

Supreme Court of Victoria 2011–12 Annual Report

Henry Hodges

Edward Gill Williams

Rob McHugh

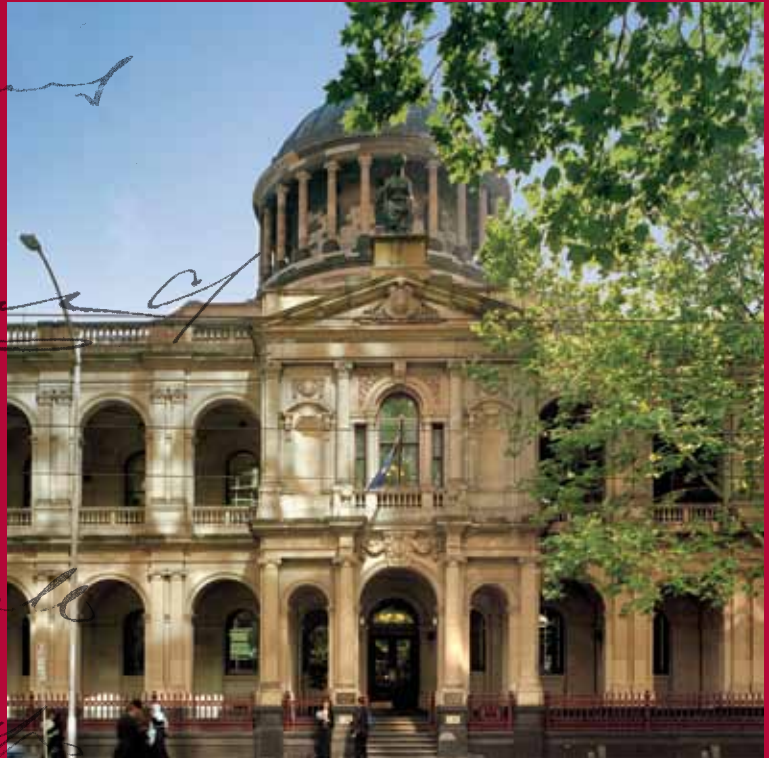
John Maw

John Tamberlain

William J. Studdart

Edmund Barry

John Studdart



JUDICIAL SIGNATURES FOR ANNUAL REPORT

The signatures on the cover of this year's annual report come from two documents. One from 1865 is the signed copy of Supreme Court rules for Special Juries. The other document is a copy of Supreme Court rules from 1904.

The signatures are :

His Honour Sir Henry Hodges
Judge of the Supreme Court from 1890-1919

His Honour Sir Edward Eyre Williams
1852-1874

His Honour Sir Robert Molesworth
1856-1886

Chief Justice His Honour
Sir John Madden *1893-1918*

His Honour Sir Thomas a'Beckett
1886-1917

Chief Justice His Honour Sir William
Foster Stawell *1857-1886*

His Honour Sir Redmond Barry
1852-1880

His Honour Sir Joseph Henry Hood
1891-1921

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of Victoria Melbourne, Victoria,
Australia. October 2012

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Contents

REMARKS	2
Chief Justice	2
Chief Executive Officer	4
THE COURT	6
2011-12 at a Glance: Court of Appeal	8
2011-12 at a Glance: Trial Division	9
STRUCTURE AND GOVERNANCE	13
SIGNIFICANT EVENTS	18
SIGNIFICANT CASES	22
OUR YEAR IN REVIEW: COURT DELIVERY	
The Court of Appeal	29
The Trial Division – Commercial and Equity	31
The Trial Division – Common Law	38
The Trial Division – Crime	43
Costs Court	47
Associate Judges	49
OUR YEAR IN REVIEW: SUPPORT DELIVERY	
Senior Master's (Funds in Court) Office	53
Court of Appeal Registry	58
Principal Registry	60
Juries Commissioner's Office	66
Court Administration	67
FINANCE REPORT	72
APPENDICES	74
External Judicial Activity	74
Contacts and Locations	81
Glossary	82

Note: Data contained in this report may differ in relation to 2010-11 data due to a substantial audit of files conducted in December 2011 and January 2012.

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Web: supremecourt.vic.gov.au



LETTER TO THE GOVERNOR

October 2012

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 2011 to 30 June 2012.

Yours sincerely,

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

C Maxwell, P
P Buchanan, JA
G A A Nettle, JA
D J Ashley, JA
M A Neave, AO JA
R F Redlich, JA
M Weinberg, JA
P Mandie, JA
B D Bongiorno, AO JA
D L Harper, AM JA
H R Hansen, JA
P M Tate, JA
R S Osborn, JA
D J Habersberger, J
K M Williams, J

S W Kaye, J
S P Whelan, J
E J Hollingworth, J
K H Bell, J
K W S Hargrave, J
B J King, J
A L Cavanough, J
E H Curtain, J
G Pagone, J
P A Coghlan, J
R McK Robson, J
J H L Forrest, J
L Lasry, J
J G Judd, J
P N Vickery, J

E J Kyrou, J
D F R Beach, J
J Davies, J
T Forrest, J
K L Emerton, J
I J Ross, J
C E Croft, J
A Ferguson, J
M Sifris, J
P W Almond, J
J R Dixon, J
C C Macaulay, J
K McMillan, J
G H Garde AO RFD, J

Chief Justice

On behalf of the judges of the Supreme Court of Victoria I am honoured to present our report.

The 2011-2012 year has seen the Court continue its dual directions of reform and innovation. Special highlights were the criminal appeal reforms in the Court of Appeal, the expansion of the Commercial Court, the management of significant class actions – especially the bushfire litigation – and the significant reduction in delays in criminal trials. All these matters are reported upon in the individual divisional reports that follow.

There are two important matters I highlight:

Technology

The Supreme Court has been frustrated and disappointed by the inadequacies of the Integrated Court Management System (ICMS) also called Courtview. The system was reviewed by the Ombudsman.

Faced with those inadequacies the Court developed RedCrest as a potential case management system. It has progressed well following support from the Department of Justice.

Unless and until the Supreme Court is provided with adequate technology, it cannot meet the needs of modern litigation. The year 2012-2013 will see the Court move to a strong Technology Strategic Plan, which will provide the focus of all that we do: from registry to trials to appeals to data collection. At present, our IT is inadequate and must undergo a revolution to match modern expectations.

The Supreme Court Environment

The Court continues to struggle within its 19th Century environment. Regardless of progressive reforms and innovations we are held back by our building complex. We struggle to meet the demands of the modern mega trial. At times, we have insufficient courtrooms of suitable size and facility. This will be a confronting problem in the remaining bushfire cases and other large litigation presently before the Court.

Victoria is being left behind by other superior court facilities. Every state, territory, and federal superior jurisdiction across Australia either has or is progressing towards modern court facilities for the highest courts. The Victorian citizens and litigators need a new, modern facility in Victoria.

The lack of appropriate facilities slows the Court down. When the time is right for the Government, the Supreme Court will be ready to provide the opportunity for a state

building appropriately reflective of Victoria's place in the nation.


The need is highlighted by the inadequate way the Court must treat victims and witnesses. It is unsympathetic, disrespectful and lacking compassion in that we cannot provide at least some private, sanctuary within the Court complex.

Finally, on behalf of the judges I extend our deep thanks and appreciation to the CEO David Ware and all the Court staff, judicial and administrative, for what they have done through the year. The Supreme Court could not have achieved all it has without their sustained loyalty and commitment to the Court. I also thank the former Secretary of the Department of Justice, Ms Penny Armytage, and her staff for the support and assistance given to the Supreme Court in the last year.

The coming year 2012–2013 promises to be a year of continuing significant reform and innovation.



The Hon Marilyn Warren AC
Chief Justice
Supreme Court



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



REMARKS

Chief Executive Officer

The staff of the Court's Support Delivery functions are committed to providing high quality support to the judiciary and services to court users.

The five primary Support Delivery functions are the Senior Master's Office; the Court of Appeal Registry; the Principal Registry; the Juries Commissioner's Office and Court Administration.

All areas of Support Delivery contribute to meeting day-to-day demands, and to improving and developing the Court and its services to Victorians.

The 2011-12 year saw significant demand growth, matched by outstanding clearance rates. While the Court had an increase in applications to the Court of Appeal and the Trial Division of 6.5%, finalisations increased more than 17%, with a clearance rate of 116%. As a result of this performance, the number of pending cases fell 21%. And for the third year in a row, the Court delivered a balanced budget, finishing the financial year with a modest surplus.

It was another big year for the Senior Master's (Funds in Court) Office (SMO). Despite the difficult financial environment, the interest rates fixed for Common Fund No. 2 were 20 basis points higher than those fixed last financial year. The performance of the SMO's fixed interest investments continued to outperform similar commercial investments such as trust and superannuation funds. The total funds managed by the SMO exceeded \$1.3 billion. As part of its continuing commitment to providing a first class service to its 5,200 beneficiaries, the SMO launched its new website. The website was developed after extensive consultations with beneficiaries and other interested parties.

The Juries Commissioner's Office (JCO) summonsed 62,141 jurors, with 6,440 empanelled to serve as jurors on 579 Supreme and County Court trials. The JCO commenced piloting of the Jury Eligibility Questionnaire online that makes it easier for citizens to complete the questionnaire, and to speed up the process of assessing eligibility for jury service.



The Court of Appeal Registry, led by Judicial Registrar Mark Pedley, has supported the Court of Appeal to achieve exceptional results with the implementation of the Ashley-Venne Reforms. The reforms, designed to reduce the backlog of appeals and expedite the hearing and determination of criminal appeals, have brought about significant reductions in the number of pending appeals from over 500 cases to 214 pending appeals.

Supporting the Trial Division of the Court, the Principal Registry in many ways is the busy hub at the heart of the Court. In the past year, more than 26,000 court files were created, over 300,000 documents were filed, and more than 27,500 files were finalised. Notably, assistance was provided to 1,316 self-represented litigants in regards to civil procedure, court forms and fees, and referral to legal service providers. While support for self-represented litigants is an important aspect of the Court's commitment to accessible justice, the support of this group is increasingly consuming limited resources to the detriment of the Court's other operational areas.

The Principal Registry has continued its ongoing program of innovation and reform. While the Court continues to struggle with the residual difficulties with the Court's case management system, CourtView, and the delivery of the system's full functionality, work has advanced towards the goal of a fully electronic court filing system. The RedCrest™ (RedCrest) electronic case management system was successfully piloted within the Technology, Engineering and Construction List and elsewhere, and a business case is currently being prepared to support further roll-out. As well, a business process review was undertaken, with recommendations focussed on aligning and strengthening resources, processes and technology. The upcoming year will see the implementation of a number of these recommendations throughout the Principal Registry.

As a member of the International Consortium for Court Excellence, the Supreme Court continues to implement the International Framework for Court Excellence (IFCE) as its foundation management model. In 2011-12 the Court published a statement of its goal, purpose and attributes, and the Supreme Court Strategy was developed as the pathway to the Court's goal to be an outstanding superior court. Structured processes of business planning and risk management have been implemented across the Court, and an organisational policy framework now draws together new and existing policies to guide consistent and reliable management practices.

The outcomes of the Court's inaugural organisational self-assessment against the criteria of the IFCE in 2011, has provided valuable information to guide further improvements for the Court.

This year the Court started a three-year design program with the University of Melbourne Faculty of Architecture and Design. Each year a Masters Students' studio is designing a representation of justice reflected in a new Supreme Court building. The Court through the Chief Justice has sponsored the Supreme Court Architecture Prize. The winner this year was Aaron Loh. The program is part of the Court's ongoing commitment to excellence and improvement and also, its interaction with the wider community.

Accessibility and transparency are attributes of the Supreme Court. Demystifying the Court and making the Court more accessible to the community is an important objective – especially when public access is impeded by the operation of the Court in a range of aged buildings and by security screening requirements. The Court participated in two community open days, with more than 2,000 visitors on Courts Open Day in May 2012 and a further 1,600 visitors during Melbourne Open House in July 2011. Staff from across the Court joined the judiciary to share information on the Court's history and its operations. The Court also hosted in excess of 5,500 Year 11 and 12 VCE Legal Studies students and teachers in the Court's Education Program.

The Court was delighted to receive two awards for its record management practices in June; a Sir Rupert Hamer Records Management award for innovation and excellence in records management, and a certificate of commendation for the most valuable transfer to the Public Record Office.

A revitalised Occupational Health and Safety program across the Court involved new policies and procedures, increased OHS Designated Working Groups, and a new group of Health and Safety Representatives for better representation of staff in all of the Court's locations. This helps raise awareness of our responsibilities to each other and all those that come to the Court.



David Ware
Chief Executive Officer
Supreme Court of Victoria

The Court

The Court has published its visionary and aspirational strategic statement under the International Framework for Court Excellence which sets out our goal and purpose.

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.

The Court aims to achieve its goal and purpose through the following attributes:

Excellence

Striving for excellence in decision-making and the performance of all of our work. We aim to provide leadership to the Victorian legal system, and to be the dispute resolution forum of choice.

Equality (before the law)

Guaranteeing due process and equal protection of the law to all those before the Court, including in criminal cases through the application of the principle of 'innocent until proven guilty'.

Accessibility

Making it as straightforward as practicable to gain entry to the legal process, ensuring that cases are heard quickly and that the Court's processes and services are not only technically correct, but also delivered in an accurate, user-friendly and inclusive manner.

Fairness and impartiality

Setting and maintaining the standards by which the Court conducts itself as well as consistency in decision-making and the application or interpretation of legislation. The Court aims to be and to appear to be impartial and fair in the performance of its functions.

Independence of decision-making and competence

The ability of every judicial officer in the Court to make decisions based solely on a thorough understanding of the applicable law and the facts of the case.

Integrity and transparency

Maintaining a focus on the propriety of the process, the decision and the decision maker, as well as being accountable for our actions, being honest in our dealings and maintaining good systems, procedures and records that are available for audit. The Court conducts its hearings in public and is open to anyone who wishes to observe its proceedings.

Timeliness and efficiency

Efficiently using the time required to properly obtain, present and weigh the evidence, law, and arguments; avoiding unreasonable delay and managing expectations with appropriate resources and skills. We strive to perform all of our functions efficiently and to dispose of cases in a timely manner. As justice delayed is justice denied, we aim to deliver judgments within a reasonable time.

Certainty and clarity

Providing clearly defined decision-making processes, applying the law consistently and communicating reasons for decisions clearly. The language we use in Court and in our judgments is intended to be clear and easy to understand, not only by legal practitioners but also parties.

Innovation and change

Being a leader in innovation in court processes, and adapting to changes in technology, business processes and community expectations in relation to service delivery, while at the same time respecting traditions that continue to serve the Court and the community well.

Courtesy and respect

Treating with courtesy and respect all persons coming before the Court, whether as parties, witnesses, victims of crime, interpreters, counsel, solicitors, jurors or members of the public. We aim to conduct proceedings with tolerance, patience and courtesy, and to be sensitive towards persons dealing with the Court, including victims of crime and unsuccessful parties in civil proceedings.

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 Court of Appeal and the Trial Division.

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 by judges of the Supreme Court and 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.

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 which 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, and
- the Criminal Division.

The Court of Appeal



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 are members of the Court who carry out judicial functions. They do not, however, have jurisdiction in respect of criminal matters.

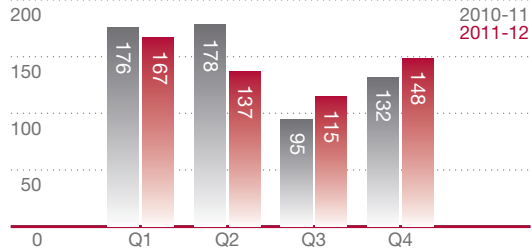
Associate judges conduct some trials, primarily in the Commercial and Equity Division. They also conduct mediations and adjudicate and resolve disputes between parties regarding matters such as discovery, subpoenas, pleadings and the enforcement of judgments.

A Court for Victorians

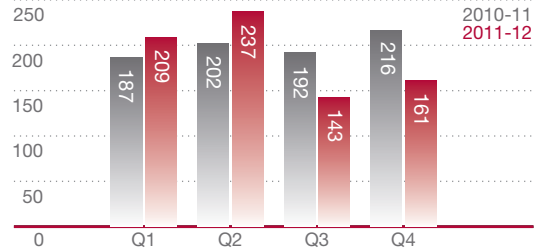
The majority of the Court’s work is undertaken in Melbourne, however the Supreme Court endeavours to hear matters in the region of origin wherever possible. As such, the Court regularly travels on circuit and sits at the local courthouses in Ballarat, Bendigo, Geelong, Hamilton, Horsham, Latrobe Valley (Morwell), Mildura, Sale, Shepparton, Wangaratta, Warrnambool and Wodonga.

2011-12 at a Glance: Court of Appeal

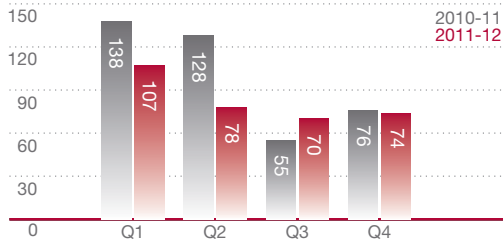
Commencements in the Court of Appeal (all matters)



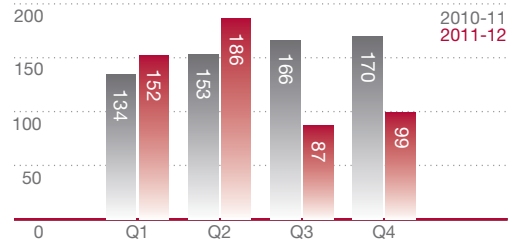
Finalisations in the Court of Appeal (all matters)



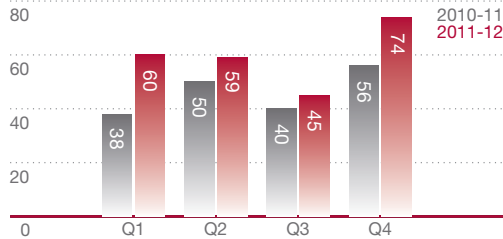
Commencements in the Court of Appeal - Crime



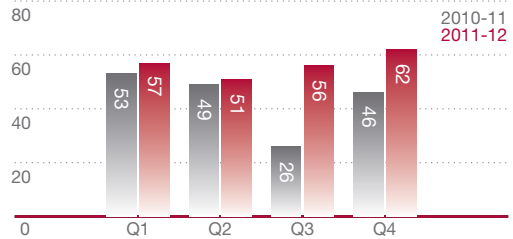
Finalisations in the Court of Appeal - Crime



Commencements in the Court of Appeal - Civil



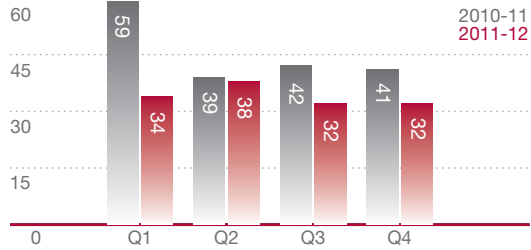
Finalisations in the Court of Appeal - Civil



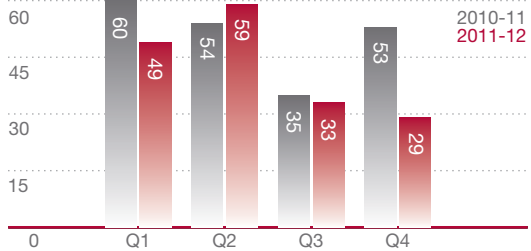
THE COURT

2011-12 at a Glance: Trial Division

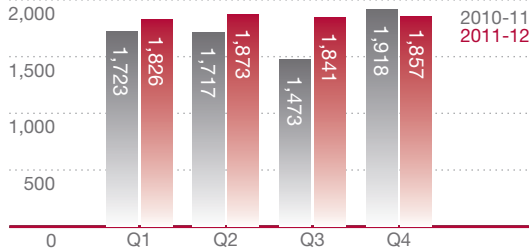
Commencements in the Trial Division – Crime



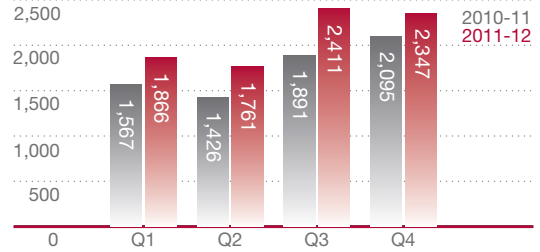
Finalisations in the Trial Division – Crime



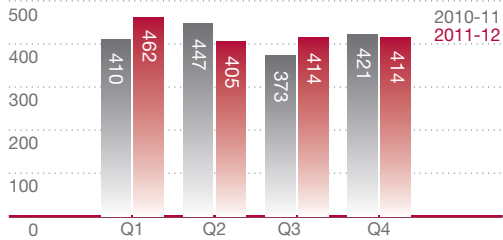
**Commencements in the Trial Division
– Civil (all matters)**



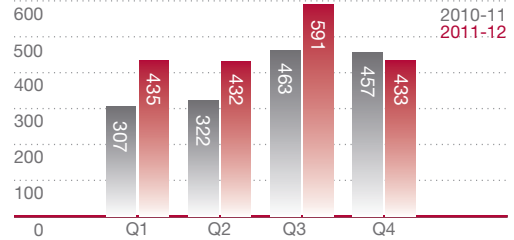
**Finalisations in the Trial Division
– Civil (all matters)**



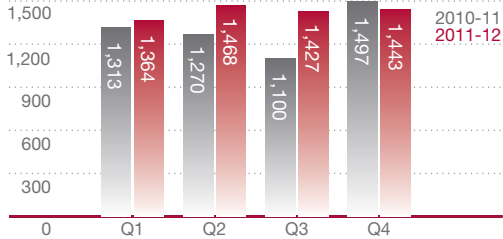
**Commencements in the Trial Division
– Common Law**



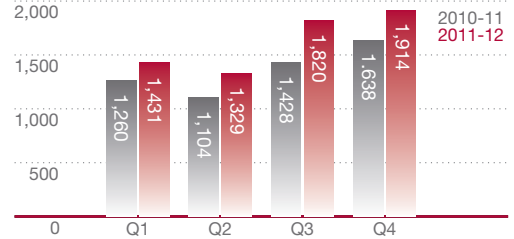
**Finalisations in the in the Trial Division
– Common Law**



**Commencements in the Trial Division
– Commercial and Equity**



**Finalisations in the Trial Division
– Commercial and Equity**



Court Performance

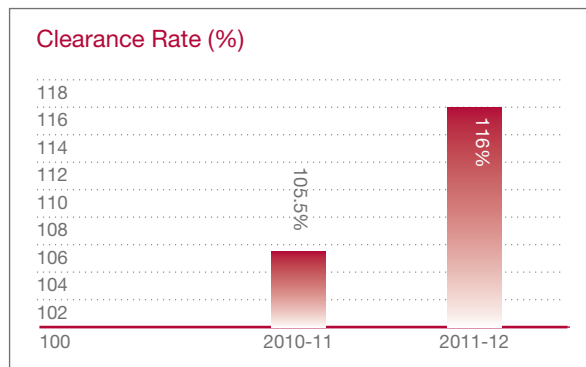
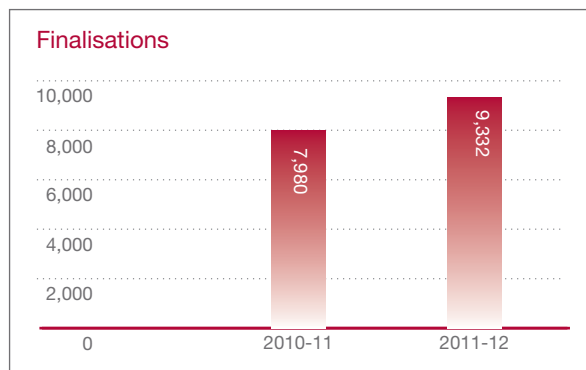
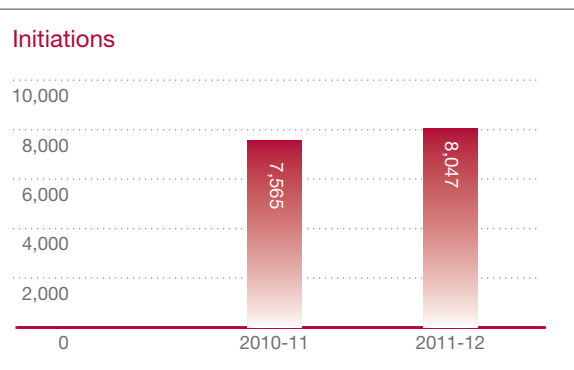
Timeliness and Efficiency

One of the Court's 10 attributes is timeliness and efficiency. The Court monitors its performance against this attribute from a number of different perspectives. In particular, it regards efficient use of time to perform the functions of the Court as an indicator of the Court's delivery of justice. In line with measures that are widely accepted nationally and internationally as indicators of efficiency and timeliness, the Court closely monitors its performance with regard to the initiation of new cases, finalisation of cases, case clearance rates and the backlog of cases pending.

Measuring the initiation of new cases informs the Court of the volume of its workload received during the year. Overall, the Court initiated 8,047 cases in 2011-12 which represents a 6.5% increase compared with 2010-11, indicating the Court is operating with a higher workload.

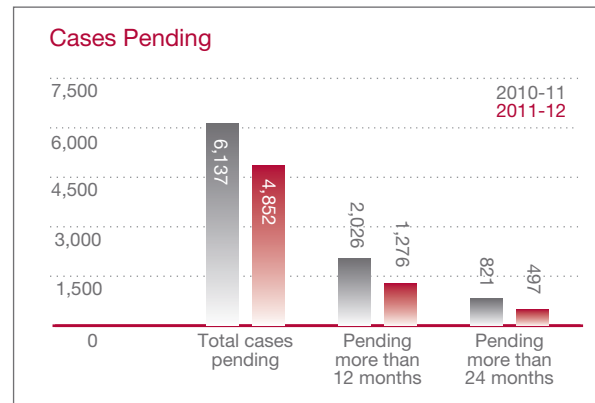
Measuring the finalisation of cases informs the Court of the volume of its workload cleared during the year. Overall, the Court finalised 9,332 cases in 2011-12 which represents a 17% increase compared with 2010-11, indicating the Court is not only coping with a higher workload, but, is also eliminating its backlog of cases.

The clearance rate equates to the number of cases finalised compared with the number of cases initiated. The usual target set for courts is 100% which aims to ensure the number of cases cleared equals the number of cases filed, thereby not increasing the backlog of cases. The advent of process reforms has enabled the Court to achieve unprecedented clearance rates in 2011-12, especially with regard to criminal cases. The clearance rate graph shows the Court achieved 116% clearance rate, which is a 10% improvement over the excellent rate already achieved in 2010-11.



The backlog indicator (cases pending) measures whether the Court is processing matters in an expeditious and timely manner. Like the vast majority of courts in Australia, a backlog of cases is inevitable. The cases pending graph shows significant improvement in eliminating the Court's backlog of cases. Overall, the backlog has been decreased by 21%, but most importantly, the backlog of cases that have been pending for more than 24 months has been decreased by 40% and those pending for more than 12 months has been decreased by 37%.

Note: Another key performance measure for the Court is that of containing financial expenditure within the allocated budget. As has been the case for the two preceding years, the Court has demonstrated exceptional performance with regard to its management of financial resources. This aspect of performance is addressed in the Finance Report section.



Structure and Governance

Court Delivery

The Judiciary

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

Judges of the Court during 2011-12

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 David John Ashley: (1990*) 21 June 2004 – 2 February 2012

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

The Honourable Justice Robert Frank Redlich: (2002*) 8 May 2006 – present

The Honourable Justice Mark Weinberg: 22 July 2008 – present

The Honourable Justice Philip Mandie: (1994*) 11 August 2009 – present

The Honourable Justice Bernard Daniel Bongiorno AO: (2000*) 11 August 2009 – present

The Honourable Justice David Lindsey Harper AM: (1992*) 4 November 2009 – present

The Honourable Justice Hartley Roland Hansen: (1994*) 19 July 2010 – present

The Honourable Justice Pamela Tate: 14 September 2010 – present

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

Judges of the Trial Division

The Honourable Justice David John Habersberger: 3 July 2001 – present *Principal Judge: Commercial and Equity Division*

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 Simon Paul Whelan: 17 March 2004 – 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

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

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

The Honourable Justice Elizabeth Helen Curtain: 3 October 2006 – present

The Honourable Justice Gaetano Pagone: 17 May 2007 – present

The Honourable Justice Paul Anthony Coghlan: 7 August 2007 – present *Principal Judge: Criminal Division*

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

Welcome to new
Judges Garde
and McMillan



The Honourable Justice James Gregory Judd: 4 March 2008 – present
The Honourable Justice Peter Norman Vickery: 6 May 2008 – present
The Honourable Justice Emilius John Kyrou: 13 May 2008 – present
The Honourable Justice David Francis Rashleigh Beach: 3 September 2008 – present
The Honourable Justice Jennifer Davies: 31 March 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 Iain James Ross AO: 4 November 2009 – 29 February 2012
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: 16 September 2010 – present
The Honourable Justice Cameron Clyde Macaulay: 14 September 2010 – present
The Honourable Justice Kate McMillan: 6 March 2012 – present
The Honourable Justice Gregory Howard Garde AO RFD: 29 May 2012 – present

Associate Judges

The Honourable Associate Justice Kevin John Mahony: 15 April 1983 – present
The Honourable Associate Justice John Eftim: 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

Judicial Registrars

Judicial Registrar Meg Gourlay: 28 January 2011 – present
Judicial Registrar Mark Pedley: 28 January 2011 – present

* Date appointed to the Trial Division

Retirements and Appointments

The year has seen some significant judicial changes in the Court.

The Honourable Justice Ashley retired on 1 February 2012 and the Honourable Justice Osborn was appointed to the Court of Appeal on 9 February 2012.

Two judges were appointed to the Trial Division during the reporting year: the Honourable Justice McMillan on 6 March 2012 and the Honourable Justice Garde on 30 May 2012. The Honourable Justice Ross AO retired on 1 March 2012 to take up his appointment as President of Fair Work Australia.

Continuing Professional Development

Judicial College of Victoria

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 judging in the 21st century.

In 2011-12, judges attended a total of 619.5 hours of JCV programs.

2011 Judges' Conference

The Court held its annual Judges' Conference in August 2011. The conference focused on new and interesting developments in areas of increasing relevance to the judiciary. A broad range of topics was covered, with sessions including the use of psychiatric and psychological evidence, the use of the *Diagnostic and Statistical Manual of Mental Disorders*, innovative use of e-Discovery in large-scale litigation, and a discussion of shareholder class actions.

Judicial Activity

Throughout the year, judges and associate judges attended a range of functions and participated in a number of activities that supported and promoted an understanding of the courts. A summary of these activities for the reporting period is included in the Appendix, see page 74.

Committees and External Positions

The effective operation of the Court not only relates to judicial work, it also involves the complete range of management issues associated with any organisation. The Court enhances the sound operation of those management issues by maximising judicial involvement through a suite of judicial committees that oversee and guide decision-making. The primary committees operating in the Court are:

- Council of Judges - chaired by Chief Justice Warren
- 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.

As noted below, a number of positions external to the Court must be held by a Court judge in accordance with legislation.

Victorian Civil Administration Tribunal

- Justice Garde - President

Judicial College of Victoria

- Chief Justice Warren - Chair
- Justice Ross (ret.), then Justice Garde - member

Council of Legal Education

- Chief Justice Warren - Chair
- Justice Kyrou - member
- Justice Davies - member

Adult Parole Board

- Justice Whelan - Chair
- Justice Curtain - member

Forensic Leave Panel

- Justice Williams - President
- Justice Hollingworth - member
- Justice Coghlan - member
- Justice J Forrest - member

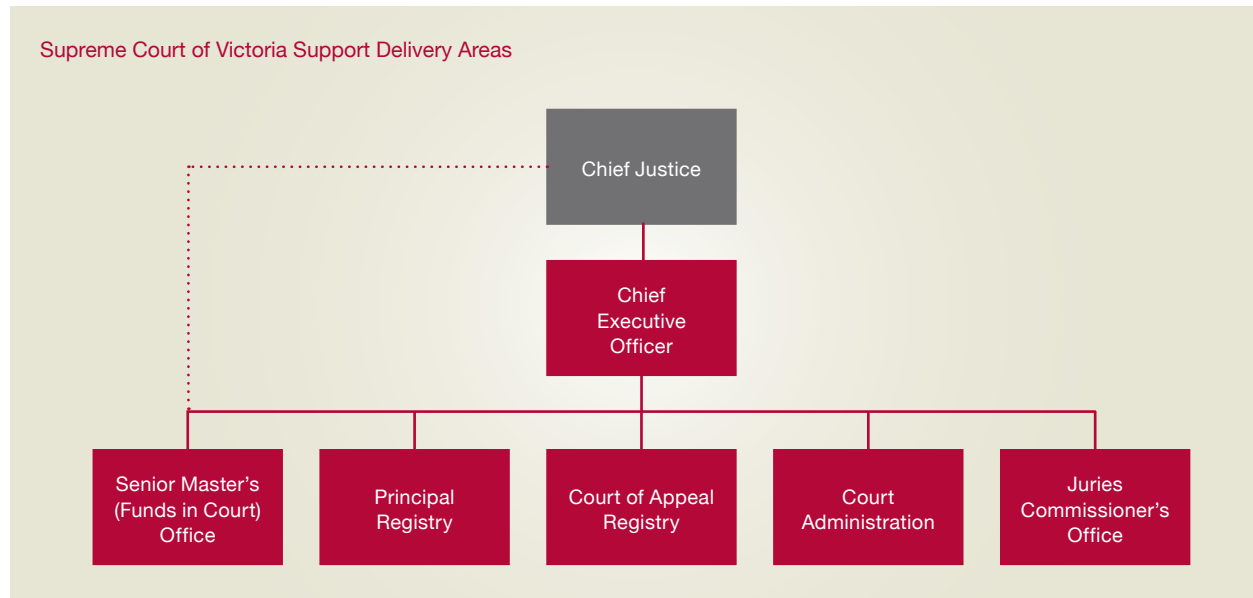
Support Delivery

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

Support Delivery is made up of the five areas shown in the diagram below. It is the portion of the Court that falls under the control and leadership of the Chief Executive Officer.

The five areas provide a number of integrated operational functions that help to enable the effective delivery of the Court. Over 170 staff are employed in these areas, with the Registries and Senior Master's Office representing the larger contingents.

Note: The Senior Master's Office is under the direct control of the Senior Master, who is an associate judge of the Court. While the office is recognised as a Support Delivery area of the Court, it operates as a discrete division.



Accountability and Evaluation

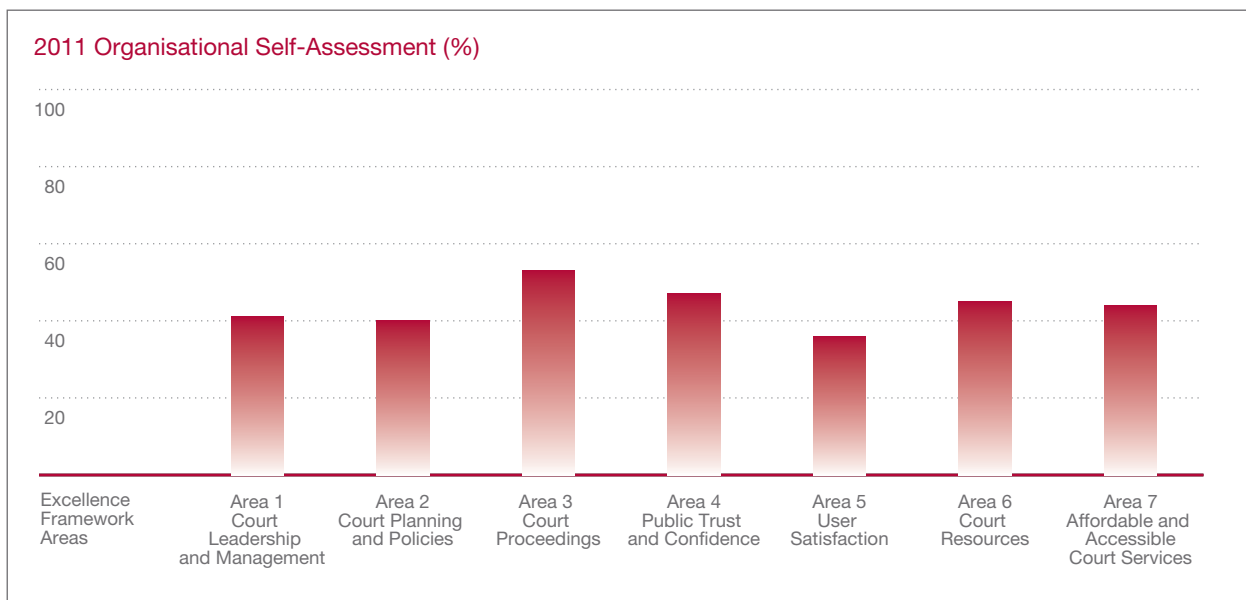
In January each year, specific aspects of performance in courts and tribunals around Australia are analysed as part of the *Report on Government Services* which is managed by the Australian Government Productivity Commission. The report is submitted to the Council of Australian Governments. The Court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

With a view to continuously improving the public value it delivers, the Court applies the International Framework for Court Excellence (the IFCE) as its foundation management model. As part of implementing the IFCE the Court has committed to periodically collecting data from its judges and staff regarding its performance as rated against the IFCE's seven areas of excellence.

This process is known as organisational self-assessment, and provides the Court with information to assist in planning improvements and gauging progress over time.

In 2011, the Court undertook its initial organisational self-assessment. The 2011 data, as shown in the graph below, sets a benchmark against which rates of improvement over subsequent years can be measured.

The Court will continue to self-assess its operations at routine intervals with a view to continuously improving the important public value it offers to the Victorian community. It is intended that the Court will regularly publish throughout the year its achievements on performance measures.



Note: International experience suggests that courts with scores in the range of 40% to 60% have a sound, effective approach in place and are achieving good performance levels.

Significant Events

Establishment of the Probate List

The Probate List, established within the Commercial and Equity Division on 1 July 2011, aims to reduce costs and delays and to provide consistent practices in probate matters.

In its first year of operation, the list was well received by the profession – and busier than expected. The aims of the list have generally been met by an emphasis on the early identification of the real issues in disputes, and greater judicial control of each proceeding from its inception.

Some of the matters commonly heard in the list included:

- matters where a caveat was lodged against the making of a grant
- urgent applications for limited grants to preserve a deceased estate where there was a delay in obtaining a full grant
- applications for revocation of a grant of representation
- rectification of wills due to a clerical error or a failure to give effect to the testator's instructions in preparing the will before it was executed
- removal or discharge of an appointed executor or administrator who, for various reasons (e.g. ill health), could no longer carry out his or her duties in administering the estate of the deceased
- construction of wills that are ambiguous.

Further information about the Probate List can be found later in this report, under Our Year in Review: Commercial and Equity Division, see page 31.

RedCrest Launch

On 22 September 2011, the Technology, Engineering and Construction (TEC) List in the Commercial and Equity Division launched a pilot of the ground-breaking electronic case management system, RedCrest™. A secure and interactive resource for practitioners, the Court and other approved users, RedCrest has enabled the fast and efficient filing and accessing of documents.

An electronic file created in RedCrest becomes the Court file in a proceeding. The file may be accessed and used online 24/7 from any location by solicitors for filing, and by solicitors, counsel and others for accessing all documents in a proceeding (e.g. documents, transcripts, orders). RedCrest provides email notifications to all registered parties upon the filing of a document to a case-page. This email notification is able to be regarded as substituted service and this option has been adopted by several large firms in Melbourne, and also by counsel, enabling instructing solicitors to do away with costly and time consuming tasks such as the duplication of documents. The system has demonstrated clear productivity gains for both the Court and practitioners, and has the capacity to reduce legal costs for litigants.

Over 200 practitioners have registered to use the system and four trials have been conducted to completion. User feedback has been extremely positive. The most notable trial managed on the system from start to finish was *Skilled Group Limited v CSR Veridian Ltd & Ors*. The case involved a dispute over the existence of a construction contract in a multimillion-dollar upgrade of a Float Glass manufacturing plant in Dandenong, Victoria. RedCrest afforded ease of access to documents, which was particularly valuable for a party represented by interstate counsel, and the cost and inconvenience of physically transporting large volumes of documents between venues was eliminated. The Court was also able to use RedCrest in real time during the trial to efficiently locate and refer to documents, and following its conclusion, to write the judgment with the assistance of the filed witness statements, transcripts and written submissions.

Further details about RedCrest are contained in Our Year in Review: Commercial and Equity Division, see page 31.

Developing the Professional Liability List

Throughout the year, the Common Law Division undertook significant work to develop a specialised Professional Liability List, which manages matters with respect to certain types of professional liability cases. Led by Justice Macaulay and Associate Justice Daly, the division met with members of the profession to seek their views and to discuss the scope and functions of the Professional Liability List.

The division is grateful to those members of the profession who volunteered their assistance. Further information regarding the commencement and operation of the list will be provided in late 2012.

Refining Procedure for Court Users

Practice Note No. 6 of 2011 – Cross-Border Insolvency Applications and Cooperation with Foreign Courts or Foreign Representatives

The *Cross-Border Insolvency Act 2008* (Cth) provides that the *Model Law on Cross-Border Insolvency* of the United Nations Commission on International Trade Law has the force of law in Australia (with some modifications). This practice note clarifies that proceedings commenced under the Act will continue to be filed in the Corporations List in the Commercial Court.

Practice Note No. 7 of 2011 - RedCrest Instruction Manual

This practice note commenced operation on 29 September 2011, detailing the use of the RedCrest SCV-CMS electronic case management system for the Technology, Engineering and Construction List.

Practice Note No. 9 of 2011 – Citation and Provision of Copy Judgments to the Court and Opposing Counsel

This practice note outlines the citation and provision of copy judgments from both authorised and unauthorised series of law reports.

Appointment of senior counsel ceremony



Practice Note No. 10 of 2011 – the *Green Book*, edition 3


This practice note updates and revises the *Green Book*, which provides a guide for litigation and other dispute resolution processes applied by the Court in commercial matters.

Practice Note No. 1 of 2012 – Major Torts List

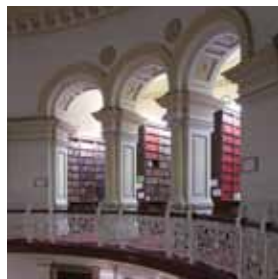
This practice note updates the procedures to be followed for entering cases into the list, the conduct of directions hearings and the procedure for notifying the Court when a case in the list settles. The practice note also provides for greater flexibility in the individual management of the diverse cases that are entered into the list.

Practice Note No. 2 of 2012 - Judicial Mediation Guidelines

This practice note was published on 31 March 2012. It deals with the conduct of mediations and the considerations that may be taken into account when directing a matter for judicial mediation.



Supreme Court Library



The Library Review

Sir Redmond Barry established the Court Library in 1854 with the intention of creating a law library of importance for the benefit of the Victorian judiciary and the legal profession.

The Court Library has operated for almost 160 years contributing to the administration of justice by serving the needs of the judiciary and the profession. Along with those of the County Court, Magistrates' Court and VCAT, these libraries play a significant role in the delivery of information and resources to members of the judiciary and the legal profession. Today, the Court Library collection is regarded as nationally significant and one that continues to benefit the practice of law in Victoria.

In August 2011, the Court established a review to articulate the vision for the Court Library in response to the anticipated loss of 40% of its funding following the proposed implementation of the National Legal Profession Reforms in July 2013. Without change to its operations and funding structure, the Library is threatened with closure by 2016.

The review considered a range of options in consultation with judicial members and the legal profession. On 26 April 2012, the Court Council of Judges unanimously endorsed the phased implementation of the Law Library of Victoria.

The Law Library of Victoria represents a major restructuring of the libraries of the Supreme Court, the County Court, the Magistrates' Court and VCAT to provide a comprehensive resource for the judiciary and the legal profession that has the agility to expand and respond to future challenges.

Importantly, the Law Library of Victoria concept continues Sir Redmond Barry's vision to deliver a first class information resource essential to the effective operation of the justice system and legal profession.

Through the establishment of a highly developed online presence, the reach of the Law Library of Victoria will move beyond physical boundaries, resulting in increased accessibility and a truly statewide service.

The establishment of the Law Library of Victoria will:

- facilitate the capacity for growth and future development
- appropriately recognise the contribution of the profession through its governance structure
- optimise library resources of all Victorian courts and tribunals state-wide
- represent a genuine, state-wide resource for the profession, providing a wider range of services and benefits to practitioners regardless of their location
- enable improved information discovery and sharing across courts
- deliver economy of scale benefits through consolidated purchasing power and coordinated management structure
- provide for the opportunity to develop closer relationships with the libraries of the Victorian Bar and the Law Institute of Victoria.

Sir Rupert Hamer Award

In May 2012, the Archives and Records Management team was excited and pleased to receive a Sir Rupert Hamer Records Management award for innovation and excellence in records management; this was for the implementation of a storage and disposal program for Court records.

In addition, the Court received a certificate of commendation for the most valuable transfer to the Public Record Office for the Master of Lunacy Maintenance registers. These records had been found in a parlous condition in the basement of the Trial building. After careful restoration by conservators, the registers were transferred to the Public Record Office in October 2011.

New Website for the Senior Master's (Funds in Court) Office

As part of the commitment to provide beneficiaries with the best service possible, the Senior Master's Office launched a new website: www.seniormastersoffice.vic.gov.au. The website contains information for beneficiaries, their families, carers and legal practitioners. The website has a number of useful features such as online application forms, publications and reports.

The website complies with the Victorian Government's website accessibility requirements.

Attorney-General Visits the Senior Master's (Funds in Court) Office

The Honourable Robert Clark MP, Attorney-General and Minister for Finance, visited the Senior Master's Office on 10 August 2011, accompanied by the Chief Justice. Associate Justice Mahony and Steven Wharton, Office Manager and Special Counsel, hosted the Attorney-General and the Chief Justice on a tour of the office.

Mr Clark took the opportunity to speak to managers and staff about their work. In doing so, he was able to obtain first-hand knowledge of the services provided to beneficiaries and their families by various areas such as Investment, Client Liaison, Legal and Trust Administration.

Assistance for Self-Represented Litigants

In the Principal Registry, a Coordinator assists self-represented (and unrepresented) litigants requiring assistance. The Coordinator deals with a large range of queries and is a legal advice service referral point. Assistance was provided to over 1,300 litigants in the past year.

The Coordinator, together with Court Network, established a referral scheme for litigants requiring support and on-referral to other (non legal advice) services.

The Self-Represented Litigant Committee, chaired by the Honourable Justice Emerton, met on three occasions.

The Court acknowledges the Victorian Bar Duty Barristers' Scheme who responded to assistance requests, and the Public Interest Law Clearing House (PILCH) and Community Legal Sector for community pro bono assistance.

Court's Business Process Review

This project concentrated heavily throughout the financial year on two main areas being the continued implementation, rectification and enhancement of the CourtView Case Management System¹ and the conduct of a Business Process Review.

CourtView was introduced into the Supreme Court in 2009. Residual difficulties and incomplete system functionality continue to affect the Court. Part of the response to these difficulties was to undertake a Business Process Review. The purpose of the review was to look at the Court's people, processes and technology as they related to the CourtView system. The review was undertaken via a series of targeted workshops with various stakeholders across all areas of the Court as well as the conduct of a CourtView user survey which provided valuable information regarding the areas for improvement of the system. In addition the review also took into consideration the ongoing development of the Court's internally developed RedCrest case management system.

The final report makes recommendations that will lead to improved efficiencies within the Court with several recommendations already commenced, and others to undergo further development and refinement.

¹ CourtView is the case management system used by the Court to schedule listings and events and monitor activity.

Significant Cases

The Court of Appeal

CNK v The Queen [2011] VSCA 228

In *CNK v The Queen* [2011] VSCA 228, the Court considered the principles for sentencing children under the *Children, Youth and Families Act 2005* (Vic) (the *CYF Act*) for crimes committed with adult co-offenders, and decided that the sentencing principle of general deterrence does not apply to children sentenced under the *CYF Act*. The Court was conscious that under s. 586 of the *CYF Act*, when the Court sentences a child to detention in a youth justice centre the applicable maximum is three years, as set by s. 32(3)(b) of the *Sentencing Act 1991* (Vic), not two years, as set by s. 413(2) of the *CYF Act*. The applicant was tried in the Court rather than the Children's Court because he was presented on a charge of attempted murder, over which the Court has exclusive jurisdiction. As the applicant was acquitted of attempted murder, he was entitled to be sentenced as if sentencing had occurred in the Children's Court for his convictions on other



offences and so the two-year maximum was applicable. Any other result would have had the effect of treating the applicant differently from another child in like circumstances solely because he had been proceeded against unsuccessfully for attempted murder. The Court commented on the difficulty of sentencing co-offenders in the situation where different sentencing regimes (adult/child) apply. The Court expressed the view that wholly separate hearings should be held to deal with sentencing of the child offender(s).

Karatjas v Deakin University [2012] VSCA 53

In *Karatjas v Deakin University* [2012] VSCA 53, the Court considered whether the University owed the appellant (an employee of Spotless, a contractor retained to operate the campus cafeteria) a duty to take care to prevent her being assaulted by a third party while walking from the cafeteria to the car park on the university campus. The Court decided that the University did owe the appellant a duty of care in the circumstances of the case. The Court adopted the reasoning in *English v Rogers* [2005] NSWCA 337 that when a principal retains a contractor who engages employees, but the principal retains control over some aspect of the work, it may be reasonable for the principal to have in contemplation the risk of injury to the contractor's employee arising out of that aspect of the work.

DPP v Kypri [2011] VSCA 257

In *DPP v Kypri* [2011] VSCA 257, the Court held that while the particular subsection is an essential element of an offence, failure to identify the subsection in the charge will not necessarily mean that the charge is fatally flawed. Their Honours Justice Nettle and Justice Tate agreed that the charge and summons are to be read as a whole and if it is clear what offence is alleged, the charge will not be invalid. The Court also decided that a magistrate could consider amending a charge under s. 50 of the *Magistrates' Court Act 1989* (Vic) out of time and that an application by the prosecution was not a necessary precondition.

Stalio v The Queen [2012] VSCA 120

In *Stalio v The Queen* [2012] VSCA 120, the Court decided that the requirement in s. 5(2) of the *Sentencing Act 1991* (Vic) that a court must have regard to ‘current sentencing practices’ means present sentencing practices, namely sentencing practices at the date of sentence. The Court rejected the appellant’s argument that he should have been sentenced in accord with the sentencing practices that existed at the time of the offending (1974–1983). It did note, however, that past sentencing practices could be relevant.

DPP (Cth) v JM [2012] VSCA 21

In *DPP (Cth) v JM* [2012] VSCA 21, the Court decided that a trial judge cannot state a case for consideration by the Court of Appeal, under the case stated procedure provided for in s. 302 of the *Criminal Procedure Act 2009* (Vic), on the basis of assumed facts. There was long-standing authority to the effect that a case stated on the basis of factual assumptions was merely advisory, and nothing in the *Criminal Procedure Act* changed this. It would, however, be permissible for a trial judge to make assumptions of fact for the purpose of a pre-trial determination under s. 199 of the *Criminal Procedure Act*, from which any unsatisfied party could bring an interlocutory appeal. Indeed, that course would have been preferable in this case. The Chief Justice dissented on this point, ruling that it was apparent from s. 302 and relevant authority that a trial judge can state a case on the basis of assumptions of fact. The Commonwealth has since filed an Application for Special Leave with the High Court, however it relates to the substantive determination reached by the Court of Appeal and is unrelated to the question posed above.

Commercial and Equity

Woodcroft-Brown v Timbercorp Securities Ltd & Ors [2011] VSC 427

Timbercorp Securities Ltd was the operator and responsible entity of agribusiness managed investment schemes. The plaintiff, Alan Rodney Woodcroft-Brown invested in three of these schemes. Woodcroft-Brown commenced the proceeding as lead plaintiff in a group proceeding on behalf of 2,200 investors in Timbercorp-operated managed investment schemes at any time between 6 February 2007 and 23 April 2009. At the time of Timbercorp’s collapse, 14,500 investors had loans from Timbercorp Finance amounting to \$477.8 million. The remedies sought were directed in part to resist repayment obligations.

The plaintiff alleged that declarations made by the directors in March and September 2008, in scheme financial reports, were false or misleading because of certain events that had occurred in and after February 2007. These events were referred to as adverse matters.

The plaintiff’s claim was dismissed on the basis that the adverse matters were either disclosed or unnecessary to disclose. The Court was not satisfied that the individual investors who gave evidence had made any judgment based on the absence of information concerning any of the adverse matters. Significant changes to the plaintiff’s case at the commencement of the trial meant that the evidence given about investment decisions did not align with the case run at trial.

There was a further finding that the directors and senior management performed their duties in good faith, with a genuine desire to comply with the statutory obligations and to preserve and enhance value for all stakeholders.

The Court held that the risks to be disclosed in a product disclosure statement must be real in the sense that there is a probability of occurrence and a consequence that is measurably significant. However, probability of occurrence and significance are to be adjusted by reference to the information a person would reasonably require to make a decision, and what would not be reasonable to find in a product disclosure statement.

The relationship between provisions of the *Corporations Act 2001* (Cth) which prescribe information to be disclosed in a product disclosure statement were analysed. While a specific, but limited, obligation to disclose risks in a product disclosure statement is set out at s. 1013D(1)(c), there is a complimentary obligation at s. 1013E which requires the disclosure of information which may be expected 'to have a material influence on the decision.' These disclosures were held to operate concurrently. Nonetheless it was considered 'difficult to imagine' when disclosure of information would be required under s. 1013E when disclosure was not obliged by s. 1013D.

The defendants argued that continuous disclosure requirements did not apply to the interests in plaintiffs' interests in the schemes as the interests were to be treated as enhanced disclosure securities (ED securities). If treated as ED securities, a statutory exception would mean that where information was generally available, continuous disclosure of that information would be unnecessary. It was held that the two limbs of the definition of 'generally available' provided at s. 676 of the *Corporations Act 2001* (Cth) should be read disjunctively. Therefore information will be generally available if it is either readily observable, or if it has been made known in a manner which would, or would be likely to, bring it to the attention of relevant investors and sufficient time for the dissemination of the information has elapsed. As a result of being treated as an ED security, the continuous disclosure requirement could be met through the provision of information concerning risk through publications such as the annual report or Timbercorp's website.

Tomasevic & Anor v Jovetic & Ors and Free Serbian Orthodox Church – School Congregation of St. Peter & Paul Wodonga Inc & Ors v Tomasevic & Ors [2012] VSC 223

This proceeding involved two related proceedings involving the Serbian Orthodox Church in Wodonga. There are two separate Serbian Orthodox churches in Wodonga – referred to in these proceedings as the 'First Church' and the 'Second Church'. On 2 January 2010 a meeting was held at which the two churches purportedly merged to form the 'Merged Church'. Following the purported merger, certain trustees of the Merged Church sought, by the first proceeding, a number of orders including the removal of certain trustees of the First Church as trustees (the 'Continuing Trustees') asserting that they were properly removed as trustees by the Merged Church itself following the merger.

By the second proceeding, the Continuing Trustees, who deny the validity of the merger, sought delivery up and possession of the property which they hold on trust for the First Church. The Continuing Trustees also formed an incorporated association, which they purport to be the true successor to the First Church, and sought orders transferring the property of the First Church to that entity.

The Honourable Justice Sifris found that the purported merger on 2 January 2010 was invalid as the constitutional requirements for the holding of the meeting were not followed – in particular in relation to the calling of the meeting, the giving of notice of the meeting to members and how the meeting was conducted. Thus the Merged Church was not the successor to the First Church or the beneficiary of the First Church's trust property. Further, his Honour found that the purported removal of the Continuing Trustees as trustees of the First Church was also invalid due to a lack of adherence to the church's constitution and the relevant declarations of trust. Finally, his Honour found that the incorporated association was not the true successor to the First Church and thus was not the rightful beneficiary of the First Church's property.

His Honour declined, at this stage, to make a ruling regarding the requested removal of trustees pursuant to s. 48 of the *Trustee Act 1958* (Vic) and has referred these two proceedings to mediation for resolution between the parties. If the parties are unable to resolve the proceedings at mediation, his Honour will hear from the parties again before making a final determination of the outstanding issues.

Great Southern Proceedings

The Great Southern Proceedings are the largest set of group proceedings yet commenced in the Court, comprising in excess of 22,000 group members and individual plaintiffs. There are currently 15 group proceedings and 12 individual proceedings which were commenced in the Court with respect to various agribusiness projects undertaken by Great Southern. Additionally, over 70 individual proceedings which had been commenced in the County Court (though a large number of these proceedings have been stayed on the basis that their outcome will be affected by the findings in the group proceedings).

Given the large number of parties involved in the Great Southern Proceedings, the matter has, naturally, proved to be a challenge in terms of case management and procedure. Nevertheless, the appointment of a special referee under an agreed innovative and ongoing reference to make recommendations to the Court with respect to discovery and inspection of documents (electronic and hard copy), common issues and other procedural issues has achieved cost-effective resolution of these matters with great expedition; particularly in an environment of, for example, over 10 million potentially discoverable electronic documents.

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.

Sunland Waterfront (BVI) Ltd v Prudentia Investments Pty Ltd (No 2) [2012] VSC 239

This case concerned the purchase and development of a plot of land by Sunland Waterfront (BVI) (“Sunland”) in Dubai. Sunland’s case was principally a claim against Prudentia Investments Pty Ltd and a number of other defendants on various bases claiming that they engaged in misleading and deceptive conduct with respect to the purchase by Sunland of the plot, in breach the provisions of the *Trade Practices Act 1974* (Cth) and the *Fair Trading Act 1999* (Vic). Sunland alleged it suffered loss and damage as a result of its reliance on such conduct. It also claimed damages with respect to the land transaction on the basis of the tort of deceit.

The land transaction that is the subject of this case has also given rise to criminal proceedings (including allegations of bribery) brought by the Dubai authorities against a number of individuals, including the individual defendants to the Victorian proceedings. Separate parallel civil proceedings were commenced by Sunland in Dubai. An anti-suit injunction restraining Sunland from pursuing the civil proceedings in Dubai was granted.

On completion of the trial, the Honourable Justice Croft determined that Sunland’s case failed in all respects and dismissed the proceeding. It was held that Sunland had failed to establish any misleading and deceptive conduct, reliance, or loss and damage.



Director of Consumer Affairs Victoria v Parking Patrols Vic Pty Ltd & Ors [2012] VSC 137

The Director of Consumer Affairs (‘the Director’) issued proceedings against Parking Patrols Vic Pty Ltd (‘Parking Patrols’), Ace Parking Pty Ltd (‘Ace Parking’), Kevin and John English (collectively ‘the defendants’) after receiving complaints between 2008 and 2010 from numerous car park users.

The complaints related to documents issued by Parking Patrols entitled ‘payment notices’ demanding payment of ‘penalties’ by drivers and owners of cars parked in the defendants’ facilities. The documents had the following features:

- a design, layout or get up similar to that of parking tickets and documents issued by government authorities for alleged public parking offences
- terms such as “offence”; “offence date”; “breach”; “code”; “the relevant regulations”; “fines” and other similar words or expressions connoting that an offence had been committed
- the shape of an outline of the State of Victoria in the heading
- the term “Parking Infringements Victoria”

- references to “VicRoads” and the “*Road Safety Act 1986 (Vic)*”
- wording similar to the wording used in the *Road Safety (General Regulations) 1999 (Vic)* to describe regulatory contraventions or offences.

The issuing of documents by the defendants containing these features was alleged by the Director to have had the effect of:

- misleading car parks users about the basis or nature of the authority to issue such documents and to pursue demands for payment
- representing to users that they may be prosecuted and be subject to a fine or a penalty for breaching regulations or committing an offence – whereas in fact those persons had not breached any regulation or committed any offence and were not liable to prosecution, fines or penalties
- representing that official car parking regulations applied to users of the car parks – when such car parks were private property and car parking regulations had no force or effect
- representing that, by entering and parking a car on a casual basis in an Ace Parking Permit Zone car park, the driver or owner of the car had entered into a contract with Ace Parking – when that was not the case.

The Honourable Associate Justice Gardiner found the defendants made false or misleading representations and declared that they had engaged in misleading and deceptive conduct and undue harassment and coercion in breach of the provisions of the *Fair Trading Act 1999 (Vic)*. The Court granted injunction to restrain the defendants from engaging in further contravening conduct and ordered publication of an adverse publicity order in major Victorian newspapers. The Court further ordered compensation for a number of identified car park users and contribution towards the Director’s cost of the proceeding.

Common Law

***PJB v Melbourne Health and Anor* [2011] VSC 327**

Patrick was mentally impaired. VCAT had made an order appointing State Trustees Ltd to be an unlimited administrator of Patrick's estate, with the knowledge that it was likely Patrick's house would be sold.

On appeal, the Honourable Justice Bell determined that as VCAT was a public authority when exercising such powers, it was obliged to act compatibly with human rights. According to the *Victorian Charter of Human Rights and Responsibilities Act 2006*, human rights are not absolute and, compatibly with the Charter, may be limited by legislation and/or the acts or decisions of public authorities where there is reasonable and demonstrable justification for the limitation.

His Honour found that pursuant to the Charter, and human rights instruments generally, it is necessary to ask whether human rights are engaged and if so, if the interference complained of is justified and proportionate.

In Patrick's case, appointing the administrator engaged Patrick's human rights. The Tribunal could only act compatibly with those rights if appointing an administrator with the power to sell his house was a necessary and proportionate response to Patrick's medical and social needs. The selling of Patrick's house was found not to be a proportionate response.

***MyEnvironment Inc v VicForests* [2012] VSC 91**

This logging and environment case concerned the logging of three timber coupes in the central highlands of Victoria.

MyEnvironment sought to permanently restrain the logging on the basis that it was unlawful and breached specific conservation conditions relating to the Leadbeater's Possum habitat under the Timber Release Plan. It also alleged that logging on the coupes would breach the precautionary principle unless certain further management procedures were carried out.

The main issues in dispute centred on the relevant legal obligations of VicForests in relation to the applicable Forest Management Plan, and whether by reason of the precautionary principle, VicForests was prohibited from harvesting specified parts of the coupes due to the threat of serious environmental damage posed by such operations.

The Honourable Justice Osborn found that the precautionary principle case failed as MyEnvironment had not established that the limited logging proposed constituted a threat of serious or irreversible damage to the environment. His Honour also found that the adaptive measures which MyEnvironment contended for were not sufficiently proportionate to any threat which might be hypothesised to result.

***Brakoulias v Karunaharan* [2012] VSC 272**

The *Wrongs Act 1958* (Vic) amendments to the law of negligence enacted in December 2003 have received very little judicial attention in this State.

This medical negligence claim involved the proper construction of s. 59 of the *Wrongs Act* and the application of the peer professional opinion provisions. The decision has broad application for professionals, not just medical practitioners.

Ms Brakoulias, a 50 year old woman, suffered a cardiac arrest and other serious, long-term injuries four months after being placed on Reductil by her doctor, the defendant. Ms Brakoulias alleged that the defendant was negligent in prescribing her Reductil, claiming the drug caused her cardiac arrest and subsequent injuries.

The Honourable Justice Macaulay concluded that there were three possible approaches to s. 59 of the *Wrongs Act* – the exclusive standard approach, the evidentiary burden approach and the defence approach – the last of which he adopted.

His Honour held that a plaintiff bears the legal burden of proving negligence according to the common law standard of care currently expressed in *Rogers v Whitaker* [1992] HCA 58; (1992) 175 CLR 479. If that burden is discharged, a defendant is to be found negligent unless the defendant establishes that he or she acted in a manner that accorded with peer professional opinion, provided that opinion is not unreasonable. If that is established, the defendant will not be found negligent.

**Taha v Broadmeadows Magistrates' Court & Ors;
Brookes v Magistrates' Court of Victoria & Anor
[2011] VSC 642**

This was a case concerning the power of the Magistrates' Court of Victoria to make imprisonment orders for failure to pay infringement notices under the *Infringements Act 2006* (Vic).

Taha and Brookes had each been convicted of a large number of infringement offences. They were placed on instalment plans for the payment of outstanding fines, and an order was made that if they failed to pay any instalment, they would be imprisoned.

Taha suffered from an intellectual disability and Brookes suffered from a mental illness. Under the *Infringements Act* each of them would have been eligible to have their fines waived or reduced, a lesser term of imprisonment imposed, and/or measures other than imprisonment ordered. However, the Magistrate exercising powers under the *Infringements Act* did not consider their eligibility for such orders or measures. Taha and Brookes both sought judicial review of the Magistrate's orders in the Court.

The Honourable Justice Emerton ultimately concluded that the Victorian *Charter of Human Rights and Responsibilities Act 2006*, in combination with other principles of interpretation, required the relevant section of the *Infringements Act* be construed so as to ensure that Taha's disability and Brookes' illness was considered by the Magistrate before the imprisonment orders were made.

Trkulja v Yahoo! Inc LLC & Anor [2012] VSC 88

This was the first Australian case where an internet provider was sued for defamation on the basis that it published defamatory material.

The plaintiff claimed damages for defamation in respect of an article published about him by the defendants through Yahoo! 7 on a website entitled 'Melbourne Crime'. The page was stored on the Yahoo server. A jury determined that the article published was defamatory of the plaintiff.

The plaintiff sought aggravated damages on the basis that the defendants disclaimed responsibility for publication of

the article, and refused to remove the image of the plaintiff and the article from their service, which caused him feelings of distress. The Honourable Justice Kaye concluded that the plaintiff was entitled to an award of damages in respect of the defamatory matter published but that the defendants' failure to remove or block from view the offending article did not justify the award of aggravated damages. The circumstances did not amount to a lack of bona fides or improper or unjustifiable conduct on behalf of the defendants, which are relevant in determining the nature and extent of the harm occasioned to the plaintiff's reputation and feelings.

Rowe v Grünenthal GmbH & Ors [2011] VSC 657

Ms Rowe was born without arms and legs. She alleged that this congenital malformation was caused by her mother's consumption of the morning sickness drug, thalidomide while she was pregnant. Ms Rowe commenced this proceeding on behalf of herself and others (a group proceeding or class action) who suffered from similar congenital malformation and whose mothers consumed or were administered thalidomide in Australia while pregnant. The proceeding was brought against three defendants who were variously incorporated in Germany, the United Kingdom and Scotland.

The first defendant, a German company named Grünenthal, sought a stay of the proceeding under rr 8.08(3) and/or 8.09(c) and/or 7.05(2)(b) of the *Supreme Court (General Civil Procedure) Rules 2005*, or alternatively, pursuant to the inherent powers of the Court on the grounds that the Court is not a convenient forum for the trial.

In dismissing the application, the Honourable Justice Beach examined the relevant connecting factors in relation to the proceeding and each of the considerations which Grünenthal asserted constituted vexation, oppression and an abuse of process. His Honour concluded that it could not be said that Victoria is a clearly inappropriate forum or that the proceeding should be stayed. Grünenthal's application for a stay was therefore dismissed.

The Court of Appeal

The President:

Justice Maxwell

Judges who served in the Court of Appeal:

Justice Buchanan

Justice Nettle

Justice Ashley (until 2 February 2012)

Justice Neave

Justice Redlich

Justice Weinberg

Justice Mandie

Justice Bongiorno

Justice Harper

Justice Hansen

Justice Tate

Justice Osborn (from 9 February 2012)

Overview of the Division

The Court of Appeal comprises the Chief Justice, the President and the judges of appeal.

The Court of Appeal hears appeals from the Supreme and County Courts. It also hears some appeals from proceedings which have come before VCAT and other tribunals. The right to appeal is not automatic. In some instances, leave to appeal is required to appeal a decision of a judge from an interlocutory application, a decision of the President or the Vice President of VCAT, a decision in the matter appealed to the Supreme Court Trial Division from a member at VCAT or from a Magistrate's decision.

Applications for leave of appeal against conviction and/or sentence where the sentence was imposed prior to 1 January 2010 are governed by relevant provisions in the *Crimes Act 1958*. Applications for leave against conviction and/or sentence where the sentence was imposed on or after 1 January 2010 are governed by the relevant provisions of the *Criminal Procedure Act 2009*.

Caseload

Criminal Appeals

Pending criminal appeals have reduced by 47% in 2011-12. The Ashley-Venne Reforms designed to expedite the hearing of criminal appeals through closer management of appeals have so far been very successful. At the conclusion of the financial year the number of pending criminal appeals was 214, down from 404 at the start of the financial year. There was a 17% decline in initiations this year, which may be the result of the more stringent requirements that the reforms have introduced. This was a contributing factor to the overall reduction in pending cases. Finalisations declined by 16% in 2011-12, although it should be noted that this follows an extraordinarily high figure of 623 for 2010-11, which was the result of intensified listings as discussed below. The 2011-12 figure of 524 is still very high when compared to previous years and much higher than the number of initiations for the year (329).

The reduction in pending cases also resulted in the reduction of the Court's median time to finalise cases in 2011-12 from 12.5 to 10.7 months. This is a positive step and reflects the fact that the Court has made substantial inroads into the backlog of criminal appeals and the reforms may allow this trend to continue.

During the year Practice Direction No 2 of 2011, which underpins the Ashley-Venne Reforms, was reviewed in consultation with agencies and professional bodies. The Practice Direction was revised and reissued in July 2012. During the year the Court held regular meetings of the Reference Group - the relevant agencies and professional bodies involved in criminal appeals. In addition the Judicial Registrar issued regular newsletters to outline progress under the reforms and the current issues and developments.

Civil Appeals

This year has been extremely busy for the Court of Appeal with respect to civil appeals and applications. The number of appeals filed rose by 29% in 2011-12, but the Court also finalised 30% more cases than last year. This allowed it to keep the number of pending civil appeals at almost the same level, with only a 4% increase. The Court also reduced the median time to finalise civil cases in 2011-12 from 9.7 to 8.5 months.



With the success of the Ashley-Venne Reforms, the Court has begun to look at ways to implement similar improvements to reduce the civil appeal caseload and to reduce the disposition time on appeal. Some steps have been taken already (such as the allocation of one Registry lawyer to review civil appeals on a full-time basis), and further reforms are currently being planned for the next financial year.

Criminal Applications for Leave to Appeal and Appeals

	2010-11	2011-12	Difference	Variance
Initiations	397	329	-68	-17%
Finalised	623	524	-99	-16%
Pending	404	214	-190	-47%

Median Time from Initiation to Finalisation in Months

	2010-11	2011-12
Appeals against conviction*	19.4	15.2
Appeals against sentence	12.2	10.0
Time to finalisation (all Criminal)	12.5	10.7

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

Civil Applications for Leave to Appeal and Appeal

	2010-11	2011-12	Difference	Variance
Filed	184	238	54	29%
Finalised	174	226	52	30%
Pending	195	202	7	4%

Median Time from Initiation to Finalisation in Months

	2010-11	2011-12
Civil appeals	9.7	8.5

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

	2010-11	2011-12	Difference	Variance
Filed	581	567	-14	-2%
Finalised	797	750	-47	-6%
Pending	599	416	-183	-31%

Circuit Court Sittings

The Court of Appeal undertook two circuits in 2011-12. The first was in Bendigo on 19-21 September 2011, and the second was in Geelong on 29-31 May 2012.

Sitting on circuit presents an important opportunity for regional Victorians to observe the Court of Appeal. At least three circuits are planned for the coming year. This number may increase depending upon need, as the Registry has begun to closely track the regional origins of appeals and intends to list hearings of those cases, where possible and appropriate at the relevant regional court. Engagement with local legal communities is important and in the interest of greater efficiency the Court will focus on having more, but shorter, circuits. The Court will, however, continue to provide regional educational institutions with an opportunity to observe the Court and meet with one or more of the judges of appeal to discuss its important work.

Looking Forward

In respect of criminal appeals, if the number of pending appeals remains at the current level it is expected that all appeals against sentence will be able to be heard within 6-8 months of initiation and all conviction appeals heard within 8-10 months of initiation.

In respect of civil appeals, as noted above, reforms are being considered to expedite the hearing of civil appeals.

Finally, the Court of Appeal wishes to thank the judges of the Trial Division for their support in acting as judges of appeal.

The Trial Division – Commercial and Equity

Principal Judge in Charge:

Justice Habersberger

Judges and Associate Judges who served in the Commercial and Equity Division:

Justice Habersberger
 Justice Whelan
 Justice Hollingworth
 Justice Hargrave
 Justice Pagone
 Justice Robson
 Justice Judd
 Justice Vickery
 Justice Davies
 Justice Croft
 Justice Ferguson
 Justice Sifris
 Justice Almond
 Associate Justice Mahony
 Associate Justice Efthim
 Associate Justice Wood
 Associate Justice Lansdowne
 Associate Justice Daly
 Associate Justice Gardiner
 Associate Justice Mukhtar
 Associate Justice Zammit
 Associate Justice Randall

Overview of the Division

The Commercial and Equity Division focuses on the management and disposition of litigation arising out of trade and commerce, or litigation that predominantly involves application of equitable principles. The division incorporates several specialist lists, many of which are managed within the Commercial Court, as well as a General Division.

The objective of the division's lists is to 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 initiated in

the division's lists benefit from the efficiencies generated from the involvement of a single judge throughout the case. More significantly, the specialist lists provide a focal point for the development and innovative use of pre-trial and trial procedures in cases involving particular issues or subject matter. This results in further accumulation of judicial knowledge and expertise in the management of these types of matters over time. In this way, the division's lists support and facilitate efficient and just commercial activity in Victoria.

Corporations matters, arbitration matters, and Victorian taxation appeal matters are all automatically entered in the relevant lists. Where a case is not automatically entered in a list by virtue of its subject matter, it is for the practitioner to determine whether the case is of a type that would benefit from list management.

The Year in Review

During the year, judges allocated to the Commercial and Equity Division on occasion heard cases from the other divisions. In addition, cases within the jurisdiction of the Commercial and Equity Division were on occasion heard by judges from the 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.

In addition to existing lists, the division introduced the Probate List on 1 July 2011. By establishing the Probate List, where probate matters will be allocated to a specialist judge at first instance, the division aims to reduce cost and delay and to provide for consistent practices in this area.

At the conclusion of the reporting period, 33% of the cases within the division were located in specialist lists.

Commercial and Equity Division – Cases in Specialist Lists

	2010-11	2011-12
Matters in the division at 30 June	3,670	2,878
Matters in the specialist lists at 30 June	987	945
Proportion of matters in specialist lists	27%	33%

The principal judge maintains responsibility for ensuring the division's resources are deployed as efficiently and effectively as possible. Monthly meetings of judicial staff were held to ensure communication on issues affecting the resourcing of the division is maintained. These meetings 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 also 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, TEC 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 provide their views to the judiciary on important practical issues affecting the efficiency and effectiveness of litigation in the Court.

Caseload

All Cases

	2010-11	2011-12	Difference	Variance
Initiations	5,180	5,702	522	10%
Finalisations	5,430	6,494	1,064	20%
Pending	3,670	2,878	-792	-22%

The overall figures show that there have been significant increases in the number of initiations and finalisations in the division over the year in comparison to the last reporting period. More significantly, notwithstanding an increase in the number of initiations compared to the last reporting period, there were still more finalisations than initiations in this reporting period, which led to a substantial reduction in the pending caseload.

While considering the overall figures, it is important to bear in mind that the division deals with cases that vary vastly in their levels of complexity. For example, the disposition of an undefended matter may proceed administratively without judicial involvement. At another extreme, the disposition of a contested matter may entail many days of hearings, multiple interlocutory judgments, and a lengthy final judgment. The figures do not differentiate between cases requiring these differing levels of resources.

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.

Specialist Lists

The Commercial Court

Judge in Charge:

Justice Pagone (until 4 April 2012)

Justice Judd (from 11 April 2012)

The Commercial Court entered its fourth year of operation during the reporting period. It is a specialist institution within the Commercial and Equity Division comprising the five Commercial Lists (Lists A-E), the Corporations List, the Victorian Taxation Appeals List, the Arbitration List and the Admiralty List.

Any commercial proceeding or corporations case may be entered into the Commercial Court unless it is a proceeding that is more suitable for management in another specialist list. Commercial litigants in commercial disputes have the option of proceeding in the Commercial Court, giving them judicial management of their dispute before trial and generally certainty of hearing date.

Commercial Court cases are managed by the judge in whose list the proceeding is entered and who will usually also conduct the trial.

In the Commercial Court, six judges (Justices Pagone, Judd, Davies, Croft, Ferguson, Sifris and Almond) have allocated cases, and three associate justices (Associate Justices Efthim, Daly and Gardiner) assist with interlocutory and other proceedings.

The management and disposition of cases in the Commercial Court 2011-12 continued the strong pattern since the Court's establishment. There were 1,422 cases commenced in the year and 1,362 cases were finalised. Of those, 1,163 were commenced in the Corporations List and 1,085 were finalised in that List. During the year, 259 commercial disputes were commenced in the Commercial Court and during the year 277 were finalised. With 172 cases finalised in the 2010-11 year, a 61% year-on-year increase in finalisations was recorded. This follows a 42% increase reported in the previous period.

Commercial Court – All

	2010-11	2011-12	Difference	Variance
Initiations	1,280	1,422	142	11%
Finalisations	1,350	1,362	12	1%
In list 30 June	522	582	60	11%

Corporations List

	2010-11	2011-12	Difference	Variance
Initiations	1,123	1,163	40	4%
Finalisations	1,178	1,085	-93	-8%
In list 30 June	293	371	78	27%

Commercial Court – Excluding Corporations

	2010-11	2011-12	Difference	Variance
Initiations	157	259	102	65%
Finalisations	172	277	105	61%
In list 30 June	229	211	-18	-8%

The Commercial Court has become a focal point for innovative commercial dispute resolution and litigation in the Court since its establishment over three years ago.

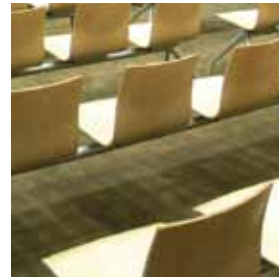
Revision of the Green Book

The objective of the Commercial Court is to provide flexible procedures for the just and efficient disposal of commercial disputes. This objective is facilitated by the Commercial Court Practice Note (Practice Note No. 10 of 2011) (the *Green Book*), which provides a guide for litigation and other dispute resolution processes applied by the Court. Announcing a significant and extensive revision of the *Green Book* in 2012, the Chief Justice said:

“The Green Book is a product of the ongoing experience of the judiciary and the profession and is not a static document. In 2012, following a thorough review conducted in the latter part of 2011, various amendments will take effect. These amendments, discussed and debated at Commercial Court Users Group meetings, are a direct product of the cumulative experience of practitioners and the specialist Commercial Court judges. The changes reflect a consensus on what works in practice, and at the same time, scope for flexibility, innovation, and initiative is retained.”

Significant aspects of the revision include:

- emphasising that the ongoing objective of the Commercial Court, the court objective, is an application of the overarching purpose provisions of the *Civil Procedure Act 2010*, in the context of commercial litigation
- reaffirming the importance of flexible, but appropriately intensive, case management by the list judge. This may include convening case management conferences where appropriate.
- expanding the role of non-adjudicative dispute resolution processes. These may be adopted by the parties or imposed by the Court.
- reaffirming the importance of concise pleadings focussing on real issues in dispute, together with constrained and focussed discovery by reference to the real issues
- clarification of the basis upon which court books may be ordered and the means by which the documentary evidence may be brought before the Court in a fair, efficient and cost-effective manner
- reversing the usual position with respect to the use of witness statements and witness outlines. Experience has



shown that witness statements are often time consuming and expensive to produce and may, in some cases lengthen, rather than reduce, trial time. Parties are now required to persuade the Court that witness statements are appropriate.

- encouraging the assessment of expert evidence through expert conclave or “hot tub” procedures whereby experts give their evidence concurrently, it is designed to streamline evidence procedures and reduce costs.

Continuing Education and Consultation

The activities of the Commercial Court have also included continuing legal education, consultation with the profession, and education of court staff. The responsibility in undertaking and managing these activities has been spread and shared amongst the judges in the Commercial Court.

The Court has offered an annual Commercial Law Conference at the Court in partnership with the Centre for Corporate Law and Securities Regulation at the University of Melbourne Law School. Justice Davies continued to co-ordinate a series of seminars offered jointly with Monash University with the assistance of the Victorian Bar and the Law Institute of Victoria. Justice Judd continued to chair the Commercial Court Users’ Group, a forum in which the professional users of the Commercial Court meet with the judges to discuss matters of interest and consider improvements to procedures and practices.

Case Management

Case management by judges and associate judges continues to impose additional demands upon Court resources. One continuing challenge for courts is the need to balance administrative efficiency with judicial impartiality and integrity. Associates have increasingly had to manage those burdens in their dealings with senior and experienced practitioners and, at times, litigants representing themselves. Internal education sessions for associates (which began in the last reporting period) continued to be held in this reporting period. The aim of the sessions is to encourage impartiality and consistency of approach throughout the Commercial Court. The sessions were coordinated by Justice Ferguson.

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

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

Corporations List

Judge in Charge:

Justice Ferguson

The Corporations List comprises matters initiated under the *Corporations Act 2001* (Cth) or the *Australian Securities and Investments Commission Act 2001* (Cth) in accordance with Chapter V of the Supreme Court Rules. The list administers a large caseload.

Due to the large caseload, several judges in the division, in addition to the Judge in Charge, heard cases in the list during the year, including Justices Robson, Davies and Sifris. Disposition of a significant number of cases within the list was also undertaken by Associate Justices Efthim and Gardiner.

A large number of cases involving corporate reconstructions were determined, including the scheme of arrangement for Fosters Group Ltd. A substantial amount of litigation arising out of failed managed investment schemes continued to be heard in the reporting period. *Woodcroft- Brown v Timbercorp Securities Ltd (in liq)* [2011] 85 ACSR 354 was a significant judgment in this regard.

During the reporting period, 1,163 matters were initiated in the list, and 1,085 were finalised.

Corporations List

	2010-11	2011-12	Difference	Variance
Initiations	1,123	1,163	40	4%
Finalisations	1,178	1,085	-93	-8%
In list at 30 June	293	371	78	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 initiated in the Court, and appeals from VCAT.

Victorian Taxation Appeals List

	2010-11	2011-12
Initiations	24	7
Finalisations	6	29
In list at 30 June	25	13

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 services of this list are available 24 hours a day, seven days a week. It further provides a focus for enquiries with respect to arbitration matters, with the associates to the Judge in Charge assisting with many practitioners' enquiries.

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

The purpose of the Arbitration List is to facilitate and support arbitration in Victoria. The facilitative and supportive role of the Court with respect to arbitration and the nature of Court assistance, supervision and enforcement which is available with respect to both domestic and international arbitration is set out in Practice Note No. 2 of 2010 – *Arbitration Business* (published 17 December 2009). The practice note also sets out the procedural requirements for applications for Court assistance, supervision and enforcement for parties and their legal practitioners.

During this financial year, two significant matters were heard and judgments published:

- *Yesodei Hatorah College Inc v Trustees of the Elwood Talmud Torah Congregation* [2011] VSC 622 involved an application for leave to appeal an arbitral award under section 38 of the *1984 Act*, and required an interpretation of section 22(2) of the *1984 Act* which permits parties to mandate an arbitrator to determinate matters in dispute on the basis of "considerations of general justice and fairness". This is a departure from the usual position which requires an arbitrator to apply the law strictly. The judgment in this case is one of the very few instances where a common law court (in any jurisdiction) has considered the nature and operation of a mandate of this kind and has, consequently, attracted attention and consideration internationally.
- *Biosciences Research Centre Pty Ltd v Plenary Research Pty Ltd* [2012] VSC 249 involved consideration, in the context of a stay application under section 53(1) of the *1984 Act*, of the nature and operation of an arbitration agreement in the context of a variety of other agreed dispute resolution mechanisms.

Other matters have been commenced and resolved at interlocutory stages.

Arbitration List

	2010-11	2011-12	Difference	Variance
Initiations	5	10	5	100%
Finalisations	4	8	4	100%
In list at 30 June	2	4	2	100%

Admiralty List

Judge in Charge:

Justice Pagone

The Admiralty List continues to be an important aspect of the Court's jurisdiction to deal with cases brought under the *Admiralty Act 1988* (Cth) or which otherwise concern maritime commercial activities.

The list provides an important jurisdiction with a dedicated judge to deal with all Admiralty cases which may be issued in the Court.

Admiralty List

	2010-11	2011-12
Initiations	0	1
Finalisations	2	1
In list at 30 June	1	1

Technology, Engineering and Construction (TEC) List

Judge in Charge:

Justice Vickery

The TEC List was established in 2009 in response to the rapid expansion of technological developments. It expanded the reach of the former Building Cases List, the first specialist list that was introduced into the Court in 1972. In 2011, the TEC List continued its expansion by incorporating the Intellectual Property List.

Since its introduction, the TEC List has explored and applied innovative procedures to achieve cost savings, procedural efficiencies and just outcomes. In the past year, the TEC List focused on improving document management processes designed to manage the massive volumes of documents generated on engineering and construction projects through computer use. Conducting litigation in this area can give rise to inordinate costs for litigants in undertaking discovery.

Since the introduction of RedCrest over 200 practitioners have registered to use the system, with four trials having been conducted to completion. User feedback has been extremely positive. The most notable trial managed on the system from start to finish was *Skilled Group Limited v CSR Veridian Ltd & Ors*. The case involved a dispute over the existence of a construction contract in a multimillion-dollar upgrade of a float glass manufacturing plant in Dandenong, Victoria. The use of RedCrest was particularly valuable for a party represented by interstate counsel. RedCrest afforded the ability to access and work from the court file from any place where the internet is available – whether in local or interstate chambers or elsewhere – and at any time of the night or day. The cost and inconvenience of physically transporting large volumes of documents between venues was eliminated. Furthermore, the Court was able to use RedCrest in 'real time' during the trial to efficiently locate and refer to documents, and, following its conclusion, to write the judgment with the assistance of the filed witness statements, transcripts and written submissions.

Since the *Skilled* case, the TEC List has also successfully run a further three trials on RedCrest. These have involved the review of Adjudication Determinations made under the *Building and Construction Industry Security of Payment Act 2002*.

The RedCrest system has generated considerable international interest. During the year RedCrest was viewed by visiting delegations from Qatar, New Zealand and Egypt.

In the last year, the number of cases initiated in the TEC List has remained constant, while the number of cases finalised increased by over 90%.

Matters in the TEC List are notorious for giving rise to highly technical issues and arguments along with the need to manage enormous volumes 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 objective of developing and applying state-of-the-art and highly configurable procedures to each individual case.

Technology, Engineering and Construction List

	2010-11	2011-12	Difference	Variance
Initiations	22	18	-4	-18%
Finalisations	11	21	10	91%
In list at 30 June	32	29	-3	-9%

Probate List

Judge in Charge:

Justice Habersberger

The Probate List, established on 1 July 2011, aims to reduce cost and delay and to provide consistent practices in probate matters.

In its first year of operation, the list has been well received by the profession. It has also been busier than expected. The aims of the list have generally been met by an emphasis on the early identification of the real issues in dispute and greater judicial control of each proceeding from its inception.

The chambers of the Judge in Charge work closely with the Registrar of Probates to ensure that probate matters are managed expeditiously and with greater consistency.

The matters that are commonly heard in this list include:

- matters where a caveat has been lodged against the making of a grant
- urgent applications for limited grants to preserve the deceased estate where there is a delay in obtaining a full grant
- applications for an informal will to be admitted to probate because the document, although intended by the testator to be his will, was not executed in the manner required by legislation
- applications for revocation of a grant of representation (for example, revocation of a grant of letters of administration because a will of the deceased was later found)
- rectification of wills due to a clerical error or a failure to give effect to the testator's instructions in preparing the will before it was executed
- removal or discharge of an appointed executor or administrator who, for various reasons (for example, ill health), could no longer carry out his or her duties in administering the estate of the deceased
- 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 lacked testamentary capacity
- 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 nearly as possible to the original charitable purpose because the original charitable purpose could no longer be carried out in the manner provided for by the will.

Probate List

	2011-12
Initiations	202
Finalisations	182
In list at 30 June	94

The Trial Division – Common Law

Principal Judge in Charge:

Justice Williams (from 23 February 2012)

Justice Osborn (until 9 February 2012)

Judges and Associate Judges who served in the Common Law Division:

Justice Osborn (until 9 February 2012)

Justice Williams

Justice Kaye

Justice Bell

Justice Cavanough

Justice Robson

Justice J Forrest

Justice Vickery

Justice Kyrou

Justice Beach

Justice T Forrest

Justice Emerton

Justice Ross (until 1 March 2012)

Justice Dixon

Justice Macaulay

Justice McMillan (from 6 March 2012)

Justice Garde (from 30 May 2012)

Associate Justice Lansdowne

Associate Justice Daly

Associate Justice Zammit

Note: Justice Osborn was appointed to the Court of Appeal on 9 February 2012.

Our Division

The Common Law Division's work covers two principal areas. Firstly, it exercises the Court's supervisory jurisdiction over other courts, tribunals, public officials and instruments of government. In association with this role it also deals with appeals on questions of law from Magistrates' Courts and VCAT. Secondly, it exercises the Court's jurisdiction in tort and contract claims (including claims for damages for personal injury, professional negligence, defamation, nuisance, breach of contract and misleading and deceptive conduct). In addition, contempt of court matters are usually dealt with by the Common Law Division.

The Year in Review

In a busy and challenging year, the division continued to meet its caseload and operate with efficiency. The work in most specialist lists continued to grow and the division welcomed the appointment of two new judges; Justices McMillan and Garde. The division has flourished over recent years under the leadership of Justice Osborn, who was appointed to the Court of Appeal on 9 February 2012.

Class actions arising out of the 2009 Black Saturday bushfires were managed and heard by a number of the division's judges. The first trial arising out of the Horsham fire was settled in the fifth week during the course of a concurrent expert evidence session. The settlement scheme, which involved 218 group members, was subsequently approved by Justice Beach. Resolution of those claims is proceeding in accordance with the settlement protocol. A ruling on the assessment of damages was given in the Trial Division and affirmed by the Court of Appeal. The claim for property damage and economic loss of the Horsham Golf Club will be determined in 2012-13.

The class action arising out of the Beechworth fire was due to commence at Wodonga in February of this year before Justice Dixon. It was also settled and the settlement approved by Justice Emerton. A total of 384 group members have registered to take part in the settlement process.

The class action arising out of the Coleraine fire was settled prior to the trial commencing at Hamilton. That settlement was approved by Justice Beach, with 31 group members registered to have their claims assessed.

Caseload

In 2011-12, a total of 1,695 actions were initiated in the division. The number of finalisations increased from 1,549 in 2010-11, to 1,891 in 2011-12.

The division's work has been undertaken with the significant support of the associate judges – not only those allocated to the division, but also others who have assisted in progressing and resolving the division's work, including Associate Justices Wood, Efthim and Mukhtar.

Significant contributions were also made by judges of other divisions, including Justices Nettle, Habersberger, Hargrave, Pagone, Robson, Vickery and Croft.

Cases Initiated and Finalised in the Common Law Division

	2010-11	2011-12	Variance
Initiations	1,651	1,695	3%
Finalisations	1,549	1,891	22%
Pending	1,743	1,547	-11%

Judicial Review and Appeals List

Judges in Charge:

Justice Cavanough
Justice Kyrou

Associate Judges in Charge:

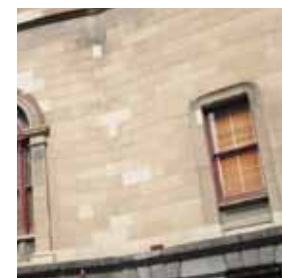
Associate Justice Lansdowne
Associate Justice Daly

The Judicial Review and Appeals List operates in accordance with Practice Note No. 4 of 2009. The practice note 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* (Vic)
- appeals from a final order of the Magistrates' Court on a question of law pursuant to s. 109 of the *Magistrates' Court Act 1989* (civil proceedings) or pursuant to s. 272 of the *Criminal Procedure Act 2009* (criminal proceedings)
- applications for leave to appeal, and appeals, from an order of VCAT on a question of law pursuant to s. 148 of the *Victorian Civil and Administrative Tribunal Act 1998*
- references of questions of law under s. 33 of the *Charter of Human Rights and Responsibilities Act 2006*.

Between 1 July 2011 and 30 June 2012, 176 matters were entered in the list.



List matters are managed in the first instance by the associate judges in charge. The associate judges in charge hear and determine applications for leave, applications for orders nisi for review, applications for summary dismissal and stays, and settling questions of law and grounds of appeal. Further, they fix timetables and otherwise control the progress of matters to ensure that they proceed quickly and efficiently.

Depending upon the circumstances of the case and the availability of counsel, the objective is to list the majority of matters for hearing within three to four months of the first directions day.

During the year, many cases of public importance were decided. *Planet Platinum Ltd v Hodgkin* [2011] VSC 330 considered the meaning of 'the amenity of the area in which the licensed premises are situated' under the *Liquor Control Reform Act 1998*. It was concluded that the expression does not include the area within the licensed premises itself. In order for activities to detrimentally affect the amenity of the area, they must have a sensory impact on persons in the area outside the licensed premises.

Johnson v Director of Consumer Affairs [2011] VSC 595 was an appeal from VCAT and concerned cancellation of a real estate agent's licence. The case discussed when and how an officer of the Tribunal should give evidence in an appeal to the Court from a decision of the Tribunal. It also considered the presumption of regularity.

DPP v Leach [2012] VSC 96 concerned whether costs may be awarded against the Director of Public Prosecutions where a criminal proceeding had been discontinued.

Patrick Stevedoring Pty Ltd v Chasser (Victorian WorkCover Authority) [2011] VSC 597 was an appeal from the first successful prosecution on the new offence of discrimination against an employee because the employee raised a concern about health or safety. It dealt with the question of whether, and to what extent, a ground of appeal that a sentence was manifestly excessive could be examined by a court sitting on an appeal on questions of law.

Cases Initiated and Finalised in the Judicial Review and Appeals List

	2010-11	2011-12	Variance
Initiations	146	176	21%
Finalisations	124	185	49%
Pending	136	127	-7%

Personal Injuries List

Judges in Charge:

Justice Williams
Justice Kaye
Justice J Forrest
Justice Beach

Associate Judge in Charge:

Associate Justice Zammit

The Personal Injuries List was established with effect from 1 January 2009. Proceedings in the list include:

- personal injury claims in which a Serious Injury Certificate has been granted under the *Transport Accident Act 1986* (TAA) by the Transport Accident Commission (TAC)
- personal injury claims in which a Serious Injury Certificate has been granted under the *Accident Compensation Act 1985* (ACA) by the Victorian WorkCover Authority (VWA)

- personal injury claims in which a court has given leave to commence proceedings under the TAA or the ACA
- proceedings brought by the TAC under s. 104 of the TAA
- proceedings brought by VWA under s. 138 of the ACA
- proceedings in which plaintiffs allege they are suffering from a terminal disease
- personal injury claims arising out of medical negligence
- personal injury claims related to asbestos exposure.

The list is largely managed by the Associate Judge in Charge. A complete interlocutory timetable including trial dates is allocated at the first directions hearing. Experience shows that the provision of trial dates at the first directions hearing encourages early appropriate dispute resolution.

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 have a dedicated time allocated each week for the management of these cases. Pre-trial conferences in asbestos cases are conducted by senior court registry staff. Claims are expedited, with the average time from issue to trial being three months.

As was foreshadowed in last year's report, a limiting feature from time to time has been the Court's inability to provide sufficient jury courts to deal with all cases as expeditiously and efficiently as the parties are entitled to expect. The Court acknowledges the assistance of the County Court in making available courtrooms at short notice.

Cases Initiated and Finalised in the Personal Injuries List

	2010-11	2011-12	Variance
Initiations	374	450	20%
Finalisations	324	391	21%
Pending	414	473	14%

Valuation, Compensation and Planning List

Judge in Charge:

Justice Emerton

Associate Judge in Charge:

Associate Justice Daly

The Valuation, Compensation and Planning List is a managed list for 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.

The judge in charge conducts directions hearings once a month. Typically, these hearings involve giving general directions, fixing a time for the filing of documents, and the hearing of applications for leave to appeal.

Regular communication between the Court and practitioners has been essential to the smooth and efficient conduct of the list's monthly directions days, and the timely resolution of disputes, with several cases settling before trial.

In the past 12 months, judges have heard several cases of public importance. In *Obeid v Victorian Urban Development Authority* [2012] VSC 251 a retail shop tenant claimed that he had been divested of his leasehold interest when the Victorian Urban Development Authority compulsorily acquired the land. Justice Cavanough found that the tenant had been divested of his interest, and that he was entitled to bring a claim in the Court or VCAT for compensation.

In *APN Outdoor (Trading) Pty Ltd v Melbourne City Council* [2012] VSC 8, Justice Cavanough had to determine whether the display of a sign, in this case a billboard, necessarily constitutes development of land and not use of land; and therefore does not attract the protection of existing use rights granted by the *Planning and Environment Act 1987* and the Melbourne Planning Scheme. Ultimately, his Honour found that ongoing display of a sign can be 'use' of land.

Cases Initiated and Finalised in the Valuation, Compensation and Planning List

	2010-11	2011-12	Variance
Initiations	39	23	-41%
Finalisations	31	31	0%
Pending	46	38	-17%

Major Torts List

Judge in Charge:

Justice Beach

Associate Judge in Charge:

Associate Justice Zammit

The Major Torts List deals with a large variety of claims. These claims include:

- medical negligence claims
- claims in negligence against valuers
- some claims involving allegations of negligence against legal practitioners
- occupier's liability claims
- claims for damages arising out of motor vehicle accidents
- claims for damages arising out of industrial accidents
- claims brought by plaintiffs for damages for sexual and other abuse suffered when they were children
- claims by former wards of the State
- defamation claims.

In addition, class actions for defective products – soy milk, abalone and thalidomide – are currently being managed in the list.

The list is designed to facilitate and expedite the passage of tortious claims to trial. Accordingly, the Court has attempted to be responsive to legitimate requirements of the profession. As a result, procedures have, from time to time, been modified to meet the particular exigencies of different classes of cases. On occasion, meetings were held with members of the profession about particular issues in relation to certain types of cases.

The number of defamation proceedings commenced in the list has continued to grow. By their nature, those proceedings commonly involve interlocutory disputes, particularly about pleadings.

The list is used by both metropolitan and country solicitors. In particular, it manages a number of cases which are to be heard in Mildura.

Cases Initiated and Finalised in the Major Torts List

	2010-11	2011-12	Variance
Initiations	87	67	-23%
Finalisations	59	93	88%
Pending	136	110	-19%

Circuit Sittings

Judge in Charge:

Justice J Forrest

Associate Judge in Charge:

Associate Justice Daly

The Court sits at 12 regional centres: Geelong, Bendigo, Ballarat, Sale, Morwell, Wangaratta, Shepparton, Warrnambool, Wodonga, Mildura, Hamilton and Horsham.

The list is managed by the associate judge in charge. Prior to the commencement of a civil sitting, a callover is held by the trial judge appointed for the sitting in Melbourne with a videolink organised to the circuit court.

There were 184 proceedings initiated out of the regional courts in 2011-12. These included class actions arising out of the 2009 Black Saturday bushfires, which were heard in Horsham, Wodonga and Hamilton. Other civil business involved claims arising out of personal injuries or death, and claims arising out of deceased property estate disputes and partnership claims.

Judges and their staff involved in civil sittings in regional courts received a remarkable level of assistance and support from deputy prothonotaries and their staff, ensuring the smooth running of circuits.

The Court's policy is to ensure that the Supreme Court is a Court for all Victorians, regardless of location. This remains a guiding principle in the management and conduct of circuit business.

Circuit Court Cases Commenced

	2010-11	2011-12	Difference	Variance
Ballarat	22	14	-8	-36%
Bendigo	28	37	9	32%
Geelong	19	16	-3	-16%
Hamilton	0	0	0	0%
Horsham	0	0	0	0%
Mildura	25	31	6	24%
Morwell	14	16	2	14%
Sale	1	0	-1	-100%
Shepparton	5	3	-2	-40%
Wangaratta	49	27	-22	-45%
Warrnambool	15	19	4	27%
Wodonga	13	21	8	62%
Total	191	184	-7	-4%

Looking Forward

The remaining two class actions arising out of the 2009 Black Saturday bushfires will be heard in the latter half of 2012 and 2013. The claim arising out of the Pomborneit fire will start at Warrnambool on 2 September 2012 and the trial of the Kilmore East/Kinglake fire in January 2013. The challenge for the Kilmore East matter is finding a court to accommodate one of the largest common law trials in this State's history. It is estimated that this trial will take up to six months if it proceeds to judgment.

Three of the bushfire cases have been managed using the RedCrest Electronic Case Management System. To date, it has proved highly effective and has been welcomed by the practitioners.

The division continued to manage large numbers of asbestos disease claims which continue to pose challenges in ensuring a fair trial as soon as practicable.

The Trial Division – Crime

Principal Judge of the Division

Justice Coghlan

Judges who served in the Criminal Division during the year:

Justice Weinberg
Justice Bongiorno
Justice Osborn
Justice Williams
Justice Kaye
Justice Whelan
Justice Hollingworth
Justice King
Justice Curtain
Justice Lasry
Justice Kyrou
Justice Beach
Justice T Forrest
Justice Almond
Justice Macaulay

Overview of the Division

During the 2011-12 reporting period the Court continued to hear matters beyond its exclusive homicide jurisdiction, including fraud, complex drug trafficking and arson related offences.

The Criminal Division recognises the importance of matters being heard in the regional courts of origin and for matters not to be transferred to Melbourne except in cases of legal necessity. During this reporting period the division sat in Ballarat, Bendigo, Geelong, Mildura, Latrobe Valley, Shepparton, Wodonga and Wangaratta, providing these regional communities with an important opportunity to witness the criminal justice system in process.

Post committal directions hearings held within 14 days of a person being committed to trial in the Court continue to play an important part in the judicial management of cases. They facilitate the early identification of issues in a trial; those cases

that require intensive case management; and whether a case is resolvable.

The division's workload is not confined to trials. Judges of the division continue to hear applications under the *Bail Act 1977* (Vic), *Surveillance Devices Act 1999* (Vic) and the *Major Crime (Investigative Powers) Act 2004* (Vic) amongst others. The division is also responsible for applications made under the *Serious Sex Offenders (Detention and Supervision) Act 2009* (Vic) and applications made pursuant to the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* (Vic) despite the fact that such applications are received by the Court in its Common Law Division capacity.

As was reported last year, there continues to be a significant level of co-operation with the Common Law Division with Criminal Division judges hearing criminal related judicial review matters where possible, and in turn receiving assistance from judges sitting in the Common Law Division. Judges from the division have also continued to assist in the Court of Appeal.

Significant Events

In November 2011 the Court of Appeal handed down *DPP v Marijancevic & Ors* [2011] VSCA 355 a case relating to the validity of warrants not properly sworn by Victorian police officers and the subsequent admissibility of evidence. The repercussions of the issues that arose from this decision were felt widely throughout the criminal justice system, including the management of listings in the division in the last term of 2011 and first term of 2012. Some cases were adjourned and preliminary argument was required on the validity of search warrants in a number of cases.

Workload

As at 30 June 2012 there were 42 cases in the criminal list (this list includes cases that are both part heard and pending), this is significantly less than at 30 June 2011 when there were 65 matters. Accordingly, the division is in a position where there is no delay in listing cases other than what is required for preparation for trial. What is an appropriate delay for

trial varies and the Court has flexibility within its listings to accommodate any delay that is necessary for trial preparation. Similarly, plea hearings can be accommodated quickly.

During this reporting period the division heard to completion 54 trials involving 65 persons and 48 plea hearings involving 60 persons. Overall this equates to 102 matters involving 125 persons being dealt with. This is a similar number of matters finalised as compared to the last reporting period where a total of 103 matters involving 139 persons were dealt with, and is again significantly higher than the number of matters in 2009-10 where 81 matters involving 106 persons were finalised. The number of pleas heard in this reporting period, represents approximately half of the division's trial workload, this is consistent with the last reporting period.

It is important to recognise that statistics, such as numbers of trials and persons dealt with, are not on their own sufficient to accurately understand the workload of the division. Sometimes a case commences as a trial but resolves in a plea after complex and detailed legal argument and ruling. Such a matter would for statistical purposes be recorded as a plea. Similarly the actual complexity of a trial cannot be reflected statistically. Qualitative material that describes the complexity of issues dealt with at trial would assist in providing a more accurate understanding of the trial workload of judges. Published rulings could be one such measure of trial complexity, however, this would also have limitations as not every ruling made throughout a trial is published.

This reporting period saw a significant number of rulings on complex areas of law as well as a number of trials ran over 20 days in length.

In addition, four interlocutory appeals (incorporating applications for leave to appeal an interlocutory decision) and a case stated from the division were made to the Court of Appeal under the *Criminal Procedure Act 2009* (Vic).

Applications Heard by Judges of the Criminal Division

During this reporting period most, if not all, of the 51 applications under the *Bail Act 1977* (Vic) were heard by judges sitting in the division. Whilst Practice Note No. 4 of 2004 provides time frames for the filing of material there are occasions where it is appropriate for applications to be accommodated on the day of issue made without strict adherence to the practice note. The division always attempts to maintain the flexibility in its listings to enable these urgent applications to be heard by judges of the division without referral to the Practice Court, however, the ability to hear these applications is subject to judge availability, and in many instances these urgent same-day applications are heard after-hours within the division.

Judges of the division also regularly hear applications pursuant to Practice Note No. 4 of 2007 which include applications under the *Surveillance Devices Act 1999* (Vic), *Major Crime (Investigative Powers) Act 2004* (Vic) and *Witness Protection Act 1991* (Vic). During this reporting year 99 applications were made under the *Surveillance Devices Act 1999*. Applications made under the *Major Crime (Investigative Powers) Act 2004* and *Witness Protection Act 1991* are incorporated in the 'other criminal applications filed' figure in the adjacent chart, which totalled 343 applications, including applications under the *Confiscation Act 1997* (Vic) and *Proceeds of Crime Act 2002* (Cth).

As with numbers of trials and plea hearings it is inaccurate to attempt to understand the criminal application workload of the division based on statistical information alone. Certain applications, such as those made under the *Major Crime (Investigative Powers) Act 2004* can consist of numerous hearings and can take a considerable amount of judicial time. However, such matters are heard in closed court and are unable to be reported on easily.

Criminal Division Statistics

Trial Division	2007-08	2008-09	2009-10	2010-11	2011-12
Trials (finalised)	56 cases (72 persons)	47 cases (65 persons)	38 cases (43 persons)	46 cases (57 persons)	54 cases (65 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)
Total matters finalised	89 matters (111 persons)	104 matters (154 persons)	81 matters (106 persons)	103 matters (139 persons)	102 matters (125 persons)

Matters Heard Pursuant to the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*

Categories	2009-10	2010-11	2011-12
<i>Crimes (Mental Impairment and Unfitness to be Tried) Act 2007</i> – s.35 -Major Reviews	2	2*	7*
<i>Crimes (Mental Impairment and Unfitness to be Tried) Act 2007</i> – Other types of applications and hearings	12	14	15
Total	14	16	22

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

Criminal Application Statistics

Criminal Applications	2007-08	2008-09	2009-10	2010-11	2011-12
Applications heard under the <i>Bail Act 1977</i>	93	85	90	70	51
Applications heard under the <i>Surveillance Devices Act 1999</i>	100	82	78	67	99
Applications under the <i>Confiscation Act 1997</i> and <i>Proceeds of Crime Act 2002</i> (Cth)	99	89	55*	127*	138
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
Total Applications heard	341	309	289*	316*	343

* There may be issues with the accuracy of these figures due to the implementation of ICMS.



Looking Forward

The 2012-13 reporting period will bring many challenges to the Criminal Division. A raft of new legislation introduced by government over the past year, namely the *Public Interest Monitor Act 2011*, the *Independent Broad-based Anti-corruption Commission Act 2011* and the *Victorian Inspectorate Act 2011* introduce measures which will increase the Court's jurisdiction and workload. These legislative changes, and in particular the introduction of the public interest monitor, will impact significantly on the division's listing practices and courtroom capacity due to the length of time necessary to hear such matters. The public interest monitor will be entitled to appear, and test the content and sufficiency of the information relied on in many of these applications that would ordinarily be heard in Chambers.

In addition, the increasing complexity of confiscation matters has recently led the Court to investigate ways in which confiscation matters can be managed other than through the Practice Court. This may involve a confiscation list structure under the management of the Principal Judge.

Given these legislative and procedural changes the division is currently assessing its current criminal listing practices and looking to develop a listing model under the management of the Principal Judge that will continue to ensure that covert-related hearings and confiscation matters are dealt with expeditiously and efficiently without impacting trial listings.

An important factor to ensure such matters are dealt with appropriately without impacting trials is the need for a courtroom to be available at short notice. The Court is investigating its options in this regard but it is difficult given the problems with a lack of space and criminal courtrooms generally. As was the case last reporting period, judges continue to sit in the County Court building for trials due to courtroom capacity issues and where there are specific security concerns.

As indicated in the last reporting period the Court heard a large number of major reviews under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*. This next reporting period looks to be just as busy with nine matters already listed in a four month period and with more applications expected to be made.

Costs Court

Associate Judges:

Associate Justice Wood
Associate Justice Eftim
Associate Justice Daly

Judicial Registrar:

Judicial Registrar Gourlay

Section 17C of the *Supreme Court Act 1986* established the Costs Court within the Trial Division of the Supreme Court. This financial year is the second complete financial year that the Costs Court has been in operation.

Our Year in Review

The Costs Court has continued to reduce the time between callover and hearing dates, with dates for hearing generally being available within six weeks of callover for matters of one or two days. Where deemed suitable for a Court-annexed mediation conducted by costs registrars or a private mediation, larger matters issued in the Court are referred to mediation. The costs registrars and the prothonotary have conducted mediations referred to them at callover, most of them resulting in a successful resolution.

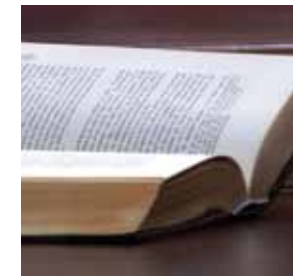
The prothonotary has commenced hearing taxations of party/party costs within the Costs Court, in addition to the costs registrars. The costs registrars hear matters arising from orders made in all jurisdictions without any limitation. Costs Registrar Conidi also hears reviews under the *Legal Profession Act 2004* (Vic).

Caseload

The number of summonses issued in the Costs Court continued to rise this year. The Costs Court increased the listing of matters where the amount in dispute is under \$80,000 directly into 'Small Bills days'. This allowed increased numbers of matters to be listed and heard more quickly. The costs registrars and the prothonotary now assess short bills of up to \$20,000 pursuant to Part 8 of Order 63. This resulted in a shorter period for those matters to be completed, at a greatly decreased cost to the parties.

There has yet to be a noticeable reduction in bills relating to serious injury applications since 28 October 2010 under the *Accident Compensation Act 1985* (Vic). Only one matter was referred to the Victorian Legal Services Commissioner for unsatisfactory professional conduct (pursuant to s. 3.4.46 of the *Legal Profession Act 2004*) during the past year.

The taxation of costs statistics shown below highlight the distinction between the number of party/party taxations and reviews brought under the *Legal Profession Act 2004*.



Initiations

	Party/Party County Court	Party/Party Magistrates' Court	Party/Party Supreme Court	Party/Party VCAT	Solicitor/Client Taxation LPA	Total
Jul	34	2	27	1	15	79
Aug	28	5	31	6	9	79
Sep	37	2	36	3	14	92
Oct	28	2	35	1	20	86
Nov	37	4	33	3	16	93
Dec	40	1	29	5	10	85
Jan	44	4	21	2	11	82
Feb	50	3	41	5	8	107
Mar	34	2	40	7	23	106
Apr	38	4	26	6	15	89
May	37	7	33	10	24	111
Jun	15	6	15	6	15	57
Total	422	42	367	55	180	1,066

Finalisations

	Party/Party County Court	Party/Party Magistrates' Court	Party/Party Supreme Court	Party/Party VCAT	Solicitor/Client Taxation LPA	Total
Jul	61	5	35	9	6	116
Aug	56	3	49	5	20	133
Sep	48	2	40	2	16	108
Oct	29	4	33	2	9	77
Nov	40		35	6	11	92
Dec	25		24	2	10	61
Jan	27	3	40	4	10	84
Feb	68	3	38	6	17	132
Mar	47	2	25	2	14	90
Apr	29	4	24	5	8	70
May	20	3	25	5	10	63
Jun	30	1	34	6	18	89
Total	480	30	402	54	149	1,115

Looking Forward

It is likely that there will be a reduction in County Court taxations in the future flowing from the Accident Compensation (Litigated Costs) Order. The number of reviews pursuant to the *Legal Profession Act* continues to rise. The Court continues to work to reduce time from issue to resolution of matters.

Associate Judges

Mediations

Associate Judges:

Associate Justice Efthim
Associate Justice Wood
Associate Justice Lansdowne
Associate Justice Daly
Associate Justice Gardiner
Associate Justice Zammit
Associate Justice Randall

Judicial Registrar:

Judicial Registrar Gourlay

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

In 2005-06 there were 50 such mediations. By 2010-11, this number had grown to 150. The most significant growth has been in the last three years and has now reached a stage where supply is limited by the availability of judicial resources.

In 2011-12 the number of judicial mediations increased. There were 184 cases where a mediation was listed. Of those that proceeded:

- 110 were settled at mediation
- 32 were not resolved.

Mediations that were not resolved have either been given a trial date, or have been referred to another mediation before an associate judge in the forthcoming financial year, as have those that were adjourned or cancelled.

As we enter into the 2012-13 financial year, the demand for proceedings to be mediated by associate judges or judicial registrar is exceeding availability. As of 1 July 2012, mediation days had been fully booked until the beginning of October 2012.

Judicial Mediation on the Increase

Judicial mediations conducted in 2011-12 increased for a number of reasons. The appointment of Judicial Registrar Gourlay to the Costs Court in 2011 has enabled Associate Justice Wood

to conduct more mediations. Other factors contributing to the increase include the appointment of Associate Justice Randall in May 2011, and the availability of Judicial Registrar Gourlay to conduct some mediations from early 2012.

Approximately 40% of mediations arise from proceedings under Part IV (Family Provisions) of the *Administration and Probate Act 1958*, and these mostly involved small estates. Indeed, the number of cases brought under Part IV of the Act is increasing and will lead to a corresponding increase in demand for mediations. There can be a significant costs saving to the estate where the mediation is conducted by an associate judge or judicial registrar.

Further, publication of Practice Note No. 2 of 2012, Judicial Mediation Guidelines, has raised the awareness of the availability of judicial mediation.

In the course of the year, associate judges also commenced conducting mediations away from Melbourne on a more regular basis if it was more convenient for all the parties. Mediations were conducted in Geelong, Warrnambool and Shepparton.

The Difference Mediation is Making

There have been a number of examples during the year where the utilisation of an associate judge has delivered positive benefits to the parties. One example occurred in a serious personal injury case in the Shepparton circuit in which Justice Beach utilised a break in the proceedings as an opportunity to engage judicial mediation. Associate Justice Zammit was immediately available to assist the parties to bring this matter to a successful resolution. The resolution provided the obvious benefits of reduction in costs, further delay and the distress of ongoing litigation.

There are some cases that are, of their nature, so complex, tenuous or sensitive, that judicial mediation is warranted. The Court is able to provide unique experience and skills that create an environment for settlement in these cases. For example in *Wheelahan v City of Casey & Or*, a case involving multiple parties and complex issues. Justice Osborn identified the matter as suitable for referral for judicial mediation before Associate Justice Efthim. The mediation took five days but was able to facilitate a consensus avoiding a potential six-month trial.

The environment provided by judicial mediation is also one that is appropriate for extremely sensitive matters such as the Coleraine Class action arising from the 2009 Black Saturday bushfires. The matter would have occupied significant court time and resources, a lengthy trial, and expense and emotional distress for the parties. Instead, it settled shortly after a mediation by Associate Justice Wood.

Pre-trial Conferences

Pre-trial conferences which follow the mediation format are provided by the prothonotary and deputy prothonotaries in specially identified cases. Drawing on the training and experience of the prothonotary and deputy prothonotaries, parties are assisted to come to a resolution of the matter. The matters referred to pre-trial conference are extremely sensitive and have been identified for speedy trial.

A total of 338 matters were listed for pre-trial conference. To ensure the expeditious handling of these specially identified cases, a dedicated deputy prothonotary position has been created as the pre-trial conference coordinator.

Looking Forward

The Court will continue to provide Court-annexed mediation in appropriate circumstances. It is not the role of Court-annexed mediation to replace mediation services available through the Bar and the profession.

The demand for judicial mediation will continue to increase but this may be difficult to meet due to the constrained capacity levied by other work demands placed on the judiciary.

When provided by the Court, mediation can and has had a significant impact on litigation and the public perception of the Court structure. The Court staff and judiciary will continue to work together to provide this valuable service.

Trial Work

Associate Judges:

Associate Justice Eftim
Associate Justice Lansdowne
Associate Justice Daly
Associate Justice Gardiner
Associate Justice Mukhtar
Associate Justice Zammit
Associate Justice Randall

The conduct of trials is now integral to the judicial work undertaken by associate judges. Within the existing original jurisdiction of an associate judge, there are matters that are in the nature of final relief, for example, applications under the *Corporations Act*, orders for payment of money or securities in court, applications under certain parts of the *Property Law Act* and the *Relationships Act*. In addition, associate judges are allocated a trial period, or periods, of approximately six weeks throughout the year for the conduct of civil trials in the Trial Division. In that trial period, the associate judge sits in the same way as a judge of the Court with the same jurisdiction and powers. The conferral, or referral, of such jurisdiction is provided under the Rules of Court.

In addition to the pre-arranged allocation of a trial period, it is not uncommon for associate judges to undertake trial work, or work not otherwise within their original jurisdiction on referral from a judge of the Court. This happens particularly in corporations matters.

The ability to undertake trial work, or referred applications, has enabled the Court to expand its ability to deal with its workload in the Trial Division and help to ensure that cases are heard on the dates on which they are fixed.

Trials heard by associate judges in 2011-12

25

General Applications

Associate Judges:

Associate Justice Lansdowne
Associate Justice Mukhtar
Associate Justice Zammit
Associate Justice Randall

General applications in civil proceedings are usually heard and determined by an associate judge in Court 2. Court 2 is convened every day, with few exceptions. The associate judges share this burden of the Court's business on a rostered basis and have been assisted throughout the financial year by Associate Justices Mahony and Daly.

General applications are mainly interlocutory in nature. They are applications in proceedings which are not otherwise issued in any of the Court's specialist lists. Applications (not in Court 2) are also heard by associate judges who have special responsibilities or designations for particular areas of the law or case management, for example the Commercial Court, corporations, major torts, class actions, taxation of costs, approval of compromises for persons under a disability (minors or handicapped persons), listings, and procedural directions for testator's family maintenance cases.

General applications in Court 2 cover a variety of matters but the more typical applications concern: service of domestic and foreign legal process; amendments to legal process; joinder of parties; disputes over pleadings; applications for summary judgment or summary dismissal; security for costs; discovery of documents; and disputes amongst stakeholders over moneys paid into court. Another area of significance and common occurrence are applications for leave to appeal (on questions of law) from decisions of the Victorian Civil and Administrative Tribunal and appeals from the Magistrates' Court.

Orders made in General Applications 2010-11	5,807
Orders made in General Applications 2011-12	4,779



Civil Management List

Associate Judges:

Associate Justice Lansdowne
Associate Justice Mukhtar
Associate Justice Zammit
Associate Justice Randall

Any civil proceeding that is not in a specialist list, which has been commenced by writ and has a defence filed, is entered into the Civil Management List for case management. The majority of civil proceedings are in this list.

The Civil Management List is designed to facilitate and expedite civil claims to trial, for cases that are not otherwise in any of the specialist lists. Accordingly, the Court aims to be responsive to the requirements of the profession and adopts a flexible and practical approach to case management.

The Civil Management List deals with a large number and variety of cases, predominantly from the Common Law and Commercial and Equity Divisions of the Court, including:

- claims arising from transport accidents, workplace injuries, medical negligence claims, dust and diseases injuries

- commercial cases
- banking and finance, real property, mortgages.

The judges in the Civil Management List adopt a proactive approach to case management and encourage the active participation of practitioners who have the day-to-day conduct of a claim. The Civil Management List provides a forum for parties, with the Court's assistance to formulate appropriate timetables for interlocutory steps; have contested matters heard and determined; and ensure that proceedings are advanced in the most timely and cost efficient manner.

Orders made in Civil Management List for 2010-11	3,682
Orders made in Civil Management List for 2011-12	2,039

Listings

Associate Judges:

Associate Justice Daly

When a civil proceeding that is not managed within a specialist list (such as the Commercial Court) is ready to be fixed for trial, it is referred to Associate Justice Daly for a pre trial directions hearing, where a trial date may be fixed or further interlocutory directions given.

The Court's objective is to have the trials of all civil proceedings commence on or about the dates fixed for hearing. This is not always possible, owing to the pressure of the business of the Court, in particular the demands of hearing long cases and accommodating major civil litigation such as class actions, or the inaccuracy of the estimates of hearing time provided by practitioners. In 2011-12, less than 15 proceedings were marked 'not reached'. All cases were given priority within the Civil List upon the next hearing date.

Orders made in Listings for 2010-11	459
Orders made in Listings for 2011-12	285

Part IV Directions

Associate Judges:

Associate Justice Efthim
Associate Justice Zammit

Under the *Administration and Probate Act 1958*, the Court hears Testator Family Management proceedings (TFM List). The numbers of applications filed in the last two years have remained constant, however, more cases have been finalised in the current year compared to the previous year. The statistics for the last two years are as follows:

Applications	2011-12	2010-11
Commenced	489	493
Finalised	677	456
Clearance Rate	138%	92%
Pending 30 June	455	643

The Court aims to keep the number of direction hearings in the TFM List at a minimum. At the first directions hearing, orders are made to enable the claims to proceed to mediation and if necessary to proceed to trial. Practitioners may request the matter to be listed for further directions.

The Court strives to be proactive in its case management of TFM applications, for example through the regular audit of TFM files. These audits ensure that the applications are conducted in a timely and efficient manner.

Where estates are small, the applications are referred to mediation before an associate judge. Those mediations are identified at an early stage and the parties are directed to file a position statement rather than affidavit material. The aim is to minimise cost to the parties. There were 65 mediations held before an associate judge. Of those, 59 settled at mediation, one settled after mediation, in two matters the parties have asked for further time to continue to negotiate and three matters have been listed for trial.

OUR YEAR IN REVIEW: SUPPORT DELIVERY

Senior Master's (Funds in Court) Office

The Senior Master's (Funds in Court) Office (SMO) strives to provide beneficiaries with the best service possible, whilst ensuring safe and prudent investment of funds, and cost effective management.

Highlights

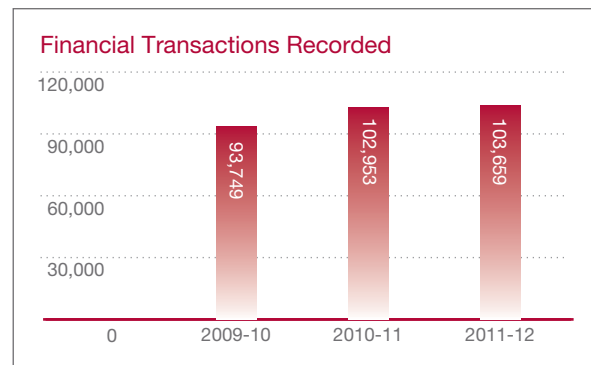
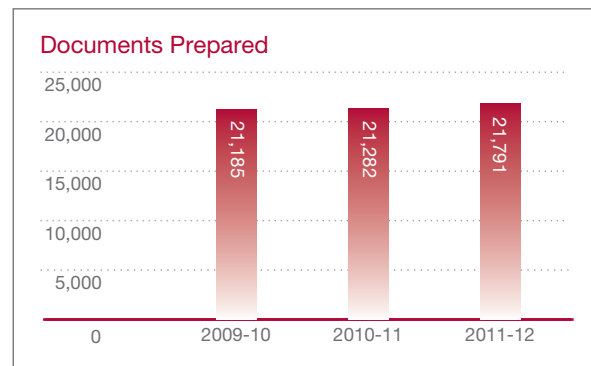
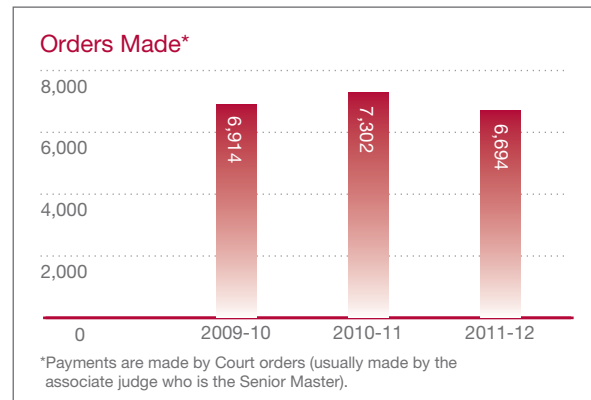
- Over 5,200 beneficiaries
- More than 6,694 orders made
- 21,791 documents prepared
- 103,659 financial transactions made
- 93.9% of payments processed within five days (an increase from 91.6% last year)
- 40,519 calls received (an increase of over 12% from last year)
- Funds under administration have increased by approximately 9.7% in the last three years
- Interest rates paid on beneficiaries' funds increased by 20 basis points

Key Performance Indicators (KPIs)

SMO staff met or outperformed all KPIs relating to the delivery of services to beneficiaries.

Most importantly, at least 93.9% of payments to or on behalf of beneficiaries were processed within five days of receipt of request.

The SMO receives over 3,300 phone calls per month. On average, 89.91% of those calls were answered within one minute of the person calling. This is an increase from 83.21% last financial year.



The Honourable
Robert Clark MP
Attorney-General
with Associate Justice
Kevin Mahony



The Legal Section

New Beneficiaries

There were 750 new accounts opened:

Non award	67	Security for costs; Dispute Moneys; Trustee Act CF1
Award	667	
Trustee Act CF-2	16	These are not technically awards as there is no Court order but they are treated like award payments and invested in CF-2
	750	

New award accounts by jurisdiction (not including 16 Trustee Act CF-2 accounts):

Supreme Court	147
County Court	59
Magistrates' Court	1
VoCAT	460
	667

Moneys Received

A total of \$118,053,359.98 was paid into Court.

Moneys Paid Out

A total of \$43,251,676.29 was paid out of Court representing a total of 708 accounts.

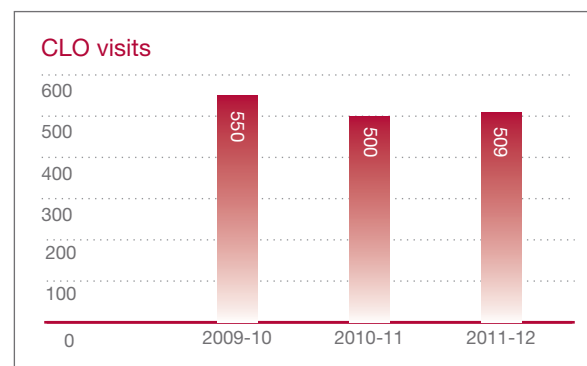
Trust Administration

This area works closely with beneficiaries. Beneficiaries are persons under a legal disability by reason of acquired brain injury, age (i.e. minors), psychiatric condition or gross physical injury.

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.

Client Liaison

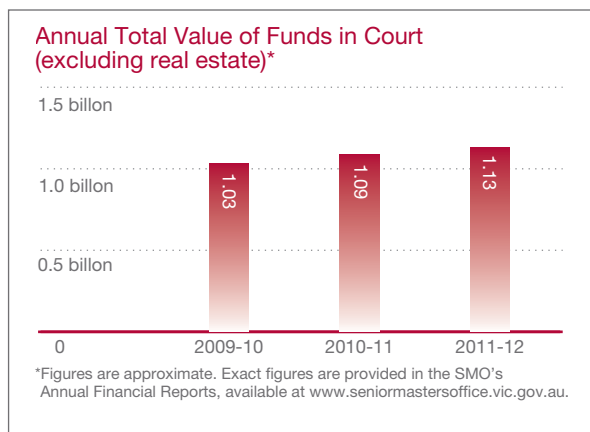
CLOs visit beneficiaries in their homes. Apart from providing input in respect of complex applications for payments, CLOs are instrumental in assisting beneficiaries with many lifestyle and other difficulties that they face in their everyday lives.



Investment Section

The Investment Section considers and 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, and to the Investment Compliance Committee, which includes superannuation and tax experts and meets bi-annually.

Funds under administration (excluding direct investment in real estate and other assets) exceeded \$1.13 billion for the period, an increase of approximately \$23 million (2.08%) since last financial year.



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.

Over the past three years the interest rates declared for CF-2 have been:

1 June 2010	5.70%
1 June 2011	5.80% (for beneficiaries with funds invested in Common Funds No's. 2 and 3)*
	6.00% (for beneficiaries with funds invested only in CF-2)
1 June 2012	6.00% (for beneficiaries with funds invested in Common Funds No's. 2 and 3)
	6.20% (for beneficiaries with funds invested only in CF-2)

* For the first time separate rates of interest were fixed by the Senior Master in respect of CF-2.

The interest rates fixed for 2012 show an increase over last year's fixed rates of 20 basis points. This is an excellent outcome for the beneficiaries of CF-2, especially in the current financial climate, which reflects the hard work of the SMO Investment Section and the Senior Master's investment advisers.

Common Fund No. 3

Common Fund No. 3 (CF-3) was created in July 2004. The number of beneficiaries for whom equity investment has been undertaken is over 2,000, i.e. approximately 38.6% of beneficiaries.

On 1 July 2011, the unit price for CF-3 was \$1.4659. By 30 June 2012, the unit price was \$1.2796.

The annual return for the CF-3 portfolio (i.e. when dividend income is taken into account) was -8.1% for the financial year. This compares with -5.4 % return of the benchmark S&P/ ASX 50 Leaders Accumulation Index. In other words, CF-3 underperformed the benchmark by 2.7%. However, over the previous five years, CF-3 has easily outperformed the benchmark, showing a return of -1.4% compared to -2.9% for the benchmark.

Furthermore, the Senior Master's equity portfolio, which preceded and now includes CF-3, has consistently outperformed the benchmark since its inception on 21 December 1992.

Investment Compliance Committee (ICC)

The ICC has been established by the Senior Master to monitor investment compliance with the Funds in Court Asset Management Policy in respect of the Funds managed by the Senior Master, and to report to the Senior Master any breach of compliance and any breach of the Senior Master's duties under the *Supreme Court Act 1986* and the *Trustee Act 1958*, of which the Committee becomes aware or that it suspects. No breach has been reported.

Beneficiaries' Properties

As part of the administration of Funds in Court for persons under 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 particular beneficiary. Beneficiaries' properties are predominantly residential and are held on trust for beneficiaries.

Over the last three years, the number of trust properties has increased by over 13.5%, whilst the value of those properties has increased by over 23%.

	No.	Value
2009-10	518	\$167,418,304
2010-11	565	\$185,991,490
2011-12	590	\$205,997,222

Accounting and Taxation

Financial Reporting

The Financial Reports of the Senior Master are audited, on a financial year basis, by the Auditor-General. The reports are available at www.seniormastersoffice.vic.gov.au.

Audit Committee

The Audit Committee is the focal point for communication between the external auditors, internal auditors and management in relation to:

- financial and other reporting
- internal controls
- external and internal audits
- risk management
- other matters the Senior Master deems necessary.

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

- oversee the SMO's compliance with the Senior Master's Code of Conduct
- provide strategic oversight of the SMO's ethics audits and ethics training programme
- review any ethical complaints referred to the Audit Committee, as well as the SMO's responses to such complaints, and advise the Senior Master with respect to the responses where appropriate.

The Audit Committee met quarterly with a special meeting to consider the financial statements.

Risk Management

The Senior Master continues his commitment to risk management in accordance with Australian standards, and the prudential safeguards put in place are monitored by the SMO's Accounting Section. At the regular meetings of SMO Section Heads, the Corporate Governance Manager provides a report to the Senior Master detailing developments concerning defined risk management matters. The Audit Committee also considers risk management at its quarterly meetings.

Taxation

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.

Information Technology

The Information Technology section continues to improve and enhance the SMO's database application, winTMS. A major review of the SMO's Information Technology services was commenced this year by Pitcher Partners with findings and recommendations due in the following year.

Beneficiaries' Advisory Group

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

Keeping Beneficiaries Informed

The SMO is committed to improving the lives of beneficiaries by being innovative, proactive and forward thinking in the way beneficiaries are supported. A key element of this commitment is 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 the SMO, as well as being able to communicate with the SMO.

As part of this commitment, the SMO has the following communication initiatives:

- booklets and pamphlets for beneficiaries and their families
- SMO information folders for new starters and Court staff
- Beneficiaries' Focus Group
- Beneficiaries' Advisory Group
- *SMO Newsletter*
- SMO information DVD
- SMO website
- events organised specifically for beneficiaries.

All SMO booklets and pamphlets are being reviewed and the majority will be converted into 'plain language' format. The purpose of this project is to have a set of publications specifically designed for beneficiaries.

Beneficiaries' Focus Group

The Beneficiaries' Focus Group is a group of beneficiaries who get together to assist the SMO with feedback about the way the SMO is working, and to contribute their ideas. The meeting is generally held every 12 months. The group met on 19 March 2012.

SMO Newsletter

The first edition of the *SMO Newsletter* was published in January 2008. The newsletter is published twice a year and is one of the sources of information about the SMO for beneficiaries and their families. The newsletter not only educates and informs readers, it also provides beneficiaries and their families with the opportunity to share their stories and celebrate their achievements.

Feedback received from beneficiaries indicates that they find the *SMO Newsletter* informative and interesting. From an initial four pages, the newsletter grew to 12 pages this year, with a large proportion of the content being submitted by beneficiaries and their families.

Fundraising Activities

Apart from their professional commitment to assisting people with a disability, SMO staff are also committed to supporting organisations that help others in the community.

The SMO participated in various fundraising activities and supported the following charities:

- Children's Protection Society
- Cystic Fibrosis
- Jeans for Genes Day
- National Disability Insurance Scheme - Silent Auction
- Cancer Council (Australia's Biggest Morning Tea & Wear Pink Day)
- Movember
- Reach Foundation - Jim Stynes Future Fund
- Team for Kids – 2012 ING New York Marathon.

The total amount raised by staff of the SMO for various causes during the financial year was \$4,394.25.

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 led by Judicial Registrar, the Court of Appeal, Mark Pedley. He is assisted by two deputy registrars, who are responsible for legal and administrative matters.

The Deputy Registrar (Administration) is assisted by two registry office managers, and seven 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.

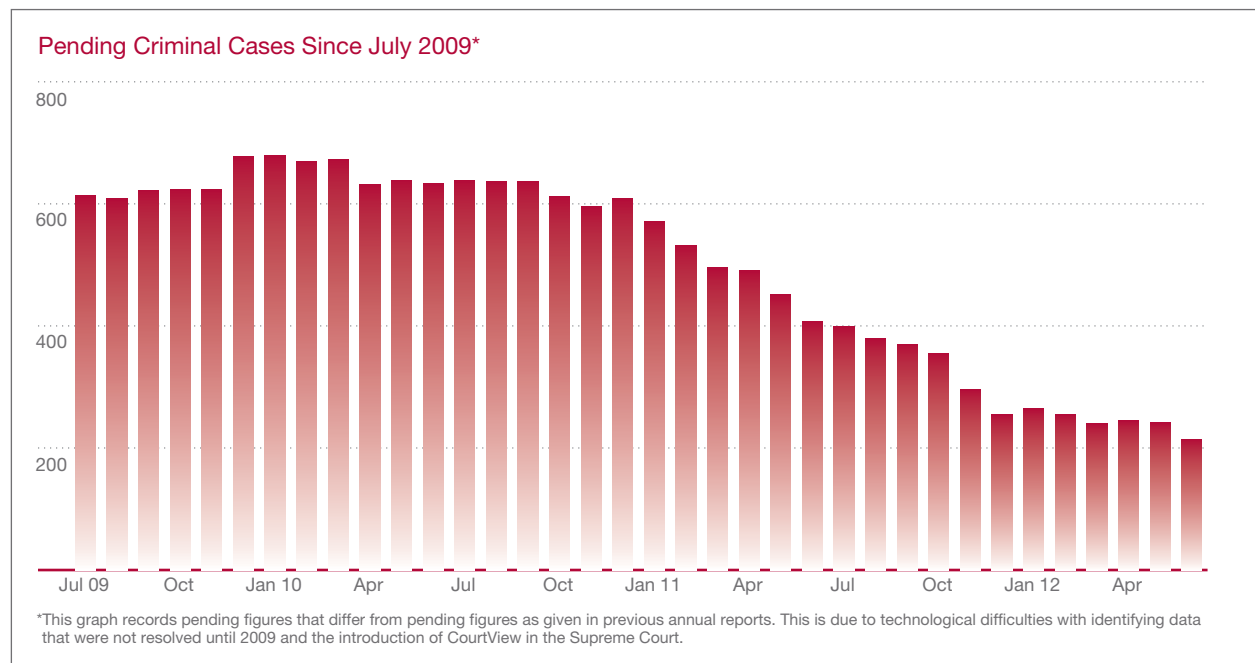
The Deputy Registrar (Legal) is assisted by a senior legal officer, five legal officers, and two legal support officers. Each criminal appeal is individually assigned to one of four legal officers to closely manage throughout the leave and appeal process. They also manage any ancillary matters arising during

the life of the appeal, such as bail applications, and assist the Judicial Registrar by advising on the readiness and complexity of matters for listing. One legal officer has been detailed to assist the Judicial Registrar with civil appeals and applications.

Court of Appeal Criminal Reforms

The Court of Appeal criminal reforms, known as the Ashley-Venne Reforms, have been in place since the end of February 2011, and their success in expediting the hearing of criminal appeals is evident from the graph below.

The Court of Appeals pending caseload reached as high as 679 in January 2010. But at the end of 2010 an intensification of listings and a focus on reviewing and finalising old cases was undertaken in order to begin reducing the backlog of pending appeals. However, this highly intensive listing practice could



only be maintained for a short period, as it placed extreme pressure not only on the Court, but also on the Crown, Victoria Legal Aid and the Victorian Bar. Nonetheless, by the time the reforms were initiated on 28 February 2011, these efforts had reduced pending cases to around 500.

Since the reforms commenced, there has been a consistent reduction in pending appeals, and as at 30 June 2012 there were 214 pending appeals. If this pace is maintained, the Registry's listing targets (sentence appeals determined within six to eight months of initiation and conviction appeals within eight to 10 months of initiation) will be met. As noted last year, this not only benefits victims of crime, the accused, and family members of both, but reduces court costs as well.

Lastly, and most significantly perhaps, the government has acknowledged the value of the changes by fully funding the Court of Appeal criminal reforms on an ongoing basis.

Court of Appeal Civil Reforms

The Registry is keenly aware of the need to maintain a consistent approach to case management for both civil and criminal appeals. This, combined with an increase in civil applications and appeals during the year, led to an internal audit that resulted in three callover days and the dismissal of 14 dormant civil appeals. Further, in consultation with the Court's Civil Portfolio Group, the Registry will be considering a number of proposed reforms to its civil processes, which it hopes to implement in the coming year.

The Court of Appeal sitting at Bendigo Law Courts



Interlocutory Appeals

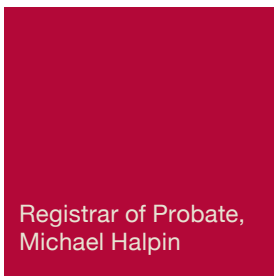
The number of interlocutory appeals has declined slightly in the past year. However, there has been a marked increase in the substantive import of those which are taken to the Court of Appeal. Amongst the issues presented and resolved by way of interlocutory review, were questions going to the validity of search warrants obtained by police on the basis of affidavits not sworn, and the interpretation of various pieces of Commonwealth legislation including provisions governing people smuggling, market manipulation and the meaning of 'dishonesty' within a corporate context.

Principal Registry

Registry provides administrative services to the judiciary, legal profession, Court users and public, including file and subpoenaed material management; orders for the administration of deceased estates; assistance in small estate matters; managing foreign service for the State of Victoria; pre-trial conferences; electronic litigation, trials, and filing; determining costs matters for Supreme, County, Magistrates' Courts and VCAT; and handling enquiries.

The Principal Registrar, Peter Washington, is supported by the Prothonotary, Rodney Ratcliffe and Registrar of Probates, Michael Halpin. The Business Services Manager and Deputy Registrars monitor performance and identify improvement opportunities.

Registry continued to refine its operations, such as in the adoption of electronic submission of materials. Users inspecting subpoenaed materials can scan to electronic devices, reducing paper costs and yielding environmental benefits.



Maintaining liaison with legal practitioners, Registry remains committed to assisting self-represented litigants with a better understanding of rules and procedures, and also acts as a referral point to legal services. Principal Registry commenced visits to regional registries, to provide training and to discuss issues. It is planned to expand visits to include an opportunity for local law firms to engage with staff.

During the year, Principal Registry accepted:

- 131,789 civil documents
- 196,000 probate documents (approximately)
- 5,273 criminal documents
- 413 deposited wills
- 1,547 subpoenaed materials.

Other highlights:

- 18,746 probate grants issued
- 48 probate small estate applicants assisted
- 1,316 self-represented litigants assisted and or referred
- 181 foreign service documents processed for 35 countries.

The Prothonotary performed taxation of costs and assisted Costs Court Registrars. The Prothonotary was also involved in two contempt proceedings, each resulting in the imposition of prison sentences for those found to be in contempt.

Forums and Committees

Court staff implemented a quarterly Forum for Courts and Tribunals to share information and discuss issues. This assisted Registry to establish user groups for items of common interest across all areas.

The Principal Registrar is a long-standing member of the Certificate IV in Government Services (Court Administration) Curriculum Planning Group; and is also an industry representative on RMIT's Program Advisory Committee for Legal and Dispute Studies. Staff also spoke to community groups at conferences and lectures, for example Law Institute, RMIT and continuing education seminars, to aid in the understanding of the Court and its processes.

The Prothonotary participated in 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 court).

Continued development of specialist roles

As part of a commitment to assist legal practitioners, specialist roles provide assistance in key areas, significantly enhancing services. For example, the Coordinator for:

- Group Actions provides legal practitioners and users with a centralised contact
- Regional Court Liaison resolves regional registry issues, thereby enhancing services
- e-Litigation facilitates agreement on the technology aspects of e-litigation
- e-Filing oversees the e-filing portal, ensuring business is finalised with minimum delay
- Probate Online Advertising assists publishing notices of intention to apply for probate

- Self-Represented Litigants assists understanding of processes and requirements
- Practice/Commercial Court assists workflow dealing with typically urgent business
- Subpoenaed Documents manages custody and inspection of materials.

Staff participated in developmental training to equip them to deal with complex enquiries. The ability of staff to respond to demand is improved by gaining a common base of understanding, and learning valuable research skills.

Two staff received formal mediation training in preparation for taking up some mediations formerly run by associate judges.

Registry commenced a number of key projects aimed at enhancing services and performance. Projects arising from the previous year's Employee Attitude Survey covered:

- experiential learning – for an appreciation of a matter's life-cycle (including in-court)
- buddy system – new staff are teamed with experienced staff
- staff exchange – interchange of staff with other jurisdictions
- succession planning – staff development, knowledge and contingency planning.

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.

In 2011-12, requests increased 198%, matching the volume for the preceding five-year period, and placing increasing stress on resources.

In all, 181 documents were served in 35 countries, the top five being the USA, Greece, France, Germany and China.

Subpoenaed Materials

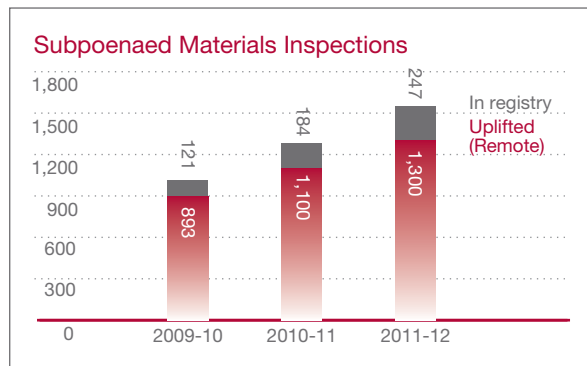
Principal Registry continues to encourage electronic production. This year, materials were submitted electronically in more than 100 matters, greatly assisting production, storage and inspection. Facilities were commissioned to allow users to scan hard copies in lieu of re-generating paper copies. Legal practitioners were also encouraged to collect materials for inspection at their law offices.

Submitted subpoenaed materials continue to increase, eased by the adoption of the aforementioned technologies.

Registry-based inspections rose 18% last year (up 46% on the level recorded in 2008-09).

The collection of materials for remote inspection increased 34% over the past year (following on from a 52% increase in 2010-11).

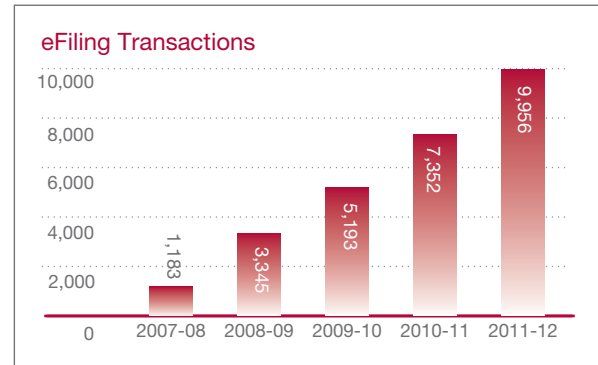
Despite DVD submissions, storage facilities remain at capacity.



Electronic Filing

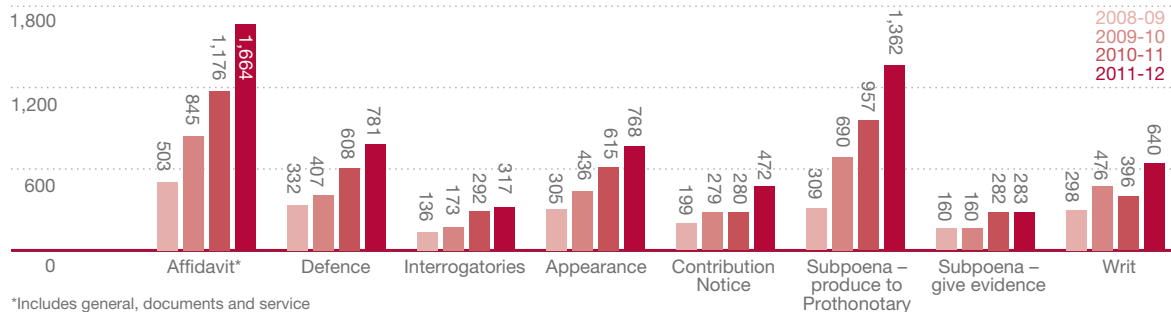
CITEC Confirm provides the Court's e-filing facility allowing legal practitioners electronic access to file and view their own documents.

With reliability above benchmark, uptake of e-filing continues to display a healthy rate of growth. While the uptake remains at 7% of total lodgements, e-filing volume increased 35% last year.

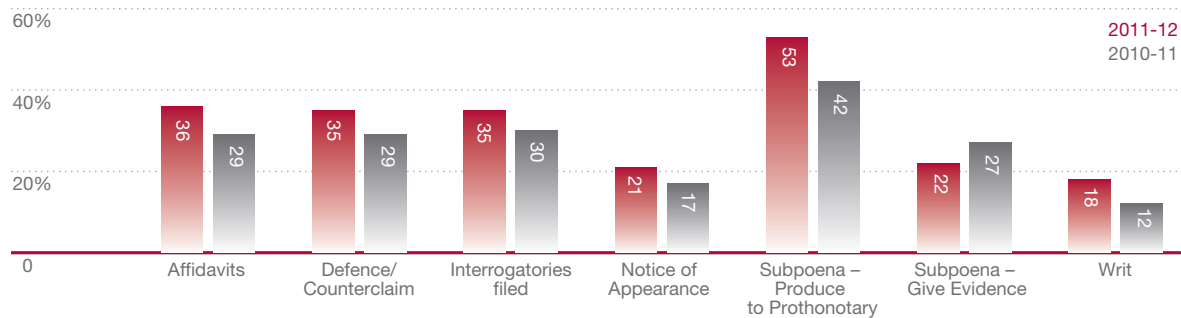


This sustained uptake of e-filing enabled Registry to keep pace with workloads and meet demand.

Most Commonly eFiled Transactions



Volumes Received Electronically in Lieu of Hard Copy eFiling Transactions – Percentage of Total for Document Type



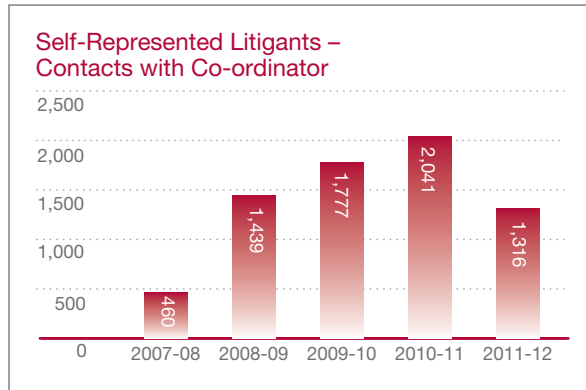
Self-Represented Litigants

The Court was one of the first Australian courts to manage the needs of self-represented litigants (SRL). Users are assisted in regards to procedure, forms and fees (and are referred to legal service providers for advice).

The SRL Committee chaired by the Honourable Justice Emerton met on three occasions during the year.

A working relationship was established with Court Network to develop a support and referral scheme to (non-legal) community services, and work continued with PILCH and the Victorian Bar Duty Barristers Scheme regarding referrals.

The Coordinator recorded 36% less contacts during this year:



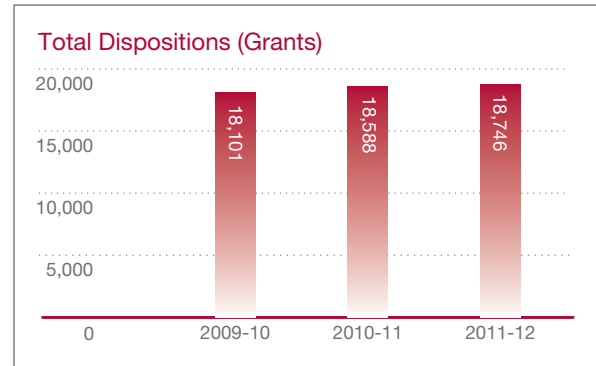
The Court acknowledges the Duty Barristers Scheme of the Victorian Bar, who regularly responded to requests for assistance, and to PILCH and the Community Legal Sector for pro bono assistance provided to the community.

Probate

Probate performs a vital role for all Victorians with the facilitation and authorisation of deceased estate asset transfers (with a significant total annual value).

The Registrar of Probates continued to serve as an active member of the Probate Users Committee, which provides a platform for discussion of succession law and practice. The Registrar of Probates assisted the Law Reform Commission review of succession law, facilitating access to files for statistical information and providing informed comment.

Workload was stable this year with registrars handling 18,746 grants. Since 2006-07, workload has increased 16%, while staffing levels have remained static.

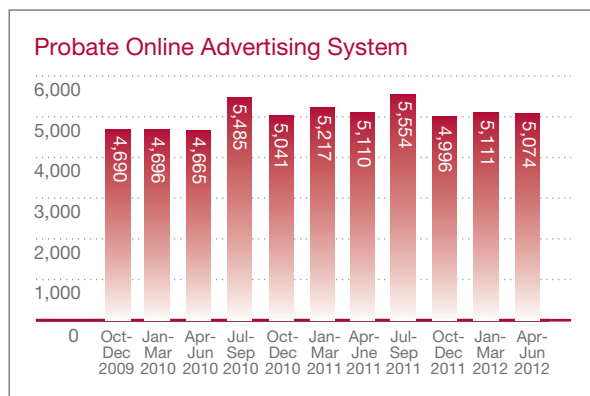


In order to maintain an efficient and effective service, registrars and staff continually seek opportunities for improvement as illustrated by the introduction of online, user-based search facilities.

Archiving has assisted file storage issues with 1,823 archive boxes of files (2004-2007) being delivered to the Public Record Office.

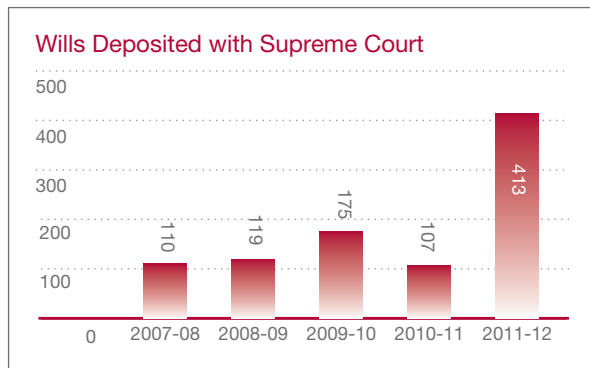
Probate Online Advertising System

A web-based system provides an easy-to-use search function, and a facility to publish advertisements of an intention to apply for probate. To assist users without internet access, Registry provides an over-the-counter service. During the year advertisements dropped 0.6%.



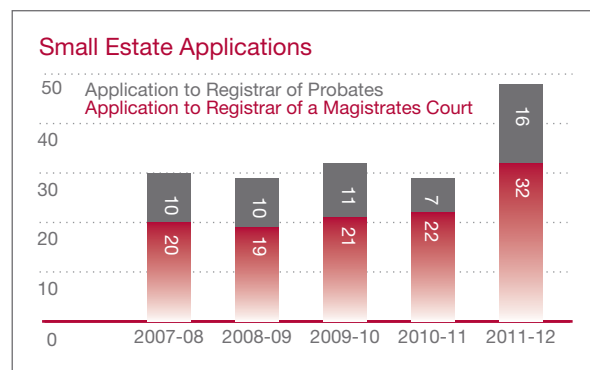
Probate Deposited Wills

Registry registers and provides secure storage for 'living wills', with deposits increasing by 286% this year:



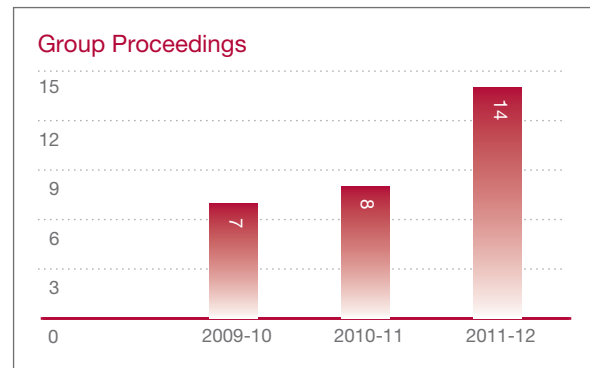
Probate Small Estates

Assistance in relation to small estate applications is provided by registrars conducting interviews. Principal Registry's small estates workload increased by 66% this year.



Group Proceedings

Lodgement of Part 4A Group Proceedings requires that Registry manages the administrative aspects, acts as a single point of contact, and liaises with judges' chambers. This year, initiations increased by 75%.



Juries Commissioner's Office

Jurors play an important role in the Victorian justice system. Juries are required in all Supreme and County Court criminal trials and in some civil trials in both jurisdictions. The Juries Commissioner is responsible for ensuring that a sufficient number of Victorian citizens, broadly representative of the community, are available in Melbourne and regional Victoria to serve as jurors.

In fulfilling its responsibilities, the Juries Commissioner's Office (JCO) must strike a balance between seamlessly providing courts with jury panels and minimising the impact of jury duty on citizens, their families and their employers. To that end, the JCO works closely with judges to continually improve processes by which a jury summons is satisfied and justice is served.

The responsibilities and functions of the JCO fall broadly into four key areas:

1. Forecasting and planning: The JCO works closely and continuously throughout the year with County and Supreme Court Listings areas (including Circuits) to confirm the number and complexity of trials.
2. Sourcing jurors: As determined through forecasting, the JCO processes Jury Eligibility Questionnaires sent to citizens; summons eligible and available jurors as determined by responses to questionnaires; and monitors, controls and influences the number of jurors called each day.
3. Jury management: JCO staff oversee the balloting of jury panels for court and contribute to the jury empanelment process in court. As well, JCO staff liaise with judicial staff for the ongoing support of deliberating (and on occasion, sequestered) juries.
4. Community engagement: The JCO hosts secondary school groups on a weekly basis as part of the Supreme Court Education Program; participates in the Victoria Law Foundation's Law Week and biannual Law Talks in regional Victoria; and actively supports academic research associated with jury systems and processes.

The Juries Commissioner issued more summonses for Melbourne court sittings in this reporting period than in the previous year. This was in anticipation of a number of major criminal trials that ultimately did not proceed. Summonses in

regional Victoria were down by 10%, commensurate with the decrease in circuit court jury trials.

As a summons may be deferred or cancelled once issued, the number of jurors attending courthouses for jury duty relative to the number of jury trials held during the same period becomes an important indicator of jury management efficiency. While overall there was a 6% decrease in the number of jury trials this year compared to last year, the proactive management of summonses issued saw 14% fewer citizens actually attend court for jury service. This decrease was particularly evident in regional Victoria.

This efficient use of summoned jurors can be attributed in part to improved processes within the JCO, as well as improved communication between the JCO and colleagues in the Supreme and County Court registries and chambers.

Jurors Summoned	2010-11	2011-12	Difference	Variance
Melbourne	29,916	32,277	2,361	8%
Circuit	33,100	29,864	-3,236	-10%
Total	63,016	62,141	-875	-1%

Jurors Attending	2010-11	2011-12	Difference	Variance
Melbourne	17,379	15,851	-1,528	-9%
Circuit	10,145	7,850	-2,295	-23%
Total	27,524	23,701	-3,823	-14%

Jurors Empanelled	2010-11	2011-12	Difference	Variance
Melbourne	5,139	4,991	-148	-3%
Circuit	1,718	1,449	-269	-16%
Total	6,857	6,440	-417	-6%

Supreme & County Court Jury Trials	2010-11	2011-12	Difference	Variance
Melbourne	464	446	-18	-4%
Circuit	152	133	-19	-13%
Total	616	579	-37	-6%

Supreme & County Court Jury Trial Days	2010-11	2011-12	Difference	Variance
	3,804*	3,636	-168	-4%

*Note: The Supreme and County Court Trial Day figures published in the 2010-11 report were incorrect as they represented Supreme Court trials only.

Court Administration

Court Administration is committed to providing a high level of support to the judiciary of the Court. The administration arm continues to strengthen its capability by recruiting and training its staff in the knowledge and technical skills necessary to perform their role to the highest grade, and ensuring role clarity with the development of portfolio statements clearly articulating the purpose and responsibilities of each functional area.

Court Administration's significant achievements for the 2011-12 financial year include:

- comprehensive and robust financial management leading to a surplus in 2011-12
- a Sir Rupert Hamer Records Management award and a commendation certificate by the Archives and Records Management Team
- acceptance of the Library Review recommendations by the Council of Judges and the endorsement of a Law Library of Victoria
- a revitalised commitment to providing a safe and healthy working environment
- accurate and timely monitoring and reporting of the Court's performance
- enhanced internal communication channels
- preventative maintenance works to preserve the heritage significance of the Court's buildings whilst also reducing our carbon footprint.

Human Resource Services

The Court aims to provide a human resources management framework to ensure its workforce has the necessary skills, flexibility and diversity to meet the Court's current and future business needs.

The 2011-12 financial year saw further implementation of a revised Human Resource Services (HRS) structure with the appointment of a Human Resource Manager and Human Resource Advisor (Judicial Services). With a strengthened team, dedicated resourcing was allocated to both the judicial area and the Support Delivery area.

The initial focus of HRS throughout this period has been to consolidate and communicate its core function, namely the provision of operational, advisory and strategic services to enable the Court to attract develop, and retain outstanding staff.

In accordance with the core objectives of the Court's Business Plan 2011-12, an HRS Local Action Plan outlined a number of operational improvement initiatives including:

- a review of the end-to-end HRS function that focussed on the improvement of existing systems, data integrity and the development of an audit schedule
- the development of Court branded HRS documentation to ensure standardisation and branding implementation and provision of help desk support for the new Performance Development Planning system
- coordination of a number of business process reviews and the provision of specialist advice for others.

Occupational Health and Safety (OHS)

The Court maintained its commitment to developing and sustaining the highest practicable standards of health, safety, welfare and injury management. As such, the reporting period saw a renewed focus on OHS systems that resulted in:

- a review and changes to the Designated Work Groups across the Court for greater representation
- nominations for new Health and Safety Representatives
- OHS management training sessions
- monthly analysis of trends in incident and injury data and Workcover (including management of Return to Work Arrangements).

In addition, a suite of OHS policy and procedures has been developed that articulates the Court's responsibility and will assist to raise awareness.

During the 2011-12 financial year, 26 incidents (injuries, near misses and risk hazards) were reported, down from 34 the previous year. In relation to Workcover, there were 25 days lost, a steady decrease from the previous two financial years, which highlights that the Court is returning workers injured at work back to work at a very effective rate.

Finance Management Services

Finance Management Services provides services that support and demonstrate the Court's ability to manage its annual budget allocation responsibly.

A thorough and rigorous oversight of all expenditure has resulted in the Court achieving a surplus for this financial year. In addition to the financial administration delivered by Finance Management Services, the team is also responsible for comprehensive monthly financial reporting to the Court's Finance Committee, chaired by the Chief Justice. Supporting the Finance Committee in its decision-making through targeted financial analysis is a key function of Finance Management Services.

In 2011-12, the Finance Management Services team embarked upon a course to strengthen the financial capability of the Court's managers through comprehensive and transparent monthly finance reports, as well as guiding and supporting managers and staff to meet operational targets within budget and in compliance with financial policies.

Other significant events for the year included:

- contributing to the development of sound business cases by costing options for policy reviews and initiatives
- successful management of the transition to a new chart of accounts and new centralised accounts payable system for the Court with minimal disruption to the Court's operations.

Communication Services

Corporate Communication

Corporate Communication Services oversees internal communications initiatives, community engagement and education programs, events and functions, publications, and liaison with user groups and visitors to the Court.

Among the highlights for the year, Corporate Communication Services managed two community open days that promoted access to, and an understanding of, the law and Victoria's justice system. Over 1,600 visitors were welcomed at the Court during Melbourne Open House in July 2011 and another 2,000 visitors participated in talks, tours and presentations involving judges and staff on Courts Open Day in May 2012.

The Court continued to host functions and events pertinent to the legal profession. In 2011-12, Corporate Communications Services provided oversight and support to ensure the smooth running of more than 30 functions of the legal profession held at the Court, and on key Court functions including admissions, judicial welcomes and farewells, and the Annual Judges' Conference.

During 2011-12, the Court's Education Program hosted over 5,500 students and teachers. The program supports Year 11 and 12 VCE Legal Studies students, with presentations, mock trials, judicial interaction and an opportunity to watch a criminal trial in progress. The Court gratefully acknowledges the work of the Law Institute of Victoria and the Supreme Court volunteers in helping to deliver the program.

In February 2012, 'Talking Heads', a speaker series designed to provide Court personnel with opportunities to hear from judges, management and guests about Court news and business commenced. The Chief Justice launched the series with a look at the year ahead for the Court.

During National Volunteers Week (May 2012), the Court recognised the volunteers who work for Court Network (in the Court) and the Court Education Program. Court Network volunteers provide advice, support and information to Court users. The Court acknowledges the valuable contribution of Court Network, whose services and operations were formalised in the first ever Memorandum of Understanding between the Court and Court Network in December 2011.

In June 2012, the Class Actions Coordinator represented the Court in Law Talks in Mildura. A Victoria Law Foundation initiative, Law Talks provides students in regional areas with the opportunity to engage with speakers from various legal organisations traditionally based in Melbourne. The schools in attendance included St Joseph's College, Mildura Senior College, Redcliff Secondary College, Werrimul Preparatory to 12 School and Ouyen Secondary College.

Media Communication

Media Communication provides a link between the Court, external parties (particularly the media) and the community. It is responsible for enhancing understanding and appreciation of the judicial system.

The Court continues to receive media coverage of its cases, both criminal and civil, helping to enhance its public profile, but more importantly inform the public about the Court. During 2011-12, there were more than 2,500 newspaper items and some 751 electronic media (radio and television) mentions (up from 540 previous year), relating to the Court.

The increase in coverage by electronic media can, in part, be attributed to the increased uptake by the Court in audio-recording its sentences and some proceedings, 40 of which were streamed live via the website and made available to the media.

The bushfire class action proceedings arising from the 2009 Black Saturday fires at Horsham and Beechworth were not only streamed live online, but also filmed by televised cameras. Both of these proceedings were held in regional centres affected by the bushfires, where it was important for community members unable to attend in person to have access to the proceedings.

The opening of a Twitter account on a trial basis in March 2011 has proved to be an integral tool in media communications, offering the ability to deliver real-time, factual announcements. Twitter is also used as a sign-post to copies of sentences and judgments online.

Court Open Day,
May 2012



Business Intelligence Services

The Business Intelligence Services (BIS) team delivers timely and accurate data which is used to monitor the performance of the Court as well as assist in forecasting future activity.

Accurate reporting of performance data has been the focus and achievement of the 2011-12 financial year. For the first time since the implementation of CourtView in 2009, the Court has been able to accurately report on its activity as well as provide useful information for analysis and forecasting both internally and externally. This capability was a result of the Court's decision to implement its own system for the collection and reporting of data, pending the continued improvements to CourtView.

The 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.

During this time, the BIS team have worked with both the Trial Division and Court of Appeal Registry to build database reporting systems specific to the respective areas to ensure data accuracy. BIS have also assisted in regular ongoing audits in Principal Registry and other areas.

Some other significant events include:

- development of an internal reporting website enabling management and staff to access current reports
- development of monthly management reports for Court of Appeal, and the Common Law, Commercial and Equity, and Criminal Divisions
- development and automation of statutory reports
- assisting in the development and reporting of a suite of key performance indicators.

Another important initiative was the development of the Request Database system, which captures requests made by the judiciary for administrative support services, to ensure that these are fulfilled in a timely manner and provide the necessary support to Court Delivery.

Information Technology Support Services

The Information Technology Support Services (ITSS) team provides day-to-day support and services for hardware and software. ITSS also delivers advice and support on the selection of hardware and software technology to meet the daily and long-term needs of users at the Court.

During the 2011-12 financial year, a pilot iPad project was commenced, with iPads made available on a trial basis to members of the judiciary. Based on the response that the device provides a level of portability, flexibility and enhanced efficiency, the use of iPads has been rolled-out to all Court judges, with ongoing support from ITSS. This project shows that the Court is increasingly moving away from a traditional, paper-based system to digitised information and means of operating.

In another significant development for the year, Justices Pagone and Davies attended an international virtual conference (hosted in Canada) from their own chambers. ITSS assisted in coordinating the installation and testing of an ADSL line to the judges' chambers. It was the first time that the Court had representatives at the conference, which also had delegates from Eastern North and Western North America, Bermuda, Puerto Rico, Mexico, Taiwan, Kazakhstan, Japan and Mongolia.

A new in-court recording system was also introduced as a joint initiative by the Court Technology Group and ITSS, which allows the operation of each court to be recorded in a digital format and duplicated onto a DVD if required. The recording system shows the transcript on screen to accompany the audio and video.

ITSS also provide day-to-day support and services to update and maintain the various websites controlled by the Court. The number of active subscribers of the Commercial Court website has now exceeded 1,000. The Court's Class Action website was also launched to provide access to the various documents and current information associated with each of the class actions initiated this year.

Facilities and Services

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

The early part of the year saw completion of the move of the Court Administration and the Court of Appeal Registry to 1/436 Lonsdale Street, and in particular a high level of preventative maintenance on the three main buildings.

In early 2012 the air-conditioning plant on the roof of the Court of Appeal failed. A new system was lifted into place in late June that will provide significantly improved cooling for the courts during summer.

Key achievements during the 2011-12 financial year included:

- completion of repair work following the large hail storm in March 2010
- consolidation of ongoing repair work to roofs and storm water plumbing
- installation of low energy light fittings throughout the three main buildings
- installation of thermostatic controls on hydronic heaters in the Old High Court

- completion of the installation of in-court technology to the remaining courts (10, 7 and 7B) in the continued effort to introduce modern justice practices that will increase operational efficiency and reduce court delays
- commencement of a review of the Court's Business Continuity Plan.

Significant progress has been made toward identifying and developing opportunities for additional courtrooms either within the Old High Court, at 436 Lonsdale Street, or other locations, for large civil proceedings that cannot be comfortably accommodated within existing facilities.

Archives and Records Management Services

Archives and Records Management Services manages the Court archives and archiving of court records, the storage of court records, the disposal and storage of administrative records, and the care, storage and display of historical artefacts, objects and records.

During the past financial year, work commenced on implementing the Court's retention and disposal authority. This meant that records could now be assessed for their long-term usefulness, and when and if they should be transferred to the Public Record Office. Storage areas continue to be rationalised and more records have been moved offsite into public record office approved secondary storage.

In late 2011, work started on a long-term project to collect the remaining divorce records from the regional courts and prepare these records for transfer to the Public Record Office. So far, records from Bendigo and Geelong have been processed and records from Sale, Shepparton and Wangaratta have been retrieved and will be seeking authority to close public access in accordance with the *Public Records Act 1973*.

The Archives and Records Manager conducted a records management review of the Court Library as part of the Library Review.

The Archives and Records Management team is also active in ensuring that Court records are made available to the public, through their work with the Public Record Office, answering

public inquiries about family history matters and giving public tours of the buildings through Law Week, History Week and the Melbourne Open House program.

The Archives and Records Manager also curated a Redmond Barry exhibition for Law Week. The Court had received a \$4,000 grant from the Victoria Law Foundation. In addition to an iPad presentation, panels and objects were collected to tell the story of Redmond Barry and his achievements on the eve of the bicentenary of his birth in June 1813. More than 1,000 Redmond Barry commemorative bookmarks have been distributed to the public.

Records Transferred to the Public Record Office

Master of Lunacy Maintenance Records (1868-1917)	12 volumes
Probate Records (2004-2007)	1,823 units

Library

The Court Library provides legal information resources and research assistance services to the judiciary, court staff and legal profession. Library staff are responsible for collecting, maintaining, preserving, and disseminating legal information in a variety of media.

The Library continues to support the judicial staff, court staff, and legal profession through the provision of reference services, although with a continually reduced budget.

During the year, a significant Library Review project was conducted. The Library Review made a number of recommendations that have been adopted by the Council of Judges. The most momentous is the endorsement of a Law Library of Victoria, combining the libraries of the various courts, and at a later stage, the Bar and the Law Institute. The review also made various recommendations about the funding of such a library, and it is hoped that this will see the Court Library overcome its long-term financial problems, especially as the move to a national admission scheme will remove a large part of the Library's current income.

Finance Report

The first graph and table show the budgeted revenue applied by the Department of Justice to the Court and the actual result incurred against each appropriation for the past two financial years.

Special Appropriation

Funding allocated for judges, associate judges and judicial registrars remuneration and entitlements are paid out of Special Appropriations.

Revenue Appropriations Summary	2010-11 Revenue \$'000	2010-11 Actual \$'000	2011-12 Revenue \$'000	2011-12 Actual \$'000
Special appropriation	23,994	22,825	26,304	25,607
Output appropriation-Supreme Court	27,250	27,023	25,907	25,907
Output appropriation-JCO	6,261	5,977	6,122	6,060
Capital appropriation	298	291	229	229
Total *	57,803	56,116	58,562	57,803

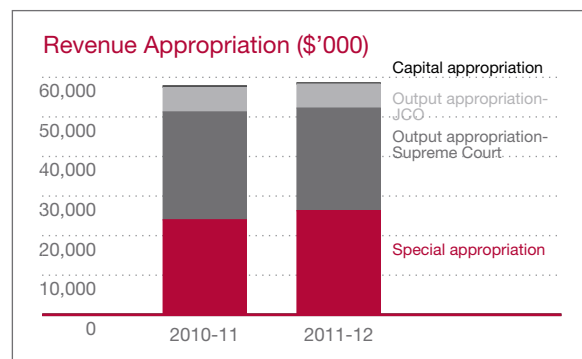
* Actual result at 6 August 2012.
2010-11 capital expenditure adjusted for rounding.

Output Appropriation

Funding allocated for employee salaries and expenses, operating expenses and non-discretionary expenses such as rent, depreciation and amortisation (non-discretionary expenses are managed by the Department of Justice).

Capital Appropriation

Funding allocated to the Court for capital works and furniture and fittings of Court buildings.



The second graph and table show the operating expenses and net result incurred by the Court and Juries Commissioner's Office (JCO) for the past two financial years.

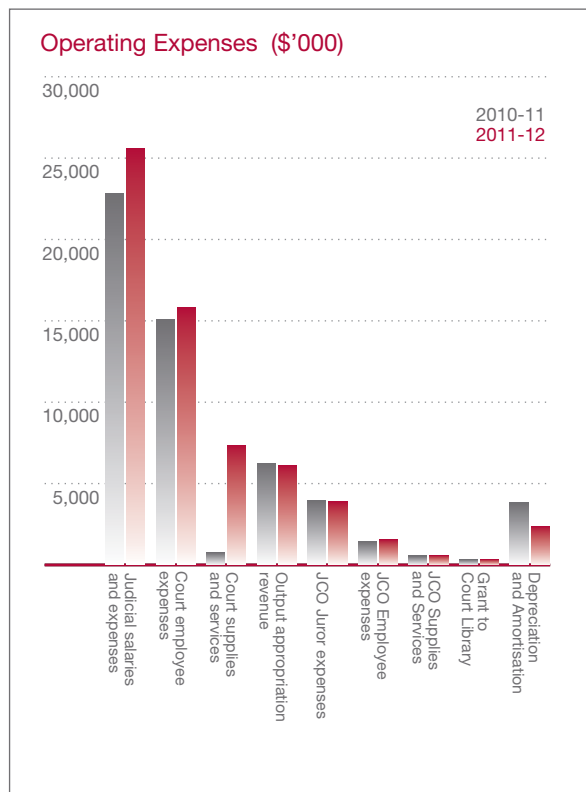
Operating Result	2010-11 \$'000	2011-12 \$'000
Judiciary		
Special appropriation revenue	23,994	26,304
Judicial salaries and expenses	(22,825)	(25,607)
<i>Net result from judiciary transactions</i>	1,169	697
Court Administration		
Output appropriation revenue	27,250	25,907
Employee salaries and on-costs	(15,078)	(15,824)
Supplies and Services	(7,770)	(7,357)
Grant to Court Library	(350)	(350)
Depreciation and Amortisation	(3,825)	(2,375)
<i>Net result from Court Administration</i>	227	1
Juries Commissioner's Office (JCO)		
Output appropriation revenue	6,261	6,122
Employee salaries and on-costs	(1,445)	(1,572)
Juror expenses	(3,967)	(3,888)
Supplies and Services	(565)	(598)
Depreciation and Amortisation	-	(2)
<i>Net result from Juries Commissioner's Office</i>	284	62
<i>Net operating result from all Court activities *</i>	1,680	760

* Actual result as at 6 August 2012

The third table shows the administered fees collected by the Court on behalf of the State for the past two financial years.

Collection of Administered Fees	2010-11 \$'000	2011-12 \$'000
Court Fees *	13,472	14,130
Probate online application fees *	781	797
Total fees collected	14,253	14,927

* Includes fees collected and annotated to the Court and the Department of Justice annual appropriations under section 29 of the *Financial Management Act 1994*. Last financial year was adjusted to reflect this new approach.



External Judicial Activity

The Chief Justice

1 July 2011: Attended the National Day Celebration Reception, hosted by the Consul General of the USA.

12–14 August 2011: With the President, Justices Coghlan and Lasry, attended a Trial Advocacy Workshop run by the Criminal Bar Association.

15 August 2011: Delivered the welcome address at the Commercial Law Conference.

23 August 2011: Launched *Commercial Arbitration in Australia* by Professor Doug Jones AM. Justice Croft attended.

7 September 2011: With Justices Neave, King and Coghlan, attended the Australasian Institute of Judicial Administration (AIJA) Oration in Sydney, which was delivered by the Right Honourable the Lord Chief Justice of England and Wales.

8 September 2011: Gave a presentation entitled *Making it easier for Juries to be the deciders of fact* at the AIJA Conference. Justice Neave also gave a presentation entitled *New approaches to sexual offences*. Justices King and Coghlan held a session on the proposed Criminal Practice Direction.

18–21 September 2011: Together with Justices Nettle and Ashley, in Bendigo for the Court of Appeal circuit.

20 September 2011: Gave a speech on behalf of the Court of Appeal at the Bendigo Law Association. Justices Nettle and Ashley, and Judicial Registrar Pedley attended.

21 September 2011: Met with Michelle O’Sullivan, President of the Bendigo Law Association.

22 September 2011: Hosted the Australian Courts Administrators’ Group reception in the Court Library.

3 October 2011: Hosted a farewell function for retiring members of the Council of Legal Education. Justices Harper, Kyrou, Davies and Ferguson attended.

5 October 2011: Delivered a presentation to the Law Institute of Victoria (LIV) Ethics Liaison Group.

6 October 2011: With Justices Harper, Hollingworth, Hargrave, Judd and Ferguson, and Associate Justices Efthim and Mukhtar, attended the Commercial Bar Association of Victoria function in the Court Library.

10 October 2011: Hosted the Victorian Bar Readers course, Welcome to the Court, and conducted a tour of the court for Bar Readers.

11 October 2011: With Justice Hollingworth, attended the conferral by Victoria University of an honorary degree on the Honourable Michael Kirby AC.

12 October 2011: Attended the Council of Chief Justices meeting in Hobart.

20 October 2011: Delivered the opening address *Our future is Asia* at the 2nd Engaging the Asian Economies Law and Practice Conference at Monash Law Chambers.

21 October 2011: Hosted Justice Chong of the Supreme Court of Singapore at the Court. The President, Justices Hansen, Pagone, Judd, Davies, Croft and Almond, and Associate Justices Daly and Randall, attended.

4 November 2011: With Justice Osborn, was a panel member for the University of Melbourne School of Architecture final presentations and assessments.

7 November 2011: Participated in a panel discussion with Chief Justice Doyle at the National Judicial Orientation Program.

15 November 2011: Opened the new Monash University Law Chambers.

17 November 2011: Gave the opening address at the first Arbitration Users Group Meeting in Court 15. Justice Croft chaired the meeting.

21 November 2011: With Justices Bongiorno and Osborn, attended the presentation of the Court Architecture prize at the University of Melbourne School of Architecture.

7 December 2011: Together with Justice J Forrest, addressed the Herald and Weekly Times Journalism Trainee Scheme in the Banco Court.

7 December 2011: Attended an International Commission of Jurists Sentencing Forum, chaired by Justice Lasry, at the State Library of Victoria. The President delivered a paper at the forum.

15 December 2011: Delivered the keynote address at the Conferral of Degrees for University of Melbourne Faculty of Architecture graduates.

23 January 2012: Opened the Australian Bar Association Trial Advocacy Course at the Federal Court of Australia, Melbourne. Justice Hollingworth participated as an instructor from 23–27 January 2012.

23 January 2012: Delivered the keynote address, entitled *The Judge’s Perspective – Expectations and Reality* at the Supreme and Federal Court Judges’ Conference.

23 January 2012: Hosted Chief Justices and Judges from the Supreme and Federal Courts and their partners at a reception in the Court Library.

24 January 2012: Together with chief justices and judges from the Supreme and Federal Courts of Australia, and retired judges, attended a reception at Government House.

25 January 2012: Together with Chief Justices and Judges from the Supreme and Federal Courts of Australia, attended the Conference Gala Function in the Great Hall, National Gallery of Victoria. Justice Whelan was the guest speaker.

26 January 2012: Attended the Australian Unity Great Australia Day Breakfast at Queen's Hall, Parliament of Victoria.

8 February 2012: Attended the American Australian Association gala function at the Crown Palladium.

17 February 2012: Together with the President and the Principal Judges, attended a leadership day.

18 February 2012: Attended an AIJA Council Meeting in Melbourne.

23 February 2012: Opened the Law Council of Australia Annual Conference.

28 February 2012: With Justice Harper, and Associate Justices Daly, Zammit and Randall, and Judicial Registrars Pedley and Gourlay, attended a JCV session entitled *The Art of Sustained Attention: Mindfulness Practices for Judicial Officers*.

2 March 2012: Together with Justices Neave, Curtain and Hollingworth, attended the Dame Roma Mitchell Memorial Lecture.

23 March 2012: With Justice Vickery, attended a seminar on discovery of documents hosted by the AIJA and the National Judicial College of Australia.

26 March 2012: Gave a speech entitled *Women in Prison* and launched The Women and Mentoring Program Evaluation at the Collingwood Neighbourhood Justice Centre.

27 March 2012: Presented awards at the annual ceremony of the Victoria Law Foundation Legal Reporting Awards in the Court Library. Justice J Forrest attended.

23 April 2012: Launched the Department of Justice seminar on *Offers of Compromise*. Justice J Forrest attended.

1 May 2012: Delivered a speech at the Public Forum of the University of Melbourne, Centre for Public Policy entitled *Courts and our democracy: Just another government agency?*

1 May 2012: With Justice Hansen, spoke to the Melbourne University Juris Doctor Legal Ethics students.

3 May 2012: With Justices Weinberg, Bongiorno, Harper and Macaulay, attended the launch of the First Year JD Court Program and the Judge in Residence Program at the Melbourne Law School.

7 May 2012: Delivered the opening remarks at the 4th International Construction Law Conference.

9 May 2012: Attended the Victoria Law Foundation launch of Law Week and the Sir Redmond Barry Exhibition in the Library.

15 May 2012: With Justice Dixon, attended the Victorian Bar Pro Bono Scheme Awards in the Library.

The President

19 September 2011: Met with Year 12 legal studies students from Melbourne Grammar and The University High School and discussed perceptions of the courts and the justice system.

6 October 2011: Gave a presentation at the Proceeds of Crime Conference.

14 October 2011: With Justices Nettle and Hollingworth, attended a reception at Government House for teachers of advocacy.

17 February 2012: Attended the Melbourne Law School public lecture on *The Rome Statute Ten Years on: Where to from here for the ICC?*

18 February 2012: Gave a speech entitled *The New Litigation Landscape* at the 2012 Annual Victorian Bar Conference.

22 February 2012: Attended the Commercial Court Seminar at Monash University Law Chambers. Justices Pagone and Vickery presented.

18 February 2012: Presented in the *Criminal Law – The Criminal Procedure Act 2009 and Criminal Appeals Changes* session at the 2nd Annual Victorian Bar Conference. Justice Weinberg presented as part of the session entitled *Criminal Law*.

Justice J Forrest presented as part of the *Civil Law – The Civil Procedure Act 2010 and Changes to the Federal Court Act* session. Justice Ferguson gave a presentation as part of the session entitled *The Modern Law Firm and Implications for the Bar*.

6 March 2012: With Justices Hansen, Kaye, Hollingworth, J Forrest, Kyrou, Emerton, Ferguson, Sifris and Macaulay, and Associate Justices Lansdowne, Mukhtar, Zammit and Randall, attended a JCV workshop presentation by Professor Muriel Bamblett on *Indigenous Cultural Safety*.

20 March 2012: Chaired a seminar entitled *Statutory Interpretation* held by Victoria University. Justice Hollingworth presented.

16 April 2012: Addressed journalism students focused on *Media and the Courts*.

17 April 2012: Chaired a JCV workshop entitled *Statutory Interpretation*, attended by the Chief Justice, judges, associate judges and judicial registrars.

4 May 2012: Delivered an address at the Queens Inn 45th Annual Dinner entitled *Judges and Human Rights*.

15 May 2012: Addressed walkers and participated in the PILCH Walk for Justice.

15 May 2012: Delivered the opening address at the Victoria Police Sexual Offences Symposium.

Justice Nettle

27 March 2012: Delivered the address at the launch of Dr Robert Dean's book *Trade Secrets and Privacy*.

18 April 2012: Delivered the keynote remarks at the Victorian Law Association Appeals training session.

19 April 2012: With Justices Neave and Bell, delivered remarks at the Australian Academy of Law Symposium. The Chief Justice, Justices Weinberg, Bongiorno, Cavanough, Forrest, Macaulay, Emerton, Davies and Sifris, and Associate Justice Zammit, attended.

Justice Ashley

3–6 July 2011: With Justices Neave, Weinberg, Osborn, J Forrest and Emerton, attended the Australian Bar Association Conference in Berlin.

16 August 2011: With Justice J Forrest, presented the JCV session on *Recent Developments in Causation*. The Chief Justice, Justices Harper, Hansen, Coghlan, Beach, Dixon and Associate Justice Zammit, attended.

11 November 2011: Was the guest speaker at the Bendigo Law Association's annual dinner.

Justice Neave

22 June 2011: Attended the launch of the Law Students Mentoring Program.

22 August 2011: Presided at the Castan Centre Human Rights Moot.

2 November 2011: With Justice Hollingworth, attended the Allen Hope Southey Memorial Lecture on *The Global Unity of the Common Law of Torts*.

6 March 2012: Attended the Child Witness Service Advisory Committee Meeting.

7 March 2012: Attended the Office of Public Prosecutions Interactive Legal Education Project Advisory Committee Meeting.

19 March 2012: Attended the JCV Committee Meeting.

20 March 2012: Attended the Centre for Dialogue Meeting.

21 March 2012: Participated in an interview with University High School students for their school project.

4 April 2012: With Justice Hollingworth, attended a Melbourne University Law School function where Professor Saunders gave a speech entitled *Current Issues in Federalism*.

10 May 2012: Participated in the Sexual Offences Interactive Legal Education Program workshop and discussion on *Common Mistakes Made in Sexual Offence Trials and Advice on 'do's' and 'don'ts' From an Appellate Perspective*.

16 May 2012: Delivered an address entitled *Improving the Justice Response to Sexual*

Offending at the Australian Institute of Criminology Symposium.

Justice Redlich

15 September 2011: With Justices Beach and Sifris, adjudicated the Court Associates' Moot.

Justice Weinberg

10 August 2011: Delivered the Peter Brett Memorial Lecture entitled *The Criminal law – A Mildly Vituperative Critique* at Melbourne Law School.

15 October 2011: Delivered a paper at the Western Australian Bar Association CPB Conference entitled *The Criminal Law – A Mildly Vituperative Critique*.

11–12 February 2012: Gave a keynote speech entitled *The Labyrinthine Nature of Federal Sentencing* at the National College of Australia's Current Issues in Federal Crime and Sentencing Conference in Canberra. Judicial Registrar Pedley attended.

Justice Bongiorno

10 August 2011: With Justices Osborn, Habersberger, Hargrave and Dixon, attended the Commercial Bar Association Dinner for the Honourable David Byrne QC.

19 October 2011: Delivered a lecture to post-graduate law students at the University of Paris on *The Fundamentals of a Common Law Trial*.

29 February 2012:

Representing the Chief Justice, attended the Common Law Bar Association and Compensation Bar Association Dinner to mark the retirement of the Honourable Justice Ashley. Justices Nettle, Redlich and Osborn attended.

Justice Harper

27 July 2011: Chaired a meeting of the International Humanitarian Law Committee Australian Red Cross (Victorian Division).

31 July 2011: Delivered the 2011 George Briscoe Kerford Oration, on the subject of sentencing, at Beechworth.

9 August 2011: Introduced Professor Gareth Evans at the Australian Red Cross public forum, *Remembering Hiroshima and Nagasaki: The urgent question of nuclear disarmament*, at The Wheeler Centre.

10 August 2011: With Justice Williams and Associate Justice Zammit, attended the JCV Ramadan Iftar dinner at the Magistrates' Court of Victoria.

30 September 2011: Presented a paper entitled *Sentencing: the Courts, the Media and the Public* at the Melbourne Beefsteak Club.

12 October 2011: With Justices Hollingworth and T Forrest, conducted a session on ethics for the Victorian Bar Readers.

14–16 October 2011: Attended the JCA Colloquium in Alice Springs, as President of the Judicial Conference of Australia. Justices Cavanough, Pagone and Ferguson attended.

17 October 2011: Attended a meeting of the Post Graduate Studies Advisory Panel on Human Rights and International and Comparative Law Specialisation at Monash University Law Chambers.

21 October 2011: With Justices Hargrave and Ferguson attended the JCV Self-Represented Litigants Workshop.

3 November 2011: Attended an address given by the Right Reverend Dr Peter Hollingworth entitled *What is social cohesion and how does it work in Australia* at an Australian Intercultural Society function.

17 November 2011: Attended the AGM of the Victorian Association for the Care and Resettlement of Offenders (VACRO), as President.

24 November 2011: Chaired a teleconference of the Executive Committee of the Judicial Conference of Australia.

28 November 2011: Presented a paper on *Sentencing: the public perception, reality and social implications* at the Victorian Commercial Teachers Association Annual Conference.

28 February 2012: With Justices Hollingworth and Ferguson, Associate Justices Daly, Zammit and Randall, and Judicial Registrar Gourlay, attended the JCV Workshop entitled *The Art of Sustained Attention: Mindfulness Practices for Judicial Officers*.

29 February 2012: Chaired a meeting of the International Humanitarian Law Committee of the Australian Red Cross (Victorian Division).

2 March 2012: Attended a function hosted by the Medical-Legal Society of Victoria, where the guest speaker was Professor Richard Larkins AO.

17 March 2012: Chaired a meeting of the Governing Council of the Judicial Conference of Australia in Sydney.

14 May 2012: Attended a meeting of the Monash University Advisory Panel on Human Rights and International and Comparative Law.

Justice Hansen

October 2011 – March 2012: Attended monthly meetings of the Clinical Ethics Committee of Melbourne Health.

Justice Tate

24–26 August 2011: With Justices Hargrave, King, Almond, Dixon and Macaulay, attended the JCV Judgment Writing Course.

2 September 2011: Representing the Chief Justice, attended a function of the Victorian Women Lawyers.

11 October 2011: Representing the Chief Justice, attended the Victoria University celebratory function for the conferral of an honorary degree on the Honourable Michael Kirby AC.

Justice Osborn

28 July 2011: With Justice Sifris adjudicated the 2011 Hanover Mooting Competition Grand Final in the Banco Court.

26 October 2011 and 29 February 2012: Attended meetings of the Victorian Chapter of the Australian Academy of Forensic Sciences.

11 May 2012: Participated in the JCV Metropolitan Prison Visit Day.

Justice Habersberger

21 October 2011: Opened the Society of Trust and Estate Practitioners Conference and delivered a presentation on the work of the Probate List.

24 February 2012: Presented a paper entitled *An Update on the Operation of the New Probate List* at the Leo Cussen Wills and Estates Intensive.

31 March 2012: Attended and spoke at the Vincents' 50th Anniversary Symposium 2012, organised by the Queensland Law Society.

Justice Williams

8 March 2012: Attended an International Women's Day function hosted by the Institute of Public Administration.

Justice Kaye

August 2011 – March 2012: Attended teleconferences of the National Indigenous Justice Committee.

30 August 2011: Presented a paper entitled *Recent Developments in Defamation: Imputations in Claims and Defences* at the JCV. Justices Osborn and Dixon attended.

28 February 2012: Attended a meeting of the Victorian Bar Indigenous Lawyers Committee and reception for indigenous clerks.

5 March 2012: Attended the Victorian Bar Workshop on Indigenous Hearing Loss.

7 March 2012: With Justice Kyrou attended a Federal Court function for Indigenous clerks.

15 March 2012: Chaired a meeting of the Judicial Officers' Aboriginal Cultural Awareness Committee.

Justice Whelan

26 October 2011: Attended the Australian Parole Board Conference in Queensland.

30 January 2012: Representing the Chief Justice, attended the Australian Bar Association dinner for new silks at the High Court, Canberra.

Justice Hollingworth

11–15 July 2011: Taught Advanced Civil Procedure in the LLM course at Melbourne University.

17–23 September 2011: Attended the 8th Greek Legal and Medical Conference in Rhodes, Greece, and delivered a presentation entitled *The CSI Effect – How the modern media impact on jurors' perceptions of forensic science*.

9 November 2011: Taught judgment writing at the National Judicial Orientation Program. Justice Kyrou and Associate Justice Randall attended.

5 December 2011: Attended a reception for the Victorian Bar's Duty Barristers' Scheme.

6 March 2012: Delivered a paper on *Women in the Law* at a seminar organised by DLA Piper.

26 March 2012: Presented a paper to the Bar Readers on *Effective Use of Language*.

2 April 2012: Attended the opening of University House at the Woodward, The University of Melbourne Law School.

17 April 2012: Attended meetings of the International Commission of Jurists on 13 December 2011, 14 February 2012, 13 March 2012.

24 April 2012: Delivered a paper on dispute resolution to the JD Students at The University of Melbourne.

1 May 2012: Participated in a seminar on *Interpreting & Generating Rights in Multi-Level Jurisdictions* organised by the University College London Judicial Institute and Yale Law School.

2–5 May 2012: With Justices Davies and Ferguson, attended the International Association of Women Judges conference in London.

Justice Bell

15 July 2011: Attended the 9th Annual Jury Research and Practice Conference in Sydney.

27 July 2011: Attended the launch of the Salvation Army Humanitarian Legal Practice at Parliament House in Sydney.

22 October 2011: Delivered a presentation at the Salvos Legal 2011 Lecture Series on *Procedural Justice and Human Rights: Informal Adjudication in Courts and Tribunals*.

28 October 2011: Presented the keynote address at the LIV Human Rights & Administrative Law Conference.

16 April 2012: Gave a presentation on human rights and Victoria's criminal justice system to judges from the Supreme People's Court of China and representatives from the Australian Human Rights Commission at the Court.

Justice Hargrave

13 September 2011: Chaired a meeting of the Civil Procedure Advisory Group.

25 October 2011: Attended the Self-Represented Litigants Committee meeting.

17 November 2011: Together with Justice Davies, led a discussion at a lunchtime session entitled *Concurrent Evidence*, attended by judges of the Court.

Justice King

17 August 2011: Was a panellist at the *LIV News Today, Laws Tomorrow* moderated discussion.

16 April 2012: Participated in the Comedy Festival Legal Debate.

Justice Cavanough

13 October 2011: Delivered a presentation entitled *Open Justice (or closed) in Administrative Proceedings: Variations on accessibility* at the AGS Administrative Law Symposium.

15 March 2012: Representing the Chief Justice, attended a St Patrick's Day function hosted by the Archbishop of Melbourne and the Catholic Education Office.

20 March 2012: With Justices Kyrou, Davies, Croft and Ferguson, and Associate Justice Daly, attended a JCV workshop entitled *Personal Property Securities Act*.

28 March 2012: Attended the Fiat Justicia Lecture entitled *The Province of Legitimate Expectations Defined: the English and Australian Experience*, presented by Professor Christopher Forsyth.

Justice Curtain

9 September 2011: Presented to legal studies students at Mazonod College on the Court.

September and November 2011: Attended meetings of the Australian Catholic University Law Course Steering Committee.

14 October 2011: Delivered a presentation at the Victoria Legal Aid Conference entitled *VLA Criminal Law and Practice – Pushing the Boundaries of Criminal Law*.

Justice Pagone

7 July 2011: With Justice Davies attended the official launch of the Report by the United Nations Development Fund for Women, entitled *Progress of the World's Women 2010-11, Access to Justice*.

29 July 2011: Presented a paper entitled *Goodwill and its Relationship to Land* at the Tax Institute's 11th Annual States' Tax Conference.

12 August 2011: Presented a paper entitled *Muffled Echoes of Old Arguments and Part IVA* at the Tax Institute's 44th Western Australian State Convention.

31 August 2011: Attended the Maritime Law Association Presentation on Container Detention.

19 October 2011: Was a speaker at the Green Practice Project Comedy Debate.

Justice Coghlan

19 April 2012: Representing the Chief Justice, attended the Victoria Legal Aid Meet and Greet on the 2012 Trial Counsel Development Program.

20 April 2012: Representing the Chief Justice, attended the Legal Services Board launch of the Sexual Offences Interactive Legal Education Program breakfast.

Justice Robson

26 October 2011: Chaired a Commercial Court seminar entitled *Duties of Directors and Officers beyond James Hardie and Centro – Where to from here?*

Justice J Forrest

9 and 15 September 2011: Hosted students from St Bridgets and Horsham Colleges at the courthouse in Horsham.

16 September 2011: Delivered the keynote address to the LIV Australian Young Lawyers Conference.

Justice Lasry

27 July 2011: Attended the Monash University Faculty Board meeting.

29 July 2011: Attended a forum on the death penalty run by the International Commission of Jurists.

29 July 2011: Participated in a Criminal Bar Association seminar.

1 September 2011: Attended the International Commission of Jurists panel discussion on the decision of the High Court in M70.

5 September 2011: Delivered a presentation to the Criminal Bar Association re Verdins.

8 November 2011: Attended a meeting of the International Commission of Jurists.

16 November 2011: Attended the JCV Oral Decisions workshop.

17 November 2011: Delivered a speech for the Skyline Education Foundation Australia at the offices of Dr Peter Hollingworth.

11–20 December 2011: Participated in the Australian delegation to Bangladesh for Legal Training and gave a presentation entitled *Trial Preparation*.

15 February 2012: Presented on *Ex Tempore Decisions* at the JCV and participated in a panel discussion on oral decisions.

16 February 2012: Attended a function to announce the establishment of ACU Law Degree.

22 March 2012: Representing the Chief Justice, presented the Supreme Court Prize at the Monash Law School Prize Ceremony.

22 April 2012: Gave a presentation entitled *Crime and Punishment: Life in the underworld* at the National Rotary Conference.

4 May 2012: Delivered a presentation on *Ex Tempore* rulings at the JCV's Oral Decisions Program.

Justice Judd

15 August 2011: Presented a paper entitled *Developments in Civil Procedure: Good and bad* at the Commercial Law Conference.

16 May 2012: Representing the Chief Justice, delivered the opening address at the Insolvency Practitioners' Association National Conference.

Justice Vickery

5–7 August 2011: Chaired the Annual Conference of the Construction Law Society in Brisbane.

12 October 2011: Delivered a presentation entitled *Security of Payment Legislation in Australia, Differences between the States – Vive la Difference?* to the Building Dispute Practitioners Society.

7 May 2012: Delivered a paper entitled *Managing the Paper* at the 4th International Construction Law Conference.

Justice Kyrou

17 March 2012: Representing the Chief Justice, attended the Cultural Diversity Week Gala Function.

13 October 2011: Delivered a presentation entitled *Judicial Review of Decisions of Non-Governmental Bodies Exercising Governmental Powers: Is Datafin part of Australian law?* at the AGS Administrative Law Symposium.

Justice Davies

4–8 September: Attended the 54th Annual Meeting of the International Association of Judges in Istanbul.

9–10 September 2011: Attended the International Conference of Tax Judges in Paris.

5 December 2011: Delivered a presentation entitled *Tax Litigation: Getting your facts straight* at Mallesons Stephen Jaques Young Lawyers.

9 January 2012: Met with Judge Peck of the US Bankruptcy Court, Southern District of New York.

22 February 2012: Attended a Commercial Court seminar at Monash University Law Chambers.

7 March 2012: Attended a function for International Women's Day.

Justice Emerton

17 August 2011: Chaired the Commercial Court Seminar *Apprehended Bias after British American Tobacco Services Limited v Laurie*.

25 August 2011: Delivered a presentation entitled *Written Reasons and Natural Justice: Legal Principles and Practical Guidance* at the VGSO Seminar Program.

24 February 2012: With Associate Justice Randall, attended the JCV workshop at the Victorian Institute of Forensic Medicine.

14 March 2012: Participated in a meeting to assist the Chairman of Yooralla to select the inaugural recipient of the Chairman's Award.

Justice Croft

10 August 2011: Delivered the keynote presentation entitled *International Arbitration and the Australian Courts* at the International Chamber of Commerce Conference.

29 November 2011: Chaired a conference on issues in cross-border transactions.

18 February 2012: Attended Deakin University School of Law's 20th Anniversary celebration in Geelong.

19 April 2012: Representing the Chief Justice, presented the Supreme Court Prize at the Deakin University School of Law 2011 Academic Awards.

20 May 2012: Represented the Court at the re-opening of the Dunnolly Courthouse.

Justice Ferguson

10 February 2012: Attended the National Judicial College of Australia Council meeting in Canberra.

Justice Sifris

6 July 2011: Delivered a presentation entitled *The Conflict between Civil and Religious Laws* at the Spiritgrow Breakfast.

17 August 2011: Gave a presentation on *Key Developments in Apprehended Bias Doctrine* from the judicial perspective.

18 October 2011: Gave a presentation entitled *Developments in Corporate Insolvency Law* at Corrs Chambers Westgarth.

Justice Almond

18 April 2012: Chaired the Commercial Court seminar *Good Faith – Drafting, Performing and Enforcing Commercial Contracts*.

4 May 2012: Delivered a speech about the Commercial Court to students from Melbourne Law School.

Justice Dixon

9 August 2011: Delivered a presentation entitled *Advocacy Tips and Court Etiquette* for a DLA Piper CLE.

Justice McMillan

16 May 2012: Representing the Chief Justice, attended the Melbourne Law School Student Awards Ceremony and awarded the Supreme Court Prize.

Associate Justice Wood

7 September 2011: Gave a presentation entitled *Best Practice – Taxation of Costs* at the Legalwise Seminar – Legal Costs Update.

Associate Justice Landsdowne

7 March 2012: Representing the Chief Justice, was a speaker at an International Women's Day lunch.

Associate Justice Zammit

21 July 2011: Spoke at the Women in Insurance High Tea event.

27 October 2011: Representing the Chief Justice, was the guest speaker at St Monica's College Year 12 Graduation Ceremony.

28 October 2011: Representing the Chief Justice, attended the Turkish Consulate Republic Celebrations.

10 November 2011: Participated in a panel discussion on Connected Women.

Associate Justice Randall

15–17 February 2012: Attended the JCV Judicial Orientation session.

20 March 2012: Chaired a JCV workshop entitled *Personal Property Securities Act*.

Judicial Registrar Gourlay

15 July 2011: Gave a presentation on the conduct of matters in the Costs Court at an LIV Seminar.

1 August 2011: Attended the LIV's Cost Lawyers Specialisation Scheme preparation talk on Advocacy in Costs Court.

10 February 2012: Gave a presentation entitled *The New County Court Scale* at the LIV National Costs Lawyers conference in Melbourne.

APPENDICES

Contacts and Locations Supreme Court of Victoria

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 9158
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

Senior Master's (Funds in Court) Office

Level 5, 469 La Trobe Street
Melbourne VIC 3000
Tel: 1300 039 390
Fax: 1300 039 388
smo@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 4173

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

Roberts Avenue
(PO Box 111)
Horsham VIC 3400
Tel: (03) 5362 4444
Fax: (03) 5362 4454

Latrobe 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

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

24 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
Tel: (02) 6043 7000
Fax: (02) 6043 7004

Glossary

Adjournment

A procedure to suspend or postpone a hearing to a future date.

Alternative Dispute Resolution (ADR)

Alternative dispute resolution (ADR) is a term used to describe a number of processes in which a trained, impartial lawyer helps people to resolve their disputes. The main types of ADR are mediation, conciliation and arbitration.

Appeal

An application to a higher court to review the decision of a lower court.

Associate

Each judge and associate judge has an associate. The associate's duties involve the administrative function of running court hearings. They also act as general assistants to their judge/associate judge.

Associate judge

A judicial officer who carries out judicial functions in the civil jurisdictions of the Court pursuant to the rules of the Supreme Court.

Award funds

Damages or compensation awarded to a person under a legal disability from a court proceeding brought on his or her behalf. Award funds are paid into Funds in Court.

Beneficiary

A person for whom the Court holds funds.

Circuit sittings

Sittings of the Supreme Court, which are held in various regional districts within Victoria.

Commercial and Equity Division

A division of the Court's Trial Division brought into effect on 1 February 2000, pursuant to Practice Note No. 4 of 1999.

Common Law Division

A division of the Court's Trial Division brought into effect on 1 February 2000, pursuant to Practice Note No. 4 of 1999.

Court of Appeal

The Court of Appeal hears appeals from criminal and civil trials heard by judges of the Supreme Court and the County Court. It also hears appeals from some proceedings which have come before the Victorian Civil and Administrative Tribunal (VCAT) and other tribunals.

Criminal Division

A division of the Court's Trial Division brought into effect on 1 February 2000, pursuant to Practice Note No. 4 of 1999.

Directions hearing

A form of preliminary hearing conducted when directions are given for the main hearing to be held at a later date.

Docketing

A method by which cases are scheduled for hearing.

Funds in Court

A discrete, self-funded division of the Court where the Senior Master holds, administers and invests all funds paid into the Court.

Injunction

A court order imposed to make a person do something or refrain from doing something.

Interlocutory applications

Provisional or interim applications are brought between the beginning and the end of a proceeding to decide a particular matter that is not the final issue of the entire proceeding.

Judge in charge

A judge who is responsible for the work of a particular list. The judge in charge gives directions to the parties from the early stages of the proceedings and will usually conduct the trial.

Mediation

A form of alternative dispute resolution, which aims to assist two (or more) parties in reaching an agreement.

Non-award funds

Money paid into Funds in Court that are not award funds. For example, interest and taxation payments are non-award funds.

Originating motion

A form of process used to commence a proceeding where required by an Act or by the Rules, and where there is no defendant or when it is unlikely that there will be any substantial dispute of fact between the parties in a proceeding.

Party/party costs

In civil litigation matters the unsuccessful party may be required to pay the successful party's costs. These costs are known as party/party costs.

Pleadings

A series of written statements exchanged between the parties in a proceeding. They set out and clarify the claims and defences of the parties and help define the issues that must be determined.

Practice Court

A court where short and or urgent applications can be made. A judge presides over the Practice Court.

Presentment

Used in criminal proceedings, this is a document filed in court, which describes the crimes alleged by the prosecution to have been committed by an accused.

Pre-trial conference

A pre-trial conference is a form of dispute resolution that usually takes place after a proceeding has been set down for trial.

Probate Online Advertisement Scheme (POAS)

A scheme implemented by the Probate Office to publish probate advertisements on a dedicated website provided by the Court, replacing the traditional method of publishing in the newspaper.

Probate

Proving of a will as authentic or valid. The Court is authorised to declare that a will is valid, allowing the executor to collect the deceased's assets and so administer the estate according to the terms of the will.

Senior Master's Office (SMO)

The Senior Master's Office is also known as Funds in Court; a discrete, self-funded division of the Court where the senior master holds, administers and invests all funds paid into the Court.

Security for costs

The Court may, on application of a defendant, order that security for the costs of the defendant in a proceeding be paid by the plaintiff under certain circumstances.

Specialist List

A list managed by a judge in charge, which provides specialist management to cases contained in that list and associated disputes. The judge in charge gives directions to the parties from the early stages of the proceedings and will usually conduct the trial proceedings in the list. The Court has several specialist lists.

Subpoena

A writ or summons issued in a proceeding requiring the person to whom it is directed to be present at a particular place and time for a specified purpose under a penalty for non-attendance.

Tipstaff

An officer of the Court who is responsible for keeping order in the Court. They also swear in or affirm witnesses and look after juries.

Trial Division

A division of the Court headed by the Chief Justice and generally about 20 other judges. The Trial Division has three sub-divisions: the Commercial and Equity Division, the Common Law Division and the Criminal Division.

Self-represented litigants

Individuals who represent themselves in a proceeding.

Victorian Government Reporting Services (VGRS)

VGRS provides a range of recording and transcript services to the Court as well as to other Victorian courts.

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