

SUPREME COURT OF VICTORIA

2010–11
Annual Report



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November 2011

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LETTER TO THE GOVERNOR

November 2011

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 2010 to 30 June 2011.

Yours sincerely,

Marilyn L Warren AC
Chief Justice
Supreme Court of Victoria

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

Remarks of the Chief Justice



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

The judges of the Supreme Court are committed to serving the rule of law and the Victorian community. As the superior court for the State of Victoria the judges carry a duty to demonstrate intellectual leadership and excellence and to be innovative in all we do.

We provide an overview of the Supreme Court's activities in the last financial year 2010-11, focussing on five priorities:

1. reducing court delays, 2. serving the community, 3. financial performance, 4. IT and innovation, 5. resourcing and leadership, professional development and judicial education.

1. Reducing Court Delays

Court of Appeal Criminal Reforms

Reforms initiated and developed by the Court and financially supported by the Department of Justice, in late 2010, have increased finalisations by 29.5 per cent. The reforms have maximised the use of judicial time, increased through-put and facilitated expedition. Pending criminal cases have been reduced by approximately 200.

The Court next plans to review its civil appeals and delays.

The introduction of interlocutory criminal appeals requested by the Court then supported by the Department through legislation have circumvented unnecessary trials and reduced the length of some trials.

Class Actions

The Court presently has very large commercial and common law class action

litigation. Proceedings of this type are now subjected to intensive judge case management, dual interlocutory sittings of judges and associate judges and Court annexed mediation. Innovative techniques have been implemented to maximise judicial time and expedite proceedings. In 2010-11, the Trial Division heard and determined *Timbercorp* – a shareholders' case, *Thomas* – the first bushfire case, *Wheelahan* – a landfill case (with further hearings in 2012).

Post-committal Directions

An innovation of the Criminal Division judges. The Court now convenes a directions hearing within 14 days of committal for trial in the Magistrates' Court. The procedure has identified trial issues much earlier in time, avoided unnecessary trial adjournments due to lack of readiness and facilitated the resolution of pleas. Trials are now usually listed within six to nine months of committal for trial, sometimes less. This is a significant achievement.

2. Serving the Community

Support for Self-represented Litigants

The Court initiated and continues, with financial support from the Department of Justice, the establishment of a self-represented litigants (SRL) coordinator. The role has better managed these litigants in the preparation of court papers, filings and procedures. The Court annually hears self-represented litigants in approximately 100 applications in the Practice Court, 38 civil applications in the Court of Appeal

and a number of trials. In 2010-11, a single SRL trial lasted over 100 sitting days. The SRL coordinator facilitates better use of judicial and registry time. By providing process advice and assistance the role assists individuals who otherwise do not have the knowledge or resources to prosecute their case. The service of the SRL coordinator is also utilised by the other jurisdictions.

Commercial Court

The Commercial Court was developed and implemented by judges in January 2009 to serve Victorian business and commercial litigators. It involves five (soon to be six) judges supported by up to seven associate judges responsible for approximately 1,200 matters. It is a 'think tank' for case management and trial reform and its techniques are adopted in other lists. The Commercial Court was also the model for significant parts of the *Civil Procedure Act 2009*. In 2010-11, the Commercial Court increased finalisations by 46 per cent.

Funds in Court

The Senior Master and the Funds in Court Office have introduced self-funded file and investment management reforms for the 5,300 beneficiaries served by the Court. The beneficiaries are an especially disadvantaged group. Approximately \$1.3 billion in funds is securely managed, invested and administered by the Court on behalf of the beneficiaries.

Regional Sittings

The Court has vigorously reactivated trial and appellate sittings throughout regional



The Supreme Court of Victoria, William Street building.

Victoria. The Court appointed a judge responsible for circuit sittings. During regional sittings the Court has initiated community contact through events with local law associations, interactive discussions between judges and local secondary and tertiary students and visits to indigenous, legal aid and community legal centres. The judges have also engaged with local media.

3. Financial Performance

In the 2010-11 financial year the Court budget achieved a surplus. The Court has tightly managed its budgets through regular reporting by Court administration to a finance committee involving judges with rigorous oversight of all expenditure. The Supreme Court provides a cost effective service for the Government. In the Supreme Court the total cost to Government per civil case was \$3,349 which compares very favourably with comparable courts nationally.

4. IT and Innovation

RedCrest Electronic Case Management System

The Court self-initiated and developed a case management system at modest cost, now being piloted in the Technology, Engineering & Construction List, called 'RedCrest'. It may have the potential to be rolled out across other parts of the Court in due course. It also has the potential to eventually be adopted across other courts and tribunals. The system has been supported by the Department of Justice and is recognised as having the potential to address problems met under other systems. The system may also expedite the introduction of full e-filing and expanded use of technology across the Supreme Court.

5. Resourcing and Leadership, Professional Development, Judicial Education

International Framework for Court Excellence (the ‘Framework’)

The Supreme Court has analysed the Framework developed by the Australasian Institute of Judicial Administration and others for self-assessment by courts. The Supreme Court is probably the most advanced jurisdiction in Victoria with respect to application of the Framework.

Commercial Court Programs

In conjunction variously with the University of Melbourne, Monash University and the Victorian Bar, the Court has sponsored, arranged and participated in the annual *Commercial Law Conference*, the *Commercial Court Seminar Series* and the annual *Engaging the Asian Economies – Law and Practice Conference*. These conferences benefit the judiciary and the profession.

The Supreme Court Library Review

The judges have initiated and commenced a review together with the profession through the Supreme Court Library Committee. They are reviewing the current services provided by the Library to the whole legal community and its effectiveness. Importantly, the Supreme Court Library collection is to be protected and preserved. There is a prospect of developing a legal resources centre to be actively shared between the judiciary, the Bar and the profession.

The Future – A New Building

As in previous years, the Supreme Court continues to urge the need for a new, modern building that will enable the Court to properly and efficiently function in the 21st Century. The Court continues to ‘burst at the seams’. Judges now travel like itinerant workers from building to building. The public coming to Court find the environment intimidating and confusing. The profession find it awkward and inefficient. At some point soon the need

will have to be met. It is essential that the planning starts before our problems seriously interfere with our service to the Victorian community and the delivery of justice.

Closing

Finally, we express appreciation to the Secretary of the Department of Justice, Ms Penny Armytage, for the support and facilitation given to the Supreme Court.

We also express our very deep appreciation to all Court staff and the Chief Executive Officer, Mr David Ware, for their loyalty and commitment to our work and the smooth operation of the Supreme Court of Victoria. Without our devoted staff we could never achieve what we have.



The Hon Marilyn Warren AC
Chief Justice
Supreme Court

Remarks of the Chief Executive Officer

The five primary strategy and business areas that make up the Court's support delivery carry out a breadth of operational functions that are central to high quality Court delivery. These areas; the Senior Master's (Funds in Court) Office, the Court of Appeal Registry, the Principle Registry, Court administration, and the Juries Commissioner's Office, employ over 300 staff.

The support delivery areas of the Court continued to strive to provide high quality, accessible and timely services to the judiciary, Court users and the community, throughout the year. The achievements and challenges outlined in this year's annual report highlight the Court's ongoing commitment to innovation and reform.

In a busy year, the Registries met the challenges, increased responsibilities and escalating workloads of legislative and Rule changes, and procedural reforms, while continuing to address residual issues with CourtView, the Court's case management system. In the reporting period there were 501 initiations in the Court of Appeal (184 civil; 397 criminal), 6,897 in the Trial Division (6,789 civil; 108 criminal), and 18,588 initiations in matters of Probate.

During the year, the Court of Appeal initiated the Ashley-Venne Reforms with the support of the Court of Appeal Registrar under the leadership of Judicial Registrar Pedley. Designed to reduce the backlog of appeals and expedite the hearing and determination of criminal appeals the implementation has

shown early positive signs, evident in the decline in the number of initiations and in the significant increase in the clearance rate of criminal appeals. In the long term, it is anticipated that the reforms will further reduce delays in the listing and hearing of appeals and reduce Court costs.

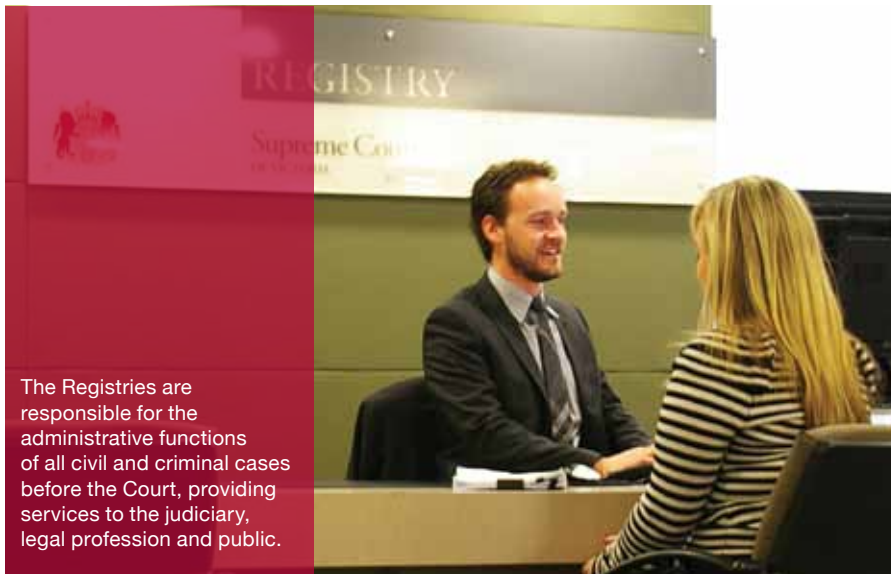
The Principal Registry implemented a range of service improvements through enhanced workflows including the creation of a number of specialist roles to assist legal practitioners and other users with navigating Court Rules and procedures. The Class Actions/Major Litigation Coordinator and the 2009 Bushfire Litigation Coordinator act as central points of contact and provide tailored assistance for legal practitioners and Court users in these areas, and are ensuring the smooth, sensitive and expeditious handling of cases.

In June 2011, the Court of Appeal Registry relocated to 436 Lonsdale St. The move co-locates the Court of Appeal and Principal Registry's counters, providing for a more unified Registry service for users.

The Juries Commissioner's Office (JCO) was kept busy with the summoning of 63,000 jurors, of which 6,850 jurors were empanelled to serve on Supreme and County Court trials. Recognising the importance of community understanding of our jury system, the JCO launched an information-rich portal on the Courts and Tribunals website and introduced an interactive program into the Court's Education Program.



David Ware
Chief Executive Officer
Supreme Court of Victoria



The Registries are responsible for the administrative functions of all civil and criminal cases before the Court, providing services to the judiciary, legal profession and public.

Over 6,000 VCE legal studies students participated in the Court's Education Program in the reporting period, while more than 2,400 people visited the Court on two open days: Courts Open Day in May 2011 and Melbourne Open House in July 2010. Staff from all over the Court participated in the open days, discussing the Court's history and our operations today with members of public.

The Court continued to rationalise its records storage and bring its practises into line with Australian record-keeping standards. In March 2011, the Chief Justice signed the Retention and Disposal Authority for Supreme Court records, providing for the disposal of certain records and the efficient transfer of Supreme Court records to the Public Record Office. In recognition of her achievements, the Archives and Records Manager received a certificate of commendation from the Public Record Office.

Among the many competing financial pressures managed this year, the Court achieved a positive operating result of \$227k for Court administration and \$284k for the Juries Commissioner's Office. The Court's approach to devolved budget management has resulted in a positive operating result since 2008. During 2011-12, we will continue to strengthen our internal reporting and management structures to enable the Court to prioritise and allocate resources without jeopardising the quality of our performance.

To establish more effective and efficient working practices a review of the Court's operations and reporting structures was completed in late 2010. A number of recommendations have been implemented and when complete the changes will provide for strengthened support delivery services for the judiciary, practitioners and Court users.

Subsequent to the 2010 Asia-Pacific Courts Conference in Singapore, the Supreme Court committed to developing its implementation of the International Framework for Court Excellence as its foundation management model. The Framework will provide a focus for improving the quality of services and court administration and will drive improvement and reform through seven key areas for Court excellence: Court management and leadership, Court policies, human, material and financial resources, Court proceedings, client needs and satisfaction, affordable and accessible Court services and public trust and confidence.

David Ware
Chief Executive Officer
Supreme Court of Victoria



THE COURT

Constitution and Jurisdiction

The Judiciary

Management of the Court

Constitution and Jurisdiction

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

Court Delivery

Upholding the rule of law and hearing and determining cases

Support Delivery

The Victorian Jury System, the Court of Appeal Registry and the Principal Registry (including procedural and practical advice), Court awarded beneficiary funds, and Administration

Court Delivery: An overview

Court of Appeal

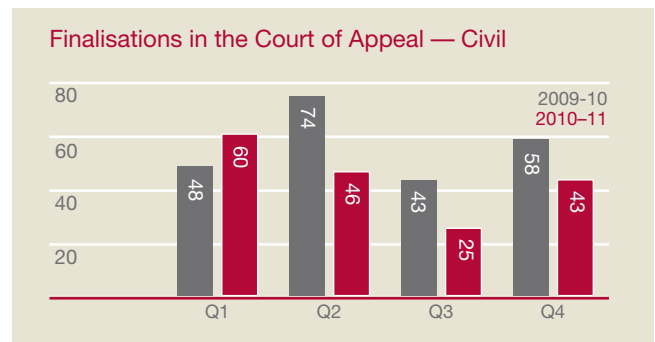
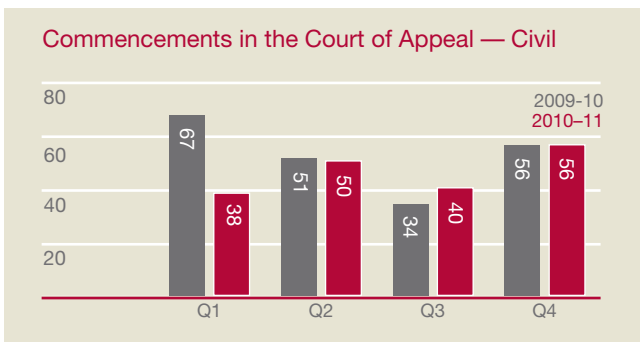
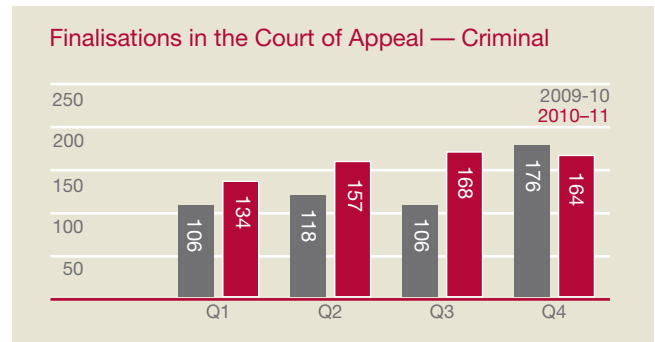
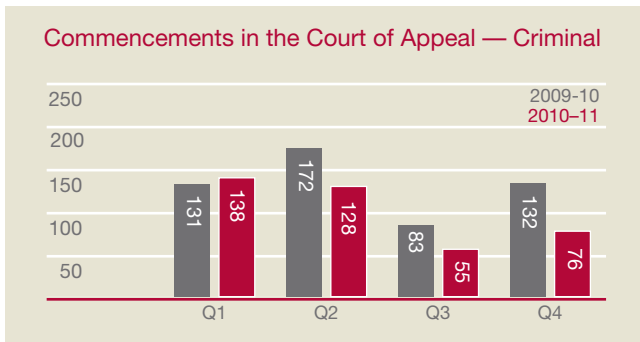
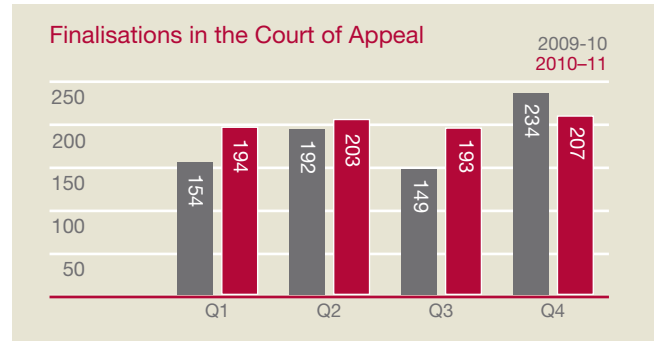
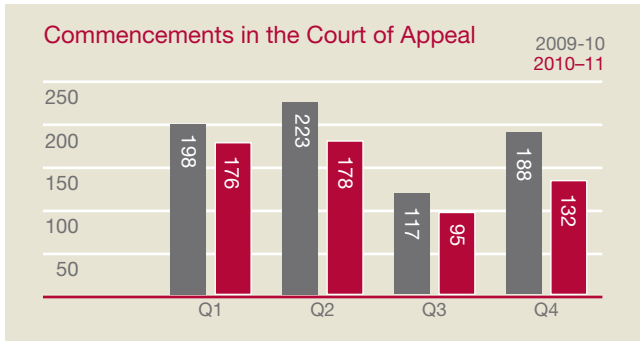
The Court of Appeal was established under the *Constitution (Court of Appeal) Act 1994* and commenced operations on 7 June 1995. The Court of Appeal hears appeals from criminal and civil trials heard by judges of the Supreme Court and the County Court. It also hears some appeals from the Victorian Civil and Administrative Tribunal (VCAT) and other tribunals.

Procedure before the Court is governed by Acts of Parliament, Rules of Court and Practice Notes that are issued by the Court.



The Court of Appeal full bench in March 2011.

2010-11 at a glance: Court of Appeal



Constitution and Jurisdiction

Trial Division

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

- cases of treason, murder, attempted murder and other major criminal matters
- civil cases unlimited in the amount of money that may be claimed
- civil cases involving novel legal issues
- appeals from the Magistrates' Court and VCAT
- judicial review
- corporations matters
- procedural matters, including applications for bail, probate business and urgent applications for injunctions.

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

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

Each Division has a Principal Judge who oversees the work of the Division in addition to their judicial duties. Within the Commercial and Equity and Common Law Divisions, there are a number of 'Specialist Lists'. Each list is assigned to a judge who is responsible for the work of that list.

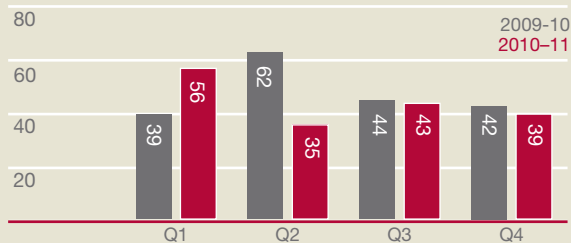
Civil proceedings outside judge-managed lists are case managed by associate judges. Associate judges are members of the Court who carry out judicial functions. They do not, however, have jurisdiction in respect of criminal matters.

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.

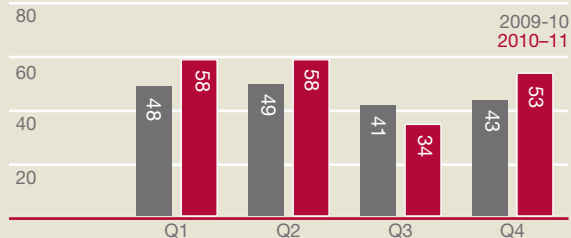
The Commercial and Equity Division also includes the Commercial Court. It is a specialist court developed to provide expeditious, judge-managed case disposition for the business community.

2010-11 at a glance: Trial Division

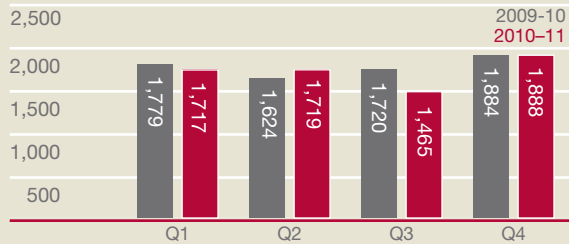
Commencements in the Criminal Division



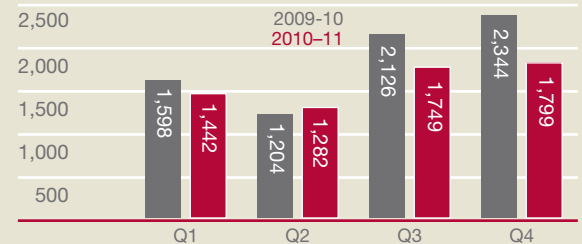
Finalisations in the Criminal Division



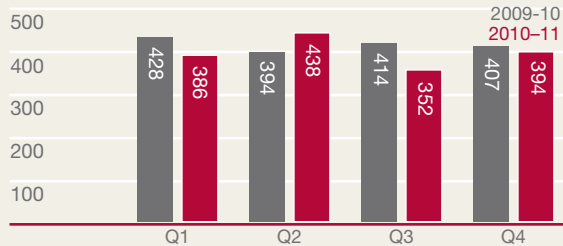
Commencements in the Civil Division (all civil matters)



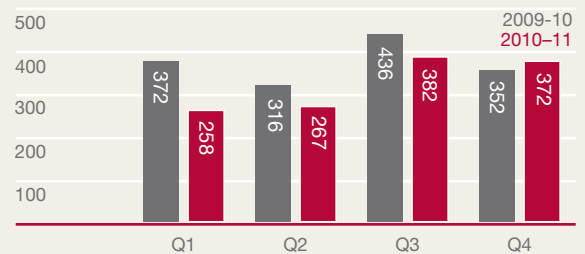
Finalisations in the Civil Division (all civil matters)



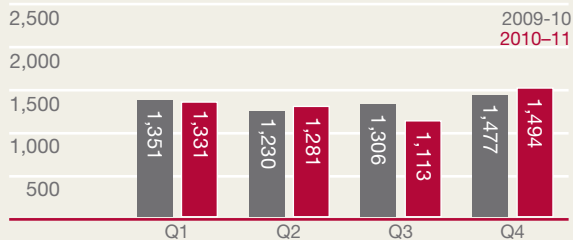
Commencements in the Common Law Division



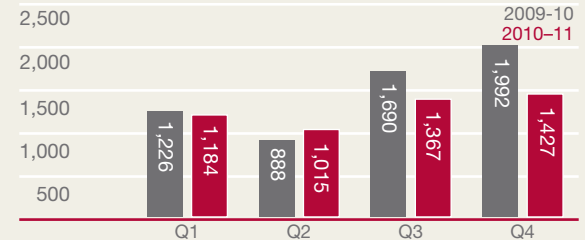
Finalisations in the Common Law Division



Commencements in the Commercial and Equity Division



Finalisations in the Commercial and Equity Division





Proceedings in the Trial Division are heard in the Commercial and Equity Division, Common Law Division or the Criminal Division.

Support Delivery: An overview

There are five areas that make up support delivery:

- the Senior Master's (Funds in Court) Office
- the Court of Appeal Registry
- the Principal Registry
- Court Administration
- Juries Commissioner's Office.

These areas carry out 34 operational functions that are essential to a high quality court delivery. Over 300 staff are employed in these areas, with the Registries and the Senior Master's Office demanding the greater contributions.

A court for all Victorians

The majority of the Supreme Court's work is undertaken in Melbourne, however the Court endeavours to hear matters in the region of origin where possible. Throughout the year the Court 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.

In 2010-11, the Court of Appeal undertook two circuits where criminal appeals were listed: in Horsham in October 2010, and Wangaratta in May-June 2011. The Trial Division regularly travelled on circuit and sat in Ballarat, Bendigo, Geelong, Mildura, Wangaratta and Warrnambool and heard cases during the reporting period.

Constitution and Jurisdiction

Court of Appeal Registry

Supreme Court of Victoria
Level 2, 436 Lonsdale Street
Melbourne VIC 3000
Tel: 03 9603 9100

Principal Registry

Supreme Court of Victoria
Level 2, 436 Lonsdale Street
Melbourne VIC 3000
Tel: 03 9603 9300

Regional courthouses and registry locations

Ballarat

Magistrates' Court
100 Grenville Street South
(PO Box 604)
Ballarat Victoria 3350
Tel: 03 5336 6200

Mildura

Magistrates' Court
56 Deakin Avenue
(PO Box 5014)
Mildura Victoria 3500
Tel: 03 5021 6000

Bendigo

Magistrates' Court
71 Pall Mall
(PO Box 930)
Bendigo Victoria 3550
Tel: 03 5440 4140

Sale

Magistrates' Court
Foster Street
(Princes Highway)
(PO Box 351)
Sale Victoria 3850
Tel: 03 5144 2888

Geelong

Magistrates' Court
Railway Terrace
(PO Box 428)
Geelong Victoria 3220
Tel: 03 5225 3333

Shepparton

Magistrates' Court
High Street
(PO Box 607)
Shepparton Victoria 3630
Tel: 03 5821 4633

Hamilton

Magistrates Court
Martin Street
(PO Box 422)
Hamilton Victoria 3300

Wangaratta

Magistrates' Court
Faithfull Street
(PO Box 504)
Wangaratta Victoria 3677
Tel: 03 5721 0900

Horsham

Magistrates' Court
Roberts Avenue
(PO Box 111)
Horsham Victoria 3400
Tel: 03 5362 4444

Warrnambool

Magistrates' Court
218 Koroit St
(PO Box 244)
Warrnambool Victoria 3280
Tel: 03 5564 1111

Latrobe Valley

Latrobe Valley
Magistrates' Courts
(PO Box 687)
134 Commercial Road
Morwell Victoria 3840
Tel: 03 5116 5222

Wodonga

Magistrates' Court
5 Elgin Boulevard
(PO Box 50)
Wodonga Victoria 3690
Tel: 02 6043 7000

The Judiciary

The Supreme Court judiciary comprises the Chief Justice, the President of the Court of Appeal, judges, associate judges and judicial registrars. Judges of the Supreme Court are appointed by the Governor in Council.

Judges of the Court

as at 30 June 2011

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*)
8 June 2004 – present

The Honourable Justice David John Ashley: (1990*)
21 June 2004 – present

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

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

The Honourable Justice Mark Weinberg: 28 July 2008 – present

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

The Honourable Justice Bernard Daniel Bongiorno AO: (2000*)
17 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 Mary Tate: 16 September 2010 – present

Judges of the Trial Division

The Honourable Justice David John Habersberger: 3 July 2001 – present
The Honourable Justice Robert Stanley Osborn: 9 May 2002 – present
The Honourable Justice Katharine Mary Williams:
25 October 2002 – present
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:
18 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: 24 May 2007 – present
The Honourable Justice Paul Anthony Coghlan:
8 August 2007 – present
The Honourable Justice Ross McKenzie Robson:
8 August 2007 – present
The Honourable Justice John Herbert Lytton Forrest:
8 August 2007 – present
The Honourable Justice Lex Lasry: 23 October 2007 – present
The Honourable Justice James Gregory Judd: 6 March 2008 – present
The Honourable Justice Peter Norman Vickery: 6 May 2008 – present
The Honourable Justice Emilios John Kyrou: 15 May 2008 – present
The Honourable Justice David Francis Rashleigh Beach:
5 September 2008 – present
The Honourable Justice Jennifer Davies: 6 April 2009 – present
The Honourable Justice Terrence Michael Forrest:
12 November 2009 – present

The Honourable Justice Karin Leigh Emerton:
22 November 2009 – present
The Honourable Justice Iain James Ross AO:
23 November 2009 – present
The Honourable Justice Clyde Elliott Croft:
25 November 2009 – present
The Honourable Justice Anne Ferguson: 4 May 2010 – present
The Honourable Justice Michael Leon Sifris: 19 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:
22 September 2010 – present

* Date appointed to the Trial Division

Associate Judges

The Honourable Associate Justice Kevin
John Mahony: 15 April 1983 – present
The Honourable Associate Justice Ewan Kenneth Evans:
2 August 1983 – 31 January 2011
The Honourable Associate Justice John Efthim: 18 July 2005 – present
The Honourable Associate Justice Alexander Jamie Wood:
23 January 2006 – present
The Honourable Associate Justice Robyn Gay Lansdowne:
18 September 2006 – present
The Honourable Associate Justice
Melissa Lee Daly: 3 October 2006 – present
The Honourable Associate Justice Simon Peter Gardiner:
6 November 2008 – present
The Honourable Associate Justice
Nemeer Mukhtar: 26 August 2009 – present
The Honourable Associate Justice Rita Zammit: 23 March 2010 – present
The Honourable Associate Justice Rod Randall: 17 May 2011 – present

Judicial Registrars

Judicial Registrar Meg Gourlay: 28 January 2011 – present
Judicial Registrar Mark Pedley: 31 January 2011 – present



Justice Hansen



Justice Tate



Justice Sifris



Justice Almond



Justice Dixon



Justice Macaulay



Associate Justice Randall



Judicial Registrar Gourlay



Judicial Registrar Pedley

The Judiciary

Retirements and appointments

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

The Hon Justice Hansen was appointed to the Court of Appeal on 19 July 2010. His Honour was a judge of the Trial Division of the Supreme Court for 16 years, heading up the Commercial List, State Taxation Appeals, and the Corporations List before becoming the Principal Judge of the Commercial and Equity Division.

Prior to the Hon Justice Tate's appointment to the Court of Appeal on 16 September 2010, her Honour served as Solicitor-General for the State of Victoria for more than seven years.

Four judges were appointed to the Trial Division during the reporting year: the Hon Justice Sifris on 19 July 2010, the Hon Justice Almond on 28 July 2010, the Hon Justice Dixon on 16 September, and the Hon Justice Macaulay on 22 September.

Associate Justice Randall was appointed on 17 May 2011.

The Court was saddened by the death of the Hon Ewan Evans on 2 February 2011, shortly after his retirement. Originally appointed as a master of the Supreme Court on 4 August 1983, and later as an associate judge on 19 December 2008, he served the Court with distinction for over 27 years.

Continuing professional development


Conferences and seminars encourage discussion and the exchange of ideas among the judiciary and the profession. Supreme Court judges presented papers and attended conferences and workshops throughout the year to keep abreast of developments in the law and professional standards.

Judicial College of Victoria

The Judicial College of Victoria (JCV) provides continuing education and training for Victorian judicial officers. The JCV contributes to the creation of a highly skilled judiciary, able to respond to the challenges of judging in the 21st century and the needs of a socially and culturally diverse community.

In 2010-11, Supreme Court judges attended a total of 917 hours of JCV programs.





In 2010-11, there was a total of 917 hours of attendance by Supreme Court judges at the Judicial College of Victoria programs.

2010 Judges' Conference

In September 2010, the Supreme Court held its annual Judges' Conference. The conference included sessions on mental health and young offenders, discrimination issues, video conferencing for remote witnesses, and human rights. Professor Patrick McGorry AO, 2010 Australian of the Year, and Elizabeth Broderick, Australian Sex and Age Discrimination Commissioner, were among the learned speakers.

Judicial activity

Supreme Court judges and associate judges attended functions and participated in a range of activities that support and promote an understanding of the law and the courts. A list of some professional development and community engagement activities of the judges is included in Appendix 1.

External positions

Judges sit on a number of boards and committees, details of which can be found in Appendix 1. Positions that must be held by a Supreme Court judge in accordance with legislation, are noted here:

Council of Adult Education

The Council of Adult Education, together with the Board of Examiners, regulates entry into the legal profession in Victoria.

The Council was established by the *Legal Profession Act 2004*. The composition of the Council is provided for by Section 6.5.1 (2) of the Act. During 2010-11, the Chief Justice chaired the Council and Justices Kyrou and Davies sat as members.

The Adult Parole Board

The Adult Parole Board is established under the *Corrections Act 1986*. It manages the appropriate release of offenders on parole and home detention orders for the benefit of the Victorian community.

The Chairman of the Adult Parole Board is a Supreme Court judge. Justice Whelan assumed the role of Chairman during this reporting period. Justice Curtain was a member of the board.

Forensic Leave Panel

The Forensic Leave Panel is established under the Crimes (*Mental Impairment and Unfitness to be tried*) Act 1977. It is an independent statutory body with jurisdiction relating to the detention, management and release of those unfit to be tried or not guilty of crimes on grounds of mental impairment.

In 2010-11, Justice Williams was the President of the Forensic Leave Panel. Justices J Forrest, Hollingworth and Coghlan sat as members.

The Judicial College of Victoria

The Judicial College of Victoria (JCV) was established pursuant to the *Judicial College of Victoria Act 2001*. It assists the Victorian judiciary by providing professional development and continuing education and training for judicial officers. The Board sets the College's strategic direction and oversees the JCV's activities. In 2010-11, the Chief Justice chaired the Board and Justice Ross sat as a board member.

Management of the Court

The Court has five primary support delivery areas, which employ over 300 staff.

Senior Master's (Funds in Court) Office

Section 113(1) of the *Supreme Court Act 1986* provides that “all moneys paid into Court under an order of the Court or under any Act or the Rules is to be held by the Senior Master”. The Hon Associate Justice Mahony commenced in the role of Senior Master in April 1983.

The Senior Master's (Funds in Court) Office (SMO) is responsible for the administration of all funds paid into the Court in civil proceedings and, in particular, funds paid as compensation to persons under a legal disability. The SMO employs over 62 full-time staff and administers approximately \$1.3 billion on behalf of more than 5,200 beneficiaries.

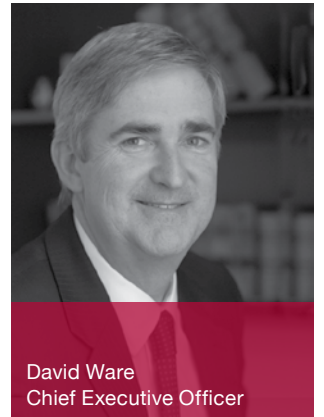
Court Administration

The Chief Executive Officer (CEO) is responsible for all of the strategy and business services areas that provide support delivery functions within the Court.

David Ware was appointed in the role of CEO in September 2010. A qualified lawyer, David has more than 20 years' experience in public administration in Victoria, with a particular focus on strategy, planning, policy and development, across a range of legal and social policy areas



Associate Justice Mahony



David Ware
Chief Executive Officer



Judicial Registrar Pedley



Associate
Justice Lansdowne



Peter Washington
Principal Registrar



Rudy Monteleone
Victorian Juries
Commissioner

Court of Appeal Registry

The Court of Appeal Registry is responsible for the administrative functions of proceedings in the Court of Appeal. The Registry is headed by Judicial Registrar Mark Pedley.

Judicial Registrar Pedley, appointed in January 2011, also occupies the role of Registrar of Criminal Appeals. Subject to the general direction of the President of the Court of Appeal, Judicial Registrar Pedley is responsible for the preliminary examination of all applications for leave to appeal, and appeals, and for their efficient and expeditious listing.

Prior to Judicial Registrar Pedley's appointment, the Hon Associate Justice Lansdowne acted in the role of Registrar of the Court of Appeal (until 30 November 2010, and thereafter as an associate judge), overseeing the management and listing of all appeals.

Associate Justice Lansdowne continues to manage civil appeals in conjunction with Judicial Registrar Pedley. It is anticipated, however, that Judicial Registrar Pedley will undertake the management of civil and criminal appeals in full in the second half of 2011.

Principal Registry

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

Peter Washington commenced in the role of Principal Registrar in December 2006. Peter is responsible for the leadership and management of 48 staff, encompassing the Principal Registry and the Prothonotary's and Probate Offices. Services include file management, custody of subpoenaed materials, making orders for administration of deceased estates, and handling enquiries. The Principal Registry also provides assistance to self-represented litigants.

Juries Commissioner's Office

Rudy Monteleone was appointed as the first Victorian Juries Commissioner in July 2002, and continues to occupy the role. Rudy is responsible for managing the administrative and financial operations of the Juries Commissioners' Office including the review, development and implementation of policies and procedures for the administration and management of the Victorian jury system. Within this context, Rudy leads a team of 22 employees who are based in Melbourne and regional courts.

The Victorian jury system and its administration operate pursuant to the *Juries Act 2000*, which provides for a system of trial by jury that:

- equitably spreads the obligation of jury service amongst the community
- makes juries more representative of the community
- permits the timely adoption of new technologies for the selection of persons for jury service.



SIGNIFICANT EVENTS

Establishment of Judicial Registrars

Refining procedure for court users

Access to the Court

Launch of website for juries

New DVD for beneficiaries

Courthouse design competition

Admitting applicants to
practice law

The International Framework
for Court Excellence

Significant Events

Establishment of Judicial Registrars

Commencing 1 January 2011, the *Supreme Court Act 1986* was amended to establish the position of Judicial Registrar.

Judicial Registrar Gourlay was appointed in January 2011 and commenced in the Costs Court, assuming the conduct of callovers and taxations and the management and allocation of cases. Additionally, Judicial Registrar Gourlay can review decisions made by the Costs Registrars, pursuant to Rule 63.56.2 of the *Supreme Court (General Civil Procedure) Rules 2005*.

Judicial Registrar Pedley was appointed in January 2011 and was assigned the dual positions of Registrar of the Court of Appeal and Registrar of Criminal Appeals. Subject to the general direction of the President of the Court of Appeal, Judicial Registrar Pedley is responsible for the preliminary examination and efficient and expeditious listing of applications for leave to appeal. In practical terms, this includes managing the implementation of the Venne Reforms, designed to address the backlog of appeals and applications, and to expedite matters consistent with the interests of justice.

Refining procedure for Court users

On occasion, the Court issues Practice Notes and Practice Directions that supplement the procedures set out in the Rules of the Supreme Court. Practice Notes aim to assist practitioners and other Court users by developing, improving and clarifying procedure before the Court. In the development of Practice Notes the Court often consults with the profession.

In 2010-11, the Court issued several Practice Notes. Those of continuing importance are noted here.

Practice Note 8 of 2010 – Management of Group Proceedings

This Practice Note clarifies arrangements for the management of group proceedings in the Court under Part 4A of the *Supreme Court Act 1986*, and facilitates appropriate litigation service to parties in these proceedings. It focuses on the commencement of group proceedings, at the Court and is to be read in conjunction with *Practice Note No. 9 of 2010*.

Practice Note 9 of 2010 – Conduct of Group Proceedings

This Practice Note is a supplement to Part 4A of the *Supreme Court Act 1986*, Order 18A of the *Supreme Court (General Civil Procedure) Rules 2005* and *Practice Note No. 8 of 2010*. It clarifies arrangements for the management of group proceedings, and provides information about the commencement and judicial management of group proceedings and the procedure for interlocutory applications, opting out and settlement.

Practice Note 10 of 2010 – Personal Injuries List

A revision of *Practice Note No. 5 of 2008*, this Practice Note describes the types of proceedings that are included in the Personal Injuries List, and the management of proceedings by associate judges prior to trial.

Practice Note 1 of 2011 – Appointment of Judicial Registrars

With the establishment of the Judicial Registrar roles, this Practice Note served to inform the profession about the new appointees and their roles in the Court. It further embedded the authority of the Judicial Registrar into the operation of past Practice Notes.

Practice Direction No. 2 of 2011 – Court of Appeal: Applications for leave to appeal against conviction and sentence

This Practice Direction revokes *Practice Statement No. 2 of 2008* and sets out the practices to be followed in light of the new rules, Supreme Court (Chapter VI Amendment No 6) Rules 2011, enacted to implement the Ashley-Venne Reforms. This Direction is a significant piece in the reformation of the Victorian criminal appeals process and was drafted with input from the Office of Public Prosecutions, the Commonwealth DPP, Victoria Legal Aid, prominent members of the Victoria Bar and others.

Practice Note 3 of 2011 – Sentencing Hearings

Providing basic procedural guidelines for pleas in mitigation heard in the Court, this Practice Note is particularly important in its guidelines for the provision of material in advance of plea hearings, including victim impact statements. It is designed to encourage practitioners to confer and identify any issues that may need to be dealt with prior to the plea hearing.

Practice Note 4 of 2011 – Proceedings in the Costs Court

This Practice Note supplements information on the web page for the Costs Court. It clarifies arrangements for the Costs Court premises, callover arrangements and reviews of decisions within the Costs Court, and initiation and filing of documents. It also provides direction as to the relevant rules and amendments on commencement of the Cost Court.

Practice Note 5 of 2011 – Probate List in the CEQ Division

After consultation with the profession, the Commercial and Equity Division established a Probate List to reduce cost and delay and to provide consistent practices in this area. In the second half of 2011, probate matters will be allocated to a specialist judge at first instance.



The Court issues Practice Notes and Directions that improve and refine procedure before the Court, to assist practitioners and Court users.

The Court publishes decisions on its website and produces monthly sentencing summaries to keep the public informed.

Access to the Court

The Court is committed to facilitating community access to the court, wherever possible, to enhance public awareness, understanding and appreciation of the Supreme Court's role in the judicial system.

Assistance for self-represented litigants

The Court has a dedicated Self Represented Litigants Coordinator (the Coordinator) who provides assistance to self-represented (and unrepresented) litigants who require assistance with the judicial process.

The Coordinator assists with a range of queries from basic procedural advice to court fees, and regularly refers people to legal advice services. The reporting period was a busy year with over 2,041 requests for assistance made to the Coordinator, an increase of almost 15% on the previous year.

The Court gratefully acknowledges the Duty Barristers' Scheme – to whom 30 referrals were made during the year, PILCH and the community legal sector for the pro bono assistance they provide the community.

Judgments and sentences

The media plays a significant role in informing the public about the Court's decisions. During 2010–11, there were more than 3000 newspaper items and some 540 electronic media (radio and television) mentions relating to the Supreme Court.

To enhance accuracy in reporting, and to assist reporters' understanding of complex cases, the Court provides the media with transcripts, judgments and sentences, where possible, and endeavours to make access to documents as easy as possible. Appreciating the pressure on media organisations to provide stories quickly judges endeavour to make available their reasons for decisions and sentences as soon as possible.

The Court also publishes decisions on its website and produces monthly sentencing summaries to keep the public informed. Some sentences are audio-recorded and streamed live via the website. These are made accessible thereafter on the site. Media organisations frequently link to these sentences. Positive feedback on this have been received by radio commentators and listeners alike. During the reporting period, the Court's audio webpage averaged between 300 and 1,000 views per day.

Education Program

The Supreme Court's Education Program supports schools in the delivery of VCE Legal Studies, and endeavours to increase an understanding of justice and the people who administer it. Over 6,000 students and teachers from around Victoria participated in the program in the reporting period.

In 2011, the Court introduced judicial interaction into the program. A number of Supreme Court judges and associate judges participated, talking to students about their role

and how they came to be a judge, and discussing aspects of the law relevant to the students' studies. Schools noted these presentations as engaging, inspiring and educational.

The Juries Commissioner's Office also participated in the Education Program, trialling an interactive program that explains the juror process from the jury pool room to the courtroom. With positive feedback and strong participation (over 300 students), the juries program will continue.

The Court formally welcomed the group of volunteers who deliver the Education Program into the Court as members of the newly formed Supreme Court Education Team. The Court gratefully acknowledges the work of the Education Team, and the Law Institute of Victoria with whom the Court collaborates to manage the school bookings and the Education Team.

Law Talks

During the year, the Juries Commissioner's Office and associates from the court participated in Law Talks, a legal education program that provides regional and rural year 11 and 12 students with access to legal experts from Melbourne.

The Juries Commissioner presented at several sessions around Victoria, while associates from the Court attended programs in Warrnambool and Wodonga.

Open days for the community

Although the Supreme Court is open to the public during the week, on select weekends



Over 6,000 students visited the Supreme Court last year.

throughout the year the Court opens its doors to the public.

On Sunday 31 July 2010, the Court opened the old High Court building as part of the design and architecture festival, Melbourne Open House (MOH).

With over 1,600 visitors, the Court proved to be a popular site. The diversity of the crowd and the breadth of questions highlighted the broad public interest in the Court.

As part of Courts Open Day, Saturday 21 May 2011, the Court opened several courtrooms and the library in the Trial Division building. Over 800 people visited the Court. Staff representing all areas of the Court participated, answering questions and explaining the workings of the Court.

The Hon Justice Whelan and the Hon Associate Justice Gardiner chatted to visitors in a *Meet the Judge* presentation in Banco, while the Hon Justice Harper and the

Hon Associate Justice Zammit met members of the public in court 15. The Hon Justice Emerton and the Hon Justice Ferguson talked to people in the library.

The Hon Justice King presided over a mock trial, which provided an insight into a Supreme Court trial, while the Sentencing Advisory Council dispelled myths around sentencing in an informative *You be the Judge* presentation.

170th anniversary

This year marked the arrival of Justice John Walpole Willis from Sydney to commence sittings of the Supreme Court in the Port Phillip district. To mark this occasion, the Chief Justice gave a well attended talk at the Royal Historical Society on the 28 April 2011, on *Early History of the Victorian Legal System*.



Understanding Your Funds in Court was produced by the Senior Master's (Funds in Court) Office to help explain legal and financial information to beneficiaries.

New DVD for beneficiaries

On the 19 August 2010, the Hon Justice Ashley launched a new DVD produced by the Senior Master (Funds in Court) Office at the Lionel Murphy Centre.

Understanding Your Funds in Court, launched during Brain Injury Awareness week, was developed to help beneficiaries understand legal and financial information concerning Funds in Court. The series of short films, presented by Andrew Daddo, cover a range of topics, including:

- how funds are administered and invested
- buying a car
- buying and modifying a house
- dealing with Centrelink and the TAC
- how to make a complaint.

The DVD was developed with the assistance of a grant from the Courts Portfolio Innovation Program.

Launch of website for juries

In 2010, the Juries Commissioner's Office (JCO) launched a new, user-friendly site on the Courts and Tribunals website to provide the community with a wealth of information about jury service. The new site features easily accessible information about juries and jury duty, including video guides, and an online feedback survey for jurors, which assists in the continual improvement of the service provided by the JCO.

Significant Events

Courthouse design competition

As has been reported for many years, the Supreme Court building continues to cause difficulties with criminal and civil trials. Built in the 1800's the building poses a number of challenges, among them providing appropriate courtrooms to accommodate major class action, and minimising contact between the families and friends of victims and the accused in criminal trials.

The lack of courtrooms is also problematic. During this reporting period, 15 Supreme Court cases involving 23 persons were heard in the County Court building. While the Supreme Court is grateful for the provision of extra courtrooms to enable cases to be heard, this arrangement is far from ideal.

In 2011, the Chief Justice and the Hon Justice Osborn met with Professor Graham Brawn, Professor Emeritus, Faculty of Architecture, Building and Planning at the University of Melbourne, to discuss the development of a 'Courthouse Design Project' for final

year Master of Architecture students. The proposal was welcomed by the University of Melbourne and has been developed into a key assessment piece.

The Chief Justice and Justice Osborn met with the students and Professor Brawn and provided a detailed tour of the current Trial Division building, outlining the physical constraints, limitations and challenges that the 19th century building poses for a modern and responsive justice system.

The students were asked to develop a design that not only encapsulates the essence of 'justice' and adequately facilitates a modern judiciary, but also promotes access to justice in its purest form.

The students' work will be judged by the Chief Justice, members of the Supreme Court's Design Committee, The University of Melbourne's Architecture, Design and Building Faculty and prominent Australian architects, and presented in a publication.

The assessment will culminate in the award of the Supreme Court architecture prize.

Admitting applicants to practise law in Banco

In the reporting year, 1,263 candidates were admitted to practise as Australian lawyers in Banco, courtroom 1, of the Supreme Court.

The Board of Examiners assesses the eligibility and suitability of applicants for admission and recommends eligible applicants to the Court, as prescribed by Section 2.3.10 of the *Legal Profession Act 2004*.

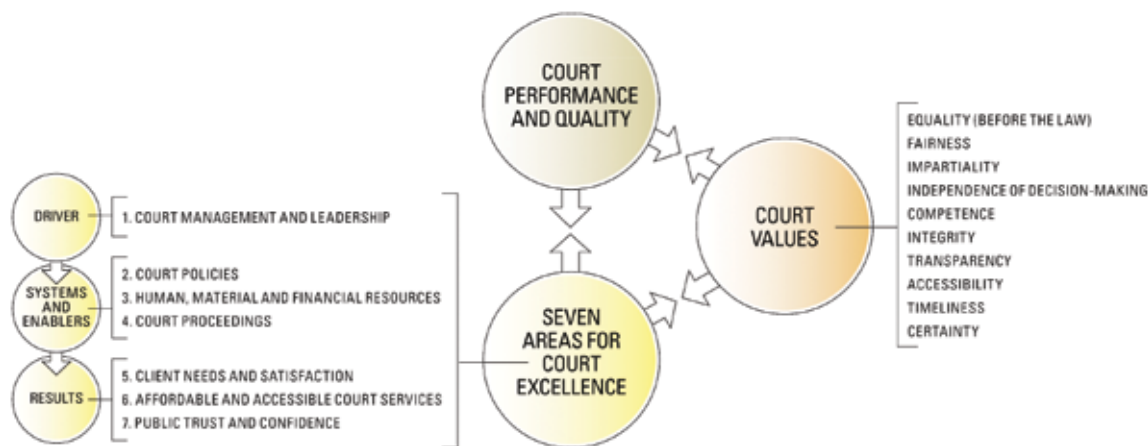
Since 1 July 2008, the Board of Examiners has operated as a discrete administrative entity, independent of the Supreme Court. The *Legal Profession (Admission) Rules 2008* commenced on 1 July 2008 and abolished articles of clerkship, replacing them with Supervised Workplace Training. This change sought to achieve a level of consistency in pre-admission practical training by establishing a set of minimum training requirements that are in line with the National Practical Legal Training Competencies.

Significant Events

The International Framework for Court Excellence

In October 2010, the Chief Justice attended the Asia-Pacific Courts Conference in Singapore, where the International Framework for Court Excellence (the Framework) was launched. Subsequent to the conference, the Court is developing its implementation of the Framework as its foundation management model.

The Framework is a holistic approach to achieving court excellence that courts can adopt to assess and improve their quality of justice and administration. The model was developed by an International Consortium consisting of organisations from Europe (the European Commission for the Efficiency of Justice), Asia (the Subordinate Courts of Singapore), Australia (the Australasian Institute of Judicial Administration), and the United States (the Federal Judicial Centre and the National Centre for State Courts).



Qualitative Performance Measures

As part of its endeavours to become a court of excellence, the Court recognises the need to have a program for collecting reliable qualitative information from Court users and other relevant groups regarding their experiences dealing with the Court. This information is invaluable in compiling quality performance measures that allow the Court to celebrate those aspects of its performance that are highly regarded, as well as identifying those aspects that require improvement. Quality performance measures are as critical to the Court as quantitative performance measures (relating to Court delivery outcomes) when planning improvements for the future. The bars coloured red in each of the graphs highlight the Court's strengths, while those coloured grey depict opportunities for improvement.



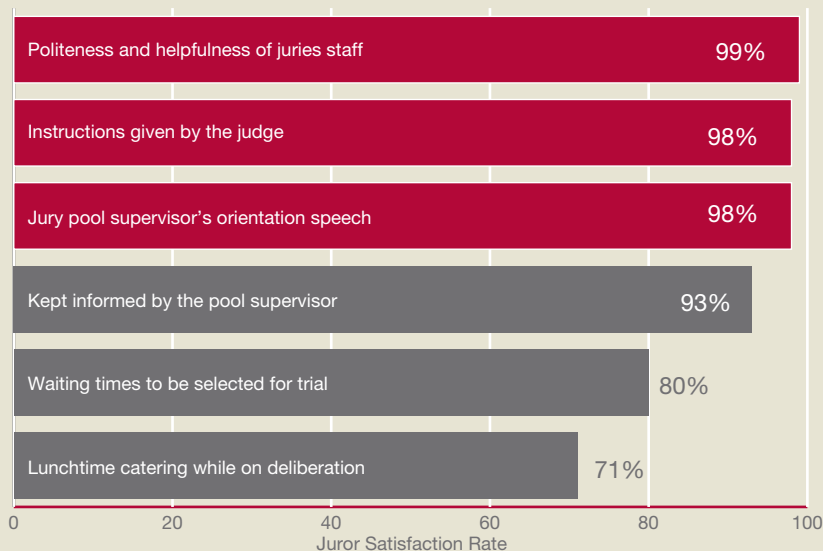
Employee Attitude Survey April 2010



Overall, the Court's greatest strength is its people. Both Court users and jurors have clearly praised the efforts of staff in providing them with the best possible Court experience. Continuing with this trend, the employee attitude graph shows that staff derive their greatest enjoyment from delivering quality services to their clients and being engaged in team oriented work.

Generally speaking, improvement opportunities tend to exist in the area of Court facilities and infrastructure and how it manages some of its processes. The lower rated qualitative performance measures will drive improvement efforts. The Court will continue to seek feedback from associated entities on a routine basis in order to continuously improve the quality of its services.

Victorian Juror Feedback Survey June 2011





INTERNATIONAL PROFILE

The International Consortium
for Court Excellence

International engagements

Visits by distinguished guests

International Profile

During the year, judges and associate judges of the Supreme Court presented papers at a number of international conferences.

The International Consortium for Court Excellence

In May 2011, the Court became a member of the International Consortium for Court Excellence, the body responsible for the development of the International Framework for Court Excellence. The Consortium invites membership by application from judicial institutions that have expertise in judicial, court or tribunal administration. In becoming a member, the Court confirmed that its goals are consistent with those of the Consortium, and that the Court:

- has an active interest in the Framework and its implementation
- is available to provide advice where able
- can assist the Consortium in fulfilling its objectives
- is willing to share information, experiences and ideas with the Consortium
- will promote use of the Framework
- has committed to implementing the Framework.

International engagements

During the year, judges and associate judges of the Supreme Court met with dignitaries abroad and attended conferences and presented papers at a number of international seminars:

Justice Croft attended and gave a presentation at the AMINZ Conference in Christchurch, New Zealand on *Challenges and Changes* from 5 to 7 August 2010.

Justice Pagone attended and gave a presentation entitled *Privilege for Tax Advice in Australia* at the International Fiscal Association Conference in Rome from 29 August to 3 September 2010.

The **Chief Justice** toured Maxwell Chambers in Singapore on 28 September 2010.

The **Chief Justice** gave a presentation at the Singapore Asia-Pacific Courts Conference entitled *Access to Justice & Promoting Access to Justice* on 6 October 2010.

The **Chief Justice** delivered an address to the judges of the Supreme Court of Singapore on judicial education in October 2010. While in Singapore, the Chief Justice toured the Supreme Court and met with the Hon Chief Justice Chan Sek Keong and Justices Andrew Phang and VK Rajah, the Court of Appeal, Assistant Registrar Nathaniel Khng, SQ, and High Commissioner Albert Chua.

On 26 and 27 October, the **Chief Justice** attended a meeting of the Council of Chief Justices in Wellington, New Zealand.

Justice Neave attended the 2010 Canadian Conference on Elder Law held in Toronto, Ontario, Canada and gave a speech entitled *Developing an Anti-Ageist Approach to the Law* on 30 October 2010.

Justice Pagone and **Justice Davies** attended the 53rd International Association of Judges Annual General Meeting in Dakar, Senegal, from 7 to 11 November 2010.

Justice Coghlan travelled to Bangladesh with the Hon Murray Kellam AO, QC, and Professor Greg Reinhardt as part of a program to teach young practitioners in Bangladesh from 10 to 22 December 2010.

Justice Tate gave a presentation entitled *Developments in the Constitutional Protection of Property Rights* at the New Zealand Law Society Intensive in Wellington, New Zealand on 25 February 2011.

Justice Pagone presented on *Aspects of Tax Avoidance: Trans-Tasman observations* at the International Fiscal Association conference in Wellington, New Zealand on 11 March 2011.

Justice Robson and **Justice Davies** attended a multinational judicial colloquium on international insolvency law, in Singapore from 13 to 15 March 2011. They also met with judges of the Supreme Court of Singapore and visited Maxwell Chambers Commercial Arbitration Centre.

Justice Croft attended and presented at the International Council for Commercial Arbitration (ICCA) 50th Anniversary Conference in Geneva on *The Development*



As part of the Supreme Court's adoption of the International Framework for Court Excellence, David Ware, CEO of the Supreme Court, visited the Singapore Courts.

of Australia as an Arbitral Seat – a Victorian Supreme Court Perspective. His Honour delivered subsequent seminars for the ICCA in Paris and the Chartered Institute of Arbitrators in London on *Commercial Arbitration in Australia: The Past, the Present and the Future* from 19 to 20 May 2011.

Justice Osborn attended the Court Architecture Executive Research Tour in Barcelona and Luxembourg from 17 to 20 May, and in Dusseldorf and Berlin from 22 to 26 May 2011.

The **Chief Justice** met with the Hon Mr Justice Eamon De Valera, the Hon Mr Justice Paul Carney, the Hon Mr Justice Barry White, the Hon Mr Justice Patrick McCarthy and the Hon Mr Justice Garrett Sheehan, all of the High Court of Ireland. The Chief Justice also met with the Irish Judiciary at the Supreme Court of Ireland from 25 to 27 May 2011.

The **Chief Justice** met with the Hon Mr Justice Kevin Feeney, the Hon Ms Justice Elizabeth Dunne, the Hon Mr Justice John MacMenamin and the Hon Mr Justice Gerard Hogan of the High Court of Ireland.

The **Chief Justice** met with Judge John Phillips, Director of Studies for the Courts' Judiciary, Judicial College of England and Wales; the CEO of the Supreme Court; the Director, Royal Courts of Justice Group; the Chief Executive of the Lord Chief Justice's Judicial Office at the Supreme Court, London in June 2011. Her Honour also met with Rt Hon Lord Walker, Justice of the Supreme Court of the United Kingdom.

Justice Lasry gave a presentation entitled *Criminal Law and the Media* at the Criminal Law Association of the Northern Territory Conference in Bali, from 26 June to 1 July 2011.

Singapore Courts

As part of the Supreme Court's adoption of the International Framework for Court Excellence, the CEO of the Supreme Court of Victoria visited the Singapore Courts in April 2011.

The Singapore courts service a comparable population to Victoria, within a vastly smaller geographic area, and are recognised as world leaders in court administration.

The CEO spent time at both the Supreme Court of Singapore and the Subordinate Courts of Singapore, discussing the Courts' administration with key personnel:

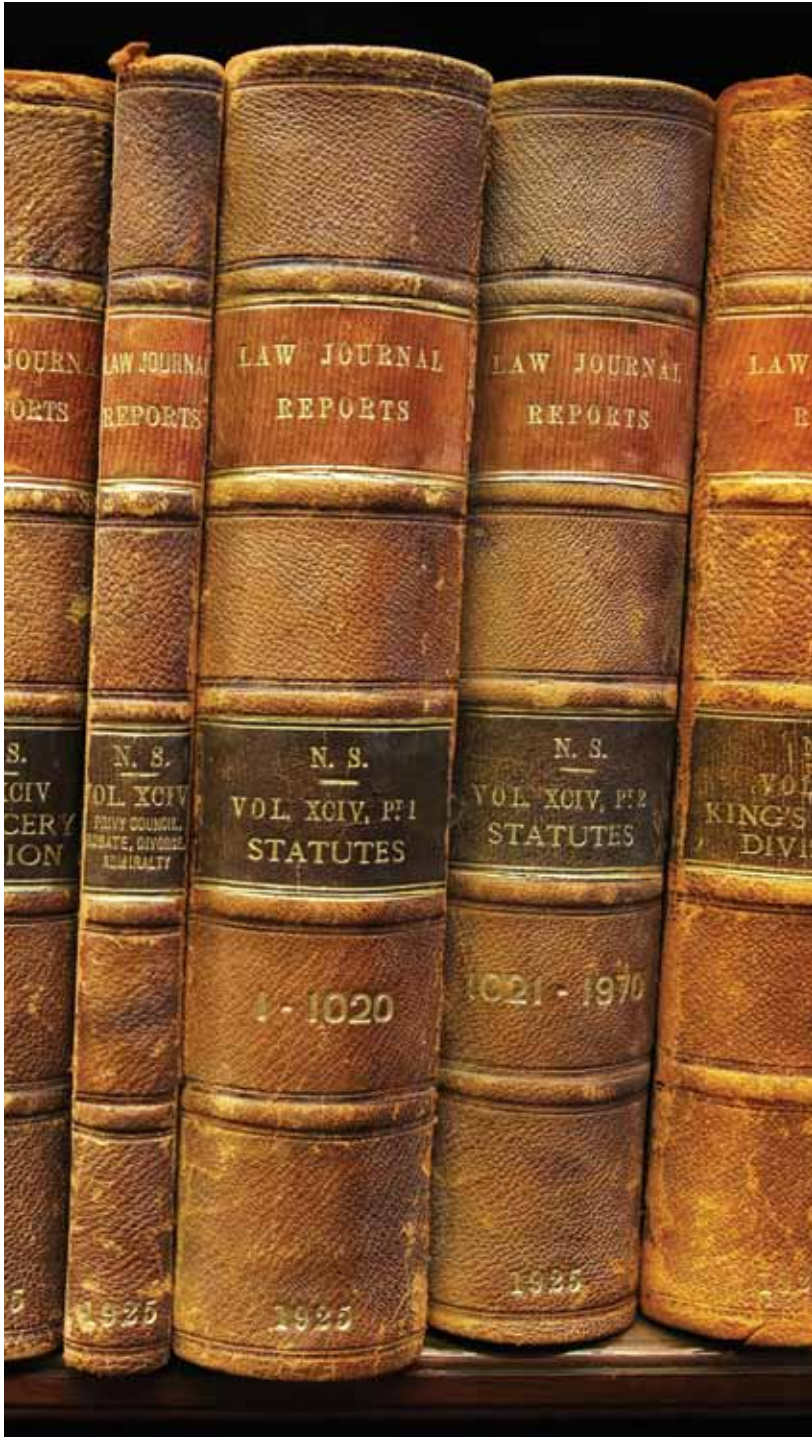
- Justice V K Rajah, Singapore Supreme Court (Court of Appeal)
- Registrar Foo Chee Hock, Supreme Court
- Chief District Judge Tan Siong Thye, Subordinate Courts of Singapore
- Judge Hoo Sheau Peng, Registrar, Subordinate Courts of Singapore.

While in Singapore the CEO also visited the Maxwell Chambers Centre for International Dispute Resolution, meeting Mr Ban Jiun Ean, Chief Executive, and spent time in the Supreme and Subordinate Courts observing proceedings and processes.

Visits by distinguished guests

The Supreme Court was honoured to host international and local dignitaries during the year. The Court welcomed the following guests:

- Rt Hon Lord Walker of Gestingthorpe, Justice of the Supreme Court of the United Kingdom
- Rt Hon Lord Mayor, Cr Robert Doyle, Lord Mayor of Melbourne
- Rt Hon Baroness Valerie Amos, in Her Excellency's former capacity as British High Commissioner to Australia
- Sandra Mayerson, of Squire, Sanders & Dempsy, New York
- The Rt Hon Chief Justice Dame Sian Elias, Chief Justice of New Zealand, the Hon Justice Mark O'Regan, President of the Court of Appeal of New Zealand and the Hon Justice Helen Winkelmann, Chief High Court Judge of New Zealand
- The Hon Mrs Justice Susan Denham of the Supreme Court of Ireland
- His Excellency Dr Kriangsak Kittichaisaree, Ambassador of the Royal Kingdom of Thailand, and Dr Simon Wallace, Australian Hon Consul-General to Thailand
- Associate Justice Antonin Scalia of the Supreme Court of the United States
- The Hon Mr Justice Frank Stock, Vice-President of the Court of Appeal, Hong Kong
- The Hon Mr Justice Binnie, senior judge of the Supreme Court of Canada.



IMPORTANT CASES

The Court of Appeal
The Trial Division

Important Cases

The Court publishes many judgments and sentences on its website to keep the public informed.

The Court of Appeal

DPP v B B; DPP v Q N [2010] VSCA 211

During the trial of BB and QN for kidnapping and causing injury, the prosecution tried to rely on the victim's police statement. The statement was the only evidence directly implicating the two accused. By the time of the trial, the victim had died. The trial judge ruled that it would be unfair for the prosecution to use the statement, primarily because it could not be tested in open court. An interlocutory appeal was brought by the Director of Public Prosecutions under provisions in the *Criminal Procedure Act 2009* which allowed rulings by trial judges to be appealed from before the commencement of a trial or during it. The Court of Appeal overturned this ruling, noting that the victim had been cross-examined about the statement at an earlier hearing. The Court held that the admission of the statement would not be unfair in the circumstances of the case, even though the victim was not available for further questioning. As a consequence the appeal was allowed and the Court ordered that the trial be conducted in accord with the Court's decision.

DPP v Karazisis [2010] VSCA 350

A five-judge bench of the Court of Appeal considered the relevance of 'double jeopardy' in Crown appeals against sentence. Double jeopardy formerly required the Court to take into account the unfairness of putting an offender's freedom 'in jeopardy' a second time on a Crown appeal contending that a sentence was manifestly inadequate. The requirement that the Court have regard to double jeopardy had been removed by legislation. The Court held that double jeopardy must no longer be taken into account when the Court considers whether to allow an appeal (although the Court can still refuse to interfere) or how to resentence in a successful Crown appeal. However, a majority held that the Director of Public Prosecutions is still required to consider double jeopardy in deciding whether to appeal.

Director of Public Prosecutions (Vic) v Fabriczy [2010] VSCA 334

The Director of Public Prosecutions appealed against sentences imposed for a conspiracy to handle stolen goods and to commit robbery, on the basis that the sentences were manifestly inadequate. The Court of Appeal agreed. The Court held that there is no principle of law that a sentence for conspiracy must necessarily be less than the sentence that would have been imposed, had the planned offence been committed. The Court of Appeal allowed the appeal and imposed higher sentences.

HIH Claims Support Limited v Insurance Australia Limited [2010] VSCA 255

HIH accepted a claim from a sub-contractor who was liable for damage caused by the collapse of scaffolding. After the collapse of HIH, HIH Claims Support Limited (which was responsible for the government-supported HIH Claims Support Scheme) paid amounts in satisfaction of the sub contractor's liability. There was another insurance policy that, on its terms, responded to the claim against the sub contractor. HIH Claims Support Limited sought a contribution from the second insurer. The Court held that there was no entitlement to a contribution, as the liabilities of the two insurers were not of the same nature or extent. The High Court upheld this decision on appeal.

Carter v Walker [2010] VSCA 340

The son of a resident successfully sued police officers who had attended at a residence in response to a request for assistance. A physical altercation took place between the police and the residents. Shortly after the altercation, the son of one of the residents suffered nervous shock when he saw his injured mother. The trial judge found in favour of the claim by the son but the Court of Appeal allowed an appeal and dismissed the son's claim. The Court found that the specific manner in which the claim by the son was pleaded was one of battery. The Court decided that a claim under battery could not succeed on the facts, as there had not been any physical contact between the police and the son. The Court also noted that had the claim been put on a different basis it would have also failed.

The Trial Division

Commercial and Equity Division

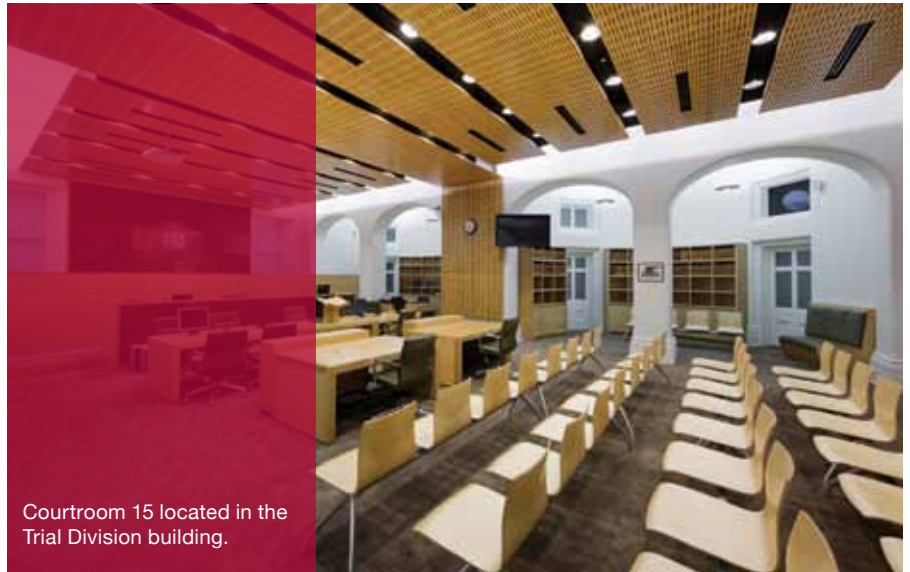
IPEX ITG Pty Ltd (in liq) v State of Victoria [2010] VSC 480

In this case the Court considered allegations that the Victorian Government failed to properly or fairly assess a response to a ‘Request for Tender’ (RFT). The relevant RFT was made in 2002 as part of a project to update the Victorian Parliament’s information technology infrastructure including its desktop standard operating environment and certain computer hardware.

A key issue for the Court was whether the issuing of the RFT by the Parliament, and subsequent submission of a tender by the plaintiff, gave rise to a ‘process agreement’. The judge observed that:

A review of the authorities suggests that courts are more willing to find process contracts as governing the relationship of the parties pre-award in cases where a timeline and detailed process, including evaluation criteria, are set out in such a way that suggests that an obligation (promissory in nature) to follow such timeline and process has been incurred.

The judge noted that the RFT “included in some detail the specific criteria that would form the basis of the evaluation” and that in the RFT the Parliament had specified that the criteria “will” or “must” be applied.



Courtroom 15 located in the Trial Division building.

Accordingly, the judge found that “the RFT was intended to be a legally binding contract as to process”, noting that “clauses ... which confer a wide discretion on the defendant in relation to various matters associated with the tender do not detract from this conclusion”.

Having found that the Government was obliged to conduct an assessment of the plaintiff’s tender according to criteria set by the RFT, the judge considered whether the Government had in fact complied with those obligations, and found that the Government had so complied.

In particular, the judge considered the plaintiff’s assertion that “as it had submitted the cheapest ‘compliant’ tender, the value for money criteria required it be selected”. In rejecting this proposition, the judge said that the Government’s obligation to assess the tender according to criteria set by the RFT including ‘value for money’:

Does not compel the selection of the cheapest tender ... just because the IpeX tender was the cheapest did not mean that it represented the best value for money ... the question of best value for money [is] a subjective business judgment.

BOSI Security Services Limited v Australia and New Zealand Banking Group Limited & Ors [2011] VSC 255

This was a case arising out of the failure of the Timbercorp group of companies in 2009. Prior to its collapse, the Timbercorp companies had operated horticultural managed investment schemes. A number of the schemes involved the production and sale of almonds. Investors in these schemes purchased interests including rights to use and occupy land specifically for the purpose of running almond orchards.

At the collapse of the Timbercorp group, the Timbercorp companies could not continue to run the almond orchards. In December 2009,

Important Cases

Liquidators of the Timbercorp group obtained Court approval to extinguish investors' rights so that the Almond Scheme assets, including land, trees and water licences, could be sold free of any encumbrance on title. The banks who had securities over the land also agreed to release their securities in order for the land to be sold. At the direction of the Court, the liquidators placed the proceeds of the sale of the assets in a trust fund.

In this case, the Court specifically considered the nature and value of the investors' rights and interests in funds held on trust following the sale of the Timbercorp almond assets. The investors argued their rights were valuable prior to extinguishment, and that they should receive the measure of this value out of the proceeds held on trust. Furthermore, the investors argued that their rights had priority of payment over the banks' rights according to Deeds of Covenants under which the banks took their securities.

The banks accepted that the investors had priority of payment out of the net sale proceeds if and insofar as the rights of the investors that were extinguished were rights that had value at the time of extinguishment. The judge confirmed that to share in the proceeds held on trust, the investors had to demonstrate (i) that they held rights of a proprietary nature in the assets that were converted into the fund, and (ii) that those rights had value at the time of the sale of the assets.



The Red Court is one of three courtrooms located in the Court of Appeal building.

The judge found that investors who had purchased interests in certain schemes in 2002 did not hold rights that were proprietary in nature and those investors therefore had no right to share in sale proceeds. However, the judge found that investors who had purchased interests in schemes commencing in 2005, 2006, and 2007 did hold "rights of a proprietary nature in the land, trees and capital works" that were extinguished prior to the asset liquidation. The judge recognised that "those leasehold interests entitled the [investors] to make a claim on the sale proceeds to be measured by the value of those leasehold interests pre-extinguishment".

In determining the value of the investors' rights, the judge proceeded on the basis that "if the projects were not viable, it follows that there is no measure of value to be attributed to those rights". The judge found that the investors' "rights under the projects as they were structured held no value at the time of extinguishment of those rights". Furthermore, the judge found that "on the state of the evidence" there was no possibility, "other than a theoretical possibility" that the schemes could be restructured to operate viably if the investors' rights had not been extinguished. Accordingly, the judge held that "no value can or should be attributed to the rights given up", and subsequently concluded that securities held by the banks "entitled the banks to receive the entire amount of the net proceeds" generated by sale of the Timbercorp almond scheme assets.

Diamond Hill Mining Pty Ltd v Huang Jin Mining Pty Ltd & Ors [2011] VSC 288

In this case the Court found that the second defendant, a former director of the plaintiff company ('Diamond Hill'), had breached fiduciary duties, provisions of the *Corporations Act 2001* (Cth), and trade practices legislation.

Diamond Hill was a gold prospecting and mining company operating in Bendigo and the surrounding areas. Prior to 2003, the second defendant was a director and shareholder of that company. Between 2003 and 2006, various transactions occurred whereby all Diamond Hill's shares, including those owned by the second defendant, were sold to a corporate purchaser. Diamond Hill ultimately became a wholly-owned subsidiary of Greater Bendigo Gold Mines Ltd ('Bendigo Mines').

In April 2007, Diamond Hill was granted mining licence MIN 5471 by the Department of Primary Industries. The land subject to the licence was owned by Diamond Hill.

The second defendant remained a director of Diamond Hill until mid-2008. At the same time, he was also a director and employee of Bendigo Mines. While holding these positions, he took steps to organise the transfer of ownership of both MIN 5471, and the land subject to the licence, from Diamond Hill to Huang Jin Mining Pty Ltd (the first

defendant, a company in which the second defendant held shares) for no consideration. It was this conduct that was impugned by Diamond Hill, and ultimately found to constitute breaches of fiduciary duties, directors duties, and misleading conduct.

The judge found that although the second defendant raised the transfer of a mining licence with the Board of Bendigo Mines, "the highest point that could be said to have been reached is that the Board gave conditional approval ... the condition was never satisfied and, consequently, the Board could not have been taken to have consented". In relation to the land, the judge found "the evidence establishes very clearly that [the second defendant] never informed the Board or any of its members that Diamond Hill owned the land or that he proposed to transfer the land".

The case exemplifies exercise of the Court's legal and equitable jurisdiction in determining claims arising out of alleged corporate misconduct. The judgment was also the result of the first Commercial Court trial to take place in Bendigo.

The case exemplifies exercise of the Court's legal and equitable jurisdiction in determining claims arising out of alleged corporate misconduct.

Important Cases

The facts and principles discussed in the judgment are typical of those that are routinely considered by associate judges in the Commercial and Equity Division...

ACN 076 673 875 Limited (in liq) & Anor v Semco Developments Pty Ltd [2010] VSC 647

ACN 076 673 875 Limited (in liq) & Anor v Semco Developments Pty Ltd [2010] VSC 647 was handed down by an associate judge in determination of an application to wind up a company in insolvency under the provisions of the *Corporations Act 2001* (Cth).

As explained by the associate judge, the plaintiff issued the proceeding:

Relying on the presumption of insolvency arising by s 459C(2)(a) of the Act resulting from the failure by Semco to comply with [a] statutory demand ... the statutory demand claims that \$1,448,120.00 is owing by Semco.

The associate judge explained further that Semco had initially made “an application pursuant to s 459G of the Act to set the demand aside” however the “application was filed and served one day outside the 21 day limit prescribed by s 459G(3) and was ultimately discontinued”. Thus, in the circumstances of the hearing Semco:

Seeks leave pursuant to s 459S of the Act to agitate the matters which it would otherwise have argued in the application to set aside the statutory demand including ... that it is solvent, that the debt which is the subject of the statutory demand is disputed, [and] that the debt is ‘material’ to its solvency.

The associate judge noted the principles to be applied in the exercise of the discretion to grant leave under s 459S(1) as set out by Austin J in *Chief Commissioner of Stamp Duties v Paliflex Pty Ltd* (1999) 17 ACLC 467. According to Austin J, the decision to exercise discretion involves:

- (i) a preliminary consideration of the defendant’s basis for disputing the debt;
- (ii) examination of the reason why the issue of indebtedness was not raised in an application to set aside the demand, and the reasonableness of the party’s conduct at that time; and
- (iii) investigation of whether the dispute about the debt is material to proving that the company is solvent.

The associate judge ultimately rejected Semco’s application for leave under s 459S. A critical factor in this decision was that Semco had not presented audited accounts to the Court as part of its opposition to the application on grounds that it would cost “in the vicinity of \$80,000 to \$100,000” to produce them. The associate judge explained that “in my view, audited accounts are required in these circumstances to demonstrate the solvency of the company and to enable an analysis to be presented that the debt the subject of the demand is ‘material’ to proving its solvency”.

The associate judge noted that:

Semco contends that the fact that the ability to rebut the presumption of insolvency by further or better evidence would involve the incurring of significant expenditure by Semco in circumstances where it is effectively dormant ... [however] those conducting their affairs through corporate entities have significant advantages which also carry with it certain responsibilities ... Semco has chosen not to go down the path of establishing solvency by production of the fullest and best evidence.

The facts and principles discussed in the judgment are typical of those that are routinely considered by associate judges in the Commercial and Equity Division under the provisions of the *Corporations Act 2001* (Cth).

Litchfield v Smith & Tingate [2010] VSC 466

This case concerned an application for further provision out of the estate of a deceased person under the *Administration and Probate Act 1958* (Vic).

The deceased's will left her estate in different proportions to her three children. One of the children pursued the application. The other children, as executors of the estate, opposed the application.

The judge explained:

The Court's power to make an order for further provision out of the estate of a deceased person is contained in s 91 of the Act.

There are two jurisdictional requirements under s 91. First, it must be established that the deceased had responsibility to make provision for the 'proper' maintenance and support of the applicant. Secondly, if such responsibility is established, the court must be of the opinion that the will of the deceased does not make 'adequate' provision for the 'proper' maintenance and support of the applicant for the order.

By s 91(4) the Court is commanded, in determining each of these two jurisdictional requirements, and also in determining the amount of any provision or further provision to be ordered if the two jurisdictional requirements are met, to have regard to the matters set out in paragraphs 91(4)(e) to (o) of the Act and, under paragraph 91(4)(p) to have regard 'to any other matter the Court considers relevant'.

After considering principles governing determination of the two jurisdictional questions, the judge noted that:

The first jurisdictional requirement is not in issue ... [the] executors rightly acknowledge that the deceased had responsibility to make provision for the proper maintenance and support [of the applicant] ... However they contest the second jurisdictional requirement [and] contend that [the applicant] has not satisfied the Court that the will does not make adequate provision for her.

The judge then focussed on making a determination as to whether 'adequate' provision had been made for the applicant under the will making reference to each of 'the specific matters set out in paragraphs 91(4)(e) to (o) of the Act'.

The judge stated that "in light of all relevant matters, I have reached the conclusion that the deceased did not make adequate provision for [the applicant's] proper maintenance and support". The judge explained the factors significant to this conclusion, including that at the time of the deceased's death:

- The applicant's "income was modest and barely enabled her and her husband to make ends meet". In this context, the applicant's business was vulnerable such that "it was reasonably foreseeable" that her income would be further reduced in the future.
- The extra income likely to be generated by assets left to the applicant would not be sufficient to meet the applicant's need for further income.
- The money to be received by the applicant in the division of the residuary estate was inadequate to meet the applicant's immediate and likely future capital needs.
- The deceased's estate was large enough to provide for further provision to the applicant without unduly prejudicing her siblings.

The judge held that "having regard to the matters specified in s 91(4)(e) to (p) of the Act ... I will order further provision of \$250,000 for [the applicant's] proper maintenance and support".

Important Cases

Common Law Division

***Castles v Secretary to the Department of Justice* [2010] VSC 310**

This case concerned the application of the *Corrections Act 1986* and the *Charter of Human Rights and Responsibilities Act 2006* (‘the Charter’) to a female prisoner seeking IVF treatment.

The plaintiff, a prisoner at HM Prison Tarrengower (‘Tarrengower’), sought declaratory and injunctive relief against the Secretary of the Department of Justice, the Director of Justice Health, and the Operations Manager of Tarrengower to enable her to resume in vitro fertilisation (‘IVF’) treatment at the Melbourne IVF Clinic where she was undergoing treatment prior to her imprisonment.

The IVF treatment was necessary to enable the plaintiff to conceive a second child with her partner. The plaintiff was 45 years old at the time of the proceeding, significant because once she turned 46, she would no longer be eligible for IVF treatment under the policies of the Melbourne IVF Clinic.

The judge found that Section 47(1)(f) of the *Corrections Act 1986* (Vic) conferred on the plaintiff the right to continue to undergo IVF treatment for her infertility, although not necessarily at the Melbourne IVF Clinic. The judge found that IVF treatment was both necessary for the preservation of the plaintiff’s reproductive health and reasonable given the commitment to the treatment that she had already demonstrated, her willingness to

pay for further treatment, her age and the fact that she would become ineligible for further treatment before she was released from prison. The plaintiff was found to be eligible for permits to leave prison on a visit-by-visit basis.

In reaching these conclusions, the judge had regard to the right of prisoners in Section 22(1) of the Charter to be treated with humanity and with respect for human dignity. However, despite the attention that was given to the Charter during the hearing of the matter, the principle issues before the Court were determined on the basis of the express right in the *Corrections Act 1986* (Vic) for prisoners to have access to reasonable medical care and treatment necessary for the preservation of their health.

This decision affirmed that IVF treatment is recognised as a legitimate medical treatment for a legitimate medical condition. The judge saw no proper basis to treat IVF treatment differently from other forms of medical intervention that are considered to be necessary to enable people to live dignified and productive lives.

***Director of Public Transport v XFJ* [2010] VSC 319**

This case concerned the rights of a person (XFJ) who had been found not guilty of murder by reason of insanity to obtain accreditation as a taxi driver.

XFJ had killed his wife in 1990 and was found not guilty by reason of insanity. He was held in custody at the Governor’s pleasure until 1998.

XFJ applied for ‘driver accreditation’ under Section 166 of the *Transport Act 1983* (Vic) (‘the Act’) which would enable him to drive a taxi. VCAT granted XFJ the accreditation but the decision was subsequently appealed by the Director of Public Transport in the Supreme Court of Victoria.

At the time of the VCAT proceeding, XFJ was the sole carer of his youngest son, then aged 19 months, who had been diagnosed with leukaemia. Since his release into the community, he had been in a stable mental condition and had worked in a number of occupations including as a kitchen hand and a carer for the aged. He had also worked for a charity (on both a volunteer and paid basis) which was dedicated to the support of the homeless. XFJ was seeking to work as a taxi driver because the occupation would provide him with sufficient flexibility to combine paid employment with his role as a carer for his son.

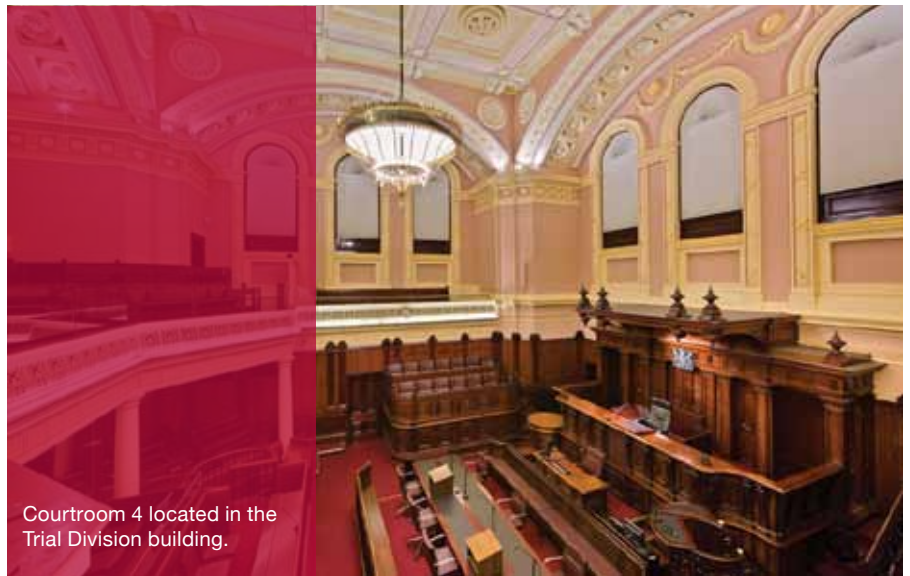
It was argued by the Director of Public Transport that VCAT, in accrediting XFJ, had not properly construed what was meant by ‘suitable in other respects to provide the service’ under the Act. The judge gave consideration to whether VCAT had correctly decided what the phrase meant in the context of the Act and also to the matters VCAT was bound to consider in deciding whether to grant accreditation. The judge dismissed the appeal brought by the Director of Public Transport, finding that VCAT was not bound to take into account community expectations and the maintenance of community confidence in taxi services when assessing XFJ’s suitability.

Wheelahan v City of Casey [2011] VSC 215

Wheelahan v City of Casey [2011] VSC 215 involved a class action brought under Part 4A of the *Supreme Court Act 1986* ('the Act') by residents and former residents of the Brookland Greens Estate ('the Estate') who had been affected by the migration of landfill gas from an adjacent former municipal landfill.

Residents of the Estate had to be evacuated when matters reached a critical stage in 2008. Since then, residents had returned to their homes, but extensive monitoring, remediation and other works had been carried out to houses on the Estate and to the landfill site to contain the landfill gases and reduce the risk of harm to persons and damage to property on the Estate.

The plaintiff's claim settled following an extended joint conference of parties before a judge, and mediation by an associate judge. An application was then made to the Court before another judge to approve the settlement of the proceeding pursuant to Section 33V(1) of the Act. The judge said that in approving the settlement, the Court must consider whether approval should be given to both the overall settlement (a payment of \$23.5 million in return for the grant of the releases provided for in the settlement deed) and the proposed method of distributing the settlement sum between group members (the settlement scheme). This included the payment of legal costs in relation to the proceeding and for the administration of the settlement scheme.



Courtroom 4 located in the Trial Division building.

The judge concluded that approval should be given to the settlement. In the judge's view, both the overall settlement and the settlement scheme by which the settlement monies were to be distributed among the group members was fair and reasonable, having regard to the amounts offered to group members, their prospects of success in the proceeding, the likelihood of the group members obtaining judgment for an amount significantly in excess of the settlement offer, the terms of confidential advice received from counsel and from independent experts concerning property prices, the results of environmental audits and related matters, the likely duration and cost of the proceeding if continued to judgment, and the attitude of group members to the settlement.

In reaching this conclusion, the judge paid careful attention to the submissions made by the group members who objected to the settlement.

The Common Law Division continues to manage the claims between the City of Casey and the 13 remaining parties in respect of pollution abatement costs and contribution, with a trial date scheduled for 2012.

Important Cases

Director of Liquor Licensing v Kordister Pty Ltd [2011] VSC 207

This case concerned the ‘harm minimisation’ object in the *Liquor Control Reform Act 1998*.

The case involved the Exford Hotel, which was the only bottle shop licensed to sell liquor 24 hours a day in Melbourne’s CBD. It obtained these extended trading hours under the *Liquor Control Act 1987*, which did not have harm minimisation objects.

According to the police and liquor licensing authorities, the area around the hotel had become a ‘hot spot’ for anti-social street behaviour arising out of the misuse and abuse of alcohol, late at night. A liquor-licensing inspector applied to the Director of Liquor Licensing for a variation of the hotel’s licence to end trading at the bottle shop from 11:00pm to 7:00am. The application was made under the *Liquor Control Reform Act 1997*, which provides for harm minimisation objectives.

The Director granted the application, accepting the recommendation of the Liquor Licensing Panel. The hotel then applied to VCAT for review of the Director’s decision. Setting aside the Director’s decision, the tribunal found that the hotel was not responsible for the anti-social behaviour. The Director appealed to the Supreme Court of Victoria contending that VCAT had committed errors of law.

The judge found that when making liquor licensing decisions, harm minimisation should be a primary consideration, although not the only consideration. The positive benefits arising from the liquor industry,

which are reflected in other objects in the legislation, must be weighed in the balance with minimising that harm.

The judge found that what the tribunal was required to do, and did not do, was to make an evaluative judgment about the contribution that ending late-night trading at the bottle shop would make to minimising harm arising from the misuse and abuse of alcohol. That required the tribunal to consider the degree and nature of the harm which was occurring or likely to occur, and how, if at all, ceasing trading would contribute to minimising that harm, even if the bottle shop was not responsible for it.

The judge found that VCAT also erred in not fully considering the recommendation of the Liquor Licensing Panel and making findings as to the profitability and viability of the hotel without evidence.

The judge upheld the appeal and remitted the hotel’s application for review to VCAT for further hearing according to the Court’s ruling.

Challenger Property Asset Management Pty Ltd v Stonnington City Council [2011] VSC 184

This case concerned a disputed valuation of the Jam Factory in Prahran. Challenger Property Asset Management Pty Ltd and Challenger Listed Investments Ltd (‘Challenger’) were the registered proprietors of the Jam Factory.

By rate and valuation notices issued pursuant to the *Valuation of Land Act 1960* (Vic) (‘the Act’), Stonnington City Council (‘Stonnington’) assessed the site value of

the Jam Factory as at 1 January 2008 at \$48,176,000, and the capital improved value of the Jam Factory as at 1 January 2008 at \$103,855,000.

Challenger objected to Stonnington’s determinations of both the site value and the capital improved value, as being too high. Stonnington disallowed the objection pursuant to Section 21(3)(a) of the Act. Challenger then made an application to VCAT for review of the decision of Stonnington to disallow the objection. The Valuer General Victoria (‘the Valuer General’) was joined as a party to the review proceeding in VCAT.

The matter was subsequently transferred to the Supreme Court. The judge considered whether the Court should confirm, increase, reduce or otherwise amend the valuation and subjected each valuer’s evidence to critical evaluation.

The main issues in dispute in relation to site value included the highest and best use to which the land might reasonably be expected to be put, plot ratios, the use and analysis of comparable sales and various adjustments made, including adjustments for time, heritage, shape, railway line and for an applicable Section 173 agreement (the critical provisions of which involved car parking at the Jam Factory). The main issues in dispute in relation to the capital improved value included an analysis of rental evidence, a vacancy allowance, the capitalisation rate and whether a ‘vacant to let’ deduction ought be made. The case raised important issues as to the proper approach to the evaluation of evidence relating to rent.



Our Year in Review: Court Delivery

The Court of Appeal

The Trial Division

Commercial and Equity Division

Common Law Division

Criminal Division

Costs Court

Judicial Case Management

Our Year in Review: Court Delivery

The Court of Appeal

The President

Justice Maxwell

Judges of the Court of Appeal

Justice Buchanan

Justice Nettle

Justice Ashley

Justice Neave AO

Justice Redlich

Justice Weinberg

Justice Mandie

Justice Bongiorno AO

Justice Harper AM

Justice Hansen (from 19 July 2010)

Justice Tate (from 16 September 2010)

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

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 Vice President of VCAT, a decision in a matter appealed to the Supreme Court Trial Division from a member at VCAT or from a Magistrate's decision.

Applications for leave to 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 to appeal 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*.

The Court of Appeal has been greatly assisted throughout the year by the sitting of trial judges as acting judges of appeal: Justice Habersberger, Justice Kaye, Justice Whelan, Justice Bell, Justice Hargrave, Justice King, Justice Pagone, Justice Coghlan, Justice Robson, Justice Lasry, Justice Vickery, Justice Kyrou, Justice Beach, Justice Davies, Justice T Forrest, Justice Emerton, Justice Ross AO, Justice Almond and Justice Macaulay.

Significant events

Ashley-Venne Reforms

On 28 February 2011 the Ashley-Venne Reforms were implemented by the Court of Appeal. The reforms were designed to reduce delays and enable the closer management of criminal appeals.

The reforms were the result of a study visit by the Hon Justice Ashley to the English Court of Appeal, followed by a visit to Melbourne by Master Roger Venne of that court. Modelled on the United Kingdom's criminal appeal process, the reforms have been tailored to account for Victorian practice.

Since commencement of the reforms, initiations of applications have declined and the clearance rate of criminal appeals has significantly increased. In the long term, these measures will reduce delay in the listing and hearing of appeals, reducing court costs and benefiting both victims of crime and the accused.

Implementation of the Ashley-Venne Reforms is discussed in further detail in the Court of Appeal Registry, page 79.

Interlocutory appeals

The number of interlocutory appeals ebbs and flows, however the annual figures remain steady. By way of comparison, 31 interlocutory matters were filed in 2010. From 1 January 2011 to the time of writing, a total of 14 interlocutory matters were filed, which is on par with 2010 figures.

A number of changes to refine practice and procedure were made in 2010-11. For further detail refer to the Court of Appeal Registry, page 79.

Workload

Criminal Appeal Caseload

The number of criminal appeal finalisations in 2010-11 increased by 23%. A criminal appeal audit conducted in January contributed to the increase in finalisations. The number of initiations for 2010-11 decreased by 23%. This may be a result of the more stringent requirements introduced with the Ashley-Venne Reforms in February 2011 and the next financial year should permit enable a more definite conclusion to be reached.

The median time taken to finalise criminal appeals against sentence extended out to 12.5 months compared to 10.7 months last year.

The median time for conviction appeals was 19.4 months compared to 10.7 months last year. This is a result of addressing the backlog of cases and finalising old matters, which produced a higher median time for finalised cases. There were also a large number of cases reinstated this past year after they were dismissed for failure to comply, which again resulted in the length of these cases being extended. Amendments to the Rules have changed the procedure relating to matters referred by the Registrar for dismissal for non-compliance. These changes are expected to result in a lower number of reinstatements in the future.

Civil Appeal Caseload

The number of civil finalisations in 2010-11 decreased by 22% while the number of initiations decreased by 12%. The overall number of pending civil cases has reduced by 4% (from 204 to 195). The median time taken to finalise civil appeals reduced by one month, from 10.7 to 9.7 months.

Given the positive impact of the Ashley-Venne Reforms on the management of criminal appeals the Court is considering the possibility of applying a similar management regime to civil appeals.

Our Year in Review: Court Delivery

The Court of Appeal

Total Caseload

Initiations across both the civil and criminal jurisdictions have decreased by 20% and finalisations have increased by 9%. The Court initiated 581 new appeals in total and finalised 797, which has decreased its backlog and will reduce the time for the hearing of appeals.

CRIMINAL APPLICATIONS FOR LEAVE TO APPEAL AND APPEALS

	2009-10	2010-11	VARIANCE
Initiations	518	397	-23%
Finalisations	506	623	23%
In List 30 June	548	404	-26%

MEDIAN TIME FROM INITIATION TO FINALISATION IN MONTHS

	2009-10	2010-11
Appeals against conviction*	10.7	19.4
Appeals against sentence	10.6	12.2
Time to finalisation (All criminal)	10.7	12.5

Note:

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

CIVIL APPLICATIONS FOR LEAVE TO APPEAL AND APPEALS

	2009-10	2010-11	VARIANCE
Initiations	208	184	-12%
Finalisations	223	174	-22%
In List 30 June	204	195	-4%

MEDIAN TIME FROM INITIATION TO FINALISATION IN MONTHS

	2009-10	2010-11
Civil appeals	10.7	9.7

TOTAL APPLICATIONS FOR LEAVE TO APPEAL AND APPEALS FOR CIVIL AND CRIMINAL

	2009-10	2010-11	VARIANCE
Initiations	726	581	-20%
Finalisations	729	797	9%

Our Year in Review: Court Delivery

The Trial Division – Commercial and Equity Division

Principal Judge of the Division:

Justice Hansen (to 8 August 2010)
Justice Habersberger (from 9 August 2010)

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

Justice Hansen (to 8 August 2010)
Justice Habersberger
Justice Hollingworth
Justice Hargrave
Justice Pagone
Justice Robson
Justice Judd
Justice Vickery
Justice Beach
Justice Davies
Justice Croft
Justice Ferguson
Justice Sifris (from 28 July 2010)
Justice Almond (from 12 August 2010)
Associate Justice Mahony
Associate Justice Evans
(to 31 January 2011)
Associate Justice Efthim
Associate Justice Wood
Associate Justice Daly
Associate Justice Gardiner
Associate Justice Mukhtar
Associate Justice Randall
(from 19 May 2011)

The Commercial and Equity Division focuses on the management and disposition of litigation arising out of trade and commerce, and litigation that predominantly involves application of equitable principles.

Significant events

In July 2010, the Hon Justice Hansen was appointed to the Court of Appeal. Recognition is due to Justice Hansen for his outstanding work and leadership during his time in the Division.

During the year, 5,219 cases were initiated in the Commercial and Equity Division, out of a total 7,543 cases across all Divisions of the Supreme Court. Cases were on occasion heard by judges and associate judges from the other Divisions. Similarly, judges and associate judges allocated to the Commercial and Equity Division heard cases in other Divisions.

The Principal Judge maintains responsibility for ensuring the Division's resources are deployed as efficiently and effectively as possible. Monthly meetings of judicial staff are held to ensure communication on issues affecting the resources of the Division is maintained.

The Division also places importance on maintaining communication with the legal profession to ensure the Court remains responsive to the needs of litigants and practitioners. Regular Commercial Court Users Group meetings, Corporations List Users Group meetings, and Technology, Engineering and Construction List Users Group meetings were held throughout the year.

Our Year in Review: Court Delivery

The Trial Division – Commercial and Equity Division

Specialist Lists

The Commercial Court, a specialist institution within the Commercial and Equity Division, comprises four Commercial Lists (Lists A-D), the Corporations List, the Victorian Taxation Appeals List, and the Arbitration List. The Technology, Engineering and Construction List, Admiralty List, and Intellectual Property List are administered within the Division.

The Division's lists support and facilitate efficient and just commercial activity in Victoria by providing litigants with access to specialist judges and associate judges who are skilled in managing specific types of commercial cases and matters. Efficiencies are generated from the involvement of a single judge throughout the case. And importantly, the lists provide a focal point for the innovative use of pre-trial and trial procedures, resulting in greater judicial knowledge and expertise in the management of these types of matters over time.

At the conclusion of the reporting period, 18% of the cases were located in specialist lists.

COMMERCIAL AND EQUITY DIVISION: CASES IN SPECIALIST LISTS

	2009-10	2010-11
Matters in the Division at 30 June	4,099	3,907
Matters in specialist lists at 30 June	738	725
Proportion of matters in specialist lists	18%	18%

General Division

Corporations matters, arbitration matters, and Victorian taxation appeal matters are automatically entered into the relevant lists. When a case is not automatically entered into a list by virtue of its subject matter, the practitioner must determine if it would benefit from list management. When a practitioner elects not to initiate a matter in a specialist list, the case is entered into the General Division for case management by associate judges. Cases that progress through all interlocutory steps and that are ready for trial are set down for hearing by the associate judge in charge of listing. Associate Justice Daly managed general listing for both the Commercial and Equity Division and the Common Law Division throughout the reporting period.

Workload

COMMERCIAL AND EQUITY DIVISION: CASE INITIATIONS AND FINALISATIONS¹

	2009-10	2010-11	VARIANCE
Initiations	5,364	5,219	-3%
Finalisations	5,796	4,993	-14%
In List 30 June	4,098	3,907	-5%

The figures show that there has been a small reduction in the number of initiations and a moderate reduction in finalisations in the Division during the year in comparison to the last reporting period. Importantly however, the pending caseload was reduced.

It is important to note that cases in the Division vary in their complexity and the level of resources required and the figures presented here do not take into account these variations. For example, the disposition of an undefended matter may proceed administratively without judicial involvement. In comparison, the disposition of a contested matter may entail many days of hearings, multiple interlocutory judgments, and a lengthy final judgment.

Finalisations have been greatly assisted by the work of associate judges in conducting mediations. The successful outcome of many such mediations has resulted in a significant saving of judicial time.

An important performance indicator that has been used in previous years to gauge the efficiency of the Division is the interval between the last date of hearing and the date of the published decision. The figures reported for 2010-11 (below) are based on judgments sent to the Supreme Court Library and reported on Austlii.

¹ Figures presented here for the 2009-10 year are different from those presented in the 2009-10 Annual Report. This is due to the completion of further work after publication of the 2009-10 report which resulted in refinement of the numbers. Similarly, further discrepancies between the 2009-10 figures reported in this section of the report, compared to those shown in the 2009-10 Annual Report, are due to further refinement of the Court's statistics after the publication of the 2009-10 report.

This means that the figures do not include many ex tempore interlocutory judgments or other judgments, which are not sent to the Supreme Court Library. Furthermore, the figures do not reflect the work undertaken by judges and associate judges in preparing for and commencing trials which subsequently settle prior to judgment.

COMMERCIAL AND EQUITY DIVISION: INTERVAL BETWEEN LAST DAY OF HEARING AND DATE OF JUDGMENT

	2009-10	CUMULATIVE %	2010-11	CUMULATIVE %
Same day	33	16	44	18
1 day – 4 weeks	102	65	93	58
4 – 8 weeks	17	73	52	80
8 – 13 weeks	29	87	26	90
13 weeks – 6 months	17	96	19	98
6 – 9 months	6	98	1	99
9 – 12 months	1	99	0	
> 12 months	2	100	2	100
Total	207		237	

On the whole, the figures highlight the Division’s timeliness in its delivery of reasons. The percentage of judgments handed down within each of the critical targets of eight weeks, thirteen weeks and six months from the last day of hearing are the best since these statistics were first kept. While this is pleasing, it should be noted that the guiding performance objective for the Division is to provide for the efficient and just disposition of the various types of cases that fall within its jurisdiction. Where large amounts of evidence and submissions require consideration, the Division will not compromise on the quality of reasons given in the pursuit of providing quick judgment.

Two further indicators of the workload of the Division, presented in the tables below, are the length of trials heard, and the length of judgments handed down. The figures for this year are compared to those reported for the 2007-08 period, being the last time these figures were reported.

COMMERCIAL AND EQUITY DIVISION: LENGTH OF TRIALS

DAYS	2007-08	2010-11	DIFFERENCE
1	124	163	39
2	33	26	-7
3 – 5	13	26	13
6 – 10	11	14	3
11 – 20	6	7	1
20 – 40	2	1	-1
70+	1	0	-1
Total	190	237	47

COMMERCIAL AND EQUITY DIVISION: LENGTH OF JUDGMENTS

PAGES	2007-08	2010-11	DIFFERENCE
1 – 9	66	86	20
10 – 19	66	77	11
20 – 29	26	27	1
30 – 39	11	20	9
40 – 59	6	11	5
60 – 99	7	11	4
100 – 149	4	5	1
150+	3	0	-3
Total	190	237	47

Our Year in Review: Court Delivery

The Trial Division – Commercial and Equity Division

Specialist Lists

Admiralty List

Judge in Charge:

Justice Pagone

The Admiralty List continues to be an important, if not burdensome, 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 this important jurisdiction with a dedicated judge to deal with all admiralty cases which may be issued in the Court.

ADMIRALTY LIST: CASE INITIATIONS AND FINALISATIONS

	2009-10	2010-11
Initiations	1	0
Finalisations	8	2
In List at 30 June	3	1

Technology, Engineering and Construction List

Judge in Charge:

Justice Vickery

The Technology, Engineering and Construction (TEC) List was established in the Court on 19 June 2009 in response to the rapid expansion of technological development in the current age. It built upon and expanded the reach of the former Building Cases List, the first specialist list introduced into the Court, in 1972.

Since its introduction, the TEC List has been an international leader, exploring and applying innovative procedures to achieve cost savings, procedural efficiencies and just outcomes.

In the last year, the number of cases initiated in the TEC List almost doubled. A number of large cases were attracted to the list including *EA Negri Pty Ltd v Technip Oceania Pty Ltd*, the Woodside Otway Gas Plant Project at Port Campbell, Victoria. Interstate litigation has also been referred under the *Jurisdiction of Courts (Cross-vesting) Act 1987*

(Vic). Such cases include *SMEC Australia Pty Ltd & Anor v McConnell Dowell Constructors (Aust)* – construction of the Adelaide Desalination Plant in South Australia, and *RPG (SA) PTY LTD v Coventry Group Ltd* – construction, service and maintenance of a wind farm in South Australia. A large-scale international dispute also entered the list, being *Transfield Philippines & Anor v Royal & Sun Alliance Insurance and Ors* – disputes arising from the design, construction and commissioning of a 70 MW hydroelectric power station on the Bakun River in the Province of Benguet and Ilocos Sur, Philippines.

During the year, the first judge-conducted Early Neutral Evaluation (ENE) procedure was successfully managed by the TEC List. The result was a without-prejudice, confidential, and non-binding evaluation of the dispute within 24 hours of the matter being heard. During the hearing of the ‘mini-trial’, competing experts were called concurrently, which served to streamline the hearing.

To further enhance the performance of the TEC List a ground breaking electronic case management system called ‘RedCrest’, has been developed and is scheduled to launch in the second half of 2011. RedCrest will offer a secure, one-stop-shop case management system for proceedings in the TEC List. Following its launch, all documents in the TEC List will be required to be filed using RedCrest, which the Court and practitioners will have 24/7 access to. It is expected that RedCrest will significantly enhance communication between the Court and those participating in litigation.

TEC disputes have a legendary propensity for technical complexity, longevity and, unless properly managed, a gargantuan volume of documentary material. The TEC List continues to recognise the need to keep abreast of technological changes and the evolving needs 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 case.

TEC LIST: CASE INITIATIONS AND FINALISATIONS

	2009-10	2010-11	VARIANCE
Initiations	13	20	54%
Finalisations	15	9	-40%
In List at 30 June	26	32	23%

Intellectual Property List

Judge in Charge:

Justice Hollingworth

Due to federal arrangements, few intellectual property cases are commenced in the Supreme Court. One case was finalised in the Intellectual Property List during the year.

In 2011-12, this list will be incorporated into the Technology, Engineering and Construction List.

INTELLECTUAL PROPERTY LIST: CASE INITIATIONS AND FINALISATIONS

	2009-10	2010-11
Initiations	2	0
Finalisations	0	1
In List at 30 June	3	1

Commercial Court

Judge in Charge:

Justice Pagone

The Commercial Court was established on 1 January 2009. It incorporated the Commercial List and the Corporations List and has substantially developed the practices and procedures of those lists. Any commercial proceeding or corporation case may be entered into the Commercial Court unless it is more suitable for management in another specialist list.

Judges who sat in the Commercial Court during 2010-11 include Justice Pagone, Justice Judd, Justice Davies, Justice Croft and Justice Ferguson. Associate judges who assisted with interlocutory and other proceedings during the period include Associate Justice Efthim, Associate Justice Daly and Associate Justice Gardiner.

The management and disposition of cases in the Commercial Court continued the strong pattern evident since its establishment with 1,262 cases commenced and 1,157 cases finalised in the year. Of these cases, there were 153 commercial disputes commenced

and 149 finalised. The number of cases finalised in comparison to the last reporting period represents an increase of 14%.

COMMERCIAL COURT: CASE INITIATIONS AND FINALISATIONS

	2009-10	2010-11	VARIANCE
Initiations	1,456	1,262	-13%
Finalisations	1,275	1,157	-9%
In List at 30 June	692	690	0%

COMMERCIAL COURT: CASE INITIATIONS AND FINALISATIONS, (EXCLUDING CORPORATIONS LIST)

	2009-10	2010-11	VARIANCE
Initiations	239	153	-36%
Finalisations	131	149	14%
In List at 30 June	264	226	-14%

The Commercial Court Seminar Series – the free seminar series overseen by Justice Davies and sponsored by Monash Law School, the Victorian Bar, and the Law Institute of Victoria – was run for a second consecutive year. Generously supported by judges, the series presents an opportunity for audiences to engage with experts from the judiciary, the Bar, and legal firms on topical issues affecting commercial practice.

The Court, in conjunction with the Melbourne Law School, also ran the Second Annual Commercial Law Conference. The conference featured distinguished speakers and commentators who spoke on current issues in commercial law.

Justice Judd commenced chairing of the Commercial Court Users' Group, a forum where professional users of the Commercial Court met with the judges to discuss matters of interest and consider improvements to procedures and practices. During the period, Justice Croft agreed to review the Practice Note published for practitioners in the Commercial Court with a view to making significant amendments, improvements and republication.

Our Year in Review: Court Delivery

The Trial Division – Commercial and Equity Division

Case management imposes additional demands upon Court resources and creates challenges for courts in their need to balance administrative efficiency with judicial impartiality and integrity. Associates have increasingly had to manage those burdens in their dealings with more senior and more experienced litigants as well as less experienced practitioners and at times, unrepresented litigants. A significant development has been the establishment of an internal education seminar for associates, coordinated by Justice Ferguson, which aims to encourage impartiality and consistency of approach throughout the Commercial Court.

The Commercial Court website continues to be a significant means by which the Court communicates timely information to practitioners.

Corporations List

Judges in Charge:

Justice Ferguson

Justice Davies

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 and accounts for approximately 10% of the total cases in the Commercial and Equity Division.

Due to the large caseload, several judges in the Division heard cases in the List during the year including Justice Robson, Justice Judd and Justice Sifris. Disposition of a significant number of cases within the List was also undertaken by Associate Justice Efthim and Associate Justice Gardiner.

The judges heard and determined a significant number of cases involving corporate reconstructions, including those related to *AWB Ltd*, *Axa Asia Pacific Holdings*, *Foster's Group Ltd*, *Healthscope Ltd*, and *Tabcorp Holdings Ltd*. A large amount of litigation arising out of failed agricultural and forestry managed investment schemes was also heard – *BOSI Security Services Limited v Australia and New Zealand Banking Group Limited & Ors* [2011] VSC 255 was a significant judgment in this regard.

During the reporting period, 1,109 matters were initiated in the List, and 1,008 were finalised. This is a reduction on the number of initiations and finalisations compared to the previous year, it is notable that, based on longer-term figures, the List recorded an average amount of activity during the period. For the last six reporting periods, there has been, on average, 1,060 initiations and 1,008 finalisations recorded in the List.

CORPORATIONS LIST: CASES INITIATED AND FINALISED

	2009-10	2010-11	VARIANCE
Initiations	1,214	1,109	-9%
Finalisations	1,143	1,008	-12%
In List at 30 June	430	464	8%

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 this List can raise questions under a range of Victorian legislation including the *Duties Act 2000*, *Payroll Tax Act 2007* and the *Taxation Administration Act 1997*. The List includes cases originally initiated in the Court and those that are appeals from the Victorian Civil and Administrative Tribunal.

Seven judgments were reported during the period.

VICTORIAN TAXATION APPEALS LIST: CASES INITIATED AND FINALISED

	2009-10	2010-11
Initiations	7	24
Finalisations	3	8
In List at 30 June	4	19

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.

The Court's jurisdiction, and hence the scope of the operation of the Arbitration List, extends to both domestic and international arbitrations. Domestic arbitrations are subject to the *Commercial Arbitration Act 1984 (Vic)* and international arbitrations are subject to the *International Arbitration Act 1974 (Cth)*. The Court has exclusive jurisdiction with respect to domestic arbitration matters.

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

The List further provides a focal point for enquiries from legal practitioners with respect to arbitration matters, which are managed by the associates to the Judge in Charge.

During the reporting year, three significant matters were heard. Two decisions, *Altain Khuder LLC v IMC Mining Inc & Anor* [2011] VSC 1 and [2011] VSC 12, involved the interpretation of the requirements in sections 8 and 9 of the *International Arbitration Act 1974 (Cth)* (as amended in 2010) for enforcement of a foreign arbitral award and the application of indemnity costs where a party is unsuccessfully seeking enforcement. These decisions have been appealed to the Victorian Court of Appeal. At first instance, these decisions were followed by an application for ancillary orders with respect to assets: *Altain Khuder LLC v IMC Mining Inc & Anor* (No.3) [2011] VSC 105. *Winter v Equuscorp Pty Ltd* [2010] VSC 419 involved an application for leave to appeal an arbitral award under section 38 of the *Commercial Arbitration Act 1984 (Vic)*.

Other matters were commenced and resolved at interlocutory stages.

The Court's jurisdiction in the Arbitration List extends to both domestic and international arbitrations.

Our Year in Review: Court Delivery

The Trial Division – Common Law Division

Principal Judge of the Division:

Justice Osborn

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

Justice Osborn

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

Justice Dixon (from 16 September 2010)

Justice Macaulay (from 22 September 2010)

Associate Justice Evans (to 31 January 2011)

Associate Justice Lansdowne

Associate Justice Daly

Associate Justice Zammit

The work undertaken in the Common Law Division covers two principal areas. It exercises the Court's supervisory jurisdiction over other courts, tribunals, public officials and instruments of government thus dealing with appeals on questions of law from Magistrates' Courts and VCAT. It also 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). Contempt of court matters are also usually dealt with by the Common Law Division.

Significant events

In a busy and challenging year, the Division continued to meet its caseload and operate with efficiency, with the work in most specialist lists continuing to grow.

During the year, the Division implemented two new Practice Notes: *Practice Note No. 9 of 2010 – Conduct of Group Proceedings* and *Practice Note No. 10 of 2010 – Personal Injuries List*. Both Practice Notes were preceded by consultation with user groups and have been well received.

The Division also held a number of meetings with members of the profession in order to enhance the work and efficiency of different lists within the Division. The meetings were productive and the Division is grateful to those members of the user groups who have volunteered their assistance.

The Division continues to manage major class actions in respect of the 2009 Beechworth, Coleraine, Horsham, Pomborneit and Kilmore East bushfires. Whilst these cases are being managed from Melbourne, the trials will, with the exception of Kilmore East, take place at the regional courthouse closest to the scene of the respective fires. The first trial is scheduled to commence in September 2011.

In addition to the bushfire class actions, there were a number of cases that placed significant pressure on the resources of the Division. In *Slaveski v Victoria* [2010] VSC 441, an unrepresented plaintiff made allegations of assaults and other misconduct against 23 police officers. The trial occupied 115 sitting days and generated 16,166 pages of transcript. This case exemplifies the demands and needs of unrepresented litigants.

In *Wheelahan v City of Casey* [2011] VSC 215, a proceeding arising from the Brookland Greens landfill gas migration and involving 585 plaintiff group members and 14 parties, the Court approved settlement of the plaintiffs' claims following an extended joint conference of parties and mediation by Associate Justice Efthim. The joint conference and mediation process were materially assisted by the utilisation of facilities at the Federal Court in Melbourne. The Division acknowledges the cooperation and support of Federal Court staff.

The Division continues to manage the claims between the City of Casey and the 13 remaining parties, with a trial date scheduled for 2012.

There were a significant number of cases heard by the Division that were of public interest, which are noted in the lists below. These cases illustrate the Division's ongoing role in responding to the needs of individuals and society within the framework of the rule of law.

Workload

In 2010-11, a total of 1,570 actions were initiated in the Division. The number of finalisations decreased from 1,476 in 2009-10 to 1,279 in 2010-11. The decrease was not due to a decline in judicial determinations, but in part due to an unusually high number of finalisations recorded in 2009-10 (due to an audit of outstanding files) and an unexplained decline in the rate of out-of-court settlements. As a consequence of the audit, there was a material increase in the number of matters recorded as finalised in the previous financial year and this has resulted in an apparent decline in this year's number of finalisations.

The Division's work has been undertaken with the significant support of the associate judges including 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.

COMMON LAW DIVISION: CASES INITIATED AND FINALISED

	2009-10	2010-11	VARIANCE
Initiations	1,643	1,570	-4%
Finalisations	1,476	1,279	-13%
In List 30 June	1,782	1,810	2%

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 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*.

List matters are managed in the first instance by the Associate Judges in Charge, who are responsible for the hearing and determination of applications for leave, applications for orders nisi for review, applications for summary dismissal and stays, and settling questions of law and grounds of appeal. The associate judges also fix timetables and otherwise control the progress of matters to ensure they proceed efficiently.

Our Year in Review: Court Delivery The Trial Division – Common Law Division

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.

Cases in which issues of public importance were decided included:

- *Friends of Mallacoota Inc v Minister for Planning & Anor* [2010] VSC 222 concerning judicial review of a decision by the Minister for Planning to approve a proposal for replacement of a boat ramp contrary to advice in an environment effects statement
- *Castles v Secretary to the Department of Justice* [2010] VSC 310 concerning the application of the *Charter of Human Rights and Responsibilities Act 2006* to a female prisoner seeking IVF treatment
- *Director of Public Transport v XFJ* [2010] VSC 319 concerning the rights of a person who had been found not guilty of murder by reason of insanity to obtain accreditation as a taxi driver
- *DPP v Kypri* [2010] VSC 400, *DPP v Piscopo* [2010] VSC 498 and *DPP v Rukandin* [2010] VSC 499 concerning the pre-conditions for the laying of charges for .05 offences under the *Road Safety Act 1986 (Vic)*
- *Priest v Deputy State Coroner* [2010] VSC 449 concerning the scope of the Coroner's powers to exclude evidence at a coronial inquiry
- *Stonnington City Council & Anor v Roads Corporation & Anor* [2010] VSC 454 concerning the validity of a decision by the Minister for Roads and Ports and VicRoads to extend clearway hours on arterial roads within two municipalities
- *CECA Institute Pty Ltd v Australian Council of Private Education and Training* [2010] VSC 552 and *Mickovski v Financial Ombudsman Service Limited* [2011] VSC 257 concerning the amenability to judicial review of a decision of a private body

- *Secretary to the Department of Human Services v Sanding* [2011] VSC 42, concerning revocation of an order placing four Aboriginal sibling children in separate non-Aboriginal homes, returning the children to the care of their maternal grandmother
- *Rees v County Court* [2011] VSC 67 concerning the meaning of 'jurisdictional error' in criminal cases
- *Zukanovic v Magistrates' Court of Victoria at Moorabbin* [2011] VSC 141 and [2011] VSC 160 concerning procedural fairness and costs in relation to contempt in the face of the court
- *Director of Liquor Licensing v Kordister Pty Ltd* [2011] VSC 207 concerning the 'harm minimisation' object in the *Liquor Control Reform Act 1998*
- *Maleckas v Secretary to the Department of Justice* [2011] VSC 227 concerning the rights of a person who had been convicted of manslaughter to obtain an assessment notice to enable that person to work with children.

Between 1 July 2010 and 30 June 2011, 120 matters were entered in the List.

JUDICIAL REVIEW AND APPEALS LIST: CASES INITIATED AND FINALISED

	2009-10	2010-11	VARIANCE
Initiations	173	120	-31%
Finalisations	99	88	-11%

Personal Injuries List

Judges in Charge:

Justice Williams

Justice Kaye

Justice J Forrest

Justice Beach

Associate Judges in Charge:

Associate Justice Zammit

Associate Justice Daly

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)
- in which a Serious Injury Certificate has been granted under the *Accident Compensation Act 1985* (ACA) by the Victorian WorkCover Authority (VWA)
- in which a court has given leave to commence proceedings under the TAA or the ACA
- brought by the TAC under s. 104 of the TAA
- brought by VWA under s. 138 of the ACA
- in which plaintiffs allege they are suffering from a terminal disease
- arising out of medical negligence
- related to asbestos exposure.

The List is largely managed by the Associate Judges 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. To facilitate claims in which there

is a plaintiff who is terminally ill and where death is imminent, the associate judges have a dedicated time allocated each week for the management of such cases requiring a speedy trial.

Pre-trial conferences in asbestos-related matters are conducted by senior court registry staff.

Since its commencement, the List has continued to grow. It is strongly supported by the profession. Frequently, multiple civil jury cases in the List have run at the same time. At one stage during the year, there were five such trials running simultaneously, and it was not uncommon for three trials to be proceeding at once.

Cases that have proceeded to verdict have included a number that raised difficult questions of liability and damages in respect of psychological injury in the workplace.

Even with the significant numbers of cases resolving by dispute resolution processes other than trial, the work of the List has continued to grow since 2009 and it is anticipated it will continue to do so in the coming year.

As was foreshadowed in last year's report, a limiting feature from time to time this year 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 courtrooms available at short notice.

PERSONAL INJURIES LIST: CASES INITIATED AND FINALISED

	2009-10	2010-11	VARIANCE
Initiations	320	327	2%
Finalisations	141	290	106%

Our Year in Review: Court Delivery The Trial Division – Common Law Division

Valuation, Compensation and Planning List

Judge in Charge:

Justice Emerton

Associate Judge in Charge:

Associate Justice Daly

The Valuation, Compensation and Planning List manages matters involving the valuation of land, compensation for resumption of land, planning appeals and disputes involving land use or environment protection.

General directions and short applications are heard every month by the Judge in Charge and this consistency, together with the use of standard directions and an early timetable, has proven successful in avoiding delays and fragmentation in the management of cases.

The Court has continued to encourage appropriate dispute resolution, with court-ordered mediation included in the standard directions.

Following an extended joint conference of parties and mediation, the Court approved settlement of the plaintiffs' claims in *Wheelahan v City of Casey* [2011] VSC 215, a proceeding arising from the Brookland Greens landfill gas migration incident and involving 585 plaintiff group members and 14 parties, which would otherwise, in all likelihood, have taken many months of court time to resolve.

The Court has also accelerated the resolution of proceedings by ruling separately on discrete questions of fact and law in appropriate cases. In *McCann v Roads Corporation* [2011] VSC 96, *Streetworks Pty Ltd v Linking Melbourne Authority* [2011] VSC 264 and *Roads Corporation v Carter* [2010] VSC 273, the Court determined key preliminary questions relating to the highest and best use of land.

Other cases in which legal issues of public importance were decided included *Challenger Property Asset Management Pty Ltd v Stonnington City Council* [2011] VSC 184, concerning a disputed valuation of the Jam Factory in Prahran, and *Roads Corporation v Love* [2010] VSC 537, the third substantive judgment in a series of major cases related to the compulsory acquisition of land for the purposes of the Craigieburn bypass and other road works in its vicinity.

VALUATION, COMPENSATION AND PLANNING LIST: CASES INITIATED AND FINALISED

	2009-10	2010-11	VARIANCE
Initiations	22	35	59%
Finalisations	20	16	-20%

Major Torts List

Judge in Charge:

Justice Beach

Associate Judge in Charge:

Associate Justice Zammit

The Major Torts List conducts directions hearings at 9.30 am every second Friday. In the absence of Justice Beach, Justice Kaye or Justice J Forrest sit.

The List deals with a large variety of claims, including:

- medical negligence claims
- claims in negligence against valuers
- claims in 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.

In addition, group proceedings concerning claims in relation to soy milk and thalidomide are currently being managed in the List.

During the last 12 months the number of defamation proceedings commenced in the List continued to grow. By their nature, those proceedings commonly involved 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.

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. From time to time, meetings are held with members of the profession about particular issues which might arise in relation to certain types of cases.

MAJOR TORTS LIST: CASES INITIATED AND FINALISED

	2009-10	2010-11	VARIANCE
Initiations	60	74	23%
Finalisations	76	55	-28%

Circuit Sittings

Judge in Charge:

Justice J Forrest

Associate Judge in Charge:

Associate Justice Daly

In February 2010, the Chief Justice approved the introduction of a Circuit Management List. All cases issued out of regional courts are managed by the associate judge responsible for circuits and, where necessary, the circuit judge. Regional practitioners are provided with ready access to an officer of the Court familiar with circuit business and the Court ensures that, where practicable, cases can be included within the next available circuit sitting. These new arrangements have worked effectively over the past 12 months.

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.

In 2010-11, civil sittings were held at Geelong, Wangaratta, Shepparton, Bendigo, Warrnambool and Mildura. Sittings scheduled for Latrobe Valley, Wodonga and Ballarat did not proceed due to the settlement of the listed cases.

There were 190 proceedings initiated out of the regional courts in 2010-11 (slightly more than in the previous year). The majority of the civil business involves claims arising out of personal injuries or death. However, there are also a number of claims arising out of deceased property estate disputes and partnership claims.

The Court's policy is to ensure that all documents filed in a regional proceeding are scanned and uploaded, and form part of the electronic Court file. This is intended to enable regional court staff to have ready access to circuit files, even though the physical file is retained in Melbourne.

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

Class actions have been issued in respect of the Beechworth, Coleraine, Horsham, Pomborneit and Kilmore East bushfires. Whilst these cases have been managed out of Melbourne, the trials will, with the exception of Kilmore East, take place at the regional courthouse closest to the scene of the respective fires. The first of these cases will be heard in Horsham on 5 September 2011 with the remaining cases scheduled for 2012. It is intended that each of these cases be run as an electronic trial and parts of the hearing will be streamed live online.

It should also be noted that the Commercial Court regularly sat at Geelong.

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

	2009-10	2010-11	VARIANCE
Ballarat	13	21	62%
Bendigo	23	28	22%
Geelong	19	19	0%
Horsham	0	0	0%
La Trobe	8	0	100%
Mildura	40	25	-38%
Morwell	0	14	100%
Sale	0	1	100%
Shepparton	8	5	-38%
Wangaratta	35	49	40%
Warrnambool	13	15	15%
Wodonga	14	13	-7%
Total	173	190	10%

Future challenges

The Division will confront an increasing load in respect of jury trials. It must seek to manage this work while offering timely and effective access to those who wish to review or appeal on questions of law administrative decisions of the State, and the decisions of the State's two busiest jurisdictions, namely VCAT and the Magistrates' Court.

Our Year in Review: Court Delivery

The Trial Division – Criminal Division

Principal Judge of the Division:

Justice Coghlan

Judges and Associate Judges who served in the Criminal Division:

Justice Nettle

Justice Osborn

Justice Williams

Justice Kaye

Justice Whelan

Justice Hollingworth

Justice Bell

Justice King

Justice Curtain

Justice Coghlan

Justice Robson

Justice J. Forrest

Justice Lasry

Justice Beach

Justice T. Forrest

As with previous reporting periods, the 2010-2011 reporting period saw the Criminal Division hear matters beyond its exclusive homicide jurisdiction. These included fraud, terrorism and complex drug trafficking offences. It is an important responsibility of the Court to hear such matters given the rulings on matters of evidence and procedure that are made and are binding on Victorian courts. These rulings are of particular significance given the commencement of the *Evidence Act 2008* in the last reporting period.

The Criminal Division's workload is not confined to trials. During this reporting period, the Division dealt with four matters arising out of the *Serious Sex Offenders (Detention and Supervision) Act 2009*. The Division continued to hear other applications, among them applications under the *Bail Act 1977*, *Major Crime (Investigative Powers) Act 2004* and the *Witness Protection Act 1991*.

Post committal directions hearings held within 14 days of a person being committed to trial continue to play an important part in the judicial management of cases. These hearings are vital to the early identification of issues in a trial and whether or not the matter is resolvable. The increase in the number of pleas seen in the previous two reporting periods is maintained at the same level in this year's reporting period. Post committal hearings also identify complex cases, which require close judicial management. A number of such complex and lengthy trials were concluded during this reporting period.

During this reporting period the level of cooperation between the Criminal Division and Common Law Division has been very significant. The Criminal Division has assisted, where possible, the Common Law Division in hearing criminal-law related judicial review matters, and has received assistance from the Common Law Division. Judges of the Criminal Division have also assisted in the Court of Appeal.

Significant events

Amendments to the *Sentencing Act 1991* that enable victims to read their own victim impact statements in court instigated – *Practice Note No. 3 of 2011 – Sentencing Hearings*. This Practice Note was drafted in consultation with the profession and the Victim Support Agency. It outlines timeframes and tender requirements for the provision of victim impact statements and other documentation to enable any issues of admissibility to be identified at an early stage and facilitates, where necessary, a preliminary hearing to determine those issues prior to the sentencing hearing.

The Court considers the role of victims in the sentencing process as an important one. The impact of (and response to) offending, by victims of crime, is variable. In general, the management of victims and victim impact statements has significantly improved under the management of the Victim Support Agency since January 2011.

Our Year in Review: Court Delivery

The Trial Division – Criminal Division

Workload

Numerical state of the list

As at 1 July 2011, there were 65 matters in the criminal list (inclusive of cases that are part-heard and pending); five cases less than the previous reporting period. Trials were usually listed within six to nine months of committal for trial, but with enough flexibility to enable some trials to be heard more quickly. Plea hearings were able to be accommodated as quickly as necessary.

During this reporting period the Division heard to completion 46 trials involving 57 persons, and 57 plea hearings involving 82 persons. Overall this equates to 103 matters involving 139 persons. This is a significant increase in matters finalised as compared to the last reporting period where a total of 81 matters involving 106 persons were dealt with.

The number of pleas heard in this reporting period, as with the previous two reporting periods, represents over half of the Division's trial workload. This is an interesting trend. In the 2007-08 Annual Report, pleas comprised 43% of the total trial workload.

In the last reporting period, it was noted that the Court of Appeal dealt with two interlocutory appeals under the *Criminal Procedure Act 2009* that came from the Criminal Division. Since that time, there have been three interlocutory appeals, which have also been dealt with expeditiously.

It is important to note that the workload of the Division cannot be gauged by statistical information alone, such as the number of applications heard. For example, a murder trial involving one accused equates to 'one trial' for statistics purposes – but it may involve months of work at trial. During this reporting period, a number of murder and terrorism-related trials ran well over 20 days in length and required a significant number of rulings on evidentiary matters. An in-depth understanding of each trial and qualitative analysis of the complexity of the issues dealt with would provide a more accurate gauge of the Division's workload.

Other applications

Judges of the Criminal Division continue to hear applications made under the *Bail Act 1977*, with 70 applications heard in this reporting period. The procedure for applications under the *Bail Act 1977* is provided for in *Practice Note No. 4 of 2004*, which defines timeframes for filing material. However there are always exceptions, and the Division maintains flexibility, endeavouring to fast track bail hearings where appropriate and subject to judge availability.

Judges of the Division also regularly hear applications pursuant to *Practice Note No. 4 of 2007*. This includes applications under the *Surveillance Devices Act 1999*, *Major Crime (Investigative Powers) Act 2004* and the *Witness Protection Act 1991*. During this reporting year, 67 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 included in 'other applications filed', which totalled 52 applications.

Certain applications made under legislation such as the *Major Crime (Investigative Powers) Act 2004* take up a considerable amount of judicial time. For instance, one application under the *Major Crime (Investigative Powers) Act 2004* could entail numerous hearings. In addition, many of the applications and matters dealt with pursuant to *Practice Note No. 4 of 2007* are heard in closed court and for that reason are unable to be easily reported on.

The Division continues to be responsible for applications made under the *Serious Sex Offenders (Detention and Supervision) Act 2009* and applications made pursuant to the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997* despite the fact that such applications are received by the Court in its Common Law Division capacity.

CRIMINAL DIVISION: TRIAL STATISTICS

	2007-08	2008-09	2009-10	2010-11
Trials (finalised)	56 cases (72 persons)	47 cases (65 persons)	38 cases (43 persons)	46 cases (57 persons)
Pleas (finalised)	33 plea hearings (39 persons)	57 plea hearings (89 persons)	43 plea hearings (63 persons)	57 plea hearings (82 persons)
Total matters finalised	89 matters (111 persons)	104 matters (154 persons)	81 matters (106 persons)	103 matters (139 persons)

Matters heard pursuant to the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*

	2009-2010	2010-11
<i>Crimes (Mental Impairment and Unfitness to be Tried) Act 1997</i> Section 35 – major reviews	2	2*
<i>Crimes (Mental Impairment and Unfitness to be Tried) Act 1997</i> – other applications and hearings	12	14

*Both major reviews were adjourned to be heard at a later date.

CRIMINAL DIVISION: APPLICATIONS

	2007-08	2008-09	2009-10	2010-11
Applications heard under the <i>Bail Act 1977</i>	93	85	90	70
Applications heard under the <i>Surveillance Devices Act 1999</i>	100	82	78	67
Applications under the <i>Confiscation Act 1997</i> and <i>Proceeds of Crime Act 2002</i> (Cth)	99	89	55	127
Other criminal applications filed*	49	53	66*	52*
Total applications heard	341	309	289	316

*Figure includes applications under the *Major Crime (Investigative Powers) Act 2004*, *Witness Protection Act 1991*, and applications for compensation under the *Sentencing Act 1991*.

Future challenges

The Division continues to be challenged by the amendments brought by the *Crimes (Homicide) Act 2005*. This legislation introduced significant reform to homicide offences. The amendments included the creation of the offence of defensive homicide, abolished provocation and introduced a statutory form of self defence. The amendments have led to complexities in homicide offences, which in turn impacts on judges in their charge to juries. Whilst the *Crimes Act 1958* is currently being reviewed as part of government policy the provisions in respect of homicide offences are an area in need of significant reform.

The 2011-12 reporting period will require a number of major reviews to be heard under the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997*. Major reviews are hearings the Court is required to undertake for persons subject to supervision orders who are nearing the end of their nominal term or have surpassed their nominal term. Whilst major reviews would usually number between two to four in a year, three are already listed to be heard in September 2011.

Our Year in Review: Court Delivery

Costs Court

Associate Judges:

Associate Justice Wood

Associate Justice Evans

Associate Justice Eftim (to 31 January 2011)

Associate Justice Daly

Associate Justice Mukhtar

On 31 December 2009, the *Courts Legislation (Costs Court and Other Matters) Act 2008* came into operation. Section 17C of the *Supreme Court Act 1986* established the Costs Court within the Trial Division of the Supreme Court. The financial year ending 30 June 2011 is the first complete financial year that the Costs Court has been in operation.

Significant events

The appointment of Judicial Registrar Gourlay in January 2011 enabled the period between callover and hearing dates to be reduced to less than three months.

The Costs Registrars now hear matters arising from orders made in all jurisdictions without any limitation. Costs Registrar Conidi has commenced hearing reviews under the *Legal Profession Act 2004*. Both Costs Registrars have conducted mediations referred to them at callover, most of them resulting in a successful resolution.

Workload

The Costs Court has increased the listing of matters where the amount in dispute is under \$50,000 directly into ‘Small Bills days’. This has allowed increased numbers of matters to be listed and heard more quickly. Costs Registrar Conidi commenced assessing short bills listed before him pursuant to Part 8 of Order 63. This has resulted in a shorter period for those matters to be concluded.

In relation to future trends, the costs regime introduced in relation to serious injury applications commenced after 28 October 2010 under the *Accident Compensation Act 1985* is likely to reduce the necessity for taxation in these matters in the coming financial years.

Only one matter was referred to the Legal Services Commissioner for unsatisfactory professional conduct (pursuant to section 3.4.46 of the *Legal Profession Act 2004*) during the past year.

The taxation of costs statistics, contained herein, highlight the distinction between the number of party/party taxations and reviews brought under the *Legal Profession Act 2004*. Furthermore, what is provided is the initiations and dispositions of party/party taxations across all jurisdictions (Supreme Court, County Court, Magistrates’ Court and VCAT).

COSTS COURT: INITIATIONS

	LPA*	VCAT	MAGISTRATES	COUNTY	SUPREME	TOTAL
July	6	4	3	27	37	77
August	13	2	8	29	37	89
September	7	2	3	31	39	82
October	7	8	2	26	35	78
November	16	9	4	32	40	101
December	9	2	4	37	33	85
January	2	4	1	28	36	71
February	7	5	4	37	22	75
March	16	3	0	40	28	87
April	10	3	0	49	21	83
May	11	5	3	49	31	99
June	7	5	2	33	48	95
TOTAL	111	52	34	418	407	1022

* Legal Practice Act 1996 or Legal Profession Act 2004.

COSTS COURT: DISPOSITIONS

	LPA*	VCAT	MAGISTRATES	COUNTY	SUPREME	TOTAL
July	0	3	6	35	24	68
August	3	5	4	36	48	96
September	5	4	6	29	38	82
October	3	2	1	24	35	65
November	8	1	3	25	35	72
December	6	2	5	12	37	62
January	0	3	4	22	19	48
February	8	5	5	28	63	109
March	14	4	1	28	34	81
April	10	7	1	26	16	60
May	9	4	1	39	29	82
June	4	6	1	49	18	78
TOTAL	70	46	38	353	396	903

* Legal Practice Act 1996 or Legal Profession Act 2004.

Our Year in Review: Court Delivery

Judicial Case Management

Mediations

Associate Judges:

Associate Justice Efthim
Associate Justice Wood
Associate Justice Lansdowne
Associate Justice Daly
Associate Justice Gardiner
Associate Justice Mukhtar
Associate Justice Zammit
Associate Justice Randall (from 17 May 2011)

Mediations are conducted by associate judges of their own motion upon referral of judges and other associate judges and from practitioners making requests and applications, from time to time.

In 2010-11, 150 mediations were conducted, an increase of 57 from the previous year:

- 83 proceedings were settled at mediation
- 48 were not resolved
- 19 mediations were either cancelled or adjourned to another date.

The number of mediations conducted in 2010-11 increased due to the appointment of Associate Justice Randall, and Judicial Registrar Gourlay to the Cost Court. Furthermore, with the commencement of the *Civil Procedure Act 2010*, parties are now compelled to explore alternative avenues to litigation (such as mediation). This too may have attributed to the increase in judicial mediation.

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 2011-12 financial year, the demand for proceedings to be mediated by associate judges is exceeding the availability of associate judges. As of 1 July 2011, approximately 80 proceedings required a listing before an associate judge to mediate, with only about 30 days of judge time available.

The associate judges have continued to provide Court annexed mediation in appropriate circumstances. This service has been extremely successful, however, the capacity of associate judges is constrained by their Court workload. In any event, Court annexed mediation is not intended to replace mediation services available through the Bar and the profession. When provided by the Court it can have a significant impact on litigation. One example is the referral by Justice Osborn of the plaintiff's claim in *Wheelahan v City of Casey & Ors* to Associate Justice Efthim, which resulted in the resolution of the plaintiff's component of the claim. This resulted in significantly reducing the length of the trial.

Civil Management List

Associate Judge:

Associate Justice Daly

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

When a proceeding is ready for trial directions, it is referred for pre-trial directions hearing, where, pending determination, a trial date may be fixed, a judge allocated, or further interlocutory directions undertaken.

Associate Justice Daly undertook the fixing of dates of civil matters for trial before judges and the drawing up, maintenance and coordination of lists of such cases. Pre-trial determinations to manage the future conduct of proceedings, including applications to vacate trial dates and speedy trial applications, were also heard by Associate Justice Daly.

Orders made in Civil Management List for 2009-10	4,084
Orders made in Civil Management List for 2010-11	3,682
Orders made in Listings for 2009-10	355
Orders made in Listings for 2010-11	459

General applications

Associate Judge:

Associate Justice Daly

General applications in civil proceedings are usually made returnable before, and are determined by, an associate judge.

General applications are interlocutory applications made within the judicial authority of an associate judge in proceedings not otherwise issued in any of the Court's specialist lists and not otherwise especially dealt with by associate judges designated for particular applications (e.g. taxation of costs, listing of cases, corporations matters).

These include matters such as service of process, pleadings disputes, summary judgment applications, security for costs applications, discovery of facts and documents, and amendments to pleadings.

Applications also extend to proceedings originating from other courts and tribunals, such as leave to appeal from VCAT or the Magistrates' Court, which (since 1 January 2009) have been managed by Associate Justices Lansdowne and Daly in the Judicial Review and Appeals List.

ORDERS

Orders made in general applications for 2009-10	4,475
Orders made in general applications for 2010-11	5,807

Part IV (Family Maintenance) Directions

Associate Judges:

Associate Justice Evans (to 31 January 2011)

Associate Justice Efthim

Associate Justice Zammit

Prior to his passing in February 2011, Associate Justice Evans was responsible for Part IV Directions and the hearing of applications for Approval of Compromise. Associate Justice Efthim took over the role and, since the beginning of the year, continues to share the judicial duties with Associate Justice Zammit.

The proceedings heard are Testator's Family Maintenance proceedings under the *Administration and Probate Act 1958*. The applications and directions hearings are managed with minimal fuss. As a result, the Court has an excellent rapport with the profession in relation to these matters.

In recognition of the substantial unnecessary costs to litigants in the List, the Court continues to adopt the practice of adjourning the further hearing of applications for directions to a date to be fixed after initial directions are given.

Practitioners dissatisfied with non-compliance by the other party with directions may re-list the proceeding promptly for further directions. However, all cases are monitored for unnecessary delays to disposition.

This has led to a substantial reduction in the orders made without affecting the progress of the litigation towards resolution and a significant saving in costs, for both the litigants and the Court.

In addition, regular audits of the TFM files have been invaluable in bringing many matters to a final conclusion, resulting in the associate judges signing off on a substantive number of orders each week - 59.07.

Orders made in Part IV Directions for 2010-11	905
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Our Year in Review: SUPPORT DELIVERY

Senior Master's (Funds in Court)
Office

Court of Appeal Registry

Principal Registry

Juries Commissioner's Office

Court Administration

Our Year in Review: Support Delivery

Senior Master's (Funds in Court) Office

The Senior Master's (Funds in Court) Office provides beneficiaries with the best service possible, whilst ensuring the safe and prudent investment of funds.

The SMO's work continues to grow in volume and significance. The number of payments made on behalf of beneficiaries increased by over 10% in the year. Orders made to effect such payments increased by over 21%.

The increased workload placed additional pressures on the SMO's staff and resources. Despite such pressures, the SMO continues to provide a high quality service to its beneficiaries.

Staff met or outperformed all KPIs relating to the delivery of services to beneficiaries. Most importantly, at least 91.6% of payments to, or on behalf of, beneficiaries were processed within five days of receipt of request.

The SMO received over 3,000 phone calls per month. Of calls made to the office, 83.2% were answered within 1 minute. It should be noted that 27,886 (77% of all calls) were answered within 30 seconds.

Legal Section

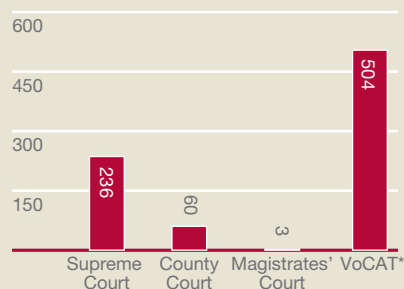
There were 803 new accounts opened comprising 900 payments into Court during the reporting period:

- 64 non-award matters (dispute money, security for costs, moneys paid in under an Act)
- 739 award payments (personal injury, Family Provision claims, Part III of the *Wrongs Act 1958*, VoCAT funds).

Moneys received: \$115,277,710.91 was paid into Court.

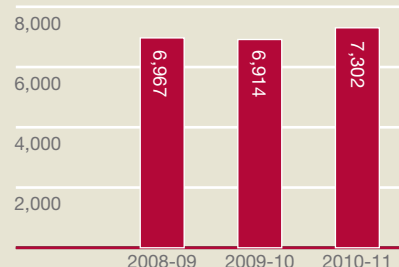
Moneys paid out: \$55,907,921.83 was paid out of Court, representing a total of 690 accounts.

Legal section



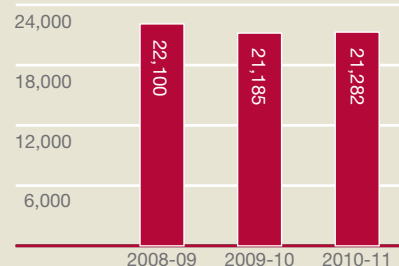
*Victims of Crime Assistance Tribunal.

Orders made*

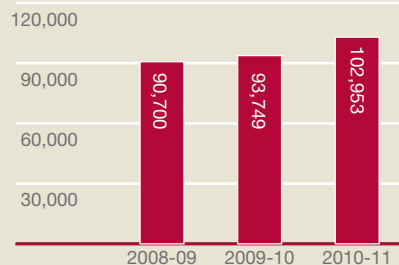


*Payments are made by Court orders (usually made by the Senior Master).

Documents prepared



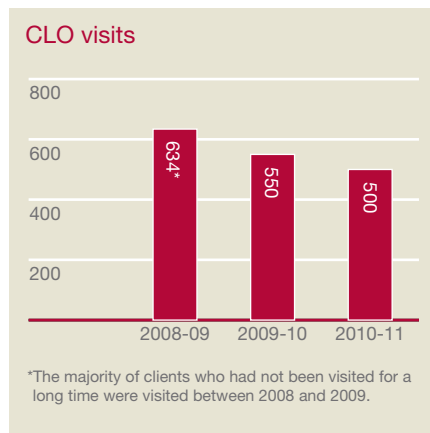
Financial transactions recorded



Trust Administration

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

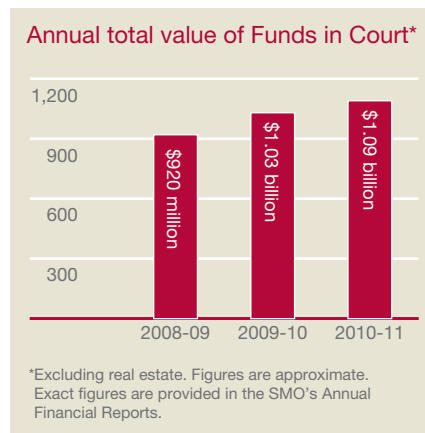
Client Liaison Officers (CLOs) visit beneficiaries in their homes. Apart from providing input in respect of complex applications for payments, CLOs are instrumental in assisting beneficiaries with many lifestyle and other difficulties they face.



Investment Section

The Investment Section of the Senior Master's Office considers and, if appropriate, implements investment advice given by advisers engaged by the Senior Master. It also provides administrative support to the Investment Review Panel. The Panel includes fixed interest and equities experts and meets quarterly. The Investment Section also provides administrative support 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 \$1.09 billion, an increase of approximately \$61 million (5.9%) since the last financial year. This represents a net increase of funds paid into Court of approximately \$59.3 million (i.e. funds paid in minus funds paid out) plus interest earned and any realised capital gains on investments.



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 2009:	5.95%
1 June 2010:	5.70%
1 June 2011:	5.80% for beneficiaries with funds invested in Common Funds Nos. 2 and 3*
	6.00% for beneficiaries with funds invested only in CF-2

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

Fixing different rates of interest is possible, with the approval of the Chief Justice, pursuant to Section 113(15) of the Act. The KPMG Review of Funds in Court conducted in 2005 noted that beneficiaries with funds in CF-2 were "cross-subsidising" beneficiaries with funds held in both CF-2 and CF-3 (the Australian Equities Common Fund). The Act permits no means for recovery of the operational costs of CF-3. However, CF-3 has generated an average return of 7.20% p.a. (including the effect of franking credits) over the period of the last five years. As cost recovery from the returns of CF-3 is not possible, the costs of its operations are sustained within the overall operational expenses of the office.

Our Year in Review: Support Delivery Senior Master's (Funds in Court) Office

The SMO is committed to improving the lives of beneficiaries by being innovative and forward thinking in the way they are supported.

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 1,900, i.e. approximately 36.5% of beneficiaries.

On 1 July 2010, the 'unit price' for CF-3 was \$ 1.3960. By 30 June 2011, the unit price had risen to \$1.4426.

The annual return for the CF-3 portfolio (i.e. when dividend income is taken into account) was 9.60% for the financial year. This compares with 11.20 % return of the benchmark *S&P/ASX 50 Leaders Accumulation Index*. In other words, CF-3 underperformed the benchmark by 1.60%. However, over the previous five years, CF-3 has easily outperformed the benchmark, showing a return of 5.4% 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 monitors investment compliance with the Funds in Court Asset Management Policy in respect of the Funds managed by the Senior Master. The ICC also reports on any breaches of compliance and breaches of the Senior Master's duties under the *Supreme Court Act 1986* and the *Trustee Act 1958*, which the Committee becomes aware of, or suspects.

Financial reports

The financial reports of the Senior Master are audited, on a financial year basis, by the Auditor-General. The *General Purpose Financial Report* and *Audit Opinion of the Auditor-General*, for the year ended 30 June 2011 and those for the preceding years, are available on the Funds in Court section of the Supreme Court website.

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.

Audit Committee

The Audit Committee met quarterly. The 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
- ethical issues
- other matters the Senior Master deems necessary.

The Audit Committee also incorporates the following key ethical responsibilities. It:

- oversees the SMO's compliance with the code of conduct
- provides strategic oversight of the SMO's ethics audits and ethics training program

- reviews 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.

Risk management

The Senior Master continues his commitment to risk management in accordance with Australian standards. The prudential safeguards put in place are monitored by the SMO's Accounting Section. At the regular meetings of SMO section heads, the Accounting 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.

Organisational review

A review of the SMO completed by Nous Consulting Group [Nous], in June 2010, made a number of recommendations.

During the last financial year, the process of implementing these recommendations commenced, among them:

- the engagement of a human resources consultant to assist the SMO in implementing the new organisational structure
- amalgamation of the Trust Section, Client Liaison Section and Payments Area into a Beneficiary Services Section
- the appointment of a Beneficiary Services Manager, Corporate Services Manager, SMO Project Manager and Manager, Service Research and Advocacy
- the increased responsibility for making decisions about the expenditure of beneficiaries' funds given to Trust Officers by the creation of Discretionary Payments Orders
- the creation of a SMO Human Resources Section and expressions of interest sought for a Strategic Human Resources Manager
- the drafting Court Rules pertaining to the duties of a proposed Judicial Registrar (Funds in Court).

Information technology

The SMO has a dedicated Information Technology (IT) area that provides the majority of IT and related services to the SMO. IT is also responsible for maintaining the SMO's Trust Management System (TMS); an all-encompassing Windows-based application that is central to the SMOs operations. The TMS is continually enhanced with new and improved capabilities as the needs of the SMO change and grow. During the financial year, significant upgrades were made to the TMS and underlying database to ensure its ongoing performance.

Beneficiaries' Advisory Group

The Beneficiaries' Advisory Group (BAG) met on a quarterly basis. The BAG consists of representatives of the SMO, beneficiaries' families and other stakeholders such as the Law Institute of Victoria, the Office of the Public Advocate and the Victims Support Agency.

Beneficiaries' Focus Group

The Beneficiaries' Focus Group (BFG) is a group that provides feedback on the SMO and contributes ideas. A meeting is generally held every 12 months; in this period the BFG met on 21 March 2011.

Keeping beneficiaries informed

The SMO is committed to improving the lives of beneficiaries by being innovative and forward-thinking in the way they are supported. A key element of this is ensuring that beneficiaries, their families and carers can communicate easily with the SMO and are provided with as much information as possible about the SMO's services.

The SMO publishes a newsletter for beneficiaries and their families twice a year. It provides information about the SMO and features stories about beneficiaries' achievements that are submitted by the beneficiaries and their families. A popular feature is *Your Questions* which addresses questions the beneficiaries have in relation to the SMO and other organisations.

Our Year in Review: Support Delivery Senior Master's (Funds in Court) Office

To provide beneficiaries with the best service possible, the SMO is developing a dedicated website for beneficiaries.

DVD launch

On 19 August 2010, during Brain Injury Awareness Week, the Hon Justice Ashley launched the SMO's new DVD: *Understanding Your Funds in Court*, at the Lionel Murphy Centre.

The impetus for the DVD came from feedback obtained from the BAG. The DVD aims to make legal and financial information about the SMO easy to understand.

Presented by Andrew Daddo, the DVD provides information in a new format that is easy to understand, and aims to answer some of the common questions people ask SMO staff.

The SMO was proud to receive a grant from the Courts Portfolio Innovation Council to partly fund the project.

New SMO Website

To provide beneficiaries with the best service possible, the SMO is developing a dedicated website for beneficiaries.

A consultant was engaged to assist in the development of a website that will meet the needs of beneficiaries, their families and carers, as well as legal partners and support organisations.

The website will feature a range of technologies that will assist people with disabilities, and is expected to be launched in the coming year.

Web SMS Service (WSS)

The WSS allows users to log onto any computer with an internet connection and send SMS messages. The SMO installed this service to enable staff to send SMS messages to beneficiaries to ask them to contact the SMO.

Productivity Commission: Disability Care and Support Inquiry

The SMO contributed information concerning legal costs to the Productivity Commission's *Disability Care and Support Inquiry*.

On considering the information provided by the SMO, the Productivity Commission stated in its draft report of February 2010, that:

"The Senior Master's Office in Victoria negotiates solicitor-client costs to achieve sizable savings for their client beneficiaries in most instances. Estimates show a 15.5 percent saving on these costs is achieved on average, which reflects the extensive experience of the Senior Master's Office in dealing with plaintiff lawyers on behalf of their (beneficiaries) and a detailed understanding of what constitutes reasonable fees and charges".

Our Year in Review: Support Delivery

Court of Appeal Registry

The Court of Appeal Registry is responsible for the case management and administrative functions of all civil and criminal cases before the Court of Appeal, providing services to the judiciary, legal profession and public. The Registry also manages any ancillary matters that arise during the life of the appeal, such as bail applications, and advises on the readiness and complexity of matters for listing.

The Deputy Registrar (Administration) is assisted by two Registry Office Managers, and seven other 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 one Senior Legal Case Officer, four Legal Case Officers, one Legal Officer and a Listings and Legal Support Officer. Each criminal appeal is individually assigned a Legal Case Officer to closely manage the case 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.

Ashley-Venne Reforms

On 28 February 2011 new procedures designed to reduce delay and more closely manage criminal appeals, the Venne Reforms, were implemented by the Court of Appeal. To further the Ashley-Venne Reforms, *Practice Direction No. 2 of 2011* was published with input from the Victorian Bar, Victoria Legal

Aid (VLA), the Office of Police Prosecutions (OPP), the Commonwealth Department of Public Prosecutions (DPP) and the Victorian Government Reporting Service (VGRS). The background to the reforms is set out in the Annual Report for 2009-10, on page 14.

The reforms are modelled on the United Kingdom's criminal appeal process, but have been significantly tailored to account for Victorian practice, which has introduced a number of fundamental changes:

- Leave to appeal is required in all appeals against conviction or sentence and must be filed within 28 days of sentence (unless extended by the Registrar). Previously, in practice, only sentence matters went through separate consideration for leave.
- A notice of application for leave to appeal must be accompanied by a detailed Written Case in support summarising the facts and issues relevant to the appeal grounds. The respondent to an appeal may file a Written Case in response.
- Upon an application being filed the Registry obtains and provides transcripts of the trial to the parties (usually within 5 days of filing). A prospective applicant is able to obtain an audio recording of the charge, plea or sentence within 48 hours of a request.
- Appeals, once initiated in accord with the Practice Direction, are allocated to a Legal Case Officer to manage through the leave and appeal process.
- The application for leave will usually be determined by a single judge on the papers and a hearing will be listed only if the applicant requests a hearing.

- If leave is refused or limited, the applicant may elect to renew the application before two or more judges.
- If leave is granted the Legal Officer, in consultation with the parties, will prepare a Neutral Summary of the facts for the Court. Along with the Written Case the Neutral Summary is provided to the Court

There are early signs of a positive impact of the Reforms. Firstly in maximising the benefits of judicial time, secondly in delivering increased throughput, and thirdly in the individual management of matters by lawyers attached to the Registry to facilitate expedition and thoroughness.

The requirement to file a Written Case accompanying the application for leave to appeal has improved the focus of appeals and the quality of appeal grounds by requiring more precise grounds of appeal and supporting arguments cross-referenced to transcript rather than general/pro-forma grounds.

More leave applications are now considered on the papers without a hearing and the Court is starting to hear appeals that are accompanied by a Neutral Summary prepared by Legal Case Officers in consultation with the parties.

Since commencement of the reforms, initiations of applications have declined. This, in conjunction with close audits of existing files discussed below, and implementation of pre-reform listing processes, has significantly increased the clearance rate of criminal appeals. In the long term, these measures will reduce delay in the listing and hearing of appeals, to benefit victims of crime, the accused and family members, and reduces court costs as well.

Our Year in Review: Support Delivery Court of Appeal Registry

A reference group, chaired by the Hon President Maxwell and comprising representatives from the Registry, the County Court, the Bar, the OPP, the Commonwealth DPP, VLA, the Law Institute of Victoria, and the VGRS, met regularly to monitor the implementation of the reforms and to confer on adjustments to practices and procedures to support the reforms. The reference group proved effective almost immediately by identifying the utility of and arranging for unrevised County Court transcripts to be provided to counsel drawing the appeal grounds and Written Case.

The Ashley-Venne Reforms have demonstrated the value of intensive case management of criminal appeals. These include the more accurate assessment by the Registry of the time required to hear appeals, the more accurate assessment of the relative priority to be given to each appeal and the intensified listing of appeals. The Court of Appeal is implementing some aspects of more intensive case management of civil appeals within its existing resources, to maximise the benefits of judicial time and facilitate the expedition in the hearing of appeals and so increase the throughput of appeals. From October 2011, the Judicial Registrar will conduct the directions hearings for civil appeals, and one of the Registry lawyers will be dedicated to assisting the Registrar in the management of civil appeals.

Interlocutory appeals

The number of interlocutory appeals has remained steady, but there has been an uptake in applications for review of refusals to certify, perhaps owing to the increased number of such refusals in the County Court.

A number of improvements to practice and procedure have been made:

- requiring less documentation to be filed by the parties
- single judges of appeal sitting on reviews of refusal and two judges of appeal sitting on applications for leave to appeal interlocutory decisions
- very promptly hearing matters where the trial below is not adjourned pending the review of refusal or application for leave to appeal an interlocutory decision
- anonymisation of all interlocutory appeals
- regular preparation and circulation of jurisprudence document and summaries of matters provided to the courts and profession
- review of materials for identification of issues run below.

Whilst the number of interlocutory appeals ebbs and flows and is inconsistent from month to month, the annual figures remain steady. By way of comparison, 31 interlocutory matters were filed in 2010. From 1 January 2011 to the present (3 August 2011), a total of 14 interlocutory matters have been filed, which is well on par with filings in 2010. The overall demand of managing, reporting and analysing these matters requires the attention of a full-time Legal Officer. To date this role has been

filled by secondments from VLA and the OPP, and most recently by reassigning these tasks to a Legal Officer. However, that reassignment has resulted in a corresponding lack of capacity to address other pressing legal issues of concern to the Registry. Accordingly the Registry will be seeking funding as a matter of priority to create the full-time position of Interlocutory Appeals Officer.

Criminal appeal file audit

In January 2011, the Court of Appeal Registry undertook an audit of all active criminal appeal cases. After close examination the Registrar was able to finalise a number of appeals that were not being progressed, which resulted in a significant reduction in the backlog of criminal appeals. The audit was extremely effective in locating matters that should have been dismissed or abandoned, as well as identifying appeals that required expedition or special management. As a result, the Registry will continue to conduct a similar audit at least once a year.

Intensified listings

Prior to the implementation of the Ashley-Venne Reforms, the Court initiated an intensified listing schedule for term 4 of 2010 and term 1 of 2011. While tremendous inroads were made into the backlog, as evidenced by an overall reduction in pending cases from 548 to 404, this level of listing is simply not sustainable by the Court, the OPP, VLA, or the profession on a continuing basis. Fortunately, with the closer management implemented by the Reforms and more active review by the Registry, this should not prove necessary.

Our Year in Review: Support Delivery

Principal Registry

The Principal Registry provides administrative services to the judiciary, the legal profession, Court users and the public. Services include file management, custody and facilitating inspection of subpoenaed materials, making orders for administration of deceased estates, and handling enquiries. In addition to maintaining an assistive liaison with legal practitioners, the Principal Registry is committed to assisting self-represented litigants with a better understanding of Court rules and procedures. Registry therein acts as a referral point to legal service providers.

In recent years the Principal Registry has undergone significant change, most notably to the public counter area. Remodelled counters provide for walk-up/sit-down services, the centralisation and securing of file inspection facilities, an automated queuing system to prioritise and tailor user business, a telephone referral system, a concierge facility to assist users attending Registry during busy times, conversion of hard copy Probate ledgers into online self-help interfaces, and the multi-skilling of counter staff, have all contributed to:

- enhancing service delivery
- reducing user time taken to conduct routine business
- allowing user business to be matched to staff capabilities.

These and other continuing initiatives have all aided the modernisation of the Principal Registry.

The Business Services Manager and Deputy Registrars assist the Principal Registrar in monitoring the Registry's performance and identifying opportunities for service improvements. Principal Registrars from courts and tribunals also form a network to discuss common themes and issues across jurisdictions.

Development of specialist roles

As part of the Registry's commitment to assisting legal practitioners and other users with successfully navigate Court Rules and procedures, specialist roles have been created to provide tailored assistance in key operational areas. These dedicated specialist roles have served to significantly enhance service:

- The Class Action/Major Litigation Coordinator was introduced to provide legal practitioners and other users with a central court-based contact through which to litigation processes can be coordinated (e.g. opt in / opt out procedures), and to liaise on non-courtroom issues affecting the progress of matters.
- The 2009 Bushfire Litigation Coordinator liaises closely with legal practitioners and other users, working to assure the smooth, sensitive and expeditious handling of bushfire cases. The Coordinator works closely with relevant judicial officers.

Specialist roles have been created to provide tailored assistance in key operational areas.

Our Year in Review: Support Delivery Principal Registry

- The recently appointed Probate Online Advertising System (POAS) Coordinators provide telephone and counter assistance to users seeking to publish advertisements of their intention to apply for Probate and administration.
- The Self-Represented Litigant Coordinator, a role pioneered in the Supreme Court of Victoria and now in the process of being adopted in other state jurisdictions, assists unrepresented users to understand processes and requirements in order to bring their matters to the Court.
- The e-Litigation Coordinator provides information and coordinates liaison between users and court technical staff, and encourages agreement between parties in relation to technical aspects of electronic litigation and electronic trials.
- The e-Filing Coordinator oversees the electronic filing interface (provided through Citec-Confirm), ensuring systems are monitored by staff and electronic filing transactions are concluded with a minimum of delay, thereby assisting legal practitioners in finalising their transactions.
- The Practice Court/Commercial Court Coordinator assists with listings and workflows in relation to the Practice and Commercial Courts. This role ensures all users have ready access to an officer to assist in bringing what is typically non-routine, and often urgent, business to the Court.
- The Subpoenaed Document Coordinator manages the custody of subpoenaed materials delivered to the Court, and coordinates inspections of such materials. The increased use of technology, and provision of technology for user access, has been welcomed by users.
- The Regional Court Liaison Officer resolves administrative issues for registries located in major regional locations, and shares information regarding Court sittings in a timely manner. Planning is underway for the officer to routinely visit regional courts and provide training to assist these remote locations to conduct all Supreme Court transactions.

Deputy Prothonotary training

During the year, staff were also offered the opportunity to participate in Deputy Prothonotary training, equipping them for more complex enquiries and situations encountered. Under the Prothonotary's stewardship, training is designed to establish a common base of understanding and to equip staff with valuable independent research skills. Having a greater number of Deputy Prothonotaries has enabled the Registry to be more responsive, and a similar training scheme is under way in relation to the role of Deputy Registrar of Probate.

Speaking engagements

Throughout the year, senior staff regularly addressed conferences, lectures and interest groups including the Law Institute of Victoria and universities, and spoke at professional development and legal education seminars.

Hague Convention

On 1 November 2010, the Supreme Court became an Additional Authority in Australia under the Hague Convention on Service Abroad of Judicial and Extrajudicial Documents in Civil and Commercial Matters. The Convention attempts to simplify legal processes in civil and commercial matters between parties in different countries. Of particular note, under the Convention there was an immediate uptake in requests from the USA with whom the Court previously had no agreement. The Prothonotary, Principal Registrar and Registry staff met the challenges of increased responsibility and escalating workload volumes.

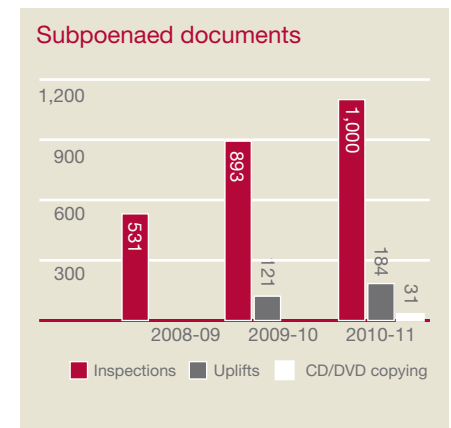
Subpoenaed materials

The ability to submit materials electronically has greatly assisted users in terms of lodgement, inspection and copying. The establishment of electronic inspection facilities has had significant benefits including heightened security of the original documentation, reduced pressure on storage/custody facilities, and a positive impact on the Court's environmental responsibility. The facilities enable greener alternatives to be utilised, such as scanning and/or duplication of electronic media, replacing photocopying as the primary tool. In 2011 alone, 31 DVDs were lodged with Registry.

Registry now benefits from recent renovations that created improved purpose-designed facilities for the custody and inspection of subpoenaed materials. Despite the ability to lodge electronically, Registry currently holds over 200 lineal metres of materials. Registry efforts to encourage law firms to 'uplift' materials for remote inspection resulted in a

total of 184 uplifts (an increase of 23%) this year. Despite the increase, Registry-based inspections have doubled over the last two years. Registry continues to proactively manage this workload in order to maintain its superior service delivery standards. Facilitating inspections and promoting a greener alternative, the Registry has established electronic inspection facilities, and provides alternative options to print, scan, or duplicate media.

Given appropriate circumstances, the Registry continues to encourage 'uplifting' of subpoenaed materials for remote inspection at law firms. Despite 'uplifting' materials increasing by 23% last year, Registry-based inspections have increased by 107% over the last two years. With facilities at capacity, the Registry faces ever-increasing logistical challenges regarding storage, management and inspection of materials.



Our Year in Review: Support Delivery Principal Registry

Electronic filing

The uptake of electronic filing (available for most civil documentation) is via a Citec-Confirm managed facility.

Usage of the system continues to display a healthy rate of growth, with electronic filing now accounting for just over 8% of all lodgements. The system allows legal practitioners to electronically file and access their documents at any time.

The number of successful transactions (that is, electronically filed documents that don't require amendment or re-submission) increased by 42% in 2010-11, in part achieved by closer liaison with law firms lodging documents where there were correction requisites.

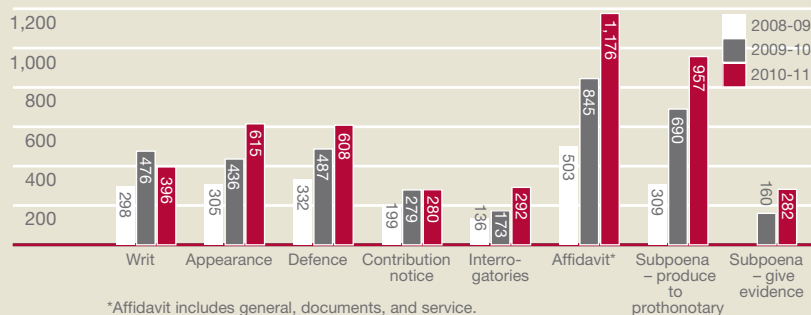
In order to better meet the needs of legal practitioners, and to assist in the efficient and effective management of Court records, Registry is keen to see the electronic filing

facility expand to include more jurisdictions and document types. Developments planned by the Court for future years will likely see such expansion, with the possible development of a party portal enabling users to manage case files online

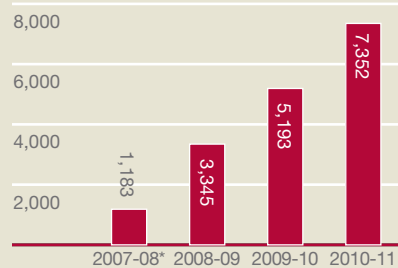
The top graph (below) provides a snapshot of documents that were electronically filed in 2010-11.

The bottom graph (below) illustrates the percentage of documents that were received electronically by the Court.

eFiling Transactions

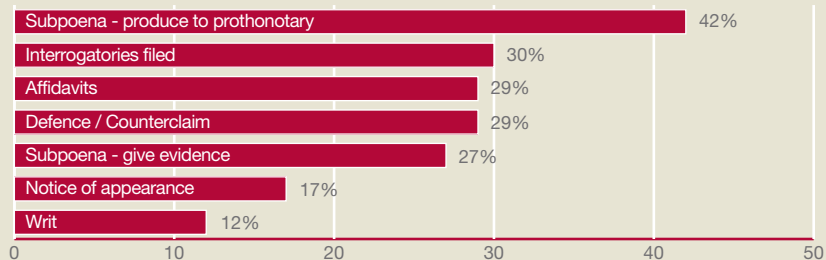


eFiling Transactions



*eFiling commenced September 2007.

eFiling Transactions



Self-represented litigants

The Supreme Court of Victoria was one of the first courts in Australia to introduce a designated position Self Represented Litigants Coordinator position (in 2006). The Coordinator forms an important point of contact for self-represented litigants in the Supreme Court. The Coordinator provides self-represented (and unrepresented) litigants with assistance to navigate the judicial process. The Coordinator, as a Court official regularly provides advice on Court forms, fees, processes and procedures.

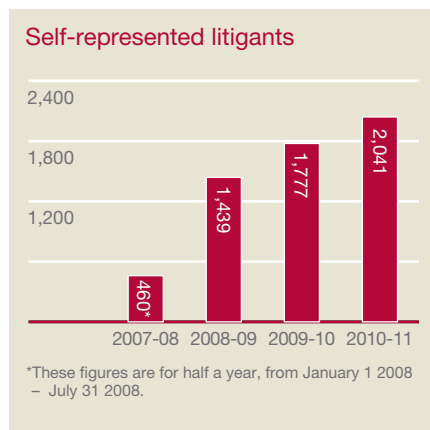
The reporting period was a busy year that saw more than 2,041 requests for assistance, an increase of almost 15% on the previous year. Notable areas of increase include people seeking to dispute their former solicitor's bill by commencing a taxation of costs action,

and company directors seeking to represent a company, contrary to Order 1.17 of the *Supreme Court (General Civil Procedure) Rules 2005*.

The workload of the Coordinator has increased significantly since its inception, with the number of unique Court users (some who have been assisted on multiple occasions) increasing by 42% since the first full year of operation in 2008-09.

The Coordinator regularly refers people to legal advice services and the Court gratefully acknowledges the community legal sector, as well as PILCH and the Victorian Bar's Duty Barristers' Scheme to whom 30 referrals were made during the year, for the pro bono services they provide.

The workload of the Coordinator has increased significantly since its inception, with the number of unique Court users increasing by 42% since the first full year of operation.



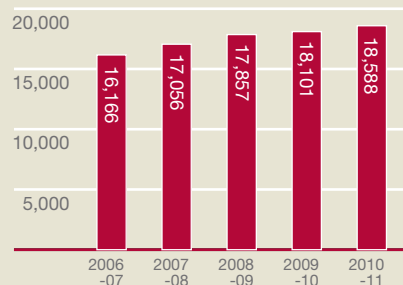
Our Year in Review: Support Delivery Principal Registry

Probate

During the year, the Court's case management system was upgraded to assist in achieving more efficient user management. Introduction of the Online Application Caveat and Wills Index contributed to improvement in the level of services provided. Searchable online, the index contains the records of grants of representation and all applications filed in the Court since January 1970.

In terms of workload, total dispositions (grants) increased by 2.7% during the year (bringing the total workload up 15% since 2006-07). Probate Registrars and staff continue to provide an efficient and effective service to all users, and routinely look for opportunities to improve.

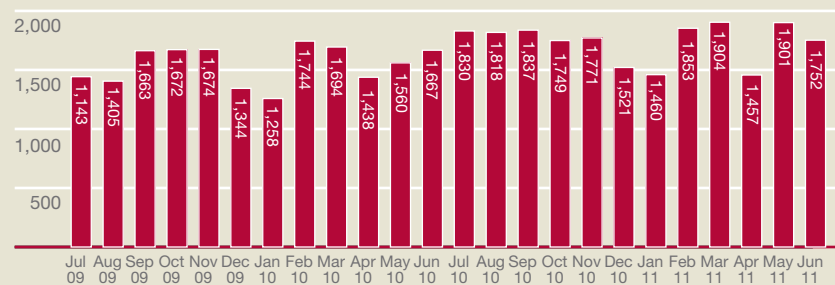
Total dispositions (grants)



Probate Online Advertising System (POAS)

Implemented in March 2009 (mandatory from 2 September 2009) the web-based system provides both an easy-to-use search function, and a facility to publish advertisements of an intention to apply for probate and administration. POAS advertisements increased by 12% during 2010-11. To assist Court users who do not have internet access, Registry staff provide a counter service.

Probate online advertising system (POAS)



*Mandatory POAS commenced September 2009.

Our Year in Review: Support Delivery

Juries Commissioner's Office

Jurors play an important role in the justice system in Victoria. The Juries Commissioner aims to provide a representative group of randomly selected citizens who, as jurors, actively participate in the administration of the criminal and civil justice system.

The Juries Commissioner's Office (JCO) is responsible for managing the effective administration of the Victorian Jury System by:

- establishing a structure enabling improvements to jury management and administration
- providing a policy framework that ensures a consistent and standardised approach to jury management and administration
- improving services for jurors in Melbourne and 13 regional locations
- raising community awareness and providing information about jury service in Victoria.

It oversees the processes that provide juries for Melbourne and regional Supreme and County Court trials.

In the reporting period, the JCO launched a new user-friendly website to provide the community with greater access to information about jury service. Features of the site include video guides, educational materials and an online juror feedback survey, which is assisting with the ongoing improvement in the level of service provided by the JCO.

JURIES STATISTICS

JURORS SUMMONED	2009-10	2010-11	DIFFERENCE	VARIANCE
Melbourne	29,900	29,916	16	1%
Circuit	32,731	33,100	369	1%
Total	62,631	63,016	385	1%
JURORS EMPANELLED				
Melbourne	4,960	5,139	179	4%
Circuit	1,967	1,718	-249	-13%
Total	6,927	6,857	- 70	-1%
SUPREME AND COUNTY COURT TRIALS				
Melbourne	442	464	22	5%
Circuit	178	152	-26	-15%
Total	620	616	- 4	-1%
SUPREME AND COUNTY COURT TRIAL DAYS				
	631	795	164	26%

Our Year in Review: Support Delivery

Court Administration

Human Resources

The Human Resources (HR) team is responsible for the provision of a number of human resource functions supporting the judiciary and Court administration support delivery, including payroll, recruitment and retention, learning and development, provision of advice to managers on people management issues, performance management, staff support and employee relations matters.

One of the key responsibilities of the HR team is assisting judges with the recruitment of associates who provide support and assistance in the management and coordination of the judges' judicial, ceremonial, Court management, administrative and legal research responsibilities.

The HR team has continued to build on the findings of the comprehensive review of HR from the previous financial year. To deliver on the needs and improve the quality of HR services to the Court, a restructure of the team was implemented. The new structure creates a Human Resources Manager position at a higher level providing for greater operational and strategic focus. There is an enhanced service to the judiciary through improved leadership, the responsive alignment of human resources functions to business priorities, and accountabilities defined by the creation of clearer position descriptions and reporting lines.

The HR team is also responsible for the coordination of Occupational Health and Safety (OHS). The Court has a well-established OHS Committee that meets on a bi-monthly basis to maintain and improve the overall health and safety of the judiciary and Court staff, users and visitors.

Promotion of work health and safety activities continue to result in participation of such events such as the Corporate Games, Ride to Work Day and meditation classes.

During the 2010-11 financial year, 34 incidents were reported as compared to 26 incidents reported in the previous year. This increase is largely attributed to a greater awareness of the importance of reporting incidents (and near misses). The reporting of incidents assists with the ongoing development and implementation of effective strategies to create a safer environment for staff and all those who come to the Court.

The Court has commenced a thorough review of OHS policies and procedures as a regular activity, and in preparation for the pending legislation.

Records Management

Records Management is responsible for the archiving, storage and disposal of Supreme Court records, in particular the Court's historic records. The Records Management team works closely with the Public Record Office to ensure that Supreme Court records are made available to the wider public.

In March 2011, the Chief Justice signed the Retention and Disposal Authority for Supreme Court Records, in conjunction with the Keeper of Public Records. Court records can now be transferred in an orderly manner to the Public Record Office and a program to dispose of a very small number of records has been initiated.

The transfer of records to the Public Record Office slowed in 2010-11 reflecting the amount of historic material that had been transferred over the previous years. The most notable transfer was of records made under the old *Companies Acts* dating as far back as 1948 and continuing to 1969.

Also transferred were applications made under the old Miscellaneous List, which covered everything from transfers of land to applications under the *Mental Hygiene Act 1959*. This completes the transfer of the extant records in these series. The Public Record Office now holds all of the records for company applications, plus those made under the miscellaneous list in the 20th century.

The Court continues to rationalise its records storage and reduce its reliance on basements as storage areas, bringing it into line with Australian record keeping standards.

RECORDS TRANSFERRED TO THE PUBLIC RECORD OFFICE

Miscellaneous Application Files (1957-1969)	49 units
Index to Miscellaneous Case files (1965-1989)	4 Volumes
Company Application Files (1948-1969)	83 units
Index to Company Cases (1965-1989)	3 Volumes
Index to Barristers & Solicitors Admission Files (1959-1990)	2 Volumes
Register of Articles of Clerkship files (1952-1989)	2 Volumes
Admiralty Process Register (1975-1989)	1 Volume
Index to Admiralty Process Register (1975-1989)	1 Volume
Commonwealth Taxation Appeal Register (1973-1989)	1 Volume
Divorce Case Files (1918-1936)	6 units

The Archives and Records Manager is also responsible for the historic displays around the Court as well and works on various projects to document and make available the history of the Supreme Court to the wider community

The Library's historically unique collection is relied upon by the courts and the legal profession.

Buildings and Facilities

The Facilities and Services Team is responsible for the planning, development and maintenance of the Supreme Court's infrastructure, assets and associated services, in addition to the procurement of office equipment and supplies and the maintenance of the fleet of judge's and Court cars.

Much activity has been focussed on repairs and maintenance to the extensive damage caused to the Supreme Court building by the hail storm in March 2010, and the consolidation of ongoing repair work to roofs and storm water plumbing. All repairs and maintenance were conducted in a manner sensitive to preserving the Court's heritage building. Concerned with the environmental footprint of the Court, low energy light fittings have been installed throughout the three main buildings of the Court and thermostatic controls on hydronic heaters have been installed in the old High Court building.

Installation of in-court technology to the remaining courtrooms (10, 7 and 7B) was also completed in the continued effort to complement modern justice practices that will increase operational efficiency and reduce Court delays.

Library

Established in 1854 with the specific purpose of meeting the resource needs of the Court and the legal fraternity, the Supreme Court Library has a long and distinguished history.

The Library is primarily a reference collection for the use of the judges of the Court and members of the legal profession. It also provides these services to other courts within the state.

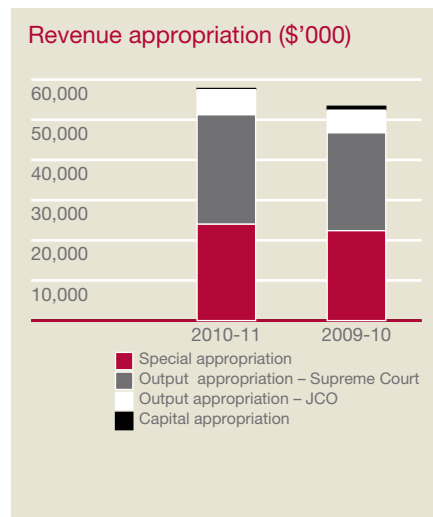
The Supreme Court Library Committee has commenced discussion and consideration of the future of the Library in an information technology world, whilst balancing the need to recognise and preserve its history and integrity. The review provides a historic opportunity to elicit thoughts and ideas from the profession to help to guide what the Library should look like in 2016, and give consideration to improved funding options.

The Library has also taken over management of the Court's internal subscriptions, and the cataloguing and classification of those collections.



FINANCE REPORT

Finance Report



The graph to the left and table below 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.

REVENUE APPROPRIATION

REVENUE APPROPRIATIONS SUMMARY	2010-11 REVENUE	2010-11 ACTUAL	2009-10 REVENUE	2009-10 ACTUAL
	\$'000	\$'000	\$'000	\$'000
Special appropriation	23,994	22,825	22,383	19,019
Output appropriation – Supreme Court	27,250	27,023	24,372	24,039
Output appropriation – JCO	6,261	5,977	5,639	5,307
Capital appropriation	298	290	968	934
Total	57,803	56,115	53,362	49,299

Special appropriation

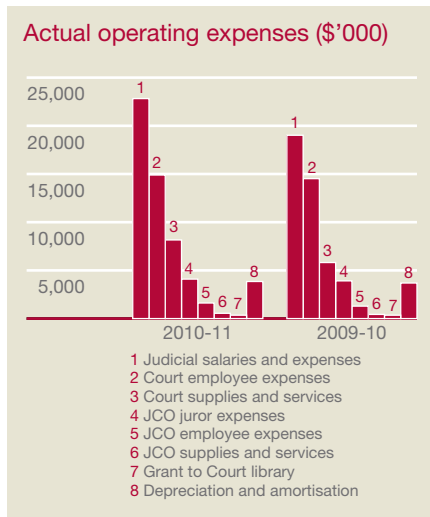
Funding allocated for judges, associate judges and judicial registrars remuneration and entitlements are paid out of special appropriations.

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 in Supreme Court buildings.



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

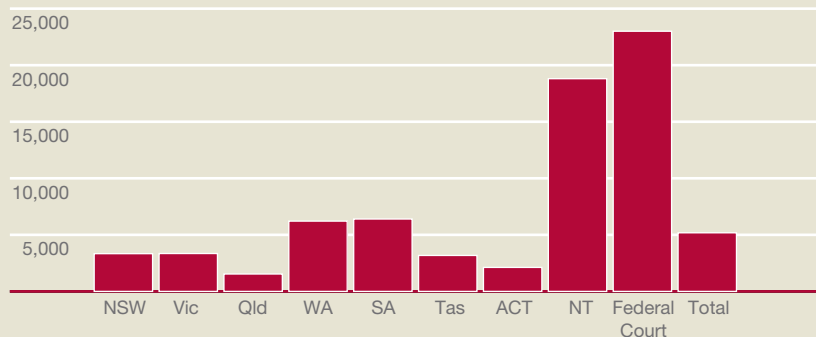
OPERATING RESULT	2010-11 \$'000	2009-10 \$'000
Judiciary		
Special appropriation revenue	23,994	22,383
Judicial salaries and expenses	(22,825)	(19,019)
<i>Net result from judiciary transactions</i>	<i>1,169</i>	<i>3,364</i>
Court Administration		
Output appropriation revenue	27,250	24,372
Employee salaries and on-costs	(15,078)	(13,580)
Supplies and services	(7,770)	(6,418)
Grant to Court Library	(350)	(350)
Depreciation and amortisation	(3,825)	(3,690)
<i>Net result from Court administration</i>	<i>227</i>	<i>334</i>
Juries Commissioner's Office		
Output appropriation revenue	6,261	5,639
Employee salaries and on-costs	(1,445)	(1,214)
Juror expenses	(3,967)	(4,007)
Supplies and services	(565)	(84)
Depreciation and amortisation	-	(2)
<i>Net result from Juries Commissioner's Office</i>	<i>284</i>	<i>332</i>
<i>Net operating result from all Court activities</i>	<i>1,680</i>	<i>4,030</i>

The table below 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	2009-10 \$'000
Court fees*	13,035	12,631
Probate on-line application fees*	90	18
<i>Total fees collected</i>	<i>13,124</i>	<i>12,649</i>

*Excludes fees collected and annotated to the Court and the Department of Justice annual appropriations under section 29 of the *Financial Management Act 1994*.

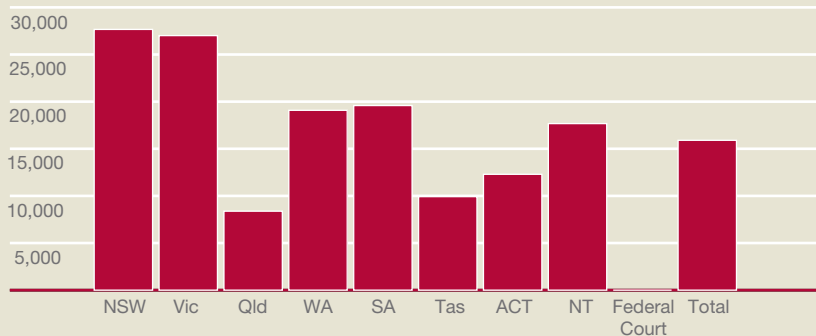
Cost per finalisation of Civil cases (\$)



The graphs to the left compare Supreme Court expenditure (Vic) per cases finalised across all states and territories.

This is an extract from the *2009-2010 Report on Government Services* released on the 28 January 2011 (the 2010-11 report will be released in January 2012).

Cost per finalisation of Criminal cases (\$)



2009-10 REAL NET RECURRENT EXPENDITURE PER FINALISATION¹

	NSW	VIC	QLD	WA	SA	TAS	ACT	NT	FEDERAL COURT	TOTAL ²
Civil	\$3,336	\$3,349	\$1,538	\$6,213	\$6,399	\$3,179	\$2,121	\$18,806	\$23,001	\$5,181
Criminal	\$27,663	\$27,007	\$8,377	\$19,081	\$19,586	\$9,921	\$12,292	\$17,671	\$0	\$15,899

¹ Report on Government Services 2009-10 Tables 7A.23 and 7A.24

² The total (i.e. for all states and territories) expenditure in the financial year, divided by the total (i.e. for all states and territories) number of finalisations for the same reference period



GLOSSARY

Glossary

Adjournment

A procedure to suspend or postpone a hearing to a future date.

ADR

Alternative dispute resolution.

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 a general assistant 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

Paid into Funds in Court, award funds represent an award of damages, or compensation, for a person under a legal disability, who has had a proceeding in a court brought for and on his or her behalf. A person for whom the Court holds funds is called a beneficiary.

BAG

Beneficiaries' Advisory Group (part of the SMO) consists of representatives of beneficiaries' families and interested stakeholders such as the Law Institute of Victoria and the Office of the Public Advocate.

Callover lists

Some matters are listed in a callover list for their first hearing. At the callover, parties appear and make submissions about the further conduct of the matter. The judge then gives further directions for the conduct of the matter if necessary and lists the matter further.

Civil Management List

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

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 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.

Duty Barristers’ Scheme

Administered by the Victorian Bar, this is a scheme whereby volunteer barristers provide legal assistance to self-represented litigants on an ad hoc basis.

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.

ICMS

Integrated Case Management System – the case management system used at the Supreme Court of Victoria.

Indictment

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.

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) disputants in reaching an agreement.

Non-award funds

Non-award funds are paid into Funds in Court. However, unlike award funds these funds are not held for a particular individual who, but for disability, is presently entitled to the 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 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.

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.

POAS

Probate Online Advertisement Scheme – 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.

SMO

Senior Master’s Office, 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 the proceeding be paid by the plaintiff under certain circumstances.

Solicitor client costs

Costs that a solicitor charges their client for legal services provided directly to the client.

Specialist list

A judge-controlled list that 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 sits next to the associate and in front of the judge during court. The tipstaff is responsible for keeping order in the Court and will usually swear in or affirm witnesses.

Trial Division

A Division of the Court headed by the Chief Justice, it comprises three sub-divisions: the Commercial and Equity Division, the Common Law Division and the Criminal Division.

Self-represented litigants

Individuals who do not have legal representation and who are representing themselves in a proceeding.

VGRS

Victorian Government Reporting Services. VGRS provides a range of recording and transcript services to the Supreme Court of Victoria and other Victorian courts.



APPENDIX 1

External Judicial Activity

External Judicial Activity

In January 2011, judges and associate judges attended the Supreme and Federal Court Judges' Conference in Wellington, New Zealand.

Chief Justice Warren

Together with Justices Weinberg, Harper, Hansen, Whelan, Coghlan, Robson, Pagone, Davies and Emerton attended the Chief Justice Roberts' Workshop at the University of Melbourne from 19 July until 23 July 2010 on the US Supreme Court.

Attended a luncheon at Government House held by the Governor for Chief Justice Roberts on 20 July 2010.

Attended the University of Melbourne Law Faculty lunch with Chief Justice Roberts on 21 July 2010.

Delivered a speech entitled *Challenges for the courts in delivering administrative justice*, at the National Administrative Law Forum in Sydney on 23 July 2010.

Attended the International Public Lecture by Chief Justice Roberts and later attended a dinner at the University of Melbourne on 27 July 2010.

Met with Jeffrey Minear, Counsellor to Chief Justice Roberts, and provided a tour of the Court on 27 July 2010.

With Justices Harper and Osborn, presided over the Hanover Moot Grand Final in the Banco Court on 29 July 2010.

Together with Justice Pagone attended the Supreme Court Volunteers Morning Tea on 9 August 2010.

Together with Justices Pagone and Davies, hosted a reception for Ms Sandra Mayerson of Squire, Sanders & Dempsey, New York and the Commercial Court conference on 11 August 2010.

Hosted a lunch for Ms Sandra Mayerson on 12 August 2010. Justices Habersberger, Whelan, Pagone, Robson, Judd, Vickery, Davies, Croft, Ferguson and Sifris also attended.

With Justice Bongiorno, attended the address given by the Rt Hon Lord Walker of Gestingthorpe entitled *The English Law of Privacy: An Evolving Human Rights* at Owen Dixon Chambers on 25 August 2010.

Hosted, and Justices Nettle, Ashley, Neave, Weinberg, Osborn, Cavanough, Kyrou, Beach, Sifris and Almond attended, a lunchtime discussion with the Rt Hon Lord Walker of Gestingthorpe on 27 August 2010.

Together with Justice Hargrave and Associate Justice Gardiner, attended a meeting of the Civil Procedure Steering Committee on 1 September 2010.

The Chief Justice, the President, judges and associate judges attended the Victorian Bar Dinner at the National Gallery of Victoria on 3 September 2010.

Hosted, and Justices Osborn, Hollingworth and Coghlan attended, a lunchtime discussion on the Supreme Court Building with the Lord Mayor of Melbourne, Robert Doyle, and Councillors Jennifer Kanis, Cathy Oke and Ken Ong in the McCubbin Room on 10 September 2010.

Together with Justices Habersberger, Pagone, Davies, Croft and Ferguson, attended the Commercial Court Judges meeting with business media in the Old High Court Library on 14 September 2010.

Together with Justices Croft, Sifris and Dixon, attended a luncheon for the Chief Justice of Singapore at Owen Dixon Chambers on 15 September 2010.

Presented a paper, and Justice Hollingworth chaired, a combined Supreme Court and University of Melbourne seminar on the *Civil Procedure Act 2010* and attended a reception in the Supreme Court Library on 15 September 2010. Justices Weinberg, Osborn, Hargrave and Cavanough and Associate Justices Lansdowne and Zammit also attended.

Together with Justices Ferguson and Sifris, attended a Human Rights Law Resource Centre luncheon hosted by DLA Phillips Fox for the Hon Albie Sachs, a former judge of the Constitutional Court of South Africa on 20 September 2010.

Gave the Richard Searby Oration entitled *The obligation to communicate: the interaction between language and the law* at the State Library of Victoria on 21 September 2010.

Delivered the opening address for the Tristan Jepson Annual Memorial Lecture Video at Monash Law School Chambers on 23 September 2010.

Delivered opening remarks at the Asia Law Conference: Engaging the Asian Economies Conference in the Banco Court on 13 October 2010. Justices Pagone, Davies, Ferguson and Sifris chaired sessions and other judges of the Court attended.

Together with the President and Justice Harper, attended the Criminal Bar Association Dinner on 14 October 2010.

Together with the President and Justice Hollingworth, attended the Inaugural Michael Kirby Justice Oration at the Victoria Law School on 20 October 2010.

Delivered the La Trobe University 2010 Public Law Lecture *What is justice?* on 21 October 2010.

Attended a meeting of the Council of Chief Justices in Wellington, New Zealand on 26 and 27 October 2010.

Hosted, and the President, Justices Mandie, Kyrou and Emerton and Associate Justice Wood attended, a lunchtime discussion on courts governance with Chief Justice Elias the Chief Justice of New Zealand, Justice Mark O'Regan, the President of the Court of Appeal of New Zealand, and Justice Helen Winkelman, Chief High Court Judge of New Zealand on 3 November 2010.

Together with the President and judges, attended the AIJA Oration entitled *The 21st Century Judge* given by the Hon Justice Susan Denham, of the Supreme Court of Ireland, in the Banco Court on 3 November 2010.

Together with the President and appeal judges, attended the AIJA Appellate Conference held at The Windsor Hotel on 4 November 2010.

Together with judges and court staff, attended an Armistice Day Service in the courtyard on 11 November 2010.

Addressed the September Bar Readers on 16 November 2010.

Together with judges and associate judges, attended the *Civil Procedure Workshop for Judges* held at the Judicial College on 18 November 2010.

Opened, and Justice Weinberg presented a session at the Australian Academy of Law Symposium in the Banco Court on 18 November 2010. Judges of the Court also attended.

Chaired, and Justices Kyrou and Davies attended, a meeting of the Council of Legal Education on 22 November 2010.

Addressed the combined LIV, Victorian Bar and the Department of Justice Conference at the RACV Club on the overriding obligations of the *Civil Procedure Act* on 30 November 2010.

Together with judges and associate judges, attended a lunchtime lecture entitled *Science in the Courtroom*, hosted by the Judicial College, with the Hon Justice Ian Binnie from the Supreme Court of Canada in the Old High Court Library on 1 December 2010.

With the Hon Howard Nathan QC, met with academics from the North China University on 2 December 2010.

Chaired a meeting of the Judicial College of Victoria Board on 6 December 2010.

Together with Justices Nettle, Neave and Hansen, attended the University of Melbourne Law School colloquium on *The Principles of Proprietary Remedies* on 9 December 2010.

Attended a reception at Government House for the Opening of the 57th Parliament on 20 December 2010.

External Judicial Activity

With the President, attended Parliament House as Commissioners for the swearing in of members of the new Parliament on 21 December 2010.

Delivered an address entitled *Celebrating Justice* at the Australian Unity Australia Day Breakfast at Queen's Hall, Parliament House on 26 January 2011.

Together with judges and associate judges, attended the JCV Luncheon with guest speaker Justice Scalia of the Supreme Court of the United States of America held in the Old High Court Library on 7 February 2011.

Delivered an address at the Harold Ford Scholarships Launch at Government House on 21 February 2011. Judges and associate judges also attended.

Together with the President and Justices Neave, King and Williams, attended the Dame Roma Mitchell Memorial Lecture and Luncheon hosted by the Law Institute of Victoria at Zinc, Federation Square on 4 March 2011.

Opened and delivered an address entitled *Playing at Futurology* at the inaugural Victorian Bar CPD Conference at Torquay Sands Resort on 5 March 2011. Justice Hollingworth delivered a presentation on Current Issues in Criminal Law, Justice Weinberg participated in the panel discussion on *Issues of Evidence in Crime* Justice Coghlan spoke on criminal trials, Justice Beach spoke and Justice Macaulay gave a presentation entitled *Commercial Law Update* at the Victorian Bar CPD conference at Torquay Sands Resort from 4 to 6 March 2011.

Attended and delivered a paper entitled *The Duty Owed to the Court: The Overarching Purpose of Dispute Resolution in Australia* at the Bar Association of Queensland Annual Conference on the Gold Coast on 6 March 2011.

Attended a State Dinner for the Premier and Cabinet at Government House on 7 March 2011.

Attended and delivered the after dinner speech *The News – what is the real story* at the VACC President's Dinner on 16 March 2011.

Delivered an address entitled *Women in the Law – A Slow Move to a More Equitable Future* at the Melbourne Law School 21 March 2011.

Together with the President, judges and associate judges, attended a farewell reception for Governor and Mrs de Kretser in the Supreme Court Library on 22 March 2011.

With the President and assisted by Justices Coghlan, Croft and Sifris, hosted a tour of the Court and reception for Members of the Victorian Parliament on 4 April 2011. Judges and associate judges attended the reception held in the Library.

Attended the Premier's Dinner in honour of the Governor and Mrs de Kretser on 4 April 2011 at the Sir Redmond Barry Room.

Together with the President, judges and associate judges, attended the inauguration as Governor of his Excellence Alex Chernov on 8 April 2011.

Attended the Council of Chief Justices meeting in Perth from 11 to 13 April 2011. The Chief Justice also attended a dinner hosted by the Governor of Western Australia on 12 April 2011.

Attended the VLA Insight Series and launched the Talented Juniors Program on 20 April 2011. **The President** also participated in a discussion panel.

Delivered an address at the Royal Historical Society of Victoria on the topic, *The First Supreme Court to 170 Years of Justice*, on 28 April 2011. Justices Pagone, Davies and Almond also attended.

Attended the AIJA Council meeting held at the Novotel, Brisbane on 7 May 2011.

Attended a luncheon held in the Supreme Court Theatre and hosted by the Court Network to celebrate Volunteers' Week on 13 May 2011.

The President

Delivered a speech to visiting judges from various courts of the Guangxi Zhuang Autonomous Region, China on 14 July 2010. The event was held in the Court of Appeal.

Chaired a session in the Neil McPhee Room at Owen Dixon Chambers for Professor Irwin Cotler on 20 July 2010.

On behalf of the Chief Justice attended the launch of a short film entitled *Resilience@law* at Mallesons Stephen Jaques on 5 August 2010.

Presided over the Castan Centre Human Rights Grand Final Moot on Monday 9 August 2010.

Together with Justices Nettle and Ashley, met with Judges of the County Court to discuss the Ashley-Venne reforms on 23 August 2010.

Attended a luncheon, hosted by PILCH at Clayton Utz, with Esther Lardent, President and CEO of the Pro Bono Institute in Washington DC, on 24 August 2010.

Attended the University of Melbourne Law School Professorial luncheon on 14 September 2010.

As Administrator for the State in the Governor's stead, hosted a reception at Government House to present the Export Awards on 4 October 2010.

As Administrator for the State, presided over the Executive Council on 5 October 2010.

Together with Justices Redlich, Weinberg, Vickery, Judd and Dixon and Associate Justices Eftim, Wood and Daly, attended the JCV Mediation Master Class with Madam Louise Otis on 6 and 7 October 2010.

As acting Chief Justice, delivered a speech at the opening of the William Cooper Justice Centre and the launch of the *Civil Procedure Act 2010* on 6 October 2010. Justice Osborn also attended.

Whilst on circuit on 11 to 13 October 2010 in Horsham, gave informal speeches at the reception hosted by the Mayor of Horsham and at the Wimmera Law Association dinner. The President also took part in an interview with ABC radio.

Together with appeal and trial judges, attended a discussion session with the Hon Justice Chambers of the New Zealand Court of Appeal regarding consciousness of guilt on 15 October 2010.

Gave the keynote address for the VLA Criminal Law Conference on 15 October 2010.

Spoke to students from a TAFE public relations class in the Red Court of the Court of Appeal on 18 October 2010.

Delivered a presentation at the La Trobe University Law Students Association Annual Justice Speech on 22 October 2010.

Addressed the Bar Readers' Course on the topic of Pleadings on 26 October 2010.

Together with Justice Hollingworth, attended a conference on Expert Evidence run by the ANU and the National Judicial College in Canberra on 12 and 13 February 2011.

Together with Judicial Registrar Pedley, attended an information session at the Victorian Bar to provide a summary of the new appeals regime on 28 February 2011.

Chaired a session on ethics at the Corporate Lawyers' Conference at Docklands on 3 March 2011.

Addressed Melbourne University JD students' ethics class in the Green Court on 17 March 2011.

Attended and gave a short presentation at the re-launch of the Leo Cussen Institute on 17 March 2011. Justice Croft also attended.

Delivered a speech to Certificate IV graduation students at RMIT University on 25 March 2011.

Together with Justices Hollingworth, Pagone and Beach, attended the launch of the Victorian Bar Foundation at Owen Dixon Chambers on 13 April 2011.

Spoke at the County Court Judges' Conference on 19 April 2011.

Delivered a speech at the Victorian Bar Pro Bono Awards held in the Supreme Court Library on 17 May 2011 and the Chief Justice attended.

As Acting Chief Justice attended the Law Institute of Victoria reception for newly appointed lawyers on 26 May 2011.

Attended the Judicial College of Victoria Sentencing Workshop session on *Verdins* at the Medina Grand on 26 May 2011.

As Acting Chief Justice attended the 2011 Victorian Bar Dinner on 28 May 2011. Justice Nettle was a guest speaker.

Together with judges, associate judges and judicial registrars, attended a luncheon for Professor Bryan Garner of the United States, hosted by the Judicial College of Victoria, in the Old High Court Library on 30 May 2011.

Justice Buchanan

Together with Justice Bongiorno and Justice Lasry, attended a morning tea at Wangaratta Court House to welcome the Court of Appeal to Wangaratta on 30 May 2011.

Together with Justice Bongiorno and Justice Lasry, attended a dinner with the profession in Wangaratta held as a welcome to the Court of Appeal hosted by the North East Law Association on 31 May 2011.

External Judicial Activity

Justice Nettle

Delivered a commentary to a paper delivered by the Hon Justice Gordon of the Federal Court at the 8th Annual University of South Australia Trades Practices Workshop entitled *Criminalisation of Cartel Conduct* on 15 October 2010.

Delivered a presentation at the seminar on Proportionate Liability organised by the Commercial Court, and chaired by Justice Hollingworth, on 23 February 2011.

Delivered a paper on *Hearsay Evidence*, Justice Neave presented a paper entitled *When is Tendency and Coincidence Evidence Admissible?* and Justice Curtain spoke about *Unfavourable Witnesses* at the JCV Evidence Refresher on 1 April 2011. Justice Lasry and Justice Dixon also attended.

Represented the Chief Justice at the Sesquicentenary of the Supreme Court of Western Australia on 16 and 17 June 2011.

Justice Ashley

Launched the Senior Master's Office DVD as part of Brain Injury Awareness Week at the Lionel Murphy Centre on 19 August 2010.

Attended a lunchtime discussion, hosted by Justice North at the Federal Court, with Albie Sachs, a former judge of the Constitutional Court of South Africa on 21 September 2010.

Gave a presentation entitled *Reconciling Duty of Care and Breach* at the Torts Twilight Series organised by the JCV on 22 March 2011.

Delivered a speech about asbestos-related litigation at the conferring ceremony of the conference at the Australasian College of Phlebology Inc at the Sofitel Melbourne on 31 March 2011.

Attended the centenary celebration of the Supreme Court of the Northern Territory on 30 May 2011.

Justice Neave

Attended the 2010 Canadian Conference on Elder Law held in Toronto, Ontario, Canada and gave a speech entitled *Developing an Anti-Ageist Approach to the Law* on 30 October 2010.

Gave a presentation at the Commercial Court Seminar on 8 June 2011.

Justice Redlich

Attended the JCV Master Class with Madam Louise Otis on 6 and 7 October 2010.

Justice Weinberg

Attended the Chief Justice Roberts' Workshop at the University of Melbourne on 19 to 23 July 2010 on the US Supreme Court.

Attended the combined Supreme Court and University of Melbourne seminar on the *Civil Procedure Act 2010* and reception in the Supreme Court Library on 15 September 2010.

Attended the JCV Master Class with Madam Louise Otis on 6 and 7 October 2010.

Gave a presentation and judges attended, the Australian Academy of Law Symposium held in the Banco Court on 18 November 2010.

Presented a session at *The Future of Adjudication: The Challenge from ADR* at the Australian Academy of Law Symposium in the Banco Court on 18 November 2010. Judges of the Court also attended.

Participated in the panel discussion on *Issues of Evidence in Crime* at the inaugural Victorian Bar CPD Conference at Torquay Sands Resort, which took place from 4 to 5 March 2011.

Justice Mandie

Attended the Inaugural Annual Baxt Lecture in Competition Law delivered at the Melbourne Law School on 13 August 2010. His Honour also attended the luncheon prior to the lecture. The lecture was delivered by Professor William E Kovacic, former Chairman and present Commissioner of the United States Federal Trade Commission.

Justice Bongiorno

Delivered the 2011 Commencement Oration at Melbourne Law School on 3 February 2011.

Met with the Victorian Bar Committee reviewing the process for appointment of Senior Counsel on 10 February 2011.

Justice Harper

Attended a morning tea for the Supreme Court Education Team on 9 August 2010.

Together with Justice Sifris attended a breakfast talk given by Justice Margaret Stone of the Federal Court on behalf of the Women Barristers' Association on 10 August 2010.

Attended, gave closing comments and vote of thanks, in his capacity as Chair of the Australian Red Cross (Victorian Division) IHL Committee, at the Australian Red Cross and Mallesons Annual Humanitarian Law Perspectives Seminar at Mallesons on 12 August 2010.

Attended a lecture at Melbourne University Law School given by Professor Michael Schmitt of Durham University entitled *The Principle of Military Necessity in International Humanitarian Law* on 31 August 2010.

Together with Justice Osborn, Justice Hollingworth and Justice Cavanough, attended a lunchtime presentation by ICC representatives on international arbitration on 9 September 2010.

Chaired a teleconference meeting of the JCA Executive on 16 September 2010.

Together with Justice Hansen, Justice Osborn, Justice Cavanough and Justice Davies, attended the JCA Colloquium 2010 in Hobart on 8 to 10 October 2010.

Attended a meeting of the Steering Committee for the JCV 2011 session *Enriching the Role and Career of Longer Serving Judicial Officers* on 20 October 2010.

With Justice Tate, attended the Foley's List 150th anniversary dinner at the RACV Club on 28 October 2010.

Attended a meeting of the Monash University Advisory Panel on *Human Rights – International and Comparative Law* on 3 November 2010.

Together with Justice Hollingworth and Justice Lasry, each gave presentations to the Bar Readers Course on the subject of Ethical Duties to the Court on 9 November 2010.

Chaired a teleconference for the Judicial Conference of Australia (JCA) Executive on 18 November 2010.

Attended the Magistrates' Court reception on 3 December 2010.

Attended the Annual General Meeting of the Victorian Association for the Care and Resettlement of Offenders in his role as President on 9 December 2010.

Chaired a meeting of the Australian Red Cross (Victorian Division) International Humanitarian Law Committee on 23 February 2011.

Chaired a teleconference for the JCA Executive on 24 February 2011.

Chaired a teleconference of the JCA Executive Committee on 14 April 2011.

Together with Justice Hollingworth and Justice Lasry, spoke to the Victorian Bar Readers on Ethical Duties to the Court on 10 May 2011.

Attended the JCV two day *Sentencing Workshop* on 26 and 27 May 2011.

Opened the International Criminal Justice Project Symposium at the Monash Conference Centre on 3 June 2011.

Introduced the guest speakers, Lord Bonomy PC and Associate Professor Boas, at the Mallesons/Australian Red Cross *Humanitarian Law Perspectives* Oration on 6 June 2011.

Chaired a meeting of the Governing Council of the Judicial Conference of Australia in the Old High Court Library on 18 June 2011.

Introduced and participated in the Advanced Advocacy Workshop for the profession run by the Dandenong Magistrates Court on 22 June 2011.

Justice Hansen

Attended a meeting of the Clinical Ethics Committee at Melbourne Health on 15 November 2010.

Justice Tate

Gave a presentation entitled *Developments in the Constitutional Protection of Property Rights* at the New Zealand Law Society Intensive in Wellington, New Zealand on 25 February 2011.

Delivered the Graduation Address to the Faculty of Law at Monash University on 5 May 2011.

Justice Habersberger

Together with Justice Pagone, attended List A's 20th Anniversary Dinner at the Park Hyatt Melbourne on 31 July 2010.

Chaired the Commercial Court CPD/CLE Seminar at the Victorian Bar on 19 August 2010. Justice Croft gave a presentation on how the courts are applying AON.

Justice Osborn

Attended the JCV Program *Torts Twilight Series: Reconciling Duty of Care and Breach* on 22 March 2011.

External Judicial Activity

Attended the Court Architecture Executive Research Tour in Barcelona and Luxembourg from 17 to 20 May and in Dusseldorf and Berlin from 22 to 26 May 2011.

Justice Williams

Attended a teleconference of the AAWJ on 1 March 2011.

Attended the La Trobe Advisory Board meeting on 22 March 2011.

Attended a La Trobe University Advisory Board Meeting on 13 April 2011.

Attended the Australian Association of Women Judges Annual General Meeting by teleconference on 19 April 2011.

Justice Kaye

Attended the JOACAC Aboriginal Walk in the Botanical Gardens on 23 October 2010.

Adjudicated the Bar Readers' Course moot at the Supreme Court on 11 November 2010.

Together with Justice Whelan and Justice Hollingworth, attended the *Back to Country* indigenous weekend organised by the Judicial College of Victoria from 11 to 14 March 2011.

Chaired a meeting of the Judicial Officers' Aboriginal Awareness Committee on 14 April 2011.

Together with Justice Hollingworth, judged sessions of the Victorian Bar Readers' course moot on 26 May 2011.

Participated in the AIJA Indigenous Justice Committee Teleconference meeting on 26 May 2011.

Justice Whelan

Was the convenor and co-presenter of the JCV twilight seminar on Suppression and Non Publication Orders at the Medina Grand on Queen Street on 5 April 2011. Justice Harper and Justice Almond also attended.

Justice Hollingworth

Taught Advanced Civil Procedure in the LLM course at Melbourne University from 28 June to 2 July 2010.

Attended the Obligations Conference at Oxford University from 14 to 16 July 2010.

Delivered a presentation entitled *Sentencing – a Judges' Perspective* as part of the Melbourne University JD Guest Programme on 10 August 2010.

Attended a JCV seminar on Developments in Consumer Law on 9 November 2010.

Attended the Bar Readers' Course Dinner on 18 November 2010.

Attended the Castan Centre's 10th Anniversary Dinner on 20 October 2010.

Together with Justice Vickery and Justice Macaulay, attended the Victorian Bar's breakfast in support of the White Ribbon Day campaign to end violence against women on 23 November 2010.

With Justice Davies, delivered presentations at the Victorian Bar CPD Seminar at Owen Dixon Chambers on 8 December 2010.

Attended the Torts in Commercial Law conference run by UNSW in Sydney on 17 and 18 December 2010.

With Justice Emerton, attended the launch of the biography of the Hon Mary Gaudron at the Commonwealth Law Courts on 16 February 2011.

Attended a book launch of *Australian Cartel Regulations* by Caron Beaton-Wells and Brent Frisse at Melbourne University on 22 February 2011.

Gave a presentation at the New Lawyers Orientation Seminar organised by the Law Institute of Victoria on 23 March 2011.

Delivered a presentation to students of University High School about Law and Order on 30 March 2011.

Was the guest speaker at the Queen's Inn Dinner on 6 May 2011.

Spoke at the Sisters in Crime Law Week function on 20 May 2011.

Attended a seminar on *Religion and the Death Penalty* hosted by Reprieve Australia and the International Commission of Jurists on 30 May 2011.

Attended the Urban Seed Night Walk organised by the JCV on 9 June 2011.

Attended the Judicial College of Victoria workshop on Trends in Victorian Society on 10 June 2011.

With Justice Vickery, attended a seminar on *Invasion of Privacy and Copyright Law*, conducted by the Intellectual Property Society of Australia and New Zealand and the Arts Law Centre of Australia on 15 June 2011.

Presided over a Hanover Moot on 23 June 2011.

Appeared on behalf of the International Commission of Jurists, before the Anti-Corruption and Integrity Consultation Panel on 24 June 2011.

Justice Bell

Addressed the Mallesons Stephen Jaques Human Rights Law Group on his Honour's reflections on the case *Director of Housing v Sudi* on 25 August 2010.

Presented a paper on the topic of Human Rights and the Environment at the Australasian Conference of Planning and Environment Courts and Tribunals in Sydney on 1 September 2010.

Attended the Western Suburbs Legal Service Annual General Meeting and gave a presentation entitled, *The role of community legal centres in promoting access to justice* on 27 October 2010.

Attended the West Heidelberg Community Legal Service Annual General Meeting and gave the address, *Your Human Rights and how to follow up on them in Tribunals and Courts* on 10 November 2010.

Chaired a Legalwise Seminar on *Practical Applications of Statutory Interpretation* held at the RACV Club on 24 November 2010.

Delivered a paper entitled *Vulnerable Witnesses* as part of a panel presentation/discussion with Justice Murray of the Supreme Court of Western Australia and Justice Gray of the Supreme Court of South Australia on 22 January 2011.

Attended the annual HLRC & PILCH Human Rights Dinner on 6 May 2011.

Justice Hargrave

Was a faculty member for the JCV Judgment Writing Course from 25 to 27 August 2010.

Attended the International Chamber of Commerce Australia and the ICC International Court of Arbitration conference, 13 to 17 September 2010.

Presented at the Commercial Court CPD seminar *Expert Witnesses: On the stand or in the hot tub?* on 27 October 2010.

Chaired the Civil Procedure (Expert Evidence) Advisory Group.

Was a member of the JCV Civil Procedure Steering Committee

Justice King

Delivered a presentation entitled *The Gangland Murder Trials* at the 12th International Criminal Law Congress 2010 held in Noosa on 22 October 2010.

Justice Cavanough

Attended the Melbourne Catholic Lawyers Annual Dinner on 13 August 2010.

Delivered a paper entitled *Colour and Movement: Justice on the Racecourse* to the Medico-Legal Society of Victoria on 13 November 2010.

With Justice Kyrou, attended the address by the Attorney-General, the Hon Robert Clark MP at the Australian Institute of Administrative Law on 22 February 2011.

Justice Curtain

Is a member of the Judicial College of Victoria: Criminal Charge Book Editorial Committee, and a member of the Bail Act Steering Committee.

Was on the Steering Committee for the Judicial College of Victoria seminar on Jury Directions.

Addressed the intakes of the Victorian Bar Readers' Course on *Making an Accomplished Opening Address to a Jury* in September 2010.

Presented at the Judicial College of Victoria 'Evidence Refresher Workshop on Unfavourable Witnesses' on the 1 April 2011.

Presented at a Legal Studies Seminar at the Distance Education Centre of Victoria on the 26 June 2011.

Justice Pagone

Attended Price Waterhouse Cooper's Head of Tax – Update on Part IVA Roundtable Dinner on 15 July 2010.

Hosted his book launch *Tax Avoidance in Australia* at Melbourne Law School, at which the Hon Justice Robert French, Chief Justice of the High Court of Australia spoke on 23 July 2010.

Attended the Professor Byrne Lecture *Why Universities Are Your Business* at the Monash Conference Centre on 12 August 2010.

Led Ivory Coast Magistrates on a tour of the Supreme Court Building on 12 August 2010.

Chaired the session *Alternative Dispute Resolution* at the Commercial Law Conference on 13 August 2010.

External Judicial Activity

Chaired a seminar on medical negligence hosted by the Italian Lawyers' Association on 23 August 2010.

Delivered a speech entitled *What to Prosecute: Allocation and Administration of Scarce Resources* at the Conference of Regulatory Officers on 26 August 2010.

Attended and gave a presentation entitled *Privilege for Tax Advice in Australia* at the International Fiscal Association Conference in Rome from 29 August to 3 September 2010.

Attended the International Court of Arbitration Seminar at the Supreme Court on 9 September 2010.

Attended the Civil Liberties Roundtable Discussion at Owen Dixon Chambers on 23 September 2010.

With Justices Davies, delivered a presentation relating to the Commercial Court to the Victorian Bar Readers on 29 September 2010.

Delivered a presentation at the opening of the Co.As.It Museo Italiano Culture Centre in Carlton on 3 October 2010.

Gave a presentation on the *Blatant Artificial and Contrived Insights into Australia's Schemes Era* at the Tax Institute of Australia conference held at the Victoria State Library on 13 October 2010.

Attended the Czech Republic National Day Cocktail Reception on 28 October 2010.

Attended the 87th Anniversary of Foundation of the Republic of Turkey reception on 29 October 2010.

Attended the Museo Italiano Donor Viewing in Carlton on 4 November 2010.

With Justice Davies, attended the 53rd International Association of Judges Annual General Meeting in Dakar, Senegal from 7 to 11 November 2010.

Attended the Australian Italian Lawyers Association Seminar on *Cross Border Estate Planning* on 29 November 2010.

Attended the Seminar to Treasury Revenue Group in Canberra on 2 December 2010.

Attended the Australian Oromo Community Festival and gave a presentation on *Human Rights and Democracy in the Third World* at Federation Square on 19 December 2010.

Attended the Australian Tax Teachers' Association Conference held in the Supreme Court Library on 19 January 2011.

Delivered a presentation on *Part IVA – Where are we and where are we going? The big picture* at the Tax Institute of Australia conference in Melbourne on 1 March 2011.

Gave a presentation entitled *Some ethical questions when opposing parties are unrepresented or upon ceasing to act as a solicitor* to the Monash Law Ethics class at Monash Law Chambers on 9 March 2011.

Delivered a presentation on *Aspects of Tax Avoidance: Trans-Tasman observations* at the International Fiscal Association conference in Wellington, New Zealand on 11 March 2011.

With Justice Davies, delivered a presentation about the Commercial Court to the Victorian Bar Readers' Courts at Owen Dixon Chambers on 13 April 2011.

Delivered the occasional address for the Monash Law Prize at the Victorian Arts Centre on 14 April 2011.

Delivered a presentation on *Illuminating Anti-Avoidance* at the South Australian Tax Convention in the Barossa Valley, South Australia on 16 April 2011.

Delivered a presentation entitled *Part IVA Developments* at the Corporate Tax Association Conference on 7 June 2011.

Gave a presentation entitled *Taxation by Discretion* at the Australian Association of Constitutional Law Conference in Sydney on 9 June 2011.

Delivered a presentation entitled *Part IVA Developments* at the Corporate Tax Association Conference on 7 June 2011.

Justice Coghlan

Represented the Chief Justice at the launch and smoking ceremony for the William Cooper Justice Centre, the new multi-jurisdictional court complex at 223 William Street on 17 August 2010.

Represented the Chief Justice at the ceremonial farewell sitting in Darwin at the Northern Territory Supreme Court for the Hon Chief Justice Brian Martin on 20 August 2010 and attended a retirement dinner held by the legal profession on 21 August 2010.

Travelled to Bangladesh with the Hon Murray Kellam and Professor Greg Reinhardt as part of a program to teach young practitioners in Bangladesh from 10 to 22 December 2010.

Justice J Forrest

Participated in a Monash University/ Commercial Court CPD Seminar on *Class Actions* on 6 April 2011.

As a circuit judge visited the Horsham Court on 6 April and the Hamilton Court on 7 April.

Led a discussion at the County Court Judges' Conference on 'Civil Juries' and causes on 19 April 2011.

Justice Lasry

Gave a presentation on Rulings and Oral Decisions at the JCV Orientation Program on 9 February 2010. Justice Ferguson and Judicial Registrar Gourlay attended the program.

Presented a speech entitled *Access to Justice* at the Queensland Law Society Conference on 27 August 2010.

Attended the Monash Law Faculty Board meeting on 26 October 2010.

Attended the International Commission of Jurists fundraising dinner on 28 October 2010.

Delivered a presentation on Ethics at the Victorian Bar Readers' Course on 9 November 2010.

Delivered a presentation at the 2010 Jury Conference at Melbourne University on 19 November 2010.

Presented a paper entitled *Prejudicial Media Publicity and the Jury* at the 8th Annual Australasian Jury Conference on 19 November 2010.

Attended a dinner organised by the local legal precinct at Craig's Hotel, Ballarat on 23 November 2010.

Attended and introduced the guest speaker at the 2010 Monash Law Review Dinner on 8 December 2010.

Delivered a presentation at the Skyline Education Foundation Graduation at Treasury Place on 16 December 2010.

Gave a presentation at the JCV Oral Judgments Conference on 6 May 2011.

Participated in a debate for Monash University on the topic of *Social Media is Free Speech Gone Mad* and attended the cocktail party afterwards on 18 May 2011.

Gave a presentation to the International Criminal Law Masters Class at Melbourne University Law School about His Honour's role on the Law Council at Guantanamo Bay on 27 May 2011.

Attended the International Commission of Jurists monthly meeting at Owen Dixon Chambers on 14 June 2011.

Opened and gave the welcoming address at the International Commission of Jurists Members & Friends Cocktail Party at the Essoign Club on 23 June 2011.

Gave a presentation entitled *Criminal Law and the Media* at the Criminal Law Association of the Northern Territory conference in Bali from 26 June to 1 July 2011.

Justice Judd

Attended the International Commercial Law Conference in Sydney from 5 to 7 May 2011.

Justice Vickery

Delivered a speech entitled *Concurrent Expert Evidence in Litigation – A New Approach* at the Commercial Bar Construction Law Seminar on 26 August 2010.

Chaired the session and Justice Hargrave delivered a speech entitled *Concurrent Evidence – the benefits for the bar and bench* at the Commercial Court CPD Seminar *Expert Witnesses: On the Stand or in the Hot Tub – How, When and Why?* on 22 October 2010. Justice Hargrave delivered a speech and Justice Almond attended.

Representing the Chief Justice, attended the Richard Larkins Oration on 9 May 2011.

Attended and introduced the Hon Robert Brooking at the Construction Law Seminar and Reception on 19 May 2011.

Justice Kyrou

Attended a meeting of the Council of Legal Education on 22 November 2010.

With Justice Cavanough, attended the address by the Attorney-General, the Hon Robert Clark MP at the Australian Institute of Administrative Law on 22 February 2011.

External Judicial Activity

Justice Beach

Attended Professor Michael Klausner's presentation *Targeting, outcomes and costs of securities class actions in the US: potential lessons for class actions and litigation funding in Australia* in Adelaide on 8 November 2010.

Attended the annual meeting of the Australasian Consultative Council of Law Reporting in Darwin on 26 May 2011.

Justice Davies

With Associate Justice Eftim, attended the Mediation Skills Training for Judges at Pepperdine University in Santa Monica, California from 24 to 31 July 2010.

Delivered the after dinner speech at the annual Dever List Dinner at the Essoign Club on 22 October 2010.

Chaired a seminar on *Cross Border Estate Planning: Juggling Overseas Assets and Other International Issues – a Question of Jurisdiction*, at the Abruzzo Club on 29 November 2010.

Attended and presented as part of a panel on Gender Evolution and Revolution at the 2011 Advocacy Conference in Adelaide on 4 February 2011.

Attended a welcome reception for Professor Bryan Garner hosted by Joanne Cameron at Mallesons on 30 May 2011.

Chaired the Monash University CPD Seminar on *Contract Construction* on 8 June 2011.

Justice T Forrest

Together with Justice Ferguson and Associate Justices Gardiner and Zammit, attended the National Judicial Orientation Program in Fremantle from 24 to 29 October 2010.

Justice Emerton

Delivered the keynote address at the launch of the Women in Government initiative at 121 Exhibition Street on 11 November 2010.

Representing the Chief Justice, attended a *Futures Workshop* for Heads of Jurisdiction and the DoJ's Court's Portfolio Leadership Group on 31 January 2011.

Justice Croft

Attended the Rabbinical Arbitration Course at which he presented a paper entitled *The Role of the Courts in Arbitration and Key Provisions of the Commercial Arbitration Act 2010* on 2 August 2010.

Attended the Arbitrators' and Mediators' Institute of New Zealand (AMINZ) and the Institute of Arbitrators and Mediators Australia (IAMA) Conference in Christchurch, New Zealand, and presented papers entitled *The Revised UNCITRAL Arbitration Rules of 2010: A Commentary and The Arbitration Division of the Commercial Court* on 5 August 2010.

Presented a paper at the Commercial Court CPD and CLE Seminar entitled *Aon and its implications for the Commercial Court* on 19 August 2010

Chaired the International Chamber of Commerce – International Court of Arbitration seminar at the Supreme Court of Victoria on 9 September 2010.

Presented a paper entitled *Can Australian courts get their act together on international commercial arbitration?* at the Financial Review International Dispute Resolution Conference in Sydney on 15 October 2010.

Attended the Judicial College of Victoria Civil Procedure Workshop *Keeping Civil Proceedings Civil* and presented on *Summary Judgment Part 4.4 of the Civil Procedure Act* on 19 November 2010.

Presented a paper entitled *Case management in the Commercial Court and under the Civil Procedure Act* at the Civil Procedure Act 2010 Conference hosted by the Department of Justice, the Supreme Court, the County Court and the Magistrates' Court on 30 November 2010.

Gave the opening address at the opening of the legal year in Geelong on 17 January 2011.

Presented a paper entitled *The Civil Procedure Act and Case Management* at a seminar hosted by the Geelong Law Association on 18 January 2011.

Attended and presented a paper entitled *In charity we trust: Charities as potential beneficiaries of failed commercial trusts* at the Trusts Symposium on 18 February 2011.

Attended and participated as a panellist at the Department of Justice Civil Procedure Act 2010 Conference on 16 March 2011.

Chaired the *Civil Procedure Act – What you must know* session at the Torquay 2011 Conference *New Horizon: Aiming for excellence and fulfilling your potential* from 4 to 6 March 2011.

Attended and presented at the International Council for Commercial Arbitration (ICCA) 50th Anniversary Conference in Geneva on *The Development of Australia as an Arbitral Seat – a Victorian Supreme Court Perspective*. His Honour delivered subsequent seminars for the ICCA in Paris and the Chartered Institute of Arbitrators in London on *Commercial Arbitration in Australia: The Past the Present and the Future*, from 19 to 20 May 2011.

Presented a paper at the Law Institute of Victoria seminar *The Future of International Arbitration in Australia* entitled *The Future of International Arbitration – a Supreme Court Perspective* on 6 June 2011.

Justice Ferguson

Attended a dinner hosted by the Executive of the Business Law Section of the Law Council of Australia on 16 September 2010.

Attended the National Judicial College of Australia Planning Meeting in Canberra in her capacity at the Victorian Regional Convenor of the NJCA on 11 February 2011.

Chaired the Commercial Court CPD Seminar on *Class Actions – Expert Insight on Managing Practical Challenges and Procedural Issues* at 385 Bourke Street on 6 April 2011. Justice Dixon also attended the seminar and spoke about the challenges perceived by the judiciary.

Justice Sifris

Participated in the Insolvency Panel of Australia Forum Discussion at Minter Ellison on 15 February 2011.

Delivered a paper entitled *Investor Protection and Corporate Collapses – Diagnosis and Prognosis* at the 13th Greek/Australian International Legal and Medical Conference on 31 May 2011.

Delivered a presentation entitled *Managing the new obligations to the court under the Civil Procedure Act 2010* at the Litigation Victoria Update Conference on 18 March 2011.

Justice Almond

Together with Justice Dixon and Justice Macaulay, attended the National Judicial Orientation Programme in Sydney from 11 to 15 April 2011.

Judged the Hanover LIV Young Lawyers Section Mooting Competition on 16 June 2011.

Justice Dixon

Representing the Chief Justice, attended the Law Institute of Victoria Annual Dinner on 17 December 2010.

Justice Macaulay

Spoke with a Year 11 Legal Studies class from Flinders College at the Court on 12 October 2010.

Attended the launch of the Victorian Bar Student Engagement Initiative at the McPhee Room of Owen Dixon Chambers on 31 March 2011.

Associate Justice Eftim

Gave a presentation on receivership at the Monash Law Chambers on 23 August 2010.

Gave the keynote speech at the Succession Law Conference on 10 September 2010.

Gave a presentation to the Bar Readers Course on the subject of mediations on 12 November 2010.

Associate Justice Wood

Attended the JCV Master Class with Madam Louise Otis on 6 to 7 October 2010.

Attended, a lunchtime discussion with Chief Justice Elias the Chief Justice of New Zealand, Justice Mark O'Regan the President of the Court of Appeal of New Zealand and Justice Helen Winkelman, Chief High Court Judge of New Zealand on 3 November 2010.

Associate Justice Lansdowne

Attended the combined Supreme Court and University of Melbourne seminar on the *Civil Procedure Act 2010* and reception in the Supreme Court Library on 15 September 2010.

Associate Justice Daly

Attended the JCV Master Class with Madam Louise Otis on 6 and 7 October 2010.

Associate Justice Gardiner

Together with Associate Justice Zammit, attended the Supreme Court of NSW in order to see how that court organises the workload of its associate justices and registrars and the relationship between associate justices and justices of the court on 21 and 22 March 2011

External Judicial Activity

Associate Justice Zammit

Was the guest speaker at the Broadmeadows Community Legal Service Annual General meeting on 15 September 2010.

Delivered a speech entitled *Introducing the Civil Procedure Act 2010* at the Lexis Nexis Conference *Litigation Victoria Update 2011* at the Stamford Plaza on 18 March 2011.

Judicial Registrar Gourlay

Attended the Australian Lawyers Alliance Victorian State Conference on 13 May 2011.

This report reflects the efforts of many people. Special thanks goes to the Court staff involved in contributing and coordinating material.

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