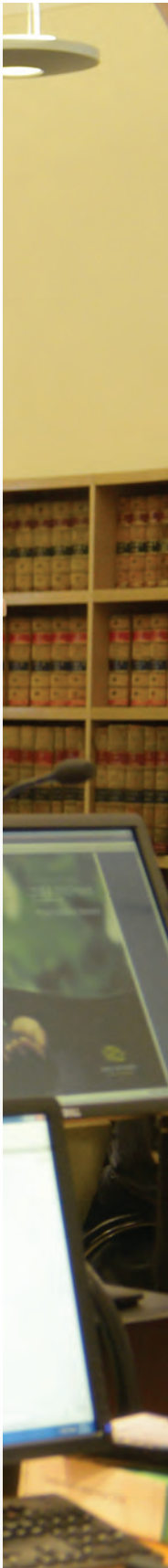
*Considering the magnitude of the discovery process, where for example, there are over 10 million potentially discoverable electronic documents, the appointment of a special referee under an agreed innovative and ongoing reference has enabled the Court to effectively manage the large proceedings.*

*“The Court has demonstrated its commitment to supporting the needs of a modern day e-trial. The appointment of a special referee has proven to be cost effective and has greatly expedited the proceedings,” said Justice Croft, the judge in charge of the Great Southern proceedings.*

*“The special referee has the power to make recommendations to the Court with respect to discovery and inspection of documents, both electronic and hard copy, common issues and other procedural matters,” His Honour said.*

*The Great Southern proceedings raise important issues involving the Corporations Act 2001 (Cth) in regard to managed investment schemes and other matters. Various claims against the Great Southern entities and their directors include whether certain product disclosure statements complied with this legislation and whether the Great Southern entities breached their statutory duties as a responsible entity of managed investment schemes. There are also issues relating to whether there was misleading and deceptive conduct on the part of various parties in the context of the relevant product disclosure statements.*

*The trial of the Great Southern proceedings commenced on 29 October 2012. The taking of evidence in the trial was initially completed on 16 April 2013 and it was anticipated that closing submissions would conclude in June 2013. Shortly after the initial taking of evidence was completed, a significant number of previously undiscovered documents came to light. As a result, further evidence will be taken in August and September with closing submissions anticipated to occur in October 2013.*



## Corporations List

### Corporations List Judges:

Justice Robson  
Justice Ferguson  
Justice Sifris

The Corporations List comprises matters seeking relief under the *Corporations Act* or the *Australian Securities and Investments Commission Act 2001* (Cth) in accordance with Chapter V of the Supreme Court Rules.

The list carries a large caseload. Consequently, in this reporting period, three judges (Justices Robson, Ferguson and Sifris) predominantly managed proceedings. On occasion, other judges within the division also heard cases. Associate Justices Efthim, Gardiner and Randall disposed of a significant number of cases within the list.

In this reporting period there were less cases involving corporate reconstructions than in previous years. However, a number of cases arising out of failed managed investment schemes continued to be heard, including those involving the Gunns Group of companies and Elders Forestry Management Ltd. In addition, a further group proceeding involving Banksia Securities was initiated in the Corporations List.

During the reporting period, 1,303 matters were initiated in the list, and 1,213 were finalised.

#### Corporations List

	2011-12	2012-13	Difference	Variance
Initiations	1,165	1,303	138	12%
Finalisations	1,123	1,213	90	8%
In list at 30 June	336	426	90	27%

## Victorian Taxation Appeals List

### Judge in Charge:

Justice Davies

The Victorian Taxation Appeals List administers cases dealing with Victorian taxation matters pursued by both taxpayers and the Commissioner of State Revenue. Matters heard in the list can raise questions under a range of Victorian legislation, including the *Duties Act 2000*, *Payroll Tax Act 2007* and the *Taxation Administration Act 1997*. The list includes cases originally initiated in the Court, and appeals from VCAT.

#### Victorian Taxation Appeals List

	2011-12	2012-13	Difference	Variance
Initiations	22	11	-11	-50%
Finalisations	30	8	-22	-73%
In list at 30 June	18	21	3	17%

## Arbitration List

### Judge in Charge:

Justice Croft

All arbitration proceedings, any applications in arbitration proceedings, and any urgent applications with respect to arbitration matters are directed to the Arbitration List.

The Court has jurisdiction with respect to international and domestic arbitration matters (and exclusive jurisdiction in relation to the latter). Domestic arbitrations are subject to the *Commercial Arbitration Act 1984* and the *Commercial Arbitration Act 2011* which commenced on 17 November 2011. International arbitrations are subject to the *International Arbitration Act 1974* (Cth).

The purpose of the Arbitration List is to facilitate and support arbitration in Victoria and Australia. Practice Note No. 2 of 2010 – *Arbitration Business* (published 17 December 2009) sets out the procedural requirements for applications for Court assistance, supervision and enforcement for parties and their legal practitioners.

The Arbitration List continues to monitor the development of arbitration jurisprudence, not only within Australia but also internationally. One of the most significant Australian developments in arbitration during this financial year was the landmark High Court judgment in *TCL Air Conditioner v The Judges of the Federal Court of Australia* [2013] HCA 5, which upheld the constitutionality of the *International Arbitration Act*, as amended in 2010. The unanimous decision of the High Court bench has reinforced judicial support for the international arbitration regime in Australia at the highest level.

During this financial year, eight cases were initiated in the Arbitration List and seven cases were finalised. A principal judgment in relation to substantive arbitration matters was delivered in *BASF Coatings Australia Pty Ltd v Akzo Nobel Pty Ltd* [2013] VSC 31. This case involved an application for leave to appeal an arbitral award under s 38 of the *Commercial Arbitration Act 1984*. The Court considered whether there was manifest error of law on the face of the award, or evidence that the arbitrators made an error of law. The Court determined that the applicant had not established any ground for leave to appeal under the *Commercial Arbitration Act 1984* and so dismissed the application.

#### Arbitration List

	2011-12	2012-13	Difference	Variance
Initiations	10	8	-2	-20%
Finalisations	8	7	-1	-13%
In list at 30 June	4	5	1	25%

## Admiralty List

### Judge in Charge:

Justice Pagone (until June 2013)

The Admiralty List deals with cases brought under the *Admiralty Act 1988* (Cth) and those which otherwise concern maritime commercial activities. The list has a dedicated judge to deal with all admiralty cases that come before it. Two cases were initiated and two cases were finalised in 2012-13.

### Admiralty List

	2011-12	2012-13
Initiations	1	2
Finalisations	1	2
In list at 30 June	1	1

## Technology, Engineering and Construction List

### Judge in Charge:

Justice Vickery

The Technology, Engineering and Construction (TEC) List was established in response to the rapid expansion of technological development in the current age. It built upon and expanded the reach of the former Building Cases List, the first specialist list introduced into the Court, in 1972. In 2011 the TEC List incorporated the Intellectual Property List.

In the last year, the number of cases initiated in the TEC List has remained constant, while the number of cases that were finalised increased by 40 per cent.

Since the introduction of RedCrest, the electronic case management system developed by the Court in 2011, the number of people registered to use the system has grown to more than 400. Significantly, more than 50 matters have been run on RedCrest. The TEC List has successfully run a further 14 trials from start to finish on RedCrest, 13 of which have involved the review of adjudication determinations made under the *Building and Construction Industry Security of Payment Act 2002*.

RedCrest has generated considerable international interest. The system was demonstrated at the 4th Judicial Seminar on Commercial Litigation in Singapore in May 2013. Expressions of interest were provided by the courts of New Zealand, New South Wales, Malaysia and the High Court of the United Kingdom.

Matters in the TEC List are notorious for involving highly technical issues and arguments together with significant amounts of documentary material. The TEC List continues to recognise the need to remain at the forefront of technological developments and the constantly evolving requirements of the Court, the legal profession and the public, with the aim of developing and applying state-of-the-art and highly configurable procedures to each individual case.

### Technology, Engineering and Construction List

	2011-12	2012-13	Difference	Variance
Initiations	18	20	2	11%
Finalisations	20	28	8	40%
In list at 30 June	32	24	-8	-25%

## Probate List

### Judge in Charge:

Justice McMillan

The Probate List, established on 1 July 2011, aims to reduce cost and delay, and to provide consistent practices in probate matters. The chambers of the judge in charge works closely with the office of the Registrar of Probates.

There are usually between 80 to 100 matters in the list at any given time. Nearly 400 matters have been finalised since the list started. Many proceedings are dealt with in short directions hearings.

Matters commonly heard in this list include:

- matters where a caveat has been lodged against the making of a grant, for example, where it is alleged that the deceased was unduly influenced
- *ad colligendum bona* applications
- applications for an informal will to be admitted to probate because the document was not executed in the manner required by legislation
- applications for revocation of a grant of representation
- rectification of wills owing to a clerical error or a failure to give effect to the testator's instructions in preparing the will
- applications by a trustee for the determination of any question arising from the administration of the estate or for the approval of any transaction already made
- removal or discharge of an appointed executor or administrator who, for various reasons, could no longer carry out his or her duties in administering the deceased's estate
- applications for the named executor in a will to be passed over because he or she has not applied for a grant of probate of the will after a lengthy delay
- construction of wills that are ambiguous.

Other interesting matters, although less common, include:

- an application to the Court for a will in a specific form to be made for a person who lacks testamentary capacity
- an application by a minor for authorisation from the Court to make a will
- an application for authorisation to distribute an estate where it is unknown whether a beneficiary survived the testator
- applications by a named executor who renounced probate to withdraw the renunciation
- applications for a *cy-près* order to allow a gift under a will for a charitable purpose to be varied and carried out as close as possible to the original charitable purpose because it could no longer be carried out in the manner provided for by the will.

### Probate List

	2011-12	2012-13	Difference	Variance
Initiations	220	160	-60	-27%
Finalisations	185	183	-2	-1%
In list at 30 June	116	93	-23	-20%

## Significant Cases

### *Tatts Group Limited v State of Victoria*

#### *Tabcorp Holdings v State of Victoria*

Tabcorp and Tatts held licences to operate gaming machines in Victoria until 15 August 2012, the date their licences expired. During the period of their licences, they were each obliged to pay an annual levy, calculated by reference to a statutory formula for each financial year.

Their licences were in force for only 46 days in the 2012-13 financial year. Notwithstanding this, the Treasurer imposed a levy of about \$42 million on each item, calculated by a strict application of the statutory formula. In his view, he had no discretion to impose a pro-rata levy calculated by reference to the 46 day period.

Tatts sought directions that the Treasurer had a discretion under the relevant statute and, if pro-rata levies were imposed, that the levies would have been about \$7 million or less. Thus, the disputed amount in each case was about \$35 million. The Court fixed a trial within weeks of the proceedings being commenced. Two weeks later, Justice Hargrave delivered judgment. His Honour decided that the Treasurer's decision that he had no discretion was wrong, set aside the \$42 million levies and remitted the matter back to the Treasurer for redetermination. The Treasurer has appealed to the Court of Appeal.

### *Australian Executor Trustees (SA) v Mark Korda & Ors*

This proceeding involved a forestry investment scheme that commenced in the mid 1960s. Forest Company Pty Ltd managed the scheme and its related entity, Milling Company Pty Ltd, provided felling and milling services and was responsible for selling and marketing the timber derived from the plantation. The defendants were appointed by lenders as receivers of the two companies.

A key document in the scheme was a trust deed between Forest Company and Australian Executor Trustee, an independent professional trustee company.

The main issue in the proceeding was whether timber and land sale proceeds were held on trust for investors and therefore fell outside the receivership. The trustee contended that an express trust arose from the relevant documents and the context and nature of the investment scheme. The receivers contended that an express trust did not arise because, amongst other things, the documents did not require the proceeds to be held in separate bank accounts, a generally compelling factor in favour of a trust.

Notwithstanding the absence of mandatory separate accounts, Justice Sifris found that the timber and land sale proceeds were held on trust for the investors; as, in all the circumstances, the parties' presumed intention was that Forest Company and Milling Company were entrusted with looking after those monies for the benefit of the investors.

# Our Year in Review:

## Trial Division – Common Law

### Principal Judge:

Justice Williams

### Judges in the Common Law Division:

Justice Williams

Justice Kaye

Justice Bell

Justice Cavanough

Justice J Forrest

Justice Kyrrou

Justice Beach

Justice T Forrest

Justice Emerton

Justice Dixon

Justice Macaulay

Justice McMillan

Justice Garde (*sitting at VCAT*)

Justice Ginnane

(*from 4 June 2013*)

Associate Justice Lansdowne

Associate Justice Daly

Associate Justice Zammit

Progressing and resolving the work of the division has been undertaken with the considerable support of the associate judges. Significant contributions have also been made by judges of other divisions, including Justices Hollingworth, Hargrave and Osborn.

The jurisdiction of the Common Law Division covers two key areas. First, the Court's jurisdiction in tort and contract, including professional negligence, personal injury claims and defamation. Secondly, the supervisory jurisdiction over other courts, tribunals and public officials. This includes hearing appeals on questions of law from the Magistrates' Court and VCAT.

There are six specialist lists in the Common Law Division: Civil Circuits, Judicial Review and Appeals, Major Torts, Personal Injury, Professional Liability, and Valuation Compensation and Planning.

In 2012-13, the division continued to perform strongly under the leadership of Justice Williams. The work in all specialist lists continued to grow and the division welcomed the appointment of Justice Ginnane from the County Court of Victoria.

A new specialist list, the Professional Liability List, commenced on 1 October 2012, to hear claims for economic loss arising from an alleged breach of duty by a professional.

### Caseload

In 2012-13, a total of 1,687 actions were initiated in the division. As at 30 June 2013, 1,607 active cases remain in the division.

#### Common Law Division

	2011-12	2012-13	Difference	Variance
Initiations	1,691	1,687	-4	0%
Finalisations	1,881	1,694	-187	-10%
In list 30 June	1,614	1,607	-7	0%

## Civil Circuit List

### Judge in Charge:

Justice J Forrest

### Associate Judge in Charge:

Associate Justice Daly

A guiding principle in the management and conduct of circuit business is that the Supreme Court of Victoria is a court for all Victorians, regardless of location. The Court sits at 12 regional centres: Ballarat, Bendigo, Geelong, Hamilton, Horsham, Mildura, Morwell, Sale, Shepparton, Wangaratta, Warrnambool and Wodonga.

Regional practitioners are encouraged to issue proceedings out of their local registry when the parties and witnesses reside in the local area. Where appropriate, the Court will hold special fixtures at regional courts outside scheduled circuit sittings. For example, the trial of the Pomborneit Black Saturday bushfire claims was heard during a special fixture at Warrnambool that commenced on 3 September 2012.

When a circuit proceeding falls within the guidelines specified in Practice Note No. 2 of 2012 – *Judicial Mediation Guidelines*, the Court may also provide associate judges as judicial mediators to regional courts.

Without exception, the Court receives outstanding assistance from deputy prothonotaries and their staff at the regional courts – both prior to and during a circuit sitting.

There were 183 proceedings initiated out of the regional courts in 2012-13. These proceedings included claims arising out of workplace injuries, motor vehicle accidents, deceased property estate disputes, defamation and asbestos exposure.

### Circuit Court Cases Commenced

	2011-12	2012-13	Difference	Variance
Ballarat	14	7	-7	-50%
Bendigo	37	31	-6	-16%
Geelong	16	10	-6	-38%
Hamilton	0	0	0	0%
Horsham	0	0	0	0%
Mildura	31	21	-10	-32%
Morwell	16	29	13	81%
Sale	0	2	2	100%
Shepparton	3	6	3	100%
Wangaratta	27	35	8	30%
Warrnambool	19	27	8	42%
Wodonga	21	15	-6	-29%
	184	183	-1	-1%

## Judicial Review and Appeals List

### Judges in Charge:

Justice Cavanough

Justice Kyrou

### Associate Judges in Charge:

Associate Justice Lansdowne

Associate Justice Daly

The Judicial Review and Appeals List operates in accordance with Practice Note No. 4 of 2009 which sets out how judicial review and appeals cases are managed and the standard directions that are made in relation to such cases. Proceedings in the list include:

- judicial review applications made pursuant to the *Administrative Law Act 1978* or Order 56 of the *Supreme Court (General Civil Procedure) Rules 2005*
- appeals from a final order of the Magistrates' Court on a question of law pursuant to s 109 of the *Magistrates' Court Act 1989* or s 272 of the *Criminal Procedure Act 2009*
- appeals from an order of the Victorian Civil and Administrative Tribunal (VCAT) on a question of law pursuant to s 148 of the *Victorian Civil and Administrative Tribunal Act 1998*
- appeals from a final order of the Children's Court on a question of law pursuant to s 329 or s 427 of the *Children, Youth and Families Act 2005*.

List matters are managed in the first instance by the associate judges in charge, who determine applications for leave, summary dismissal and stays, and settle questions of law and grounds of appeal. Further, the associate judges control the progress of matters to ensure that they proceed with efficiency.

Between 1 July 2012 and 30 June 2013, 205 matters were entered in the list, an increase of 16 per cent from the previous financial year.

Many cases of public significance were decided. *Magee v Delaney* [2012] VSC 407 considered whether the defacing of advertisements in a bus shelter as a form of protest against commercial advertising engaged the right to freedom of expression in s 15(2) of the *Charter of Human Rights and Responsibilities Act 2006*, and was thus a 'lawful excuse' to a charge of damaging property under s 197(1) of the *Crimes Act 1958*. Justice Kyrou held that the right to freedom of expression is subject to lawful restrictions reasonably necessary to respect the property rights of other persons, that the offending conduct did not engage that right, and that no lawful excuse had been established.

*Director of Public Prosecutions v De Bono* [2012] VSC 350 involved a challenge to the validity of the *Major Crime (Investigative Powers) Act 2004* on the basis that it conferred functions on the Supreme Court of Victoria which substantially impaired its institutional integrity and which were incompatible with its role as a repository of federal jurisdiction under Ch III of the *Commonwealth Constitution*. Justice Kyrou held that the Act did not infringe the *Commonwealth Constitution*.

### Judicial Review and Appeals List

	2011-12	2012-13	Difference	Variance
Initiations	177	205	28	16%
Finalisations	193	189	-4	-2%
In list 30 June	120	136	16	13%



## Personal Injuries List

### Judges in Charge:

Justice Williams  
Justice Kaye  
Justice J Forrest  
Justice Beach

### Associate Judges in Charge:

Associate Justice Daly  
Associate Justice Zammit

Proceedings in the Personal Injuries List include:

- personal injury claims in which a serious injury certificate has been granted under the *Transport Accident Act 1986* by the Transport Accident Commission (TAC) or under the *Accident Compensation Act 1985* by the Victorian WorkCover Authority (VWA)
- personal injury claims in which a court has given leave to commence proceedings under the *Transport Accident Act* or the *Accident Compensation Act*
- proceedings brought by the TAC under s 104 of the *Transport Accident Act*
- proceedings brought by the VWA under s 138 of the *Accident Compensation Act*
- personal injury claims arising out of medical negligence
- proceedings in which a plaintiff alleges that they are suffering from a terminal disease.

The division continues to manage a large number of claims of persons suffering from asbestos-related disease. To facilitate claims where a plaintiff is terminally ill, the associate judges in charge have time allocated each week for the management of these cases. Pre-trial conferences in asbestos cases are conducted by senior registry staff.

The Court aims to be responsive to the legitimate requirements of the profession. A meeting was held with members of the profession during the reporting period to discuss issues relating to the operation of the Personal Injuries List.

Between 1 July 2012 and 30 June 2013, a total of 463 matters were initiated in the list. Notably, the number of finalisations of matters in the list increased by 20 per cent from 2011-12.

#### Personal Injuries List

	2011-12	2012-13	Difference	Variance
Initiations	456	463	7	2%
Finalisations	385	463	78	20%
In list 30 June	488	488	0	0%

## Professional Liability List

### Judge in Charge:

Justice Macaulay

### Associate Judge in Charge:

Associate Justice Daly

The Professional Liability List commenced on 1 October 2012. It governs claims for economic loss against a professional for breach of duty in tort or contract, related statutory contraventions (such as misleading or deceptive conduct) and breach of equitable duties. Claims against medical and health practitioners, building, construction and engineering practitioners and taxation professionals are managed by other lists in the Court.

Two focal points for the list are the early identification of expert evidence and how it may best be presented, and early attention to the identification of loss – how it is caused and how it is to be proved.

As at 30 June 2013 there were 44 cases in the list. The majority of these cases were transferred into the list, largely from the Civil Management List, although a small but increasing number of cases were initiated in the list.

Cases in the list have been brought against a range of professional defendants – lawyers, accountants, auditors, insurance and financial advisors, stockbrokers and valuers. Claims range in dimension from the modest in conveyancing contexts to the large multi-million dollar auditor's negligence claim.

The profession appears to have responded well to the commencement of the list with a number of repeat users of the list. Parties are coming to learn the Court's expectations for the conduct of matters within the list.

## Valuation, Compensation and Planning List

### Judge in Charge:

Justice Emerton

### Associate Judge in Charge:

Associate Justice Daly

The Valuation, Compensation and Planning List hears matters involving the valuation of land, compensation for resumption of land, planning appeals from VCAT and disputes involving land use or environmental protection. The primary objectives of the list are to deal with disputes efficiently, promote cooperation between parties, and encourage the use of alternative dispute resolution as a method of saving time and cost.

In 2012-13, a total of 28 matters were initiated in the list. Finalisations increased by 20 per cent as compared to the previous financial year.

#### Valuation, Compensation and Planning List

	2011-12	2012-13	Difference	Variance
Initiations	25	28	3	12%
Finalisations	30	36	6	20%
In list 30 June	41	33	-8	-20%

## Accommodating Victoria's Largest Common Law Trial

*The devastating Black Saturday bushfires in February 2009 have given rise to nine class action claims in the Common Law Division of the Supreme Court. The largest of these, the trial of the Kilmore East-Kinglake claim, presented the Court with a significant challenge: there was simply no facility large enough to hear the proceedings.*

*The trial, scheduled to be heard by Justice J Forrest in March 2013, involved approximately 10,000 registered group members with claims for personal injury, loss of dependency, property damage and economic loss.*

*The Supreme Court was innovative in its response, mindful that all parties in the proceedings were to be provided their day in Court, without delay. Working closely with the Department of Justice's Built Environment and Business Sustainability Services unit, the Court project-managed the design and build of a new courtroom – Court 6 – in the William Cooper Justice Centre. The project was funded by over \$4 million from the Victorian Government, and completed in the extraordinarily short time frame of just four months.*

*Purpose-built to cater for the Kilmore East-Kinglake bushfire litigation proceedings, the resulting courtroom is contemporary and capable of accommodating very large trials.*

*"The courtroom and infrastructure is first-rate and a model for the management of large trials. In addition to accommodating a large number of counsel, solicitors, members of the public and media, the courtroom is fitted with state-of-the-art technology, which has enabled the trial to be run digitally and made it unnecessary to sort through endless amounts of paper to locate any particular document. This has been invaluable in the efficient conduct of the trial," said Justice J Forrest.*

*The courtroom and associated ancillary spaces are highly accessible to the public and meet the needs of the modern day trial.*

*Modular furniture and fittings allow for flexibility in the courtroom. It can be configured to hear jury trials, concurrent testimony from multiple expert witnesses, and the long bench enables an appellate court to sit if required. There is capacity for up to 60 lawyers to sit at the bar tables, and up to 100 people can observe proceedings from the public gallery. Trials can also be streamed live via the Internet to provide people in remote areas with access to Court proceedings, if so ordered by a judge.*

*Ancillary rooms have been provided on the floor above the courtroom. These include newly built counselling rooms, breakout spaces for parties, and retreat areas where Court users – witnesses and families of victims – can utilise a quiet space. A lounge, also on this level, enables Court users to follow the trial in real time as it is streamed live from the courtroom – a facility not yet provided for elsewhere in Australia.*

*The Kilmore East-Kinglake trial commenced in the new courtroom before Justice J Forrest on 5 March 2013. The proceedings are expected to continue into 2014. The Court's initiative and dedication to the construction of the courtroom ensured that these significant proceedings commenced as scheduled, in an appropriate facility. While exclusively used by the Supreme Court during the hearing of the Kilmore East-Kinglake proceedings, the courtroom will be used by other jurisdictions and will continue to serve Victoria's needs well into the future by ensuring that parties involved in very large trials are able to obtain a timely hearing of their case.*



## Major Torts List

### Judge in Charge:

Justice Beach

### Associate Judge in Charge:

Associate Justice Zammit

Any proceeding which is primarily of a tortious nature may be entered in the Major Torts List, including any associated proceeding that derives from tortious conduct. The list is designed to facilitate and expedite the passage of tortious claims to trial.

Claims handled by the list include:

- medical negligence
- substantial personal injury
- defamation
- product liability
- occupiers' liability
- motor vehicle accidents
- industrial accidents.

During the 2012-13 financial year, 82 matters were initiated in the list. As at 30 June this year, 124 matters remained in the list. There was a steady increase in the number of defamation proceedings issued during the year, with a corresponding increase in the number of finalisations. The number of class actions managed in the list also continued to increase.

A number of large medical negligence cases involving catastrophic injuries were resolved either at or shortly before trial, including *Venice Kowalczyk v Royal Children's Hospital*. Further, the settlement of the lead plaintiff in the thalidomide class action *Rowe v Grünenthal & Anor*, and the foreshadowed settlement negotiations in respect of other thalidomide victims was announced during the year.

The list continued to be well-used by those experienced practitioners with large or otherwise significant tort cases (predominantly negligence and defamation) where judicial management is considered necessary by the parties. The individual management of cases in the list continues to be key, facilitating the efficient and timely resolution of matters.

### Major Torts List

	2011-12	2012-13	Difference	Variance
Initiations	77	82	5	6%
Finalisations	92	86	-6	-7%
In list 30 June	128	124	-4	-3%



## Significant Cases

### *Smith v Gould* [2012] VSC 461

Mr Smith, a 21-year-old fine arts student, met Mr Gould, a 35-year-old art gallery proprietor, at a cocktail party in 1990. The pair commenced a 14-year de facto relationship, during which time Mr Smith served as a curator at the National Gallery of Victoria. The relationship ended in June 2004. Justice Dixon was asked to determine the just and equitable distribution of property between Mr Smith and Mr Gould.

In June 2004, there was a large and valuable asset pool including significant works of valuable Australian art, an art gallery business, a considerable number of investment properties and other assets in which Mr Smith claimed a substantial share. Broadly, two issues arose – the identification and valuation of the property of the parties to the relationship, and an evaluation as to the parties' respective contributions to this pool of assets.

Each of Mr Gould and Mr Smith was involved in questionable practices and activities, including using offshore funds to purchase paintings and using false names at art auctions as part of a scheme to repatriate funds to Australia. Mr Gould had understated stock levels in tax returns, making the financial statement of the gallery business unreliable. The identification and, without proper expert evidence, valuation of the pool was a complex and time-consuming task that required assessment of much factual detail. Incidentally, this factual exploration, which attracted attention from the media, exposed some practices that might be thought undesirable in the art industry.

Mr Smith failed to persuade the Court that he was an eminent expert in 20th century Australian art who, over the course of the relationship, made a substantial and special contribution to the value of Mr Gould's gallery. His Honour held that Mr Smith made only a modest contribution to the growth in value of the relevant pool of artwork over the course of the relationship. His just and equitable share was 10 per cent of the assessed value of the pool, which included the pool of assets given to him by Mr Gould since the separation date.

### *Trkulja v Google (No. 5)* [2012] VSC 533

When Michael Trkulja's name was entered into a Google search engine, his photograph and name were returned appearing alongside high-profile criminals such as Tony Mokbel. On the third page of one of the search results, an article titled 'Shooting probe urged November 20, 2007' included a large photograph of Mr Trkulja and a heading 'Melbourne crime'. Google Inc was put on notice of this defamatory material following a letter from Mr Trkulja's lawyers. However Google advised that the material would not be removed.

Mr Trkulja's defamation case against Google was tried by judge and jury. The jury returned a verdict for Mr Trkulja. The effect of the jury's verdict was to entitle Mr Trkulja to damages for publication of the impugned search results following receipt of the letter by Google, as the search content falsely conveyed that Mr Trkulja was so involved with crime in Melbourne that his rivals had hired a hit man to murder him.

Google applied for judgment notwithstanding this jury verdict, arguing in the alternative that:

- 1 it did not publish the defamatory material, as an automated search mechanism was solely responsible for Google's search results, and
- 2 if it published the defamatory material, it was entitled to the defence of innocent dissemination under s 32 of the *Defamation Act 2005*.

Justice Beach rejected Google's attack on the jury verdict holding that, following receipt of the letter, it was open to the jury to conclude that Google acquiesced in the publication of the material when it failed to block the relevant URL from its search results after the matter had been brought to its attention. His Honour held that it was therefore also open to the jury to reject the defence of innocent dissemination after the matter had been drawn to Google's attention. His Honour assessed Mr Trkulja's damages at \$200,000, it now being the function of the trial judge, rather than the jury, to assess damages (see s 22 of the *Defamation Act*).

This decision represents what some commentators have described as an expansion in liability for internet defamation at common law where a search engine operator is put on notice in relation to content. It has also been suggested that the decision signals to operators of internet search engines the importance of responding promptly to complaints of allegedly defamatory material.

### *A & B v Children's Court of Victoria & Ors* [2012] VSC 589

A & B, sisters aged 11 and 9 years, were the subject of protection applications under the *Children, Youth and Families Act 2005*. They applied for an order quashing a decision of the Children's Court of Victoria that:

1. they lacked maturity to provide instructions to a legal representative, and
2. refused them leave to be represented by the same legal practitioner.

The central issue for determination before Justice Garde was the meaning of the expression 'mature enough to give instructions' in s 524 of the Act. The application of this concept is crucial in assessing the appropriate mode of legal representation for a particular child; representation may either be direct (i.e. in accordance with the child's instructions) or based on the child's best interests.

Justice Garde held that the magistrate made an error of law in misconstruing maturity as determinable by chronological age alone. His Honour considered that the concept requires an assessment of the child's development and capacity to give instructions. Further, it is not necessary that the child be mature enough to give instructions on all issues in the proceeding; it is sufficient that the child be mature enough to give instructions on one or more issues that may arise.

His Honour also held that the Children's Court erred in refusing leave for A & B to be represented by the same legal practitioner. The Court failed to make any proper investigation as to whether or not there was a conflict of interest which would preclude a legal representative from acting for both of the children.

The decision of the Children's Court was quashed, permitting reconsideration of the legal representation of A & B on resumption of the proceedings in that Court.

# Our Year in Review:

## Trial Division – Crime

### Principal Judge:

Justice Coghlan  
(until 31 December 2012)  
Justice Curtain  
(from 1 January 2013)

### Judges in the Criminal Division:

Justice Whelan  
(until 16 October 2012)\*  
Justice Coghlan  
(until 31 December 2012)\*  
Justice Hollingworth  
Justice King  
Justice Curtain  
Justice Lasry

\* Date appointed to the Court of Appeal.

Cases in the Criminal Division were heard by judges from other divisions, including Justices Nettle, Weinberg, Bongiorno and Priest from the Court of Appeal. Considerable contributions to the division were also made by Justices Kaye, Bell, Robson, Kyrou, Beach, (T) Forrest and Macaulay.

During the reporting period, the Criminal Division heard trials, pleas and applications in cases involving murder, manslaughter, culpable driving, attempted murder, assisting an offender, incitement to murder, sexual offences, major drug trafficking and importations, deception and theft.

The division sat in Melbourne and the regional centres of Mildura, Ballarat, Geelong, Sale, Shepparton and Wodonga. Circuit sittings are an important aspect of the division's work and provide an opportunity for the local community to participate in the judicial process. The division remains committed to circuit work and, in doing so, recognises the importance to the regional centres and the communities they serve.

Once an accused has been committed to trial in the Supreme Court, irrespective of where the sitting will be held, a post committal directions hearing is held within 14 days. In practice, this occurs within a shorter time frame. These directions hearings enable cases to be appropriately managed by seeking to achieve early identification of the issues and the strengths and weaknesses of the respective cases. A timetable is also set for the filing of the prosecution opening and defence response and evidentiary notices as required under the *Evidence Act 2008* and, from 1 July 2013, as required under the *Jury Directions Act 2013*.

A trial date is then fixed, which in turn enables the parties to focus on their preparation, engage counsel and canvass the possible resolution of evidentiary issues and, indeed, the ultimate plea. Should a plea of guilty be indicated at that time, an arraignment may take place, and a date will then be fixed for the plea hearing. The process brings an accused person before the Court in a timely manner and the judge is kept apprised of the progress or otherwise of the case until the date of trial or plea, thereby reducing delays and unnecessary adjournments. Directions hearings are generally conducted by the principal judge, with the trial judge conducting a final mention of the case in the week or so before the trial date. This process has worked well since its inception and continues to do so.

In February 2013, the work of the division was affected by cuts to legal aid funding which limited the representation of an accused by a solicitor. This led to rulings by Justice T Forrest in *MK v Victorian Legal Aid* [2013] VSC 49, and Justice Lasry in *R v Chaouk* [2013] VSC 48 – the latter resulting in an adjournment of the trial until counsel for the accused had the assistance of an instructing solicitor on a day-to-day basis during the trial. This led to a number of similar applications being foreshadowed in other cases, which necessitated judicial intervention either to facilitate the resolution of the issue or to limit the impact of it.

The Court of Appeal, in May 2013, in *R v Chaouk* [2013] VSCA 99, refused the Crown leave to appeal out of time, finding no error in Justice Lasry's ruling. Ultimately the legal aid funding for solicitor representation was restored and no further trials were affected.

*R v Chaouk* [2013] VSC 362 proceeded to trial with the appropriate representation. Although the trial was significantly delayed, other trials where the same issue of funding and representation had arisen were managed so that judges were able to use the time productively, dealing with other trials, pleas and applications.

## Trials in the Criminal Division

	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
Trials (finalised)	56 cases (72 persons)	47 cases (65 persons)	38 cases (43 persons)	46 cases (57 persons)	54 cases (65 persons)	38 cases (44 persons)
Pleas (finalised)	33 plea hearings (39 persons)	57 plea hearings (89 persons)	43 plea hearings (63 persons)	57 plea hearings (82 persons)	48 plea hearings (60 persons)	56 plea hearings (62 persons)
<b>Total Matters Finalised</b>	<b>89 matters (111 persons)</b>	<b>104 matters (154 persons)</b>	<b>81 matters (106 persons)</b>	<b>103 matters (139 persons)</b>	<b>102 matters (125 persons)</b>	<b>94 matters (106 persons)</b>

Matters heard pursuant to the *Crimes (Mental Impairment and Unfitness to be Tried) Act 2007*

	2009-10	2010-11	2011-12	2012-13
<i>Crimes (Mental Impairment and Unfitness to be Tried) Act 2007</i> – s 35 — Major Reviews	2	2*	7*	3
<i>Crimes (Mental Impairment and Unfitness to be Tried) Act 2007</i> – other types of applications and hearings	12	14	15	24
<b>Total</b>	<b>14</b>	<b>16</b>	<b>22</b>	<b>27</b>

\* Some major reviews were not finalised and adjourned to another date for hearing.

## Criminal Applications

	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
Applications heard under the <i>Bail Act 1997</i>	93	85	90	70	51	85
Applications heard under the <i>Surveillance Devices Act 1999</i>	100	82	78	67	99	62
Applications under the <i>Confiscation Act 1997</i> and <i>Proceeds of Crime Act 2002</i> (Cth)	99	89	55*	127*	138	112
Other Criminal Applications filed (This figure includes applications under the <i>Major Crime (Investigative Powers) Act 2004</i> , <i>Witness Protection Act 1991</i> , applications for compensation under the <i>Sentencing Act 1991</i> )	49	53	66*	52*	55	49
<b>Total Applications Heard</b>	<b>341</b>	<b>309</b>	<b>289*</b>	<b>316*</b>	<b>343</b>	<b>308</b>

\* There may be issues with the accuracy of these figures due to the implementation of the Integrated Court Management System.

The division has been greatly assisted in its work by judges of the Common Law Division and judges of the Court of Appeal, who have generously given their time to preside over trials, pleas and other applications, either because of a shortage or unavailability of divisional judges or because of a pressing workload. In this regard, it is to be noted that applications under the *Bail Act 1977*, the *Surveillance Devices Act 1999* and the *Crimes (Mental Impairment and Unfitness to be Tried) Act* are a significant aspect of the division's workload and are often required to be heard urgently and expeditiously and, in particular, with regard to applications under the *Crimes (Mental Impairment and Unfitness to be Tried) Act*, with sensitivity. In respect of applications made under the *Surveillance Devices Act*, the division has been greatly assisted by the office of the Public Interest Monitor, who, since March 2013, has regularly appeared upon such applications.

The division has also dealt with applications under the *Witness Protection Act 1991*, the *Major Crimes (Investigative Powers) Act 2004*, the *Serious Sex Offenders (Detention and Supervision Act) 2009*, the *Confiscation Act 1997* and the *Proceeds of Crime Act 2002* (Cth). The judges of the division have also assisted the Common Law Division by hearing civil matters which have a criminal aspect, and have sat as requested on the Court of Appeal to hear appeals in criminal matters.

The division acknowledges the continued commitment, dedication and professionalism of the Registry staff in discharging their duties and managing their workloads as efficiently as possible. The judges of the division also acknowledge the outstanding contributions the associates and the tipstaves of the Court make to the efficient management of the Court processes, and in particular, the management of juries.

## Caseload

It has been another challenging year for the Criminal Division, with 144 matters having commenced – a marked increase on the 83 matters commenced in the last reporting year. Of the defendants being committed, 41.5 per cent entered a plea of not guilty at arraignment, with those matters subsequently listed for trial. Where a plea of guilty was entered, the matter was listed for a plea hearing. Some defendants changed their plea after being given a date for trial, or at the commencement of or during a trial.

During the year there was a significant number of rulings on complex areas of law, and an increase in the number of trials that ran for four weeks or more. The division finalised 38 trials involving 44 defendants, compared with 54 trials involving 65 defendants in the last reporting year. The division disposed of 56 plea hearings involving 62 defendants, compared to 48 pleas involving 60 defendants in the last reporting year. Overall, 94 matters involving 106 defendants were finalised, compared with 102 matters involving 125 defendants in the preceding reporting year.

The division ended the reporting year with 70 outstanding cases, involving 80 defendants, compared with the position at the end of the 2012 financial year, of 42 cases involving 45 defendants. These figures show an increase of outstanding matters by some 66.7 per cent. This may be attributed to a combination of factors, without exception to the greater number of non-homicide matters being committed to this Court.

## Future Challenges

The *Jury Directions Act* became law on 1 July 2013. The Act introduces processes for identifying the directions a trial judge must give to a jury, requiring the Crown and defence to notify the Court of matters in issue and the directions required, and includes provisions regarding the obligations of the trial judge in charging the jury.

The stated aims of the legislation are to reduce the complexity of jury directions, to simplify and clarify the issues jurors must determine in criminal trials, and to simplify and clarify the directions of the trial judge when giving directions in criminal trials. The Court looks forward to the Act achieving its stated objectives.

One of the challenges faced by the Criminal Division is the increase in the number of applications under the *Crimes (Mental Impairment and Unfitness to be Tried) Act*. In the reporting year, 27 applications including three major reviews were heard. These applications, which include applications to vary or revoke custodial and non-custodial supervision orders, and applications for extended leave, require considerable marshalling of resources and we are indebted to the cooperation Forensicare extends to us in this regard. It is anticipated that another 18 matters will be listed in the next four months.

Courtroom accommodation continues to be an issue. From time to time, due to unavailability of courtrooms in the Supreme Court building or security concerns, it has been necessary to conduct Supreme Court trials in the County Court building. Facilities for jurors in the Supreme Court building are less than optimal, which is a matter of continuing concern.

# Our Year in Review:

## Associate Judges

### Principal Judge:

Associate Justice Derham  
(from 11 December 2012)

### Associate Judges:

Associate Justice Mahony  
(until 7 September 2012)

Associate Justice Efthim

Associate Justice Wood

Associate Justice Lansdowne

Associate Justice Daly

Associate Justice Gardiner

Associate Justice Mukhtar

Associate Justice Zammit

Associate Justice Randall

Associate Justice Derham

The associate judges perform an extensive range of work that is both interlocutory and final in nature.

They are actively involved in the:

- case management of proceedings, in both the Common Law Division and the Commercial and Equity Division (Civil Management List)
- adjudication of interlocutory disputes and other applications within the associate judges jurisdiction (General Applications)
- listing of civil proceedings when ready for trial, including giving pre-trial directions and dealing with pre-trial applications (Listing of Cases for Trial)
- the corporations jurisdiction of the Court (Corporations)
- management of testator family maintenance proceedings under Part IV of the *Administration and Probate Act 1958* (Testators' Family Maintenance List)
- trial of proceedings, both within the original jurisdiction of associate judges and as referred pursuant to the Rules of Court by Trial Division judges (Trial Work)
- mediation of proceedings, with the assistance of a mediation coordinator (Mediation).

### Civil Management List

Associate Justices Lansdowne, Mukhtar, Zammit and Derham deal with directions and applications in civil proceedings that are not in a specialist list and where the proceeding has been commenced by writ. These proceedings are entered into the Civil Management List for case management. The majority of all civil proceedings in the Court are in this list.

This list is designed to facilitate and expedite civil claims to trial. The Court is responsive to the requirements of the profession and adopts a flexible and practical approach to case management. The list deals with a large number and variety of cases from both the Common Law and Commercial and Equity Divisions of the Court.

The list is divided into two streams. Every Monday directions hearings are held for proceedings in the Commercial and Equity Division or non-personal injury common law matters. When these matters have proceeded through the interlocutory steps, they are referred for pre-trial directions by the associate judge in charge of civil listing.

Most common law and personal injury matters are listed on Wednesdays including applications for speedy trial in terminal disease proceedings. Post-interlocutory orders and trial date allocations are made in this list and are heard by Associate Justice Zammit.

Orders made in Civil Management List for 2011-12	2,039
Orders made in Civil Management List for 2012-13	1,429



## Listing of Cases for Trial

When a civil proceeding is ready to be fixed for trial it is referred to Associate Justice Daly for pre-trial directions at which time a trial date may be fixed or further interlocutory directions given, depending upon the circumstances. Associate Justice Daly also hears interlocutory applications in proceedings that have been fixed for trial.

It is the Court's aim to have the trial of every civil proceeding commence on, or about, the date fixed for trial. This is not always possible because of the pressures of the business of the Court (in particular, the demands of hearing long cases and accommodating major civil litigation, such as class actions) or sometimes because the estimates given for the duration of trials are exceeded.

In 2012-13 eight proceedings were not tried on the date fixed (and marked not reached) due to the unavailability of a judge to try the case. All cases were given priority within the Civil Management List upon the next hearing date.

Orders made in Listings for 2011-12	285
Orders made in Listings for 2012-13	263

## General Applications

Associate Justices Lansdowne, Mukhtar, Zammit and Derham sit in the Associate Judges' Practice Court (Court 2) and hear interlocutory matters not otherwise issued in any specialist list, and matters within the original jurisdiction of the associate judges. In addition, the judges hear many interlocutory disputes referred by judges in the specialist lists.

The general applications work is demanding and covers a variety of matters, including:

- service of domestic and foreign legal process
- amendments to legal process and joinder of parties
- disputes over pleadings
- disputes over discovery and subpoenas
- summary judgment applications
- security for costs
- the discharge or modification of restrictive covenants
- orders for the payment out of moneys or securities in Court
- applications to extend the validity of writs for service
- various procedures for the enforcement of judgments
- examination of debtors.

In addition to these matters, the associate judges are also the gatekeepers for applications for leave to appeal (on questions of law) from decisions of the Victorian Civil and Administrative Tribunal, appeals from the Magistrates' Court in both civil and criminal matters, and proceedings for judicial review of decisions of courts and tribunals.

Orders made in General Applications 2011-12	4,779
Orders made in General Applications 2012-13	4,786

## Corporations

Associate Justices Efthim, Gardiner and Randall are responsible for a wide range of work in the Corporations jurisdiction of the Court, particularly winding up applications, the setting aside of statutory demands and many other applications under the *Corporations Act 2001* (Cth) in respect of which jurisdiction is conferred on associate judges. In the Corporations jurisdiction, it is common for trials to be conducted by associate judges on referral from a judge in the Corporations List of the Commercial Court.

The Corporations work of the associate judges has also steadily increased over the years.

Orders made in Corporations 2011-12	1,421
Orders made in Corporations 2012-13	1,637

## Judicial Mediation

Mediations are conducted by associate judges or the judicial registrar of their own motion and upon referral by judges or associate judges, and also arising from practitioners making requests and applications.

In 2012-13 the number of judicial mediations increased. There were 259 cases where a mediation was listed. Of those that proceeded, 131 were settled at mediation, 62 were not resolved, and the balance were either part finalised, adjourned or vacated.

Judicial mediations conducted in 2012-13 have increased when compared with earlier years, predominantly because the associate judges and judicial registrar have responded to the increase in demand. Publication of Practice Note No. 2 of 2012 – *Judicial Mediation Guidelines*, has also raised the awareness of the availability of judicial mediation. The demand for proceedings to be mediated by associate judges or a judicial registrar is now exceeding availability.

A large percentage of mediations arise from Testators' Family Maintenance proceedings, and these mostly involve small estates. There can be significant costs savings to the estate where the mediation is conducted by an associate judge or judicial registrar.

In the course of the year, mediations were also conducted when the Court was on circuit in Wangaratta and Shepparton. There was a high rate of settlement of cases listed.

There have also been some large, complex and important cases successfully mediated. The resolution of these cases at mediation has saved considerable Court time and resources and provided parties with obvious benefits including a reduction in costs, further delays and distress that ongoing litigation can generate.

The Court will continue to provide Court-annexed mediation in appropriate circumstances in the coming year, although it may be difficult to meet the increasing demand for judicial mediation. It is not the role of Court-annexed mediation to replace mediation services available through the Victorian Bar and the profession.

Mediations conducted by associate judges 2011-12	184
Mediations resulting in settlement 2011-12	110 (60%)

Mediations conducted by associate judges 2012-13	193
Mediations resulting in settlement 2012-13	131 (68%)





## Innovation in Managing Expert Testimony

*A number of ‘conclaves’ of experts from different engineering and scientific fields were held, in preparation for the Kilmore East-Kinglake bushfire proceedings. The conclaves were convened to enable the experts to refine their views and prepare joint reports, prior to concurrent evidence sessions that would be held during the trial.*

*The conclave and concurrent evidence process is part of an innovative approach to the management of expert evidence in large civil proceedings endorsed by the recent amendments to the Civil Procedure Act 2010.*

*The parties in the proceeding had retained experts from universities, consulting firms and private practices from around Australia and overseas. Multiple conclave groups were formed – 11 in total – with between two to eight members in each, initially convened at various times over a two-week period in late 2012. Subsequent conclaves were reconvened in December 2012 and January 2013, after usual business hours and on weekends, to accommodate all involved.*

*Associate Justice Zammit acted as moderator for each conclave. The conclaves required a collaborative approach by all practitioners involved, to provide agendas for each conclave (with each addressing a specific topic) and then to produce their joint report.*

*“By allowing the experts to participate in the conclaves, reports were produced that will be of great assistance to the Court when hearing the expert testimony. The reports detail the points that are agreed and those still in contention,” said Associate Justice Zammit. “The experts from each conclave will be in the witness stand together when the time comes to give their testimony.”*

*The Court-supervised conclave process allowed for an innovative approach to the presentation of expert testimony in this large and complex civil proceeding. The experts all conducted themselves professionally and showed a great deal of respect to one another, each contributing their time and effort to the conclave process wholeheartedly.*

*It also generated positive feedback from all involved. Many of the experts made a point of stating how rewarding they had found the process, and that they felt the conclaves produced well-written reports by allowing collaboration from all the experts involved. The international experts in particular had not seen or experienced a process like this in their legal systems.*

*Whilst this is a new approach taken by the Court, the success of the conclave process, and advantages to the conduct of the trial, are clear. It has shown a different way of thinking for parties and the Court in proceedings involving complex technical scientific and engineering issues.*

## Testators' Family Maintenance List

Associate Justices Zammit, Efthim and Derham conduct the Testators' Family Maintenance (TFM) directions hearings. This list has been very successful in managing TFM cases through the interlocutory stages and mediation.

The Court aims to limit the number of directions hearings in the list, and to facilitate the early resolution of TFM proceedings, by the extensive use of mediation to minimise the costs to the parties. Where estates are small, the mediations are conducted by an associate judge and, in some cases, on the basis of position statements without the filing of affidavit material. There were 107 mediations held before an associate judge or judicial registrar and of these 81 settled at mediation or shortly thereafter.

Orders made in TFM List 2011-12	1,138
Orders made in TFM List 2012-13	1,085

## Trial Work

All of the associate judges, with the exception of Associate Justice Wood, who is the Costs Court judge, undertake trial work. These trials fall into two broad categories: those within the original jurisdiction of an associate judge, and those that are referred to the associate judge by a Trial Division judge. The associate judges sit during an allocated trial period, or periods, of about six weeks each year to conduct civil trials in the same way as a judge of the Court.

Trials heard by associate judges 2011-12	25
Trials heard by associate judges 2012-13	39

## The Costs Court

### Associate Judges:

Associate Justice Wood  
Associate Justice Efthim  
Associate Justice Daly  
Associate Justice Mukhtar

### Judicial Registrar:

Judicial Registrar Gourlay

This year the Costs Court commenced a program of listing all bills of costs relating to serious injury applications under the *Accident Compensation Act 1985* for a case conference before a costs registrar prior to listing for taxation. This resulted in the settlement of most of these matters within eight weeks of issue of the summons for taxation.

Monthly callovers of summons issued for amounts in excess of \$100,000 and costs reviews issued under the *Legal Profession Act 2004* were conducted. Matters were listed for hearing or referred for mediation or case conferences at the callover before the costs registrars and the Prothonotary. Most were successfully resolved.

The number of summons issued in the Cost Court stabilised in the reporting year. There was an expected reduction of summons arising from the County Court as a result of the WorkCover (Litigated Claims) Legal Costs Order 2010. Matters where the amount in dispute is under \$100,000 are now listed directly into 'small bills days' without the need for an attendance at a callover. This has allowed an increased number of matters to be listed and heard more quickly. Small bills of less than \$20,000 are referred to the costs registrars for assessment pursuant to

Part 8 of Order 63. These steps have resulted in a shorter period for matters to be completed at a greatly decreased cost to the parties.

- Four legal practitioners were referred to the Legal Services Commissioner for unsatisfactory professional conduct pursuant to s 3.4.46 of the *Legal Profession Act* during the past year.
- Matters issued for a costs review under the *Legal Profession Act* continued to occupy most of Associate Justice Wood and Judicial Registrar Gourlay's time. The complexity of these matters can result, in some cases, in the need for extended hearings.
- Three matters were referred by judges in the Trial Division to Associate Justice Wood for consideration of making a gross costs award. One matter, *ACN 074 971 109 (as trustee for the Argo Unit Trust) & Anor v National Mutual Life Association of Australasia Limited* [2013] VSC 137 has been concluded.

Prior to the end of the year the Court issued Practice Note No. 2 of 2013 which deals with appearances by persons without an entitlement to appear in the Costs Court.

The tables below highlight the distinction between the number of party/party taxations and reviews brought under the *Legal Profession Act*, across all jurisdictions.

It is anticipated that the reduction in County Court taxations flowing from the WorkCover (Litigated Claims) Legal Costs Order 2010 will continue and that the number of solicitor client costs disputes will continue to rise in the coming year, as has been the continuing trend.

Order 63 of the Supreme Court Rules and the scale in Appendix A were substantially amended and commenced operation on 1 April 2013.

### Taxation of Costs – Initiations

	Party/Party Taxation				Solicitor/Client Taxation SCV	Total
	SCV	CCV	MCV	VCAT		
Jul 12	39	24	9	4	24	100
Aug 12	32	38	7	1	17	95
Sep 12	32	19	2	2	13	68
Oct 12	53	24	4	5	21	107
Nov 12	40	21	4	7	7	79
Dec 12	28	17	3	5	17	70
Jan 13	26	28	6	5	16	81
Feb 13	25	23	2	2	11	63
Mar 13	41	43	3	6	16	109
Apr 13	30	33	6	5	13	87
May 13	29	21	3	4	13	70
Jun 13	22	10	2	6	8	48
<b>Total</b>	<b>397</b>	<b>301</b>	<b>51</b>	<b>52</b>	<b>176</b>	<b>977</b>

### Taxation of Costs – Finalisations

	Party/Party Taxation				Solicitor/Client Taxation SCV	Total
	SCV	CCV	MCV	VCAT		
Jul 12	31	31	3	2	10	77
Aug 12	30	30	9	6	20	95
Sep 12	27	28	8	10	13	86
Oct 12	32	30	5	3	17	87
Nov 12	25	16	2	3	20	66
Dec 12	36	18	1	4	13	72
Jan 13	18	17	3	2	4	44
Feb 13	41	13	6	5	27	92
Mar 13	38	21	1	5	14	79
Apr 13	29	36	8	4	16	93
May 13	36	50	3	5	24	118
Jun 13	30	24	3	6	15	78
<b>Total</b>	<b>373</b>	<b>314</b>	<b>52</b>	<b>55</b>	<b>193</b>	<b>987</b>

# Our Year in Review

## Support Delivery: Funds in Court

Funds in Court (FIC) is an office of the Supreme Court of Victoria that administers all funds paid into Court, including funds awarded by other Victorian courts or by the Victims of Crime Assistance Tribunal (VOCAT).

This money may be compensation from an accident or injury, from a will or for people under 18 who have lost a parent or have been victims of crime. People who are under a legal disability and who have their money administered by the Senior Master are called ‘beneficiaries’. The funds are held in trust by the Senior Master for beneficiaries of the Court.

### Vision

To enhance beneficiaries’ lives with compassion and superior service

### Mission

To act in the best interests of beneficiaries by providing excellent service at the lowest cost and ensuring safe and effective investment of their funds

### Highlights

- New Senior Master appointed
- First Judicial Registrar (FIC) appointed
- General Manager (FIC) appointed
- Change of name to Funds in Court
- ‘Embrace’ special event for beneficiaries
- Beneficiary Services Standards developed and published
- Updated Corporate Governance Statement published
- Executive Remuneration Committee established
- IT Steering Committee established
- Recommendations of major security review implemented
- 5,221 beneficiaries
- More than 7,048 orders made
- 21,054 order supporting documents prepared
- 109,810 financial transactions made
- 93.6 per cent of invoices processed within five days
- 39,327 telephone calls received
- Funds under administration increased by approximately 34.5 per cent in the last five years

Associate Justice Efthim was appointed as Senior Master on 8 September 2012 for an initial period of six months, and then permanently on 5 March 2013. He replaces former Senior Master Kevin Mahony, who retired on 7 September 2012. Associate Justice Efthim also continues to perform his usual duties as an associate judge.

On 11 December 2012, the Governor in Council appointed Steven Wharton as a judicial registrar of the Supreme Court. Steven was formerly the Office Manager and Special Counsel of Funds in Court and, prior to that, the Solicitor to the Senior Master.

Steven brings an enormous wealth of knowledge and experience about FIC to his new role as Judicial Registrar (Funds in Court). Following the retirement of Associate Justice Mahony, Steven's appointment provides continuity and certainty for beneficiaries regarding applications for use of their funds held in Court.

The position of General Manager was created to replace Steven's role. Michael Karabogias, formerly the FIC Corporate Services Manager, was appointed as FIC's first General Manager.

## A Change of Name – Funds in Court

The Senior Master, with the approval of the Chief Justice, changed the name of the Senior Master's (Funds in Court) Office to simply Funds in Court.

Whilst FIC is now a large and complex organisation, the work it does is, in essence, that which was performed in the past by the Master in Equity. Apart from its core work of administering the funds for people under disability, FIC also:

1. pursuant to the *Courts Legislation (Funds in Court) Act 2004* administers all funds formerly held by the County and Magistrates' Courts, and by the Victims of Crime Assistance Tribunal, for and on behalf of persons under disability
2. gives support and advice to the Supreme Court Registry in the administration of all dispute funds
3. deals with all enquiries from the legal profession and other interested parties in respect of dispute funds
4. provides advice and support to judges, associate judges and their associates, when requested, in respect of all matters.

There are no legislative considerations affecting the change of name. The Senior Master will continue to administer all funds paid into Court and all investments made, on behalf of beneficiaries, will remain in the name of the Senior Master.

## Key Performance Indicators

FIC staff met or outperformed all key performance indicators (KPIs) relating to the delivery of services to beneficiaries.

Importantly, at least 93.9 per cent of payments to, or on behalf of, beneficiaries were processed within five days of receipt of request.

FIC receives over 3,250 phone calls per month. On average, 95.0 per cent of those calls were answered within one minute of the person calling. This is an increase from 89.9 per cent last financial year.

### Orders Made\*

2008-09	6,967
2009-10	6,914
2010-11	7,302
2011-12	6,694
2012-13	7,048

\* All payments made on behalf of beneficiaries are made by Court orders (usually made by the Senior Master or the Judicial Registrar).

### Supporting Documents Prepared

2008-09	22,100
2009-10	21,185
2010-11	21,282
2011-12	21,791
2012-13	21,054

### Number of Financial Transactions Recorded

2008-09	95,331
2009-10	93,749
2010-11	102,953
2011-12	103,659
2012-13	109,810

It is pleasing that while financial activity has increased over the period, streamlined procedures that were introduced have prevented an increase in the preparation of associated supporting documentation.

Moneys paid into Court	\$105,338,403
Moneys paid out of Court	\$49,498,558*

\* The moneys paid out of Court represent a total of 734 beneficiary accounts.

## New Beneficiaries

There were 748 new accounts opened for new beneficiaries, comprising 857 payments into Court, for:

- 57 non-award matters (dispute money, security for costs, moneys paid in under an Act)
- 691 award payments (personal injury, Family Provision claims, Part III of the *Wrongs Act 1958*, Victims of Crime Assistance Tribunal [VOCAT] funds).

### 2012-13 New Accounts Opened

Supreme Court	219
County Court	87
Magistrates' Court	4
VOCAT	438
<b>Total</b>	<b>748</b>

## Trust Administration and Client Liaison

Many beneficiaries are presented with personal and financial challenges and involved in complex legal or financial matters which require skilled and experienced trust officers, client liaison officers (CLOs) and legal officers to work through the difficulties encountered.

All beneficiaries are assigned a trust officer, who is their primary point of contact with FIC. Trust officers assist beneficiaries to access their funds, either to purchase an item or for daily expenses.

FIC also has a team of CLOs who visit beneficiaries, usually in their homes. Apart from providing input in respect of complex applications for payments, CLOs are instrumental in assisting beneficiaries with the many difficulties they face in their everyday life.

### Client Liaison Visits

2008-09	634
2009-10	550
2010-11	500
2011-12	509
2012-13	558

FIC prides itself on providing the best quality service to beneficiaries. To ensure that beneficiaries know what to expect in their dealings with FIC, a document was produced to set out FIC's Beneficiary Service Standards. This can be viewed online: [www.fundsincourt.vic.gov.au](http://www.fundsincourt.vic.gov.au).

## Investments

The investment area of FIC considers and, if appropriate, implements investment advice given by advisers engaged by the Senior Master. It also provides administrative support to the Investment Review Panel which includes fixed interest and equities experts and meets quarterly. The FIC investment team provides administrative support to the Investment Compliance Committee which meets bi-annually and whose members include superannuation and tax experts.

Funds under administration (including direct investment in real estate and other assets) exceeded \$1.44 billion, an increase of approximately \$31 million (2.15 per cent) since last financial year.

### Annual Total Value of Funds in Court (including beneficiaries' real estate)\*

2008-09	\$1.07 billion
2009-10	\$1.20 billion
2010-11	\$1.27 billion
2011-12	\$1.32 billion
2012-13	\$1.44 billion

\* Figures are approximate. Exact figures are provided in FIC's Annual Financial Reports available on the FIC website.

## Common Fund No. 2

There are over 5,200 beneficiary accounts within Common Fund No. 2 (CF-2). The prime objective for CF-2 is to provide the maximum return achievable consistent with investments in approved securities. The interest rates declared for CF-2 over the past five years are noted in the following table.

### Common Fund No. 2 Interest Rates\*

At 31 May 2009	5.95%
At 31 May 2010	5.70%
At 31 May 2011*	6.00% (CF-2 only) 5.80% (CF-2 & CF-3)
At 31 May 2012	6.20% (CF-2 only) 6.00% (CF-2 & CF-3)
At 31 May 2013	5.55% (CF-2 only) 5.35% (CF-2 & CF-3)

\* For the first time separate rates of interest were fixed by the Senior Master in respect of CF-2 dependant on whether a beneficiary also held investment in CF-3.

The interest rates fixed for 2013 show a decrease over last year's fixed rates of 65 basis points. This is still an excellent outcome for the beneficiaries of CF-2, especially in the current financial climate, which reflects the hard work of the FIC investment area and the Senior Master's investment advisers. Investment performance continues to be superior against the key performance indicator benchmarks.

### Common Fund No. 3

There are over 2,000 beneficiaries, representing approximately 38.6 per cent of all beneficiaries, for whom equity investment has been undertaken.

On 1 July 2012, the unit price for Common Fund No. 3 (CF-3) was \$1.272961. By 30 June 2013, the unit price was \$1.517077.

The annual return for the CF-3 portfolio (that is when dividend income is taken into account) was 24.7 per cent for the financial year. This compares with a 25.6 per cent return of the benchmark S&P/ASX 50 Leaders Accumulation Index. Thus, CF-3 underperformed the benchmark by 0.90 per cent in the financial year. However, over the five-year period ending 30 June 2013, CF-3 has outperformed the benchmark, showing a return of 4.6 per cent per annum compared to 4.2 per cent per annum for the benchmark.

Furthermore, the Senior Master's equity portfolio, which preceded and now includes CF-3, has returned 11.4 per cent per annum since its inception on 21 December 1992 versus the benchmark return of 10.4 per cent per annum.

### Investment Compliance Committee (ICC)

The ICC monitors investment compliance with the FIC Asset Management Policy in respect of the funds managed by the Senior Master. It also reports on breaches of compliance and breaches of the Senior Master's duties under the *Supreme Court Act 1986* and the *Trustee Act 1958* of which it becomes aware or that it suspects. No breach was reported.

### Beneficiaries' Properties

As part of the administration of funds for persons under a disability, a request may be made to the Court for the release of funds to contribute either fully or partially towards the purchase of real estate. Upon being satisfied that the purchase is in the best interests of the person for whom the funds are held, the Court may order that a property be purchased for a beneficiary. Beneficiaries' properties are predominantly residential and are held on trust for beneficiaries.

Over the last five years, the number of trust properties has increased by over 22 per cent, whilst the value of those properties has increased by over 50 per cent.

#### Beneficiaries' Properties Held on Trust

	No. of Properties	Value
2008-09	493	\$146,836,274
2009-10	518	\$167,418,304
2010-11	565	\$185,991,490
2011-12	590	\$205,974,472
2012-13	606	\$220,979,406

### Accounting and Taxation

The Financial Reports of the Senior Master are audited each financial year by the Auditor-General. The Reports are available at [fundsincourt.vic.gov.au](http://fundsincourt.vic.gov.au).

Annual trust tax returns were lodged for every beneficiary. Utmost care was taken to ensure the accuracy of each trust taxation return in compliance with legislation. No direct fees were charged for taxation services.

### Corporate Governance

In January 2013, FIC released its extensively revised and updated Corporate Governance Statement.

The Senior Master is committed to achieving and demonstrating the highest standards of corporate governance. The FIC governance structure is driven by the need to be fully accountable to the Court and beneficiaries. As such, the governance of FIC is controlled and directed to ensure that:

- the interests of beneficiaries are protected
- financial and other risks to the funds administered by FIC are minimised
- the Senior Master, together with FIC management and staff, are accountable not only to the beneficiaries but to other key interested parties, for the proper administration of FIC.

The FIC Corporate Governance Statement was well received by all internal and external parties who have key relationships with the Senior Master and FIC.

The Senior Master continues his commitment to risk management in accordance with Australian standards, and the prudential safeguards put in place are monitored by FIC's Corporate Governance Manager. The Corporate Governance Manager reports any developments concerning defined risk management matters to the Senior Master. The Audit Committee also considers risk management at its quarterly meetings.

### Audit Committee

The Audit Committee maintains communication between external auditors, internal auditors and management in relation to financial reporting, internal controls, audits, risk management, ethical issues and any other matters the Senior Master deems necessary.

The Audit Committee also incorporates the following key responsibilities of an ethics committee:

- oversight of FIC's compliance with the Senior Master's Code of Conduct
- oversight of FIC's ethics audits and ethics training programme
- the reviewing and reporting of any ethical complaints and FIC's responses to such complaints.

The Audit Committee met quarterly, together with a special meeting to consider the FIC Financial Report.



## Executive Remuneration Committee

In the reporting period the FIC Executive Remuneration Committee (ERC) was established and the first meeting held on 4 March 2013.

To ensure there are no conflicts of interest in the ERC's recommendations, the committee consists of two independent external consultants: Mrs Margaret Salter, Chair, and Mr Chris Johnston, HR consultant, and Michael Karabogias, General Manager, FIC. The ERC will assist the Senior Master in fulfilling his corporate governance responsibilities in relation to the remuneration of all non-Victorian Public Service executive staff.

The creation of the ERC further strengthens FIC's corporate governance by ensuring transparency in all remuneration decisions. It should also be noted that the ERC's policies, as far as practicable, emulate the provisions of the Government Sector Executive Remuneration Panel.

## Business Operations

The FIC Business Continuity Plan is tested every six months. Business Operations coordinated tests in August 2012 and February 2013.

A major review of FIC physical security was conducted in April 2012 by Holland Thomas & Associates. The review made a number of recommendations, with Business Operations taking on responsibility for implementing the recommendations. The implementation project was completed successfully – and more than 25 per cent under budget.

## Information Technology

In December 2012, FIC moved from physical server IT infrastructure to virtual server infrastructure with shared storage. At the same time, FIC also established a fibre optic link between its primary site at 469 La Trobe Street and its disaster recovery site at Interactive in Port Melbourne – this greatly improves FIC's ability to recover its most important services to beneficiaries within an hour of any disaster.

In June 2013, FIC conducted several upgrades and enhancements, including operating system upgrades to MS Windows 7, software upgrades to MS Office 2010, and a series of significant enhancements to the primary software application, winTMS.

An IT Steering Committee was established in November 2012 to act in an advisory capacity to the Senior Master and help fulfil the Senior Master's corporate governance responsibilities on matters relating to the FIC IT system. Effective IT governance ensures discipline and control around the IT function to support FIC strategies and goals, meet FIC needs, and manage IT opportunity and risk.

## Connecting with Beneficiaries

FIC strives to ensure that beneficiaries, their families and carers, and all other interested parties are provided with as much information as possible about the services provided by FIC, and that they are able to communicate with FIC.

As part of this commitment FIC maintains an up-to-date website, produces booklets and pamphlets, offers a DVD to beneficiaries and their families and publishes a regular newsletter for beneficiaries. Feedback from beneficiaries indicates that they find the FIC newsletter informative and interesting. Now 16 pages long, a large proportion of the content is submitted by readers.

During the year FIC commissioned SCOPE to revise its information booklets and pamphlets to an 'Easy English' format to ensure they meet the needs of beneficiaries with acquired brain injury. The publications will be available in the new financial year.

In October 2012, FIC held an evening of celebration entitled Embrace in recognition of beneficiaries' achievements in arts, crafts, singing and music. The feedback from beneficiaries and their families indicated that the event was a big success. It is anticipated that the event will next take place in December 2014. Business Operations and the Client Liaison Team were instrumental in coordinating and organising this major event.

FIC also provides information about FIC for new starters and Supreme Court staff, and coordinates a Beneficiaries' Focus Group and Beneficiaries' Advisory Group.

The Beneficiaries' Advisory Group continued to meet on a quarterly basis. The group consists of representatives of FIC, beneficiaries' families and other interested parties such as the Law Institute of Victoria, the Office of the Public Advocate and the Victims Support Agency.

The Beneficiaries' Focus Group is a group of beneficiaries who provide FIC with feedback and contribute ideas. The meeting is held every 12 months. The group met on 19 March 2013.

# Our Year in Review: Court of Appeal Registry

The Court of Appeal Registry is responsible for the administrative functions of Court of Appeal proceedings, and provides services to the judiciary, legal profession and public.

The Registry is headed by Mark Pedley, Judicial Registrar of the Court of Appeal. Mark is assisted by two Deputy Registrars.

The Deputy Registrar (Administration) is assisted by two registry office managers, and 10 registry officers. Together they assist the Judicial Registrar in the case management and administrative functions of all civil and criminal cases before the Court of Appeal.

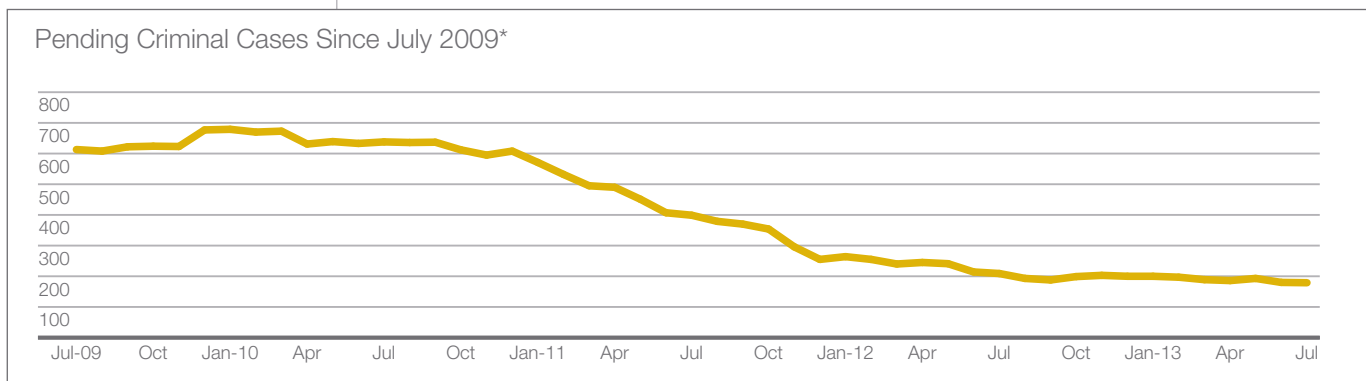
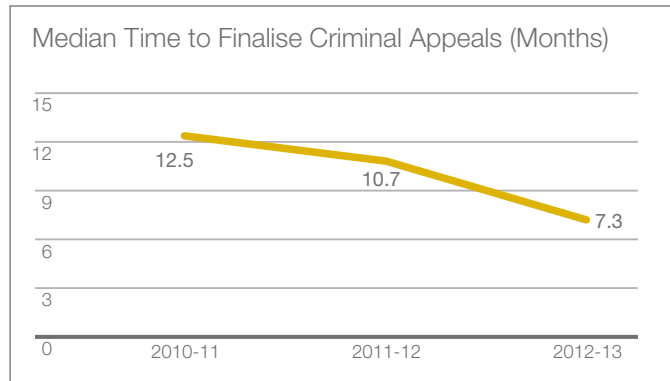
The Deputy Registrar (Legal) is assisted by a senior registry lawyer and five registry lawyers. Each criminal appeal is individually assigned to one of four registry lawyers to be closely managed throughout the leave and appeal process. The lawyers also manage any ancillary matters arising during the life of the appeal, such as bail applications, and advise the Judicial Registrar on the readiness and complexity of matters for listing.

## Criminal Appeal Reforms

The continued success of the Court of Appeal's 2011 criminal reforms is evident in the graph below, which shows a marked and consistent decrease in pending matters, with a low of 178 matters pending at the end of the financial year. This represents an overall reduction in pending matters of 74 per cent in just three-and-a-half years.

Further, the reforms have enabled the Court to set a new benchmark with its median time to finalise all criminal appeals falling to just 7.3 months.

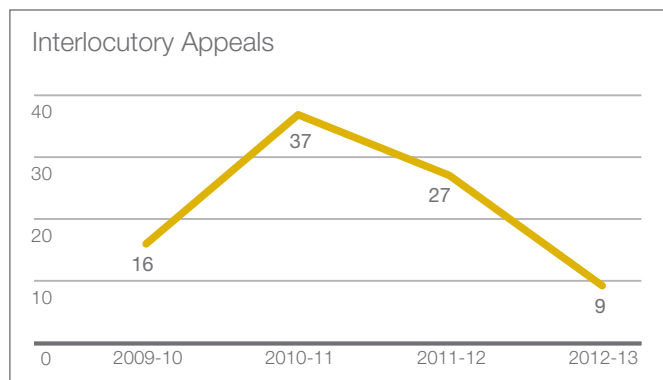
The Registry continues to work regularly with members of the Criminal Reference Group to ensure its new processes are consistently meeting the needs and expectations of the public and the profession.



\* As noted last year, due to technological difficulties with identifying data before 2009, this graph records pending figures that are at variance with pending figures as given in previous annual reports.

## Interlocutory Appeals

The number of interlocutory appeals filed continued to steeply decline. However, in those few matters where interlocutory relief was sought, the questions raised were of greater substance than many of the matters filed at the peak in 2010-11, or shortly after amendments to the *Evidence Act 2008* took effect. For example, the Court of Appeal concluded in *R v Chaouk* that the trial judge had acted properly in staying a criminal trial since “a fair trial necessitated the attendance of the defence instructing solicitor at trial for each day of the trial” [2013] VSCA 99, [17]. This resulted in Victoria Legal Aid changing its policies with respect to the funding of instructing solicitors for trial.



## Civil Appeal Reforms

During the financial year, a registry lawyer was detailed to assist the Judicial Registrar with civil appeals and applications, and a researcher from the Trial Division was allocated to assist on a part-time basis for a portion of the year. However, two additional registry lawyers will be employed in the coming year on a fixed term basis to support the Registry’s Civil Appeals Reform project.

While awaiting legislation necessary to implement the Civil Appeal Reforms, the Registry has drawn on its experience with the criminal reforms and already taken steps to reduce the number of pending civil appeals. Specifically, the Registry has developed a practice whereby civil applications for leave to appeal are assessed in advance of the leave hearing by the two designated leave judges for that term.

As a result of trialling this practice in Term 2 and through intensifying the listing of civil appeals and a slowing down of appeals filed in the first half of 2013, the number of pending civil matters has reduced from 218 in January 2013 to 149 as at the end of June 2013.

## New Listing Process Expedites Civil Appeals

*In 2013 the Court of Appeal trialled a new listing process for civil applications before the Court. The listing process aimed to expedite the hearing of civil appeals, where leave to appeal was granted.*

*Previously, if leave to appeal was granted by the Court, a notice of appeal was then filed. The matter would be progressed in a separate appeal list, requiring a directions hearing, adherence to a timetable for the provision of supporting documents including an appeal book, and eventually an appeal hearing before three judges of appeal.*

*As part of the new listing process trial, two judges of appeal, Justices Nettle and Neave, were rostered as the 'civil application judges' for the entire term. Where it was determined that leave should be granted, the two judges (sometimes with the addition of a third judge) heard the leave application and appeal together on the same day, or soon after in the following week.*

*During the trial 20 applications for leave to appeal were listed. Of those 20 applications, 10 were refused leave and one was withdrawn. The remaining nine applications for leave to appeal were heard along with the appeal, saving both costs to the litigants and judges' hearing time. The reformed listing process was also well-received by litigants, who were keen to have their matters heard quickly.*

*The trial of the new listing process also provided an opportunity to manage the expectations of parties making civil applications to the Court. The Court imposed time limits for each party's oral submissions, and applications were subjected to more intense front-end case management by the Court of Appeal Registry.*

*At the end of the trial, a new Practice Direction requiring litigants to organise and file their supporting materials for civil applications in a standard way, was issued by the Court of Appeal. This is assisting the Court to more quickly grasp the history of the matter and the issues.*

*"The changes to the civil appeals process have enabled the Court of Appeal to expedite hearings to increase Court efficiencies as well as reduce costs for parties to the appeal," said Justice Maxwell, President of the Court of Appeal. "As the trial was a success, the Court has determined to continue this dedicated listing practice."*



# Our Year in Review:

## Principal Registry

The Principal Registry provides administrative services to the judiciary, legal profession, Court users and public.

Registry services include: management of files and subpoenaed material; making orders for the administration of deceased estates; assisting in small estate matters; producing Court orders; managing foreign service for the State of Victoria; conducting pre-trial conferences; aiding electronic litigation, trials, and filing; determining costs matters for Supreme, County, Magistrates' Courts and the Victorian Civil and Administrative Tribunal; and handling enquiries.

Supported by the Prothonotary and Registrar of Probates, the Principal Registrar, Peter Washington leads Registry management in maintaining high standards of service. Peter is assisted by the Business Services Manager and Deputy Registrars in monitoring performance and identifying business improvement opportunities.

### Highlights

- In excess of 230,000 probate documents
- Approximately 93,000 Trial Division civil and criminal documents
- 102 deposited wills
- 3,374 subpoenas to produce
- 19,304 Probate grants issued
- 18 Probate small estate applicants assisted
- 1,597 self-represented litigants assisted and/or referred
- 175 foreign service documents processed

Committed to refining ways to assist self-represented litigants, while optimising the use of Court time, Registry commenced an initiative to establish services accommodated within the Registry providing professional guidance, similar to Queensland's QPILCH service. This project will continue to progress in the coming year.

Dedicated coordinators provide assistance in key areas and enhance services to improve efficiencies within the Registry by managing:

- group actions – providing centralised coordination and contact
- regional courts – liaising to resolve regional issues
- electronic litigation – facilitating agreement on technological aspects
- e-filing – overseeing an e-filing portal, ensuring minimum delay
- online advertising – helping users to publish intentions to apply for probate
- self-represented litigants – assisting understanding processes/requirements
- Practice/Commercial Court – coordinating typically urgent matters
- subpoenaed documents – managing custody and inspection of materials.

The continued refinement of specialist support roles has provided practical service improvements for users. Coordination of urgent matters coming to the Court continues to help in ensuring minimal delay for both users and the Court. In the process, the refined focus generated greater interaction on administrative matters between the Registry and both judicial officers and users.

The ability for the Principal Registry to provide services to regional areas through local registry offices remains a focus. Planning is under way to extend the Deputy Prothonotary training offered to regional staff. Upcoming visits to regional hubs will also provide opportunities for local law firms to engage with Registry on issues of importance.

## Registry Staff

Mediation training was provided to a senior staff member, further addressing the potential to take on mediations as provided for in the Supreme Court Rules. Registry staff also received training in how to deal with more complex enquiries. Provision of Deputy Prothonotary training continued to provide staff with a deeper understanding of the Rules, their interpretation and application.

During the year Registry staff routinely engaged in forums, and spoke at lectures and conferences to aid understanding of the Court and its processes. A number of staff also held positions on committees.

The Principal Registrar remained an industry representative on RMIT University's Program Advisory Committee for Legal and Dispute Studies, which advises on the development and delivery of content for RMIT University's Certificate IV in Government Studies.

The Prothonotary also remained a member of the Recidivism and Re-Contact Steering Committee, a government initiative to reduce both recidivism (multiple prison sentences for individuals) and re-contact (subsequent dealings with courts).

The Registrar of Probates continued to serve as a member of the Probate Users' Group, which acts as a conduit between the Court, legal profession, and other Court users, and assists in settling best practice in the Probate jurisdiction. The Registrar was also appointed to an advisory committee of the Victorian Law Reform Commission to assist in its deliberations on the succession law reference.

## Prothonotary

The Prothonotary continues to provide expertise to Registry and users. During the year, the Prothonotary's involvement with taxation of costs increased, assisting in Costs Court Registrar workloads. The Prothonotary was also involved in instituting contempt proceedings on behalf of the Court.

To improve user service and organisational flexibility, the Deputy Prothonotary training program encompassed a wider cross section of staff in 2012-13. While not all trainees are appointed, the skills and knowledge gained enable Registry to deal more rapidly with the slightly less complex matters confronting frontline staff. Appointment as a Deputy Prothonotary allows Registry to continue uninterrupted operations while not excessively relying on a few key staff. This has facilitated a common base of understanding amongst staff.

## Foreign Service

In 2010, the Court became an Additional Authority in Australia under the Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters. Requests for service remained high in 2012-13 compared to previous years, with the Court receiving 175 requests.

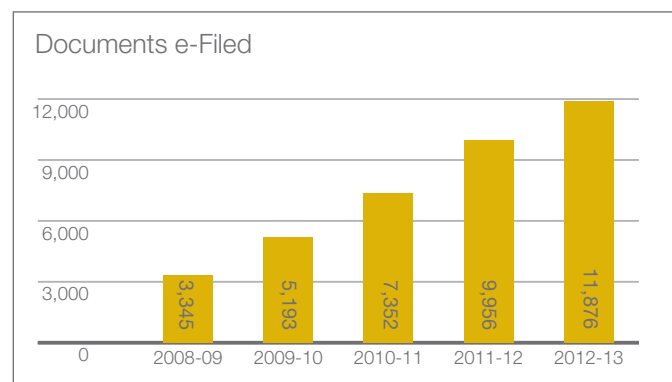
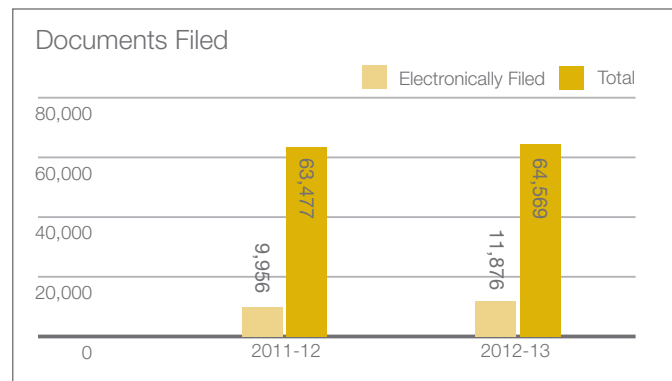
## Electronic Filing

The Court's electronic filing facility, CITEC Confirm, provides legal practitioners with the ability to file and view their own documents. The reliability of the system remains above the benchmark, and uptake continues to display a healthy rate of growth. This year there was a 19 per cent increase over the previous year, with a total of 11,876 documents electronically filed.

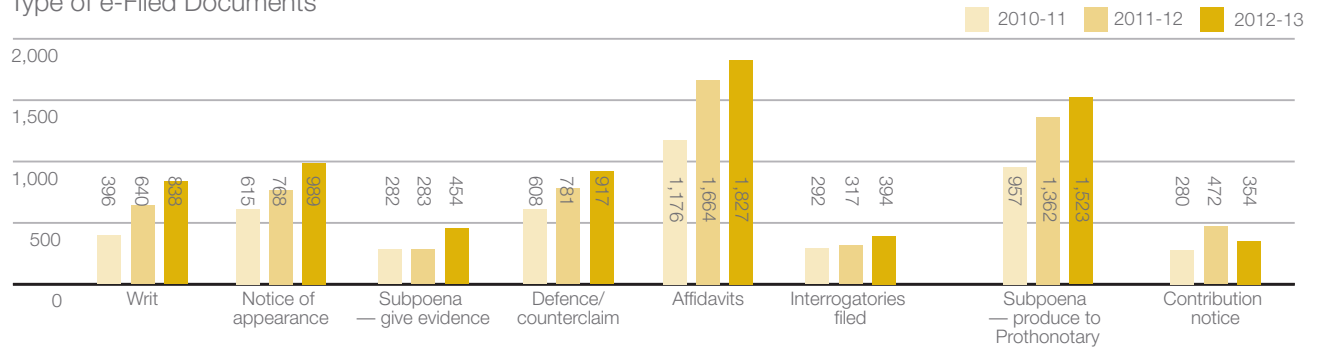
This level of activity reflects favourably on the success of e-filing, particularly considering that the overall filing of documents increased by a disproportionate two per cent for the same period.

The uptake of e-filing continues to enable Registry to keep pace with workloads and meet new demands. Over the last two years, the rate of filing per 100,000 documents received by Registry has increased in excess of 60 per cent.

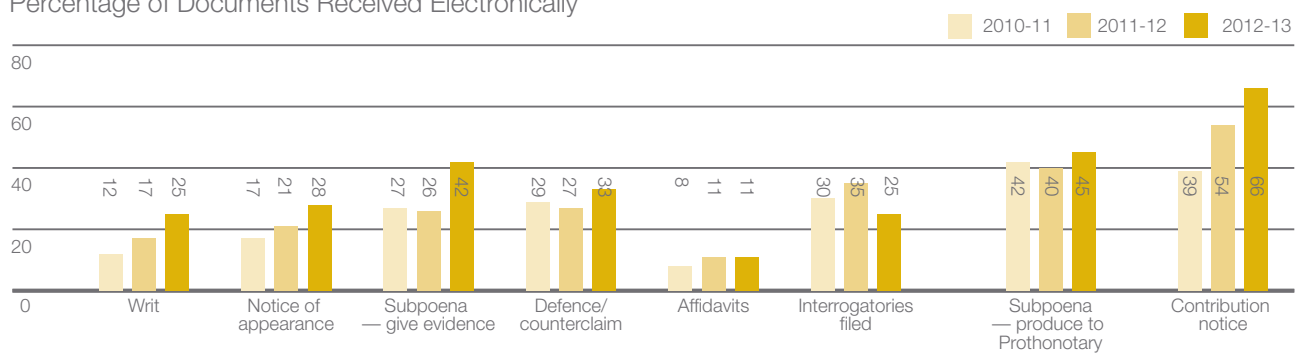
Increases reflect positively on the work undertaken during the year to promote the CITEC Confirm service, including the placement of fliers at the Registry counter and the efforts of Registry staff engaging with users. In 2013-14, further promotion of e-filing to target regional areas and major firms is planned.



Type of e-Filed Documents



Percentage of Documents Received Electronically



### Subpoenaed Materials

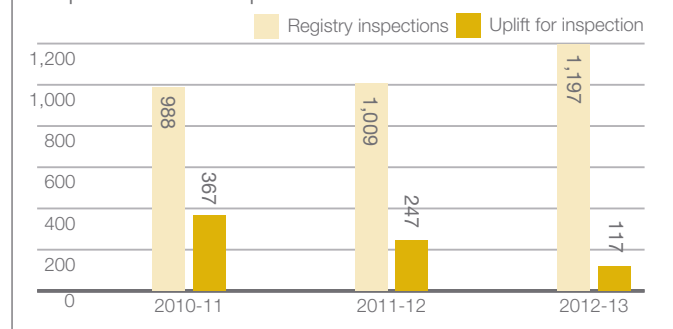
The volume of documentation produced to the Court is substantial. Of the 2,172 individual productions in response to a subpoena, 13 per cent were produced electronically (on DVD, CD, USB drive, or hard disk drive), which undoubtedly contributed to the decline in physical uplifts (i.e. legal practitioners uplifting materials for remote inspection at their law firm offices).

Users have the option to scan to DVD or USB drive rather than print copies, and in limited instances, staff can pre-scan materials ahead of an inspection, which reduces the demand for inspection space within Registry.

The number of inspections facilitated by staff increased by more than 19 per cent this year. Without electronic handling, that number would have been far higher and presented further logistical problems for Registry.

Recognising the benefits, Principal Registry continues to encourage electronic production, inspection and reproduction, and where appropriate, the uplift of materials. In addition to assisting capacity, electronic handling greatly enhances maintaining security of produced materials.

Inspections of Subpoenaed Documents



## Self-Represented Litigants

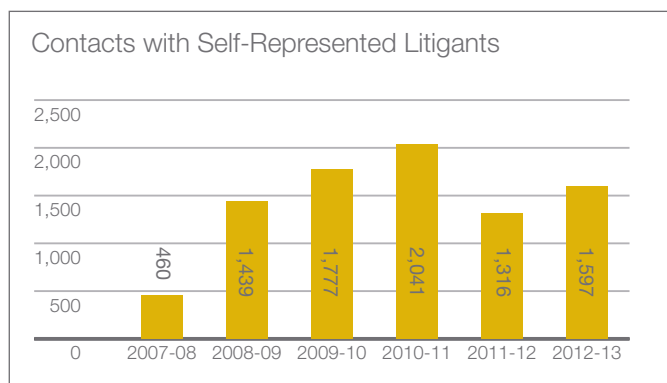
The Court was one of the first Australian courts to manage the needs of self-represented litigants. A dedicated Coordinator assists users in regards to procedure, forms and fees, and provides referrals to legal service providers for advice.

The Self-Represented Litigant Committee, chaired by Justice Emerton, met throughout the year and undertook a significant amount of work in developing the legal assistance service for the Court.

An appointment system was introduced to more effectively manage workload and expectations. Self-represented litigants are given 15-minute appointments with the Coordinator, with Registry scheduling up to six appointments per day. This approach ensures equitable time for all users, preventing the Coordinator from being monopolised with any individual matters.

The Court acknowledges the Duty Barristers' Scheme of the Victorian Bar and PILCH who responded to requests for representation for previously self-represented persons.

During the year contacts with self-represented litigants (phone call, mail, email and attending the Registry counter) increased by 21 per cent (1,597 contacts), still short of the highs recorded in 2009-10 and 2010-11.



## Probate

In a busy year of escalating workloads the Probate Office made 19,304 orders granting representation (a three per cent increase over the previous year). Since 2006-07 the workload has increased by more than 19 per cent while staffing levels have remained static. Increasing workloads have imposed demands and the constant need for balance between expedition and the provision of an accurate and efficient Probate service. The Probate Office has, nonetheless, continued to deliver an efficient and effective process to all users.

The position of Registrar of Probates is unique in Victoria. Its primary focus is the exercise of judicial power at an expert level by providing legally binding directions and orders to litigants. The position is a principal reference point for advice and reform of succession law at the highest level.

The work of the Registrar largely involves the examination of complex probate proceedings, quite often involving important legal and equitable rights. Some of the issues routinely considered involve testamentary capacity, undue influence, revocation revival and republication of wills, presumption of death (missing persons), simultaneous deaths, paternity, validity of informal wills, and

unattested alterations to wills. Representation can be granted to executors, administrators, for the use and benefit of persons under disability, to attorneys, creditors, liquidators, life tenants and so forth. In all cases, the Registrar is required to evaluate evidence on oath and decide whether a grant can be made.

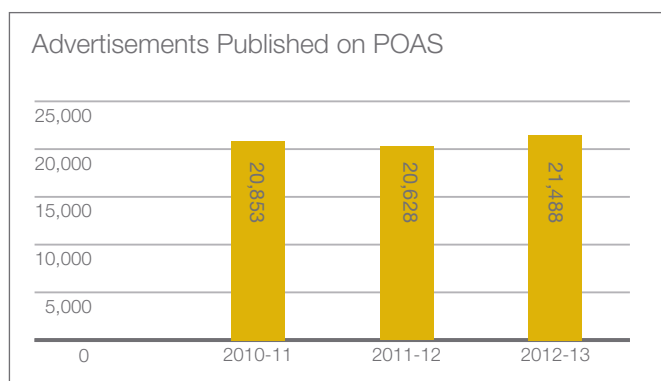
Work has advanced towards the Registry goal of a fully electronic Probate filing system, which will make the Court more accessible to the community. Project scoping for applications to be made fully electronic was commenced during the year. Given that more than 95 per cent of matters in the Registry are dealt with by the Registry, this project has potential to guide similar developments in other jurisdictions. The project, at concept phase at the end of the reporting period, is set to continue in the next financial year.

The *Justice Legislation Amendment Act 2012* received Royal Assent on 4 June 2013. Among other amendments, the Act amended section 83 of the *Administration and Probate Act 1958* to remove the requirement to advertise an intention to apply for a reseal of a foreign grant of Probate in a Melbourne daily newspaper. The amendment will allow for the Court to make Rules allowing reseal applications to be advertised on the Supreme Court website, like other Probate applications.

The Probate List, in operation since 1 July 2011, works efficiently and has been well-received by the profession. The list has reduced delays, provided consistency, facilitated expedition of cases and reduced the cost of litigation.



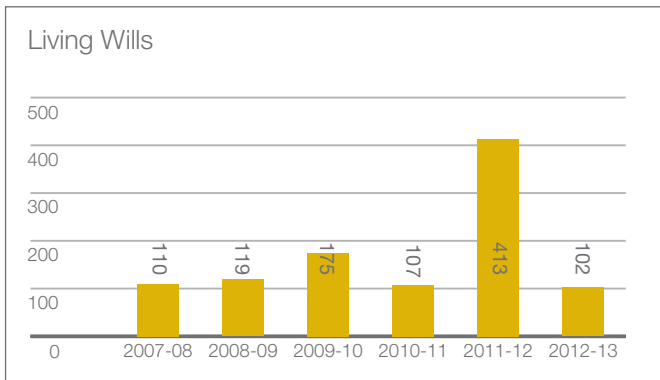
The Probate Online Advertising System (POAS) provides an easy-to-use search function and is a facility to publish advertisements of intention to apply for Probate. To assist users without internet access, Registry provides an over-the-counter service. During the year advertisements increased by four per cent over the previous year. This corresponds to a three per cent increase in applications for Probate.





### Living Wills

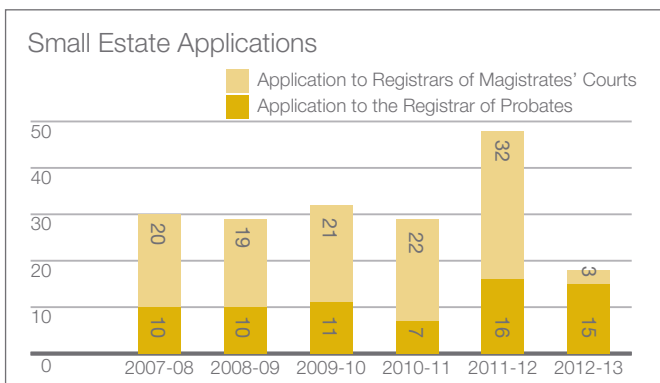
In 2011-12 there was a pronounced spike in ‘living’ will deposits as can be seen in the graph. This year’s activity returned to more historical levels.



### Small Estates

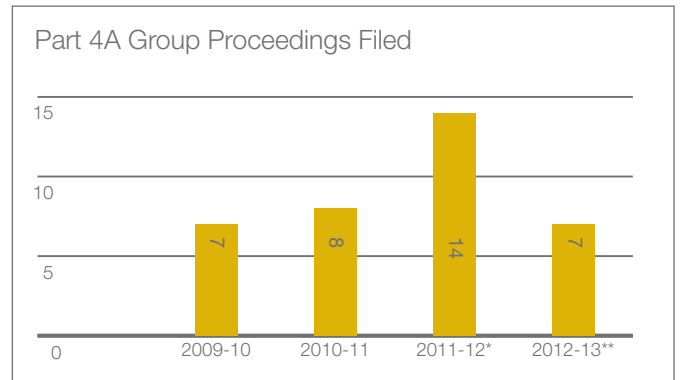
Instead of engaging a lawyer or a trustee company to apply for Probate, a person entitled to a grant for a small estate has the option of seeking assistance from the Probate Office. Workload decreased this year by 38 per cent, decreasing from 48 (2011-12) to 18 matters (2012-13). Three matters were dealt with by regional Magistrates’ Court Registrars.

The creation of a dedicated interview room within Registry has proved particularly useful for small estate interviews. The facility provides a discrete and sensitive environment in which to conduct the interviews, and assist users.



### Group Proceedings

Lodgement of Part 4A Group Proceedings requires that Registry manage the administrative aspects, acts as a single point of contact, and liaises with judges’ chambers. This year, initiations decreased by 50 per cent to seven matters.



\* Includes 11 Great Southern proceedings.

\*\* Includes four Great Southern proceedings transferred from other jurisdictions after 30 June 2012.

# Our Year in Review:

## Court Administration

Court Administration supports the judiciary in carrying out their judicial functions by ensuring the effective and efficient provision of administrative services and facilities.

The Supreme Court is leading the way in innovation across the courts, creating an environment of constant, and often complex, change. Court Administration has embraced this program of change and has adopted a flexible and responsive approach to government, societal, technological and court-driven reforms.

### Human Resources Services

The Court is committed to fostering a professional, productive and efficient workforce that delivers high quality services to the community.

In accordance with the 2012-13 Business Plan, two strategic initiatives, workforce planning and employer of choice, emphasised the Court's endeavour of being a high-performance workplace.

Key achievements during the 2012-13 financial year include:

- implementation of a People and Workplace Policy, as part of the International Framework for Court Excellence policy framework, to underpin the Court's approach to creating a high-performance workplace
- successfully conducting a number of organisational reviews to ensure that the Court structures its workforce in a way that is responsive, innovative, quality-focussed and efficient
- in response to the Sustainable Government Initiative introduced in December 2011, the Court implemented a strategy to reduce staffing levels. This resulted in a reduction of 17.45 full-time equivalent staff
- a proactive approach to managing human resource-related issues by providing timely and effective interventions.

These strategic initiatives were strengthened by a range of operational improvements.

Key achievements include:

- the introduction of a range of human resource metrics to benchmark performance and identify issues that may impact the workforce
- comprehensive reporting to the Court's leadership group on a range of matters, for example absenteeism, turnover rates and establishment levels
- implementation of a comprehensive Court induction program for new staff, including 'Court Connect' to assist staff in Support Delivery areas to gain an understanding and appreciation of how the Court functions
- review and updating of the Court's vacancy management process
- introduction of a recruitment toolkit for managers
- continued focus on performance development planning for Court staff.

## Occupational Health and Safety

The Court continues to be committed to developing and maintaining the highest practicable standards of health, safety, injury management and wellbeing.

There was a continued focus on creating a health and safety culture throughout the Court in the 2012-13 year. The Court maintained its representation on the Department of Justice's Safety and Wellbeing Governance Committee. The Occupational Health and Safety Committee established a collaborative relationship with judicial officers, staff and management on health and safety matters.

Monthly analysis of trends in incident and injury data and WorkCover (including the management of Return to Work Arrangements) continues to provide the Court with qualitative measures on the effectiveness of health and safety strategies.

During the year, 52 incidents (injuries, near misses, and risk hazards) were reported. While this represents a 50 per cent increase from the previous year, the data now includes juror incidents. This increase is also a reflection of the influential work of the new OHS Committee in leading change and increasing understanding of OHS issues and the requirement to report incidents.

In relation to WorkCover, there were 29 days lost, which is comparative to 2011-12, highlighting the effectiveness of the Court and its commitment to returning injured employees to work.

Other key achievements during the financial year include:

- implementation of a Local Occupational Health and Safety Action Plan that identifies a range of improvement initiatives
- introduction of a Local Health and Wellbeing Plan that includes initiatives designed to enhance staff performance and productivity, and assist in increasing workplace morale and job satisfaction.

## Media and Communication Services

### Media Services

Media Services continues to provide the media, and consequently, the community, with reliable information about Court proceedings and related matters. It is responsible for ensuring the media can access information about judicial decisions and also for promoting initiatives undertaken by the Court to enhance access to justice.

Two significant cases during the year highlight the planning and initiatives that Media Services has undertaken in order to better respond to community interest and concerns about particular cases to which the media has drawn attention.

The Kilmore East-Kinglake bushfire class action proceedings, heard in the new courtroom in the William Cooper Justice Centre, incorporated a separate media room, as well as media tables in the body of the courtroom with dedicated computer screens for exhibits. In addition to web streaming, media had full access to view all tendered documents and exhibits. On the first day of opening, the Court permitted filming and photography.

The second significant proceeding was the criminal case against Adrian Bayley, who had been charged with the rape and murder of Gillian Meagher. The plea hearing and subsequent sentence a week later attracted unprecedented media coverage from across Victoria, Australia and internationally, which presented a number of challenges for the Court. Ireland's national broadcaster sent a reporter to Melbourne for coverage, Irish newspapers engaged journalists on their behalf and a London newspaper sent a reporter to Melbourne.

There were more than 40 media representatives in the courtroom for sentencing, many of whom had been provided with either an interim accreditation, or temporary accreditation. Although recording was prohibited, accredited media were allowed to use electronic devices in court for live-text reporting and Twitter. The sentence in this case was not audio recorded because it contained graphic material.

Media Services is also responsible for ensuring the media are alerted to Non-Publication Orders issued in proceedings. In 2012-13 judges of the Supreme Court of Victoria imposed 67 Non-Publication Orders.

This number comprises 14 orders made in the Court of Appeal, five of which have been revoked and 43 in the Trial Division, inclusive of five orders made under the *Crimes (Mental Impairment and Unfit to be Tried) Act 1997*, 10 of which were later revoked. Orders are generally made under ss 18 and 19 of the *Supreme Court Act 1986*.

### Non-Publication Orders in the Supreme Court in 2012-13

	Active	Revoked
Court of Appeal	9	5
Trial Division	43	10

### Communication Services

In a busy year, Communication Services undertook a range of communication initiatives that sought to keep staff informed and engaged, as well as activities aimed at increasing community engagement with the Court.

The Court takes great delight in participating in community events to share its history and purpose. This year more than 2,200 people attended the Court during Open House Melbourne in July 2012, and more than 700 people attended Courts Open Day in May 2013.

Over 5,500 students and teachers Victoria-wide participated in the Court's Education Program, which supports the VCE Legal Studies curriculum. When Court business permitted, judges spoke to the students. The delivery of this important program was acknowledged formally for the first time in a Memorandum of Understanding with the Law Institute of Victoria, who the Court has worked with for many years on the program.

A reception during National Volunteers Week in May 2013 recognised the remarkable support of the Education Team volunteers who deliver the Court's Education Program and the Court Network volunteers who provide support and information services within the Court.

The 'Talking Heads' staff speaker series was another highlight. The series hosted a range of speakers including the Attorney-General, the Honourable Robert Clark MP, who talked about the challenges and priorities of the courts portfolio. Other speakers included retiring Justices Bongiorno and Harper who spoke about their careers and time at the Court, and Justice Judd who provided insight into the dynamic operations of the Commercial Court.

Administrative oversight and support was provided on several Court-initiated functions and events, including the Judges' Conference and judicial welcomes and farewells. Additionally, Communication Services supported over 30 events held at the Court by organisations related to the profession including the Victorian Bar, the Law Institute of Victoria, the Victoria Law Foundation and Melbourne-based universities.

To improve communications within the Court, staff and judges were surveyed about their thoughts on current internal communications practices. The survey results will continue to inform operational improvements in the coming year.

Other significant events included:

- tours provided to visiting international judicial delegations from China, Mongolia and Vietnam, and special interest groups
- a site-wide content audit of the Court's intranet (Wiki) to inform its refreshment in the coming year
- the provision of operational support to Court user groups, including Court Network and the Witness Assistance Service, to help provide a more supportive Court environment
- establishment of public information hubs at entrances to the Court
- participation in Victoria Law Foundation's regional Law Talks education program.

### Information Technology Support Services

The Information Technology Support Services (ITSS) team provides the judiciary and Court staff with day-to-day support and services for hardware and software. The ITSS area also delivers technological solutions to better meet the daily and longer-term needs of Court users.

During the year the Court introduced wireless access for computers, telephones and other mobile devices in all courts in the Trial Division, Court of Appeal, Old High Court and the Library. The Court is the first in Victoria to offer this service to Court users. In the coming year, the ITSS team will work to overcome challenges posed by the heritage building structure to extend wireless access into the remaining courtrooms, public access areas and judicial chambers.

The iPad program introduced the previous year was extended to all members of the judiciary and the range of supported applications has increased to provide further flexibility and functionality.



## Collaborating on Community Engagement: Sir Redmond Barry Bicentenary

*There are few who had as fundamental an impact on the development of Victoria's cultural, educational and legal landscape as Sir Redmond Barry (1813-1880).*

*A foundation judge of the Supreme Court of Victoria, Barry presided over two of the most well-known colonial trials – the Eureka trials in 1854 and the trial of Ned Kelly in 1880. He also played a leading role in founding the Supreme Court Library.*

*However Barry's influence stretched much further. He was responsible for the establishment of some of the state's finest cultural institutions, including the University of Melbourne and the National Gallery of Victoria. A keen reader and advocate of education, Barry donated his personal book collection to create Australia's first public library, now the State Library of Victoria.*

*In the lead up to the 200th bicentennial of Barry's birth, the Court worked with several organisations – including the University of Melbourne, the Victoria Law Foundation and the State Library of Victoria – to develop a range of commemorative events that highlighted his legacy to the State of Victoria.*

*In 2012, the Supreme Court Library hosted an exhibition that explored Barry's contribution to the legal profession and his role in shaping Melbourne's cultural landscape. At the beginning of 2013, the Court's Archives and Records Manager presented to the Rotary Club of Melbourne on the life and times of Sir Redmond Barry.*

*In February 2013, the Chief Justice launched an exhibition at the Public Record Office of Victoria (PROV). Historical items of interest were displayed, including Barry's handwritten will and a list of prisoners tried before him from PROV's collection, and the Eureka Stockade treason trial transcript and a signed copy of the Supreme Court Rules from the Court's collection. This exhibition ran until 11 April 2013 and was seen by as many as 2,000 people, including members of the Castlemaine Historical Society, who will borrow items for a Barry exhibition at the Castlemaine Library in December 2013.*

*In May 2013, a second exhibition was held at the Supreme Court on Courts Open Day, and people interested in Barry's history were offered a guided tour of significant landmarks around Melbourne. In June, the State Library hosted a well-attended panel discussion, while the University of Melbourne held a symposium that explored Barry's achievements.*

*"In working together with these organisations the Court was able to appropriately illuminate Barry's achievements and connect with a wide cross-section of the community," said David Ware, Chief Executive Officer, Supreme Court of Victoria.*



Former Supreme Court Justices Pagone and Davies were again able to represent the Supreme Court by attending the International Association of Judges, Asia, North America and Oceania conference via computers and software from the comfort and convenience of their own chambers.

The Supreme Court website was moved to a new platform with more than 1,000 pages manually entered and verified. The new platform provides faster and more reliable technology. Further information about strengthening the Court's ICT capability is outlined in Significant Events, page 10.

The Court of Appeal introduced document multi-viewing functionality where the same documents can be read by all judges on the bench at the same time. Rather than each judge having a paper copy of the document, they can now view the same document on their own screen in the one location. This has significantly reduced the amount of paper documentation and introduced efficiencies in work practices for sitting judges.

The ITSS team also provided support for web streaming of particular cases of community interest, including the Horsham Bushfires, Beechworth Bushfires, Warrnambool (Pomborneit) Bushfire, Great Southern Proceedings and Kilmore East-Kinglake Bushfires, enabling interested parties to view the hearings remotely.

## Facilities and Services

The Facilities and Services team is responsible for the planning, development, replacement and maintenance of the Court's accommodation assets, and associated support services including the procurement of office equipment and supplies and the fleet of judges' and Court cars.

During the year the team has delivered a number of significant enhancements to the Court environment, within the constraints of budget reductions in both capital and running costs of the Court. These have been delivered alongside the effective maintenance of all of the Court's buildings, courtrooms and judicial chambers:

- expanded capacity and web streaming facilities in Court 15 for the Great Southern proceedings. This non-jury courtroom is now able to accommodate up to 48 counsel
- establishment of a jurors' lounge in the Old High Court building
- creation of two additional meeting rooms to assist in pre-trial conferences and mediations
- increased safety and security using compactus within a separate room for sensitive Court documents and files in Registry.

The Facilities and Services team were also involved in other major projects, as detailed below.

### Kilmore East-Kinglake Bushfire Trial Courtroom and Ancillary Spaces

Initially started in early 2012, and in consultation with several senior judicial officers and architects, a scope of works was developed resulting in minimum specifications for a large, modern and flexible civil courtroom with appropriate support spaces for this class action.

Investigation and assessment of temporary sites commenced in mid-2012 resulting in the decision later in the year to renovate level 3 in the William Cooper Justice Centre and to adopt the Court's preferred design and fit-out standards.

The subsequent renovations led by the Department of Justice's Built Environment and Business Sustainability Division delivered a large modern courtroom utilising leading-edge technology, and with the capacity to seat up to 72 counsel and 100 members of the public.

Read more on the development of the courtroom and associated facilities in the William Cooper Justice Centre at page 32.

## Support Space for Victims

The Court has a duty of care and responsibility to protect victims and witnesses of serious crime who may give evidence in court as part of the court process in the criminal justice system. In late June, the Court made available a space to be used by family and friends of victims where it is felt that additional care and support might be required during the trial. The space was used by the family of Gillian Meagher in the hearing of criminal proceedings against Adrian Bayley, providing them with a private place to regroup and gather their thoughts before addressing the media.

## Archives and Records Management Services

Archives and Records Management Services is responsible for managing the Court's archives, the storage of Court records, the storage and disposal of administrative records, and the care, storage and display of historical artefacts, objects and records.

The main focus for the Archives and Records Management Services team is the preparation of records for long-term storage, whether for a Public Record Office secondary supplier, or for direct transfer to the Public Record Office of Victoria (PROV) itself.

This year's records transferred to PROV consisted of divorce records from the 1940s to the 1970s and Miscellaneous List application files from 1957 to 1969. Other transfers to PROV included the Draft Jury Rolls from the 1950s and 1960s, which are lists compiled by the electoral office for use in jury selection. A significant achievement this year was the creation of a Retention and Disposal Authority for the records of the Juries Commissioner's Office prepared in conjunction with the Acting Juries Commissioner and PROV.

A challenge that faces all archives and records managers is determining how best to protect the privacy of individuals from whom an organisation has collected information. As the Court's Privacy Coordinator, the Archives and Records Manager conducted 17 privacy awareness training sessions for Court staff in Registry, Funds in Court and Court Administration as well as the senior management team during the year.

Archives and Records Management Services is also active in ensuring that the Court records are made available to the public, through their work with PROV, answering public enquiries about family history matters and giving public history tours on the Court's open days and during History Week.

The Archives and Records Management Services team led the Court's development of the Sir Redmond Barry Bicentennial celebrations. Read more about these celebrations on page 59.

### Records Transferred to the Public Record Office in 2012-13

Divorce case files 1940s-1970s	5 boxes
Miscellaneous List application files 1957-1969	50 boxes
Draft jury rolls 1958-1969	7 volumes

## Business Intelligence Services

The Business Intelligence Services (BIS) team provides timely and accurate data and performance reports to enable the Court to make well-informed business decisions with regard to current objectives and future directions.

The Court's decision in 2009 to create its own data repository has assisted the Court in meeting its internal and external reporting requirements, with the added advantage for analysis and forecasting.

A primary focus for 2012-13 was the continued development of the BIS website and generation of new reports, enabling the Court to accurately report and monitor its activity and assist in ongoing projects and funding submissions.

During the year, the BIS team have worked with all parts of the Court and the Department of Justice to update and audit the reporting database systems to ensure data accuracy and timeliness. The BIS team has also been integral to the ongoing case audits of both Principal and Court of Appeal Registries.

The ongoing provision of monthly performance reporting to the Court Business Group, chaired by the Chief Justice and comprising the judges in charge of each division remains the pivotal internal reporting forum.

Other significant events include:

- the development of a database for the Juries Commissioner's Office collation and analysis of juror surveys
- development of an application database to assist with recruitment of associates and researchers
- generation of reports for the Court's website
- development and implementation of database automation for reporting
- assisting in the development and reporting of a suite of key performance indicators.

## Financial Management Services

The Financial Management Services team is an integral element of the Court's Support Delivery that demonstrates the Court's ability to manage public funds with accountability and responsibility.

The team delivers a wide range of specialist financial services that comply with the *Financial Management Act 1994* and Australian Accounting Standards, including high quality, accurate monthly financial reporting, rigorous monitoring of expenditure to ensure responsible management of the Court's allocated budget, strategic financial analysis, financial policy guidance and development, and financial administration.

The work performed by the team contributed directly to the Court's success during 2012-13 in all aspects of financial planning and management. This is demonstrated in the Court's achievement of a modest surplus in this financial year.

In addition, the team continued to strengthen and support the financial capability of key decision makers within the Court, including operational managers, Court staff and the Finance Committee, chaired by the Chief Justice.

Key achievements for the 2012-13 financial year include:

- the development and documentation of several key financial procedures and policies, which provide Court managers and staff with much needed guidance on a wide range of financial management matters
- a comprehensive review of the Court's contract management policy, which will ultimately result in the development of a single, Master Contracts Register, which will enable the Court to manage risk and operational needs more efficiently.

## Library

The Supreme Court Library provides legal information resources and research assistance services to the judiciary, Court staff and legal profession. Library staff collect, maintain, preserve and disseminate legal information.

The Library is governed by the Supreme Court Library Committee. Committee members at the end of the financial year were:

Justice Cameron Macaulay (Chair)  
 Justice Katharine Williams  
 Justice Anne Ferguson  
 Mr Anthony (Tom) May (Solicitor)  
 Mr Steven Stevens (Solicitor)  
 Mr O Paul Holdenson QC (Barrister)  
 Mr Perry D Herzfeld (Barrister)

Library funding constraints continued to be a key issue during the year. In response, the Library rationalised and consolidated its operations, but did so with a continued focus on high quality service provision.

After 24 years of service, the Librarian James Butler retired in December 2012. It is anticipated that the transition to the Law Library of Victoria will significantly improve the financial and staffing arrangements of the Library and better coordinate the library services of all Victorian court and VCAT libraries.

During the year, Library staff interviewed judicial officers in regards to their judicial information needs. Feedback and suggestions are being analysed, with the expectation that new initiatives will be incorporated into library services in the coming year.

The Library continued to participate in many Court-related public education and communications projects and activities:

- over 300 visitors attended the Library during Court's Open Day in May 2013
- hosted a Sir Redmond Barry Bicentennial Exhibition in June 2013, along with other activities coordinated by the Archives and Records Manager
- loaned artefacts to PROV for its Sir Redmond Barry exhibition
- hosted the launch of *Books for the Profession: The Library of the Supreme Court of Victoria*, by Dr Sue Reynolds in December 2012.

# Our Year in Review:

## Juries Commissioner's Office

The work of the Juries Commissioner's Office (JCO) is underpinned by two, sometimes competing, priorities: the need to provide jury panels to Supreme and County Court trials in a timely manner, and the genuine desire to minimise the impact of jury duty on Victorian citizens, their families and their employers. In fulfilling these two goals, the JCO works collaboratively with court registrars, judges and court staff to continuously improve the Victorian jury system.

Juries are the voice of the community's conscience, a voice that is independent of the government and the judiciary. Comprising a cross-section of citizens – each with their own values, experiences and opinions – a jury represents the community from which it is drawn, reflecting the values and standards of that community. To this end, jurors contribute in a fundamental way to the delivery of justice in Victoria.

The past 12 months saw significant change and renewed energy within the JCO. From June through to December 2012, and with the assistance of an independent consultant with specialist understanding of court environments, the JCO reviewed its business processes, practices and policies. This review, coupled with the impact of the Sustainable Government Initiative and other changes in the justice environment, was the impetus for a reassessment of roles and organisational structure that:

- recognises the move to more online-based service delivery
- provides greater consistency between metropolitan and regionally-based staff
- centralises and consolidates administrative functions within the JCO
- improves career opportunities for JCO staff and improves the level of multi-skilling in the workforce
- establishes and maintains quality controls
- enhances the forecasting and demand modelling capability of the JCO.

The new organisational structure was endorsed late in the reporting year and will be implemented in 2013-14.



## Jury Management Activity

The table below provides a snapshot of jury activity for the reporting period compared to the previous year. The number of jury trials, jurors empanelled and jurors attending court remained constant, despite the number of summonses issued in Melbourne decreasing by 20 per cent. The anomaly in the previous reporting year was due to an over-summoning of jurors between October and December 2011.

### Jury Management Activity

	2011-12	2012-13	Difference	Variance
<b>Jurors Summoned</b>				
Melbourne	32,277	25,703	-6,574	-20%
Circuit	29,864	31,102	1,238	4%
Total	62,141	56,805	-5,336	-9%
<b>Jurors Attending</b>				
Melbourne	15,851	15,428	-423	-3%
Circuit	7,850	8,149	299	4%
Total	23,701	23,577	-124	-1%
<b>Jurors Empanelled</b>				
Melbourne	4,991	4,958	-33	-1%
Circuit	1,449	1,488	39	3%
Total	6,440	6,446	6	0.1%
<b>Supreme &amp; County Court Jury Trials</b>				
Melbourne	446	448	2	0.5%
Circuit	133	136	3	2%
Total	579	584	5	1%
<b>Supreme &amp; County Court Jury Trial Days</b>				
	3,636	3,755	119	3%

## Innovation

For the first time, the JCO offered the public the option of completing the Jury Eligibility Questionnaire online via the Jury Questionnaire Online System (JQOS). The online questionnaire uploads responses into the JCO jury information management system daily, thereby maximising efficiencies and resources by reducing the manual input of data.

In this reporting period, JQOS was piloted in Melbourne. Over the next 12 months the JCO will roll out the online option to citizens in regional jury districts.

Since its introduction, the number of online respondents to the Jury Eligibility Questionnaire in Melbourne increased from 17 per cent to 30 per cent. It is expected that the number of people using JQOS will grow as the JCO looks at ways to promote and increase public awareness of the online option.

## Research

Jurors or former jurors may be interviewed for research purposes only with the approval of the Attorney-General (pursuant to s 78(9) of the *Juries Act 2000*). In this reporting period, the JCO supported three important and exciting research projects. In August 2012, Dr Jacqui Horan (University of Melbourne) completed her field work, which included surveying and interviewing Melbourne-based jurors regarding their perceptions and comprehension of expert evidence in criminal trials. Research findings are due to be published in late 2013.

In September 2012, Professors Clough and Ogloff (Monash University) began research to evaluate jurors' abilities to comprehend judicial directions. Continuing in the 2013-14 reporting cycle, the project involves two separate studies. The first was a controlled experiment that assessed the ability of lay people to comprehend legal directions in a simulated trial setting. The JCO supported this on an almost daily basis by providing prospective jurors, who would have otherwise been deferred or excused from the jury pool room, to participate in the one-day simulated trials. A total of 1,039 prospective jurors in Melbourne participated in 89 one-day simulated trials. The second study is an observational field study, which will include interviewing jurors and judges.

In March 2013, Professor Kate Warner (University of Tasmania) began research with juries to ascertain public attitudes to sentences imposed by Victorian courts in criminal trials. This research will continue for the foreseeable future, with the judiciary and the JCO supporting and facilitating access to juries in Melbourne, Geelong and Bendigo that return a guilty verdict.

Over 1,900 jurors across Victoria responded to the Juries Commissioner's invitation to complete a Juror Satisfaction Survey. The purpose of this survey was to gauge the experiences, expectations and attitudes of those attending for jury duty to inform improvements in service and jury management systems. The results of this survey can be found online: [www.courts.vic.gov.au/jury-service](http://www.courts.vic.gov.au/jury-service).

# Supreme Court of Victoria: Financial Report

The Court's strong financial management is depicted in the graphs on the following pages, which show that expenditure has been effectively managed against appropriated revenue, year on year.

Once again, the Court has managed its revenue appropriation effectively, achieving an accounting surplus against the output appropriation funding stream. Notably, the capital appropriated to the Court, which represents a mere 0.4 per cent of total revenue appropriated, is the only funding allocated for capital works and fit-outs of Court buildings.

## Revenue Appropriation and Expenditure

The table below shows the revenue appropriated to the Court by the Department of Justice, the expenditure incurred against each appropriation, and the net operating result for the past three financial years.

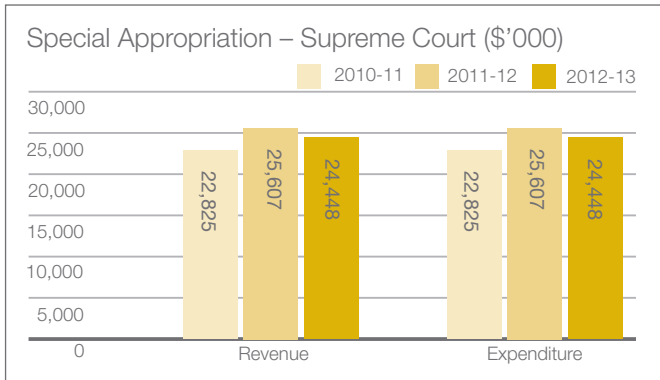
### Revenue Appropriation and Expenditure

Revenue Appropriation	2010-11			2011-12			2012-13		
	Rev	Exp	Result	Rev	Exp	Result	Rev	Exp	Result
Result	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
Special appropriation	22,825	22,825	0	25,607	25,607	0	24,448	24,448	0
Output appropriation – Supreme Court	27,250	27,023	227	25,907	25,907	0	28,148	27,700	448
Output appropriation – JCO*	6,261	5,977	284	6,122	6,060	62	6,947	6,602	345
Capital appropriation	298	290	8	229	229	0	267	294	(27)
<b>Total</b>	<b>56,634</b>	<b>56,115</b>	<b>519</b>	<b>57,865</b>	<b>57,803</b>	<b>62</b>	<b>59,810</b>	<b>59,044</b>	<b>766</b>

\* *Juries Commissioner's Office.*

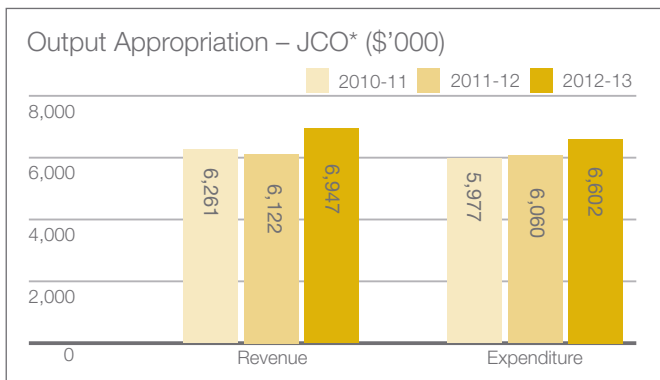
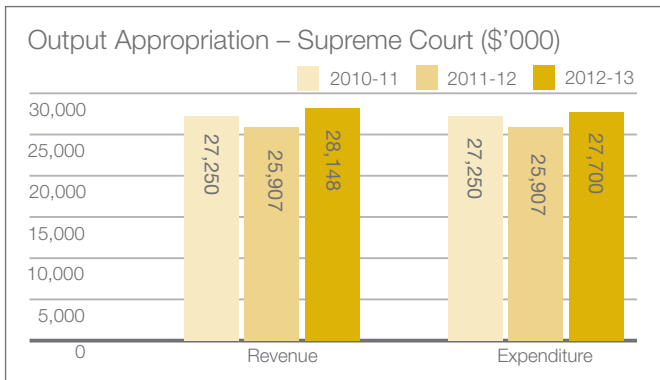
### Special Appropriation

Funding appropriated to the Court for the remuneration and entitlement expenditure of judges, associate judges and judicial registrars.



### Output Appropriation

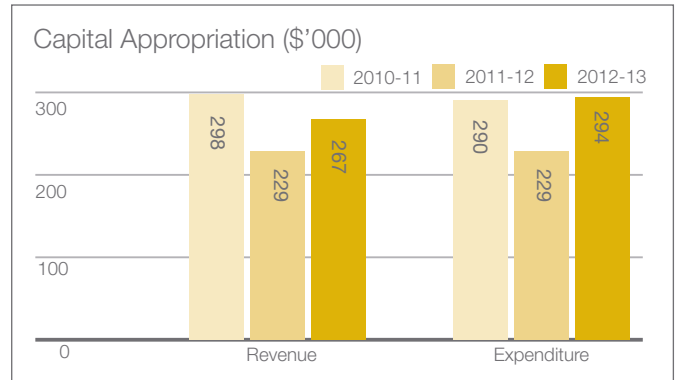
Funding appropriated to the Court for discretionary and non-discretionary expenditure. Discretionary expenditure is controlled by the Court, and includes employee-related expenses and operating expenses. Non-discretionary expenditure is managed centrally by the Department of Justice, and includes rent, depreciation and amortisation.



\* Juries Commissioner's Office.

### Capital Appropriation

Funding appropriated to the Court for capital works and the fit-out of Supreme Court buildings. As previously noted, the capital appropriated to the Court is negligible in comparison to total revenue appropriated.

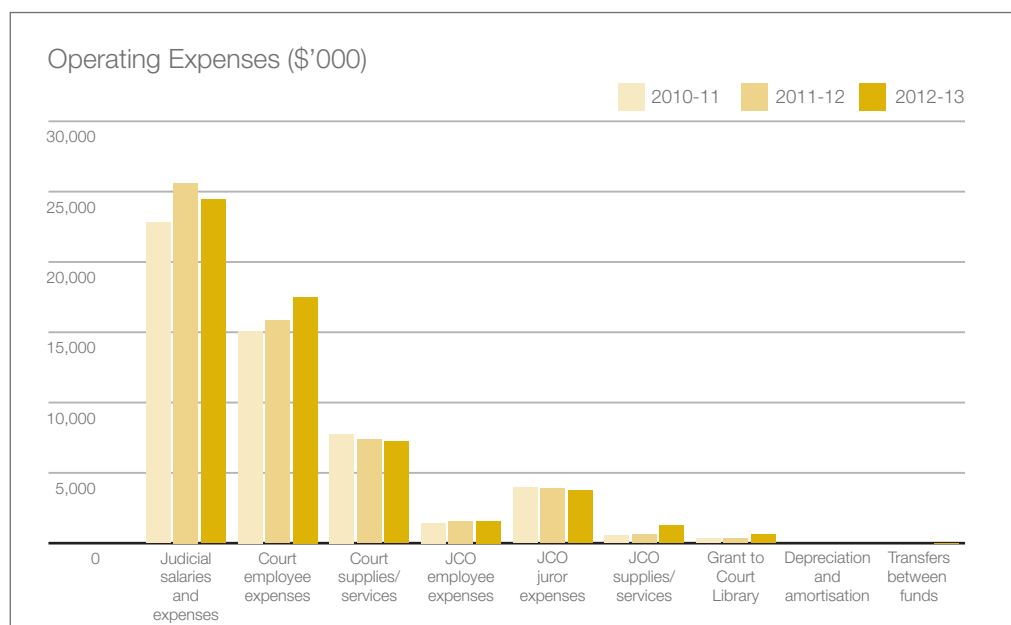


## Analysis of Expenditure

The table and graph below show how the Court utilised its appropriated revenue in the past three years. Appropriated revenue, operating expenses and the net operating result attained by the Court and the Juries Commissioner's Office (JCO) is shown.

### Operating Expenses

	2010-11	2011-12	2012-13
	\$'000	\$'000	\$'000
<b>Judiciary</b>			
Special appropriation revenue	23,994	26,304	24,448
Judicial salaries and expenses	(22,825)	(25,607)	(24,448)
Net result from judiciary activities	1,169	697	0
<b>Court Administration</b>			
Output appropriation revenue	27,250	25,907	28,148
Employee salaries and on-costs	(15,078)	(15,824)	(17,501)
Supplies and services	(7,770)	(7,358)	(7,242)
Grant to the Court's Library	(350)	(350)	(600)
Transfers between funds	-	-	(9)
Depreciation and amortisation	(3,825)	(2,375)	(2,348)
Net result from Court Administration	227	-	448
<b>Juries Commissioner's Office</b>			
Output appropriation revenue	6,261	6,122	6,947
Employee salaries and on-costs	(1,445)	(1,572)	(1,585)
Juror expenses	(3,967)	(3,888)	(3,761)
Supplies and services	(565)	(598)	(1,254)
Depreciation and amortisation	-	(2)	(2)
Net result from the JCO	284	62	345
Net operating result from all Court activities	1,680	760	793



## Court Fees

Court fees and Probate online application fees are collected by the Court as part of routine service delivery, on behalf of the state. Of note is that approximately three per cent of total court fees collected were transferred back to the Court via s 29 of the *Financial Management Act 1994*. Hence, 97 per cent of all fees collected went into the government's Consolidated Fund and the Court Fee Pool Fund.

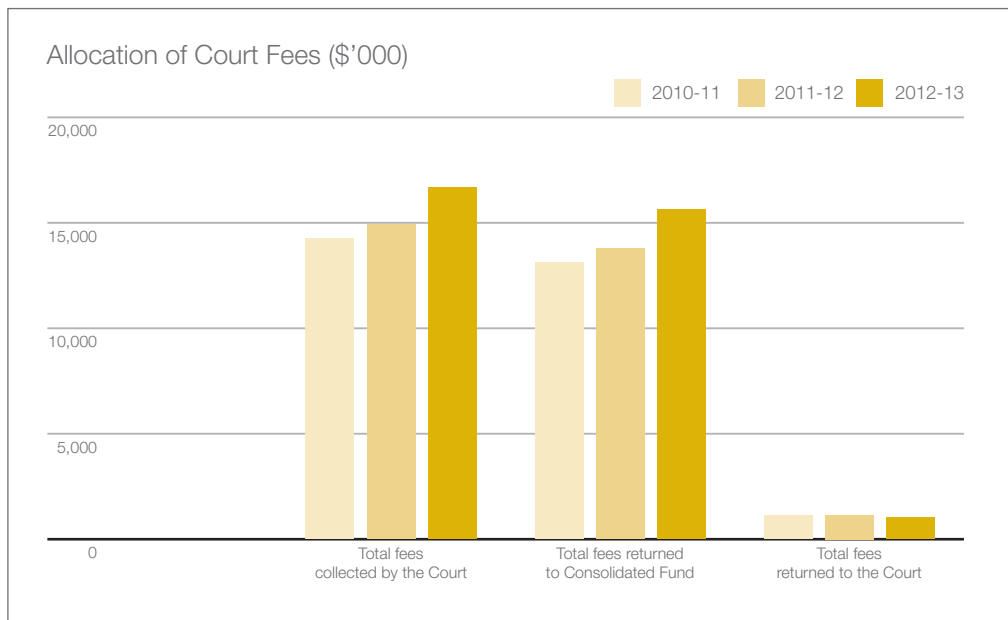
The table below shows the administered Court fees and Probate online application fees collected by the Court on behalf of the state, in the last three years.

### Collection of Fees\*

	2010-11	2011-12	2012-13
	\$'000	\$'000	\$'000
Court fees	13,382	14,130	15,806
Probate online application fees	871	797	856
Total fees collected by the Court on behalf of the state	14,253	14,928	16,662
Less: Fees returned to the Court under the <i>Financial Management Act 2004</i>	(1,128)	(1,143)	(1,028)
<b>Total fees deposited into the Consolidated Fund and Court Fee Pool Fund</b>	<b>13,125</b>	<b>13,785</b>	<b>15,634</b>

\* Only includes administered Court fees and administered Probate online application fees.

The following graph depicts the total Court fees and Probate online application fees collected by the Court on behalf of the state, the total Court fees returned to the government's Consolidated Fund, and total fees returned to the Court in the last three years.



# Appendix 1:

## External Judicial Activity

### The Chief Justice

4 July 2012: Hosted a luncheon for Chief Justice Steele of Delaware and Mr William T Robinson III, President of the American Bar Association.

9 July 2012: Delivered the opening address at the 2012 UN Youth Conference at Monash Law Chambers.

26 July 2012: Delivered the opening address at the Australian Association of Magistrates' Conference.

26 July 2012: Attended a luncheon with Professor Carolyn Evans and Professor Bryan Garner at University House, Melbourne Law School.

30 July 2012: Delivered the opening address at the International Chamber of Commerce Australia International Arbitration Conference at Norton Rose Solicitors, Melbourne.

8 August 2012: Hosted a tour of the Supreme Court by a delegation of Cambodian judges and justice officials.

10 August 2012: Attended the Judicial College of Victoria Conference, Assessing Witnesses.

30 August 2012: Attended the 2012 International Commission of Jurists Annual Fundraising Dinner.

4 September 2012: Attended the Victoria Law Foundation Law Oration presented by The Right Honourable Lord Walker of the Supreme Court of the United Kingdom in the Banco Court.

6 September 2012: Attended the University of Melbourne First Stage Student Presentations for the 2012 Master of Architecture Design Thesis.

10 September 2012: Hosted a luncheon for Chief Justice Chan and Justice V K Rajah of the Supreme Court of Singapore.

3 October 2012: Launched the *Jury Directions Report* in Court 4.

5-7 October 2012: Delivered a presentation entitled *Independence and External Review Performance* at the Judicial Conference of Australia Colloquium in Fremantle.

9 October 2012: Attended a Welcome Ceremony for Justice Stephen Gageler at the High Court of Australia, Canberra.

18 October 2012: Delivered the opening address at the M & K Multilaw Reception.

18 October 2012: Attended the Criminal Bar Association Dinner.

22 October 2012: Addressed the Victorian Bar Readers in the Supreme Court Library.

25 October 2012: Delivered the keynote address at the 2012 Continuing Legal Education Association of Australasia National Conference.

28 October 2012: Attended the National Judicial College Judicial Educators Meeting at the Gold Coast.

6-8 November 2012: Attended the 20th Pacific Judicial Conference in the Solomon Islands.

14 November 2012: Addressed trainees from the Herald and Weekly Times Trainee Scheme at the Supreme Court.

3 December 2012: Attended a ceremonial sitting of the Supreme Court of New South Wales to mark the 100th anniversary of the Court of Criminal Appeal and the re-opening of the Banco Court after its refurbishment.

4 December 2012: Delivered an opening address to the 40th Anniversary Conference of the Community Legal Centres at the Wheeler Centre.

10 December 2012: Delivered opening remarks at the annual Supreme Court of Victoria Commercial Law Conference held in the Banco Court.

10 December 2012: Launched *Lawyers Then and Now – An Australian Legal Miscellany*, by the Honourable Keith Mason AC in the Supreme Court Library.

3-4 March 2013: Attended the Council of Chief Justices Dinner in Canberra on 3 March and the Chief Justices Meeting held on 4 March.

4 March 2013: Attended the annual Dame Roma Mitchell Memorial Lecture hosted by Victorian Women Lawyers and the Law Institute of Victoria at the RACV Club, Melbourne.

6 March 2013: Launched *Judicial Review of Administrative Action*, by Professor Mark Aronson and Associate Professor Matthew Groves, in the Supreme Court Library. Many judges also attended.

7-9 March 2013: Attended the AIJA Oration and the Asia Pacific Courts Conference of the Australasian Institute of Judicial Administration in Auckland, New Zealand. Delivered a presentation entitled *The International Framework for Court Excellence – The Supreme Court of Victoria Experience*.

15 March 2013: The Chief Justice, judges and associate judges attended a seminar at Melbourne Law School entitled *Constitutional Role of the Judge*.

18 March 2013: Spoke at a lunchtime discussion at Allens Linklaters to mark International Women's Day.

18 March 2013: Spoke to students from Presentation College as part of the Court's Education Program.

19 March 2013: Delivered a speech entitled *Financial Independence of the Judiciary and Parliament* at a seminar of the Australasian Study of Parliament Group – Victorian Chapter in the Committee Room at Parliament House, Victoria.

21-22 March 2013: The Chief Justice, judges, associate judges and judicial registrars attended the Supreme Court Judges' Conference at the Mantra, Lorne.

26 March 2013: Presented awards at an annual Victoria Law Foundation ceremony of the Legal Reporting Awards for 2013 in the Supreme Court Library.

8 April 2013: Hosted Justice Stefan Lindskog of the Swedish Supreme Court at the Supreme Court of Victoria. Justice Tom Gray of the Supreme Court of South Australia also attended.

22 April 2013: Delivered an address and led a tour of the Supreme Court for Readers of the Victorian Bar.

30 April 2013: Delivered a presentation at the inaugural Harold Ford Memorial Lecture at the University of Melbourne.

1 May 2013: Launched *Mortgages Power of Sale 3rd Edition* co-authored by Justice Croft and Robert Hay in the Supreme Court Library.

8-10 May 2013: Attended the workshop Evaluating Judicial Performance in Spain.

27 May 2013: Presented the Supreme Court Prize at the Prizes Ceremony at the University of Melbourne.

5 June 2013: Delivered opening remarks at the Women Barristers' Association 20th Anniversary Dinner.

14 June 2013: Delivered the keynote address at the Law Institute of Victoria 2013 President's Leadership Luncheon.

18 June 2013: Attended the International Commission of Jurists Sentencing Forum at the State Library of Victoria.

19 June 2013: Attended the Judicial College of Victoria Jury Directions Twilight Seminar held in the Banco Court.

## The President

3 August 2012: On behalf of the Chief Justice, hosted an afternoon tea and tour of the Supreme Court by State and Territory Attorneys-General and their advisors.

14 September 2012: Delivered an address entitled *Reserve Judgment Protocol* at the Appellate Judges' Conference, Brisbane.

19 September 2012: Delivered an address entitled *Pleadings for Readers* at the Victorian Bar Readers' Course.

20 September 2012: Representing the Chief Justice, attended the Supreme/Federal Court Judges Luncheon.

24 September 2012: Attended a presentation at the Rumbalara Aboriginal Cooperative in Shepparton.

25 September 2012: Attended a dinner hosted by the Goulburn Valley Law Association in Shepparton.

3 October 2012: With the Chief Justice, launched the *Jury Directions Report* in Court 4.

9-12 October 2012: Attended a conference on Dialogues on Being a Judge in Adelaide.

11 October 2012: Attended a meeting of the Jury Directions Advisory Group.

8 February 2013: Attended a seminar on US constitutional law for Australian lawyers.

2-3 May 2013: Attended the National Judicial College of Australia Leadership Conference in Sydney.

9 May 2013: Attended Melbourne Law School for the presentation of the inaugural Supreme Court Scholarship to Trinity Hall.

14 May 2013: As the Patron, attended the PILCH Walk for Justice.

17 May 2013: Attended the retirement ceremony at the Federal Court for Justice Gray.

24 May 2013: Representing the Chief Justice, attended the Victorian Bar Dinner at the Myer Mural Hall.

27 May 2013: Representing the Supreme Court of Victoria, attended the funeral of Justice Chalmers of the Supreme Court of New Zealand in New Zealand.

6 June 2013: Attended the welcome ceremony for Judge Meredith at the County Court of Victoria.

## Justice Nettle

8 April 2013: Delivered a presentation on aspects of the appeal process in the Court of Appeal to the Victorian Bar Readers' Course.

8 April 2013: Attended an afternoon tea for Justice Stefan Lindskog of the Swedish Supreme Court. Justice Tom Gray of the Supreme Court of South Australia also attended.

## Justice Neave

14 September 2012: Attended the Appellate Judges' Conference, Brisbane.

21 September 2012: Attended an Australian Academy of Law Membership Committee Meeting.

9-12 October 2012: Attended a conference on Dialogues on Being a Judge in Adelaide.

1 November 2012: Attended the launch of the Queen's College Journal *Aedificamus*.

7 November 2012: Attended the Centre for Dialogue Advisory Board Meeting.

13 November 2012: Attended the Child Witness Service Advisory Committee Meeting.

15 November 2012: Delivered a speech at the Council of Australian Law Deans Dinner.

21 November 2012: Attended the 2012 Allen Hope Southey Memorial Lecture and Dinner.

23 November 2013: Representing the President, attended a follow-up Appellate Judges' Conference in Sydney.

28 November 2012: Attended a meeting of the Australian Academy of Forensic Sciences.

30 November 2012: Attended a meeting of the Council of Australian Law Deans.

- 4 December 2012: Attended the Australian Feminist Judgments Project, Melbourne Law School.
- 6-7 December 2012: Attended the Proprietary Remedies Seminar at Melbourne Law School.
- 10 December 2012: Chaired sessions during the annual Supreme Court of Victoria Commercial Law Conference held in the Banco Court.
- 10 December 2012: Attended the Asylum Seeker Resource Centre Volunteer Information Evening.
- 31 January 2013: Attended the University of Melbourne Jessup Exhibition Moot.
- 7 February 2013: Attended a round table discussion of the Child Witness Service Advisory Committee.
- 21 February 2013: Conducted an interview with Heather Douglas, Australian Feminist Judgments Project.
- 15 March 2013: Attended the launch of the Centre for Innovative Justice at RMIT University.
- 18 March 2013: Attended a meeting of the Australian Academy of Law.
- 27 March 2013: Attended a Restorative Justice Meeting with Chief Judge Rozenes and Mary Polis from RMIT University.
- 17 April 2013: Delivered a speech at the Maddocks High Achievers Dinner.
- 22 April 2013: Attended the Monash Willem C Vis International Commercial Arbitration Moot 2013 at Monash Law Chambers.
- 30 April 2013: Delivered a presentation entitled *Restorative Justice* at the Victorian Institute of Forensic Medicine.
- 6 May 2013: Participated in an Australian Academy of Law teleconference.
- 9 May 2013: Delivered a speech entitled *Lawyers for Animals, Friends of the Earth* at Friends of the Earth, Collingwood.
- 13 May 2013: Attended a Restorative Justice Meeting.

### Justice Redlich

- 15 March 2013: Spoke on advocacy at the Victorian Bar's Third Annual CPD Conference.
- 27 March 2013: Attended a Restorative Justice Meeting with Chief Judge Rozenes and Mary Polis from RMIT University.

### Justice Weinberg

- 5 July 2012: Representing the Chief Justice, attended a morning tea at the William Cooper Justice Centre hosted by the Attorney-General to mark the establishment of the Courts and Tribunals Service.
- 14 September 2012: Delivered an address, *Jury Directions Reform*, at the Appellate Judges' Conference, Brisbane.
- 20 September 2012: Attended the Supreme/Federal Court Judges Luncheon.
- 3 October 2012: Attended the launch of the *Jury Directions Report* in Court 4.
- 18 October 2012: Attended the Criminal Bar Association Dinner.
- 22-26 October 2012: Attended the 25th International Conference of the International Society for the Reform of Criminal Law in Washington DC, and presented a paper entitled *Australia's Anti-Terrorism Laws – Trials and Tribulations*.
- 6 March 2013: With the Chief Justice, launched *Judicial Review of Administrative Action* by Professor Mark Aronson and Associate Professor Matthew Groves, in the Supreme Court Library.

### Justice Bongiorno

- 30 August 2012: Attended the 2012 International Commission of Jurists Annual Fundraising Dinner.

- 17 October 2012: Conducted a seminar, *Some Fundamentals of a Common Law Trial*, at the Université Paris Descartes (Faculté de droit) for postgraduate law students.

### Justice Harper

- 25 July 2012: Chaired a teleconference meeting of the Executive Committee of the Judicial Conference of Australia.
- 13 September 2012: Chaired a teleconference of the Executive Committee of the Judicial Conference of Australia.
- 13 September 2012: Attended the Victorian Bar Legends Dinner.
- 21 September 2012: Attended the Judicial College of Victoria Seminar, *Enriching the Role and Career of Longer Serving Judicial Officers*.
- 2 October 2012: Chaired a meeting of the Australian Red Cross (Victoria) International Humanitarian Law Committee.
- 5-7 October 2012: Attended the Judicial Conference of Australia Colloquium in Fremantle.
- 13 November 2012: Chaired a meeting of the Australian Red Cross (Victoria) International Humanitarian Law Committee.
- 15 November 2012: Attended and hosted as Patron, the Annual General Meeting of the Victorian Association for the Care and Resettlement of Offenders.
- 19-23 January 2013: Attended the 2013 Supreme and Federal Court Judges' Conference.
- 13 March 2013: Attended a ceremony for the induction of the 2013 members of the Victorian Honour Roll of Women in Queens Hall, Parliament House.
- 14 March 2013: Attended and introduced Professor James Crawford SC for an International Commission of Jurists (Victoria) talk entitled *The Next 50 Years of Public International Law: Critical Developments and Emerging Themes*, Allens Linklaters.
- 22 March 2013: Attended a dinner hosted by the Judicial Conference of Australia to honour Justice Harper's contribution to the body.
- 9 April 2013: Chaired a meeting of the Australian Red Cross (Victorian Division) International Humanitarian Law Committee.
- 14 May 2013: Attended a scholarships ceremony at RMIT University in Storey Hall as the Chair of the Northcote Trust Fund.
- 16 May 2013: Launched the Family Links program at Geelong Magistrates' Court on behalf of the Victorian Association for the Care and Resettlement of Offenders.
- 31 May 2013: Attended a meeting of the Post Graduate Advisory Board on Human Rights and International and Comparative Law at Monash University.
- 4 June 2013: Attended a Judicial College of Victoria session, *Understanding the Mind*.
- 5 June 2013: Chaired a Monash University Commercial Court CPD seminar entitled *Civil Procedure Act 2010 – Some Important Changes for Practitioners*.
- 6 June 2013: Presided over the judging of the International Law Association Grand Final moot held at the Commonwealth Law Courts.
- 11 June 2013: Chaired a meeting of the Australian Red Cross (Victorian Division) International Humanitarian Law Committee.

### Justice Tate

- 14 September 2012: Attended the Appellate Judges' Conference, Brisbane.
- 1 October 2012: Judged a practice moot for the Sir Harry Gibbs Constitutional Law Moot in the Court of Appeal for the University of Melbourne.



23 October 2012: Delivered a speech, *A Woman's Place is at the Bar*, to a Foley's List function, Celebrating Women and the Law, at the Victorian Bar.

15 March 2013: Coordinated a seminar at Melbourne Law School entitled Constitutional Role of the Judge.

24 April 2013: Representing the Chief Justice, presided over the Grand Final of the Monash Law Students' Society General Moot (Senior Division) Competition.

### Justice Osborn

15 August 2012: Delivered a presentation entitled *The Judicial View on the Role of Experts and Proper and Efficient Use in Court Proceedings*, at the Commercial Court Seminar, Expert Evidence: How to Use Experts Properly and Effectively.

29 August 2012: Attended a meeting and dinner of the Victorian Chapter of the Australian Academy of Forensic Sciences.

6 September 2012: Attended the University of Melbourne First Stage Student Presentations for the 2012 Master of Architecture Design Thesis.

7 September 2012: Delivered a presentation, *The Planning System and the Courts – Some Common Challenges*, at the Victorian Planning and Environmental Association Annual Conference in Ballarat.

14 September 2012: Attended the Appellate Judges' Conference, Brisbane.

11 October 2012: Attended a meeting of the Jury Directions Advisory Group.

8-9 November 2012: Attended the Cranlana Programme's Justice and Society Symposium.

19-23 January 2013: Delivered a presentation on court architecture at the 2013 Supreme and Federal Court Judges' Conference.

19 April 2013: Attended the Judicial College of Victoria Civil Juries Workshop.

### Justice Whelan

6 December 2012: Launched *Juries in the 21st Century* by Jacqueline Horan at the County Court.

26 March 2013: Attended the annual Victoria Law Foundation ceremony of the Legal Reporting Awards for 2013 in the Supreme Court Library.

12 April 2013: Attended the Adult Parole Board Conference.

### Justice Priest

5 December 2012: Representing the Chief Justice, attended the birthday celebrations of His Majesty the Emperor of Japan.

### Justice Coghlan

3 August 2012: Attended an afternoon tea and tour of the Supreme Court by state and territory Attorneys-General and their advisors.

10 September 2012: Attended a luncheon for Chief Justice Chan and Justice V K Rajah of the Supreme Court of Singapore.

11 October 2012: Attended a meeting of the Jury Directions Advisory Group.

18 October 2012: Attended the Criminal Bar Association Dinner.

7 March 2013: Representing the Chief Justice, attended the Honourable Michael Kirby Justice Oration which was held at Victoria University.

### Justice Habersberger

4 September 2012: Attended the Victoria Law Foundation Law Oration presented by The Right Honourable Lord Walker of the Supreme Court of the United Kingdom in the Banco Court.

20 September 2012: Attended the Supreme/Federal Court Judges Luncheon.

### Justice Williams

3 August 2012: Attended an afternoon tea and tour of the Supreme Court by State and Territory Attorneys-General and their advisors.

20 September 2012: Attended the Supreme/Federal Court Judges Luncheon.

### Justice Kaye

8 November 2012: Chaired the Judicial Officers' Aboriginal Cultural Awareness Committee's Constitutional Amendment Twilight Seminar on the recommendations of the expert panel on constitutional amendments to recognise Aboriginal and Torres Strait Islander people.

11 February 2013: Attended the Monash University 10th Fiat Justitia Lecture, *Judicial Independence and Liberty, Democracy and Global Economy*, presented by Professor Shimon Shetreet, Professor of Law at the Hebrew University of Jerusalem, Israel.

18 February 2013: Chaired a meeting of the Judicial Officers' Aboriginal Cultural Awareness Committee.

7 May 2013: Chaired a meeting of the Judicial Officers' Aboriginal Cultural Awareness Committee.

17 May 2013: Spoke at Tarwirri Indigenous Law Students and Lawyers Association of Victoria Seminar entitled Indigenous Reconciliation Initiative within the Victorian Legal Profession.

21 May 2013: Participated in a panel discussion for the Women Barristers' Association entitled Dealing with Difficult People.

4 June 2013: Attended the Tarwirri Indigenous Law Students and Lawyers Association of Victoria Elders and Respected Persons Panel Meeting.

11 June 2013: Attended a reception hosted by the Victorian Government in recognition of the 65th Anniversary of Independence Day of the State of Israel.

### Justice Hollingworth

10 July 2012: Attended a meeting of the International Commission of Jurists.

24 July 2012: Attended the presentation ceremony for the award of the Legion d'Honneur to Professor Cheryl Saunders AO.

26 July 2012: Attended a luncheon with Professor Carolyn Evans and Professor Bryan Garner at University House, Melbourne Law School.

25 August 2012: Spoke at the New Zealand Bar Conference Dinner attended by the Honourable Ray Finklestein (formerly Federal Court of Australia) and Justice Fogarty (High Court of New Zealand).

4 September 2012: Attended the Victoria Law Foundation Law Oration presented by The Right Honourable Lord Walker of the Supreme Court of the United Kingdom in the Banco Court.

5 & 7 September 2012: Taught in the judgment writing program conducted by the National Judicial College of Australia.

2 October 2012: Presented to the Victorian Bar Readers on writing for the courts.

10-16 October 2012: Taught Advanced Civil Litigation in the Melbourne LLM course.

29 October 2012: Attended the launch by Professor Tim McCormack of the book, *Elements of Accessorial Modes of Liability*, by Dr Sarah Fennin.

13 November 2012: Attended a meeting of the International Commission of Jurists.

27 November 2012: Delivered a presentation at an International Commission of Jurists' function celebrating the launch of *Contemporary Perspectives on Human Rights Law*, edited by Paula Gerber and Melissa Castan.

11 December 2012: Attended a meeting in Brisbane for the National Judicial College's judgment writing program.

7 & 12 February 2013: Attended meetings of the International Commission of Jurists.

10 February 2013: Attended a lecture on the history of the University of Western Australia (UWA) Law School, as part of UWA's 100 year anniversary celebrations.

20 February 2013: Chaired a continuing professional development (CPD) seminar on the *Competition and Consumer Act 2010* (Cth).

13 March 2013: Representing the Chief Justice, attended the Commercial Bar Association function to celebrate the appointment of Justice Digby and the newly appointed silks.

15 March 2013: Spoke on advocacy at the Victorian Bar's Third Annual CPD Conference.

22 March 2013: Attended a dinner hosted by the Judicial Conference of Australia to honour Justice Harper's contribution to the body.

4 April 2013: Spoke to the Victorian Bar Readers on the subject of written advocacy.

16 April 2013: Spoke to students at the University of Melbourne about the Court's role in the civil justice system.

16 April 2013: Attended the Judicial College of Victoria Seminar, Interpreting Medical Reports.

2 May 2013: Chaired a meeting for the International Commission of Jurists, University of Melbourne 2013 Human Rights Conference.

3 May 2013: Spoke to students from the University of Melbourne in relation to civil procedure.

16 May 2013: Attended the Victorian Bar Readers' Course Dinner.

### Justice Bell

24 October 2012: Welcomed the Continuing Legal Education Association of Australia to a function held in the Supreme Court Library.

25 October 2012: Attended the Castan Centre's Biennial Human Rights Gala.

8 November 2012: Attended the Judicial Officers' Aboriginal Cultural Awareness Committee's Constitutional Amendment Twilight Seminar on the recommendations of the expert panel on constitutional amendments to recognise Aboriginal and Torres Strait Islander people.

20 May 2013: Delivered a presentation entitled *Protection of Rights in Australia*, at the VCE Legal Studies Forum 2013 at Caulfield Grammar School.

### Justice Hargrave

19 July 2012: Attended the Judicial College of Victoria Judgment Writing Faculty Meeting.

27 July 2012: Chaired the Judicial College of Victoria Workshop, Writing Better Judgments, presented by Professor Bryan Garner.

22-24 August 2012: Chaired a session at the Judicial College of Victoria Judgment Writing Workshop.

10 December 2012: Delivered a presentation, *How to Assist the Court in the Efficient Conduct of a Large Commercial Trial*, at the annual Supreme Court of Victoria Commercial Law Conference held in the Banco Court.

13 March 2013: Representing the Chief Justice, attended the Commercial Bar Association function to celebrate the appointment of Justice Digby and the newly appointed silks.

### Justice King

2 October 2012: Representing the Chief Justice, attended the Sentencing Advisory Council's launch of SACStat at Monash University Law Chambers.

### Justice Cavanough

5-7 October 2012: Attended the Judicial Conference of Australia Colloquium in Fremantle.

19-23 January 2013: Attended the 2013 Supreme/Federal Court Judges' Conference.

14 March 2013: Attended a launch by the Honourable Michael Kirby AC of the book, *Peace Operations and Restorative Justice*, at the Fitzroy Town Hall.

14 March 2013: Attended the launch of *Inquire Victoria*, at William Crockett Chambers.

### Justice Curtain

5-7 October 2012: Attended the Judicial Conference of Australia Colloquium in Fremantle.

1-2 November 2012: Attended the Adult Parole Board Conference.

17 November 2012: Delivered a speech to the Medico Legal Society of Victoria entitled *Anything You Wanted to Know About Sentencing, Now's Your Chance to Ask!*

19-23 January 2013: Attended the 2013 Supreme/Federal Court Judges' Conference.

14 March 2013: Representing the Chief Justice, attended the annual St Patrick's Day Celebration hosted by the Catholic Education Office at the Park Hyatt Ballroom.

22 March 2013: Attended a dinner hosted by the Judicial Conference of Australia to honour Justice Harper's contribution to the body.

12 April 2013: Attended the Adult Parole Board Conference.

### Justice Pagone

26 July 2012: Attended a luncheon with Professor Carolyn Evans and Professor Bryan Garner at University House, Melbourne Law School.

27 July 2012: Chaired the Judicial College of Victoria Workshop, Writing Better Judgments, presented by Professor Bryan Garner.

10 September 2012: Attended a luncheon for Chief Justice Chan and Justice V K Rajah of the Supreme Court of Singapore.

8 April 2013: Attended an afternoon tea for Justice Stefan Lindskog of the Swedish Supreme Court. Justice Tom Gray of the Supreme Court of South Australia also attended.

18 April 2013: Representing the Chief Justice, attended and presented the Supreme Court Prize at the Monash University Prize Ceremony held at the Arts Centre.

27 May 2013: Presented the Brian Shaw QC Taxation Prize at the Prizes Ceremony at the University of Melbourne.

### Justice Robson

4 July 2012: Attended a luncheon hosted by the Chief Justice, for Chief Justice Steele of Delaware and Mr William T Robinson III, President of the American Bar Association.

26 July 2012: Attended a luncheon with Professor Carolyn Evans and Professor Bryan Garner at University House, Melbourne Law School.

10 September 2012: Attended a luncheon for Chief Justice Chan and Justice V K Rajah of the Supreme Court of Singapore.

10 October 2012: Presented at the Commercial Court Seminar at Monash University Law Chambers.

10 December 2012: Chaired sessions during the annual Supreme Court of Victoria Commercial Law Conference held in the Banco Court.

### Justice J Forrest

25 August 2012: Delivered a presentation on concurrent expert evidence with the Honourable Ray Finklestein (formerly Federal Court of Australia) and Justice Fogarty (High Court of New Zealand) at the New Zealand Bar Association Conference.

12 October 2012: Attended the Gippsland Law Association Conference.

24 October 2012: Delivered a presentation to the Victorian Bar Readers' Course on advocacy techniques.

14 November 2012: Addressed trainees from the Herald and Weekly Times Trainee Scheme at the Supreme Court.

10 December 2012: Chaired sessions during the annual Supreme Court of Victoria Commercial Law Conference held in the Banco Court.

26 March 2013: Attended the annual Victoria Law Foundation ceremony of the Legal Reporting Awards for 2013 in the Supreme Court Library.

### Justice Lasry

24 September 2012: Delivered a presentation at the Victorian Institute of Forensic Medicine, to members of the Iraqi Ministry of Human Rights in Australia for training in forensics and the cross-over with human rights.

10-22 December 2012: Member of a teaching delegation which visited Dhaka, Bangladesh, teaching advocacy.

7 & 12 February 2013: Attended meetings of the International Commission of Jurists.

14 March 2013: Launched *Inquire Victoria*, at William Crockett Chambers.

### Justice Judd

5 September 2012: Attended the Commercial Court Users Group Meeting.

23 October 2012: Attended the Commercial Court Users Group Strategic Mediation and Mediation Strategies Seminar at Monash Law Chambers.

### Justice Vickery

4 September 2012: Attended the Victoria Law Foundation Law Oration presented by The Right Honourable Lord Walker of the Supreme Court of the United Kingdom in the Banco Court.

16-17 May 2013: Chaired and presented at the 4th Judicial Seminar on Commercial Litigation in the Supreme Court of Singapore.

### Justice Kyrrou

19 September 2012: Delivered a presentation entitled *Relations with Colleagues within a Law Firm and the Profession Generally*, at the College of Law.

20 September 2012: Attended the Supreme/Federal Court Judges Luncheon.

1 November 2012: Chaired two sessions of the National Judicial Orientation Program at the Gold Coast.

8 November 2012: Attended the Judicial Officers' Aboriginal Cultural Awareness Committee's Constitutional Amendment Twilight Seminar on the recommendations of the expert panel on constitutional amendments to recognise Aboriginal and Torres Strait Islander people.

25 November 2012: Delivered a presentation on cultural identity at a multicultural seminar at Banksia Gardens Community Centre, Broadmeadows.

5 December 2012: Addressed a Vietnamese delegation on the Court's role in supervising the legal profession.

10 February 2013: Delivered a presentation on litigants in person at the *Managing People in Court Conference* at the National Judicial College in Canberra.

7 March 2013: Presented a paper entitled *Attributes of a Good Lawyer and Judge*, to the Australian Italian Lawyers Association.

27 March 2013: Presented a paper entitled *My Life as a Judge*, to graduate lawyers of Herbert Geer, Russell Kennedy and Hall & Wilcox.

23 April 2013: Delivered a presentation, *Ethics – Attributes of a Good Lawyer*, to the Southern Solicitors Group.

4 June 2013: Delivered a paper entitled *Attributes of a Good Judge*, at the 14th Greek/Australian International Legal and Medical Conference at Cape Sounion, Greece.

### Justice Beach

10 September 2012: Attended a luncheon for Chief Justice Chan and Justice V K Rajah of the Supreme Court of Singapore.

24 September 2012: Attended a presentation at the Rumbalara Aboriginal Cooperative in Shepparton.

25 September 2012: Attended a dinner hosted by the Goulburn Valley Law Association in Shepparton.

### Justice Davies

26 July 2012: Attended a luncheon with Professor Carolyn Evans and Professor Bryan Garner at University House, Melbourne Law School.

4 September 2012: Attended the Victoria Law Foundation Law Oration presented by The Right Honourable Lord Walker of the Supreme Court of the United Kingdom in the Banco Court.

### Justice T Forrest

15 March 2013: Spoke on advocacy at the Victorian Bar's Third Annual CPD Conference.

### Justice Emerton

5 July 2012: Attended the Courts and Tribunals Service morning tea.

4 September 2012: Attended the Victoria Law Foundation Law Oration presented by The Right Honourable Lord Walker of the Supreme Court of the United Kingdom in the Banco Court.

15 March 2013: Attended the launch of the Centre for Innovative Justice at RMIT University.

25 March 2013: Delivered a presentation entitled *Making Submissions to the Court*, at the Administrative Law Masterclass CPD Training Session, organised by the Environmental Defender's Office.

8 April 2013: Attended an afternoon tea for Justice Stefan Lindskog of the Swedish Supreme Court. Justice Tom Gray of the Supreme Court of South Australia also attended.

## Justice Croft

30 July 2012: Attended the International Chamber of Commerce Australia International Arbitration Conference at Norton Rose solicitors, Melbourne.

30 July 2012: Attended a luncheon with representatives of the International Court of Arbitration of the International Chamber of Commerce at the offices of Clayton Utz.

31 July 2012: Hosted a meeting with Justice Fu Xiaoqiang, Supreme People's Court of China. Justice Fu then joined Justice Croft as a guest on the Bench for a hearing of an Arbitration List application.

1 August 2012: Chaired the Victorian Bar Property Law Update Seminar hosted by CCH and the Victorian Bar.

4 September 2012: Attended the Victoria Law Foundation Law Oration presented by The Right Honourable Lord Walker of the Supreme Court of the United Kingdom in the Banco Court.

10 September 2012: Attended a luncheon for Chief Justice Chan and Justice V K Rajah of the Supreme Court of Singapore.

20 September 2012: Attended the Supreme/Federal Court Judges Luncheon.

14 January 2013: Attended the Ecumenical Service for the Opening of the Legal Year in Geelong and presided at the ceremonial sitting of the Supreme Court.

7 February 2013: Attended the United Nations Commission on International Trade Law (UNCITRAL) Texts in Australia Seminar.

15 February 2013: Delivered a presentation on judicial costs management at the National Costs Lawyers Conference 2013.

## Justice Ferguson

10 August 2012: Attended the Judicial College of Victoria Conference, Assessing Witnesses.

10 October 2012: Chaired the Commercial Court Seminar, The High Court Decision in Fortescue, at Monash University Law Chambers.

26 March 2013: Attended the annual Victoria Law Foundation ceremony of the Legal Reporting Awards for 2013 in the Supreme Court Library.

10 May 2013: Attended the International Women's Insolvency & Restructuring Confederation (IWIRC) Breakfast Briefing at Corrs Chambers Westgarth, Melbourne.

18 May 2013: Attended the Tenth Multinational Judicial Colloquium presented by the International Association of Restructuring, Insolvency & Bankruptcy Professionals and the United Nations Commission on International Trade Law, in the Hague, Netherlands.

19 May 2013: Attended the Ninth World Quadrennial Congress of INSOL 2013, in the Hague, Netherlands.

## Justice Sifris

4-6 August 2012: Attended the 29th Annual Conference of the Banking and Finance Services Law Association in Queenstown, New Zealand and presented a paper entitled *Australian Case Law Update*.

25 October 2012: Delivered a speech at the International Women's Insolvency and Restructuring Confederation.

7 December 2012: Delivered a presentation at the Collins Club on law, democracy and civil society.

10 December 2012: Chaired sessions during the annual Supreme Court of Victoria Commercial Law Conference held in the Banco Court.

9 April 2013: Delivered a presentation *Restraints of Trade following Specialist Diagnostic Services Pty Ltd (formerly Symbion Pathology Pty Ltd) v Healthscope Pty Ltd*, at the Commercial CPD Seminar at Monash Law Chambers.

3 May 2013: Hosted a University of Melbourne civil procedure class in the Old High Court.

6 June 2013: Presided over the Hanover Moot Competition at the Supreme Court.

## Justice Almond

5 October 2012: Participated in the Judicial College of Victoria Regional Prison Visit.

23 October 2012: Attended the Commercial Court Users Group Strategic Mediation and Mediation Strategies Seminar at Monash Law Chambers.

8 November 2012: Attended the Judicial Officers' Aboriginal Cultural Awareness Committee's Constitutional Amendment Twilight Seminar on the recommendations of the expert panel on constitutional amendments to recognise Aboriginal and Torres Strait Islander people.

19-23 January 2013: Attended the 2013 Supreme/Federal Court Judges' Conference.

9 April 2013: Attended the Peter Brett Memorial Lecture entitled *Challenging Injustice: the American Experience*.

## Justice Dixon

26 July 2012: Judged the Grand Final of the Law Institute of Victoria's Hanover Mooting Competition in the Banco Court.

8 November 2012: Attended the Judicial Officers' Aboriginal Cultural Awareness Committee's Constitutional Amendment Twilight Seminar on the recommendations of the expert panel on constitutional amendments to recognise Aboriginal and Torres Strait Islander people.

9 April 2013: Chaired the Commercial CPD Seminar at Monash Law Chambers.

## Justice Macaulay

5 April 2013: Delivered a presentation on the Law Library of Victoria at the County Court Judges' Conference.

14 May 2013: Chaired a Judicial College of Victoria Twilight Seminar, Digital Forensics.

21 May 2013: Chaired a Judicial College of Victoria Twilight Seminar, Technology in the Courtroom.

28 May 2013: Chaired a Judicial College of Victoria Twilight Seminar, Understanding Social Networks.

## Justice McMillan

20 September 2012: Attended the Supreme/Federal Court Judges Luncheon.

14 November 2012: Chaired and delivered the opening address at a Legalwise Seminar entitled *Estate Disputes*.

## Justice Garde

9 July 2012: Attended a welcome reception for the 2012 Australian Law Students' Association Conference at Government House, Melbourne.

25 July 2012: Delivered a presentation, *Reform Measures at VCAT*, at a seminar hosted by the Victorian Planning and Environment Association.

1 August 2012: Attended a revaluation presentation at the Australian Property Institute.

15 October 2012: Attended a reception for 2nd World Congress on Adult Guardianship at Government House, Melbourne.

29 October - November 2012: Attended the National Judicial Orientation Program.

28 November 2012: Attended the Australian Institute of Administrative Law Annual Dinner.

21 February 2013: Attended a seminar at the Planning Institute of Victoria and delivered an address.

7 March 2013: Attended the National Environmental Law Association National Conference.

17 April 2013: Attended a seminar of the Victorian Bar and delivered an address entitled *VCAT – The Way Ahead*.

15 May 2013: Attended the Human Rights Seminar at the Law Institute of Victoria and delivered an address on human rights entitled *VCAT Charter Cases – A Review*.

3 June 2013: Delivered a paper entitled *Medical Related and Legal Practice Proceedings in the Victorian Civil and Administrative Tribunal* at the 14th Greek/Australian International Legal and Medical Conference at Cape Sounion, Greece.

## Justice Elliott

8 April 2013: Attended an afternoon tea for Justice Stefan Lindskog of the Swedish Supreme Court. Justice Tom Gray of the Supreme Court of South Australia also attended.

## Associate Justice Eftim

14 August 2012: Delivered a presentation, *A Judge's Perspective on Drafting Pleadings – The Ten Commandments for Drafting Good Pleadings*, at the Leo Cussen Centre for Law.

25 October 2012: Delivered a presentation on relevant professional issues, key tips for insolvency accountants and their lawyers in relation to matters before him in court, at the IWIRC Breakfast Briefing at Pitcher Partners/Piper Alderman.

## Associate Justice Wood

10 September 2012: Attended a luncheon for Chief Justice Chan and Justice V K Rajah of the Supreme Court of Singapore.

23 October 2012: Attended the Commercial Court Users Group Strategic Mediation and Mediation Strategies Seminar at Monash Law Chambers.

15 February 2013: Delivered a presentation at the Law Institute of Victoria's National Costs Law Conference 2013 on the new scale and amendments to Rule 63.

15 April 2013: Spoke at the Commercial Bar Seminar on the new Rules of Appeals, *Civil Procedure Act* amendments and the new scale and Rule 63.

## Associate Justice Daly

9-12 October 2012: Attended a conference on Dialogues on Being a Judge in Adelaide.

20 November 2012: Presented at the Leo Cussen Centre for Law, Litigation Conference.

19-23 January 2013: Attended the 2013 Supreme/Federal Court Judges' Conference.

## Associate Justice Gardiner

10 August 2012: Attended the Judicial College of Victoria Conference, Assessing Witnesses.

5 September 2012: Attended the Commercial Court Users Group Meeting.

10 September 2012: Attended a luncheon for Chief Justice Chan and Justice V K Rajah of the Supreme Court of Singapore.

17 September 2012: Attended a Monash University Lecture entitled *Four Tips for Managing High Court Conflict People*.

## Associate Justice Mukhtar

10 September 2012: Addressed the Victorian Bar Readers on critical advocacy skills.

## Associate Justice Zammit

10 August 2012: Attended the Judicial College of Victoria Conference, Assessing Witnesses.

15 August 2012: Attended a presentation delivered by Justice Osborn, *The Judicial View on the Role of Experts and Proper and Efficient Use in Court Proceedings*, at the Commercial Court Seminar, Expert Evidence: How to Use Experts Properly and Effectively.

3 December 2012: Delivered a presentation at the Mercy College Annual Night of Excellence.

13-14 June 2013: Attended the National Disability Services Conference held at the Pullman Melbourne, Albert Park.

## Associate Justice Randall

16 March 2013: Delivered a presentation at the 2013 Victorian State Conference conducted by Worrell's Solvency Forensic Accountants.

## Judicial Registrar Gourlay

6 September 2012: Presented a paper entitled *Security for Costs Orders*, at the Legalwise Seminar Legal Costs Conference.

7 September 2012: Attended the Law Institute of Victoria's Succession Law Conference.

10 September 2012: Attended a luncheon for Chief Justice Chan and Justice V K Rajah of the Supreme Court of Singapore.

25 March 2013: Delivered a presentation on Order 63 and Scale Amendments to the Australian Lawyers Alliance Victorian Branch.

# Appendix 2:

## Contacts and Locations

### Principal Registry

Level 2, 436 Lonsdale Street  
Melbourne VIC 3000  
Tel: (03) 9603 9300  
Fax: (03) 9603 9400

### Court of Appeal Registry

Level 2, 436 Lonsdale Street  
Melbourne VIC 3000  
Tel: (03) 9603 9100  
Fax: (03) 9603 9111

coaregistry@supremecourt.vic.gov.au

### Court Administration

Level 1, 436 Lonsdale Street  
Melbourne VIC 3000  
Tel: (03) 9603 9347  
Fax: (03) 9603 9400

info@supremecourt.vic.gov.au

### Library

210 William Street  
Melbourne VIC 3000  
Tel: (03) 9603 6282  
Fax: (03) 9642 0159

sclib@supremecourt.vic.gov.au

### Juries Commissioner's Office

Ground Floor, County Court  
250 William Street  
Melbourne VIC 3000  
Tel: (03) 8636 6811

Fax: (03) 8636 6829

juries@supremecourt.vic.gov.au

### Funds in Court

Level 5, 469 La Trobe Street  
Melbourne VIC 3000  
Tel: 1300 039 390  
Fax: 1300 039 388

fic@supremecourt.vic.gov.au

### Regional Courthouses and Registry Locations

#### Ballarat

100 Grenville Street South  
(PO Box 604)  
Ballarat VIC 3350  
Tel: (03) 5336 6200  
Fax: (03) 5336 6213

#### Bendigo

71 Pall Mall  
(PO Box 930)  
Bendigo VIC 3550  
Tel: (03) 5440 4140  
Fax: (03) 5440 4162

#### Geelong

Railway Terrace  
(PO Box 428)  
Geelong VIC 3220  
Tel: (03) 5225 3333  
Fax: (03) 5225 3392

#### Hamilton

Martin Street  
(PO Box 422)  
Hamilton VIC 3300  
Tel: (03) 5572 2288  
Fax: (03) 5572 1653

#### Horsham

22 Roberts Avenue  
(PO Box 111)  
Horsham VIC 3400  
Tel: (03) 5362 4444  
Fax: (03) 5362 4454

#### La Trobe Valley

134 Commercial Road  
(PO Box 687)  
Morwell VIC 3840  
Tel: (03) 5116 5222  
Fax: (03) 5116 5200

#### Mildura

56 Deakin Avenue  
(PO Box 5014)  
Mildura VIC 3500  
Tel: (03) 5021 6000  
Fax: (03) 5021 6010

#### Sale

79-81 Foster Street  
(Princes Highway)  
(PO Box 351)  
Sale VIC 3850  
Tel: (03) 5144 2888  
Fax: (03) 5144 7954

#### Shepparton

14 High Street  
(PO Box 607)  
Shepparton VIC 3630  
Tel: (03) 5821 4633  
Fax: (03) 5821 2374

#### Wangaratta

21 Faithfull Street  
(PO Box 504)  
Wangaratta VIC 3677  
Tel: (03) 5721 0900  
Fax: (03) 5721 5483

#### Warrnambool

218 Koroit St  
(PO Box 244)  
Warrnambool VIC 3280  
Tel: (03) 5564 1111  
Fax: (03) 5564 1100

#### Wodonga

5 Elgin Boulevard  
(PO Box 50)  
Wodonga VIC 3690  
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