

Legal Affairs

'Sydney vortex' pulls in corporate suits

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Corporate litigation still whirls around the "Sydney vortex" – the NSW Supreme Court handed down almost twice the number of commercial law judgements in the past 12 months than all the other state supreme courts combined.

Figures prepared by the Centre for Corporate Law and Securities Regulation (CCLSR) also back the feeling in many law firms that their clients are less willing to head to court. The number of corporate law judgements across all courts dropped by 8.5 per cent in the 12 months to June 12, 2008, from calendar 2005.

Competition between courts to attract high-profile disputes, coupled with frustration at so-called "mega-litigation", has led to various reforms being introduced by different courts. The Federal Court's Melbourne registry has introduced a "rocket docket" and the Chief Justice of Victoria's Supreme Court, Marilyn Warren, is understood to have lobbied the Australian Securi-

In court

Corporate law judgements by Supreme Court and others (No.)

	Year to June 2008	% of total	Year to Dec 2005	% of total
Fed Court	224	31.6	210	27.1
High Court	3	0.4	8	1.0
AAT	2	0.3	9	1.2
NSW	300	42.4	348	45.0
Vic	60	8.5	59	7.6
Qld	56	7.9	58	7.5
SA	33	4.7	45	5.8
WA	30	4.2	32	4.1
Tas	0	0.0	2	0.3
ACT	0	0.0	2	0.3
NT	0	0.0	0	0.0

SOURCE: CENTRE FOR CORPORATE LAW AND SECURITIES REGULATION

ties and Investments Commission to make more use of its commercial list.

But despite these initiatives, companies and their legal advisers are not flocking to change venues.

In the 12 months to June 12, the NSW Supreme Court decided 42.4 per cent of all corporate law judgements, down slightly from 45 per cent in calendar 2005. Picking up the differ-

ence was the Federal Court, which decided 31.6 per cent in the past 12 months, up from 27 per cent in 2005.

The Victorian Supreme Court's share has grown slightly from 7.5 per cent of cases to 8.5 per cent.

But Court of Appeal president Chris Maxwell said these numbers, derived from published judgements, were no guide to a court's through-

KEY POINTS

- The Centre for Corporate Law and Securities Regulation also reports fewer clients are going to court.
- The Federal Court was most successful in pulling work away from state courts in Victoria and WA.

put. "The Victorian Supreme Court disposes of several hundred corporate law matters each year but only a fraction of them are published on the internet," he said.

"Doubtless, policies on publication of judgements vary from court to court. These figures, as a result, do not enable any reliable comparisons to be made."

In January, the NSW Supreme Court Chief Justice Jim Spigelman brushed off concerns that a "Sydney vortex" was causing litigation to dry up elsewhere and rejected calls for greater competition between courts.

He declined to comment this week on the CCLSR figures.

CCLSR director Ian Ramsay said a comparison between state supreme courts and individual registries of the Federal Court showed the Federal Court was most successful in pulling work away from state courts in Victoria and Western Australia.

In both those states about 50 per cent of all corporate law judgements are delivered by the Federal Court, compared with just 24 per cent in NSW. Of the 224 cases decided by the Federal Court, 42 per cent were handed down by the NSW registry, 25 per cent in Victoria and 15 per cent in WA.

Professor Ramsay said the figures showed how the Federal Court had recovered from the High Court's 1999 ruling in *Re Wakim* that struck down cross-vesting legislation and had the effect of virtually eliminating the Federal Court's jurisdiction to hear matters arising under the state corporations acts. In the aftermath, corporate cases were being filed in the Federal Court at a rate of fewer than one a month. Now almost 19 cases a month are filed.